UNITED STATES OF AMERICA

Congressional Record

PROCEEDINGS AND DEBATES OF THE 95th CONGRESS
FIRST SESSION

VOLUME 123—PART 26

OCTOBER 7, 1977 TO OCTOBER 18, 1977

(PAGES 32839 TO 34174)

UNITED STATES GOVERNMENT PRINTING OFFICE, WASHINGTON, 1977

AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
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United States of America

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SENATE—*Friday, October 7, 1977*

(Legislative day of Thursday, October 6, 1977)

The Senate met at 8:30 a.m., on the expiration of the recess, and was called to order by Hon. DONALD W. RIEGLE, JR., a Senator from the State of Michigan.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Let us pray.

O Lord, our God who has taught us that "they that wait upon the Lord shall renew their strength," we thank Thee for Thy mercies which are new every morning.

We thank Thee for the beauty and wonder of the world about us. Keep us from blindness to the beauty which can be seen, or deaf to the beauty which can be heard or from feeling the beauty of human beings throbbing with life. Give us strength for the day. Watch over our going out and our coming in and lead us in the way everlasting for Thy name's sake. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., October 7, 1977.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable DONALD W. RIEGLE, Jr., a Senator from the State of Michigan, to perform the duties of the Chair.

JAMES O. EASTLAND,
President pro tempore.

Mr. RIEGLE thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF LEADERSHIP

The ACTING PRESIDENT pro tempore. The Senator from West Virginia is recognized.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings of yesterday, Thursday, October 6, 1977, be approved.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I have no need for my time.

Mr. BAKER. Mr. President, I have no need for my time.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum without any prejudice to the Senators for whom special orders have been gotten and I ask that the time be charged against my time.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I yield such time as the Senator from Mississippi may need. I yield my entire 10 minutes to the Senator from Mississippi.

The ACTING PRESIDENT pro tempore. The Senator from Mississippi is recognized for the entire 10-minute period.

Mr. STENNIS. Mr. President, I thank the Chair and I thank the leader for this accommodation of time.

SENATE CONFIRMATION OF NOMINEES

Mr. STENNIS. Mr. President, Senate Resolution 258 has been introduced in the Senate which would change the Senate procedures relating to the confirmation of nominees for all public officials. While the general purpose of Senate Resolution 258 is commendable, I am concerned that the specific procedures included in the resolution would undermine the committee system and in the end weaken the Senate's approach to this whole important area. For this reason I make these remarks as a warning to the Senate. This resolution would establish an "Office of Nominations" and set forth some universal standards for confirmation. I believe that the judgment as to the suitability of any nominee is one that must be made by the Members of the Senate with the advice and recommendations of their colleagues in the committees that pertain to the particular nomination. It would be a serious mistake to dilute this senatorial and committee responsibility by injecting some other office between the nominees and the Members of the Senate and its committees.

The Constitution of the United States gives the Senate the responsibility and power to consent to nominations for important public offices made by the President. This is one of the major responsibilities and powers that is unique to the Senate and is not shared with the House of Representatives. As a general matter over the years the Senate has performed its confirmation role with care and diligence. We can all recall some of the controversial nominations that have come up and the fact that not all nominations are confirmed.

The Senate has used its committee system to handle nominations just as it used the committee system for other important matters. The committee members charged with responsibility for legislation and oversight of certain functions of the Government are the best ones to consider nominees who will carry out those functions. Considering and recommending to the Senate on the confirmation of key nominees is a major committee function and a key to the nominee's understanding of his functions. I believe a committee should not surrender this responsibility.

Mr. President, when I refer to members of the committee, of course, it is impractical for all members to have an intimate contact with, or conversation, or cross examination, these prospective nominees, or the nominees.

But the committee acts through specialized subcommittees, or groups within the committee, that become highly proficient, as a general proposition, in this role. It familiarizes them with the duties and responsibilities of these officers and they are the continuity of the legislative branch that has this intimate knowledge of the duties and responsibilities, and that operates within the committee in the making of judgments concerning legislation, new and old.

In that way, it is one of the not well known, but one of the finest illustrations of a coordination, but at the same time an independence between the legislative branch of the Government and the executive branch.

I think, as a whole, it is a function of the Senate that has been carried out in an unusually fine and successful way.

Frankly, I do not want to see that important function disturbed. I think it is becoming even more and more evident every year that the Senate is more and

more dependent upon its committees for a great many functions, basic functions and added functions. The strength of this body, I believe, is reflected more in the committee work than it is in debate or deliberations here on the floor. That is a change that has come about in the last quarter of a century.

But, back to the importance of the committee system.

Full confirmation responsibilities regarding nominees to the Departments over which they have jurisdiction is an integral part of the Senate committee system which is so vital to the successful operation of the Senate. The members who are most knowledgeable as to the duties and responsibilities of the Department are the more capable of passing on nominees to serve as heads of the Departments. In turn, the committee members in question have both a working relationship and a position of understanding and influence with a proposed nominee after he is confirmed. All these points clearly show that the committee in question has the responsibility and is the more capable of discharging this service to the Senate and are thus a part of a major process of the Senate.

Each Member of the Senate in the end must make a judgment on whether he will vote to confirm an individual who has been nominated for an important position in the Government. I believe that each Member is entitled to the best judgment and recommendations of the members of the committee, his fellow Senators, with jurisdiction over the function or department of Government involved.

If we are developing a trend here in the rush and volume of affairs in the Senate, the trend is that we are becoming more and more dependent upon the judgment and conclusions of our staff members in the committee, or our personal staff.

Fine as they may be, and they are fine, many of them, and essential as they may be, nevertheless, under our system it is the judgment and conclusions of the elected officials that our system of government seeks, and that is the bed of life for the system. We know by experience that it is there, with our fellow Senators who carry the same responsibilities and obligations to the electorate. There is a special value in our exchange of views and our exchange of conclusions and our formation of judgments.

I do not refer to our Armed Services Committee as a standard for anyone else to follow, necessarily, but in this field, for the past 25 years or more, the committee has engaged in a very rigorous scrutiny of these matters.

I want to emphasize that we are talking about the judgment of members of the committee—not the committee staff, and in particular not some outside office with no continuing responsibility. I for one would oppose any change that would dilute the responsibility of the committee or substitute the judgment of some administrative office for the members of the committee.

Since the screening of Presidential nominees is a committee matter the proceedings do vary among the various committees. For many years the Armed Services Committee has taken its confirmation responsibilities very seriously and has gone into this matter in detail. I want to take this opportunity to outline, for those of my colleagues who may not be aware of them, the procedures and standards used by the Armed Services Committee in screening nominees for the key positions in the Department of Defense, and certain other nominees under our jurisdiction, that require Senate confirmation.

The Armed Services Committee has for the past 25 years engaged in a rigorous scrutiny of Presidential nominees for high Department of Defense positions, in recognition of the special seriousness of conflicts or the appearance of conflicts in administering our multibillion-dollar defense effort. The committee realized long ago that no set of hard and fast rules for determining potential conflicts of interest would be applicable to all cases, and instead it deals with each case individually. In satisfying itself that all real or apparent conflicts have been avoided, however, the committee has evolved a set of general practices that are applied in the usual case. These practices impose requirements that are often much stricter than those set out in law, and stricter than those imposed by the executive branch as well. The practices require:

First. Divestiture within 90 days after confirmation of securities in all firms doing business of more than $10,000 a year with the Defense Department, unless in very special circumstances other terms are agreed to;

Second. Divestiture within 90 days of all oil company stocks, except those involved only in exploration and production;

Third. Resignation from all posts with companies or other entities doing business of more than $10,000 a year with the Department of Defense;

Fourth. No arrangements for compensation for services performed during his or her term of office from companies doing buinesss of more than $10,000 a year with the Department of Defense;

Fifth. A commitment to serve at the pleasure of the President, with no arrangement for reemployment.

I should note that some 25,000 corporations have business of more than $10,000 per year with the Department of Defense, so that the divestiture required is often very substantial.

Each nominee submits to the committee a clear written statement covering each of these items and stating his financial holdings, posts held, and the way he plans to meet the committee guidelines. It is made clear that the burden is on each nominee to reveal, explain, and dispose of all matters relating to the potential conflict of interest. Initially the chief of staff of the committee meets personally with each nominee to go over his situation in detail. The chairman and ranking minority member of the committee meet with each of the major nominees so that there is a full understanding of the situation, both on the part of the nominee and the committee. In some cases the nominee requests an interpretation or exception from the committee practices and these are taken up by the chairman and ranking minority member after study and recommendation by the staff. In most cases the matter is quickly settled and in an overwhelming percentage of the cases the committee obtains full compliance with its practices. In some cases the chairman goes over the matter in detail with some members of the committee prior to the hearing.

All of the foregoing is done prior to a hearing on the nomination. In each case the nominee's formal commitment is obtained to comply with the committee guidelines, and the reasons for any exceptions or special arrangements are clearly specified. The nominee provides in writing a statement that he has fully carried out the promised disposal once it has been completed.

We keep the rules flexible in application so as to meet personal situations. Too much rigidity would exclude many worthy nominees or possibly deter them from accepting the appointment in the first place. For example we had a nominee for Deputy Secretary of Defense who, because of special personal business circumstances could not comply with all of the general committee guidelines. However, a special arrangement was worked out between the committee and the nominee in this case which both protected the Government and yet was satisfactory for the nominee's personal situation. The gentlemen rendered outstanding service to the Nation in this highly important position for over 3 years. I do not mean to imply that committee guidelines are not followed most of the time. In fact, there have been only six major exceptions to the guidelines since 1960. However, when exceptions are necessary they can be made. This, of course, is a matter of judgment for the committee.

The procedure I have outlined has worked well over the years. It recognizes that no fixed rules will work in every case of complex business and family financial relationships, but insures that the committee charged with responsibility for screening each nominee is fully satisfied on the facts of a particular case that conflicts of interest or the appearance of conflicts has been avoided.

All of my comments thus far relate to civilian nominees in the Department of Defense. In the last 25 years the committee has passed on some 357 civilian nominees. These people exercise tremendous power and influence relating to the fundamental security of our country. They control farflung operations and billions of dollars worth of contracts of all kinds each year. We need people in these jobs who are highly capable and experienced and the committee must

keep this fact in the forefront at all times.

The constitutional requirement for the Senate to confirm appointments to important positions in the Government is an important continuing function of the Senate and its committees. It is a senatorial responsibility to pass on these nominations. I submit that it would be a serious mistake to dilute this committee responsibility by injecting some other office between the nominees and the members of a committee. With deference, I would be compelled to vigorously oppose any change that would relieve the Senate Armed Services Committee of both the responsibility and the power to make investigations and make recommendations as to nominees for the civilian officeholders in the Department of Defense and the military services.

The ACTING PRESIDENT pro tempore. The time of the Senator has expired.

Mr. ROBERT C. BYRD. Mr. President, I am sure it would be agreeable to the distinguished minority leader if I ask unanimous consent that 5 minutes of the minority leader's time be allotted to the Senator from Mississippi.

The ACTING PRESIDENT pro tempore. Is there objection? The Chair hears none, and it is so ordered.

The Senator from Mississippi is recognized for 5 additional minutes.

Mr. STENNIS. Mr. President, in this period of time, with almost minute detail on these important appointments, we have gone into them in depth and have established certain rules for guidance, not absolute in nature, but rules for guidance that go into the work and the operations with respect to the backgrounds of these nominees who have had any dealings, in the amount of $10,000 or more, with anyone connected with business with the Department of Defense.

During this period of time, we have gone into the backgrounds and examined 357 civilian nominees. I am not referring to the many thousands of nominations for military appointments that we cannot go into to that extent.

I recall one in particular, and this nominee went on to outstanding performance as Deputy Secretary of Defense. He had approximately $300 million of stock in the companies he had formed years before. Instead of disqualifying that man, we planned—and he readily agreed to and cooperated with—a system that more or less isolated him from that stock but just let him own it. His nomination was confirmed unanimously, and he rendered outstanding service. That is illustrative of many more on a lesser scale.

So before we try to solve some problem by the creation of another office, with another staff, and all the ramifications that go with it, my warning is that we have the capacity and the responsibility to do these things ourselves, and I hope we will not change that rule hastily.

Mr. HARRY F. BYRD, JR. Mr. President, will the Senator yield?

Mr. STENNIS. I yield the Senator whatever time I have remaining.

Mr. BAKER. Mr. President, I yield whatever time I have remaining under the standing order to the Senator from Mississippi.

Mr. HARRY F. BYRD, JR. Mr. President, I should like to associate myself with the remarks expressed so ably by the distinguished Senator from Mississippi.

I believe it would be a great mistake to create a new committee in the Senate to go into and make recommendations in regard to the nominees for the various departments and agencies of Government.

As the Senator from Mississippi has pointed out, each committee can do that now, should do that now, and for the most part has been doing that now.

So I see no necessity for a new committee.

As a matter of fact, I can see tremendous disadvantages to the Senate, to the membership, and to the Government by the creation of an additional committee.

Either there would be duplication of effort and divisions of responsibility—or the present committees would be shed of responsibility and authority—or the new committee would be merely window-dressing.

I hope that the suggestion which I have noted in the press, as to the possible creation of another committee, will not be accomplished. It would be a great mistake. It is a bad idea.

The Senator from Mississippi has pointed out the thorough analysis that the Armed Services Committee has given the nominees who have appeared before it. Each committee can and should screen carefully the nominees coming before it.

I recall one time several years ago when I alone queried a prospective Defense Secretary for 3 days, with more than 400 questions. The members of the committee have plenty of opportunity to go thoroughly into the nominations.

So I join my distinguished friend in urging that no additional committee be created. If Senators do not have time to do the job now, they will have no more time as members of a new and additional committee.

Mr. STENNIS. I thank the Senator very much. He and I had not had a chance to confer on this measure, but I am not surprised at all by his reaction to it. His contribution to our committee has been tremendous in this field as well as many others. I especially invite him to give some special study to this matter. I thank him again for his fine service.

Mr. President, I thank the leaders for the time.

SPECIAL ORDER

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Virginia (Mr. HARRY F. BYRD, JR.) is recognized for not to exceed 15 minutes.

THE NATIONAL DEBT

Mr. HARRY F. BYRD, JR. Mr. President, the administration, this past week, testified before the Senate Finance Committee.

In that testimony, the administration estimated that the national debt, at the end of the current fiscal year, will total $787 billion. Yes, $787 billion.

That figure is double the figure for the national debt at the end of fiscal year 1970.

To put it another way, in that short period of time—fiscal years 1970 through 1978—the national debt of our country will have doubled.

To me, this is cause for alarm.

The Nation's financial affairs are deteriorating year after year.

Huge deficits of the Federal Government are not being got under control. In fact, they are accelerating; and, as a result, the national debt will reach the fantastic figure of $787 billion at the end of the current fiscal year.

The individual citizen is affected by this in many ways. One way is that the taxpayers must pay $46 billion in the current year for the interest charges on the debt.

Mr. President, I ask unanimous consent to have printed in the RECORD a table I have prepared which shows the national debt in the 20th century, from 1900 through 1978.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

The national debt in the 20th century

TOTALS AT THE END OF FISCAL YEARS 1970–78

[Rounded to the nearest billion dollars]

1900	1
1901	1
1902	1
1903	1
1904	1
1905	1
1906	1
1907	1
1908	1
1909	1
1910	1
1911	1
1912	1
1913	1
1914	1
1915	1
1916	1
1917	3
1918	12
1919	25
1920	24
1921	24
1922	23
1923	22
1924	21
1925	21
1926	20
1927	19
1928	18
1929	17
1930	16
1931	17
1932	20
1933	23
1934	27
1935	29

The national debt in the 20th century—Con.

TOTALS AT THE END OF FISCAL YEARS 1970–78

[Rounded to the nearest billion dollars]

1936	34
1937	36
1938	37
1939	40
1940	43
1941	49
1942	72
1943	137
1944	201
1945	259
1946	269
1947	256
1948	251
1949	252
1950	256
1951	254
1952	258
1953	265
1954	271
1955	274
1956	273
1957	272
1958	280
1959	288
1960	291
1961	293
1962	303
1963	311
1964	317
1965	323
1966	329
1967	341
1968	370
1969	367
1970	383
1971	409
1972	437
1973	468
1974	486
1975	544
1976	632
1977 *	706
1978 *	787

* Estimated figures.

SOURCES.—1900–1976, U.S. Treasury Department; 1977–1978, Office of Management and Budget (September 1977 estimates).

THE PANAMA CANAL TREATIES

Mr. HARRY F. BYRD, JR. Mr. President, the Senate has now begun hearings on the proposed Panama Canal Treaties, and, Members of the Senate are hard at work studying the texts of the treaties and familiarizing themselves fully with the issues involved.

Although the Senate will not vote on the treaties for several months, this kind of detailed and lengthy preparation is very important because the Panama Canal issue is closely tied to the economic and security interests of our Nation.

The primary focus of Senate attention should be on the actual terms of the treaties and whether they provide adequate protection for U.S. interests.

However, there is one issue outside of the terms of the treaties which should also be fully considered by the Senate—and that is the manner in which the treaties were negotiated.

The negotiations leading to those treaties actually began in January of 1965 after serious riots in Panama against the U.S. presence in the Canal Zone.

Ever since that time, negotiations have taken place under the cloud of renewed violence, and every administration since then has cited the prospect of violence as a reason for negotiating a new treaty which would give control of the canal to Panama.

The Carter administration has relied heavily on this argument in its efforts to achieve Senate ratification of the proposed canal treaties.

Just last week in testimony before the Senate Foreign Relations Committee on behalf of the treaties U.S. negotiator Sol M. Linowitz used phrases such as "smoldering dispute" and "troubling and festering presence" to describe the situation under the existing treaty.

Mr. Linowitz said:

The simple fact is that if we do not agree upon treaties which are mutually agreeable and acceptable, the time may come when we may find ourselves in the position of having to defend the Canal by force against a hostile population and in the face of widespread condemnation by the countries of Latin America and even the rest of the world.

These same kinds of arguments were made by earlier administrations.

President Johnson, in fact, used the argument of impending violence extensively in seeking congressional support for draft canal treaties which were negotiated in 1967.

Many Members of Congress were unimpressed with President Johnson's argument and felt, instead, that the President was submitting our Nation to Panamanian blackmail. Congressional opposition prevented those draft treaties from ever being submitted to the Senate for consideration.

Now, with the completion of new treaties this year, charges are again being made that the United States has negotiated under duress and that the United States is responding to "blackmail."

The Carter administration denies this stating that "the United States has not responded to pressure."

Recently, this denial was echoed by a Member of the Senate who said there was no connection between the Government of Panama and threats of violence.

In fact, he said that the specter of violence was "raised not by responsible Panamanians but by Americans." That Senator went so far as to say that President Omar Torrijos had "specifically rejected violence."

What are the facts?

General Torrijos, the Panamanian dictator, as recently as May 7 of this year, was quoted in the Panamanian newspaper Matutino as saying that if peaceful efforts to reach an agreement fail, Panama has other nonpeaceful alternatives.

On that same day the EFE wire service quoted General Torrijos as saying that if the negotiations do not succeed, North Americans in the Canal Zone will find themselves "without water, without light, and without a canal."

One year earlier, on March 7, 1976, General Torrijos in an interview on Colombian radio warned that the Panamanians "would have to resort to the violent stage" if the treaty negotiations fail.

The Panamanian dictator was quoted in May 30, 1976, Los Angeles Times as saying:

We are also prepared to follow the Ho Chi Minh route if necessary. That means terrorism, guerrilla operations and sabotage in a national liberation war to regain our territory.

Going a step further, Torrijos said in a November 1975 interview in the Atlas World Press Review:

I told them (the Panamanian students) that if there were an uprising, if there were terrorism, I as commander of the National Guard would have two options: to crush them or lead them, and I can't crush them.

Thus, by rejecting the alternatives of crushing an uprising, Mr. Torrijos was announcing his candidacy to lead one.

These kinds of threats were uttered during the course of recent negotiations by other Panamanian officials as well. The Panamanian Ambassador to the United States, Nicolas Gonzales-Revilla, in an interview in the April 1977 edition of the American Legion magazine stated that—

It is a fact that the U.S. presence makes sabotage and violence inevitable.

Even Panama's chief negotiator Romulo Escobar Bethancourt raised the specter of violence in a speech before the Panamanian Assembly just 1 month ago. He said that if the U.S. Congress does not ratify the treaties "this country will take another course. This country will take a course of violence."

The threat of violence now seems to be the major argument of treaty proponents in the attempt to achieve Senate ratification of the treaties.

These threats have come from Panamanian officials and they are being fervently repeated by treaty advocates in an effort to win Senate ratification.

The American people should be aware of this.

Without the specter of violence, is it likely that the United States would ever have to come to the point that its negotiators would be willing to accept a treaty which gives away so much?

Over the years, Panama has repeatedly pressured for changes in the 1903 treaty, but the United States maintained that it would not surrender its rights as conferred by the 1903 treaty.

In 1923, when faced with Panamanian agitation for renegotiation Secretary of State Charles Evans Hughes stated to Panamanian officials that—

It was an absolute futility . . . to expect any American administration, no matter what it was, any President or any Secretary of State ever to surrender any part of these rights which the United States had acquired under the Treaty of 1903.

Apparently Secretary Hughes did not foresee the give away philosophy now so prevalent in our Government.

In the 1950's, the United States started making significant concessions to Panamanian demands.

Now, just a few years later, we have come all the way to a draft treaty which relinquishes all of the United States rights acquired under the 1903 treaty and replaces them with very limited U.S. rights of a limited duration.

Mr. President, the Senate must make a decision with regard to the treaties which have been submitted by the President.

That decision should be based primarily on the content of the treaties and an assessment of how well they guard the interests of the United States.

However, the Senate should not ignore the circumstances which have surrounded the treaty negotiations and should not be swayed by treaty advocates raising the spector of violence as a reason for approving the treaties.

Furthermore, the emphasis on threatened violence shows the real weakness of other arguments being advanced in favor of the treaties.

I say that making concessions under threats of violence will only lead to more threats and more concessions—not just in Panama, but around the world.

Mr. President, how much time do I have remaining?

The ACTING PRESIDENT pro tempore. The Senator has 3 minutes remaining.

Mr. HARRY F. BYRD, JR. I yield back the remainder of my time.

The ACTING PRESIDENT pro tempore. The Senator from Virginia yields back his time.

Mr. ROBERT C. BYRD. Mr. President, Mr. ALLEN, I believe, has an order for 10 minutes.

The ACTING PRESIDENT pro tempore. That is correct.

Mr. ROBERT C. BYRD. I ask unanimous consent that I may be allotted that time.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

THE SENATE AND ARMS SALES

Mr. ROBERT C. BYRD. Mr. President, arms sales have, in revent years, become an increasingly important instrument of U.S. foreign policy.

A number of troubling issues have arisen as a result of the scope and significance of our international arms sales. Among these issues is the question of the appropriate role of the Congress in the arms sales process.

Foreign military sales totaling almost $10 billion are expected to result from agreements concluded during the past fiscal year. Since fiscal year 1972 the total is $48.3 billion.

Because of the steep growth of our arms transfers in the past few years, Congress has taken several important steps to become more involved and exercise more responsibility in this area. Although notable progress has been made, many problems and ambiguities remain. The congressional role is fragmented. Arms sales proposals are dealt with on a piecemeal basis. Too often Congress operates with limited information and in a restricted time frame.

Arms sales are too important to be considered in this relatively haphazard manner.

Consider, for example, the existing situation. Since August 5, Congress has received notifications of proposed arms sales totaling more than $3 billion. There have been 29 separate proposals involving 15 countries.

An even more incongruous situation developed last year when Congress received notifications of 37 separate transactions with 11 countries, totaling $6 billion, in the waning days of the congressional session.

On several occasions notification of proposed sales has been sent to Congress during periods of congressional recess, or just prior to such periods. That was the case with a group of notifications which were dated August 4 and were reported in the RECORD of August 5 by the chairman of the Committee on Foreign Relations, Mr. SPARKMAN. August 5 was, of course, the last day the Senate met before the statutory recess period. The next meeting of the Senate did not occur until September 7.

Notification to Congress of the proposed issuance of letters of offer for arms sales are made pursuant to section 36(b) of the Arms Export Control Act which provides that:

> The letter of offer shall not be issued if the Congress, within thirty calendar days after receiving such certification, adopts a concurrent resolution stating that it objects to the proposed sale, unless the President states in his certification that an emergency exists which requires such sale in the national security interests of the United States.

That law further provides that any such resolution of disapproval shall be considered in the Senate in accordance with the provisions of section 601(b) of the International Security Assistance and Arms Export Control Act of 1976. In turn, that law states that:

> For purposes of any such law, the continuity of a session of Congress is broken only by an adjournment of the Congress sine die, and the days of which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of the period indicated.

Thus, one provision refers to 30 calendar days while another excludes from the computation periods when either House is adjourned more than 3 days to a day certain.

The Senator from Wisconsin (Mr. NELSON) has introduced legislation—S. 1973—which would extend the period for congressional review of major arms sales, a principle which I strongly support. Senator NELSON has been a leader in the effort to assure that Congress has an adequate opportunity to review arms sales proposals.

S. 1973 would amend section 36(b)(1) of the Arms Export Control Act to extend the review period from 30 calendar days to the first period of 45 days of continuous session of Congress after the date on which Congress receives certification of a proposed sale.

Continuous session, as consistent with section 601(b) of Public Law 94-329—the International Security Assistance and Arms Export Control Act—would mean that no days during a nonlegislative period of either House of more than 3 days would count against the review period.

Our experience makes clear that a longer review period is needed. A good example of why this is true was the recent case of the proposed sale of the Airborne Warning and Command System (AWACS) to Iran.

As Senators will recall, the circumstances prevailing in the Senate at the time the AWACS proposal was originally submitted in July made it extremely difficult for the Senate to give the matter proper consideration within the 30-day period. This was particularly true because there were several developments following the original submission which complicated the issue and required further examination.

In expressing my support for a longer review period, I am not suggesting that the Senate become involved in a detailed manner in every arms sale. Under the current law, Congress is notified of proposed sales in excess of $25 million or, in the case of major defense equipment as defined in the Arms Export Control Act, those sales in excess of $7 million.

UNIQUE PROBLEMS

The procedure for congressional consideration of arms sales proposals is one of several areas in which the congressional role becomes one of disapproving or vetoing—within a specific time period—an action or intended action by the Executive.

This same concept is embodied in the War Powers Resolution of 1973 and the Budget and Impoundment Act of 1974, as well as in congressional consideration of Executive reorganization. Additionally, the Atomic Energy Act of 1954, the Trade Act of 1975, and the Fishery Conservation and Management Act of 1976 all contain provisions giving Congress the right to disapprove within 60 days agreements made pursuant to those acts.

Thus, while there is ample evidence that this procedure has become well established, there are a number of reasons why there are unique problems in applying it to arms sales.

Part of the problem is due to the fact that arms sales are occurring with considerable frequency and at many different times during the year.

Obviously, there are certain proposed sales of great significance and potential controversy which should be dealt with on an individual basis. However, Congress ought to be looking more at the broader picture. I would hope that the executive branch would present the Congress—early in each session—with an overall picture of its plans for arms sales, and especially those of major consequence.

Most of these proposed sales involve delivery at some future date—months if not years away. This is a doubly important factor. Because many of the sales will involve delivery at some future date, plus services and maintenance at even later dates, the long-term implications of these agreements are considerable. Therefore, this is all the more reason that the Executive can and should provide Congress with ample advance information and opportunity for consideration of major sales.

I know that the Subcommittee on Foreign Assistance, chaired by Senator HUMPHREY, has been following these matters closely and is well aware of some of the problems I have mentioned. As the report accompanying the International Security Assistance and Arms Export Control Act of 1977—S. 1160—earlier this year stated:

> Currently, the Congress is compelled to make its decisions on the basis of information provided about individual sales decisions and without the broader framework of an integrated plan and rationale in which to judge the broader significance and potential ramifications of the sale under consideration. Moreover, it appears that the Executive Branch makes its sales decisions on a piecemeal basis and without an overall plan based on integrated policy decisions.

PRESIDENT CARTER'S POLICY

During his campaign for the Presidency, President Carter displayed strong convictions about arms sales, stating, "I am particularly concerned by our Nation's role as the world's leading arms salesman." He said that we cannot be "both the world's leading champion of peace and the world's leading supplier of the weapons of war."

The President followed up his pledge to reduce the commerce in weapons by announcing a new arms transfer policy on May 19. It is an admirable and commendable policy.

Implementation of the policy has been difficult, however, and the results thus far have been somewhat disappointing. It is correctly pointed out by the administration that a number of sales were already in the works at the time the new policy was enunciated. The fact remains that nearly $10 billion in foreign military sales agreements were concluded in fiscal year 1977 and a number of important sales are already scheduled for fiscal year 1978.

Central to the President's policy was the statement that "in the future, the burden of persuasion will be on those who favor a particular arms sale, rather than those who oppose it."

Regrettably, and with no fault of the President, that is not necessarily the way it works. The existing congressional procedure tends to put the burden on those who oppose a sale. The opponents must initiate and gain passage of a resolution of disapproval in both Houses. This is, of course, a difficult process. Hearings must be held. Senators must inform themselves about the details of a proposed sale. The resolution has to be debated and approved in both the House and Senate. All of this has to occur within the allotted time.

There is, at present, some advance consultation between the executive and the Foreign Assistance Subcommittee and this is a positive development. However, once a notification is sent to the Congress, it is essentially a take-it-or-leave-it proposition. There is no real opportunity for compromise. There is no direct means for Congress to attach reservations or conditions to a proposed sale.

AWACS AND IRAN

This brings me back to the proposed sale of the AWACS to Iran. In this particular case, because of the strong feelings in the Congress and the limited time available for consideration, the President did temporarily withdraw the original proposal. One important result of that experience was that President Carter did agree to a series of assurances designed to reduce the possible security risks involved in the sale to Iran and to met some of the other concerns expressed in Congress. I was encouraged by the President's agreement to these assurances.

Nonetheless, serious questions remain about the AWACS sale, which was resubmitted to Congress on September 7. In introducing a second resolution of disapproval of the sale—Senate Concurrent Resolution 48—on October 1, Senator CULVER stated:

> The plane and its equipment are exactly the same was proposed in July.

The disapproval resolution was cosponsored by 21 Senators. It is clear that there is still strong opposition in the Senate and that important questions remain. However, the proposed sale will apparently move forward, the 30-day period concluded today.

On previous occasions I stated my own reservations about the AWACS sale, some of which were satisfied by the President's assurances. Still, I remain concerned about the immense quantity of sophisticated military equipment which we are selling to Iran and the implications this has for future U.S. involvement in Iran. As I stated to the President in my letter of July 27:

> The sale to Iran would require substantial American technical support in Iran, where we already have a large number of American citizens, many of whom are involved in military programs.

As the St. Louis Post Dispatch recently editorialized in commenting on the growing number of American technicians in Iran:

> The more we increase the American presence in Iran the greater our stake in military events in which the Shah might become entangled and the greater the danger that we will be entangled as well.

A report by the Senate Committee on Foreign Relations last year estimated that 50,000 to 60,000 Americans will be in Iran by 1980. In an article written for Foreign Policy, Leslie H. Gelb, now a State Department official, described what he called the white-collar mercenary phenomenon:

> After the weapons are delivered, American civilians arrive en masse to do the administering and training for up to 10 years. Under pressure from Congress to reduce military training missions abroad, the Pentagon has increasingly turned these tasks over to civilian contractors who are relatively immune from government control. These civilians could become willing comrades-in-arms or hostages as well as trainers. If Washington were to choose not to support the Shah in a conflict of his choice, it would risk placing these Americans in jeopardy and risk rupturing relations with Teheran. If the Shah found that his men could not use the weapons he bought, he is not likely to blame himself.

Mr. President, according to information provided me by Gen. H. M. Fish, Director of the Defense Security Assistance Agency, since fiscal year 1972 the value of FMS agreements with Iran have totaled almost $17 billion. Of this amount, $5.5 billion in sales came during fiscal year 1977. These figures do not include the AWACS, which will be counted in fiscal year 1978 and is valued at $1.2 billion. This would bring the total sales to Iran since 1972 to $18.2 billion.

That is an astounding amount of military equipment to deliver to any country. Iran has asked for even more, including F–18 fighters, which the administration has wisely decided not to sell.

One of the assurances requested of the President in connection with the AWACS sale was that the administration conduct a detailed study of Iran's ability to continue to absorb high technology without additional requirements for U.S. technicians. The results of that study would be provided to Congress before any additional requests are made for the sale of sophisticated technology to Iran.

The administration concedes that the AWACS sale is an exception to its announced arms transfer policy. I believe that any further sales to Iran in the near future would constitute an exception to sound and prudent U.S. policy. I would urge that there be a complete moratorium on additional arms sales to Iran until the administration has undertaken a thorough analysis not only of the need for more U.S. technicians in Iran but of Iran's capacity to absorb and utilize these major weapons systems.

OVERALL PICTURE

Certainly the question of arms sales policy cannot be considered in a vacuum. The United States is not the only nation selling arms and our policies are inevitably influenced by what other nations are doing or what they might do. Nonetheless, this country accounts for more than half of the worldwide total. In his address to the United Nations earlier this week, President Carter again pledged to work with other supplier nations, including the Soviet Union, on measures to restrain arms traffic. Success in reducing U.S. arms sales will clearly be affected by the actions of other supplier nations.

In looking at U.S. arms sales in recent years, one distinct and, I believe dangerous pattern has been dominant. I refer to the move away from our North Atlantic Treaty Organization—NATO—allies as our primary customers and their replacement by countries in the volatile Mideast region—particularly Iran, Saudia Arabia, and Israel. Those three countries now account for substan-

tially more than half of our total foreign sales.

There is another trend which must be acknowledged. As the General Accounting Office recently reported, foreign deliveries have, on occasion, adversely affected U.S. defense capabilities.

The GAO report noted that the cumulative effect of foreign sales can "aggravate the already difficult task of managing the U.S. defense posture in a peacetime environment."

It is this cumulative effect and the long-term impact with which we must be concerned. Let me mention some specific problems identified in the GAO report which I believe merit our attention:

Foreign sales agreements provide for future support, and there is a large backlog of undelivered orders. As more deliveries are made, problems with production limitations and competing demands for key components will be magnified.

Inadequate consideration has been given to the cumulative effect of foreign military sales on weapons systems with common components.

The GAO report makes a number of other points about the long-range impact of sales and the fact that insufficient attention is given to future support and supply requirements.

Mr. President, our primary concern must be the steadfastness of our own defense capability. Obviously there are cases where supplying other nations with military equipment is a matter of mutual interest. However, the arms sales program seems to have developed a momentum of its own. Arms sales should be a subordinate part of our foreign and defense policy. Congress, with its oversight responsibility in this area, has an obligation to help develop appropriate guidelines and procedures for arms sales.

SUMMARY

Primarily through the Subcommittee on Foreign Assistance, the Senate is taking important steps to increase its responsibility in the arms sales area. That subcommittee is scheduled to review this entire matter at forthcoming hearings.

However, as I noted earlier, since returning from the August recess, Congress has had some 29 separate arms sales proposals—with a value of more than $3 billion—pending before it. This has been at a time when the Senate has been almost totally preoccupied with energy matters and when the Foreign Relations Committee has begun extensive hearings on the Panama Canal treaties. Of the proposed sales which have been pending, only the AWACS sale to Iran and the sale of 14 C–130 transports and the 12 Firebee drone reconnaissance aircraft to Egypt have received any serious attention. Some of the other proposed sales are of a relatively routine nature and are not controversial. Still, this situation underlines some of the problems with the existing procedures.

Let me repeat some of the suggestions I have made and offer some additional recommendations which might bring more consistency to Senate consideration of arms sales proposals and insure that the Senate does exercise its proper role.

First. The executive branch should submit a detailed overall plan for arms sales for each fiscal year early in the congressional session. I do not believe we are well served by having notifications scattered throughout the year, which leads to their being dealt with on a haphazard basis.

Second. Congress should adopt the Nelson proposal—S. 1973—or some other measure to extend the period for congressional review of major arms sales. One alternative that has been suggested is that an additional 15 days for consideration would automatically be granted if requested by chairmen of the responsible House and Senate committees.

Third. As a general rule, the executive should not submit notifications of proposed sales during extended congressional nonlegislative periods. Specifically, I would call upon the President to submit no major proposals to the Congress in the final days of this session or following our adjournment later this year—unless the proposed sales are of an emergency nature. This, of course, should be closely coordinated with the responsible congressional committees.

Fourth. The cumulative and long-term impact of arms sales must be given more thorough consideration. Notification of proposed sales should include information about the total value of equipment already delivered to the country in question in recent years as well as information about support and services which will be needed in the future.

Fifth. Consideration should be given to requiring explicit congressional approval—rather than a resolution of disapproval—for major arms sales; for example, sales or a combination of sales to one nation valued at more than $200 million.

Sixth. Finally, in the case of Iran, to which we have made sales of more than $18 billion in recent years, I would suggest a moratorium on further sales in the near future. No more sales should be made until Congress is provided with a thorough analysis of Iran's capacity to absorb and utilize additional major weapons systems.

I ask unanimous consent, Mr. President, to have printed in the RECORD the text of the letter to me from Gen. H. M. Fish, dated September 26, 1977.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

DEFENSE SECURITY ASSISTANCE AGENCY AND DEPUTY ASSISTANT SECRETARY (SECURITY ASSISTANCE), OASD/ISA,
Washington, D.C., September 26, 1977.

Hon. ROBERT C. BYRD,
Majority Leader, United States Senate, Washington, D.C.

DEAR SENATOR BYRD: This is in reply to your letter of 12 September regarding the amounts of Foreign Military Sales (FMS) to Iran and worldwide.

As of 14 September 1977, our computer records indicate that we have concluded $3,329,216,000 of FMS agreements with Iran during Fiscal Year 1977. Our records also indicate that there were $1,747,503,000 of outstanding Letters of Offer to Iran as of that date. You should be aware, though, that there is a necessary lag time (e.g., for mailing and processing) between the time sales agreements are signed and the time that they can be recorded in our computer records. Thus, we know that Iran has signed a substantial number of Letters of Offer which have not yet been recorded in our system. We estimate that the total value of FMS agreements to be concluded with Iran during Fiscal Year 1977 will be $5,465,600,000. The values of FMS agreements concluded with Iran during the five preceding fiscal years were:

FY 1972—$519,110,000;
FY 1973—$2,157,355,000;
FY 1974—$4,373,225,000;
FY 1975—$3,020,979,000; and
FY 1976 (excluding 7T)—$1,382,062,000.

Our computer records indicate that the value of FMS agreements concluded worldwide during Fiscal Year 1977 was $6,181,699,000 as of 14 September 1977. Our records also indicate outstanding FMS offers worldwide of $3,993,235,000 as of that date. The comment previously made concerning lag times between Letter of Offer signature and computer recordation also applies to these figures. We estimate that the total value of FMS agreements to be concluded worldwide during Fiscal Year 1977 will be $9,889,100,000. The values of FMS agreements concluded worldwide during the five preceding fiscal years were:

FY 1972—$3,267,644,000;
FY 1973—$5,766,225,000;
FY 1974—$10,642,623,000;
FY 1975—$10,123,451,000; and
FY 1976 (excluding 7T)—$8,664,467,000.

We hope that this information is of help to you.

Sincerely,

H. M. FISH,
Lieutenant General, USAF.

ORDER TO PROCEED TO CONSIDERATION OF DOD AUTHORIZATION BILL, S. 1863

Mr. ROBERT C. BYRD. Mr. President, if I may have the attention of the distinguished minority leader, I ask unanimous consent that upon the disposition of the minimum wage bill today the Senate proceed to the consideration of the DOD authorization bill.

I annonuced last evening that this would be the plan of the leadership. I, therefore, make that request at this time.

Mr. BAKER. Mr. President, reserving the right to object, I agree with the majority leader. We need to establish the sequence, and I have no objection to that request.

I might advise my friend, the majority leader, and others who will hear this remark, that I am trying to see if we can clear on our side another measure or two for the early part of next week to proceed to as well.

I hope, for instance, that finally we will proceed to the consideration of the legal services bill. We have no time limit on it, but I tell the majority leader I will see if we can work on that. And there are one or two other items that we will try to clear as well. If we can, then I hope he might consider making a unanimous-consent request to include such items as we can agree on for next week as well.

Mr. ROBERT C. BYRD. I thank the distinguished minority leader and I welcome the suggestion with respect to the legal services bill. Let the record show that the distinguished minority leader and I have discussed this measure quite a number of times.

Mr. BAKER. On quite a number of days.

Mr. ROBERT C. BYRD. On quite a number of days. And it has been my hope that we could get a unanimous-consent agreement on the measure, and the distinguished minority leader has tried, tried, and tried to help me to secure one, but thus far our efforts have been unsuccessful. But I do feel constrained to state that we should proceed with the measure.

Mr. BAKER. Mr. President, I have no objection to the request.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

PROVISIONAL ORDER VITIATING SATURDAY SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that if action is completed on the minimum wage bill and DOD authorization bill today, then the order for coming in tomorrow at 9 a.m. be vitiated.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. If.

The ACTING PRESIDENT pro tempore. If.

PROVISIONAL ORDER FOR RECESS FROM CONCLUSION OF BUSINESS TODAY UNTIL MONDAY, OCTOBER 10, 1977

Mr. ROBERT C. BYRD. And in that case, I better also add, if that situation develops, as we think it will, I ask unanimous consent then that the Senate in the alternative stand in recess at the conclusion of business today until the hour of 12 o'clock noon on Monday.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a brief period for the transaction of routine morning business, with statements limited to 3 minutes each.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Is there further morning business?

THE SOUTH BRONX AND NEW YORK CITY UNEMPLOYMENT

Mr. JAVITS. Mr. President, I call to the attention of my colleagues the trip that President Carter took to the South Bronx yesterday in New York City.

Mr. President, the President's visit to and observation of the blight and devastation which is represented by the South Bronx, naturally because of the fact that the President is our premier personality, breaks upon the country as if it were some sudden stroke of lightning which has opened up the sky. The fact is that way back in my campaign of 1968, Mr. President, I undertook a solemn oath to try to help in this unbelievable situation which no Senator or any of his constituents living outside of New York City—I think it includes any other big city—would just believe. It literally is a devastated area as in war, and it is attributable to abject poverty, unbelievable unemployment, the incursion of new citizens who do not know our ways and have been cast into a jungle in which they can only find ways which are wrong, and it really takes superhuman efforts to cure, which the city has been unable to muster, largely financial.

We have submitted many ideas and plans to the various Government departments, notably housing, HEW, and others, and I can only hope, Mr. President. I have no complaints. I do not say that they should have known this for years and years. Human suffering has been going on there for a long time and it has been such a scourge on the city. The infection has spread to engulf the whole borough, and it is not a small place, Mr. President. It has about 1.5 million people.

But I hope now, Mr. President, that we are abreast and seized, as it were, of the knowledge Government departments will not just have a meeting today and forget about it tomorrow, because the President was there, but will really be as troubled in conscience as the whole country should be that we permit such blight to continue. The interesting thing is that it will not take a special appropriation. It will not cost any more money. It will just take some brains and the catalytic quality of the Federal Government and the existing programs intelligently applied. The people will apply that themselves. The President ran into that in what is called Sweat Capital in cooperative tenement houses which are extraordinary lights in a black sky up there.

I know the area so well. At long last the country may be proud of the turn which can and should be made.

Mr. President, I would like to place in the RECORD two articles and an editorial that appeared in this morning's New York Times on the subject of the President's trip to the South Bronx, in New York City.

First of all, Mr. President, I wish publicly to express my deep appreciation to President Carter for taking this personal interest in this profound problem of our largest city. Clearly he wants to see for himself what can be done to revivify pockets of urban decay wherever they exist.

But a point which I have been making for so long seems to have missed somewhere, to wit: That urban decay is a ease is to revive urban economies and employment. Urban decay is a result, not a cause; a symptom, if you will, not the disease itself. The way to cure the disease is to revive urban economies and create jobs. If an urban economy lacks the ability to generate employment for its citizens, then urban decline is inevitable and, if this condition is allowed to persist long enough, deterioration is the inevitable consequence.

Thus, a twofold strategy is called for: One, the short run, we need massive, targeted job slots and training slots; and two, in the long run, we need a Federal urban redevelopment policy, which should include Federal legislation to establish, among other possible programs, an urban reconstruction and redevelopment lending facility.

But, for the short run, jobs are the key. In New York City, between August 1976, and August 1977, the number of jobs actually declined, from 2,796,400 to 2,774,200. The unemployment rate did fall during this period, from 11 to 9 percent, but because the city labor force was also falling. As New York's Industrial Commissioner Philip Ross reported last week:

> Despite this apparent improvement, there were still 22,000 fewer City residents with jobs than in August, 1977 and year-to-year unemployment trends have not kept pace with improvements reported in the rest of the State.

He might have said "rest of the country," too, Mr. President, because New York City has really not yet recovered from the last recession.

In my judgment, there is clearly a need for additional Federal job slots assistance for New York City. In August 1977, 273,200 city residents were unemployed. Were it not for the public service employment programs of CETA, titles II and VI, which provide for about 28,000 jobs, the number unemployed would have been about 300,000. These programs, as well as others authorized under titles I and III of CETA, provide for about 45,000 job and training positions for some 300,000 unemployed, or only about 15 percent of need. Our Federal job assistance funds are not even remotely adequate, given the fact that private sector job creation is simply not happening in New York City. Other areas of our country, such as the Southwest, are experiencing rapid recovery in their economies and enjoy significant net new job creation. But their CETA allocations are based on last year's data, so they are receiving really what amounts to extra job assistance. New York City, on the other hand, is not receiving sufficient funds, given the endemic and deep-seated nature of its unemployment problem.

I would hope, therefore, that the President and the Secretary of Labor would consider asking for additional appropriations for existing CETA titles or, in lieu of that approach, proposing amendments to CETA to target job funds more sharply upon the hardest hit groups—youth—and the hardest hit areas of our country.

Either of these two courses of action would be a good first step in the development of a comprehensive urban policy for our country.

Mr. President, I ask unanimous consent to have these articles included in today's RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

CARTER, IN BRONX, FINDS HOPE AMID BLIGHT

(By Lee Dembart)

In an effort to demonstrate a commitment to cities, President Carter, in New York on United Nations affairs, made a sudden and dramatic trip yesterday morning to the South Bronx, where he viewed some of the country's worst urban blight.

The Presidential motorcade passed block after block of burned-out and abandoned buildings, rubble-strewn lots and open fire hydrants, and people shouting "Give us money!" and "We want jobs!"

Twice Mr. Carter got out of his limousine, walked around and talked to people. He said the Federal Government should do something to help, but he made no specific commitment.

After the tour, when Mr. Carter returned to the United Nations Plaza Hotel, he said:

"It was a very sobering trip for me to see the devastation that has taken place in the South Bronx in the last five years. But I'm encouraged in some ways by the strong effort of tenant groups to rebuild. I'm impressed by the spirit of hope and determination by the people to save what they have. I think they still have to know we care."

Accompanying Mr. Carter were Mayor Beame, who had been invited to the President's hotel suite yesterday morning but had not been told Mr. Carter was going to the Bronx, and the Secretary of Housing and Urban Development, Patricia Roberts Harris, whose office laid out the route.

Although the trip was kept a secret until the President was well on his way, it was no secret once he got to the Bronx, where the motorcade was led by six motorcycle escorts with sirens blaring and several police cars. Three helicopters hovered overhead as the party crossed the Third Avenue Bridge and headed up the Grand Concourse—a decaying remnant of a fashionable boulevard.

Small crowds of people watched the President's creamcolored limousine.

The two stops that the President made along the route were designed to show him one of the few hopeful projects and the much more common hopeless area of the Bronx.

The first stop was at 1186 Washington Avenue, between 167th and 168th Streets, where Mr. Carter visited a housing renovation project. There 40 people have converted a six-story tenement into a building boasting freshly painted hallways, 28 oak-floored apartments and solar heat collectors on the roof.

Claude Briley greeted the President, saying: "Hi Jimmy, I'm glad to see you're in the Bronx checking out conditions."

"How do you think we're making out?" Mr. Carter asked.

"Fine," said Mr. Briley. "We hope to make more progress."

Ramon Rueda, executive director of the People's Development Corporation, which undertook the renovation, appeared and said, "What a surprise!"

"We're proud of what you're doing," said Mr. Carter.

"We proud of you, too," Mr. Rueda said. "We have a low-interest mortgage, but we need more money, Carter. If you assist us in getting more CETA money, we could show a serious dent in the South Bronx."

Someone invited the President inside to look at the apartments, and Mr. Carter appeared about to go when an aide said there was not enough time.

"Gee whiz," said someone on the stoop, "this is really something, talking to the President of the United States on our own doorstep." The President and his party then shook hands again with the group, got back into their cars and went down the street.

"I feel ecstatic," Mr. Rueda said late. "He seemed completely sincere, and if he was putting on a show he was certainly making a good impression. I hope he will come back when we finish the next phase of our project."

$3 MILLION FEDERAL LOAN

The next phase includes a rehabilitation of five buildings in the area backed by a $3 million federally-financed loan and funds from the Comprehensive Employment and Training Act to train the workers.

The area was recently designated as a demonstration of multifamily urban homesteading.

If Washington Avenue was the hopeful stop, the hopeless one still awaited the President's party.

On Charlotte Street near Boston Road, not far from Crotona Park, the caravan stopped in the middle of a block on which all buildings on both sides had been demolished and the bricks had been bulldozed into heaps that in some places were eight feet high.

Mr. Carter, Mr. Beame and Mrs. Harris walked through two blocks of rubble that looked like the result of wartime bombing.

"Most of this occurred in the last five years after Nixon cut off the urban renewal funds?" Mr. Carter asked Mr. Harris.

"Yes," she said.

"See which areas can still be salvaged," the President said. "Maybe we can create a recreation area and turn it around. Get a Map of the whole area and show me what could be done."

Speaking to reporters, the President said: "There's been a rapid deterioration of this neighborhood, but high rises in the midst of devastation are holding their own."

One of the spectators, Marvin N. Mitchell of 1555 Boston Road, stopped in front of the Santa Maria grocery store later and said: "It's nice the President has come here to see for himself, but someone has to tell him that the people here need help. We need jobs. Otherwise the Bronx is going to go down."

BRONX A SYMBOL OF AMERICA'S WOES

(By Richard Severo)

The Bronx that President Carter saw yesterday has become a national symbol of what is wrong with urban America.

Once famous for its feisty, but upwardly mobile, millions of European immigrants, it is now home to newer arrivals whose downward mobility seems endless.

The county was also synonymous with the Yankees, but it is known now as place where fans of the team are afraid to attend night games at the stadium.

It was once known as the county where Edgar Allan Poe had lived and worked. Today it is known now more for crimes committed by children against the elderly, for moldering neighborhoods ruled by hopelessness and dominated by drug addicts, for arson, for abandonment of property, for unemployment, for fear to walk the streets after dark, for all in American cities that is unwanted and misunderstood.

"I think we could say that the Bronx, more than any part of the city and the nation, represents the total pathology of what has been happening to major cities—except that it has suffered from it on a grander scale," said Victor Marrero, chairman of the City Planning Commission, who grew up in the South Bronx.

WHITES NOW AT 44%

Mr. Marerro, whose family came to New York from Puerto Rico, is only 36 years old, but he can remember as a child having neighbors whose backgrounds were Irish and Italian. His own commission's report issued last spring, "A Housing Strategy for the Bronx," makes it clear that where the Bronx is concerned, the traditional New York melting pot is itself melting.

In 1960, whites were 76 percent of the population. By 1975, they had declined to 44 percent. The population of 1.5 million was more than half black and Puerto Rican and they were mostly poor and unskilled. The old European stock was rapidly leaving for the suburbs.

The Bronx's relatively clean air and abundance of building lots proved its undoing. Earlier in the century, it was the preferred location for hundreds of thousands of New Yorkers who wanted to escape the crowding of the Lower East Side.

And so the buildings went up to accomodate them, big 20-century buildings, five to seven stories high and capable of holding perhaps 100 families, two or three times more than the older, smaller structures of Manhattan's Lower East Side.

Bronx construction was thus less personal, more for investment, more for landlords who did not necessarily live there. There are some, and Mr. Marerro is one of them, who feel that the absentee landlords of big buildings played a major role in the borough's decline, when blacks and Puerto Ricans began to arrive in large number.

The city estimates that, in 1974, the owners of more than 8,000 housing units were delinquent in paying taxes of more than $35 million.

A GLOOMY STATISTIC

Over the years, parts of the Bronx have appeared to cease being a part of the city. In 1969, The New York Times conducted a study of the Hunts Point section of the Bronx, and by checking death records on three streets—Simpson, Fox and Tiffany—it was learned that residents there had only a 1 in 20 chance of dying a natural death. Most were dying in homicides or from drugs.

The Times study then also noted that many city services taken for granted elsewhere in New York—such as police protection, garbage collection, some semblance of civil order—could not be predicted with certainty in Hunts Point.

In the years since then, the problems first manifested in Hunts Point and other areas of the South Bronx have tended to spread. A study conducted by The Times in early 1976 reported that abandonment of apartment buildings, which had been pretty much contained to the area below the Cross Bronx Expressway, had spread northward and that dozens of buildings, only recently middle-class, were battered, hollow and empty, except for derelicts.

At present, there is no tangible reason to be optimistic about the future of the Bronx. All data available indicate that those who are are able to leave it are doing so and that they are being replaced by poorer and poorer people, some of them with enormous problems that they inflict upon their neighbors.

THE TRIP TO THE BRONX

President Carter took time out from the United Nations to visit the South Bronx, as crucial to an understanding of American urban life as a visit to Auschwitz is crucial to an understanding of Nazism. Guided by Mayor Beame, the Washington visitors peered at the numbing landscape of tumbled brick and blinded walls, and sensed the contrast between this wreckage and the occasional bud of hope among a few of the people, particularly the young, who live there.

Like many other distinguished visitors, the President was appalled by what he saw, and asked for a detailed plan to set things right. It should provide, he said, that where housing reconstruction was impossible "recreational institutions" be established.

The vistas of destruction and despair that stretched before the President prompted him to wish them out of existence and the spirit of his response credits his humanity.

Alas, like many predecessors, the President responded to the symptom, not the cause; a reconstruction of housing that provides only the short-term work of rehabilitation leaves untouched the basic cause of the present distress of the Bronx. When its population suffered much less from stagnant unemployment, deteriorated housing was the principal problem of the borough. Now, refastening the bricks and untwisting the pipes and conduits would leave untouched the basic problem: unemployment.

The people of the Bronx—and too many other residents of this city—need places to work; playgrounds are no substitute for them. Honorable observers may disagree on how, and particularly where to provide the jobs, but there should at least be consensus on what comes first. Jobs come first.

What the President saw in the Bronx was not so much crumbled buildings as wasted lives.

The ACTING PRESIDENT pro tempore. The Senator from Tennessee.

Mr. BAKER. Mr. President, I will not take but just a minute. I rise only to compliment our colleague from New York for his statement this morning, and to join with him in complimenting the President of the United States on his decision to address firsthand and observe on the scene the plight of south Bronx. It is a matter that the Senator from New York has brought to our attention often and repeatedly. I am sure all of us share, as I know I share, his great concerns in that respect, and I am glad to hear his advice and follow his leadership on ways that we can be helpful in trying to remedy an absolutely unacceptable situation.

Mr. JAVITS. I am very grateful to my colleague, and thank him very much.

THE PANAMA CANAL TREATIES CABLE

Mr. McCLURE. Mr. President, 2 days ago the distinguished Senator from Kansas (Mr. DOLE) released a State Department cable confirming that the State Department itself is aware that the Panamanian interpretation of the Neutrality Treaty is sharply different from ours.

To complement the information released by my colleague, I would like to bring to all Members' attention an Associated Press interview held with Panamanian negotiator Carlos Lopez Guevara last weekend. In the course of this interview he is quoted as saying,

It is sad to see that high officials of the United States government are affirming that these treaties give the United States the right to intervene . . . This Neutrality Treaty gives the United States the right to hope that Panama and all the countries in the world will respect the right of American ships to transit the canal, but that is the only right it has received.

I feel this interview is highly significant. Lopez Guevara's statements indicate the depth of conviction with which the Panamanians hold to their interpretation—and just how far that interpretation is from our own. It is obvious that a common understanding of the treaty language will have to be reached before Senate consideration of the documents can proceed any further.

At this time I ask unanimous consent to have inserted in the RECORD a translation of a story describing the AP interview with Lopez Guevara which appeared in the Monday, October 3, Spanish-language edition of the Miami Herald.

There being no objection, the translation was ordered to be printed in the RECORD, as follows:

(The following is a translation of a story which ran in the Miami Spanish language media Monday, October 3. It provides details of the Panamanian negotiators' reaction to the official U.S. interpretation of the neutrality agreement.)

This weekend the (Panamanian) negotiators refuted and contradicted the interpretations given the new Panama Canal treaties by Secretary of State Cyrus Vance and the American treaty negotiators Ellsworth Bunker and Sol Linowitz in their presentation before the Senate Foreign Relations Committee.

The denial was in reference to the statements made last week in the Senate by these officials on the controversial neutrality pact.

"It is sad to see that high officials of the United States government are affirming that these treaties give the United States the right to intervene," said treaty negotiator and attorney Carlos Lopez Guevara. "There is nothing in it that states this nor that could serve as a basis for American intervention."

In an interview with the Associated Press, Panamanian officials confirmed Saturday that the American officials not identified by Lopez Guevara were Vance, Bunker and Linowitz.

"This neutrality treaty gives the United States the right to hope that Panama and all the countries in the world will respect the right of American ships to transit the Canal," added the negotiator, "but that is the only right it has received."

This pact is separate from the Canal treaty which establishes the transfer of control over the sea lane to Panama at the end of the century, and has become the most sensitive issue of the public debate both here and in the United States.

COMMITTEE MEETING DURING SENATE SESSION

Mr. WILLIAMS. Mr. President, I ask unanimous consent that the Transportation Subcommittee of the Environment and Public Works Committee be authorized to meet during the session of the Senate today to conduct a hearing on options to continue the Federal Aid Highway Act for fiscal year 1979 and beyond.

The PRESIDING OFFICER. Without objection, it is so ordered.

(Routine morning business transacted and additional statements submitted are printed later in today's RECORD.)

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Is there further morning business? If not, morning business is closed.

FAIR LABOR STANDARDS AMENDMENTS OF 1977

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume the consideration of S. 1871, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1871) to amend the Fair Labor Standards Act of 1938 to increase the minimum wage rate under that act, to provide for an automatic adjustment in such wage rate, and to adjust the credit against the minimum wage which is based on tips received by tipped employees.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

AMENDMENT NO. 1393

(Purpose: to waive section 12 of the Fair Labor Standards Act of 1938, relating to child labor, with respect to certain agricultural hand harvest laborers under specified conditions.)

The ACTING PRESIDENT pro tempore. The pending question is on agreeing to amendment No. 1393. Who yields time?

Mr. HATHAWAY. Mr. President, I ask unanimous consent that the names of the Senators from Oregon (Mr. PACKWOOD and Mr. HATFIELD) be added as cosponsors of the amendment.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. HATHAWAY. Mr. President, this amendment would allow a waiver of the child labor restrictions in agriculture where the participation of children has been traditional over a long period of years. The amendment is endorsed by Senator MUSKIE and myself, speaking primarily for those in Maine who have been involved with the issue of traditional potato picking over the last 50 years if not longer, and by Senator PACKWOOD and others who speak for those who have been involved with strawberry picking for a considerable amount of time.

As background, let me say that hearings have been held on numerous occasions both in Oregon and in Maine with respect to participation of youngsters in the harvest of both strawberries and potatoes. All of the testimony has indicated that absolutely no harm has been done to the individual children involved. As a matter of fact, all of the testimony has indicated that a great deal of good has been done.

The amendment would limit the exception to children who are permanent residents of the area. That means that absolutely no migrants at all will be involved. The work cannot be deleterious to the children's health. No child can miss school because of this amendment, and all children so employed are required to return to their permanent homes every day.

The amendments of the Fair Labor Standards Act of 1974 were directed at ending the abuses of children of migrant workers. We heard extensive testimony with respect to how such children were exploited, how they missed school, how they were required to work or otherwise their parents would not be employed; but no such situation exists in Maine, in Oregon, or in any other areas where such crops as potatoes or strawberries are hand harvested by these youngsters in traditional ways.

The children who live in northern Maine are not migrants. They are indigenous to the area. They go home every night. They usually are accompanied by their own parents to the potato fields. And if not by their own parents, they go with the parents of neighbors. About 12,000 children—this is all children, of all ages—work in the potato fields during the months of September and October in Aroostook County in northern Maine, where Maine potatoes are grown mid-August so that a 1-month harvest and picked. School starts in early or recess can be taken from the middle of September to the middle of October. Thus, no child who is involved in the potato picking activity misses any time from school.

I know that those who are opposed to this amendment have the best interests of the children at heart. And let me assure the Members of this body that those of us who are for the amendment have the best interests of the children at heart. I think it would probably require a trip to the area involved by those who are opposed to get to know the people and the way of life in that part of the country, to understand why this amendment is necessary.

As I said at the outset, this is not only not harmful to the young children; it actually is very helpful to them. It allows them to get outdoors. They are not required to pick any specific number of barrels per day; they pick at their leisure. Oftentimes they are engaged in play with one another. Frequently, when they take their 8, 10, and 12-year-old children along with them the mother and father pick, so that they do not have to hire a babysitter to take care of them. The children pick as much as they want to pick, and, if they do not feel like picking, they do not pick at all. But picking or not, they are right there where the parents can watch them. Oftentimes, at this time of year, if both mother and father wanted to pick potatoes, it would be extremely difficult for them to get babysitters to take care of the young children. Probably the mother or father would have to stay home because nearly all of the young people in Aroostook County are engaged in the potato harvest.

It is a very natural thing to do in this part of the country. As I say, it is a tradition, part of the culture there, since the time potatoes were first grown.

The amendment does provide that permission for youngsters to pick potatoes is discretionary with the Secretary of Labor. The Secretary would have to find, first of all, that the application of the present law's section 12, which is a prohibition against picking by those who are 12 or under, would cause severe economic disruption in the industry of the employer or group of employers who have to apply for waivers. In the first place, the employer or group of employers would have to apply for a waiver. Even if this amendment is agreed to, it does not mean that those 12 or under can automatically help with the harvest. There has to be an application by an employer or group of employers. There has to be a decision made by the Secretary of Labor. He has to make the finding that there would be a severe economic disruption in the industry if such a group of youngsters is not allowed to participate in the harvest.

Second, the Secretary has to find that the employment of such children, to whom the waiver would apply, would not be deleterious to their health or well-being.

Third, the Secretary would have to find that the industry of such an employer has traditionally and substantially employed individuals under 12 years of age without displacing substantial job opportunities for individuals over 16 years of age.

We think with those three findings we have covered just about every situation which could exist. There will be absolutely no exploitation whatsoever.

I know there are others who would like to speak on this amendment. Realizing there is just a half hour for each individual, I reserve the remainder of my time. The Senator from Oregon may speak on the amendment.

The ACTING PRESIDENT pro tempore. The Senator from Oregon.

Mr. PACKWOOD. Mr. President, today we will decide whether children under the age of 12 will be permitted to participate in the harvests of strawberries, raspberries, and certain other hand-harvested crops of the Pacific Northwest. Senator HATHAWAY has introduced an amendment which would make the Senate's minimum wage bill similar in this respect to the version passed by the House of Representatives on September 15. He and other representatives from Maine are hopeful young Maniaks can be used for certain of their potato harvests.

Until 1974, Oregon and Washington children traditionally played a major part in the community-wide efforts to harvest fruit and berries. Entire families, frequently from urban and suburban environments, go to the berry fields and fruit orchards in the mid-to-late summer to bring in the crop. Clearly, the majority of these crops are harvested by adults, but unless children are permitted to enter the fields along with their parents they must be left at home. This is usually enough of a deterrent that the parent decides it is not worth the effort to hire a babysitter or leave the children home alone. The decision by Congress to prohibit children under 12 from helping with the harvest has resulted in large reductions of the labor force. Parents simply decide to stay home or pursue other employment.

Since the 1974 decision, Northwest States have had a 30 percent drop in many hand-harvested crop acres. Crops such as strawberries and raspberries have dropped in total dollar value by even greater percentages. The result has been the displacement of adult laborers in the canning, processing, transportation and marketing of these crops.

The amendment I hope the Senate will accept was carefully drafted to preclude the possibility that any child could be endangered. The Secretary of Labor may grant a requested waiver only when he is confident the children will: First, not be subjected to unsafe conditions; second, not miss any school hours; third, not displace older persons from jobs; and fourth, work in close proximity to their permanent homes.

I realize that many States do not have crops which are, of necessity, hand-harvested. I realize therefore that many States do not need this amendment. I hope that will not mean Senators from those States will oppose this amendment. The diversity of this Nation is ill-served by uniform solutions to complex problems.

The opponents of this amendment in the past have raised legitimate objections, but ones I think we can lay to rest. I know that if they could visit the fields, as Senator HATHAWAY and I have on numerous occasions, the fears of child abuse could be eliminated completely.

The children we are talking about are under the close supervision of their parents, brothers, or sisters, and adult friends. The air is much cleaner than in a typical city street, theater, or restaurant. Pesticides are subject to severe limitations and are never used too close to harvest time.

These kids, while contributing to the community-wide effort to bring in the crops, are learning to appreciate honest labor and the value of money. Several members of my own Senate staff recall the days when they, too, picked strawberries as young children. They started savings accounts for college tuition or simply earned their own spending money.

In my view, if more young people had the opportunity for earning their own money at an early age, fewer would spend their time getting into trouble. Our cities are clogged with idle, unproductive youth who spend a majority of their time learning the idle, unproductive pursuits of adults.

We should not prevent the employment of young children if they are in a clean, safe environment, under the careful eye of parents and adult friends, during nonschool periods. Recent crackdowns on the employment of illegal aliens have also inhibited the perfectly legitimate employment of Mexican-Americans. Other factors have resulted in severe agricultural labor shortages. The increasing use of machines to harvest crops reduces the total labor force available for the harvesting of those crops which may never be machine-harvested. In short, we need to develop new sources of manpower, not cut off the traditional ones.

The amendment before the Senate today would help young children and the producers of berries and fruit. For the information of all Senators, I ask unanimous consent that the text of this amendment be printed at this point in the RECORD.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT NO. 1393

On page 12, between lines 17 and 18, insert the following new section:

AGRICULTURAL HAND HARVEST LABORERS

SEC. 5. Section 13 (29 U.S.C. 213) is amended by adding at the end thereof the following new subsection:

"(1) (1) The minimum wage and overtime exemption provided by subsection (a) (6) of

this section shall apply according to its terms to hand harvest laborers described in this subsection but an employer or group of employers may apply to the Secretary for a waiver of the application of section 12 to the employment of individuals, who are less than twelve years of age, as hand harvest laborers in an agricultural operation which has been, and is customarily and generally recognized as being, paid on a piece rate basis in the region in which such individuals would be employed. The Secretary may grant such a waiver only if he finds that—

"(A) the application of section 12 would cause severe economic disruption in the industry of the employer or group of employers applying for the waiver;

"(B) the employment of the individuals to whom the waiver would apply would not be deleterious to their health or well-being; and

"(C) the industry of such employer or group of employers has traditionally and substantially employed individuals under twelve years of age without displacing substantial job opportunities for individuals over sixteen years of age.

"(2) Any waiver granted by the Secretary under paragraph (1) shall require that—

"(A) the individuals employed under such waiver be employed outside of school hours for the school district where they are living while so employed;

"(B) such individuals while so employed commute daily from their permanent residence to the farm on which they are so employed; and

"(C) such individuals be employed under such waiver (i) for not more than thirteen weeks between June 1 and October 15 of any calendar year, and (ii) in accordance with such other terms and conditions as the Secretary shall prescribe for such individual's protection.".

On page 12, line 19, substitute "Sec. 6." for "Sec. 5.".

On page 12, after line 25, add the following new subsection:

(c) The amendment made by section 5 shall take effect on the date of enactment of this Act.

Mr. PACKWOOD. Mr. President, we are not talking about children working in textile mills 12 hours a day, with some kind of a boss who drives them until they drop or injure themselves. We are not talking about children working in wheat fields with combines and dangerous machinery. We are talking about a very customary, safe, healthy, outdoor activity which children in my State have participated in for years and years and years without injury to their bodies, their psyche, or anything else.

I would wager today that children are safer picking strawberries, raspberries, or beans than they are playing in the park. They are not likely to be mugged or robbed or raped in the strawberry fields. They may well be in the parks.

They are healthier in the fields, which are on the outskirts of our principal cities, healthier than they would be playing in the streets where the air is more polluted.

I emphasize again that we should put out of our minds the concept of child labor as we have seen it in our textbooks while growing up. This is an activity in which children engage in one of two ways: they go out often on weekends to pick strawberries, pick raspberries, pick beans, to make pin money. They cannot get any other job. This is not an alternative to working in a factory. They are not old enough to do that. They are not taking the jobs of adults. Adults choose not to pick.

Children will either do that or in equal likelihood they will go out with their families on weekends, because many of these fields are open on a "you pick" basis. On a Saturday and Sunday a mother, father, and two or three children will go out and pick all day long, for their own use for canning purposes, bring whatever they have picked back home, paying the farmer whatever the going rate is. It is very convenient for them to take their entire family with them rather than trying to find a babysitter or leave one or two children at home who may be under age. As the Senator from Maine said, the younger children may not pick but at least they are with the family.

This limitation has caused not only an inconvenience and a hardship to those who grow raspberries, strawberries, beans, and similar crops in Oregon, but it has caused a severe dislocation to a traditional way of life of families in Oregon that never were injured, never harmed, never hurt, the families or their children, in all the years before this prohibition was put into effect.

These children have not taken a single job of an adult picker. They have not been saved from any injury that they might have otherwise had prior to the passage of this limitation. Their health has not been impaired. Their work-study habits have not been deterred. Not a single thing has been gained for the alleged protection of children. All we have done is deprive them of the right to make some money. All we have done is make a great inconvenience for families as a unit to go out on weekends and engage in a very healthy avocation.

I strongly support the amendment.

Did the Senator from Maine add me as a cosponsor to the amendment? If not, I ask unanimous consent to be added.

The ACTING PRESIDENT pro tempore. The Chair will advise that has been done.

Mr. PACKWOOD. I thank the Chair.

Mr. President, I yield the floor.

Mr. WILLIAMS. Mr. President, I yield myself 5 minutes.

The ACTING PRESIDENT pro tempore. The Senator from New Jersey is recognized for 5 minutes.

Mr. WILLIAMS. Mr. President, although I cannot support the proposed amendment to permit child labor, for reasons which I will explain, I would suggest that there are certain provisions, indeed protections, that I would respectfully submit to the authors of this amendment. They would bring to the young children who would be covered under this amendment certain protections which I think are basic and most needed.

I am concerned that the amendment appears to give the Secretary carte blanche authority to extend an employment opportunity to the children covered under this amendment. I would hope we could see this amendment amended, to make it clear that the Secretary is not expected to issue an open-ended authority to employers seeking to use the labor of these children. In my judgment the employers should come forward with information which is sufficient to form a basis for the Secretary's judgment with regard to the safety criteria established in the proposed amendment.

No one, including the Secretary, would be in as good a position to provide this information as the employers who choose to use the child labor.

Therefore, I hope the Senator will accept an amendment which would require the submission of objective data by an applicant for a waiver. This could be done on page 2 of the pending amendment by striking out line 10 and inserting in lieu thereof the following:

May not grant such a waiver unless he finds, based on objective data submitted by the applicant, that—.

Finally, I would urge the Senator to add an additional precondition to waiver by the Secretary of Labor, which would insure that young children will not be exposed to the hazardous effects of pesticides and herbicides in our agricultural fields.

It is my understanding that the potato crop of Maine is now subjected to intensive spraying of the herbicide DNBP (4-6 dinithrothenol-o-sec-butyl phenol) which is also known as dinocebe, premerge, or sinox pe.

This spraying occurs about 2 weeks before the harvest, and its purpose is to kill the foliage of the potato plant and make harvesting easier. I am informed that exposure to this herbicide can be dangerous; that it is highly toxic, corrosive to skin and eyes, and can be fatal if it is ingested. Moreover, the long-term effects of the chemical are not known, and it is presently being reviewed by the Environmental Protection Agency.

It is my understanding that the pending amendment is also intended to permit the harvesting of strawberries, cane berries, and pole beans by young children. In conferring with officials at EPA's Pesticide Registration Division, we have learned that these crops are sprayed with the pesticide thrithion (carbophenothion) and that this chemical compound is one of the class of chlorinated hydrocarbons which, in some forms, have been shown to be carcinogenic or mutagenic.

These are rather frightening facts to be considered in connection with this issue. As a minimum, therefore, I would propose that the pending amendment be amended to assure that the Secretary of Labor will look into the question of exposure to these chemicals as part of his certification process.

This could be done by amending the amendment on page 2 by striking out "and" in line 16; then, also on page 2, between line 16 and 17, insert the following:

(C) The level and type of pesticides and other chemicals used would not have an adverse affect on the health or well-being of the individuals to whom the waiver would apply; and.

In the following line on page 2, the capital (C) should be stricken and in lieu thereof a capital (D) inserted.

This amendment would insure that the Secretary give appropriate consid-

eration to the problem of chemicals in our fields before certification is made. Together with the other amendment which I have proposed, it would also insure that employers come forward with information about the types of pesticides and herbicides they use.

(Mr. LEAHY assumed the chair.)

In addition, I would suggest, and I shall have this in full form for the Senator from Maine, that on page 2, line 6, there be a limitation of at least 10 years of age—this could be done by making two small changes on page 2 of the amendment. On line 3, insert "also" after "may".

Second, on line 6, page 2, insert after the comma, the following "but not less than 10 years of age."

We discussed this last night, and then, as I worried through the long night after adjournment about this amendment, I concluded that without these protections, the amendment of the Senator from Maine is contrary to the efforts of our committee over the years to reduce to a minimum or eliminate child labor. This amendment deals with two situations that the offerers of the amendment described to me as critical: the 6 weeks of the potato harvest in the State of Maine, and a common period in the harvest of strawberries in the State of Oregon.

I think we all have some background of healthy and happy days working as youngsters on a farm. I know my happy experience was working, as a youngster, as a farmhand on a dairy farm in the Adirondack Mountains of upstate New York, and it was a healthful thing. But we have a new kind of agriculture and it is not a frolic any more, except in rare situations where a youngster is on his uncle's farm or his parent's farm. We have taken care of these situations and permit that kind of work. But here we have a potential for problems, and it worried me, but I can also understand that society has been organized around youngsters in some of these field crops.

Last night, we discussed the special situation of potato and strawberry crops. It impressed me that if we have a cutoff at the age of 10, if we make sure that the scene is reviewed and the hazards known, and some of the hazards that are still unknown are protected against in the chemical treatment of the crop before the harvest, incorporate limitations of time in weeks, that perhaps we can, while protecting the children, also protect the economy of these particular areas.

Mr. HATHAWAY. Will the Senator yield to me for a question?

Mr. WILLIAMS. Yes.

Mr. HATHAWAY. I think that, as far as the pesticide amendment is concerned, it is a good one. I wish to read from an American Farm Bureau letter to me of September 29—and the American Farm Bureau does support this amendment. They say, talking about pesticides, that, "the only real danger is oral ingestion by the applicator driving the spray machinery," which in no case would be a youngster. The letter goes on to say that the last spraying is done 7 days before the harvest.

The chemicals, once they dry, are not toxic and actually, the practice in Aroostook County is to not stray within 10 or 20 days of the harvest. So there are an additional 3 to 13 days as a margin. Also, the EPA regulates this very strictly. But we should nevertheless incorporate the amendment which the Senator from New Jersey has suggested, just to make sure that there is no danger whatsoever from any toxic material.

I am somewhat reluctant to accept the 10-year-old minimum age, especially as I do not know whether or not it would be acceptable to the Senator from Oregon for me to do so. But I know that, in Maine, there are those under 10 and probably down as young as 8 years old, and younger, who work in the harvest. But in order to have the support of the committee chairman, the Senator from New Jersey, for this amendment, I would be willing to take that.

But I do want to ask a question about the Senator's first suggestion on changing my amendment to require that objective data must be furnished. Can we establish what we mean by the words objective data?

A farmer will come in and say, "Look, I cannot get anybody to harvest my potato crop; can I employ those who are 12 or under?" What more is he going to have to do than that in order to show that a labor shortage is going to seriously disrupt his operation? Would an assertion of need by the farmer be sufficient? I do not know what objective data he could furnish beyond that, beyond saying, "Look, I have not been able to get any other help."

Mr. WILLIAMS. The language of the proposed amendment specifies what must be shown; he must show that, "The employment of the individuals to whom the waiver would apply would not be deleterious to their health or well-being."

For example, the farmer could state that that pesticide is not wet on the vine when the kids go into the fields. The Senator has said that pesticide is sprayed 7 days or 10 days before picking. That would be an objective bit of information that would suggest that the danger had passed, because the pesticide would have dried on the vine and would not harm the picker.

Mr. HATHAWAY. That is the answer I wanted to get from the Senator. The assertion by the applicant is sufficient.

Mr. WILLIAMS. That is why I mentioned that nobody is in a better position to explain what is happening on the farm than the farmer himself.

Mr. HATHAWAY. Well, I have no objection to accepting the amendment, but I think that I should hear from my colleague from Oregon before I accept.

Mr. PACKWOOD. I am not sure I understand all the amendment. The pesticide part, that the Senator from New Jersey talked about, I think is acceptable. The EPA standards, as far as Oregon is concerned, on pesticides now require that it must be of such a low level before picking that I do not think we must change the pattern of picking now.

I did not understand the objective criteria. Did the Senator from New Jersey limit his amendment to just potatoes? I do not think you pick potatoes. Do you not dig them?

Mr. WILLIAMS. Well, you pick them off the ground. They have to be loosened from the ground. It is called potato picking.

Mr. PACKWOOD. I did not mean to draw the point out. Did we limit it to strawberries and potatoes or not? I did not hear that.

Mr. WILLIAMS. These are the two crops that were described to me as presenting a critical need for young labor to work as picking hands. Without young workers, the harvest would not be accomplished. Strawberries from Oregon and Washington and potatoes from Maine were described to me as examples of such crops.

Mr. PACKWOOD. I hope that the Senator from New Jersey will just leave the definition at handpicked crops or whatever this definition in the amendment is. At least raspberries and beans in Oregon are affected. I see the Senator from Washington. I would assume that blackberries, blueberries, currants, and crops of that nature are picked by the same type of children as potatoes in Maine and strawberries and raspberries and beans in Oregon. I shall not speak for Washington, but I would hate to see it limited solely to strawberries, which is a relatively short picking season—3 weeks, 4 at the most, if you are lucky. You can pick raspberries and strawberries and beans in succession and have a reasonable season over summer.

Mr. WILLIAMS. My position is that I want to limit the effect of this amendment to the areas that were described as critical. When you have a 3-week or 4-week harvest, a very abbreviated time, and if you cannot get your workers, then you could lose a harvest. Now, if you have a crop that continues to grow and produce, and you harvest it over a long period, then I am afraid that what we will be dealing with is much too long a period of child labor, which I think would be deleterious.

The Senator mentioned a couple of other fruit. The raspberry crop is not a long season. However, the beans go on from spring until fall.

Mr. PACKWOOD. The Senator is right. Beans can go on for a long season. But in the particular area where they are growing, because we are limiting pickers to daily commuters, they can have an area of 200 to 300 miles, but not more than 10 to 20 miles because they commute daily.

This is not like migrant labor, starting in the middle of California, to Canada, over a period of 3 or 4 months.

Mr. WILLIAMS. Is the Senator describing a crop which has what I would describe as a critical harvest period?

Mr. PACKWOOD. Yes.

The relative harvesting period of strawberries is 3 to 4 weeks. Raspberries,

about the same. Beans, where we are picking under this limitation of around the home or town where they live, would be the same.

They are short harvest periods. In Oregon we have a slightly different growing season, but they are all short harvest crops.

Mr. WILLIAMS. If there were a way to pinpoint this critical period in the harvest of crops other than strawberries and potatoes, I would consider the suggestion to include these crops. But I would also like to make sure that this almost comes to a point where there would be no harvest without child harvesters.

Mr. PACKWOOD. We have also circumscribed the amendment. Children are the traditional harvesters of these crops. They have to live at home and commute daily. There has to be a labor certification that the crops are not likely to be picked without them.

The problem is, if we just say strawberries, 50 miles away from the Portland area we will have a fair sized bean industry and not a great strawberry industry. The child around Portland will not go to Salem to pick beans. Around Salem, they will not pick anything out of those limits because they will not go 50 miles away to pick strawberries.

The limitation of June 1 to October 15, I can almost assure the Senator it will be an unusual child and an unusual geographic situation where the child will be able to pick within 15 to 20 miles, at the outside, of his or her home, to be able to pick all summer. At least Oregon's crops, growing around one area.

Mr. MAGNUSON. Will the Senator yield?

Mr. WILLIAMS. I am happy to.

Mr. MAGNUSON. I apologize for not being here for the earlier part of this discussion.

When the Senator mentions a critical crop, he is talking about the time point, is he not?

Mr. WILLIAMS. Yes.

Mr. MAGNUSON. I can assure the Senator that I would not be for any such amendment if it adversely affected better conditions for migrant workers. But we do have places in Oregon and up in my State where there are no migrant workers to harvest the crop and the harvesting period is very short. There is no place they could go. For instance, the berry crop around the area of Puyallup only extends for 2 or 3 weeks, sometimes, because of the rains, they have to get in the crop in a week.

Mr. PACKWOOD. This has never been a traditional migrant picking.

Mr. MAGNUSON. No; these are just little valleys where they raise a lot of big blackberries—the Senator would not believe it. They are about this big.

The youngsters go out—the teachers go with them—and they will make a little money to take home. They will use the money to buy new uniforms for the band and all the little activities in the little town where this happens. It is traditional. There is no way to get migrant workers in there, although we employ thousands of migrant workers as they do in the State of New Jersey.

Mr. PACKWOOD. For pears, apples.

Mr. MAGNUSON. Sometimes we do not even get them for those crops.

I recall one time when the weather was such that the apple crop had to be picked right away. In order to save the crop, the Army had to be called in. The Army let the soldiers in Fort Lewis get in trucks and go over to the orchards and within 1 week they brought that apple crop in.

Now there is a constant migrant worker population in certain areas of the State. But as to these little pockets of berry farms that the Senator from Oregon is talking about, there is just one way to harvest the crop—the youngsters handpick the berries.

The teachers go along with the children. It is almost a field expedition. There is no way to pick strawberries except by hand.

I happen to have a small place in Bainbridge Island. Bainbridge Island used to be populated by about 4,000 people, and perhaps 3,500 were Japanese. They used to take care of their own fields, and they raised the biggest strawberries in the world—outside of Japan. Their children would go out and help them. The irony of it is that, when the war broke out, we took all the Japanese off Bainbridge Island and put them in a prison camp in the Senator's area, and some of them never returned.

There is a little high school and a grade school in the community, and these kids go out and pick strawberries. In the fall, at Thanksgiving time, they go around and pick holly, with big berries. All the holly you buy in the New York and New Jersey department stores, the fine holly with the berries, comes from that one area.

The school gets a lot of benefit out of this. They have the finest band uniforms you ever saw in your life. Part of the money the kids earn goes to that. It is a family thing in most cases; but when the family does not have enough children, they have to rely upon the youngsters in the area.

Mr. WILLIAMS. I appreciate what the Senator from Washington has said. I wish I had talked to him last night. I agonized over this through the night.

The Senator has described a situation that suggests that it is a different situation than the one that compelled us to limit child labor.

Mr. MAGNUSON. I would be the last one to do so. I think no one has been more active in the field of toxic substances and pesticides than the Senator from Washington.

Mr. PACKWOOD. I would daresay that it would almost be impossible for a child to injure himself picking strawberries. It is a little bush on the ground. There are no mechanical contrivances of any kind. You are more likely to be injured swimming in a pool than you are picking raspberries or strawberries.

Mr. MAGNUSON. Or riding a bicycle along Main Street.

If migrant labor were available, that would be one story. But this is a different situation.

Mr. WILLIAMS. But we should protect the youngsters from being used in harvesting under this amendment throughout the year. We should limit the time within which they can have this opportunity for employment.

Mr. MAGNUSON. There is no suggestion that that should not be done.

It is just a quickie harvest.

Mr. WILLIAMS. The Senator from Maine is going to suggest that we include peanuts, but, I understand that the peanut harvest is mechanical, and that is exactly what we want to stay away from.

Mr. HATHAWAY. I just wanted to gain favor with the administration by suggesting that.

Mr. WILLIAMS. Again?

Mr. HATHAWAY. Again.

Mr. MAGNUSON. I hope we can make some accommodation with respect to this. The Senators from Oregon and Maine and my colleague have been pioneering in this field as hard and as long as any other Senator in this body, with respect to protection for the working people. I sometimes receive a lot of criticism for going too far the other way.

Mr. WILLIAMS. Because of the authorship of this amendment and those who supported it, I knew all the evidence I needed was there. I understood we would not be doing anything damaging to the young people of the States of the Senators: Washington, Maine, and Oregon.

Mr. President, I ask unanimous consent that Judith Hefner, of Senator LEAHY's staff, have the privilege of the floor during the debate on S. 1871.

The PRESIDING OFFICER (Mr. ANDERSON). Without objection, it is so ordered.

Mr. JAVITS. I yield myself such time as I may require.

Mr. President, I have heard, with the deepest interest, the warm personal expressions of feeling and romance expressed by my colleagues from the States which are intimately affected. I can understand their views, I can understand their feelings, and I can understand their good faith in terms of the fact that they are, without exception, Senators who, on many other battlefields, are very sensitive to human rights and to human aspirations and to the way in which human beings are used in our society. But, Mr. President, facts are facts.

I noticed that one of my colleagues, in referring to the farmers, mentioned, "He can't get anybody to harvest."

Mr. President, we are not talking about independent contractors here. We are talking about 10-year-old kids, less than half the age of consent and less than half the age which makes a contract binding upon them. What do they have to say about it? Absolutely nothing.

As to the idea that these people want pin money, of course they do. All kids do. Do we let them sell cocaine because they want pin money or steal from groceries because they want pin money? Of course, we do not.

I wish to add at once that I am not challenging for a minute the feelings of my colleagues on this subject who feel it is good for children, who feel that it is a good undertaking for them, that it is good for their communities. I am not challenging any of that. All I say is this: We are a national legislature; we have to develop and work out a national policy. We cannot—and that is why we are a nation—work out a policy which would be worked out otherwise in the individual legislature of an individual State.

It may very well be—it probably is—the fact that in each of these individual States the legislature would accommodate this situation for very obvious reasons. That does not necessarily mean that we should.

I wish to point out, too, Mr. President, that the State with the biggest harvesting activity is California. The total harvests in California is far and away greater than in Washington, Oregon, and Maine. The order of magnitude is 6 or 7 or 10 to 1.

In California child labor on the farm under 12 will continue to be prohibited because that is State law. This is not a preemptive statute, so that a higher standard in an individual State will prevail.

I make that very clear because we must realize that that will continue to be the situation, however we may fashion this particular exemption in this law.

Second, Mr. President, I think we have to insist, if we are to permit children as young as 10 or 11 years old to work in violation of minimum wage and overtime standards, that this is really essential, and that there is good public policy reason for making this exception.

In that connection, Mr. President, I think it is very useful to contrast two different points of view upon this question of exactly what the child does.

(Mr. ANDERSON assumed the chair.)

Mr. President, the amendment before us today would undo in part the landmark achievement of the 1974 Fair Labor Standards Amendments in which we established a national policy of opposition to child labor in agriculture. If this amendment is adopted, employers in agriculture will once again be permitted to reap their profits from the harvest time labor of little children.

The 1974 extension of the child labor laws to agriculture culminated a 13-year struggle, during which time this body voted thrice to ban child labor in agriculture. Thirty-seven years ago the Congress saw fit to ban the use of "oppressive child labor" in the sweatshops and factories of our cities. Since that time, those in whose interest it was to have an available and cheap supply of labor for the harvest have promulgated the myth that somehow agricultural labor by children was of a purer nature than other labor. In 1974 we put that myth to rest and outlawed the exploitation of children in these "sweatshops in the Sun."

Now it is argued that the labor which would be permitted by this amendment is healthy, that it teaches children the value of a day's work, and the value of a dollar. Child labor became a tradition that was summed up in a 1971 editorial in the Capital Journal of Salem, Oreg.:

> Besides having the comradeship of other youth in the platoon, young pickers learn the value of the dollar and the joy of recreation earned; they gain a selfrespect deep in the inner person because of having contributed to the world's needs; they help save the strawberries and beans for canning; and they have earned their own spending, clothing, and school money ... long live the early morning sack lunches, clusters of kids waiting for platoon buses, and the honest, harmless sweat.

This editorial was in response to the American Friends Service Committee report, "Child Labor in Agriculture—Summer 1970." Investigators from this organization had gone into Oregon, Washington, California, Ohio, and Maine. In each of these States some farmers used the labor of children under circumstances that forced the investigators to conclude.

> The child labor scene in 1970 is reminiscent of the sweatshop scene in 1938 . . . It should be intolerable for a sizable segment of a major industry to depend upon child labor for its survival. In America in 1970 it is not only tolerated, it is encouraged . . .

Ronald B. Taylor, a investigative reporter and noted author of "Sweatshops in the Sun," a thorough exploration of child labor in agriculture, describes the nature of work in the field done by children:

> Strawberries . . . grow close to the ground, workers kneel, crawl, bend, stoop, or sit and scrunch along, pushing a miniature wheelbarrow-like contraption that holds the "flat." One flat holds 12 quart-sized baskets and when these baskets are filled and carried to the checker, the flat is worth 80 cents to $1. This is knee-scraping, backbreaking labor. Pole beans are not much better and bush beans are worse because the full hampers weigh 30 to 35 pounds.

I seriously doubt that it is in the national interest of this country to have children as young as 10 or 11 years of age provide the labor pool for any industry. The supporters of this amendment argue that casual child labor by resident children is different from the labor which generations of young migrant laborers performed. They argue that this amendment will continue to protect against the horrors of young migrant children who, with their families follow the crops each year in an effort to earn enough money to support their families.

In the first instance, I do not believe that there is any difference between the labors of migrant children and those of resident children. If it is true that it is in the national interest to protect our young from work in the factories, then so it is true that they should be protected from the arduous work in the fields. The simple fact that the employment of children in harvesting certain crops has been traditional does not, in and of itself, mean that such employment is beneficial or healthy or proper. I remain unconvinced that the harvesting of berries and potatoes by young children is somehow intrinsically different from other types of exploitive child labor.

In late 1974 the disruption of traditional employment patterns caused by the new child labor amendments was brought to the attention of the Labor Subcommittee on which I serve as ranking minority member. At that time, the committee conducted field hearings to examine the impact of the new legislation, and determine whether an amendment such as that proposed today was justified. After conducting those hearings, the committee did not find sufficient justification for the continued employment of young children to warrant recommendation of an amendment.

For 3 years now this law has been in effect, and the crops have been harvested without the aid of these young workers. I cannot believe that the harvest will not continue without the assistance of 10-year-old laborers. If the justification for this amendment is that it will permit an expansion of agricultural industry areas where children have traditionally formed part of the work force, then I say to my colleagues that we must find other ways to foster agricultural growth than to build such expansion on the sweat of our young.

There is yet another problem about this amendment that troubles me. While the amendment itself does not apply to migrant child laborers, its provisions will, of necessity, make enforcement of the child labor laws more difficult in areas where migrants are employed. It will be necessary to determine in each instance in which the Labor Department finds children employed in the fields whether they qualify under the exemption. Inspectors will have to ascertain where the children go to school, and whether school is in session. They will need to know how long the child has worked in the field and where he lives. These additional conditions will make the already difficult job of enforcing child labor laws in agriculture all but impossible.

I would also remind my colleagues that current law permits the employment of children under the age of 12 by farm operators who are not covered by the minimum wage provisions of the Fair Labor Standards Act. These small growers may already use underage children to harvest their crops. I have seen no evidence that the existing exemption is not sufficient to supply an adequate labor force for the harvest in areas that have traditionally relied on youngsters for harvesttime labor.

After Congress banned child labor in the factories, I am sure the same justifications could have been advanced for an exemption permitting limited labor by underage children in our factories. Such labor had, I am sorry to say, been a tradition in many parts of this Nation. Certain employers were no doubt burdened by the loss of the cheap and available source of labor young children represent. But our industrial economy has survived without reliance on the young. So too has agriculture survived these 3

years, and will continue to survive. It is my hope that Congress will not take the retrogressive step of yielding to the perceived short-term needs of one small group of employers, and thereby erode the humane action of banning child labor in agriculture.

Now, Mr. President, under the circumstances, I think it is very pertinent to get the attitude of the Department of Labor. The Secretary of Labor is strongly opposed to this amendment, and I would like to read the opinion of the Secretary of Labor. I ask unanimous consent that the letter may be made part of the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. DEPARTMENT OF LABOR,
Washington, D.C., October 5, 1977.

Hon. HARRISON WILLIAMS, Jr.,
Chairman, Committee on Human Resources, U.S. Senate Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your request for the views of the Department of Labor on section 11 of H.R. 3744, the House-passed version of the "Fair Labor Standards Amendments of 1977."

We are opposed to this section of H.R. 3744, which would establish procedures under which an employer or group of employers could apply for a waiver from the Secretary of Labor which would in effect permit the employment of children under 12 years of age in hand harvest labor in agriculture on a piece rate basis.

Such legislation would reverse the trend of congressional enactments over the years to improve the protection of children; the unhealthful effects of child labor in agriculture argue for greater not lesser protection. Modern agriculture is a high risk industry. These risks are not limited to heat, sun, dust and insects, or the strains caused by stooping and lifting. Children working in the fields are dangerously exposed to toxic chemicals, pesticides and large power-driven machinery.

According to a 1976 report of the National Safety Council, almost 22 percent of all farm injuries reported in a 15 State survey occurred to children in the 5–14 year old age group. This is an inordinately high proportion, considering that children are out of school for only about three months of the year.

A recent report by the American Friends Service Committee on "Children Who Work in Commercial Agriculture," concluded that:

"Such labor continues to exist because the industry for whom it works continues to depend on an oversupply of cheap labor. If the industry took steps to develop a critical analysis of its labor needs to determine the amount and kind of labor actually needed, use that labor efficiently and pay it adequately, it could get the adult labor necessary to harvest its crops."

Given the compelling humane considerations involved, there is no justification for the Amendment.

The Fair Labor Standards Act currently permits the employment of children under 12 outside of school on farms owned or operated by their parents, or with parental consent on farms not covered by the monetary provisions of the Act under the 500 man-day exemption. Children 12 and 13 years of age may be employed on any farm outside of school hours with a parent's consent or on a farm where the parent is also employed. There is a 14 year minimum age for employment in non-hazardous agricultural occupations outside of school hours (section 13(c)(1)).

It makes no sense to encourage children to risk their health and safety to work in agriculture when growers can find an adequate supply of labor among underutilized workers in older age groups. Moreover, it seems probable that unemployed teenagers are available for such farmwork.

The Office of Management and Budget advises that there is no objection to the submission of this report from the standpoint of the Administration's program.

Sincerely,

/s/ RAY MARSHALL,
Secretary of Labor.

Mr. JAVITS. The letter is dated October 5, 1977, and he says as follows—it is addressed to Senator WILLIAMS, the chairman of our committee:

We are opposed to this section of H.R. 3744—

That is the House bill—

which would establish procedures under which an employer or group of employers could apply for a waiver from the Secretary of Labor which would, in effect, permit the employment of children under 12 years of age in hand-harvest labor in agriculture on a piece-rate basis. Such legislation would reverse the trend of congressional enactments over the years to improve the protection of children.

The unhealthful effects of child labor in agriculture argue for greater, not lesser, protection. Modern agriculture is a high-risk industry. These risks are not limited to heat, sun, dust, and insects or the strains caused by stooping and lifting.

Children working in the fields are dangerously exposed to toxic chemicals, pesticides, and large power-driven machinery.

Now, we are going to deal with the chemicals in Senator WILLIAMS' changes, that is, with the pesticides. We are not going to deal with the machinery, and I understand, Mr. President, that in the harvesting of potatoes machinery is an integral part in the operation in the fields. The machines, as I understand it, go through the fields and turn up the potatoes and then they are picked by the children. How the relationship exists between the time and place of the operation of that machinery and the children is something which I feel certainly the Secretary of Labor ought to have control over.

And the Secretary of Labor goes on in his letter:

Given the compelling humane considerations involved, there is no justification for the amendment.

I would like to read that again:

Given the compelling humane considerations involved, there is no justification for the amendment. The Fair Labor Standards Act currently permits the employment of children under 12 outside of school hours on farms owned or operated by their parents or with parental consent on farms not covered by the monetary provisions of the act under the 500 man-day exemption. Children 12 and 13 years of age may be employed on any farm outside of school hours with the parent's consent or on a farm where the parent is also employed.

Finally, and I still quote:

It makes no sense to encourage children to risk their health and safety to work in agriculture when growers can find an adequate supply of labor among underutilized workers in older age groups. Moreover, it seems probable that unemployed teenagers are available for such farm work.

Mr. President, we are going to hear a lot in the ensuing debate here about a differential for teenagers because they are in very widescale unemployment. The Secretary suggests that here is a very interesting area in which teenagers might be employed in a very useful and fruitful way.

But, Mr. President, I conclude as follows: What I have not heard in this debate, and what I am waiting to hear, is why we must revive the specter of child labor which is so deeply rejected in the hearts of our country and in the hearts of its people, and is the result of so much trauma and despair in other days. I am not going to go through that with the Senate; we all know it very well. What is the reason why we now have to lower the prohibition from 12 to 10 years of age?

The amendment itself, by the way, is unlimited. It could be children of 4, 5, 6, or 7. But, be that as it may, Senator WILLIAMS has already suggested 10, and the author of the amendment has accepted that, so I will not even argue that point. But I would like to hear why we have to go from 12 to 10. What is the compelling reason now for further infringing this concept of discouraging and prohibiting child labor in the United States in this particular field?

Mr. HATFIELD. Mr. President, will the Senator yield for a question?

Mr. JAVITS. Of course.

Mr. HATFIELD. Will the Senator indicate what the situation is in New York State as it relates to deliveries of newspapers for age limitations on this?

Mr. JAVITS. It is my understanding, I believe, that in New York we enjoy the same exemption which is in the Fair Labor Standards Act for newsboys.

Mr. HATFIELD. So newsboys are permitted at that age.

Mr. JAVITS. I do not know it is 10 years of age. I will have to check that, and I will check it.

Mr. HATFIELD. Mr. President, will the Senator yield me some time?

Mr. JAVITS. How much time does the Senator request?

Mr. HATFIELD. Five minutes.

Mr. JAVITS. I yield 5 minutes on the bill to the Senator from Oregon.

The PRESIDING OFFICER. The Senator from Oregon is recognized for 5 minutes.

Mr. HATFIELD. I thank the Senator from New York for yielding.

I think he struck an important issue, that is at hand, and that is that we should talk about facts. I think one of the first facts I wish to comment on is the term "child labor."

As Senators know, we get involved in codewords. We get involved in codewords in our society that somehow "child labor" is supposed to elicit in every case the old image of the sweatshop. I guess we all are moved from our own cultural backgrounds and environment, and so forth. Let me say to the Senator from New York that we never had sweatshops in the northwestern part of this country.

So what "child labor" elicits in the mind of the Senator from New York or some easterner is not what is true neces-

sarily in the Northwest or in other States.

"Child labor" in the Northwest means opportunity. That is what it means. It means opportunity for kids not to have to go out and sell cocaine in order to get some spending money because they have alternatives.

To use an example that somehow because we want to permit them to go to the agricultural fields to pick strawberries, or potatoes, or some other crop is the same as we will let them go out and sell cocaine because they want spending money is ridiculous. There is no relationship whatsoever.

Let me just say very simply that I am a product of the fields, if Senators desire any personal testimony. The Senator from New York grew up in the asphalt jungles of the urban center. I grew up in the agricultural fields of the State of Oregon. I picked strawberries, raspberries, cherries, hops, beans, name it. I started when I was 6 years old because my family, my mother, and father had to go in their times off to help supplement the family income during the depression years, and so they took their kids with them. We all picked.

There were no great problems. If the Senator is so concerned about stooping, squatting, pushing, and sweating to pick a few strawberries, I suggest then he should not eat any more strawberry shortcake in the dining room and should boycott strawberries. I think this is again a facetious argument and a fallacious argument. It is not as if they were sitting there in the textile mills having to weave and do all other things at the spindle until they went blind because they were youngsters in sweatshop conditions of the early 1800's.

I wish to say that this is an opportunity for youngsters in our country. In talking to the parents, they support it. When one talks to the children, they relish this opportunity. I received more letters from the youngsters in my State when this went into effect in 1974 than letters from youngsters of that age on any other issue since I have been in the Senate.

They go to the fields under care and supervision. They go in inspected buses and transportation that has to meet safety standards. They go with platoon leaders, usually who are schoolteachers with summer employment, or they go with their parents.

Let me just say to the Senator from New York, talking about injuries, there are no machines in the strawberry field. Strawberries are little short bush kind of growth—I want to explain to these people who may never have been in the strawberry field—and they grow in rows.

We had 5,000 children in the State of Oregon under the age of 12 in the summer harvest fields in 1973, over 5,000. A total of seven were injured, according to the Workmen's Compensation Board, and the injuries ranged from a cut of the finger to a rash, and they only required minor medication. Seven injuries out of over 5,000 children working in the fields.

Those are the facts. The Senator wants facts. Those are the facts.

I can say one thing, that there would be far less juvenile delinquency if we could keep these children gainfully employed, learning work habits and learning how to be responsible. It is the idleness of these youngsters that creates the problems in much of our society. Yet the same people come in here and want us to appropriate millions of dollars to deal with the problem after the fact, always dealing with the problem and never the causes.

And one of the causes of juvenile delinquency is idleness and a lack of constructive opportunity for leisure time.

I suggest that we are dealing with something more than an agricultural problem here. We are dealing with the socioeconomic problems of our society, creating less and less opportunity for children to have chores, jobs, and some kind of employment.

If the Senator is concerned and worried about the attitude of labor unions or the labor bosses, there is not one labor union official in our State who has contacted me in opposition to this proposal by the Senator from Maine, and there is not one who has spoken out publicly that I know of because they would be embarrassed to do so in my State, and I will say that as a Republican liberal, or as a Democratic liberal, or as a conservative, or as a moderate, across the board in my State, as the Senator from Washington knows in his State. That may be said for liberals, conservatives, moderates, Democrats, Republicans, labor, management, and business. It is not an issue of labor against capital or anything else in my State.

Mr. MAGNUSON. Mr. President, the same is true in the State of Washington.

Mr. JAVITS. Mr. President, will the Senator yield to me?

Mr. HATFIELD. I yield.

Mr. JAVITS. Mr. President, I asked one question which the Senator has not answered. I will not argue with the Senator about a lot of other things.

If we are going to debate the issue of educating children of 10 in work habits, we must recognize that we are not educating young people of 18, 19, 20, and 21 years of age in work habits. Our policies are blind in terms of what is causing our present difficulty with youth, and that needs serious study. But be that as it may, I shall ask the Senator this question. I ask one question. Why 10? Why not stay with 12? Twelve is already the law. What is the necessity these Senators show for now including 10- to 12-year-olds? Admittedly, the Senator is a very able man, a former Governor of his State. This is not volitional by the children; on the contrary, under the law they do not have that kind of volition to make a contract. The fact is that they are led by their teachers, their teachers are crew leaders, their teachers are working, and their teachers are getting paid for bringing these children out and looking after them.

As the Senator knows, we can get very highly moral about it. I am not. I am only asking a very practical question. What is the Senator's case for 10-year-olds now rather than just leaving it at 12?

Mr. HATFIELD. I shall tell the Senator what the case is. The case is simply this. In 1974 when this went into effect, we had over 1,000 growers in our State. Today we have 430 growers because we do not have the labor force, we do not have the people available to go to the fields and pick the crops. That is why. And I will say as far as the 17-, 18-, 19-year-olds, they are in the processing plants, doing the processing work for these crops, and that is where they are learning and earning their college education, as I did, and many others. The largest food processing center in the whole United States is in this great Klamath Valley. So it is a question there of having sufficient people. We have a State of 2.3 million people. We are one of the largest food processors and agricultural States in the Union.

So that is the reason, and that to me is again one of the examples that we can say to the Senator it is the same argument we could use about newsboys. The Senator is perfectly willing to permit the newsboy to go out at 4 o'clock in the morning to deliver morning newspapers when it is a dark, cold, rainy morning, and he is all alone on the streets delivering newspapers. I also say the newspaper bag weighs 80 pounds, not 30 pounds. But going out in the sunny afternoon to pick strawberries, and eat his belly full every day he wants, as well as pick some strawberries, that somehow is not right.

Mr. MUSKIE. Mr. President, will the Senator yield?

Mr. HATFIELD. I yield.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. MUSKIE. Mr. President, will the Senator yield me some time on the bill?

Mr. JAVITS. Senator Williams has as much time as I have on the bill. We have been using a lot of it.

Mr. WILLIAMS. Mr. President, what is the time situation on this amendment?

The PRESIDING OFFICER. The time of the opposition has expired. The Senator from Maine (Mr. HATHAWAY) has 10 minutes and 4 seconds.

Mr. MUSKIE. Mr. President, will the Senator yield?

Mr. JAVITS. I am happy to yield.

Mr. HATHAWAY. I yield 5 minutes to my colleague.

Mr. WILLIAMS. The Senator controls the time.

The PRESIDING OFFICER. The Senator from Maine is recognized for 5 minutes.

Mr. MUSKIE. Mr. President, years ago the distinguished Senator from New York, Senator JAVITS, was kind enough to pay me a compliment on an occasion when I managed the model cities legislation on this floor, and I think that my efforts in that debate had a lot to do with the fact that that legislation passed. He complimented me on understanding the problems of the cities, the problems of those who live in the cities.

May I say to my good friend from New York that the problems of the less urban

areas of this country, the rural areas of this country, deserve some understanding as well. The situation in northern Maine is one with which those of us who live in Maine have been aware all our lives. We have never been conscious that what was involved was an abuse of children or what was involved was some kind of rural sweatshop.

The Senator asks, "Why 10?" Well, I ask in return, "Why 12?" It is we who impose age limitations and age thresholds by law. The people up there were managing this kind of community value fine, until we got involved, with no complaints from anyone. Never in all my public life have I heard any complaint from a soul, from the children in the area, from the parents, from the unions, or from anyone that we were somehow exploiting and abusing children.

In every community in which I have lived in Maine, the notion that children, as early as possible, should develop work habits has been very deeply ingrained. When I was 6 years old, my father owned a house with a tree-covered lot in back that he converted into a garden. Who did the work? I did, working all summer long, clearing the area of brush, picking up rocks, splitting logs, and weeding the garden. I never complained. Our neighbors did not complain to my father that I was being abused. As soon as I was old enough, I went to work weekends and summers in my father's tailor shop, learning that trade, learning that skill. I never felt abused. My neighbors did not hold my father up to ridicule and say, "What are you doing, conducting a sweat shop?"

What we are talking about in northern Maine, and I suspect it is true in Oregon as well, is a family and community endeavor. Everybody benefits; everybody. In the coastal community where I have been privileged to live, and where I spend such time in the summers now as I can, I see children all over the community cutting logs for neighbors, for whatever they can get. Nobody suggests they ought to be subject to the minimum wage law. Children of well-to-do parents do that, in order to acquire the work ethic, and they put their savings in the bank for their college education.

My son began, when he was 13 years old, carrying bags on the golf course, and I assure you he does not get the minimum wage by this standard. I do not feel I am exploiting him. Nobody else does. Unfortunately, the golf cart has reduced that opportunity, but I see him carry two heavy bags around 18 holes, and then willing to do it for another 18 holes. I do not feel he is abused.

You know, really, Mr. President, I think we carry these notions that only Washington knows what the important communuity and family values are too far. This is a legitimate enterprise that we are talking about in these rural areas, with parental supervision and community supervision. The educators of the community recognize its value. They close the schools during the harvesting season and begin the school year early in order to permit the children to do this sort of thing; and they participate in the supervision.

Yet we are told that somehow we are breaching a concept of child labor. Describing this as child labor, in the sense of child labor, is breaching a concept far older—far older, and deep in the traditions of our country—than the concept of which the Senator from New York speaks.

You know the feeling on the part of grassroots citizens in little communities across this country that somehow they no longer have any control over their lives or their children, that no longer can they do anything in order to create opportunities for them, is at the base of much of the disaffection with Government on the part of the average citizen. Parents that I am exposed to in my State these days have one overriding concern in the summer months: that their children have nothing to do. And in every community I hear parents say, "Why can't we find something for children to do?"

Here is something that they do today and that they have been doing for years, and I have not, in 30 years of public life—and I campaign in this area—in 30 years of public life I have not heard a single voice in Maine protest this custom.

And it is well known all over that State. It is well known. But the first voice of protest I heard was down here, when, in the Halls of Congress, wise men decided that what we have been doing all these years was somehow wrong, immoral, and must be destroyed.

Yes, I say to the Senator from New York, it is important that we understand the problems of the city, the problems of the children in the cities, the problems of the deprived in the city. But you outnumber us, and when you seek to impose your perspective of life on an area of the country where it is irrelevant, totally irrelevant, you are not giving us the understanding that you ask for your own community.

So for this reason I was delighted to sponsor this amendment, on which my colleague has taken the lead, and in which we are joined by the distinguished Senators from Oregon and the distinguished Senator from Washington. None of us is regarded as a conservative that I know about. I will not attempt to hobble my good friends on the Republican side with any definition of their philosophy; but I think it is clear that none of us are conservatives, and we have supported this concept.

I was instrumental in getting minimum wage legislation incorporated into Maine law, and nobody in the Maine Legislature has ever sought to modify that law, which they passed, to prohibit what we are talking about here with respect to the potato harvest in Aroostook County.

Mr. McCLURE. Mr. President, will the Senator yield?

The PRESIDING OFFICER. All time on the amendment has expired.

Mr. JAVITS. Mr. President, I yield myself 2 minutes on the bill.

I was asked a question by the Senator from Oregon about newspapers. The law of the State of New York prohibits delivery of newspapers by any child under 12. We are trying to practice what we preach.

But, Mr. President, be that as it may, I would suggest—I think we have debated this matter very thoroughly, probably much longer than we should have. I suggest that perhaps if we had a short quorum call, not to be charged to either side, we might try to put our heads together and see what can be done about this situation.

Therefore, I ask unanimous consent that I may suggest the absence of a quorum without the time being charged.

Mr. WILLIAMS. Mr. President, will the Senator yield?

Mr. JAVITS. I withhold it.

Mr. WILLIAMS. Mr. President, I ask unanimous consent that John Haynes, of the staff of Senator Anderson, be granted the privileges of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCLURE. Will the Senator yield 2 minutes on the bill before calling a quorum?

Mr. JAVITS. Yes.

Mr. McCLURE. First, I have two comments. The Senator from Maine said none of us are conservatives. He was speaking of those who had already spoken in favor of the amendment, as though there is an implication, which I would have to reject, that the exploitation of child labor is a peculiarly conservative phrase.

Mr. MUSKIE. I hasten to add that I did not mean that.

Mr. McCLURE. I would not want that implication.

Second, although from Idaho, I will support the amendment of the Senator from Maine even though we cannot send 10-year-olds out to pick Idaho potatoes. We have to send men out. If the Senator has a problem with their potatoes, we would be glad to help. [Laughter.]

Mr. MUSKIE. I am glad to hear that the Senator's part of the country is that viable. They have done a good job.

Mr. PACKWOOD. Mr. President, I ask unanimous consent that the Senator from California (Mr. HAYAKAWA) be added as a cosponsor to this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. Mr. President, I ask unanimous consent that I may suggest the absence of a quorum, without the time being charged to either side.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. WILLIAMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATFIELD. Mr. President, when Congress passed the Fair Labor Standards amendments in 1974 section 25 of the law, prohibiting the employment of

children under the age of 12 in agricultural harvests except under very limited circumstances, it caused grave concern among the people of Oregon.

They were concerned for good reason. As I indicated in testimony before the Senate Labor Subcommittee in December 1974, the application of section 25 that year immediately eliminated temporary summer job opportunities for over 5,000 young Oregonians; it seriously threatened the economic future of certain Oregon crops, most notably strawberries, which have historically been dependent on students of all ages for their harvest; and, by so threatening these crops, the law placed in jeopardy the future job opportunities of some 38,000 older pickers, adults, and teenagers alike. Additionally, thousands of Oregon jobs in cannery and transportation operations were threatened by this action of Congress.

Mr. President, the statistics are now in and the situation is every bit as serious as we predicted it would be in 1974. Since Congress imposed the ban on children under the age of 12 from working in summer harvests, the number of Oregon growers in the principal crop concerned—strawberries—has been reduced from 1,000 in 1974 to only 430 at the end of 1976. This immense reduction in the number of growers is expected to continue according to the Oregon Department of Agriculture. The department estimates that by the end of 1977 only 400 strawberry growers will remain in business. In similar fashion, the number of Oregon acres in strawberries has been reduced by over 25 percent since the imposition of the child labor ban by Congress in 1974, from 7,200 acres in 1974 to 5,300 in 1977. Also, 800 related adult jobs in the canneries and processing operations throughout Oregon have been lost according to agriculture experts.

These statistics, Mr. President, speak for themselves. A once healthy industry in Oregon (and the strawberry industry is certainly not alone) is withering under the well-meaning but misguided intentions of Congress. Senator HATHAWAY's amendment, which I have cosponsored, would not allow the continued abuse of migrant children, nor allow any children to work under unsafe conditions. I urge its passage.

I would further like to make clear to my colleagues the gravity of this situation in Oregon, the pressures that the agriculture industry has come under in recent years, and also statistical data and personal recollection which reflect the conditions under which Oregon children have worked for years. I am hopeful that, given the evidence that was compiled in Senate hearings, my colleagues will understand the need for an amendment to allow for children under 12 to work during vacation periods and only under safe conditions.

After the ban on children working in the fields became known, I received a storm of letters from outraged Oregonians who believed that Congress, in imposing the ban, had not taken Oregon's situation into account. In a little over a month I received 1,200 letters from children, educators, and parents. They were accompanied by editorial protests, and by telephone calls from concerned growers who saw no recourse but to plow under their crops.

Many of the letters I received were from children under the age of 12. I would like to give my colleagues some examples of what these young Oregonians had to say. From a young man:

> Will you please try to change the law about strawberry picking? I don't have any other way to make money now. My sister can't pick strawberries because my dad works and my mom picks with my sister and I can't stay home alone and I can't pick so I don't know what I'm going to do.

Or another letter, this time from a young lady:

> I am writing about the berry picking. I really think that people 9 and over are quite capable of picking berries. I am in the fifth grade and I really think that we are capable of picking berries. I wanted to save some money for a horse because I am a horse lover. I have been a horse lover ever since I was three. Now I am eleven. Well I guess there's not much more that I can say except I think the people that voted on it are like my mother, there (sic) worry warts!

These children suddenly found themselves out of work, work that gave them a feeling of independence and self-worth, work that they engaged in in the summer for an average of 3 to 4 weeks. But there was another serious factor which resulted from the elimination of these jobs. It was summed up in a telegram sent to me by then Governor McCall on May 25, 1974. The telegram read as follows:

> We urgently request all possible immediate action through legislative and administrative channels to allow children under 12 to assist in the berry and bean havest in Oregon. These young people working with their parents or brothers or sisters are not exploited child labor. They are local residents who are earning spending money and learning the value of working while helping to harvest an important food resource. An estimated forty million pounds of strawberries grown on eight thousand acres could go unharvested in the next three weeks if families are forbidden to bring their children to the fields where they work. Fifty-four percent of past crops have been picked by young people under 14 years of age and 16 percent of those under 12. The impact on the availability of adult workers will be severe if prohibited from bringing their children to the fields. An economic loss of ten million dollars is a real possibility. This loss of food is indefensible. Please exert every effort to obtain an immediate exemption.

As the Governor's telegram indicated, the detrimental effects of that legislation on the Oregon strawberry industry, one of the largest agricultural harvests in the State, was particularly dramatic. What I hope to indicate to my colleagues today is that, not only is the under-12 ban causing serious short-term damage to the industry, but that, if left unchanged, the law may signal the demise of the entire strawberry industry in Oregon.

The 1974 summer strawberry harvest was saved by a preliminary injunction granted by U.S. District Court on June 22, following a suit filed by Mr. Larry William Keely, an Oregon strawberry grower, which claimed section 25 of the act to be unconstitutional.

In September, the court ruled that the law was constitutional. But in its decision, the court clearly placed the decision on whether the law was justified in Oregon's situation, back on the Congress:

> The 1974 Amendments may be unnecessarily broad. Perhaps Congress can write more flexibility into the Act to exempt forms of agriculture in which oppressive child labor conditions do not exist. But the determination of the particular evils, conditions and persons to be regulated and the means to accomplish the protection or promotion of interstate commerce is within the exclusive province of Congress, not the Courts.

Before addressing myself to the conditions under which these children worked, I want to emphasize the critical economic importance attached to the participation of these young Oregonians in the harvesting of strawberries, and, in addition, why it is extremely difficult, if not impossible, to replace them with other sources of available labor. I might indicate at this point that I use the strawberry industry as an example only because it is the largest among all Oregon berry and pole bean crops economically dependent on the temporary participation of young people. To varying degrees, similar difficulties face other crops, such as raspberries, blueberries, and pole beans.

Estimates varied, but it was widely assumed by growers and State officials alike that an additional 5 to 15 percent of the legally eligible working force would have stayed home. These added numbers of unemployed would be brothers, sisters, or parents who would not work because the prohibited child could not accompany them to the fields to help pick.

The difficulties of this situation are, I think, obvious. If a mother chose to go to the fields, leaving her child at home with a full-time babysitter, she would by rule of Congress in another section of Public Law 93–259 be obliged to pay the babysitter the minimum wage, of $2 an hour. She would, therefore, make little, if any, profit for her day's effort in the field.

Another immediate result of the law would be the laying off of significant numbers of cannery workers as well as others whose seasonal jobs are dependent on the full harvesting of strawberry crops. It might also be predicted with certainty that the under 12 ban would cause an increase in retail price to the consumer, and that thousands of dollars in State taxes would be lost.

This, however, is only the immediate short-term impact. In response to similar economic situations, traditional belief has argued that recovery from such a labor loss will result, if prices paid to field workers are increased. If such a price increase were sufficient enough, added workers would, the argument goes, be drawn into the labor force. This sup-

posedly would compensate, in the case of strawberries, for the 16- to 25-percent labor loss Congress created by passing Public Law 93–259.

The rapid increase in international competition in the strawberry market, however, helps in proving this assumption wrong when applied to the Northwest strawberry industry. Put simply, an immediate and significant rise in prices paid to harvesters is an economic impossibility at this time, as a study of the international competitive market illustrates.

MEXICO

The major single source of competition to Oregon strawberry growers and processors does not come from inside the United States, but from Mexico. It is primarily this burgeoning competitive force which is causing the slow, economic strangulation of the Oregon strawberry industry.

Oregon deals almost solely in the production of processed—frozen—strawberries. This has been its tradition for years. Picking strawberries for processing requires less selective picking than is needed for fresh market produce. This is one reason why Oregon farmers have welcomed the temporary help of children in this pursuit, and why it is one of the few work activities that young Oregonians can engage in.

In recent years, Mexico has produced increasing amounts of processed strawberries which it in turn shipped into the U.S. marketplace. Its growth within the past decade has been extraordinary.

In 1964, according to the Department of Commerce, Mexico exported 35.3 million pounds of frozen strawberries into the United States. In December of that year, however, the bracero program was terminated. This program had allowed hundreds of thousands of Mexican laborers to legally enter the United States each year to help harvest fruit and vegetable crops in the Southwest United States.

The effect of the termination of this program on the Mexican strawberry industry was almost immediate. Spurred by private U.S. investments, imports of processed strawberries more than doubled in the 2 years, to 73.7 million pounds. The quantum growth of this industry continued until, by 1973, imports of frozen strawberries alone had reached 116 million pounds. Again I emphasize to the committee that these imports are the major source of competition for Oregon and Washington in U.S. market consumption.

The total estimated U.S. consumption of processed strawberries in 1973 was about 280 million pounds. In less than 10 years, Mexican imports increased 330 percent. With the help of private investment from this country, Mexico now controls 41 percent of the U.S. market.

In direct contrast, production of processed strawberries in the States of Oregon and Washington has dropped in proportion to the rise in competition from Mexico.

In 1973, these two Northwest States produced 64 million pounds of processed strawberries. Oregon produced 64 percent of this amount, or 41 million pounds. In 1964, before Mexican imports began an exponential growth pattern, Oregon alone produced 96.6 million pounds, or 43 percent of the total national consumption in that year. By 1973, Oregon's figure had been reduced to 14 percent. There are varied reasons for this dramatic reduction in Oregon's strawberry production. Higher labor costs, land development, unseasonable weather, and deterioration of plant conditions in some areas, all contributed to this decline. But none are more significant than the massive growth of Mexican imports.

How can this enormous growth be explained? What attracted U.S. interest below the border to compete with small growers in the States of Oregon and Washington? An examination of labor cost and other economic factors in Mexico explains a great deal.

In 1974, according to the U.S. Department of Agriculture, the average wage paid to Mexican fieldworkers was 47.89 pesos per day, or just under $4 per day. In 1964, they were paid $2 per day. In 1974 in Oregon, an average picker earns about $20 per day. Labor costs alone for Oregon growers are, then, five times greater than the labor costs incurred by their largest competitor.

In addition to cheap labor, investors in the Mexican strawberry industry pay an extraordinarily cheap price for sugar. This is a critical economic factor in that sugar consists of an estimated 20 to 25 percent of the total volume per unit of processed strawberries.

In Mexico, sugar prices are strictly controlled by the Government agency known as Union Nacional de Productors de Azwcar—UNPASA. The current price for sugar is 8.4 cents per pound. This price reflects a 48-percent increase instituted by that agency in 1970. For 12 years prior to that date, the price of sugar was 4.3 cents.

By contrast, the October 1974 price of sugar in the Northwest was 56 cents per pound or nearly seven times as great as in Mexico. Oregon strawberry processors indicate that fully half the cost of a unit of processed berries is realized in sugar costs.

Abundant sources of cheap labor and officially depressed sugar prices have combined with other factors to make Mexico the largest regional producer of processed strawberries in the world. Mexican processed strawberry imports currently are 8 cents less per pound than those produced in Oregon.

Oregon growers compete with Mexico, and with U.S. private interests in that country as well. The Department of Agriculture indicates that U.S. private investments in Mexican agriculture has exceeded $150 million in the period 1964–73. This figure, however, represents only a fraction of total investments. The Department has no data on investments in the processing, packaging, and transportation of goods to U.S. cities.

Although the Department of Commerce indicates that total U.S. investment in the Mexican strawberry industry is unknown, the extent of it is reflected in a letter sent by the president of a large strawberry packing association in Mexico to the U.S. agricultural attaché in Mexico City. The letter was dated December 30, 1966. I quote from its final paragraph:

> Before ending, I wish to mention that our Government has given every facility to all American companies who have come to Mexico, such as Del Monte, Heinz, General Foods, Nestle, Gerber, Carnation, and many others. There is much American capital invested in the strawberry industry and any action taken against this exportation . . . would greatly hurt not only the good neighbor relation and the Alliance for Progress Program, but also the American capital invested in this industry of strawberry freezing in Mexico.

Since this letter was written, Mexico imports have increased 160 percent.

The significance of this Mexican competition cannot be overemphasized. These imports affect, in the most fundamental way, any consideration about the ability of Oregon growers to survive an immediate 16 to 25 percent labor force reduction. They also govern the ability of Oregon growers to offer yet higher wages in the hope that older pickers would be attracted to the fields.

If the law is not amended to allow for children working under healthy and constructive conditions to again participate in Oregon berry and bean harvest, it becomes apparent that not only are the children's job opportunities eliminated, but others as well. By prohibiting children under 12 from participating in the harvests, Congress has dangerously added to the economic burdens of small Northwest strawberry growers. As a result of increased Mexican imports these burdens were already extreme prior to passage of Public Law 93–259. With the added difficulty of trying to replace these children by older persons who, according to a 1967 Washington State Labor Department survey, are reluctant to pick even with an economic incentive, Congress has hastened the decline of one of the largest agricultural industries in Oregon. Moreover, this decline will occur with little hope of future recovery. In that event, we are not talking about job loss for only 5,500 children, but, potentially, 38,000 teachers, students, and parents who depend on these summer harvests for added family income.

We might also add to this figure additional job losses which will surely occur in related industries. Such a loss would be intolerable during these inflationary times when families are struggling to keep pace with the high cost of living.

CONDITIONS OF EMPLOYMENT

Mr. President, these economic disruptions would have to be endured, however, if it could be proven that children under the age of 12 are indeed exploited in Oregon's agricultural harvests, or that they are working under conditions detrimental to their health and well being.

I might first speak to this matter from personal experience. I picked in the fields of Oregon as a child, using the money I earned to buy school clothes and to help my parents pay for my education. Like the majority of young Orego-

nians who help with the harvests, I did this for a period of 3–4 weeks. To this day I consider this temporary activity a valuable and healthy work experience that a child under 12 years of age can obtain nowhere else. I might also add that I consider a few weeks of work in the fields during the summer months to be far less dangerous than delivering papers, 7 days a week, 52 weeks a year, often in early morning hours. Yet there is an exemption for paperboys and girls under the act.

All those who help in the harvest, young and old alike, are covered in Oregon by the Workmen's Compensation Act. The Oregon Workmen's Compensation Board reports that, in 1973, a total of eight injuries to children under the age of 12. As I indicated earlier, there were over 5,000 children under 12 participating in the strawberry harvest alone. One of these eight injuries was fatal. It was suffered by a 10-year-old child who was struck by a car while riding a motorcycle on his family's farm. As you are aware, Mr. President, the 1974 amendments could not have served to avoid this accident; this ban on young children did not apply to children working on family-owned farms.

The other seven injuries were all minor, ranging from cut wrists and a cut hand both coming from falling on berry crates, to a rash that one child developed by coming in contact with a spray. These seven injuries required only minor medical attention. This short list of injuries is indicative, I believe, of the safe conditions under which these children work.

Oregon State law prohibits these children from participating in harvests while school is in session. During the summer months of harvest, the great majority of these young Oregonians are brought to work in school buses. Often a child's teacher or parent will supervise their work and their transportation to and from home. The buses leave the fields by 2 in the afternoon. This is done to avoid making children work in the hot afternoon hours.

The children are paid the same rate as adult pickers. Unlike the exploitative conditions which occurred early in this century in the factories of the East, the children in Oregon are not paid less than adults, they are not forced to work long hours near dangerous equipment and they do not labor year-round, but rather, for a few weeks in the summer months.

Mr. President, I believe the prohibition of children under 12 working in the fields was primarily born of congressional concern over the plight of the migrant families. I share that concern and in no way seek to return to the sad traditions of the past—traditions that have seen young migrant children traveling the country with their families year around, attending school infrequently and thus losing all chance to lead productive and meaningful adult lives. I applaud the efforts of Congress to stop this historic abuse of these migratory children, and to break the continuing cycle of poverty and neglect that has characterized their lives in the past.

Cosponsoring this amendment, I seek only to accomplish a change in the 1974 amendments which will allow the children of permanent State residents to again help harvest crops for a limited period of time in the healthy and constructive environment which has characterized Oregon's traditional experience with its children.

UP AMENDMENT NO. 899

Mr. WILLIAMS. Mr. President, I have an amendment at the desk to the amendment of the Senator from Maine. I ask that it be stated, and I ask unanimous consent that it not be read in full.

The PRESIDING OFFICER. Without objection, it is so ordered. The amendment will be stated by title.

The legislative clerk read as follows:

The Senator from New Jersey (Mr. WILLIAMS) proposes unprinted amendment numbered 899 to amendment numbered 1393.

The amendment is as follows:

On page 2, line 3, insert "also" after "may".

On page 2, line 6, insert after the comma the following: "but not less than 10 years of age,".

On page 2, line 9, after the word "employed" insert the following: "For a period not to exceed 8 weeks in any one calendar year".

On page 2, strike out line 10 and insert in lieu thereof the following: "may not grant such a waiver unless he finds, based on objective data submitted by the applicant, that—".

On page 2, line 11, after "(A)" insert the following: "the crop to be harvested is one with a particularly short harvesting season and that".

On page 2, line 16, strike out "and".

On page 2, between lines 16 and 17, insert the following:

"'(C) the level and type of pesticides and other chemicals used would not have an adverse effect on the health or well-being of the individuals to whom the waiver would apply;

(D) Individuals age 12 and above are not available for such employment; and".

On page 2, line 17, strike out "(C)" and insert in lieu thereof "(E)".

Mr. HATHAWAY. Do I understand correctly that a particularly short season means a period of about 6 weeks?

Mr. WILLIAMS. I have included in another place a requirement that the period not exceed 8 weeks in any one calendar year, yes.

Mr. HATHAWAY. I have no objection to the amendment. I assume that my colleagues from Oregon and Washington have no objection, either. We shall be happy to accept the amendment.

Mr. WILLIAMS. I beg the Senator's pardon.

Mr. HATHAWAY. We are happy to go along with the amendment. I do not believe our colleagues have any objection to the amendment.

Mr. WILLIAMS. It was designed to meet the needs of the situation which was described by the Senators who spoke in favor of the amendment of the Senator from Maine (Mr. HATHAWAY). It does address these concerns that we have, that the children not be put in a position which will be harmful to them. I believe that is all that is contained in this amendment.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. WILLIAMS. Yes.

Mr. JAVITS. May the record show that I am against this amendment and I shall vote "Nay."

Mr. HATHAWAY. I yield back my time.

Mr. WILLIAMS. All time is yielded back or used up.

The PRESIDING OFFICER. The question is on agreeing to the amendment to the amendment.

The amendment was agreed to.

Mr. HATHAWAY. Now the question is on the Hathaway amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Maine.

The amendment was agreed to.

Mr. HATHAWAY. I move to reconsider the vote by which the amendment was agreed to.

Mr. WILLIAMS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Are there further amendments?

Mr. JAVITS. Mr. President, I ask unanimous consent that we may call for a quorum without its being charged to either side.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. WILLIAMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1418

PURPOSE: To minimize paperwork and encourage small business to employ full-time students under the Fair Labor Standards Act of 1938.)

Mr. NELSON. Mr. President, I call up amendment No. 1418.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Wisconsin (Mr. NELSON) proposes an amendment numbered 1418.

Mr. NELSON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 12, between lines 17 and 18, insert the following:

"SMALL BUSINESS PAPERWORK REDUCTION FOR STUDENT EMPLOYMENT

"SEC. 5. Section 214 (29 U.S.C. 214) is amended by redesignating subparagraphs (B) and (C) of paragraph (4) of subsection (b) as subparagraphs (C) and (D), respectively, and by inserting after subparagraph (A) the following new subparagraph:

"'(B) To minimize paperwork and encourage small business concerns to employ students under paragraphs (1) and (2), the Secretary by regulations or order shall use a simplified application form specified in this

subparagraph for any employer to employ not more than four full-time students under paragraphs (1) and (2) when issuing special certificates under such paragraphs (1) and (2). Each simplified application shall only contain provisions—

"'(i) listing the name(s), address(es), and business of the employer;

"'(ii) providing the date the employer began operation; and

"'(iii) certifying that the employment of such full-time students will not reduce the full-time employment opportunities of persons other than persons employed under special certificates issued under this subparagraph.'".

On page 12, line 19, substitute "SEC. 6." for "SEC. 5.".

On page 12, line 24, strike out "section 4" and insert in lieu thereof "sections 4 and 5".

Mr. NELSON. Mr. President, I ask unanimous consent that Senator DURKIN be added as a cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NELSON. Mr. President, I modify amendment No. 1418, on page 1, line 5, strike the numeral "214" and insert section "14."

There is an error in the printing of the amendment.

The PRESIDING OFFICER. The amendment is so modified.

Mr. NELSON. Mr. President, the purpose of this amendment is to cut the amount of paperwork facing small businesses that want to hire full-time students under section 14 of the Fair Labor Standards Act.

The amendment requires the Labor Department to prepare a simplified application form which is to be used by businesses that want to hire four students or less, instead of the long form they must now fill out.

I regret that it is necessary, as of this stage in history, to modify forms that are issued by the Federal Government on an ad hoc basis; but until they establish a method for doing so on a regular basis, I assume that is the way we will have to continue to proceed.

The Labor Department has looked over the amendment and agrees with it. The present form to be filled out by these businesses is four pages long and in great detail. The Labor Department agrees that all that is necessary is to answer three questions on a simplified form, which can be done in 3 minutes, to qualify under the statute.

Mr. PELL. Mr. President, will the Senator yield?

Mr. NELSON. I yield.

Mr. PELL. Mr. President, I ask unanimous consent that Mr. Peter Harris, of the staff of the Human Resources Committee, have the privilege of the floor.

The PRESIDING OFFICER (Mr. ZORINSKY). Without objection, it is so ordered.

Mr. JAVITS. Mr. President, I like this amendment, and I am glad the Senator has worked it out with the Labor Department. I like it because I think we need to encourage this kind of part-time employment by students. Not everyone realizes how much of it there is. I understand there are almost 500,000 young workers who are so employed.

I believe the Senator's amendment is a good one. It will minimize the paperwork involved. It is acceptable to me, and I hope it will be acceptable to Senator WILLIAMS.

Mr. NELSON. I thank the Senator from New York.

Currently, the Fair Labor Standards Act lets retail and service stores hire full-time students for up to 20 hours each week and pay them 85 percent of the minimum wage. This is already on the books, and the amendment does not make any changes in the program.

This program could be a major source of jobs for young people, but it is not being used, largely—I am told by the American Retail Federation—because small businesses do not have the time or resources to handle the necessary paperwork. The federation called it a paperwork monstrosity. Out of some 3.2 million businesses that are eligible to participate in this program, less than 19,000 have applied. Less than 75,000 student jobs have been created by these businesses, compared to the 1 million students looking for work and unable to find it.

I have worked with the Labor Department on this to develop the simplest form possible, and the Department goes along with this amendment. It simply requires the name and address of the business, the date it began operating, and a promise not to displace other workers.

Its adoption will make it possible for small businesses to provide much-needed student jobs.

Mr. WILLIAMS. Mr. President, I support this amendment. I think it will make it more feasible and easier for the people covered by this provision of the law to be in employment. This has been a problem, the paperwork problem, in getting full-time students into employment that is permitted under the act. I applaud the Senator and accept the amendment, and I hope it will be agreed to by the Senate.

I yield back the remainder of my time.

Mr. JAVITS. I yield back the time in opposition.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. WILLIAMS. Mr. President, I ask unanimous consent that lines 12 through 16 of amendment No. 1393 be stricken. This is needed because of a difference in dates. By striking those lines, it will be in conformity with another provision of the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill is open to further amendment.

UP AMENDMENT NO. 900

(Purpose: To authorize a youth minimum wage differential under the Fair Labor Standards Act of 1938.)

Mr. McCLURE. Mr. President, I have an unprinted amendment which I send to the desk .

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Idaho (Mr. McCLURE) proposes an unprinted amendment numbered 900.

Mr. McCLURE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 12, between lines 17 and 18, insert the following new section:

YOUTH OPPORTUNITY WAGE

SEC. 5. (a) Section 14 (b) (29 U.S.C. 214 (b)) is amended to read as follows:

"(b)(1) To encourage youth opportunity an employer may employ any youth who has not attained 20 years of age, without prior or special certification by the Secretary of Labor, at a wage rate agreed to by the employer and employee regardless of the otherwise applicable wage rate in effect under section 6 (or in the case of employment in Puerto Rico or the Virgin Islands not described in section 5(E) at a wage rate agreed to by the employer and employee regardless of the otherwise applicable wage in effect under 6(c) in compliance with applicable child labor laws. This paragraph shall not apply to any youth employee who has been employed by the same employer for a period of at least six months or is currently employed by an employer at a rate of at least the minimum wage.

"(2)(A) To encourage youth opportunity, an employer or institution of higher education may employ any full-time student (regardless of age but in compliance with applicable child labor laws) at a wage rate agreed to by the employer and employee regardless of the otherwise applicable wage rate in effect under section 6 (or in the case of employment in Puerto Rico or the Virgin Islands not described in section 5(c), at a wage rate agreed to by the employer and employee regardless of the wage rate in effect under section 6(c)).

"(B) Any full-time student so employed under this paragraph by an institution of higher education or an employer other than an institution of higher education shall prior to such employment present to the employer a letter from the institution at which the student is enrolled certifying that such student is a full-time student enrolled at that institution.

"(C) Any full-time student employer pursuant to this paragraph shall be employed on a part-time basis and not in excess of twenty hours in any workweek, except during vacation periods.

"(3) While no prior certification shall be required by the Secretary for purposes of paragraphs (1) and (2), the Secretary is authorized under this Act to insure that the provisions of paragraphs (1) and (2) of this subsection are not violated. Whenever the Secretary discovers that an employer is engaged in a pattern and practice of—

"(A) substituting younger workers employed at less than the minimum wage for older workers employed at or above the minimum wage, or

"(B) terminating the employment of youth employees and employing other youth employees in order to gain continual advantage of the youth opportunity wage, except where the intention to terminate after a given period was fully disclosed by the employer to the employee prior to his employment and is understood by the employee to be a condition of his employment,

the employer shall be deemed to have violated section 6 of this Act. The liability of such an employer under this paragraph shall include—

"(i) unpaid wages and overtime compensation determined on the basis of otherwise applicable minimum wage and overtime rates pursuant to section 6 and 7 of this Act, and

"(ii) a fine to be determined by the Secretary not to exceed $2,500 for the first offense by an employer and not to exceed $10,000 for any subsequent offense by the same employer."

(b) Section 13(a)(7)(29 U.S.C. 213(a)(7)) is amended to read as follows:

"(7) Any employee to the extent that such employee is exempted by regulations, order, certificate of the Secretary or in accordance with the provisions of section 14, or".

On page 12, line 11, substitute "SEC. 6." for "SEC. 5.".

Mr. McCLURE. Mr. President, first of all, this is what may be a series of amendments, depending upon what the Senate does with the question of the youth differential. A great deal has been said, and I know that Members of the Senate are not surprised at all that the issue will be presented. Several such amendments have been drafted by Members of the Senate on both sides of the aisle. They have various provisions.

The one that perhaps has received the greatest publicity is the one which has been drafted and offered by the Senator from Pennsylvania (Mr. SCHWEIKER). A great many people have assumed that it will be the major argument. I should like to couch the argument in slightly different terms, at least at the outset.

The amendment I have offered is patterned after the Schweiker amendment because I had intended to offer mine as an amendment to his. Because it has had more discussions, fewer uncertainties are involved.

I will state first what the differences in this amendment are from the Schweiker amendment, and then I will address myself for a few minutes to the basic question of a youth differential.

This amendment, unlike that of the Senator from Pennsylvania, calls for a total exemption from a minimum wage for all workers age 16 through 19.

The second difference between this and the Schweiker amendment is a provision in the penalty section in which the Senator from Pennsylvania is seeking to make certain that an employer does not sequentially hire and fire young people for the 6-month period—hire them for 6 months that his amendment would permit and then fire them and hire another one, in order to take advantage of the youth differential.

It includes a provision that if the conditions of employment are known between the employer and the employee at the beginning of the employment period, that penalty provision would not apply. That is consistent with what I am trying to get across in my amendment—that young people need work experience, and they should not be inhibited from that opportunity.

The other side of it is that there are marginal jobs that are eliminated whenever the minimum wage goes up, so that the opportunity for work is reduced as the minimum wage increases. There are those jobs that, at the margin, are eliminated every time the minimum wage is increased. There should be conditions in the law which permit an employer to continue the creation of a job opportunity for a marginal employee without the threat of penalty if there is a sequential employment of several who qualify for that employment differential.

I will give an example of what I mean. Every small businessman of my acquaintance in the State of Idaho—I certainly cannot speak of other areas of the country with the same degree of knowledge—every employer on Main Street, in the small communities, used to hire young people from high school to come down after school and sweep the sidewalk, tidy up the stockroom, and do a little work that really is not totally necessary, which is not productive in the sense of increasing the return to the employer. But he is willing to pay that price to get that benefit and to give that young person the opportunity for a meaningful job. Unless he can keep that job opportunity open, fewer young people will be employed, regardless of what the minimum wage may be. I think that is one of the problems that may be inherent in our society today.

After having described briefly the differences between my approach and that of the Senator from Pennsylvania, I will state why a number of us are concerned.

Back in January, I and a number of other Senators introduced various proposals to create more job opportunities throughout the economy; but one of the very stark facts that emerged in our analysis of unemployment in this country was that unemployment among young people is remarkably higher than it is for all other segments of our economy.

The age group from 16 through 19 is only 10 percent of the work force, but 25 percent of the unemployment is concentrated in that age group.

If you expand that age group from 16 through 24 that comprises one-fourth of the labor force in the United States, but fully half of the unemployment is within that age group.

Overall teenage unemployment rose during the month of August—I have not analyzed the statistics for the month of September that were just released today, but overall teenage unemployment in the last previous month rose to 17.5 percent contrasted with a 7.1 percent total unemployment figure.

Among teenage blacks the figure is 40.4 percent, and that is more than just a statistic; it is a tragedy in the lives of these young people. It is a social phenomenon that has no parallel in modern society, that nothing can have the same kind of implications for disaster for the future of this country as the high rate of unemployment among minority youth.

A great many people are of the opinion that teenage unemployment is, because of minority unemployment, largely a problem of the city or the inner city. In gross numbers that is not true. In terms of percentage it is more starkly apparent. But youth unemployment is not confined to the inner city. It spreads across our land like a cancer.

Total unemployment among young people is almost equal in the inner city, in the suburbs, and in rural America. The percentages are different, but the total number of young people unemployed is almost equal in those three areas of our country. It is no respecter of families or persons. The teenage unemployment among upper middle class or middle class Americans is a very dominant factor in social problems with young people in those groups of our society as well.

But to the extent that wages increase more rapidly than productivity, marginal jobs are eliminated, and we are now in the midst of passing another statute which will yet more greatly exacerbate the problem of deprivation of young people in our society.

One of the things we attempted to do back in January in the Jobs Creation Act and in the Youth Employment Act was to find ways of dealing with this problem of young people being left out, finding it impossible to work their way into a meaningful job in our society.

While we were talking about means by which we can stimulate employment, we recognized there were barriers to employment that will not be overcome by artificial stimulants. One of those barriers is the minimum wage law. It is not the only impediment, but it is one of the major impediments, and I am not going to recite studies—there are stacks of them, learned analyses, statistical analyses: Ph. D. after Ph. D. have written treatises on the question of how and why young people are unemployed. But the disadvantaged throughout our society, the marginal worker, shows up more starkly among young people than among other age groups or any other group in our society. The statistics will show that every time the minimum wage law has changed, either to increase the level of the minimum wage or to broaden the coverage of the minimum wage, unemployment among teenagers has risen more rapidly than it has risen throughout the population as a whole.

I think it is important then, as we are dealing with this minimum wage law, that we recognize what it is we have done in the past and what we are going to be doing in this amendment with regard to youth unemployment, one of the gravest problems that confronts the country, and which will become yet more grave.

What has been the experience in other countries? Well, countries with relatively large youth wage differentials have lower ratios of youth unemployment than we have in the United States. For example, in Great Britain teenagers enter employment at about 30 percent of the adult wage. In West Germany youths enter employment at rates ranging from 60 to 90 percent of the adult rate. In France and Canada they have a 70- to 80-percent youth minimum. But in every instance they have a differential, and in every instance the incidence of youth unemployment is less than it is in the United States both statistically and comparatively.

What is the impact of a youth differential? It has been estimated by some,

by Jack Carlson, for one, the chief economist for the U.S. Chamber of Commerce, that a 15-percent youth differential would save 364,000 teenage jobs which would otherwise be eliminated over the next 5 years; a 25-percent differential would save 617,000 jobs for young people; and, carrying out that model, if there were a 50-percent differential approximately 1,217,000 jobs would be saved.

Mr. President, it is not my intention to burden this discussion unduly because I am certain that between now and mid-afternoon, when this issue may be finally resolved by a vote of the Senate, all of these arguments will have been explored, arguments on both sides will have been explored. But some of the most impressive evidence to come before us, either in the Budget Committee or in the Joint Economic Committee or in the other studies that have been conducted with regard to youth unemployment, some of the most impressive evidence has come from the statements of people representing the black community. They are the ones who see themselves disadvantaged most starkly. They are the ones who speak most eloquently of the need to remove this impediment to the opportunities of black young people to move into their first job in an adult society from which they are being excluded.

The mayor of Newark, testifying in regard to the summer youth employment bill, said if he were permitted to ignore the minimum wage he could give more young people job opportunities in Newark than he could under the strictures of Federal statute.

Dr. Walter Williams, a black economist, testified that the minimum wage is one of the primary reasons that black young people, who are working at the margin, are so severely disadvantaged in the current job market.

If we are going to address ourselves realistically to this problem, in my opinion, we ought to move, and move dramatically, against this most grave of social problems by totally eliminating the minimum wage for the age group of 16 through 19.

There can be nothing that has a higher priority in our society than finding a way of moving young people from idleness into productive labor, to bridge the gap from the educational system that apparently does not fit them for their first job, and give them the opportunity to hold that first job.

Mr. President, I do not know that the Congress of the United States is yet willing to confront that problem. But I want to give them the opportunity to confront that problem in realistic terms, and my amendment is a realistic amendment. It is offered seriously because I think if we are to make any kind of very meaningful step in the direction of reducing youth employment and, particularly youth unemployment among minorities, this is the most constructive single step and, perhaps, the most indispensable of the steps, that we might take here in the Congress of the United States.

Mr. President, I reserve the remainder of my time.

Mr. WILLIAMS. Mr. President, if I could ask a question or two of the Senator from Idaho. The amendment that has just been reproduced just reached me. As I go through it rapidly, it seems to say that in the age group 16, 17, 18, and 19, there will be no minimum wage; is that correct?

Mr. McCLURE. The Senator is correct.

Mr. WILLIAMS. Are there any exclusions? There seemed to be that there might be some exceptions where a person of that age group is on the job at the minimum wage now, in other words, those who are in employment at a minimum wage are grandfathered and not eligible to be reduced below the minimum wage; is that it?

Mr. McCLURE. Mr. President, I say to the Senator from New Jersey there are no limitations that deal with the question of how a younger person who has acquired job experience moves upward in the wage scale. The primary difficulty is entry into the job force not maintenance within it, but entry.

There is the grandfathering against downgrading, but I do not want to emphasize that because the second question that will follow almost inevitably on that is if they are not now employed and become employed at less than the current minimum wage, how long will they stay under that. My answer has to be that they will stay there until their productivity will justify a higher wage and then will move upward. But job experience and training are absolutely essential. An employer does not now find it possible to afford the management overhead for creating jobs for marginally or less than marginally productive workers. So there is that grandfathering against regression, but that is not the centerpiece.

Mr. WILLIAMS. This paragraph, it says, shall not apply to any youth employee who has been employed by the same employer for a period of at least 6 months or is currently employed by an employer at a rate of at least the minimum wage.

Mr. McCLURE. That is correct.

Mr. WILLIAMS. That is the grandfathering.

In other words, I do not know what the estimates are of the numbers that would by this amendment be excluded from the minimum wage. The minimum wage, which we all know, is set as it is described at a minimum, a minimum wage for the necessities of life.

The youth differential, I suggest, the subminimum wage for youth, the so-called youth differential is a snare and a dilution; it can be a problem in so many, many ways. It is described by those who offer this approach somehow as being good to young people who are unemployed and it will create job opportunities for them. The record does not suggest this at all.

But one thing it does suggest is with the kind of unemployment we have now, both young people and adults, there would be an exacerbation of the problems we face if there is an opportunity for an employer and in this case for an employer to hire any young person in these 4 years, 16, 17, 18, and 19, at a less than living wage. There will be a number of employers, I am sure, whom we can expect will use that subminimum for the young people to the exclusion of the adult. It will be a replacement job, a young person for an adult person.

We are all mindful of the need to reach for opportunities and ways to see young people into employment, and that is why we passed through this Chamber so many measures tailored to the needs of young people, their needs in employment, training, and jobs. As a matter of fact, within this calendar year we have passed programs that will reach in total 3 million young people. Just moments ago we agreed to the amendment of the Senator from Wisconsin that deals with the situation that we have tailored in the law for full-time students to be paid at 85 percent of the minimum wage in certain establishments, service and retail, and we have encouraged employers to use this by simplifying the procedures.

It would seem to me that rather than create a new problem we should positively deal with young people's employment needs and not do it by bringing them in under a low wage which is an invitation to a substitution of young people for adults on these jobs where the young people can come in below the minimum.

There shall be many ways, I suppose, that this whole idea will be presented, so I will reserve the remainder of my time and will expect that this amendment, and others, will be dealing with this and we will have considerable discussion of this proposition which is really doing that thing that should rail most with the young people, making them a different kind of citizen—same job, lower wage—and that in my judgment is one of the ways to increase the alienation of young people, if there is alienation today, with the people who work here in Congress if that should come to pass. When they do the same job they should get the same money, and remember that what money that is at the minimum wage is for the bare necessities of life.

So I yield the floor and reserve the remainder of my time.

Mr. JAVITS. Mr. President, will the Senator yield some time to me in opposition to the amendment?

Mr. WILLIAMS. I am happy to yield such time he needs within our limits.

Mr. JAVITS. Five minutes.

The PRESIDING OFFICER. The Senator from New York.

Mr. JAVITS. Mr. President, the Senator from New Jersey, my colleague, partner, and friend, has pointed out the problem of substitution of youth for adults, I wish to point out the pertinency of that in a moment, and I intend to argue whether a youth differential will induce employers to hire youth.

But, first, to finish Senator WILLIAMS' excellent argument, the amendment which I now have had an opportunity to study will make it very easy for employers to cheat by the circular door proposition of taking in youths, laying them off in 6 months, and taking in more

youths, because the penalties are based on a pattern or practice of carrying this on. A pattern or practice means you can do an awful lot before you are caught up in a pattern or practice. If you just keep one inch on this side of the law, you can keep that up for a very long time and do a lot of adults out of jobs.

Therefore, the administration of such a wide open proposition inevitably will result in enormous abuse. We have the Civil Rights Act which has pattern or practice provisions and we have found it extremely difficult, unless you make it a really big Federal case, to restrain activities on the basis of pattern or practice.

Mr. McCLURE. Mr. President, will the Senator yield long enough so the Senator from Idaho might request the yeas and nays on the amendment?

Mr. JAVITS. I yield.

Mr. McCLURE. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. McCLURE. I thank the Senator.

Mr. JAVITS. It will be noted, too, that the amendment extends to many youths, not only youths who are unemployed but youths who are employed. It says only that this paragraph shall not apply to any youth employee who has been employed by the same employer for a period of at least 6 months or is currently employed by an employer at a rate of at least the minimum wage.

The restrictive character of that is by no means what we think it might be in terms of limiting the groups. But the important point which I wish to make, Mr. President, is about the employer.

The popular fallacy is that youth employment will increase if an employer can get a little break in the minimum wage. My colleague does not even have a percentage; at least Senators SCHWEIKER and DOMENICI have a percentage, but he has none. Remember, these are unorganized workers, Mr. President; we are not dealing with union power, we are dealing with individual teenagers with an enormous rate of unemployment, where the pressure of getting a job would mean a real destruction of any wage expectation. We can understand that teenagers will work for anything they can get under these circumstances, and it is going to be mighty low. It is very hard to see how the minimum wage structure can stand up under that kind of pressure.

Responsible employers realize that when you work at the minimum rate, with the requirement for supervision, the displacement of a desk, or a bench, the work that can be spoiled, and the things that can be done wrong by an untrained person, it is very expensive to have such an employee. Such an employee costs much more than the minimum wage.

So the idea that employers, because it is going to be 50 cents less an hour, or 75 cents less, are going to hire youth, is a real fallacy; and that is probably the greatest fallacy in this concept of a youth differential, that employers are going to hire on that as the basis of their consideration. There are considerations far more expensive and far more important to the employer than the fact that the fellow gets 50 cents or 75 cents an hour more or less.

It is not going to be very attractive to any but the least desirable employer, and to those who are most likely to abuse the pattern and practice provisions of this amendment.

Mr. President, we are really helped by a study which we have found, and which I ask unanimous consent that excerpts be printed in the RECORD, entitled "Adult Disemployment Effects of a Youth Minimum Wage Differential," prepared for the Assistant Secretary for Planning, Evaluation, and Research of the Labor Department by California State University.

There being no objection, the study was ordered to be printed in the RECORD, as follows:

ADULT DISEMPLOYMENT EFFECTS OF A YOUTH MINIMUM WAGE DIFFERENTIAL

I. SOME CONCLUSIONS AND IMPLICATIONS FOR POLICY

Although initial estimates of direct adult displacement from a youth differential in the minimum wage are frightening when calculated for moderate wage differentials and cross elasticities of demand, several indirect effects and constraints make the most probable net effects substantially less drastic. With reasonable and moderate long run elasticities of demand (between −0.75 and −1.0) and cross elasticities of demand (between 1.0 and 2.0), a youth differential of 15 percent should be very adequate to make important inroads into reducing teenage unemployment very substantially, except perhaps for lowest quality teenage workers. In many cases, even with a youth differential of 15 percent, the long run equilibrium wage differential between teenagers and adults would be less than 15 percent because excess supplies of teenagers would be eliminated at a lesser differential.

Because a widening of the wage structure at the low end will create more low wage jobs, net adult displacement will be less than the number of new jobs created. The greater the elasticity of demand for labor relative to the cross elasticity of demand, the lower net adult disemployment for a given increase in teenage jobs. Since the final effective youth differential would probably be between 10 and 15 percent, one can compare the low and medium estimates of net adult displacement in Table Five with estimates of new jobs for teenagers from Tables Six and Seven. For moderate differentials and estimates of direct and cross elasticities of demand, predicted adult disemployment is in the neighborhood of 60 percent of the number of new teenage jobs. To create 800,000 to 900,000 new teenager jobs, we can therefore expect net adult disemployment of something around 500,000.

The most probable trade-off of a youth differential of around 15 percent would be giving up something like 500,000 adult jobs for teenage jobs totaling a few hundred thousand more than the number of adults displaced. Any consideration of whether the long run exchange would be a net improvement for society must consider the social costs of adult unemployment compared to teenage unemployment, effects on poverty, welfare loads, social adjustment to unemployment, effects on crime, and numerous other related social issues. If the trade-off were for more teenage jobs with a one-to-one decrease in the number of adult jobs, a large majority of citizens would probably consider adult unemployment more serious than teenage unemployment and therefore reject the switch. It is unclear at what marginal exchange rate the extra teenage jobs become worth the cost of adult disemployment. Although 500,000 adults represents only 11 to 14 percent of current adult employment in the $1.90 to $2.14 wage range covered by the FLSA and 800,000 new teenage jobs represents 45 to 54 percent of current teenage covered employment in the $1.90 to $2.34 range, the 11 to 14 percent of low wage adults displaced represents an important cost.

Three final important considerations must be noted. First, within a few years the teenage population will decrease for a few years to a level as much as 20 percent below current levels. Over the same period, the "baby boom" period cohorts will be aging and moving through the age groups. One effect of these demographic changes will be to reduce the excess supplies in low wage markets in which teenagers compete. Another effect, however, is that excess supplies and crowding in career labor markets are already increasing the difficulty of young adults breaking into careers; some of these young adults are therefore restricted to low wage labor markets longer than would have been the case with a more favorable demographic mix. The net effect of these demographic changes will be increased unemployment of young adults relative to teenagers and a situation where it will be necessary to rethink through the wisdom of having a teenage minimum wage differential.

A second important point to consider is that since demand is less elastic in the short run than in the long run, short run results may be different from long run results. For example, it is reasonable to expect that the long run adjustment to lower average wages (creating more low wage jobs in the long run) may take longer to work out than the long run adjustment to lower relative wages for teenagers (leading to displacement of adults). In that case, short run displacement of adults may be greater than indicated by the overall discussion and may be almost as great as short run job creation for teenagers. Finally, as indicated earlier in the text, all calculations assume that a youth differential would be legal in all states and not frustrated by state minimum wage legislation. To the extent that the effects predicted in this paper are considered desirable, policy makers must insure that the legal framework allows the youth differential in all states.

Mr. JAVITS. This study, Mr. President, indicates that the very maximum employment of teenagers at any differential that can possibly be anticipated is 900,000, as the outside estimate, and that that will be compensated for by the fact that 500,000 adult jobs will be eliminated. When you juxtapose the one against the other, obviously it is socially and highly undesirable to go this route.

Second, Mr. President, these figures are really outside figures, and it is highly unlikely that the actual figures will represent any appreciable change in teenage unemployment as contrasted with the loss of adult jobs.

So the concerns voiced by Senator WILLIAMS are not just our theory but they are based upon a basic study of the facts.

Now, finally, Mr. President, the youth differential also breaks down the structure of the minimum wage, and breaks it down at a very vulnerable point, because the best we can do for the teenager is not this differential, as I have just ex-

plained. What we need to do for the teenager is to actually finance, as we are financing today, but inadequately, youth employment opportunities. We are doing it with a $1.5 billion appropriation in the new youth employment bill. We are providing for a type of civilian conservation corps, and we are providing for innovative projects of training and education in urban centers; and that is the way to go, Mr. President, because that is a direct attack upon the youth unemployment picture.

The problem is that it is inadequate because we are not putting up enough money. If we really are serious about reducing youth unemployment, we have to put in another $2 billion to $2.5 billion, to make a real dent in the roughly 1.6 million youths who are in that condition. Right now we are dealing with about 250,000 to 300,000, with the $1.5 billion that we have provided.

If we do this with the youth differential, we will be begging the question. It will be months if not years before we find out if it has worked, and in the meantime the youth unemployment situation will be a bad as ever. The far more direct approach is the one I have suggested, and we have a new statutory concept with which to do it. All we have to do is put a little more money in the pot.

So, Mr. President, I really believe this youth differential idea is fallacious and illusory, and would be a disaster to the wage structure. I hope we will defeat all these amendments. What we really have to do is steel ourselves to targeting employment for youth under existing law, the Youth Employment Act, which is in place and is an excellent law, worked out with the White House, which has $1.5 billion and needs $3.5 billion.

Then we will really be doing something about youth unemployment. If we do this, we will be burying our heads in the sand, and I hope these amendments, including this one, will be defeated.

Mr. McCLURE. Mr President, I will not take any great amount of time attempting to refute the arguments of my colleagues I suspect I have very little chance of persuading them to my point of view, any more than they have of persuading me to their point of view; and in view of the fact that there are not many Senators on the floor, I think there is not much point in belaboring the argument.

But I do want to make this point clear as to the substitution provision: First of all, there is a provision in the bill that grandfathers in any young person who has already been on the job for 6 months. Second, there will be substitution that occurs in the absence of a differential, but that substitution occurs at the expense of the young worker to the adult worker. If marginal activity becomes more important to the employers, they are going to look to the young worker, and will substitute the adult worker for the young worker under any proposal.

So the substitution without a youth differential will be at the expense of youth and in favor of the adult employee. That is working exactly opposite of the major problem with which we are confronted.

I know that the Senator from New York is entirely sincere in what he says. But I could not help but note—and incidentally, I am also a major sponsor of the Youth Employment Act. As Senators know, I introduced that legislation back in January. So I do not deny that that can be helpful; but how many times have we, by legislation, created a problem, and then we say, "Oh, but we can solve that other problem, and the way to solve it is just to put a little more money in the pot."

That is an all too familiar refrain in these halls.

I know that the lines are pretty well drawn. There is not much point in belaboring the argument.

Mr. President, I am prepared to yield back the remainder of my time if the opponents are prepared to do so.

Mr. WILLIAMS. I am, but I want to refer to one statistic just obtained from the department dealing with the unemployment rate for teenagers and the unemployment rate for Vietnam veterans age 20 to 24. For teenagers it is high, still high, although the general picture of unemployment is that the percentages are coming down. Teenagers were at 18.1 in September of this year, while the unemployment rate for veterans was 20.1.

If this substitution of adults losing jobs to young people picking them up with that subminimum is there, this, I would imagine, would be the single largest young adult group which would be adversely affected.

With that I yield back the remainder of my time.

Mr. McCLURE. Mr. President, I would only respond by assuming that the Senator from New Jersey would be in favor of broadening my amendment to include that age group as well in the exemption.

Mr. WILLIAMS. Let me ask, would the Senator do that?

Mr. McCLURE. I suspect I probably would not.

Mr. WILLIAMS. I was going to say, the Senator can take every hardship group, blacks, adult women, they are highly unemployed, and substitute them, too. This could go on to every hardship category. I am sure the Senator would not extend the logic that he started with, his bad logic with youth, to those others.

Mr. McCLURE. It is not at all bad logic. The point is that we recognize for minority youth the unemployment rate is 40 percent. Certainly, somehow, somewhere, we must recognize that we are doing something terribly wrong. We must start trying to find direct answers to the big social problem this Nation confronts with that age group, with that group of young people. Mr. President, I yield back the remainder of my time.

Mr. WILLIAMS. I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the amendment of the Senator from Idaho. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Minnesota (Mr. HUMPHREY), and the Senator from Arkansas (Mr. McCLELLAN) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) would vote "nay."

Mr. STEVENS. I announce that the Senator from Kansas (Mr. PEARSON) is necessarily absent.

The result was announced—yeas 23, nays 74, as follows:

[Rollcall Vote No. 541 Leg.]

YEAS—23

Bartlett	Hansen	McClure
Bellmon	Hatch	Schmitt
Byrd, Harry F., Jr.	Hayakawa	Scott
Curtis	Helms	Stennis
Eastland	Hollings	Thurmond
Garn	Laxalt	Tower
Goldwater	Long	Wallop
	Lugar	Young

NAYS—74

Abourezk	Ford	Moynihan
Allen	Glenn	Muskie
Anderson	Gravel	Nelson
Baker	Griffin	Nunn
Bayh	Hart	Packwood
Bentsen	Haskell	Pell
Biden	Hatfield	Percy
Brooke	Hathaway	Proxmire
Bumpers	Heinz	Randolph
Burdick	Huddleston	Ribicoff
Byrd, Robert C.	Inouye	Riegle
Cannon	Jackson	Roth
Case	Javits	Sarbanes
Chafee	Johnston	Sasser
Chiles	Kennedy	Schweiker
Church	Leahy	Sparkman
Clark	Magnuson	Stafford
Cranston	Mathias	Stevens
Culver	Matsunaga	Stevenson
Danforth	McGovern	Stone
DeConcini	McIntyre	Talmadge
Dole	Melcher	Weicker
Domenici	Metcalf	Williams
Durkin	Metzenbaum	Zorinsky
Eagleton	Morgan	

NOT VOTING—3

Humphrey	McClellan	Pearson

So unprinted amendment No. 900 was rejected.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. WILLIAMS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1427

(Purpose: To authorize a youth minimum wage differential under the Fair Labor Standards Act of 1938.)

Mr. STEVENSON. Mr. President, I call up amendment No. 1427 on behalf of myself and the Senator from Pennsylvania (Mr. SCHWEIKER).

The PRESIDING OFFICER (Mr. HOLLINGS). The amendment will be stated.

The legislative clerk read as follows:

The Senator from Illinois (Mr. STEVENSON) proposes an amendment numbered 1427.

Mr. STEVENSON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 12, between lines 17 and 18, insert the following new section:

"YOUTH OPPORTUNITY WAGE

"SEC. 5. (a) Section 14(b) (29 U.S.C. 214 (b)) is amended to read as follows:

"'(b) (1) To encourage youth opportunity

an employer may employ any youth who has not attained twenty years of age, without prior or special certification by the Secretary of Labor, at a wage rate not less than 85 per centum of the otherwise applicable wage rate in effect under section 6 (or in the case of employment in Puerto Rico or the Virgin Islands not described in section 5(e) at a wage rate not less than 85 per centum of the otherwise applicable wage in effect under section 6(c)) in compliance with applicable child labor laws. Any employer who, before the date of enactment of the Fair Labor Standards Act Amendments of 1977, is employing any youth employee at a wage rate of at least the minimum wage may not, under authority of this paragraph, decrease any such employee's wage rate to the rate permitted by this paragraph, except that nothing in this paragraph shall prohibit any such employer, on or after the date of enactment of the Fair Labor Standards Act Amendments of 1977, from employing any new employees at the rate permitted under this paragraph.

"'(2) The Secretary is authorized under this Act to insure that the provisions of paragraph (1) of this subsection are not violated. Whenever the Secretary discovers that an employer is employing youth at a wage rate lower than the wage rate allowable under this subsection or is engaged in a pattern and practice of—

"'(A) substituting younger workers employed at less than the minimum wage for older workers employed at or above the minimum wage, or

"'(B) terminating the employment of youth employees and employing other youth employees in order to gain continual advantage of the youth opportunity wage,

the employer shall be deemed to have violated section 6 of this Act. The liability of such an employer under this paragraph shall include—

"'(i) unpaid wages and overtime compensation determined on the basis of otherwise applicable minimum wage and overtime rates pursuant to sections 6 and 7 of this Act, and

"'(ii) a fine to be determined by the Secretary not to exceed $2,500 for the first offense by an employer and not to exceed $10,000 for any subsequent offense by the same employer.'.

"(b) Section 13(a) (7) (29 U.S.C. 213(a) (7)) is amended to read as follows:

"'(7) any employee to the extent that such employee is exempted by regulations, order, certificate of the Secretary under section 14 or in accordance with the provisions of section 14(b), or'.".

On page 12, line 19, substitute "SEC. 6." for "SEC. 5.".

Mr. HATCH. Will the Senator yield for a unanimous-consent request?

Mr. STEVENSON. Yes.

Mr. HATCH. Mr. President, I ask unanimous consent that Sherri Kramer of my staff be granted privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LUGAR. A similar request——

The PRESIDING OFFICER. The Senator from Illinois has the floor.

Mr. STEVENSON. I yield to the Senator for a unanimous-consent request.

Mr. LUGAR. Mr. President, I ask unanimous consent that May Hayes of my staff be granted privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STENNIS. Mr. President, may we have quiet so that we may hear the Senator?

The PRESIDING OFFICER. We must have order.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois has the floor.

Mr. BUMPERS. Will the Senator yield?

Mr. STEVENSON. Yes.

Mr. BUMPERS. Mr. President, I ask unanimous consent that Richard Arnold of my staff be granted privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAYH. Mr. President, I make the same request for Barbara Dixon of my staff.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Illinois.

Mr. STEVENSON. Mr. President, the figures mentioned a moment ago by the distinguished Senator from New Jersey are horrifying. As he indicated, the teenage unemployment rate has now risen to over 18 percent.

Ordinarily at this time of year, after school opens, teenage unemployment declines. Last year it declined during September by six-tenths of 1 percent. This year it rose by eight-tenths of 1 percent to a national level of 18.1 percent.

The unemployment rate for white teenagers is now 15½ percent. For black teenagers, unemployment is almost 40 percent. These statistics may be underestimates.

Nationwide, the estimate is that there are more than 2 million unemployed teenagers in the labor force.

This high teenage unemployment, particularly among minority youth, requires action, not more of the same. Yet, Mr. President, we are proposing more of the same. Another hike in the minimum wage, with no dispensation for the young, would mean more of the same—the same old system still at work, still pricing human labor out of the marketplace. About 225,000 teenage jobs, equal to about 17 percent of the teenage unemployment total, were lost after the 1966 changes in the minimum wage. Teenage unemployment rose about 13 percent, because of the 1974 increase in the minimum wage. And now many businesses have their backs to the wall, especially small business. They cannot pass along rising costs and stay in business. The old system is still at work, but the margins of existence are more narrow now. The increases in the minimum wage will take a greater toll of those at the bottom of the economic ladder than in the past.

One of the ironies of this well-intended legislation is that it benefits most those at the top of the economic ladder in labor and in business. Those who benefit most are those who can absorb or pass on the increased cost. The weak and poor at the bottom, businesses as well as workers, drop out of the system.

The minimum wage is but a small part of a system that is pricing America out of global markets and even domestic markets. We see the impact in steel and television. Little businesses and unskilled young workers are unheard and out of sight—but dropping out, too.

A youth differential in the minimum wage is one means of reducing the high rate of teenage unemployment and aiding American industry. It is a means of preserving jobs of creating jobs—of keeping small business in business.

Mr. President, this amendment would do the following things:

First, it would permit employers to hire workers between the ages of 16 and 20 at a subminimum wage of 85 percent of the adult minimum wage. It would permit employers to pay teenage workers the youth differential wage so long as the employee has not reached the age of 20. As the adult minimum wage rises annually, so would the youth differential wage;

Second, it would protect teenage employees from a reduction in their wage rates. Workers between the ages of 16 and 20 who are now employed at the minimum wage would remain entitled to compensation at the minimum wage rate for so long as they remain employed by their current employer;

Third, however, if a teenage worker leaves his current job and is hired by a different employer, the amendment would permit that employer to hire the teenager at the subminimum wage;

Fourth, the cumbersome requirements which firms employing full-time college students at 85 percent of the minimum wage must meet to be certified by the Department of Labor would be eliminated.

The discrimination for the benefit of college students, and against the poor and the other young, would be ended. These requirements now take up almost two full pages in the United States Code; and

Fifth, this amendment would also impose sanctions on employers whom the Labor Department determines to have engaged in a pattern or practice of displacing older workers to avail themselves of the subminimum wage.

Mr. President, I am aware of the pressures this issue generates and do not take this step lightly. It just seems to me that the time has come to act. Employers offered a reduction of 15 percent for teenagers they employ will have a significant economic incentive to hire them.

Just consider the fact that some 500,000 young people are already hired at a subminimum wage. They are college students. Only full-time students are able now to get jobs as a result of a subminimum wage.

This amendment would give employers a strong incentive to create jobs for youth. A recent survey of small business indicated that three-fourths of those responding—some 3,000 businesses—indicated that a youth differential would have either "moderate" or "major" effect on their desire to hire young workers. At the same time, the penalties stipulated in this amendment for employers who displace older workers would discourage firms from taking unfair advantage of the youth differential wage.

Prominent economists maintain that a dual labor market exists—one for unskilled, teenage workers and another for older, more skilled employees. Little competition takes place between members of these two different labor markets. In other words, substitution of young for old is not likely. Especially in rural and

inner city areas, this differential would enable businesses to expand. It would enable businesses to preserve jobs for young people now threatened with the loss of those jobs by an increase in the minimum wage.

Some say enactment of a youth differential wage will result in hardship for teenage workers. It will not make teenagers rich; it will only give them a start. The greater hardship is the unemployment which afflicts more than 2 million teenagers. It is better to have a job at well above the poverty level than to be on welfare. And some of the young who will receive this wage are living at home. Their living costs are relatively low. Besides, the law now provides a differential for students. It offers a subminimum wage for full-time college students. We offer this wage to those who tend to need it least. My amendment would eliminate that discrimination against the young who are poor.

It already has been mentioned that there are programs to provide jobs for the young, and there are. None of the programs which have been enacted in the recent past or are likely to be passed in the near future—the Youth Employment Act of 1977, the Public Works Employment Act of 1977, the Employee Tax Credit enacted this provision of the Tax Revision Act of 1976, the proposed urban revitalization policy—has much prospect of reducing teenage unemployment significantly. The Youth Employment Act of 1977 will provide at most some 250,000 Government jobs. This would represent approximately one-eighth of the unemployed teenage population—and all at taxpayer expense. In contrast, a 15-percent youth differential could provide additional jobs to 364,000 teenagers in the private sector over the next 5 years, almost one-fifth of the teenage unemployment—and at no taxpayer expense.

Mr. President, the time has come to talk economic sense to the American people about teenage unemployment. Economists across the gamut—from Milton Friedman of the University of Chicago, to Thomas Sowell of Stanford, to Walter Williams of Temple University, to former Federal Reserve Gov. Andrew Brimmer—support a youth differential wage. So do Mayor Coleman Young of Detroit and Mayor Tom Bradley of Los Angeles.

It is time for the Senate to provide the same job opportunities for the poor and minorities that we provide full-time college students. This amendment would create jobs for teenagers. It would assist small business. It would be particularly helpful to both in rural and inner city communities. Minority businesses as well as minority youth would benefit from this amendment.

I urge my colleagues to support it.

Mr. WILLIAMS. Again, Mr. President, we are faced with an amendment that, in the judgment of the committee, would present more problems than it would solve.

It is a very simple amendment, which says that if you lower the wages in a labor market, you would get more employment of people who have this lower wage. Perhaps there will be some employers who will only consider that cost factor, that wage factor, for employment. If that is the case—and it will be the case in some instances—we run right up against the hard fact that that is replacement work. You have a youth taking the job that otherwise, in many cases, would be filled by an adult.

The most distressing statistic that I have seen in connection with the labor market of young people is one that reached us this morning. It shows the percentage of teenage unemployment and, side by side, the percentage of unemployment of Vietnam veterans ages 20 to 24. That percentage is 20.1. The percentage of teenage unemployment is 18.1. That report comes from the Chicago First National Bank. They put it very clearly. They say:

> There has been substantial support for a lower minimum wage rate for teenagers. Under such a system, an employer would naturally choose a 19-year-old over someone who is 20 and equally unskilled.

This particular issue is an invitation to aggravate another problem we have, and that is jobs for Vietnam veterans. Right next to the age group that the Senator from Illinois deals with, through 19, is the age group of Vietnam veterans age 20 to 24.

In connection with the prior amendment, we have had many other arguments and much logic and wisdom that indicate that a subminimum wage is unfair and unjust. It puts young people in a section-class situation—same work, lower wage. The problems are many.

I hope this amendment, as with the other amendment which had the same approach—subminimum wage for young people—will be defeated and that we will continue to recognize here the problems of young peeople in getting jobs and watch over those programs we have already passed which are designed for them, which will reach millions over a period of time, make sure they work and are administered effectively, and have the resource support they deserve—all the youth employment programs that were legislated out of this body with care and intelligence.

I yield at this time 3 minutes to the Senator from New York.

Mr. JAVITS. Mr. President, we have debated this issue rather thoroughly on the McClure amendments which the Senators rejected, quite properly, by a large vote. I shall not repeat those arguments. I shall emphasize the affirmative.

The affirmative is that we now have in place a youth employment and training program which is a new law, in which we have put $1.5 billion, which provides for an estimated 200,000 job slots in an addition to the regular CETA employment and training programs.

We should consider the breakdown in the minimum wage structure which is represented by this so-called youth differential, considering the point I made before, that employers will not necessarily hire youth for the slight advantage in hourly cost but, rather, will consider whether or not there is a true slot for that youth in a job; because it costs much more in terms of the compensation the worker gets, even at the reduced minimum wage, to afford the tools, the space, the supervision, the training, the insurance, and everything else that goes with hiring a new worker.

Under those circumstances, instead of breaking down the total wage structure and allowing for the type of abuse we talked about before in the hiring of youth instead of adults it is much more desirable to engage in direct programs for teenage youth rather than to go this route.

Finally, Mr. President, we have an amazing disparity between the Stevenson amendment and the McClure amendment, and it is very illustrative. Under the McClure amendment there was no limitation whatever, and the hourly rate could have been anything. The Senate roundly rejected that idea, I assume partially under the feeling that there should be some limitation.

Now, the limitation in this one, 85 percent, is really de minimis. If the Senate roundly rejected free bargaining between the teenager and the employer, that certainly had infinitely more chance than saving an employer 15 percent of $2.65.

To assume an employer will hire a worker he otherwise would not hire because he was going to save 40 cents an hour is really out of the question considering what any one of us, whether we have been in business or not, knows what it means to hire another employee. I mean, 40 cents an hour is not the consideration which will dominate us one way or the other in that regard.

So I just think this falls short of the mark much further even than the McClure amendment. It will be no inducement at all. All it does is break down the minimum wage level with no real result, and it will divert us from what we ought to do, which is to target teenage employment and training programs for teenage employment, which is really what this situation needs.

We will fumble around for another year or two waiting to see how this differential is going to work and, therefore, in my judgment, it is a very ill-advised measure and I hope it is rejected.

Mr. BENTSEN. Mr. President, will the Senator yield for a question?

Mr. JAVITS. Yes.

Mr. BENTSEN. In that small business program now they fill out a simple application form for four or less employees, a 5-line application form, and mail it, and they can get certification for teenage employment.

Mr. JAVITS. He has to be a full-time student, and he cannot spend more than 20 hours a week. There are about 600,000 under that kind of certification. We have just adopted an amendment proposed by Senator NELSON which really makes it not a 5-line but 3-line application, and we have simplified it intentionally in the hope that we will double that from 500,000 to a million.

Mr. BENTSEN. I will say to my friend from New York that I am deeply concerned about the high level of unemployment for teenagers, particularly among blacks, which reaches as much as 40 percent. I do not believe you can put

people on a shelf and icebox them for 3 or 4 years without a profound social, physical and political impact on this country. But I think that is what we have tried to address ourselves to with this $1.2 billion program in a very positive manner.

If we take it the other approach, I do not know where you stop. I think the point has been well made whether you are talking about high levels of unemployment among women, among blacks, or any other particular group of people, you would have such a fragmented wage structure that I do not think it is the reasonable approach to the problem.

Mr. JAVITS. I thoroughly agree with my colleague, and I hope the Senate agrees with both of us.

The PRESIDING OFFICER. Who yields time?

Mr. JAVITS. May we ask how much time we have left in opposition to this amendment, Mr. President?

The PRESIDING OFFICER. The opponents have 16 minutes remaining.

Mr. JAVITS. Sixteen minutes.

Mr. President, in order not to distort our positions, I will yield 15 minutes on the bill to the Senator from California (Mr. HAYAKAWA).

The PRESIDING OFFICER. The Senator from California is recognized.

Mr. HAYAKAWA. I would like to have 30 minutes, if I may, if anyone wishes to yield some time. I wish to speak in support of the Stevenson amendment, and I wish to speak in support of the youth opportunity wage. Will Senator STEVENSON yield me some time?

Mr. STEVENSON. Mr. President, may I ask of the managers of the bill is there no time on this bill allowed to opponents of the measure?

Mr. JAVITS. Yes. The proponents of the amendment have a half hour and we have——

Mr. STEVENSON. The opponents of the bill.

Mr. WILLIAMS. There is abundant time here for the Senator from California.

Mr. STEVENSON. The Senator from California asked for a half hour, and I do not have that much for him. I have that amount for myself. I hope the managers, whoever are in control—

Mr. WILLIAMS. Will the Senator yield while we find out what the time situation is?

The PRESIDING OFFICER. 120 minutes the Senator from New Jersey has on the bill and the Senator from New York has 105.

Mr. WILLIAMS. Why do we not each graciously extend 15 minutes apiece?

Mr. JAVITS. I have already given my 15.

Mr. WILLIAMS. The Senator is waiting for me to do the same, and I am happy to yield.

Mr. HAYAKAWA. I thank the Senator from New Jersey and the Senator from New York.

Mr. President, let me start with a quotation from a paper by a black economist, Thomas Sowell, who said:

> Extremely high unemployment rates among black teenagers have been so highly publicized in recent years, and so automatically attributed to employer discrimination that certain historical facts must be noted. Large racial differences in teenage unemployment are of relatively recent vintage. In the late 1940's and early 1950's, there were no such large differences, and indeed, black youngsters 16 and 17 years old had consistently lower unemployment rates than whites in the same age brackets.

This is a startling fact. May I repeat that. "Black youngsters 16 and 17 years old had consistently lower unemployment rates than whites in the same age brackets."

Professor Sowell goes on to say:

> Surely, no one is going to claim there was less employer discrimination than now. We all know better. What was the difference, then? Minimum wages had not yet begun the rapid rise and spreading coverage which has been the dominant pattern since those years.

That is Mr. Sowell.

May I quote then another black economist, one whom we all respect, Harvard professer Andrew Brimmer, former Governor of the Federal Reserve, the Wall Street Journal says;

> Finally, Harvard Prof. Andrew Brimmer, former governor of the Federal Reserve, last year told a Senate committee that unemployed teenagers would benefit more from a lower minimum wage than from public works jobs. His testimony is especially important in that Prof. Brimmer, a black, realizes that the crushing burden of unemployment falls heaviest upon blacks and especially black teenagers (whose unemployment rate, say some economists, is probably closer to 65 percent than the 40 percent figure usually given).

The bill which is before the Senate provides, among other provisions, for an increase of the minimum wage to $2.65 an hour in 1978 and subsequently for de facto indexing of the minimum wage. The amended bill also reduces the present 50 percent tip credit gradually to 30 percent. Supporters of the bill argue that these increases are needed to help prevent poverty among low-wage workers. Raising wages, it is said, improves the lot of the working poor. Without these minimum wage increases, many low-wage workers would fall further into poverty. Supporters of this bill further argue that a sizeable increase is needed to make up the erosion that has occurred in the minimum wage's purchasing power due to price inflation since the last minimum wage increase. Some even insist that past wage levels were inadequate to keep people out of poverty, so that current increases should overcompensate for past price increases.

Naturally, all of us are in sympathy with the goal of reducing poverty. The question is only how to achieve this goal. I, for one, believe that this bill is counterproductive. The contemplated higher minimum wages may raise wages for some workers, but they will also result in displacement from covered employment for other workers. Such displacement may cause lower real wages or even unemployment. I am afraid the side effects will be severe enough to produce an undesirable net result.

The Center for Small Business of the U.S. Chamber of Commerce has just come out with the results of a comprehensive analysis of more than 4,000 responses to a survey "The Effects of the Federal Minimum Wage on Small Business." These findings support my concern. The responses came from small firms located in more than 400 congressional districts and all 50 States.

They tell an alarming story of what small business will be forced to do when S. 1871 becomes law.

Of those 4,000 interviewed, 48 percent will cut the number of hours per week that employees work, 46 percent will cut the number of employees outright, 79 percent declare that they will hold off hiring new employees, 48 percent will purchase labor-saving devices to replace present or future employees, and 80 percent declare that they will raise prices.

Furthermore, among the respondents to this inquiry, 93 percent oppose indexing the minimum wage. Only 2 percent support it. Seventy-five percent of the firms using the tip credit will raise prices if the credit is repealed. And as far as my own State is concerned, 54 percent of California businesses questioned indicate that they will have to reduce working hours, 50 percent contemplate laying off of employees, 76 percent will hold off hiring, and only 1 percent was in favor of indexing which this bill requires.

On the other hand, 74 percent of all small businesses replying expect that a youth wage differential will have an important effect on their decisions to hire more young.

I would like to, therefore, direct my remaining comments to the problems of unemployed youth.

In discussing this matter, I bring to this subject an area of professional concern that is not shared by most of my colleagues in this distinguished body. I have been a teacher all my life, and one of the overriding concerns in my life has been how do you develop boys and girls into young men and women? How do young people, in other words, mature? What is the maturation process by means of which adults are created out of children?

Young men and women in their teen years are ready to live. They are psychologically ready to carry out adult responsibilities and to do their share of whatever needs to be done in the world.

Prof. Neal Postman of New York University, author of a book called "Education Is A Subversive Activity," is eloquent on the frustrations of the young. Why is there vandalism and absenteeism in schools as well as colleges? Why do we have this enormous teenage problem? Because many students feel imprisoned and are bored with their imprisonment. They are sick of preparing for life. They are ready to live.

What happens if socially acceptable forms of real life activity are denied to the young due to protracted schooling which often seems like no more than an expensive form of babysitting?

When this happens they are driven by inner necessity to illegal activities, whether car theft, gang wars, experiments with drugs, or as the case a few years ago—blowing up the ROTC building.

Mr. President, just as babies need love the boy or girl growing into maturity needs challenges. But what challenges are there for the young in our affluent and overprotected society?

In a fantasy, Professor Postman imagines what it would be like if New York schoolchildren from the 7th to 12th grade would be given real responsibility for the health and livability of New York City.

May I quote from Professor Postman? He says:

> And so, the curriculum of the public schools of New York City became known as Operational Survival . . . On Monday morning of each week, 400,000 children had to help clean up their own neighborhoods. They swept the streets, canned the garbage, removed the littter from empty lots . . . Wednesday mornings were reserved for beautifying the city. Students planted trees and flowers . . . Each day, 5,000 students were given the responsibility to direct traffic on city streets so that policemen . . . were freed to keep a sharp eye on criminals. Each day, 5,000 students were asked to help deliver the mail . . . Several thousand students also were used to establish and maintain day-care centers . . . Each student was also assigned to meet with two elementary school students on Tuesday and Thursday afternoons to teach them to read, to write, and to do arithmetic . . .

In Professor Postman's fantasy, he says:

> Most of the students found that while they did not receive an education, they were able to create a quite adequate one. They lived, each day, their social studies and geography and communication and biology and many other things that decent and proper people know about, including the belief that everyone must share equally in creating a livable city.

Professor Postman's dream is a beautiful one, but none of the items he mentions is open to teenage children from the 7th to 12th grade. There are legal and union restrictions against using them to sweep the streets, to can the garbage, to plant trees, to paint the subway stations, to deliver the mail, to help the police force direct traffic. All these things need to be done. They are capable of being done by teenagers, but there are laws against their participation in the work of society.

Every kind of work is unionized and organized under elaborate structures of job eligibility. No matter how eager educators or parents or children are for these maturing experiences, there is not a chance for young people to work in any of the ways that Professor Postman suggests.

Eric Hoffer, our philosopher-longshoreman in San Francisco, has written as follows:

> There are no children any more. Our public schools are packed with mini-men hungering for the prerogatives and probably the responsibilities of adults.

And one can add in support of Hoffer's observation this curious biological fact. Young people today reach biological maturity earlier than they did in the beginning of this century. It just happens to be a biological fact that physical maturity of young people comes earlier in life. Nevertheless, we keep the young in school so much longer than we used to.

In 1910, a 14-year-old was expected to leave school and go to work, and if you did not go to work people wondered if you were going to become a preacher or something. A grade school education was considered enough for the average person, and perhaps one-eighth of the population went on to finish high school.

But if you are 14 years old in the 1970's, you are biologically the equivalent of a 16-year-old of 1910, and 50 percent of the 14-year-olds in California are bound for college. If this 14-year-old is college bound he or she is faced with 7 or 8 more years of schooling before being launched into the adult world and longer than that if he or she wants to go into the professions.

We put this enormous emphasis on academic life and there is no wonder that people rebel against it because so many young people at this stage of their careers are tired of preparing for life. As I said, they are ready to live.

Why is it there are all these teenage pregnancies, the record rate these days, girls 14, 13, 12 getting pregnant and boys getting into trouble? They are asserting their budding maturity in a society that does not let them become mature.

All the young are not studiously inclined. Many will not be interested in academic studies until later in life if they become interested at all. Young people of high school age are interested in becoming racing drivers, ball players, forest rangers, body and fender men, chefs, mechanics, horsemen, horsewomen, actresses and actors, and models. They have all sorts of career aspirations for which academic preparation is only marginally necessary, if necessary at all.

Yet we keep them in school, and we keep them in school, and we keep them in school until we drive them crazy.

I have here a story from the San Francisco Examiner, with a dateline of the Associated Press in Philadelphia:

> A University of Pennsylvania professor estimates that sixty-five percent of America's black teen-agers are unemployed.
>
> Dr. Bernard Anderson, assistant professor of industry at Penn's Wharton School of Finance and Commerce, said about 570,000 of the approximately 880,000 black youths between 16 and 19 can't find jobs.

He said:

> I don't want to scare anybody. I don't want this to be a horror story. But we have a problem here. This is why we have a high crime rate. We have hundreds of kids standing around doing nothing. This is why we have a teen-age gang problem."
>
> "Thousands of young blacks have withdrawn from the labor market," he said. "They are discouraged and have given up looking."

All this fits in with a recent study of liquor store holdups in a city in New Jersey. I call this to the attention of our distinguished colleague from New Jersey.

This study of liquor store holdups indicated that every one in this city in New Jersey had been committed by black teenagers. Before one leaps to any conclusions about blacks, one should ponder what the study says.

Most black teenagers are unemployed. They cannot get into the jealously guarded apprenticeship programs of the trades unions. Most apprenticeship programs have a ratio of one apprentice to five journeymen, and that one apprentice is likely to be a relative of one of the journeymen. What chance has an outsider got?

Unrealistic child labor laws also keep them (as well as white youths) idle on the streets. Minimum wage laws, perhaps necessary to protect adult workers, are totally unrealistic when applied to the inexperienced teenage worker. Businesses simply cannot hire them at those rates.

But teenagers of both sexes need money. If their parents cannot provide them with adequate allowances, how can they get money?

How do they? There is a simple rationality to snatching purses, robbing liquor stores and service stations: these are the only recourses left to you if you need money and society provides you with no legal way of getting it.

Teenagers are bursting with energy—and the need to prove their manhood and womanhood. Teenagers of any color—especially those who have few academic aspirations—are an ignored and oppressed class. They have got to have a chance to work and prove themselves. There have to be entry-level jobs for them.

It is time educators, union officials and legislators got together on this problem. Too many young lives are being ruined every day.

Now, 90 percent of those working at minimum wages at the present time are teenagers. They work in such occupations as fast food industries, or simple agricultural pursuits. Some of those working at the minimum wage are non-English speaking immigrants, legal or illegal, whether from Mexico or Hong Kong or Taiwan, and these people find the minimum wage a huge step up from the wages they earned back home.

Teenage employment does not displace adult workers, because most teenage employees are secondary wage earners in their families. One or both of their parents either has a job or receives generous welfare allowances; and so, in most cases, the teenage worker is a secondary wage earner.

Another illustration of this, by the way, has to do with things I heard when I was in Asheville, N.C., recently, as a guest of our distinguished colleague from North Carolina (Mr. HELMS). I had occasion to speak at church services in two black churches. And in the course of conversation with the black ladies and gentlemen there, I learned the following: That many black women who formerly worked part-time in domestic labor at the then prevailing wages of $1.50, $1.75, and so on, no longer have access to those jobs, because the minimum wage has priced them out of the market, and the women they used to work for no longer can afford to hire them. We are talking, then, about marginal jobs, jobs that are easily wiped out the moment they become a little expensive.

For example, let me talk about some agricultural jobs right in my own State

of California. In Sunnyvale, Calif., there is a Japanese-American nurseryman who has an admirable operation. He has huge nurseries, in which he grows Easter lilies, chrysanthemums, and potted plants. His potted plants require an awful lot of attention and care, but they are produced in enormous numbers.

To produce these potted plants, which are sold in supermarkets around the country, my friend in Sunnyvale has long hired high school students part-time, and paid them part-time wages.

Now the impact of minimum wage laws and child labor regulations in California has forced him to give up that kind of hiring. That kind of hiring, incidentally, was very important, because so many young people learned the responsibilities of work through working in that nursery. Many of them paid their way through college, and some few of them became horticulturists; as a result of that work experience, they found a trade, an occupation, a business of their own.

Now, with the impact of minimum wages in southern California, my friend in Sunnyvale is still prospering. He is building two more huge nurseries, but one of them he is building in Guatemala, and the other one in Taiwan. That is the only way he could keep going. We are driving jobs out of the country, in other words, by this kind of thing.

Let me talk a little bit about the fast food industry. I had the pleasure of talking with some of the executives of McDonald's hamburger chain in Los Angeles during the course of my campaign. And in the course of that, I talked with them about the problems of a specific McDonald's hamburger outlet that was being planned for San Francisco, but the plans never went through, because the unions brought enough pressure to bear upon the city council so that the board of supervisors, or whoever was responsible, did not permit that outlet to be built.

I asked how many jobs that cost, and I was told that every McDonald's that you see represents anywhere from 64 to 90 jobs for young people, mostly part-time; 64 to 90 jobs, in every one of those thousands and thousands of outlets.

It has been argued here that 40 cents an hour does not mean very much to an employer. I say it means a world of difference to, let us say, McDonald's, which has to pay the 40 cents an hour for anybody from 4 to 6 hours a day, for 7 days a week the year around, to anywhere from 64 to 90 employees. When you are putting up one new outlet for McDonald's, that 40 cents an hour represents an enormous outlay per year, of tens of thousands of dollars.

So this matter of a 15-percent differential, or even a 10-percent differential from the adult minimum wage for young workers is not a trivial matter at all. It makes all the difference in the world as to whether or not a new McDonald outlet or Jack-in-the-Box outlet or Kentucky Fried Chicken outlet is going to be put there, or whether it is not going to be put there and that many jobs are just not going to exist.

All sorts of nice things have been said about organized youth programs, in which the Government would hire hundreds of thousands or millions of young people and put them into a youth corps of one kind or another, and that we should have vast Federal programs for employment and training of young people.

I believe that such programs should exist, but I do not believe we can ever make a program big enough to take care entirely of all our country. We are pouring billions into programs now. Their effectiveness has not yet been clearly established. What are we going to get as a result of hundreds of thousands of young people learning very, very early in life that the thing to do is to go to the Government for a job? Are they going to go to the Government for a job for the rest of their lives? All of us here have complained that the Government has become too big; that the Government has become too expensive; that too many people are depending upon the Government for a livelihood, and so on. This is what some people are opposing.

I do not think it is illusory. If we have any faith in the capacity of people to make up their own minds about their own fate, then we should make it possible for young people to decide for themselves, "I will take this job. I want this opportunity, even if it does not pay very much, because it is at least a start."

When I say it is at least a start, I want to point up something very, very important regarding minimum wage legislation in general, which people seem to ignore completely.

Part of this country's greatness is due to the fact that we have had in this country for many, many years, throughout its history, emigres from foreign shores. When some of them arrived, they were in great desperation and poverty, like the emigres from the Irish potato famine in the middle of the nineteenth century. They were poor; they were dirty. They were the class of Irish whom the middle class people regarded as hardly human. And, in speaking of how they referred to the blacks, they used worse terms with regard to the Irish.

Hundreds of thousands of immigrant Jews poured into our country. While most were educated, they were not educated in the English language. Chinese coolies arrived on the west coast. We have had Japanese, Latvians, Hungarians and Portuguese, all sorts of people, coming from all parts of the world to this country.

Whatever their handicaps were when they arrived, including the inability to speak English, the lack of knowledge of the customs of this culture, there was a rung at the bottom of the ladder where they could start. There was some miserable, low-paid job in a sweat shop somewhere, or in agriculture, where they could at least eke out a living.

What we are doing in our society with minimum wage laws and all kinds of misguided attempts to protect the worker is to destroy the bottom rung of the ladder. It is all right to have a ladder going up to success, but if the bottom rung is 10 feet off the ground, I am never going to reach the bottom rung of the ladder.

Here is what we are doing: We have apprenticeship programs that will not let kids in, or one out of every few hundred who want to get in; minimum wage laws that are too high for employers to be able to afford; regulatory laws governing every kind of business which prevent people from going into business.

We are creating a situation that the Irish in the middle 19th century did not have to face, that the Chinese coolies on the west coast did not have to face, that the Jewish immigrant did not have to face. They had somewhere to start even at miserable wages. Having that somewhere to start and then work your way up has been the American dream. We are destroying all of that.

I think of the Japanese workers in Hawaii on the sugar and pineapple plantations. They were given a shack to live in and received, in the old days, $15 a month. They created for themselves a very good life out of that. What really astounds me is our distinguished colleagues, people like Senator INOUYE, Senator MATSUNAGA, former Senator Hiram Fong, are descendants of some of those plantation workers, including the present Governor of Hawaii.

Out of that $15 a month their parents or grandparents saved enough to send them to Oregon State, Corvallis, some to Harvard, some to Antioch, some to the University of California. Out of $15 a month they did that because they knew they had to work and they had to save. If they did work and if they did save, if they did educate their children, they would succeed. But they had to have a starting point on the ladder.

We have destroyed the bottom rung of the ladder. That is what is wrong.

Our economic system is fantastically productive and fantastically wealthy for those who got past the bottom rung, but we are systematically destroying the bottom rung of the ladder. We have developed this enormous welfare system to take care of those people who cannot get on the bottom rung. Then we wonder how we can do it. We have to have a welfare department and it will cost so much. Then they come along and say that welfare will cost more, and we have to reform. Then we are stuck.

There is a solution to all of this: We have to get some flexibility into the labor market. We hope to restore some bottom rungs to the ladder so that the person who is willing to work, who is ambitious, who is determined to make his place, can find a place to start. I do not mean people are contemptuous of a job at McDonald's, at the Jack-in-the-Box, or any of these places, for there is no reason to be contemptuous. Where else do young people start out learning punctuality, cleanliness, politeness to customers, cooperation, coordinating one's efforts with the efforts of one's colleagues, so as they get along in time they produce? This is all part of the history of working.

Since the U.S. Senate is a body of men, I would like to close with the subject of how boys become men. This is a subject which has concerned me throughout all of my teaching life.

The PRESIDING OFFICER. The Senator's time has expired. Does the

Senator from New Jersey yield additional time to the Senator from California?

Mr. WILLIAMS. I will ask how much time the Senator requests.

Mr. HAYAKAWA. I need 10 more minutes.

Mr. WILLIAMS. I yield.

The PRESIDING OFFICER. Without objection, the Senator is recognized for an additional 10 minutes.

(Mr. JOHNSTON assumed the chair.)

Mr. HAYAKAWA. Never has it been so difficult for boys to grow up into men as in our culture at the present time. Becoming a man—I will not talk about the problem of becoming a woman as I have not had that experience—is not a matter of chronology but is a matter of proof. Throughout the entire history of mankind, boys have had to prove themselves to be men. Davy Crockett "killed him a b'ar when he was only 3." Others, in order to establish themselves as men, have had to win races, have had to prove their skill at hunting, have had to show they can handle a team and plow, endure survival tests in the wilderness, bring home an enemy scalp, or drink a half pint of whiskey without passing out. There are different tests.

To become a man, it has always been necessary for boys to associate with men, as helpers on father's farm, as apprentices to craftsmen, as squires to knights, as waterboys to baseball teams. Through such association boys learn the secrets of the adult culture: What rituals to observe, how to take care of equipment, how to drink, curse, fight, and how to earn and maintain the respect of other men in a society of men.

Today most boys are separated from the lives of men. Men leave for the factory or office early in the morning, commuting many miles to work, and do not return until evening. Boys are brought up by mothers and schoolteachers. Boys often have no idea what their fathers do. They have no model male adult to follow as they grow up. They have no idea what a man does that makes him a man.

Unless a boy is a good enough athlete to make the varsity squad, or unless he joins a street gang or the Armed Forces, he is likely to spend his entire life with women around. The Armed Forces are not safe any more.

Mobs of Radcliffe girls have invaded Harvard classrooms. Yale has gone coeducational. Girls move into fraternity houses. The experience of being a man in a society of men becomes rarer and rarer.

What young men profoundly need as they grow up, says David Riesman, is to be extended to the limit of their powers. They have to experience situations in which they have to do more than their best in order to escape death, capture, defeat or failure.

But what is there in a boy's life in our affluent society to extend him to the limit of his powers? If he gets on the high school football team, well and good; he will really have to extend himself. But what of all the other students?

High school is no challenge. In most communities, if you do not learn enough to go into the next grade, they pass you anyway. For many the curriculum is so slow and repetitive that it is a bore. For others, it is simply meaningless.

Furthermore, the challenges of work in the outside world are denied to the boy by exclusionary union rules, by child labor laws and, where these do not apply, by minimum wage laws, as well as by the legal and social pressures that keep him in school whether he wants to be there or not.

So the vast majority of boys are excluded from the world of men and denied the chance to exercise their powers, physical or intellectual. Is it any wonder that there is a youth problem?

Boys need challenges. Their whole being cries out for them. To face starvation, the possibility of death or capture at enemy hands, the risks of failure in school or work or business, and then to triumph over these dangers—these are the stuff of human growth, or maturation.

If an affluent society does not provide boys with challenges, they are compelled by inner necessity to improvise their own. Is this not one of the reasons that gangs of youths try to provoke authorities into confrontations. In the years of campus uproar, did you not observe the joy in the faces of campus radicals on learning that the police have been summoned?

What about drugs and the young? If challenge and risk are what so many youths need and are not getting, is it not likely that warnings about the dangers of drugs simply make them more attractive? And stealing cars. Whatever else a boy may be doing as he tears along the highway at 90 m.p.h., trying to evade the police, he is certainly extending himself to the limit of his powers.

David Riesman says youth gangs are societies of the young. Unlike the 13-year-old Pueblo boy who joins a khiva of male elders, the gang recruit joins a group almost as ignorant and inexperienced as himself.

That is what the generation gap is about: Fathers away from home, for whatever reason, and therefore unavailable to their sons as models of male adulthood; the boys forced to improvise their own subculture, unguided by adult knowledge or experience.

That is the problem for fathers in our culture. That is a problem for all adults, or those who want to grow up into them. Is there not something we can learn from the Pueblo Indians about passing on a culture? How can we bring our sons into our lives?

It takes men to make men. Mothers cannot do it by themselves. Nor can high schools. Nor colleges. That is not their function.

It takes work to make men and women out of boys and girls. What matters is not the amount of money they earn. That is totally irrelevant. What makes adults out of children is the self-respect, the sense of responsibilities shouldered, that come from being intrusted with a real job to do.

Schools are not doing the job—perhaps it is a function that is not theirs to perform. What makes adults is responsibility in the larger world outside the home. That means a job.

I thank the Chair.

Mr. SCHMITT. Will the Senator yield?

Mr. HAYAKAWA. I yield.

Mr. SCHMITT. This address that we have just heard, I believe, is one of the most significant social addresses that has been made, certainly, in the time I have been here and maybe since anyone has been in this Chamber. I congratulate the Senator from California on it.

The key phrase that he uttered is that we are removing the bottom rungs of the ladder. I wish to join with him in hoping that the Senate, not only with respect to the Fair Labor Standards Amendments of 1977, but with everything else we do, will strive to restore the bottom rungs of the ladder. Again, I compliment the Senator on his remarks. I wish—I profoundly wish—that more had been here to hear those remarks prior to the vote on these matters.

Mr. McCLURE. Mr. President, will the Senator yield?

The PRESIDING OFFICER (Mr. JOHNSTON). The Senator from Idaho.

Mr. McCLURE. Mr. President, will the Senator from Illinois yield to the Senator from Idaho 5 minutes on the bill?

Mr. SCHWEIKER. On behalf of the Senator from New York, I yield to the Senator 5 minutes.

Mr. McCLURE. I thank the Senator.

I want to join with my colleague from New Mexico in congratulating the Senator from California (Mr. HAYAKAWA) on a remarkable statement. I am afraid it will not receive the attention to which it is entitled, not just for the merit of the statement, but for the importance of the issue.

The statement was both profound and learned, from a man who is an acknowledged expert in this area, and deserves and demands the attention of the country to the issue which he has addressed.

It is a memorable statement and I think it will be one that, in future years, will be referred to, I hope, as one of the turning points in the thinking processes of the Senate.

Mr. JAVITS. Mr. President, I yield myself 1 minute.

I want to say, too, that while I do not agree with Senator HAYAKAWA about the youth differential amendments, he is a member of our committee, whom I honor greatly, and I have heard most of his statement. I shall read it also with the greatest respect, because he is always extremely thoughtful, extremely instructive. Having personally experienced his presidency at the University which he headed and seen students and the result of his work, I have every right to respect his views when it comes to youth, and I shall pay strict attention to him.

Mr. HAYAKAWA. Coming from the distinguished Senator from New York, my colleague and friend, I thank him very, very much.

Mr. HANSEN. Will the manager of the bill yield to me?

Mr. JAVITS. I yield to the Senator 2 minutes.

Mr. HANSEN. I compliment the distinguished Senator from California for his very thoughtful and provocative remarks. I know that no one need remind anyone in this Chamber that the Sena-

tor from California enjoys a very wide reputation as a great semanticist. I suspect that he may, indeed, merit the accolade or the definition of being a great anthropologist, as well, because it seems to me that, while we may not, having this bill before us now, come up with the solutions that he strongly recommends, my guess and my prediction is that, in time, his judgment will be vindicated. I believe sincerely that the points that he has made reflect continuing truths that can be found throughout the world.

I have read a number of speeches that the Senator has made and it seems to me that the points he has made here, today, deal with universal characteristics of people everywhere.

They are just as true in America as they are anywhere else.

While the point has been made repeatedly that we may be overconcerned, as some believe we are, in the focus given to youth employment here, figures have been made that the percentage of youths that are unemployed is twice the average of unemployment for all people.

Opponents of this amendment contend that really is not as important as it might otherwise be assumed to be because, only one-fifth of the labor force is young people. In addition to that, it is argued we have programs going that provide public employment for young people.

I think these facts—and I do not challenge their authenticity—fail to address the problem Senator HAYAKAWA has spoken about, and that is that young people need the challenge, they need the satisfaction——

The PRESIDING OFFICER. The Senator's 2 minutes have expired.

Mr. HANSEN. May I have one more minute?

They need the challenge that comes from work. From what little experience I have had working around young people, and trying to recall those times when I, too, was young, I must agree that the points made by the distinguished Senator from California are very valid.

I predict that sooner or later we are going to come down on his side, recognizing that he has uttered some very timeless truths that we cannot forever be putting off.

I thank the distinguished Senator from New York for his courtesy.

Mr. STEVENSON. Mr. President, I too, wish that more Senators could have heard the Senator from California.

He said that we are cutting off the economic ladder at the bottom, and he is right. We are in danger of depriving young people of a chance, and, as he put it, a challenge, and history will not deal kindly with a nation which goes on destroying its youth.

Mr. President, this amendment, with the minimum wage schedule in the bill, would provide a subminimum wage level of $2.25 for 1978, $2.47 for 1979, $2.68 for 1980, and $2.90 for 1981.

All of those levels are well above the poverty level.

It has been said that this amendment, if approved and enacted into law, would make young people second-class citizens.

Mr. President, there already is a subminimum for young people. Some 500,000 students now take advantage of this subminimum in order to obtain jobs.

Those 500,000 students are not second-class citizens. They are privileged citizens, and that is one of the reasons for this amendment.

The present law discriminates against those who most need the benefit of the subminimum. It provides that subminimum for college students, those who are relatively well off. It discriminates in favor of those who need it least.

It has been said that it will displace jobs. Well, I have not heard that complaint about the college students who obtain work.

The fact of the matter is that it will not displace older workers from their jobs.

What it will do is save jobs that will be otherwise destroyed by these increases in the minimum wage, just as they have been in the past.

James Reagan, Jr., in the Harvard Journal has estimated—this is not a chamber of commerce or a labor economist, it is an impartial expert—that about 225,000 jobs, teenage jobs, were lost after the smaller increase in the minimum wage back in 1966.

A Brookings Institute study estimates that some 13 percent of teenage employment was lost in 1974 as a result of the smaller increase in the minimum wage then.

This amendment, Mr. President, far from displacing workers, is aimed at preserving jobs that young people already have. Already, 2 million young people, teenagers, are out of work. They are unemployed. I think it would also create jobs, and not at the expense of higher-paid and skilled workers.

There are, I should add, penalties in the bill for employers who deliberately displace their employees with young people at subminimum rates.

A final point, Mr. President. It has been said that all we have to do is put more money into more job programs.

According to the Congressional Budget Office, to create 250,000 jobs for young people, it will cost $1.5 billion. All we need is more money.

Mr. President, I support these job programs, but they are not enough and they are very expensive. This amendment, it has been estimated, will preserve in the private sector or create, and at no expense to the taxpayer, almost 400,000 jobs, and far from costing the taxpayers any money, it will give life to small businesses, including minority businesses in the ghetto, small businesses in rural areas.

It will add vitality to our economic system and increase revenues to the Federal Government.

Mr. President, I am prepared to yield back the remainder of my time.

Mr. JAVITS. We are prepared to yield back our time.

Mr. STEVENSON. Mr. President, I ask for the yeas and nays on this amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to amendment No. 1427. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CHILES (after having voted in the affirmative). On this vote I have a live pair with the Senator from Minnesota (Mr. HUMPHREY). If he were present and voting he would vote "nay." If I were permitted to vote, I would vote "yea." I therefore withdraw my vote.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Minnesota (Mr. HUMPHREY), and the Senator from Arkansas (Mr. MCCLELLAN) are necessarily absent.

I further announce that the Senator from Hawaii (Mr. INOUYE) is absent on official business.

Mr. STEVENS. I announce that the Senator from Idaho (Mr. MCCLURE) and the Senator from Kansas (Mr. PEARSON) are necessarily absent.

The result was announced—yeas 39, nays 54, as follows:

[Rollcall Vote No. 542 Leg.]

YEAS—39

Allen	Goldwater	Roth
Baker	Griffin	Schweiker
Bartlett	Hansen	Scott
Bellmon	Hatch	Stennis
Byrd, Harry F., Jr.	Hayakawa	Stevenson
Cannon	Helms	Stone
Chafee	Hollings	Talmadge
Curtis	Laxalt	Thurmond
Danforth	Long	Tower
Dole	Lugar	Wallop
Domenici	Morgan	Young
Eastland	Nunn	Zorinsky
Garn	Ribicoff	
	Schmitt	

NAYS—54

Anderson	Gravel	Metcalf
Bayh	Hart	Metzenbaum
Bentsen	Haskell	Moynihan
Biden	Hatfield	Muskie
Brooke	Hathaway	Nelson
Bumpers	Heinz	Packwood
Burdick	Huddleston	Pell
Byrd, Robert C.	Jackson	Percy
Case	Javits	Proxmire
Church	Johnston	Randolph
Clark	Kennedy	Riegle
Cranston	Leahy	Sarbanes
Culver	Magnuson	Sasser
DeConcini	Mathias	Sparkman
Durkin	Matsunaga	Stafford
Eagleton	McGovern	Stevens
Ford	McIntyre	Weicker
Glenn	Melcher	Williams

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Chiles, for.

NOT VOTING—6

Abourezk	Inouye	McClure
Humphrey	McClellan	Pearson

So Mr. STEVENSON's amendment (No. 1427) was rejected.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. WILLIAMS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. JAVITS. Mr. President, I yield myself 30 seconds for a unanimous-consent request. Mr. President, I ask unanimous consent that Mark Johnson, of Senator BURDICK's staff, have the privilege of the floor during the consideration of this legislation.

I make the same request for Nancy Barrow, of Senator CHAFEE's staff.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on the amendment by Mr. SCHWEIKER, which he is about ready to call up now, and I have cleared this request with him and the two managers, that the time be reduced in half, that there be a 30-minute time limitation on the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1406

(Purpose: To authorize a youth minimum wage differential under the Fair Labor Standards Act of 1938.)

Mr. SCHWEIKER. Mr. President, I call up my amendment 1406 and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Pennsylvania (Mr. SCHWEIKER), for himself, Mr. CHAFEE, Mr. GARN, Mr. HATCH, Mr. HAYAKAWA, Mr. HOLLINGS, Mr. MCCLURE, Mr. SCHMITT, Mr. YOUNG, and Mr. TOWER, proposes an amendment numbered 1406.

Mr. SCHWEIKER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 12, between lines 17 and 18, insert the following new section:

"YOUTH OPPORTUNITY WAGE

"SEC. 5. (a) Section 14(b) (29 U.S.C. 214 (b)) is amended to read as follows:

"(b)(1) To encourage youth employment an employer may employ any youth who has not attained twenty years of age for a period of one hundred and eighty days, without prior or special certification by the Secretary of Labor, at a wage rate not less than 75 per centum of the otherwise applicable wage rate in effect under section 6 (or in the case of employment in Puerto Rico or the Virgin Islands not described in section 5(e) at a wage rate not less than 75 per centum of the otherwise applicable wage in effect under section 6(c)) in compliance with applicable child labor laws. This paragraph shall not apply to any youth employee who has been employed by the same employer for a period of at least six months or is currently employed by an employer at a rate of at least the minimum wage.

"'(2)(A) To encourage youth employment, an employer or institution of higher education may employ any full-time student (regardless of age but in compliance with applicable child labor laws) at a wage rate not less than 75 per centum of the otherwise applicable wage rate in effect under section 6 (or in the case of employment in Puerto Rico or the Virgin Islands not described in section 5(c), at a wage rate not less than 85 per centum of the wage rate in effect under section 6(c)).

"'(B) Any full-time student so employed under this paragraph by an institution of higher education or an employer other than an institution of higher education shall prior to such employment present to the employer a letter from the institution at which the student is enrolled certifying that such student is a full-time student enrolled at that institution.

"'(C) Any full-time student employed pursuant to this paragraph shall be employed on a part-time basis and not in excess of twenty hours in any workweek, except during vacation periods.

"'(3) While no prior certification shall be required by the Secretary for purposes of paragraphs (1) and (2), the Secretary is authorized under this Act to insure that the provisions of paragraphs (1) and (2) of this subsection are not violated. Whenever the Secretary discovers that an employer is employing youth at a wage rate lower than the wage rate allowable under this subsection or at a wage rate lower than the applicable wage rate under section 6 after the period of time specified by this subsection, or is engaged in a pattern and practice of—

"'(A) substituting younger workers employed at less than the minimum wage for older workers employed at or above the minimum wage, or

"'(B) terminating the employment of youth employees and employing other youth employees in order to gain continual advantage of the youth opportunity wage,

the employer shall be deemed to have violated section 6 of this Act. The liability of such an employer under this paragraph shall include—

"'(i) unpaid wages and overtime compensation determined on the basis of otherwise applicable minimum wage and overtime rates pursuant to sections 6 and 7 of this Act, and

"'(ii) a fine to be determined by the Secretary not to exceed $2,500 for the first offense by an employer and not to exceed $10,000 for any subsequent offense by the same employer.'.

"(b) Section 13(a)(7) (29 U.S.C. 312(a)(7)) is amended to read as follows:

"'(7) any employee to the extent that such employee is exempted by regulations, order, or certificate of the Secretary under section 14, or in accordance with the provisions of section 14(b); or'.".

On page 12, line 19, substitute "SEC. 6." for "SEC. 5.".

UP AMENDMENT NO. 901

Mr. SCHWEIKER. I send a modification of my amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The Senator will suspend a moment until we get order in the Chamber. There will be order in the Chamber. The Senator cannot be heard.

The clerk will report the modification.

The assistant legislative clerk read as follows:

The Senator from Pennsylvania (Mr. SCHWEIKER) proposes a modification to amendment 1406.

Mr. SCHWEIKER. Mr. President, I ask unanimous consent to dispense with further reading of the amendment. This is a clerical and technical change.

The PRESIDING OFFICER. Without objection, it is so ordered.

This does need unanimous consent to modify the amendment. Is there objection to the modification of the amendment? The Chair hears none, and the amendment will be modified.

The modification is as follows:

On page 2, line 22, strike "85 per centum" and insert "75 per centum".

On page 3, line 1, strike "an institution of higher education or".

Mr. SCHWEIKER. The purpose of this amendment is to protect job opportunities for this Nation's youths by establishing an entry-level minimum wage for teenagers. It would permit employers to pay youths under the age of 20, 75 percent of the minimum wage for 6 months. At the end of 6 months, the employer would be required to pay the full minimum.

In addition, my amendment would modify the provisions of current law regarding the payment of lower minimum wages to full-time students by allowing employers to pay full-time students 75 percent of the minimum wage without having first obtained a certificate from the Secretary of Labor. Students would be required, however, to submit letters to their employers certifying their full-time student status. Students would also be limited to 20 hours of work per week except during vacation periods.

The amendment also includes penalties for employers who pay youths less than 75 percent of the minimum wages or who retain youths at a reduced minimum wage for more than 6 months; or who engage in a pattern and practice of substituting younger workers employed at less than the minimum wage for older workers employed at or above the minimum; or who engage in a pattern and practice of terminating youth employees and hiring other youths in order to gain continual advantage of the lower minimum.

Finally, my amendment would not apply to any youth who has been employed by the same employer for at least 6 months or is currently employed at a rate of at least the minimum wage.

Mr. President, the need for my amendment is clear. Teenage unemployment is a national disgrace. Currently, unemployment among those aged 16–19 is 17.5 percent. For black teenagers it is an appalling 40.4 percent. This means that more than 1.6 million young people are being denied the chance to work during a critical developmental stage—their early years in the job market.

Many experts believe the high rate of the minimum wage is one of the most significant factors contributing to the devastating rate of youth unemployment. A 1973 Congressional Research Service paper states that:

Empirical evidence has traced an adverse impact between minimum wage requirements and teenage employment. Studies which show this, summarized earlier in this report, include those by: Adie and Chapin; Brozen; Burns; Easley and Fearn; Hashimoto and Mincer; Kosters and Welch; Moore; and Peterson and Stewart.

A review of quotes drawn from some of the studies cited by CRS is instructive. Adie and Chapin state that:

The results of our study are unambiguous. Increases in the Federal minimum wage cause unemployment among teenagers; the effects tend to persist for considerable periods of time and seem to be strengthening as coverage is increased and as enforcement becomes more rigorous.

Yale Brozen concludes his article, entitled "The Effect of Statutory Minimum Wage Increases on Teenage Unemployment," by stating that:

In the interval between the time that the minimum wage is raised and the time that

productivity and inflation catch up with the increase, . . . teenagers are barred from obtaining the opportunity to learn skills which would make them more productive, and permanent damage is done to their attitudes and their ambitions.

In his study, Arthur Burns concludes:

The ratio of the unemployment rate of teenagers to that of male adults was invariably higher during the six months following an increase of the minimum wage than it was in the preceding half year.

Prof. James F. Ragan, in a study entitled "Minimum Wages and the Youth Labor Market," which appeared in the May 1977 issue of the Review of Economics and Statistics concludes that:

Minimum wage legislation reduces youth employment; males, especially nonwhite males, are the hardest hit.

Ragan goes on to say that youth employment would have been 225,000 persons higher in 1972 than it actually was and the youth employment rate 3.8 percentage points lower had the 1966 minimum wage amendments not been implemented. Ragan further states that:

The finding that minimum wage legislation adversely affects youths is not novel. This study does, however, strengthen that finding. In particular, the adverse effect remains even after the impact of manpower programs and changing youth supply are accounted for.

Opponents of my amendment will contend that the evidence is not conclusive and that other studies have shown no relationship between teenage unemployment and increases in the minimum wage. But as Prof. Walter Williams points out in "Youth and Minority Unemployment,"

The weight of academic research is that unemployment for some population groups is directly related to statutory wage minima.

Aside from the evidence provided by academic research, commonsense suggests that increases in the minimum wage adversely affect youth employment. Teenagers often have the least to offer in the labor market. They bring to the workplace disadvantages such as a lack of job skills and work discipline. They need extra training, more instruction, and greater supervision. All of these are more costly to employers. As the minimum wage goes up it becomes increasingly more difficult for employers to assume the risk and expense involved in hiring a young person.

I believe my amendment, by providing a youth differential minimum wage, would prevent teenagers from being priced out of the labor market and enable employers to provide them with the training and experience they so desperately need. It would compensate employers for the extra training and investment needed for young workers. At the end of 6 months, after a young person had become fully attached to the labor force and acquired needed skills and experience, the employer would be required to pay the full minimum. My proposal recognizes both the need to protect job opportunities for youths and to provide them with the standard wage once they have been able to avail themselves fully of those opportunities.

The major argument raised in opposition to a youth differential is that it would result in the substitution of younger workers for older workers. However, I believe fears of displacement of older workers have been greatly exaggerated. My amendment would not provide for a permanent youth differential. It would merely establish an entry-level wage at a temporarily reduced rate—for 6 months only. This in itself should be enough to quell the fears of those concerned over the fate of older workers.

In addition, Prof. Walter Williams in an article entitled "Government Sanctioned Restraints That Reduced Economic Opportunities for Minorities," which appeared in the fall, 1977 issue of "Policy Review," suggests that those who raise the displacement objection are victims of the "lump of labor fallacy." Williams says this fallacy "assumes that there are a finite number of jobs available whereby the acquisition of a job by one person of necessity requires that another lose his job." Williams continues by saying that:

There is no evidence to support such a contention. After all the number of people holding jobs grew from less than a million during colonial times to over 90 million holding jobs now. All evidence suggests that this trend will continue.

It should also be noted that a 1970 Bureau of Labor Statistics study, entitled "Youth Unemployment and Minimum Wages," states that:

Reports from abroad do not show that adult employment has been affected adversely by lower minimum wages for teenagers.

The BLS study also states that:

Youth differentials are common in most state laws with no apparent evidence of adverse effects.

Moreover, my amendment includes penalties both for employers who replace older workers with younger workers and who dismiss youths and hire other youths in order to gain continual advantage of the lower minimum.

It has also been suggested that there is no need for a youth differential minimum wage now that the Federal Government has launched a new youth employment program. I supported enactment of this program and hope it does have a positive impact on the employment prospects of our young people. However, I believe it is unreasonable and irresponsible to expect that this program will completely solve our problem.

The Youth Employment and Demonstration Projects Act is expected to create approximately 250,000 work experience and training slots at a cost of $1.5 billion. But it is clear that even with the expenditures of $1.5 billion, we can reach only a fraction of those in need of training and employment services. Let us not forget there are 1.6 million young people out of work. Moreover, the 1970 Bureau of Labor Statistics study states that:

There is some basis for the inference that the effect of Federal manpower programs and the federal minimum wage have tended to offset each other. The analysis of quarterly data indicates that increases in employment attributed to the manpower programs have been offset to some degree, by decreases in employment attributed to the minimum wage.

In citing this conclusion, CRS aptly termed it "ironic and even pathetic." It seems public policy is working at cross-purposes.

At a time when Congress is considering a substantial increase in the minimum wage, it is imperative we consider the impact of such an action on our young people and take measures to prevent any further deterioration in their prospects for employment. We cannot afford to sit idly by and watch today's unemployed teenages become tomorrow's chronically unemployed adults. Therefore, I urge my colleagues to support my amendment. I realize it is difficult to abandon long-held notions about the inviolability of the minimum wage statute, but progress frequently demands the abandonment of outdated ideas.

Mr. President, we have a gigantic crisis ahead of us in terms of our cities, in terms of our young teenagers, in terms of our young blacks.

Just today the September unemployment rate came out. What was the unemployment rate today? It is 6.9 percent for adults, and 18.1 percent for teenagers.

I do not know how long we can close our eyes to that gigantic gap, 6.9 percent for adults and 18.1 percent for teenagers; how long we can close our eyes to the horrendous social implications of that statistic and its drastic impact on our urban areas and our young people.

I want to give you a brief rundown of our leading urban areas, the inner cities, and what happens to black teenagers in terms of these figures? Baltimore, 49.6 percent of black teenagers out of work; Chicago, 42.2 percent of black teenagers out of work; Detroit, 48.1 percent; Milwaukee, 54 percent, over half; New York, 44 percent of minority teenagers out of work; Philadelphia, my home area, 47 percent of minority teenagers out of work; St. Louis, 58 percent.

How can we stand here today and pass a bill affecting youth employment and close our eyes to these facts. How can we say we are somehow going to wave a magic wand and not worsen the situation? Especially, when the situation has been getting horribly worse?

For example, seven times we raised the minimum rate of pay between 1950 and 1974. Seven times we increased the minimum rate of pay. Six of those seven times the ratio of teenagers out of work to adults out of work also increased. This has occurred each time with one exception. The number of teenagers out of work has proportionately jumped higher than the number of older people out of work.

We cannot have a much clearer signal than that. We cannot get a more clear signal that something is wrong; the system is wrong, and the system is working against the young people.

Look at the horrendous implications of 50 percent of minority group teenagers being out of work in the inner cities. There are increasing unemployment benefits, welfare benefits, crime, and the tax bases of our cities eroding. All of these things relate to this problem. Are we going to say fine? Are we going to

close our eyes here today and not do anything about this? That is exactly what we will do unless we adopt an amendment like mine.

There is a very simple reason why these statistics are piling up the way they are. It is no mystery. I can give Senators a quick profile of why it is our teenagers are in trouble.

A teenager comes for a job and an adult comes for a job. The personnel manager says: "OK. What skills do you have?"

The adult says: "I worked here at A, I worked at B, and I worked at C. There are my skills."

The teenager has not held a job. So the teenage says: "I haven't held a job. I don't have any work skills."

The next question a personnel manager asks is basically:

What kind of experience have you had? Forget your skills. Have you worked anywhere before?

The adult has 3 or 4 or maybe 6 or 10 references stemming from previous jobs. The school dropout or the teenager has none; zero.

The next question:

OK. What are your job recommendations? Who will recommend you for this opening?

Again the adult who comes in for the job has several, maybe a half-dozen, maybe one or two, or whatever it is.

Mr. TOWER. Mr. President, will the Senator yield for a question?

Mr. SCHWEIKER. I yield.

Mr. TOWER. I think the Senator has an excellent amendment. I was curious how he meets the argument that some have that this will result in denying jobs to heads of households.

Mr. SCHWEIKER. I think the answer is very simple, that in the age group we are talking about, which is under 20, which includes 19 and under, the proportion of heads of households is very small.

So, unlike going up the ladder we have almost an automatic proviso here, since the people at that age level do not normally head up households.

So this is one very important and significant figure to counteract the argument.

Mr. TOWER. A further question. Very often in this first employment that these young people have, do they not sometimes acquire experience or training there that is valuable to them and makes them more marketable in the job market later on without our having to spend public funds to train them?

Mr. SCHWEIKER. This is an extremely good argument because it very clearly shows that we can have private employers paying for training and job experience for young people if we just give young people that hand up the first time. And that is exactly what this amendment would do.

Mr. TOWER. I do not want to detain the Senator any further. But one further question. He mentioned the appalling statistics on minority youth which I find a matter of great concern to me because not only of our large black population in Texas but also our Mexican American population. Are these figures the Senator cites applicable to minority youth of that category also?

Mr. SCHWEIKER. Tragically they are applicable to minority youth across the board and there does not seem to be much difference in the statistics between which kind of minority youth it is.

Mr. TOWER. I thank the distinguished Senator.

Mr. SCHWEIKER. Going on with the point I am trying to make, it is no mystery as to why youths are unemployed. If you put a checklist down before the personnel manager every time and say pay the minimum rate of $2.30 an hour to a teenager, and the personnel manager has a qualified person who has held three or four jobs and has skills and has recommendations, the personnel manager is going to hire that qualified person every time. He will hire him 100 percent of the time over the dropout from high school or over the person who has come out of school without any marketable skill.

That is why the system is working the way it is.

The truth of the matter is that our present system has a built-in youth bias; a bias against our young people. We tilt the scales against the people under 20, and the figures show it.

It is no wonder that since 1950 these figures have gotten worse. Of course, we are building in a bias against youths.

I anticipate two arguments I am sure will be made, and I wish to respond to those.

The first is basically that someone will take advantage of this and that it is not enforceable. All I can say is malarkey.

We have a minimum wage inspection team now. They are doing the same kind of work right now for employers who cheat on the minimum wage for adults. They can do the same kind of work here and enforce it.

In addition, this is the easiest thing to enforce and is manageable. All we have to show is that the employer hires and fires young people in order to gain continual advantage of the lower minimum. The employment card will show whether there is a pattern and practice of using young people and shoving them out the door. It is very simple to establish. We have an inspection team now, and we can get the facts as to when an employer hired and fired people. So there is no mystery as to how it can be enforced.

The next argument is that we should not interfere with our great youth jobs programs that we have erected recently. After all, we just passed a youth employment bill, I was a cosponsor and authored some sections of it. So they say do not do anything until we see how that works.

All I can say is we are going to wait until doomsday until we see if this really has any impact.

Here are the statistics, and they are pretty shocking. We have 1.6 million teenagers out of work. The youth job bill that we passed has 250,000 work experience and training slots.

If everything works like the other programs of CETA, whereby we eventually put a certain percent of enrollees into the private sector, and the jobs under this program are public slots—not private sector slots, unlike my amendment here, which would put people in the private sector; but even if it works exactly as well as the present law—and I think that is a debatable assumption—but assume it does, we will only change the number of teenage unemployed 1 percentage point. The $1.5 billion youth jobs program, that I am sure the chairman is going to cite, only has 250,000 slots. If we train people in it, and put them in the private sector at the same rate we are doing under CETA we will not produce more than 1 percentage point difference.

So our 18 percent teenage unemployment rate will drop to 17 percent. Let us not try to confuse people and say wait until that great job program comes through.

I am a party to it. I cosponsored it, and I am for it. But if we think we can solve this problem of 1.6 million teenagers out of work with any one program, we do not know what we are talking about. When we talk about 50 percent minority unemployment in our cities and 18 percent of all teenagers unemployed, it is not solvable by one program. We need a number of programs to get in and do the job.

I think it is important to say that mine is a moderate proposal. It is only for 6 months. And the theory is just the one that I espoused. Give the employer an incentive to hire the teenagers without credentials, without recommendations, without skills, without training—give the employer an incentive at 75 percent of the minimum rate, but only let him pay it for 6 months, because that should be sufficient time to train them, to educate them in the job, and to see what they can do, and to get them up to the level of the work force at large. That is all. Then at the end of 6 months the employer pays the rate that everyone else pay. He does not discriminate against the teenager. The teenager gets the automatic increase after 6 months. He will get same wage as everyone else.

So this is no cheap labor deal that someone will cheat on. We are giving the teenager a head start which they badly need, because we have a bias built in against the teenager.

That is the essence of this amendment.

I happen to think that we are very naive, with an unemployment rate among teenagers of 18 percent, 40 percent for blacks, 50 percent in the inner cities, if we think that any one Government program is going to solve that problem.

I also wonder where our economic system is heading if we are to tolerate half our young people being out of work in the inner cities. How long do we think the economic system is going to sustain itself if half our people cannot even get jobs in the hardcore inner city areas of our country?

I say this economic system is heading for serious trouble and serious repercussions. There are going to be many things that maybe people do not want to do now that they will have to do if we do not begin to address the problem and solve it now.

The only way to do it is to abandon a few old shibboleths that people still cling to, that are archaic, obsolete, out of date, and prevent our young people from finding work.

Mr. President, I think it is very important to include some kind of youth opportunity wage in this bill. I happen to have a provision here of 75 percent in my proposal, because I believe we are going to have to have some kind of incentive. I think people have to be made socially conscious of the problems of the center city, and of youth in general. I think we need that kind of incentive, but I do not think we need more than 75 percent and I hope the Senate, in its wisdom, will see fit to adopt this amendment.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. DOMENICI. Mr. President, has all of the time of the Senator from Pennsylvania expired?

The PRESIDING OFFICER. Yes, all of the time of the Senator from Pennsylvania has expired.

Mr. CHAFEE. Mr. President——

The PRESIDING OFFICER. Who yields time?

Mr. JAVITS. I yield 5 minutes to the Senator from Rhode Island. Would the Senator like it on the bill, or on our position?

Mr. CHAFEE. I am in favor of the Schweiker amendment.

Mr. JAVITS. Then I yielded to the Senator on the bill.

Mr. CHAFEE. Was the Senator from New Mexico waiting?

The PRESIDING OFFICER. The Senator from Rhode Island is recognized for 5 minutes.

Mr. CHAFEE. All right. Mr. President, I rise as a cosponsor of Senator SCHWEIKER's amendment to establish a special minimum wage for youth. I would like to take this opportunity to pose some questions to my colleagues.

Every Member of this body is committed to solving our terribly vexing problem of youth unemployment. Youth unemployment in August was an astonishing 17.5 percent, the 37th straight month over 15 percent. For black youths, the unemployment rate was 40.4 percent.

That is a horrifying figure. We have not simply closed our eyes to these startling statistics. Earlier this session we passed the Youth Employment and Training Act to establish 350,000 jobs at a cost of $1.5 billion. But 350,000 jobs——

Mr. STENNIS. Mr. President, may we have it quiet, please?

The PRESIDING OFFICER. The Senate will be in order.

Mr. CHAFEE. I thank the Senator. 350,000 jobs under this bill, if all goes well—and things never go the way we think they will go—that is laudable, but only a small step when we consider that 1.6 million youth are unemployed.

Now we are considering raising the minimum wage. I ask, what effect will increasing the minimum wage have on the chances of these same young people to get jobs?

There are 1.6 million young people in our Nation seeking employment. Many, if not most, of them are entering the work force for the first time. They are neither trained for the skilled jobs we see advertised in the newspapers, nor do they have job experience to offer employers. They do not have the experience, and yet somehow, after raising the minimum wage, we are expecting employers to go out and hire these untrained youngsters at this steadily increasing minimum wage.

This does not make sense. What will happen? I think we all recognize it. It is simple economic logic that as labor costs increase, business looks to make labor-saving changes in their operations. In the food service industry, for example, we see a shift from table service to fast-food and cafeteria-style arrangements. In manufacturing, further automation replaces low-skilled workers. Where will our young people look for jobs when they are priced out of the market by the minimum wage?

Under current law there is a provision which allows full-time students who work 20 hours a week or less to be hired at slightly less than the minimum wage. This provision has provided 500,000 jobs for students. That is great. Look at it: That is 150,000 more jobs than our entire youth employment program will create for $1.5 billion.

However, the existing youth wage program applies only to students. While it is important to provide this group with opportunities for part-time work, what worries me is the job prospects for those who are no longer in school. What worries me is the students who have gotten through high school, who do not have a marketable skill, who are trying to get started in life and looking for a job. How do these youngsters get started in the work force?

The first questions employers naturally ask is, do they have any experience? No, they do not have any experience. So they do not get hired. Mr. President, that is a classic "Catch 22" situation. Employers hire job applicants with experience, but young people cannot get jobs in order to get experience.

This amendment, the Schweiker amendment, establishes a special wage for youth between the ages of 16 and 19 for the first 6 months of employment. For the first 6 months, employers could pay a youth 75 percent of the minimum wage, or $2, assuming the wage rises to $2.65. At the end of 6 months, the full wage must be paid.

Our amendment includes safeguards against possible abuses suggested by critics of a youth wage. There are stiff penalties for employers who pay youth less than 75 percent of the minimum wage or retain youths at the special wage after 6 months or substitute younger workers at the youth wage for older workers to gain perpetual advantage of the youth wage.

Mr. President, it is not enough to say "we'll have a billion and a half dollar program which will take care of youth employment problems." We have trod that path many times, and it plainly does not take us far enough. It just plain does not work—the proof is there.

Is it not time we took a bold step to help our young people get jobs to gain skills and experience they need? It is vitally important that we do everything possible to introduce young people to the work environment so that they can experience that special pride which comes with a sense of accomplishment as well as a paycheck.

Mr. President, I think this is really a positive step forward, and I find it extremely discouraging when we are told, "Well, don't worry, the minimum wage is going up; that will take care of these youngsters somehow." Or, "We have got these Federal programs, that will take care of these youngsters somehow."

Mr. President, these efforts have not worked, and the proof of the pudding is in the eating. There are more of these youngsters unemployed now than there have ever been.

So I say, let us try something new. Whatever we are doing now is not working, that is for sure. So let us give this amendment a try, and venture into new approaches to help our unemployed youths. I hope that Senators will join me in support of this amendment.

Mr. DOMENICI. Mr. President, will the Senator from New York yield me some time?

Mr. JAVITS. I yield the Senator 3 minutes.

Mr. DOMENICI. Mr. President, I rise to commend the Senator from Pennsylvania and the Senator from Rhode Island for their remarks. The Senator from Rhode Island is a new Member of the Senate, who comes here unbiased by tradition. I think his words today clearly indicate that he is looking at this issue with a very fresh outlook. He makes real sense.

I want to say to the Members of the Senate that my position on this matter is that the time has come, in the United States, for us to try something new and different. It is as simple as that. I am not going to say that the 75-cent youth differential is going to completely solve the problem of youth unemployment. But an America which has not had a youth differential since the inception of the minimum wage, with a steadily rising youth unemployment rate, must take a chance on something different.

The basic truth is that 6.3 million new jobs have been created by the public and private sectors since we began our recovery from the recent recession. At a huge cost in terms of public dollars, and with a GNP that is growing rather steadily: 6.3 million new jobs have been created in 2 years. Yet youth unemployment increases. Only about 10 percent of those 6.3 million jobs went to young people. All the rest went to adults as second jobs or adults who had been unemployed for a long period of time.

Mr. President, we think we know how to put adults to work. We have done it in the last 2 years, 6.3 million jobs is an admirable rate of new employment. We absolutely do not know what to do when the economy goes up and we put adults back to work, but our youth remain unemployed in increasing numbers. That is an unequivocal statement; it is absolutely true.

All the Senator from Pennsylvania is asking in his amendment is to try an-

other policy for a while and see if it does not work. If it does not work, we can repeal it.

Mr. CHILES. Mr. President, will the Senator yield?

Mr. DOMENICI. I am delighted to yield to the Senator from Florida.

Mr. CHILES. I just want to say I am persuaded by the arguments that the Senator from New Mexico, the Senator from Rhode Island, and the Senator from Pennsylvania make.

When I first came to the Senate and had my first opportunity to vote on a minimum wage bill. I supported that, and I have supported each minimum wage bill that has come up.

In each instance when something has come up on the youth differential, it has always been argued that "If you do this, you are opening up the door, and you are going to see these employers take advantage of this, and it will take away a full-paying job from someone else who now has a full-paying job, and they are going to put that employee off and pay that youth they hire less than that."

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. JAVITS. Mr. President, I yield another 2 minutes to the Senator.

Mr. CHILES. I thank the Senator from New York.

I have listened to that argument. At that time we were dealing with unemployment rates of 4.5 to 5 percent. I thought, well, maybe there is something to that, even though it seemed to me that in allowing an opportunity for young people to come into the job sector some encouragement would be necessary.

When I see these figures on unemployment, and I see what is happening to the young people in this country, how turned off they are because they feel there is no opportunity for them, the young men who have come back from Vietnam, and with the unemployment rates they have with no way to break into the job market, let us try something. I agree. Let us try to put in some teeth. If somebody is abusing it, then let us get that person who is abusing it. To say we will follow the old cliche that we cannot do this because something might be wrong does not make any sense. We must find the tools to put these young people to work. Certainly, this is one of the tools. I intend to support this and other amendments to see if we can get something on this bill. I feel if we do not get something like this on the bill, I will not support the bill on final passage.

Mr. STENNIS. Will the Senator yield?

The PRESIDING OFFICER. Time has expired.

Mr. WILLIAMS. I yield time on the bill to the Senator from Mississippi. Then I will yield to the Senator from New York. I yield 5 minutes to the Senator from Mississippi.

Mr. STENNIS. Mr. President, I appreciate the Senator from New Jersey yielding to me. I highly commend the Senator from Pennsylvania and others for their splendid work on this troublesome matter.

Mr. President, I will not quote figures here. The statistics are overwhelming. I want to speak for a few minutes about what I think is a matter of principle which is involved here.

A Member of the Congress, one of the finest we have, told me the other day about his personal experience in helping to earn his own way from the time he was 7 years of age until he was 16. He delineated the different jobs he had to contribute to the family support, and he said that now everyone of those jobs are illegal. It is unlawful to engage in these activities which meant so much not only for the money but the training it gave him in his formative years.

I believe now we must stop, look and listen, when we ban our young people from legal employment in this very critical stage, the stage that tends to train them in the ideal of pride—just plain simple pride—pride in earning their own way; pride in earning their support; pride that comes from self-support, which means self-respect and respect of colleagues.

I just believe we have gone far too far in trying to protect someone else to ban these youngsters during this period.

Let me give an illustration. I learn a lot from taxidrivers, the black ones, the white ones, all of them. The other day, one was explaining to me the trouble he was having in rearing his second family, and comparing it to when he reared his older children. It was the lack of opportunity, the lack of work to do, the lack of a chance to have something for them to do.

I said, "Well, suppose we turned the city over to you for 1 day and let you be mayor and lawmaker. What would you do?"

He said, "I would pass a law that would give every schoolchild something to do when he got home from school."

He was hitting at the idea there of trying to teach those children how to earn their way, the virtues of frugality and the need for it.

Certainly, we must make a start somewhere. I believe the Senator's amendment is a highly worthy experiment. He is very modest in what he is asking in this law, for a change, to open the doors. Yes, let us open the doors to these youngsters.

As we try to find men who are fit for service in the military, over and over again we run into those youngsters who are 18 and 19 years of age who know nothing about earning, nothing about working, nothing about the responsibility which goes with these cardinal virtues which are really the foundation of our great country, even our civilization. I hope this amendment is a turnabout and can be made into law.

Mr. President, I want to express my strong support of the amendment to provide an entry level or subminimum wage for employees under the age of 20 years. I am convinced that lowering the minimum wage rate for these employees for the initial period of their employment will encourage employers to hire these young workers and train them for better jobs.

I am firmly convinced that such a youth wage differential will prevent teenagers from being priced out of the labor market. In a very real sense, youths 19 and under are necessarily apprentices or learners. They necessarily enter the labor market without the requisite training and experience for most jobs. Since they are generally inexperienced and unskilled, there is no incentive for an employer to hire them when he can obtain a mature and experienced worker for the same hourly wage. Thus the youth who ventures into the job market finds himself competing on very unequal terms. The deck is stacked against him at the outset.

We find that this is a harsh truth by looking at the unemployment statistics. Currently, the overall unemployment rate for youths aged 16 to 19 is about 17.5 percent. For the entire population the rate is about 7 percent. This makes it very clear that about 1.6 million young people are being denied work opportunities during their early years in the job market—and this is certainly a very important stage for them in their growth and development.

There is widespread acceptance of the idea that the mandatory minimum wage is an important and significant factor in the high rate of unemployment among the young. We are now considering a substantial increase in the minimum wage. I believe this increase, if it becomes law, can only aggravate and decrease the already poor employment opportunities for a great many young people who need and desire employment very badly, but who find themselves priced out of the job market. I believe that we should consider this matter carefully and prevent the deterioration of an already bad situation by adopting the pending amendment.

Let me point out, Mr. President, that this amendment contains safeguards which are designed to prevent an employer from using the youth wage differential to defeat the application of the minimum wage standard. It permits payment of a lower wage for youths only for the first 6 months on the job. At the end of this period, after the youth has become a functioning part of the labor force and has acquired training, skill, and experience, employers will be required to pay him the full minimum wage. In addition, penalties are provided for employers who replace older workers with youths, or who terminate the employment of youths who have been on the job and hire other youths in their place in order to take continuous or repeated advantage of the lower minimum wage.

I believe that this is a sound and desirable amendment. A similar amendment lost in the House of Representatives by only one vote—210 to 211. I urge that the Senate adopt it and go to conference with the House on it. I thank the Senator for yielding.

Mr. STONE. Will the Senator from New Jersey yield 3 minutes?

Mr. WILLIAMS. I promised to yield to the Senator from New York.

The PRESIDING OFFICER. The Senator from New York is recognized.

(Mr. METZENBAUM assumed the chair.)

Mr. MOYNIHAN. Mr. President, I thank the distinguished chairman of the

committee and his distinguished collaborator on this bill.

Mr. President, I rise to make what I hope will not be too grandiloquently described as a statement of conscience on this matter, and to state my admiration for the intellecual and poliical courage which the Senator from Pennsylvania has shown.

If I speak of it as a matter of conscience, it is that I served as an Assistant Secretary of Labor, Mr. President, in the administrations of President Kennedy and President Johnson when it was my duty, among other things, to send to Congress annually a report on the impact of the Fair Labor Standards Act upon employment in the country. It had become a routine report. We said there was none.

These are long years back, in my life at least, 1961, 1962, and 1963.

As I look at the inexorable rise in the levels of youth unemployment in the employment and training report of the President, I wonder how well we served this country in those days, and still more do I wonder how well we serve it now by continuing, seemingly, to be unable to confront a reality which requires explanation and for which we have none in the perceived condition of manpower economics.

I would like to report one matter to this Senate which I believe would be of interest.

When the U.S. Government first began collecting unemployment data, it went through a number of years without publishing any of the breakdowns. They were not yet confident of their methodology. They simply published the total national figure.

From those first years, however, which look to be good in retrospect, two things come out very strikingly, in 1946–47. First of all, youth unemployment was only marginally greater than adult unemployment, nothing structural at all but a pure distinction, and, second, black youth unemployment was lower than white youth unemployment, and neither was high.

We have seen in the 30 years which have followed an inexorable increase. How have we responded? Have we responded by trying to deal with the problem, or, rather, have we responded by trying to deal with the symptom?

I suggest, Mr. President, rather than facing a question of why people get work or do not, we have very suddenly, and with very little acknowledgement, created a new social service in the panoply of social services in our society, to wit, the public service job.

The public service job has become a social service as familiar as income maintenance or counselling. It is an expression of failure. It is far from being an expression of strength. The public service jobs which come along, if the reality is anything like the description, are deplorable. They represent an assertion, almost, that the individual involved is "good for nothing and nothing is what you are going to do henceforth."

They are jobs for the incapable, for the socially infirm. Little by little we have legitimated this new social service without at all thinking about what it means to people who depend on it, much less those who pay for it.

Mr. President, I shall vote with this committee report. I could not vote against the judgment of two men I admire so deeply, and have over such a long period of time. But, Mr. President, I put the others on notice that if, in 2 or 3 years' time, and particularly in the early 1980's, when the demography of youth employment changes and we really have a chance, in terms of decline of new entries into the age group, if nothing has changed, I, for one, propose to change my position, as I hope, indeed, the time will come when this Chamber changes its collective mind.

I thank the President.

Mr. STONE. Mr. President, will the Senator from New Jersey yield me 3 minutes?

Mr. WILLIAMS. I yield 3 minutes to the Senator from Florida.

Mr. STONE. I thank the distinguished floor manager of the bill.

Mr. President, I simply want to tell my colleagues a true story. Before telling this true story, I want to say, as to the organizations represented in the story, I do not know how they stand on this amendment. For all I know, the NAACP, the Urban League, and the others may be against this amendment. But I still want to tell this story because, as far as I am concerned, it makes the point that persuades me to vote for this amendment.

I went to a lecture at which a current Miami city commissioner, a black preacher of great reputation in our community, was the speaker. At the end of his remarks, a lady in the back of the auditorium asked him this question. She said, "Canon, I protest every attempt by government or politicians to reduce economic opportunity programs. I vote for every candidate that pledges to work for jobs for black people."

She said, "Canon, I give every year to the NAACP, and I give every year to, and I am member of, the Urban League. What more can I do?"

And Father Gibson, now Canon Gibson, said, "Ma'am, teach them the business."

That made a deep impression on me, because if there is one thing that will solve the social problems of the inner city, it is to teach them the business. And until they can produce a profit on the work for which they are paid, they cannot learn the business. They will not be taxpayers. They will not be useful citizens, and a goodly number might resort to looting when the lights go out. But if we teach them the business, if we make it possible for them to be producers, we will not have to treat the symptoms so eloquently described by the Senator from New York just preceding me, in his remarks.

This is an amendment to help us teach them the business, and I hope that the Senate will support it.

Mr. JAVITS. Mr. President, I yield 10 minutes to the Senator from Utah.

Mr. HATCH. Mr. President, I rise to wholeheartedly support the youth opportunity amendment pending before the Senate.

The youth unemployment problem in our society is a national disgrace. Our answer thus far is to spend billions of tax dollars on public programs of various types which at best can only make a ripple in the sea of despair which exists among our young. These programs are helpful but there is insufficient money in the public pot to remedy the situation. The problem requires bold new initiatives to stem the adverse tide which has developed over the years inhibiting the growth of our greatest natural resource—American youth. I believe the youth opportunity proposal to be such an initiative.

Debate over the effects of the minimum wage has been going on for well over 40 years. I believe that most economists today accept the mounting factual evidence that the law increases unemployment among the very young people intended to be benefited The debate among economists is not whether the minimum wage has an unemployment effect; the debate is mostly centered around the magnitude and the distribution of the effects.

For the first time in the history of debate on raising the minimum, Secretary of Labor Ray Marshall, the chief Government spokesman in this area has estimated a job loss of up to 90,000 as direct result of increasing the minimum. That is an historic admission and one we cannot disregard. I see his estimate as conservative—Prof. Walter E. Williams who has done a great deal of creditable work in establishing a correlation between teenage unemployment rates and raising the minimum, advises that a raise to $2.65 per hour will decrease the employment of those who now earn less than $2.65 by 6 to 9 percent, a figure which could well exceed 1 million.

On the other hand, the U.S. Chamber points to recent analyses evaluating the impact on employment of excessive increases in the minimum wage rate which show that, if the minimum were increased to anywhere between the low of $2.50 and the high of $3 between 2 million and 3.1 million jobs would be lost.

Based upon S. 1871 proposed increase to $2.65, Chamber economists estimate that there will be 391,000 fewer jobs for our teenagers between the ages of 16 to 19. Overall teenage unemployment would go to 24 percent. Among black youth, where current unemployment is a devastating 40.4 percent it would approach 45 percent if the minimum wage rate were increased from $2.30 to $2.65.

The figures are indeed disturbing and outrageous. Yet Mr. President, I have not heard any of the opponents of the youth differential contradict their accuracy.

So, we have a choice to make. We can raise the minimum wage in a stated amount knowing that we will exacerbate the youth employment problem with or without any special relief for these young people. To me the answer is clear—it would be absolutely unconscionable to turn our backs on the youth by not affording them any chance whatsoever for gainful employment thru the incentives to hire created by the Schweiker amendment.

Criticism of the youth opportunity seems to center upon the thought that it will result in a displacement of older for younger lower paid employees. The Schweiker amendment addresses these, and other concerns, by providing for employer penalties for those who engage in a pattern and practice of substituting younger workers employed at less than the minimum for older workers employed at or above the minimum. I believe that in all respects, the amendment is properly structured to avoid the real fears of those who oppose the idea of this youth opportunity legislation.

Mr. President, what is not discussed in these debates and difficult to measure in a dollar sense is the minimum wage's contribution to the destruction of the black community. That is, to the extent that there are thousands of black youngsters without jobs, or the hope of jobs, a climate has been set, which we will worsen if we fail to enact a youth differential, for these youngsters to engage in many forms of anti-social activity, for example, crime. The high crime level makes all but impossible the development of economic growth in the black community. In this sense an increase in the minimum is self-defeating not only to the youth who are its victims, but also to the entire black community.

Let us not now further cut off those in our society from the mainstream by pricing them out of the market through Government controls. Let us not screen them out but screen them in through the adoption of a properly constructed youth opportunity which the Schweiker amendment represents. If we really care, this is our opportunity to prove it.

When I was talking to Dr. Thomas Sowell—who, incidentally, is black—and Dr. Walter Williams, who also, incidentally, is black, I learned that Dr. Williams is the only one who has done any definitive work on the minimum wage, and he has come to some startling conclusions. I ask unanimous consent that his comparison of youth and general unemployment by race as far as males are concerned be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

POLICY REVIEW—GOVERNMENT SANCTIONED RESTRAINTS THAT REDUCE ECONOMIC OPPORTUNITIES FOR MINORITIES, BY WALTER E. WILLIAMS

TABLE 2.—COMPARISON OF YOUTH AND GENERAL UNEMPLOYMENT BY RACE (MALES)

Year	General	16 to 17		Black/ White Ratio	18 to 19		Black/ White Ratio	20 to 24		Black/ White Ratio
		White	Black		White	Black		White	Black	
1948	3.8	10.2	9.4	.92	9.4	10.5	1.11	6.4	11.7	1.83
1949	5.9	13.4	15.8	1.18	14.2	17.1	1.20	9.8	15.8	1.61
1950[1]	5.3	13.4	12.1	.90	11.7	17.7	1.51	7.7	12.6	1.64
1951	3.3	9.5	8.7	.92	6.7	9.6	1.43	3.6	6.7	1.86
1952	3.0	10.9	8.0	.73	7.0	10.0	1.43	4.3	7.9	1.84
1953	2.9	8.9	8.3	.93	7.1	8.1	1.14	4.5	8.1	1.80
1954	5.5	14.0	13.4	.96	13.0	14.7	1.13	9.8	16.9	1.72
1955	4.4	12.2	14.8	1.21	10.4	12.9	1.24	7.0	12.4	1.77
1956[1]	4.1	11.2	15.7	1.40	9.7	14.9	1.54	6.1	12.0	1.97
1957	4.3	11.9	16.3	1.37	11.2	20.0	1.70	7.1	12.7	1.79
1958	6.8	14.9	27.1	1.81	16.5	26.7	1.62	11.7	19.5	1.66
1959	5.5	15.0	22.3	1.48	13.0	27.2	2.09	7.5	16.3	2.17
1960	5.5	14.6	22.7	1.55	13.5	25.1	1.86	8.3	13.1	1.58
1961[1]	6.7	16.5	31.0	1.89	15.1	23.9	1.58	10.0	15.3	1.53
1962	5.5	15.1	21.9	1.45	12.7	21.8	1.72	8.0	14.6	1.83
1963[1]	5.7	17.8	27.0	1.52	14.2	27.4	1.83	7.8	15.5	1.99
1964	5.2	16.1	25.9	1.61	13.4	23.1	1.72	7.4	12.6	1.70
1965	4.5	14.7	27.1	1.84	11.4	20.2	1.77	5.9	9.3	1.58
1966	3.8	12.5	22.5	1.80	8.9	20.5	2.30	4.1	7.9	1.93
1967[1]	3.8	12.7	28.9	2.26	9.0	20.1	2.23	4.2	8.0	1.90
1968[1]	3.6	12.3	26.6	2.16	8.2	19.0	2.31	4.6	8.3	1.80
1969	3.5	12.5	24.7	1.98	7.9	19.0	2.40	4.6	8.4	1.83
1970	4.9	15.7	27.8	1.77	12.0	23.1	1.93	7.8	12.6	1.62
1971	5.9	17.1	33.4	1.95	13.5	26.0	1.93	9.4	16.2	1.72
1972	5.6	16.4	35.1	2.14	12.4	26.2	2.11	8.5	14.7	1.73
1973	4.9	15.1	34.4	2.28	10.0	22.1	2.21	6.5	12.6	1.94
1974[1]	5.6	16.2	39.0	2.41	11.5	26.6	2.31	7.8	15.4	1.97
1975[1]	8.1	19.7	45.2	2.29	14.0	30.1	2.15	11.3	23.5	2.08
1976[1]	7.0	19.7	40.6	2.06	15.5	35.5	2.29	10.9	22.4	2.05

[1] Shows change in the Federal minimum wage law.

Source: Adapted from Department of Labor, Bureau of Labor Statistics, Handbook of Labor Statistics 1975—Reference Edition (Washington, D.C., U.S. Government Printing Office, 1975), pp. 153–155; U.S. Department of Labor, Bureau of Labor Statistics, Employment and Unemployment in 1976, Special Labor Force Report 199 (Washington, D.C., U.S. Government Printing Office, 1977).

Mr. HATCH. Dr. Thomas Sowell told me that when he was employed by the Labor Department, they came across conclusions that showed that the minimum wage discouraged youth employment and specifically black youth employment, and that this was suppressed at that time, as he believes much of the true literature on this subject is suppressed, by our Labor Department.

I thought it was pretty significant when the Secretary of Labor, Ray Marshall, came to our committee and indicated and estimated and admitted that there would be an approximate job loss of 90,000 jobs for youth.

The Chamber of Commerce came up with 391,000 jobs lost if the minimum wage goes to $2.65.

I want to compliment everybody who spoke on this subject. In particular, I think that the distinguished Senator from Mississippi, one of the true statesmen of the Senate (Mr. STENNIS) really hit the nail on the head. We just have to do something about this problem. We have to give these young people an opportunity to work as they are young. We certainly have to do something about the black problem in America. We all know the statistics. It is outrageous.

I cite something the New York Times said recently when it said:

Even those who favor raising the minimum wage are having second thoughts about its impact on teenagers. Unemployment among the young seeking their first jobs already hovers around 20 percent; black teenage unemployment is probably closer to 40 percent.

This was in August.

A hike to a $2.65 minimum could eliminate jobs for about 100,000 of the 5 million 16- to 18-year olds now in the labor force.

We have found that even with the Government-produced jobs, the public jobs, the majority of those are going to young middle class whites and not to the blacks and to those minority youth that really need these jobs at this time for the dignity, the self-preservation that comes from working and earning a living and gaining the dignity which Senator STENNIS so eloquently spoke about, that young people just have to have in this day and age.

As cosponsor of this bill, I certainly recommended its adoption by the Senate. I recognize the sincerity of the Human Resources Committee and the two distinguished leaders here on the floor, and I have deep regard for them. But I think, as Senator DOMENICI and Senator CHAFEE said, and as Senator CHILES has said, this is a bill that deserves a chance. I, myself, feel that if we do not get it, I cannot vote for the minimum wage bill as presently constituted.

Mr. WILLIAMS. Mr. President, I oppose a youth differential. The proponents of this amendment, who testified in favor of a youth subminimum wage at our hearings, did so on the basis of econometric models. Those models do not take into account the hard realities of the workplace.

Those realities are that full-time, year-round workers who are earning the minimum wage of $2.30 per hour are far below the poverty level. To create a subminimum for any class of workers, under these circumstances, would increase their hardship and the economic injustice for minimum wage workers.

The same econometric models which are used to oppose the minimum wage, and to support a youth differential, would have the effect of displacing adults who are working at or near the minimum wage.

I want to emphasize that I do not accept the validity of these econometric models. The distinguished labor economists who presented testimony before the subcommittee, including the Secretary of Labor, agree that these models cannot take into account the complexity of the workplace. Nevertheless, I do want to place in the record some conclusions from a study which relies on econometric models.

The study was prepared by the U.S. Department of Commerce in June 1975. It is entitled, "Adult Disemployment Effects of a Youth Minimum Wage Differential."

The study concluded that adult disemployment would range from a minimum estimate of 100,000 to a middle or moderate estimate of approximately

800,000, to a maximum estimate of more than two and one half million—2,500,000. Frankly, I regard the conclusion that adult disemployment from a youth subminimum might total 2½ million persons just as preposterous as the argument that increasing the minimum wage will have a similar effect on total employment.

Nevertheless, if we are going to deal with arguments based on econometric models, I think we should recognize that these models suggest, as a middle range, the disemployment of 800,000 adults in response to a youth subminimum.

This particular study concluded, and I quote, "that the most probable tradeoff of a youth differential of around 15 percent would be giving up something like 500,000 adult jobs for teenage jobs totaling a few hundred thousand more than the number of adults displaced."

In this same vein, I would like to emphasize some statistics which we received from the Bureau of Labor Statistics. These statistics, which were published at the beginning of this month, show that unemployment for adult women may be as serious a problem in our society as unemployment for our youth.

Labor Department figures show that there are 462,000 unemployed women who head families. These women have over 700,000 children who depend on them for their support. Thus, the unemployment of women who head families affects over 1 million people, the women and their dependents. If there is any validity to a youth subminimum, as these econometric models would have us believe, it would certainly cause severe impact on these women.

I see no justification for substituting young workers at a subminimum wage for older workers at a minimum wage, particularly when those older workers almost invariably have a greater family responsibility.

In my view, the adoption of this amendment would be a grave error. Even the increase in the minimum wage will not fully benefit people who are employed as full-time students. Lowering the student minimum wage even further below the present 85 percent provided for by the current act would place them at a greater disadvantage.

The youth subminimum is not a valid concept. It is, not one which will serve to alleviate the problems of poverty and unemployment in our society. The committee has received no evidence, which would suggest that this amendment is necessary. The real issue is whether full-time students will be permitted to maintain at least their present relationship to the minimum wage, or will be forced to work at an even lower percentage of the minimum wage as a means of gaining employment.

I would also like to point out that no Labor Department study—under any administration—has ever recommended a subminimum wage for youth. In fact, a 1970 study by the Department of Labor concluded that "the most important factor explaining changes in teenage employment and unemployment has been general business conditions as measured by the adult unemployment rate." The study also found that youth subminimums administered under State laws appeared to have little impact on the employment of youth.

Youth unemployment is a very, very serious problem; and is now at 17.5 percent. The Human Resources Committee is extremely concerned about youth unemployment. This is why we favorably reported to this body the Youth Employment and Training Act which was recently enacted into law. Under the Comprehensive Employment and Training Act of 1973 (CETA) which was amended by the Youth Employment and Training Act, approximately 3.1 million persons will be provided training and employment opportunities. Those opportunities present the best, and perhaps the only, hope of resolving our youth unemployment problem.

The concern for young people who are unemployed has been fully expressed here by all Members. It is a deep concern, sincerely felt. The answer, in the minds of some, is to permit these young people to be paid less than a living wage, to pay them a so-called subminimum wage. I just want to say that the effects of that in some areas are particularly cruel, Mr. President. The age group, 20 to 24, has a lot of veterans, Vietnam veterans. As a matter of fact, it has 165,000 in that group who are unemployed. When there is a young person who is 20, side by side with one who is 19, one will be getting the minimum wage, one a subminimum. I imagine that many of those veterans will feel the harsh impact of not getting the job—they could even lose a job they already have.

It has also been suggested that some of these young people really are earning income that is supplementary to others in the family. Maybe that is true, but the facts are that there are 561,000 young people, 14 to 19, who are heads of households. If anybody needs a minimum wage, at least, it is anybody who is head of a household.

For these reasons, I hope that we will not, even though it be done in good conscience, take this step that will have such a harsh and adverse effect.

Mr. President, I ask unanimous consent that three tables relating to unemployment rates be printed at this point in the RECORD.

There being no objection, the tables were ordered to be printed in the RECORD, as follows:

TABLE A-1.—UNEMPLOYMENT RATES FOR THE CIVILIAN LABOR FORCE, BY SELECTED CHARACTERISTICS, 1967-76

Characteristics	1967	1968	1969	1970	1971	1972	1973	1974	1975	1976
Total civilian labor force	3.8	3.6	3.5	4.9	5.9	5.6	4.9	5.6	8.5	7.7
Male	3.1	2.9	2.8	4.4	5.3	4.9	4.1	4.8	7.9	7.0
Female	5.2	4.8	4.7	5.9	6.9	6.6	6.0	6.7	9.3	8.6
White	3.4	3.2	3.1	4.5	5.4	5.0	4.3	5.0	7.8	7.0
Black and other races	7.4	6.7	6.4	8.2	9.9	10.0	8.9	9.9	13.9	13.1
Spanish origin	(1)	(1)	(1)	(1)	(1)	(1)	7.5	8.1	12.2	11.5
Veterans:										
20 to 34 yr	(1)	(1)	(1)	6.6	8.2	6.7	5.0	5.3	9.3	7.9
20 to 24 yr	(1)	(1)	5.5	9.3	12.2	10.7	8.9	10.9	19.8	17.4
25 to 29 yr	(1)	(1)	3.2	4.3	5.7	5.0	3.7	4.3	7.9	7.3
30 to 34 yr	(1)	(1)	(1)	3.2	3.5	2.9	2.6	2.7	5.9	4.8
Age groups:										
16 to 19 yr	12.9	12.7	12.2	15.2	16.9	16.2	14.5	16.0	19.9	19.0
16 and 17 yr	14.7	14.7	14.5	17.1	18.7	18.5	17.3	18.5	21.4	21.1
18 and 19 yr	11.6	11.2	10.5	13.8	15.5	14.6	12.4	13.3	18.9	17.4
20 to 24 yr	5.7	5.8	5.7	8.2	9.9	9.3	7.8	9.1	13.6	12.0
25 to 34 yr	3.2	2.8	2.8	4.2	5.3	4.6	4.2	4.8	7.8	7.1
35 to 44 yr	2.5	2.2	2.2	3.1	3.9	3.5	2.7	3.3	5.6	4.9
45 to 54 yr	2.4	1.9	1.9	2.8	3.4	3.0	2.5	2.9	5.2	4.5
55 to 64 yr	2.4	2.0	1.9	2.7	3.3	3.2	2.6	2.8	4.6	4.5
65 yr and over	2.8	2.8	2.2	3.2	3.5	3.6	3.0	3.4	5.2	5.1

1 Data not available

Source: U.S. Department of Labor, Bureau of Labor Statistics.

TREND IN THE NUMBER OF UNEMPLOYED WORKERS AND IN UNEMPLOYMENT RATES, JUNE 1975 TO JUNE 1977 (LATEST MONTH)

[Seasonally adjusted]

	June 1975	June 1976	June 1977	Percent change 1975–77
A. UNEMPLOYED WORKERS (IN THOUSANDS)				
Total (16 yr and over)	8,099	7,171	6,962	−14
Males (20 and over)	3,710	2,893	2,638	−19
Females (20 and over)	2,794	2,328	2,559	−8

	June 1975	June 1976	June 1977	Percent change 1975–77
A. UNEMPLOYED WORKERS (IN THOUSANDS)				
Teenagers (16 to 19)	1,835	1,645	1,765	−4
White	1,484	1,282	1,360	−8
Black and other	338	348	390	+15

TREND IN THE NUMBER OF UNEMPLOYED WORKERS AND IN UNEMPLOYMENT RATES, JUNE 1975 TO JUNE 1977 (LATEST MONTH)

[Seasonally adjusted]

	June 1975	June 1976	June 1977	Percent change 1975–77
A. UNEMPLOYED WORKERS (IN THOUSANDS)				
White workers	6,609	5,705	5,455	−17
Black and other workers	1,481	1,456	1,492	+1
Veterans (20 to 24)	195	183	170	−13
B. UNEMPLOYMENT RATES				
Total (16 yr and over)	8.7	7.6	7.1	−18
Males (20 and over)	7.0	5.9	5.0	−19
Females (20 and over)	8.3	7.2	7.2	−13
Teenagers (16 to 19)	20.8	20.5	18.6	−11
White	18.9	16.0	16.1	−15
Black and other workers	35.8	40.0	39.4	+11
Veterans (20 to 24)	19.0	19.2	18.1	−5

Source of data: Bureau of Labor Statistics.

HEADS OF HOUSEHOLDS BY AGE, SEX, EMPLOYMENT STATUS AND NUMBER OF DEPENDENTS, MARCH 1976 TO MARCH 1977

Head of household by age and sex	Number	Employed	Households with dependents
Total 14 to 19 yr old [1]	561,000	NA	NA
Male	389,000	NA	NA
Female	172,000	NA	NA
Total 16 to 24 yr old [2]	3,956,000	2,889,000	NA
Male	3,235,000	2,635,000	NA
Female	721,000	254,000	NA
Total 14 to 24 yr old [1]	4,042,000	NA	2,221,000
Number of dependents			3,156,000
Average number of dependents per household			1.56

[1] Data relate to March 1976.
[2] Data relate to March 1977.

Source: BLS unpublished data for March 1977 and Bureau of the Census Report p. 20, 311, table 6, March 1976.

Mr. JAVITS. Mr. President, I yield myself 5 minutes.

Mr. President, as long as this is the true truth hour, let us have it. The truth is that this minor subtraction from the minimum wage will not do remotely what any of us says it will do. We have this heavy unemployment in the midst of prosperity in the country because our economic situation and our inflation have given us a bad rap and it has been taken out on the least trained and least skilled.

We have a social and a political obligation to those people. We are not going to cure it this way. What firm in its right mind is going to hire a young person where it costs three times his wages in order to hire him, give him a place to work, supervision, insurance, and transportation and everything else that goes with the job, just because it can get him for 40 cents less an hour?

Of course, you are not going to do it. And the answer is, Mr. President, and I come now to Senator HATCH, who do you think is going to get those jobs?

The blacks? Not usually; rather the same middle-income white youths who at least have a better chance to do a better job than the black youths because they are comparatively better trained.

So, Mr. President, the minimum wage has not discouraged youth employment. We suffer from this problem for many other reasons. The truth is that we have to target these jobs to the person.

I thoroughly agree, the black teenager has to be employed. But in order to employ him, we will have to subsidize a job for him, especially targeted to him. Otherwise, it is not going to happen. That is the essence of it.

This is the approach taken in this much maligned CETA program, which Senator MOYNIHAN talked about. With all respect, the CETA people are doing good and effective jobs, in police departments, in hospitals, in schools, and in a thousand other respects.

They are not boondoggling, et cetera. It is one of the most desirable programs our country has had in a very long time.

But the point, Mr. President, the fundamental point, is that we are not doing enough of it. The point is that all we have got is a youth employment bill, an admirable bill, a targeted bill, an interesting bill, both for country and for city. And how many slots have we got? 200,000. How much money have we put up? $1.5 billion.

There is one enterprise in this country, the opportunities industrialization centers, run by Leon Sullivan of Philadelphia, and Senator SCHWEIKER is one of his greatest advocates. They could do a fantastic job. They could triple, quadruple, quintuple their operation to 500,000, where he will train people, get them jobs, all blacks, practically all blacks.

But we have not got the money and we are not putting up the money.

Mr. President, we take the whole minimum wage structure and distort it and give ourselves the illusion we will do something for youth when we will not, and avoid and avert our gaze from what will do something for youth, properly targeted jobs, proper training, so these kids can get into some kind of work habits and training.

This will be a great excuse. Now, we will wait 1, 2, or 3 years until the 40 cents per hour differential will prove whether it works or does not.

Mr. President, that is the truth, if we want it. This amendment is simply a confession of the avoidance of the true problem, and nothing else.

As the Senate has with other amendments to the same effect—and this is not even as good as Stevenson, by the way, which was 85 percent, this is 75 percent—I hope the Senate will, for this very reason, reject this amendment.

Now, I yield.

Mr. HATCH. Mr. President, would the distinguished Senator from New York admit if we open up more jobs through a youth opportunity bill, such as Senator SCHWEIKER is proposing here, that it would expand jobs all across the section because it would give a stimulation to the economy to hire youth, even though they are white youths? But I think, to be frank, there would be a lot of minority youth hired, as well.

Incidentally, both the distinguished Senator from New York and the distinguished Senator from New Jersey have admitted here that the student program works very well. The fact of the matter is that there would be more than 40 cents, there would be about 65 cents or 67 cents an hour here that this youth opportunity differential would provide.

Mr. JAVITS. I say to the Senator, I have just argued it will not open up jobs for those who are in the greatest need.

Employers simply will not give any of these new jobs to minorities just because a youth subminimum is available.

As to the school operation, that is a unique situation applicable to college towns, full-time students, and we give an encouragement to the small town merchant to take on a few more boys or girls than they otherwise would.

I do not think that has any relation to this.

Mr. HATCH. I will submit that a number of employers across the country who are employing minimum wage personnel will cut it back if this expands to the extent it is and will find ways and means of automating or cutting back on youth jobs. They make it very clear, if they had this differential, that they would, instead of cutting back, expand jobs. I think that would be the opportunity.

I think the distinguished Senator would admit in good faith that neither of us fully knows, really, what the total effects will be should this youth opportunity differential be adopted here today. And that is the point that my good friend from New Mexico said, why not give it a chance, why not give it a chance since we do not know, and it may be a solution to a major problem in America.

Mr. JAVITS. Precisely because the history has shown it does not do what the Senator claims. The very same people are constantly before us saying, "Reduce the minimum wage, eliminate the minimum wage, and we'll give more employment."

It just does not happen. The most authoritative study of the Department of Commerce, which I have placed in the RECORD, indicates we lose as many adult jobs as we get youth jobs, and that is the very best face that can be put on it.

The reason I say what I do, and so strongly and firmly, is because this is nothing but a way of getting out of the struggle we have been fighting in Chambers like this for years.

We will not face the issue that in order to train people we have to pay for

their training. I prefer to pay for it in private business. This is not going to do it all. All we are doing is giving ourselves a placebo with this amendment to enable us to get a couple of years more in order to point out we are in the same place we are in today.

I believe the Senate has properly turned that treatment down and I hope it will on this amendment, as well.

Mr. CHAFEE. Mr. President, who has the time?

Mr. JAVITS. I do.

Mr. CHAFEE. I think what we are hearing on the other side is extremely discouraging this afternoon. What we are hearing is that the way we should solve this, the solution is to give OIC more money. But we will not give them more money, so therefore, we will not do anything.

This problem faces the country, a serious porblem. A solution has been presented, a mild solution. It has some chances for success.

Everybody quotes studies on both sides. All we know now is whatever we are doing is wrong, so let us try something different.

But the people, the opponents of this amendment, say, "No, no, don't do anything different, keep going in the same direction we're going now."

And that is no solution to this problem.

Mr. JAVITS. That is a very good question and I would like to answer it. What the Senator is saying is, give ourselves an excuse for doing nothing. We are going to do practically nothing. The Senator is saying, give ourselves an excuse for continuing for more years doing nothing. I am saying, "Let's face the issue. This is not going to help it. All it does is give us an excuse for not acting."

And I am not for giving us that excuse.

Mr. CHAFEE. I supported every OIC expenditure that came before our committee and our distinguished minority leader on the committee knows that.

I supported the youth employment bill, but that is not going to get us very far.

Three hundred and fifty thousand jobs they talk about if everything goes well.

Here is the chance to do something different. "No, no, let's keep going down the same path that has not gotten us anywhere."

I do not think that is very venturesome for these times.

Mr. JAVITS. They will continue to go down the same old path so long as they take medicine which has no effect whatever, and that is what this is.

Mr. HATCH. Will the Senator yield?

Mr. CHAFEE. We are told that this will not do any good. We have not tried it. When your serve is not working in tennis, you try a different approach. But no, we do not even have the courage to try something different. It is for 6 months that these youngsters will be in that category. I think it is worth a try.

Mr. HATCH. Mr. President, will the Senator yield for one more comment?

Mr. JAVITS. I yield.

Mr. HATCH. I supported the OIC, and I argued for Reverend Sullivan's program because I believe it is tremendous for these people, through self-origination, to come up with targeted programs. I want to encourage that, and I voted for the CETA programs as well.

What I should like to point out is that I do not think that Government employment or public works jobs is the last answer, either. I think we are spending billions of dollars sometimes to give people jobs that do not train them one bit and do not do a thing for them. I do not think that is the answer. We should try something new, and I agree with the Senator from Rhode Island.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield me 3 minutes?

The PRESIDING OFFICER. All time on the amendment has expired.

Mr. WILLIAMS. I yield time to the Senator on the bill.

Mr. ROBERT C. BYRD. Mr. President, I am concerned with the proposal to create what I see as a basic inequity in minimum wage legislation. Let me express my concern in the form of a query. Should an 18- or 19-year-old head of a household who supports a spouse, child, or dependent receive the current minimum wage for the work he or she performs? This is one of the basic questions that needs to be answered as we consider the minimum wage bill.

I believe that a youth differential could adversely affect the earning potential of a significant portion of the households headed by youths between the ages of 14 and 19. There are, according to the U.S. Census, over half a million such households. I strongly believe that in an attempt, however well intentioned, to provide jobs for youths, we should not create a discriminatory, two-tiered income system.

A two-tiered system would, furthermore, do little if anything to solve the basic youth unemployment problem; that is, the lack of experience and education of youths, particularly minority youths, seeking employment in the highly competitive marketplace.

Creation of a youth subminimum wage promises more than it can deliver. A 6-month period of employment under the subminimum wage would not later place youths who suffer the dual handicap of minimal education and lack of skills in a better position to compete for gainful employment at the minimum wage. To be able to so compete, they need to acquire the training that will make them attractive to employers.

Merely allowing youths of a certain age to work for a period of time at subminimum wage does nothing to further our objective to increase their long-term employment potential. We need positive programs such as the recently enacted Youth Unemployment and Demonstration Projects Act. We must continue to establish innovative jobs and jobs training programs targeted to the diverse needs of youths in various urban and rural areas of the country.

There is another problem with the subminimum which troubles me. Let us assume for the moment that it will generate jobs for youths ages 14 to 19. Will it not then pit 20 to 24-year-olds against the younger age group? Is this the direction in which we want to go?

Mr. President, I am opposed to the subminimum for youths. Although it is a well-intentioned policy, it is not the way to resolve the problem of youth unemployment in our society.

This proposal is, on its surface, superficially attractive. But it is very risky business in light of the 5 million adults who are unemployed, and when it is placed against the 462,000 women who are heads of households and the two-thirds of our minimum wage workers who are women. Not only are we placing this against those 462,000 women who are heads of households, but also, we are getting ready to penalize 700,000 children in those 462,000 households that are headed by women.

So, while it is superficially attractive, it is risky business, and I hope the Senate will vote down this amendment.

Mr. JAVITS. Mr. President, will the Senator yield me 1 minute?

Mr. ROBERT C. BYRD. I yield the floor.

Mr. JAVITS. I say to the Senator that he has put his finger on the exact point, which I am sure I did not make clear as artfully as he, which is that there is nothing in this amendment which says that the new jobs have to be from expanded employment to people who would not otherwise be employed.

What will an employer do with an unskilled job? Will he take the person to whom he has to pay the minimum, even if it is for 6 months? No. He will take the person to whom he pays the subminimum. He will rob Peter to pay Paul, and Peter will be the older people. That is what the Labor Department found when it made the survey.

Mr. ROBERT C. BYRD. Exactly. I thank the Senator.

Mr. SCHWEIKER. Mr. President, will the Senator yield me 3 minutes?

Mr. JAVITS. I yield.

Mr. SCHWEIKER. Mr. President, I have spoken before, so I do not intend to be very long, but I cannot let the last argument go unanswered.

A report entitled "Youth Unemployment and Minimum Wages," published by the U.S. Department of Labor, addresses the very issue we have just discussed. We cling to the old shibboleths, the old ways of doing business, as Senator CHAFEE has said, and ignore the truth. The truth is in this report. It says:

> There is some basis for the inference that the affect of Federal manpower programs and the Federal minimum wage have tended to offset each other. The analysis of quarterly data indicates that increases in employment attributed to the manpower programs have been offset to some degree, by decreases in employment attributed to the minimum wage.

It cannot be clearer than that. That is the issue.

Do we want to go on for 30 years closing our eyes to the truth?

It was whispered here that the report never has been printed because it tends to contradict classic theology in

this field. The culprit is identified right here—in an analysis of the Bureau of Labor Statistics. This is the issue. If a placebo is involved, Government job programs are the placebo—but we close our eyes to the truth. We say if we pass this bill, we are going to do something for everybody. We have misidentified the placebo. Here is the truth, and that is the issue.

Mr. HEINZ. Mr. President, I want to commend my distinguished colleague from Pennsylvania for his concern about the unacceptably high rate of unemployment among the young people of *this Nation*. For example, I agree with the senior Senator from my State that effective steps must be taken to provide hope and economic opportunities to those young people who now face only the bleak prospect of continuing joblessness. Despite my agreement with the goals my good friend seeks to achieve with his amendment, I cannot concur with the view that a subminimum wage for young workers is the road we should take to reach our mutual goals.

As a practical consideration, I am not persuaded that a subminimum wage will succeed in creating new jobs for young people. This is a point on which the experts have disagreed and where no consensus exists. The National Commission for Manpower Policy, after having looked at the findings of various studies, decided to "disregard the idea that a lower minimum wage for youth would make a significant contribution to increasing their prospects for employment." The Commission added that in this case it "saw no reason to deviate from the established American practice that pay is set by the job and that all persons, able to meet the performance standard of the job, should be paid the going rate."

In the face of the doubts have been raised about the benefits a subminimum wage will have for young workers, the concern about the detrimental effects such a policy might have on other workers becomes all the more compelling. The prospect of job substitution resulting from the enactment of a subminimum—where adult workers in the lowest paid jobs will be replaced by younger ones who can accept reduced wages—is a chilling one. It does not seem to me to be an acceptable or desirable policy to reduce unemployment among one group by creating greater unemployment for another. There are more humane and potentially more effective ways for us to proceed.

One alternative policy in which I have a great interest would permit employers to take a tax deduction or credit for some portion—perhaps up to 25 percent—of the minimum wage they pay to young people. This tax preference would be applicable during the time it takes to initially train a new worker—either for the first 6 months of employment or for a time determined by the Secretary of Labor necessary to reach adequate performance standards for specific jobs. I want to pursue this alternative with my colleagues because I think it may be a productive one that can achieve the goal the senior Senator from Pennsylvania and I both desire without undermining our Nation's wage standards. That goal is increased employment opportunity for youth and other disadvantaged Americans who seek to improve their skills and ability to earn a living the same as any other American.

Mr. HOLLINGS. Mr. President, I am pleased to join my colleague from Pennsylvania in cosponsoring this amendment to provide increased employment opportunities for the Nation's youth—aged 16 to 19. It is not necessary for me to make a lengthy restatement of the current sad state of affairs confronting the unemployed teenagers of our country. The statistics are clear and convincing: Approximately 18 percent of white teenagers and over 40 percent of black teenagers are unemployed. Over 1.6 million young people are currently unemployed and some researchers feel these figures are too low.

Congress has recognized this critical problem and has reacted by establishing such programs as the Youth Employment and Demonstration Act of 1977. However, this program will meet only a small portion of the problem. It provides approximately 250,000 jobs in the public sector. The need is greater. Quite simply private industry must be provided with the necessary incentives to respond with jobs and opportunities. The incentive, I think, is the amendment before us today. It will work hand in hand with the efforts currently underway.

Young people must have the opportunity to become productive members of the work force at an early age. They must be provided with the opportunity to prove their worth and better themselves through their hard work and initiative. This is merely the American dream. However, as we increase the minimum wage we further deteriorate employment opportunities for our young people. The entry threshhold is raised to such a high level and the young person's employment opportunity is consequently so reduced that jobs are simply not available. We must provide an entry level employment opportunity for teenagers and I am convinced that the youth differential amendment before us provides this much desired result.

Opponents of this measure might argue that the potential for employers to replace older workers with teenage workers or dismiss youths and rehire other youths in order to gain a continued advantage is so great that this measure should be rejected. I respond by saying the need for increased employment opportunities is too great. Besides, the amendment provides strong penalties in order to insure that employers do not act in that manner.

The problem before us is real and will not go away without decisive action on our part. If you feel the way about this matter that I do I strongly urge you join with me and do something about our severe youth unemployment problem.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mr. HATCH. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Pennsylvania. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. STEVENSON (after having voted in the affirmative). Mr. President, on this vote I have a pair with the Senator from Minnesota (Mr. HUMPHREY). If he were present and voting he would vote "nay." If I were at liberty to vote, I would vote "yea." Therefore, I withdraw my vote.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Minnesota (Mr. HUMPHREY), and the Senator from Arkansas (Mr. MCCLELLAN) are necessarily absent.

I further announce that the Senator from Hawaii (Mr. INOUYE) is absent on official business.

Mr. STEVENS. I announce that the Senator from Idaho (Mr. MCCLURE) and the Senator from Kansas (Mr. PEARSON) are necessarily absent.

The result was announced—yeas 38, nays 55, as follows:

[Rollcall Vote No. 543 Leg.]

YEAS—38

Allen	Eastland	Nunn
Baker	Garn	Roth
Bartlett	Goldwater	Schmitt
Bellmon	Griffin	Schweiker
Byrd, Harry F., Jr.	Hansen	Scott
Cannon	Hatch	Sparkman
Chafee	Hayakawa	Stennis
Chiles	Helms	Stevens
Curtis	Hollings	Stone
Danforth	Laxalt	Thurmond
Dole	Long	Tower
Domenici	Lugar	Wallop
	Morgan	Young

NAYS—55

Anderson	Hart	Moynihan
Bayh	Haskell	Muskie
Bentsen	Hatfield	Nelson
Biden	Hathaway	Packwood
Brooke	Heinz	Pell
Bumpers	Huddleston	Percy
Burdick	Jackson	Proxmire
Byrd, Robert C.	Javits	Randolph
Case	Johnston	Ribicoff
Church	Kennedy	Riegle
Clark	Leahy	Sarbanes
Cranston	Magnuson	Sasser
Culver	Mathias	Stafford
DeConcini	Matsunaga	Talmadge
Durkin	McGovern	Weicker
Eagleton	McIntyre	Williams
Ford	Melcher	Zorinsky
Glenn	Metcalf	
Gravel	Metzenbaum	

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Stevenson, for

NOT VOTING—6

Abourezk	Inouye	McClure
Humphrey	McClellan	Pearson

So amendment No. 1406, as modified, was rejected.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. WILLIAMS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Chair has agreed to recognize the Senator from Virginia for a unanimous-consent matter.

Mr. SCOTT. Mr. President, mine is not a unanimous-consent request.

I shall call up my amendment No. 1415.

Mr. DOMENICI. Mr. President, will the Senator yield 5 minutes first?

Mr. SCOTT. Mr. President, I am glad to yield to the distinguished Senator from New Mexico who tells me he will only take about 5 minutes. Then I ask that I be recognized.

The PRESIDING OFFICER. The Senator from New Mexico is recognized.

AMENDMENT NO. 1405

(Purpose: To authorize a youth minimum wage differential under the Fair Labor Standards Act of 1938).

Mr. DOMENICI. Mr. President, I call up my printed amendment No. 1405 and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from New Mexico (Mr. DOMENICI), for himself and Mr. STONE, proposes an amendment numbered 1405.

The amendment is as follows:

On page 12, between lines 17 and 18, insert the following new section:

"YOUTH OPPORTUNITY WAGE

"SEC. 5. (a) Section 14(b) (29 U.S.C. 214 (b)) is amended to read as follows:

"'(b)(1) To encourage youth opportunity an employer may employ any youth who has not attained twenty years of age for a period of one hundred and eighty days, without prior or special certification by the Secretary of Labor, at a wage rate not less than 85 per centum of the otherwise applicable wage rate in effect under section 6 (or in the case of employment in Puerto Rico or the Virgin Islands not described in section 5(e) at a wage rate not less than 85 per centum of the otherwise applicable wage in effect under section 6(c)) in compliance with applicable child labor laws. This paragraph shall not apply to any youth employee who has been employed by the same employer for a period of at least six months or is currently employed by an employer at a rate of at least the minimum wage.

"'(2)(A) To encourage youth opportunity, an employer or institution of higher education may employ any full-time student (regardless of age but in compliance with applicable child labor laws) at a wage rate not less than 85 per centum of the otherwise applicable wage rate in effect under section 6 (or in the case of employment in Puerto Rico or the Virgin Islands not described in section 5(c), at a wage rate not less than 85 per centum of the wage rate in effect under section 6(c)).

"'(B) Any full-time student so employed under this paragraph by an institution of higher education or an employer other than an institution of higher education shall prior to such employment present to the employer a letter from the institution at which the student is enrolled certifying that such student is a full-time student enrolled at that institution.

"'(C) Any full-time student employed pursuant to this paragraph shall be employed on a part-time basis and not in excess of twenty hours in any workweek, except during vacation periods.

"'(3) While no prior certification shall be required by the Secretary for purposes of paragraphs (1) and (2), the Secretary is authorized under this Act to insure that the provisions of paragraphs (1) and (2) of this subsection are not violated. Whenever the Secretary discovers that an employer is employing youth at a wage rate lower than the wage rate allowable under this subsection or for a period of time longer than that specified by this subsection, or is engaged in a pattern and practice of—

"'(A) substituting younger workers employed at less than the minimum wage for older workers employed at or above the minimum wage, or

"'(B) terminating the employment of youth employees and employing other youth employees in order to gain continual advantage of the youth opportunity wage,

the employer shall be deemed to have violated section 6 of this Act. The liability of such an employer under this paragraph shall include—

"'(i) unpaid wages and overtime compensation determined on the basis of otherwise applicable minimum wage and overtime rates pursuant to sections 6 and 7 of this Act, and

"'(ii) a fine to be determined by the Secretary not to exceed $2,500 for the first offense by an employer and not to exceed $10,000 for any subsequent offense by the same employer.'.

"(b) Section 13(a)(7) (29 U.S.C. 213(a)(7) is amended to read as follows:

"'(7) any employee to the extent that such employee is exempted by regulations, order, certificate of the Secretary under section 14 or in accordance with the provisions of section 14(b), or'.".

On page 12, line 9, substitute "SEC. 6." for "SEC. 5.".

Mr. DOMENICI. Mr. President, my cosponsor, Senator STONE, does not appear to be here at this time, but I wish to say to the Senators present that I will just take only about 5 minutes to discuss this amendment.

This is basically the same amendment that the Senator from Pennsylvania just offered with one significant difference.

Mr. MOYNIHAN. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. DOMENICI. I am pleased to yield.

VISIT TO THE CHAMBER BY A DISTINGUISHED GUEST

Mr. MOYNIHAN. Mr. President, I have the honor to introduce to the Chamber a good friend of this country, a former Foreign Secretary of Great Britain, known to us all for many years as George Brown and now carrying the additional distinction of Lord George Brown.

[Applause.]

Mr. DOMENICI. Mr. President, I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. DOMENICI. Mr. President, for the Senators who are here I shall state the principal difference between the Schweiker amendment and mine. The Schweiker amendment provided a youth differential of 75 percent of the adult minimum wage; mine is 85 percent.

The PRESIDING OFFICER. May we have order in the Senate? May we have order in the Senate so that the Senator from New Mexico may be heard. The Senator may proceed.

Mr. DOMENICI. That is only a 10 percent difference, but it is more workable because 85 percent of the new minimum wage turns out to be approximately the present minimum wage. So 85 percent of $2.65 will be about the present minimum wage of $2.30. If the Domenici-Stone youth differential or youth opportunity wage amendment is adopted the minimum wage for youths in the 6-month interim will be the present minimum wage.

I think that might make a difference to some Senators. Some have told me it does make a difference.

I am not going to take a great deal of time to tell Senators the arguments that they have already heard. I would like to summarize my position by saying that anyone who tells this body that there is not dramtic evidence that we need to try something different than simply continuing to raise the minimum wage for young people and then using economic stimulators to prime the economy to get our young people employed is absolutely telling us an untruth.

Mr. HATFIELD. Mr. President, will the Senator yield for a question?

Mr. DOMENICI. I am delighted to yield to the Senator from Oregon.

Mr. HATFIELD. Mr. President, I commend the Senator from New Mexico for suggesting this amendment, but I would like to ask him a question.

I was approached a while ago by a representative of organized labor in the lobby, who indicated to me that this kind of proposal, offered first by the Senator from Pennsylvania (Mr. SCHWEIKER) and now by the Senator from New Mexico, is an unenforceable proposal. I would like the Senator's comment for the record as to that statement, as to what his response would be as to the enforceability of this proposal.

Mr. DOMENICI. I thank the Senator for his question. At my suggestion, the Senator from Pennsylvania had the identical penalty provisions in his amendment.

First of all, we have not been easy on those who would seek to cheat. This amendment provides a fine for the first offense of not to exceed $2,500, and up to $10,000 for a subsequent offense. It says that if the Secretary of Labor finds that any employer, as a matter of custom, is using this differential to fire young people 5 months after they have been employed, so that he can hire someone else, he may penalize the employer with this kind of a fine.

Everyone must keep hourly records when a person is hired or fired. We already have, in the labor enforcement, structure, teams that audit employment data and patterns. They could easily find any employer who is engaged in this practice as a matter of custom.

Mr. HATFIELD. Is the Senator saying there is machinery in place now, that no new machinery need be set up to enforce this proposal?

Mr. DOMENICI. Precisely, and we are adding this new civil fine as part of this amendment.

Mr. HATFIELD. So the necessary findings would be easily available under existing machinery?

Mr. DOMENICI. Under existing machinery, and then the fine could be imposed.

Mr. HATFIELD. And that existing machinery is in the Wage and Hour Division?

Mr. DOMENICI. Wage and hour teams are in the field. They can monitor any employer to determine whether they are violating the law.

I yield myself 1 more minute.

Mr. President, this amendment is similar to S. 2048, the Youth Opportunity Wage Act which I introduced on August 5, 1977. I am seeking, by this amendment, to offset the adverse impact increasing the minimum wage will have on job opportunities for young Americans. At the present time there are approximately 2 million young people unemployed and that figure can be expected to rise with the enactment of H.R. 3744/S. 1871.

There is convincing evidence that the burden of an increased minimum wage falls most heavily on the young, unskilled individual. Evidence gathered by the Bureau of Labor Statistics and the Congressional Budget Office demonstrates that a significant drop in youth employment will accompany a higher minimum wage Increasing the minimum wage to $2.65 per hour will result in a net job loss of up to 250,000 jobs. The Nation's economy simply cannot afford such job losses particularly among teenagers who already constitute one-fourth of the total unemployed.

Amendment No. 1405 would tackle this problem by establishing a "youth opportunity wage" at 85 percent of the minimum wage. This special rate will apply to youths age 19 and under and is functional only for the initial 6 months of their employment. Upon the expiration of the 6-month "training" period, the special rate is no longer available and such employees must be paid at least the full minimum wage.

This amendment also discourages any potential abuses by providing penalties in the event older workers are fired in order to hire youths, or youths are dismissed without cause at the conclusion of the 6-month training period, or wages of current young employees are reduced.

In addition, my amendment seeks to encourage the use of the current full-time student rate by simplifying the student provisions and eliminating the excessive paperwork and redtape caused by the present student differential.

Mr. President, as our Nation's economy recovers from the 1973–75 recession, we must take special care to see that our actions do not rekindle inflation, increase unemployment, or depress business and consumer confidence in the basic strength of our economy. S. 1871, which was drafted with the best of intentions by our distinguished colleagues on the Human Resources Committee, will have a detrimental affect on teenage employment unless a youth differential—such as the one I am proposing—is included in the final bill.

Amendment No. 1405 is designed to ease the impact of the pending increase in minimum wage. A 1970 Bureau of Labor Statistics survey of employers and employment has found that more teenagers would be hired at a lower minimum wage. A youth wage in Europe has resulted in increased youth employment. By allowing employers to hire and train youths for an entry period at a wage more commensurate with their initial abilities, we encourage the creation of much needed career ladder opportunities.

Furthermore, research and experience show that youth wage will not result in the substitution of younger employees for older workers. The BLS study concludes that—

> Results from abroad do not indicate that adult employment has been adversely affected by lower minimum wage rates for teenagers.

Several States have used youth differentials with "no apparent evidence of adverse effects."

Suggestions by opponents of a youth differential that there will be large scale displacement of adult workers is simply conjecture and is not borne out by the evidence. Displacement did not occur in European countries or in States which have created youth differentials.

Recent economic statistics are pertinent to the comparison of youth and adult employment. Adult employment is increasing with growth in the economy. In the past 2 years, economic growth has created over 6.3 million jobs. Adults have been the major beneficiaries of this increased employment, filling 5.6 million or 89 percent of these jobs. While teenagers make up one-quarter of the unemployed, they have filled only 11 percent of the newly created jobs.

Mr. President, the Senate has just rejected, by a narrow margin, the Schweiker amendment that would have set the youth differential at 75 percent of the minimum wage. The pending amendment differs from the Schweiker amendment in that it would set the youth opportunity wage at 85 percent of the minimum wage.

Congress recognized the need for a youth differential when it established the current student differential of 85 percent. But many of your younger people are not students. A student differential without a youth differential discriminates against those who need work the most—teenagers who are no longer in school.

An 85 percent differential for teenagers is consistent with prior Congressional action which placed the student differential at 85 percent. In addition, an 85 percent differential applied to the new minimum wage rate of $2.65 an hour will result in a youth wage which is approximately the same as the current minimum wage rate.

Economic growth alone is incapable of making a significant reduction in youth unemployment. While historically a 2.2 percent increase in the GNP will reduce the married male unemployment 1 percent, a 5.6 percent growth rate is required to reduce teenage unemployment 1 percent. For nonwhite teenagers, the required growth rate is 10.1 percent, double the economic growth rate that is projected over the next year and a half. Evidence indicates that progress could be made in reducing teenage unemployment by exempting them, in a limited and responsible way, from the provisions of the minimum wage law.

Mr. President, we have an opportunity to constructively reshape the minimum wage law to incorporate the concept of a lower entry wage that will help to bring teenagers into our Nation's workforce. Once they get on the bottom rung of the ladder they can learn much needed skills, discipline, and an appreciation for the "work ethic." Life styles can be changed, motivation improved, and a successful productive individual can take his or her place as a fully contributing member of our society.

The argument for a youth differential has been made most effectively by the country's leading conservative and liberal economists. I would like to cite a few of their most telling studies which frame more clearly the effect of minimum wage increases on our already unacceptably high unemployment rates among teenagers.

An economist with the New York Federal Reserve Bank published a study in the Harvard Review of Economics and Statistics documenting a 3.3-percent loss in teenage employment as a result of the 1966 increase in the minimum wage from $1.25 to $1.40 per hour.

In his study entitled "The Impact of Minimum Wages on Other Wages, Employment, and Family Income" which appears in Brooking's Papers on Economic Activity, Edward Gramlich notes that while minimum wages are mildly beneficial to adult employees, they are a disaster for youth:

> . . . the most reasonable verdict is that teenagers have more to lose than gain from higher minimum wages; they appear to be forced out of the better jobs and denied full time work. . . . And all these developments are probably detrimental to their income prospects in both the short and long run. . . . For teenagers the law appears to be counterproductive.

Economist James F. Ragan stated in an article entitled: "Minimum Wages and the Youth Labor Market" which appeared in the Review of Economics and Statistics that—

> Minimum Wage legislation reduces youth employment; males, especially non-white males, are the hardest hit. . . . Borne out by the data, therefore, are the hypotheses that minimum wage legislation reduces youth employment and increases youth unemployment rates. The policy implications are obvious: With less stringent minimum wage legislation, or none at all, conditions in the youth labor market will ameliorate. The magnitude of improvement can be appreciated by considering the impact of the 1966 minimum wage amendments. Had these amendments not been implemented, our model indicates that aggregate youth employment would have been 225,000 persons higher in 1972 than it actually was and the youth unemployment rate 3.8 percentage points lower.

In response to the 1971 proposal to raise the minimum wage to $1.60, economist Paul Samuelson of MIT stated:

> What good does it do a black youth to know that an employer must pay him $1.60 an hour if the fact that he must be paid that amount is what keeps him from getting a job?

Confronted by rising unemployment among minority youth Mayor Bradley of Los Angeles and Mayor Gibson of New-

ark both support a youth differential, as did the late D.C. City Councilman, Julius Hobson.

Dr. Bernard E. Anderson, of the Wharton School of the University of Pennsylvania, pointed out some of the limits of direct governmental programs by noting that in 1977 black youth unemployment hit record levels in spite of the fact the Federal expenditures on job programs also were the highest in our history.

Dr. Edward Gramlich's 1976 study for the Brookings Institution found that increases in the minimum wage causes shifts from full-time to part-time employment for teenagers.

Mr. President, before concluding my remarks, I would like to restate several key points which justify the Senate's prompt and favorable action on this amendment.

The sum of 1.8 million—24 percent—of the 7½ million individuals currently unemployed in this country are between the ages of 16 and 19; 345,000 young would-be job seekers have become discouraged and are no longer actively seeking employment.

Since 1975, 6,300,000 new jobs have been created but only 700,000 of these new slots went to teenagers; 40.2 percent of nonwhite teenagers are currently unemployed.

Lack of job opportunities creates an environment that is conducive to crime and social unrest.

Economic growth alone is incapable of significantly reducing youth unemployment. It would take an economic growth rate of 10.1 percent to reduce the minority teenage jobless rate 1 percent.

In 1966, the minimum wage was increased from $1.25 to $1.40 per hour and teenage employment declined 3.3 percent.

In 1974, the minimum wage was increased by 25 percent, which led an estimated 13 percent rise in youth unemployment.

Mr. President, a vote for the youth opportunity wage is a vote to help the youth of this country keep or find employment.

A vote for the minimum wage increase without the youth differential is a vote to increase youth unemployment. I believe it would be unconscionable for the Senate to vote to further increase youth unemployment in this country.

Mr. WILLIAMS. Mr. President, I yield myself 1 minute.

Basically, this is the same amendment we just finished voting on, the Schweiker amendment. The only difference is in the percentage. All other details are the same. Every argument that has occupied this Chamber during the last 2½ hours can equally be applied to this amendment, and I certainly hope we will have the same result.

For all the reasons previously expressed, I hope the amendment will be defeated.

Mr. JAVITS. Mr. President, I yield myself 2 minutes in opposition, only to answer the question of the Senator from Oregon.

This amendment says these penalties will apply if there is a pattern or practice of substituting these special wage employees for regular wage employees.

We have had very rough experience with proof of pattern or practice. Plenty of violations must take place before you can prove a pattern or practice, and the point made by the majority leader, which I think is the big, valid one here, is that none of these amendments, including Senator DOMENICI's amendment, provide for additional employment. If the employer does not have additional jobs, he may still substitute these lower wage employees for other employees he might hire at the full minimum, or more.

That is why, in my opinion, it is proper to say that the enforcement problem in that respect is a very difficult one, and I join the Senator from New Jersey (Mr. WILLIAMS) in emphasizing the fact that we have really, I think, completely explored this subject, and I think every Senator knows how he feels.

SEVERAL SENATORS. Vote! Vote!

Mr. WILLIAMS. Mr. President, I yield back the remainder of our time.

Mr. DOMENICI. Mr. President, I want to make just one observation for those who, for various reasons, think this is not a good amendment. One of the finest things we have done in the minimum wage law was to create the full-time student differential which allows a full-time student to work 20 hours a week. He is not a head of a household; neither will the people covered by amendment No. 1405 be heads of households. That 20-hour-a-week student differential rate has put 500,000 young people in jobs. They are not up here today complaining about that provision and you do not find them complaining in your home States.

We recently expanded CETA, the Comprehensive Employment and Training Act, to put young people in training jobs in our cities, counties, and States. I supported the Youth Employment Act. We are going to spend $1.3 billion on that program, but we are not going to produce as many jobs as the existing student differential wage rate has.

Who do we want to let go to work? Young people who are full-time students? Do we want to discriminate against young people who, for some reason, are not in school but are looking for jobs? If that is not turning a policy on its head, I do not know what is. Instead of the students, we ought to let those who are not students have an opportunity to get a job under a youth differential. Some years ago someone lucked out and got that student differential enacted into law. Now we are going to stick with it, defying reality, instead of trying something new.

As youth unemployment grows, even as additional jobs grow, we will do nothing new to help our young people. We will just leave it like it is because the opponents say that youth opportunity wage legislation, in some way that I cannot understand, is going to hurt someone

The mayor of Newark, N.J., who is confronted by tremendous social problems, unequivocally stated before the Budget Committee that he would prefer no minimum wage for his young people. We are not asking for that. One of the distinguished city councilmen from Washington, D.C., just before he died, prepared a local youth differential wage bill. He was a black man who was deeply concerned about the unemployed youth in this city. He said:

> If there are jobs and our young people cannot get them, let us try to give somebody an incentive to hire them. We are not taking jobs from anyone.

Mr. President, we have generated 6.3 million new jobs in the last 2 years with our antirecession efforts, and yet our youth unemployment continues to grow.

Mr. HANSEN. Mr. President, will the Senator yield for just a minute?

Mr. DOMENICI. I am delighted to yield to the Senator from Wyoming.

Mr. HANSEN. Let me make the point that in the State of Wyoming we have one 4-year university granting degrees, and seven junior colleges. One of the most compelling reasons that asserts the wisdom in the judgment of the legislature in the creation of these junior colleges has been to expand educational opportunities by providing a chance for students to have part-time work. That has made a real difference, and we have more people, I would suspect—I have not checked the figures this year—in the combined enrollment of the junior colleges than we have in the University of Wyoming. A lot of those young students would not be in school today if it were not for the availability of the jobs that they were not trained and not prepared for, but that still are there to be made available to them, at a price. Without part-time work they could not afford to be in school.

I would hope very much that this amendment by the distinguished Senator from New Mexico could carry this afternoon.

Mr. DOMENICI. Mr. President, I yield back the remainder of our time.

Mr. WILIAMS. Our time is already yielded back.

The PRESIDING OFFICER (Mr. ABOUREZK). All remaining time having been yielded back, the question is on agreeing to the amendment of the Senator from New Mexico. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. LONG (when his name was called). Mr. President, I have a pair with the distinguished Senator from Minnesota, Mr. HUMPHREY. If he were present and voting, he would vote "nay." If I were at liberty to vote, I would vote "aye." Therefore, I withhold my vote.

Mr. CRANSTON. I announce that the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), and the Senator from Connecticut (Mr. RIBICOFF) are necessarily absent.

I further announce that the Senator from Hawaii (Mr. INOUYE) is absent on official business.

I further announce that, if present and voting, the Senator from Connecticut (Mr. RIBICOFF) would vote "yea."

Mr. STEVENS. I announce that the Senator from Idaho (Mr. MCCLURE) and the Senator from Kansas (Mr. PEARSON) are necessarily absent.

The result was announced—yeas 44, nays 49, as follows:

[Rollcall Vote No. 544 Leg.]

YEAS—44

Allen	Garn	Roth
Baker	Goldwater	Schmitt
Bartlett	Griffin	Schweiker
Bellmon	Hansen	Scott
Bumpers	Hart	Sparkman
Byrd, Harry F., Jr.	Hatch	Stennis
	Hatfield	Stevens
Cannon	Hayakawa	Stevenson
Chafee	Helms	Stone
Chiles	Hollings	Talmadge
Curtis	Laxalt	Thurmond
Danforth	Lugar	Tower
Dole	Morgan	Wallop
Domenici	Nunn	Young
Eastland	Percy	Zorinsky

NAYS—49

Abourezk	Glenn	Metcalf
Anderson	Gravel	Metzenbaum
Bayh	Haskell	Moynihan
Bentsen	Hathaway	Muskie
Biden	Heinz	Nelson
Brooke	Huddleston	Packwood
Burdick	Jackson	Pell
Byrd, Robert C.	Javits	Proxmire
Case	Johnston	Randolph
Church	Kennedy	Riegle
Clark	Leahy	Sarbanes
Cranston	Magnuson	Sasser
Culver	Mathias	Stafford
DeConcini	Matsunaga	Weicker
Durkin	McGovern	Williams
Eagleton	McIntyre	
Ford	Melcher	

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Long, for

NOT VOTING—6

Humphrey	McClellan	Pearson
Inouye	McClure	Ribicoff

So amendment No. 1405 was rejected.

Mr. WILLIAMS. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. JAVITS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. SCOTT. Mr. President.

The PRESIDING OFFICER. The Senator from Virginia.

TIME-LIMITATION AGREEMENTS

Mr. ROBERT C. BYRD. Will the distinguished Senator yield to me?

Mr. SCOTT. Yes, I yield.

Mr. ROBERT C. BYRD. I ask unanimous consent that, on the amendment that is about to be called up by Mr. SCOTT, there be a time limitation of 40 minutes, to be equally divided in accordance with the usual form.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, on the amendment that will be called up by Mr. CURTIS, there be a 10-minute limitation, to be equally divided in accordance with the usual form.

Mr. CURTIS. And if the committee accepts my amendment, it will be reduced to 5.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1416

(Purpose: To authorize an older Americans minimum wage differential under the Fair Labor Standards Act of 1938.)

Mr. SCOTT. Mr. President, I call up my amendment 1416 and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Virginia (Mr. SCOTT) proposes an amendment numbered 1416.

Mr. SCOTT. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 12, between lines 17 and 18, insert the following new section:

"EXPANDING EMPLOYMENT OPPORTUNITIES FOR OLDER AMERICANS

"SEC. 5. (a) Section 14 (29 U.S.C. 214) is amended by adding at the end thereof the following new subsection:

"'(e)(1) Notwithstanding the minimum wage rate required by section 6, any employer may employ any employee—

"'(A) to whom such rate shall apply but for this subsection; and

"'(B) who has attained sixty eight years of age or is older,

at a rate not less than 75 per centum of the otherwise applicable wage rate in effect under section 6 (or in the case of employment in Puerto Rico or the Virgin Islands not described in section 5(e) at a wage rate not less than 85 per centum of the otherwise applicable wage rate in effect under section 6(c)) without prior or special certification by the Secretary.

"'(2) The Secretary shall by regulation prescribe standards and requirements to insure that this subsection will not create a substantial probability of reducing the full-time employment opportunities of persons other than persons to whom the minimum wage rate authorized by this subsection is applicable.'.

"(b) Section 13(a)(7) (27 U.S.C. 213(a)(7)) is amended to read as follows:

"'(7) any employee to the extent such employee is exempted by regulations, order or certificate of the Secretary under section 14, or in accordance with the provisions of section 14(e); or'".

On page 12, line 11, strike out "SEC. 5." and insert in lieu thereof "SEC. 6.".

Mr. SCOTT. Mr. President, I call for the yeas and nays on my amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. SCOTT. Mr. President, the purpose of this amendment is to provide a greater opportunity for older Americans. It would provide that workers otherwise subject to the minimum wage who are 68 years of age or older could be employed at not less than 75 percent of the appliable Federal minimum wage.

As you know, Mr. President, there is considerable comment at this time about raising the age for retirement of citizens generally.

Mr. STENNIS. Mr. President, I make a point of order. The Senator is entitled to the opportunity to be heard, and any Senator who wants to listen is entitled to hear him.

The PRESIDING OFFICER. The Senator's point is well taken. The Chair asks all Senators and other people besides Senators in the Chamber to kindly cease their conversations so the Senator can be heard.

The Senator will suspend briefly until we obtain order in the Chamber.

The Senator will proceed.

Mr. SCOTT. Mr. President, as you know, there is considerable comment at this time about raising the age for retirement of citizens generally and some who feel that all age limitation upon employment should be eliminated. Nevertheless, I believe that industry does tend to consider age as a factor regardless of any existing or prospective legal requirement on the subject.

An employment official apparently would prefer to have a person with the vigor of youth or middle age to that of an older American to do any work requiring physical exertion and perhaps there may even be some who feel that people over 68 may not be able to think as quickly or as clearly as one in his thirties, forties, or fifties. Therefore, in my opinion, this amendment would permit an older person to compete on a more equitable basis in the job market with younger people. Even those drawing social security or other retirement pay could work for a lower rate, full- or part-time, if they chose to supplement their retirement pay, without penalty in some cases.

I understand that the House Ways and Means Committee has approved a measure raising the amount a social security annuitant can receive, without reducing his social security benefits, to $4,000 with the prospect of it being increased to $4,500 a year later and that our own Finance Committee has under consideration a proposal to increase the earning ability, without loss of social security benefits to $6,000, which, of course, is twice the present amount that an annuitant can earn without suffering a loss in benefits.

Mr. President, there is also a psychological feature involved in that older people want to be a part of our society, performing a useful function, earning their own way, feeling important and wanted, rather than to believe that they no longer have anything to contribute to society and no one cares about them. Loneliness, in my opinion, is one of the major problems faced by an older person. Although we do have millions of older Americans living in poverty, or near the poverty borderline, who might well be employed if they did not have to compete on the same basis with those who are more physically fit, because they are younger or perhaps even more mentally alert. My amendment is somewhat akin to providing a handicap to the older Americans as we might to someone in a golf game, or in some other competitive activity.

Let me add that our office receives mail from time to time from citizens on social security or receiving veterans' benefits who appear to be confused as to some of the Government regulations regarding their earning limitations and I believe that if we would permit older Americans to work for three-fourths of the amount of the otherwise applicable minimum wage, without any termination date upon their eligibility, with an opportunity to take advantage of seasonal work or without any restrain upon the number of months or hours they could work within a given trade or craft, we would be providing greater opportunities

and greater happiness for the older American.

Now, of course, Mr. President, we all realize that there are professional people; maybe some operating their own business who earn far in excess of the minimum wage and would not in any manner be affected by this amendment. It would have no effect upon older people whose skills or expertise are in demand, but I believe would tend to provide a happy, creative, occupied, compensated lifestyle and peace of mind for our older citizens unable to compete, because of advancing years.

Frankly, there is no magic in the selection of 68 as the age of reducing the minimum wage requirement to 75 percent of the regular requirement. I had originally thought of 65 years but suggestions are being made that there be no compulsory retirement of civilian employees and laws have been passed to prevent discrimination of individuals in employment opportunities because of age, and, yet, I doubt that any Member of this Chamber believes that a private company would employ a person 68 years or older, or would train him to do a required job as readily as it would employ someone at half his age.

There are, however, a great many people over 68 years of age who are either retired or unemployed, or who were they given a reasonable opportunity to make use of their skills and to contribute to society in a meaningful way, would welcome the opportunity to work, either on a full-time or a part-time basis. It is to these persons, the discouraged older worker, who may wish to be employed but who cannot find work, or who would want to work if the opportunity were presented, that my amendment is essentially directed. I understand that Department of Labor statistics show that only 12 percent or 2.8 million of the 23 million persons 65 years of age or over are in the Nation's civilian labor force. In August, according to the Department of Labor, more than 120,000 persons 65 years of age or over were looking for work but were unable to find suitable employment. In the event this amendment should be adopted and a minimum wage differential was provided for those 68 years of age or older, I believe there would be an opening of some additional job opportunities and employers would be given an added incentive to provide job opportunities for older Americans.

We have had amendments offered, Mr. President, taking note of the difficulties faced by younger workers, youth opportunity wage differentials, and I have supported these amendments but in the case of older Americans we have a narrowly defined segment of the population, 68 years of age or older, who may even feel more helpless, more out of the socio-economic mainstream, persons confronted with special employment difficulties somewhat different from those faced by younger people. Youth is just beginning to develop skills and industrial discipline while older Americans, for the most part, already possess skills, some very highly developed, expertise that may be of considerable advantage to the employer and to our economy generally and, yet, are not given an opportunity to utilize this skill and knowledge, because of their age. One, of course, may slow down a bit as he advances in age, he may be ill with a greater degree of frequency, he may possess some impediment that a younger person does not, but we need to think not only as a youth oriented society but one which is sympathetic so the special problems experienced by those in advancing age.

Some added benefit should be given to encourage an employer to hire an older person and I believe this amendment, to permit such persons to work for as little as 75 percent of the established minimum wage is such an incentive. I would hope that my colleagues will all give thoughtful consideration to this amendment and perhaps we might think of the people within our own circle of friends or relatives who feel left out with advancing age, who feel lonesome, who would be encouraged by doing useful, productive work once again.

Mr. President, there may well be a difference of opinion within the Senate as to the effect, if any, a raise in the minimum wage generally will have upon the overall employment problems in the country. There are many who believe that increasing the minimum wage will also increase unemployment but be that as it may, I believe that upon reflection we can understand that limiting older Americans, those 68 and above, to 75 percent of the established minimum wage will tend to counter any disadvantage to older Americans by an increase in the minimum wage requirements and I believe this amendment is in the interest of both the senior worker and society generally. It will tend to cause employers to reach out to older persons, encourage them to reenter the world of service, to remain intellectually alive and vital, to utilize their talents and skills and their wisdom that might otherwise be lost to society, a society that needs these people and certainly older Americans need the benefits that would be provided by continuing to feel like useful human beings.

Mr. President, I urge my colleagues to adopt this amendment.

Mr. WILLIAMS. I yield myself 2 minutes in opposition to the amendment.

Mr. President, I can be very brief in reply on this matter. I have two communications, from which I will quote briefly, and I will ask unanimous consent to have them printed in the RECORD.

One is from the National Council of Senior Citizens. Their conclusion:

> Senator WILLIAMS, we urge you and your colleagues in the Senate to do everything in your power to oppose those individuals who support the subminimum wage in the guise of promoting employment for the elderly.

In the interest of time, I will not read it all. But this is a compelling statement from an organization that is universally respected. The National Council of Senior Citizens strongly opposes this approach to "helping older people." They feel it is just the opposite. It puts them in a category that reflects a feeling that they are worth less than those who are of younger years.

The other communication is from the National Council on the Aging. I will read two portions of this letter, which is addressed to me, also:

> Supporters of a sub-minimum wage also ignore the economic need that forces many older people to seek jobs. NCOA sponsored a Louis Harris Survey of national attitudes toward again that reveals the severity of economic need among older job seekers: Forty-three percent of respondents over age 65 who wanted to work were trying to live on less than $3,000 a year. What a cruel hoax it would be to promote jobs for these people at inadequate wages.
>
> * * * * *
>
> In the long run, this approach can only work to the detriment of job seekers. In the short run, it promotes the belief that older people are second class citizens deserving of second class rights. We hope the Senate will not consider such a regrettable proposal.

This, very briefly, describes the core principle here involved—whether our senior citizens 68 and over should be treated less than equally and given a subminimum. We say no.

Mr. President, I ask unanimous consent to have the letters printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

WASHINGTON, D.C.,
October 7, 1977.

Hon. HARRISON A. WILLIAMS, Jr.,
Chairman, Committee on Human Resources, U.S. Senate, Washington, D.C.

DEAR SENATOR WILLIAMS: It has come to our attention that there may be an amendment offered on the Senate floor during consideration of the Minimum Wage bill that would provide for a subminimum wage for senior citizens.

The position of the National Council of Senior Citizens is simple. We strongly oppose such a measure and do so for the same reasons we oppose a subminimum wage for teenagers.

The very implication of "subminimum" runs against the American grain and we believe that every day sees growth in the numbers of Americans who would fight against discrimination and bias of every sort. The notion of creating a second-class citizenry is increasingly abhorent to the people of this country.

The National Council has always fought on behalf of senior citizens and has done so mindful of the interests of the nation as a whole. We will never ask for special treatment and we oppose any attempt to place senior citizens in a separate category. Clearly, this subminimum wage proposal smacks of discrimination and of unequal treatment.

Our experience over the past ten years in operation of Senior AIDES, a senior citizens community service program, on behalf of the U.S. Department of Labor has demonstrated the enthusiasm, dependable, experienced service which elderly workers perform—frequently they outperform some of their younger colleagues. You should note that our National Council of Senior Citizens' Senior AIDES Program employs over 7,000 elderly workers in projects in 108 cities at an average wage of $2.90 per hour right now, and our aim is the prevailing wage rate.

Though we maintain the foregoing ethical and moral arguments are sufficient in themselves to deny the concept of a subminimum wage for seniors, we believe the economic arguments against the subminimum wage are considerable and worth noting.

A subminimum wage would amount to an across-the-board, arbitrary subsidy to busi-

ness at the expense not only of the loss of jobs for many of our children and grandchildren, but surely at the expense of our poorer members as well.

The concept of the subminimum wage was the subject of a U.S. Department of Labor study in 1970. The report studied the effects of a subminimum wage on teenage unemployment. The conclusion of the report stated that the various studies failed to establish any relationship between youth unemployment and the minimum wage. There is no reason to believe a subminimum wage would affect the unemployment of senior citizens.

The fact is, the answer to the problem of unacceptably high unemployment of all age groups in this country, especially among youth and senior citizens is not a subminimum wage but a national policy accompanied by a commitment of action to bring about full employment. Any measure short of full employment should be totally unacceptable to the American tradition.

Senator Williams, we urge you and your colleagues in the Senate to do everything in your power to oppose those individuals who support the subminimum wage in the guise of promoting employment for the elderly.

Sincerely,

WILLIAM R. HUTTON,
Executive Director.

NCOA, WASHINGTON, D.C.,
October 7, 1977.

HON. HARRISON WILLIAMS,
Chairman, Committee on Human Resources, U.S. Senate, Washington, D.C.

DEAR SENATOR WILLIAMS: As the Senate debates minimum wage legislation, the National Council on the Aging wants to go on record in forceful opposition to the concept of sub-minimum wages for older workers. It is misguided to promote such a wage standard as a solution to the employment problems faced by our older citizens. This so-called incentive to hire does little but erode the gains of equal employment opportunities and subvert the principle of equal pay for equal work.

The implication of a sub-minimum wage is that the efforts of older workers are not deserving of full compensation. Numerous studies have proven that the older workers are as capable as younger employees. For example, supervisors who rated over 3,000 workers aged 60 and older in 81 organizations said older workers were as good as or *superior to* average younger workers with reference to dependability, judgment, work quality, volume, human relations and absenteeism.

Supporters of a sub-minimum wage also ignore the economic need that forces many older people to seek jobs. NCOA sponsored a Louis Harris Survey of national attitudes toward aging that reveals the severity of economic need among older job seekers: Forty-three percent of respondents over age 65 who wanted to work were trying to live on less than $3,000 a year. What a cruel hoax it would be to promote jobs for these people at inadequate wages.

The concept of sub-minimum wages for any worker is of questionable value. Creation of a cheap labor force offers incentives to employers to push out full-wage earners—many of whom may be older workers forced into early retirement—so that cheaper labor can be hired.

In the long run, this approach can only work to the detriment of job seekers. In the short run, it promotes the belief that older people are second class citizens deserving of second class rights. We hope the Senate will not consider such a regrettable proposal.

Sincerely,

JACK OSSOFSKY,
Executive Director.

Mr. SCOTT. Mr. President, I appreciate the comments of my distinguished colleague from New Jersey.

A job is better than no job. I believe we would have more jobs for older Americans in the event this amendment were adopted.

I am ready to yield back the remainder of my time if the floor manager is willing to do so.

Mr. WILLIAMS. Mr. President, I ask unanimous consent that Martin Jensen of my staff have the privilege of the floor during the consideration of this measure.

The PRESIDING OFFICER (Mr. MATSUNAGA). Without objection, it is so ordered.

Mr. WILLIAMS. I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment offered by the Senator from Virginia. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Montana (Mr. MELCHER), the Senator from Georgia (Mr. NUNN), the Senator from Connecticut (Mr. RIBICOFF), and the Senator from Michigan (Mr. RIEGLE) are necessarily absent.

I further announce that the Senator from Hawaii (Mr. INOUYE) is absent on official business.

I further announce that, if present and voting, the Senator from Connecticut (Mr. RIBICOFF) and the Senator from Minnesota (Mr. HUMPHREY) would each vote "nay."

Mr. STEVENS. I announce that the Senator from Idaho (Mr. MCCLURE) and the Senator from Kansas (Mr. PEARSON) are necessarily absent.

The result was announced—yeas 14, nays 77, as follows:

[Rollcall Vote No. 545 Leg.]

YEAS—14

Bartlett	Hatch	Long
Bellmon	Hayakawa	Scott
Curtis	Helms	Tower
Goldwater	Hollings	Wallop
Hansen	Laxalt	

NAYS—77

Abourezk	Eagleton	Morgan
Allen	Eastland	Moynihan
Anderson	Ford	Muskie
Baker	Garn	Nelson
Bayh	Glenn	Packwood
Bentsen	Gravel	Pell
Biden	Griffin	Percy
Brooke	Hart	Proxmire
Bumpers	Haskell	Randolph
Burdick	Hatfield	Roth
Byrd, Harry F., Jr.	Hathaway	Sarbanes
	Heinz	Sasser
Byrd, Robert C.	Huddleston	Schmitt
Cannon	Jackson	Schweiker
Case	Javits	Sparkman
Chafee	Johnston	Stafford
Chiles	Kennedy	Stennis
Church	Leahy	Stevens
Clark	Lugar	Stevenson
Cranston	Magnuson	Stone
Culver	Mathias	Talmadge
Danforth	Matsunaga	Thurmond
DeConcini	McGovern	Weicker
Dole	McIntyre	Williams
Domenici	Metcalf	Young
Durkin	Metzenbaum	Zorinsky

NOT VOTING—9

Humphrey	McClure	Pearson
Inouye	Melcher	Ribicoff
McClellan	Nunn	Riegle

So amendment No. 1416 was rejected.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. WILLIAMS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

VISIT TO THE SENATE BY THE DEPUTY PRIME MINISTER, THE SECRETARY FOR FOREIGN AFFAIRS, AND AMBASSADOR OF NEW ZEALAND

Mr. SPARKMAN. Mr. President, we have several distinguished guests with us this afternoon. They are the Honorable Byron Talbays, the Deputy Prime Minister of New Zealand, accompanied by the Honorable Frank Corner, Secretary for Foreign Affairs, and the Honorable Lloyd White, Ambassador from New Zealand. They are in the rear of the Chamber.

I ask our guests to stand so that Senators may see them.

[Applause.]

RECESS

Mr. SPARKMAN. Mr. President, I ask unanimous consent that the Senate stand in recess for 5 minutes so that Members might meet our friends from New Zealand.

There being no objection, the Senate, at 4:02 p.m., recessed until 4:07 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. MATSUNAGA).

FAIR LABOR STANDARDS AMENDMENTS OF 1977

The Senate continued with the consideration of S. 1871.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

AMENDMENT NO. 1038

Mr. DECONCINI. Mr. President, I call up a printed amendment numbered 1038 and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Arizona (Mr. DECONCINI) proposes an amendment numbered 1038.

Mr. DECONCINI. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 12, insert between lines 17 and 18, the following:

"LEARNERS, APPRENTICES, STUDENTS, AND HANDICAPPED WORKERS

"SEC. 5. (a) Section 14 is amended by striking '85 per centum' each place it appears and substituting '74 per centum'.

"(b) Section 14(b)(4)(B) is amended by striking 'four' each time it appears and substituting 'six'.

"(c) Section 14(c) is amended by adding at the end thereof the following new paragraph:

"'(4) The Secretary may by regulation or order provide for an exemption from the limi-

tations imposed under subsection (b)(4)(B) upon a showing by the employer that such an exemption would not have an adverse effect upon full-time employment.'."

On page 12, line 19, strike "SEC. 5." and substitute "SEC. 6.".

On page 12, after line 25, add the following:

"(c) The amendments made by section 5 shall take effect on January 1, 1978.".

Mr. DECONCINI. Mr. President, I wish to modify that amendment reverting back to the 85 percent as now exists in section 14 of the Fair Labor Standards Act. This amendment will modify section 14 of the Fair Labor Standards Act regarding the payment of a lower minimum wage to full-time students.

Section 14 permits employers to pay full-time students at the rate of 85 percent of the prevailing minimum wage providing the employer adheres to certain restrictions.

We have heard a lot of arguments today about the success of the youth differential. Actually it has not succeeded. Less than 50 percent of the businesses that could use it use it today. However, it has brought more than 500,000 youth into the employment market.

I think it is important, Mr. President, that we address the problem regarding youth where it will actually work.

Contained in section 14 is a requirement which restricts the number of full-time students an employer may hire. An employer may receive certification to hire up to four full-time students with relatively moderate paperwork. However, if an employer wishes to employ more than four full-time students the paperwork increases dramatically.

My amendment will revise these provisions by:

First. Expanding from four to six the number of full-time students an employer may hire without having to enter into extensive and time-consuming paperwork.

Second. Exempting employers from the limitations as to the number of full-time students he may hire, providing the employer can show that such an exemption will not have an adverse effect upon full-time employment.

I am aware that businesses have not made extensive use of the current provisions in section 14. However, by increasing the number of students an establishment could hire, would, in my judgment, provide additional incentives for employers to hire more full-time students.

I am opposed to the amendments offered by Senators DOMENICI and SCHWEIKER. By providing a subminimum wage for all persons under 20 years of age, I fear we might be creating an incentive for students to drop out of school to work. This would be especially true in the case of borderline students or young people whose background might easily lead them away from the education they need to be successful in our society.

The PRESIDING OFFICER. Will the Senator send his modification to the clerk's desk?

The modification is as follows:

On page 12, insert between lines 17 and 18, the following:

"LEARNERS, APPRENTICES, STUDENTS, AND HANDICAPPED WORKERS

"(a) Section 14(b)(4)(B) is amended by striking 'four' each time it appears and substituting 'six'.

"(b) Section 14(c) is amended by adding at the end thereof the following new paragraph:

"'(4) The Secretary may by regulation or order provide for an exemption from the limitations imposed under subsection (b)(4)(B) upon a showing by the employer that such an exemption would not have an adverse effect upon full-time employment.'."

On page 12, line 19, strike "SEC. 5." and substitute "SEC. 6.".

The PRESIDING OFFICER. The Senator may proceed.

Mr. BENTSEN. Mr. President, will the Senator yield?

Mr. DECONCINI. I yield to the Senator from Texas.

Mr. BENTSEN. Let me state my support for the Senator's amendment. As I understand it in this type of situation it also provides for a simplification, in effect, of the application for it. It uses a much easier method than otherwise.

Mr. DECONCINI. The Senator from Texas is correct.

Mr. BENTSEN. Small businesses do not have a group of lawyers to do it. They can do it on a very simplified form.

Mr. DECONCINI. I also point out to my colleagues that the Senator from Wisconsin (Mr. NELSON) today had an amendment agreed to that would streamline the paperwork and make section 14 even easier for small businesses to avail themselves.

Mr. BENTSEN. I understand they have the application down from five lines to three lines; is that correct?

Mr. DECONCINI. That is right. Hopefully we can do it by telephone.

The provisions in my amendment modify existing law to encourage the employment of students on a part-time basis during the school year with the possibility of full-time employment during periods of vacation. Thus, a situation will be created in which a student could remain in school, gaining the necessary education for future full-time employment, and also work part-time, allowing him or her to receive the work experience that will be beneficial in later years.

Further, it has been my experience that many students are not able to complete school without the financial assistance provided by a part-time job. I believe the concept embedded in existing law is a step in the right direction; but, I also believe that broadening the concept—as my amendment does—would greatly improve the opportunities for full-time students.

This amendment will also prove beneficial to businesses. In Arizona, as in many other States, many jobs, because of the tourist industry, are seasonal or require quite a few part-time employees. Restaurants, hotels, recreational businesses are but a few of the businesses requiring employees of this nature. With the adoption of my amendment, these establishments will be able to maintain and possibly expand their services.

Mr. President, I hope that my colleagues will give serious consideration to this amendment.

The PRESIDING OFFICER. The Senator from New York.

Mr. JAVITS. Mr. President, I am very sympathetic to this amendment, and I hope we can dispose of it very quickly, if the Senator will follow me for a minute.

In the first place, I would be opposed to it if the Senator did not retain the 85 percent. I understand the Senator proposes to modify the amendment, but I do not know whether that modification has come forward properly.

What should, then, be done would be to strike what is here listed as section 5(a) of the amendment.

Mr. DECONCINI. That has been done.

Mr. JAVITS. That has been done. Then the second thing is the change from "four" to "six". That is all right, but the staff does not understand what the Senator has in mind in the next paragraph, for this reason: If it applies to what the Senator is changing from four to six, this provision, on page 2, lines 5 to 9, would nullify it, because the Senator there says "the Secretary may by regulation or order provide for an exemption from the limitations imposed under subsection 14(b)(4)(B)." Therefore, we think that needs to be stricken.

Other than that, I have no objection to the amendment if you clear it up, so that you keep exactly the same terms and conditions as we now have in the law, except that you increase the four to six, unless there may be some other reason which I cannot detect on the surface of the amendment.

Mr. DECONCINI. Mr. President, the Senator from New York is accurate in his interpretation. This permits the Secretary to waive all of the provisions in the existing law provided there is proof that no full-time employee would be displaced by exceeding the number of people set forth in the amendment.

Mr. JAVITS. I do not think we want to waive all the provisions of the existing law. What I am willing to take is the existing law, but raising the number four to the number six. That, I think, is an intelligent amendment which I would be happy to see taken to conference and would fight for, because I think we should provide as many opportunities in this field as we can.

Mr. DECONCINI. It is my view Senator, that in the best interests of providing the ability to put students to work on a part-time basis, the law should be flexible enough to permit the Secretary to make the exemption. It is not mandatory; he is going to comply with six if this amendment is adopted, and could make exceptions only under circumstances where a full-time employee would not be thrown out of work.

Mr. JAVITS. But that can be done if you just make it six. What worries me about this other provision is that it can be any number, if he gives an exemption, and the problem with exemptions is, it means machinery and action of the Labor Department, and we are dealing with hundreds of thousands of applications.

As the Senator knows, there are 500,000 young people employed under this section. So my feeling is that I am with

you, but I think you are taking us farther than I have any intention of going. If you just increase the four to six, it is fine with me.

Mr. DECONCINI. Mr. President, I introduced this amendment on a 74 percent basis because I thought it would really move in the direction of employing even more students, but at the urging of my colleagues changed the 74 percent to 85 percent. I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Who yields time?

Mr. WILLIAMS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. JAVITS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. Mr. President, I wish to be recognized in opposition to the amendment.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. JAVITS. Mr. President, I propose, when it is time to yield back the time on the amendment, to move to strike lines 5 through 7, inclusive on page 1, and lines 3 through 9, inclusive, on page 2. That would do what I think, as I understood it, the distinguished Senator's purpose was in making this amendment, to wit, to increase the number from four to six.

But if the Senator persists in his amendment, we should all understand what he is proposing to do. He is proposing to do not one thing, but three things. The one thing which I would thoroughly agree with, and that is why I rose to speak—I hopefully thought this was going to be handled very expeditiously—was to increase from four to six the number of full-time students who could be employed at less than the minimum wage, at 85 percent.

But the other two points which are covered by the amendment are, first, that the 85 percent is reduced to 74 percent. I do not know where that figure comes from, but that is it, 74 percent.

The other point is that in addition to increasing the number from four to six, the Secretary of Labor may, by regulation or order, exempt as many as he wishes to. It could be 2 million.

It is true, as the Senator says, that that is in his discretion, but we all know that when you are dealing with such a numerous body of applicants, machinery has to be set up for the purpose of passing on exemptions, et cetera, and you are moving into a totally different ball game.

We do not contemplate that in this particular section. We never did, under the Fair Labor Standards Act; and so I again appeal to my colleague, I would hope very much that he would take this amendment and limit it to the fundamental purpose which we understood he had, and then we can take it and go forward to other business.

Mr. DECONCINI. Mr. President, I do thank the Senator from New York. Initially my amendment did reduce the 85 percent to 74 percent. I modified that amendment now so that it is 85 as is presently in the existing law. So that does away with the first point or objection.

On the second point, the Senator from New York is absolutely correct, it does increase it to 6.

The third grant only points the authority to the Secretary: "may by regulation or order provide for an exemption from the limitations imposed under subsection (b)(4)(B) upon a showing by the employer that such an exemption would not have an adverse effect upon full-time employment."

I think this is very reasonable. It does not mean that it is going to be expanded. It only grants to the Secretary the authority to do this upon a definite showing by the employer.

The PRESIDING OFFICER. Who yields time?

Mr. JAVITS. Mr. President, I yield myself 2 minutes.

The first did not have the 75 percent, or whatever it was, stricken. The second point still does remain, to wit, we are opening up a totally new channel and bureau in the Department of Labor which has no limit. It can go to any amount. The pressures upon the Department of Labor will naturally be very great. The Department will have to set up machinery to attend to this. It does not seem that that is the fundamental thrust that we want to give the Fair Labor Standards Act.

We are perfectly willing to increase from 4 to 6, which is a one-third increase. Let us see how that works before we set up some totally new piece of machinery for some totally new purpose.

Mr. DECONCINI. If the Senator will yield, the Senator said something about creating a new agency. This will be right in the Secretary's office. We are not talking about a new agency. We are talking about the Secretary exercising his judgment based on what the employer shows, and the Secretary has to make a judgment as to whether or not full-time employees would be put out of work.

Mr. JAVITS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. JAVITS. Is the amendment divisible?

The PRESIDING OFFICER. The Chair will advise the Senator from New York that the amendment is divisible.

Mr. JAVITS. Mr. President, I request division of the amendment.

The PRESIDING OFFICER. Will the Senator state how he would like the division to be?

Mr. JAVITS. As I understand the first division would be through page 2, line 2, and the second division would be page 2, lines 3 to 11.

The PRESIDING OFFICER. The second would be a division on page 2, lines 3 through 11?

Mr. JAVITS. Mr. President, we will not have any problem on that.

The PRESIDING OFFICER. The amendment is so divided.

Mr. JAVITS. Mr. President, I am happy to accept the first part of the amendment.

Mr. WILLIAMS. I join with the Senator in that.

The PRESIDING OFFICER. The question is on agreeing to division 1 of the amendment.

Division 1 of the amendment was agreed to.

Mr. JAVITS. On the second part, Mr. President, I hope very much the Senate will reject it. It is an open-ended proposition for a subminimum wage for college students, generally speaking, in higher institutions, though it can be any full-time students. It has no limit. We have already taken six. In fact, the Labor Department today has a very major backlog of problems in dealing with this particular section of the law. They have enormous investigating responsibilities to meet. It may interest Members to know that the backlog of minimum wage and over-time complaints has now risen about 24 percent in the last year. It is up to about 21,000.

This is a purely administrative problem. Sure, it will be in the same Department of Labor. I do not say no to that. But they have to have a separate staff, separate rules and regulations, and separate considerations of literally thousands of applications. If it is 4 or 6, there are 500,000 such youths employed, so right now there are 100,000 applications. If we go to six, we are again talking about thousands. The thing just does not add up in terms of this bill.

Mr. WILLIAMS. Will the Senator yield?

Mr. JAVITS. I yield.

Mr. WILLIAMS. I believe I am accurate in observing that we have gone from four to six. We thought this would be the group which was to be benefitted by the simplified procedures that we passed earlier, when we adopted the amendment of the Senator from Wisconsin (Mr. NELSON). We were trying to make it easier to certify jobs for young people, full-time students, by simplifying procedures. But now I think we would establish a procedure which would work absolutely to the contrary of what the Senate has earlier today done in simplifying procedures.

Is there any possibility that I am wrong on that?

Mr. JAVITS. No; the fact is that it will not put a collar of procedure around it as to six, but it opens up a whole new backlog of cases and applications which run into the thousands. It is an enormous administrative problem which we are giving to the Secretary. As far as we are concerned, we are giving it without any limit. Remember, these jobs, which we do favor, nonetheless may tend to displace adult workers. We simply should not open it up without any constraint whatever as to number. We have already agreed with the Senator about the number of six.

Mr. DECONCINI. Will the Senator yield?

Mr. JAVITS. Yes.

Mr. DECONCINI. The Senator makes reference to college students. This applies to any student, not just college students.

Mr. JAVITS. I understand.

Mr. DECONCINI. Second, if the Secretary and his department cannot handle it, I am not asking for an expansion of that department, but I am asking for them to have the authority to grant an exemption when there is no adverse effect upon full-time employment. That is relatively easy. If we really believe in the full-time student subminimal wage, then this is the proper thing to do.

Mr. JAVITS. It is true the Senator may think he is asking for that, but, as a matter of fact, when the Secretary is given this discretion, there will be thousands of applications to exercise the discretion upon, and he will have staff. He does not do this himself. This is an enormous department. He will have to establish machinery in order to take care of these applications and exemptions. Having gone to the higher number, we just do not see why this should be absolutely open-ended. Senator WILLIAMS and I agree on that. Frankly, I do not understand why the Senator is pressing it so hard. We have given the Senator an enormous bite at this thing with many, many more, and I am delighted to see that. But do not put us in this position of an absolutely open-ended proposition which requires some new department or agency, where we do not know what the number will be, or anything else.

Mr. DECONCINI. If the Senator will yield, this to me, is not a valid argument. This is to create jobs for full-time students. It is to give some incentive to business. If business wants to come in and say, Hey, we would like seven, or we would like something else, it is in the discretion of the Department of labor to say yes or no. But before saying yes or no, they have to come to the conclusion that there is going to be no adverse effect on full-time employment. That does exactly what the Senator wants to do, protect the heads of households or full-time employees.

I support that. I voted against some other efforts here today, because of the main argument that we do not want to put people who are heads of households out of jobs, or full-time employees.

Mr. WILLIAMS. Mr. President, I do not know whether it is timely yet, but we have been discussing this amendment all afternoon. Quite frankly, the full import was not discussed. I was rather pleased with this approach, permitting the employment of six student workers rather than four, as long as the wage rate did not go below 85 percent of the statutory minimum. But this amendment now, as outlined for my illumination, right here on the floor, by the Senator from New York, make this an entirely new amendment from the one I was applauding.

This part was not described to me until now, and is not one I could agree to. I certainly approve the expansion of the employment opportunity from four to six. I also approve keeping the wage at 85 percent of the minimum. The amendment has been divided. If the time is right, I move to table this second part of the division.

The PRESIDING OFFICER. The motion is not in order until all time has been used up or yielded back.

Mr. WILLIAMS. I yield back my time.

Mr. DOMENICI. Mr. President, may I ask a question on the time of the Senator from Arizona?

The PRESIDING OFFICER. Does the Senator from Arizona yield?

Mr. DECONCINI. I yield.

Mr. DOMENICI. Will either of the floor managers tell me what the new simplified application that we agreed to today is?

Mr. WILLIAMS. Yes; it boils down to three questions. Senator NELSON offered the amendment. The three questions are very simple.

Mr. JAVITS. The three questions are: First, the name, address, and business of the employer; second, the expected proportion of the student hours of employment to the total hours of employment of all employees for the employer on a weekly, monthly, or annual basis, which shall not exceed 10 per centum; and third, certifying that the employment of such students will not create a substantial probability of reducing the full-time employment opportunities of persons other than persons employed under special certificates issued under this subparagraph.

So he can just answer no. That is all there is to this new simplified application.

Mr. DOMENICI. It appears to me that the Senator from Arizona, in changing from four to six, if the managers are willing to accept that, has created as much work with that as he is going to create with the second part, because he can use the same form the Senator from New York just described, put a little note on it that, as a matter of law, you cannot have more than six, but put in an application if you want eight and make the same findings, yes or no. I do not know why the objection is one of paperwork. The objection may be one that we do not want more than six.

Mr. JAVITS. No, I am sorry, but the Senator is quite wrong. The exception is that this is in the discretion of the Secretary as an exemption, based on a specific state of facts in a specific case, and he has to pass on every case. That is what this says.

I am talking as a lawyer now, not as an advocate.

Mr. DOMENICI. What is the last question about proving that you can have six if the new amendment is adopted—do you not have to find no adverse effect on adult employment?

Mr. JAVITS. The last requirement says that he certifies that the employment will not create a substantial probability of reducing the full-time employment of others.

All he has to say is no. That is as to the four or six. Now the Senator from Arizona wants to give him an open-ended proposition. There may be 100, there may be 80, there may be 20, and he is going to give him the discretion to decide there should or should not be an exemption in a given case. It is a very different thing from this.

Mr. DOMENICI. I agree that if the form is that, the Secretary, prima facie, makes the determination.

Mr. JAVITS. Of course.

Mr. DOMENICI. Does the Senator from New York think——

Mr. JAVITS. The Senator from New New Mexico knows what is going to happen here. There are hundreds of retail establishments, hundreds of colleges. Does he think they are going to let the Secretary of Labor rest? The Senator and I and all of us are going to be knocking down his door, saying "We want for Joe Doaks in Coopertown, New York, eight, 10, 12," whatever it is. This is a different question from the number. We have agreed to the number: Six. This is a totally new program.

That is what I say. If the Senate wants to go in for a new open-ended program of this kind, that is what the Senator from New Mexico is asking us to do.

Mr. DOMENICI. May I say to the Senator from Arizona that I think it is an excellent idea, since the Senate has not adopted any other youth differential. The one we have now gives us 500,000 jobs, the one he is seeking to amend. From my standpoint, I hope he will not agree to delete it. Let us vote. The Senate understands it. They may be willing to say to the Secretary, "Set up whatever you have to set up. Another half million student jobs is what we would like to have."

I hope that does not hurt his argument, but that is the way I look at it. I commend him for putting in the amendment.

Mr. HANSEN. Will the Senator yield to me for a question?

Mr. DECONCINI. I yield.

Mr. HANSEN. It seems to me, Mr. President, that we may be looking at the wrong side of the coin. I assume that most of us agree that one of the most helpful things that can be done in order to achieve upward social mobility is to gain an education, or to improve one's education. I happen to know, as a former trustee of the University of Wyoming—I was on the board for 17 years, and later I was an ex officio member for 4 more years—that the ability to find part-time work oftentimes makes the difference in a student's being able to continue his education and his being denied the opportunity to continue the education.

I think what we ought to be looking at is not to examine the motivation that may impel an employer to go to the Secretary and say, "Let me have more exemptions," but, rather, to look at the students and to understand what their problems are. I mentioned earlier this afternoon that we have one 4-year university, a degree-granting institution, in the State of Wyoming, and we have seven junior colleges. For a long time, as a member of the board of trustees at the University of Wyoming, we thought that the creation of these junior colleges would be harmful to the enrollment of the University of Wyoming. The board generally opposed the creation of junior colleges. Finally, the experience the other States were having and had had impelled

us to change the position that had been taken by the board of trustees and, with the concurrence of the legislature, junior colleges were established one after one.

Two important things took place: Lots of young people were able to stay at home and have the economies that resulted from not having to move away from home to go to school; other students from out of town or those who lived in the town could find work and work part time in order to supplement their income so as to be able to continue their education.

Surprisingly enough, the enrollment in the junior class at the University of Wyoming skyrocketed. Given the educational experience that came from participating in a junior college program for 2 years, typical students oftentimes had the added motivation that resulted in their wanting to go on and get a bachelor's degree. So the creation of these junior colleges did not detract at all from what we hoped might continue at the University of Wyoming, a strong institution made even stronger by further participation. But actually, we found some excellent students came down to the university as juniors who would not have been there at all if they had had first to enroll as freshmen.

So I make the point, and I think it is an important point to understand, that there are a great many young people in the State of Wyoming today, and many have gone out into all of the 49 other States, having better jobs, making a positive contribution to society, being part of that upward social mobility that we think typifies the best in America, who have moved up that ladder because they had a job. It is just that simple.

We can talk all we want to about what is going to happen to people who may be displaced by someone who works for a short while at less than the minimum wage, but I can attest to the fact, because I know a great many of these students firsthand, that had it not been for the opportunity to work part time at a job for which they were not trained, they would never have had the opportunity that I think the amendment by the Senator from Arizona holds out to all people in this country today.

I would hope very much that the Senator will not yield in withdrawing the second portion of his amendment because if there is one thing that can make the difference between a life of drudgery and a life that oftentimes will be characterized by unemployment and being on welfare, or making a contribution to society and having the benefit of the satisfaction that comes from being part of the system and part of society so that one can hold his head high and carry his own weight, this amendment, I think, gives that promise and assurance.

I compliment the distinguished Senator from Arizona for his perception, for his clear understanding of what the facts are. I would hope the two distinguished floor managers of the bill might turn the coin over and forget about those employers who they feel are going to be unscrupulous and seize upon what they perceive to be an opportunity to hire someone at less than the minimum wage, and look at the other side of the coin to see how they can broaden the promise that America makes for its citizens.

I thank my friend from Arizona.

Mr. JAVITS addressed the Chair.

Mr. DECONCINI. I yield to my friend from North Carolina.

Mr. HELMS. Mr. President, I, too, want to commend the distinguished Senator from Arizona. I support his amendment.

However, I wonder if the discussion this afternoon would not bewilder the American people if they could be here to hear it. Let me me ask the able Senator a question.

Is not the Senator simply proposing that institutions which desire to hire for part-time work only those students who want to work and need to work in order to pay for their education? Is that the thrust of his amendment?

Mr. DECONCINI. On the application, if the Secretary determines that such an exemption would not have an adverse effect upon full-time employment, then the Secretary could grant that permission.

The Senator is, in essence, correct.

Mr. HELMS. What an irony, Mr. President, to see this meet such opposition. The young people of America have Big Brother running their lives—in this instance forbidding them to perform productive work for employers who would like to hire them.

I was just thinking back to the days when I was in Wake Forest College, back in the late 1930's and early 1940's. I held three simultaneous jobs, because that was the only way I could stay in school. One was washing dishes in a boarding house, one was working 2 hours an afternoon in the college news bureau, and then working 8 hours at night reading proofs at a morning newspaper 16 miles away in Raleigh.

I am sure Big Brother would put me in jail today for doing that.

This whole concept of Federal regimentation is insanity. When the Senator from Arizona is forced to fight, as he is doing, to get a simple amendment like this through, Big Brother is going too far.

I daresay that the Senator's amendment will be defeated. That is too bad. This bill will pass—and that is even worse, because more and more young people will join the rolls of the unemployed.

Again I compliment the Senator. I hope he will stand his ground. I think the Senate should speak up as to whether it really is interested in providing jobs for the unemployed and, as the Senator from Wyoming proposes, jobs for students who need to work their way through college.

I would not be in the U.S. Senate today had it not been for that part-time employment long ago at Wake Forest College. I simply wish that young people today could have the same opportunity.

I thank the Senator.

Mr. DECONCINI. I thank the Senator from North Carolina.

I think this goes back to, really, a relatively simple issue of whether or not a program that does work, some 500,000 students now being employed under this program, but only 50 percent really use it as it could be, whether or not we want to allow this program to succeed to an even greater extent, and on the proviso that no full-time employment will be lost by doing it.

What I believe we have to look at, as the Senator from New Mexico argued before, is that here is a program that does work. Why not make it available and easy to be applied?

SEVERAL SENATORS. Vote!

Mr. JAVITS. Mr. President, I think the real problem here is the——

The PRESIDING OFFICER. The Senator yielded back his time earlier.

Mr. WILLIAMS. We have some time.

Mr. JAVITS. I yield myself 2 minutes on the bill.

Mr. President, the real problem here is a totally new proposal which, as Senator WILLIAMS properly explained and which I explained, is open ended and relates to an aspect of this matter which is sensitive to an open-ended commitment.

I am not asking my colleague to withdraw. I never did ask that. I just explained the reason why I took the position that I did. I never would ask a colleague to withdraw unless he wished to.

But the point is that when you deal with employment in the educational institution itself, there is no limitation. There is no four or six. It is an absolutely open-ended proposition.

But when we deal with employment by a private employer, a noninstitutional educational institution employer, there is a solicitude to protect the jobs of other individuals, especially in places where there are schools or colleges. Therefore, there was a limitation of four.

That limitation will, if this amendment is adopted, and it has been adopted, be raised to six under an extremely simplified procedure.

What concerns Senator WILLIAMS and myself is that we now have yet a third program which leaves it absolutely open-ended under an exemption procedure in which there are bound to be thousands of applications. But it relates to the private employer. Therefore, it has a grave problem, a grave problem for adults who are employed or have the possibility of getting these jobs.

The Senator will point out, quite properly, that the Secretary has to have a showing that such an exemption will not have an adverse effect upon full-time employment, and that is all I argued.

I argued that we are giving the Secretary an enormous task of a new type of exemption based upon new proof, case by case, and that we have put no limit on it, no ceiling. That seems highly improvident in view of the fact that we already are materially increasing the number of students who can be subject to this provision for private employers.

As to the educational institutions, it is open-ended today under the law as it stands.

For those reasons, Mr. President, I feel constrained to oppose the amendment.

SEVERAL SENATORS. Vote!

Mr. DECONCINI. I ask for the yeas and nays.

The PRESIDING OFFICER. The yeas and nays have already been ordered previously.

Mr. DECONCINI. On division 2?

Mr. WILLAMS. A parliamentary inquiry.

Mr. DECONCINI. The first part was accepted, was it not?

The PRESIDING OFFICER. The first part has been accepted. The question now is on agreeing to division 2 of the amendment offered by the Senator from Arizona.

Mr. DECONCINI. I ask for the yeas and nays.

The PRESIDING OFFICER. They have already been ordered. The clerk will call the role.

Mr. WILLIAMS. Mr. President, I move to table division 2 of the amendment.

The PRESIDING OFFICER (Mr. MOYNIHAN). The question is on agreeing to the motion to table.

Mr. DOMENICI. I ask for the yeas and nays on the motion to table.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table division 2 of the amendment of the Senator from Arizona. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Maine (Mr. MUSKIE), the Senator from Georgia (Mr. NUNN), the Senator from Connecticut (Mr. RIBICOFF), and the Senator from Alabama (Mr. SPARKMAN) are necessarily absent.

I further announce that the Senator from Hawaii (Mr. INOUYE) is absent on official business.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) would vote "yea."

Mr. STEVENS. I announce that the Senator from Idaho (Mr. MCCLURE) and the Senator from Kansas (Mr. PEARSON) are necessarily absent.

The result was announced—yeas 43, nays 48, as follows:

[Rollcall Vote No. 546 Leg.]

YEAS—43

Abourezk	Glenn	Metcalf
Anderson	Gravel	Metzenbaum
Bayh	Haskell	Nelson
Bentsen	Hathaway	Packwood
Biden	Huddleston	Pell
Brooke	Jackson	Percy
Burdick	Javits	Proxmire
Byrd, Robert C.	Johnston	Randolph
Case	Kennedy	Riegle
Church	Long	Sarbanes
Clark	Magnuson	Stafford
Cranston	Mathias	Weicker
Culver	McGovern	Williams
Durkin	McIntyre	
Eagleton	Melcher	

NAYS—48

Allen	Curtis	Hansen
Baker	Danforth	Hart
Bartlett	DeConcini	Hatch
Bellmon	Dole	Hatfield
Bumpers	Domenici	Hayakawa
Byrd, Harry F., Jr.	Eastland	Heinz
Cannon	Ford	Helms
Chafee	Garn	Hollings
Chiles	Goldwater	Laxalt
	Griffin	Leahy
Lugar	Schweiker	Thurmond
Matsunaga	Scott	Tower
Morgan	Stennis	Wallop
Moynihan	Stevens	Young
Roth	Stevenson	Zorinsky
Sasser	Stone	
Schmitt	Talmadge	

NOT VOTING—9

Humphrey	McClure	Pearson
Inouye	Muskie	Ribicoff
McClellan	Nunn	Sparkman

So the motion to lay on the table division 2 of Mr. DECONCINI's amendment (No. 1038) was rejected.

The PRESIDING OFFICER (Mr. MOYNIHAN). The question is on agreeing to division 2 of amendment No. 1038. The yeas and nays have been ordered, and the clerk will call the roll.

Mr. JAVITS. Mr. President, does the Senator want the yeas and nays?

Mr. DECONCINI. No.

Mr. JAVITS. Mr. President, I ask unanimous consent that the order for the yeas and nays may be vitiated.

The PRESIDING OFFICER. Without objection, it is so ordered. The question is on agreeing to division 2. (Putting the question.)

Division 2 was agreed to.

Mr. BARTLETT. Mr. President, I move to reconsider the vote by which division 2 was agreed to.

Mr. CURTIS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question now is on agreeing to division 3 of amendment No. 1038.

Mr. JAVITS. Mr. President, there is no problem about that. It is strictly mechanical, and I hope we will approve it by voice vote.

The PRESIDING OFFICER. The question is on agreeing to division 3 of the amendment. (Putting the question.)

Division 3 was agreed to.

AMENDMENT NO. 1019

(Purpose: To eliminate lower gross volume of sales with regard to coverage of enterprises.)

Mr. TOWER. Mr. President, I call up my amendment No. 1019 and ask the clerk to report.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Texas (Mr. TOWER) proposes an amendment numbered 1019.

Mr. TOWER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 12, insert the following between lines 17 and 18:

"ENTERPRISE COVERAGE

"SEC. 5. Section 3(s)(1) is amended to read as follows:

"'(1) is an enterprise whose annual gross volume of sales made or business done is not less than $1,000,000 (exclusive of excise taxes at the retail level which are separately stated);'."

On page 12, line 19, strike "SEC. 5." and substitute "SEC. 6.".

The PRESIDING OFFICER. The Senator will suspend. Will the Senators be in order? The Senator from Texas is entitled to our courtesy in hearing him.

Mr. TOWER. Mr. President, I yield 1 minute to the senior Senator from Maryland.

LABOR-HEW APPROPRIATIONS, 1978—H.R. 7555

Mr. MATHIAS. Mr. President, I thank the Senator for yielding, and I regret the necessity for interrupting his presentation of his amendment, but there is a matter of some urgency which I wanted to call to the attention of the Senate.

The differences that divide the conferees on the Labor-HEW appropriations bill are very deep, very serious, and very important. Neither side of this controversy can be accused of expressing anything other than the honest doubts that beset all of us on a difficult and delicate subject.

At the same time it seems particularly unfair that the rank and file employees of the Department of Health, Education, and Welfare and the Department of Labor should be penalized because of an issue over which none of them has any personal control. Their function is to execute the policy which the Congress establishes and the President administers.

It seems to me, therefore, that the conferees have an immediate personal responsibility to resolve this problem. There are several alternatives open to us. We could either adopt a continuing resolution for a limited period of time, or we could adopt language which permits the continuation of the payroll function of these Departments.

I suggest that we seek a conference tomorrow, Saturday, October 8, for the purpose of considering such action, and I would hold myself in readiness for this purpose.

Mr. President, I thank the Senator from Texas for his courtesy in yielding.

FAIR LABOR STANDARDS AMENDMENTS OF 1977

The Senate continued with the consideration of S. 1871.

Mr. TOWER. Mr. President, I yield to the senior Senator from Nebraska 1 minute.

Mr. CURTIS. Mr. President, I thank my distinguished colleague.

I am for his amendment.

It may happen that the Senator from Nebraska now speaking cannot be present when the final vote is on the bill. I am opposed to the bill and if present will vote "nay" on final passage.

Mr. TOWER. Mr. President, this amendment would restore the present small business exemption sales test to its previous level of $1 million.

What we are talking about here are the "small, small businesses"—those retail and service establishments which range from the traditional "Mom and Pop" stores to those which may employ an average of 15 or 20 workers. Throughout my State, we have a good many of these small, independently owned businesses, and they provide a vital contribution to communities of all sizes. This

is particularly true in the smaller towns and rural areas, where several small businesses service the major portion of an entire community's commercial needs.

Under present law, those independently owned service and retail establishments with gross annual sales below $250,000 are exempt from provisions of the minimum wage law. Throughout the history of the minimum wage law, Congress has recognized the need to provide some sort of relief for these smaller businesses in regard to minimum wage coverage.

In 1938, Congress included in the original Fair Labor Standards Act a provision exempting those retail or service establishments "the greater part of whose selling or servicing is in intra-state commerce." At that time, there was no dollar test involved. Congress focused instead on the area of distribution.

This procedure was altered substantially in 1961, when Congress defined an enterprise as a retail or service establishment with annual gross sales of $1 million or more, of which $250,000 in sales moved across State lines. In addition to setting a small business exemption level of $1 million, the act was also amended to define coverage tests for trolley or motorbus carriers, construction businesses, and gasoline service stations.

The 1966 amendments reduced the $1 million figure to $250,000, and extended coverage to several industries without regard to any dollar volume. From what I have been able to determine, there was very little discussion of this action during floor debate.

Clearly then, Congress has recognized the unique nature of these small operations, which are traditionally labor-intensive and thus most sensitive to fluctuations in labor costs. Many of these firms rely on marginal profits to continue in existence, and nearly 15 percent of these small employers themselves are making under the $2.65 proposed minimum wage rate. As a matter of fact, one survey shows that nearly 40 percent of these employers earn less than the median family income.

It is time for Congress to recognize that a decade of inflation has rendered the present $250,000 exemption level virtually meaningless to those firms it was intended to protect. By 1980, if we assume continued inflation at 6 percent, the present exemption will be worth roughly $115,000 in 1967 dollars.

By restoring the $1 million exemption level, we can offer some assurance to these very small firms that they will be able to maintain a position of competition; that they will not be swallowed up by huge companies or forced out of business altogether.

The amendment I am offering today will simply update the current exemption level for small businesses. It does not expand the definition of exempted entities, nor does it seek to exempt the large chain operators, such as McDonald's and others. I believe we should seek to restore the impact of the law to the level of its intent, and I hope my colleagues will support this language.

Mr. President, according to the Labor Department my amendment would remove the coverage of the legislation from roughly 4.8 million employees of whom at the moment only 1 million are below the minimum wage. So roughly three-fourths of the employees affected by this amendment are already making the minimum wage.

Because this amendment is so reasonable on the face of it, because even businesses with $1 million gross are small businesses, and because even some of the employers themselves in these small businesses do not earn the minimum wage, I am sure that because of the impeccable rationale behind this amendment the managers of the bill will be prepared to accept it.

Mr. LEAHY. Mr. President, will the Senator yield for the purpose of me bringing up an amendment in the nature of a substitute?

Mr. TOWER. If the Senator will withhold that perhaps we can do that in a moment.

I simply wish to ask the managers of the bill if they will accept my amendment.

Mr. WILLIAMS. Mr. President, for many reasons I oppose the amendment, and I know that there are other variations on this subject of the enterprise test and the dollar amount.

Simply stated to the Senator from Texas, however, I oppose the amendment.

Mr. JAVITS. Mr. President, I will oppose it, also, and we will debate the issue.

Mr. LEAHY addressed the Chair.

Mr. TOWER. Mr. President, I ask unanimous consent that I might yield to the Senator from Vermont for the purpose of offering an amendment to my amendment.

Mr. BUMPERS. Objection.

The PRESIDING OFFICER. Objection is heard.

Mr. LEAHY addressed the Chair.

Mr. TOWER. There is an objection then, Mr. President, so I yield on my time to the Senator from Vermont.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. LEAHY. Mr. President, I call up my amendment No. 1428.

Mr. BUMPERS. Mr. President, is this amendment in order before the time is yielded back?

The PRESIDING OFFICER. The Chair is advised that the amendment is not in order until the time on the pending amendment is used up or yielded back.

Mr. LEAHY. The Senator from Vermont apologizes. I seem to have a bit of a cold in my ear and I did not hear the prior objection.

Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. LEAHY. At what time and under what circumstances would it be possible for the Senator from Vermont to bring up his amendment No. 1428 which would be to the amendment by the Senator from Texas?

The PRESIDING OFFICER. Is this an amendment to the pending amendment?

Mr. LEAHY. It is an amendment to the pending amendment of the Senator from Texas.

The PRESIDING OFFICER. The Chair has stated that will not be in order.

Mr. LEAHY. It is in the nature of a substitute.

The PRESIDING OFFICER. It will not be in order until the time on the pending amendment has been used up or yielded back, except by unanimous consent.

Mr. LEAHY. I ask unanimous consent that it be in order for me to bring up amendment No. 1428 in the nature of a substitute to the amendment of the Senator from Texas.

The PRESIDING OFFICER. Is there objection?

Mr. BUMPERS. Objection.

The PRESIDING OFFICER. Objection is heard.

Mr. TOWER. Mr. President, no argument has been offered against this amendment. It appears that they are just going to let the steamroller go. I guess organized labor has dictated that there can be no exemption for any small businesses; no small business exemptions. It is going to apply equally to everyone regardless. I really do not have too much illusion about what the vote is going to be because we are seemingly insensitive to youth, small business, and minorities.

In the pursuit of all of that it is going to have an inflationary impact. It is going to put small business in a very sorry competitive position.

I pointed out that a lot of these employers themselves earn below the minimum wage. I do not see the rationale for turning the amendment down. I have not heard any. I do not know whether we are going to hear any today or not.

I reserve the remainder of my time.

Mr. GOLDWATER. Mr. President, will the Senator from Texas yield for a comment?

Mr. TOWER. I yield to the Senator from Arizona.

Mr. GOLDWATER. Mr. President, the amendment of the Senator from Texas is a very sensible amendment. A million dollars is not a big business today. Most family businesses will do more than a million dollars. We are looking at businesses with 2 or 3 employees, 6 or 12 employees at the most, that do a million dollars. In fact, if I had drafted this amendment, I would have made it $2 million.

There was a time when a million dollars was a lot of volume in this country. I can remember, when I first went to work in my own business, we did $300,000 and thought that was good. Today we do $31 million. So $1 million, in this day and age, is practically nothing.

I think this is a sensible amendment. It will affect the family business, the little corner family store, more than anything else, and I think they have a right, as a family group, to work for the wages that they want to. I hope the Senator's amendment will be successful.

Mr. GARN. Mr. President, will the Senator yield?

Mr. TOWER. I yield.

Mr. GARN. I thank the Senator.

Mr. President, I think the Senators present should know what the parliamentary situation is. We seem to be back playing parliamentary games, and I am very disappointed that the Senator from Arkansas objected to the Senator from Vermont (Mr. LEAHY) bringing up his amendment. We are well aware that it is 5:20 on a Friday afternoon, and that Senators have airplanes to catch.

This is a very simple amendment. The Senator from Vermont and I had an amendment to raise the small business exemption to a half million dollars, which is not nearly enough, but something we thought the Senate might feel was reasonable. In the interests of time, Senator TOWER limited his remarks greatly. Senator LEAHY and I intended to talk about 1 minute each, and have a vote, so that the Senate could make a decision, we could get on with the bill, and the Senate could decide very simply, are we going to raise the limit to half a million dollars or are we not?

Now we find ourselves, this late in the afternoon, with an objection to proceeding with a vote in about 5 minutes.

So I think Senators should know that, this late in the afternoon, we are back to playing parliamentary games. I have the greatest regard for the Senator from Arkansas, but I appeal to him, let us talk about 5 minutes each and have a vote up or down, and I will be glad to give him the same courtesy on his amendment.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas has the floor.

Mr. LEAHY. Mr. President, will the Senator yield?

Mr. TOWER. I yield to the Senator from Vermont.

Mr. LEAHY. Mr. President, would the Senator from Texas be willing to modify his amendment to read the same as amendment No. 1428, which was intended to be offered by myself, Senator MCINTYRE, and Senator GARN?

Mr. TOWER. What does it do, other than change the total amount? Would the Senator explain the amendment?

Mr. LEAHY. My amendment is fairly simple. It would increase the small business exemption to half a million dollars effective January 1, 1979; and secondly, it would insure that small business people would not be behind the inflation 8-ball for another 10 years, by raising that exemption in an amount that bears the same ratio to $500,000 as the minimum wage under section 6(a)(1) in effect for each such year bears to $2.65, exclusive of excise taxes at the retail level which are separately stated.

In other words, if the minimum wage goes up, the $500,000 goes up in an equal ratio.

I will state that I have voted for the Javits-Williams minimum wage figures and the steps involved there, but I think it is also fair that these small business exemptions go up equally. So I would ask the Senator from Texas if he would be willing to accept the Leahy-McIntyre-Garn amendment, which is amendment No. 1428, as a modification of his amendment, which would place that amendment, as I understand it, before the Senate.

Mr. TOWER. Mr. President, in response to the inquiry of the Senator from Vermont, I would do so only with very great reluctance, because I think a million dollars is certainly a very small growth, and when you consider what the inflationary impact is going to be on that million dollars—an inflationary impact that is, in part, brought about by the increase in the minimum wage—then I think a million dollars really is as little as we should do, when the real value of the $250,000 exemption actually is roughly $115,000 in 1967 dollars. That is what the impact of inflation has been on that, and we can see what the inflationary impact is going to be on this.

How many of us can really stoutly maintain that a business that grosses a million dollars or less is not a small business? By today's standards it certainly is a small business, and we are making it more difficult for them to compete.

Let me give some consideration to the request of the Senator from Vermont. I wish that he would make the figure $750,000. I think that that really is as low as we should go.

But knowing that we are furnished with a stacked deck here, I think perhaps prudence would dictate that we accept the $500,000, and I will be glad to modify my amendment so that it reads as the Senator's amendment No.——

Mr. LEAHY. 1428.

Mr. TOWER. So that it reads as the Senator's amendment No. 1428 reads, and I will accept that as a modification of my amendment.

The PRESIDING OFFICER. The Senator has a right to modify his amendment, and it will be so modified.

The amendment (No. 1019, as modified) is as follows:

On page 12, insert the following between lines 17 and 18:

"ENTERPRISE COVERAGE

"SEC. 5. Section 3(s)(1) is amended to read as follows:

"'(1) is an enterprise whose annual gross volume of sales made or business done is not less than $500,000 (exclusive of excise taxes at the retail level which are separately stated) and beginning January 1, 1979, and each year thereafter is not less than $500,000 plus an amount equal to an amount that bears the same ratio to $500,000 as the minimum wage under section 6(a)(1) in effect for each such year bears to $2.65 (exclusive of excise taxes at the retail level which are separately stated);'".

On page 12, line 19, strike "SEC. 5." and substitute "SEC. 6.".

Mr. LEAHY. Mr. President, I ask for the yeas and nays on that amendment.

Mr. TOWER. I ask for the yeas and nays on my amendment, as modified.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. BUMPERS. Mr. President, is all remaining time yielded back?

Mr. TOWER. I have not yielded back my time yet. Would anyone else like to speak?

Mr. LEAHY. Mr. President, will the Senator from Texas yield me about 1 minute?

Mr. TOWER. Yes, I yield an additional minute to the Senator from Vermont, and then I will yield to the Senator from Rhode Island.

Mr. LEAHY. Mr. President, the amendment, as stated before, is frankly a very simple one, serving the goals of equity.

First it would increase the small business exemption to $500,000 effective January 1, 1978. Since the existing exemption level of $250,000 was set in 1969, inflation has clearly eroded the impact of the exemption. In fact, if the $250,000 level was set in today's dollars the new exemption would be $476,000. By the time my amendment would become effective, inflation will certainly drive that figure above $500,000.

Second, it would insure that small businesses would not be put behind the inflation 8-ball for another 10 years.

We have wisely, I think, provided for increases in the minimum wage over the next 4 years. Under the provisions of this amendment, the small business exemption will increase at exactly the same rate as the minimum wage.

As I stated at the outset, the question here is equity for the small business person. Too often we, in our society, let the scales tip too far in the direction of the rich and powerful. By increasing the minimum wage we have sought to recify this dilemma for the wage-earner. My amendment would rectify this same dilemma for the small business person.

It is argued that this amendment would have the effect of uncovering 3.8 million workers. Strictly speaking, that argument is probably correct. However, it is also misleading. In fact, over 75 percent of those workers are already receiving in excess of the minimum wage being proposed. Further, of the remaining workers who would be directly affected, the vast majority are part-time unskilled workers who are in marginal jobs. It would be tragic if their employment prospects would disappear because the small business employers could no longer afford to keep them hired.

Further, most of the workers that would be effected have only recently come under coverage simply because the employer has seen inflation increase his gross sales above the previous exemption level. This means that the small retail gasoline dealer who use to sell gas at 37 cents a gallon and is now selling it at 67 cents a gallon has seen his gross double, but his profit margin remain the same. Yet, his labor cost now also must spiral upward even though the productivity of the workers and his need for them remains the same.

It has been suggested that tying future increases into the ratio of increases in the minimum wage is a disguised indexing. It is not. Indexing suggests tying increases to some economic factor beyond the control of Congress. I am simply saying that Congress ought to maintain the relative position of the small business person in the future as it is today. We are deliberately increasing wage rates in the future. We ought to recognize that factor and keep small business exemptions in the ratio tomorrow that we set them today.

I yield back the remaining time to the Senator from Texas.

Mr. TOWER. I yield to the Senator from Rhode Island.

Mr. PELL. Mr. President, I would like to ask the Senator from Texas if his amendment includes a provision that nobody will be fired because he suddenly finds himself in a situation that is exempted. I put that question to any one of the sponsors of the modification.

Mr. TOWER. Would the Senator please address that inquiry to the Senator from Vermont? I believe he could better answer the question.

Mr. LEAHY. Mr. President, will the Senator repeat his question? I am afraid my attention was engaged elsewhere.

Mr. PELL. Does this amendment include the provision that no one could be fired or have his wages decreased because he suddenly found himself in an exempted establishment?

Mr. LEAHY. In other words, does it have a grandfather clause?

Mr. PELL. Exactly.

Mr. LEAHY. The substitute or the modification, as I and my cosponsors had drafted it, does not have a grandfather clause in it.

Certainly, as one of the cosponsors, I would not object to a grandfather clause, but that is not a matter within my control at this time, as I understand the parliamentary procedure. To answer the question of the Senator from Rhode Island, as drafted it does not have a grandfather clause. Certainly, I have no objection to such.

Mr. PELL. As the sponsor of the bill, would the Senator accept a further modification to include a grandfather clause, which is all nicely drafted right here?

Mr. President, this is a perfecting amendment to the amendment under consideration. I am in favor of a fair increase in the small business exemption to take inflation into account, but I want to be sure that we do not unintentionally hurt one small group of employees who stand a risk of actually suffering a wage loss under this proposal.

The amendment I am offering is designed to protect workers who earn the minimum in small companies which are not now covered by the small-business exemption, but which would come under the exemption if we raise the dollar definition of small business. My amendment simply protects these employees from taking a cut in pay when their employer is released from the minimum wage requirement. It provides that the employer ". . . may not decrease the wage of any employee who received the minimum wage applicable during the time at which the employer was required to pay the minimum wage." I think that this amendment avoids the ironic possibility that some employees could suffer a reduction in wages as a consequence of this bill, and I urge its acceptance.

Mr. TOWER. I have not conferred with the distinguished Senator from Vermont. If he is agreeable, I am certainly agreeable to including a grandfather clause.

Mr. LEAHY. I have no objection to a grandfather clause, of the nature so drafted here. I would ask the prime sponsor of the amendment, if he finds that acceptable, that he allow his amendment to be further modified to include the grandfather clause proposed by the Senator from Rhode Island.

Mr. TOWER. Mr. President, I ask unanimous consent to modify my amendments to include the language suggested by the Senator from Rhode Island (Mr. PELL).

The PRESIDING OFFICER. Is there objection?

Mr. JAVITS. Mr. President, reserving the right to object, does it require unanimous consent?

The PRESIDING OFFICER. Is there objection?

Mr. JAVITS. I shall not object.

Mr. WILLIAMS. My objection to the $500,000 test runs to the fact that approximately 3.8 million employees would lose the protection of the act if this test were to be adopted; 809,000 of those employees would be minimum-wage workers denied the increases mandated by the legislation. This is a giant step backward in terms of the whole scope of the Fair Labor Standards Act and the coverage under the minimum wage. I oppose it on that ground.

This amendment is no different in principle from the amendment sponsored by the Senator from Texas (Mr. TOWER). It is, like the proposal to increase the enterprise dollar test to $1,000,000, a frontal assault on the concept of the minimum wage coverage for America's working poor.

On its face, this amendment would appear to be a proposal to increase the enterprise dollar test by only one-third as much as Senator TOWER has proposed. In fact, the impact of this proposal would still be enormous. It would, as I have stated, deprive approximately 3.8 million employees of the protections of the act. Approximately 809,000 of those employees would be minimum wage workers.

This amendment, then, would be a gaint step backwards in the history of the fair Labor Standards Act. Its proponents argue that they want to increase the dollar volume test to reflect price changes over the years. This argument misconceives the history and purpose of the enterprise definition in the act. In 1961, Congress established a $1,000,000 enterprise test of coverage to assure that the act would reach all employees of firms engaged in interstate commerce. However, individual employers who were, themselves, engaged in interstate commerce were still entitled to the minimum wage, even if their employer did not meet the enterprise test.

At the same time, Congress adopted a separate dollar test for retail and service establishments. Retail and service establishments were given a complete exemption from minimum wage and overtime provisions, even with regard to their employees who were individually engaged in interstate commerce, if the establishment had a gross annual dollar volume of less than $250,000.

Five years later, in 1966, the Congress purposefully reduced the dollar volume test for coverage under the enterprise definition in the act, as a means of expanding the act's coverage. As this was done, it became unnecessary and redundant to maintain the lower dollar volume test of coverage in the retail and service establishment exemption in section 13 (a)(2) of the act. Accordingly, in conjunction with the reduction of the enterprise dollar test, the act was amended to delete the dollar test for the retail and service establishment exemption. That exemption, under present law, depends upon the dollar test under the enterprise provision of the act contained in section 3(s).

Thus, the proposed amendment would, in effect, not only create an exemption for 400,000 workers employed in enterprises, but it would also reduce coverage to an unprecedented degree, by removing from coverage 3.8 million employees of retail and service establishments.

There is no predicate for this drastic reduction in the coverage provided by the act. It is not needed as a means of providing protections for "mom and pop" stores. That is already done explicitly by the act.

It is also unnecessary to protect other relatively small retail establishments. Once again, the situation in the State of North Dakota is illustrative. In that State, there are approximately 10,688 retail establishments. Only 12.8 percent of those establishments had gross receipts of more than $500,000 per year.

Similarly, with regard to service establishments, only 4.4 percent had gross receipts of more than $250,000 per year.

Thus, the effect of this amendment, in communities like those in North Dakota, would be to exempt 87 percent of all retail establishments and nearly all service establishments.

I submit that the case for this amendment has simply not been made. As I have previously explained, the principal thrust and purpose of fair labor standards legislation has been to expand and improve the coverage and protection provided by the act. The limited exceptions which we have provided have always been based upon specific, perceived needs of particular industries. In this case, when we are faced by an existing minimum wage which provides an annual income very far short of the poverty level, the greatest need is to preserve minimum wage protection for the 800,000 workers who would be deprived of it by this amendment.

Mr. President, I ask unanimous consent that a table showing the gross receipts of retail and service establishments in North Dakota, October 1976–March 1977, be printed at this point in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

Gross receipts of retail and service establishments in North Dakota

(October 1976–March 1977)

Retail establishment: Gross receipts:	No. of establishments
Less than $250,000	8,167
$250,000–$375,000	729
$375,000–$500,000	417
More than $500,000	1,375
Total	10,688
Service establishments:	
Less than $250,000	3,709
$250,000–$375,000	61
$375,000–$500,000	36
More than $500,000	72
Total	3,878

SOURCE.—North Dakota State Tax Commission.

Mr. WILLIAMS. Mr. President, I believe that I was the first Senator to speak out in favor of the concept of indexing for the Fair Labor Standards Act. I have been fairly confident that I would also be the last. Therefore, the proposal to provide indexing of the enterprise definition in this amendment comes as a surprise.

Unfortunately, now that a decision has been made to delete the concept of indexing for the minimum wage from the bill, I cannot see any merit in a proposal to index an exemption from the minimum wage. Particularly in light of the information which we have received concerning the extremely large number of workers who would be deprived of minimum wage protection as a result of increases in this dollar amount, I am firmly opposed to any attempt to leave that dollar amount open ended.

There is virtually no doubt that we will be revisiting the question of the minimum wage level within a few years; and, I am sure, we will also be revisiting the question of the proper dollar amount for inclusion in the definition of enterprise engaged in commerce. I see no merit to a proposal to relieve us of that obligation which corresponds very nicely to our obligation to reexamine the minimum wage.

Mr. President, I ask unanimous consent that a table showing the full scope of what minimum wage workers would lose under the amendment which has been offered be printed at this point in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

COMPARATIVE IMPACT OF S. 1871 AND COVERAGE VARIATIONS JAN. 1, 1978 TO JAN. 1, 1981

S. 1871, coverage variations, and effective date	Minimum wage	Employees affected by minimum wage: Number (thousands)	Employees affected by minimum wage: Percent	Employees removed from coverage (in thousands): Total	Employees removed from coverage (in thousands): Earning less than minimum wage	Wage bill increase required: Amount (millions)	Wage bill increase required: Percent
Jan. 1, 1978:							
S. 1871 with the Pickle and Bowen amendments	$2.65	3,652	7.6	3,951	949	$1,664	0.3
S. 1871 without the Pickle and Bowen amendments [2]	2.65	4,601	8.9	0	0	2,213	.4
S. 1871 with the Bowen amendment [1]	2.65	4,461	8.6	150	140	2,137	.4
S. 1871 with a modified Pickle amendment [2]	2.65	4,384	8.5	505	217	2,057	.4
S. 1871 with the Tower amendment [3]	2.65	3,540	7.5	4,786	1,061	1,599	.3
S. 1871 with the Tower and Bowen amendments	2.65	3,400	7.2	4,936	1,201	1,523	.3
Jan. 1, 1979:							
S. 1871 with the Pickle and Bowen amendments	2.90	4,176	8.7	3,951	1,067	1,701	.3
S. 1871 without the Pickle and Bowen amendments [1]	2.90	5,243	10.1	0	0	2,171	.4
S. 1871 with the Bowen amendment [1]	2.90	5,102	9.9	150	141	2,116	.4
S. 1871 with a modified Pickle amendment [2]	2.90	5,014	9.8	505	229	2,075	.4
S. 1871 with the Tower amendment [3]	2.90	4,033	8.6	4,786	1,210	1,628	.3
S. 1871 with the Tower and Bowen amendments	2.90	3,892	8.3	4,936	1,351	1,573	.3
Jan. 1, 1980:							
S. 1871 with the Pickle and Bowen amendments	3.15	4,592	9.6	3,951	1,181	1,946	.3
S. 1871 without the Pickle and Bowen amendments [1]	3.15	5,773	11.1	0	0	2,498	.4
S. 1871 with the Bowen amendment [1]	3.15	5,632	10.9	150	141	2,443	.4
S. 1871 with a modified Pickle amendment [2]	3.15	5,527	10.8	505	246	2,388	.4
S. 1871 with the Tower amendment [3]	3.15	4,426	9.4	4,786	1,347	1,856	.3
S. 1871 with the Tower and Bowen amendments	3.15	4,285	9.1	4,936	1,488	1,801	.3
Jan. 1, 1981:							
S. 1871 with the Pickle and Bowen amendments	3.40	4,851	10.1	3,951	1,229	2,150	.4
S. 1871 without the Pickle and Bowen amendments [1]	3.40	6,080	11.7	0	0	2,728	.4
S. 1871 with the Bowen amendment [1]	3.40	5,939	11.5	150	141	2,673	.4
S. 1871 with a modified Pickle amendment [2]	3.40	5,834	11.4	505	246	2,621	.4
S. 1871 with the Tower amendment [3]	3.40	4,668	9.9	4,786	1,412	2,046	.3
S. 1871 with the Tower and Bowen amendments	3.40	4,527	9.6	4,936	1,553	1,991	.3

[1] The Pickle amendment raises the enterprise sales volume test under sec. 3(s)(1) from $250,000 to $500,000; the Bowen amendment removes full-time babysitters from coverage.

[2] This variation raises the enterprise sales volume test under sec. 3(s)(1) to $275,000 in 1978 and $300,000 in 1980.

[3] The Tower amendment raises the enterprise sales volume test under sec. 3(s)(1) from $250,000 to $1,000,000.

Source: Employment Standards Administration, Division of Evaluation and Research, Sept. 30, 1977.

Mr. WILLIAMS. Mr. President, I am prepared to yield back my time.

Mr. TOWER. Of course, there is a grandfather clause here so anyone already covered will not lose protection. I do not know what kind of shadow that casts on the figures offered by my good friend from New Jersey. Of course, those figures assume that everybody is going to continue to be employed at this higher rate. Senators should disabuse their minds that everybody who will get the minimum wage will retain a job. It is not going to happen. We have seen it happen after every minimum wage bill adopted, that a lot of small employers have laid off workers. That is what has happened.

When people say we are denying them a raise, we are denying them a job if we do not exempt some businesses when we pass this. We are making it very difficult for the country store to compete with the big chains. It is driving small business out of business in this country, not just by this act alone, but there are so many other things. The small businessman is smarting now from the Occupational Safety and Health Act, the Environmental Protection Agency, the Internal Revenue Service. He has more regulations than he can carry now. Now some want to drive his costs up by arbitrarily increasing the wages he has to pay without any increase in productivity or any increase in business. What we are trying to do is to save the small businessman here. He is sorely put upon by the Federal Government. I can say this, along with the other things in the aggregate being done to him, it is driving him out of business in this country.

The PRESIDING OFFICER. The Chair will note that the unanimous-consent request is still pending. With respect to the further modification of the amendment, is there objection?

Without objection, it is so ordered.

The further modification of the amendment is as follows:

UP AMENDMENT NO. 902

(Purpose: To protect employees who are employed by employers who would not be required to pay the minimum wage as a result of the sales tax increase for enterprise coverage.)

At the end of the matter in quotation marks before the semicolon insert a comma and the following: "except that an employer who is required to pay the minimum wage on the day before the date of enactment of the Fair Labor Standards Amendments of 1977 and who would not be so required subsequent to enactment of the Fair Labor Standards Amendments of 1977 may not decrease the wage of any employee who received the minimum wage applicable during the time at which the employer was required to pay the minimum wage."

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, I believe it is apparent from the votes we have had

in the last couple of days that there are marked differences of philosophy and marked differences of feeling on the economic aspects of the minimum wage, on the number of jobs which will be created or not created, on the ripple effect up and down, on the effect it will have in different parts of the country. I think it is safe to say that with the various people who are sponsors of the amendment, as modified, there are some marked differences of philosophy which have been reflected not only in the last couple of days but certainly within the last couple of years, or longer, within the Senate.

I would suggest, Mr. President, as often happens in matters of this nature, that we have had a situation where each side has given fairly substantially with the hopes of coming out with something which is realistic for us, our country, and for our economy at this time. I think the last major objection that might be made to some who feel that this amendment might give substantial concern to business was taken care of by the amendment of the distinguished Senator from Rhode Island.

I think there are those who feel that this has been too probusiness.

Quite frankly, Mr. President, knowing it is 20 minutes to 6 on a Friday evening, knowing a number of my colleagues have to leave, I would hope that we might reach a vote soon on this matter.

Mr. TOWER. Mr. President, I yield 1 minute to the Senator from Indiana.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. LUGAR. Mr. President, I will be brief because I want to vote on the bill. Clearly, this is an area of opportunity if, in fact, employment is to be improved in this country in the area of small business, and that is the area we are talking about in this amendment.

It seems perfectly clear to me that we are not discussing the problems of large business, in which people are already earning far more than the minimum wage. We are talking about marginal enterprises, venture enterprises. It seems to me clear that if we are to have an affirmative effect on the employment front, this amendment is imperative. I am hopeful that those who are still here will take this amendment seriously because it may be a major breakthrough that we can make this afternoon.

Mr. TOWER. Mr. President, I yield to the Senator from Utah.

Mr. GARN. Mr. President, I am offering an amendment today with Senator LEAHY in the nature of a substitute to the Tower amendment to S. 1871, the Fair Labor Standards Amendments of 1977. My amendment would increase the small business exemption from $250,000 to $500,000 and would also grandfather in any employee currently covered under the Minimum Wage Act who would not be if my amendment were adopted.

When the minimum wage law was enacted in 1938 most small retail and service establishments were not covered. However, in 1961 Public Law 87–30 brought under the minimum wage law any retail or service establishment with an annual gross volume of sales or business of $1 million, or more. At the same time the minimum wage increased from $1.00 to $1.15 effective September 1961; and to $1.25 in September of 1963.

In 1966, Public Law 89–601 reduced the $1 million sales test to $500,000 effective February 1, 1967 and to the present $250,000 small business exemption in 1969. Again with this decrease in the small business exemption came another increase in the minimum wage. This time it was increased from $1.25 to $1.60 over a 2-year period.

While the 1974 amendments (Public Law 93–259) at least did not decrease the small business exemption it did again increase the minimum wage over a period of 3 years from $1.60 to the current $2.30 an hour.

Mr. President, in percentage terms these figures I have just quoted represent a 130-percent increase in the minimum wage since 1961 while the small business exemption has been decreased by 75 percent.

In addition, the small business exemption has been further erroded by 625 percent in the last decade because of inflation. I am sure I do not have to go into great detail for my colleagues to realize what increases in fuel, food, insurance, et cetera have done to small business. If we are to continue to increase the minimum wage then we must correspondingly increase the small business exemption or we will continue to witness the decline of small business as we know it today. My amendment seeks to prevent this from happening.

It is also important to realize what groups will suffer if this exemption is not raised. In a recent survey of employment and wages in the small business community made by the National Federation of Independent Business it was revealed that small business employs substantial number of teenagers now working. Five percent of the full-time and 30 percent of the part-time people employed by small business are 19 years old or under. We have already passed legislation this year to reduce teenage unemployment and we now have the responsibility of making sure we do not increase that rate and this can be accomplished by exempting small businesses under $500,000.

The survey also revealed that almost 40 percent of the surveyed employers—corporate and noncorporate—earn less from their business than the median-family income and most of these people put in an average of 58 hours per week. It also showed that one of four small businesses received unpaid family labor, and that the owners were typically older than the work force. These small businesses are struggling for their survival and we must do what we can to encourage them to continue in operation.

My amendment also provides protection for those employees currently covered by the Minimum Wage Act. An employer previously covered under the act could not decrease the wage of any employee as the result of the amendment. This would eliminate the possibility of any wage slicing.

Mr. President, the survival of small business in this country is absolutely essential to the economic well-being of this Nation. My amendment will help to assure this.

Mr. TOWER. Mr. President, I am prepared to yield back the remainder of my time.

Mr. JAVITS. Mr. President, the Senator wanted to hear opposition to his amendment, did he not? He invited it.

Mr. TOWER. I will be delighted to.

Mr. JAVITS. I thank the Senator.

Mr. TOWER. I was trying to expedite the matter. I assumed the argument had already been placed into the RECORD by the Senator from New Jersey.

Mr. JAVITS. I certainly thank the Senator very much. The Senator is going to hear a little bit about this amendment.

Mr. TOWER. I am delighted to. I do not yield back the remainder of my time.

Mr. JAVITS. Mr. President, I yield myself just 3 minutes because I do not want to delay the Senate either. But let us see what this is doing. First, it is removing almost 4 million people who are now protected from coverage under the FLSA. It is uncovering 4 million out of a total of 66 million. That does not sound like too much. When it is looked at from the perspective of workers at the minimum wage, 800,000 of the 4 million people working for these employers will not receive the increases we have agreed to in the minimum wage, because they are now earning less than $2.65 an hour. The amendment leaves these 800,000 workers at way below poverty income. That is what is being done by this amendment.

Second, and very interesting, this so-called grandfather clause just says that their wages are not to be reduced.

Finally, Mr. President, the figure today is $250,000. We have not had any prairie fire about the fact that that is much too low, until Senator TOWER sought to set the Chamber on fire. But other than that, we have no prairie fire about the fact that $250,000 is too low.

There are lots of other things bedeviling small business, including the antitrust laws, I say to the Senator from Texas, and the antitrust laws are the toughest on small business and the weakest on big business. The Senator and I could join an effort to reform that and that would be very helpful to small business.

But, Mr. President, there is no real problem with the existing definition at $250,000. Senator BUMPERS, it is my understanding, is going to propose an amendment which will up the figure, a modest amendment, a reasonable amendment. That is the way to go.

This drastic amendment, which will cause thousands to be fired and will take tens of thousands out from under the minimum wage, is definitely not the way to go. I hope the Senate rejects it.

Mr. WILLIAMS. Are we prepared to yield back the time?

Mr. TOWER. I am prepared to yield back my time.

The PRESIDING OFFICER. The Senator's time has expired.

UP AMENDMENT NO. 903

(Purpose: To increase the gross volume of sales tests for certain retail or service establishments under the Fair Labor Standards Act of 1938.)

Mr. BUMPERS. Mr. President, I send an amendment to the desk and ask that it be considered.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Arkansas (Mr. BUMPERS) proposes unprinted amendment numbered 903.

Mr. BUMPERS. I ask unanimous consent that further reading be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Beginning on page 1, line 3, strike all and substitute the following:

RETAIL AND SERVICE ESTABLISHMENT COVERAGE

SEC. 5. (a) Sections 3(s) (29 U.S.C. 203(s)) is amended by renumbering paragraphs (2), (3), (4) and (5) as (3), (4), (5) and (6) respectively and inserting after paragraph (1), as follows:

"(2) is comprised exclusively of one or more retail or service establishments, as defined in section 13(a)(2), and whose annual gross volume of sales made or business done is not less than $250,000 (exclusive of excise taxes at the retail level which are separately stated) and beginning July 1, 1978, whose annual gross volume of sales made or business done is not less than $275,000 (exclusive of excise taxes at the retail level which are separately stated) and beginning July 1, 1980, whose annual gross volume of sales made or business is not less than $325,000 (exclusive of excise taxes at the retail level which are separately stated);".

(b) Paragraph (1) of section 3(s) is amended by adding after the phrase "and beginning February 1, 1969, is an enterprise" the following: "other than a retail or service establishment described in paragraph (2)".

On page 12, line 19, strike out "Sec. 5." and insert in lieu thereof "Sec. 6.".

Mr. BUMPERS. Mr. President, I am one of those people who likes to catch a plane, but I shall take 3 minutes. I think most Senators know what my amendment does.

Mr. TOWER. Will the Senator yield for an inquiry?

Mr. BUMPERS. Yes.

Mr. TOWER. Mr. President, to what is the amendment addressed? Is it addressed to the bill or to my amendment?

Mr. BUMPERS. It is a perfecting amendment.

The PRESIDING OFFICER. It is a perfecting amendment to the pending amendment.

Mr. TOWER. Is the amendment properly drawn?

The PRESIDING OFFICER. The amendment is properly drawn.

Mr. TOWER. I thank the Chair.

Mr. BUMPERS. Mr. President, this amendment is, indeed, more modest than what my distinguished colleagues from New York and Vermont have proposed. I am not unalterably opposed to the approach taken by the Senators, but I think that mine is more appropriate, for this very simple reason: If, in 1966, when the present bill was passed, it had an indexing clause in it, the small business exemption would now be about $450,000. It did not. But now, to undo that damage would also do incalculable damage to millions of employees. So this, I think, is a way to redress the problem at a late date—not fully, but in a sensible and rational manner.

Everybody here knows that the House has already provided for the $500,000 exemption as proposed by the Senators and, presumably, when they get to conference, something between what I am offering and what they have already adopted will be agreed to.

Mr. President, my amendment does two things: On July 1, 1978, it sets the exemption for small business at $275,000. On July 1, 1980, it raises it to $325,000.

I have had all kinds of proposals here to change those figures, and I am sure they will be changed slightly in conference. I hope, frankly, that they will be changed slightly upward. But I think the $500,000 figure, which the Senator from New York has already given statistics on, is slightly high because it does, indeed, uncover too many employees. It exposes too many employees to a cut in wages or discharge. I think this is a proper, suitable, sensible response to what everybody in this body believes is a problem.

I am prepared to yield back the remainder of my time and vote up or down.

Mr. WILLIAMS. Mr. President, I support the compromise amendment. As I have pointed out, the larger increases which have been proposed by Senator TOWER and Senator GARN would result in a wholesale reduction in the number of persons who are protected by the Fair Labor Standards Act.

This proposal would increase the dollar volume test in the definition of enterprise engaged in commerce by $25,000 beginning in 1978, and by an additional $50,000 beginning in 1980. These changes would have a very substantial impact on the number of persons covered by the act.

It is my opinion that these increases are reasonable and adequately reflect changes in the growth in dollar volume of business done by small retail and service establishments. Using the example which I have given concerning retail and service establishments in North Dakota, it is clear that the additional cushion of $50,000 which will be provided by this proposal will insure that the bulk of small retail and service establishments will remain exempt from the provisions of the act.

I would like to remind the Senators that "mom and pop" stores are already expressly exempt. This additional exemption is, I am sure, completely adequate to deal with the needs of other small retailers who might require exemption.

To do more than is proposed by this compromise would be to reverse the progress which we have made in extending the protections of the act to additional employees. The committee has carefully considered the necessity for the retail and service establishment exemption; and the provisions of current law are based upon a careful determination that the establishments which are presently covered by the law can easily bear to pay minimum wages.

The 1974 committee report on minimum wage legislation (No. 93-690) stated that:

The committee looked to special reports of the Department of Labor which were designed to determine how employers adjusted to the extensions of coverage to retail and service activities in 1961 and 1966. Repeatedly these reports stated that employment increased in activities newly covered by the FLSA. For example, the Labor Department's nation-wide survey of restaurant employees shows that employment increased by 3,900 workers between October 1966 and April 1967, the period spanning the effective dates of the initial phase of the 1966 amendments to the minimum wage law. The Labor Department reported that the "largest employment increase occurred in the South where the wage impact was greatest." It is apparent from the various reports that the retail and service industry had adjusted to the FLSA coverage with relative ease.

For this reason, it is the committee's view that the provisions of current law are adequate to protect the interests of small retail service establishments while insuring that, to the greatest extent possible, adequate wages are provided to our low-wage workers.

Mr. President, I support the perfecting amendment offered by the Senator from Arkansas, and am prepared to yield back my time.

Mr. PELL. Mr. President, will the Senator from Arkansas yield?

Mr. TOWER. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. TOWER. Is not the time in opposition under my control, since the amendment is addressed to my amendment?

The PRESIDING OFFICER. The time is under the control of the manager of the bill, unless he is in favor.

Mr. JAVITS. Mr. President, I am in favor of the amendment and Senator TOWER, of course, can claim the time in opposition.

The PRESIDING OFFICER. The Senator from New Jersey is the manager.

Mr. WILLIAMS. I am in favor of this amendment, and I am in the same position. We are jointly controlling the time here. I am willing to yield to the Senator from Texas.

The PRESIDING OFFICER. In that case, the time in opposition is given to the minority leader or his designee.

Mr. TOWER. I thank the Chair.

Mr. PELL. Mr. President, will the Senator yield?

Mr. BUMPERS. Mr. President, if the Senator from Texas will permit me, I shall yield to the Senator from Rhode Island for whatever purpose.

Mr. PELL. Mr. President, does the amendment of the Senator from Arkansas contain a provision that, when the figures are enlarged, there will be a prohibition on decreasing the wages of those workers? I would think that some sort of grandfather clause should be put in to that effect.

Mr. BUMPERS. The amendment I

have submitted does not contain a grandfather clause. I am perfectly agreeable to adding it if the floor managers have no objection to it.

Mr. PELL. I should hope that the floor managers would accept that modification, because there will be cases, when the Senator's bill takes effect—next year, in June or July of 1978—when it will be quite conceivable that somebody will be let go or, more to the point, his wages could be decreased.

Mr. BUMPERS. I do not think we could put a provision in there that would prohibit an employer from discharging an employee.

Mr. PELL. I agree and I have been corrected on that by the Senator from New York. But I think we need something.

Mr. BUMPERS. This covers employees uncovered as a result of this new exemption? Is that the sum of the change?

Mr. PELL. Exactly. That is all the little grandfather amendment does.

Mr. JAVITS. Would the Senator be willing to include also that the maximum hours should not be increased?

Mr. PELL. That is fine. I accept that.

Mr. JAVITS. Very well.

Mr. PELL. I thank the Senator.

Mr. WILLIAMS. Is that grandfather aspect acceptable to the Senator from Arkansas? Is that now part of his amendment?

Mr. BUMPERS. Yes.

Mr. WILLIAMS. The two parts of the grandfather clause are acceptable.

Mr. ALLEN. Will the Senator yield for a question?

Mr. BUMPERS. Yes.

Mr. ALLEN. When the Senator speaks of a grandfather clause, does that mean that they would be protected for the present minimum wage? Would that also provide for these increases that are built into the bill?

Would it protect the present employees in the increases provided in the bill? He says it would not be reduced, but he would get the protection of the increases?

Mr. BUMPERS. No, he would not. It would simply provide that his wages would not be decreased.

Mr. ALLEN. But he would not get the benefit of the increases provided by the bill?

Mr. BUMPERS. That is correct.

Mr. ALLEN. That is hardly a full grandfather clause then.

Mr. BUMPERS. The Senator from Rhode Island points out that it is a step-grandfather clause.

Mr. President, I modify my amendment to include the clause referred to, and I send the modification to the desk.

The PRESIDING OFFICER. The amendment will be so modified.

The modification is as follows:

At the end of the matter in quotation marks before the semicolon insert a comma and the following: "except that an employer who is required to pay the minimum wage on the day before the date of enactment of the Fair Labor Standards Amendments of 1977 and who would not be so required subsequent to enactment of the Fair Labor Standards Amendments of 1977 may not decrease the wages or increase the maximum hours required by this Act of any employee who received the minimum wage applicable during the time at which the employer was required to pay the minimum wage".

The PRESIDING OFFICER. Is all time yielded back?

Mr. BUMPERS. I am prepared to yield back my time.

Mr. TOWER. The Senator from Arkansas is prepared to yield back his time. I shall yield back my time and move to lay the amendment on the table.

Mr. BUMPERS. Before we do that, I yield to the Senator from Iowa for a statement.

Mr. CLARK. Mr. President, under present law businesses with less than $250,000 in gross annual sales are not required to pay their employees the minimum wage. The pending amendment would increase the level of this exemption for retail and service enterprises in two stages: to $275,000 on July 1, 1978, and to $325,000 on July 1, 1980. It is true that this amendment runs counter to the trend over the past 10 years of periodic decreases in the exemption for small businesses. It is not a step to be taken lightly. Nevertheless, it is a step that we believe is justified by the intense pressures facing our Nation's smaller enterprises, pressures which cannot be ignored.

Mr. President, owners of many small businesses, particularly small family owned retail and service enterprises, are facing difficult times. Higher costs of doing business—higher prices for inventory, higher equipment costs, higher rents, higher costs of borrowing money, and soaring energy prices—make it difficult to compete in the marketplace with larger firms; indeed, difficult even to make ends meet. Many small businesses are unable to obtain insurance protection because of dramatic increases in premium rates. And all are plagued with unnecessary paperwork burdens generated by overly complicated Government regulation.

The pending amendment will not solve these problems, but it will relieve some of the pressure facing the smallest of these businesses by exempting them from the provisions of the minimum wage laws.

It is true that this amendment does not go as far as some would like in extending the small enterprise exemption. But we must strike a balance between the competing concerns of the owners of smaller businesses and the employees of those businesses who will also be affected by the proposed changes. I believe the pending amendment comes closer to striking that balance and I urge its adoption.

Mr. HATFIELD. Mr. President, I ask unanimous consent that I be listed as a cosponsor on the Tower amendment of $500,000 exemption of small businesses.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TOWER. Mr. President, I yield back my time and move that the amendment be laid on the table.

Mr. JAVITS. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the perfecting amendment of the Senator from Arkansas. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Maine (Mr. MUSKIE), the Senator from Georgia (Mr. NUNN), the Senator from Connecticut (Mr. RIBICOFF), and the Senator from Montana (Mr. METCALF) are necessarily absent.

I further announce that the Senator from Hawaii (Mr. INOUYE) is absent on official business.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) would vote "nay."

Mr. STEVENS. I announce that the Senator from Nebraska (Mr. CURTIS), the Senator from Idaho (Mr. MCCLURE), the Senator from Kansas (Mr. PEARSON), and the Senator from Michigan (Mr. GRIFFIN) are necessarily absent.

The result was announced—yeas 38, nays 51, as follows:

[Rollcall Vote No. 547 Leg.]

YEAS—38

Allen	Garn	Schmitt
Baker	Goldwater	Scott
Bartlett	Hansen	Sparkman
Bellmon	Hatch	Stafford
Biden	Hatfield	Stennis
Byrd, Harry F., Jr.	Hayakawa	Stevenson
	Helms	Stone
Chiles	Laxalt	Talmadge
Church	Leahy	Thurmond
Danforth	Lugar	Tower
Dole	McIntyre	Wallop
Domenici	Percy	Young
Eastland	Roth	Zorinsky

NAYS—51

Abourezk	Ford	McGovern
Anderson	Glenn	Melcher
Bayh	Gravel	Metzenbaum
Bentsen	Hart	Morgan
Brooke	Haskell	Moynihan
Bumpers	Hathaway	Nelson
Burdick	Heinz	Packwood
Byrd, Robert C.	Hollings	Pell
Cannon	Huddleston	Proxmire
Case	Jackson	Randolph
Chafee	Javits	Riegle
Clark	Johnston	Sarbanes
Cranston	Kennedy	Sasser
Culver	Long	Schweiker
DeConcini	Magnuson	Stevens
Durkin	Mathias	Weicker
Eagleton	Matsunaga	Williams

NOT VOTING—11

Curtis	McClellan	Nunn
Griffin	McClure	Pearson
Humphrey	Metcalf	Ribicoff
Inouye	Muskie	

So the motion to lay on the table unprinted amendment No. 903 was rejected.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the motion to lay on the table was rejected.

The PRESIDING OFFICER (Mr. ZORINSKY). The question recurs on the amendment.

Mr. BUMPERS. Mr. President, I ask unanimous consent that the order for the yeas and nays be vitiated.

The PRESIDING OFFICER. There is no order for the yeas and nays. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. CLARK. I move to lay that moton on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Texas, as amended. On this question the yeas and nays have been ordered.

Mr. TOWER. Mr. President, I ask unanimous consent that the order for the yeas and nays be vitiated.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The question is on agreeing to the amendment of the Senator from Texas, as amended.

The amendment (No. 1019) as amended, was agreed to.

UP AMENDMENT NO. 904

(Purpose: To require the Secretary of Labor to collect demographic data on minimum wage earners.)

Mr. DOMENICI. Mr. President, I send to the desk an unprinted amendment.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from New Mexico (Mr. DOMENICI) proposes an unprinted amendment numbered 904.

Mr. DOMENICI. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 12, between lines 17 and 18, insert the following:

"DATA COLLECTION ON MINIMUM WAGE EARNERS"

SEC. 5 (a) Section 11(a) (29 U.S.C. 211 (a)) is amended by adding the following:

"The Secretary of Labor shall conduct, or make arrangements to conduct, a study to determine (i) the nature and extent of noncompliance with the provisions of this Act, and (ii) the social and economic characteristics of workers affected by the minimum wage and modifications thereto, to include, but not limited to, age, sex, race, family status, duration of employment with the same employer, and, to the extent practicable, information concerning the proportions of such workers who are heads of households, principal or secondary wage earners, and the family size and total family income of such workers.".

Mr. DOMENICI. Mr. President, last night, in the debate over the amount of increase in the minimum wage, it became clear that we have a significant lack of data concerning who earns the minimum wage. We do not know how many minimum wage earners are heads of households. We do not know how long minimum wage earners have been employed. We do not know who benefits from an increase in the minimum wage. I, therefore, offer this amendment, which requires that the Secretary of Labor shall conduct a study to determine the social and economic characteristics of workers affected by the minimum wage.

Mr. President, this is the study amendment that the managers of the bill are aware of, which will gather the facts that many of us do not think are now available with respect to the impact of minimum wage.

Mr. WILLIAMS. The amendment is acceptable to me.

Mr. JAVITS. It is acceptable to me.

Mr. DOMENICI. I yield back the remainder of my time.

Mr. WILLIAMS. I yield back the remainder of my time.

Mr. BUMPERS. Mr. President, I had a similar study, which my colleague in the House, Mr. TUCKER, offered—and it was adopted in the House—which I really liked better. But in deference to the floor managers, I have acceded to this one, and I hope that in conference they will be able to meld the two.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment.

The amendment was agreed to.

UP AMENDMENT NO. 905

Mr. CHILES. Mr. President, I send to the desk a substitute and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Florida (Mr. CHILES), for himself, Mr. NUNN, Mr. STONE, and Mr. ALLEN, proposes an unprinted amendment 905 in the nature of a substitute.

Mr. CHILES. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike all after the enacting clause and insert the following in lieu thereof:

SHORT TITLE; REFERENCE TO ACT

SECTION 1. (a) This Act may be cited as the "Fair Labor Standards Amendments of 1977".

(b) Whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Fair Labor Standards Act of 1938 (29 U.S.C. 201–219).

INCREASE IN MINIMUM WAGE

SEC. 2. (a) Section 6(a)(1) (29 U.S.C. 206(a)(1)) is amended to read as follows:

"(1) not less than $2.65 an hour during the year beginning January 1, 1978, not less than $2.85 an hour during the year beginning January 1, 1979, and not less than $3.05 an hour after December 31, 1979, except as otherwise provided in this section;".

(b) Section 6(a)(5) (29 U.S.C. 206(a)(5)) is amended to read as follows:

"(5) if such employee is employed in agriculture—

"(A) not less than $2.20 an hour during the period ending December 31, 1977, and

"(B) after December 31, 1977, not less than the minimum wage rate in effect under paragraph (1).".

(c) Section 6(b) (29 U.S.C. 206(b)) is amended by striking out "wages at the following rates:" and paragraphs (1) through (4) and inserting in lieu thereof the following: "wages at a rate not less than the minimum wage rate in effect under subsection (a)(1).".

(d)(1) Section 6(c) (29 U.S.C. 206(c)) is amended by striking out paragraphs (2) through (4) and inserting in lieu thereof the following:

"(2)(A) Each wage order rate under a wage order described in paragraph (1) which on December 31, 1977, is at least $2 an hour shall, except as provided in paragraph (3), be increased—

"(i) effective January 1, 1978, by $0.25 an hour or by such greater amount as may be recommended by a special industry committee under section 8, and

"(ii) effective January 1, 1979, and January 1 of each succeeding year, by $0.30 an hour or by such greater amount as may be so recommended by such a special industry committee.

"(B) Each wage order rate under a wage order described in paragraph (1) which on December 31, 1977, is less than $2 an hour shall, except as provided in paragraph (3), be increased—

"(i) effective January 1, 1978, by $0.20 an hour or by such greater amount as may be recommended by a special industry committee under section 8, and

"(ii) effective January 1, 1979, and January 1 of each succeeding year—

"(I) until such wage order rate is not less than $2.30 an hour, by $0.25 an hour or by such greater amount as may be so recommended by a special industry committee, and

"(II) if such wage order rate is not less than $2.30 an hour, by $0.30 an hour or by such greater amount as may be so recommended by a special industry committee.

"(C) In the case of any employee in agriculture who is covered by a wage order issued by the Secretary pursuant to the recommendations of a special industry committee appointed pursuant to section 5, to whom the rate or rates prescribed by subsection (a)(5) of this section would otherwise apply, and whose hourly wage is increased above the wage rate prescribed by such wage order by a subsidy (or income supplement) paid, in whole or in part, by the government of Puerto Rico, the applicable increases prescribed by subparagraph (A) or (B) shall be applied to the sum of the wage rate in effect under such wage order and the amount by which the employee's hourly wage is increased by the subsidy (or income supplement) above the wage rate in effect under such wage order.".

(2)(A) Section 6(c)(1) is amended (i) by striking out "subsections (a) and (b)" and inserting in lieu thereof "subsection (a)(1)", (ii) by inserting "(A)" before "heretofore", and (iii) by inserting before the period the following: ", and (B) which prescribes a wage order rate which is less than the wage rate in effect under subsection (a)(1)".

(B) Paragraphs (5) and (6) of section 6(c) are redesignated as paragraphs (3) and (4), respectively.

(C) Paragraph (3) of such section (as so redesignated) is amended (i) by striking out "subsection (a) or (b)" and inserting in lieu thereof "subsection (a)(1), and (ii) by striking out "such subsection" and inserting in lieu thereof "subsection (a)(1)".

(3) Section 8(a) (29 U.S.C. 208(a)) is amended by inserting after the first sentence the following new sentence: "The Secretary shall, from time to time, convene an industry committee or committees, appointed pursuant to section 5, and any such industry committee—

"(1) shall, from time to time, recommend the minimum wage rates to be paid by employers who are in Puerto Rico, in the Virgin Islands, or in both places and who but for section 6(c) would be subject to the minimum wage requirements of section 6(a)(1), and

"(2) may, from time to time, recommend increases in the incremental increases authorized by section 6(c)(2).".

(e)(1) There is established the Minimum Wage Study Commission (hereinafter in this subsection referred to as the "Commission") which shall conduct a study of the Fair Labor Standards Act of 1938 and the social, political, and economic ramifications of the minimum wage and overtime requirements of that Act. In conducting such study, the Commission shall analyze specifically—

(A) the inflationary impact (if any) of increases in the minimum wage prescribed by that Act;

(B) the effect (if any) such increases have on wages paid employees at a rate in excess of the rate prescribed by that Act;

(C) the economic consequence (if any) of authorizing an automatic increase in the rate prescribed in that Act on the basis of an increase in an index of the earnings of a category of employees;

(D) the employment and unemployment effects of (i) an increase in the rate prescribed by that Act, and (ii) providing a different minimum wage rate for youth and the employment and unemployment effects on handicapped and aged individuals of an increase in such rate and of providing a different minimum wage rate for such individuals;

(E) the relationship (if any) between the Federal minimum wage rates and public assistance programs, including the extent to which employees employed at such rates are also eligible to receive food stamps and other public assistance; and

(F) the exemptions from the minimum wage and overtime requirements of that Act.

(2) The Commission shall make two reports of the results of the study conducted pursuant to paragraph (1). The first report shall be submitted within eighteen months after the date of the appointment of the first five members of the Commission. The second report shall be submitted within thirty-six months after such date. The second report shall include such recommendations for legislation as the Commission determines are appropriate and shall include the analysis prescribed by subparagraph (C) of paragraph (1). The Commission may make additional reports which it determines are appropriate. Each report shall be made to the President and to the Congress. The Commission shall cease to exist thirty days after the submission of its second required report.

(3)(A) The Commision shall consist of nine members. The Secretary of Labor and the Secretary of Health, Education, and Welfare shall serve as ex officio members and the President, by and with the advice and consent of the Senate, shall appoint seven members. The President shall make such appointments in a manner to assure that two persons appointed represent the interest of labor, one person represents the interests of agriculture, two persons represent the interests of business management, one person represents the interests of consumers, and one person represents the interests of the general public. The President shall make all his nominations for Commission membership within one hundred and eighty days after the effective date of this subsection.

(B) The President shall designate one member of the Commission as Chairman. Any vacancy in the Commission shall not affect its powers and shall be filled in the same manner in which the original appointment was made.

(C)(i) Except as provided in clause (ii), members of the Commission who are officers or employees of the Federal Government shall serve without compensation. Other members, while engaged in the activities of the Commission, shall be paid at a rate equal to the per diem equivalent of the annual rate payable for grade GS–18 of the General Schedule under section 5332 of title 5, United States Code.

(ii) While away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5 of the United States Code.

(4)(A) The Commission may prescribe such rules as may be necessary to carry out its duties under this subsection.

(B) The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as it deems advisable.

(C) Upon request of the Commission, the head of any Federal department or agency is authorized to detail, on a reimbursable basis, any of the personnel of such department or agency to the Commission to assist it in carrying out its duties under this subsection.

(D) The Administrator of General Services shall provide to the Commission on a reimbursable basis such administrative support services as the Commission may request to carry out its duties under this subsection.

(E) The Commission may secure directly from any department or agency of the United States such information as the Commission may require to carry out its duties under this subsection. Upon request of the Commission, the head of any such department or agency shall furnish such information to the Commission.

(F) The Commission may use the United States mails in the same manner and upon the same conditions as other departments and agencies of the United States.

(5)(A) The Chairman may appoint an executive director of the Commission who shall perform such duties as the Chairman may prescribe.

(B) With the approval of the Chairman, the executive director may appoint and fix the pay of such professional, technical, and clerical personnel as are necessary for the Commission to carry out its duties.

(C) The executive director and staff shall be appointed without regard to the provisions of title 5, United States Code, governing appointments to the competitive service, and shall be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates but at rates not in excess of the annual rate payable for grade GS–18 of the General Schedule under section 5332 of such title.

(D) The executive director, with the concurrence of the Chairman, may obtain temporary and intermittent services of experts and consultants in accordance with the provisions of section 3109 of title 5, United States Code.

(6) This subsection shall take effect October 1, 1977.

TIP CREDIT

SEC. 3. Effective January 1, 1978, section 3(t) (29 U.S.C. 203(t)) is amended by striking out "$20" and inserting in lieu thereof "$30".

EMPLOYEES OF CONCESSIONERS IN NATIONAL PARKS AND FORESTS AND IN THE NATIONAL WILDLIFE REFUGE SYSTEM

SEC. 4. (a)(1) Section 13(a)(3) (29 U.S.C. 213(a)(3)) is amended by inserting before the semicolon the following: ", except that this paragraph does not apply with respect to any employee of a private entity engaged in providing services or facilities in a national park or a national forest, or on land in the National Wildlife Refuge System, under a contract with the Secretary of the Interior or the Secretary of Agriculture".

(2) Section 13(b) (29 U.S.C. 213(b)) is amended (A) by striking out the period at the end of paragraph (28) and inserting in lieu thereof "; or", and (B) by adding after such paragraph the following new paragraph:

"(29) any employee of an amusement or recreational establishment located in a national park or national forest or on land in the National Wildlife Refuge System if such employee (A) is an employee of a private entity in providing services or facilities in a national park or national forest or on land under a contract with the Secretary of Agriculture, and (B) receives compensation for employment in excess of fifty-six hours in any workweek at a rate not less than one and one-half times the regular rate at which he is employed.".

(b) The amendments made by subsection (a) shall take effect January 1, 1978.

HOTEL, MOTEL, AND RESTAURANT EMPLOYEES

SEC. 5. (a) Effective January 1, 1978, section 13(b)(8) (29 U.S.C. 213(b)(8)) is amended by striking out "forty-six hours" and inserting in lieu thereof "forty-four hours".

(b) Effective January 1, 1979, such section is repealed.

SHADE-GROWN TOBACCO EMPLOYEES

SEC. 6. (a) Section 13(b)(22) (29 U.S.C. 213(b)(22)) is repealed.

(b) The amendment made by subsection (a) shall take effect on January 1, 1978.

EMPLOYEES OF CONGLOMERATES

SEC. 7. (a) Section 13 (29 U.S.C. 213) is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

"(h) Subsection (a) (other than paragraphs (1), (3), and (7) thereof) and subsection (b) (other than paragraphs (1), (2), and (3) thereof) shall not apply with respect to any employee employed by an establishment (1) which controls, is controlled by, or is under common control with, another establishment the activities of which are not related for a common business purpose to the activities of the establishment employing such employee; and (2) whose annual gross volume of sales made or business done, when combined with the annual gross volume of sales made or business done by each establishment which controls, is controlled by, or is under common control with, the establishment employing such employee, exceeds $100,000,000 (exclusive of excise taxes at the retail level which are separately stated) except that the exemption from section 7 provided by paragraph (8) of subsection (b) of this section shall continue to apply until January 1, 1979, with respect to any employee of an establishment which is a restaurant.".

(b) The amendments made by subsection (a) shall take effect January 1, 1978.

COTTON GINNING EMPLOYEES

SEC. 8. (a)(1) Section 13(b)(25) (29 U.S.C. 213(b)(25)) is repealed.

(2) Section 13 is amended by adding after subsection (i) (as so redesignated by section 7(a)) the following new subsection:

"(j) The provisions of section 7 shall not apply for a period or periods of not more than fourteen workweeks in the aggregate in any period of fifty-two consecutive weeks to any employee who—

"(1) is engaged in the ginning of cotton for market in any place of employment located in a county where cotton is grown in commercial quantities; and

"(2) receives for any such employment during such workweeks—

"(A) in excess of ten hours in any workday, and

"(B) in excess of forty-eight hours in any workweek,

compensation at a rate not less than one and one-half times the regular rate at which he is employed. No week included in any fifty-two week period for purposes of the preceding sentence may be included for such purposes in any other fifty-two week period.".

(b) The amendments made by subsection (a) shall take effect January 1, 1978.

SUGAR EMPLOYEES

SEC. 9. (a)(1) Section 13(b)(26) (29 U.S.C 213(b)(26)) is repealed.

(2) Section 13 is amended by inserting

after the subsection added by section 8 the following new subsection:

"(k) The provisions of section 7 shall not apply for a period or periods of not more than fourteen workweeks in the aggregate in any period of fifty-two consecutive weeks to any employee who—

"(1) is engaged in the processing of sugar beets, sugar beet molasses, or sugar cane into sugar (other than refined sugar) or syrup; and

"(2) receives for any such employment during such workweeks—

"(A) in excess of ten hours in any workday, and

"(B) in excess of forty-eight hours in any workweek,

compensation at a rate not less than one and one-half times the regular rate at which he is employed. No week included in any fifty-two week period for purposes of the preceding sentence may be included for such purposes in any other fifty-two week period.".

(b) The amendments made by subsection (a) shall take effect January 1, 1978.

BABYSITTERS

SEC. 10. (a) Section 18(a)(15) (29 U.S.C. 213(a)(15)) is amended by striking out "on a casual basis".

(b) The amendment made by subsection (a) shall take effect January 1, 1978.

AGRICULTURAL HAND HARVEST LABORERS

SEC. 11. Section 13 (29 U.S.C. 213) is amended by adding after the subsection added by section 9 the following new subsection:

"(l)(1) The minimum wage and overtime exemption provided by subsection (a)(6) of this section shall apply according to its terms to hand harvest laborers described in this subsection but an employer or group of employers may apply to the Secretary for a waiver of the application of section 12 to the employment of individuals, who are less than twelve years of age, as hand harvest laborers in an agricultural operation which has been, and is customarily and generally recognized as being, paid on a piece rate basis in the region in which such individuals would be employed. The Secretary may grant such a waiver only if he finds that—

"(A) the application of section 12 would cause severe economic disruption in the industry of the employer or group of employers applying for the waiver;

"(B) the employment of the individuals to whom the waiver would apply would not be deleterious to their health or well-being; and

"(C) the industry of such employer or group of employers has traditionally and substantially employed individuals under twelve years of age without displacing substantial job opportunities for individuals over sixteen years of age.

"(2) Any waiver granted by the Secretary under paragraph (1) shall require that—

"(A) the individuals employed under such waiver be employed outside of school hours for the school district where they are living while so employed;

"(B) such individuals while so employed commute daily from their permanent residence to the farm on which they are so employed; and

"(C) such individuals be employed under such waiver (i) for not more than thirteen weeks between June 1 and October 15 of any calendar year, and (ii) in accordance with such other terms and conditions as the Secretary shall prescribe for such individuals' protection.".

ENTERPRISE COVERAGE

SEC. 12. (a) Section 3(s)(1) (29 U.S.C. 203(s)(1)) is amended to read as follows:

"(1) is an enterprise whose annual gross volume of sales made or business done is not less than $500,000 (exclusive of excise taxes at the retail level which are separately stated);".

Mr. CHILES. Mr. President, I do not think this will take very long. It certainly will not from my standpoint.

This is to substitute the House bill. I think many of us feel the House bill makes a big change in the minimum wage, and it would have the 3-year provision rather than 4, which would go back to the Tower amendment.

There is nothing said in the House bill about the tip credit so that proposal would be left the way it is, and you would not have the 4-year escalation that you now have in this bill.

I think many of us have been trying to see if there would be some kind of amendment offered for a youth differential, for some of these other problems that we see coming up, and have been concerned about the inflationary impact of the Senate bill.

So I would propose that we substitute the House bill. We can save a lot of time because we will not have to have a conference between the House and the Senate if we adopt the House bill. We have made a major step forward for 3 years in raising the minimum wage and, at the same time, I do not think we will have the inflationary impact that we would have in the Senate bill.

So I would urge the adoption of the substitute amendment, and I think many of us would like to vote for an increase in the minimum wage and feel as if we could if we could adopt the proposals.

Mr. WILLIAMS. Mr. President, I yield myself a moment or two.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. WILLIAMS. The Senator mentioned one or two provisions of the House bill. There are, of course, an awful lot of other things in this bill. I do not know, it would seem to me that the Members of the Senate would, if they understood some of these provisions, take a rather dim view of the House bill where there have been special situations of exemptions in cottonginning, in sugar processing, and in sugar employment, and those are all swept away by the House bill, and I would think that the State of Florida in many of its operations where they are now not covered in employment would suddenly be covered.

This has an employees-of-conglomerates section in it, section 7, that was put into the bill on the motion of the Congressman from California, PHILLIP BURTON, and this says that conglomerates whose sales are in excess of $100 million lose just about all of their exemptions and all of their small entities wherever they are, a sweeping inclusion under the minimum wage of businesses that are now excluded.

I think these are the things that will have to be considered in conference and, perhaps, the Senator from Florida approves of all of these, and maybe others do, too. But I would think we ought to have a more orderly process of dealing with these House provisions than we have by suddenly having the House bill presented to us as the substitute.

Mr. JAVITS. Finally, if the Senator will yield, and I will not take but 30 seconds, we voted specifically on a number of these issues on which the House bill was offered, and the Senate version was accepted by a substantial majority. That would all be swept away, so all this time and effort would be in vain.

Mr. WILLIAMS. We did not have before us that sweeping conglomerate amendment. We never raised it.

Mr. JAVITS. Right.

Mr. WILLIAMS. And we have never had any vote. It is a sweeping inclusion under the minimum wage of many activities that are now excluded. The Senate does not have it; the House does.

Mr. JAVITS. I yield back our time.

Mr. CHILES. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second. The yeas and nays have been ordered. The question is on agreeing to amendment No. 905. The clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Montana (Mr. METCALF), the Senator from Maine (Mr. MUSKIE), the Senator from Georgia (Mr. NUNN), and the Senator from Connecticut (Mr. RIBICOFF) are necessarily absent.

I further announce that the Senator from Hawaii (Mr. INOUYE) is absent on official business.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) would vote "nay."

Mr. STEVENS. I announce that the Senator from Oklahoma (Mr. BELLMON), the Senator from Nebraska (Mr. CURTIS), the Senataor from Idaho (Mr. MCCLURE), the Senator from Kansas (Mr. PEARSON), and the Senator from Illinois (Mr. PERCY) are necessarily absent.

The result was announced—yeas 29, nays 59, as follows:

[Rollcall Vote No. 548 Leg.]

YEAS—29

Allen	Griffin	Schmitt
Bartlett	Hansen	Scott
Byrd, Harry F., Jr.	Hatch	Sparkman
	Hayakawa	Stennis
Chiles	Helms	Stone
Danforth	Hollings	Talmadge
Dole	Laxalt	Thurmond
Domenici	Lugar	Tower
Eastland	Morgan	Wallop
Garn	Roth	Zorinsky

NAYS—59

Abourezk	Ford	McIntyre
Anderson	Glenn	Melcher
Baker	Goldwater	Metzenbaum
Bayh	Gravel	Moynihan
Bentsen	Hart	Nelson
Biden	Haskell	Packwood
Brooke	Hatfield	Pell
Bumpers	Hathaway	Proxmire
Burdick	Heinz	Randolph
Byrd, Robert C.	Huddleston	Riegle
Cannon	Jackson	Sarbanes
Case	Javits	Sasser
Chafee	Johnston	Schweiker
Church	Kennedy	Stafford
Clark	Leahy	Stevens
Cranston	Long	Stevenson
Culver	Magnuson	Weicker
DeConcini	Mathias	Williams
Durkin	Matsunaga	Young
Eagleton	McGovern	

NOT VOTING—12

Bellmon	McClellan	Nunn
Curtis	McClure	Pearson
Humphrey	Metcalf	Percy
Inouye	Muskie	Ribicoff

So Mr. CHILES' amendment (No. 905) was rejected.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. WILLIAMS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BROOKE and Mr. MORGAN addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

UP AMENDMENT NO. 906

Mr. MORGAN. Mr. President, I call up an unprinted amendment which I have at the desk.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from North Carolina (Mr. MORGAN) proposes an unprinted amendment numbered 906.

Mr. MORGAN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 12, between line 17 and 18, insert the following:

SEC. 5. Section 3(s)(1) is amended to read as follows:

"'(1) is an enterprise whose annual gross volume of sales made or business done is not less than $450,000 (exclusive of excise taxes at the retail level which are separately stated);'."

Mr. MORGAN. Mr. President, when this bill came up for consideration, I fully intended to cast my vote for the bill, with some modifications which I had hoped would be adopted. While the House bill that we just voted on did not suit me in all respects, I did think it was within the range of that with which I could live.

But after listening to the debate here on the floor of the Senate for the last 2 days, and listening to the discussion of the various amendments, I have decided that when we take the final vote on this bill in a few moments, I will cast my vote in opposition to this minimum wage bill. I want to take just a moment or two, for the record, to express a few of my reasons for voting as I shall.

First, I want to say that I have long supported minimum wage legislation. I was a member of the State Senate in North Carolina for 10 years, and consistently voted there, in the State government, where I think the basic responsibility is, for minimum wage legislation; and I feel that, overall, minimum wage legislation has been very beneficial. I have cast my vote, just moments ago, for Senator CHILES amendment to substitute the House bill for the Senate bill.

But, Mr. President, after consideration, I think that this bill simply does too much and goes too far.

Certainly there has been an increase in inflation, and the poverty level continues to rise, but I have yet to be convinced that raising the minimum wage from the present $2.30 per hour to $3.40 an hour, an increase of $1.10 per hour in just 3 years, regardless of what conditions might exist in January 1980—I have yet to be convinced that doing this will cure those ills. And although indexing has been removed from the bill, the bill contains wage rates higher than those projected under indexing. An objectionable provision has, in my opinion, been replaced by an unacceptable one.

I might digress to point out that by looking at a table on page 23 of the report of the committee showing minimum wages through the years, it is interesting to note that the highest previous increase at one time has been a 27-cent increase. At various times, the rate was increased from 25 cents to 26 cents, from 26 cents to 30 cents, from 30 cents to 35 cents, and so on. It has increased very gradually, never by such an abrupt jump as this.

Last night I voted for Senator TOWER'S amendment, not because I feel $2.65 is the best figure, but rather because I feel that the responsibility of the Senate is to face each minimum wage bill, each time a proposal to raise the rates comes up. As the movement of this bill indicates, it is not such a time-consuming effort. We have been on it probably less than a day and a half.

We must consider increasing the minimum wage rate in the light of the present circumstances and events. That is a responsibility that I believe we were sent here to Washington to fulfill.

I might note also, Mr. President, that as I examine the record, even the Secretary of Labor, Mr. Marshall, has estimated that the enactment of a bill establishing a minimum wage of $2.65 would bring about the loss of 90,000 jobs. I also noted that the Brookings Institution estimates 200,000 jobs, and there are even higher figures than those. This seems to me to be a loss of jobs at a time when we can least afford it.

The youth differential is a good idea, at least I think so. I recognize that, as with other provisions of this bill, we would be dealing with a very complex issue. One of my constituents last night, of whom I am very fond, told me that although he opposed youth differentials, we needed to create some kind of public works jobs for the tens of thousands of youth now unemployed, and those who may become unemployed under the higher rate scale. And, of course, Secretary of Labor Marshall has proposed just such a measure.

To make sure I explained clearly what my friend was saying to me last night—this was an advocate of this minimum wage measure and an opponent of youth differentials, and upon my further inquiry, he said, yes, the highest rate of unemployment is among our young people; yes, the denial of our youth differential will prevent a lot of young people from getting jobs, but we can take care of that, he said, by creating more public jobs. And that, of course, is what Secretary Marshall indicated.

Mr. President, I cannot see creating Federal jobs or Federal job programs of such an extensive nature as would be involved in this case. The student differential of the existing minimum wage, we were told during the debate here on the floor today, created 500,000 jobs. Yet, under the recent jobs programs, we spent $1.3 billion to create only 350,000 jobs.

Mr. President, there is no work ethic in being on the public dole. And make no mistake, many people see these programs as another form of welfare. I hate to think that the only opportunity we will offer many of these people is to say, "Well, we priced you out of the job field, but we will put you on the public dole; we will give you a public-created job." We create one problem and attempt to solve it with another.

More than any one provision, Mr. President, I feel this minimum wage bill simply encompasses too much, and no one has come forward with a complete scenario of what the impact would really be. This morning Senators HATHAWAY and MUSKIE spoke of rural and local needs. In North Carolina, our minimum wage rate is going to $2.50 an hour, and this suits our needs in North Carolina. A minimum wage rate of $3.40 an hour, imposed by Washington for the entire Nation, is a serious matter, very serious. I do not think the case has been made that this is the best proposal, or even the best compromise. My vote must be cast, in the absence of stronger evidence, against this measure.

I reiterate again, Mr. President, I voted for the amendment of the distinguished Senator from Florida, which would have substituted the House bill for the Senate bill because I felt that that would be acceptable. The rates there are not as great as they are here. In that bill, the rate would have gone only to $3.05 an hour in January of 1980.

I am not opposed to a minimum wage, Mr. President, but I am opposed to this Senate, to this Congress, mandating an increase of $1.10 per hour minimum wage in the short span of 3 years. Therefore, I will cast my vote against this bill when the roll is called.

Mr. President, I must say in all candor—I yield to the Senator from Virginia.

Mr. HARRY F. BYRD, JR. I commend the Senator from North Carolina for his statement to the Senate this evening. I believe it is an excellent statement, a well-reasoned one, and it puts this matter in perspective. I shall join the Senator from North Carolina in casting my vote against this bill when the roll is called.

Mr. MORGAN. I thank the distinguished Senator.

Mr. President, I also want to state at this time for the record a matter which concerns me for future consideration. I know my distinguished colleagues, the distinguished Senator from New Jersey and the distinguished Senator from New York, would have gladly yielded me time to make a statement in opposition to this bill had I requested them to.

I must say I have always been a little reluctant about requesting a Senator who is an opponent of a measure to yield me time to speak in opposition to his position. Someday I hope there may be considered a rule change in this body where we would decide that when and if we have a time agreement we will let the time be controlled by the floor manager of the bill who proposes a bill, and if the ranking minority member also proposes it, I would hope we would designate

somebody who would be in opposition so we would not be pushed into a position of having to plead or ask for time—I would not say "plead" because I know my colleagues would yield to me—to speak in opposition to their position.

Mr. President, I withdraw my amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

The Senator from Massachusetts.

UP AMENDMENT NO. 907

(Purpose: To provide for an improved overtime exemption for hotel, motel, or restaurant employees.)

Mr. BROOKE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Massachusetts (Mr. BROOKE) proposes an unprinted amendment numbered 907.

Mr. BROOKE. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 12, between lines 17 and 18, insert the following new section:

HOTEL, MOTEL, AND RESTAURANT EMPLOYEES

SEC. 5. (a) Effective January 1, 1978, section 13(b)(8) (29 U.S.C. 213(b)(8)) is amended by striking out "forty-six hours" and inserting in lieu thereof "forty-four hours".

(b) Effective January 1, 1979, such section is repealed.

On page 12, line 19, strike out 'Sec. 5." and insert in lieu thereof "Sec. 6.".

Mr. BROOKE. Mr. President, this amendment provides for an improved overtime exemption for hotel, motel, and restaurant employees. Maids and such custodial workers as housemen, gardeners, and laundry workers are currently covered by the 40-hour standard. However, workers such as, cooks and dishwashers are covered by a 46-hour standard. In other words they have to work 46 hours before they can get any overtime.

What this amendment would do in 1978 is cut that down to 44 hours, and in 1979 it would provide a total exemption. Thus they would only be required to work 40 hours before receiving overtime compensation.

I have discussed this amendment with the distinguished floor manager of the bill and the distinguished ranking minority member. They have agreed to accept it and take it to conference.

Mr. WILLIAMS. That is correct. This did not come up at the time of our hearings. I support this amendment. It is just and equitable, in my judgment.

Mr. JAVITS. Mr. President, I, too, support the amendment. It is in the House bill.

Mr. BROOKE. Mr. President, I yield back the remainder of my time.

Mr. WILLIAMS. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Massachusetts.

The amendment was agreed to.

ADDITIONAL STATEMENTS SUBMITTED

Mr. GLENN. Mr. President, after 2 long days, we are now voting final passage of S. 1871, the minimum wage legislation. This is a very critical piece of legislation and I would like to make several comments about key features of this bill.

I supported the Javits-Williams amendment that deleted the indexing provision from the bill while raising the minimum wage. The idea of abandoning periodic statutory review of minimum wage levels and establishing a perpetually fixed relationship between the minimum wage and the average hourly wages of production workers is one that could have had an extremely harmful impact on our economy. Our best economists are unable to give us more than tentative guesses as to where our economy is going, what productivity will be, whether or not rising unit labor costs will lead to rapid, double-digit inflation fueled further by low productivity, what the collective bargaining picture will be in the years ahead and so on. To rigidly interlock the minimum wage to such uncertainty is to ignore the relationship of the minimum wage to increases in cost of living and to the maintenance of purchasing power as well as to make the minimum wage level a potential contributor to inflation. Inflation hits the low-income individual hardest, as he or she has previous little financial latitude to "adjust" to it. To remove from Congress the ability to adjust the minimum wage to cost of living and purchasing power by adopting uncertain, automatic features is unwise. The specific year-by-year increases that we have voted are ample and can be adjusted further as economic conditions warrant. These levels do approach the anticipated family of four poverty levels in the years ahead. They are no windfall to say the least but they do begin to provide a work incentive and I hope they complement President Carters welfare reform plan which attempts to make work more profitable than public assistance.

THE TIP CREDIT PROVISION

I joined with President Carter and Labor Secretary Marshall in opposing the committee's proposal to reduce the 50 percent employer tip allowance to 20 percent by 1983. I spoke with many Ohioans on this issue, employers and employees. All sides agreed that this provision might result in very substantial layoffs and increased unemployment. I felt that this provision should be retained. After efforts to retain the tip credit as it now is were defeated, I joined Senator STAFFORD in modifying the committee proposal by providing for a reduction in the tip credit by 5 percent annually until it reaches 30 percent in 1981. This is a reasonable compromise after failure to retain the 50 percent level.

THE YOUTH DIFFERENTIAL ISSUE

Much time was spent on the highly controversial proposals to provide a differential youth minimum wage. The proposals varied greatly, including various percentage deductions, varying eligibility periods and so on. I respect the proponents of these measures and their motivation in seeking measures that would reduce the deplorably high rates of youth unemployment, which in the black inner cities, commonly reach rates of 40 percent, and sometimes exceed 75 percent.

I believe that these proposals are not entirely unsound. I would like, however, to see any differentials put specifically to use for training programs that promise substantive, viable skills. I would like to see specific targetting of large-scale anti-unemployment incentives and programs. I do not think that 6 month, small percentage differentials, as proposed, will make much of a dent in inner city and teenage unemployment. Additionally, I am concerned about unemployed adults, similarly unskilled, who, to compound their problem, would now be thrown into competition for these entry-level jobs.

And, realistically, Mr. President, we can expect no proliferation of business development in the inner city as a result of these types of proposals. Our seemingly intractable unemployment problems will only be solved by comprehensive national policy that involves location incentives, training incentives, some Government programs, such as the fledgling youth jobs program, and meaningful welfare reform, all in addition to the minimum wage. I hope that this administration will move quickly to develop and implement such a comprehensive policy. It would be a mistake to approach this problem in random, piecemeal fashion.

SMALL BUSINESS EXCLUSION

At present, businesses whose annual gross volume is not more than $250,000 are exempt from minimum wage requirements as a practical matter this is an extremely low figure given the nature of business operations in 1977. It does not take a very large business these days to gross $250,000. Circumstances have changed considerably since enactment of the $250,000 exemption and an increase in this exemption was fully warranted. I supported Senator BUMPERS efforts to increase this exemption, which carried and goes to $325,000 by 1980. I would hope that conference compromise with the House of Representatives figure of $500,000 would further increase the Senate passed $325,000 provision.

Mr. BAYH. Mr. President, I rise in support of the legislation before us today, S. 1871, a bill which will bring a long-overdue increase in the minimum wage for all workers covered by the Fair Labor Standards Act of 1938. The current minimum wage of $2.30 an hour for full-time, year-round workers was established by the Congress in 1974. At its current rate, an entire year's work at the minimum wage will produce only $4,784. This figure, $4,784, is $1,420 below the Federal Government's poverty line figure for a nonfarm family of four. When the minimum wage paid the workers of this Nation falls substantially below the poverty line, it is past time for those of us in the Congress to make the necessary adjustment.

The provisions of the legislation before us, as modified by the Williams-Javits amendment, would raise the minimum wage to $2.65 an hour in 1978, $2.90 in 1979, $3.15 in 1980 and $3.40 in 1981. To critics of an increase in the minimum wage, these figures may seem too high. But I say to these critics that these figures do no more than guarantee the majority of American workers the chance to maintain a decent standard of living. According to Federal Government statistics, a married worker with two children would need to be earning nearly $3 an hour today to break above the poverty line set at $5,850 a year. The legislation before us today will not come close to that $3 figure until 1979. When one takes into account inflation and the rising cost of living, the increases mandated by S. 1871 are more than justified.

Today, there are almost 52 million workers who fall under the coverage of the Fair Labor Standards Act. Approximately 3 million workers are currently paid $2.30 or less. Of those workers at the low end of the pay scale, two out of every three are women and a substantial number of these are the primary source of household income. Indeed, according to Brookings economist Edward Gramlich, "the evidence suggests that adult females are the main beneficiaries of increases in the minimum wage."

In addition to affecting women workers, increases in the minimum wage impact disproportionately on black workers. Today more than three out of every four black workers are subject to the requirements of minimum wage legislation. It has been estimated that 17 percent of all black workers are paid $2.65 an hour or less.

Despite traditional claims by opponents of a decent minimum wage that increases have been inflationary, and caused an increase in unemployment, the history of minimum wage legislation, as documented by the Department of Labor, does not support these charges. Both the Senate Human Resources Committee and the House Education and Labor Committee, after careful study, concluded that changes in the minimum wage have had no substantial impact on wage, price or employment trends.

All of us who are concerned with the plight of the unemployed are deeply disturbed by the soaring unemployment rate among our Nation's youth. We are all too sadly aware that the unemployment rate among black teenagers approaches 45 percent. There have been some Members of this body who have suggested that the solution to this problem is to create a special youth subminimum wage. Under the various proposals I have seen, this youth differential would allow employers to pay young people under the age of 19 or 20 from 50 to 85 percent of the minimum wage for full time adult workers.

Mr. President, this is not the answer to youth unemployment. The answer to the problem of youth unemployment is the creation of jobs. It is not to create a lower minimum wage for our younger workers with families to support.

What would the effect of a youth differential be? Would it be to open up more jobs for youths? I think not. Two Department of Labor studies have concluded that a differential for youth would have the main impact of displacing an adult worker. While I do not impugn the motives of many of our Nation's business owners, there is nothing in the youth differential proposals I have seen that would prevent an employer from firing long term employees and replacing them with youths.

Many businessmen from my own State have complained to me that the current exemption for youth employment, available upon application to the Department of Labor, involved too much redtape to make it worthwhile. If this is true, then the answer is to eliminate the unnecessary paperwork. It is not to create a subminimum wage for youth. For that reason, I supported an amendment offered by my colleague from Wisconsin, Mr. NELSON, which would simplify the paperwork burden on those businessmen seeking the existing youth exemption from the minimum wage.

While I support the majority of the changes made in the Fair Labor Standards Act under the provisions of S. 1871, I found that I could not support the committee's position to reduce the existing tip credit which allows employers to credit the tips of a waiter or waitress actually received for up to 50 percent of the minimum wage. I support retention of the tip credit for the simple reason that I feel it is consistent with the basic purpose of the Fair Labor Standards Act itself. That purpose is to guarantee a minimum wage base for American workers. Tips, Mr. President, are wages. Employees are required to pay Federal income taxes and social security taxes on tips as wages earned. I, therefore, do not find it inconsistent with the Fair Labor Standard principles to count tips as part of the minimum wage. Because of my belief that tips are indeed wages, I supported the amendment by my colleague from Florida, Mr. STONE, to retain the present 50-percent credit.

Mr. President, the last minimum wage passed the Congress in 1971. This increase made headway in giving many low-wage earners the chance to rise above the poverty line. But each year we face gigantic hikes in the cost of living. Between May 1974 and July 1977, the Consumer Price Index has risen 25 percent. For many of our workers paid at or near the current minimum wage, these increases have been devastating. The legislation before us today will provide these workers with the chance to sustain a decent standard of living for themselves and their families. I urge my colleagues to enact this long-overdue legislation.

Mr. DOLE. Mr. President, I rise in support of the bill now before the Senate to amend the Fair Labor Standards Act. However, there are several proposed changes in the present law which concern the Senator from Kansas. Many of these new features will have disastrous effects on the very persons supposedly benefited should Congress make them the law of the land.

I do not oppose increasing the statutory minimum wage. Inflation has continued to increase the cost of living for each American. Next to our elderly, low-income workers are among the hardest hit by the ravages of inflation. Since the justification for the minimum wage is to insure every working person a livable wage, periodic adjustments may be necessary. This bill would increase the minimum wage from the present $2.30 an hour to $2.65 an hour. While this rate of increase seems somewhat excessive to the Senator from Kansas, I nevertheless will accept the judgment of the Human Resources Committee that $2.65 per hour should be the standard for the country.

YOUTH DIFFERENTIAL

I do not think it is any longer open to serious question that minimum wage increases operate to reduce job opportunities for teenagers. Teenagers have substantial disadvantages in competing with adults for jobs. They are unskilled and inexperienced; their job search is limited geographically—close to home or school—they need part-time or temporary work compatible with school schedules; they are eligile for the draft; and for a variety of reasons, they have a high turnover rate. Consequently, whenever changed economic conditions—an increase in the minimum wage, for example—exert pressure on employers to reduce labor costs, jobs held by teenagers are among the first to go.

Mr. President, recent figures on the level of unemployment among youths are startling. Estimates of unemployment of black teenagers range to about 40 percent.

These figures, and their social implications, are alarming. But they are in fact understated, because they are based only on youths who are not looking for employment, either because they have tried, and are discouraged, or because they see all their friends out of work and are convinced no jobs are available. Insufficient data exist regarding the number of youths in this nonparticipating category, but there are undoubtedly enough to affect true unemployment rates considerably—particularly in the inner city areas.

The bill would essentially do nothing to reduce the high youth unemployment rate, or to lessen the adverse impact of the bill's large increases and extensions of coverage on youth unemployment.

The effect of a youth differential provision would be to preserve job opportunities for students and teenagers which would otherwise be eliminated when existing minimum wage rates are increased. It is not a question of displacing adult workers. It is a question of whether marginal jobs are held by teenagers and students working part-time or whether such jobs are simply eliminated.

INDEXING

Probably the most revolutionary feature of S. 1871 is the built-in indexing of the minimum wage. This proposal has so many defects it is difficult to choose a place to begin.

Indexing of wages, minimum or otherwise, is indisputably inflationary. But a source of automatic wage increases into the economy has led to double- and triple-digit inflation in countries in South America. The Government in England has been attempting to have

the massive labor unions in that country forego cost-of-living increases in an effort to control the inflation which has crippled the British economy. Congress has made extensive efforts to limit inflation and adoption of indexing provisions such as this are counter to the best interest of every American.

Automatic indexing would be another example of Congressional abdication of power to bureaucrats in the executive. If and when the minimum wage should be increased again. Congress should face its responsibility and enact the necessary legislation. Yearly increases without any congressional review ignores the traditional role of the Congress in the minimum wage. The minimum wage is a creature of congressional creation and should remain firmly under the supervision of elected officials. I am unable to be as certain as some of my colleagues that I can predict the economic future of America. I confess that I do not know how high or low a minimum wage will be consistent with the rest of our economic policy 5 or 10 years in the future.

The particular standard for indexing which the committee has chosen is also lacking. Future increases will be dependent on the average hourly earnings of nonsupervisory workers in manufacturing. Yet, manufacturing wages are at best only tenuously related to wages paid in other industries. The committee could have just as well chosen the average agricultural wage which would be just as invalid. Each industry has it own individual employment characteristics. During every economic cycle, some types of businesses are booming and others are experiencing declines. To contend that the manufacturing wage will be a relevant indicator of general wage trends for the indefinite future is patently ridiculous.

Another point must unfortunately be made in this context. The principal characteristic of manufacturing employees is their higher than average degree of unionization. Use of the manufacturing wage as the linchpin for indexing gives the wage settlements of big unions, no matter how inflationary, a multiplicative effect for all workers paid the minimum wage. Considerable concern has been expressed in Congress and throughout the country about the growing influence of organized labor. A substantial question remains unanswered as to whether the minimum wage level should be so directly dependent on actions of organized labor.

TIP CREDIT

In 1966, Congress amended the minimum wage law to insure that employees who receive tips on a regular basis are guaranteed the minimum wage. Employers may pay these employees at a rate of one-half the minimum wage only if the employee gets enough tips up to or beyond the minimum wage. If for any day the employee does not receive sufficient tips to equal the minimum wage, the employer is required by law to pay the employee the full minimum wage. This system has two primary advantages. First, employees such as waiters have an incentive to work hard and deliver good service. The amount of their take home pay above the minimum wage is determined by their own efforts. Second, the tip credit reduces the per employee expenses of employers and allows the hiring of more people.

The vast majority of waitresses, waiters, and other tipped employees are opposed to repeal of the tip credit. The law already insures that at worst they will receive the full minimum wage. These employees also know that the tips from an average restaurant will give him or her a wage significantly higher than the minimum wage. Elimination of the tip credit could force employers to forbid tipping and institute a standard service charge which the employer, not the employee, keeps.

Employers are also uniformly opposed to the repeal of the tip credit. The direct salary costs of the average employer will double automatically. Production will not increase and may even decrease if employees lose their incentive to give good services. In this case, speculation on possible effects is not necessary. California, which raised the minimum wage in the state to $2.50 and eliminated a tip credit, furnishes positive proof.

Since these changes have become law, thousands of tipped employees in the food service industry have lost their jobs or have had their work hours reduced. A typical food service chain in the State of California had to raise prices 50 percent more than in their resturants elsewhere in the United States. These price increases not only cut profits and forced payroll reductions but also drove customers away.

The third group which should oppose elimination of the tip credit is every consumer of restaurant services in the country. The inevitable result of forcing higher costs on the owner is either higher menu prices or closing down of these establishments. The consumer advocates should be raising a howl at this congressional attempt to hike prices in restaurants without any justification.

Employees, employers, and customers all oppose elimination of the tip credit. While the Senator from Kansas would have preferred to retain the present tip credit structure, I support the Stafford amendment which will reduce tip credit by 5 percent until it reaches 30 percent in 1981.

SMALL BUSINESS EXEMPTION

Presently, businesses with annual gross sales of $250,000 are exempted from the minimum wage law. For the most part, these are "Mom and Pop" type of operations.

There has always been a basic exemption for small business under the Minimum Wage Law. This is not anything new we are considering. At one time, it was a $1 million exemption but that figure was reduced to $250,000 in 1969. There seems to be little or no legislative history of why it was reduced. However, the clear intent was to give an exemption. In 1969, it was set at $250,000 however, the Senator from Kansas questions whether the $250,000 level represents the true amount intended for 1978.

The Senator from Kansas has no doubt that the present level must be raised. The raise is long overdue; $250,000 in 1967 dollars represents approximately $468,000 in 1977 dollars. Nearly everything has doubled: Wages, prices, cost. To keep the $250,000 level is grossly unfair to small businesses. It must be updated or else we will drive out of business thousands of small businesses, adding greatly to the unemployed. Although the Tower amendment, which would have set the small business exemption at $1,000,000, has been amended to a smaller increase of $275,000 in 1978 and $325,000 in 1980, I believe the Senate has taken a step in the right direction in addressing a serious problem experienced by the small businesses of our country.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

H.R. 3744

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 408, H.R. 3744.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 3744) to amend the Fair Labor Standards Act of 1938 to increase the minimum wage rate under that act, and for other purposes.

The PRESIDING OFFICER. Without objection, the Senate will proceed immediately to the consideration of the bill.

Mr. ROBERT C. BYRD. Mr. President, I move that all after the enacting clause be stricken and that the text of the Senate bill, S. 1871, as amended, be inserted in lieu thereof.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from West Virginia.

The motion was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask for the yeas and nays on passage of the House numbered bill.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on the engrossment of the amendment and the third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass? The yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Maine (Mr. MUSKIE), the Senator from Georgia (Mr. NUNN), the Senator from Connecticut (Mr. RIBICOFF), and the Senator from Montana (Mr. METCALF) are necessarily absent.

I further announce that the Senator from Hawaii (Mr. INOUYE) is absent on official business.

I further announce that, if present and voting, the Senator from Connecticut (Mr. RIBICOFF), and the Senator from Minnesota (Mr. HUMPHREY) would each vote "yea."

Mr. STEVENS. I announce that the Senator from Oklahoma (Mr. BELLMON), the Senator from Nebraska (Mr. CURTIS), the Senator from Idaho (Mr. MCCLURE), the Senator from Kansas (Mr. PEARSON), and the Senator from Illinois (Mr. PERCY) are necessarily absent.

I further announce that if present and voting: the Senator from Illinois (Mr. PERCY) would vote "yea."

The result was announced—yeas 63, nays 24, as follows:

[Rollcall Vote No. 549 Leg.]

YEAS—63

Anderson	Eastland	McIntyre
Baker	Ford	Melcher
Bayh	Glenn	Metzenbaum
Bentsen	Gravel	Moynihan
Biden	Hart	Nelson
Brooke	Haskell	Packwood
Bumpers	Hatfield	Pell
Burdick	Hathaway	Proxmire
Byrd, Robert C.	Heinz	Randolph
Cannon	Hollings	Riegle
Case	Huddleston	Sarbanes
Chafee	Jackson	Sasser
Church	Javits	Schweiker
Clark	Johnston	Sparkman
Cranston	Kennedy	Stafford
Culver	Leahy	Stevens
DeConcini	Long	Stevenson
Dole	Magnuson	Talmadge
Domenici	Mathias	Thurmond
Durkin	Matsunaga	Weicker
Eagleton	McGovern	Williams

NAYS—24

Allen	Hansen	Scott
Bartlett	Hatch	Stennis
Byrd, Harry F., Jr.	Hayakawa	Stone
	Helms	Tower
Chiles	Laxalt	Wallop
Danforth	Lugar	Young
Garn	Morgan	Zorinsky
Goldwater	Roth	
Griffin	Schmitt	

NOT VOTING—13

Abourezk	McClellan	Pearson
Bellmon	McClure	Percy
Curtis	Metcalf	Ribicoff
Humphrey	Muskie	
Inouye	Nunn	

So the bill (H.R. 3744), as amended, was passed, as follows:

SHORT TITLE; REFERENCE TO ACT

SECTION 1. (a) This Act may be cited as the "Fair Labor Standards Amendments of 1977".

(b) Whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Fair Labor Standards Act of 1938 (29 U.S.C. 201–219).

INCREASE IN MINIMUM WAGE

SEC. 2. (a) Section 6(a)(1) (29 U.S.C. 206(a)(1)) is amended to read as follows:

"(1) not less than $2.65 an hour during the year beginning January 1, 1978, not less than $2.90 an hour during the year beginning January 1, 1979, not less than $3.15 an hour during the year beginning January 1, 1980; and not less than $3.40 an hour after December 31, 1980, except as otherwise provided in this section;".

(b) Section 6(a)(5) (29 U.S.C. 206(a)(5)) is amended to read as follows:

"(5) if such employee is employed in agriculture during the period beginning on the first day of January 1978, not less than the minimum wage rate in effect under paragraph (1).".

(c) Section 6(b) (29 U.S.C. 206(b)) is amended by striking out "wages of the following rates:" and paragraphs (1) through (4) and inserting in lieu thereof the following: "wages at the following rate: Effective on and after the first day of January 1978, not less than the minimum wage rate in effect under subsection (a)(1).".

(d)(1) Section 6(c) (29 U.S.C. 206(c)) is amended by striking out paragraphs (2) through (4) and substituting the following:

"(2)(A) Each wage order rate under a wage order described in paragraph (1) which on December 31, 1977, is at least $2 an hour shall, except as provided in paragraph (3), be increased—

"(i) effective January 1, 1978, by $0.25 an hour or by such greater amount as may be recommended by a special industry committee under section 8,

"(ii) effective January 1, 1979, by $0.25 an hour or by such greater amount as may be so recommended by such special industry committee, and

"(iii) effective January 1, 1980, and January 1 of each succeeding year, by $0.30 an hour or by such greater amount as may be so recommended by such special industry committee.

"(B) Each wage order rate under a wage order described in paragraph (1) which on December 31, 1977, is less than $2 an hour shall, except as provided in paragraph (3), be increased—

"(i) effective January 1, 1978, by $0.20 an hour or by such greater amount as may be recommended by a special industry committee under section 8,

"(ii) effective January 1, 1979, by $0.20 an hour or by such greater amount as may be recommended by a special industry committee under section 8, and

"(iii) effective January 1, 1980, and January 1 of each succeeding year—

"(I) until such wage order rate is not less than $2.30 an hour, by $0.25 an hour or by such greater amount as may be so recommended by a special industry committee, and

"(II) if such wage order rate is not less than $2.30 an hour, by $0.30 an hour or by such greater amount as may be so recommended by a special industry committee.

"(C) In the case of any employee in agriculture who is covered by a wage order issued by the Secretary pursuant to the recommendation of a special industry committee appointed pursuant to section 5, to whom the rate or rates prescribed by section (a)(5) of this section would otherwise apply, and whose hourly wage increased above the wage rate prescribed by such wage order by a subsidy (or income supplement) paid, in whole or in part, by the government of Puerto Rico, the applicable increases prescribed by subparagraph (A) or (B) shall be applied to the sum of the wage rate in effect under such wage order and the amount by which the employee's hourly wage is increased by the subsidy (or income supplement) above the wage rate in effect under such wage order.".

(2)(A) Section 6(c)(1) is amended—

(i) by striking out "subsections (a) and (b)" and substituting "subsection (a)(1)",

(ii) by inserting "(A)" before "heretofore", and

(iii) by inserting before the period the following: ", and (B) which prescribes the wage order rate which is less than the wage rate in effect under subsection (a)(1)".

(B) Paragraphs (5) and (6) of section 6(c) are redesignated as paragraphs (3) and (4), respectively.

(C) Paragraph (3) of such section (as so redesignated) is amended—

(i) by striking out "subsection (a) or (b)" and substituting "subsection (a)(1)", and

(ii) by striking out "such subsection" and substituting "subsection (a)(1)".

(3) Section 8(a) (29 U.S.C. 208(a)) is amended by inserting after the first sentence the following new sentence: "The Secretary shall from time to time convene an industry committee or committees, appointed pursuant to section 5, and any such industry committee—

"(A) shall, from time to time, recommend the minimum wage rates to be paid by employers who are in Puerto Rico, in the Virgin Islands, or in both places and who but for section 6(c) would be subject to the minimum wage requirements of section 6(a)(1), and

"(B) may, from time to time, recommend increases in the incremental increases authorized by section 6(c)(2).".

TIP CREDIT

SEC. 3. (a) Effective January 1, 1978, section 3(m) (29 U.S.C. 203(m)) is amended by striking out "50 per centum" and inserting in lieu thereof "45 per centum.".

(b) Effective January 1, 1979, such section is amended by striking out "45 per centum" and inserting in lieu thereof "40 per centum.".

(c) Effective January 1, 1980, such section is amended by striking out "40 per centum" and inserting in lieu thereof "35 per centum.".

(d) Effective January 1, 1981, such section is amended by striking out "35 per centum" and inserting in lieu thereof "30 per centum.".

PENALTIES

SEC. 4. (a) Section 16(b) (29 U.S.C. 216(b)) is amended by adding immediately after the first sentence the following new sentence: "Any employer who violates the provisions of section 15(a)(3) of this Act shall be liable for such legal or equitable relief as may be appropriate to effectuate the purposes of section 15(a)(3), including without limitation, employment, reinstatement, or promotion or the payment of wages lost, and an additional equal amount as liquidated damages."

(b) Section 16(b) is further amended by—

(1) inserting "(1)" after "section 17 in which"; and

(2) striking the period at the end of the last sentence and substituting the following: "or (2) legal or equitable relief is sought as a result of alleged violations of section 15(a)(3).".

RELIGIOUS OR NONPROFIT EDUCATIONAL CONFERENCE CENTERS

"SEC. 5. Section 13(a)(3) (29 U.S.C. 213(a)(3)) is amended by inserting after "recreational establishment," the following: "organized camp, or religious or nonprofit educational conference center,".

SMALL BUSINESS PAPERWORK REDUCTION FOR STUDENT EMPLOYMENT

SEC. 6. Section 14 (29 U.S.C. 214) is amended by redesignating subparagraphs (B) and (C) of paragraph (4) of subsection (b) as subparagraphs (C) and (D), respectively, and by inserting after subparagraph (A) the following new subparagraph:

"(B) To minimize paperwork and encourage small business concerns to employ students under paragraphs (1) and (2), the Secretary by regulations or order shall use a simplified application form specified in this subparagraph for any employer to employ not more than four full-time students under paragraphs (1) and (2) when issuing special certificates under such paragraphs (1) and (2). Each simplified application shall only contain provisions—

"(i) listing the name(s), address(es), and business of the employer;

"(ii) providing the date the employer began operation; and

"(iii) certifying that the employment of such full-time students will not reduce the

full-time employment opportunities of persons other than persons employed under special certificates issued under this subparagraph.".

AGRICULTURAL HAND HARVEST LABORERS

SEC. 7. Section 13 (29 U.S.C. 213) is amended by adding at the end thereof the following new subsection:

"(i)(1) The minimum wage and overtime exemption provided by subsection (a)(6) of this section shall apply according to its terms to hand harvest laborers described in this subsection but an employer or group of employers may also apply to the Secretary for a waiver of the application of section 12 to the employment of individuals, who are less than twelve years of age, but not less than ten years of age, as hand harvest laborers in an agricultural operation which has been, and is customarily and generally recognized as being, paid on a piece basis in the region in which such individuals would be employed for a period not to exceed eight weeks in any one calendar year. The Secretary may not grant such a waiver unless he finds, based on objective data submitted by the applicant, that—

"(A) the crop to be harvested is one with a particularly short harvesting season and the application of section 12 would cause severe economic disruption in the industry of the employer or group of employers applying for the waiver;

"(B) the employment of the individuals to whom the waiver would apply would not be deleterious to their health or well-being;

"(C) the level and type of pesticides and other chemicals used would not have an adverse effect on the health or well-being of the individuals to whom the waiver would apply;

"(D) individuals age twelve and above are not available for such employment; and

"(E) the industry of such employer or group of employers has traditionally and substantially employed individuals under twelve years of age without displacing substantial job opportunities for individuals over sixteen years of age.

"(2) Any waiver granted by the Secretary under paragraph (1) shall require that—

"(A) the individuals employed under such waiver be employed outside of school hours for the school district where they are living while so employed;

"(B) such individuals while so employed commute daily from their permanent residence to the farm on which they are so employed; and

"(C) such individuals be employed under such waiver (i) for not more than thirteen weeks between June 1 and October 15 of any calendar year, and (ii) in accordance with such other terms and conditions as the Secretary shall prescribe for such individuals' protection.".

STUDENTS

SEC. 8. (a) Section 14(b)(4)(B) (290 U.S.C. 214(b)(4)(B)) is amended by striking "four" each time it appears and substituting "six".

(b) Section 14(b) is amended by adding at the end thereof the following new paragraph:

"(5) The Secretary may by regulation or order provide for an exemption from the limitations imposed under subsection (b)(4)(B) upon a showing by the employer that such an exemption would not have an adverse effect upon full-time employment.".

HOTEL, MOTEL, AND RESTAURANT EMPLOYEES

SEC. 9. (a) Effective January 1, 1978, section 13(b)(8) (29 U.S.C. 213(b)(8)) is amended by striking out "forty-six hours" and inserting in lieu thereof "forty-four hours".

(b) Effective January 1, 1979, such section is repealed.

DATA COLLECTION ON MINIMUM WAGE EARNERS

SEC. 10. (a) Section 11(a) (29 U.S.C. 211(a)) is amended by adding the following: "The Secretary of Labor shall conduct, or make arrangements to conduct, a study to determine (i) the nature and extent of noncompliance with the provisions of this Act, and (ii) the social and economic characteristics of workers affected by the minimum wage and modifications thereto, to include, but not limited to, age, sex, race, family status, duration of employment with the same employer, and, to the extent practicable, information concerning the proportions of such workers who are heads of households, principal or secondary wage earners, and the family size and total family income of such workers.".

RETAIL AND SERVICE ESTABLISHMENT COVERAGE

SEC. 11. (a) Section 3(s) (29 U.S.C. 203(s)) is amended by renumbering paragraphs (2), (3), (4), and (5) as (3), (4), (5), and (6), respectively, and inserting after paragraph (1) the following:

"(2) is comprised exclusively of one or more retail or service establishments, as defined in section 13(a)(2), and whose annual gross volume of sales made or business done is not less than $250,000 (exclusive of excise taxes at the retail level which are separately stated) and beginning July 1, 1978, whose annual gross volume of sales made or business done is not less than $275,000 (exclusive of excise taxes at the retail level which are separately stated) and beginning July 1, 1980, whose annual gross volume of sales made or business done is not less than $325,000 (exclusive of excise taxes at the retail level which are separately stated), except that an employer who is required to pay the minimum wage on the day before the date of enactment of the Fair Labor Standards Amendments of 1977 and who would not be so required subsequent to enactment of the Fair Labor Standards Amendments of 1977 may not decrease the wages or increase the maximum hours required by this Act of any employee who received the minimum wage applicable during the time at which the employer was required to pay the minimum wages."

(b) Paragraph (1) of section 3(s) is amended by adding after the phrase "and beginning February 1, 1969, is an enterprise" the following: "other than a retail or service establishment described in paragraph (2)".

EFFECTIVE DATE

SEC. 12. (a) The amendment made by section 2 of this Act shall take effect on the first day of January 1978, except that on and after the date of enactment of this Act the Secretary of Labor shall take such administrative action as may be necessary.

(b) The amendments made by sections 4, 5, and 6 shall take effect on January 1, 1978.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. CRANSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. WILLIAMS. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make technical and clerical corrections in the engrossment of the Senate amendments to H.R. 3744.

The PRESIDING OFFICER (Mr. MATSUNAGA). Without objection, it is so ordered.

Mr. WILLIAMS. Mr. President, I move to indefinitely postpone consideration of S. 1871.

The PRESIDING OFFICER. Without objection, the motion is agreed to.

Mr. JAVITS. Mr. President, I will just take 30 seconds to compliment Senator WILLIAMS and to express my appreciation of the fine work on this matter.

Mr. RANDOLPH. May we have order, Mr. President?

The PRESIDING OFFICER. The Senate will be in order and the Senator will cease. The Senator will suspend for a moment. The Senate will be in order.

The Senator from New York.

Mr. JAVITS. To those on Senator WILLIAMS' staff and of my staff, John Rother and Don Zimmerman, the two top men on Labor.

I am grateful also for the patience of our colleagues who bore with us on some pretty hard things.

Mr. WILLIAMS. Mr. President, it is too late to fully express the feelings I have on this matter.

Certainly, the Senator from New York and I have had, again, a happy relationship. His staff has been helpful. My staff people, Steve Paradise and Darryl Anderson, have been invaluable.

The Senator from West Virginia (Mr. RANDOLPH) has been a trooper in all respects, in all regards, on this bill.

Finally, the majority leader is to be thanked by all of us.

Mr. JAVITS. May I say that for both the majority and minority leaders who held up their hands when we needed it most.

I thank the members of the minority.

Mr. BAKER. Mr. President, only 15 seconds to say that I wish to extend my congratulations and appreciation to both Senator JAVITS, the manager on this side, and Senator WILLIAMS, the manager on the majority side, for a job well done.

Mr. ROBERT C. BYRD. Mr. President, I believe the Senate—indeed, the working people of this country—owes a large measure of appreciation to the dedicated managers of S. 1871, the minimum wage legislation, Senator WILLIAMS for the majority, and Senator JAVITS, the minority manager. They have exhibited the depth of their commitment to the working people of the Nation through their knowledge of complex issues in guiding this measure to its passage. I must also take a moment in praising the outstanding work in this field of my distinguished senior colleague from West Virginia, Senator RANDOLPH, who greatly assisted the managers of this bill.

I wish to express my appreciation also to Steve Paradise, Darryl Anderson, John Rother, and Don Zimmerman of the professional staff of the Human Resources Committee for their distinguished work on the bill.

THE MARINE MAMMAL PROTECTION AUTHORIZATION ACT

Mr. PACKWOOD. For the record, I would like to discuss with my distinguished colleague from the State of Washington the amendment he offered to S. 1522, the Marine Mammal Protection Authorization Act, which concerns a limitation on the expansion of crude oil terminals in Puget Sound and northern Washington State waters. My understanding is that the amendment was not intended to reduce the ability of the State of Oregon to receive petroleum products from Washington State refineries, either now or in the future, as Oregon's petroleum demands increase.

Mr. MAGNUSON. Exactly, and let me clarify the intent of that amendment for the Senator from Oregon. As you know, the intent of the amendment is to restrict increased tanker traffic in the Puget Sound area. When the amendment was drafted, I took care to be sure that it did not unduly affect the State of Oregon. In fact, the amendment only applies to construction or alteration of dock facilities in the Puget Sound region, not to refineries as such. We both know that Oregon receives most of its supplies of refined petroleum from Washington refineries. This oil is transportation primarily via the Olympic pipeline through Portland. As Oregon's needs increase, there are several ways that Oregon would receive additional supplies from Washington, despite this amendment.

First, much of the oil refined in the State of Washington is shipped out of state for sale. In fact, none of the refineries are actually the top marketer in the State. Therefore, refined product, that is now exported from my State at the current level of crude oil imports at Washington refineries could be diverted to the Oregon market via the Olympic Pipeline, if necessary.

Second, a new oil port at Kitimat, British Columbia, could be connected into Washington State to handle expanded refinery capacity or expanded needs in Oregon.

And finally, if Oregon wanted to receive increased supplies, it could also be accomplished by increasing tanker shipments as long as no alteration of dock facilities in Puget Sound is involved.

Mr. PACKWOOD. Thank you for that explanation. I would hope that if necessary you would assist my State in every way should problems arise as a result of this amendment.

Mr. MAGNUSON. I do not foresee any serious problems arising but will do whatever I can to help my distinguished collegue from Oregon and his State.

Mr. PACKWOOD. I thank the Senator for his remarks and pledge of support.

DEPARTMENT OF DEFENSE SUPPLEMENTAL APPROPRIATION AUTHORIZATION ACT, 1978

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of S. 1863, which the clerk will state by title.

The legislative clerk read as follows:

A bill (S. 1863) to authorize appropriations during the fiscal year 1978 for procurement of aircraft and missiles, and research, development, test, and evaluation for the Armed Forces, and for other purposes.

The Senate proceeded to consider the bill which had been reported from the Committee on Armed Services with amendments as follows:

On page 1, beginning with line 3, insert the following:

That this Act may be cited as the "Department of Defense Supplemental Appropriation Authorization Act, 1978".

On page 2, at the beginning of line 15, insert "SEC. 201.";

On page 2, line 22, strike "$333,600,000" and insert "$253,470,000";

On page 2, line 23, strike "$15,000,000" and insert "$14,000,000";

On page 2, beginning with line 24, strike through and including line 25;

So as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Department of Defense Supplemental Appropriation Authorization Act, 1978".

TITLE I—PROCUREMENT

SEC. 101. In addition to the funds authorized to be appropriated under the "Department of Defense Appropriation Authorization Act, 1978" there are hereby authorized to be appropriated during fiscal year 1978, for the use of the Armed Forces of the United States for procurement of aircraft and missiles, and other weapons, as authorized by law, in amounts as follows:

Aircraft

For Aircraft: for the Air Force, $33,000,000.

Missiles

For Missiles: for the Air Force, $64,000,000.

TITLE II—RESEARCH, DEVELOPMENT, AND EVALUATION

SEC. 201. In addition to the funds authorized to be appropriated under the "Department of Defense Appropriations Authorization Act, 1978" there are hereby authorized to be appropriated during the fiscal year 1978 for the use of the Armed Forces of the United States for research, development, test, and evaluation, as authorized by law, in amounts as follows:

For the Air Force, $253,470,000.

For the Defense agencies, $14,000,000.

Mr. STENNIS. Mr. President, this bill will be presented primarily by the Senator from New Hampshire (Mr. McINTYRE) who has asked me to assist him in controlling the time.

Mr. President, I will yield briefly, but I would like to make a brief statement on the way the bill looks from here.

This is the followup authorization bill regarding prospective aircraft and missiles that come into the picture because of the B–1 matter and the action of President Carter in canceling it out. The B–1 itself is not in the bill. There is no direct vote on any money here concerning the B–1.

This has been very carefully gone over, worked over by the committee, and all the major wrinkles except one, I believe have been straightened out.

There could be a rollcall vote on that, but I still have hope we can straighten it out; and, of course, for final passage.

I will be very brief, just 2 or 3 minutes.

Mr. President, may we have quiet to my right front, please?

The PRESIDING OFFICER. The Senate will be in order.

Several Senators addressed the Chair.

Mr. STENNIS. The Senator from Iowa asked me to yield to him for a unanimous-consent request.

Mr. CULVER. I thank the Senator for yielding.

Mr. President, I ask unanimous consent that Mr. Stevenson and Mr. Asplund of my staff be granted privilege of the floor during consideration of this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STENNIS. Mr. President, I ask unanimous consent for Mr. Sullivan, Mr. Riedel, and Mr. Cohen.

The PRESIDING OFFICER. Without objection, it is so ordered.

Several Senators addressed the Chair.

Mr. STENNIS. Mr. President, I want to accommodate Senators. It will have to be brief, there are people waiting.

The PRESIDING OFFICER. May I inquire of the Senator from Mississippi to whom he is yielding now?

Mr. STENNIS. I yield to the Senator from Arizona.

Mr. GOLDWATER. Mr. President, I ask unanimous consent that Robert Old, Rhett Dawson, and Will Ball, be granted privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BARTLETT. Mr. President, I ask unanimous consent that Ron Lehman of my staff be granted privilege of the floor during this matter.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STENNIS. Mr. President, I will just take 2 or 3 minutes to refer to this bill. It is a highly important measure, Mr. President, because it relates directly to what we all know as the Triad, the third leg of our strategic forces. It has been affected, of course, by the decision of the President concerning the B-1. This additional authorization was submitted to us just before the August recess. Hearings were held partly during the recess by our subcommittee and have been completed since, of course.

We have very fine recommendations here that cover all the items. There is some disagreement about one item. There are some other colloquies here about some amendment.

But the Senator from New Hampshire, with his usual skill and completeness and very fine work, together with his fellow members of that subcommittee, have done their usual excellent job. I am going to ask him, for the committee, to make the opening presentation on this matter.

The prospect is that I think it will not be extended. We could finish this bill within an hour, but it might take more.

Mr. President, I yield to the Senator from New Hampshire.

Mr. McINTYRE. I thank the Senator.

Mr. President, what is the time limitation on this particular bill?

The PRESIDING OFFICER. Three hours, equally divided.

Mr. McINTYRE. And on the amendments?

The PRESIDING OFFICER. Thirty minutes on amendments.

Mr. STENNIS. I yield the Senator from New Hampshire 15 minutes.

The PRESIDING OFFICER. The Senator from New Hampshire is recognized for 15 minutes.

Mr. McINTYRE. Mr. President, I certainly regret the lateness of the hour and the time of the week when we bring up this very important matter. I certainly will bear it in mind as we try to get through a brief explanation and try to deal with such amendments as may be offered or such colloquies as may be in order.

Mr. President, when the President decided to cancel the B–1, it had the following effects:

He asked Congress to delete $1.434 billion in fiscal year 1978 B–1 procurement from the fiscal year 1978 appro-

priations bill. The Senate agreed to this on July 18, and the House agreed on September 8 by a vote of 201–199.

He asked Congress on July 19 to rescind $462 million of the fiscal year 1977 B–1 procurement funds. This is under consideration by the Appropriations Committee—not an issue here.

He asked that the $442.5 million in fiscal year 1978 B–1 R.D.T. & E. to be continued to protect the production option for the B–1. This is under review by the Department of Defense.

The President's recommendations are embodied in S. 1863, supplemental defense authorization bill. Since the bill dealt primarily with R. & D. matters, the chairman of the Armed Services Committee referred the bill to the R. & D. Subcommittee, which I chair, for hearings and report to the full committee.

To those of us on the Armed Services Committee, the decision to, in effect, kill the B–1 bomber had important implications as to how we would maintain the viability of the triad concept of our defenses.

Just before the August recess we held two hearings. On July 27, Dr. Perry and General Slay outlined the Department's new conception of the future bomber force. To do this, they used the methodology we developed in our spring hearings. They first defined the military mission which the strategic bombers are to execute. They then detailed the intelligence community's estimate of the Soviet air defenses which might degrade our bombers' ability to perform their missions in the mid-1980's. Finally, they showed how the systems proposed in this bill could be used in a force to counter the Soviet defenses and assuredly perform their assigned tasks.

On July 29 they returned to discuss the details of the dozen or so individual programs in the bill. Although everyone was most cooperative, it became clear that there simply had not been enough time for a deliberate review of some of the important elements of the supplemental even by the Department, let alone by the subcommittee. We therefore decided that we would need to inquire further before we could make a recommendation to the full committee.

During the recess we developed the necessary record in a variety of ways.

The subcommittee submitted almost 300 written interrogatories to DOD for formal response. These covered as best we could the full breadth of issues raised by the bill—program costs and management, the future threat, the decisional process regarding the B–1, the practical operational aspects of the proposed new bomber force, SALT implications, and strategic targeting policy.

We successfully insisted that the administration comply with the law which requires an arms control impact statement on certain items in the bill. This statement is in the committee files.

Committee staff traveled to the four major contractors involved in bomber and cruise missile programs to examine their production facilities and review the details at their program management. They also visited the two prinicipal commands which would use systems requested in the bill—NORAD and SAC. For extensive briefings and discussions.

At Senator GOLDWATER's suggestion we invited the new Commander in Chief of SAC, Gen. James Ellis to testify, and on August 27 he and his team discussed in some detail the targeting and operational considerations of the proposed future bomber force.

General Bratton, the director of the ERDA weapons program, testified on the W–80 cruise missile warhead development.

On August 29 the subcommittee met with Dr. Perry and General Slay for a final summary review of this collective record.

In all, we held 15½ hours of hearings and received testimony from over 10 key witnesses. As we reported our findings to the full committee on September 9, I felt that we had a rich detailed and logical record on which we could make prudent legislative judgments.

Our inquiry substantiates several important conclusions about our future bomber force.

Most important, it became clear that there are substantial advantages to be gained if we build a mixed force of manned penetrating bombers and stand-off cruise missiles. A mixed force overwhelmingly multiplies the technical, financial, and military problems of the Soviet air defense.

This is true first in a broad sense. In general, a defense against the penetrating bomber must concentrate on terminal SAM air defenses and a highly expensive and sophisticated net of ground controls radars to direct interceptors. In general a defense against the standoff cruise missile must concentrate on the cruise missile carrier before it launches its cruise missiles. This requires an expensive and sophisticated fleet of AWACS aircraft and a force of long-range interceptors. Since a mixed force denies the Soviets the ability to concentrate on either the manned penetration or the cruise missile, they must either accept the massive costs of double air defense systems or accept substantially greater weaknesses in their defenses. In the one case they are forced to take resources currently devoted to offense to spend on a futile search for an effective air defense. In the other case, deterence is even more greatly enhanced. In both cases strategic stability increased.

A mixed force also challenges the Soviet's air defenses technically as well. A SAM system designed to beat a penetrating bomber depends on a man to adjust to American jammers. A SAM system designed to counter a cruise missile which has no jammers but which would have a very low radar cross section and which would, therefore, reduce reaction time greatly, would have to be automatically fired. A mixed force, therefore, poses a dilemma requiring the Soviets to optimize their SAM system against cruise missiles or bombers. Either choice leaves them more vulnerable to the other. So they are forced to the expense of building double systems or accepting substantial vulnerabilities.

These synergistic advantages of a mixed force makes both the manned penetrator and the cruise missile more effective. SAC testified to our subcommittee that their estimates of B–52 survivability 10 years from now increased significantly if the B–52 were mixed with long-range cruise missiles.

A mixed bomber force will give us major operational military advantages as well. A mixed force provides greater targeting flexibility and introduces major uncertainties for the defense about the number and kind of attacking weapons at any given point of attack. We do not give up the advantages of having some high yield gravity bombs to use on critical, difficult target. We also do not give up the flexibility of manned bombers for conventional applications.

There are also major SALT advantages from a mixed bomber force. If we would depend on an all or dominately stand-off cruise missile force as some have suggested, the President's negotiating flexibility at SALT would be severely restricted. Range limitations on cruise missiles, especially when adjusted for operational degradation and possible future Soviet defensive programs which could push the stand-off aircraft further and further back, could mean that we simply could not attack some part of the Soviet target base with our bomber leg of the Triad. We would find this militarily unacceptable.

However, a mixed force of manned penetrators and stand-off cruise missiles would enable the bomber forces to attack the entire Soviet target base in a variety of ways. The manned penetrators in the force will reach 100 percent of the target base. So will aircraft used in a dual role which would launch long-range cruise missiles while penetrating and which would then complete their mission as in the classic penetrating fashion. A large portion of the target base would also be covered by stand-off cruise missiles even if limited by reasonable range restrictions at SALT.

So the mixed force supports the President at SALT by providing him with sufficient flexibility to bargain for critical restrictions on Soviet ICMB's in return for reasonable limitations on our cruise missiles, with the full confidence that this would not mean any diminished military effectiveness in our bomber force.

In sum, the brief for a mixed bomber force is compelling. In fact, I am convinced that the most significant product of our labors since last July has been to clarify and detail this basic concept.

At first the DOD was vague and unclear about their conception of a future bomber force. Some of their public statements suggested a dominately stand-off cruise missile force. But our persistent inquiry formally produced a clear and unambiguous commitment by Dr. Perry, speaking for Secretary of Defense, that a mixed force was a central planning objective of the Department.

Mr. President, together with the senior Senator from the Commonwealth of Massachusetts and our staffs, we have discussed at great length some of the problems that face all of us when we

talk about the future of the cruise missiles, and I yield to the distinguished Senator from Massachusetts at this time.

Mr. KENNEDY. I thank the Senator very much.

Mr. President, I welcome the opportunity to comment on the arms control and military issues which the Armed Services Committee has put before us in the cruise missile and related areas.

At the outset, I express my very deep sense of appreciation to the Senator from New Hampshire, the chairman of the committee and others, as well as my colleague the distinguished Senator from Maryland (Mr. MATHIAS), who worked with us on a number of issues which are raised by this particular authorization.

Mr. President, I do not think we should let this opportunity go by in the Senate without considering the implications of cruise missile development—without establishing on the floor some of the very grave, important implications that the development of the cruise missile as well as the mobile MX missile will have for the United States.

I think it is appropriate for those of us who have followed with the Armed Services Committee the development of various weapons systems—and have seen those weapons systems become the subject of very considerable, hard, and difficult negotiations—to establish a very clear and precise record as to the intentions of the Department of Defense in the fashioning of these various weapons systems. This country, under a series of Presidents of both political parties, for a period of some 16 years, has tried to bring the escalation of the arms race into control. We must, therefore, carefully consider the relationship of these weapons systems to our national security, to our responsibilities to our friends and allies throughout the world, and to our interest in arms control and disarmment.

MILITARY AND ARMS CONTROL IMPLICATIONS OF CRUISE MISSILES

Mr. President, I congratulate Senator MCINTYRE and his colleagues on the Armed Services Committee for their careful examination of the cruise missile issue, and I am pleased that we have a chance today to discuss the military and arms control implications of this major weapons system. If nothing else, this is an opportunity for the Senate to educate itself and the public at large on the characteristics as well as the military and arms control implications of this new family of weapons.

My overriding concern is that what we do in this chamber today should not jeopardize prospects for achieving a meaningful and equitable arms control agreement with the Soviet Union. President Carter and Secretary Vance deserve our strong support at a time of promising progress toward a SALT II agreement. Indeed, the President just recently announced that "we and the Soviets are within sight of a significant agreement" on SALT. I welcome this. I believe it could be of major importance for controlling the nuclear arms race—as well as for our bilateral relationship with the Soviet Union.

It is no secret that the Soviets have been increasingly concerned about the impact of our cruise missiles on their security. We have long been concerned about the impact of their heavy missiles on our security. And there is growing appreciation, by both sides, of the serious adverse effects that mobile ICBM's can have on stabiilty. Surely it is in our best mutual interest to effectively limit the systems which cause each side the greatest concern—rather than to permit deployments which can contribute to a new round of the nuclear arms race and set back prospects for nuclear arms reductions in SALT.

We have heard from the committee that the bill before us is limited to further development and evaluation of air-launched cruise missiles. It extends in no way to sea-launched and ground-launched cruise missiles. This authorization is intended only to enhance the effectiveness of the airborne deterrent, in the context of the administration's wise decision to cancel the B–1 bomber—a decision which should be confirmed once and for all by both Houses of Congress.

Despite serious misgivings on our part, this understanding has led me and my cosponsors to decide not to seek to reduce the funds authorized by this bill—but rather to propose an amendment which would clarify the limitations of this authorization and which would establish the intent of Congress as to the future shape of the United States cruise missile program.

Mr. President, I shall introduce the amendment at a later stage in the debate. For the present, I would like to address briefly what I consider to be the key issues: The present military requirements, the anticipated Soviet response to U.S. deployment, the problems of verification, and the risks of proliferation.

The first question any objective observer must ask is how well demonstrated is the need for this supplemental cruise missile appropriation.

We have already authorized $349 million for cruise missiles this fiscal year. By authorizing a supplemental $365 million now instead of next year, we accelerate cruise missile delivery time by roughly 9 months. How does the committee justify this expensive haste to the American people—when the Secretary of Defense tells us that we enjoy strategic equivalence, when we are finalizing the shape of strategic arms limitations to 1985, when brand-new Trident submarines will be joining our existing, invulnerable Polaris and Poseidon force?

Why not assess the initial cruise missile expenditures and the results of SALT II before spending additional hundreds of millions?

Second, there is the even more troublesome possibility that the Soviets will eventually match our cruise missile deployments with their own. According to the administration's arms control impact statement, "Soviet aircraft armed with long-ranged ALCM's could have significant capability against targets in the U.S."—targets which lack any meaningful air defense. I remember well how the Congress accepted MIRV deployment only to discover how rapidly the Soviets could follow suit—to our mutual disadvantage and the insecurity of this Earth.

Will both sides now initiate a new round of the arms race, spending billions not only on cruise missiles and their carriers, but on cruise missile defenses—which are not limited by the ABM treaty? One must marvel at our accelerating missiles against which defenses are not banned, rather than missiles for which there can be no defnses. If the judgment of the Senate is that the Soviets will not eventually deploy substantial numbers of cruise missiles, that is one matter. But should this judgment prove to be incorrect, the most serious consequences could result for our national security.

Third, I am deeply concerned about the potential cruise missile threat to strategic arms control. We have repeatedly stressed the importance of adequate verification in the SALT process. Yet cruise missile limitations will be extremely difficult to verify, in terms of numbers, range and warheads. These missiles are extraordinarily versatile—flexible in range, launchable from a variety of platforms. They can be easily concealed—as can the existence of a nuclear warhead in a cruise missile. In the absence of strict limitations, it will be very difficult to verify how many missiles are deployed, the nature of their warhead, and the extent of their range. Yet with carefully fashioned constraints a verifiable treaty can be achieved.

U.S. cruise missile development should be consistent with the achievement of verifiable limits. That is why it is important to limit the supplemental funds to air-launched cruise missiles. And it is in the spirit of limiting cruise missiles to verifiable roles that I will offer my amendment today.

Finally, we must take seriously the proliferation problem, particularly since cruise missiles have clearly become more attractive with our allies as this program has developed. We now run the risk of many more countries—not just our allies—pursuing this relatively cheap and versatile nuclear delivery system, with serious implications for SALT, MBFR and nuclear proliferation. The spread of this technology could have a shattering effect on our ability to maintain international stability, let alone conclude meaningful arms control agreements in the future.

As seriously as I view the overall cruise missile problem, however, I recognize that air-launched cruise missiles could in the future make a contribution to the viability of our airborne deterrent. But I see no way in which theater or strategic sea-launched or ground-launched cruise missiles could enhance our national security—indeed, it would be diminished by displacing ballistic with cruise missiles and by opening the way to corresponding Soviet deployments. In my view, it is above all ground-launched cruise missiles which present the most serious political, verification, and proliferation problems. Can we deny them to our allies once we deploy GLCM's our-

selves? Would the Soviets and in time the United States, be prepared to accept unilateral assurances that cruise missile warheads are not nuclear—or are restricted to shorter ranges?

Are not SALT and MBFR complicated enough without multiplying the kinds of weapons to be controlled and the countries which have them at their disposal? The administration has yet to issue an arms control impact statement on ground-launched and sea-launched cruise missiles. If and when it does, the Congress has a right to expect a full and candid discussion of these issues.

For these reasons, I welcome the fact that the bill before us does not commit this country today to any particular deployment of air-launched cruise missiles. Nor, even more importantly, does it contemplate further development of ground-launched and sea-launched cruise missiles.

On these crucial questions, I am convinced that the Congress and administration must exercise the greatest prudence—in future cruise missile funding decisions and in future arms limitation and reduction agreements.

Mr. President, I request unanimous consent that three very pertinent and persuasive articles be inserted into the RECORD at this point. They are a debate on U.S. cruise missile deployment in the Christian Science Monitor, between Robert Pfaltzgraff and Jacquelyn Davis—pro—and David Linebaugh—con; an editorial note by Richard Ullman in the New York Times; and an editorial by Bernard Feld in the Bulletin of the Atomic Scientists.

The weight of the arguments is clearly in the direction of the greatest possible restraint over cruise missiles of all types.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the New York Times]

THE CASE FOR THE CRUISE MISSILE

(By Richard H. Ullman)

When President Carter decided last month to cancel production of the B-1 bomber, he said the United States would rely instead upon air-launched cruise missiles to extend the life of the B-52 bomber into the 1990's. Cruise (as distinguished from ballistic) missiles are, in effect, miniature unmanned aircraft, with wings and airbreathing jet engines; through sophisticated electronic guidance they can fly at treetop heights to distant targets. Last week, Secretary of Defense Harold Brown explained the Administration's reasoning to the House Armed Services Committee in a statement notable both for what it said and for what it omitted.

His basic message was that by the mid-1980's, unless steps are taken, the nation's nuclear deterrent will depend too heavily upon ballistic-missile submarines. Land-based missiles will be vulnerable by then to a pre-emptive blow from a small number of heavy Soviet missiles with multiple warheads. Our heavy bombers—even the B-1, were it deployed—would be unlikely to penetrate improved Soviet air defenses. Although our submarines would probably still be invulnerable, possible Soviet breakthroughs in anti-submarine warfare or in missile defenses could negate their effectiveness.

One possible American response, the Secretary said, might be a new large land missile, movable in tunnels or on trucks or railway cars and therefore much less vulnerable to a Soviet first strike. But this so-called "MX" missile might still be defeated by a large-scale Soviet defense system. A more serious objection is that it would appear to Moscow as a first-strike weapon, so accurate and powerful that it would threaten the Soviet land-missile force and tempt Moscow to strike first in a moment of acute international crisis.

Improving our bomber force, Secretary Brown said, is the course least likely to threaten Moscow with a potential first strike. Mounting cruise missiles aboard B-52s (and some other craft, such as modified Boeing 747s) is the most efficient way to do so. The cruise missile's subsonic speed means that it could not be effective in a first strike. Yet its small size and low altitude make defense formidably difficult. To counter it, Moscow would have to divert resources from ballistic missile and submarine defenses; even then it would be much more likely than the B-1 to penetrate air defenses.

Mr. Brown referred only once to the arms-control problems raised by cruise missiles: we must make sure, he said, that our negotiating proposals do not prevent us from adding them to the bomber force. He made no mention of the sea- and ground-launched versions of the weapon, which create the greatest difficulties for arms control. Although it is possible, within acceptable ranges of error, to keep track of aircraft carrying cruise missiles, their presence on surface ships, in submarines or road vehicles would be nearly impossible to monitor.

The Soviet government reluctantly accepted the air-launched cruise missile as an accomplished fact last year and agreed that both sides might use them so long as their range was limited to 2,500 kilometers and provided each plane bearing them was counted as the equivalent of a missile bearing multiple warheads. Moscow views sea- or ground-launched cruise missiles as much more worrisome; it may accept them only if ranges are kept very short.

Short ranges, however, are anathema to the Navy, which wants a piece of the Air Force's intercontinental action. They are anathema also to some of our allies, particularly West Germany, which see long-range cruise missiles as a counter to Soviet missiles targeted on Europe. Still the case for sea-based or ground-launched cruise missiles is weak—the reason, no doubt, why Secretary Brown avoided the subject. The same naval dollars could be better spent improving ballistic-missile submarines. And in European defense, there is nothing cruise missiles can do that piloted fighter-bombers cannot. The Administration should strenuously resist pressures to deploy cruise missiles for any purpose beyond improvement of the bomber force. Arms control is in enough trouble already.

GOOD NEWS AND BAD

(By Bernard T. Feld)

President Carter's decision to cancel the B-1 bomber has been greeted with mixed reaction all across the political spectrum. Predictably, the paranoia of the iron-nosed in military-academic circles was reinforced: General George Keegan declared in the New York Times that the President, having previously conceded strategic superiority to the Soviets, had, with this decision, also yielded up any hope of challenging Soviet control over the air and sea lanes in even a "conventional" war. At the other extreme, including many for whom arms control is primarily a means of claiming for constructive uses resources that would otherwise disappear down the military drain, the decision represented the redemption of a pledge whose seriousness had previously been called into question.

For many of us, however, the controversy over the B-1 was more symbolic than substantive.

The last word in modern aircraft technology, the B-1 was designed to swoop into the Soviet Union underneath the radar defense screen to deliver a multi-megaton load of nuclear destruction on those targets that had not already been obliterated by the 8,000 or so land- and submarine-launched nuclear warheads. Since this superfluous, or at least redundant, mission could still be carried out for the next 20 years by the existing B-52 bomber fleet, the opposition to the extremely expensive B-1 ($100 million per plane) was based primarily on economic grounds. This argument usually does not deny the military-industrial-labor lobby its traditionally guaranteed access to the latest wonders of military technology.

However, because the strategic arguments for the B-1 were so weak, arms control proponents felt it was a good issue on which to advance the principle of restraint and to help forge an alliance with liberal political groups whose normal focus is on domestic-economic issues.

Well, the alliance has won. The B-1 has been rejected. The boondoggle has been defeated. Why, then, are the victory celebrations so muted? Why are the cries of anguish confined to a handful of far-out military nuts? It's like the currently popular series of jokes: good news brings with it bad news.

Unfortunately, in the case of the B-1 decision, the Administration has found a way to satisfy the hawks at the same time it handed a victory to the doves. Technology has provided a cheap means of accomplishing the special mission of the B-1 at bargain prices, via the cruise missile.

Cruise missiles are small, light-weight, subsonic, pilotless aircraft. They can penetrate radar-controlled anti-aircraft defenses by flying at treetop level from launching to target. They are dirt cheap, and can be turned out like sausages once their technology is mastered. They can be mounted by the dozens on huge, slow aircraft (as, for instance, the 747, suitably converted) for launching outside the territory of the USSR, or any other target nation. Or they can be launched from railway cars, lorries, submarines, surface craft, fighter-bombers, or from the ground.

The cruise missile is not at all a new idea. It was first used by the Germans toward the end of World War II. The first operational cruise missiles were the "buzz bombs" that had such a frightening and devastating effect on London, which was nullified only by the capture of their launching pads by the allied armies. Both we and the Russians have deployed much more sophisticated versions in the interim.

Their present attractiveness to our military derives from two technological advances:

First, a gradual improvement of the materials for construction and propulsion has decreased the weight of the aircraft and increased their range, so that it is now possible to carry nuclear payloads over intercontinental distances in quite modest-sized drones.

Second, and much more important, very recent developments in the miniaturization of computers, and the sophistication of various electromagnetic sensors (infrared detectors, small high-power radars and optical lasers) make it possible to provide each drone with its own cheap, light-weight terminal guidance system.

The trouble with this new item of "sweet" technology is that, once it has been developed and tested, the banning of its deployment would be almost impossible to verify by national means alone (short, of course, of espionage, which is not yet generally recognized as an acceptable national verification measure).

A certain case can be made for the possibility of verification, via satellite observa-

tion, of an agreement not to test cruise missiles exceeding some predetermined size and employing certain types of jet engines. Such a prohibition of testing might serve to limit the range of missiles capable of delivering a nuclear warhead. But the possibilities of concealment or camouflaging relevant tests have given rise to widespread scepticism concerning the verifiability of any partial-limitation of cruise missiles according to range or type.

On the other hand, neither we nor the Russians are willing to consider a total cruise missile ban, since such weapons are already close to being assimilated into the arsenals for delivery of conventional explosives.

Nevertheless, we are presumably still discussing with the Russians limitations on the range of deployable "strategic" cruise missiles in the context of Salt II. The outstanding argument is over the acceptable range limitation—our proposal of around 2,500 kilometers (1,500 miles) as against theirs of 480 kilometers (300 miles) for the maximum permissible range. (Another argument is whether or not a strategic bomber carrying cruise missiles should be counted in the MIRV limit.)

However, Carter's decision to exchange cruise missiles of 1,500-mile range for the B–1 (neither as yet deployed) could preclude the negotiability of this issue in Salt II, even as a bargaining chip.

This would indeed be bad news. Just as in the case of MIRV, we seem to be rushing into the deployment of a new, destabilizing nuclear delivery system for the illusory advantages of being there first.

Can we really believe that mini-computer and terminal guidance technologies are beyond the capability of Soviet military technology? Or are we so intent upon the truth of our assertion that the medium-range Soviet Backfire bomber is capable of being used as a strategic delivery vehicle, that we intend to force cruise missiles on them in order to fulfill the prophecy? Or is this yet another glaring example of the military death-wish?

Thus, in spite of manifest good intentions, and some laudable first steps, the Carter administration is in grave danger of falling into the old trap. Under the influence of Soviet intransigence and the combined pressures from military hard-liners, academic hard-nosers, industrial and labor doom-cryers and their Congressional tools, the future prospects for avoiding nuclear catastrophe may be mortgaged for easy, illusory and ill-considered compromises.

The President is far too intelligent not to realize the implications of his decision; we hope he is tough enough to reconsider before the die is irrevocably cast.

THE NEUTRON BOMB

The neutron bomb, a subject of much debate in the United States this summer, is more important symbolically than physically. As a weapon, the idea is an old one, falling into the category of "enhanced radiation weapons." The development and limited deployment of these weapons have been going on for some time, as described by J. K. Mietinen in this issue.

The neutron bomb is a relatively small thermonuclear weapon triggered by a minimum-yield fission explosion in a configuration designed to minimize the fraction of energy going into blast and heat. In principle, if it were possible to neglect the effects of the fission trigger, a pure thermonuclear bomb (say, based on the deuterium-tritium reaction) could release up to 80 percent of its energy in the form of fast neutrons. These neutrons can penetrate reasonable thickness of material—up to, say, a meter of concrete or a kilometer of air—and, if sufficiently intense, cause intense radiation damage, sickness and death in people.

Thus, a pure thermonuclear reaction with the same prompt neutron yield as the Hiroshima bomb would produce less than five percent the prompt blast and heat effects and negligible radioactive fallout..

However, one may ask: So what? Well, first of all,

There is still appreciable fallout from the fission trigger;

Blast and heat cannot be completely eliminated, since there must be sufficient fission energy released to raise the temperature of the thermonuclear materials to the level required to trigger the fusion reaction;

Furthermore, the neutrons will eventually be absorbed in the ground and other materials in the vicinity of their release, and in the air as well, and

Finally, it takes two to play at limited nuclear war.

If the Soviet military forces do not possess neutron bombs, and if they are either unwilling or unable to invest the technical and economic effort required for their development, it is not likely that they will permit themselves to be put at a military disadvantage because of scruples concerning the inviolability of property as compared to people.

Thus, the use of an enhanced radiation weapon is as likely to lead to a large-scale, "ordinary" nuclear exchange as would the use of any other so-called tactical nuclear weapon. If this danger is too great to face with ordinary tactical nukes, it is no less dangerous with neutron bombs.

Therein lies the real objection to the neutron bomb. By contributing to the illusion that nuclear weapons are usable; by eroding the barrier against any first-use of a nuclear weapon; by increasing reliance on them and lowering the threshold of their introduction into possible conflict, the deployment of neutron bombs could greatly increase the chances of the nuclear war whose avoidance must be the raison d'être of the most responsible diplomacy of the superpowers.

Mr. KENNEDY. Mr. President, the Senator from Maryland (Mr. MATHIAS) and I had intended to offer an amendment which would counsel restraint by the United States in cruise missile development and deployment. Along with the assurances that we expect to receive from the Senator from New Hampshire, I think our amendment would permit the Senate to conduct a healthy dialog and debate about the military and arms control implications of the cruise missile and related systems. It is this kind of debate which, I think, can be extremely valuable.

I ask unanimous consent that our original amendment and colloquy be printed as part of our presentation so that the Members have a clear indication of our intentions and views on these particular questions.

There being no objections, the amendment, questions, answers, and remarks constituting the colloquy on arms control and military implications of cruise missiles was ordered to be printed in the RECORD, as follows:

On page 2, line 24, insert the following:

In authorizing funds under title I and title II of the bill the Congress expresses its reservations about either the uncontrolled deployment of air-launched cruise missiles or the further development of sea-launched and ground-launched cruise missiles. Accordingly:

(1) The Administration is directed to take cognizance of these reservations in future submissions to the Congress and in negotiating arms limitation and reduction agreements with the Soviet Union.

(2) Congress asserts its readiness to consider, in accordance with the processes set forth in the Congressional Budget Control and Impoundment Act of 1974 and the Budget and Accounting Act, 1921, such modifications in the United States cruise missile programs as the President may recommend to facilitate either negotiation or agreement in arms limitation or reduction talks.

[From the Christian Science Monitor, Aug. 1, 1977]

SHOULD U.S. GO FOR THE CRUISE MISSILE?

YES

(By Robert L. Pfaltzgraff Jr. and Jacqueline K. Davis)

With the decision of the Carter administration to forgo deployment of the B–1, the United States has become heavily dependent on the air-launched cruise missile to preserve the triad of forces (bombers, submarine-launched ballistic missiles, and the land-based Minuteman force), upon which U.S. strategic doctrine is based, and to stem the erosion of U.S. capabilities in the face of a relentless buildup in Soviet military power.

The emerging generation of U.S. cruise missiles has benefited from revolutionary advances in miniaturization, propulsion systems, airframe designs, guidance technologies and warhead configurations.

Because of their potentially high accuracy, and with their flexibility with regard to deployment modes, cruise missiles would provide the United States, in the early 1980s with a strategic retaliatory capability for use against Soviet targets that have been reinforced (hardened) in large-scale active and passive defense programs mounted by the Soviet Union in recent years.

Land-attack cruise missiles, deployed aboard ships assigned to NATO, allied aircraft, and tracked vehicle launchers could augment the defense/deterrence of Western Europe, contributing the single most important potential application of U.S. cruise missile technology. Deployed on land-based platforms, cruise missiles could attack fixed targets far behind enemy lines, such as supply depots, troop staging areas, and airfields—all of which would need to be destroyed at the outset of a Warsaw Pact attack against NATO. Deep interdiction missions for which manned aircraft are now used might be assumed by cruise missiles, thus freeing tactical air power for missions such as close air support of NATO forces and control of the air space over Western and Central Europe.

Thus the cruise missile has emerged as an important alliance concern which could become a deeply divisive issue within NATO if the United States were to barter away the cruise missile in a bilateral forum such as the SALT. This would be the case if, for example, range limitations were placed on cruise missiles which effectively barred their use for deep interdiction behind Warsaw Pact lines.

Notwithstanding the strategic/military potential of the cruise missile, and despite its announced support of the air-launched cruise missile, the Carter administration has apparently been prepared to consider, for the sake of détente, limitations on the cruise missile at the SALT.

Reportedly, the administration is close to an agreement embodying either a three-year moratorium on the testing and the deployment of the U.S. sea-launched cruise missile (SLCM) and ground-launched cruise missile (GLCM) variants, or a 600-kilometer range restriction on the testing of the GLCM and

SLCM. The ALCM, restricted to a 1,500-mile range, could be deployed aboard strategic aircraft, if each such aircraft carrying cruise missiles were counted under an aggregate ceiling for multiple independently targeted re-entry vehicles (MIRVs).

By this formula, the United States essentially would have to rely on the ALCM to perform strategic missions against the Soviet Union. Without the benefit of a new generation aircraft like the B-1, ALCMs will be far more vulnerable to enemy interdiction. In the lethal electronic battlefield environment of the future, the B-52 launch platform, based on 30-year-old technologies, will be increasingly vulnerable to detection by Soviet radars. Thus, the air-launched cruise missile, deployed from a B-52, will need to have a range greater than would have been needed with the B-1, since its survivability against Soviet air defenses would be related to its ability to deliver longer range ALCMs from a stand-off position, if possible, outside Soviet and East European air space.

With either a moratorium on development, or a 600-kilometer range restriction on the SLCM and GLCM, the military value of the cruise missile for the United States would be greatly reduced inasmuch as it is these two cruise missile systems which can attain the ranges necessary for interdiction missions deep to the rear of Warsaw Pact territory, or against targets located in the interior regions of the Soviet Union. The ALCM in either of its versions (A or B) cannot obtain ranges anywhere near to the 1,500-mile limit mentioned in connection with SALT. Thus any SALT agreement whose effect would be to restrict the development and/or deployment options of the sea-launched and the land-launched cruise missiles while allowing for a long-range ALCM, could only be construed as serving the interests of the Soviet Union, but not those of the United States nor its allies.

(Dr. Pfaltzgraff is director and Miss Davis research associate of the Institute for Foreign Policy Analysis, an independent organization associated with the Fletcher School of Law and Diplomacy. They are the authors of "The Cruise Missile: Bargaining Chip or Defense Bargain?")

NO

(By David Linebaugh)

President Carter's decision to deploy the long-range air-launched cruise missile, announced at a press conference on June 30, may have a shattering effect on efforts to curb the nuclear arms race and to repair United States relations with the Soviet Union.

1. The nuclear arms race will acquire a fourth dimension. The U.S. strategic force will be expanded from a triad (land-based ballistic missiles, sea-based ballistic missiles, and bombers) to a tetrad (these three elements plus the cruise missile). The U.S. will have added an entirely new weapons system to its strategic force, not simply a replacement weapon. The President has repeatedly said that he wants to eliminate nuclear weapons from the earth. But this decision will take us in exactly the opposite direction.

2. Deployment of the cruise missile will result in a significant increase in the numbers of nuclear weapons. The day after the President announced the decision, Secretary of Defense Harold Brown said the new missile may be put on as many as 250 B-52 bombers. That could mean the deployment of 5,000 of these weapons—or more American nuclear weapons of this one type than the total number of nuclear weapons in Russia's entire strategic arsenal.

3. The shelving of the B-1 bomber will stimulate the deployment of another new weapon, the mobile land-based missile known as M-X. Just below the surface in Washington the momentum for M-X surges forward. The argument for M-X will seem compelling: the increasing vulnerability of U.S. land-based missiles and the possible demise of the U.S. bomber force make essential the deployment of a new invulnerable mobile missile. The development of the M-X missile will be the high cost of shelving the B-1 bomber.

4. The military "advantage" of the cruise missile will be fleeting. As with the MIRV, the Russians too will soon master the technology of this weapon. Both sides will then be less secure. Cruise missiles in, for example, the torpedo tubes of Soviet attack submarines will be a formidable threat to the multitude of urban and industrial targets near the coast of America.

5. The problem of verifying limitations on cruise missiles could mean the end of strategic arms limitation agreements. The United States is developing two types of cruise missiles. One is designed for air launch only (the ALCM) and one is designed for launch from the ground, sea, or air (the Tomahawk). Both weapons are small and easy to hide, and limitations on them, especially the Tomahawk, may present insuperable verification problems. Congress and the public need to know more from the administration on this issue. Will cruise-missile limitations be verifiable? If not, should the U.S. not seek Soviet agreement to ban this weapon altogether, for this reason alone?

President Carter has made a decision of great consequence: Stay ahead of the Russians—this time with the cruise missile—rather than attempt to limit the Russians at the cost of limiting the U.S.

In a speech on policy toward the Soviet Union on July 21, the President said the deployment of the cruise missile would counter the growing Soviet threat to the U.S. deterrent. As a result of U.S. deployment of the cruise missile, the Russians will need to counter the growing American threat. And then we will need to counter the Russian counter. And then. . . .

The President's negotiating tactics have been puzzling. In February he said his decision on the B-1 bomber would depend in part on whether the Russians exercise restraint in arms. But in June the President's decision to shelve the B-1 was made without reference to the question of Soviet arms restraint. Similarly, the President's decision to deploy the cruise missile was made solely in terms of cost effectiveness and military effectiveness. No attempt was made to use decisions on the B-1 bomber and the cruise missile to bargain with the Russians.

In a July 1 press conference, Secretary of Defense Brown said, "The constraints we accept [in a SALT agreement] must not harm our strategic capability. . . ." But if we concede the same inviolability to the Soviet strategic force as Mr. Brown demands for the American, is there any inducement, or point, to SALT?

The deployment of the cruise missile will broaden and intensify the nuclear arms race with the Soviet Union and, because of the problem of verifying limitations on the cruise missile, its deployment could even undermine the basis for strategic arms agreements.

More than a speech by the President, like the one he gave on July 21, is needed to avert these consequences. Mr. Carter needs to reexamine his decision. The effort to stop the nuclear arms race and to meliorate relations with Russia may depend on it.

(Mr. Linebaugh, currently a visiting scholar at the Brookings Institution, was a deputy assistant director of the U.S. Arms Control and Disarmament Agency.)

PREPARED COLLOQUY ON MILITARY AND ARMS CONTROL IMPLICATIONS OF CRUISE MISSILES

Mr. KENNEDY. I understand that we are developing a variety of cruise missiles for military applications. In your work on the Senate Armed Services Commitee, how have you come to grips with this maze of developments?

Mr. MCINTYRE. All too often the Department of Defense, as well as elements of the Arms Control Community, have conceived cruise missiles as a single family of weapons which should be discussed as a unit.

This misconception has moved the Pentagon to promote cruise missile technology indiscriminately. Cruise missile enthusiasts have pushed for developments which may have been feasible technologically but for which there is no military requirement.

Similarly, lumping all cruise missiles together blurs technical distinctions which should be drawn between some applications which are quite stable and militarily important, such as the strategic ALCM, and others which are simply not in our national interest such as the strategic SLCM which we killed last year.

So, in our investigations in the Armed Services Committee, we have found it much more valid to avoid considering cruise missiles in general and to focus instead on specific cruise missiles for specific military applications.

This reasoning led us to direct the Department of Defense to "ensure that specific military requirements and missions pace cruise missile developments."

Mr. KENNEDY. The Committee has made important distinctions on cruise missiles—I join in your insistence on forestalling those missiles which are not in our national interest.

For my part, I can recognize the contribution made by ALCMs to our airborne deterrent, and I hope that after further investigation, the Committee will come to share some of the reservations expressed here today on GLCMs and SLCMs.

Mr. KENNEDY. Would be interested in an inventory of the various cruise missile developments that are underway and how the Armed Services Committee has assessed the military utility of each?

Mr. MCINTYRE. Yes, I would be happy to comment on this. In general, we are developing cruise missiles for three military missions.

First, we have been developing two antiship cruise missiles. Both would use conventional warheads and homing guidance.

The Committee in general has supported these developments, sometimes against certain pressures within the Department of Defense. We feel that it would be a great advantage to our Navy to be able to attack enemy ships at some distance at sea without risking pilots or expensive manned aircraft. This is particularly important if we intend to have a future Navy which would depend less on very expensive aircraft carriers.

You might be interested to know our Committee has directed the Department to stop

development of nuclear warheads for these anti-ship missiles because we wish to keep the nuclear threshold as high as possible.

Second, we are developing two cruise missiles for the Theatre Land Attack mission. One version would be launched from mobile vehicles on land—the other from attack submarines at sea. They are virtually identical otherwise. Both are versions of the TOMAHAWK cruise missile and are designed to use nuclear warheads. Both have remarkable terrain following (TERCOM) guidance which gives them great accuracy against fixed point targets.

Both of these theatre applications are relatively new and were first requested as such in the regular FY 1978 budget. We held thorough hearings on them and will continue to assess them carefully. Their promise as an effective low cost weapon which could be militarily important in the NATO Theatre, justified their continued development. Actual deployment would be a few years away so the Administration and Congress will have time to assess the implications of deployment.

You will be interested to know that the Committee directed the Department to intensify its investigations of non-nuclear arming (conventional warheads) in order to keep the nuclear threshold as high as possible.

I should also note that there are no funds in this bill to support any of the anti-ship or theatre land attack cruise missile developments.

Third, this bill supports the development of air launched cruise missiles for our strategic force.

Historically, our Committee has strongly supported the development of strategic ALCMs, even against frequent Pentagon opposition. In 1973, I insisted that the ALCM be developed, because I believed that the B–1 deployment decision should be well hedged. Now it is clear that the strategic ALCM will play a critical role in our mixed bomber force.

Mr. MATHIAS. One problem that is often raised about cruise missile developments is the fear that their cheapness and relatively small size would permit them to be covertly deployed in very large numbers. How do you assess that danger?

Mr. MCINTYRE. In general, I think that is not a first order problem. It would be very difficult, if not impossible, for very large numbers of cruise missiles to be deployed covertly.

If they were deployed on either submarines or aircraft, both of these platforms must be tested as launchers and both classes of platforms can be confidently counted. Moreover, both submarines and aircraft have limited payloads—limited weapons loadings which we can confidently estimate.

The Soviets would have little motive to deploy large numbers of cruise missiles on their submarines or aircraft. In the case of planes, they do not face the same extraordinary air defenses that we do and, therefore, have little military motivation to deploy cruise missiles to saturate or penetrate such defenses as we do.

To deploy strategic cruise missiles on submarines would cost them substantial military penalties as it would the United States. The Soviets, like us, have invested enormous resources in developing long-range sea-launched ballistic missiles in order to make their strategic submarines more survivable against anti-submarine warfare. Even a very long-range cruise missile would be substantially shorter than the ranges they have been achieving with SLBMs and would thereby make their submarines less survivable. If they deployed strategic cruise missiles on attack submarines currently devoted to naval warfare, this would degrade their most formidable naval offense. The gain in actual weapons in their strategic arsenal would probably be measured in a few hundred at a time when they would have many thousands of warheads from ballistic missiles both at sea and on land, even if we were able to achieve substantial reductions in SLBMs and ICBMs at SALT.

It might be possible for a few cruise missiles to be deployed on surface ships or from ground based launchers, but it would be virtually impossible for either kind of deployment to go undetected if it were in large numbers.

In sum, it is possible to theorize in a paneled seminar room about great floods of cruise missiles being covertly deployed, but in practical military terms it seems very unlikely indeed.

Mr. MATHIAS. Of course, if the United States and the Soviet Union, for whatever reason, agreed to do away with restrictions on deployment of strategic sea launched and ground launched cruise missiles then the arms control problems could be serious. Theoretically any Soviet trawler in the Atlantic or Pacific could carry a couple of nuclear armed cruise missiles. The point that must be stressed is that where possible, cruise deployment must be restricted. Otherwise, it becomes a delivery system which, because of its attractive features, is widely and uncontrollably deployed. I think it is well to consider what the political reaction in this country would be if there were no limitations on the Soviet deployment of strategic cruise missiles. We are concerned today about several thousand Soviet nuclear warheads. I think that concern would be far worse if there were large numbers of Soviet strategic cruise missiles on a variety of launchers.

To move onto another question, what do you see then as the primary arms control problems about cruise missile developments?

Mr. MCINTYRE. The principal problem is that although you in general could tell that cruise missiles have been deployed, it is virtually impossible to tell what the critical military characteristics of a particular cruise missile might be and thereby to infer what military mission it is designed to accomplish.

For example, one can not tell by looking whether a cruise missile is armed with a nuclear or conventional warhead. Nor can you determine by looking at a cruise missile or even by observing its flight tests what its range is. If we observe a flight test of a ballistic missile, we have a relatively high confidence that we will know how far it can go. But a cruise missile is a bit like car mileage. It may vary from driver to driver. A cruise missile's range will greatly depend on the mix of altitudes at which it is flown, its speed, whether it has a heavy conventional warhead or a light nuclear one, and how heavy its other equipment might be, such as jammers or guidance. In fact, the problem of range is not just a question of verification, it is a problem of definition.

This challenges our ability to devise verifiable arms control indicators because it is virtually impossible to distinguish between a weapon which one side says is deployed for a limited purpose but which has inherent in it the capability of being covertly modified for a significantly different purpose. For example, the Soviets have a large family of large tactical anti-ship cruise missiles. Their history, the naval exercises, and operational doctrine all greatly suggest that these are designed for that mission. But if they wish to modify them covertly to attack cities in the NATO theatre, it would be difficult for us to distinguished that from their current force.

Similarly, the United States anti-ship Tomahawk is virtually indistinguishable from another variant designed for the theatre land attack mission.

The same problem exists with our theatre land attack GLCMs and SLCMs as well as any future Soviet land attack cruise missile developments. If we agreed to a range limitation on this class of weapons, it would be virtually impossible to certify it. Our allies in London and Brussels would be understandably anxious about any future Soviet cruise missile developments, just as the Soviets would find it impossible to distinguish by national technical means short-range theatre cruise missiles which might be permitted by an agreement from those which would be precluded and which could attack a section of their homeland.

The dilemma is further intensified because the Soviets are very unlikely to give up their anti-ship cruise missiles given their importance to their naval offense. Similarly, the Soviet buildup in Europe raises grave concerns in my mind about the stability and balance of forces there. Cruise missile technology offers one opportunity, among others, to begin to counter the Soviet buildup.

Mr. MATHIAS. What you are saying does not suggest a very hopeful future for arms control. You have gone through the very serious verification problems associated with the cruise missile. From what you have said, we could very well be on a road with no end. Year after year, we and the Soviets will add to the capabilities of our cruise missiles. In time, it cou'd become accepted that range or launcher restrictions on cruise are meaningless.

One thing we must remember is that invariably cruise technology will be improved. The next generation will have the speed that this one does not. Now cruise is not a first strike weapon. I wish I could be assured that down the road it won't become one.

Mr. KENNEDY. These are precisely the kinds of problems which call for maximum restraint in moving beyond the strategic ALCM which will of course be limited by SALT II. The cautions expressed by Senators McIntyre and Mathias are appropriate. I hope that these and the others identified by us here today will be the basis for even more intensive review by the Committee and the Administration.

We stressed the danger of proliferation of cruise missiles in our opening statements. How does the Senator from New Hampshire assess this danger?

Mr. MCINTYRE. The Soviets have already provided some of their older antiship cruise missiles to Third World nations. In fact, they have been used in the Mideast. These version are relatively crude compared to U.S. cruise missile technologies.

It would not be hard for more advanced antiship cruise missiles, with the highly efficient lightweight engines and advanced homing guidance, similar to antiship cruise missiles to be obtained or duplicated by several nations.

However, the cruise missile which most people are interested in, the land attack version, uses a highly sophisticated and accurate terrain-following guidance and would be very difficult to duplicate, even by technically advanced nations, for some years. Therefore, the U.S. will be able for years to control the proliferation of these advanced land attack cruise missiles.

Moreover, even if other nations were able to obtain these land attack cruise missiles, with their sophisticated TERCOM guidance, their ability to use this weapon flexibly against a wide variety of fixed point targets would depend on an even more elusive technology, the satellite and mapping technology which is necessary to produce digitized maps which the cruise missile's computer follows.

Mr. KENNEDY. We have always thought that we could control technology over long periods of time. But the historical record suggests otherwise. Granting the current sophistication of TERCOM guidance and mapping technology, we must hedge against their getting into others' hands over time. And if we deploy cruise missiles in Europe, we can expect to be under especially great pressure from our allies to transfer the technology to them—with all the potential consequences for SALT and MBFR.

Mr. MATHIAS. I am also less hopeful about controlling proliferation. We have promoted cruise with our NATO allies. They like the idea of this relatively inexpensive weapon. The Soviets, of course, are upset at the possibility of certain NATO powers having access to this nuclear delivery system.

The real problem, of course, is that as the verification problems associated with cruise become clearer, the barriers to its deployment become less. The argument may well develop as follows: If we cannot verify cruise ranges warheads, or numbers why place restrictions on these? The pressures to install ground launched and sea launched cruise missiles with strategic ranges will grow and grow.

I understand the Committee obtained an Arms Control Impact Statement for programs in the bill under consideration.

Mr. MCINTYRE. Yes, indeed we did. In the aftermath of the B–1 decision, the Administration neglected to comply with the statute which requires Arms Control Impact Statements to be submitted with any request for nuclear weapons systems. In our hearings, we insisted that this law be complied with, and after some weeks, the Administration did produce one.

Mr. KENNEDY. How satisfactory did you find the Arms Control Impact Statement?

Mr. MCINTYRE. I felt that the Administration made an earnest, sincere effort to provide a substantial statement to the Congress in a timely way. The issues raised by this supplemental are among the most tangled and complex in arms control, and the Administration made a good try on a very difficult task.

However, in some important respects, I felt the Statement was quite weak. For example, its discussion of the cruise missile range issue was inadequate.

The Statement also failed to address the most important issue raised by the advanced Cruise Missile Carrier request. As you well know, one proposal much discussed at SALT would permit long-range ALCMs on "heavy bombers." But is an advanced Cruise Missile Carrier a "heavy bomber" under the SALT definition? If it is not a "heavy bomber" under that definition, then why should we be developing it? If it is a "heavy bomber" under that definition, then how does one distinguish a Cruise Missile Carrier from a Pan American 747 flight to Tokyo?

Mr. KENNEDY. Did the Arms Control Impact Statement speak to the FB–111H? If it did not, would it be appropriate to seek a statement on this program?

Mr. MCINTYRE. No, it did not. This program was introduced into the bill at the initiation of the Committee. Secretary Brown has indicated in a letter to the Committee that he would "agree to Congressional action to open a budget line," and that the $20 million figure is "an appropriate amount."

So, it was not necessary for the Administration to submit an Arms Control Impact Statement on this program since it had not requested it.

If the Administration asks for funds for FB–111H development in any future budget request, the law requires them to submit a formal arms control impact statement. I think it is quite important that such a statement be thoughtful and substantial.

Mr. KENNEDY. I believe an arms control impact statement on the FB–111H would be most helpful prior to any further decisions on this program. I have concerns about "stretching" the F–111 to permit it to penetrate and carry cruise missiles. This tends to muddy the waters of the President's correct and wise B–1 decision—we really can rely on B–52's equipped with strategic ALCM's. But more importantly, it presents the Soviets with yet another cruise missile carrier, one rather similar to the Backfire Bomber which we have long sought to control. So I believe the Committee and Administration should carefully reconsider the merits of the FB–111H before proceeding with this option.

Mr. MATHIAS. Do you agree that this bill is predicated on the termination of the B–1 procurement program?

Mr. MCINTYRE. Yes, that is entirely correct.

I might say that I have, in the past, fully supported the production of some B–1's and therefore opposed the President's request to reduce the FY 78 appropriations bill by $1.4 billion last July.

But I think that we must all recognize now that realistically our government has decided through its constitutional process that we are not going to buy this plane. Both the Senate and the House concurred with the President in taking the production moneys out of this year's appropriations. It is quite clear that the President does not intend to add any new moneys for B–1 procurement in future budgets. So the B–1 is dead and it is a fantasy to act otherwise.

It is time now for us to look forward and try to find common ground rather than to continue the rancorous division we have experienced on the B–1. I believe that this bill and the mixed force which it supports offers an opportunity for people who have differed in the past on the shape of our bomber force to agree.

Mr. KENNEDY. I agree that we should make clear to the Administration that we support its B–1 decision and we see viable and cheaper alternatives. I believe it would be highly appropriate for the President to request a quick termination of the B–1 program through recission of funds already appropriated.

An equally expensive but far more destablizing system is the "Mobile-Experimental" missile, or M–X. Am I right in thinking that the Committee has limited M–X funding pending clear demonstration of need by the Department of Defense and an expression of Presidential policy?

Mr. MCINTYRE. In FY 1977 the Senate Armed Services Committee unanimously reduced an $84 million request for M–X by $32 million because of major contradictions in the Department's testimony about future ICBM requirements and M–X basing. The Committee stated in its report that this reduction was designed "to insure that M–X does not go into full scale development before the Department has resolved the contradictions in its testimony about future ICBM capability and has demonstrated a clear need for a particular mobile basing alternative."

The Committee, therefore, requested that the Secretary of Defense conduct a "comprehensive study of the future of our ICBM force and its role in our national strategic posture." We ask that the study directly relate the M–X requirement to the "missions the President requires." We ask that this review be "performed by a panel of analysts drawn from each of the national security organizations which have major responsibility for the conception or execution of strategic policy."

The Conference Committee, last year, supported this request and asked that the President personally certify that the conclusions of the review represent national policy.

Mr. KENNEDY. I congratulate the Committee on the precautions it has taken regarding M–X funding. How responsive has the Administration been to Committee requirements?

Mr. MCINTYRE. I am very sad to report that the Administration has not been responsive at all. Secretary Brown did write the Committee last spring recognizing the Department's responsibility. He assured us that the review we requested would be forthcoming this year, certainly no later than the budget submissions next January. But what deeply angers this Senator is that Secretary Brown is recommending full scale development of the M–X before this review is complete. I believe the questions raised by the M–X are so grave that they require the President's and his cabinet's personal attention.

I should also note that I have reviewed the current Presidential and Secretarial guidance to the Department of Defense which defines our strategic targeting objectives. I am quite convinced that you cannot draw a logical line from the current guidance to an M–X requirement. Evidently, the Secretary intends to change our policy after he has made a full scale development decision to satisfy that decision. Or, he intends to fuzz the matter up as it has been for the last three or four years.

Mr. KENNEDY. Secretary Brown has apparently recommended that the President ask the Congress for $245 million in development funds for the mobile M–X ("Missile Experimental") missile in the next fiscal year.

I wish to register now strong objections to the M–X, with which I believe Senator McIntyre and my cosponsors will concur. This missile will be movable, larger, more accurate and can deliver more nuclear weapons than the Minuteman missile currently in our force.

There is no question in my mind that such missiles will seriously aggravate the arms control verification problem. They would be virtually impossible to count under a variety of scenarios, and confidence in the SALT process could plummet.

These missiles represent a formidable counter-force threat to the Soviets, roughly 75% of whose strategic force is land based. In contrast, only around 25% of our strategic force is land based. M–X missiles could take out a substantial part of land-based missile-forces, introducing new dimensions of instability in the arms race. To move ahead with M–X is to pressure the Soviets to rely on a launch on warning doctrine, so as to protect their vital land-based force from being destroyed.

Not only that, these missiles promise to be just as expensive as the B–1 bomber which the President wisely cancelled. And, according to the Center for Defense Information, a force of 250 M–X missiles could require up to 5,000 miles of underground trenches—a huge construction project and network of underground tunnels.

It seems to me that we have a fundamental choice between limiting, preferably banning, mobile missiles on both sides or entering a new ICBM arms race which will

seriously weaken the security of both the US and the USSR.

Given these concerns, I find it difficult to understand, and I think the American people will find it difficult to understand, how Secretary Brown should make even a preliminary judgment of this magnitude and with these implications, at the conclusion of the encouraging talks between Secretary Vance and Foreign Minister Gromyko. I hope that the President will overrule this judgment in making his final decisions on the budget submissions.

This is a strange way to salute progress in SALT. The Administration should understand that the Congress will exercise an independent and indeed skeptical judgment on any request to increase spending for mobile missiles to levels previously sought by the Ford Administration.

For me, this development reinforces the need for us to pause, carefully evaluate the military and arms control complications of each strategic weapons system, and play a balancing role with the Administration in the military decision-making process.

Mr. MATHIAS. On substantive grounds, I have grave reservations about proceeding down the road to M–X. It represents incredibly threatening technology. There have been heated discussions in this country in which it is suggested that we should look at Soviet capabilities not their intentions. We should apply this same logic to ourselves. M–X could well give us the ability through its accuracy and throw-weight to launch a crippling first strike against Soviet ICBM's. Mobiles would be extremely difficult to verify further adding to Soviet fears. But what of our fears one might reasonably respond? Clearly the Soviet mobile SS 16 is threatening to the United States. This is exactly the point. Both the Soviet Union and the United States are taking quantum technological jumps which effectively leave arms control far behind. If we cannot come to agreement with the USSR which restricts new technology such as mobile missiles, then I fear very much that arms control will be something we talked about seriously in the 1970's, but will not be considered relevant to the realities of the 1890's.

Mr. KENNEDY. Do I understand correctly that this bill, S. 1863, in no way speaks one way or the other other about theatre land attack GLCMs and SLCMs about which I personally have great reservations?

Mr. MCINTYRE. This bill in no way speaks to those issues. There is no money in this bill for GLCMs and SLCMs, and the Senator will have ample opportunity in subsequent budgets to express his strong convictions about this matter. Speaking for myself, I understand the Senator's concerns and believe that they should be reflected in Committee consideration of future funds for cruise missiles. We will vigorously review the military and arms control implications of cruise missiles highlighted here today.

Mr. KENNEDY. I am gratified that this discussion has brought out many of the military and arms control implications not only of cruise missiles, but of the M–X.

On the basis of this and the assurances of our colleague from New Hampshire, Senator Mathias and I are prepared not to press for a vote on our original cruise missile amendment at this time.

Mr. KENNEDY. On the basis of the prepared colloquy, I am prepared, Mr. President, to offer a substitute amendment in behalf of myself and Senator MATHIAS which, very briefly, would reiterate the action this body has taken in the past in the issue and which is similar to an amendment introduced in a different context by the distinguished Senator from Minnesota (Mr. HUMPHREY). I request unanimous consent that the text of this amendment be printed at this point in the RECORD.

There being no objection, the text was ordered to be printed in the RECORD, as follows:

In authorizing funds under Title I and Title II of this bill, Congress asserts its readiness to consider, in accordance with the processes set forth in the Congressional Budget Control and Impoundment Act of 1974 and the Budget and Accounting Act, 1921, such modifications in the United States cruise missile programs as the President may recommend to facilitate either negotiation or agreement in arms limitation or reduction talks.

Mr. McINTYRE. Parliamentary inquiry, Mr. President. Is the amendment of the distinguished Senator from Massachusetts at the desk?

Mr. KENNEDY. I have not sent it to the desk, but I will be glad to send it.

The PRESIDING OFFICER. The amendment has not been sent up. Fifteen minutes have expired.

Mr. McINTYRE. I yield myself 5 minutes.

The PRESIDING OFFICER. The Senator is recognized for an additional 5 minutes.

Mr. MATHIAS. At some point I would like the Senator from New Hampshire to yield a few minutes to me.

Mr. McINTYRE. If the Senator from Maryland will be patient I will be happy to yield to you.

Mr. MATHIAS. The Senator from Maryland is extremely patient.

Mr. McINTYRE. I want the record to show the effect of this amendment at the desk I am about to accept.

Do I understand clearly that the amendment that you are now proposing is virtually identical to that which our distinguished colleague from Minnesota, Senator HUMPHREY, offered last spring and which was written into public law by the regular fiscal year 1978 Defense authorization bill?

Mr. KENNEDY. That is correct.

Mr. McINTYRE. Do I understand further that the only changes in the language already in public law is the substitution of the term "cruise missile" for the term "strategic arms" and the use of the term "arms limitation or reduction talks" for the term in the original Humphrey language, "strategic arms limitation talks?"

Mr. KENNEDY. The Senator is correct.

Mr. McINTYRE. So this amendment, like the language which is in public law, expresses Congress' readiness to consider Presidential initiatives in the interest of arms limitations to request additional moneys under procedures defined in the Budget and Accounting Act of 1921, as well as initiatives to rescind funds as outlined in the Congressional Budget Control and Impoundment Act of 1974?

Mr. KENNEDY. That is correct.

Mr. McINTYRE. Do I understand clearly, further, that this amendment that you are now proposing does not speak one way or another to any substantive issue about cruise missile limitations?

Mr. KENNEDY. Yes; the Senator is correct.

As the Senator points out, this does not speak substantively per se but, of course, I believe it reflects the points which we raised during the course of our comments here and, at least, this Senator's desire for the successful arms limitation talks.

Mr. McINTYRE. Mr. President, I move the adoption of the amendment.

The PRESIDING OFFICER. The amendment has not yet been offered. It is not in order for the amendment to be offered at this time. The committee amendments have not yet been disposed of.

Mr. TOWER. I would ask the Senate not to act until I have seen the amendment.

Mr. KENNEDY. I would ask, unless there is objection, Mr. President, that it would be in order to consider it at this time. There is still a great deal of time remaining on the bill. There will be plenty of time on this, and I do not believe there is any serious objection to it.

The PRESIDING OFFICER. Is there objection?

Mr. TOWER. Reserving the right to object, I have just been handed a copy of the amendment, and I am trying to read it.

The PRESIDING OFFICER. The Senator from Massachusetts has asked unanimous consent.

Mr. KENNEDY. I withhold the request and leave the amendment at the desk and hope my colleagues can review the amendment, and if they have no objection then I will ask consent to have it in order at another time.

The PRESIDING OFFICER. The Senator from Massachusetts withdraws his request.

Mr. McINTYRE. Mr. President, I yield 3 minutes to the Senator from Maryland at this time.

The PRESIDING OFFICER. The Senator from Maryland is recognized for 3 minutes.

Mr. MATHIAS. I thank the distinguished Senator from New Hampshire.

Mr. President, I associate myself with the Senator from Massachusetts (Mr. KENNEDY) in his remarks that he made congratulating and thanking the Senator from New Hampshire and the distinguished Senator from Mississippi, the chairman of the committee, for the very careful and detailed work that they have done in connection with this bill. They have grappled with issues of tremendous importance to the national security and to the future of world peace. Their diligence deserves our admiration.

Now we have an opportunity to discuss in public forum questions raised in their committee deliberations. It is my hope that we will have a useful discussion here of the very important issues relating to the strategic arms race in which the Soviet Union and the United States are now engaged.

This is a critical time in the history of our Nation and of the world. Awesome power is held by both the Soviet Union and the United States. Each of us has the capacity to inflict unimaginable destruction on the other. We have made an attempt in the strategic arms limitation talks (SALT) to get control over our nuclear arsenals. But at times our

prospects of succeeding in this effort seem bleak.

The Soviet Union is expanding its heavy ICBM arsenal at a rapid rate. Meanwhile, the administration considers moving ahead with development of the MX mobile missile. Perhaps we may still manage to control the number of launchers and warheads, but the technological race seems to be escaping us. The cruise missile offers a graphic illustration of this problem.

When President Carter canceled funding for the B–1 bomber, he said that he planned to accelerate development of the cruise missile. Congress is in the process of examining the President's request for supplemental funding for this weapon system, while the administration is vigorously making its case for the cruise missile as a vital component of our strategic deterrent. Less is being said about the potentially adverse impact that deployment of the cruise missile may have on the arms race. Indeed, the American public is largely unaware of the critical choice the President has made on its behalf.

I appreciate the compelling strategic reasons for deploying cruise missiles, particularly in light of the President's decision to scrap the B–1. Our strategic triad of air, land, and sea delivery systems is now in jeopardy. Only aging B–52's comprise the air component. Our intercontinental ballistic missiles comprise the land component, but they are said to be increasingly vulnerable to a Soviet preemptive first strike. We are left with the sea component—our Polaris and Poseidon equipped nuclear submarine fleet. Even this now secure leg of the triad may become vulnerable to the antisubmarine warfare advances of our adverseries. The cruise missile is said to be one answer to our dilemma. This unmanned, air breathing drone can be launched from an air, sea, or land platform. It is exceedingly accurate yet small and capable of traveling close enough to the ground to escape detection by Soviet radar. Not a first strike weapon because of its subsonic speed, it nonetheless will offer a high measure of reliability. It augments the capabilities of the air component of the triad because it can be launched from a B–52 in a stand-off role. In this capacity, the B–52 or other airborne platform would stay clear of the enemy's air defenses and launch its cruise missiles from a safe distance away. To defend against the cruise missile, the Soviet Union would have to spend great sums on air defenses with no guarantee of success. These arguments in favor of the cruise missile cannot be dismissed lightly, especially given the continued expansion of Soviet nuclear arsenal.

In the SALT talks, however, the United States and the Soviet Union have attempted to impose rational limits on their growing arsenals. Specifically, we have sought verifiable limitations on strategic arms. The United States, in particular, has been stressing verification and properly stressing verification. The President has now proposed the development of a weapons system which we have to admit on its face is going to complicate the process of verification. It would do so in four principal ways.

First, we are discussing with the Soviets limiting the number of strategic range cruise missiles by limiting their launching platforms to a fixed number of heavy bombers. If this limitation is adhered to we can probably keep the numbers verification problem within acceptable limits. If, however, either side deploys ground launched or sea launched cruise missiles, verifying numbers may prove very difficult. The cruise missile is easily concealed, and indeed the administration's own arms control impact statement states that it "could make any submarine, aircraft, or mobile platform a potential strategic delivery vehicle."

Second, we are discussing range limitations on cruise missiles. In particular, we are considering restricting air launched cruise missiles (ALSM's) to a range of 2,500 kilometers. Range limitations are difficult to verify. Cruise missiles could be tested to the range of 2,500 kilometers but be capable of considerably greater range.

Third, we have discussed the possibility of allowing longer ranges for ALCM's than for ground launched or sea launched cruise missiles. However, some ALCM designs can be adapted for launching from a ground or sea platform. In other words, cruise missiles can be developed and tested for one platform and transferred to another.

Finally, there is the difficulty of determining whether a cruise missile carries a nuclear or conventional warhead. In short, according to the administration's arms control statement, "the problem of verifying compliance with cruise missile limits could have serious long-term implications for future arms control."

If this is one level of concern, certainly arms proliferation is another. We have been busy extolling the virtues of this relatively inexpensive delivery system to our allies, and France, Germany, and Britain have all expressed great interest. Other countries would certainly view the system with a similar interest. All things considered, we may find it impossible to restrict access to this technology.

There is another area of concern—the Soviet reaction to our deployment of strategic cruise missiles. They view with some foreboding the prospect of Germany acquiring ground launched cruise missiles. American proponents of the cruise missile contend that there would be no logical reason for the Soviets to acquire a similar system since they can rely on ICBM's alone. Such a contention fails to consider the matter of Soviet prestige. They may feel a political need to duplicate our achievement. Granted, the U.S.S.R.'s cruise missile technology is behind ours, but the Soviets would not need as sophisticated a system as ours because we have virtually no air defenses and many of our attractive targets are along the coast. In the coming years we may very likely face a Soviet Union armed with a sizeable arsenal of cruise missiles. If, for whatever reason, the Soviets deployed such a system, then we would face the dilemma of having to respond to this escalation in the Soviet capabilities.

The President has asked us to fund a system that raises serious arms control questions. The President has argued that ALCM's with strategic ranges are in the national interest. I do not argue with this assessment. What I do urge is that the administration not give in to those who insist that we must also deploy ground launched and sea launched cruise missiles with strategic ranges. To do so would invite the problems with the system I have outlined above. Verification of ground and sea launched cruise missiles limitations would be virtually impossible. Proliferation of these delivery systems would be likely. The Soviets would surely perfect strategic cruise missiles of their own. If we must have this system, let us deploy it wisely.

Mr. PELL, Mr. TOWER, and Mr. CRANSTON addressed the Chair.

The PRESIDING OFFICER. The Senator's 3 minutes have expired.

Mr. McINTYRE. How much time do I have remaining?

The PRESIDING OFFICER. The Senator has 60 minutes remaining.

Mr. STENNIS. Mr. President, I wish we could proceed here in the regular order more or less. The Senator from New Hampshire wants to finish his speech. The Senator from Texas, who is the ranking member of our committee, wants to present his presentation. We will consider other presentations when those two have had a chance to lay the bill out.

So I hope we could go back to that. I do not think his remarks are long now and the Senator from Texas certainly does not have long remarks.

If that will be all right, I yield 10 minutes.

Mr. McINTYRE. Mr. President, let me proceed to a brief explanation of the bill.

S. 1863, as orginally printed, would have authorized $445.6 million, $97 million for procurement and $348.6 million for R. & D.

On August 29, the Department reduced its requests to $404.97 million, $97 million for procurement and $307.97 for R. & D. This was primarily due to a $40 million reduction in the original $90 million cruise missile carrier request.

The committee's recommendations call for a total of $364.47 million, which is $81.3 million less than the original request, and are based on two premises:

First. Full support of a mixed bomber force composed of standoff cruise missiles, manned penetrating bombers and dual role aircraft which could both launch cruise missiles and penetrate;

Second. Limit the bill to programs which will directly relate to the bomber leg of the triad because the cancellation of the B–1 was the reason for requesting a supplemental appropriation off cycle.

The programs proposed in the bill can be considered in three groups. Let me speak to two of these that relates to B–52's and cruise missiles.

Group I contains four programs for the improvement of the B–52's, and two programs for the development of the long range air launched cruise missile (ALCM) systems which together will comprise the near term mixed bomber force.

The committee recommends full support of all six programs. A brief description of these line items is as follows:

B–52 AIRCRAFT IMPROVEMENTS AND MODIFICATIONS

The primary aircraft in the strategic force will continue, for several years, to be the B–52's. Some will continue to be used as manned penetrating bombers. Others will be used as standoff long range air launched cruise missiles as the bomber begins to penetrate the Soviet Union, and then operate as penetrating bombers for the remainder of the mission.

Four programs would improve the survivability of the B–52 as a penetrator, begin to modify some of them as cruise missile carriers, and improve navigation systems required for the standoff, penetrating and dual roles. ($80.7)

LONG RANGE AIR LAUNCHED CRUISE MISSILES (ALCMS)

The primary new weapon to be utilized in a future mixed bomber force is a long range air launched cruise missile. This bill will support the full scale development of two competitive versions. Both will use a common warhead and engine and will have substantial commonality in guidance hardware. Both will derive from previously developed cruise missile technologies. The competition between these two versions would culminate in a selection in October 1979. Whichever version is selected would produce some operational missiles in 1980. ($220.9)

The second group includes three programs requested by DOD and a fourth recommended by the committee and supported by Secretary Brown, which would provide systems for a second generation mixed bomber force. A brief description of these four programs is as follows:

CRUISE MISSILE CARRIER

The concept of an advanced, post-B–52 cruise missile carrier aircraft is a worthwhile R. & D. objective and is supported by the committee. The committee recommends support of the $5 million requested for phase I, systems definition. This is a new program element and the product of the systems definition work should be completed and reviewed fully by the Department of Defense and the Congress before going forward with costly aircraft demonstration. ($5)

FB–111H

Recommend $20 million to be authorized to create a line item and to initiate a prototype development program for the FB–111H. The use of B–1 engines would give the stretched version the range of the B–1 and the weapons' loadings of the converted B–52. It would likely be more survivable than the B–1.

This would support design definition of the aircraft and subsystems and the definition of source selection criteria for critical, long lead components.

Air Force has proposed to the Secretary of Defense that $90 million be allocated to such a program. Dr. Perry, in the hearings, encouraged the creation of the line item.

Secretary Brown supported $20 million in a letter to the committee chairman on September 19, 1977.

Mr. President, I ask unanimous consent that this letter from Secretary Brown to Chairman STENNIS be printed in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE SECRETARY OF DEFENSE,
Washington, D.C., September 19, 1977.

Hon. JOHN C. STENNIS,
Chairman, Committee on Armed Services, Washington, D.C.

DEAR MR. CHAIRMAN: I am pleased to reply to your letter dated September 13 in which you request my recommendation on funding for aircraft that would be a manned bomber and missile carrier.

The Air Force has proposed cancelling some B–1 research and development and initiating a prototype development program for an FB–111H. The purpose of the prototype program would be to verify performance predictions; it would not represent a commitment to a production program. I believe this proposal deserves careful consideration as a way of keeping open an option for such a system as a penetrating bomber at some later time. Although I have not completed my review of this matter, I believe that allowing for preliminary development work in FY 78 would be a prudent step. Accordingly, I would agree to Congressional action to open a budget line. The $20 million figure that I understand is under consideration by your Committee seems an appropriate amount to begin such an effort.

I understand that consideration is being given to a substantial reduction in the funding proposed for the cruise missile carrier. In order to develop an option for initial deployment of a cruise missile carrier in FY 1981, we need to develop and test a prototype and demonstrate the launch of a cruise missile from such a carrier in FY 1978. I believe this option is extremely important, particularly because it would allow us to expand our strategic capability rapidly if the Soviets continue their build-up and we conclude that we must respond. With a relatively small investment in a cruise missile carrier, we could dramatically increase the number of warheads, megatonnage, and throw weight of our strategic forces. In light of the above, I urge your strong support for the full $50 million in our budget request.

Sincerely,

HAROLD BROWN.

Mr. McINTYRE. Mr. President, $20 million would give the Department the flexibility Dr. Perry said would be useful and would provide a production decision option beginning in late 1980.

Two programs, Strategic Bomber Enhancements and Defense Advanced Research Projects Agency. Reduction of $2.5 and $6 million, respectively, are recommended. Reductions are due to the nongermaneness of an element of the DARPA request, which related to theater cruise missiles, and to the consolidation of advanced studies for a third and fourth generation of cruise missile carriers into the cruise missile carrier line.

This, Mr. President, is an abbreviated report of a long, hard job of taking a hard look at this difficult problem.

I certainly hope that the Senate tonight will be adopting the recommendations of the full committee.

Mr. CRANSTON. Mr. President, will the Senator yield just very briefly?

Mr. McINTYRE. I yield 2 minutes.

The PRESIDING OFFICER. Who yields time?

Mr. STENNIS. Mr. President, if the Senator will yield to me, let me put it this way: We have gotten off on the wrong foot here. We can give the ranking minority member of our committee, if he seeks the floor, a chance to get the floor, I thank the Senator from California.

The PRESIDING OFFICER. Who gives time?

Mr. TOWER. Mr. President, I yield myself such time as I may require.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mr. TOWER. Mr. President, the chairman of the Committee on Armed Services and the chairman of its Research and Development Subcommittee, as well as the two highly esteemed members of the subcommittee, Senators BARTLETT and GOLDWATER, are to be commended for all the fine work that went into this bill.

The President sent to the Congress a request for a supplemental appropriation which was necessitated by his decision to terminate the B–1. The bill, in its original form as proposed by the Department prior to exhaustive subcommittee hearings, was not accompanied by a strong sense of purpose by Department witnesses. After some rethinking by the office of the Secretary of Defense, and close scrutiny by the R. & D. Subcommittee, the Senate can now feel somewhat assured that this bill will provide needed improvements to the bomber leg of the triad. These improvements will not give us the same force we would have if production of the B–1 were continued; however, absent the B–1 this bill provides urgently needed strategic systems.

The President's termination of the B–1 was still, in my mind, an unwise decision. There are many reasons why this is so.

The air-launched cruise missle will, from all accounts, be limited to a range at SALT no greater than 2,500 kilometers. Without a penetrating bomber that can with assurance do its job, reliance on the cruise missile alone has its risks.

Let me give my reasons for stating this.

While the U.S. strategic bomber force will, for the next several years, rely on the B–52 to penetrate, these aging bombers will find it increasingly more difficult, and eventually impossible, to penetrate Soviet air defenses in order to drop their nuclear weapons.

When that happens, if the range of the air-launched cruise missile is limited to no greater than 1,500 miles or 2,500 kilometers, and the Soviets build, as expected, air defenses capable of attacking aircraft before it can launch cruise missiles, then the bomber leg of the triad will not be as effective as it is today. Further, the Senate should understand that any limit on cruise missiles at SALT must take into account the degradation of the range for operational consideration.

A number of us supported and continue to support the B–1 in order to insure that the bomber leg of the triad remains intact and penetrating through the 1980's and well into the 1990's. President Carter unwisely terminated the B–1 and, in doing so, accelerated cruise missile development effort. However, there is nothing in the Armed Services Committee's files that would lead me to believe that in terminating the B–1, Presi-

dent Carter decided against a manned strategic penetrating bomber.

It is recommended that flexibility to keep all the options open as to the mix of forces for the forseeable future, is desirable. Therefore, not only should acceleration of the development of the cruise missile and modifications to the existing B–52 fleet be fully supported, but also funds for major modifications to our existing FB–111A force have been included. After modification, the FB–111A would become the FB–111H and have the capability to fly as far as the B–1 with the same number of weapons as the B–52.

A force consisting of air-launched cruise missiles and penetrating bombers, namely, B–52's and FB–111H's, would constitute a "mixed force" that would enormously complicate the Soviet air defense problem, hedge a possible SALT limit on cruise missiles, as well as guard against uncertainties in the development of the air-launched cruise missile itself.

So I urge the passage of this supplemental request with modification as discussed above, but with the caveat that the Department of Defense take a long look at the B–1 decision in the face of greater Soviet strategic capabilities. In addition, the flexibility in this bill is great enough so that ample opportunity exists for the administration to begin developing a coherent strategic policy. This supplemental bill would give them time to do so while not putting the security of this Nation at risk.

I yield the Senator from Arizona such time as he may require.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. GOLDWATER. Mr. President, I will be as brief as I can.

I doubt that anyone in the U.S. Senate, or even the Congress, has been a stronger or more avid supporter of the B–1 than I over the past 7 years. My support for the B–1 comes from my strong conviction that we must in our future strategic force structure have a manned penetrating bomber. However, the President made the decision, and I think wrongly, not to produce the B–1 bomber. Over the past week or two in the House, there has been considerable activity on reviving the B–1 and attempting to reverse the President's decision.

I hope that the B–1 can be saved but, frankly, I am not optimistic about its chances. I am doubtful that there are the votes in the Senate to sustain such an action and, without the support of the administration to request funds to continue the B–1 in the out years, the entire effort would appear to be in doubt. However, if the rejection of the B–1 rescission notification is sustained, the administration would be required to build aircraft 5 and 6, and this would extend the production option into about 1980.

During our deliberations of this supplemental request, I did not try to add an amendment that would have in some way kept the B–1 program going because, as I said, the votes to sustain such an amendment are just not in the Senate. However, our testimony was very clear from Dr. Perry, Director of Defense Research and Engineering, General Slay, Air Force Deputy Chief of Staff for Research and Development, and General Ellis, Commander in Chief of Strategic Air Command, that the manned penetrator would continue for the foreseeable future to be a necessary part of our strategic force and of our strategic Triad. It was very significant to me that the number three man in the Department of Defense in an administration that recommended cancellation of the B–1 program spoke out strongly for the requirement to maintain a manned penetrating bomber for the foreseeable future.

Time and time again during the very dramatic presentations made by Dr. Perry, General Slay and General Ellis, it was overwhelmingly evident that in order to successfully carry out the charge of the SIOP, a manned system would be necessary. As the result of this rather dramatic testimony, which was very factually and unemotionally presented, the Research and Development Subcommittee and later the full committee unanimously accepted the concept of a mixed bomber force for our future strategic force structure. That means that the committee recognizes that the future strategic manned portion of the Triad will consist of penetrating bombers. Possibly other types of aircraft that will stand off and launch cruise missiles and bombers that have a dual capability both to penetrate and to launch cruise missiles. Recognizing this position, the committee with the full concurrence of the Department of Defense and the administration, added $20 million to begin a two-aircraft prototype program of the FB–111H. This would provide the Secretary of Defense at some future and appropriate time the option to select this aircraf as the follow-on and/or complementary manned penetrator to the B–52, the aging warhorse that some in this body seem to think will last forever.

Mr. President, my major concern at the moment is that we could end up without any program for a follow-on penetrator to the B–52. For example, the House could vote to sustain the B–1 program and reject the FB–111H program. Then, assuming the Senate supports the FB–111H program, we would have a very difficult time resolving these two positions in conference. The end result could be that we would get neither program.

Mr. President, I stress that this FB–111 program supports the administration's announced position when it canceled B–1 production in that it was not making a decision against penetrating bombers, but only against the B–1. Therefore, to deny the development of this particular option is to weaken the manned portion of our future strategic force structure.

I have said many times to my colleagues that we are still a long way from having a viable, fully proven, fully operational cruise missile weapons system. And yet, prior to reaching that goal, the President elected not to produce the B–1 and to depend instead on this untried and unproven system. I am sure there are many, possibly including the President, who are having second thoughts about this decision and the fact that we have placed an awful lot of eggs in one basket. Consequently, that is one reason I believe the administration is very supportive of the development of this FB–111H prototype demonstration program. It is not another B–1. It is not going to be as good as the B–1. It is, however, the only viable option we have at the moment and we should not pass up the opportunity.

Now, Mr. President, I am very proud to serve on the committee chaired by our friend from Vermont, and I think the hearings on this supplemental bill proved to be the most interesting and informative group of hearings that we ever held. I would suggest that every Member of Congress read them, because we have learned some things; and I only wish that the Air Force had been able to present the picture to the President in the way that they presented it there, and I do not think the President would have dropped the B–1.

Mr. President, if one thing came up more than anything else in these hearings, it was that we have to have a penetrating bomber; and if a second thing came up more clearly than anything else, it was that the B–52 is not a penetrating bomber in the sense of being the one that we need.

Incidentally, I apologize for referring to the Senator from New Hampshire as "our friend from Vermont." I also will apologize to New Hampshire.

Mr. President, another thing that was apparent to me in these hearings is that the Air Force has no concept of what they want in the way of a cruise missile carrier aircraft other than a bomber-type aircraft. They had no plans, and were in no position to discuss nor was the OSD witness, the conversion of the 747, the 1011, or the DC–10 wide-bodied aircraft into a weapons carrier. Consequently, we put $5 million in, because the House had nothing in, and we felt that we could start some study on this question. I know there is great interest in Congress in having this type of launcher.

But, Mr. President, the thing that disturbs me most out of these whole hearings, and I hope my colleagues will take note, is this: Because of the decision on the B–1, and because of the dependence on the B–52, which we can only modify at the rate of two a month under the present budget, or, by doubling that budget, at the rate of four a month, we will incur a strategic air nakedness in this country for from 4 to 8 years. To put it bluntly, we will have no way to exercise the total strategic manned bombers against the Soviet Union for some 4 to 8 years while this modification is underway. So I think the decision we will have to make between the two bodies will have to be to go ahead and get as far as we can with the modification of the FB–111.

That may sound strange coming from me, one who has probably been the biggest advocate of the B–1 ever since they laid it on the drawing board. But we called the White House after the House of Representatives had its vote the other day, and we were told there would be no money, not 1 cent, put in for the B–1 in the coming year's budget; so it does not make sense, to me, to spend the money in this year's budget to start another B–1

bomber that would not be completed. I regret to state that.

So I am going to take the position that the next best thing in line is the FB–111 modification. I think it is necessary if we are going to have continued manned strategic capability in this country, and the ability to retaliate.

I do not depend on missiles the way some people do. We have to have a manned bomber.

I thank the chairman and the floor leader on the Republican side for yielding to me for this purpose.

The PRESIDING OFFICER. Who yields time?

Mr. STENNIS. I yield 3 minutes to the Senator from California.

The PRESIDING OFFICER. The Senator from California is recognized for 3 minutes.

Mr. CRANSTON. To save the Senate's time at this hour I will not take 3 minutes or hardly any time at all.

I first want to compliment the Senator from New Hampshire for assisting on the arms control impact statement as he did his work in the committee.

I share the concerns which have been expressed about the cruise missile in terms of the vertification problems that I think will be very serious to us in the course of time. I know the Senator from Washington is very concerned about verification. It may not be a problem for us now, but it may be later.

The decision to cancel the B–1, to go the cruise missile route, is one which I believe may turn out to be more costly than had been originally anticipated. Now that we are talking about a new penetrating bomber, the original concept was not to have one, now there is discussion in the FB–111. I hope there will be a very serious evaluation of the whole decision that was made which led to the cancellation of the B–1 and this new course of events.

Mr. President, I rise to express my continued reservations over the President's decision to cancel the B–1 program and to accelerate development of the air-launched cruise missile.

I believe the B–1 is the best way to modernize our strategic bomber force, without posing any new and destabilizing threat to the Soviet Union. Moreover, the B–1 represents no threat to arms control because numbers of bombers can be confidentially verified by both the United States and the Soviet Union. In contrast, the destabilizing verification problems posed by air-launched and other cruise missiles are well known. It is my deep hope that negotiated restrictions on cruise missiles will obviate the necessity to move from development of the cruise missile into production.

The R.D.T. & E. funds contained in this bill would fund development of two competitive versions of the air-launched cruise missile.

The administration intends to proceed rapidly into production in 1980 of whichever version of the air-launched cruise missile wins the competition.

The procurement funds in the bill would support preproduction activities to facilitate this rapid move from competitive development and testing into production. But let there be no mistake about the meaning of these funds. Congressional approval of these preproduction funds will not represent Congress endorsement of deployment of strategic air-launched cruise missiles. This early procurement funding merely provides the option of an early move into production, but not the capability to do so. Actual production of air-launched cruise missiles will require additional procurement funding over the next 2 fiscal years.

In addressing the arms control implications of this bill, I wish to compliment the floor manager, the distinguished chairman of the Armed Services Subcommittee on Research and Development, who insisted that an arms control impact statement on the fiscal year 1978 defense supplemental bill be provided his subcommittee. In requiring arms control impact statements, Congress intended that they would be considered in conjunction with legislative review of weapons funding requests to insure that the arms control implications of weapons developments are taken into consideration. However, this does not always occur.

The conclusions in the arms control impact statement differ from my own judgment that cruise missiles should not be deployed because of their potential negative impact on arms control. The qualified optimistic conclusion in that statement is:

> On balance, if the number of ALCM platforms is limited by a SALT agreement and the number of missiles is not so large as to affect the overall strategic balance, the deployment of this system should not adversely affect arms control.

My differing judgment rests, however, on some of the very points made in the arms control impact statement. For example, in discussing the possible impact of deployment of ALCM's on heavy bombers in the SALT negotiations, the statement notes:

> If ALCM-carrying heavy bombers were counted in the MIRV total, given the B–1 decision and our subsequent decision to rely more heavily on heavy bombers equipped with long-range ALCM's—the Trident SSBN program and MIRVed ICBM's would have to compete with the ALCM carriers for space in the MIRV aggregate. This could discourage the U.S. from seeking later reductions in the MIRV aggregate.

I have grave reservations about any weapon system which might serve to discourage reductions in the MIRV ceiling. I strongly believe our arms control goal should be to vastly reduce the world's arms arsenals—as the President stated before the U.N. this week. We must not be satisfied with just establishing high ceilings and building up to them.

A second point discussed in the arms control impact statement is that U.S. cruise missile developments might spur proliferation of a nuclear weapons delivery capability. The statement notes:

> If other countries could obtain the technology for long-range ALCMs, or could indigenously produce such systems, then the cruise missile might present the basis for their development of a nuclear delivery capability (providing they have the nuclear weapons capability to begin with). The perception of the cruise missile as a prestige weapon is intensified by the system's technical characteristics and its obvious versatility. The cruise missile could make any submarine, aircraft, or mobile platform a potential strategic delivery vehicle. Hence, there could exist sufficient motive for some countries to acquire or develop cruise missiles—unless, again, aircraft (which are reusable) for example provide a more attractive alternative, such proliferation of cruise missile technology could also weaken the prospects for multilateral arms control negotiations.

The statement also notes the expense and technological challenges present by cruise missiles stating that:

> Surmounting these and other technological barriers would be prohibitively expensive and difficult for most countries; some may elect to develop less-sophisticated long-range cruise missiles.

I do not find this encouraging. I would not want the United States to foster proliferation of even an unsophisticated but newer generation of nuclear-delivery-capable weapons.

Finally, the arms control impact statement does little to dispel my reservations about the verification problems posed by cruise missiles. The statement notes that:

> Potential difficulties of verifying compliance with any SALT limitations on cruise missiles should be viewed in the broad context of how cruise missiles affect the strategic balance.

But later concludes that:

> The problem of verifying compliance with cruise missile limits could have serious long-term implications for future arms controls.

Mr. President, I hope that the possible negative implications of cruise missile developments are given further serious consideration. In particular, I hope the decision to accelerate development of the strategic air-launched cruise missile and to cancel the B–1 program—particularly in the light of moves to resort to the FB–111 as an alternative penetrating bomber—will be reevaluated with great care.

Mr. BARTLETT. Mr. President, as the ranking minority members of the Research and Development Subcommittee of the Senate Armed Services Committee, I would like to speak on behalf of S. 1863, this supplemental Defense authorization bill, and urge its prompt passage without amendment.

The R. & D. Subcommittee was primarily responsible for the work done on this bill because the Carter administration's alternative to the deployment of a B–1 bomber force is a series of R. & D. initiatives which anticipate the addition of air-launched cruise missiles to our strategic forces in the future. The subcommittee has held intensive hearings on this bill. These very fine hearings helped the subcommittee polish and refine this legislation and also helped the administration in improving the formulation of its own proposals.

The bill before you was considered in the true spirit of a "supplemental" bill. It deals specifically with those steps which should be taken in fiscal year 1978 as a result of the B–1 decision. We have excluded those programs which can wait until next year's action on the fiscal year 1979 defense request. Those programs thus deferred were put off without prej-

udice and will be considered next year. There is no fat in this supplemental bill. On the contrary, the bill is a rather austere effort to help focus our strategic bomber programs for the near future in light of the President's decision to stop the ongoing production of the B–1 bomber. At the same time, however, an effort was made to insure that no important option would be precluded as a result of action taken by the committee.

Recent testimony before this committee supports the creation of a "mixed force" of cruise missiles and manned penetrating bombers, each causing different difficulties for enemy air defenses.

The manned penetrating bomber requires the Soviet Union to provide air defenses in depth and to make those air defenses sophisticated enough to deal with the electronic countermeasures (ECM) and evasive action of the bombers. The SRAM missiles carried by the manned bombers are almost impossible to intercept and are vital to attacking many heavily defended targets. The manned bomber can choose not to attack targets which have already been destroyed and can go on to attack alternative targets. It is both stabilizing and flexible.

The air-launched cruise missile launched in the stand-off mode forces the Soviet Union to develop long-range air defense systems and interceptors which will be capable of attacking stand-off cruise missile carriers flying several hundred miles outside present air defenses. It forces the Soviets to develop expensive and powerful radars which can detect objects with extremely small radar cross-sections flying very close to the ground. The cruise missile will probably be very capable against many types of targets.

Deploying both the penetrating bomber and the air-launched cruise missile permits the manned bomber and the cruise missile to help each other against enemy air defenses, each using its best features to help clear the way for the other.

In the past, I have supported development of air-launched cruise missiles just as I have supported the development of manned bombers. In each case, I have said that we should have the best system possible. It is still my opinion that we should have the best manned bomber and the best cruise missile possible.

I believe that the B–1 bomber is the best manned penetrating bomber available today, and I do not believe that we have heard any testimony so far that proves me wrong. In fact, the B–1 bomber is a superb weapons system both for penetration and for launching cruise missiles.

Nevertheless, this legislation will authorize funds which will permit the administration to begin a mixed force for the early to mid-1980's built around the old B–52 bomber. It will also permit funding for a follow-on cruise missile launcher employing a wide bodied cruise missile carrier and for the study of a possible follow-on penetrating bomber in a future mixed force.

Again, it should be noted that most of the funds requested and authorized are for research and development, not for procurement. The Carter administration's alternative to B–1 production is R. & D. on alternatives to the B–1. I would rather have had both. Recent reports on the Soivet strategic build-up are alarming, especially now that Secretary Brown has announced that the Soviet Union is developing another new generation of ICBM's even more modern than their SS–18's and SS–19's.

Although this supplemental Defense authorization bill does not authorize any major new steps in weapons development and procurement that were not already anticipated, it does accelerate our cruise missile development program, and it does fund necessary improvements for the B–52 bomber which will be required to act both as a cruise missile launcher and as a penetrating bomber in the 1980's. If, in fact, we should be deprived of the B–1 bomber force, then immediate acceleration of these programs is justified.

The committee has approved an authorization of $364 million, $40.5 million less than was requested by the President. The only large cut in the President's request dealt with the follow-on, wide body cruise missile carrier. The committee authorized $5 million for the important step of "system definition" in which the Defense Department determines what type of aircraft will be deployed, and in what manner. The committee deleted $45 million for an expensive demonstration of a cruise missile launch from an actual aircraft because the Defense Department could not use the funds until very late in the fiscal year and, in testimony, could not adequately justify the request. Deferral of this authorization until consideration of the fiscal year 1979 budget, without prejudice, will result in little or no delay in the program.

The committee believes that the $5 million authorized to study this follow-on cruise missile carrier concept and the $5 million added for the study of the role of a follow-on advanced manned penetrating bomber are both necessary to insure the option of maintaining a mixed bomber force after the mixed B–52 force is no longer able to overcome Soviet air defenses.

The committee also recommended authorization of $20 million for research on the possible development of a stretched FB–111, to be known as the FB–111H. This aircraft, if built, would involve incorporating the jet engines of the B–1 bomber, and modern avionics, on a modified, longer FB–111. This step was supported by the Secretary of Defense.

Mr. President, while there has been a great deal of controversy concerning President Carter's decision to terminate production of the B–1 bomber, I am aware of little controversy concerning this legislation. I think all the members of the committee can be proud of the fine work that was done on this bill. S. 1863 was reported out unanimously, 18–0.

I urge all my colleagues to vote in favor of this bill.

Mr. STENNIS. Mr. President, I have a procedural matter. I yield myself such time as I may require.

The PRESIDING OFFICER. The Senator from Mississippi is recognized.

Mr. STENNIS. I overlooked in the beginning asking unanimous consent, and I do ask it now, that the committee amendments be considered and agreed to en bloc, and that the bill as thus amended be considered as original text for the purpose of further amendment.

The PRESIDING OFFICER. Is there objection?

Mr. JACKSON. For the purpose of amendment.

Mr. STENNIS. Yes, for the purpose of amendment.

The PRESIDING OFFICER. Is there objection? The Chair hears none. Without objection, it is so ordered.

The committee amendments were agreed to en bloc.

Mr. STENNIS. I thank the Chair.

Mr. President, this presents the matter, unless there are amendments from the floor. We do have this matter which has been referred to. The Senator from Arizona referred to it in his remarks a moment ago. The Senator from Arkansas (Mr. BUMPERS) is interested in it, I know, as is the Senator from Washington.

At the proper time, Mr. President, when the general debate has concluded, I want to suggest the absence of a quorum so that the membership of the committee can meet for a very brief discussion of the situation on this matter, which is not settled. It could be that we could agree on something to recommend to the Senate. Otherwise, as I understand, there will be an amendment offered on it and maybe debate.

I am ready to yield time now to anyone who might wish to speak.

Mr. MATHIAS. Mr. President, I have an amendment referred to earlier which was not timely until the committee amendment had been adopted. If the distinguished chairman is agreeable, I will offer it at this time.

Mr. STENNIS. That is agreeable to me.

UP AMENDMENT NO. 908

Mr. MATHIAS. Mr. President, I send to the desk an amendment on behalf of the Senator from Massachusetts (Mr. KENNEDY) and myself.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Maryland (Mr. MATHIAS), for himself and Mr. KENNEDY, proposes an unprinted amendment numbered 908.

On page 2, line 24, insert the following:

In authorizing funds under Title I and Title II of this bill, Congress asserts its readiness to consider, in accordance with the processes set forth in the Congressional Budget Control and Impoundment Act of 1974 and the Budget and Accounting Act, 1921, such modifications in the United States cruise missile programs as the President may recommend to facilitate either negotiation or agreement in arms limitation or reduction talks.

Mr. McINTYRE. Will the Senator yield?

Mr. MATHIAS. I yield.

Mr. McINTYRE. Do I understand clearly that the amendment that the Senator is now proposing is virtually identical to that which our distinguished colleague from Minnesota (Mr. HUMPHREY) offered last spring and which was

written into public law by the regular fiscal year 1978 Defense authorization bill?

Mr. KENNEDY. Yes, that is correct.

Mr. McINTYRE. Do I understand further that the only changes in the language already in public law is the substitution of the term "cruise missile" for the term "strategic arms" and the use of the term "arms limitation or reduction talks" for the term in the original Humphrey language, "strategic arms limitation talks"?

Mr. KENNEDY. Yes, that is correct.

Mr. McINTYRE. So this amendment, like the language which is in public law, expresses Congress's readiness to consider Presidential initiatives in the interest of arms limitations to request additional moneys under procedures defined in the Budget and Accounting Act of 1921, as well as initiatives to rescind funds as outlined in the Congressional Budget Control and Impoundment Act of 1974?

Mr. KENNEDY. Yes, that is correct.

Mr. McINTYRE. Do I understand clearly, further, that this amendment that the Senator is now proposing does not speak one way or another to any substantive issue about cruise missile limitations?

Mr. KENNEDY. Yes, that is so.

Mr. CLARK. Mr. President, I rise in support of the amendment to S. 1865 proposed by the Senators from Massachusetts and Maryland even though the amendment was not offered. I do so because I share their concerns over the effect widespread development of cruise missiles could have upon strategic arms limitation efforts.

I realize that there are no funds in this authorization bill for the proposed ground-launched cruise missile (GLCM) or sea-launched cruise missiles (SLCM), although it is worth noting that a total of $225 million has already been appropriated for these two programs in fiscal year 1978. The amendment, however, recognizes the very strong link between the action being considered today in accelerating the air-launched cruise missile (ALCM) program, and the progress in developing the other two cruise missile programs. Essentially, the amendment expresses reservations about the unrestrained development of ALCM's or the further development of SLCM's and GLCM's.

The intent of the administration's ALCM program is clear: To extend the effective life of the B–52 bomber force and its role in the U.S. Triad strategic weapons system. To that extent, the ALCM can be seen as a stabilizing weapon in its role of strengthening the United States second strike capability. While I will support air-launched missiles to the degree that they enhance our strategic capabilities, I draw the line at any step which would lessen the chance of achieving strategic arms limitations. This is why I consider the proposed amendment appropriate and necessary.

Congress should take care in the aftermath of the B–1 decision not to rush into unnecessary weapons purchases.

I think that we have not gone too far yet but we are on the verge of decisions which could disrupt the SALT negotiations and could destroy the prospects of such an agreement.

At a time when the President has told us that a SALT agreement is near, these decisions become particularly critical. We know that the Soviets have expressed particular concern with regard to the cruise missile programs. If we are judicious in the programs, we can meet all of our national security objectives, and still impose limitations on cruise missiles which will bring the Soviet Union to agree to control weapons which disturb us very much. My fellow Senators over the years have heard numerous concerns expressed regarding key Soviet strategic programs, in particular the heavy weapons. If we handle SALT correctly, we can control some of their programs which have received the greatest attention.

In March, this administration set forth a comprehensive SALT proposal which would have been very much to our national security advantage. It included a number of quantitative and qualitative controls, which, taken together, would constitute a major step toward controlling the strategic arms race. But we are not going to achieve final agreement unless we are willing to restrain ourselves, just as we ask the Soviets to show restraint.

In discussions with the Soviets thus far, it appears possible that we can reach agreement on the deployment of long-range ALCM's. However, any effort to deploy similar range cruise missiles on other platforms, that is on land or at sea, would be seen by the Soviets as highly destabilizing and would certainly be interpreted by them as an attempt to alter the strategic balance. It would likely provoke them into accelerating their own cruise missile program. These SALT provisions now under discussion would enable us to maintain the strategic balance without necessarily eliciting a Soviet response.

The step we will take in this bill could lead us into a commitment to cruise missiles which could be unstoppable. Our past experience with SALT has shown us that neither side is willing to negotiate away weapons programs which are well into the developmental stage. The MIRV program is a classical example. We must take care that we do not get into a situation in which the entire cruise missile arsenal is so far along the way that nobody dares to speak out against them, or to propose limitations on their deployment.

Because of the nature of the weapon, cruise missiles deserve very special consideration in terms of verification capability in any new agreement. There is no doubt that cruise missiles will pose a very special verification problem, but this problem can be eased by restricting cruise missile deployment to a certain number of aircraft. General deployment in other SLCM or GLCM modes would be virtually unverifiable and totally disruptive to our efforts to achieve meaningful arms agreements.

Mr. President, I must confess a great deal of uneasiness about the cruise missile issue in general. We should have no illusions about the problems of verifying such things as range and the nature of the warhead. However, to the extent that they enhance our penetration capability, they must probably be considered stabilizing. To the extent that they merely move both us and the Soviets to another level of sophisticated weaponry, they should be judged destabilizing and we should reject them.

Mr. TOWER. Mr. President, let me ask the Senator from Maryland a question. This amendment does not mandate anything, as I understand it, but simply endorses some flexibility in either increasing or diminishing the authorization for the cruise missile development. Is that correct?

Mr. MATHIAS. The Senator from Texas is exactly correct. The purpose of the amendment is to focus on the importance of the cruise missile development to our arsenal, and its implications to arms control and other areas of national interest. But it does not mandate action in any direction.

Mr. TOWER. I thank the Senator from Maryland. On behalf of the minority, we have no objection to the amendment.

Mr. SCOTT. Will the President yield?

Mr. MATHIAS. I yield to the Senator from Virginia.

Mr. SCOTT. I have read the text of the second page in the original amendment by the Senator from Massachusetts and the Senator from Maryland. As I see it, we are just saying we will consider something. It is really not any commitment by the Senate. Is that the understanding?

Mr. MATHIAS. The Senator from Virginia is exactly correct.

Mr. SCOTT. I have no objection.

Mr. GOLDWATER. Will the Senator yield me one moment for an observation?

Mr. MATHIAS. I am happy to yield.

Mr. GOLDWATER. I pointed out before most of this same language is already included in a public law passed earlier this year. That language uses the term strategic arms, whereas your language uses cruise missiles.

Mr. MATHIAS. As usual, the Senator is very accurate.

Mr. PELL. Will the Senator yield?

Mr. MATHIAS. I am happy to yield to the Senator from Rhode Island.

Mr. PELL. Mr. President, as chairman of the Foreign Relations Committee's Subcommittee on Arms Control, Oceans and International Environment, I wish to associate myself with the amendment offered by the Senator from Massachusetts.

I believe it is important to register the Senate's concerns about the implications of uncontrolled deployment of air launched cruise missiles and the further development of ground and sea launched cruise missiles. Particularly in the context of the ongoing SALT negotiations, I am concerned that the United States not go so far down the road toward acquiring these weapons that, as a practical matter, it will prove impossible to negotiate mutual restraints on them with the Soviet Union.

The experience in SALT today, I believe, clearly illustrates the difficulty that both sides encounter in negotiating

limitations on weapons systems once they have been proved out and funded. The ABM is the only exception that I know of. In the case of the cruise missile, we have seen how this system, originally developed as a bargaining chip for SALT, soon developed a life of its own and acquired a devoted following.

I am not opposing cruise missiles as such. In fact, the case for air launched cruise missiles as part of an alternative to acquiring the B–1 bomber is a good one, particularly if their development by both the United States and U.S.S.R. can be constrained under a SALT agreement. At some point, and under certain circumstances, ground and sea launched versions may also be justified, although I have deep reservations about both.

What I am concerned about, however, is that a momentum will develop for the acquisition of these systems that will be difficult to control. I would hate to see us arrive at a point in SALT where it becomes virtually impossible to negotiate mutual limitations on these weapons. In short, the arms control implications of cruise missiles must be carefully examined—and I am not talking about arms control for the sake of arms control. If mutual constraints, achieved through negotiation, are at least as effective in enhancing our security as the acquisition of more weapons—and I believe they are—then the concerns expressed in the amendment offered by the Senator from Massachusetts should be given the most careful consideration by the administration in its arms procurement decisions.

In addition to their implications for SALT, cruise missiles are also relevant to the military balance in Europe and to the objective of limiting the proliferation of nuclear weapons generally. In the case of Europe, where interest in cruise missiles, particularly in the ground launched version, is on the rise, it may be advisable to give higher priority to negotiating a reduction of the increasing Warsaw Pact threat than in taking measures to respond to it and thereby perpetuating a spiral of increasing confrontation in Europe.

Looking at the nonproliferation side of the equation, I believe it would be dangerous to become so involved in an arms competition with the Soviets involving cruise missiles that we neglect the impact of our decisions on third countries. We should be careful, for example, not to give the impression that cruise missiles are the way to develop a relatively cheap and reliable nuclear capability.

The amendment offered by Senator KENNEDY would not delete any funds or stop any programs, but it does sound a warning, a warning that both the Congress and the administration would do well to heed in my view. I urge the adoption of the amendment.

Mr. MATHIAS. We are grateful for the support.

The PRESIDING OFFICER. Does the Senator yield back his time?

Mr. MATHIAS. I yield back the remainder of his time.

Mr. STENNIS. Mr. President, I believe we can save time if we could have a quorum call at this point. I invite members of the Armed Services Committee to meet with me for a brief discussion of this matter which is in issue.

The PRESIDING OFFICER. The amendment has not yet been agreed to. If the Senator will withhold his request, we will complete action on the amendment. Is all time yielded back?

Mr. STENNIS. I yield back the remainder of my time, Mr. President.

Mr. MATHIAS. I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from Maryland.

The amendment was agreed to.

Mr. STENNIS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. CRANSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CRANSTON. Mr. President, I ask unanimous consent that I may have printed at this point in the RECORD the arms control impact statement that was requested and received by Senator MCINTYRE.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

ARMS CONTROL IMPACT STATEMENT

(ALCM Fiscal Year 1978 Supplemental)

I. PROGRAM DESCRIPTION

A. Introduction

The cruise missile is a small, continuously powered, pilotless vehicle which—unlike ballistic missiles and rockets—flies through the atmosphere using aerodynamic lift and an air breathing engine. The modern cruise missile results from the development of a number of new technologies including small, lightweight, highly efficient engines, miniaturization of computers, advanced guidance systems and modern nuclear warhead designs. The advance guidance systems of the proposed U.S. cruise missile should provide it with accuracy comparable to or better than inertially-guided ballistic missiles. It will be capable of being deployed in large numbers and have favorable penetration characteristics.

The amendment to the 1978 budget requests funds for 4 major programs related to cruise missiles: the AGM–86B Air-Launched Cruise Missile (ALCM) (commonly referred to as the ALCM–B), designed to be launched from manned bombers; the AGM 109 ALCM (or TALCM), a variant of the original land-attack TOMAHAWK sea-launched cruise missile (SLCM) design, competing with the AGM–86B for the ALCM role; the Advanced Strategic Air-Launched Missile (ASALM), under very early development as a candidate to replace the short-range attack missile (SRAM) and serve as a next generation cruise missile; and the Cruise Missile Carrier Aircraft (CMCA), a possible launch platform for any of the three candidate air-launched cruise missiles. To support certain of the cruise missile programs, ERDA has requested development funding for the W–80 nuclear warhead (see paragraph I.F., below).

The ALCM and SLCM programs are structured to have maximum commonalities in warhead, engine, and navigation/guidance components. The Air Force has the lead in warhead and engine development, and the Navy has the lead in navigation guidance development. Both systems are powered by a turbofan engine and guided by an inertial navigation system updated (during land attacks) by terrain contour matching (TERCOM). The AGM–109 (TALCM) is an adaptation of the cruise missile technology developed in these concurrent Air Force and Navy programs.

The amended budget also requests $33 million for B–52 modification to accommodate cruise missiles. The bulk of this amount ($28 million) is to improve the reliability and maintainability of the ECM and avionics systems of these aircraft, which are over 20 years old. The remaining $5 million is to be spent for basic, long-lead tooling for pylons for cruise missiles. (Decisions concerning the number or specific design of these pylons have not yet been made.)

Although the B–52 is a nuclear-capable delivery system, we believe that the amended budget submission in this instance does not require preparation of a full arms control impact statement (ACIS) for that aircraft. Submission of such an ACIS would establish a precedent for providing ACIS for the most sundry of defense budget requests, which, we believe, is within neither the spirit nor intent of the law.

B. AGM–86B ALCM

The AGM–86B is 19.5 feet in length, approximately 25 inches in width, and just under 4 feet in height with its tail surfaces deployed. It weighs approximately 2,900 pounds, can be carried internally and externally on the B–52 and has a wing span of slightly more than 12 feet when the wings are extended after launch. The B–52 will be be capable of carrying AGM–86Bs internally (in an extended SRAM rotary launcher) and externally (on new, large pylons).

C. AGM–109 ALCM

Again, AGM–109 is an air-launched cruise missile—in competition with and slightly larger than the AGM–86B—which is to be developed from the TOMAHAWK SLCM. The B–52 will be capable of carrying six or seven AGM–109s internally in an extended B–52 rotary launcher. The AGM–109 is also being proposed for carriage in a stack—vice rotary—arrangement, using gravity drop. The AGM–109 will also be compatible with the new launch system of the B–52 wing pylons, allowing them to be carried externally.

D. ASALM

The purpose of the ASALM program is to build a base for advanced-propulsion and integration technologies which could lead to a cruise missile replacement for SRAMs on penetrating bombers or to a second generation, long-range air-launched cruise missile.

The ASALM will be powered by a ramjet, drawing air through a chin inlet. An integral rocket booster will accelerate the ASALM to ramjet speeds. This will permit the ASALM to achieve high penetration speeds at both high and low altitudes. These projected speeds would be considerably greater than those of currently funded cruise missile systems, but as the expense of either altitude of penetration, size or range. Missile accuracy is not expected to be significantly degraded by the ASALM's high speeds.

ASALM is intended for use on penetrating and possibly standoff bombers. Its capability to attack at high speeds would reduce bomber vulnerability and, thereby, aid strategic bomber penetration. Even when flown at high altitude, however, its range would be less than the range of ALCM turbofan-powered cruise missiles. Data gathered from the technology demonstrations in this project will form the basis for decisions related to validation and full-scale development of a supersonic cruise missile to replace SRAM or first generation cruise missiles.

E. Cruise Missile Carrier Aircraft (CMCA)

The CMCA program involves the use of a prototype aircraft for the study and demonstration launches of the AGM-86B and/or AGM-109. No specific aircraft has yet been designated as the CMCA; possible choices include the Boeing 707, Boeing 747, McDonnell Douglas DC-10, Lockheed L-1011, or Lockhead C-5A.

F. W-80 Warhead

The development of the W-80 warhead was initiated to support the ALCM and SLCM. The W-80 may also be used on the TALCM and possibly even the ASALM: however, the routine studies which would lead to that determination are not yet complete. The W-80 warhead design emphasizes features which enhance safety, security and command/control. It has a permissive action link (PAL) which provides passive protection that precludes operation of the arming circuits until the appropriate, authorized code has been inserted. Insensitive High Explosive (IHE) is employed to reduce the probability of high explosive detonation in abnormal situations such as fires or aircraft crashes.

G. Missions

It can be argued that, in the *absence* of an air-launched cruise missile program, there is: (1) the possibility that in the future B-52s may not be able to function as penetrating bombers in the face of expected improvements in Soviet air defenses; (2) the possibility that the U.S. manned bomber force will not possess an adequate capability to attack its share of important Soviet targets; (3) the possibility that Soviet funds which might have been expended to counter an airborne threat will instead be directed into offensive programs—with adverse implications for the U.S. deterrent posture; and (4) the possibility that the U.S. would lose a relatively secure and cost-effective strategic "hedge" against possible future vulnerability of other components of its strategic forces.

The ALCM candidates and, in the longer term, ASALM, are designed to maintain the effectiveness and credibility of the U.S. Triad by ensuring the continued strength of the U.S. manned bomber force. ALCMs will give the B-52 greater targeting latitude, enabling bombers armed with them to stand off from Soviet territory or fly routes which avoid certain heavily defended areas. ALCMs with their small radar cross-sections and ability to fly at low altitudes will be very difficult targets for Soviet air defenses and would tend to dilute their low altitude air defenses to reduce the vulnerability of penetrating bombers. In the more distant future, ASALMs would also reduce the vulnerability of penetrating bombers by attacking enroute air defenses and heavily armed targets at high speed.

II. PROGRAM STATUS

A. AGM-86B

The AGM-86B ALCM is currently in full-scale development in competition with the AGM-109. The amendment to the President's FY 78 budget accelerates the development of the AGM-86B to permit an early limited Initial Operating Capability (IOC).

B. AGM-109

(U) Since the AGM-109 program is technologically a derivative of the TOMAHAWK SLCM program, much of the SLCM RDT&E can be extrapolated to apply to the ALCM derivative, although some modifications are necessary. The amendment to the President's FY 78 budget provides for the initiation of full-scale development of the AGM-109 ALCM.

C. ASALM

Initial flight testing is scheduled for FY 78 and full-scale development is scheduled to start a few years later. The IOC date (possibly in the 1980's), range requirements, and planned procurement levels are decisions which will be made later, based on the ASLAM's demonstrated technology and then-existent strategic requirements.

D. W-80

The W-80 program is proceeding normally. Several tests have already been completed. All testing since March 31, 1976 has been conducted in compliance with the provisions of the Threshold Test Ban Treaty.

funding are as follows:

President Carter has requested $449 million in additional funds for cruise missile and associated launch platform development. The current requests for amendments to FY 78 funding are as follows:

CRUISE MISSILES

Research and development

AGM-86B

$50 million increase in FY 78 RDT&E funds, for accelerated IOC and internal (rotary launcher) and external (pylons) B-52 carriage modifications.

AGM-109

$103 million in FY 78 RDT&E funds for initiation of development of a long-range AGM-109.

Procurement

$64 million for long-lead funding for procurement of either AGM-86B or AGM-109.

STRATEGIC BOMBER PENETRATION

$33.9 million for the accelerated development of an integral rocket ramjet Advanced Strategic Air-Launched missile (ASALM) and strategic bomber enhancement.

($14 million for prototype development)

($19.9 million for bomber enhancement)

CRUISE MISSILE CARRIER AIRCRAFT (CMCA)

$90 million for CMCA.

Includes system definition and AGM-86B/AGM-109 demonstration launches.

Provides basis for possible future carrier development.

IV. ANALYSIS

The arms control impact of cruise missiles lies primarily in their potential effect on strategic stability, on arms control negotiations (SALT in particular), and on verification. (The arms control analyses of SLCMs/GLCMs differ from the analysis of ALCMs; the former will be addressed in ACIS submitted with the FY 79 budget requests.)

A. Consistency with declared arms control policy

A primary US national security objective is the maintenance of a stable nuclear balance. That balance presently includes the Triad concept which centers on three general types of nuclear delivery systems: The intercontinental ballistic missile, the submarine-launched ballistic missile, and the manned bomber. The air-launched cruise missile is intended for use as part of the bomber element of the Triad.

For strategic purposes, the US would use nuclear-armed cruise missiles primarily to maintain the retaliatory capability of the existing US bomber force. A weapons mix including ALCMs on standoff bombers and SRAMs and bombs (and possibly ASALM in the longer term) on penetrating bombers, would allow the B-52 force flexibility against a broad array of potential targets and air defenses.

Presently, the US B-52 bomber force is judged to have good penetration capability against extensive Soviet SAM and combat air defenses. These air defenses, however, are not limited by SALT and can be expected to improve. The US expects to retain an adequate penetration capability for a number of B-52s and FB-111s as part of a mixed force of standoff and penetrating bombers, by improving ECM and taking other measures. However, maintaining the capability of the US bomber force over the longer term will require deployment of ALCMs capable of ranges sufficient to stand-off from extended Soviet air defenses. The ALCMs and later generations of cruise missiles are expected to be able to penetrate all of the currently envisaged Soviet air defenses, including those which would threaten the B-52 in a penetrating role. The combination of penetrating bombers and ALCMs (launched from standoff platforms) will provide an effective retaliatory force. Thus, the ALCM is expected to have a significant post-launch penetration capability. Pre-launch survivability of the B-52 platform will continue to depend on such factors as the amount of strategic warning received, the B-52's alert status, and its capability to take off rapidly.

ALCMs deployed by the US on its heavy bombers should not complicate efforts to discourage nuclear proliferation. As noted, ALCM deployments are not intended to expand the US strategic capability, let alone trigger a competition with the Soviet Union, but rather to sustain the considerable deterrent role of our bomber force in the face of unconstrained Soviet air defenses.

Although cruise missiles are not new weapons systems,* the introduction of *modern long-range* cruise missiles by the US and the Soviet Union or their allies, particularly in a full range of deployment modes, could be perceived by other countries to have shifted the competition in strategic weapons into a technologically new area. Countries aspiring to a nuclear-capable weapons option might be tempted to use this example to legitimize their own efforts to exploit cruise missile technology. However, the countries involved would have to weigh this alternative against less expensive ones (e.g., acquisition of new or use of existing aircraft, etc.).

B. Consistency with agreed arms control obligations

Because the SALT I Interim Agreement does not cover bombers or bomber weaponry like the ALCM, these systems have no relationship to that Agreement.

Although not a binding obligation, the Soviet Union and the US on November 24, 1974, concluded an "agreement in principle" at Vladivostok, USSR, to cover the period from October 1977 through 1985. That agreement and a subsequent aide-memoire provided, *inter alia*, that each country would be limited to 2400 "strategic delivery vehicles," within which limit no more than 1320 missiles could be "MIRVed," i.e., fitted with Multiple, Independently-targetable, Re-entry Vehicles. ALCMs *per se* are not limited by the "agreement in principle"; however, ALCM carriers would fall within the category of "strategic delivery vehicles." (Cruise missiles will not increase the US' total number of separate strategic delivery vehicles since they will be deployed on heavy bombers; but they could increase the number of total weapons penetrating the Soviet air deffense system.) It is expected that a SALT II Agreement will have been accomplished by the time decisions regarding the number of carriers are made, thus impacting the decisions.

C. Effects on current or prospective negotiations

1. Salt

In the March 1977 comprehensive proposal rejected by the Soviets, the US proposed range limits for ALCMs carried on heavy bombers and other aircraft. Subsequently, the sides have agreed to deal with outstanding SALT issues in a three-tiered approach: (a) a treaty lasting through 1985; (b) a three-year Protocol; and (c) an Agreed Statement of Principles to govern negotiation of a SALT III treaty. The Soviets appear willing to accept some aspects of US-proposed cruise missile range constraints. (At the present stage of their development, the AGM-86B and AGM-109 programs are flexible enough that their range capabilities can

be adjusted to comply with proposed ALCM range limitations.) If ALCM-carrying heavy bombers were counted in the MIRV total—given the B–1 decision and our subsequent decision to rely more heavily on heavy bombers equipped with long-range ALCMs—the Trident SSBN program and MIRVed ICBMs would have to compete with the ALCM carriers for space in the MIRV aggregate. This could discourage the US from seeking later reductions in the MIRV aggregate.

2. *MBFR*

The MBFR negotiations have to date addressed only reductions of forces based in the NATO Guidelines Area in Europe. Since deployments of heavy bombers in that area are unlikely, long-range ALCMs would have no direct impact on MBFR.

3. CTB

Any testing of existing warheads, or of future, more advanced warheads would be foreclosed by a comprehensive test ban. Such a test ban would have some effect on weapons development, i.e., both the U.S. and the Soviet Union would be precluded from testing a new warhead designed specifically for smaller, longer-range cruise missiles.

D. Effects on global stability

In analyzing the effect of long-range air-launched cruise missiles on strategic stability, primary consideration should be given to the questions of (1) how their deployment affects the relative strategic capabilities of the U.S. *vis-a-vis* the USSR—whether they alter capabilities in the long term to the extent that they are militarily or politically destabilizing—and (2) whether such deployments represent a disarming first-strike threat to the other side. Important to the first consideration is the fact that, although deploying ALCMs may yield some immediate improvement in the B–52 force's strategic capability, the ALCM's major long-term purpose and probable effect will be to maintain the relative capability of the heavy bomber *vis-a-vis* the improving defenses we judge likely to be deployed against it.

Current U.S. plans are to deploy long-range cruise missiles only on the B–52 force. The feasibility of using other airborne platforms is being analyzed. The feasibility determination will include leasing or acquiring prototype aircraft and developing associated equipment. Whether future platforms equipped with ALCMs will dramatically alter the strategic balance will depend on future decisions regarding the type of aircraft and on the numbers deployed. For example, a wide-bodied jet would permit deployment of large numbers of cruise missiles per launch platform and, if deployed as a substitute for the B–52 on a one-for-one or greater basis, could possibly expand the U.S. strategic capability sufficiently that Soviet concerns about the program could affect their perceptions of the strategic balance and, thus, follow-on SALT negotiations. On the other hand, deployment of wide-bodied jets, if substituted for B–52s on less than a one-for-one basis, could have cost advantages over other aircraft. Since cruise missile carrier studies are just underway, this topic will be addressed in future ACTS as the carrier's potential is better understood.

Finally, with regard to first-strike, ALCMs and ASALMs, like other bomber-delivered weapons, would take a number of hours to reach their targets, including bomber flight time from bases in the U.S. Consequently, they should be perceived as first-strike weapons. To the extent that ALCMs preserve the effectiveness of the bomber leg of our Triad, they reduce our need to become more dependent on ballistic missile systems with their first-strike potential. Thus, the ALCM can help to preserve a higher degree of crisis stability in our strategic force posture, with important arms control benefits.

E. Technological impact

The ALCM and ASALM are intended for the modernization of the air component of US strategic forces. In thinking about these systems, we should keep in mind the fact that neither of them is a wholly new type of weapon; both represent the integration of a series of improvements in a number of technologies. Second, we should also keep in mind the fact that even if these specific systems were not themselves developed and deployed, much of their associated technology would be developed for and deployed on intelligence and reconnaissance RPVs (remotely piloted vehicles).

The manner in which the United States deploys air-launched cruise missiles could influence the reactions of the Soviet Union and of those other countries with the potential to deploy such systems. For example, US depolyments of air-launched cruise missiles, constrained to a specified range by a SALT agreement and carried by a limited number of heavy bombers, are less likely to elicit a parallel Soviet deployment than a larger, unconstrained deployment. Whether this occurs would depend in part on the Soviet perception of the US ALCM program as a contribution to the modernization of the B–52 bomber force to preserve the present strategic balance against future Soviet air defenses, rather than as the deployment of a new or enlarged strategic system.

In the absence of a SALT agreement, the Soviets could respond to unconstrained deployment of ALCMs by the US in one or more of the following ways: 1) the upgrading of their strategic forces, which could be seen as threatening to the US or its allies; 2) the accelerated development of a modern sophisticated cruise missile capability; and/or 3) increased attempts to develop their capability to defend against both cruise missiles and their associated launch platforms.

If other countries could obtain the technology for long-range ALCMs, or could indigenously produce such systems, then the cruise missile might present the basis for their development of a nuclear delivery capability (providing they have the nuclear weapon capability to begin with). The perception of the cruise missile as a prestige weapon is intensified by the system's technical characteristics and its obvious versatility. The cruise missile could make any submarine, aircraft or mobile platform a potential strategic delivery vehicle. Hence, there could exist sufficient motive for some countries to acquire or develop cruise missiles—unless, again, aircraft (which are reusable), for example, provide a more attractive alternative. Such proliferation of cruise missile technology could also weaken the prospects for multilateral arms control negotiations.

Some countries already possess or are developing short-range conventionally-armed cruise missiles. Development of cruise missiles by other nations may be decided more by internal considerations of strategy, politics, economics and technology than by weapon prestige, or US action/inaction.

Development of US-type, small, sophisticated, long-range cruise missiles, however, presents formidable technical obstacles. A country must possess the technology to develop light-weight and compact, yet highly efficient turbofan engines, which can exploit high density, high-energy fuels. The country must also be able to fabricate small nuclear warheads of relatively light weight. Minimization of detectability and vulnerability to air defenses further requires that the missile be able to fly a low altitude, terrain-following contour, at least in the terminal stages of flight, requiring considerable sophistication in aerodynamics as well as in microelectronic miniaturization required for guidance systems. If high accuracy is desired, and the country seeks to follow the US lead in utilizing a TERCOM-type terrain contour correlation system, a sophisticated reconnaissance and mapping capability would also be required. Surmounting these and other technological barriers could be prohibitively expensive and difficult for most countries; some may elect to develop less-sophisticated long-range cruise missiles.

F. Verification

The degree of difficulty in verifying cruise missile limitations depends, of course, on what restrictions are included in a SALT agreement. Such limitation could apply to cruise missile ranges, armaments, types of launch platforms, and numbers of missiles, launchers, or platforms. Moreover, as compared to ballistic missiles, cruise missiles are smaller, fly lower, have smaller radar and infrared signatures, and use simpler and less easily identifiable launchers and support facilities. And cruise missiles could be launched from a wide variety of air, sea, and land platforms. Another complicating feature is that cruise missiles of similar size and external configuration may have significantly different range capabilities.

The potential difficulties of verifying compliance with any SALT limitations on cruise missiles should be viewed in the broad context of how cruise missiles affect the strategic balance. In reaching decisions on cruise missile deployments, we should seek to discourage a Soviet reaction that could produce destabilizing consequences.

The US ALCM programs that we now envisage should not lead to such an extensive Soviet deployment of cruise missiles. The Soviets, while continuing to seek restrictive range limits on SLCMs and ground-launched cruise missiles (GLCMs), have demonstrated a willingness to consider US proposals for limited ALCM deployments. The Soviets have no need to procure such a weapon to penetrate our current, limited air defenses. Moreover, the Soviet heavy bomber force of roughly 150 aircraft is obsolete and could become a candidate for reduction if we succeed in reaching SALT agreement that limits the number of strategic weapon systems either side can deploy.

Nonetheless, we cannot exclude the possibility that the Soviet Union might respond to our ALCM program by designating a comparable weapon system and a suitable platform. Although the Soviets are estimated to be several years behind the US in small cruise missile technology, their incentive might develop from a failure to reach a SALT agreement which encompassed ALCM platforms within treaty limits. That kind of development could impact adversely on US interests. A medium-range Soviet aircraft armed with long-range ALCMs could have significant capability against targets in the US, and we might also have to reckon with the possibility of similar Soviet cruise missiles deployed in ground-launched or ship-launched modes.

The problem of verifying compliance with cruise missile limits could have serious long-term implications for future arms controls. These should not, however, be used as justification for excluding cruise missiles from a future SALT Agreement.

Finally, confidence in verification by both sides could be enhanced if ALCM launch platforms were observably different from other aircraft.

V. CONCLUSIONS

While development of cruise missile systems by the US is considered necessary to preserve the strength of the US Triad, such development could be viewed as a step to-

*E.g., the US has developed several such systems in the past (Regulus, Matador, etc.); the Soviets currently have a large number of unsophisticated and generally short-range cruise missiles. Some of these missiles could be upgraded to longer range.

wards potential proliferation of a class of weapons systems which could raise arms control problems. However, ALCMs deployed on platforms subject to our currently proposed SALT II restrictions should not, on balance, be prejudicial to arms control. To the degree that ALCMs help to maintain rather than dramatically enhance the retaliatory role of the US heavy bomber force, they at least provide a stable backdrop for arms control initiatives. The performance characteristics of ALCMs, notably their unsuitability for use against time-urgent hard targets, contribute to crisis stability. Also contributing is the fact that ALCM precludes the necessity to substitute ballistic missiles—with their first-strike capability—for the bomber leg of the Triad, with arms control benefits. However, ALCMs—like any other strategic weapon—could create difficulties for arms control if deployed on a scale that was perceived to have upset the strategic balance.

ALCMs should not adversely affect CTB negotiations or future SALT negotiations, provided they are subject to our currently proposed SALT II restrictions. ALCM warhead requirements should have no effect on the nuclear weapons testing restrictions of present treaties or of a future CTB.

Verifying limits on any new Soviet cruise missiles, in whatever launch mode, would be more difficult than verifying limits on ballistic missiles. The problem of verifying limits on new cruise missiles may require adapting and improving current means of verification.

In essence, then, determining the arms control impact of the ALCM requires weighing maintenance of the viability of the Triad—especially that leg without a first-strike capability—against potential problems in verification and weapons proliferation. On balance, if the number of ALCM platforms is limited by a SALT agreement and the number of missiles is not so large as to affect the overall strategic balance, the deployment of this system should not adversely affect arms control.

Mr. EAGLETON. Mr. President, I ask for the yeas and nays on the bill that is before the body.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that I may proceed for 3 minutes in view of the fact that there is a hiatus, and I want to take advantage of it.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The Senator from Wisconsin is recognized for 5 minutes.

Mr. PROXMIRE. I want to call attention of the Senate to the serious problem we have in the military in excluding and discriminating against women in positions of influence and positions where they can look forward to promotion and the kind of compensation that men receive.

WOMEN IN THE MILITARY

Mr. President, in recent months the Subcommittee on Priorities and Economy in Government of the Joint Economic Committee has held two in a series of hearings on women in the military. On July 22 we heard from the Assistant Secretary for Manpower and Reserve Affairs of the Army, the Army Assistant Deputy Chief of Staff for Personnel, the Assistant Secretary for Manpower and Reserve Affairs of the Navy, the Deputy Chief of Naval Operations (Manpower), the Assistant Secretary for Manpower and Reserve Affairs of the Air Force and the Air Force Deputy Chief of Staff for Personnel.

The Air Force representatives expressed reservations over whether women should be used on missile launch crews; that is, whether they should have the responsibility of turning the keys to launch nuclear missiles.

The Navy continues to have questions on the assignment of women to sea duty, where they would be working side by side with men in close quarters, although such an experimental cruise on the U.S.S. *Sanguine* proved to be a great success.

The Army stressed the need to move very cautiously on assigning women to their broadly defined "combat" specialties, even though some of these specialties are missile repairmen and communications officers rather than actual combatants.

All three services stressed their commitment to fair treatment of women and pointed to great increases in recruiting women in the past 5 years.

On September 1, we heard the women tell their side of the story. Retired Air Force Maj. Gen. Jeanne Holm—the only woman ever to reach this rank—pointed out that—

American service women have been shot at, some have died from enemy action, some have been prisoners of war, and many have received combat decorations. . . . I applaud the Air Force's decision to train a few women as pilots and navigators, but I am mystified by what their test program is expected to prove; certainly not that women can fly airplanes. We already know that.

According to Dr. Carol Parr, who represented several women's groups:

Average annual per capita costs associated with housing, medical care and transportation are roughly $982 less for military women than for men. Thus, based on differences in dependency status, the average military woman costs the Department of Defense about 8% less.

Jill Laurie Goodman, of the American Civil Liberties Union, addressed the moral difficulties of placing women in danger:

I suggest that concern for exposing women to the dangers of war is misplaced. It is based on the untenable proposition that the lives of women are more valuable than the lives of men. But I find it doubtful that mothers or fathers weep more for their daughters than for their sons.

Col. Mary Hallaren, U.S. Army Ret., former director of the WACS, dismissed the notion that women could not serve under great stress by drawing upon her own experiences in London during World War II.

None of the women shrank from the possibility of sending women into combat.

We are making some progress in this area. The Navy—to its great credit—has asked Congress to change the law so that women can serve on transports and hospital ships permanently and can serve temporarily on other ships not expected to see combat.

The Air Force announced recently that women will be allowed to serve as ICBM launch crews.

The Army is using women in this year's NATO war games under combat conditions. It is also conducting a series of experiments to see how women could serve in combat duty.

We still have a long way to go, however.

The services must begin to base assignments on ability rather than gender. The first step here is to devise minimum physical and educational requirements for each job.

Women can do that job. They have proved that in previous wars, when they served under horrible conditions and gave their lives for this country.

Mr. President, I see that the members of the Armed Services Committee have returned, so I shall conclude by simply pointing out one final finding: Women in today's armed services are, on the average, smarter—I say that because they have completed a high school education; they are required to, and men are not—and better educated than the men. Women have a higher retention rate than males. They lose about 50 percent less time from the job than men—and this includes the pregnancy factor. And the services are learning that women are capable of meeting much greater physical demands than had been imagined.

The Secretary of Defense has been required to submit to Congress a report on current use of women in the military. Until he does so I think it would be inappropriate for me to introduce another amendment on women in the services. This is an issue that must be met soon, however, and I will pursue it with suitable legislation in the near future.

It is disgraceful that the largest employer in our society is unfairly shutting out one-half of our population. Unfortunately, old prejudices, like old soldiers, never seem to die—or even fade away.

Mr. President, I can think of no way that we can make the voluntary Army more surely work than to provide this kind of opportunity for women they have been denied, unfortunately, too long.

Mr. GOLDWATER. Will the Senator yield for just a moment?

Mr. PROXMIRE. Yes, I yield.

Mr. GOLDWATER. Mr. President, I am in complete agreement with what the Senator from Wisconsin is talking about. I remind him that last month, we graduated our first 10 women pilots from Williams Air Force Base in Arizona. I observed their training. They fly the T–38 aircraft, which is not the easiest airplane in the world to fly, but they fly it as well as our men. They do a fine job and they are already out working in the flying business in the Air Force.

I thank the Senator for his comments.

Mr. PROXMIRE. I thank the Senator from Arizona, because the Senator from Arizona has been somewhat skeptical of the possibility of having women have extended opportunities in the Armed Forces and his word is most impressive. Of course, we all know he is a distinguished flier himself, as well as a distinguished military officer.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The time of the Senator from Wisconsin has expired.

Mr. STENNIS. Mr. President, may we return to the DOD appropriations now?

I yield to the Senator from Washington such time as he may wish. Ten minutes?

Mr. JACKSON. Yes. I thank the Senator.

Mr. President, first, I commend the distinguished chairman of the subcommittee that handles the funds for research and development, the senior Senator from New Hampshire (Mr. McINTYRE). I must say that it is above and beyond the call of duty to hold the hearings during the recess. He used the month of August, while the rest of some of us were out West. I commend him for the thorough way in which he handled this matter and matters that relate to his particular responsibility as chairman of that committee over a number of years. I thank the chairman, likewise, and the ranking minority member for their strong support and participation, and the distinguished Senator from Arizona (Mr. GOLDWATER).

I regret that, being tied up since we have returned, it has not been possible to participate in the specific deliberations of the committee.

UP AMENDMENT 909

(Purpose: To add $20 million for the cruise missile)

Mr. JACKSON. Mr. President, in behalf of Mr. BUMPERS, Mr. NUNN, Mr. PROXMIRE, Mr. STONE, and myself, I send an amendment to the desk and ask that it be considered.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

On behalf of Senator BUMPERS, who is necessarily absent, the Senator from Arkansas (Mr. BUMPERS), for himself, Mr. JACKSON, Mr. NUNN, Mr. STENNIS, and Mr. PROXMIRE, proposes an unprinted amendment numbered 909:

In line 22, page 2, strike the figure "$253,470,000" and insert in lieu thereof the figure "$263,470,000."

Mr. JACKSON. Mr. President, I ask unanimous consent to have printed in the RECORD a statement by Senator BUMPERS. Senator BUMPERS was unavoidably called back to the State of Arkansas about an hour ago and it is not possible for him to be here to discuss his amendment.

The PRESIDING OFFICER (Mr. STONE). Without objection, it is so ordered.

STATEMENT BY SENATOR BUMPERS

I introduce my amendment which would "Strike $253,470,000 from line 22, Title II, page 2 of S. 1863, and in lieu thereof insert the figure "$263,470,000."

This bill, S. 1863, authorizes only $5 million in research and development funds to study the role of the Cruise Missile Carrier, which would be any wide-bodied jet—such as a DC–10, a 747, an L–1011—capable of carrying and launching Air-Launched Cruise Missiles. The Department of Defense in its revised request to the R & D Subcommittee of the Senate Armed Services Committee asked for $50 million to develop and test a prototype. The purpose of my amendment is to add $10 million to the Committee bill in order to ensure vigorous pursuit of this important strategic line item. The total authorization for this item would thus be $15 million.

We need a prototype.

Secretary of Defense Brown makes a strong argument for the $50 million, but I'm sure we will be able to use well the $15 million my amendment seeks to authorize. He strongly repeated the arguments he made on the day before the full Armed Services Committee marked up the authorization bill before us. At that time, the Secretary of Defense, Harold Brown, made an urgent appeal for the full $50 million in a letter to Senator Stennis, the Chairman of the Committee on Armed Services. In this letter, dated September 19, 1977, Secretary Brown made the following emphatic points:

"I understand that consideration is being given to a substantial reduction in the funding proposed for the cruise missile carrier. In order to develop an option for initial deployment of a cruise missile carrier in FY 1981, we need to develop and test a prototype and demonstrate the launch of a cruise missile from such a carrier in FY 1978. I believe this option is extremely important, particularly because it would allow us to expand our strategic capability rapidly if the Soviets continue their build-up and we conclude that we must respond. With a relatively small investment in a cruise missile carrier, we could dramatically increase the number of warheads, megatonnage, and throw weight of our strategic forces. In light of the above, I urge your strong support for the full $50 million in our budget request."

Those are strong words from a thoughtful man. But they had no effect on the Committee bill, which recommends that only $5 million be authorized to support a Phase I systems definition—instead of an actual prototype. Further, the Committee bill requires that the results of this systems definition work be reviewed fully by the Department of Defense and the Congress before going forward with what the Armed Services Committee calls "costly aircraft flight demonstrations."

Why did the committee do this?

The DOD did not make its case for more than $5 million according to the view of some of my colleagues. In this connection, it must be emphasized that the Defense Department and the Armed Services Committee did not technically make their case for the $20 million for research and development to initiate a prototype for the stretch F–111, which is called the FB 111H. I am not opposed to the stretch F–111. It might prove a wise option to keep open for the penetrator in our mixed force in the 'eighties. But I believe we need an equally vigorous program to keep open an option for the stand-off bomber in our air force in the future, and the cruise missile carrier is as wise an option for this element of the mixed force as is the FB–111H as a follow-on penetrator. The Committee, nevertheless, authorized substantial funds for the penetrator, and confined the cruise missile carrier to the realm of a thesis to be defended:

Because DOD did not provide the estimated total cost of the cruise missile carrier program. DOD not only did not provide the estimated total cost of the FB–111H, but did not even request a dime for this program. The R. & D. Subcommittee, in fact, earnestly sought a DOD request for this item, and never really ever got a statement of strong, unqualified endorsement of the $20 million DOD never asked for. Take for example the circumspect language used by Secretary Brown in his September 19 letter to the Chairman of the Committee on Armed Services:

The Secretary writes that the purpose of initiating a prototype development program for an FB111H "would be to verify performance predictions; it would not represent a commitment to a production program."

The Secretary went on to add that "I believe this proposal deserves careful consideration as a way of keeping open an option for such a system as a penetrating bomber at some later time." This is in sharp contrast to his remarks in the same letter on the need for a cruise missile carrier prototype for a test and launch demonstration in, specifically, fiscal year 1978, and initial deployment of the cruise missile carrier in, specifically, fiscal year 1981.

The Secretary concluded, in regard to the stretch-111, that the "$20 million figure . . . seems an appropriate amount to begin" preliminary development work. In contrast, Secretary Brown urged "strong support for the full $50 million" for the cruise missile carrier.

Further, the Committee bill confines the cruise missile carrier to a study because DOD did not provide an estimate unit cost per aircraft (although we have no firm figure on how much a stretch F–111 will cost), because DOD did not provide the number of aircraft which might enter the force (ditto for the stretch F–111), because the DOD did not provide a list of specific R & D tasks to be accomplished with the requested $50 million (not only did the DOD not describe the R & D tasks for the stretch F–111, they did not even request the $20 million), and because the DOD did not provide even a short list of major technical issues to be investigated. This last "because" is so weak that any one of us could supply the key R & D tasks. We know wide-bodied jets can fly, while the stretch F–111 is currently an idea. The R & D issues for the cruise missile carrier will be to demonstrate its ability to fire missiles. That may not be simple, but it is far more simple than the obvious R & D problems that the stretch F–111 will doubtless have. For example the FB–111H will have to have a new landing gear, which raises the multi-faceted problem of system compatibility; it will have to have a new engine, which may be the B–1 engine which poses, for the stretch F–111 the problem of inlet compatibility; it will have greater weight, a problem most of us are constantly aware of; new avionics will be required, which increases cost; and, finally, loading problems. The greater weight of the stretch F111 with the same wing will doubtless require longer runways, longer takeoffs, more extensive dispersal of the individual aircraft and so forth.

Another reason the Committee bill cut to $5 million the Defense Department's revised request of $50 million for the cruise missile carrier was that the Descriptive Summary provided by the DOD at first included only one sentence in support of the original $90 million request for this item. The final request received by the Committee in Secretary Brown's letter to Chairman Stennis is, however, specific. It calls for a demonstration launch in fiscal 1978 and an initial deployment date of fiscal 1981. The reason for DOD's own decrease from their initial request of $90 million to the revised request of $50 million was DOD's consideration that the wide-bodied jets could be leased—not purchased—for the fiscal year 1978 demonstration. Nevertheless, some of my colleagues believe that DOD's reduction of their original request constitutes a recognition of the weakness of their own justification of the request. Accordingly, say some of my colleagues, this shows the lack of clear, solid and detailed planning.

Unless we want to engage in double-think, this same criticism applies to the FB–111H.

I might add that the feasibility of the bulk of the items authorized in this bill has not been demonstrated. We used to speak well of the "fly before you buy" principle. In the case of the cruise missile carrier, we at least know that it can fly, and we can lease it.

While several important questions have not been nailed down, I believe the DOD did make its case for the cruise missile carrier.

Whether or not one made his case is, however, an endless discussion in this chamber. Sometimes discussions in this body remind me of the medieval scholastics who would spend days arguing the question "where does a circle start?"

Another general category of reasons why the Armed Services Committee cut the cruise missile carrier request to $5 million was that the major first step in developing a cruise missile carrier is the definition of a military system and the resolution of major planning and policy issues, not expensive hardware demonstration.

If, indeed there are major military and policy issues that must be resolved before we ought to proceed with a cruise missile carrier, should there not also be these same military and policy issues to resolve before we proceed with a follow-on penetrator? The study commissioned by this very bill is to provide the context to examine this broader issue. Hopefully, it will proceed from the premise "will we need a penetrating force in the future?" not "what kind of penetrator should we buy?" We have been B-oned to death, and I do not want to be B-twoed. Whatever its recommendations this study will have to treat the unequivocal statement of Secretary Perry, the Director of Defense Research and Engineering, that the stand-off bomber in the late eighties will be the dominant partner in the mixed force of penetrating bombers and cruise missile carriers. In regard to this study, I include a thoughtful article by Mr. Joe Dealey, Jr., of the Dallas Morning News, as follows:

[From the Dallas Morning News, Sept. 14, 1977]

A Case of Terminal Amnesia

(By Joe Dealey, Jr.)

The shock waves President Carter's surprise cancellation of the B–1 manned strategic bomber program sent reverberating through the Pentagon apparently left top Air Force brass with a terminal case of amnesia.

How else to explain the Air Force's recent actions in urging Defense Secretary Harold Brown to revive production of the FB–111 aircraft and convert it into a long-range strategic bomber?

Air Force officials cannot be blamed for wanting to salvage some of the high-priced B–1 weapons system technology and put it to good use. But to consider the FB–111 as heir apparent to the B–1 program's technological byproducts make little sense, especially to those who have followed the B–1 program.

After all, was it not the FB–111, along with a re-engined B–52 and a stand-off, cruise-missile-launching Boeing 747, that were passed over when critics of the $24-billion B–1 program sought out viable alternatives? So what makes the FB–111 so great now?

Clearly, the Air Force is going to have a hard time overcoming the bad press it gave the FB–111 during the B–1 program. And this doesn't even take into consideration the criticism the FB–111 will receive as a result of its less than distinguished service record with the Air Force.

The question is simply this: Is the FB–111 the aircraft capable of filling the void left by the B–1? According to the Air Force, the answer appears to be in the affirmative.

Certainly, the opportunity to get the job done with a third less money—$24 billion for the B–1 versus $17 billion for the FB–111—is a point in favor of going ahead. And there's the B–1 technology thing. Who can argue that making the best possible use of available technology is not economically the correct thing to do?

Still, the idea of plunging headlong into another manned strategic bomber program so soon after the most ambitious bomber program in history has been terminated seems penny-wise and pound-foolish, to say the least.

Carter's decision to cancel the B–1 program unquestionably caught the Air Force off guard. To SAC commanders in particular, it dealt an all but fatal blow to organizational pride. The B–1, in spite of the national furor it had caused, was a shoo-in. Or so SAC thought.

Now with the decision to return to an idea that the Air Force panned not too many months ago, comes the gut feeling that perhaps a less expensive aircraft production program can in fact, solve the problems resulting from the aging SAC fleet of B52s. Less than $24 billion? Certainly. Less than the $17 billion it will cost to transform the FB111 into a mini-B1? The prospects look brighter all the time.

The B1, one must recall, was considered to be the answer for delivering the potent cruise missile deep into Soviet territory. The modified FB111 would be called upon to do likewise. Could not another type aircraft do the job? And for less?

The Air Force will probably disagree, but the stand-off, cruise-launching Boeing 747 or similar type aircraft could be exactly what is needed to fill today's need for an aircraft to deliver the cruise missile.

The problem that will soon become apparent to those who choose to follow this latest sortie is that the Air Force is run by former bomber pilots who were brought up over World War Two Germany and who fought and saw many of their comrades die flying bomb runs over enemy targets. These men—may their heroism never be forgotten—are mighty reluctant to let go of the controls of an aircraft that would rocket them deep into enemy homeland and take over the controls of an aircraft that merely sits out over friendly territory and serves as an airborne launching platform for a guided missile.

That's not taking the fight to the enemy. And that is what bomber pilots are trained to do. And American bomber pilots have done it better than anyone else for a long time. It is, as one writer said, the one thing we know we can do better than anyone else.

But a day of reckoning is fast approaching. Of one thing we can all be certain: The B1 is dead. Killed, perhaps for the better, in favor of designing and putting into operation an airborne weapons system that takes the best of available technology and puts it into the hands of the men charged with the responsibility of defending our skies.

The modified FB111 does not represent the last chance SAC commanders have to get a new aircraft. Just as technology has enabled us to advance farther and faster than we ever thought possible, so has it changed the face of war forever.

Now, perhaps more than ever before, the Air Force needs to reassess its role and proceed to develop an aircraft to take the fight to the enemy in a modern air war.

As the cruise missile has already demonstrated, there is more than one way to skin a cat—or defeat an enemy with air power.

In addition to the broader military and policy questions, some of my colleagues highlight a few technical modifications to the wide-bodied jets that would have to be applied to the cruise missile carrier. It would need—and so would the FB–111H—a precise navigation system, nuclear hardening, electronic counter measures to jam air defenses, and a threat warning indicator.

Another systems definition point raised is that DOD has not yet thought systematically about how a cruise missile carrier would operate in the force.

How would it engage air defenses?

What altitude would it be expected to operate?

At what distance would it stand off and launch its cruise missiles?

Would the very large radar cross section make it vulnerable to a dedicated Soviet far forward air defense?

If its high altitude and large radar cross section would make it so vulnerable that it would have to stand off a considerable distance from the Soviet Union to avoid air defenses, how would this affect the target coverage of its cruise missiles, particularly if we have a SALT limitation on cruise missile range?

I agree that these are important questions, but they really have nothing to do with Secretary Brown's request for a demonstration prototype. Not so incidentally, these very same questions apply to the B–52 cruise missile carriers, for which this bill authorizes $76.7 million.

With regard to the uncertainties a cruise missile carrier might bring to our current SALT efforts, I have no ready response to the question that if long-range ALCMs (up to 2500 kilometers) are permitted only on "heavy bombers," is a wide-body cruise missile carrier a "heavy bomber" under this definition? I have, however, confidence that Paul Warnke can come up with a dazzling answer. I have an answer to the question, that if the cruise missile carrier is defined as a "heavy bomber," how does one distinguish these military aircraft from civilian aircraft of the same model? Such distinctions can be made by standard electronic intelligence means and common horse-sense. If the Soviets detected a 747 or a DC–10 circling the frosty Barents Sea, and concluded that it was a TWA tourist flight, their much vaunted air defense establishment would indeed be in deep borscht.

These, and other SALT-related questions, will have to be addressed in the Administration's upcoming Arms Control Impact Statement. The reason they have not been addressed in the past is because we are on the very threshold of a new weapon system.

A final general category of reasons why the Armed Services Committee cut everything but a whisper out of the revised request of the Department of Defense for the cruise missile carrier was that there is no urgency to move beyond a systems definition phase at this point.

I am no alarmist, but I do believe there is a sense of urgency for this system. Secretary Brown, in the letter I mentioned a moment ago, stated emphatically that the cruise missile carrier option "is extremely important, particularly because it would allow us to expand our strategic capability rapidly if the Soviets continue their build-up and we conclude that we must respond." That is the key point in his letter. The cruise missile carrier is a good option, and a quick-fix, highly demonstrable reaction to whatever the Soviets may decide to do with their fourth generation ICBMs, their bomber force, and/or their submarine program.

While none of the DOD witnesses raised the point of urgency in regard to a cruise missile carrier, none of them emphasized the stretch F–111. The concentration of the witnesses before the R & D Subcommittee was almost entirely on B–52's for the cruise missile carrier portion of the so-called "mixed force." But to be fair, the Air Force was at that time just getting up from the mat in the wake of the B–1 blow. I'm sure that if we had those hearings today, DOD's postulated mixed force for the mid-1980's would include wide-body cruise missile carriers.

As for the argument that the projected production rates of ALCM's would not provide enough additional cruise missiles for wide-body cruise missile carriers until 1984 or 1985, I direct your attention back to Secretary Brown's letter. With the cruise missile carrier we can "expand our strategic capability rapidly." Since "capability"—like beauty—is in the eyes of the beholder, these wide-bodied carriers (whether or not they are loaded down with cruise missiles) would add to our overall deterrence image.

In conclusion, we have the proven wide-body jets in our civilian and military fleets, we have the vigorous commitment of the

Secretary of Defense to push this program rapidly if General Secretary Brezhnev and Defense Minister Ustinov deploy the new generation systems they are testing today, and my amendment to add $10 million is, in today's costly strategic business, a bargain.

Mr. JACKSON. Mr. President, this amendment would increase the line item by $10 million, making a total of $15 million available for the purpose of looking into a so-called cruise missile type carrier to act as a potential launching platform for ALCM, the so-called air-launch cruise missile.

Mr. President, the original amount we were considering was for $20 million additional. This amount is now only $10 million.

I think the key thing, briefly stated, is for the Department of Defense to have two alternatives: one, the possibility of a follow-on penetration bomber to the B–52; and two, a missile carrier that can act as a standoff missile system.

Mr. President, we do not know what is finally going to come out of SALT, the strategic arms limitation talks. Much depends on what the range will be for the so-called air-launched cruise missile. The range limitation matter will be a substantial determining factor, I assume, in connection with the kind of weapon systems that will be needed to launch the cruise missile as part of our most recent strategic deterrent programs.

Mr. President, I see no further need to discuss this. Senator BUMPERS' statement goes into the matter in great detail and I think we have covered the subject.

Mr. McINTYRE. Will the Senator yield briefly?

Mr. JACKSON. Yes.

Mr. McINTYRE. Mr. President, I ask unanimous consent that a statement in support of the recommended $45 million reduction in cruise missile carrier be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

IN SUPPORT OF RECOMMENDED $45 MILLION REDUCTION IN CRUISE MISSILE CARRIER REQUEST

I. We support the development of a new cruise missile carrier as a critical part of a future mixed bomber force.

The Committee fully supports the development of an aircraft which would be used in a mixed bomber force in the mid to late 80's as a second generation cruise missile carrier to replace the first generation B–52 cruise missile carrier.

The Committee recommends that $5 million be authorized to support a Phase I systems definition and that the results of this work be reviewed fully by the Department of Defense and the Congress before going forward with costly aircraft flight demonstrations.

II. DOD did not make its case for more than $5 million.

Despite every effort during the last two months by the Committee, DOD still hasn't provided the most basic programmatic information in support of this request.

DOD has not provided:

Estimated total cost of the program,

Estimated unit cost per aircraft,

The number of aircraft which might enter the force,

A list of specific R&D tasks to be accomplished with the requested money,

Even a short list of major technical issues to be investigated,

Nor how many aircraft would be leased and modified as cruise missile carriers in this development program.

The formal documentation in support of the budget is embarrassingly inadequate.

The Descriptive Summary provided at first only one sentence in support of the original $90 million request for the cruise missile carrier.

Several weeks later, one day before the Subcommittee markup, after persistent questioning, we finally received a revised Descriptive Summary with only a few more sentences and little additional specific information.

The Committee made repeated efforts to get this information in our hearings.

In late July, Dr. Perry said in answer to our questions:

"The program dates for the cruise missile carriers are not firm. We do not have a clear program plan on that (the IOC) and we cannot give you at this time confident dates on any of those landmarks."

He said further:

"I cannot defend an operational date or even a first launch date for cruise missile carriers at this time."

General Slay said he hoped that this information would be available in August when they would return.

However, on August 29, a month later, we asked many of the same basic questions and the Department still had no answers. When asked about the IOC that $50 million would protect, General Slay said: "We haven't gotten that far in our planning." When asked if he could estimate total program costs or unit costs, Dr. Perry said: "Only very approximately at this stage."

DOD's reduction of their original request from $90 million to $50 million was a recognition of the weakness of their own justification of the request. The program had been thrown together so hastily that they originally had intended to buy two aircraft for flight testing of the aircraft. The questioning by the Subcommittee helped them realize they could easily lease them instead. This shows the lack of clear, solid and detailed planning which we believe is the general case with the entire program.

III. The major first step in developing a cruise missile carrier is the definition of a military system and the resolution of major planning and policy issues, not expensive hardware demonstration.

There are major military and policy issues that must be resolved before we should proceed with a cruise missile carrier.

DOD has not defined what modifications to a civilian aircraft would be militarily necessary. For example, SAC testified that a cruise missile carrier would need a much more precise navigation system, nuclear hardening, electronic countermeasures to jam air defenses and a threat warning indicator.

DOD has not determined which of these are militarily required and yet the military effectiveness and the cost competitiveness of this system depends heavily on how it is defined.

DOD also has not yet thought systematically about how a cruise missile carrier would operate in the force.

How would it engage air defenses?

What altitude would it be expected to operate?

At what distance would it standoff and launch its cruise missiles?

Would the very large radar cross section make it vulnerable to a dedicated Soviet far forward air defense?

If its high altitude and large radar cross section would make it so vulnerable that it would have to standoff a considerable distance from the Soviet Union to avoid air defenses, how would this affect the target coverage of its cruise missiles, particularly if we have a SALT limitation on cruise missile range?

There are also major uncertainties about SALT.

If long range ALCMs (up to 2,500 kilometers) are permitted only on "heavy bombers," is a wide body cruise missile carrier a "heavy bomber" under this definition?

If it is, then how do we distinguish these military aircraft from civilian aircraft of the same model.

If it is not, then we will be designing a system that could be precluded at SALT.

The Administration's Arms Control Impact Statement did not address these questions and informal information suggests that there has been little thought given to the matter even at very senior levels of the Administration.

IV. There is no urgency to move beyond a systems definition phase at this point.

The B–52s will be our first generation cruise missile carriers.

None of the postulated mixed force for the mid-80's discussed by the DOD witnesses included wide body cruise missile carriers. They all depended entirely on B–52s for the cruise missile carrier portion of the mixed force.

Since long range ALCM's will be first put on B–52s, projected production rates of ALCMs would not provide enough additional cruise missiles for wide body cruise missile carriers until '84 or '85.

The technology is readily available once the system has been determined.

We have several proven wide-body jets in our civilian and military fleets and we have other component technologies for a cruise missile carrier available "off the shelf."

ALCM has been launched in an even more challenging technical way than is being proposed by this program. ALCMs have been lower level B–52s in a much greater turbulence than would be the case with a wide-body jet at a higher altitude.

Mr. STENNIS. I yield the Senator from Arizona such time as he wishes.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. GOLDWATER. Mr. President, I have agreed reluctantly with the full committee to go along with this amount. We discussed this in the hearings at quite some length. We found the Air Force had absolutely no recommendation to make or suggestions for a cruise missile launcher of the wide-body type, which is what we were thinking about in 747, DC–10, 11, type aircraft.

Now, I am not opposed to this concept, but I would rather have heard the Air Force express their feelings on it before we get into the authorization of any money for it.

So while we are not going to vote, obviously, I would vote against it if it came to a vote.

Mr. President, some questions have come to my mind on this matter.

First. Since the committee unanimously agreed to $5 million of a requested $50 million as all that was required to begin the critical step of systems definition, why are these additional funds required?

Second. Has the Department of Defense made a specific request for this particular amount and, if so, has the Department advised how these funds would be used?

Third. I thought it was clear that the Department had really not made a case for even $5 million, let alone $15 million. During the long series of hearings on this supplemental by the R. & D. Subcommittee, DOD was unable to provide even the most basic programmatic information in support of its request. They

were unable to provide: Estimated total cost of the program; estimated unit cost per aircraft; the number of aircraft which might enter the force; a list of specific R. & D. tasks to be accomplished with the requested money; even a short list of major technical issues to be investigated; nor how many aircraft would be leased and modified as cruise missile carriers in this development program.

It was for the above reasons that the subcommittee was even somewhat reluctant to recommend a $5 million authorization. How would this additional $10 million proposed in the amendment help resolve the question that I have just raised?

Fourth. Again, I suggest that all that is required at this particular point in time is a system definition of a cruise missile carrier and how that carrier would fit into the future strategic force structure. It seems to me that $5 million should be more than adequate to conduct rather extensive studies in fiscal year 1978 which would provide the basis of a more substantive request in fiscal year 1979.

There are a number of areas that DOD has not yet systematically thought through about how a cruise missile carrier would operate. For example:

How would it engage in air defense?

At what altitude would it be expected to operate?

At what distance would it stand off and lanuch cruise missiles?

Would its very large radar cross-section make it extra vulnerable to a dedicated Soviet forward air defense system?

What target degradation is incurred if the cruise missile carrier, due to its large radar cross-section and vulnerability to air defenses, had to launch its missiles from a lower altitude?

So, there are a number of issues that need to be explored and the Committee felt that $5 million should be adequate for this purpose. It would seem to me that if additional funds were felt to be necessary, the Department could consider a reprograming request at some later time.

I do have difficulty supporting this particular amendment because I sincerely believe the funds we have recommended are adequate for the tasks required.

Mr. STENNIS. Mr. President, I ask if there is anyone else that wishes to be recognized.

I yield the Senator from New Hampshire, Mr. President, such time as he may need.

Mr. McINTYRE. I thank the Senator.

Mr. President, I think one word before we close tonight is necessary from the chairman of the R. & D. Subcommittee. I think it is unfortunate that we continue to hear the bomber issue discussed as a choice between standoff cruise missiles or a penetrating bomber force.

I think that is a false choice. The hearings we held proved very compellingly that the best future bomber offense will be a mixed force of the standoff cruise missiles and penetrating bombers. This mixed force will overwhelmingly compound the problems of the air defense of our Soviet friends. When the cruise missles start to come in the inventory, in 1980 or 1981, the mix, the partnership, will begin to shift so that the standoff cruise missiles will probably be the senior partner in the late 1980's and 1990's.

So right now, what we need is both penetrators and cruise missiles.

I do not particularly care if the penetrator is a B–52, an FB–111A, or an FB–111H. But it is important to have a mix.

I hope some will take the time to read that part of the text I put in the RECORD which stated the case for a mixed force. It is a very compelling case.

If we can have a standoff cruise missile as good as those we think we have now in the R. & D. and can couple them with a penetrator, whatever it is, then we will have, like a football team, a good passing attack and a good running attack and that confounds the defense.

A mixed bomber offense of the standoff cruise missile and the penetrating bomber will put the Soviet Union in a real hole militarily, technically, and financially.

That is the whole point. We must get out of our minds that the choice is either a standoff cruise missile only or a penetrating force only. We can then work together in planning a future bomber force.

This is my opinion, of course, based on the hearings.

I thank the chairman.

Mr. STENNIS. Mr. President, I do not care to speak any more, in the ordinary sense, but I do think the record ought to reflect a little more here about this matter.

I am most grateful, indeed, for the membership of the committee that met back here in the room. We considered the matter and reached this agreement that we could bring out here. We are not in total absolute agreement, but it could be recommended by the great majority. That meets the situation.

I think anyone interested can find a great wealth of information in the hearings—if they have not been printed, and I assume they have been, but if not, we will print them—and in the speeches made here, and what has been said tonight and what will be said in the future.

This is no simple matter. We cannot go down to Pennsylvania Avenue and 12th Street and blow a whistle and get this kind of machinery to deliver cruise missiles.

It is a long, hard process.

There was an excellent showing there before the committee by the Air Force, as the Senator from Arizona pointed out. There will have to be further showings and further developments on that plan, as well as the plan that the administration pointed toward, and I really think that we are on our way.

But here is where we can find information, the record I referred to, and get leads on most any phase of it that we wish.

If this passes now in any way similar to its present form, it will really put it up to the military services and the administration to come forth with something that follows up effectively the order to cancel the B–1. I had supported the B–1, but as soon as the order came on it, I said there was no time to lose—I was certain of that—in getting ready for this new order of things. A real start has been made in this bill.

I believe that a great deal of legislative steps in the future will be taken from the McIntyre hearings—the record of it—as a good starting point, and we will do the best we can on this matter in conference.

Mr. President, I have nothing more to say on this amendment.

Mr. BARTLETT. Mr. President, will the Senator yield?

Mr. STENNIS. I yield 2 minutes to the Senator from Oklahoma.

Mr. BARTLETT. I will try not to use 2 minutes.

Mr. President, I commend the distinguished chairman of the R. & D. Subcommittee for holding the hearings he held. I was unable to attend them in their entirety, but I did read the record.

The record is very compelling in supporting the point that the distinguished chairman just made, that our force must be a mixture, a mixed force of penetrating bombers and cruise missiles. Certainly, the cruise missile is a wonderful asset to the bomber, but the bomber is a wonderful asset to the cruise missile. Perhaps as we go ahead, the cruise missile will become the primary weapons system, but at this time it is not, and it is not available as yet for use.

Also, I support the chairman and the distinguished Senator from Arizona as to the position taken by the subcommittee on the cruise missile carrier request. The Air Force originally asked for $90 million, I believe, and then they cut it to $50 million, and now they apparently are cutting it to $25 million. They have not substantiated that or said what the total program would cost or where the money goes.

So it has been a very confusing thing for the committee. I went along with the compromise, but I do support the position of the subcommittee chairman. I think the subcommittee did act very well.

I would like to share with my colleagues an illustration of the difficulties our subcommittee had in deciding what to do with President Carter's wide-bodied cruise missile carrier.

In my hand, I have a copy of one of the briefing charts used to explain the President's supplemental request. This one shows the cruise missile carrier aircraft (CMCA). On this chart are pictures of two aircraft which might be selected to be that cruise missile carrier, the McDonnell-Douglas DC–10 and the Boeing 747. But the Defense Department is not sure. It could also be a Lockheed L–1011 or a C–5A or some other airplane. The Defense Department could not tell us for sure what it was they wanted to buy with their original request for $90 million.

Now this chart also tells us that the Ford administration requested no money for this program and the Carter administration's first amendment earlier in the year requested no money for this program. And it tells us that no money has been spent on this program before—that is, no "systems definition" has taken place. But the Carter administration's

first supplement request was for a whopping $90 million. From zero to $90 million in one year. That is amazing. But what is more amazing is that the fiscal year 1979 funding is marked "To be Determined." The administration had no idea what they would do in the second year of the program, and, of course, the total cost was marked "To be determined."

The Defense Department's justification for a supplemental authorization for this cruise missile carrier was so inadequate that the Defense Department itself cut its own request from $90 million to $50 million after hearings raised the issue of whether a wide-bodied jet should be leased instead of bought for these tests. But even then they could not answer important questions about this program such as what specific tests would have to be conducted with the aircraft which would finally be selected.

The Carter administration could not explain what they wanted, why they wanted it, and why the request could not wait a few months until we consider the fiscal year 1979 Defense budget.

Mr. STENNIS. I have nothing further to say on this amendment, Mr. President.

The PRESIDING OFFICER. Is all time yielded back?

Mr. STENNIS. I yield back my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment by the Senator from Washington, No. 909.

The amendment was agreed to.

Mr. TOWER. Mr. President, the Senator from New Hampshire (Mr. McINTYRE) alluded to his conviction that we should have a triad of strategic weaponry that includes the advanced manned strategic aircraft. I associate myself with what he said in that connection and I should like to offer a few remarks of explanation and support for the FB–111H prototype program, for which the committee is recommending $20 million.

Despite what some may believe, the authorization contained in this particular bill does not in any way commit us to a full development and production program. To the contrary, as stated by the Secretary of Defense in his September 19 letter to the chairman of the committee, this prototype development program is a way of keeping open an option for such a system as a penetrating bomber at some later time. What the committee is recommending to the Senate then is an option for the administration to use at a later time if deemed necessary.

The Secretary of Defense went on to point out that he had not yet completed his review of whether such an option would be necessary but he did believe that it would be prudent to begin this low level of preliminary development in fiscal year 1978.

Mr. President, there are other reasons why the Senate should support the recommendation of the committee on this particular program. In my opinion, as I have stated on other occasions, it was a poor decision on the part of the President to rule against production of the B–1 bomber when the cruise missile systems he would depend upon were still an unproven quantity.

It would have been far wiser to have retained the B–1 production option for a longer period of time while the operational capabilities of the cruise missiles were better determined. However, that now appears to be water over the dam and it is time to hedge against the possibility that an all cruise missile force will not be adequate. The FB–111 aircraft would offer that possibility.

The exact performance capabilities of the proposed FB–111H in many respects are the equal of the B–1. In some cases the proposed performance of the FB–111H will be better than the B–1 and at a considerable reduction in anticipated cost. The $20 million recommended by the committee would support design definition of the aircraft and subsystems and the development of source selection criteria for critical long lead components. The modification program, if fully completed, would provide two prototypes and would provide the Department of Defense with the option to modify 65 existing FB–111A's, the production of additional FB–111H aircraft, or both.

Mr. President, in further support of this particular program, the Research and Development Subcommittee held what was probably the most extensive set of hearings on the strategic force issue that has ever been undertaken by our committee. A major concept that was unanimously adopted by the committee was that of a mixed bomber force. That is, the committee's recommendations in this bill are based on its full support of a future mixed bomber force composed of aircraft used as standoff cruise missile carriers, manned penetrating bombers, and bombers both launching cruise missiles and penetrating.

If this concept is to be sustained, we must begin now to develop a viable option and potential replacement for the B–52. The Department of Defense pointed out quite clearly in its testimony that the primary aircraft in the near term mixed force will continue to be the B–52.

In that regard, there are numerous programs in this bill that support the various modifications that the B–52 will have to undergo if it is to remain a viable penetrator and become a cruise missile carrier. However, beyond the life of the B–52, there is nothing to replace its role in the mixed force other than the proposed FB–111H unless one wants to start anew to develop an entirely new aircraft.

I say to my colleagues that the proposed FB–111H is a considerably different aircraft the than current FB–111A. In particular, the FB–111H would use the proposed engine for the B–1, the General Electric F–101 turbo-fan engine, which is a quantum improvement over the engine currently in the FB–111A. The aircraft is also stretched behind the wing section. which provides additional fuel capacity, thereby giving it the capability to penetrate to far deeper targets in the Soviet Union than the FB–111A can reach.

In closing, Mr. President, this development program we are recommending for authorization will, if completed, only provide an option, and the Congress would have an opportunity to vote on that option if it was selected. Additional monies to support the development program are expected to come from B–1 R. & D. moneys no longer required, and I might add the entire FB–111H prototype development program could be completed for less than the amount in the B–1 rescission notification.

Mr. THURMOND. Mr. President, I rise in support of S. 1863, the fiscal year 1978 defense supplemental bill, which authorizes Defense Department procurement and research in the amount of $364.4 million.

The main features of this bill include funding for cruise missiles, B-52 modifications and development of a stretch version of the FB-111 fighter bomber. Other funding embraces the cruise missile carrier, missile surveillance technology, missile warning systems, and strategic protective systems, to mention a few.

Mr. President, central to this bill is an acceleration of development of the cruise missile which President Carter plans to emphasize in view of his termination of the B-1 bomber program.

While my strong support for the B-1 is well known, I am pleased this bill recognizes the need for a manned penetrating bomber by providing funds for a stretched and improved version of the FB-111.

If our military strength is to be effective, we must confront the Soviets with a mixed force. Such an approach compounds Soviet defenses in that they must continue to deal with a bomber threat in addition to the new cruise missile threat.

The mixed force enhances U.S. deterrent capabilities, as it strengthens our ability to reply effectively to a first strike.

Mr. President, it is essential that we press forward in these areas highlighted by this legislation which has the full support of Secretary Harold Brown and the respective military services. I urge prompt consideration of this bill and favorable action.

RESERVATIONS ABOUT THE FISCAL YEAR 1978 DEFENSE SUPPLEMENTAL

Mr. PROXMIRE. Mr. President, although I intend to support this fiscal year 1978 supplemental authorization, I do so with certain reservations. The reasons go back to the B–1 bomber decision.

My objection to the B–1 bomber was based on several points: its great cost, its degraded effectiveness, and the conviction that the mission of the manned penetrating bomber was no longer viable. In a series of debates with the Senator from Arizona (Mr. GOLDWATER), I argued that the B–52 fleet, equipped with cruise missiles and new engines, would be a cost effective alternative to the B–1 in the short term while a new cruise missile carrier would be appropriate in the long run.

The President's decision to cancel the B–1 seemed to be based substantially on the same reasoning.

Now, however, there are disturbing signs that the President's decision is about to be overturned by a subtle turn of events.

This is the situation. The pro B–1 manned penetrating bomber advocates are attempting to gut funding for any al-

ternatives to manned bombers and therefore set the stage for resurrection of the B–1 or perhaps the FB–111H.

Consider the facts. The Armed Services Committee has reported out a bill which cuts requested funding for the cruise missile carrier from $50 million to $5 million while the House Armed Services Committee has recommended a complete reduction—zero dollars. The rationale is that the "critical step of system definition will take place before going forward with costly aircraft demonstration." The committee also deleted $2.5 million for an advanced study of a cruise missile carrier on the basis that this research could be supported by the $5 million already approved.

It is clear that the intent and the result of this action is to gut the cruise missile carrier option by starving it of funds. This means that down the road, there will not be enough meaningful research on the cruise missile carrier to support it as an alternative to the B–1 or the FB–111H.

I believe this to be a deliberate decision by the committee.

This combination of factors becomes even more clear when it is recognized that the committee has included $20 million in funds not requested for a start on two prototypes of a stretched FB–111 called the FB–111H. The funding would go for development of a prototype and design definition. Secretary Brown only gave the most lukewarm endorsement of this unrequested funding after the fact.

It is interesting to note that the committee recommended slowing down and almost stopping the cruise missile carrier program due to a concern over rapid system definition while at the same time forcing $20 million on the Pentagon for rapid system definition of the FB–111H.

Why did this happen? I can only surmise that the reason is that the committee desires to hamstring the cruise missile option while forcing the FB–111H to the forefront. If you fund one program and starve another, the end result will be an unequal development program and a future point when the only realistic choice of alternatives will be the funded program. In other words, this funding action will predetermine the success of the FB–111H over the cruise missile carrier if carried forward year after year.

A strategic philosophy has seemed to have been incorporated into these decisions. The committee is clearly signaling that we should return to the manned penetrating bomber concept and give up or reduce to the lowest possible level any work on the cruise missile carrier.

The FB–111, it should be remembered, was the least attractive alternative according to the joint strategic bomber study. Of all the force levels, studies, and combinations reviewed, the FB–111 came out on the bottom rung of cost effectiveness. And, yet today, its advocates are talking as if it were only a fraction below the capability of the B–1 all along. How strange it is that no one was making these claims when the B–1 program was going in full flight. And how strange it is that now the B–1 is canceled, the FB–111 alternative now is presented by the Air Force and its supporters as the marvel of aviation development.

Now let us look at the facts of the FB–111H program so enthusiastically backed by the Armed Services Committee.

The plan, devised by the Air Force in consultation with General Dynamics Corp., is to modify 65 existing FB–111's to the FB–111H configuration. This will entail lengthening the body and installing new B–1 engines. It is also planned to start up a FB–111H production line and produce 100 new aircraft.

Prototype development for two aircraft, including startup, engineering, tooling, tests, and airplane modification, will cost $331 million in fiscal year 1977 dollars or $380 million in "then year" tax dollars. Continued development after the two aircraft prototyping will add $159 million in fiscal year 1977 dollars or $195 million in real year tax dollars. The cost to modify 65 aircraft will be $1.75 billion in fiscal year 1977 dollars and $2.27 billion for real year dollars.

Construction of 100 additional new aircraft will be $3.05 billion in fiscal year 1977 dollars or $4.18 billion in real year dollars.

The grand total is $7.02 billion for the 165 aircraft fleet.

The Air Force wants the prototype decision to be made in this bill, the first aircraft to be available in late 1979, and continuing development to begin in fiscal year 1980. The 65 aircraft modification would be at a two per month level with a production go ahead in fiscal year 1980 and initial delivery in early 1982. The new aircraft program of 100 planes at five per month would have an initial delivery as of early 1983 with completion in early 1985.

These facts show that the funds for the FB–111H in this bill are not just for a study or vague decision to keep the alternatives open, but rather part of a well thought out plan to rapidly accelerate FB–111H production in a short period of time up to a fleet of 165 aircraft.

The strategy is obvious. Starve the cruise missile carrier long enough and the FB–111H will be a fait accompli. Just hold off the cruise missile carrier and the FB–111H will displace all other alternatives.

Mr. President, there is one other fact that should be strongly emphasized in this debate. If we approve the funding for the FB–111H, General Dynamics will receive a windfall.

Why? Because the Air Force has decided to award the FB–111H contract to General Dynamics without competition.

This will be a sole source procurement. No other contractors will be allowed to bid on this award. The Air Force has written me that certain subsystems would be subject to competitive evaluation but not the airframe. Only General Dynamics would be allowed to build the airframe.

Mr. President, this action, as proposed, would violate every standard and rule of defense procurement on the books. It is virtually a return to the 1950's and the worst aspects of noncompetitive procurement.

Why doesn't the Air Force want competition? Because it would take a little more time and permit other contractors to suggest alternatives while at the same time their real fear—the cruise missile carrier—would be coming into contention. They want a quick decision without the complicating factors of free competition, fly before you buy, and prototype competition. I might add that the same applies to the B–1 engines that would be used in the FB–111H. No competition is planned for these engines either.

Now what would be the advantage of producing 165 new and modified FB–111Hs compared to other aircraft? The $42 million each FB–111H would have about half the cruise missile and short range attack missile capability as the B–52H.

It has a shorter range than the B–52 no matter what the mission profile, be it a low level penetration or a high level penetration. It has about one-half the payload of the B–1 bomber. No wonder that in every major study of new and old bombers, the FB–111 came out on the short end of the evaluation.

The President's decision to cancel the B–1 bomber in lieu of the B–52 cruise missile program was expected to result in savings of $10 billion in fiscal year 1978 dollars over the first 6 years alone and at the same time dramatically upgrade and improve the deterrent value of our airborne and missile forces. Substitution of the FB–111H program for the B–1 will wipe out all of these savings—leaving the taxpayer with nothing to point to and even more important eroding the capability of our strategic forces.

CRUISE MISSILE CONFUSION

Mr. McGOVERN. Mr. President, I will support this authorization request, but I will do so with great reluctance. I have been expressing doubts about the cruise missile for some time, particularly in connection with the possible impact of this technology on our efforts to achieve limitations and reductions on strategic arms. I believe that at a minimum we must have absolute assurances that there is nothing in this proposed supplemental authorization or in our cruise missile development program that is in conflict either with our current negotiating posture in SALT or with the kind of follow-on agreements for arms reductions that might be possible in the future.

I have been seeking such assurances for some time, and I have to say that they have been only partially forthcoming. More than 2 months ago I wrote to Secretary of Defense Harold Brown to raise several specific questions about how the funds in this legislation were to be used, and how that use would be coordinated with the offers we had made in the arms talks. I thought I was acting in a timely fashion, and in fulfillment of my responsibility as a member of the Subcommittee on Arms Control, as a Senate advisor to our SALT delegation, and as a member of the Foreign Relations Committee which has, in the first instance, responsibility for considering whatever SALT agreement is ulti-

mately reached. After a delay of about 1 month I received an interim response advising that a full answer was being prepared. I still have not received that response. When this legislation was put on the calendar I asked a member of the Foreign Relations Committee staff to call and find out what was holding things up. He was told by officials in the Department of Defense that I had raised very difficult questions, that the answers were being readied, and that I should have the information I requested sometime next week.

Presumably it is only coincidental that by the time next week rolls around this legislation will have already passed the Senate.

In fact the inquiry was not all that complicated. I would include the relevant portions of it in my remarks except that it contained some information classified as "secret" and, therefore, cannot be published. In essence, it simply asked what would happen to our program for testing cruise missiles in various modes if our most recent SALT proposal on cruise missiles were adopted. Will the design ranges of these systems pose a problem? Is the Department of Defense engaged in activities which violate what President Carter, Secretary Vance, Ambassador Warnke, and our arms control negotiators are pursuing as American policy in another realm? That is all I wanted to know.

The situation is further confused by the fact that I sent a similar inquiry some weeks ago to the Secretary of State, suggesting that the Arms Control and Disarmament Agency conduct a comprehensive study of the arms control verification problems that cruise missiles might pose. In that case I did receive an answer.

Earlier this week I had a briefing on cruise missile issues in my office by ACDA officials. In the course of the discussion I raised the same questions I had raised earlier in my letter to Secretary Brown. The response was both prompt and reassuring. There is, I was told, full coordination exists between our cruise missile development program and our SALT position.

I am left to wonder why, if ACDA can tell me so easily what the Pentagon is doing, the Secretary of Defense finds it so difficult to tell me what the Pentagon is doing. I suppose there are several possible answers. But among them is the unsettling possibility that perhaps ACDA's confidence is misplaced. And I hope the managers of this legislation have information which would permit them to clarify the situation.

My faith in good Pentagon intentions on arms control is further shaken by the announcement this week, right on the heels of reported progress in SALT during Foreign Minister Gromyko's meetings with President Carter and Secretary Vance, that the Secretary of Defense will request funds for another new system which poses serious SALT verification problems. Aside from its $35 to $40 billion price tag, the M–X mobile missile would undermine the national technical means of verification upon which both sides rely to assure themselves that numerical arms limits are not being broken. And it is even worse than that.

Our negotiators are grappling with the problem of limiting Soviet heavy missiles of the kind which—with accuracy improvements—might threaten our ICBM's. If they are successful, the concept of mobile missiles such as the M–X would be both superfluous and wasteful. However, the M–X, with a combination of much bigger payload and dramatic improvements in accuracy, would confront the Soviet Union with precisely the kind of counterforce, silo-busting arsenal that we are right now trying to get them to forgo.

If the Department of Defense is following the declared policy of the Carter administration on arms control, then I cannot think of a worse way to show it. Indeed, I cannot think of a better way to demonstrate that there is, in fact, very poor coordination, if any at all, between the Department that builds arms and the Department and the Agency that are charged with trying to bring these systems under effective control.

Mr. MORGAN. Mr. Chairman, I fully support the Armed Services Committee action on this supplemental authorization under S. 1863.

By upgrading and continuing the use of the B–52 force both as a penetrating and cruise missile carrier bomber, by initiating a prototype development program on the FB–111H as a new penetrator, and by investing in development of the air launched cruise missile we have taken the best practical decision.

This mixed force enormously complicates the Soviet defense problems in doctrine, investment and military capability.

The capabilities of the B–52 as a weapons carrier are well known and respected. By upgrading its protective and navigational systems and by fitting it to carry the cruise missile it becomes even more formidable.

To retain our long term options to enhance the penetrating component of our strategic bomber force, we will have the FB–111H program. This is a prototype development program to "stretch" the airframes of two existing FB–111A aircraft and integrate into them the General Electric F–101 engines developed for the B–1, which the President seems determined not to build.

The $20 million recommended by the committee will permit the Air Force to perform electronic countermeasures trade studies, subsystem and structural design definition, structural component and material tests, wind tunnel tests, develop computer simulations for the crew module, and develop source selection criteria and specifications.

With the improved capability and survivability of the B–52 as both a penetrator, stand-off platform and in the dual roles; with the numerical, cost, and operational advantages of the cruise missile, and with the potential of the FB–111H as a new penetrator, we commend to you the best possible cost-effective contribution to the strategic triad.

Mr. BENTSEN. Mr. President, the problem of the B–1 was essentially a problem of cost. There was a time when the United States, if it wanted a bomber, could opt for maximum technology and maximum numbers. But today, when you are talking about an aircraft that runs over $100 million per copy, and you need several hundred of them we have to think in terms of the most efficient utilization of available resources. Yes, money is an object, even when it comes to national defense.

There is a limit to the amount of taxes that can be squeezed out of the American public.

This does not mean that we have to settle for second best. Obviously, we can not and will not. But it does mean that if we are to remain the most powerful and the most advanced Nation in the world, we will have to take a hard look at how we spend our dollars.

That is the problem, now what is the answer? I believe the committee by providing $20 million for development of the FB–111H has found the answer.

Three years ago—even then it was apparent that the B–1 was in trouble—I went to the Air Force and talked about some alternatives to the B–1. I said why not take the F–111, stretch it out, give it legs with B–1 engines, and turn it into a first class manned bomber relatively inexpensively. This is the FB–111H alternative.

But the Air Force was not interested in alternatives. They were interested in the B–1 and only the B–1. So we had a great national debate about whether or not America needed the B–1 and President Carter finally decided we did not.

Well, I can tell you that there are a lot of people thinking about alternatives today, people concerned with the defense of this country. And many of them are thinking about the FB–111H. Three years later, after the production line has been shutdown, after we finally lost the long battle to maintain funding for this aircraft.

I think an FB–111H can provide an attractive alternative to the B–1. It could be designed to accomplish essentially the same task; it has a low and high level capability; it is a smaller target. It is potentially a weapons system that this Nation needs and can afford.

Mr. President, the FB–111H will carry 15 nuclear weapons and the long cruise missiles. With the FB–111 already in operation, support equipment and a support organization are in existence to provide spares, a manning base and training.

The committee has recognized these facts by proposing the development of two prototype FB–111H's. The testing of these prototypes will give us the options of modifying 65 existing FB–111A's, the production of additional FB–111H aircraft, or both.

This proposal makes eminent good sense and I urge the Senate to support it.

HOUSE BILL IS A BUDGET-BUSTER

Mr. HEINZ. Mr. President, I want to echo Senator MUSKIE's admonition to our conferees on this bill to stand fast against the House position. H.R. 8390, the counterpart to S. 1863 as reported by the House Armed Services Committee, adds in the very $152 million for F–14 procurement that the House lost in conference last July on the military procurement authorization. Restoring this money would amount to a circumvention of a previous House-Senate negotiation. It is somewhat irrelevant in any case to the supplemental at hand, one that deals primarily with Air Force weapons systems. Personally, I hope the Senate continues to resist this particular spending until we get more of an idea of the direction we want the Navy to go, in terms of the continuing debate on the virtue of heavy carriers, VSTOL aircraft, the proper mix of A–7's, F–18's, and the rest. Decisions today on such matters can lock us into mushrooming multiyear patterns of spending. At some point, they become irreversible.

A further difference between our bills is that the House version proposes a $50 million acceleration of the MX missile program. Here, too, is something to which the Senate should devote a lot more deep thought before sinking an investment. It cannot but have huge ramifications down the road for our strategic posture, for arms control negotiations with the Soviet Union, and not least for our Federal budget. It is noteworthy that not even the Defense Department has yet requested this money.

All told, the House bill could run something like $200 million more in fiscal year 1978 budget authority than assumed in our recent second concurrent resolution. The Senate version, on the other hand, actually comes in under the defense function targets. Our conferees should consider themselves solemnly charged to prevent the House's prospective budget-busting.

Mr. STENNIS. Mr. President, may we have a third reading?

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

Mr. STENNIS. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. The yeas and nays have been ordered.

Is all time yielded back on the bill?

Mr. TOWER. I yield back the remainder of my time.

Mr. STENNIS. I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back on the bill.

The bill having been read the third time, the question is, Shall it pass? On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Minnesota (Mr. ANDERSON), the Senator from Texas (Mr. BENTSEN), the Senator from Delaware (Mr. BIDEN), the Senator from Arkansas (Mr. BUMPERS), the Senator from Nevada (Mr. CANNON), the Senator from Florida (Mr. CHILES), the Senator from Alaska (Mr. GRAVEL), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Montana (Mr. METCALF), the Senator from Maine (Mr. MUSKIE), the Senator from Georgia (Mr. NUNN), the Senator from Connecticut (Mr. RIBICOFF), and the Senator from Illinois (Mr. STEVENSON) are necessarily absent.

I also announce that the Senator from Hawaii (Mr. INOUYE) is absent on official business.

I further announce that, if present and voting, the Senator from Minnesota (Mr. ANDERSON), and the Senator from Connecticut (Mr. RIBICOFF) would each vote "yea."

Mr. STEVENS. I announce that the Senator from Oklahoma (Mr. BELLMON), the Senator from Nebraska (Mr. CURTIS), the Senator from Missouri (Mr. DANFORTH), the Senator from Michigan (Mr. GRIFFIN), the Senator from New York (Mr. JAVITS), the Senator from Nevada (Mr. LAXALT), the Senator from Idaho (Mr. MCCLURE), the Senator from Oregon (Mr. PACKWOOD), the Senator from Kansas (Mr. PEARSON), the Senator from Illinois (Mr. PERCY), the Senator from Delaware (Mr. ROTH), the Senator from Wyoming (Mr. WALLOP), the Senator from Connecticut (Mr. WEICKER), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

I further announce that, if present and voting, the Senator from Illinois (Mr. PERCY) would vote "yea."

The result was announced—yeas 66, nays 1, as follows:

[Rollcall Vote No. 550 Leg.]

YEAS—66

Allen	Glenn	Moynihan
Baker	Goldwater	Nelson
Bartlett	Hansen	Pell
Bayh	Hart	Proxmire
Brooke	Haskell	Randolph
Burdick	Hatch	Riegle
Byrd, Harry F., Jr.	Hathaway	Sarbanes
	Hayakawa	Sasser
Byrd, Robert C.	Heinz	Schmitt
Case	Helms	Schweiker
Chafee	Hollings	Scott
Church	Jackson	Sparkman
Clark	Johnston	Stafford
Cranston	Leahy	Stennis
Culver	Long	Stevens
DeConcini	Lugar	Stone
Dole	Magnuson	Talmadge
Domenici	Mathias	Thurmond
Durkin	Matsunaga	Tower
Eagleton	McIntyre	Williams
Eastland	Melcher	Zorinsky
Ford	Metzenbaum	
Garn	Morgan	

NAYS—1

Hatfield

NOT VOTING—33

Abourezk	Griffin	Muskie
Anderson	Huddleston	Nunn
Bellmon	Humphrey	Packwood
Bentsen	Inouye	Pearson
Biden	Javits	Percy
Bumpers	Kennedy	Ribicoff
Cannon	Laxalt	Roth
Chiles	McClellan	Stevenson
Curtis	McClure	Wallop
Danforth	McGovern	Weicker
Gravel	Metcalf	Young

So the bill (S. 1863) was passed, as follows:

S. 1863

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Department of Defense Supplemental Appropriation Authorization Act, 1978".

TITLE I—PROCUREMENT

SEC. 101. In addition to the funds authorized to be appropriated under the "Department of Defense Appropriation Authorization Act, 1978" there are hereby authorized to be appropriated during fiscal year 1978, for the use of the Armed Forces of the United States for procurement of aircraft and missiles, and other weapons, as authorized by law, in amounts as follows:

Aircraft

For Aircraft: for the Air Force, $33,000,000.

Missiles

For Missiles: for the Air Force, $64,000,000.

TITLE II—RESEARCH, DEVELOPMENT, TEST AND EVALUATION

SEC. 201. In addition to the funds authorized to be appropriated under the "Department of Defense Appropriation Authorization Act, 1978" there are hereby authorized to be appropriated during the fiscal year 1978 for the use of the Armed Forces of the United States for research, development, test, and evaluation, as authorized by law, in amounts as follows:

For the Air Force, $265,470,000.

For the Defense agencies, $14,000,000.

In authorizing funds under title I and title II of this Act, Congress asserts its readiness to consider, in accordance with the processes set forth in the Congressional Budget Control and Impoundment Act of 1974 and the Budget and Accounting Act, 1921, such modifications in the United States cruise missile programs as the President may recommend to facilitate either negotiation or agreement in arms limitation or reduction talks.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make technical and clerical corrections in the engrossment of S. 1863.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I wish to commend the distinguished chairman of the Armed Services Committee, Senator STENNIS, and the ranking minority member, Senator TOWER,

for their prompt and thorough efforts to bring S. 1863, the Supplemental DOD Authorization bill, to the Senate for its consideration and ultimate passage.

I especially want to thank Senator McINTYRE for his role in so ably assisting in the managing of this bill. His knowledge of this field is impressive, and I regret that the restriction of time, caused by the lateness of the hour, precluded him from making as full a presentation as he normally would have been able to do. I have great respect for his knowledge in this field, as I do for that of the distinguished chairman, Senator STENNIS.

I also wish to thank Frank Sullivan and Larry Smith of the professional staff of the Armed Services Committee for their assistance to the distinguished managers of the bill.

FURTHER ROUTINE MORNING BUSINESS

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Chirdon, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees, and the withdrawal of the nomination of Douglas Coulter, of Virginia, to be a Commissioner of the Copyright Royalty Tribunal.

(The nominations received today are printed at the end of the Senate proceedings.)

INTERNATIONAL FISHERY AGREEMENT—PM 121

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States:

To the Congress of the United States:

In accordance with the Fishery Conservation and Management Act of 1976 (P.L. 94–265; 16 USC 1801), I transmit herewith a governing international fishery agreement between the United States and Mexico, signed at Washington on August 26, 1977.

This Agreement is significant because it is one of a series to be negotiated in accordance with that legislation. It is also significant in the context of the warm and close relationship which the United States has had with Mexico for many years. I, therefore, urge that the Congress give favorable consideration to this Agreement at an early date.

JIMMY CARTER.

THE WHITE HOUSE, *October 7, 1977.*

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the message received today from the President of the United States, relative to an international fishery agreement between the United States and Mexico, be jointly referred to the Committees on Commerce, Science, and Transportation and Foreign Relations.

The PRESIDING OFFICER. Without objection, it is so ordered.

APPROVAL OF BILLS

A message from the President of the United States announced that he has approved and signed the following bills:

On October 6, 1977:

S. 1322. An Act to revise the basis for estimating the annual Federal payment to the District of Columbia for water and water services and sanitary sewer services furnished to the United States.

On October 7, 1977:

S. 126. An Act to reduce the hazards of earthquakes, and for other purposes.

S. 602. An Act to extend and revise the Library Services and Construction Act, and for other purposes.

MESSAGE FROM THE HOUSE

At 12:27 p.m., a message from the House of Representatives delivered by Mr. Berry, one of its clerks, announced that the House has passed the following bill and agreed to the following concurrent resolution in which it requests the concurrence of the Senate:

H.R. 8410. An act to amend the National Labor Relations Act to strengthen the remedies and expedite the procedures under such Act; and

H. Con. Res. 368. A concurrent resolution calling for support of the city of Los Angeles, representing the United States in its bid before the International Olympic Committee to host the 1984 summer Olympic games.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The PRESIDING OFFICER laid before the Senate the following communications which were referred as indicated.

EC–2133. A letter from the Acting Administrator of the Rural Electrification Administration transmitting, pursuant to law, notice of the approval of an REA insured loan in the amount of $7,097,000 and a commitment to guarantee a non-REA loan in the amount of $127,873,000 to Northern Michigan Electric Cooperative, Inc., of Boyne City, Michigan (with accompanying papers); to the Committee on Appropriations.

EC–2134. A letter from the Acting Administrator of the Rural Electrification Administration transmitting, pursuant to law, notice of the approval of an REA insured loan in the amount of $7,268,000 and a commitment to guarantee a non-REA loan in the amount of $98,842,000 to Wolverine Electric Cooperative, Inc., of Big Rapids, Michigan (with accompanying papers); to the Committee on Appropriations.

EC–2135. A letter from the Secretary of Transportation transmitting, pursuant to law, notice that there were not transactions negotiated under the authority of Section 303(c) of the Federal Aviation Act of 1958, during the transitional quarter or during fiscal year 1977; to the Committee on Commerce, Science, and Transportation.

EC–2136. A letter from the Administrator of the National Aeronautics and Space Administration transmitting, pursuant to law, a report concerning NASA's plan to report to the General Services Administration, as excess real property, 2092 acres of land with several buildings at the Plum Brook Station, Sandusky, Ohio (with accompanying papers); to the Committee on Commerce, Science, and Transportation.

EC–2137. A letter from the President of the Communications Satellite Corporation transmitting, pursuant to law, the fourteenth annual report on the operations, activities and accomplishments of COMSAT for calendar year 1976 (with an accompanying report); to the Committee on Commerce, Science, and Transportation.

EC–2138. A letter from the Chairman of the Interstate Commerce Commission transmitting, pursuant to law, a report entitled "Amtrak Through Route and Joint Fare Study" (with an accompanying report); to the Committee on Commerce, Science, and Transportation.

EC–2139. A letter from the Under Secretary of the Interior transmitting a draft of proposed legislation to amend the National Trails System Act by designating the Oregon Trail, located in portions of Missouri, Kansas, Nebraska, Wyoming, Idaho, Oregon and Washington, as a component of the National Trails System (with accompanying papers); to the Committee on Energy and Natural Resources.

EC–2140. A secret communication from the Staff Secretary of the National Security Council transmitting information concerning the FY 1978 Arms Control Impact Statement, Amended Budget Items (along with the unclassified version); to the Committee on Foreign Relations.

EC–2141. A letter from the Attorney General of the United States transmitting, pursuant to law, the report of the Attorney General on the administration of the Foreign Agents Registration Act covering the calendar year 1976 (with an accompanying report); to the Committee on Foreign Relations.

EC–2142. A letter from the Deputy Assistant Secretary of Defense transmitting, pursuant to law, a report concerning three proposed new record systems reports submitted by the Department of the Air Force (with accompanying papers); to the Committee on Governmental Affairs.

EC–2143. A letter from the Deputy Secretary of the Treasury transmitting a draft of proposed legislation to authorize the issuance of substitute Treasury checks without undertakings of indemnity, except as the Secretary of the Treasury may require (with accompanying papers); to the Committee on Governmental Affairs.

EC–2144. A letter from the Chairman of the Council of the District of Columbia transmitting, pursuant to law, a copy of Council Act 2–83, an Act to enact Regulation 73–22, a Regulation governing human rights (with accompanying papers); to the Committee on Governmental Affairs.

EC–2145. A letter from the United States Postal Service Records Officer transmitting, pursuant to law, a report concerning four systems of record, in accordance with the Privacy Act (with accompanying papers); to the Committee on Governmental Affairs.

EC–2146. A letter from the Deputy Assistant Secretary of the Interior transmitting, pursuant to law, a report of a new system of personal records, in accordance with the Privacy Act (with accompanying papers); to the Committee on Governmental Affairs.

EC–2147. A letter from the Executive Secretary of the Federal Deposit Insurance Corporation transmitting, pursuant to law, a report on a new system of records, in accordance with the Privacy Act (with accompanying papers); to the Committee on Governmental Affairs.

EC–2148. A letter from the Administrator of the Federal Energy Administration transmitting, pursuant to law, a report on a new system of records, in accordance with the Privacy Act (with accompanying papers); to the Committee on Governmental Affairs.

EC–2149. A letter from the Comptroller General of the United States transmitting, pursuant to law, a report entitled "The U.S. Great Lakes Commercial Fishing Industry—Past, Present, and Potential" (CED–77–96, September 30, 1977) (with an accompanying report); to the Committee on Govermental Affairs.

EC–2150. A letter from the Comptroller General of the United States transmitting, pursuant to law, a report entitled "Urgent Need for Continued Improvements in Enlisted Career Force Management" (FPCD–77–42, September 29, 1977) (with an accompanying report); to the Committee on Governmental Affairs.

EC–2151. A letter from the Comptroller General of the United States transmitting, pursuant to law, a report entitled "Ways the Department of Defense Can Improve Oil Recycling" (LCD–77–307, September 28, 1977) (with an accompanying report); to the Committee on Governmental Affairs.

EC–2152. A letter from the Comptroller General of the United States transmitting, pursuant to law, a report entitled "Preventing Mental Retardation—More Can Be Done" (HRD–77–37, October 3, 1977) (with an accompanying report); to the Committee on Governmental Affairs.

EC–2153. A letter from the Comptroller General of the United States transmitting, pursuant to law, a report entitled "Farmers Home Administration's Business and Industrial Loan Program Can Be Improved" (CED–77–126, September 30, 1977) (with an accompanying report); to the Committee on Governmental Affairs.

EC–2154. A letter from the Acting Comptroller General of the United States transmitting, pursuant to law, a report entitled "An Evaluation of the Administration's Proposed Nuclear Non-Proliferation Strategy" (ID–77–53, October 4, 1977) (with an accompanying report); to the Committee on Governmental Affairs.

EC–2155. A letter from the Secretary of the Interior transmitting, pursuant to law, a report on the administration of the Federal Metal and Nonmetallic Mine Safety Act for the calendar year 1976 (with an accompanying report); to the Committee on Human Resources.

EC–2156. A letter from the United States Commissioner of Education transmitting, pursuant to law, the second annual report on the Women's Educational Equity Act (with an accompanying report); to the Committee on Human Resources.

EC–2157. A letter from the Commissioner of the Immigration and Naturalization Service transmitting, pursuant to law, copies of orders suspending deportation, as well as a list of the persons involved (with accompanying papers); to the Committee on the Judiciary.

EC–2158. A letter from the Corporation Agent of the Legion of Valor transmitting, pursuant to law, a copy of the financial statement of the Legion of Valor for the fiscal year ending April 30, 1977 (with an accompanying report); to the Committee on the Judiciary.

EC–2159. A letter from the Chairman of the Federal Power Commission transmitting, pursuant to law, the Commission's report on the administration of the Freedom of Information Act for the period January 1 through September 30, 1977 (with an accompanying report); to the Committee on the Judiciary.

EC–2160. A letter from the Chairman and Vice Chairman of the Office of Technology Assessment transmitting, pursuant to law, the annual report of the Office of Technology Assessment covering its activities during calendar year 1976 (with an accompanying report); to the Committee on Rules and Administration.

EC–2161. A letter from the Acting Assistant Secretary of Defense, Comptroller, transmitting, pursuant to law, notice of the intent to obligate $11.4 million of funds available in the Army Stock Fund for additional war reserve inventories; to the Committee on Appropriations.

EC–2162. A communication from the President of the United States transmitting, pursuant to law, an amendment to proposed supplemental appropriations for the fiscal year 1978 in the amount of $675,000,000 for the Small Business Administration (with accompanying papers); to the Committee on Appropriations.

PETITION

The PRESIDING OFFICER laid before the Senate the following resolution adopted by the Massachusetts State Senate:

RESOLUTION

Whereas the Congress of the United States enacted the Fisheries Conservation and Management Act of nineteen hundred and seventy-six to protect United States fishing rights within two hundred miles of the coastline of this nation; and

Whereas three instances of serious violations of this act since the law took effect have been reported off the Massachusetts coast in which foreign trawlers were searched and then released with warnings; and

Whereas in the most recent incident the federal enforcement agencies recommended seizure of a Polish trawler carrying seventeen tons of bottom fish in an area where bottom fishing is illegal; and

Whereas intervention by the United States Department of State prevented seizure of said trawler in spite of its obvious violation of the law; and

Whereas said intervention was the result of classified White House policy developed prior to the passage of the Fisheries Conservation and Management Act of nineteen hundred and seventy-six: Now, therefore, be it

Resolved, That President Carter hereby be memorialized to enforce the law of the land; and be it further

Resolved, That President Carter request the State Department to develop and publish a clearly defined procedure both for dealing with the routine enforcement of said law by the appropriate government agencies and also for dealing with exceptional situations that clearly jeopardize the national security; and be it further

Resolved, That copies of these resolutions be transmitted forthwith by the Clerk of the Senate to the President of the United States, the Secretary of Transportation, the Commandant of the United States Coast Guard and the Senators and Congressmen from the commonwealth.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the resolution adopted by the Massachusetts State Senate relative to enforcement of the Fisheries Conservation and Management Act of 1976 be referred jointly to the Committee on Commerce, Science, and Transportation and the Committee on Foreign Relations.

The PRESIDING OFFICER. Without objection, it is so ordered.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. EASTLAND, from the Committee on the Judiciary:

Without amendment:

S. 1590. A bill to incorporate the American Ex-Prisoners of War, Incorporated (Rept. No. 95–479).

H.R. 1613. An act for the relief of certain postmasters charged with postal deficiencies (Rept. No. 95–480).

By Mr. MAGNUSON, from the Committee on Commerce, Science, and Transportation:

Without amendment:

S. Con. Res. 31. A concurrent resolution to disapprove Federal Motor Vehicle Safety Standard 208 transmitted on June 30, 1977 (Rept. No. 95–481).

EXECUTIVE REPORTS OF COMMITTEE

The following executive reports of committees were submitted:

By Mr. WILLIAMS, from the Committee on Human Resources:

Charles J. Chamberlain, of Illinois, to be a member of the Railroad Retirement Board.

Julius Shiskin, of Maryland, to be Commissioner of Labor Statistics, United States Department of Labor.

John C. Truesdale, of Maryland, to be a member of the National Labor Relations Board.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. EASTLAND, from the Committee on the Judiciary:

Robert D. Kingsland, of Missouri, to be U.S. attorney for the eastern district of Missouri.

Andrea M. Sheridan Ordin, of California, to be U.S. attorney for the central district of California.

Louis J. Soscia, of New York, to be U.S. marshal for the eastern district of New York.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

HOUSE BILL REFERRED

The following bill was read twice by its title and referred to the Committee on Human Resources:

H.R. 8410. An act to amend the National Labor Relations Act to strengthen the remedies and expedite the procedures under such Act.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. MATSUNAGA:

S. 2183. A bill to amend the National Foundation on the Arts and the Humanities Act of 1965 to provide for the office of Poet Laureate of the United States; to the Committee on Human Resources.

By Mr. BAYH:

S. 2184. A bill for the relief of George Madathiparampil; to the Committee on the Judiciary.

By Mr. WEICKER (for himself and Mr. GRAVEL):

S. 2185. A bill to amend the Whale Conservation and Protection Study Act to increase appropriations authorization for fiscal years 1978 and 1979 and to authorize appropriations for fiscal year 1980 through 1982, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. SCHWEIKER (for himself and Mr. HEINZ):

S. J. Res. 87. A joint resolution designating November 15, 1977, as a Day of National Observance of the Two Hundredth Anniversary of the Adoption of the Articles of Confederation; to the Committee on the Judiciary.

By Mr. JAVITS (for himself, Mr. KENNEDY, Mr. HATCH, Mr. WILLIAMS, Mr. PELL, Mr. CRANSTON, Mr. SCHWEIKER, Mr. CHAFEE, Mr. RIBICOFF, Mr. RIEGLE, and Mr. MATSUNAGA):

S. J. Res. 88. A joint resolution providing for the designation of the week beginning November 13, 1977, and ending November 19, 1977, as "National Gifted and Talented Children Week"; considered and passed.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. MATSUNAGA:

S. 2183. A bill to amend the National Foundation on the Arts and the Humanities Act of 1965 to provide for the Office of Poet Laureate of the United States: to the Committee on Human Resources.

Mr. MATSUNAGA. Mr. President, I am introducing today a bill which provides for the establishment of the Office of Poet Laureate of the United States.

One of the distinguishing characteristics of highly cultured societies, both in the East and the West, is the fact that they encourage and nurture the fine arts, including poetry. England, the nation from which we inherited our system of law and many of our most treasured democratic traditions, officially created the position of Poet Laureate in the 17th century. The origin of the honorary position, however, dates back to the reign of King Henry III in the 13th century. Such poets as Chaucer, Spenser, Ben Jonson, John Dryden, Wordsworth, and Tennyson all served in their time as Poet Laureate of England. Poet Laureates have occupied highly respected and coveted roles in Japan and in China, since time immemorial.

We have today in our own country some of the finest poets of the 20th century. Recognition of their contributions would be irrefutable evidence of our enlightened commitment to the promotion and preservation of the arts.

I would like for our country—the United States of America—to be known throughout the world not only for its great material wealth and military might, but also for its unique idealistic and spiritual heritage. Poets such as Robert Frost, Carl Sandburg, and Walt Whitman have captured the American spirit in a unique and timeless way. Who can ever forget Sandburg's immortal description of Chicago as the—

Player with railroads and the Nation's Freight Handler, Stormy, Husky, Brawling, City of Big Shoulders.

Or Walt Whitman's:

I hear America singing, the varied carols I hear
Those of mechanics, each one singing his as it should be blithe and strong,
The carpenter singing his as he measures plank or beam
The mason singing his as he makes ready for work or leaves of work.

I believe that such contributions to our heritage should be encouraged and stimulated in contemporary society. In addition to giants such as Archibald MacLeish (a former Librarian of Congress), Robert Penn Warren, Phyllis McGinley, and James Dickey, there are today many young and relatively unknown poets whose potential contribution to our American heritage has yet to be measured. By creating the position of Poet Laureate of the United States, we would give them something to aspire to—we would be telling them that we value the work of America's great poets as much as we value the other great builders of our country—the engineers, scientists, explorers, statesmen, tradesmen, and others who made our Nation great.

My proposal is a modest one. Under the provisions of my bill, the President would appoint the Poet Laureate after giving due consideration to the recommendations of the National Council on the Arts. A small annual stipend for the Poet Laureate would be set by the President to enable the Poet Laureate to pursue his creative pursuits and carry out related duties assigned by the President. During his or her 5-year term, the Poet Laureate would, hopefully, produce a major work—a work which captures in poetry for all time our unique American heritage.

Mr. President, I hope that my bill will be given early favorable consideration. I ask unanimous consent to have the text of the bill printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2183

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the National Foundation on the Arts and the Humanities Act of 1965 is amended by adding at the end thereof the following new section:

"POET LAUREATE OF THE UNITED STATES

"SEC. 15. (a) There is established the office of Poet Laureate of the United States. The Poet Laureate shall perform such duties as the President shall prescribe, but the duties so prescribed shall not impair the continuation of the creative work of the individual chosen to be Poet Laureate.

"(b) The Poet Laureate of the United States shall be appointed by the President after consideration of the recommendations of the National Council on the Arts from among poets whose works reflect the qualities and attributes associated with the historical heritage, present achievement, and future potential of the United States. The Poet Laureate shall be appointed for a term of five years, and shall receive compensation at a rate to be set by the President.".

By Mr. WEICKER (for himself and Mr. GRAVEL):

S. 2185. A bill to amend the Whale Conservation and Protection Study Act to increase appropriations authorization for fiscal years 1978 and 1979 and to authorize appropriations for fiscal year 1980 through 1982, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. WEICKER. Mr. President, we are pleased to introduce an amendment to the Whale Conservation and Protection Study Act (16 United States Code 917) which authorizes appropriations for whale studies within 200 miles of the United States.

This amendment would increase the original authorization for appropriations of the act from $1 million for 2 years to $5 million for 5 years with $2.5 million of that earmarked for the study of bowhead whales. It makes specific reference to the utilization and employment of native peoples who traditionally hunt whales for subsistence to assist in the study of bowhead whales.

Mr. President, the reason for advancing our knowledge of whales through scientific study is obvious. In order to manage these great beasts properly we must know all aspects of their life histories including migration, population dynamics, behavior, and habitat.

The bowhead whale, for instance, ranges across the Arctic; its Eastern stocks have been greatly depleted by overhunting and the Alaskan stocks are far below their original number. The Yankee whaling fleets caused the bowhead to become endangered early in this century and has been protected against commercial whaling since 1912. The only taking of the bowhead whale—since 1912 under international regulations—has been by the Eskimo who uses their catch for partial subsistence.

The present condition of the bowhead stocks is not well known. Lack of solid scientific data to make proper assessments of the stocks has hampered management programs of the bowhead.

At the recent June meeting of the International Whaling Commission (IWC) in Australia the member delegates voted to end all bowhead hunting including that of the Eskimo peoples. Their decision was based on available data presented by the scientific committee of the Commission.

The size of the bowhead population has not made any significant recovery since protection started in 1912. Estimates of their numbers range from 700 to

3,000. Scientists theorize that if the bowhead population is at the low end of these estimates that even pressures from Eskimo hunting might be depleting its numbers.

Mr. President, it is necessary that the National Oceanic and Atmospheric Administration accelerate its studies of the bowhead whale in order to obtain a reasonable approximation of the condition of its stocks in terms of survival of the species. We must determine what must be done to preserve this great animal and at the same time address the impact of any management programs on the Eskimos.

It is important to obtain as much knowledge as possible on the bowhead whale by the next IWC meeting so that its scientific committee can better recommend future management plans. This amendment will provide the necessary authorization to start the studies in earnest and employ some of the people that may be harmed by the recent IWC ruling.

Mr. President, I ask unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2185

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 2 of the Whale Conservation and Protection Study Act (16 U.S.C. 917) is amended by adding after subsection (7) the following:

(8) The International Whaling Commission has proposed a zero quota on the taking of the Bowhead Whale including subsistence harvesting of that species by native peoples in the Soviet Union and the United States;

(9) The zero quota is based on available data which should be supplemented so that sound, long-range management decisions can be made;

(10) Additional data is necessary in the near future in order to preserve the whales including the Bowhead and to lessen any impact on native cultures and populations that traditionally hunt whales for subsistence.

SEC. 2. Section 3 of the Whale Conservation and Protection Act (16 U.S.C. 917a) is amended as follows:

Immediately after "Sec. 3." add "(a)"

At the end of subsection (a) replace "1980" with "1982" and add "(b) To assist in studies of the Bowhead Whale, particular attention should be given to the utilization and employment of the affected native whaling communities and whaling crews who traditionally engage in whale hunting for subsistence."

SEC. 3. Section 6 of the Whale Conservation and Protection Study Act (16 U.S.C. 917d) is amended to read as follows:

"AUTHORIZATION FOR APPROPRIATIONS"

"SEC. 6. For the purpose of carrying out the provisions of this Act, there is hereby authorized to be appropriated a sum not to exceed $5,000,000 for fiscal years 1978 through 1982 and that for fiscal years 1978, 1979, and 1980, $2,500,000 of this sum shall be directed toward study of Bowhead Whales."

By Mr. SCHWEIKER (for himself and Mr. HEINZ):

S.J. Res. 87. A joint resolution designating November 15, 1977, as a day of national observance of the 200th anniversary of the adoption of the Articles of Confederation; to the Committee on the Judiciary.

Mr. SCHWEIKER. Mr. President, I am pleased to introduce today in the Senate a joint resolution which would designate November 15, 1977, as a day of national observance of the 200th anniversary of the adoption of the Articles of Confederation. An identical resolution has been introduced in the House of Representatives by Congressman BILL GOODLING.

The autumn of 1777 was not a promising one for the newly independent American States. The British Army had occupied our capital, Philadelphia, forcing the Continental Congress to pack up its papers and belongings—including the Liberty Bell—and move temporarily to York Town, Pa., now simply known as York.

In this small town, the leaders of the Congress recognized that more formal ties would be needed if we were to win our war of independence. They negotiated the Articles of Confederation as a result, setting up the first national government over the former colonies. Within a few years it had become apparent that the powers given to the central government were not sufficient, and the convention of 1787 produced the Constitution that still frames our Nation.

Yet the Articles of Confederation formally linked the States, insuring that a common foreign policy could be developed, and that the States would, in the words of Benjamin Franklin in a similar context:

Hang together or they would certainly hang separately.

In the past two decades, we have seen dozens of small and often fractious nations emerge around the world, and a number of other separation movements are agitating for "self-rule." This experience makes all the more surprising the fact that the new American States, whether big or small, whether agricultural or commercial, chose to join together in an enterprise that would partially submerge their individual identities in forming what has become the greatest nation in the history of the world.

The Articles of Confederation have sunk almost to a footnote in American history, an experiment that in hindsight seems not to have worked.

I think this characterization is inaccurate. We should instead commemorate the articles as the first written constitution by a major nation in the world, and a major step in formally binding 13 independent ex-colonies into the United States of America.

Mr. President, I ask unanimous consent that the text of the joint resolution be printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 87

Whereas the Continental Congress, composed of the representatives of the thirteen colonies which dissolved their respective ties with Great Britain, convened and deliberated in York (then known as York Town), Pennsylvania, from September 30, 1777, until June 27, 1778;

Whereas the consideration and adoption of the Articles of Confederation as the first constitution of the United States of America was one of the historic accomplishments of that body while so convened in York on November 15, 1777; and

Whereas said Articles of Confederation were designed to accomplish, and did in fact accomplish, the securing of the freedom, sovereignty, and independence of the United States, which blessings have enured to the benefit of all citizens of this country from that time until the present date: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That November 15, 1977, is proclaimed a Day of National Observance of the Two Hundredth Anniversary of the Adoption of the Articles of Confederation by the Continental Congress convened in York, Pennsylvania; and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such day with appropriate ceremonies and activities.

ADDITIONAL COSPONSORS

S. 1116

At the request of Mr. MCGOVERN, the Senator from Minnesota (Mr. ANDERSON) was added as a cosponsor of S. 1116, a bill to amend the Social Security Act.

S. 1974

At the request of Mr. CULVER, the Senator from Alabama (Mr. SPARKMAN) and the Senator from South Carolina (Mr. THURMOND) were added as cosponsors to S. 1974, the Regulatory Flexibility Act.

S. 2053

At the request of Mr. METCALF, the Senator from Oklahoma (Mr. BELLMON), the Senator from New York (Mr. MOYNIHAN), and the Senator from Hawaii (Mr. INOUYE) were added as cosponsors of S. 2053, the Deep Seabed Mineral Resources Act.

S. 2066

At the request of Mr. MATHIAS, the Senator from Minnesota (Mr. HUMPHREY), the Senator from Wisconsin (Mr. NELSON), the Senator from Alaska (Mr. STEVENS), the Senator from Rhode Island (Mr. CHAFEE), the Senator from Connecticut (Mr. RIBICOFF), the Senator from Vermont (Mr. LEAHY), and the Senator from New Hampshire (Mr. DURKIN) were added as cosponsors of S. 2066, to complete and protect the Appalachian Trail.

S. 2169

At the request of Mr. DOLE, the Senator from Oklahoma (Mr. BARTLETT), the Senator from Indiana (Mr. BAYH), the Senator from Oklahoma (Mr. BELLMON), the Senator from Texas (Mr. BENTSEN), the Senator from Massachusetts (Mr. BROOKE), the Senator from Rhode Island (Mr. CHAFEE), the Senator from Iowa (Mr. CLARK), the Senator from Arizona (Mr. DECONCINI), the Senator from Mississippi (Mr. EASTLAND), the Senator from Colorado (Mr. HASKELL), the Senator from Utah (Mr. HATCH), the Senator from Oregon (Mr. HATFIELD), the Senator from California (Mr. HAYA-

KAWA), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Idaho (Mr. MCCLURE), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Montana (Mr. MELCHER), the Senator from North Carolina (Mr. MORGAN), the Senator from New York (Mr. MOYNIHAN), the Senator from Kansas (Mr. PEARSON), the Senator from Illinois (Mr. PERCY), the Senator from Connecticut (Mr. RIBICOFF), the Senator from Michigan (Mr. RIEGLE), the Senator from Tennessee (Mr. SASSER), the Senator from New Mexico (Mr. SCHMITT), the Senator from Mississippi (Mr. STENNIS), the Senator from Texas (Mr. TOWER), the Senator from Wyoming (Mr. WALLOP), the Senator from New Jersey (Mr. WILLIAMS), the Senator from South Carolina (Mr. THURMOND), the Senator from Vermont (Mr. LEAHY), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from South Dakota (Mr. ABOUREZK), the Senator from Alabama (Mr. ALLEN), the Senator from Arkansas (Mr. BUMPERS), the Senator from North Dakota (Mr. BURDICK), the Senator from Nevada (Mr. CANNON), the Senator from Florida (Mr. CHILES), the Senator from New Jersey (Mr. CASE), the Senator from California (Mr. CRANSTON), the Senator from Iowa (Mr. CULVER), the Senator from Nebraska (Mr. CURTIS), the Senator from Missouri (Mr. DANFORTH), the Senator from New Mexico (Mr. DOMENICI), the Senator from Kentucky (Mr. FORD), the Senator from Utah (Mr. GARN), the Senator from Arizona (Mr. GOLDWATER), the Senator from Alaska (Mr. GRAVEL), the Senator from Michigan (Mr. GRIFFIN), the Senator from Wyoming (Mr. HANSEN), the Senator from Colorado (Mr. HART), the Senator from Pennsylvania (Mr. HEINZ), the Senator from Maine (Mr. HATHAWAY), the Senator from North Carolina (Mr. HELMS), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Hawaii (Mr. INOUYE), the Senator from Washington (Mr. JACKSON), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Nevada (Mr. LAXALT), the Senator from Indiana (Mr. LUGAR), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Montana (Mr. METCALF), the Senator from Ohio (Mr. METZENBAUM), the Senator from Maine (Mr. MUSKIE), the Senator from Wisconsin (Mr. NELSON), the Senator from Georgia (Mr. NUNN), the Senator from Oregon (Mr. PACKWOOD), the Senator from Florida (Mr. STONE), the Senator from Georgia (Mr. TALMADGE), the Senator from Delaware (Mr. ROTH), the Senator from Tennessee (Mr. BAKER), the Senator from Delaware (Mr. BIDEN), the Senator from Virginia (Mr. HARRY F. BYRD), the Senator from West Virginia (Mr. ROBERT C. BYRD), the Senator from Idaho (Mr. CHURCH), the Senator from New Hampshire (Mr. DURKIN), the Senator from Missouri (Mr. EAGLETON), the Senator from New York (Mr. JAVITS), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Louisiana (Mr. LONG), the Senator from Washington (Mr. MAGNUSON), the Senator from Maryland (Mr. MATHIAS), the Senator from Hawaii (Mr. MATSUNAGA), the Senator from Rhode Island (Mr. PELL), the Senator from Wisconsin (Mr. PROXMIRE), the Senator from Maryland (Mr. SARBANES), the Senator from Pennsylvania (Mr. SCHWEIKER), the Senator from Virginia (Mr. SCOTT), the Senator from Alabama (Mr. SPARKMAN), the Senator from Illinois (Mr. STEVENSON), the Senator from Connecticut (Mr. WEICKER), the Senator from Alaska (Mr. STEVENS), the Senator from Nebraska (Mr. ZORINSKY), and the Senator from Ohio (Mr. GLENN) were added as cosponsors of S. 2169, a bill to name the South Portal Federal Office Building of the U.S. Department of Health, Education, and Welfare in Washington, D.C., the "Hubert H. Humphrey Building".

AMENDMENT NO. 849

At the request of Mr. CULVER, the Senator from Alabama (Mr. SPARKMAN) and the Senator from South Carolina (Mr. THURMOND) were added as cosponsors to amendment No. 849, intended to be proposed to S. 1974, the Regulatory Flexibility Act.

SENATE CONCURRENT RESOLUTION 50—SUBMISSION OF A CONCURRENT RESOLUTION RELATING TO THE PURCHASE OF COTTON BY THE BANK OF TOKYO

(Referred to the Committee on Banking, Housing, and Urban Affairs.)

Mr. HELMS submitted the following concurrent resolution:

S. CON. RES. 50

Resolved by the Senate (the House of Representatives concurring),

That it is the sense of the Congress that the Export-Import Bank of the United States should not provide financing to assist the Bank of Tokyo, Limited, in purchasing $75,000,000 worth of raw cotton, as proposed in the notification to the Congress dated September 7, 1977.

SENATE RESOLUTION 288—SUBMISSION OF A RESOLUTION AUTHORIZING SUPPLEMENTAL EXPENDITURES

(Referred to the Committee on Rules and Administration, by unanimous consent.)

Mr. CHURCH (for himself and Mr. DOMENICI) submitted the following resolution:

S. RES. 288

Resolved, That section 2 of S. Res. 147, Ninety-fifth Congress, agreed to June 14, 1977, is amended by striking out "$407,000" and inserting in lieu thereof "$442,000".

Mr. CHURCH. Mr. President, I submit a resolution authorizing supplemental expenditures for the Committee on Aging, and I ask unanimous consent—and this request has been cleared with the leadership on both sides of the aisle—that the resolution be referred directly to the Committee on Rules and Administration.

The PRESIDING OFFICER. Without objection, it is so ordered.

SENATE RESOLUTION 289 AND SENATE RESOLUTION 290—SUBMISSION OF TWO RESOLUTIONS AUTHORIZING CERTAIN PRINTING

(Referred to the Committee on Rules and Administration.)

Mr. ALLEN submitted the following resolutions:

S. RES. 289

Resolved, That there be printed for the use of the Committee on the Judiciary three hundred and sixty additional copies of its hearing of the current Congress entitled "Panama Canal Treaty (Disposition of United States Territory), Part 1".

S. RES. 290

Resolved, That there be printed for the use of the Committee on the Judiciary three hundred and eighty additional copies of its hearing of the current Congress entitled "Panama Canal Treaty (Disposition of United States Territory), Part 2".

AMENDMENTS SUBMITTED FOR PRINTING

ADOPTION REFORM ACT OF 1977—S. 961

AMENDMENT NO. 1431

(Ordered to be printed and to lie on the table.)

Mr. CRANSTON (for himself, Mr. RIEGLE, Mr. WILLIAMS, Mr. RANDOLPH, Mr. PELL, Mr. ANDERSON, Mr. BROOKE, Mr. DURKIN, Mr. INOUYE, Mr. HAYAKAWA, Mr. CLARK, and Mr. JAVITS) submitted an amendment intended to be proposed to the bill (S. 961) to promote the healthy development of children who would benefit from adoption by facilitating their placement in adoptive homes, and for other purposes.

SYNTHETIC RUTILE DUTY—H.R. 3387

AMENDMENT NO. 1432

(Ordered to be printed and to lie on the table.)

Mr. BELLMON submitted an amendment intended to be proposed by him to the bill (H.R. 3387) to continue until the close of June 30, 1979, the existing suspension of duty on synthetic rutile.

NOTICES OF HEARINGS

COMMITTEE ON FOREIGN RELATIONS

Mr. SPARKMAN. Mr. President, the Committee on Foreign Relations will proceed throughout the week of October 10 with its consideration of the proposed Panama Canal agreements.

As part of the committee's continuing effort to hear all points of view on these very important, but highly controversial agreements, we will hear from a number of experts and public witnesses during the coming week. At that time, the committee will receive testimony from retired military officers, residents of the Canal Zone, Latin America experts, labor officials. church groups, veterans' organizations and a variety of other groups and organizations.

In particular, I want to mention that we will be hearing from two former chairmen of the Joint Chiefs of Staff, Admiral Thomas Moorer and General Maxwell Taylor. We will also hear from former Chief of Naval Operations Admiral Elmo Zumwalt. Later in the week, the committee is pleased and honored that former Secretaries of State Dean Rusk and Henry Kissinger have agreed to express their views on this very important foreign policy issue.

Mr. President, these hearings will be held in the Caucus Room in order to accommodate the public and the TV networks. I ask unanimous consent that a list of all witnesses scheduled to appear before the Foreign Relations Committee next week be printed at this point in the RECORD.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

Monday, October 10:

Admiral Thomas H. Moorer, USN–Ret., Admiral Elmo R. Zumwalt, Jr., USN–Ret., General Maxwell Taylor USA–Ret., followed by panel of Canal Zone residents: Mrs. Patricia Fulton, President, Pacific Civic Council, Mrs. Charlotte Kennedy, President, Cristobal-Margarita-Brazos Heights Civic Council, Mr. Harold Green, President, Gamboa Civic Council, Mr. Louis Sattcrosi, Vice President, Canal Zone Federation of Teachers.

Tuesday, October 11:

Panel of Latin American experts: Professor Jorge Dominguez, Center for International Affairs, Harvard University; Dr. Abraham F. Lowenthal, The Woodrow Wilson Center; Professor Donald Dozer, University of California, Santa Brabara followed by Mr. Robert M. Bartell, Liberty Lobby; Franklin Delano Lopez, Chairman, Puerto Rico Democratic Party; Phillip Harman, Canal Zone Non-Profit Public Info. Corp.

Wednesday, October 12:

William P. Thompson, President, National Council of Churches; John Cardinal Krol, Archbishop of Philadelphia, on behalf of U.S. Catholic Conference; Morris Levinson, Vice President, Synagogue Council of America; Professor Donald E. Miller, Bethany Theological Seminary, Church of the Brethren; Mr. Kenneth Boehm, Young Americans for Freedom: Mrs. (Leopoldo) Rose Marie Aragon, Mr. Richard Eisenmann, Panamanian Committee for Human Rights, U.S. Labor Party.

Thursday, October 13:

Martin Gerber, Vice President, United Auto Workers (UAW); Andrew J. Biemiller, Director, Department of Legislation, AFL–CIO; Alfred J. Graham, President, Canal Zone Central Labor Union and Metal Trades Council, AFL–CIO; J. R. Williams, President, Panama Canal Pilots' Association; John Fred Schlafly, Chairman, Emergency Task Force on the Panama Canal, American Council for World Freedom; Mr. Gary L. Jarmin, Legislative Director, The American Conservative Union; Dr. Herminio Portell-Vila, Editor, Radio Free Americas, American Security Council; The Honorable Hamilton Fish, former Congressman from New York.

Friday, October 14:

The Honorable Henry A. Kissinger, The Honorable Dean Rusk, followed by panel of veterans' organizations: Robert Charles Smith, National Commander, The American Legion; Frank D. Ruggiero, National Commander, AMVETS; Maj. Gen. J. Milnor Roberts, USAR, Executive Director, Reserve Officers Association; Colonel Phelps Jones, USA-Ret., Director, National Security and Foreign Affairs, Veterans of Foreign Wars.

SUBCOMMITTEE ON TAXATION AND DEBT MANAGEMENT—S. 1717

Mr. HARRY F. BYRD, JR. Mr. President, the Subcommittee on Taxation and Debt Management of the Finance Committee will hold hearings on Friday, October 14, 1977, at 3 p.m., on S. 1717, in room 2221 Dirksen Senate Office Building.

Senators WALTER HUDDLESTON and WENDELL H. FORD of Kentucky are the chief sponsors of S. 1717.

The bill amends certain provisions of the Internal Revenue Code of 1954 which relate to distilled spirits.

The bill consists of a series of technical and administrative provisions. These provisions deal with the identification of the distiller upon gin and vodka bottles, the drawback of tax on exported spirits and wines previously imported, the return of tax-determined distilled spirits to bonded premises, the withdrawal of distilled spirits for transfer to customs bonded warehouses and for scientific purposes, the mingling and blending of distilled spirits, and the use of extracted oils in the making of gin.

The intended beneficiaries of this legislation are the distilled spirits industry. The revenue loss from the bill is estimated to be a one-time revenue loss of $3 million to $5 million.

During the 94th Congress, a similar bill, H.R. 3055, was passed by the House of Representatives by voice vote and was reported by the Senate Finance Committee, but was not acted upon by the Senate because of lack of time before adjournment.

Witnesses who desire to testify at this hearing should submit a written request to Michael Stern, staff director, Committee on Finance, 2227 Dirksen Senate Office Building, Washington, D.C. 20510, by no later than the close of business on October 12, 1977.

Treasury Department comments on this legislation are requested.

The hearings on S. 1717 are in addition to hearings previously scheduled at 2 p.m. on October 14, 1977, on S. 690.

PRIVATE PENSION SUBCOMMITTEE

Mr. BENTSEN. Mr. President, the Private Pension Subcommittee of the Senate Finance Committee will hold hearings on two important issues relating to the Federal termination insurance program for private pension plans. I ask unanimous consent that the Senate Finance Committee hearing announcement be included in the RECORD.

There being no objection, the announcement was ordered to be printed in the RECORD, as follows:

FINANCE SUBCOMMITTEE ON PRIVATE PENSION PLANS AND EMPLOYEE FRINGE BENEFITS SETS HEARINGS ON S. 2019, S. 2125, AND H. CON. RES. 369

The Honorable Lloyd Bentsen (D., Tex.), Chairman of the Subcommittee on Private Pension Plans and Employee Fringe Benefits, announced today that the Subcommittee will hold hearings on S. 2019, S. 2125, to delay the effective date for mandatory coverage of multiemployer plans under Title IV of the Employee Retirement Income Security Act of 1974, and H. Con. Res. 369, a proposed resolution to revise the coverage schedule for basic benefits guaranteed by the Pension Benefit Guaranty Corporation for single employer plans. It is presently contemplated that these hearings will be held on October 14, 1977, in Room 1224 of the Dirksen Senate Office Building, at 9:00 A.M. Due to the limited time available for the conduct of such hearings, the Subcommittee is tentatively scheduling Mr. Matthew M. Lind, Acting Executive Director of the Pension Benefit Guaranty Corporation, as the sole witness to present oral testimony on these matters.

To insure that the Subcommittee can obtain maximum input from all interested parties, all persons interested in these issues are requested to submit written statements outlining their views. If time permits, those persons who wish to present oral testimony as well as submit written statements should so indicate and will be notified of the date of the hearing and invited to present such oral testimony.

Senator Bentsen, in calling these hearings, noted the September 29 report of the Pension Benefit Guaranty Corporation concerning potential multiemployer plan liabilities under ERISA. He pointed out that there is a great deal on uncertainty as to the potential cost of the termination insurance program and the impact that large terminations could have on the pension benefit guarantee program and the private pension system in general.

"That study shows that about 2% of all multiemployer plans, covering about 5% of all participants in such plans, are experiencing extreme financial hardship, indicating a high potential for plan termination within the next 5 years. The aggregate unfunded vested liabilities of these plans in 1977 exceed $350 million," Bentsen stated.

According to the PBGC, about 12% of all multiemployer plans covering 20% of the participants in such plans are in difficult financial straits and may need to terminate their plans. To safeguard the interests of all American workers covered under the Federal Pension Benefit Guaranty Program, legislative review of the problems faced by these plans and the danger they represent to the continued vitality of our insurance program must be thoroughly reviewed.

SUBMISSION OF STATEMENTS AND REQUESTS TO TESTIFY

Senator Bentsen advised that witnesses desiring to submit statements and requesting to testify at this hearing (if scheduling permits) must submit their requests and five copies of their statements to Michael Stern, Staff Director, Committee on Finance, 2227 Dirksen Senate Office Building, Washington, D.C. 20510, not later than Friday, October 14, 1977. Witnesses will be notified as soon as possible after this cut-off date if it is possible to schedule them to appear.

SUBCOMMITTEE ON SEPARATION OF POWERS

Mr. ALLEN. Mr. President, on Thursday, October 13, 1977, the Subcommittee on Separation of Powers of the Committee on the Judiciary will hold hearings to receive testimony associated with executive branch negotiations for the disposition of the territory and property of the United States located in the Isthmus of Panama. The hearings will begin at 9 a.m., in room 1318, Dirksen Senate Office Building.

ADDITIONAL STATEMENTS

THE PANAMA CANAL TREATY SHOULD BE AMENDED OR WITHDRAWN

Mr. DOLE. Mr. President, the morning papers carry a report that the State Department is seeking clarification of Panama Canal Treaty provisions from Panamanian officials. They are looking for public reassurances that the United States will have recognized defense rights under the treaty on permanent neutrality, and that we will have the right to piority passage during periods of crisis. It seems they finally woke up to the fact that the Senate is not prepared to ratify this treaty so long as these rights are ambiguous.

ASSURANCES NOT ENOUGH

But the Senate will not settle for verbal assurance on our defense rights under the treaty. We do not want pacifiers, we want protection. The treaty is a contract. And the only way to clarify a contract is to make its language as clear and precise as possible.

I have followed the established procedure for doing this, in introducing amendments and reservations to an ambiguous treaty. However, if the State Department is unwilling to accept the idea of congressional modification, maybe they should withdraw the treaty now, renegotiate with the Panamanians, and then resubmit the document to Congress.

It is specially troubling to me to think that if the State Department cable revealing serious disagreements between the United States and Panama over the meaning of the treaties had not been revealed, the Senate might have proceeded to ratify an agreement seriously damaging to U.S. security and economic interests. We would have done so, ignorant of vital information hidden under a State Department security blanket.

The State Department says it is maintaining a continuing dialog with Panama to seek clarification of differing interpretations of treaty provisions. While the department is looking for reassurances on U.S. rights to defend the canal and to gain priority passage through the canal, Panamanian statements to this effect will probably not be forthcoming until after the October 23 plebiscite in Panama.

I have no doubt that words of reassurance will flow fast and free after the Panamanian vote is over. But that will not explain away the understandings that top Panamanian officials are attaching to the treaties today. If they say one thing now, and another next month, how can we place confidence in their verbal assurances?

The proper course now is congressional modification. If the administration cannot accept this, then they should take the initiative and go back to the negotiating table now.

WORLD ASSEMBLY ON AGING AND WORLD YEAR ON AGING

Mr. EAGLETON. Mr. President, I commend my colleagues for their action on Wednesday in passing Senate resolution 238, which calls for the President to instruct the U.S. delegation to the United Nations to work with other U.N. delegations toward a World Assembly on Aging and a World Year on Aging not later than 1982.

At the turn of the century there were 3 million older Americans—those aged 65 and older—comprising 4 percent of the total population. Now the proportion has more than doubled, and more than 10 of every hundred Americans are aged 65 and older. Although this percentage is not expected to rise significantly in the coming decades, the absolute numbers of the aged will continue to increase, and the projection is for about 30 million persons aged 65 or older by the beginning of the next century.

Not only will the United States have an older population, but so will most of the other nations of the world. Regardless of birth rates elsewhere, the expansion of medical knowledge and treatment and the systematic eradication of many infectious disease in parts of the world where they have flourished heretofore, point toward an extension of life around the globe.

All of us, whether we be elected officials, gerontologists, or members of the general public, must be concerned about such fundamental matters as the population structure of our society in future generations and the possible effects of demographic changes.

The current General Assembly session of the United Nations is already scheduled to consider expansion of the U.N. research and information programs on aging. The resolution adopted by the Senate could not be more timely, as all nations work together to resolve the very substantial questions raised by an emerging older population.

INTERNATIONAL WOMEN'S YEAR: UTAH REPORTS

Mr. HATCH. Mr. President, on September 14 and 15, ad hoc hearings were held to look into the activities of the National Commission on the Observance of International Women's Year and its State and regional IWY conferences. A bipartisan panel of 16 Senators and Congressmen received 12 hours of testimony from 70 witnesses who had traveled from 40 States at their own expense to relate their experiences with their State's IWY activities. All witnesses who presented testimony were participants at IWY meetings or had attempted to participate. At these conferences women have adopted resolutions for and elected delegates to the upcoming National Women's Conference to be held this November 18–21.

The activities of the National Commission, including these conferences, have been funded with $5 million of Federal taxpayer's money. Because the commission and the National Conference will submit recommendations regarding the status of women to Congress and the President, Federal law requires that membership of committees and meetings held under its provisions must "be fairly balanced in terms of the points of view represented" and that they "not be inappropriately influenced by the appointing authority or by any special interest."

Unfortunately, there are increasing complaints that IWY officials are not complying with the fairness requirement of Federal law. Recently, IWY officials described the national conference as a political convention which must be used to build momentum for certain partisan interests. The information brought out during the ad hoc hearings point to a substantial misuse of Federal funds in regard to the State IWY meetings.

I am pleased that Doris Wilson of Bountiful, Utah, was concerned enough with these activities which so deeply affect American women to travel to Washington, D.C., at her own expense to share her report on the Utah State conference with Congress. I commend to the attention of my colleagues her fine report.

Mr. President, I ask unanimous consent that the report be printed in the RECORD.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

Mr. Chairman, distinguished Senators, and Congressman:

I represent a State that held the largest IWY Conference. Thirteen thousand eight hundred and seventy women and men gathered to have their voices heard on a variety of subjects, for Utah has always encouraged its people to develop themselves to their highest potential. In Utah women received the right to vote in 1870, fifty years before the 19th Amendment. We have a long history of conviction that each individual is responsible for his or her actions as a citizen. For us to let decisions that so directly affect us as women be made without participation is unthinkable. So we participated. Utah women are dismayed at being encouraged to participate and then chastised for electing delegates and making decisions representative of our State.

There is an alarm among the people of Utah that no resolutions passed in State meetings will ever "see the light of day" at the National Conference. Why spend five million dollars to hold State meetings if those resolutions are ignored as we are told they will be? Why spend five million tax-payer dollars to promote ideologies in a book "To Form A More Perfect Union" that presupposes the thinking of American men and women based on a consensus taken at a worldwide meeting in Mexico City? Why spend five million tax-payer dollars when the National IWY Commission can counter balance the Utah delegation, rendering its State meeting and its pro-family votes of no avail whatever?

By an overwhelming vote in the Utah Conference resolutions were passed stating:

ERA

Problem: ERA

Recommendations

1. Because the women of Utah are opposed to ERA, we propose that all proponents or opponents of ERA from this time forth finance their causes with whatever privately sponsored funding they may obtain. We oppose the use of our public monies to promote or oppose the ERA.

2. We go on record as being opposed to the Equal Rights Amendment.

3. Resolved that we the participants of the largest IWY Meeting in our nation's history, direct the Congress of the United States to appropriate no new funds for International Women's Year.

Our tax dollars are being spent to promote a pro-ERA stand to which we are diametrically opposed. Our tax dollars are also being used to promote other issues pertinent to women to which we object. The promotion of these issues is found in the National IWY Publication, "To Form A More Perfect Union." We instruct the officials of the National IWY Commission to insert this resolution in the Federal Register through the proper procedure.

4. A recommendation be taken to the National Conference about the ERA which states that we the majority of the women of the State of Utah disassociate ourselves with and wish to be recognized as standing against the ERA to the Constitution. Although we agree with many of the concepts and ideals, we feel that rights for women can better be accomplished by more efficiently enforcing existing laws and applying pressures to society in other ways. We, the women of Utah, recognize that any government which is powerful enough to give its people everything they want is powerful enough to take away everything we have.

INTERNATIONAL INTERDEPENDENCE

Problem: Whereas this United States had its origin in a Declaration of Independence; many of those who signed it were willing to give their lives; Whereas: many of our Congressman have signed a Declaration of Interdependence.

RECOMMENDATIONS

Be it resolved by the International Women's Year of Utah that we repudiate any interdependence on any other country and that we declare our independence from all other countries of the world because interdependence means world government whereby the United States will lose its national sovereignty.

The women of Utah feel that voluntary cooperation between countries is important but we deplore any world governmental body that attempts to dilute our national laws and personal sovereignty.

The people of Utah tried to play by the IWY rules and thought they had won in a fair contest. Now we find the entire game was rigged. Our only alternative is to demand that there be a Congressional investigation; that the President and Congress cancel the IWY Conference in Houston, the lobbying agent of a tiny interest group whose ideals are an anathema to the majority.

Thank you for the opportunity to speak to you today to represent the women of the State of Utah.

WEST VIRGINIA EXPANDS ITS ECONOMIC STRENGTH—COAL RESOURCES AND HIGHWAY DEVELOPMENT ARE POSITIVE FACTORS

Mr. RANDOLPH. Mr. President, inflation and unemployment continue to trouble our economy. There are, however, indicators which point to a resurgence of building activity in America. The New York Times reports this morning that construction materials are in short supply because housing starts are at their highest level in 11 months. Through such legislation as the Public Works-Job Act of 1977, communities across this Nation are beginning to construct needed public facilities and reduce unemployment. Examples of this growing construction activity abound in both the public and private sector.

Recently, it was my privilage to participate in the dedication of the new Huntington Civic Center, in Cabell County, W. Va. The citizens of that progressive community have pledged future revenues to provide a magnificent community cultural complex costing $10.5 million.

I said, on that occasion:

The operations of this Center will make a significant contribution to the economic health of Huntington. It is a wise investment in the future of this growing region, and will serve as a productive partner to the business community. But, more than that, it will contribute greatly to the social and cultural atmosphere of the community.

Hours later and almost 300 miles across the State of West Virginia, I joined with General Motors executives and Government officials in event, marking for a major expansion of the GM Parts Division Plant at Martinsburg.

Lew G. Kalush, parts division general manager, said the 280,000-square-foot addition will create the largest building under roof in West Virginia, providing more than 2 million square feet of floor space. Joining in the ceremonies was my colleague, Representative HARLEY STAGGERS; Donald Moyer, director of the West Virginia Office of Economic and Community Development; Mayor Gene Diamond; Wayne Cagel, general director of GM parts operations; Marvin J. Shapiro, operations manager; and Richard Nicholas, manager of the Martinsburg plant.

The 1.7-million-square-foot facility currently employs 935 men and women, and serves General Motors operations throughout the East and Southeast.

Mr. Kalush stated:

The expansion of the Martinsburg plant is an example of our determination to have the best facilities possible in order to provide the best service possible to our customers.

More than 21,000 different automotive parts are stocked at the Martinsburg plant, and with the expansion, the inventory will be increased to about 26,000. There also will be some increase in employment with the expansion of this modern facility.

These are two of the dynamic developments that are occurring in our home State, which stands on the threshold of unparalleled prosperity with the energy potential of its coal resources and completion of a network of modern highways providing mobility for our rapidly growing tourism.

Within the past few days, Ashland Oil announced the planned relocation of its corporate headquarters for coal operations near Huntington, and a new Armco Steel mine was opened in Raleigh County, near Beckley.

These are among the heartening developments for a region that has in the past been hampered in its growth by rugged terrain and relative isolation. Today, however, major corporations are looking closely at transportation costs and regional decentralization. The economic future looks bright indeed for further industrial growth in West Virginia as they weigh the factors that assure them an opportunity to operate profitably in pleasant surroundings amid a friendly industrial climate.

HUBERT H. HUMPHREY BUILDING

Mr. DOLE. Mr. President, I am requesting that an additional 94 Senators be added to S. 2169, a bill to name the new south portal building of the Department of Health, Education, and Welfare in honor of our distinguished colleague from Minnesota, Senator HUBERT H. HUMPHREY. That brings the number of cosponsors on this bill to a total of 99 Senators, including myself.

It is my understanding that the Committee on environment and Public Works has acted promptly today to order this bill reported to the Senate for consideration. It appears the report will be filed Monday and hopefully the bill can be passed then or on the following day, Tuesday.

This prompt and overwhelming action could not have been accomplished without the full support of the distinguished Minnesota colleague of Senator HUMPHREY, Senator ANDERSON. Also, this bill would not be possible without the cosponsorship and the prompt action of Senator RANDOLPH and Senator STAFFORD, chairman and ranking Republican respectively of the Committee on Environment and Public Works.

In addition, Congressman QUIE and the Minnesota delegation have introduced a companion measure in the House of Representatives. It is my understanding that if the Senate passes S. 2169 on Monday or Tuesday, the bill will be held at the desk when it is received in the House of Representatives and passed on Tuesday after the House convenes.

The unanimous cosponsorship of this bill is a great tribute to the character and the achievements of HUBERT H. HUMPHREY. Much has been said about that already and will be said later.

But I would like to say that this is a bipartisan salute to a great man who has long believed and acted in a bipartisan spirit. It is a reminder that although we may disagree on specific issues, we can still work together in a bipartisan manner to hammer out solutions to the problems of our Nation—solutions that will hopefully be in the best interests of the American public as a whole. I have worked with Senator HUMPHREY on many

issues including food stamps, child nutrition, and farm legislation, and I know that he stands for bipartisan cooperation. I am pleased with the positive reaction of both parties to this salute and look forward to future efforts in that spirit in which Senator HUMPHREY is a part.

This is an overwhelming tribute to a great leader and individual. To quote from a recent Wichita Eagle editorial, "such admiration and affection cannot be restricted by party lines."

JAMES J. KILPATRICK: FARMING IS NOT ALL THAT GOOD

Mr. McGOVERN. Mr. President, Jack Kilpatrick's column in the October 6, 1977, edition of the Washington Star entitled "Corn at $1.23 a Bushel," demonstrates understanding of the everlasting optimism that characterizes the farm community even in the face of low farm prices, credit squeezes, and forced sales.

He captures the rhythm of those who feed us and others around the world. It would be helpful if more journalists would follow Mr. Kilpatrick's example in visiting with farmers before they write of farm issues.

I ask unanimous consent that the article to which I have referred be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Star, Oct. 6, 1977]

CORN AT $1.23 A BUSHEL

(By James J. Kilpatrick)

HASTINGS, NEBR.—Here in the Midwest, corn and wheat farmers are suffering from an old agrarian ailment: The best of times and the worst of times turn out to be all the same thing. Nebraska growers have tremendous crops this year—and they're losing their shirts.

It is an immemorial custom, to be sure, for farmers to complain of hard times. But the grumbling this autumn is louder than usual. Inflationary forces have pushed up the price of everything the farmer has to buy; the inexorable laws of supply and demand have pushed down the price of what he sells. Scores of marginal farmers are giving up. On a recent Sunday, the Omaha World-Herald carried six columns of classified ads under the heading of "farms for sale."

Farming is just about everything out here. All day long and well into the twilight, farm machines, like dinosaurs, crawl clumsily across the chocolate fields. The beasts devour the dead corn, spitting silage from their long ungainly necks; their yellow headlight eyes search the dark land. For men and machines, farming is a task that knows no end.

In most years the task is financially rewarding. This year the figures tell a different story. It costs a Nebraska farmer from $1.50 to $3, depending upon various factors, to produce a bushel of corn. The University of Nebraska says $2.10 is a fair average. But the average price received by the farmer is headed toward $1.23. With every bushel he produces, he goes a little deeper in the hole.

There is talk of a general strike, but few persons take the talk seriously. A couple of thousand disgruntled growers went to Pueblo, Colo., a few weeks ago to give Agriculture Secretary Bob Bergland a hard time. Bergland had some warm sympathy for them, and some cool advice also: Forget the strike talk. He wants Midwestern growers to reduce their production in 1978, and to store the grain, they can't sell now. This too will pass.

The country radio stations crackle with gloomy predictions. A state senator says one of every ten Nebraska farms will be sold a year hence. The papers carry ads for farm auctions in Hastings, Norfolk, Atkinson, Wayne and Grand Island. When these topics get exhausted, a hailstorm or a few tornadoes come along. Country living ain't no sweet-smellin' bed of newmown hay.

Yet the wonderful thing about this region is that nothing really chills the Midwesterner's love of his land. This correspondent happened to wander through Nebraska just as the 50th annual Ak-Sar-Ben livestock exposition was under way. The papers were filled with photographs of the 4-H winners. A 15-year-old named Kevin Mobley had produced the grand champion market lamb. Fourteen-year-old Kathryn Wiese had the champion Hereford. A pleasant feature story dealt with 11-year-old Shelly Olson of Milford, the fifth of the Don Olson children to enter prize-winning Holstein cows.

You are never going to discourage these young people. Many of them will go off to college, and some of them will yield to the allures of urban life, but the pattern of family farming changes little year by year. In the worst of times the emigration rate is higher: More sons go off to the city to sell cars or real estate or insurance. Things improve and they tend to drift back. Farming demands immense capital these days, and not only capital: farming has become a highly skilled profession in which the inefficient producer gets plowed under.

An Eastern visitor listens to the grumblings, sympathizes with the low prices, and understands the economic woes. But a visitor is more deeply impressed by the rich land, and by the insatiable machines, and by the faces of the 4-H youngsters. The prairie people have survived worse hardships than corn at $1.23. They will make it through the next growing season, and through further autumns as far ahead as the eye can see.

SYMPOSIUM EXPLORES POSSIBLE SOLUTIONS TO OVERREGULATION

Mr. CURTIS. Mr. President, a very significant panel discussion took place recently at a symposium sponsored by the National Ingredients Association.

My administrative assistant, Mr. Don Shasteen, participated in the discussion and made a proposal which has my wholehearted support and which warrants serious consideration by the leadership of the Senate.

The proposal offers a practical approach for dealing with the problem of government regulatory extremism.

Three other persons with first-hand knowledge of regulatory problems gave their views of the need for proper action.

I ask unanimous consent to have printed in the RECORD a copy of an article which appeared in the October 3, 1977, issue of Feedstuffs newspaper summarizing the discussion.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

SYMPOSIUM EXPLORES POSSIBLE SOLUTIONS TO OVER-REGULATION

(By Wayne Anderson)

LAKE OF THE OZARKS, MO.—A Regulatory Accountability Project (R.A.P.), designed to develop and apply procedures in government for making regulators accountable for their actions, was proposed here last week during the National Feed Ingredient Assn's annual convention.

Don Shasteen, legislative assistant to Sen. Carl Curtis (R., Neb.), announced the proposal in a presentation to NFIA's Scientific Advisory Council symposium. He was one of four panelists who addressed themselves to the problems of government over-regulation in a session entitled "Legislators and Scientists—The Dosage Makes the Difference."

Others appearing on the panel included: Dr. Robert Spitzer, president, Milwaukee School of Engineering and senior advisor, food and agriculture, Allis Chalmers Corp.; Dr. Robert H. White-Stevens, chairman, Bureau of Conservation & Environmental Science, Rutgers University, and Dr. Stephanie Crocco, food scientist, American Medical Assn. John Megown, vice president and director of marketing and public affairs, Vigortone Products Co., was chairman of the session. Wayne Anderson, managing editor Feedstuffs was panel moderator.

Shasteen, in making the R.A.P. proposal, said the basic problem in government today is that decisionmakers are not adequately informed on the issues, and are not trained in scientific inquiry. Compounding the problem, he said, scientific speculation too often becomes scientific fact, due to misinterpretations by both the mass media and their readers. He also said there are too many so-called "experts" influencing decision-makers, as well as too many overly-ambitious regulators.

Shasteen said the R.A.P. proposal would make regulators accountable to both "the American people, for whom they work, and Congress, from which they derive their authority."

He said Congress should first put a moratorium on the issuance of all new regulations and new legislation, with provisions for emergencies, to give Congress and the nation a "chance to catch its breath. We could bring in scientists representing all differing points of view to learn what they are thinking. And we could do something really meaningful—we could listen to the people to find out what they want and need," Shasteen said.

For new regulations, Shasteen said two concepts should be mandatory: A "sunset" provision causing them to expire at the end of a set period of time unless revised and reapproved, and a "sunshine" provision allowing the public to know what is being planned long before those plans take effect.

GOVERNMENT GROWTH

Spitzer, looking at government growth and world population growth, said government has grown too much because most in business and agriculture have largely ignored it. He pointed to preoccupation with our own problems, the demise of rural influence in Congress, and a lack of moral leadership as some of the more specific reasons for government bigness.

To change this trend, Spitzer said we must become better informed on the issues, work for change through our local and state groups, associations, civic contacts and the media and realize that business and agriculture must do a better job of presenting their cases to the public.

Turning to world food problems, Spitzer said the world population is on a geometric course, and hunger is a way of life in more than 80 lesser developed countries. The U.S. must realize it cannot feed the world, but it can help other nations feed themselves, he said. Noting that many countries suffer 10–30% post-harvest loss, Spitzer said the U.S. cannot afford a "pre-harvest loss" of 10% or more due to the outlawing of antibiotics and other additives in animal and plant agriculture.

ANTI-SCIENCE MENTALITY

Presenting the scientist's viewpoint, White-Stevens said there seems to be an anti-science mentality in society today, with the overriding issue pitting scientific technology against social humanitarian rights. This mentality particularly affects food, fiber, shelter and energy production, he said, and these four areas, paradoxically, are the main supports of the U.S. today.

In 25 years the world must treble food and fiber production, an increment greater than that of the past 25,000 years, White-Stevens said. If the U.S. fails to meet the food-fiber-energy challenges by 1985 or 1990, he warned, the country and the world face a "depression far greater than that of the 1930s."

Trends in government regulation of scientific technology in agriculture are becoming a serious problem for farmers, the nation and others who depend on the U.S. for food and fiber needs, White-Stevens said. The farmer, through his own proficiency, has become a political minority, yet his importance to the nation is more significant today than ever before, he said.

Turning specifically to regulatory attitudes regarding antibiotics, White-Stevens said recent legislative and regulatory developments are particularly disturbing to scientists because they "are not based upon scientific, objective experimental evidence, but rather upon unsupported suppositions, hypotheses and the fear of the unknown."

Ms. Crocco, former editor and now a contributing editor of Food Engineering magazine, said the well-informed consumer is the food industry's best friend—in effect, the "bottom line" for the food industry.

The problems facing food communicators, she said, include some consumer advocates who abuse the power of the media, and a lack of training in food chemistry on the part of some communicators. The result is bad information, she said.

Food communicators today are, in the final analysis, reporting more and more on politics, Ms. Crocco said, point to saccharin, nitrites and diethylstilbestrol as examples. They also face the problems of limited time or space in which to report on highly technical subjects.

The saccharin issue has helped greatly in educating the public about assessing risk versus benefits, she said, and hopefully it will help educate consumers about other food-related issues.

DELANEY CLAUSE

Anderson, in summarizing the discussion, centered his remarks on the Delaney Clause to the Food, Drug & Cosmetic Act. The anti-cancer clause has several flaws, he said, including:

It was a social decision, made with inadequate scientific input;

It's "zero tolerance" concept, seeking to guarantee absolute safety, is impossible to prove, scientifically or logically;

Increasingly sophisticated assay procedures have made the "zero tolerance" concept impossible to live with;

Its failure to recognize that almost all elements and compounds are carcinogenic at some level or under some condition.

TWO EFFORTS

Two lines of effort seem essential in solving the problem created by the Delaney Clause, Anderson said. The public, including legislators and the courts, must be educated, and the law must be modified to allow latitude for reasonable, scientific thinking while still preserving the basic intent of the law.

The need must be explained for a comprehensive benefit-risk assessment which allows scientific judgment of (1) the level at which a chemical is safe to use, and (2) acceptable trace residue tolerance levels in food products which are safe for human consumption, he said. "The benefit-risk debate must be expanded, with all segments of animal agriculture, as well as scientists, involved. Consumers and lawmakers are in most cases far removed from the use of chemicals in animal feeds and human foods. They need accurate, understandable information; they must see the benefits as well as the risks.

THE GSA ART-IN-ARCHITECTURE PROGRAM

Mr. PELL. Mr. President, as chairman of the Subcommittee on Education, Arts, and Humanities, I believe that the Federal Government should play a more substantial role in increasing the awareness of our society in the arts.

In this regard, I am greatly encouraged by the progress, attitudes, and actions of the Carter administration. Specifically, I greet with real enthusiasm the announcement made by the Administrator of the General Services Administration, Jay Solomon, that he is revitalizing the art-in-architecture program of GSA, Administrator Solomon in concert with the wife of the Vice President, Mrs. Mondale, announced that GSA has commissioned 55 works of art at a cost of $2.8 million for Federal buildings across the country since 1972. More importantly, Mr. Solomon stated that it is the new policy of the Carter administration to raise from three-eighths to one-half percent the amount of money that would be expended for decoration and new works of art that would include not only new construction of Federal buildings, but those existing Federal buildings that are undergoing repair and alteration, including historic landmarks. Also, GSA would add art works to existing Federal facilities.

Mrs. Mondale said:

Under Jay Solomon's guidance, GSA has taken up President Carter's challenge to bring the arts into all areas of government. A new phase of support for the arts is beginning: A time when an awareness and appreciation of America's cultural life will be seen not only at the two endowments but in every federal agency.

It is my understanding that the new GSA art-in-architecture program will expand the range of public art to include new forms of art such as photographs, ornamental grills, woodwork, brickwork, and stained glass. Also, a greater variety of craft work will be part of the program.

The GSA program will accelerate efforts to include art projects at an earlier point in building design, placing art and architecture at the very beginning of that process.

It is my opinion that Mr. Solomon's foresight in committing an allocation of Federal funds for establishing programs for public art will be supported by other agencies in the Federal Government and State and local governments. It is my hope that Mr. Solomon will continue to break new ground in the area of Federal support for the arts. I would hope that the major Federal buildings which are across the country could become mini-museums that would display a substantial body of public art. I applaud Mr. Solomon's statement:

I am convinced that the government has a responsibility—an obligation—to experiment, to innovate, to be a testing ground for new ideas.

On September 17 there appeared an editorial in the New York Times which I ask unanimous consent to have printed in the RECORD at this point with my remarks, an editorial entitled "Ups and Downs With the Arts." This editorial discusses the gyration of our past Federal arts program but points with pride to the policies of the Carter administration, but, most specifically, to those of GSA. I also ask unanimous consent to have printed in the RECORD at this time other articles that appeared in the press relating to the art and architecture program announcement by Mrs. Mondale and Mr. Solomon.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the New York Times, Sept. 17, 1977]

UPS AND DOWNS WITH THE ARTS

There is a certain relaxed satisfaction in the public attitude toward the arts today: They're doing fine, thank you; creativity and attendance have never been greater; more people go to museums than to baseball games. The arts are indeed flourishing, regionally, nationally and internationally—but they still rest on a shaky economic base. The world-famous Edinburgh Festival, for example, had to cancel performances in a drastically underfunded program this year, while the Edinburgh City Council handed over land needed for an opera house to hotel developers. It was no contest between art and commercialism.

Sometimes cultural institutions resort to remedies that seem borrowed from a Woody Allen movie (no mean art form in itself). London's Tate Gallery will hold a lottery in order to buy two 18th-century paintings, offering a 51-piece Wedgwood dinner set and an Austin Mini automobile as prizes. The hope is that creativity and consumerism can make it together.

On this side of the ocean the news is a little better in at least one area of the arts. The General Services Administration, the agency in charge of all Federal buildings, has announced an increase from three-eighth to one half percent in the portion of the construction budget devoted to the commissioning or purchasing of works of art. Federal expenditures on art have fluctuated wildly, from a high of $2 million in 1974 to a low of $200,000 in 1976. And while one half percent is not exactly a princely sum (in West Europe the figure ranges from 1 to 2 percent), the important thing is that it has gone up, not down.

But Federal arts programs have always gyrated like a yo-yo—usually with a four-year spin up or down. And although the General Services Administration, with the help of the National Endowment for the Arts, has been picking outstanding examples of major American artists and installing innovative work, this does not improve the quality of some of the buildings it has commissioned. For too many, no esthetic salvation is possible. But there is an occasional

winning combination, such as the superb Mies van der Rohe Federal buildings and Alexander Calder sculpture in Chicago; and any government that has the wit and spirit to put up Claes Oldenburg's Batcolumn (baseball bat as classical column, also in Chicago) can't be all bad. Administrations and city councils come and go but the arts go on forever. Let's hope.

[From the Washington Star, Sept. 9, 1977]

THAT BUILDING ARTS PLAN OF GSA IS BACK

(By Benjamin Forgey)

In a bit of good, hard news for the arts community, the General Services Administration has announced the revitalization of its 15-year-old, up-again-down-again art-in-architecture program.

GSA administrator Jay Solomon with Joan Mondale nodding her approval at each word, enthusiastically embraced a program that fell upon bad days in the last months of the Ford administration, and stated a list of changes designed, he said, to expand and improve it.

Solomon said GSA has again raised the amount to be spent on art by 25 percent, from three-eighths to one-half of one percent of building costs. More significantly, since actual expenditures on the program generally did not achieve one-half of one percent of costs even when that was official policy, Solomon announced that from now on the art money cannot be reduced without written permission of the commissioner of the Public Buildings Service. "We're going to treat art just like bricks or glass or anything else," he said.

The scene for the remarks was carefully set in the art-filled hallway of the vice presidential residence, preceding a luncheon hosted by Mrs. Mondale.

The art-in-architecture program, begun under President Kennedy, has been like a "yo-yo" over the years, Solomon admitted. It was brought to a stop by controversy (over a Robert Motherwell mural in Boston) and the Vietnam war almost before it fairly got started. Then it was resurrected during the second term of the Nixon administration and went full steam for three or four years. Since 1972 the agency has spent roughly $2.8 million for 55 art works in all regions of the country.

But in 1976 the program experienced another of its periodic downs when controversy flared over a colorful sculpture commissioned from George Sugarman for the plaza in front of a new federal courthouse in Baltimore.

Solomon said yesterday that both GSA and the arts endowment were now looking for ways to commission things other than just large-scale murals and sculptures, such as crafts objects of all kinds, furniture, and decorative accessories, such as windows.

New construction by the federal government no longer is keeping pace with the boom of past decade. GSA, Solomon said, will be restoring and rehabilitating older structures not currently in use, and fixing up old government buildings once slated for demolition.

[From the Philadelphia Sunday Bulletin, Sept. 18, 1977]

UNCLE SAM, THE PATRON, REGROUPS HIS GUIDELINES

(By Nessa Forman)

WASHINGTON.—Uncle Sam has been called a modern-day Medici, commissioning 130 artworks for 4 million in the past 15 years. Philadelphia has seen $400,000 of that largesse when four artworks were dedicated here:

A Louise Nevelson sculpture, at $178,000, for the Byrne Federal Court House.

A David von Schlegell fountain, at $175,000, for the Byrne Federal Court House.

A Charles Searles mural, at $30,000, for the Green Federal building.

A pair of Al Held murals, at $126,000, for the U.S. Social Security Administration building.

The current head of the General Services Administration (GSA), Jay Solomon, announced plans last week at a press conference to expand this art-in-architecture program.

The first step, he said, is increased funding. We will now earmark a half of one percent of the construction cost of a new building for art, he said. (When the art-in-architecture program was instituted during the Kennedy years in 1962, a half of a percent was designated for art. However, the percentage was reduced by a subsequent GSA administrator.)

Solomon said he plans to broaden the program to include the neglected arts—crafts, ironwork, woodwork, environmental art and photography.

Also, the GSA will look to already existing structures, not just new buildings, he said. That includes:

—Existing Federal buildings for which fine arts had been planned, but never implemented.

—Existing Federal buildings undergoing repair and alteration, as well as "special" cases of older federal buildings where fine arts were never considered an integral part of the architectural design.

One of the main criticisms of the GSA program is that artists were always called on *after* the building was well under way. Philadelphia's four projects all suffer from poor placement, making the works look as if they were stuck on as an afterthought.

According to Solomon, the new guide lines specify that art proposals be developed when the building is in its initial planning stages.

Whatever one has to say about the quality of works selected by past GSA panels, one cannot fault the present GSA administrator for wanting to beef up the program. However, one would hope that the artist selection process is more selective. It has not always been so.

Why is Solomon expanding the art-in-architecture program?

"I am convinced that the government has a responsibility—an obligation—to experiment, to innovate, to be a testing ground for new ideas," he said. "By making more funds available for commissions, we will insure that the American people will always have a substantial body of public art."

[From the Tennessean, Sept. 18, 1977]

CRITIC SHARES VIEWS WITH JOAN MONDALE

(By Clara Hieronymus)

In a news story from Washington last week I reported on a conference at the Vice President's home, at which the General Services Administration's expanded art-in-architecture program was announced.

What follows in this column today relates to the luncheon hosted by Joan Mondale, and to the Victorian mansion which is the official residence of the Vice President.

The 20 art journalists and ten GSA staff members and Mrs. Mondale were seated at three round tables, each set for ten, in the dining room. Like the other rooms on the ground floor this high-ceilinged, light-filled room had walls the color of fresh cream. The tables were covered with crisp white, to-the-floor cotton cloths imprinted with cornflower blue paisley motifs.

On each of the tables the centerpiece was a blue and white stoneware crock filled with garden flowers—one had white snap dragons and white roses, the others had pink or yellow, all fresh, informal and unpretentious. The luncheon menu included tomato bisque, crepes stuffed with crabmeat, green salad, apricot charlotte russe and an excellent Beaujolais.

In order to visit with her guests, Mrs. Mondale moved to each of the tables as the courses changed. The honor guests were Jay Solomon, GSA administrator, and his wife Rosalind (famed in her own right as photographer and arist) and daughter Linda.

Among distinguished art writers were Ada Louise Huxtable, architecture critic for the New York Times, Phoebe Stanton, art and architecture critic for the *Baltimore Sun*, and Henry Seldis, art critic for the *Los Angeles Times*.

Solomon, as we noted in the earlier story, was born and brought up in Chattanooga and is a Vanderbilt graduate. Another Tennessee "connection" at the luncheon was Carel Yasko, counselor to the Public Buildings Service for fine art and historic preservation. On being introduced to this Tennessean, Yasko said his first architecture commission was for a mausoleum. He had met Leslie Cheek in Virginia when he finished his architectural studies, and Cheek had commissioned him to design the Nashville tomb for his parents, the senior Leslie Cheeks.

Mrs. Mondale, in a grayed lilac linen jacket and gray linen skirt, was warm and friendly, an easy-mannered host with a genuine enthusiasm for art. This was not a new interest with her, nor one taken up with any view of impressing others.

Bess Abell, her executive assistant, said that during the campaign tour around the country, Mrs. Mondale always knew where there was a museum or gallery, or an exhibit of arts or crafts. "She was a marvelous docent, and I was a willing listener," Mrs. Abell said, conceding that her own background hadn't included that much exposure to art. "But this was a joy. All campaign headquarters look alike, and going to museums with a knowledgeable guide was certainly a pleasant change."

Mrs. Mondale worked at the Minneapolis Institute of Arts, cataloging prints and teaching children's art classes while she was a student at Macalester College. After graduation, she worked as an assistant slide librarian at the Boston Musem of Fine Arts, and later as an assistant in education at the Minneapolis Institute of Arts, giving guided tours and lectures.

She continued her interest in art when she moved to Washington by giving weekly tours at the National Gallery of Art and taking pottery lessons from a master potter. In 1972 she wrote *Politics in Art*, a non-fiction book on the close relationship between the concerns of the artist and those of the politician. "Both deal with human emotions and human conditions. Both seek to tell us about the good and the bad around us. The artist often dramatizes the same need for change and improvement for which the politician is seeking answers."

It is her conviction that art is no longer just looking at a painting in a museum. "It's for everyone, everywhere. It is the total range of creativity—the way of finding one's own private world."

On a console in the foyer of the Mondale house was a Cherokee basket filled with magnolia leaves and cornshuck magnolias. Along-

side it were a clay pitcher by Charles Counts of Rising Fawn, Ga., but claimed by his friend Jay Solomon as a Chattanoogan; an earthenware "bean jug" by Jugtown potter Vernon Ray Owens, Norman Smith's stoneware canister, and baskets by Lucy George and Lizzy Youngbird, both of North Carolina.

On the mantel were polished black pots by the legendary Maria Martinez and other pots by Toshiko Takaezu, whose works have been exhibited here at both Peabody and Vanderbilt and who served as judge for the Tennessee Artist-Craftsmen's Association crafts festival in Centennial park last year.

Actually all the main floor rooms of the house are a repository for contemporary American art which looks absolutely splendid in this exuberant, late 19th century residence.

The Vice President's house was constructed in the 1890s, exactly 100 years after the cornerstone of the White House and Capitol were laid. Designed by Washington architect Leon Dessez as a residence for the Naval Observatory Superintendent, it has been occupied by the Chiefs of Naval Operations in recent years. In 1974, Congress designated it the official residence for the Vice President.

Two of its most distinctive architectural features are the wide veranda that curves around the house and its Romanesque tower that rises on the southeast corner. The ground floor has a spacious entrance hall which opens to a living room, a sitting room, and the dining room. The kitchen, incidentally, is in the basement.

I did not learn who the decorator was when the house was readied for the Rockefellers in 1974–75, but it masterfully arranges traditional furniture in a contemporary way. Draperies are the same light, bright cream color as the walls, and floors are bare except for bordered but unpatterned area rugs in a slightly deeper shade of the wall color.

Marvelous works of art by contemporary American artists are on a year's loan from museums in Minnesota, Iowa, Michigan, Nebraska, Wisconsin, Kansas, New York and Washington. The individual selections represent an effort to reveal something of the breadth and diversity of recent American art.

In the dining room is a strikingly primitive-looking bronze sculpture by Isamu Noguchi; standing more than 6 feet in height, *Mortality* is on loan from the Walker Art Center in Minneapolis. Equally exciting is a black-painted wood sculpture by my own favorite, Louise Nevelson, from her *Rain Forest* group.

An exquisite painting by Adolph Gottlieb fills one of the angled walls in the living room; called *Trio*, its ground color is ochre gold, and one of the three discs that give it its title is richly red. On the day of the luncheon that part of the room glowed from the color in the painting, with its red disc echoed in a bowl of red roses from the garden and the red-painted maquette of Claes Oldenburg's *Batcolumn*.

Other major figures of modern American art included here are Josef Albers, Milton Avery, William Baziotes, Willem de Kooning, Charles Demuth, Edward Hooper, Jacob Lawrence, Robert Motherwell, Georgia O'Keefe, Charles Sheeler and Mark Tobey.

Hans Hofmann is represented, so are Jasper Johns, Roy Lichenstein, Andy Warhol, Mark di Suvero, Robert Rauschenberg and James Rosenquist, among the 52 Americans.

All are memorable, along with some other lingering and pleasant recollections. I enjoyed hearing Jay Solomon say there would be increased emphasis on crafts in the art-in-architecture program, and I will always enjoy recalling the huge, green-speckled pumpkin that stood on the porch at the top of the front steps.

It seemed so warmly appropriate to this rambling Victorian mansion and such a beautiful work of art in its own right that I commented on it to Mrs. Mondale who had walked out on the porch with me after the luncheon. "Yes, it is grand, isn't it?" she said, smiling. "We have ten tons of pumpkins in the garden." Here she waved an arm to indicate the garden which was just out of sight over a sloping terrain. "We'll have to find a cool place to store them in so they'll last until Hallowe'en. We'll have a lot of fun with them.

It all seemed neighborly, friends sharing a pleasant goodbye on a Victorian front porch in the green and gold afternoon of a September day.

[From the Washington Post, Sept. 8, 1977]

A BOOST FOR THE ARTS

(By Jo Ann Lewis)

Joan Mondale and the head of the General Services Administration are expected to announce jointly today the restoration of the "One-half of 1 Per Cent for Art Policy" of the GSA's wide-ranging Art-in-Architecture program.

The program, which allocates a portion of the budget of each new federal building for sculpture, murals and other art works, was cut to three-eighths of 1 per cent by the previous GSA head.

The reinstatement of the previous funding level is likely to be seen by the arts community as the first solid dollar commitment to the visual arts by the Carter administration.

The announcement, scheduled to be made at a press luncheon today called by Mrs. Mondale to introduce Jay Solomon, whom President Carter named to administer the GSA last spring, would mean hundreds of thousands of dollars in commissions for artists, craftsmen and arts-related workers such as fabricators and welders.

The Art-in-Architecture program has already financed the placement of major sculptures in many cities, including an Alexander Calder in Grand Rapids, Mich., a George Sugarman in Baltimore, the Claes Oldenburg "bat" in Chicago, a Louise Nevelson work in Philadelphia, and two pieces at the new Labor Department building here in Washington.

In fiscal 1975, the program spent a total of nearly $2 million, for 31 works connected with the construction of 20 buildings.

In fiscal 1977, $893,400 was available for commissions under Art-in-Architecture, although only about $200,000 had been spent as of last spring. Commissions came to a virtual standstill when the agency, under former administrator Jack K. Eckerd, asked that a study of the program be undertaken. That study led to the reduction of the program to three-eighths of 1 per cent.

The "One-half of 1 Per Cent for Art" policy will also be extended to buildings undergoing repair and alteration, such as Washington's Old Post Office on Pennsylvania Avenue, soon due to undergo an $18-million facelift.

That could mean as much as $90,000 in new art commissions for that building alone. During fiscal year 1976, GSA spent $75.5 million on alteration and repair, a potential $377,000 more for art.

Since Solomon's arrival at GSA, he has taken several steps to loosen the backlog of art projects in the agency. New art commissions are now underway in locations as disparate as Charlotte Amalie, the Virgin Islands and Anchorage, Alaska.

In Dayton, Ohio, the GSA has just commissioned light sculptor Stephen Antonakos to do a 60-foot-long wall sculpture in neon on the facade of a new federal building there. Antonakos is featured prominently at the current avant-garde "Documenta" exhibition in Kassel, Germany.

Solomon recently transferred title of all sketches for works commissioned by GSA since 1974 to the National Collection of Fine Arts here, thereby making them windfall owners of maquettes by Calder, Nevelson, Sugarman and Mark di Suvero, as well as collages, prints and drawings by other artists Frank Stella and Oldenburg.

With the encouragement of Mrs. Mondale, Solomon recently added handcrafted objects to the federal supply catalog, thereby making it possible for government offices to order handmade ceramic ashtrays instead of only those stamped from plastic.

Mrs. Mondale has been a supporter of GSA's "Art-in-Architecture" program since her husband took office as Vice President. She has spoken publicly on behalf of the program on at least two occasions, when she officially dedicated Oldenburg's "Bat Column" in Chicago, and a large mural by Al Held (among other works) in Philadelphia, all commissioned by GSA. Rosalynn Carter also spoke in behalf of the program when she dedicated a new federal building in Honolulu last June.

[From the Tennessean, Sept. 10, 1977]

INCREASED FUNDING: THINGS LOOKING UP FOR ART, ARTISTS

(By Clara Hieronymus)

WASHINGTON.—Things are looking up for American art and artists, judging from the attitude of the U.S. General Services Administration toward painting, sculpture, and other art forms including crafts.

In an announcement made at a luncheon for art journalists in Vice President Walter Mondale's home Thursday, Jay Solomon, Administrator of General Services, said a new federal art-in-architecture policy not only includes increased funding but specifies that such funding cannot be deleted as a cost saving measure in the construction of federal buildings.

He further stated that art projects would be incorporated into the initial design of new federal buildings.

Nor will the selection of artists and art be controlled by a disembodied office in Washington, remote from the community in which the building and its art will be located. Solomon said that when a construction contract had been awarded, his office would ask the National Endowment for the Arts to appoint a panel of art professionals to meet with the project architect to nominate three to five artists for each proposed work of art. This meeting will take place at the project site, with local representation.

At the luncheon hosted by Mrs. Mondale, Solomon said that the agency he heads has commissioned 55 works of art at a cost of approximately $2.8 million for federal buildings across the country. In the past the program has been limited to new construction, but now projects will be commissioned for existing buildings, making art possible for historic landmarks.

Of significance to artists is the fact that the expanded program requires dealing directly with the artist, and the funds for commissioned work include all costs for models, carvings, basic materials, crating, shipping, insurance, installation, and other costs as well as the artist's fee.

Also, once the work has been accepted and installed, GSA assumes permanent responsibility for its use and maintenance. This makes it, in essence, a permanent national treasure, which should be reassuring to the artists as well as to the communities in which their work is to remain.

It should be noted that the key word with respect to art in architecture, is "commissioned." Solomon stressed that the funds are not to be used to purchase existing works from the past, but to commission new works especially created for their settings.

As to the increased funding, the percentage of construction cost of federal buildings to be used for works of art has been raised from three-eighths of one percent to one-half of one percent. And such funding may not be deleted from cost figures without written permission of the Commissioner of the Public Buildings Service. From his comments at the press luncheon it may be inferred that such permission would be very unlikely to be granted.

"We're making it possible for artists to execute more commissions of a maor nature," Solomon said. He noted with some pride that GSA is presently the world's largest purchaser of new pieces of art today. "One of our purposes is to bring new people into the program and thereby to create important new art."

Solomon, who was born and brought up in Chattanooga and is a graduate of Vanderbilt University, said that one of "the charges I got from President Carter is to do what seems vital to our heritage."

It is very easy, he added, for the government to go into a community and put up a new federal building, "but it is of much more consequence to do something extra. With fine art, landscaping, and architecture we'll be doing something for the community and its future, adding something important to its heritage."

There is still another change in program with respect to art-in-architecture. Not only does the program pertain to new construction, but to existing federal buildings for which fine art had been planned but was not implemented, and to existing federal buildings undergoing repair and alteration, and to older federal buildings where art had never been taken into consideration as an integral part of the architectural design.

Solomon made other welcome observations about the programs interest in "humanizing public buildings." He said that it was essential to incorporate art and the kind of commercial amenities that make these buildings "live at night when their offices are closed. There will be good art to look at, shop windows to look into and many commercial adaptive uses on the ground floors in many of them. The old Post Office building in Washington, for example, will even have an ice-skating rink on the main floor, along with shops and other public areas."

Maquettes of recent sculptural commissions by the General Services Administration were on display in the public rooms of the big Victorian mansion in the grounds of the Naval Observatory, which serves as the home of the Vice President.

One of these was an exquisite scale model of a 3-part white-painted wood sculpture group by Louise Nevelson, Bicentennial Dawn, which was commissioned for the Courthouse and Federal Building in Chicago. Serving as a pedestal for the work was a polished mahogany dining table, moved into the foyer for the occasion. A permanent gift to the Vice President's residence, it came from Nelson Rockefeller's boyhood home. "He ate at this table when he was a child," a GSA aide explained. ("From a silver spoon, no doubt," was a reporter's irreverent rejoinder.)

Other maquettes represent sculpture by George Rickey, Claes Oldenburg, Tony Smith, Peter Voulkos, and Bruce Beasley. A list of artists whose commissioned works are already in place since the art-in-architecture program was initiated five years ago reads like a roster of top American artists.

Among them are Leonard Baskin (whose bronze reliefs of three Tennessee presidents are in the federal building here in Nashville), Lin Emery (who had a show of her kinetic fountains at Cheekwood several years ago), Mark di Suvero, Alexander Calder, George Segal, George Sugarman, Jack Youngerman, Al Held, Richard Hunt, Tony Smith and Frank Stella.

The 20 art writers who were Mrs. Mondale's guests at the luncheon meeting included Ada Louise Huxtable, architecture critic for the New York Times; Jo Ann Lewis, art critic for the Washington Post; David Cooper, art critic for the Detroit Free Press; and art critics from Los Angeles, Baltimore, Philadelphia, New York and * * *

"A new phase of suport for the arts is beginning," Joan Mondale said, "a time when an awareness and appreciation of America's cultural life will be seen not only at the two endowments but in every federal agency."

Mr. PELL. Mr. President, I welcome this new phase of support for the arts. It appears to me that at last we have an Administrator of GSA who is willing to do something which is vital to our heritage and in the process humanize our public buildings. Many of us in the Congress have been critical of the monument style of Federal construction that has prevailed in the past, and we are pleased that Administrator Solomon intends to break with the past and introduce environmental art and architecture in both the new building program of the GSA and also the repair and alteration of historic landmarks.

DR. GEORGE C. COTZIAS

Mr. JAVITS. Mr. President, on June 13 of this year, the medical community lost a valued and widely honored member. Dr. George C. Cotzias' outstanding research in the control of Parkinson's disease through the use of L-Dopa therapy has benefited thousands of victims of this neurologic disease.

A citation to Dr. Cotzias by the Harvey Society in 1972 disease:

One of the major therapeutic contributions of this generation is the discovery that dihydroxyphenylaline (Dopa) can reverse most or all of the major manifestations of Parkinson's disease. Dr. Cotzias' remarkable achievement came only after a long series of fundamental investigations into the metabolism of the brain. This specific and marked effect of Dopa has stimulated many other investigations to find potentially similar answers to otner unsolved neurological diseases.

I ask unanimous consent to print in the RECORD an obituary which appeared in the New York Times about Dr. Cotzias.

There being no objection, the obituary was ordered to be printed in the RECORD, as follows:

[From the New York Times, June 14, 1977]

DR. GEORGE C. COTZIAS, NEUROLOGIST WHO DEVELOPED L–DOPA THERAPY

(By Lawrence K. Altman)

Dr. George C. Cotzias, an internationally prominent neurologist who developed L–Dopa therapy for Parkinson's disease, died of lung cancer yesterday at Memorial Sloan-Kettering Cancer Center here, where he had taught, cared for patients and did research. He would have been 59 years old on Thursday.

Hospital officials said arrangements were being made to fly Dr. Cotzias's body to his native Greece, where a state funeral is planned because his scientific achievements added to the reputation of the Cotzias name there He fled Greece in 1941 with his father, Constantine, who was Mayor of Athens before and after World War II and whose statue stands in front of the Athens City Hall.

When L–Dopa was introduced into the practice of medicine in 1970, Dr. Cotzias was hailed by his colleagues for making the most important contribution to the medical therapy of neurological diseases in 50 years. And yesterday, Dr. Lewis Thomas, president of the Memorial Sloan-Kettering Cancer Center, said that the neurologist "was one of the great figures in American medical science."

Dr. Cotzias' research was considered revolutionary on two fronts. First, Parkinson's was changed from a disease that sometimes could be improved by brain surgery to one for which drug therapy benefited millions throughout the world. L–Dopa therapy, in effect, helped to overcome the deficiency of dopamine that occurs in the brains of Parkinson's patients.

INCENTIVE TO RESEARCHERS

Also, Dr. Cotzias' work opened up new ways of approaching potential cures for other chronic neurological diseases by giving researchers the incentive to first seek specific biochemical defects and then to find ways to overcome the imbalance.

Although Dr. Cotzias was in and out of the hospital several times for treatment of his cancer and heart ailments, he was a relentless worker who remained productive until his death. When his cancer was diagnosed in 1973, he expanded his research interests to that field. Some of this work was reflected by his team's most recent scientific publication this year—three papers in the Proceedings of the National Academy of Sciences and one in Science.

Dr. Cotzias was born on Crete in 1918 and grew to be a tall, heavyset, affectionate man whose mind could quickly recall facts and yet be imaginative, providing the insights that led to his scientific success. He was flamboyant, rushing to hug his friends, for whom he invariably had a flattering word. Last January when he returned to help his Greek medical colleagues, he was a popular figure in the Greek news media.

IN ARMY BEFORE FLEEING

He began his medical studies at the National University in Athens. They were interrupted by service in the Royal Greek Army before he fled with his father, who was a leader in the Greek resistance movement against the Nazis.

When he arrived here, Dr. Cotzias was fluent in several languages but spoke only a few words of English. Several leading medical schools rejected his application. Persuaded by his father to persevere, he petitioned Harvard, where he spoke in a language common in his interviewer and himself. Harvard ac-

cepted him as an advanced student and he graduated second in his class in 1943.

After training in Boston hospitals, he spent five years at Rockefeller Institute here investigating manganese and other heavy metals that exist in trace amounts in the body. In 1953 he moved to the Brookhaven National Laboratory at Upton, L.I., to use the radioisotope, neutron activation and other techniques that could detect minute amounts of such metals in animals. He remained there until 1975, when he joined the staffs at Cornell University Medical College and Memorial Sloan-Kettering Cancer Center.

Dr. Cotzias' path to developing L-Dopa, which stands for levo-dihydroxy-phenylalanine, was indirect.

When the World Health Organization asked him to join a group investigating chronic manganese poisoning among Chilean miners, he recognized a strong similarity between their neurological symptoms and the rigid facial expression, clenched hands, and speech and balance difficulties that characterize Parkinson's disease.

Returning to Brookhaven, Dr. Cotzias picked up on work done by other researchers in this country and Sweden. For several years, his research led to blind alleys. Then, like others before him, he tried L-Dopa. But he succeeded where others had failed by prescribing the drug in much larger doses for longer periods of time. His confidence in the treatment was based on basic research that led to an understanding of the biochemical abnormalities underlying Parkinson's disease. And his trip to Chile paid handsome dividends; L-Dopa was effective against brain damage from manganese poisoning.

NOT FOR EVERY CASE

Now, L-Dopa is considered the drug of choice in the treatment of Parkinson's disease. However, it is not effective in all patients and sometimes the drug must be stopped because, despite its effectiveness, nausea and other side effects prove too toxic.

In Dr. Cotzias' expanded research in recent months, he studied L-dopa's effects on aging. In a controversial paper in the April 29 issue of Science, he and his associates reported that mice that were fed high doses of L-dopa in their diets had life-spans that were prolonged by up to 50 percent.

However, scientists say that much more work must be done before it can be learned whether this effect has any validity in humans.

Dr. Cotzias was a member of the National Academy of Sciences and other professional organizations. He received the Albert Lasker award for clinical medical research in 1969 and was honored by the American College of Physicians in 1974.

He is survived by his wife, Betty, a son, Constantin, a sister, Mrs. G. N. Drakopoulos, and a brother, Peter.

U.S. POLICY TOWARD SOUTHERN AFRICA

Mr. HARRY F. BYRD, JR. Mr. President, the southern African region is undergoing a period of rapid change.

The pressures for change are likely to continue and the United States must formulate a policy to accommodate these pressures and hopefully to encourage peaceful rather than violent change.

George W. Ball, former Undersecretary of State under Presidents Kennedy and Johnson has written an excellent article on the subject of U.S. policy toward South Africa.

This thought-provoking piece appeared in the October issue of the Atlantic Monthly magazine and I commend it to my colleagues.

I ask unanimous consent that the text of this article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

ASKING FOR TROUBLE IN SOUTH AFRICA

(By George W. Ball)

Johannesburg, South Africa, is not Birmingham, Alabama, and the practical lessons of the civil rights movement in the United States do not necessarily apply to a society of monolithic racism. So argues the author, who feels that current U.S. policy must take into account some intransigent aspects of South African society. Mr. Ball's essay is followed on page 51 by a firsthand description of the facts of life under apartheid, from a South African journalist.

So long as the white redoubt of southern Africa held firm, South Africa presented no pressing problems for American policy. But when Portugal abruptly liquidated its empire, and Africans took over in Angola and Mozambique, the frozen pattern of the past was clearly disintegrating. Now, once Rhodesia and Namibia pass under black control, pressures for change in South Africa will intensify far faster than most of us had ever thought possible.

Because majority rule seems inevitable for Rhodesia, the Carter Administration is apparently determined that it shall be achieved in South Africa as well. The objective consistently affirmed by our Vice President, our secretary of state, and our ambassador to the United Nations is "full political participation by all South Africans." That is an adequately ambiguous formulation—or was, until the Vice President provided a precise translation. The phrase "full political participation" is, he told the press, the same thing as "one man, one vote"; for South Africa, it means "every citizen shall have the right to vote and every vote should be equally weighed."

Whether this was a considered statement of policy, or merely the extemporizing of a politician engaged in on-the-job training in diplomacy, it created dismay in South Africa, confounding liberal opinion and strengthening the arguments of the obscurantists.

In an effort to mitigate the damage, Secretary of State Vance said in a speech to the NAACP that "the specific form of government through which that [full political] participation could be expressed is a matter for the whole people of South Africa to decide." Hodding Carter III, the State Department spokesman, added, in an admirable effort at obfuscation, that "to focus on 'one man, one vote' exclusively simply distorts the meaning of our policy and intentions." The United States, he said, has "neither a timetable nor set-in-concrete proposals for what South Africa should do today, tomorrow, a week from now, or ever." But, "We clearly do believe South Africa has got to move toward a fully democratic system."

By submerging the issue in bearnaise sauce, the professionals thus tried to obscure the Vice President's excessive language. The United States, they made clear, recognized the necessary role of gradualism in South Africa's progress toward a wider suffrage, and while we expected South Africa to move toward majority rule (which the whites regard as a dead-end policy), we would leave it to the South African people to decide how that could be managed. Though this may have helped to restore American influence, it left American policy still fixed on an objective that depended in realistic terms on the blacks' winning a civil war through the active intervention of a great power. To commit ourselves, explicitly or implicitly, to such a disruptive scenario could hardly serve our national interest.

Before any false inferences are drawn, let me state unequivocally that in questioning the tactical wisdom of America's advocacy of majority rule for South Africa, I am not defending the prevailing system. In my view, no one sensitive to the humane traditions of the West can possibly condone the obscene practices of South African whites in their treatment of nonwhites currently subsumed under the broad rubric of apartheid. Those practices have no place in the life of a civilized nation, and they should be radically altered.

Most of them are not of long standing: indeed, until shortly after World War II, South Africa seemed to be moving toward a workable multiracial state through peaceful means. During most of the period up to that time, English-speaking South Africans had largely controlled the government, just as they controlled a substantial part of the economy and dominated the nation's cultural and social life. On the whole, they appeared to view South Africa as a country big enough to accommodate the various groups within its territories, and also as one capabale of playing a role on a larger stage as a part of the British Commonwealth. Dutch-speaking South Africans (Afrikaners), on the other hand, conditioned by an isolated rural background, saw their country in the narrower and more inward-looking terms of Afrikaner nationalism.

Within the English-speaking element were many men and women whose liberal idealism happily coincided with their political interests in their continuing struggle for power with Afrikaners. Because English-speaking South Africans are outnumbered by the Afrikaners, they have long seen the political advantage of giving voting rights at least to the coloreds (mixed descent) and to a limited number of blacks (less than enough to create a nonwhite majority). By the same token, in order to make their numerical majority effective, the Afrikaners have sought to limit the franchise strictly to whites.

A case in point is the Cape Province, where, beginning as early as 1856, blacks, coloreds, and whites who could meet common economic and educational qualifications were maintained on common voting rolls and voted on an equal basis. But in 1936, the Afrikaners pushed through a constitutional amendment that took the Cape blacks off the common rolls; twenty years later they succeeded in disenfranchising the coloreds as well.

The critical shift in the South African power balance occurred in 1948, when the National party, representing the Afrikaners, unexpectedly defeated the United party, which largely reflected the English-speaking element; in almost every election since then the National party has increased its majority. Since the Afrikaners are growing faster demographically than English-speaking South Africans, they are thus assured control so long as the voting franchise is limited to whites.

No doubt that partially explains the Afrikaners' interest in apartheid. In pursuing a strategy of denying blacks any role in national life, they have canceled South African citizenship for both blacks and coloreds, assigning the blacks to native reserves where the different tribes can be kept segregated from one another so as to frustrate the development of a sense of black nationalism. Meanwhile, white moderates have succumbed to the classical weakness of liberals; though they all recognize their country's lamentable predicament, they cannot agree on a solution. But what all whites do agree on—English-speaking moderates and hard-nosed Afrikaners alike—is that they will not

accept the formula of "one man, one vote" which our own government now seems to be demanding.

The inability of our new political leaders to face the realities of the South African scene suggests an ethnocentricity derived more from inexperience than from presumption. Many Americans—preeminently UN Ambassador Andrew Young—appear to believe that South Africa can transform itself into a happy multiracial state by applying the lessons of our civil rights movement. But that movement sought only to make effective the voting franchise and other rights accorded to American blacks by our Constitution and laws; its success resulted not merely because the judiciary took a strong line but because large elements in the white population—particularly those who lived in areas of the country with few black inhabitants—were ready to redress an old injustice.

Unfortunately, South Africa is not the American South of the 1960s, or even of the 1860s; its problems are of a special kind. Even the most rabid northern abolitionists did not threaten white southerners with the total transfer of political control to the blacks—which is what "one man, one vote" would mean in South Africa, where the blacks (together with the coloreds and Asiatics) outnumber whites four to one. To be sure, in three states—South Carolina, Mississippi, and Louisiana—blacks were a majority in the early 1860s, but, even had they been given effective suffrage, the white-controlled federal government would still have made sure that white interests were protected and that a majority continued to order the country's destiny.

Yet, in spite of all this, a Civil War was required to achieve merely the principle—emphatically not the practice—of "one man, one vote," and except for the aberrations that characterized the "Reconstruction Era, blacks did not begin to share political power for another hundred years. By then, tidal waves of migration to the North had eliminated majorities in every state of the union, so that today no state has a black population that exceeds 37 percent. Thus, the civil rights movement of the 1960s encountered less resistance than would have been the case earlier, since the white-controlled statehouses could restrict the power of any local black officials who might be elected.

Just as we should not derive a false lesson from our own national experience, we should not think of South Africans as though they were white settlers in a colonial situation. Inasmuch as the Dutch landed in South Africa in 1652, thirty-two years after the Pilgrims landed at Plymouth Rock—and well before the black tribes now in the area came down from the north—the claim of the fourteenth generation of Afrikaners to the territory of South Africa is as legitimate as the claim of Americans to the soil of New England. The Afrikaners are not colons with the option of returning home to some European metropole. They have no metropole. South Africa is their fatherland. They fought for their independence in the Boer War and they will not give up self-rule without a last-ditch struggle—a position sanctified by the stern doctrines of the Dutch Reformed Church.

That sharply distinguishes South Africa from the rest of the continent. No black African country has achieved its independence solely—or even mostly—by its own efforts; it has been awarded independence by a colonial power's decision to write off a wasting asset that was becoming too expensive to retain. But the Afrikaners will never give away control of their country to the nonwhites out of weariness or the logic of cost-effectiveness; they will die first.

If South Africa is not a colony, neither is it comparable to Rhodesia; there the ratio of blacks to whites is 20 to 1 (against 4 to 1 in South Africa), and whites number only 250,000 (instead of 4.5 million). Since a considerable proportion of white Rhodesian families have come there since World War II, primarily from Great Britain, they have a homeland to which they can return. So, when majority rule transfers political power to the blacks, a large number of whites will no doubt leave, particularly if—as seems likely—a protracted stalemate stimulates a bloody power struggle among contending black factions in which white Rhodesians would be casualties.

Obviously, such a struggle should be avoided in South Africa, and Ambassador Young deserves credit for risking his popularity during his meeting with the blacks in South Africa by urging them to see their objective of majority rule through nonviolence,[1] recounting how effectively leaders of the civil rights movement used the engine of economic boycott in Birmingham, Alabama. But what will happen when nonviolence fails to yield results? Without active assistance from a major power, the blacks will have no weapons but riots, which harm blacks more than whites, boycotts, general strikes brutally enforced by terrorist threats from their own extremist leaders and just as brutally broken up by government reprisals—then, in desperation, sporadic guerrilla action in a land poorly suited for that type of warfare.

Guerrilla fighters cannot prevail against the government's monopoly of military power. Its rigorously trained forces, equipped with modern weapons, total 48,000, and, with its reserves constantly replenished through compulsory military training, it could, in an emergency, mobilize 200,000 men in a few hours.

Countries such as South Africa and Israel that grimly contemplate what they interpret as either an Armageddon or a Masada are fascinated by the absolute weapon. South Africa has apparently traded uranium with Israel for nuclear assistance, at least for peaceful uses. (The United States has also supplied enriched uranium to South Africa for experimental purposes, but, Soviet accusations to the contrary, has gotten back all of it.) Nonetheless, the South Africans have probably produced enough plutonium for at least one bomb. They emphatically deny that they intend to build or test a nuclear bomb "now or in the future." Still, the capability and temptation are there, so the possibility cannot be dismissed entirely.

While it would create a fierce uproar throughout the Third World, the development of a South African nuclear bomb would not hold the same terrors for Africans that Israel's purported nuclear weapon holds for the Arabs. Not only could an Israeli bomb play havoc with a conventional attack, but the great Arab cities are open and vulnerable targets. A South African bomb, on the other hand, would be of little use against guerrillas. Even the possibility of a South African nuclear capability adds one more imponderable to be factored into American diplomacy. To accept Pretoria's promise of atomic restraint in return for diminishing our pressure on its racial or political policies would be to yield to nuclear blackmail. Thus we are reduced to threats, expressed or implied, to halt the flow of enriched uranium for South Africa's experimental reactor and to support UN efforts to impose mandatory military and economic sanctions.

Such threats would have only limited persuasive value, and refusing to sell military equipment to South Africa can have little effect. It is, after all, self-sufficient in the production of small arms, and the French government, in spite of its antinuclear position, can probably be counted on not to halt its conventional arms shipments to that country. Nor will we, by economic or political excommunication, persuade white South Africans to accept majority rule. Nonwhites would suffer most from the unemployment caused by our sanctions, and recession would sour the climate for constructive action.

To throttle the effectiveness of our own companies by forbidding further American investment would merely nullify a helpful influence. That they have upgraded the pay and working conditions of their black employees is well understood by sophisticated black American leaders. For example, Vernon Jordan, executive director of the National Urban League, stated on returning from a recent trip to South Africa that he had visited extensively with black leaders there, and that "to a person they were firm in their conviction that American corporations should not withdraw."

Ambassador Young has also explicitly recognized that unfocused economic sanctions against South Africa would only intensify an already nascent siege psychology, while forcing even liberal South Africans to support their government against a common enemy. After all, South Africa has become an anachronistic practitioner of extreme racial bigotry, largely because of the Afrikaners' historic isolation. Pushed into the interior of the country by British pressure, marooned outside the mainstream of evolving Western thought, and with only meager communication with the rest of the world, the Afrikaners were little touched by the liberalizing currents of the eighteenth and nineteenth centuries. Our object, therefore, should be not to isolate them further but to bring them into harmony with the twentieth century and the prevailing social values and concepts that are espoused by other noncommunist democratic nations.

It seems curious that academics who customarily dissect all topically fashionable subjects have given so little serious attention to the ineffectiveness of economic denial in persuading governments to accept benign change. Nor has much note been taken of the puzzling paradox in the orthodox liberal view that America should expand trade with the Soviet Union so as to expose the Russian people to the sweet breath of liberalism, while hermetically sealing off South Africa to promote the same liberalism. Is it possible that some who advance those inconsistent positions are interested less in reforming Pretoria than in gaining approbation at home—or in experiencing the warm glow that comes from both righteousness and the *schadenfreude* derived from Afrikaner discomfiture?

No special prescience is required to foresee that our continued harping on the principle of "one man, one vote" is bound to encourage the hopes and ambitions of nonwhites and increase their discontent with their current state. Yet, if our economic, social, and political sanctions do not produce the majority rule we have promised, and South Africa is caught up in a desperately unequal guerrilla struggle, what help will we provide? Will we furnish the insurgents with weapons to use in killing the white population? Although some American blacks might urge this course, who can believe that Congress would support it? Will we permit volunteers to go to the aid of South African blacks or whites in the pattern of the Abraham Lincoln Brigade

[1] There was one well-noticed exception. At the offices of the United States Information Agency, in a meeting consisting mostly of blacks, Ambassador Young is reported to have responded to an emotional occasion by condoning, and even encouraging, the use of violence to establish black majority government as soon as possible. Even had that incident not occurred, how would we react if the South African ambassador were to harangue the Chincanos of California to use their boycott against our federal government?

in the Spanish Civil War? (Andrew Young predicts that the participation of American volunteers on the white side could result in white-black clashes in the United States.) Finally, will we intervene militarily to overthrow the current repressive South African government? Against the background of our Vietnam disillusionment, what could be more unlikely? Yet if, having encouraged insurrection by talk of "one man, one vote," we then refuse assistance, how will we justify that to American blacks? Will not the implication of hypocrisy make us an easy target for the demagogues of the Third World and the propagandists of the Kremlin? "America is a nation of racists," they will say, "Quod erat demonstrandum."

Not only would the communists jeer at us, but they would probably provide the aid we were withholding. The Soviet Union (directly or through surrogates such as the Cubans), or even China, could greatly enhance its standing throughout the Third World by helping the embattled blacks—which would enormously intensify the Cold War condiment in the already overspiced South African stew.

The prospect of Soviet involvement is, of course, a central propaganda theme of the Vorster government. At the same time, a loud chorus of naval hawks is proclaiming that, by controlling Africa's southern tip, the Soviets could acquire bases for missile-carrying submarines in the Indian Ocean and could menace the tanker lanes from the Arabian Gulf. Such forebodings seem overdrawn. Not only does open water extend southward from the Cape of Good Hope for 1000 miles, but warnings of damnation based on sea power and shipping lanes seem strangely out-of-date. The doctrines of Admiral Mahan were a casualty of the mushroom cloud over Hiroshima; they have little meaning in a world of nuclear superpowers. Any Soviet effort to block the flow of oil to Western Europe would inevitably precipitate an East-West collision to be resolved by either diplomacy or mutual destruction.

Yet, even though geopolitical alarmists have exaggerated the dangers, we could be seriously embarrassed by Soviet intervention in a South African civil war. With the Soviets supporting black liberation, our efforts to thwart their imperialistic ambitions would put us on the side of white supremacy—thus poisoning our relations with other African states and alienating our own black population.

The lesson from all this is simple enough. Our ability to influence the policies of the South African government will depend on the objectives we seek to achieve. Diplomacy, like politics, is the art of the possible; and if we use our leverage toward an unachievable end, we will create a mess. By stirring the blacks to insurrection, while driving the Afrikaners into fierce resistance to any change whatever, we will unleash a resistible force against an immovable body—and the breakage could be frightful.

Yet, if we should not waste our fire on an unattainable objective, what should we seek to achieve?

In terms of strategic priorities, our interests in South Africa—or even in the whole of Africa—must be ranked far down the scale. What may happen in Europe or the Middle East or Japan or even in nearby Latin America (which will contain 600 million people by the end of the century) could pose far more of a threat to far larger American interests than developments in the southern tip of the African continent. So we should not permit the pressures of our domestic politics to engage us too deeply in that area's agonies.

That does not mean, however, that we can, or should, turn our back on South Africa, or regard our potential to influence events as in any sense negligible. That South Africans are almost obsessively sensitive to America's power and opinion is apparent from the amount of space their press devotes to the banal utterances of the most obscure congressmen in Washington. Thus, we can, without doubt, exercise a benign influence, provided we use our leverage to promote an objective white South Africans do not equate with the destruction of their whole society.

Of course, we should continue to make clear that we regard the South African government's current racial policies as repugnant to the standards of civilized behavior. The Carter Administration has made a central issue of human rights, and South Africa wantonly violates the human rights of nonwhites.

Human rights, however, consist of a whole bundle of liberties and privileges, of which the right to vote is only one—nor in practical terms is it always the most important. To confer unqualified suffrage on the nonwhites would assure black domination, but it would—if experience in other parts of Africa is any guide—by no means assure democratic rule.

Democracy is the most intricate and cumbersome of political systems, and the minimal prerequisite for its effective operation is the existence of an adequate cadre of educated elite. One of the least forgivable sins of the South Africans is that the literacy rate among blacks is only 55 percent, and that no more than a handful of blacks have been allowed to advance educationally beyond the rudimentary level. Indeed, blacks seem to have been discouraged from attaining the advanced educations that might help play effective roles in government.

Here is where America's leverage could be most tellingly applied. While pushing the South African government to get rid of the noisome garbage of "petty apartheid" (that vast array of demeaning and often mindlessly vindictive restrictions imposed on nonwhites), we should put special stress on adequate education for the blacks, coloreds, and Asians—education to prepare the younger generation for an expanding political role. South African whites should not be allowed to justify their bloody-mindedness by contending that blacks are unequipped for political responsibilities when they have been systematically kept that way. So long as Afrikaners insist that development be really separate, we should insist that it be really equal.

Attacking "petty apartheid" means, for example, pressing for the elimination of the pass laws, which now prevent blacks from traveling without specific permission. It means seeking the abolition of those rules which prevent blacks from improving their economic lot—such as pay discrimination and the regulations that reserve skilled jobs to white workers and deny blacks the right to positions involving authority over whites. It means bringing an end to the harsh decree that denies South African citizenship to blacks who live in white urban communities and that insists that whether they like it or not, they are citizens of Bantustans (homelands) that they may never have seen. It means securing the repeal of the laws which restrict blacks from owning freehold property.

Today, partly in response to the pressure of opinion from the United States and other countries, members of the South African government are, for the first time, actively discussing the abrogation of some of the more repellent measures. The government apparently has approved a constitutional reorganization that would give Asians and so-called coloreds—but not the black majority—some degree of political participation. Both the minister of agriculture and the foreign minister have called for the repeal of the draconian miscegenation laws—the Mixed Marriages Act and the Immorality Act. Moreover, the agricultural minister, reflecting the moderate elements in the ruling National party, has urged not only the acceptance of mixed sports at the national level but also the consolidation of the nine Bantustans. In a hypercharged political environment two steps forward are likely to be offset by one step backward, and it is not surprising that on August 5 Prime Minister Vorster felt compelled by the exigencies of domestic politics to react to American pressure with a bleat of outrage and bristling resistance. But that should not be taken as more than fodder for the hometown newspapers.

As might be expected, the more conservative members of the National party (the so-called *"Verkrampte,"* which can be freely translated as "hardcore") fear that eliminating some of the odious features of "petty apartheid" will lead to unpredictable pressures and counterpressures. Permitting blacks to move freely about the country or whites to marry or have sexual relations with nonwhites would, they are convinced, undermine the whole structure of apartheid as it is currently conceived—and they may well be right. The philosophy of apartheid has called for a rigid segregation of whites from nonwhites, with the separate communities preserving their strict identities and developing their own ethos. In a sense, the system is all one garment; take out one or two threads, and it may come apart at the seams.

In addition, South African leaders are fully aware that the country cannot undertake vast social changes without putting severe strains on the economy. Any significant improvement in the lot of blacks will require what are, by South African standards, huge public expenditures, yet South Africa's economic growth rate is already slowing down. Up to this time, South African prosperity has depended to a large extent on the availability of extremely low-cost, though largely unskilled, labor. Thus, any measures to raise nonwhite wages toward the white level will, by increasing production costs, reduce the competitiveness of South African goods in world markets.

Compounding all these problems is the projected increase in South Africa's black population—in the reserves it is now growing at an appallingly rapid rate, roughly twice that for blacks in the cities. Since the white birthrate has more or less stabilized at a much lower figure, the ratio of blacks to whites is destined to become progressively more awkward in the next two or three decades.

Whatever they do or decline to do, white South Africans face a dubious future. If the government stands flat-footed and immobile, the country will lose the respect of the civilized nations of the world, and its own more thoughtful citizens—particularly the young—will be driven into shame and despairing bitterness; on the other hand, a gradual improvement of the lot of the nonwhites is unlikely to bring increased tranquility. Under prodding from other nations, but more significantly from the moderate elements in its own society, South African leaders will undoubtedly move toward the progressive dismantling of "petty apartheid"; yet if they follow the pattern of other politicians in comparable situations, they will react too slowly and grudgingly, unwilling to recognize that whites must give up many of their accustomed amenities and advantages if they are to save their nation from chaos. "Après moi, déluge!" Let the next generation wrestle with the problem.

But if South African whites will probably concede too little too late, nonwhites will be likely to demand too much too soon. An axiom of history holds that revolutions rarely begin when people are suffering their maximum repression; greatest ferment occurs when repression is being relaxed, for then the aroused expectations of the oppressed invari-

bly rise faster than the speed of relaxation. Thus, every liberalizing measure will likely inspire nonwhite leaders to increase their demands for more speedly progress toward the ultimate goal of black majority rule, which to the intellectuals of the black resistance means black political domination. At the same time, those pressures will receive powerful reinforcement as blacks take control in Rhodesia and Namibia.

If we do not wish to contribute to a disastrous denouement, we must avoid behaving with the excessive zeal of the late convert. After all, only in the past two decades has America made a serious national effort to bring its own black population into "full participation" in the political life of the country, and we are far from completing that process. We are both premature and presumptuous in proclaiming to the world all we have accomplished and demanding smugly that other governments do likewise, when the problems facing those other governments are a hundred times more difficult than those with which we have falteringly dealt.

The beginning of understanding of South Africa is the recognition that white South Africans are lost in a maze. Although many have pondered the puzzle for years, no one has evolved a formula adequate to enable the whites to meet the legitimate political aspirations of the nonwhites while retaining control of their own destiny and assuring the protection of their persons and property. The constants in the formula impose a constricting logic. With a population mix of 70 percent blacks, 9 percent coloreds, and 3 percent Asiatics (all collectively classed as nonwhites), as against only 17 percent whites, a solution that will reassure the whites is next to impossible to find, at least within the context of a multiracial state.

To be sure, a number of formulas have been suggested, ranging from some form of cantonal arrangement (in which each scattered racial community would have at least limited responsibility for its local affairs and some representation in the national parliament) to partition; from some form of federation or confederation to integration with a qualified franchise.

Although much can be said for our abstaining from involvement in the search for a solution, the passions stirred among American blacks by the current faddish emphasis on ethnicity may already be too strong to permit such a sensible position. Thus, even though we can only marginally influence the political structure of South Africa, we may feel compelled to indicate—at least quietly to the South African government—what, short of majority rule, we might be prepared to support.

We will only confuse the situation if we try mindlessly to transfer our own concepts, prejudices, and nomenclature to a situation that is anything but comparable, for nothing in Holy Writ says that South Africans must slavishly follow the pattern we have evolved in our own country. Thus, although the concept of "separate but equal" has acquired a bad name in the United States, we should not arbitrarily reject the possibility that South Africa might at least mitigate its problems through some variation on the theme of separate development. To the extent that apartheid originally meant nothing more than separate development, it offered promise; it was discredited only because of the parsimonious way it was carried out and because of the humiliations and indignities associated with it. For the black population living in tribal settlements to be given their own land which they might govern as they liked would, as an abstract proposition, seem consistent with libertarian principles in being roughly equivalent to decolonialization. But that would require that the lands allotted be fertile and accessible and of sufficient magnitude to amount to a parceling out of the wealth of the country on something approaching an equitable basis.

That concept was far too generous for the Afrikaners who turned a promising idea into a travesty with their derisory Bantustan program. How absurd to believe, on the face of it, that the interests of nonwhites, who constitute more than 80 percent of the population, could be satisfied by turning over to them only 13 percent (originally 6 percent) of the land, particularly when the land allotted was scattered over 110 enclaves (which will ultimately be consolidated into thirty-six).

Nevertheless, we should not—as Washington appears to be doing—dismiss out of hand a more generous and humane application of the principle of separate territories, even though it might—initially at least—meet with little enthusiasm among either blacks or whites. A possible solution might combine the elements of separate territories with the conferring of South African citizenship and a progressively expanding franchise on the black population in the areas where it must continue to coexist with the white.

For example, blacks might be given an equitable share of the land area of South Africa to rule as they chose, which would mean assigning them some lands now held by white farmers and even some towns and mineral areas. To achieve this, the present and projected Bantustans would have to be merged into a very much larger territory that would be all of a piece or consist of not more than two large pieces. If the citizens of the new territory opted for it, this could result in partition and creation of one more black African republic (which, in practice, would probably mean a strong-man government). Or they might, instead, choose some loose confederal arrangement with South Africa.

Admittedly, because of the dramatically rapid population growth among blacks now in the Bantustans, even a large volume of economic aid from outside would not assure the new entity a spacious future, but living standards should at least keep pace with most other black African countries. Nor would partition by itself meet the needs of blacks who today work in white industry in the cities or on the white farms retained in South Africa. Those blacks who elected to remain should be given the individual option of homeland citizenship or South African citizenship with no discrimination. To be sure, urban blacks, together with the coloreds and Asians, who chose South African citizenship would still outnumber the whites, but, since the ratio would be less overwhelming, the situation would be more easily manageable. Moreover, an abrupt and disruptive transfer of power could be avoided by limiting the franchise to those citizens—whether blacks, coloreds, Asians, or whites—who met standards based on educational achievement or wealth or some combination of the two.

A settlement along the lines of these general principles would be hard for either whites or blacks to accept. Neither group wants partition. White Afrikaners who control the present South African government wish to keep a tight hold on their country—except for the exiguous territories now assigned to the Bantustans—while the more militant blacks are ambitious to take over the state.

Yet even the most intransigent whites would, faced with the choice, almost certainly prefer partition and a qualified franchise for urban blacks to the outright transfer of power through unqualified black suffrage, while these suggested measures might go far to meet the blacks' legitimate demands.

All this, of course, is theory, not a prediction as to the probable course of events, and there is likely to be little resemblance between a drawing-board solution designed to meet the minimal requirements of both sides and what will actually evolve. Although we should concentrate our own efforts on encouraging peaceful change, we would be foolhardy to base American policy on the assumption that it will be achieved. Once Rhodesia and Namibia are under black control, demands for a similar transfer of power in South Africa will mount with speed and momentum beyond the current expectations of either side. Thus, both are caught up in a process that holds more promise for disaster than for peace.

What, then, should be United States policy? Showing sympathy for the blacks and sensitivity to the problems of the whites, we should quietly urge the prompt elimination of "petty apartheid" and the progressive correction of more fundamental abuses, with particular emphasis on the appalling inequality in education—without insisting on any precise political goals. That is the best way to retain the confidence of both sides, leaving us in position to play a mediating role, if that should appear useful as the situation grows increasingly tense and ugly.

Above all, we should avoid a display of moral superiority. No matter how much we abominate the excesses of apartheid, we are not—nor should we become—the ally of any particular South African race, group, or fraction. While trying to maintain sufficient sustained movement to contain the pressures for a violent solution, we should not commit ourselves so firmly to the extreme demands of the blacks that we lead them to expect, in any forthcoming armed struggle, assistance we are not likely to provide. Meanwhile, our best chance to discourage any adventures by the Soviets, the Chinese, or their surrogates is for us to hold firm to the thesis that this is a South African problem which the peoples of South Africa must settle in their own way.

We can maintain such a position only if we reject the temptation to put South African policy at the service of our domestic politics. This is no time for flamboyance or moral blustering, but for that quiet, carefully conceived, consistently articulated, arm's-length diplomacy which is the essence of statesmanship.

The Carter Administration is obviously well motivated and, with increasing moderation in its rhetoric, it is gaining a more sober view of the problem. Now, if it would only ground Air Force One and its other executive jets for an extended period, so that the authors of our foreign policy might have time to translate their enthusiasm into a well-formulated position consistent with our broader strategy, America might play a useful role in helping the diverse peoples of South Africa make the hazardous passage to a mutually respectful relationship.

Such self-discipline is, of course, hard to achieve during the shakedown cruise of a new Administration, when hitherto chair-borne mariners are just growing familiar with the controls of the ship of state and are still exhilarated by the dramatic results they can achieve by pushing the levers. But it is essential if we are to be helpful and not mischievous. No one this side of the Iron Curtain wants a military crisis in South Africa; that is the last thing we need.

DOMESTIC VIOLENCE PREVENTION AND TREATMENT ACT

Mr. ANDERSON. Mr. President, on June 21, Senator KENNEDY joined me in introducing S. 1728, the Domestic Violence Prevention and Treatment Act, which would establish demonstration programs within the National Institute of Mental Health aimed at preventing and treating the serious problem of wife

abuse. Recent studies have indicated that some 28 million wives—more than half of the Nation's married women—suffer abuse ranging from slaps to severe battering, and over 4 million women experience extreme violence.

Although programs for shelter and assistance do exist, they are few and are pitifully underfunded. Fortunately public and community awareness of this tragic problem is growing daily, and I have been very gratified by the enormous support S. 1728 has generated. I would like to share with my colleagues a letter I received from the archbishop of St. Paul and Minneapolis supporting the provisions of the bill. I ask unanimous consent that it be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

SAINT PAUL, MINN.,
September 29, 1977.

Hon. WENDELL ANDERSON,
U.S. Senator, Russell Senate Office Building, Washington, D.C.

DEAR SENATOR ANDERSON: I would be grateful for any influence you might have on proposed legislation S-1728, a bill to authorize the Secretary of Health, Education and Welfare to establish a grant program designed to develop methods of prevention and treatment relating to domestic violence.

Recent studies reveal some alarming statistics:

"Nearly two million American couples have used a lethal weapon on one another during their marriage.

"Police records show that over a fourth of all murders occur between spouses.

"The F.B.I. estimates that the number of spouse beatings is one every minute."

Although some important efforts have been made to address this problem on a city and state level in Minnesota, it is clear that existing programs are inadequate when viewed in relationship to the problem. S-1728 would coordinate Federal, State and Local efforts to prevent, identify, and treat this problem.

This whole matter has been brought to my attention by the Housing Information Office of the City of Saint Paul. I am much impressed by their concern for this critical social problem and by the kind of documentation presented in Congressional Record, Volume 123, No. 107. Anything which can be done to eliminate this blight from our society would be great. It seems to me that Senate Bill S-1728 is a strong step in that direction.

Sincerely yours in Christ,
The Most Reverend
JOHN R. ROACH, D.D.,
Archbishop of Saint Paul and Minneapolis.

SWITCH IN PANAMA CANAL POSITION OF U.S. SHIPPING

Mr. THURMOND. Mr. President, almost unnoticed in the Panama Canal debate has been the switch from a position of "yes" to a position of "no" on the Panama Canal Treaty by the influential Liner Council of the American Institute of Merchant Shipping.

Mr. W. J. Amoss, Jr., a chairman of the council and president of Lykes Brothers Steamship Co., stated recently the proposed increased toll costs embodied by the treaty spell "sheer disaster for operators east of the canal." He is speaking of trade from Eastern seaboard States such as New England States, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North and South Carolina, Georgia, and Florida.

Mr. Amoss explained that the higher toll costs envisioned to support payments to Panama would result in diversion of some shipping with the ultimate costs being passed on to the American consumer.

He stated that shippers simply could not handle another 25 percent increase in canal tolls on top of the 45-percent increases added in the past 3 years.

Mr. President, this is an important statement and deserves attention by the Congress. I ask unanimous consent that an article entitled "Canal Toll Plan Sours Lykes Chief" which appeared in the September 20, 1977, issue of the Journal of Commerce be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

CANAL TOLL PLAN SOURS LYKES CHIEF—SUPPORT FOR PACT DROPPED BECAUSE OF TOLL INCREASE

(By Anita Schrodt)

NEW ORLEANS.—A major U.S. steamship official has withdrawn his earlier endorsement of the new Panama Canal Treaty and is now opposing it after learning a 25 to 30 per cent toll increase is expected to be imposed immediately under the new treaty. W. J. Amoss, Jr., president of Lykes Bros. Steamship Co. here, expressed his opposition to the treaty at a meeting here recently with Deputy Undersecretary of Commerce Anne Wexler. "I told her she could expect massive commercial resistance to passing the cost of diplomacy to canal users," Mr. Amoss told The Journal of Commerce.

Mr. Amoss made it clear he spoke not only as Lykes president but also as chairman of the Liner Council of the American Institute of Merchant Shipping and as chairman of the new Council for American-Flag Shipping (CASO), which the AIMS Liner Council is forming independently.

Last Tuesday, based on an AIMS study which projected the treaty could be implemented without increasing canal tolls, Mr. Amoss publicly expressed his support of the treaty. However, upon receiving new communication from AIMS' Washington staff on Wednesday, Mr. Amoss reassessed his position.

COULD BE TOLERATED

"We have learned that negotiators, using as a basis a 1969 study by Stanford Research, informed the governor of the Panama Canal Co. that an immediate toll rate increase of 25 per cent could be tolerated and would be invoked as soon as the new Panama Canal Commission contemplated by the treaty was established, Mr. Amoss said. Further, the letter from AIMS President James Reynolds also informed Mr. Amoss of Sept. 8 testimony before the House International Relations Committee by Sol Linowitz, one of the treaty negotiators, that an increase of 25 to 30 per cent in tolls would probably be necessary to meet the costs of the new treaty.

"Commercial interests that use the canal, having already had a 45 percent increase in tolls in the last three years, topped off with rearrangements of methods of billing that resulted in further increases, simply cannot accept another increase in tolls," he said.

RECENT DEVELOPMENT

"The projection that another increase could be tolerated completely ignored recent developments brought by intermodalism and mini-landbridge," Mr. Amoss said, pointing out cargo now has an alternative route. "I told her it spelled sheer disaster for operators east of the canal and going westbound through the canal," he said, adding that "commercial interests would oppose adoption of the treaty if it would mean an increase in tolls to implement it."

The treaty requires 30 cents on the dollar per canal net ton (with the current rate at $1.29 per canal net ton) be paid to Panama; that $10 million annual for services go to Panama and another $10 million annually go to the Canal Commission. Further, once those payments and the operating costs of the canal company are deducted, any excess yields in tolls up to $10 million are to be paid to Panama annually.

TWO VITAL FACTORS

Mr. Amoss said the AIMS study upon which he based his original support of the treaty could only guess at two vital factors—the operating costs of the canal company and the impact of Alaskan oil ships transitting the canal. "Apparently, the negotiators were more informed on these issues," he said. Lykes has already found it cheaper to divert three ships this year on their outbound New Orleans-Singapore voyage from the traditional canal transit to the Suez Canal and around Cape Horn.

According to Mr. Amoss, the New Orleans-Singapore run via Panama totals 11,933 miles; via Suez, 11,517 miles; and via the Cape of Good Hope, 12,921 miles, or about 2 and one-quarter days longer than through Panama.

"The only drawback to the Suez is the war risk insurance feature, which is an additional expense. But it still turned out to cheaper," Mr. Amoss said. "Such a diversion away from the canal is not yet economically feasible on Far East runs which include northern ports such as Hong Kong or Tokyo," he said.

114 TRANSITS

Last year, Lykes made 114 transits through the Panama Canal. Currently, it is costing Lykes about $14,500 one-way through the canal with its Gulf Pacer class ships which serve the Far East trade. Mr. Amoss projected the cost for a one-way transit for a barge-carrying Seabee, comparable in size to a LASH barge ship or containership, would be about $30,000.

Panama Canal tolls went up 19.5 per cent in 1974 and another 19.7 per cent in 1976. In addition, in 1974, additional ship space was judged to be susceptible to per-ton revenues. According to Mr. Amoss, that increase represented about a 5 per cent increase in tolls. "If you put it all together, the increase really comes to a total 52 per cent right now, compared to 1973," he said.

"The Panama Canal net ton is a space measurement approximately equal to about 100 cubic feet of enclosed ship space," he added.

Also at the meeting with Ms. Wexler Friday were Capt. J. W. Clark, president of Delta Steamship Co.; Edward S. Reed, director of the Port of New Orleans; C. M. Keeney, president of Equitable Shipyards (which moves its products through the canal); Charles Richardson, vice president of the Marine Engineers Beneficial Association in the Gulf; and C. Buck Hammond, president of Unit Rig Inc. of Tulsa, manufacturer of mining machinery.

COMMERCIAL ASPECTS

"We all expressed our concern about the commercial aspects of increasing tolls and said we hoped some arrangement could be made whereby there would not be a toll increase," Capt. Clark told The Journal of Commerce.

Although Delta does not presently transit the canal, it has in the past and is presently negotiating to purchase Prudential Lines' U.S. West Coast-South American service

which does use the canal. Mr. Reed, who said the board of commissioners of the port would formally consider the treaty at a meeting Thursday, said he was concerned that the treaty contained no indication of controls over rates and charges of the canal.

Noting that much of the U.S. grain is exported through the New Orleans area and much through the canal, with competitive pricing, he added: "Since grain exports are the U.S.'s best source of balance of payments loans, I think it is incumbent upon the Federal Government to closely scrutinize the possible effects of canal toll increases on the farm commodities exported from the U.S."

JAMES ABOUREZK—A PROFILE IN COURAGE

Mr. McGOVERN. Mr. President, my distinguished colleague and friend, JIM ABOUREZK, has in the last 2 weeks had his finest hour in this Chamber. Though his time of service in this body has been relatively short, the courage of his performance in making the American public aware of the possibly disastrous results of deregulation of natural gas prices will not be short-lived in the memories of present Members of the Senate or, for that matter, the memories of the constituents who sent him to the U.S. Senate or those millions of Americans outside of South Dakota for whom he carried a symbolic torch.

In the reception room of the Senate hang portraits of Senators who stood on their convictions regardless of the political consequences and oftentimes under the cold eye of their peers. In many instances the banners they carried were for losing causes. John Kennedy left for us their legacies in his brilliant book "Profiles in Courage." To JIM ABOUREZK, I say that as future generations assess your valiant efforts on one of the great issues of our times," You have offered us another "profile in courage."

I also want to remind Senators that JIM ABOUREZK's efforts have not gone unnoticed in the great organs of public communication throughout the land. Though much has been written of his heroics on the deregulation issue, his personality, his unique presence in a legislative Chamber not particularly tailored to his free style and free spirit, I ask unanimous consent that an article entitled "Abourezk: Redoubtable Rebel From Rapid City," by Finlay Lewis, appearing in the October 2, 1977, edition of the Minneapolis Tribune, and an article appearing in the October 6, 1977, Washington Star, "Man Behind the Filibuster: A Maverick With a Sense of Humor," by James Dickenson, be printed in the RECORD. Each author in his own way points out those remarkable traits—that robust, blunt honesty—that JIM ABOUREZK has brought to the Senate of the United States.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Minneapolis Tribune, Oct. 2, 1977]

ABOUREZK: REDOUBTABLE REBEL FROM RAPID CITY

(By Finlay Lewis)

WASHINGTON, D.C.—"I suggest the absence of a quorum," shouted Sen. James Abourezk, D.-S.D.

"Objection," fumed Sen. Russell Long, D.-La. "That's dilatory."

"Point of order," roared back Abourezk.

For connoisseurs of the Senate, such exchanges—nearly hourly occurrences these days—are ripe with irony.

There's Abourezk, the short, stocky iconoclastic battler for liberal and minority-group causes, using every trick in the rule book to sustain a filibuster, just as that hoary parliamentary device has been used against him and his side countless times in the past.

And then there's Long and a flock of other Southerners—the very ones who perfected the filibuster as a valuable "dilatory" technique—angrily sputtering about how the majority will is being recklessly thwarted by a stubborn few.

But then no one's ever accused Abourezk, the 46-year-old son of a Lebanese peddler, of being your conventional go-along-to-get-along senator.

In Abourezk's view at least, that's no way to live after having grown up on an Indian reservation, worked as a bartender-bouncer in rough-tough cowboy saloons in Rapid City, dealt blackjack in legion halls, and spoken out for American Indian and Arab causes in the Congress.

As his friend and top Senate aide, Peter Stavrianos, sees it, Abourezk practices politics the way he's lived most of his life—"at a white-heat pace."

Confronted with questions of moral, social or economic justice, Abourezk's reaction is likely to be direct, immediate and from the gut—no niceties that preserve decorum and sacrifice principle, Stavrianos said.

And so, when a measure deregulating the price of natural gas appeared on the verge of passing the Senate, Abourezk moved quickly to checkmate his old enemy—the oil and natural gas industry.

Teaming up with Sen. Howard Metzenbaum, D-Ohio, they first tried a direct filibuster. When the Senate voted to invoke cloture—a motion limiting debate—the two senators proceeded to begin calling up over 500 amendments they had stacked at the clerk's desk.

Thus, the filibuster was able to continue. On Wednesday, the Senate was held in session through the night and until 7 a.m. the next day. One oil-state senator approached Abourezk at some point and muttered an obscenity in his ear. Others warned that the older members might not be able to stand the strain.

But Abourezk would not bend. Last year, he surprised everybody by falling only a few votes short of passing a bill that would have broken up the major oil companies, whose activities now range from exploration and drilling to refining, transportation and marketing.

Abourezk argued then that the across-the-board control by a few oil companies of the various facets of their industry was economically unsound and a consumer ripoff. He and Metzenbaum make the same argument about deregulation. In so doing, they point to Carter administration estimates of a $10-billion increase in consumer costs if price controls over the interstate sales of natural gas—now held at $1.46 per thousand cubic feet—are removed under deregulation.

As Abourzek notes with a fine sense of irony, his detractors used to charge that he tackled the oil companies in order to get reelected. Now he is being accused to taking them on because he has decided to quit the Senate at the end of his term in 1978 and is no longer politically accountable for his actions.

Abourezk's decision to end his Senate career after one term has been, like almost everything else about the man, somewhat controversial.

There are those, on the one hand, who say that his stance as the consistently lone pro-Arab voice in the Senate and, more importantly, as the defender of various Indian causes has damaged his political base in South Dakota and left him no choice but to withdraw from the field.

Others like his close friend, Homer Kandaras, former majority leader in the South Dakota State Senate, say that his base remains solid. Kandaras, a Rapid City lawyer, contended in an interview that Abourezk's direct and earthy campaign style would eventually have overwhelmed any Republican.

Abourezk himself said in an interview that his decision was based on a "multitude" of reasons, but most of them had to do with his family and personal life.

"After one year in the Senate, I decided it wasn't something I wanted to do for the rest of my life—living in motels, on airplanes, in airports, away from my family," Abourezk said. "It's as though I had been watching my family grow up from long distance and I suddenly realized that they were gone—grown up."

Certainly Washington's attractions have not proved compelling to his children. After an initial taste of life in the capital, when Abourezk was a House member from 1970 to 1972, all three of his children chose to go back to South Dakota for their schooling.

Abourezk feels strongly that one of them, his eldest, Charlie, has been victimized by being a senator's son.

First there was a story telling how he was living on food stamps. It later developed that he was caring for a 16-year-old orphaned Indian.

Another time he was linked in an unspecified way in an FBI report with a plot to hide guns and train Indian militants.

FBI Director Clarence Kelley later testified under oath that the reports were unfounded, but Abourezk remains convinced that he and his family had been made the object of an FBI vendetta. Over the years, he noted in the interview, he has been an outspoken critic of the FBI and has often attacked its methods as being illegal and unconstitutional.

Abourezk's own plans for the future remain uncertain, although he is talking about opening law offices in Washington and South Dakota.

The kind of law he would practice remains indefinite although he emphatically rules out the possibility of becoming a lobbyist.

"I won't lobby—absolutely not," Abourezk said. "I wouldn't come up here and impose myself on my former colleagues. Every time I see some ex-senator who was defeated or something up here looking for favors I wince. That's not for me."

One project has already fallen by the boards.

Some time ago, he undertook a novel about life in Washington with "a Senate theme." But he couldn't interest a publisher and he dropped it after finishing three chapters.

But the title—"Deep Jaws"—would have guaranteed it a spot on the best-seller list, Abourezk said jokingly.

Whatever he does, it is not clear that his law practice will be as colorful as it once was.

One piece of favorite Abourezk lore deals with a cattle rustler who put some cows in a mobile home and started down the highway. His getaway was inconveniently interrupted by a flat tire and, before long, a state trooper stopped to offer help.

Just as the rustler thought he had persuaded the trooper to keep on going, a suspicious mooing sound emanated from the trailer.

Abourezk, however, was able to get the charge dismissed on a technicality.

Afterward, the rustler told Abourezk's brother that he'd like to do something nice for his lawyer to show his gratitude.

"Like what?" the brother inquired.

"Why, I thought I might hang a jury for him."

Abourezk grew up on the Rosebud Sioux Indian Reservation, where his father, who started out peddling goods to Indians from the back of a wagon, had a couple of general stores.

His cousin, Charles Mikel, recalls that the Indians on the reservation always felt kindly toward Abourezk's father because he never tried to gouge them and was lenient in offering credit.

Abourezk himself went to mixed schools, and played sports with Indian and white classmates. While he had friends among both races, Abourezk now describes his attitude in those days as "racist."

"I would make references without really thinking about it to 'our Indians.' Terribly patronizing things to say," he recalled.

After trying his hand at civil engineering, Abourezk, at the age of 32 and without any money to speak of, went to law school. To make ends meet, he tended bar, meaning he also served as a bouncer.

"The bars where I worked, they were pretty rough places. It wasn't unusual to break up three or four fights a night," he said. "Those cowboys were just as likely to break a beer bottle and come after you."

As a lawyer, Mikel recalled, Abourezk volunteered to serve on the board of an Indian legal services programs at a time when it was unpopular among whites and within the bar association to support such ventures. But Abourezk insisted on contributing his time, even though it meant driving 175 miles to do so.

He also gave free legal advice unstintingly to various Indian community action programs in Rapid City where he had his practice, Mikel said.

Impelled partly by his opposition to the Vietnam War, Abourezk decided to enter politics, losing his first race as the Democratic candidate in 1968 for attorney general. Two years later he won a seat in Congress. Then, in 1972, he was elected to the Senate.

Not that it bothered him, but he never did become an insider either in the House or Senate.

Maybe it was because his tastes ran more to beer and staff parties than to champagne and embassy receptions. He is also probably one of the Senate's more accomplished musicians, although it's not a skill that is likely to be in much demand at Georgetown cocktail parties. His instrument is the guitar and his style, country and western.

Or maybe it's because of his irreverent ideas.

The one reform he would champion, he said, would be a rule limiting committee chairmanships to one congressional term of two years. At the end of that time, the incumbent would automatically be relegated to the bottom of the seniority list.

Not only would such a move dilute the arbitrary power now exercised by a few men but it would also trigger a healthy turnover in the membership of the Senate, in Abourezk's view.

His eyes twinkling merrily, Abourezk said, "Once you've lost all those perks, you might find that some of these people have better things to do. I hate to say this but I think that'd be better for all of us."

[From the Washington Star, Oct. 6, 1977]

MAN BEHIND THE FILIBUSTER: A MAVERICK WITH SENSE OF HUMOR

(By James R. Dickenson)

The members of the Senate were still stunned and embarrassed Monday afternoon just minutes after the unprecedently bitter exchange that had exploded between Majority Leader Robert Byrd and a group of angry liberal Democrats opposed to the deregulation of natural gas.

Sen. James Allen, D-Ala., was defending Byrd's tactics in breaking the liberal's filibuster against deregulation by saying such means had been used against him in his filibusters in the past.

"This 'steamroller' you complain of is nothing like the steamrollers in the past," Allen said. "I can bear witness to this from my flattened-out body."

Allen then gestured toward Sen. James Abourezk, D-S.D., a leader of the filibuster. "I observe the distinguished senator and note that this body had not yet been flattened by the steamroller."

A number of senators were shouting for recognition by the chair and the portly, round-faced Abourezk won. "Mr. President, I rise on a point of personal privilege," he said. "The shape of my body has been impugned. I cannot help it if I am fat. I wish the senator from Alabama would recognized that."

A ripple of laughter and relief cut through the tension on the Senate floor.

This is the quintessential Abourezk, a man of quick, indefatigable and self-deprecating wit. He will be one of few on earth who will greet Armageddon with one-liners. He is the maverick, the odd man out, the man who absolutely refuses to go along with the tight clubbiness of the Senate.

He rejects it to the point that he is not going to run for a second term next year. A lot of senators who take their institution and its clubbiness very seriously, Byrd first and foremost, will be happy to see him leave, but that's his style.

He once walked out of managing the Abourezk family general store on the Rosebud Sioux Indian Reservation at Mission, S.D., because he got in "a beef with one of my brothers."

A civil engineer before going to law school, he was fired as an area manager on an ICMB missile silo construction project because he got into a beef with the project manager despite the fact that he was so good at scheduling work that he had received a number of quick promotions.

Some will miss Abourezk, however, not only because they like him and his irreverent sense of humor, but because they think a full-fledged maverick is a good thing generally in Washington and particularly in the self-important Senate.

Abourezk admits that standing up to the pressure of his Senate peers, the Senate leadership and the White House is difficult. "I have shaped my own mind in preparation for the peer pressure that I knew would come of the filibuster," he said. "It's pure masochism. It's physically and emotionally exhausting. The people who say that I did it because I don't plan to run for re-election used to accuse me of being a maverick because it would help me with re-election."

He thinks the White House and Byrd were badly mistaken in their tactics that broke the filibuster. "It doesn't make the conservatives like them and they have damaged themselves with liberals in the Senate, the only supporters they have on Capitol Hill," he says. "We were within two votes of defeating Pearson-Bensten (the deregulation proposal's sponsors), but if the administration would have just told us they wanted us to end the filibuster we probably would have gone along with it. But even if we hadn't, and we all understood what the other had to do, that would have been okay.

"The last word I had from the administration last weekend was that (energy chief James) Schlesinger was impressed with our effort and that the administration wanted us to keep it going."

Abourezk believes the country is best served by people who come into government and politics for a short time and then get out.

"I'm tired of living in hotels and airplanes and I decided after my first year in the Senate that I wasn't going to do it again even though it means I have to worry about earning an honest living now," Abourezk said yesterday.

"I decided that after I saw my staff going home for the weekend with their families while they were sending me out to campaign someplace."

The father of two sons and a daughter, Abourezk, 46, will still travel because of his plans to practice law both here and in South Dakota. He figures that his quitting the Senate will give him more time with his family, however.

"It doesn't make any difference if I'm here or not," he said. "They make sure you never win any big victories. If you're worrying about running for re-election it takes the fine edge off what you're trying to do.

"When you're compromising all the time, you end up compromising your principles and you start catering to narrow parochial interests. The national interest requires that you make them mad once in awhile. And I got involved in the deregulation filibuster because I thought it was a chance to win a big victory over a parochial self interest, the oil industry."

Says his South Dakota colleague, Sen. George McGovern: "I was a little bit irritated with him because he wouldn't back down to my pleas that he not divide the amendment into 20 parts and force a roll-call vote on each one.

"But I came around to support him on the filibuster after opposing it at first because I saw it was dramatizing the issue that deregulations means higher consumer prices and that the public was being educated."

Abourezk's independence and flamboyance irritate a lot of people on Capitol Hill. "I wouldn't trust him with anything," says one Hill veteran. "He knifes anybody, including his colleagues, in the back by bad-mouthing them behind their backs."

Rep. Fortney Stark, D-Calif., disputes this. "All I can say is that he'll say anything to their faces as well," Stark says.

"He's a very human, concerned person. It's easy for us to get out of touch, but he hasn't. Unlike the rest of us, he accepts the fact that at least a half dozen others can do our jobs as well as we can. None of us is indispensable and a sense of humility is a rare product around here."

Abourezk's maverick tendencies and his role in the deregulation filibuster have been downgraded by some who pointed out it would mean more if, like Sen. Howard Metzenbaum, D-Ohio, the co-leader of the filibuster, he intended to run for reelection and face the consequences of his action. Others question his effectiveness because he's such a maverick.

"Because of the way the Senate operates one guy could really screw things up, and if you make him mad enough he could keep you from getting anything done," says one long-time observer. "It takes a thick leather hide and enormous intellectual stamina to stand up to the peer pressure, and it takes 5 or 10 years for a maverick to break through the sound barrier and finally be reckoned with as a serious constant factor."

The late Sen. Wayne Morse of Oregon became such a factor and Allen appears to have made the breakthrough. The result is that they generate less resentment and are taken seriously.

In his five years in the Senate, Abourezk has made a career of going against the grain. Along with McGovern, he acted as a negotiator and go-between during the siege at Wounded Knee on the Pine Ridge Sioux Reservation and in the recent attempt of the Rosebud Sioux to gain legal jurisdiction over whites as well as Indians owning land and living on their original reservation land. This earned him the enmity of white ranchers in the Rosebud area in the south-central part of the state.

The son of a Lebanese trader who established the largest general store on the Rosebud reservation, Abourezk is one of the few congressmen who is more sympathetic to the Arabs than to Israel. He has urged the creation of a Palestinian homeland, which is a major sticking point in Mideast peace negotiations, and has criticized what he calls the "Israel lobby" in American politics.

He counters this by pointing out that he became interested in politics through a Jewish doctor in Winner, S.D., where he was working as a bartender and bouncer, and raising his young family.

"I took the kids to this doctor who was kind of a prairie radical," he recalls. "He kept giving me I. F. Stone's Weekly and New Republic and Nation to read."

Abourezk had less cerebral matters to attend to working in the hard-drinking, hard-fighting, high-rolling bars in Winner that catered to cowboys and truck drivers, however.

He had been in the Navy from 1948 until 1952 and learned judo while stationed in Japan.

He worked in the Winner bars for four years after getting out of the Navy and before going to engineering school at the South Dakota School of Mines and Technology, and for the four years while he was in school.

"I was good at defense and keeping out of peoples' way and I never lost a fight," he says. "I was smart enough to spot the guys who were too big for me to possibly deal with, and I made friends with them.

"I can't count the fights I was in. You had to break them up before the whole bar went to hell, and while some of them were hoping you'd step in, a lot of the others wanted to fight someone and figured I'd do just as well as anybody. But you had to fight to keep your credibility. You didn't have to win, you just had to fight."

After graduating from engineering school, Abourezk worked in the San Francisco Bay area for the California highway department, helping to design freeways. The man who signed his paychecks is now Senate Majority Whip Alan Cranston, D-Calif., who was then the state comptroller.

During these two years he was active in Democratic politics in Marin County, and in the course of raising money for the late Rep. Clem Miller, who died in an airplane crash in the Sierra Nevada mountains, he solicited $100 from a man named S. I. Hayakawa, now Republican senator from California.

I reminded him of this and his answer was that, "I was a Democrat once and I was a good one."

In 1963, Abourezk enrolled in law school at the University of South Dakota after working on the missile projects, running the family store, dealing blackjack at American Legion clubs, teaching judo and selling judo outfits.

In 1970 Abourezk, by then a lawyer in Rapid City, was elected to the House of Representatives. "I wasn't given any chance, and late in the campaign I met with the editorial board of the Rapid City newspaper," he recalls.

"I got into town from campaigning about a half hour before and the only preparation I had time for was to read a really first-rate agriculture speech that McGovern had given, in which he outlined how to save the family farm. The editor's first question was if elected what would I do for South Dakota.

"I just regurgitated McGovern's speech and the editor's response was, 'Now, why can't that damned McGovern say things like that?' "

In both the House and Senate, Abourezk consistently has gone his own way. An opponent of the Vietnam war, he voted against confirmation of almost all former President Richard M. Nixon's second-term appointments, including that of Elliot Richardson as secretary of defense, until he would start acting within the framework of the Constitution.

"At one point I proposed to cut off everybody's salaries in the executive department and John Ehrlichman came up to me one time and seriously told me that they'd have to veto that. That shows how little they understood the whole system. There was no way I could manage that."

REPORT ON THE GOVERNMENT'S STATE OF PREPAREDNESS FOR ENERGY EMERGENCIES THIS WINTER

Mr. MUSKIE. Mr. President, I have asked for time to speak on an aspect of our energy policy which we have managed to overlook thus far in our debate.

The Congress is currently in the midst of a period of unparalleled attention to the development of a long-term energy policy. It is not clear to me yet exactly what the outcome of all this activity will be.

Hopefully, it will be more than a reaffirmation of the status quo. Hopefully, the end result of all this talk will be a coherent, meaningful, and effective energy policy capable of serving this Nation during the difficult years ahead.

As important as this long-range view is, however, there is something else we need to consider—a problem of immediate concern.

Another cold winter is on its way. And according to a report just issued by my Subcommittee on Intergovernmental Relations, we are not ready for what it may bring.

Last year, the country endured the coldest winter in 60 years. We muddled through—not because of any foresight or effective planning on our part, but largely through the good graces of Mother Nature, who gave us an early spring.

In the process, the economic dislocation in certain parts of the Nation was substantial. An estimated 1.2 million Americans were thrown temporarily out of work as factories shut down, because of insufficient fuel supplies. Schools were closed, and businesses operated on reduced hours. Home heating bills soared, and it was only thanks to emergency moratoria on utility cutoffs that millions of Americans were able to keep their homes warm.

Although the principal villain of this drama was the weather, it had an equally unfriendly sidekick in the form of a substantial shortfall in natural gas supplies—a shortfall that was only exacerbated by the unprecedented demand.

I raise this unpleasant memory, Mr. President, because there is a very real possibility that we are in for a replay of this story in the months immediately ahead.

And I am concerned that in focusing so much attention on long-range energy needs, we not overlook the immediate possibility of another energy emergency this winter.

Two weeks ago, my Subcommittee on Intergovernmental Relations held 3 days of hearings on the state of governmental preparedness for the upcoming winter.

What we learned at those hearings, and from a followup staff investigation, was discouraging indeed.

First, we are told by both Government forecasters and a well-known forecaster from the private sector that the Nation can expect a winter significantly colder than normal, although not as cold as last winter.

Second, we were told that we can expect substantial natural gas curtailments beginning as early as next month. In one State—Tennessee—where curtailments are expected to be most severe, we were told that factory closings are expected to begin as soon as November, with an estimated 300 closings anticipated over the course of the winter.

Finally, and most discouraging, testimony at the subcommittee hearings raised substantial questions about the state of governmental preparedness to deal with the kind of dislocation which we saw last winter and which may very well recur this year.

The Carter administration has given considerable time and attention to the development of contingency plans for the upcoming winter. A winter energy emergency plan (WEEP), prepared by FEA, contains numerous policy options for both increasing supplies and curtailing demand in the event of serious natural gas shortfalls.

The administration is to be credited for this effort. It far surpasses any previous effort to plan ahead for winter emergencies.

However, after careful study of these contingency plans, the subcommittee has concluded that the sum total of their impact is likely to be both too little and too late.

In short, the subcommittee believes that if the forecasters are right and we do face another hard winter, the Federal Government is simply not adequately prepared.

The WEEP plan, using Federal Power Commission data, projects natural gas curtailments this winter of about 340 billion cubic feet per month. This compares to estimated curtailments last winter of approximately 305 billion cubic feet.

The plan estimates that the various policy options which it outlines for increasing supplies and reducing demand could make up 60 percent of the projected curtailment, or about 200 billion cubic feet per month.

If these figures were correct, we could clearly go a long way toward easing the impact of any shortfalls this year. Unfortunately, however, the WEEP numbers do not stand up under careful scrutiny.

The subcommittee found that many of the assumptions on which the WEEP projections were made rest on very shaky foundations. In several instances, specific authorities cited in the WEEP plan for either increasing supply or reducing demand simply do not exist. In other instances, Federal regulations governing a specific authority have not yet been

promulgated and are not expected to be completed until well into the late fall or early winter.

The WEEP plan places considerable reliance upon the States as the front-line of defense against another winter energy emergency. And yet many States lack the specific authority necessary to take emergency action in an energy crisis.

I do not intend to list every single finding of the subcommittee study here this morning. They are all discussed in some detail in the final report which has just been released.

Several examples of the findings do bear repeating here, however, simply to underscore the severity of the predicament we are in.

The WEEP plan projects a savings of 20 billion cubic feet per month under the temporary sales authority of section 6 of the Emergency Natural Gas Act. Yet that authority expired on August 1 of this year. And neither the House- nor Senate-passed energy bill currently includes a renewal of that authority.

The WEEP plan projects additional curtailment reductions of 12 billion cubic feet per month through purchases of extra natural gas from Canada and Mexico. Yet negotiations with Canada have not even begun, while the Mexican Government has indicated a willingness to sell us only about 1.5 billion cubic feet per month, far less than the WEEP projection.

As a final example, the conclusion of the WEEP report states that we can expect to reduce demand by almost 170 billion cubic feet per month—or almost half of the total projected curtailment—by switching gas-fired boilers with alternate capability to other fuels. Yet the ability of the Government to implement this switch over in a timely fashion is so tenuous that the WEEP report itself calls this estimate into serious question. The body of that report suggests that a more realistic estimate of demand reduction through this policy option is 50 billion cubic feet per month.

These and other uncertainties in the WEEP estimates prompted the subcommittee to make its own estimate of the potential impact of the WEEP options in easing the jolt of natural gas shortfalls this winter. The subcommittee's conclusion:

> These options can be expected to reduce curtailments by 22 percent.

Mr. President, that is a far cry from the 60-percent reduction claimed by the WEEP report. If correct, its implications for the upcoming winter are grim indeed. As the subcommittee report concludes:

> The U.S. faces the prospect of another winter plagued with energy shortages and resulting large-scale unemployment, if temperatures fall significantly below normal in the months ahead. And the Federal government will not be in a position to help very much.

I find this an alarming prospect—one which we cannot afford to ignore.

It is late to be talking about planning for an energy emergency which—if it comes at all—will begin within the next couple of months. Plans should have been laid long ago.

Unfortunately, that does not seem to be the case.

And that means we have yet another issue to consider as part of the unfinished energy agenda ahead.

The subcommittee report includes a number of specific recommendations for congressional and executive branch action. Among them, that—

First. The State Department begin negotiations immediately with Canada for the purchase of additional natural gas this winter;

Second. That the Congress enact legislation granting the President authority—similar to that provided under section 6 of the Emergency Natural Gas Act of 1977—to allocate natural gas supplies;

Third. That Congress consider providing the President with authority—similar to that in the Petroleum Allocation Act—to reallocate small amounts of natural gas from pipelines not experiencing shortfalls to those which are experiencing shortfalls, for the purpose of protecting jobs which might otherwise be lost;

Fourth. That the special crisis intervention program (SCIP), under which more than 2 million low-income persons have been certified to receive assistance for payment of last winter's bills, be continued into this winter; and

Fifth. That the Department of Energy take immediate steps to ease the special problems adversely affecting the maintenance of an adequate fuel supply and distribution network in the New England States.

Within the very near future, I intend to introduce legislation to implement these recommendations where congressional action is necessary.

Mr. President, I recognize that Congress has a heavy legislative load in the weeks immediately ahead. On currently pending energy matters alone, we could probably debate until Christmas.

But by then it would be too late.

It is now the first week of October, and we are rapidly moving into the cold weather season. In my own State of Maine, we have already had the first frost of the year.

We in the Senate like to think that we have considerable influence over the course of national events. And in many ways we do.

But there is one thing we cannot do. We cannot ask winter to wait until spring.

SECRETARY OF STATE RESOLUTIONS ON ELECTION MATTERS

Mr. CANNON. Mr. President, as chairman of the Committee on Rules and Administration, I recently received copies of resolutions adopted by the National Association of Secretaries of State at its 60th anniversary meeting in San Juan, P.R., on September 22, 1977. These resolutions relate to election matters either pending before or of interest to the Congress, and I ask unanimous consent that they be printed in the RECORD.

There being no objection, the resolutions were ordered to be printed in the RECORD, as follows:

RESOLUTION

Whereas, a vast majority of the members of the National Association of Secretaries of State are the chief election officials of their respective state, and

Whereas, many chief election officials are properly responsible either independently or as members of examining boards for certifying voting equipment before it can be marked and used within their states, and

Whereas, technica. experience is not always readily available at the state level to properly evaluate new and sophisticated concepts of voting equipment in order to educate local election officials in purchasing products or services that have demonstrated the capability of pro iding dependable and accurate vote tabulating, and

Whereas, there are numerous uniform engineering and technical requirements specified for election systems within state laws, and since these common elements of machine performance can be evaluated and documented,

Therefore, be it resolved, that the National Association of Secretaries of State strongly recommends that the FEC, as a matter of highest priority, arrange tests of performance of all voting equipment, vote counting devices, and programs currently on the market and make recommendations for procedures and standards of performance for such equipment and programs.

RESOLUTION

Whereas, the enactment of S. 703 would greatly improve the administration and operation of the Overseas Citizen Voting Rights Act of 1975; and

Whereas, the National Association of Secretaries of State strongly supports S. 703; and

Whereas, the Federal Voting Assistance Division of the United States Department of Defense, the Secretaries of State and other election and administration officials need adequate time prior to the 1978 Congressional elections to implement the changes which will be made by S. 703; and

Whereas, S. 703 was passed unanimously by the United States Senate May 9, 1977;

Now, therefore, be it resolved that the National Association of Secretaries of State urges the United States House of Representatives to act favorably upon S. 703 before adjournment of the 1977 session.

Adopted by the National Association of Secretaries of State this twenty-second day of September, 1977.

RESOLUTION

Whereas, the United States currently has one of the lowest voting percentages of any democracy in the world; and

Whereas, in 1976, nearly 46% of our eligible citizens failed to vote; and

Whereas, virtually all members of the National Association of Secretaries of State are the chief election officers of their respective states; and

Whereas, as chief election officers, Secretaries of State are committed to ensuring full participation by all citizens in the electoral process; and

Whereas, full participation in the electoral process can be attained by educating our citizenry so that they will register and then vote.

Now, therefore, be it resolved that all State Secretaries join in a cooperative and coordinated effort among and between the fifty states to educate our citizens and encourage them to register and then to vote.

Be it further resolved that a voter education and Registration Steering Committee be established to develop and implement that drive.

Adopted by the National Association of Secretaries of State at its 60th Anniversary meeting in San Juan, Puerto Rico, this twenty-second day of September, 1977.

RESOLUTION

Whereas, virtually all members of the National Association of Secretaries of State are the chief electoral officers of their respective states; and

Whereas, as the chief electoral officers of their respective states, Secretaries of State are dedicated to upholding the laws of these United States as well as their individual state's laws; and

Whereas, as the chief electoral officers of their respective states, Secretaries of State are dedicated to providing all eligible citizens fair and equal opportunity under the law to exercise their franchise of registering to vote and voting; and

Whereas, in order to insure equal opportunity in the area of registering to vote, several states have implemented Voter Registration by Mail programs; and

Whereas, more than one-third of those states offering Voter Registration by Mail require the citizen to pay the cost of the postage to return the form by the Voter Registration Office and those other states and counties offering Voter Registration by Mail programs absorb the cost of this return postage; and

Whereas, the U.S. Congress and the Administration in Washington are considering financial assistance to those states using the mail for voter registration;

Now, therefore, be it resolved that the National Association of Secretaries of State create a Select Committee of their membership to study the feasibility of applying to the Congressonal Committee on Postal Regulations to obtain a special postal category for all election related material, and,

Be it further resolved that the Select Committee will convey to the entire membership of the National Association of Secretaries of State a report of their findings and recommendations.

Adopted by the National Association of Secretaries of State this twenty-second day of September, 1977.

ONLY ONCE? THINK AGAIN

Mr. PROXMIRE. Mr. President, when one thinks of historic examples of genocide, one immediately focuses on the holocaust—the attempted extermination of the Jewish people during World War II. This memory is appalling, shocking, and sickening when one considers the total lack of value that was placed on human life. We find solace in the thought that this was a one time, one place situation, involving only one group of people. This thought, however, is completely false.

At one time or another, ethnic groups of the "Soviet people" were the target of persecutions and of more or less extensive genocide, through incarceration in labor camps, "losses" in transport, shootings, and famine. These groups included Buyat (Mongols), Chechen, Chinese, Cossacks, Crimean Tatars, Czechs, Estonians, Finns, Germans, Greeks, Hungarians, Ingush, Yakuts, Japanese, Kalmyks, Kazahhs, Koreans, Kozaks, Latvians, Lithuanians, Moslems, Poles, Tatars, Ukranians, and Uzbeks. Some of those groups were virtually exterminated such as the Chinese and the Koreans who had settled in the Soviet Far East. In addition, Austrian militant socialists of the Schutzbund who after their revolution of 1934 had sought refuge in the U.S.S.R., Greek Communists who had fought an unsuccessful guerrilla war in the 1940's, the Latvian riflemen who saved Lenin's regime back in 1918, and Polish Communists who had fled the Pilsudski regime, were decimated. Communist and socialist veterans of the Spanish civil wars as well as Spanish pilots who had been trained in the U.S.S.R., Spanish seamen, and Spanish refugee children died in the camps; of 6,000 Spanish refugees who thought they had found a safe haven only 1,200 survived.

As this grim lists reveals, the crime of genocide did not occur at one time or one place involving only one group of people. The Genocide Convention, which outlaws this outrage against human life, must be ratified, for only through ratification can this treaty serve as a constant reminder of these past atrocities and help guard against similar occurrences in the future.

STATUTORY REFERENCES FOR REORGANIZATION PLAN NO. 1 OF 1977

Mr. RIBICOFF. Mr. President, on October 3, I presented the recommendations of the Governmental Affairs Committee regarding Reorganization Plan No. 1 of 1977, relating to the Executive Office of the President.

In Reorganization Plan No. 1, the administration adopted no consistent format regarding statutory references for the EOP units being abolished and the functions being transferred. In several places, there are specific citations made to sections of statutes containing the original grants of authority. In other instances, very general language is used for the transfers without reference to the specific sections of statutes or Executive orders being revised. This lack of consistent statutory references could cause administrative confusion and result in litigation.

In order to avoid either of these possibilities, the committee asked the American Law Division of the Congressional Reference Service to prepare backup footnotes laying out the exact statutory references for the transfers of functions proposed in the plan. The resulting document was submitted to the Office of Management and Budget and that office concurred that the references contained in the document accurately reflected the President's intent.

Mr. President, I ask unanimous consent that the statutory references be printed in the RECORD.

There being no objection, the statutory references were ordered to be printed in the RECORD, as follows:

STATUTORY REFERENCES

The following statutory references for Reorganization Plan No. 1 of 1977 were prepared for the Governmental Affairs Committee by the American Law Division of the Congressional Research Service. The document was submitted to the Office of Management and Budget and that office concurs that the references contained herein accurately reflect the intent of the Plan.

REORGANIZATION PLAN NO. 1 OF 1977

EXECUTIVE OFFICE OF THE PRESIDENT

Section 1. *Redesignation of Domestic Council Staff.*

The Domestic Council staff is hereby designated the Domestic Policy Staff and shall consist of such staff personnel as are determined by the President to be necessary to assure that the needs of the President for prompt and comprehensive advice are met with respect to matters of economic and domestic policy. The staff shall continue to be headed by an Executive Director (A) who shall be an Assistant to the President, designated by the President, as provided in Section 203 of Reorganization Plan No. 2 of 1970. The Executive Director shall perform such functions as the President may from time to time direct.

Section 2. *Establishment of an Office of Administration.*

There is hereby established in the Executive Office of the President the Office of Administration which shall be headed by the President. There shall be a Director of the Office of Administration. The Director shall be appointed by the President and shall serve as chief administrative officer of the Office of Administration. The President is authorized to fix the compensation and duties of the Director.

The Office of Administration shall provide components of the Executive Office of the President with such administrative services as the President shall from time to time direct.

Section 3. *Abolition of Components.*

The following components of the Executive Office of the President are hereby abolished:

A. The Domestic Council; (B)

B. The Office of Drug Abuse Policy; (C)

C. The Office of Telecommunications Policy; (D) and

D. The Economic Opportunity Council. (E)

Section 4. *Appointment of the Assistant Secretary of Commerce for Communications and Information.*

There shall be in the Department of Commerce an Assistant Secretary for Communications and Information who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall be entitled to receive compensation at the rate now or hereafter prescribed by law for Level IV of the Executive Schedule.

Section 5. *Transfer of functions.*

The following functions shall be transferred:

A. All functions vested in the Director of the Office of Science and Technology Policy (F) and in the Office of Science and Technology Policy pursuant to sections 205(a)(2), 206 and 209 of the National Science and Technology Policy, Organization, and Priorities Act of 1976 (Public Law 94–282; 90 Stat. 459), (G) are hereby transferred to the Director of the National Science Foundation, (H) The Intergovernmental Science, Engineering, and Technology Advisory Panel, (I) the President's Committee on Science and Technology, (J) and the Federal Coordinating Council for Science, Engineering and Technology, (K) established in accordance with the provisions of Titles II, III, IV of the National Science and Technology Policy, Organization, and Priorities Act of 1976, are hereby abolished, and their functions transferred to the President.

B. Those functions of the Office of Telecommunications Policy and of its Director relating to:

(1) the preparation of Presidential telecommunications policy options including,

but not limited to those related to the procurement and management of Federal telecommunications systems, national security, and emergency matters; (L) and

(2) disposition of appeals from assignments of radio frequencies to stations of the United States Government; (M) are hereby transferred to the President who may delegate such functions within the Executive Office of the President (N) as the President may from time to time deem desirable. All other functions (O) of the Office of Telecommunications Policy and of its Director are hereby transferred to the Secretary of Commerce who shall provide for the performance of such functions.

C. The functions of the Office of Drug Abuse Policy and its Director (P) are hereby transferred to the President, who may delegate such functions within the Executive Office of the President as the President may from time to time deem desirable.

D. The functions of the Domestic Council (Q) are hereby transferred to the President, who may delegate such functions within the Executive Office of the President as the President may from time to time deem desirable.

E. Those functions of the Council on Environmental Quality and the Office of Environmental Quality relating to the evaluation provided for by Section 11 of the Federal Nonnuclear Energy Research and Development Act of 1974 (Public Law 93-577, 88 Stat. 1878), (R) are hereby transferred to the Administrator of General Services.

F. Those functions of the Office of Management and Budget and its Director relating to the Committee Management Secretariat (Public Law 92-463, 86 Stat. 770, as amended by Public Law 94-409, 90 Stat. 1247 (S) are hereby transferred to the Administrator of General Services.

G. The functions of the Economic Opportunity Council (T) are hereby transferred to the President, who may delegate such functions within the Executive Office of the President as the President may from time to time deem desirable.

Section 6. *Incidental Transfers.*

So much of the personnel, property, records, and unexpended balances of appropriations, allocations and other funds employed, used, held, available, or to be made available in connection with the functions transferred under this Plan, as the Director of the Office of Management and Budget shall determine, shall be transferred to the appropriate department, agency, or component at such time or times as the Director of the Office of Management and Budget shall provide, except that no such unexpended balances transferred shall be used for purposes other than those for which the appropriation was originally made. The Director of the Office of Management and Budget shall provide for terminating the affairs of all agencies abolished herein and for such further measures and dispositions as such Director deems necessary to effectuate the purposes of this Reorganization Plan.

Section 7. *Effective date.*

This Reorganization Plan shall become effective at such time or times on or before April 1, 1978, as the President shall specify, but not sooner than the earliest time allowable under Section 906 of Title 5 of the United States Code.

Note A

Reorganization Plan No. 2 of 1970, 35 F.R. 7959, 84 Stat. 2085 (1970), which is set out as a note to 31 U.S.C. § 16 and to 5 U.S.C. § 903, establishes the Domestic Council and provides for the creation of the office of Executive Director, who heads the Domestic Council staff. The Executive Director is designated by the President and is an assistant to the President. Reorganization Plan No. 2 also provides that the Executive Director shall perform such functions as the President may from time to time direct.

Note B

Pursuant to the provisions of Reorganization Plan No. 2 of 1970 the Domestic Council is composed of the following officials: The President; The Vice President; The Attorney General; and the Secretaries of Agriculture; Commerce; Health, Education, and Welfare; Housing and Urban Development; Interior; Labor; Transportation; and the Treasury. In addition, Pub. L. 94-282 § 207, 42 U.S.C. § 6615 designates the Director of the Office of Science and Technology as a member of the Council.

Note C

Pub. L. 92-255 (1972) as amended by Pub. L. 94-237 § 4(b) (1976), 21 U.S.C. §§ 1111 et. seq. established the Office of Drug Abuse Policy in the Executive Office of the President. The Office is headed by a Director who is appointed by the President with the advice and consent of the Senate. The Director is required to make recommendations to the President with respect to policies for Federal drug abuse functions and is in charge of coordinating the performance of such functions by Federal departments and agencies. The Director may also be asked to represent the Government of the United States in international negotiations relating to drug abuse.

Note D

The Office of Telecommunications Policy is established through Reorganization Plan No. 1 of 1970, 35 F.R. 6421 and is set out as a note to 47 U.S.C. § 305. See Note 6.

Note E

The Economic Opportunity Council is charged with the responsibility of assisting the President in the coordination of Federal anti-poverty programs. Its duties include developing overall program policies and priorities, resolving inter-agency differences with respect to the administration of anti-poverty programs, initiating specific projects designed to promote economic opportunity, and insuring maximum efficiency in the administration of economic opportunity programs.

Note F

The statutory authority establishing the Office of Science and Technology Policy may be found at 42 U.S.C. § 6611-6671. The functions of the Director of the Office of Science and Technology Policy are outlined at 42 U.S.C. § 6613 and are listed as follows:

§ 6613. Functions of the Director

(a) The primary function of the Director is to provide, within the Executive Office of the President, advice on the scientific, engineering, and technological aspects of issues that require attention at the highest levels of Government.

(b) In addition to such other functions and activities as the President may assign, the Director shall—

(1) advise the President of scientific and technological considerations involved in areas of national concern including, but not limited to, the economy, national security, health, foreign relations, the environment, and the technological recovery and use of resources;

(2) evaluate the scale, quality, and effectiveness of the Federal effort in science and technology and advise on appropriate actions;

(3) advise the President on scientific and technological considerations with regard to Federal budgets, assist the Office of Management and Budget with an annual review and analysis of funding proposed for research and development in budgets of all Federal agencies, and aid the Office of Management and Budget and the agencies throughout the budget development process; and

(4) assist the President in providing general leadership and coordination of the research and development programs of the Federal Government.

Pub. L. 94-282, Title II, § 204, May 11, 1976, 90 Stat. 463.

Note G

The function of the Office of Science and Technology Policy issued pursuant to sections 205(a)(2), 206 and 209 of the National Science and Technology Policy Organization and Priorities Act of 1976 (Public Law 94-282; 90 Stat. 459) are outlined at 42 U.S.C. § 6614(a)(2), 6625 and 6618. They are listed as follows:

§ 6614. Policy planning; analysis; advice; establishment of Advisory Panel

(a) The Office shall serve as a source of scientific and technological analysis and judgment of the President with respect to major policies, plans, and programs of the Federal Government. In carrying out the provisions of this section, the Director shall—

(2) assist and advise the President in the preparation of the Science and Technology Report, in accordance with section 6618 of this Title;

§ 6615. Five-year outlook; annual revision; consultation

(a) Within its first year of operation, the Office shall, to the extent practicable, within the limitations of available knowledge and resources, and with appropriate assistance from the departments and agencies and such consultants and contractors as the Director deems necessary, identify and describe situations and conditions which warrant special attention within the next five years, involving—

(1) current and emerging problems of national significance that are identified through scientific research, or in which scientific or technical considerations are of major significance; and

(2) opportunities for, and constraints on, the use of new and existing scientific and technological capabilities which can make a significant contribution to the resolution of problems identified under paragraph (1) of this subsection or to the achievement of Federal program objectives or national goals, including those set forth in section 6601(b) of this title.

(b) The Office shall annually revise the five-year outlook developed under subsection (a) of this section so that it takes account of new problems, constraints and opportunities and changing national goals and circumstances, and shall extend the outlook so that it always extends five years into the future.

(c) The Director of the Office shall consult as necessary with officials of the departments and agencies having programs and responsibilities relating to the problems, constraints, and opportunities identified under subsections (a) and (b) of this section, in order to—

(1) identify and evaluate alternative actions that might be taken by the Federal Government, State and local governments, or the private sector to deal with such problems, constraints, or opportunities; and

(2) ensure that alternative actions identified under paragraph (1) of this subsection are fully considered by departments and agencies in formulating their budget, program, and legislative proposals.

(d) The Director of the Office shall consult as necessary with officials of the Office of Management and Budget and other appropriate elements of the Executive Office of the President to ensure that the problems, constraints, opportunities, and alternative actions identified under subsecions (a), (b), and (c) of this section are fully considered

in the development of the President's budgets and legislative programs.

Pub. L. 94–282, Title II, § 206, May 11, 1976; 90 Stat. 466.

§ 6018. Science and technology report; issues discussed; public document

(a) The President shall transmit annually to the Congress, beginning February 15, 1978, a Science and Technology Report (hereinafter referred to as the "Report") which shall be prepared by the Office, with appropriate assistance from Federal departments and agencies and such consultants and contractors as the Director deems necessary. The report shall draw upon the information prepared by the Director pursuant to section 6615 of this title, and to the extent practicable, within the limitations of available knowledge and resources, discuss such issues as—

(1) a review of developments of national significance in science and technology;

(2) the significant effects of current and projected trends in science and technology on the social, economic, and other requirements of the Nation;

(3) a review and appraisal of selected science- and technology-related programs, policies, and activities of the Federal Government;

(4) an inventory and forecast of critical and emerging national problems the resolution of which might be substantially assisted by the application of science and technology;

(5) the identification and assessment of scientific and technological measures that can contribute to the resolution of such problems, in light of the related social, economic, political, and institutional considerations;

(6) the existing and projected scientific and technological resources, including specialized manpower, that could contribute to the resolution of such problems; and

(7) recommendations for legislation on science- and technology-related programs and policies that will contribute to the resolution of such problems.

(b) In preparing the Report under subsection (a) of this section, the Office shall make maximum use of relevant data available from the National Science Foundation and other Government departments and agencies.

(c) The Director shall insure that the Report, in the form approved by the President, is printed and made available as a public document. Pub. L. 94–282, Title II, § 209, May 11, 1976, 90 Stat. 468.

Note H

The Director of the National Science Foundation is appointed by the President, by and with the advice and consent of the Senate. The Director serves for a term of six years unless removed earlier by the President. Except as otherwise specifically provided, the Director shall exercise all of the authority granted to the National Science Foundation and all actions taken by the Director pursuant to the provisions of the National Science Foundation Act or pursuant to the terms of a delegation from the National Science Board, are final and binding upon the Foundation. The Director may authorize the performance by any other officer, agency, or employee of the Foundation of any of his functions under the National Science Foundation Act, including functions delegated to him by the National Science Board; except that the Director may not redelegate policymaking functions delegated to him by the Board. The formulation of programs in conformance with the policies of the National Science Foundation are carried out by the Director in consultation with the Board, and the Director has the qualified authority to enter into contracts, grant relationships and other arguments. The Director also is designated as a voting member of the Board and may be elected as Chairman or Vice President. The statutory authority for the powers and duties of the Director may be found at 42 U.S.C. § 1864 and notes set out thereto.

Note I

The Inter-governmental Science, Engineering and Technology Advisory Panel was established in accordance with the provision of Title II of the National Science and Technology Policy, Organization, and Priorities Act of 1976. This Panel is abolished by the Reorganization Plan and its functions as set forth in 42 U.S.C. § 6614(b)(1) and (b)(2) are transferred to the President:

§ 6014. Policy planning; analysis; advice; establishment of Advisory Panel

(b)(1) The Director shall establish an Intergovernmental Science, Engineering, and Technology Advisory Panel (hereinafter referred to as the "Panel"), whose purpose shall be to (A) identify and define civilian problems at State, regional, and local levels which science, engineering, and technology may assist in resolving or ameliorating; (B) recommend priorities for addressing such problems; and (C) advise and assist the Director in identifying and fostering policies to facilitate the transfer and utilization of research and development results so as to maximize their application to civilian needs.

(2) The Panel shall be composed of (A) the Director of the Office, or his representatives; (B) at least ten members representing the interests of the States, appointed by the Director of the Office after consultation with State officials; and (C) the Director of the National Science Foundation, or his representative.

Note J

The President's Committee on Science and Technology was established in accordance with the provisions of Title IV of the National Science and Technology Policy, Organization and Priorities Act of 1976. It is abolished by the Reorganization Plan and its functions, 42 U.S.C. § 6631–6635, transferred to the President:

SUBCHAPTER III—PRESIDENT'S COMMITTEE ON SCIENCE AND TECHNOLOGY

§ 6631. Establishment of Committee

The President shall establish within the Executive Office of the President a President's Committee on Science and Technology (hereinafter referred to as the "Committee").

Pub. L. 94–282, Title, § 301, May 11, 1976, 90 Stat. 468.

§ 6632. Membership of Committee; qualifications; compensation

(a) The Committee shall consist of—

(1) the Director of the Office of Science and Technology Policy established under subchapter II of this chapter; and

(2) not less than eight nor more than fourteen other members appointed by the President not more than sixty days after the Director has assumed office (as provided in section 6612 of this title).

(b) Members of the Committee appointed by the President pursuant to subsection (a)(2) of this section shall—

(1) be qualified and distinguished in one or more of the following areas: science, engineering, technology, information dissemination, education, management, labor, or public affairs;

(2) be capable of critically assessing the policies, priorities, programs, and activities of the Nation, with respect to the findings, policies, and purposes set forth in subchapter 1 of this chapter; and

(3) shall collectively constitute a balanced composition with respect to (A) fields of science and engineering, (B) academic, industrial, and government experience, and (C) business, labor, consumer, and public interest points of view.

(c) The President shall appoint one member of the Committee to serve as Chairman and another member to serve as Vice Chairman for such periods as the President may determine.

(d) Each member of the Committe who is not an officer of the Federal Government shall, while serving on business of the Committee, be entitled to receive compensation at a rate not to exceed the daily rate prescribed for GS–18 of the General Schedule under section 5332 of Title 5, including traveltime, and while so serving away from his home or regular place of business he may be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as the expenses authorized by section 5703(b) of Title 5 for persons in Government service employed intermittently.

Pub.L. 94–282, Title III, § 302, May 11, 1976, 90 Stat. 468.

§ 6633. Federal science, engineering, and technology survey; reports

(a) The Committee shall survey, examine, and analyze the overall context of the Federal science, engineering, and technology effort including missions, goals, personnel, funding, organization, facilities, and activities in general, taking adequate account of the interests of individuals and groups that may be affected by Federal scientific, engineering, and technical programs, including, as appropriate, consultation with such individuals and groups. In carrying out its functions under this section, the Committee shall, among other things, consider needs for—

(1) organizational reform, including institutional realinement designed to place Federal agencies whose missions are primarily or solely devoted to scientific and technological research and development, and those agenices primarily or solely concerned with fuels, energy, and materials, within a single cabinet-level department;

(2) improvements in existing systems for handling scientific and technical information of a Government-wide basis, including consideration of the appropriate role to be played by the private sector in the dissemination of such information;

(3) improved technology assessment in the executive branch of the Federal Government;

(4) improved methods for effecting technology innovation, transfer, and use;

(5) stimulating more effective Federal-State and Federal-industry liaison and cooperation in science and technology, including the formation of Federal-State mechanisms for the mutual pursuit of this goal;

(6) reduction and simplification of Federal regulations and administrative practices and procedures which may have the effect of retarding technological innovation or opportunities for its utilization;

(7) a broader base for support of basic reesarch;

(8) ways of strengthening the Nation's academic institutions' capabilities for research and education in science and technology;

(9) ways and means of effectively integrating scientific and technological factors into our national and international policies;

(10) technology designed to meet community and individual needs;

(11) maintenance of adequate scientific and technological manpower with regard to both quality and quantity;

(12) improved systems for planning and analysis of the Federal science and technology programs; and

(13) long-range study, analysis, and planning in regard to the application of science and technology to major national problems or concerns.

(b)(1) Within twelve months from the time the Committee is activated in accordance with section 6632(a) of this Title, the Committee shall issue an interim report of its activities and operations to date. Not more than twenty-four months from the time the Committee is activated, the Committee shall submit a final report of its activities, findings, conclusions, and recommendations, including such supporting data and material as may be necessary, to the President.

(2) The President, within sixty days of receipt thereof, shall transmit each such report to each House of Congress together with such comments, observations, and recommendations thereon as he deems appropriate.

Pub. L. 94–282, Title III, § 303, May 11, 1976, 90 Stat. 469.

§ 6634. Continuation of Committee.

(a) Ninety days after submission of the final report prepared under section 6633 of this Title, the Committee shall cease to exist, unless the President, before the expiration of the ninety-day period, makes a determination that it is advantageous for the Committee to continue in being.

(b) If the President determines that it is advantageous for the Committee to continue in being. (1) the Committee shall exercise such functions as are prescribed by the President; and (2) the members of the Committee shall serve at the pleasure of the President.

Pub. L. 94–282, Title III, § 304, May 11, 1976, 90 Stat. 470.

§ 6635. Staff and consultant support.

(a) In the performance of its functions under sections 6633 and 6634 of this title, the Committee is authorized—

(1) to select, appoint, employ, and fix the compensation of such specialists and other experts as may be necessary for the carrying out of its duties and functions, and to select, appoint, and employ, subject to the civil service laws, such other officers and employees as may be necessary for carrying out its duties and functions; and

(2) to provide for participation of such civilian and military personnel as may be detailed to the Committee pursuant to subsection (b) of this section for carrying out the functions of the Committee.

(b) Upon request of the Committee, the head of any Federal department, agency, or instrumentality is authorized (1) to furnish to the Committee such information as may be necessary for carrying out its functions and as may be available to or procurable by such department, agency, or instrumentality, and (2) to detail to temporary duty with the Committee on a reimbursable basis such personnel within his administrative jurisdiction as it may need or believe to be useful for carrying out its functions. Each such detail shall be without loss of seniority, pay, or other employee status, to civilian employees so detailed, and without loss of status, rank, office, or grade, or of any emolument, perquisite, right, privilege, or benefit incident thereto to military personnel so detailed. Each such detail shall be made pursuant to an agreement between the Chairman and the head of the relevant department, agency, or instrumentality, and shall be in accordance with the provisions of subchapter III of chapter 33 of Title 5.

Pub. L. 94–282, Title III, § 305, May 11, 1976, 90 Stat. 470.

Note K

The Federal Coordinating Council for Science, Engineering and Technology was established in accordance with Title III of the National Science and Technology Policy, Organization and Priorities Act of 1976. It is abolished by the Reorganization Plan and its functions, 42 U.S.C. § 6651 transferred to the President:

SUBCHAPTER IV—FEDERAL COORDINATING COUNCIL FOR SCIENCE, ENGINEERING, AND TECHNOLOGY

§ 6651. Establishment and functions of Council.

(a) There is established the Federal Coordinating Council for Science, Engineering, and Technology (hereinafter referred to as the "Council").

(b) The Council shall be composed of the Director of the Office of Science and Technology Policy and one representative of each of the following Federal agencies: Department of Agriculture, Department of Health, Education, and Welfare, Department of Housing and Urban Development, Department of the Interior, Department of State, Department of Transportation, Veterans' Administration, National Aeronautics and Space Administration, National Science Foundation, Environmental Protection Agency, and Energy Research and Development Administration. Each such representative shall be an official of policy rank designated by the lead of the Federal agency concerned.

(c) The Director of the Office of Science and Technology Policy shall serve as Chairman of the Council. The Chairman may designate another member of the Council to act temporarily in the Chairman's absence as Chairman.

(d) The Chairman may (1) request the head of any Federal agency not named in subsection (b) of this section to designate a representative to participate in meetings or parts of meetings of the Council concerned with matters of substantial interest to such agency, and (2) invite other persons to attend meetings of the Council.

(e) The Council shall consider problems and developments in the fields of science, engineering, and technology and related activities affecting more than one Federal agency, and shall recommend policies and other measures designed to—

(1) provide more effective planning and administration of Federal scientific, engineering, and technological programs.

(2) identify research needs including areas requiring additional emphasis.

(3) achieve more effective utilization of the scientific, engineering, and technological resources and facilities of Federal agencies, including the elimination of unwarranted duplication, and

(4) further international cooperation in science, engineering, and technology.

(f) The Council shall perform such other related advisory duties as shall be assigned by the President or by the Chairman.

(g) For the purpose of carrying out the provisions of this section, each Federal agency represented on the Council shall furnish necessary assistance to the Council. Such assistance may include—

(1) detailing employees to the Council to perform such functions, consistent with the purposes of this section, as the Chairman may assign to them, and

(2) undertaking, upon request of the Chairman, such special studies for the Council as come within the functions herein assigned.

(h) For the purpose of conducting studies and making reports as directed by the Chairman, standing subcommittees and panels of the Council may be established.

Pub. L. 94–282, Title IV, § 401, May 11, 1976, 90 Stat. 471.

Note L

Authority for the establishment of the Office of Telecommunications Policy may be found primarily at 47 U.S.C. § 305, note Reorganization Plan No. 1 of 1970, 35 F.R. 6421, 84 Stat. 2083, and Executive Order 11556, Sept. 4, 1970, 35 F.R. 14193. The functions of the Office and its director relating to the preparation of Presidential telecommunications policy options including those related to the procurement and management of Federal telecommunications systems, national security and emergency matters, which are set out in Section 2(b) of Executive Order No. 11556, are transferred to the President:

EXECUTIVE ORDER NO. 11556

Sept. 4, 1970, 35 F.R. 14193, as amended by Ex. Ord. No. 11921, June 11, 1976, 41 F.R. 2494

ASSIGNMENT OF TELECOMMUNICATION FUNCTIONS

By virtue of the authority vested in me by section 301 of title 3 of the United States Code [section 301 of Title 3, The President], and as President of the United States, and in consonance with the intention expressed in my message to the Congress transmitting Reorganization Plan No. 1 of 1970 [set out as a note under this section], is is hereby ordered as follows:

Section 1. Amended and superseded orders. Executive Orders Nos. 10705 of April 17, 1957, 11051 of September 27, 1962, 11191 of January 4, 1965, and 11490 of October 28, 1969, and the President's Memorandum of August 21, 1963, headed "Establishment of the National Communications System" (28 F.R. 9413) are amended as provided herein. Executive Orders Nos. 10695—A of January 16, 1957, 10995 of February 16, 1962, and 11084 of February 15, 1963, to the extent not heretofore made inapplicable, are hereby revoked.

Sec. 2. General functions. Subject to the authority and control of the President, the Director of the Office of Telecommunications Policy (hereinafter referred to as the Director) shall:

(a) Serve as the President's principal adviser on telecommunications.

(b) Develop and set forth plans, policies, and programs with respect to telecommunications that will promote the public interest, support national security, sustain and contribute to the full development of the economy and world trade, strengthen the position and serve the best interests of the United States in negotiations with foreign nations, and promote effective and innovative use of telecommunications technology, resources, and services. Agencies shall consult with the Director to insure that their conduct of telecommunications activities is consistent with the Director's policies and standards.

(c) Assure that the executive branch views are effectively presented to the Congress and the Federal Communications Commission on telecommunications policy matters.

(d) Coordinate those interdepartmental and national activities which are conducted in preparation for U.S. participation in international telecommunications conferences and negotiations, and provide to the Secretary of State advice and assistance with respect to telecommunications in support of the Secretary's responsibilities for the conduct of foreign affairs.

(e) Coordinate the telecommunications activities of the executive branch and formulate polices and standards therefor, including but not limited to considerations of interoperability, privacy, security, spectrum use and emergency readiness.

(f) Evaluate by appropriate means, including suitable tests, the capability of existing and planned telecommunications systems to meet national security and emergency preparedness requirements, and report the results and any recommended remedial actions to the President and the National Security Council.

(g) Review telecommunications research and development, system improvement and expansion programs, and programs for the

testing, operation, and use of telecommunications systems by Federal agencies. Identify competing, overlapping, duplicative or inefficient programs, and make recommendations to appropriate agency officials and to the Director of the Office of Management and Budget concerning the scope and funding of telecommunications programs.

(h) Coordinate the development of policy, plans, programs, and standards for the mobilization and use of the Nation's telecommunications resources in any emergency, and be prepared to administer such resources in any emergency under the overall policy direction and planning assumptions of the Director of the Office of Emergency Preparedness.

(i) Develop, in cooperation with the Federal Communications Commission, a comprehensive long-range plan for improved management of all electromagnetic spectrum resources.

(j) Conduct and coordinate economic, technical, and systems analyses of telecommunications policies, activities, and opportunities in support of assigned responsibilities.

(k) Conduct studies and analyses to evaluate the impact of the convergence of computer and communications technologies, and recommend needed actions to the President and to the departments and agencies.

(l) Coordinate Federal assistance to State and local governments in the telecommunications area.

(m) Contract for studies and reports related to any aspect of his responsibilities.

Sec. 3. Frequency assignments. The functions transferred to the Director by section 1 of Reorganization Plan No. 1 of 1970 include the functions of amending, modifying, and revoking frequency assignments for radio stations belonging to and operated by the United States, or to classes thereof, which have heretofore been made or which may be made hereafter.

Sec. 4. War powers. Executive Order No. 10705 of April 17, 1957 (set out as a note under section 606 of this title), headed "Delegating Certain Authority of the President Relating to Radio Stations and Communications", as amended, is further amended by:

(a) Substituting for subsection (a) of section 1 the following: "(a) Subject to the provisions of this order, the authority vested in the President by subsections 606(a), (c), and (d) of the Communications Act of 1934, as amended (47 U.S.C. 606(a), (c) and (d) (section 606(a), (c) and (d) of this title), is delegated to the Director of the Office of Telecommunications Policy (hereinafter referred to as the Director). That authority shall be exercised under the overall policy direction of the Director of the Office of Emergency Preparedness".

(b) Substituting for the text "subsections 305(a) and 606(a)" in subsection (b) of section 1 the following: "subsection 606(a) [section 606(a) of this title]".

Sec. 5. Foreign government radio stations. The authority to authorize a foreign government to construct and operate a radio station at the seat of government vested in the President by subsection 305(d) of the Communications Act of 1934, as amended (47 U.S.C. 305(d)) [section 305(d) of this title], is hereby delegated to the Director. Authorization for the construction and operation of a radio station pursuant to this subsection and the assignment of a frequency for its use shall be made only upon recommendation of the Secretary of State and after consultation with the Attorney General and the Chairman of the Federal Communications Commission.

Sec. 6. Office of Emergency Preparedness. (a) Executive Order No. 11051 of September 27, 1962 [set out as a note under section 2271 of Title 50, Appendix, War and National Defense], headed "Prescribing Responsibilities of the Office of Emergency Planning in the Executive Office of the President", as amended, is further amended by:

(1) Deleting subsection 301(4) and renumbering subsection 301(5) as subsection 301(4).

(2) Substituting for section 306 the following:

"Sec. 306. Emergency telecommunication. The Director shall be responsible for providing overall policy guidance to the Director of the Office of Telecommunications Policy in planning for the mobilization of the Nation's telecommunications resources in time of national emergency."

(3) Deleting section 406.

Sec. 7. Emergency preparedness.

[Superseded by Ex.Ord.No.11921, June 11, 1976, 41 F.R. 2494.]

Sec. 8. National Communications System. The President's Memorandum of August 21, 1963, headed "Establishment of the National Communications System" (28 F.R. 9413), is amended by:

(a) Substituting the following for the first paragraph after the heading "Executive Office Responsibilities":

"The Director of the Office of Telecommunications Policy shall be responsible for policy direction of the development and operation of the National Communications System and shall:"

(b) Substituting the term "Director of the Office of Telecommunications Policy" for the term "Special Assistant to the President for Telecommunications" wherever it appears in said memorandum.

Sec. 9. Communications Satellite Act of 1962. Executive Order No. 11191 of January 4, 1965 [set out as a note under section 721 of this title], headed "Providing for the Carrying Out of Certain Provisions of the Communications Satellite Act of 1962", is amended by:

(a) Substituting the following for subsection (c) of section 1:

"(c) The term 'the Director' means the Director of the Office of Telecommunications Policy.", and

(b) Substituting the following for the catchline of section 2: "Director of the Office of Telecommunications Policy."

Sec. 10. Advisory committees. As may be permitted by law, the Director shall establish such interagency advisory committees and working groups composed of representatives of interested agencies and consult with such departments and agencies as may be necessary for the most effective performance of his functions. To the extent he deems it necessary to continue the Interdepartment Radio Advisory Committee, that Committee shall serve in an advisory capacity to the Director. As may be permitted by law, the Director also shall establish one or more telecommunications advisory committees composed of experts in the telecommunications area outside the Government.

Sec. 11. Rules and regulations. The Director shall issue such rules and regulations as may be necessary to carry out the duties and responsibilities delegated to or vested in him by this order.

Sec. 12. Agency assistance. All executive departments and agencies of the Federal Government are authorized and directed to cooperate with the Director and to furnish him such information, support and assistance, not inconsistent with law, as he may require in the performance of his duties.

RESPONSIBILITIES OF THE DIRECTOR, OFFICE OF MANAGEMENT AND BUDGET

Sec. 7. (a) The Director shall establish and maintain within the Office of Management and Budget a Committee Management Secretariat, which shall be responsible for all matters relating to advisory committees.

(b) The Director shall, immediately after the enactment of this Act, institute a comprehensive review of the activities and responsibilities of each advisory committee to determine—

(1) whether such committee is carrying out its purpose;

(2) whether, consistent with the provisions of applicable statutes, the responsibilities assigned to it should be revised;

(3) whether it should be merged with other advisory committees; or

(4) whether it should be abolished.

The Director may from time to time request such information as he deems necessary to carry out his functions under this subsection. Upon the completion of the Director's review he shall make recommendations to the President and to either the agency head or the Congress with respect to action he believes should be taken. Thereafter, the Director shall carry out a similar review annually. Agency heads shall cooperate with the Director in making the reviews required by this subsection.

(c) The Director shall prescribe administrative guidelines and management controls applicable to advisory committees, and, to the maximum extent feasible, provide advice, assistance, and guidance to advisory committees to improve their performance. In carrying out his functions under this subsection, the Director shall consider the recommendations of each agency head with respect to means of improving the performance of advisory committees whose duties are related to such agency.

(d)(1) The Director, after study and consultation with the Civil Service Commission, shall establish guidelines with respect to uniform fair rates of pay for comparable services of members, staffs, and consultants of advisory committees in a manner which gives appropriate recognition to the responsibilities and qualification required and other relevant factors. Such regulations shall provide that—

(A) no member of any advisory committee or of the staff of any advisory committee shall receive compensation at a rate in excess of the rate specified for GS–18 of the General Schedule under section 5332 of title 5, United States Code; and

(B) such members, while engaged in the performance of their duties away from their homes or regular places of business, may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons employed intermittently in the Government service.

Sec. 13. Functions of the Secretary of Commerce. The Secretary of Commerce shall support the Director in the performance of his functions, shall be a primary source of technical research and analysis and, operating under the policy guidance and direction of the Director, shall:

(a) Perform analysis, engineering and administrative functions, including the maintenance of necessary files and data bases, responsive to the needs of the Director in the performance of his responsibilities for the management of the radio spectrum.

(b) Conduct technical and economic research upon request to provide information and alternatives required by the Director.

(c) Conduct research and analysis on radio propagation, radio systems characteristics, and operating techniques affecting the utilization of the radio spectrum in coordination with specialized, related, research and analysis performed by other Federal agencies in their areas of responsibility.

(d) Conduct research and analysis in the general field of telecommunication sciences in support of other Government agencies as required and in response to specific requests from the Director.

(e) Conduct such other activities as may be required by the Director to support him in the performance of his functions.

Sec. 14. Retention of existing authority. (a) Nothing contained in this order shall be deemed to impair any existing authority or jurisdiction of the Federal Communications Commission. In carrying out his functions under this order, the Director shall coordinate his activities as appropriate with the Federal Communications Commission and make appropriate recommendations to it as the regulator of the private sector.

(b) Except as specifically provided herein, nothing in this order shall be deemed to derogate from any existing assignment of functions to any other department or agency or officer thereof made by statute, Executive order, or other Presidential directives.

RICHARD NIXON.

Office of Emergency Preparedness. Functions of the Director of the Office of Emergency Preparedness under Ex. Ord. No. 11556, Sept. 4, 1970, 35 F.R. 14193 [set out as a note under this section], transferred to the Administrator of General Services, see section 3 of Ex. Ord. No. 11725, June 27, 1973, F.R. 17175, set out as a note under section 2271 of Title 50, Appendix, War and National Defense.

Note M

The function of the Office of Telecommunications Policy relating to the disposition of appeals from assignments of radio frequencies to stations of the United States Government is a part of the functions outlined in Section 3 of Executive Order No. 11556. (See Note L)

Note N

The Executive Office of the President is established pursuant to 3 U.S.C. § 101, note, which states:

Executive office of the President.—The statement on organization and functions of the executive office of the President, 14 Fed. Reg. 7856, as amended 17 Fed. Reg. 6204; 18 Fed. Reg. 5668, provided:

Sec. I. Divisions of the Executive Office of the President.—The Executive Office of the President consists of the divisions listed below.

Sec. II. White House Office.—The White House Office comprises the officers and employees of the staff of the President required in the performance of the detailed activities incident to his immediate office.

Sec. III. Bureau of the Budget—(a) General.—The Bureau of the Budget serves the President in the preparation and administration of the budget, in the review of legislation and Executive orders, in the improvement of administrative management and organization, and in the coordination and improvement of Federal statistics.

(b) Approval of collection of information.—Under the Federal Reports Act of 1942, no Federal agency, with specified exemptions, may collect identical information from ten or more respondents without the Bureau's approval, which is indicated on the report form or questionnaire. This authority is exercised by the Assistant Director for Statistical Standards, with assistance from an Advisory Council on Federal Reports representing national business organizations.

Sec. IV. Council of Economic Advisors.—The Council of Economic Advisors assists the President in the preparation of his economic reports to Congress; studies developments and trends in income, production, and employment; appraises activities of the Federal Government bearing upon the growth and stability of the Nation's economy; and develops and recommends to the President national economic policies to foster a strong economy.

Sec. V. National Security Council.—The National Security Council advises the President with respect to the integration of domestic, foreign, and military policies relating to the national security. The Central Intelligence Agency is under the Council's direction.

Sec. VI. Office of Defense Mobilization.—The Office of Defense Mobilization directs, controls, and coordinates on behalf of the President all defense mobilization activities of the executive branch of the Government.

Sec. VII. Office for Emergency Management.—The Office for Emergency Management, when activated, assists the President in dealing with public emergencies.

Note O

All of the remaining functions of the Office of Telecommunications Policy and of its Director are transferred to the Secretary of Commerce, who shall provide for the performance of such functions. Such functions are outlined in Sections 2 (a), (c), (d), (e), (f), (g), (h), (i), (j), (k), (l), and (m), Sections 4, 5, 6, 7, 8, 9, 10, 11, 12, and 13 of Executive Order No. 11556, along with those portions of Section 2(b) not transferred to the Executive Office of the President under Note. L. That portion of Section 2(b) of this Executive Order not transferred to the President in Note L is transferred to the Secretary of Commerce.

Note P

The functions of the Office of Drug Abuse Policy and its Director are transferred to the President who may then delegate such functions within the Executive Office of the President as the President may from time to time deem desirable. The functions of the office of Drug Abuse Policy and its Director are to:

(1) Make recommendations to the President with respect to policies for, objectives of, and establishment of priorities for, Federal drug abuse functions, and

(2) Coordination of the performance of such functions by Federal Departments and agencies; and

(3) Recommendations for changes in the organization, management and personnel of Federal Departments and agencies performing drug abuse functions.

In carrying out these functions the Director shall review the regulations, guidelines, criteria, and procedures of Federal departments and agencies applicable to the performance of drug abuse functions, and conduct or provide for evaluations of the performance and results achieved by Federal departments and agencies in this area. In addition, the Director shall seek to assure that Federal departments and agencies consider drug abuse as a health problem. All Federal departments and agencies engaged in drug abuse functions must submit to the Director all information reasonably required to carry out these purposes.

The Director may also be asked by the President to represent the United States in international negotiations relating to drug abuse.

The Director shall submit to the President and to the Congress an annual report on the activities of the Office of Drug Abuse which must include the accomplishments of the Office and an accounting of funds.

21 U.S.C. §§ 1111–1133

The Director of the Office of Drug Abuse is also required to serve as a member of the National Drug Abuse Strategy Council, which is given the task of developing a comprehensive, coordinated, long-term Federal strategy for all drug abuse prevention functions.

21 U.S.C. §§ 1161–1163

Note Q

The functions of the Domestic Council are established by the following authorities: Reorganization Plan No. 2 of 1970 set out as a note to 31 U.S.C. § 16; Executive Order No. 11541, 35 F.R. 10737 (July 1, 1970); and Executive Order No. 11690, 37 F.R. 26815 (Dec. 14, 1972).

Reorganization Plan No. 2 of 1970 provides that the Domestic Council shall perform such functions as the President may from time to time delegate or assign.

Executive Order No. 11541 provides that:

SEC. 2. (a) Under the direction of the President and subject to such further instructions as the President from time to time may issue, the Domestic Council in the Executive Office of the President shall (1) receive and develop information necessary for assessing national domestic needs and defining national domestic goals, and develop for the President alternative proposals for reaching those goals; (2) collaborate with the Office of Management and Budget and others in the determination of national domestic priorities for the allocation of available resources; (3) collaborate with the Office of Management and Budget and others to assure a continuing review of ongoing programs from the standpoint of their relative contributions to national goals as compared with their use of available resources; and (4) provide policy advice to the President on domestic issues.

Executive Order No. 11690 provides:

SECTION 1. *Functions of the Executive Director of the Domestic Council.* In addition to the functions heretofore assigned, the Executive Director of the Domestic Council shall assist the President with respect to intergovernmental relations generally. In addition, he shall:

(1) serve as the coordinator for the prompt handling and solution of Federal-State-local problems brought to the attention of the President or Vice President by executive and legislative officers of State and local governments;

(2) identify and report to the President on recurring intergovernmental problems of a Federal interdepartmental and interprogram nature;

Note R

The Federal Nonnuclear Energy Research and Development Act of 1974, 42 U.S.C. § 59 et seq., establishes a Federal Research and Development Program for the better utilization of nonnuclear sources of energy. Pursuant to section 11 of the Act (42 U.S.C. § 5910), the Council of Environmental Quality is charged with the responsibility of evaluating the environmental consequences of trends in the development and application of nonnuclear energy technologies. The Council also has the responsibility of holding annual public hearings on the environmental impact of energy research and development. Finally, the Council must take reports to the President to be used in the President's annual Environmental Policy Report.

The Office of Environmental Quality provides staff and support services for the Council on Environmental Quality so that the Council's duties under Section 11 of the Nonnuclear Research and Development Act are shared by the Office of Environmental Quality, 42 U.S.C. §§ 4372–4.

Note S

The functions of the Office of Management and Budget and of its Director relating to the Committee Management Secretariat are found in Pub. L. 92–463 as amended by Pub. L. 94–409, Title 5 of the United States Code Appendix Section 7:

MEDICAID FUNDING FOR ABORTIONS

Mr. McGOVERN. Mr. President, in the deliberations now taking place concerning medicaid funding for abortions, one aspect is often overlooked. The termination of medicaid funding for abortions will surely result in a greater number of deaths of pregnant women.

A new study just published in the American Journal of Public Health estimates that the restriction of medicaid funds would result in the deaths of additional women with a mortality rate up to 16 times greater than the mortality rate expected if medicaid funds continue to be available for abortions. The authors, two doctors with the Center for Disease Control, point out that withdrawal of medicaid funding will cause additional maternal deaths because: One, more women will carry unwanted pregnancies to term and pregnancy carries a risk of death many times the risk of a safe legal abortion; two, more women will seek unsafe illegal abortions, and three, more women will delay in having legal abortions while seeking funds to pay for those abortions.

I ask unanimous consent that the study be printed in the RECORD, along with an editorial in the same issue of the American Journal of Public Health.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

RESTRICTING MEDICAID FUNDS FOR ABORTIONS: PROJECTIONS OF EXCESS MORTALITY FOR WOMEN OF CHILDREARING AGE

(By Diana B. Petitti, M.D., and Willard Cates, Jr., M.D. MPH)

Over the past two years there have been several legislative and judicial challenges to public payment for legal abortion services.[1] If successful, the restriction of public funds for abortion could result in excess mortality for women of childbearing age in three ways. First, additional deaths from pregnancy and childbirth would occur if women who would have had an abortion carry the pregnancy to term. Second, excess deaths would result if these women seek an abortion from a less safe, nonlegal source, or if they attempt to induce an abortion in themselves. Third, additional deaths related to legal abortion would occur if women delay the procedure while seeking another source of funds. In this paper, we project the number of excess deaths of women of childbearing age which might result in each of these alternatives.

METHODS

We used four data sources to make our estimates: Medicaid data to estimate the number of women obtaining publicly funded abortions; [2] the 1970 U.S. census data to obtain the racial distribution by poverty status; [3] the Center for Disease Control (CDC) 1974 Abortion Surveillance Report to obtain the gestational distribution of abortions performed;[4] and 1974 national vital statistics regarding the risks of pregnancy and childbirth, legal abortion, and nonlegal abortion.[5] From these sources, we estimate that 64 per cent of Medicaid-funded abortions are among white women and 36 percent among women of black-and-other-races. Applying these percentages to the approximately 250,000 Medicaid funded abortions in 1974, we estimate that 160,000 were among white women and 90,000 among black and other women. These numbers form the basis for our subsequent projections. We assumed that women will continue to become pregnant at the current rate, and that the proportion of these pregnancies for which the women would seek abortion is constant.

PROJECTION OF EXCESS MORTALITY

If term births are substituted for legal abortions

If all pregnant women who would have sought Medicaid funds for abortion carried their pregnancy to term, there would be deaths in excess of the current number because of the relatively greater risks of pregnancy and childbirths. Because legal abortion is safer than childbearing,[4] and because those women whose abortions have been publicly funded have a racial distribution which puts them at a higher risk of maternal mortality than the general population, this seemingly innocuous alternative to abortion results in a sizable number of excess deaths to women of childbearing age.

In 1974, the risk of mortality from pregnancy and childbearing was 10.0 deaths per 100,000 live births in white women and 35.1 deaths per 100,000 live births from women of black-and-other-races.[5] The mortality ratio for abortion in 1974 with 0.5 deaths per 100,000 live births for white women and 2.4 deaths per 100,000 live births for black-and-other women. Thus, the risk of death from pegnancy and childbirth excluding abortion—the attributable mortality risk—is 9.5 per 100,000 live births for white women and 32.7 per 100,000 live births for women of black-and-other races. Applying the attributable mortality risk to the number of pregnancies for women who would have sought a Medicaid-funded abortion, we project 15 excess deaths among white women and 29 excess deaths among women of black-and-other races (Table 1). The total number of excess deaths is 44. The variables of age and parity also affect the mortality risks of both legal abortion and childbirth; however, national data were not available for 1974 to allow the necessary stratification and projections based on these variables.

If nonlegal abortions are substituted for legal abortions

We estimate that excess deaths for women of childbearing age will also occur if pregnant women obtain abortions induced by persons other than physicians. Tietze estimates that the mortality rate of nonlegal abortion in developed countries is 40 per 100,000 procedures.[7] The death-to-case rate for legal abortions is about 4 per 100,000 abortions [6] for an attributable mortality risk of 36 deaths from every 100,000 nonlegal abortions. If all 250,000 women who would have obtained a legal abortion terminated their pregnancies through nonlegal channels, then 90 excess deaths would result.

However, it is unlikely that every woman would choose a nonlegal abortion; some would carry the pregnancy to term. Tietze further estimated that 70 per cent of current legal abortions replaced nonlegal and self-induced abortions.[8] If 70 per cent of the 250,000 pregnant women who would have had a Medicaid-funded abortion have a nonlegal abortion, we estimate that 63 excess deaths would occur. The remaining 30 per cent who carry the pregnancy to term are subject to increased risk of childbearing. Applying the relevant mortality ratios by race to the remaining 30 per cent of women seeking Medicaid-funded abortions, 14 additional deaths are projected. Thus, we calculate a total of 77 excess deaths to women of reproductive age if previous proportions of nonlegal abortions were substituted for legal abortion.

DELAY IN OBTAINING LEGAL ABORTION

Because even legal abortion becomes more risky the later in pregnancy it is performed,[6] and delay in obtaining an abortion would result in excess mortality risks. Assuming Medicaid-funded abortions have the same distribution by gestational age as non-Medicaid-funded abortions, we can project the number of Medicaid-funded abortions by gestational age (Table 2). If difficulty in obtaining funds for abortion resulted in an average delay of only two weeks for each legal abortion among these women, five excess deaths would have occurred (Table 2). While five deaths does not seem like a large number, it would have increased the death-to-case rate for women eventually having abortions with public funds by nearly 60 per cent, and raised the overall national abortion death-to-case rate by 21 per cent. The impact of early decision-making and prompt financial accessibility to abortion services on minimizing abortion mortality should be stressed.

CONCLUSION

The most important principle of this analysis is that, once pregnant, a woman encounters an increased risk of death, no matter what her choice of outcomes. While the risks of pregnancy and childbirth are readily assumed in the case of wanted pregnancy, unfortunately not all pregnancies are wanted. For unwanted pregnancies, legal abortion in the first trimester is the safest option available to women.

On a national level, the increasing availability of legal abortion has been temporally associated with a decline in abortion deaths, which fell faster than deaths from other causes attributable to pregnancy and childbirth.[7-9] Our projections indicate that restriction of public funds for abortion might reverse this trend. Moreover, experience with Medicaid abortions in New York City implies that the limitation of public funding for abortion would lead to increased total health care costs because the alternatives of childbirth or complications from nonlegal abortion are more expensive.[10]

The actual impact of non-funding on the number of excess abortion deaths would depend on the number of women seeking Medicaid funds for abortion, on the proportion choosing to carry to term, on those choosing a nonlegal abortion, and on the delay encountered in obtaining other funding sources. If publicly funded abortions were restricted, we have calculated that from five to 90 excess deaths, would result for women of childbearing age in the United States depending on the distribution of the above options chosen by pregnant women whose public funding has been denied.

Footnotes at end of article.

TABLE 1.—EXCESS DEATHS IN MEDICAID RECIPIENTS OF REPRODUCTIVE AGE FROM SUBSTITUTING TERM BIRTH FOR LEGAL ABORTION, BY RACE, UNITED STATES, 1974

Race	Number of medicaid-funded abortions	Maternal mortality ratio [1 2]	Abortion mortality ratio [2 3]	Attributable mortality risk [4]	Excess deaths [5]
White	160,000	10.0	0.5	9.5	15
Black and other	90,000	35.1	2.4	32.7	29
Total	250,000				44

[1] Deaths from all causes of pregnancy and childbirth per 100,000 live births.
[2] National Center for Health Statistics: Final mortality statistics, 1974. Monthly vital statistics report 24 (suppl): 20, 1976
[3] Deaths from abortion per 100,000 live births.
[4] Maternal mortality ratio minus abortion mortality ratio.
[5] Number of abortions to medicaid recipient times attributable mortality risk.

TABLE 2.—EXCESS DEATHS IN MEDICAID RECIPIENTS OF REPRODUCTIVE AGE ATTRIBUTABLE TO DELAYING LEGAL ABORTION FOR 2 WEEKS, UNITED STATES, 1974

Gestational age	No delay			2-week delay				
	Number medicaid abortions	Death-to-case rate [1]	Projected deaths	Percent shifted to higher gestational interval [2]	Number medicaid abortions	Death-to-case rate [1]	Projected deaths	Excess deaths
Less than 8	106,379	0.4	0.4	50	53,190	0.4	0.2	−0.2
9 to 10	71,656	2.2	1.6	100	53,190	2.2	1.2	−.4
11 to 12	38,386	3.9	1.5	100	71,656	3.9	2.8	1.3
13 to 15	13,813	9.3	1.3	66	42,990	9.3	4.0	2.7
16 to 20	16,291	19.7	3.2	40	18,983	19.7	3.7	.5
Over 21	3,111	19.8	.6	([3])	6,516	19.8	1.3	.7
Term birth					3,111	[4] 13.5	.4	.4
Total								5.0

[1] Deaths per 100,000 abortions, United States, 1972–74.
[2] Percentage based on 2-week delay divided by gestational interval. Assumes all pregnancies over 21 weeks gestation which delayed 2 weeks were not aborted.
[3] Not aborted.
[4] Mortality ratio of 13.5/100,000 live births for delayed abortions eventually carried to term.

Thus, any permutation or combination of the various alternatives presented above would result in a predictable level of deaths in excess of the current level to pregnant women seeking abortion who must rely on public funding for medical care.

FOOTNOTES

[1] Alan Guttmacher Institute: Supreme Court to review restrictions on abortion by Medicaid. Family Planning/Population Reporter 5:58–62. 1976.

[2] Department of Health, Education, and Welfare: Issues Arising from Section 209. Labor-HEW Appropriation Bill, H.R. 14232 policy statement. June 26, 1976.

[3] Bureau of the Census: 1970 Census of the Population, detailed characteristics. Washington, D.C., U.S. Govt. Printing Office, 1973, Table 259.

[4] Center for Disease Control: Abortion Surveillance, 1974. Issued April 1976.

[5] National Center for Health Statistics: Final Mortality Statistics, 1974. Monthly Vital Statistics Report 24 (suppl): 20, 1976.

[6] Cates, W., Jr, Grimes, D. A., Smith, J. C., and Tyler, C. W., Jr. Legal abortion mortality in the United States, JAMA 237:452–455, 1977.

[7] Tietze, C. The effect of legalization of abortion on population growth and public health. Fam. Plann. Perspec. 7:123–128. 1975.

[8] Tietze, C. Two years' experience with a liberal abortion law: Its impact on fertility trends in New York City. Fam. Plann. Perspec. 5:36–42. 1973.

[9] Cates, W., Jr. Rochat, R. W., Smith, J. C., and Tyler, C. W., Jr. Trends in national abortion mortality. United States, 1940–1974: Implications for prevention of future abortion deaths. Adv. Planned Parenthood 11:106–113. 1976.

[10] Robinson, M., Pakter, J., Svigir, M. Medicaid coverage of abortions in New York City: Costs and benefits. Fam. Plann. Perspect. 6:202–208, 1974.

ABORTIONS AND PUBLIC POLICY, II

Page 860–862 of the current issue of the Journal contain an estimate of the number of deaths of women of childbearing age to be expected as the result of cutting off Medicaid funds for abortion.[1] We regret that this Public Health Brief could not have been published in July and covered by our editorial that month.[2] Unfortunately we cannot function as a newspaper does; we have a minimum 2½ months lag time between delivery to the printer and publication of a manuscript, as do most professional journals. It is only on rare and fortuitous occasions that our pages reflect what is "front page news" in the rapidly changing world of the mass media. In this case, all we can say is that the abortion issue was hot in the summer solstice when the U.S. House of Representatives appropriated Medicaid funds with the stipulation that they could not be used to pay for abortions, and the U.S. Supreme Court handed down its decision allowing states to decide whether or not to use public funds to pay for abortions.

The Congressional stipulation, in contrast to the Supreme Court's decision, forbids the use of federal funds to pay for abortions even if the mother's life is endangered. Petitti and Cates' estimates do not take into account the effect of canceling out abortions that are deemed medically necessary in order to protect a mother's life. Their calculations are based on the differentials in risk between abortions and term pregnancies, the substitution of illegal for legal abortions, and the added risk to the mother of delay in obtaining an abortion. As they point out, the exact combination of these effects that will ensue are impossible to predict but, regardless of the combination, the lives lost will be appreciable. Should abortions be denied even to protect a mother's life, the exact effect is also unpredictable, but surely additive.

There are, of course, many other costs associated with the withdrawal of Medicaid funds for abortion. Some of them are cited by Petitti and Cates in an older study based on New York City data.[3] Although not projected nationally, these social costs were of substantial magnitude. Still further costs could be projected by calculating the calamities avoided by abortions undertaken as a result of an amniocentesis diagnosis, or the predictable effects of a teratogenic agent.

These costs can be expressed in terms of women's lives lost and the misery of unwanted and unwelcome children or in the dollars and cents figures of medical and social care and loss of productivity. In any case, one can predict with confidence that confusion and distortion of the health care system will follow in the wake of the variations in state laws that the Court and House actions portend. These are additional though bitter, reasons for continuing to retain maternal mortality committees whose values are discussed in a neighboring editorial.[4]

It seems unfortunate that this side of the ledger has not been spelled out for the public to ponder. The formalization of social controls is a proper function of the laws of a society. However, laws should reflect an ample consensus derived through a rational process that has considered their effects in practical terms. Laws that do not reflect this process can lead only to inequity and abuse.

FOOTNOTES

[1] Petitti, D. B. and Cates, W. Jr. Restricting Medicaid funds for abortions; Projections of excess mortality for women of childbearing age. Am. J. Public Health: 67:860–862, 1977.

[2] Yankauer, A. Editorial: Abortions and Public policy, Am. J. Public Health 67:604–605, 1977.

[3] Robinson, M., Pakter, J. and Svigir, M. Medicaid Coverage of Abortions in New York City: Costs and Benefits. Fam. Plan. Perspect.: 6:202–208, 1974.

[4] Pearse, W. H. Editorial: Maternal Mortality Studies—Time to Stop? Am. J. Pub. Health: 67:815–816, 1977.

A BILL OF RIGHTS FOR THOSE WHO SERVE

Mr. GOLDWATER. Mr. President, the Association of the United States Army keeps working religiously and constantly on the problems that face the man in uniform. They have just published a special report entitled, "A Bill of Rights for Those Who Serve," and I think it comes at such a proper time because we are now beginning to consider these problems, that it should be made available to my colleagues. So I ask unanimous consent that it be printed in the RECORD with the understanding, of course, that the charts set forth therein cannot be reproduced in the RECORD.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

SPECIAL REPORT: A BILL OF RIGHTS FOR THOSE WHO SERVE

(NOTE.—Some figures are not printed in the RECORD).

AUSA'S POSITION

"Removal of real or perceived benefits, regardless of the reason, can and frequently does produce Service reactions out of proportion to the savings involved. Such presumed savings then become illusory for two reasons: trained personnel who might have been motivated toward a career leave the Service at the first opportunity; and those who have chosen a military career feel that the Government has broken faith with them. The investment in recruiting, training, and experience of all those lost may well exceed any savings originally contemplated. The adverse impact on the morale of those remaining should be obvious and a cause for deep concern. . . .

"The Commission believes that a "Bill of Rights" should be enacted specifying the benefits that accrue from military service. This Bill of Rights would provide that such benefits would only be changed or eliminated prospectively and changes would not apply to those already in the Service. In other words, we feel that for whatever reason, the serviceman now feels that his benefits are in jeopardy. His trust and confidence in the system have been shaken to the point where legislation may be necessary to restore it.—Report of the Defense Manpower Commission, April 1976.

Many quotations from poets and scholars might be used to cement the idea that change is often accompanied by misunderstanding. The statement by the Defense Manpower Commission was chosen because it has

the virtue of both illustrating the philosophical idea and tying it directly to the military compensation system. It cites correctly the perception of changes to the compensation system by the people who have the greatest stake in that system, the men and women who serve in the Armed Forces of the United States.

The Association of the United States Army does not intend this Bill of Rights for Those Who Serve to be a brief against change. Rather, it is intended as a statement of principle concerning the military compensation system, its background, its strengths and weaknesses, and what must be done to emphasize the strengths while doing away with the weaknesses. It is intended as well to be a guide for the military people who must live with the system and for the legislators and civilian leaders who are charged by law to administer it.

In the view of the Association, the current misunderstanding of the military compensation system, while due partly to the system's complexity, has its roots in the number of recent changes to the system, in the multitude of directions from which the changes have come, from the obvious lack of coordination among the authors of changes and from ineffective—and even non-existent—efforts to explain adequately the changes to service personnel.

We concur wholeheartedly with the finding of the Defense Manpower Commission that, ". . . A Bill of Rights should be enacted." Only by arriving at a commonly agreed formula can all the parties involved in creating, administering and living with the military compensation system adequately cope with the realities involved. This Bill of Rights must include:

Acknowledgment of the Federal government's responsibility to adequately pay, house, feed and provide medical/dental care to active duty service personnel and their dependents.

A pay and allowance system which recognizes the special nature of military service.

Basic pay set at levels to compete with other employment systems and equitably rewarding progressive achievement in the military system with its concomitant increasing responsibility.

Housing or quarters allowance provided for all single service personnel at the option of the Service. Family housing or quarters allowance for all married personnel above pay grade E–4 at the option of the Service and a quarters allowance for all other grades. The basic allowance for quarters set on a country-wide standard of total housing costs, appropriate to each enlisted, warrant and officer grade, varied by locale in exceptionally low and high cost areas.

A ration allowance for all personnel authorized to mess separately. The basic allowance for both officers and enlisted personnel to be set on a single standard tied to the cost of raw food.

A full range of medical and dental care for active duty service personnel and dependents and, as available, to retirees/families by military health care facilities, with augmentation by CHAMPUS in its original form, i.e., 90th percentile payments, care of service-connected disabilities and long-term chronic problems.

Availability of complete commissary/PX systems with continued current level appropriated fund support.

Appropriated fund support of essential military recreation programs.

Equitable travel/transportation entitlements for all ranks.

An expense reimbursement system which compensates for the actual expenses of official duty and travel.

A retirement system modeled on the proposed Retirement Modernization Act which places a premium on longer service while retaining 20-year retirement at lower rates but would also provide equity in the form of separation pay for those involuntarily separated without prejudice prior to reaching retirement eligibility.

A Survivor Benefit Plan as currently structured but with the Social Security offset reduced to 50% of the benefit attributable to military service and eliminating the offset when the beneficiary is entitled to equal or greater benefits due to his/her own employment.

The foregoing describes, in general, the compensation system which the Association believes will meet the future needs of military force management in a volunteer environment. But no less important, and even more necessary after the hodge-podge of management actions of recent years, a new approach is required to restore the confidence of military people in their political leadership. The Association concludes that a clear statement must be made of the rights of military people of the active forces with respect to their compensation, expense reimbursements and especially the procedures used to change them. In concept, the statement should include:

A precise description of those elements of pay and benefits which are included in budgetary costs and the evaluation of each for the purpose of setting compensation levels.

A precise description of the basis for annual adjustments to pay components such as basic pay and the basic allowances.

A precise description of the basis for annual adjustments to the levels of retired pay and survivor benefits.

Precise ground rules for structural changes to the form and levels of pays and benefits. Where changes are necessary they should provide protection for those already serving, including a save-pay clause if appropriate, and permit the service people to shift to the new system rather than staying with the old if it is to their advantage.

As a final statement of principle, the Association of the United States Army holds that no single sub-element of the military compensation system should be studied, evaluated or modified without putting it in the context of the entire system. Too many of the shortcomings of the present system are due to the piecemeal, uncoordinated changes inflicted in the past in the interest of pure cost avoidance or in response to the whim of influential persons in Congress or the Executive Branch.

The keystone of military service is loyalty, reaching upward through the ranks to the Commander-in-Chief and to the Congress representing the people. To be deserved, this loyalty must also be reflected downward so that the newest recruit can be assured of constant attention to his or her welfare. When cracks begin to appear in this chain of loyalty, those held up by its links tend to look elsewhere for support.

The Association of the United States Army will support its members and their fellows in the other services to the maximum extent permitted by its constitution but no association can be a full substitute for the concern and support the Constitution of the United States demands of the President and the Congress. Once more we turn to the report of the Defense Manpower Commission:

"In view of the unique obligations of the members of the armed forces, their civilian leadership should not give them any reasonable grounds for believing that there should be divided authority over them, or that they perhaps need representation in order to be fairly and equitably treated, or that there has been any erosion of expressed and implied commitments previously made to them. The attitudes of the members of the armed forces in this regard are shaped primarily by their perceptions of the attitude toward them of the President, the Congress, and the Secretary of Defense."

If we are to have an effective national defense the people who make it work must know where they stand, why they are there and where they are going.

I. INTRODUCTION

In recent years the Administration and the Congress have made or proposed a continuing stream of changes to the military systems of pays and benefits. Various agencies and organizations, from some Congressional Committee Staffs to the General Accounting Office to the Brookings Institution, have attacked various elements of the military system, sometimes with implications that the service members themselves are somehow at fault for what is "wrong" with the system. The instability, both real and "threatened," in this most basic means by which Americans provide for food, clothing, shelter, and economic security for themselves and their families, has created and sustained turmoil, uncertainty, apprehension and mistrust in our military forces.

No large corporations, and not even the federal civil service, play so continuously with the basic structures of its pay and benefits systems. Yet much of the criticism of military compensation systems, and much of the reaction of military personnel to criticism and to changes, reflects a significant lack of understanding of these systems by all concerned.

It is fair to say that most civilian workers do not have a thorough knowledge of their pay and benefits. They know what they get in their pay envelopes each week and understand what can be done for their sick children through the company medical plan but the intricacies of how the total package was made up usually escapes them. Military personnel have a similar lack of knowledge about the fine points of their pay and benefits system but they, like their civilian counterparts, are sensitive to changes in the system that are inadequately explained or justified.

The Third Quadrennial Review of Military Compensation, established by law and staffed by civilian and military representatives of the military services and the Department of Defense, has recently completed a comprehensive study of the military compensation system and its recommendations are currently under review. The President has just formed another body, called the President's Commission on Military Compensation, to look at possible changes. In this atmosphere of impending change it behooves all military personnel to make themselves more knowledgeable about their pay and benefits systems.

For the same reasons it is equally essential that civilian decision-makers in the executive and legislative branches become much more knowledgeable about military service and about the role and the structure of the major pay and benefits systems that support it.

Compensation—wages, fringe benefits and perquisites—is what a company pays its work force to do the work required. The amount of this compensation is controlled by several factors: (1) how much is needed to compete successfully for available labor for the kind of work to be done (going wages), (2) how much the company is able to pay (profitability), (3) cost of living, and (4) productivity.

Companies with large work forces of a number of different skills tend to have relatively structured systems of wages, benefits and perquisites. The levels and mix are based on considerations of external equity (competitive scales), internal equity (equal pay for approximately equal work), the conditions of work (location, hours, temperature, noise, hazard, etc.), and manpower manage-

ment objectives and costs (youth and turnover, experience and maturity). Their pay and benefits systems are designed to be competitive in the labor market and tailored to the particular needs of their workers and of their particular management systems.

These factors also weigh in the design of our military compensation systems. But there are other considerations that influence the military system. They are the things which make military service different from civilian employment. The Department of Defense must compete in the labor market for available talent. But while most large employers offer jobs, the military requires service.

From the point of view of the potential recruit looking for a job—or the service member debating continued service—the differences in military service and other jobs consist of a prior commitment to relinquish to the organization (management, or the leadership) control over:

Whether, when and for how long he will be exposed to the risks of combat;

Whether, when and how often he will have to relocate himself and his family to a new "job site;"

When, how often and for how long he will have to work overtime, and on weekends and holidays;

When, how often and for how long he will have to work at a location separated from home and family;

When, how often and for how long he is exposed to the conditions and hazards of field duty for training.

Military service also requires prior forfeiture of the individual right to quit immediately when the job is not satisfactory. It likewise involves the risk of loss of job through failure to progress. The military careerist may not, as in most occupations, reach a level of achievement suitable to the individual and then level off there for the rest of his working life. Finally, military service is a truncated career, even for those who do succeed. Retirement is compulsory between twenty and thirty years of service. Because of age limitations on entry into service this means retirement between the ages of about 38 and 50 or so—far earlier than the 60 to 65-year age norm in American society today.

There are other working conditions peculiar to certain skills, such as in flight crews, that apply to some members. There are working conditions that apply to virtually all skills on a recurring basis, such as sea duty in the Navy and the Marine Corps. But these are the essential characteristics of military service, applicable to all. It does not mean they are "good" or "bad," only that they are different from civilian employment.

Americans have made the commitment to this kind of service in the past with the understanding—the assurance of longstanding practice—that they and their families would be adequately cared for both during active service and after being retired from active service.

From the point of view of the national leadership, military service is different from civilian employment in special ways. The national leadership must have military forces which:

It can legally require to fight anywhere in the world, and have authority to punish those who disobey orders to do so;

It can work when and as long as it sees fit without undue regard to the personal preference of the individuals, and at whatever tasks it requires without rigid conformance to the occupational specialties of the individual used;

It can individually "fire" despite fully satisfactory performance in mid-career for any momentary convenience to the government, while not allowing other individuals to leave, even though they desire to;

It can individually force to retire without regard to personal preferences or family circumstances or to outlook for alternative, necessary, employment; and

It can hold in a "no-work" status for indefinite and protracted periods and then cast into whatever operational role it desires

This relatively complete one-way control over a "workforce," without internal debate (except in a planning or scheduling sense) to use it in any way that is judged to serve the national interest, is what makes this "workforce" a military force.

The expectation—the requirement—of such a military force is the acceptance on the part of each individual member of the opportunities and limitations of such a system But more, the expectation—the requirement—is for the dedication on the part of each individual member to the organization and to the Nation it serves.

Civilian employment in our society has as its basic purpose individual economic achievement. The employee does what suits his individual survival and achievement goals best. When those goals are compatible with the goals of the employer, or the goals of the two can be mutually accommodated, the business can thrive, make a profit or achieve its nonprofit goals. Military service, to the contrary, has the continued welfare of the Nation as its purpose. While individual aspirations are often achieved through military service, the person who undertakes a military career must know that his personal preferences will sometimes have to be subordinated to the good of the organization, whether it be an infantry squad, the crew of a ship or aircraft or the whole nation. There is no way that service of this kind can be called a "job." It is, and must be, a way of life.

The compensation system of pay and benefits which supports the military personnel system, and its "way of life," must be structured to its differences from ordinary civilian life. It must have an unusual degree of stability in its form and structure because it would be one of the few truly stable things in a military career.

The current system is complex. Figure 1 lists the major components. It includes six separate elements which, in combination, are roughly the equivalent of civilian wages. There are some sixteen elements of fringe benefits. There are also over 25 items of bonuses and special pays, many of which serve the purposes of premium pay and wage differentials in civilian industry. Finally, the system includes a range of fringe benefits which are categorically similar to those used in private business, but some of which are uniquely structured to the operational and motivational requirements of military service. In addition, there is a system of reimbursements for imposed expenses composed of over a dozen separate allowances. This complexity contributes greatly to misunderstanding by service members, by would-be critics, and by proponents of reform.

The system of military pay and benefits must be assessed in terms of the personnel system it supports. The military services are a large standing force of over 2 million members. There are about 1500 separately identifiable occupational specialties. The people in the specialties are from time to time required to perform the same functions and to serve under identical circumstances. They sometimes work in the same places, doing almost the same things, as most other Americans. They are also sent to serve in places and under conditions that offer adventure and hardship most American workers will never experience.

FIGURE 1. CIVILIAN AND MILITARY COMPENSATION SYSTEM COMPONENTS

Civilian

Basic wage or salary.

Bonuses: Salary adjustments, performance bonuses.

Premium Pays: Overtime, shift, differentials, salary adjustments, hazard differentials, overseas incentive, compensation.

Fringe Benefits: Vacation, holidays, sick leave, savings and profit sharing plans, pension plan, disability benefits, survivor benefits, life insurance, social security, health care benefits, severance pays, unemployment compensation, subsidized cafeterias, discount purchases of company products, or company stores, recreation programs.

Nearest Military Equivalent

Basic pay, housing, or housing allowance, subsistence, or subsistence allowance, Federal tax advantage.

Bonuses: Enlistment and reenlistment bonuses, continuation pays, certain incentive pays.

Premium Pays: Hazardous duty pays, enlisted sea pay, enlisted certain places pay.

Fringe Benefits: Leave holidays, medical absences, retired pay, disability retired pay, death gratuity, veteran's dependency and indemnity compensation, survivor benefit plan, servicemen's group life insurance, social security, health care benefits, severance pay (officers only), unemployment compensation, commissaries, exchanges, morale, welfare and recreation program, burial benefit.

This description portrays in a qualitative way the difference between military service and civilian jobs. It makes comparisons. Comparability is a principle widely used in compensation setting. In the private sector companies set wages at levels comparable to wages of other companies to be sure they are competitive for required labor. To be competitive they must ensure comparable wage levels. The competitive wage level is commonly-called the "going rate." The measure of the "going rate" is selected with some care and is usually based on wages among companies of similar size, similar product lines, similar sales volume or revenues, geographic locations, or combination of these.

Federal Civil Service wages are set on the principle of comparability. The standard provided in law for those employees is exact parity of wages with average wages for similar jobs in a broad spectrum of companies in the private sector.

Many military personnel and some military leaders, mindful of the unique character of military service, oppose application of the principle of comparability to military pay setting. They argue that because the work, the conditions of work, and the commitment, are not comparable, the pay should not be made comparable. This view is confused by the practice of Congressional committees, their staffs, and their publicists, to criticize military pay or benefits which they judge now to be higher than some selected measure of civilian pay or benefits. This view is reinforced by one particular use of comparability—which is what we call the parity standard—in Civil Service wage setting. It is still further strengthened by the tendency of decision makers in the Department of Defense and the Office of Management and Budget to use parity as an underlying decision standard in judging the appropriateness of any proposal relating to military pay or benefit.

Yet, paradoxically, the parity standard of comparability is often argued strongly by military and some civilian defense leaders in the case of benefits like the Survivor Benefit Plan, and allowances for expenses such as *per diem* rates and mileage allowances.

Soldiers and sailors themselves make pay comparisons, perhaps most commonly in those cases where they happen to be working side by side at similar tasks with civil servants, or with contractor personnel. Their judgments of the adequacy of their pay are usually expressed in terms of relative levels of responsibility or accountability, and of the fixed length of civilian work days and work weeks.

Comparisons, with the tendency to use the parity standard, in judging military pay and benefits programs, arise from the nature of the American political process. Military compensation is paid out of public funds taxed from the people. The appropriateness of the form and rate of military compensation is debated publicly, in the press and in the Congress in the same way that public works projects, foreign aid and welfare programs are debated.

Out of that process comes the amounts the Congress and the taxpayers are willing to pay for manpower in military service. The success of the process in producing useful personnel management tools depends upon reasonable understanding of the nature of the service to be rendered, the pay and benefits systems used to compensate for that service, and the cost of paying for it.

Many factors work against achievement of this understanding:

The visible cost of direct military pays and allowances in the budget as compared to the diffused and less clearly displayed cost of civilian and contract manpower.

The way in which cost trends are displayed by the Administration.

Increasing pressures on the sheer size of the Defense budget.

The need of the political process to simplify issues, often even at the cost of losing their essential character.

The nature of the Planning, Programming and Budgeting system and the appropriations structure.

The approach to federal budgeting is to deal with individual programs to meet some overall budget goal. This may be adequate when the decision is how much to reduce one weapon system procurement or to stretch out the research and development on another, or even to limit the pay raise percentage of the entire executive branch. But the current approach to defense manpower cost reductions has been to change one or a few elements in the military compensation system, without assessing their function in or impact on the system as a whole.

This approach to military compensation systems management in recent years has given the appearance of random but across-the-board attacks on military pays and benefits, too often accompanied by critical language that sometimes is taken as impugning the value of integrity of military personnel themselves. Further, cost reduction actions are being taken in a period of steady and substantial growth in fringe benefits in the civilian sector. Compounding this has been a recent and growing trend for the military leadership to oppose any change at all to personnel and manpower related programs, even programs for ex-servicemen—veterans—almost regardless of their merit, on the grounds that they change the current or expected benefits of the active forces.

The effects of this on the military forces has been markedly increased dissatisfaction, growing uncertainty about the future desirability of a military career, a loss of confidence in the civilian leadership, the appearance of uncertainty or ineffectiveness of the military leadership in "taking care of its own," and a growing sense of the loss of the traditional and dependable court of last resort for the service member, in the Congress.

There have been, of course, improvements in military pays and benefits since 1964. These, too, have been individual, piecemeal actions to address identified problems. But because they cost money, they have tended to be more carefully considered in the context of the overall military compensation systems before being enacted. Despite this, these improvements in military pays and benefits have not had the strong impact as have the reductions and proposed reductions of recent years. These circumstances have led the Association of the U.S. Army to oppose the piecemeal approach to modifying the military pay and benefits system. We believe that there are several essential requirements for the restoration of trust and confidence among military personnel in their leadership.

Military personnel must be more knowledgeable and better informed about their pays and benefits and about the mechanisms for change.

The civilian leadership, both executive and legislative, must take the time and trouble to fully understand the military personnel systems and their peculiar requirements; the military compensation systems and the relationships of their components; and the role of the compensation systems in supporting the personnel systems.

The military compensation systems must be stabilized. There must be a predictable and equitable procedure for changing them, which will fully meet the expectations of military personnel for stability and equity while allowing change to meet the needs of national defense.

This paper is intended to help meet these goals and to persuade the civilian leaders in the executive and legislative branches of the necessity for the final goal.

II. MILITARY PERSONNEL MANAGEMENT SYSTEMS

Compensation systems have one basic purpose. That purpose is to support the personnel and manpower management systems of an organization to enable it to achieve its objectives—as economically as possible without destroying effectiveness.

There are two major personnel systems in regular military service. An enlisted personnel management system covers about 86 percent of the force, and an officer personnel system covers the remaining 13 percent of the force.

The enlisted personnel system recruits a large number of new, generally untrained, personnel into the lowest enlisted grade on fixed length contracts—enlistments—of three or four years, and trains them in required skills. It then reenlists from within this force for successive fixed term contracts. There is no significant "lateral hiring" into the upper skill levels, as is common in industry and the civil service. There are special performance standards for reenlistment eligibility. There are also minimum grade and length of service standards for otherwise satisfactory performers for reenlistment eligibility. These standards are varied as one means of controlling supply through the years of service. The individual enlisted member can leave military service at the end of any contract by merely not asking to reenlist. Virtually all are required to retire between twenty and thirty years of service. By requiring enlisted members to achieve specified ranks at certain check points throughout their careers, the flow of members from active duty into retirement is controlled.

The enlisted personnel system thus manages a pyramid of people on a grade and year-of-service basis with a fairly broad banded up-or-out system. As the system is currently operated *about one of every ten entering members reach initial retirement eligibility* with the majority not serving beyond the first enlistment.

Shortfalls in initial enlistments and in reenlistments are met by a variety of personnel management incentives and by compensation system incentives. The enlisted compensation system must support management of this pyramid by the size and "shape" of the wage scale; the form, scope and timing of special pays and bonuses; and the form, size and timing of benefits. The effectiveness of the enlisted compensation system is heavily influenced by the relationship of the system of expense remibursements to the expenses imposed on the members.

The officer personnel management system is similar to the enlisted system in that it takes nearly all of its personnel in the lowest officer grade with no significant use of lateral in-hiring. Commisioned officers, however, serve for an indefinite period at the pleasure of the President. There is an initial active duty obligation of three to about six years, depending on the source of commission and amount of education and initial technical training provided. Some officers are commissioned into active service as reservists, converting to regular status as part of a career decision.

The officer system controls the officer manpower pyramid by requiring promotion within about two years of specified year of service points. The probability of achieving each successive promotion declines with grade from over 95 percent to the grade of first lieutenant to less than 50 percent to colonel. Those who twice fail of selection for promotion are separated with a severance pay, or retired with specified maximum service if they have at least twenty years of service. Officers may request resignation—or retirement—after initial active duty obligations are met, but cannot leave regular service except when authorized.

All officers are required to retire within the period of twenty to thirty years of service, except general and flag officers. They are selectively allowed to serve beyond separately specified time-in-grade and time-in-service points.

The officer personnel management system thus also manages the pyramid of people on a grade and length of service basis but with much more narrowly defined up-or-out controls than the enlisted system, and with less control by the individual over his ability to leave the service. The up-or-out system is more elaborately and publicly defined than the up-or-out management of executives used in some corporations. The officer personnel management system is currently operated to permit a little over 20 percent of entering members to reach initial retirement eligibility.

As in the enlisted system, shortfalls in officer accessions and retention are met by the use of personnel management incentives and compensation system incentives. The officer compensation system supports management of the manpower pyramid by the size and "shape" of the wage scale and the form, scope, timing, and size of special pays and bonuses. The form, size and timing of fringe benefits similarly influence officer personnel management.

There is a tendency on the part of some legislative and executive branch decisionmakers to think and make judgments in terms of one military manpower or personnel system. This brief, generalized description is intended to highlight that there are two very distinct systems, different in concept of service, different in the criteria applied to the management control mechanisms, and different in the eyes of the members serving in each system.

There are also separate and substantially different personnel management systems for the inactive forces—for the Reserve forces and for the National Guard. Requirements for the management of these forces involve separate considerations, such as

The part-time, secondary-job nature of the service.

The income supplement nature of the compensation.

Accession and retention manpower supplies for both Reserve units and National Guard units are highly localized geographically.

The fairly inflexible home-basing of Reserve units and even more fixed home-basing of Guard units.

Calling Reservists—or Guardsmen—to military duty disrupts their primary employment, rather than being a part of it. It involves a separate "employer" whose requirements and organizational objectives are not integrated in a corporate management sense with those of the multitude of individual principal employers.

The compensation of such disparate personnel management systems, themselves so different from the systems of the regular active forces, involve significantly different considerations. For these reasons, compensation systems for the Reserve forces and for the National Guard will not be discussed in this paper.

III. MILITARY COMPENSATION SYSTEMS

A simplified description of the elements of the active military officer and enlisted compensation system will aid in understanding their relationship to our society's norms in compensation, and to military service.

Basic pay

This is the principal element of military compensation. It is the pay for service, or—less accurately—time served. Basic pay is the only element of compensation paid every payday to *all* members on active duty. The amount paid is set on the basis of work level as measured by rank or grade and by time in service. There is one pay grade for each rank, with longevity steps in each pay grade for total years of service. The officer and enlisted pay scales are separately constructed with the pay lines shaped to the differences in the management of the two forces. Figure 2 shows illustrative pay lines. There is a separate pay line for warrant officers. It is constructed on the basis of the other two pay lines. For this reason, and for the sake of simplicity, the warrant officer system will not be discussed.

Quarters

Military personnel are provided housing in the form of bachelor housing sized on grade, or family housing sized on grade and to some extent on family size. Members who do not have dependents are not provided housing when they are assigned to sea duty or to extended duty in the field. These members are quartered at their "duty site." All members on active duty are provided housing, or paid a cash allowance in lieu of actual housing, or are quartered at their place of duty.

When military personnel are not provided government housing they are paid a cash "basic allowance for quarters" intended to enable them to obtain suitable housing in the civilian community. Bachelors on sea duty or extended field duty are not, however, entitled to this cash allowance. The cash quarters allowance increases by grade but not on the same scale as basic pay. The rates for married members are illustrated in Figure 3. Those without dependents receive even lower rates. Current quarters allowance scales do not meet the average cost of off-post housing. Depending on grade and location in the U.S., off-post housing costs military personnel an average of 110 percent to 217 percent of the housing allowance.

With the very large standing forces maintained since World War II and the greatly escalating costs of building, operating and maintaining government housing, DOD has grown to depend heavily on local civilian communities to house military personnel. Despite the inadequacy of the allowance a substantial proportion of the force is now given the cash allowance in lieu of government housing.

This heavy dependence on the cash allowance to obtain off-post housing, coupled with efforts by the services to advertise cash income for recruiting and retention purposes, has highlighted both the inadequacy of the allowances and the differences in cash income between bachelor and married members. This has added to the concerns of military personnel about the adequacy and equity of military compensation.

Figure 4.—PERCENTAGE DISTRIBUTION OF QUARTERS

	Enlisted	Officer	Total
Cash allowance	47%	33%	44%
Government housing	45	65	48
Bachelors on sea duty	8	2	8
Total	100%	100%	100%

Subsistence

All members on active duty are "paid" subsistence in kind or a cash allowance in lieu of subsistence. Enlisted personnel are provided subsistence in kind in the form of prepared meals in government dining facilities or in the form of pre-packaged rations—the famous "C" and "K" rations—while serving in the field. When government food it not available a cash basic allowance for subsistence, to obtain food on the local economy, is provided. Further, local commanders may grant requests for a cash allowance even when dining facilities are available, so long as this doesn't adversely affect economical operation of the facility. This basic subsistence allowance is a somewhat lower rate than the "mess not available" rate. Each of these two rates is the same for all enlisted grades. Neither rate bears any relationship to the cost of meals or of food off-post. Nor are they tied to the cost of meals or of food served in government messes. About 55% of the enlisted force is provided one of the two cash subsistence allowances.

Officers are required to subsist themselves, and are paid a monthly cash allowance for that purpose. The rate is the same for all grades. It is substantially lower than the enlisted cash allowances, and, like them, bears no relation to the cost of meals or food either off-post or in government messes.

Cash subsistence allowance rates are illustrated in Figure 3. A simple scale shows the relationship between the cash allowances and various food cost indexes:

The inadequacy of the cash subsistence allowance has contributed to the concerns of military personnel about the adequacy and equity of military compensation.

Regular military compensation

The concept of "Regular Military Compensation," (RMC) and its uses in law for military pay adjustment, introduced a major element of the often-criticized "complexity" of the military compensation system. It therefore requires careful discussion.

In civilian compensation systems, the wage or salary, plus premium pays, if any, is the current cash component of compensation which meets the current needs of the worker. It supplies food, clothing, and shelter for himself and his family. Any cash remaining after paying taxes and these necessities is discretionary income available for other obligations, for saving, entertainment, and whatever other expenditures are important to him for enhancement of his "quality of life."

In the military system, two elements of necessity expenditures are separately managed: food and shelter. Thus for various purposes—recruiting information, internal information, pay comparisons, pay setting—comparing military basic pay to civilian wages is inadequate.

Adding the three military pay elements together gives an equivalent to civilian wages that can be useful for making comparisons. But the quarters and subsistence elements are not taxable, while all of the civilian wage and military base pay are. To account for this difference a fourth element must be considered. It is called "federal tax advantage." It is the amount of extra pay that, if the allowances were also taxed, would have to be added to military pay so that after tax pay was unchanged. The tax advantage element of regular military compensation is not disposable cash: it can only be "spent" as an implied tax payment to the federal government. The concept of regular military compensation (RMC) is represented in Figure 6. Current rates are illustrated in Figure 2. The very small change in the slope of the RMC line (Figure 2) from the slope of the basic pay line should be noted. It results from the egalitarian approach to the housing and subsistence allowance—a consideration that does not weigh in civilian pay setting.

Thus RMC is a rough approximation of civilian basic wage or basic salary. But it is only a *rough* equivalent. In its use for military pay setting beginning in 1967, the "federal tax advantage" element has been calculated based only on basic pay and the basic allowances for quarters and subsistence, and using the standard deduction. Because people do have other income on which they must pay taxes, their tax rates are at different levels. Thus their *actual* "tax advantage" will differ from the calculated "tax advantage" used for pay setting purposes.

Further, "tax advantage" changes as tax rules change. When government enacts an income tax reduction to give taxpayers more disposable income, the "tax advantage" element of RMC goes down—there is less "tax advantage." Thus, if RMC is used as the measure of military wages, income tax reductions result in military pay cuts! This has been called "IRS roulette."

A second aspect is that it treats the housing allowance as a part of "salary"—that is, pay for work. It thus highlights the difference in RMC rates for married and bachelor members. This leads to the common conclusion that bachelors are underpaid, and to an equally reasonable, though less often voiced argument that married members are overpaid.

The Association of the U.S. Army believes that one of the major causes of complaints among military personnel is the inadequacy of the two basic allowances coupled with the differences in military "salary" highlighted by the RMC concept.

Vacations, holidays and sick leave

These common civilian fringe benefits have approximate equivalents in the enlisted and officer compensation systems.

Leave is the military equivalent of paid vacations. Basic pay and the in-kind or cash allowances continue during leave, as does the basic wage in civilian systems. Most civilian vacation benefits increase with length of employment. They typically scale from one or two weeks per year after a year of employment to four or more weeks after ten or fifteen years of employment. Many are more liberal than this. Military leave is thirty days per year regardless of grade or length of service. Civilian vacations are invariably charged, on a daily or hourly basis, against regular workdays. Military leave is charged on a daily basis against *all* days embraced by the absence including weekends and holidays.

Unused earned leave, up to a career aggregate of 60 days is reimbursed upon separation as, typically, is civilian vacation. Enlisted personnel can take reimbursement for unused leave at the end of each enlistment. But military leave is reimbursed only on basic pay, not on the full salary equivalent. Because of the demands of military service most military personnel lose some leave. Senior enlisted members and middle-grade officers lose significant amounts and senior officers lose one to three quarters of their entitlement.

Civilian holiday benefits range from seven to ten days annually, occasionally less and sometimes more. All military personnel are granted the eight national holidays if military operations permit.

There is an additional aspect of "absence benefits" associated with military service. In civilian employment, the employer exercises control over the employee during the period he or she is on the job at the work site. In military service the "employer" exercises control over the "employee" at *all* times. This leads to a status called "liberty" (or "pass"). "Liberty" is the period when the "employer" does not require the member's presence at the work site or his readiness to be there. In organizations that can practice "normal" work weeks "liberty" is frequently routinely granted outside of "normal" working hours. There is no equivalent to "liberty" in civilian employment.

Civilian employers provide varying amounts of paid sick leave. The rates are often scaled on the basis of years of employment. Sick leave is taken at the discretion of the employee for bonafide illness or injury. Military personnel do not have a defined sick leave benefit in the same sense. But all absence for medical reasons is paid absence. Medical absence is always controlled by the "employer." How much is actually used depends on when the military "employer" decides that the member is fit to return to duty. Because it is not a defined benefit military sick leave cannot be accumulated, or "cashed in" upon separation or credited to retirement as federal civil service and some industry benefits are.

Retirement and survivor benefits

Most civilian plans are based on the final salary or an average final salary of the last one to three years of employment. Military retired pay is based on final basic pay and years of service for both enlisted and officer personnel. It is calculated at 2½ percent of final basic pay, times years of service. It is limited to 75 percent of basic pay—the result of thirty years service. This 75 percent cap affects virtually all general and flag officers, and a very few others who may serve beyond thirty years but receive no additional retirement benefit. This is in marked contrast to civilian practice, where "top management"—the top 1 percent or so of a company's work force—tends to be provided with supplemental retirement benefits above the basic plan for all employees. Civilian pensions in larger corporations are typically adjusted from time to time to catch up to living costs. Military retired pay is automatically adjusted twice a year by the percentage increase in the Consumer Price Index.

As with a large and increasing proportion of civilian pension plans, the military benefit requires no contribution from the member. Unlike civilian pension plans, the military retirement benefit has no vesting provisions. The member must actually achieve retirement eligibility before being eligible for any benefit. This feature acts as a very strong career incentive to members who have passed the career mid-point of between 10 and 14 years.

Retirement earlier than statutory maximums can be denied. Retired pay can be denied for certain reasons, though this is only infrequently done.

Like much of the civilian work force, military personnel participate in the Social Security System. They pay social security taxes to fund current social security beneficiaries. Their military pay counts as wage credits toward eventual social security benefits for themselves. Only military basic pay is used for social security taxes and for wage credits. Thus for a given level of "regular military compensation" (RMC) they pay less social security taxes than civilians with an equivalent wage. But they also receive smaller wage credits for the same reason, reducing the level of future benefit compared to civilians with equivalent wages.

The Dependency and Indemnity Compensation (DIC) benefit is a survivor benefit for the families of veterans, including active duty personnel. It serves the same purpose as preretirement death protection in civilian practice. The benefit ranges from $250 per month for privates to $664 for the most senior officers

There is, in addition, a single lump sum death gratuity of six months' basic pay, but limited to at least $800 and not more than $3,000. Under current pay scales the $3,000 maximum limits most corporals and sergeants and all members in higher grades.

The military Survivor Benefit Plan (SBP) also serves the same purpose as the survivor benefit portion of civilian retirement and survivor benefits. The SBP allows the retired member to provide 55 percent of his retired pay to designated survivors. A smaller portion of retired pay can be designated. There is a direct charge for this of 2½ percent of the first $300, and 10 percent of the remainder of the amount designated for survivor benefits. Participation at the maximum rate is automatic, and the retiring member must opt for lower participation or nonparticipation. This approach is intended to maximize participation. There is an additional indirect cost of participation in SBP. After the survivor becomes eligible for social security benefits, the SBP payment is reduced by an amount calculated as the social security old age benefit attributable to the members' military wages. The Department of Defense has made estimates of the cost to retired military personnel of SBP after taking account of this "social security offset." These estimates show that for members who retire in 1987, enlisted members will have paid more for SBP than their survivors will eventually draw from it. Officers will pay almost as much as their survivors will eventually draw. This is illustrated in Figure 7.

Figure 7.—SBP Benefit and Member Cost [1] Value in 1987 to Hypothetical Group Retiring in 1987

(Aggregate dollars in millions)

	Enlisted	*Officer*
Total SBP payments to survivors	$174.1	$234.1
Total charge to members	$290.1	$228.1
Member cost	$116.0	$—6.0

[1] Assumes that military pay growth is 5% per year, retired pay growth and survivor benefit growth is 4% per year, and that the average interest rate is 6%.

This table highlights the fact that although the SBP benefit is valuable protection for survivors, retired officers will pay for nearly all of the benefit, and retired enlisted members will heavily overpay for it.

But it is essential to understand that while these results apply to the two groups they will not apply to each member. Older than average members with younger than average wives would expect SBP to be a better buy. The decision to participate in SBP is a very personal one which should not be based on overall average statistics.

Participation in SBP has been fairly low—less than 50 percent for enlisted members. It is understandable that with substantial direct charges, plus the social security offset, high rates of participation are unlikely.

The SBP benefit at the rate of 55 percent of constructive retired pay is applied to members who die while on active duty with over twenty years' service. However, the benefit is offset dollar for dollar by DIC benefits payable, and if the DIC benefit is larger, the survivor is not entitled to SBP.

Similarly, retired members who die of service-connected causes are, as veterans, entitled to DIC, and their survivors' SBP annuities, if any, are reduced by the DIC annuity.

Disability Benefits

Workmen's Compensation laws of the individual states provide benefits for temporary and permanent disability of civilian workers for on-the-job accidents and, usually, for a wide range of occupational diseases. A similar law, known as the Federal Employees Compensation Act, covers federal civil service employees.

Military personnel are not covered under any Workmen's Compensation laws. Because of the nature of military service, military personnel temporarily disabled and not fit for duty receive any treatment judged by the service to be required to restore them to duty, and receive full pay and allowances during treatment. Many disabilities fully acceptable in most civilian employment are disqualifying for military service and members so disabled are not allowed to remain on active duty. Members who cannot be made fit for military duty are given a disability rating and separated:

Those with "minor disability" (less than 30-percent disability) and less than eight years' service are given a disability separation with severance pay equal to two months' pay times years of service, up to two years' basic pay. Civilian severance is typically based on full salary.

Those with over eight years' service and all with "major disability" are given disability retirement. The eight-year limitation is waived in times of national emergency. The benefit is final basic pay multiplied by the per cent of disability. Members eligible for retirement for service may opt for that retirement benefit instead. Retired pay calculated on disability is tax exempt although recent changes to tax laws will restrict this exemption for those who entered service after September 1975 to disability related to "combat injuries."

When the permanency of disability is uncertain, disability retirement is temporary and the member will be returned to active duty if restored to fitness for it.

The Veterans Administration also provides tax exempt disability pensions to veterans disabled due to military service. Retired military personnel are, as veterans, also eligible for the benefit. The VA makes certain disability determinations, and both disability and non-disability retired members may qualify. However, to exercise the veterans benefit, retired members must forfeit military retired pay on a dollar-for-dollar basis.

The complex and inconsistent interaction of military retirement, survivor and disability benefits with veterans benefits and social security benefits, further complicates assessment of the net benefits of military service—not only by managers and legislators but by military personnel as well.

Life Insurance

Typical civilian practice is to provide a life insurance benefit. It is usually non-contributory for the basic coverage. Supplemental benefits are sometimes provided at some cost to the employee. All military personnel on active duty for more than thirty days are automatically insured for $20,000 through Serviceman's Group Life Insurance (SGLI) and are charged $3.40 per month for it. The member may opt for no SGLI or for lesser

amounts in $5,000 increments at reduced cost. This approach is designed to maximize member participation in the program. The member pays the full cost of the insurance. The Department of Defense will pay "extra hazard" premiums whenever they occur, as in wartime. SGLI is "pure risk" insurance with no cash, loan, paid up, or extended insurance values. It may, however, be converted to Veterans Group Life Insurance (VGLI) in the same or lesser amount upon separation or retirement. VGLI is a five-year non-renewable term insurance policy.

These insurance programs are currently administered in such a way that the premiums paid by active members not only cover the cost of their own insurance but significantly subsidize Reserve and Retired Reserve participants in SGLI and veterans and retired members participating in VGLI. Thus SGLI is a valuable protection for survivors but the member bears more than the full cost of the coverage.

The health care benefit

Typical civilian medical benefits consist of Workman's Compensation for on-the-job injury and disease, and employer-provided benefits designed to protect employees from unexpected medical costs for themselves and their families, other than those costs covered by Workman's Compensation. Depending on the nature of the work, some employers provide direct care on the job site. Typically, employer-provided plans involve deductible amounts the employee must pay, some copayment by the employee, and sometimes some cost sharing of plan premiums. Increasingly, central benefits, to include dental care, are being extended to employees and their families. Most civilian workers are covered in retirement after age 65 by Medicare, and many employers provide some Medicare supplement health coverage for their retirees.

The military health care benefit is an extensive program of medical and dental care provided to the member through a world-wide direct care system. It also provides medical care to dependents in the direct care system on a space-available basis, and through a supplemental program, CHAMPUS (Civilian Health and Medical Program for the Uniformed Services), which has most of the characteristics of civilian employer-provided health insurance benefits. CHAMPUS makes no provision for dental care.

Military personnel are not covered by Workmen's Compensation. The same purpose is met through the military direct-care system. However, the military "employer" exercises control over military personnel and their fitness for world-wide military service without regard to working hours or presence at the "work site." Thus health care for the member is complete; in fact, it is imposed whether or not it is desired. There are no premium charges, co-payments or deductibles for this care.

Medical care for dependents in the direct care system provided in military hospitals is roughly equivalent to the more extensive medical and surgical health insurance plans in civilian employment. There is no premium payment or deductible, and only modest co-payments covering non-medical services associated with hospital care. Limited by the location and capacity of military medical facilities, the dependents medical benefit is supplemented by CHAMPUS. This insurance-style program provides basic, major medical and surgical services with deductible and co-payment requirements. No dental care is provided routinely except when families are overseas with their sponsors.

A major difference in civilian and military health care benefits arises from the mobility of military service. Military personnel move so often that it is very much more difficult for them to gain access to local health services. The direct care system solves this problem The CHAMPUS approach does not.

Retired members and their dependents have essentially the same coverage as active duty dependents—medical care in military facilities on a space-aavilable basis but on a lower priority and the supplemental CHAMPUS coverage with deductible and significantly higher co-payment requirements, particularly for inpatient care. CHAMPUS benefits terminate at age 65 when Medicare becomes effective.

There is another unique characteristic of the direct care approach to the military health benefit as it relates to dependents and retired members. The direct care system has a large number of health professionals who must be trained, kept current, and allowed to exercise the full range of their skills. This is not achievable with the relatively young, predominantly male and very healthy military forces. Therefore, DOD uses dependents, and retired members and their dependents, as resources to train and motivate their health professionals. The availability of this broad range of patients meets what the services regard as an essential military requirement.

The particular characteristics of the military health care benefit, the very large direct care capacity with the mandatory nature of service to active members, and the use of retired members and dependents as resource persons in direct care facilities makes valuation of the benefit and meaningful quantitative comparisons with civilian health insurance type medical benefits extremely difficult.

Premium pays

In civilian employment overtime pay is required for work in excess of eight hours per day and in excess of forty hours per week by the Fair Labor Standards Act and the Walsh-Healy Act. Defined categories of employees, roughly equivalent to very senior enlisted personnel and to the officers corps, are exempt from these requirements. Overtime pay, or "penalty pay" as it is sometimes called, is 1½ or more times the basic wage.

Differentials are sometimes paid for unusual working environments or hazards, such as oil drilling platform work and overseas assignments. The federal civil service pays hazard premiums for work with hazardous materials such as mercury. Merchant mariners have been paid premium rates up to several times basic wages for exposure to the hazards of war. Overseas incentive differentials of 20 percent to 50 percent or more are paid. More general hazards and special skills are recognized through higher scales of basic wage or salary.

In the military compensation system all members of a given work level (grade) are paid on the same scale. Members are in a duty status—under control of the "employer"—24 hours a day, seven days a week, regardless of whether they are at the usual work site or not, and no "penalty pays" are provided for overtime weekend or holiday work or duty.

The military systems provide hazardous duty pays for specified assignments or skills of unusual hazard to secure volunteers for such assignments. These include bomb disposal duty, diving duty, parachute duty, flying duty, both for crew members and non-crew members, and submarine duty.

Other hazard pays include pay for duty such as experimental stress duty and leprosarium duty. These pays range from $55 to $110 per month.

There is also a Hostile Fire Pay for both officers and enlisted personnel. It is a token pay for service in designated hostile fire zones during periods of nominal peace. It is currently $65 per month. Vietnam and Cambodia retain hostile fire zone designation to preserve entitlement of personnel carried in a missing status. Hostile Fire Pay is stopped in time of declared war.

There is no incentive differential in the military system for overseas assignment, including sea duty. However, enlisted personnel are paid a "Certain Places Pay" for overseas assignments in tropical latitudes, very high latitudes and locations where dependents are not authorized and for sea duty. Both are token pays ranging from $8 to $22.50 per month depending on grade. There is no special pay in the officer compensation system for assignment overseas or at sea.

Wage differential type bonuses and special pays

The particular character of military service and the need for organizational identity and loyalty have resulted in a single enlisted pay scale and a single officer pay scale. But the military must compete for manpower trainable into skills with a wide range of "going rate" wages. And the military must similarly compete to retain trained manpower against a wide range of "going rate" wages. To do this while retaining a single wage scale the military has developed a system of bonuses and special pays for higher cost skills. These are in the form of:

Enlistment Bonuses for enlisting into military service. This is a fixed rate bonus of up to $3,000 for training and serving in specified skills. The bonus is paid in a lump sum near the beginning of the enlistment.

Selective Reenlistment Bonuses for reenlistment in specified enlisted skills. The size of the bonus is based on multiples of basic pay and the amount of additional service contracted for. It is managed in two separate zones—Zone A to obtain additional service from those with less than six years of service and Zone B to address those between six to ten years of service. The bonus is limited to $12,000 except for a $15,000 limit for Navy nuclear trained skills. The rate for new bonus participants increases automatically with basic pay increases, up to the maximum rate allowed. It is paid in annual increments in advance of the applicable service. An option for an advance lump sum payment has not been allowed in recent years.

Aviation Career Incentive Pay to attract and retain officers and warrant officers in an aviation career. It is paid as a regular monthly pay ranging from $100 to $245, depending on years of aviation service. For officers the maximum rate is paid during the 6th through 18th year, declining thereafter to zero after 25 years of officer service. For warrant officers the maximum rate, $200, is paid from the 7th year throughout remaining service. There is a "gate" system of eligibility requiring specified amounts of aviation duty by completion of certain years of officer service to receive the incentive pay continuously. Otherwise it is only paid during flying duty assignments.

Nuclear-qualified officers special pay. There is an integrated series of incentives for nuclear trained and qualified officers:

Nuclear accession bonus. A single payment of $3,000 to officers with less than five years of service volunteering for nuclear training and duty. It is paid upon successful completion of nuclear training.

Nuclear continuation pay. A continuation bonus for officers who have completed their initial active obligation but have less than ten years of service, of $20,000 for a commitment to four years of additional service. It is payable in $5,000 annual installments, in advance.

Nuclear career incentive bonus. An annual incentive bonus of $4,000 for each year of nuclear service completed may be paid without a multiyear commitment. Continuing eligibility requires service in nuclear billets. The bonus is not available after 26 years of service and is not paid to flag officers.

There are several special pays for the health professions. They are:

Variable incentive pay for medical officers. This is a bonus-type continuation pay for

officers in grades of captain through colonel, ranging from $10,000 to $13,500 per year for additional years of active duty in critical medical skills. The rate of pay depends on the years of service and the length of the additional active duty agreement, from one to four years. Officers serving in their initial four years of active duty obligation in repayment for professional training are not eligible. But officers serving beyond this, or beyond duty obligations for other benefits such as medical training, are eligible for this bonus, though at a reduced rate of $9,000 per year. At the doctors' option the pay may be taken in a lump sum at the end of the contract or in annual, semi-annual or monthly amounts in advance. For purposes of this bonus all medical specialties are treated as critical and all specialties are paid at the same annual rates, reflecting the existing extreme difficulty in recruiting and retaining military physicians.

Special continuation pay for physicians and dentists. This bonus-type pay is for officers in critical specialties in the grade of major through major general. It is in multiples of basic pay, declining from four months basic pay for lower grade officers down to two for major and lieutenant generals for each agreed additional year of active service. The rate for each new agreement automatically increases with increases in basic pay. Officers who have not yet completed five years of service and officers who opted for the variable incentive pay are not eligible. Likewise officers who are drawing special continuation pay are not eligible for the variable incentive pay. The pay may be taken in annual or semi-annual installments in advance. For purposes of eligibility all specialties are once again considered critical.

Special pay for physicians, optometrists, dentists and veterinarians. This pay provides an additional monthly pay to help attract and retain officers in these health fields. It began in 1947 for physicians and dentists. It was extended to veterinarians in 1955 and to optometrists in 1973. It pays $100 a month to physicians and dentists with less than two years of service. For physicians in all specialties it increases to $350 after two years of active service. For dentists the rate increases to $150 after two years, $250 after six years and $350 after ten years of active service. A flat rate of $100 applies to veterinarians and optometrists. The law covering these latter two fields was allowed to expire in 1975, and those entering thereafter were not entitled to the special pay. Congress has just approved a one-year extension for physicians and dentists and has restored eligibility for veterinarians and optometrists.

These enlisted and officer bonuses and incentive pays are not optimally designed, lack consistency of form and payment, and in some cases are not soundly integrated. Nevertheless, they all serve the same basic purpose as does the use of wage scales in civilian manpower management. They allow the enlisted and officer compensation systems to be adjusted to competitive conditions and to correct manning imbalances. They do it in a way which is acceptable to military personnel by meeting cash pay needs while retaining at least the appearance of a single military wage scale for all.

Commissary and exchange benefits

Most large military bases, including those overseas where dependents are authorized, have commissaries providing grocery store items at prices generally lower than in commercial supermarkets. Large military bases have post exchanges providing retail store services, gas station, photo, optical, barber and hairdresser services and cafeteria or snack bar services at prices generally lower than full service retail outlets off post. Some of these services are not available at smaller posts. Because of obvious space limitations, fleet units have relatively limited retail store type services.

These discount purchase services can provide significant savings to the military personnel who can use them. Based on price comparison surveys commissary store savings are about 20–22 percent, and exchange savings are about 18–23 percent.

The annual gross savings that accrues to service members and their families through shopping in the facilities is next to impossible to define. Those who live on military installations are more likely to use the commissaries and exchanges than those who must travel across town to reach them. The junior enlisted person and the young officer with growing families and limited budgets tend to use them more out of simple expediency. As family size shrinks or disposable income increases, use of the commissaries and exchanges will tend to decrease. Whatever the gross savings to individual service members may be, the cost to the government of providing this benefit is small—about $90 per active duty member per year.

Civilian employment practice is similar but not generally so broad. Companies manufacturing consumer goods and retail stores frequently sell their products to employees at substantial discounts. Federal employees at or near overseas bases are granted military commissary and exchange privileges. Foreign service employees overseas have their own discount operations. A few companies in the United States operate exchange-type retail stores as an employee benefit. But civilian employers do not provide such an extensive range of discount purchase opportunity as the military services.

As we said, the Department of Defense spends relatively modest sums to operate commissaries and exchanges—about $269 million a year on commissaries and about $125 million a year on exchanges. The "consumption advantage" savings from using these stores comes not just from this appropriated dollar support, but also from quite independent sources: the "co-op" nature of the business, the limited hours and service, and the low markup policy.

But the issue of whether these stores are an "employer"-provided benefit is even more complex:

Exchange goods and services are marked up to create profit to provide operating funds to the Morale, Welfare and Recreation Program. That is, the possible "consumption advantage" is reduced to help pay for the recreation program, which is itself frequently criticized as an excessively generous benefit. This contribution has been about $90 million to $100 million annually. If this "subsidy" of the recreation program were eliminated, presumably Defense would have to either replace it with appropriated dollars, or else decide that those dollars were not necessary and reduce the recreation programs accordingly. They could, of course, increase user charges and markups in recreation activities to produce additional revenues for those that are unfunded. Defense will have to decide whether the recreation program meets a military need, which it is partly funding with a "subsidy" from the soldier, or whether it is merely diverting some of the soldiers' discretionary income, spent in the exchange, to programs that are not essential.

Exchange and Commissary markups are also set to fund capital investments in the facilities. However, the facilities then become government property. The QRMC found that this reverse subsidization to the government in recent years has averaged about $18 million annually in the commissary and $79 million annually in the exchange.

The availability of overseas exchanges and commissaries is used in calculating rates for the overseas Cost of Living Allowance (COLA). The Department of Defense recently completed a study which estimated that overseas commissaries and exchanges saved $556 million annually in COLA costs.

Thus for an investment of about $394 million a year in commissary and exchange operations, Defense is getting over $740 million a year in "subsidies" and cost avoidance in other programs. This makes the question of how to count commissaries, exchanges and recreation activities in compensation comparisons even more difficult.

Reimbursements for expenses

Compensation systems are supported by methods to reimburse employees for expenses imposed by the employer as a requirement of the job. The obvious examples are the expense accounts of traveling salesmen, and the uniforms provided to employees required to wear them. Most national and international companies, when they ask employees to relocate, provide moving allowances covering transportation, subsistence, household goods shipment, paid househunting trips, reimbursement for the expenses of selling the old home and buying the new one, or from breaking rental leases; and temporary lodging expenses at the new location.

These kinds of expenses are major components of the management of military services because of the size of the "work force," the requirement for uniforms and for temporary travel. These elements are orders of magnitude larger than in even the larger corporations.

While the Department of Defense has an elaborate structure of expense reimbursements, it does not, for reasons of cost and slowness to adjust to changing conditions, adequately meet the objective of ensuring against financial loss from imposed expenses.

Uniform Expenses. Uniforms are required in military service. In some circumstances civilian dress is prescribed, and in others is encouraged. Enlisted personnel are provided initial issues of uniforms and subsequent allowances based on wear-out rates. Allowances are provided when civilian dress is prescribed. Officers are provided neither uniforms nor maintenance allowances. However, Reserve officers, including ROTC graduates appointed in a Regular component, and temporary officers under initial appointment from enlisted ranks, are provided initial uniform reimbursements ranging from $75 to $250. Certain items of organizational clothing such as cold weather gear, pilots' helmets and the like, are supplied when needed.

Temporary Duty. Military personnel are frequently assigned temporary duty away from their duty stations for training and for operations. Travel and per diem allowances are paid as average reimbursements. Portions of this reimbursement are frequently in kind, at the temporary duty station, for subsistence and for shelter. Per diem allowances are adjusted periodically to reflect changing costs. Since maximums, rather than formulas, are specified in law, adjustments tend to significantly lag reality.

Permanent Changes of Station. A major expense imposed on military personnel is the permanent change of station (PCS). This occurs normally every two to three years, but there is substantial deviation in frequency in both directions. Enlisted personnel and officers are authorized reimbursement for the cost of their travel and the travel of their dependents. The allowances are calculated on commercial travel modes on rates per mile with maximums specified in law. Since the mileage rates used to reimburse service personnel for their travel always lag far behind the actual expenses accrued during travel by automobile (no per diem is payable) the service member must absorb part of the travel cost.

Both groups are also authorized shipment of households goods to specified weights, scaled by grade, without cost. These weight allowances are drastically reduced for many

overseas stations because of cost. Storage of the remaining household goods during the overseas assignment is provided. Because this expense "allowance" is based on weight, the member is protected from changes in costs.

Enlisted members and officers are entitled to a dislocation allowance to help defray the miscellaneous expenses in relocating a household. This type of expense allowance in the private sector is usually a flat rate equal to one month's salary, though it may vary with the number of dependents. In the military it is set at one month's basic quarters allowance—roughly 20 percent of the military equivalent of civilian salary. Further, the allowance is not paid to bachelors going to government housing or to bachelors going to sea duty.

Unlike civilian employees, military personnel are not authorized a paid house-hunting trip. The costs of home sale and purchase are not reimbursed. The costs of lease-breaking are not reimbursed; however, the relatively widespread acceptance of the "military clause" in leases relieves many of this cost when a move is due to military orders. DOD pays a temporary lodging allowance to personnel awaiting permanent lodging at their new duty station, but only for stations outside the continental U.S.

Thus the Department of Defense does not adequately reimburse the costs of permanent change of station moves. The effect is that military personnel "subsidize" the government from their pay and/or savings, reducing their living standards. It is difficult to estimate on a sound basis the cost of these inadequacies. Attitudinal surveys of military personnel indicate that members judge that on the average a PCS move costs them $1,000 in unreimbursed expenses and that it takes an average of six months to recover financially.

There is another aspect of PCS expense that is even more significant in terms of cost and in terms of the displayed attitude toward military personnel by Defense and Congressional leaders. The family-type PCS expense allowances authorized for enlisted personnel are not provided to members in grade of corporal (with less than two years' service) and below. They are treated "as though" they were without dependents.

This saves DOD substantial amounts. The Service Chiefs have sought for several years to extend PCS travel allowances to all members. This has been reversed in the budget process for reasons of "economy." The cost for fiscal year 1979 would be less than $200 million, and would provide relief to perhaps 70,000 junior enlisted personnel.

Since enlisted personnel cannot quit or refuse PCS orders except in violation of federal law, their options are to accept periods of family separation not required of others or to bear the associated expenses out of pockets. The impact of these expenses on their own pockets. The impact of these expenses on junior enlisted personnel is emotionally and financially severe. The Association of the U.S. Army believes that a second major cause of complaints of inadquate compensation among military personnel, and among service leaders especially on behalf of junior enlisted personnel, arises from the extra expenses borne in attempts to mantain a semblance of normal family life in the absence of adequate expense reimbursement for *all* grades.

Other Expenses. There are certain other expense reimbursements in the military of lesser budgetary impact that are still significant to the individual members.

There are two family separation allowances (FSA) intended to reimburse, on an average basis, expenses that arise when the military member is separated from his home.

FSA–I is intended to meet the shelter expense of a married member who is assigned to an unaccompanied tour overseas. His quarters allowance—either in kind or in cash—is expended to maintain his home for his family back in the U.S. out of his regular military compensation (RMC). He is usually quartered in government housing—a barracks, a B.O.Q. or on board a ship—but may be paid an additional housing allowance (at bachelor rates) if he must find quarters.

FSA–II is intended to reimburse on the average for the myriad of small expenses such as home, automobile, appliance and yard upkeep and repair that would be taken care of by the husband if he were home. It is paid to members on unaccompanied overseas tours, on ships out of homeport for more than thirty days, and so on. The allowance was set at $30 per month in 1963 and has not since been changed.

Overseas living costs

In civilian compensation systems overseas assignments generally involve substantial wage differentials as incentives, plus allowances to reflect living costs. The wage premiums are typically 25 percent (even for Federal civil servants), and several times higher in extreme environments. In the military service, assignment to any location is at the sole discretion of the "employer" and wage scales are not increased for overseas assignment except for the token "certain places pay" paid to enlisted members in many, but not all, locations.

Military manpower management takes an expense reimbursement rather than wage premium approach to overseas assignment. The added cost of maintaining U.S. living standards at the overseas location is reimbursed through two allowances.

The Cost of Living Allowance (COLA) reimburses for excess living costs, except housing costs. Daily allowance rates by grade and family size are set based on comparisons of living overseas with U.S. urban spending patterns measured by the Bureau of Labor Statistics and taking into account the relative availability of post exchange and commissary services. Members living on-post in bachelor housing are not authorized the COLA even though it is based on expense elements, some of which are independent of whether shelter is on-post or off-post.

The provision of exchange and commissary services at overseas posts thus produces lower COLA costs than would otherwise result. While they are often touted as overly generous—and expensive—benefits no longer appropriate in modern times, they save the government COLA costs.

The Station Housing Allowance (HA) reimburses military personnel not assigned to government housing, and bachelor members not on sea duty, for housing costs in excess of their basic housing allowance. The allowance is calculated on the basis of comparisons between average housing costs in an area with average basic housing allowance rates of those stationed in that area. For locations with unusual cost ranges, the HA is calculated separately for officers and enlisted.

Both of these expense allowances can be adjusted as frequently as necessary to reflect changing cost conditions, even those resulting from changing currency values. The COLA ranges from 0 to 198 percent of the U.S. standard. The HA ranges from 0 to over 200 percent of the average basic housing allowance. There are isolated instances of even higher rates.

Living Cost Differences in the U.S. It is significant to note that the deficiency in the rates for the basic allowance for quarters are met on a local basis overseas by the HA rate, and that the deficiency in basic allowance for subsistence is considered in the local COLA rate. In the United States living costs vary significantly around the country. A Civil Service survey of compensation practices shows that most employers with operations in more than one geographical location pay different wage rates at different locations. In the U.S. food costs vary somewhat among the locations where military personnel are stationed, and housing costs vary radically: from 110 percent to 217 percent of BAQ. Yet, though military personnel are assigned within the U.S. at the sole discretion of the services, there is neither a COLA nor an HA in the U.S.

An excellent study by the Center for Naval Analysis for the Third Quadrennial Review of Military Compensation analyzes the range of costs experienced by military personnel in the U.S. On the basis of its work the QRMC Staff developed several approaches to a Variable Housing Allowance (VHA) in the U.S., suitable for use in several possible military pay systems. The services have advocated a VHA from time to time over many years, but the apparent costs and the lack of integrated compensation system management have prevented development of such an allowance. Yet the substantial change in the standard of living members experience in being transferred from low cost areas such as Forts Polk, Sill or Knox, to a high cost area such as Forts Jackson, Meade, or Belvoir, produce great dissatisfaction and financial hardship.

The Association of the U.S. Army believes that the extreme range of living costs faced by military personnel in the U.S. is a third major cause of complaints of the inadequate military compensation among military personnel and service leaders.

A soundly based "Variable Housing Allowance" in the United States would go far toward correcting inadequacies in the military compensation systems. QRMC Staff Studies show that a VHA supporting an adequate pay system could be established for less than $100 million per year.

OTHER BENEFITS

There are a number of benefits that are seldom considered in calculating military compensation: Military personnel are, like civilian workers, eligible for unemployment compensation upon separation. The Department of Labor reimburses the states for payments made. They are, as veterans after two years of active duty, entitled to the Veterans' Administration Loan Guarantee Program. Military personnel are eligible, like civilians, for Federal Housing Administration Mortgage Insurance. However, DOD rather than FHA pays the insurance premiums for military personnel. There are extensive education and training programs in the military services. Most are directly related to skill development and job assignments and require prior commitment to additional active duty. However, tuition assistance for off duty programs for enlisted personnel does not require additional service obligation. There have been liberal education benefits under the "GI Bill," primarily intended as a readjustment program to help veterans adjust to civilian life. This has now been replaced with a limited contributory savings program for post-service education. These "other" benefits represent less than 2 percent of the total military pay and benefits program.

IV. SETTING MILITARY PAY

Military pay in the current system has been characterized by long periods of stagnation with intermittent temporizing increases to respond to specific problems: war (either cold or hot), retention in certain grades, or restructuring. Having been set in a military draft atmosphere, pay scales did not have to be competitive. So military pay levels have lagged civilian pay. There were four increases between 1922 and 1945 (offset by four cuts in the early thirties). There were four increases between 1945 and 1962. Since 1963 the increases have come annually.

In 1967, the First Quadrennial Review of Military Compensation recommended pay system reform which included a pay standard. The Congress awaited implementing legislation but, partly because of the increased cost of the system. Defense did not submit

it. Thereupon Congressman Mendel Rivers introduced a successful amendment to the Military Pay Act which required that military personnel receive pay raises at the same time and in the same percentage as the general schedule of the Civil Service.

This link was important. In 1962 legislation, Civil Service pay scales were made competitive with private sector pay scales by imposition of the principal of comparability on the system. Actual pay parity was not achieved until 1970 because of the expense involved. But because of this pay parity principle, military pay increases were assured of keeping pace with pay increases in private sector pay. Military pay scales were still not competitive, but the effect of the 1967 Military Pay Act was to prevent them from falling further behind.

However, the annual adjustment of civil service salary had to be translated to the military pay and allowances system. The Rivers Amendment defined regular compensation (RMC) as described earlier, and required the average of the percentage increases in civil service pay to be calculated on RMC as the military equivalent to civilian salary. But it also required the resulting pay increase be applied to military basic pay alone.

This approach had several conflicting effects on the structure of military compensation. It:

Increased basic pay more rapidly than just "keeping pace";

Made no adjustments to the housing and officer subsistence allowances, making their rates fall further and further behind reality. However, it retained the requirement for periodic adjustments to enlist "commuted ration" rates to stay approximately equal to the government raw food cost of rations in kind;

Hid the nominal increases in the two allowances in basic pay where they were not visible;

Made these nominal allowance increases in the form of taxable cash pay, reducing the benefit to military personnel and increasing federal revenues;

Reduced the "tax advantage" element of RMC;

Increased the costs of training pay of reserve forces;

Increased the cost to both military personnel and to the Department of Defense of participation in the Social Security program; and

Increased the future costs of retired pay.

Clearly these outcomes were neither desirable nor intended in terms of sound compensation system management. Just as clearly, this initiative was another stop-gap measure which would act as a penalty on the Department of Defense by its short-term increase in the visible elements of military manpower costs, and thus force out a soundly conceived reform of the compensation system. Nevertheless, this system governed annual military pay adjustments for seven years until 1973. But by 1974 the increased direct costs, especially in the appropriation for military retired pay, forced a change.

Meanwhile, a national policy decision was made that the country should no longer depend on the draft for its supply of military manpower. To enable the services to compete unaided in the market for available manpower, military pay had to be increased to more competitive levels. To do this, in 1971, Defense sought and obtained very substantial pay increases—of up to 100 percent—for the lowest enlisted and officer grades with less than two years of service. Minor adjustments were made to pay in grades and longevity steps near these major changes to reduce the pay compression that would otherwise have resulted. No changes were made for the career force, except for a modest increase in the basic housing allowance.

This was a pay *setting* action, designed to raise entry level pay to competitive levels. It was independent of the annual pay *adjustment* actions intended to keep pace with wage movements in civilian employment. Although Defense made no real market analysis of wages of the more skilled and experienced grades in the service, it was nevertheless then declared that military compensation had achieved generally competitive levels with the civilian sector. This laid the foundation for the expressed rationale for the changes in military pays and benefits which were to follow a few years later.

In 1974, the annual adjustment mechanism imposed on the military pay system was modified. The "keeping pace" linkage with the civil service was retained but instead of applying the civil service average increase percentage to RMC and then adding the resultant dollars to basic pay, the so-called "three-way pay split" was enacted. In this scheme, the average percentage increase in civil service pay was applied separately to the three cash elements of RMC—basic pay, the housing allowance and the subsistence allowance. This ended the disproportionate increases in basic pay, and gave a more balanced approach to the use of RMC as a pay adjustments device. The "tax advantage" element became, then, even more subject to the vagaries of "IRS roulett."

Another structural change to the annual pay adjustment system was introduced in 1976. In seeking to constrain the manpower costs in the budget, the Administration decided to seek authority to divert part of the increase in basic pay over to the housing allowance. This saves money because those in government housing would not receive the cash dollars of housing allowance increase. It would also, in the longer term, reduce the rate of increase in retired pay costs since basic pay growth would be depressed.

The rationale for this change was that members in government-owned family housing were receiving an inequitable subsidy over members living off-post because the average value of family housing was above the rates of the cash housing allowance. To recognize the lower value of bachelor housing, a "rebate" of the "reallocation" was to be given to bachelors in housing, and also to those on sea duty. The objective was to assure that all members except those in family housing would receive the same cash pay increase as they would have had without "reallocation." It was also argued that starting this pay raise "reallocation" would give Defense a head start in transitioning to a proposed "fair market" rental scheme for military housing.

Although it was acknowledged that the rental value of military housing was not yet known, it was argued that one or more successive "reallocations" could be safely undertaken before any real risk arose of overshooting that unknown target. The Service Chiefs vigorously opposed this sort of tinkering with the system. Indeed, an earlier draft report of an OMB/DOD Housing Study proposing a "fair market" rental system had been unanimously opposed by the Services and in DOD, for lack of sound implementation proposals, lack of sound housing value estimates, and doubts that on-post housing value was the right standard for an allowance intended to meet off-post costs.

Nevertheless, the pay raise "reallocation" scheme was approved as a "program budget decision" outside the normal staffing processes, enabling legislation was submitted to the Congress, and after some intense bargaining between committee staffs in the House and Senate, was enacted without any meaningful public hearings. The goal was reduced costs, not compensation system improvement.

If military compensation was at competitive levels in 1974 and 1975, the pay raise "reallocation" scheme has muddied the basis of that judgment in the same areas, though sometimes in the opposite direction, as described earlier for the old RMC adjustment device. Further, it introduces a new "Partial BAQ" into the compensation systems, presupposes a standard for BAQ, and by its operation implies that the standard for basic pay—the key element of reward and equity in a pay and allowance system—is merely a residual of the housing allowance. The AUSA agrees with the Service Chiefs that the pay raise "reallocation" device and its underlying assumptions are unsound, and that its use should be terminated until the Department of Defense decides how it wants to manage military housing as a component of the compensation system, and then decides whether "reallocation" is an acceptable way to make any required adjustments to pays and allowances.

From this abbreviated description of the process of setting and adjusting military pay and allowances it can be seen that four significant changes have been enacted in the ten-year period from 1966 to 1976—not pay raises but structural changes representing shifts in the concepts underpinning the system. They cannot, even in the most generous terms, be described as evolutionary. They reflect see-saw changes in direction, none based on serious consideration of overall system design.

Nearly 80 percent of the enlisted force and almost half of the officer corps have less than ten years of service. Their experience has been, thus far, service under compensation systems characterized by continuing instability. At the same time, senior supervisors and leaders with, say, 15 years of service and more, have witnessed ten years of growing destabilization of their compensation systems. This accounts in large measure for the uncertainty, confusion and loss of confidence among military personnel.

It is for these reasons that the AUSA believes that the executive and legislative branches should stop piecemeal attacks on military compensation systems in favor of an integrated approach—looking at total compensation. We would expect the President's Commission on Military Compensation to make its recommendations on that basis, and strongly urge the civilian leadership in the Administration and in the Congress to do so.

V. SETTING RETIRED PAY

Military officer retirement has been the subject of a series of laws designed to provide through regulated voluntary and involuntary retirement improved efficiency, a young and able force, and reasonable promotion opportunity. The system that requires promotion or separation ("up-or-out") integrated with a retirement system was enacted in 1916. The norm has been compulsory retirement between twenty and thirty years' service, with several periods of special and/or forced officer retirement to reduce "humps" of long-service members following major force buildups and suspensions of retirement for war. The shortest period of service for retirement eligibility was seven years, in 1934.

The objectives of involuntary retirement can be achieved in the enlisted force through administrative policies including judicious non-acceptance of reenlistments. Thus, statutory authority has never been needed or provided. Retired pay, both officer and enlisted, has generally been calculated at 2.5 percent of final pay times years of service, with variations down to 2 percent, and as high as 4 percent in the early 1920s for certain officers. But the multiplier of 2.5 percent times years of service was first used in 1916, and became the "standard" method of setting retired pay.

There have been a number of ways of adjusting military retired pay. The "standard-method familiar to most military retirees

is the method of "recomputation" which calculates the pay of a retired member on the current active duty pay of the grade and longevity step held by the member at the time he retired. The "recomputation" approach was first established in 1870, and lasted about five years. It was restored in the Navy in 1908.

"Recomputation" was allowed for each officer and enlisted pay raise between 1922 and 1949. "Recomputation" with an alternative choice was provided in the Career Compensation Act of 1949. It was allowed in the 1952 and 1955 pay raises except for those who had elected computation under the "old" method option in 1949.

In connection with the 1958 military pay raise, Defense proposed that retired pay not be increased. The Cordiner Study of military pay in 1957 had recommended "recomputation." The Congress enacted a law which did not permit recomputation, in part because of the cost, but instead provided a 6 percent cost-of-living increase in military retired pay. The shift to a cost-of-living basis for retired pay adjustment was made permanent in the 1963 Pay Act. The House Armed Services Committee noted this break with "tradition" and attributed it to the cost of continuing the "recomputation" method.

The 1963 Act established an elaborate formula of annual Consumer Price Index change measurement, providing a retired pay increase if a 3 percent "threshold" was crossed. Two groups were, however, given a one-time "recomputation" option. Those who had retired before June 1958 were allowed to recompute on 1958 pay rates. Those who retired between April and October 1963 were allowed to recompute on October 1963 pay rates. This was evidently an attempt to bring all retired members to adequate and equitable—but not identical—retired pay levels as a baseline for subsequent application of the new cost-of-living system of retired pay adjustment.

Because of the time lag in application of CPI increases to retired pay, the formula was changed in 1965. It provided an increase in the fourth month following any three months which the CPI was 3 percent above the rate of the previous adjustment. In 1969, a 1 percent "kicker" was added to the formula for each increase, to offset the time delay in that formula.

As inflation rates increased over succeeding years the 1 percent kicker formula proved ineffective in that it "over-adjusted" retired pay in terms of maintaining the purchasing power of that pay. This produced cost increases which Defense found unacceptable, and Defense therefore proposed elimination of the "kicker." After review of several analyses of CPI-based adjustment formulas under various assumptions about future inflation rates, the Congress in 1976 replaced the entire CPI increase formula.

The new approach simply adjusts retired pay every six months based on increases in the CPI in the six-month period ending two months earlier. While there is a lag between CPI increase calculation and retired pay increase, Defense has analyzed the formula under a wide range of inflation rates and found that over time adjusted retired pay will track more closely with the cost of living than under any of the previous adjustment methods.

After retired pay was decoupled from active duty pay in 1958, some of the subsequent active duty pay raises were applied to the more senior "career" grades and were substantial. This produced a wide disparity between retired pay rates of more recently retired members and those who retired prior to the 1958 "decoupling." This reinforced the feeling of many that the government had broken faith with those who had served under the earlier depressed pay scales but who had the traditional recomputation to keep them abreast of their younger peers.

Defense twice initiated legislative proposals for one-time recomputations to meet campaign commitments of President Nixon. However, the cost of such proposals would have been significant, and Defense no longer favors one-time recomputation.

This description of retired pay setting and adjustment illustrates another aspect of the complexity of military compensation systems. In the U.S., labor shares in the growth of the economy. Wages increase with productivity increases, and society's standards of living also increase. Inflation is present too, but in the long run it lags returns to both capital and labor. Typically in civilian employment workers retire at age 60 to 65, with a pension based on current wage scales. With normal life expectancy the pension will run 10 to 15 years. Corporations typically make adjustments to pensions from time to time to keep pace with the cost of living. And the social security old age benefit is automatically indexed up on the cost of living. Over the typical life of a pension it will not fall intolerably behind reasonable needs of the pensioner.

In the military, the typical retirement age is 40 to 50 with life expectancy of 25 years or more. The wage base for the retired pay formula can—as it has—change dramatically over such a protracted period. Thus the retired pay of a 65- or 70-year-old military retired member may be very inadequate, even if the cost-of-living is indexed forward for 25 years, simply because the wage base was so small.

The "recomputation" method of retired pay adjustment insured that retired military members shared in the gains reflected in military pay levels. The change created by the Congress in 1958 and 1963, was to base a member's retired pay on his own "working wages" scale, and then to protect it from inflation. This is a sound and logical concept. But the simple approach taken, certainly appropriate in normal civilian employment, does not fit the military "employment" system well in a growing economy.

A shorter range aspect of this bears on the complexity of sound military compensation system design. In recent years inflation rates have been quite high. This, coupled with the 1-percent "kicker" feature in military retired pay adjustment, has increased retired pay rates significantly. Wage growth on the other hand has been more modest. The rate of military pay growth has been depressed by caps on increases, deferral of increases and similar efforts to lessen the growth of civil service salary rates. As a result, military personnel could retire with retired pay rates lower than they would have been had they retired earlier.

Not wanting to reward shorter service and penalize longer service, the Defense Authorization Act of 1975 was amended to permit retiring members to have their retired pay calculated on the basic pay rates of their earlier grade and length of service, back to 1971, which would result in the highest retried pay rate.

This kind of problem can get even worse. In Great Brtiain military pay rates are linked to civil service pay rates. With protracted enormous inflation rates, and caps on civil service pay as one way to combat it, the British have had to consider capping retired pay so that it will not exceed active duty pay. The logic for this, certainly applicable in the U.S., is that no matter how valuable retired members are to the Nation, they would never be worth more than the current active force.

This description of changes in pay setting and pay adjustment policies illustrates the effects on personnel management and the military force of sequential, stopgap, unintegrated actions to change military compensation. It highlights the need for broader knowledge and understanding among the civilian leadership and its technical staffs in both branches of the government. It shows why the AUSA believes that piecemeal changes to military compensation systems are no longer a sound approach to managing the military force.

VI. COMPENSATION COMPARABILITY

These brief summaries of the recent history of setting active duty pay and retired pay lead into consideration of four issues:

(1) The form of military pay
(2) The present value of deferred benefits
(3) Total compensation setting
(4) Comparability standards for military pay

These issues must be briefly discussed here. Comprehensive treatment of these issues is in the Staff Studies of the Third Quadrennial Review of Military Compensation and the Defense Manpower Commission.

The form of military pay

The current pay-and-allowances form of military pay is a major element of complexity in military compensation systems. There is growing interest in a salary form of military pay. The First Quadrennial Review of Military Compensation, after considerable study, recommend a salary for careerists, as did the Defense Manpower Commission in 1976. On a more shallow basis recent General Accounting Office reports, a Brookings Institution study, and several Congressmen have advocated a military salary. Assertedly because it would make military pay more 'visible" and "understandable," the underlying thrust of these advocacies have been cost avoidance through pay reductions.

The Staff Studies of the Third QRMC concluded that military pay should be shifted to a military salary. However, the Draft Report of the QRMC itself took the position advocated by the four services—that a pay-and-allowances system should be retained, in modernized form. AUSA supports this position.

A salary system could solve the problem of the misperception of military personnel, political leaders and civilians generally. It would probably eliminate pay variations due to family size and quantity of government housing, and also require a system of rents for housing and of charges for subsistence. Comparisons with civilian pay would be simplified, and more accurate displays of military personnel costs would be possible. The social security coverage of lower grade personnel would be increased.

A salary system would require an increase in the Defense budget to fund the "tax advantage." (However, QRMC Staff Studies estimate increased tax revenues would slightly more than offset this.) Some members would lose the "hidden tax advantage" that comes because they are in higher tax brackets due to taxable income other than military basic pay. Both Defense (the employer) and lower grade members would pay higher FICA (social security) taxes. However, a military salary would contribute to the growing concept that military service is just another job rather than supporting the sense of military community and of the uniqueness of military services—the basis for the morale and esprit so vital to the functioning of a military unit.

The pay and allowance system is one with which military personnel are familiar. They understand that it recognizes the essential differences between military service and civilian employment. It recognizes that, ideally, the members of a unit, both officer and enlisted, should be housed so as to be available for immediate calls to action. It recognizes that the government has contracted to provide their food, directly or indirectly, and that it will try to indemnify them from duty-incurred extraordinary costs. Notwithstanding all arguments that quarters and subsistence allowances may be anachronisms with roots in a frontier Army, they are symbols of that special sense of comradeship found in no other profession.

The pay and allowances system avoids the cost to Defense of the "tax advantage," and also avoids having to place a value, with pay-setting accuracy, on government housing, and having to choose the basis—bachelor or family rates—on which to convert to a military salary.

But there are disadvantages in a modernized pay and allowances system:

It continues the "tax advantage," a major source of confusion, both to members and the public.

The differences in RMC from the dependency-based housing allowance are widely viewed among military personnel as a major inequity, because most now tend to view cash pay received as pay for service rendered. This way of looking at military pay has been reinforced by use and publicity for the RMC concept.

It complicates reasonable comparisons of military pay and pay in civilian systems. Commercial credit institutions, for example, will continue to undervalue military pay.

The AUSA has long advocated retention of the pay and allowances form of military compensation, principally for its value in reinforcing the sense of community and of service among military personnel.

The present value of deferred benefits

This complex problem is one of the principal stumbling blocks to believable comparisions of military and civilian compensation levels. Many of the publicists, Congressmen and civilian managers in the Administration who criticize the "overly generous" pay and benefits of military service do so on vague perceptions of the value of benefits.

Some, for example, argue that compensation is too generous because retired pay is received, immediately upon retirement, at ages as low as 38 or 39, and that the member has not even made a contribution to the benefit. Similar views are held about the low cost health care benefit in retirement, and about the commissary and exchange benefit in retirement, and about the commissary and exchange benefits for retired members. This requires an understanding of the concept of present value, and of the limitations of that concept. The retirement benefit is most useful to illustrate, though the approach is applicable to most deferred benefits.

The prospect of a pension in the future has some current value to a worker today. It also has a present cost to the employer. A day of work by the worker today represents a liability for future payment which the company will have to meet. It is an accrued liability for future payment. In running a sound business, the company must decide whether a piece of work is most economically obtained by buying it from a supplier or having a company worker do it. Thus the quantification of that accrued liability—the present value of the future benefit—is extremely important.

If the company wants to pay today for that future benefit earned today, it can set money aside in an amount just sufficient to pay the pension when it falls due. How much to set aside will obviously depend on:

How many workers working how long.

What their pay scales are.

How much those pay scales will increase over the working life of the workers.

What proportion of the workers will actually reach retirement, and what proportion will die, quit or otherwise leave the company's work force.

What rate of interest the set-aside money will earn.

What the mortality of the workers will be after they retire.

How much the pension rates will be in the future.

If the pension is protected against increases in the cost of living, then what inflation rate will occur over the lifetime of the pensioners.

Simply stated, for the military the present value of the future retirement benefit is a function of the stream of active duty pay over the active service of the force, the probability of the members reaching retirement, the stream of retired pay to retired members during their retired lifetime, and the assumed rate of interest earned by the cash set aside. Cash does not actually have to be set aside for this calculation, and in fact Defense does not now fund the future retired pay costs of the current force.

But the liability is accrued, and the retirement benefit does have a present value. Because the calculation of its value involves projections of future behavior of elements, such as mortality, reenlistments, voluntary and involuntary separations, interest rates, inflation rates and the like, the services of people skilled in the actuarial sciences are used to making these projections. A large number of actuarial methods are available, and most express the present value of the deferred benefit as a percentage of present wage. The effect of differing assumptions can be illustrated using the civil service retirement benefit, a civilian employment system with which many are familiar. It is a fairly typical civilian system except that, unlike most systems in the private sector, it requires a contribution on the part of the employee.

FIGURE 8

CIVIL SERVICE RETIREMENT BENEFIT VARIATION IN VALUE FROM VARIATIONS IN ASSUMPTIONS

[In percent]

Assumptions	Static economy	Dynamic economy	
		A	B
Interest rate	5.0	6.0	6.0
Annual salary increase including effect of inflation	2/2.5	4/4.5	5/5.5
Annual CPI adjustment to pensions	0	3.0	4.0
Accrued value as a percent of present basic salary	13.6	21.6	28.7
Net present value after allowing for employee 7 percent contribution	6.6	14.6	21.7

These examples all assume the same working force with no change in working years, mortality, probability of working to retirement and so on. Only assumptions about future economic conditions are changed. They illustrate the great significance to benefit valuation of those assumptions. On a $38 billion civil service payroll, the government would have to set aside each year as little as $2.5 billion and as much as $8.2 billion to eventually pay for the pensions of the same force. That $5.7 billion swing is as large as the range the Congressional conference committees typically debate on the whole defense budget.

Because actuarial valuations depend on how the work force is managed, the length of the working career and the probability of reaching retirement eligibility also substantially affect the present value of the retirement benefit. This is illustrated in Figure 9 by comparing enlisted, officer and civil service benefits under identical assumptions about the future economy.

FIGURE 9

ILLUSTRATIVE COMPARISON OF MILITARY AND CIVIL SERVICE RETIREMENT BENEFITS

[In percent]

	Enlisted	Officer	Civil service
Present value as a percent of basic salary or the military equivalent, RMC	27.5	26.8	31.7
Less employee contribution	0	0	7.0
Net present value	27.5	26.8	24.7

Note: This table is based on economic assumptions proposed in August 1976 for costing civil service manpower (OMB circular A-76): real interest rate 2 percent, real wage growth 1 percent; inflation 0 percent. The military benefit is actually earned on basic pay, which averages 72 percent of regular military compensation.

The closeness of these three percents surprise many who have not thought about the influences on present value of future benefits. But these three forces are each managed very differently from the others. For example, a larger proportion of civil servants than officers reach retirement, a larger proportion of officers than enlisted reach retirement; and military personnel are not permitted to work to as advanced ages as civil service employees.

This approach to present value is very similar to the valuation—the premium cost—of term insurance policies, in which an identified group of people share on an equal basis the cost risks of an eventual payoff. As with insurance, it is common practice in civilian retirement plans to assume that the costs of the plan are incident on all employees even though not all eventually achieve retirement. The probability of doing so has been included in the value calculation, thereby reducing the present value. The prospect to a new enlistee of being able to serve to retirement, even though he may later decide not to reenlist, has value to him. If neither IBM nor the U.S. Army offered their current non-contributory retirement benefits, it is highly unlikely in our society today that either would be able to get significant numbers of new "recruits."

The present value concept recognizes explicitly the time value of money. Other deferred benefits such as the Survivor Benefit Plan, the retired health care benefit and so on, have present values which can be estimated on a similar basis. The uncertainties in valuation highlighted in this discussion show the difficulty in attempting to trade off a present dollar of, say, basic pay with a dollar of a contingent future benefit.

Total compensation setting

With the burgeoning scope and cost of fringe benefits in industry there has been increasing interest in managing all pay and benefits in an integrated manner; on a total compensation. The President's Panel on Federal Compensation recommended that federal pays and benefits be managed on a total compensation basis. The Third QRMC was tasked to investigate the same question in relation to military compensation.

The concept advocated by many would be to tally up all of the basic wages, premiums pays and fringe benefits values to arrive at a total compensation value. This number could then be raised or lowered as needed to meet the competition. The selected value could then be redistributed among wages and benefits as appropriate to meet company needs.

Thus, if total compensation was too low, management could decide to put the extra dollars in wages or retirement or health benefits. Conversely, if total compensation was too high, it could be reduced by removing the dollars from the value of any selected component of the system.

The concept of total compensation management is significant in the comparison-based compensation setting used in industry and prescribed for federal civil service wage and salary setting. It is in this same context that the concept was investigated by the Third QRMC. The QRMC Staff Studies demonstrate the infeasibility of that particular approach to total compensation management in the military systems.

There is no common practice in valuing in-kind and deferred benefits such that comparisons of pay-setting accuracy could be made. Differences in force management from company to company and including the military, make the comparability of valuations, even using the same methods and

economic assumptions, of doubtful acceptability in pay setting. There would be great temptation in defense budget development to save the extra dollar in total military compensation resulting from the retirement valuation by reducing basic pay one dollar.

But it is wages that enable a worker to meet current living expenses and by which he measures his current living standard. The existence of a normal range of fringe benefits is extremely important in competing for skilled or trainable manpower in today's society. Nevertheless, it is the cash wage that is the basic measure of competitive level of compensation. It is for these reasons that the QRMC Staff Study "Total Compensation Setting" concluded that total compensation must be managed in two separate components—the wage component and the benefits package—so that wages remain at competitive levels. The AUSA finds these arguments persuasive.

Comparability standards for military pay

In theory the most economical way to hire and keep a work force is to negotiate with each individual that wage which would be just sufficient to persuade him to join the company and keep him with it. This would produce a series of wage rates set by pure competition in the labor market. In the early part of our industrial development and growth wages were determined much this way.

But the coercive power of corporations has been largely counterbalanced by the coercive power of labor, and the size and complexity of work forces now require more workable approaches to wage administration. An American Management Association 1971 Report on Salary Administration describes the process this way:

"This practice has widely been discarded and replaced with more sophisticated methods that strive to obtain the objective of being fair and equitable. It is generally considered that the best interests of the organization, employee and the public will be served by paying fair and equitable compensation"

Fair and equitable compensation for military service would in principle neither exploit the patriotism and dedication of military personnel nor cost American taxpayers more than is necessary. This principle was expressed in the draft report of the Third QRMC, and was even used in the Report of the Secretary of Defense for Fiscal Year 1977. But funding that level of compensation inevitably involves making compensation comparisons with other groups, as described earlier, to find the right yardstick or standard for military compensation.

The difficulty with a comparability-based compensation standard for military service is that military and civilian jobs are not really comparable. There is no civilian job that is really comparable to that of an infantry soldier. Using a comparability standard would tend to obscure this lack of comparability and add to the trend toward treating military service as if it were a "job." For these reasons AUSA has generally opposed the idea of comparability for military compensation.

Yet, as has been noted, people do make comparisons as a guide to judgment. Even military personnel make comparisons, not just internally but with other compensation systems, about the adequacy of their pay and benefits. And they act on the basis of these comparisons, whether they are "accurate" comparisons or not. The Senate Appropriations Committee has, for three years now, in its reports on the Defense Appropriations Bill published precise comparisons of military and civil service compensation. It has used these comparisons to argue in its report that military personnel are "not significantly worse off than others." The reports have not said why military personnel should be "worse off" at all.

The Committee compensation comparison tables use arbitrary military and civil service general schedule grade equivalencies which bear no relationship to job comparisons in use in compensation administration. They are not based on any sort of maturity curves, a method used for some jobs in which pay measurements are based on years since graduation, or years since first employed, or years of work in the particular field. They are not based on any of several commonly used measures of work level or job content, such as the one used to set general schedule pay levels.

The effect has been to transmit a regrettable sense of arbitrariness, even bias. The point is that in the absence of an agreed upon standard for measuring the adequacy of military compensation, there will continue to be unresolved arguments that the military is either overpaid or is underpaid. Military compensation will continue, as it has been, to be set on an *ad hoc* basis. And the debate over military compensation, rather than contributing to the development and improvement of a sound management system, will continue, unresolved, an unstable and demotivating system.

This has persuaded the AUSA that a standard for military compensation is required, and that it must be based on some measure of comparability with civilian compensation.

There is a range of possible military compensation standards. It will be useful to illustrate the range based on some measures of approximately equivalent jobs. Figure 10 exemplifies the range, but does not describe its limits. For the illustration, civil service wages are used, from work published in the QRMC Staff Studies.

FIGURE 10

EXAMPLE STANDARDS FOR ENLISTED PAY

		Equivalent work level standard			
	Military grade, years of service	General schedule	Wage grade	Weighted average [5]	Senate Appropriation Committee standard
Grade—step	E-3/1	GS-3/2	WG-6/3	GS+WG	GS-3/3
Average RMC or wage	$7,887	$7,655	$11,669	$9,862	$7,902
Grade—step	E-7/14	GS-7/4	WS-9/2	GS+WS	GS-6/5
Average RMC or wage	$14,190	$12,675	16,869	14,730	11,754

[5] The QRMC Staff Studies estimated the mix of "white collar" (GS) and "blue collar" (WG) jobs in the military service. That mix is, at E-3, 45 percent GS + 55 percent WG At E-7 it is 51 percent GS + 49 percent WG.

This figure uses grades near the bottom and top of the enlisted grade structure which might be suitable for drawing an enlisted pay scale. The civil service grades and steps are those grades identified as approximately equivalent in work level (job content) by a job evaluation system widely used in civilian industry. Added to the display are the general schedule grades the Senate Appropriations Committee chose to declare equivalent to the military grades in its report on the 1978 Defense budget.

Great Britain has established its military compensation system on the basis of comparability with its civil service. It recognized the lack of identity between military and civilian occupations, but described the relationship this way:

"All jobs whether service or civilian possess certain common demands for which any employer is willing to pay wages. These demands can be assessed and given values as proportions of the whole job. The important ones like knowledge, mental or physical skills, and demand or responsibility, are obvious, and there are others, some of which are of little consequence in differentiating between the sizes of jobs. What is intended is that Servicemen should be paid generally what they might fairly expect, were they to apply the knowledge, skill and responsibility of their service jobs, to jobs required to be done in civilian life."

In the British system that comparability standard chosen is not parity, but a rather large differential in the salary. But the significance is not the particular standard which the British chose, but rather that one can be chosen which is based on alternative job opportunities for military personnel while recognizing that military service and civilian employment are different.

The choice of an appropriate standard is a difficult decision in itself. The large number of occupations in the military represent a sigificant range of wage scales in civilian employment. The overriding military need for a single visible basic wage scale makes the judgment even more difficult. In theory a high-level standard will pay many skills more than is necessary to meet their needs and service needs. Also in theory, a lower standard will leave many skills undercompensated in these terms, requiring very heavy dependence on differential pay through bonuses and special pays. There is probably a practical limit to the proportion of the enlisted force, and of the officer force, which could be on bonuses and special pays without destroying the credibility of the single pay scale. It is also true that the standard chosen for the single pay scales must seem reasonable—credible—to most enlisted members and to most officers, particularly in the military specialties. These considerations, in AUSA's view, preclude mathematical determination of the correct standard, and will instead require management judgments by the Administration and the Congress.

The services during the Third QRMC advocated comparability-based compensation with a system of bonuses and special pays to achieve competitive pay levels in higher cost skills. The AUSA believes that this approach will enable the government to meet its defense manpower needs, achieve the dual objective of fairness to both service members and taxpayers, and provide acceptable answers to the conflicting arguments of inadequate and excessive military pay.

VII. DEFENSE MANPOWER COSTS

The sheer magnitude of the defense budget and the way it is managed have given impetus to changes to military compensation such as the examples described in earlier sections. This can be seen in the approach taken in recent years to manpower cost control in the defense budget. The manpower cost share of the defense dollar has been increasing. In terms of current dollars it has exceeded 50 percent, going as high as 57 percent in the FY 1977 budget. This percentage number has been attacked by many as simply "too high". The Administration has used the rate of *defense* manpower cost and its upward trend as justification for initiating a number of cost reduction actions, largely in the military pay and benefits areas. Figure 11 shows the very substantial increase in manpower costs since Fiscal Year 1964. That year is usually chosen by DOD manpower managers as a "normal" year.

But the country has experienced almost unprecedented rates of inflation since that time, increasing the numerical price of everything. Further, military pay rates had been held at extremely low levels for many years. A substantial increase in pay *rates* for junior enlisted members and junior officers was made in 1971, to shift to competitive recruiting without relying on the draft. A change to pay adjustment procedures in 1967 ensured that military pay *raises*, though not pay *rates*, would keep pace with civilian pay raises.

Because of these factors, changes in defense manpower costs must also be judged in terms of real buyer power—in constant

dollars. Figure 12 adds a constant dollar percentage line to Figure 11.

This shows a markedly smaller rate of manpower dollar growth than the one argued as the reason for military pay cost reductions. The Department of Defense argues rather strongly in terms of constant dollars in seeking funds for capital expenditures, but has not sought to protect military personnel cost levels with such arguments.

The use of percentages to assess the proper level of a piece of the Defense Budget has the obvious disadvantage of being influenced by changes in the funding levels of the other pieces. DOD made significant reductions in military material purchases after the Vietnam war. Obviously any non-manpower cost reduction will increase manpower as a percent of the budget.

Thus manpower expenditures must be assessed in real dollar terms as well as budget percentages. Figure 13 shows manpower expenditures in current dollars and in constant FY 1977 dollars.

This figure puts arguments about burgeoning manpower costs in quite a different light. But it does not tell the whole story.

Defense has tabulated manpower costs to consist of:

Military personnel cost.

Defense family housing costs.

Military retired pay for members already retired.

Reserve and National Guard personnel costs.

Civilian personnel costs, including partial costs of future pensions of these employees.

"Personnel supports costs," including

Medical support;

Individual training;

Recruiting and examining costs;

Overseas dependent education;

Half of "base operating support"; and

Certain miscellaneous costs.

Two of these manpower cost elements account for nearly all of the manpower cost increase between 1964 and 1977. One is the military retired pay cost, which grew from $2.8 billion to $8.2 billion during the period. But military retired pay costs are not related to current defense forces at all. They are today's costs of the increased number of retired members resulting from past national policy decisions to maintain very large forces from the beginning of World War II. They are costs of *past* defense. The executive branch does budget for current costs of future retired pay of the military. It budgets for only a portion of the current cost of future pensions for civilians.

The second is the "personnel support cost" category, which increased from $3.4 billion to $4.6 billion during the period.

When these two cost elements are left out, the remainder—defense "payroll costs"—are in fact declining more rapidly than manpower costs, as shown in Figure 14.

In *constant* dollar percentage terms, while manpower costs have increased from 54 percent to 57 percent of defense outlays since 1964, payroll costs have *declined* from 48 percent to 44 percent of the defense outlays for the current force.

This is not to argue for unchecked spending for personnel programs. And in fairness to the Department of Defense, it cannot easily control defense manpower costs through adjustments to civil service compensation systems, because they are under the sponsorship of the Civil Service Commission. DOD can only control the civilian payroll by adusting the size of its civilian work force. In a given budget cycle it is far easier to manipulate components of military systems. But it does mean that arguments using budget percentage and percentage trends are not sound—or credible—justification for many of the actions which have been taken in recent years.

VIII. COST REDUCTION ACTIONS

As unsettling to service men and women as have been the repetitive changes to military compensation described earlier, their effects have not been allowed to subside. There has been a continuing stream of changes to benefits, largely in the form of reductions in value and rationalized on cost, since 1972. Defense has argued recently that since the series of pay raises beginning in 1967, including the all-volunteer force increase in 1971, military pay is competitive with pay in private industry. Since the benefits and entitlements established in earlier years were in part justified to offset the disparity in military pay, and because of increases in the cost of military manpower and erosion of the purchasing power of the Defense dollar by inflation, DOD argued that military benefits and entitlements had to be revised, restructured, reduced or eliminated. These arguments have been widely disbelieved by military personnel of all grades since it is apparent to all that at the time of large pay increases between 1967 and 1972, concomitant reductions were not made in other benefits and entitlements.

In trying to assess the significance of the reaction of service personnel to these changes, Defense developed a catalog of changes to entitlements and benefits in the last five years. It included over thirty identifiable "adverse" actions, and twenty "adverse" proposals. A few examples in Figure 15 will give a sense of the significance of them from the point of view of the service person.

FIGURE 15.—*Sample reductions in military benefits and entitlements*

Year, element, and description:

1974, RMC—Pay raise percentage applied equally to three cash elements, instead of calculating on RMC and "packing" into basic pay, reducing the amount of pay increase.

1975, per diem rates—Increase authorized for civil servants but delayed for military for one year.

1975, PCS mileage rate—Increase to match cost increase delayed for over a year.

1976, RMC—"Reallocate" 25 percent of basic pay increase into the basic housing allowance, increasing the implied cost of on-post housing.

1976, unused leave—Eliminated the housing and subsistence allowances from reimbursement for unused leave, reducing the rate by about 30 percent to basic pay only and limiting total reimbursement for enlisted personnel to 60 days over a full career (as officers always have been).

1973–76, CHAMPUS—Eliminated certain types of care incorrectly authorized, reducing benefit level. Reduced calculation base for allowed fee rates, increasing net costs to member.

1975–77, commissary—Added 1-percent surcharge to fund construction, reducing "consumption advantage." Recurring proposals to reduce appropriated fund support, which would reduce "consumption advantage."

1975–77, retired pay—Proposed system modernization which would reduce rates for members retiring with less than 30 years service, further reduce rates by offsetting social security old age benefits. Proposals to reduce or eliminate earned retired pay upon accepting federal employment decried by the Commander-in-Chief as "double dipping by retired members."

Some changes have been well conceived and carefully designed. But their adverse impact has been accentuated by other unrelated changes. Two examples will serve:

Defense has twice proposed a Retirement Modernization Act which would retain the attractiveness of a retirement benefit, reduce the attractiveness of early retirement, and reward longer service after initial retirement eligibility. It would give partial vesting to members separated in mid-career. The proposal would also create a meaningful separation pay for both officer and enlisted members. It included some pay transition features to protect the "equity" of current members in the current system. AUSA has judged this proposal to be a cost effective and sound management approach to a military retirement benefit in terms of the then-existing military pay situation. Today, however, we recommend modification of the previous RMA proposals. Defense has deferred resubmission of the proposal in view of anticipated proposals from the Third QRMC, and now from the President's Committee on Military Compensation to modernize military pay. In the context of continuing instability of the pay system and the stream of reductions in other areas, the RMA proposal has not been well received among military personnel.

Defense initiated improvements in the military leave benefit to increase usage and reduce loss. It also intended to reduce the practice, contrary to the clear intent of the leave law, of accumulating large amounts of leave for conversion to cash at the end of each enlistment. This longstanding practice had by custom grown to be viewed as a near-entitlement. Part of the Defense plan required legislation to limit cumulative leave reimbursement of enlisted personnel to the same sixty days allowed officers. Congress, however, enacted an additional change—striking the basic allowances for housing and subsistence from the reimbursement calculation. This was ill-considered, inconsistent with the existing pay and allowances system, and expanded the anticipated minor adverse reaction to major proportions.

IX. EFFECTS ON MILITARY PERSONNEL

The introduction of change into an organization tends to produce resistance and adverse reaction even when the change is good for the organization and good for its people. People tend to want, and even expect, stability and continuity. Most management theory today advocates a formalized approach to the *management* of change in the same sense that other aspects of a business are formally *managed*. As has been described in earlier sections of this paper, change to the military systems of pays and benefits has been disorganized or more accurately, non-organized. It has been piecemeal, almost random, frequent. It has come from all quarters—the Services, Defense, the Office of Management and Budget, the IRS, the White House, and both houses of Congress—and has been aimed at reductions in the levels and costs of entitlements.

This tends to be viewed by service personnel as a continuing assault on their entitlements. Its impact on the member's view of his leadership, and of himself, has been influenced by two other occurrences.

The United States was unsuccessful in its objectives of preventing communist conquest of South Vietnam, Laos and Cambodia. For military personnel, who were used in pursuit of these objectives, the experience was painful. Public excoriation of our military forces by "anti-war" groups, pacifists, some academics, Congressmen, and media commentators, made it even more difficult to bear. Although the Services did their duty as directed by their political leadership, the eventual withdrawal coupled with the lack of public support has had an adverse effect on the morale of service personnel and on their attitudes toward political superiors and large segments of the public.

As the services drew down from a wartime peak of 3.5 million to the current 2 million man force, veterans returned to an economy with both recession and high inflation. Job

opportunities were limited by high unemployment. Their reception into this climate bore little resemblance to the preferential treatment of veterans entering the job market after World War II and the Korean War. This was a clear signal to those who remained in military service, and added to the bitterness and frustration. They also found that their real income was being whittled away by high inflation which annual pay increases did not match. And government policy in defense was retrenchment, particularly in the military manpower portion of the budget.

Thus military personnel found their pay worth less, their benefits under attack, promotions much slower, and "job" security threatened by reductions in force. And it was harder to decide to leave the service because unemployment in the economy made jobs scarce.

In these circumstances, soldiers should be able to look to their political leadership in both the Administration and the Congress for support, especially moral support. But from this quarter they were learning that they were probably overpaid, that their benefits were too generous and that they were costing the taxpayer more than their services were worth. Instead of a reassuring "pat on the back," needed after the loss of Vietnam, they seemed to be getting a "slap in the face."

The net effect of this is the "erosion of benefits" issue. It is more important as a leadership problem than as a financial problem because:

It caps a long period of national antagonism toward the military, in part voiced by their own political leaders.

It spans a period when military wages, like most civilian wages, fell behind unusually high rates of inflation.

Military personnel tend to feel they are underpaid in absolute terms judged by many components of their pay system, and in relative terms judged by comparison to the pay and working conditions of civilians.

Some civilian leaders in the Administration and the Congress tend to declare military personnel are overpaid, with these declarations based on different, and often inaccurate, comparisons.

X. WHAT NEEDS TO BE DONE

The defense of our country, by competent personnel, confident of the support and respect of their civilian leaders and their countrymen, requires soundly conceived, logically managed systems of military pay and benefits. Those systems must adequately meet the needs of the personnel who have committed themselves to serve under the conditions required in a military organization. Changes to those systems must be logically taken, in the context of all of the elements of the system, with full protection of the equity of those current members in the existing system.

The military compensation systems for the future should consist of:

Basic pay set at adequate levels to compete with other employment systems. The paylines must equitably reward progressive achievement in the military system, and the levels of responsibility and authority imposed. Pay levels should not attempt to solve all of the financial burdens, but should be based on equivalence with what members could reasonably expect pursuing a career in civilian employment.

Basic allowance for housing set on a standard of off-post housing costs appropriate to the pay level of each grade.

Basic allowances for subsistence set on a single off-post standard to all enlisted members. The Bureau of Labor Statistics Family Budgets and Consumer Expenditure Survey data is an appropriate standard. The officer subsistence allowance should be linked to the enlisted allowance to avoid having to recognize pay distinctions in this allowance. An enlisted "commuted ration" rate for voluntary use of the cash allowance could be created, set on the standard of government raw food cost, provided the nominal cash saving is worth tne cost and burdens of administering two subsistence rates and charging separate rates in enlisted messes for duty and non-duty personnel.

A retired pay system based on a modified DOD Retirement Modernization Act. A standard should be selected for 30-year retirement roughly equivalent to the current RMA proposal of 78 percent of basic pay. The social security "offset" should, however, be based on military service years actually used in calculating the individual member's social security old age benefit. AUSA considers this necessary because the basis for the military retired pay benefits and the basis for the social security benefit are so incompatible that this is the only equitable way to relate one to the other.

The vesting provisions in the RMA proposal seem to AUSA to weaken the drawing power of the military retirement benefit. However, members who have served some significant period of time have earned and should be vested with a benefit for reasons of simple equity. The immediate cash retired pay benefit for involuntary separation, however, is undesirable because this option will act as a draw to "qualify" for involuntary separation. Its objectives would be better served, at lower overall cost, with a severance pay.

The Survivor Benefit Plan as now structured. However, the current low levels of participation clearly demonstrate its failure to meet the objectives of this program. The social security "offset" should be reduced to 50 percent to make the plan financially advantageous to the member. For the same reasons as dsecribed for the retirement program, the offset should be calculated for the individual survivor on the basis of the member's military service actually counted in the social security survivor benefit. Likewise, to ensure the financial advantage of the Serviceman's Group Life Insurance, the rate structure should be modified to end the subsidy by the active force of Reserve and veteran groups.

The military health care benefit must be restored to adequate service by making the following changes:

Remove the Congressionally imposed "40-mile rule" which requires those within that radius to use military facilities for non-emergency inpatient care, at least until military facilities and personnel can provide adequate service for a reasonable share of dependent and retired family health care requirements.

Restore to retired members the CHAMPUS alternative to VA care of service-connected disabilities.

Initiate an aggressive program to increase the participation of private sector health services in the CHAMPUS program, with allowable charges calculated by the 90th percentile method.

Restore to the CHAMPUS program "chronic condition" coverage. AUSA recognizes that these recent reductions in medical benefit levels were motivated by cost considerations. We are convinced, however, that innovative program management can achieve the required economies without penalizing the service member. For example, the VA can reimburse Defense for disability services rendered in CHAMPUS. This is a common procedure in interagency service. Military medical managers and health professionals can be engaged in cost control using the management techniques of Health Maintenance Organizations (HMO). CHAMPUS could be managed the same way—the current law permits contracting for health services. This may well be more cost effective than allowing individual member's demand and judgment of services needed to control CHAMPUS costs. Essentially, to the extent health services are treated as a component of the compensation system, the benefit should not be reduced unless a downward adjustment in compensation is required, or unless an offsetting increase is made elsewhere in the compensation system.

The commissary and exchange benefit is a major institutional benefit and a major reenforcement of the military sense of community and organizational identity. Defense and the Congress should cease seeking minor savings by tinkering with this program. It produces capital assets and very large savings for the government. For these reasons the basic delivery structure including overseas and remotely located facilities should be provided through appropriated funds.

The Military Welfare and Recreation Program should, to the extent it meets military requirements for essential recreational services, be funded through appropriations. Nonessential programs considered desirable should be supported within the non-appropriated fund system. However, a standard for subsidizing non-essential services by the commissary and exchange benefit should be established at a minimum level with the express purpose of not "taxing" all members to support recreational programs of limited or local interest, but rather to maximize the advantage to using the commissary and exchange benefit.

The expense reimbursement system should be modified to fully meet expenses imposed on service members and their dependents by military requirements:

Junior enlisted personnel should be authorized all PCS travel and transportation expense reimbursements now authorized for other members.

PCS travel allowances should be restructured on the usual mode of travel—the private automobile—to fully reimburse, but not overreimburse, average expenses.

A Variable Housing Allowance, based on off-post housing costs to military personnel and average civilian housing costs, should be established within the U.S.

The special nature of military service must be retained by continuing the use of a compensation system involving both base pay and allowances. Conversion to a salary system would serve little purpose beyond further weakening of military traditions and irrevocably implanting the notion that military personnel are paid a day's pay for a day's work—like any other wage earner.

The foregoing describes the compensation systems which the AUSA believes will meet the future needs of military force management without dependence on the draft. But no less importantly, and even more necessary after the management actions of recent years, a new approach is required to restore confidence of military personnel in their political leadership. The AUSA has concluded that a clear statement must be made of the rights of military personnel of the active forces with respect to their compensation, expenses reimbursements, and especially the procedures to be used to change them. This statement should include in concept:

What components of military personnel costs are the pays and benefits included in the compensation system, and how each will be valued for compensation setting purposes.

The basis on which annual adjustments will be made to the pay components such as basic pay and basic allowances.

The basis on which annual adjustments will be made to the levels of deferred benefits such as retirement and survivor benefits.

The ground rules for structural changes to the form and benefit levels of pays and benefits. They should include prospective application of such changes, with transition provisions including saved pay features for careerists not yet eligible for retirement.

That is, changes should apply to those who enlist, reenlist, accept commissions, or warrants, enter regular service or become eligible for retirement after enactment of the change, with the option of shifting sooner if it is to the individual member's advantage.

Defense leadership found long ago that a declaration of Human Goals was necessary to give both credibility and impetus to theoretical principles of equality of opportunity in military service. A "Bill of Rights" not unlike the Human Goals declaration would go far toward restoring the trust and confidence of those in military service in their elected leaders. Such a statement of principles should be subscribed to by the Commander-in-Chief and the principal appointed civilian leaders in the Department of Defense. For the greatest credibility, it may well be necessary to enact such a statement of principles into law—at the very least it should become the substance of a joint resolution of Congress.

XI. CONCLUSIONS

Military pays and benefits have been subjected to almost continuous modification and proposals for reductions in recent years. Taken together these real and proposed changes have come from many quarters and in an uncoordinated way. They have occurred and are occurring in a period characterized by declining public respect for those in military service, rapid expansion of employee benefits in business and industry, and recent high rates of inflation which have outstripped wage growth. These actions, taken in this public climate, have created among military personnel a strong and continuing sense of uncertainty, frustration and loss of confidence in their political leaders, sensing that they no longer speak for their interest or are even sensitive to their problems. In analyzing the causes of and solutions for this problem the AUSA has concluded that:

Military personnel must be kept more effectively informed about their pay and benefits systems and the mechanisms for changing those systems.

Military personnel must recognize and accept that, as public servants, their pay and benefits will be debated in public forums and changed based on such debates. They must take the time and trouble to be much better informed about their pay and benefits than are typical civilian workers who are protected by the interests of management and labor in the profitability and continuity of the business, the productivity of labor and the competitiveness, equity, and stability of the pays and benefits systems.

Political leaders of the Nation's defense in the executive and legislative branches must take the time and trouble to understand military compensation systems and the personnel systems they support. Their public debate of these systems, and the statements and writing of their staffs should be done in a responsible manner that will not imply attack on the individual service member.

It is important that the civilian leadership and the public recognize the unique character of military service as more than just a "job," and that adequate pay and benefits considering the normal expectations of American society must be provided for that service.

Military pay and benefits cannot be immutable, but must change with changing times, circumstances and the norms of American society.

But military compensation systems must have a far greater stability than they have had under current practices. Ground rules for change which recognize the nature of military service and the purposes of the compensation systems must be established. They should include prospective application with saved pay transition provisions for careerists.

These principles should be developed into a succinct statement subscribed by the civilian leadership and endorsed by the Congress.

Achievement of these goals will go far toward restoring the respect and admiration of the American public in their military servicemen and women, and the confidence and respect of military personnel in their civilian leaders.

ANOTHER PANAMANIAN NEGOTIATOR DENIES U.S. INTERVENTION RIGHTS UNDER TREATY

Mr. DOLE. Mr. President, another Panamanian Treaty negotiator has spoken out to deny any U.S. rights of military intervention under the proposed Treaty on Permanent Neutrality for the Panama Canal.

According to the Foreign Broadcast Information Service, Panamanian negotiator Diogenes de la Rosa said in Venezuela on October 6 that the United States will not have the right to intervene militarily in Panama when control of the canal passes to the Panamanians after 1999. Whether or not his comments are directed at U.S. rights to intervene militarily on behalf of the canal's neutrality is unclear from this report. However, the negotiator's remarks would certainly raise a question on that point.

As such, it is still another in a series of public statements by Panamanian officials that focuses doubt on just what our rights under section IV of the Permanent Neutrality Treaty are supposed to be, and just how they are to be correctly interpreted. It is still another reason why language in this provision must be clarified, in order to assure our right to protect the canal.

Mr. President, I ask unanimous consent that the full text of the television report, monitored in Panama City, be printed in the RECORD.

There being no objection, the television report was ordered to be printed in the RECORD, as follows:

PANAMANIAN NEGOTIATOR DENIES U.S. RIGHT TO INTERVENTION

The United States will not have the right to intervene militarily in Panama when control of the canal passes to the Panamanians in the year 2000, negotiator Diogenes de la Rosa said in Caracas today. He recognized that there is always the possibility, with or without the treaty, of unilateral action.

De la Rosa said in a news conference that there is nothing in the treaties that gives the United States the right to intervene in Panama. De la Rosa also said that a broad debate has opened in Panama to publicize the treaty so that the Panamanian people can vote in the 23 October plebiscite. Although de la Rosa believes there will be a majority vote in favor of the treaty, he would predict the numerical results of the plebiscite. He indicated that the new treaty has provoked criticism and opposition among some Panamanian sectors. He described this as healthy and necessary.

De la Rosa accused conservative U.S. groups of exploiting the U.S. people's ignorance of the Panama Canal in order to create opposition to the new treaty.

De la Rosa said that if the treaty is not ratified by the United States, Panama will have to seek new diplomatic alternatives for the solution of the problem. He explained that those new alternatives could be the unilateral denunciation of the 1903 treaty or to take the issue to the United Nations because the current treaty violates norms of international law and the UN charter. De la Rosa said that the other alternatives that we could implement will be determined by circumstances.

De la Rosa ruled out that the United States in the future will neglect the proper maintenance of the canal and that the equipment might have deteriorated when Panama takes over control of the waterway in the year 2000. He said that this would go against the U.S. national interest because even then its ships would be the ones that would use the waterway the most.

De la Rosa praised Venezuelan President Carlos Andres Perez, describing him as the Latin American ruler who has given greatest and fullest support to Panama's efforts to reach an acceptable treaty.

ALTERNATIVES IN LONG-TERM CARE FOR THE ELDERLY

Mr. CHILES. Mr. President, at a recent Senate Committee on Aging hearing on long-term care for the elderly, I asked officials of the Health Care Financing Administration and the Public Health Service for evidence of a strong administration commitment to developing the alternatives in long-term care needed by growing numbers of older citizens.

I can only say, after raising this issue a second time with administration health officials, that we are still receiving mixed signals on this important issue.

At a hearing 3 months ago, Mr. Robert Derzon, Administrator of the Health Care Financing Administration, agreed with me that long-term care issues should receive top priority. He also agreed with me that a consolidation of responsibility for long-term care program development within the Department of Health, Education, and Welfare would be an important step.

As a followup to our first hearing, Mr. Derzon and Dr. Joyce Lashof, Deputy Assistant Secretary for Health Programs, told the committee on September 21 that responsibility for development of policy in home health care, day care, and nursing home improvement activities will remain split between the Health Care Financing Administration and the Public Health Service.

Program development responsibility lies with the Public Health Service; but Secretary Califano's announcement, on September 30, of the reorganization of the Public Health Service does not appear to place any emphasis on long-term care program development. Decisions on all financing, reimbursement mechanisms, and cost control will be the responsibility of the Health Care Financing Administration.

I recognize that many questions remain about controlling costs, and I do not want what we do in long-term care to benefit the provider at the expense of the consumer. I hope, however, that cost issues will not be the primary or sole consideration in development of alternative long-term care strategies.

Concern was expressed about this throughout all our hearings. Witnesses told us that a major effort must be put into strengthening and expanding com-

munity program alternatives. We must openly and firmly acknowledge that the needs are there, and that we must find a way of meeting them. We need to know more about costs, but we will not have a second enough base for finally answering cost questions until we have much more in place in the community.

Many States have acknowledged the need, and are doing the best they can without any evidence of a firm commitment from either Congress or the administration. We must give strong, clear signals to those States now grappling with the development of alternative health care for the elderly. Will we support the development of day care and day health facilities? Will we make a commitment to expansion of home health care?

Under our disjointed and inadequate funding structure for alternative program development, efforts by States and communities to meet the noninstitutional long-term care needs of our older and disabled population are severely hampered.

Section 18 of the Medicare-Medicaid Antifraud and Abuse Amendments of 1977, passed by the House on September 23 and by the Senate on September 30, would require the Secretary of the Department of Health, Education, and Welfare to report to Congress on all aspects of home health and other in-home services authorized under medicare, medicaid, and title XX of the Social Security Act.

I know that the administration will thoroughly address the need for more efficient administrative and reimbursement mechanisms for in-home services and will make recommendations for coordinating these funding sources. I hope the administration will also recognize the urgency of closing the serious gaps in our national long-term care needs and expanding the availability of these services.

UNIONIZATION OF THE MILITARY

Mr. GOLDWATER. Mr. President, this body has settled whether our military services should become unionized or not, but the threat of this has not disappeared by any means. A book has been underway for some time on this subject entitled, "Blue Collar Soldiers, the Question of American Military Unionization." I have been able to obtain a proof copy of one chapter of this book by Alan Sabrosky entitled, "Military Unionism in America: Retrospect and Prospect," and also included with this is a table of contents of the coming book. I ask unanimous consent that they both be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CONTENTS

Foreword, William R. Kintner.

1. Blue-Collar Soldiers? The Question of American Military Unionization, Alan Ned Sabrosky.

2. Issues in Military Unionization, William J. Taylor, Jr.

3. For a Brotherhood of Men-at-Arms: The Case for Military Unionization, Gene Phillips.

4. The Case against Military Unionization, David Y. Denholm and Theodore C. Humes.

5. Public Sector Unionization and the U.S. Military: A First Amendment Issue, Charles D. Phillips and Judith A. Crosby.

6. The Implications of European Military Unions for the United States Armed Forces, Ezra S. Krendel.

7. American Military Unions: A Sociological Analysis, Thomas C. Wyatt.

8. Military Unionism in America: Retrospect and Prospect, Alan Ned Sabrosky.

Appendix A: Agenda: Executive Conference on Unionization and the U.S. Military (Philadelphia, Pa., April 22, 1977).

Appendix B: S. 274 (January 18, 1977).

Index.

FOREWORD

Few would deny that the premises underlying American national security policy have been subjected to increasing pressure in recent years. Many questions have been raised, and too few answers provided, concerning the proper linkage of power and purpose in American foreign policy. Yet, unless our capabilities are brought into harmony with our commitments, unless we acquire a clear understanding of the relationship of those capabilities to the exercise of influence in world affairs, our long-term security will be problematical at best.

Recognizing the importance of this issue, the Foreign Policy Research Institute has initiated a two-year study on the subject of "Strategic Choices and Military Power." This book on military unionism is the first product of that research program. It provides a balanced and timely assessment of the constitutionality, feasibility and desirability of military unions in the United States. As such, it should go far toward improving our understanding of this complex and significant subject.

ACKNOWLEDGMENTS

Perhaps even more than the author of a book, an editor owes a considerable debt of gratitude to many people. The support and encouragement of my colleagues at the Foreign Policy Research Institute played an essential part in the planning and completion of this project. Mr. G. Dennis Bolton, Mrs. Judith Flanagan and Mr. William C. Ellenbogen assisted in the organization of an executive conference on "Unionization and the U.S. Military," sponsored by the Institute in April 1977. Professor Edward Bernard Glick of Temple University, Professor David R. Segal of the University of Maryland and Mr. Virgel E. Miller of the American Federation of Government Employees provided perceptive comments on many different aspects of military unionism. Mr. Charles B. Purrenhage supervised the transformation of an unedited manuscript into a finished work with extraordinary patience and skill. Mrs. Jean Barth Tobin copy-edited the manuscript; Mrs. Carmena Pyfrom and Ms. Valerie Garner diligently and bravely typed the many drafts of the edited papers; Mr. Alan H. Luxenberg and Mr. Joseph Woods assisted in more ways than can fully be appreciated; and a special note of appreciation must be given to Ms. Donna Reese, who set the copy into camera-ready pages for printing.

Finally, thanks are due the authors of the papers assembled in this volume. Each author, of course, is responsible for the factual accuracy of the evidence presented in his or her chapter. In addition, when editing these papers, I endeavored (not always, I fear, with complete success!) to resist the perennial temptation to make each one say something the way the editor himself would like it said. In many ways, the strength of these contributions reflects their resilience under the editorial pen. Taken together, I believe they provide many useful insights into an issue of continuing importance to students and practitioners of American national security affairs.

CHAPTER EIGHT: MILITARY UNIONISM IN AMERICA: RETROSPECT AND PROSPECT [1]

(By Alan Ned Sabrosky)

IN RETROSPECT: WHY INTEREST IN AMERICAN MILITARY UNIONS?

From the preceding chapters, we may appreciate more fully than before the complexity of the issue of American military unionism. What is both somewhat surprising and of considerable concern is that the views on military unions are not only diverse, but also markedly polarized. Those who emphasize the importance of individual socioeconomic welfare and civil rights argue that military unions are both constitutional and desirable. Those who give precedence to considerations of the political responsiveness and functional effectiveness of the armed forces take the opposite view. To be sure, academic analyses may find points of commonality on both sides of the issue. Yet little, if any, middle ground mutually acceptable to the contending parties appears in the cases for and against military unions. This absence of a consensus is, perhaps, not unanticipated, but it certainly does not augur well for the final resolution of the issue. In fact, the elements of apparent irreconcilability in the contending arguments for and against military unions may well be indicative of the problems that would affect labor-management relations in a unionized military establishment.

Perhaps the fundamental question to be addressed at this point is why interest in military unions seems to be increasing, and what we are to make of that development. Although a number of possible explanations have been suggested, three seem to command wide acceptance. These are based on: (1) general societal trends conducive to prounion sentiment, (2) the advent of the all-volunteer force (AVF), and (3) concern about the continuation of military fringe benefits.

First of all, most agree that general societal trends are moving away from the more traditional concept of "duty, honor, country" in all of its variants, and toward a more self-directed and self-interested system of values. This reduces the willingness of service personnel to accept existing patterns of authority within the military institution, and increases their sense of the incompatibility of institutional restraints with personal freedom of action. Yet the argument that societal trends presage the unionization of the armed forces is far from compelling. "Societal trends" are not inherently positive entities whose maturation should be awaited with either anticipation or resignation. As Gibbon pointed out with depressing clarity in his classic *The Decline and Fall of the Roman Empire*, some aggregate societal trends can undermine an institution, rather than strengthen it. And in fact, many of the existing trends in American society do not seem particularly well suited to the requirements of disciplined cohesion essential to the armed forces of a nation with global responsibilities. Needless to say, such trends should be countered within the military institution, if they cannot be corrected outside of it.

Second, a clear linkage is made between the creation of the all-volunteer force and the rise of substantial interest in military unionism. The decision to require the armed forces to compete on the labor market for the necessary numbers of recruits produced a job-orientation within the military that is conducive to prounion sentiment, particularly among first-term personnel. Once mili-

Footnotes at end of article.

tary service was defined in occupational rather than professional terms, the presumption of institutional uniqueness was weakened, and with it many of the arguments against unionization.[2] Nevertheless, while the movement to an all-volunteer force certainly stimulated the development of the preconditions for unionization, all-volunteer forces are not inherently union-prone. In fact, all of the countries in which some form of military unions exists also have some form of conscription, while nations which rely entirely on volunteers to meet the manpower needs of their armed forces do not have military unions. Several European military unions do include professional military personnel, of course, and some are even restricted to career servicemen. Yet by and large, the most active and vocal unions have been seen as means by which conscripts could improve their position and welfare in ways that the military establishment would not otherwise allow.[3]

Finally, it is certainly true that the actual or perceived erosion of some collateral military benefits, and the threatened erosion of others, have raised concern among many military careerists about a wide range of individual, welfare-related issues. This, in turn has made them more willing to consider alternative ways of ensuring that existing benefits would be retained, if not expanded. But it also should be recognized that the erosion of benefits has not been so great as some have believed to be the case. This is particularly apparent when seen in light of the significantly better pay scales now enjoyed by miliary personnel relative to conditions of a decade ago.[4] Collateral benefits once were seen as a way of compensating service personnel for the significant disparity which existed between military and civilian wages. With comparability between those wages more nearly approached, the objective need for some of the collateral benefits ought to have decreased. This is not the case, at least in the eyes of many career military personnel. And the fact that they see this to be a major issue may say more about the changing values and sense of priorities of some career military personnel than it does about the alleged sense of deprivation they may feel.

Whatever their validity, the combined effect of these (and other) factors has been to increase the attractiveness of military unions to service personnel, regardless of how the general population might view such unions. Preliminary studies of military personnel have found that a majority of those surveyed either support or are uncertain about the desirability of military unionization. A plurality of all respondents and a majority of commissioned officers remain opposed to military unions. Yet a majority of both commissioned and enlisted respondents agreed that military unions would increase the economic well-being of those in the armed services.[5] Thus, a continuation of present societal trends in the context of an all-volunteer force in which collateral benefits were threatened or reduced could be expected to increase support for unions among military personnel. This does not mean that military unions are inevitable in America, despite claims to that effect in some circles. It does suggest, however, that the possibility that the U.S. armed forces might be unionized is all too likely to increase in coming years.

RELEVANT ANALOGIES: A CRITICAL APPRAISAL

Since American military unions do not now exist, we must look elsewhere for evidence that might apply to the performance of such unions in this country. At first glance, it would seem that such evidence would be readily obtainable from studies of both Western European military unions and the union movement in the United States, especially in the public sector. Yet many analysts entertain at least some reservations about their relevance as sources of insights into whatever American military unions might come to pass.

This is particularly apparent in the case of the Western European military unions.[6] In fact, one is struck by (1) the amount of effort that is given to deprecating the relevance of the Western European experience with military unions, and (2) the selectivity employed by those who *do* attempt to draw on that experience in their arguments for or against American military unions. It is generally argued, for example, that the differences between the European and the American union movements seriously weaken (if not invalidate) the values of Western European analogues to American military unionism. Such an approach, however, seems unwarranted. American military unions certainly would have at least some of the organizational objectives and interests of their European counterparts. Unions in any country exist in part for the purpose of improving the socioeconomic welfare of their members. They may do more than that, of course, and they may perform even their minimum functions more or less efficiently. The fact that our military unions would partake of the traditions of American rather than European unionism could not be discounted entirely. But one simply cannot say that an organization in this country will be fundamentally different from a comparable organization in another country.

It must be conceded, of course, that European unions have tended to be more politicized and ideologically motivated than their more pragmatic, "bread-and-butter" American counterparts. Yet the fact that they have been different in the past does not mean that they will remain so indefinitely. Unionization is an evolutionary process, not a static condition. Institutions and movements may start from different places, but it does not follow that they will pursue inexorably different paths thereafter. Convergence may occur, with one movement adopting the characteristics of the other, or some synthesis of the two may evolve.

In this context, it seems that American unionism in general, and public sector unions in particular, are becoming more like their European counterparts in practice than once was the case. Public sector unions *by definition* deal with issues that have broader social and political implications than do questions of working conditions and retirement benefits.[7] That they should act on issues not directly related to the more conventional "work place, wages, and grievances" concerns of private sector trade unions, therefore, ought not to be surprising. Thus, the European union movement in general, and European military unions in particular, may not reflect either the American union movement at the present time, or even the type of military union which might evolve from that movement. But it could well suggest what that movement and that military union might become at some point in the future.

It is certainly true that the national defense establishment of the United States has a very different set of missions than is the case with the defense establishments of the several Western European countries, whether or not they have military unions. Yet the missions of certain parts of those military establishments are not that different. At the strategic level, to be sure, the requirements levied on the American forces are more extensive and more demanding than those placed on the Western European armed forces. Questions of credibility of response, efficacy of command and control, and the reliability of the strategic deterrent force as they might be affected by unionization cannot be answered with any degree of certainty from the European experience.[8] Yet there exists much greater comparability with respect to the missions of Western European and American general purpose forces. Should a war occur in Central Europe, for example, the unionized Bundeswehr and the currently nonunionized U.S. Seventh Army would be confronted with quite similar tasks. Thus, whatever institutional strengths or weaknesses in a Bundeswehr formation might be attributable to unionization would likely appear in an equivalent American organization.

To assess those strengths and weaknesses requires a comprehensive assessment of the diverse types of Western European military unions. Yet it is here that the second difficulty—that of selectivity on the part of those who do choose to use Western European military unions as an analogy—becomes important. There exist a number of scholarly and professional studies of European military unions, of course. Yet in political circles, both civilian and military, a less demanding and less critical approach seems evident. That is, those who do see some relevance in the European experience with military unionism all too often focus on the Dutch and West German military associations. Supporters of American military unions look at both countries, emphasizing the "democratizing" influence of military unions in the Netherlands and the superior quality of the heavily unionized Bundeswehr.[9] Opponents of military unions in the U.S. also look at the Dutch armed forces, but as an example of what a military establishment ought not to become.

Although neither the Dutch nor the West German military associations are unions "[in] the strictest sense" [10], Bonn's large, efficient, and extensively unionized military establishment seems particularly atypical. The greatest problems with unions are presumed to come from those that are restricted to junior enlisted personnel, and particularly conscripts. Yet the West German unions include all ranks of enlisted and commissioned personnel within the same organization. At the very least, unions that include in their membership general staff colonels and regular army lieutenant generals might have a certain leavening that less all-inclusive unions would not. Perhaps the most important consideration, however, is that the labor-management relationship in West German society simply is not analogous to that which exists in the United States, or even in the rest of Western Europe. In the FRG, labor and management cooperate to a significant degree, and that cooperation facilitates the resolution of controversies that might cause a strike or job action in other countries. It would be surprising if a similar tradition had not extended into the military unions themselves. In fact, the principal West German military union (the DBwV) has been described accurately even by advocates of military unionization as a "company union." [11]

On balance, the West German military unions are sufficiently different from their European counterparts and what might be expected to arise in the United States that they are a dubious analogy at best. The Dutch military unions, however, appear much closer to the European norm. They also reflect concerns that would be likely to appear regarding the American military if this country's armed forces were to be unionized. To be sure, the real value of military forces such as those of the Netherlands is difficult to evaluate. The unkempt appearance of the Dutch soldiery certainly does not recommend military unionism to parade ground enthusiasts. Yet the Israeli Defense Force (perhaps an exception) also takes a somewhat cavalier approach to certain elements of standard military protocol without adversely affecting its combat ability.

The problem with the unionized Dutch armed forces, however, is one of credibility.

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Even if they are still competent, their appearance and behavior are such that neither their allies nor their adversaries truly seem to believe it. Habits acquired in peacetime are not easily discarded at will once a war begins, and the habits displayed by the Dutch forces simply are not indicative of the qualities needed to maintain a high level of disciplined competence in war. Such appearances may be deceiving, but when they occur in a military establishment they may contribute to miscalculations on *both* sides that lead to an undesired war.

If the case could be made that an American military union would be like a German military union, then ever present opponents of military union might be inclined to embrace the concept. Unfortunately for the proponents of military unionization, however, that is unlikely to be the case. It is all too likely that the West German military unions are the exception, rather than the rule. Further, the uncertainties raised by the Dutch military unions neither argue for the unionization of the U.S. armed forces, nor augur well for the consequences of their unionization if it should occur.

Whatever else they might be, of course, the American military unions would partake of the characteristics of the union movement in this country. There are clearly fewer reservations about the relevance of American unionism to a study of U.S. military unionization that there are with respect to the European military unions. As Professor Wyatt points out in Chapter Seven, for example, organizations share a number of characteristics that permit analogies to be drawn, at least if reasonable caution is exercised. When both military and nonmilitary institutions are industrialized and bureaucratic entities arising within the same political culture, the analogies may hold particularly well. Thus, the performance of unions in a corporate setting might not be all that different from their performance in a military setting.

In addition, it is likely that whatever union would actually organize the military would also include civilian members. This would certainly be the case with the American Federation of Government Employees, the National Association of Government Employees, the Association of Civilian Technicians, and most of the other groups that are, or have been, interested in setting up military unions. (In fact, only the more radical groups such as the Enlisted Peoples' Organizing Committee might enroll an almost exclusively military membership, although even that is not certain.) This amalgamation of military and civilian personnel would undermine the allegedly unique character of an American military union in the same way as the emphasis on the military as an occupation undermined the presumably unique character of the military institution.

Finally, armed public security forces at all levels of government share a number of functional similarities. Perhaps the most notable of these is the possession of a monopoly on the legitimate use of force within their respective jurisdictions. This suggests that unions of their personnel could also share a number of behavioral similarities. Thus, a study of police unions could provide insights into what we might expect from military unions, at least with respect to their willingness to adhere to contractual limitations on union behavior. Regrettably, the mixed record of police unions on this point is not reassuring. Some have acted with restraint and moderation. Others, however, have acted contrary to the public interest by engaging in "job actions" to gain additional bargaining power during contract negotiations. Even the slightest possibility that a military union would do likewise would be politically and militarily intolerable.

THE IMPACT OF UNIONIZATION ON THE U.S. MILITARY

Barring some unanticipated development, it is distinctly possible that the U.S. military will be unionized if current manpower levels are maintained in the present recruiting environment. The principal question to be answered, therefore, is: What would military unions mean for America? Further developments, of course, may produce a situation very different from that which we can anticipate at this time. What are seen to be relevant analogies at present may turn out to have been entirely mistaken, while others that were dismissed out of hand may be seen in retrospect to have been closer to the mark. Yet the evidence seems sufficiently clear in a sufficiently large number of cases to permit several preliminary conclusions to be drawn with a fairly high degree of confidence.

What must be recognized, first of all, is that when we speak of American military unions, we are talking about the unionization of all of the armed services. One union or many, organized by rank or open to all service personnel, restricted to military personnel or open to civilians as well, either the American military will be unionized *in toto* or not at all. The partial unionization of the armed forces is simply too unworkable, militarily and politically speaking, to be a viable course of action. Moreover, it does seem that the organization which took the lead in unionizing the military could make a difference, at least in the short term. Military personnel enrolled in the relatively moderate AFGE, for example, would be subject to a different set of union constraints and predispositions than if the Enlisted Peoples' Organizing Committee won out. In the long term, however, certain general consequences are likely to follow the unionization of the armed forces by *any* organization. These general consequences are obviously of the most immediate interest.

The first point that must be acknowledged is that a number of gains are registered for unionized workers in the case of both European military unions and American private and public sector unions. Unionization does improve the economic well-being of union members, relative to that of workers in comparable occupations who are not unionized. Pay increases more rapidly, and benefits are improved and guaranteed more securely, than is the case in nonunionized occupations. All of these gains probably would appear in a unionized American military establishment.

In addition, grievance procedures would be expanded and diversified. This would give unionized military personnel alternate and probably more effective means of rectifying intentional or unintentional institutional abuses than currently exists in the defense establishment. Unionized military personnel would achieve an added measure of job security. The "reduction in force" (R.I.F.) measures which are used to reduce the number of personnel in specific grades and occupational specialties would be moderated, and would become the subject of negotiation and arbitration. It would be more difficult to give less than honorable discharges. Unionization also would produce a more differentiated managerial structure. That structure probably would stop short of codetermination (shared direction of affairs by officials of both labor and management). It would, however, still involve union officials from shop stewards to the national union president(s) and governing council(s) in a wide range of decision areas now reserved solely to military management.

These certain effects of the unionization of the U.S. military services, as well as the society at large. The first direct effect of military unionization is that manpower costs would increase sharply over time, both in the absolute and in the proportion to what would exist in the defense budget of a nonunionized American defense establishment of the same size. If unions do nothing else well, they do raise wages and increase benefits, including retirement compensation, for their members. Achieving these essential union goals would confront any Administration with a particularly demanding decision. To maintain current manpower levels without cutting sharply into other appropriations categories (e.g., operations and maintenance), substantial increases in defense outlays would have to be accepted. If defense outlays were not to increase significantly, then extensive reductions would be required in manpower levels, major appropriations categories other than manpower-related expenditures, or both. It would be very difficult, however, to reduce manpower levels in a unionized military. Opposing reductions in the size of the workforce, after all, has a very high priority in most unions.[12] To hold down defense outlays in a unionized defense establishment, therefore, extensive cutbacks would have to be made in other appropriations categories—probably operations and maintenance or procurement, as they would be the largest remaining categories. Thus, the unionization of the U.S. armed forces would entail higher defense costs or a certain reduction in operational capabilities, if not both.

The second consequence of unionization is that the exercise of direct managerial authority would be inhibited at all levels. Unit leaders of any rank will be subject to greater constraints on their behavior than would otherwise exist in areas once considered the purview of the unit commander. Some interface of the "official" and "union" chains of command necessarily would occur as a consequence of union participation in any decision now made solely by the military hierarchy. To presume that a blurring of command responsibilities could be restricted to questions of individual welfare, pay and promotions, and peacetime grievance procedures seems unwarranted. On the contrary: many of the decisions that have the greatest effect on individual servicemen are operational decisions made in wartime. As we noted earlier, it is unwarranted to presume that habits acquired in peacetime service would be discarded without hesitation at the onset of war or national emergency, even if the union leadership directed that to happen. Human beings simply do not work that way, even in the most controlled societies.

Third, no matter how restricted the initial scope of a union's charter, its powers eventually would expand to include collective bargaining and, ultimately, either the right or the de factor power to conduct strikes or job actions to press home its demands.[13] During his confirmation hearings, Secretary of Labor Ray Marshall indicated that he favored "some form of union representation for the armed forces—but without the right to strike."[14] Such a position, however, is untenable. Without the fact or the threat of strike, a union has no way to obtain from management what management is unwilling to give of its own volition. In fact, the best time for a union to press home its demands is when management has the greatest need of union members' services—namely, during a crisis or national emergency, in the case of military unions.

It is all too obvious that the step from low-key unionism to a more aggressive variety is one that will be taken by any union leadership unwilling to stagnate.[15] Military unions, like their police union predecessors, might not initially have the power to strike or engage in "job actions." Yet unless one believes that a military union will somehow be

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unique, that power will come with time. In such circumstances, neither the government nor the nation will have any effective recourse to deal with a strike or job action by those on whom the authority of the government ultimately depends.[16] There is, I would argue, an "iron law" of public policy applicable here: No society can tolerate shared authority over armed personnel responsible for the maintenance of public safety without risking the very survival of the constitutional order. The unionization of the armed forces would create such an environment of shared authority.

Fourth, there is no clear indication that military unionization either enhances or undermines the functional effectiveness of the armed forces, at least during peacetime. Professors Krendel and Wyatt, for example, concluded in their chapters that official fears of an erosion in the combat effectiveness of a unionized military probably were overdrawn. And on reflection, this may be true with respect to the technical proficiency of individual service personnel. Yet armed forces are more than simple aggregations of technically competent individuals. Disciplined organization and unit proficiency also are essential, and it is these aspects of the military that unionization would be likely to affect adversely. At the very least, the adversary relationship inherent in most labor-management situations probably would be intensified by unionization, thereby undermining that espirit de corps essential to success in war. The fact that noncommissioned officers and enlisted personnel in general seem nearly twice as willing as officers to support military unions [17] suggests the evolution of an adversary relationship in a unionized U.S. military that could not be beneficial to the long-term institutional cohesion of the armed forces.

Fifth, and finally, unionization would prompt the eventual politicization of the armed forces. All except the strongest advocates of military unions appear to express some concern about the possible impact of unionization on the political responsiveness of the military. There is, of course, little doubt that a politicized defense establishment is undesirable. As one writer concluded, "A politicized, class-conscious military, taught to go out and wrest resources from the public, its employer, would be a danger to our democracy." [18] No one would argue that the present military establishment is divorced from the mainstream of practical politics in Washington, insofar as they bear on the institutional interests of the military itself. What would make a unionized military establishment politicized would be its linkage to a larger, more diversified public or private sector union. This would bring the added bargaining power of the union's military members into the balance on a wide range of issues that would not necessarily bear directly on the concerns of the military itself. Eventually, this would call into question the reliability of the military in any conflict situation, foreign or domestic, not favored by the union leadership. Such a development certainly is not in our national interest.

RESPONSE TO THE CHALLENGE OF MILITARY UNIONS

For those to whom the maintenance of an effective national defense is paramount, the immediate question is how the challenge of military unionism might best be met. One way of dealing with this problem is to try and remove the incentives for unionization. The occupational image associated with the all-volunteer force and the feared loss of collateral military benefits are perhaps the principal stimuli to pro-union sentiment in the services. The latter factor is theoretically the most manageable: an Administration could decide not to reduce benefits, and even increase them. Yet such an approach is both unwise and unlikely to be effective. It is unwise because it amounts to an attempt to bribe career military personnel not to unionize, thereby reducing them implicitly to the status of mercenaries. The precedent this would set is not pleasant to contemplate. It is unlikely to be effective because trying to beat a union on its own preferred ground—that is, the ability to get greater concessions from management than management is willing to give—is fruitless. At the very least, a union can always promise to make management give more than management can give without eroding institutional viability.

An attempt to move away from the occupational image now characterizing the military is also unlikely to be successful in the present recruiting environment. This is due to the difficulty of implementing any other model of service while still competing for sufficient recruits to meet existing manpower needs in a society whose values are not conducive to service in the armed forces. Nor would a return to conscription (or anything approximating it) necessarily reduce the primacy of the occupational model and the attendant prounion sentiment. In fact, either a return to conscription or an attempt to institute some form of compulsory national service (which is closer to outright conscription than some acknowledge) probably would hasten the unionization of the military, even if either course of action was politically feasible. Dissatisfied conscripts or "compulsory national servicepeople" could well be far more interested in unionization than those volunteers who, for whatever reason, chose to enter the service. If that were coupled with the continued dissatisfaction of long-term service personnel, a return to conscription or its equivalent could give union advocates the majority they would need.

If the incentives for unionization within the military cannot easily be removed, one possible recourse is to legislate against military unions. This approach, as we have seen, is being attempted.[19] A number of officials, however, including President Carter, Secretary of Defense Harold Brown, and Navy Secretary W. Graham Claytor, Jr., have expressed reservations about the constitutionality of legislation prohibiting the unionization of the U.S. military. And in fact, the constitutional question clearly is seen by many to be the crux of the matter. It is a foregone conclusion that the passage of any legislation either restricting or endorsing military unions in any shape or form, or even a vote by service personnel to unionize in the absence of such legislation, will be tested in the courts. In the past, the Supreme Court in particular has tended to grant military personnel civil rights separate from, but not quite equal to, those enjoyed by the civil society at large. It also seems that the present Court probably would continue that practice and deny the right of any organization to unionize military personnel, although this is certainly open to question.

In terms of abstract ethics, of course, this de facto segregation of the military from the civil society is unconscionable in a political democracy that, as the advocates of military unions put it, prides itself on its citizen soldiers. Yet this practice should not be surprising. Perhaps only garrison states whose militarized societies exist for the purpose of fighting, or peripheral states whose civilianized military establishments simply are not expected to have to fight, can afford to grant their soldiery the same civil rights and individual liberties accorded to the rest of their citizens. In all other states, the requirements levied on the armed forces differ so greatly from the obligations expected of the civil society that to grant military personnel the same latitude as civilians would likely result in a defense establishment that could not protect, and might well threaten, the society it was supposed to guard.

The key issue here, however, may not be the constitutionality of such legislation, but rather its enforceability. A recent report on the effectiveness of anti-union legislation at state and local levels, for example, concluded that "laws have slowed or hindered union organization (of public employees), but have not been able to prevent it." [20] In the case of legislation against military unions, these difficulties would be increased. For the military to be unionized, after all, would require the support of a majority of at least one service, and a plurality of the entire defense establishment. Precisely how one would enforce legislation prohibiting unionization against the wishes of a military whose personnel were determined to unionize is not clear. Appeals to supporters of police unions for restraint in the name of "public welfare" have not been well received by them. There is little reason to think that supporters of a military union would respond differently.

This suggests that attempting to enforce anti-union legislation in such a situation could prompt a constitutional confrontation that would not be in anyone's interest. The question, then, ought not to be whether legislation prohibiting the unionization of the U.S. military is constitutional. It is how quickly such legislation can be passed and brought before the Supreme Court for affirmation of its constitutionality. The sooner those steps are taken, the less widespread and less entrenched pro-union sentiment will be in the military, and the more likely it is that such legislation would be enforceable.

On the other hand, it must be recognized that it may be too late for such legislation to be implemented even if it were passed by Congress, signed into law by the President, and affirmed by the Supreme Court. If pro-union sentiment became sufficiently strong in the armed forces, neither the passage of legislation prohibiting military unions nor the affirmation of the constitutionality of such legislation would suffice to stave off the unionization of the U.S. military. At best, the challenge of military unionization might only be postponed.

If this should be the case, then there are only three remaining ways of dealing with the situation. The first is simply to accept the unionization of the military by whatever groups can gain the necessary support from within the services. This alternative, however, is unappealing. It is quite possible that unionization would enhance the welfare of individual service personnel, as well as democratizing the armed forces to a greater extent than would otherwise be possible, Yet it is certain that the political and military liabilities that would be incurred as a result of the unionization of the armed forces would be undesirable. To let the union movement take its course in the military risks conceding the numbers, dues, and bargaining power of a two million member defense establishment to an increasingly active, and potentially activist, labor organization. Such a development would, in my opinion, take unwarranted liberties with our national security and our constitutional process.

The second option, therefore, would attempt to reduce the risk that a unionized military would become a highly politicized adversary of its management, the Federal Government. It entails a decision to steal a march on the military union movement by creating a de facto "company union" based on an expansion and amalgamation of the existing professional service associations. Such a "general military association" would be all-inclusive in membership in order to reduce the sense of "we-they" all too characteristic of most labor-management relationships. Whenever possible, the same individuals should hold comparable positions

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in the union and the military hierarchies. At the very least, gross discrepancies between military rank and union office ought not to occur. Such an association certainly would be preferable to a more conventional union affiliate, however difficult it would be to put it together. Yet encouraging the creation of even an initially supportive "company union" in the military would be a high-risk venture. Such an association, too, could well evolve into a more activist organization, much as has occured with the AFGE and the various "policemen's benevolent associations." Thus, forming a company union could be only a way of delaying an eventual union-management confrontation in the military.

The third course of action rejects the desirability of any military union, whatever its initial relationship with the defense establishment. It reflects a judgment that the unionization of the armed forces can only be prevented by reducing military manpower requirements significantly below current levels. This would essentially entail major reductions in the existing general purpose ground forces, coupled with a lengthening of the initial term of service. The resulting decrease in the need for recruits would allow the services to access fewer numbers of higher-quality recruits for longer enlistments than is now possible. Properly managed, this approach could result in a smaller but more professional military that is adequately compensated *and* adequately motivated for military service, as well as adequate for the legitimate needs of national defense.[21] Such a military would hardly constitute a receptive audience for advocates of military unions.

CONCLUSION

In sum, what must be understood is that any case for military unionization rests on the contentions that military unions would be nonpartisan, apolitical, quiescent during periods of national emergency, and totally unwilling to employ their most effective instrument—the strike—in order to lend weight to their demands. Such contentions, it seems to me, are not justified. There is no sound reason to assume that military unions would exercise indefinitely a degree of politically neutral self-restraint and self-denial unparalleled in the history of the union movement. Certainly, little in the performance to date of American public sector unions substantiates such an assumption. To rely on a military union *not* to act like a union over the long term is, in my opinion, fundamentally unwise. Unions have a proper, well-earned place in American society, but that place should not encompass the armed forces.

FOOTNOTES

[1] Part of the discussion in this chapter appeared in the author's "Unionization and the U.S. Military: A Conference Report," *Orbis* 21, no. 2 (Summer 1977).

[2] For a thoughtful discussion of differing orientations toward military service, see Charles C. Moskos, Jr., "The All Volunteer Military: Calling, Profession, or Occupation?" *Parameters* 7, no. 1 (1977). It should be noted, however, that military service rarely was defined as a "calling" by enlisted personnel. Their choice usually was limited to viewing the military as either an "occupation" or a "profession." This distinction should be noted when considering measures to correct prounion sentiment among enlisted personnel.

[3] Professor Ezra S. Krendel emphasized this point in his presentation at the Foreign Policy Research Institute Executive Conference on Unionization and the U.S. Military, Philadelphia, Pa., April 22, 1977.

[4] See, for example, Paul N. Schratz, "The Military Union Card," *United States Naval Institute Proceedings* (June 1977), pp. 27–29.

[5] See T. Roger Manley, C. W. McNichols, and G. C. S. Young, "Attitudes of Active Duty Air Force Personnel Toward Military Unionization," *Armed Forces and Society* 3, no. 4 (Summer 1977), and a comparison of their findings with a survey of army personnel in James K. McCollum and Jerald F. Robinson, A Study of Active Army Attitudes toward Unionization" (paper presented at the 39th Military Operations Research Society Symposium, USNA, Annapolis, Md., June 28–30, 1977), esp. pp. 12–13. The evidence is limited, but the similarities in the findings of surveys of two different services are striking.

[6] In addition to the chapter on European military unions in this book, see also Gerald F. Perselay, "The Western European Military Model" (paper presented at the 39th Military Operations Research Society Symposium, USNA, Annapolis, Md., June 28–30, 1977), esp. pp. 5–8.

[7] The U.S. Supreme Court recently acknowledged this point. Writing for the majority of the Court, Mr. Justice Stewart concluded that "There can be no quarrel with the truism that because public employee unions attempt to influence governmental policy-making, their activities and the view of members who disagree with them may be properly termed political." *Abood* v. *Detroit Board of Education*, 97 S. Ct. 1782, 1782, 1797 (1977).

[8] Professor Edward Bernard Glick of Temple University has given particular emphasis to the importance of the "superpower factor" in assessing the implications of military unionism in the United States.

[9] See, for example, David E. Cortright, "Unions and Democracy," *AEI Defense Review*, no. 1 (1977), esp. pp. 7–8.

[10] See, for example, Perselay, "Western European Military Model," p. 8.

[11] Cortright, "Unions and Democracy," p. 8. The influence of cultural variations, of course, is imprecisely understood. Yet it might be noted that the Germans have shown themselves to be rather good at fielding efficient armies under a variety of different regimes and situations. That the unionized *Bundeswehr* was still highly proficient might therefore be due to the fact that it was German rather than that it was unionized.

[12] Needless to say, any attempt to reduce manpower levels in a unionized U.S. defense establishment would almost certainly lead to a major rift between military management and the union leadership.

[13] Even prounion spokesmen acknowledge trends toward more assertive public sector unionization in the United States, and expanding powers for European military unions. See, for example, Cortright, "Unions and Democracy," pp. 5–7.

[14] Quoted in *U.S. News and World Report*, 14 February 1977, p. 8.

[15] The American Federation of Government Employees, for example, initially included a no-strike provision in its charter. That self-imposed restraint was discarded at the AFGE's convention in 1976—the same convention at which the AFGE charter was amended to permit enrollment of military personnel—when the union's membership voted to authorize strikes or "job actions."

[16] Harry E. Eccles, "Military Unionization: The Central Issues," *Naval War College Review* 30, no. 1 (Summer 1977), p. 24. It should be noted that unionized police forces are tolerated in some sectors only because of the certainty that, if necessary, striking police could be replaced by either the National Guard or the regular armed forces. If the National Guard and the armed forces were themselves unionized, neither that certainty nor that option would exist.

[17] McCollum and Robinson, "Active Army Attitudes toward Unionization," p. 13.

[18] Charles L. Parnell, "Should Military Unionization Be Permitted?" *United States Naval Institute Proceedings*, (July 1977), p. 24.

[19] On August 18, 1977, for example, the Senate Armed Services Committee reported out legislation that would prohibit both military unions and the unionization of civilians employed by the armed forces. (*Washington Post*, August 28, 1977).

[20] Report by Kraemer Associates, Inc., cited in Vernon Guidrey, "Collective Bargaining Is Called 'Distinct Possibility' for Military," *Washington Star*, 15 February 1977.

[21] This proposal is developed at length in my *Defense Manpower Policy: A Critical Reappraisal* (Philadelphia, Pa.: Foreign Policy Research Institute, Monograph No. 22, 1977).

NORTH ATLANTIC ASSEMBLY ACTS ON MILITARY ISSUES

Mr. KENNEDY. Mr. President, the North Atlantic Treaty Organization is in a period of review and reexamination. Some outside observers have questioned NATO's viability as a fighting force, and many suggestions have been offered for strengthening the alliance, both politically and militarily.

Since fundamental policy decisions necessarily involve the legislatures of member nations, I believe it is important to pay careful attention to the views of members of parliament, who often display a forthrightness and candor about issues which may be lacking in normal diplomatic exchanges.

Accordingly, I was most interested to learn of actions taken by the North Atlantic Assembly, the parliamentary arm of NATO, in its most recent meetings in Paris during the week of September 19th.

Among the most significant actions were several resolutions developed and reported by the Assembly's Military Committee, many of which bear the imprint of my distinguished colleague from Iowa, JOHN CULVER, who was the Senate's delegate participating in the work of that committee.

A chief topic in that committee was cooperation in defense procurement in order to obtain standardization and interoperability of equipment for NATO forces. Over the past 3 years the U.S. Congress has led the way on this vital issue by enacting basic policy legislation, by prodding our own executive branch to move boldly, and by encouraging our European allies to respond positively to efforts to create a trans-Atlantic "two-way street" in defense production. The Ford administration took initial steps toward greater standardization and the Carter administration has vigorously pushed for cooperation on a wide range of issues.

The sentiment in the Military Committee and in the North Atlantic Assembly as a whole was strongly for standardization. The delegates approved an important resolution drafted by Mr. Klaas de Vries of the Netherlands and Congressman JACK BROOKS of Texas, one of the leading proponents of standardization in the House of Representatives. This resolution reiterates the need for greater cooperation and urges the establishment of a NATO procurement committee to determine equipment requirements for alliance forces.

Recognizing the special importance of advanced technology as a means of off-

setting numerical imbalances between NATO and Warsaw Pact forces, the Military Committee approved a resolution recommending close coordination and cooperation in the application of modern weapon technology. At Senator CULVER's suggestion, this was broadened to include a recommendation that NATO's defense planning committee seek "maximum commonality in doctrine, tactics and procurement of systems employing new technology." Perhaps the most important lesson from recent joint efforts is that success depends on early cooperation, in the research and development stages, and on general agreement on what kind of system is needed and how it is to be employed. Otherwise. nations will develop weapons based on their own peculiar threat assessments, tactics, doctrine, and procurement cycles.

Readiness and reenforcement issues are a major concern in Europe, as they are in the United States. The Military Committee discussed these matters at length and then approved a resolution incorporating several points which echo Senator CULVER's own previous investigations of U.S. combat readiness. This resolution urged special attention to measures to improve readiness; it recommended development of integrated and interoperable communications systems, which are currently inadequate because commanders and field units from different nations have incompatible systems; it also supported the short- and long-term initatives for NATO improvements recommended by the United States and currently under study within NATO.

In a resolution endorsing continued negotiations for mutual and balanced force reductions in Europe, the committee added a specific suggestion proposed by Senator CULVER recommending "alliance agreement on critical war-warning indicators and negotiations on measures to restrict activities which appear to be preparations for immient war." Since there is considerable concern about the extent of warning we might have in case of conflict, such discussions might identify actions which could reduce the dangers of short-warning and provide confidence-building measures in future negotiations.

All of these proposals from the Military Committee were subsequently approved by the full North Atlantic Assembly.

In one of the most surprising developments, the Assembly demonstrated widespread and strong support for mutual limitations on international arms sales. One might have expected substantial disagreement over any proposal to restrict sales because of national economic pressures to maintain high volumes of sales. But instead the Military Committee readily endorsed a resolution drafted by Senator CULVER, with constructive additions by the Political Committee. The final product, also approved by the full Assembly, is a strong endorsement of President Carter's policy of limiting U.S. arms sales and a call for similar restraints on Eurcpean nations.

I would also note that the Assembly expressed concern "about the implications of recent trends in nuclear weaponry, particularly the enhanced radiation warhead (neutron bomb)."

Mr. President, it may be that on the question of international arms sales, as on standardization, the elected representatives of the people are bolder and more concerned about the dangerous consequences of unrestrained competition in such sales than are cautious civil servants or representatives of industry. They are leading the way toward solutions to this problem, despite the reluctance of bureaucratic and economic interests.

These various resolutions, while nonbinding on the member governments, constitute in my view useful and positive expressions of legislative concerns on critical alliance issues.

As one who has previously been involved in the work of the North Atlantic Assembly, I believe that continued active U.S. participation can help measurably to improve international understanding and to strengthen the alliance.

Mr. President, I ask unanimous consent that the texts of the resolutions I have mentioned be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DRAFT RESOLUTION ON ARMS CONTROL

The Assembly,

"*Concerned* by the substantial increase in arms sales over the last few years"

Welcoming the announced United States policy of restraining its own international arms sales, which amount to more than half the world's total arms trade;

"*Concerned* that Europeans may be tempted to fill the vacuum created by this U.S. policy of restraint and to expand their arms exports.

Noting that the United States and the Soviet Union have established a bilateral committee for discussions on mutual restraints on such transfers;

Stressing that achieving limitations on global arms transfers should be the concern of all Alliance members;

Believing that progress toward standardisation and a "two-way street" in trans-Atlantic military procurement can reduce national economic and political pressures for increasing arms sales;

Stressing that policies of restraint can succeed only if there is multilateral cooperation towards this common goal;

Convinced that unrestrained competition in international arms sales poses risks to international security which must be carefully weighed against possible national economic benefits;

"*Concerned* about the implications of recent trends in nuclear weaponry, particularly the enhanced radiation warhead (neutron bomb)."

Urges member governments of the North Atlantic Alliance:

1. to give their firm support to President Carter's arms exports policy;

2. to demonstrate this support by imposing similar restraints on their own arms exports;

3. to seek multilateral co-operation on restraints in the level of arms transfers, with special attention to the consequences for regional stability of the introduction of advanced technology and large volumes of weapons.

4. to consider carefully the implications of further decisions regarding the enhanced radiation warhead.

DRAFT RESOLUTION ON INCREASED CO-OPERATION IN ALLIANCE ARMS PROCUREMENT

The Assembly,

Recognizing that greater co-operation in the research, development and production of armaments would considerably enhance the collective security of the Alliance by ensuring a more efficient and cost effective use of the combined resources allocated to NATO's defence;

Recognising, however, that standardisation alone does not represent a complete panacea to NATO's problems, but certain that if co-operation is pursued on a selective and fully coordinated basis it will bring significant advantages in terms of military efficiency, shared economic benefits, and greater political cohesion;

Stressing the considerable economic and political benefits to be gained from greater standardisation through eliminating waste, realising economies of scale, spreading economic benefits, mitigating divisive competition for arms sales, and strengthening political and economic relations between North America and Europe;

Concerned, however, that as these benefits are long term they are normally obscured by more immediate requirements of a national, and frequently parochial nature, particularly the reluctance of member states to adopt weapon systems which they cannot themselves produce;

Convinced that these obstacles can only be overcome by giving cooperation in arms procurement political visibility and involvement at the highest levels;

Convinced that co-operation in arms procurement can only work successfully through the establishment of a coordinated programme within which offsets and compensation can be viewed across a broad spectrum;

Recognising the need to develop a more balanced relationship between the European and North American members of the Alliance in the procurement of defence equipment;

Recognising the need for a coordinated European approach to armaments planning and the necessity for the European allies to organise themselves into a cohesive unit in order to negotiate effectively with North America;

Welcoming the progress made so far by the European Programme Group (EPG) but hoping that the Group will now produce concrete results and particularly establish a transatlantic dialogue with North America;

Concerned that despite repeated Assembly exhortations there has been insufficient support for cooperative efforts in the respective national legislatures to mandate the requisite level of co-operation;

Welcoming the public commitments to increased co-operation made by both the United States Administration and Congress and hoping that the European allies will make similar supportive commitments;

Anticipating that those statements of intent will be followed by positive action;

Recognizing that in the short term many measures short of standardization can be implemented that would improve NATO's combat effectiveness, particularly measures to increase the interoperability of NATO's forces and weapons;

Urges:

(a) member countries of the Alliance:

1. to give armaments co-operation maximum political visibility and support by giving direct responsibility for procurement cooperation to officials of the highest rank and authority;

2. to take the necessary actions in their respective legislative bodies to increase awareness and concern for the goals of interoperability and standardization and to make their commitment to those goals publicly known;

3. to intensify their efforts to establish an overall mechanism within which to coordinate effectively armaments co-operation on a large scale;

4. to ensure maximum implementation of the recommendations of the NATO Ad Hoc Group on Interoperability;

5. to establish a NATO procurement committee with authority to investigate industrial capabilities and determine equipment requirements for the combined NATO Forces Europe.

(b) member countries of the European Programme Group:

1. to intensify their efforts to develop a coordinated European approach to armaments planning including the formation of a permanent secretariat;

2. to move as rapidly as possible to establishing a dialogue with North America.

DRAFT RESOLUTION ON READINESS AND REINFORCEMENT

The Assembly,

Welcoming successes of the policy of détente which have been made so far in securing peace, a policy which has been and will remain the declared policy of NATO countries towards the Eastern countries, as well as the efforts undertaken through SALT and MBFR in order to slow down the arms race;

Concerned at recent developments in the organization and doctrine of Warsaw Pact forces which have increased the potential for a surprise attack with a consequent reduction in warning time for the West.

Stressing the need for Western nations to take appropriate measures to correct this trend by improving the capability of their in-place forces, particularly regarding readiness, stocks and munitions, anti-armour and anti-air equipment;

Welcoming the short-term measures and long-term programmes initiated at the May summit with regard to these requirements but concerned that promises of intent might not be followed by action;

Noting the continuing dependence of the Alliance on reinforcements and the continuing inadequancy of preparatory measures by member governments in provision of adequate air and sea transport;

Noting the considerable potential that national reserve forces offer the mobilization capability of the Alliance;

Urges member governments of the North Atlantic Alliance:

1. to give special attention to measures and immediate assignment of forces to NATO commanders which will improve combat readiness of national forces;

2. to seek to develop integrated and interoperable communications systems for the alliance at command and field levels;

3. to implement without delay the measures deriving from the short-term initiatives and the long-term programmes now under development designed to strengthen the capabilities of their in-place forces;

4. to make the appropriate use of civilian resources including the financing of the modifications needed for the utilization of civilian aircraft and the provision of specialized merchant shipping;

5. to make maximum use of reserve forces in their mobilization plans;

6. to support proposed long-term initiatives for improvements in the alliance force structure.

DRAFT RECOMMENDATION ON THE APPLICATION OF NEW WEAPON TECHNOLOGY TO WESTERN DEFENCE CAPABILITIES

The Assembly,

Concerned that NATO's qualitative superiority in weaponry is steadily being eroded by the development and deployment of modern equipment by the Warsaw Pact;

Recognizing that current developments in weapon technology, particularly in the areas of miniaturization, computer processing and guidance systems, offer Western countries the potential to strengthen considerably NATO defence capabilities;

Stressing that this potential will only be recognized on an efficient and cost effective scale through a coordinated Alliance approach;

Noting the particular relevance of cruise missile technology to the European theatre;

Recommends that the Defense Planning Committee:

1. ensures the closest coordination and cooperation of member countries' activities in the application of modern weapon technology;

2. gives the most serious and immediate consideration to the potential application of cruise missile technology to the European theatre.

3. Seeks maximum commonality in doctrine, tactics, and procurement of systems employing new technology."

DRAFT RECOMMENDATION ON MUTUAL AND BALANCED FORCE REDUCTIONS

The Assembly,

Recognising that advances in weapon technology threaten to create a further spiral in the arms race leading to instability in Europe and that it is crucially important to eliminate the danger of this arms race by political means;

Regretting that continuing suspicion on either side has so far inhibited substantial progress in Vienna but believing, however, that sufficient material has been clarified to permit the Vienna talks to evolve into negotiations for an initial agreement in a foreseeable time;

Stressing that an initial agreement would provide a basis of confidence for further negotiations and more stabilising measures;

Concerned that modern weapon technology leads to the development of a series of weapons the so-called "grey area" weapons that are covered by neither SALT nor MBFR negotiations;

Recommends that the North Atlantic Council:

1. gives maximum consideration to the initiation of a first agreement on the basis of parity and collectivity;

2. makes efforts to the effect that the confidence building measures agreed to in the CSCE Final Act of Helsinki should—also in the interest of the European countries not involved in the Vienna talks—be extended at the CSCE Follow-Up Conference in Belgrade and compulsorily adopted as associated measures of the negotiations on mutual reductions of forces and armaments and associated measures in Central Europe;

3. "to seek alliance agreement on critical war-warning indicators and negotiations on measures to restrict activities which appear to be preparations for imminent war;"

4. actively consider the incorporation of "grey area" weapons into arms control negotiations.

LAY OFF ISRAEL, JIMMY

Mr. PACKWOOD. Mr. President, diplomatic events and nonevents concerning the Middle East have been occurring with increasing frequency over the last several weeks. A significant problem created by these rapid developments is that too often we rivet our attention on the present and disregard the costly lessons of the past.

As the administration continues its alarming campaign to pressure the Israel Government into accepting a settlement in the Middle East, I believe it is critical that we stop and examine the results of prior peace agreements between Israel and the Arab States. The historical message is clear. Arab signatories have consistently breached key provisions of these agreements. For keeping its commitments, Israel has suffered war rather than peace.

Mr. President, a recent article by Edward S. Boylan in the Bergen County/Passaic County Record provides a cogent reminder of the impact that the past history of the Middle East will and should have on future negotiations between the legitimate parties. Because of their importance, Mr. President, I ask unanimous consent that Mr. Boylan's comments be printed in the RECORD.

There being no objection, the comments were ordered to be printed in the RECORD, as follows:

LAY OFF ISRAEL, JIMMY

(By Edward S. Boylan)

Judging from recent articles about the Middle East, peace would be at hand if only Israel were not so "inflexible." Especially since Menahem Begin's rise to power, it has been common to depict Israelis as hard-line extremists, while most, if not all, Arab leaders are characterized as moderates.

Israeli reluctance to accept Washington-based peace plans is quite understandable, however. Several times in the past they yielded to American pressure and/or entreaties, and the consequences were not peace, but further bloodshed.

In 1957, for example, Israel returned the Sinai to Egypt in response to American prodding and a promise by President Eisenhower that the United States would break, by force if necessary, any Egyptian blockade of the Straits of Tiran, the pathway to Israel's key port of Elat.

In 1967, when Egypt imposed precisely such a blockade, the United States suddenly could not find the diplomatic correspondence containing the American promises. Israel's return of land led not to peace, but to the Six-Day War of 1967.

That war was relatively brief and "inexpensive" (except for those killed or injured). The next time the United States attempted to calm the Middle East, the results were far more costly to Israel, and to the United States as well.

In 1969 Israel and Egypt waged a "war of attrition" in the air over the Suez Canal. Egypt attempted to deploy a network of defensive surface-to-air missiles (SAMs) on its territory, while Israel used its air force to destroy the SAMs as soon as they were emplaced.

Into the fray stepped then-Secretary of State Rogers with the "Rogers initiative": a cease-fire in place, with Israel halting its air attacks and Egypt agreeing not to deploy any new SAMs. Both parties agreed, but no sooner was the ink dry on the agreement than Egypt deployed an extensive network of SAMs.

Without those SAMs providing an effective shield against Israeli air attacks, it is doubtful that Egypt would have risked sending its forces across the Suez Canal in October 1973. Thus, the 1973 Yom Kippur War, and the resultant quadrupling of the price of oil, were the bitter fruit of an American peace initiative.

That incident points up another justification for Israeli hesitance: Past Arab actions do not inspire enormous confidence that they will honor their international commitments.

The 1949 armistice agreement, for example, provided for Israeli access to Jewish holy places under Arab control. Instead, Jordan barred all Jews from visiting any and made no attempt to properly maintain the sites.

The 1974 interim agreement between Egypt and Israel is similarly instrutive. One clause in the agreement provides that Egypt will

mute its anti-Israel propaganda. If anything, however, Egypt has increased the virulence of its attacks on "Zionism."

In and of itself, the violation is of little consequence. The clause was a relatively minor political concession made in the course of eliciting an Israeli territorial concession.

But that violation offers an ominous lesson for the current negotiations. Israel is now being urged to make far greater territorial concessions in return for far greater political concessions. What confidence can Israel have that the Arab nations will keep their promises to live in peace when they do not even honor a minor commitment to reduce hostile propaganda?

Nevertheless, many American Middle East "experts" are advocating that the United States pressure Israel into returning to the Arabs all land conquered in 1967. Their eagerness to rush in where angels are reputed to have trod may be explained by the fact that if their advice is heeded and the past is repeated, it will be Israel, not the United States, which will suffer the consequences.

Beyond the dubious morality of forcing Israel to jeopardize its national existence, there is another reason the United States should refrain from bringing undue pressure to bear. Israeli "intransigence" actually increases the prospects for eventual acceptance of President Carter's "peace plan," and for a true, lasting peace in the area.

The basic elements of the President's plan are well known: Israeli return of almost all land captured in 1967; establishment of a Palestinian "homeland" on the West Bank; a full and true state of peace between Israel and its Arab adversaries. Most media attention has focused on Prime Minister Begin's reluctance to return West Bank territory to Arab control.

Contrary to the image presented in the press, however, the Arab states have been as reluctant to accept the President's proposals as Israel. Egypt's President Sadat, perhaps the leading Arab "moderate," has been adamant in professing his refusal to agree to the type of true peace, trade, and travel between nations, establishment of diplomatic relations, etc., envisaged by President Carter. Even if Mohammend himself called for it, Sadat vowed, he would never agree.

Recently, however, when Sadat said true peace might follow only five years after Israel returned all Arab territories, American Arabists praised this as an enormous concession. One wonders if they would have been as enthralled if Begin had agreed to return Arab territories five years after true peace reigned.

With regard to a Palestinian homeland, Arab nations insist that such a state be governed by the PLO, whose avowed goal is the total destruction of Israel. It is ludicrous to believe that the path to true peace lies through creation of a state dedicated to the destruction of Israel.

There is, to be sure, recurrent talk of PLO "moderates," willing to settle for a half a loaf, a West Bank state, and who reluctantly accept Israel. But no prominent member of the PLO has publicly stated a willingness to live in peace with Israel.

If the definition of a diplomat is someone smoking under a "no smoking" sign because it doesn't say "positively," the definition of a PLO moderate is someone who says "no Israel" and not "positively no Israel."

With regard to the return of territories, the President's proposals allow for some border modifications, while the Arabs insist on the return of all land. The distinction is nontrivial because it encompasses Jerusalem, the holy city that is located on West Bank territory.

Until 1948, Jerusalem was always a unified city, a plurality of majority of whose residents were Jewish from before 1900. Under Jordanian rule, however, which began in 1948, Jews could not visit their holiest shrines, synagogues were destroyed, and Jewish cemeteries desecrated. (Headstones were used as paving blocks for roads, making it impossible for Jews to visit the graves of their relatives.)

The reunification of Jerusalem by Israel in 1967 was a cause of national rejoicing. It is inconceivable that any peace treaty calling for the return of Jerusalem would be approved by Israel's parliament. Consider the difficulty President Carter faces in getting Senate approval for eventually relinquishing control of the Panama Canal, territory of far less significance to the citizens of the United States.

President Carter's proposals may yet provide the framework for a viable peace in the Middle East. But both sides still have basic concessions to make.

Israel will probably have to return more of the West Bank than it would like. The Arabs will have to accept the fact that some land lost in 1967 is truly lost and that they will have to live in true peace with Israel. The PLO will have to resign itself to coexisting with Israel if it desires its own state.

For President Carter to visibly put pressure on Israel drastically reduces Arab motivation to make the basic concessions given above. Indeed, the Arab stance almost invariably hardens whenever the State Department becomes too overtly "evenhanded."

Israeli firmness, on the other hand, makes it clear to the Arab nations that the lands lost in 1967 can be regained only by compromising their positions, and not through American pressure on Israel. Indeed, the more pressure the United States publicly places on Israel, the more Israel is forced to adopt a seemingly intransigent pose, precisely to avoid raising Arab hopes that they can regain their lands without making any concessions.

To be sure, it is possible that Israel is truly inflexible, that even if the Arabs agree to bolder modifications and the PLO renounces its goals of the destruction of Israel, Israel will not relinquish any West Bank territory. Prime Minister Begin, however, has several times clearly indicated that "everything" is negotiable. (Indeed, Foreign Minister Moshe Dayan recently indicated that even the status of Jerusalem is negotable!) Only time, and the eventual meeting at Geneva, will reveal the truth.

In the interim, President Carter would do well to reject advice that the key to an Arab-Israeli settlement is direct, overt pressure on Israel. If history is any guide, that course of action is more a diagram for disaster than a prescription for peace.

ARMS SALES POLICY

Mr. CULVER. Mr. President, one benefit of the congressional debate over the proposal to sell AWACS aircraft to Iran has been to focus and hopefully solidify President Carter's policy for restraining conventional arms sales. Representative GERRY STUDDS recently wrote an article for the Boston Globe, entitled "Aircraft Deal With Iran Hurting Carter's Arms-Sale Policy," which discusses the effect of this contradiction on the President's policy. I would like to call the attention of my colleagues to Mr. STUDDS' views on this subject, and especially to his point that the new restraints should be strictly applied to Africa, which could well emerge as the most attractive new market for arms sales.

President Carter's policy is a well-designed way to make the difficult transition to more limited and more discriminate arms sales programs. Its effectiveness, however, depends entirely on how the President uses the exception clauses. If exceptions are invoked often for large or otherwise significant sales, the policy will quickly become meaningless. And we cannot continue to make major exceptions for Iran, by far our largest arms customer, and apply the new restraints to other nations.

Mr. President, I ask unanimous consent that Representative STUDDS' article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

AIRCRAFT DEAL WITH IRAN HURTING CARTER'S ARMS-SALE POLICY

Late last year, in spite of a singularly uninspiring presidential campaign which left many Americans pondering the purpose of voting at all, I found myself becoming convinced it was critically important that Jimmy Carter be elected. One of the principal reasons was candidate Carter's pledge to restore sanity to our foreign military-sales program.

In his first eight months, the President has talked a great deal about fulfilling that pledge, but has not come close to meeting his commitment to do so. On May 18, he enunciated—with great fanfare—an arms-sales policy that was supposed to lead to the reduction of arms sales abroad, to the intelligent and limited use of such sales as a tool of foreign policy rather than primarily as a source of private profit and to the beginning of a leadership role for the United States in a new international effort to control the arms trade.

Less than one month later, the President proposed the sale of seven early warning aircraft (AWACs) to Iran, an action which directly contradicts the provision in his policy that the United States would never again "be the first supplier to introduce into a region newly developed, advanced weapons systems which would create a new or significantly higher, combat capability." Equally disturbing, the sale was presented to Congress in a hasty and slipshod manner, which indicated that political considerations were the only issues the Administration considered relevant.

The Administration testimony made it clear that the Defense Department and the CIA were not originally sure what equipment would be included in the Iranian AWACs, a fact which meant that no accurate judgment of the security risks had been made. Even more incredible, spokesmen indicated they had not even decided on what grounds they were seeking an exception to the President's arms-sales policy.

A storm of congressional pressure forced the Administration belatedly to invest some brainpower to explain adequately how, or whether, their arms-sales policy will be applied to Iran, and to deal with the long-range problems created by our sponsoring in Iran the single largest, fastest rise to military power under peacetime conditions of any country in the history of the world.

One is forced to suspect that the poorly prepared and sloppily defended AWACs proposal was rushed through Administration channels primarily in order to include it in arms-sales totals for Fiscal 1977, the last year for which Carter can share responsibility with a prior Administration. This seems particularly likely given the President's pledge to seek a lower sales total in Fiscal '78 than in Fiscal '77. The $1.2 billion AWACs sale will considerably restrict next year's options now that Congress has forced it into Fiscal 1978, but it would have given the President

a chance to score some easy public-relations points if it had been allowed to swell the 1977 totals.

An equally disturbing factor is the tremendous personal interest which the President has demonstrated this time around in winning support for the sale. Immediately prior to the resubmission of the proposal on Sept. 7, the President personally called members of both the House and Senate in a successful effort to guarantee its approval. His primary message was that the Shah had been led by the previous Administration to believe that the sale would occur, that the U.S. must demonstrate continually in its foreign policy and that denial of the sale might possibly lead to a serious deterioration in our relations with Iran.

It now appears impossible to prevent the AWACs sale. The Carter Administration will have lost, as a result, a unique opportunity to convince other nations that a real change in U.S. policy toward arms sales has occurred. I cannot help wondering how the President will be able to say no to Saudi Arabia, Egypt and Jordan when it appears so difficult to say no to the Shah.

The tragedy is that the Carter arms-sales policy of last May might well serve as an excellent basis for the kind of controls we so desperately need. It might serve particularly well as a guideline to future sales in Africa, perhaps the most attractive new market for those whose business it is to sell arms.

Unfortunately, President Carter will not be able to provide such leadership if he is unwilling to limit the flow of our own arms to unstable areas such as the Middle East. Although the arms-sales is proven a rather complex dilemma arising from our failure to exercise prudence in the past, it is also a challenge which candidate Carter seemed willing and strong enough to confront. While it is far too early to make a final judgment, President Carter has thus far failed to match his rhetoric with action, and new runs the risk of seriously alienating many of those in Congress and elsewhere who were eager to support him.

ANNOUNCEMENT OF POSITION ON VOTES—S. 1871

Mr. DOLE. Mr. President, I was necessarily absent yesterday and missed the votes on the amendments to the minimum wage bill.

Mr. President, I would like to indicate how I would have voted on these amendments.

1. Amendment No. 963 (Williams-Javits), yea.
2. Amendment No. 896 (Stafford), yea.
3. Amendment No. 893 (Bartlett), nay.
4. Amendment No. 894 (Tower), yea.
5. Amendment No. 895 (Domenici), yea.
6. Amendment No. 897 (Stone), yea.
7. Amendment No. 898 (Allen), yea.

TURMOIL IN THE U.S. DISTRICT COURT FOR THE DISTRICT OF UTAH

Mr. GARN. Mr. President, the turmoil in the U.S. District Court for the District of Utah has been of great concern to me and many Utahans. Fortunately, this concern has been shared by some of our colleagues both in the Senate and the House and we have been able to bring some of the more serious problems of the Utah court to the attention of the appropriate committees. For example, last year the Subcommittee on Improvements in Judicial Machinery held hearings on S. 1130 (94th Cong.) dealing with a grandfather clause under which the chief judge of the Utah court continues to serve in his administrative capacity. This year, both Senate and House Judiciary Committees have looked at the evidence that has been presented to them concerning the Utah court, and have taken some helpful actions. The Senate Committee recommended that Utah receive a third district judge and that recommendation was incorporated in the Senate version of the judgeship bill, S. 11. The Subcommittee on Monopolies and Commercial Law of the House Judiciary Committee unfortunately removed Utah's additional judge, but did include in its version of the bill (H.R. 7843) a repeal of the grandfather clause under which Utah's senior judge continues to serve. The House Subcommittee is to be commended for their realistic approach to the unique problems of the Utah court and, although I would have preferred that the committee authorize the third judge, I commend the committee for its courage in recommending an end to the outdated grandfather clause which is now applicable to only one judge, Willis W. Ritter of the U.S. District Court for the District of Utah.

The House bill is now ready for mark-up by the full committee and it is my hope that the third Utah judge will be reinstated. This will avoid any difficulties in conference over the Utah situation and as I argued February 25, 1977, when I introduced amendment No. 52 to S. 11, the case for a third Federal district judge for Utah can be made and has been made. I must say that if the House does not include the third Utah judge in its bill, I will be disappointed; but if the House passes a bill that has neither a third judge nor a repeal of the grandfather clause I will find the bill wholly unacceptable and will take every available step to see that the final version of the judgeship bill offers some relief for the Utah court.

Fortunately, Mr. President, all signs now point toward a House bill that will contain at least a grandfather repealer. I know that the House Committee is sensitive to many of the troubles of the Utah court and I trust the full committee will do no less than the subcommittee when it drafts its bill.

The full committee, however, is now confronted with a development that is unique in the history of our court system. On Wednesday, October 5, 1977, the U.S. Department of Justice filed with the Court of Appeals for the 10th Circuit a petition for writ of mandamus seeking to remove Judge Willis W. Ritter from all criminal cases and all civil cases—yet to be filed or instituted—in which the United States or any of its agencies or officers is a party. It is my understanding that this action has no precedent; it is clear that it is a matter of extreme seriousness.

The 160-page petition was accompanied by an 860-page appendix. Signing the writ on behalf of the U.S. Government were Wade H. McCree, Jr., solicitor general, and Ramon M. Child, U.S. attorney for Utah.

Mr. President, the U.S. Government is the most powerful and frequent litigator in the country. The Government is a party to all criminal actions and to thousands of civil matters and it has now become necessary for the United States to ask the circuit court to remove from Judge Ritter all actions in which it is a party. Let me quote from the petition:

> There is, of course, no direct precedent for the relief we seek; the United States has never before found it necessary to make such a request.

The situation in Utah has reached a point where the United States must ask that a particular judge be removed, not from a parti ular case or type of case, but from all cases in which the Government is a party.

I have been speaking about the Federal court in Utah for years, and the petition for writ of mandamus documents a history of abuses that extends back many years. These abuses are real and they are serious; perhaps now that the Justice Department has acted they will be seen in the objective way in which they deserve to be seen and judged. I must extend my gratitude to Mr. Child and his office and to Mr. McCree and others in the Justice Department for their earnest effort to bring change to the Utah court.

The court of appeals has the matter pending before it, and I trust it will do its duty. I am compelled to say, however, that Congress has a continuing responsibility for the administration of justice and that more needs to be done. The Judicial Tenure Act is again working its way through Congress and I support it as a wise and constitutional method of maintaining the integrity of the judicial branch. I also support other proposals which I believe will prevent the kind of abuses which we have seen from the Federal bench in Utah. Finally, I must remind the Congress of the United States that it has the solemn responsibility to impeach and remove Federal judges whose behavior falls below the constitutional standard of "good behavior." My public position has been that if I were a Member of the House of Representatives I would make every attempt to begin an inquiry into the behavior of Judge Ritter to see if he warranted impeachment. We now have a body of evidence that will make that question more answerable than it has ever been.

Mr. President, I ask unanimous consent that the statement of facts and the argument from the table of contents, the statements of relief sought and jurisdiction, and the introduction from the petition of mandamus or prohibition, United States versus Hon. Willis W. Ritter, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[U.S. Court of Appeals, Tenth Circuit]

UNITED STATES OF AMERICA PETITIONER, VS. HONORABLE WILLIS W. RITTER, CHIEF JUDGE OF THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH, RESPONDENT

In the Judicial Council of the Tenth Circuit of the United States: In the matter of the division of business and assignment of

cases in the United States District Court for the District of Utah

Petition for Writ of Mandamus or Prohibition; Petition for Order Reassigning Criminal Proceedings and Civil Proceedings Involving the United States

STATEMENT OF FACTS

I—Respondent conducts his business in a way that exceeds his authority and brings the Federal courts into disrespect

A. Respondent mismanages the grand jury.

B. Respondent refuses to permit witnesses to testify at trial who did not tesify at the preliminary hearing.

C. Respondent refuses to permit indictment of a defendant who has previously been discharged by the magistrate.

D. Respondent does not follow the procedures prescribed in Fed. R. Crim. P. 11 (c) and (d) for accepting guilty pleas.

E. Respondent prohibits parties from negotiating plea agreements authorized by Fed. R. Crim. P. 11(e).

F. Respondent refuses to consider pretrial motions until after jeopardy has attached.

G. Respondent refuses to compel defendants to provide non-testimonial evidence upon proper motion by the government.

H. Respondent mismanages his criminal trial calendar.

I. Respondent forces the government to consent to nonjury trial.

J. Respondent is hostile toward the trial of misdemeanors and petty offenses in the district court, yet he refuses to permit magistrate trials and forfeiture of collateral in such cases.

K. Respondent ordinarily refuses to permit the government to make an opening statement in criminal cases.

L. Once the witness exclusion rule is invoked, respondent refuses to permit the agent of the United States designated by the government's attorney as its representative to remain in the courtroom during trial if that agent may be a witness.

M. At trial respondent excludes or admits evidence without regard to the Federal Rules of Evidence.

N. Respondent fails to inform counsel of his proposed action upon requests for jury instructions prior to instructing the jury.

O. Respondent often omits jury instructions on the elements of the offense, the language of the charge and the language of the pertinent statute, even after the government specifically requests that he give such instructions.

P. Respondent has denied the United States access to transcripts of public proceedings.

Q. Respondent's precipitous actions in the courtroom impede the administration of justice.

R. Respondent pressures defendants into accepting a jury of less than 12 persons.

S. Respondent pressures defendants to waive their right to grand jury indictment.

T. Respondent sentences defendants and sets bail in front of the jury.

II—Respondent neglects governing cases in the tenth circuit, has contempt for the judges of that court, and conducts his business in order to avoid appellate review of his decisions.

A. Respondent persists in erroneous conduct after reversal by the Court of Appeals.

B. Respondent shows contempt for the judicial process.

C. Respondent conducts his business in order to avoid appellate review of his decisions.

III—Respondent sits only infrequently in criminal cases, thus jeopardizing defendants' rights to a speedy trial

IV—Respondent is biased against the United States and its representatives

V—Respondent neglects and mishandles the government's civil cases

A. Respondent refuses to hear pending motions and trials in civil cases in which the United States, or an officer or agent thereof, is a party.

B. Respondent refuses to enforce civil summonses issued by the Internal Revenue Service.

VI—Respondent conducts the business of his court in a manner which has destroyed public confidence in his ability to administer justice

ARGUMENT

I—Respondent should be removed from federal criminal cases and no additional civil cases should be assigned to him

II—This court has authority to grant the relief we seek

A. Mandamus lies to supervise persistent misconduct by district judges.

B. The Judicial Council may make administrative orders to reallocate the business of district judges.

C. The exercise of appellate control over the assignment of cases to district judges is consistent with Article III of the Constitution.

RELIEF SOUGHT

The United States of America respectfully requests this Court to issue a writ of mandamus requiring respondent Honorable Willis W. Ritter to take no further action in any criminal proceeding pending in the District of Utah. The United States also requests the Judicial Council of the Tenth Circuit to issue an order directing the following:

(1) No criminal proceedings henceforth filed or instituted in the United States District Court for the District of Utah be assigned to the Honorable Willis W. Ritter for any action whatsoever;

(2) All criminal proceedings currently pending in the Central Division of the District of Utah be reassigned to another judge or judges designated by the Council;

(3) A judge or judges designated by the Council shall hereafter have full control over and responsibility for the call, service and discharge of grand juries, the assignment and duties of the magistrate, the return of indictments, arraignments, cases under the Federal Juvenile Delinquency Act, complaints for the apprehension of material witnesses, probation revocation proceedings, trials in criminal cases, sentencings and all other criminal proceedings in the Central Division;

(4) No civil proceedings henceforth filed or instituted in the United States District Court for the District of Utah in which the United States, or any agency or officer thereof, is a party be assigned to Honorable Willis W. Ritter.

JURISDICTION

I

The jurisdiction of this Court to grant the writ of mandamus or prohibition is invoked pursuant to the All Writs Act, 28 U.S.C. § 1651. The writ properly issues to correct persistent abuse of discretion, *Bankers Life & Casualty Co.* v. *Holland*, 346 U.S. 379, 383 (1953) and extends in such cases to "supervisory control of the District Courts by the Courts of Appeals . . . necessary to proper judicial administration in the federal system." *La Buy* v. *Howes Leather Co.*, 352 U.S. 249, 257 (1957). *See also United States Board of Parole* v. *Merhige*, 487 F. 2d 25. 30 (4th Cir. 1973), *cert. denied*, 417 U.S. 918 (1974); *United States* v. *Hughes*, 413 F. 2d 1244, 1248–49 (5th Cir. 1969), *vacated as moot sub nom. United States* v. *Gifford-Hill-American, Inc.*, 397 U.S. 93 (1970); *United States* v. *Dooling*, 406 F. 2d 192, 198 (2d Cir.), *cert. denied sub nom. Persico* v. *United States*, 395 U.S. 911 (1969); *Sanders* v. *Russell*, 401 F.2d 241 (5th Cir. 1968); *Rapp* v. *VanDusen*, 350 F.2d. 806, 810 (3d Cir. 1965); *United States* v. *Ritter*, 273 F.2d 30, 32 (10th Cir. 1959), *cert. denied*, 362 U.S. 950 (1960).

Extraordinary writs are "freely employed 'to prevent disorder from a failure of justice,'" *United States* v. *Malmin*, 272 F. 785, 789 (3d Cir. 1921) (quoting from *Rex* v. *Baker*, 3 Burr. 1265), and to prevent improper and undesirable behavior of a district judge "highly deleterious to the sound administration of criminal justice." *United States* v. *Dooling, supra*, 406 F.2d at 199.

II

The jurisdiction of the Judicial Council of the Tenth Circuit is invoked pursuant to 28 U.S.C. § 332(d). That section grants the Judicial Council "broad powers . . . in seeing that the District Court's business is conducted effectively, expeditiously and in a manner that inspires public confidence." *Utah-Idaho Sugar Co.* v. *Ritter*, 461 F.2d 1100, 1103 (10th Cir. 1972). *See also Chandler* v. *Judicial Council*, 398 U.S. 74 121–125 (1970) (Harlan, J., concurring).

INTRODUCTION

Chief Judge Ritter was appointed to the district court in 1949. At least in recent years he has conducted his judicial business in a manner that is inimical to the standards of judicial conduct that ought to be observed. As this Court is well aware, he has been unable to agree with his fellow judges about the allocation of judicial business, and the Judicial Council has been required to intervene.[1] The Supreme Court has criticized respondent for intemperate and obstreperous conduct,[2] and this Court on many occasions has found it necessary to rebuke the Judge for violations of the established norms of judicial conduct,[3] for improper behavior,[4] for deliberate misuse of his judicial powers to thwart justice,[5] for evident bias against the United States,[6] and for ignoring orders of the Tenth Circuit.[7]

Proper relations between the district judges and the attorneys for the United States are important if public justice is to be achieved, especially in criminal cases. Relations between respondent and the United States Attorney's office have deteriorated significantly during the last few years. For example, after this Court issued a writ of mandamus instructing respondent to discontinue using a "trailing calendar" system under which numerous cases were called for trial on short notice,[8] respondent harshly criticized the United States Attorney for obtaining the writ and indicated that if he could not try cases in his usual way, insofar as possible he would avoid trying them at all. Since then respondent has called very few cases for trial; many criminal cases have been pending beyond the time provided by the Speedy Trial Act, and many of those cases continue to be pending even after the completion of the trials respondent conducted in July and early August of this year. In the few cases Judge Ritter has set for trial, respondent has reverted to his "trailing calendar" system.

Respondent refuses to follow the clear commands of a multitude of federal rules, the specifics of which are set forth in the Statement of Facts. For example, in crimi-

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Footnotes at end of article.

nal cases he refuses to allow witnesses who did not testify at the preliminary hearing to testify at trial; he refuses to conduct the proceedings required by Fed. R. Crim. P. 11 prior to accepting guilty pleas; he refuses to honor the prosecutor's request for a jury trial in felony cases, despite the clear language of Fed. R. Crim. P. 23(a); he refuses to issue compulsory process for obtaining non-testimonial evidence; he prohibits parties from negotiating plea agreements authorized by Fed. R. Crim. P. 11(e); he refuses to permit the magistrate to hold trials in petty offense cases, yet obstructs the prosecution of such cases in his court. In sum, he has exhibited great hostility toward the approved ways of dealing with and trying criminal cases.

It has become difficult, if not impossible, to vindicate in respondent's court "the public's interest in fair trials designed to end in just judgments."[9] When respondent holds criminal trials, he postpones decisions on suppression requests or motions to dismiss until jeopardy has attached, thus frustrating the United States' statutory right to appeal; he grants or denies such motions without hearing testimony, on occasion without hearing argument by the government, and usually without entering any factual findings; in most cases he refuses to permit opening statements; he refuses to follow the Federal Rules of Evidence; his demeanor in court destroys the solemnity of the proceedings and brings the administration of justice into disrepute; his abrupt and procedurally irregular decisions sometimes thwart the completion of ongoing trials, and, in many instances, the Double Jeopardy Clause bars reprosecutions.[10] His behavior in court harms criminal defendants no less than it harms the United States, because his conduct often makes it impossible for either party to obtain a fair trial.[11]

The United States has, over the past two years, vigorously resisted some of respondent's excesses. It has taken appeals in many cases and, when necessary, has sought writs of mandamus and orders of the Judicial Council. The United States has, for example, sought and obtained a writ of mandamus requiring respondent to hear and dispose of pretrial motions at least ten days prior to trial. It has sought and received an order removing respondent from an antitrust case for evident bias. It has sought a writ of mandamus requiring respondent to convene a regular grand jury and allow it to sit in accordance with the established rules of law. When respondent subsequently convened a grand jury, this Court nevertheless retained jurisdiction over the balance of the government's petition. After the grand jury had been convened, it was necessary to obtain a supplemental order directing respondent not to interfere with its conduct. The United States also sought and obtained a writ of mandamus to require respondent to give adequate notice of the dates on which criminal cases will be tried and to set such trials for dates certain.

Furthermore, there are now pending before the Judicial Council of this Circuit requests by the United States (1) for an order granting trial authority to the United States Magistrate in petty offense cases and establishing a system for the forfeiture of collateral in lieu of appearance for persons committing certain petty offenses in the District of Utah, and (2) for an order directing respondent to allow his court reporter to transcribe proceedings in open court after respondent has, apparently, confiscated the original records of remarks hostile to the United States and to the Court of Appeals.

These proceedings have been and will continue to be of some assistance. But they cannot be truly effective so long as respondent continues to exercise arbitrary and erratic authority in individual cases. The power of a trial judge is too great and the opportunities for abuse of that power too frequent to allow effective appellate supervision in the run of cases, when a judge is determined to act by his own lights. The effective administration of criminal justice in the Central Division of the District of Utah has been paralyzed by respondent's chronic disregard for accepted legal norms and his unwillingness or inability to meet the demands of his office. We have, therefore, reluctantly concluded that a piecemeal approach will not effectively cope with the problems that beset his court.

In light of these circumstances the United States files this petition, which asks this Court to remove Judge Ritter from further participation in federal criminal cases and to reallocate the business of the District of Utah so that no new federal civil cases are assigned to Judge Ritter. Because the propriety of this relief depends in substantial measure on an understanding of the way in which Judge Ritter carries out his judicial duties, we devote the bulk of this petition to a discussion of the various respects in which his conduct persistently fails to meet accepted legal norms.

FOOTNOTES

[1] *Utah-Idaho Sugar Co.* v. *Ritter*, 461 F. 2d 1100 (10th Cir. 1972 (*en banc*); Orders of the Judicial Council of the Tenth Circuit dated January 20, 1968; May 24, 1965; and December 20, 1971, *In the Matter of the Division of Business and Assignment of Cases in the United States District Court for the District of Utah*. See Appendix at pp. 1–17.

[2] *Cascade Natural Gas Corp.* v. *El Paso Natural Gas Co.*, 386 U.S. 129, 142–143 (1967) (respondent "did the opposite of what our pior opinion and mandate commanded"); *United States* v. *Jorn*, 400 U.S. 470 (1971).

[3] *United States* v. *Peterson*, 456 F. 2d 1135 (10th Cir. 1972) (characterizing respondent's conduct of a criminal trial as "a clear-cut example of judicial abuse of the most basic elements of procedural due process"); *see also United States* v. *Bray*, 456 F. 2d 851 (10th Cir. 1976); *United States* v. *Davis*, 442 F. 2d 72 (10th Cir. 1971).

[4] *United States* v. *Barney*, 550 F. 2d 1251, 1254–55 (10th Cir. 1977) (". . . this is an instance where [respondent] ordered the government, on three working days notice to be ready to proceed to immediate trial on twenty-three cases under pain of dismissal if the government was not thus ready to proceed. Such was utterly unreasonable and constitutes a gross abuse of discretion on the part of the trial judge.") *United States* v. *Cardall*, 550 F. 2d 604 (10th Cir. 1977), *petition for cert. pending*, No. 76–6696.

[5] *United States* v. *Appawoo*, 553 F.2d 1242, 1244 (10th Cir. 1977) ("[T]he court had refused to hear the [pretrial] motions before trial, as required by Rule 12, Fed. R. Crim. P., in the absence of any showing or reference in any manner whatever to good cause for deferring a consideration and ruling. We must take notice of the practice of [respondent] to hear pretrial motions after the jury has been sworn. . . . [T]here are references in the records to show that this is done to prevent appeals by the government of rulings on such motions." The court went on to cite other cases in which it had directed respondent, without apparent effect, to discontinue this practice. It then held that the "trials" being conducted were shams, contrived by respondent for the purpose of avoiding appellate review of decisions that he knew to be contrary to established Tenth Circuit law. Notwithstanding this decision, respondent has continued the practice of deferring rulings on pretrial motions until after the empanelling of a jury. *United States* v. *Radmall*, indictment dismissed on August 25, 1977, *appeal pending*, No. .

[6] *United States* v. *Ritter*, 540 F.2d 459 (10th Cir.) (*en banc*), *cert. denied sub nom. Olson Farms, Inc.* v. *United States*, 429 U.S. 951 (1976); *United States* v. *Ritter*, 273 F.2d 30 (10th Cir.), *cert. denied*, 362 U.S. 950 (1960); *United States* v. *Hatahley*, 257 F.2d 920 (10th Cir. 1958). *Cf. Webbe* v. *McGhie Land Title Co.*, 549 F.2d 1358, 1361 (10th Cir. 1977); *Eckles* v. *Sharman*, Nos. 75–1434 and 75–1435 (10th Cir., decided February 3, 1977) (removing respondent for improper conduct and bias in private cases).

[7] In addition to *Appawoo*, *supra*, *see United States* v. *Fay*, 553 F.2d 1247, 1248, 1250 (10th Cir. 1977) ("It is apparent that the failure of [respondent] to conform to the rules by refusing to hear the motions to suppress at the prescribed time frustrated the proper trial of these defendants. . . . The procedure here followed by [respondent] obviously aborted a proper consideration of the motions to suppress, [which respondent granted without hearing evidence.] . . . [Because the Double Jeopardy Clause bars a second trial,] we cannot evaluate the correctness or significance of the ruling on the motion to suppress by reason of the failure to follow the procedural rules.")

[8] *United States* v. *Ritter*, No. 76–1917 (10th Cir., mandamus issued November 6, 1976). *See also United States* v. *Barney*, *supra*.

[9] *Wade* v. *Hunter*, 336 U.S. 684, 689 (1949).

[10] *See, e.g., United States* v. *Jorn*, *supra; United States* v. *Fay*, *supra*.

[11] *See, e.g., United States* v. *Peterson*, *supra; United States* v. *Smith*, 495 F. 2d 668 (10th Cir. 1974).

INTERPRETATIVE RULINGS OF THE SELECT COMMITTEE ON ETHICS

Mr. STEVENSON. Mr. President, on behalf of the Select Committee on Ethics I submit for the information of the Senate a number of the committee's interpretative rulings on the Senate Code of Official Conduct pursuant to section 206 of Senate Resolution 110, 95th Congress.

These 26 rulings answer questions of general interest raised about the nine new rules agreed to in Senate Resolution 110 on April 1 of this year, old Rule 44 on financial disclosure, the franked mail statute and regulations, and related matters on which no rule exists. They are numbered chronologically but presented by major subject. Periodically we will publish all the rulings and opinions cumulatively with an index and cross-references.

The committee has given interpretations on these matters by letter directly to Senators and others who have requested assistance since April 1, but until now has refrained from publishing its rulings. Such restraint was made necessary in part, because the Senate referred several key ethics questions to other committees for recommendations, deferred the effective dates of some of the new rules, and did not resolve still other fundamental questions in debate on Senate Resolution 110. The committee also accumulated a number of rulings before publishing any in order to develop a satisfactory form for its published interpretations.

These rulings do not include all those issued by the committee. For reasons cited, the committee has issued some of its rulings as interim advice without

precedental value. Approximately 20 rulings issued prior to this month, most of them concerning what are "other than necessary expenses" under the rules on gifts and financial disclosure, will be published in the next few weeks as soon as the committee settles some collateral issues which it has had under study. Another 30 rulings were made in recent days and are being prepared for publication.

The committee will continue to respond to written requests for interpretations, treat such requests confidentially, and publish its rulings with appropriate deletions to protect the privacy of individuals.

Mr. President, I ask unanimous consent to have printed in the RECORD certain rulings of the Select Committee on Ethics.

There being no objection, the rulings were ordered to be printed in the RECORD, as follows:

INTERPRETATIVE RULINGS ON THE SENATE CODE OF OFFICIAL CONDUCT, FRANKED MAIL AND OTHER MATTERS

(In the order of the most applicable rule)

RULE 43—GIFTS

Interpretative ruling No. 4: Date issued: May 10, 1977

Question: May two Senate employees who plan to wed accept a gift of $125 worth (less than $100 each) of shrimp, for use at their wedding reception from a close personal friend of both who is employed by an instrumentality of a State which, from time to time, has an interest in legislation before the Congress, and has, on occasion, communicated its views to the Senator who employs the groom?

Ruling: This gift is not subject to the $100 limitation in paragraph 1(a) of Rule 43 because the donor is not within the defined class of persons and organizations deemed under subparagraph 1(b) to have a direct interest in legislation before the Congress.

RULE 42; OLD RULE 44: FINANCIAL DISCLOSURE

Interpretative ruling No. 6: Date issued: May 10, 1977

Question considered: Is a Senator appointed less than 90 days before the end of the year to fill the unexpired term of a Senator who resigned required under old Senate Rule 44 to file financial disclosure statements or statements of contributions and honoraria for the calendar year in which he was appointed?

Ruling: Under old Rule 44, an appointed Senator who did not declare or seek nomination or election, or file as a candidate under state law, there being no election contest, is not required to file disclosure statements for the year in which he was appointed.

Under Rule 42, effective October 1, 1977, an appointed Senator who serves in excess of 90 days in the year he is appointed will be required to file a report containing a full and complete financial statement for that calendar year.

RULE 44: OUTSIDE EARNED INCOME

Interpretative ruling No. 7: Date issued: June 7, 1977

Question considered: May a Senator accept honoraria in excess of $25,000 in a calendar year, so long as the excess is donated to charity?

Ruling: Acceptance of honoraria in excess of $25,000 in any calendar year is prohibited by Sec. 441(i) of the Federal Election Campaign Act. That section, entitled "Acceptance of Excessive Honorariums" provides that:

No person while an elected or appointed officer or employee of any branch of the Federal Government shall accept—

(1) any honorarium of more than $2,000 (excluding amounts accepted for actual travel and subsistence expenses for such person and his spouse or an aide to such person, and excluding amounts paid or incurred for any agents' fees or commissions) for any appearance, speech, or article; or (2) honoraria (not prohibited by paragraph (1) of this section) aggregating more than $25,000 in any calendar year.

Regulation 110.12(b)(5), issued pursuant to the Federal Election Campaign Act, provides:

(5) Accepted.—"Accepted" means that there has been actual or constructive receipt of the honorarium and the Federal officeholder or employee exercises dominion or control over it. A Federal officeholder or employee is considered to have accepted an honorarium (i) if he or she actually receives it and determines its subsequent use, or (ii) he or she directs that the organization offering the honorarium give the honorarium to a charity or other beneficiary which he or she names, but (iii) an honorarium is not accepted if he or she makes a suggestion that the honorarium be given to a charity or other like beneficiary of the organization's own choosing. Nothing in this paragraph shall be construed as an interpretation of relevant provisions of the Internal Revenue Code.

With respect to (i) and (ii) above, these honoraria are includable in gross income for federal (and most state) income tax purposes if the taxable year payment is received, and are also deductible from gross income under section 170 of the Internal Revenue Code in the taxable year during which the charitable contribution is paid, provided the donee organization is one described in section 501(c)(3) of the Internal Revenue Code as being exempt under section 501(a). If the above procedure is followed there is no tax benefit; it is a wash transaction. If the receipt and the gift did not both fall within the same taxable year tax planning with respect to the timing of income and deductions could result in tax benefits, perfectly proper when so arranged by private citizens.

Interpretative ruling No. 25: Date issued: June 7, 1977

Question Considered: Under Senate rules and FECA provisions limiting the amount of honoraria a Senator may accept, if a Senator provides an organization sponsoring his appearance with a list of exempt organizations he particularly supports, allowing the organization to make a direct contribution to an exempt organization to have been selected by the contributing organization or the Senator?

Ruling: The Federal Election Campaign Act, prohibits acceptance of honoraria in excess of $25,000 in any calendar year. Regulations issued pursuant to that Act provide that an honorarium is not accepted if the Senator makes a suggestion that the honorarium be given to a charity or other like beneficiary of the organization's own choosing. The organization in lieu of paying the honoraria must make a direct contribution to an exempt organization selected by it. The Ethics Committee has been advised by the Federal Elections Commission that the selection of no fewer than five organizations of interest to a Member, from which the donor organization makes its own selection, would be a reasonable procedure in conformity with the intent and purpose of their regulation.

This question is not now within the jurisdiction of this Committee. It is advisable therefore, to seek guidance from the Federal Elections Commission.

RULE 45: CONFLICT OF INTEREST

Interpretative ruling No. 20: Date issued: May 26, 1977

Question Considered: May the staff director of a Senate Committee accept appointment to the advisory board of a college interested in establishing a center which may be eligible for partial federal funding, pursuant to legislation now under consideration by the Committee of which he is staff director?

Ruling: The appointment in question creates the appearance of conflict with the subject's responsibilities as staff director of the committee despite the fact that Rule 45 appears to permit Members, officers and employees to serve in such appointments if they do not receive compensation therefor.

The Committee therefore recommends that the appointment not be accepted.

Interpretative ruling No. 24: Date issued: June 7, 1977

Question Considered: Would a Senate employees' service in a U.S. Army Reserve Unit as a Chief Warrant Officer (CW2) be inconsistent with the Senate Code of Official Conduct?

Service normally entails one weekend each month and two weeks active duty each year, with compensation for each year being approximately $1,710. The employee is a Legislative Aide to a Senator and receives an annual salary of $17,869. His official duties do not involve him in the activities of the Armed Services Committee or in any aspect of military reserve affairs legislation or casework. The employee's supervising Senator is of the opinion there is no potential conflict.

Ruling: The outside employment, as described above, would not constitute a conflict of interest under Rule 45 or violate any other provision of the Code. Paragraph 3 of Rule 45 requires an employee to report in writing such outside employment to his supervisor when it commences and on May 15 of each year that it continues. The restrictions on outside earned income in Rule 44, which become effective January 1, 1979, do not apply to an employee whose Senate salary does not exceed $35,000.

Interpretative ruling No. 39. Date issued: June 27, 1977

Question Considered: What provisions of the Code of Official Conduct must a full-time S. Res. 60 aide to a Senator with a salary between $15,000 and $25,000 consider in determining whether or not outside employment is proper?

Ruling: An employee compensated at an annual rate of $25,000 or less is not subject to the financial disclosure requirements of new Rule 42. But an employee compensated at an annual rate of $15,000 or more must file on May 15, 1978 or upon leaving the Senate a sealed financial statement with the Comptroller General and a statement of contributions and honoraria with the Secretary of the Senate under old Rules 42 and 44.

The propriety of outside employment is governed by Rule 45. No employee, regardless of salary level, may receive compensation by virtue of influence improperly exerted. Nor may any employee engage in any outside business or professional activity or employment for compensation which is inconsistent or in conflict with the conscientious performance of official duties. Any outside employment for compensation must be reported in writing to the supervising Senator when the employment commences and thereafter on May 15 of each year. That report must describe the nature of the employment. The supervising Senator must then take whatever action is appropriate for the avoidance

of conflict of interest or interference with duties to the Senate. That action could, of course, be a denial of permission to undertake or continue the outside employment.

After April 1, 1978, employees compensated at more than $25,000 per year will also be subject to restrictions on providing professional services for compensation and on serving as officers or on boards of publicly held or regulated corporations, financial institutions or business entities.

Interpretative ruling No. 43: Date issued: August 5, 1977

Question Considered: Whether a subcommittee may employ as consultant to it, and later its chief counsel, an attorney who plans later in the year temporarily to leave the Senate payroll to return to association with his former law firm, and to argue a case pending before an appellate court on a subject which is a direct and principal concern of the subcommittee, and then severe his ties with the firm following the appeal proceedings.

Ruling: The employee's continuing association with the firm for purposes of preparing the appeal while also acting as consultant to the subcommittee (even though he would terminate that association when he becomes chief counsel), and his continuing obligations to the firm's client in connection with the appeal, create both the appearance of a conflict of interest and too great a potential for an actual conflict.

Accordingly, the subcommittee should not employ the person in question in either capacity until his association with the law firm is terminated and his obligations to the firm's client have been discharged.

RULE 46: PROHIBITION OF UNOFFICIAL OFFICE ACCOUNTS

Interpretative ruling No. 11: Date issued: May 16, 1977

Question Considered: May a Member continue to use contributions from private sources to defray official expenses?

Ruling: Rule 46 prohibits the receipt of contributions to an unofficial office account for the purpose, at least in part, of defraying otherwise unreimbursed expenses allowable in connection with the operation of a Member's office. Expenditures from unofficial office accounts must terminate by the end of 1977.

Accounts may be maintained for personal funds and for funds received as reasonable reimbursements for expenses incurred by a Member in connection with personal services provided by a Member to the reimbursing organization, and those funds may be used to defray otherwise unreimbursed expenses of official duties. Funds derived from a political committee may also be used for those purposes. Those funds should not be commingled with other funds, and the political committee should pay directly those official expenses it chooses to defray.

The Committee expresses no opinion as to the tax consequences of using political committee funds to defray official expenses.

Interpretative ruling No. 39: Date issued: July 18, 1977

Question Considered: Whether a Senator may incorporate computerized address records of voters secured from county election boards in the Senate's computerized mailing system for use in producing franked mass mail, such records being acquired by one of three methods: (1) purchase using funds from the political party of the Senator's state contributed to an F.E.C. account; (2) acceptance as a contribution from a state political party which purchases or prepares them using funds in an F.E.C. account; or (3) purchase using personal funds of the Senator?

Ruling: Under regulations of the Committee on Rules and Administration and Rule 48, paragraph 5, effective January 1, 1978, the incorporation of computerized voter address records in the Senate's computer-maintained mailing lists is permissible, but only if such lists bear no identification of individuals as campaign workers, contributors, or as members of a political party, and the lists do not contain any other partisan political information.

The Select Committee on Ethics concludes such records may not be acquired selectively or sorted with the intent of targeting mailings to likely election supporters. The acquisition and incorporation only of lists selected on the basis of high incidence of partisan behaviour, for example, is not acceptable.

The use of a Senator's official consolidated allowance to purchase or prepare such records is a matter under the responsibility in the first instance of committees other than the Select Committee on Ethics. On July 13, 1977, the Committee on Appropriations reported H.R. 7932, the Legislative Branch Appropriations Act. Senate committee amendments thereto, if enacted, will answer this question.

The purchase and contribution of such records for incorporation in the Senate's computer-maintained system by a party organization would violate Rule 46 which prohibits in-kind contributions to defray office expenses. However, Rule 46 permits such records to be purchased for insertion in the Senate's computer-maintained system with funds from a Senator's unofficial office account prior to December 13, 1977, and from funds of a Senator's political committee (as defined in section 301(d) of the Federal Election Campaign Act of 1971 (2 USC 431).

Personal funds of a Senator may be used to purchase such lists as an official office expense insofar as the rules of the Senate are concerned. It is not within the jurisdiction of the Ethics Committee to determine whether such expenditures are deductible for tax purposes.

Interpretative ruling No. 42: Date issued: August 3, 1977

Question Considered: May a Senator's office use postage purchased and supplied by his campaign committee for its mailings to the campaign committee?

Ruling: The authorized use of political committee funds for this purpose, a campaign purpose rather than an official expense, is not within the jurisdiction of this Committee. However, no Senate rule prohibits a Senator or his office from accepting and using for correspondence with the Senator's campaign committee postage purchased with funds of the campaign committee. Rule 46 does not prohibit the use for this purpose of an existing unofficial office account (until December 31, 1977), political committee funds, or personal funds. It does prohibit the conversion of funds of a political committee to personal use of a Member.

RULE 49: POLITICAL FUND ACTIVITY

Interpretative ruling No. 3: Date issued: May 5, 1977

Question Considered: May Senate staff attend and participate as hostesses, while on leave, in a fundraising event to be held in behalf of a Senator in his state?

Ruling: No provision of the Code of Official Conduct prohibits staff from attending a campaign fundraising event outside office hours or while on recorded vacation leave. Under Rule 49, paragraph (1), however, a Senate staff member may not receive, solicit, be the custodian of or distribute campaign funds unless he or she is one of the two assistants specifically designated for those purposes. In order to stay well within the spirit and letter of the Rule, staff who are not so designated and who attend such an event should not collect funds or sell tickets or otherwise participate in the fundraising aspects of the event.

Since 18 USC 602 prohibits staff from making a monetary campaign contribution to a Member of Congress, the participating staff should not attend as paying guests.

The Committee on Rules and Administration and this Committee will provide guidelines in due course with respect to campaign participation by staff after hours or while on annual leave. The interim position of this Committee is that Senators should encourage staff to remove themselves from the payroll for periods during which they expect to be heavily involved in campaign activities. Routine participation after hours or on annual leave time is not now prohibited by the Code of Conduct.

Interpretative ruling No. 5: Date issued: May 11, 1977

Question Considered: To what extent may Senate employees volunteer time after office hours or while on annual leave to assist in political fund raising events for Members and candidates for election to the Senate?

Ruling: Sections 307 and 308 of S. Res. 110 direct the Committee on Rules and Administration to consider matters closely related to this question and report to the Senate by October, 1977. In the interim Members should remove staff from the Senate payroll to participate for any extended period in such activities. The Code of Official Conduct, however, was not intended to prohibit routine matters performed outside of working hours such as preparing for mailing (e.g. typing, addressing, and stuffing envelopes) invitations and letters signed by others; making follow-up telephone calls on behalf of the sponsoring organization to determine projected attendance at the event; helping the sponsoring organization make arrangements for flowers, food, and entertainment; and serving on a committee of hosts or hostesses at the time of the event, not as a sponsor, but simply to mingle with the guests on behalf of the sponsoring group.

Unless the employee is one of the two assistants specifically so designated, he or she may not receive, solicit, be the custodian of, or distribute any campaign funds. Accordingly, care must be taken to avoid involvement in those functions.

Interpretative ruling No. 8: Date issued: May 11, 1977

Question Considered: Under the Code of Official Conduct, to what extent may staff engage in campaign activities?

Ruling: Sections 307 and 309 of S. Res. 110 direct the Committee on Rules and Administration to consider and report back within 180 days on this question.

In the interim, Members must use their best judgment in taking staff off the Senate payroll to devote substantial portions of their time or to participate for any extended period in such activities. The Committee on Ethics recognizes staff frequently will be reinstated after campaign activities.

Interpretative ruling No. 19: Date issued: May 26, 1977

Question Considered: May Senate staff persons solicit, receive or distribute funds for a campaign organization, and during off hours, participate in party activities which may include fund-raising efforts.

Ruling: Rule 49 provides that two staff persons may be designated by a Senator to be the custodians of or to distribute funds in connection with a campaign, but no officer or employee of the Senate may solicit funds, (or solicit others to solicit funds in behalf of a Senator) while on the Senate payroll. Staff may be removed temporarily from the Senate payroll to engage in such campaign type activities.

It is not intended that Senate employees be barred completely from all participation in political activity. Outside of Senate office hours staff may assist in planning and making arrangements for fund raisers so long as they do not become involved with solicitation of funds.

The difficulties in drawing the line between these two types of activity led to the mandate in Title II section 206 of S. Res. 110 which directs the Committee on Rules and Administration to study and report within 180 days on the misuse of staff by incumbents in reelection campaigns.

Note: On June 13, 1977, the Senate agreed to S. Res. 188 which amended Rule 49 to remove the prohibition on solicitation applying to employees designated for political fund activity.

Interpretative ruling No. 22: Date issued: June 2, 1977

Question Considered: Under Rule 49 may an assistant designated by a Senator to be a custodian of campaign funds, but specifically prohibited from soliciting same, solicit others to solicit campaign funds in the Senator's behalf?

Ruling: Note: the Committee on Rules and Administration was introduced by S. Res. 110 (Title III, sec. 308) to study the misuse of Senate staff in campaigns and to report to the Senate thereon by September 1, 1977. In action the week of May 23, moreover, the Committee on Rules and Administration agreed to report a resolution to amend Rule 49 to authorize designated Senate staff assistants to solicit campaign funds. This, therefore, is an interim interpretation of the Code. (The Senate approved the resolution, S. Res. 188, on June 13.)

Solicitation of others to solicit funds would be inconsistent with the purpose of the rule which is to prohibit Senate employees from soliciting funds or otherwise becoming involved to any substantial degree in political fund activity. To permit solicitation indirectly would be tantamount to permitting that which cannot be done directly.

Interpretative ruling No. 28: Date issued: June 17, 1977, July 12, 1977

Question Considered: May an employee on the personal office staff of a Senator also serve as the chief administrative officer of an organization which is a political committee within the meaning of 2 USCA 431(d), the Federal Election Campaign Act, and which has as its principal purpose the raising of campaign funds for candidates other than the Senator?

Ruling: Rule 49 prohibits employees generally from soliciting funds for any candidate for any federal office, unless designated to do so by the Senator in his behalf. The language of the rule is broader than the legislative history indicates its purpose to be, but there is no ambiguity in the language of the Rule, and we believe that it is a violation of Rule 49 for a Senate employee to serve as the chief administrative officer of an organization whose primary purpose is to solicit campaign contributions.

Additional Ruling (July 12, 1977): The Senate's agreement to S. Res. 188 (on June 13, 1977) which removed from Rule 49 the prohibition against solicitation of campaign funds by two assistants designated for political fund activity does not change this ruling. A designated employee may engage in limited solicitation on behalf of the employing Senator, but not on behalf of others, and may serve as treasurer of a political committee which in part is used to pay a Senator's official expenses not otherwise reimbursed, but may not spend substantial time thereon. If such work engages a substantial portion of the individual's time, that person should go off the Senate payroll.

Interpretative ruling No. 29: Date issued: June 20, 1977

Question Considered: The Committee was asked to reconsider its letter ruling of June 17, 1977, as to whether Senate Rule 49 prohibits a part-time employee on a Senator's personal staff, compensated at an annual rate below $10,000, from serving as the principal administrative officer of a political campaign committee whose chief purpose is raising and distributing contributions for Senate candidates other than the sponsoring Senator.

Ruling: There is no provision for appeal as a matter of right from an interpretative ruling. However, the Committee has reviewed the merits of its ruling and, with five members present, has voted unanimously to reaffirm the original ruling.

The employee is prohibited from serving as the principal administrative officer of a political campaign committee because he is not eligible to be designated, and is not designated, by a Senator for limited political fund activity under Rule 49. Were he a designated employee, he still would be prohibited from so serving because the committee's fund raising activity is primarily for the campaigns of Senators other than his Senate supervisor.

The initial letter also requested a waiver for the employee in the event the Committee ruled he is prohibited from serving in the described capacity. Senate rules do not permit the granting of a waiver of the prohibition contained in Rule 49, paragraph 1.

Interpretative ruling No. 46: Date issued: August 5, 1977

Question Considered: In what fund raising activities may Senate employees who are not designated for political fund activity under Rule 49 participate?

Ruling: Interpretative Rulings No. 3, No. 5, No. 8, and No. 22 are relevant. Until the Committee on Rules and Administration makes its report, a Member must use his best judgment in taking staff off the payroll to perform prohibited tasks. An employee must exercise care to perform only routine political fund activities in which he does not directly "receive, solicit, be the custodian of, or distribute" campaign funds, and to perform these only in off duty hours.

The Rule 49 prohibition of political fund activity by other than designated staff applies to duty hours, off duty hours and vacation leave.

FRANKED MAIL REGULATIONS

Interpretative ruling No. 13: Date issued: May 23, 1977

Question Considered: May a new committee chairman's frank be pasted over that of the retired chairman upon a mailing list correction card used in the past to update and purge the committee's mailing list?

Ruling: Chapter one, paragraph 3, page one of Regulations Governing the Use of the Mailing Frank promulgated May 13, 1974 by the Select Committee on Standards and Conduct, the predecessor to this Committee, states that:

Mail matter of any committee of the Senate, or of any joint committee of the Congress whose chairman is a Senator, which is frankable under section 3210 of Title 39, U.S. Code, may be sent under the frank of the chairman.

Paragraph 4 of the same chapter of the regulations, page two, states that:

A Senate committee which maintains a mailing list for its official reports may use a franked return-address postal card for addressees to indicate their continued desire to receive reports.

Chapter two of the Regulations, paragraph 16, page eight, states with respect to "correction of mailing lists":

Postal Service Regulation 122.5 states that mailing lists submitted by Members of Congress will be corrected as frequently as requested and that payment for correction of lists submitted by Members of Congress is made under the official mail reimbursement program.

The frank shall not be used for any other means of correcting the mailing list of a Senator.

The chairman of a committee or subcommittee of the Senate may use his frank to bring up to date the mailing list of his committee or subcommittee, if the mailing list is compiled from specific requests and is used only to mail official publications, such as hearings, reports, news releases and announcements. The chairman may use his frank for this purpose by sending return-address cards to addressees on the list.

Accordingly, the return card may be sent to various persons to determine which publications they wish to receive and to bring up to date the mailing list of a committee. The current chairman's frank may be used for this purpose. It is irrelevant that the frank of the new chairman has been pasted over the frank of the retired chairman.

Interpretative ruling No. 16: Date issued: May 23, 1977

Question Considered: Do regulations permit mailing under the frank of a return mail, address correction, IBM punch card, in an envelope bearing instructions to the postmaster, in order to secure corrections of a Senator's official mailing list, if the return card is not franked and is mailed along with a newsletter or other material?

Ruling: The regulations published by the Select Committee on Standards and Conduct governing the use of the mailing frank state, on page 8, that mailing lists may be corrected under Postal Service Regulation 122.5 by postmasters on request from a Member of Congress, but that "the frank shall not be used for any other means of correcting the mailing list of a Senator."

The use of the frank on an envelope with instructions to the postmaster or the mailing of an address correction IBM card in a franked envelope are permissible uses only if incidental to the mailing of other frankable matter. The regulations prohibit mailing the IBM card alone under the frank, using the franked envelope with the postmaster instructions solely for the purpose of correcting the mailing list, or using the frank on the return IBM card.

Interpretative ruling No. 23: Date issued: June 3, 1977

Question considered: Do the regulations on the use of the mailing frank permit placing the words "address correction requested" on addressed envelopes containing a newsletter or a questionnaire mailed to constituents?

Ruling: The regulations of the Select Committee on Standards and Conduct governing the use of the mailing frank state on page eight that mailing lists may be corrected under Postal Service Regulation 122.5 by Postmasters on request from a Member of Congress, but that "the frank shall not be used for any other means of correcting the mailing list of a Senator."

The use of a frank on an envelope bearing the instructions regarding address corrections is a permissible use only if it is incidental to the mailing of other frankable matter.

Interpretative ruling No. 35: July 1, 1977

Question considered: Does the regulation prohibiting use of the mailing frank for the mass mailing of a newsletter in which personally phrased references to a Senator appear more than five times per page also apply to reprints of speeches and other materials from the CONGRESSIONAL RECORD?

Ruling: Title 39 USCA 3212 states that reprints from the CONGRESSIONAL RECORD may be mailed under the frank provided such material would otherwise be frankable under section 3210. Section 3210 prohibits use of the frank to mail "personal and political" matters. Paragraphs 13 and 14 of the regulations define the personal and political matters which are not frankable, but do not mention overuse of personal pronouns.

Paragraph 4 of the franked mail regulations refers to newsletter and news releases. The number of personal references which occur on a page has no bearing on the use of the frank for the mailing of frankable material reprinted from the CONGRESSIONAL RECORD.

Interpretative ruling No. 44; Date issued: August 5, 1977

Question Considered: Whether a Senator may enclose in his newsletter two cards to be given by the recipient of the newsletter to friends or relatives who also may be interested in being put on the Senator's mailing list for purposes of receiving the newsletter, when the return cards do not bear the frank and clearly indicate that the person who puts his or her name and address thereon (indicating a wish to be on the mailing list) must also affix thereto a stamp for purposes of mailing the card to the Senator's office?

Ruling: The Committee is unaware of any provision of the franking statute or regulations which prohibits this procedure.

Interpretative ruling No. 21: Date issued: May 26, 1977

Question Considered: May a Senator store political documents, such as records and financial statements of past campaigns, in his Washington office and in federal space provided in his state?

Ruling: The Committee is not aware of any Senate rule or law on these points. Counsel for GSA advises that he knows of no law or regulation with respect to what may be stored in space under its jurisdiction.

Storage of substantial quantities of such personal and political materials, i.e., bulk storage of materials unrelated to one's official duties, would be an improper use of public property. Members are, however, entitled to some latitude with respect to documents needed for reference purposes or public disclosure. Campaign materials used by Members for gifts and all such materials that are incidental to the normal business of a Senate office and require no substantial storage space may be maintained in a Senator's offices.

Interpretative ruling No. 30: Date issued: June 28, 1977

Question Considered: May a newspaper reporter have access to the files, records and opinions of the former Select Committee on Standards and Conduct now in the custody of the Select Committee on Ethics?

Ruling: This Committee will fully respect the public's right to know. It is required to, and will, make available to complainants, as well as to persons charged, its findings in investigations involving violations of the franking privilege and the Code of Official Conduct. If it decides not to investigate complaints, the complainant will be advised with an explanation. Furthermore, the Committee has kept nearly all its proceedings open to the public and will continue to do so to the extent individual rights and national security permit. It will make public all of its interpretations of the Code.

The files of this Committee and its predecessor, not unlike those of a grand jury, from time to time receive unsupported complaints, highly personal information and information affecting the national security which would harm individual rights or national interests if revealed. Disclosure of such information would contravene law and time-honored standards of Anglo-Saxon justice, as well as severely handicap the Committee in its educational, investigative and judgemental duties. The Committee cannot, therefore, open all its files in response to such requests. It will make its opinions and advisory rulings public in due course.

BRING ESCOBAR TO THE UNITED STATES; LET'S SEE WHO STANDS WHERE

Mr. HELMS. Mr. President, the Department of State has announced that Ambassadors Sol Linowitz and Ellsworth Bunker are reopening talks with Panamanian officials in an attempt to clarify the dangerously ambiguous sections of the Panama Canal treaties.

This procedure will be of little value. We will still end up with a document that will be open to different interpretations. The present interpretations are so diametrically opposed that one side or the other will have to make a compromise that would be fatal to its credibility, or they will have to agree upon another layer of ambiguity. As we have already seen in the past few days, such ambiguities lead to further misunderstandings, not to peace and comity.

Moreover, the procedure is of doubtful legality, because of the participation of Mr. Linowitz. On February 7, Mr. Linowitz took office as Special Representative of the President with the personal rank of Ambassador. He held this appointment on a 6-month basis under the provisions of 22 United States Code 901 (c), which does not require Senate confirmation. The treaties were initialed on the very last day of Mr. Linowitz' appointment. It is noteworthy that the treaty drafts had not yet even been completed in all detail. So rushed was the initialing that the drafts could not even be made available to the Senate until the day before the signing ceremony on September 7.

The haste and confusion was imposed by the deadline of Mr. Linowitz' appointment. We are now seeing the bitter fruit of this haste and confusion: Not sufficient time was taken to clarify some of the key passages of the treaties. The documents are flawed both conceptually and in execution. And now it is clear that even the very meaning of the texts is at stake.

The fundamental cause of this current problem has been the desire of the State Department to bypass Congress as much as possible. If Mr. Linowitz and been appointed under a normal appointment, with unlimited duration, he would have come under the constitutional provisions of advise and consent. He would have come up before the Foreign Relations Committee for hearings. He would have come up before the full Senate for debate and confirmation.

But the State Department did not want this. As a result there was no examination of Mr. Linowitz' suitability for the job, and no scrutiny of the problem of apparent conflicts of interest.

Now it is apparent that he has negotiated a flawed treaty. But only a few weeks after he had gone on the job, it soon became apparent that he had problems with conflict of interest. After he had actually gone to Panama and begun negotiations, it developed that he was at the same time on the executive committee and the board of directors of the Marine Midland Bank of New York, which had multimillion dollar business interests in Panama. Mr. Linowitz finally bowed to public demand and resigned from Marine Midland. But he did not resign from the board of directors of Pan American Airlines, which also has substantial interests in Panama.

These circumstances cast doubt not only over his capability as a negotiator, but also about his objectivity. If the treaties had been clearly beneficial to the United States, these doubts could not be raised. But now such doubts are inevitable.

Mr. President, I understand that Mr. Linowitz' present status is that of "treaty adviser." But is he not really functioning as a negotiator, as a continuation of his more recent job? Is this not a flagrant flouting of the law? 22 United States Code 901(c) reads as follows:

(c) On and after the date of enactment of the Foreign Relations Authorization Act of 1972, no person shall be designated as ambassador or minister, unless that person is appointed as an ambassador or minister in accordance with subsection (a) of this section or clause 3, section 2 of Article II of the Constitution, relating to recess appointments, except that the personal rank of ambassador or minister may be conferred by the President in connection with special missions for the President of an essentially limited and temporary nature of not exceeding six months.

Mr. President, it may be argued that a treaty negotiation could not even be considered an "essentially limited" task. But at least the law is clear that such an appointment—that is an appointment without Senate hearings and confirmation—is strictly limited. This is an abuse of power to bring back the man who botched the job. He should not even be brought back as an adviser, since it casts doubt upon the legality of his previous appointment.

In any case, Mr. President, any "interpretation" or "understanding" that Mr. Linowitz brings back from these prolonged negotiations cannot carry the confidence of the Senate. Instead, the only way in which the Senate can be satisfied is to bring the Panamanian chief negotiator, Romulo Escobar Bethancourt, to the United States and have him appear before the requisite committees of Congress. Let the Members of both Houses question him to their satisfaction. Let these varying interpretations and diplomatic ambiguities be laid to rest once and for all. Unless we have treaty texts that can be presented to the people of both countries and understood clearly and in the same fashion, we do not have true agreement, and we do not have a secure relationship for the future.

Yesterday, I hand delivered a letter to the President in which I suggested that he urge Mr. Escobar to come before the Congress and to explain his inter-

pretation of the treaties. I have had a fruitful dialog with the President on the treaty problems over the past several months. I disagree with the President on the treaties, but I commend him for his candor and his personal efforts to provide reassurance for those who are opposed. I am confident that he will consider this suggestion very carefully as he has considered such suggestions in the past.

Mr. President, I ask unanimous consent that the letter I sent to President Carter yesterday be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

WASHINGTON, D.C.,
October 6, 1977.

Hon. JIMMY CARTER,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: I want to thank you, again, for what has been, for me, a meaningful dialogue on the subject of the Panama Canal treaties. I have appreciated your candor and your personal efforts to provide reassurance to those of us who are not persuaded that the proposed treaties are wise.

However, as a United States Senator, I feel obliged to convey to you my apprehension that a crisis of confidence has arisen in the Senate. This is the result of the widely divergent interpretations of ambiguous sections of the treaty documents by our negotiators and the negotiators of the Republic of Panama. Since these sections happen to be vital to our security and the security of the Canal, it is obvious that the Senate cannot even judge the value of the treaties until it knows the meaning of the treaties, as agreed to by both parties.

Our negotiators have testified at some length on the meaning of the treaties according to their understanding. But the much-publicized interpretations of the Panamanian Chief Negotiator, Romulo Escobar Bethancourt, appear to be at variance. The only way to resolve this vital matter is not through the U.S. State Department's interpretations of Mr. Escobar's interpretations, but through direct discourse with Mr. Escobar.

I, therefore, suggest that you invite and urge Mr. Escobar to appear before the appropriate committees of the U.S. Congress so that we will know firsthand and in an appropriate forum just exactly what the Republic of Panama understands to be the meaning of the treaties.

Again, I thank you for your personal courtesies in this and other matters.

Respectfully,

JESSE HELMS.

RURAL HOUSING

Mr. ROBERT C. BYRD. Mr. President, on behalf of the Senator from Minnesota (Mr. HUMPHREY), I ask unanimous consent that a statement by him on S. 1150, the Rural Housing Act of 1977, including testimony that he offered on this subject, be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY SENATOR HUMPHREY

The housing of rural America is a disgrace. As bad as the situation in urban America is, it is worse in the rural areas of this nation.

Earlier this year I introduced, with the co-sponsorship of 17 of my colleagues, S. 1150, the Rural Housing Act of 1977. This bill is designed to improve this intolerable situation.

This week the Senator from North Carolina (Mr. Morgan) held hearings on this important legislation. I commend Senator Morgan's leadership in this area. He has been an effective advocate of the needs of rural Americans throughout his public career.

I have been deeply involved in rural issues from the time I joined the Senate. When the Senate passed the Rural Development Act of 1972, I said that was only a small step down the road to the public policies we need for Rural America. It is a small, modest step in the right direction.

My statement explores my thoughts on this important legislation in considerable detail. Given the need to improve and enhance the opportunity for improved quality of life for rural Americans and the appropriateness of this legislation to achieve this objective, I include the text of my statement, as follows:

TEXT OF STATEMENT

I welcome this opportunity to state my views on S. 1150, the Rural Housing Act of 1977. I want to congratulate Senator Proxmire, Senator Sparkman and the rest of the Banking Committee for the initiative taken by establishing the Rural Housing Subcommittee. This is a tremendously important step forward in our nation's efforts to handle the complex problems which must be faced in order to eliminate bad housing conditions in rural America.

Certainly a special note of thanks is due to the able Chairman of the Subcommittee, Senator Morgan, for assuming this significant but difficult responsibility. You and Senator Garn have already held field hearings which I trust have assisted in documenting the variety of problems in small communities. Further, in 1976, even before the creation of a Rural Housing Subcommittee, Senator Morgan conducted extremely important hearings into rural housing problems which provided much of the impetus for S. 1150. Finally, Mr. Chairman, on behalf of many rural citizens whose appreciation has not been heard, I wish to pay tribute to a man who has done more to solve rural housing problems than any other single elected official. I speak, of course, of Senator John Sparkman, the driving force behind most housing legislation in our country over the past 25 years.

Mr. Chairman, together with 17 of my colleagues on March 17, 1977, I introduced S. 1150, the Rural Housing Act of 1977. This legislation was mandated by the special and critical housing and community development needs of rural America. Few will argue with the statistics and the outrage that we feel: despite having less than 30 percent of the nation's population, rural areas suffer almost 50 percent of the poverty and a staggering 60 percent of the substandard housing. More than 2.6 million households in rural America live in housing which is unhealthy, unsafe, or overcrowded. When rent overburdens (payment of more than 25 percent of adjusted income for housing) are added, the figures rise by 1.13 million. Meanwhile, 18 million rural citizens drink contaminated water. We cannot and should not accept these conditions as natural or normal. Just as with unemployment, we can no longer remain inured to this situation and callous to such fundamental needs.

Who are these rural housing people in bad housing? They are overwhelmingly poor; some 95 percent or so. They are elderly, some 29 percent. They are minorities, in numbers disproportionate to their population. We are talking about black families, Indian Americans and our nation's farmworkers, especially the migrants. All have continued to struggle for decency in silence because they are hidden from view. The smaller the community, the larger the problem of substandard housing. They are largely unorganized locally, certainly have no Washington lobbies, and the communities in which poor people live are often incapable of commanding resources even when concerned.

In recent years housing problems have multiplied for all Americans because of inflation, rising construction costs and zooming energy costs. However, none have suffered worse than the nation's rural poor, especially the elderly who often pay between 50 to 75 percent of their miniscule incomes for the chance of decent housing. Examples of utilities being cut off and people freezing were all too common last year. Clearly, Mr. Chairman, we have a critical and deep seated problem. Candidly there is little reason for us to be smug about housing in our country so long as these conditions persist.

To meet the special problems of rural areas, which include population dispersal, lack of credit opportunities, limited institutional development and extraordinarily high levels of poverty, Congress has developed a special kind of agency, the Farmers Home Administration. The FmHA is the closest thing to a one stop resource center for farmers and other rural people, small communities and small businesses, with over 30 separate programs involving farming, housing, community facilities and economic development.

The FmHA is ideally structured to provide direct service to rural areas from over 1762 county offices, and is, in addition, self financing to meet the rural credit vacuum. Despite yeoman's service, however, it has become clear that FmHA's present authority is not sufficient either to meet the housing needs of a significant group of rural people—the poor—or to provide adequate water and sewer facilities for small, lower income towns.

Mr. Chairman, it was to meet the challenge of old problems and new conditions that my colleagues and I introduced S. 1150.

Several provisions of S. 1150 as introduced in March 1977 have been incorporated into the Housing and Community Development Act of 1977 (H.R. 6655), either totally or in revised form. These include provision to extend FmHA programs to handicapped people (Section 2), permit congregate housing for handicapped and elderly (Section 9), adopt a revised compenation for defect program (Section 5), formalize the percentage of loans for low-income people (Section 11), establish guidelines for the guaranteed loan program (Section 13), initiate a rural housing research program (Section 4), and, finally, mandate the use of the Rural Rental Assistance program (Section 15).

We, of course, are pleased that both Houses have moved as expeditiously as they have on these issues. The FmHA programs will serve more rural people better as a result of their action. However, let me caution that the job is far from over.

S. 1150 not only provides new authority in several major areas of concern, but also proposes technical changes to correct shortcoming in the current law.

The deep subsidy homeownership provision is clearly the most significant and far reaching provision in the bill.

The changes proposed for the water and sewer program are essential if FmHA is to successfully continue its expansion.

The proposed appeals procedures would protect the rights of applicants and beneficiaries, as would the creation of an assistant secretary for equal opportunity.

Other major provisions in the bill would deal with FmHA's response to the energy crisis and to complex land title problems. What follows, then, is a description of each of these major provisions of S. 1150, which remain for your consideration.

HOMEOWNERSHIP FOR LOW AND MODERATE INCOME PEOPLE (SECTION 14)

Homeownership in rural areas is a tradition. Over 74 percent of rural people now own their own homes. For almost a genera-

tion now, the FmHA has been the major resource of financing for homeownership for rural low and moderate income people under its section 502 program. However, rising construction and energy costs—without the same inflation in incomes—have all but eliminated homeownership for most low-income people, and they are beginning to cut out a number of moderate income families. In fiscal year 1976, the average house financed by the FmHA cost $21,700, and few families under $7,000 annual adjusted income could even qualify.

The traditional FmHA response to the problem in the past has been to raise the dollar level of what was defined as low-income. This was a tragic evasion of responsibility. The problem is not solved by serving higher income people but by seeking mechanisms to serve those the legislation mandated. The homeownership concept for rural areas makes eminent sense—for all people, not just the wealthy.

S. 1150 would provide a homeownership option for those unable to use the regular FmHA programs, by making available the same type of subsidy mechanism currently being used under the HUD section 8 rental program. Certainly, if we can assist private owners to develop equity in rental properties, we can do the same for low-income borrowers. However, at the same time, to make clear that this is a housing program and no more, a recapture provision has been included to prevent windfall profits in the sale of any such assisted housing, while enabling the buyer to accumulate modest amounts of equity.

WATER AND SEWER PROGRAM (SECTION 20)

Decent water and sewer facilities remain an elusive goal for too many rural communities. However, without such basic facilities, it is impossible to provide adequate housing, let alone permit any economic development to occur. Today some 33,000 communities in our country are without adequate water facilities; over 44,000 communities lack adequate sewage facilities. Virtually all of the communities lacking adequate water and sewage facilities are in rural areas.

The FmHA administers a program of loans and grants to rural communities to install new or repair existing water and sewer systems. In view of the tremendous need and the critical nature of the facilities for health and safety, the present limitation of $300 million yearly in grant funds is unfortunate. S. 1150 raises the grant level to $1 billion yearly over the next 3 years. In addition, the current law limits the grant to 50 percent of development costs. This would change to a 75 percent grant which equals what EPA programs provide (primarily to urban communities). The FmHA water and sewer grant program is far superior to those conducted by other agencies because it is administered by local offices, covers many types of development costs needed by small towns, and concentrates its efforts in the smaller communities where the most serious problems exist. Unfortunately, the present 50 percent limit for grants precludes the program from serving the poorest communities, without the risk of bankrupting the town.

APPEALS PROCEDURE (SEC. 7)

At the present time, the FmHA is the federal government's largest direct lender. In the 1976 fiscal year (plus the 3 month transition period), it made 245,436 loans and grants totaling over $7 billion. For every loan the FmHA makes, one is rejected. Clearly, much discretion is given to the agency's personnel on all levels. The possibility for abuses obviously exists and in fact, they have been well documented. The programs which Congress enacts are for the benefit of the public and not the agencies. Sometimes this distinction becomes blurred in the eyes of those who administer the program. At the present time, only the 502 homeownership program offers a series of paper appeals, but starting with the very official who rejected the application in the first place. Other serious shortcomings exist in this limited process.

It is interesting to note that builders and contractors who are threatened with disbarment from FmHA programs are provided with a significant procedure, to which they are rightfully entitled. Surely, the same rights should extend universally to all users of the FmHA programs. This is what we have proposed in S. 1150. As you will note, we have outlined a very detailed process for the protection of users of the FmHA programs. This is done purposely because it is too important to be left to the whims of changing Administrators. The FmHA is the lender of last resort for most applicants; since there is no other recourse, special consideration should be given to their rights. Equivalent appeals procedures are in effect elsewhere within USDA, for the food stamp program. HEW offers appeals to adverse decisions on welfare, and HUD also has developed a process to protect the right of appeal. Yet FmHA has nothing to protect its applicants.

ASSISTANT SECRETARY FOR EQUAL OPPORTUNITY (SEC. 19)

As noted, FmHA is the lender of last resort for most of the users of its programs, and minorities make up a significant part of its service population. Yet minorities are receiving a disproportionate smaller share of the housing program resources than their proportion of the rural poverty population would demand. Attention to this problem by the USDA in the past has been minimal. This should not be surprising, considering that equal opportunity and civil rights are presently handled by an office hidden under the Assistant Secretary for Administration in USDA. Establishing an Assistant Secretary for Equal Opportunity may not guarantee the aggressive implementation of civil rights legislation that is needed, but it is a good place to start. At a minimum, an Assistant Secretary for Equal Opportunity within USDA would show the concern of Congress on this important matter.

ENERGY CONSERVATION (SECTION 21)

There are no easy answers to the energy crisis for low and moderate income people. This is just as true for rural as for urban areas. While no one is opposed to saving energy, the increased cost for accomplishing this should not be used to preclude another group of rural people from being beneficiaries of the FmHA programs.

At the same time, it is also clear that many alternate lower cost forms of providing heating and cooling for rural housing are excluded from use by the present minimum property standards. The energy conservation provisions in S. 1150 represent an attempt to offer some flexibility in the current rules for dealing with a most serious problem.

REMOTE TITLE CLAIMS (SECTION 18)

Finally, S. 1150 would allow FmHA to more effectively serve families in the many areas of the country where remote title claims presently prevent FmHA from lending. Under the current regulations, clear titles must be available before any loan may be made by the FmHA. In a number of cases, it is virtually impossible for clear titles to be produced without expenditure of extensive amounts of time and effort; however, even with enough time and money, many such claims often cannot be cleared. The families who own such land generally are those most in need of FmHA services and cannot afford to clear the title or pay private title insurance.

These situations include the Southwest where title clouds involve Spanish land grants; recent action by Indians in Maine to restore land to tribal ownership; the effects of the Alaska-Native Land Claims Settlement Act; and old mine leaseholds in heavy mining areas.

The effect of S. 1150 would be to permit the FmHA to make loans on land with remote title claims with the Federal government making good on any future claim only if a court rendered an adverse decision in this matter. Clearly, a careful judgement of the remoteness of the claim would have to be made. In most of the situations described, this should pose few problems. The alternative would be to deny to many people the benefits of the FmHA, people who are in acute need of FmHA services.

CONCLUSION

Mr. Chairman, I have attempted to describe in brief detail those provisions of S. 1150 which are of the most significance. At the same time, I urge that the remaining provisions also be considered for action when the bill receives further attention by the committee.

I would like to conclude this statement by emphasizing that S. 1150 is by no means the total answer to the housing and community development needs of rural areas. However, it is a serious attempt to recognize the new conditions which exist today and to provide the most effective agency available, the FmHA, with the authority needed to improve its capacity.

Mr. Chairman, this year the Congress passed a comprehensive Agriculture Bill which we expect will assist in the stabilization of rural America. Over the years, we have updated rural development legislation. It is time now to complete that cycle and pass S. 1150 so that the housing and community development needs of rural America may be dealt with properly.

I appreciate the opportunity to make this statement on behalf of S. 1150. I urge early action.

CONGRESSMAN JOHN BRADEMAS PAYS TRIBUTE TO THE REVEREND THEODORE M. HESBURGH

Mr. BAYH. Mr. President, on October 3, 1977, I had the privilege of attending a dinner in honor of the Reverend Theodore M. Hesburgh, CSC, president of the University of Notre Dame, marking his 25 years of service as president of Notre Dame and of public service to the people of our country.

Addressing the dinner were such distinguished leaders in our national life as Vice President WALTER A. MONDALE, Senator HUBERT H. HUMPHREY, Mr. Roy Wilkins, Senator ROBERT J. DOLE, His Eminence John Cardinal Sheehan, Secretary of Housing and Urban Development, Patricia A. Roberts Harris, and the president of the Rockefeller Foundation, Dr. John Knowles.

Also present at the dinner to pay tribute to Father Hesburgh were many other outstanding figures including the distinguished Chief Justice of the United States, the Honorable Warren Burger, and the Very Reverend Francis B. Sayre, dean, the National Cathedral, who offered the invocation, and Senator WENDELL ANDERSON, who served as master of ceremonies.

Father Hesburgh was introduced at the dinner by our friend and colleague from Indiana, the distinguished majority whip of the House of Representatives, the Honorable JOHN BRADEMAS, who represents the district in which the University of Notre Dame is located.

Mr. President, I ask unanimous consent that the text of Congressman

BRADEMAS' remarks on this occasion be printed in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

ADDRESS OF CONGRESSMAN JOHN BRADEMAS

Senator Anderson; Mr. Chief Justice; Mr. Vice President; Your Eminence, Cardinal Sheehan; Dean Sayre; Secretary Harris; Senator Dole; Mr. Wilkins; Dr. Knowles; distinguished guests; ladies and gentlemen: Before I speak about our distinguished guest of honor, I should like to say just a word about our common friend in Minnesota.

The opportunity to serve as Majority Whip of the House of Representatives I have found, means not only much hard labor in the fruitful vineyard of Tip O'Neill but some fascinating perquisites as well, one of which is the opportunity every couple of weeks to join the other Democratic Congressional leaders for breakfast at the White House with President Carter and Vice President Mondale.

HUBERT H. HUMPHREY

And I assure you that one of the most joyous aspects of those family get-togethers, as I am confident the distinguished Vice President will agree, is the opportunity to see and hear his remarkable colleague from Minnesota speak with candor and compassion, with effervescence and wisdom, to the President of the United States and his counsellors about the problems facing the people of our country and the world.

We all miss Hubert Humphrey here tonight and we all wish him a speedy return to his work—and ours—in the Nation's Capital.

There are many reasons that I have been proud to represent in Congress these past nineteen years the nearly half million people of Indiana's Third District.

But one of them surely is that I can say what no other Member of the House of Representatives can, "One of my constituents is Father Hesburgh of Notre Dame!"

Each of us here will have his or her own special relationship to Father Hesburgh even as do men and women in nearly every part of our country and in nearly every country of the world.

FATHER HESBURGH'S DIVERSE SERVICE

Indeed, all of you are here tonight because you have worked with Father Hesburgh in one or another of the many areas in which he has willingly served our nation.

As a Member of Congress with particular responsibility for education legislation, I have known at first hand Father Hesburgh's work on the Carnegie Commission on Higher Education and in many other organizations devoted to strengthening our colleges and universities, particularly private ones, and I know, too, of his determined effort to open access to education to many more Americans.

It is not surprising that not long ago Father Hesburgh was chosen in a poll of outstanding educators across the country one of the four most influential leaders in the nation in higher education.

I know as well of Father Hesburgh's work as Chairman of the Overseas Development Council and of the Rockefeller Foundation and as a member of the Board of the Chase Manhattan Bank in all of which important organizations his has been a strong voice for economic and social development in the Third World, and I recall, too, his service as the Vatican's representative to the International Atomic Energy Agency, where he labored for effective measures to control the technology of war.

You and I know that as a member of the United States Commission on Civil Rights, appointed by four Presidents—and fired by one!—Father Hesburgh has been an outstanding champion of human rights and social justice both at home and abroad, admonishing us that "liberty is worth the effort, and the creation of justice and peace abroad will in large measure depend on the measure of justice and peace that we create here at home".

Not only has he been a counsellor to Presidents of both parties in the area of civil rights but also in fields ranging from foreign aid to amnesty to the armed forces and from the Peace Corps to the war on poverty.

He has served well on the National Science Board and the Policy Advisory Board of the Argonne National Laboratory.

And some day when he writes his memoirs—a day that I hope will not be soon, Father—we shall, I hope, learn more of the wide range of his personal diplomatic encounters with leaders from lands as disparate as Israel and Jordan, Chile and Panama, Kenya and the Soviet Union.

Indeed, what I find remarkable is that given the depth of his commitment to Notre Dame and the breadth of his public service elsewhere, Father Hesburgh has had time to write at all, much less think. But he is the author, at last count, of eight books with, I understand, still another in process.

It will surprise no one here to realize that Father Hesburgh has received honorary degrees from fifty-six universities and awards of so many and varied a kind that I have not the time tonight to recite the list.

PRESIDENTS FORD AND CARTER HONOR FATHER HESBURGH

That President Ford chose Notre Dame as the first university campus to visit after having become President and that President Carter should have chosen to make his only commencement address this year at Notre Dame indicates, I suggest, the immense regard in which Father Hesburgh is held by the highest leaders of our country.

I should interject that one of those who with President Carter received an honorary degree at Notre Dame last May stopped by earlier tonight to pay his respects to Father Hesburgh and has asked me to reinforce them to you—the fighting Irishman of Cambridge, Massachusetts—Speaker O'Neill.

In fact, I might simply here take a moment to confess to you that for some years now Father Hesburgh has been my candidate for President of the United States. You may know that he was born in Syracuse, New York, and the only problem, as I once told Father, is that I am not sure that the American people are ready yet for an upstate New York, German-American bachelor!

And yet with all the achievements that are his and all the honors he has received, there are two dimensions of the life of Father Hesburgh that, I believe, require particular attention.

FATHER HESBURGH AS EDUCATOR

Father Hesburgh is an educator and he is a priest.

1977 marks the 25th anniversary of Father Hesburgh's presidency of Notre Dame, the longest tenure of service as president of a major university in the United States.

These have been years in which Notre Dame has grown into an outstanding center of learning, known and respected throughout the world, a rise, that, we are all aware, the leadership of Father Hesburgh has made possible.

Yet as "The Campaign for Notre Dame" makes clear, Father Hesburgh is not satisfied. For those of you who may not be aware of it, "The Campaign for Notre Dame" is a five-year, $130 million capital fundraising campaign, which began in April, 1977.

It is the most ambitious fundraising program in the history of the University.

Most of the funds will be used to expand Notre Dame's endowment. Included in the plans are the creation of forty permanent faculty chairs, five visiting professorships, $12 million to endow the student financial aid and $10 million in endowment for the University's libraries.

The Campaign has already exceeded 50 percent of its goal.

Why has Father Hesburgh, with so many years of outstanding service to Notre Dame behind him, taken on this additional, extraordinary commitment?

It is, I know, because he wants Notre Dame to be a leader among the universities of the world in undertaking what he has called "the dual task of transmitting and expanding knowledge" and, "at the same time, the more difficult role of educating persons with that sense of moral responsibility and judgement required to manage change and to use knowledge for mankind's betterment and progress instead of for his destruction." It is, says Father Hesburgh, "this kind of institution that Notre Dame aspires to be in the years ahead . . ."

I suggest to you that in articulating these two objectives for Notre Dame—to education for what he has called "imaginative, creative intelligence and deep moral commitment"—Father Hesburgh has charted a course appropriate not only for Notre Dame but in the most profound sense, crucial to the future of all American higher education and, indeed, to the future of our entire society.

FATHER HESBURGH AS PRIEST

But beyond this role as educator, Father Hesburgh is a priest, a servant of the church of Christ and so of humankind everywhere.

In this connection, I am reminded of a visit to my office in Washington some months ago of a distinguished Turkish pediatrician and university president, a man much travelled in many lands, and how, in the course of our conversation, I asked him if he knew Father Hesburgh of Notre Dame.

"Do I know Father Hesburgh?", he replied rhetorically, his eyes sparkling.

"Do you know," he asked, "the answer to the question: 'What is the difference between God and Father Hesburgh?'

"God is everywhere while Father Hesburgh is everywhere but Notre Dame!"

So I realized that he knew Father Hesburgh!

And at times Father Hesburgh does seem to be everywhere but Notre Dame. Only a few weeks ago I read, as did many of you, an article about how Father recently said Mass, using what the writer described as a "do-it-yourself chalice" brought forth from "a famous black bag", in a Georgetown garden here in Washington.

The author explained how a group of casually dressed people gathered round a table covered by a colored cloth while Father Hesburgh explained 'the whys and wherefores of Pentecost Sunday", and described how "a group of twelve quite ordinary men, with little inspiration or insight, given the gift of the Holy Spirit, were able to turn billions of people to Christianity".

Did not, I ask you, Father Hesburgh bring Notre Dame with him to that small gathering in a garden six hundred miles from that prairie campus in northern Indiana?

Does not Father Hesburgh bring Notre Dame with him wherever he goes and wherever he is and with him the message of love which is the mission of his life as priest to carry?

I think so.

There is no man or woman who has known Father Hesburgh who has not been enriched or ennobled by the experience.

Even as in his home community in Indiana, so too, here in this capital city of our country, we are proud—all of us—to be his friends.

We rejoice that Father Hesburgh is part of us.

Ladies and gentlemen, I count it a great privilege to present to you the Reverend Theodore M. Hesburgh, C.S.C., President of the University of Notre Dame.

FOOD CO-OP HELPS ELDERLY

Mr. ROBERT C. BYRD, Mr. President, on behalf of the Senator from Minnesota (Mr. HUMPHREY), I ask unanimous consent that a statement by him, as well as the text of an article to which this statement makes reference, be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY SENATOR HUMPHREY

The strength of this nation lies in the creativity and dedication of its citizenry.

Recently, I came across an article that demonstrates just this point. This article depicted how two hard working and imaginative women formulated and developed a cooperative which now serves over 5,000 elderly Americans in the San Francisco Bay area.

This article, entitled "California Co-op Cuts Bills in Half," from the August issue of Aging magazine, is well worth reading by those of my colleagues who are concerned with new approaches for enhancing the quality of life for older Americans.

Pat Coates and Sandi Piccini, the two women that developed the food co-op, are to be congratulated for their efforts. In five years they have gone from feeding 300 people in their local neighborhood to feeding almost 20 times as many in a four-county area.

Unfortunately, their resources limit their capacity to serve a wider audience. However, their enthusiasm and management ability will surely lead to even more impressive gains in service to the elderly in Northern California.

The article ordered to be printed in the RECORD is as follows:

NUTRITION: CALIFORNIA CO-OP CUTS BILLS IN HALF

Two resourceful housewives are pooling their talents to operate an innovative food cooperative for the elderly in the San Francisco Bay Area.

Called the Food Advisory Service, the nonprofit program serves over 5,000 older persons with weekly deliveries of fresh meat and produce to 53 food clubs throughout a four-county area.

The half-million-dollar business is managed by Pat Coates and Sandi Piccini, two San Francisco women with no formal training in finance, marketing, or sales. Employees in their program include ex-convicts, rehabilitated drug users, reformed alcoholics, delinquent high school youths, and retired workers.

Commenting on their motivations for starting the project, the two women note, "We thought we could feed senior citizens much more reasonably than the agencies that were doing it. We're saving seniors 30 to 80 percent on their food bills."

Seniors who have taken advantage of the program enthusiastically agree. San Francisco retiree Harry Shuhart declares, "Those ladies are true good Samaritans. My wife and I are on a very tight budget, but thanks to the food program, we get so much more food for less money—and it's better and fresher, too."

HUMBLE BEGINNING

The idea for the project, also called the Mobile Mini Market, began with a successful 34-family neighborhood cooperative the women started in 1972 and ran from a garage.

"We fed 300 people in 45 minutes," Mrs. Coates recalls. "We'd go to other food co-ops and tell them we could show them how to do it cheaper."

About that time, newspaper accounts of spiraling food costs and difficulties older people have in getting to shopping areas inspired Mrs. Coates and Mrs. Piccini to launch the new service for the elderly.

"We'd read about the problems that many older people on fixed incomes were having," explains Mrs. Coates. "We wondered just who is helping the senior citizens in this youth-oriented society. We decided to investigate and found it was worse than we thought. But we knew if a food co-op worked for our families, it would work for seniors."

Continues Mrs. Piccini, "Because of our neighborhood co-op, our families were healthier and our children were thriving. We wanted to share it all with older people. The problem was that people didn't think we were for real—they were wary of two housewives who wanted to feed the world for nothing."

PROJECT EXPANDS

So the women dipped into their own savings and leased a warehouse in San Francisco's industrial district in 1974 to house the co-op. They persuaded local businesses to help with donations of time, money, or materials. They found a meat packer, produce growers, and supplies of canned and frozen goods.

Mrs. Piccini observes, "We knew seniors couldn't come to us, so we found a young man with a van who agreed to deliver the goods to senior centers in the southern part of town."

Word of the food service spread and it grew rapidly. Today, seniors line up outside their food centers to wait for the mobile markets which deliver such bargains as oranges for six cents each, chicken for 49¢ a pound, and a year-round selection of the best vegetables available at wholesale prices. The average older person spends $25 for a month's worth of produce, eggs, chicken, and meat.

BUSINESS BOOMS

Each week, a staff of 26 buys 400 crates of produce from wholesalers, as well as 1,000 pounds of chickens and 650 dozen eggs from local farmers. It also packs 300 pounds of fresh meat in its own licensed packaging room.

Throughout the counties of San Francisco, San Mateo, Santa Clara, and Sonoma, several vans make their weekly deliveries to local food club sites. Here the markets are set up and operated by senior members themselves, donating their own time. The mini markets operate in churches, recreation centers, apartment buildings, and even garages.

In the Bay Area, all club sites are easily accessible. Twenty-three are in residential areas, and 19 are at community centers where transportation is already available. The rest are on direct bus lines.

Mrs. Coates and Mrs. Piccini have acquired some sharper business skills along the way.

PURCHASING POWER

"We stress quality," Mrs. Coates remarks. "We buy now from one produce source in the city. This gives us some buying power. Before, we would go from stall to stall checking for bargains. But now because of our volume, if something isn't top quality, we just call them to come get it."

The food project has its social side, too. Seniors like to display their cooking skills through frequent pot-luck suppers, banquets, and dinner parties. The flourishing exchange of recipes among food clubs has prompted the women to compile a cookbook of favorite menus and recipes contributed by seniors who like to experiment with the foods.

The women believe a food purchasing program like theirs has advantages over existing hot meal programs, and they have initiated their own letterwriting campaign to Congressmen throughout the country.

"Unlike current federally supported nutrition programs, Mobile Mini Market does not provide prepared hot meals," they wrote. "Therefore it is less expensive, more flexible, requires fewer personnel, yet serves more people. It allows each participant to prepare his or her own foods seven days a week rather than a limited five days a week as in other nutrition programs. In addition, it is simple."

Mrs. Coates adds, "California is spending between $18 and $20 million in Title VII funds (for a hot lunch program), but it's serving only one percent of the State's elderly—about 21,000."

FOOD STAMPS OKAY

The Mobil Mini Market has received some government recognition and support. Recently, the Department of Agriculture approved the use of food stamps at all FAS congregate food sites for seniors eligible for them and ineligible for SSI.

And last summer, the Food Advisory Service acquired $204,000 in State and Federal model project funds. Despite the grants, the founders are very positive about wanting their project to be self-sufficient.

"We don't want to be another bureaucratic drain on the taxpayers," aserts Mrs. Coates. "We look at our one-year funding from the government as a loan which we want to pay back through private enterprise. We want to be self-supporting."

To this end, the founders of FAS have established a sister organization called Gallery Faire Enterprises. It includes a profit-making packaging/assembly plant that operates within their warehouse. Elderly workers box such merchandise as audio headsets for major airlines, paperback cookbooks, pharmaceutical and stationery supplies, and gift and commodity items.

FINANCIAL SECURITY

Profits from the assembly plant operation are expected to generate $80,000 this year—enough to cover rent, the cost of gas, employees' salaries, and the purchase of additional vans. The women also anticipate that funds produced by this project will enable financial independence for the Mobile Mini Market by 1980.

To cover those costs not supported by the packaging plant, FAS has developed a "site sponsorship plan." The basis of this plan is solicitation of financial support from such community organizations as local service agencies, businesses, and banks. According to the plan, a donation of $1,500 from a community group or business will guarantee the delivery of food to a sponsored site for a period of one year.

Mrs. Coates and Mrs. Piccini are also investigating alternate sources of funding, including benefit shows and community fund-raising activities.

Why has the program succeeded when so many others have failed?

Mrs. Coates insists there is no magic formula for its success.

"I think all its takes is somebody with determination. Sandi and I were going to do this, no matter what. We started the project first, then asked for money later. We were well into it with our own money before we asked for any State funds. I see no problem duplicating this anywhere."

PROGRAM A MODEL

In fact, the two have already helped establish similar programs in East Los Angeles, San Diego, and Hawaii.

They considered Hawaii a special challenge. Explains Mrs. Coates, "The cost of living there is second highest in the country. There are all kinds of costs involved in transporting food there. We thought we could show that if it can work in Hawaii, it can work anywhere. When we set up the program in Hawaii, our people here were paying 23 cents a head for lettuce. In Hawaii, in the stores, people were paying 59 cents a head."

Recognizing the tremendous unmet needs of the homebound elderly, the Food Advisory Service is also planning special home delivery units for operation in the cities of South San Francisco and Brisbane.

The women seem to thrive on their five day a week, ten hour a day schedule. Mrs. Piccini comments, "We haven't given up nearly as much as we've gotten in return. The seniors citizens have so much warmth to give."

They say they're especially anxious to meet with persons who participate in and run existing food programs such as Title VII, city-financed programs, and meals-on-wheels. They say their co-op aims to supplement, not compete, with these programs.

Observes Mrs. Piccini, "Hunger doesn't know any bureaucratic agency. There's just not enough we can do."

NOTICE CONCERNING NOMINATION BEFORE THE COMMITTEE ON THE JUDICIARY

Mr. EASTLAND. Mr. President, the following nomination has been referred to and is now pending before the Committee on the Judiciary:

Ronald L. Rencher of Utah, to be U.S. attorney for the district of Utah for the term of 4 years, vice Ramon M. Child.

On behalf of the Committee on the Judiciary, notice is hereby given to all persons interested in this nomination to file with the committee, in writing, on or before Friday, October 14, 1977, any representations or objections they may wish to present concerning the above nomination with a further statement whether it is their intention to appear at any hearing which may be scheduled.

NATIONAL GIFTED AND TALENTED CHILDREN WEEK

Mr. JAVITS. Mr. President, I send to the desk a joint resolution and ask for its immediate consideration.

The PRESIDING OFFICER. The joint resolution will be read for the information of the Senate.

The joint resolution (S.J. Res. 88) was read the first time by title, and the second time at length, as follows:

S.J. RES. 88

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the United States hereby is authorized and requested to issue a proclamation designating the week beginning November 13, 1977, and ending November 19, 1977, as "National Gifted and Talented Children Week", and calling upon the people of the United States to observe such week with appropriate ceremonies and activities.

Mr. JAVITS. Mr. President, this resolution is regularly in the jurisdiction of the Judiciary Committee. I understand that immediate floor consideration without referral to the Judiciary Committee has been approved by Chairman EASTLAND and ranking minority member THURMOND. I thank my colleagues for their consideration in this matter. I am joined in the resolution by 10 cosponsors: Senators KENNEDY, HATCH, WILLIAMS, PELL, CRANSTON, SCHWEIKER, CHAFEE, RIBICOFF, RIEGLE, and MATSUNAGA.

I am pleased to introduce today a joint resolution authorizing and requesting that President Carter issue a proclamation designating the week of November 13–19, 1977 as "National Gifted and Talented Children Week." In doing so, I join with Congressmen BRODHEAD and AKAKA, who have introduced similar versions in the House of Representatives, in recognizing the vast talents and potential of our gifted and talented children.

Until recently, America's gifted and talented children were an almost totally neglected minority. With the beginning of a cooperative effort on the Federal, State, and local levels, we have at last commenced the remediation of this tragedy. I have long had a particular interest in the education of our country's brightest youngsters, the gifted and talented, and to advance this effort, I initiated the Gifted and Talented Program in 1974.

The problem of the gifted and talented child has not been well understood. There exists a pervasive, almost pernicious opinion that these children constitute an elite which will automatically, by the very nature of their outstanding abilities, reach the top of their respective fields of expertise. Yet this assumption does not begin to account for the fact that the talents of the gifted are frequently potential talents, and may only be made actual through a major effort to identify these children and provide them with necessary special instructional needs. Only last year, less than 4 percent of the gifted and talented children in this country were receiving services commensurate with their needs. This means that over 1.9 million gifted children were caught in the maelstrom of being unable to achieve their virtually limitless potential. There is an implicit cost, a cost which must be borne by all of us, to leaving this precious resource untapped.

In recent years, there has been a widening demand for highly creative and talented people in all walks of life, especially to deal with our social and domestic ills. Now, more than ever before, systematic efforts must be made at all levels to identify, nurture, and cultivate the demonstrated and potential talent existing in every aspect of American life. In addition to society's obligation to provide every individual with access to self-fulfillment, a society has a very real obligation to itself to assure its own health and survival and the continuing development of its greatest resource—the capabilities of its people.

Issues affecting gifted and talented children have been recently raised by a number of our education leaders. On October 4, Mary Berry, HEW Assistant Secretary for Education, testified before the Subcommittee on Education, Arts and Humanities. At that time, Dr. Berry outlined the administration's views on upcoming elementary and secondary education legislation. The Assistant Secretary suggested special attention be given to the needs of low-income gifted and talented children. This was discussed in a context of two alternatives. One is a revision of Elementary and Secondary Education Act title I to include gifted and talented children. Another alternative is to amend the existing gifted and talented program authority in the Special Projects Act. Congressman ALBERT QUIE has also included gifted and talented children in his suggested revisions of ESEA. I am pleased that these leaders are joining in my interest in improving education for our most promising young people.

The current scope of America's effort in the field of gifted and talented children has been limited, given the ultimate potential benefits to our Nation of a massive effort to identify and develop the talents of every gifted American child. Surely the short-term "results" of the current national gifted and talented efforts are tempered by the fact that existing programs are largely comprised of demonstration or training-type projects, a function of long-standing neglect. The long-term benefits of our current policies will be fully evident when our gifted children reach positions of leadership in their respective fields, and perform in these positions to their maximum capacity, with wisdom and sensitivity.

Thus, our policies for the gifted and talented children of America must be formulated with the understanding that programs cannot be static, but must be dynamic and continuing. We must undertake expanded efforts in identifying our gifted children, in monitoring our existing programs, and in implementing successful demonstration projects. The quality of our future rests largely in the hands of our gifted and talented children, and their future rests largely with us. We have an implicit obligation, to them and to ourselves, which can neither be overestimated nor shunned. We have recently taken a first step, yet we need to do much more. In acknowledgement of this need, I introduce today this resolution, which will provide recognition of a group of children whose potential is limitless.

Mr. President, this resolution, as I understand it, has been cleared with Mr. EASTLAND and Mr. THURMOND and with the majority and minority leaders, and there is no objection to it.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the joint resolution?

There being no objection, the joint resolution (S.J. Res. 88) was considered, ordered to be engrossed for a third reading, read the third time, and passed.

SUPPORT OF CITY OF LOS ANGELES' BID TO HOST 1984 SUMMER OLYMPIC GAMES

Mr. CRANSTON. Mr. President, I ask unanimous consent that we proceed to the consideration of House Concurrent Resolution 368.

The PRESIDING OFFICER. The clerk will state the resolution by title.

The legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 368): calling for support of the city of Los Angeles, representing the United States in its bid before the International Olympic Committee to host the 1984 summer Olympic games.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. CRANSTON. I would like to say, in light of the fact that my colleague (Mr. HAYAKAWA) is on the floor, that this resolution expresses the hope that the International Olympic Committee will fol-

low the great advice and decision of the U.S. Olympic Committee and establish that the 1984 Olympic games will be held in Los Angeles. This will be a wonderful site for the Olympics. It will, I believe, result in a far less expensive Olympics than we have seen recently, because Los Angeles has many of the facilities and they have adopted an approach that will hold down expenses in a very remarkable way.

Mr. HAYAKAWA. Mr. President, my distinguished colleague, the senior Senator from California, knows Los Angeles better than I do and he knows very well how suitable a location it is for the Olympic games. I, therefore, am happy to associate myself with him in urging this resolution. I think it is a very, very important one for California and for the United States.

I thank the Senator.

Mr. CRANSTON. I thank my colleague very much.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The concurrent resolution (H. Con. Res. 368) was agreed to.

EXECUTIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider certain nominations on the Executive Calendar.

There being no objection, the Senate proceeded to the consideration of executive business.

Mr. ROBERT C. BYRD. Mr. President, there is a request for a rollcall vote on Calendar No. 505 and Calendar No. 527. Those rollcall votes, of course, will not be conducted this evening, but the other nominations, most of which are cleared, could be done tonight.

I ask unanimous consent that the Senate proceed with the following nominations at this time, nominations under Department of State, Arms Control and Disarmament Negotiations, International Atomic Energy Conference Representatives, Department of State again on page 2, ACTION Agency, omitting for the time being Calendar Order No. 503, and proceeding then with Calendar Order No. 504, omitting for the time being 505, proceeding with nominations under the Judiciary, Department of Justice, and new reports, Department of Justice, and omitting for the time being Calendar Order No. 527, proceeding at this time with the nominations placed on the Secretary's desk in the Coast Guard.

Mr. BAKER. Mr. President, reserving the right to object, and I shall not object, these nominations as solicited by the distinguished majority leader are cleared on our executive calendar, and we have not objection to their confirmation.

The PRESIDING OFFICER. The nominations will be stated.

DEPARTMENT OF STATE

The legislative clerk read the nomination of John D. Negroponte, of New York, to be Deputy Assistant Secretary of State for Oceans and Fisheries Affairs, for the rank of Ambassador.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

ARMS CONTROL AND DISARMAMENT NEGOTIATIONS

The legislative clerk read the nomination of Ralph Earl II, of Pennsylvania, to be Special Representative for Arms Control and Disarmament Negotiations.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

INTERNATIONAL ATOMIC ENERGY AGENCY CONFERENCE REPRESENTATIVES.

The legislative clerk read the nominations of Robert W. Fri, of Maryland, to be the Representative of the United States of America to the 21st session of the General Conference of the International Atomic Energy Agency.

Richard T. Kennedy, of the District of Columbia; Louis V. Nosenzo, of Virginia; Nelson F. Sievering, Jr., of Maryland; Gerard C. Smith, of the District of Columbia; Galen L. Stone, of the District of Columbia; Robert D. Thorne, of California; Robert S. Rochlin, of Maryland; to be Alternate Representatives of the United States of America to the 21st Session of the General Conference of the International Atomic Energy Agency.

The PRESIDING OFFICER. Without objection, the nominations are considered and confirmed en bloc.

DEPARTMENT OF STATE

The legislative clerk read the nominations of Frank J. Devine, of the District of Columbia, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to El Salvador, and Esteban Edward Torres of Virginia, with the rank of Ambassador during the tenure of his assignment as the U.S. Permanent Representative to the United Nations Educational, Scientific, and Cultural Organization at Paris, France.

The PRESIDING OFFICER. Without objection, the nominations are considered and confirmed en bloc.

ACTION AGENCY

The legislative clerk read the nomination of Carolyn R. Peyton, of the District of Columbia, to be an Associate Director of the ACTION Agency.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

DEPARTMENT OF JUSTICE

The legislative clerk read the nomination of David T. Ready, of Indiana to be U.S. attorney for the northern district of Indiana.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

THE JUDICIARY

The legislative clerk read the nominations of Thomas Tang, of Arizona to be U.S. circuit judge for the 9th circuit.

Hugh H. Bownes, of New Hampshire to be U.S. circuit judge for the 1st circuit.

A. Leon Higginbotham, Jr., of Pennsylvania to be U.S. circuit judge for the 3d circuit.

Nicholas J. Bua, of Illinois, to be U.S. district judge for the northern district of Illinois.

Stanley J. Roszkowski, of Illinois, to be U.S. district judge for the northern district of Illinois.

Edward H. Johnstone, of Kentucky to be U.S. district judge for the western district of Kentucky.

Louis F. Oberdorfer, of Virginia to be U.S. district judge for the District of Columbia.

The PRESIDING OFFICER. Without objection, the nominations are considered and confirmed en bloc.

DEPARTMENT OF JUSTICE

The legislative clerk read the nominations of Edward L. Shaheen, of Louisiana, to be U.S. attorney for the western district of Louisiana for the term of 4 years.

Mr. Karl Shurtliff, of Idaho, to be U.S. attorney for the district of Idaho for the term of 4 years.

Jacob V. Eskenazi, of Florida, to be U.S. attorney for the southern district of Florida for the term of 4 years.

Barry E. Teague, of Alabama, to be U.S. attorney for the middle district of Alabama for the term of 4 years.

Edward N. Keliikoa, of Hawaii, to be U.S. marshal for the district of Hawaii for the term of 4 years.

Harvey N. Johnson, Jr., of Illinois, to be U.S. marshal for the northern district of Illinois for the term of 4 years.

Franklin Payne, of Missouri, to be U.S. marshal for the eastern district of Missouri for the term of 4 years.

Roxanne Barton Conlin, of Iowa to be U.S. attorney for the southern district of Iowa for the term of 4 years.

James H. Reynolds, of Iowa, to be U.S. attorney for the northern district of Iowa for the term of 4 years.

Willie D. Durham, Sr., of Tennessee, to be U.S. marshal for the western district of Tennessee for the term of 4 years.

William L. Brown, of Wisconsin, to be U.S. marshal for the eastern district of Wisconsin for the term of 4 years.

Anton T. Skoro, of Idaho, to be U.S. marshal for the district of Idaho for the term of 4 years.

Roy A. Smith, of Ohio, to be U.S. marshal for the southern district of Ohio for the term of 4 years.

Rafael E. Juarez, of Colorado, to be U.S. marshal for the district of Colorado for the term of 4 years.

The PRESIDING OFFICER. Without objection, the nominations are considered and confirmed en bloc.

NOMINATIONS PLACED ON THE SECRETARY'S DESK

The legislative clerk proceeded to read sundry nominations in the Coast Guard placed on the Secretary's desk.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the nominations be considered en bloc.

The PRESIDING OFFICER. Without objection, the nominations are considered and confirmed en bloc.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that it be in order to move en bloc to reconsider the votes by which the various nominations are confirmed.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I so move.

Mr. BAKER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of these nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

(All nominations confirmed today are printed at the end of the Senate proceedings.)

LEGISLATIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate return to the consideration of legislative business.

The PRESIDING OFFICER. Without objection, it is so ordered.

SENATE CONCURRENT RESOLUTION 51—CONCURRENT RESOLUTION SUBMITTED RELATING TO AMERICANS MISSING IN ACTION

(Referred to the Committee on Foreign Relations.)

Mr. ROBERT C. BYRD (for Mr. HUMPHREY) submitted the following concurrent resolution:

S. CON. RES. 51

Whereas approximately twenty-three hundred Americans remain unaccounted for in Southeast Asia since the cessation of the Vietnam conflict; and

Whereas learning the fate of those American servicemen and civilians listed as missing remains of utmost importance to the United States, and is considered as such during the negotiations between the United States and the Socialist Republic of Vietnam; and

Whereas the General Assembly of the United Nations adopted Resolution 3220 (XXIX) calling for assistance and cooperation in accounting for persons who are missing or dead in armed conflicts; and

Whereas such resolution recognized "that one of the tragic results of armed conflicts is the lack of information on persons—civilians as well as combatants—who are missing or dead in armed conflicts"; and

Whereas such resolution further states that "the desire to know the fate of loved ones lost in armed conflicts is a basic human need which should be satisfied to the greatest extent possible, and that provision of information on those who are missing or who have died in armed conflicts should not be delayed merely because other issues remain pending"; and

Whereas the Socialist Republic of Vietnam, despite assurances that it is conducting an extensive search for Americans listed as missing and for information that might indicate their fate, has provided but meager information concerning the fate of these missing Americans; and

Whereas present efforts to secure a full accounting of these Americans listed as missing are not productive and are ill-served by existing procedures and institutional frameworks: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of Congress that the President should instruct the Secretary of State to request the Secretary General of the United Nations to work through existing United Nations agencies for the purpose of securing a full accounting of Americans listed as missing in Southeast Asia.

Mr. ROBERT C. BYRD. Mr. President, on behalf of the Senator from Minnesota (Mr. HUMPHREY), I introduce a concurrent resolution. I ask unanimous consent that Mr. HUMPHREY's statement on the resolution be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY SENATOR HUMPHREY

It is estimated that more than 2,300 Americans still remain unaccounted for in Southeast Asia. The lack of progress on this issue has prolonged the agony of so many families, long after our tragic experience in Vietnam had ceased. Therefore, I believe that every avenue available to us should be explored in an effort to achieve as full an accounting as possible of those Americans listed as MIAs.

Now that the Socialist Republic of Vietnam has been admitted to the United Nations, I believe it is only appropriate that the good offices of the Secretary General be called upon to give assistance in resolving this matter. Hopefully, as a result of this resolution, it will be possible to achieve cooperation between existing United Nations agencies and the Vietnamese in a search for our MIAs within the Socialist Republic itself.

In this connection, I want to pay tribute to the distinguished Congressman from New York (Mr. Gilman), who has introduced a similar resolution in the House of Representatives. While Mr. Gilman's resolution actually calls upon the President, through the Secretary of State, to request of the Secretary General the establishment of a special investigatory commission, my resolution does not. Existing U.N. agencies, in my view, can accomplish the same purpose.

My concern is that the issue of MIAs in Southeast Asia should be placed above the political differences which presently exist between the United States and the Socialist Republic of Vietnam. These men, although serving in combat in Vietnam, did so as an obligation to our government. The issue, therefore, is not one of whether or not our policy in Southeast Asia was correct. The issue is one of healing the wounds of war as expeditiously as possible. And the agony experienced by those relatives and friends of our MIAs only prolongs into the indefinite future that healing process.

I have supported our policy of normalization of relations with the Socialist Republic of Vietnam. I believe it to be in our national interest to do so. I also believe that, in light of the severe food shortages reported in the Socialist republic, the United States should provide humanitarian assistance through our Public Law 480 program to alleviate the suffering in that country. Yet, I am saddened that the wounds from that war continue to fester. The quicker we achieve the fullest accounting as possible of our MIA's, the more complete that healing process will be. Therefore, I am deeply hopeful that the leaders of the Socialist Republic of Vietnam will cooperate to their fullest extent in accepting international assistance in the accounting process.

REMOVAL OF INJUNCTION OF SECRECY

Mr. ROBERT C. BYRD. Mr. President, as in executive session, I ask unanimous consent that the injunction of secrecy be removed from the Reciprocal Fisheries Agreement with the United Kingdom of Great Britain and Northern Ireland, signed in Washington, D.C., on June 24, 1977 (Executive O, 95th Congress, first session), transmitted to the Senate today by the President, and that the treaty with accompanying papers be referred to the Committee on Foreign Relations and ordered to be printed, and that the President's message be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

To the Senate of the United States:

I am pleased to transmit for the advice and consent of the Senate to ratification the Reciprocal Fisheries Agreement between the Government of the United States of America and the Government of the United Kingdom of Great Britain and Northern Ireland. The Agreement was signed, and an accompanying Agreed Minute initialed, in Washington, D.C. on June 24, 1977.

The Agreement provides United States commercial fishermen access to the new 200 mile fishery zone of the British Virgin Islands and commercial fishermen of the British Virgin Islands access to the 200 mile United States fishery conservation zone. It secures the United States objective of providing for U.S. commercial fishermen the opportunity to continue fishing at traditional levels in areas which have recently become subject to the fishery jurisdiction of the British Virgin Islands. The Agreement reflects the close ties which exist in the Caribbean area between the United States and the British Virgin Islands.

I also transmit for the information of the Senate the report of the Department of State with respect to the Agreement.

I urge the Senate to consider the Agreement at an early date and to give its advice and consent to ratification.

JIMMY CARTER.

THE WHITE HOUSE, *October 7, 1977.*

AUTHORITY TO FILE A CONFERENCE REPORT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Energy Committee have authority to have until midnight tonight to file conference report on S. 1811, the ERDA authorization, and that the report be printed.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATOR HARRY F. BYRD, JR., AND SENATOR ALLEN ON MONDAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on Monday after the two leaders or their designees have been recognized under the standing order, Mr. HARRY F. BYRD, JR., be recognized for not to exceed 15 minutes and that he be followed by Mr. ALLEN for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATOR ALLEN ON WEDNESDAY AND FRIDAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on Wednesday and Friday of next week after the two leaders have been recognized under the standing order, Mr. ALLEN be recognized for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

ORDERS FOR CONSIDERATION OF S. 1303 AND S. 1585 AND CERTAIN EXECUTIVE NOMINATIONS ON MONDAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on Monday, after the orders for the recognition of Senators are consummated, the Senate then proceed to the consideration of S. 1303, a bill to amend the Legal Services Corporation Act, and that at the hour of 3 o'clock p.m. on Monday the Senate temporarily lay that measure aside and proceed to the consideration of S. 1585, a bill to make unlawful the use of minors engaged in sexually explicit conduct for the purpose of promoting any film, et cetera;

That upon the disposition of S. 1585, the Senate go into executive session and proceed to vote—and it will be a rollcall vote—on the nomination of Mr. Charles D. Ferris to be a member of the Federal Communications Commission for a term of 7 years from July 1, 1977, without debate; that upon the disposition of that nomination, and without further intervening motion or debate, the Senate proceed to vote on the nomination of Mr. James B. King to be a member of the National Transportation Safety Board for the term expiring December 31, 1981, all without intervening motion or debate; and

That upon the disposition of the nomination of Mr. James B. King, the Senate immediately return to legislative session, at which time it resume the consideration of Calendar Order No. 145, S. 1303, the Legal Services Corporation Act amendments.

Mr. BAKER. Mr. President, reserving the right to object, I really sincerely regret to advise the majority leader that there is an objection on this side to the sequence of events on the commencement of the Senate session on Monday, at this point.

I have fully agreed with the majority leader in prior private conversation that this is a good arrangement and a good schedule of activities for the Senate on Monday, and it is my hope that this, with one modification, can be the business of the Senate on Monday.

But I must request that the record of my objection be made to the calling up of a matter on Monday, due to an objection raised by a Senator since I talked with the majority leader; and due to the fact that that Senator is not now present.

The matter I am referring to is the action of the Commerce Committee with relation to the proposed rule relating to the requirement of air bags on automobiles. It is my understanding that no agreement has been arrived at, and no attempt to nail down the time for consideration of that matter, but it is my obligation at this time to object to the consideration of that matter on Monday.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I understand now, from conversation informally with the majority leader, that his information may be more recent than mine, and that he has indeed had conversation with the distinguished senior Senator from Michigan (Mr. GRIFFIN), who has indicated that under the circumstances and in view of other negotiations that he has underway, he will not object to this sequence of events on Monday, reserving his rights in that respect beyond Monday.

Mr. ROBERT C. BYRD. The distinguished minority leader is precisely correct.

Mr. BAKER. I thank the majority leader for that information which I did not have at the time I reserved my right to object. I have no objection.

Mr. ROBERT C. BYRD. I thank the distinguished minority leader.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL MONDAY, OCTOBER 10, 1977

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in recess until the hour of 12 o'clock noon on Monday.

The motion was agreed to; and at 8:55 p.m. the Senate recessed until Monday, October 10, 1977, at 12 noon.

NOMINATIONS

Executive nominations received by the Senate October 7, 1977:

DEPARTMENT OF STATE

Theodore M. Hesburgh, of Indiana, for the rank of Ambassador during the tenure of his service as Chairman of the United States Delegation to the United Nations Conference on Science and Technology for Development.

DEPARTMENT OF JUSTICE

James S. Bradv, of Michigan, to be U.S. attorney for the western district of Michigan for the term of 4 years, vice Frank S. Spies.

G. William Hunter, of California, to be U.S. attorney for the northern district of California for the term of 4 years, vice James L. Browning, Jr.

Isaac George Hylton, of Virginia, to be U.S. marshal for the eastern district of Virginia for the term of 4 years (reappointment).

Rufus A. Lewis, of Alabama, to be U.S. marshal for the middle district of Alabama for the term of 4 years, vice James T. Lunsford.

Harry H. Marshall, of Illinois, to be U.S. marshal for the southern district of Illinois for the term of 4 years, vice Carl H. Slayback, resigned.

DEPARTMENT OF TRANSPORTATION

Mortimer L. Downey III, of Virginia, to be an Assistant Secretary of Transportation, vice Hamilton Herman, resigned.

EXPORT-IMPORT BANK OF THE UNITED STATES

Donald Eugene Stingel, of Pennsylvania, to be a member of the Board of Directors of the Export-Import Bank of the United States, vice John Conrad Clark, resigned.

NATIONAL LABOR RELATIONS BOARD

John Harold Fanning, of Rhode Island, to be a member of the National Labor Relations Board for the term of 5 years expiring December 16, 1982 (reappointment).

COPYRIGHT ROYALTY TRIBUNAL

Douglas Coulter, of New Hampshire, to be a Commissioner of the Copyright Royalty Tribunal for a term of 7 years from September 27, 1977 (new position).

IN THE ARMY

The following-named officers for promotion in the Army of the United States, under provisions of title 10, United States Code, section 3442 and 3447:

ARMY PROMOTION LIST

To be colonel

Schenck, Roger L., xxx-xx-xxxx

MEDICAL CORPS

To be colonel

Allen, Alfred M., xxx-xx-xxxx
Babaian, William L., xxx-xx-xxxx
Barcia, Peter J., xxx-xx-xxxx
Barreca, Nicholas E., xxx-xx-xxxx
Blanck, Ronald R., xxx-xx-xxxx
Blumer, Robert B., xxx-xx-xxxx
Blumhardt, Ralph, xxx-xx-xxxx
Bogart, John N., xxx-xx-xxxx
Bowen, Thomas E., xxx-xx-xxxx
Buck, Edward G., Jr., xxx-xx-xxxx
Calkins, Richard A., xxx-xx-xxxx
Camp, Thomas F., xxx-xx-xxxx
Circeo, Richard B., xxx-xx-xxxx
Clarke, John S., xxx-xx-xxxx
Everett, Elwood D., xxx-xx-xxxx
Eversmann, William, xxx-xx-xxxx
Fackler, Martin L., xxx-xx-xxxx
Fauver, Howard E., xxx-xx-xxxx
Flannery, Eugene P., xxx-xx-xxxx
Frederick, Fred D., xxx-xx-xxxx
Gernon, William H., xxx-xx-xxxx
Gibbons, Robert B., xxx-xx-xxxx
Goiser, John L., xxx-xx-xxxx
Gum, Ronald A., xxx-xx-xxxx
Harris, Hugh G., xxx-xx-xxxx
Humbert, Paul V., xxx-xx-xxxx
Johnson, Lawrence F., xxx-xx-xxxx
Kearney, John J., xxx-xx-xxxx
Kent, James J., xxx-xx-xxxx
Klemme, William M., xxx-xx-xxxx
Lagoc, Andres D., xxx-xx-xxxx
Lehman, Richard H., xxx-xx-xxxx
Light, Jimmy A., xxx-xx-xxxx
McAllister, Hugh A., xxx-xx-xxxx
McConnell, Michael, xxx-xx-xxxx
Nelson, James H., xxx-xx-xxxx
Noguerasfuentes, Pablo J., xxx-xx-xxxx
Odom, Richard B., xxx-xx-xxxx
Proctor, Richard O., xxx-xx-xxxx
Rahm, Adolf E., xxx-xx-xxxx
Reamy, Kenneth, xxx-xx-xxxx
Ritcher, John P., xxx-xx-xxxx
Rock, Nicholas L., xxx-xx-xxxx
Rodman, Orlando G., xxx-xx-xxxx
Saadah, David M., xxx-xx-xxxx
Schuchmann, George, xxx-xx-xxxx
Scully, Thomas J., xxx-xx-xxxx
See, Donald H., xxx-xx-xxxx
Shaw, Jon A., xxx-xx-xxxx
Shetler, Paul L., xxx-xx-xxxx
Shock, John P., Jr., xxx-xx-xxxx

Sitter, Stephen C., xxx-xx-xxxx.
Slaughter, John C., xxx-xx-xxxx.
Spicer, Melvin J., xxx-xx-xxxx.
Stark, Fred R., xxx-xx-xxxx.
Stoller, Jerry J., xxx-xx-xxxx.
Thomas, Stephen R., xxx-xx-xxxx.
Walker, Olyn M., xxx-xx-xxxx.
Warren, George, III, xxx-xx-xxxx.
Zajtchuk, Russ, xxx-xx-xxxx.
Zimmerly, James G., xxx-xx-xxxx.
Zuck, Thomas F., xxx-xx-xxxx.

DENTAL CORPS

To be colonel

Appleton, Isaac E., xxx-xx-xxxx.
Bauman, Richard, xxx-xx-xxxx.
Brusch, Walter A., xxx-xx-xxxx.
Cavallaro, Carl J., xxx-xx-xxxx.
Chambless, Lewis A., xxx-xx-xxxx.
Christman, Peted D., xxx-xx-xxxx.
Conway, Michael H., xxx-xx-xxxx.
D'Amico, Roland, xxx-xx-xxxx.
Dayoub, Michael B., xxx-xx-xxxx.
Dupont, Albert A., xxx-xx-xxxx.
Eberhardt, John J., xxx-xx-xxxx.
Fay, Joseph T., xxx-xx-xxxx.
Foster, Richard A., xxx-xx-xxxx.
Hawley, Charles E., xxx-xx-xxxx.
Heid, Theodore H., xxx-xx-xxxx.
Hennig, Guenther H., xxx-xx-xxxx.
Hipp, Benny R., xxx-xx-xxxx.
Hirsch, Edward H., xxx-xx-xxxx.
Huget, Eugene F., xxx-xx-xxxx.
Lamers, Edward M., xxx-xx-xxxx.
Leslie, Donald B., xxx-xx-xxxx.
Luther, Wallace W., xxx-xx-xxxx.
Metzger, Floyd D., xxx-xx-xxxx.
Overton, Eugene E., xxx-xx-xxxx.
Pare, Henri A., xxx-xx-xxxx.
Parmer, Dennis E., xxx-xx-xxxx.
Perry, Joseph L., xxx-xx-xxxx.
Posey, William R., xxx-xx-xxxx.
Sheffield, Leon O., xxx-xx-xxxx.
Summit, William W., xxx-xx-xxxx.
Swintak, Edward F., xxx-xx-xxxx.
Todd, Robert A., xxx-xx-xxxx.
Trawick, Jacp S., xxx-xx-xxxx.
Tromly, Robert R., xxx-xx-xxxx.
Vandrak, Robert F., xxx-xx-xxxx.
Wells, John G., xxx-xx-xxxx.
Yearwood, Lionel L., xxx-xx-xxxx.

IN THE NAVY

The following-named (U.S. Navy officer (ret.)) to be reappointed from the temporary disability retired list as a permanent lieutenant in the U.S. Navy, subject to the qualifications therefor as provided by law:

Lt. Wallace B. Williams, USN (Ret.).

The following-named (U.S. Navy officers) to be appointed permanent commanders in the Medical Corps in the Reserve of the U.S. Navy, subject to the qualifications therefor as provided by law:

Comdr. Donald R. Tredway, MC, USN.
Comdr. Leonard L. Vertuno, MC, USN.

The following-named (U.S. Navy officer) to be appointed a permanent commander in the Dental Corps in the Reserve of the U.S. Navy, subject to the qualifications therefor as provided by law:

Capt. Charles E. Wingard, DC, USN.

The following-named (U.S. Navy officer) to be appointed a permanent commander in the Chaplain Corps in the Reserve of the U.S. Navy, subject to the qualifications therefor as provided by law:

Comdr. James E. McMorrow, CHC, USN.

The following-named (U.S. Navy officers) to be appointed temporary commanders in the Medical Corps in the Reserve of the U.S. Navy, subject to the qualifications therefor as provided by law:

Comdr. Marvin A. Childers, III, MC, USN.
Comdr. Jimmy D. Frogge, MC, USN.
Comdr. Clarence M. Harris, III, MC, USN.
Comdr. James M. Jacquet, Jr., MC, USN.
Comdr. David A. John, MC, USN.
Comdr. George J. Miller, Jr., MC, USN.
Comdr. James M. Motes, Jr., MC, USN.
Comdr. Thomas C. Nicholson, MC, USN.
Comdr. David J. O'Patry, MC, USN.
Comdr. Thomas S. Parvin, MC, USN.
Comdr. Theodore O. Paul, MC, USN.
Comdr. Gary L. Pease, MC, USN.
Comdr. Paul E. Petit, MC, USN.
Comdr. George G. Telesh, MC, USN.
Comdr. Gilbert W. Templeton, MC, USN.
Comdr. Robert L. Vickerman, MC, USN.

The following-named (U.S. Navy officer) to be appointed a temporary captain in the Dental Corps in the Reserve of the U.S. Navy, subject to the qualifications therefor as provided by law:

Capt. Charles E. Wingard, DC, USN.

The following-named (U.S. Navy officer) to be appointed a temporary commander in the Dental Corps in the Reserve of the U.S. Navy, subject to the qualifications therefor as provided by law:

Comdr. Gerald L. Hartman, DC, USN.

IN THE NAVY

The following named ensigns of the United States Navy for temporary and permanent promotions to the grade of lieutenant (junior grade) in the line and staff corps, pursuant to Title 10, United States Code, Sections 5784 and 5788a, subject to qualification therefor as provided by law:

LINE

Aaseng, Gordon B.
Abbott, Edwin D.
Abbott, Robert B.
Abernathy, John M. III
Abrams, William T.
Abriam, Ariel
Acree, Russell G. Jr.
Adamitis, Kenneth G.
Adamo, Joseph A.
Adams, Henry A. S.
Adams, Richard A.
Adams, Rickey T.
Adamson, Kenneth O.
Adamson, Lynn R.
Adkinson, Gregory H.
Adolphe, Charles C.
Agnew, James D.
Ainsworth, Thomas R.
Aishman, Jackie D.
Albrecht, Robert W.
Alden, Edward M.
Aldinger, William T. Jr.
Aldon, James A.
Alexander, Earl R.
Alexander, Stephen D.
Alford, David C.
Alleman, Lew E.
Allen, Daryl C.
Allen, Stephen R.
Alley, Thomas C. Jr.
Allison, John M.
Allison, Mark H. Jr.
Amann, Charles F.
Amdahl, Charles M.
Ames, Morgan P. Jr.
Andersen, Gary W.
Anderson, Charles M.
Anderson, Dale N.
Anderson, Glenn L.
Anderson, Lance O.
Anderson, Richard L.
Anderson, Ross E. III
Anderson, Stephen P.
Anderson, Terroll J.
Anderson, Thomas J.
Anderson, Torger J.
Andrew, Dale M.
Andrews, James N. Jr.
Angel, Eddie J.
Anieski, Paul G.
Antanitus, David J.
Antonelli, John
Arnberg, Richard M., II
Arnold, Raquel M.
Arrowood, Roger A.
Ashcraft, Raymond J.
Ashton, Stuart A.
Asmussen, William C.
Assion, Eric.
Atkins, Tommy H.
Augustine, Marilyn J.
Austin, David P.
Avcalade, Maryann G.
Avery, Stephen S.
Avveduti, Joseph P., Jr.
Ayers, Ronnie L.
Azud, John R.
Babcock, Earle S.
Babin, Michael K., Jr.
Bachmann, Michael C.
Bafford, Barney R.
Bailey, Robert R., III
Bailey, Thomas W.
Bailey, Willcox K.
Bain, Maurice D.
Baird, Orlie G., Jr.
Baker, Daniel P.
Baker, Lynn D.
Baker, Robert B.
Balderrama, Thomas E.
Baldwin, Donald B.
Baldwin, James P.
Baltozer, David W.
Barbera, James H.
Barnett, William E.
Barnes, Clifford G., Jr.
Barnes, Stephen W.
Barr, Robert C.
Barrett, Frank S., Jr.
Barrett, James D.
Barron, William D.
Barry, Kevin M.
Bartek, Stephen A.
Barthold, David H.
Barthold, Stephen F.
Barton, Michael J.
Bartsch, Rodney O.
Basilone, Garry M.
Batchelder, Anne L.
Batten, Phillip G.
Baucom, Charles M.
Baumgardner, Howard J.
Bayly, David E.
Beaman, Gerald R.
Beardsley, Scott S.
Beaudoin, William G.
Beaulieu, Joey D.
Beavin, Robert A.
Beberdick, Larry E.
Beck, William T., Jr.
Becker, Robert M.
Bednar, George A.
Behney, Gary G.
Behr, Carl T.
Belanger, Ronald G.
Belet, Robert
Belinski, Joseph E.
Bell, Frederic L.
Bell, Martha L.
Bency, Michael J.
Benedict, Van L.
Bennett, John K.
Bensch, Peter A.
Benway, Charles J.
Benz, Charles O., II
Berosky, John M.
Berry, Clyde, Jr.
Besch, David L.
Bewley, Julie S.
Bielewicz, Paul A.
Bills, Martha R.
Blackburn, William R.
Blackwell, Thomas M.
Blair, Stanley K.
Blumberg, Mark S.
Boeckner, David E.
Boggs, Thaddeus E., Jr.
Bohner, Robert T.
Bolduc, Charles
Bolinger, William K.
Boller, Francis J.
Bollwerk, William V.
Bomberger, Charles R.
Bonser, Brian R.
Boogaerts, Phillip J., Jr.
Bookwalter, Mary T.
Borchardt, John A.
Borgueta, Procesco V.
Bosse, Michael J.
Bostich, Dennis N.
Boswell, Mark M.
Boswell, Mitchell C.
Boustead, Barry C.
Boulay, William J.
Bowell, John H., Jr.
Boyd, Gary A.
Boyd, James T.
Boyd, John B.
Boyer, James C.
Bowden, Ronald E.
Bowers, Michael J.
Bradley, David G.
Bradley, Richard J.
Bradley, Roger C.
Brado, Robert F.
Bradshaw, David A.
Braeckel, Joseph M.
Bramer, John R.
Branchflower, John L.
Brand, James J.
Brandon, Paul A.
Brannon, Charles T.
Braunbeck, Michael C.
Braezeale, James L.
Bregar, Thodore J.
Breiten, Lawrence D.
Brender, Gary L.
Brewer, James G.
Brewer, Stephen J.
Brice, James F.
Briggs, Alfred N. III
Briscoe, Philip, Jr.
Brookman, Steven P.
Brooks, Forrest H.
Brouse, John A., Jr.
Brower, David A.
Brown, Forrest B.
Brown, John E., Jr.
Brown, Kevin D.
Brown, Leslie J.
Brown, Mark T.
Brown, Martin S.
Brown, Michael G.
Brown, Nancy E.
Brown, Robert S.
Brown, Steven P.
Brown, Thomas J., Jr.
Browning, Eugene R.
Bruce, Robert C., Jr.
Brueckbauer, Roger I. II
Bruels, Glen R.
Bruen, William D., Jr.
Brunson, Bruce H.
Brunson, Fred W., Jr.
Buehrle, Jeffrey D.
Buess, William A.
Bullock, James L.
Bumgarner, Barry G.
Burich, Stephen J., III
Burns, Daniel A.
Burns, James J.
Burns, John R.
Burwell, Richard K.
Busch, Steven J.
Bush, Gary L.
Butler, Kevin F.
Butler, Willard C., Jr.
Butz, Mark A.
Buxton, Mark C.
Byers, Earl L. II
Byram, Michael M.
Byrne, James J.
Caddy, Diana R.
Cadwell, Bradley H.
Cagle, Benny C.
Cagle, Clifford M.
Calkins, David E.
Callahan, William J., Jr.
Calland, Albert M. III
Camealy, Craig E.
Camp, Herman H.
Camp, Neil W.
Campbell, James B.
Campbell, Michael P.
Cannon, Charles H., Jr.
Cannon, James R.
Caren, Mark S.
Carlile, Ronald C.
Carlson, John E. III
Carlson, Lawrence R.
Carmack, James K. III
Carman, James A., Jr.
Carnes, Michael A.
Carpenter, Jack R., Jr.
Carpenter, Robert D.
Carr, Larry D.
Carr, Peter F.
Carroll, James T., III.
Carroll, Kevin J.
Carroll, Matthew C.
Carter, Gary T.
Carty, John T.
Caspari, Wilson B., III.
Casper, Richard M.
Cassara, Richard J.
Castelli, Charles T.
Catlin, Jo Dee.
Caughey, Grant J.
Cavey, Bruce W.
Cayia, Alfred J., III.
Caylor, Edward N.
Centner, Donald J.
Centner, Ronald F.
Cereghino, Philip J.
Cerney, Gary M.
Cerny, Gerald J.
Chabza, Frank W.
Chambers, Craig A.
Chandler, Kim H.
Chandler, Richard C.
Chaplain, Michael J.
Chapman, Thomas E.
Checchio, Mark.
Chenette, Richard D.
Cheney, Sally S.
Chernitsky, Martin.
Cherry, Patrick G.
Chesman, Daniel C.
Chesnut, Stephen H.
Chesterman, Charles W. J.
Chew, Richard F., Jr.
Chmelir, Peter S.
Christal, Neil J., II.
Christensen, Frederik H.
Christensen, John D.
Christian, Anthony J.
Christian, John E.

Christiansen, Bill M.
Christie, Richard D., Jr.
Christman, William E.
Christoph, Charles L.
Churan, Gary G.
Cina, Frank S.
Cinney, George A.
Clark, John E.
Clark, Richard G.
Clark, William J., Jr.
Clarke, Charles J., III.
Clavelli, Fred A.
Clemens, Evan A.
Cliburn, Wayne E.
Clifford, James W.
Clites, David P.
Clithero, John D., Jr.
Coburn, Bruce N., Jr.
Cochran, Robert H.
Coffman, Clarence W.
Coggins, Stacy N., II.
Cohee, Frank E., III.
Coldiron, Larry D.
Cole, Robert D.
Cole, Thomas K.
Coleman, David W.
Coligan, William E.
Colli, James E.
Collins, Charles M.
Collins, Marilyn N., Jr.
Como, Timothy W.
Connolly, Robert J.
Connors, James E., Jr.
Conover, Louis R.
Conover, Robert L.
Corad, George M.
Conran, Thomas C.
Conroy, Philip L.
Conway, Patrick W.
Cook, Douglas P.
Cook, Frank E., Jr.
Cooper, Brian D.
Cooper, James S.
Cooper, Kevin D.
Cooper, Terry R.
Cooper, William S.
Concoran, Michael J., Jr.
Corley, Farrell W.
Corpin, Owen D.
Corrigan, Dennis M.
Corrigan, George C.
Costello, Richard D.
Costigan, Richard M.
Cox, Edwin R.
Cox, James C., Jr.
Cox, Stephen A.
Crabbe, Clark W.
Craft, William P.
Craig, John H.
Craig, Raymond P., Jr.
Crane, Victor C.
Cranor, Bobby J.
Crawford, Johnny C.
Creamer, Paul J.
Creecy, Carson H., III.
Crenshaw, Lewis W., Jr.
Crews, Jeffrey J.
Crimm, Kenneth L.
Crocker, David M.
Cross, William A.
Crouter, Mark H., II.
Crowder, James M.
Crowder, William D.
Crowe, Dennis.
Crozier, Rodney B.
Crull, Henry, IV.
Crumley, Edward C., Jr.
Cuff, Ronald J.
Cull, Jeffrey F.
Culler, Robert D.
Cummings, Timothy K.,
Curran, John M., Jr.
Currer, Ellen H.
Curry, Timothy A.
Cvrk, Stuart J.
Curtiss, John P.
Daley, William B.
Dambrosio, Wayne B.
Danks, Paul D.
Darling, Scott S.
Dascenzo, Michael J.
Davis, Alan A.
Davis, Charles W.
Davis, David H.
Davis, John S.
Davis, Larry S.
Davis, Philip J.
Davis, Richard A.
Davis, Richard R., Jr.
Davison, Dwight O.
Dawson, Hugh C.
Dean, Christopher R.
Deasaro, Louis P.
Debien, Paul T.
Decker, Franklin E.
Deegan, Thierry
Degoey, James W.
Degreeff, Raymond L. J.
Demartini, James E.
Demetropolis, George J., Jr.
Denap, Frank A.
Deppe, James F.
Derrick, Emory J.
Derrick, Jerry F.
Desilets, Paul E.
Deucher, James F.
Deutermann, Stephen W.
Deveaux, Charles M., III
Dever, Kenny I, III
Dewberry, Lawrence G., III
Dexter, Stephen P.
Diamond, Albon C., III
Diamond, Steven J.
Diaz, Jose A.
Dickey, Gordon J.
Dietrich, John S.
Dietrich, Rolf A.
Dietz, Robert D.
Differding, Gregory A.
Digan, Thomas E.
Dilley, Kevin L.
Dion, Thomas C.
Dittemore, August S.
Dively, Rogest W., II
Dixon, William T., III
Dlinn, Andrew S.
Dombrowski, Paul R.
Donahue, Raymond P., Jr.
Donato, Gerald A., Jr.
Donlon, Michael P.
Donnelly, William J.
Donoghue, Daniel R.
Donovan, Colin B.
Donovan, Michael R.
Donovan, Robert J.
Donovan, Walter J., Jr.
Dotson, Leslie A.
Doty, Gary R.
Doubleday, Edward C.
Dove, Gordon B.
Dow, Michael J.
Drabier, John M.
Drake, Tracy V.
Drefahl, Steven P.
Dubois, Dennis N.
Duchein, Derek J.
Duffy, Stephen B.
Duhamel, David P.
Duke, Mark S.
Dunham, Wayne H.
Dunn, John F.
Dunn, Robert P.
Dupouy, Douglas K.
Duras, Gregory J.
Durfee, William M.
Dyson, James J.
Eads, John W.
Easley, Preston W., Jr.
Easton, Jeanne
Easton, Lila N.
Eckert, Christopher C.
Eckert, Thomas E.
Eddy, Ralph D.
Edkins, William D.
Edmunds, Stephen S.
Eikermann, Douglas R.
Einis, Ligita
Elcock, Charles G.
Eld, Dale W.
Elger, Wallace M.
Elliker, James M.
Elliott, Karen L. P.
Ellis, William R.
Elm, Benjamin R.
Elmer, Joseph S. R.
Else, Daniel H., III
Elson, Stephen J.
Embry, Kenneth L.
Endacott, Steven M.
England, Dennis J.
Epstein, Kennth B.
Erick, Steven G.
Erikson, Lawrence E.
Etherton, Bobby J.
Etter, John A.
Evanoff, John D., II
Evans, David L.
Evans, Timothy S.
Everett, Dwight H.
Ewin, Dabney M., Jr.
Ewing, David E.
Fadel, Kim A.
Failmezger, Victor, Jr.
Falkenstein, Marc A.
Farley, Michael F.
Farrens, James D.
Fatseas, Stefan J.
Faulders, John D.
Feaster, Thomas K.
Feig, William R.
Fernandez, Raymond A.
Ferner, Larry A.
Fessler, Charles B., Jr.
Fessler, Joyce Z.
Fiebig, Victor R.
Fields, Rodger L.
Filz, David B.
Findlev, Steven F.
Finn, Walter D.
Finnegan, Robert E.
Firks, Steven F.
Fischer, David C.
Fisher, Charles D., Jr.
Fisher, David D.
Fitzgerald, Douglas P.
Fitzpatrick, Brian D.
Fitzsimonds, James R.
Flannery, Kevin L.
Fleming, Donald G.
Fletcher, James H.
Flores, Errol J.
Flowers, Williams A.
Flynn, Patrick W.
Fogler, William E.
Ford, Leanna Y.
Forrester, Terrence A.
Fort, Jeffrey E.
Foster, Douglas K.
Foster, Richard P.
Fox, Roger D.
Fraile, Robert E.
Frank, Douglas N.
Franklin, John M.
Fraser, Donald L.
Frazier, Daniel L.
Frazier, Robert L.
Freeman, James W., Jr.
Freeman, James W.
Fretwell, Burlington A.
Freund, Bruce R.
Frey, Wayne K.
Frick, Stephen A.
Friedmann, William G.
Frisch, Donald H.
Fritsch, James L.
Frost, Mark D.
Fry, James T.
Fulmer, Scott
Gabriele, John
Gagalis, James G.
Gahan, John C.
Gallo, James J.
Gallup, Shelley Paul Jr.
Galyean, Christopher L.
Gambin, Wayne P.
Gamble, Davis R., Jr.
Gandenberger, Donald J.
Gannaway, Robert R., Jr.
Gardner, Gary C.
Gardner, Stephen G.
Garfield, Rodney A.
Garrett, Carl E., Jr.
Gary, Alan V.
Garza, Valdemar
Gatewood, John D.
Gazzolo, Victor J.
Geer, Jonathan P.
Geiger, James M.
Gemoets, Gary V.
Genovese, Dennis H.
George, Stephan P., II
Gerber, Mark A.
Gernes, Deborah S.
Gersuk, John J.
Getrum, Leonard L.
Ghio, Frederick W.
Gholz, Lee A.
Giancatarino, Anthony D.
Gibbs, James D.
Gibson, Dennis J.
Giffen, Robert T.
Gilbert, Timothy R.
Gilchriest, Timothy B.
Gillaspy, Deanna D.
Gilmore, Gregory C.
Gilmore, Stephen D.
Gilroy, Michael L.
Ginn, William S., Jr.
Ginovsky, John S.
Given, Warren D., Jr
Glenn, James G., Jr.
Glenny, Allen R.
Glesser, Thomas H.
Goddard, Claude P.
Glover, Thomas F.
Goeke, Kevin J.
Goetz, Gunter
Goff, Lawrence W.
Goins, Larry K.
Golaszewski, Kenneth M.
Goldstein, Kathleen M.
Goodman, Thomas C.
Goonen, David R.
Gorder, Timothy Y.
Gordon, Richard E.
Gott, David R.
Goulding, Bruce R.
Goulet, Richard B.
Goulette, David A.
Govett, Robert L.
Grabus, Earl C., Jr.
Grace, James A.
Graf, Gary L.
Graham, James F.
Graupmann, Gary J.
Greabell, Richard S.
Greene, David L.
Greene, John W., III
Greenlee, David R.
Greenlee, Jim M.
Greenway, Bradley K.
Greiner, Ronald W.
Grey, Richard J.
Griffin, Anthony D.
Griffin, Bruce W.
Griffin, Charles D.
Griffin, John J., Jr.
Griffin, Phillip B.
Griffith, John C.
Griffith, John D.
Grimes, Fred M., Jr.
Groh, Gary E.
Gross, Carl J.
Gross, James R.
Gross, Robert F.
Grote, Thomas A.
Grover, Gretchen G.
Guertin, Michel J.
Gugeler, Richard A.
Guido, Anthony S.
Gunderson, Kenneth J.
Gunkle, Florian J., Jr.
Habermeyer, Alan D.
Hac, Zenon
Haddow, Daniel P.
Hagen, Thomas L.
Hagerling, Donald W.
Hahndorf, Fred R.
Halbreiner, Carl M.
Hall, Gerald S.
Hall, William A.
Hallenbeck, Mark A.
Hallowell, Paul E., Jr.
Halsey, Stephen A.
Haltiwanger, Rufus D., III
Hamburger, John B.
Hamel, Steven R.
Hamilton, Charles S., II
Hamory, Quentin T., Jr.
Hampton, Leonard P.
Hampton, Roy D.
Hand, Eddiewilliam, Jr.
Handlan, Mark J.
Handwerk, Stephen P.
Haney, Patrick M.
Hanna, Lee A.
Hanna, Lynn K.
Hannah, Loring M.
Hansen, Timothy L.
Hanson, Eric T.
Hardeman, Edward L.
Hardesty, David L.
Harmon, Dennis E.
Harnden, William J., Jr.
Harness, Roy C.
Harrell, David T.
Harrell, James M.
Harriman, Jeffrey L.
Harris, John J.
Harris, Kurt J.
Harris, Ward L., Jr.
Harrison, John E.
Harrison, Robert F.
Harsha, William D.
Hart, Douglas R.
Hart, John B.
Hartley, Jonathan B.
Hartman, Robert L.
Hartmann, Michael J.
Harvey, Edward P., Jr.
Harvey, Lawrence M.
Harwood, Theodore L., II
Hartzell, Thomas E.
Harvard, William D.
Hassinger, Jack P., Jr.
Haumann, John S.
Hause, Herbert R.
Hauser, Derrell B., Jr.
Hauser, Paul T.
Hayes, Edwin J.
Havs, Clarence D., Jr.
Hazlett, James A.
Hazzan, Michael J.
Hebert, Michael D.
Hein, Eugene V.
Helm, Jim E.
Helms, Chester E.
Hemmer, John P.
Hempen, Gregory S.
Hemphill, George L., Jr.
Hendricks, Stephen K.
Hendrickson, Charles R.
Hennings, Jeffrey S.
Hensley, Charles A.
Herkert, Mark K. H.
Herman, Scott E.
Herther, David R.
Hickcox, Richard C.
Higbee, John J.
High, Warren M.
Hikade, Christopher R.
Hill, Patricia A.
Hill, Rolano S.
Hill, Stephen W.
Hilton, Charles R.
Himes, Stephen J.
Hines, Gary A.
Hipsher, Walter M.
Hoff, Robert A.
Hoffman, Donald F.
Hogan, Robert J., II
Holden, Cornelius F., Jr.
Hollyfield, Wallace G., Jr.
Holman, Roger M.
Holmes, Thomas B., Jr
Holt, Robert L.
Holton, Michael A.
Holzapfel, James E.
Holzmer, Mark M.
Honda, Stephen
Hood, John M.
Horrigan, Thomas R.
Horton, Thomas H.
Houkom, John A.
Houston, Paul K.
Hovatter, Patrick J.
Howard, Daniel P.
Howard, Dee H.
Howard, Stephan J.
Howe, Jennie C.
Howell, James R.
Howell, Terry A.
Huber, David B.
Hubitsky, John M.
Huch, Stephen D.
Hudgens, Elmore M.
Hughes, Gary A.
Hughey, William D.
Hulsey, Joseph F.
Humenansky, David F.
Humphreys, Charles E.
Hundley, Ronnie
Hunt, Richard M.
Hunter, Harlan G.
Hurley, Richard L.
Hurst, Gregory A.
Huston, Kenneth R., Jr.
Hutchison, Ernest L., III
Hutchison, Gregory B.
Hyett, Larry F.
Igyarto, David B.
Iiams, Gordon J.
Ingraham, Donald S.
Iovanna, Joseph J.
Iversen, Gary R.
Jackson, Paul J.
Jacobowitz, Jay A.
Jaeger, Gary M.
James, Brent S.
Jan. Kolin M.
Jarosz, Martin J.
Jasper, Stephen C.
Jayjock, Stephen C.
Jedlicka, Charles A.
Jenison, Kenneth M.
Jenkins, George D.
Jenkins, Michael E.
Jennings, Thomas M.
Jensen, Richard J.
Jepson, John R.
Jeter, John B., II
Johns, Ronald E.
Johnson, David A.
Johnson, Howard A., Jr.
Johnson, James L.
Johnson, Jeffrey B.
Johnson, John A., Jr.
Johnson, Michael W.

Johnson, Richard W.
Johnson, Steven K.
Johnson, Willard C.
Johnston, Randall L.
Johnston, Robert E.
Jolley, Fleming L., Jr.
Jolly Ernest L.
Jones, Allan R.
Jones, Berniece K.
Jones, David H., Jr.
Jones, Gregory A.
Jones, Houston K.
Jones, James L., III
Jones, John E.
Jones, Robert B.
Jones, Theodore B.
Jones, Troy H., III
Jordan, William J., III
Joyner, Stephen E.
Junge, Gail E.
Juul, Kenneth H.
Kailey, Richard F.
Kalix, David A.
Kallman, Raymond G.
Kaminski, James F.
Kane, Stephan P.
Kapfhammer, David L.
Kaplan, Bradley J.
Karalis, Darius C.
Karr, Gary L.
Kaskie, David J.
Kasky, Philip C.
Katin, Robert A.
Kautz, Paul F.
Kay, Edward J.
Kearl, Gary W.
Keally, Patrick M.
Keith, Andrew M.
Keith, Patricia J.
Kelley, Clark T.
Kelley, Kevin J
Kelley, William H., Jr.
Kelly, Canice L.
Kelly, James M.
Kelly, Janet
Kelso, Christopher S.
Kendall, James H.
Kennedy, Reed B.
Kenyon, Kevin B.
Kernan, Robert F.
Keville, Michael T.
Kidder, Ronald D.
Kieckhafer, Roger M.
Kiefer, Richard L.
Kikta, Mark D.
Kikuta, Miles Y.
King, Charles R.
King, Michael R.
King, Richard C.
Kinsaul, Raymond L., Jr.
Kirby, David J.
Kirk, Forrest L.
Kissinger, Donald J., Jr.
Kite, Milton D.
Kittel, Edward C.
Klein, Christopher K.
Klein, John C., IV
Kleshefsky, Warren D.
Kloch, Stephen J.
Knapp, Marc K.
Knox, James A.
Knudsen, John C.
Koch, David L.
Koenig, Brian E.
Kohler, Gary A.
Kollmorgen, Leland S.
Komraus, David K.
Kooken, Daniel G.
Kophamer, Maurice S.
Korson, George W.
Kosiek, Martin S.
Koskie, Edward D.
Kovacs, Gary E.
Kozikowski, Raymand T. J.
Krafft, Betty L.
Kraft, Brady N.
Kranz, Jeffrey M.
Kranz, Richard J., III
Krenzel, Joseph
Krug, Andrew C.
Kuczler, Frank J., Jr.
Kulenkamp, Jerome D.
Kulman, Samuel J.
Kulp, George E.
Kunberger, George A.
Kupresin, Sam H.
Kushner, Peter M.
Kutzer, John F.
Kvamme, James C.
Laaksc, William L.
Labarre, Stephen G.
Labbe, Michael J.
Labuda, Joel L.
Lagasa, Brucc, J.
Lahneman, William J.
Lalonde, Tarry M.
Lambert, Christopher L.
Lamesa, Salvatore, F.
Landry, Stephen T.
Lane, Henry C., Jr.
Langer, John J.
Langerman, Mark M.
Langfitt, David V.
Laporte, Craig B.
Largess, Mark W.
Lathers, William F.
Laturno, Thomas W.
Lauderdalc, Walter R.
Lauer, Jeffrey T.
Laur, Steven A.
Laurvick, Conrad A.
Laws, Richard D.
Lawton, Donald M.
Leader, William D., Jr.
Leahy, Kevin B.
Leary, James M.
Ledford, Kevin J.
Lee, William H.
Lefeaux, Charles W.
Legg, Max E.
Leinster, Richard W.
Lemen, Jon F.
Lenic, Edward A.
Leoffler, Walter F., Jr.
Leon, David G.
Leonard, David L.
Leonard, Ralph R., Jr.
Leperc, Victor J., Jr.
Lepkowski, Steven E.
Lerchbacker, Alan B.
Lersch, John H., Jr.
Leslie, Spencer K.
Lester, David L.
Levi, Jeffery W.
Lewis, Bruce L.
Libbey, James A.
Liggio, Jeffrey M.
Lincoln David E.
Linderman, Brian L.
Lindgren, Clifford W.
Linton, Gary B., III
Lipinski, David R.
Lisse, Stephen D.
Little, Michael E.
Little, Tommy D.
Littlefield, Robert D.
Littlepage, Thomas H.,
Livas, Mark B.
Livingstone, David D.
Llewellyn, Blaik W.
Lodge, William K.
Loerch, Harold J., Jr.
Lokkins, Craig J.
Londot, David L.
Louk, David J.
Lounsbery, Henry K.
Lowe, Louis D.
Lowe, Raymond
Lowe, Todd D.
Lucchesi, Marc A.
Luck, Charles W.
Luketich, Thomas M.
Lund, Jon D.
Lussier, James R.
Lynch, Raymond, Jr.
Lyon, Michael N.
Lyons, James E.
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Lytle, Thomas E., II
Macfarlane, Ivor S., III
MacGovern, Robert N., Jr.
Mack, James F.
Mackey, David B.
MacMurray, Christopher
MacSwain, John P.
Maddix, Chris L.
Madison, Roger J.
Madsen, Leroy E.
Maher, John B.
Mahon, John F.
Mahoney, James B., III
Majewski, Randy D.
Makoski, Joseph V.
Malec, Ronald S.
Mallory, James A.
Malone, Thomas H.
Mandell, Michael T.
Mangeno, Joseph T., Jr.
Manley, Clovis E.
Mann, Rick W.
Manship, James R.
Marckesano, John E.
Marino, Anthony R.
Marlinski, Pauline A.
Maroney, Randall K.
Marques, John B., III
Marra, David L.
Marr, Kenneth W.
Marshburn, Robert W.
Martin, Charles D.
Martin, Christopher B.
Martin, David K.
Martin, Kyle E.
Martin, Leonard W.
Martin, Wayne A.
Martinez, Nancy J.
Marusa, Daniel F.
Mashner, Melvin A.
Masker, Kathryn B.
Mason, Donald R.
Mason, Jon D.
Mason, William R.
Mastin, Joseph H.
Matheny, Allen L.
Matoushek, Ronald J.
Maurer, Richard H., II
Mawhinney, David A.
Mawson, John, III
May, Leonard J.
May, Rod I.
Mayo, William D.
Mays, Daniel P.
Mavs, Steven E.
McAliley, John R., III
McAnally, Nancy D.
McAndrew, William J., Jr.
McBride, Robert M.
McBride, William M.
McBrayer, Kenneth M.
McCabe, Robert E., III
McCaffrey, John J., Jr.
McCann, John F.
McCarley, Annette E.
McCarley, Dennis M.
McCaughin, Daniel C.
McCauley, Kim C.
McClellan, Stephan A.
McClellan, Thomas R.
McCloskey, Kevin V.
McCollum, William E., Jr.
McComb, John T.
McCray, Linell R.
McCurdy, Rodney E.
McDermott, Mark L.
McDonald James H.
McEvoy, Roger H.
McGhee, Ralph L., Jr.
McGrath, Michael P.
McGraw, John A., II
McHenry, John D.
McHenry, Paul T., III
McHugh, Chad P.
McHugh, John J., III
McHugh, Thomas J.
McIlrath, Patrick K.
McIntyre, Michael T.
McIntyre, Walter R.
McKeever, William J.
McKibben, Anthony R.
McKinley, Gary M.
McLin, David M.
McMahon, Kevin P.
McMillan, Harry B.
McMillin, Robert E.
McMonagle, Michael J.
McMullen, Thomas B., Jr.
McNair, Jeffry L.
McSorley, James F.
McQueen, Roderick M.
Meaney, Patrick J.
Mearsheimer, Thomas J. J.
Meck, Karl W.
Meekins, Charles D.
Mehrer, Malcolm M.
Meinhardt, John L.
Mendenhall, Richard R.
Mendlin, Jeffrey T.
Mendonsa, Arthur A., Jr.
Mercer, Keith A.
Merrill, Gary L.
Merrill, Jeffrey P.
Merrrill, John C.
Merten Richard G.
Meyer, John C.
Meyer, Thomas W.
Meyers, Benjamin C., Jr.
Meyers, Stanley H., Jr.
Meyers, Timothy A.
Middleton, Steven T.
Mikal, Randy A.
Miko, Ralph C.
Mildenstein, Boyd A.
Miletich, Charles A.
Miller, Daryl D.
Miller, Edward M.
Miller, John W.
Miller, Michael H.
Miller, Richard L.
Miller, Robert L., Jr.
Miller, Stanley V.
Milliken, Logan G.
Mills, Dennis A.
Minton, Michael O.
Mischke, Stephen L.
Miskell, Thomas B.
Mitchell, David A.
Mitchell, Gary C.
Mitsuoka, Tadashi M.
Mixon, Ted R.
Mlakar, Daniel J.
Moe, Christopher M.
Moeller, Robert T.
Moffit, Matthew G.
Mohr, James M.
Molloy, William D., Jr.
Molsberry, David D.
Monmaney, Scott R.
Montgomery, Curtis R.
Montgomery, Donald
Montgomery, Michael L.
Moody, Thomas R.
Moore, Bradford L.
Moore, William J.
Mora, Michael J.
Moran James K.
Moran, Michael W.
Morgan, Edward B.
Morgan, Kevin P.
Morris, Louis F.
Morris, Paul F.
Morrise, Jacques P.
Morrison, Charles E.
Morrison, Richard G.
Morrissette, Charles G.
Morrow, Michael A.
Morse, Thomas R.
Marton, Barry B.
Moses, Warren P.
Mosser, Donald D.
Moulder, Gary W.
Moy, John W.
Moye, William C.
Mudge, Joseph K., Jr.
Muesing, William E.
Mukri, Kevin M.
Mulder, Terry A.
Mullins, Richard E.
Munns, Larry J.
Munro, John F.
Murdoch, John G., Jr.
Murphy, Alexander J.,
Murphy, Patrick W.
Murphy, William F., III
Murray Cathy C.
Murray, Daniel L.
Murray, Jeffrey R.
Musil, Jeanne A.
Myers, Glen D.
Myers, Paul M.
Mynderse, Lance A.
Nadel, Marshall
Nadolski, Joseph A.
Naeger, Henri W., Jr.
Nagel, Kenneth G.
Nagelin, Thomas F., Jr
Navarro, Richard
Neal, Benjamin D.
Neal, Johnnie R.
Neal, Mary Jo C.
Neasham, Jon D.
Neel, Electra V.
Nelman, Carl R.
Nelson, Arne J.
Nelson, Arthur R.
Nelson, John L.
Nelson, Steven E.
Netzer, Henry J.
Neumann, John F.
Newman, Donald C.
Newton, James C.
Nichols, Joseph A.
Nichols, Scott G.
Nicol, Robert G., Jr.
Nielsen, Dana J.
Nigon, Christopher S.
Nilsen, Willy N., Jr.
Nisley, John J.
Noble, Michael S.
Nolan, Mark S.
Noonan, James R.
Norbury, Michael A., Jr.
Norford, Leslie K.
Normand, Paul E.
Northrup, Howard M.
Nottke, Richard W.
Nuttall, Joseph G.
O'Brien, Jeffrey M.
O'Brien, Kevin G.
O'Brien, Sherman L.
Odegaard, John E.
Odell, Carlton E., Jr.
Offer, Derek F.
Offutt, Thomas C.
Ogren, Leland P.
Oliver, William B.
Olson, Larry A.
Olson, Thomas F.
Omara, David L., Jr.
Oneal, Lynn W.
Oneill, David B.
Oneill, Michael J.
Orourke, Mark A.
Osburn, Ronald J.
Otwell, Harold V.
Outlaw, Bert G.
Overhauser, Judy A.
Owen, Kim L.
Oyster, David K.
Ozouf, Wesley A.
Paar, Kenneth J.
Paczan, Michael W.
Paddock, James R.
Paglia, Alfred M., Jr.
Paluch, Stanley F., Jr.
Panke, Carl H.
Parce, John D.
Parham, William L., Jr.
Park, Thomas O.
Parkington, Richard J.
Parry, John C.
Patten, Craig W.
Patterson, Donald M.
Patterson, George G.
Pattillo, David D.
Patton, Pamela J.
Paul, Raymond J.
Paull, Judith A.
Payne, George M.
Payne, Robert A.
Pearce, Russell E.
Pearsall, Gregory H.
Pearson, Marc P.
Pease, Bruce E.
Peecook, Scott T.
Pembrooke, Peter M.
Pennell, Robert A.
Peplinski, Richard P.
Perrien, Christopher R.
Persinger, William C.
Peskuric, John G.
Petersen, Harry J.
Petersen, Mark D.
Petrie, Frederic A., III
Pfieffer, Jimmy R.
Phelan, John J.
Phillips, David W.
Phillips, Mark A.
Phillips, Michael R.
Philpy, Gerald H.
Pic, John E., Jr.
Pierce, Gregory D.
Pierzchalski, Lawrence J.
Pigg, William D.
Pinkel, Jeffrey E.
Pinkl, Thomas J.
Pisel, Kenneth P., Jr.
Pitman, Dwight W.
Place, Scott T.
Plasket, Mark M.
Plass, Richard N.
Platshon, Mark C.
Platt, William A.
Plower, Thomas J.
Plush, Richard H.
Polefrone, Phillip M.
Polkowsky, Ronald L.
Pollard, Marshall
Poplar, James R., III
Porter, Glenn D.
Potocny, John P.
Powe, Howard R.
Powell, Raymond H. J.
Powelson, Wallace S.
Powley, Curtis N.
Pranke, Dane M.
Pratt, Robert W., II
Price, John M.
Primm, Charles E.
Proal, William S.
Pruss, Thomas A.
Publicover, James F.
Puleio, Daniel T.
Pulignano, Nicholas V.
Purinton, Donald W.
Purser, Guy R.
Pyell, Richard K.
Quaranto, Robert J.
Quinn, James J.
Quinn, Michael J.
Raab, Frank E., III
Rabe, Brian J.
Raby, Marjorie J.
Racette, William A., Jr
Radosevich, Joseph P.
Rahn, Ronald R.
Rainville, Michael L.
Raitt, Jeb B.
Rasin, Steven E.

Rastok, Timothy J.
Rathbone, Thomas M.
Ratts, James R.
Rau, Donald A.
Rau, Douglas H.
Readdy, William F.
Reader, John V.
Red, Jonathan B.
Redfern, Gregory I.
Reed, Richard A.
Reed, Robert A.
Reehm, Robert D.
Reese, David K.
Reese, Franklin T.
Reid, Bradley L.
Reid, Paul A.
Reifsnyder, Rebecca G.
Reinhart, Richard L.
Remes, Joseph P.
Repp, Robert C.
Reuwer, Michael J.
Revis, Jimmy L.
Reynolds, Hobson
Reynolds, Janice K. A.
Reynolds, Robert P.
Rhein, Peter V. R.
Rhodes, H. Dean
Rhyne, John H.
Ricci, Michael A.
Richard, Victor H.
Richardson, Judith A.
Richer, Pierre J.
Richner, Charles H., Jr.
Rickenbach, Mark D.
Ricketts, Gary A.
Rien, Lawrence G.
Rigazio, Richard C.
Riggins, Roderick M.
Riley, Gerianne S.
Ripley, James M., Jr.
Rizzo, Anthony J., Jr.
Robb, Joel A.
Robbins, Frederick R.
Roberts, Gary J.
Roberts, James G.
Roberts, Keith A.
Robinson, Mark P.
Robison, Chesley B.
Rocker, Fredrick
Rockwell, John A.
Rodriquez, David R.
Roe, David W.
Roesch, Thomas R.
Rogerson, William T. J.
Rogge, John F., Jr.
Rojeck, Richard P.
Roland, Richard R.
Rollings, George W.
Rollins, Bryan L.
Rollins, Paul A.
Rondeau, Ann E.
Rondestvedt, Jesse A.
Rondorf, Neil E.
Rooney, John J., Jr.
Rosack, Edward P.
Rosenberg, Nathan O.
Rosmond, James R.
Ross, Norman E.
Ross, Scott A.
Rouen, Douglas M.
Rouzer, Michael S.
Rowland, Dana W.
Rowland, George F., Jr.
Rowley, Francis E.
Rudd, Bruce A.
Rudd, Jerry A.
Rummel, John D.
Russell, Alvin M.
Russell, Robert S.
Ruth, Richard L.
Rutkowski, Edward J., Jr.
Ruzicka, Richard M.
Ryan, Charles T.
Ryder, Michael A.
Saba, David L.
Salerni, Paul L.
Sampson, Daniel L.
Sams, Rodney L.
Sanders, John F., Jr.
Sanders, Robert W.
Sanderson, Richard H.
Sanderson, Steven G.
Sandvig, Richard G.
Sanford, David A.
Santi, Gary S.
Santos, Robert M.
Sargent, Terry R.
Satterfield, Kenneth S.
Savage, Rodney W.
Sawyer, Lloyd M., Jr.
Sawyer, Mark A.
Schack, Robert J.
Schaffner, Leslie J., Jr.
Schaller, Richard F.
Scheetz, Jeffrey C.
Scherrer, John C.
Schertler, Helen M.
Schilling, Byron P.
Schilling, Dean W.
Schindler, Ralph L.
Schirmer, Gary S.
Schlabaugh, Terry E.
Schleeter, Russell W.
Schlinkert, David H.
Schmitt, William A.
Schmitz, Francis J., Jr.
Schneider, John R.
Schneider, Margaret W.
Schneider, Virginia A.
Schofield, Larry W.
Scholten, David J.
Schonberger, James R.
Schonberger, Rose A.
Schorn, David M.
Schrader, Kerry D.
Schreiber, James E.
Schrock, Gerard P.
Schulhof, Edward W.
Schuller, Jeffrey G.
Schultz, Clarence W.
Schultz, Kelly F.
Schumacher, Stephen E.
Schnoor, Robert T.
Schuster, Carl O.
Scibona, Paul G.
Schofield, Dane T.
Scontras, Andrew P.
Scott, George J., III
Scott, John B., Jr.
Seeley, Jeffrey J.
Seftas, George R.
Seligman, Craig H.
Selman, James D., III
Semple, Frank M.
Serfass, Paul T., Jr.
Sestak, Joseph A., Jr.
Severs, Gary L.
Sevilla, Ernest
Sgro, David C.
Shafer, Thomas R.
Shaffer, Mary D.
Shamblin, Gordon J.
Sharp, James T.
Sharpe, David A.
Sharratt, Charles R.
Shaw, Claude B. R.
Shaw, James T., III
Shaw, Kevin M.
Sheehan, John J., III
Sheehan, Joseph A., II
Sheppard, Bruce A.
Sherland, Peter W.
Sherman, Douglas R. Jr.
Shinners, Thomas E.
Shirey, Gary C.
Shirley, Ronald K.
Shive, John C.
Showalter, Kenneth R.
Showers, Arthur V.
Shuford, Jacob L.
Shumway, Bruce H.
Silakoski, Anthony F.
Simmons, Leodies U. A.
Simonds, Daniel G.
Sisc, Robert J., Jr.
Slonim, Richard G.
Small, David B., Jr.
Smith, Craig A.
Smith, David B.
Smith, Dale E.
Smith Gary P.
Smith, Herschel A., III
Smith, Howard G., Jr.
Smith, Jack W., Jr.
Smith, Jay G.
Smith, Jerry K.
Smith, Laurence K.
Smith, Luanne J.
Smith, Mark S.
Smith, Maurice E., Jr.
Smith, Michael G.
Smith, Nathan E.
Smith, Richard C.
Smith, Robert C. III
Smith, Roderick F.
Smith, Roger E.
Smith, Shawn M.
Smith, Steven W.
Smyrniotis, Christopher, R.
Smyth, William J.
Snook, William V.
Snyder, Duane L.
Snyder, James S.
Snyder, Willim G.
Sobeck, Gerald R.
Solger, Michael J.
Sophy, Paul R., Jr.
Sorek, Eddy L.
Soutullo, Marion P.
Spadaro, Angelo J.
Spisak, Andrew G.
Spickett, David L., Jr.
Spracklen, David B.
Stachelczyk, Gregory J
Staehling, Jonathan J
Stafford, Calvin T.
Stafford, Joe N.
Stambaugh, Charles I.
Standridge, Elmer L. J
Stanhope, David M.
Stanley, Marc T.
Stanton, Keith N.
Stanwood Edward K.
Starling, Harold D., II
Starling, Stanley B.
Staroschak, Myron M.
Staska, Stephen C.
Staudt, Thomas P.
Stearns, Gregory A.
Steele, Daniel J.
Steffensen, James P., Jr.
Steinbaugh, Michael L
Steinberg, Robert L.
Steiner, Edward F.
Stejskal, Randall S.
Stell, Donald E.
Stengle, Robert G.
Stenovec Gerald M.
Stephens, Charles M.
Stephens, John R.
Stevens, James S.
Stevens, John W., Jr.
Steward, Daniel N.
Stewart, David W.
Stidom, William G.
Stine, Harold E. J.
Stinson, Charles E.
Stocknick, Walter A., Jr.
Stockton, John A.
Stone, Vincent C.
Storey, William A.
Story, Hugh G., Jr.
Stout, Phillip J.
Straight, George W., Jr.
Stricker, Robert P.
Strizich, Lawrence J.
Strohmeyer, Donald F.
Stone, David M.
Stuart, Bruce
Stumpf, Robert E.
Sturdy, John T.
Stuvek, Fred L., Jr.
Sudol, Eugene G., Jr.
Sullivan, Christopher Jr.
Sullivan, Mark D.
Sullivan, Patrick J.
Sullivan, Paul E.
Sumner, Dale L.
Supko, Timothy J.
Swailes, Don W.
Swaim, Claude D.
Swanger, Frank L.
Swanson, Thomas K.
Sweeney, Joseph E., Jr.
Sweeney, Mark J.
Sweeney, Robert B.
Sweet, William D.
Sweigard, Douglas L.
Sweigart, Frank
Swindell, Clay H.
Swisher, Gregory M.
Syer, Harry W., Jr.
Szwarc, Walter J.
Talbot, James R., III
Talbott, Joseph C.
Tally, Brent R.
Tangen, James A.
Tannehill, Robert C.
Tarantino, Deborah O.
Tasillo, Robert D.
Tate, John D.
Taylor, Lucius O., Jr.
Taylor, Mark J. R.
Taylor, Robert J.
Teixeira, John G.
Teply, David R.
Terpstra, Richard P.
Terry, Robert J.
Tesdall, Victor O.
Teske, Julian E.
Thackery, Donald N., Jr.
Thayer, Steven S.
Thogerson, John, II
Thomas, David E.
Thomas John P.
Thomas, Robert B., Jr.
Thome, Robert W.
Thompson, Chris A.
Thompson Fred W., Jr.
Thompson, Robert W.
Thorn, John T., Jr.
Thornton, Wayne A.
Thrasher, Robert G.
Tibbert, Eric P.
Tiernan, Thomas R.
Tiffany, Thomas A.
Tighe, Thomas E.
Tillison, Howard M.
Timmes, Christopher, J.
Timms, Donald R.
Toedt, Dell, C., III
Tolf, Michael S.
Tomlinson, Donald H.
Topolewski, David R.
Tourville, Maurice, A. I.
Travers, Geoffrey L.
Treichel, Thomas A.
Treppendahl, Marshall D.
Treude, Jeffrey W.
Trewhitt, William L.
Tromba, John M.
Trosclair, Cecil A., Jr.
Trotter, James S.
Troxell, William C.
Trupp, James C.
Tucker, Michael P.
Turner, Michael I.
Turner, Larry C.
Turner, Randy B.
Tyler, Bruce D.
Vaeth, James E., Jr.
Valdez, Arnulfo, III
Valdivia, James, Jr.
Vanvolkinburg, Mark W.
Vatikiotis, Costa S.
Vaughn, Phillip D.
Veccia, James V.
Veitch, Mark V.
Venuto, Peter J., Jr.
Verdolini, Vincent J., III
Vernier, William A.
Vernon, Gary W.
Verschure, Robert M.
Vickerskoch, David M.
Vidal, Dean A.
Viggiano, Glenn R.
Villnow, Donald D.
Vincent, Larry W.
Vinnola, Anthony J., Jr.
Vint, Robert D.
Virtue, Christopher F.
Viverito, Richard V.
Vogel, David J.
Voorhies, Wiley J.
Vrabel, George T.
Wachendorf, Miles B.
Wade, Robert L., III
Waggener, Christopher N.
Wagner, Charles E.
Wagner, Jay A.
Wagner, Ronald E.
Wagoner, Jay A.
Wagner, Ronald E.
Wagoner, Raymond E.
Wahl, Michael J.
Waickwicz, John J.
Walchli, Gary E.
Walker, Charles D.
Walker, James W.
Walker, William P., III
Wallace, George L., Jr.
Waller, Edward C.
Walsh, David I.
Walsh, William A.
Waltenbaugh, Robert E.
Walters, Douglas P.
Walters, John M.
Walters, William M.
Wand, Kevin T.
Ward, Dona M.
Ward, John L.
Ward, Leland H.
Ware, Reginald C.
Warren, James M.
Wasenius, George T.
Washington, Samuel C.
Wasson, Eugene F.
Waters, Jack A.
Waters, Michael J.
Watson, Charles S.
Wayne, Charles G.
Weathers, Dale A.
Weaver, Floyd R.
Weaver, Thomas, J. M.
Webb, David R.
Webb, Donald M.
Webb, Richard A.
Webster, John L.
Webster, Walter E., III
Wehle, John K.
Weinkam, Edward J., III
Weir, Steven T.
Weiss, John R.
Weitzel, Gregory S.
Welch, Bryan T.
Weldon, John W., Jr.
Weliever, Stanley C.
Welker, Marc P.
Wells, John T., IV
Welsh, Philip C.
Welstead, William C.
Welty, Charles D., II
Wepplo, John H.
Werner, Ernest H.
West, Jerry A.
West, Robert C.
Westerheid, John J.
Weston, Edward G.
Wettlaufer, Donald D.
Whitacre, William E.
White, Francis R.
White, Scott D.
White, William R.
Whitfield, Milton B.
Whitman, Barton W.
Whitmire, Robert D.
Whittaker, John C., Jr.
Wible, Richard A.
Wieber, Theodore R., Jr.
Wieman, George B.
Wigfall, Agistine L.
Wiggins, James T.
Wilber, Edward E., Jr.
Wilbur, James D.
Wilde, William T.
Wilder, Charles D.
Wilder, William M.
Wiles, Gehrig M.
Wiles, John W.
Wilhelm, Donald M.
Willard, Richard S.
Williams, Beth G.
Williams, David G.
Williams, James H., J.
Williams, Jay D., Jr.
Williams, Kirk B.
Williams, Leroy G.
Williams, Vernon C.
Williamson, John R., III
Willis, Gibson R.
Wilson, Benny W.
Wilson, Cynthia B.
Wilson, David J.
Wilson, Fred W.
Wilson, James O.
Wilson, Richard A.
Windley, John S.
Wing, Vern F.
Winge, Douglas A.
Winkel, Peter G.
Winslow, Michael J.
Winston, John M., Jr.
Winter, James D.
Wise, Ryan S.
Witt, Charles R., Jr.
Witte, Michael J.
Wleklinski, Gary R.
Wohlers, Paul D.
Wolbrette, Bruce E.
Wolery, Thomas A.
Wong, Lin H.
Woods, Laurent B.
Woods, William W., III
Woolley, Kriston P.
Wooten, Ray L.
Wootton, Tom M.
Worley, Allen B.
Wozniak, Joseph
Wright, Ronnie G.
Wright, William E.
Yacus, George M.
Yaeger, John W.
Yakeley, Robert C.
Yamamoto, Gary
Yarosh, Mark B.
Yeiser, Harry E., III
Young, Robert E., II
Zacharias, David A.
Zeiler, Terry J.
Zepp, Paul J.
Zink, Richard A.
Zolkoski, Kenneth
Zusi, David A.

SUPPLY CORPS

Aicklen, Andrew J.
Allen, Charles A.
Anderson, Thomas P., IV
Austin, Sean J.
Ayres, William T., Jr.
Bailey, Richard D.
Barnett, Kenneth M.
Barnes, James L., Jr.
Barnum, Bruce T.

Bean, Rockwell B.
Beetle, Thomas L.
Bennett, David W.
Berger, Douglas
Billouris, Joel L.
Bird, Linda J.
Blanchfield, Brian W.
Bohlen, Frederick L., III
Boren, Kenneth W.
Brenner, Paul H.
Bresee, William F.
Brozovich, Thomas K.
Chang, James C.
Chew, Devin E.
Chorebanian, Gregg M.
Christmann, Wayne A.
Cichanowic, Theodore P.
Compiano, Craig M.
Coons, William W., Jr.
Cordek, Tobias M.
Coyle, Theodore A.
Creedon, William L.
Crowell, Gilbert E.
Cunio, Michael T.
Curley, Richard F.
Deedy, Kevin J.
Dietze, Daniel D.
Dubose Hugh, H. Jr.
Falvey, David J.
Fanning, Roberts S., III
Ferris, Jeffrey E.
Fishburne, Edward J.
Fitzhenry, James D.
Francis, Gary R.
Fulmer, Quitman D., II
Gentry, Steven G.
Gorrie, Roland W.
Greene, Jeffrey D.
Hadden, David G.
Hall, William E.
Hammond, Bryce E.
Harrison, Paul D.
Hart, Edwin N.
Hayes, Richard D.
Higginbotham, David F.
Hodnett, Elwood T., Jr.
Holden, Arthur D.
Horton, Charles R., Jr.
Hudgens, Donnie L.
Hume, Randall J.
Johnson, Gerald D.
Johnson, Lynn C.
Jones, Donn W.
Jones, Kevin A.
Jurado, Pilar L., Jr.
Keener, Phillip D.
Keller, Louis D.
Kenyon, Timothy A.
Kesinger, James L.
Kishman, John B.
Kittrell, Eugene O., Jr.
Laclede, Robert P., Jr.
Lavie, Jacqueline E.
Lawler, John V.
Lea, Jonathan D.
Lievens, Michael J.
Lippert, Gregory R.
Lowman, Bruce D.
Madere, Antoine S., Jr.
Madrid, James C.
Mandell, Robert W.
McCarthy, Michael J.
McDonald, Thomas W.
McNallen, Patrick W.
Mettler, Michael J.
Meyerkorth, Ricky A.
Miles, William H.
Moore, Sumner K., Jr.
Myers, Russell J., Jr.
Nichols, Ronald G.
Odekerken, Joseph H.
Olson, Michael P.
Palm, Harry E., Jr.
Palm, John F.
Palmer, Brian D.
Perez, Ramon M.
Priest, Fenton F., III
Quinn, John P.
Rasmussen, Evan R.
Rubin, Mark I.
Ruppert, Joseph M., Jr.
Santen, Frank L.
Schoedler, Michael P.
Secrest, John M.
Sellner, Craig T.
Soles, Harry G., Jr.
Stewart, Enos R., Jr.
Sucheck, Richard L.
Szafran, Clifford E.
Threet, James M.
Tisdale, Alfred E., III
Vizzier, Richard M.
Wasilewski, Nicholas J., Jr.
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Webb, William V. B.
Wehmeyer, Steven E.
Welsch, Charles W.
Westmoreland, John R.
Zeni, Joseph F.

CIVIL ENGINEER CORPS

Anderson, Robert J.
Benere, Daniel E.
Bloomquist, Douglas L.
Brunhart, Andrew D.
Depreter, Peter M.
Eustace, George N.
Fowler, James N.
Gilbert, George F., Jr.
Heinrichs, Charles A.
Hood, Robert R.
Hribar, Herbert R.
Huebner, Richard S.
Jillson, Brian P.
Jones, Calvin P., Jr.
Masnyk, Walter J.
Moore, Michael D.
Nelson, William L.
Neudorff, Louis G., II
Perry, William T.
Reichert, Gregory A.
Stusnick, Joseph, III
Suptic, David M.
Walling, Reigh A.
Zimmerman, Tracy M.

MEDICAL SERVICE CORPS

Boehm, Russell K.
Clark, Bobby G.
Fleischman, Thomas E.
Kerr, James L., III
Lawson, Michael P.
Marthouse, Robert C., Jr.
McClure, Charles D.
McDougall, Gordon R.
Moynihan, Robert W.
Rupp, Gary L.
Shehane, Claude T.
Simmons, Donald L.
Taylor, John O.

NURSE CORPS

Falvo, Ralph J.
Flynn, Martha C.
Jefferds, Jerilyn A.
Lewis, Bonnie L.
Logeman, Gary L.
Long, Jeanette L.
Longenecker, Ruth A.
Peterson, Terry R.
Watkins, Joline I.

IN THE NAVY

The following-named commanders of the U.S. Navy and Naval Reserve for temporary promotion to the grade of captain in the staff corps as indicated, pursuant to title 10, United States Code, section 5773, subject to qualification therefor as provided by law:

MEDICAL CORPS

Abbe, Robert R.
Blankenship, Billy J.
Cave, Robert H.
Day, Daniel H.
Galasyn, Valentine D.
Honigman, Joseph
Johnson, Raymond B.
Leeb, Burton O.
McKnight, Glen D., Jr.
Reid, James W., Jr.
Sandri, Sandro R.
Stetzer, Lloyd W.

SUPPLY CORPS

Allnutt, Alvin H.
Borchardt, Heinz R.
Brown, Lee
Carenza, John L.
Connolly, George S., Jr.
Cronin, George W., Jr.
Dewey, Edward P.
Eizenhoefer, David J.
Girman, Robert J.
Goslin, Thomas C., Jr.
Hinkle, Otis R.
Irons, John H.
Juncker, Carl F.
Linehan, Daniel J., Jr.
Loftus, Raymond P.
Malzahn, Walter G.
Miller, James E.
Olson, Gene P.
Plante, Rene E.
Rice, Henry L., Jr.
Rubenstein, Ralph S.
Sechler, John L.
Squibb, Rodney K.
Wallace, Edwin R.
Weinberg, Harry H.
Whittaker, James B.

CHAPLAIN CORPS

Barcus, Richard E.
Bedingfield, Robert W.
Elder, Robert M.
Evans, George W., Jr.
Glynn, John J.
Kaelberer, John H.
Keefe, Lawrence F.
MacCall, Harry F., III
Magor, Warren F.
Murphy, Milton G
Neiderhuth, Wayne L.
O'Brien, Eugene C.
Six, Jack E.
Whitaker, Frederick E.

CIVIL ENGINEER CORPS

Chin, William
Cope, Ronald P.
Crisp, Hugh A.
Endebrock, Frank L., III
Fraser, John C., Jr.
Godsey, Jack L.
McNeill, James E.
Shumate, James W.

JUDGE ADVOCATE GENERAL'S CORPS

Brown, Charles E., II
Christian, Alvern D.
Eoff, Albert W., II
Flynn, Thomas E.
Grunawalt, Richard J.
Howay, John W.
Laitsch, Lowell C.
Legg, Billy J.
Mario, David A.
Wade, Manley B.
Wille, Paul A.

DENTAL CORPS

Barron, Don M.
Benn, Barry
Ciardello, Carmen A.
Hodes, Leonard F.
Hurst, Thomas L.
Johnson, Charles M.
Lowman, Jack V.
Sabala, Clyde L.
Salmon, Thomas N.
Schonbrun, Robert G.

MEDICAL SERVICE CORPS

Hatten, Ann C.
Joseph, Sammy W.
Nelson, Paul D.
Palmer, Jack J.
Shuler, Donald E.

NURSE CORPS

Adams, Louise J.
Bynum, Joan C.
Carson, Eva F.
Chisholm, Marie A.
Damiani, Margaret C.
Emond, Lucille G.
Gomes, Alma M.
Hall, Mary F.
Jacobson, Dorothy M.
Kelly, Mary
Miller, Eleanor J.
Morton, Jo A.
Nickerson, Lois E.
Noble, Frances A.
Stuart, Irene M.
Yelle, Dorothy A.

Comdr. Janice R. McMorrow, U.S. Navy for permanent promotion to the grade of captain, in the Supply Corps of the U.S. Navy, pursuant to title 10, United States Code, section 5773, subject to qualification therefor as provided by law.

Lt. (junior grade) Catherine M. Gehri, U.S. Navy for permanent promotion to the grade of lieutenant, in the line of the U.S. Navy, pursuant to title 10, United States Code, section 5771, subject to qualification therefor as provided by law.

Capt. Leonard R. Young, U.S. Navy for permanent promotion to the grade of captain, in the line of the U.S. Navy, pursuant to title 10, United States Code, section 5780.

Lt. Comdr. Paul K. Deehan, U.S. Navy for permanent promotion to the grade of lieutenant commander, in the line of the U.S. Navy, pursuant to title 10, United States Code, section 5780.

Lt. Comdr. Allen R. Sherwood, in the U.S. Navy for permanent promotion to the grade of lieutenant commander, in the line of the U.S. Navy, pursuant to title 10, United States Code, section 5780.

The following-named lieutenant commanders of the U.S. Navy for permanent promotion to the grade of lieutenant commander in the Judge Advocate General's Corps of the U.S. Navy, pursuant to title 10, United States Code, section 5782.

Erickson, John F.
Furdock, Ronald M.
Henderson, William C., III.

Lt. Comdr. William A. Ferris, U.S. Navy for permanent promotion to the grade of lieutenant commander, in the Medical Service Corps, pursuant to title 10, United States Code, section 5782.

Lt. Allen L. Hurley, U.S. Navy for permanent promotion to the grade of lieutenant in the line of the U.S. Navy, pursuant to title 10, United States Code, section 5780.

Lt. Katie I. Smith, U.S. Navy for permanent promotion to the grade of lieutenant in the Nurse Corps of the U.S. Navy, pursuant to title 10, United States Code, section 5782.

CONFIRMATIONS

Executive nominations confirmed by the Senate October 7, 1977:

DEPARTMENT OF STATE

John D. Negroponte, of New York, Deputy Assistant Secretary of State for Oceans and Fisheries Affairs, for the rank of Ambassador.

ARMS CONTROL AND DISARMAMENT NEGOTIATIONS REPRESENTATIVE

Ralph Earle II, of Pennsylvania, to be Special Representative for Arms Control and Disarmament Negotiations.

IAEA SESSION REPRESENTATIVES

The following-named persons to be the Representative and Alternate Representatives of the United States of America to the Twenty-first Session of the General Conference of the International Atomic Energy Agency:

Representative: Robert W. Fri, of Maryland.

Alternate Representatives: Richard T. Kennedy, of the District of Columbia.

Louis V. Nosenzo, of Virginia.

Nelson F. Sievering, Jr., of Maryland.

Gerard C. Smith, of the District of Columbia.

Galen L. Stone, of the District of Columbia.

Robert D. Thorne, of California.

Robert S. Rochlin, of Maryland.

DEPARTMENT OF STATE

Frank J. Devine, of the District of Columbia, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to El Salvador.

Esteban Edward Torres, of Virginia, for the rank of Ambassador during the tenure of his assignment as the U.S. Permanent Representative to the United Nations Educational, Scientific, and Cultural Organization at Paris, France.

ACTION AGENCY

Carolyn R. Payton, of the District of Columbia, to be an Associate Director of the ACTION Agency.

DEPARTMENT OF JUSTICE

David T. Ready, of Indiana, to be U.S. attorney for the northern district of Indiana for the term of 4 years.

Edward L. Shaheen, of Louisiana, to be U.S. attorney for the western district of Louisiana for the term of 4 years.

M. Karl Shurtliff, of Idaho, to be U.S. attorney for the district of Idaho for the term of 4 years.

Jacob V. Eskenazi, of Florida, to be U.S. attorney for the southern district of Florida for the term of 4 years.

Barry E. Teague, of Alabama, to be U.S. attorney for the middle district of Alabama for the term of 4 years.

Edward N. Kellikoa, of Hawaii, to be U.S. marshal for the district of Hawaii for the term of 4 years.

Harvey N. Johnson, Jr., of Illinois, to be U.S. marshal for the northern district of Illinois for the term of 4 years.

Franklin Payne, of Missouri, to be U.S. marshal for the eastern district of Missouri for the term of 4 years.

William L. Brown, of Wisconsin, to be U.S. marshal for the eastern district of Wisconsin for the term of 4 years.

Anton T. Skoro, of Idaho, to be U.S. marshal for the district of Idaho for the term of 4 years.

Roy A. Smith, of Ohio, to be U.S. marshal for the southern district of Ohio for the term of 4 years.

Rafael E. Juarez, of Colorado, to be U.S. marshal for the district of Colorado for the term of 4 years.

Roxanne Barton Conlin, of Iowa, to be U.S. attorney for the southern district of Iowa for the term of 4 years.

James H. Reynolds, of Iowa, to be U.S. attorney for the northern district of Iowa for the term of 4 years.

Willie D. Durham, Sr., of Tennessee, to be U.S. marshal for the western district of Tennessee for the term of 4 years.

The above nominations were approved subject to the nominees' commitments to respond to requests to appear and testify before any duly constituted committee of the Senate.

THE JUDICIARY

Thomas Tang, of Arizona, to be U.S. circuit judge for the Ninth Circuit.

Hugh H. Bownes, of New Hampshire, to be U.S. circuit judge for the First Circuit.

A. Leon Higginbotham, Jr., of Pennsylvania, to be U.S. circuit judge for the Third Circuit.

Nicholas J. Bua, of Illinois, to be U.S. district judge for the northern district of Illinois.

Stanley J. Roszkowski, of Illinois, to be U.S. district judge for the northern district of Illinois.

Edward H. Johnstone, of Kentucky to be U.S. district judge for the western district of Kentucky.

Louis F. Oberdorfer, of Virginia, to be U.S. district judge for the District of Columbia.

IN THE COAST GUARD

Coast Guard nominations beginning John R. Ehrmann, to be captain, and ending Michael J. O'Brien, to be captain, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on September 30, 1977.

WITHDRAWAL

Executive nomination withdrawn from the Senate October 7, 1977:

Douglas Coulter, of Virginia, to be a Commissioner of the Copyright Royalty Tribunal for a term of 7 years from September 27, 1977 (new position), which was sent to the Senate on September 27, 1977.

EXTENSIONS OF REMARKS

HELPING ARIZONA'S COPPER INDUSTRY

HON. ELDON RUDD

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1977

Mr. RUDD. Mr. Speaker, I and other members of the Arizona congressional delegation have been meeting this week with a bipartisan group of 25 Arizonans led by our Governor, who are here to work with us to find both short- and long-term solutions to the critical copper situation in Arizona.

As Members of the House are no doubt aware from the news, the domestic copper producing industry which is primarily located in Arizona is severely depressed. Upward of 8,000 mine and smelter workers have been laid off, some 3,600 additional jobs related to mining are in jeopardy, and Arizona stands to lose approximately $117 million in personal income from this depressed copper situation.

This situation is principally the result of overly restrictive environmental laws of the Federal Government, which have forced up the price of domestic copper production, and the substantial influx of cheaper foreign copper—made possible by foreign government subsidies and lower production costs—which has undercut our own copper industry.

About 21 percent of all copper sold in the United States is foreign copper that can be produced for about 50 cents a pound, compared to domestic production costs of between 60 to 85 cents a pound. It is estimated that 15 cents of the domestic copper production costs are directly attributable to Federal and State environmental and safety controls.

Foreign copper is being produced at a much lower cost, and can be shipped for sale in the United States for about 5 additional cents a pound, because production is being subsidized by foreign governments—many of whom are also receiving U.S. foreign assistance.

In many cases, the foreign copper mines were developed by U.S. companies and then nationalized without compensation. Foreign mine workers are paid much, much less than American workers, and these countries do not impose the stringent environmental controls that our Government has imposed. Production costs for foreign copper are therefore much less.

Mr. Speaker, Congress has obviously got to wake up to the fact that the Federal Government's unreasonable environmental restrictions are crippling our economy and throwing people out of work, so that this trend can be stopped.

We must act to revive the copper industry in more immediate ways as well. I believe this can be done through the time-honored method of Federal stockpiling of critical materials for national security purposes. Copper is certainly such a critical material, and the Federal Government should set prompt stockpiling goals to help revive the market for domestic copper.

In terms of long-range solutions to help our domestic copper market, we should be thinking of new tariff legislation to stop foreign countries from undercutting our domestic industry, or an import tax on foreign copper as an equalizer for costs imposed on domestic companies to meet air pollution standards.

A good analysis of the critical copper situation that we currently face, as well as of these proposed solutions, was recently given by Richard W. Pendleton, Jr., vice president of the Phelps Dodge Corp. I believe this analysis deserves serious study by Congress and other interested parties, and I include it in the RECORD at this point:

WORLD COPPER INVENTORIES AND REBUILDING THE STRATEGIC STOCKPILE

The domestic copper-producing industry is very depressed, despite the reasonably healthy state of the general economy. Copper prices are in most cases below costs, production has been severely curtailed and many copper workers—8,000 in Arizona alone—have been laid off.

The cause of this depression lies largely outside U.S. borders. Copper is an international commodity and our domestic plight has been caused by unusually large world inventories of metal overhanging the market. These inventories have accumulated primarily because LDC copper-producing countries, whose governments own or effectively control about 40 percent of world productive capacity, have been unable, because of foreign exchange needs, to curtail production to balance supply with the reduced needs of their traditional markets in Europe and Japan. Although domestic demand for copper is now good, and world production and demand have been roughly in balance for the last 18 months, no significant dent has been made in total copper inventories, which currently stand at around 2,200,000 tons, or roughly double normal levels.

This million-ton overhang has forced copper prices to retreat to the point where few mines can be operated profitably. The overhang must be worked down to restore the industry to health. One way to do this is by curtailing production, but the LDC producer countries, caught on a treadmill of their own creation, have been unwilling to do this, producing instead record amounts of copper at ever-lower prices, and leaving the burden of curtailment on privately-controlled mines, and their stockholders and employees, mostly in the United States. The other solution—increased copper usage—will occur slowly over time, possibly several years, but by then the damage to the domestic industry, its employees and the local economies, such as Arizona's, dependent on copper, may be very severe, and in some cases irreversible.

There does exist, however, one potential purchaser of copper whose need for the metal is well-established and great enough to substantially hasten the balancing of supply with demand. The U.S. Government's strategic materials stockpile has been wholly without copper since 1974, when the Nixon administration sold out the last of the stockpile's copper in what appears to have been an attempt to improve the federal budget posture without regard to security concerns. The Ford administration, after a major interdepartmental review, established in 1976 a cop-

per stockpile objective of 1,299,000 tons. That target, and other stockpile objectives, are being studied by the Carter administration. However, whatever copper the Administration concludes should be in the nation's strategic stockpile, the tonnage required is likely to be great enough that prompt initiation of a purchasing program would have a dramatic and positive effect on the nation's copper situation. This memorandum will look briefly at the problem and this possible solution.

THE PROBLEM

The U.S. copper industry has long been the greatest in the world—its mine production capacity is 25 percent of free world capacity, and is adequate to make the nation substantially self-sufficient in this key metal. Arizona is first among the states in copper production, accounting last year for some 64 percent of total domestic production; the annual production from Arizona's mines ranks her with Chile as the free world's two top copper producers. In 1976, free world mined copper production totalled 6,792,000 short tons, of which 1,606,000 was produced domestically (1,024,000 tons in Arizona) and 5,186,000 was produced abroad.

Today, despite the general health of the U.S. economy, the domestic copper industry is in a depression unequalled since the 1930's. Although demand for copper is strong in this country, domestic producers, caught between costs which have sharply escalated during the 1970's, and prices which have sharply fallen, have been unable to benefit from it. The cost increases are the result of inflation, wage and energy increases, and mandated environmental control costs. Charles S. Barber, Chairman of ASARCO Incorporated, recently reported that independent experts have estimated the costs of environmental and safety controls alone have added about 15¢ per pound to the cost of producing domestic copper.[1] (Although foreign producers in LDC's have also been burdened by increased energy costs, they have, in general, escaped cost increases on account of environmental controls, which in most instances are nonexistent, or minimal, in those countries). Phelps Dodge Corporation's current average costs for producing copper, from mining through refining, are 232 percent of what they were in 1968.

As a result of these cost increases, the price currently charged by most domestic producers, 60¢ per pound, is below the costs of most domestic copper mining operations, and even the lowest-cost producers can do little more than break even.

The cause of these very depressed price levels in excessive world stocks of refined copper. These stocks stand at about 2,200,000 tons, about half of which is excess to normal requirements. In comparative terms, current world refined stocks represent about 3.6 months' consumption compared to a normal 1.8 to 2 months, and thus an excess of some one million tons overhangs the market. The great bulk of this excess was accumulated during the recession in the last half of 1974 and in 1975. During 1976 and the first half of 1977 the market has been in approximate balance, with total refined stocks up about 250,000 tons, equal to only 2.3 percent of consumption during this 18-month period. (See Exhibit I)

This million-ton overhang is mostly foreign-produced copper, but copper is an international commodity which can be readily shipped anywhere in the world for about 5¢ a pound. Accordingly, U.S. producers, despite strong domestic demand, have been unable to obtain satisfactory prices for their metal. LDC copper-producing countries continue to produce copper full-out, attempting, regardless of price levels, to earn enough foreign exchange both to purchase OPEC oil and to meet interest payments on their massive debts. Their traditional markets have been unable to absorb this production, much less to work off excess inventories; hence any sign of strengthening U.S. prices brings this foreign metal into the domestic market. This is illustrated by the following U.S. net refined copper import figures (in thousands of short tons):

	(7 mos.) 1977 [1]	1976	1975	1974 [1]	1973
Imports	204	381	146	304	195
Exports	30	113	172	127	189
Net imports	174	268	(26)	177	6

[1] A number of major U.S. producers were on strike for about 1 month of these periods.

Unable to earn a profit at current prices, and faced with the bleak prospect that no improvement can be forthcoming so long as world inventories do not begin to come down, domestic producers have been forced to curtail production, or in some instances close their mines completely. Arizona, as the largest copper-producing state, has been severely impacted, with some 8,000 employees on layoff during September.

In addition to the damage being inflicted on the domestic copper-producing industry and its employees, other U.S. interests are threatened by the present copper crisis. A number of the principal LDC copper producers, such as Zambia, Zaire and Peru, are among this country's best friends in the Third World. Many of these countries are encountering extreme economic and financial problems stemming from the exceedingly low prices of copper. Some of these countries are threatened with default on their international loan obligations, many of which are held by U.S. commercial banks and U.S.-supported international lending agencies. Some relief for these hard pressed developing nations would clearly be in the interest of U.S. foreign policy and the overall well-being of the international economic and financial system.

It should be kept in mind that the problem, although at present severe, ought not to be a permanent one. Production of newly-mined copper, even before the domestic industry's recent curtailments, and despite record production from LDC's, has recently been close to balance with world demand, the continued sluggish demand in much of Europe notwithstanding. World use of copper should continue to grow, perhaps at a rate of around 3 percent per year, and although a few more copper-producing projects started several years ago are still to come on stream, very few new projects have been started in the past 2 or 3 years (see Exhibit II).

Bringing new production on stream requires considerable lead-time—from perhaps 2 years for expanding capacity of an existing mine to 4 years or considerably more for a major new mine. We can therefore expect, over time, that the million tons of excess inventory will be worked down. Moreover, to provide a reasonable return on any investment in new capacity—domestic or foreign—will require much higher copper prices than today's—a fact which must be recognized not only by private companies but also by the governmental and private financing agencies which control the development of new capacity in the LDC's. If that fact is recognized, then the current difficult situation ought not to be repeated in the future.

However, permitting the situation to cure over time, by slow erosion of the excess inventories, can have permanent adverse consequences for at least some domestic producers and their employees, and on a number of LDC producers as well. This damage can be avoided if the U.S. government accelerates its plans to replenish its strategic stockpile by purchases of copper.

THE STRATEGIC STOCKPILE

The strategic stockpile, created by the Strategic and Critical Materials Stock Piling Act of 1946, is intended to ensure that our nation will have available the raw materials necessary to support military and basic civilian requirements during periods of war or other national emergency. It is administered by the Federal Preparedness Agency of the General Services Administration. The stockpile today consists of 93 minerals, metals and other industrial materials, mostly acquired before 1959, stored at 117 locations in the United States, having an aggregate value as of March 1977 of $8.6 billion.[2] The stockpile currently holds bauxite, tin, cadmium, lead, zinc and mica among its stores of metals and minerals. It holds feathers and opium, but it holds no copper.[3]

This was not always the case. In 1962, when the government first publicly disclosed its stockpile holdings, they included 1,420,000 tons of copper, of which 420,000 was in excess of its "objective" of one million tons. (Stockpile "objectives" are based on administration evaluation of the need for materials, assuming wartime conditions).

The copper objective was reduced in 1963 to 750,000 tons, and during the Viet Nam war the Johnson administration authorized substantial releases of copper (over 400,000 tons), in part for war needs but also in an unsuccessful attempt to restrain copper prices. In 1973, the Nixon administration, changing the assumptions on which stockpile objectives were predicated, reduced the copper objective to zero and disposed of all remaining stockpile copper, in what is generally believed to have been more an attempt to reduce the federal deficit than an objective evaluation of the nation's security requirements.

In 1975, the Ford administration undertook a major interagency study, chaired by the Federal Preparedness Agency, to review and update the entire stockpile policy. It required approximately 15,000 manhours and one year to complete. As a result of this study, President Ford issued new stockpile policy guidance in August 1976, calling for a materials stockpile capable of supporting U.S. defense and basic civilian requirements during a major war over a 3-year period and assuming prior large-scale industrial mobilization. This policy guidance is now being reviewed by the Carter administration. It calls for a copper stockpile goal of 1,299,000 tons.

Understandably, both industry and Congress have been concerned with the apparent use, over the years, of the stockpile for purposes other than that for which it is intended. This concern is reflected in S. 1810, introduced by Senator McClure, and H.R. 4895, introduced by Representative Bennett, which would, in different ways, attempt to circumscribe administrative discretion in stockpile administration. Both are supported by the mining industry and opposed by the Federal Preparedness Agency. But there is no dispute between industry, Congress and the Agency about the wisdom of maintaining a stockpile of critical materials adequate for the nation's security. Thus the issue of

[1] Remarks before the American Mining Congress, San Francisco, California, September 12, 1977.

[2] Testimony for Oversight Hearings, Subcommittee on Military Construction and Stockpiles, Senate Committee on Armed Services, by Mr. Ronald Royal, Assistant Director for Civil Preparedness, Federal Preparedness Agency, September 9, 1977.

[3] *Stockpile Report to the Congress, July–September 1976*, Federal Preparedness Agency, March 1977.

the extent to which administrative discretion in stockpile acquisitions and disposals should be controlled should not be germane to the matter of the purchase of copper for the stockpile, should the Carter administration review substantially agree with the Ford administration study.

If copper should be restored to the stockpile, as its importance as a metal argues it should, then this is a most appropriate time for government action. The entire excess world inventory is somewhat less than the Ford task force's recommended copper stockpile goal; the removal of a substantial amount of that inventory by stockpile purchases can be accomplished at this time without disruption of supply-demand relationships, and at prices which would represent a most favorable application of the government's funds.

The beginning of a stockpile purchase program that would make a significant dent in the copper inventory overhang would relieve downward pressure on the world markets and should permit copper prices to rise to reasonable levels. This, in turn, could permit most domestic mines to operate in the black, permit reemployment of most of the 8,000 Arizona miners currently laid off, and help the copper-producing LDC's off their desperate treadmill and aid in restoring them to economic health.

Any governmental action that can produce at once so many positive results is worthy of prompt implementation, and we urge the administration's immediate consideration of a program of copper purchases for the strategic stockpile and its action, as appropriate, to begin such a program at the earliest possible time.

EXHIBIT I

FREE WORLD—REPORTED STOCKS OF REFINED COPPER

[In thousands of short tons]

	1969	1970	1971	1972	1973	1974	1975	1976	March 1977	June 1977	July 19977	August 1977
Producer stocks:												
United States	42.0	142.6	82.7	99.5	43.2	151.6	260.7	272.8	259.1	224.0	203.5	169.7
Japan	19.7	24.8	54.9	29.9	58.5	117.6	207.0	172.1	174.9	196.4	197.5	
Rest	211.4	239.0	162.3	178.7	251.8	327.4	372.6	279.4	303.8	314.5	322.7	
Total	273.1	406.4	299.9	308.1	353.5	596.6	840.3	724.3	737.8	734.9	723.7	
Exchanges:												
Comex	4.0	18.0	20.3	57.8	5.9	43.3	100.0	201.0	213.2	211.0	205.4	200.9
LME	20.5	79.5	154.7	201.7	38.4	146.2	555.3	665.2	675.8	660.7	667.4	672.5
Total	24.5	97.5	175.0	259.5	44.3	189.5	655.3	866.2	889.0	871.7	872.8	873.4
Consumer stocks:												
France	58.2	69.1	51.3	53.6	57.3	70.9	63.2	58.4	56.2			
Germany	46.3	60.0	62.1	66.1	45.6	61.5	76.2	79.8	74.3			
Japan	26.0	17.5	27.8	42.8	54.3	71.8	121.7	111.3	140.1			
United Kingdom	17.4	27.1	26.5	32.7	17.0	28.9	22.5	25.1	26.2	30.5		
United States	76.9	147.2	135.0	114.0	108.0	179.0	177.0	177.0	194.0			
Total	224.8	320.9	302.7	309.2	282.2	412.1	460.6	451.6	490.8			
Government stocks:												
United States	253.4	253.4	253.4	258.6	251.5			42.1	42.1			
Japan								55.6	55.6	55.6		
Total	253.4	253.4	253.4	258.6	251.5			97.7	97.7			
Total reported stocks	775.8	1,078.2	1,031.0	1,135.4	931.5	1,198.2	1,956.2	2,139.8	2,215.3			
Change in stocks		+302.4	−47.2	+104.4	−203.9	+266.7	+758.0	+183.6	+75.5			
Refined consumption	6,326	6,415	6,314	6,911	7,659	7,175	6,020	7,100				
Ratio of stocks to consumption	12.3	16.8	16.3	16.4	12.2	16.7	32.5	30.1				
Number of months stock (based on annual consumption)	1.5	2.0	2.0	2.0	1.5	2.0	3.9	3.6				

Source: American Bureau of Metal Statistics, World Bureau of Metal Statistics, U.S. Department of Commerce. Phelps Dodge Corp., Controller's Department, Statistical Section, Sept. 26, 1977.

EXHIBIT II

NET INCREASE IN FREE WORLD COPPER MINE PRODUCTION CAPACITY, 1976–80

[In thousands of short tons]

Area/country	Mine production				Estimated capacity, Dec. 31, 1976	Additional capacity scheduled for completion during—				Total planned, 1977–80	Estimated capacity, Dec. 13, 1980
	1973	1974	1975	1976		1977	1978	1979	1980		
North America:											
United States	1,718	1,597	1,413	1,606	1,950	40	27	58	15	140	2,090
Canada	908	905	809	798	950	23	2	68	(3)	90	1,040
Mexico	89	91	86	98	110	25	150			175	285
Other	4	8	6	8	20						20
Total	2,719	2,601	2,314	2,510	3,030	88	179	126	12	405	3,435
South America:											
Chile	811	994	913	1,108	1,150				50	50	1,200
Peru	237	235	192	238	415	35			40	75	490
Other	14	13	8	5	15			50		50	65
Total	1,062	1,242	1,113	1,351	1,580	35		50	90	175	1,755
Africa:											
Zambia	779	769	746	781	850						850
Zaire	538	545	545	490	600	50	20	20		90	690
South Africa	194	197	197	217	220	35	5			40	260
South West Africa	32	31	32	43	60						60
Other	84	84	67	77	90						90
Total	1,627	1,626	1,587	1,608	1,820	85	25	20		130	1,950
Asia:											
Philippines	244	249	249	255	285	38	40	45	65	188	473
Japan	101	90	94	90	90						90
Indonesia	42	71	70	74	70						70
Iran	3	7	8	8	10		160			160	170
Other	90	99	98	115	135	30			20	50	185
Total	480	516	519	542	590	68	200	45	85	398	988

EXHIBIT 11

NET INCREASE IN FREE WORLD COPPER MINE PRODUCTION CAPACITY, 1976-80—Continued

[In thousands of short tons]

Area/country	Mine production				Estimated capacity, Dec. 31,	Additional capacity scheduled for completion during—				Total planned,	Estimated capacity, Dec. 31,
	1973	1974	1975	1976	1976	1977	1978	1979	1980	1977-80	1980
Oceania:											
Australia	243	277	241	236	250		12			12	262
Papua New Guinea	202	203	190	195	200						200
Total	445	480	431	431	450		12			12	462
Europe	323	308	322	341	380		20			20	400
Other production	6,656	6,773	6,286	6,783		276	436	241	187	1,140	
Total free world capacity					7,850	8,126	8,562	8,803	8,990		8,990
Percent change	+7.0	+1.8	−7.2	+7.9		+3.5	+5.4	+2.8	+2.1		+3.5

Source: Phelps Dodge Corp., Controller's Department, Statistical Section, Aug. 25, 1977.

SENATE—*Monday, October 10, 1977*

(Legislative day of Thursday, October 6, 1977)

The Senate met at 12 noon, on the expiration of the recess, and was called to order by Hon. SPARK M. MATSUNAGA, a Senator from the State of Hawaii.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, offered the following prayer:

Almighty God, eternal and unchangeable, who rules over Thy creation from generation to generation, give us grateful hearts as we remember the intrepid pioneers who first discovered this new world. Remembering how they traversed the unfamiliar seas, wilt Thou make us explorers of the Spirit to bring to this new world a more perfect order according to Thy kingdom.

Abide in the hearts and minds of all who serve in this place to resolve all discord, banish all resentment, eliminate distrust, and so bind us together in singleness of purpose and completeness of dedication that we may concert our best efforts for the welfare of this Nation and the world.

In Thy name and for Thy sake we ask it. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., October 10, 1977.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable SPARK M. MATSUNAGA, a Senator from the State of Hawaii, to perform the duties of the Chair.

JAMES O. EASTLAND,
President pro tempore.

Mr. MATSUNAGA thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF LEADERSHIP

The ACTING PRESIDENT pro tempore. The Senator from West Virginia.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings of Friday, October 7, 1977, be approved.

The ACTING PRESIDENT pro tempore. Without objection it is so ordered.

ORDER FOR ADJOURNMENT TODAY UNTIL 10 A.M. TOMORROW, TUESDAY, OCTOBER 11, 1977

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 10 o'clock tomorrow morning.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

THANKS TO THE PEOPLE WHO MAKE THE SENATE WORK

Mr. STEVENS. Mr. President, on reflection over the weekend concerning the time we spent in the so-called postfilibuster filibuster, I thought of the fact that we had not really thanked the people who make the Senate continue to work, despite our peregrinations. Those members are the official reporters, the people at the desk, the pages, the elevator operators, our own personal floor staff, and all of those who are employed to make the Senate work more efficiently and who are, by necessity, required to work long hours and, therefore, lose many of their own personal life opportunities because we get embroiled in delays and disputes such as we experienced on the natural gas deregulation bill. I, for one, would like to thank them.

I cannot remember, during that whole period, one cross word from anyone, whether it was from someone at the door or at the desk, or even from one of our good friends, the Parliamentarians, who faced tasks that were almost Herculean at times. I think that it is a credit to the Senate that we can emerge from such a prolonged, heated debate of that nature, with tempers as high as they were at times, including my own, and not find anyone from our professional staff who lost his or her sense of humor, or sense of purpose, as far as the tasks of the Senate were concerned.

Mr. ROBERT C. BYRD. Mr. President, I share the sentiments that have been expressed by the distinguished minority whip. I wish personally to add my thanks to those he has expressed to all concerned.

COMMITTEE MEETINGS DURING SENATE SESSIONS THIS WEEK

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to sit during the sessions of the Senate on Tuesday, Wednesday, and Thursday, October 11, 12, and 13, to conduct confirmation hearings on the nomination of Judge Frank Johnson to be Director of the FBI.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the action be vitiated for the moment.

The ACTING PRESIDENT pro tempore. Without objection. it is so ordered.

ON THE RETIREMENT OF ROBERT S. ALLEN: A PIONEER STILL ON THE MOVE

Mr. ROBERT C. BYRD. Mr. President, there are few nations in the world in which the press plays the role that it does in the United States. In this country, newspaper reporters, syndicated columnists, and news broadcasters have become vital elements of the democratic processes by which our Government and society function effectively.

The tradition of a free and responsible press is one of the foundation stones of our Republic. The story of John Peter Zenger and his vindication against an oppressive colonial government is a tale familiar even to young schoolchildren in America. One of the basic rights guaranteed by the first amendment to the Constitution is the exercise of the principle of freedom of the press.

Throughout our history, journalists have contributed significantly to shaping the course of this Nation. One journalist,

Horace Greeley, was even a major contender for the Presidency in 1872. Thomas Nast the great journalistic artist, established the political cartoon as an influential genre of public communication, and, in so doing helped to decide the fate of men and issues in the later 19th century. Carl Schurz another famous newspaperman of the last century, alternated successfully his career in journalism with roles as an ambassador to Spain, a Senator from Missouri, and the Secretary of the Interior under President Hayes.

The complexity of 20th century society in America has demanded an increasingly sophisticated and alert response from journalists. One of the pioneers of modern American journalism has been Robert Sharon Allen, a man whose life has spanned some of the most dramatic events in this century, and whose career has helped forge journalistic frontiers. Colonel Allen, whose military career began in the 6th Cavalry along the Mexican border in 1916, and expanded to include service in World War I and World War II, was born in 1900. Now at an age when many men and women have been retired for at least a decade, Robert S. Allen is in the process of "changing gears in his profession," as he says. Instead of maintaining the same tight schedule that has produced a continuous flow of daily columns for so many years, Colonel Allen will limit his syndicated columns to those issues about which he feels most deeply. Nevertheless, this change is noteworthy, for Robert S. Allen is one of the men whose actions and opinions have ultimately made an impression on millions in this century.

Colonel Allen launched his career as a reporter in 1923 during the Coolidge administration, when he perceptively covered Aldolph Hitler's abortive putsch in Munich. Subsequently, at the age of 29, Allen became head of the Christian Science Monitor's Washington bureau—the youngest bureau chief in the city at that time.

Therefore, Robert Allen became a newspaperman's newspaperman, pursuing leads and stories to their limits, and establishing new standards for veracity and accuracy. In partnership with the late Drew Pearson, he achieved the pinnacle of recognition as a national columnist.

When the United States was drawn into World War II, Mr. Allen was called back to active duty in the Army, and served as Chief of Combat Intelligence in the 3d Army under Gen. George S. Patton. Severely wounded and captured by the enemy near Ohrdruf, Germany, 1 month before the end of the war, Colonel Allen received the Purple Heart, in addition to the Silver Star, the Legion of Merit, Special Commendation Ribbon with Cluster, French Legion of Honor, and the Croix de Guerre, which were awarded for valor and service.

Returning to civilian life, Robert Allen overcame the results of his wounds and resumed his pace-setting career as a columnist.

Mr. President, I congratuate Robert S. Allen for the creative role that he has played in American journalism during his lifetime, and I wish him renewed success and recognition in the years ahead. He can be assured that his energetic pursuit of fact and truth, and his patriotic commitments to the best standards of good and honest government have made this country a more secure, just, and decent Nation in which to live.

UNANIMOUS-CONSENT AGREEMENT—NOMINATIONS

Mr. STEVENS. Mr. President, still on the minority leader's time, may I ask the distinguished majority leader, a question has been raised about the unanimous-consent agreement that was entered into on Friday concerning the vote on Mr. Ferris and Mr. King. It is my understanding that that vote is to take place following the disposition of S. 1585, and that it would be without debate on both nominations. We now have a request for a short period of time and I wonder if the distinguished majority leader would be willing to set forth a short period of time, say 20 minutes, on each, equally divided, or something of that order.

Mr. ROBERT C. BYRD. It is certainly agreeable with me. Would the distinguished minority whip recommend that much time on each of the nominations of Mr. Ferris and Mr. King?

Mr. STEVENS. It is Mr. King's, but since we are taking both under the same procedure, if anyone wishes to express a comment about Mr. Ferris, it seems to be just a matter of fairness. We have no request at this time. The request at this time is for Mr. King. Could we just get an agreement that if someone seeks time, there will be 20 minutes, equally divided, on each of those nominations when they are called before the Senate?

Mr. ROBERT C. BYRD. I do not believe there has been any request on our side for time on Mr. Ferris. I would like to leave that as it is. If the distinguished Senator wishes 20 minutes, equally divided, on Mr. King, we can arrange that.

Mr. STEVENS. Very well. That is the request at this time, if the majority leader would request it.

Mr. ROBERT C. BYRD. Mr. President, as in executive session, I ask unanimous consent that following the disposition of the nomination of Charles D. Ferris to be a member of the Federal Communications Commission, there be a time for debate on the nomination of Mr. James B. King, to be a member of the National Transportation Safety Board, of not to exceed 20 minutes, to be equally divided between the majority and minority leaders or their designees.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

AUTHORIZATION TO ORDER YEAS AND NAYS ON NOMINATIONS

Mr. ROBERT C. BYRD. Mr. President, I understand there will be a rollcall vote on both those nominations. So, I ask unanimous consent, as in executive session, that the yeas and nays on the two nominations may be ordered at any time and with one show of seconds.

Mr. MATHIAS. Reserving the right to object, when the majority leader says "any time" could he give us some indication of when that may be?

Mr. ROBERT C. BYRD. I am just talking about the order for the yeas and nays—at any time.

Mr. MATHIAS. I see.

Mr. STEVENS. It will follow the disposition of S. 1585, the bill pertaining to the use of minors.

Mr. ROBERT C. BYRD. The votes will occur then, but my thought was that at any time we have enough Senators on the floor we might proceed to order the yeas and nays.

Mr. MATHIAS. There is certainly no objection to that.

Mr. ROBERT C. BYRD. I thank the Senator.

Mr. STEVENS. I thank the distinguished majority leader.

There is no objection.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. STEVENS. Mr. President, I yield back the remainder of the minority leader's time.

The ACTING PRESIDENT pro tempore. Does the Senator from West Virginia have any further business?

Mr. ROBERT C. BYRD. No. I yield back the remainder of my time.

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Virginia (Mr. HARRY F. BYRD, JR.) is recognized for a period not to exceed 15 minutes.

THE ENERGY DILEMMA

Mr. HARRY F. BYRD, JR. Mr. President, the Senate has now passed its versions of President Carter's nontax energy proposals. While I do not agree with every provision of each of these bills, I think that on balance they move the country in the right direction so far as energy conservation is concerned.

I believe that the President was correct in laying stress upon conservation, and both the House and the Senate have supported him in this.

Indeed, it may be desirable for the Senate Finance Committee to reconsider its rejection of one of the President's tax proposals in the conservation field—I am referring to the proposed levy on the industrial and utility use of gas and oil. If limited to major installations, and with credits to avoid unreasonable burdens upon industry and consumers, this tax may prove a desirable addition to the nontax energy bills already cleared by the Senate.

In any event, I think a good beginning has been made in conservation.

The great defect of the President's program is that it provides no incentive to increase domestic production.

It is my conviction that the Nation needs both conservation and increased production to achieve more reliable energy supply.

It is the lack of incentive for production which has led to the rejection of

the President's energy tax program in the Senate Finance Committee.

The Finance Committee, despite the diligent efforts of its chairman, Senator LONG, has reached an impasse on the President's energy tax program.

While a large majority of the committee finds the President's program unacceptable, there is no consensus within the committee as to what should be done.

The President's plan takes a Rube Goldberg approach, placing a heavy tax burden upon the people and then scattering the huge tax take to the four winds in the form of a per capita rebate.

The President's plan, which is embodied in the House-passed legislation, would place upon the American people the heaviest peacetime tax increase in the Nation's history. Yet it does not even purport to bring forth any significant additional energy to meet the country's needs.

The Finance Committee tomorrow will consider proposals providing for various tax credits and incentives. It is difficult for this Senator to foresee what will come of that approach.

As matters now stand, the only energy tax pending in the Congress is the House-passed bill, whose tax provisions have been rejected by the Finance Committee. Hence any credits which we now may consider must be either credits against existing taxes—such as the corporate income tax—or must be framed on the assumption that some modification of the House-passed taxes will be acceptable in the long run.

In short, the Finance Committee is to a large extent legislating in the dark.

From a fiscal standpoint, the net effect of the credits to be considered tomorrow would be to reduce revenues at a time when the Government already is heavily in the red. In light of the fact that the estimated Federal funds deficit for the current fiscal year will be the greatest in the Nation's history—$74 billion—I am most hesitant to vote for tax credit measures at this time, when the revenue source for such credits is so unclear.

Nevertheless, in an effort to work with the committee to develop production incentives, I am willing to examine with an open mind each of the credit proposals which members may put forward.

I do feel, though, that given the present situation, we should not give final approval to any single tax credit until some kind of package is developed, and until a decision is reached as to what revenue measures are necessary or desirable.

The present situation would seem to have serious implications with regard to the timing of action on the energy program.

It seems possible that the Finance Committee may report a more or less bland tax bill, planning to send it to a House-Senate conference at which the real, final energy tax program would be written.

Should that occur, the conference certainly will be lengthy. Moreover, Senate consideration of the conference report may be expected to take considerable time, as Senators surely will want to be fully informed about all the implications of the tax program.

I am coming around to the view that it may be desirable to put the whole matter over until January, unless the administration can sooner develop a new approach to the energy problem—one which will include provision for developing additional energy sources.

Some contend that if the Congress does not enact an energy tax program this year, the President will call the Congress back into session.

That would be satisfactory to the Senator from Virginia.

However, I believe that the administration would find it in its own interest to develop an acceptable alternative to its present plan.

It is my belief that the administration's energy tax plan, as it now stands, never will become acceptable either to the Finance Committee or to the Senate as a whole.

If the Congress should adjourn without final action on energy, then certainly a new plan would have to be prepared before the President called the Congress back. Otherwise the call would be an exercise in futility.

In fact, a new proposal from the administration would be helpful in any event—and the sooner the better.

I guess my message to the President and to Secretary Schlesinger, Secretary Blumenthal, and their associates could be summarized in the words of an old automobile advertisement:

Eventually—why not now?

Regardless of the administration's action or inaction, I shall cooperate with Chairman LONG as he and the Finance Committee endeavor to find a way out of a difficult dilemma.

IMPACT AID TO SCHOOLS

Mr. HARRY F. BYRD, JR. Mr. President, the Federal impact aid program is, I feel, a just and fair program and one which should be continued.

The purpose of the program is to compensate localities throughout the Nation for Federal property which is nontaxable by the localities and to aid also the impact which large concentration of Federal employees has on the cost of community services which must be provided.

This seems to me to be appropriate, fair, and reasonable.

Another reason I favor the impact aid program is that it is one of the few Federal programs where funds go back to the communities without strings attached. It enables our educators to make the best use of available dollars, benefiting both the community and the Government.

One of the many counties benefiting from the impact aid program is Arlington County, Va., situated just across the Potomac River. Federal land, buildings and improvements located in Arlington County have been assessed at $630 million. If such property were privately owned, the real property tax due Arlington County would exceed $9 million.

I ask unanimous consent that a resolution on impact aid to schools, adopted September 10, 1977, by the Arlington County Board, be printed in the RECORD.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

RESOLUTION ON IMPACT AID TO SCHOOLS

Whereas, Federal land, buildings and improvements located in Arlington County have been assessed at $630.4 million,

Whereas, Arlington County bears the financial burden of providing many community and educational services for these properties and their occupants and employees, and

Whereas, if such property were privately owned, the real property tax due to Arlington County would approximate $9.4 million,

Therefore be it resolved that the County Board of Arlington County, Virginia urges that

1. Congress recognize the burden on local taxpayers who provide a high level of community services for Federal property including education to children of Federal employees and adopt a source of funding for these services whereby a locality could tax Federal property or receive payments equivalent to that tax in lieu thereof, and

2. Congress continue its support of "Category B" impact aid as the viable source of funding for the public education of pupils whose parents work for the Federal government, if such in lieu of tax payments are not provided.

ORDER OF BUSINESS

Mr. HARRY F. BYRD, JR. Mr. President, I yield the remainder of my time to the Senator from Alabama.

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Alabama (Mr. ALLEN) is recognized for not to exceed 15 minutes, plus the 6 minutes which the Senator from Virginia has yielded.

Mr. ALLEN. I thank the distinguished senior Senator from Virginia (Mr. HARRY F. BYRD, JR.) for yielding the remaining portion of his time to me. I doubt that I shall use all the time that has been allotted and that has been yielded to me.

UNIVERSITY OF ALABAMA VERSUS UNIVERSITY OF SOUTHERN CALIFORNIA

Mr. ALLEN. Mr. President, the distinguished minority whip, Mr. STEVENS, a few moments ago was talking about happenings and meditations over the weekend. I suppose the most important happening over the weekend—certainly one of the most important happenings—was the upset victory by the University of Alabama's great Crimson Tide football team over the No. 1 ranked USC football team, which was and is a great team and certainly a spectacular team.

I commend the University of Southern California for their great football team and their near comeback in the fourth quarter. At the same time, I must comment on the University of Alabama's great upset victory and commend the team and the coaching staff, headed by coach Paul Bryant. It was a most spectacular game, and I am sure that those

who attended it or saw it on television or heard it on the radio were thrilled throughout the game by this meeting of two great teams.

PANAMA CANAL TREATIES—NO. 14

Mr. ALLEN. Mr. President, over the past days and weeks, I have been discussing here on the floor of the Senate certain major defects in the proposed Panama Canal treaties which have been sent by the administration to the Senate for consent.

I say "consent," because there are many treaties by the administration without our having had an opportunity to advise with the administration or with the negotiators as to the content of the treaties.

In the course of these discussions, in the course of the studies we have each undertaken of these proposed new arrangements with Panama, and in the course of the various committee investigations, in my judgment the Senate has now reached a point at which the treaties are sufficiently well understood by us all to recommend to the President of the United States that the treaties be withdrawn.

Certainly, my own conclusion after careful deliberation is emphatically that the Senate should not give its consent to these treaties in their present form and, furthermore, that these treaties are so defective as to render inappropriate any attempt to correct them by amendment, reservation, or understanding or through any extrinsic exchange of notes or similar device.

Mr. President, it seems to me that if we do add many amendments to the treaties, if we add reservations to the treaties, if we add understandings to the treaties, we would end up with a patchwork document; and I do not believe we should have to go to other documents to determine what the treaty means. I think we should have a treaty that, within the four corners of the document itself, will consist of wording that explains exactly what the agreement is.

Law school freshmen learn in their early days, in their course on contracts, that a contract requires a meeting of the minds. There has been no meeting of the minds here, because the Panamanian negotiators say the treaties mean one thing and our negotiators say they mean something else.

I must say that the drafting of these treaties was done in a slipshod fashion, if we are not able to draft a document by which both sides understand exactly what the provisions of the treaty mean.

We should not have negotiators leaving the negotiating table and then, as soon as the treaties are signed by the heads of States of the two countries, have disagreements as to what the treaties mean.

Of course, I contend—and I feel that it is a correct assessment—that if we amend the treaties, the treaties are dead. They have to go back to be renegotiated. So if we do amend the treaties, as distinguished from adding reservations and understandings, a treaty as amended, whether it is voted by the Senate or voted down by the Senate, could serve as a guide for our negotiators, indicating how the people of the United States, acting through their duly elected Senators, feel about the treaty. They could use this treaty, as so amended, if it is allowed to stay before the Senate, as a guideline to redraft the treaty.

I believe we need to have the treaties withdrawn and renegotiated, because the points have been made to the Senate and to the administration that the provisions of the treaties have brought forth conflicting interpretations by the parties. I feel, therefore, that the best course would be to withdraw the treaties at this time, rather than to have the Senate working on trying to reshape the treaties, as it must do, as must be done.

If these treaties stay before the U.S. Senate, the only question will be whether these revisions will be made in the form of amendments, which would kill the treaties—require them to go back to the negotiating table—or whether the amendments will be by reservations, unilateral statements of our understanding, reservations which would be to the resolution of ratification.

If agreed to by the Panamanians, it would become effective, and then understandings, of course, do not have to be acquiesced in by the Panamanian Government.

But the only safe way to do it is, if the treaties are to remain before the Senate, to amend the treaties at the basic points that need revision, and not handle it by reservation or understanding. So that if we seek to correct these defects by amendment, reservation, or understanding or through any extrinsic exchange of notes or similar device, I believe we will have a document that does not tell the contract and will have to refer to other documents to find out what was meant by the wording of the treaties. As I say, we ought to have a treaty that in and of itself explains the understanding.

I believe my view of the matter is shared by a sufficient number of Senators to warrant an immediate and complete withdrawal of the treaties by the executive department and a reinitiation of negotiations with Panama by the Department of State along lines not inconsistent with opinion in the Senate and in the country. Accordingly I do strongly urge and advise the President of the United States forthwith to withdraw these unfortunate, ill-conceived, and poorly drafted documents.

We have reached this state of affairs, Mr. President, because of what I conceive to be a fundamental error in the manner in which the treaties were negotiated from the outset. I refer to the impenetrable veil of secrecy which surrounded the treaty negotiations right up to the moment of their signing 1 month ago on September 7, 1977. This veil of secrecy prevented Senators—and, indeed, the Congress—from having any role whatsoever in advising the President as to the best course of action to follow in striking a bargain with Panama. Perfunctory briefings containing little information and seeking no advice, to be sure, were conducted. But, indeed, how could sound advice be given the President in any circumstance so long as the real substance of the negotiations—the real substance of the treaties under negotiation—was wholly unknown to Senators and top secret even at the highest levels of the administration?

The authors of the Constitution wisely provided for a check on the unrestrained power of the executive department in foreign affairs by requiring the advice of the Senate and its consent by a two-thirds vote to any treaty arrangement with a foreign state. Certainly, at that early time in our history the authors of the Constitution sought and contemplated a system under which the Congress and the Senate took the lead in directing the foreign policy of the country and a system under which the Executive carried out the desires of the people in foreign policy as expressed by the people's representatives in Congress assembled.

While I can acknowledge that in practice the executive department has more and more taken the lead in foreign policy matters, I cannot concede—and it would be improper for the Senate to concede—that we have reached a stage in our history at which the Senate is prepared simply to rubberstamp any foreign policy proposal put on the table by the President. Our country will suffer immeasurably and irreparably if the Senate ever acquiesces to the desires of the executive department to the extent that treaties presented to the Senate are simply rubberstamped—I am confident the Senate is not going to rubberstamp these treaties. Approval should come, Mr. President, only after probing investigation, full discussion, and, above all, substantial prior advice.

So, Mr. President, these proposed Panama Canal treaties were negotiated in secret without the involvement of the Congress and hence without the involvement of the American people. The price of that secrecy must now be paid. These treaties are not acceptable to the American people, not acceptable to the Congress, nor in my judgment are they acceptable to two-thirds of the Senate.

Had the advice of the Senate been seriously sought, I am certain that these documents would not have been presented to us in their present form. Had the advice of the Senate been seriously sought, I am certain any proposed arrangement with Panama would have provided for an adequate defense of the canal to insure the national security interests of the United States. Had the advice of the Senate been seriously sought, these treaties would have established a treaty regime under which the United States was guaranteed the right to take appropriate action to preserve vital national interests at this key strategic location. Had the advice of the Senate been seriously sought, no treaty would have been negotiated which denied the United States its sovereign right to enter into

an agreement with a third state for the construction of a second canal—and we do not have that right for 23 years under the provisions of the treaty. We cannot even negotiate with any other nation in the Western Hemisphere about another canal for the entire life of the first treaty. Had the advice of the Senate been seriously sought, no agreement would have been negotiated which provided for the massive cash payments to Panama now contemplated. Finally, Mr. President, had the advice of the Senate been seriously sought, no treaty would have been concluded which violated basic American constitutional principles by denying to the House of Representatives a role in a proposed cession of U.S. territory. But, Mr. President, the advice of the Senate was not sought, and now that the lesson has been learned, I sincerely hope and trust that the President of the United States will recognize that an error has been made and will take the corrective action I suggest.

Few, if any of us, would assert that no new treaty with Panama should be concluded under any circumstances, but, Mr. President, not these treaties—not these treaties.

The mistakes made in this instance are not novel. As many Senators in this Chamber today undoubtedly recall, perhaps from their own experience, in the past the executive department made a practice of including Senators in negotiating delegations sent to foreign lands on missions undertaken for the purpose of discussing important treaty relations. Unhappily, that sound practice has fallen out of use. But never before in the history of our country has the Senate been so completely excluded from any participation in the negotiating process, nor has the Senate ever been so completely denied a role in giving its advice to the President on such an important and critical foreign policy matter of great national significance; never before has the Department of State so completely insulated the President from the Senate and from the people, as has been done in negotiating these proposed arrangements with Panama. The exclusion of the Senate and the Congress and the people has been total.

The only past situation which might be said to be even remotely comparable was President Woodrow Wilson's decision to ignore the advice of the Senate in negotiating and signing the Treaty of Versailles at the conclusion of World War I. The result of that mistake is well known. President Wilson, a leader whom I have always admired as a great statesman—I was born on his birthday, I will say—made the serious error of assuming he could present the Senate of the United States with the Treaty of Versailles to establish the League of Nations and, on the strength of his own popularity, insist upon its approval. Wilson is reported by some to have stated to Senators in a meeting at the White House during consideration of the Treaty of Versailles:

I do not wish to see an "i" dotted or a "t" crossed.

The result, of course, was that he saw the complete defeat of what he considered to be his greatest potential contribution to the history of man and nations.

One of the 14 points which President Wilson set forth as a basis for the negotiation of the Treaty of Versailles was that he would support only "open covenants openly arrived at." In that respect, at least, President Wilson demonstrated his great statesmanship by recognizing the impropriety of secret negotiation of secret agreements touching the vital interests of a democratic state. A gangster dictatorship—and the Government of Panama is thought by many, including myself, to be a gangster dictatorship—is able to operate behind closed doors and, indeed, could not operate in the glaring light of public disclosure. But, Mr. President, our country is a free nation composed of free citizens, and negotiations by our Government, regardless of subject matter, must be open to debate and full discussion in all forums. In a free country open and frank discussion does not impede foreign policy negotiation; in a free state, open discussion guarantees honesty in relations with foreign states and insures that the executive department does not take a position in foreign policy inconsistent with the will of the people and, therefore, not supportable in action.

The President has belatedly taken a half-step in the right direction by seeking the consultation of certain Senators in devising so-called clarifying language to clear up only two of the many grave flaws in these treaties. But, Mr. President, let us not participate in the charade of pretending that clarifying language can resurrect these dead instruments. These documents are inherently flawed. No amount of understandings with the present dictator of Panama can correct the clear language of these treaties which deny to the United States basic rights vital to our security and commerce.

Even an understanding reached with a legitimate foreign government could not correct the clear unambiguous language of these treaties which denies to the United States the right to intervene to insure the neutrality of this strategic canal and which would put our warships in an emergency on the same footing with merchant vessels carrying bananas, because the Panamanians say our warships are just going to have to get in line with the other ships. We do not have any priority. So we cannot accept this, of course.

Even an understanding with a legitimate democratic government could not correct these flaws. How, then, can we expect a so-called understanding reached with a bankrupt government composed of political criminals and petty intriguers, of Communists and Communist dupes, of profiteers, racketeers, and smugglers—how can we expect an understanding reached with a government of that ilk to have any validity in the eyes of the people of a free republic governed by freely elected representatives? So, please, spare us the charade.

Let us have instead a frank decision that these documents must be withdrawn. Let us have instead an effort thereafter to negotiate openly with the advice of the Senate, with the participation of the Congress, and with the informed consent of the American people to the end that new proposals may be submitted to the Senate in a form to which the Senate can in good conscience give its consent. In that process let us reeducate our negotiators and let the people be.

If these treaties are not withdrawn, then certainly Senators would find it proper to continue a detailed analysis of each and every provision of the treaties, of the executive agreements, of the annexes to the executive agreements, of the notes, of the protocols, of the maps, of the appendices, and of all the other documents and evidence bearing on this subject. The major flaws have already surfaced; yet if need be, much work remains to be done; if need be, many questions must be answered; if need be, the full light of public knowledge must illuminate every nook and cranny of these complicated documents and of the complicated procedure by which they were negotiated. I hope that process will not be necessary. Certainly, we have learned enough already to warrant the step I recommend.

The ACTING PRESIDENT pro tempore. The time of the Senator has expired.

Mr. ALLEN. Mr. President, I thank the Chair.

LEGAL SERVICES CORPORATION ACT AMENDMENTS OF 1977

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now proceed to the consideration of S. 1303, which the clerk will state by title.

The legislative clerk read as follows:

A bill (S. 1303) to amend the Legal Services Corporation Act to provide authorization of appropriations for additional fiscal years, and for other purposes.

The Senate proceeded to consider the bill which had been reported from the Committee on Human Resources with an amendment to strike all after the enacting clause and insert the following:

SHORT TITLE

SECTION 1. This Act may be cited as the "Legal Services Corporation Act Amendments of 1977".

FINANCING

SEC. 2. (a) Section 1010(a) of the Legal Services Corporaton Act (42 U.S.C. 2996i(a)) is amended by striking out "and" in the first sentence thereof and inserting before the period at the end of such sentence a comma and "$225,000,000 for fiscal year 1978, and such sums as may be necessary for each of the four succeeding years.".

(b) Section 1010(c) of the Legal Services Corporation Act (42 U.S.C. 2996i(c)) is amended by striking out the semicolon and

all that follows and inserting in lieu thereof a period.

MEMBERSHIP OF GOVERNING BODIES

SEC. 3. (a) Section 1004(a) of the Legal Services Corporation Act (42 U.S.C. 2996c (a)) is amended by inserting at the end thereof the following new sentence: "At least three persons appointed to fill vacancies occurring after January 1, 1977, and before July 30, 1978, shall be, when selected for appointment, eligible clients who may be representatives of associations or organizations of eligible clients and at least one such person shall be appointed to fill a vacancy occurring prior to January 1, 1978. Following July 30, 1978, at least three members of the Board shall be eligible clients. The membership of the Board shall be appointed so as to be generally representative of the organized bar, significant segments of the client community, attorneys providing legal assistance to eligible clients, and the general public.".

(b) Section 1007(c) of the Legal Services Corporation Act (42 U.S.C. 2996f(c)) is amended by striking out "and which includes at least one individual eligible to receive legal assistance under this title." and inserting in lieu thereof "and at least one-third of which consists of persons who are, when selected, eligible clients who may be representatives of associations or organizations of eligible clients.".

SUNSHINE PROVISION

SEC. 4. Section 1004(g) of the Legal Services Corporation (42 U.S.C. 2996c(g)) is amended by striking out all that follows "open" and inserting in lieu thereof "and shall be subject to the requirements and provisions of section 552B of title 5, United States Code (relating to open meetings).".

SUPPORT ASSISTANCE

SEC. 5. Paragraph (3) of section 1006(a) of the Legal Services Corporation Act (42 U.S.C. 2996e(a)(3)) is amended by striking out "and not" and inserting in lieu thereof a comma and "or".

POWERS, DUTIES, AND LIMITATIONS OF THE CORPORATION AND RECIPIENTS

SEC. 6. (a) Section 1006(b)(1) of the Legal Services Corporation Act (42 U.S.C. 2996e(b)(1)) is amended by inserting "(A)" after "SEC. 1006(b)(1)" and by adding at the end thereof the following new subparagraph:

"(B) No question of whether representation is authorized under this title, or the rules, regulations, or guidelines promulgated pursuant to this title, shall be considered in any proceeding in which a person is represented by a recipient or an employee of a recipient. Such questions may be referred to the Corporation for such disposition as the Corporation deems necessary.".

(b) Section 1006(d) of the Legal Services Corporation Act (42 U.S.C. 2996e(d)) is amended by adding at the end thereof the following new paragraph:

"(6) Attorneys employed by a recipient shall be appointed to provide legal assistance without reasonable compensation only when such appointment is made pursuant to a statute, rule, or practice applied generally to attorneys practicing in the court where the appointment is made.".

ACTIVITIES OF STAFF ATTORNEYS

SEC. 7. (a) Paragraph (2) of section 1006(e) of the Legal Services Corporation Act (42 U.S.C. 2996e(e)(2)) is amended by inserting "and staff attorneys" immediately after "Corporation".

(b) Section 1007(a)(6) of the Legal Services Corporation Act (42 U.S.C. 2996f(a)(6)) is amended by striking out the matter following clause (C).

ASSISTANCE CRITERIA

SEC. 8. (a) Paragraph (2)(B)(iv) of section 1007(a) of the Legal Services Corporation Act (42 U.S.C. 2996f(a)(2)(B)(iv)) is amended to read as follows:

"(iv) such other factors as relate to financial inability to afford legal assistance, which shall include evidence of a prior determination that such individual's lack of income results from refusal or unwillingness, without good cause, to seek or accept an appropriate employment situation; and".

(b)(1) Paragraph (2)(C) of section 1007(a) of the Legal Services Corporation Act (42 U.S.C. 2996f(a)(2)(C)) is amended to read as follows:

"(C) insure that (i) recipients, consistent with goals established by the Corporation, adopt procedures for determining and implementing priorities for the provision of such assistance, taking into account the relative needs of eligible clients for such assistance (including such outreach, training, and supporting services as may be necessary), including particularly the needs for service on the part of significant segments of the population of eligible clients with special difficulties of access to legal services or special legal problems (including elderly persons, handicapped individuals, veterans, native Americans, migrants or seasonal farmworkers, and persons with limited English-speaking abilities); and (ii) appropriate training and support services are provided in order to provide such assistance to such significant segments of the population of eligible clients;".

(2) Section 1008(c) of the Legal Services Corporation Act (42 U.S.C. 2996g(c)) is amended by adding at the end thereof the following new sentence: "Such report shall include a description of services provided pursuant to section 1007(a)(2)(C) (i) and (ii).".

(c) Paragraph (5)(A) of section 1007(a) of the Legal Services Corporation Act (42 U.S.C. 2996f(a)(5)(A)) is amended to read as follows:

"(A) representation by an attorney (or a recipient employee supervised by such an attorney) for any eligible client is necessary to the provision of legal advice and representation with respect to such client's legal rights and responsibilities (which shall not be construed to permit an attorney or a recipient employee to solicit a client, in violation of professional responsibilities, for the purpose of making such representation possible); or ".

(d) Paragraph (8) of section 1007(a) of the Legal Services Corporation Act (42 U.S.C. 2996f(a)(8) is amended by striking out all after "title" and inserting in lieu thereof a semicolon.

LIMITATION ON USE OF FUNDS

SEC. 9. (a) Section 1007(b)(1) of the Legal Services Corporation Act (42 U.S.C. 29966(b)(1)) is amended to read as follows:

"(1) to provide (A) legal assistance (except in accordance with guidelines promulgated by the Corporation) with respect to any fee-generating case (which guidelines shall not preclude the provision of legal assistance in cases in which a client seeks only statutory benefits and appropriate private representation is not available) or in civil actions to persons who have been convicted of a criminal charge where the civil action arises out of alleged acts or failures to act and the action is brought against an officer of the court or against a law enforcement official for the purpose of challenging the validity of the criminal conviction, or (B) legal assistance in any criminal proceeding, except to provide assistance to a person charged with an offense involving hunting, fishing, trapping, or gathering fruits of the land, when the principal defense asserted involves rights arising from a treaty with native Americans, or from a statute or Executive order establishing such rights, or to a person charged with a misdemeanor (or its equivalent) or lesser offense in an Indian tribal court;".

(b) Section 1007(b) of the Legal Services Corporation Act (42 U.S.C. 29966(b)) is amended by repealing paragraph (a) and paragraph (7).

(c) Section 1007(b)(6) of the Legal Services Corporation Act (42 U.S.C. 29966(b)(6)) is amended to read as follows:

"(6) to initiate the formation of any association, federation, or similar entity, except that the provision shall not be construed to prohibit the provision of legal assistance to eligible clients;".

(d) Section 1007(b)(9) of the Legal Services Corporation Act (42 U.S.C. 29966(b)(9)) is amended to read as follows:

"(9) to provide legal assistance with respect to any proceeding or litigation arising out of desertion from the Armed Forces of the United States where counsel is available from the Department of Defense.".

(e) Section 1007(b) of the Legal Services Corporation Act (42 U.S.C. 29966(b)) is amended by redesignating paragraph (5) as paragraph (4), paragraph (6) (as amended by section (c) of this section) as paragraph (5), paragraph (8) as paragraph (6), and paragraph (9) (as amended by subsection (d) of this section) as paragraph (7).

MODEL PROJECTS

SEC. 10. The Legal Services Corporation Act (42 U.S.C. 2996(g)) is amended by adding after section 1007(g) the following subsection:

"(h) The Corporation may make grants or contracts for the purpose of paying all or part of the cost of developing or operating (or both) national, statewide, regional, county, city, or community model projects which will expand or improve the delivery of legal services to significant segments of the population of eligible clients with special difficulties of access to legal services or special legal problems, including elderly persons, handicapped individuals, veterans, native Americans, migrants or seasonal farmworkers, and persons with limited English-speaking abilities. Not more than 3 per centum of the sums appropriated under section 1010(a) for fiscal year shall be used for projects under this section.".

AUDITS AND RECORDKEEPING

SEC. 11. Paragraph (2) of section 1009(b) of the Legal Services Corporation Act (42 U.S.C. 2996h(b)(2)) is amended by striking out the period at the end of the last sentence and inserting in lieu thereof "throughout the period beginning on the date such possession or custody commences and ending three years after such date, but the General Accounting Office may require the retention of such books, accounts, financial records, reports, files, papers, or property for a longer period under section 117(b) of the Accounting and Auditing Act of 1950 (31 U.S.C. 67(b)).".

DECLARATION OF PURPOSE

SEC. 12. Section 1001 of the Legal Services Corporation Act (42 U.S.C. 2996) is amended by inserting before the semicolon at the end of paragraph (3) "and assist in improving opportunities for low-income persons consistent with the purposes of this Act".

HEARING EXAMINERS

SEC. 13. Section 1011(2) of the Legal Services Corporation Act (42 U.S.C. 2996j(2)) is amended by inserting before the period at the end thereof a comma and "and, when

requested, such hearing shall be conducted by an independent hearing examiner. Such hearing shall be held prior to any final decision by the Corporation to terminate financial assistance or suspend or deny funding. Hearing examiners shall be appointed by the Corporation in accordance with procedures established in regulations promulgated by the Corporation.".

EFFECTIVE DATES

SEC. 14. (a)(1) The amendment made by section 2(a) of this Act shall be effective with respect to fiscal years beginning after September 30, 1977.

(2) The amendment made by section 3(b) of this Act shall be effective six months after the first day of the first calendar month following the date of enactment of this Act.

(b) The amendments made by provisions of this Act other than sections 2(a) and 3(b) shall be effective on the date of enactment of this Act.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

THE CALENDAR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Orders Nos. 437, 438, 439, 441, and 443.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, these have been cleared on both sides of the aisle.

Mr. SCHMITT. Mr. President, as the distinguished majority leader has said these are cleared on our side and we have no objection.

LUDWIK KIKLA

The bill (S. 280) for the relief of Ludwik Kikla, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That for the purposes of sections 203(a)(1) and 204 of the Immigration and Nationality Act, Ludwik Kikla shall be held and considered to be the natural-born alien son of Cyril Kikla, a citizen of the United States. The natural parents, brothers, and sisters of the said Ludwik Kikla shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. SCHMITT. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95–472), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE BILL

The purpose of the bill is to enable the beneficiary to qualify for first preference status as the unmarried son of a citizen of the United States.

STATEMENT OF FACTS

The beneficiary of the bill is a 30-year-old native and citizen of Poland who entered the United States on May 22, 1971, as a visitor. He was adopted on October 31, 1973, by a relative who is a citizen of the United States and presently resides with him in Nanticoke, Pa. The beneficiary is employed as a nurse's aide.

A letter, with attached memorandum, dated April 26, 1973, to the chairman of the Senate Committee on the Judiciary from the then Acting Commissioner of Immigration and Naturalization with reference to S. 581, a similar bill for the relief of the same beneficiary which passed the Senate in the 93d Congress, reads as follows:

U.S. DEPARTMENT OF JUSTICE, IMMIGRATION AND NATURALIZATION SERVICE, OFFICE OF THE COMMISSIONER,

Washington, D.C., April 26, 1973.

Hon. JAMES O. EASTLAND,
Chairman, Committee on the Judiciary, U.S. Senate, Washington, D.C.

DEAR SENATOR: In response to your request for a report relative to the bill (S. 581) for the relief of Ludwik Kikla, there is attached a memorandum of information concerning the beneficiary.

The bill would provide that the 26-year-old beneficiary may be classified as the unmarried son of the interested party, a U.S. citizen, and be granted first preference status. The bill does not contain the usual provision that the natural parents or step-parents of the beneficiary shall not, by virtue of such parentage, be accorded any right, privilege, or status under the Immigration and Nationality Act.

Absent enactment of the bill, the beneficiary, a native of Poland, would be chargeable to the nonpreference portion of the numerical limitation for immigrants and conditional entrants from countries in the Eastern Hemisphere.

Sincerely,

JAMES F. GREENE,
Acting Commissioner.

Enclosure.

MEMORANDUM OF INFORMATION FROM IMMIGRATION AND NATURALIZATION SERVICE FILES RE S. 581

The beneficiary, Ludwik Kikla, a native and citizen of Poland, was born on January 10, 1947. He completed 9 years of school in his native land and subsequently attended a technical school in Poland for 2 years, which he did not complete, studying to become an electrician. He served in the Polish army from 1967 until 1969 and was subsequently employed in Poland as a truck driver for approximately 8 months. The beneficiary is single and resides in Nanticoke, Pa., with the interested party, who provides his support. His assets consist of personal property of nominal value. The beneficiary's parents, four brothers, and two sisters reside in Poland.

The interested party, Cyril Peter Kikla, who is the beneficiary's cousin, has also used the name Cyril P. Kitler. He was born in Nanticoke on December 31, 1920. He completed 2 years of college. He is single and was never married. During World War II, the interested party served in the U.S. Army from October 8, 1942, until October 17, 1944, when he was honorably discharged, a board of medical officers having issued a certificate of disability because of a previously existing condition. The interested party was a civilian employee of the U.S. Army from 1954 until his retirement in 1971. He receives retirement benefits of $300 a month and receives another $1,000 annually as interest from his cash savings. He also does odd jobs, receiving approximately $1,000 annually from this source. This interested party's assets consist of cash savings of $24,000, a house valued at $9,000, and an automobile valued at $1,000.

The beneficiary was admitted to the United States as a visitor for pleasure on May 22, 1971. He was granted extensions of staying until February 28, 1973. Deportation proceedings were instituted against him on the ground that he has remained in the United States for a longer time than permitted. Following a hearing, he was found deportable as charged and was granted the privilege of voluntary departure with the alternative of deportation if he fails to depart when required.

The interested party has stated he desires to adopt the beneficiary for companionship as well as providing assistance to a member of the family.

BHARAT N. PAREKH

The Senate proceeded to consider the bill (S. 200) for the relief of Bharat N. Parekh, which had been reported from the Committee on the Judiciary with an amendment on page 2, line 1, strike "immigant" and insert "immigrant"; so as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purposes of the Immigration and Nationality Act, Bharat M. Parekh shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act upon payment of the required visa fee. Upon the granting of permanent residence to such alien as provided for in this Act, the Secretary of State shall instruct the proper officer to reduce by one number, during the current fiscal year or the fiscal year next following, the total number of immigrant visas and conditional entries which are made available to natives of the country of the alien's birth under paragraphs (1) through (8) of section 203(a) of the Immigration and Nationality Act.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. SCHMITT. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95–473), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

EXCERPT

PURPOSE OF THE BILL

The purpose of the bill, as amended, is to grant the status of permanent residence in

the United States to Bharat M. Parekh. The bill provides for the payment of the required visa fee and for an appropriate visa number deduction. The bill has been amended to correct an error in spelling.

STATEMENT OF FACTS

The beneficiary of the bill is a native and citizen of the Philippines, born August 12, 1943. He last entered the United States on August 24, 1972, as a student. He has a bachelor of science degree, a master of science degree, and a Ph. D. degree in hydrodynamics. The beneficiary is employed by North Dakota State University where he is currently engaged in research into development of a Devils Lake Basin hydrologic model.

A letter, with attached memorandum, dated April 7, 1977, to the chairman of the Senate Judiciary Committee from the then Commissioner of Immigration and Naturalization reads as follows:

U.S. DEPARTMENT OF JUSTICE, IMMIGRATION AND NATURALIZATION SERVICE,
Washington, D.C., April 7, 1977.

Hon. JAMES O. EASTLAND,
Chairman, Committee on the Judiciary, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: In response to your request for a report relative to the bill (S. 200) for the relief of Bharat M. Parekh, there is attached a memorandum of information concerning the beneficiary, who was also the beneficiary of S. 3863, 94th Congress.

The bill would grant the beneficiary permanent residence in the United States as of the date of its enactment upon payment of the required visa fee. It also directs that a visa number deduction be made.

Dr. Parekh is chargeable to the nonpreference portion of the numerical limitation for immigrants and conditional entrants from countries in the Eastern Hemisphere.

Sincerely,

L. F. CHAPMAN, Jr.,
Commissioner.

Enclosure.

MEMORANDUM OF INFORMATION FROM IMMIGRATION AND NATURALIZATION SERVICE FILES RE S. 200

The beneficiary, Dr. Bharat M. Parekh, a native and citizen of the Philippines, was born August 12, 1943. He is unmarried and has no children. He resides in Fargo, N. Dak. He has been employed by North Dakota State University at Fargo since 1974 as a research coordinator and assistant professor of hydrologic physics. His current duties there involve full-time research into development of a Devils Lake Basin hydrologic model. His current salary is $24,000 per year. He received a bachelor of science degree in 1963 from the State University of New York at Buffalo; a master of science degree in 1966 and a Ph.D. degree in hydrodynamics in 1974, from the University of Rochester, Rochester, N.Y. He completed 1 year of postdoctoral research at the University of Rochester during 1974. The beneficiary's parents and one brother reside in India. A second brother was admitted for permanent residence on May 20, 1963, at New York City and resides with his wife and children in New York. The beneficiary's assets include savings of $7,000 and a 1971 compact car. He has $200 outstanding on a student loan.

Dr. Parekh has entered the United States numerous times as a student. He was last admitted to the United States, as a student, on August 24, 1972. He was subsequently authorized to remain here until December 22, 1975. Deportation proceedings will be instituted against the beneficiary.

Alien employment certification, requested by North Dakota State University on the beneficiary's behalf, was denied on January 30, 1976, on grounds that qualified workers are available in the United States to perform the duties of the position offered.

IN HEA KIM AND MYUNG SUNG KWON

The Senate proceeded to consider the bill (S. 1551) for the relief of In Hea Kim and Myung Sung Kwon, which had been reported from the Committee on the Judiciary with an amendment on page 1, line 9, strike "beneficiary" and insert "beneficiaries"; so as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, In Hea Kim and Myung Sung Kwon may be classified as children within the meaning of section 101(b)(1)(F) of the Act, upon approval of a petition filed in their behalf by Mr. and Mrs. Konrad Marine, citizens of the United States, pursuant to section 204 of this Act: *Provided*, That the natural parents or brothers or sisters of the beneficiaries shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

SEC. 2. Section 204(c) of the Immigration and Nationality Act, relating to the number of petitions which may be approved, shall be inapplicable in this case.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. SCHMITT. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95-474), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

EXCERPT

PURPOSE OF THE BILL

The purpose of the bill, as amended, is to facilitate the entry into the United States as immediate relatives the alien children to be adopted by citizens of the United States, notwithstanding the fact that the prospective adoptive parents have previously had a maximum number of petitions approved.

STATEMENT OF FACTS

The beneficiaries of the bill are babies under 1 year of age who are natives and citizens of Korea presently residing in Seoul in the custody of the Eastern Child Welfare Society. Both children were abandoned at birth. The prospective adoptive parents have adopted two other children who live with them in Decorah, Iowa. Information is to the effect that they are financially able to care for the beneficiaries.

A letter, with attached memorandum, dated July 14, 1977 to the chairman of the Senate Committee on the Judiciary from the Commissioner of Immigration and Naturalization with reference to the bill reads as follows:

U.S. DEPARTMENT OF JUSTICE, IMMIGRATION AND NATURALIZATION SERVICE,
Washington, D.C., July 14, 1977.

A22294181.

Hon. JAMES O. EASTLAND,
Chairman, Committee on the Judiciary, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: In response to your request for a report relative to the bill S. 1551 for the relief of In Hea Kim and Myung Sung Kwon, there is attached a memorandum of information concerning the beneficiaries and interested parties.

The bill provides that the beneficiaries who are to be adopted by U.S. citizens may be classified as children and be granted immediate relative status. The bill further provides that the provision of the Immigration and Nationality Act which limits the number of petitions that may be approved for adopted children shall not be applicable in this case.

Absent enactment of the bill, the beneficiaries, natives of Korea, would be chargeable to the nonpreference portion of the numerical limitations for immigrants and conditional entrants from countries in the Eastern Hemisphere.

Sincerely,

LEONEL J. CASTILLO,
Commissioner.

Enclosure.

MEMORANDUM OF INFORMATION FROM IMMIGRATION AND NATURALIZATION SERVICE FILES RE S. 1551

Information concerning this case was obtained from Mr. and Mrs. Konrad M. Marine, the prospective adoptive parents of the beneficiaries.

The beneficiaries are natives and citizens of Korea. Myung Sung Kwon is a male child born November 28, 1976. In Hea Kim is a female child born November 19, 1976. Both of the children were abandoned at birth and are presently in the custody of the Eastern Child Welfare Society, Seoul, Korea, and are sponsored by Mr. and Mrs. Marine through the Children's Home Society, St. Paul, Minn.

Konrad Merle and Kay Irene Marine are U.S. citizens who reside in Decorah, Iowa. Mr. Marine has a private orthodontic practice and has an annual income of $40,000 per year. He is a graduate of the University of Illinois, and Mrs. Marine is a graduate of Luther College at Decorah, Iowa, with a bachelor of arts degree.

Mr. and Mrs. Marine have adopted one child, a native and citizen of Panama, and one child who is a native and citizen of Costa Rica. The children are both 3 years old and were admitted to the United States upon approval of petitions filed by the Marines to classify them as eligible orphans.

Mr. and Mrs. Marine have purchased a home in Decorah, Iowa, with a value of $40,000 and own an automobile. They have household furnishings with a value of approximately $5,000.

The preadoption requirements for the State of Iowa have been met.

DR. LAWRENCE C. B. CHAN

The bill (H.R. 1934) for the relief of Dr. Lawrence C. B. Chan, was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. SCHMITT. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95-476), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE BILL

The purpose of the bill is to grant the status of permanent residence in the United States to Dr. Lawrence C. B. Chan. The bill provides for the payment of the required

visa fee and for an appropriate visa number deduction.

STATEMENT OF FACTS

The beneficiary of the bill is a 35-year-old native of Hong Kong and subject of Great Britain who entered the U.S. June 15, 1968, as an exchange visitor, but is no longer subject to the two-year foreign residence requirement. He has an approved third preference with a priority date of November 14, 1972, as a physician but numbers are unavailable. He married a native of Hong Kong August 5, 1968, and they have two citizen children. They reside in Houston, Texas, where the beneficiary has been employed as assistant professor of cell biology at Baylor College of Medicine since March 1, 1973.

A bill for the relief of the same person passed the Senate during the 93d Congress and the following information is reprinted from Senate Report No. 93-1196:

A letter, with attached memorandum, dated July 6, 1973 to the chairman of the Senate Committee on the Judiciary from the then Acting Commissioner of Immigration and Naturalization with reference to the bill reads as follows:

U.S. DEPARTMENT OF JUSTICE, IMMIGRATION AND NATURALIZATION SERVICE,

July 6, 1973.

HON. JAMES O. EASTLAND,
Chairman, Committee on the Judiciary, U.S. Senate, Washington, D.C.

DEAR SENATOR: In response to your request for a report relative to the bill (S. 1534) for the relief of Doctor Lawrence Chin Bong Chan, there is attached a memorandum of information concerning the beneficiary.

The bill would grant the beneficiary permanent residence in the United States as of the date of its enactment, upon payment of the required visa fee. It would also direct that a visa number deduction be made.

The beneficiary, a native of Hong Kong, British Crown Colony, is chargeable to the third preference portion of the numerical limitation for immigrants and conditional entrants from countries in the Eastern Hemisphere and their dependent areas.

Sincerely,

JAMES F. GREENE,
Acting Commissioner.

Enclosure.

MEMORANDUM OF INFORMATION FROM THE IMMIGRATION AND NATURALIZATION SERVICE FILES RE S. 1534

The beneficiary, Doctor Lawrence Chin Bong Chan, a native of Hong Kong, British Crown Colony and subject of Great Britain, was born January 20, 1942. He resides at Houston, Texas, and has been employed as an assistant professor of cell biology at the Baylor College of Medicine, University of Texas, Houston, Texas, since March 1, 1973. His present salary is $11,000 per year. He received his medical degree in Hong Kong in June 1966.

Prior to his present employment, he was employed as an intern and resident-fellow in Missouri and Tennessee. His assets consist of a savings account of $2,000 and personal property valued at $4,000.

The beneficiary was married to Maria Yuen Yue Chan in Canada on August 5, 1967. She was admitted to the United States as the spouse of an exchange visitor. They have two children born to them in St. Louis, Missouri. He has no other close relatives in the United States. His widowed father resides in Hong Kong.

The beneficiary was admitted to the United States on June 15, 1968, as an exchange visitor. He is no longer subject to the two-year foreign resident requirement. Extensions of stay were authorized to June 30, 1973. He filed a petition for third preference as a physician on November 13, 1972, which was approved on November 14, 1972. The latest information indicates that a number under this preference is unavailable.

NATIONAL LAW STUDENT RECOGNITION DAY

The joint resolution (S.J. Res. 80) to authorize and request the President to issue a proclamation designating November 8, 1977, as "National Law Student Recognition Day," was considered, ordered to be engrossed for a third reading, read the third time, and passed.

The preamble was agreed to.

The joint resolution, with its preamble, is as follows:

Whereas we reaffirm the basic principles entering its third century of existence as one Nation, supporting world peace through law, and committed to equal justice under law; and

Whereas the United States of America is proclaimed in the Constitution of the United States, as amended, for the establishment of justice; for the protection of life, liberty, and property under due process of law; and for the continued maintenance of equal protection of the laws; and

Whereas the future leaders of America, as in its illustrious past, will include many members of the legal profession at international, Federal, State, and local levels; and

Whereas the training of these future leaders should not only be encouraged and enhanced in the law schools of the Nation, but should also be supported by the bench and bar so as to instill a strong sense of professional responsibility, high ethical standards, and a high level of qualification for private and public services; and

Whereas the law students of the Nation deserve recognition for their commitment to this honorable profession and its contributions toward a more perfect union and the pursuit of happiness: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized and requested to issue a proclamation designating November 8, 1977, as "National Law Student Recognition Day" and calling upon the people of the United States and interested groups and organizations to observe that day with appropriate ceremonies and activities.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the joint resolution was agreed to.

Mr. SCHMITT. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95-478), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE

The purpose of the joint resolution is to authorize the President to designate November 8, 1977, as "National Law School Recognition Day".

STATEMENT

Law as a field of human activity came into being because of the basic need for an orderly society and for a body of rules and procedures to govern man's relationship to his fellowmen.

Lawyers and those trained as lawyers are called upon by society to perform many varied functions. The lawyer serves as both a public servant and an officer of the court.

His primary function is to provide legal assistance in peaceably resolving conflicts.

In this role, he may serve as an objective counselor and advisor, or he may be called upon to serve as a strong partisan advocate for the cause of his client.

In addition to his basic function of serving the client, the lawyer is expected to devote some of his time to the improvement of his profession. Ethical standards are established, and disciplinary procedures are administered by participation in work of the organized bar. The bar is thus a key factor in differentiating a profession from other occupations, and its activities help protect the public from the harm that could result if unqualified persons were permitted to practice law.

Sometime during their careers most lawyers participate in public service on a part-time or full-time basis. The lawyer may be called upon to be a judge, serve in government, run for political office, or engage in community affairs.

The United States of America is now entering its third century as a nation ruled by law. The future leaders of America, if the past is any guide, will include many members of the legal profession. They are now being trained in law schools throughout the country. The Nation should take note of the dedication and the hard work required in the study of the law, and give moral support to the students' efforts. Such a showing of support will help instill in them a strong sense of professional responsibility and ethics, and encourage them to attain a high level of expertise and to put it to use in community service.

The committee believes that law students around the Nation deserve recognition for their commitment to this honorable profession.

In the last 20 years, there has been a threefold increase in total law school attendance. Law school enrollment passed the 100,000 mark in 1972. The following table illustrates this growth.

Statistical highlights of law school enrollment

[Fall 1976 enrollments]

1. Total number of schools and average enrollment:	
Number	164
Students	117,451
Students per schcol	717
Non-ABA-approved schools providing statistics:	
Number	15
Students	7,559
Students per school	504
Other non-ABA-approved schools (no statistics):	
Number	47
Students	-------
Students per school	-------
2. Law-school enrollment since 1956:	
ABA schools	37,949
Non-ABA schools	3,939
Total	41,888
1976:	
ABA schools	117,451
Non-ABA schools	7,559
Total	125,010

The committee has received much support for this resolution. The following letters from the Association of Americal Law Schools and the Phi Alpha Delta Legal Fraternity aptly sums up the prevailing sentiment.

ASSOCIATION OF AMERICAN LAW SCHOOLS,
Washington, D.C., September 21, 1977.

HON. JAMES O. EASTLAND,
Chairman, Committee on the Judiciary, Dirksen Senate Office Building, Washington, D.C.

DEAR SENATOR EASTLAND: I write to express support for Senate Joint Resolution 80 by Senator Mathias, concerning the recognition of the law student through proclaiming National Law Student Recognition Day.

The continuation of that in our society which carries out the aspirations of our founding fathers is dependent on the knowl-

edge, commitment and skill of the coming generation. And the hope for the continuing improvement of the quality of life in our society is similarly dependent. I suppose most professionals see their profession as central in their society. Certainly we lawyers view our profession and its practitioners to be of central importance. How well we perform our professional and public responsibilities determines in substantial measure how well the processes of our society work. The hope that the best will continue and that improvements will be made depends not only upon how well we lawyers perform our present tasks but how well those who follow in our footsteps are prepared to accept the responsibilities of our profession. Today's law students will be tomorrow's leaders at the bar, bench and public life. As a legal educator devoted to the task of preparing young men and women to enter our profession, I am particularly sensitive to this.

It is most appropriate, therefore, that there be an occasion on which we pause to recognize the young women and men who are preparing to enter the profession. That can be an occasion on which we and they renew our commitment to the highest traditions of the legal profession.

It is for these reasons that I support Senate Joint Resolution 80.

Sincerely yours,

MILLARD H. RUUD.

PHI ALPHA DELTA
LAW FRATERNITY INTERNATIONAL,
September 30, 1977.

Hon. JAMES O. EASTLAND,
Chairman, Committee on the Judiciary, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: On behalf of the Phi Alpha Delta Law Fraternity, International, I write to indicate the Fraternity's support for adoption of Senate Joint Resolution 80, introduced in the Senate by Senator Mathias on September 8, 1977. This joint resolution would authorize and request the President to issue a proclamation designating November 8, 1977, as "National Law Student Recognition Day."

Phi Alpha Delta is a nonprofit law fraternity now in its 75th anniversary year. The fraternity has living alumni of 70,000 members and approximately 5,000 law student members, residing throughout the United States and 53 foreign countries. The fraternity is chartered into more than 150 law schools in the United States, Canada, and Puerto Rico.

Phi Alpha Delta is nondiscriminatory in its membership, with no restrictions by reason of race, color, creed, sex, religion, ethnic origin, or age.

The fraternity has consistently maintained a comprehensive professional program to be of service to law students, the law schools, and the legal profession. Thus, it has become a substantial organization with strong interest in the improvement of legal education.

Senate Joint Resolution 80 offers the type of national recognition of and symbolic support for the role of lawyers in our society. More specifically, it provides encouragement to competent young people to enter the field of law, and for law students to take pride in entering a legal career. They also receive the basic training to become leaders in our society, readily confirmed by the history of this Nation.

Accordingly, the fraternity supports and respectfully urges the adoption of Senate Joint Resolution 80 by your committee and the U.S. Senate.

Sincerely yours,

DON HUTSON,
International Justice.

COST

The enactment of this legislation involves no direct additional expense to the Government.

CONCLUSIONS

For the foregoing reasons, the Committee on the Judiciary recommends approval of the subject joint resolution.

EXECUTIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider nominations on page 2 of the Executive Calendar.

There being no objection, the Senate proceeded to the consideration of executive business.

The ACTING PRESIDENT pro tempore. The nominations will be stated.

RAILROAD RETIREMENT BOARD

The second assistant legislative clerk read the nomination of Charles J. Chamberlain, of Illinois, to be a member of the Railroad Retirement Board.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the nomination was confirmed.

Mr. SCHMITT. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

DEPARTMENT OF LABOR

The second assistant legislative clerk read the nomination of Julius Shiskin, of Maryland, to be Commissioner of Labor Statistics.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the nomination was confirmed.

Mr. SCHMITT. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NATIONAL LABOR RELATIONS BOARD

The second assistant legislative clerk read the nomination of John C. Truesdale, of Maryland, to be a member of the National Labor Relations Board.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the nomination was confirmed.

Mr. SCHMITT. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

DEPARTMENT OF JUSTICE

The second assistant legislative clerk proceeded to read sundry nominations in the Department of Justice.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the nominations under Department of Justice be considered and confirmed en bloc.

The ACTING PRESIDENT pro tempore. Without objection, the nominations are considered and confirmed en bloc.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that it be in order to move, en bloc, to reconsider the vote by which the nominations were considered and confirmed en bloc.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I so move.

Mr. SCHMITT. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask that the President be immediately notified of the confirmation of the nominations.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate resume the consideration of legislative business.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

LEGAL SERVICES CORPORATION ACT AMENDMENTS OF 1977

The Senate continued with the consideration of S. 1303.

PRIVILEGE OF THE FLOOR

The following Senators requested, and, by unanimous consent, the privilege of the floor was granted in behalf of the following staff members: Mr. HARRY F. BYRD, JR.: Michael Hammond; Mr. SCHMITT (for Mr. DANFORTH): Chris Brewster; Mr. CHAFEE: Fran Parrish; Mr. HATCH: Bob Hunter, (for Mr. BARTLETT) Joe Heaten, and (for Mr. HAYAKAWA) John Backer; Mr. NELSON: Scott Ginsburg, Joan Hunzkiker, Janice Zarro, Lisa Walker, Gary Sellers, Susanne Martinez, Jim O'Connell (for the Veterans' Committee) John Steinberg, and (for Mr. KENNEDY) Jay Urwitz.

Mr. SCHMITT. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. NELSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. NELSON. Mr. President, what is the pending business?

The ACTING PRESIDENT pro tempore. The pending question is on agreeing to the committee amendment to S. 1303.

Mr. NELSON. Mr. President, I have a 29-page summary of the Legal Services Corporation amendments that were adopted by the Human Resources Committee and then reported to the floor. I will preface the statement by some brief comments.

I think that everyone is familiar with the Legal Services Corporation and with most of the amendments. There are, so

far as I know, 11 pending amendments to the legislation, and after those who desire to make some preliminary remarks have been heard, as manager of the bill, I would be prepared to start considering the amendments.

Mr. President, the Legal Services Corporation Act Amendments of 1977—S. 1303—was introduced on April 19, 1977, by myself and Senators KENNEDY, CRANSTON, WILLIAMS, JAVITS, HATHAWAY, RIEGLE, and STAFFORD. This legislation extends the authorization of appropriations for the Legal Services Corporation Act of 1977 for 5 years, and also amends various other provisions of the Legal Services Act.

The House of Representatives approved similar legislation—H.R. 6666—by a vote of 267 to 103 on June 27, 1977.

Hearings were held on S. 1303 on April 25 and 26, 1977, by the Subcommittee on Employment, Poverty, and Migratory Labor. At that time, the Legal Services Corporation, the American Bar Association and other witnesses representing public and private interest groups testified in support of this legislation.

The Committee on Human Resources reported S. 1303 to the Senate by a vote of 13 to 2.

BACKGROUND

The Legal Services Corporation Act of 1974 was signed into law on July 25, 1974. This act created the Legal Services Corporation as a private, nonprofit organization to assume responsibility for administering the legal services program. The purpose of the Legal Services Corporation is to furnish financial support for programs providing certain legal assistance to persons otherwise unable to afford legal help.

The Corporation is governed by an 11-member Board of Directors appointed by the President with the advice and consent of the Senate with the first chairman appointed by the President. Corporation activities are directed by a president appointed by the Board.

In 1975, President Ford, with the advice and consent of the Senate appointed the Corporation's first Board of Directors. The Board took office in July; federally funded legal aid was shifted from the Community Service Administration over a 90-day transition period, and by October 14, 1975, the Corporation was operating.

The Corporation does not directly represent clients. Rather, it provides funds to approximately 300 legal services programs serving clients in nearly 700 offices in all of the 50 States and Puerto Rico, the Virgin Islands, and Micronesia. Some of these programs operate on a statewide basis. Others provide services through city, county, or multicounty programs. Eight of the programs provide services on Indian reservations, 10 provide services exclusively to migrant farmworkers, 13 of the programs are support centers that provide specialized legal assistance to eligible clients and to other legal services programs in their representation of eligible clients. Some of these support centers concentrate on areas of the law that particularly affect the poor, such as welfare, health, and housing. Others specialize in law affecting certain groups of poor people, such as migrants, Indians, and the elderly.

The Corporation administers the legal services program through its headquarters in Washington and nine regional offices. Total staff of the Corporation, including its 9 regional offices, is presently 181 persons. Only 2.9 percent of the total funds appropriated to the Corporation are used for administration. More than 90 percent goes directly to field programs. The balance is for activities that support the field programs.

Local programs set their own client eligibility standards within guidelines established by the Corporation. Those guidelines set maximum eligibility at 125 percent of the poverty level established by the Office of Management and Budget. Eligibility is now set at a maximum of $3,713 for an individual and $7,313 for a family of four.

Programs provide legal representation and counseling in a large range of civil matters. They do not provide criminal representation. Most of the legal problems of eligible clients fall into four broad categories: family law (30 percent of all problems handled) administrative benefits including medicaid, AFDC, and SSI (20 percent of all problems handled) consumer law (14 percent of all problems handled) and housing law (17 percent of all problems handled). Because none of the programs has sufficient resources to meet all the needs of eligible clients, the Corporation requires that each program determine, in consultation with the client community, priorities for legal assistance in that community.

The programs are staffed by approximately 3,000 full-time attorneys and 1,200 paralegal assistants. Of the nearly 1.25 million problems they handle each year, about 85 percent are resolved through negotiation, consultation, and other out-of-court mechanisms. About 15 percent are actually litigated.

LEGAL SERVICES FOR THE POOR

When the Corporation came into existence, less than 10 million of the 29 million poor people in this country had even minimum access to legal services. The rest lived in areas where there were no legal services programs at all, or where programs were so seriously underfunded that most poor people had no effective access to them. The capabilities of existing programs had actually declined over the previous 5 years during which budgets were virtually frozen while costs rose more than 30 percent as a result of inflation.

In fiscal year 1977, Congress appropriated $125 million to the Corporation, a significant increase in funds that permitted, for the first time in this decade, expansion of services to provide minimum access to 3.8 million of these 18 million unserved or underserved persons. Even with this increase, though, there remain nearly 16 million poor people who have no access to legal assistance.

Questions have been raised however, as to whether these figures should be adjusted because of the Congressional Budget Office Background Paper—No. 17, issued last January, which suggested that the number of poor families in the United States might be reduced somewhat if in-kind transfer payments were counted as income. The Congressional Budget Office paper explains that under the Census Bureau concept of income, which includes all earned income and transfer payments except in-kind benefits such as food stamps, child nutrition programs, housing assistance, medicare and medicaid, there are approximately 9.1 million families with incomes below the poverty level. The Congressional Budget Office has estimated, however, that if in-kind transfer payments are counted as income, except for medicare and medicaid benefits, the number of families living in poverty is reduced to 7.4 million. Even if the Congressional Budget Office report and the figures presented therein are taken as true, there would still be over 20 million persons in the U.S. poverty population.

In light of the great controversy that characterizes the professional literature on the subject of imputing a cash value to in-kind benefits, and since the inclusion of in-kind payments does not appear to significantly reduce the incidence or burden of poverty in the United States, the committee does not believe this particular measurement of the poverty population should be used as the basis for estimating the need for the provision of legal services for the poor.

The Corporation uses the 1970 census figures for planning purposes because they are the only available data on the actual geographic distribution of low-income people and thus provide the only basis for allocating Corporation resources equitably among and within the 50 States.

In 1973, Congress mandated the Legal Services Corporation "to provide high quality legal assistance to those who would be otherwise unable to afford adequate legal counsel." This mandate is emphasized by section 1002(3) of the act, which defines an "eligible client" as "any person unable to afford legal assistance." Neither the Legal Services Corporation Act nor the Corporation suggests that the poverty line is an adequate measure of an individual's ability to afford legal assistance. Indeed, under authority of 1007(a)(2), present regulations establish a maximum eligibility limit at 125 percent of the official poverty threshold as defined by the Office of Management and Budget, that is $3,713 for an individual or $7,313 for a family of four.

These maximums are substantially lower than the "austere" living standard of $10,041 for an urban family of four recently announced by the Department of Labor, or the median-income test used under title XX of the Social Security Act. Many would argue that those standards would be a better measure of ability to afford legal assistance. In the absence of adequate resources, however, the Corporation has selected a much more stringent measure that assures services are directed to those least able to afford legal assistance.

Legitimate criticisms are leveled at many alternative definitions of poverty and the methods by which they are derived. The CBO report focuses on only one problem, the question of whether in-kind benefits should be included in deter-

mining income, while ignoring a host of other problems that may well result in serious undercounting of the poor. Any serious effort to redefine poverty must take numerous factors into account, besides in-kind income, which could well result in increasing, rather than reducing, the number of poor in the Nation as a whole.

Other serious questions have been raised about the assumptions and methodology of the CBO report. Whatever the validity of those questions, it is clear that the report does not affect the standard Congress deemed relevant under Legal Services Corporation Act: whether an individual or group of individuals has the ability to afford legal assistance. In-kind benefits, the focus of the CBO report, simply cannot be used to pay a lawyer.

A substantial portion of the legal problems of the poor grow out of their dependence on public benefit programs. The private bar is generally unwilling and unable to undertake representation in these matters. That representation requires familiarity with a complex body of law and regulations with little chance of generating a fee for services rendered. Consideration of in-kind benefits as income would, under current Corporation regulations, render ineligible for legal services a significant portion of the population that is least able to afford those services, but most in need of such assistance for basic survival.

The Corporation's plans and its fiscal year 1978 budget requests are not designed to provide a lawyer for each of the 29 million poor people identified by the 1970 census. Only a portion of potentially eligible clients actually need a lawyer during a given year—23 percent of the total according to Corporation estimates—and Corporation planning takes that into account. At the level of two attorneys for 10,000 poor persons, the goal that forms the basis of the current budget request, the Corporation will be able to provide enough funds only to assure that those eligible persons with legal problems will have a reasonable chance of access to an attorney. Even assuming that legal services lawyers can handle as many as 350 to 400 matters a year the Corporation's minimum access goal will provide actual services to only a fraction of the eligible population.

The fact that the Corporation's current planning and budget requests are designed to achieve the equivalent of only two attorneys per 10,000 potential clients and are based on a projected total program cost of $35,000 per attorney guarantees that resources allocated to a community will not exceed, but indeed will only begin to meet, the actual need for legal services. The CBO report does nothing to call into question those minimum goals or to provide more useful information from which to evaluate the need for legal services.

EXPLANATION OF THE LEGAL SERVICES CORPORATION ACT AMENDMENTS OF 1977

SECTION 1

This section provides that S. 1303 may be cited as the "Legal Services Corporation Act Amendments of 1977."

SECTION 2

Section 2(a) of the amendments provides a $225 million authorization of appropriations for fiscal year 1978 and a "such sums as may be necessary" authorization of appropriations for each of the 4 succeeding fiscal years.

In fiscal year 1977, the Corporation received $125 million in appropriations from the Federal Government. To expand its services to eligible clients presently unserved or underserved, the Corporation requested an appropriation of $217.1 million for fiscal year 1978, and fiscal year 1979. The Human Resources Committee supported the Corporation's $217.1 million request for fiscal year 1978 in its recommendation to the Senate Budget Committee.

The previous administration submitted a budget request of $90 million for fiscal year 1978. President Carter's revisions raised that figure to $175 million—$50 million above the fiscal year 1977 appropriation—and indicated his support for expansion of the program.

The State, Justice, and Commerce Departments Appropriations Act—H.R. 7556—which was reported to the House and Senate on June 29, 1977, includes a $205 million level of appropriations for the Legal Services Corporation for fiscal year 1978. This legislation has now been signed by President Carter.

This $205 million level of appropriations will permit the Legal Services Corporation to continue implementing its plan to provide this Nation's poor with bare-minimum access to legal services. The Corporation's goal is to provide, on an average, 2 lawyers per 10,000 poor persons in every area of the country. This is a modest goal, especially considering the fact that generally there are 14 lawyers per 10,000 persons in the country.

A funding level in fiscal year 1978 of $205 million will provide an additional 1,400 attorneys, supporting staff, and facilities.

By the establishment of a "such sums as may be necessary" authorization of appropriations for fiscal years 1979, 1980, 1981, and 1982, the precise level of funding for the legal services program will be subject to review each year by the Senate Human Resources Committee, the House Judiciary Committee, the Budget Committees, and the Committees on Appropriations. Such an authorization will permit the Congress to review the amount of funds necessary to meet the needs of indigent clients, and it will also provide the flexibility to enable Congress to determine the funding level which the Corporation can use effectively and efficiently within the restrictive Federal budget.

At present, section 1010(c) of the act imposes the same prohibitions on funds received from private sources as those that are imposed on funds received from the Corporation.

Section 2(b) changes current law by permitting recipients to receive private funds and to use them for any purpose authorized by the donor, so long as all such funds are accounted for and reported as receipts and disbursements separate and distinct from funds received from the Corporation.

The Legal Services Corporation encourages the use of other public and private funds for legal assistance to the poor. It takes those funding sources into consideration in developing its own budget requests, in justifying those requests to the Congress, and in allocating funds to local legal services programs. The Human Resources Committee has examined these outside sources of funding in making its determination about the level of funding necessary for the Corporation.

Presently, there are about $30 million in funding for legal services programs apart from direct Federal appropriations to the Corporation from general revenues. Not all of that money is for the poor, and much of it is earmarked for special groups or for special purposes. The funding tends to be unstable in individual communities, available one year and disappearing the next.

The main sources of other funds in fiscal year 1977 were: $22 million from combined State-Federal funds (The major sources are title XX of the Social Security Act, revenue sharing, CETA and Older Americans Act funds. The decision to use these funds for legal services is made by State and local governments, not by the Federal Government); $4 million from State and local public funds; and $4 million from private funds, especially United Way but including contributions from individuals and the private bar.

Restrictions on the manner in which private funds are used to increase access to justice for the poor do not serve the interests of the poverty population, and indeed may well increase the need for public funding for the Corporation.

SECTION 3(a)

Section 3(a) of this legislation would require three client representatives on the Corporation's Board of Directors. Right now, section 1004(a) of the Legal Services Corporation Act requires only that a majority of the 11 Corporation Board members be attorneys. At present all 10 members of the Board are attorneys—there is one vacancy.

Under section 3(a), at least three of the vacancies occurring after January 1, 1977, and before July 30, 1978, would have to be filled by eligible clients, and at least one such person is to be appointed to fill a vacancy occurring prior to January 1, 1978. Following July 30, 1978, at least three members of the Board are to be eligible clients.

Many private and public interest groups and other interested individuals have maintained that the existing mechanism for appointment of the Board does not insure sufficient "client accountability" in its deliberations. This amendment is designed to provide accountability in the future. This amendment should not be at all burdensome to implement. During the 19-month period from January 1, 1977, to July 30, 1978, 3 vacancies must be filled with eligible clients; all 11 of the Board member slots are subject to appointment by the President during this period of time.

SECTION 3(b)

Section 3(b) of the legislation requires that at least one-third of those persons selected for the governing bodies of recipients, that is, the local legal services program boards, be eligible clients. This would bring local governing bodies under similar requirements as proposed in section 3(a) of the bill for the Corporation's Board with respect to client representation. The governing bodies of recipients are presently required by section 1007(c) of the Legal Services Corporation Act to have at least one eligible client on each local board, and Corporation Regulation 1607 requires that at least one-third of the local board members be either eligible clients, or representatives of associations, groups, or organizations of eligible clients. This provision will be effective 6 months after the first day of the first calendar month following the date of enactment of this legislation in order to afford local boards time, if needed, to comply with this provision.

SECTION 4

Under section 4, the Corporation and each State Advisory Council will be subject to the requirements and provisions of the Sunshine Act. Under current law, all meetings are required to be open to the public unless two-thirds of those present vote to close the meeting on the basis of personal privacy or compelling Corporation or public interests. There is not adequate justification for the Board to operate under one set of "sunshine" rules while every other agency receiving Federal funds operates under another. Section 4 of this legislation would subject the Legal Services Corporation and all related State advisory councils to the requirement and provisions of title 5 of the United States Code, section 552B, the Government in the Sunshine Act.

At the time of the passage of the Government in the Sunshine Act, it was generally thought that the Legal Services Corporation would be covered by it. The Senate Report on that legislation explicitly mentions the Corporation in that regard. However, after consideration of the definition of "agency" in the Sunshine Act, the Corporation took the position that it was not subject to the Sunshine Act.

Legal Services programs representing eligible clients have attempted to open up the deliberations of local entities whose decisions directly affect the lives of poor people. Poor people and their advocates should have similar access to the deliberations of the board that sets policy for the national legal services program.

The existing exemptions in the Sunshine Act would clearly permit the Legal Services Corporation Board to meet in executive session in every circumstance in which executive sessions would be appropriate, such as the discussion of personnel matters or pending litigation. Addition of a new section making clear the congressional intent to apply the Sunshine Act to the Legal Services Corporation would serve valuable public purposes, and no arguments have been raised to the contrary.

SECTION 5

Current law limits the Corporation's authority to make certain kinds of grants and contracts for research, training and technical assistance, and clearinghouse activities, unless those activities are part of the provision of legal assistance to eligible clients, are under the Corporation's direct supervision, or are for the purpose of enabling the Corporation to carry out its own statutory responsibilities.

The amendment provided in section 5 gives the Corporation authority to fund such activities by grant or contract if it determines that such a course of action would be more economical or effective than adding staff to carry out the activities with the Corporation itself. It is especially critical that training be provided by persons experienced in providing legal assistance in a given legal area. Grants to local programs for statewide or regional training will also be permitted.

The House of Representatives passed legislation in March 1976, to accomplish the objectives of this amendment, and the Corporation's Board voted last January to support such an amendment. A similar amendment has been included in the bill approved by the House of Representatives, H.R. 6666.

The result of the current prohibition has not been the defunding of the backup centers providing specialized legal assistance. The Corporation determined that some of the activities carried on by the backup centers could be funded under section 1006(a)(1) of the act—the basic authority for the funding of all programs furnishing legal assistance to eligible clients. Rather, the consequences have included: First, the inefficient splitting off of the research, training, and technical assistance formerly provided to local programs by centers with special areas of expertise; second, the defunding of programs that had engaged solely in those support activities; and third, the uncertain status of the Corporation's ability to provide funding by grants or contract to local legal services programs in a given state for training in State law and procedure. Most critically, the Corporation has had no other option but to bring the research, training, technical assistance, and clearinghouse activities "in-house".

As the Corporation develops new local legal services programs, it increases the need for training and technical assistance. The flexibility to fund some of these support services by grant or contract where efficient and to prevent unnecessary growth of an in-house bureaucracy would be afforded by this amendment.

SECTION 6(a)

Since the inception of federally funded legal services, parties to lawsuits in which the opponent is represented by a legal services program have challenged, from time to time, the authority of the legal services program to provide representation in the particular case or to the particular client. Courts that have been asked to rule upon such questions have uniformly held that such issues are irrelevant to the resolution of the client's case, and should not be raised in that forum. The courts have said that such issues should be taken up with the agency providing funding.

Section 6(a) is thus declaratory of existing law as it has been enunciated by the courts. The committee believes that repetitive litigation of this issue is a needless drain of Federal funds provided for the representation of poor people, and wastes the time of already heavily burdened courts. This amendment has been included to discourage further frivolous litigation of this issue. This section provides that questions of whether representation is authorized may be referred to the Corporation for such disposition as it deems necessary.

Under this amendment, persons or entities feeling aggrieved by alleged noncompliance of legal service programs or their employees with act's rules, regulations, or guidelines, will be required first to complain directly to the Corporation. Following such complaint and exhaustion of administrative remedies, an aggrieved person or entity may seek judicial review of any provision of the act or regulations, or of a Corporation ruling.

The amendment does not change existing law with respect to judicial review of Corporation action; but it does help to insure that any legal challenge, to the maximum extent possible, is resolved on its merits rather than delaying the provision of legal assistance to eligible poor people under the act.

The Corporation requested the inclusion of this amendment.

SECTION 6(b)

The Legal Services Corporation requested the inclusion of an amendment to insure that a court could not discriminate against legal services attorneys in its appointment of attorneys to civil cases. At present, some State or local courts which have authority to appoint private attorneys in certain civil matters—often with compensation—have appointed legal services attorneys to serve without compensation in cases in which State law provides for the compensation of private lawyers. Such practice by State or local courts is inconsistent with the congressional purpose of expanding legal assistance to poor people, because it means that Federal funds are being used to supplant, rather than to supplement, local sources of legal assistance for poor people.

Even when State law does not provide for compensation of private counsel, a court should not rely on legal services lawyers to provide uncompensated representation. Such practice prevents programs from implementing the caseload priorities they are required to adopt pursuant to the Legal Services Corporation Act—as amended by section 8 of this legislation—and Corporation regulations.

Section 6(b) of this bill will insure that a court cannot appoint legal serv-

ices attorneys in a manner inconsistent with the appointment of other attorneys similarly situated. This does not exempt legal services attorneys from the general requirements of taking some cases on a pro bono basis or otherwise, as required by the local bar or court. This amendment will not, however, permit legal services attorneys to be treated differently than other attorneys practicing in the same area, and thus in a manner inconsistent with the act.

This amendment was requested by the Corporation.

SECTION 7

Section 7(a) subjects staff attorneys to the same provisions of chapter 15 of title 5, United States Code—the Hatch Act—that are applicable to Corporation, State and local employees.

Section 7(b) eliminates the provisions of current law that go beyond the restrictions of the Hatch Act in limiting the activities of staff attorneys on their own time.

Neither Federal, State, nor local employees now covered by the Hatch Act are prohibited by its provisions from being candidates for nonpartisan positions such as membership on school committees, library boards, and boards of education. The Civil Service Commission does not regard these activities as "political," but rather as "service in which all good citizens may be engaged without incompatibility and in many cases without necessary interference with any position that they may hold under the Federal Government."

At present, staff attorneys are the only group of citizens in the country prohibited from holding such positions. The Civil Service Commission believes that the heads of agencies should be entrusted with the responsibility for policing their employees' involvement in such activities. In a similar manner, that responsibility can properly be exercised by the boards of directors of local legal services programs, who can determine whether candidacy for a particular position may present a conflict of interest for the employee. It is important to insure that Corporation funds are not used to support any political activity, but restrictions on the personal activities of staff attorneys that go beyond the restrictions on Federal, State, and local employees serve no public purpose and unnecessarily restrict the rights of staff attorneys.

The current prohibitions against the use of Corporation funds for political purposes and against political activity by legal services program employees during their working hours are not at all modified by this amendment.

These amendments were requested by the Corporation.

SECTION 8(a)

Under current law, if a prior determination has been made that a potential client's lack of income results from refusal or unwillingness, without good cause, to seek or accept an employment situation, that evidence must be treated by the local legal services program as a disqualifying factor in determining that person's eligibility for legal services. This amendment removes the absolute character of that prohibition.

This amendment states that an individual's unwillingness, without good cause, to seek or accept an appropriate employment situation shall be taken into consideration by a legal services program in determining an individual's eligibility for services. Such prior determination, however, is not to be an automatic disqualification or, for that matter, dispositive as to whether an individual is eligible to receive legal services. Other later considerations may be more relevant to an applicant's current need for legal assistance.

A legal services program, in deciding what weight to give the prior determination, should consider other factors such as the validity of the procedures by which the prior determination was made, whether subsequent events have rendered it obsolete, or whether the employment that was refused was appropriate for the individual. For example, a particular prior determination may antedate a particular poor person's inability, for physical or other reasons, to secure employment, yet the current restriction does not permit consideration of this problem.

SECTION 8(b)(1)

Section 1007(a)(2)(C) of the Legal Services Act requires the Legal Services Corporation to "establish priorities to insure that persons least able to afford legal assistance are given preference in the furnishing of such assistance." S. 1303 would repeal this requirement and substitute the following language with respect to funding of legal services programs in connection with the provision of legal assistance to eligible clients:

The Corporation shall * * * (C) insure that (i) recipients, consistent with goals established by the Corporation, adopt procedures for determining and implementing priorities for the provision of such assistance (including such outreach, training, and support services as may be necessary), including particularly the needs for service on the part of significant segments of the population of eligible clients with special difficulties of access to legal service or special legal problems (including elderly persons, handicapped individuals, veterans, native Americans, migrants or seasonal farmworkers and persons with limited English-speaking abilities); and (ii) appropriate training and support services are provided in order to provide such assistance to such significant segments of the population of eligible clients;

By deleting the "preference" language, this does not in any way suggest a shift in emphasis of the legal services program.

It should be recognized, however, that no legal services program has sufficient resources to meet all the legal needs of the financially eligible population in the area it serves. Thus far, every program has found it necessary to control its caseload, and the most appropriate way of doing this is by establishing priorities as to the categories or kinds of cases which the office will undertake. The subject matter priorities adopted by a program must be based on a consideration of the needs of the client community and the resources available to the program.

Under provisions of section 8(b)(1) of this legislation, the Corporation is authorized to establish national goals for all recipient programs. This provision is not intended to detract from the appropriate role of local programs, in consultation with local client communities, to set priorities concerning the substantive law matters to which scarce program resources are to be allocated, taking into account the relative needs of clients in the area for legal services. Nor does this provision require the Corporation to establish goals; rather, it authorizes the Corporation to do so if it finds such action appropriate.

Section 8(b)(1) also provides that, in setting its own priorities, a local legal services program should take a special look at the relative needs of those segments of the low-income community that have special problems—such as lack of mobility or language or cultural differences—that may limit their access to the program.

Finally, section 8(b)(1) adds new language to ensure that local legal services programs receive the support and training they need to implement priorities established after assessing the needs of the client community. While the committee expects the Corporation to use a portion of its funds for support and training activities, it does not intend that Corporation resources duplicate or supplant the resources of other public or private agencies serving identifiable segments of the low-income community. The committee encourages the cooperation and coordination of such entities—particularly those receiving other Federal funds—to maximize the resources available to assist the poor.

SECTION 8(b)(2)

Section 8(b)(2) of S. 1303 would require the Corporation, on an annual basis, to report on the services provided pursuant to the provisions established in section 8(b)(1) of this legislation. The purpose of the reporting requirement is to give Congress and the public an overview of the services being provided to significant segments of the population of eligible clients with special difficulties of access to legal services or special legal problems, and the training and support services provided pursuant thereto. Where available, estimates of the numbers of clients served in various categories should be included in the reports.

SECTION 8(c)

Section 8(c) of the legislation modifies current law regarding legislative and administrative advocacy. This provision clarifies current law as to what legislative and administrative advocacy can be carried on by employees of recipients in administrative and legislative proceedings. Specifically, the amendment clarifies the appropriateness of paralegals (who are supervised by staff attorneys) representing eligible clients in certain situations.

When it enacted the Legal Services Corporation Act, Congress recognized that circumstances might arise in which

legislative or administrative advocacy might sometimes be the most efficient method of resolving an issue affecting legal services clients, and it authorized legal services programs to engage in such activities on behalf of specific clients or organizations and in response to requests for information from legislators.

Section 8(c) of the bill clarifies a question that has arisen in the implementation of the act, by making explicit the legality of employing nonlawyers to assist in legislative or administrative advocacy, just as they may be employed in providing other forms of legal assistance subject to supervision by an attorney.

This amendment also modifies the language concerning solicitation of clients for the purposes of legislative or administrative advocacy to make clear that activity permitted by the American Bar Association Code of Professional Responsibility (to which all attorneys, including legal services attorneys are subject) is not prohibited. (The applicability of the code is recognized in section 1006 (b)(3) of the act.)

The ABA Code of Professional Responsibility authorizes legal services lawyers to engage in educational and outreach activities, which shall not be construed as solicitation. Opinions issued by the ABA Committee on Ethics and Professional Responsibility, interpreting the code, have stated that because the poor tend to be ignorant of their legal rights, and suffer particular problems because of that ignorance, legal services programs have a responsibility to go out into the community to educate the poor concerning their legal rights.

SECTION 8(d)

Section 8(d) of this legislation repeals the requirement in section 1007(a)(8) that local legal services programs give preference to local residents in hiring staff attorneys.

The Committee felt that the provisions of current law requiring a legal services program to solicit the recommendation of the organized bar in the community served before filling staff attorney positions should be retained. However, the current requirement that preference be given to a local attorney may conflict with other legal requirements, such as those which prohibit discrimination in employment and those which require, pursuant to section 1006(b)(6) of the act, that legal assistance be provided in a foreign language in areas where a significant number of clients speak a language other than English as their principal language.

A legal services program may properly require expertise in a particular subject matter as a valid qualification for a staff opening. When hiring decisions are reached after consideration of these concerns, the local bar sometimes views these efforts as an attempt to circumvent current law which gives preference to local attorneys. The present provision thus has the unfortunate effect, contrary to what was intended, of causing dissension between the legal services program and the local bar. These conflicts can be avoided by modifying the existing provision, and thus affirming that legal services programs should seek the most highly qualified applicant in filling any staff position.

SECTION 9(a)(1)(A)

Current law prevents the use of Corporation funds to provide legal assistance with respect to any fee-generating case, except in accordance with guidelines promulgated by the Corporation. The Corporation has adopted a regulation defining what constitutes a fee-generating case. This part of the amendment clarifies the definition promulgated by the Corporation.

The language added by section 9(a) would require the Corporation to exclude from the definition of "fee-generating" social security and supplemental security incomes cases and such other cases as the Corporation deems appropriate because the only recovery sought by the eligible client is the amount of subsistence benefits to which he or she is statutorily entitled. In such instances legal services lawyers would not be required to attempt referral to a private lawyer before providing representation.

The Corporation has treated such cases as "fee-generating" because the Social Security Act can be interpreted to contemplate payment to an attorney of a fee to be deducted from the award to the client. When legal services lawyers provide representation in such cases, Corporation regulations prohibit the programs from accepting the statutory fee; they must nonetheless first attempt referral to a private lawyer, who would accept the fee. It should be understood, however, that this is a very narrow exception not intended to intrude upon the private bar's prerogative in fee-generating cases such as workmen's compensation, tort liability suits, and the like.

Generally, the current restriction on fee-generating cases has been helpful to legal services programs which are thereby able to assure the private bar in their communities that legal services programs will not be in unfair competition with private practitioners. However, without further guidance, the Corporation has felt compelled to include under the rubric of "fee-generating" cases several matters handled by legal services programs in the past.

Legal services lawyers have developed and demonstrated unique expertise in administrative law relating to statutory benefits. It is difficult for lawyers in private practice, who rarely provide representation in these low-paying cases, to develop familiarity with highly complex and ever-changing regulations required to provide adequate representation.

SECTION 9(a)(1)(B)

Section 9(a)(1)(B) clarifies current law by explicitly stating that a legal services program may provide representation in a very narrow category of technically criminal cases, which may be viewed as basically civil in nature, to a person charged with an offense involving hunting, fishing, trapping, or gathering fruits of the land when the principal defense asserted involves rights arising from a treaty with native Americans, or from a statute or executive order.

This provision deals with very narrow situations in which, for example, a native American is arrested for hunting or fishing out of season or without license, and his claim is that a treaty has established his rights to hunt or fish. Legal services attorneys who have the special expertise should have the authority to provide such representation because the defense involves a working knowledge of complex treaty laws with which most private attorneys are unfamiliar.

This amendment was requested by the Corporation.

SECTION 9(b)

Section 9(b) of S. 1303 repeals section 1007(b)(4) and 1007(b)(7) of the Legal Services Corporation Act, which state, respectively that no Corporation funds may be used to provide legal assistance to juveniles, except under specified conditions, and to provide legal assistance with respect to any proceeding or litigation relating to the desegregation of any elementary or secondary school or school system.

The Supreme Court has recognized that children are entitled to the undiluted guarantees of due process of law in delinquency and other noncriminal proceedings. Requiring parental consent as is the case in the present statute, however, conditions the constitutional rights of a young, poor person on the consent of another. In recognition of this conflict, section 1007(b)(4) is repealed.

Section 1007(b)(4) now denies legal assistance to children in situations in which parental consent for the provision of legal assistance is unobtainable because the juvenile has been separated from the parents or because the parents refuse consent despite the wishes of the child. Testimony received by the Subcommittee on Employment, Poverty, and Migratory Labor indicates that all possible situations in which the interest of parent and child may diverge and legal assistance to the child is appropriate are not clearly covered under the exceptions in 1007(b)(4) of the act. For example, representation of a teen-aged mother involved in a dispute with her parents concerning the custody of her child or representation of a child whose parent has misappropriated funds belonging to the child (for example, social security benefits) are instances in which legal services attorneys are unsure of how the law is to be interpreted.

Current legal services programs and program attorneys, uncertain as to how to interpret the complex language of section 1007(b)(4), perceive a risk that they may be subject to disciplinary sanctions if they provide legal assistance in this area. Therefore, they have refrained from handling such cases. Repeal of section 1007(b)(4) will solve this dilemma.

Section 1007(b)(7) would also be repealed. This provision of the Legal Services Corporation Act prohibits Corporation funds to be used to provide legal assistance with respect to any proceeding or litigation relating to the desegregation of any elementary or secondary school or school system.

In the 9-year period prior to 1975, the year in which the Legal Services Corporation Act of 1974 became effective, legal services programs participated in ap-

proximately 50 school desegregation cases nationwide. Because of the extended time and resource commitments required by such cases, programs generally refrained from taking them unless they had determined that no other form of legal assistance was available. In some cases they acted as local counsel assisting national civil rights organizations that assumed major responsibility for the work.

When the Corporation came into existence legal services programs were participating in approximately 17 school desegregation cases. The majority of those have now been closed or transferred to other lawyers. Representation has continued in a few cases whose lengthy history and extreme complexity made transfer impossible and thus withdrawal was prohibited by the Code of Professional Responsibility.

Information received by the Corporation from the NAACP legal defense fund and from the Mexican-American defense fund indicates that requests for representation in school desegregation cases far exceed the number of privately funded civil rights lawyers available to provide it. The national organizations have been handicapped in their attempts to provide representation by the shortage of minority lawyers generally, and by the lack of local attorneys willing to participate as cocounsel in geographic areas where the demand for such suits is most urgent.

The absence of local attorneys is particularly critical in the enforcement stage. Occasionally lawyers may be recruited from outside the local community to brief and litigate a case, but after an order is issued, a local lawyer is needed to monitor it and to bring problems to the attention of the court.

It should be noted that section 1007 (b)(1) of the act and Corporation Regulation 1609 would continue to restrict representation in desegregation cases if such representation would be considered fee-generating by virtue of the Civil Rights Attorney's Fee Awards Act of 1976. Fee-generating cases may not be undertaken by legal services programs if other counsel is available.

SECTION 9(C)

The language in current law prohibiting the use of Corporation funds "to assist" or "to encourage" the organization of any group has caused legal services programs to refrain from providing advice and legal assistance to clients who are engaged in organizing activities.

While continuing to prohibit the use of Corporation funds to "initiate the formation of" an organization, section 9 (c) of S. 1303 clarifies existing law by explicitly permitting advice and legal assistance to be provided to eligible clients who request such services.

Many recipients have found the current provisions concerning organizing activities vague and too restrictive, and thus detrimental to the attorney-client relationship. Under this amendment, no funds could be used to initiate the formation of any association, federation, or similar entity. However, legal assistance would be available to eligible clients by request and under constraints put on the staff of the local programs by their governing boards.

Under this amendment the following advisory activities would be appropriate: First, assisting groups of poor people to organize by providing advice on matters of incorporation, by-laws, tax problems, and other matters essential to the planning of an organization; second, providing counsel to poor people regarding appropriate behavior for group members; and third, advising poor people aggrieved by particular problems of the advantages and disadvantages of organizing to foster joint solutions to common problems. Activities deemed inappropriate are those in which legal services attorneys actually take the initiative and actively advocate the formation of an association, group, or organization.

SECTION 9(D)

Current law prohibits legal assistance with respect to any proceeding or litigation arising out of a violation of the Military Selective Service Act or proceedings or litigation involving desertion from the Armed Forces of the United States.

Section 9(d) revises section 1007(b)(9) of the Legal Services Corporation Act. This amendment would permit legal services programs to become involved in proceedings involving desertion from the Armed Forces where counsel is not available from the Department of Defense.

These changes in the current law take into account the reduction in Selective Service Act violations because of the inception of voluntary military service in this country. Some eligible clients, however, may seek to have their discharges upgraded in order to procure employment and clear their records in view of the President's program to review such cases. Legal Services programs, however, may render assistance only when counsel is not available from the Department of Defense.

SECTION 9(E)

This is a technical amendment renumbering the paragraph sequence in section 1007(b) of the Legal Services Corporation Act.

SECTION 10

The Legal Services Corporation now has the authority to make grants or contracts for "model" or "demonstration" projects; however, a model projects provision has been adopted to stress the Corporation's broad flexibility to test innovative methods of providing high quality legal assistance to particular segments of the poor with special problems of access to legal services and special legal problems. In some cases, particular efforts may be necessary to address some of the needs of identified groups whose problems of isolation make it particularly difficult for them to obtain access to legal services by the usual channels.

Such model projects may include, but are not limited to, activities such as the use of mobile units in providing legal services to homebound, isolated, and non-ambulatory persons with special difficulties in traveling to legal services project office; the use of attorneys, paralegals, and trained counselors to assist in advising or informing eligible clients in various residential, work, and community settings; and efforts to make recipient personnel more knowledgeable in such special areas as protective services, guardianships, income maintenance, energy conservation, alternatives to institutionalization, and consumer protection.

No more than 3 percent of funds appropriated to the Legal Services Corporation may be used for this purpose.

SECTION 11

The Board of the Corporation has requested an amendment to add new language to section 1009 of the Legal Services Corporation Act dealing with the length of time that reports and financial books and records must be kept on file. At present that act does not state how long records and reports must be maintained by the Corporation, but the General Accounting Office has informally advised the Corporation that 3 years would be sufficient. Section 11 of this legislation therefore requires that the Corporation shall maintain certain records and reports for 3 years, or longer if required by the General Accounting Office. However, annual audit reports shall be available continually, without regard to the 3-year limitation imposed by this amendment.

SECTION 12

Section 12 amends section 1001 of the Legal Services Corporation Act by adding to the Statement of Findings and Declaration of Purpose the statement that the provision of legal assistance to the poor will "assist in improving opportunities for low-income persons consistent with the purposes of this act." The inclusion of this amendment clarifies the congressional intent respecting the scope and purpose of the legal services program.

SECTION 13

Section 13 modifies section 1011(2) of the Legal Services Corporation Act by requiring that an independent hearing examiner be appointed, pursuant to Corporation regulations, if and when there is a proceeding relating to the denial of refunding of a legal services program. Under Corporation Regulations 1606, the Corporation has indicated that it will use Corporation employees as hearing officers during defunding procedures; however, the Corporation may use other, outside persons. In the five defunding procedures that have occurred thus far, Corporation employees have been used as the presiding officers at the hearings.

This amendment would give a recipient the right to request, at its discretion, an independent hearing examiner during a proceeding involving the denial of refunding. The committee believes that since independent hearings examiners must be persons knowledgeable about the delivery of legal assistance to the poor such persons shall be appointed pursuant to a procedure outlined by the Corporation in regulations promulgated after a public comment period.

SECTION 14

This section provides dates on which amendments made by the Legal Services Corporation Act Amendments of 1977 shall become effective.

Mr. President, I understood the Senator from Michigan (Mr. RIEGLE) was to present some remarks at this time.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. ANDERSON). The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I would like to present a few remarks in connection with the pending amendments.

As you know, Mr. President, what this act is designed to do is to give some legal services to the poor, to those who cannot afford it. By the estimates of the OMB there are some 29 million poor in the United States. Under this act there is sufficient funding provided for 3,000 lawyers under the Legal Services Corporation. That makes one lawyer for about every 10,000 poor. The bare minimum under the estimates which have been made is that there should be two lawyers for every 10,000 poor. So this act nowhere near provides the amount of legal services and consultation that the poor really should be entitled to, to receive the full benefits under the law.

As the Presiding Officer knows, equal justice under the law is what we believe in in this country.

I think it is important to point out, Mr. President, that not only is the Legal Services Corporation Act supported by the American Bar Association, but also these amendments are supported by the American Bar Association. I do not think anybody can claim that the American Bar Association is a wild-eyed liberal group, by a long shot, but they have supported not only these amendments but, frankly, Mr. President, in the testimony before the committee, the ABA would have gone further; they would have allowed legal services in connection with abortion, something which is not included in the amendments being presented to the Senate today.

Also, Mr. President, I would point out that many, many—I cannot say all because I do not know that it is true with all, but certainly the vast majority—local bar associations support the Legal Services Corporation. To the extent they know about these amendments they give them support also, to the best of my knowledge.

Mr. President, this act continues the steps forward which were made when the Legal Services Corporation was originally formed. It does not go as far as some wanted it to go. Amendments were knocked out in committee, or were not approved by the subcommittee. But, Mr. President, I believe it goes a long ways toward providing service for the poor in our country, and I vigorously support its passage.

Mr. STAFFORD. Mr. President, I am pleased to rise in support of S. 1303, which would extend the authorization of the Legal Services Corporation for an additional 5 years, and loosen some of the present restrictions on it.

The purpose of this program is to provide, in the words of the congressional mandate of 1973, "high quality legal assistance to those who would otherwise be unable to afford adequate legal counsel."

Our Committee on Human Resources was informed that of the 29 million citizens officially classified as poor, 16 million are presently beyond the limited reach of help from the Legal Services Corporation. This measure, according to the Corporation itself, would permit services to be extended to an additional 6 million persons. The remaining 7 million would remain unreached. The program, and this legislation, has the wholehearted support of the American Bar Association.

It represents another step forward toward the goal of a society in which justice will be equally available to the poor as well as the rich.

I believe the 5-year authorization provided in S. 1303 is important in order to give this program stability for orderly planning and expansion.

Of course, there are strong controls against misuse of the program for partisan political purposes or for private gain.

The Corporation would continue to be independent of the executive branch except for an annual budget review by the Office of Management and Budget.

This independence places a special responsibility upon the Committee on Human Resources. The committee, and its counterpart in the House of Representatives, are the only agencies of Government with the duty and powers of overseeing the Corporation's activities. I am confident, that the committee will carry out this oversight function scrupulously.

Just as we seek to provide good education, good housing and good medical care for all our citizens, so should we provide good legal assistance for all. I can think of nothing more subversive for our free society over the long run than a growing population nursing a mounting and justified grievance against a system which boasts in its documents the equality of all while manifestly denying it to them.

I hope my colleagues will vote in support of S. 1303.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. RIEGLE. Mr. President, is it appropriate for me to seek time on my own or must I seek time from the Senator?

Mr. NELSON. There is no time limitation.

Mr. RIEGLE. Mr. President, I rise at this time to express my strong support for this legislation.

Mr. President, the legal services bill before us today is of major importance to thousands of poor people throughout the country. I have long been a supporter of legal services legislation and was an original cosponsor of this bill in the Employment, Poverty and Migratory Labor Subcommittee. The subcommittee and full Human Resources Committee, under the able leadership of Senators NELSON and WILLIAMS, have given long and serious consideration to this legislation. I urge my colleagues to support this bill without amendment.

As is known, legal services first started out as pilot project effort under the Office of Economic Opportunity in 1965. In 1967 a categorical program of legal services was established. Then in 1974, a separate, independent Legal Services Corporation was set up. At that time there was considerable controversy about the legal services and the vital role the Legal Services Corporation has played in our communities. The Corporation is now generally recognized for the excellent job it has done. It has proven to be a model of effectiveness and competence by which all domestic programs should be compared.

In my own State of Michigan, 13 programs receive financial assistance through the Legal Services Corporation. These programs have provided effective representation to the poor in Michigan in a wide variety of areas and issues. These vital programs have to continue. However, a number of poor people in Michigan and throughout the country are currently without access to a legal services lawyer. S. 1303 will assure the continuation and strengthening of the current programs and allow the Legal Services Corporation to continue its effective efforts of expanding programs to insure the availability of legal services to all of our country's poor.

S. 1303 would extend the Legal Services Corporation for 5 years. It authorizes sufficient sums to provide legal assistance to eligible clients during fiscal year 1978. It also provides necessary flexibility so that the Corporation's appropriations will meet the needs of the client community the program is designed to serve. It makes a number of positive changes in the current act which are necessary to insure that eligible clients receive the full range of professional legal assistance in civil matters. I would like to mention just a few of the critical provisions of this bill which deserves our support.

The hallmark of legal services has been the accountability of the program and its lawyers and paralegals to those it is established to serve—the poor. S. 1303 strengthens that accountability by requiring the President to appoint three clients to the Board of Directors of the Corporation and requiring that one-third of each local board consist of eligible clients. This will mean that the current Corporation regulation requiring client representation will become law.

The restrictions on research, training, technical assistance and clearinghouse activities, imposed upon this body in 1974 in exchange for Presidential support for the act, have been removed. This will provide much greater flexibility for the Corporation and assure that local legal services programs receive the research and training necessary to address problems peculiar to each area.

Section 7 of the bill removes the additional restrictions currently imposed on the personal political activities of staff attorneys and puts them on an equal footing with other attorneys in publically funded law practice. These staff attorneys will still, of course, be covered by the Hatch Act and its provisions.

The changes in eligibility in section 8(b) will insure that each local program set its priorities by taking into account the needs of all eligible clients within the service area including those identifiable segments of the poor who may have difficulties of access to legal services.

The clarifications on legislative and administrative advocacy will insure that paralegals can provide representation in

legislative advocacy and that community education and outreach are not inhibited. The clarifications will insure the continuation of the effective legislative and administrative advocacy which legal services programs have provided in the past.

A similar clarification is made in section 9(c) regarding the prohibition on organizing activities. Legal services should not directly organize groups. However, it should provide full representation, education and outreach to those organized groups who are made up of or which represent eligible clients. This section will remove any inhibition which may have been improperly used to prevent such full representation to groups of the poor.

Legal services programs in Michigan have led the way in seeking to assure protection to the rights of juveniles. Removal of the confusing restrictions in section 8(c) will assure the continuation of these innovative efforts.

Mr. President, a great deal of attention has been given to human rights in other countries around the world, and rightly so. However, it is important that we always fully recognize human rights in our own country. One of the most basic of human rights is the right to adequate legal representation for all of our citizens. I am hopeful that every Member of this body supports this legislation without any crippling amendments.

I would add one final thought: We talk about being a country of laws and justice, of people being equal under the law. If there is one thing that is clear to anybody who has studied it for more than 1 minute, it is that people are not equal under the law unless they have access to appropriate legal counsel. These issues are complex. The court system is a tough system for anybody to approach unless they have competent and qualified legal counsel available to them.

The people who do not have the means to pay for that counsel are effectively denied justice in this country. When Mr. Bert Lance was before a Senate committee not too long ago, he had at his elbow Mr. Clark Clifford. Clark Clifford costs $400 an hour. If you can afford that $400 an hour and you are Mr. Lance, Mr. Clifford is a very good attorney to have there with you. But to the average citizen, to the poor people of this country who have some pressing legal matter facing them, they not only are denied access to the Clark Cliffords, they are denied access in many cases to any legal counsel whatsoever in a practical sense.

Legal Services was designed to overcome that inequity and to see that, in fact, we have equal justice in the United States, or at least, a chance for equal justice. In that regard, I think this legislation is profoundly important. I hope that when we have an opportunity later today to vote on it, it will receive the kind of broad bipartisan backing that it deserves.

There is nothing at all partisan about the issue of seeing to it that people's legal rights and opportunities under our system of justice are fully protected and represented. That is exactly what this legislation is designed to do. On that basis, I recommend it to my colleagues.

I yield back the floor at this time, Mr. President.

Mr. KENNEDY. Mr. President, I am pleased to see that the Legal Services Corporation Act Amendments of 1977 have come to the floor. This bill, which I cosponsored with Senator NELSON, the distinguished chairman of the Senate Subcommittee on Employment, Poverty and Migratory Labor; and with Senators CRANSTON, WILLIAMS, JAVITS, HATHAWAY, RIEGLE, and STAFFORD, was reported out of committee on May 16. It contains some very necessary additions to the authority of the Legal Services Corporation and its recipients. We must take action on this bill.

In this measure, we have succeeded in removing restrictions on legal services lawyers which have constricted their ability to represent their clients. The changes help put legal services lawyers in the same position as other lawyers who have a client to represent. They cannot do anything that a private lawyer cannot do; but they now will be able to do most of the things that a private lawyer can do on behalf of a client. We have thus corrected the problems in the first authorization for the Corporation—where at once we acknowledged that poor people need representation but on the other hand we implicitly said—"but don't be too effective."

We do not have to search far and wide for the reasons that this trade was made—the Corporation was created amidst a barrage of opposition from the Nixon administration. Two bills to set up the Corporation had previously died; one from a veto, and another under threat of a veto.

Ultimately the question became whether undesirable restrictions were necessary in exchange for obtaining a Corporation with some independence, which could begin to expand legal services to the poor.

Today we do not suffer from the need to make this choice and can pass a bill which allows Legal Services attorneys to serve as full-fledged lawyers for their clients.

In conjunction with the increased appropriations for the Corporation—$205 million this year, an increase of $80 million over fiscal year 1977—the way is paved for a stronger representational effort.

I applaud this development. The Legal Services Corporation acts to insure that the poor have their day in court, that they get that to which they are legally entitled. Here in America, where the law has been made the turnkey for a better life, it is vitally important that the most vulnerable are adequately served.

Eliminating these restrictions has special meaning to me because, in section 8(b)(1), this act also provides for access to legal services for groups among the poor who have had the hardest time in obtaining such assistance despite their obvious needs.

In the reauthorization, Legal Service Corporation recipients were directed to adopt procedures to provide assistance to significant parts of the eligible client population which have special problems in getting served and special substantive legal problems.

In the past, many groups were not served in any relation to their number in the client population, and it is this problem which this bill attempts to alleviate. There were certainly no willful ice projects were new and had not had time to develop procedures.

Since they were inadequately funded, these centers were swamped by the people who came in on their own. And, legal service lawyers tended to serve those whose problems were more amenable to the legal background of the lawyers themselves. This skewed the delivery of services. With the careful procedure mandated in this act, the legal service projects will have the incentive to stand back and take a look at their delivery and make the proper adjustments.

So, with this reauthorization we are taking steps to see that these people are served. They include, but are not limited to, such groups as the elderly, handicapped, veterans, Native Americans, migrant or seasonal farmworkers and people whose English speaking is limited.

In order to supplement the efforts mandated in section 8(b)(1) we have written in section 10. This section allows up to 3 percent of the Corporation's appropriation to be used for model projects to reach groups which have difficulty of access or special legal problems. This is an attempt to allow Corporation recipients to find new ways to reachout to and serve these groups.

It must be stressed that these funds are meant to supplement the effort mandated in section 8(b)(1) and never to substitute for that effort.

We want to encourage innovative approaches to reaching underserved people and those who have special legal problems. To insure that these people who have had difficulties in the past are adequately served, we are providing some additional funds for the search.

There are many new ways which must be pursued to serve people who cannot come into a central office. The elderly may be homebound; as may some of the handicapped. Migrant workers are likely to be in rural areas with little transportation available to get to centers. Many Native Americans are on reservations. A different, but no less serious access problem occurs with those who are primarily Spanish speaking.

While many may be able to get to a legal services office, they will not be able to get the service they need if they cannot communicate with their lawyer.

These model projects might include experimenting with wats lines for people who live in isolated areas; placement of intake workers in community service centers; and use of mobile units. Bilingual attorneys and translators may be provided where those who have difficulty speaking English are among the client population. In addition, they may, of course, be used to develop linkages with community organizations which are already involved in serving groups such as the elderly and handicapped. These organizations provide a vehicle for reach-

ing the client population for legal services and legal education.

So, too, the funds can be used to help meet the specialized needs of these people. Some areas of the law involving these people can get very specialized. It may be hard for the general legal services lawyer to practice in these areas without spending an extensive amount of time boning up—time which most hard pressed legal services lawyers simply do not have. So this money can be used to develop specialties among some lawyers in areas where special client groups constitute a large part of the client population.

For instance, the elderly have needs which involve Federal and State administrative procedures in areas such as supplemental security income and medicare; migrant workers are more likely to have OSHA problems; Native Americans may have special land use problems.

The 3-percent limitation on section 10 funding does not include any of the field programs or support centers funded under section 1006(A)(1), even though some of those programs are, or in the future may be targeted at some of the specific client populations to which we refer in section 10.

Mr. President, we are, in sum, doing two things in this reauthorization. We are allowing lawyers to act fully as lawyers and we are stressing the needs of all client groups.

I want to enumerate some of the highlights of the bill:

First, it reauthorizes the funding for the Corporation. The first year authorization is for $225 million and the years after that are for such sums as are necessary.

Second, the legislation requires client representation on the national board and on the local boards of Legal Service Corporation recipients. This should insure sensitivity to client needs in establishing priorities.

Third, it makes recipient staff attorneys subject to the mandates of the Hatch Act that are applicable to other Government employees. We eliminated the additional restrictions which are currently in the act.

These restrictions, for instance, kept staff attorneys from being candidates for nonpartisan position on school and library boards.

Fourth, it allows Legal Services lawyers to represent people who were denied representation in the past simply because the subject matter of the cases did not appeal to lawmakers, regardless of the merits of those cases under the Constitution and other statutes. I am referring to the newly granted authority to represent juveniles in a broad range of cases and to provide legal assistance to those involved in desegregation proceedings relating to schools.

Fifth, legal services lawyers will be able to give advice and legal assistance to groups of clients who have organized themselves and who request such services, though recipients of Corporation funds will still not be able to initiate the formation of such groups.

Sixth, the Corporation is explicitly made subject to the Government in the Sunshine Act so that those citizens who are interested in the deliberations of the Corporation and State advisory councils may be able to attend their meetings.

Seventh, the Corporation is allowed to make grants and contracts for research, training, technical assistance, and clearinghouse activities with those outside the Corporation if this is a more effective way of doing a job than hiring additional Corporation personnel.

Mr. President, I am very pleased with the bill that we are considering today. I think that the Legal Services Corporation comes into full bloom with this reauthorization. And this is important to a decent society which believes that the procedures upon which we base our system should be available to all.

Like the vote, the law is a foundation upon which we decide how to run our society. Its virtue should not be denied to those among us who are the most vulnerable.

AMENDMENT NO. 861

Mr. HAYAKAWA. Mr. President, I call up amendment No. 861.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from California (Mr. HAYAKAWA) proposes amendment numbered 861.

Mr. HAYAKAWA. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 13, between lines 13 and 14, insert the following:

"(b) Section 1006(c)(1) of the Legal Services Corporation Act (42 U.S.C. 2996e(c)(1)) is amended by inserting after 'litigation' the following: 'or file amicus briefs'.".

On page 13, line 14, strike out "(b)" and insert in lieu thereof "(c)".

Mr. HAYAKAWA. Mr. President, I wish to speak on behalf of the amendment I have just introduced.

I believe that it was the intent of Congress, when it passed the Legal Services Corporation Act of 1974, that the Corporation was to serve as a funding conduit for, and provide administrative and technical support, to several hundred private, nonprofit legal aid projects around the country, and that only attorneys employed by these projects could represent clients directly or file amicus briefs on their behalf. The Corporation's role as a conduit of funds rather than as a provider of direct legal aid is spelled out in section 1006 of the act dealing with the powers, duties, and limitations of the Corporation. According to this section "the Corporation is authorized to provide financial assistance to qualified programs furnishing legal assistance to eligible clients" but "shall not itself participate in litigation on behalf of clients other than the Corporation." Let me emphasize that "not," which is in the original legislation.

In using the expression "participate in litigation" I believe Congress was referring not only to acting as counsel on behalf of a plaintiff or defendant in a lawsuit but also to filing amicus curiae briefs on behalf of one party or another in a lawsuit. My amendment, which would simply clarify the original intent of Congress, is prompted by the fact that the Corporation has evidently construed the prohibition against participation in litigation as nonapplicable to amicus briefs. On June 7, 1977, the Corporation filed an amicus curiae brief with the Supreme Court in the case of the Regents of the University of California against Alan Bakke.

Alan Bakke, a 36-year-old white student, applied for admission to the medical school of the University of California in 1973 and 1974. Both times, he was denied admission, although a number of blacks with scores considerably lower than his were admitted under a policy that preserved 16 out of 100 spaces for minorities. Bakke sued the university and was upheld by the California Supreme Court, which ruled, 6 to 1, that the university, in rejecting Bakke on racial grounds, had violated the equal protection clause of the Constitution. The university has appealed the ruling to the U.S. Supreme Court, which will hear the case sometime this fall.

The Legal Services Corporation's brief in the Bakke case, which was filed on behalf of the University of California by two members of the Corporation's staff, without the knowledge or approval of the Legal Services Board of Directors, contends that unless the quota system is preserved, the number of minority students admitted to all graduate schools, including law schools, will decline and that this decline will adversely affect the poor, since it will reduce the supply of minority lawyers available to provide legal aid for minorities among the poor.

Apart from the tortured logic which tries to convert what is essentially a civil rights issue into a poverty issue, I find the racism implicit in the Corporation's argument to be intolerable. The best answers to this kind of argument was made a few years ago by Supreme Court Justice William O. Douglas, who, in an opinion in a similar case—the De Funis case—wrote:

The Equal Protection Clause commands the elimination of racial barriers, not their creation in order to satisfy our theory of how society ought to be organized. The purpose of the University of Washington cannot be to produce Black lawyers for Blacks, Polish lawyers for Poles, Jewish lawyers for Jews, Irish lawyers for the Irish. It should be to produce good lawyers for Americans and not place First Amendment barriers against anyone. . . . There is no constitutional right for any race to be preferred. A De Funis who is white is entitled to no advantage by reason of that fact; nor is he subject to any disability, no matter his race or color. Whatever his race, he had a constitutional right to have his application considered on its merits in a racially neutral manner.

In its ruling in the Bakke case, the California court noted:

It has been more than three decades since any decision of the U.S. Supreme Court upheld a classification which resulted in detriment solely on the basis of race.

That decision, which upheld the wartime relocation of Japanese-Americans, was, as George Will reminds us in a recent column, "one of the darkest episodes in U.S. constitutional history."

As a member of a minority, myself, I hope, for the sake of all minorities and, indeed, for the sake of all Americans, that the Supreme Court will extinguish this latest attempt to resurrect the doctrine that the end justifies the means. I agree with President Jimmy Carter who, in a recent comment on the Bakke case, said:

I hate to endorse the proposition of quotas for minority groups, for women or for anyone else that contravenes the concept of merit selection.

But my opposition to quotas in higher education is not the reason I am proposing this amendment today. I am proposing the amendment first because I believe the Corporation, in filing its brief in the Bakke case, has violated the clear intent, if not the letter, of the Legal Services Corporation Act. Second, the Corporation has strayed beyond its mandate, which is to serve the poor, by involving itself in a case where poverty is a peripheral issue if it is an issue at all. The brief was filed, incidentally, on behalf of the regents of the University of California who can scarcely be classified as paupers. Third, and most importantly, I find it offensive that tax funds should be used to promote the private views of special interest groups. I would be equally opposed to the Corporation's intervention on behalf of Bakke.

Finally, my amendment is needed to rein in a staff which is obviously out of control. Not only was the board of directors not consulted in advance of the standing that the board has taken no action since to withdraw the brief, reprimand the staff or issue guidelines prohibiting the filing of such briefs in the future.

Mr. President, I ask for the yeas and nays on this amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

Mr. NELSON. Mr. President, let me say to the distinguished Senator from California, we shall, if he desires, be able to get the yeas and nays at the appropriate time. There may be some others who wish to comment on it, and perhaps we can seek the yeas and nays subsequently.

Mr. HAYAKAWA. Then let us have the other comments now.

Mr. CHAFEE. Mr. President, it seems to me there is no question that it was a mistake for the Corporation to get into the Bakke case. I think the points made by the distinguished Senator from California are very true. It just did not involve a poverty matter.

I have a question I would like to direct to the Senator from California.

If the amendment were narrowed so that the Corporation could submit amicus briefs in those matters which affected the Corporation, but in which they were not directly involved—in other words, what the Senator might consider to be a proper instance for the Corporation to involve itself with through an amicus brief—I was wondering if the Senator would agree to a modification of his amendment to that extent.

Mr. HAYAKAWA. Will the Senator please explain that again?

Mr. CHAFEE. The Corporation, it seems to me, should be permitted to participate in any case in which the validity or interpretation of the Legal Services Corporation Act or Corporation regulations is involved.

The most common situation in which such questions arise is, for instance, when a recipient is representing a client and is not itself a party.

In other words, an instance in which one of the local legal services is representing a client and is not itself a party, although it has a very real interest in the outcome, as does the Corporation.

Another example would be a case in which a recipient is seeking attorney's fees under a Federal statute that authorizes their award or, for example, when the recipient is resisting a discriminatory appointment without compensation.

Neither the Corporation nor the recipient is named a party, so the only way their views would get before the court would be through an amicus brief.

I was wondering if that would meet the Senator's objections. I think that would clearly prohibit appearance in a future instance similar to the Bakke case.

Mr. HAYAKAWA. Yes. It seems to me the amendment does take care of it. Section 1006(c), the Corporation is not to litigate or file an amicus brief on behalf of clients other than the Corporation.

Mr. CHAFEE. In that case if the Corporation is a party, obviously, it does not need an amicus brief.

Mr. HAYAKAWA. Litigate on behalf of the Corporation, and if the Corporation says, in effect, "go ahead," then, obviously, it is empowered to do so.

I hope that explains it for my colleague from Rhode Island.

Mr. CHAFEE. I will have to confess that I do not fully understand.

In other words, the amendment as presented, the Senator's amendment, forbids the filing of amicus briefs.

Mr. HAYAKAWA. Yes.

Mr. CHAFEE. My concern is that there are instances where the Corporation is not a party, but I think the Senator would agree it has a valid interest in having an amicus brief presented. These are matters that pertain directly to the Corporation or to its recipients.

As, for example, those that I gave, where a recipient is seeking attorney's fees under a Federal statute that authorizes their award.

In that instance, the recipient, that is the local Corporation, the local agency, would not be a party. The party would be the poor person. Say the poor person is suing, for example, some municipality: In that case, the fees would be coming to the recipient, that is, the local agency, but they would not have a chance to present their views in this dispute over fees unless they could file an amicus brief.

My question is, Would the Senator be willing to modify his amendment to take care of clear-cut situations like that, which would not involve Bakke, or similar cases?

Mr. HAYAKAWA. If they were clear cut, would not be the Corporation itself——

Mr. CHAFEE. Be a party?

The answer is, no, they would not be.

Mr. HATCH. Will the Senator yield for a question?

Mr. HAYAKAWA. Yes.

Mr. HATCH. Would it not be true in this case they would either be a party or represent a party ?

Mr. CHAFEE. That is right.

Mr. HATCH. So that in those cases they would be a participant in the particular matter of litigation.

Mr. CHAFEE. They would not be because they are not a party.

Mr. HATCH. A participant as attorneys for the party.

Mr. SCOTT. Will the Senator yield?

Mr. HAYAKAWA. I yield to the Senator from Virginia.

Mr. SCOTT. Mr. President, I appreciate the distinguished Senator from California yielding.

This whole Bakke case which is before the Supreme Court of the United States is something that is of considerable concern to me. I believe in equal rights of all of our people. I believe in the equal protection of the law. But I do not believe that some people should be more equal than other people. I do not believe in what the Attorney General refers to as affirmative action, affirmative action to be taken, because of past injustices so that some people will be given something more than the equal protection of the law.

It seems to me we have to start where we are today and say that in this country under our Constitution every citizen is entitled to equal protection under the law, because if we say that some people are entitled to be more equal than other people, that means that others are less equal than the people who are more equal.

I do not believe we can accept the concept that because of past injustices we are going to recompense and give something extra to some of the people of our country.

I serve on the Judiciary Committee and we just confirmed, within the past several months, a new head of the Civil Rights Division. This gentleman and I had lunch together and I posed the question to him as to whether, as a black man, he believed that in his administration of the Civil Rights Division of the Department of Justice he would give special privilege to people who happened to be black, because of past injustices, or whether he would try to keep people equal regardless of their race and color and creed, if he would try to follow the Constitution as the Constitution is written. He assured me that he would follow the Constitution as the Constitution is written.

I had the Solicitor General of the United States, who, also, is a black man, in the office, he and his wife were visiting briefly with me, and posed the same question to him.

The Solicitor General is the chief law officer of the United States. He is the one who makes the dicision, not the Attorney General, as to whether there shall be an appeal filed by the United States or whether the U.S. Government shall enter amicus curie brief.

He assured me, in the same way, that he had been a member of the circuit court of appeals and he believed in equality of all races, and because of past injustices he would not take the action that is being taken today by the Department of Justice in filing an amicus brief.

If this case, this case that is now before the Supreme Court and that our Government is filing an amicus brief in, is decided against the white man in this case, he is being denied the rights of citizenship merely because he happens to be white.

That is not what the Constitution says. It says that we are all entitled to equal protection of the law. I appreciate the distinguished Senator bringing this matter to the attention of this body.

I hope that the Supreme Court, in its wisdom, will stick to the Constitution and interpret the Constitution as the Constitution is written.

I am a minority; I am a Methodist. I am a minority; I am a Republican. I am a minority; I am a man. We are all minorities in one manner or another. None of us happens to be a member of the majority in everything we do, and we cannot have discrimination making up for past injustices.

We could give special rights to Indians. We could give special rights to Irish people because in the past they were discriminated against. We could say Puerto Ricans are discriminated against. We could say orientals are discriminated against. Yet I do not believe orientals are entitled to any special privilege, nor is any other citizen of the United States. If you give special rights to one, you are taking away from the other.

So I believe we should adhere strictly to the Constitution and strictly to what is written. It is engraved over the Supreme Court building: Equal justice under law. That is what our Constitution calls for, and I hope that is what the Supreme Court finally decides.

I am glad the Senator brought up this particular case, and I thank him for yielding.

Mr. HAYAKAWA. I thank the distinguished Senator from Virginia for his comments.

I should like to add, however, that I may have misled him and others a little in bringing up the matter of racial justice at all, because the amendment I am proposing is much more limited than that.

The original section 1006(c) says:

> The corporation shall not itself participate in litigation on behalf of clients of the corporation.

The amendment adds:

> The corporation shall not itself participate in litigation or file amicus briefs on behalf of clients other than the corporation.

So it is a very simple, tiny amendment, which I hope restores the original meaning, clarifies the original meaning, of the legislation. That is all I had in mind in proposing this amendment.

Mr. CHAFEE. Mr. President, I should like to ask a couple of questions, because I think there is some confusion as to what the amendment would do. Under one interpretation, it would be quite acceptable, and under another interpretation it might not be.

The question really is this, and I ask the Senator from California to give me a yes or no on this: In a situation where a recipient project—a recipient, as they say in the language—is involved in a case, could the Corporation file an amicus brief, under the Senator's amendment?

Mr. HAYAKAWA. No, it could not.

Mr. CHAFEE. I want to make sure everyone understands that. I will repeat it.

It is my understanding from the Senator from California that, under his amendment, when a recipient is involved in litigation—a recipient project or recipient is involved in litigation—the Corporation cannot submit an amicus brief.

Mr. HAYAKAWA. Nor could it participate in litigation. Is that not the original meaning of the legislation? The corporation shall not itself participate in litigation. I have added the words "or file amicus briefs."

Mr. HATCH. Mr. President, will the Senator yield for a question?

Mr. HAYAKAWA. I yield.

Mr. HATCH. Is it not true that the Senator's amendment does not change the existing law with regard to the Legal Services Corporation?

Mr. HAYAKAWA. No, it does not.

Mr. HATCH. All it does is add that it may not file, except in those cases where it is presently capable of filing, and it will not file an amicus curiae brief. Is that not true?

Mr. HAYAKAWA. I thank the Senator from Utah.

I do not think that, under present law, it is really capable of filing amicus briefs, but they went ahead and did it, anyway.

Mr. HATCH. That is right. The point the Senator is making, as I understand it, is that his amendment does not change the present law at all. It just makes clear that under present law and under future law, it will not have the right to file amicus briefs.

Mr. HAYAKAWA. That is correct.

Mr. HATCH. And to inject itself into the litigation where it does not have a relationship, where it is not a litigant, which it cannot be, anyway, and where it is not an attorney.

Mr. HAYAKAWA. That is correct.

I ask for the yeas and nays, Mr. President.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. HATCH. Is what I have said, true, I ask the Senator?

Mr. HAYAKAWA. Yes, it is. The Senator from Utah has interpreted it correctly.

Mr. HATCH. In other words, the Senator from California is not changing the law but is making it clearer, so that what formerly was the law remains the law; and that the Legal Services Corporation in the future makes no more mistakes, as has been admitted here, by filing briefs in cases in which it has no interest or standing.

Mr. HAYAKAWA. That is correct.

I thank the Senator for the clarification.

Mr. NELSON. Mr. President, will the Senator from California yield for a question?

Mr. HAYAKAWA. I yield.

Mr. NELSON. I wish to understand the objective of the Senator's amendment. Is it the Senator's objective to prohibit the Corporation from filing an amicus brief in behalf of one of its associated local legal services organizations? In other words, if a local legal services organization is under the direction of the Corporation and controlled by the rules and regulations of the Corporation, is the Senator saying that the Legal Services Corporation may not, if it so desires, file a brief in support of the position of the local legal services organization which is part of the Corporation?

Mr. HAYAKAWA. I will stick by what the law says: The Corporation shall not itself participate in litigation nor file amicus briefs. That is the job of the staff that has taken on the job. But the Corporation itself shall not be so involved, neither in litigation nor in amicus briefs.

As I stated earlier, the Corporation is a conduit for money to provide these legal services. It is not itself a litigant, not itself a party to litigation.

Mr. HATCH. Mr. President, will the Senator yield?

Mr. HAYAKAWA. I yield.

Mr. HATCH. Perhaps I could have the attention of the Senator from Wisconsin, and I think I can clairfy this.

In a situation where the local Legal Services Corporation receives assistance through a brief or otherwise, in litigation in which it is already involved, this certainly is permissible—exactly the situation that the distinguished Senator from Wisconsin indicated—even under the amendment of the Senator from California, which would prohibit amicus briefs in matters in which the Legal Services Corporation does not participate as attorney.

Mr. HAYAKAWA. I think that is correct.

Mr. HATCH. I think that would solve the problem of our colleague from Wisconsin.

Mr. NELSON. I hope we have it clear that the local client legal services organization is part of the Corporation.

Mr. HATCH. Yes, if they are involved in litigation. What my friends from California just said is that the national Legal Services Corporation could, in fact, assist in a brief for that particular piece of litigation.

Mr. NELSON. So if the local legal services organization is involved in a lawsuit that goes on appeal the Corporation may, in behalf of the client represented by the local client organization, file an amicus brief with the Supreme Court, or with the

Federal court, or wherever the case may be.

Mr. HATCH. That is my present interpretation of the law and, I believe, that is correct. But it would not file an amicus brief; it would file a joint brief with the local legal services entity.

Mr. NELSON. I suppose it gets into a technical refinement as to whether or not it would be an amicus brief if the Corporation were filing something in addition to what the local legal services organization filed on behalf of its own——

Mr. HATCH. The Senator from California's amendment provides they may not file an amicus curiae brief, which means they have to file a joint brief. They would not be forbidden from filing a brief in litigation in which one of the legal services, local legal services, centers is on the brief.

Mr. NELSON. We may be caught up in some semantics, if I may say so.

Mr. HAYAKAWA. It is law.

Mr. KENNEDY. Mr. President, will the Senator from Wisconsin yield for a comment?

Mr. NELSON. I would like to insert, I think, the language adopted by the House which may very well achieve what it is the Senator seeks to achieve. The House provided after the word "Corporation" the following words be inserted, "or participate in any litigation unless the Corporation or a recipient of the Corporation is a party to such litigation."

I assume that is what the Senator from California is attempting to achieve; is that correct?

Mr. HAYAKAWA. It is correct.

Mr. NELSON. I yield to the Senator from Massachusetts.

Mr. KENNEDY. In listening to the exchange, I wanted to associate myself with the comments to which the Senator has just referred. There may be situations where the Legal Services Corporaton's interests are at stake, and yet they may be denied standing in various courts. Then, the Corporation would not be permitted to file a brief as a party. In those situations the opportunity to file the amicus brief would be absolutely essential.

So I think it is important when we are considering our intent that we understand there are circumstances, in which the integrity of the Legal Services Corporation or the act under which it operates or its interest in protecting the needy may be at stake. It seems clear to me that with the interpretation that the Senator from California has so far given this amendment, the Corporation would be denied an opportunity to make its voice heard unless it was filing a direct brief. This would put a very heavy burden on the Corporation.

We are talking about interests that relate to the integrity of the Legal Services Corporation which may be jeopardized if the Corporation must actually be a party before it can file a brief. So I just want to associate myself with the remarks of the Senator from Wisconsin and hope that before we agree with any language we have a full understanding about what the impact would be.

Mr. NELSON. I think it is perfectly clear, at least in the amendment of the Senator from California, that they would not be able to file an amicus brief in a case such as the Bakke case, in which they did not have a client involved nor did the local Legal Services organization have a client involved, and I think clearly the amendment of the Senator from California would prohibit the filing of that kind of a brief.

It would, if I understand it correctly, permit filing a brief of some kind or another, amicus or whatever it may be called, in any case in which the Corporation was involved.

If one of the Corporation's local legal services programs was involved, or an eligible client's case was before a judicial body, they could also file a brief, as I understand it, the Senator from Utah is saying a joint brief, with the local legal services organization, but not an amicus brief.

Mr. KENNEDY. I thought that the Senator from Utah, in his exchange with the Senator from Wisconsin, indicated that if a corporation had a direct interest it would not be necessary to file an amicus brief and, therefore, it would probably be wise to constrain the ability of the Legal Services Corporation to file an amicus brief under any circumstances. If that was the position then I think it is important for us to understand that there may be times when the Corporation may not have standing to intervene before the courts and the amendment as explained may very well preclude the protection of the interests of the Legal Services Corporation where an amicus brief would be the only remedy.

I would be interested in the clarification by the Senator from California as to exactly what situations he interprets his language to reach. Maybe it is just a question of semantics but, perhaps, it is something more, and I would welcome the chance for further clarification.

Mr. HAYAKAWA. Mr. President, I suggest the absence of a quorum.

Mr. RIBICOFF. May I make a unanimous-consent request, if the Senator will yield? I ask unanimous consent that David Schaefer of my staff be allowed the privilege of the floor during the consideration of the Legal Services Corporation Act and the protection of children against sexual exploitation.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, I make the same request for Jay Urwitz.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DANFORTH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DANFORTH. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. DANFORTH. Is it my understanding that there is an amendment pending?

The PRESIDING OFFICER. That is correct.

UP AMENDMENT NO. 910

(Purpose: To retain in the Legal Services Corporation Act a preference for local persons in filling staff attorney positions, while amending current law to provide for certain necessary exceptions to this rule.)

Mr. DANFORTH. Mr. President, I ask for unanimous consent that an amendment which I now send to the desk be taken up immediately.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment will be stated.

The legislative clerk read as follows:

The Senator from Missouri (Mr. DANFORTH) proposes an unprinted amendment numbered 910.

The amendment is as follows:

On page 16, strike lines 4 through 7 and substitute in lieu thereof the following:

(d) Paragraph (8) of Section 1007(a) of of the Legal Services Corporation Act of (42 U.S.C. 2996f(a)(8)) is amended by striking out all after "Subchapter" and inserting in lieu thereof the following:

and, to the extent such preference is consistent with the laws of the United States respecting discrimination in employment, give preference in filling such positions to qualified persons who reside in the community to be served, except such preference shall not be required if the recipient certifies to the corporation that the position to be filled requires expertise in a particular field of law or proficiency in a language other than English, that the person proposed to fill the position meets such requirements, and that no qualified person can be found in the community who meets such requirements and will accept employment with the project.

Mr. DANFORTH. Mr. President, the Legal Services Corporation Act currently requires legal services programs to solicit the recommendation of the organized bar in the community served before filling attorney positions. The act also requires the corporations to give preference to qualified local residents in hiring staff attorneys.

The bill retains the provision requiring the legal services program to solicit recommendations from the local bar—but strikes the preference for local residents in filling staff attorney positions. The committee report states that this action was taken because the preference for local residents sometimes conflicted with other legal requirements—such as those prohibiting discrimination in employment, and those requiring projects to provide legal assistance in a foreign language in areas where a significant number of clients speak a language other than English as their principal language. The committee report explains further that the requirement for preferential treatment for local residents sometimes hampered projects in their attempts to hire persons with necessary expertise in specialized fields of law—and so the preference was stricken.

Mr. President, I think the committee's action amounts to throwing the baby out with the bath water. I believe Congress acted wisely in 1974 when it wrote into the law a preference for qualified local residents in filling staff attorney positions. It is extremely important—in my opinion—that the persons who staff

Legal Services offices be not only good attorneys—but also persons who understand the culture and the needs of the community they serve. For this reason, if qualified persons can be found in the community to staff Legal Services offices—there is good reason to give them preferential treatment in hiring decisions.

In addition, it may be the case—especially in some rural communities—that legal services can best be provided by attorneys who reside in the community and who are engaged in the private practice of law, but are ready and willing to provide their assistance, part-time to a legal services project.

I recognize the concerns which led the committee to strike this preference from the law, but I think their concerns can be met without going so far as to strike altogether the preference for hiring local persons.

My amendment would retain the preference for local persons in hiring decisions—but would provide that this preference shall only be exercised to the extent that it is consistent with the laws respecting discrimination in employment. The amendment would also provide that this preference shall not be required if the recipient certifies to the Corporation—

First, that the position to be filled requires expertise in a particular field of law or proficiency in a language other than English;

Second, that the person proposed to fill the position meets such requirements, and

Third, that no qualified person can be found in the community who meets such requirements and will accept employment with the project.

I think my amendment speaks to the concerns of the committee, while recognizing the importance of insuring the active participation of local residents in legal services projects.

I do not believe anyone can look on this proposal as controversial. I hope that it will be acceptable to the floor managers of the bill.

Mr. President, this amendment is very simple. It simply restores, in slightly different form, what is now current law. It provides that preference be given in hiring of legal aid attorneys to persons from the local community. That is the provision as it stands in the existing law. It was stricken in committee. This amendment would reinstate it, with the proviso that the preference for hiring local persons could not be exercised in a manner inconsistent with the laws of the United States respecting discrimination in employment. The amendment provides further that in the event local attorneys do not have the particular kind of expertise which is determined desirable or do not have language skills which are deemed desirable, then, of course, attorneys from outside the community can be hired. I have checked with this with the floor managers of the bill and it is my understanding that it is satisfactory to them.

Mr. NELSON. Has the Senator finished his presentation?

Mr. DANFORTH. Yes.

Mr. NELSON. Mr. President, will the Senator yield for a couple of questions?

Mr. DANFORTH. I yield.

Mr. NELSON. I am assuming that the objective of this amendment is to make specifically certain that none of the laws respecting minorities, affirmative action, or any such thing of that nature, are overridden by the provision that "preference be given to local attorneys in hiring."

Mr. DANFORTH. That is correct. That is expressly set forth in the amendment.

Mr. NELSON. I am assuming also that we are talking about qualified local attorneys.

Mr. DANFORTH. That is also correct.

Mr. NELSON. Without regard to the question of minorities, affirmative action, there is sufficient flexibility here so that if the local legal services programs believe that the available attorney or attorneys were not qualified to handle satisfactorily, based on experience or competence, they are not compelled to hire a local attorney simply because the attorney is from that local community.

Mr. DANFORTH. That is right. There is no effort in this amendment to in any way reduce the quality of legal services offered. There would be no requirement that the Corporation would compel the hiring of an incompetent local attorney just because he is local. What this amendment says, in effect, is, that insofar as consistent with the need to comply with civil rights laws and insofar as consistent with the need to supply lawyers with specific expertise which may or may not be available in a given community and language skills that may or may not be available in a given community, then given those consistencies preference should be given to hiring lawyers within a community.

The reason for that can be plainly stated. First of all, I think that lawyers in a community, other things being equal, do have greater knowledge of the local court system. Further, I think that it is desirable to build within the community, in rural areas as well as in urban areas, a local bar which has some experience in dealing with the needs and problems of the poor.

Mr. NELSON. This is a modification which I interpret to broaden somewhat the provisions of the current statute. Would that be the Senator's interpretation?

Mr. DANFORTH. Well, I do not know if the word "broaden" or the word "narrow" is more accurate. I think what this amendment would do is specifically recognize the need to comply with Federal laws with respect to civil rights, and the need to sometimes bring in attorneys who have specific expertise that is not available in the local community.

Mr. NELSON. I have no objection to that proposed amendment.

The requirement that preference in staff attorney hiring be given to qualified applicants residing in the community to be served should not be interpreted to conflict with other legal requirements. One of those requirements is section 1006 (b)(6), which demands that legal assistance be provided in a language other than English in areas where a significant number of clients use such language as their principal one.

Nor is the attorney hiring provision intended to conflict in any way with laws prohibiting discrimination in employment. Programs must insure that equal employment opportunities are afforded by their hiring practices.

In order to insure that the most highly qualified attorneys are hired for its staff, each legal services program should establish qualifications for attorney positions. A program may find it appropriate to consider, among other relevant factors, academic background, knowledge of the legal problems of the poor, prior legal experience, and prior working experience in the client community, as components of the qualifications needed to provide high-quality legal assistance to the clients residing in the area served by the program.

When equally qualified applicants are under consideration for an attorney position, a program shall give preference to the applicant residing in the community to be served.

Programs shall continue the practice of notifying the local bar, including minority bar associations, of the existence of attorney vacancies, and seeking their recommendations for attorneys who meet the qualifications established for those positions.

All organizations which are considered by a legal services program to have knowledge of the legal needs of persons in the community unable to afford legal assistance should be similarly notified and solicited for recommendations.

This procedure will promote a mutually beneficial relationship between the program and the local bar and community.

I do not know whether anyone else wishes to comment on it or not.

Mr. President, I call attention to the absence of a quorum.

The PRESIDING OFFICER (Mr. CHILES). The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. CHAFEE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHAFEE. Mr. President, I would like to ask the Senator from Missouri a question, if I might, in connection with his amendment.

As I understand it, the rationale for the amendment that the committee presented, to delete that part of the act which required that special preference be given to hiring local attorneys, was the concern that there may be a flock of local attorneys who are willing to take on a 6-month tour to get a little trial experience or experience in handling these kind of cases, but they are not expecting to stay for the length of time which the recipient, that is, the local corporation, might want; and the local corporation might well want someone who would make a commitment for 2 or 3 years to handle this rather specialized and, I might say, rather unglamorous type of law, which is rather tiring and requires a certain amount of dedication. Under

the suggestion of the Senator from Missouri, barring the Spanish-speaking situation or something like that, the recipient local corporation could not take this lawyer from some other place, even though he was really wanted for 2 or 3 years.

Mr. DANFORTH. First of all, there is nothing in the amendment which is intended to reduce in any way the quality of legal services. Therefore, under this amendment, if the people in the local bar were not qualified, there would be nothing that would compel them to be hired.

The amendment does give preference to the people in the local bar. But I think as a practical matter, the effect of this proposal would be to upgrade the quality of legal services, and I say that for the following reasons:

In smaller communities, and even in rural areas, you sometimes have a very competent local bar quite able to assume responsibilities under a legal services program. Chances are that legal services could be better performed by them than by people who might be just out of law school or working out of a legal services office in another community—attorneys shipped in for a period of about a year or so to work in a legal services program in a community they know nothing about.

With this preference for local attorneys you are more likely to get an experienced attorney familiar with the problems of the community—probably with more years under his belt than would be the case if you sent into a community people recently out of law school who knew nothing about the local court system.

Mr. CHAFEE. Mr. President, my problem is not so much someone who is not qualified, because I am sure you could find qualified people through the local bar associations. I am concerned about giving preference to someone who might not be willing to undertake this project for the required length of time. In other words, the recipient—the local organization—might say, "Look, we have had terrible turnover in this organization, and we really do not want to take on anyone who is not going to commit himself to 2 years of service. We cannot have this turnover."

I am concerned that the amendment of the Senator from Missouri, as I read it, deals solely with qualified persons. There may be plenty of qualified people who can do the job, but who would say, "Look, I am not going to commit myself for 2 years; I will stay for 6 months, but you will have to take your chances after that."

Is the length of time the person is planning to stay to be considered part of his qualifications?

Mr. DANFORTH. I would think that would be something that could be better determined by the local legal services organization, than by the Senate. I would simply state again that there is nothing in this amendment which is designed in any way to reduce or limit the quality of legal services. The intention is quite to the contrary.

Mr. NELSON. Mr. President, may I pursue that point just a little bit further for purposes of the record?

Whenever we use the word "preference" in any statute, ambiguities result, because certain subjective judgments come into play.

I am still assuming that, other things being equal, the local attorney is preferred only if one is available and qualified for the position. For example, if a local legal services program needs a staff attorney with trial practice for a particular position and the local lawyer who is available—no matter how fine or how bright—had no trial practice, because that was not the field in which the lawyer was experienced, then the legal services program would not be obligated to take on the local attorney for the purpose of filling that particular slot. Would that be correct?

Mr. DANFORTH. That is correct.

Mr. NELSON. Mr. President, unless there is objection, I am perfectly willing to accept the amendment offered by the Senator from Missouri.

The PRESIDING OFFICER. Is there objection?

Mr. CHAFEE. May I reserve my right for 1 minute, Mr. President?

Mr. DANFORTH. Mr. President, I have some very slight perfecting amendments to my amendment which I send to the desk.

The PRESIDING OFFICER. Does the Senator wish to modify his amendment?

Mr. DANFORTH. Yes, I do.

The PRESIDING OFFICER. The Senator has that right. The amendment is so modified.

The amendment, as modified, is as follows:

On page 16, strike lines 4 through 7 and substitute in lieu thereof the following:

(d) Paragraph (8) of Section 1007(a) of the Legal Services Corporation Act (42 U.S.C. 2996f(a)(8)) is amended by striking out all after "title" and inserting in lieu thereof the following:

"and, to the extent such preference is consistent with the laws of the United States respecting discrimination in employment, give preference in filling such positions to qualified persons who reside in the community to be served, except such preference shall not be required if the recipient certifies to the corporation that the position to be filled requires expertise in a particular field of law or proficiency in a language other than English, that the person proposed to fill the position meets such requirements, and that no qualified person can be found in the community who meets such requirements and will accept employment with the project;".

Mr. CHAFEE. I have no objection, Mr. President.

The PRESIDING OFFICER. The question is on agreeing to the amendment, as modified, of the Senator from Missouri.

The amendment, as modified, was agreed to.

The PRESIDING OFFICER. The question recurs on amendment 861 of the Senator from California. The yeas and nays have been ordered.

Mr. NELSON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. DANFORTH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 911

(Purpose: To amend current law to provide for prior notification of principal local bar associations of any legal assistance grant, project, or contract, allowing opportunity for comments and recommendations.)

Mr. DANFORTH. Mr. President, I ask unanimous consent that proceedings on the amendment by the junior Senator from California be set aside so that an amendment which I now send to the desk may be considered.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Missouri (Mr. DANFORTH) proposes an unprinted amendment numbered 911.

The amendment is as follows:

On page 16, insert the following between lines 7 and 8:

e. Section 1007(f) of the Legal Services Corporation Act (424 U.S.C. 2996f(f)) is amended by striking all after "Governor" and inserting in lieu thereof:

, the State bar association of any State, and the principal local bar associtaions (if there be any) of any community, where legal assistance will thereby be initiated, of such grant, contract, or project. Notification shall include a reasonable description of the grant application or proposed contract or project and request comments and recommendations.

Mr. DANFORTH. Mr. President, the purpose of this amendment may be simply stated. The Legal Services Corporation Act currently provides for notification of the Governor and the State bar association 30 days prior to the approval of any grant application—or prior to entering into a contract or prior to the initiation of any other project. The law further provides that notification shall include a reasonable description of the grant application or proposed contract or project and request comments and recommendations.

My amendment would simply provide that the same notification shall also be provided to the principal local bar associations in the community to be served. As I am sure my colleagues are well aware, the Economic Opportunity Act of 1964 provided for such notice in the funding of legal services projects under the old Office of Economic Opportunity. However, for what I understand to be considerations of convenience, this provision was omitted when the Legal Services Corporation was established in 1974.

Mr. President, if legal services programs are to be successful, it is important that they enjoy the support of the local bar. I am in no sense proposing that local bar associations have a power of veto over legal services programs, but I am saying that local bar associations

should be provided opportunity to make recommendations respecting the provision of legal services for the poor in their communities. I understand that—as a matter of course, the Legal Services Corporation has always advised project applicants to discuss their plans in detail with the local bar in affected communities. My amendment would simply make clear that it is the intent of the Congress that such notice always be provided before a project is funded or approved.

Mr. President, I do not see this as a controversial proposal, and I hope that it will be acceptable to the distinguished floor managers of the bill.

Mr. President, until 1974, the statutes provided for notice to be given to the principal local bar associations prior to the extension of legal services to a local community. In 1974 the requirement of notice to the local bar association was deleted. This amendment would simply restore the requirement that notice be given to the principal local bar association, if there be any, of any community where legal services will be initiated.

Notice shall include a reasonable description of the grant application or proposed contract or project and request comments and recommendations. No veto power would be given by this amendment to the local bar association, but it would serve as a matter of comity.

Mr. NELSON. Will the Senator yield for a question.

Mr. DANFORTH. I yield.

Mr. NELSON. The last sentence states that notification shall include reasonable description of the grant application or proposed contract or project and request comments and recommendations.

What is the time limitation on comments by the local bar?

Mr. DANFORTH. It would be 30 days.

Mr. NELSON. Does the statute with respect to the notification to the Governor and the State bar have a 30-day time limitation?

Mr. DANFORTH. That is correct. The same 30-day limitation would apply here.

Mr. NELSON. Mr. President, I have no objection to the amendment.

Mr. CHAFEE. I have no objection.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Missouri.

The amendment was agreed to.

The PRESIDING OFFICER. The question recurs on the amendment of the Senator from California (Mr. HAYAKAWA).

Mr. CHAFEE. Mr. President, I think that amendment is going to be slightly modified, as I understand it.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. HAYAKAWA. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 861

Mr. HAYAKAWA. Mr. President, let me suggest some new wording beginning on line 5 of this amendment which appears to be satisfactory to all of us. After the word "following:" insert:

Unless the Corporation or a recipient of The Corporation is a party, or a recipient is representing an eligible client in such litigation, and shall not participate on behalf of any client other than itself; or

The PRESIDING OFFICER. Is there objection?

Mr. NELSON. Mr. President, I have no objection to that amendment as so modified.

The PRESIDING OFFICER. Without objection, the amendment is so modified.

The amendment, as modified, is as follows:

On page 13, between lines 13 and 14, insert the following:

"(b) Section 1006(c)(1) of the Legal Services Corporation Act (42 U.S.C. 2996e(c)(1)) is amended by inserting after 'litigation' the following: 'unless the Corporation or a recipient of The Corporation is a party, or a recipient is representing an eligible client in such litigation, and shall not participate on behalf of any client other than itself; or'

On page 13, line 14, strike out "(b)" and insert in lieu thereof "(c)".

Mr. NELSON. Mr. President, may I ask, did we vote on the amendment?

The PRESIDING OFFICER. The yeas and nays were ordered; then the Senator from Rhode Island asked for time. The Senate did not vote.

Mr. HAYAKAWA. Mr. President, I ask unanimous consent that the request for the yeas and nays be withdrawn.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the amendment as modified.

The amendment, as modified, was agreed to.

Mr. HATCH. Mr. President, I yield myself such time as I may need.

Mr. HELMS. Mr. President, will the Senator yield?

Mr. HATCH. I am glad to yield to the distinguished Senator.

Mr. HELMS. Mr. President, I ask unanimous consent that no interruption be shown in the Senator's remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. I ask unanimous consent that Carl Anderson of my staff be accorded the privilege of the floor during discussion of this measure and any votes thereon.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THURMOND. Mr. President, I ask unanimous consent that John Napier be accorded the privilege of the floor during consideration of S. 1303 and votes thereon.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. Mr. President, prior to the Senate's July 4 recess, I had occasion to meet with Thomas Ehrlich, President of the Legal Services Corporation. As most of my colleagues are aware, Senator HAYAKAWA and I have filed minority views to the report of the Human Resources Committee and we have serious reservations about this bill.

The purpose of my meeting with Mr. Ehrlich was to discuss the entire legislative picture and to attempt to gain assurances from him that the Corporation would be run in total compliance with the act. I expressed to him most of my concerns, which coincide with those of many of my colleagues, and I asked that he address these problem areas in a followup letter to me.

On July 11, 1977, Mr. Ehrlich complied with my request. I think it now important that I read into the RECORD his response.

DEAR SENATOR HATCH: When we talked last week, you asked me to outline for you the basic aims of the Legal Services Corporation and the methods by which we assure that recipients of Corporation funds comply with the Congressional mandates in the Act and in the regulations issued under the Act.

The fundamental purpose of the Corporation was defined by the Congress when it passed the Legal Services Corporation Act: To provide high quality legal assistance in non-criminal matters to persons who cannot afford that assistance. Because the Corporation does not have sufficient resources to serve all who meet that definition, we follow the requirement in the Act to give priority to serving those least able to afford legal assistance, and set maximum eligibility guidelines at 125 percent of the official poverty level set by the Office of Management and Budget (currently, $7313 for a family of four and $3713 for a single individual).

As the initial effort to meet the Corporation's mandate from the Congress, the Corporation has requested appropriations—in increments over a three-year period through fiscal year 1979—to provide legal assistance in all areas of the country at a level equivalent to two attorneys for 10,000 poor persons. That level will offer only minimum access to the legal system—some chance for a poor person with a crisis legal problem to find assistance. Studies indicate that in any year roughly 23 percent of the poor have a legal problem for which they need legal services. Obviously, at a level of two attorneys for 10,000, only a fraction of that 23 percent actually will receive assistance from a legal services program, even when attorneys handle caseloads of as much as 400 to 500 cases a year.

Our minimum access plan depends not only on Congressional appropriations sufficient to support two attorneys for 10,000 poor people, but also on the continued and expanded *pro bono* efforts of the private bar and the availability of other public and private sources of funding for legal services. The Corporation and local programs work hard to develop and maintain those resources.

As part of the effort to assure high quality legal assistance, the Corporation—through its Office of Program Support—provides training, technical and management assistance to legal services program staff. This includes systematic training of new attorneys, project directors, management and administrative staff, and paralegals, as well as specialized training in federal practice and specific areas of the law that impact particularly on the poor.

The Corporation is in the process of developing a Project Reporting System that will provide detailed information for every legal services program on the characteristics of the clients served, the nature of the cases handled and the time devoted to each, costs of delivery, and utilization of staff. This information never was available in the years that legal services were funded through the Office of Economic Opportunity and the Community Services Administration. The Project Reporting System is now being tested in a number of programs, to assure that the data collected will provide the Congress with

the information it needs for its oversight of the legal services program. It will also meet important management needs of the local programs and the Corporation.

In addition, as directed by the Congress, the Corporation has undertaken a comprehensive study of alternative and supplemental means of delivering legal services to the poor. Demonstration projects are now being funded to test the feasibility of judicare, vouchers, prepaid legal insurance, contracts with private attorneys and other delivery mechanisms. A report to the Congress on that study is now being printed and will be submitted this week. A copy of the text is enclosed. As you will see, it provides an analysis of the ways in which we are working to improve the delivery of legal services.

The Corporation is committed to continuing this effort and will not hesitate to make changes when information suggests means to provide more effective and efficient services to eligible clients.

With regard to compliance, the Corporation requires specific assurances from local legal services programs as a condition of receiving funds. Grants are for a period of one year and are renewed only on evidence of compliance with the Act and regulations. The Corporation has the authority to suspend or terminate funding at any time, and to deny refunding, if serious problems of compliance are identified. I am pleased to report that such drastic steps have not been necessary during the two years the Corporation has been in existence.

The Corporation's most effective mechanism for assuring compliance is quarterly monitoring visits by our regional offices. Four times a year, Corporation staff visit each legal services program, meet with the project director, staff, clients, and local board members. The monitors use the enclosed checklist to examine all policies and procedures of the local programs to assure compliance with the Act and the regulations and efficient management and administration. If any problems are identified, specific remedies are proposed and technical assistance is provided. That kind of regular supervision and support has never been available in the past.

In addition, of course, the Corporation fully investigates any complaint it receives about alleged violations of the Act or the regulations. If the complaint has merit, corrective action is taken. State Advisory Councils are appointed by the governor of each state for the specific purpose of receiving complaints about such violations. Remarkably few complaints have been received by the Corporation, directly or through the State Advisory Councils.

Finally, the Corporation requires that each legal services program establish its own client grievance procedure to assure accountability to its clients. Each local program must establish specific procedures whereby any person who is denied legal assistance or who is dissatisfied with the assistance rendered has the opportunity to file a grievance with the program and with a grievance committee of its governing body, if it is not resolved by the staff.

You also expressed concern about the extent to which legal services programs may be handling what you described as "exotic cases". In my own considered judgment, after a year and a half of working with legal services attorneys throughout the country, the work they are doing is in direct response to the most urgent problems that face low-income persons in the communities they serve. Legal services attorneys and paralegals handle more than 1,250,000 matters a year—a caseload that leaves no time for "exotic" activity. Few of those cases make headlines. They are the routine, day-to-day matters concentrated in four general categories: domestic relations (30 percent), administrative benefits (20 percent), housing (17 percent), and consumer law (14 percent). Most matters are handled out of court—only 15 percent are actually litigated.

I do not mean to suggest that all of the matters handled by legal services programs are without controversy. That is impossible under our adversary system of justice. Some of the litigation results in landmark decisions and on occasion reaches the Supreme Court of the United States. That work should not be the subject of criticism, but rather of commendation for the superior legal representation being provided to the poor.

The Legal Services Corporation Act itself prohibits legal services attorneys from engaging in a number of activities that many would consider inappropriate uses of public funds. These include prohibitions:

Against participating in or encouraging public demonstrations, picketing, boycotts or strikes;

Against persistent incitement of litigation or any other activity prohibited by the Canons of Ethics and the Code of Professional Responsibility;

Against training programs for the purpose of advocating particular public policies or encouraging political activities; and

Against the use of Corporation funds for political activities.

Further, the Act provides that a court may award costs and fees in any action commenced by a legal services program if the court finds that the action was brought for the purpose of harassment or in a malicious abuse of process.

The Act also sets conditions for class actions and appeals, to assure that local program resources are utilized efficiently and in accordance with the overall needs of the client community. Local program boards must set guidelines for review to avoid frivolous appeals. Class actions may be brought only with the specific approval of the program director, under policies established by the local board. Those actions are brought to avoid repetitive litigation that wastes the resources of the program and the time of the courts. They represent a very small though essential portion of the total representation provided by legal services programs. A recent case in the District of Columbia is illustrative. Eligible clients seeking public assistance were continually denied the right established by Congress for a timely consideration of their applications by the local welfare department. It was far more efficient for everyone concerned for the legal services program to bring one action on behalf of all such persons rather than to seek individual relief for each client who came to the program with the same problem.

In addition to all of the protections written into the Act and the regulations, and all of the steps the Corporation takes to assure compliance, one of the most effective guarantees of accountability exists in the local governing bodies. Each program is governed by its own board of directors, sixty percent of whom are practicing attorneys in the area served by the program and one third of whom are eligible clients or representative of clients. The governing bodies set the specific policies and procedures for the programs. In addition, each is required to develop, in consultation with the entire client community, overall program priorities to assure, on the one hand, that attorneys are not simply handling the cases that interest them and, on the other, that the program is addressing the most urgent needs of all eligible clients and not simply operating on a first-come first-served basis.

As I said in our conversation, I am personally disturbed by the continued allegations made by some that legal services attorneys are advocating their own interests rather than those of their clients. The reality is that legal services attorneys and staff are providing effective representation of poor people in the full range of civil legal issues that raise basic problems of survival for the individual and families involved. They work under adverse circumstances, and their salaries are far below those of their colleagues in other public as well as private practice. In my view, they are the pride of the legal profession and fully deserve the support they receive from the organized bar, their clients, and the Congress.

I hope that this is helpful to you in your own consideration of the program. Please let me know if I can provide any further information.

Cordially,

THOMAS EHRLICH.

Mr. President, I am pleased to report that Mr. Ehrlich indicated that the Corporation is developing a project reporting system that will provide detailed information for every legal services program, so that effective control of individual legal services programs can be maintained. Also the information, thus centrally compiled, will be valuable to the Congress in conducting oversight which this corporation so desperately needs, in my judgment.

While Mr. Ehrlich's letter was fairly complete, unfortunately most of my concerns about the Corporation's operations continue to exist. My office has been swamped with calls and letters asking why the Employment Subcommittee, on which I serve, has failed to conduct a review of the legal services program prior to reauthorizing the Corporation with the changes called for in this bill.

I must admit that I do not have a good answer. It seems to me that a program as controversial as this one is sought to be carefully scrutinized by the Congress before we make the kinds of sweeping and controversial changes called for in the bill. This is especially true because this Corporation is only accountable to Congress in the conduct of its affairs.

From what I can learn it is apparently true that the Legal Services Corporation has shown great ingenuity in using its legislative mandate as a base for aggressive social activism. The original justification for the legal services program was rather similar to that of a local legal aid society: to funnel assistance to impoverished persons who need legal counsel. Through imaginative interpretation of poverty standards, generous use of "class action" suits—in which only some of the members of the affected class may actually be poor—and end runs around restrictions on lobbying, the LSC has learned how to use tax dollars for basic institutional "reform." In the words of veteran LSC official E. Clinton Bamberger:

> There's going to be a change in this country. If the lawyers want to watch it and not participate in it, that is your decision.

Some examples of LSC activities—all of which have taken place under current law:

First. The LSC-funded Massachusetts Law Reform Institute openly lobbied in a referendum for a graduated State income tax. It also worked on a court case which forbade corporate financial contributions to the campaign against the graduated tax.

Second. The LSC-funded Legal Aid Bureau of Baltimore argued for restructuring of utility rates before the Commission of electric utility rate structures in Maryland.

We have to wonder, what is the interest of the Legal Services Corporation in doing that, even though there are many questions that may be raised about utility rate structure in every State.

Third. The LSC-funded Pine Tree Legal Assistance, Inc., and Native American Rights Fund have been involved in the effort to force the State of Maine to give two-thirds of its territory back to the Passamaquoddy and Penobscot Indians. The case has affected the ability of the State and of several municipalities to sell Government bonds, and could potentially affect the timber industry's access to the disputed lands.

Fourth. Then there is the questionable authority of the amicus curiae participation of the Corporation in the Bakke case.

To be brutally frank about that, everybody here has admitted today that the Corporation should not have participated in the Bakke case. This is just another extension of powers not given to it by Congress, and the lack of oversight by Congress and just doing whatever it wants to do with taxpayer dollars to effectuate social reform it likes.

I get a little tired of some of these people who are always arguing that we have to take care of the consumer in our society.

My question is, Which is the consumer group they are going to take care of—is it going to be the average citizen in Maine, or the Passamaquoddy Indians and the Penobscot Indians?

Which consumer groups should be proteced by American taxpayer dollars and should be given American taxpayer dollars which are effectuating these crises in America, when the dollars should be going to taking care of the poor?

When Mr. Erlich testified before the committee, he said the reason why he wanted to jump the $125 million which was appropriated for this agency in the last fiscal year to more than $200 million, in 1 year, was that there are 29 million poor in our society.

He was asked questions, and I think they are pretty important questions for people who are interested in trying to keep down taxes, who are interested in trying to keep down this approximately $800 billion national debt, for people who are trying to give tax relief through tax cuts and otherwise—and I am one of those—for every citizen in our society, including every business in our society. I think it is a pretty important question to ask why in the world they justify a jump in the appropriation for Legal Services of almost double in 1 year. Their response was that it is because of 29 million poor.

Then, the further question was asked: "Wait a minute. Have you included in that the transfer payments that the poor have, these 29 million?"

The answer was, "No." In other words, they do not include the food stamps, housing subsidies, welfare payments, and medicaid payments. They neglected those in order to jump up this figure of 29 million poor, in order to almost double the appropriations for this bill in 1 year.

In a test case on this particular bill and an amendment filed, we were beaten down by the Senate; and the Senate wants to jump those revenues, even though there appear to be all kinds of abuses in this Corporation and its funds throughout America, despite what Mr. Erlich says in his letter.

I will say that I believe many good things are done, also. So I am not totally against the Legal Services Corporation. But I am for oversight. I am for justifying these tremendous and incredible jumps we have in appropriations around here, especially in this particular case.

I am for having the Legal Services Corporation do that for which it was instituted and constituted, and that is to take care of the poor in our society, who amount to about 8 million or 9 million people, if you take away the transfer payments that every taxpayer in America is presently paying.

I asked, what about the great middle class that has to pay for this Legal Services Corporation?

The PRESIDING OFFICER. Will the Senator suspend? The Senate will come to order. The Senator is entitled to be heard.

Mr. HATCH. I thank the Chair.

I asked, on this particular subject, what about the millions of taxpaying middle class who pay these freights, who are paying this almost doubling of the Legal Services Corporation bill in this matter? Can they afford attorneys? If I recall correctly, the answer was, "Well, a lot of them can't." The reason they cannot pay is that they are too busy paying into these types of appropriations. That is one reason. They are too busy paying the taxes that are required in this society. They are too busy being burdened by an overregulatory society that regulates us in every aspect of our lives.

The very people who pay for it cannot afford attorneys, so that the appropriation, in essence, can be juggled, so that we can help those 29 million poor.

I do not mean to suggest—I want to be fair to the Legal Services Corporation—that they are going to serve every one of these 29 million poor. They cannot do so with only the $225 million which is provided in this upgraded bill. But that is the justification for jumping it from $125 million to well over $200 million. I do not think that is justification, when you fail to consider all the transfer payments that the great middle class of this society, which really pays the taxes of this society, has to make.

It is about time that we in Congress start thinking about some of these things, because it is time that we quit burdening the whole society with things that clearly are being abused.

I will give some other illustrations. In the current edition of Clearinghouse Review, which appears to be a review of cases in which the Legal Services Corporation participates, it makes clear that abuses in the legal services program continue.

On page 468 in the current edition—I am not sure of the date—is an article concerning medicaid abortion, which indicates that, despite intended prohibitions on legal services involvement in the abortion issue, legal services lawyers are still working for abortion on demand.

I do not care whether one is proabortion or antiabortion. Why in the world—when we have two different classes of thought in this matter, and perhaps many other different classes of thought—is a federally funded agency of the Government, which has asked for basically doubling of its appropriation, going out and representing only one side, especially when they do not have the authority and have been told not to do so?

These are the kinds of things that I believe deserve oversight, and we should do something about them.

On page 494 there is reference to the Utah legal services program—that directly affects my State, of course—which has been involved in a suit challenging HEW's policy of denying nontherapeutic sterilization to women under 21 years of age.

If that is not an abomination, I do not know what is. What right do they have to spend our taxpayer dollars to challenge the policy of their own agency—the Department of Health, Education, and Welfare—of denying nontherapeutic sterilizations to women under 21 years of age? Yet, that is what they are doing.

Other items in Clearinghouse Review relate to involvement in harassing farmers with additional OSHA regulations and promoting national health care insurance. We have to start asking ourselves these questions: Why are they doing that? Why do we have to harass farmers with OSHA regulations when they are so harassed as it is? Why in the world are they promoting national health care insurance? Everybody seems to admit that it is going to cost upwards of $100 billion extra each year, on top of the present national Federal debt of almost $500 billion.

Mr. MORGAN. Mr. President, will the Senator yield for a question relating to the bill before the Senate?

Mr. HATCH. I am delighted to yield.

Mr. MORGAN. I understand, of course, that the Senator is on the committee that considered this bill. There is a question that conerns me—one among many—having to do with the provisions of the Hatch Act.

As I understand the explanation of the bill, the staff attorneys, under this bill, would be subjected to the provisions of the Hatch Act.

Mr. HATCH. That is correct.

Mr. MORGAN. But in the explanation there is another provision which repeals another section, which I do not have before me, which would tend to repeal the prohibition against participating in partisan and nonpartisan activities on the part of staff attorneys.

Does this ease the requirements or prerequisites, or does it make them more stringent than the present law?

Mr. HATCH. It is an easing.

Mr. MORGAN. It is an easing of the present restriction.

Mr. HATCH. Of the current law.

Mr. MORGAN. In other words, at the present time these lawyers, who are around the country and are being paid under the Legal Services Corporation, are forbidden to engage in partisan and nonpartisan activities during their off-duty hours.

Mr. HATCH. That is correct.

Mr. MORGAN. But if the bill before us is passed, they will be permitted to engage in both partisan and nonpartisan activities, so long as they are on duty.

Mr. HATCH. I believe the Senator is correct.

Mr. MORGAN. Does it bother the Senator that this might involve a situation in which these attorneys establish a rapport with their clientele and they can later come around and work with and, not necessarily coerce but to persuade their clients to vote a given way or participate in a given hearing?

Mr. HATCH. It bothers me very significantly. I think it is one of the things that should not happen when taxpayers of all persuasions are paying the freight for these bills.

Mr. MORGAN. I did not propound my question to the distinguished Senator because he is an opponent of the bill. I waited around as long as I could and I could not get to the managers of the bill. But I would have to say it is an area that does disturb me and disturbs my constituents back home.

It has been thought by my people that many of your public service—well, not public service—lawyers, but I guess that would have a wrong connotation—that may of the lawyers who work under these programs engage more in political activites than render legal services. It sort of bothers me that we are letting down the bars, so to speak.

It does put them under the Hatch Act, but what can they do under the Hatch Act? I wonder if you or someone from the committee could inform me or enlighten me on this.

Mr. HATCH. I would be happy to refer that question to the distinguished manager of the bill.

Mr. NELSON. I will get—I think we go off this bill at 3 o'clock today—a copy of the Hatch Act.

It is correct that all of the provisions of the Hatch Act that affect all Federal employees, with all of the precedents in the Hatch Act, now apply precisely and exactly to legal service attorneys.

Three or 4 years ago—I have forgotten how many—an amendment was offered to restrict nonpartisan activities of staff attorneys. I opposed it. It was offered on the House side. It went to conference and I opposed it theer too. It was adopted by the conference committee.

That amendment went beyond the Hatch Act and said, for example, that a legal services attorney could not enter into an election to be a member of the school board or any other such nonpartisan activity.

We do not apply that kind of limitation to any American citizen.

We went beyond that in the 1974 Legal Services Act and said these employees cannot even participate in nonpartisan activities. We eliminate that aspect in this bill.

Mr. MORGAN. I would say to the Senator I can understand why we should not restrict them from running for city council if it is nonpartisan. But it has been a source of concern.

I am interested in the program. I think that every American is entitled to the benefit of legal counsel, but it has been abused, and I would say in connection with the Hatch Act—and we will be talking about this more later on in this session—I never have found that the Hatch Act put many restrictions on public employees who wanted to become involved. What I found the Hatch Act did was to offer a shield for those who did not want to get involved.

Under the Hatch Act you can contribute to political parties, you can wear bumper stickers, you can wear pins, you can go to political partisan meetings. The only thing you cannot do is you cannot run for a partisan office, and you cannot manage a campaign.

Mr. NELSON. You cannot, of course, electioneer on "company time."

Mr. MORGAN. Well, of course not, and you should not be allowed to, and they would not understand this. But these people do occupy a particularly close relationship with their clients, and I wonder about the advisability of it. I am going to give some thought to it and I might possibly come back with an amendment during a later discussion.

I thank the distinguished Senator.

Mr. HATCH. The Senator has pointed out some important aspects that will be pointed out during the course of these proceedings.

Mr. President, I will mention a few other points that are occurring. In addition to the few I have mentiond, which included involvement in abortion issues, in the challenge of HEW's policy of denying nontherapeutic sterilizations to women under 21 years of age, the harassing of farmers with additional OSHA requirements, and in promoting national health care insurance, one of the other favorite, another favorite item, that I found is where the Legal Services Corporation or those working with it have lobbied for the expunging of arrest records. Of course, this has happened.

There are many others we could cite, but let us just suggest that those are some of the more reprehensible ones. They are just a few examples of how the Corporation is using its present $125 million appropriation, most of which has come by way of news accounts because we have not had oversight and have not exercised it in our committee which, I think, certainly needs to be done.

I also think that since anybody would be hard pressed to find anything about the Legal Services Corporation that does not involve law, the practice of law, the ethics of law, the litigation of law, and all kinds of other aspects that involve pure law, I think we would find anybody would be hard pressed to understand why the oversight has to be in the Committee on Human Resources instead of the Committe on the Judiciary.

I have requested, and respectfully so, that this particular organization be under the oversight, that oversight be extended to the Committee on the Judiciary over the Legal Services Corporation.

With regard to these abuses we have mentioned, S. 1303 would give the Legal Services Corporation even more flexibility than it already has.

I think at this point I would like to continue my statement tomorrow. I notice 3 o'clock is here, and if I can have the floor at the beginning I would ask unanimous consent, and I ask unanimous consent, that I have the floor at the beginning of the consideration of this particular bill tomorrow.

The PRESIDING OFFICER. Is there objection?

Mr. NELSON. Mr. President——

Mr. HATCH. Or later today.

Mr. NELSON (continuing). Does not the Senate go back on to this legislation following the next 2-hour order?

The PRESIDING OFFICER. Following the executive session.

Mr. HATCH. Whatever time.

Mr. NELSON. That is for 2 hours, is it?

The PRESIDING OFFICER. It is not a determined time.

Mr. HATCH. I would ask unanimous consent whenever we resume consideration of this bill that I be given the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. I would be delighted to yield at this time, for the specific purpose of putting in an amendment that is acceptable to the floor managers, to the distinguished Senator from Maine.

UP AMENDMENT NO. 912

(Purpose: To add rural persons living in harsh climates without adequate transportation as a target group for model legal services grants.)

Mr. HATHAWAY. I thank the Senator.

Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The second assistant legislative clerk read as follows:

The Senator from Maine (Mr. HATHAWAY) proposes an unprinted amendment numbered 912.

Mr. HATHAWAY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 18, line 18, strike out "and".

On page 18, line 19, strike out the period after "abilities" and there insert the following: ", and indigent persons in sparsely-populated areas where a harsh climate and an inadequate transportation system are significant impediments to receipt of legal services.".

Mr. HATHAWAY. I am a cosponsor of the bill and a long-time supporter of legal services programs.

Legal Services projects have given poor people the opportunity to enjoy the benefits of law and order which they were not always able to afford for themselves.

Enforcement of the civil laws is just as important as good criminal law enforcement.

A ruthless landlord or an unscrupulous salesman can sometimes make life as miserable for a poor person as a criminal does when he makes a victim out of someone else.

In rural areas of the country there are pockets of poverty containing people in need of legal assistance.

Section 10 of the bill allows the legal services corporation to make grants for model projects on behalf of certain identifiable groups.

I understand the list is not intended to be exhaustive, but I do feel quite strongly that people in rural areas need to be mentioned in order that they may be thought of in the grant-making process, and that is the only purpose of this amendment.

My amendment simply adds rural people to that list. We have come a long way in our concerns for rural areas. But there are places where life is very hard because of harsh climates and inadequate transportation.

I wish to be sure that the legal services corporation focuses on these people, for they are the ones who are the most invisible members of our society.

I have consulted with the floor manager of the bill as well as the minority manager on the bill, and I understand that neither of them has any objection to this amendment.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. NELSON. Mr. President, I have no objection to the amendment. If it were up to me to interpret the amendment that was adopted by the Human Resources Committee this year, I would expect the administrators of this law would have considered the people the Senator from Maine is concerned about as eligible clients with "special difficulties of access to legal services or special legal problems." Although the Senator's amendment is more specific, the committee's amendment does make it clear that it applies to the circumstances of an indigent person in a sparsely populated area.

I think Senator HATHAWAY's language is a good idea. It accomplishes clearly what I thoguht to be the intent of the committee's amendment, so I am perfectly willing to have it clarified and delineated more specifically by the amendment of the Senator from Maine.

I have no objection to it.

Mr. CHAFEE. There is no objection on this side, Mr. President.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Maine.

The amendment was agreed to.

ORDER FOR YEAS AND NAYS ON NOMINATIONS

Mr. ROBERT C. BYRD. Mr. President, as in executive session, I ask for the yeas and nays on the two nominations.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

PROTECTION OF CHILDREN AGAINST SEXUAL EXPLOITATION ACT OF 1977

The PRESIDING OFFICER. Under the previous order, the hour of 3 p.m. having arrived, the Senate will temporarily lay aside S. 1303 and proceed to the consideration of S. 1585 which the clerk will state by title.

The assistant legislative clerk read as follows:

A bill (S. 1585) to amend title 18, United States Code, to make unlawful the use of minors engaged in sexually explicit conduct for the purpose of promoting any film, photograph, negative, slide, book, or magazine.

The Senate proceeded to consider the bill which had been reported from the Committee on the Judiciary with an amendment on page 1, beginning with line 5, strike through and including line 8, page 4, and insert in lieu thereof:

SEC. 2. (a) The Congress finds that—

(1) the use of children as subjects in the production of pornographic materials is very harmful to both the children and to society as a whole;

(2) the production and sale of such pornographic materials represent many millions of dollars in annual revenue and that the sale and distribution of such materials are carried on to a substantial extent through interstate and foreign commerce and through the means and instrumentalities of such commerce; and

(3) existing Federal laws dealing with the interstate distribution of pornographic materials do not protect against the use of children in the production of such materials and that specific legislation in this area is both advisable and needed.

(b) The Congress determines that the provisions of chapter 110 of title 18, United States Code, are necessary and proper for the purpose of carrying out the powers of Congress to regulate commerce and to establish uniform and effective laws on the subject of sexual exploitation of children.

SEC. 3. (a) Title 18, United States Code, is amended by adding immediately after chapter 109 the following:

"Chapter 110—SEXUAL EXPLOITATION OF CHILDREN

"Sec.

"2251. Sexual exploitation of children.

"§ 2251. Sexual exploitation of children

"(a) It shall be unlawful for any person knowingly to employ, use, persuade, induce, entice, or coerce any minor to engage in, or to have a minor assist any other person to engage in, any sexually explicit conduct for the purpose of promoting any film, photograph, negative, slide, book, magazine, or other print or visual medium, if such person knows or has reason to know that such film, photograph, negative, slide, book, magazine, or other print or visual medium will be mailed or otherwise transported in interstate or foreign commerce.

"(b) It shall be unlawful for any parent, legal guardian, or person having custody or control of a minor to knowingly permit such minor to engage in, or to assist any other person to engage in, sexually explicit conduct for the purpose of promoting any film, photograph, negative, slide, book, magazine, or other print or visual medium, if such parent, legal guardian, or person knows or has reason to know that such film, photograph, negative, slide, book, magazine, or other print or visual medium will be mailed or otherwise transported in interstate or foreign commerce.

"(c) For the purposes of this section, the term—

"(1) 'minor' means any person under the age of sixteen years;

"(2) 'sexually explicit conduct' means actual or simulated—

"(A) sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral-anal, whether between persons of the same or opposite sex;

"(B) bestiality;

"(C) masturbation;

"(D) sado-masochistic abuse (for the purpose of sexual stimulation); and

"(E) lewd exhibition of the genitals or pubic area of any person; and

"(3) 'promoting' means producing, directing, manufacturing, issuing, publishing, or advertising for pecuniary profit.

"(d) Any person who violates this section shall be fined not more than $10,000, or imprisoned not less than two years nor more than ten years, or both, for the first offense, or fined not more than $15,000, or imprisoned for not less than five years nor more than fifteen years, or both, for each such offense thereafter."

(b) The table of chapters of part I of title 18, United States Code, is amended by inserting immediately after the item relating to chapter 109 the following:

"110. Sexual exploitation of children__ 2251".

SEC. 4. (a) Section 2423 of title 18, United States Code, is amended to read as follows:

"§ 2423. Coercion or enticement of minor

"(a) (1) It shall be unlawful for any person to transport, or to cause to be transported, in interstate or foreign commerce or within the District of Columbia or any territory or possession of the United States, any minor for the purpose of such minor engaging in prostitution or with intent to induce, entice, or compel such minor to engage in prostitution.

"(2) For purposes of this section, the term 'minor' means any person under the age of eighteen years.

"(b) Any person who violates this section shall be fined not more than $10,000, or imprisoned not more than ten years, or both.".

(b) The table of sections of chapter 117 of title 18, United States Code, is amended by striking out in the item relating to section 2423 the word "Female".

SEC. 5. (a) Section 1461 of title 18, United States Code, is amended by inserting immediately before the period in the eighth paragraph a comma and "except that if such thing involved the use of any person under the age of sixteen years engaging in sexually explicit conduct (as defined in section 2251 of this title), the punishment shall be a fine of not more than $10,000, or imprisonment of not less than one year nor more than ten years, or both for the first offense, or a fine of not more than $15,000, or imprisonment of not less than two years nor more than fifteen years, or both, for each such offense thereafter".

(b) Section 1462 of title 18, United States Code, is amended by inserting immediately before the period a comma and "except that if any such matter or thing involved the use of any person under the age of sixteen years engaging in sexually explicit conduct (as defined in section 2251 of this title), the punishment shall be a fine of not more than $10,000 or imprisonment of not less than one year nor more than ten years, or both, for the first offense, or a fine of not more than $15,000, or imprisonment of not less than two years nor more than fifteen years, or both, for each such offense thereafter".

(c) Section 1465 of title 18, United States Code, is amended by inserting immediately before the period in the first paragraph a comma and "except that if any matter described in this section involved the use of any person under the age of sixteen years engaging in sexually explicit conduct (as defined in section 2251 of this title), the punishment shall be a fine of not more than $10,000, or imprisonment of not less than one year nor more than 10 years, or both, for the first offense, or a fine of not more than $15,000, or imprisonment of not less than two years nor more than fifteen years, or both, for each such offense thereafter".

SEC. 6. If any provision of this Act or the application thereof to any person or circumstances is held invalid, the remainder of the Act and the application of the provision to other persons not similarly situated or to

other circumstances shall not be affected thereby.

The PRESIDING OFFICER. Time for debate on this bill is limited to 2 hours, to be equally divided and controlled by the Senator from Mississippi (Mr. EASTLAND) and the Senator from South Carolina (Mr. THURMOND), with 30 minutes on any amendment in the first degree, except an amendment by Mr. ROTH on which there shall be 1 hour, and with 20 minutes on any amendment in the second degree, debatable motion, appeal, or point of order.

Who yields time?

Mr. CULVER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. On whose time?

Mr. CULVER. Mr. President, I ask unanimous consent that the time for the quorum call be equally divided.

The PRESIDING OFFICER. Without objection, the time will be equally divided between both sides.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HATCH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. MCGOVERN). Without objection, it is so ordered.

Mr. HATCH. Mr. President, I ask unanimous consent that James McClellan, of the Judiciary Commerce staff, be accorded the privilege of the floor during pendency of this action and votes thereon.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CULVER. Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time be divided equally between both sides.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CULVER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CULVER. Mr. President, I ask unanimous consent that Mr. Stephen Rapp, Mr. Cliff Vaupel, and Mr. Michael Klipper of the staff of the Subcommittee to Investigate Juvenile Delinquency, and Mary Jolly of Senator BAYH's staff, be given the privilege of the floor during the debate and vote on S. 1585.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THURMOND. Mr. President, I ask unanimous consent that Eric Hultman and Eva Clark, of the Judiciary Committee staff, be accorded the privilege of the floor during the consideration and vote on S. 1585.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THURMOND. Mr. President, I also ask unanimous consent that Larry Dye and Ted Farfaglia, of Senator ROTH's staff, be accorded the privilege of the floor during consideration of S. 1585.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRIFFIN. Mr. President, I make a similar request for Mark Steinberg, of my staff.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CULVER. Mr. President, has there been a unanimous-consent request made to proceed to the consideration of S. 1585?

The PRESIDING OFFICER. Yes; the bill is now before the Senate.

Mr. CULVER. I yield myself such time as I may need.

Mr. President, I am pleased to have the opportunity to bring S. 1585 before the Senate, S. 1585, the Protection of Children Against Sexual Exploitation Act of 1977, was reported unanimously by the Committee on the Judiciary and is sponsored by 57 Senators. It would make three related changes in title 18 of the United States Code to strengthen the ability of the Federal Government to combat two outrageous forms of child abuse: The use of children in the production of pornographic materials and the use of children as prostitutes.

Specifically, S. 1585 would add a new section 2251 to title 18, making it a Federal offense for anyone to use any child under the age of 16 to engage in sexually explicit conduct for the purpose of producing materials which are to be mailed or transported in interstate commerce. It would also amend section 2423 of title 18 to prohibit the interstate transportation of both males and females under 18 years of age for the purpose of engaging in prostitution. And finally it would amend the penalty provisions in sections 1461, 1462, and 1465 of title 18, dealing with the mailing, importation, and the transportation for sale or distribution of obscene materials by increasing the penalties where the materials involve the use of children under 16 years of age in sexually explicit conduct.

Mr. President, the presentation of S. 1585 today on the Senate floor is the result of intensive hearings and investigations conducted by the Judiciary Committee and its Juvenile Delinquency Subcommittee. Our subcommittee heard not only from the official sources and from the experts but also from those with firsthand experience with this sordid business of child pornography and prostitution. We heard from local officeholders and prosecutors, from undercover and newspaper investigators and from the police officers who had engineered one of the few successful busts of a child pornography production in the Nation. We also heard testimony from two convicted child pornographers, one a major national producer and distributor, the other an amateur, a man who had produced and mailed the materials from a middle-class home in a small city in the upper Midwest. Finally, we heard first hand the personal account of a victim of this business, a 17-year-old boy who has sold himself on the streets of Chicago for over 2 years as a prostitute and as an actor in pornographic movies.

We also considered at length the constitutional issue and received testimony from the Department of Justice and from leading constitutional scholars.

Through these hearings and staff investigations our subcommittee learned a great deal about the sexual abuse of children through pornography and prostitution. It is a big business, involving perhaps millions of dollars in profits. It takes many forms. One expert counted 260 magazines in circulation depicting children engaged in sexual conduct, magazines with titles like "Lolitots," "Torrid Tots," and "Young Flesh." Such magazines are sold over and under the counters of bookstores across the country, not just in large cities, but even, we discovered, in medium-sized communities in rural areas.

It also takes the form of short movies with titles like "Kinky Kids" and "Little Flower Girls" sold either in bookstores or through mail order operations.

It is a truly saddening experience to examine these materials, featuring obscene pictures of children, some as young as 5 or 6 years old.

Our witnesses told us that there has been at least some child pornography on sale for many years. Recently, however, there appears to have been an explosion of it. The producers of pornography began to realize that there was a substantial market for these materials across the country, that they could be marked up to prices far higher than adult publications, and that large profits could be made.

The subcommittee also discovered a related problem that has also been with us longer than we recognize, but that appears recently to have expanded in size and organization. For many years young girls have worked as prostitutes on the streets of major cities as have young boys. There now appears to be more juvenile prostitution than ever before with children participating at younger ages. We also discovered that some of this prostitution is highly organized and involves interstate transactions. In Chicago, one such prostitution ring known as the "Delta Project" was set up to deliver boys to as many as 5,000 potential customers around the country.

This is a business that preys on runaway and alienated youth, on children that are unloved and unwanted, on children that are struggling to survive on their own. They are often picked up at bus stations, hamburger stands, amusement parks, and other common hangouts for children on the run. For a little money or a gift or even for some attention they are persuaded to submit to a variety of sexual acts. Such encounters cannot help but have a deep psychological, humiliating impact on these youngsters, and jeopardize the possibility of any healthy affectionate relationships in the future.

Mr. President, it was the overwhelming judgment of the Committee on the Judiciary that S. 1585 would be the most effective Federal response to the problem of sexual exploitation of children.

The bill is tough; it provides minimum penalties of incarceration and maximum penalties of up to 10 years in prison and $10,000 in fines, and in some cases for

second offenses 15 years in prison and $15,000 in fines.

It is comprehensive; it deals with production, with sale and distribution, and with juvenile prostitution.

Finally, it was the strong consesus of the representatives of the Justice Department and other constitutional scholars who testified at the hearings that the bill as drafted is clearly constitutional. Since this legislation breaks new ground in highly sensitive legal areas, the greatest care was taken in the drafting to produce a statute that can be upheld in the courts and that will serve as the basis of successful prosecutions.

Mr. President, it is anticipated that two amendments will be offered on the floor of the Senate. The first by Senators BAYH, ROTH, and myself would add a provision banning live sex shows by children where the facilities of interstate commerce are used for their promotion. I believe this amendment is needed and I urge the Senate to support it.

The second amendment by Senators ROTH, HATCH, and several others would add a provision making it illegal to distribute or sell materials that are not obsecene if those materials depict children in certain activities. Whatever its merits, this amendment, according to a number of legal authorities, raises a critical constitutional question. A similar amendment was considered by the Judiciary Committee and was rejected by a vote of 9 to 4. When it is called up, I would urge the Senate to sustain the judgment of its Committee on the Judiciary and disapprove this amendment

At this time, Mr. President, I yield to the distinguished minority member of the full committee for any general statement he might wish to make.

Mr. THURMOND. Mr. President, are we under a time limitation?

The PRESIDING OFFICER. Yes, we are under controlled time.

Mr. THURMOND. Who is handling the opposition?

The PRESIDING OFFICER. The Senator from South Carolina has been designated to control the opposition time of 1 hour.

Mr. THURMOND. Mr. President, I yield myself such time as I may require.

The PRESIDING OFFICER. The Senator is recognized.

Mr. THURMOND. Mr. President, the legislation now before the Senate has my full support. The provisions of S. 1585 are directed at one of the most outrageous abuses of our Nation's most treasured resources—our young children. As a father of four young children I can easily sympathize with those who are shocked and dismayed by this unfortunate exploitation of many American children.

Hearings on this bill have revealed that child pornography and child prostitution have become a highly organized, multimillion dollar industry. It is a growing activity that undermines the moral fiber of our country and is one of the most menacing problems of our society. Such activity must be stopped. This bill will go a long way in helping to stamp out this kind of exploitation for profit.

Mr. President, during the consideration of this measure in the Senate Judiciary Committee, Senator HATCH offered a substitute bill on behalf of Senator ROTH that would attack the same problem. Senator ROTH is offering today an amendment to S. 1585. The amendment would prohibit the sale or distribution of materials depicting explicit sexual conduct, involving children, as well as the production of such material which is now covered by S. 1585. Objections have been raised, however, to this provision since in the opinion of the Department of Justice such a broad prohibition in a criminal statute may prove to be unconstitutional. The argument is that under existing case law any criminal statute which reaches protected expression as well as obscenity is void on its face for overbreadth.

There are laws on the books which provide criminal penalties for the mailing or "circulation or disposition" of obscene materials. S. 1585 would increase the penalties for such criminal conduct where it "involved the use of any person under the age of 16 years engaging in sexually explicit conduct." Although I am sympathetic with Senator ROTH'S substitute and have supported it in the Judiciary Committee and will support it on the Senate floor, I also believe that the criminal provisions that are being added to existing law by S. 1585 can be effective in fighting this problem.

Mr. President, this bill is urgently needed to give prosecutors the tools to deal with child pornographers and those engaging in child prostitution. In addition, prompt approval of this bill will indicate to Federal prosecutors the importance and priority that the Congress attaches to this sordid activity. Organized crime is financing much of the production and distribution of these materials and a concerted effort will be needed to prosecute the individuals responsible. Legislation like S. 1585 can aid greatly in this effort.

Mr. President, I support this legislation and urge my colleagues to approve it.

Mr. President, I yield to the distinguished Senator from Wyoming.

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

Mr. THURMOND. How much time does the Senator wish?

Mr. WALLOP. Two minutes.

Mr. THURMOND. Mr. President, I yield 2 minutes.

Mr. WALLOP. Mr. President, before I begin my remarks, I ask unanimous consent to have Pat Hoff of the Subcommittee on Judicial Improvements granted the privileges of the floor throughout the discussion of this bill and the votes thereon.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WALLOP. Mr. President, those of us who went to Chicago for field hearings on the topic of child pornography and prostitution could not have come away from that hearing with anything, but the most urgent desires to take in hand the problem that faces this country today. It seems almost inconceivable that male children, particularly, were not subject to the provisions of the Mann Act.

The legislation now before us will go a tremendous way toward dealing with this most abusive and disgusting problem. Children who testified in front of us were testifying incognito, but I daresay that everybody who went there and heard those voices will have no trouble in hearing a need to enact this legislation quickly.

Swift passage of S. 1585 will reduce the flagrant and unconscionable sexual exploitation of children. There is an urgent need to protect our children from the most psychologically punishing and physically devastating activities that can be conceived by the mind of man.

The Protection of Children Against Sexual Exploitation Act of 1977 represents a giant step toward reaching the goal of the eradication of the production, sale and distribution of child pornography. S. 1585 will serve as a model for the States to follow in an effort to protect children from sexual exploitation for profit. And all-out campaign at both the Federal and State levels should reduce and ultimately eliminate the child pornography industry.

The type and nature of the adult human beings who prey upon these children is about as low a form of human life as the average human can conceive, and perhaps well beyond the average conception of any of the people who walk the streets of this country.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. THURMOND. I yield 1 additional minute to the Senator.

Mr. WALLOP. Those who prey on the young people of this country in the manner described to the committee must be punished, and we must have the strength and the ability to punish them. S. 1585 is the means for punishing offenders who so callously sexually abuse their child victims for their own gain. I am confident that the provisions of this bill are constitutional and would survive the strictest judicial scrutiny.

Finally, I would like to commend the excellent job done by Senators CULVER and MATHIAS on the Subcommittee on Juvenile Delinquency and for their leadership role in moving this important piece of legislation.

Mr. President, I yield back the remainder of my time.

Mr. THURMOND. I yield to the Senator from Maryland.

Mr. MATHIAS. Will the Senator yield 10 minutes?

Mr. THURMOND. I yield 10 minutes.

The PRESIDING OFFICER. The Senator from Maryland is recognized for 10 minutes.

Mr. MATHIAS. I thank the distinguished Senator from South Carolina for yielding me this time. I am vitally interested in this subject. It is a subject which is of great importance to everyone in this country. The significance of the issue impelled me to introduce S. 1585 in the first place. Now, after several transformations, S. 1585 has arrived on the floor in the form in which it is now before us.

I would first thank the distinguished chairman of the Senate Judiciary Subcommittee To Investigate Juvenile Delinquency for the kind of leadership he has shown in bringing this bill to the floor.

I would be very remiss if I failed to acknowledge his personal contribution, his resourcefulness, and the kind of personal investment he has made in shepherding S. 1585 to the Senate floor today.

The primary thrust of this bill is to provide Federal prosecutors with effective statutory tools to combat two insidious forms of child abuse which has only recently come to public attention: the widespread, growing use of children in the production of pornographic magazines and movies, and the escalating number of juveniles engaging in prostitution.

I believe that Congress response to the startling revelations of child abuse exemplifies the American system working in its most effective and expeditious manner. Only a few months ago, the closely related issues of child pornography and juvenile prostitution were unknown to the vast majority of Americans. In the intervening months, an outraged nation has reviewed the seriousness of these problems and has pushed relentlessly for corrective measures.

The American press first broke the stories of child pornography and prostitution, and it deserves the gratitude of the American people.

On May 15, 1977, a nationwide television audience was given its first in-depth view of the child pornography business in a segment on the CBS investigative news program "Sixty Minutes."

On that same day, the Chicago Tribune ran the first of a series of articles revealing the child pornography business to be a multimillion dollar racket which preys on impressionable youngsters. The Tribune also disclosed the scope and breadth of the juvenile prostitution business in America, including details of a nationwide boy prostitution ring headquartered in Chicago.

Other revelations followed and the American people, appalled by the disclosures, clamored for eradication of these activities. To their credit, officials at all levels of government—local, State, and Federal—responded. In Chicago, for example, the Tribune series was instrumental in prompting law enforcement officials to schedule a grand jury investigation into the allegations of child pornography and juvenile prostitution.

On the Federal level, the subcommittee has learned that both the Department of Justice and the Postal Service have stepped up their efforts in the child pornography area. Last month, the Subcommittee was informed by Assistant Postmaster General for Governmental Relations Jim Finch:

> In August 1977, as a result of increased emphasis placed on child pornography by Congress and others, and following a Department of Justice reevaluation of their prosecutive policy, Postal Inspectors were instructed to give priority to pornography cases involving children. All violations of the Postal Obscenity Statute are promptly brought to the attention of United States Attorneys for prosecutive consideration.

We were also informed that both the Federal Bureau of Investigation and the Customs Service are actively engaged in a number of child pornography investigations.

The subcommittee was encouraged by these intensified efforts at the Federal level. Yet, as we continued our investigation, we became convinced that new Federal laws were necessary to complement those already on the books. Our examination revealed gaps in our Federal laws which permitted persons using children in pornography and prostitution rings to go about their sordid business, often without fear that the Federal laws would intervene.

Our review of existing Federal obscenity laws showed that they focus exclusively on the sale, distribution, and importation of obscene materials and do not deal directly with the abuse of children inherent in their participation in the production of such materials. It became clear that new legislation was needed to address specifically the use of children in the production of pornography.

The very few States with statutes banning the production of child pornography underlines the need for Federal remedial legislation curbing such child abuse. A study conducted by the Congressional Research Service revealed that, as of March 1977, only six States had laws prohibiting the use of children in the production of pornography.

During its review, the subcommittee concluded that Federal obscenity laws were sufficient to deal with the problems of distribution and importation of child pornography on a substantive basis. At the same time, however, testimony received by the subcommittee indicated the need to bolster the deterrent effect of existing laws by increasing the penalties for the distribution of obscene materials depicting children engaged in sexually explicit conduct.

Finally, partly in response to testimony obtained by the subcommittee in the course of its field hearing in Chicago on May 27, it was determined that Federal legislation was necessary to cover the transportation of male juveniles across State lines for purposes of prostitution. Although present Federal law proscribes the transporting of young girls across State lines to engage in prostitution, there is no similar provision regarding young boys. The subcommittee gathered substantial evidence indicating that one of the major obstacles facing Federal efforts to combat juvenile prostitution is this gap in Federal law.

In response to its findings, the subcommittee moved quickly to report out S. 1585, which was introduced by Senator CULVER and myself on May 23. Subsequently, on June 28, the subcommittee reported the bill to the full Judiciary Committee, which, in turn, unanimously moved to send a virtually identical bill to the floor on September 14.

The bill now before the Senate for its consideration incorporates each of the major findings discussed above. Specifically, it would:

Add a new section 2251 to title 18, making it a Federal offense for anyone to use children under the age of 16 in the production of pornographic materials;

Amend 18 U.S.C. 2423 to proscribe the interstate transportation of all persons under 18 years of age for the purpose of engaging in prostitution; and

Amend the penalty provisions in those sections of title 18 dealing with the mailing (section 1461), importation or transportation (section 1642), and transportation for sale or distribution (section 1465) of obscene materials to increase the penalties where the materials adjudged obscene involved the use of children under 16 years of age engaging in sexually explicit conduct.

As the principal author of S. 1585, I am convinced that enactment of this bill would put us well on the road to stamping out child pornography and juvenile prostitution in America.

At the same time, however, we must not ignore the indisputable fact that these new forms of child abuse are symptomatic of deep-seated problems affecting our Nation's youth, including breakdown of the family structure, parental alienation, and drug abuse. We must continue to combat these social factors which lead adult and child alike to engage in these activities.

Foremost among our continued studies must be a detailed examination of the correlation between child pornography and juvenile prostitution on one hand, and runaway youths on the other. The committee has received considerable evidence that an overwhelming number of juvenile participants in child pornography and juvenile prostitution are runaway youths. I am particularly concerned about this aspect of the problem.

For several years, I sponsored legislation to deal directly with the problem of the runaway youth. As my colleagues are well aware, these efforts culminated in the enactment of the Runaway Youth Act as part of the Juvenile Justice and Delinquency Prevention Act of 1974. The runaway youth program provides much-needed funds for the development of shelter facilities for runaways, as well as money for research into the causes and scope of the runaway youth problem in America.

Earlier this month, President Carter signed into law the Juvenile Justice Amendments of 1977, which extend the runaway youth program for another 3 years. It is my hope that a reasonable portion of the funds allocated under this program for research purposes will be used to study the interrelationship between runaway youths and these new forms of child abuse. Given the mounting evidence indicating that such a correlation does, in fact, exist, we may properly view S. 1585 as a complement and, as a follow-up, to the Runaway Youth Act.

Mr. President, in conclusion, I am firmly convinced that S. 1585 will provide Federal authorities with both an effective and constitutional tool to combat the twin evils of child pornography and juvenile prostitution. It is a tough bill, one which will work effectively, unencumbered by the threat of protracted

and time-consuming challenges to its constitutionality. I urge my colleagues to support its passage.

Mr. CULVER. Mr. President, I yield myself 1 minute to express to the distinguished Senator from Maryland my appreciation for his leadership as the sponsor of this bill. As ranking minority member of the Juvenile Delinquency Subcommittee, he has devoted so much of his own time and efforts and his extremely valuable insights into the development and the perfection of S. 1585.

I wish to commend him for his statement and for the service he has provided in this regard to the committee and to the Senate.

UP AMENDMENT NO. 913

(Purpose: To make it unlawful for minors to participate in sexually explicit conduct in a live performance.)

Mr. BAYH. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will first state the committee amendment.

The assistant legislative clerk read as follows:

On page 1, beginning with line 5, strike all down through line 8, page 4, and insert new language.

The PRESIDING OFFICER. On the assumption that the amendment just proposed is an amendment to the committee amendment, the clerk will now state the amendment offered by the Senator from Indiana.

The assistant legislative clerk read as follows:

The Senator from Indiana (Mr. BAYH), for himself, Mr. ROTH, Mr. BYRD (W. Va.), Mr. HATCH, Mr. THURMOND, and Mr. CULVER, proposes an unprinted amendment numbered 913.

Mr. BAYH. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 4, line 11, immediately after "materials", insert "as subjects in live performances exhibiting sexually explicit conduct or for the purpose of prostitution".

On page 4, strike lines 19 through 23 and insert in lieu thereof the following:

"(3) existing Federal laws do not protect against the use of children in the production of pornographic materials, the use of children in live performances exhibiting sexually explicit conduct, or the interstate transportation of children for the purpose of engaging in prostitution or sexually explicit conduct and that specific legislation in this area is both advisable and needed."

On page 5, between lines 19 and 20, insert the following:

"'(b) It shall be unlawful for any person knowingly to employ, use, persuade, induce, entice or coerce any minor to engage in or to have a minor assist any other person to engage in, sexually explicit conduct, in a live performance, if such person knows or has reason to know that a facility of interstate or foreign commerce will be used to promote such live performance."

On page 5, line 20, strike out "(b)" and insert "(c)".

On page 6, between lines 6 and 7, insert the following:

"'(d) It shall be unlawful for any parent, legal guardian or person having custody or control of a minor knowingly to permit such minor to engage in, or to have a minor assist any other person to engage in sexually explicit conduct, in a live performance, if such parent, legal guardian, or person knows or has reason to know that a facility of interstate or foreign commerce will be used to promote such live performance."

On page 6, line 7, strike out "(c)" and insert "(e)".

On page 7, line 1, strike out "(d)" and insert "(f)".

On page 7, line 17, immediately after "prostitution", insert "or sexually explicit conduct (as defined in section 2251 of this title)".

On page 7, line 18, immediately after "prostitution", insert "or sexually explicit conduct (as defined in section 2251 of this title)".

Mr. BAYH. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. BAYH. We are operating under controlled time, are we not?

The PRESIDING OFFICER. The Senator is correct. There is 30 minutes on this amendment, which gives the Senator 15 and 15 to the opposition.

Mr. BAYH. I thank the Chair, and the Chair's assumption was, as usual, correct that the amendment of the Senator from Indiana is to the Judiciary Committee amendment of S. 1585.

SEXUAL EXPLOITATION OF CHILDREN

Mr. President, today we are considering S. 1585, the Protection of Children Against Sexual Exploitation Act of 1977. As a cosponsor of this legislation, I wish to urge my colleagues to vote in favor of its immediate passage. This legislation would be the most effective Federal response to the problem of sexual exploitation of our children. The bill is tough and effective. But most importantly, it is clearly constitutional. S. 1585 can be upheld by the courts and serve as the basis of successful prosecutions resulting in the reduction of sexual exploitation of children.

Pornography and obscenity statutes have been the subject of heated debates for many years. Recently, there has been an increased focus on the use of children in live performances and in the production of pornographic materials depicting sexual explicit conduct. This is an area of great personal concern to me.

Problems regarding the prohibition of the publication, sale or distribution of pornographic materials involve serious constitutional questions of our first amendment right of freedom of speech and the press. We must be ever watchful that in our efforts to control the most offensive pornography we do not infringe on these important constitutional rights. However, I condemn the sexual exploitation of children for any purpose, including commercial purposes and strongly urge that existing criminal laws prohibiting child abuse and contributing to the delinquency of minors be more vigorously enforced.

To the extent that additional legislation is required, however, S. 1585, which carefully distinguishes between production and distribution of pornographic materials, has my strong support. At the same time, I am concerned that the underlying needs of our children, including those who are victims of the child pornographers, are addressed.

My Juvenile Justice and Delinquency Prevention Act of 1974 and the 1977 amendments to this act enables the Federal Government to play a crucial role in this process by providing Federal funds for alternative settings for children who are runaways, dependent, neglected, or incorrigible in school or at home, the typical victims of child pornographers.

This Juvenile Justice Act attacks the criminal justice system as wholly inappropriate to deal with these young juveniles. It further attacks the position of the juvenile justice system that these young victims need secure detention to assist them in coping with their problems, by providing for the deinstitutionalization of status offenders and placement in nonsecure local community settings—if such placement is at all warranted. The act also requires that juveniles be segregated from adults in any such placement.

Mr. President, the Protection of Children Against Sexual Exploitation Act will help to protect our children from being ravaged and destroyed through prostitution and pornography. We must join together to speak out for justice for children and urge the enforcement of all existing laws against pornography. Such groups as Citizens for Decency Through Law, with chapters in my own State of Indiana, the National Committee for Prevention of Child Abuse and Odyssey Institute have all joined in their support for this type of legislation to assist us in doing everything that we can to stop this form of child abuse.

Mr. President, recently a most reprehensible and despicable activity has been initiated in my State of Indiana. I refer to the nationwide promotion of the "Mr. and Miss Nude Teeny Bopper Pageant" at the Naked City Nudist Camp in Roselawn, Ind This sordid "event" was scheduled for August 27, 1977. I was utterly repulsed at the idea of this contest which was to feature nude children between the ages of 8 to 16. Parents were to be paid $10 to enter their children, $170 was to be given out in prize money, $10 was to be given to each contestant and spectators—for an admission price of $15—were solicited to take pictures of the nude children. Thousands were expected to attend.

On first being notified of this sordid enterprise, I immediately contacted the offices of the State attorney general and the Newton County prosecutor to express my grave concerns about this particularly gross form of child abuse. I am pleased to relate that the attorney general asked the judge of the Newton Circuit Court to issue an injunction restraining this activity. A preliminary injunction order was issued restraining the owner of Naked City from displaying these nude children before an adult paying audience and specifically enjoined the party from holding this contest until a hearing was held. Presently, a hearing

is scheduled in Jasper County at which time an attempt will be made to amend the temporary restraining order to a permanent restraining order so that no further activities of this sort can be held. It was argued that the challenged activity constitutes a public nuisance and outrages the public decency at large. I cannot agree more with this argument. Thousands of Indiana residents have joined in signing petitions aimed at launching another legal challenge.

A contest of this sort panders to those interested in child pornography and sex and is exploitive of children and potentially damaging to their mental health—I can imagine the trauma a young girl or boy might experience while parading naked in front of a crowd of leering strangers. The nude contest would also seem to provide an excellent opportunity for child pornographers to meet potential stars. The question comes to mind—if a parent would make a child participate in a nude contest for a chance of winning $100 (or just for the $10 that any participant receives) what would they have the child do if the stakes were higher?

It is clear that freedom of expression and the right to privacy are among our citizen's distinctive attributes and nudists should be permitted to indulge in their pastime in privacy. Naked City is not, as ads I have seen, a traditional family nudist colony—run in the proper sexual atmosphere. Naked City events in the past have drawn criticism by publicizing their events nationwide and inviting outsiders—who are not nudists and who remain clothed while at Naked City—to pay their way into the camp to view and film the nudists. In the past years many of the participants in the Naked City contests have reportedly been models and strippers looking for publicity. The advertisements for Naked City are blatantly sexual and suggestive of orgies and, while adults have the right to sexual freedom, this is hardly the appropriate atmosphere for a young child.

I cannot help but feel that, if this event took place, many of the children would be unwittingly exploited to satisfy the appetities of spectators.

Mr. President, Federal, State, and local law enforcement efforts must maintain a delicate balance in order to curb child pornography. The legislation I cosponsored, and which we will vote on today, will fill a void in Federal law and will attack the production of materials depicting children in sexually explicit conduct and further, my amendment will curb the use of minors in live performances exhibiting sexually explicit conduct as a form of child abuse and exploitation. I believe this legislation will help to arouse our collective conscience, which will in turn lead to policies and behavior more sensitive to our child victims. We must have a regard for the general tone of our society and be especially watchful and discourage events that tend to lower that tone.

Mr. President, this amendment is designed to expand the Mann Act to include transporting of boys and girls in interstate or foreign commerce for purposes of not only prostitution, but also for purposes of sexually explicit conduct. It further adds a new section which makes it unlawful to use minors in live performances exhibiting sexually explicit conduct. These amendments will improve this bill in a way that I believe will be unquestionably constitutional. I am pleased to have the distinquished chairman (Mr. CULVER) of the Juvenile Delinquency Subcommittee join me in cosponsoring this amendment, in addition to Senator ROTH.

I say to my good friend and colleague, the Senator from Iowa, (Mr. CULVER) that I think he and our distinguished colleague from Maryland (Mr. MATHIAS) have done yeoman service to the country.

Mr. President, I ask unanimous consent that the Senator from South Carolina (Mr. THURMOND) be added as a cosponsor of this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAYH. Mr. President, I want to salute him for that. I consider it a privilege to be a member of the Juvenile Delinquency Subcommittee—being its former chairman for 7 years—and to follow the leadership of the new chairman, the Senator from Iowa.

This particular problem, of using minors in live performances exhibiting sexually explicit conduct, is designed to be dealt with by my amendment. It further involves an ongoing situation in the State of Indiana which has relatively recently come to the attention of the Senator from Indiana. It took us some time to draft language which we believe would deal with the specific problem of use and abuse of children in sexually explicit conduct in live performances.

I have to admit to my colleagues in the Senate that I find it very difficult to understand how human minds get turned on by some of the activities that we are trying to prohibit.

I cannot, for the life of me, understand how adults can in any way get themselves in a position where they prey on youths and sexually exploit young boys and girls for commercial gain.

The Senator from Iowa dealt with it specifically in his statement, as did the Senator from Maryland, and I salute them for their efforts.

The Senator from Indiana's amendment would broaden the thrust of what would be prohibited in the Mann Act by including conduct that goes beyond prostitution in the Mann Act to include transporting young people across State lines for purposes of engaging them in sexually explicit conduct as defined in section 2251 of the bill. Those people who use minors in this fashion or for purposes of prostitution will be guilty of violating this new section of the Mann Act and subject to a fine of not more than $10,000, or imprisoned not more than 10 years, or both.

Mr. President, one particular concern that created my desire for these amendments involved a nudist colony in northwestern Indiana.

I, frankly, guess I am old-fashioned, but I cannot understand why adults wish to frolic around together in large numbers in their birthday suits. But, inasmuch as some of them do, and if they do that privately, the Constitution protects their right to do so.

But the promoter of this nudist colony, interestingly enough called Naked City, in northwestern Indiana, decided that he was going to conduct a nude beauty contest in which the participants would be boys and girls ages 6 to 16. Their parents would be paid for letting them parade in front of a paying audience of spectators with cameras. The winner would receive $100. The advertising went across State lines.

Now, this particular amendment is designed to get at that particular kind of conduct, where we are talking about the sexually exploitive conduct for commercial gain of boys and girls in the nude under the age of 16 in live sex shows.

I would certainly hope the Senate would accept this amendment.

I would like to ask my colleague from Iowa, the chairman and floor manager of this bill, a question or two.

Mr. HATCH. Will the Senator yield before that?

Mr. BAYH. Yes.

Mr. HATCH. I would like to be added as a cosponsor of the Senator's amendment. I think it is an excellent amendment.

Mr. BAYH. Mr. President, I ask unanimous consent that the Senator from Utah be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAYH. I would like my colleague, the floor manager of this bill, to help me resolve a question or two I have about the proper language.

I do not want to get into an area that is unconstitutional. I do not want to reach protected expression, but I want to make certain that the Senator, as a principal floor manager of this bill, shares my belief that the wording that is used here of "sexually explicit conduct" would cover the type of situation that I am referring to that is occurring up in Naked City at that nudist colony.

Is it the Senator's understanding that according to the court's interpretation "sexually explicit conduct" includes, by definition, the lewd display of genitals or the pubic area of a person under the age of 16.

Mr. CULVER. That is correct.

Mr. BAYH. Is it the Senator's understanding that if a hawker or promoter attempts to promote a live performance in interstate commerce in which boys and girls under the age of 16 are paraded and displayed nude, where adults are asked to come and take pictures, that would be a lewd display of the genital and pubic areas, and that thus it comes within the sexually explicit conduct definition under section 2251 of this bill?

Mr. CULVER. That is correct.

Mr. BAYH. Am I correct in my understanding that in the definition section of the bill, commercial gain is tied into the definition of "promoting" to include "advertising for pecuniary profit"?

Mr. CULVER. That is correct.

Mr. BAYH. I appreciate the chairman's assistance with this amendment and these questions.

I strongly uphold our first amendment

rights, and I believe that individuals who are acting on their own in private have a right to sexual freedom. I believe those rights are protected under the first amendment to the Constitution. But when you have some adults who parade the naivety of young boys and girls—and we have seen that some of these hawkers do bring these boys and girls in and display them—the next thing you know, they may be unwittingly involved in some of these prostitution rings.

What is of most concern to one are the young people who would be viewed and photographed—whose minds and habits are still in the formative stages. Such encounters cannot help but have a psychological and possibly humiliating impact on these youngsters and jeopardize the possibility of healthy, affectionate relationships in the future.

I yield the floor.

Mr. CULVER. I yield myself 1 minute.

Mr. President, I urge the Senate to act favorably on this amendment. It is a constructive amendment. I agree with the interpretation of the Senator from Indiana as to its import and effect.

I do not believe there is any further debate on the amendment, and I suggest the absence of a quorum.

The PRESIDING OFFICER. Does the Senator ask that the time be charged equally against both sides?

Mr. CULVER. Yes.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CULVER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered?

Who yields time?

Mr. CULVER. Mr. President, I wonder if the Chair would put the question on the amendment of the Senator from Indiana.

The PRESIDING OFFICER. Do Senators yield back their time?

Mr. BAYH. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Indiana.

The amendment was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have my name added as a cosponsor of the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CULVER. Mr. President, I ask unanimous consent that Josephine Gitler, chief counsel for the subcommittee, may have the privilege of the floor during the consideration of this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1398

(Purpose: To prohibit the transportation in interstate or foreign commerce of material depicting sexual exploitation of children.)

Mr. ROTH. Mr. President, I call up my amendment No. 1398.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Delaware (Mr. ROTH), for himself, Mr. HATCH, Mr. ALLEN, Mr. BARTLETT, Mr. BELLMON, Mr. DANFORTH, Mr. DOLE, Mr. FORD, Mr. GARN, Mr. GOLDWATER, Mr. HATFIELD, Mr. HAYAKAWA, Mr. HELMS, Mr. HUDDLESTON, Mr. JOHNSTON, Mr. LAXALT, Mr. MATSUNAGA, Mr. MCCLURE, Mr. MORGAN, Mr. NUNN, Mr. PERCY, Mr. SCHWEIKER, Mr. STEVENS, Mr. THURMOND, Mr. TOWER, and Mr. YOUNG proposes an amendment numbered 1398.

Mr. ROTH. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Is this the amendment on which there is an agreement or time limitation of 1 hour?

Mr. ROTH. That is correct.

The amendment is as follows:

On page 7, line 6, strike out the quotation marks.

On page 7, between lines 6 and 7, insert the following new section:

"§ 2252. Transportation, sale, or distribution for sale of material depicting sexual exploitation of a minor

"(a) No person may—

"(1) knowingly transport, ship, or mail in interstate or foreign commerce for the purpose of sale or distribution for sale any film, photograph, negative, slide, book, magazine, or other print or visual medium depicting a minor engaged in sexually explicit conduct; or

"(2) knowingly receive for the purpose of sale or distribution for sale, or knowingly sell or distribute for sale, any film, photograph, negative, slide, book, magazine, or other print or visual medium depicting a minor engaged in sexually explicit conduct which has been transported, shipped, or mailed in interstate or foreign commerce.

"(b) A person who violates this section shall be fined not more than $10,000 or imprisoned not less than one year nor more than ten years or both for the first offense, or shall be fined not more than $15,000 or imprisoned not less than two years nor more than fifteen years or both for each offense thereafter.

"(c) For the purposes of this section—

"(1) 'minor' means any person under the age of sixteen years;

"(2) 'sexually explicit conduct' means actual or simulated—

"(A) sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral-anal, whether between persons of the same or opposite sex;

"(B) bestiality;

"(C) masturbation;

"(D) sadomasochistic abuse (for the purpose of sexual stimulation); and

"(E) lewd exhibition of the genitals or pubic area of any person.".

On page 5, between lines 8 and 9, insert at the end of the table of sections for chapter 110 the following new item:

"2252. Transportation, sale, or distribution for sale of material depicting sexual exploitation of a minor.".

Mr. ROTH. Mr. President, I call up my amendment No. 1398. This amendment would add an important provision to S. 1585 by including within its coverage the distributors and sellers of child pornography.

First, I want to commend Senator CULVER, Senator MATHIAS, and the Subcommittee on Juvenile Delinquency as a whole and its staff for their diligent efforts toward the eradication of the malicious abuse of innocent children by pornographers. The Senate and the American people are indebted to them for the serious attention they have given this subject and the conscientious proposal they have made.

S. 1585 is a good bill and should provide a significant first step in a concerted attack against a particularly loathsome form of child abuse—the sexual exploitation of children by a multimillion-dollar pornography industry. However, the bill has one serious shortcoming in that it fails to include a strong provision against the distributors and sellers of child pornography.

The bill does contain increased penalties for the distribution of child pornography that is deemed obscene under present obscenity statutes. In other words, in this crucial area of distribution, the bill does not offer a new law, but rather merely increases the penalties under existing law. Unfortunately, though, existing statutes have proven remarkably ineffective in eliminating child pornography. When an author who has studied this form of abuse is able to purchase throughout the country 264 different kinds of pornographic magazines dealing with children, the inadequacy of existing statutes becomes apparent.

My amendment would add to the bill a provision that prohibits the distribution and sale of child pornography that meets the definition specified within the bill. Convicted violators would be fined not more than $10,000 or imprisoned not less than 2 years or more than 10 years, or both, for the first offense, or not less than 5 years or more than 15 years or fined more than $15,000, or both, for each such offense thereafter. These are the identical penalties that the bill itself provides for the production of child pornography.

Mr. President, this amendment would provide a vital new weapon in the fight against child abuse. This amendment in no way attempts to establish new obscenity standards. The quagmire of litigation that confronts any legislation seeking to specify new obscenity standards or revise old ones should and must be avoided. The stakes are too high—for what we are proposing today is, as indicated in the title of S. 1585, the protection of children against sexual exploitation.

It was for this purpose that I introduced S. 1011 last March. I was the first Senator to offer a child pornography bill and was joined by 20 of my colleagues who shared my concern over the flagrant abuse of children by sleazy sex merchants And, it was for this purpose that we continued our efforts in the Judiciary Committee to insure that a strong section against sellers was included in the bill. I believe it is appropriate to note here Senator HATCH's hard work within that committee. Senator HATCH has been a major source of support in this effort since the introduction of S. 1011 last March. I deeply appreciate the dedication he has given this proposal and applaud the significant contribution he has made.

I believe that a substantial portion of this abuse will continue if we fail to enact a strong provision against distribution. The worst forms of child abuse by

pornographers occur at the hands of the fly-by-night operators whose hit-and-run techniques may include a few quick hours of filming or photographing in a cheap hotel room, on a deserted beach, or in an isolated stand of woods. Within hours of filming, the principals are gone, leaving few, if any, tracks behind them. I fear that prosecution of producers such as these will be nearly impossible; allowing them to continue their operations unchecked.

To effectively eliminate this abuse, we must include in this bill's coverage those who distribute and sell the producer's work.

Opponents of a stronger provision against distributors and sellers of child pornography have maintained that my amendment's prohibition against the distributing and selling of child pornography would violate first amendment rights of guaranteed speech. I disagree.

While a challenge in the courts would appear certain, I believe that this amendment's constitutionality could and would be upheld.

The Supreme Court has never been asked to weigh the constitutional rights of innocent children against the rights of pornographic publishers.

Indeed, in other areas the Court has recognized the special protection that must be afforded to children.

For instance, the Fair Labor Standards Act, in part, provides that no goods shall be shipped or delivered in commerce where such goods were the result of oppressive child labor employment.

And in a 1968 decision, the Supreme Court identified an independent, "transcending" interest of the State in the welfare of its children when it upheld the State's power to adjust the definition of obscenity as applied to minors and noted that the State has an independent interest in protecting the welfare of children and safeguarding them from abuses.

Three years ago Congress again recognized this special responsibility when it enacted the Child Abuse Prevention and Treatment Act, providing Federal financial assistance for the identification, prevention, and treatment of child abuse and neglect.

Nor can the opponents of my amendment convincingly argue that the first amendment provides an absolute right that will tolerate no qualifications.

One of the most obvious and necessary restrictions we have upon free speech is the prohibition of speech that would defame or libel another. The Court has also excepted from first amendment protection certain speech advocating the overthrow of the Government. It has also ruled that symbolic speech involving the use of the flag in sexually bizarre ways to register certain social protests is not protected. The communication of ideas by picketing and marching on the streets is not afforded the same kind of protection under the 1st and 14th amendments, according to the Court. Speech likely to cause a breach of the peace is not absolute. And sound trucks which emit loud and raucous noises are not protected under the first amendment.

Mr. President the invasion of privacy and the momentary discomforts of a blaring sound truck are as nothing in my mind when compared to the abuse, degradation, and potential psychological damage inherent in the lurid practices of child pornography.

If the distribution of child pornography could truly be separated from the process of child abuse that occurs in the production of child pornography, then perhaps I could accept the arguments of those who oppose a stronger provision against distributors. But I must agree with the noted attorney, Mr. Charles Rembar, that:

> It is not arbitrary or unreasonable for the legislature to conclude that inducing children to engage in sexual activity can harm them. Nor is it arbitrary or unreasonable to prohibit the photographing of children who have been induced to do so, or to interdict the publication and sale of magazines in which the photographs appear. The publisher and the seller are principals in the abuse. Without them, it would not occur.

Mr. Rembar's comments take on added force when we recognize that he was the attorney who, in the 1960's, defended "Lady Chatterley's Lover" and "Fanny Hill" against attempt censorship.

Mr. President, I cannot agree with those who say, in effect, that the first amendment gives a license to the distributors and sellers of child pornography to continue their participation in this particular manifestation of child abuse.

I urge the adoption of this amendment as an effective method by which we may begin, at last, to eradicate what must surely be one of the greatest blights on a civilized society.

(Mr. MATSUNAGA assumed the chair.)

Mr. GOLDWATER. Mr. President, will the Senator yield?

Mr. ROTH. I am happy to yield to the Senator from Arizona.

Mr. GOLDWATER. Mr. President, I am very happy to support this amendment.

Mr. President, I would remind my colleagues that we went through all these arguments before. I can recall standing here in June of 1970, after offering an amendment to the Postal Reform Act which strengthened the right of parents to protect their children from smut mail.

We were told then that the courts would not uphold such a law because it might cover so-called works of art. But the amendment to the postal laws has been upheld time and again by the courts, and I am certain the Roth amendment will also be upheld as a proper exercise of Congress' power to protect child welfare, if we are wise enough to pass it.

Mr. President, it is my pleasure to join with the Senator from Delaware (Mr. ROTH) and many other Senators in proposing an amendment which will greatly strengthen our effort to control the sexual abuse and exploitation of children.

Now, I am also a cosponsor of the committee bill and I applaud members of the committee who were diligent in holding hearings on the subject and reporting the first national law aimed at prohibiting the production of materials that depict sexual conduct by children.

But, Mr. President, I believe we can and should go further. I believe we must go beyond the manufacture of these films or magazines and prohibit their distribution and sale, as well.

That is exactly what our amendment would do.

Other than the fact that our amendment would reach the actual distribution and newsstand or mail order sale of this material, the primary difference between our approach and that of the committee bill is that we do not restrict the prohibition to materials which may be obscene.

We are not relying solely on the power of Congress to control obscenity. We are acting under the congressional power to protect the welfare of children by regulating the transportation of materials moving in interstate commerce.

Mr. President, this is child abuse. It is not a first amendment problem.

The courts need not apply the same standards to our amendment that are used in obscenity cases. Even if they did, I am confident that a statute containing precise definitions and narrowly aimed at protecting minor children will be upheld.

The courts should be made to rule on the issue. We should not let it simply be assumed that they will decide negatively.

We are trying to protect children from being sexually abused and sexually exploited. To be effective in doing this, we must get at the sex merchants and dealers who are an important link in the multimillion dollar industry which is corrupting and brutally mistreating children for selfish commercial gain.

Only if we can stop the material from being sold and remove the potential for easy money, can we be effective in stopping its production.

Now, I know the Justice Department is opposed to our amendment. Their lawyers have become fascinated by theoretical law.

But I cannot for the life of me understand how President Carter, himself a religious man and a father, has failed to overrule the Department. I am still hopeful that if we pass the amendment and send it to the White House, he will repudiate the Department's position.

Mr. President, I would remind this administration that the Southern Baptist Convention has taken a very strong position in support of Antichild abuse legislation, such as the Roth amendment.

In August, Dr. Harry N. Hollis, Jr., director of Family and Special Moral Concerns of the Southern Baptist Convention, urged the passage of stronger laws to prevent this abuse of children.

Dr. Hollis said:

> We need to oppose those who exploit these children through the production, distribution and selling of this material.

Listen to that carefully, Mr. President. Not just the "production" of child pornography must be controlled. The "distribution" and "selling" of this material must be prohibited, as well.

The Southern Baptist Convention wants stronger laws against all three

forms of child pornography because, in Dr. Hollis' words, we are not talking about art, we are not talking about happy little children: "We are talking about children being physically coerced and psychologically manipulated into sex scenes."

Mr. President, I might comment at this point that the big argument covers the difficulty in defining pornography, and I would have to agree with the Supreme Court it is virtually impossible to describe the term "pornography" because what is pornographic to one might not be pornographic to another.

I can recite countless works of art around this world that some of us think are pornographic and others think are works of art. We got around that in my 1970 amendment, as we are trying to here, by calling it "sexually oriented" or "sexually explicit." I am thinking of an article I saw in the paper just last week of some people in New York who were protesting the sale of photographs by Edward Weston, whom I consider to be one of the two finest photographers we have ever developed in this country.

He did take pictures of his undressed children on the beach; I think his wife was a model for him. I consider them to be works of art.

If you consider a picture of a naked girl or a naked woman to be pornographic, that is your right to do so. That is where we ran into some argument, and we changed the term pornographic to "sexually oriented."

We are talking, Mr. President, about photographs. We are not talking about paintings. There is no way the courts could rule that one of the masters showing an unrobed woman would be considered pornographic. It is a work of art.

But a photograph is a different thing, and the type of photography we are talking about in this amendment is entirely different because I never in my life have seen such filthy, downright rotton, pictures as I have seen in the few magazines I have been shown as evidence of what is going on, depicting children in the acts that we should not talk about on this floor.

It has been my pleasure to join with the Senator from Delaware (Mr. ROTH) and many Senators in proposing an amendment which will greatly strengthen our efforts to control the sexual abuse and exploitation of children.

I just want to reiterate that the Mail Pornography Act that was passed at my suggestion in 1970, which is section 3010 of 39 United States Code, has been upheld by the Federal courts, and it has cut down, almost eliminated, what many people in this Chamber and many people in this gallery used to get unsolicited through the mails, filthy advertisements.

Now we have stopped it through the application of 10 years in jail and a $10,000 fine; and all an American citizen has to do is to tell his postmaster he does not want to receive any more of it and it stops.

What the Roth amendment will do will be merely saying, "You cannot abuse and cannot exploit children through the production, distribution and selling," of the type of rotten material that comes to my mind as I think of the need for this type of amendment.

I think it is a sad commentary on the state that the American mind has reached when they will allow such things to be printed, when they will allow themselves to buy this filth, and I am hopeful that today on the floor of the Senate we will forget about the arguments of those who say: "Oh, it might abuse the first amendment."

No, Mr. President, what Mr. Roth is trying to do, and I admire him for it, is to put a stop to the harmful abuse and exploitation of our children. When I say children, I am talking about children under 10 years of age or in their early teens, and if you do not believe me, go back in the back end of any dirty book store or some of our better book stores, and peek under the counter and see what I am talking about.

I urge my colleagues to support the Roth amendment. It is long overdue, and I am very happy and proud to be a cosponsor.

Mr. ROTH. I thank the Senator from Arizona.

Mr. President, one of the cosponsors of my amendment, the distinguished Senator from Kentucky (Mr. HUDDLESTON), could not be here today. I ask unanimous consent that his statement in support of this amendment be printed at this point in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT OF SENATOR HUDDLESTON

I strongly support legislation to prohibit the sexual abuse of children. As a cosponsor of S. 1585, the Protection of Children Against Sexual Exploitation Act of 1977, I am pleased that it is being considered by the Senate today. I feel it is vitally important that Congress address itself immediately to a problem about which many Americans are concerned.

The use of children in pornography has been a topic widely discussed by the media recently as a result of a concerted effort by concerned groups and individuals and it is clear that the American public is outraged by the widespread abuse of children in this manner.

At the present time there is no federal statute that prohibits the use of children in the production of materials that depict explicit sexual conduct. Only a few states have statutes on the books which specifically prohibit the use of children in an obscene performance which would be harmful to them. And there is no federal statute specifically regulating the distribution of obscene material involving children.

I support the amendment offered by Senator Roth which would prohibit the distribution of obscene materials depicting children in perverted or sexually offensive acts. In my judgment, this amendment would make the bill a much stronger vehicle for stamping out the repulsive sexual exploitation of children. While we can pass laws to prohibit the horrendous sexual acts which involve children and the abuse of children, it is extremely difficult to catch the producers in the act. Even when they are caught, it is difficult to prosecute these cases because the films and photos are made in secret. I believe this legislation will be much more effective if we apply strict penalties for distributing the materials as well.

Some of my colleagues feel there is a chance that the Supreme Court could rule this provision unconstitutional. I do not think so. However, that will be a matter for the courts to decide. At the present time, there are no Supreme Court decisions dealing with the unique situation we are confronting in this legislation.

I hope that through this bill those involved in pornography depicting children will be caught and prosecuted, and others involved in some area of the industry will be frightened enough to get out of the business. But, most importantly, I hope it will prevent the destruction of children's lives and I urge you to support this legislation.

Mr. ROTH. Mr. President, I am happy to yield to another cosponsor of this amendment, the Senator from Illinois (Mr. PERCY).

Mr. PERCY. Mr. President, first, I ask unanimous consent for Mr. Ken Alkerman of my staff to have the privilege of the floor during discussion of this bill and votes thereon.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PERCY. Mr. President, once again I am delighted to join with my distinguished colleague from Arizona, Senator GOLDWATER, in supporting an effort that I think is extraordinarily important.

The city of Chicago, unhappily, has been a center of production and distribution of pornographic material involving children.

A subcommittee of the Judiciary Committee held some important hearings in Chicago, and I attended those hearings and was just as shocked as anyone else, particularly when we heard the voice—we did not see the person—but we heard the voice of a child who had engaged in the practice, who described the permanent injury, psychologically, done to children and the great difficulty of rehabilitating themselves once they had recognized the kind of a life that they had been led into.

I wish to pay great tribute to my distinguished colleague, Senator ROTH of Delaware, for his leadership in this area. He has sponsored an amendment aimed at curbing a nefarious form of child abuse, the use of children in pornographic materials.

The growing phenomenon of child sexual abuse carries a potential for leaving deep psychological scars on literally tens of thousands of our Nation's youth.

I wish to pose a brief series of questions to the senior Senator from Delaware regarding some specific questions raised about the amendment. These are not questions that I raise, because I am satisfied as a cosponsor of his amendment that he has adequate answers for them, but they are the kinds of questions that have been raised to me by others, and I hope the responses will answer some of the problems that have arisen in some minds about the amendment.

The proposed amendment extends criminal provisions already contained in S. 1585 against producers of child pornography to the distributors and sellers of child pornography as well. It is my understanding that the Senator's amendment does not attach criminal panalties to the handling of any materials which are not already subject to criminal sanctions under the main text of S. 1585. Will he explain this relationship?

Mr. ROTH. That is correct. The definition in the amendment as to what would constitute "child pornography" is a word-for-word duplicate of that in the main body of S. 1585. This amendment would not prohibit the sale and distribution of any material whose production is not already prohibited by the main body of the legislation. All agree that prohibitions against the production of this material are proper and constitutional as a legitimate Government protection against child abuse. The amendment does not extend to any material not already prohibited from being produced by S. 1585.

Mr. PERCY. The amendment, in effect, renders the distributor or seller an accessory in the first degree, or an aider and abetter, to the act of child abuse committed by the producer. As we know, so long as the marketing end of the trade remains intact, there is little we can really acomplish in curbing the production end of the trade. Clearly, the sellers and distributors contribute just as much, if not more, to the continuation of this form of child abuse as the producers themselves.

Is it not a close parallel that if we only had a penalty for the producers of drugs we would not get any place? Really, what we have to do is penalize the pusher, the distributor, and get at the source. If we cut the source of demand down, then we have an automatic cut in production.

I wonder if this is not a comparable example?

Mr. ROTH. Yes, the two are inextricably related. It is the distributors and sellers who keep the producers in business. Any statutory scheme which ignores this is doomed to ineffectiveness. For this reason, however, we have not made it illegal for the distributor or seller to handle any material where production has not already been prohibited under the main text of S. 1585. That is why I have characterized my proposal as a strengthening amendment.

Mr. PERCY. It is absolutely essential to have this amendment enacted if we really believe in carrying out the full intent and purpose of S. 1585.

The distinguished Senator from Delaware has drafted this amendment such that a distributor or seller would be culpable only if he or she acts "knowingly." Would this not mean that the distributor or seller must have either, first, actual knowledge that the materials do contain child pornographic depictions or, second, circumstances must be such that he should have had such actual knowledge, and that mere inadvertance or negligence would not alone be enough to render his actions unlawful? Clearly, it is not the intention of this amendment as I read it, to create any kind of trap for the unwary.

Mr. ROTH. That is absolutely correct. This amendment, limited as it is by the phrase "knowingly," insures that only those sellers and distributors who are consciously and deliberately engaged in the marketing of child pornography and thereby are actively contributing to the maintenance of this form of child abuse are subject to prosecution under this amendment.

Mr. PERCY. Then, if we could take a specific example: A large volume book or magazine retail store, with perhaps hundreds of different title books and magazines offered to the public for sale, whose owner does not have the time to read every single book or magazine in his shop—it would be literally impossible—would not be subject to potential culpability if a book or magazine which happened to contain prohibited material is discovered in his shop, unless, as you have noted, he acted "knowingly." Is this a correct statement?

Mr. ROTH. Yes, that is correct. This legislation creates no affirmative duty to inspect on the part of the distributor or seller, though it would certainly apply to one who actively and affirmatively endeavors to conceal his knowledge.

Mr. PERCY. Mr. President, I thank Senator ROTH for his explanation.

I think it will be reassuring to those who have been concerned about the amendment through what I believe are misapprehensions about it, and I commend him once again for his leadership in this very vital field.

Mr. ROTH. I thank the distinguished Senator from Illinois and commend him for his concern.

Mr. CULVER. Mr. President, will the Senator yield on my time?

Mr. ROTH. I am happy to yield on the Senator's time.

Mr. CULVER. Mr. President, I shall take this opportunity to express my appreciation to the distinguished Senator from Delaware for the interest and the initial leadership in this extremely difficult and tragic area of our national life, for the leadership he has given to the country and given to Congress in introducing first legislation on this subject.

I address myself more to the merits of his amendment, as we did in the full Judiciary Committee after other Senators, proponents of the amendment, had an opportunity to present their views.

But the distinguished Senator from Illinois did make one observation that I did want to correct at this point because it is understandable to me that it is possible, given the complicated nature of this public policy area, not to be aware of the fact that with regard to sale and distribution it is not correct to say that S. 1585 does nothing about that aspect of this problem.

In fact, we severely strengthened the penalties for under sale and distribution. We doubled them. It provides $10,000 fine, 10 years in prison, and minimum penalties of 2 years incarceration, and then in the event of a second offense it is $15,000 and 15 years. So we really take a very hard, tough position there on sale and distribution.

To the Senator from Illinois, I say that what we do, though, is rely on our existing obscenity statutes and the court interpretation, essentially the so-called Miller case, as to what constitutes obscene in order to obtain prosecution and conviction for the sale and distribution of obscene materials.

We are very confident, as are the Justice Department and the U.S. Postal Service people, that under those existing court tests we will have no difficulty whatsoever finding almost every single thing, that the distinguished Senator from Illinois and the Senator from Iowa are concerned about, obscene by the community standards.

In fact, we believe that prima facie, most of these 260 magazines and publications will be found obscene. So what we are talking about, then, is a very strong treatment of sale and distribution offenders, but only upon conviction of distributing obscene materials in accordance with the constitutional interpretation of what constitutes obscenity.

The difficulties we will get into and the problems that we think are posed by this other approach in terms of not applying the present constitutional test—and we feel, based on the testimony of every constitutional expert who testified before us in our hearings, which I do not think can be cavalierly dismissed, as well as the U.S. Justice Department officials who are charged with prosecution and want to effectively attack this problem—they say, "Don't go that way," and it is for that reason that we have taken the approach we have.

I think we have a strong bill and a constitutional bill, and, by a vote of 9 to 4 in the Committee on the Judiciary, with the support of our distinguished chairman, the Senator from Mississippi (Mr. EASTLAND), we did defeat this other approach.

The problem we have, if we go ahead with it, as nice as it sounds and as attractive as it may be to suggest to our constituencies that "I have gotten tough with child porno," the sad thing of it is, in the judgment of those charged with the implementation of this new statutory authority, is that it could well be counterproductive, when we find it to be unconstitutional, when these indictments and prosecutions fall and these people walk away scot free.

That is the problem.

Mr. ROTH. Mr. President, will the Senator yield?

Mr. CULVER. Certainly. On whose time?

Mr. ROTH. Hopefully on your time.

Mr. CULVER. Maybe just for a question.

Mr. ROTH. Just a brief question. First of all, I wish again to congratulate the chairman of the subcommittee, as I did in my opening remarks, for the role he is playing in this area. I know his concern is the same as mine, even though we differ as to the remedy or solution.

The thing that concerns me, as he points out, is increasing the penalty. We already have laws on the books so far as obscenity is concerned. If they are so effective, why have they not worked, and stopped the growth and expansion of child pornography? That is the question.

Mr. CULVER. First of all, may I say to the Senator that the problem we

found in our hearings was really two-fold: one, that there was currently a vacuum in terms of Federal authority to go at the problem of production—the production of these materials, films and magazines. We had no Federal authority based on child pornography to get at these problems. All we had was local jurisdictional authorities on child molestation and contributing to the delinquency of a minor.

So we had no way to trigger the involvement of the Federal Bureau of Investigation or the U.S. Postal Service——

Mr. HATCH. Mr. President, will the Senator yield?

Mr. CULVER. Let me finish my response to the question, and I will be delighted to yield.

We had no way to get the Federal Bureau of Investigation into these things, and we had no authority to reach them.

So one of the things they told us was that we need that kind of authority to get in, to be more effective in local prosecutions, and the Federal prosecutors said that would help.

The second thing is that we have not had a lot of prosecutions, indictments, and convictions in this area, because historically we have seen a trend upward, as the Senator knows. He did not introduce his bill until this year.

We saw some television documentaries and we saw some very effective journalistic investigative reporting, all of which said, "Wake up, America, we have got a problem here."

When you go back to the authorities and look at the record, what you also find is that on the one hand we did not have the authority to reach this kind of child abuse conduct, and, on the obscenity side, the extent to which our resources were applied to this problem was historically only aimed at the big operators—the big, big operators—and the ones that had some tie to organized crime.

One of the things that this national attention, publicity, and congressional consideration has brought about, to a not insignificant degree through the efforts of the distinguished Senator from Delaware, is a renewed interest in determination of the nature of the problem, and the prosecuting authorities and investigative authorities are much more aggressive now. We have received reports that we will put in the RECORD here, that we have now received from the Postal Service, that they have officially changed their policy; they have begun to give highest priority to child pornography cases. We have seen acceleration in the number of prosecutions by the Department of Justice; we have seen more indictments, and we have seen recent convictions. I think it was not because they did not have strong statutory authority—though it really was not—that when they had a case, they found obscenity standards and statutes insurmountable in terms of achieving convictions. They have never said that the three-part test of Miller was a roadblock to effectively prosecuting the child pornography obscenity cases. So I think that probably is the most responsible explanation of the pace of prosecution to date in this area.

Mr. HATCH. Mr. President——

The PRESIDING OFFICER. Who yields time?

Mr. ROTH. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from Delaware has 7 minutes remaining.

Mr. HATCH. Will the Senator from South Carolina give me some time on the bill?

Mr. THURMOND. Does the Senator from Delaware have about 3 minutes to yield?

Mr. ROTH. May I yield to Senator HATCH first? Then I will yield to the Senator from South Carolina.

The PRESIDING OFFICER. How many minutes?

Mr. ROTH. I yield 3 minutes to the Senator from Utah.

Mr. HATCH. Will the distinguished Senator from South Carolina yield me some time against the bill as well?

Mr. THURMOND. How much time does the Senator want?

Mr. HATCH. Could the Senator yield me another 7 or 8 minutes, to add to his 3?

Mr. THURMOND. I yield the Senator 8 minutes, Mr. President, on the bill.

The PRESIDING OFFICER. The Senator from Utah is recognized for 11 minutes.

Mr. HATCH. Mr. President, I rise to support the amendment submitted by the distinguished Senator from Delaware (Mr. ROTH), and I compliment him for the leadership he has provided the Senate in dealing with the problem of child pornography.

I also compliment my colleagues from Iowa (Mr. CULVER) and Maryland (Mr. MATHIAS), who wrote the bill that we are now considering. I think that all of us are working together to solve this child abuse and child pornography problem.

But I especially want to compliment the senior Senator from Delaware (Mr. ROTH), for having submitted this amendment. It is necessary because S. 1585, in its present form, does not adequately deal with the problem of child pornography. Let me explain why.

The proponents of S. 1585 insist that the best way to put a prompt and effective end to the mischief is to make the production of child pornography a Federal crime. Accordingly, the bill provides, under section 2251, that it shall be unlawful for anyone knowingly to persuade or force any minor to engage in what is called "sexually explicit conduct" for the purpose of promoting any film, book or magazine, if this person knows or has reason to know that such material will be mailed or otherwise transported in interstate or foreign commerce.

Mr. President, the term "sexually explicit conduct" is the key to an understanding of this legislation, because it extends beyond mere obscenity, as the Supreme Court has defined obscenity, and includes every form of sexual behavior, whether actual or simulated. This bill, in other words, does not forbid simply the production of obscene materials, but all materials which portray the kinds of sexually explicit conduct that are proscribed under section 2251.

With regard to the sale and distribution of these materials, however, S. 1585 attacks the problem simply by increasing the penalties for the distribution of obscene materials where children are depicted. Thus the bill contains a double standard. It outlaws the production of materials which display sexually explicit conduct, but merely forbids the distribution of materials which are obscene.

This double standard is, in my judgment, a fatal weakness of the bill that will undermine our effort to eradicate child pornography. I agree with Senator ROTH that the scope of S. 1585 is too narrow and that its provision for an increase in penalties for the distribution of obscene materials, simply does not go far enough. It is my view that the problem of child pornography will not be effectively handled unless the same standard is applied to both the producers and the distributors of these materials.

It is also my view that the supporters of S. 1585 agree, in principle, that the standard should be the same for producers and distributors. They hesitate to apply the same standards, however, because they believe that this would create a constitutional problem. Relying on what is, in my view, an erroneous constitutional argument offered by Patricia Wald, Assistant Attorney General, they address themselves to the Roth-Hatch amendment in this manner—and I quote from the committee report:

> Attempts to prohibit the sale and distribution of such material necessarily involves an evaluation of the content of the materials in question. Consequently, the Supreme Court in Miller v. U.S. has held that in determining whether material is obscene and loses its first amendment protection, the material must be judged in its entirety. Therefore, the Committee is of the view that an attempt to make illegal the sale and distribution of material regardless of whether such material taken as a whole is obscene, would run counter to present Federal constitutional law as enunciated by the Supreme Court in Miller.

Mr. President, my study of the case law that has been developed by the Supreme Court in obscenity cases leads me to the very opposite conclusion.

In the first place, the opinion of Miss Wald on the constitutionality of the Roth-Hatch amendment is wholly speculative. There are no Supreme Court decisions dealing with the unique situation we are confronting in this legislation. The Supreme Court has never ruled on a case dealing with the production and distribution of child pornography.

Second, Miss Wald's reliance on the Miller case, which held that the material must be judged in its entirely, completely ignores the fact that the material in question involved adults and obscene materials. But we are not dealing with adults, and it is highly questionable, in my mind, that the Supreme Court is going to insist that we must apply the same standards to children that we apply to adults.

I say this on the basis of Ginsberg against New York, decided in 1968. In this case, and in other instances, the Supreme Court has maintained that the

standards for obscenity are not uniform in all respects, as applied to all individuals or places, especially where children are involved. As the Court declared in the Ginsberg case, narrowly drawn proscriptions of distribution or exhibition of materials to children which would not be obscene for adults are permissible under the first amendment.

I am aware, of course, that the Ginsberg case and others dealing with the sale of pornographic material to children are not directly applicable to the situation we confront here, any more than the Miller case is directly applicable, because the pornographic material we are trying to eliminate in this legislation is being sold to adults rather than children.

But I submit that children are involved at the distribution stage in this situation, even though the materials are being sold to adults. I would also point out to my colleagues that the Supreme Court has consistently and strenuously emphasized the point that cases involving children present special questions in that the governmental interest in protecting children overbalances the interest of the adult to receive and possess pornographic material and the interest of a distributor to satisfy the willing adult's inclination to receive it.

As the Court said in Ginsberg, the New York law prohibiting the sale of material to children which would be permissibly sold to adults but not children—and I quote from the decision—"simply adjusts to social realities." And that is all this amendment seeks to accomplish—to adjust this legislation to social realities. On this very point, the Court stated in the Ginsberg case—and I again read from the Court's opinion:

> That the state has power to make that adjustment seems clear, for we have recognized that even where there is an invasion of protected freedoms, the power of the state to control the conduct of children reaches beyond the scope of its authority over adults.

So I put this question to the proponents of S. 1585 who are opposed to this amendment: If the Supreme Court has already clearly and unequivocally stated that government has the authority to apply stricter obscenity standards regarding the sale of pornographic materials to children, why would you suppose that the Court would hesitate to apply stricter obscenity standards regarding the sale of pornographic materials which show children engaged in sexually explicit conduct?

When children are involved, whether it be children purchasing obscene material or children pictured in the material itself, the case law that has been developed supports the proposition that the adult standards for obscenity need not be followed. The Miller case, which deals with adults and states that the material must be judged in its entirety, did not overturn the Ginsberg case. And the Ginsberg case flatly holds that a different standard, a tougher standard, can be used where there is an overarching interest in the protection of our children.

In the third place, Mr. President, I would also like to point out that the opponents of this amendment, who cling tenaciously to the Miller case, erroneously assume that the Supreme Court's standards for obscenity are fixed in concrete, and therefore, cannot accommodate the modification we are attempting to make with regard to children. The truth of the matter is, and I quote from "The Constitution of the U.S. of America: Analysis and Interpretation," published by our own Library of Congress—

> The Court's approach has changed and it has formulated new standards, giving government, federal, state and local, greater power than it previously possessed to outlaw the sale and dissemination of materials found to be pornographic.

A good example of the Court's changing attitude is the very case which the opponents of the amendment rely on—the case of Miller against California. In the Miller case, the Court specifically rejected the old standard of obscenity that the material in question must be "utterly without redeeming social value" before it may be prohibited. In short, the Court's standards for obscenity have been and will continue to be in a state of flux. They should not and do not preclude Congress from giving assistance to the Judiciary in dealing with the problem of child pornography.

To be sure, the Court, in the Miller case, has assured us Government does not unnecessarily endanger first amendment freedoms when it attempts to redefine the standards for obscenity. Why? Because, said the Court in Miller, first amendment values "are adequately protected by the ultimate power of appellate courts to conduct an independent review of constitutional claims when necessary."

In the final analysis, Mr. President, the only question is whether the Senate might rationally conclude that only by proscribing the distribution of "sexually explicit materials" can the abuse of our children be effectively curbed—abuse and exploitation, I remind my colleagues, which occurs prior to distribution but which is nevertheless an incentive for, and an integral part of, the distribution process. In terms of practical, commonsense, in terms of the realities of the situation and the nature of the pornography business, we cannot reach any other conclusion. If we truly want to rid this country of child pornography, then we must go after the distributors of this filth with tough standards, not the watered-down obscenity standards that are applied to adults. We need only take a walk through the streets of Washington, or any city in this country, to see that adult obscenity standards are not going to rescue our children from the adults who are exploiting our children in ways that will affect their hearts and minds for the rest of their lives.

I think we would make a serious error, and one we do not have to make, as I read the constitutional law that has been developed by the Court, if we separated the production and the distribution process in this issue. To do so would take us back to the old law of the Court which once held that manufacturing is not part of interstate commerce, because it was an activity prior to the flow of commerce. That view has long been rejected by the Court because it is simply an unrealistic view of what actually takes place in the field of commerce. For the same reason, it is, in my judgment, wholly unrealistic to look at the commercial exploitation of children without realizing that the manufacture and production of these materials cannot be divorced from the sale thereof. In substance, the causal relationship is no different here than it is in child labor legislation.

Insofar as children are involved, there is, in reality, no meaningful distinction between production and distribution, because only at the distribution stage, where the material is finally brought out into the light of day, can the Government effectively protect this Nation's children.

For these reasons, Mr. President, I urge my colleagues to support this amendment, and to apply the sexually explicit conduct standards to both the producers and distributors of child pornography. If the Supreme Court rules it to be unconstitutional, as the amendment's opponents predict, S. 1585 will still remain on the books.

The ACTING PRESIDENT pro tempore. The time of the Senator has expired.

Who yields time?

Mr. THURMOND. Mr. President, will the Senator yield to me, or perhaps I should yield on the bill.

Mr. ROTH. Will the Senator yield it on the bill?

Mr. THURMOND. Mr. President, I yield myself such time as may be required on the bill.

The ACTING PRESIDENT pro tempore. The Senator from South Carolina is recognized.

Mr. THURMOND. Mr. President, I rise in support of the amendment offered by the Senator from Delaware to strengthen the protection of children against sexual exploitation by the distributors and sellers of child pornography. The amendment would treat such distributors and sellers as principals in the child abuse that occurs when the material is produced, distributed, and sold.

The amendment adds a provision to S. 1585 that eliminates the bill's dual standard of prosecution of producers of child pornography and the distributors of child pornography. By making this change in S. 1585, the legislation would recognize the principal role that distributors and sellers have in the distribution of child pornography.

Mr. President, I believe this amendment is meritorious, since it will permit the prosecution of not only the makers of child pornography, but also the distributors and sellers of such material. Although existing law may reach this kind of conduct, Senator Roth's amendment would clarify the existing criminal statutes and give prosecutors an added tool in achieving the successful prosecution of this kind of activity.

The amendment is also subject to section 6 of S. 1585, which allows for the severance of any provision which may be later ruled invalid by the courts as unconstitutional or otherwise defective. Thus, the Roth amendment, if proved to be invalid, could be severed from S. 1585 and not jeopardize its other provisions.

Mr. President, there are good aspects to both the Roth amendment and S.

1585. Both are directed at stamping out the rapid growth of child pornography and child prostitution in this country. I support that objective and want to see the most effective bill possible approved by the Senate. If there are other improvements that can be made to the bill, I will support them. Legislation to stop child pornography and child prostitution is urgently needed.

I support the Roth amendment and feel that it will make S. 1585 a better bill.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. CULVER. Mr. President, the Senator from Maryland wanted to make some comments.

Mr. MATHIAS. If the Senator from Iowa will yield me 5 minutes, at least to get started, I should like to comment briefly on the amendment.

Mr. CULVER. I am very happy to yield 5 minutes to the Senator from Maryland.

The ACTING PRESIDENT pro tempore. The Senator from Maryland is recognized for 5 minutes.

Mr. MATHIAS. Mr. President, first, I want to say that the Senator from Delaware and the Senator from Utah were among the first to raise their voices on this distasteful subject of child pornography. There is obviously no difference in goal or difference in purpose in our being here today. We are merely trying to find out the better way to approach this problem.

The subject of the Roth-Hatch amendment is only one corner of a larger bill. The larger bill goes toward the creation of a new crime on the Federal statute books, the crime of procuring children for the purpose of exploiting them in productions, whether it is in movies or magazines or individual exhibitions. It is an important new element of law.

Secondly, it would amend the Mann Act to proscribe the interstate transportation of persons under 18 years of age for the purpose of engaging in prostitution.

The question of sale and distribution which, in the original bill, S. 1585, we have dealt with by an increase in penalties, would be dealt with under the Roth-Hatch amendment by the introduction of some new language. It is only one phase of a comprehensive bill. So, if we look at it in context, I think we see that it is an important phase, but one which is covered by existing law.

The Justice Department could not be more clear in saying that, while the interest that has been shown in Congress has been constructive and positive, and while the pressure that this very debate is putting on this wretched industry has been constructive and positive, what it does not want is to have the settled law unsettled. With the two new tools we are providing—making a new crime out of procuring children for this purpose, increasing the penalties under the existing laws and broadening the Mann Act—they then feel that they can go forward and get the prosecutions which will stamp out this traffic.

But if we unsettle the settled law, as this amendment would do, what I am afraid of is that we are going to have a vacation. We are going to have a hiatus in which the traffickers will have a period of time, pending appeals all through the court system, in which they will not be hindered by the new law.

The Senator from Delaware said, in his remarks, that there is no doubt that court tests will follow. I think that is a fair statement. I think we all would agree with that. Even if we were to assume, for the sake of argument, that it will all come out right in the end, we are headed, if we adopt this amendment, for an unsettled period at a time when we ought to be operating on the settled law of the land and getting the convictions and discouraging people from conducting this outrageous kind of traffic.

Part of the reliance for this amendment is on a rather novel proposition of law. It is argued you can regulate activity of this kind under the child labor statutes. I think that is an interesting thought, but it is not one that I believe the courts are going to find very persuasive. There are specific cases which deal with this kind of theory, one of them being the Oklahoma Press Publishing Co. case.

In the Oklahoma case, it was held that newspapers, radio stations, television broadcasters, and book and magazine publishers are, of course, all business institutions. They are organized like any other business to make a profit. Therefore, they are subject to regulation which affects their normal profitmaking activities; and they can claim no special privilege from that kind of regulation. But the court has always been clear that such regulation of an economic nature cannot, in the long run, result in a restraint upon expression. So I think that the Oklahoma case pretty clearly puts to rest the concept that we can have any firm reliance on child labor laws as a source of strength for the proposition that we should unsettle the settled law of the land with respect to sale and distribution of the material in question here.

I believe, as the bill does, that we are better off to follow the advice of the prosecutors of this country. These people, who are going to bear the heat and battle of the day in the courtrooms, urge us to increase the penalty on the settled law of the land which prohibits sale and distribution, and we will get the convictions which will stamp out this traffic.

Some reference has been made to the Ginsberg case, I will quote very briefly, Mr. President, from a book called "The Law of Obscenity" which comments on the Ginsberg case where, on page 89, it says:

> It is important to understand that although *Ginsberg* allows the obscenity test to be so adjusted where the audience is not the general public, it still requires a finding of obscenity. The statute at issue in *Ginsberg* still required an appeal to prurient interest, still required patent offensiveness, and still required a lack of redeeming social importance. The *Ginsberg* test is still a test for obscenity, albeit modified, and if material does not meet each of the three tests, it may not be prohibited, even for minors.

This is serious business. I think this is what we are tampering with if we adopt this amendment.

We are taking chances that the action we take here will be struck down when the prosecutors have said, "Don't take those chances, we don't need it. Give us the tools and we'll do the job".

We have provided in 1585 the specific tools that the U.S. attorneys across the country want.

These sentiments were echoed again and again and again and again in witnesses before the committee. I believe we have got to listen to those voices, not out of any desire to frustrate the obviously good intentions of the authors of this amendment, but simply out of concern that what we do, we do well and we do effectively.

Paul Bender, who was the General Counsel of the President's Commission on Obscenity and Pornography, says that it is his considered opinion that the amendment, although he was speaking then of the bill which was the father of the amendment, was unconstitutional:

> Perhaps the definition of obscenity can be altered to some extent when a child is the actor. But the Supreme Court has never indicated that it would depart from the three-part approach it reaffirmed in 1973 in the Miller case.

So I would hope the Senate would not go off on a tangent by adopting this amendment which I do not think is necessary to do the job. Such an approach risks the great advances and great achievements that are possible with this bill. Moreover, even if the amendment were found 4 or 5 years from now to be constitutional, its adoption would certainly slow down and complicate a job that I think the American people want to have done now.

Mr. PRESIDENT, I am hopeful that the Senate will reject this amendment.

Mr. HATCH. Will the Senator yield for a question?

The PRESIDING OFFICER. The time of the Senator has once more expired.

Who yields time?

Mr. ROTH. One minute.

The PRESIDING OFFICER. The Senator from Utah is recognized for 1 minute.

Mr. HATCH. It would appear to me that what the Senator is saying is this: that because this amendment might be declared unconstitutional—which I would dispute—that we should apply the sexually explicit conduct test only with regard to production, but apply the obscenity test, which is more difficult to prosecute, with regard to distribution of these child materials.

I question the rationale for this fear of a constitutional confrontation because it seems to me a prosecutor could at any time add both the obscenity indictment and the sexually explicit conduct indictment; and if the sexually explicit indictment was faulty, he would still have the option of seeking a conviction based on obscenity.

Last, but not least, there is a severability clause in this bill which says that if this amendment is not proper or is unconstitutional it will not affect the rest of the bill.

So I really think that the legislative branch should apply the "sexually ex-

plicit conduct" standard to distributors, as well as producers.

I commend my two distinguished colleagues on the intent and significance of this bill in its present form, but this amendment will make it a truly great bill that will enable Federal prosecutors to put an end to child pornography.

Mr. MATHIAS. If someone will yield me the time, I will answer.

The PRESIDING OFFICER. Who yields time?

Mr. CULVER. I am glad to yield 2 additional minutes.

The PRESIDING OFFICER. The Senator is recognized.

Mr. MATHIAS. I will try to answer in 1 minute. Of course, under S. 1585 it is perfectly possible to bring the three counts the Senator refers to: procuring a juvenile, violating the Mann Act, and for sale and distribution. Thus; all the things he wishes to be done can be done within the four corners of the existing bill.

But if a U.S. attorney were given the option of bringing a sale and distribution charge under section 1461 or 1462 or 1465, when he could proceed under a new section 2252, he would frequently opt for the new provision which would not require him to meet the three-part Miller test. Thus if section 2252 were later declared unconstitutional all the defendants convicted under this provision would be freed. That is the risk we run by adopting this amendment.

Mr. HATCH. I can only say that the test of obscenity is far more difficult to prove than the test of "sexually explicit conduct."

The PRESIDING OFFICER. The time has expired.

Mr. CULVER addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. CULVER. I yield myself such time as I may require.

The PRESIDING OFFICER. The Senator is recognized.

Mr. CULVER. Mr. President, some of the constitutional problems that are posed by the Roth amendment, I think, are perhaps best illustrated in the current Washingtonian magazine, October 1977.

The distinguished Senator from Arizona made reference to photographs by the well-known photographer, Mr. Edward Weston, and on page 93 of the Washingtonian magazine are six photographs of nude boys in poses which raise problems if one applies the approach of the Roth amendment to this particular series of photographs.

Now, the Roth amendment would have the effect of making it a crime to distribute materials that, taken as a whole, are not obscene. But if those materials were to contain one isolated picture—one isolated picture, not the materials as a whole—that fell within a definition of sexually explicit conduct, then under the Roth amendment you could ban the publication and subject to criminal penalties those who sold and distributed that publication.

Mr. HATCH. Mr. President, will the Senator yield on that point?

Mr. CULVER. If I may finish this point, I will be delighted to yield.

This advertisement in this month's Washingtonian has a portfolio of photographs by Edward Weston, to whom the Senator from Arizona (Mr. GOLDWATER) referred earlier as a great American artist. I think he is so recognized. It could be found to depict a "lewd display" of the genitals or pubic area.

It is possible that, like beauty in the eyes of some beholders, these photographs, in and of themselves, independent of the whole of this particular publication or magazine, could be found to so qualify.

In that event, what we are concerned about is that it would make the seller of the Washingtonian, including any neighborhood drug store owner or news dealer, guilty of a crime for which he could get up to 10 years. This is because the Roth-Hatch amendment applies to any isolated picture in a larger work or publication, and S. 1585, as the Senator from Maryland has said, requires that we look to the material as a whole.

I yield to the Senator.

Mr. HATCH. I hope the Senator does not mean what he has just been saying, because the Roth-Hatch amendment uses the same standards as S. 1585. In other words, it uses the standard of the Senator's bill, and that standard is not obscenity but "sexually explicit conduct."

Mr. CULVER. It is important to clarify this. It is true that it uses the same standards, but the test to be applied is the Miller standard, as to whether or not it is obscene; and to make that determination, one has to consider the work as a whole. The Senator's proposal does not adhere to the Miller standard. Therefore, he would apply the same standards in our bill to an isolated incinent.

Mr. HATCH. The producer of that particular magazine, if the Senator's argument is extended, would be just as liable, under S. 1585 as it now stands, as the distributor would be under our amendment. S. 1585 does not use the obscenity test for the production of pornographic materials, so the Miller test for obscenity is inapplicable at the production stage. The Senator is arguing against the standards set forth in his own bill.

Mr. CULVER. I beg to point out to the Senator that the difference is that our bill provides, for the first time, for a new Federal offense under child abuse for using children to produce these photographs in ways that satisfy our standards of sexually explicit conduct.

Mr. HATCH. Our amendment establishes the same standard for distributors.

Mr. CULVER. I cannot hear the Senator. I will be glad to yield in regular order. I cannot answer and listen and respond in midstream.

There is a very important difference between trying to reach problems of conduct. The Senators asks why the double standard between conduct on the one hand and content on the other. We are talking about two different values, two different problem areas.

The Senator is talking, on the one hand, about the legal authority to reach and prohibit conduct which is felt to be, by way of a matter of public policy, harmful to children, in terms of their experience, in terms of what one person does to another. Once that act is done and it goes into the form of a publication or a film or a picture or a magazine, the courts have said that we are going to consider that work in its entirety in order to determine whether or not it is obscene, and therefore proscribe speech and an encroachment and a restriction on free speech.

The way they determine that is to apply the Miller standard. What is the Miller standard?

The PRESIDING OFFICER. All time of the Senator has expired.

Mr. CULVER. I yield myself additional time on the bill.

The real question here—and where we really seem to get off the mark—is that the courts want to get away from the kind of situation where you can take a paragraph out of "Lady Chatterly's Lover" that you find to be obscene or offensive and ban the book. Or you can take "The Exorcist," because there is a situation involving one isolated incident of sexually explicit conduct, and ban the film. Or, because in "Romeo and Juliet" there is a nude child, you can ban the play.

The court has said that before you can do that, you have to apply the three-part test of Miller: One, take it as a whole; two, whether or not it appeals to the prurient interests and has no real social value; and, three, apply the community standards.

What everyone is saying is that when you talk about child pornography and what may or may not be sexually explicit conduct and child pornographic films, you apply the same three-part test to those materials. I do not think there is any doubt at all that when you talk about child pornography and child obscenity, the threshold is going to be lowered by a jury as to what they feel is obscene. There is going to be no reluctance on the part of those people to apply a very tough standard.

There has been no showing that the element of obscenity would be difficult to prove under the tests set down by the court in the Miller case, because, taken as a whole, all these publications clearly lack any serious literary or artistic value, and they clearly appeal predominantly to the prurient interests as judged by the standards of a community—any community in the country.

The fact that the materials depict juveniles, in my judgment, in practice, clearly will lower the jury threshold and make them more ready to find convictions, easier than in adult pornography cases.

The Senator from Delaware has said, "Why have we not seen more prosecutions?" I tried to speak to that earlier.

If prosecutors will prosecute, section 5 of our bill provides them with the tools I believe necessary to obtain convictions in these cases. This section of S. 1585 is a

clear signal to them to begin such prosecutions.

I mentioned that since the middle of this year, since all this publicity, we have had 38 child pornography investigations opened at the Federal level. We have seen a change in the policy of the postal authorities to put this as a priority, and so on; and I talked about what a change that represented from the previous administrative attitude on this question.

I think it is unwise, Mr. President, to go ahead with this Roth-Hatch amendment because I think the constitutional problems inherent here would endanger successful prosecutions. The best witnesses we have on that point are the prosecutors.

We were in Chicago. We talked to these people. We heard them before our committee. We said, "What tools do you need to do the job?" And they said, "We will tell you the tools we need. We have to make the Mann Act apply to boys as well as girls so we can get this interstate boy prostitution ring. We cannot get them, and we have got to get at the child-abuse problems because we are rinky-dinking around here with contributing to the delinquency of minors, and we want to uncork the FBI's and the postal authority's investigative resources to go into this problem of how they abuse the children."

They also said, "Slap those penalties on them, obscenity; make it tougher. And we want a signal from you in Congress and to the Justice Department, we want to have the word go out that we are serious about this so we have got the necessary support in the bureaucracy to do it." I think, Mr. President, this is what this does.

The Senator mentions that he does not see any problems, that it has got a separability clause. Well, frankly, as the Senator knows, on these constitutional issues whether you have a separability clause or not the court, as a matter of constitutional doctrine, applies a separability clause, and separates those things out.

But what we are worried about is we are going to be going after the Washingtonian magazine, we are going to have a lot of gumshoes running around closing down the local news counters; we are going to be hauling a lot of people in and subjecting them to a grand jury and indictments based on this law, and they are going to then be prosecuted and convicted under this law, and then it is going to go up, and you are going to have a whole wave of these cases, and we feel confident, not because we are so all-knowing about what the Supreme Court is going to do, but because we did what we thought we should conscientiously and responsibly do, and that is go to the experts, go to our own Department of Justice, and say, "You people studied this problem pretty well. Tell us what problems you see in that Roth-Hatch approach."

They said "It is fraught with danger." They said they do not need it. They said they do not want it. They said, "We can do the job with the tools you have given us. It is counterproductive; it is overkill; and as far as equipping us to do the job we do not need it.

"Moreover, if we move under that we are fearful—sure, they will separate it out, and this will fall as being unconstitutional, but also these convictions will fall, these indictments will fall, and you will see not progress with these prosecutions but they represent a retrogression."

The first amendment simply does not permit you, except in cases such as those involving a clear and present danger, a test which is not applicable here by any stretch of the imagination, to restrict speech that is not obscene. We cannot restrict speech that is not obscene. The Founding Fathers said there should be no abridgement of the first amendment. We have seen the courts tortuously try to carve out some exceptions to that.

Mr. HATCH. Mr. President, will the Senator yield for a question?

Mr. CULVER. When I finish my statement.

I think the rule, according to the testimony we have received from Justice and from every other constitutional expert, without exception—we had the benefit of the legal scholars who were associated with the President's Commission on Obscenity, and who did nothing but live with this sick, sordid business for a long time, were the most sophisticated witnesses in terms of the constitutional area of obscenity—they did not feel this could pass constitutional muster. They just did not feel it. They thought this whole provision would be struck down by the court. It would because they said in a criminal statute that reaches protected speech and protected expression as well as that of obscenity is void on its face for overbreadth.

If this happens, based on this constitutional interpretation and precedent, then I think these convictions will be voided, and I think that defendants convicted will be freed.

So, finally, Mr. President, let me just say that contrary to the argument of Senator HATCH and Senator ROTH, for whom I have the greatest personal respect in terms of the sincere concern they have and the interest and leadership they have demonstrated in this area, there can be no separate standard for juvenile obscenity that ignores the Miller standard.

The Senator mentioned the Ginzberg case, and I think it is important to respond to the question the Senator posed with regard to Ginzberg. I think it is true, and it should be acknowledged, that the Ginzberg case clearly provided for a slight variation of the definition of obscenity when the material is to be sold to children.

But we are talking about a fact situation here where the material is to be sold to everyone, adults as well as children; and, secondly, we are talking about a situation where children are the participants in the production, and we are talking about the question of content as opposed to the sale to children in another context.

But even under the Ginzberg case. Mr. President, even under that important precedent with regard to the general area of constitutional law, it is still necessary to look at materials as a whole, I think that is the key thing here, and the key difference, a rule that the Roth-Hatch amendment would ignore, and so I would just submit that S. 1585 would prohibit the sale and distribution of almost all child pornography in a way that is clearly constitutional and enforceable.

I am happy to yield.

Mr. HATCH. If I might just add this thought before yielding to Senator ROTH: I have also talked to a number of prosecutors who would like to change in this way.

I have deep regard for my friend from Iowa, as he knows. But I think I may have a much higher opinion of the Supreme Court of the United States than the Senator does because I just do not believe the Court is going to declare that this bill, as amended by the Roth-Hatch amendment, violates the first amendment. If the Senator's bill passes without this amendment, some really horrendous pornography problems will not be solved.

Mr. CULVER. I have often found that a high opinion of the Court is usually found when they agree with your view, and a low opinion is usually found when they do not. I think if you look at the tortuous meandering of the Supreme Court's history, there is plenty for both of us to be both high and low on the Supreme Court.

The PRESIDING OFFICER. Who yields time?

Mr. ROTH. Mr. President, I am about ready to yield back the remainder of my time.

I would just like to make one comment and point out to the Senate that similar legislation was adopted on the House side by a vote of 375 to 12.

In closing, I would point out there is a need, and we all agree to that. I would point out that in no way does our amendment jeopardize what the Senate Committee on the Judiciary is trying to do because the provisions are severable.

I think for the same reason it is important to protect our children from sweatshops, it is also important to protect them from smut shops.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. HELMS. Mr. President, I am pleased to cosponsor the amendment of the distinguished Senator from Delaware (Mr. ROTH) and to speak in support of it at this time. This amendment is essential to achieve the purpose of the proposed legislation, namely to protect children from sexual exploitation.

S. 1585 proposes to protect children from sexual abuse in pornographic material by making the production of child pornography a Federal crime. Therefore, the bill provides criminal liability for anyone who knowingly persuades, encourages, or forces any child to engage in "sexually explicit conduct" for the purpose of promoting any film, book, magazine, or other pornographic material.

The phrase "sexually explicit conduct"

includes every form of sexual behavior, whether actual or simulated, and whether it "appeals predominantly to the prurient interest of a sexually deviant class of persons." *Miller* v. *California*, 413 U.S. 15 (1973). Therefore this phrase includes activities not covered by the definition of obscenity applied by the Supreme Court.

Accordingly, some argue that although Federal law can constitutionally reach the horrendous conduct which is the subject matter of these materials, and therefore that Congress may attach criminal liability to its producers, the "sexually explicit conduct" standard may not be used to reach the distributors and sellers of such material. They insist that Federal criminal liability may extend to distributors and sellers only when their materials are obscene under present constitutional standards.

Therefore, under S. 1585, a double standard is created by which a producer may be criminally liable for inducing the "sexually explicit conduct" which is the subject matter of a film while the distributors and sellers of that film are not so liable.

Mr. President, the purpose of this bill is to protect children from sexual abuse and to punish those who seek to exploit children in this manner. It deals not only with the abuse of children in pornography, but also their abuse through prostitution, their interstate transportation for immoral purposes, and their induced sexual conduct.

Opponents of Mr. ROTH'S amendment maintain that its standard of "sexually explicit conduct" must be judged by the more narrow "obscenity" standard of constitutional law regarding pornography. Thus, they argue that by its very definition, the Roth amendment must be rejected as needlessly overbroad and hence, as unconsitutional. In my judgment they are wrong. Their error, I believe, is to apply the Supreme Court's obscenity standard to this issue at all. This bill deals with obscenity only secondarily, its primary purpose is to protect children from exploitation.

By definition, the Roth amendment does not seek to prohibit pornographic material. Rather, its purpose is to protect these injured children's right of privacy. In the first instance, these children are abused by the makers of sexually explicit material when they are required to submit to such conduct. They are again exploited by those who broadcast that material. Is not that initial abuse, that initial injury, Mr. President, compounded by those who distribute and sell such material?

Just as it cannot be said that these children consented to engaging in the conduct prohibited by this legislation, it cannot be said that they consented to the distribution, sale and appropriation of their name, their picture, or their likeness. The distribution and sale of such material constitutes a new and independent invasion of privacy. It is an additional injury to these children equal to their abuse in the material's production. Certainly, the Constitution does not prohibit the protection of a child's right to privacy, nor does it mandate a license to broadcast this painful event in a child's life. Such publicity may haunt him for years and make recovery from the emotional damage of the conduct itself impossible.

Mr. President, I strongly support the amendment of the Senator from Delaware and urge my colleagues to act favorably upon it.

Mr. SCHWEIKER. Mr. President, I appreciate the opportunity to speak today in support of the amendment which my distinguished colleague from Delaware (Senator ROTH) has submitted to S. 1585, the protection of Children Against Sexual Exploitation Act of 1977. In May I cosponsored legislation introduced by Senator ROTH to eliminate child pornography. The Judiciary Committee acted quickly to hold hearings on the number of bills in this area, and members of this committee are to be commended for their action. However, I do feel adoption of the Roth amendment will improve the provisions of S. 1585 by increasing the likelihood of penalties for those who knowingly transport through interstate commerce or sell any photograph or film depicting a child engaging in a prohibited sex act.

The subject of child pornography is not pleasant or easy to discuss. Many would like to pretend that such abuse never takes place. Others think that legislative bodies like the Senate and local and State elected officials should not concern themselves with what they sarcastically refer to as "kiddie porn." However, I believe that this issue is critically important. and deserves the attention of this Congress. My constituents in Pennsylvania shared my sense of outrage and frustration upon reading and viewing the news media exposés on the use of children in pornographic films and pictures. These exposés have described the child pornography racket as a multimillion-dollar business.

S. 1585, introduced by Senators CULVER and MATHIAS, along with Senator ROTH'S amendment, both of which I am cosponsoring, would go far in reducing the abuse of children in pornography. Child abuse, in whatever form it takes, is a horrible crime. The children who are abused today will years from now, still be reeling from the impact of the abuse they have suffered. Psychiatrists and psychologists have repeatedly told us that abused children will carry the scars of their abuse with them throughout their lives, and that many times it is the abused child who grows up to be the child abuser. Studies in this area have also shown that the abused child many times never recovers from his feeling of alienation from the rest of society, and this alienation can surface in the adult in his acting out violently against others, in drug or alcohol addiction, and in various criminal activities. As a Congress concerned, not only for the pain abused children feel today, but also for the repercussions of this abuse and the future cost to society, we must turn our attention to stopping, for once and for all, the sexual exploitation of children in pornography.

Some have argued that a crackdown on child pornographers would be a violation of their constitutional rights under the first amendment. I am tired of hearing such weak arguments which classify this filth as free speech. The American people are fed up with this type of reasoning. It is no wonder our citizens have lost respect for elected officials or members of the judiciary who would argue that the pornographer can trample the rights of any other individual, to the point of forcing children to commit sexual acts with each other or an adult, because to stop them would limit pornographers' freedom to express themselves. That is ridiculous. It is not enough to count on existing obscenity laws to stop the flow of child pornography. We must prevent its production and its availability. Senator ROTH'S amendment would provide the last tool needed—prosecution for distributors of child pornography.

Mr. President, children, some only 3 years old, cannot be expected to protect themselves from adults who would use them in this manner to make some fast money. Although it is difficult to believe, many times the adults who exploit these children are friends or relatives, even parents. It is time for Congress to enact legislation which makes it clear to the American people and to the child pornographers, that we are serious about cleaning up this problem, and protecting the right of children not to be abused. This amendment calls for mandatory minimum prison sentences, and fines for convicted individuals. With no chance to somehow working their way out of punishment, perhaps those who use children in pornographic films will be forced to think twice before they inflict the psychological scars that will stay with sexually exploited children for life.

I want to thank Senator ROTH for giving me this chance to speak in favor of and cosponsor his amendment and commend him and Senators CULVER and MATHIAS and the other members of the Judiciary Committee for their leadership in this area.

Mr. KENNEDY, Mr. President, first, I wish to commend my distinguished colleagues, the Senator from Iowa (Mr. CULVER) and the Senator from Maryland (Mr. MATHIAS) for the excellent work they have done in providing what I believe to be a desperately needed solution to the growing problem of child pornography.

As cosponsor of this bill (S. 1585), I share their concern for the grave situation which presently exists in this country that encourages, either directly or indirectly, the sexual exploitation and abuse of some of our nation's children.

In order to meet this problem head on and in order to give the Department of Justice the adequate tools and support it needs, it is vitally important that the bill passed by the Senate be on solid constitutional footing. The Department of Justice has stated that they have serious reservations about the constitutional adequacy of the amendment proposed by the Senator from Delaware. Additionally there is a question as to whether the Roth amendment is even necessary since prosecutions are being brought under the existing obscenity laws.

For these reasons, I urge my fellow colleagues to pass the bill without an amendment which in the future may haunt prosecutions while the constitutionality of the amendment is being decided.

Mr. ROTH. Mr. President, I am ready to yield back the remainder of my time.

The PRESIDING OFFICER. All time has expired on the amendment.

Mr. CULVER. Let me just say with reference to what the House of Representatives did. Under our Senate rules I never knew that was necessarily supposed to be relevant, but I see it referred to not infrequently. I point out that on September 29 the House Judiciary Committee unanimously reported out a bill, H.R. 8059, without a Roth-Hatch section attached to it, and the vote that the Senator from Delaware refers to with regard to the House action of 375 to 12 was a rider to the child abuse bill, H.R. 6693. I think we should note that the rider was never voted on in committee but was inserted by the manager of the bill in a motion to suspend the rules.

It was impossible for House Members to vote to delete it or to amend it, and their only choice was to vote against the motion to suspend the rules or a vote that would have been seen as opposition to doing anything about child pornography, as well as a vote in opposition to a much-needed child abuse authorization bill to which this was attached.

I think the considered judgment then of the House of Representatives could not be found in that vote but in the decision of the Judiciary Committee, that considered decision not to include a Roth-Hatch section, and I think that this was the view of the Senate Judiciary Committee when it voted 9 to 4 to oppose the Roth-Hatch amendment.

I urge my Senate colleagues to offer a similar expression with regard to the amendment at this time, and I yield back the remainder of my time.

Mr. THURMOND. Mr. President, I yield back the remainder of my time.

Mr. CULVER. Mr. President, I move to table the amendment.

Mr. HELMS. I ask for the yeas and nays, Mr. President.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays are ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the amendment of the Senator from Delaware.

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Mississippi (Mr. EASTLAND), the Senator from Kentucky (Mr. FORD), the Senator from Colorado (Mr. HASKELL), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Vermont (Mr. LEAHY), the Senator from Montana (Mr. METCALF), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from New York (Mr. MOYNIHAN), and the Senator from New Jersey (Mr. WILLIAMS) are necessarily absent.

I further announce that the Senator from Hawaii (Mr. INOUYE) is absent on official business.

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Pennsylvania (Mr. HEINZ), and the Senator from New York (Mr. JAVITS) are necessarily absent.

I further announce that, if present and voting, the Senator from Pennsylvania (Mr. HEINZ) would vote "nay".

The result was announced—yeas 21, nays 65, as follows:

[Rollcall Vote No. 551 Leg.]

YEAS—21

Abourezk	Cranston	McGovern
Bayh	Culver	Metzenbaum
Biden	DeConcini	Nelson
Brooke	Gravel	Packwood
Case	Hathaway	Pearson
Chafee	Kennedy	Stafford
Clark	Mathias	Wallop

NAYS—65

Allen	Griffin	Percy
Anderson	Hansen	Proxmire
Bartlett	Hart	Randolph
Bellmon	Hatch	Ribicoff
Bentsen	Hatfield	Riegle
Bumpers	Hayakawa	Roth
Burdick	Helms	Sarbanes
Byrd, Harry F., Jr.	Hollings	Sasser
Byrd, Robert C.	Jackson	Schmitt
Cannon	Johnston	Schweiker
Chiles	Laxalt	Scott
Church	Long	Sparkman
Curtis	Lugar	Stennis
Danforth	Magnuson	Stevens
Dole	Matsunaga	Stevenson
Domenici	McClure	Stone
Durkin	McIntyre	Talmadge
Eagleton	Melcher	Thurmond
Garn	Morgan	Tower
Glenn	Muskie	Weicker
Goldwater	Nunn	Young
	Pell	Zorinsky

NOT VOTING—14

Baker	Huddleston	McClellan
Eastland	Humphrey	Metcalf
Ford	Inouye	Moynihan
Haskell	Javits	Williams
Heinz	Leahy	

So the motion to lay on the table Mr. ROTH'S amendment was rejected.

Mr. THURMOND. Mr. President, I move to reconsider the vote by which the motion to lay on the table was rejected.

Mr. BROOKE. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question now recurs on the amendment of the Senator from Delaware. The yeas and nays have been previously ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Mississippi (Mr. EASTLAND), the Senator from Kentucky (Mr. FORD), the Senator from Colorado (Mr. HASKELL), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Vermont (Mr. LEAHY), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Montana (Mr. METCALF), the Senator from New York (Mr. MOYNIHAN), and the Senator from New Jersey (Mr. WILLIAMS) are necessarily absent.

I further announce that the Senator from Hawaii (Mr. INOUYE) is absent on official business.

Mr. STEVENS. I announce that the Senator from Tennesseee (Mr. BAKER), the Senator from Pennsylvania (Mr. HEINZ), and the Senator from New York (Mr. JAVITS) are necessarily absent.

I further announce that, if present and voting, the Senator from Pennsylvania (Mr. HEINZ) would vote "yea."

The result was announced—yeas 73, nays 13, as follows:

[Rollcall Vote No. 552 Leg.]

YEAS—73

Allen	Gravel	Percy
Anderson	Griffin	Proxmire
Bartlett	Hansen	Randolph
Bellmon	Hart	Ribicoff
Bentsen	Hatch	Riegle
Biden	Hatfield	Roth
Bumpers	Hayakawa	Sarbanes
Burdick	Helms	Sasser
Byrd, Harry F., Jr.	Hollings	Schmitt
Byrd, Robert C.	Jackson	Schweiker
Cannon	Johnston	Scott
Chafee	Laxalt	Sparkman
Chiles	Long	Stafford
Church	Lugar	Stennis
Curtis	Magnuson	Stevens
Danforth	Matsunaga	Stevenson
DeConcini	McClure	Stone
Dole	McIntyre	Talmadge
Domenici	Melcher	Thurmond
Durkin	Morgan	Tower
Eagleton	Muskie	Wallop
Garn	Nunn	Weicker
Glenn	Packwood	Young
Goldwater	Pearson	Zorinsky
	Pell	

NAYS—13

Abourezk	Cranston	McGovern
Bayh	Culver	Metzenbaum
Brooke	Hathaway	Nelson
Case	Kennedy	
Clark	Mathias	

NOT VOTING—14

Baker	Huddleston	McClellan
Eastland	Humphrey	Metcalf
Ford	Inouye	Moynihan
Haskell	Javits	Williams
Heinz	Leahy	

So Mr. ROTH'S amendment (No. 1398) was agreed to.

Mr. THURMOND. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. ROTH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. WILLIAMS. Mr. President, child pornography is a vile and inhumane practice that has corrupted and traumatized children in both the physical and spiritual sense. It can be likened to an ulcer that has been allowed to grow to unknown bounds, and that needs to be eradicated now before another child falls prey to this insidious disease. I am hopeful that the legislation before us today, S. 1585, will halt this sordid, exploitive practice by fortifying our law enforcement officers with the needed tools to eliminate this atrocious moneymaking venture from our society.

In May of this year, the Senate Human Resources Committee, which I chair, passed a resolution denouncing child pornography and urging the Senate Judiciary Committee, which has jurisdiction over this matter to hold hearings into the problem. S. 1585 is the final product of extensive hearings that the Judiciary Committee held on the sexual abuse and exploitation of our children.

At the present time there is no Federal statute which prohibits the use of children in the production of materials that depict explicit sexual conduct. The bill which Senators MATHIAS and CULVER bring before us will assist us to grapple with this horrendous practice and redress the problem in a manner which will curb child pornography and yet avoid violation of the Constitution.

Hearings held by both the Senate and House Judiciary Committees demonstrated that child pornography is a highly organized, multimillion-dollar industry operating on a nationwide scale. Strong evidence collected in those hearings showed that the use of children as the subjects of pornographic materials is not only extremely harmful to the children but attacks the very fabric of our society. We cannot allow these peddlers to continue to exploit our children for their own personal gain.

Briefly, here are some of the important provisions of the bill. This bill will make it a Federal crime to use any child under the age of 16 in sexually explicit conduct for the purposes of pornography. It will also impose stiff penalties of 2 to 15 years in prison and accompanying fines of $10,000 to $15,000. Another key feature of S. 1585 will expand the protections instituted in the Mann Act to protect young males through the prohibition of interstate trafficking of boy prostitutes. The problem of young males, particularly runaways, being lured into male prostitution appears to be closely related to the problem of child pornography.

I am hopeful that the provisions incorporated in this legislation will significantly enhance the ability of the Federal Government to combat these despicable forms of child abuse: The use of children in pornographic materials and juvenile prostitution.

We must now mount an effective national campaign against this kind of sexual abuse and join in repudiating these practices. I believe this bill reported from the Senate Judiciary Committee both deals with these problems and avoids the critical constitutional problems which might arise under the first amendment. I urge my colleagues to support this bill.

Mr. MORGAN. Mr. President, during this past year or so Americans have become increasingly aware of a problem which is so shocking, I think, that a great many people find it difficult to comprehend. That is the problem of the abuse of children in the production of pornographic films, magazines, and other materials. Reliable evidence indicates that children as young as three and four or five are routinely involved in this sickening kind of enterprise. Many of these young children are involved in such activity by their parents, many of whom are prostitutes or drug addicts or both. Violent physical abuse often accompanies the emotional and sexual abuse which is intrinsic to this kind of pornography. Many slightly older children, age 12 or 13, or 14, who become involved in pornographic films, are runaways from broken homes or homes where physical abuse is a way of life.

So the problem of child pornography, therefore, is part of a greater problem—the breakdown of family, and the decline of societal mores. I think we have to give very serious attention to the overall problem of the quality of American life, and the ability of the American family to maintain high standards of decency in a society which increasingly tolerates an alarming amount of violence on our television programs and the blatant sale of pornographic materials and showing of films in our towns.

But we also have to target in on the specific components of this overall problem. In this case, I think the Congress has to go after those individuals who would profit from the sexual exploitation of young children. I commend the distinguished Senator from Delaware, Mr. ROTH, for his diligent efforts over the past year or so in bringing this shocking problem to the attention of the Senate and of the Nation. I also commend the distinguished sponsors of S. 1585, Senators CULVER and MATHIAS, in their capacities as chairman and ranking minority member of the Judiciary Subcommittee on Juvenile Delinquency. They have performed a very valuable service in bringing to the Senate very quickly a responsible bill which targets in on the producers of child pornography, and makes the production of such materials a crime.

But I agree with Senator ROTH that we need to take this process one step further. I think we also need to make illegal the knowing and willful distribution of the same kinds of films and materials which S. 1583 explicitly describes. I think we have to tackle this problem at each step of the process. I fail to see why those who would profit from the distribution and sale of pornography using children are any less a part of the problem than those who would profit from the production of these materials. I am not persuaded that our Federal Constitution, in all its majesty and wisdom, does now or was ever intended to protect under the freedom of speech provisions of that document, the distribution of obscene materials involving very young children in sexually explicit acts.

The amendment offered by the distinguished Senator from Delaware is carefully drafted. Its definitions and its penalties are the same as those of the bill. It contains, furthermore, a severability clause, which, should the Supreme Court agree with the opponents of this amendment and strike down its provisions, insures that the rest of the bill would not be jeopardized.

But I am not persuaded that is going to happen. I believe that in passing the bill before us today with the amendment offered by Senator ROTH, the Senate will have acted responsibly and constitutionally in dealing with a shameful and scandalous situation. The Senate of the United States will have put on notice the unprincipled and immoral entrepreneurs who would abuse young children to make a fast buck. The American people are simply not going to tolerate this kind of activity any longer.

I am honored to be a cosponsor both of the bill and of the Roth amendment, and I strongly urge support for both.

Mr. BROOKE. Mr. President, I fully support S. 1585, the Protection of Children Against Sexual Exploitation Act of 1977, as reported from the Committee on the Judiciary.

This legislation addresses one of the most serious problems facing our Nation. Indeed, citizens from the Commonwealth of Massachusetts and citizens from all across the Nation, have flooded my office with letters and phone calls protesting this abhorrent practice.

The extensive hearings and staff investigations of the Senate Judiciary Committee have confirmed what I have heard and what I have read. The committee concluded that child pornography and child prostitution have become highly organized, multimillion dollar industries that operate on a nationwide scale. The committee found that the use of children as prostitutes or as the subjects of pornographic materials is most harmful to both the children and the society as a whole. And because the existing Federal laws dealing with prostitution and pornography do not protect against the use of children in these activities, the committee recommended the enactment of new legislation.

Senate bill 1585 is an excellent bill which reflects the findings of the Senate Judiciary Committee. It has three principal provisions. First, the bill would make it a Federal offense for anyone to use children under the age of 16 in the production of pornographic materials to be mailed or otherwise transported in interstate commerce. Second, it would proscribe the intrastate transportation of persons under 18 years of age for the purpose of engaging in prostitution. And third, it would strengthen present obscenity statutes to provide much more severe penalties for the distribution and sale of obscene materials that depict sexual conduct by children.

Mr. President, it is important to acknowledge that this legislation will not by itself solve the problem of child pornography. Indeed we must address the national problems which help create the environment in which child pornography and prostitution can thrive: broken homes, alienated and runaway children, emotionally disturbed juveniles, alcohol and drug abuse among the very young, and widespread child abuse.

But the enactment of this legislation would be an important first step. And one which must be taken immediately. For the State and local law enforcement officials cannot adequately control the use of children in the production of pornographic material. What is needed is a massive and coordinated effort by Federal, State, and local law enforcement officials aimed at eradicating this form of child abuse.

Mr. President, I therefore urge my colleagues to join me in voting overwhelmingly for this vitally needed legislation.

Mr. DOLE. Mr. President, the Senate has an opportunity today to help put an end to the practice of using children in pornography. Recent public awareness of this activity has brought universal shock and indignation from every decent

American. Pornography of this type cannot be allowed to continue and now is the time for the Senate to take a major step toward stopping this indefensible practice.

The Senator from Kansas is horrified that a law is needed to prohibit child pornography. Normal decency should be sufficient to outlaw the practice. Yet, no Federal law exists specifically forbidding the distribution of obscene material using children. These children, because of the very nature of this practice, deserve special treatment and special concern from Congress. Common decency demands that the congressional response to this problem be firm and unequivocal.

CHILD PORNOGRAPHY HAS NO CONSTITUTIONAL PROTECTION

One point must be made clear. The first amendment offers no shelter to those who produce, distribute or sell child pornography. There is no "redeeming social value" in destroying the lives of defenseless children for pecuniary gain. The "community standards" of every American city and neighborhood are violated by pictures and films of children as young as three or four being unwittingly used.

A special need exists to extend the sanctions of this bill to those who sell and distribute "kiddie porn." Tracking down those producing the books and films is extremely difficult and sometimes impossible. Pornographers, especially anyone demented enough to produce kidporn, make every effort to remain anonymous and transient.

Police raids on porn shops can only temporarily remove this smut from the shelves. It quickly reappears when the distributor makes his next visit to the store. Child pornography is a three-headed monster with producers, distributors, sellers, all part of the same animal. Cutting off one head without harming the others is useless. If a market exists, the distributors will always find someone to supply the garbage needed. Only if all three branches are pruned simultaneously will this noxious weed be destroyed.

WORST EFFECT IS ON THE CHILDREN

In this bill, Congress has an opportunity to protect our children from irreparable damage. These children cannot protect themselves without our help and this help is needed now. The congressional committees involved have received testimony that thousands of young girls and boys can be counted among the victims of this national scandal.

It does not require a vivid imagination to understand the severe psychological traumatization of these innocent children. Sexual abuse at an early age indisputably causes sexual dysfunctions when these children grow up. One study showed that three-quarters of the prostitutes interviewed were victims of sexual abuse when children.

The social costs are large when members of our society are deprived of any opportunity to be a normal, productive individual. Each child whose life is ruined by being forced into child pornography is a child lost to our country's future.

The number of children involved in child pornography is unknown. Estimates for the Los Angeles area alone range as high as 30,000. Nationwide figures may be more than ten times that number. I only know that to the Senator from Kansas, the exploitation of even one child for profit is more than I am willing to allow. I do not harbor the delusion that passage of this bill will wipe out the kiddie porn industry. Yet, if we can spare 1 or 100 or 1,000 of these youngsters, it will be well worth our efforts.

A FIRM STAND REQUIRED

Mr. President, I ask my colleagues to take the firmest possible stand on this issue. Our clear duty is to strike effectively at the heart of the child pornography problem. As a cosponsor of this bill, I want to urge the Judiciary Committee to quickly resolve the differences between the Senate and House bills in the conference committee. A child pornography bill was first introduced in March. This is a pressing problem and final legislation should be passed this session of Congress. Senate passage today is only one step on the long path toward protecting this country's children.

Mr. McINTYRE. Mr. President, in recent months we have been horrified by stories in the press and in congressional hearings of the brutal abuse of children by child pornographers. Dr. Judianne Denson-Gerber, who has led national efforts to prevent child abuse and neglect, has stated the nature of the evil very well: that the children involved are destroyed by their experiences, spiritually and emotionally.

In the course of public hearings on this subject, it became clear that not only is the problem much more widespread than previously believed, but that both Federal and State law are not adequate to combat it.

I am pleased that the State of New Hampshire is one of those States which has responded swiftly to this issue by passing a tough new law.

But it is vital that efforts against these vicious practices proceed on the Federal level as well, given the widespread use of the mail and other conduits of interstate commerce to distribute these pornographic materials. And as a cosponsor of S. 1585, I am pleased that the Judiciary Committee has acted quickly and responsibly to bring this bill before us today.

This bill attacks the problem in several ways: First, it makes it a Federal offense to use children under the age of 16 in the production of pornographic materials. To date, Federal law has concentrated on the sale and distribution of such materials through interstate and foreign commerce. This bill would close that gap.

Second, the bill attacks the problem of juvenile prostitution by prohibiting the transportation of children under the age of 18 for the purposes of engaging in prostitution. Existing Federal law prohibits transportation of females, but not males.

Finally, the bill greatly increases the penalties for existing laws prohibiting the mailing, importation, and transportation for sale or distribution of pornographic materials.

Mr. President, the issue is clear cut and the need is overwhelmingly documented. Immediate action to give Federal law enforcement officials more effective tools against this unspeakable trade is mandatory. I am proud to be a cosponsor of this measure, and urge its swift enactment.

Mr. DeCONCINI. Mr. President, this legislation provides the needed tools to combat the spreading practice of sexual abuse of children in the pornography industry. As a member of the Senate Judiciary Committee, I have become sadly familiar with the evidence indicating that these practices are spreading. Child pornography is such an abhorrent practice that it is difficult to rationally and objectively formulate legislation that will meet constitutional standards and at the same time effectively combat the practice. I believe the legislation must emphasize society's opprobrium within constitutional bounds.

Therefore, I am pleased that the Judiciary. Committee has agreed to my amendment providing for mandatory minimum sentences of 2 years and 5 years for first and subsequent convictions for production of child pornography, and for mandatory minimum sentences of 1 year and 2 years for first and subsequent convictions for distribution of child pornography. Those mandatory sentences will strongly demonstrate to those involved in the child pornography industry the stern view society takes of their conduct, yet the sentences are not so disproportionate to the conduct as to be Draconian. Whatever view one takes of adult pornography, no one can disagree that the use of children in commercial sex strikes at two of the roots of society; we must be able to protect our children's physical well-being, and we must be able to protect our abiilty to foster in them healthy attitudes toward sexuality. Child pornography damages our children's bodies and minds. Therefore, I believe this mandatory imprisonment is justified and I urge swift passage of this legislation.

Mr. BENTSEN. Mr. President, I rise in support of a bill I cosponsor, S. 1585, which will combat several forms of child abuse that are taking an increasing toll on America's young people and our society as a whole.

Shocking cases have come to light recently that demonstrate widespread abuse of children in the making of pornographic material, and in child prostitution. Hearings by the Subcommittee to Investigate Juvenile Delinquency have demonstrated that this is a national problem that must command our immediate attention. Child pornography and child prostitution have become highly organized multimillion-dollar industries. The result is serious harm to thousands of young people, and the spread of a degrading activity that should not exist in a civilized society.

One researcher, Robin Lloyd, author of "For Money or Love: Boy Prostitutes in America," has documented over 260 different magazines that depict children engaging in explicit sexual conduct. They bear names such as "Torrid Tots," "Night Boys," and "Children Love." They depict children, some as young as 3 to 5 years of age, engaging in various forms of sexual conduct with young people their own age and with adults.

It is not necessary for me to detail the conduct depicted. Let it suffice to say that it is revolting and shocking, so utterly tasteless that words do not easily describe it. It is saddening to think that some human beings will abuse others in this way.

Mr. President, great profits have been made from this kind of activity. Magazines that can be produced for 50 cents may sell for over $12. One witness testified that undercover officers of the Chicago Police Department infiltrated a group that was using two 14-year-old boys to make a pornographic film for national distribution. The cost of producing this film was $21 per copy and the retail selling price was said to be $100. At the time of their arrest the producers of the film stated that they might be able to sell as many as 10,000 copies of this film over a 6-month period.

The true dimensions of this tragedy can only be understood when we look at the young people who are shamefully exploited. We are talking about thousands of runaways, troubled but rarely criminals, who come to the city with little money, few friendships and no direction. The Los Angeles Police Department recently conducted a study of boy victims which found that they are usually between the ages of 8 and 17 years old; with no record of previous delinquency; with no previous homosexual experience. These are vulnerable people, often with insufficient parental care, often homeless, frightened, and in their own way trying to make a stand. They are preyed upon at the very time that they need compassion, guidance, and love. Equally tragic is the fact that so many of these people, hardened and warped by the experience, become child molesters themselves when they are older.

Mr. President, the people who perpetrate this crime should be put on notice. This kind of activity must stop. Those who commit this form of child abuse must be severely punished. S. 1585 will assist in the successful prosecution of these cases. It will establish a Federal statute to prohibit the use of children in the production of materials that depict explicit sexual conduct. It will prohibit interstate trafficking in child prostitutes. It will provide tougher sentences for those found guilty. For those convicted of producing, mailing, or transporting obscene materials involving children there will be mandatory minimum sentences. For all of the related offenses there will be tough maximum sentences.

This bill will help combat child abuse and will see to it that the abusers are punished severely. It is supported by people representing the entire ideological spectrum. Mr. President, the fabric of our society is characterized by a common thread of decency and compassion. When conduct falls below this standard we will work together to end the abuse. This is the goal of S. 1585. I wish to commend the work of my colleagues Senators MATHIAS, CULVER, and ROTH for their interest in this important matter. The bill voted out of the Judiciary Committee meets the important tests of policy and constitutionality, and I urge the Senate to give it prompt and favorable consideration.

Mr. CULVER. Mr. President, at several points in the debate on the previous amendment, Senators expressed their disgust and abhorrence over child pornography and child prostition. I would like the RECORD to reflect that it is the intent of the Senate today, to pass the strongest possible bill to prohibit such abuse of children. I know that was the intent of Senator ROTH and his distinguished colleagues in voting for an amendment that they felt would strengthen the bill. Moreover, my sole reason for resisting that amendment was the sincere belief that the bill would be stronger without it.

I regret that the Senate saw fit to accept the amendment and only hope that if in the future the courts nullify the amendment on constitutional grounds, the remaining provisions of this bill will be left uneffected under the severability clause. In any event the Senate has spoken and I now urge my colleagues to proceed to the consideration of the entire bill. S. 1585 is a strong bill that makes it abundantly clear that the Congress demands that this outrageous perversion of our children come to an end. Under the bill, the use of any child under the age of 16 to produce child pornography that is intended to move in interstate commerce will be a Federal crime punishable by fines of up to $10,000 or imprisonment for up to 10 years or both, for the first offense, and fines of up to $15,000 and imprisonment of up to 15 years, or both, for any subsequent offense. It also provides equally stiff penalties for anyone who sells or distributes obscene materials that depict children engaged in sexually explicit conduct. Finally, it prohibits the use of children for the purposes of prostitution and live sex shows if such activities are conducted in some form of interstate commerce.

In short, Mr. President, S. 1585 gives Federal officials the weapons they need to stop child pornography and child prostitution and a clear signal that the people and the Congress of the United States want them to use these weapons. I am hopeful that the bill will be effective in helping to prevent this abuse of children and, therefore, I urge every Senator to support the bill.

Mr. President, I ask for the yeas and nays on passage.

The ACTING PRESIDENT pro tempore. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The ACTING PRESIDENT pro tempore. The bill is open to further amendment. If there be no further amendment, the question is on agreeing to the committee amendment as amended.

The committee amendment, as amended, was agreed to.

The ACTING PRESIDENT pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The ACTING PRESIDENT pro tempore. The bill having been read the third time, the question is, Shall the bill pass? The yeas and nays having been previously ordered, the clerk will call the roll.

Mr. THURMOND. Mr. President, if there is no objection, someone wanted a 10-minute rollcall. Unless there is an objection, I ask unanimous consent that it be limited to 10 minutes.

Mr. SCHMITT. Mr. President, I object.

The ACTING PRESIDENT pro tempore. The objection is heard.

Mr. THURMOND. Mr. President, I yield back my time on the bill.

Mr. CULVER. I yield back my time.

The ACTING PRESIDENT pro tempore. All time has been yielded back. The question is, Shall the bill pass? The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Mississippi (Mr. EASTLAND), the Senator from Kentucky (Mr. FORD), the Senator from Colorado (Mr. HASKELL), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Vermont (Mr. LEAHY), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Montana (Mr. METCALF), the Senator from New York (Mr. MOYNIHAN), and the Senator from New Jersey (Mr. WILLIAMS) are necessarily absent.

I further announce that the Senator from Hawaii (Mr. INOUYE) is absent on official business.

I further announce that, if present and voting, the Senator from New York (Mr. MOYNIHAN), the Senator from Minnesota (Mr. HUMPHREY), and the Senator from Arkansas (Mr. MCCLELLAN) would each vote "yea."

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Pennsylvania (Mr. HEINZ), and the Senator from New York (Mr. JAVITS) are necessarily absent.

I further announce that, if present and voting, the Senator from Tennessee (Mr. BAKER), and the Senator from Pennsylvania (Mr. HEINZ) would each vote "yea."

The result was announced—yeas 85, nays 1, as follows:

[Rollcall Vote No. 553 Leg.]

YEAS—85

Allen	Danforth	Laxalt
Anderson	DeConcini	Long
Bartlett	Dole	Lugar
Bayh	Domenici	Magnuson
Bellmon	Durkin	Mathias
Bentsen	Eagleton	Matsunaga
Biden	Garn	McClure
Brooke	Glenn	McGovern
Bumpers	Goldwater	McIntyre
Burdick	Gravel	Melcher
Byrd, Harry F., Jr.	Griffin	Metzenbaum
	Hansen	Morgan
Byrd, Robert C.	Hart	Muskie
Cannon	Hatch	Nelson
Case	Hatfield	Nunn
Chafee	Hathaway	Packwood
Chiles	Hayakawa	Pearson
Church	Helms	Pell
Clark	Hollings	Percy
Cranston	Jackson	Proxmire
Culver	Johnston	Randolph
Curtis	Kennedy	Ribicoff

Riegle	Sparkman	Thurmond
Roth	Stafford	Tower
Sarbanes	Stennis	Wallop
Sasser	Stevens	Weicker
Schmitt	Stevenson	Young
Schweiker	Stone	Zorinsky
Scott	Talmadge	

NAYS—1

Abourezk

NOT VOTING—14

Baker	Huddleston	McClellan
Eastland	Humphrey	Metcalf
Ford	Inouye	Moynihan
Haskell	Javits	Williams
Heinz	Leahy	

So the bill (S. 1585), as amended, was passed, as follows:

S. 1585

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Protection of Children Against Sexual Exploitation Act of 1977".

SEC. 2. (a) The Congress finds that—

(1) the use of children as subjects in the production of pornographic materials as subjects in live performances exhibiting sexually explicit conduct or for the purpose of prostitution is very harmful to both the children and to society as a whole;

(2) the production and sale of such pornographic materials represent many millions of dollars in annual revenue and that the sale and distribution of such materials are carried on to a substantial extent through interstate and foreign commerce and through the means and instrumentalities of such commerce; and

(3) existing Federal laws do not protect against the use of children in the production of pornographic materials, the use of children in live performances exhibiting sexually explicit conduct, or the interstate transportation of children for the purpose of engaging in prostitution or sexually explicit conduct and that specific legislation in this area is both advisable and needed.

(b) The Congress determines that the provisions of chapter 110 of title 18, United States Code, are necessary and proper for the purpose of carrying out the powers of Congress to regulate commerce and to establish uniform and effective laws on the subject of sexual exploitation of children.

SEC. 3. (a) Title 18, United States Code, is amended by adding immediately after chapter 109 the following:

"CHAPTER 110—SEXUAL EXPLOITATION OF CHILDREN

"Sec.

"2251. Sexual exploitation of children.

"2252. Transportation, sale, or distribution for sale of material depicting sexual exploitation of a minor.

"§ 2251. Sexual exploitation of children

"(a) It shall be unlawful for any person knowingly to employ, use, persuade, induce, entice, or coerce any minor to engage in, or to have a minor assist any other person to engage in, any sexually explicit conduct for the purpose of promoting any film, photograph, negative, slide, book, magazine, or other print or visual medium, if such person knows or has reason to know that such film, photograph, negative, slide, book, magazine, or other print or visual medium will be mailed or otherwise transported in interstate or foreign commerce.

"(b) It shall be unlawful for any person knowingly to employ, use, persuade, induce, entice or coerce any minor to engage in or to have a minor assist any other person to engage in, sexually explicit conduct, in a live performance, if such person knows or has reason to know that a facility of interstate or foreign commerce will be used to promote such live performance.

"(c) It shall be unlawful for any parent, legal guardian, or person having custody or control of a minor to knowingly permit such minor to engage in, or to assist any other person to engage in, sexeually eplicit conduct for the purpose of promoting any film, photograph, negative, slide, book, magazine, or other print or visual medium, if such parent, legal guardian, or person knows or has reason to know that such film, photograph, negative, slide, book, magazine, or other print or visual medium will be mailed or otherwise transported in interstate or foreign commerce.

"(d) It shall be unlawful for any parent, legal guardian, or person having custody or control of a minor knowingly to permit such minor to engage in, or to have a minor assist any other person to engage in sexually explicit conduct, in a live performance, if such parent, legal guardian, or person knows or has reason to know that a facility of interstate or foreign commerce will be used to promote such live performance.

"(e) For the purposes of this section, the term—

"(1) 'minor' means any person under the age of sixteen years;

"(2) 'sexually explicit conduct' means actual or simulated—

"(A) sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral-anal, whether between persons of the same or opposite sex;

"(B) bestiality;

"(C) masturbation;

"(D) sado-masochistic abuse (for the purpose of sexual stimulation; and

"(E) lewd exhibition of the genitals or pubic area of any person; and

"(3) 'promoting' means producing, directing, manufacturing, issuing, publishing, or advertising for pecuniary profit.

"(f) Any person who violates this section shall be fined not more than $10,000, or imprisoned not less than two years nor more than ten years, or both, for the first offense, or fined not more than $15,000, or imprisoned for not less than five years nor more than fifteen years, or both, for each such offense thereafter.

"§ 2252. Transportation, sale, or distribution for sale of material depicting sexual exploitation of a minor

"(a) No person may—

"(1) knowingly transport, ship, or mail in interstate or foreign commerce for the purpose of sale or distribution for sale any film, photograph, negative, slide, book, magazine, or other print or visual medium depicting a minor engaged in sexually explicit conduct; or

"(2) knowingly receive for the purpose of sale or distribution for sale, or knowingly sell or distribute for sale, any film, photograph, negative, slide, book, magazine, or other print or visual medium depicting a minor engaged in sexually explicit conduct which has been transported, shipped, or mailed in interstate or foreign commerce.

"(b) A person who violates this section shall be fined not more than $10,000 or imprisoned not less than one year nor more than ten years or both for the first offense, or shall be fined not more than $15,000 or imprisoned not less than two years nor more than fifteen years or both for each offense thereafter.

"(c) For the purposes of this section—

"(1) 'minor' means any person under the age of sixteen years;

"(2) 'sexually explicit conduct' means actual or simulated—

"(A) sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral-anal, whether between persons of the same or opposite sex;

"(B) bestiality;

"(C) masturbation;

"(D) sadomasochistic abuse (for the purpose of sexual stimulation); and

"(E) lewd exhibition of the genitals or pubic area of any person.".

(b) The table of chapters of part I of title 18, United States Code, is amended by inserting immediately after the item relating to chapter 109 the following:

"110. Sexual exploitation of children.. 2251".

SEC. 4. (a) Section 2423 of title 18, United States, is amended to read as follows:

"§ 2423. Coercion or enticement of minor

"(a) (1) It shall be unlawful for any person to transport, or to cause to be transported, in interstate or foreign commerce or within the District of Columbia or any territory or possession of the United States, any minor for the purpose of such minor engaging in prostitution or sexually explicit conduct (as defined in section 2251 of this title) or with intent to induce, entice, or compel such minor to engage in prostitution or sexually explicit conduct (as defined in section 2251 of this title).

"(2) For purposes of this section, the term 'minor' means any person under the age of eighteen years.

"(b) Any person who violates this section shall be fined not more than $10,000, or imprisoned not more than ten years, or both.".

(b) The table of sections of chapter 117 of title 18, United States Code, is amended by striking out in the item relating to section 2423 the word "Female".

SEC. 5. (a) Section 1461 of title 18, United States Code, is amended by inserting immediately before the period in the eighth paragraph a comma and "except that if such thing involved the use of any person under the age of sixteen years engaging in sexually explicit conduct (as defined in section 2251 of this title), the punishment shall be a fine of not more than $10,000, or imprisonment of not less than one year nor more than $15,000, or imprisonment of not less than two years nor more than fifteen years, or both, for each such offense thereafter".

(b) Section 1462 of title 18, United States Code, is amended by inserting immediately before the period a comma and "except that if any such matter or thing involved the use of any person under the age of sixteen years engaging in sexually explicit conduct (as defined in section 2251 of this title), the punishment shall be a fine of not more than $10,000 or imprisonment of not less than one year or more than ten years, or both, for the first offense, or a fine of not more than $15,000 or imprisonment of not less than two years nor more than fifteen years, or both, for each such offense thereafter".

(c) Section 1465 of title 18, United States Code, is amended by inserting immediately before the period in the first paragraph a comma and "except that if any matter described in this section involved the use of any person under the age of sixteen years engaging in sexually explicit conduct (as defined in section 2251 of this title), the punishment shall be a fine of not more than $10,000, or imprisonment of not less than one year nor more than ten years, or both, for the first offense, or a fine of not more than $15,000, or imprisonment of not less than two years nor more than fifteen years, or both, for each such offense thereafter".

SEC. 6. If any provision of this Act or the application thereof of any person or circumstances is held invalid, the remainder of the Act and the application of the provision to other persons not similarly situated to other circumstances shall not be affected thereby.

Mr. CULVER. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. GRAVEL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 914

Mr. CULVER. Mr. President, I send to the desk an amendment to the title.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Iowa (Mr. CULVER) proposes an unprinted amendment numbered 914 to the title:

"Amend the title so as to read: 'A bill to amend title 18, United States Code, to make unlawful the use of minors engaged in sexually explicit conduct for the purpose of promoting any film, photograph, negative, slide, book, magazine, or other print or visual medium, or live performance, and for other purposes.' ".

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. CULVER. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make technical and clerical corrections in the engrossment of S. 1585.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I want to take this opportunity to commend the distinguished managers of this bill, the Senator from Iowa (Mr. CULVER) and the Senator from South Carolina (Mr. THURMOND) on the passage by the Senate of S. 1585, the Protection of Children Against Sexual Exploitation Act of 1977.

It is only recently that we—as a society—have become aware of the extent of the problem of sexual abuse of children and its terrible consequences upon a completely defenseless minority of our people. Yet, in spite of the fact that the legislation that the Senate has just passed was introduced only last May, Senator CULVER, as chairman of the Juvenile Delinquency Subcommittee, was able to conduct extensive hearings on this problem and, together with Senator THURMOND, bring before the Senate a measure designed to deal with it. I think it is clear that the bill that the Senate has passed will go a long way toward eliminating an abuse that no society—but least of all our society—should tolerate.

The children of this country owe both Senator CULVER and Senator THURMOND a debt of gratitude.

EXECUTIVE SESSION

FEDERAL COMMUNICATIONS COMMISSION

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now go into executive session and, without debate, proceed to vote on the nomination of Mr. Charles D. Ferris, of Massachusetts, to be a member of the Federal Communications Commission for a term of 7 years, beginning July 1, 1977.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on each of the two remaining rollcall votes today there be a 10-minute limitation, with the warning bells to be sounded at the first 2½ minutes.

The ACTING PRESIDENT pro tempore. Is there objection? The Chair hears none, and it is so ordered.

ADDITIONAL STATEMENT SUBMITTED

Mr. HATHAWAY. Mr. President, it is with a great deal of pleasure that I rise to endorse my good friend, Charlie Ferris, for the position of Chairman of the Federal Communications Commission. Charlie served for 13 years as the chief counsel for the Senate majority. He possesses in full measure the sound judgment that is such a rare but needed quality to fulfill positions of high responsibility.

During our years in the Senate most of us here have had personal contact with Charlie. We have found him to have, not only insight and integrity, but a remarkable combination of idealism and pragmatism that shall enable him to serve well in his chairmanship of the Federal Communications Commission.

Over the years that he worked in this body, Charlie Ferris demonstrated his dedication to the highest objectives of public service. He has been intimately involved in many of the most important issues and decisions in the recent history of our Nation.

I know I speak for my colleagues when I say that Charlie Ferris will bring to his leadership of the FCC the same friendly personality, good sense, and devotion to hard work that made him a trusted and valued friend in the Senate. I strongly endorse his nomination and wish Charlie the best of success in his new duties. I look forward to working with him in the years ahead.

The ACTING PRESIDENT pro tempore. The question is, Will the Senate advise and consent to the nomination of Mr. Charles D. Ferris? On this question the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Mississippi (Mr. EASTLAND), the Senator from Kentucky (Mr. FORD), the Senator from Colorado (Mr. HASKELL), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Vermont (Mr. LEAHY), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Montana (Mr. METCALF), the Senator from New York (Mr. MOYNIHAN), and the Senator from New Jersey (Mr. WILLIAMS) are necessarily absent.

I further announce that the Senator from Hawaii (Mr. INOUYE) is absent on official business.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) would vote "yea."

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Arizona (Mr. GOLDWATER), the Senator from Pennsylvania (Mr. HEINZ), and the Senator from New York (Mr. JAVITS) are necessarily absent.

The result was announced—yeas 85, nays 0, as follows:

[Rollcall Vote No. 554 Ex.]

YEAS—85

Abourezk	Garn	Nunn
Allen	Glenn	Packwood
Anderson	Gravel	Pearson
Bartlett	Griffin	Pell
Bayh	Hansen	Percy
Bellmon	Hart	Proxmire
Bentsen	Hatch	Randolph
Biden	Hatfield	Ribicoff
Brooke	Hathaway	Riegle
Bumpers	Hayakawa	Roth
Burdick	Helms	Sarbanes
Byrd, Harry F., Jr.	Hollings	Sasser
Byrd, Robert C.	Jackson	Schmitt
Cannon	Johnston	Schweiker
Case	Kennedy	Scott
Chafee	Laxalt	Sparkman
Chiles	Long	Stafford
Church	Lugar	Stennis
Clark	Magnuson	Stevens
Cranston	Mathias	Stevenson
Culver	Matsunaga	Stone
Curtis	McClure	Talmadge
Danforth	McGovern	Thurmond
DeConcini	McIntyre	Tower
Dole	Melcher	Wallop
Domenici	Metzenbaum	Weicker
Durkin	Morgan	Young
Eagleton	Muskie	Zorinsky
	Nelson	

NAYS—0

NOT VOTING—15

Baker	Heinz	Leahy
Eastland	Huddleston	McClellan
Ford	Humphrey	Metcalf
Goldwater	Inouye	Moynihan
Haskell	Javits	Williams

So the nomination was confirmed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the nomination was confirmed.

Mr. HATHAWAY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NATIONAL TRANSPORTATION SAFETY BOARD

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate, with 20 minutes equally divided allowed for debate, will proceed to vote on the nomination of Mr. James B. King to be a member of the National Transportation Safety Board for the term expiring December 31, 1981.

Who yields time?

Mr. SCHMITT. Mr. President, I yield myself 5 minutes.

The ACTING PRESIDENT pro tempore. The Senator from New Mexico is recognized for 5 minutes.

Mr. SCHMITT. Mr. President, I will not keep my colleagues very long.

Mr. PERCY. Mr. President, may we have order, please.

The ACTING PRESIDENT pro tempore. The Senate will be in order. Senators will cease their conversations on the floor. The Senate will please come to order.

The Senator from New Mexico.

Mr. SCHMITT. Mr. President, it is my intention to vote against the confirmation of Mr. James B. King's nomination to be a member of the National Transportation Safety Board. I shall do so not out of the belief that Mr. King is unqualified to hold any Federal post but because he is unqualified to serve in this particularly position.

In the way of background, my colleagues might be interested to learn that

on May 18 of this year the chairman and ranking minority member of the Commerce Committee signed a joint letter to the President endorsing his campaign pledge to make appointments "on a strict basis of merit." That letter went on to state the six basic criteria by which the Commerce Committee judges individuals when its advice and comment is required. These are:

(1) By reason of background, training or experience, affirmatively qualify for the office to which he or she is nominated;

(2) Display a temperament and ability for impartial decision-making;

(3) Demonstrate a commitment to, and familiarity with the laws he or she will administer;

(4) Possess the character, reputation, and integrity vital in assuring public trust and confidence;

(5) Exhibit a talent for leadership and executive management required to make these agencies function effectively and in response to the public interest; and

(6) Meet the statutory qualifications to hold the office to which he or she is nominated.

Mr. President, I ask unanimous consent that a copy of that letter be inserted in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE, COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION,
Washington, D.C., May 18, 1977.

The PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: During your recent campaign you pledged that your appointments would be made "on a strict basis of merit." You further indicated that stringent ethical standards would be applied to individuals asked to serve in your Administration.

This Committee fully endorses those concepts and applauds your commitment to nominate only those individuals who meet these laudable criteria.

With respect to Presidential nominations, this Committee has an established record of approving only those nominees who will meet and promote the public interest mandates of their designated agencies. Our Committee will continue to apply the following standards in exercising our advice and consent duties during review of nominees. Individuals appointed must:

(1) by reason of background, training or experience, affirmatively qualify for the office to which he or she is nominated;

(2) Display a temperament and ability for impartial decision-making;

(3) Demonstrate a commitment to, and familiarity with the laws he or she will administer;

(4) Possess the character, reputation, and integrity vital in assuring public trust and confidence;

(5) Exhibit a talent for leadership and executive management required to make these agencies function effectively and in response to the public interest; and

(6) Meet the statutory qualifications to hold the office to which he or she is nominated.

Further, in considering a regulatory appointment to a collegial body, this Committee shall consider the existing composition of that body and whether or not members of a single sector or group in society are too heavily represented.

In an effort to standardize the nomination process to any executive or regulatory office subject to our jurisdiction, this Committee has and will continue to request detailed information concerning financial interests and possible conflicts of interest.

Additionally, we would like to request of the Administration a copy of FBI summaries required by the White House on all Presidential appointments referred to this Committee. Dissemination of this information will be strictly limited with a view towards total confidentiality and preservation of the nominee's right to privacy.

In cooperating to assure the selection of distinguished and highly qualified persons to Federal agencies, the President and the Senate must fulfill their mutual responsibility to the American people to provide good and effective government. Excellence, not mediocrity, must be the standard in selecting men and women to fill these key posts. This Committee stands ready to assist in any way possible.

Sincerely,

WARREN G. MAGNUSON,
Chairman.

JAMES B. PEARSON,
Ranking Minority Member.

Mr. SCHMITT. Now I participated extensively in Mr. King's confirmation hearings. On the basis of my questions and his answers, I concluded that although Mr. King appears to be a fine, articulate, candid individual, he does not, by his own testimony, on balance, meet the basic criteria by which the Commerce Committee wishes to evaluate these nominations.

First, Mr. King has little in the way of background, training, or experience which would affirmatively qualify him for this office. He is not a pilot, and by his own admission his association with airplanes, trains, ships, and pipelines has been "very little." Furthermore, he has never been involved formally in an actual accident investigation or in monitoring such an investigation.

Second, Mr. King has not, as yet, demonstrated a commitment to, and familiarity with the laws he would administer. At the time of his hearings Mr. King stated that he had not been over to the Board nor had he taken steps to inform himself of some of the Board's programs. Also, he had not read some of the material available to him nor had he spoken to many of the technical people at the Board regarding their concerns.

Third, the committee requires that a nominee "Exhibit a talent for leadership and executive management required to make these agencies function effectively and in response to public interests." I explored this point with Mr. King rather extensively. While he has supervised some individuals in his capacity as a Senate staffer, and in the White House Personnel Office, he has never had a close working relationship, in a managerial role, with technically trained individuals or investigators.

In summary, Mr. President, Mr. King's appointment appears to be a political appointment rather than an appointment which has the best interests of transportation safety in mind.

For these reasons and for reasons of my own long association with aircraft and other hazardous elements of transportation and the knowledge that my colleagues in those fields would appreciate very much having a technically qualified and managerially qualified individul in the office for which Mr. King is nominated, I have decided to vote against this nomination.

If the Senate agrees with me and rejects Mr. King for this particular nomination, I would hope that the administration would seek to make use of his obvious talents for public relations in an area for which he more qualified.

Thank you, Mr. President.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. CANNON. Mr. President, I yield myself 2 minutes.

The ACTING PRESIDENT pro tempore. The Senator from Nevada is recognized for 2 minutes.

Mr. CANNON. Mr. President, I am concerned about the fact that we should have qualified people on the National Transportation Safety Board. As a matter of fact, I led the fight to get the law in such condition that they would have to appoint people who had experience in that area. As a result, when we went to conference with the House of Representatives we were not able to get the Senate's position agreed to.

So the law does not now require that all members of the Board have expertise in the field of transportation safety.

We have seen in the past what type of a situation occurs. We had a chairman of the board who had absolutely no experience in that field who came as a political appointee from the other side of the aisle, I might add, and was a former Governor.

Mr. President, the Senator would impose on this nominee requirements over and above those that the law imposes on him.

I submit we have held the hearings on it. This man was not my choice. I have no concern one way or the other about him. I never met him until after he was nominated to this position. But he does come with some very good credentials. He has support of number of people who know him well. He has the support of Senator KENNEDY, for whom he worked for quite a period of time. I submit that we should not on the floor of the Senate here legislate requirements in a case like this over and above those that are presently written into the law.

I hope the nominee will be approved.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. ROBERT C. BYRD. I yield time to the Senator from Washington.

Mr. CANNON. I yield 1 minute.

The ACTING PRESIDENT pro tempore. The Senator from Washington is recognized for 1 minute.

Mr. MAGNUSON. Mr. President, I associate myself with the remarks of the Senator from Nevada.

Mr. SCHMITT. Could we have order, please?

Mr. MAGNUSON. We took a long look at this nominee.

The ACTING PRESIDENT pro tempore. The Senator will cease.

The Senate will be in order. Senators will cease conversation on the floor.

The Senator from Washington.

Mr. MAGNUSON. We took a long look at this nominee, and I appreciate, also,

the concern of the Senator from New Mexico that if it were possible to get people who were very expertise in all these things we might look askance and not find anyone. But Mr. King is a man of great intelligence and terrific integrity. We looked at all his reports, FBI and otherwise, and I associate myself with the remarks of the Senator from Nevada that I think he will end up being a good member of this board.

I hope the Senate will confirm him.

SEVERAL SENATORS. Vote!

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. CANNON. I yield back the remainder of my time.

The ACTING PRESIDENT pro tempore. Does the Sentor seek time?

Mr. SCHMITT. Mr. President, 1 minute only.

The ACTING PRESIDENT pro tempore. The Senator from New Mexico.

Mr. SCHMITT. Mr. President, I agree with the remarks of the distinguished chairman of the Commerce Committee about the character of Mr. King. I have not in any way meant to impugn that character. I think he is a fine young man.

I think there are many areas in which he could serve this country, and I am sure he will serve this country well.

My only objection is that, by the committee's own criteria and by the standard of excellence that this committee has set in the past for nominees, Mr. King is just not qualified for the particular job to which he has been nominated.

I yield back the remainder of my time.

SEVERAL SENATORS. Vote!

The ACTING PRESIDENT pro tempore. Is all time yielded back?

Mr. CANNON. I yield back the remainder of my time.

The ACTING PRESIDENT pro tempore. All time is yielded back.

Mr. ROBERT C. BYRD. Mr. President, this is the last rollcall vote today.

The ACTING PRESIDENT pro tempore. The question is, Will the Senate advise and consent to the nomination of James B. King, of Massachusetts, to be a member of the National Transportation Safety Board? On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senators from Mississippi (Mr. STENNIS and Mr. EASTLAND), the Senator from Kentucky (Mr. FORD), the Senator from Colorado (Mr. HASKELL), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Vermont (Mr. LEAHY), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Montana (Mr. METCALF), the Senator from New York (Mr. MOYNIHAN), and the Senator from New Jersey (Mr. WILLIAMS) are necessarily absent.

I further announce that the Senator from Hawaii (Mr. INOUYE) is absent on official business.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) would vote "yea."

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Arizona (Mr. GOLDWATER), the Senator from Pennsylvania (Mr. HEINZ), and the Senator from New York (Mr. JAVITS) are necessarily absent.

The result was announced—yeas 72, nays 12, as follows:

[Rollcall Vote No. 555 Ex.]

YEAS—72

Abourezk	Durkin	Nelson
Allen	Eagleton	Nunn
Anderson	Glenn	Packwood
Bartlett	Gravel	Pearson
Bayh	Griffin	Pell
Bellmon	Hansen	Percy
Bentsen	Hart	Randolph
Biden	Hatfield	Ribicoff
Brooke	Hathaway	Riegle
Bumpers	Hayakawa	Roth
Burdick	Hollings	Sarbanes
Byrd, Harry F., Jr.	Jackson	Sasser
Byrd, Robert C.	Johnston	Schweiker
Cannon	Kennedy	Sparkman
Case	Laxalt	Stafford
Chiles	Long	Stevens
Church	Magnuson	Stevenson
Clark	Mathias	Stone
Cranston	Matsunaga	Talmadge
Culver	McGovern	Wallop
Danforth	McIntyre	Weicker
DeConcini	Melcher	Young
Dole	Metzenbaum	Zorinsky
Domenici	Morgan	
	Muskie	

NAYS—12

Chafee	Helms	Schmitt
Curtis	Lugar	Scott
Garn	McClure	Thurmond
Hatch	Proxmire	Tower

NOT VOTING—16

Baker	Huddleston	Metcalf
Eastland	Humphrey	Moynihan
Ford	Inouye	Stennis
Goldwater	Javits	Williams
Haskell	Leahy	
Heinz	McClellan	

So the nomination was confirmed.

Mr. CRANSTON. Mr. President, I move to reconsider the vote by which the nomination was confirmed.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CRANTON. Mr. President, as in executive session, I ask unanimous consent that the President be notified of the confirmation of the nominations.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

LEGISLATIVE SESSION—THE LEGAL SERVICES CORPORATION ACT AMENDMENTS OF 1977

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now return to legislative session and resume the consideration of S. 1303. Who yields time?

BUDGET ACT WAIVER

Mr. CRANSTON. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of S. Res. 283.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. STEVENS. There is no objection.

The ACTING PRESIDENT pro tempore. The resolution will be stated by title.

The legislative clerk read as follows:

A resolution (S. Res. 283) waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 2108.

Mr. CRANSTON. Mr. President, on September 30, the authorization for appropriations for the Indochina refugee assistance program (Public Law 94–23, as amended by Public Law 94–141) expired. Under this program, HEW has been providing 100 percent Federal financial assistance to States and local governments for cash assistance programs for refugees, for health and educational services, and special training for employment.

Since the first of the month, HEW has been continuing the refugee assistance program on a limited basis. Only essential cash assistance to needy refugees is being continued. Other program efforts to assist refugees in assimilating are being suspended pending action by Congress to renew the authorization and to approve additional support.

The Human Resources Committee on September 30 ordered reported favorably, S. 2108, the Indochina Migration and Refugee Assistance Act of 1977, with an amendment in the nature of a substitute. The committee bill calls for a 4-year extension of the program with Federal participation being phased out in equal steps during the life of the program.

The Budget Committee has approved a waiver of section 402 of the Congressional Budget Act. Senate Resolution 283 approves consideration of additional budget authority of $125.1 million in fiscal year 1978. Total spending for 4 years will be about $300 million.

Mr. President, when the Senate approves this resolution I will ask that the Senate consider H.R. 7769. This is the Indochina Refugee Adjustment of Status Act of 1977. Thereupon, my distinguished colleague, the Senator from Massachusetts (Mr. KENNEDY), will call up our amendment No. 1419 to H.R. 7769 and ask for its immediate consideration. Title II of our amendment, as is identical with S. 2108 as reported from the Committee on Human Resources.

With that explanation, I ask that the Senate approve the resolution.

The resolution was considered and agreed to, as follows:

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of S. 2108. Such waiver is necessary because, with the commencement of fiscal year 1978 on October 1, 1977, funds are not currently available to reimburse States for welfare assistance to nineteen thousand refugees from Vietnam totally dependent upon public assistance. Without the funds authorized by S. 2108, the refugees assisted by this program would become an unfair burden on local governments which have advanced the costs of their support. The legislation authorizes reimbursement of 100 per centum of such costs in fiscal year 1978, an estimated $118,000,000, partially offset by any Federal welfare and supplemental social security benefit assistance thereby saved. The legislation also authorizes special assistance funding, which in fiscal year 1977 totaled $7,000,000, and in fiscal year 1978 should be approximately the same. Provision is made for a phased reduction of general support

assistance to 60 per centum of such costs in fiscal year 1979, and 30 per centum of such costs in fiscal year 1980, before phasing out. Compliance with section 402(a) of the Congressional Budget Act of 1974 was not possible by May 15, 1977, because the recommendations of the Administration with respect to this program were not made available until September 9, 1977.

INDOCHINA REFUGEE ADJUSTMENT STATUS ACT

Mr. CRANSTON. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 7769.

The ACTING PRESIDENT pro tempore (Mr. MATSUNAGA) laid before the Senate H.R. 7769, an act to authorize the creation of a record of admission for permanent residence in the cases of certain refugees from Vietnam, Laos, or Cambodia.

The ACTING PRESIDENT pro tempore. Without objection, the bill will be considered as having been read the second time, and the Senate will proceed to its immediate consideration.

Mr. CRANSTON. Mr. President, I yield to the Senator from Massachusetts.

The ACTING PRESIDENT pro tempore. The Senator from Massachusetts is recognized.

AMENDMENT NO. 1419

(Purpose: To adjust the status of Indochina refugees and to extend the Indochina Migration and Refugee Assistance Act of 1975.)

Mr. KENNEDY. Mr. President, I am delighted to join with my colleague from California in urging the Senate to expedite this legislation.

As the Senator from California quite clearly pointed out, this legislation will help assist local communities and States to meet their responsibilities to the Indochina refugees—those communities and States which have joined in our national effort to help resettle the refugees.

The subject of this legislation has had extensive consideration in the Human Resources Committee, and the Judiciary Committee has reviewed the adjustment of status of the refugees, which will open the opportunity for them to become full citizens in this country.

This procedure, which was followed during the Cuban refugee situation, as well as during the Hungarian refugee situation, is a procedure which this country has followed in a number of instances in the past.

Mr. President, I am delighted to call my amendment No. 1419 and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Massachusetts (Mr. KENNEDY) proposes an amendment numbered 1419.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

"TITLE I—ADJUSTMENT OF STATUS OF INDOCHINA REFUGEES

"SEC. 101. That (a) the status of any alien described in subsection (b) of this section may be adjusted by the Attorney General, in his discretion and under such regulations as he may prescribe, to that of an alien lawfully admitted for permanent residence if—

"(1) the alien makes an application for such adjustment within six years after the date of enactment of this title;

"(2) the alien is otherwise eligible to receive an immigrant visa and is otherwise admissible to the United States for permanent residence, except for the grounds for exclusion specified in paragraphs (14), (15), (20) (21), (25), and (32) of section 212(a) of the Immigration and Nationality Act; and

"(3) the alien has been physically present in the United States for at least two years.

"(b) The benefits provided by subsection (a) shall apply to any alien who is a native or citizen of Vietnam, Laos, or Cambodia and who—

"(1) was paroled into the United States as a refugee from those countries under section 212(d)(5) of the Immigration and Nationality Act subsequent to March 31, 1975, but prior to January 1, 1979; or

"(2) was inspected and admitted or paroled into the United States on or before March 31, 1975, and was physically present in the United States on March 31, 1975.

"SEC. 102. Upon approval of an application for adjustment of status under section 1 of this title, the Attorney General shall establish a record of the alien's admission for permanent residence as of March 31, 1975, or the date of the alien's arrival in the United States, whichever date is later.

"SEC. 103. Any alien determined to be eligible for lawful admission for permanent residence under this title who acquired that status under the provisions of the Immigration and Nationality Act prior to the date of enactment of this title may, upon application, have his admission for permanent residence recorded as of March 31, 1975, or the date of his arrival in the United States, whichever date is later.

"SEC. 104. When an alien has been granted the status of having been lawfully admitted to the United States for permanent residence pursuant to this title, his spouse and children, regardless of nationality, may also be granted such status by the Attorney General, in his discretion and under such regulations he may prescribe, if they meet the requirements specified in section 1(a) of this title. Upon approval of the application, the Attorney General shall create a record of the alien's admission for permanent residence as of the date of the record of admission of the alien through whom such spouse and children derive benefits under this section.

"SEC. 105. Any alien who ordered, assisted, or otherwise participated in the persecution of any person because of race, religion, or political opinion shall be ineligible for permanent residence under any provision of this title.

"SEC. 106. When an alien is granted the status of having been lawfully admitted for permanent residence pursuant to the provisions of this title the Secretary of State shall not be required to reduce the number of visas authorized to be issued under the Immigration and Nationality Act, and the Attorney General shall not be required to charge the alien any fee.

"SEC. 107. Except as otherwise specifically provided in this title, the definitions contained in the Immigration and Nationality Act shall apply in the administration of this title. Nothing contained in this title shall be held to repeal, amend, alter, modify, effect, or restrict the powers, duties, functions, or authority of the Attorney General in the administration and enforcement of the Immigration and Nationality Act or any other law relating to immigration, nationality, and naturalization. The fact that an alien may be eligible to be granted the status of having been lawfully admitted for permanent residence under this title shall not preclude him from seeking such status under any other provision of law for which he may be eligible.

"TITLE II—EXTENSION OF THE INDOCHINA MIGRATION AND REFUGEE ASSISTANCE ACT OF 1975

"SEC. 201. Section 2 of the Indochina Migration and Refugee Assistance Act of 1975 is amended to read as follows:

"'SEC. 2. (a)(1) Subject to the provisions of subsection (b), there are authorized to be appropriated, in addition to amounts otherwise available for such purposes, such sums as may be necessary for carrying out the provisions of paragraphs (3), (4), (5), and (6) of section 2(b) of the Migration and Refugee Assistance Act of 1962 with respect to aliens who have fled from Cambodia, Vietnam, or Laos.

"'(2) Funds appropriated under this Act shall be made available to State or local public agencies to reimburse them for the non-Federal share of costs under titles IV and XIX of the Social Security Act for the provision of cash or medical assistance to aliens who have fled from Cambodia, Vietnam, or Laos.

"'(b)(1) None of the funds authorized to be appropriated by subsection (a) may be available for obligation after September 30, 1981.

"'(2) The amount of assistance (including the amount of reimbursement as described in subsection (a)(2) provided to a State or local public agency under section 2(b) of the Migration and Refugee Assistance Act of 1962 for the purpose of providing cash or medical assistance to aliens who have fled from Cambodia, Vietnam, or Laos my not exceed—

"'(A) for the fiscal year ending September 30, 1979, 75 per centum, and

"'(B) for the fiscal year ending September 30, 1980, 50 per centum, and

"'(C) for the fiscal year ending September 30, 1981, 25 per centum,

of the cost (including the non-Federal share of costs as described in subsection (a)(2) of the State or local public agency in providing such assistance for such purpose for the fiscal year ending September 30, 1978.

"'(c) In addition to amounts otherwise available for the purposes of this Act, there are authorized to be appropriated $25,000,000, to remain available until expended, for special projects and programs, administered in whole or in part by State or local public agencies or by private voluntary agencies participating in the Indochina refugee assistance program, to assist minor and adult refugees in resettling and in gaining skills and education necessary to become self-reliant.'.

"SEC. 202. (a) Section 4(b) of the Indochina Migration and Refugee Assistance Act of 1975 is amended to read as follows:

"'(b) Not later than December 31 of each year ending prior to January 1, 1982, the Secretary of Health, Education, and Welfare shall transmit to such committees a report describing fully and completely the status of refugees from Cambodia, Vietnam, and Laos.'.

"(b) Section 4(c) of such Act is repealed."

Amend the title so as to read: "An Act to authorize the creation of a record of admission for permanent residence in the cases of certain refugees from Vietnam, Laos, or Cambodia, and to amend the Indochina Migration and Refugee Assistance Act of 1975 to extend the period during which refugee assistance may be provided, and for other purposes.".

SUBSTITUTE AMENDMENT TO H.R. 7769

Mr. KENNEDY. Mr. President, my substitute amendment contains two titles.

Title I, with a minor modification, incorporates the provisions of the House

bill, which authorizes the Attorney General to adjust the immigration status of Indochina refugees from parolee to permanent resident alien. It also carries out the intent of S. 694, which I introduced earlier this year with 21 cosponsors—including Senators YOUNG, CLARK, INOUYE, GRIFFIN, HUMPHREY, MATSUNAGA, MCGOVERN, RIEGLE, GARN, ABOUREZK, BARTLETT, STEVENSON, JACKSON, ANDERSON, METZENBAUM, BURDICK, TOWER, MUSKIE, HATFIELD, MOYNIHAN, and MATHIAS.

Title II of the substitute amendment extends the Indochina refugee assistance program administered by the Department of Health, Education, and Welfare. It incorporates the provisions of a bill unanimously approved by the Human Resources Committee last week. The legislation was sponsored by myself and Senators CRANSTON, PELL, HAYAKAWA, HUMPHREY, ANDERSON, JOHNSTON, MOYNIHAN, INOUYE, MATSUNAGA, and BUMPERS.

Mr. President, the purpose of the urgent legislation before us is to recognize the Federal responsibility in helping the Indochina refugees to become productive and contributing members of their adopted communities in the United States.

As I indicated a moment ago, title I incorporates, with a minor modification, the provisions of H.R. 7769 as passed by the House. The House bill authorizes the Attorney General to adjust the status of the refugees who have been admitted into the United States since 1975. The modification would extend this authorization to the additional refugees who will be arriving over the coming months under President Carter's new parole program.

Specifically, title I provides that the status of refugees from Vietnam, Cambodia, and Laos may be adjusted by the Attorney General if, first the alien makes an application for such adjustment; second, the alien is otherwise eligible to receive an immigrant visa and is otherwise admissible to the United States; and third, the alien has been physically present in the United States for at least 2 years.

Title I further provides that the Attorney General shall establish a record of the alien's admission for permanent residence as of March 31, 1975, or the date of the alien's arrival in the United States, whichever date is later; and that adjustments of status under this bill are exempt from the statutory numerical ceiling on the annual admission of aliens for permanent residency. The bill also exempts refugees who adjust their status from the payment of any fees.

Title I closely follows similar special legislation previously enacted in behalf of refugees from Hungary and Cuba, and it is also in accord with the treatment of the several thousand refugees who regularly enter the United States in conditional entry status under the annual immigration ceiling and refugee provisions of the Immigration and Nationality Act, as amended.

Given the severe limitations of present law in providing refugee parolees with opportunities for adjustment of status, there are some very practical legislative reasons for the special measure I propose today.

But the justification for the proposed legislation goes far beyond the mere constraints of present law. Enactment of this bill is a logical extension of the Indochinese refugee assistance program established by Congress in 1975, and it is also an important ingredient in accomplishing the full objective of this program, which is to help the refugees help themselves become productive members of their adopted communities across our land.

Providing the new arrivals from Vietnam, Cambodia, and Laos with the opportunity for regular immigrant status is simply another step to help them on their difficult road of adjusting their lives in a new land.

As we know from our experience with other groups, removing refugees from the limbo status of parolee helps to give them a greater sense of belonging in our society, and it also helps to encourage them in learning and assuming the responsibilities of eventual American citizenship.

And I would like to emphasize this point; because for many refugee families the sense of belonging, which is conferred by permanent resident status, helps to dispel some needless anxieties over the future and is an important psychological boost in coping with the many problems in building new lives.

For many of the refugees, adjustment of status will also facilitate durable employment. And it will help to open up new job opportunities for those who are unemployed or underemployed. In many skills and professions, for example, State licensing laws often require citizenship or permanent residency for job applicants, and most Indochinese refugees do not qualify.

The situation varies from State to State, but it generally is posing problems for many refugees. And the same is true for possible job and service opportunities in many Federal and local Government agencies and in most firms under Government contract.

Moreover, in some States adjustment of status will ease the burden of tuition fees among refugee students, who are now required to pay nonresident rates, because of their immigration status as parolees. Adjustment of status will also facilitate the membership of refugees in labor unions, professional groups, and other organizations.

In short, Mr. President, adjustment of status will help to bring the refugees into the mainstream of our society and speed the process of normalizing their lives in the communities in which they live.

One of the reports to Congress by the Health, Education and Welfare Refugee Task Force states:

> The refugee resettlement program continues to move forward. However, economic self-sufficiency, job training, English fluency and other acculturation needs to be supported by a change from the status of parolee. As parolees or persons in indefinite voluntary departure status, they cannot aspire to citizenship, are barred from employment opportunities, and perhaps most important of all, have a prevailing sense of rootlessness.

And the report goes on to say that adjustment of status "would do much to bolster (the refugees') morale," and it would "hasten the time when they will become full and productive members of American society."

As to title II of the substitute amendment, it incorporates the provisions of S. 2108, as unanimously reported from the Human Resources Committee. The purpose of this title is to extend the Indochina refugee assistance program, initially established by Congress in 1975.

Action on this legislation is urgent, Mr. President, since the current program expired on September 30. An arbitrary end to the refugee resettlement program would not only work undue hardship on the more than 30 States where some 150,000 refugees have been resettled—denying help to many refugees who still need it—but it would also deny assistance to the 15,000 additional refugees who will be arriving in the United States over the coming year to join close relatives and friends. Clearly, the Federal Government cannot deny Federal assistance to refugees which the Federal Government has brought, and is bringing now, for resettlement in the United States.

Mr. President, the substitute amendment satisfies the need for a continuing Federal program of refugee assistance, while at the same time avoids the danger that the program may become institutionalized.

The legislation provides for an orderly phase-down of the Federal program, integrating assistance to refugees into ongoing Federal or State programs over a 4-year period. It continues the Federal reimbursement to State and local governments at 100 percent for the first year, then scales the reimbursement down to 75 percent the second year, and 50 percent the third year, and 25 percent the fourth and final year. The program ends in fiscal year 1981.

The basis authority in the legislation for Federal reimbursement of State and local costs for medical and cash assistance, and for social services and administrative costs, remains the same as in the current law.

In addition, the amendment authorizes $25 million for special projects to assist refugees in normalizing their lives and gaining skills and education necessary to become self-reliant. These projects have proven effective in helping to take refugees off the welfare rolls, rather than simply subsidizing the States while keeping them on.

Funds for these special projects would be available to State or local public agencies, but especially the private voluntary agencies participating in the Indochina refugee assistance program.

Mr. President, as a member of the Judiciary Committee and as chairman of the former subcommittee on refugees, I have closely followed developments in the Indochina refugee program from the earliest days in 1975. Like countless other Americans across our land, I have watched the remarkable progress of the refugees in becoming contributing and productive members of their adopted communities. The sta-

tistics over the past 2 years tell of an industrious and hardworking people, achieving an impressive record of assimilation into our society.

Enactment of the pending legislation today would be appropriate recognition of their efforts. And it would also be a significant contribution toward helping the refugees help themselves and toward bettering the welfare of the refugee families and the communities in which they live.

Mr. President, the intent of this legislation is strongly supported by the administration. It also has the full support of the voluntary agencies and the local communities participating in the resettlement of the refugees. Of special importance in this regard, is the support of the ad hoc coalition of State governments and voluntary agencies for the effective resettlement of the Indochina refugees.

Mr. President, I urge Senators to support this bill.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. CRANSTON. Mr. President, I thank my good friend from Massachusetts for his fine work on this legislation, and for his deep concern and great followthrough on matters affecting refugees in our country and in the world.

Mr. President, as many of my colleagues are aware, the Indochina refugee assistance program expired at midnight on September 30. HEW is continuing the program on a limited basis during the first weeks of October, but Senate action is essential.

When the Indochina refugee assistance program expired, an estimated one-third of the 150,000 refugees paroled into the country by the Attorney General were receiving some form of cash assistance under the program. Without this continued Federal financial assistance, State and local taxpayers in many communities across the Nation are faced with increased local taxes to meet the costs of assisting Indochina refugees.

In California these extra costs will amount to $34 million. About $12 million of this amount will have to be raised by increasing local property taxes. In San Diego county this means a 3-cent increase in the property tax rate.

Similar costs can be expected in other parts of the Nation as well. Although California has received the largest share of refugees, there are 12,486 refugees in Texas, 7,043 in Pennsylvania, 6,241 in Virginia and 6,131 in Louisiana. In all, 34 States have more than 1,000 refugees.

The Indochina refugees are essentially a Federal responsibility. They are paroled into the country by the Attorney General and do not enter as resident aliens under the normal immigration law provisions for refugees. Until the impact of the arrival of the Indochina refugees has been absorbed, the costs of assisting them in entering productive lives should be borne largely by the Federal Government.

The Human Resources Committee on September 30 ordered reported favorably, S. 2108, the Indochina Migration and Refugee Assistance Act of 1977, with an amendment in the nature of a substitute. The committee bill calls for a 4-year extension of the program with Federal participation being phased out in equal steps during the life of the program.

I wish to bring to the attention of the Senate the reasonableness of the 4-year phased-down sunset of the Indochina refugee assistance program. The first year of the renewed program calls for 100-percent Federal participation. During this year we expect to see continued self-sufficiency grow within the refugee community. At the same time, we must recognize that the Attorney General on August 11 paroled into the country an additional 15,000 refugees. During hearings before the Human Resources Committee on September 22, the Under Secretary of State for Political Affairs, Philip Habib, testified that we should plan for about 15,000 refugees a year for the next 3 or 4 years.

Against this background, S. 2108 is a very modest proposal indeed.

Nevertheless, I think a 4-year step down—25 percent each year, which is the rate proposed by the administration—is prudent. It will provide States and local communities necessary assistance and at the same time assure the phasing out of the program.

I should like also to call attention of the Senate to the separate authority provided for special projects in the amount of $25 million. These special projects are the efforts of voluntary organizations as well as of public agencies in counseling, training, and assisting refugees to make the transition to our society. It is largely due to these voluntary efforts that the refugees as a group have an employment rate of almost 96 percent—although the majority are working at minimum wage or just above.

It is for these reasons, that I and Senators KENNEDY and HAYAKAWA ask that the Senate approve our substitute amendment No. 1419 to H.R. 7769, the Indochina Refugee Adjustment of Status Act.

Title II of our amendment is identical in every respect with S. 2108, the Indochina Migration and Refugee Assistance Act of 1977, reported unanimously from the Human Resources Committee on September 30. S. 2108, as reported, and report 95–471 were filed, October 5. A waiver of the budget resolution for S. 2108 has just been approved by the Senate.

The bill as reported and as carried forward in title II of amendment No. 1419 to H.R. 7769, provides for continuation of the Indochina migration and refugee assistance program at full funding for fiscal year 1978 and for a phase down of the program thereafter at 75 percent in fiscal year 1979, 50 percent in fiscal year 1980, and 25 percent in fiscal year 1981. In addition, the bill authorizes $25 million to be appropriated for special projects to assist in training and educating refugees, and providing other services through private voluntary organizations.

Our proposal has been cleared with the distinguished chairman and ranking minority member of the Judiciary Committee (Mr. EASTLAND and Mr. THURMOND) and with the distinguished chairman and ranking minority member of the Human Resources Committee (Mr. WILLIAMS and Mr. JAVITS). I wish to call to the attention of my colleagues that our good friend and counselor Senator HUMPHREY, who first took the lead in seeking renewal of the Indochina Migration and Refugee Assistance Act, fully supports our efforts. I know that if our distinguished friend from Minnesota were here today he would be standing in our places, most ably, asking the Senate, as we do, to quickly approve H.R. 7769 as amended.

Mr. Chairman so that the legislative record will be complete. I ask unanimous consent that excerpts from report 95–471 be printed in the RECORD. My purpose is to make clear that the report on S. 2108, as amended by the committee, stands for all practical purposes as the committee's views on title II of amendment No. 1419 to H.R. 7769.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

SUMMARY

The purpose of this bill is to extend the period of time during which there is a special program of Federal assistance on behalf of Indochinese refugees in the United States and to provide for an orderly phasedown of this program, integrating assistance to refugees into ongoing Federal, State, and local programs over a 4-year period.

The bill will avoid the substantial and undue impact on States, localities, and refugees which would otherwise result from the termination of the Indochina Migration and Refugee Assistance Act of 1975 (Public Law 94–23) on September 30, 1977.

The bill will place continued emphasis on activities to enable the refugees to become fully self-supporting and contributing members of our society.

The bill extends for 4 years the domestic assistance provisions of the Migration and Refugees Assistance Act of 1962 (Public Law 87–510) as incorporated by reference into the Indochina Migration and Refugee Assistance Act of 1975 (Public Law 94–23, as amended by Public Law 94–313) and made applicable to refugees from Cambodia, Vietnam, and Laos.

Under these provisions, Federal funds are authorized to be provided to the States for cash assistance, medical assistance, social services, and State-local administrative costs for assistance and services to needy refugees. Such funding would be provided on a 100 percent basis (as in the past) during fiscal year 1978. During fiscal years 1979–81, this funding would be limited to the following percentages of fiscal year 1978 funding: 1979, 75 percent; 1980, 50 percent; and 1981, 25 percent. These provisions provide for an orderly phasedown of the program.

The bill also authorizes to be appropriated $25 million, which would remain available until expended, to assist refugees in resettling and in gaining skills and education necessary to become self-reliant. These funds would be used for special projects and programs administered by State or local public agencies or by private voluntary agencies participating in the Indochina refugee assistance program.

SPECIAL ADULT INDOCHINA REFUGEE EDUCATION PROGRAM

This committee has considered carefully the importance of the continuance of a special adult education program for Indochina refugees. In 1975, the provision was made for a specialized education program which aided in the acclimatization of adult

refugees enabling them to become working members of the society. This education program, specifically geared to the particular requirements of these displaced adults hastened and strengthened their ability to be self-sufficient and able to provide for their families. According to the Office of Education (the Division of Adult Education), these programs have been very successful in providing language training and educational guidance; however, authorities feel a minimum of three years is required to acculturate the adults. The committee therefore strongly believes that this program should not be curtailed over the next 3 years.

Presently, the Adult Education Act of 1975 has authorized $10.25 million for adult Indochina refugee education to be spent during fiscal year 1978. If sufficient funds are not available for fiscal year 1979, the committee suggests that a portion of the $25 million authorized for "special projects and programs * * * to assist refugees in resettling and in gaining skills and education necessary to become self-reliant" be utilized to sustain and continue the present special adult education program for Indochinese refugees.

COMMITTEE AMENDMENT

S. 2108, as proposed, would have provided for a 3-year extension and phasedown of the Indochina refugee assistance program; would have reduced the authorized funding to 75 percent in fiscal year 1978; would have excluded entirely funding for the non-Federal share of costs for those refugees eligible for the programs of aid to families with dependent children (AFDC), supplemental security income (SSI), and medicaid; and would have authorized no funding for social services or for projects or programs to enable refugees to become self-sufficient.

The committee found the bill, as proposed, to be deficient as to both its length and scope of coverage and as to its impact both upon States and localities and upon the refugees. The committee therefore adopted an amendment in the nature of a substitute to correct these deficiencies.

HEARINGS

The Committee on Human Resources held a public hearing on S. 2108 on September 22 of this year. The committee met on September 30 and ordered S. 2108 reported favorably with an amendment on that date.

CONGRESSIONAL BUDGET OFFICE,
U.S. CONGRESS,
Washington, D.C., October 5, 1977.

Hon. HARRISON A. WILLIAMS, Jr.,
Chairman, Committee on Human Resources, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has prepared the attached cost estimate for S. 2108, a bill to amend the Indochina Migration and Refugee Assistance Act of 1975.

Should the committee so desire, we would be pleased to provide further details on the attached cost estimate.

Sincerely,

ALICE M. RIVLIN,
Director.

CONGRESSIONAL BUDGET OFFICE—COST ESTIMATE

OCTOBER 5, 1977.

1. Bill No.: S. 2108.

2. Bill title: A bill to amend the Indochina Migration and Refugee Assistance Act of 1975.

3. Bill status: As ordered reported by the Senate Committee on Human Resources, September 30, 1977.

4. Bill purpose: To amend and extend the Indochina Migration and Refugee Assistance Act of 1975 through fiscal year 1981 for the purposes of providing cash and medical assistance, as well as social services to Indochinese refugees. In addition to the amounts otherwise available for the purposes of this act, there are also authorized $25 million, to remain available until expended for special projects and programs.

5. Cost estimate:

Projected total authorization levels:

Fiscal year:	*Millions*
1978	$143.1
1979	91.5
1980	45.2
1981	20.1
1982	0

Projected total outlays:

Fiscal year:	
1978	123.1
1979	96.5
1980	50.2
1981	25.1
1982	5.0

6. Basis for estimate: With regard to the extension of authorizations, the Congressional Budget Office has reviewed the methodology and data provided by the Department of Health, Education, and Welfare on S. 2108. Efforts to obtain additional data upon which to base an independent estimate have revealed no further information. It is assumed for the purposes of this estimate that the $25 million for special projects and programs will be expended at a rate of $5 million per year through fiscal year 1982, although the full authorization of $25 million appears in fiscal year 1978.

7. Estimate comparison: None.

8. Previous CBO estimate: None.

9. Estimate prepared by: Lucia C. Becerra (225–7766).

10. Estimate approved by:

C. G. NUCKOLS,
(For James L. Blum,
Assistant Director for Budget Analysis).

REGULATORY IMPACT STATEMENT

The committee is responsible for making a determination of the regulatory impact of legislation, pursuant to section 602 of Senate Resolution 4.

Under existing legislation, the Indochina Migration and Refugee Assistance Act of 1975, States are required to maintain appropriate and necessary records in order to claim Federal reimbursement for assistance and services to Indochinese refugees. This requirement would be continued under the present bill.

In the committee's view, the legislation will have no impact on the personal privacy of the individuals affected, and no substantial additional paperwork will result from this legislation.

SECTION-BY-SECTION ANALYSIS

SECTION 1. Short title, names the act (S. 2108) the "Indochina Migration and Refugee Assistance Act of 1977."

SEC. 2. Amends section 2 of the Indochina Migration and Refugee Assistance Act of 1975, as follows:

Section 2(a)(1) authorizes the appropriation of such sums as may be necessary for carrying out the domestic assistance provisions of the Migration and Refugee Assistance Act of 1962 with respect to refugees from Cambodia, Vietnam, or Laos.

Section 2(a)(2) provides authority for funds appropriated under the act to be used to reimburse State or local public agencies for the non-Federal share of costs for those needy refugees who qualify under the AFDC or medicaid program. This provision enables refugees who are eligible for AFDC and medicaid to be placed on those regular ongoing programs and at the same time enables funds to be provided under this act to be used to offset costs which would otherwise impact on State or local resources.

Section 2(b)(1) establishes September 30, 1981, as the termination date of the act.

Section 2(b)(2) provides for an orderly phasedown of assistance to States and localities under the act. During fiscal year 1978, reimbursement would be provided on a 100 percent basis for refugee cash assistance, medical assistance, social services, and State-local administrative costs. During the 3 subsequent fiscal years, such reimbursement would not exceed the following percentages of the fiscal year 1978 cost: 1979, 75 percent; 1980, 50 percent; and 1981, 25 percent. This section also makes clear that such reimbursement would apply to the non-Federal share of costs for refugees included under the AFDC and medicaid programs as well as to the costs for needy refugees who are not eligible under these programs.

Section 2(c) authorizes the appropriation of $25 million, to remain available until expended, to assist refugees in resettling and in gaining skills and education necessary to become self-reliant. These funds would be used for special projects and programs to be administered by State or local public agencies or by private voluntary agencies participating in the Indochina Refugee Assistance Program.

Section 3 amends section 4 of the act of 1975 to eliminate reporting requirements no longer applicable and to provide for annual reports to the Congress rather than the quarterly reports previously required.

CHANGES IN EXISTING LAW

In compliance with subsection (4) of rule XXIX of the Standing Rules of the Senate, changes in existing law are shown as follows (existing law proposed to be omitted is enclosed in brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as "The Indochina Migration and Refugee Assistance Act of 1975".

[SEC. 2. (a) Subject to the provisions of subsection (b) there are hereby authorized to be appropriated, in addition to amounts otherwise available for such purposes, $155,000,000 for the performance of functions set forth in the Migration and Refugee Assistance Act of 1962 (76 Stat. 121), as amended, with respect to aliens who have fled from Cambodia or Vietnam, such sums to remain available in accordance with the provisions of subsection (b) of this section.

[(b) None of the funds authorized to be appropriated by this Act shall be available for the performance of functions after June 30, 1976, other than for carrying out the provisions of clauses (3), (4), (5), and (6) of section 2(b) of the Migration and Refugee Assistance Act of 1962, as amended. None of such funds shall be available for obligation for any purpose after September 30, 1977.]

Sec. 2. (a)(1) Subject to the provisions of subsection (b), there are authorized to be appropriated, in addition to amounts otherwise available for such purposes, such sums as may be necessary for carrying out the provisions of paragraphs (3), (4), (5), and (6) of section 2(b) of the Migration and Refugee Assistance Act of 1962 with respect to aliens who have fled from Cambodia, Vietnam, or Laos.

(2) Funds appropriated under this Act shall be made available to State or local public agencies to reimburse them for the non-Federal share of costs under titles IV and XIX of the Social Security Act for the provision of cash or medical assistance to aliens who have fled from Cambodia, Vietnam, or Laos.

(b)(1) None of the funds authorized to be appropriated by subsection (a) may be available for obligation after September 30, 1981.

(2) The amount of assistance (including the amount of reimbursement as described in subsection (a)(2) provided to a State or local public agency under section 2(b) of the Migration and Refugee Assistance Act of

1962 for the purpose of providing cash or medical assistance to aliens who have fled from Cambodia, Vietnam, or Laos may not exceed—

(A) for the fiscal year ending September 30, 1979, 75 per centum, and

(B) for the fiscal year ending September 30, 1980, 50 per centum, and

(C) for the fiscal year ending September 30, 1981, 25 per centum, of the cost (including the non-Federal share of costs as described in subsection (a)(2)) of the State or local public agency in providing such assistance for such purpose for the fiscal year ending September 30, 1978.

(c) In addition to amounts otherwise available for the purposes of this Act, there are authorized to be appropriated $25,000,000, to remain available until expended, for special projects and programs, administered in whole or in part by State or local public agencies or by private voluntary agencies participating in the Indochina Refugee Assistance Program, to assist minor and adult refugees in resettling and in gaining skills and education necessary to become self-reliant.

SEC. 3. In carrying out functions utilizing the funds made available under this Act, the term "refugee" as defined in section 2(b)(3) of the Migration and Refugee Assistance Act of 1962, as amended, shall be deemed to include aliens who (A) because of persecution or fear of persecution on account of race, religion, or political opinion, fled from Cambodia, Vietnam,* or Laos; (B) cannot return there because of fear of persecution on account of race, religion, or political opinion; and (C) are in urgent need of assistance for the essentials of life.

SEC. 4. (a) The President shall consult with and keep the Committees on the Judiciary, Appropriations, and International Relations of the House of Representatives and the Committees on Foreign Relations, Appropriations and Judiciary of the Senate fully and currently informed of the use of funds and the exercise of functions authorized in this Act.

[(b) Not more than thirty days after the date of enactment of this Act, the President shall transmit to such Committees a report describing fully and completely the status of refugees from Cambodia and South Vietnam. Such report shall set forth, in addition—

[(1) a plan for the resettlement of those refugees remaining in receiving or staging centers;

[(2) the number of refugees who have indicated an interest in returning to their homeland or being resettled in a third country, together with (A) a description of the plan for their return or resettlement and the steps taken to carry out such return or resettlement, and (B) any initiatitves that have been made with respect to the Office of the High Commissioner for Refugees of the United Nations; and

[(3) a full and complete description of the steps the President has taken to retrieve and deposit in the Treasury as miscellaneous receipts all mounts previously authorized and appropriated for assistance to South Vietnam and Cambodia but not expended for such purpose, exclusive of the $98,000,000 of Indochina Postwar Reconstruction funds allocated to the Department of State for movement and maintenance of refugees prior to the date of enactment of this Act.]

(b) *Not later than December 31 of each year ending prior to January 1, 1982, the Secretary of Health, Education, and Welfare shall transmit to such Committees a report describing fully and completely the status of refugees from Cambodia, Vietnam, and Laos.*

[(c) Supplementary reports setting forth recent information with respect to each of the items referred to in this section shall be transmitted not more than ninety days after the date of transmittal of the report referred to in subsection (b) of this section and not later than the end of each ninety-day period thereafter. Such reports shall continue until September 30, 1977, and a final report shall be submitted no later than December 31, 1977.]

*Public Law 94-313.

Mr. KENNEDY. Mr. President, the case for the extension of the Indochina refugee assistance program, and the considerable progress already achieved under the program, has been eloquently stated in a recent article by Mr. Vu Duc Vinh—a refugee himself—who is editor of Dat Moi, a bilingual newspaper published in Seattle. I ask unanimous consent that it be printed at this point in the record.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From Seattle Post-Intelligencer, Sept. 17, 1977]

REFUGEES NEED A HELPING HAND

(By Vu Duc Vinh)

September 30 marks the termination date of the Indochinese Resettlement Program. It is just a few weeks away.

Although Federal extension of the program has been discussed, the issue remains unsolved. The Indochinese refugees here cannot help but be disturbed.

Not all the Indochinese are still in need of public assistance. Many have become self-sufficient. They are the ones who brought with them some money from Vietnam or have started their own businesses.

These people were prepared and could adjust rather quickly in this society.

However, the majority of Indochinese refugees were totally unprepared: mentally, psychologically or physically. They came here to a strange language and a strange way of life. Some had never traveled beyond the limits of their province or district.

For these people, two years of resettlement is too short a time. They have tried their best to but many things are still beyond their ability to absorb or to learn.

Most in need are the large families with small children, where only one parent can work, yet one wage cannot meet the living expenses. Then there are the refugees between the ages of 60 and 65 who are too young for Supplemental Security Income and too old for employment.

What will happen to these people if the program terminates? One might say they can apply for such help as Aid to Families with Dependent Children. But how can they? To qualify they need six quarters of work and only a few of us started working 18 months ago.

We must meet the same conditions of eligibility as American citizens.

Another disadvantage for our people is that no Indochinese community existed in this country before our arrival. Our community was established too recently to be of any substantial help.

Obviously, termination of the resettlement program would place heavy burdens on states and local communities for the care of these people.

Looking at our efforts over the past two years, I would say that we have shown that we merit continued assistance. We are hard-working people, anxious to become self-sufficient. Many former high-ranking officials, writers, editors and journalists have entered the labor force and have taken such unrelated jobs as painters, carpenters, press operators and guards.

Not wishing to become a burden, we have gone to work as soon as we could. Some received training; but, either due to the language barrier or to the shortness of training, they remain unemployed. I know some janitors who have applied for jobs who have been waiting for months. Most cannot pass the interviews.

Reviewing the resettlement program, we see that its efforts were not as successful as hoped. The program succeeded in the emergency situation: evacuating and relocating. But, in the following phase, it could not equip us properly to become self-sufficient.

Last February, Sen. Edward Kennedy said before Congress: "The new arrivals from the Indochina Peninsula entered this country in very trying and difficult circumstances—more trying and difficult, perhaps, than those attending any other recent movement of people to our country."

More recently, Sen. Hubert H. Humphrey remarked: "The U.S. government after 16 years is still providing $90 million annually for the Cuban Refugee Program. What the Indochinese refugees want is a three-year extension of this program in order to complete the assimilation of the largest influx of refugees at any given time in this nation's history."

As a fellow refugee, I believe Indochinese here should not be jealous nor be compared to other refugee communities. We should ask for the understanding of the American people and the Congress.

What we ask for is an extension of the resettlement program which will provide public assistance, English courses and vocational training for those of us who are still in need. We need more time to become self-sufficient.

The expense of the program would be a worthwhile investment in the establishment of a community of new, productive members of this society. It would help us return the favor by being taxpayers and good citizens who can make contributions to the common causes of the nation.

We once stood side by side with our American friends in our fight for freedom and democracy. A war can be lost, but not its cause. It is still there to pursue.

Mr. KENNEDY. Finally, Mr. President, for the RECORD, and to state clearly our intent, the percentage phasedown of the Indochina refugee assistance program contained in my amendment—from 100 percent the first year, 75 percent the second, 50 percent the third, and 25 percent the final year—relates to all costs involved in the entire program, including administrative and operational costs. The percentage phasedown applies to all aspects and to all costs of the program, except the $25 million authorized for special projects.

The ACTING PRESIDENT pro tempore. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendment and the third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read the third time.

The bill was read the third time.

The ACTING PRESIDENT pro tempore. The bill having been read a third time, the question is, Shall it pass?

So the bill (H.R. 7769), as amended, was passed.

Mr. CRANSTON. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. KENNEDY. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CRANSTON. Mr. President, I move to indefinitely postpone Senate bill S. 2108.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a brief period for the transaction of routine morning business, not to extend beyond 10 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. ABOUREZK, from the Select Committee on Indian Affairs:

A report concerning the allocation of budget totals (Rept. No. 95-483).

By Mr. MUSKIE, from the Committee on the Budget:

Without amendment:

S. Res. 283. A resolution waiving sections 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 2108 (Rept. No. 95-484).

By Mr. RANDOLPH, from the Committee on Environment and Public Works:

Without amendment:

S. 2169. A bill to name a certain Federal building in Washington, District of Columbia, the "Hubert H. Humphrey Building" (Rept. No. 95-485).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. RANDOLPH, from the Committee on Environment and Public Works:

Steven D. Jellinek, of Maryland, to be Assistant Administrator for Toxic Substances of the Environmental Protection Agency.

(The above nomination was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. ABOUREZK:

S. 2186. A bill for the relief of Ana B. Pardo; to the Committee on the Judiciary.

By Mr. METCALF:

S. 2187. A bill to authorize the Secretary of the Interior to construct hydroelectric power plants at various existing water projects, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. CHILES:

S. 2188. A bill to provide for the use and distribution of the award granted by the Indian Claims Commission to the Seminole Nation as it existed in Florida on September 19, 1823, and for other purposes; to the Select Committee on Indian Affairs.

By Mr. MATHIAS:

S. 2189. A bill to provide for the timely and safe disposal of radioactive ores, minerals, and mill tailings as well as physical facilities and material wastes of all types which are produced as a result of the use of nuclear energy; to the Committee on Governmental Affairs, the Committee on Environment and Public Works, and the Committee on Energy and natural Resources, jointly, by unanimous consent.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. METCALF:

S. 2187. A bill to authorize the Secretary of the Interior to construct hydroelectric power plants at various existing water projects, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. METCALF. Mr. President, over the past 3 years the energy spotlight has often concentrated upon the more exotic suggestions for solutions to the fuels and energy supply problems facing our Nation. Headlines emphasize new developments in complicated technologies as answers to impending shortages. This is good as we need to develop new energy sources, but I would point out that we must not overlook the more traditional resources, one of which has served the energy needs of man for thousands of years.

I speak, of course, of water power. Transformed from the ancient water wheel to the efficient turbine and generator of today, water power will continue to play an important role in energy production. Recent studies by the Bureau of Reclamation, Corps of Engineers, and the Federal Power Commission indicate that there is yet a significant untapped potential for further hydropower development at both existing and proposed sites. The bill which I am introducing today would authorize the Secretary of the Interior to undertake the construction of a select few of the projects identified; specifically the installation of additional generating capacity at existing Bureau of Reclamation projects where new storage or regulating structures would not be required in order to produce electricity.

Briefly, the bill authorizes the construction of additional hydroelectric facilities at seven reclamation projects and the replacement of an existing turbine generator with a larger unit at a eighth site. Projects included are the Friant and Whiskeytown powerplant units in California; the Palisades powerplant enlargement in Idaho; the Canyon Ferry powerplant enlargement, and the Yellowtail Afterbay powerplant unit in Montana; the Colorado-Big Thompson powerplants unit in Colorado; the Hoover Dam outlet works powerplant in Arizona-Nevada and the Buffalo Bill Dam powerplant replacement in Wyoming. The eight projects would have a rated capacity of approximately 660 megawatts and would produce an estimated 540 million kilowatt hours of electricity per year. The measure authorizes $241,614,000 for construction costs or about $366 per kilowatt of installed capacity which is a bargain at today's construction prices.

The bill provides a departure point for consideration of these proposals by the Congress. It is my intent to fully examine each project during hearings before my Subcommittee on Public Lands and Resources and compile a complete record for review.

Mr. President, I ask unanimous consent that the bill, together with a brief description of each of the projects, be printed at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2187

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior, acting pursuant to the Federal Reclamation laws (Acts of June 17, 1902, 32 Stat. 388 and Acts amendatory thereof and supplemental thereto) is authorized to construct, operate, and maintain hydroelectric powerplants and appurtenant switchyards on existing Reclamation project facilities at locations and in the approximate capacities set forth in section 3 of this Act. In carrying out the purposes of this Act, the Secretary of the Interior is authorized to modify the capacity of the powerplant as determined to be necessary and desirable during postauthorization study and design, and after consultation with and approval by the Secretary of Energy.

SEC. 2. The Secretary of Energy is authorized to construct, operate, and maintain transmission interconnection as required physically to interconnect the hydroelectric powerplants authorized by section 3 of the Act to existing power systems as he determines necessary to accomplish distribution and marketing of power generated pursuant to this Act.

SEC. 3. (a) Friant Powerplant Unit, Central Valley Project, California consisting of:

(1) a turbine generator unit of 2,700 kilowatts on the river outlet from Friant Dam;

(2) a turbine generator unit of 5,000 kilowatts on the outlet to the Madera Canal at Friant Dam; and

(3) a turbine generator unit of 15,000 kilowatts on the outlet to the Friant-Kern Canal at Friant Dam.

(b) Whiskeytown Powerplant Unit, Central Valley Project, California, consisting of one 4,000 kilowatt turbine generator unit on the outlet works of Whiskeytown Dam.

(c) Palisades Powerplant Enlargement, Idaho, consisting of four 22,500 kilowatt turbine generator units on the outlet works of Palisades Dam.

(d) Canyon Ferry Powerplant Enlargement, Pick-Sloan Missouri Basin Program, Montana, consisting of two 45,000 kilowatt turbine generators on the outlet works of Canyon Ferry Dam.

(e) Yellowtail Afterbay Powerplant Unit, Pick-Sloan Missouri Basin Program, Montana, consisting of two 5,700 kilowatt turbine generator units on the outlet works of Yellowtail Afterbay Dam.

(f) Colorado-Big Thompson Powerplants Unit, Colorado, consisting of:

(1) a 4,000 kilowatt turbine generator unit on the outlet works from Carter Lake to the St. Vrain Supply Canal;

(2) a 5,000 kilowatt turbine generator unit on the outlet from Charles Hansen Canal to the Poudre River;

(3) a 10,000 kilowatt turbine generator unit on the outlet works from Horsetooth Reservior to the Charles Hansen Canal; and

(4) a 200,000 kilowatt reversible turbine generator and underground penstock between Pinewood Lake and Carter Lake.

(g) Hoover Dam Outlet Works Powerplant, Arizona, Nevada consisting of one 200,000 kilowatt turbine generator unit installed on the river outlet at Hoover Dam.

(h) Buffalo Bill Dam Powerplant Replace-

ment, Wyoming, consisting of one 20,000 kilowatt turbine generator unit in replacement of existing 5,000 kilowatt unit at Buffalo Bill Dam.

SEC. 4. (a) Hydroelectric power generated by facilities constructed pursuant to this Act shall be delivered to the Secretary of Energy for distribution and marketing through existing Federal Hydroelectric power marketing systems in accordance with existing law and policy consistent with the provisions of this Act.

(b) The plants authorized by section 3 of this Act shall be financially integrated with and the power marketed under rate schedules in effect for the several systems as follows:

(1) Friant Powerplant Unit and Whiskeytown unit shall be marketed through the Central Valley Project power system;

(2) Palisades Powerplant Enlargement shall be marketed through the Federal Columbia River Power System;

(3) Canyon Ferry Powerplant Enlargement, Yellowtail Afterbay Powerplant Unit, Buffalo Bill Dam Powerplant replacement and Colorado-Big Thompson Powerplants Unit shall be marketed through the Western Division, Pick-Sloan Missouri Basin program power system; and

(4) Hoover Dam Outlet Works Powerplant shall be marketed through the Boulder Canyon Project power system.

SEC. 5. Powerplants authorized by this Act shall be designed, constructed, and operated in such a manner as to not limit, restrict, or alter the release of water from any existing reservoir, impoundment, or canal adverse to the satisfaction of valid existing water rights or water delivery to the holder of any valid water service contract.

SEC. 6. The interest rate used for computing interest during construction and interest on the unpaid balance of the reimbursable costs of the facilities authorized by this Act shall be determined by the Secretary of the Treasury, as of the beginning of the fiscal year in which construction of the works authorized by each subsection of Section 3 is commenced, on the basis of the computed average interest rate payable by the Treasury upon its outstanding marketable public obligations which are neither due nor callable for fifteen years from date of issue.

SEC. 7. There is hereby authorized to be appropriated to the Secretary of the Interior for construction of the work authorized by this Act the amounts set forth below on the basis of January 1977 price levels plus or minus such amounts as may be justified by reason of ordinary fluctuations of construction cost indexes applicable to the type of construction involved herein;

(1) Friant Powerplant Unit—$19,400,000.

(2) Whiskeytown Powerplant Unit—$2,700,000.

(3) Palisade Powerplant Enlargement—$42,000,000.

(4) Canyon Ferry Powerplant Enlargement—$60,140,000.

(5) Yellowtail Afterbay Powerplant—$12,500,000.

(6) Colorado-Big Thompson Powerplants Unit—$48,874,000.

(7) Buffalo Bill Dam Powerplant Replacement—$16,000,000.

(8) Hoover Dam Outlet Works Powerplant—$40,000,000.

There is also authorized to be appropriated such sums as may be required by the Secretary of Energy to accomplish interconnection of the powerplants authorized to be constructed by this Act; together with such sums as may be required for operation and maintenance of all works authorized herein.

PROJECT AUTHORIZATIONS

Friant Powerplant Unit, Central Valley Project, California. The project would involve the installation of three powerplants with a total installed capacity of 22.7 megawatts. Installations would include the construction of a 2.7 megawatt powerplant on the San Joaquin River at the outlet to the River from Friant Dam, a 5 megawatt powerplant on the outlet from Friant Dam to the Madera Canal, and a 15 megawatt powerplant on the outlet from Friant Dam to the Friant-Kern Canal. One switchyard and six miles of transmission lines would be required. Authorized cost: $19,400,000.

Whiskeytown Powerplant Unit, Central Valley Project, California. The project would involve the installation of a 4 megawatt powerplant located at the outlet works of the Whiskeytown Dam on Clear Creek and the construction of a switchyard and five miles of transmission lines. Authorized cost: $2,700,000.

Palisades Powerplant Enlargement, Palisades Project, Idaho. The project would involve the installation of four 22.5 megawatt turbine generator units at the outlet works of Palisades Dam. An enlarged switchyard and 60 miles of transmission lines would be required. Authorized cost: $42,000,000.

Canyon Ferry Powerplant Enlargement, Pick-Sloans Missouri Basin Program, Montana. The project would involve the installation of two 45 megawatt turbine generators at the outlet works of Canyon Ferry Dam. An enlarged switchyard and 85 miles of transmission lines would be required. Authorized cost: $60,140,000.

Yellowtail Afterbay Powerplant Unit, Pick-Sloane Missouri Basin Program, Montana. The project would involve the installation of an 11.4 megawatt bulb turbine and powerplant in the existing Yellowtail Afterbay Dam about 2¼ miles below Yellowtail Dam. One mile of transmission line would be required to tie into the existing switchyard. Authorized cost: $12,500,000.

Colorado-Big Thompson Powerplants Unit, Colorado-Big Thompson Project, Colorado. The project would involve the installation of four powerplants with an installed capacity of 219 megawatts. Installations would include a 4 megawatt bulb-turbine at the outlet works of Carter Lake Dam, a 5 megawatt bulb-turbine at the outlet of the Charles Hansen Canal to the Poudre River, a 10 megawatt bulb-turbine at the outlet works from Horsetooth Reservoir to the Charles Hansen Canal, and installation of a 200 megawatt pumped storage facility utilizing the existing Carter Lake and Pinewood Lake reclamation reservoirs. The pumped storage installation would require 18,000 feet of water supply facilities and 17 miles of transmission lines. The other projects would require installation of 10½ miles of transmission lines to tie in with the existing Colorado-Big Thompson power network. Authorized cost: $48,874,000.

Hoover Dam Outlet Works Powerplant, Boulder Canyon Project, Arizona-Nevada. The project would involve the installation of a 200 megawatt turbine generator at the outlet works of Hoover Dam on the Colorado River. Authorized cost: $40,000,000.

Buffalo Bill Dam Powerplant Replacement, Shoshone Project, Wyoming. The project would involve the replacement of an existing 5 megawatt turbine generator with a unit rated at 20 megawatts. Authorized cost: $16,000,000.

By Mr. CHILES:

S. 2188. A bill to provide for the use and distribution of the award granted by the Indian Claims Commission to the Seminole Nation as it existed in Florida on September 18, 1823, and for other purposes; to the Select Committee on Indian Affairs.

Mr. CHILES. Mr. President, I introduce on behalf of myself and Senator STONE a bill providing for the use and distribution of an award by the Indian Claims Commission to the Seminole Nation as it existed in Florida in 1823. The Commission has awarded $16 million for the value of Florida lands taken from the Seminoles and for other wrongs done to the Seminole Nation. This award has been on deposit in the Treasury since 1976.

Since many Seminoles were forcibly removed from Florida by the U.S. Government, there is no single Seminole Tribe today. Before the award can be distributed, it must be divided between the Seminole Indians of Florida and the Seminole Indians of Oklahoma.

While frequently such divisions are made on the basis of population, in the case of the Seminoles that would result in an injustice. A just and equiptable division must take into account the difference in treatment and benefits received from the United States by the Florida Seminoles as compared to the Oklahoma Seminoles. For over 100 years after the Seminole War in 1934–35 and the forced removal of the Oklahoma Seminoles from Florida, and continuing until relatively recent years, the Florida Seminoles were wholly neglected by the U.S. Government. While the Florida Seminoles were enduring considerable hardships, the Oklahoma Seminoles were the beneficiaries of treaty payments, lands held in trust and managed for them, valuable allotments and considerable public appropriations for health, education, and social services.

The Bureau of Indian Affairs did not begin to recognize the Florida Seminoles as a Tribe until the 1950's and has only relatively recently provided them the full complement of Federal services which is their just entitlement.

This difference in treatment and benefits embraces factors that must be weighed in any fair, just and equitable allocation of the award. To simply divide an award solely on the basis of population is arbitrary. Relative population may be one—but only one—factor that should be considered.

This award is of enormous importance to the Seminole Tribe of Florida, for it is the only land award in which the Tribe will share or has ever shared. Given the Government's long history of neglect toward the Florida Seminoles, a fair allocation of this award to both Seminole tribes by the United States represents a major opportunity to rectify and redress past wrongs. The bill we introduce today would accomplish this.

The basic thrust of this legislation is to refer the issue of a just and equitable division of the award to the Chief Commissioner of the Court of Claims. Under established procedures the Commissioner will hold hearings, take evidence, make findings taking into account all relevant factors, and arrive at a proposed distribution of the award that would then be reported to Congress.

We believe this approach offers the best opportunity for a reasonable and fair allocation of this award and I hope the committee will give this legislation prompt and serious consideration.

Mr. President, I ask unanimous consent that the text of the bill we are introducing be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2188

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the sum of $16 million paid by the United States by funds appropriated by the Act of June 1, 1976 (90 Stat. 597), in satisfaction of the award to the Seminole Nation as it existed in Florida on September 18, 1823, entered by the Indian Claims Commission on April 27, 1976 (38 Ind. Cl. Comm. 91), plus accrued interest, less attorneys' fees and litigation expenses, shall be divided by the Secretary of the Interior between the Seminole Indians of Oklahoma and the Seminole Indians of Florida as provided in Section 4 hereof.

SEC. 2. (a) After the division of the funds provided in section 4, the share of the Seminole Nation of Oklahoma shall be used and distributed as follows:

(1) sixty-four per centum of the principal of the share shall be distributed in the form of per capita payments, in a sum as equal as possible, to all Seminole tribal members by blood born on or prior to and living on the date of the enactment of this Act. The per capita shares of living competent adults shall be paid directly to them. The per capita shares of deceased individual beneficiaries shall be paid pursuant to section 16 of title 25, Code of Federal Regulations, without regard to the dollar limitation contained in section 6.8 of title 25, Code of Federal Regulations. The per capita shares of legal incompetents shall be handled pursuant to section 104.5 of title 25, Code of Federal Regulations. The per capita shares of minors shall be handled pursuant to sections 60.10 (a), 60.10(b)(1), and 104.4 of title 25, Code of Federal Regulations, as amended November 5, 1976 (41 FR 48735, 48736).

(2) twenty per centum of the principal of the share shall be invested by the Secretary for the benefit of Seminole tribal members by blood. The use of the interest and investment income accrued shall be authorized by the tribal governing body on an annual budgetary basis, subject to the approval of the Secretary, for the following social and economic programs:

(A) elementary, secondary, and higher education services;

(B) community development;

(C) health services;

(D) tribal executive operations;

(E) land acquisition and development;

(F) social services; and

(G) other tribal and community social and economic projects.

Such 20 per centum portion of the principal shall not be available for per capita or dividend payments.

(3) Sixteen per centum of the principal of the share, plus all interest and investment income accrued on the Oklahoma share of the judgment funds, and any amounts remaining after the per capita payment provided in section 2(a)(1), shall be invested by the Secretary for the benefit of Seminole tribal members by blood. The use of the interest and investment income accrued shall be authorized by the tribal governing body, subject to the approval of the Secretary, for periodic dividend payments to Seminole tribal members by blood.

(b) In administering all programing elements of this section, the tribal governing body shall continue to recognize a standing Judgment Fund Committee comprised of Seminole tribal members by blood and representative of the twelve Oklahoma Seminole by blood bands. Such committee shall consist of twelve members and shall be authorized on at least an annual budgetary basis to make recommendations regarding the implementation of any programing elements.

SEC. 3. The total share of the Seminole Indians of Florida as determined pursuant to section 4 of this Act, shall be allocated on the basis of the respective populations on the date of this Act of the Seminole Indian Tribe of Florida, the Miccosukee Tribe of Indians of Florida, and those Indians in Florida who are not members or eligible for membership with either the Seminole Indian Tribe of Florida, or the Miccosukee Tribe of Florida, but who possess at least one-fourth degree Florida Seminole blood and have not shared in the claims award of any other tribe: *Provided,* That, on a per capita basis, the allocation to the unaffiliate capita basis, the allocation to the unaffiliated Seminoles may not exceed the average, on a per capita basis, of the combined allocations to the Seminole Indian Tribe of Florida and the Miccosukee Tribe of Florida. Any excess in the allocation to such unaffiliated Seminoles shall be divided between the Seminole Tribe of Florida and the Miccosukee Tribe in the same proportions as the initial division between those two tribes. The use and distribution of the respective shares shall be governed by the Act of October 19, 1973 (87 Stat. 466).

SEC. 4. The chief commissioner of the Court of Claims, pursuant to sections 1492 and 2509 of title 28 of the United States Code, is hereby directed to report to the Senate and the House of Representatives, at the earliest practicable date, findings of fact and a recommendation as to what constitutes a fair, just and equitable division as between the Seminole Indians of Florida and the Seminole Indians of Oklahoma, of the $16 million plus accrued interest, less attorneys' fees and litigation expenses, heretofore paid by the United States in satisfaction of the award to the Seminole Nation as it existed in Florida on September 18, 1823, entered by the Indian Claims Commission on April 27, 1976 in Docket Nos 73 and 151, consolidated (38 Ind. Cl. Comm. 91); *Provided,* That the findings of fact and recommendation shall be based on all relevant factors including those reflecting any difference in benefits received from the United States by the Oklahoma Seminoles and by the Florida Seminoles, respectively; *Provided further,* That the recommendation of the chief commissioner shall become effective and shall be binding on the Secretary of the Interior at the end of a 60-day period commencing on the date the recommendation is submitted to Congress, excluding days on which either the House or the Senate is not in session because of an adjournment of more than three calendar days to a day certain, unless during such 60-day period either the House or the Senate adopts a resolution disapproving the recommendation of the chief commissioner.

By Mr. MATHIAS:

S. 2189. A bill to provide for the timely and safe disposal of radioactive ores, minerals, and mail tailings as well as physical facilities and material wastes of all types which are produced as a result of the use of nuclear energy to the Committee on Governmental Affairs, the Committee on Environment and Public Works, and the Committee on Energy and Natural Resources, jointly, by unanimous consent.

Mr. MATHIAS. Mr. President, I ask unanimous consent that my bill, the Nuclear Waste Management Act of 1977, be referred jointly without a time agreement to the Committee on Governmental Affairs, Environment and Public Works, and Energy and Natural Resources respectively. I have spoken with the chairmen and ranking minority members of those committees and there is no objection to such a referral at this time.

The people of America have learned that the benefits and promise of nuclear power—one of our brightest hopes for abundant energy—involve both expense and risk.

Faced with this realization, Congress now has the obligation to reduce the risk by addressing one of the most serious hazards of nuclear development—the containment and management of nuclear waste, both military and commercial.

The challenge is great, because this deadly radioactive residue must be totally isolated from the environment for hundreds of centuries.

If left unchecked, the menace of nuclear waste from weapons development and commercial power generation will grow and pose a dangerous threat to the very survival of mankind.

The magnitude of the problem is reflected by the volume of nuclear wastes now being held in "temporary" storage, pending permanent disposal. As a result of military activities from the middle 1940's to the present, the United States alone has generated an estimated 230 million gallons of liquid high-level nuclear waste.

The major long-lived isotopes found in high-level waste—strontium-90, cesium-137 and plutonium-239—continue to emit deadly radioactive particles for thousands of years. Clearly, this poses enormous problems.

The management of nuclear wastes has been a concern of Congress at least since 1959. We have appropriated hundreds of millions of dollars for research and development of waste management techniques, and Congress has been consistently informed that the problem of nuclear waste management is "technically soluble." But, the saddening—almost incredible—fact is that the technical solution for long-term disposal of nuclear wastes recently recommended to Congress—sealed storage in stable geologic formations such as salt-beds—is the same one made to the Atomic Energy Commission by the National Academy of Sciences 20 years ago.

People sometimes complain that Congress moves at a pretty slow pace, but we cannot hold a candle to the bureaucrats' 20-year record.

We were recently informed by the Energy Research and Development Administration that a pilot facility for nuclear waste disposal will not be ready until 1985. But even the achievement of this goal appears to be open to question. In its critical report of September 9, the General Accounting Office said, and I quote:

> Not only has progress been negligible to date, but . . . future program goals are overly optimistic . . .

GAO said this was so because ERDA—

> . . . faces many unsolved social, regulatory and geological obstacles.

Earlier this year, Mason Willrich, now international relations director of the Rockefeller Foundation, completed a study for ERDA under the auspices of

the MIT Energy Laboratory. In it, he concluded that the existing organization for nuclear waste management thwarts the effective management of waste disposal. He called the existing structure for nuclear waste management, "unworkable if left unchanged," and said the existing framework for nuclear waste regulation was likely to be "ineffective if left unchanged."

To address the problems raised in Professor Willrich's report, I introduced S. 63 last February 25. The legislation was entitled "The Nuclear Waste Management Act of 1977." Its purpose was basically the same as the bill Congressman JEFFORDS and I introduce today.

On April 8, I chaired hearings of the Senate Committee on Governmental Affairs to analyze how the administration's energy reorganization legislation would affect programs dealing with nuclear waste management. Testimony at those hearings, including that of Mason Willrich, showed that nuclear waste management remains a major unsolved problem. The testimony also provided insight into changes that would further improve S. 63.

Those improvements have been incorporated into the bill we introduce today. Before discussing it, I think it is instructive to consider other disquieting findings contained in the recent GAO report. The report pointed to:

The gaps in Federal laws and regulations governing the storage and disposal of nuclear waste;

The geological uncertainties and natural resources tradeoffs that are encountered in the selection of "permanent" disposal locations;

The lack of regulatory criteria for orderly waste management operations;

And, not surprisingly, the considerable public and political opposition to nuclear waste disposal locations.

Finally, despite assurances that we have the requisite technology, we have not yet effectively demonstrated that technology in a working model for the safe disposal of waste.

Mr. President, I ask unanimous consent that the 17-page digest of the Comptroller General's report to the Congress titled, "Nuclear Energy's Dilemma: Disposing of Hazardous Radioactive Waste Safely," be printed in the RECORD.

For more than 30 years we have limped along without a rational radioactive waste policy or an institutionalized procedures for safe waste management and regulation. It is time to remedy this deficiency now. It is time to establish a single, centralized authority responsible for safe management and regulation of nuclear waste.

That is why I introduce his legislation today. I am convinced that only an independent executive agency will have the necessary expertise and power to impose a rational solution on the hydra-headed problem of nuclear waste disposal. For this problem represents a challenge that we dare not neglect.

There is a quote from Arnold Toynbee pertinent to our situation:

It is self-evident that, during the growth process, the same challenge is never presented more than once. For, ex hypothesi, so long as growth is being maintained, each successive challenge is being successfully met, or, in other words disposed of as a living issue and relegated to the history books. By contrast we can see that, in a series in which the outcome of each successive challenge is not victory but defeat, the unanswered challenge can never be disposed of and is therefore bound to present itself again and again until it receives some overdue and imperfect answer, or else brings about the destruction of a society which has shown itself inveterately incapable of responding to it effectively.—Arnold Toynbee, "A Study of History."

I have refined this legislation in cooperation with Congressman JAMES M. JEFFORDS, who will introduce an identical companion bill in the House of Representatives.

Mr. President, I ask unanimous consent that the text of S. 2189, the Nuclear Waste Management Act of 1977, and an article by the same title, which John H. O'Neill, Jr., coauthored with me, and which will appear in an upcoming edition of the "Atomic Energy Law Review," be printed at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2189

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Nuclear Waste Management Act of 1977".

TITLE I—DEFINITIONS; DECLARATIONS OF FINDINGS AND PURPOSES

DEFINITIONS

SEC. 101. For the purposes of this Act—

(1) The term "nuclear energy" shall designate the energy released by the nucleus of an atom whether through radioactive decay, elemental transmutation, fusion, or fission;

(2) the term "nuclear fuel" shall designate any substance from which nuclear energy may be derived without further processing or preparation;

(3) the term "nuclear wastes" shall designate surplus, irradiated, abandoned, or "spent" nuclear fuel and nuclear fuel assemblies, uranium, thorium, and radium mine and mill tailings as well as other used or unusable materials and supplies which are produced as a result of the production of nuclear energy and which are sufficiently radioactive or chemically toxic as to constitute a hazard to the health and safety of present or future generations of mankind and other living beings. As used in this Act, "irradiated", "abandoned", or "spent" nuclear fuel and fuel assemblies shall designate such fuel and fuel assemblies for which reprocessing to reclaim unfissioned uranium, thorium, or plutonium is not planned in the foreseeable future;

(4) the term "radioactive facility" shall designate any physical structure, or portions thereof, or earthwork, whether currently in use or whether surplus, obsolete, or abandoned, which is sufficiently radioactive as to constitute a hazard to the health and safety of present or future generations of mankind and other living things;

(5) the term "radioactive site" shall designate any parcel of land, any river, lake, bay, or ocean bed or body of water which is sufficiently radioactive as to constitute a hazard to the health and safety of present or future generations of mankind and other living beings; and

(6) the term "nuclear waste facility" shall designate any physical structure or earthwork employed to process, decontaminate or dispose of nuclear wastes or radioactive facilities.

FINDINGS

SEC. 102. The Congress finds that—

(1) there is great concern among the citizenry, among the scientific community, and among the international community of nations with regard to the present and future contamination of the natural and human environment by radioactive and toxic substances which are produced through the use of nuclear energy no matter what the purpose;

(2) insufficient technical, engineering, and financial resources have been devoted to the disposal of nuclear wastes and that in some instances there exists a hazard to the health and safety of present as well as future generations of mankind and other living beings;

(3) there is a danger to the peace of the Nation through the use of special nuclear fuels such as thorium, uranium, and plutonium which, when diverted from their intended uses, can be employed as weapons; and

(4) there exist unresolved and timely questions regarding the environmental and economic burdens placed upon future generations of mankind through the use of nuclear energy.

PURPOSES

SEC. 103. Therefore the Congress declares that it is the purpose of this Act:

(1) To establish an independent executive agency to be known as the Nuclear Waste Management Authority (hereinafter in this Act referred to as the "Authority"). The Authority shall have the sole responsibility for the temporary or permanent decontamination, storage, and disposal of all nuclear wastes, as well as all surplus, obsolete, or abandoned radioactive facilities existing now or in the future within these United States, its territories or possessions.

(2) That the Department of Energy (hereinafter in this Act referred to as the "Department") shall undertake such basic and applied research as it or the Authority shall deem necessary for the Authority to exercise its responsibilities.

(3) That the Environmental Protection Agency (hereinafter in this Act referred to as the "Agency") shall determine and promulgate such standards as are necessary to protect the health and safety of human and other living beings from the exposure to ionizing emissions from radioactive substances and that the Agency shall determine those conditions under which the migration of nuclear wastes and materials derived from radioactive facilities and sites shall constitute a hazard or danger to the health and safety of present or future generations.

(4) That the Nuclear Regulatory Commission (hereinafter in this Act referred to as the "Commission") shall license the siting, design, construction, and operation of nuclear waste facilities for the temporary or permanent disposal of nuclear wastes or surplus, obsolete or unused nuclear fuels or radioactive facilities and sites. Licenses shall be granted only when the design, siting, or construction of the aforesaid facilities are in conformance with the standards determined and promulgated by the Agency. The Commission shall have all necessary powers to enforce the conditions of any license it grants.

(5) To provide that an application under this Act or the Atomic Energy Act of 1954 for a construction license for a facility employed in the production or utilization of nuclear energy or the disposal of nuclear wastes shall not be acted upon by the Commission unless the application shall have

been approved by the State wherein such facility is to be located.

TITLE II—THE NUCLEAR WASTE MANAGEMENT AUTHORITY

ESTABLISHMENT OF THE AUTHORITY

SEC. 201. There is hereby created an independent executive agency to be known as the Nuclear Waste Management Authority.

OFFICERS

SEC. 202. (a) There shall be at the head of the Authority an Executive Director (hereafter in this Act referred to as the "Director") who shall be appointed by the President by and with the advice and consent of the Senate. The Authority shall be administered under the supervision and direction of the Director who shall be responsible for the efficient and coordinated management of the Authority.

(b) There shall be in the Authority a Deputy Executive Director, who shall be appointed by the President, by and with the advice and consent of the Senate.

(c) The Executive Director and the Deputy Executive Director shall serve in their office until June 30, 1980. After that date they shall, upon appointment by the President and by and with the advice and consent of the Senate, serve for a term of four years commencing July 1, 1980. In the absence or disability of the Director, the Deputy Director shall act for and exercise the functions of the Director. In the event the office of Director becomes vacant, the Deputy Executive Director shall serve as the Acting Executive Director.

(d) There shall be in the Authority a General Counsel who shall be appointed by the Director and who shall serve at the pleasure of and be removable by the Executive Director. The President, with the advice and consent of the Senate, shall appoint such additional officers as he shall deem necessary including but not limited to—

(1) an officer whose special responsibility shall be the international cooperation in all nuclear waste management programs;

(2) an officer whose special responsibility shall be cooperation with State and municipal governments;

(3) an officer whose special responsibility shall be planning and systems analysis of nuclear waste management programs;

(4) an officer whose special responsibility shall be for geology and seismology;

(5) an officer whose special responsibility shall be for nuclear engineering and design of nuclear facilities; and

(6) an officer whose special responsibility shall be for biological and environmental analysis.

Such officers shall be knowledgeable in the area respecting which they have supervisory responsibilities and shall be well-known to the scientific community and to the general public.

The aforesaid officers shall serve for a term of four years commencing with date of their appointment and may not be reappointed. The aforesaid officers together with the Director, the Deputy Director, and the General Counsel shall also serve as the Board of Directors of the Authority (hereinafter in this Act referred to as the "Board"). The Board shall be required to judge the design and siting of any nuclear waste facility prior to application for any license to be granted by the Commission under the provisions of this Act. The aforesaid judgment shall require the approval of two-thirds of the members of the Board. Minutes of all meetings of the Board shall be kept and shall be open to the public. Such meetings shall contain a record of all dissents from the Board's decision.

FUNCTION OF THE AUTHORITY

SEC. 203. (a) Subject to the provisions of this Act, the Director shall perform such functions as are necessary to carry out its provisions including but not limited to:

(1) The establishment of a plan together with the estimates of costs and an analysis of the social and environmental impacts for the temporary and permanent treatment and disposal of all nuclear wastes, as well as obsolete, surplus, or abandoned radioactive facilities and sites in existence now or in the future which have been produced by the use of nuclear energy on or after January 1, 1940, until this Act regardless of their origin. This plan is hereinafter called the existing waste plan.

(2) The establishment of a plan together with estimates of costs and an analysis of the social and environmental impacts for the temporary and permanent treatment and disposal of all nuclear wastes, as well as obsolete, surplus, or abandoned radioactive facilities and sites which are expected to be produced by the use of nuclear energy in new facilities from the date of this Act until the year 2020. This plan shall be reviewed and revised, if necessary, every two (2) years commencing with the year 1985. This plan is hereafter designated as the "future waste plan."

(3) The establishment and operation of facilities for the temporary and permanent disposal of nuclear wastes, as well as surplus, obsolete, and abandoned radioactive facilities.

(4) The establishment and operation of programs for the treatment and disposal of nuclear wastes as well as the dismantling or decommissioning of surplus, obsolete, or abandoned radioactive facilities and sites. Facilities and nuclear waste covered under this provision include but are not limited to those produced or owned by any agency, department, or administration of the United States Government, any State or municipality therein, or any individual or corporation.

(5) The establishment and collection of fees or user charges for the use of the aforesaid facilities or the participation in the aforesaid programs.

(6) The promulgation of such rules and regulations as are necessary to implement the powers granted to the Authority by this Act.

(b) Nothing in this section shall be construed as granting to the Authority regulatory functions presently exercised by the Commission.

ADMINISTRATIVE PROVISIONS

SEC. 204. (a) The Director is authorized to prescribe such policies, standards, criteria, procedures, rules, and regulations as he may deem necessary to perform functions now or hereafter vested in him.

(b) The Director shall engage in such policy planning and perform such program evaluations and other studies, as he may deem necessary to promote the efficient and coordinated administration of the Authority.

(c) The Director may contract with any agency of the United States Government, any private individual or corporation to perform such studies as well as to evaluate the proposed or actual design siting, construction, radiological security of any nuclear waste facility owned or operated by the Authority or its agents and contractors.

(d) Except as otherwise expressly provided by law, the Director may delegate any of his functions to such officers and employees of the Authority as he may designate, and may authorize successive redelegations of such functions as he may deem necessary or appropriate.

(e) The Director shall cause a seal of the office to be made for the Authority and it shall be of such device as he shall approve. Judicial notice shall be taken on such seal.

INTERAGENCY COOPERATION AND INVENTORY OF NUCLEAR MATERIALS

SEC. 205. (a) Each department, agency, and instrumentality of the Government of the United States is authorized to furnish and shall provide the Director, upon his request, with any information or other data which he deems necessary to carry out his duties under the Act.

(b) Specifically, and in addition to all other requests the Director may make, the Department of Energy, the Department of Defense, and the Nuclear Regulatory Commission shall furnish the Director with a complete inventory of all nuclear wastes, nuclear fuels, radioactive materials and facilities and sites in their possession or in private ownership under their control or license. This inventory shall be delivered to the Director on or before January 1, 1979.

(c) In addition, the aforesaid departments, agencies, and instrumentalities shall provide the Director with projected inventories of the above wastes, fuels, materials, and facilities for a ten-year period commencing with the year 1980. Thereafter, the aforementioned agencies, departments, and instrumentalities shall provide the Director with a complete record of any changes in their inventory. The records of the aforesaid inventories or any changes therein shall be provided annually and shall be open for inspection by the public excepting only such records as are classified for restricted access by the Secretary of the Department of Defense. Records so designated shall, however, be open to the Director or any officers of the Authority.

(d) The Director shall report to the President, the Congress, and to the International Atomic Energy Agency annually concerning any substantial loss of any nuclear fuel or waste from its place of treatment, storage, or disposal. Such reports shall include the last known place and time where such material was located. "Substantial" here shall mean any amount greater than the radiological or fissionable equivalent of 0.05kg pure (100 percent) Pu_{239}.

PLANS FOR THE MANAGEMENT OF EXISTING AND FUTURE NUCLEAR WASTES

SEC. 206. (a) The Board of the Authority with the assistance of the United States Geological Survey, the Department of Energy, the National Oceanic and Atmospheric Administration, and the Environmental Protection Agency shall undertake a nationwide study to determine an inventory of suitable sites for the disposal of nuclear wastes and contaminated radioactive materials produced by the decontamination and decommissioning of radioactive facilities and sites. Any recommended site must be capable of containing all material disposed therein without human intervention commencing one hundred and twenty-five years after the date of disposal and following that date for a period of one hundred thousand years.

(b) Further, the Board with the assistance of aforesaid departments and agencies, shall prepare a plan (the existing "waste plan") for the treatment, security, and disposal of all nuclear wastes produced by any nuclear energy or radioactive facility or site whether in operation, under construction, surplus, or abandoned on the date of this Act. The existing waste plan shall also specify a schedule and methods for decommissioning or decontaminating all nuclear energy facilities that are in operation, under construction, obsolete, or abandoned on the date of this Act.

(c) Further, the Board, with the assistance of the aforesaid departments and agencies shall prepare a plan (the "future waste plan") for the treatment, security, and disposal of all nuclear wastes produced by any nuclear energy or radioactive facility or site

on which construction is expected to begin commencing with this Act until the year 2020. The future waste plan shall also specify a schedule and methods for decommissioning or decontaminating all such facilities and their sites.

(d) Both plans, together with the radiological standards empowered by title V of this Act, shall be submitted to the President on or before January 1, 1979 and shall be subjected to his disapproval, or modification within one hundred and eighty days of submission. Thereafter, the plans, as modified by the President, shall be submitted to Congress for its approval or disapproval by joint resolution. Such approval shall occur within one hundred and eighty days of its submission by the President. Any plan approved by the Congress shall be considered an approved plan for the purposes of this Act. Any plan not approved shall be returned to the Director of the Auhority for modification and resubmission within one hundred and eighty days of its rejection. Commencing with the year 1981, and every two years thereafter, the Director shall report to the President and to the Congress concerning the degree to which the objectives and schedules for implementation of the plans are being met.

(e) Both plans as well as all sites designated by the study shall incorporate and be consistent with the radiological standards empowered by title V of this Act.

PERSONNEL AND SERVICES

SEC. 207. (a) The Director is authorized to select, appoint, employ, or fix the compensation of such officers and employees, including attorneys, as are necessary to perform the functions now or hereafter vested in him and to prescribe their functions.

(b) The Director is authorized to obtain services as provided by section 3109 of title V of the United States Code. The Director is authorized to pay transportation expenses, and per diem in lieu of subsistence expenses in accordance with chapter 57 of title 5 of the United States Code for travel while at places of duty, of persons appointed for emergency, temporary, or seasonal services in the field services of the Authority.

(c) The Director is authorized to utilize on a reimbursable basis the services of any personnel made available by any department, agency, or instrumentality including any independent agency of Government.

(d) The Director is authorized to establish advisory boards, in accordance with the provisions of the Federal Advisory Committee Act (Public Law 92–463), to advise him and make recommendations to the Authority on legislation, policies, administration, research, and other matters.

(e) The Director is authorized to employ persons who are not citizens of the United States in expert, scientific, technical, or professional capacities whenever he deems it in the public interest.

(f) Except for public buildings as defined in the Public Buildings Act of 1959, and with respect to the lease space subject to the provisions of the Reorganization Plan Numbered 18 of 1950, the Director is authorized to acquire (by purchase, lease, condemnation, or otherwise), construct, improve, repair, operate, and maintain facilities and real property as he deems to be necessary in and outside the District of Columbia. Such authority shall apply only to facilities, quarters, and related accommodations for employees and dependents of employees of the Authority and such other special purpose real property as the Director deems to be necessary in and outside the District of Columbia. Title to property or interest therein, real, personal, or mixed acquired pursuant to this section shall be in the United States.

(g) The Director is authorized to provide, construct, or maintain, as necessary and when not otherwise available, the following for employees and their dependents stattioned at remote locations—

(1) emergency medical services and supplies;

(2) food and other subsistence supplies;

(3) messing facilities;

(4) audiovisual equipment, accessories, and supplies for recreation and training;

(5) reimbursement for food, clothing, medicine, and other supplies furnished by such employees in emergencies for the temporary relief of distressed persons;

(6) living and working quarters and facilities; and

(7) transportation for school age dependents of employees to the nearest appropriate educational facilities.

The furnishing of medical treatment under paragraph (1) of this subsection and the furnishing of services and supplies under paragraphs (2) and (3) of this subsection shall be at prices reflecting reasonable values as is determined by the Director.

(h) The Director is authorized to acquire any of the following described rights if the property acquired thereby is for use in, or is useful to the performance of the functions vested in him:

(1) Copyrights, patents, and application for patents, designs, processes, specifications, and data.

(2) Licenses under copyrights, patents, and applications for patents.

(3) Releases before suit is brought, for past infringement of patents or copyrights.

(i)(1) The Authority shall hold title to and the Director shall have access to at any time all nuclear wastes, nuclear waste facilities, and surplus, obsolete, or abandoned radioactive facilities including but not limited to surplus or abandoned research, national defense, and commercial nuclear reactors, particle accelerators, and test facilities, nuclear fission and fusion wastes, unreprocessed uranium, thorium, and plutonium fuel and fuel elements and operating and abandoned uranium, thorium, and radium mines and mills. The Authority shall not hold title to radioactive sites but shall have access thereto and may enter thereupon for the purpose of decontaminating said sites.

(2) Notwithstanding the provisions of paragraph (1) of this subsection the Department of Energy may, upon one year's notice to the Director, reclaim any irradiated, abandoned, or "spent" nuclear fuel or fuel assemblies from which it desires to reclaim unfissioned uranium, thorium, or plutonium: *Provided, however,* That such reclamation can be carried out in a manner which will not endanger the health and safety of present or future generations of men and other living beings.

(j) The Director shall have access at anytime, upon notice, to any facility for the production or distribution of nuclear energy including but not limited to operating research, national defense, and commercial nuclear fusion, nuclear fuel reprocessing facilities, nuclear fusion reactors, particle accelerators and nuclear testing facilities, nuclear fuel reprocessing facilities, uranium, thorium, and radium mines and mills.

(k) The powers granted under subsections (i) and (j) of this section shall be in force throughout all lands, territories, or possessions under the jurisdiction of the Government of the United States as well as throughout and over the Continental Shelf surrounding the aforesaid.

(l) Subject to the provisions of chapter 12 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2161), and other applicable law, the Director shall disseminate scientific, technical, and practical information required pursuant to this Act through information programs and other appropriate means and shall encourage the dissemination of scientific, technical, and practical information relating to nuclear waste management so as to enlarge the fund of such information and to provide a free interchange of ideas and criticism which is essential to scientific and industrial progress and public understanding.

(m) The Director is authorized to accept, hold, administer, and utilize gifts, and bequests of property, both real and personal, for the purpose of aiding and facilitating the work of the Authority. Gifts and bequests of money and proceeds from sales or of other property received as gifts or bequests shall be deposited in the Treasury and shall be disbursed upon the order of the Director. For the purposes of Federal income, State, and gift taxes, property accepted under this section shall be considered as the gift or bequest of the United States.

TITLE III—NUCLEAR WASTE MANAGEMENT FUND

SEC. 301. (a) There is hereby established in the Treasury of the United States a Nuclear Waste Management Fund (hereinafter in this Act referred to as the "Fund"). Notwithstanding any provision of the Congressional Budget Act of 1974, the Fund shall be administered by the Director without the requirement of annual authorization by the Congress in order to secure payment, when due of the principal of any redemption premium on and any interest on all Fund bonds, by a first pledge of a lien on all revenues payable to and assets held in the Fund, and to carry out the purposes, functions, and powers authorized in this Act.

(b) The purpose of the Fund is—

(1) to provide for capital expenditures which are necessary for the research, demonstration, design, and construction of nuclear waste facilities; and

(2) to serve as a repository for operating, maintenance, and contingency expenses required for the temporary storage of nuclear wastes and to provide for operation, maintenance, and security during the first thirty years after the permanent disposal of any nuclear waste or the dismantling of any radioactive facility.

(c) Within the Fund there is created a Perpetual Waste Trust Fund for the perpetual management (including insurance against any foreseeable contingency and catastrophe), security, and maintenance of nuclear waste facilities commencing thirty years after the permanent disposal of any nuclear waste or after the permanent disposal of any radioactive facility.

(d) In order to achieve the objectives and to carry out the purposes of this Act the Director may—

(1) issue and sell securities and Fund bonds;

(2) make and enforce such rules and regulations and perform such contracts, agreements, and commitments as may be necessary to carry out the purposes of this Act;

(3) prescribe and impose fees and charges for services rendered by the Authority pursuant to this Act, which shall be sufficient to cover (A) the retirement of all capital funds provided under section 301(b)(3), (B) the payment of all operating, maintenance, and security expenses incurred for the temporary storage of nuclear wastes and for operating and security expenses incurred during the first thirty years after the permanent disposal of nuclear wastes as well as the dismantling of any radioactive facility, and (C) the principal contributions to the Perpetual Nuclear Waste Trust Fund) which Fund shall contain principal sufficient to provide for the perpetual management of a nuclear waste facility from interest alone, 25 per centum of which principal contributions shall be assessed on the date of disposal or dismantling and the remainder shall be assessed in equal fractions for thirty years thereafter);

(4) settle, adjust, and compromise, and with or without consideration or benefit to the Fund, release or waive, in whole or in

part, in advance or otherwise, any claim, demand, or right of, by or against the Director or the Fund;

(5) sue or be sued, complain, and defend in any State, Federal, or other court;

(6) acquire, take hold, own, deal with, and dispose of any property, including bonds issued under this section; and

(7) determine, in accordance with appropriations, the amount to be withdrawn from the Fund and the manner in which such withdrawal shall be effected.

(e) There shall be deposited in the Fund—

(1) funds received by the Director for deposit in the Fund representing the proceeds from the issuance and sale of securities and Fund bonds as provided;

(2) income and gains realized by the Fund from any investment of excess funds of the Fund; and

(3) income from fees and charges established pursuant to this Act.

(f) If the Director determines that the amount of money in the Fund exceeds the amount required for current needs, the Director may invest such amounts as he deems advisable and obligations of or guaranteed by the governmental agency obligations or other securities of the United States.

(g) The Director may deposit moneys of the Fund with any Federal Reserve bank, any depository for public funds, or in such other places and in such manner as the Secretary of the Treasury deems appropriate.

FUND BONDS

SEC. 302. (a) The Director may issue Fund bonds in denominations of $100,000 (or any integral multiple thereof), and such total amounts as may be authorized by Congress. No Fund bonds—

(1) shall be issued which mature in less than eight or more than thirty years from the date of original issuance thereof; or

(2) shall, except as otherwise provided pursuant to this Act, be subjected to redemption (at the option of the Director) at any time prior to the tenth anniversary date of the original issuance thereof, or at any time thereafter.

(b) The Director shall impose a first pledge of and first lien on, all revenues payable to the assets held in the Fund, and appropriated for the use of the Director pursuant to this Act. The Director may impose such a pledge of a lien on all other revenues or property of the Fund. The purpose of and such pledge and lien shall be to secure the payment when due, or the principal and any redemption premiums on, and any interest on all Fund bonds, and for other purposes incidental thereto. Such incidental purposes may include the creation of reserve and other funds which may be similarly pledged and used, to such extent and in such manner as the Director deems necessary or desirable. Any pledge made by the Director shall be valid and binding from the time it is made. The revenues and assets held in the Fund, and the revenues or property of the Fund which are so pledged and which are subsequently received by the Fund, shall immediately be subject to the lien of such pledge without any physical delivery thereof or any further act. The lien of any such pledge shall be valid and binding as against all parties having claims of any kind, in tort, contract, or otherwise against the Director or the Fund, without regard to whether such parties have notice thereof, no instrument by which a pledge is created need to be recorded or filed to project such a pledge.

(c) The Director may enter into binding covenants with the holders of Fund bonds and with the trustee, if any, under any agreement entered into in connection with the issuance of such bonds with respect to—

(1) the establishment of reserves and other funds;

(2) stipulations concerning the subsequent issuance of obligations; and

(3) such other matters as the Director deems necessary or desirable to enhance the marketability of Fund bonds.

(d) Subject to the provisions of subsection (a) of this section, the Director may determine with respect to Fund bonds—

(1) the form and denominations in which they shall be issued;

(2) the time when they shall be sold, and in what amount;

(3) the time when they shall mature;

(4) the price thereof at sale;

(5) the rate of interest thereon;

(6) whether, and in what manner, they may be redeemed prior to the date when they mature; and

(7) whether they shall be negotiable or nonnegotiable and whether they shall be bearer or registered instruments, and any indentures or covenants relating thereto.

(e) Fund bonds issued by the Secretary under this section shall—

(1) contain a recital that they are issued under this section, which shall be conclusive evidence as to the validity and regularity of the issuance and sale of such Fund bonds;

(2) be subject to such other terms and conditions as the Director may, by resolution authorizing the issuance, determine;

(3) be lawful investments and may be accepted as security for all fiduciary, trust, and public funds, investment or deposit of which shall be under the authority or control of any officer or agent of the United States;

(4) not be exempted from Federal, State, and local taxation; and

(5) not to be debts or enforceable general obligations of nor shall be payment of a principal thereof or interest thereon be guaranteed by the United States.

Neither the full faith or credit nor the general power of the Federal Government shall be pledged to the payment of the principal or of any premium on or interest on such Fund bonds.

(f) Neither the Director, nor any other individual, who executes any Fund bond shall be subject to any personal liability or accountability by reason of issuance of such bond.

TITLE IV—POWERS OF THE DEPARTMENT OF ENERGY UNDER THIS ACT

SEC. 401. The Department of Energy shall be responsible for all necessary research and development in the design of methods for the operation, construction, and decommissioning of nuclear waste facilities, as well as the transportation, processing, storage, and disposal of nuclear wastes and the decontamination or decommissioning of surplus, obsolete, or abandoned radioactive facilities and sites. The Department shall undertake all necessary research to determine the integrity of any proposed disposal technique over a period of one hundred twenty-five years with minimal human supervision and periods greater than one hundred twenty-five years up to a maximum of one hundred thousand years with no assured human supervision.

SEC. 402. Should the Director of the Authority require the performance of research and development or testing pertaining to the performance of his duties, upon notice, the Department shall undertake to fulfill his request in a timely fashion. The Department shall assess from the Authority all costs it incurs in the performance of its obligations under this section.

SEC. 403. (a) Any development work, including but not limited to the construction and operation of prototype nuclear waste processing and disposal facilities, shall be subject to review by the Nuclear Regulatory Commission. If it be determined that the aforesaid development work may cause hazardous radioactive contamination of physical facilities, the natural environment, geological formations, and aquifers, the Commission shall require the Department to post bond for the decontamination of all sites and facilities after the completion of the aforesaid development work.

If it be determined that the potential accident is unreasonably high, the Commission may require that the aforesaid development work cease until such potential is no longer unreasonably high.

(b) The Assistant Secretary of Environment within the Department of Energy shall participate in the design of all development work subject to the provisions of this title. The Assistant Secretary shall consult with the United States Geological Survey an other appropriate departments and agencies for advice and assistance.

TITLE V—POWERS OF THE ENVIRONMENTAL PROTECTION AGENCY UNDER THIS ACT

SEC. 501. (a)(1) The Environmental Protection Agency shall determine and promulgate such standards as will be necessary to protect the health and safety of human and other living beings from hazardous exposure to ionizing emissions from radioactive substances and materials. Further, the Agency shall determine those conditions under which the migration of nuclear wastes and materials from radioactive facilities, radioactive sites, and nuclear waste facilities shall constitute a hazard or danger to the health and safety of present or future generations.

(2) The aforesaid standards shall consider such factors as the possible future biological, chemical, and meteorological concentration, genetic impairment, as well as individual health and safety under an average exposure in the local or regional environment.

(3) The aforesaid standards shall be submitted to the President, the Congress, and to the Nuclear Regulatory Agency on or before January 1, 1979. Thereafter the Agency shall report every five years to the President, the Congress, and to the Commission concerning the necessity for revising the aforesaid standards or for the necessity for further research.

(b) The Agency may undertake or contract to undertake such research as it deems necessary for the performance of its duties under this title.

TITLE VI—POWERS OF THE NUCLEAR REGULATORY AGENCY UNDER THIS ACT

SEC. 601. (a) Notwithstanding any other provision of law, the Nuclear Regulatory Commission shall have licensing and related regulatory authority with regard to the operation of existing or future nuclear waste facilities, the transportation, processing, storage, and disposal of nuclear wastes as well as the decontamination and decommissioning of surplus, obsolete, or abandoned radioactive facilities and sites regardless of their past, present, or future ownership or origin.

(b) Licensing authority under this section shall only be exercised in conformance with those standards determined and promulgated under the provisions of title V of this Act, as well as those plans empowered by section 206 of title II of this Act.

(c) Any decision or license issued by the Commission under the provisions of this Act may be appealed by all parties to the decision or to a licensing proceeding, to the district court of the United States.

SEC. 602. (a) The Commission shall periodically inspect and enforce the terms of any license granted under this title.

(b) The Commission shall have the power of subpena over all records, documents, and data which it deems necessary for the performance of its obligations under this section. The Commission is also empowered to enter upon the premises of any licensed site

or facility. Such entrance shall be unrestricted and may be without notice.

SEC. 603. The Commission shall review every ten years all licenses granted under this title to determine whether the original conditions and provisos are sufficient to assure the health and safety of present and future generations in light of the advancement of knowledge since the date of issuance. Should such conditions and provisos be determined as insufficient, their terms may be altered at the discretion of the Commission. The costs of any material improvements as may be required shall constitute a liability against the Nuclear Waste Management Fund or against the Perpetual Nuclear Waste Trust Fund created by section 301 of title III of this Act.

TITLE VII—POWERS OF THE SEVERAL STATES UNDER THIS ACT

SEC. 701. (a) Notwithstanding the provisions of this Act and notwithstanding the provisions of the Atomic Energy Act of 1954 (42 U.S.C. 2011 and following), the Commission is hereby enjoined from acting upon the application for a construction license for any facility employed in the production or utilization of commercial nuclear power or for the processing, treatment, or disposal of nuclear wastes and radioactive materials produced by decontamination or decommissioning of radioactive facilities or sites unless such application is approved by the State wherein the facility is to be located.

(b) Approval by a State under this section shall be by any process, individual, or designated body which is duly authorized by the constitution of the State. Such approval must occur on or before the last legislative day of the next full session of the legislature following submission of an application to the Commission. Failure by a State to act within such time shall be considered the same as approval by the State unless a copy of such application is received by the State after the beginning of a legislative session.

(c) The Authority, the Department of Energy, and the Commission shall supply the aforesaid duly authorized individuals or bodies with all documents, data, and research reports as they may deem necessary for the exercise of their powers under this section.

(d) Nothing in this section shall be construed as to prevent the Commission from holding hearings, taking depositions, or gathering other material evidence as it may deem necessary for acting upon the application subsequent to State approval.

SEC. 702. (a) The Governor of a State may designate an individual to participate on his behalf in all deliberations and proceedings of the Commission regarding the licensing of nuclear energy and waste disposal facilities, of the licensing of nuclear waste disposal, and the licensing of the decontamination and decommissioning of radioactive facilities and sites within its borders.

(b) The aforesaid representative shall receive timely notice of all hearings, meetings, and proceedings of the Commission in which he shall be entitled to participate under the provisions of this title.

(c) The aforesaid representative shall have the right to enter assents, dissents, and protests in the record of any such hearings, meetings, or proceedings, but he shall not have the power to vote as a member of the Commission upon any application.

(d) The aforesaid representative shall have access to data, documents, and reports to which any other member of the Commission is entitled under this section or any other Act.

(e) Nothing in this section shall be construed as to prohibit or limit the rights of the Government and people of any State from acting as a party or petitioner before any hearing or licensing procedure within the purview of the Commission.

SEC. 703. (a) Notwithstanding the provisions of section 701 of this title, if the Authority has submitted an application for a construction license of a nuclear waste facility in ten or more States, and when all such applications meet all criteria, regulations, and standards determined as necessary by the Commission, then the Commission may act upon such application if all such applications have been rejected by the States wherein the proposed facility is to be located.

(b) Preemptory action by the Commission under this section is only empowered for facilities which shall exclusively process, handle, store, or dispose of nuclear wastes in existence on the date of this Act other than military wastes generated by any facility authorized under chapter 9 of the Atomic Energy Act of 1954 or which shall be created by nuclear energy facilities in existence or under construction on the date of this Act, other than facilities authorized under such chapter 9.

TITLE VIII—INTERNATIONAL PLANNING AND AGREEMENTS

SEC. 801. The Director of the Authority and the Director of the United States Arms Control and Disarmament Agency shall seek the cooperation of and shall assist, by all means at their disposal, other nations and appropriate international organizations in negotiating treaties and other instruments to promote international research and regulation regarding siting, design, construction, and operation of nuclear waste facilities, as well as the security, transportation, processing, storage, and disposal of nuclear fuels and wastes.

SEC. 802. The Director of the Authority and the Director of the United States Arms Control Disarmament Agency shall seek to prepare and undertake a worldwide inventory of recommended sites for the disposal of nuclear wastes. Any recommended site should meet those standards required by this Act for the disposal of nuclear wastes within these United States.

SEC. 803. The Director of the Authority and the Director of the United States Arms Control and Disarmament Agency shall report annually to the President and to the Congress regarding the status of international negotiations and nuclear waste management programs mandated by this tile. Such reports shall also contain recommendations for diplomatic and programmatic initiatives by the President and Congress pursuant to the management and security of nuclear fuels and wastes. The Director of the Authority and the Director of the United States Arms Control and Disarmament agency shall seek the assistance and cooperation of international organizations and of other nations in preparing and undertaking a worldwide program for the management and security of nuclear fuels and wastes.

TITLE IX—TRANSFERS OF AUTHORITY

SEC. 901. All functions, powers, authorizations of appropriations, appropriations, and duties of the Department of Energy with regard to the domestic and international operation of nuclear waste facilities, the transportation, processing, storage and disposal of nuclear wastes, as well as the decontaimination and decommissioning of surplus, obsolete, or abandoned radioactive facilities and sites are hereby transferred to the Authority. Nothing in this section shall be construed as transferring any authority, authorization of appropriation, power or duty of the Department with regard to research and development related to nuclear waste management as well as the decontamination and decommissioning of surplus, obsolete, or abandoned radioactive facilities and sites.

SEC. 902. All regulatory and licensing powers, functions, and duties of the Environmental Protection Agency with regard to the disposal of nuclear wastes or radioactive substances in or below any body of water, sea or ocean are hereby transferred to the Nuclear Regulatory Commission.

SEC. 903. Excepting as provided in title VII of this Act, all powers existing under the Code of the United States, of the several States or municipality therein with regard to the licensing or regulatory powers of the Nuclear Regulatory Commission enumerated in this Act are hereby transferred to the Commission. Nothing in this subsection shall be construed as to prohibit the Commission from granting to a State or municipality the power to regulate or license the construction of nuclear waste facilities provided such licenses and regulations do not in any way nullify any regulation or any condition of any license promulgated or issued by the Commission.

TITLE X—AUTHORIZATION OF APPROPRIATIONS AND REPORTS OF BUDGETS

SEC. 1001. There is hereby authorized to be appropriated the sum of $1,000,000 to provide for the establishment and operation of the Authority during the fiscal year of this Act. Thereafter, the Director may submit to the Congress requests for such appropriations as he deems necessary for the pursuit of his duties under this Act.

SEC. 1002. The Director of the Authority, the Secretary of the Department of Energy, the Administrator of the Environmental Protection Agency, and the Chairman of the Nuclear Regulatory Commission shall, as soon as practicable after the end of each fiscal year, make a report to the President for submission to the Congress concerning the activities of their agency, department, authority, or commission during the preceding year pursuant to the powers granted them by this Act. Such reports shall also include a detailed statement of goals, expenditures, plans and income projected for the ensuing two years.

TITLE XI—SEPARABILITY AND CONSISTENCY WITH EXISTING LAWS

SEC. 1101. Nothing contained in the Atomic Energy Act, as amended, (24 U.S.C. 2017) or contained in any other applicable chapter of the United States Code as of the date of this Act shall in any way supervene or take precedence over the provisions of this Act.

SEC. 1102. If any provision of this Act or the application thereof to any person, corporate body, or political jurisdiction be held invalid no other provision of this Act or the application of such provision to other persons and circumstances shall be affected thereby.

[Comptroller General's Report to the Congress]

NUCLEAR ENERGY'S DILEMMA: DISPOSING OF HAZARDOUS RADIOACTIVE WASTE SAFELY

Growth of nuclear power in the United States is threatened by the problem of how to safely dispose of radioactive waste potentially dangerous to human life. Nuclear power critics, the public, business leaders, and Government officials concur that a solution to the disposal problem is critical to the continued growth of nuclear energy.

Radioactive wastes being highly toxic can damage or destroy living cells, causing cancer and possibly death depending on the quantity and length of time individuals are exposed to them.

GAO found:

Public and political opposition to nuclear waste disposal locations.

Gaps in Federal laws and regulations governing the storage and disposal of nuclear waste.

Geological uncertainties and natural resources tradeoffs encountered when selecting "permanent" disposal locations.

Lack of the Nuclear Regulatory Commission regulatory criteria for orderly waste management operations, such as solidification of waste, designing proper waste containers, and transporting nuclear waste.

Overly optimistic schedules for demonstrating the safety of the Energy Research and Development Administration's proposed waste disposal locations and waste management practices.

Lack of demonstrated technologies for the safe disposal of existing commercial and defense high level waste.

Now that commercial reprocessing of spent fuel has been indefinitely deferred, finding solutions to problems in storing and/or disposing of nuclear spent fuel will become a top priority matter.

GAO's report discusses these findings and proposes recommendations to improve Federal nuclear waste management and provide additional assurance that the public health and safety is considered in all matters of nuclear waste disposal.

SOURCES OF RADIOACTIVE WASTE

Nearly all operations that produce or use nuclear materials generate radioactive waste. Most waste comes from the energy Research and Development Administration's military reactors, commercial nuclear powerplants (spent fuel elements)[1] and Federal and commercial fuel cycle activities—mainly fuel fabrication and reprocessing facilities.

This report discusses (1) high level waste, (2) transuranic contaminated waste, and (3) reactor spent fuel. All these materials contain transuranic[2] elements which determine to a large extent the degree of long term hazard associated with them because some of these isotopes remain hazardous for hundreds of thousands of years.

High level waste—has extremely high radioactivity—as much as 10,000 curies[3] per gallon. This waste is characterized by high levels of penetrating radiation, high heat generation rates, and a long toxic life. High level waste is created when reactor spent fuel elements are dissolved in acid to recover unused uranium and plutonium for reuse as nuclear fuel. It is the acid solution remaining that is referred to as high level waste. It contains virtually all the fission products[4] and small amounts of transuranics—such as plutonium—which are not recovered during the reprocessing operations. It is one of the most hazardous and complex of all radioactive wastes to manage.

Transuranic contaminated waste—contains much lower concentrations of radioactivity than high level waste. It is generated by plutonium fuel fabrication and fuel reprocessing facilities and laboratories using transuranic elements. This waste generally consists of absorbent tissues, clothing, gloves, plastic bags, equipment, filters from effluent treatment systems, and fuel hulls which remain after fuel reprocessing.

Spent fuel—contains all the fission and transuranic elements that are found in high level waste and all the uranium and plutonium not used during the nuclear reaction. Spent fuel is characterized by high levels of penetrating radiation, high heat generation rates, and a long toxic life.

Until the 1960s, little effort was made to develop technologies for the long term storage or "permanent" disposal of hazardous radioactive waste. The production of atomic weapons materials and development of commercial nuclear powerplants received the highest priority. Decisions as to the management of military waste were based on short term expediency rather than long term considerations.

Even if all activities which generate radioactive waste were stopped today, the United States still would be faced with a major radioactive waste disposal problem. Radioactive waste has been accumulating for decades from the Energy Research and Development Administration's military and research development efforts, fuel reprocessing activities, and commercial nuclear powerplant operations.

Today about 71 million gallons of high level waste produced by the Energy Research and Development Administration's plants, which reprocess spent fuel from production reactors used for the weapons program, is "temporarily" stored in steel tanks at the Hanford facility in Richland, Washington (50 million gallons) and at the Savannah River facility in Aiken, South Carolina (21 million gallons).

In addition, approximately 3 million gallons are stored in underground tanks and bins at the Idaho National Engineering Laboratory at Idaho Falls, Idaho.

About 13 million cubic feet of transuranic contaminated waste from military and research activities either has been buried or stored retrievably at five principal shallow-land burial sites of the Energy Research and Development Administration. This waste is contaminated with about 1,000 kilograms of plutonium. Some of the 1.3 million cubic feet of radioactive waste generated by the Energy Research and Development Administration each year is contaminated with transuranic elements. About 7 million cubic feet of commercial transuranic contaminated waste is expected to accumulate by the year 2000.

About 600,000 gallons of high level waste has been generated from commercial reprocessing activities and is currently stored at West Valley, New York. Should commercial reprocessing operations resume, estimates are that through the year 2000, an addefinitely deferred commercial reprocessing of spent fuel.

Commercial reactor spent fuel is accumulating at nuclear powerplants because there are no commercial reprocessors now operating in the United States. Resumption of reprocessing does not seem probable in the near future since President Carter has indefinitelydeferred commercial reprocessingof spent fuel.

If it is finally decided that there will be no further commercial reprocessing, spent fuel elements from existing and future civilian power reactors probably will have to be managed as high level radioactive waste. Meanwhile, nuclear powerplants have had to store their spent fuel in storage pools at the reactor sites. As a result, a backlog of spent fuel is accumulating at the powerplants.

The Energy Research and Development Administration estimates that 1985 is the earliest possible date a geological waste disposal facility or other storage facility to receive spent fuel could be ready. By this time the nuclear industry could be faced with a severe shortage of storage capacity.

Spent fuel and transuranic contaminated waste could be as hazardous to the public health and safety as high level waste. While the Federal Government requires extensive regulatory and public oversight over most nuclear plant operations because they use nuclear materials, the same degree of public protection and independent oversight is not currently required for the storage and/or disposal of these hazardous nuclear materials. This situation needs to be changed.

THE NUCLEAR REGULATORY COMMISSION LACKS AUTHORITY OVAR ALL WASTE STORAGE AND DISPOSAL ACTIVITIES

The Congress provides for an independent review of nuclear activities, including waste disposal by the Nuclear Regulatory Commission. Under the Energy Reorganization Act of 1974, the Commission has specific responsibility for licensing and regulating all Energy Research and Development Administration facilities used for storage of commercial high level waste. It has similar authority for retrievable surface storage facilities and other long term storage facilities for the Energy Research and Development Administration's high level waste. This does not include authority over the agency's facilities which are used for or are part of research and development activities.

The act does not specifically give the Commission licensing authority over the Energy Research and Development Administration's—

research and development facilities or full-scale facilities for the temporary storage and/or long term storage or disposal of commercial and its own transuranic contaminated waste,

facilities for the temporary storage of its own high level waste, or

research and development facilities or full-scale facilities for temporary storage and/or long term storage or disposal of commercial spent fuel.

The Congress either should give the Commission authority over those Energy Research and Development Administration facilities—including research and development facilities—intended for the storage and disposal of its own high level wasted, or provided for other independent oversight and assessment of these facilities. The Congress should also either give the Commission authority over the storage and disposal of transuranic contaminated waste and spent fuel, or provide for an alternate means of independent oversight and review.

DISPOSAL OF MILITARY- AND RESEARCH-RELATED WASTES

After several deades of work, the Atomic Energy Commission did not, and its successor—the Energy Research and Development Administration—has not yet: demonstrated acceptable solutions for long term storage and/or disposal of defense- and research-related high level waste, or satisfied the scientific community that present storage sites are suited geologically for long term storage or disposal.

The Energy Research and Development Administration is investigating several alternatives for managing its military and research wastes, including—

immobilizing in place,

solidifying and disposing at Hanford and Savannah River, and

solidifying and shipping to a Federal geological repository.

Before this high level waste can be moved to a repository, however, major questions involving retrievability from its temporary storage tanks at Hanford and Savannah River must be resolved.

The Energy Research and Development Administration does not now have the technological capability to extract all of this waste from the storage tanks. The waste stored at Hanford and Savannah River makes

[1] Spent fuel has not yet been defined by the Nuclear Regulatory Commission as high level waste and may not be, because of its potential value as a source of fuel if reprocessed. This report will consider spent fuel as a "potential" high level waste.

[2] Transuranic elements are man-made, long-lived, and extremely toxic. These elements—such as plutonium—are created during the normal nuclear reaction process. They are found in several nuclear fuel cycle operations and are contained in nuclear waste in varying concentrations.

[3] Curie—a measure of the quantity of radioactive material.

[4] Fission products—those isotopes formed during the nuclear reaction process that are not part of the transuranic elements. Some of these isotopes are hazardous for hundreds of years.

up 94 percent of the total volume of waste. This waste has been converted into a chemical form that may be unsuitable for long term storage.

The Energy Research and Development Administration is testing methods which may make possible the extraction of up to 99 percent of the high level waste from most storage tanks. However, these methods may not work with some older tanks because of their poor condition. The remaining 1 percent of the waste would contain long-lived toxic radionuclides such as plutonium and strontium-90. The costs of extracting and preparing all of the waste for geological disposal are uncertain. Estimates range from $2 billion to $20 billion.

The Energy Research and Development Administration is exploring alternatives for long term storage or disposal of the waste at Hanford and Savannah River. Alternatives include entombment in the existing tanks if the waste cannot be removed, and removal of the waste and burial at the site, either in near-surface facilities or in deep geological formations. These alternatives present still other questions such as the suitability of these sites for geological disposal. Any facility for long term storage or disposal of the waste at these sites will require licensing by the Nuclear Regulatory Commission.

MANAGEMENT OF COMMERCIAL SPENT FUEL

Since a tremendous backlog of spent fuel (potential high level waste) exists at nuclear powerplants because no commercial reprocessors are operating in the United States, utilities are adopting several options to increase their storage capacity. These capacities are being modified at existing reactors and larger storage facilities are being planned for new reactors. Spent fuel shipment to storage pools within a utility's nuclear powerplant syste mis another plan that utilities are considering.

As of January 1977, utilities operating 36 of the 63 present nuclear reactors haev notified the Commission of their interest to increase storage capacities at their reactor pools by reducing the amount of space between stored fuel elements (compaction).

The safety of such action has been questioned by the Natural Resources Defense Council. In response, the Commission has undertaken a generic environmental impact statement on the storage of fuel elements. While the statement has not been completed, the Commission has allowed compaction on a case-by-case basis. According to the Commission, before allowing compaction the safety concerns raised by the Natural Resources Defense Council are addressed in each request for increased storage capacity.

According to the Commission staff there are no significant environmental or safety impacts associated with these individual actions. As of January 1977, compaction has been approved for 14 of the 36 reactors.

The Commission has, in fact, justified allowing compaction for utilities which have shown an immediate need for additional storage capacity in order to maintain electrical generating capability. However, some utilities were allowed compaction without demonstrating such an immediate need.

GAO believes that until the Commission completes its generic environmental impact statement, it should limit through license restrictions, the amount of spent fuel that can be put in storage pools to no more than the amounts for which the storage pools were designed and authorized under the initial operating license. Compaction should only be allowed if the utility can prove to the Commission's satisfaction that (1) it would be forced to shut down operations if increased storage at that site was not allowed, and (2) such action would not increase the safety risk to the public or environment. It is of the utmost importance that the Commission complete and issue the generic environmental impact statement as soon as possible so that unanswered questions can be resolved concerning increased fuel storage at reactor pools.

OBSTACLES TO GEOLOGICAL WASTE DISPOSAL

The Energy Research and Development Administration has begun an ambitious program to demonstrate the safety of placing commercial and military wastes in deep geological formations. It is seeking seven sites for facilities in widely separated areas in the country.

The Energy Research and Development Administration has set 1985 as the year for completing two geological disposal facilities for commercial high level and transuranic contaminated wastes and spent fuel (if and when it is defined as a waste). It also plans to complete four more geological disposal facilities for commercial waste between 1987 and 1991.

Furthermore, the Energy Research and Development Administration plans to build a separate disposal facility by 1983 for its own transuranic contaminated waste, generated by military and research activities. At this facility, it intends to have the experimental capability to determine site suitability for high level waste disposal.

One of the potential geological disposal sites which may be used for the 1983 facility is being developed in New Mexico. This facility might eventually be used for routine high level waste storage; however, the Energy Research and Development Administration has no established date for storing such waste.

The Energy Research and Development Administration's position has been that the New Mexico location is for its transuranic contaminated waste and to provide experimental capability to determine whether or not the site is suitable for high level waste disposal.

Since public and official sentiment in New Mexico appears favorable to a waste disposal facility and the project is further advanced than the commercial waste repository program—which may not have a site ready by 1985—this site may also serve the needs of the commercial nuclear industry by becoming the first commercial waste repository.

Because the President has indefinitely deferred commercial reprocessing of nuclear spent fuel, the Energy Research and Development Administration has decided to initiate a project to store spent fuel in a proposed Surface Unreprocessed Fuel Facility. In the event the President and the Congress ultimately decide against commercial reprocessing, spent fuel—if defined as waste—might have to be disposed of in the geologic repositories. This will affect the six commercial waste repositories currently being planned by the Energy Research and Development Administration.

The six repositories were arrived at mainly to spead nuclear waste regionally throughout the Nation, and minimize any setback to the program should a potential site(s) prove unacceptable. Storage and/or disposal of spent fuel in geological formations requires more acreage than is needed for storage and/or disposal of high level waste.

While the precise number of repositories which will be needed is not known, officials of the Nuclear Regulatory Commission and the Energy Research and Development Administration indicate that three of the size currently being planned may be all that will be needed. In view of the $200 million cost per repository, plus question of excess capacity, public opposition to nuclear waste disposal locations, and security needs, the Energy Research and Development Administration should evaluate the number of repositories currently planned, and justify on a cost-benefit basis, the number they finally believe will be necessary.

The obstacles

The program for commercial radioactive waste repositories which was supported by the Federal Energy Resources Council[5] faces many obstacles. The most serious and critical is public and political opposition to waste disposal sites. The success of this program depends to a great extent on whether the Energy Research and Development Administration can demonstrate to the public and elected officials that it has a sound waste management program and that the disposal of radioactive waste in geological risks associated with the storage and/or formations are low.

The Energy Research and Development Administration twice has been unsuccessful in developing potential waste disposal sites because of insufficient attention to the factor of public acceptance—in Kansas and in Michigan.

Other obstacles in the Energy Research and Development Administration's geological waste disposal program include—

geological uncertainties and natural resource tradeoffs,

questionable demonstration time period estimates,

undemonstrated technology for preparing radioactive waste, and

lacking Nuclear Regulatory Commission criteria for orderly waste management operation.

The Energy Research and Development Administration is aware of these obstacles and is addressing them.

Another aspect of the waste repository program which is not, in our opinion, based on realistic appraisals is the goal of building six waste repositories in the stated time period. This goal appears overly optimistic in estimating the time required to identify, study, design, construct and confirm the feasibility of the repositories. Such an unrealistic schedule could further decrease the public's confidence in the Energy Research and Development Administration's waste management program.

RECOMMENDATIONS

To better insure public health and safety the Congress should amend the Energy Reorganization Act of 1974 to provide for independent assessments of the facilities of the Energy Research and Development Administration—including research and development facilities—intended for the temporary storage and/or long term storage or disposal of commercial and its own transuranic contaminated waste; the temporary storage of the Energy Research and Development Administration's high level waste; and the temporary storage and/or long term disposal of commercial spent fuel.

To provide such an independent assessment Congress should adopt one of three alternatives:

Give the Nuclear Regulatory Commission the authority and responsibility for establishing policies, standards, and requirements in

[5] The Federal Energy Resources Council had the responsibility for coordination of Administration policies and programs relating to energy. The Council participants included: Council on Environmental Quality, Department of Commerce, Department of Interior (U.S. Geological Survey), Environmental Protection Agency, Federal Energy Administration, and Energy Research and Development Administration. The Council's function's were recently transferred to the newly created Department of Energy under President Carter's reorganization plan for the Executive Office of the President.

cooperation with the Energy Research and Development Administration for carrying out these assessments.

Retain this responsibility and authority within the Energy Research and Development Administration, subject to certain statutory provisions, to insulate the oversight activities.

Authorize the Nuclear Regulatory Commission to assess periodically the Energy Research and Development Administration's facilities and annually report the results to the agency and the Congress.

In testimony before congressional committees, GAO has stated a preference for the first alternative.

GAO also recommends that the Congress closely scrutinize, through the annual authorization and appropriation process, the progress of the Energy Research and Development Administration's program for long term waste management.

The Administrator of the Energy Resarch and Development Administration should:

Proceed to reevaluate the impact that spent fuel storage and/or disposal will have on its commercial repository program.

Reconsider the need for six high level waste repositories in view of disposal requirements through the year 2000 and justify on a cost-benefit basis the number it finally believes will be necessary.

Reevaluate plans for completing the first two repositories by 1985, considering realistically all social, geological, and regulatory obstacles.

Consider the appropriateness of using the New Mexico location also as a commercial waste disposal site, since by 1985 no other facilities may be ready to receive these wastes and public utilities may no longer be able to store them at the reactor sites unless other facilities are constructed. This should be done without sacrificing or impairing the mission of the site to receive Energy Research and Development Administration transuranic contaminated waste.

The Chairman of the Nuclear Regulatory Commission should:

Proceed on a priority basis to complete its waste repository licensing procedures.

Proceed on a priority basis to include in its waste performance criteria, criteria for the storage or disposal of spent fuel.

Complete and issue the generic environmental impact statement on spent fuel as soon as possible, and in the interim, limit through license restrictions the amount of fuel which can be stored in reactor pools to no more than what was originally licensed for, unless the reactor would be forced to shut down operations.

AGENCY COMMENTS AND GAO'S EVALUATION

The Nuclear Regulatory Commission disagreed with GAO's recommendation that pending issuance of the generic environmental impact statement on spent fuel, the amount of spent fuel that can be stored in a reactor pool be restricted to the amount for which it was originally designed and licensed unless the reactor would be forced to shut down. The Nuclear Regulatory Commission cited several operational and procedural reasons for its position.

While GAO does not take exception to the Commission's reasons, it still believes the recommendation should be implemented. The Commission has not fully determined the overall environmental effects from these individual licensing actions nor has it compared these actions to other alternatives for spent fuel storage, such as storage at centralized storage facilities away from nuclear powerplants. Such an assessment is the objective of the generic statement now being prepared by the Nuclear Regulatory Commission. Until this assessment is completed, GAO believes the Commission should restrict the amount of spent fuel to be stored in a reactor pool. To do otherwise may raise public suspicion and concern that the Nuclear Regulatory Commission has made prejudgmental findings on the overall environmental effects of such individual licensing actions, and as such, could possibly cast doubt on the integrity of the generic statement when issued. Furthermore, these individual actions could potentially foreclose the adoption of other storage alternatives that may be as good or better than allowing each utility to increase their storage capacities at the reactor site.

The Nuclear Regulatory Commission did not disagree with the recommendation to the Congress which could broaden its authority over Energy Research and Development Administration waste storage facilities.

The Energy Research and Development Administration generally concurred with the recommendations concerning its activities and stated that work was already underway. Regarding the recommendation to the Congress, the Energy Research and Development Administration agrees that an independent assessment within its organization has merit from the standpoint of assuring the Administrator and the public as to the adequacy of its nuclear operations. However, it does not consider that the first and third alternatives which would place this responsibility within the Nuclear Regulatory Commission are viable since either would, in its view, impose extraordinary burdens on both organizations without commensurate benefit. It believes such a recommendation would be tantamount to requiring its facilities to be licensed by the Nuclear Regulatory Commission. Further, the Energy Research and Development Administration contends that added Nuclear Regulatory Commission activities at its facilities could result in the Commission having to acquire expertise they do not now have and which would, to a large extent, be duplicative of the Energy Research and Development Administration. It stated, however, that it has undertaken a comprehensive study to determine how its current assessment activity could be restructured within its organization to provide greater independent assurance to the general public.

GAO doubts that the Energy Research and Development Administration can in fact, structure an organization within itself to independently assess its waste operations without statutory provisions designed to insulate oversight activities from development functions.

THE NUCLEAR WASTE MANAGEMENT ACT OF 1977

BY CHARLES McC. MATHIAS, JR. AND JOHN H. O'NEILL, JR.

Beginning with the period immediately following World War II, Congress participated in and authorized the development of a nuclear weapons arsenal to ensure the security of the United States and the free world. With the Atomic Energy Act of 1954, Congress encouraged and authorized the commercial, peaceful application of nuclear power. The deterrence of nuclear weapons and the strength and flexibility of our Navy's nuclear ships and submarines have contributed to over thirty years of relative world peace. The commercial utilization of nuclear energy for the generation of electricity has made a significant contribution in meeting our energy requirements and may provide one of the near-term energy solutions to a world which is rapidly depleting its reserves of fossil fuels.

The benefits and promises of the development of nuclear power are not, however, without societal costs. Congress must now squarely face up to a legacy of nuclear power development, military and commercial, in the form of accumulating nuclear wastes. The challenge of this legacy to social institutions, as we begin our third century as a nation, is unique, because high-level nuclear wastes must be safely isolated from the environment for hundreds of centuries in the future.

The magnitude of the problem can be indicated by the volume of nuclear wastes which now are held in "temporary" storage pending a permanent means of disposal. It is estimated that as a result of military activities from the middle 1940's to the present, the former U.S. Atomic Energy Commission ("AEC") and its successor, the Energy Research and Development Administration ("ERDA"), have generated about 215 million gallons of liquid high-level nuclear waste. In contract, the commercial nuclear power industry has until now produced less than 600,000 gallons of high-level nuclear waste. It is estimated, however, that the commercial nuclear power industry in the U.S. will generate about 60 million gallons of liquid high-level waste by the year 2000. The major long-lived isotopes which are found in high-level waste, strontium-90, cesium-137 and plutonium-239, continue to emit harmful radioactive particles for thousands of years.

The problem of managing nuclear wastes has been a concern of the Congress since at least 1959. Congress has appropriated hundreds of millions of dollars for research and development of waste management techniques. Since 1959, hearings before the Joint Committee on Atomic Energy, the House and Senate Appropriations Committees and the House Interior Committee have kept Congress informed on the state of research and development efforts in nuclear waste management. Congress has been consistently informed that the problem of management of nuclear wastes was "technically soluble."

The technical solution for long-term disposal of nuclear wastes that was recently recommended to the Congress, sealed storage in stable geologic formations such as saltbeds, is, depressing as it may be, the same recommendation made to the Atomic Energy Commission by the National Academy of Sciences twenty years ago. Congress was informed that ERDA will not complete a pilot facility for nuclear waste disposal until 1985. After over twenty years of studies, research and development, today there is no long-term management of nuclear waste and no comprehensive scheme for the regulation of such waste.

Nuclear waste management is a present problem. To date, inadequate effort has been devoted to the problem of long-term management of nuclear wastes. Congress has taken no action specifically relating to nuclear waste disposal other than to provide funding for waste operations and research and development. A more urgent approach is needed. The public now perceives nuclear waste as a problem that is not being properly handled. A recent Louis Harris poll found that 67 percent of the persons interviewed held the view that "the disposal of radioactive waste materials which remain radioactive for many centuries to come is a major problem." The California nuclear legislation enacted last year requires that there be approved and exists a demonstrated technology for disposal of high-level nuclear wastes before future nuclear plants may be licensed.

A study recently completed for ERDA by Mason Willrich under the auspices of the Energy Laboratory at the Massachusetts Institute of Technology concludes that the existing organization for nuclear waste management thwarts the effective management of waste disposal. The existing Federal-State-private industry structure for nuclear waste management was found to be "unworkable if left unchanged." Additionally, the study concluded that the existing framework for nuclear waste regulation is likely to be "ineffective if left unchanged."

The Nuclear Waste Management Act of 1977 ("S–63"), which I introduced in the Senate on January 10, 1977, is designed to resolve the inaction and stagnation which has plagued the nuclear waste management program. Based, in part, on the recommendations in the study performed by Professor Willrich, S–63 would provide a new and efficient means of managing and regulating nuclear wastes. S–63 would create a new, independent executive agency, the Nuclear Waste Authority ("Authority"), which would be tasked with the safe management and disposal of all military, government and commercial nuclear wastes. Because of the present diffuse pattern of responsibility in managing and regulating the management of nuclear waste, S–63 would establish the lines of authority among federal agencies and the States with respect to nuclear wastes. Because the problem of nuclear waste management is not solely a concern of the United States, but rather increasingly is one of international scope and ramifications, S–63 would require the establishment of a commission to study and recommend means of international cooperation in managing nuclear wastes.

THE NUCLEAR WASTE AUTHORITY

The existing organizational framework for management of nuclear wastes is fragmented. For the most part, ERDA manages all military nuclear wastes. The responsibility for the management of commercial nuclear wastes is divided between ERDA, licensees of the NRC (generally private companies), and in some cases the States. Commercial high-level waste is managed by licensees of the NRC until planned delivery to ERDA facilities for final disposition. Thus private industry is responsible for the short-term (temporary storage, treatment, packaging, transportation) while the federal government is responsible for the long-term (retrievable storage or permanent disposition). The present law and NRC regulations permit private industry to have both short- and long-term management responsibilities for commercial transuranic waste.

Nuclear waste management operations are characterized by a high degree of interdependence. Permanent disposition is affected by the waste treatment, which in turn is affected by waste composition. Thus the risks and costs of permanent disposition methods affect and are affected by particular waste solidfication, packaging, and other treatment methods. The present bifurcated responsibility for the series of waste management operations which are technically and functionally integrated creates incentives for each sector to pass through to the other as many risks and costs as possible. This division of responsibility makes it difficult to make intelligent trade-offs between short- and long-term considerations.

From a technological standpoint, nuclear waste operations require a fully integrated management framework. The management framework should be vertically integrated so as to include all operations from temporary waste storage, through treatment and transportation, to permanent disposition. The framework should be horizontally integrated to include post-fission high level and transuranic wastes of both commercial and military origin.

The Authority which S–63 would create would provide a centralized and fully integrated waste management responsibility. The Authority would manage all military and commercial nuclear wastes. The authority would take over all ERDA waste management facilities except those facilities for research, development and demonstration of waste management techniques. ERDA would be required to contract the management of all demonstration facilities to the Authority. The Authority would be responsible for the implementation of all future waste management programs developed by ERDA and approved, at least indirectly by authorizing appropriations, by the Congress.

Rather than create a new federal agency, centralized, integrated waste management could be delegated to either a private organization or to an existing government entity, such as ERDA. Because of the long-term problem posed by nuclear waste, a government agency is the only appropriate caretaker. ERDA's primary responsibility and emphasis, and therefore incentive, is research and development. In contrast, the only responsibility of the authority and thus the only incentive for performance will be the effective and safe management of nuclear waste.

The Authority is designed to be a business enterprise. It will not be financed directly by annual congressional appropriations. Initial required capital will be obtained through debt financing in the form of bonds. The Authority's income will be realized by charging user fees to both government and commercial users. The user fees levied by the Authority will be designed to recover its costs. Thus, the costs of waste management to the nuclear industry will be internalized and reflected in the cost of electricity from nuclear generating stations.

The major advantages to the Authority over the present organizational framework is the centralization and integration of nuclear waste management and the establishment of sole responsibility for perpetual care of nuclear waste in a government institution. The organizational change is not, of course, an end in itself. The effectiveness of the Authority in managing nuclear wastes depends on coincident reform of the regulatory framework.

REGULATING NUCLEAR WASTES

Perhaps even more crucial to the effective implementation of a program for nuclear waste management under the new Authority is establishing a regulatory framework which will both ensure the health and safety of the public and promote timely, informed decisionmaking on the policy and technical questions. While the existing body of nuclear waste regulation is in the early stages of development, it already exhibits signs of paralysis. The Nuclear Regulatory Commission ("NRC") has the major statutory responsibility for regulation of nuclear power facilities, including nuclear waste.

However, ERDA develops criteria and standards for its own operations. ERDA contractors, who are responsible for day-to-day management of military nuclear waste, are supervised and regulated by ERDA through the terms of their contracts with ERDA. ERDA supervision of contractor operations is not as open to public scrutiny as is the NRC's regulation of private industry operations. While the Energy Reorganization Act of 1974 gives to the NRC licensing authority over ERDA facilities for long-term storage of high-level radioactive waste, ERDA has taken the position that facilities that are constructed for storage for less than twenty years are not included under "long-term storage", and thus are not subject to NRC regulation. The NRC has accepted this position. Additionally, under present law it is clear that military nuclear waste already in existence at the time the Energy Reorganization Act of 1974 was enacted is not subject to NRC licensing.

The Environmental Protection Agency ("EPA") also has asserted some authority in the regulation of nuclear wastes. The authority transferred to EPA by the Reorganization Plan of 1970 included the responsibility to "[provide] guidance for all Federal agencies in the formulation of radiation standards" and to "[establish] limits on radiation exposures or levels, or concentrations or quantities of radioactive materials in the general environment outside the boundaries of locations under the control of persons possessing or using radioactive material." Thus, EPA has the jurisdiction to set exposure standards for transport of wastes (outside the boundaries of NRC licensees' and ERDA's facilities). Under the authority of its "guidance" mandate, EPA is considering expanding its standard-setting authority to reach within the boundaries of NRC-licensed or ERDA facilities.

The Department of Transportation ("DOT") and the NRC have overlapping jurisdiction in regulating the transportation of radioactive materials including nuclear wastes. Recognizing their jointly held jurisdiction, DOT and the former AEC in 1973 entered into a Memorandum of Understanding which allocates regulatory duties in this area. ERDA and the NRC, as the AEC's successor agencies, require shippers to comply with the DOT regulations for the shipment of radioactive materials.

Individual states increasingly are challenging exclusive federal jurisdiction over nuclear waste. The numerous state nuclear power initiatives which have been proposed, all of which have been so far rejected by large majorities of the voters, have generally contained provisions expressly aimed at the nuclear waste problem. Under the "Agreement State" provisions of the Atomic Energy Act, states can regulate commercial low-level waste operations within their boundaries. Additionally, some states have asserted regulatory authority over transportation of nuclear wastes. States have some control over the siting of a nuclear waste management facility by virtue of land use laws. If nothing else, the states can exert political pressure to gain concessions from a federal agency in the siting of a nuclear waste management facility, even if actual state regulation were preempted by federal law.

The extent of overlapping jurisdictional problems and the resulting decisionmaking delays is most evident in the interpretation of each agency's responsibilities under the National Environmental Policy act ("NEPA"). NEPA requires every federal agency to prepare an Environmental Impact Statement ("EIS") in connection with "every recommendation or report on proposals for legislation and other major Federal actions significantly affecting the quality of the human environment." The NEPA review has become the focal point for agency decisionmaking.

In addition to disclosure of all environmental effects, NEPA either requires or has been interpreted by the courts to require planning, a consideration of alternatives (including doing nothing), a balancing of the anticipated benefits with the perceived risks and a justification of any irreversible commitment of resources. The EIS must be prepared in consultation with and must include the comments of "any Federal agency which has jurisdiction by law or special expertise with respect to any environmental impact involved." NEPA does not require that the agency select an alternative action that has the least harmful impact on the environment. The EIS must be prepared, however, in accordance with strict procedural requirements or may be deemed inadequate by a court.

Rather than risk rejection by a court, agencies spend years producing thick, multivolume studies evaluating every conceivable impact of their proposals, the production of which has created a whole new "industry" of environmental analysts, environmental engineers and environmental lawyers to churn out the mountains of paperwork. While the EIS has forced private industry and federal agencies to incorporate environmental considerations in early planning for decisionmaking, the costly and time consuming procedures and practices in developing the EIS's have become a distortion to the original intent of Congress.

In hearings held last May before the Subcommittee on Environment and Safety of the Joint Committee on Atomic Energy, Congress was informed of ERDA's timetable for demonstrating waste management technology. The major actions that were listed for accomplishments by ERDA and the NRC through 1978 were the preparation of various EIS's on waste management. This follows over twenty years of research, development and studies in waste management technology and the publication last year by ERDA of a 1500 page Technical Alternatives Document for management of radioactive waste which involved the coordinated efforts of 200 experts. Without additional legislative guidance, it is safe to assume that ERDA would prepare a generic EIS on waste management programs and would prepare a separate EIS on each step in the implementation of its waste management program. The NRC would prepare a generic EIS on its regulatory program and a separate EIS on each facility that it licenses. The Authority would prepare an EIS on its waste management program and on each step in the implementation of its program. The considerable procedural requirements for preparing each of these statements would result in delay in implementing the Waste Management programs and substantial duplication of information and analysis.

The regulatory reform that I have proposed in S–63 is not so ambitious as to resolve the conflicting and overlapping jurisdictions among the various agencies and the states. With respect to nuclear waste management the jurisdictions and lines of authorities have been simplified. The NRC is given exclusive regulatory and licensing authority over nuclear wastes, both commercial and military. ERDA would no longer be a self-regulator with respect to research, development and demonstration facilities. The Authority would manage nuclear wastes within the framework of the NRC's criteria, standards and regulations. The EPA would not have any responsibility over nuclear wastes, including the transportation of nuclear wastes.

While EPA would still have the responsibility for establishing radiation exposure limits in the general environment outside the boundaries of licensed facilities, NRC would determine within those limits, what part of that exposure will be contributed by the various functions in the entire fuel cycle. The DOT would no longer have direct jurisdiction for the regulation of the transportation of nuclear waste. NRC could continue to require the Authority and licensees to comply with DOT regulations with respect to transportation of hazardous materials and could continue to coordinate with DOT under the terms of a memorandum of understanding. It would be clear that the actual regulatory authority is vested exclusively in the NRC.

Additionally, the states would be expressly preempted from the regulation of nuclear wastes. The states would continue to have a voice in siting of nuclear facilities. The effective centralization and integration of nuclear waste management require, nonetheless, that there not be a potential for 50 conflicting local regulatory schemes.

Section 14 in S–63 on Environmental Impact Statements is designed to clarify the NEPA responsibilities of ERDA, the NRC and the Authority. In doing so, it outlines the decisionmaking process. It is not intended to be a substantive change in the law, but rather to resolve varying interpretations of NEPA, at least with respect to nuclear waste management.

ERDA would be required to present to Congress, no later than July 1, 1978, a Final EIS on generic waste management issues with respect to its research, development and demonstration program, including its environmental assessment of planned demonstration facilities. As long as Congress continues to appropriate funds for research, development and demonstration of nuclear waste management technology, ERDA would each year thereafter submit an addendum to its program EIS. ERDA would not be required to prepare additional EIS's on nuclear waste management.

The NRC would be required to prepare an EIS on each individual facility to be licensed by ERDA (demonstration) or by the Authority. The NRC would not duplicate in its individual EIS's the generic considerations evaluated in the ERDA program EIS's. Such generic issues might include: (1) alternatives to the nuclear waste program, (2) the timing of the nuclear waste management program, (3) alternative energy options precluding the need for nuclear waste storage, and (4) the environmental and safety risks associated with the widespread use of nuclear waste storage facilities.

If the NRC found that ERDA did not consider a reasonable alternative, or that a significant error was made in the data base on which ERDA relied, then the NRC could in its discretion consider those issues which ERDA failed to evaluate. However, the NRC's function is to ensure that the health and safety of the public is protected from the operation of an individual facility; it is not the NRC's role to second-guess the policy decisions with respect to programs made by ERDA and the Congress.

Since the NRC must prepare an EIS on each individual facility of the Authority that is licensed for nuclear waste management, the Authority would not be required to prepare any EIS's. It would, of course, actively participate with the NRC in providing the data for the NRC's EIS. As required by NEPA, the Authority and ERDA would comment on any EIS prepared by the NRC; the Authority and the NRC would comment on any EIS prepared by ERDA. This would ensure that the environmental effects of decisions on nuclear waste management are carefully considered. However, it would avoid duplication of effort by the federal agencies and further foot-dragging in implementing a program for nuclear waste management.

INTERNATIONAL COOPERATION

International aspects of nuclear waste management will become increasingly important as the development of nuclear power technology continues to expand worldwide. Many nations without natural energy resources, and in particular, our allies in Europe and Japan, regard nuclear power as the only viable future energy option. We cannot develop our nuclear waste management capability without taking into consideration the international scope of the problem. S–63 would create a Commission, to be appointed by the President, to perform a study leading to recommendations of policies for international cooperation in nuclear waste management.

To the extent possible this Commission would coordinate its studies with the International Atomic Energy Agency. In the long term, solutions to nuclear waste management will be global. The programs developed and implemented by the Authority would set a standard for nuclear waste management for the rest of the world. It is foreseeable, that at some point in the near future, Congress would authorize the Authority to enter into joint ventures with international agencies and other countries for joint nuclear waste management programs.

CONCLUSION

Nuclear waste management is only one of a myriad of problems which must be resolved in the context of an over-all United States energy policy. If commercial nuclear power is to continue to be a viable option in meeting future energy requirements, an acceptable solution to the unavoidable consequence of nuclear energy, nuclear wastes, must be found. Existing nuclear wastes from the military weapons programs and from commercial power plants require safe and effective management independent of the future of commercial nuclear power. Thus, the decision on nuclear waste management need not, and must not, await a long overdue policy determination of this nation's energy future. The Nuclear Waste Authority which would be created by S–63 and the proposed reforms to the regulatory process with respect to nuclear waste management would provide for institutions and a regulatory structure which could reasonably assure safe management of nuclear wastes in the United States. This proposal could serve as a model for the international management of nuclear wastes. Additionally, streamlining the regulatory structure with respect to nuclear wastes could serve as a paradigm for creating a more efficient framework for regulating other aspects of the energy supply industries.

Nuclear waste is the responsibility of the Congress. Congress authorized and encouraged programs which produced nuclear waste. The Nuclear Waste Management Act of 1977 would provide the unified action, centralized responsibility and clearly defined policy essential to a resolution of the critical nuclear waste problem. Professor Willrich has warned us that there is an opportunity to accomplish a solution now, but it may well be the last clear chance. We must face the challenge of nuclear wastes today; it is not a challenge to future generations, nor one that we should leave to them.

ADDITIONAL COSPONSORS

S. 1107

At the request of Mr. HATHAWAY, the Senator from Kansas (Mr. DOLE) was added as a cosponsor to S. 1107, a bill to provide Federal financial assistance to employers, labor organizations, or consortiums thereof, or other groups or individuals, to establish and operate occupational alcoholism programs for the diagnosis and treatment of alcohol abuse and alcoholism in employed persons, including managerial personnel, and their dependents, and for other purposes.

S. 1585

At the request of Mr. CULVER, the Senator from South Carolina (Mr. THURMOND) was added as a cosponsor of S. 1585, to make unlawful the use of minors engaged in sexually explicit conduct for the purpose of promoting books and magazines.

SENATE CONCURRENT RESOLUTION 51

At the request of Mr. ROBERT C. BYRD, the Senator from Indiana (Mr. BAYH) was added as a cosponsor of Senate Concurrent Resolution 51, relating to Americans missing in action.

NOTICE OF HEARING

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

WITTEVEEN FACILITY

Mr. PROXMIRE. Mr. President, the Committee on Banking, Housing, and Urban Affairs will hold a hearing on Thursday, October 13, on S. 2152, a bill to authorize U.S. participation in a supplementary financing facility, commonly referred to as the Witteveen Facility, to be established in the International Monetary Fund. The proposed facility

would provide $10 billion in convertible currencies to the IMF for loans to members with unusually difficult adjustment problems. Loans under the new facility would carry the customary IMF conditions regarding the economic policies of the borrowing country, but could be larger than the usual drawings from the Fund and repayable over a longer period.

U.S. participation in the facility would be authorized to a maximum of 1,450 million SDR's, approximately $1,700 million. The largest single contributor will be Saudi Arabia, whose participation will equal approximately $2,500 million. Other countries expected to participate are: Belgium, Canada, Germany, Japan, Netherlands, Switzerland, Iran, Qatar, Venezuela, United Arab Emirates, and Kuwait. The United States and other participants would earn interest on their contributions at a rate slightly above that for U.S. Treasury securities of comparable maturity.

The administration strongly supports U.S. participation in the facility. I ask unanimous consent that the report of the National Advisory Council on International Monetary and Financial Policies be printed in the RECORD immediately following this announcement.

The purpose of the hearing is to receive testimony from economists and other private experts on the following questions:

1. Is the Facility needed or are there other sources of resources which could be tapped instead?

2. Is establishment of the Facility urgent, that is, is there an identifiable need for these resources within the next twelve months?

3. Will the IMF, based on past experience, apply appropriate conditions to the credits?

The hearing will begin at 10 a.m. in room 5302 of the Dirksen Senate Office Building. Persons wishing to testify or desiring additional information should contact Robert W. Russell, of the committee staff, at (202) 224–0891.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS HEARING ON IMF SUPPLEMENTARY FINANCING FACILITY (WITTEVEEN FACILITY)

WITNESS LIST

Thursday, October 13, 1977, 10 am, room 5302 DSOB.

Dr. Rudiger Dornbusch, Associate Professor of Economics, Massachusetts Institute of Technology, Cambridge, Massachusetts.

Dr. Ronald E. Muller, Professor of Economics and International Finance, American University, Washington, D.C.

Dr. Robert Solomon, Senior Fellow, The Brookings Institution, Washington, D.C.

Professor Geoffrey Wood, City University of London, United Kingdom.

U.S. PARTICIPATION IN THE SUPPLEMENTARY FINANCING FACILITY OF THE INTERNATIONAL MONETARY FUND

THE SECRETARY OF THE TREASURY,
Washington, September 16, 1977.

Hon. THOMAS P. O'NEILL, Jr.,
Speaker of the House of Representatives, Washington, D.C.

DEAR MR. SPEAKER: As Chairman of the National Advisory Council on International Monetary and Financial Policies, I am pleased to transmit herewith the Council's special report on United States participation in the Supplementary Financing Facility of the International Monetary Fund.

This facility represents a major cooperative effort to strengthen the international monetary system at a time of critical need. The facility will provide the International Monetary Fund with resources that are required urgently to foster needed balance of payments adjustment by IMF member countries, to strengthen confidence in the international monetary system, and thus to assure that continued effective functioning of the open, cooperative system of world trade and payments that is vital to U.S. prosperity.

The Council strongly recommends that legislation be promptly enacted authorizing U.S. participation in the Supplementary Financing Facility. Accompanying this report is legislation authorizing such participation.

Copies of the report are also being submitted to the President and to the President of the Senate.

Sincerely,

W. MICHAEL BLUMENTHAL,
Chairman, National Advisory Council on International Monetary and Financial Policies.

SPECIAL REPORT TO THE PRESIDENT AND TO THE CONGRESS ON U.S. PARTICIPATION IN THE SUPPLEMENTARY FINANCING FACILITY OF THE INTERNATIONAL MONETARY FUND, SEPTEMBER 1977

NATIONAL ADVISORY COUNCIL ON INTERNATIONAL MONETARY AND FINANCIAL POLICIES

I. Summary

Since 1973, the pattern of world payments has undergone profound transformation as a result of massive increases in oil prices, unprecedented and persistent inflation, deep recession, and hesitant economic recovery and growth. Dramatic alterations in the pattern of payments have produced major strains on the international financial system.

The OPEC [1] group of countries, after years of approximate balance on current account, registered cumulative current account surpluses of about $150 billion during the three years 1974 through 1976. The industrial country group, which historically had run current account surpluses and exported capital to the rest of the world, has experienced cumulative current account deficits of unprecedented magnitude—about $66 billion during the three year period, or about forty percent of the deficits run by oil importers. The non-oil exporting developing countries and the non-market economies of Eastern Europe have sustained deficits and financing requirements much larger than they had previously experienced—about $106 billion for the three year period. Broadly similar patterns are likely in 1977 and beyond.

In the period immediately following the oil price increases of 1973–74, major emphasis was placed on financing the deficits, given their magnitude and the long-term structural nature of adjustment required to reduce oil imports. The only other course of action would have been for oil importing countries individually to attempt to reduce their own deficits quickly, by sharply reducing economic growth rates, applying trade and payments restrictions or manipulating exchange rates—policies that would have been disruptive of the world economy and harmful to our objectives of an open, liberal trading system. Thus initial concerns were directed to ensuring that financing was available to countries and to avoidance of uncooperative and ultimately self-defeating actions to improve their own positions at the expense of others. Even with the emphasis on financing, the world economy experienced a severe recession centered in the major industrial countries, while smaller nations borrowed heavily in an effort to avoid harsh curtailment of growth. The oil price increases aggravated the already serious problems of worldwide inflation, caused major changes in the relative costs of factor inputs in production processes, and led to a major shift in terms of trade against the oil importing nations.

The greatly increased global need for balance of payments financing has been matched, by and large, by a general expansion of financing available for that purpose. The OPEC surpluses, as a matter of necessity, have been invested predominantly in the oil importing countries. But the geographic placement of OPEC surplus funds has not corresponded to the pattern of current account deficits. Thus, financial intermediation on an unparalleled scale has been required to redistribute, or recycle, these huge surpluses. Private capital markets and the international banking system have been relied upon to meet the bulk of the financial intermediation requirements of the last few years, and have done so efficiently and successfully.

While private market financing expanded rapidly during the past three years, providing roughly three-quarters of total balance of payments financing during that period, official financing has also increased substantially. The International Monetary Fund (IMF), the primary source of official balance of payments financing, has channeled financing to its members at record levels since 1973, primarily through the temporary Oil Facility and the Compensatory Financing Facility. Nevertheless, IMF financing remained relatively small by comparison with private financing during this period, meeting approximately seven percent of total balance of payments financing needs.

The priority that was initially placed on ensuring that financing was available, generally on a relatively "unconditional" basis, provided a valuable breathing space. The oil importing countries were afforded an opportunity to reasses their domestic and external economic policies more careful in light of the profound changes that had taken place in the world energy balance and in world trade and payments. Subsequently many countries did act to alter their economic policies in order to stabilize their economies and to bring their external accounts into better balance—to bring their current account deficits to positions more compatible with their ability to attract foreign capital. But while such "adjustment" policies have been intiated in a number of countries, the process is far from complete. Structural changes must yet take place in many economies, often involving significant alteration of traditional attitudes and patterns of production and consumption. For many countries, such changes will not come easily and must take place over a number of years if satisfactory levels of growth and employment—and an open system of trade, and payments—are to be maintained.

Over the next several years it must be expected that large payments imbalances will continue as these adjustments take place in oil importing countries, and—equally importantly—as OPEC's capacity to absorb imports continues to increase. In order to help ensure that adjustment occurs at an appropriate pace—and with appropriate policies—substantial financing will continue to be needed by countries in deficit. Private markets can and should continue to provide the bulk of this financing. But they cannot be expected to handle all the situations which may arise.

The massive borrowing of the last few years has quite naturally led to the accumu-

[1] The Organization of Petroleum Exporting Countries. The following countries are members: Algeria, Ecuador, Gabon, Indonesia, Iran, Iraq, Kuwait, Libya, Nigeria, Qatar, Saudi Arabia, United Arab Emirates, and Venezuela.

lation of large amount of external debt. For many countries, large external debt does not currently constitute a problem since these countries have maintained—in some cases restored—their credit-worthiness in the private market, generally through the implementation of sound economic policies and productive utilization of investment. In a relatively few cases, however, where the need for adjustment is evident but the willingness or ability to pursue the needed policies has been lacking, commercial bankers have become more cautious. Understandably, the banks have become less willing to continue to provide additional balance of payments financing in cases where debts are substantial but needed adjustment is not taking place.

In order to help ensure that needed adjustment is pursued—in a cooperative and internationally appropriate manner—by countries facing balance of payments difficulties, it is important that adequate official financing be available on the basis of appropriate terms and conditions. The IMF is the primary official source of "conditional" financing—that is, financing keyed to the adoption by the borrower of sound adjustment policies designed to eliminate the need for such financing and to provide a basis for repayment. The IMF's record is good and its reputation is strong, with both borrowers and creditors. But its current supply of usable currencies is extremely low, both by historical standards and in relation to potential needs for official financing during the next few years. In the circumstances, the Interim Committee of the IMF concluded in April 1977, that there was "an urgent need for a supplementary arrangement of a temporary nature that would enable the Fund to expand its financial assistance to those of its members that in the next several years will face payments imbalances that are large in relation to their economies."

After further consideration of this issue by the IMF's Executive Board, IMF Managing Director Johannes Witteveen approached a number of industrial and oil exporting countries about the possibility of providing additional resources to the IMF on a temporary basis. After extensive negotiations, a meeting was held in Paris on August 6 of potential "participants"—that is, those nations that would participate in assuring the financing of the new facility—and agreement was reached on the basic terms and conditions of the financing to be provided, and on amounts of financing commitments to the Supplementary Financing Facility. Agreement was subsequently reached in the IMF Executive Board on the final operating details of the new facility. The two IMF decisions providing for the establishment of this facility, including the general terms of the agreement that each participant would sign with the IMF in committing financing to the facility, are presented as Annexes A and B to this report.

The Supplementary Financing Facility will be a temporary facility, enabling the IMF to draw upon the financing commitments of participants over the next several years in order to provide additional financing—on a strictly "conditional" basis—to members with especially large balance of payments financing needs and difficult adjustment problems. Borrowing members will have access to resources under the facility in amounts larger than would normally be available from the IMF, and will be able to draw under an arrangement with the IMF over a period longer than the one year normally applicable to IMF stand-by arrangements. The period of repayment will also be longer than the usual IMF standard of three to five years.

In exchange for the financing provided to the IMF, participants will receive a liquid financial claim on the Fund which will pay interest at market-related rates. Initial participants in the facility include industrial countries and oil-producing countries, with initial commitments equal to approximately SDR 8.6 billion, about $10 billion. The proposed U.S. share is SDR 1,450 million (about $1,700 million), or approximately 17 percent of the total.[2]

The facility will make a major contribution toward the strengthening of the international monetary system, and will help ensure that the IMF can cope with potential problems that might arise. By enabling the IMF to provide additional financing to members, it will encourage countries to initiate needed adjustment measures in a timely fashion through sound and internationally responsible policies. In doing so, it will improve the creditworthiness of members, thus helping ensure continued adequate flows of private market financing, which must continue to meet the bulk of the world's balance of payments financing needs. Moreover, the facility will strengthen confidence in the international monetary system as a whole, promoting adjustment of payments positions toward a more sustainable pattern, and demonstrating that the official community has the capacity to respond quickly when serious payments problems arise.

It is the unanimous judgment of the National Advisory Council that the Supplementary Financing Facility is essential to the continued effective functioning of the international financial system and the maintenance of an open, liberal world trade and payments system. The Council considers that it is in the vital interest of the United States to participate in the facility. By the terms of the decisions establishing the facility, it will not enter into force until the United States and other major participants have completed official agreements with the IMF to participate and to make financing available in the amounts proposed. Authorization by the Congress is required for the United States to participate in the facility. The Council believes that prompt enactment of authorizing legislation will both demonstrate the importance placed by the United States on a strong and cooperative international monetary system and serve as a major step to ensure the maintenance of such a system.

Accordingly, the Council recommends prompt and favorable action by the Congress on legislation to authorize U.S. participation in the facility.

II. The world balance of payments situation and financing patterns, 1973–76

Major economic disturbances in the years 1973 to 1976 brought about large and abrupt changes in the world economy. The oil price increases of 1973 and 1974 aggravated the inflation that already existed and were a contributing factor in the worst world recession since the 1930's. These developments combined to cause major changes in the pattern of world account surplus on the order of $6 billion in 1973, registered a surplus of $68 billion in 1974. Their cumulative surplus for the three years 1974 through 1976 totaled about $150 billion.

The industrial nations of the Organization for Economic Cooperation and Development (OECD) suddenly witnessed an aggregate current account shift from modern surplus to large deficit. Instead of being major suppliers of net capital to the rest of the world, the OECD group became net capital importers. The historic and widely accepted view that "mature" economies should be creditors was dramatically rendered obsolete, as the OPEC surplus countries moved to the position of generating large amounts of net savings which were used by the OECD countries and (often after intermediation through OECD capital markets) by the non-oil exporting developing countries. In the period 1974 through 1976, the combined OECD current account position showed a deficit of $22 billion per year, compared with an average current account surplus position in excess of $5 billion in 1971 through 1973. (See Table 1 below.) Within OECD, a few countries registered surpluses in the 1974–76 period, averaging $15 billion per year, while those OECD members in deficit saw their combined position deteriorate from a deficit of $7 billion per year in 1971–73 to a deficit of $37 billion per year in 1974–76.

The position of the non-oil exporting developing nations also changed sharply. During the 1960's and early 1970's these countries had generally maintained carefully controlled current account deficits. Between 1971 and 1973, the average annual aggregate deficit of the non-oil exporting LDC's was roughly $4 billion. In the immediate wake of the oil price increases, their aggregate annual deficits rose nearly six-fold, to an average of $23 billion per year during 1974–1976.

There has in addition been a dramatic change in the external balance of the "rest of the world," which includes Israel, South Africa and the non-market economies of Eastern Europe, the USSR, and the People's Republic of China. These countries ran near-balanced current account positions in 1971–73, carefully tailoring import purchases to export proceeds. The oil crisis and worldwide recession, coupled with increased demand for consumer goods at home, resulted in a sharp jump in the current account deficit of these countries to $12 billion a year in the 1974–1976 period.

The following table demonstrates the shifts in payments patterns for these groups of countries.

TABLE 1.—*World payments patterns—balances on goods, services, and private and governmental transfers*

[In billions of dollars]

	Average, 1971–73	Average, 1974–76
Surplus countries:		
OPEC	2.8	49.0
OECD	12.3	15.3
Total surpluses	+15.1	+64.3
Deficit countries:		
OPEC	−1.4	−2.0
OECD	−6.7	−37.3
LDC	−4.1	−23.0
Other[1]	−2.7	−12.3
Total deficits	−14.9	−74.6
Residual[2]	−.2	+10.3

[1] Israel, South Africa, and nonmarket economies of Eastern Europe, the U.S.S.R., and the People's Republic of China.

[2] Over the past several years the "residual" item has grown significantly. Recorded exports exceed imports by a sizable sum for any calendar year due to goods in transit and inflation. The OECD staff has estimated that $12–14,000,000,000 is involved in these factors. These factors would by themselves make the residual negative rather than positive. Both the IMF and OECD attribute the positive residual to asymmetries in the reporting of service transactions; that is, an overreporting of service imports, or underreporting of service exports.

Source: OECD and U.S. Treasury Department staff estimates.

[2] See table 2. As of September 9, 1977, discussions were underway that were expected to bring the initial total to at least SDR $8.6 billion.

In the circumstances, nations borrowed very heavily in the years 1974–76 to finance their large current account deficits. The borrowing took many forms. While official financing through the IMF during this period was far above historical levels, and official development lending increased, private markets provided the bulk of the financing—about three-quarters of total balance of payments financing during the three year period.

In addition to expanded demands for credit, conditions on the supply side of the market were also conducive to a rapid growth in private financing during the period. The huge OPEC surpluses, of course, brought large deposits and placements to recipient banks and other financial intermediaries, and greatly expanded the assets of those institutions. In addition, the period was one of rapid secular expansion of the international banking system. Particularly with domestic loan demand less buoyant than in immediately preceding years, many institutions were competing eagerly for new customers abroad, as banks sought to establish themselves in new activities and new geographic areas and endeavored to broaden their scope of operations so as to spread risks and diversify portfolios.

Using such data as are available—and acknowledging that the picture is incomplete—we can sketch out a pattern of the financing of world payments in the period 1974 through 1976 with roughly the following dimensions:

Cumulative current account deficits equaled about $225 billion (after the receipt of grant aid), representing the counterpart of the investable surpluses of OPEC countries plus those of certain industrial countries registering surpluses during the period.

About $15 billion of these deficits, or seven percent of the justify total, was financed by the IMF, the bulk of it through the temporary Oil Facility and the Compensatory Financing Facility, both of which provided financing largely on the basis of "need" with relatively little emphasis on "conditionality" or the adoption of corrective adjustment measures by the borrower.

About $40 billion of the deficits, or eighteen percent of the total, was financed by a variety of other official sources—development lending by other industrial and OPEC countries, and by the IBRD and regional development banks, and other official justify financing.

The remaining current account deficits, some $170 billion, plus about $40 billion of debt repayments, were financed largely through market-oriented borrowing. Most of these funds were obtained through banks and securities markets.

The financing pattern of the past few years reflects the initial emphasis placed by nations on *financing* the imbalances rather than *adjusting* their economies so as to reduce or eliminate the large imbalances resulting from the combined impact of oil price increases and worldwide recession and unprecedented inflation. At the time of the initial shifts in payments patterns resulting from the oil price increases, there were serious concerns that the oil importing nations, trying individually to protect their own payments positions, would harm each other by external restrictions and excessive domestic retrenchment, as they tried to eliminate deficits which—as the counterpart of the OPEC surplus—were collectively irreducible. Recognizing these dangers, the IMF membership agreed in January 1974 in the Rome Communique to forswear such self-defeating actions.

Accordingly, in the early aftermath of the oil price increases, emphasis was appropriately placed on assuring the adequacy of resources for financing the balance of payments costs of higher oil prices. Nations were encouraged, at least temporarily, to "accept" the oil deficit and finance it, rather than to try individually to eliminate their respective deficits at the expense of other oil importing countries. Much of the financing made available—both by private and official sources—was essentially without conditions or requirements that particular adjustment policies be implemented.

With the large amount of international financing that has occurred during the period, accumulations of debt, especially debt owed to private institutions, has been large, by historical standards very large. Complete and accurate records on the aggregate amount of debt outstanding do not exist, but the following statistics give some indication of the present situation;

The external public or publicly guaranteed indebtedness of 75 non-oil exporting developing countries has been estimated by the World Bank at about $171 billion as of the end of 1976.

The OECD estimates that the aggregate foreign borrowing undertaken by the OECD deficit countries in the years 1974–1976 amounted to roughly $98 billion.

The foreign claims of commercial banks on countries other than the G–10 major industrial countries, Switzerland and the offshore banking centers totaled $194 billion at the end of 1976, of which U.S. banks accounted for roughly $82 billion.[3]

The foreign claims of commercial banks on the G–10 major industrial countries, Switzerland and offshore centers (which includes inter-bank lending and thus involves a large amount of double-counting) were about $354 billion at the end of 1976, of which U.S. banks acounted for roughly $126 billion.[3]

These data are difficult to assess. It might be noted that, as a rough rule of thumb, the bank claims, both on G–10 countries and others, approximately doubled during the three years 1974–76. External public debts of the 75 non-oil developing nations more than doubled during the same three years. Of course, doubling the absolute size of debt does not mean doubling the "real burden," since price increases have reduced the burden in real terms of previously incurred debt, and since economic growth has strengthened the debtors' capacity to service debt.

III. The Need for the Supplementary Financing Facility

The availability of financing during the 1974–76 period provided countries with the time and opportunity to reassess and redirect their overall economic policies in light of fundamentally altered economic circumstances—without having to move hastily to reverse the weakening of their current account positions because of a lack of financing. There was growing recognition on the part of many countries that some very basic adjustments in their economies would ultimately be required—factors of production shifted, products mixes altered, alternative energy sources exploited, new energy-efficient capital equipment designed and installed, long-standing patterns of consumption modified, and resources transferred toward export sectors.

The process of international adjustment has been considerably facilitated by the more flexible exchange rate arrangements which most countries adopted in 1973, just prior to the sharp increases in oil prices. This increased flexibility has enabled the system to absorb shocks of unprecedented severity without the massive capital flight and traumatic exchange market crises of earlier periods. Flexible rates cannot, of course, eliminate the imbalances between OPEC and the oil importing world—no tolerable set of exchange rates could effect an adjustment of such magnitude. But flexible exchange rates—were, indeed, flexibility has been permitted by the authorities—have helped to distribute the imbalances toward a more sustainable geographic pattern, and have allowed the system to accommodate to the widely diverging inflation rates that different countries have experienced during this period.

The oil price increases created dual problems for oil importing countries: sharp shifts in historic patterns of trade and current account balances; and sudden alterations of relative factor input costs in production processes. While some progress has been made in re-establishing a generally sustainable pattern of current account balances, much domestic restructuring remains to be accomplished. The sharp shifts in relative prices, both internally and externally, and the terms of trade shifts against oil importers, have been difficult to adjust to, and resistance in many countries to the needed adjustment measures has exacerbated the problems of inflation and economic management.

The responses of individual countries to the change in circumstances since 1973 have been varied. In some countries, policies have been altered effectively to stabilize the economy and bring the current account balance into a position that is reasonable and sustainable in light of the country's ability to attract capital. In others, stabilization programs have only recently been put into place, or progress on programs implemented earlier has been slow and difficult to achieve. For these countries, perserverance—as well as time—will be needed to restore long-lasting stability and growth. And there are a significant though not large number of countries which are only now beginning to consider stabilization measures, having reached or approached the limits of their ability to borrow. These countries are still beset by economic distortions and still face large payments deficits—financing has been used largely to maintain consumption levels rather than support new investment needed to accomplish economic restructuring. The need for corrective measures and adjustment in these cases is compelling.

Large imbalances will continue in 1977, although the distribution of balances among oil importers will be somewhat altered in 1977. The OPEC surplus is expected to remain at about $40 billion. Non-oil exporting developing nations, benefiting from higher commodity prices and important adjustment efforts by a few major countries, will probably show some reduction in their current account deficit as a group, OECD countries will bear a larger share of the deficit, although in some of the larger countries adjustment policies now in place will produce impressive improvements in the external positions. The Eastern European countries may see some small reduction in their aggregate deficit.

We have no reason to expect substantial changes in the current payments pattern among the four major country groupings in the next few years. OPEC surpluses are likely to diminish, but the pace of decline is expected to be slow. The aggregate deficit of the non-oil exporting developing nations will probably remain roughly constant, or perhaps increase slightly as flows of official development lending increase and thus enable small reduction in their aggregate deficit.

The financing problems that may arise over the next few years are not expected to be of an aggregate nature, directly involving all members of the international monetary system. But there are individual countries which either already face financing problems or may be expected to face them in the next two to three years. Some countries need to undertake major efforts to reduce fundamental imbalances within their economies and restore their external accounts to sustainable positions. Their external financing needs in some cases will certainly exceed private market willingness to provide funds.

[3] Sources: ank for International Settlements and Federal Reserve Board of Governors.

A combination of appropriate adjustment measures and adequate financing is clearly required during the next several years, if the system is to operate effectively. Adjustment will become unavoidable for some countries because of their inability to obtain financing from the markets in needed amounts and on acceptable terms. If financing is not available, they may feel compelled to take recourse to unduly restrictive domestic economic measures, harsh trade and capital restrictions, or aggressive exchange rate practices in order to reduce their financing needs. Such measures could have serious worldwide repercussions as well as consequences for the economy of the country introducing them. In today's interdependent world, the economic actions and policies of any one country are closely related to those of other countries and directly affect their economic prosperity. Trade barriers imposed by one country, for instance, can abruptly and seriously impair other countries' trade and payments positions, and lead them to impose barriers in order to protect their own external position or in retaliation.

The potential for serious disruption of the world economy as a consequence of such moves is widely understood. The U.S. economy, for example, is heavily dependent on world trade and financial flows. Imported products, from raw materials to high technology products, are heavily integrated into all phases of U.S. economic activity—production, distribution and consumption. Export markets constitute a major part of the demand for U.S. goods and services. U.S. financial markets are a keystone of international financial transactions. It is of critical importance to the prosperity of the U.S. economy specifically and the world economy generally that the structure of the international financial system remain sound and that the liberal system of world trade and payments be maintained.

Sound adjustment can bring positive advantages to the world economy, as well as to the countries involved. By improving underlying stability, adjustment can lead to a stable economic environment which will encourage productive investment and foster real growth. While the imposition of adjustment measures can lead temporarily to a reduction of output in an overheated economy, it can provide the required longer-run foundation for sound and sustainable growth, and strengthen the world economy.

It is expected that private markets will continue to meet the bulk of balance of payments financing needs during the period ahead. But there are clear indications that some individual countries will lose their access to private financing unless they institute effective adjustment measures—steps which show promise of restoration of a sound and stable payments position. Over the past several months commercial banks have become more selective in the provision of capital to certain deficit countries, where the debts are already substantial and the absence or inadequacy of adjustment policies has raised questions about the borrowers' creditworthiness.

There is a critical need for the system to have available adequate official financing to support carefully-developed, orderly and internationally appropriate programs of adjustment—as an alternative to countries facing serious situations and as an incentive for them to act before their situations become critical. While our international monetary system is at present strong and functioning effectively, we do not have in place everything needed to insure against future risks. It is for this reason that it is proposed that the United States join with other strong industrial nations and major oil exporting nations to establish within the IMF a new facility—the Supplementary Financing Facility—to fill that need.

The rationale for the Supplementary Financing Facility rests on three main premises:

First, that large payments imbalances will continue for the next several years.

Second, that there is a need for emphasis on "adjustment" of imbalances, rather than simply "financing" imbalances, especially by those countries facing relatively large payments deficits and difficult financing needs.

Third, that the resources of the IMF must be adequate not only to enable it to foster responsible adjustment policies by individual members facing severe payments difficulties, but also to provide confidence more generally that it is in a position to deal with problems that may arise.

The IMF is the principal source of official balance of payments financing for its member countries. IMF financing has increased greatly during the last few years as a consequence of the balance of payments developments described above, and IMF holdings of usable resources are now extremely low, both by historical standards and in relation to potential balance of payments financing needs during the next few years. Current IMF holdings of "usable" currencies [4] amount to the equivalent of about SDR 4–5 billion (roughly $4½–5½ billion). It is expected that usable IMF resources will increase by about SDR 5–6 billion ($6–7 billion) when the quota increase agreed pursuant to the Sixth General Review of Quotas takes effect (expected to occur by early 1978), and there remains SDR 2.6 billion ($3 billion) in uncommitted resources under the General Arrangements to Borrow.[5] The IMF can also expect to receive modest amounts of additional usable resources through its program of monthly gold sales and through repayments of earlier drawings. Taking into account all of these sources of funds, IMF resources nonetheless are quite low in relation to potential demands over the next few years. A further (Seventh) review of IMF quotas is now in progress, but it is not anticipated that any increase in quotas that may be agreed in this review could take effect before late 1979. In the interim, there is clearly a need for additional IMF resources.

The Supplementary Financing Facility is designed to meet this need. It will be a temporary facility, open for application by members for two years, with a possibility of extension up to one additional year. Thus the facility would serve as a "bridge" to a permanent increase in IMF resources which is expected to be agreed under the Seventh quota review now in progress. All financing under this facility will be provided in support of economic and financial programs adopted by borrowing members to place their balance of payments positions on a more sustainable basis and reduce their needs for external financing. Such programs will take the form of normal IMF financing arrangements, with specific policy conditions tailored to the particular problems and circumstances of each borrowing member.

The payments difficulties faced by some countries are very large in relation to their economies and their regular access to IMF resources. In some cases, the relatively small amounts of financing available through the IMF's regular facilities have provided insufficient incentive for countries to borrow from the IMF and to adopt the adjustment programs required in conjunction with IMF financing. The Supplementary Financing Facility is thus designed to help correct this situation by making financing available to members in amounts larger than are currently available, with the total amount available to any one member determined by judgment based upon, among other factors, the size and nature of its payments problems.

Adjustment programs adopted by borrowers, and actual drawdowns of financing, will be phased over periods longer than the one year generally applied under IMF stand-by arrangements, and could in some instances extend up to three years. (In no case, however, could drawings be made after five years from the date of establishment of the facility). Repayment of borrowing from the facility would take place over three to seven years, somewhat longer than the three-to-five year period that applies to regular IMF resources. Together these provisions would afford members which use the facility somewhat longer periods of adjustment, consistent with the severity of their problems and the need for sustained and appropriately paced efforts to correct those problems.

The Supplementary Financing Facility represents a major cooperative effort on the part of oil exporting and industrial countries to address current world payments problems. Participation is shared equitably between the two groups on a near fifty-fifty basis (see Table 2), reflecting both groups' interest in and responsibility for a strong and smoothly operating international monetary system. The facility also represents a global cooperative approach in that all members of the IMF that meet the criteria for eligibility (i.e., severity of payments difficulties and willingness to implement corrective measures) would have access to the facility. This approach is consistent with and supportive of the principle of uniformity in the IMF's treatment of its members—a principle that is fundamental to the IMF's successful performance as the world's central monetary institution.

The Supplementary Financing Facility is not proposed or represented as a solution to all the world's international financial problems. Most importantly, it cannot eliminate the imbalance between the OPEC surplus countries and the oil importing world. The elimination of that imbalance can come about only through effective programs by the United States and others to conserve energy and develop alternative energy supplies, and through continued growth in the capacity of oil exporting nations to absorb goods and services produced in the oil importing world.

What the Supplementary Financing Facility is designed to do is to help redistribute, as well as reduce, the collective current account deficit so that the necessary borrowing is undertaken by those nations whose creditworthiness and economic strength are adequate to sustain the additional debt. This means encouraging adjustment in those countries experiencing domestic economic distortions, large payments deficits, and serious problems in financing those deficits. It means in addition encouraging a form of adjustment that is compatible with maintenance of a liberal system of international trade and payments.

With the establishment of the Supplementary Financing Facility, there will continue to be a large amount of international borrowing—private as well as public. In fact, an important feature of the facility is that it will facilitate continued large-scale borrowing from banks and other private market sources—by improving the creditworthiness of countries adopting adjustment measures, and by shifting a portion of the borrowing to nations more capable of servicing additional debt. Foreign debt is not necessarily

[4] That is, IMF holding of the currencies of countries that are considered to be in a strong enough external position for these countries to be used by the Fund in extension of credit to other members.

[5] This figure represents the remaining uncommitted resources of all GAB participants except the United Kingdom and Italy (also includes the Swiss association). Actual availability of GAB resources depends both on drawings by GAB participants and actual participation in loans by GAB members.

bad—it can be an important positive factor in an economy. As shown by the experience of the United States in the nineteenth century, and by Canada and others at present, borrowed money, if productively invested, can be a major source of economic growth. Thus the OPEC savings can be transferred to oil importing countries and used to finance productive investment in those countries.

The Supplementary Financing Facility is not designed—nor will it be used—to replace commercial bank lending, or to "bail out" commercial banks that may have lent excessively or unsoundly. The aim is to provide access to official balance of payments financing in support of sound and internationally responsible programs of adjustment by borrowers, and to encourage them to initiate needed corrective measures before their debts become too large for them to handle or credit is no longer available. Use of the facility will improve the general level of creditworthiness among countries and confidence in the international monetary system. It is designed to help countries that are in need, not financial institutions. Nor will it be used to take over the private banks' regular lending activities. The amounts involved are far below levels of private lending—although the IMF may in the period ahead account for a share of total balance of payments financing somewhat larger than the share it provided in 1974–76, the IMF's share will remain small in comparison with the share channeled through the private market. In addition, experience indicates that after the IMF enters into a stand-by agreement with a borrowing country, private lending tends to expand rather than contract, IMF lending is a complement to private lending, not a substitute for it. The banks will benefit from the facility, but only indirectly—through an improved international environment, stronger monetary system and an expanding world economy that will benefit all segments of the American economy—industry, workers, farmers, and consumers.

IV. Main Provisions of the Supplementary Financing Facility

A. PARTICIPATION AND ENTRY INTO FORCE

Initial participants in the facility and the amounts to be provided are listed in the table below, on the basis of information available in early September 1977. (Discussions are still underway with a few other countries, and it is anticipated that initial participation in the facility will total SDR 8.6 million ($10 billion) or more). Other countries would be eligible to participate at a later date, provided that they had sufficiently strong external positions, and initial participants would be able to increase the amount of resources they make available should they choose to do so. Shares in the facility have been determined largely on the basis of relative external economic positions, as indicated primarily by balance of payments and reserve positions and ability to provide financing. The U.S. share would be SDR 1,450 million (approximately $1.7 billion), about 17 percent of the overall initial total.

TABLE 2.—SUPPLEMENTARY FINANCING FACILITY PARTICIPANTS AND COMMITMENTS

	SDR (millions)	Amount [1] (millions)	As percent of total
Industrial countries:			
Belgium	150	$174	1.8
Canada	200	232	2.4
Germany	1,050	1,220	12.4
Japan	900	1,046	10.7
Netherlands	100	116	1.2
Switzerland	650	755	7.7
United States	1,450	1,685	17.2
Subtotal	4,500	5,228	53.4
Oil exporting countries:			
Iran	685	796	8.1
Qatar	100	116	1.2
Saudi Arabia	2,150	2,500	25.5
Venezuela	450	523	5.3
United Arab Emirates	150	174	1.8
Kuwait	400	465	4.7
Subtotal	3,935	4,574	46.6
Total	[2] 8,435	9,802	100.0

[1] Based on the SDR per dollar rate prevailing Sept. 1, 1977, 1 SDR=$1.16210.

[2] Based to increase to at least SDR 8,600,000,000 ($10,000,000,000). See footnote 2 in text above.

The facility will enter into force when a total of SDR 7.75 billion (approximately $9 billion) has been effectively made available to the IMF and at least six participants have each made available SDR 500 million (approximately $580 million) or more.

B. Terms relating to provision of resources to the IMF

Period of Financing.—Commitments by participants to provide financing to the IMF will remain effective for five years from the date of the facility's entry into force. Financing actually provided to the facility will be repaid in eight semi-annual installments beginning 3½ years and ending 7 years after the date the financing is provided, equivalent to an average maturity of 5¼ years. The IMF will have the right to make early repayment in certain circumstances.

Calls for Financing.—Calls will be made in broad proportion to the unutilized commitments of participants. Upon call, funds will be transferred to the IMF for immediate use in providing financing from the facility. A participant may represent that its balance of payments and reserve position does not justify a call or any further calls. If the IMF concurs with the participant's representation, the participant will not be expected to contribute to any further calls until its balance of payments and reserve position improves sufficiently.

Interest Rates.—Participants will receive interest equal to the yield on U.S. Treasury securities of comparable maturity, rounded up to the nearest one-eighth of one percent. The interest rate that will apply until June 30, 1978, is seven percent, based on the interest rates on U.S. Treasury securities prevailing at the time the facility was agreed. For each subsequent six month period, the interest rate that will apply will be the average of the daily yield during that period on actively traded U.S. Government securities of a constant maturity of five years, rounded up to the nearest one-eighth of one percent. Such yields are calculated daily by the U.S. Treasury Department and published weekly by the Federal Reserve Board.

Liquidity of Claims.—In exchange for financing provided the IMF, a participant will receive a liquid reserve claim on the IMF which can be encashed at any time upon a representation by the participant of balance of payments need. Claims may also be transferred (sold) to other participants, other IMF members or other transferees which may be approved by the IMF.

Denomination.—All commitments to provide financing, and all financing actually proved to the facility, will be denominated in Special Drawing Rights. In the event of a change in the method of valuation of the SDR,[6] a participant would have the right to immediate repayment of its claims on the IMF and to terminate any remaining commitments.

C. Terms and conditions of drawing by members

Eligibility.—An IMF member will be eligible to use the facility if the IMF is satisfied:

That the member's balance of payments financing need is greater than the amount remaining available to it under the credit tranches (i.e., under the regular IMF resources);

That the member's balance of payments problem requires a relatively long period of adjustment and a period of repayment longer than the period of three to five years that applies to the credit tranches; and

On the basis of a detailed statement of the economic and financial policies the member will follow and the measures it will apply under a stand-by or extended arrangement, that the member's program will be adequate for the solution of its balance of payments problem and is compatible with the IMF's policies on the use of its resources in the upper credit tranches or under the Extended Fund Facility[7] (i.e., the IMF's more conditional policies).

Access and Relation to Regular Credit Tranches.—Members will be able to apply for the use of the facility at any time within two years after the date the facility enters into force. This period will be reviewed in conjunction with an overall review of the facility,[8] and may be extended for up to one additional year. Actual drawings by a member will be phased over a period of two to three years from the date the member enters into agreement with the IMF, and will be dependent on satisfactory compliance by the member with the economic program agreed with the IMF.[9]

The amount of IMF financing available to a member under the facility would be based on a judgment by the IMF, taking into account the size and nature of the member's payments problem, its access to alternative sources of financing, and the availability of resources in the IMF. Supplementary financing will be made available in parallel with a member's purchases of regular IMF resources under the credit tranches or the Extended Fund Facility. Initially, supplementary financing roughly equivalent to a member's quota will be available in conjunction with credit tranche drawings, and up to 140 percent of quota will be available in conjunction with extended Fund Facility drawings. Drawings on the facility will be apportioned to parallel drawings on the regular credit tranches or the Extended Fund Facility as described in Annex C. The amounts available from the facility in conjunction with drawings on the upper credit tranches or the

[6] The SDR is valued on the basis of market exchange rates of a weighted "basket" of sixteen currencies. The dollar's weight is roughly one-third of the total.

[7] Under this facility, established in September 1974, the IMF makes longer-term balance of payments financing available to countries prepared to undertake and adhere to a comprehensive program of structural reform approved by the IMF and covering a period of several years.

[8] This review will take place not later than two years after the facility enters into force or when an increase in quotas pursuant to the Seventh General Review of Quotas becomes effective.

[9] Drawings will not be permitted beyond five years after the facility enters into force, consistent with the maximum period of commitment by participants in the financing arrangements with the IMF. The effect of this limitation is that if the period for applications is lengthened beyond two years, the maximum period of drawdown must be shortened from three years to fit with the five year maximum availability of financing.

Extended Fund Facility would be subject to review from time to time by the IMF, and could be modified in light of the availability of supplementary financing and regular resources. In special circumstances, the IMF could permit purchases of supplementary financing in amounts above that available in conjunction with parallel drawings on the regular resources.

Repayment.—Repayment of drawings ("repurchases") under the Supplementary Financing Facility will take place over a period somewhat longer than three to five years that applies to the regular resources. Repayment will be required in equal semi-annual installments beginning not later than three and one-half years and completed not later than seven years from the date of purchase. A member will be expected to make early repayment, however, as its balance of payments and reserve position improves, and a member can be required to make early repayment if the IMF determines that an improvement in the member's position so justifies. Early repayment of a drawing from the facility must be accompanied by early repayment of any parallel drawing from the IMF's regular resources.

Charges.—Charges to borrowers on drawings from the facility will be equal to the cost of financing provided to the facility, plus a small margin of slightly less than one-quarter of one percent per annum to cover IMF administrative costs.

V. Proposed legislation

Prior Congressional approval for United States participation in the Supplementary Financing Facility is required by Section 5 of the Bretton Woods Agreements Act, as amended. The Council believes that legislation should be promptly enacted to authorize the Secretary of the Treasury to take the steps necessary for U.S. participation in the facility.

The bill proposed for this purpose would authorize the Secretary of the Treasury to make resources available for U.S. participation in an amount not to exceed the dollar equivalent of 1,450 million Special Drawing Rights. The terms of United States participation in the facility will be governed by the decisions of the IMF Executive Directors establishing the facility and authorizing replenishment of IMF resources for the purposes of the facility (attached as Annexes A and B).

These resources would be made available by the United States entering into an agreement with the IMF for replenishment of the IMF's resources in accordance with Executive Board Decision numbered 5509–(77/127) (Annex B). In addition, the United States could transfer (sell) to others its reserve claims on the IMF arising from participation in the facility and could purchase such claims on the IMF held by others, under the IMF Executive Board Decision. In no event would the total amount of currency made available by the Secretary of the Treasury, net of any amounts received by the U.S. with respect to its participation in the facility, exceed the equivalent of 1,450 million Special Drawing Rights.

Transactions arising from U.S. participation in the facility, like other U.S. transactions with the IMF, are exchanges of monetary assets, akin to deposits in a bank. This accounting and budgetary treatment of U.S. transactions with the IMF was adopted as a result of the recommendations in 1967 of the President's Commission on Budget Concepts. The Congress has concurred since 1975 in the application in full of the exchange of asset concept to U.S. transactions with the IMF. The Congress has considered appropriations unnecessary both for increases in the United States quota in the IMF (Congress authorized consent to the last increase in the United States quota in P.L. 94–564, without an appropriation), and for payment by the U.S. of maintenance of value obligations to the IMF.

Similarly, no appropriation is necessary for U.S. participation in the IMF Supplementary Financing Facility and none is authorized by the proposed bill. When the United States provides dollars under the terms of the facility, the U.S. in exchange will receive a monetary asset in the form of a liquid reserve claim, of equivalent SDR value, on the IMF. These claims will increase the automatic drawing rights of the United States on the IMF and will be transferable. Consequently, these claims will form part of the U.S. "reserve position" in the IMF and so will constitute part of U.S. international reserves.

Since the assets and accounts of the Treasury are denominated in dollars, while those of the IMF (including U.S. claims on the IMF acquired through participation in the facility) are denominated in SDR's there may, as a consequence of exchange rate changes, be a net charge in the dollar value of U.S. monetary assets arising from our participation in the facility. The proposed bill therefore provides for the Exchange Stabilization Fund, established by Section 10 of the Gold Reserve Act of 1934, as amended, to account for any such adjustment in the dollar value of U.S. monetary assets.

VI. Recommendation

The National Advisory Council strongly recommends to the President and to the Congress that the United States participate in the Supplementary Financing Facility of the International Monetary Fund. The proposed terms and conditions of U.S. participation are set forth in the documents annexed to this Report. While the international monetary system has been functioning well, there is a real and present need for an increase in the resources of the IMF, as provided by the proposed Supplementary Financing Facility. The facility will provide a major strengthening to the international monetary system during this period of strain, greatly reducing any risk that the system may not be able to meet the demands placed upon it. The Council believes that establishment of this facility is of critical importance to the United States, and that participation by the United States is manifestly in our national interest. It is therefore strongly recommended that legislation be promptly enacted authorizing U.S. participation in the Supplementary Financing Facility Agreement.

ANNEX A

DOCUMENT OF THE INTERNATIONAL MONETARY FUND

AUGUST 30, 1977.

DECISION ESTABLISHING A SUPPLEMENTARY FINANCING FACILITY

1. (a) The Fund will be prepared to provide, in accordance with this Decision, supplementary financing in conjunction with use of the other resources of the Fund (hereinafter referred to as "ordinary resources") to members facing serious payments imbalances that are large in relation to their quotas. Supplementary financing for the purpose of this Decision means financing that the Fund will provide under a stand-by or extended arrangement with resources the Fund obtains by replenishment under Article VII, Section 2 and Decision No. 5509–(77/127), adopted August 29, 1977.

(b) Resources available to members under other policies of the Fund will remain available in accordance with the terms of those policies.

2. A member contemplating use of the Fund's resources in the three credit tranches beyond the first credit tranche (hereinafter referred to as the "upper credit tranches") that would include supplementary financing shall consult the Managing Director before making a request under this Decision. A request by a member will be met under this Decision only if the Fund is satisfied: (i) that the member needs financing from the Fund that exceeds the amount available to it in the four credit tranches and its problem requires a relatively long period of adjustment and a maximum period for repurchase longer than the three to five years under the credit tranche policies; and (ii), on the basis of a detailed statement of the economic and financial policies the member will follow and the measures it will apply during the period of the stand-by or extended arrangement, that the member's program will be adequate for the solution of its problem and is compatible with the Fund's policies on the use of its resources in the upper credit tranches or under the Extended Fund Facility.

3. The Fund may approve a stand-by or extended arrangement that provides for supplementary financing at any time within two years from the effective date of this Decision. The Fund will review this period when conducting a review under 12 below. Any extension of the period shall not exceed one year.

4. (a) Supplementary financing will be available only if the program referred to in 2(ii) above is one in support of which the Fund approves a stand-by arrangement in the upper credit tranches or beyond or an extended arrangement. The stand-by or extended arrangement will be in accordance with the Fund's policies, including inter alia its policies on conditionality, phasing, and performance criteria, provided however that any right of augmentation exercised by a member in connection with a repurchase in respect of a purchase made with supplementary financing shall be subject to the same period of repurchase that applied to the purchase in respect of which the repurchase was made.

(b) The period of a stand-by arrangement approved under this Decision will normally exceed one year, and may extend up to three years in appropriate cases. The period of an extended arrangement will be in accordance with Decision No. 4377–(74/114), adopted September 13, 1974.

(c) A request for a purchase in accordance with a stand-by or extended arrangement approved under this Decision will be met from ordinary resources and supplementary financing in the proportions determined under 5 and 6 below when the arrangement is approved.

5. The amounts available to a member under a stand-by arrangement approved under this Decision will be apportioned between ordinary resources and supplementary financing as follows:

(a) While each credit tranche is 36.25 per cent of quota under the Fund's policies, supplementary financing will be equivalent to 34 per cent of quota in respect of each of the upper credit tranches.

(b) After each credit tranche becomes 25 per cent of quota under the Fund's policies, supplementary financing will be equivalent to 12.5 per cent of quota in respect of the first credit tranche and 30 per cent of quota in respect of the upper credit tranches.

(c) If a member has used all or part of its credit tranches before a stand-by arrangement is approved under this Decision, the arrangement approved under this Decision will provide that the amount of supplementary financing that would have been used under (a) and (b) above if all earlier purchases in the credit tranches had been made in conjunction with supplementary financing will be used, subject to 4(a) above, before purchases are made under (a) or (b) above.

(d) If a purchase in a credit tranche is less than the amount of a full credit tranche, the supplementary financing to be used in conjunction with the purchase will be in the same proportion of the amount of supplementary financing referred to in (a) and (b) above as the purchase in the credit tranche bears to the amount available in

that tranche when the arrangement was approved.

(e) From time to time, the Fund will review the proportions of supplementary financing to be used in conjunction with the upper credit tranches, and may substitute modified proportions for those in effect pursuant to this Decision. The modified proportions shall apply only to stand-by arrangements approved after the date of the decision to modify the proportions, provided that a member that has an existing stand-by arrangement may request that, subject to 4(a) and 5(c) above, any increased proportions be made available to it under a new or revised arrangement.

(f) In special circumstances, a stand-by arrangement may be approved under this Decision that provides for purchases beyond the credit tranches and supplementary financing available under (a), (b), and (c) above. The arrangement will provide that all purchases under it will be made with supplementary financing. The Fund, taking into account the criteria in 2 above, will prescribe in each arrangement the amount of supplementary financing that will be available.

6. (a) Supplementary financing will be available, in combination with ordinary resources, for purchases under an extended arrangement approved under this Decision in an amount not exceeding the equivalent of 140 per cent of quota. Purchases under an extended arrangement will be made with ordinary resources and with supplementary financing in the ratio of one to one.

(b) Supplementary financing available to a member in accordance with the ratio in (a) above will be increased by an amount determined by the ratio of one to one in respect of that part of the upper credit tranches that is no longer available to the member as the result of earlier uses of the Fund's resources. Purchases will be made with supplementary financing, subject to 4 (a) above, to the extent of the amount of this increase before purchases are made in accordance with (a) above.

(c) The principles of 5 (e) and (f) shall apply to extended arrangements approved under this Decision.

7. (a) Repurchases in respect of outstanding purchases under this Decision will be made in accordance with the terms of the stand-by or extended arrangement under which the purchases were made.

(b) The terms will include a provision that the member will be expected to repurchase in respect of purchases, whether made with ordinary resources or with supplementary financing, as its balance of payments and reserve position improves, and will make such repurchases if, after consultation with the member, the Fund represents that repurchase should be made because of an improvement.

(c) The terms will also provide that with respect to purchases financed with ordinary resources repurchase will be made in accordance with the Fund's policies on the credit tranches or under the Extended Fund Facility; and that with respect to purchases made with supplementary financing repurchase will be made in equal semi-annual installments that begin not later than three and one half years and are completed not later than seven years after the purchase.

(d) A repurchase attributed to a purchase made with supplementary financing in advance of this schedule of equal semi-annual installments must be accompanied by a repurchase in respect to the purchase financed with ordinary resources made at the same time if any part of the latter purchase is still outstanding. The amounts of the two repurchases will be in the same proportions in which ordinary resources and supplementary financing were used in the purchases, provided, however, that the repurchase in respect of the purchase financed with ordinary resources will not exceed the amount of the purchase still outstanding.

(e) Repurchases will be made in the media prescribed by the Articles of Agreement and specified by the Fund at the time of the repurchase after consultation with members. The Fund will be guided by a policy of specifying for repurchase the media in which it will make repayments as a result of the repurchases, and will take this policy into account in preparing its currency budgets.

8. In order to carry out the purposes of this Decision, the Fund will be prepared to grant a waiver of the conditions of Article V, Section 3(a)(iii) (or Article V, Section 3(b)(iii) after the second amendment of the Articles) that is necessary to permit purchases under this Decision or to permit purchases under other policies that would raise the Fund's holdings of a member's currency above the limits referred to in that provision because of purchases outstanding under this Decision.

9. The Fund will apply its credit tranche policies as if the Fund's holdings of a member's currency did not include holdings resulting from purchases outstanding under this Decision that have been made with supplementary financing. After the effective date of the second amendment of the Articles of Agreement purchases under this Decision and holdings resulting from purchases outstanding under this Decision will be excluded under Article XXX(c).

10. The Fund will state which purchases by a member are made under this Decision and the amounts of ordinary resources and supplementary financing used in each purchase.

11. The Fund will levy charges in accordance with the decision of the Executive Board on holdings of a member's currency resulting from purchases outstanding under this Decision to the extent that they are made with supplementary financing.

12. The Fund will review this Decision not later than two years after its effective date or when the Seventh General Review of Quotas becomes effective, if that occurs within the two years. One year after the effective date of this Decision the Fund will report on the use of the supplementary financing facility. The report will deal also with other important aspects of the facility.

13. The effective date of this Decision will be the date on which agreements are completed under Decision No. 5509-(77/127), adopted August 29, 1977, for a total amount not less than SDR 7.75 billion, including at least six agreements each of which provides for an amount not less than SDR 500 million.

Decision No. 5508-(77/127), adopted August 29, 1977.

ANNEX B

DOCUMENT OF THE INTERNATIONAL MONETARY FUND

AUGUST 30, 1977.

DECISION ON REPLENISHMENT IN CONNECTION WITH SUPPLEMENTARY FINANCING FACILITY

1. The International Monetary Fund deems it appropriate in accordance with Article VII of the Articles of Agreement to replenish its holdings of currencies to the extent that purchases are to be made with supplementary financing under Executive Board Decision No. 5508-(77/127), adopted August 29, 1977.

2. A number of members and institutions have expressed their intention to make resources available to the Fund for the purpose stated in paragraph 1 above. In order to enable the Fund to replenish its resources in accordance with these intentions, the draft letter set out in the Annex to this Decision is adopted as the basis for terms and conditions to be incorporated in the agreement with each contracting party under Article VII of the Articles of Agreement. The terms and conditions will be uniform to the maximum extent possible. Each letter setting forth the terms and conditions to be proposed will be submitted to the Executive Directors for their approval.

3. At any time within the period in which the Fund can replenish its resources in order to provide supplementary financing, it may enter into agreements for this purpose with the contracting parties referred to in paragraph 2 above and with any other member or with its national official financial institutions, provided that the member is in a sufficiently strong balance of payments and reserve position, or with any institution that performs functions of a central bank for more than one member. The Fund will consider a member to be in the position referred to above if it is in a net creditor position in the Fund and if its currency could be used in net sales in the Fund's currency budgets for the foreseeable future, but the Fund may take other circumstances into account in deciding whether to enter into an agreement with a member or with its national official financial institutions.

4. The amounts to be called by the Fund will be in broad proportion to the unutilized balance under each agreement to the total of unutilized balances under all agreements, subject to such operational flexibility as the Fund may find necessary.

5. The Fund will use its best efforts to ensure that the currencies it receives in accordance with this Decision will be transferred on the same day to purchasers under Executive Board Decision No. 5508-(77/127), adopted August 29, 1977, and that amounts corresponding to repurchases attributed in accordance with Paragraph 5(b)(i) of the draft letter set out in the Annex to this Decision will be repaid to contracting parties on the same day as the repurchase is completed, provided, however, that the Fund will not make such repayment, unless it decides otherwise, if the repurchase entitles the purchaser to augmented rights under its stand-by or extended arrangement. If such repayment has not been made, the Fund will repay promptly on the expiration of the arrangement an amount equivalent to the amount of the augmented rights that have not been exercised.

Decision No. 5509-(77/127), adopted August 29, 1977.

ANNEX TO ANNEX B

[YOUR EXCELLENCY] [DEAR SIR]: In accordance with Article VII of the Articles of Agreement of the International Monetary Fund, hereinafter referred to as "the Articles," and pursuant to Executive Board Decision No. 5509-(77/127), adopted August 29, 1977, and Executive Board Decision No. ——, [authorizing agreement with individual contracting party, X] adopted ———, I have been authorized to propose on behalf of the International Monetary Fund, hereinafter referred to as "the Fund," that [X] agree to make available to the Fund at call during the period of five years from the effective date of Executive Board Decision No. 5508-(77/127), adopted August 29, 1977, [currency of X] [specified currency or currencies deemed by the Fund to be freely usable] in amounts that in total do not exceed the equivalent of ——— million special drawing rights (SDR ———) in exchange for readily repayable claims on the following terms and conditions:

1. All amounts under this agreement shall be expressed in terms of the special drawing right. For all purposes of this agreement the value of a currency in terms of the special drawing right shall be calculated at the rate for the currency as determined by the Fund in accordance with the Fund's Rules and Regulations in effect when the calculation is made, subject to Paragraph 7(a).

2. (a) Calls under this agreement shall be made only (i) in respect of purchases to be made with supplementary financing under the facility established by Executive Board Decision No. 5508-(77/127), adopted Au-

gust 29, 1977, which is hereinafter referred to as "the facility," or (ii) by agreement with [X], in order to enable the Fund to repay a claim under another agreement connected with the facility when repayment is made under that agreement because of a balance of payments need.

(b) The Fund shall give [X] as much advance notice as possible of the Fund's intention to make calls.

(c) [X] may represent that its balance of payments and reserve position does not justify calls or further calls under this agreement. The Fund, in considering the representation, shall give [X] the overwhelming benefit of any doubt. After consultation with [X], in which the Fund shall give [X] the overwhelming benefit of any doubt, the Fund may make calls or further calls at a later date when in the opinion of the Fund the balance of payments and reserve position of [X] improves sufficiently to justify calls or further calls.

(d) when a call is made, [X] shall deposit to the Fund's account with [X] [the Fund's depository for the currency of [X]] [the Fund's depository for the currency of ———] within three business days after the call an amount of [its currency] [the currency or currencies specified in the preamble] equivalent to the amount of the call at the rate for the currency as determined by the Fund in accordance with the Fund's Rules and Regulations. On request, [X] shall exchange its currency [if not deemed by the Fund to be freely usable] when sold by the Fund for a freely usable currency at the rates for the two currencies as determined by the Fund in accordance with its Rules and Regulations.

3. The Fund shall issue to [X] on its request an instrument evidencing the amount, expressed in special drawing rights, that the Fund is committed to repay under this agreement. Upon repayment of the amount of any instrument and all accrued interest, the instrument shall be cancelled. If less than the amount of any such instrument is repaid, the instrument shall be cancelled and a new instrument for the remainder of the amount shall be substituted with the same maturity dates as in the old instrument. If all or part of the amount of a claim is transferred under 8 below, a new instrument or instruments shall be substituted on request for the old instrument with the same maturity dates as in that instrument.

4. (a) The Fund shall pay interest on the amount that the Fund is committed to repay under this agreement in accordance with the following provisions:

(i) The initial rate of interest on all outstanding claims shall be seven per cent per annum. This rate shall apply until June 30, 1978.

(ii) Six months after June 30, 1978, and at intervals of six months thereafter, the Fund shall calculate, in the manner set forth in (iii) below, the rate of interest to be paid on outstanding claims for the period of six months prior to the calculation.

(iii) The interest rate on outstanding claims for a period of six months shall be the average of the daily yields during that period on actively traded U.S. government securities, determined on the basis of a constant maturity of five years, as published each week by the Federal Reserve Board, Washington, D.C. in statistical release H–15 or any substitute publication, or if such publication shall cease as certified by the U.S. Treasury, provided that this average shall be rounded up to the nearest one-eighth of one per cent.

(iv) Interest shall be paid promptly after June 30 and December 31 of each year on the average daily balances outstanding during the preceding six months of the amounts the Fund is committed to repay under this agreement.

(b) No other fee, charge, or commission shall be imposed by [X] with respect to a deposit or an exchange pursuant to a call under Paragraph 2(d) or with respect to any other aspect of a call.

5. (a) Subject to the other provisions of this Paragraph 5, the Fund shall repay [X] an amount equivalent to any deposit pursuant to a call under Paragraph 2 in [eight] equal semi-annual installments to commence three and one half years, and to be completed not later than [seven] years, after the date of the deposit.

(b) The Fund may repay [X] in advance of the repayments required by Paragraph 5(a) to the extent that: (i) a repurchase is attributed, in accordance with the Fund's practice, to a purchase under the facility for which the Fund has received resources from [X] under this agreement, or (ii) [X] agrees to receive repayment.

(c) If at any time [X] represents that there is a balance of payments need for repayment of part or all of the amount the Fund in committed to repay under this agreement and requests such repayment, the Fund, in considering the representation and deciding whether to make repayment, shall give [X] the overwhelming benefit of any doubt.

(d) Repayments under Paragraph 5 (b) and (c) shall discharge the installments prescribed by Paragraph 5(a) in the order in which they become due.

6. The Fund shall consult [X] in order to agree with it on the means in which payments of interest and repayment shall be made, but, if agreement is not reached, the Fund shall [have the option to] make payment or repayment in [the currency of [X], or] the currency received by the Fund from [X], [or] [special drawing rights] [or any currency deemed by the Fund to be freely usable or any currency that can be exchanged at the time of the payment or repayment for a freely usable currency at a rate of exchange that would yield value equal in terms of the special drawing right to payment or repayment in a freely usable currency,] [or any combination of these means of payment or repayment].

7. (a) If the Fund decides to make a change in the method of valuation of the special drawing right, [X] shall have the option to require immediate repayment of all outstanding claims on the basis of the method of valuation in effect before the change.

(b) If [X] exercises its option under Paragraph 7(a), it shall have the further option to cancel this agreement.

8. (a) For value agreed between transferor and transferee, transfers may be made at any time of all or part of a claim to repayment under this agreement in accordance with the following provisions:

(i) Transfers may be made to any contracting party, any member, a member's national official financial institutions (hereinafter referred to as a member's "institution"), or any institution that performs functions of a central bank for more than one member

(ii) Transfers may be made to transferees other than those referred to in (i) above with the prior consent of the Fund and on such terms and conditions as it may prescribe.

(b) The transferor of a claim shall inform the Fund promptly of the claim that is being transferred, the transferee, the amount of the transfer, the agreed value for the transfer, and the value date. The transfer will be registered by the Fund if it is in accordance with this agreement. The transfer shall be effective for the purposes of this agreement as of the value date agreed between the transferor and transferee.

(c) If all or part of a claim is transferred during a period of six months as described in Paragraph 4, the Fund shall pay interest on the amount of the claim transferred for the whole of that period to the transferee.

(d) Subject to (c) and to any terms and conditions prescribed under (a)(ii), the claim of a transferee shall be the same in all respects as the claim of the transferor, except that Paragraph 5(c) shall apply only if, at the time of the transfer, the transferee is a member, or the institution of a member, that is in a net creditor position in the Fund and in the opinion of the Fund the member's currency could be used in net sales in the Fund's currency budgets for the foreseeable future.

(e) If requested, the Fund shall assist in arranging transfers.

9. [If [X] withdraws from the Fund, this agreement shall terminate and the amount that the Fund is committed to repay under this agreement shall be repaid in accordance with the terms of this agreement, provided that repayment shall be made, at the option of the Fund, in the currency of [X] or in a currency deemed by the Fund to be freely unable], or in such other currency as may be agreed with [X].] [If the member country of which [X] is an institution withdraws from the Fund, [X's] agreement shall terminate, and the amount that the Fund is committed to repay under this agreement shall be repaid in accordance with the terms of this agreement, provided that repayment shall be made at the option of the Fund, in the currency of that member [or in a currency deemed by the Fund to be freely usable], or in such other currency as may be agreed with [X].]

10. In the event of liquidation of the Fund the amounts the Fund is committed to repay to [X] shall be immediately due and payable as liabilities of the Fund under the provisions of the Articles on liquidation of the Fund. For the purposes of these provisions of the currency in which the liability is payable shall be, at the option of the Fund, [the currency received by the Fund under this agreement] [the currency of [X] if it differs from that currency], [a currency deemed by the Fund to be freely usable,] or any other currency agreed with [X].

11. Any question of interpretation that arises under this agreement that does not fall within the purview of the provisions of the Articles on interpretation shall be settled to the mutual satisfaction of [X] and the Fund.

If the foregoing proposal is acceptable to [X], this communication and your duly authenticated reply shall constitute an agreement between [X] and the Fund, which shall enter into force on the date on which the Fund receives your reply.

Very truly yours,

H. JOHANNES WITTEVEEN,
Managing Editor.

ANNEX C

RELATIONSHIP BETWEEN SUPPLEMENTARY FINANCING AND REGULAR IMF RESOURCES

Drawings on the Supplementary Financing Facility will be available in conjunction with drawings of regular IMF resources under the credit tranches and the Extended Fund Facility. Amounts initially available would be as described below.

Drawings Under the Credit Tranches.—As part of the Jamaica agreement on monetary reform in January 1976, countries potential access to the credit tranches was temporarily expanded by 45 percent, so that each credit tranche is temporarily equal to 36.25 percent of quota. This expansion will lapse when the amendments to the IMF Articles of Agreement now in process of ratification take effect, and each credit tranche will then revert to 25 percent of quota. As long as this temporary expansion is in effect, drawings of supplementary financing will be available only in connection with drawings on the upper

(i.e., more conditional) credit tranches, and in an amount equivalent to 34 percent of quota in conjunction with drawings on each of the second, third, and fourth credit tranches.

After the temporary expansion in credit tranches lapses, drawings of supplementary financing will be permitted in conjunction with drawings on the first credit tranche, in an amount not to exceed 12½ percent of quota, and drawings of the equivalent of 30 percent of quota will be permitted in conjunction with drawings of each of the three upper credit tranches. No drawings of supplementary financing will be permitted unless a country has agreed with the IMF on a program extending into the upper credit tranches. If a member has already used part or all of its credit tranches before a stand-by arrangement is approved under the Supplementary Financing Facility, in addition to the amount of supplementary financing made available in conjunction with drawings on the remaining credit tranches the member would be entitled to draw the amount of supplementary financing available in conjunction with the earlier credit tranche drawings.

These initial relationships between drawings of supplementary financing and credit tranche drawings are summarized in the table below. The amounts available in conjunction with drawings on the upper credit tranches will be subject to review by the Fund from time to time, and may be modified in light of the relative availability of supplementary financing and regular IMF resources. In special circumstances, the Fund may decide to permit drawings of supplementary financing in amounts beyond the limits implicit in the ratios mentioned above.

Parallel drawings available from supplementary financing facility

	Percent of quota	
	Before amendment of IMF articles	After amendment of IMF articles
Drawings on credit tranches:		
1st credit tranche	---	12.5
2d credit tranche	34	30.0
3d credit tranche	34	30.0
4th credit tranche	34	30.0
Total	102	102.5

Drawings Under the Extended Fund Facility.—Drawings under the Extended Fund Facility can total the equivalent of 140 percent of quota, subject to a limit of 176.25 percent of quota on combined drawings from the Extended Fund Facility and the credit tranches (this combined limit will be reduced to 165 percent of quota when the temporary expansion of credit tranches lapses). Drawings of supplementary financing will be permitted in conjunction with drawings on the Extended Fund Facility on a one-to-one basis. If a member has already used part of its access to resources under the Extended Fund Facility, in addition to the supplementary financing made available on a one-to-one basis the member will be entitled to draw the amount of supplementary financing available in conjunction with the earlier drawings under the Extended Fund Facility.

As with drawings under the credit tranches, the Fund may decide in special circumstances to permit drawings of supplementary financing in amounts beyond the limits implicit in the ratios mentioned above.

ADDITIONAL STATEMENTS

NATURAL GAS CONFEREES

Mr. BENTSEN. Mr. President, as we all well recognize, the natural gas bill that the Senate passed last week was only produced after an enormous effort. It represents years of legislative give and take; years of study and restudy; years of debate.

Now we face a conference with our House colleagues. Many people seem to forget that 47 percent of the House membership backed a more immediate version of natural gas deregulation than that approved by the Senate. But if the Senate position on natural gas is to be fairly represented in conference, and all possible compromises fully explored, a majority of the Senate conferees should be completely convinced of the wisdom of the Senate position and have so voted.

I recognize the continuing controversy over deregulation, and I ask for no unfair advantage in the debate to follow in conference. I am not seeking the appointment of any particular conferee or group of conferees. My goal is simply to insure that Senate procedures are followed. In fact, the rules and precedents established sometimes are overlooked points: Conferees from the prevailing side should be in the majority and conferees can be elected or rejected by the Senate as a whole.

As Senator HUMPHREY stated in the debate on the civil rights bill in 1964:

> The conferees in theory are appointed by the Presiding Officer but in fact are designated by friends of the measure, who are in sympathy with the prevailing view of the Senate.

The Senate Democratic Caucus adopted a similar rule, which instructed that "a majority of the proposed conferees shall have indicated their support for the bill in question as passed by the Senate, and their support for the prevailing opinion of the Senate on the principal matters of disagreement with the House."

To back up these rules, the Senate, as a whole, is given the power to elect its own conferees or amend any motion to elect conferees.

In selecting the advocates of the Senate position, the Senate is not limited to members of the jurisdictional committee. This is a well recognized principle going back at least to 1896. In that year Senator Lodge was chosen as a conferee on a bill which was reported out of the Judiciary Committee, although he was not a member of that committee.

Conference is the place for compromise, and I think one can be found on the issue of deregulation. It would be impossible for 535 Congressmen to sit down as a whole and work a solution. So representative conferees will be chosen. Accordingly, the composition of the majority of the Senate conferees must reflect the 52 Senators who voted for deregulation. I have and will continue to seek assurances that a majority of the Senate conferees on the natural gas bill will be chosen from supporters of the Pearson-Bentsen bill.

Frankly, having sat on numerous conferences, I recognize the inevitability of compromise. However, the selection of conferees should reflect what happened on the Senate floor, not what someone wishes had happened. In other words, the appointment of conferees is not another chance for the losers to win; it is the open selection by the Senate as a whole of the advocates of the Senate position.

INCREASING THE USE OF SEAT-BELTS

Mr. GRIFFIN. Mr. President, recently, in an appearance before the greater Detroit Safety Council, Mr. S. L. Terry of the Chrysler Corp. delivered an excellent address which puts the air bag issue in perspective. It is a speech that ought to be read by all Members of Congress, for they will decide this week—by action or inaction—whether air bags are to be forced on all new car consumers under an order issued by the Secretary of Transportation.

I ask unanimous consent that the address be printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

REMARKS BY S. L. TERRY, VICE PRESIDENT, CHRYSLER CORPORATION, TO THE GREATER DETROIT SAFETY COUNCIL, DEARBORN, MICHIGAN, SEPTEMBER 29, 1977

The facts show the decision to force the public to buy air bags is a tragic mistake. Air bag supporters have been selling the public and the lawmakers a bill of goods. They have been lulling the nation into a sense of false security about this system. Let me give you just a few of the misstatements, distortions, and downright untruths they have been peddling lately.

Fiction number one: Air bags are passive restraints.

The truth: You *must* wear a lap belt to get full protection in an accident. Air bag systems are *not* passive.

Fiction number two: Air bags give better protection than anything else available.

The truth: Air bags don't work in side impacts, rear accidents, or rollovers, where nearly half of all fatal accidents occur. They don't work at all in crashes at less than a 12 mile an hour barrier impact—the equivalent of slamming into a parked car at 24 miles an hour. A government study of 230 *tow-away* crashes of cars equipped with air bags showed the air bags did *not* work in 97 of those accidents. That means *no* protection in 42 percent of those accidents. You *must* wear a lap belt to get full protection.

Fiction number three: Air bags are the most tested safety device ever introduced.

The truth: Air bags have deployed in about 155 accidents—that's not enough real-world evidence to justify air bags. DOT researchers agree. The DOT executive responsible for analyzing accident statistics recently said, "Evaluation of air bag effectiveness is impossible at this point due to the small number of air bag-equipped cars on the road and the small number of accidents. We cannot quantitatively evaluate them based on field experience."

Fiction number four: The two companies don't have to use air bags—they could use passive belts.

The truth: Passive belts can only be adapted to cars with bucket seats. The air

bag is the only device that will meet the standard in cars which seat three people in the front. Studies show the passive belt gives less protection than today's 3-point belt system. You need to fasten a lap belt for full protection.

Fiction number five: Air bags will save 9,000 lives a year when they are in all cars.

The truth: This unsupported guess by DOT is off by a factor of three. General Motors, who has more actual experience with air bags than anyone else, told the Department of Transportation that we are saving as many if not more lives today, with current lap-shoulder belts, than we could save with air bags in all cars. And that's at today's usage rates.

DOT has rushed ahead with press releases on the virtues of "passive" systems based on very limited data. But they have delayed the release of other data showing the superiority of today's belt systems over air bags and passive belts. In fact, a Congressman had to threaten to subpoena one CALSPAN study that DOT didn't put in the public record.

CALSPAN conducted off-center head-on crash tests—duplicates of the kind of real world head-on accidents that typically occur when a car veers over the line and hits a car coming in the other direction. The study showed that three of the four occupants in the air bag cars would have been killed or very seriously injured. All the occupants in the lap and shoulder belt cars would have survived without serious injury.

The results of these crash tests by an independent and respected research organization contradict all the conventional wisdom about the effectiveness of air bags. The results should make even the most ardent air bag supporter sit up and take notice.

Even though the mounting body of real-world experience shows air bags have not been deployed or tested to the point that they should be mandated in all cars, the air bag lobby moves on. In the face of this mounting evidence, Ralph Nader's air bag lobby, and some insurance companies, are dealing with emotion, and ignoring the facts. They are putting on public display kids and grandmothers who have survived accidents in air bag equipped cars to prove that bags work.

Michigan AAA followed up on these stories and checked out what happened to the other people in the accidents—the people in the other cars with no air bags. Those people also escaped without serious injury, though most of them were not wearing belts.

The air bag lobby staged a phony demonstration for the benefit of the TV networks and wire services that completely misled the public. A bag popped out gently in the face of a little girl. There was no serious effort to convey an idea of the force and speed of a real deployment. No one explained that it would cost $600-$900 to replace the bags and sensors, and to repair the instrument panel and steering column that had been seriously damaged by the explosion of the bag. Is this our government's idea of truth in advertising? I wonder what the FTC would say.

All this hoopla and show biz is hiding one of the most important discoveries in automotive safety in the past few years.

Analysis of real-world accidents by several prominent independent research oragnizations, including the University of Michigan, CALSPAN, and the University of North Carolina, shows that present belt systems are even more effective in preventing injuries and saving lives than had previously been thought.

We have also learned a second very important fact—we can get more people to buckle up. Some of the actions to increase belt use are technical—improved reminder systems, better takeup reels, and modifications that let people move about more easily while wearing their belts. Other actions to increase belt use are motivational. We've learned from experience here in Michigan that we can change public attitudes towards lap and shoulder belts.

Past efforts to convince people to use their belts haven't always been as effective as we had hoped. Usually we tried to scare people into buckling up by showing gory accidents with a "this-could-happen-to-you" message. This approach turns people off because they don't believe it can happen to them. It does not work.

Motorists Information, Inc., decided to see if it could do something about belt usage. As you may know, MII is a non-profit corporation started by the four U.S. auto manufacturers to conduct education programs on public issues. We decided for our first project to try to educate people about the need to use belts, and then motivate them to buckle up. Any effort in this area would have a greater safety payoff than any other public safety program.

Our creative approach has combined emotion and fact. We knew from our research how hard it is to get people to fasten their lap and shoulder belts, because most people don't believe they're going to be in an accident. We found a new approach. Instead of an appeal to the driver to buckle-up for his own sake, we said do it for the sake of your loved ones. In other words: if you don't wear your belt for yourself, wear it for someone else—because somebody needs you.

Along with the emotion, we sprinkled enough facts to refute some of the common misconceptions and objections like, "I don't want to wear belts because I can't get out and I'll drown if my car runs off the Ambassador Bridge." The fact is that being inside the car, belted or not, is five times as safe as being thrown clear.

We first tried our program in the greater Grand Rapids area, which includes the cities of Kalamazoo, Battle Creek, and Muskegon. The program ran from April 4 to May 14. When it was over, we hired an independent research firm, Lincorp Research, Inc., to check the effectiveness of the campaign. Although practically every previous effort to get people to fasten their lap and shoulder belts produced only mediocre results, I'm pleased to report to you that the "Somebody Needs You" campaign was a definite success.

After the intensive six-week program using radio, television, billboards, and newspapers, Lincorp's research indicated that the reported use of lap and shoulder belts went up 12 percentage points—a 41 percent increase.

One of the most encouraging findings is that the program was so effective in communicating the need to wear belts that when it was over, 62 percent of the people said they would support or would not object to a mandatory belt use law. Before the campaign had started, over half were against such a law.

One media expert in the industry said this about the program:

"It is difficult, of course, to find an exactly comparable measure in our research of product advertising, but I cannot recall an attitude shift of this magnitude in my eight years of directing advertising research . . . There is simply no question that this campaign was effective and contrary to all other experiments to date, it is possible to change safety belt usage through the use of mass media."

He added that as a direct result of this program it has become socially unacceptable in the Grand Rapids area to admit you don't use your belt system.

Because of the success of the Grand Rapids test program, Motorists Information, Inc., recently expanded its program to the entire State of Michigan.

Now you would think that everyone would want to support a successful safety promotion of this type. That's not been the case. I think you'll be surprised to learn that our biggest critic has been the Insurance Institute for Highway Safety. For reasons I can't understand, they have publicly criticized our efforts and challenged our results.

Instead of seeking ways to cooperate with us to encourage people to wear their belts, the Institute has sent newspaper offices a pseudo-scientific analysis of our Grand Rapids program, titled "Auto Industry Belt Use Campaign Fails."

The Institute's study has been generally discredited by anyone who has taken the trouble to read it. They used a very small sample, which increases the chances of error, and questionable statistical techniques. They did not consider or even ask to see the reams of data collected by Motorists Information, Inc. Clearly, the Institute's researcher made up his mind about what he was going to find before he even started looking.

We have asked the Insurance Institute to join us in getting more people to buckle up. We hope they will. Belts are in 95 percent of all cars today, and regardless of what Congress does about air bags, lap and shoulder belts will be the primary restraint system well into the 1990s.

Even with air bags, people will need to buckle up to get full protection. Support of air bags should not prevent anyone from encouraging the public to use the proven safety device already in their cars today.

The payoff comes in the lives we will save. In the State of Michigan, for example, we will save one life and avoid 40 injuries each time we increase belt use only one-tenth of one percent.

Your organization knows the value of today's belt system. We appreciate the support you have given the "Somebody Cares Campaign" in our state. I hope that our success here will be a model for other states and other areas of the country.

We believe the controversy between lap and shoulder belts and air bags should be decided on the basis of facts—not politics or emotion. We believe the facts are clear. Lap and shoulder belts offer far greater protection than air bags—and it appears they will always offer greater protection. To Chrysler Corporation there doesn't seem to be any alternative. We are for the proven system that will save the most lives—the lap and shoulder belts already in most cars today.

ERNEST GRUENING

Mr. McGOVERN. Mr. President, last week I had the privilege of joining with the family, friends, and former colleagues of our dear friend, Ernest Gruening, to participate in the unveiling of a magnificent statue of this magnificent man.

Of all my colleagues in the U.S. Senate, there was no one I admired more than Ernest Gruening. He had the intellect, the courage, and the power of a truly great and historic figure.

The distinguished columnists, Jack W. Germond and Jules Witcover, captured the spirit of the dedication ceremony and of the life of Senator Gruening in their column in today's Washington Star, "Gruening, Doctor of Diversity, Earned the Praise."

I ask unanimous consent that this excellent column be printed in the RECORD.

There being no objection, the column was ordered to be printed in the RECORD, as follows:

GRUENING, DOCTOR OF DIVERSITY, EARNED THE PRAISE

(By Jack W. Germond and Jules Witcover)

In political Washington, the word "great" is thrown around with abandon to describe some of the champion hacks of our time. But it was invoked with justification in the rotunda of the Capitol the other day at the unveiling of a statue of the late Sen. Ernest Gruening of Alaska.

Gruening began his Senate career at the age of 72, a time when most politicians are hanging up their spikes and retiring on a fat government pension. Before that, he had worked tirelessly for Alaskan statehood and was generally considered its father. And before that he was territorial governor, a newspaper reporter and editor, magazine editor, foreign correspondent, author, historian and diplomat—an incredible record for a man trained to be a doctor.

Hubert Humphrey once called him "the 20th century Benjamin Franklin," but "the 20th century Thomas Jefferson" would have been more like it, so versatile was Gruening.

But it is not his versatility that will win him a place in the history books. Along with the late Wayne Morse of Oregon, his voice was the first in the Senate raised against the Vietnam war. Later, he and Morse in August 1964 cast the only votes against Lyndon Johnson's Gulf of Tonkin resolution that was used to escalate the American involvement in that misadventure.

Defeated for re-election after two terms in 1968, Gruening kept up his fight against the war and, at the age of 85, stumped the country in support of George McGovern's anti-war candidacy in 1972. McGovern was in the audience at the unveiling. So was Sen. Gaylord Nelson of Wisconsin, who Gruening always said should have been president. Nelson said as he stood next to the statue that Gruening, a fighter of many battles, "did not always win, but he never lost by default."

Another speaker was Sen. Mike Gravel of Alaska, who defeated Gruening in the 1968 Democratic primary when the old man's age had made him politically vulnerable. Gravel, seeking to be gracious, said that only time had defeated Gruening. But Gravel was dead wrong: Time never laid a glove on Gruening until cancer finally struck him down.

Once in the last years of Gruening's life, a reporter writing about an anniversary of the Tonkin resolution called on him, expecting to find him infirm and senile. Instead, he found a man aroused to indignation in the mere discussion of Johnson and Vietnam. At one point, he raced upstairs and back down again with a letter Johnson had sent him trying to win him over. His mind was off and running, too, and the interview ended some three hours and a notebook of reminiscences later.

In his last months, Gruening found a cause that captured his passions almost as much as bringing the Vietnam war to an end—the impeachment of Richard Nixon. From his hospital bed in June 1974 he followed the House inquiry by watching two television channels simultaneously, reading the Washington and New York newspapers and the Congressional Record daily. Near the end, a visiting reporter was greeted with an arm-waving, fist-shaking denunciation of the then-beleaguered president. Nixon, he said, should not only be impeached, but convicted of high crimes, thrown out of office, then prosecuted as a citizen, convicted again and jailed as an example that American justice still worked.

Among those at the ceremony in the Capitol was a young man named Norman Jacques, a former member of the Rhode Island legisture who refused to be inducted into the armed forces as a protest against the Vietnam war. Gruening heard about him, went and spoke for him and then raised money for his defense. Others present the other day had similar stories to tell, going back to the days when Gruening quit medicine to be a reporter in Boston and eventually a diplomat under FDR.

Dylan Thomas could well have had Ernest Gruening in mind when he wrote pleadingly to the elderly not to submissively let their lives trickle to an end:

"Do not go gently into that good night;

"Old age should burn and rave at close of day;

"Rage, rage against the dying of the light."

Ernest Gruening was a man who raged in his youth, and in his middle age, and at the close of his days for causes that sometimes were unpopular, but always just. None of that spirit can be captured in a statue in the Capitol. But it will be a reminder for those who were privileged to know this "great" and generous man.

UNION SUPPORT OF RESOLUTION TO PREVENT TAXATION OF FRINGE BENEFITS

Mr. HATCH. Mr. President, widespread support is mounting for Senate Resolution 242 to head off a change in policy set in motion by the Internal Revenue Service to tax employee fringe benefits.

The American people, of all professions, locales, and political identification, are fed up with the heavy tax burden and they are especially angry with the proposed changes the IRS has worked out to increase their taxes by means of taxing their fringe benefits, including company insurance policies, discounts, lunches, airline and railroad pass privileges, and even parking spaces.

I urge my colleagues to join me and Senators CURTIS, DOMENICI, GARN, GOLDWATER, HAYAKAWA, HELMS, SCHMITT, THURMOND, TOWER, and YOUNG, in enacting Senate Resolution 242.

I would like to share with you a letter I have received from the general chairman of the International Brotherhood of Firemen and Oilers, System Council No. 14, Mr. Myron Jeppson, as spokesman for this organization, has very clearly expressed the sentiment of many hard-working American taxpayers. I ask unanimous consent that Mr. Jeppson's letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

AUGUST 31, 1977.

DEAR SIR: It is my understanding that the Internal Revenue Service is currently revising its policy on taxation of fringe benefits. And that the Commissioner has indicated his desire to tax employe fringe benefits which would include railroad passes.

We are led to believe that the changes will become effective in January 1978 and that such changes would not require any discussion or Congressional approval.

This is a matter of great importance to the membership of Railroad Employes that I represent on the Union Pacific Railroad. As their representative, I strongly object to the above method of handling this matter and to the IRS's desire to tax these benefits.

It is of great importance because if this is allowed, that the IRS could conceivably tax all our fringe benefits creating a significant hardship on all railroad workers.

I strongly ask you to consider this issue and matter very carefully and invite any comments that you may make concerning your intentions and reasons regarding this matter. My membership will be kept informed of actions taken. I also invite you to give me your comments and reasons even if you should feel that this course suggested is the best way to go, so that I can better inform my people.

Respectfully submitted,

MYRON B. JEPPSON,
General Chairman, International Brotherhood of Firemen and Oilers.

PROPOSED INTERIOR DEPARTMENT REGULATIONS FOR THE SALE OF EXCESS LANDS IN RECLAMATION PROJECTS

Mr. ABOUREZK. Mr. President, in recent weeks there has been a great deal of controversy concerning proposed Interior Department regulations for the sale of excess lands in reclamation projects. This controversy reached a peak when it was reported that President Carter stated on Friday that he had reservations about the regulations and the law on which they were based. The story distorted the President's meaning entirely, but succeeded in adding to the confusion that has surrounded this matter.

Misunderstanding about this issue has been widespread since the issuance of the regulations, and understandably so. The issue is complicated, and has been the subject of both willing and naive distortion and inaccuracies.

Federal reclamation projects deliver water at highly subsidized rates to farmers who need to establish or supplement irrigation. In almost every case, including the Imperial and Westlands projects that have been the center of the controversy, project history shows local project promoters painting very bleak pictures of what would happen if Federal irrigation assistance were not provided.

In return for receiving the subsidized water—a taxpayer transfer amounting to hundreds of millions or billions of dollars per district—landowners owning more than 160 acres of land per individual agree to sell their "excess" lands in parcels of 160 acres or less to resident family farmers. By doing this, the taxpayer assures that Federal subsidies will only go to small family farmers. This has always been the goal of reclamation law. At no time in the law's 75-year history has any Congress or any administration formally repudiated this goal.

In most reclamation projects throughout the West, family farming was already established before the project was created, and the acreage limitation has caused problems only in that in some projects poor quality land made the acreage limitation unrealistic. The law can and should be changed to allow for realistic limits for poorer land. These limits, of course, should still not exceed that needed for a single family.

In a number of other districts, however, landholdings and farm operations were large, and landowners, although eager to receive federally subsidized water, were much less eager to accept the conditions for delivery of that water. In these districts the question has not

been whether the acreage limitation should be 160 or 320 acres, but whether there should be any attempt at all to have family farming in the project. Unfortunately, by one means or another, the large landowners have generally been succesful in escaping the clear intent of the law. In some cases, such as the Imperial Valley, the landowners have claimed, and the Interior Department agreed, they were exempt from the law. A Federal court has ruled that they were not. In other cases, such as the Westlands Water District, land has been sold in units in 160 acres or less, but the average resulting farm size is still over 2,000 acres. This sleight of hand is accomplished by having nonresident investors, friends, and family members buy the land and lease it to a single operator. The investors technically comply with the law, as interpreted by the Department, and reap an enormous Federal subsidy. They can do this because the Interior Department, until now, has ruled that residency is not required by the law. They argue that a 1926 revision of the 1902 reclamation law did not mention residency, as the original law did, and that therefore Congress repealed it by implication. Courts have ruled that this argument is invalid, and Congress itself repealed the residency requirement for a special situation in a later Act. Congress would hardly have thought it necessary to repeal a law twice.

We are left, then, with a situation in which a few wealthy people are reaping literally billions in Federal subsidies. They justify this by saying that they are producing needed food, but so are millions of other farmers without such enormous subsidies. The landowners claim that the regulations would devastate them, and that a law which has not been enforced for years should not be enforced now.

Frankly, this kind of argument should cause nothing less than fury among the small farmers and the taxpayers who are supposed to be benefiting from these projects. First, the landowners agreed from the outset to abide by reclamation law. The regulations governing those laws are and always have been subject to change. A Federal court, in fact, has decisively ruled on this issue. The law has always stated that the breakup of large landholdings and the settlement of family farmers was a major purpose of building reclamation projects. The history of the legislative efforts for the projects, in fact, often contains eloquent statements about the family farm economy that would rapidly follow project construction. Second, the landowners, in effect, are saying that they found ways to avoid the law successfully, and it is unfair to enact new regulations to make them follow the law now. It is not unlike a welfare cheater saying that he had found a way to collect extra welfare, had built a house with it, and thought that any efforts to cut off his welfare money now, which would cause him to lose his house, would be unfair.

The Interior Department's proposed regulations, in fact, are very lenient. To carry the welfare analogy further, they are like the Government telling the welfare cheater that they would agree to let him keep his house for 5 more years, and they would still allow him to get some, but not all, the extra welfare he had found a way to obtain.

Many people are saying, for instance, that the regulations will limit the landowner to 160 acres. That is a gross distortion. The regulations limit each individual landowner to 160 acres, but his family members can each buy 160 acres as well. Since this is nothing more than a legal nicety, in fact, a family of four can own 640 acres. In addition, each landowner can lease 160 acres. The same family of four, therefore, can control 1,280 acres.

There is also the argument that residency requirement—landowners must live within 50 miles—will deprive people of their income. The landowner who is not a resident, however, can either move, or he can sell his land. Since the project will have enhanced the value of his land enormously over what it would otherwise have been, he will be able to sell 160 acres of land at an enviable profit, and can invest that money in anything he likes, including land not in a reclamation project.

Then there is the argument that landowners will be bankrupted by being forced to sell their land at regulated prices, when market prices are much higher. Under both the current and proposed regulations, the Secretary of the Interior must regulate the sale price of excess land. Adding water to arid land—often about to become a desert (or as project proponents claim when they ask for the project)—enhances land values enormously. There is, of course, no reason why the landowner should be given this windfall at Federal expense. The price, therefore, is regulated so as not to reflect project enhancement. The GAO found that Interior procedures did not accurately assess the land, and were very likely to give the landowner substantially more than he deserved. The proposed regulations would not make this process any tighter. Nonetheless, landowners complain that they would lose money. In fact, of course, they are making money on the sale of their land, even though the regulated price at which they must sell is below market value.

Finally, it has frequently been argued that only large farms are efficient—that 320 acre farms would be impractical in California agriculture. This is nonsense. First, the regulations do not limit farms to 320 acres. Personally, I believe that they should limit all farm holdings to 320 acres of class 1 (the best) land or its equivalent in lands of lesser productivity. In Westlands, it has been estimated by an agricultural economist who studied the area, a 320-acre farm would produce an income of $8,000 to $32,000 per year. More impressively, there are literally hundreds of experienced farmers who want to farm holdings of that size. To them, and to me, the large landowners' statements about farm efficiency are self-serving inaccuracies.

Although I applaud the regulations, I think that the ultimate solution to this problem must be legislative. An acreage equivalency law is very much needed. The law should clearly limit the size of farms to the smallest fully efficient family sized unit. The Federal subsidy can be justified in no other way. Only actual farmers should be able to own land. In this way, the original goal of reclamation law can be accomplished—land will be settled by family farmers.

There is a great deal of hand-wringing about the disappearance of the family farm, and justifiably so. Unfortunately, the Federal Government is as much responsible for the loss of the family farm as any other force. Reclamation law provides a clear opportunity to rectify one long history of abuse in this area.

The new regulations would be a step in this direction. A bill (S. 1812) introduced by Senators NELSON, HASKELL, METCALF, and myself, and cosponsored by Senators BAYH, MCGOVERN, ANDERSON, and RIEGLE, would do even more. To backtrack now, however, would be a tragedy.

REVITALIZING OUR NATION'S CITIES

Mr. ANDERSON. Mr. President, the 38th Conference of the National Association of Housing and Redevelopment Officials was held recently in Minneapolis. The conference was privileged to be addressed on October 3, 1977, by Mr. Jay Janis—Under Secretary of Housing and Urban Development. Mr. Janis discussed the administration's role in promoting a commitment to revitalize our Nation's cities. In order that my colleagues may have the benefit of Mr. Janis' remarks, I ask unanimous consent that they be printed in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

REMARKS BY JAY JANIS

Good afternoon and thank you for giving me the opportunity to be the keynote speaker at your 38th national conference. I feel especially comfortable speaking before this group because your purpose, the NAHRO purpose, is "serving the Nation's housing and community development needs." That is also HUD's purpose and I know we will continue to work together closely to meet those needs.

I bring you special greetings from Secretary Patricia Harris who has asked me to convey her best wishes for a productive conference. Those of you—such as your outstanding Executive Vice President Bob Maffin—who has gotten to work with her over the past nine months share my enthusiasm for the splended leadership she has brought to the Department and to the formulation of urban policies within the Carter Administration. She has worked hard and effectively at shaping the new HUD and the future of urban America.

It is that subject that I wish to discuss with you today—urban policy and the future of our cities. Much has been written on this subject in the press lately, and I think that most of the discussion has been constructive. I am not one to pay much heed to those latter day Cassandras who predict that the cities are doomed to die anyway and who advocate that it would be sensible simply to unplug the respirators and let nature take its course.

We at HUD do not buy that diagnosis. We do not buy "triage" and we are not willing to give up on Americans who live in the inner cities. This is an Administration that cares very deeply about our urban places. And because we care, we are seeking a pre-

scription—an urban policy, if you will—built around that commitment. That may sound like belaboring the obvious. But the *sine qua non* of an urban policy is a firm commitment to cities. And clearly that is a departure from previous Republican Administrations.

We have taken a different view. We believe this Nation must not walk away from its cities, leave their problems unsolved, cut their life lines and build new cities elsewhere. And public opinion has swung around to support this view.

A recent Harris survey suggests a growing nation-wide concern about the plight of our cities. Fully 70 percent of the public feels the financial crisis facing the cities is "very serious." According to the poll, a majority of 89 percent—five percent opposed—feels that cities "are the center of business, communications and the arts, and must be made better places to live in."

A majority of 77 percent—with 14 percent opposed—agrees that "America cannot survive unless the problems of the cities are worked out." These are important statistics because they suggest a new attitude toward this Nation's urban ills. Americans are simply not buying the concept of "natural selection" when it comes to our urban areas.

Aside from the supporting weight of public opinion, there are a host of other reasons why we should take an objective look at the present condition of our cities, with all of their warts and all of their social problems and decide what must be done to make them better places in which to live.

One reason is that so many Americans live in the cities, including the poor who need Federal, State and local assistance.

Another is that we have a tremendous investment in our cities both from an economic and physical point of view.

A third is the existence of an already defined infrastructure that has been in place over the years. With some repairs it can be made to work. And this is surely cheaper than creating new infrastructure.

In addition, with the energy crisis casting its shadow over our lives, we are in a position to reduce substantially the energy drain on our scarce resources by cutting down on the use of automobiles for transportation. Cities can be places where people not only work but enjoy their leisure hours, without wasting time and precious gasoline on travel.

Finally, the cities are often dynamic places, offering amenities and cultural activities that cannot be found in suburban areas. To that extent, the love affair that I and millions of other Americans have with the American city should be allowed to mature and ripen into a long-term relationship.

That is the way it has been through the ages. The cities have been the stepping stones of civilization throughout history, from ancient Athens and Rome to the Byzantine splendors of Constantinople, through the Holy Roman Empire, to the modern day giants of Paris and London and, yes, New York, New York. And, I might add, Minneapolis.

No nation has grown great on the basis of a totally pastoral economy. Cities are vital as places of commerce and industry, and I am convinced that the greatness of America will turn, in years to come, on the greatness of its cities. But the issue presently before us is to decide what forms and directions our urban policy should take to ensure the life and stability of the city for the future.

Thus far, the American experience has been that we have had many urban policies—separate policies each dealing with some aspect of urban life. We have had policies dealing with transportation, the location of sewer lines, the creation of jobs, the choice of housing, urban renewal, Model Cities and neighborhood approaches to community development. We've had policies dealing with poverty, citizen participation and a variety of other activities that have an impact not just on the city but on the surrounding metropolitan area.

These policies have been devised largely by separate Congressional committees and have been developed with little or no attempt to integrate them into a single coherent approach. And that perhaps is the heart of the problem. We have no lack of urban policies, but we do lack a unified, rational, coherent and comprehensive strategy.

It is not possible to lay a full-blown urban strategy before you today. That is the work of the Interagency Urban and Regional Policy Council that Secretary Harris leads, and that group will be completing their efforts in time for the President's State of the Union Message. However, over the past several months Secretary Harris and her new team at HUD have arrived at some fundamental conclusions about our cities that provide the basis for developing a national urban policy.

It would be useful, I think, to list the seven conclusions we have identified:

First, there must be a commitment to revitalize the cities. That is where most Americans live. This Nation cannot survive if its people do not survive, and there is no way for its people to survive in cities which are dying. Our overriding concern, then, must be to make cities livable.

Second, that commitment must be backed by concrete efforts to promote the economic development of the center city. No more important problem exists today than unemployment in the core areas, particularly among minority teenagers. The figures are frightening—over 40 percent in some areas. Much needs to be done. Our brand new Urban Development Action Grant program, which you will be discussing in detail at this Conference, is an example. Another example of what can be done about urban reinvestment is the concept that has come to be known as the Urban Development Bank, or "Urbank," which you have read about. While I cannot comment on the implementation of the concept in detail at this time because we are still considering several proposals, I can tell you that in general the program would be designed to encourage private economic growth and increase the growth of incomes and tax bases in economically distressed areas.

Urban development must be coordinated with economic development. The key here is the creation of jobs in the center city, both in manufacturing and service industries. If an "Urbank" approach is inadequate to get the job done, then we must consider other alternatives such as tax credits and other incentives to inner city investment.

Third, housing must be regarded as a key tool of urban revitalization. Housing must be linked to the city's plans for its urban revitalization activities, and this means our national policy must include large scale subsidies for new construction and substantial rehabilitation in urban areas.

That again sounds like belaboring the obvious. Yet it is also a major departure from past policy.

According to that policy, housing was built for the sake of housing, wherever it could be built. But if an urban policy has any meaning at all, housing must become part of an overall urban development strategy, targeted down to the neighborhood level.

Mayors, housing authorities and redevelopment agencies must use available housing programs creatively, such as Section 8 and public housing, and invent new ones where necessary. Housing must be regarded as a vital tool of revitalization, and shelter as a useful social benefit to city dwellers who are ill-housed.

The cities also must be served by a large variety of housing approaches. It is absolutely essential that they be offered a selection of housing programs, i.e., Section 8, Public Housing, Urban Homesteading, the 312 program. For no single family housing approach, or no single housing subsidy, will satisfy all of the needs of the entire population. To make use of these tools, the supply of new subsidized housing must be made available on a continuing basis, without stops or moratoria, until the needs for housing subsidies for new construction are met. Every time interest rates go up or down, or every time there is a need for fiscal stringency it cannot come at the expense of housing subsidies.

Since rehabilitation will be such a major part of a city's urban strategy it is going to be necessary to concentrate on the development of a dynamic and effective rehabilitation industry. Right now it is an industry made up of small producers—a cottage industry—without the skills and resources to carry out large scale projects.

We at HUD also have to use our inventory in a way that will contribute to urban revitalization. One of these ways is the Urban Homesteading program and we are going full steam ahead with the President's blessing. We are also working with local governments in an attempt to use our inventory in beneficial ways. But we must not restrict our efforts to these progams. We must look for new ways to use that inventory and I can assure you the search is on.

Fourth, middle income people must be encouraged to move back into the cities. The statistics on migration to the suburbs of the past 20 years are well known to all of us. In the last year alone some two million Americans left the city for the suburbs. But there is some evidence that the flow may be ready to abate.

The most recent figures on total U.S. migration revealed that 44 percent of the population moved from within the central city to another urban location, while 34 percent moved from one suburb to another. While 15 percent departed the central city for the suburbs, 7 percent moved to the central city from outlying areas. But that 7 percent is very important because it represents a break from the past and I believe it portends the pattern of the future. In fact, sizable numbers of middle income Americans have indicated a willingness to move to the inner city. They include professional people, both single and married couples, usually childless, and they also include some older people whose children have grown, the so-called "empty nesters."

There are what I like to call the new "urban pioneers," this 7 percent, and I personally believe they will be as essential to the revitalization of the cities in 20th century America as were the earlier pioneers to the development of the West in 19th century America. Preliminary studies indicate many are motivated by a desire to "rediscover" the city. With relatively high earning power, they can afford to invest in substantially sound housing, even in poorer neighborhoods. They are also looking for more opportunities for cultural enhancement and find it in the endless variety of the city.

While they cannot compete in actual "people" numbers with families that are still migrating to the suburbs simply because families with children are leaving while younger couples without children are returning, there is a large net gain to the city, other than in population. The newcomers generally pay higher taxes; they can help to broaden the city's tax base; and, they are less of a drain on the social services and resources of the city.

Our recruiting efforts should not be limited, however, to the childless working pro-

fessionals but should be extended to families with children as well. This will take some major reforms in our existing public educational systems. But to the extent that we can improve our inner city educational systems, the better chance we have of drawing these families back. And there are other attractions. Commuting time is shortened, saving time and precious energy. And, there is the possibility of finding a suitable house at considerably lower cost than current prices in the suburbs. On average, units do cost less in central city as opposed to the suburbs. Finally, there is always the attraction of city living itself.

So we need to offer every encouragement to these new urban pioneers, either in the form of shallow subsidies or other appropriate actions.

At the same time we must take into consideration a negative aspect of this movement back to the central city, and that is the danger of displacing families now living there.

This leads us to a fifth conclusion: The need to preserve existing neighborhoods. One way of not disrupting existing neighborhoods is to encourage the new urban pioneers to move into vacant areas where possible. That is a good strategy, but, let's face it, it won't always happen that way. When middle income families return to old neighborhoods, housing costs do rise. So do taxes. We must find some other ways to keep from uprooting these families. Emphasis must be on rehabilitation and renovation. Programs such as Urban Homesteading, targeted subsidies for existing units and support for selected neighborhood organizations will certainly help. So would tax abatement.

I was pleased to learn the results of a recent survey on the use of rehabilitation funds in the Community Development Block Grant program. The survey showed that the funds were being used not for expensive renovation projects to attract middle income people but for the benefit of lower income families seeking to rehabilitate their own single family homes.

In fact, 90 percent of the recipients are below the median income figure of $14,000. And 59 percent of those receiving the rehabilitation funds earned less than $7,000 annually. Only one percent had an income of more than $21,000.

Clearly, some new construction is also necessary in or near those neighborhoods, benefitting the lower income families if they choose to remain in the city. For those who wish to leave, housing opportunities must be made available outside of the inner city.

This leads to the sixth major conclusion we have reached, which is that freedom of opportunity for all Americans to choose where they will live and work—whether in the central city, the suburbs or the countryside—is essential to the HUD mission.

The Gautreaux decision is a landmark case in establishing the goal of freedom of housing opportunity. It requires positive action on the part of cities and the Federal Government to make available housing choices outside of areas of minority concentration.

We take that responsibility very seriously.

We've developed a plan in Chicago, pursuant to court mandate, to do just that. And to a large extent, our Section 8 existing program can be used for that purpose.

People of lower income must be able to find housing outside, as well as inside, the center city. The same is true of jobs and the social services they need. This means that we need a wide variety of housing choice, whether it be homeownership, rental housing, housing for the elderly, housing for families, housing for working Americans or housing for the handicapped. And along with the housing we're going to need a strong counseling program as well as the provision of technical services.

In the democratic society which we cherish, it goes without saying that these programs and these services must be provided without discrimination as to sex, color, religion or racial origin.

The seventh conclusion—the last that I will mention today—is the need to increase the capacity of communities and neighborhoods to achieve revitalization. This capacity-building involves a number of things:

The dissemination of experience and information; for instance, why homesteading has been so successful in a certain area. If the experience can be documented, it can be used by other areas.

Helping neighborhood groups to deal with the complexities of using available resources in their revitalization and stabilization efforts.

Keeping local government informed in carrying out its urban mission.

To sum up, we believe that cities are worth saving, that American cities are for the here and now and for the future, not just the past.

We also believe that there must be a commitment from Congress, the Executive Branch, and the American people, to revitalize our cities, to make them places to be proud of, places we can show off, places we can love. And we must make that commitment not for four years, not for eight years, but until the job is done. Part and parcel of this commitment is money, for as someone else has said, you cannot have an urban policy without urban dollars.

Also, we think that if resources are scarce, and tough choices have to be made, we are going to have to emphasize center cities over other areas. This is especially true of economic development activities. This does not mean suburban areas will be ignored. Balance is needed to stabilize metropolitan areas and rural areas. In both cases we must recognize the need for additional jobs and for housing at reasonable cost for the many new households to be formed in the next decade. But we do need to concentrate our efforts where the need is greatest.

We think that housing subsidies, especially for new construction, must be continued and increased so that shelter can serve as a key tool for revitalization.

We believe in the need to preserve existing neighborhoods. We do not need to tear everything down and start over again in the cities. We have already made the judgment that our cities have some very good housing stock and some good commercial and industrial facilities. We must preserve that housing and those facilities when it is economical to do so.

We believe it is essential to deal with the location of jobs and housing—to locate jobs within the city or as close as we possibly can, and to provide real housing options for the ill-housed throughout the metropolitan area.

Finally, we believe we must pay the price of providing the cities, the housing and redevelopment agencies and the neighborhood groups with the technical assistance to get the job done.

There are some hard choices that have to be made. But this Administration is not afraid to face up to that responsibility. We must make our cities into what they are destined to be—the center of our cultural lives, the source of intellectual ferment, the symbol of democratic strength, in truth the citadel of modern civilization.

With your help, we will make certain that all of us can point to our cities in the future with the same kind of pride we did in the past.

DO WE REALLY WANT "LIGHT DIVISIONS?"

Mr. HART. Mr. President, recent press reports have indicated that the executive branch may seek to place more emphasis on so-called light divisions within the Army and the Marine Corps. The supposed purpose of this new emphasis would be to improve our national capability to react to crises in those areas of the world where we have no ground forces prepositioned.

Clearly, it is desirable that we should have ground forces capable of quick reaction in a crisis. But it is not clear that these "light divisions" will give us any real capability. Light division forces are comprised of paratroopers, rangers, and other foot infantry. Unfortunately, such forces have questionable capability on the modern battlefield.

For a force to be effective in situations of crisis, it must have two capabilities: it must be able to move quickly over strategic distances, so as to be able to act within the short time frame of a modern crisis; and it must have the ability to defeat in battle any opponent it is likely to encounter. Both of these criteria must be met for the force to be an effective element of national crisis management; one capability without the other may create a force that is worse than useless.

While the "light divisions" currently in the U.S. force structure, such as the 82d Airborne and the three Marine Corps divisions, in some cases have adequate strategic mobility to respond to a crisis in a timely manner, the same "lightness" which gives them mobility makes it unlikely that they can defeat many potential opponents. If we look at an area such as the Middle East, we see that the local countries have powerful armies comprised of armored and mechanized divisions. Both historical experiences and military analysis suggests that the chances of foot infantry forces, such as the airborne or the Marines, against many of these local forces would be poor.

It would not serve U.S. interests well to have a major U.S. ground force inserted into a Third World area, only to be defeated by the forces of the local power. Yet in a world where some Third World nations have over 2,000 modern tanks in their armed forces, along with powerful artillery and tactical air forces, this is a real possibility.

It would not seem to be a wise policy for this Nation to invest more resources in forces with adequate strategic mobility, but with increasingly doubtful prospects on the modern battlefield. Rather, we should attempt to build "heavy divisions"—divisions with a good chance against potential opponents—which also have a rapid response capability in overseas theaters.

This can be done. Through the inherent capability of sealift to move heavy tonnage, we could create mechanized Marine Corps forces which would meet both of the criteria for an effective crisis management force. New approaches would be required to provide a rapid response capability with sealift. Currently, the Marine Corps cannot respond quickly with a large force. But techniques to reduce response time do exist, such as prepositioning the ground force's equipment on ships, either at ports of embarkment or at sea.

Mr. President, I ask unanimous consent that an article discussing possible new emphasis on the Light Divisions, from the August 26 New York Times, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

CARTER ORDERS STEPS TO INCREASE ABILITY TO MEET WAR THREATS

(By Charles Mohr)

WASHINGTON, Aug. 26.—After months of preparation and study, President Carter has issued a secret directive on national strategy that commits the United States to modest increases in defense spending, seeks to improve the combat ability of American forces in Europe to absorb an initial shock and calls for light, mobile and flexible forces to meet threats in such areas as the Middle East, the Persian Gulf and East Asia.

In the relatively brief and crisply worded directive, Mr. Carter also instructed Secretary of Defense Harold Brown and military planners to review the "targeting policy" that would direct nuclear warheads to locations in the Soviet Union in case of nuclear war.

One aim of the targeting review, according to Administration sources who discussed the new strategy directive, is to maintain the capability to inflict "unacceptable damage" to the Soviet Union even if that nation struck first with nuclear weapons. But another aim described by Mr. Carter was to develop options for limited nuclear responses by the United States to avoid escalation to unlimited conflict.

MORE SOPHISTICATION SOUGHT

The policy adopted by the President may calm the fears of both hawks and doves, without satisfying either entirely. It does not, an Administration source remarked, represent a radical departure from past strategic policy but it is intended to be a more sophisticated and flexible outline for managing relations with the Soviet Union.

The document does not, as some hawks had feared, "concede" the loss of a large part of West Germany in the case of a sudden, surprise attack by the Warsaw Pact forces, the Soviet bloc. Neither does it commit the United States to a policy aimed at being able to stop such an attack in its tracks, which probably would require massive increases in defense spending.

The President, therefore, reasserted American adherence to existing North Atlantic Treaty Organization strategy of a "forward defense." More significantly, the President ordered that United States policy should be to see that a surprise attack by Communist forces resulted in "minimum" loss of territory and that prewar boundaries be restored as rapidly as possible.

Although the document never mentions the word "detente," the President instructed that diplomatic instruments be used as an integral part of national strategy concerning the Soviet Union—which is apparently seen as the only plausible major enemy.

Arms limitation agreements, for instance, should be sought if they enhance United States national security, Mr. Carter said, and efforts should be made to draw the Soviet leadership into a widening pattern of "global cooperation" and increased United States-Russian trade.

The directive, or decision memorandum, is a strategic blueprint of how the President wishes policy to be made with regard to the Soviet Union. Its completion followed a prolonged review of "strategy and force posture" by lower level officials of the National Security Council and the Departments of Defense and State and extended debate in the so-called Special Coordination Committee dominated by Secretary of State Cyrus R. Vance, Secretary of Defense Brown and Zbigniew Brezezinski, the White House national security adviser.

This debate was closely followed from the sidelines by exponents of varying ideologies, who occasionally leaked their own apprehension to journalists.

The President reaffirmed that the United States should increase defense spending by about 3 percent each year in "real" terms, with inflation discounted, in conjunction with similar action by the other members of NATO.

"INITIAL" COMBAT ABILITY

The directive also calls for American forces in Western Europe to achieve enhanced "initial" combat ability, or the ability to respond rapidly to an attack.

Steps should also be taken, the directive said, to assure the safety of lines of communication and supply, presumably to keep NATO forces in effective combat after an invasion.

Some advocates of stronger defense have suggested that more American forces be shifted from southern Germany to the north German plain, where an attack seems more likely; that more supplies be stockpiled in Europe and that firepower available to United States forces be increased.

Administration sources said it was too early to say whether the broad directive by the President might result in such steps. Military and diplomatic planners must now attempt to give the directive more concrete form and the final result is not easy to predict.

Another instruction given by the President was that a force for so-called "light" divisions be readied for possible use in such areas as the Middle East, the Persian Gulf and Asia.

NAVAL AND AIR SUPPORT

These forces would be supported by selected naval and tactical air force units that could operate without the need of permanent, fixed foreign bases. Such capability now exists in other units that include the 18th Airborne Corps, but presumably the President's directive will lead to refinements in such forces.

The Second Army Division, which is now stationed in Korea but which will be withdrawn from that peninsula over a four-to-five-year period, will be given special responsibility as a rapid reaction force in Asia, including South Korea if that nation came under attack. Other forces in the Western Pacific would be maintained at least at present levels.

The Presidential directive expressed broad intellectual assumptions and specific measures that grow out of those assumptions.

Mr. Carter observed that in the next few years relations with the Soviet Union would probably be marked by continuing competition but also by increased opportunities for cooperation.

The President expressed an opinion that in such competition the United States enjoyed a number of important advantages, including a significantly stronger technology and economy. He also said that the United States enjoyed the support of genuine allies, committed to similar political and philosophical goals. The Soviet Union, he contended, faces severe internal political and economic problems and has largely unwilling allies.

On the other hand, the President acknowledged that the Soviet Union had made striking military progress and now had "essential equivalence" with the United States.

The directive did not demand that the United States once more achieve strategic superiority and thus, in effect, it conceded an era of equivalence. However, as Administration sources put it, the President directed that the United States will not accept a posture of strategic inferiority.

Planning should be aimed, the President ordered, at maintaining nuclear stability of power.

Mr. Carter said that the United States would not attempt to gain what is called a "disarming" first strike capability so powerful that it would render the Soviet Union incapable of effective counterattack—as long as Moscow also eschewed this knockout capability.

As had been past American strategy, Mr. Carter ordered that the United States retain the ability to inflict unacceptable damage on Russia even after a first strike by that nation. He also directed that a "reserve" of strategic forces be maintained, safe from attack, for use if nuclear war became relatively extended.

The first duty of the strategic forces should be to deter attack by the Soviet Union, the President said, but these forces should be strong enough that a possible nuclear war would end on the most favorable terms possible to the United States.

USE OF CONVENTIONAL FORCES

Significantly, Mr. Carter also asked that the Soviet Union be prevented from attaining enough strategic power to deter or coerce the United States from taking action with conventional forces in areas considered vital to United States interests.

The President's directive made clear that because an era of nuclear equivalence had dawned, increasing significance must be given to conventional military power.

In the defense of Europe, he reiterated that American strategy depended not merely on conventional force, but also on "theater" or tactical nuclear forces and on strategic nuclear forces.

ECONOMIC GROWTH, KEY TO ECONOMIC SALVATION

Mr. HATCH. Mr. President, strong economic growth is the key to the solution of most of our economic ills. By "economic growth" we mean increases in real gross national product, measured by the output of goods and services produced by the Nation in a single year. Economic growth is the only way to provide a growing labor force with jobs. It can help curb inflation. It is the only acceptable solution to our social security and pension financing problems. It is the source of rising standards of living and general economic contentment.

With economic growth playing such a vital role in our economic salvation, it is amazing to me to see my misguided liberal friends pursuing policies that actually retard or destroy economic growth. In fact, there are some on the far left who even advocate a "no growth" policy as a way of enhancing the "quality of life." But, with all due respects to the "zero economic growth" advocates, a rising GNP is crucial to economic advancement, including improvements in the quality of life. In fact, huge amounts of capital formation—the chief ingredient in economic growth—are essential to the development of new products, new processes of production, and essential to the creation of lifestyles that are more economical in their use of our natural and environmental resources.

The key to economic growth is productivity—output per unit of input, generally stated in terms of labor input. Land cannot be expanded and the size of the labor force grows slowly, Thus, our hope for vigorous economic growth lies in increased and improved tools and machinery per worker.

Growth in the amount of plant and equipment at a faster pace than the

growth of the labor supply is the crucial element in increasing productivity and thereby wages.

The most energetic and skillful shoemaker, working long hours under the able supervision of an effective manager, but using hand tools of a century ago, could not remotely approach the productivity of a less skilled operator working with the aid of modern computer driven machinery.

Various studies in recent years have pointed to the huge volume of capital investment needed over the next decade—trillions of dollars—to expand, replace, and modernize our production facilities to accommodate economic growth, to help us reach full employment, to implement Government mandated antipollution and Occupational Safety and Health Administration (OSHA) programs and to achieve greater energy independence.

Much of the needed investment will be in the form of catchup in our capital-to-labor ratios. There has been an alarming drop in the growth of capital—plant and equipment—relative to the growth of the labor force in the past decade. The stock of fixed capital per worker—in 1958 real dollars—averaged $55,000 in 1961–65. In 1971–74 the average was down to $41,000, and it has slid further since these studies were made. And yet this is the stuff growth is made of.

To accomplish the task ahead, we are going to need major changes in the tax structure and in our attitude regarding the relative importance of savings for growth versus consumption for immediate pleasure. Tied up in this is our attitude toward Government deficit spending and the inflationary results that flow therefrom.

Inflation and Federal spending push people into higher and higher marginal tax brackets. When this happens, my liberal friends only worry about the impact of these higher taxes on reduced aggregate demand. They are not concerned with the supply and production side of the equation. They believe that if tax dollars are returned to the public through tax rebates on Government spending, total demand in the economy is preserved, and all will be well.

Unfortunately, this approach fails to take account of the important impact of higher tax rates on output. President Coolidge illustrated this problem very well in a February 12, 1924 speech to the National Republican Club that is just as applicable today as it was in 1924:

> If we had a tax whereby on the first working day the Government took 5 percent of your wages, on the second day 10 percent, on the third day 30 percent, on the fifth day 50 percent, and on the sixth day 60 percent, how many of you would continue to work on the last two days of the week?

As taxes rise as inflation pushes people into higher marginal tax brackets, the rewards for production fall. The thought of giving Uncle Sam an increasing share of the fruits of our labor discourages additional effort and encourages cutbacks. Leisure becomes increasingly more attractive than work, and the resulting reduced effort bring diminished GNP.

Similarly, a tax on producers reduces the after-tax receipts of the producers and raises the after-tax price of their wages. Output fails; and employment and GNP fall.

The inability to take account of the supply of productive effort is the biggest failure of my demand-oriented liberal friends.

These people also look with glee at our recent low savings rates. They view them to mean that consumption will be high. and so aggregate demand will be high.

Let us carry this line of thinking to its logical conclusion. If less saving is better than more saving, why not get savings down to zero? Then we could consume 100 percent of all our income, demand would soar, and all is right with the world.

Well, not quite. Personal and corporate saving is the source of investment funds, replacement of worn out equipment, growth of the capital stock, and much of our job information, productivity growth, and wage increases. The attack on saving means stealing from the future. And for what? There would not even be any short-term gain. An end of investment would cost as many jobs in capital goods industries and in construction as would be gained elsewhere from inflated demand. And the capacity for future output would be destroyed.

The cleanest and easiest way to step up economic growth is to reduce taxes across the board. The increased after-tax returns to businesses will promote business saving and investment and will stimulate output. It will increase personal consumption demand, and also personal savings.

The extra saving this will produce will help provide funds for new jobs and homebuilding. To make this effect even stronger, and to avoid stepped up inflationary pressures, tax reduction should be accompanied by reduced growth in Federal spending. That way the added saving will go for loans to expanding businesses and for building homes, instead of into Federal bonds issued to cover Government deficits.

This simple program will encourage business investment and in turn generate economic growth. It will also generate added, future tax revenues. It will bring all the economic advantages cited in my first paragraph.

As an example, regarding our social security financing problems, stepped up economic growth is really the only answer.

Our social security problems are severe, not only for those whose retirement security is threatened but also for present and future taxpayers. Because in the future there will be relatively fewer workers to support more retirees—because of declining birth rates—we have a tremendous financial liability facing us—over $2 trillion in promised benefits which current taxes will not pay for.

To pay for this liability, we have basically only two choices. First we can increase the social security rates drastically, to levels half again as high as they are now. Or, second, we can stimulate economic growth to expand the number of workers and raise the incomes of those workers. It is better to increase real wages by 50 percent more than the Social Security Administration predicts, than to impose 50 percent more tax on lower real incomes.

What worries me about the social security problem is that if we do not work to expand economic growth and thereby the tax base, in the future the politicians will seek to raise the retirement age from 65 to 68, or cut the amounts of benefits. This represents nothing more than another broken promise made by the Federal Government to the workers of the country.

The only way to solve our economic problems is to embark on a sound course of economic growth. Essential to this growth is an adequate flow of private savings, accumulated under the twin incentives of ownership of property and the reaping of profits and wages from that property.

In this process, the private economy is where we should be putting our attention. Government cannot create wealth, it only redistributes it. Whenever Government intervenes in the economic process, it destroys the vigor of free markets, raises taxes, reduces saving and work effort, misdirects resources, and inhibits growth.

The seedbed of growth in our type of society is freedom and indivdual effort. Government can supply a healthy atmosphere for this, but Government has no substitute for it.

KILPATRICK ARTICLE ON FARM PRICES

Mr. ANDERSON. Mr. President, I do not often concur with the always provocative observations of the noted columnist James K. Kilpatrick. But a recent Kilpatrick column written from Hastings, Nebr., offers a most eloquent testament to the sad condition of our Nation's farm economy.

Several months ago, a bare majority of the U.S. Senate stood alone against the President, the House of Representatives, and the conventional wisdom of big city editorialists. We believed that family farmers would be faced with the worst farm prices since the Great Depression by harvest time, which is why we tried to enact a farm bill that could give thousands of farmers a fighting chance to survive these hard times. Today our worst fears have been confirmed as we find that farm prices have fallen to a 44-year low.

Mr. Kilpatrick apparently has been visiting in the Midwest and describes the situation. He saw farms for sale, farmers talking strike, farm prices below the cost of production, more young people forced off the farm and into the city. Mr. Kilpatrick is never an alarmist in these matters. An articulate and rock-hard conservative, he would be the first to tell us if the farmers were overstating the extent of their difficulty. Thus, when Kilpatrick writes about hard times in

the farm belt, it is time for other east coast commentators, opinion leaders, and policymakers to pay attention.

I do not know whether Mr. Kilpatrick would have voted for the price support portions of the 1977 farm bill, but he certainly makes a persuasive case for doing so.

Yes, he knows that our midwestern farmers will not give up. Most will survive. Mr. Kilpatrick has discovered why our farmers are so tenacious in the struggle to keep their farms out from under the auctioneer's gavel. He has seen the land, the fascinating and very expensive machinery, but most of all he was struck by the eagerness and determination of the farm kids who want to preserve the heritage of their parents for one more generation. All the more reason to make sure that this terrible farm price depression claims a minimum number of casualties.

Mr. Kilpatrick's column should be required reading for anyone asking the question "What are the farmers so upset about?"

Mr. President, I ask unanimous consent that Mr. Kilpatrick's column be printed in the RECORD.

There being no objection, the column was ordered to be printed in the RECORD, as follows:

[From the Washington Star, Oct. 6, 1977]

CORN AT $1.23 A BUSHEL

(By James J. Kilpatrick)

HASTINGS, NEBR.—Here in the Midwest, corn and wheat farmers are suffering from an old agrarian ailment: The best of times and the worst of times turn out to be all the same thing. Nebraska growers have tremendous crops this year—and they're losing their shirts.

It is an immemorial custom, to be sure, for farmers to complain of hard times. But the grumbling this autumn is louder than usual. Inflationary forces have pushed up the price of everything the farmer has to buy; the inexorable laws of supply and demand have pushed down the price of what he sells. Scores of marginal farmers are giving up. On a recent Sunday, the Omaha World-Herald carried six columns of classified ads under the heading of "farms for sale."

Farming is just about everything out here. All day long and well into the twilight, farm machines, like dinosaurs, crawl clumsily across the chocolate fields. The beasts devour the dead corn, spitting silage from their long ungainly necks; their yellow headlight eyes search the dark land. For men and machines, farming is a task that knows no end.

In most years the task is financially rewarding. This year the figures tell a different story. It costs a Nebraska farmer from $1.50 to $3, depending upon various factors, to produce a bushel of corn. The University of Nebraska says $2.10 is a fair average. But the average price received by the farmer is headed toward $1.23. With every bushel he produces, he goes a little deeper in the hole.

There is talk of a general strike, but few persons take the talk seriously. A couple of thousand disgruntled growers went to Pueblo, Colo., a few weeks ago to give Agriculture Secretary Bob Bergland a hard time. Bergland had some warm sympathy for them, and some cool advice also: Forget the strike talk. He wants Midwestern growers to reduce their production in 1978, and to store the grain they can't sell now. This too will pass.

The country radio stations crackle with gloomy predictions. A state senator says one of every ten Nebraska farms will be sold a year hence. The papers carry ads for farm auctions in Eastings, Norfolk, Atkinson, Wayne and Grand Island. When these topics get exhausted, a hailstorm or a few tornadoes come along. Country living ain't no sweet-smellin' bed of new-mown hay.

Yet the wonderful thing about this region is that nothing really chills the Midwesterner's love of his land. This correspondent happened to wander through Nebraska just as the 50th annual Ak-Sar-Ben livestock exposition was under way. The papers were filled with photographs of the 4–H winners. A 15-year-old named Kevin Mobley had produced the grand champion market lamb. Fourteen-year-old Kathryn Wiese had the champion Hereford. A pleasant feature story dealt with 11-year-old Shelly Olson of Milford, the fifth of the Don Olson children to enter prize-winning Holstein cows.

You are never going to discourage these people. Many of them will go off to college, and some of them will yield to the allures of urban life, but the pattern of family farming changes little year by year. In the worst of times, the emigration rate is higher: More sons go off to the city to sell cars or real estate or insurance. Things improve, and they tend to drift back. Farming demands immense capital these days, and not only capital; farming has become a highly skilled profession in which the inefficient producer gets plowed under.

An Eastern visitor listens to the grumblings, sympathizes with the low prices, and understands the economic woes. But a visitor is more deeply impressed by the rich land, and by the insatiable machines, and by the faces of the 4–H youngsters. The prairie people have survived worse hardships than corn at $1.23. They will make it through the next growing season, and through further autumns as far ahead as the eye can see.

AMENDMENT TO THE RULES OF THE COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. JACKSON. Mr. President, in accordance with the requirements of section 133B of the Legislative Reorganization Act of 1946, as amended, I submit for inclusion in the RECORD an amendment to the Rules of the Committee on Energy and Natural Resources which was adopted by the committee on October 10:

Amend paragraph (a) of Rule 7 to read as follows:

"(a) A roll call of the Members shall be taken upon the request of any Member. *Any member who does not vote on any roll call at the time the roll is called, may vote (in person or by proxy) on that roll call at any later time during the same business meeting.*"

(Amendment of paragraph (a) is the italicized material above.)

JOBS AND ENERGY

Mr. ABOUREZK. Mr. President, one of the issues raised in the debate over natural gas pricing was the importance of new gas supplies to protect existing jobs and to create new ones. The oil industry tells us that higher prices are the trade-off for more jobs. Nothing could be farther from the truth. The oil industry currently controls the disposition of about $200 billion each year—and their investments produce no increase in our fuel reserves, nor any significant jobs. That money, extorted from a public which has access to no alternative fuels, would be far better spent elsewhere. We need to put money into the research and development of renewable energy resources that will substitute for fossil fuels, and into jobs that reflect more efficient ways of using the fossil fuels that remain in this country. The best explanation I have seen of this need has recently appeared as a reprint in the September issue of "Power Line," and I ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

JOBS AND ENERGY

Citizen activists opposing utility rate increases, fighting new power plants and supporting rate structure reform are frequently faced with a common stumbling block—the job issue. Power companies and large industrial users have used the promise of new jobs and the threat of lost jobs as an effective tactic to win support for their policies.

In the spring of 1977, Environmentalists for Full Employment published a useful and well-documented 22-page booklet, Jobs and Energy. This excellent resource goes a long way to dispel the myth that "energy production is the key to national economic well-being and jobs." The following article is excerpted from Jobs and Energy:

Americans have long been told that ever-increasing energy production was the key to national economic well-being and jobs. It seemed enough to note that as energy production expanded over the years, so did economic growth and total employment.

Yet, current high unemployment, along with a succession of economic crises, have been taking place while national energy use has been at an all-time high and increasing.

Historically, industry has sought to substitute energy for human labor. What has kept the "more energy leads to more jobs" myth alive has been that accompanying a growing population has been a very large increase in the use of goods and services per person. There has also been a significant increase in energy use. It has thus appeared as if energy expansion had been causing economic expansion and increases in jobs.

From industry's point of view, energy and investment dollars have been preferred to human labor. Automated equipment does not complain about unsafe working conditions, seek wage hikes, question the nature of jobs or products, or strike. And energy has been cheap, subsidized by the government and by the American people.

Goods-producing industries have sought to use fewer workers (or at least make their employees work faster). Their goal has been to increase output per worker, or "productivity." The increase in productivity has resulted in the need for more and more energy and in a decrease in the total number of industrial jobs. Total employment in the manufacturing sector has declined over the last 40 years. In 1971, the five largest manufacturing industries (primary metals; stone, clay and glass; food; chemicals; and paper) provided only 7.3 percent of the nation's jobs. From 1950–1970, there had been no employment growth in these industries; yet their gross energy consumption during these years increased greatly.

In the steel industry from 1959–1969, employment declined from 450,000 to 100,000 as production increased 45 percent and energy use increased.

In 1970, agricultural employment was less than half of what it had been in 1920. That year, about 27 billion person-hours of labor were needed, compared with only about 2 billion person-hours 50 years later. Energy

input increased more than four times over that period.

From 1961–1973, electric utilities increased their kilowatt output about 13 percent, their revenues about 260 percent, their construction costs about 340 percent. But employment in electric utilities increased only 21 percent.

In all, the major energy-producing and energy-using industries consume one third of the nation's energy. Yet they directly provide only about 10 percent of the nation's jobs.

Since World War II, new jobs have been created overwhelmingly in the merchandising and service sectors of the economy. Between 1947 and 1970, employment in these areas increased 95 percent. These jobs have required relatively low amounts of energy, capital and resources. They also have caused less pollution and environmental disruption than industrial jobs.

However, "productivity" is becoming a factor in the service and merchandising sectors—the very areas which have provided new jobs in the past 30 years. Machinery is replacing supermarket clerks, bank tellers, teachers and telephone operators, in order to increase output per remaining employee and avoid dependence upon human labor.

Industry has been able to replace human labor economically with energy purchased at very low rates from an ever-expanding energy industry which has been accumulating ever increasing profits. The small consumer has been picking up the tab: industries traditionally have paid less than individual consumers for each unit of energy used. In addition, by bearing most of the environmental and disease costs associated with energy, and by permitting substantial government assistance to energy companies, the public has actually been subsidizing industrial use of cheap energy to replace human labor.

It is thus clearly in the interests of both energy producers and major energy users to continue keeping the public in the dark about energy supplies, production, expansion and use. From their standpoint, it makes sense to dig up the old scare tactic about job loss and economic depression—a line used with much success in the past: against the presidential bid of Populist William Jennings Bryan in 1896, against child labor laws, unemployment insurance, workman's compensation, labor union organizing and pollution control legislation, to cite but a few examples.

Americans use as much as two times the energy per person as do West Germans, Swedes and the Swiss. Yet the standards of living in West Germany, Sweden and Switzerland are comparable to or higher than this country. And unemployment in these European nations is much lower than in the United States. As a recent Federal Energy Administration reported noted:

"This large disparity in energy use between [West Germany and the United States] suggests that continued economic growth and improvement of the standard of living in the United States should be possible without a proportional increase in energy consumption."

The Ford Foundation's massive Energy Policy Project determined that a less than historical rate of increase in energy expansion, accompanied by more efficient of this energy, would expand the total number of jobs, and improve public health and environmental quality as well.

Large capital investments result in small numbers of very expensive jobs. A 1977 report by *The Conference Board* (a private communication from Edison Electric Institute, the trade organization of the electric utility industry) found that investment to create each job in energy-producing and major energy-using industries was much higher than investment to create a job in areas use smaller amounts of energy.

CAPITAL INVESTMENT PER JOB

Industry	*Capital Investment per Employee*
Petroleum	$108,000
Public utilities	105,500
Chemicals	41,000
Primary metals	31,000
Stone, clay, glass	24,000
All manufacturing (average)	19,500
Food and kindred products	18,000
Textile mill production	11,000
Wholesale and retail trade	11,000
Services	9,500
Apparel and other fabricated textiles	5,000

But despite the huge capital investments required, and the small numbers of jobs created; despite the inefficiencies and the waste of non-renewable fuels; and despite threats to human health and local autonomy, industry promotion of their large-scale, complex energy systems continues.

The best approach to energy sufficiency, economic prosperity and jobs is that which combines increasing energy efficiencies with a variety of diverse and safe energy-supplying technologies.

A Bonneville Power Administration Study has found that: "High impact conservation programs create more jobs than would be created by building new power plants to generate an equivalent amount of energy."

Amory Lovins has testified to the Senate Select Committee on Small Business that conservation programs which include shifts of investments from energy wasting to social programs create from tens of thousands to nearly a million net jobs per quadrillion BTUs of energy saved.

A preliminary analysis for the Federal Energy Administration provides specific breakdowns of some energy conservation techniques, costs and resulting employment. The report stressed that employment associated with energy conservation techniques is local, low- to moderately-skilled, and concentrated in or near urbanized areas which are experiencing the most acute unemployment problems. In contrast, centralized, expensive energy production complexes usually have to bring in highly-skilled labor from outside the construction area.

Fred Dubin, president of an engineering, planning and management firm which has conducted comprehensive energy analyses for many parts of the country, found that two billion dollars invested in energy conservation and solar power provides four times as many jobs as if it were invested in nuclear reactors (64,000 to 15,000). Skip Latiner, formerly of Critical Mass, has shown that about two and a half more jobs are required for solar-developed energy than for the same amount of energy produced by nuclear fission.

The job mix for the various technologies is different. Nuclear energy utilitizes fewer tradespeople per professional scientist or technician than does solar energy: for nuclear, the ratio is about two to one; for solar, it is nine to one. In addition, a broader array of skills are necessary for building and maintaining solar systems than for building and maintaining nuclear plants. And, as an ERDA report stated:

"Solar systems provide much more room for small business and geographically dispersed businesses and workers than do some of the more complex systems."

A report to the New York State Legislative Commission on Energy Systems calculated that the operation and maintenance of large wind systems require two to four times the labor force on a continuous basis than do nuclear fission or coalfired systems. The combined continuous labor requirements for construction and operation of wind systems without storage, according to the report, is 7,000 person-years more than for an equivalent nuclear plant. For wind systems with storage, 19,000 more person-years of work are created than are created by an equivalent nuclear plant.

The energy expansion scenario, which wastes both capital and resources, provides only limited jobs and unreliable energy sources, which causes disease and environmental destruction, is not in the interests of "workers, the poor and the disadvantaged," or in the interests of anyone else except the large energy corporations themselves. There are more jobs by far—and safer jobs, and there will be greater prosperity more evenly distributed if the nation cuts back significantly on energy waste and moves vigorously toward solar energy.

AWARD OF THE NOBEL PEACE PRIZE

Mr. KENNEDY. Mr. President, the awards of the 1976 and 1977 Nobel Peace Prizes today to the Northern Ireland Peace Women and to Amnesty International are eminently well deserved.

More than any other development in the 8 tragic years of the violence in Northern Ireland the peace movement launched by Mairead Corrigan and Betty Williams has demonstrated the tremendous desire for peace by the vast majority of ordinary citizens in Northern Ireland, Protestants and Catholics alike. The spontaneous cry for peace by these two Protestant and Catholic women struck a responsive chord in the hearts of tens of thousands of people in Northern Ireland, and won the support of millions in other lands. Their work has been a remarkable testament to the power of individual human beings, acting together, to make a difference in the world around them. I am hopeful that the honor they have received today will bring renewed efforts to end the violence in Northern Ireland and achieve the peace they have so eloquently tried to reach.

I also commend Amnesty International for its award. Over the years, its unceasing efforts on behalf of human rights have brought hope to the victims of oppression and injustice in many different nations. Its work will never end. But because of the efforts it has made and continues to make, the world is closer to the realization of genuine human freedom in every land.

PRESIDENT'S AND SECRETARY HARRIS' VISIT TO SOUTH BRONX ENCOURAGING SIGN OF HOPE

Mr. PERCY. Mr. President, during his visit to New York last Wednesday, President Carter surprised many local officials by touring a devastated area of the South Bronx with Patricia Roberts Harris, the Secretary of Housing and Urban Development, and several city officials, including Mayor Beame.

On his walking and riding tour, the President spoke with many residents of the area, which is deteriorating rapidly. While he was shown two apartment house projects where the residents have rehabilitated the structures, most of what the President saw was another discouraging reminder of America's failure to assist the urban poor with jobs and better housing.

I am greatly encouraged by President Carter's dramatic demonstration of concern for the cities of this country, as evidenced by his tour of the South Bronx.

I hope that he will make it a practice to visit blighted areas of other cities, including my own hometown of Chicago, so that he may see firsthand the scope of this nationwide problem. When she first assumed office, I called on Secretary Patricia Harris to personally invite her to visit the west and south sides of Chicago with Senator STEVENSON and myself to evidence her concern and to personally meet with community leaders and hear their views.

I heartily commend President Carter for the obvious sincerity of his concern for the problems of the urban poor and I promise to work with him, as I have in the past, to alleviate their plight.

Mr. President, I ask unanimous consent that a news article appearing in the New York Times, an account of Mr. Carter's visit to the South Bronx, be printed in the RECORD.

There being no objection, the article was ordered to be printed n the RECORD, as follows:

CARTER, IN BRONX, FINDS HOPE AMID BLIGHT

(By Lee Dembart)

In an effort to demonstrate a commitment to cities, President Carter, in New York on United Nations affairs, made a sudden and dramatic trip yesterday morning to the South Bronx, where he viewed some of the country's worst urban blight.

The Presidential motorcade passed block after block of burned-out and abandoned buildings, rubble-strewn lots and open fire hydrants, and people shouting "Give us money!" and "We want jobs!"

Twice Mr. Carter got out of his limousine, walked around and talked to people. He said the Federal Government should do something to help, but he made no specific commitment.

After the tour, when Mr. Carter returned to the United Nations Plaza Hotel, he said:

"It was a very sobering trip for me to see the devastation that has taken place in the South Bronx in the last five years. But I'm encouraged in some ways by the strong effort of tenant groups to rebuild. I'm impressed by the spirit of hope and determination by the people to save what they have. I think they still have to know we care."

Accompanying Mr. Carter were Mayor Beame, who had been invited to the President's hotel suite yesterday morning but had not been told Mr. Carter was going to the Bronx, and the Secretary of Housing and Urban Development, Patricia Roberts Harris, whose office laid out the route.

Although the trip was kept a secret until the President was well on his way, it was no secret once he got to the Bronx, where the motorcade was led by six motorcycle escorts with sirens blaring, and several police cars. Three helicopters hovered overhead as the party crossed the Third Avenue Bridge and headed up the Grand Concourse—a decaying remnant of a fashionable boulevard.

The two stops that the President made along the route were designed to show him one of the few hopeful projects and the much more common hopeless area of the Bronx.

The first stop was at 1186 Washington Avenue, between 167th and 168th Streets, where Mr. Carter visited a housing renovation project. There 40 people have converted a six-story tenement into a building boasting freshly painted hallways, 28 oak-floored apartments and solar heat collectors on the roof.

Claude Briley greeted the President, saying: "Hi Jimmy, I'm glad to see you're in the Bronx checking out conditions."

"How do you think we're making out?" Mr. Carter asked.

"Fine," said Br. Briley. "We hope to make more progress."

Ramon Rueda, executive director of the People's Development Corporation, which undertook the renovation, appeared and said, "What a surprise!"

"We're proud of what you're doing," said Mr. Carter.

"We proud of you, too," Mr. Rueda said. "We have a low-interest mortgage, but we need more money, Carter. If you assist us in getting more CETA money, we could show a serious dent in the South Bronx."

Someone invited the President inside to look at the apartments, and Mr. Carter appeared about to go when an aide said there was not enough time.

"Gee whiz," said someone on the stoop, "this is really something, talking to the President of the United States on our own doorstep." The President and his party then shook hands again with the group, got back into their cars and went down the street.

"I feel ecstatic," Mr. Rueda said later. "He seemed completely sincere, and if he was putting on a show he was certainly making a good impression. I hope he will come back when we finish the next phase of our project."

THREE MILLION DOLLAR FEDERAL LOAN

The next phase includes a rehabilitation of five buildings in the area backed by a $3 million federally-financed loan and funds from the Comprehensive Employment and Training Act to train the workers.

The area was recently designated as a demonstration of multifamily urban homesteading.

If Washington Avenue was the hopeful stop, the hopeless one still awaited the President's party.

On Charlotte Street near Boston Road, not far from Crotona Park, the caravan stopped in the middle of a block on which all buildings on both sides had been bulldozed into heaps that in some places were eight feet high.

Mr. Carter, Mr. Beame and Mrs. Harris walked through two blocks of rubble that looked like the result of wartime bombing.

"Most of this occurred in the last five years after Nixon cut off the urban renewal funds?" Mr. Carter asked Mr. Harris.

"Yes," she said.

"See which areas can still be salvaged," the President said. "Maybe we can create a recreation area and turn it around. Get a Map of the whole area and show me what could be done."

Speaking to reporters, the President said: "There's been a rapid deterioration of this neighborhood, but high rises in the midst of devastation are holding their own."

One of the spectators, Marvin N. Mitchelli of 1555 Boston Road, stopped in front of the Santa Maria grocery store later and said: "It's nice the President has come here to see for himself, but someone has to tell him that the people here need help. We need jobs. Otherwise the Bronx is going to go down."

THE MX—A DESTABILIZING WEAPON

Mr. MCINTYRE. Mr. President, on Friday during consideration of S. 1863, the Department of Defense Supplemental Authorization Act, I joined with Senator KENNEDY and Senator MATHIAS in placing in the RECORD a colloquy on arms control and military implications of cruise missiles.

I bring this to the attention of the Senate at this time to point out a section in the colloquy dealing with the MX missile which today was the subject of an editorial in the New York Times.

In my remarks on the MX missile, I told the Senate of my disappointment that Defense Secretary Brown has given tentative approval to full-scale development of the MX before completion of a thorough review of the program as directed by the Congress. I noted that the questions raised by the MX are so grave they require the personal attention of the President and his Cabinet.

Furthermore, I followed up that statement with an analysis of my own which appeared in Sunday's edition of the Washington Post. For the benefit of the Senate, Mr. President, I ask unanimous consent that there be printed in the RECORD the New York Times editorial of October 10, followed by the Washington Post article of October 9 and the full text of my statement of Saturday.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the New York Times, Oct. 10, 1977]

MXING UP SALT

While President Carter has been working toward a new agreement with Moscow to limit strategic missiles, the Air Force has been burrowing away in the Pentagon with plans for a new giant and mobile missile. If it should ever see daylight, it will profoundly change American strategic policy and increase the risk that a diplomatic crisis might escalate to nuclear war.

The subterranean image is appropriate. Each huge "MX" (meaning "missile, experimental") and its launching crew would travel through a concrete tunnel a dozen miles or so in length. It would, when launched, burst through the surface at some surprise spot along the tunnel.

MX is a response to two possible threats and an alleged need. One threat is to our present force of land-based missiles (ICBM's). In some rather implausible scenarios, which assume a perfectly executed massive Soviet attack, they might all be destroyed in their underground silos. The second threat is to Air Force's job—and jobs. One way to respond to the increasing vulnerability of our present ICBM force would be to place a larger proportion of missiles on virtually invulnerable Navy submarines. But given President Carter's decision not to build the B–1 bomber, de-emphasizing the land-based missile force would leave the Air Force with no new major strategic weapons system—a real threat to any military bureaucracy.

The alleged need as defined by the Air Force is for a very large missile capable of destroying Soviet land-based missiles in their fortified silos. Since the Russians rely more heavily on large land-based missiles—they

represent some 70 percent of Soviet strategic power compared with only 25 percent for the United States—MX would amount to a first-strike weapon: A force of 300 MX's could destroy the entire Soviet land-based force in half an hour.

Imagine a moment of escalating tension: Moscow would face the dilemma of either firing first or risking the destruction of its missiles in the ground. The Air Force contends it needs such threatening missiles to match those the Soviet Union is now deploying. But so long as the bulk of American weapons is invulnerable to a first-strike, no national Soviet leader would attempt it. So there is no reasonable case for a new family of heavy American missiles like the proposed MX. That leaves the question of whether to deploy smaller missiles in mobile form, at much less cost.

The political puzzle is how the hugely expensive MX, each costing about $100 million, has got so far. Last year the Senate Armed Services Committee—a body hardly unsympathetic to military requests—asked the Secretary of Defense for a full study of the future of the land-missile force and its role in American strategic policy. The committee stipulated that the conclusions "should represent Presidential policy". The study has not been made.

It is clear, however, that is is not President Carter's policy—as it was not his predecessors'—to pose a first-strike threat to Soviet nuclear forces. Moreover, the President hopes that arms control agreements will ban all mobile missiles, for once deployed they could not easily be counted and limited.

Last week it became known that Secretary of Defense Harold Brown had tentatively recommended "full-scale" development funds for MX. His spokesman denied that the recommendation was merely a "bargaining chip" to be traded away in the present SALT negotiations. Even if it is, the President should reject the idea. Today's bargaining chips have a disturbing tendency to become tomorrow's arms control problems. The last "chip" was the cruise missile, now causing serious difficulties for arms control. Once again, technology seems to be driving policy—and driving it in the wrong direction.

[From the Washington Post, Oct. 9, 1977]

McIntyre Warns MX Missile Raises Nuclear War Danger

(By George C. Wilson)

Committing the United States to building the MX intercontinental missile "commits us to the madness of limited nuclear war," Sen. Thomas J. McIntyre (D–N.H.) protested yesterday.

McIntyre, chairman of the Senate Armed Services Research Subcommittee, urged President Carter to steer the nation away from this "madness" by reversing Defense Secretary Harold Brown's recent tentative decision to push the missile another big step toward production.

Brown, in earmarking $245 million for the MX nuclear blockbuster in the fiscal year 1979 defense budget now in preparation, would advance the missile to the pre-production phase of development.

McIntyre said it "deeply angers this senator" that Brown moved to accelerate MX development without completing the study of the wepaon that Congress ordered last year.

McIntyre said Congress ordered the Pentagon to explain how the missile conformed to national strategy because his subcommittee concluded the MX "was a runaway program" which did not fit into the President's strategic objectives.

Those objectives, McIntyre said, were to "avoid an outbreak of nuclear war" by reducing the motive for striking first. "The MX will give the Soviets a motive for striking first and will make the outbreak of nuclear war more likely," McIntyre contended in a statement.

Under nuclear policy which has evolved under various labels since President Eisenhower's day, the United States deployed nuclear weapons in bombers, submarines and missile silos to persuade the Soviet Union that it could not score a knockout blow in a surprise attack. The United States would still have plenty of nuclear punch left over to devastate the Soviet Union in a retaliatory strike.

Besides trying to make a first strike look like a losing proposition for the Soviet Union, U.S. leaders in recent years have stressed that American strategic missiles are not designed to wipe out the Russian nuclear force by surprise attack.

But McIntyre, in his two-page statement for release today, argued that the MX would be so powerful and so accurate that Soviet planners would have to assume it was designed specifically to knock out Russian intercontinental ballistic missiles.

He said 300 MX missiles could "wipe out the entire Soviet ICBM force and their command and control centers in 30 minutes. In a period of crisis, the Soviets would be faced with the choice of either using their missiles or losing them. This would put a hair trigger on nuclear war. It would give the Soviets a military reason to strike first."

In the senator's view, the Air Force wants the MX to carry out what the Pentagon calls the "limited nuclear option," or LNO.

Here is a possible scenario under the LNO doctrine which McIntyre regards as "madness:" the Soviet Union fires a salvo of missiles at American missiles in sparsely populated areas of the Northwest, destroying 100. The American President responds by firing back only enough missiles to destroy 100 Soviet ones. Then the two superpowers pause and negotiate.

McIntyre long has argued that nuclear war could not be orchestrated and that to pretend it could be risks worldwide incineration.

The Soviet Union, by building big nuclear blockbusters like the American MX, is engaged "in the same damned foolishness" of going after land-based missiles, said McIntyre.

"So it is simply a matter of time," he continued, "until their large missiles become MIRVed and accurate enough to threaten our ICBMs. What we have in an ICBM arms race that threatens the future of mankind." (MIRV is the technique of putting a cluster of H-bombs in the nose of one missile.)

The silo-busters both sides are building must be limited to the point that MX missiles are not needed, the senator said, or else an arms control agreement "would not be worth a damn."

In the meantime, McIntyre said, Congress must insist that the President follow its 1976 mandate to relate the MX to national objectives.

McIntyre said his subcommittee concluded in 1976 that "Pentagon bureaucrats were moving the MX along and thereby committing this country to the idea of limited nuclear war outside the formal presidential guidance which is supposed to define America's strategic objectives."

Carter has said he hopes to avoid deploying the MX, which would be based in tunnels between 10 and 20 miles long. The MX would be hauled back and forth inside the tunnel on wheeled vehicles so Soviet rocket forces could not take dead aim on the missile. A giant launcher would punch a hole in the roof of the tunnel if the MX was to be fired.

Each MX missile would carry up to 12 H-bombs of about 200 kilotons each and land them on different targets with unprecedented accuracy, under Air Force plans. The MX could be deployed as early as 1984, with 300 of the missiles expected to cost what McIntyre termed a "hideously expensive" $40 billion.

Carter's first inclination was to slow down the MX, reducing President Ford's 1978 budget for the missile's development from $295 million to $135 million. Under the Ford timetable, the Air Force would have received $930 million for the MX in fiscal 1979 compared to the $245 million Brown approved during a preliminary review of the Pentagon's 1979 budget.

Statement of U.S. Senator Thomas J. McIntyre

The central issue is whether we should plan our strategic forces to *deter* nuclear war or whether we should plan them to fight a limited nuclear war. I believe that it is madness to plan to fight a limited nuclear war.

The MX is a weapon designed to fight limited nuclear war. Three hundred of them would wipe out the entire Soviet ICBM force and their command and control centers in 30 minutes. In a period of crisis, the Soviets would be faced with the choice of either using their missiles or losing them. This would put a hair trigger on nuclear war. It would give the Soviets a military reason to strike first.

For years it has been our basic strategic objective to avoid an outbreak of nuclear war. The MX will give the Soviets a motive for striking first and will make the outbreak of nuclear war more likely.

The Soviets have been involved in the same damned foolishness. For years, most of their strategic forces have been in ICBM's—over 70 percent. So it is simply a matter of time until their large missiles become MIRVed and accurate enough to threaten our ICBM's. What we have is an ICBM arms race that threatens the future of mankind.

President Carter's comprehensive arms limitations proposals earlier this year would have served the cause of peace and were in the national interest of the Soviets and the United States by placing a cap on the ICBM race and thus ensuring deterrence on both sides.

But, if all we get out of SALT II is a mere reduction in the numbers of missiles, I am afraid the agreement would not be worth a damn. We must achieve limitations on flight testing, limitations on MIRVed ICBM's and very heavy Soviet missiles so that the MX missile with its destabilizing effect and tremendous cost won't be needed.

For these and other reasons, I believe the decision of Secretary Brown for full-scale development of the MX is a disastrous mistake and would be hideously expensive at more than $40 billion. My subcommittee has been reviewing the MX for four years.

Last year, when Secretary Brown was not in the government, we became convinced the MX was a runaway program. The President had not directly related his strategic objectives to the development of the MX. In other words, Pentagon bureaucrats were moving the MX along and thereby committing this country to the idea of limited nuclear war outside the formal Presidential guidance which is supposed to define America's strategic objectives.

To make sure that the President and the government had consciously resolved these grave and dangerous questions, the Congress of the United States asked the Department of Defense last year to relate the MX directly to Presidential guidance and the threat of the 1980's. The Congress asked the President personally to certify that a move to go into full scale development of the MX reflected his judgment as Commander in Chief.

Secretary Brown and the Department of Defense have failed to comply with this Congressional request and the reports that Secretary Harold Brown is recommending full scale development of the MX, before this review is complete, deeply angers this Senator. The questions raised by the MX are so grave that they require the personal attention of the President and his Cabinet because this decision commits us to the madness of limited nuclear war. I urge the President to reverse this decision.

SCHWEIKER CRITICIZES CARTER MIDEAST PLAN

Mr. SCHWEIKER. Mr. President, the administration has taken a disturbing new tack in its Middle East diplomacy by including the Soviet Union in its peacemaking efforts.

This will not bring peace and might even jeopardize the chances of peace that still exist. It has infuriated the Israelis and rightly so. Already President Carter has had to backpedal somewhat on some of the details of the joint Soviet-United States statement of October 1. It has hardly been a contribution to peacemaking.

What it will do, however, is restore the Soviet Union to a major role in Middle East diplomacy. It is a wonderful gift we have dropped in Moscow's lap. One of the prior administration's chief diplomatic triumphs was to reduce the Soviet role in Middle East politics. The Soviets have been on the sidelines since the days of shuttle diplomacy, and it is precisely this fact that has helped the United States become the chief peacemaker in that region, without Moscow's help. With this climate, the nations of the Middle East seemed prepared to move closer to peace. When the Carter administration took office, it inherited this favorable diplomatic situation. Now, with this sudden turnabout of inviting the Soviets in, the Carter administration has thrown away years of groundwork laid by previous administrations. In columnist Joseph Kraft's words, "the Carter administration has muddled matters in the Middle East."

Let us not forget what sort of record the Soviet Union has had in Middle Eastern affairs. It was the Soviet Union that kicked off the great Middle East arms race by supplying large amounts of weaponry to Egypt in 1955. It was the Soviet Union that supplied arms for Egypt, Syria, and Iraq in the 1956, 1967, and 1973 wars. It was the Soviet Union that helped Egypt and Syria plan the surprise 1973 Yom Kippur attack on Israel, in direct violation of Soviet commitments to the United States in 1972. It was the Soviet Union that encouraged the OPEC cartel to quadruple world oil prices in the aftermath of the Yom Kippur war.

It is the Soviet Union that has given aid, comfort and diplomatic recognition to the terrorist Palestinian Liberation Organization. And it was the Soviet Union that supported in the United Nations the infamous "Zionism in racism" resolution.

This is in the record of our cosponsor of our most recent Middle East peace initiatives, Mr. President.

By making the Soviet Union a full partner, overnight, in our own peacemaking efforts in the Middle East, the administration has set our own peacemaking efforts back.

In the final analysis, all that seems to matter to this administration in its Middle East diplomacy is to stage a dramatic Geneva Peace Conference by the end of the year. And in the hope of gaining momentum for such a conference, the administration has even called in the Soviet Union.

To go to Geneva on these terms means the Carter administration must pressure Israel relentlessly. Does the administration not realize what some of these issues mean to the fate of Israel? The existence of a PLO State on the West bank, 10 miles from Tel Aviv? The requirement of Israel's having to negotiate in Geneva with a PLO delegation?

The administration chooses to forget commitments made to Israel. The United States is committed not to recognize the PLO as long as the PLO will not accept Israel's right to exist or UN resolutions 242 and 338. The United States is committed to consult with Israel on diplomatic moves involving the Middle East. These commitments have been or are being weakened by the Carter administration. Will other commitments also be weakened as we move closer to a Geneva Conference?

Finally, the administration chooses to forget about the prior record of the Soviet Union in the Middle East and what it means, therefore, to bring the Soviets back to center stage.

To repeat, all that seems to matter to the Carter administration is that there must be a Geneva Conference this year. For an administration that promised to conduct foreign affairs with high principles, with high levels, this is certainly a disturbing turn of events.

PROTECT THE BOWHEAD WHALE

Mr. CRANSTON. Mr. President, today's Los Angeles Times carries an editorial entitled "Keeping a Promise to the Bowhead." In it, the Times editorial staff presents one of the most cogent arguments I have seen as to why the United States must not file an objection to the zero kill quota on the bowhead whale as called for by the International Whaling Convention. At stake is not only the survival of the bowhead, but the credibility of the United States on the issue of whale protection that we have so heartily championed.

I wish to associate myself with the Times' editorial sentiments on the bowhead, and I commend this excellent commentary to my colleagues and ask unanimous consent that the editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

KEEPING A PROMISE TO THE BOWHEAD

This country has been the world leader in efforts to save the great whales from extinction.

Commercial whaling from American ports was made illegal by Congress in 1972. From that position of strength, the U.S. delegation to the International Whaling Commission has had great credibility—and success—in persuading Japan, the Soviet Union and other nations to reduce their slaughter of a number of species in danger of vanishing from the seas.

But that credibility could founder in the current controversy over the fate of the bowhead whale.

No other species is in greater danger of extinction than the bowhead, which migrates along the Arctic coast of Alaska in the spring and fall. A census by the International Whaling Commission estimates the present number at 1,000 to 1,500—a tiny fraction of the original population.

The bowhead, also known as the Greenland right whale, is one of the biggest cetaceans. Females, which are always larger than males, grow to a length of 60 feet.

Ironically, it is American citizens—Eskimos on the northwest coast of Alaska—who threaten the bowhead's survival. And it is the Carter Administration that must decide whether to practice a double standard—to demand that other nations reduce their kill of more abundant species while American citizens observe no restrictions at all in hunting down the rarest of the leviathans.

At issue is a decision by the International Whaling Commission three months ago to place a zero quota on the bowhead kill next year. The vote, except for an abstention by the U.S. delegation, was unanimous. Yet, at the same conference, American representatives were the most vigorous in urging a 10-year moratorium on all commercial whaling, except for the bowhead.

Why the exception? Because American law permits "native-subsistence" hunting of this one species, which is easily taken by the Eskimos because it swims close to shore. The question is whether the international agreement will take precedence over the U.S. Senate.

The Administration has until Oct. 24 to accept or reject the one-year prohibition against the killing of bowheads. Other nations are waiting. If the Administration rejects the prohibition, the Soviet Union and Japan would feel justified in ignoring prior restrictions on their whaling fleets, and this country would have no moral grounds on which to object.

The decision rests with President Carter, who is receiving diverse recommendations from the State, Interior and Commerce departments.

We urge him to accept the moratorium. It would be in the best interests of our own international credibility, and also in the best interests of the Eskimos.

Because of prosperity resulting from the North Slope oil boom, the native population of that section of Alaska can no longer claim that the bowhead is necessary to their subsistence. Substitutes are readily available for the meat and oil that the bowhead provides.

But the slaughter is increasing. Where once the Eskimos took only 10 a year, they are now harpooning 10 times that many. And they are hunting them as much for commercial purposes as for subsistence. Whalebone, which can be made into curios for sale to tourists, has become a more valuable commodity than blubber.

Most of the Eskimos no longer hunt the bowhead in the traditional—and most effective—way. Instead of pursuing the crea-

ture in boats and placing their harpoons accurately at close range, they shoot explosive charges at them from the ice floes with shoulder guns. In this year's spring hunt, the Eskimos struck and lost three whales for every one they were able to beach—and at least half of the lost whales had mortal wounds. Many observers believe that the hunts have become more of a blood sport than a legitimate quest for subsistence.

If the Eskimos—and their Washington advocates—actually think the bowhead is essential to native survival, they should be the first to agree that it must be given a chance to replenish its numbers. A one-year hunting cessation, with appropriate quotas thereafter, would preserve the fishery for future generations. But if the present wasteful killing goes on, the bowhead may not survive this generation.

The Administration decision also will involve Carter's credibility. When he was running for President, he said that his Republican predecessors had been "slow and timid" in implementing the American position against further decimation of the world's whale population. "Under the Carter Administration," he said, "that will not be the case."

Now is the time for him to keep that promise.

SENATE SHOULD VOTE ON AIRBAGS

Mr. HELMS. Mr. President, I do hope that the Senate will not default on its responsibility to act, one way or another, on the resolution of disapproval in connection with the so-called "airbag" issue.

As Senators know, the senseless requirement that new automobiles be equipped with the expensive airbags will go into effect unless we act by next Thursday, October 13.

If the Senate fails to face up to its duty, I suspect that this will be an issue that will blow up in the faces of all who permitted the issue to be settled by default—by the failure of the Senate to act.

I believe that if these devices are foisted on people by the Department of Transportation with Congress acquiescence, the outcry heard by politicians will be louder than the bang heard by occupants of a car in which the airbag explodes.

Mr. President, after a long delay, I have been able to obtain a copy of the 1974–75 service manual for the General Motors "Air Cushion Restraint System."

The warnings contained in that manual would lead one to believe it is for handling a missile launcher and not an automobile accessory.

In bold type it states:

Warning: To avoid inadvertent deployment when trouble-shooting air cushion restraint system, do not use electrical test equipment such as battery-powered or a.c.-powered volt meter, ohmmeter, etc., or any type of electrical equipment other than specified in this manual. Do not use a non-powered probe type tester. Instructions in this manual should be followed carefully, otherwise personal injury may result.

Other warnings are equally alarming:

Do not attempt any servicing or disconnecting of air cushion restraint system components until negative cable has been disconnected from the battery and terminal end of cable taped. This procedure must be followed to prevent accidental deployment of systems which could result in personal injury and/or damage to system components.

Another states:

Warning: Care must be exercised when handling a sensor-recorder to never strike or jar the sensing mechanism in a manner which could cause or result in personal injury or improper operation of the aircushion restraint system.

One says in part:

Warning: with aircushion restraint system do not attempt any adjustment, repair or removal of the front bumper or components until the disconnection procedure is completed. This procedure must be followed to prevent accidental deployment . . . which could result in personal injury . . .

To the auto mechanic that must install or remove an airbag, it tells how to carry the device:

Warning: Passenger air cushion assembly (Non-Deployed) should always be carried with the uncovered air cushion away from all parts of one's body to prevent injury and/or damage in case of accidental deployment.

Then it tells him how to carry it and then set it down:

Warning: The passenger(s) module should always be carried with the inflator and reaction plate between the person's body and the cushion. The assembly should be laid on a flat surface with the inflator and reaction plate between the flat surface and the cushion. This is necessary to allow free space for cushion expansion in case of accidental deployment. Otherwise, serious injury may result.

It is interesting, I think, to note the phrase "accidental deployment."

My dictionary defines "deploy" as: "mil. 1. To extend the front and decrease the depth of by tactical maneuvers; spread out in line of battle; as to deploy a battalion."

Although this is not a weapons manual, the methods used to dispose of the sodium azide canisters are what one would expect of ordnance disposal.

If, for example, an airbag must be changed in an automobile for whatever reason, a car owner cannot expect to take it down to the corner gas station and tell the attendant to put a new one in.

The service employee must read and follow the 112-page manual to remove this explosive device and if it does not go off in his face while he is trying to get it out, he must then follow instructions to see to it that it is "immediately disposed of in the manner outlined below."

First, a bench vice must be set up and the canister drilled out with a one-fourth-inch drill until the sound of gas escaping is heard. After 12–18 minutes, the gas is gone and, "the following steps should be taken to incinerate the module:

1. Place the module with the air cushion side up in an open-top 55-gallon drum.

That is not too bad, because most gas stations have 55-gallon drums around. Usually they have been filled with oil or kerosene. The complication comes in the next instruction:

2. Build a wood fire in the drum which will create enough heat to activate module.

Presumably, since the air bag device is at the bottom of the drum, the attendant is building a fire on top of the air bag device. Presumably, too, the gas station attendant has gone down to city hall to obtain a burning permit.

I do not know whether the Environmental Protection Agency is interested, but perhaps an environmental impact statement would have to be filed before this "immediate" action could take place.

Instruction No. 2 continues:

(Use of a wire mesh across top of drum is recommended.) Module activation can be seen but will not be violent. Fire will render the unit completely inactive.

The trick presumably is to get the fire going before the "module" is "activated" and then put the mesh across the top.

Whatever the scientific accuracy about the "nonviolent" reaction that would result, the manual has what is known as a credibility problem. All previous warnings about personal bodily injury would make Evel Knievel hesitate before starting a wood fire on top of an "undeployed" air bag.

If an automobile serviceman would go through these disposal operations in light of the previous warnings, he might hesitate after reading the one printed in boldface type just above instruction No. 2. It reads:

Warning: 55 gallon drum used for burning must be placed in an open area where burning is permissible. Drum should be located at least 15 to 20 yards from buildings or inflammable material because burning debris may be thrown from the drum.

No. 3, of the instructions is the good one, "after activation, module can be discarded in usual manner for any parts to be scrapped."

Now, of course, this device could not and would not be disposed of by a local gas station. It would need the resources and sophistication of the biggest auto dealerships. If a foreman assigned a man that task as outlined in the manual, I don't believe he'd do it. If he did it and OSHA found out about this disposal method. that agency would squelch it in a minute.

When my office brought the disposal method to the attention of the technical safety division in OSHA, one official said he "couldn't conceive" of that agency permitting such an operation.

In fact, of course, some method of disposal would have to be developed. Needless to say, it would be even more complicated than the one outlined in the GM manual. And, it should be noted, it will be more expensive.

If airbags are mandated, there will be 100 million cars with them on the road by 1990. At that time, 10 million or so cars will be junked. Most of them will still have live airbag devices in them.

Since that problem is years down the road, it is easy to ignore. However, it is a problem with which we should not burden our Nation without a real recognition of the cost and hardships we may be imposing in future years.

Ten million junked cars a year means twenty-million explosive canisters. Will these cars be set in junkyards with these

devices still ready to go off or will we go through the elaborate, expensive, and danagerous means of disarming and disposing airbag devices prescribed by the GM manual?

The best answer is to approve the resolution of disapproval presently pending in the Senate and take a long, sober look at the airbag as it might fit into a rational program of automobile safety promotion.

Mr. President, I ask unanimous consent that excerpts from the service manual be printed in the RECORD.

There being no objection, the excerpts were ordered to be printed in the RECORD, as follows:

EXCERPTS FROM GM SERVICE MANUAL

INTRODUCTION

Warning: Air cushion restraint system modules (driver and front passenger(s)) must be deactivated prior to disposal. Both modules contain explosive materials. In addition, the passenger module contains high pressure gas. Failure to deactivate prior to disposal could result in personal injury.

Driver air cushion restraint module disposal

INTRODUCTION

Warning: Driver air cushion module should always be carried with vinyl cover away from all parts of one's body and should always be laid on a flat surface with vinyl side up. This is necessary so that a free space is provided to allow the air cushion to expand in case of accidental deployment. Otherwise, personal injury may result.

Disposal Procedure—Removed From Car

Deployed module

When a deployed driver air cushions module (Fig. 6-1) has been removed from vehicle, as outlined in Section 5-Driver Module and Steering Column, it can be disposed of in usual manner and discarded with any other scrap material.

Undeployed module

In the event it becomes necessary to replace a damaged or defective driver module (Fig. 6-2) that has not been deployed, the following procedure will apply:

Immediately notify the local dealer and/or zone office. They will arrange for a representative to dispose of the module. If it is necessary to remove the module from the car before that time, it should be stored in an Air Cushion Restraint System shipping carton. The carton in which the replacement module is shipped is suitable for storage. If additional driver module shipping (storage) cartons are required, they are available under part number 1154146.

No attempt should be made to deploy or otherwise dispose of an undeployed driver module by any person other than an authorized representative.

When placing module to be disposed of in storage, the carton should be taped closed and stored on the floor with proper side up (as indicated on shipping carton).

Warning: Do not stack cartons or place objects on top of carton. This will allow the air cushion to expand in case of accidental deployment. Otherwise, personal injury may result.

Front passenger(s) air cushion restraint module disposal

INTRODUCTION

Warning: Passenger(s) air cushion module should always be carried with air cushion away from all parts of one's body and should always be laid on a flat surface with air cushion facing upward. This is necessary so that a free space is provided to allow the air cushion to expand in case of accidental deployment. Otherwise, personal injury may result.

Disposal Procedure—Removed From Car

Both deployed and undeployed passenger(s) modules must be removed from the vehicle, as outlined in Section 4-Passenger(s) Module, and immediately disposed of in the manner outlined below.

Undeployed modules

In the event a passenger(s) module cannot be immediately disposed of, it must be stored in an Air Cushion Restraint System shipping carton in a secured area until the disposal procedure can be performed. The carton containing the replacement assembly is a suitable storage carton. If additional passenger(s) module shipping (storage) cartons are required, they are available under part number 1154147.

When placing module to be disposed of in storage, the carton should be taped closed and stored on the floor with the proper side up (as indicated on shipping carton).

Warning: Do not stack cartons or place objects on top of carton. This will allow air cushion to expand in case of accidental deployment. Otherwise, personal injury may result.

An undeployed module contains gas under pressure which must be released before disposal of the module is completed. In order to release this gas pressure the following steps should be taken:

1. Clamp inflator assembly in bench vise as shown in Figure 6-3.
2. Prepare wooden stop block to be used as spacer to limit depth of drill bit penetration into drill guide sleeve (Fig. 6-4).
3. Refer to Figure 6-4 and install stop block over a ¼" drill bit. Then adjust bit in drill chuck until bit extends beyond stop block as follows:
   a. For Eaton or Allied Inflators 2-3/32".
   b. For Aero-Jet Inflators 1-3/32".

Warning: Safety glasses or a face shield must be worn by any person in the area during the drilling operation and while the pressure is bleeding down after the drilling operation. Otherwise, metal chips from drilling may cause eye injury.

4. Insert drill bit into drill guide sleeve provided in end of inflator (Figs. 6-3 and 6-4). Drill until stop block contacts end surface of inflator, or until the sound of escaping gas is heard (gas will escape at about same rate as air from a tire after a valve core has been removed).
5. Remove drill and leave assembly clamped in vise until all of the gas has escaped (12-18 minutes).
6. After gas pressure has escaped, proceed with instructions applicable to deployed module.

Deployed modules

The passenger module contains two gas generators, each capable of inflating the air cushion. One or both may have been activated in an accident. To assure that both gas generators are deactivated it is necessary to incinerate the module after the air cushion has deployed or after the gas in an undeployed module has been released as described in the "Undeployed Module" procedure above.

Warning: Do not dispose of an undeployed module without first releasing gas pressure. Otherwise personal injury may result.

The following steps should be taken to incinerate the module:

1. Place the module with the air cushion side up in an open top 55 gallon drum.

Warning: 55 gallon drum used for burning must be placed in an open area where burning is permissible. Drum should be located at least 15 to 20 yards from buildings or inflammable material because burning debris may be thrown from the drum.

2. Build a wood fire in drum which will create enough heat to activate module (Use of a wire mesh across top of drum is recommended). Module activation can be seen, but will not be violent. Fire will render the unit completely inactive.
3. After activation, module can be discarded in usual manner for any parts to be scrapped.

Note: If deactivation and disposal procedure outlined above cannot be performed due to local ordinances, or are otherwise impractical, contact appropriate General Motors dealer or local Zone Office Service Department for assistance.

HEALTH CARE OR MEDICAL CARE IN THE UNITED STATES?

Mr. PELL. Mr. President, I would like to bring to my colleagues' attention today a very worthwhile and admirable effort in health care education, which I believe could serve as an exemplary model in its field.

A small booklet entitled "The Way We Live," written by a distinguished medical and health care journalist, Selig Greenberg of Rhode Island, was prepared for the Rhode Island State Department of Health, financed by the U.S. Department of Health, Education, and Welfare, and published in the Providence Sunday Journal. Mr. Greenberg was for many years the medical reporter for the Providence Journal Bulletin.

This booklet features a commonsense and straightforward approach to a fact we all ignore most of the time at our own risk. As Mr. Greenberg puts it:

To a large degree each one of us determines personally through the way he lives what will kill him and how soon.

Mr. Greenberg correctly identifies the medical system as one of "crisis medicine," which does little to improve the quality of health for most Americans but which is certainly sporadically effective in crisis care.

I believe that Mr. Greenberg is correct and that our emphasis on technology to the detriment of an emphasis on prevention has not served us or our children very well. We must all make hard personal decisions about personal fitness, and we must make even more difficult collective decisions about the quality of our environment if we are to do much to improve the health of our Nation. One of the best indicators of the general health of a nation is longevity, and with a longevity rate that is only 13th among the nations in the world for women and only 17th for men, we have a long way to go.

I think that Mr. Greenberg's booklet is a fine idea in both principle and content, and I include at this point the text of an article entitled "The Nation's Major Killers: Ignorance, Self-Indulgence."

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE NATION'S MAJOR KILLERS: IGNORANCE, SELF-INDULGENCE

(By Bruce DeSilva)

PROVIDENCE.—The nation's major killers are not diseases but ignorance and self-indul-

gence, proclaims a new publication prepared for the state Department of Health.

About four-fifths of the 2 million annual deaths in America, and more than half of the disabilities, are caused not by "germs" but by the way we live, says the booklet entitled "The Way We Live."

"To a large degree," the booklet says, "each one of us determines personally, through the way he lives, what will kill him and how soon."

The booklet, written by Selig Greenberg, a former Journal-Bulletin medical writer, will be distributed to Rhode Islanders this week as a paid advertising supplement to the Providence Sunday Journal. The $25,000 cost of printing and distributing the publication is being paid for through a grant from a federal program aimed at promoting public health.

There is ample evidence, the booklet says, that the enormous increases in health care expenditures over the last 25 years have not significantly improved the health of most Americans.

"A medical care system which concentrates on crisis medicine and tends to regard the human body as a biological machine which can be kept in running order by removing or replacing defective parts or by clearing its plugged lines is not only ineffective but a bottomless financial pit," the booklet says.

"It is becoming increasingly evident that better health and longer life can be achieved only through intelligent effort on the part of each individual," the booklet says. "Individual decisions about diet, exercise, and smoking are of critical importance, and so are collective decisions about pollution and other environmental hazards.

"The devastating fact," the booklet continues, "is that people take better care of their cars than their own bodies. They see that the car gets proper fuel but expect their own body to remain healthy no matter what they feed it. They see that the car is driven regularly but expect to maintain muscle tone and health in a body that sits out its life behind a desk or in front of a television screen."

The booklet offers advice about nutrition, exercise, alcohol and smoking. It urges citizens to support stronger government regulations for improving nutritional value of food, for restricting advertising of alcohol and other harmful substances, for reducing consumption of dangerous substances through higher taxes, and by supporting efforts to control pollution.

In addition, the booklet asks citizen support for a broad health education program that would begin in the elementary schools.

Finally, the booklet notes that many of us complain about the spiraling costs of medical care, but don't take the easiest steps to stop it.

DR. GEORGE THOMAS CHERRY

Mr. THURMOND. Mr. President, one of the leading citizens of my hometown, Aiken, S.C., passed away on September 28, 1977. Dr. George Thomas Cherry made major contributions to the health and well-being of the community for more than 50 years. His is a record of unselfish service and rare achievement, and I wish to pay him a few words of respectful tribute.

Dr. Cherry received a bachelor of science degree from Benedict College and went on to earn a degree in dental surgery from Meharry Dental School. This was at approximately the same time that I was attending college. College degrees were not nearly so easy to come by in those days as they are now. Moreover, Dr. Cherry had significant obstacles to overcome. A black, he was seeking to enter a profession which few of his race then practiced. There were no Government programs, as there are today, to give him assistance or encouragement. He had to get by on dedication, determination, and hard work. Fortunately, these were qualities which he had in abundance.

Dr. Cherry's success as a dentist is demonstrated by the large number of professional organizations to which he belonged. These include the National Dental Association, the American Dental Association, the Georgia Dental Society, the Palmetto Medical, Dental, and Pharmaceutical Association of South Carolina, and the Congaree Medical and Dental Association. Indeed, he had served as president of both the latter groups. His practice was extensive, reaching many patients who, but for Dr. Cherry, would not have had adequate dental care. His labors in time produced a major improvement in the dental health of the area.

Although his professional burdens were heavy, Dr. Cherry also took an active role in community affairs. He was a member of the Advisory Committee of the Aiken City Council, the Royal Aikenites Club, the National Association for the Advancement of Colored Peoples, and Alpha Pi Alpha Fraternity. He was also a 33d degree mason, and participated in numerous masonic activities.

Dr. Cherry's career was characterized throughout by exemplary concern for his fellow man. He believed very strongly in human brotherhood, and acted upon that belief. His fellow citizens of both races held him in the highest regard. To his patients, he was more than just a dentist; he was also a friend and a counselor. He was a friend and a counselor to the whole community. His death leaves many heavy hearts in the Aiken area.

I take this opportunity to extend my sincere condolences to his widow, Mrs. Helen Kenny Cherry; his sister, Mrs. Emma Lee of New York, N.Y.; and his three brothers, Alonza L. Cherry and Council C. Cherry of Aiken, and Leon F. Cherry of Laurelton, N.Y. I know the grief they are feeling at this time. I can only hope that, as the months pass, the sorrow will be mitigated by their pride in the character and accomplishment of this fine man.

Mr. President, subsequent to the death of Dr. Cherry, three articles appeared in the newspapers about him. As they contain additional facts in which my colleagues may be interested, I ask unanimous consent that they be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Aiken (S.C.) Standard, Sept. 27, 1977]

AIKEN RESIDENT, DENTIST, DIES

Dr. George Thomas Cherry of 354 Williamsburg St., N.E., died today in Aiken Community Hospital. He was a native and life-long resident of Aiken and was a practicing dentist here for the past 54 years.

Surviving are: his widow, Mrs. George Thomas (Helen Kenny) Cherry; one sister, Mrs. Emma Lee, New York, N.Y.; three brothers, Alonza L. Cherry and Council C. Cherry, both of Aiken, and Leon F. Cherry, Laurelton, N.Y.

Funeral arrangements will be announced by Jackson-Brooks Funeral Home.

[From the Augusta (Ga.) Chronicle, Sept. 28, 1977]

DR. CHERRY, DENTIST, CIVIC LEADER, DIES

AIKEN.—Dr. George Thomas Cherry of 354 Williamsburg St., Aiken dentist and civic leader for more than 50 years, died Tuesday in an Aiken hospital.

Funeral arrangements will be announced by Jackson-Brooks Funeral Home, Aiken.

Dr. Cherry, a native of Old Ellenton, S.C., received a bachelor of science degree from Benedict College and a doctor of dental surgery degree from Meharry Dental School. He was a World War I veteran.

He was a member of the National Dental Association, American Dental Association, Georgia Dental Society, Palmetto Medical, Dental and Pharmaceutical Association of South Carolina, serving as president in 1965–66, and the Congaree Medical and Dental Association, serving as president in 1964–65.

Dr. Cherry was deacon and former treasurer of Friendship Baptist Church and a 33rd degree mason, serving as chairman of communications and foreign correspondence of the Most Worshipful Prince Hall Grand Lodge of Free and Accepted Masons. He was secretary of both Effingham Lodge, No. 98, Aiken, and Royal Arch Lodge, Aiken. He was a charter member of the Royal Aikenites Club, and member of the advisory committee of the Aiken City Council, the National Association for the Advancement of Colored Peoples (NAACP), and Alpha Phi Alpha Fraternity. He was a recipient of the Meharry College President's Award.

Survivors include his widow, Mrs. Helen Kenny Cherry; one sister, Mrs. Emma Lee, New York, N.Y.; and three brothers, Alonza L. Cherry and Council C. Cherry, Aiken, and Leon F. Cherry, Laurelton, N.Y.

[From the Aiken, (S.C.) Standard, Oct. 3, 1977]

DR. GEORGE T. CHERRY

In the death of Dr. George T. Cherry, Aiken has lost a valuable citizen and a prominent member of the dental profession.

He had practiced in Aiken for a half a century following his graduation from Meharry Dental School with a doctor of dental surgery degree. He was also a graduate of Benedict College.

He was born at Old Ellenton. He was a veteran of World War I.

He stood high in his profession, having served as president of the Dental and Pharmaceutical Association of South Carolina and as president of the Congaree Medical and Dental Association. He was a member of the board of directors of the Hitchcock Rehabilitation Center.

He was a deacon and former treasurer of Friendship Baptist Church and was a 33rd degree Mason, having held numerous Masonic offices. He was a charter member of the Royal Aikenites Club, a member of the advisory committee of the Aiken City Council and was a member of the National Association for the Advancement of Colored People and Alpha Phi Alpha fraternity. He was a recipient of Meharry College's President's Award.

Mayor H. Odell Weeks, who had known Dr. Cherry since boyhood, described him as a "fine Christian gentleman."

The description was fitting and, no doubt,

was one which Dr. Cherry would have preferred over all attainments.

The Aiken Standard extends its sympathies to his widow and other members of his family.

HUMAN RIGHTS: AN UNFULFILLED PROMISE

Mr. PROXMIRE. Mr. President, for the last 10 years, I have stressed the importance of ratifying the Genocide Treaty. One of the main problems in our failing to ratify the Genocide Treaty has been the continual embarrassment we have suffered as a result of our hypocritical actions. As a nation we are a strong proponent of human rights. Yet, one of the main covenants of human rights, the Genocide Treaty, has been signed by almost every major country in the world except the United States. It is no surprise that other countries feel free to ignore our attempts to insure human rights when we are so negligent in ratifying the Genocide Treaty.

Thankfully though, President Carter has not been negligent in reaffirming our commitment to human rights. It was a happy moment for me when President Carter signed two 11-year-old covenants on human rights on October 6, 1977, before the United Nations Assembly. These two covenants deal with political, civil, economic, and social rights.

Kathleen Teltsch, of the New York Times, pointed out in her article about this event, that one of the benefits to the United States in signing the two covenants was to strengthen our position in opposing abuse of human rights and, to remove a source of embarrassment to our country. As many of her points apply equally well to the Genocide Treaty, I ask unanimous consent that the text of this New York Times article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

UNITED STATES, FULFILLING PROMISE, SIGNS 11-YEAR-OLD RIGHTS PACTS AT U.N.

(By Kathleen Teltsch)

UNITED NATIONS, N.Y., October 5—President Carter signed two 11-year-old covenants on human rights today, fulfilling a pledge and eliminating a source of embarrassment for advocates of a forceful campaign on rights matters.

The President, speaking here in March, had promised that the United States would endorse the agreements, one dealing with political and civil rights and the other with economic and social rights.

With the United States committed to a policy of openly criticizing rights violations by governments, it has been awkward for the Americans not to have accepted human-rights agreements already signed by the Soviet Union, Britain, France and scores of smaller countries.

Mr. Carter, neither in his five-minute speech at the signing ceremony nor in his foreign-policy address yesterday in the General Assembly, mentioned rights violations.

UNITED STATES REALIZES THERE ARE CONSTRAINTS

During the election campaign, he had promised to speak out candidly about injustices and he did so during his months in office, in particular angering Moscow for criticizing Soivet treatment of dissidents. The United States also reduced aid to some countries like Argentina, Uruguay and Ethiopia because of their human-rights records.

While the United States has continued to affirm its concern about conditions in countries with authoritarian governments, it has also realized that there are constraints and it cannot impose its standards.

Mr. Carter in a major address on Soviet American relations in June went out of his way to say that the United States was not singling out the Soivet Union for attack and that American expressions of concern should be seen rather as being part of a broader commitment.

Although the Soviet Union welcomed the assurances, the issue has remained a sensitive one and Foreign Minister Andrei A. Gromyko in the Assembly criticized the "sermonizing" of the United States Government. Other countries, Brazil among them, also have vented their displeasure about American criticism.

POSITIVE DEVELOPMENTS ARE LISTED

But the United States has been able to balance these reactions by pointing to developments that it says probably resulted from its rights concern. Among these are the freeing of political dissidents by a number of South American countries acceptance of investigation by outside rights groups, possibly even the increase in the number of persons permitted to emigrate from the Soviet Union.

Against this background of criticism, the President's statement today appeared deliberately low-key. There was no ringing declaration as there was when he was here in March that no country "can claim that mistreatment of its citizens is solely its own business."

Almost analytically, Mr. Carter described the two pacts he was signing. The one on civil and political rights provides what governments "must not do to their people," he said, noting its provisions against arbitrary arrest or resort to cruel and degrading treatment and its guarantees of freedom of thought, religion and the right to emigrate.

PACTS COMPARED TO BILL OF RIGHTS

Governments accepting the covenant on economic and social rights promise to promote better living conditions. Other provisions recognize the right to work, to fair wages, and to adequate health and education.

Mr. Carter said it was unrealistic to pretend that the covenants reflected conditions as they are. Rather, he suggested that they be viewed as offering goals to be achieved in the way that the Bill of Rights of the United States "set a lofty standard of liberty and equality."

Although Mr. Carter said he intended to seek approval by Congress, early action seemed unlikely. The Administration has been reluctant to present controversial measures until the Panama Canal treaties are ratified.

COLUMBUS DAY

Mr. DOLE. Mr. President, today, October 10, we again celebrate the discovery of America by the great seaman and navigator, Christopher Columbus, who began his voyage on September 9, 1492, and reached these shores on October 12, 1492.

COLUMBUS, A SELF-TAUGHT MAN

In his youth he had little formal schooling. However, his burning desire to go to sea, impelled him to leave Genoa and his family for a life at sea. To further his knowledge, he learned to speak, read, and write Spanish and taught himself Latin because geography books of the day were written in Latin. He had a dream yet he prepared himself for its realization as thoroughly as he could.

TEN YEARS OF WAITING

Columbus, like all the learned men of the time, already knew that the world was round and was not trying to prove it. His dream was to reach China and India, the Orient, by sailing West. But as all men with a dream, Columbus had to turn it into reality by persuading others of its worth. He first turned to King John II of Portugal to finance his expedition as early as 1482. He was turned down. He had to wait 10 long years until 1492 when Queen Isabella of Spain finally agreed to underwrite his expedition.

The New World could not have been discovered by a man whose qualities we could admire more. Columbus was a man not only of vision but of great perseverance and deep faith. He was a man who worked hard to prepare himself for his task ahead by learning what he could about his dangerous undertakings. He had a dream, yet he would not let it die.

CONTRIBUTIONS OF ITALIAN AMERICANS ARE MANY

In looking at our past, we see that many other Italian Americans have shown these same great qualities and it is because of such men that the frontiers of our knowledge have been expanded in all areas. In the footsteps of Columbus came other great Italian explorers such as Amerigo Vespucci, to whom we owe our America and was the first to discover the Hudson River.

In industry and politics the names of Amadeo Giannini and Fiorello LaGuardia are well-known. Giannini was the founder of the Bank of America while LaGuardia became the first Italian-American political figure of national prominence.

Nor does the contribution of Italian Americans stop there. Their musical talents and contributions have been immense from Arturo Toscanini, Gias Carlo Menotti to Enrico Caruso and Anna Moffo.

In the field of science, Enrico Fermi, the distinguished physicist and Nobel prize winner, was a refugee to America from Mussolini's regime. Similarly, Emilio Segre also received the Nobel prize in physics in 1959 for his research into the structure of matter.

Nor does the sports and entertainment world lack Italian-American talent. Guy Lombardo and Perry Como are known worldwide, and Rocky Marciano, Vince Lombardi, and Joe DiMaggio all have a special place in American hearts and history.

TODAY THE SAME QUALITIES ARE NEEDED

On this day, all of us, regardless of our ethnic backgrounds are proud of the accomplishments of Columbus and the Italian Americans that have followed him. Their qualities of determination and vision have helped to realize the potential of this great land. In pursuing our dreams today, we should likewise be true to our

aspirations and goals and undeterred by obstacles that cross our path.

MINIMUM WAGE LEVELS

Mr. CHILES. Mr. President, this past Friday the Senate completed action on legislation to increase minimum wage levels under the Fair Labor Standards Act. I could not support this bill and was among the minority who voted no. I have always advocated fair wage rates and fully intended to vote favorably on minimum wage legislation this year. However, in my view, the measure passed by the Senate is not a reasonable bill and can only serve to aggravate our economic and employment problems. The four step increase in wage levels will have a significant inflationary impact on the economy as a whole. It will increase unemployment levels among young people, women, and minorities. In light of the fragile state of the economy, with continuing high levels of inflation and unemployment, this legislation hardly seems a step in the right direction.

On Thursday and Friday I watched the Senate defeat amendment after amendment aimed at making the minimum wage legislation a more realistic and workable approach toward helping our low-income workers. The merits of some of these amendments are obvious to anyone concerned with the realities of our economic situation and yet the votes were not there. After watching these efforts fail, I was prompted to offer the House passed version of the minimum wage bill as a substitute amendment. The House bill provides for a minimum wage of $2.65 an hour by 1978; $2.85 by 1979; and $3.05 by 1980. It eliminates the inflationary indexing provision. It retains the tip credit provisions as currently allowed by law and exempts from coverage independently owned and operated retail and service establishments with gross annual sales under $500,000. The House measure offered an opportunity to make a major step forward in raising the minimum wage without the inflationary drawbacks of the Senate bill. The votes were not there for this amendment either.

I think it is important to note just what the Senate decided in voting on the minimum wage bill.

Under the Senate approach the minimum wage would be set at $2.65 in 1978; $2.90 in 1979; $3.15 in 1980; and $3.40 in 1981. What this represents is a backdoor means of implementing the indexing provision that everyone agreed must be discarded. It sets us on an irrevocable course for the next 4 years regardless of what is taking place with the inflation rate or unemployment levels. It is a step that may well be regretted.

The Senate acted to reduce the tip credit for tipped employees. This was done in the face of Labor Secretary Marshall's warning that such a reduction could have an adverse effect on employment. The tip credit provision has worked well for the past 10 years for both the employee and the employer. It is an important factor in the economics of the hotel and restaurant industry. The income of the tipped employee averages more than the statutory minimum and I have yet to hear a valid argument for making any revisions in the current law. Certainly those in my State who depend on tipping as part of their income are not advocating any changes.

Particularly difficult to understand is the failure of the Senate to adopt some form of a youth differential rate. With teenage unemployment running at 18 percent or more than 2 million youth, it is hard to fathom why there is no recognition of this emergency situation when increasing the minimum wage. Teenage unemployment increased significantly after previous minimum wage hikes and I hesitate to think what the impact of these new wage levels will be. The several amendments offered, providing for temporary youth rates, would have served as a strong incentive to create new jobs for youth, especially on the part of small business.

I do not believe that a lower wage rate for 18- and 19-year-old workers poses any threat to the older, experienced worker. They do not compete for the same jobs. Escalating the level of youth unemployment, as I fear may be the case, poses a much greater threat in terms of the future social problems we will have with this age group.

As I indicated, voting against a minimum wage bill was not an easy or pleasant step for me. I feel that steady increases in the minimum wage are a vital factor in helping the worker at the bottom end of the scale keep pace with the cost of living. In voting "no" this past Friday I was not voting against a minimum wage increase but against a bill that went beyond the bounds of sound economic or labor policy.

I still hope to vote "yes" on the minimum wage legislation that becomes law. I offered the House bill as a substitute to the Senate measure and I certainly hope that the basic components of this version will prevail when the House and Senate go to conference on this legislation.

PANAMA CANAL TREATY TESTIMONY

Mr. SPARKMAN. Mr. President, the Committee on Foreign Relations continued hearings on the Panama Canal treaties today receiving testimony from the following witnesses:

First. Adm. Thomas H. Moorer, retired.

Second. Adm. Elmo R. Zumwalt, Jr., retired.

Third. Gen. Maxwell Taylor, retired.

Fourth. Panelists (Canal Zone residents): Mrs. Patricia Fulton, president, Pacific Civil Council; Mrs. Charlotte Kennedy, president, Cristobal-Margarita-Brazos Heights Civic Council; Mr. Harold Green, president, Gamboa Civic Council; and Mr. Louis Sattorosi, vice president, Canal Zone Federation of Teachers.

I ask unanimous consent that the prepared texts of the statements of these witnesses be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STATEMENT OF ADM. ELMO R. ZUMWALT, JR., U.S. NAVY (RETIRED) ON THE PROPOSED PANAMA CANAL TREATIES BEFORE THE SENATE FOREIGN RELATIONS COMMITTEE, MONDAY, OCTOBER 10, 1977

Mr. Chairman and Members of the Committee: I am proud to be here to testify on the Panama Canal Treaties. As an American who is proud of what our Nation stands for, I am happy to give general support to two treaties which replace a colonialist relationship with a respectable long term partnership.

But I am also able to support these treaties from the national security perspective of one who had responsibility, for the four years ending July 1, 1974, as Chief of Naval Operations (CNO) and as a member of the Joint Chiefs of Staff (JCS).

My position on these treaties is a continuation of the views I held as CNO. These views were last officially expressed when I joined the other members of the JCS, in June 1974, in supporting renegotiation of the existing treaty with Panama. Admiral Moorer, then Chairman of the Joint Chiefs of Staff, was a very persuasive advocate of the need for a new treaty.

As a private citizen, on September 6, 1977, I stated my support of the two treaties you are now considering, in a letter to 96 Senators. The letter said:

"I think you will know that I am among those who have been concerned about the decline in our military capabilities, the impressive increase in Soviet strategic nuclear capability and conventional military power, and the way in which the Soviet Union is capitalizing on its burgeoning military superiority to the disadvantage of the U.S. and her allies.

"It may therefore be of interest to you to know that even in that light, in my judgment, the ratification of the Panama Canal Treaties by the Senate would enhance and non-ratification by the Senate would harm United States security interests."

Today, I will enlarge on that statement.

My support of the two treaties is based on the following national security rationale:

(1) The use by the U.S. of the Panama Canal is a vital requirement of national security:

(a) Based on calculations in which I have participated, both as a member of the JCS and subsequently as a private citizen, it is my judgment that the U.S. has surrendered strategic nuclear superiority to the U.S.S.R. in a process set in motion about 10 years ago and accelerated in the last five or six years. This strategic nuclear superiority makes it likelier that the Soviet Union would risk conventional war under the umbrella provided by her nuclear forces.

(b) Based on studies on which I was briefed as CNO and subsequently, it is my judgment that NATO has surrendered conventional military superiority in Europe to the Warsaw Pact. This means that the Soviet Union is likelier to risk conventional war in Europe or elsewhere.

(c) I testified as CNO that the odds of U.S. victory in a conventional global war at sea with the Soviet Union shifted from favorable to unfavorable in 1971 and became progressively worse. The present CNO testified last April that "in the event of conflict, U.S. forces could retain control of the North Atlantic sea lanes to Europe, but would suffer serious losses to both U.S. and allied shipping in the early stages. U.S. ability to operate in the Eastern Mediterranean would be uncertain *at best* (underlining added). U.S. fleets could hope open the sea lines to

Hawaii and Alaska, but by reason of the shortages of sea control and mobile logistic support forces, the *U.S. would have difficulty in protecting the sea lines of communication into the Western Pacific*" (underlining added).

I think it is clear that Japan, the Philippines, Taiwan, South Korea and our allies in the Middle East could not be supported by U.S. naval forces, today, in a global conflict with the Soviet Union. This makes it likelier that the Soviet Union would risk war at sea.

(d) The only chance to save Europe in a conventional war would be by the reinforcement that could only be done on the necessary scale with naval support. Such support could only be obtained by abandoning the Western Pacific and pouring ships from the Pacific into the Atlantic in the crisis buildup phase. There are plans to make such redeployments.

(e) Alternatively, if there developed a contingency in the Western Pacific requiring support of our allies there, as in the Korean War and as in several phases of the SEA War, the Canal would be needed to bring ships and logistics from the Atlantic into the Pacific.

(f) It is difficult to visualize any major contingency in either ocean that would not require support from the other ocean via the Canal.

(g) Admiral Moorer testified recently before the House International Relations Committee: "—we do not have a two-ocean Navy. In recent years, the Navy has been rapidly reduced from 900 ships to less than 500. All war plans and all contingency plans are infeasible unless one assumes that full use of the Canal will be available." I agree.

(h) In this era of U.S. military inferiority, the ability rapidly to redeploy from one ocean to another is the only feasible way quickly to bring the kind of naval power to bear which might be sufficient to deter Soviet actions. It is also the means by which the U.S. can select which part of the West's maritime alliance to try to save if conventional war comes. In a long war against lesser powers, such as occurred in the Korean and SEA Wars, the Canal is badly needed to permit on-scene forces to be sustained by deployments from the fleets of both oceans.

(2) The U.S. is the only nation in the Western Hemisphere with the capability to defend the Panama Canal from an external threat by the Soviet Union.

(3) But the cooperation of a favorably disposed government in Panama is needed to provide a reasonable prospect of defending the Canal from an internal threat.

(4) The U.S. is much likelier to have the Canal to use in a crisis if the U.S. and Panama have an arrangement which optimizes the ability to handle external and internal threats. These treaties are an important step in providing that optimization.

(5) The present arrangement is non-optimal. Our excessive zeal not to make treaty changes affecting our ability to deal with the external threat has increased the internal threat. The present relationship is a colonialist anachronism which is no longer feasible for a democratically constituted nation to maintain. Even if the U.S. has not surrendered its military primacy, it would not be feasible to defend the Canal if the Government of Panama did not cooperate.

(6) Soviet strategy obviously places high priority on decreasing the probability that the Canal would be available to the U.S. in crisis or in war. The Soviet strategy is likelier to succeed if the treaties are not ratified.

(7) The existence of a sea level canal, able to handle our aircraft carriers and supertankers, would enhance national security. The achievement of a sea level canal with a regime suitable to U.S. security interests is likelier if the treaties are ratified.

(8) The near term treaty would clearly retain U.S. control and defense rights through this century. The long term treaty is less clear that the U.S. rights—(1) to ensure availability and (2) to ensure priority transit for U.S. naval ships—continue in the next century. The Administration has assured me that they do. Their national security witnesses, in whom I have confidence, have assured you that they do. I am confident that the U.S. Senate's ratification process will make these clarifications part of the official constitutional process. Under this assumption, I recommend ratification of the treaties from a national security point of view.

STATEMENT BY ADM. THOMAS H. MOORER, USN (RET.), BEFORE THE U.S. SENATE FOREIGN AFFAIRS COMMITTEE, OCTOBER 10, 1977

Mr. Chairman and Distinguished Members of the Foreign Affairs Committee, I am honored to be here as a witness. I would like to emphasize at the outset that I am not here representing a particular group, an organization, or a political party. Rather, I am here as a concerned citizen who has had far more than average involvement in the Panama Canal as it relates to the vital security of the citizens of these United States. Accordingly, I will speak primarily in terms of global maritime strategy.

My military experience during the last twelve years of active duty, from 1962 to 1974, offered me some extraordinary and unique opportunities to assess the importance of the Panama Canal to the United States, as well as its value to our Allies and friends and, indeed, to all maritime nations.

My evaluation of this waterway as an invaluable possession of the United States was intensified in 1962. At that time I was Commander, Seventh Fleet, operating in the Western Pacific. Frequently my fleet's capabilities depended on the prompt arrival of supplies from the Atlantic seaboard, supplies loaded aboard ships which were utilizing the Panama Canal.

From the Seventh Fleet I went to Commander-in-Chief, Pacific; from there to Commander-in-Chief, Atlantic, and NATO's Supreme Allied Commander, Atlantic; from there to Chief of Naval Operations and from there to Chairman of the Joint Chiefs of Staff. Each of these commands provided unique opportunities, and sometimes urgent reasons, to evaluate the Panama Canal. I saw this strategic waterway from many vantage points and under stressful circumstances.

As Commander-in-Chief, Pacific, I recall in some detail the Tonkin Gulf era of 1964. During that period I saw the Panama Canal as a conduit for rapid reinforcement from the Atlantic Fleet should the naval forces of the Soviet Union or mainland China become involved in the Vietnamese War. The U.S. high command was never sure during those early phases of the war of the intentions of either the Soviet Union or mainland China. We knew they had the naval and air capabilities to make trouble and therefore we had to draw up contingency plans for such eventualities. In order to equalize the wartime exposure and hardship throughout the entire Navy, large numbers of Atlantic Fleet units were continuously rotated through the Canal to the combat theater in the Pacific. In addition, as the Pacific Fleet Commander I looked to the Atlantic side for rapid logistics support. The U.S. Army, the U.S. Air Force, the U.S. Marine Corps and the U.S. Navy all required a continuous and heavy flow of logistic support; such necessities as fuel, ammunition, spare parts and food. Our allies fighting with us in Vietnam also required considerable support from the United States. If the Panama Canal had not been open and available, the war in Vietnam would have been much more difficult and costly to conduct. This conclusion is also true for the war in Korea. Going back a few years, there is no question but the availability of the Panama Canal shortened World War II by many months.

To give you some idea of the magnitude of Panama Canal usage and its relationship to military operations, in 1963 there was a total of 300 U.S. Government transits through the Panama Canal. As the Vietnam war escalated, the number of Government ships transiting by 1966 had almost doubled. The records show for that year—1966—a total of 591 Government ships transited the Canal. Most of these ships were carrying critically needed logistics support to the forces operating under my command.

As Commander-in-Chief, Atlantic, and NATO's Supreme Allied Commander, I saw the situation at Panama in another perspective. That was for the period 1956 to 1967. The war in Vietnam was still expanding, but now I was looking at the Canal not only as a means of sending support to the Commander-in-Chief, Pacific, but also from the Atlantic perspective. I saw the possible need to reverse the flow of ships through the Canal, particularly if the situation deteriorated in the Middle East or in the Caribbean during those volatile months of tension and conflict in both these areas.

Both in our U.S. planning and in our NATO planning we envisioned contingencies calling for reinforcements from the Pacific area to the Atlantic. We clearly foresaw the need for transfer of combatant tonnage, Army and Marine divisions, and in particular we saw the need for transfer of amphibious lift.

As Chief of Naval Operations I had to look at the Panama Canal as an essential means of equalizing the strength and providing the balance between the Atlantic and Pacific fleets. The Canal made it possible to pre-position certain types and tonnages, but always with the knowledge that the balance could be shifted to meet unforeseen situations. The Panama Canal gives the naval planner much flexibility and versatility that he would be deprived of without it.

As Chairman of the Joint Chiefs of Staff I became even more sensitive to the strategic value of this U.S. Canal as a means of protecting the security of the United States. My job as Chairman involved all of the Armed Forces of the United States—their collective requirements—and I was primarily responsible to the President for their ability to carry out their roles and missions as assigned by the Congress. Any Naval Commander acting in that role in wartime will immediately perceive that it is vital to U.S. interests to retain complete ownership and control of the Panama Canal.

In view of the above I am very much concerned about the proposals to surrender the Panama Canal to a leftist oriented government allied with Cuba. There exists the potential danger for giving this U.S. advantage to a man who might allow or might be persuaded that it was in his best interest to permit Soviet power and influence to prevail by proxy over the Canal, in much the same manner as happened in Cuba. I was convinced as Chairman of the JCS—and I remain convinced today—that if the Soviet Union ever gained even proxy sovereignty and control over the U.S. Canal Zone and Canal through Cuba, U.S. security as well as U.S. prosperity would be placed in serious jeopardy.

The United States would be placed in jeopardy because interocean mobility would be threatened. The mobility of allied com-

mercial shipping and naval forces would face the same threat. The economic lifelines of the entire Western Hemisphere would be needlessly jeopardized, and the point is: there is *no point* in surrendering this vital interest. Also, by relinquishing control of the Canal Zone and the Canal, we would force all those nations who depend on our power and leadership to accommodate to the adverse implications of such action on our part. Recent history clearly indicates that the Canal Zone could quickly become the satellite base of an adversary. The advocates of this proposed treaty do not appear to take this factor into account.

The Panama Canal is one of the four maritime gateways of the world, together with the Malacca Straits, the Suez Canal, and the Gibraltar Straits. Anyone who reads Soviet literature concerning maritime affairs soon learns that the Soviets fully understand the strategic importance of the Panama Canal, even if some here in Washington do not. In my view, the prime reason for the burdensome support of Cuba by the Soviet Union is related directly to the interest in the Canal as they greatly expanded their maritime capabilities, both warships and merchant ships. We have in fact a Torrijos-Castro-Moscow axis. Castro has sent thousands of troops to Africa aboard Soviet ships. He has been to Moscow where he was greeted with open arms. Torrijos has been to Havana where he has been decorated by Castro while both extolled the success of their respective revolutions. He has also been to Libya to visit Qaddafi who, next to Castro, is the most active international revolutionary. When Torrijos overflew Havana on his return from Washington to Panama after the ceremonies last month, he sent the following message to Castro: "On my return trip to my country and flying above the sky of Cuba, I salute you with friendship always. I wish that the Cuban people under your skillful leadership continue its ascendant march toward progress. In Latin America your name is associated with feelings about dignity that have been channeled toward the ending of a shameful period of colonialism."

In addition, a large Russian commission has recently visited Panama seeking concessions and offering economic assistance.

Mr. Chairman and Members of the Committee, do not be surprised, if this treaty is ratified in its present form, to see a Soviet and/or Cuban presence quickly established in the country of Panama. Such a presence will seriously complicate the exercise of the claimed "right" of the United States to intervene. (I can find no such specific right contained in the treaty.) In any event, any confrontation then becomes one with the Soviets rather than with the Panamanian guerrillas or terrorists. With the Soviets already on the scene fighting our way in will not be simple. A permanent U.S. presence on the other hand is the only feasible posture.

In view of the above, Mr. Chairman, I have yet to hear any convincing justification advanced as to why the United States should willingly sacrifice the strategic and economic advantages afforded the United States and, for that matter, all the nations in the Western Hemisphere by our exercise of full control of the Panama Canal as provided for in the current treaty. In fact, stripped to the essence I have heard only three reasons put forward in support of the proposed treaty: (1) by signing the new treaty we will divest ourselves of the stigma of colonialism harped on by Mr. Torrijos and thereafter everyone will love us; (2) if we do not surrender the Canal some unknown individuals in the Isthmus of Panama will blow it up; (3) the Canal is not of much use anyway. Traffic between oceans is a convenience but is not vital. Further, the big ships of the Navy cannot use the Canal and only about 10 percent of the merchant ships passing through the Canal are U.S. flagships—so why the concern?

Let me briefly discuss each of these reasons in turn.

(1) The United States does not have to apologize to anyone for its generous outpourings of blood and treasure in an effort to assist the underprivileged and make life more peaceful and more livable for everyone. This Committee has participated in and masterminded our aid program for years. However, from observing the attacks on the United States in the United Nations and other places, it is apparent that a great nation such as ours canot buy affection. One more move in this direction in my view will have little or no effect. What we should strive for is not affection but respect. I am seriously concerned about the trends in recent years wherein we have withdrawn from Vietnam, are planning to withdraw from South Korea, have lost considerable influence following the Angola affair, and overall are suffering a gradual change in the perception by the nations of the world of the will and determination of the most powerful democracy in the world.

(2) Even since the negotiations were initiated with Panama in 1964 the rationale has been advanced that if the United States did not divest itself of the Canal the Panamanians would sabotage it. To respond to this concept to me would be a retraction under threat. If this is to be our course of action in the future we might as well throw in the international towel. One should note from a practical point of view that the Panamanians enjoy the highest per capita income of any of the contemporary Latin American countries because of the presence of the Canal. The activities surrounding the presence of the Canal contribute about one third of the employment and one third of the gross national product to Panama. If they were to attempt to damage or sabotage the Canal they would be doing nothing more than cutting off their nose to spite their fiscal face. Furthermore, they would be the ones who would be committing violence, not the United States. To me a pulling back under threat will simply lay our country open to additional threats and we will lose the respect of which I spoke. Under such a condition one could expect many of the nations of the world to tilt toward those who they know are willing to take a firm stand in their national interest.

(3) So far as the question of a two-ocean navy and the passage of aircraft carriers through the Canal is concerned, let me say first that we do not have a two-ocean navy. In recent years the Navy has been rapidly reduced from over 900 ships to less than 500, while the Soviets are engaged in a rapid expansion of their fleets of warships as well as merchant ships. A large majority of our war plans and contingency plans are infeasible unless one assumes that full use of the Canal will be available. With respect to the large carriers, the Navy has only 13 of these ships. The vast majority—well in excess of 90 percent—of the ships of the Navy can transit the Canal and will be required to transit the Canal. I should note that the other alternative, namely going around Cape Horn, will add 8,000 miles, 25 to 30 days and a considerable increase in the cost of fuel to naval operations. In wartime the 30 days could well be vital.

As far as the big merchant ships are concerned, it is true that only about 10 percent of the ships flying the U.S. flag transit the Canal. But that is not the point. It is well known that the United States has a very small merchant marine and that the shipping interests in our country, for various legal and fiscal reasons, resort to what is known as a "flag of convenience." What really counts is the tonnage which transits the Canal enroute to and from ports in the United States. It so happens that out of about 14,000 ships that transit the Canal, 8,000 are either enroute from or bound for U.S. ports.

So much for these three reasons. Finally, Mr. Chairman, there are several questions somewhat outside my purview but troublesome nevertheless, and I will simply list them for you.

(1) Do the negotiators for Panama and the United States have the same perception as to the real meaning of the language in the treaty? Public statements by both sides subsequent to the negotiations seem to indicate otherwise. Certainly this matter should be cleared up without delay. Let me give you examples of conflicting statements which to me are matters of grave concern:

The proponents of the treaties state that Article 4 of the treaty concerning the permanent neutrality and operation of the Panama Canal guarantees our continuing freedom of action for unilateral action to maintain the Canal's neutrality. I can find nothing in Article 4 which guarantees to the United States the right to unilaterally intervene for any purpose.

Article 5 states that only Panamanian forces will be based in Panama. In a radio broadcast on 24 August Mr. Escobar Betancourt said and I quote: "The Pact does not establish that the United States has the right to intervene in Panama. The word was discussed and eliminated . . . the Neutrality Pact does not provide who will say when neutrality has been violated."

Again, on September 15, General Omar Torrijos at the opening of the 10th Congress of the Panamanian Students Federation at the Augusto Samuel Boyd National Agriculture Institute in Divisa, Herrera Province, said: "I am not afraid, nor am I denying, that we signed a clause which if misinterpreted by future U.S. generations could give rise to intervention. But I am not afraid, I know the youth that we are producing. And in order for there to be intervention there must be a people willing to accept intervention, and these people have no intention of accepting it." This statement was followed by rousing applause.

Again, on the subject of guaranteeing U.S. flagships priority passage, Article 6 only guarantees U.S. ships "expeditious" not priority passage. Mr. Escobar Betancourt also disagrees with this interpretation testified by our negotiators. Quoting him once more: "Expeditious passage does not mean privileged passage. As a matter of fact the concept of privileged passage was rejected . . . if after examining the provision the Gringos say 'I want to go through first,' then that is their problem with the other ships waiting there. We cannot go that far."

Mr. Chairman and Members of the Committee, in view of the above statements I do not think that anyone can contradict the fact that there is a wide divergence in the interpretation of the meaning of the treaty concerning neutrality between the two sides. This is cause for grave concern. If not cleared up in advance, this treaty does not eliminate problems—it makes them, and big ones at that.

I would note that representatives of the Defense Department who claim primary credit for the treaty concerning the permanent neutrality and operation of the Panama Canal, as well as members of this Committee frequently make the point that the important objective is passage and not ownership. Mr. Chairman, I submit that ownership and control on one hand and priority passage on the other are synonymous. In view

of the statements by senior Panamanian officials, it is clear to me at least, that the only way for the United States to guarantee priority passage is to maintain control and ownership. Mr. Torrijos and Mr. Betancourt have obviously taken a similar position.

() What will Panama do with a 2,000 percent increase over the 2.3 million dollars she received last year as income from the Canal? To me that appears to be a fantastic amount for a country with a population not much larger than Detroit. Where will the money really go?

(3) If the O.A.S. nations so strongly support the treaty, how do we account for the absence of the presidents of the two largest and most influential countries at the signing ceremonies in Washington a few weeks ago?

(4) In the event that the tolls are raised 30 percent resulting in serious impact on the economies of the other Latin American countries—particularly those on the west coast of South America—will those countries continue their strong support of the proposed treaty or will in the final analysis the U.S. taxpayer be asked to foot the bill in order to make certain that everyone loves us?

There are other questions which concern me, Mr. Chairman, but I think I will simply close by saying that regarding the question of control and ownership of the U.S. Canal Zone and the Canal I am satisfied with the Supreme Court's decision in the famous Wilson vs. Shaw case to the effect that the United States does in fact have legal control and ownership as if she has sovereignty for the purposes enumerated in the Treaty of 1903. This ruling was reaffirmed as recently as 1972. Also, our Constitution states in Article IV, Section 3, Clause 2, that only Congress has the authority to dispose of U.S. territory and other property of the United States. The language in the Supreme Court's decision of 1907 is quite precise. It is not ambiguous. So is the language in our Constitution. Since the Supreme Court's decision of 1907 still stands—it has never been overruled—and since the Constitution in my opinion is still the soundest governing document in existence, I can only conclude that we would be well advised to abide by such documents in our negotiations with other countries.

Thank you Mr. Chairman.

STATEMENT OF GEN. MAXWELL D. TAYLOR, USA (RET.) BEFORE THE SENATE FOREIGN RELATIONS COMMITTEE ON THE PANAMA CANAL TREATIES, MONDAY, OCTOBER 10, 1977

Mr. Chairman and members of the committee: I am very glad to appear before this committee to express my support for the Panama Canal Treaties as they bear upon issues of national security. The latter is deeply involved since these documents contain much which affects the armed forces, the national economy and our dealings not merely with Panama but with all Latin America and many countries of the third world. Relations with the latter are involved in the canal issue because of the growing dependence of our economy upon imports of oil and essential minerals from third world markets, the continuity of which depends upon friendly relations with producer countries. Viewed in this light, the Panama Canal issue is seen to be an important aspect of our global foreign policy which impinges on international relationships far removed from the locale of the canal itself.

It is my opinion that both from a national and hemispheric point of view, the treaties under consideration contain provisions of definite advantage. To begin with, they will provide improved protection against the threats most dangerous to the peaceful operation of the canal—those arising from sabotage, terrorism and popular disturbances occurring within Panama itself. We have had sufficient past experience with these forms of violence to recognize their potency and the probability of their increasing prevalence in the turbulent world ahead.

By its nature, the canal will always be highly vulnerable to acts of sabotage directed at its locks, operating machinery, power sources and the dams controlling the water level in the system. There are many forms of terrorism which may disrupt its operation—for example, the harassment, kidnaping or assassination of key personnel of the government or canal, explosives covertly placed aboard ships or attached externally by divers in port or in transit. Light commercial aircraft are capable of dropping mines into the channel where even an abortive attempt would frighten ships away and stalemate traffic. Intermittent sniper fire from the banks could produce similar effects.

Lesser dangers can also arise to interfere with canal operations—political demonstrations, labor strikes or slow-downs, mob violence against canal facilities and American or Government property. Finally there is always the possibility of an uprising against the regime in power and the installation of a new government, perhaps one under avowed communist or pro-Castro leadership.

Who might be the perpetrators of such actions? They might be local dissidents or revolutionaries, foreign agents, commando groups infiltrated from neighboring States or hired trouble makers controlled by Havana or Moscow.

Panama has often attracted such types in the past and will continue to do so because of the growing importance of the region to the U.S. The Soviet Union in intriguing for leadership in the have-not world has taken as a primary objective the undermining of our Latin American relations—particularly those with our trade partners. It will always assure to Panama a large allocation of troublemakers to complicate our problems. Turbulence there is always good news to Moscow—so also are American blunders. In this connection, let us hope that we do not give the Kremlin chiefs the occasion to rejoice which our rejection of these treaties would undoubtedly afford.

Why do I believe that the acceptance of these treaties will moderate these internal threats and forestall troublemaking in the Canal area? First, under the terms of these treaties, the U.S. and Panama would be bound in a partnership based on reciprocal self-interest, jointly committed to an efficient and unimpeded operation of the Canal. The local government would have an equal interest with us to restrain outbreaks of violence and lawlessness. A peaceful settlement of past differences should moderate the present anti-American bias which has often made the country a recruiting base for perpetrators of violence and a sympathetic environment in which they may find shelter. The economic gains which Panama derives from the treaties if properly used should tend to eliminate many of the causes of popular discontent and thereby contribute to greater political stability.

Also, the treaties facilitate the use of American military forces to reinforce the Panamanian constabulary in case the latter proves inadequate in a crisis involving the Canal. Whereas the operation of our forces are presently confined to the zone itself, after the effective date of the treaties and until the year 2000, we can move our forces anywhere in Panama as necessary to protect the Canal.

Even after 2000 and the departure of our forces from Panama, we shall have a parallel and independent responsibility with Panama to maintain a "regime of neutrality" which, to paraphrase the treaty, will assure a secure, peaceful and an expeditious transit for our vessels in peace and war, and an efficient operation of the canal under just, reasonable and equitable rules, regulations and tolls. As I understand these provisions, we shall have the right to make our own unilateral judgment on matters of compliance with these criteria of neutrality and may act independently if necessary to enforce them.

It is to be expected that members of the Organization of American States and other foreign nations will adhere to the objectives of the neutrality treaty and will agree to respect its provisions. Thereafter conflicts over the canal should cease to be a confrontation between an overbearing Uncle Sam, the Goliath of the affluent industrial world and tiny Panama, the David representing Latin America and the world have-not community. All of this is clearly in our national interest.

It may seem strange that in stressing the internal dangers to the canal, I have indicated no concern for a foreign attack as an overt act of war. Such an attack could hardly occur in isolation but rather as an episode in widespread hostilities. It would probably be made by bomber aircraft or by missiles launched from planes, ships or land bases. In such a case, the local defenses of the canal, whether as at present or as they might become under the treaties, would be of little value. Effective protection could be obtained only from offensive action by our Armed Forces against the sources of the attack far from Panama itself.

In supporting these treaties, I am aware of certain risks which their adoption may entail, some of which I have mentioned and others have been raised by opponents. After weighing the pros and cons I am convinced that the advantages of approval definitely outweigh the disadvantages. In taking this position, I am unmoved by the argument that we owe anything to Panama by way of reparations in compensation for past injustices. These treaties should be measured purely by their present and future impact on the interests of the United States and Panama as best we can evaluate that impact today. Fortunately, it appears to me that they are favorable to the interests of both countries—and of the western hemisphere as well.

TESTIMONY OF CANAL ZONE CITIZEN REPRESENTATIVES TO THE SENATE FOREIGN RELATIONS COMMITTEE, OCTOBER 10, 1977

We want to thank you for the opportunity to present testimony to your committee today in what we believe is a history-making process. Our panel consists of three people elected by the community to represent them on various townsite Civic Councils and of one officer of the Central Labor Union-Metal Trades Council of the Canal Zone. Mrs. Charlotte Kennedy is president of the Cristobal-Margarita-Brazos Heights Civic Council and Mrs. Patricia Fulton is president of the Pacific Civic Council. Mr. Harold Green is president of the Gamboa Civic Council, and Mr. Louis Fattorosi is vice president of the Canal Zone Federation of Teachers, American Federation of Teachers, Local 29, AFL-CIO, and is a delegate and trustee of the Central Labor Union-Metal Trades Council.

People in the Canal Zone and in the Republic of Panama have been listening to these hearings on Armed Forces Radio with a great deal of interest. Both groups of people have heard innumerable statements made about them by witnesses before this committee, some of whom have never been to the Canal Zone and some of whom have only spent one to three days in the Canal Zone. Ambassador Jorden made some assertions about how the people in the Canal Zone feel. We are convinced that the Hon-

orable Ambassador has no expertise in representing accurately what we feel as a people in the Canal Zone because his contacts are confined to the highest level of Canal Zone officialdom. Therefore, in our testimony today we would like to set the record straight on a number of issues. Our preparation for this presentation has been extensive, involving reading daily newspapers in Spanish and English, watching panel discussions of the treaty on Panamanian television, keeping in constant contact with Panamanian friends on the political climate in Panama, and in some cases supplying some Congressional committees with information which they did not receive through official channels. We have had formal and informal discussions with visiting Senators and Representatives. But we must make one observation: Presidents Carter and Ford, Henry Kissinger, and Sol Linowitz have never been to the Canal Zone, at least to our knowledge. Senator Hollings, who spoke very vehemently about what we are like in the Canal Zone, was only here for a very brief visit. He was entertained in Mrs. Fulton's home for approximately one hour where he spoke with a number of Canal Zone residents, before continuing on a very busy schedule of appointments. This, to our knowledge, was the extent of his contact with the average citizen in the Canal Zone. Ambassador Ellsworth Bunker met twice, once in 1973 and once in 1975, with Canal Zone civic and labor representatives. On both occasions he was equally close-mouthed and uninformative. He did promise to keep our best interests in mind and to keep us informed. We believe that he fulfilled neither promise.

We live with the Panama Canal 365 days a year. Our people know more about its operation and more about the characteristics of Panama and the Canal Zone than do President Carter, Cyrus Vance and the Joint Chiefs of Staff just by virture of our work and family residence. We welcome the suggestion made by the Honorable Senator Percy that your committee should visit the Canal Zone. But bear in mind that you will still not learn all you need to know in three days of frantic briefings, an airplane ride over the Canal, and a couple of official dinners. You will learn during your visit that the Canal Zone is not surrounded by a fence and that Panamanian citizens have free access into the Zone simply by crossing a street. You will also notice there are no checkpoints or customs guards to interfere with these crossings into the Canal Zone.

At this point we would like to respond to some statements made about the Panama Canal treaty issue in earlier testimony before this committee. It has been repeated many times that Panamanians as a people want this treaty, that they are unified behind General Torrijos, that they are exercising a desire for self-determination. That is a gross distortion of the actual situation in Panama. On October 4, 1977, at a public hearing which featured a debate between the Panamanian negotiators and a group of independent lawyers who oppose the treaty, the audience screamed down negotiator Carlos Lopez Guevara with cries of "The government has stolen our liberties," "We don't want this treaty," "The plebescite will be a fraud," and "You are a thief and a traitor."

On that same day the official car of Ambassador William Jorden was burned by a group of students when the car was parked on the university campus. One Panama City newspaper the next day published a photograph of the burning car with the caption "North American Provocation," saying in the cutline below that the students showed their rejection of the high official (Deputy Chief of Mission Raymond Gonzalez) present on the campus. Graffiti on walls all over the city of Panama City point to criticism of the present government's policies in phrases such as "Bases No," "Down With the Cost of Living," "Down with Law 95," (a law unfavorable to the laboring class); and "Bring Back the Exiles."

The opposition in Panama to the proposed treaty is also evidenced in numerous meetings being held by once-dormant political parties such as the Liberals, the Panamenistas (the party of the ousted President Arnulfo Arias), and the Christian Democrats. We say clearly that the Communists in Panama are NOT the only ones opposing this treaty. In fact there are some Communist groups actually supporting the government's efforts to achieve this new treaty. The people in the political groups and other groups not readily labeled know that their liberty to express themselves now is short-lived, that Carter must have put pressure on Torrijos to relax the restrictions on political activity. They are calling this short period of freedom of expression, "The spring of liberty of Jimmy Carter" because they know that it will end on October 24, the day after the plebescite.

Now what about the multitudes of Panamanians who live in the rest of the Republic, outside of the port cities of Panama and Colon? Many of them do not understand what the treaty means fully, particularly the 200,000 illiterates. The teachers, who are supposed to explain the treaty in their school classes, are not all in favor of the treaty. Panamanians are listening to these very hearings because they don't trust the superficial generalities they are hearing from their own government representatives. And would you believe that at the plebescite, each Panamanian must sign a form indicating that he has read and that he agrees with the treaty, the neutrality pact, the supporting agreements, the exchange of notes, and the maps. University students are on local television almost nightly, telling the population that 42 days from September 7th in which to prepare for the plebescite is a criminal amount of time.

The Panamanian newspapers have printed a number of references to the questioned legality of Torrijos' signing of the treaty, because the Panamanian Constitution states that the President of the Republic, who is Demetrio Basilio Lakas, is the one authorized to do so. The political parties are unanimous in agreeing that whatever government succeeds the failing Torrijos regime will repudiate the 1977 treaty, if it is ratified and put into force. Torrijos will one day become the Buneau-Varilla of 1977 because he is already being accused of selling his country.

In the light of all this, it is quite clear to us if it is not clear to our U.S. negotiators and to Secretary of State Cyrus Vance and to President Carter, that this treaty does NOT eliminate the sources of conflict between the U.S. and Panama. This treaty only multiplies and prolongs the causes. Students who are supporting the government position on the treaty have still pledged to keep fighting after ratification for the complete elimination of military bases and of U.S. military personnel in Panama.

To the thousands of Panamanians who are out of jobs, who cannot feed their families, pay the rent, buy shoes and school textbooks for the chidlren, this treaty will be little more than a piece of paper. Unemployment will be further increased because it is estimated that from 3,000 to 8,000 Panamanian employees will be displaced from jobs with the Panama Canal Company/Canal Zone Government. (We might insert here that the Treaty of 1955 had a devastating effect on the City of Colon, which lingers today. The Panama Canal Company gave up certain commercial functions, which caused the layoff of many Panamanian employees who were not hired by local merchants and business people because these merchants preferred to import products rather than to hire people to make them locally.) The proposed treaty does say that the Government of Panama will attempt to find jobs for Panamanian citizens no longer employed in the Canal operation, but reality says that there are no jobs available.

Some of these Panamanians tell us that they know what will happen: they will receive temporary employment in Panama, in order to comply with the treaty agreement, but they will be fired in three to six months. Many non-U.S. employees who live and work in the Canal Zone and who happen to have black skin know that they will be in a precarious position when the new treaty goes into force because discrimination against these people is widespread in Panamanian government and business jobs. These people, mostly of Antillean origin, whose grandparents came to help build the Canal, are a people without a country because the Panamanians have never really accepted them. They are sometimes referred to as "vendepatrias" or persons who sell their country. In short, they are regarded as traitors for allying themselves with the United States in their place of employment and place of residence.

Our friendships and daily conversations with Panamanians have also revealed some other surprising facts. The anti-American feeling in Panama is not always based on what you might think, on jealousy of our wealth, on resentment of our being present on the Isthmus. No, anti-American feeling is also based on the perception by many of the thinking people of Panama that the U.S. government is responsible for putting Omar Torrijos in power. They reason that the U.S. wanted an easy vehicle by which to finish negotiations for a treaty. It has been admitted by State Department officials that it is much easier and more efficient to deal with a dictator because our government only has to deal with one man, rather than with a body of elected representatives.

The Panamanian people know of the regular arms sales, of the supplies of guns and ammunitions which we provide to Panama both through gift and through military purchases, and they were outraged to learn about the armored personnel carriers and command cars that Torrijos bought from the U.S. earlier this year. Their only conclusion is that the U.S. helps Torrijos keep his people in line, and they wonder, they even ask us—why doesn't your government do something to get Torrijos out of power. If this treaty is ratified, they tell us, the U.S. will have conflict on two fronts: one, from the anti-U.S. students who will want the complete and immediate elimination of the military bases and the other from Panamanians who feel they were stabbed in the back by the U.S. Congress who confirmed Torrijos in power for who knows how many more years.

These same Panamanians also say that if some of their people die in reprisals by the government after the plebescite, as punishment for speaking out against the treaty and the Torrijos regime, then the United States will also be blamed for encouraging Torrijos. You may think all these perceptions are faulty, but they are very real, nevertheless, and we felt that we had to relay them to you because there was no one else to do it.

One of the frequent arguments put forth in favor of ratification is that Panama will react with extreme violence, perhaps guerrilla warfare, if this treaty is NOT ratified by the U.S. Congress. We KNOW what Panamanian violence is because we live in Panama. Let us explain what the typical pattern is: the participators are students because the working and professional classes have little interest in street violence or terrorism. The place is a broad, downtown street where newspaper photographers can make many pictures of banners, signs, and symbolic acts of protest. The time is a dry, sunny, weekday. The students do not riot on holidays or

weekends. The stereotypical notion of the guerrilla crawling through the jungle on his belly, ready to throw a grenade at the Canal locks, would not appeal to these students because it is no fun to work unseen, unnoticed by newspaper reporters. And besides, the three sets of Canal locks are NOT surrounded by jungle that would permit a terrorist to approach, do his work and leave undetected. The State Department has perpetrated a giant hoax on the American people, and unfortunately, some people, having little direct knowledge of the Canal's physical appearance or of its operation, bought the story.

The Carter Administration, through multiple newscasts, a brilliant extravaganza of a signing ceremony, and public relations efforts, includling paying the expenses of visiting Panamanian journalists who have lectured in the U.S., has put forth the idea that the proposed treaty is one on which the U.S. and Panama both agree. This is all at the taxpayers expense in an effort to "re-educate" them to the new, modern version of Canal history. Members of this Foreign Relations Committee have asked a number of questions regarding the Neutrality Pact, particularly as to whether the Panamanians interpreted the Pact in the same manner as we interpret it. We have evidence that such is not the case. Because the speeches of negotiator Romulo Escobar Betancourt have been mentioned frequently, we will not quote them at this time. But on September 30, 23 days *after* the signing of the Torrijos-Carter Treaty as it is called in Panama, negotiator Carlos Louez Guevara made these statements about neutrality and about "expeditious transit."

"From the Second World War, 'intervention' has disappeared as a right, as a practice. Intervention sometimes happens but it is never authorized. It is a question of force, of deeds, but you will never find it anymore in this treaty, this matter of intervention. The charter of the United Nations obliges Panama and the United States and 152 nations of the world; it excludes and condemns intervention. Then how can a functionary of the United States or any other country invoke this intervention. We can't return to past time."

And at another point in his address to a group of Panamanian citizens, he said

" 'Expeditious' does not mean 'priority' or 'preferential treatment' . . . I don't know where they got this interpretation, when the history of the negotiations reveals the idea was rejected. And why did Panama reject this idea of preferential treatment? Because it is a contradiction in terms. Article 4 and all this treaty is devoted to neutrality. Neutrality in all the definitions that I was able to find means 'equality,' 'balanced,' 'with no discrimination.' We can't talk about a regime of neutrality devoted to neutrality and at the same time talk about preferential treatment or discrimination."

The matter of "expeditious transit" only one of the ambiguous items in this treaty, which promises to give innumerable headaches to both governments after ratification. It seems to us, as ordinary voting citizens, that a treaty ought to represent what is agreed upon and what is clearly understood by both parties, not a matter for crossing one's fingers for good luck, hoping that things will turn out all right if a problem does occur at a later date. If more time is needed for further re-negotiation, for further amendments or understanding, isn't the seriousness of this matter worth such an investment? We have only one Canal, and it is a very strategic Canal. A new Canal treaty should be the best that we can negotiate rather than just the only one our negotiators have been able to come up with. We do not buy the line that both the Panamanian and American people should accept this treaty because "it is the only one in town."

A repeated phrase in the testimony of the Joint Chiefs of Staff and in other statements before this Committee has been "Use, not ownership, is what is important." As people who know the Canal intimately, we are convinced that for the good of the Canal itself, it *is* important who owns the Canal. Any new owner should be competent to handle the heavy responsibility of servicing world shipping. As representatives of those who keep this Canal operating 365 days a year and whose fates are being decided in the Halls of Congress, we pose one key question to the Senate of the United States: Do you wish the Panama Canal to continue functioning as well in the future as it has in the past? If you buy the testimony that says the Canal is obsolete, unneeded, and not really essential to the American national interest, then it doesn't matter what you do about the Canal. But if you believe, as we do, that it is in the interest of the United States that the Canal continues to operate on an around-the-clock basis, then you need to take into account some other factors.

The Panama Canal as an international waterway does not function by means of warm, good feelings or a high sense of ethics. As admirable as the motives may be for the writing of this new treaty, in search of a new relationship with Panama, in an attempt to strengthen relations with Latin America, the question remains, how does the Canal mechanism work? It works because people who know how pull the levers, open the locks gates, carefully maneuver the ships through the Canal and the locks of the Canal, keep the equipment maintained with regular overhauls and preventive maintenance, in some cases manufacturing replacements parts at the jobsite, and keeping the Canal channel dredged to the proper depth. We have only touched on a few of the jobs needed to put ships through from ocean to ocean on a daily basis. But those people are not robots.

Here is how they regard the treaty matter: They believe that they are being served up, in an unconstitutional manner, to a dictator, an act that we can find justified nowhere in the lawbooks on the Constitution of the United States. If treaties cannot supercede the U.S. Constitution, can our Constitutionally-guaranteed civil rights be superceded by this new Canal treaty? No matter how glowing the terms in which the change of sovereignty is described as "an adjustment to modern realities," and "the elimination of the last vestige of colonialism in the Western Hemisphere," we still understand that we are losing protection we once had. Put very bluntly, people can talk freely in the Canal Zone, can criticize President Carter without fear of being arrested by Canal Zone Police.

Such is not the case in Panama. The 6,000 Americans who live in Panama so peacefully as Ambassador Jorden and others have told you, do so by keeping their mouths shut on Panamanian political matters. We are not talking about Americans running for office in Panama; we are talking about the simple right to criticize a government's actions if he believes the actions are worthy of criticism. The new treaty muzzles Canal Commission employees by forbidding them to do anything against "the spirit of the treaty." We don't know what the spirit of the treaty is, nor who will interpret it for us, nor who will determine that the treaty spirit has been violated We will be prohibited from any sort of political activity, such as the March of Mourning we held on the Night of the Treaty Signing, and from committing crimes against the security of the Republic of Panama.

That last offense has a very broad interpretation in Panama. Merely associating with the wrong people can result in a person being snatched up and detained, incommunicado, and with possible subjection to mental and/or physical harassment. Given these conditions of the new treaty, an overwhelming majority of American employees will NOT stay to train Panamanian replacements; instead these U.S. employees will leave for the United States, most likely during the six months between the exchange of instruments of ratification and the entering into force of the new treaty.

Americans who were born in the Canal Zone, often called dual nationals, are considered to be Panamanians by the Government of Panama. The U.S. passports of these people state that when the bearer is in the country of his dual nationality, he is to follow the laws of that country. So these dual nationals fear greatly that they will be trapped in Panama and not be permitted to leave. We know the treaty says that this group of people will be regarded by the United States as U.S. citizens. But that means nothing to a Panamanian government or police official who might wish to block that person's exit from the country. These people need more positive protection because as the treaty is now written, they are still in a precarious position.

In summary, as to the problem of employee exodus, we can only state that if the Congress firmly believes that this treaty in its present form is desirable and worthy of ratification, then the Congress should consider recruiting a work force for the Canal until sufficient Panamanians can be trained to do all the highly skilled jobs in the Canal operation. Some Americans now employed in the Canal Zone may remain because they are so close to retirement, but the sentiment most often expressed to us by U.S. and non-U.S. residents in the Zone is a desire to leave the area as soon as possible after the treaty is ratified. You might ask Congressman Ralph Metcalfe of Illinois, chairman of the House Subcommittee on the Panama Canal, how many times that he has been asked by civic representatives of non-U.S. citizens in the Zone to help their people to obtain immigration rights to the United States.

The Senate may ratify this treaty and feel a warm, rosy glow of international good will, but the people who operate the Canal will find life intolerable under the new situation. Right now, even before ratification, the judicial process is suffering greatly in the Canal Zone. Until last spring, the Canal Zone always had a permanent judge to preside over our District Court. When Judge Guthrie Crowe retired, the Carter Administration blocked the search for a replacement because they anticipated the ratification of a treaty which would eliminate the Court. Therefore, our court system has gone for weeks at a time without a judge, and now we are making do with substitute judges for a week at a time. We believe that it is unfair to subject us to this before a new treaty goes into effect, because until the new treaty abrogates the old one, the Constitution still protects us. Perhaps you can help us in getting a judge appointed to take care of our civil and criminal court cases.

You may have noticed that the new proposed treaty refers to liberal retirement for employees. The phrase "priority transfer" has also been tossed about as a possible benefit for present Canal Company employees. But in actuality, the treaty indicates only that the Administration will seek implementing legislation to make these benefits possible. That legislation may never materialize or it may be far from helpful to our people. So in essence, our constituents feel that they will have human rights and civil rights taken away, with only a "maybe" promised to them for transfer to U.S. government service elsewhere. State Department officials giving testimony here have been proud of the treaty's provision for "procedural guarantees" for the U.S. citizen employees of the new Canal Commission.

If you are familiar with the whimsical, arbitrary manner of law enforcement in Panama, you know that an arresting Guardia is not at all worried about an agreement on

paper. The person he is arresting is completely at his mercy, with no guarantee of good or bad treatment. The Guardia patrolman on the scene may extort a "fine" from his detainee, he may beat him up, he may ignore the request to contact a lawyer. In the National Guard Police Headquarters, the phrase "procedural guarantees" will be nothing more than that for American citizens—a phrase in a treaty.

Ambassador Jorden has said that the Canal Zone people do not feel that they have been sold down the river. Let's examine that statement for a moment. When Americans were recruited by the Company/Government, there was a clear understanding that the employment was up to American standards just as in any of the 50 States. The employee would get rental housing which was adequate by U.S. standards. He was guaranteed levels of public services, health and hospital care, schools, fire protection, U.S. policemen who spoke his language, the right to trial before a judge appointed by his own government, and the benefits of the protections of the U.S. Constitution. The U.S. employee was guaranteed the right to peaceful protest, to free speech and press, to worship as he chose, to meet with his neighbors in free association for their mutual benefit and all of the other basic freedoms.

Even if it was never written down in those words, long usage and custom made these rights a Contract between Employer and Employee. Where are these rights guaranteed under this new treaty? In addition to violating the constitutional rights of both the U.S. and non-U.S. employees in the Canal Zone, this is a clear breach of contract and we believe the courts of the United States will see it in that way. Given this explanation, we find it difficult to understand the accuracy of Ambassador Jorden's statement.

Although we do not claim to be economic experts, we would like to make some simple observations on the financial aspects of the treaty. U.S. taxpayer money will be used, contrary to previous testimony, to finance the changeover of the Canal Zone schools personnel and the hospital personnel to the Department of Defense and for their salaries as well. The U.S. Government will also pay into the Panamanian Social Security System on behalf on non-U.S. employees of the Canal Commission. A $10 million down payment will be made on behalf of the military sales loan to Panama, a loan which will not have to be paid back for a number of years.

The treaty permits the cancellation of a number of sizable loans made to Panama in the past, an act which gets Torrijos off the financial hook and which cheats the U.S. Treasury of money owed to it. We can foresee the possibility that the loans made under the new treaty could also be cancelled at some point in the future when Panama gets into another financial bind. Please explain to us the economic wisdom of turning over U.S.-financed and constructed housing in the Canal Zone, free of charge to the Panamanian Government who will in turn sell or rent it to Panamanians.

In the housing area of New Cristobal, now part of Colon, homes were sold to Panama for $1 each and resold by the Panamanian Government at about $10,000 each. Panamanians now living in these Canal Zone homes, having paid rent for a number of years, have made the reasonable request to be able to buy the houses before the treaty goes into effect, believing that the U.S. Government would ask a much fairer, more reasonable price.

This Committee has heard testimony to the effect that the expenses of the Commission and the payments to the Government of Panama will be made out of Canal revenues. If this is true, a tolls increase of anywhere up to 40% will be needed at the outset, with subsequent increases in later years as the payments to Panama also increase. One experienced shipping agent in the Canal Zone, a man not employed by the Company/Government, has stated that when the tolls increase by 40%, some shippers will stop using the Panama Canal. His own personal advice was that if the U.S. wants to insure that the Canal will always be open to all shipping, it is in the best interests of the U.S. to continue controlling the Canal.

Perceptive Panamanian Government begins receiving additional revenue from the Canal Commission as well as benefits from U.S. loans. As these Panamanians see it, the U.S. banks to whom Torrijos is so deeply in debt will get their money back and the Torrijos family will be further enriched, along with other high-ranking officers in the Guardia Nacional. Why do Panamanians believe this? Because they notice that Torrijos, once a poor boy from the Province of Veraguas, is now a very rich man with two villas in Spain and the money to travel all over the world. Meanwhile, the poor people he came to save are still just that, with little hope of any future change.

The new roads, schools, and clinics that impress visiting A.I.D. officials and Congressmen do little to provide weekly paychecks to campesinos that will allow them to feed their families adequately, buy clothing and school supplies. Panamanians grown cynical over Torrijos' enrichment have rephrased two of his slogans. "Todo Por La Patria" or "Everything for the Country" has been changed to "Todo Por La Plata", or "Everything for Money." and Torrijos' benevolent statement of "What I want for my sons I want for all of Panama," has been changed to "What I want for my sons I take from my people."

In listening to past sessions of these hearings, we have observed some difficulty on the part of Senators in trying to define the nature of Communism in Panama and whether such a phenomenon exists. Our source of information is Panamanian, not North American. Panamanians know who the Communists in their midst are, and these Communists will not be identified by a membership card in the wallet or a hammer and sickle badge on the sleeve. Four members of the Panamanian negotiating team: Gerardo Gonzalez, the Panamanian Vice President; Romulo Escobar Betancourt, chief negotiator; Adolfo Ahumada, the minister of labor; and Aristides Royo, the minister of education, are all identified by Panamanians as having Communist affiliations, sympathies, or connections. Vice President Gonzalez has been a courier for the Communist Party and Chief Negotiator Escobar Betancourt controls the national communications media as head of the Information Commission. The other key Communists in the government include Marcelino Jaen, Torrijos' brother-in-law and head of the Legislative Commission which writes all the laws in Panama; and Colonel Roberto Diaz Herrera, cousin of Torrijos and Secretary of the Estado Mayor of the Guardia Nacional. Col. Diaz Herrera helped set up a Communist-controlled Guardia training school at the Rio Hato air base. The Panamanian Government has set up an agency known by the acronym DIGEDECOM, short for Direccion General de Desarollo Communidad. This agency holds indoctrination programs, with ample anti-American propaganda included, for teachers, government employees, students, labor groups, campesinos. The agency also aids in the celebration of Fidel Castro's July 26 anniversary, the May 1 Labor Day, and the October 11 Anniversary of the Revolution.

Some more obvious examples of ties and sympathies with Communist powers such as Cuba and Russia, include the following:

1. Russian planes, seen by U.S. and Panamanian eyewitnesses alike, on the ground at the Rio Hato airstrip. These planes do more than bring Torrijos his custom-made cigars from Fidel Castro. These planes come in low over the coastal water, so as to avoid radar detection.

2. Every 6 months a fresh group of Panamanian students leave Panama to go to study in Cuba. These students are given top priority in the Panamanian visa office. The cumulative effect on the young people of Panama, who will someday be the national leaders, is not hard to imagine.

3. Panamanian students go to Russia for study in five-year tours. A young person who returns after five solid years of the Communist Party line at a Russian university is bound to be affected in his beliefs about capitalism vs. communism.

4. Panama has requested Cuban advisers to come to Panama to teach the Government how to set up neighborhood committees to facilitate the government's control of the people on a local level.

5. Russians are making plans now to build structures in the Colon Free Zone for the sale of Russian-made products. In the works also are plans for sale of sugar by Panama to Russia, construction by Russia of a hydroelectric plant, the opening of a Russian bank in Panama, and the establishment of official diplomatic relations.

To those who say that Panama has the right to have relations with any country that it pleases, we agree. But we are contemplating the turnover of a very valuable Canal in a very strategic geographical location to a country that does not have the military power or will to defeat the possible invasion of a third power. The Russians or the Cubans would not have to invade, however; they would simply enter as friends of Panama. And after having witnessed several incidents recently in which our American flag was burned or torn down and desecrated, to which our U.S. Embassy only responded with diplomatic protests on paper, and little else, we are cynical about the possibility of the U.S. coming back to Panama after the year 2000 to take the Canal away from Russia or Cuba. We noticed with some chagrin that Ambassador Jorden seemed more incensed over the loss of his official limousine that was burned by Panamanian students recently than he was when the American flag was torn down last June 6 at Shaler Plaza. At that time, the State Department sent a thank-you note to the Guardia Nacional for returning the flag to the Canal Zone Police.

As we conclude this presentation, we note that a number of witnesses and members of the Committee itself have seemed to express confidence in Panama's good faith in abiding the terms of the new treaty as they have abided by the terms of the 1903 treaty and other agreements with the United States. To set the record straight, let us point out that Guardia kidnappings of U.S. military personnel, of civilian employees and dependents from the Canal Zone, that Guardia harassment of Canal Zone residents passing through Tocumen Airport, and the Guardia-led student incursions into the Canal Zone all come under the classification of treaty violations.

All that the U.S. Government has done is to protest; our Canal Zone Police are given no firm authority to stop such incursions. Instead, they are sometimes even consulted by the Guardia ahead of time with the idea of cooperating in the control of the crowd. What we know by experience of living in the Panama area is that the Panamanian Government is not made up of good Boy Scouts who always keep their words.

Once the Torrijos regime has the treaty they want, a treaty that surrenders the sovereignty which gives us the legal right to be there, then the Revolutionary Government of Panama has a wide range of possible alternatives. These range from continued harassment for a larger and larger slice of the cake all the way up to complete nation-

alization of the Canal. If 100,000 troops are needed to defend the Canal, with the implication that the present military force in the Zone is not adequate, then why do we have bases there at all? And if we can't defend the Canal from within the Zone, then can we really defend the Canal more adequately when our military is totally removed from Panama?

Witnesses before this Committee have glibly stated that the United States is not now sovereign in the Canal Zone. For the record, we would like to point to some documents which do not support that statement. The State Department only quotes half the sentence from the treaty about "rights as if sovereign." We would like to finish the sentence: "To the entire exclusion of the exercise by the Republic of Panama of any such sovereign rights, power, or authority." A legal brief prepared in 1959 by the Office of the Canal Zone Governor on the subject of sovereignty over the Canal Zone states that the U.S. has the exclusive exercise of sovereign rights, power and authority in the Canal Zone and that the Republic of Panama has no right to the exercise of sovereignty, rights, power or authority in the Canal Zone. We point also to the 1904 Provisional Boundary Agreement which refers in four places to "territory ceded to the United States" by the Republic of Panama.

A 1914 treaty between Colombia and the United States recognizes the title to the Canal Zone as being "vested entirely and absolutely in the United States of America, without any encumbrances or indemnities whatever." To clarify the statement that no Panamanian ever signed the 1903 treaty, we point out that each member of the Panama Provisional Government Cabinet signed the treaty and ratified it.

The 1903 treaty has been revised on a number of occasions—only 8 of the 25 original clauses remain—all others have been eliminated. After each revision, the U.S. was assured that the just aspirations of the Panamanians had been met.

As a note on more modern history, we would like to comment on the 1964 riots which have become a cliche in themselves in the discussion of need for a new treaty. The State Department Bulletin of February 24, 1964, carried this statement by a government official, referring to the 1964 riots:

"If an investigation is made, it will show that violent mobs, infiltrated and led by extremists, including persons trained in Communist countries for political action of the kind that took place, assaulted the zone on a wide perimeter, setting fire to buildings inside the Zone and attacking with incendiary bombs . . . it will show that the government of Panama, instead of attempting to restore order, was, through a controlled press, television and radio, inciting the people to attack and to violence."

The writer was the U.S. Representative to the Organization of American States, the Honorable Ellsworth Bunker. May we add that a sizable number of the Panamanian martyrs who perished so valiantly for their country were actually looters shot by night watchmen at stores being looted or who burned in the Pan American Building in a stalled elevator, holding the loot in their arms.

For the record, we must clarify a statement coming out of the AFL–CIO National Headquarters that Canal Zone labor groups support the treaty. The truth is that the Central Labor Union-Metal Trades Council, representing 11 unions, has been on record and is on record in opposition to any relinquishment of U.S. control of the Panama Canal. Labor and civic groups alike are deeply concerned about the content and the implications of this present treaty negotiated with Omar Torrijos. We are smelling the odors of Watergate when an investigation into possible electronic surveillance of Panamanian negotiators is politely hushed up at the request of Attorney General Griffin Bell, who felt the investigation was "too broad." We know where Mr. Brustmeyer is and we think that he should be heard.

In our testimony we have tried to be frank and open, giving facts and details that have been quietly hushed up or ignored by the State Department. We want you to be as well informed as possible when you decide to ratify or not to ratify the proposed treaty. But we are also conscious that we may pay a price for our bluntness. We are not allowed use of the military airport in the Canal Zone because we are not employed by the military, so we must return to the Canal Zone through Panama's Tocumen Airport. If Panamanian officials, having heard of our testimony, decide to detain us, as they have done to others, you will at least have been informed of the possibility. The reign of fear and terror in Panama has gone far enough. We had to speak out on behalf of the many silent Panamanians who will never have the opportunity to speak this openly.

We are submitting with our statement a collection of material documenting human rights violations in Panama and highlighting some other information on Panama that we believe might be helpful in your investigation into the treaty issue. At this time we will be glad to respond to any questions you might have.

Mrs. PATRICIA FULTON,
President, Pacific Civic Council.
Mrs. CHARLOTTE KENNEDY,
President, Cristobal, Margarita-Brazos Heights Civic Council.
Mr. HAROLD GREEN,
President, Gamboa Civic Council.
Mr. LOUIS FATTEROSI,
Vice President, Canal Zone Federation of Teachers.

S. 1871—THE MINIMUM WAGE BILL

Mr. PERCY. Mr. President, I would like to take this opportunity to comment on several aspects of the minimum wage legislation which has just passed the Senate.

The strong differences of opinion among my constituents on the controversial issues this bill addressed made my own consideration of this legislation a highly educational experience. Illinois business and labor leaders both contributed extensively to my thinking on indexing, the youth subminimum, the tip credit and other important elements of this measure, and I am grateful for the time that representatives of the Illinois business and labor communities have been willing to spend with me and my staff since January of this year to go over the more salient features of the bill. Both groups have demonstrated to me a willingness to discuss the substance of these issues and to avoid the emotionalism that so often accompanies consideration of this kind of legislation. This has been especially helpful to me. Bitterness and emotionalism have no place in the legislative process.

I have always supported reasonable increases in the minimum wage level and I intend to do so again whenever it is necessary. I was deeply disturbed, however, when I learned about some features of this legislation when it was originally proposed. Not only would it have provided for an increase in the minimum wage but it also called for a change in the method by which future increases would be determined, a proposal which I felt was damaging to both the average worker, particularly the skilled worker, and the economy as a whole.

As originally proposed and as reported by the Committee on Human Resources, S. 1871 stipulated that increases in the minimum wage be calculated as a percentage of the average hourly rate—(originally proposed at a 60 percent level, later reduced to 55 percent and then 52 percent—being paid to American manufacturing workers at any given time. It is understandable that some workers would initially find this attractive and it is understandable why such a method would be perceived to give some assurance that minimum-wage-level workers would receive increases at reasonable intervals without having to cope with the effects of conflicting political pressures on the Congress.

The first minimum wage was based on the need to establish a floor for wages for the undereducated and the unskilled and I believe this premise is still valid. My fear was that by indexing, we would frustrate this original purpose of establishing a floor by putting a ceiling on wages instead. Under an indexing system, I feel there would have been stronger resistance on the part of management to agree to wage increases for production workers at all levels simply because they would know it would precipitate a broad ranging series of increases throughout the economy.

I find it hard to believe that a person at the bottom of the employment ladder, unskilled and undereducated, is actually worth—in terms of productivity—60 percent, 55 percent, 53 percent, or even 52 percent, as has been suggested—of the average wage paid to all American factory workers, which includes in its scale such highly skilled workers as tool and die makers, automatic screw machine operators, punch press operators, quality control and inspection personnel, and skilled assemblers.

In our market-oriented economy, there has to be a logical relationship between pay received and value of output. Indexing one person's pay as a percentage of someone else's with entirely different, in fact with inferior skills and abilities, is arbitrary, even irrational. The one to be most hurt by such a system is the most highly skilled worker.

In addition, I felt that the inflationary effect of such indexing would impose a penalty on all of us—but especially the low-income worker and the elderly living on a fixed income—in the form of higher living costs. Recent Department of Labor statistics indicate that the level of increases in the hourly wages in the country have begun to outdistance the increases in productivity so much that the rate of increase in unit labor costs is beginning to be a cause for concern: If these fears are well founded—and I believe they are—then unit labor costs could once again accelerate to a rate that could lead to rapid inflation, reduced purchasing power and recession. Certainly, this situation is something all of us know we do not want to live through again.

Viewed from a broader perspective, I have reservations about writing an in-

dexing provision into law that is diametrically opposed to and inconsistent with the U.S. position in international negotiations against indexing. We have opposed the demands of developing countries to index the prices of the commodities and minerals they produce and export in relation to the prices of the goods they import from us. We particularly opposed—and I spoke on behalf of the United States as a delegate to the U.N. in 1974 against the proposal by the OPEC countries to index the price of their oil exports to the price of the industrial goods they import. We cannot in good faith tell the rest of the world that indexing commodity prices is no good, and then turn around and index wages for the American worker.

The Federal Government has adopted very few indexing proposals, and even then with great deliberation. Increases in the social security retirement benefits are indexed to the cost of living. This was done specifically for the elderly who frequently have nowhere else to turn and for whom it is often too late in life to be looking for new sources of income. Such increases have no effect on the salaries of the average worker. Federal employee salaries also are indexed, to a certain degree, but they are adjusted to be comparable to salaries in the private sector—again they react to private sector salaries but have no effect on them nationwide.

The type of indexing proposed in the minimum wage bill was entirely different. Rather than preserving purchasing power in "real" economic terms, such indexing were contributed to a continued inflationary spiral by practically guaranteeing wage and price increases. Experience in observing developing countries who have tried a variety of indexing proposals shows us that it is always difficult, if not impossible to discontinue these relationships when deflationary policy becomes necessary.

For all of these reasons, Mr. President, I was pleased to join with the managers of the bill in their successful effort to strike the indexing provisions of the bill and substitute a gradual increase in the minimum wage level, retaining for the Congress the responsibiilty of periodically reviewing the level within the context of prevailing economic conditions.

With regard to the "tip credit," I voted for an amendment to retain existing law, which provides that, when an employee works in an occupation where tips are regularly and customarily received, part of those tips may be counted toward payment of the minimum wage, but not more than 50 percent of the minimum wage. The question of changing the "tip credit" provision has been considered by Congress before and, in 1972, I sponsored an amendment to strike provisions of the pending bill which would have altered the 50 percent credit. Conditions in the restaurant industry at that time convinced me that the existing level was fair and reasonable given the unique nature of the industries affected by the credit provision, particularly the restaurant industry. Subsequently, safeguards were built in by Congress when it provided that tipped employees can never earn less than the minimum wage.

In the intervening years, circumstances have not warranted a change in existing law. In addition to the guarantee of at least the minimum wage, facts support the belief that the average tipped employee, in fact, earns well over the minimum. According to figures provided by the National Restaurant Association, the average wage as of January 1977 for nonsupervisory employees in eating and drinking establishments was $2.86 per hour, in excess of both the current minimum wage of $2.30 and the anticipated level of $2.65 for next year. For both of these reasons, I think Congress should have left well enough alone and retained current law. Unfortunately, this position did not prevail and an amendment was adopted to phase the tip credit down to 30 percent, instead of the 20 percent provided in the committee bill, by 1981.

It was difficult for many of us to arrive at a correct decision on the question of the subminimum wage for youth, the so-called "youth differential." Arguments presented by both sides were strong and compelling, and I had voted against such proposals in the past.

However, the youth unemployment problem in this country has reached crisis proportions. Latest figures just released, indicate that 18.5 percent of our young people seeking jobs are unable to find work—this is more than double the unemployment rate for adults. Unemployment among minority youth, particularly those in the central cities, is even worse, with rates consistently above 40 percent in my own Illinois cities of Chicago and East St. Louis. These astounding high rates of unemployment all over the country among our youth contribute to increased pressure on welfare rolls, crime, and loss of dignity and self-respect among those who are otherwise willing and strongly desire to hold jobs.

The time to begin a coordinated effort against youth unemployment is long gone. I was pleased, however, that we were finally able to enact a comprehensive youth employment and training program earlier this year to concentrate Federal efforts in this critical area. The measure was developed to implement a variety of approaches in combatting structural youth unemployment and will focus on low skills, school drop-out rates and lack of job information and support services. As a new part of the existing CETA program, youth employment and training pilot projects should serve as a vehicle of hope and opportunity for unemployed youth now, and as a catalyst for the development and implementation of other workable ideas in the future.

I feel that now is the perfect time for the Federal Government to join hands with private industry to fight youth unemployment. The alarming levels of youth unemployment show no signs of abatement. What is needed is a concerted effort by the public and private sectors to strike at the heart of this unemployment problem by providing greater employment opportunities.

I believe that a properly structured youth subminimum wage can be an important vehicle for bringing business into this battle and I voted for the amendment providing an 85 percent youth minimum wage for the first 6 months of employment with other protective features to avoid abuse. I regret very much that it was defeated. I felt that, by allowing a subminimum wage for a specified "training" period of 6 months, it could have made the difference between employment and unemployment for a very large number of young people who would otherwise have not been hired at the higher wage level. I was also satisfied that the genuine commitment I have discovered among employers to solving this unemployment problem as well as the penalties and safeguards built in to the amendment by its author would have served as adequate incentives for observing both the letter and the spirit of the law, in this regard, had it been adopted.

During Senate consideration of the youth differential proposals, I suggested to several of my colleagues the idea of a "sunset" provision, that is, providing a limit to the time during which congressional authorization for a youth subminimum wage would be in effect in order that it might run perhaps concurrently with the 3-year Federal youth unemployment program and be reviewed for its effectiveness along with that program at the end of 3 years. The general sentiment I perceive among those who, like myself, supported the Domenici amendment was that if this Federal program does not show signs of working after the first year, we would be back again with a youth differential proposal to supplement Federal efforts.

While efforts to adopt a youth subminimum were unsuccessful, we did succeed in expanding somewhat the exemption in existing law for the employment of full-time students at a subminimum wage. Proposals to ease the paperwork requirements for employers seeking to use the exemption were also successful.

According to the Department of Labor, for 1976–77 there were 850,000 business establishments qualified to take advantage of this student exemption, but only 19,000 businesses did so. The Department of Labor also informs me that the 400,000 retail establishments covered by the Fair Labor Standards Act could have employed a number of students at 85 percent of the minimum wage, yet only 12,200 retail establishments reported making use of this opportunity.

Quite frankly, I am surprised at the low rate at which businesses have been using the exemption and because I am convinced of their genuine concern for the problem of youth unemployment, I can only surmise that many businesses are unaware of this option or think that the paperwork requirement is too onerous.

At the moment, all an employer need

do to employ up to four full-time students at the subminimum wage is to provide five items of information on an application available from the Department of Labor and mail it. The ability to use the exemption becomes effective upon mailing the application to the Department of Labor.

Mr. President, I am asking the Department to use its good offices to inform businessmen of this option, and I certainly will do all I can to spread the word in Illinois. I believe that increased awareness of the student exemption, coupled with even simpler paperwork for business can open up more employment opportunities for low-income students—for whom it is so important to finish school—who will benefit from both learning skills on the job and perhaps being able to supplement the family income while staying in school.

Finally, I supported an increase in the present small business exemption from the minimum wage requirements of the Fair Labor Standards Act. The current $250,000 sale test level has been eroded by inflation and it makes sense to adjust this figure in order to avoid the loss of existing employment opportunities in small businesses. A compromise was reached and the sales level for the exemption will be increased to at least $325,000 as of 1980. It is possible that an even higher level will be agreed to in conference with the House of Representatives.

In conclusion, Mr. President, I would like to share with my colleagues an interesting article which I hope will serve to put some of the controversies surrounding this legislation into a reasonable perspective. It is entitled "Minimizing the Minimum Wage" and was published by the Business and Economic Research Division of the First National Bank of Chicago in its First Chicago World Report for October 1977. I ask unanimous consent that the text of the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

MINIMIZING THE MINIMUM WAGE

(NOTE.—Every few years, the U.S. goes through the ritual of adjusting minimum wage laws. And just as regularly, the business and labor communities engage in exaggerated discussions about either the dire consequences or marvelous benefits that can be expected as a result. In fact, increases in the minimum wage have typically been quite modest, compared with increases in other wages or prices, and the effects have been fairly innocuous.)

To judge by the hyperbole surrounding minimum wage legislation, one might suppose that the fate of the Republic would be decided by a change of a few cents in one direction or another. A prominent business economist claims that an increased minimum wage would add two million to the ranks of the unemployed and 3 percent to consumer prices A labor leader suggests that failure to increase the minimum wage would swell the welfare rolls. Someone else tells us that a higher minimum wage would boost consumer purchasing power, and thus increase employment.

Consider the simple idea that higher minimum wage rates must mean higher wage rates in general, and therefore more inflation. Evidence does not support this contention that overall wage rates rise any faster than they otherwise would in years that the minimum wage is increased. Nor is there logic to show why employers would (or how they could) raise everyone's pay just because the minimum wage was increased. Moreover, the complaint that an increase in the minimum wage will increase total wages paid ("labor costs") is somewhat inconsistent with the simultaneous claim that many fewer workers will actually get those higher wage rates.

Finally, although prices might ultimately have to rise in a few industries in which low-wage workers are an important part of costs, such a relative price increase is not inflation. If people pay more for hamburgers, they will have a little less money left with which to buy other things—total demand and overall inflation remain unaffected.

Arguments about the employment effects of a minimum wage rate have likewise been exaggerated. The minimum wage could not cause much unemployment for the simple reason that very few workers are affected by the law and increases have been small and infrequent. On the other side, however, the argument that a higher minimum wage increases consumer purchasing power depends on the questionable assumptions that an increase in wages per hour is not offset by a reduction in hours of work offered, and that the income gain of those who receive the higher wages is not offset by the income loss of the consumers who ultimately pay the higher wage.

At the present time, a little over three million workers (out of more than 90 million) are directly affected by the minimum wage. Nearly half of all employees were not even covered by the federal minimum wage law before 1961—40% until 1966, and 20% since—so that the effect of the law on total employment was even smaller in the past than it is today.

The portion of the work force that might possibly experience adverse employment effects from a higher minimum wage is tiny in comparison with cyclical causes of variations in employment.

A legislated increase in the wage floor would ultimately have to be recovered in higher prices in the few affected low-wage industries. Hamburgers in fast food franchises, for example, would be a bit more costly. If that resulted in fewer hamburgers being sold, then job opportunities in that business would grow less rapidly.

The size of such employment effects, however, remains unclear. If minimum wages are little higher than what would naturally result from employers bidding for labor, then there would be little employment effect. If there was little effect in one year, then a subsequent increase in the minimum wage that just kept pace with the rise in the affected prices would still have no appreciable effects.

Estimated effects of the minimum wage on teenage unemployment have not adequately accounted for the enormous growth in the number of teenagers that the civilian job market has had to absorb. The population aged 16–19 soared from 9.2 million to 17 million in the past two decades, and the shrinkage of the armed forces since the Vietnam era has reduced a major source of teenage employment. Still, the leading studies only attribute 13% to 17% of teenage unemployment to the largest past increases in the minimum wage.

To keep things in perspective, it is important to recognize the high turnover of teenage employment. In June, for example, 69 percent of the teenage unemployed had been out of work less than five weeks.

There has nonetheless been substantial support for a lower minimum wage rate for teenagers. Under such a system, an employer would naturally choose a 19-year-old over someone who is 20 and equally unskilled. Bending the law to aid teenagers at the expense of adults might create more problems than it would solve.

On the other hand, the fact that the minimum wage mainly affects teenagers undercuts the argument that it is an effective tool against poverty, since teenage workers are rarely family heads and are not necessarily from poor families.

Many of the discussions of an increase in the minimum wage lost sight of a simple fact: those currently working at the minimum wage rate would get a raise in pay. Since such people far outnumber the most extreme estimates of the number who might find it harder to find work at the higher wage, they deserve some consideration in a balanced assessment of the net effect.

TRIBUTE TO ERNEST GRUENING

Mr. HATFIELD. Mr. President, earlier this month, I had the pleasure of attending the unveiling of Senator Ernest Gruening's statue in the rotunda. It was a moving ceremony for me, and I would like to join again with my colleagues in paying tribute to Senator Gruening. It was truly an honor to have been associated with him in the U.S. Senate. I feel, as do my colleagues, that the passing of this man of enormous integrity and ability is a great loss to all of us.

It is easy for eulogies to become overly sentimental and maudlin in describing such an outstanding man. During the presentation of the statue, however, Senator GAYLORD NELSON delivered some remarks which I felt were highly appropriate. His factual, warm, and personable comments represented an accurate reflection of the man being honored. I believe these remarks were a fitting tribute, much like the lifelike statue that serves as a living memorial to him.

Mr. President, I ask unanimous consent that the text of Senator NELSON's remarks be printed in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

SENATOR GAYLORD NELSON'S REMARKS AT THE UNVEILING AND PRESENTATION OF SENATOR ERNEST GRUENING'S STATUE

Fifty-three years ago, Bob LaFollette won more than 16 percent of the vote as a third-party presidential candidate. He relied heavily on the counsel of his brilliant 37-year-old director of national publicity, Ernest Gruening. I am sure Bob LaFollette would be pleased to see the statue of Ernest Gruening standing today in Statuary Hall where Wisconsin's statue of LaFollette also stands. Alaska loved Senator Gruening as Wisconsin loved Senator LaFollette. The courage, integrity and conviction of both men have been an inspiration for all who knew them and what they stood for.

On March 7, 1974, three and a half months before the death of Senator Ernest Gruening, I joined with four of my colleagues in a tribute to our friend. We wrote a letter placing his name in nomination for the Nobel Peace Prize. I would like to, if I may, read part of that letter to you today:

"Senator Gruening's leadership in the quest for peace spans many issues and several generations. It goes back as far as the magazine and newspaper editorials he wrote as a journalist against the 'gunboat diplo-

macy' of the 1920's, and against the interventions in Haiti, the Dominican Republic and Nicaragua. It is as current as the efforts he continues now, in his 87th year, against steps which would heighten the danger of more serious confrontation in Indochina. He is a man of energy, of integrity, and of absolute dedication to justice and to the cause of peace. He fights tirelessly for what he believes—and we have learned that what he believes is usually right."

Senator Gruening's death in 1974 caught us all off guard because, though he was 87, he was a young man—He was youthful in his thoughts and vigor and, though it seems hardly possible, his age seemed to enhance his enthusiasms rather than diminish them.

As a young man, Ernest Gruening enrolled in the Harvard medical school, planning to follow in his father's footsteps as a doctor. But his broad interests, and his realization that the afflictions of men and women were more than just physical, carried him beyond medicine. While still in medical school, he took a newspaper job for $15 a week. He would later serve as a newspaper and magazine editor, foreign correspondent, author, historian, diplomat, territorial governor and lobbyist for Alaskan statehood, and finally United States senator and statesman. Senator Humphrey once described him as the 20th century Ben Franklin.

In the Senate, Ernest Gruening was a man whose views commanded respect, even though he often espoused an unpopular sentiment. In March 1964—five months before the Gulf of Tonkin Resolution was brought before the Senate—he made the first major Senate speech calling for the United States to get out of Vietnam. In it, he decried the loss of American lives in seeking vainly, he said, "to shore up self-serving corrupt dynasts or their self-imposed successors". On that day, he spoke with passion, with outrage, with sadness, and with great foresight. "I consider," Senator Gruening said, "the life of one American boy worth more than this putrid mess. I consider every additional life that is sacrificed in this forlorn venture a tragedy. Some day—not distant—if this sacrificing continues, it will be denounced as a crime." Few listened or understood when Senator Gruening made that prophesy. But he never gave up. He pleaded the case against our Vietnam involvement on the Senate floor, in the cloakroom, in offices, and in the great public forum. After many years, far too many years, his views took hold. This country's attitude, and its policy, changed.

Those concerned with world over-population and all the problems that accompany it also owe a special debt to Senator Gruening. Early this century, young Ernest Gruening realized that population control was an essential step toward higher health standards and the elimination of poverty and, eventually, toward a more civilized and peaceful world. He was an advocate of birth control in the 1920's, when such a position was virtually unheard of. His warnings, as his warnings on the dangers of our involvement in Vietnam 40 years later, were greeted with indifference or hostility. After he was elected to the Senate, he continued his crusade, still virtually alone. It was primarily Senator Gruening's efforts that were responsible for the creation of the Office of Population Affairs within the Department of Health, Education and Welfare; and for the appropriation of $175 million in 1963 for a pioneer program to foster birth control efforts abroad.

But to the people of his beloved Alaska, Ernest Gruening will always be their "Father of Statehood". It was a cause he championed as territorial governor, and in the mid-1950's as the territory's elected but unofficial senator-lobbyist in Washington. In 1958, his efforts were rewarded when Congress voted to make Alaska the 49th state. Later that year, he went on to win election as one of Alaska's United States Senators. As the people of Alaska know, he carried on in the Senate the fight on their behalf against those who would exploit the state's abundant resources and destroy its magnificance.

In his book, "Many Battles", Ernest Gruening defined life as a series of battles. He did not always win, but he never lost by default.

AIR BAG DECISION SHOULD BE BASED ON FACTS, NOT EMOTION

Mr. GRIFFIN. Mr. President, the Senate should vote this week on a resolution to disapprove the Department of Transportation's ill-advised rule mandating air bags or so-called "passive" restraints in all new cars.

Unfortunately, too much of the debate about air bags has been based upon emotional appeals, rather than facts. How far the DOT hierarchy is willing to go to force air bags on all consumers was shockingly demonstrated in an article appearing in today's edition of the Detroit News. It reveals that crucial test data unfavorable to DOT's position was suppressed, and that an agency official who sought to make the information public has been harassed.

I ask unanimous consent that a UPI dispatch carried on the wire today, as well as the Detroit News article to which I referred, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DETROIT.—The National Highway Traffic Safety Administration suppressed test results highly unfavorable to air bags and threatened reprisals against one of its scientists who tried to make them public, the Detroit news reported today.

The News, in a dispatch from its Washington Bureau, quoted the scientist, Thomas H. Glenn, as saying he was "pressured by NHTSA to testify before Congress that the test results were inconclusive, but I resisted.

"If this goes any further," Glenn said, "The bastards are going to kill me."

The News said congressional investigators found that NHTSA officials withdrew the test results Aug. 26 shortly after Glenn, who suffers from a heart condition, had placed them on the public docket—a means of making them available to interested parties.

The test results were returned to the docket a week later, but only after Rep. John Dingell, D-Mich., and several other Congressmen demanded they be released to the public, the newspaper said. Dingell is a vigorous foe of mandatory air bags.

The investigators also told the news that an NHTSA staff analysis evaluating the test results was withheld from Congress until Sept. 26. By then, both the House and Senate had completed hearings on resolutions to overturn an order by Transportation Secretary Brock Adams requiring installation of air bags on some new cars in the 1982-model year.

The air bag rule will take effect Friday unless overturned by both the House and Senate.

The allegedly suppressed tests, conducted for NHTSA by Calspan, a private research firm in Buffalo, N.Y., compared the effectiveness of air bags versus safety belts in four offset collisions of cars traveling at 30 miles per hour.

None of the cadavers and dummies used as test subjects in the seat belt-equipped cars suffered crash impacts over the injury limit set by passive restraint standards. Two of the cadavers and one of the dummies in the air bag cars would have been killed had they been living humans, the tests showed.

The news quoted congressional investigators as saying that Glenn, the NHTSA scientist, was subjected to "a systematic pattern of harassment" after he placed the test results in the public docket.

[From the Detroit News, Oct. 10, 1977]

UNITED STATES HID REPORT ASSAILING AIR BAGS, INQUIRY FINDS

(By John E. Peterson)

WASHINGTON.—The National Highway Traffic Safety Administration (NHTSA) earlier this year suppressed test results highly unfavorable to air bags and threatened reprisals against one of its scientists who tried to make them public.

The scientist, Thomas H. Glenn, 54, who suffers from an acute heart condition, said he was "pressured by NHTSA to testify before Congress that the test results were inconclusive, but I resisted. If this goes any further, the bastards are going to kill me."

Congressional investigators found that ofncials of the highway traffic safety agency withdrew the test results Aug. 26, shortly after Glenn, who was in charge of the test project, had placed them on the public docket—a means of making them available to interested parties.

The test results were returned to the docket a week later, investigators said, but only after Rep. John D. Dingell, D-Trenton, a vigorous foe of mandatory air bags, and several other congressmen demanded they be released to the public.

In addition, investigators said, a staff analysis by the agency fully evaluating the test results was withheld from Congress until Sept. 26—after both the House and Senate had completed hearings on resolutions to overturn a federal order requiring air bags and other passive restraints on some new cars in 1982 and all new cars by 1984. Both houses must reject the order by Friday to prevent it from taking effect.

Two investigations—one by the House Commerce Committee and one by the General Accounting Office, Congress' watchdog agency, were begun at the request of Dingell and Reps. Bob Eckhardt, D-Tex., and E. G. "Bud" Shuster, R-Pa.

Dingell said he had wanted the air bag test results and the traffic safety agency's analysis of them released quickly.

He considered this quick release crucial to congressional deliberations on the resolutions, because the tests were the first to simulate "offset," head-on collisions, which account for about 90 percent of the frontal collisions on the nation's highways.

The term "offset" is important.

In the offset tests, the cars were lined up so the drivers were directly opposite each other, rather than lined up headlight to headlight.

This contrasts with past tests in which cars either were centered headlight to headlight and collided directly into each other, or we were crashed into a wall.

The suppressed tests, conducted for the highway traffic safety agency by Calspan, a private research firm in Buffalo, compared the effectiveness of air bags versus safety belts in four offset collisions of cars traveling at speeds of 30 m.p.h. Cadavers and dummies were placed in the front seats of the test vehicles and wired to record the force of the crash impacts.

None of the test subjects in the seatbelt-equipped cars suffered crash impacts over the injury limit set by the passive-restraint standard. Two of the cadavers and one of the dummies in the air bag cars received impacts far exceeding those levels and likely would have died had they been living humans, tests indicated.

In an analysis of the chest impacts on those three test subjects, a scientist with the traffic safety agency specializing in crash

analysis said: "NHTSA judges these occupants 'killed.'"

"The Calspan tests clearly show that air bags are not as effective as safety belts. Without having that information readily available, Congress now may be tempted to approve mandatory air bags, which would amount to ripping off American consumers since they cost an estimated $200 to install and $600 to replace once they deploy."

The agency's Glenn was subjected to what one congressional investigator termed "a systematic pattern of harassment" after he placed the test results in the public docket.

The investigation determined that Glenn was:

Verbally threatened with disciplinary action by the traffic safety unit's chief legal counsel, Frank A. Berndt, who told investigators his agency still may take further action against Glenn.

Charged with violating the traffic safety agency's rules for entering data in the public docket and writing a draft report on the tests that was of "poor professional quality." Those charges were made by the agency's chief, Joan Claybrook, in letters to Dingell and Eckhardt, both of whom asked investigators to look into the matter.

Forced to withdraw a professional paper on the tests, co-authored with Calspan project Director Michael J. Walsh, that was to have been delivered to a Society of Automotive Engineers meeting last month.

Accused of evading his "professional responsibilities" in a formal letter of reprimand from his superior, Kennerly Digges, chief of the traffic safety agency's Structures Research Division.

Glenn, who has applied for early disability retirement because of his health, was reluctant, at first, to talk about the incident.

He said he was particularly disturbed by Claybrook's letters to Dingell and Eckhardt impugning his professionalism.

"I considered them to be libelous at the time, but I didn't say anything for fear of worsening my condition," Glenn said.

In the letters, Claybrook said Glenn violated the agency's Order 210-2, which requires that public docket submissions first be cleared through Chief Counsel Berndt's office.

The investigators, however, said Glenn acted correctly in submitting the data to the public docket, and charged the chief counsel's office with violating docket procedures.

"Time after time," the investigators said, "public docket clerks would call the chief counsel's office asking if they wanted to review docket submissions. And, time after time, the chief counsel's office waived the review, telling docket clerks to go ahead and enter the submissions.

"If anyone violated NHTSA Order 210-2, it was plainly the chief counsel's office, which made a wholesale practice of violating the docket procedures.

"The order obviously was designed by NHTSA to withhold from the Docket materials that the Chief counsel deemed unfavorable to the agency's public policies."

The investigators also disputed Claybrook's charge that the Glenn-Walsh paper that was to have been delivered to the Society of Automotive Engineers was "of such a poor professional quality that it was unsuitable for even internal agency review."

"This and other statements in the letter were of such a vicious nature that I directed my staff to track down and interview every person involved in this issue," said a key investigator.

"Three people who read this early draft in detail, including Glenn's immediate supervisor, disagree with Claybrook's characterization that it was an unprofessional job," he added.

Glenn said he thinks the paper was withdrawn from the Society of Automotive Engineers session because Digges, the head of his division, ordered him to rewrite the paper with major changes, including removal of the sensitive offset crash data which showed air bags were not as effective in preventing injuries as seat belts.

Glenn said he withdrew the paper after he determined the extensive changes and deletions were unacceptable.

Claybrook and Glenn's immediate supervisor at the traffic safety agency said there was not enough time to complete the paper before its Aug. 29 deadline for submission, if he included the offset data.

"We extensively interviewed all of the principals involved—the SAE session chairman, Calspan's Walsh and Glenn's associated—and concluded that with the cooperation of management the paper could have been completed and published within the time frame," the investigator said.

He said all of Glenn's professional associates at the agency regarded him highly for his work in crash test analysis.

"Claybrook's response to Dingell and Eckhardt was short on facts, but long on a shrill personal attack on Mr. Glenn," the investigator said.

"From what we know of the facts of this case, Claybrook's attack on this man is unwarranted and beyond the bounds of reason and professionalism," he said.

A spokesman for the traffic safety agency said that Claybrook, Berndt and other agency officials would not comment beyond their response to the congressional investigators.

Claybrook and other agency officials maintain that mandatory air bags are needed to save lives because only about 20 percent of the nation's 131 million motorists regularly buckle their seat belts.

But the investigation found that Claybrook, shortly after becoming the agency's administrator last spring, canceled a congressionally mandated $1 million program aimed at encouraging states to institute mandatory safety belt use laws.

AN URGENT ISSUE: WORLDWIDE YOUTH UNEMPLOYMENT

Mr. ROBERT C. BYRD. Mr. President, on behalf of the Senator from Minnesota (Mr. HUMPHREY) I ask unanimous consent that a statement by him, as well as the text of an article to which this statement makes reference, be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY SENATOR HUMPHREY

Though the U.S. is faced with a large youth unemployment problem—3.25 million under 25 and unemployed—it is essential to realize that similar conditions exist in other developed nations. A European study, reported in Business Week (August 1, 1977) disclosed that "nearly 20 percent of Germany's unemployed workers are under 25, in France 25 percent, in Britain 28 percent and in Italy almost 60 percent."

Recognizing the severity of the situation, the Organization for Economic Cooperation and Development (OECD) is planning to hold an international conference on the problems of youth employment. The conference should help to focus political energies on the youth employment problem as well as offering some perspective on how best to open up more jobs for young people.

At present, action on the youth employment front has been slowed by differences among academic economists. Some economists argue that high unemployment for young people largely reflects the weakness of the current economic recovery. Others point their finger at technology or foreign trade that has eliminated many low skilled, entry level jobs.

Education may be part of the problem in a number of countries. Many systems are not geared to providing students with usable skills. For example, in Italy nearly one-half the unemployed young people hold high school or university diplomas. The Ph.D. driving a taxi-cab has also become a familiar feature in American newspapers.

With need outrunning settled analysis, the United States and a number of Western European nations have taken some short term measures. In the United States we have had summer youth programs and have recently passed a $1.5 billion youth employment bill. Overseas, both Britain and Italy are giving subsidies for firms to train or hire young people.

But there remains a giant of a problem to dwarf these policies. Political unrest, economic loss and the waste of much of a generation can be the legacy of youth unemployment. We need intelligent action and we need it now.

The article ordered to be printed in the RECORD is as follows:

[From Business Week, Aug. 1, 1977]

UNEMPLOYED YOUTH: NOW A GLOBAL WORRY

Members of Congress have a total of 3.25 million constituents who are under 25 and unemployed, so it is no surprise that they voted this week to approve a $1.5 billion youth employment bill, and that the Labor Dept. is already creating a new Office of Youth Programs to administer the funds. But youth unemployment is a problem everywhere. A few months ago Italy adopted a youth employment program with Communist support.

Both moves are part of a growing worldwide effort to stanch the running economic and social sore of youth unemployment in the industrial West. Indeed, the seven heads of state attending the international economic summit meeting in London last May voiced "particular concern about the problem of unemployment among young people." They agreed to encourage an exchange of ideas on coping with it. "It has suddenly become a sexy issue everywhere," observes an American congressional staffer.

New York City's congressional delegation, for instance, cited the city's minority youth unemployment rate, which runs over 50 percent in some sections, as a factor in the blackout looting last week. Nationwide, June unemployment rates ran to 18.6 percent for those aged 16 to 19, and 10.5 percent for those 20 to 24, with minority teenage unemployment at 39.4 percent. "There is a very definite correlation between those rates and the fact that 51 percent of all crime is committed by those under 25 years old," says Stephen Juntila, an aide on the House employment subcommittee.

THE NUMBERS

There are no easy remedies at hand. A European report this week will show that nearly 20 percent of Germany's unemployed are workers under 25. In France the same group accounts for 35 percent; in Britain the figure is 28 percent, and in Italy, where unemployed young terrorists have been shooting corporate and government officials, it represents 60 percent of total unemployment. The hope in Italy is that the $1.8 billion worth of industry incentives, grants to local and regional governments, and agricultural cooperatives will create permanent jobs. About 22 cents an hour of wage subsidy for each youth-hour worked is enriched by other tax breaks and incentives to the big state corporations.

Until Washington begins putting money into the hands of U.S. employers—between October and December, depending on the specific program under the new youth employment bill—the summer youth programs of recent years are the momentary remedy. According to Labor Dept. officials, some 1.8 million young people are currently working

as a result of $815 million in federal funds, training grants. Added to this is the pledge—with no federal funds involved—of 200,000 jobs by the National Alliance of Businessmen, a government-encouraged group of large-employer companies.

PROFITEERING

The new bill will move beyond summer programs to year-round training employment for some 200,000 young people. The biggest single feature is still public service employment. Some $400 million of the initial $1 billion to be allocated by yearend is to go through state and local government hands. And the most popular program is a young adult conservation corps of 35,000, modeled on the old Civilian Conservation Corps of the 1930s. There are said to be some 10 applicants for each job in the modest summer version of the program.

The new American bill calls for only a small experimental pilot program that would permit wage subsidy programs completely at the discretion of the Labor Secretary. Much more private involvement would have been encouraged in a bill proposed by Representative Ronald A. Sarasin (R-Conn.), but the private role was scaled back in committee debate. "Every time you try to involve industry, they scream 'profiteering,'" complains a Sarasin aide.

Another complaint by Republicans is that the bill calls for "prevailing wages" to be paid to the young workers. They argue, as they do generally against the increased minimum wage, that higher wages for inexperienced youths discourage private employers' hiring of the largest group of unemployed. Indeed, a House committee vote this week signaled increased support for a "youth differential"—a youth rate of only 75% of the $2.65 minimum wage supported by President Carter—although organized labor bitterly opposes the idea. Labor spokesmen argue that employers would lay off older workers and hire youths at the lower wage.

At the Labor Dept., a new Office of Youth Programs will soon employ 120 people. Robert Taggart, a manpower expert from George Washington University, is expected to head the new programs and some old ones such as the Job Corps. A department planner says Taggart initially plans to spend a portion of the $1.5 billion on private-sector experiments with wage subsidies in a few scattered companies around the country.

U.S. MUST HELP SOLVE INTERNATIONAL ECONOMIC CRISIS

Mr. ROBERT C. BYRD. Mr. President, on behalf of the Senator from Minnesota (Mr. HUMPHREY) I ask unanimous consent that a statement by him, as well as the text of an article to which this statement makes reference, be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY SENATOR HUMPHREY

One of the most pressing issues facing Western industrialized nations is the current condition of the international economic community. Political and economic instability can be found throughout much of Europe. Policymakers are confronted with the exceptionally difficult task of finding the proper mix of policies that will put the industrial economies back on the path of balanced, noninflationary growth.

The situation in Europe can only be alleviated through coordinated international action, led by the United States, Japan and Germany. It is our role to be the initiators of policies that will bring industrial, as well as developing nations, some relief from their current economic problems.

Writing in the August, 1977 issue of Dunn's Review, Gardiner Ackley, former chairman of the Council of Economic Advisors and currently a professor at the University of Michigan, suggests some policies that would avert a total economic collapse. Throughout Europe, excluding Germany, The Netherlands and Switzerland, there is high unemployment, large balance of payments deficits and high rates of inflation. After a prolonged stay in Europe, Ackley concluded that "growing foreign indebtedness imposes increasing interest burdens on future generations without providing new productive assets from which the interest can be paid." The current economic crisis reflects a hard to control inflation that resulted from the oil-price explosion.

Ackley proposes four basic steps that would lead the way towards economic improvement. First, the United States, Germany and Japan, must take the lead in establishing new mechanisms for financing balance of payments deficits, rather than relying on private international banking. Second, a successful conclusion to the multilateral trade negotiations could reduce growing protectionist attitudes in the United States as well as other countries. Third, Germany, Japan, Switzerland and The Netherlands should appreciate their currencies, decrease large export surpluses and stimulate domestic demand for output from weaker economies. And finally, the United States, Germany, Japan and other countries with relatively low inflation rates should stimulate their economies in order to expand imports from the weaker countries.

Currency realignment and economic stimulation will not bring immediate relief to weaker countries. Problem countries will still need to deal with problems that may be unique to their own nation. But, as Ackley emphasizes, "whether their progress can be maintained depends crucially upon the assurance of an expanding world economy. This is our responsibility." I can only say Amen to that.

The article ordered to be printed in the RECORD is as follows:

WESTERN EUROPE'S ECONOMIC CRISIS: THE UNITED STATES MUST LEAD THE WAY OUT

(By Gardner Ackley)

My last two columns for DUN'S have been written from Rome, and this one immediately upon my return. My renewed residence abroad has seriously shaken my confidence in the ability of Western European governments to manage their economic affairs—indeed, in the ability of some of them to survive as democracies. On tihs thirtieth anniversary of the Marshall Plan, Europe may be nearly as close to economic disaster as in 1947.

Almost everywhere there is heavy unemployment, in most countries the highest since the 1930s, and growing rather than shrinking. Except for Germany, Switzerland and The Netherlands, balance-of-payments deficits are large and most show little promise of improvement. As a result, growing foreign indebtedness imposes increasing interest burdens on future generations without providing new productive assets from which the interest can be paid. Depreciation of the weaker currencies sharply raises the domestic prices of these countries' imports, contributing to their inflation. Although inflation rates are generally well down from 1974 and 1975, in several countries they remain above 15%.

The widespread and growing political instability in many parts of Europe is probably cause as well as effect of the economic crisis. Still, the inability of most existing governments to ameliorate economic conditions surely has weakened traditional democratic forces and favors the far-left parties, whose democratic credentials are at best questionable and in some cases clearly lacking.

The problem began with the oil-price explosion. Since OPEC countries continue to spend on imports much less than the total revenues from their high-priced exports, their balance-of-payments surpluses require a mirror image in deficits in the rest of the world. Disappearance of the OPEC surpluses—once projected as only a few years away—no longer can be counted on. Moreover, the inflationary spiral that is so difficult to control acquired its major momentum from the 1973–74 oil price hikes.

Large balance-of-payments deficits mean that too much of the normal spending for goods and services is directed abroad rather than to producers at home. But to stimulate domestic demand by increased government spending or tax cuts widens existing budget deficits; this generates further lack of confidence and strengthens inflationary expectations.

FIGHTING STAGFLATION

However, blaming OPEC doesn't solve the problem. Stagflation in Western Europe can be combatted. But not by the individual efforts of the countries that are its most serious victims. Coordinated international action is required.

As in 1947, the United States has a key role to play; however, this time two strong partners are available—Germany and Japan, which through good luck and good management have so far largely escaped the general disaster. Here are some of the things the three countries can do to help both the other industrial countries and also the developing world:

(1) We can take leadership in setting up more reliable machinery for financing balance-of-payments deficits. If we cannot bring about the proposed massive new financing of the International Monetary Fund, we must revive the "Safety-Net" proposal already formally approved by most of the industrial countries other than the United States. Reliance mainly on private international banking to finance current oil deficits cannot provide the confidence that is needed to protect currencies from speculation; and it unnecessarily threatens the viability of some major banks.

(2) We can take stronger leadership in resisting the reviving pressures for protectionism, both in our own economies and others. One way is to push the current negotiators for an agreed *reduction* of trade barriers toward a constructive outcome.

(3) Germany and Japan, along with The Netherlands and Switzerland, must allow further appreciation of their currencies, to reduce their large export surpluses and to stimulate domestic and export demand for the output of the weaker economies.

(4) Most important, by far, the United States, Germany, Japan and the few smaller economies with relatively low domestic inflation rates and large balance-of-payments surpluses should take all prudent steps to stimulate their economies in order to reduce their exports to and expand their imports from the weaker Western countries. There can be argument whether prospective economic expansion in the United States is already strong enough to need no further stimulus (personally, I would prefer a bit more); but there can be no legitimate argument about Japan and Germany. With much unused labor and plant capacity in each of these economies, faster expansion should not appreciably affect domestic inflation.

But even if there were some net domestic cost to the "locomotive economies," providing a stronger pull on world demand would surely be to our net overall advantage, as compared to the real dangers of a further revival of protectionism, or of a renewal of currency instability, which could lead to a crisis of confidence to which even the strong countries might not be immune. And surely it is not in the interest of the leading Western democracies to contribute to a further

shift toward the left—or into political collapse—of countries as important to us as France, Italy and Greece.

The problem countries would still need to take difficult steps to deal with their affairs. Largely under international pressure, the United Kingdom, France and Italy have taken important corrective steps. But whether their progress can be maintained depends crucially upon the assurance of an expanding world economy. This is *our* responsibility.

ALCAN PIPELINE

Mr. ROBERT C. BYRD. Mr. President, on behalf of the Senator from Minnesota (Mr. HUMPHREY), I ask unanimous consent that a statement by him be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY SENATOR HUMPHREY

The President's decision in favor of a transCanadian route for Alaska natural gas is an excellent one. It will be widely accepted by the Congress because it brings Alaskan gas directly to Minnesota, the Midwest and Northeast where it is in short supply. The President and Prime Minister Trudeau have concluded a sound, reasonable and fair agreement. They and Dr. Schlesinger have reached an agreement which brings Alaskan gas to the lower 48 at the cheapest possible price—and without Government subsidy or financial support.

Because the route follows existing transportation corridors, Alcan will involve a minimum of environmental disruption. And, it offers Canada quick, convenient and inexpensive potential access to her own Arctic gas reserves. The pipeline agreement could well become the outstanding example of bilateral cooperation and resource management.

Each House of Congress has 60 days to accept or reject the agreement by majority vote following Committee hearings. And I am confident that approval of the Alcan route will occur expeditiously. The reason is straightforward. Rejection of the preferred Alcan route in favor of the competing El Paso route would actually reduce domestic gas supplies. Without the access to Canadian Arctic gas reserves provided by Alcan, Canada will be forced to rapidly terminate gas exports to the United States. These exports now total 2.7 billion cubic feet (bcf) daily. The competing El Paso route will only bring 2.4 bcf daily to the lower 48. So, if Congress rejects Alcan in favor of El Paso, the United States will actually lose more gas from Canada than it will receive from Alaska via El Paso.

As a consequence, Congressional rejection of the Alcan choice would mean a reduction in natural gas supplies, reduced economic growth, and higher unemployment. The United States cannot afford a rejection of Alcan and Congress knows it.

ANNOUNCEMENT OF POSITION ON VOTES—S. 1871, S. 1863

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that a statement by the Senator from Minnesota (Mr. HUMPHREY), regarding his position on certain rollcall votes on Friday, October 7, 1977, be printed in the RECORD.

STATEMENT BY SENATOR HUMPHREY

I am gratified that my position is recorded on several roll call votes relating to S. 1871, Fair Labor Standards Amendments of 1971, indicating my full support for this legislation. It is my understanding that a correction will be entered in the RECORD, to indicate that, had I been present and voting, I would have voted "nay" on Rollcall Vote No. 544 Leg., on Amendment 1405.

In addition, by inadvertence, my position was not announced on Rollcall Vote No. 550 Leg., on final passage of S. 1863, Department of Defense Supplemental Appropriation Authorization Act, 1978. Had I been present and voting, I would have voted "yea."

NOTICE CONCERNING NOMINATION BEFORE THE COMMITTEE ON THE JUDICIARY

Mr. EASTLAND. Mr. President, the following nomination has been referred to and is now pending before the Committee on the Judiciary:

Ralph C. Bishop, of Alabama, to be U.S. marshal for the northern district of Alabama for the term of 4 years vice Johnny M. Towns.

On behalf of the Committee on the Judiciary, notice is hereby given to all persons interested in this nomination to file with the committee, in writing, on or before Monday, October 17, 1977, any representations or objections they may wish to present concerning the above nomination with a further statement whether it is their intention to appear at any hearing which may be scheduled.

ORDER TO RESUME CONSIDERATION OF S. 1303 AND THE RECOGNITION OF SENATOR HELMS ON TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that after the two leaders or their designees are recognized under the standing order on tomorrow, the Senate resume consideration of the then unfinished business, the legal services bill, S. 1303, and that Mr. HELMS be recognized at that point, when the Senate resumes consideration of the bill.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Is there further morning business? If not, morning business is closed.

LEGAL SERVICES CORPORATION ACT AMENDMENTS OF 1977

The Senate continued with the consideration of S. 1303.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. GRIFFIN. Will the Senator yield?

Mr. ROBERT C. BYRD. I yield.

THE AIR BAG DECISION

Mr. GRIFFIN. As the distinguished majority leader knows, because I have had consultation with him about this from time to time, I am concerned about the fact that time is marching on and there is a resolution now on the calendar to give the Senate an opportunity to vote up or down on whether or not air bags, or so-called passive restraints, are going to go into effect.

I say that resolution is now on the calendar of the Senate.

So far, I have not heard the majority leader indicate when the Senate will have an opportunity to vote on it. I cannot conceive the Senate putting its head in the sand and allowing, by default, an order as important as this, for all American consumers, to go into effect without voting up or down.

It may be that a majority of my colleagues want to have air bags put into all new cars, regardless of whether or not the consumer wants them. That would not be my position. I think there should be an option and each individual buyer should decide for himself whether or not he wants to put this potentially hazardous device into his car.

My question is: Is the Senate going to have an opportunity to vote on this resolution?

Mr. ROBERT C. BYRD. Mr. President, it would be my hope that upon the disposition of the legal services bill, which I believe will be completed tomorrow—or, I hope it will be completed tomorrow—it will be my intention at that time, upon the disposition of that bill, to attempt to call up the Senate Concurrent Resolution 31, to which the distinguished Senator from Michigan has alluded.

Mr. GRIFFIN. Well, of course, the majority leader is quite accustomed to getting unanimous consent when he wants matters to be the pending business. I note that, in this instance, he is not getting unanimous consent that Senate Concurrent Resolution 31 be made the pending business when the legal services bill is disposed of.

Mr. ROBERT C. BYRD. I should be very happy to ask for that at this point, if that would reassure the distinguished Senator from Michigan.

Mr. GRIFFIN. That, I think, would be an appropriate step and would be of some assurance to me that we will, in fact, proceed to the consideration of the resolution.

Mr. ROBERT C. BYRD. Very well.

Mr. President, I ask unanimous consent that, upon the disposition of the legal services bill, S. 1303—and I assume that there is a companion House bill on the Calendar.

The ACTING PRESIDENT pro tempore. There is a companion House bill.

Mr. ROBERT C. BYRD. Mr. President, if the Senator will allow me to withhold that request until the morning, I assure the Senator that I shall try to get the resolution up at some point tomorrow or Wednesday. I shall do my best to do that.

Mr. GRIFFIN. I appreciate that assurance from the majority leader. I know that he realizes that I do not want to throw sand in the gears of the Senate, but if there is some Senator or group of Senators who want to remain nameless and do not want to let it be known that they do not want to vote on this, I am going to make every effort to see that

the Senate does vote. I think it is absolutely unconscionable for the Senate, by default, to allow such an important order to go into effect. Over and over again, we hear Senators decry here, on the floor of the Senate, and go back into their States and talk about the horrors of bureaucratic legislation and how, too often, the bureaucrats have taken over the policymaking decisions in this country. Well, here is a situation where the Senate can exercise its will and make its decision on whether or not this important order is going to take effect. I think it is absolutely inexcusable if there is any effort here to avoid a vote on this question.

I do not criticize the majority leader. I take him at his word. But I want him to know that I am going to press tomorrow morning and at every opportunity to make sure that the Senate does vote on this in a timely fashion.

Mr. ROBERT C. BYRD. I thank the distinguished Senator and I shall make every effort that I can possibly make to get the resolution up tomorrow or Wednesday. That will be my desire.

ADJOURNMENT TO TOMORROW AT 10 A.M.

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until tomorrow morning at 10 o'clock.

The motion was agreed to; and, at 7:03 p.m., the Senate adjourned until tomorrow, Tuesday, October 11, 1977, at 10 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate October 10, 1977:

RAILROAD RETIREMENT BOARD

Charles J. Chamberlain, of Illinois, to be a member of the Railroad Retirement Board for the remainder of the term expiring August 28, 1979.

DEPARTMENT OF LABOR

Julius Shiskin, of Maryland, to be Commissioner of Labor Statistics, Department of Labor, for a term of 4 years.

NATIONAL LABOR RELATIONS BOARD

John C. Truesdale, of Maryland, to be a member of the National Labor Relations Board for the remainder of the term expiring August 27, 1980.

DEPARTMENT OF JUSTICE

Robert D. Kingsland, of Missouri, to be U.S. attorney for the eastern district of Missouri for the term of 4 years.

Andrea M. Sheridan Ordin, of California, to be U.S. attorney for the central district of California for the term of 4 years.

Louis J. Soscia, of New York, to be U.S. marshal for the eastern district of New York for the term of 4 years.

FEDERAL COMMUNICATIONS COMMISSION

Charles D. Ferris, of Massachusetts, to be a member of the Federal Communications Commission for a term of 7 years from July 1, 1977.

NATIONAL TRANSPORTATION SAFETY BOARD

James B. King, of Massachusetts, to be a member of the National Transportation Safety Board for the term expiring December 31, 1981.

The above nominations were approved subject to the nominees' commitments to respond to requests to appear and testify before any duly constituted committee of the Senate.

HOUSE OF REPRESENTATIVES—*Monday, October 10, 1977*

The House was not in session today. Its next meeting will be held on Tuesday, October 11, 1977, at 12 o'clock noon.

CONFERENCE REPORT AND STATEMENT

Mr. TEAGUE submitted the following conference report and statement on the bill (S. 1811) to authorize appropriations to the Energy Research and Development Administration, in accordance with section 261 of the Atomic Energy Act of 1954, as amended, section 305 of the Energy Reorganization Act of 1974, and section 16 of the Federal Nonnuclear Energy Research and Development Act of 1974, as amended, and for other purposes:

CONFERENCE REPORT (H. REPT. No. 95-671)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 1811) to authorize appropriations to the Energy Research and Development Administration in accordance with section 261 of the Atomic Energy Act of 1954, as amended, section 305 of the Energy Reorganization Act of 1974, and section 16 of the Federal Nonnuclear Energy Research and Development Act of 1974, as amended, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment insert the following:

That this Act may be cited as the "ERDA Authorization Act of 1978—Civilian Applications". In accordance with section 261 of the Atomic Energy Act of 1954 (42 U.S.C. 207), section 305 of the Energy Reorganization Act of 1974 (42 U.S.C. 5875), and section 16 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5915), there is hereby authorized to be appropriated to the Energy Research and Development Administration, for energy research, development, and demonstration, and related activities, the sum of $6,161,445,000.

TITLE I—ENERGY RESEARCH, DEVELOPMENT, AND DEMONSTRATION, AND RELATED ACTIVITIES

OPERATING EXPENSES

SEC. 101. For "Operating expenses", for the following programs, a sum of dollars equal to the total of the following amounts:

FOSSIL ENERGY DEVELOPMENT

(1) Coal:

(A) Coal liquefaction, $107,000,000.

(B) High Btu gasification (coal), $51,200,000.

(C) Low Btu gasification (coal), $73,900,000.

(D) Advanced power systems, $25,000,000.

(E) Direct combustion (coal), $65,200,000.

(F) Advanced research and supporting technology, $50,000,000:

Provided, That of those funds authorized, funds as may be necessary are hereby authorized for the following purpose: The Administrator shall conduct a feasibility study of the technology and the commercial applications of the process of fine grinding of coal and dry vegetable residues for the purpose of preparing these substances as clean burning fuels.

(G) Demonstration plants and major test facilities (coal), $60,900,000.

(H) Magnetohydrodynamics, $70,800,000: *Provided*, That at least 5 percent of the amount appropriated for magnetohydrodynamics shall be expended for closed cycle technology.

(2) Petroleum and natural gas:

(A) Enhanced oil recovery, $46,100,000.

(B) Enhanced gas recovery, $30,000,000.

(C) Drilling, exploration and offshore technology, $7,600,000.

(D) Processing and utilization, $1,400,000.

(3) Oil shale and in situ technology:

(A) Oil shale, $28,000,000.

(B) In situ coal gasification, $19,000,000.

Solar Energy Development

(4) Thermal applications, $104,700,000, including $94,400,000 for heating and cooling of buildings.

(5) Fuels from biomass, $20,500,000; and under such rules and regulations as he may establish, the Administrator is authorized to guarantee a loan or loans for the demonstration of a 50 MW wood-fueled power generating facility.

(6) Other Solar Energy Programs, $219,700,000, including $7,000,000 for a parallel design of a 1500 kilowatt wind energy conversion system and the production of two test units, and $203,700,000 for other solar electric applications: *Provided*, That $7,500,000 of such sum is hereby authorized for design work for small community applications.

Geothermal Energy Development

(7) Engineering research and development, $15,500,000.

(8) Resource exploration and assessment, $17,600,000.

(9) Hydrothermal technology applications, $28,000,000.

(10) Advanced technology applications, $24,300,000.

(11) Utilization experiments, $16,000,000.

(12) Environmental control and institutional studies, $8,100,000.

(13) Low head hydroelectric program, $15,000,000.

Conservation Research and Development

(14) Electric energy systems and energy storage:

(A) Electric energy systems, $36,800,000.

(B) Energy storage systems, $48,500,000.

(15) End use conservation and technologies to improve efficiency:

(A) Industrial energy conservation, $38,000,000.

(B) Buildings and community systems, $59,500,000: *Provided*, That $2,000,000 of such sum are hereby authorized for a research and development program in residential gas and oil furnaces.

(C) Transportation energy conservation, $87,000,000, of which $1,000,000 shall be available to the Alternative Fuels Utilization Program for study of automotive utilization of alcohol fuels and blends: *Provided*, That, of those funds authorized for the Alternative Fuels Utilization Program, funds as may be

necessary are hereby authorized for the Energy Research and Development Administration to conduct studies to determine the feasibility of utilizing existing distillery facilities or other types of refineries including but not limited to sugar refineries, in the implementation of programs to extend the supply of gasoline by means of a mixture of gasoline and alcohol.

(D) Improved conversion efficiency, $69,700,000.

(16) Energy extension service, $8,000,000.

(17) Small grants for appropriate technology, $8,000,000.

Environmental and Safety Research and Development

(18) Environment and Safety Research and Development.

(A) Overview and Assessment, $50,010,000.

(B) Environmental Research, $143,970,000.

(C) Life Sciences Research, $38,113,000.

(D) Decontamination and Decommissioning, $19,000,000.

Nuclear Research and Development

(19) Magnetic fusion, $201,900,000.

(20) Fuel cycle research and development $363,885,000, including $20,000,000 for international spent fuel disposition, pursuant to section 108 and including $13,000,000 for research, development, assessment, evaluation, and other activities at the Barnwell Nuclear Fuels Plant related to alternative fuel cycle technologies, safeguard systems, spent fuel storage and waste management, except that none of the authorized funds may be used for operations of the plant to process spent fuel from reactors.

(21) Liquid metal fast breeder reactor, $413,300,000: *Provided*, That $5,000,000 of such sums are hereby authorized for research and development on means to reduce the ability to divert plutonium from its intended purposes and to increase the detectability of plutonium if it should be so diverted.

(22) Nuclear research and applications, $228,829,000.

(23) Light water reactor safety facilities, $24,000,000.

(24) High energy physics, nuclear physics, and basic energy sciences, $413,394,000.

(25) Nuclear materials security and safeguards, $40,106,000.

(26) Uranium enrichment, $989,185,000.

All Other Programs, $444,604,000, including—

(i) Not more than $1,000,000 for the Water Resources Council to carry out the provisions of section 13 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5912);

(ii) Funds to carry out the provisions of section 11 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5910), in the amount of $500,000 for the Council on Environmental Quality; and

(iii) Program management and support:

(a) Program direction $222,900,000.

(b) Institutional relations, $34,179,000, including funds to reimburse the National Bureau of Standards for costs incurred in carrying out the provisions of section 14 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5913), as amended, and including $1,800,000, is authorized to be appropriated pursuant to this paragraph (iii) for financial awards by ERDA to independent inventors for the purpose of carrying out section 14 of the Federal Nonnuclear Energy Research and Development Acts of 1974 (42 U.S.C. 5913), as amended.

(c) Supporting activities, $37,460,000.

(d) International cooperation, $5,000,000.

Prior Year Authorizations

(27) The sum of $40,000,000 which represents the portion of the appropriations heretofore made in the total amount of $56,000,000 for project 76-1-a (clean boiler fuel demonstration plant (A-E and long-lead procurement) which remains unobligated and is no longer needed is hereby authorized to be made available instead, in addition to any amounts appropriated for the purposes involved pursuant to this Act for the low Btu gasification program.

PLANT AND CAPITAL EQUIPMENT

SEC. 102. (a) For "Plant and capital equipment", including construction, acquisition, or modification of facilities, including land acquisition; and acquisition and fabrication of capital equipment not related to construction, a sum of dollars equal to the total of the following amounts:

(1) Conservation Research and Development:

(A) Project 78-1-a, high bay addition, Los Alamos Scientific Laboratory, New Mexico, $800,000.

(2) Fossil Energy Development:

(A) Project 78-2-a, analytical research, chemistry and coal carbonization laboratory, Pittsburgh Energy Research Center, Pennsylvania, $6,600,000.

(B) Project 78-2-b, modifications and additions to Energy Research Centers, various locations, $3,000,000.

(C) Project 78-2-c, low Btu fuel gas small industrial demonstration plants, sites, undetermined (A-E and long-lead procurement only), $6,000,000.

(D) Project 78-2-d, solvent refined coal demonstration plant, site undetermined (total estimated cost is $300,000,000, including the Federal share thereof), $30,000,000.

(3) Magnetic Fusion:

(A) Project 78-3-a, mirror fusion test facility, Lawrence Livermore Laboratory, California, $94,200,000.

(B) Project 78-3-b, fusion materials irradiation test facility, Hanford Engineering Development Laboratory, Washington (A-E and long-lead procurement), $14,400,000.

(4) Fuel Cycle Research and Development:

(A) Project 78-5-a, facilities for the national waste terminal storage program, site undetermined (land acquisition, A-E and long-lead procurement), $10,000,000.

(B) Project 78-5-b, liquid metal fast breeder reactor integrated prototype equipment test facility, Oak Ridge National Laboratory, Oak Ridge, Tennessee (A-E and long-lead procurement only), $3,000,000.

(C) Project 78-5-c, advanced isotope separation facility, site undetermined (A-E only), $3,500,000.

(5) Liquid Metal Fast Breeder Reactor:

(A) Project 78-6-a, modifications to reactors, $8,700,000.

(B) Project 78-6-b, safeguards and security upgrading, Idaho Falls, Idaho, and Chicago, Illinois, $4,935,000.

(C) Project 78-6-c, safety research experimental facility, Idaho National Engineering Laboratory, Idaho (A-E, long-lead procurement and limited construction only), $20,100,000.

(D) Project 78-6-d, experimental breeder reactor II modification, Idaho Falls, Idaho (A-E and selected long-lead procurement only), $3,100,000.

(E) Project 78-6-e, modifications to facilities, Liquid Metal Engineering Center, Santa Susanna, California (A-E only), $4,000,000.

(F) Project 78-6-f, fuels and materials examination facility, Hanford Engineering Development Laboratory, Washington, $134,800,000.

(G) Project 78-7-a, modifications to utility system 300 area, Hanford Engineering Development Laboratory, Washington, $3,600,000.

(H) Project 78-7-b, test reactor area steam distribution system upgrade, Idaho National Engineering Laboratory, Idaho, at $1,100,000.

(6) Light Water Reactor Safety Facilities:

(A) Project 78-8-a upgrade Test Area North hot shop facility, Idaho National Research facilities, various locations, $6,000,000.

(7) Environmental Research and Development:

(A) Projects 78-9-a, modifications and additions to biomedical and environmental research for facilities, various locations, $6,000,000.

(8) High Energy Physics:

(A) Project 78-10-a, accelerator improvements and modifications, various locations, $4,500,000.

(B) 78-10-b, proton-proton intersecting storage accelerator facility, Brookhaven National Laboratory, $10,500,000.

(C) Project 78-11-a, master substation reliability and capacity improvement, Stanford Linear Accelerator Center, California, $1,700,000.

(9) Nuclear Physics:

(A) Project 78-12-a, accelerator and reactor improvements and modifications, various locations, $1,900,000.

(B) Project 78-12-b, high intensity uranium beams, Lawrence Berkeley Laboratory, California, $6,000,000.

(10) Basic Energy Sciences:

(A) Project 78-13-a, national synchrotron light sources, Brookhaven National Laboratory, New York, $24,000,000.

(B) Project 78-13-b, combustion research facility, Sandia Laboratories, Livermore, California, $9,400,000.

(11) Uranium Enrichment:

(A) Project 78-14-a, centrifuge facilities modifications, various locations, $30,000,000.

(B) Project 78-14-b, process control modifications, plants, various locations, $17,400,000.

(C) Project 78-15-a, water system improvements, gaseous diffusion plant, Paducah, Kentucky, $4,500,000.

(12) Program Management and Support:

(A) Project 78-1-b, chiller modifications for energy conservation, Bendix Plant, Kansas City, Missouri, $830,000.

(B) Project 78-1-c, process waste heat utilization, gaseous diffusion plant, Paducah, Kentucky, $5,700,000.

(C) Project 78-19-a, program support facility, Argonne National Laboratory, Illinois (A-E and longlead procurement only), $5,000,000.

(13) Project 78-21, General Plant Projects, $44,265,000.

(14) Project 78-22, Construction Planning and Design, $10,000,000.

(15) Capital Equipment Not Related to Construction:

(A) Conservation research and development, $8,670,000.

(B) Fossil energy development, $5,500,000.

(C) Solar-energy development, $7,900,000.

(D) Geothermal energy development, $2,500,000.

(E) Magnetic fusion, $27,600,000.

(F) Fund cycle research and development, $25,300,000.

(G) Liquid metal fast breeder reactor, $35,650,000.

(H) Nuclear research and application, $18,595,000.

(I) Light water reactor safety facilities, $800,000.

(J) High energy physics, nuclear physics, and basic energy sciences, $61,300,000.

(K) Nuclear materials, security and safeguards, $2,794,000.

(L) Uranium enrichment, $19,000,000.

(M) Environmental research and development, $19,025,000.

(N) Program management changes to prior year authorizations and support, $4,955,000.

(b)(1) There is authorized an additional sum of $100,000,000 for the process equipment modifications, gaseous diffusion plants (project 71-1-f), authorized by section 101(b)(1) of Public Law 91-27 (for a total project authorization of $920,000,000).

(2) There is authorized an additional sum of $42,700,000 for the cascade uprating program, gaseous diffusion plants (projects 74-1-g), authorized by section 101(b)(1) of

Public Law 93–60 (for a total project authorization of $460,000,000).

(3) There is authorized an additional sum of $30,000,000 for the high Btu synthetic pipeline gas demonstration plant (project 76–1–b) authorized by section 101(b)(1) of Public Law 94–187 (for a total project authorization of $55,000,000).

(4) There is authorized an additional sum of $131,250,000 for the low Btu fuel gas demonstration plant (project 70–1–c) authorized by section 101(b)(1) of Public Law 94–187 (for a total project authorization of $150,000,000).

(5) There is authorized an additional sum of $41,000,000 for the ten megawatt central receiver solar thermal powerplant, Barstow, California (project 76–2–b), authorized by section 101(b)(2) of Public Law 94–187 (for a total project authorization of $47,250,000): *Provided*, That if the solar electrical generating facility hereby supported contributes electricity to a distribution network serving the public on a commercial basis and if any Federal monetary contribution is included in the rate base for the purpose of computing return on capital investment to such utilities, that portion of the capital costs derived from Federal funds and included in the rate base shall be recovered with interest from the revenues of the solar facility.

(6) There is authorized an additional sum of $24,000,000 for the Tokamak fusion test reactor. Princeton Plasma Physics Laboratory, Plainsboro, New Jersey (projects 76–5–a), authorized by section 101(b)(5) of Public Law 94–187 (for a total project authorization of $238,600,000).

(7) There is authorized an additional sum of $1,750,000 for the conversion of existing steamplants to coal capability, gaseous diffusion plants and Feed Materials Production Center, Fernald, Ohio (project 76–8–e), authorized by section 101(b)(8) of Public Law 94–187 (for a total project authorization of $15,250,000).

(8) There is authorized an additional sum of $107,630,000 for the enriched uranium production facilities, gas centrifuge (project 76–8–g), authorized by section 101(b)(8) of Public Law 94–187 (for a total project authorization of $362,630,000).

(9) There is authorized an additional sum of $5,500,000 for the MHD component development and integration facility (project 77–1–d) authorized by Public Law 94–313 (for a total project authorization of $13,200,000).

(10) There is authorized an additional sum of $5,000,000 for the high performance fuel laboratory, Richland, Washington (A–E only) (project 77–4–c) (for a total project authorization of $6,500,000).

(11) There is authorized an additional sum of $23,000,000 for the fuel storage facility, Richland, Washington (project 77–4–d) (for a total project authorization of $30,000,000).

(12) There is authorized an additional $3,200,000 for the 14 Mev intense neutron source facility, Los Alamos Scientific Laboratory, New Mexico (project 76–5–b) authorized by Public Law 94–187 (for a total project authorization of $25,300,000).

SEC. 103. Public Law 93–276, as amended, is further amended by rescinding therefrom authorization for project 75–5–g, molten salt breeder reactor (preliminary planning preparatory to possible future demonstration project), $1,500,000, except for any funds heretofore obligated.

SEC. 104. (a) Notwithstanding any other provision of law, jurisdiction over matters transferred to the Department of Energy from the Energy Research and Development Administration which on the effective date of such transfer were required by law, regulation, or administrative order to be made on the record after an opportunity for an agency hearing may be assigned to the Federal Energy Regulatory Commission or retained by the Secretary at his discretion.

(b) Notwithstanding any other provision of law, the Secretary of Energy shall not be required to delegate to the Administrator of the Energy Information Administration any energy research, development, and demonstration function vested in the Secretary, pursuant to the Atomic Energy Act, the Federal Nonnuclear Energy Research and Development Act, the Geothermal Research, Development and Demonstration Act, the Electric and Hybrid Vehicle Research, Development and Demonstration Act, the Solar Heating and Cooling Demonstration Act, the Solar Energy Research, Development and Demonstration Act, the Energy Reorganization Act and any other law. Additionally, the Secretary may utilize the capabilities of the Energy Information Administration as he deems appropriate for the conduct of such programs.

(c) As part of the Department of Energy's responsibility to keep the Congress fully and currently informed, the Secretary shall make the following reports:

(i) any proposal by the Secretary of the Department of Energy to terminate or make major changes in activities of the Government-owned and contractor-operated facilities, the national laboratories, energy research centers and the operations offices managing such laboratories, shall not be implemented until the Secretary transmits the proposal, together with all pertinent data, to the Committee on Science and Technology of the House of Representatives and the Committee on Energy and Natural Resources of the Senate, and waits a period of thirty calendar days (not including any day on which either House of Congress is not in session because of an adjournment of more than three calendar days to a day certain) from the date on which such report is received by such committees; and

(ii) by November 30, 1977, the Secretary shall file a full and complete report on each such proposal which he has implemented, as described in the preceding paragraph, and any major program structure change with the Committee on Science and Technology of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.

SEC. 105. (a) The Administrator of the Energy Research and Development Administration shall prepare and submit to the Congress within one year after the date of the enactment of this Act a study which considers the available options, including, but not limited to—

(1) Federal technical and financial aid in support of decommissioning high level waste disposal operations at the Western New York Nuclear Service Center;

(2) Federal operation of the Western New York Nuclear Service Center for the purposes of decommissioning existing facilities and disposing of existing high level wastes, including a demonstration program for the solidification of high level wastes for permanent burial;

(3) permanent Federal ownership of and responsibility for all or part of the Western New York Nuclear Service Center, and Federal receipt of the license from the present co-licensees; and

(4) use of the Western New York Nuclear Service Center for other purposes.

(b) Preparation of such study shall be in cooperation with the Nuclear Regulatory Commission and other Federal agencies, the State of New York, the industrial participants, and the public, and the Administrator shall conduct informational public hearings (in lieu of any formal administrative hearings) prior to completion of the study. The study shall recommend allocation of existing and future responsibilities among the Federal Government, the State of New York, and present industrial participants in the Western New York Nuclear Service Center.

(c) Ninety days prior to submission of the study to the Congress the Administrator shall release the proposed study or comment by interested parties, and such comments as are received shall be submitted as attachments to the final study submitted to the Congress.

(d) Nothing in this section shall be construed as intending to commit the Federal Government to any new assistance or participation in the Western New York Nuclear Service Center, nor as relieving any party of any duties or responsibilities under any law, regulation, or contract to provide for the safe storage of nuclear waste.

(e) For the purpose of carrying out the provisions of this section, there is included in subsection 101(20) of this Act authorization of appropriations in the amount of $1,000,000.

SEC. 106. Section 106 of Public Law 91–273, as amended by section 103(d) of Public Law 94–187, is amended—

(1) by striking out "and the interim period" in the second sentence of subsection (a);

(2) by inserting "the transition quarter ending September 30, 1976, the Fiscal Year ending September 30, 1977, and the Fiscal Year ending September 30, 1978," after "September 30, 1976," in the second sentence of subsection (a); and

(3) by adding at the end thereof the following new subsection:

"(d) The Congress declares that any funds appropriated pursuant to an authorization to design, construct, and operate a specified project or conduct a specified program are intended to be used only for the design, construction, and operation of that project or the conduct of that program, in accordance with such authorization. Accordingly—

"(1) nothing contained in this section shall be construed as authorizing the Administrator to use the procedures of this section to propose or proceed with a cancellation or termination of the Clinch River Breeder Reactor Project and the cooperative arrangements associated therewith;

"(2) no funds appropriated pursuant to the authorization contained in this section or authorized or appropriated pursuant to any other law, or made available in any other manner or from any other source, shall be used in any way (directly or indirectly) to cancel or terminate such Project or to plan its cancellation or termination;

"(3) such Project (notwithstanding any other provision of law or the structure, pace, and timing of the liquid metal fast breeder reactor program) shall be located at the existing Clinch River site, unless that site is determined to be unsuitable from the standpoint of radiological health and safety, and to the maximum extent possible shall be designed, constructed, and operated in accordance with the existing project arrangements, objectives, and schedules: *Provided*, That site preparation and also those construction activities for which a construction permit is required shall not commence during the fiscal year ending September 30, 1978, but the foregoing limitation on commencement of site preparation activities shall not be deemed to prohibit or in any way limit the grant of a limited work authorization for those activities during any fiscal year: *Provided further*, That the Secretary and all other appropriate Federal agencies are directed to undertake all such efforts as are necessary to assure that the earliest possible decisions on a limited work authorization and a construction permit are obtained: *And provided further*, That nothing in this Act shall be deemed to authorize, approve, or constitute a commitment to commercialization of LMFBR technology; and

"(4) funds appropriated for such Project shall be deemed to be deferred or rescinded (as appropriate) for purposes of the Impoundment Control Act of 1974 if such funds are withheld from use, or used to cancel or terminate such Project (or plan its cancellation or termination), rather than for the design, construction, and operation of such Project in accordance with the authorization which is consistent with the intent of Congress for the interpretation of that Act.

SEC. 107. (a) The Department of Energy shall conduct a study of the Barnwell Nuclear Fuel Plant located in South Carolina to determine if that facility may be utilized in support of the nonproliferation objectives of the United States.

(b) The study required under subsection (a) shall—

(1) include an evaluation of the multinational and international management option available for utilizing the Barnwell facility;

(2) include an evaluation of how Barnwell facility might be used to contribute to the INFCE, including preliminary studies on siting and design for adjacent facilities to the Barnwell Separations Plant to solidify liquid waste and mixed oxide evolving from the chemical separations process (these preliminary efforts being consistent with similar efforts undertaken as part of the INFCE);

(3) include an evaluation of a possible role for the IAEA in utilization of Barnwell facility for international nonproliferation programs;

(4) include an evaluation of the means by which the Barnwell facility could be used in demonstration of improved safeguards equipment and proceedings;

(5) include an evaluation of how the Barnwell facility can be used to complement the U.S.-approved research and development program at the Japanese Tokai Mura Reprocessing Plant, and nonproliferation research activities to be undertaken at the British Windscale Reprocessing Plant; and

(6) include an evaluation of whether and how the Barnwell facility might be transferred to the Federal Government.

(c) In carrying out the study required under subsection (a) due consideration shall be given to the impact which the effective and efficient use of resources and the independence of resource supply can have in assuring our national security objectives.

(d) The study shall be completed and a report submitted to the Congress not later than six months after the date that funds are appropriated for carrying out the purposes of this section. In addition, the report shall include recommendations and funding requirements to implement recommended programs resulting from such study.

(e) For the purpose of carrying out the provisions of this section, there is included in subsection 101(20) of this Act an authorization of appropriations in the amount of $1,000,000.

SEC. 108. The Energy Research and Development Administration is hereby authorized to undertake studies, in cooperation with other nations, on a multinational or international basis designed to determine the general feasibility of expanding capacity of existing spent fuel storage facilities; to enter into agreements, subject to the consent of the Congress (by joint or concurrent resolution or legislation hereafter enacted), with other nations or groups of nations, for providing appropriate support to increase international or multinational spent fuel storage capacity; to conduct studies on the feasibility of establishing regional storage sites; and to conduct studies on international transportation and storage systems. For the purpose of carrying out the provisions of this section, there is included in subsection 101(20) of this Act authorization of appropriations in the amount of $20,000,000: *Provided*, notwithstanding any other provision of law, that none of the funds made available to the Secretary of Energy under any other authorization or appropriation Act shall be used, directly or indirectly, for the repurchase, transportation or storage of any foreign spent nuclear fuel (including any nuclear fuel irradiated in any nuclear power reactor located outside of the United States and operated by any foreign legal entity, government or nongovernment, regardless of the legal ownership or control of the fuel or the reactor, and regardless of the origin or licensing of the fuel or the reactor, but not including fuel irradiated in a research reactor, and not including fuel irradiated in a power reactor if the President determines that (1) use of funds for repurchase, transportation or storage of such fuel is required by an emergency situation, (2) it is in the interest of the common defense and security of the United States to take such action, and (3) he notifies the Congress of the determination and action, with a detailed explanation and justification thereof, as soon as possible) unless the President formally notifies, with the report information specified herein, the Committee on Energy and Natural Resources of the Senate and the Committee on Science and Technology of the House of Representatives of such use of funds thirty calendar days, during such time as either House of Congress is in session, before the commitment, expenditure, or obligation of such funds; *and provided further*, notwithstanding any other provision of law, that none of the funds appropriated pursuant to this Act or any other funds made available to the Secretary of Energy under any other authorization or appropriation Act shall be used, directly or indirectly, for the repurchase, transportation, or storage of any such foreign spent nuclear fuel for storage or other disposition, interim or permanent, in the United States, unless the use of the funds for that specific purpose has been (1) previously and expressly authorized by Congress in legislation hereafter enacted, (2) previously and expressly authorized by a concurrent resolution, or (3) the President submits a plan for such use, with the report information specified herein, 30 days during which the Congress is in continuous session, as defined in the Impoundment Control Act of 1974, prior to such use and neither House of Congress approves a resolution of disapproval of the plan prior to the expiration of the aforementioned thirty day period. If such a resolution of disapproval has been introduced, but has not been reported by the Committee on or before the twentieth day after transmission of the Presidential message, a privileged motion shall be in order in the respective body to discharge the Committee from further consideration of the resolution and to provide for its immediate consideration, using the procedures specified for consideration of an impoundment resolution in section 1017 of the Impoundment Control Act of 1974 (31 U.S.C. 1407). Any report or plan proposed under this proviso shall include information and any supporting documentation thereof relating to policy objectives, technical description and discussion, geographic information, cost data, justification and projections, legal and regulatory considerations, environmental impact information and any related bilateral or international agreements, arrangements or understandings: *And provided further*, That nothing contained in this Section shall be construed in any Executive Branch action, administrative proceeding, regulatory proceeding, or legal proceeding as being intended to delay, modify, or reverse the Memorandum and Order of the Nuclear Regulatory Commission of June 28, 1977 for the issuance of License No XSNM-845 to the agent-applicant for the Government of India and the subsequent export thereby licensed of the special nuclear material to be used as fuel for the Tarapur Atomic Power Station or any other Order of the Nuclear Regulatory Commission to issue a license for the export of special nuclear material and subsequent exports thereby licensed, or any consideration by the Nuclear Regulatory Commission of a license application for the export of special nuclear material.

TITLE II—GENERAL PROVISIONS

SEC. 201. Title I of the Energy Reorganization Act of 1974 is amended by adding at the end thereof the following new section:

"PROVISIONS APPLICABLE TO ANNUAL AUTHORIZATION ACTS

"SEC. 111. (a) All appropriations made to the Energy Research and Development Administration or the Administrator shall, except as otherwise provided by law, be subject to annual authorization in accordance with section 261 of the Atomic Energy Act of 1954, section 16 of the Federal Nonnuclear Energy Research and Development Act of 1974, and section 305 of this Act. The provisions of this section shall apply with respect to appropriations made pursuant to the Act providing such authorization (hereinafter in this section referred to as 'annual authorization Acts').

"(b)(1) Funds appropriated pursuant to an annual authorization Act for 'Operating expenses' may be used for—

"(A) the construction or acquisition of any facilities, or major items of equipment, which may be required at locations other than installations of the Administration, for the performance of research, development, and demonstration activities, and

"(B) grants to any organization for purchase or construction of research facilities. No such funds shall be used under this subsection for the acquisition of land. Fee title to all such facilities and items of equipment shall be vested in the United States, unless the Administrator or his designee determines in writing that the research, development, and demonstration authorized by such Act would best be implemented by permitting fee title or any other property interest to be vested in an entity other than the United States; but before approving the vesting of such title or interest in such entity, the Administrator shall (i) transmit such determination, together with all pertinent data, to the Committee on Science and Technology of the House of Representatives and the Committee on Energy and Natural Resources of the Senate and (ii) wait a period of thirty calendar days (not including any day in which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain), unless prior to the expiration of such period each such committee has transmitted to the Administrator written notice to the effect that such committee has no objection to the proposed action.

"(2) No funds shall be used under paragraph (1) for any facility or major item of equipment, including collateral equipment, if the estimated cost to the Federal Government exceeds $5,000,000 in the case of such a facility or $2,000,000 in the case of such an item of equipment, unless such facility or item has been previously authorized by the appropriate committees of the House of Representatives and the Senate, or the Administrator—

"(A) transmit to the appropriate committees of the House of Representatives and the Senate a report on such facility or item showing its nature, purpose, and estimated cost, and

"(B) waits a period of thirty calendar days (not including any day in which either House

of Congress is not in session because of adjournment of more than three calendar days to a day certain), unless prior to the expiration of such period each such committee has transmitted to the Administrator written notice to the effect that such committee has no objection to the proposed action.

"(c)(1) Not to exceed 1 per centum of all funds appropriated pursuant to any annual authorization Act for 'Operating expenses' may be used by the Administrator to construct, expand, or modify laboratories and other facilities, including the acquisition of land, at any location under the control of the Administrator, if the Administrator determines that (A) such action would be necessary because of changes in the national programs authorized to be funded by such Act or because of new scientific or engineering developments, and (B) deferral of such action until the enactment of the next authorization Act would be inconsistent with the policies established by Congress for the Administration.

"(2) No funds may be obligated for expenditure or expended under paragraph (1) for activities described in such paragraph unless—

"(A) a period of thirty calendar days (not including any day in which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain) has passed after the Administrator has transmitted to the appropriate committees of the House of Representatives and the Senate a written report containing a full and complete statement concerning (i) the nature of the construction, expansion, or modification involved, (ii) the cost thereof, including the cost of any real estate action pertaining thereto, and (iii) the reason why such construction, expansion, or modification is necessary and in the national interest, or

"(B) each such committee before the expiration of such period has transmitted to the Administrator a written notice to the effect that such committee has no objection to the proposed action;

except that this paragraph shall not apply to any project the estimated total cost of which does not exceed $50,000.

"(d)(1) Except as otherwise provided in the authorization Act involved—

"(A) no amount appropriated pursuant to any annual authorization Act may be used for any program in excess of the amount actually authorized for that particular program by such Act, and

"(B) no amount appropriated pursuant to any annual authorization Act may be used for any program which has not been presented to, or requested of the Congress.

unless (i) a period of thirty calendar days (not including any day in which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain) has passed after the receipt by the appropriate committees of the House of Representatives and the Senate of notice given by the Administrator containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of such proposed action, or (ii) each such committee before the expiration of such period has transmitted to the Administrator written notice to the effect that such committee has no objection to the proposed action.

"(2) Notwithstanding any other provision of this section or the authorization Act involved, the aggregate amount available for use within the categories of coal, petroleum and natural gas, oil shale, solar, geothermal, nuclear energy (non-weapons), environment and safety, and conservation from sums appropriated pursuant to an annual authorization Act may not, as a result of reprogramming, be decreased by more than 10 per centum of the total of the sums appropriated pursuant to such act for those categories.

"(e) Subject to the applicable requirements and limitations of this section and the authorization Act involved, when so specified in an appropriation Act, amounts appropriated pursuant to any annual authorization Act for 'Operating expenses' or for 'Plant and capital equipment' may be merged with any other amounts appropriated for like purposes pursuant to any other Act authorizing appropriations for the Administration: *Provided*, That no such amounts appropriated for 'plant and capital equipment' may be merged with amounts appropriated for 'operating expenses.'

"(f) When so specified in an appropriation Act, amounts appropriated pursuant to any annual authorization Act for 'Operating expenses' or for 'Plant and capital equipment' may remain available until expended.

"(g) The Administrator is authorized to perform construction design services for any administration construction project whenever (1) such construction project has been included in a proposed authorization bill transmitted to the Congress by the Administration, and (2) the Administration determines that the project is of such urgency in order to meet the needs of national defense or protection of life and property or health and safety that construction of the project should be initiated promptly upon enactment of legislation appropriating funds for its construction.

"(h) When so specified in appropriations Acts, any moneys received by the Administration may be retained and used for operating expenses, and may remain available until expended, notwithstanding the provisions of section 3617 of the Revised Statutes (31 U.S.C. 484); except that—

"(1) this subsection shall not apply with respect to sums received from disposal of property under the Atomic Energy Community Act of 1955 or the Strategic Critical Materials Stockpiling Act, as amended, or with respect to fees received for tests or investigations under the Act of May 16, 1910, as amended (42 U.S.C. 2301; 50 U.S.C. 98h; 30 U.S.C. 7); and

"(2) revenues received by the Administration from the enrichment of uranium shall (when so specified) be retained and used for the specific purpose of offsetting cost incurred by the Administration in providing uranium enrichment service activities.

"(i) When so specified in an appropriation Act, transfers of sums from the 'Operating expenses' appropriation made pursuant to an annual authorization Act may be made to other agencies of the Government for the performance of the work for which the appropriation is made, and in such cases the sums so transferred may be merged with the appropriations to which they are transferred.".

SEC. 202. (a) The Administration is authorized to start any project set forth in section 102(a) (1) through (12) only if at the time the project is started the then currently estimated cost does not exceed by more than 25 per centum the estimated cost set forth for that project; and the total cost of any such project shall not exceed the estimated cost set forth for that project by more than 25 per centum (if such estimated cost was $5,000,000 or more) unless and until appropriations covering such excess are authorized.

(b) The Administration is authorized to start any project under section 102(a)(13) only if the maximum currently estimated cost of such project does not exceed $750,000 and the then maximum currently estimated cost of any building included in the project does not exceed $300,000 and the total cost of all projects undertaken under such section shall not exceed the estimated cost set forth in such section by more than 10 per centum.

SEC. 203. The Administrator, in cooperation with the Secretary of State, shall report to the Committees on Science and Technology and International Relations of the House of Representatives and the Committees on Energy and Natural Resources and Foreign Relations of the Senate, within six months after the date of the enactment of this Act, on the effects of the April 20, 1977, message from the President of the United States, "Establishing for the United States a Strong and Effective Nuclear Non-Proliferation Policy", on nuclear research and development cooperative agreements. This report shall include impacts of the message and related initiatives through the promulgation, repeal, or modification of Executive orders, Presidential proclamations, treaties, other international agreements, and other pertient documents of the President, the Executive Office of the President, the administrative agencies, and the departments, on cooperation between the United States and any other nation in the research, development, demonstration, and commercialization of all nuclear fission and nuclear fusion technologies. After the initial report, the Administrator shall report to such Committees on each subsequent major related initiative.

SEC. 204. (a) In carrying out the programs for which funds are authorized by this Act, the Administrator shall provide a realistic and adequate opportunity for small business concerns to participate in such programs to the optimum extent feasible consistent with the size and nature of the projects and activities involved.

(b) At least once every six months, or upon request, the Administrator shall submit to the appropriate committees of the House of Representatives and the Senate a full report on the actions taken in carrying out subsection (a) during the preceding six months, including the extent to which small business concerns are participating in the programs involved and in projects and activities of various types and sizes within each such program, and indicating the steps currently being taken to assure such participation in the future.

SEC. 205. (a) Section 91 of chapter 9 of the Atomic Energy Community Act of 1955 is amended—

(1) by striking out subsection a. and inserting in lieu thereof the following:

"a. From the date of transfer of any municipal installations to a governmental or other entity at or for the community, the Administrator is authorized, for a period of ten years, to make annual assistance payments of just and reasonable sums to the State, county, or local entity having jurisdiction to collect property taxes or to the entity receiving the installation transferred hereunder: *Provided, however*, That with respect to the cities of Oak Ridge, Tennessee, and Richland, Washington, the Richland School District, the Los Alamos School Board, and the county of Los Alamos, New Mexico, the Administrator is authorized to continue to make assistance payments of just and reasonable sums after expiration of such ten-year period: *Provided further*, That the Administrator is also authorized to make payments of just and reasonable sums to Anderson County and Roane County, Tennessee. In determining the amount and recipient of such payments the Administrator shall consider—

"(1) the approximate real property taxes and assessments for local improvements which would be paid to the governmental

entity upon property within the community if such property were not exempt from taxation by reason of Federal ownership;

"(2) the maintaining of municipal services at a level which will not impede the recruitment or retention of personnel essential to the Energy Research and Development Administration program;

"(3) the fiscal problems peculiar to the governmental entity by reason of the construction at the community as a single-purpose national defense installation under emergency conditions;

"(4) the municipal services and other burdens imposed on the governmental or other entities at the community by the United States in it operations in the project area; and

"(5) the tax revenues and sources available to the governmental entity, its efforts and diligence in collection of taxes, assessment of property, and the efficiency of its operations,"; and

(2) by striking out subsection d. and inserting in lieu thereof the following:

"d. With respect to any entity not less than six months prior to the expiration of the ten-year period referred to in subsection a. (or not less than six months prior to June 30, 1979, in the case of the cities of Oak Ridge, Tennessee, and Richland, Washington, and the Richland School District; or not less than six months prior to June 30, 1986, in the case of Anderson County and Roane County, Tennessee, and the Los Alamos School Board; and not less than six months prior to June 30, 1987, in the case of the county of Los Alamos, New Mexico), the Administrator shall present to the appropriate committees of the House of Representatives and the Senate recommendations as to the need for any further assistance payments to such entity.".

(b) Chapter 9 of such Act is further amended by striking out section 94 and inserting in lieu thereof the following:

"SEC. 94. CONTRACTS.—The Administrator is authorized, without regard to section 3679 of the Revised Statutes, to enter into a contract with any governmental or other entity to which payments are authorized to be made pursuant to section 91, obligating the Administrator to make to such entity the payments directed or authorized to be made by section 91: *Provided, however,* That the term of such contracts in the case of the cities of Oak Ridge, Tennessee, and Richland, Washington, and the Richland School District, shall not extend beyond June 30, 1979; and in the case of the Los Alamos School Board shall not extend beyond June 30, 1986; and in the case of the county of Los Alamos, New Mexico, shall not extend beyond June 30, 1987.".

SEC. 206. (a) Section 6 of the Federal Nonnuclear Energy Research and Development Act of 1974 is amended by adding at the end thereof the following new subsection:

"(c) Based upon the comprehensive plan developed under subsection (a), the Administrator shall develop and transmit to the Congress, on or before September 1, 1978, a comprehensive environment and safety program to insure the full consideration and evaluation of all environmental, health, and safety impacts of each element, program, or initiative contained in the nuclear and nonnuclear energy research, development, and demonstration plans.".

(b) Section 15(a) of such Act is amended—

(1) by striking out "and" at the end of paragraph (2),

(2) by striking out the comma at the end of paragraph (3) and inserting in lieu thereof "; and", and

(3) by inserting after paragraph (3) the following new paragraph:

"(4) a detailed description of the environmental and safety research, development, and demonstration activities carried out and in progress including the procedures adopted to mitigate undesirable environmental and safety impacts.".

SEC. 207. (a) Section 7(a) of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5906) is amended—

(1) by striking out "and" after the semicolon at the end of paragraph (5),

(2) by striking out the period at the end of paragraph (6) and inserting in lieu thereof "; and", and

(3) by adding at the end thereof the following new paragraph:

"(7) Federal loan guarantees and commitments thereof as provided in section 19.".

(b) The Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5901, et seq.) is further amended by adding at the end thereof the following new section:

"LOAN GUARANTEES FOR ALTERNATIVE FUEL DEMONSTRATION FACILITIES

"SEC. 19. (a) It is the purpose of this section—

"(1) to assure adequate Federal support to foster a demonstration program to produce alternative fuels from coal, oil shale, biomass, and other domestic resources;

"(2) to authorize assistance, through loan guarantees under subsection (b) and (y) for construction and startup and related costs, to demonstration facilities for the conversion of domestic coal, oil shale, biomass, and other domestic resources into alternative fuels; and

"(3) to gather information about the technological, economic, environmental, and social costs, benefits, and impacts of such demonstration facilities.

"(b)(1) Except as provided in paragraph (5) of this subsection and subsection (y) of this section the Administrator is authorized, in accordance with such rules and regulations as he shall precribe after consultation with the Secretary of the Treasury, to guarantee and to make commitments to guarantee, in such manner and subject to such conditions (not inconsistent with the provisions of this Act) as he deems appropriate, the payment of interest on, and the principal balance of, bonds, debentures, notes, and other obligations issued by, or on behalf of, any borrower for the purpose of financing the construction and startup costs of demonstration facilities for the conversion of domestic coal, oil shale, and other domestic resources into alternative fuels: *Provided,* That no loan guarantee for a full sized oil shale facility shall be provided under this section until after successful demonstration of a modular facility producing between six and ten thousand barrels per day, taking into account such considerations as water usage, environmental effects, waste disposal, labor conditions, health and safety, and the socioeconomic impacts on local communities: *Provided further,* That no loan guarantee shall be available under this subsection for the manufacture of component parts for demonstration facilities eligible for assistance under this subsection.

"(2) An applicant for any financial assistance under this section shall provide information to the Administrator in such form and with such content as the Administrator deems necessary.

"(3) Prior to issuing any guarantee under this section the Administrator shall obtain the concurrence of the Secretary of the Treasury with respect to the timing, interest rate, and substantial terms and conditions of such guarantee. The Secretary of the Treasury shall insure to the maximum extent feasible that the timing, interest rate, and substantial terms and conditions of such guarantee will have the minimum possible impact on the capital markets of the United States, taking into account other Federal direct and indirect securities activities.

"(4) The full faith and credit of the United States is pledged to the payment of all guarantees issued under this section with respect to principal and interest.

"(5)(A) The Administrator is authorized, in the case of a facility for the conversion of oil shale to alternative fuels which is determined by the Administrator pursuant to the proviso in paragraph (1)(A) of this subsection, to be constructed at a modular site, to enter into a cooperative agreement with the applicant in accordance with section S of this Act and the other provisions of this Act to share the estimated total design and construction costs, plus operation and maintenance costs, of such modular facility. The Federal share shall not exceed 75 per centum of such costs. All receipts for the sale of any products produced during the operation of the facility shall be used to offset the costs incurred in the operation and maintenance of the facility. The provisions of subsections (d), (e), (k), (m), (p), (s), (t), (u), (v), (w), and (x) shall apply to any such modular facility. The provisions of this section shall apply to any loan guarantee for such modular facility.

"(B) After successful demonstration of the modular facility, as determined by the Administrator, the facility is eligible for financial assistance under this section for purposes of expansion to a full sized facility and the applicant may purchase the Federal interest in the modular facility as represented by the Federal share thereof by means of (i) a cash payment to the United States, or (ii) a share of the product or sales resulting from such expanded operation, as determined by the Administrator. If expansion of such facility is determined not to be warranted by the Administrator, he may, at the option of the applicant, dispose of the modular facility to the applicant at not less than fair market value, as determined by the Administrator as of the date of the disposal, or otherwise dispose of it, in accordance with applicable provisions of law, and distribute the net proceeds thereof after expenses of such disposal to the applicant in proportion to the applicant's share of the costs of such facility.

"(6) To the extent possible, loan guarantees shall be issued on the basis of competitive bidding among guarantee applicants in a particular technology area.

"(c) The Administrator, with due regard for the need for competition, shall guarantee or make a commitment to guarantee any obligation under subsection (b) or (y) only if—

"(1) the Administrator is satisfied that the financial assistance applied for is necessary to encourage financial participation;

"(2) the amount guaranteed to any borrower at any time does not exceed—

"(A) an amount equal to 75 per centum of the project cost of the demonstration facility as estimated at the time the guarantee is issued, which cost shall not include amounts expended for facilities and equipment used in the extraction of a mineral other than coal or shale, and in the case of coal only to the extent that the Administrator determines that the coal is to be converted to alternative fuel; and

"(B) an amount equal to 60 per centum of that portion of the actual total project cost of any demonstration facility which exceeds the project cost of such facility as estimated at the time the loan guarantee is issued:

"(3) the Administrator has determined that there will be a continued reasonable assurance of full repayment;

"(4) the obligation is subject to the condition that it not be subordinated to any other financing;

"(5) the Administrator has determined, taking into consideration all reasonably available forms of assistance under this section and other Federal and State statutes, that the impacts resulting from the proposed demonstration facility have been fully evaluated by the borrower, the Administrator, and the Governor of the affected State, and that effective steps have been taken or will be taken in a timely manner to finance community planning and development costs resulting from such facility under this section, under other provisions of law, or by other means;

"(6) the maximum maturity of the obligation does not exceed twenty years, or 90 per centum of the projected useful economic life of the physical assets of the demonstration facility covered by the guarantee, whichever is less, as determined by the Administrator;

"(7) the Administrator has determined that, in the case of any demonstration or modular facility planned to be located on Indian lands, the appropriate Indian tribe, with the approval of the Secretary of the Interior, has given written consent to such location;

"(8) the obligation provides for the orderly and ratable retirement of the obligation and includes sinking fund provisions, installment payment provisions or other methods of payments and reserves as may be reasonably required by the Administrator. Prior to approving any repayment schedule the Administrator may consider the date on which operating revenues are anticipated to be generated by the project. To the maximum extent possible repayment or provision therefor shall be required to be made in equal payments payable at equal intervals; and

"(9) the obligation provides that the Administrator shall, after a period of not less than ten years from issuance of the obligation, taking into consideration whether the Government's needs for information to be derived from the project have been substantially met and whether the project is capable of commercial operation, determine the feasibility and advisability of terminating the Federal participation in the project. In the event that such determination is positive, the Administrator shall notify the borrower and provide the borrower with not less than two nor more than three years in which to find alternative financing. At the expiration of the designated period of time, if the borrower has been unable to secure alternative financing, the Administrator is authorized to collect from the borrower an additional fee of 1 per centum per annum on the remaining obligation to which the Federal guarantee applies.

"(d) Prior to submitting a report to Congress pursuant to subsection (m) of this section on each guarantee and cooperative agreement, the Administrator shall request from the Attorney General and the Chairman of the Federal Trade Commission written views, comments and recommendations concerning the impact of such guarantee or commitment or agreement on competition and concentration in the production of energy and give due consideration to views, comments, and recommendations received: Provided, That if either official, within sixty days after receipt of such request or at any time prior to the Administrator submitting such report to Congress, recommends against making such guarantee or commitment or agreement, the proposed guarantee or commitment or agreement shall be referred to the President, and the Administrator shall not do so unless the President determines in writing that such guarantee or commitment or agreement is in the national interest.

"(e)(1) As soon as the Administrator knows the geographic location of a proposed facility for which a guarantee or a commitment to guarantee or cooperative agreement is sought under this section, he shall inform the Governor of the State, and officials of each political subdivision and Indian tribe, as appropriate, in which the facility would be located or which would be impacted by such facility. The Administrator shall not guarantee or make a commitment to guarantee or enter into a cooperative agreement under subsection (b) of this section, if the Governor of the State in which the proposed facility would be located recommends that such action not be taken, unless the Administrator finds that there is an overriding national interest in taking such action in order to achive the purpose of this section. If the Administrator decides to guarantee or make a commitment to guarantee or enter into a cooperative agreement despite a Governor's recommendation not to take such action, the Administrator shall communicate, in writing to the Governor reasons for not concurring with such recommendation. The Administrator's decision, pursuant to this subsection, shall be final unless determined upon judicial review initiated by the Governor to be unlawful by the reviewing court pursuant to 5 U.S.C. 706(2) (A) through (D). Such review shall take place in the United States court of appeals for the circuit in which the State involved is located, upon application made within ninety days from the date of such decision. The Administrator shall, by regulation, establish procedures for review of, and comment on, the proposed facility by States, local political subdivisions, and Indian tribes which may be impacted by such facility, and the general public.

"(2) The Administrator shall review and approve the plans of the applicant for the construction and operation of any demonstration and related facilities constructed or to be constructed with assistance under this section. Such plans and the actual construction shall include such monitoring and other data-gathering costs associated with such facility as are required by the comprehensive plan and program under this section. The Administrator shall determine the estimated total cost of such demonstration facility, including, but not limited to, construction costs, startup costs, costs to political subdivisions and Indian tribe by such facility, and cost of any water storage facilities needed in connection with such demonstration facility, and determine who shall pay such costs. Such determination shall not be binding upon the States, political subdivisions, or Indian tribes.

"(3) There is hereby established a panel to advise the Administrator on matters relating to the program authorized by this section, including, but not limited to, the impact of the demonstration facilities on communities and States and Indian tribes, the environmental and health and safety effects of such facilities, and the means, measures, and planning for preventing or mitigating such impacts, and other matters relating to the development of alternative fuels and other energy sources under this section. The panel shall include such Governors or their designees as shall be designated by the Chairman of the National Governors Conference, Representatives of Indian tribes, industry, environmental organizations, and the general public shall be appointed by the Administrator. The Chairman of the panel shall be selected by the Administrator. No person shall be appointed to the panel who has a financial interest in any applicant applying for assistance under this section. Members of the panel shall serve without compensation. The provisions of section 106(c) of the Energy Reorganization Act of 1974 (42 U.S.C. 5816(e)) shall apply to the panel.

"(f) Except in accordance with reasonable terms and conditions contained in the written contract of guarantee, no guarantee issued or commitment to guarantee made under this section shall be terminated, canceled, or otherwise revoked. Such a guarantee or commitment shall be conclusive evidence that the underlying obligation is in compliance with the provisions of this section and that such obligation has been approved and is legal as to principal, interest, and other terms. Subject to the conditions of the guarantee or commitment to guarantee, such a guarantee shall be incontestable in the hands of the holder of the guaranteed obligation, except as to fraud or material misrepresentation on the part of the holder.

"(g)(1) If there is a default by the borrower, as defined in regulations promulgated by the Administrator and in the guarantee contract, the holder of the obligation shall have the right to demand payment of the unpaid amount from the Administrator. Within such period as may be specified in the guarantee or related agreements, the Administrator shall pay to the holder of the obligation the unpaid interest on, and unpaid principal of, the guaranteed obligation as to which the borrower has defaulted, unless the Administrator finds that there was no default by the borrower in the payment of interest or principal or that such default has been remedied. Nothing in this section shall be construed to preclude any forbearance by the holder of the obligation for the benefit of the borrower which may be agreed upon by the parties to the guaranteed obligation and approved by the Administrator.

"(2) If the Administrator makes a payment under paragraph (1) of this subsection, the Administrator shall be subrogated to the rights of the recipient of such payment (and such subrogation shall be expressly set forth in the guarantee or related agreements), including the authority to complete, maintain, operate, lease, or otherwise dispose of any property acquired pursuant to such gaurantee or related agreements, or any other property of the borrower (of a value equal to the amount of such payment) to the extent that the guarantee applies to amounts in excess of the estimated project cost under subsection (c)(2)(B), without regard to the provisions of the Federal Property and Administrative Services Act of 1949, as amended, except section 207 of that Act (40 U.S.C. 488), or any other law, or to permit the borrower, pursuant to an agreement with the Administrator, to continue to pursue the purposes of the demonstration facility if the Administrator determines that this is in the public interest. The rights of the Administrator with respect to any property acquired pursuant to such guarantee or related agreements, shall be superior to the rights of any other person with respect to such property.

"(3) In the event of a default on any guarantee under this section, the Administrator shall notify the Attorney General, who shall take such action as may be appropriate to recover the amounts of any payments made under paragraph (1) including any payment of principal and interest under subsection (h) from such assets of the defaulting borrower as are associated with the demonstration facility, or from any other security included in the terms of the guarantee.

"(4) For purposes of this section, patents, including any inventions for which a waiver

was made by the Administrator under Section 9 of this Act, and technology resulting from the demonstration facility, shall be treated as project assets of such facility. The guarantee agreement shall include such detailed terms and conditions as the Administrator deems appropriate to protect the interests of the United States in the case of default and to have available all the patents and technology necessary for any person selected, including, but not limited to the Administrator, to complete and operate the defaulting project. Furthermore, the guarantee agreement shall contain a provision specifying that patents, technology, and other proprietary rights which are necessary for the completion or operation of the demonstration facility shall be available to the United States and its designees on equitable terms, including due consideration to the amount of the United States default payments. Inventions made or conceived in the course of or under such guarantee, title to which is vested in the United States under this Act, shall not be treated as project assets of such facility for disposal purposes under this subsection, unless the Administrator determines in writing that it is in the best interests of the United States to do so.

"(h) With respect to any obligation guaranteed under this section, the Administrator is authorized to enter into a contract to pay, and to pay, holders of the obligations, for and on behalf of the borrowers, from the fund established by this section, the principal and interest payments which become due and payable on the unpaid balance of such obligation if the Administrator finds that—

"(1) the borrower is unable to meet such payment and is not in default; it is in the public interest to permit the borrower to continue to pursue the purposes of such demonstration facility; and the probable net benefit to the Federal Government in paying such principal and interest will be greater than that which would result in the event of a default;

"(2) the amount of such payment which the Administrator is authorized to pay shall be no greater than the amount of principal and interest which the borrower is obligated to pay under the loan agreement; and

"(3) the borrower agrees to reimburse the Administrator for such payment on terms and conditions, including interest, which are satisfactory to the Administrator.

"(i) Regulations required by this section shall be issued within one hundred and eighty days after enactment of this section, except as provided in subsection (1) of this section. All regulations under this section and any amendments thereto shall be issued in accordance with section 553 of title 5, of the United States Code.

"(j) The Administrator shall charge and collect fees for guarantees of obligations authorized by subsection (b)(1), in amounts which (1) are sufficient in the judgment of the Administrator to cover the applicable administrative costs, and (2) reflect the percentage of projects costs guaranteed. In no event shall the fee be less than 1 per centum per annum of the outstanding indebtedness covered by the guarantee. Nothing in this subsection shall be construed to apply to community planning and development assistance pursuant to subsection (k) of this section.

"(k)(1) In accordance with such rules and regulations as the Administrator in consultation with the Secretary of the Treasury shall prescribe, and subject to such terms and conditions as he deems appropriate, the Administrator is authorized, for the purpose of financing essential community development and planning which directly result from, or are necessitated by, one or more demonstration facilities assisted under this section to—

"(A) guarantee and make commitments to guarantee the payment of interest on, and the principal balance of obligations for such financing issued by eligible States, political subdivisions, or Indian tribes.

"(B) guarantee and make commitments to guarantee the payment of taxes imposed on such demonstration facilities by eligible non-Federal taxing authorities which taxes are earmarked by such authorities to support the payment of interest and principal on obligations for such financing, and

"(C) require that the applicant for assistance for a demonstration facility under this section advance sums to eligible States, political subdivisions, and Indian tribes to pay for the financing of such development and planning: *Provided,* That the State, political subdivision, or Indian tribe agrees to provide tax abatement credits over the life of the facilities for such payments by such applicant.

"(2) Prior to issuing any guarantee under this subsection, the Administrator shall obtain the concurrence of the Secretary of the Treasury with respect to the timing, interest rate, and substantial terms and conditions of such guarantee. The Secretary of the Treasury shall insure to the maximum extent feasible that the timing, interest rate, and substantial terms and conditions of such guarantee will have the minimum possible impact on the capital markets of the United States, taking into account other Federal direct and indirect securities activities.

"(3) In the event of any default by the borrower in the payment of taxes guaranteed by the Administrator under this subsection, the Administrator shall pay out of the fund established by this section such taxes at the time or times they may fall due, and shall have by reason of such payment a claim against the borrower for all sums paid plus interest.

"(4) If after consultation with the State, political subdivision, or Indian tribe, the Administrator finds that the financial assistance programs of paragraph (1) of this subsection will not result in sufficient funds to carry out the purposes of this subsection, then the Administrator may—

"(A) make direct loans to the eligible States political subdivisions, or Indian tribes for such purposes: *Provided,* That such loans shall be made on such reasonable terms and conditions as the Administrator shall prescribe: *Provided further,* That the Administrator may waive repayment of all or part of a loan made under this paragraph, including interest, if the State or political subdivision or Indian tribe involved demonstrates to the satisfaction of the Administrator that due to a change in circumstances there will be net adverse impacts resulting from such demonstration facility that would probably cause such State, subdivision, or tribe to default on the loan; or

"(B) require that any community development and planning costs which are associated with, or result from, such demonstration facility and which are determined by the Administrator to be appropriate for such inclusion shall be included in the total costs of the demonstration facility.

"(5) The Administrator is further authorized to make grants to States, political subdivisions, or Indian tribes for studying and planning for the potential economic, environmental, and social consequences of demonstration facilities, and for establishing related management expertise.

"(6) At any time the Administrator may, with the concurrence of the Secretary of the Treasury, redeem, in whole or in part, out of the fund established by this section, the debt obligations guaranteed or the debt obligations for which tax payments are guaranteed under this subsection.

"(7) When one or more States, political subdivisions, or Indian tribes would be eligible for assistance under this subsection, but for the fact that construction and operation of the demonstration facilities occurs outside its jurisdiction, the Administrator is authorized to provide, to the greatest extent possible, arrangements for equitable sharing of such assistance.

"(8) Such amounts as may be necessary for direct loans and grants pursuant to this subsection shall be available as provided in annual authorization Acts.

"(9) The Administrator, if appropriate, shall provide assistance in the financing of up to 100 per centum of the costs of the required community development and planning pursuant to the subsection.

"(10) In carrying out the provisions of this subsection, the Administrator shall provide that title to any facility receiving financial assistance under this subsection shall vest in the applicable State, political subdivision, or Indian tribe, as appropriate, and in the case of default by the borrower on a loan guarantee such facility shall not be considered a project asset for the purposes of subsection (g) of this section.

"(l)(1) The Administrator is directed to submit a report to the Congress within one hundred and eighty days after the enactment of this section setting forth his recommendations on the best opportunities to implement a program of Federal financial assistance with the objective of demonstrating production and conservation of energy. Such report shall be updated and submitted to Congress at least annually and shall include specific comments and recommendations by the Secretary of the Treasury on the methods and procedures set forth in subparagraph (B)(viii) of this subsection, including their adequacy, and changes necessary to satisfy the objectives stated in this subsection. This report shall include—

"(A) a study of the purchase or commitment to purchase by the Federal Government, for the use by the United States, of all or a portion of the products of any alternative fuel facilities constructed pursuant to this program as a direct or an alternate form of Federal assistance, which assistance, if recommended, shall be carried out pursuant to section 7(a)(4) of this Act; and

"(B) a comprehensive plan and program to acquire information and evaluate the environmental, economic, social, and technological impacts of the demonstration program under this section. In preparing such a comprehensive plan and program, the Administrator shall consult with the Environmental Protection Agency, the Federal Energy Administration, the Department of Housing and Urban Development, the Department of the Interior, the Department of Agriculture, and the Department of the Treasury, and shall include therein, but not be limited to, the following:

"(i) information about potential demonstration facilities proposed in the program under this section;

"(ii) any significant adverse impacts which may result from any activity included in the program;

"(iii) the extent to which it is feasible to commercialize the technologies as they affect different regions of the Nation;

"(iv) proposed regulations required to carry out the purposes of this section;

"(v) a list of Federal agencies, governmental entities, and other persons that will be consulted or utilized to implement the program;

"(vi) the methods and procedures by which the information gathered under the program will be analyzed and disseminated;

"(vii) a plan for the study and monitoring of the health effects of such facilities on workers and other persons, including, but not limited to, any carcinogenic effect of alternative fuels; and

"(viii) the methods and procedures to insure that (I) the use of the Federal assistance for demonstration facilities is kept to the minimum level necessary for the information objectives of this section, (II) the impact of loan guarantees on the capital markets of the United States is minimized, taking into account other Federal direct and indirect securities activities, and any economic sectors which may be negatively impacted as a result of the reduction of capital by the placement of guaranteed loans, and (III) the granting of Federal loan guarantees under this Act does not impede loan guarantees under this Act, does not impede movement toward improvement in the climate for attracting private capital to develop alternative fuels without continued direct Federal incentives.

"(2) The Administrator shall annually submit a detailed report to the Congress concerning—

"(A) the actions taken or not taken by the Administrator under this section during the preceding fiscal year, and including, but not be limited to (i) a discussion of the status of each demonstration facility and related facilities financed under this section, including progress made in the development of such facilities, and the expected or actual production from each such facility, including byproduct production therefrom, and the distribution of such products and byproducts, (ii) a detailed statement of the financial conditions of each such demonstration facility, (iii) data concerning the environmental, community, and health and safety impacts of each such facility and the actions taken or planned to prevent or mitigate such imports, (iv) the administrative and other costs incurred by the Administrator and other Federal agencies in carrying out this program, and (v) such other data as may be helpful in keeping Congress and the public fully and currently informed about the program authorized by this section; and

"(B) the activities of the funds referred to in subsection (n) of this section during the preceding fiscal year, including a statement of the amount and source of fees or other moneys, property, or assets deposited into the funds, all payments made, the notes or other obligations issued by the Administrator, and such other data as may be appropriate.

"(3) The annual reports required by this subsection shall be a part of the annual report required by section 15 of this Act, except that the matters required to be reported by this subsection shall be clearly set out and identified in such annual reports. Such reports and the one-hundred-and-eighty-day report required in paragraph (1) of this subsection shall be transmitted to the Speaker of the House of Representatives and the House Committee on Science and Technology and to the President of the Senate and the Committee on Energy and Natural Resources of the Senate.

"(m) Prior to issuing any guarantee or commitment to guarantee or cooperative agreement pursuant to subsection (b) of this section, the Administrator shall submit to the Committee on Science and Technology of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a full and complete report on the proposed demonstration facility and such guarantee, agreement, or contract. Such guarantee, commitment to guarantee, cooperative agreement, or contract shall not be finalized under the authority granted by this section prior to the expiration of ninety calendar days (not including any day on which either House of Congress is not in session because of an adjournment of more than three calendar days to a day certain) from the date on which such report is received by such committees; *Provided*, That, where the cost of a demonstration facility to be assisted with a guarantee or cooperative agreement pursuant to subsection (b) of this section exceeds $50,000,000 such guarantee or commitment to guarantee or cooperative agreement shall not be finalized unless (1) the making of such guarantee or commitment or agreement is specifically authorized by legislation hereafter enacted by the Congress or (2) both Houses pass a resolution stating in substance that the Congress favors the making of such guarantee or commitment or agreement.

"(n)(1) There is hereby created within the Treasury a separate fund (hereafter in this section called the 'fund') which shall be available to the Administrator without fiscal year limitation as a revolving fund for the purpose of carrying out the program authorized by subsection (b)(1) and subsections (g), (h), and (k) of this section.

"(2) There are hereby authorized to be appropriated to the fund for administrative expenses from time to time such amounts as may be necessary to carry out the purposes of the applicable provisions of this section, including, but not limited to, the payments of interest and principal and the payment of interest differentials and redemption of debt. All amounts received by the Administrator as interest payments or repayments of principal on loans which are guaranteed under this section, fees, and any other moneys, property, or assets derived by him from operations under this section shall be deposited in the fund.

"(3) All payments on obligations, appropriate expenses (including reimbursements to other Government accounts), and repayments pursuant to operations of the Administrator under this section shall be paid from the fund subject to appropriations. If at any time the Administrator determines that moneys in the fund exceed the present and reasonably foreseeable future requirements of the fund, such excess shall be transferred to the general fund of the Treasury.

"(4) If at any time the moneys available in the fund are insufficient to enable the Administrator to discharge his responsibilities as authorized by subsections (b)(1), (g), and (h) of this section, the Administrator shall issue to the Secretary of the Treasury notes or other obligations in such forms and denominations, bearing such maturities, and subject to such terms and conditions as may be prescribed by the Secretary of the Treasury. Redemption of such notes or obligations shall be made by the Administrator from appropriations or other moneys available under paragraph (2) of this subsection for loan guarantees authorized by subsection (b)(1) and subsections (g), (h), and (k) of this section. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, which shall be not less than a rate determined by taking into consideration the average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuances of the notes or other obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this subsection.

"(5) The provisions of this subsection do not apply to direct loans or planning grants made under subsection (k) of this section.

"(6) For the purposes of this section, the term—

"(1) 'State' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, American Samoa, any territory or possession of the United States.

"(2) 'United States' means the several States, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and American Samoa.

"(3) 'borrower' or 'applicant' shall include any individual, firm, corporation, company, partnership, association, society, trust, joint venture, joint stock company, or other non-Federal entity, and

"(4) 'biomass' shall include, but is not limited to, animal and timber waste, municipal and industrial waste, sewage sludge, and oceanic and terrestrial crops.

"(p)(1) An applicant seeking a guarantee or cooperative agreement under subsection (b) of this section must be a citizen or national of the United States. A corporation, partnership, firm or association shall not be deemed to be a citizen or national of the United States unless the Administrator determines that it satisfactorily meets all the requirements of section 802 of title 46, United States Code, for determining such citizenship, except that the provisions in subsection (a) of such section 802 concerning (A) the citizenship of officers or directors of a corporation, and (B) the interest required to be owned in the case of a corporation, association, or partnership operating a vessel in the coastwise trade, shall not be applicable.

"(2) The Administrator, in consultation with the Secretary of State, may waive such requirements in the case of a corporation, partnership, firm, or association, controlling interest in which is owned by citizens of countries which are participants in the International Energy Agreement.

"(q) No part of the program authorized by this section shall be transferred to any other agency or authority, except pursuant to Act of Congress enacted after the date of enactment of this section.

"(r) Inventions made or conceived in the course of or under a guarantee authorized by this section shall be subject to the title and waiver requirements and conditions of section 9 of this Act.

"(s) Nothing in this section shall be construed as affecting the obligations of any person receiving financial assistance pursuant to this section to comply with Federal and State environmental, land use, water, and health and safety laws and regulations or to obtain applicable Federal and State permits, licenses, and certificates.

"(t) The information maintained by the Administrator under this section shall be made available to the public subject to the provision of section 552 of title 5, United States Code, and section 1905 of title 18, United States Code, and to other Government agencies in a manner that will facilitate its dissemination; *Provided*, That upon a showing satisfactory to the Administrator by any person that any information, or portion thereof obtained under this section by the Administrator directly or indirectly from such person would, if made public, divulge (1) trade secrets or (2) other proprietary information of such person, the Administrator shall not disclose such information and disclosure thereof shall be punishable under section 1905 of title 18, United States Code: *Provided further*, That the Administrator shall, upon request, provide such information to (A) any delegate of the Administrator for the purpose of carrying out this Act, and (B) the Attorney General, the Secretary of Agriculture, the Secretary of the Interior, the Federal Trade Commission, the Federal Energy Administration, the Environmental Protection Agency, the Federal Power Commission, the General Accounting Office, other Federal agencies, or heads of other Federal agencies, when necessary to carry out their duties and responsibilities under this and other statutes, but such agencies and agency

heads shall not release such information to the public. This section is not authority to withhold information from Congress, or from any committee of Congress upon request of the Chairman. For the purposes of this subsection, the term 'person' shall include the borrower.

"(u) Notwithstanding any other provision of this section, the authority provided in this section to make guarantees or commitments to guarantee or enter into cooperative agreements under subsection (b)(1), to make guarantees or commitments to guarantees, or make loans or grants, under subsection (k), to make contracts under subsection (h), and to use fees and receipts collected under subsections (b) and (j) of this section, and the authorities provided under subsection (n) of this section shall be effective only to the extent provided, without fiscal year limitation, in appropriation Acts enacted after the date of enactment of this section.

"(v) No person in the United States shall on the grounds of race, color, religion, national origin, or sex, be excluded from participation in, be denied benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with assistance made available under this section: *Provided*, That Indian tribes are exempt from the operation of this subsection: *Provided further*, That such exemption shall be limited to the planting and provision of public facilities which are located on reservations and which are provided for members of the affected Indian tribes as the primary beneficiaries.

"(w) In carrying out his functions under this section, the Administrator shall provide a realistic and adequate opportunity for small businesss concerns to participate in the program to the optimum extent feasible consistent with the size and nature of each project.

"(x)(1)(A) Recipients of financial assistance under this section shall keep such records and other pertinent documents, as the Administrator shall prescribe by regulation, including, but not limited to, records which fully disclose the disposition of the proceeds of such assistance, the cost of any facility, the total cost of the provision of public facilities for which assistance was used and such other records as the Administrator may require to facilitate an effective audit. The Administrator and the Comptroller General of the United States, or their duly authorized representatives shall have access, for the purpose of audit, to such records and other pertinent documents.

"(B) Within 6 months after the date of enactment of this section and at 6-month intervals thereafter the Comptroller General of the United States shall make an audit of recipients of financial assistance under this section. The Comptroller General may prescribe such regulations as he deems necessary to carry out this subparagraph.

"(2) All laborers and mechanics employed by contractors or subcontractors in the performance of construction work financed in whole or in part with assistance under this section shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a—276a-5). The Secretary of Labor shall have, with respect to such labor standards, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 64 Stat. 1267) and section 2 of the Act of June 13, 1934, as amended (48 Stat. 948; 40 U.S.C. 276(c)).

"(y)(1) The Administrator is authorized in accordance with such rules and regulation as he shall prescribe after consultation with the Secretary of the Treasury, to guarantee and to make commitments to guarantee the payment of interest on, and the principal balance of, bonds, debentures, notes, and other obligations issued by or on behalf of any borrower for the purpose of (A) financing the construction and startup costs of demonstration facilities for the conversion of municipal or industrial waste, sewerage sludge, or other municipal organic wastes into synthetic fuels, and (B) financing the construction and startup costs of demonstration facilities to generate desirable forms of energy (including synthetic fuels) from municipal or industrial waste, sewerage sludge, or other municipal organic waste, the following subsections of this section shall not apply: (b)(1), (b)(5), (c)(2), (c)(5), (c)(6), (c)(7), (c)(8), (c)(9), (e)(3), (j), (k), and (q).

"(2) In the case where the Administrator seeks to guarantee or to make commitments to guarantee as provided by this subsection he is authorized to incur an outstanding indebtedness which at no time shall exceed $300 million.

"(3) The Administrator shall apply the following provisions thereto:

"(A) With respect to any demonstration facility for the conversion of solid waste (as the term is defined in the Resources Conservation and Recovery Act (42 U.S.C. 6903), the Administrator, prior to issuing any guarantee under this section, must be in receipt of a certification from the Administrator of the Environmental Protection Agency and any appropriate State or areawide solid waste management planning agency that the proposed application for a guarantee is consistent with any applicable suggested guidelines published pursuant to section 1008(a) of the Resources Conservation and Recovery Act; and any applicable State or regional solid waste management plan.

"(B) The amount guaranteed shall not exceed 75 per centum of the total cost of the commercial demonstration facility, as determined by the Administrator: *Provided*, That the amount guaranteed may not exceed 90 per centum of the total cost of the commercial demonstration facility during the period of construction and startup.

"(C) The maximum maturity of the obligation shall not exceed thirty years, or 90 per centum of the projected useful economic life of the physical assets of the commercial demonstration facility covered by the guarantee, whichever is less, as determined by the Administrator.

"(D) The Administrator shall charge and collect fees for guarantees of obligations in amounts sufficient in the judgment of the Administrator to cover the applicable administrative costs and probable losses on guaranteed obligations, but in any event not to exceed 1 per centum per annum of the outstanding indebtedness covered by the guarantee.

"(E) No part of the program authorized by this section shall be transferred to any other agency or authority, except pursuant to Act of Congress enacted after the date of enactment of this section: *Provided*, That project agreements entered into pursuant to this section for any commercial demonstration facility for the conversion or bioconversion of solid waste (as that term is defined in the Resources Conservation and Recovery Act) shall be administered in accordance with the May 7, 1976, Interagency Agreement between the Environmental Protection Agency and the Energy Research and Development Administration on the Development of Energy from Solid Wastes, and provided specifically that in accordance with this agreement (i) for those energy-related projects of mutual interest, planning will be conducted jointly by the Environmental Protection Agency and the Energy Research and Development Administration, following which project responsibility will be assigned to one agency; (ii) energy-related projects for recovery of synthetic fuels or other forms of energy from solid waste shall be the responsibility of the Energy Research and Development Administration; and (iii) the Environmental Protection Agency shall retain responsibility for the environmental, economic, and institutional aspects of solid waste projects and for assurance that such projects are consistent with any applicable suggested guidelines pursuant to section 1008 of the Resource Conservation and Recovery Act of 1976 (42 U.S.C. 6901 et seq.), as amended, and any applicable State or regional solid waste-management plan.

"(F) With respect to any obligation which is issued after the enactment of this section by, or in behalf of, any State, political subdivision, or Indian tribe and which is either guaranteed under, or supported by taxes levied by said issuer which are guaranteed under, this section, the interest paid on such obligation and received by the purchaser thereof (or the purchaser's successor in interest) shall be included in gross income for the purpose of chapter 1 of the Internal Revenue Code of 1954, as amended: *Provided*, That the Administrator shall pay to such issuer out of the fund established by this section such portion of the interest on such obligations, as determined by the Secretary of the Treasury to be appropriate after taking into account current market yields (i) on obligations of said issuer, if any, and (ii) on other obligations with similar terms and conditions the interest on which is not so included in gross income for purposes of chapter 1 of such Code, and in accordance with, such terms and conditions as the Secretary of the Treasury shall require.".

SEC. 208. (*a*) The Administrator of the Energy Research and Development Administration shall—

(1) initiate and conduct an "application and system design study", cooperatively with the Federal Energy Administration and other appropriate Federal agencies, to determine the potential for the use of solar photovoltaic systems at specific Federal installations; and this study shall—

(A) include an analysis of those sites that are currently cost-effective for solar photovoltaic energy systems, using life-cycle costing techniques, as well as those which would be cost-effective at expected future market prices;

(B) identify potential sites and uses of solar photovoltaic energy systems at the following agencies as well as any others which the Administrator deems necessary:

(i) the Department of Defense;

(ii) the Department of Transportation (including the United States Coast Guard, the Federal Aviation Administration, and the Federal Highway Administration);

(iii) the Department of Commerce;

(iv) the Department of Agriculture; and

(v) the Department of the Interior;

(C) provide a preliminary report to Congress within nine months following the enactment of this Act;

(D) include the presentation of a detailed plan for the implementation of solar photovoltaic energy systems for power generation at specific sites in Federal government agencies to Congress within twelve months following the enactment of this Act;

(2) initiate and conduct a study of the options available to the Federal government to provide for the adequate growth of the solar photovoltaic industry and to include such possible incentives as government funding, loan guarantees, tax incentives, the operation of pilot plants or production lines and other incentives deemed worthy of consideration by the Administrator. A preliminary report shall be submitted to Congress within six months following the enactment of this Act;

(3) initiate and conduct a study involving the prospects for applications of solar photo-

voltaic energy systems for power generation in foreign countries, particularly lesser developed countries, and the potential for the exploration of these energy systems. This study shall involve the cooperation of the Department of State and the Department of Commerce, as well as other Federal agencies which the Administrator deems appropriate. A final report shall be submitted to the Congress, as well as a preliminary report within twelve months of the enactment of this Act; and

(4) be authorized to acquire up to an additional 4.0 megawatts (peak) of solar photovoltaic energy systems. The sum of $13,000,000 is hereby authorized to be appropriated (in addition to any other amounts authorized by this Act to be appropriated) for the fiscal year ending September 30, 1978, and for delivery in the following twelve months. Such sums shall remain available until expended. The solar photovoltaic energy systems acquired shall be avaiable for use for power generation by Federal agencies, provided that no procurement takes place until their application on Federal sites is determined to be life cycle cost effective.

(b) For technology development, particularly for engineering design and development of the manufacturing process of solar photovoltaic energy systems (primarily for the implementation of automated processes and other cost reducing production technologies), the sum of $6,000,000 is hereby authorized by this Act to be appropriated for the fiscal year ending September 30, 1978.

SEC. 209. (a) Nothing in this title shall apply with respect to any authorization or appropriation for any military application of nuclear energy, for research and development in support of the Armed Forces, or for the common defense and security of the United States.

(b)(1) The term "military application" means any activity authorized or permitted by chapter 9 of the Atomic Energy Act of 1954, as amended (Public Law 83–703 as amended; 42 U.S.C. 2121, 2122).

(2) The term "research and development," as used in this section, is defined by section 11 x. of the Atomic Energy Act of 1954, as amended (Public Law 83–703, as amended; 42 U.S.C. 2014).

(3) The term "common defense and security" means the common defense and security of the United States as used in the Atomic Energy Act of 1954, as amended (Public Law 83–703, as amended).

SEC. 210. (a) In order to provide economic farm units to qualifying farmers whose land is economically infeasible to reclaim from damages resulting from the Teton flood of June 5, 1976, and who are unable to find suitable replacement land for their flood damaged farm, and in order to restore the economic and agricultural base of the flood damage region, there is hereby transferred 5,955 acres of land, hereinafter described, in the State of Idaho presently under the jurisdiction of the Energy Research and Development Administration, to the Secretary of the Interior who, acting through the Bureau of Reclamation, shall make such lands available for sale to qualifying farmers according to the terms hereafter provided.

(b) As used in this section, the term:

(1) "Teton flood" means the flood resulting from the collapse of Teton Dam of the Lower Teton Division of the Teton Basin Federal Reclamation Project on June 5, 1976.

(2) "Energy Research and Development Administration land" means those public and acquired lands in the State of Idaho identified as sections numbered fourteen (14), twenty-three (23), twenty-four (24), twenty-five (25), and thirty-six (36), in township six (6) north, or range thirty-three (3) east of the Boise meridian; sections numbered nineteen (19), thirty (30), and thirty-one (31) in township six (6) north, of range thirty-four (34) east of the Boise meridian; and the southeast quarter, the south half of the northeast quarter, the east half of the southwest quarter and the southeast quarter of the northwest quarter, of section numbered eight (8) and the south half and the south half of the north half of section numbered nine (9) in township five (5) north, of range thirty-four (34) east of the Boise meridian, all situated in the county of Jefferson and State of Idaho, and containing 5,955 acres, more or less, which would be transferred for the purposes of this Act.

(3) "Qualifying farmer" means the resident, owner-operator of a farm who resides in the immediate locality, whose livelihood is derived from his farming operation and whose land was damaged due to the collapse of the Teton Dam on June 5, 1976, to the extent that in the opinion of the Secretary of the Interior, it is not economically feasible to reclaim such land so that it produces an income commensurate with that earned prior to the Teton flood.

(4) "Irrigable land" means farm land that is suitable for irrigated agriculture and has been certified as irrigable by the Secretary of the Interior.

(c) For a period of not more than five years after transfer to the Bureau of Reclamation, the land heretofore described shall be available for purchase by those who, on or before October 1, 1978, are determined to be qualifying farmers pursuant to regulations issued in accordance with subsection (f) of this section by the Secretary of the Interior.

(d) Energy Research and Development Administration land as described in subsection (b)(2) of this section shall be certified as irrigable by the Secretary of the Interior, and lands so certified shall be made available in a manner to be prescribed by the Secretary for purchase by qualifying farmers at its current fair market value as determined by a board of appraisers composed of a Federal appraiser, a State appraiser, and one appraiser from the disaster region: *Provided*, That irrigable land transferred to a single ownership shall not exceed 160 acres of class I land as defined by the Secretary or the equivalent thereof in other land classes as determined by the Secretary. The United States, through the Secretary, shall convey fee simple title of the Energy Research and Development Administration land to the qualifying farmer. The cost of developing the replacement land for farming shall be borne by the qualifying farmer who purchases the land.

(e) Any part of the Energy Research and Development Administration land remaining in the possession of the Bureau of Reclamation at the end of the five year period, except land needed for public rights-of-way, as determined by the Secretary, shall be returned to the Energy Research and Development Administration.

(f) Within ninety days after the enactment of this Act the Secretary shall prescribe and publish in the Federal Register such rules and regulations as may be necessary and proper to carry out the provisions of this section.

(g) Full recovery for the loss of all or part of flood-damaged farms shall be obtained by owners pursuant to the Teton Dam Disaster Assistance Act of 1976. Public Law 94–400, 94 Stat. 1211, and the Supplemental Appropriation Act of 1976, Public Law 94–438, 90 Stat. 1415.

(h) There is hereby authorized to be appropriated such sums as may be necessary for the purposes of administration of this section.

TITLE III—AUTOMOTIVE PROPULSION RESEARCH AND DEVELOPMENT

SHORT TITLE

SEC. 302. (a) The Congress finds that—

(1) existing automobile propulsion systems, on the average, fall short of meeting the long-term goals of the Nation with respect to environmental protection, and energy conservation;

(2) advanced alternatives to existing automobile propulsion systems could, with sufficient research and development effort, meet these long-term goals, and have the potential to be mass produced at reasonable cost; and advanced automobile propulsion systems could operate with significantly less adverse environmental impact and fuel consumption than existing automobiles, while meeting all of the other requirements of Federal law;

(3) insufficient resources are being devoted to both research on and development of advanced automobile propulsion system technology;

(4) an expanded research and development effort with respect to advance automobile propulsion system technology would complement and stimulate corresponding efforts by the private sector and would encourage automobile manufacturers to consider seriously the incorporation of such advanced technology into automobiles and automobile components; and

(5) the Nation's energy and environmental problems are urgent, and therefore advanced automobile propulsion system technology should be developed, tested, demonstrated, and prepared for manufacture within the shortest practicable time.

(b) It is therefore the purpose of the Congress, in this title to—

(1)(A) direct the Energy Research and Development Administration to make contracts and grants for research and development leading to the development of advanced automobile propulsion systems within 5 years of the date of enactment of this Act, or within the shortest practicable time consistent with appropriate research and development techniques, and (B) evaluate and disseminate information with respect to advanced automobile propulsion system technology;

(2) preserve, enhance, and facilitate competition in research, development, and production with respect to existing and alternative automobile propulsion systems; and

(3) supplement, but neither supplant nor duplicate, the automotive propulsion system research and development efforts of private industry.

DEFINITIONS

SEC. 303. As used in this title, the term—

(1) "Administrator" means the Administrator of the Energy Research and Development Administration;

(2) "advanced automobile propulsion system" means an energy conversion system, including engine and drive train, which utilizes advanced technology and is suitable for use in an advanced automobile;

(3) "developer" means any person engaged in whole or in part in research or other efforts directed toward the development of advanced automobile technology;

(4) "fuel" means any energy source capable of propelling an automobile;

(5) "fuel economy" refers to the average distance traveled in representative driving conditions by an automobile per unit of fuel consumed, as determined by the Administrator of the Environmental Protection Agency in accordance with test procedures which shall be established by rule and shall require that fuel economy tests be conducted in conjunction with the exhaust emissions tests mandated by section 206 of the Clean Air Act (42 U.S.C. 1857f–5);

(6) "intermodal adaptability" refers to any characteristics of an automobile which enable it to be operated or carried, or which facilitate its operation or carriage, by or on an alternative mode or other system of transportation;

(7) "reliability" refers to (A) the average time and distance over which normal automobile operation can be expected without

significant repair or replacement of parts, and (B) the ease of diagnosis and repair of an automobile, its systems, and parts in the event of failure during use or damage from an accident;

(8) "safety" refers to the performance of an automobile propulsion system or equipment in such a manner that the public is protected against unreasonable risk of accident and against unreasonable risk of death or bodily injury in case of accident;

(9) "Secretary" means the Secretary of Transportation; and

(10) "State" means any State, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, or any other territory or possession of the United States.

DUTIES OF THE ADMINISTRATOR

SEC. 304. (a) The Administrator shall establish, within the Energy Research and Development Administration, a program to insure the development of advanced automobile propulsion systems within 5 years after the date of enactment of this Act, or within the shortest practicable time, consistent with appropriate research and development technique. In conducting such programs, the Administrator shall—

(1) establish and conduct new projects and accelerate existing projects which may contribute to the development of advanced automobile propulsion systems;

(2) give priority attention to the development of advanced propulsion systems with appropriate attention to those advanced propulsion systems which are flexible in the type of fuel used; and

(3) insure that research and development under this title supplements, but neither supplants nor duplicates, the automotive research and development efforts of private industry.

(b) The Administrator shall, in fulfilling his responsibilities under this title, make contracts and grants with any Federal agency, laboratory, university, nonprofit organization, industrial organization, public or private agency, institution, organization, corporation, partnership, or individual for research and development leading to advanced automobile propulsion systems which are likely to help meet the Nation's long-term goals with respect to fuel economy, environmental protection, and other objectives.

(c) In providing financial assistance under this title, the Administrator shall give full consideration to the capabilities of Federal laboratories, except that not more than 60 per centum of the funds appropriated pursuant to the authorization under section 312 shall be directly expended in Federal laboratories. In accordance with section 307, such laboratories shall be available for testing components and subsystems which, in the Administrator's judgment, is likely to contribute to the development of advanced automobile propulsion systems.

(d) The Administrator shall conduct evaluations, arrange for tests, and disseminate information pursuant to section 307 and submit reports required under section 310.

(e) The Administration shall intensify research in key basic science areas in which the lack of knowledge limits development of advanced automobile propulsion systems.

(f)(1) The Administrator shall insure that the conduct of the program as defined in subsection (a) of this section—

(A) supplements the automotive propulsion system research and development efforts of industry;

(B) is not formulated in a manner that will supplant private industry research and development or displace or lessen industry's research and development; and

(C) avoids duplication of private research and development.

(2) To that end, the Administrator shall issue administrative regulations within 60 days after the date of the enactment of this Act, which shall specify procedures, standards, and criteria for the timely review for compliance of each new contract, grant, Administration project, or other agency project funded or to be funded under the authority of this Act. Such regulations shall require that the Administrator or his designee shall certify that each such contract, grant, or project satisfies the requirement of this subsection, and shall include in such certification a discussion of the relationship of any related or comparable industry research and development, in terms of this subsection, to the proposed research and development under the authority of this Act. The discussion shall also address related issues, such as cost sharing and patent rights.

(3) Such certifications shall be available to the Committee on Science and Technology of the House of Representatives and the Committee on Energy and Natural Resources of the Senate. The provisions of chapter 5 of title 5, United States Code, shall not apply to such certifications and no court shall have any jurisdiction to review the preparation or adequacy of such certifications; but section 553 of title 5, United States Code, and section 17 of the Federal Nonnuclear Energy Research and Development Act of 1974, as amended, shall apply to public disclosure of such certifications.

(4) The Administrator also shall include in the report required by section 310(a) of this Act a detailed discussion of how each research and development contract, grant, or project funded under the authority of this Act satisfies the requirement of this subsection.

(5) Further, the Administrator in each annual budget submission to the Congress, or amendment thereto, for the programs authorized by this Act shall describe how each identified research and development effort in such submission satisfies the requirements of this subsection.

(6) The provisions and requirements of this subsection shall not apply with respect to any contract, grant, or project which was entered into, made, or formally approved and initiated prior to the enactment of this Act, or with respect to any renewal or extension.

DUTIES OF THE SECRETARY

SEC. 305. The Secretary, in furtherance of the purposes of this title, shall evaluate the extent to which the automobile industry utilizes advanced automotive technology which is or could be made available to it. The Secretary shall submit a report to the Congress each year on the results of such evaluation including any appropriate recommendations which may encourage the utilization of advanced automobile technology by the automobile industry.

COORDINATION AND CONSULTATION

SEC. 306. (a) The Administrator shall have overall management responsibility for carrying out the program under section 304. In carrying out such program, the Administrator, consistent with such overall management responsibility—

(1) shall utilize the expertise of the Department of Transportation to the extent deemed appropriate by the Administrator; and

(2) may utilize any other Federal agency (except as provided in paragraph (1)) in accordance with subsection (c) in carrying out any activities under this title, to the extent that the Administrator determines that any such agency has capabilities which would allow such agency to contribute to the purposes of this title.

(b) The Secretary, whenever the expertise of the Department of Transportation is utilized in accordance with subsection (a), may exercise the powers granted to the Administrator under subsection (c) and shall enter into contracts and make grants for such purpose, subject to the overall management responsibility of the Administrator.

(c) The Administrator may, in accordance with subsection (a), obtain the assistance of any department, agency, or instrumentality of the executive branch of the Federal Government upon written request, on a reimbursable basis or otherwise and with the consent of such department, agency, or instrumentality. Each such request shall identify the assistance the Administrator deems necessary to carry out any duty under this title.

(d) The Administrator shall consult with the Administrator of the Environmental Protection Agency and the Secretary, and shall establish procedures for periodic consultation with representatives of science, industry, and such other groups as may have special expertise in the area of automobile propulsion system research, development, and technology. The Administrator may establish such advisory panels as he deems appropriate to review and make recommendations with respect to applications for funding under this title.

(e) Nothing contained in this title shall be construed to reduce in any way the responsibilities of the Administrator for automotive research, development, and demonstration under the Energy Reorganization Act of 1974 (42 U.S.C. 5801 et seq.) and the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5901 et seq.).

EVALUATION, TESTING, AND INFORMATION DISSEMINATION

SEC. 307. (a) The Administrator shall, for the purposes of performing his responsibilities under this title, consider any reasonable new or improved technology, a description of which is submitted to the Administrator in writing, which could lead or contribute to the development of advanced automobile propulsion system technology.

(b) The Administrator of the Environmental Protection Agency shall test, or cause to be tested, in a facility subject to Environmental Protection Agency supervision, each advanced automobile propulsion system in an appropriately modified production vehicle equipped with such a system developed in whole or in part with Federal financial assistance under this title, or referred to the Administrator of the Environmental Protection Agency for such purpose by the Administrator, to determine whether such vehicle complies with any exhaust emission standards or any other requirements promulgated or reasonably expected to be promulgated under any provision of the Clean Air Act (42 U.S.C. 1857 et seq.), the Noise Control Act of 1972 (42 U.S.C. 4901 et seq.), or any other provision of Federal law administered by the Administrator of the Environmental Protection Agency. In conjunction with any test for compliance with exhaust emission standards under this section, the Administrator of the Environmental Protection Agency shall also conduct tests to determine the fuel economy of such vehicle. The Administrator of the Environmental Protection Agency shall submit all test data and the results of such tests to the Administrator.

(c) The Administrator shall collect, analyze, and disseminate to developers information, data, and materials that may be relevant to the development of advanced automobile propulsion system technology.

PATENTS

SEC. 308. Section 9 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5908) shall apply to any contract (including any assignment, substitution of parties, or subcontract there-

under) or grant, entered into, made, or issued by the Administrator under this title.

COMPTROLLER GENERAL AUDIT AND EXAMINATION

SEC. 309. Section 306 of the Energy Reorganization Act of 1974 (42 U.S.C. 5876) shall apply with respect to the authority of the Comptroller General to have access to and rights of examination of books, documents, papers, and records of recipients of financial assistance under this title; except that for the purposes of this title, the term "contract" (as used in section 166 of the Atomic Energy Act (42 U.S.C. 2206), insofar as it relates to such section 306) means "contract or grant."

REPORTS

SEC. 310. (a) As a separate part of the annual report submitted under section 15 (a) of the Federal Nonnuclear Energy Research and Development Act of 1974 with respect to the comprehensive plan and program then in effect under section 6 (a) and (b) of such Act, the Administrator shall submit to Congress an annual report of activities under this title. Such report shall include—

(1) a current comprehensive program definition for implementing this title;

(2) an evaluation of the state of automobile propulsion system research and development in the United States;

(3) the number and amount of contracts and grants made under this title;

(4) an analysis of the progress made in developing advanced automobile propulsion system technology; and

(5) suggestions for improvements in advanced automobile propulsion system research and development, including recommendations for legislation.

(b) The Administrator shall conduct a survey of developers, lending institutions, and other appropriate persons or institutions and shall otherwise make a study for the purpose of determining whether, and under what conditions, research, development, demonstration, and commercial availability of advanced automobile propulsion system technology may be aided by the guarantee of financial obligations by the Federal Government. The Administrator shall report the results of such survey and study to the Congress within 1 year after the date of enactment of this Act. Such report shall include an examination of those stages of advanced automobile propulsion system technology research, development, demonstration, and commercialization for which financial obligation guarantees may be useful or appropriate and shall contain such legislative recommendations as may be necessary.

AMENDMENT OF THE NATIONAL AERONAUTICS AND SPACE ACT

SEC. 311. (a) Section 102 of the National Aeronautics and Space Act of 1958 (42 U.S.C. 2451) is amended by redesignating subsection (e) as subsection (f), and by inserting immediately after subsection (d) the following new subsection:

"(d) The Congress declares that the general welfare of the United States requires that the unique competence in scientific and engineering systems of the National Aeronautics and Space Administration also be directed toward the development of advanced automobile propulsion systems. Such development shall be conducted so as to contribute to the achievement of the purposes set forth in section 302(b) of the Automotive Propulsion Research and Development Act of 1977.".

(b) The subsection of section 102 of such Act redesignated as subsection (f) by subsection (a) of this section is amended by striking out "and (d)" and inserting in lieu thereof "(d), and (e)".

AUTHORIZATION FOR APPROPRIATION

SEC. 312. There is authorized to be appropriated to carry out the purposes of this title, in addition to any amounts made available for such purposes pursuant to title I of this Act, the sum of $12,500,000 for the fiscal year ending September 30, 1978.

TITLE IV—ESTABLISHMENT OF FINANCIAL SUPPORT PROGRAM FOR MUNICIPAL WASTE REPROCESSING DEMONSTRATION FACILITIES

SEC. 401. The Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5901 et seq.), as amended by section 210 of this Act, is further amended by adding at the end thereof the following new section:

"FINANCIAL SUPPORT PROGRAM FOR MUNICIPAL WASTE REPROCESSING DEMONSTRATION FACILITIES

"SEC. 20. (a) It is the purpose of this section—

"(1) to assure adequate Federal support to foster a program to demonstrate municipal waste reprocessing for the production of fuel and energy intensive products; and

"(2) to gather information about the technological, economic, environmental, and social costs, benefits, and impacts of such demonstration facilities.

"(b) (1) The Administrator is authorized and directed, to the extent provided in appropriation Acts, to establish such a demonstration program by making grants, contracts, price supports, and cooperative agreements pursuant to this Act or any combination thereof for the establishment of municipal waste reprocessing demonstration facilities. For the purpose of this section municipal waste shall include but not be limited to municipal solid waste, sewage sludge, and other municipal organic wastes.

"(2) The aggregate amount of funds available for grants, contracts, price supports, and cooperative agreements for municipal waste reprocessing demonstration facilities shall not exceed $20,000,000 in the fiscal year ending September 30, 1978.

"(3) For purposes of this section the term 'municipal' shall include any city, town, borough, county, parish, district, or other public body created by or pursuant to State law.

"(4) Municipal waste reprocessing demonstration facilities established under this section shall be owned or operated (or both owned and operated) by the municipality and shall involve the recovery of energy or energy intensive products. Such facilities may be established by any public or private entity, by contract or otherwise, as may be determined by the local government which will own or operate (or both own and operate) such facilities and to which financial support is provided. The Federal share for any such facility to which this section applies shall not exceed 75 percentum of the cost of such facility, and not more than $40,000,000 in Federal funds under this section may be used for the construction of any one facility.

"(5) The Administrator shall promulgate such regulations as he deems necessary pursuant to section 7(a)(4) and section 7(c)(1) and (6) of this Act, for purposes of establishing a price support program for revenue producing products of municipal waste reprocessing demonstration facilities.

"(c) (1) The Administrator shall consult with the Environmental Protection Agency to assure that the provisions of section 8004 of the Resource Conservation and Recovery Act of 1976 (Public Law 94–580) are applied in carrying out this section.

"(2) Any energy related research, development, or demonstration project for the conversion (including bioconversion) of municipal waste carried out by the Energy Research and Development Administration pursuant to this or any other Act shall be administered in accordance with the May 7, 1976, interagency Agreement between the Environmental Protection Agency and the Energy Research and Development Administration on the development of energy from solid wastes; and specifically, in accordance with such Agreement (A) for those energy-related projects of mutual interest, planning will be conducted jointly by the Environmental Protection Agency and the Energy Research and Development Administration, following which project responsibility will be assigned to one agency; (B) energy-related aspects of projects for recovery of fuels or energy intensive products from municipal waste as defined in this section shall be the responsibility of the Energy Research and Development Administration including energy-related economic and institutional aspects; and (C) the Environmental Protection Agency shall retain responsibility for the environmental and other economic and institutional aspects of solid waste projects and for assurance that such projects are consistent with any applicable suggested guidelines published pursuant to section 1008 of the Resource Conservation Recovery Act of 1976 (Public Law 94–580), and any applicable State or regional waste management plan.

"(d)(1) The Administrator shall establish such guidelines as he deems necessary for purposes of obtaining pertinent information from municipalities receiving funding under this section. These guidelines shall include but not be limited to methods of assessment and evaluation of projects authorized under this section. Such assessments and evaluations shall be presented by the Administrator to the House Committee on Science and Technology and the Senate Committee on Energy and Natural Resources upon the request of either such committee.

"(2) The Administrator shall annually submit a report to the Congress concerning the actions taken or not taken by the Administrator under this section during the preceding fiscal year, and including but not limited to (A) a discussion of the status of each demonstration facility and related facilities financed under this section, including progress made in the development of such facilities, and the expected or actual production from each such facility including byproduct production therefrom, and the distribution of such products and byproducts, (B) a statement of the financial condition of each such demonstration facility, (C) data concerning the environmental, community, and health and safety impacts of each such facility and the actions taken or planned to prevent or mitigate such impacts, (D) the administrative and other costs incurred by the Administrator and other Federal agencies in carrying out this program, and (E) such other data as may be helpful in keeping Congress and the public fully and currently informed about the program authorized by this section.

"(3) The annual reports required by this subsection shall be a part of the annual report required by section 15 of this Act, except that the matters required to be reported by this subsection shall be clearly set out and identified in such annual reports. Such reports shall be transmitted to the Speaker of the House of Representatives and the House Committee on Science and Technology and to the President of the Senate and the Senate Committee on Energy and Natural Resources.

"(e) No part of the program authorized by this section shall be transferred to any other agency or authority, except pursuant to Act of Congress enacted after the date of the enactment of this section.

"(f) Nothing in this section shall be construed as abrogating any obligations of any municipality receiving financial assistance pursuant to this section to comply with Federal and State environmental, land use, water, and health and safety laws and regulations or to obtain applicable Federal and State permits, licenses, and certificates.".

TITLE V—BASIS FOR GOVERNMENT CHARGE FOR URANIUM ENRICHMENT SERVICES

SEC. 501. Subsection 161 v. of the Atomic Energy Act of 1954, as amended, is amended to read as follows:

"v. (A) enter into contracts with persons licensed under sections 53, 63, 103, or 104 for such periods of time as the Administrator of the Energy Research and Development Administration may deem necessary or desirable to provide, after December 31, 1968, for the producing or enriching of special nuclear material in facilities owned by the Energy Research and Development Administration; and

"(B) enter into contracts to provide, after December 31, 1968, for the producing or enriching of special nuclear material in facilities owned by the Energy Research and Development Administration in accordance with and within the period of an agreement for cooperation arranged pursuant to section 123 while comparable services are made available pursuant to paragraph (A) of this subsection:

Provided, That (i) prices for services under paragraph (A) of this subsection shall be established on a nondiscriminatory basis; (ii) prices for services under paragraph (B) of this subsection shall be no less than prices under paragraph (A) of this subsection; (iii) any price established under this subsection shall be on such a basis as will recover not less than the Government's costs over a reasonable period of time; and (iv) no change in price for uranium enrichment services shall permit the recovery of revenues greater than the sum of all Government costs and normal and ordinary business expenses (such as taxes and return on equity which would otherwise by incurred by a private operator providing similar services): And provided further, That the Administrator of the Energy Research and Development Administration, to the extent necessary to assure the maintenance of a viable domestic uranium industry, shall not offer such services for source or special nuclear materials of foreign origin intended for use in a utilization facility within or under the jurisdiction of the United States. The Administrator shall establish criteria in writing setting forth the terms and conditions under which services provided under this subsection shall be made available including the extent to which such services will be made available for source or special nuclear material of foreign origin intended for use in a utilization facility within or under the jurisdiction of the United States: Provided, That any change in criteria or enrichment services prices in the first proviso above shall not be implemented for a period of sixty days, during which the Congress is in continuous session, after the transmission of the proposed criteria or price to the President of the Senate, the Speaker of the House or Representatives, the Senate Committee on Energy and Natural Resources and the House Committee on Science and Technology. Such prices shall be considered authorized by the Congress unless either House of Congress approves a resolution of disapproval of such prices prior to the expiration of the aforementioned sixty-day period. The Senate Committee on Energy and Natural Resources and the House Committee on Science and Technology shall have single jurisdiction over any such resolution of disapproval introduced pursuant to this section. If such a resolution of disapproval has been introduced, but has not been reported by the committee on or before the fortieth day after transmission of the message, a privileged motion shall be in order in the respective body to discharge the committee from further consideration of the resolution and to provide for its immediate consideration, using the procedures specified for consideration of an impoundment resolution in section 1017 of the Impoundment Control Act of 1974 (31 U.S.C. 1407).".

TITLE VI—AMENDMENTS TO THE GEOTHERMAL ENERGY RESEARCH, DEVELOPMENT, AND DEMONSTRATION ACT

SEC. 601. As used in this title—

(1) the term "Act" means the Geothermal Energy Research, Development, and Demonstration Act of 1974 (88 Stat. 1079); and

(2) the term "Administrator" means the Administrator of the Energy Research and Development Administration.

SEC. 602. Section 101(b) of the Act is amended—

(1) by striking out subparagraph (E) of paragraph (1) and inserting in lieu thereof the following:

"(E) the Assistant Administrator of the Energy Research and Development Administration for Solar, Geothermal, and Advanced Energy Systems;";

(2) by striking out the period at the end of paragraph (1) and inserting in lieu thereof a semicolon;

(3) by adding at the end of paragraph (1) the following new subparagraphs;

"(G) an Assistant Administrator of the Environmental Protection Agency;

"(H) an Assistant Secretary of Treasury; and

"(I) an Assistant Secretary of Agriculture."; and

(4) by striking out "one member of the Project" in paragraph (2) and inserting in lieu thereof "the Assistant Administrator of the Energy Research and Development Administration for Solar, Geothermal, and Advanced Energy Systems".

SEC. 603. Section 103(b)(4) of the Act is amended by inserting the phrase "or administrative regulations" after "legislation", and by inserting ", environmental and taxing" after "leasing".

SEC. 604. Section 105(e)(3) of the Act is amended by striking out the period and inserting in lieu thereof "or such assistance would not be adequate to satisfy the goals and requirements of the demonstration program under this section.".

SEC. 605. Section 201(b) of the Act is amended by striking out "or" at the end of paragraph (3), by striking out the period at the end of paragraph (4) and inserting in lieu thereof "; or", and by adding at the end thereof the following new paragraph:

"(5) construction and operation of a new commercial, agricultural, or industrial structure or facility or modification and operation of an existing commercial, agricultural, or industrial structure or facility, when geothermal hot water or steam is to be used within or by such structure or facility, or modification thereto, for the purposes of space heating or cooling, industrial or agricultural processes, onsite generation of electricity for use other than for sale or resale in commerce, other commercial applications, or combinations of applications separately eligible under this title for loan guarantee assistance.".

SEC. 606. Section 201(b)(4) of the Act is amended by striking out "from" and inserting in lieu thereof "using".

SEC. 607. Section 201(c) of the Act is amended by adding at the end thereof the following new sentence: "In the case of a guaranty for the purposes specified in subsection (b)(5), the aggregate cost of the project shall be deemed to be that portion of the total cost of construction and operation which is directly related to the utilization of geothermal energy within the structure or facility in question, except that the aggregate cost of the project with respect to which the loan is made may be the total cost including construction and operation in cases where the facility or structure has been located near a geothermal energy resource predominantly for the purpose of utilizing geothermal energy, or as determined by the Administrator the economic viability of the project is substantially dependent upon the performance of the geothermal reservoir.".

SEC. 608. Section 201(e) of the Act is amended—

(1) by striking out "$25,000,000" and inserting in lieu thereof "100,000,000: *Provided*, That in the case of a guaranty under subsection (b)(5), the amount of the guaranty for any loan for a project shall not exceed $50,000,000";

(2) by striking out "$50,000,000" and inserting in lieu thereof "$200,000,000"; and

(3) by inserting before the period at the end thereof the following: ", unless the Administrator determines in writing that a guaranty in excess of these amounts is in the national interest. Any such determination shall be submitted to the Speaker of the House and the Committee on Science and Technology of the House of Representatives, and to the President of the Senate and the Committee on Energy and Natural Resources of the Senate, accompanied by a full and complete report on the proposed project and guaranty. The proposed guaranty or commitment to guarantee shall not be finalized under authority granted by this Act prior to the expiration of thirty calendar days (not including any date on which either House of Congress is not in session) from the date on which such report is received by the Speaker of the House and the President of the Senate: *Provided*, That such guaranty or commitment to guarantee shall not be finalized if prior to the close of such thirty-day period either House passes a resolution stating in substance that such House does not favor the making of such guaranty or commitment to guarantee".

SEC. 609. Section 201 of the Act is further amended by adding at the end thereof the following new subsections:

"(g) With respect to any guaranty which is issued after the enactment of this subsection by, or in behalf of, any State, political subdivision, or Indian tribe and which is either guaranteed under, or supported by taxes levied by said issuer which are guaranteed under this title, and for which the interest paid on such obligation and received by the purchaser thereof is included in gross income for the purposes of chapter 1 of the Internal Revenue Code of 1954, as amended, the Administrator shall pay to such issuer out of the fund established by this title such portion of the interest on such obligations, as determined by the Administrator, in consultation with the Secretary of the Treasury, to be appropriated after taking into account current market yields (1) on obligations of such issuer, if any, or (2) on other obligations with similar terms and conditions, the interest on which is not so included in gross income for purposes of chapter I of said Code, and in accordance with such terms and conditions as the Administrator shall require in consultation with the Secretary of the Treasury.

"(h) The full faith and credit of the United States is pledged to the payment of all guaranties issued and under this title with respect to principal and interest.

"(i) The Administrator shall charge and collect fees for guaranties in amounts sufficient in his judgment to cover applicable administrative costs and probable losses on guaranteed obligations, but in any event not

to exceed 1 per centum per annum in the outstanding indebtedness covered by each guaranty. Fees collected under this subsection shall be deposited in the fund established by this title.

"(j) The Secretary of the Treasury shall insure to the maximum extent feasible that the timing, interest rate, and substantial terms and conditions of any guaranty exceeding $25,000,000 will have the minimum possible impact on the capital markets of the United States, taking into account other Federal direct and indirect commercial securities activities.".

SEC. 610. Section 202 of the Act is amended to read as follows:

"DEFAULT; PAYMENT OF INTEREST

"SEC. 202. (a) If there is a default by the borrower, as defined in regulations promulgated by the Administrator and set forth in the guarantee contract, the holder of the obligation shall have the right to demand payment of the unpaid amount from the Administrator. Within such period as may be specified in the guarantee or related agreements, the Administrator shall pay to the holder of the obligation the unpaid interest on, and unpaid principal of the guaranteed obligation as to which the borrower has defaulted, unless the Administrator finds that there was no default by the borrower in the payment of interest or principal or that such default has been remedied. Nothing in this section shall be construed to preclude any forbearance by the holder of the obligation for the benefit of the borrower which may be agreed upon by the parties to the guaranteed obligation and approved by the Administrator.

"(b) If the Administrator makes a payment under subsection (a) of this subsection, the Administrator shall be subrogated to the rights of the recipient of such payment as specified in the guarantee or related agreements including, where appropriate, the authority (notwithstanding any other provision of law) to complete, maintain, operate, lease, or otherwise dispose of any property acquired pursuant to such guarantee or related agreements, or to permit the borrower, pursuant to an agreement with the Administrator, to continue to pursue the purposes of the project if the Administrator determines this to be in the public interest. The rights of the Administrator with respect to any property acquired pursuant to such guarantee or related agreements, shall be superior to the rights of any other person with respect to such property.

"(c) In the event of a default on any guarantee under this title, the Administrator shall notify the Attorney General, who shall take such action as may be appropriate to recover the amounts of any payments made under subsection (a), including any payment of principal and interest under subsection (d), from such assets of the defaulting borrower as are associated with the project, or from any other security included in the terms of the guarantee.

"(d) With respect to any obligation guaranteed under this title, the Administrator is authorized to enter into a contract to pay, and to pay, holders of the obligation, for and on behalf of the borrower, from the Geothermal Resources Development Fund, the principal and interest payments which become due and payable on the unpaid balance of such obligation if the Administrator finds that—

"(1) the borrower is unable to meet such payments and is not in default; it is in the public interest to permit the borrower to continue to pursue the purposes of such project; and the probable net benefit to the Federal Government in paying such principal and interest will be greater than that which would result in the event of a default;

"(2) the amount of such payment which the Administrator is authorized to pay shall be no greater than the amount of principal and interest which the borrower is obligated to pay under the loan agreement; and

"(3) the borrower agrees to reimburse the Administrator for such payment on terms and conditions, including interest, which are satisfactory to the Administrator.".

SEC. 611. Section 204 of the Act is amended by redesignating subsection (c) as subsection (d) and inserting after subsection (b) the following new subsection (c):

"(c) If at any time the moneys available in the fund are insufficient to enable the Administrator to discharge his responsibilities under this title, he shall issue to the Secretary of the Treasury notes or other obligations in such forms and denominations bearing such maturities, and subject to such terms and conditions, as may be prescribed by the Secretary of the Treasury. This borrowing authority shall be effective only to such extent or in such amounts as are specified in appropriation Acts. Such authorizations may be without fiscal year limitations. Redemption of such notes or obligations shall be made by the Administrator from appropriations or other moneys available under this section. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, which shall not be less than a rate determined by taking into consideration the average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of the notes or other obligations. The Secretary of the Treasury shall purchase any notes or other obligations issued hereunder and for that purpose he is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as amended, and the purposes for which securities may be issued under that Act are extended to include any purchase of such notes or obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this subsection. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States.".

SEC. 612. Title II of the Act is further amended by adding at the end thereof the following new section:

"COMMUNITY IMPACT ASSISTANCE

"SEC. 205. (a) The Administrator, for any project which has a guarantee under this title of not less than $50,000,000 and which will have an intended operating life of not less than five years to satisfy the purposes under this title for which the guarantee has been made, shall endeavor to insure that, taking into consideration appropriate local community action and all reasonably available forms of assistance under this section and other Federal and State statutes, that the impacts resulting from the proposed project have been fully evaluated by the borrower, the Administrator, and the Governor of the affected State, and that effective steps have been taken or will be taken in a timely manner to finance community planning and development costs resulting from such project under this section, if applicable under other provisions of law, or by other means. When the project will be located on leased Federal lands, the Administrator shall specifically review State and local actions under section 9(a) of the Mineral Leasing Act Amendments of 1976 (Public Law 94–377) and insure that any funds made available to the State pursuant to such section 9(a) are used to finance such planning and development costs before any Federal assistance under subsection (c) of this section is considered or authorized.

"(b) The Administrator, for projects not included under subsection (a), may in his discretion consider the community impacts which may result from such projects, and may take such actions, under authority directly available to him under other statutes or in coordination with other Federal agencies or the State, as he considers necessary and appropriate to insure timely and effective planning and financing for such community impacts.

"(c)(1) In order to discharge his responsibilities under subsection (a), and in accordance with such rules and regulations as the Administrator in consultation with the Secretary of the Treasury shall prescribe, and subject to such terms and conditions as he deems appropriate, the Administrator is authorized, for the purposes of financing essential community development and planning which directly result from, or are necessitated by, a project under subsection (a), to—

"(A) guarantee and make commitments to guarantee the payment of interest on, and the principal balance of, obligations for such financing issued by eligible States, political subdivisions, or Indian tribes.

"(B) guarantee and make commitments to guarantee the payment of taxes imposed on such project by eligible non-Federal taxing authorities which taxes are earmarked by such authorities to support the payment of interest and principal on obligations for such financing, and

"(C) require that the qualified borrower receiving assistance for a project under this section advance sums to eligible States, political subdivisions, and Indian tribes to pay for the financing of such development and planning: *Provided*, That the State, political subdivision, or Indian tribe agrees to provide tax abatement credits over the life of the project for such payments by such applicant.

"(2) No guarantee or commitment to guarantee under paragraph (1) of this subsection shall exceed $1,000,000.

"(3) In the event of any default by the borrower in the payment of taxes guaranteed by the Administrator under this section, the Administrator shall pay out of the fund established by this title such taxes at the time or times they may fall due, and shall have by reason of such payment a claim against the borrower for all sums paid plus interest.

"(4) If after consultation with State, political subdivision, or Indian tribe, the Administrator finds that the financial assistance programs of paragraph (1) of this section will not result in sufficient funds to carry out the purposes of this subsection, then the Administrator may—

"(A) make direct loans to the eligible States, political subdivisions, or Indian tribes for such purposes: *Provided*, That such loans shall be made on such reasonable terms and conditions as the Administrator shall prescribe: *Provided further*, That the Administrator may waive repayment of all or part of a loan made under this paragraph, including interest, if the State or political subdivision or Indian tribe involved demonstrates to the satisfaction of the Administrator that due to a change in circumstances there will be net adverse impacts resulting from such project that would probably cause such State, subdivision, or tribe to default on the loan; or

"(B) require that any community development and planning costs which are associated with, or result from, such project, and which are determined by the Administrator to be appropriate for such inclusion, shall be included in the aggregate costs of the project.

"(5) The Administrator is further authorized to make grants to States, political subdivisions, or Indian tribes for studying and planning for the potential economic, environmental, and social consequences of projects and for establishing related management expertise.

"(6) At any time the Administrator may, in consultation with the Secretary of the Treasury, redeem, in whole or in part, out of the fund established by this section, the debt obligations guaranteed or the debt obligaunder this subsection.

"(7) When one or more States, political subdivisions, or Indian tribes would be eligible for assistance under this subsection, but for the fact that construction and operation of the project, occurs outside its jurisdiction, the Administrator is authorized to provide, to the greatest extent possible, arrangements for equitable sharing of such assistance.

"(8) Such amounts as may be necessary for direct loans and grants pursuant to this subsection shall be available as provided in annual authorization Acts.

"(9) The Administrator, if appropriate, shall provide assistance in the financing of up to 100 per centum of the costs of the required community development and planning pursuant to this section.

"(10) In carrying out the provisions of this section, the Administrator shall provide that title to any facility receiving financial assistance under this section shall rest in the applicable State, political subdivision, or Indian tribe, as appropriate, and in the case of default by the borrower on a loan guarantee made or committed under subsection (b) of this section, such facility shall not be considered a project asset for the purposes of section 202 of this Act.

"(11) The Administrator shall not use his authority under this subsection to provide Federal assistance unless any Federal funds transferred pursuant to section 9(a) of the Mineral Leasing Act Amendments of 1976 (Public Law 94–377) to the State from the lease of Federal land for or associated with the project have been or, with assurance, will be committed, to the maximum extent allowable under Federal statutes, to financing such essential community development or planning directly resulting from, or necessitated by, a project on leased Federal lands.".

TITLE VII—ELECTRIC AND HYBRID VEHICLE RESEARCH, DEVELOPMENT, AND DEMONSTRATION PROGRAM

SEC. 701. (a) Section 7(b)(3) of the Electric and Hybrid Vehicle Research, Development, and Demonstration Act of 1976 (15 U.S.C. 2506(b)(3)) is amended by striking out ", except that rules promulgated under paragraph (1) shall be amended not later than 6 months prior to the date for contracts specified in subsection (c)(2)".

(b) Section 7(b)(4) of such Act (15 U.S.C. 2506(b)(4)) is amended to read as follows:

"(4) The Administrator shall transmit to the Speaker of the House of Representatives and the President of the Senate, and to the Committee on Science and Technology of the House of Representatives and the Committee on Energy and Natural Resources of the Senate, the performance standards developed under paragraph (1) and all revised performance standards established in connection with the demonstration specified in subsection (c)(2).".

(c) Section 7(c) of such Act (15 U.S.C. 2506(c)) is amended to read as follows:

"(c)(1) The Administrator shall, within 6 months after the date of promulgation of performance standards pursuant to subsection (b)(1), institute the first contracts for the purchase or lease of electric or hybrid vehicles which satisfy the performance standards set forth under (b)(1). The delivery of such vehicles shall be completed according to the expedited best effort of the administering agency and the selected manufacturer. To the extent practicable, vehicles purchased or leased under such contracts shall represent a cross section of the available technologies and of actual or potential vehicle use.

"(2) Thereafter, according to a planned schedule, the Administrator shall contract for the purchase or lease of additional electric or hybrid vehicles which satisfy amended performance standards and represent continuing improvements in state-of-the-art. In conducting demonstrations, the Administrator shall consider—

"(A) the need and intent of the Congress to stimulate and encourage private sector production as well as public knowledge, acceptance, and use of electric and hybrid vehicles; and

"(B) demonstration of varying degrees of which operations, management, and control for maximum wide-spread effectiveness and exposure to public use.

"(3) The demonstration period shall extend through the fiscal year 1986, with purchase or leasing continuing through the fiscal year 1984. During the demonstration period the Administrator shall demonstrate 7,500 to 10,000 electric and hybrid vehicles. No more than 400 vehicles may be procured for this purpose during fiscal year 1978. In order to allow industry time for advanced planning, the size and nature of projected electric and hybrid vehicle leasing and procurement will be made public by the administering agency. Publications under the preceding sentence (each covering a period of two years) shall be released annually starting at an appropriate time in the fiscal year 1978.

"(4) If the Administrator determines on the basis of his annual review of the program under this Act that—

"(A) at least 200 vehicles cannot be added to the project during the fiscal year 1978, or

"(B) at least 600 vehicles cannot be added to the project during the fiscal year 1979, or

"(C) at least 1,700 vehicles cannot be added to the project during the fiscal year 1980, or

"(D) at least 7,500 vehicles in the aggregate cannot be added to the project during the fiscal years 1981 through 1984.

he shall immediately forward a detailed explanation thereof to the Speaker of the House of Representatives, the President of the Senate, the Committee on Science and Technology of the House of Representatives, and the Committee on Energy and Natural Resources of the Senate.".

SEC. 702. Section 8 of the Electric and Hybrid Vehicle Research, Development, and Demonstration Act of 1976 (15 U.S.C. 2507) is amended by adding at the end thereof the following new subsections:

"(d) In addition to contracting for the purchase or lease of vehicles when conducting the demonstrations established under section 7, the Administrator may acquire or secure use of such vehicles, or have such vehicles acquired or used by others, by making agreements and utilizing various forms of Federal assistance and participation which is authorized under the Energy Reorganization Act of 1974 (Public Law 93–438) and the Federal Nonnuclear Energy Research and Development Act of 1974 (Public Law 93–577).

"(e) When contracting and otherwise using Federal funds to conduct demonstrations under this Act, the Administrator shall seek cost-sharing with others to the maximum extent practical. During the first 2 years of demonstration activities the Administrator may enter into procurement or lease contracts for purposes of carrying out demonstrations under this Act without regard to the provisions of title III of the Act of March 3, 1933 (47 Stat. 1520; 41 U.S.C. 10a–10c).".

SEC. 703. (a)(1) Section 10(e) of the Electric and Hybrid Vehicle Research, Development, and Demonstration Act of 1976 (15 U.S.C. 2509(e)) is amended by adding at the end of the following new paragraph:

"(3)(A) There is established in the Treasury of the United States an Electric and Hybrid Vehicle Development Fund (hereinafter in this paragraph referred to as the 'fund'), which shall be available to the Administrator for carrying out the loan guarantee and principal and interest assistance program authorized by this Act, including the payment of administrative expenses incurred in connection therewith. Moneys in the fund not needed for current operations may, with the approval of the Secretary of the Treasury, be invested in bonds or other obligations of, or guaranteed by, the United States.

"(B) There shall be paid into the fund such part of the amounts appropriated pursuant to section 16 as the Administrator deems necessary to carry out the purposes of this Act and such amounts as may be returned to the United States pursuant to subsection (g) of this section, and the amounts in the fund shall remain available until expended, except that after the expiration of the 7-year period established by subsection (h) of this section such amounts in the fund as are not required to secure outstanding guarantee obligations shall be paid into the general fund of the Treasury.

"(C) If at any time the moneys available in the fund are insufficient to enable the Administrator to discharge his responsibilities under this section, he shall issue to the Secretary of the Treasury notes or other obligations in such forms and denominations, bearing such maturities, and subject to such terms and conditions as may be prescribed by the Secretary of the Treasury. This borrowing authority shall be effective only to such extent or in such amounts as are specified in appropriation acts. Such authority shall be without fiscal year limitation. Redemption of such notes or obligations shall be made by the Administrator from appropriations or other moneys available under this Act. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, which shall not be less than rate determined by taking into consideration the average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of the notes or other obligations. The Secretary of the Treasury shall purchase any notes or other obligations issued hereunder and for that purpose he is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as amended, and the purposes for which securities may be issued under that Act are extended to include any purchase of such notes or obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this subsection. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States.

"(D) Business-type financial reports covering the operations of the fund shall be submitted to the Congress by the Administrator annually upon the completion of the appropriate accounting period.".

(2) Section 10 of such Act is further amended by adding at the end thereof the following new subsection:

"(j) The full faith and credit of the United States is pledged to the payment of all obligations incurred under this section."

(b) Section 10(g) of such Act (15 U.S.C. 2509(g)) is amended to read as follows:

"(g)(1) With respect to any loan guaranteed pursuant to this section, the Administrator is authorized to enter into a contract to pay, and to pay, the lender for and on behalf of the borrower the principal and in-

terest charges which become due and payable on the unpaid balance of such loan if the Administrator finds—

"(A) that the borrower is unable to meet principal and interest charges, that it is in the public interest to permit the borrower to continue to pursue the purposes of the project, and that the probable net cost to the Federal Government in paying such principal will be less than that which would result in the event of a default; and

"(B) that the amount of such principal and interest charges which the Administrator is authorized to pay shall be no greater than the amount of principal and interest which the borrower is obligated to pay under the loan agreement.

"(2) In the event of any default by a qualified borrower on a guaranteed loan, the Administrator is authorized to make payment in accordance with the guarantee, and the Attorney General shall take such action as may be appropriate to recover the amounts of such payments (including any payment of principal and interest under paragraph (1) from such assets of the defaulting borrower as are associated with the activity with respect to which the loan was made or from any other surety included in the terms of the guarantee.".

(c) Section 10(h) of such Act (15 U.S.C. 2509(h)) is amended by striking out "the 5-year period" and inserting in lieu thereof "the 7-year period".

And the House agreed to the same.

OLIN E. TEAGUE,
DON FUQUA,
WALTER FLOWERS,
MIKE MCCORMACK,
GEORGE E. BROWN, JR.,
RAY THORNTON,
RICHARD OTTINGER,
TOM HARKIN,
JEROME A. AMBRO,
MARILYN LLOYD,
WES WATKINS,
LARRY WINN, JR.,
LOUIS FREY, JR.,
BARRY M. GOLDWATER, JR.,
GARY A. MYERS,
Managers on the Part of the House.

HENRY M. JACKSON,
FRANK CHURCH,
JAMES ABOUREZK,
DALE BUMPERS,
WENDELL H. FORD,
JOHN A. DURKIN,
SPARK M. MATSUNAGA,
CLIFFORD P. HANSEN,
MARK O. HATFIELD,
JAMES A. MCCLURE,
DEWEY F. BARTLETT,
PETE V. DOMENICI,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 1811), Energy Research and Development Administration Authorization Act, 1978—Civilian Applications, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

EXPLANATION OF FUNDING PROVISIONS

The compromise funding provisions adopted by the conference committee regarding the civilian research and development programs is reflected in the language of the Conference report.

This statement includes the table which reflects the level of program activities contained in the bill with authorization amounts and budget outlays. The Conferees expect that the Senate Committee on Energy and Natural Resources and the House Committee on Science and Technology be kept fully and currently informed of any proposed increase in the level of funding above the amount which has been appropriated for the activities contained in the table.

U.S. ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION FISCAL YEAR 1978 CONGRESSIONAL ACTION TABLE

[In thousands]

	Fiscal year 1977 appropriation	Fiscal year 1978 House authorization	Fiscal year 1978 Senate authorization	Conference authorization	Related budget outlays	Fiscal year 1978 appropriation	
						Budget authority	Budget outlay
FOSSIL ENERGY DEVELOPMENT							
Operating Expenses							
Coal:							
Liquefaction	$72,957	$109,000	$107,000	$107,000	$109,800	$107,000	$109,800
High-Btu classification	44,054	51,200	51,200	51,200	42,800	51,200	42,800
Low-Btu classification	33,052	73,900	73,900	73,900	47,200	73,900	47,200
Advanced power systems	22,500	25,500	25,500	25,500	23,800	25,500	23,800
Direct combustion (coal)	51,901	59,200	65,200	65,200	64,900	58,200	60,700
Advanced research and supporting technology	37,070	59,000	45,000	50,000	49,500	40,000	42,000
Demonstration plants	53,000	70,900	50,900	60,900	43,900	44,900	31,900
Magnetohydrodynamics	34,990	63,400	80,000	70,800	51,150	65,800	47,400
Total, coal	349,524	512,100	498,700	504,500	433,050	466,500	405,600
Petroleum and natural gas:							
Enhanced oil recovery	23,782	46,100	46,100	46,100	40,100	46,100	40,100
Enhanced gas recovery	14,874	30,000	30,000	30,000	25,500	26,900	23,400
Drilling, exploration, and offshore technology	2,400	10,600	1,600	7,600	6,500	1,600	2,000
Processing utilization	1,831	1,400	1,400	1,400	1,400	1,400	1,400
Total, petroleum and natural gas	42,887	88,100	79,100	85,100	73,500	76,000	66,900
In-situ technology:							
Oil shale	22,278	28,000	28,000	28,000	21,500	28,000	21,500
Coal gasification	8,236	27,600	11,000	19,000	18,000	11,000	12,000
Total, in-situ technology	30,514	55,600	39,000	47,000	39,500	39,000	33,500
General fossil energy reduction						−50,000	0
Energy Research Center, personnel and travel costs						−393	−393
Total, operating expenses	422,925	655,800	616,800	636,600	546,050	531,107	505,607
Total capital equipment	1,020	5,500	5,500	5,500	3,500	5,500	3,500
Total plant	59,200	242,350	350,350	212,350	37,400	83,800	34,300
Total, fossil energy development	483,145	903,650	972,650	854,450	586,950	620,407	543,407
Capital Equipment							
Coal:							
Liquefaction	0	400	400	400	200	400	200
High-Btu gasification	100	300	300	300	200	300	200
Low-Btu gasification	0	500	500	400	300	500	300
Advanced power systems	0	200	200	200	200	200	200
Direct combustion (coal)	0	200	200	200	100	200	100
Advanced research and supporting technology	0	300	300	300	200	300	200
Demonstration plants	0	0	0	0	0	0	0
Magnetohydrodynamics	0	500	500	500	300	500	300
Other capital equipment	150	0	0	0	0	0	0
Total, coal	250	2 400	2 400	2,400	1,500	2,400	1,500
Petroleum and natural gas:							
Enhanced oil recovery	100	300	300	300	200	300	200
Enhanced gas recovery	0	300	300	300	200	300	200
Drilling, exploration, and offshore technology	0	0	0	0	0	0	0

Footnotes at end of table.

	Fiscal year 1977 appropriation	Fiscal year 1978 House authorization	Fiscal year 1978 Senate authorization	Conference authorization	Related budget outlays	Fiscal year 1978 appropriations	
						Budget authority	Budget outlay
FOSSIL ENERGY DEVELOPMENT—Continued							
Capital Equipment—Continued							
Processing utilization	0	0	0	0	0	0	0
Other capital equipment	170	0	0	0	0	0	0
Total, petroleum and natural gas	270	600	600	600	400	600	400
n-situ technology:							
Oil shale	450	900	900	900	600	900	600
Coal gasification	0	1,600	1,600	1,600	1,000	1,600	1,000
Other capital equipment	50	0	0	0	0	0	0
Total, in-situ technology	500	2,500	2,500	3,500	1,600	2,500	1,600
Total, fossil energy development	1,020	5,500	5,500	5,500	3,500	5,500	3,500
Coal:							
Demo plants:							
78-2-c—Low Btu fuel gas small industrial demonstration plants, sites undetermined (A-E and long-lead procurement only)	0	6,000	6,000	6,000	1,000	3,000	590
78-2-d—Solvent refined coal demonstration plant, site undetermined (A-E and long-lead procurement only) [2]	0	30,000	2,000	30,000	6,100	0	0
78-2-e—High Btu coal gasification test facility, site undetermined	0	30,000	0	0	0	0	0
76-1-b—High Btu synthetic pipeline gas demonstration plant	10,000	30,000	195,000	30,000	10,000	29,000	10,000
76-1-c—Low Btu fuel gas demonstration plant	7,300	131,250	131,250	131,250	14,000	36,000	14,000
76-1-d—Fluidized bed direct combustion demonstration plant						2,000	
Prior-year projects	30,000	0	0	0	0	0	0
Total, demo plants	47,300	227,250	334,250	197,250	31,100	70,000	25,000
Magnetohydrodynamics:							
77-1-d—MHD component development and integration facility, total	5,000	5,500	6,500	5,500	4,000	4,200	4,000
Other coal related plants:							
78-2-a—Analytical research, chemistry and coal carbonization laboratory, Pittsburgh Energy Research Center, Pa	0	6,600	6,600	6,600	1,300	6,600	1,300
78-2-b—Modifications and additions to energy research centers, various locations	0	3,000	3,000	3,000	1,000	3,000	1,000
Prior-year projects	6,900	0	0	0	0	0	3,000
Total, other coal related plants	6,900	9,600	9,600	9,600	2,300	9,600	5,300
Total, coal	59,200	242,350	350,350	212,350	37,400	83,800	34,300
Total, fossil energy development	59,200	242,350	350,350	212,350	37,400	83,800	34,300
SOLAR ENERGY DEVELOPMENT							
Operating Expenses							
Direct thermal application:							
Heating and cooling of buildings	84,800	91,900	97,400	94,400	88,375	93,900	88,000
Agricultural and process heat	7,800	10,300	10,300	10,300	7,600	10,300	7,600
Total, direct thermal application	92,600	102,200	107,700	104,700	95,975	104,200	95,600
Technology support and utilization	11,500	9,000	9,000	9,000	6,000	9,000	6,000
Solar electric applications:							
Solar thermal	51,300	55,600	61,100	61,100	49,850	60,100	49,100
Photovoltaics	59,400	55,200	57,200	76,200	59,250	57,200	45,000
Wind	20,500	35,300	35,300	35,300	26,000	33,300	24,500
Ocean thermal	13,500	45,100	25,300	55,300	24,500	35,300	24,500
Satellite solar power systems	0	5,000	0	2,800	2,100	0	0
Total, solar electric applications	144,700	236,200	178,500	210,700	161,700	185,500	143,100
Fuels from Biomass	9,700	21,000	19,500	20,500	12,088	20,250	11,900
Total operating expenses	285,500	368,400	315,100	344,900	275,763	319,350	256,600
Total, capital equipment	7,400	7,500	7,500	7,500	5,200	7,500	5,200
Total plant	24,500	41,000	55,000	41,000	17,000	41,000	24,000
Total, solar energy development	290,400	417,300	378,000	393,800	297,963	368,250	285,800
Capital Equipment							
Direct thermal application:							
Heating and cooling of buildings	1,700	2,000	2,000	2,000	2,000	2,000	2,200
Agricultural and process heat	0	0	0	0	0	0	0
Total, direct thermal application	1,700	2,000	2,000	2,000	2,200	2,000	2,200
Technology support and utilization	0	0	0	0	0	0	0
Solar electric applications:							
Solar thermal	0	3,000	3,000	3,000	1,500	3,000	1,500
Photovoltaics	4,600	300	300	300	150	300	150
Wind	1,100	1,400	1,400	1,400	700	1,400	700
Ocean thermal	0	700	700	700	350	700	350
Satellite solar power systems	0	0	0	0	0	0	0
Total, solar electric applications	5,700	5,400	5,400	5,400	2,700	5,400	2,700
Fuels from biomass	0	500	500	500	300	500	300
Total, solar energy development	7,400	7,900	7,900	7,900	5,200	7,900	5,200
Plant							
Solar electric applications:							
Solar thermal:							
76-2-b—10-megawatt central receiver solar thermal powerplant, Barstow, Calif. (A-E and long-lead procurement)	2,500	41,000	55,000	41,000	17,000	41,000	17,000
Prior-year projects	22,000	0	0	0	0	0	7,000
Total, solar energy development	24,500	41,000	55,000	41,000	17,000	41,000	24,000

U.S. ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION FISCAL YEAR 1978 CONGRESSIONAL ACTION TABLE—Continued

	Fiscal year 1977 appropriation	Fiscal year 1978 House authorization	Fiscal year 1978 Senate authorization	Conference authorization	Related budget outlays	Fiscal year 1978 appropriations	
						Budget authority	Budget outlay
GEOTHERMAL ENERGY DEVELOPMENT							
Operating Expenses							
Engineering research and development	13,500	15,500	17,100	15,500	13,600	15,500	13,600
Resource exploration and assessment	9,000	17,600	17,600	17,600	15,800	17,600	15,800
Hydrothermal technology applications	14,000	24,900	32,000	28,000	22,025	28,000	22,025
Advanced technology applications	11,900	24,800	23,500	24,300	19,050	22,500	17,700
Utilization experiments	0	18,000	16,000	16,000	4,300	12,000	3,500
Environmental control and institutional studies	4,800	8,100	8,100	8,100	7,100	8,100	7,100
Low-head hydroelectric program	0	15,000	15,000	15,000	12,000	10,000	7,500
Total, operating expenses	53,200	123,900	129,300	124,500	93,875	113,700	87,225
Total, capital equipment	1,500	2,500	2,500	2,500	2,200	2,500	2,200
Total, geothermal energy development	54,700	126,400	131,800	127,000	96,075	116,200	89,425
Capital Equipment							
Engineering research and development	400	700	700	700	700	700	700
Resource exploration and assessment	300	500	500	500	400	500	400
Hydrothermal technology application	400	700	700	700	600	700	600
Advanced technology applications	300	500	500	500	400	500	400
Utilization experiments	0	0	0	0	0	0	0
Environmental control and institutional studies	100	100	100	100	100	100	100
Low-head hydroelectric program	0	0	0	0	0	0	0
Total, geothermal energy development	1,500	2,500	2,500	2,500	2,200	2,500	2,200
CONSERVATION RESEARCH AND DEVELOPMENT							
Operating Expenses							
Electric energy systems and energy storage:							
Electric energy system	23,000	36,800	36,700	36,800	32,200	36,700	32,100
Energy storage	31,000	48,500	49,900	48,500	39,975	48,500	39,975
Total, electric energy systems and energy storage	54,000	85,300	86,600	85,300	72,175	85,200	7,075
End-use conservation and technologies to improve efficiency:							
Buildings	26,600	68,000	56,000	59,500	47,908	55,090	44,600
Industry	14,430	38,000	40,000	38,000	27,800	28,750	20,900
Transportation	27,170	111,000	88,000	99,500	77,225	64,400	50,900
Improved conversion efficiency	23,150	62,000	78,200	69,700	56,565	58,280	48,000
Total, end-use conservation and technologies to improve efficiency	91,350	279,000	262,200	266,700	209,498	206,250	164,400
Energy Extension Service	7,500	8,000	8,000	8,000	6,000	7,500	6,000
Small grants program	0	10,000	6,000	8,000	6,750	3,000	3,000
Municipal solid waste	0	200,000	0	20,000	15,000	0	0
Total, operating expenses	152,850	582,300	362,800	388,000	309,423	302,220	245,475
Total, capital equipment	8,000	9,170	6,170	8,670	5,218	6,170	3,970
Total, plant	0	800	800	[5] 800	200	800	200
Total, conservation research and development	160,850	592,270	369,770	397,470	314,841	309,190	249,645
Capital Equipment							
Electric energy systems and energy storage:							
Electric energy system	3,500	2,800	2,800	2,800	1,700	2,800	1,700
Energy storage	2,500	1,700	1,700	1,700	1,100	1,700	1,100
Total, electric energy systems and energy storage	6,000	4,500	4,500	4,500	2,800	4,500	2,800
End-use conservation and technologies to improve efficiency:							
Buildings	0	1,170	170	670	418	170	170
Industry	1,000	2,500	500	2,500	1,500	500	500
Transportation	500	500	500	500	100	500	100
Improved conversion efficiency	500	500	500	500	400	500	400
Total, end-use conservation and technologies to improve efficiency	2,000	4,670	1,670	4,170	2,418	1,670	1,170
Energy Extension Service	0	0	0	0	0	0	0
Small grants program	0	0	0	0	0	0	0
Municipal solid waste	0	0	0	0	0	0	0
Total, conservation R. & D.	8,000	9,170	6,170	8,670	5,218	6,170	3,970
Plant							
Electric systems and energy storage:							
Electric energy systems:							
78-1-a—High-bay addition, Los Alamos, N. Mex.	0	800	800	800	200	800	200
ENVIRONMENT AND SAFETY RESEARCH AND DEVELOPMENT							
Operating Expenses							
Overview and assessment	37,148	51,910	43,010	50,010	43,881	48,010	43,381
Environmental research	131,606	143,970	[6] 143,970	143,960	137,819	143,970	137,069
Life sciences research	43,484	38,113	38,113	38,113	36,854	38,113	36,854
Decontamination and decommissioning	9,516	19,000	17,000	19,000	17,000	18,000	16,000
Total, operating expenses	221,754	252,993	242,093	251,093	235,554	248,093	232,304
Total hospital equipment	13,753	19,025	19,025	19,015	15,870	19,025	15,870
Total plant	3,200	6,000	6,000	[7] 6,000	1,200	5,000	9,148
Total, environment and safety research and development	238,707	278,018	267,118	276,118	252,624	272,118	257,322
Capital Equipment							
Overview and assessment	1,782	3,400	3,400	3,400	2,445	3,400	2,445
Environmental research	10,931	14,425	14,425	14,425	12,341	14,425	12,341
Life sciences research	900	1,000	1,000	1,000	884	1,000	884
Decontamination and decommissioning	140	200	200	200	200	200	200
Total, environment and safety research and development	13,753	19,025	19,025	19,025	15,870	19,025	15,870

Footnotes at end of table.

	Fiscal year 1977 appropriation	Fiscal year 1978 House authorization	Fiscal year 1978 Senate authorization	Conference authorization	Related budget outlays	Fiscal year 1978 appropriations	
						Budget authority	Budget outlay
ENVIRONMENT AND SAFETY RESEARCH AND DEVELOPMENT—Continued							
Plant							
Environmental research:							
78-9-a—Modifications and additions to biomedical and environmental research facilities, various locations	0	6,000	6,000	6,000	1,200	5,000	1,000
Prior-year projects	3,200	0	0	0	0	0	8,148
Total, environmental research	3,200	6,000	6,000	6,000	1,200	5,000	9,148
Total, environment and safety research and development	3,200	6,000	6,000	6,000	1,200	5,000	9,148
MAGNETIC FUSION							
Total operating expenses	195,000	207,900	199,900	207,900	196,200	203,900	193 200
Total capital equipment	23,000	27,600	27,600	27,600	17,165	27,600	17,165
Total plant	96,900	132,600	121,400	[8] 135,800	73,480	92,500	68,435
Total, magnetic fusion	314,900	368,100	348,900	371,300	286,845	324,000	27,800
Capital Equipment							
Magnetic fusion	23,200	27,600	27,600	27,600	17,165	27,600	17,165
Plant							
Magnetic fusion:							
78-3-a—Mirror fusion test facility, Lawrence Livermore Laboratory, Calif	0	94,200	94,200	94,200	3,000	14,000	3,000
78-3-b—Fusion materials irradiation test facility, Hanford Engineering Development Laboratory, Wash	0	14,000	0	14,400	2,880	7,500	1,500
76-5-a—Tokamak fusion test reactor, Princeton Plasma Physics Laboratory, Plainsboro, N.J	75,400	24,000	24,000	24,000	59,000	71,000	59,000
76-5-b—14 Mev intense neutron source facility, Los Alamos Scientific Laboratory, Los Alamos, N. Mex	14,000	0	3,200	3,200	8,600	0	0
Prior-Year Projects	7,500	0	0	0	0	0	4,935
Total, magnetic fusion	96,900	132,600	121,400	135,800	73,480	92,500	68,435
FUEL CYCLE RESEARCH AND DEVELOPMENT							
Operating Expenses							
U ranium resource assessment	31,335	59,485	67,485	67,485	57,300	59,495	51,300
Support of nuclear fuel cycle:							
LWR fuel reprocessing	33,900	35,100	34,000	24,000	18,000	0	0
HTGR fuel cycle R. & D	10,600	12,100	12,100	12,100	12,000	12,000	12,000
Breeder reactor fuel cycle R. & D	10,200	30,300	30,300	30,300	27,700	30,300	27,700
Alternate concepts	0	32,000	32,000	32,000	27,000	32,000	27,000
Thorium fuel recycle	0	18,000	8,000	18,000	13,500	18,000	13,500
Total, support of nuclear fuel cycle	54,700	127,500	116,400	116,400	98,200	92,400	80,200
Waste management (commercial)	82,500	165,000	154,000	160,000	118,300	158,500	117,175
Total, operating expenses	168,535	351,985	337,885	343,885	273,800	310,195	248,675
Total capital equipment	14,000	23,300	25,300	25,300	15,650	25,300	15,650
Total plant	0	16,500	13,000	[9] 16,500	3,300	13,000	2,978
Total, fuel cycle research and development	182,535	391,785	376,185	385,685	292,750	348,685	267,303
Capital Equipment							
Uranium resource assessment	4,500	4,800	4,800	4,800	2,900	4,800	2,900
Support of nuclear fuel cycle:							
LWR fuel reprocessing	0	0	0	0	0	0	0
HTGR fuel cycle R. & D	1,450	990	1,000	1,000	995	1,000	995
Breeder reactor fuel cycle R. & D	900	3,000	3,000	3,000	1,900	3,000	1,900
Alternate concepts	1,950	3,000	3,000	3,000	2,000	3,000	2,000
Thorium fuel recycle	0	10	2,000	2,000	1,005	2,000	1,005
Total support of nuclear fuel cycle	4,300	7,000	9,000	9,000	5,900	9,000	5,900
Waste management (commercial)	5,200	11,500	11,500	11,500	6,850	11,500	6,850
Total, fuel cycle research and development	14,000	23,300	25,300	25,300	15,650	25,300	15,650
Plant							
Fuel cycle R. & D.:							
Support of ncuiear fuel cycle (LMFBR fuel reprocessing R. & D.):							
78-5-b—Advanced fuel recycle integrated equipment test facility, Oak Ridge National Laboratory, Oak Ridge, Tenn. (A-E and longlead procurement only)	0	3,000	3,000	3,000	600	3,000	600
Prior-year projects							378
78-5-c—Laser isotope facility, site undesignated (A-E only)	0	6,500	3,000	6,500	1,300	3,000	978
Total, LMFBR fuel reprocessing R. & D	0	3,500	0	3,500	700	0	00
Total, support of nuclear fuel cycle	0	6,500	3,000	6,500	1,300	3,000	978
Waste Management (Commercial): 78-5-a—Facilities for the national waste terminal storage program, site undetermined (land acquisition, A-E and long-lead procurement) total	0	10,000	10,000	10,000	2,000	10,000	2,000
Total, fuel cycle R. & D	0	16,500	13,000	16,500	3,300	13,000	2,978
LIQUID METAL FAST BREEDER REACTOR							
Operating Expenses							
Clinch River breeder reactor	237,600	150,000	75,000	80,000	205,000	0	145,000
LMFBR base program	304,283	333,300	333,300	333,300	304,400	304,200	300,100
Total, operating expenses	541,883	483,300	408,300	413,300	509,400	304,200	445,100
Total capital equipment	44,938	35,650	35,650	35,650	48,460	29,950	43,160
Total plant	783,950	213,335	208,335	[10] 208,335	20,450	105,385	80,440
Total, liquid metal fast breeder reactor	670,771	732,285	652,285	657,285	578,310	439,535	568,700
Capital Equipment							
Clinch River breeder reactor	0	0	0	0	0	0	0
LMFBR base program	44,938	35,650	35,650	35,650	48,460	29,950	43,160
Total, liquid metal fast breeder reactor	44,938	35,650	35,650	35,650	48,460	29,950	43,160

U.S. ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION FISCAL YEAR 1978 CONGRESSIONAL ACTION TABLE—Continued

	Fiscal year 1977 appropriation	Fiscal year 1978 House authorization	Fiscal year 1978 Senate authorization	Conference authorization	Related budget outlays	Fiscal year 1978 appropriations: Budget authority	Fiscal year 1978 appropriations: Budget outlay
LIQUID METAL FAST BREEDER REACTOR—Continued							
Plant							
Liquid metal fast breeder reactor:							
LMFBR base program:							
78-6-a—Modifications to reactors	0	8,700	8,700	8,700	1,700	8,700	1,700
78-6-b—Safeguards and security upgrading, Idaho Falls, Idaho and Chicago, Ill.	0	4,935	4,935	4,935	1,000	4,935	1,000
78-6-c—Safety research experimental facility, Idaho National Engineering Laboratory, Idaho (A-E) only)	0	20,100	20,100	20,100	3,800	14,050	1,300
78-6-d—Experimental breeder reactor II modification, Idaho National Engineering Laboratory, Idaho (A-E only)	0	3,100	3,100	3,100	750	1,500	550
78-6-e—Modifications to facilities, Liquid Metal Engineering Center, Santa Susanna, Calif. (A-E only)	0	9,000	4,000	4,000	1,000	1,600	500
78-6-f—Fuels and materials examination facility, Hanford Engineering Development Laboratory, Washington	0	134,800	134,800	134,800	3,500	5,200	1,000
78-7-a—Modifications to utility system 300 area, Hanford Engineering Development Laboratory, Washington	0	3,600	3,600	3,600	500	2,700	500
78-7-b—Test reactor area steam distribution system upgrade, Idaho National Engineering Laboratory, Idaho	0	1,100	1,100	1,100	100	500	100
77-4-c—High-performance fuel laboratory, Richland, Wash. (A-E only)	1,500	5,000	5,000	5,000	3,700	5,000	3,700
77-4-d—Fuel storage facility, Richland, Wash	1,500	23,000	23,000	23,000	4,400	16,200	4,400
67-3-a—Fast flux test facility						45,000	47,421
Prior-year projects	80,950	0	0	0	0	0	18,269
Total, breeder reactor base program	83,950	208,335	208,335	208,335	20,450	105,385	80,440
Total, liquid metal fast breeder reactor	83,950	208,335	208,335	208,335	20,450	105,385	80,440
NUCLEAR RESEARCH AND APPLICATIONS							
Operating Expenses							
Water cooled breeder reactor	37,000	38,500	38,500	38,500	37,600	38,500	37,600
Gas cooled thermal reactor	15,900	31,000	16,000	31,000	26,500	31,000	26,500
Gas cooled fast breeder reactor	12,800	14,670	14,670	14,670	12,800	14,670	12,800
Light water reactor technology	12,500	13,000	31,200	31,200	26,100	18,800	16,800
Technology development and special projects	11,322	14,842	14,842	14,452	13,478	14,842	13,478
Space applications	20,555	31,700	0	3,,700	26,500	31,000	25,975
Advanced isotope separation technology	40,230	43,617	43,617	43,617	40,000	43,617	40,000
Nuclear energy assessments	7,687	23,300	23,100	23,300	18,705	23,100	18,600
Total, operating expenses	157,994	210,629	181,929	228,829	201,728	215,529	191,753
Total capital equipment	14,264	18,595	15,195	18,595	17,180	18,595	17,180
Total plant	9,500	0	0	0	0	0	3,400
Total, nuclear research and applications	181,758	229,224	197,124	247,424	218,908	234,124	212,333
Capital Equipment							
Water cooled breeder reactor	2,350	3,100	3,100	3,100	2,600	3,100	2,600
Gas cooled thermal reactor	549	1,000	1,000	1,000	800	1,000	800
Gas cooled fast breeder reactor	800	1,330	1,330	1,330	1,200	1,330	1,200
Light water reactor technology	0	0	0	0	0	0	0
Technology development and special projects	1,455	1,280	1,280	1,280	1,180	1,280	1,180
Space applications	2,020	3,400	0	3,400	2,400	3,400	2,400
Advanced isotope separation technology	7,000	8,485	8,485	8,485	9,000	8,485	9,000
Nuclear energy assessments	0	0	0	0	0	0	0
Total, nuclear research and application	14,264	18,595	15,195	18,595	17,180	18,595	17,180
Plant							
Water cooled breeder reactor: Prior-year projects, total	9,500	0	0	0	0	0	3,400
Total, nuclear research and applications	9,500	0	0	0	0	0	3,400
LIGHT WATER REACTOR FACILITIES AND FUEL STORAGE							
Operating Expenses							
Light water reactor safety facilities	28,300	24,000	24,000	24,000	21,600	24,000	21,600
International spent fuel disposition	0	20,000	20,000	20,000	10,000	5,000	5,000
Total, operating expenses	28,300	44,000	44,000	44,000	31,600	99,000	6,600
Total, capital equipment	0	800	800	800	300	800	300
Total plant	0	3,000	3,000	[11] 3,000	700	3,000	700
Total, light water reactor facilities and fuel storage	28,300	47,800	47,800	47,800	32,600	32,800	27,600
Capital Equipment							
Light water reactor safety facilities	0	800	800	800	800	800	300
International spent fuel disposition	0	0	0	0	0	0	0
Total light water reactor facilities and fuel storage	0	800	800	800	300	800	300
Light water reactor safety facilities:							
78-8-a—Upgrade test area north hot shop facility, Idaho National Engineering Laboratory, Idaho	0	3,000	3,000	3,000	700	3,000	700
Total light water reactor safety facilities	0	3,000	3,000	3,000	700	3,000	700
Total, light water reactor facilities and fuel storage	0	3,000	3,000	3,000	700	3,000	700
HIGH ENERGY PHYSICS							
Total operating expenses	170,000	189,450	187,950	188,950	186,300	187,950	185,550
Total capital equipment	21,800	43,500	42,000	42,500	25,475	42,000	25,100
Total plant	28,600	16,700	6,200	[12] 16,700	3,400	40,600	26,987
Total, high energy physics	220,700	249,650	236,150	248,150	215,175	270,550	237,637
Capital Equipment							
High-energy physics	20,400	41,000	39,500	40,000	32,854	39,500	23,479
Other capital equipment	1,400	2,500	2,500	2,500	1,621	2,500	1,621
Total, high energy physics	21,800	43,500	42,000	42,500	25,475	42,000	25,100

Footnotes at end of table.

	Fiscal year 1977 appropriation	Fiscal year 1978 House authorization	Fiscal year 1978 Senate authorization	Conference authorization	Related budget outlays	Fiscal year 1978 appropriations	
						Budget authority	Budget outlay
HIGH ENERGY PHYSICS—Continued							
Plant							
78-10-a—Accelerator improvements and modifications, various locations	0	4,500	4,500	4,500	1,000	4,500	1,000
78-10-b—Intersecting storage accelerator, Brookhaven National Laboratory, New York	0	10,500	0	10,500	2,000	5,000	1,000
78-11-a—Master substation reliability and capacity improvements, Stanford Linear Accelerator Center, California	0	1,700	1,700	1,700	400	1,700	400
Positron-electron: Joint project, Lawrence Berkeley Laboratory and Stanford Linear Accelerator Center						29,400	20,000
Prior-year projects	28,600	0	0	0	0	0	4,587
Total, high-energy physics	28,600	16,700	6,200	16,700	3,400	40,600	26,987
Nuclear Physics							
Total operating expenses	64,918	68,444	74,444	74,444	70,340	68,444	65,840
Total operating equipment	5,334	6,725	6,725	6,725	6,133	6,725	6,133
Total plant	6,200	7,900	7,900	[13] 7,900	1,600	1,900	10,387
Total, nuclear physics	76,452	83,069	89,069	89,069	78,073	77,069	82,360
Capital Equipment							
Nuclear physics	4,834	5,525	5,525	5,525	5,100	5,525	5,100
Other capital equipment	500	1,200	1,200	1,200	1,033	1,200	1,033
Total, nuclear physics	5,334	6,725	6,725	6,725	6,133	6,725	6,133
Plant							
78-12-a—Accelerator and reactor improvements and modifications, various locations	0	1,900	1,900	1,900	400	1,900	40
78-12-b—High-intensity uranium beams, Lawrence Berkeley Laboratory, California	0	6,000	6,000	6,000	1,200	0	0
Prior-year projects	6,200	0	0	0	0	0	9,987
Total, nuclear physics	6,200	7,900	7,900	7,900	1,600	1,900	10,387
BASIC ENERGY SCIENCES							
Operating Expenses							
Nuclear Sciences	25,022	26,467	25,667	25,787	24,753	26,063	24,960
Material Sciences	56,516	66,006	62,406	64,026	59,662	64,010	59,650
Molecular Mathematical and Geosciences	47,396	57,700	55,800	57,000	53,182	56,740	52,987
Advanced Energy Programs	0	3,187	3,187	3,187	3,000	3,187	3,000
Total operating expenses	128,934	153,360	147,050	150,000	140,597	150,000	140,597
Total capital equipment	11,066	12,075	12,075	12,075	11,167	12,075	11,167
Total plant	12,800	33,400	33,400	33,400	2,000	13,000	11,967
Total, basic energy sciences	152,800	198,835	192,535	195,475	153,764	175,075	163,731
Capital Equipment							
Nuclear science	866	1,075	1,075	1,075	1,150	1,075	1,150
Material sciences	5,100	5,400	5,400	5,400	5,050	5,400	5,050
Molecular mathematical and geosciences	3,300	3,600	3,600	3,600	2,800	3,600	2,800
Advanced energy programs	0	0	0	0	0	0	0
Other capital equipment	1,800	2,000	2,000	2,00	2,167	2,000	2,167
Total, basic energy sciences	11,066	12,075	12,075	12,075	11,167	12,075	11,167
Plant							
Nuclear science:							
Prior-year projects	2,500	0	0	0	0	0	3,500
Total, nuclear science	2,500	0	0	0	0	0	3,500
Material science:							
78-13-a—National synchrotron light source, Brookhaven National Laboratory, New York	0	24,000	24,000	24,000	1,000	5,000	1,000
77-8-d Conventional steam plant facilities ORNL, Tennessee						2,000	4,300
Prior-yearjprojects	10,300	0	0	0	0	0	2,167
Total, materials sciences	10,300	24,000	24,000	24,000	1,000	7,000	7,467
Molecular mathematical and geosciences:							
78-13-b—Combustion research facility, Sandia Laboratories, Livermore, Calif	0	9,400	9,400	9,400	1,000	6,000	1,000
Total molecular mathematical and geosciences	0	9,400	9,400	9,400	1,000	6,000	1,000
Total, basic energy sciences	12,800	33,400	33,400	33,400	2,000	13,000	11,967
NUCLEAR MATERIALS SECURITY AND SAFEGUARDS							
Total operating expenses	27,420	37,906	40,106	40,106	35,150	37,906	33,500
Total capital equipment	3,932	2,794	2,794	2,794	3,000	2,794	3,000
Total plant	0	0	0	0	0	0	195
Total, nuclear materials security and safeguards	31,352	40,700	42,900	42,900	38,150	40,700	36,695
Capital equipment	3,932	2,794	2,794	2,794	3,000	2,794	3,000
Plant: Prior-year projects	0	0	0	0	0	0	195
Total, nuclear materials security and safeguards	0	0	0	0	0	0	195
Operating Expenses							
U^{235} production	799,566	899,145	895,445	895,445	888,050	859,245	860,900
Process development	68,150	85,650	77,400	77,400	68,300	77,400	68,300
All other U^{235}	20,629	14,840	17,740	16,340	17,300	23,940	23,000
Total operating expenses	888,345	999,635	990,585	989,185	973,650	960,585	952,200
Total capital equipment	17,000	19,000	19,000	19,000	16,000	19,000	16,000
Total plant	664,475	376,350	303,980	[16] 303,980	361,750	443,050	401,052
Total, uranium enrichment activities	1,569,820	1,394,985	1,313,565	1,312,165	1,351,400	1,422,635	1,369,252

Footnotes at end of tables.

U.S. ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION FISCAL YEAR 1978 CONGRESSIONAL ACTION TABLE—Continued

	Fiscal year 1977 appropriation	Fiscal year 1978 House authorization	Fiscal year 1978 Senate authorization	Conference authorization	Related budget outlays	Fiscal year 1978 appropriations: Budget authority	Fiscal year 1978 appropriations: Budget outlay
URANIUM ENRICHMENT ACTIVITIES							
Capital Equipment							
U^{235} production	13,778	15,000	15,000	15,000	13,000	15,000	13,000
Process development	3,222	4,000	4,000	4,000	3,000	4,000	3,000
All other U^{234}	0	0	0	0	0	0	0
Total, uranium enrichment activities	17,000	19,000	19,000	19,000	16,000	19,000	16,000
Plant							
Uranium enrichment—U^{235} production:							
78-14-b—Process control modifications, gaseous diffusion plants, various locations	0	17,400	17,400	17,400	2,300	12,900	2,300
78-15-a—Water system improvements, gaseous diffusion plant, Kentucky	0	4,500	4,500	4,500	650	2,500	650
76-8-e—Conversion of existing steam plants to coal capability, gaseous diffusion plants and Feed Materials Production Center, Fernald, Ohio	5,300	1,750	1,750	1,750	6,000	2,950	6,000
76-8-g—Enriched uranium production facility, Portsmouth, Ohio	167,325	180,000	107,630	107,630	82,000	15,000	67,000
74-1-g—Cascade uprating program, gaseous diffusion plants	161,000	42,700	42,700	42,700	108,000	63,900	108,000
74-1-f—Process equipment modifications, gaseous, diffusion plants	267,800	100,000	100,000	100,000	160,000	143,800	16,000
77-9-a—Expansion of feed vaporizing sampling facility, gaseous diffusion plants, multiple sites						18,000	8,700
Prior-year projects	38,050	0	0	0	0	0	20,256
Total, U^{235} production	639,475	346,350	273,980	273,980	358,950	394,050	372,906
Uranium enrichment—Process development:							
78-14-a—Centrifuge facilities modifications, various locations	0	30,000	30,000	30,000	2,800	14,000	2,800
77-9-d—Centrifuge plant demo, facility Oak Ridge, Tenn						35,000	20,000
Prior-year projects	25,000	0	0	0	0	0	5,346
Total, process development	25,000	30,000	30,000	30,000	2,800	49,000	28,146
Total, uranium enrichment	664,475	376,350	308,980	303,980	361,750	443,050	401,052
PROGRAM MANAGEMENT AND SUPPORT							
Operating Expenses							
Program direction	218,760	220,535	263,700	282,900	222,900	254,100	254,100
Institutional relations	26,451	33,368	[17] 34,179	34,179	34,100	28,379	28,779
Supporting activities	35,469	37,460	37,460	37,460	36,494	33,360	33,044
International cooperation	0	0	5,000	5,000	4,000	3,500	2,600
Cost of work for others	20,100	18,265	18,265	18,265	18,255	18,265	18,255
Total, operating expenses	300,780	[16] 309,628	358,604	[16] 317,804	315,749	337,604	336,778
Total, capital equipment	5,440	4,955	4,955	4,955	4,955	4,105	4,105
Total plant	0	11,530	11,530	[18] 11,530	1,780	6,730	6,936
Total, program management and support	306,220	326,113	375,089	334,289	322,484	348,439	347,819
Operating Expenses							
Changes in inventories, working capital and other adjustments	81,885	126,300	126,300	126,300	92,082	111,300	77,082
Transfer to Council on Environmental Quality	500	500	500	500	0	500	
General reduction in operating expenses	−89,578	0	0	0	0	0	0
Capital Equipment							
Program direction	4,325	4,000	4,000	4,000	4,000	3,150	3,150
Institutional relations	790	755	755	755	755	755	755
Supporting activities	325	200	200	200	200	200	200
International cooperation	0	0	0	0	0	0	0
Total, program management and support	5,440	4,955	4,955	4,955	4,955	4,105	4,105
Total, capital equipment	192,307	239,089	233,189	239,589	197,473	220,039	189,700
Plant							
Supporting activities:							
78-1-b—Chiller modifications for energy conservation, Bendix Plant, Kansas City, Mo	0	830	830	830	80	830	80
78-1-c—Process waste heat utilization, gaseous diffusion plant, Paducah, Ky	0	5,700	5,700	5,700	700	900	700
Prior-year projects	0	0	0	0	0	0	5,156
78-19-a—Program support facility, Argonne National Laboratory, Illinois (A-E and long-lead procurement only)	0	5,400	5,000	5,000	1,000	5,000	1,000
Total, supporting activities	0	11,530	11,530	11,530	1,780	6,730	6,936
Total, program management and support	0	11,530	11,530	11,530	1,780	6,730	6,936
PLANT—OTHER							
General plant projects	40,800	44,265	44,265	44,265	9,338	42,665	8,995
Construction planning and design	7,200	10,000	10,000	10,000	2,000	9,000	1,800
Total plant	1,037,325	1,150,730	1,175,160	1,051,560	535,598	901,430	691,920
SUMMARY TOTALS							
Operating expenses	3,764,629	5,166,430	4,759,656	4,870,296	4,528,841	4,431,773	4,224,086
Capital equipment	192,307	239,089	233,189	239,589	197,473	230,039	189,700
Plant	1,037,325	1,150,730	1,175,160	1,051,560	535,598	901,430	691,920
Working capital adjustment	0	−52,016					
Unobligated balance brought forward	−64,300	0					
Unobligated balance carried forward						−65,500	0
Total, ERDA authorization	4,994,261	6,556,249	6,168,005	6,161,445	5,261,912	5,433,442	5,053,690
Less:							
Enrichment revenues	−660,000	−845,820	−845,820	−845,820	−845,820	−965,820	−965,820
Miscellaneous revenues	−77,900	−100,720	−100,720	−100,720	−100,720	−100,720	−100,720
Total	4,256,361	5,609,709	5,221,465	5,214,905	4,315,372	4,366,902	3,987,150

[1] This authorization for plant represents $114,800,000 in related budget authority. The authorized amounts for operating expenses and capital equipment also represent related budget authority.
[2] In H.R. 6796 project title does not include "A-E and long-lead procurement only."
[3] S-1811 shows $12,000,000 for technology support and utilization. $3,000,000 of this has been incorporated in institutional relations—University programs.
[4] This authorization for plant represents $41,000,000 in related budget authority. The authorized e mounts for operating expenses and capital equipment also represent related budget authority.
[5] This authorization for plant represents $800,000 in related budget authority. The authorized amounts for operating expenses and capital equipment also represent related budget authority.
[6] Included in this amount is $1,000,000 for the Water Resources Council.
[7] This authorization for plant represents $6,000,000 in related budget authority. The authorized amounts for operating expenses and capital equipment also represent related budget authority.
[8] This authorization for plant represents $110,300,000 in related budget authority. The authorized amounts for operating expenses and capital equipment also represent related budget authority.
[9] This authorization for plant represents $16,500,000 in related budget authority. The authorized amounts for operating expenses and capital equipment also represent related budget authority.
[10] This authorization for plant represents $75,535,000 in related budget authority. The authorized amounts for operating expenses and capital equipment also represent related budget authority.

Footnotes continued on following page.

House structure	Fiscal year 1978 House authorization	Related Senate structure	Fiscal year 1978 Senate authorization	Conference authorization
NUCLEAR PROGRAMS		NUCLEAR PROGRAMS		
Light water reactors:		Nuclear research and applications:		
1. Advanced isotope separation technology	$43,617	1. Advanced isotope separation technology	$43,617	$43,617
2. Light water reactor technology	13,000	2. Light water reactor technology	31,200	31,200
3. Technology development and special projects	14,842	3. Technology development and special projects	14,842	14,842
		Light water reactor safety facilities and fuel storage:		
4. Light water reactor safety facilities	24,000	4. Light water reactor safety facilities	24,000	24,000
		Uranium enrichment activities:		
5. Process development (U^{235})	85,650	5. Process development	77,400	77,400
		Fuel cycle research and development:		
6. Uranium resource assessment	59,485	6. Uranium resource assessment	67,485	67,485
7. LWR fuel reprocessing	35,100	7. LWR fuel reprocessing	34,000	24,000
		Nuclear materials security and safeguards:		
8. Nuclear materials security and safeguards	37,906	8. Nuclear materials security and safeguards	40,106	40,106
Total, light water reactors	313,600	Total	332,650	322,650
Waste management:		Fuel cycle research and development:		
9. Waste management (commercial)	165,000	9. Waste, management (commercial)	154,000	160,000
		Light water reactor facilities and fuel storage:		
10. International spent fuel disposition	20,000	10. International spent fuel disposition	20,000	20,000
Total, waste management	185,000	Total	174,000	180,000
Breeder reactor:		Liquid metal fast breeder reactor:		
11. Breeder reactor base program	333,300	11. LMFBR base program	333,300	333,300
12. Clinch River breeder reactor	150,000	12. Clinch River breeder reactor	75,000	80,000
Total, breeder reactor	483,300	Total	408,300	413,300
Other advanced reactor concepts:		Nuclear research and applications:		
13. Water cooled breeder reactor	38,500	13. Water cooled breeder reactor	38,500	38,500
14. Gas cooled thermal reactor	31,000	14. Gas cooled thermal reactor	16,000	31,000
15. Gas cooled fast breeder reactor	14,670	15. Gas cooled fast breeder reactor	14,670	14,670
Total, other advanced reactor concepts	84,170	Total	69,170	84,170
Advanced fuel cycle concepts:		Fuel cycle R. & D.:		
16. HTGR fuel cycle R. & D	12,100	16. HTGR fuel cycle R. & D	12,100	12,100
17. Breeder reactor fuel reprocessing R. & D	30,300	17. Breeder reactor fuel reprocessing R. & D	30,300	30,300
18. Thorium fuel	18,000	18. Thorium fuel	8,000	18,000
19. Alternate fuel cycle	32,000	19. Alternate concepts	32,000	32,000
Total, advanced fuel cycle concepts	92,400	Total	82,400	92,400
		Nuclear research and applications:		
20. Nuclear energy assessments	23,300	20. Nuclear energy assessments	23,100	23,300
Uranium enrichment:		Uranium enrichment activities:		
21. U^{235} production	899,145	21. U^{235} production	895,455	895,445
22. All other U^{235}	14,840	22. All other U^{235}	17,740	16,340
Total, uranium enrichment	913,985	Total	913,185	911,785
		Magnetic fusion:		
23. Magnetic fusion	207,900	23. Magnetic fusion	199,900	207,900
Total, operating expenses	2,033,655	Total, operating expenses	2,202,705	2,235,505
Total, capital equipment	124,339	Total, capital equipment	126,339	126,339
Total, plant	741,785	Total, plant	649,715	667,516
Total, nuclear programs	3,169,779	Total	2,978,759	3,029,459
Capital Equipment		Capital Equipment		
Light water reactors:		Nuclear research and applications:		
1. Advanced isotope separation technology	8,485	1. Advanced isotope separation technology	8,485	8,485
2. Light water reactor technology	0	2. Light water reactor technology	0	0
3. Technology development and special projects	2,280	3. Technology development and special projects	1,280	1,280
		Light water reactor safety facilities and fuel storage:		
4. Light water reactor safety facilities	800	4. Light water reactor safety facilities	800	800
		Uranium enrichment activities:		
5. Process development (U^{235})	4,000	5. Process development	4,000	4,000
		Fuel cycle research and development:		
6. Uranium resource assessment	4,800	6. Uranium resource assessment	4,800	4,800
7. LWR fuel reprocessing	0	7. LWR fuel reprocessing	0	0
		Nuclear materials security and safeguards:		
8. Nuclear materials security and safeguards	2,794	8. Nuclear materials security and safeguards	2,794	2,794
Total, light water reactors	22,159	Total	22,159	22,159
Waste management:		Fuel cycle research and development:		
9. Waste management (commercial)	11,590	9. Waste management (commercial)	11,500	11,500
		Light water reactor facilities and fuel storage:		
10. International spent fuel disposition	0	10. International spent fuel disposition	0	0
Total, waste management	11,500	Total	11,500	11,500
Breeder reactor:		Breeder reactor:		
11. Breeder reactor base program	35,650	11. Breeder reactor base program	35,650	35,650
12. Clinch River breeder reactor	0	12. Clinch River breeder reactor	0	0
Total, breeder reactor	35,650	Total	35,650	35,650

Footnotes continued from preceding page.

[11] This authorization for plant represents $3,000,000 in related budget authority. The authorized amounts for operating expenses and capital equipment also represent related budget authority.

[12] This authorization for plant represents $16,700,000 in related budget authority. The authorized amounts for operating expenses and capital equipment also represent related budget authority.

[13] This authorization for plant represents $7,900,000 in related budget authority. The authorized amounts for operating expenses and capital equipment also represent related budget authority.

[14] This authorization for plant represents $11,000,000 in related budget authority. The authorized amounts for operating expenses and capital equipment also represent related budget authority.

[15] This authorization for plant represents $420,050,000 in related budget authority. The authorized amounts for operating expenses and capital equipment also represent related budget authority

[16] Included in this amount is $1,000,000 for the Water Resources Council.

[17] Includes $3,000,000 that is part of the S–1811 amount of $12,000,000 for technology support and utilization under solar energy development. It was agreed that this $3,000,000 should be incorporated in institutional relations—University programs.

[18] This authorization for plant represents $6,730,000 in related budget authority. The authorized amounts for operating expenses and capital equipment also represents related budget authority.

COMPARISON BETWEEN HOUSE AND SENATE AUTHORIZATION PROGRAM STRUCTURE FOR NUCLEAR PROGRAMS

House structure	Fiscal year 1978 House authorization	Related Senate structure	Fiscal year 1978 Senate authorization	Conferenen authorizatioc
NUCLEAR PROGRAMS—Continued		NUCLEAR PROGRAMS—Continued		
Capital Equipment—Continued		Capital Equipment—Continued		
Other advanced reactor concepts:		Nuclear research and applications:		
13. Water cooled breeder reactor	3,100	13. Water cooled breeder reactor	3,100	3,100
14. Gas cooled thermal reactor	1,000	14. Gas cooled thermal reactor	1,000	1,000
15. Gas cooled fast breeder reactor	1,330	15. Gas cooled fast breeder reactor	1,330	1,330
Total, other advanced reactor concepts	5,430	Total	5,430	5,430
Advanced fuel cycle concepts:		Fuel cycle R. & D.:		
16. HTGR fuel cycle R. & D	990	16. HTGR fuel cycle R. & D	1,000	1,000
17. Breeder reactor fuel cycle R. & D	3,000	17. Breeder reactor fuel cycle R. & D	3,000	3,000
18. Thorium fuel	10	18. Thorium fuel	2,000	2,000
19. Alternate fuel cycle	3,000	19. Alternative concepts	3,000	3,000
Total, advanced fuel cycle concepts	7,000	Total	9,000	9,000
20. Nuclear energy assessments	0	Nuclear Research and Applications: 20. Nuclear energy assessments	0	0
Uranium enrichment:		Uranium enrichment activities:		
21. U^{235} production	15,000	21. U^{235} production	15,000	15,000
22. All other U^{235}	0	22. All other U^{235}	0	
Total, uranium enrichment	15,000	Total	15,000	15,000
23. Magnetic fusion	27,600	Magnetic fusion: 23. Magnetic fusion	27,600	27,600
Total, capital equipment	124,339	Total, capital equipment	126,339	126,339
Plant		Plant		
Light water rectors:		Light water reactor facilities and fuel storage:		
1. Light water reactor safety facilities:		1. Light water reactor safety facilities:		
78-8-a—Upgrade test area north hot shop facility, Idaho National Engineering Laboratory, Idaho (total)	3,000	78-8-a—Upgrade test area north hot shop facility, Idaho National Engineering Laboratory, Idaho (total)	3,000	3,00
2. Process development:		Uranium enrichment:		
78-14-a—Centrifuge facilities modifications various locations (total)	30,000	2. Process development: 78-24-a—Centrifuge facilities modifications various locations	30,000	30,000
Total, light water reactors	33,000	Total, light water reactor facilities and fuel storage	33,000	3,000
Waste management:		Fuel cycle R. & D.:		
3. Waste management (commercial):		3. Waste management (commercial):		
78-5-a—Facilities for the national waste terminal storage program, site undetermined (land acquisition, A-E and long-lead procurement) (total)	10,000	78-5-a—Facilities for the national waste terminal storage program, site undetermined (land acquisition, A-E and long-lead procurement) (total)	10,000	10,000
Liquid metal fast breeder reactor:		Liquid metal fast breeder reactor:		
4. LMFBR base program:		4. LMFBR base program:		
78-6-a—Modifications to reactors	8,700	78-6-a—Modifications to reactors	8,700	8,700
78-6-b—Safeguards and security upgrading, Idaho Falls, Idaho and Chicago, Ill.	4,935	78-6-b—Safeguards and security upgrading, Idaho Falls, Idaho and Chicago, Ill.	4,935	4,935
78-6-c—Safety research experimental facility, Idaho National Engineering Laboratory Idaho (A-E only).	20,100	78-6-c—Safety research experimental facility, Idaho National Engineering Laboratory, Idaho (A-E only).	20,100	20,100
78-6-d—Experimental breeder reactor II modification, Idaho National Engineering Laboratory, Idaho (A-E only).	3,100	78-6-d—Experimental breeder reactor II modification, Idaho National Engineering Laboratory, Idaho (A-E only).	3,100	3,100
78-6-e—Modifications to facilities Liquid Metal Engineering Center, Santa Susanna, Calif. (A-E only).	9,000	78-6-e—Modifications to facilities, Liquid Metal Engineering Center, Santa Susanna, Calif. (A-E only).	4,000	4,000
78-6-f—Fuels and materials examination facility, Hanford Engineering Development Laboratory, Washington.	134,800	78-6-f—Fuels and materials examination facility, Hanford Engineering Development Laboratory, Washington.	134,800	13,4800
78-7-a—Modifications to utility system 300 area, Hanford Engineering Development Laboratory, Washington.	3,600	78-7-a—Modifications to utility system 300 area, Hanford Engineering Development Laboratory, Washington.	3,600	3,600
78-7-b—Test reactor area steam distribution system upgrade, Idaho National Engineering Laboratory, Idaho.	1,100	78-7-b—Test reactor area steam distribution system upgrade, Idaho National Engineering Laboratory, Idaho.	1,100	1,100
77-4-c—High performance fuel laboratory, Richland, Wash. (A-E only).	5,000	77-4-c—High performance fuel laboratory, Richland, Wash. (A-E only).	5,000	5,000
77-4-d—Fuel storage facility, Richland, Wash	23,000	77-4-d—Fuel storage facility, Richland, Wash	23,000	23,000
Total, LMFBR base program	213,335	Total, LMFBR base program	208,335	208,335
Total, liquid metal fast breeder reactor	213,335	Total, liquid metal fast breeder reactor	208,335	208,335
Advanced fuel cycle concepts:		Fuel cycle R. & D.—Support of nuclear fuel cycle:		
5. Breeder reactor fuel reprocessing R. & D.:		5. Breeder reactor fuel reprocessing R. & D.:		
78-5-b—Advanced fuel recycle integrated equipment test facility, Oak Ridge National Laboratory, Oak Ridge, Tenn. (A-E and long-lead procurement only).	3,000	78-5-b—Advanced fuel recycle integrated equipment test facility, Oak Ridge National Laboratory, Oak Ridge, Tenn. (A-E and long-lead procurement only).	3,000	3,000
78-5-c—Laser isotope facility, site undesignated (A-E only)	3,500	78-5-c—Laser isotope facility, site undesignated (A-E only)	0	3,500
Total, breeder reactor fuel reprocessing R. & D	6,500	Total, breeder reactor fuel reprocessing R. & D	3,000	6,500
Total, advanced fuel cycle concepts	6,500	Total, support of nuclear fuel cycle	3,000	6,500
Uranium enrichment:		Uranium enrichment:		
6. U^{235} production:		6. U^{235} production:		
78-14 b—Process control modifications, gaseous diffusion plants, various locations.	17,400	78-14-b—Process control modifications, gaseous diffusion plants, various locations.	17,400	17,400
78-15-a—Water system improvements, gaseous diffusion plants, Kentucky.	4,500	78-15-a—Water system improvements, gaseous diffusion plant, Kentucky.	4,500	4,500
78-8-e—Conversion of existing steam plants to coal capability, gaseous diffusion plants and Feed Materials Production Center, Fernald, Ohio.	1,750	76-8-e—Conversion of existing steam plants to coal capability, gaseous diffusion plants and Feed Materials Production Center, Fernald, Ohio.	1,750	1,750
76-8-g—Enriched uranium production facility, Portsmouth, Ohio.	180,000	76-8-g—Enriched uranium production facility, Portsmouth, Ohio.	107,630	107,630
74-1-g—Cascade uprating program, gaseous diffusion plants	42,700	74-1-g—Cascade uprating program, gaseous diffusion plants	42,700	42,700
71-1-f—Process equipment modifications, gaseous diffusion plants.	100,000	71-1-f—Process equipment modifications, gaseous diffusion plants.	100,000	100,000
Total, U^{235} production	345,350	Total, U^{235} production	273,980	273,980
Total, uranium enrichment	346,350	Total, uranium enrichment	273,980	273,980
7. Magnetic fusion:		7. Magnetic fusion:		
78-3-a—Mirror fusion test facility, Lawrence Livermore Laboratory, California.	94,200	78-3-a—Mirror fusion test facility, Lawrence Livermore Laboratory, California.	94,200	94,200
78-3-b—Fusion materials irradiated test facility, Hanford Engineering Development Laboratory, Washington.	14,400	78-3-b—Fusion materials irradiation test facility, Hanford Engineering Development Laboratory, Washington.	0	14,400
76-5-a—Tokamak fusion test reactor, Princeton Plasma Physics Laboratory, Plainsboro, N.J.	24,000	76-5-a—Tokamak fusion test reactor, Princeton Plasma Physics Laboratory, Plainsboro, N.J.	24,000	24,000
76-5-b—14 Mev intense neutron source facility, Los Alamos Scientific Laboratory, Los Alamos, N. Mex.	0	76-5-b—14 Mev intense neutron source facility, Los Alamos Scientific Laboratory, Los Alamos, N. Mex.	3,200	3,200
Total, magnetic fusion	132,600	Total, magnetic fusion	121,400	135,800
Total, nuclear programs	741,885	Total, nuclear programs	648,715	667,165

EXPLANATION OF SIGNIFICANT NUMBER CHANGES

Nonnuclear energy

High Btu Coal Gasification Test Facility

The conferees agreed to add $10 million in operating funds for a feasibility study for a high Btu coal gasification test facility. The House receded to the Senate and no construction funds are authorized for the facility in fiscal year 1978. The high Btu coal gasification test facility would demonstrate and evaluate several second and third generation gasification technologies in a single installation.

A GOCO (Government owned, contractor operated) arrangement is proposed as a financing mechanism that will avoid the complications and time delays of the present cost sharing arrangement in the demonstration program. The test facility program is not intended to replace the present demonstration program. It does provide an option that ERDA has agreed is attractive. Dr. White has sent a letter to the House committee which affirms the value of such a facility and supports beginning design work.

The conferees view the test facility as expanding the options for demonstrating new gasification technologies at commercial size. The inclusion of this facility into the current fossil demonstration program indicates a dissatisfaction with the Administrator's execution of Section 8 of the Federal Nonnuclear Energy Research and Development Act of 1974. This section authorizes the Administrator to "identify opportunities to accelebrate the commercial applications of new energy technologies and provide assistance for participation in demonstration projects." Great latitude is allowed in this section as to the kind and degree of cooperative agreements with non-federal entities which may be entered into. The rigid fifty-fifty cost-sharing arrangement of the fossil energy demonstration program limits the flexibility granted under section 8. The introduction of the high Btu test facility and the feasibility study is intended to open up possibilities which are precluded by the present financial arrangements.

The conferees wish to emphasize, by this action, that this authorization is not intended, in any way, to stop, delay or inhibit the presently constituted demonstration program. The actual purpose of the demonstration program has always been clear and that is to insure that second generation technologies are demonstrated at selected sites to provide that information necessary to make decisions about the commercial viability of such technologies. Therefore, the feasibility study for the test facility should include a discussion about the relative merits of pursuing the construction of the test facility and its impact, if any, on the present demonstration program.

Gasifiers in Industry

Forty million dollars was reauthorized from the Clean Boiler Fuel from coal demonstration plant for the "gasifiers in industry" program. These funds were placed in operating expenses for the low Btu gasification program. This permits greater flexibility and quicker action in execution of this near-term program. The program objective is to get gasifiers operating and producing gas during the next 3 years. This will demonstrate the economic viability of low and medium Btu gas as a substitute for nautral gas and also prove its environmental acceptability. State of the art gasification technologies would be used. However, modern environmental control equipment must be added to the gasifiers and the use of caking coals needs to be demonstrated.

Direct Combustion

A total of $12 million was added to the direct combustion program to further emphasize the conferees strong commitment to this program which has potential near-term impact. Two million dollars will be used for the utilization of anthracite waste in fluidized bed combusters and $6 million will be used for the component testing and integration facility for atmospheric fluidized bed combustion at Morgantown, W. Va. Four million dollars was not in dispute among the conferees and will support coal-oil slurries which are critical for the conservation of oil, the usage of coal and reduction of the retrofit problems of current oil burners. The conferees felt that this program should be enhanced by allowing larger scale tests and the initiation of commercial application.

Oil Shale and In-Situ Coal Gasification Program

The in-situ coal gasification program has made significant progress within the last fiscal year. The conference addition of $8.0 million for this work is meant to advance the Linked Vertical Well method as well as the Packed Bed method.

The conferees also direct the ERDA to prepare a management plan for oil shale R&D to include possible or likely efforts for process development units and pilot plants utilizing above-ground and in-situ processes. The above-ground efforts have not been carefully devised and there does not appear to be logical steps of mining, retorting, hydrotreating and refining. The funds for this plan are included in the conference amount.

Advanced Research and Supporting Technology

The conferees agreed to add $10 million to the advanced research and supporting technology program. This increase is intended to augment the materials and exploratory research program carried out within this program.

The long term increase in coal and oil shale used to meet the energy needs of the country will require new and environmentally sound technologies be developed. This means that fundamental knowledge of coal, coal chemistry, geology, rock mechanics and materials must be increased. According to the scientific and engineering communities ERDA's fossil energy program has not stressed this work sufficiently in the past. The increase is intended to enable them to expand these efforts.

Flash Liquefaction

The House receded from its addition for the flash liquefaction process. The conferees wish to emphasize their interest in support for the flash liquefaction but understand that there are carryover funds in the liquefaction program that can be used in support of the construction of a process development unit.

DEPARTMENT OF ENERGY,
Washington, D.C., Oct. 3, 1977.

Hon. WALTER FLOWERS,
Chairman, Subcommittee on Fossil and Nuclear Energy Research, Development and Demonstration, Committee on Science and Technology, House of Representatives.

DEAR MR. CHAIRMAN: The following is provided for your information regarding the recommendation being made by Senator Ford to seek authorization and appropriation for a third High BTU Pipeline Gas Demonstration Plant dedicated to the HYGAS Process.

Fiscal Year 1977 ERDA authorization provided for a second High BTU Pipeline Gas Demonstration Plant (Project 77–1–b). The authorization did not specify the process and no funds were subsequently appropriated for this project. This authorization could eventually be utilized for the HYGAS Demonstration Plant if funds are to be appropriated.

On July 29, 1977, ERDA, using available funds from its operating budget awarded a twenty (20) month contract with PROCON, Inc. The objectives of the contract are to (1) prepare a conceptual design of a commercial size plant employing the institute or Gas Technology HYGAS Process, and (2) select a demonstration plant size and prepare detailed process design and conceptual designs with economic evaluations. Funds in the amount of $3.6 million were obligated in Fiscal Year 1977. The balance of funds ($3.9 million) are programmed for Fiscal Year 1978 and 1979. Concurrent with this contract, the HYGAS Pilot is being operated to generate the firm data base required for optimization of a demonstration plant design for the production of pipeline gas from bituminous coal. Approximately 15 months of pilot plant R&D efforts will be required to obtain the information needed to complete the process design and economic evaluations. This step must be carried out to assure that the project can be carried forward with an acceptable technical and financial risk. The study contract will culminate in Fiscal Year 1979 with the delivery of documentation in sufficient detail to proceed directly with detailed design procurement and construction of the HYGAS Demonstration Plant, if warranted.

The rationale for the "if warranted" position is that a go-no-go detailed economic assessment will be made on the commercial plant design in mid-Fiscal Year 1978. If at that point a decision is made to proceed with the study, the earliest that this agency could use appropriated funds is Fiscal Year 1979. In anticipation of this decision, funds are being requested in the Fiscal Year 1979 budget for initiation of the HYGAS Demonstration Plant. A copy of the HYGAS Demonstration Plant Timetable is enclosed.

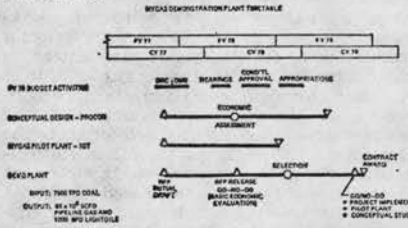
Based upon the above information, it has been concluded that authorization and appropriation for a third High BTU Pipeline Gas Demonstration Plant is not recommended at this time. Please also note that the overall agency High BTU Pipeline Gas Program consists of three (3) different processes competing for two plants to move forward to construction and operation.

Please advise if you need any additional information.

Sincerely,

PHILIP C. WHITE,
Acting Program Administrator for Fossil Energy.

Enclosure: HYGAS Demonstration Plant Timetable.



Drilling, Exploration, and Offshore Technology

With respect to increased funding for drilling technology development, the conference committee deleted $1.6 million under geothermal resource development added by the Senate, while selecting a compromise figure of $7.6 million in the fossil energy area. This latter figure is $6 million above the Senate authorization, and $3 million below the House.

The committee wishes to make clear that this action is in no way intended to indicate Congressional direction that fossil drilling technology be emphasized at the expense of its geothermal counterpart. The Committee recognizes that great similarities exist between the developmental needs in these two areas. Common problems such as coping with high temperature and corrosive environments, and common needs for improvements in directional drilling techniques, down-hole motor capability, and drill bit design and

fabrication, insure that progress in one area will be of substantial benefit to the other.

Five million dollars will be used for the development of down hole electronics, severe service elastomers and steels and improved bit designs. In addition, testing and evaluation instrumentation is to be supported by the development of telemetry systems and better down hole motors. This new technology will have near term application and is not presently under development, because the drilling industry is small and does not have the capital resources to support sophisticated R&D programs. It is clear that in the past ERDA has made a considerable effort to insure that work in these two drilling technologies has been well-coordinated in order to minimize needless duplication and overlap. The Committee directs that of the additional funds authorized in this legislation at least $1.6 million should be used to emphasize problem areas common to both fossil energy and geothermal resource development, including subterranean melting research.

The addition also includes $1 million for an evaluation of the possible applications of zirconium hydride reactors as self contained power systems for subsea oil recovery efforts.

SOLVENT REFINED COAL (SRC) DEMONSTRATION PLANT

The conferees action for this promising technology emphasizes both the SRC solids process, which has been the subject of extensive testing, and the SRC liquids process, which produces a desirable and versatile liquid product with some solids output, but is now in the early stages of large scale testing.

In May of 1977, the SRC pilot plant in Fort Lewis, Washington was adapted to operate in the SRC II mode. The conferees feel this test can provide the data needed for a realistic assessment and design of an SRC II plant. To take advantage of this information and to do the design work the conferees have provided $10 million in operating funds for fiscal year 1978.

In the case of the solid fuel SRC process, successful work has been concluded in several important areas including pilot scale process studies on seven different coals including high sulfur coals, a successful 3000 tons combustion test, and conceptual commercial designs sponsored both by EPRI and the Southern Company.

As a consequence, the conferees have agreed that $30 million be authorized for construction of an SRC solids demonstration plant to produce solid fuels. The conferees agree that this demonstration plant be constructed at the smallest commercial size module which can efficiently demonstrate the technology. Although commercialization is the ultimate goal, government involvement and expense are to be minimized. However, once the Secretary has selected a plant size, the conferees direct that the Department report to the appropriate committees in Congress on the cost considerations involved in the decision.

GEOTHERMAL ENERGY

The Conference Committee recommendation to the authorization for hydrothermal technology applications is $3.1 million above the House Bill. This increase is to be used to accelerate the pace of the Raft River Thermal Loop Experiment in Idaho. The Conferees feel that this experiment should be rapidly pursued because it utilizes moderate-temperature resources, which are more abundant than the high temperature hydrothermal resources.

The Conference recommends an increase of $11.9 million over the Administration request for Advanced Technology Applications. Of this figure, $2.1 million will go for hot dry rock resources, and $9.8 million for geopressured resources. The conferees encourage the ERDA to continue subterranean melting research. The House amendment to the Senate Bill includes an authorization of $6 million for Architect/Engineering design and long-lead procurement for construction of a second 50 MWe geothermal demonstration plant; the Senate bill includes $4 million. The Conferees understand that necessary project activities can be successfuly initiated within the $4 million level and they have agreed to accept this figure as provided in the Senate bill. ERDA is hereby authorized to enter into a cost-share arrangement for the design, construction and operation of the 50 MWe geothermal energy demonstration plant.

SOLAR ENERGY

The Conferees feel that the Federal Government should take a stronger role in reducing the cost of solar photovoltaic cells. To do this the authorization for the photovoltaic program is increased by $19 million above the level provided in the Senate Bill. Of this, $12.2 million will be used for the purchase of photovoltaic cells to be utilized on Federal sites where their applications are shown to be life cycle cost effective; $800,000 is earmarked for market studies; the remaining funds will be utilized for technology development, particularly related to cost reducing production technologies.

The Conference recommendation for Ocean Thermal Energy Conversion is to increase funding by $10 million over the Administration request. This is a $9.8 million reduction from the House amendment of $19.8 million to the Senate Bill. The Conferees feel that the potential of Ocean Thermal Energy Conversion is substantial for the production of energy intensive products and wish to insure that ERDA begins work on a 5 MW OTEC Tropic Ocean Grazing Pilot Plant. At the same time, the Conferees wish to emphasize the importance of the ongoing base-line program by providing additional funds for this as well.

The Conferes accepted the House amendment funding level of $41 million for the construction of a 10 MWe Central Receiver Solar Thermal Pilot Plant in Barstow, California, and recommend that ERDA put this project back on schedule with no restriction as to the procurement of heliostats.

The Conference recommendation for solar heating and cooling of buildings is $2.5 million above the House Amendment to the Senate Bill. Of this, $2 million will go for research in retrofitting existing structures to utilize solar heating and cooling systems, and the remaining $500,000 is for support of the Solar Data Centers.

NUCLEAR ENERGY

NUCLEAR RESEARCH AND APPLICATIONS

Light water reactor technology

The Conferees adopted the Senate authorization figure for the LWR technology program which included $12.4 million for standardization of designs for light water reactors which is part of the President's draft proposal to streamline the LWR licensing process, but was not included in the budget amendment.

It is the opinion of the Conferees that ERDA should seek as much private cost-sharing as possible for this program, hopefully over time as high as 40%.

Gas-cooled thermal reactors

The Conferees adopted the House figure of $31 million, which is $15 million above the Senate figure and the Administration request, for a program to develop a more proliferation-proof fuel for the gas-cooled reactor in both the High Temperature Gas Reactor (HTGR) Steam Cycle and the Advanced HTR direct cycle concepts. The HTGR can use either a low-enriched uranium (LEU) fuel cycle, or a LEU-thorium fuel cycle in which the bred U–233 is denatured with a U–238. Both of these cycles are attractive from the safeguards viewpoint because of the low enrichment of the Uranium at all points in the fuel cycle, and because the small amounts of plutonium produced (less than ⅓ as much as found in LWR spent fuel) can be discarded as waste. The Advanced HTR Program on directly gas-cooled reactors is a cooperative one with the West Germans.

Laser isotope facility

The Conferees adopted the House inclusion of $3.5 million in funding for A–E work only on a laser isotope pilot facility project 78–5–c with the site undetermined. This rapidly advancing technology promises great reduction in operating expenses and capital plant costs for uranium enrichment facilities.

SUPPORT OF NUCLEAR FUEL CYCLE

Light water reactor fuel reprocessing

The Conferees agreed on $10 million authorization to fund design work on a full-scale nuclear waste solidification facility, a waste storage facility and to conduct systems integration activity. The Senate had authorized $20 million for this work; the item did not appear in the House bill. The Conferees also adopted the Senate funding of $13 million and provisions pertaining to activities to be performed at the Barnwell Nuclear Fuels Plant and funding of $1 million and provisions with an amendment pertaining to a study on future utilization of the Barnwell Nuclear Fuels Plant. The amendment further refined the objectives of the study.

The House amendment to the Senate bill contained a proviso requiring submission to the Congress of a plan of the specific activities to be funded at the Barnwell Plant. The House receded to the Senate position. However, the Conferees indicated that they expected the Committee on Science and Technology and the Committee on Energy and Natural Resources to be informed of the nature of the activities to be undertaken at the Barnwell Nuclear Fuels Plant in conformity with the requirements of the Department of Energy Act that the Congress be kept "fully and currently informed." It was also the opinion of the Conferees that the Barnwell facility should be used in such a way so as not to limit the potential for eventual use as a reprocessing plant.

MAGNETIC FUSION

The Conferees adopted the House authorization level which was $8 million above the Senate Figure, to fund the following activities:

(1) Tokamak Confinement Systems work in neutral beam heating and impurity effects on the Oak Ridge ORMAK facility;

(2) Development and technology efforts on critical superconducting magnets and prototype development of neutral beam injectors to support the Tokamak Fusion Test Reactor (TFTR) at Princeton Plasma Physics Laboratory;

(3) Applied Plasma Physics theoretical support of Tokamak and Mirror Programs;

(4) Reactor Projects in diagnostics and test components for TFTR of at least $1 million.

The Conferees adopted the House position to include $14.4 million for project 78–3–b which is of highest priority in the Magnetic Fusion program and is a key support facility for fusion pilot plant materials selection.

The Conferees adopted the Senate position to increase the authorization for Project 46–5–b by $3.2 million for which would provide thorough materials understanding and provide tritium handling experience for scale-up to pilot-plant operation.

HIGH ENERGY PHYSICS

The House amendment includes an authorization of $10,500,000 in plant funds for the Proton-Proton Intersecting Storage accelerator facility (ISABELLE) to be located at the Brookhaven National Laboratory. This authorization provides for engineering design

and preliminary construction activities. The conferees feel that ISABELLE should proceed and have agreed to accept the House authorization in full.

NUCLEAR PHYSICS

The Conferees adopted the Senate increase of $6 million to generally enhance the effectiveness of major facilities which have been underutilized chiefly because of inflation, particularly in power costs.

CONSERVATION

The House and the Senate both increased the Administration budget request for the superconducting magnetic energy storage facility. The Conferees accepted $0.1 million addition to the budget request.

The Senate and House both increased the Administration budget request for Industrial Energy Conservation by $15.0 million to accelerate cogeneration in industry, but allocated this increase differently between operating expenses and capital equipment. The Conferees agreed to accept the Administration's division of operating and capital equipment expenses.

The Conferees resolved independent increases to the Administration budget request for Buildings and Community Conservation as follows: a $2.0 million increase for research and demonstration of improved gas and oil furnace efficiency; $2.0 million to develop a program plan covering financing, development and demonstration of urban area designs based upon integrated energy use; and $2.0 million for community energy management planning demonstration. The Conferees also agreed to emphasize the importance of finding uses for hot water effluents from power plants as an extension of cogeneration project planning.

The House bill contained authorizations for Transportation Conservation in both Title I and Title III. Under Title I, the Conferees agreed to $1.0 million for the Alternative Fuels Utilization Program and, under Title III, $12.5 million for Automotive Propulsion Research and Development.

The Conferees increased the authorization above the Administration's request for Improved Conversion Efficiency by $12.5 million as follows: Thermionics, $0.2 million; Fuel Cells, $10.3 million; Methane Recovery, $2.0 million.

ENVIRONMENT AND SAFETY

Members of the conference committee agreed to accept an increase in the authorization level for Environment and Safety research and development activities of $9 million over the President's request of $252,093,000. Of this increase, $7 million is provided for overview and assessment activities for the purposes of reviewing the current status of ERDA's Environment and Safety Review Program, refining and enlarging the environmental-energy data and information effort, expanding the liquefied natural gas program, and continuing with the regional environmental energy assessments. The remaining $2 million increase is for the decommissioning and decontamination activities of which $1 million is to be used in conjunction with the study of the West Valley Nuclear Fuel Services facility and $1 million is to be used for the general environmental study of decommissioning and decontamination activities.

Since a $1 million authorization was provided in both the Waste Management Program and in the Environment and Safety Program for purposes of carrying out the West Valley study, the conference committee directs the Administrator to undertake this study with the joint cooperation and assistance of both Assistant Administrators.

The general study should consider a series of alternative institutional approaches for Federal Government and private sector management of a national decommissioning strategy and program including but not limited to: 1) investigate the feasibility of having a lead federal agency approve and monitor an overall decommissioning strategy and whether ERDA should accelerate its decommissioning programs; 2) consider the needs of the nuclear industry, which will rely in large part on the research, demonstration and experience from ERDA decommissioning efforts; 3) examine the technical alternatives for decommissioning, decontamination and disposal as well as the costs for all recommended steps and alternatives for each type of facility and waste; 4) investigate alternative methods for financing the operation, including escrow and bonding procedures, and the cost estimates should be sufficiently detailed to assist in allocating the proper amounts to be set aside in such procedures; 5) investigate the possibility of an independent waste handling corporation, financed by current fees or preposted bonding; 6) examine and make recommendations for reasonable tax accounting methods for handling decommissioning costs, such as the possibility of including "negative salvage value" in the depreciation allowance; 7) review the extent to which ERDA is meeting State mandated requirements and recommend generic criteria for environmental impact statements; and 8) make recommendations for the coordination of ERDA, NRC, and EPA in the setting and implementation of decommissioning, disposal, and decontamination standards and criteria.

PROGRAM MANAGEMENT AND SUPPORT

The funding level of $317,804,000 for operating expenses for Program Management and Support agreed to by the conferees is $16.438 million above the Administration request. (This does not include any program management and support funding for military or joint civilian-military programs which are included in other legislation.) This additional funding is for staff support ($6.6 million), governmental relations ($4.038 million), university programs ($1.0 million for university reactor fuel, $1.65 million for occupational and vocational training and curriculum development, $1.35 million for traineeships), and small grants to inventors ($1.8 million).

Explanation of selected provisions

The Conference accepted an amendment to incorporate into the bill a program of loan guarantees for financing the construction and startup costs of demonstration facilities for the conversion of municipal and industrial wastes into synthetic fuels and other desirable forms of energy. Originally, the House bill contained a section 214 which authorized a $300 million loan guarantee program for the construction and start-up of demonstration facilities to convert various forms of biomass to desirable forms of energy (including synthetic fuels).

Section 214 contained provisions which were identical or similar to provisions contained in section 210 of H.R. 6796 and section 312 of S. 1811. Sections 210 and 312 of the respective bills, which authorized a loan guarantee program for the demonstration of technologies to produce alternative fuels from coal, oil shale and other domestic resources, were identical for a provision relating to patent rights. Section 214 was deleted from the agreed upon bill and the amendment offered, and accepted, incorporated into the program authorized by section 210, the major provisions of the biomass loan guarantee bill. By this action, the Conference avoided enacting into law unnecessary and duplicative provisions which would have established two entirely separate and distinct loan guarantee programs. Also, however, those provisions of the biomass loan guarantee section which were different from section 210 and which were specifically designed to attract participation by municipalities and other public and private entities, were retained in the compromise amendment offered in Conference.

The major provisions of the amended section 214 as incorporated into section 210 are as follows:

(1) A new subsection (4) is added to section 19 of the Federal Nonnuclear Research and Development Act, as amended. The program authorized by this subsection is confined to loan guarantees for municipal and industrial waste, sewerage sludge and other municipal organic wastes.

(2) The Administrator is authorized to guarantee and to make commitments to guarantee loans, the outstanding indebtedness not to exceed $300 million at any one time.

(3) With regard to the program for municipal or industrial waste the following subsections of the loan guarantee program authorized in section 19 shall not apply (b)(1), (b)(5), (c)(2), (c)(5), (c)(6), (c)(7), (c)(8), (c)(9), (e)(3), (j), (k) and (q).

(4) Any demonstration facility for the conversion of solid waste shall, prior to issuance of such guarantee, receive a certification from the Environmental Protection Agency and any appropriate State or areawide solid waste management planning agency that such guarantee agreement is consistent with applicable solid waste management plans and guidelines.

(5) in the case of such demonstration facilities the amount guaranteed shall not exceed 75 per centum of the total cost of the facility provided that 90 per centum of the total cost of the facility shall not be guaranteed during the period of construction and start-up.

(6) The maximum maturity on any obligation is not to exceed 30 years or 90 per centum of the projected useful life of the facilities physical assets.

(7) To cover administrative costs and probable losses or guaranteed obligations, the Secretary is to collect fees for guarantees of obligations not to exceed 1 per centum per annum of the outstanding indebtedness covered by the guarantee.

This Section 210 contains no explicit language which limits the size of the facility to be demonstrated. The optimal size of a demonstration plant, would vary with the technology and with the particular situation. For example, if the Administration was considering proposing a high Btu coal gasification plant demonstration, it might choose to guarantee construction of a commercial size plant, or one that is smaller than commercial size. However, if by choosing the smaller size it thereby limits the number of potential projects that could bid on the project to only one, then the success of the project would be seriously jeopardized. A better public policy and a sound energy RD&D policy would be to build a plant which would permit sufficient participants to bid for the award. The language of Section 210 does not prohibit the Administrator of ERDA from making his choice. It gives him the flexibility he needs.

The language of the bill provides that all projects which exceed $50 million will require individual review and specific approval by both Houses of Congress through separate legislation. Congress will have ample opportunity to closely review the choice of the Agency before approving or disapproving authorizing legislation. With this authorization safeguard in place, it is important now that the Agency get on with the task before it and not be restricted in the review of the type and number of projects which can help to mitigate the energy shortfall in this country.

The Conference Committee agreed to delete Section 601(3)(d) in the Senate Bill which would have specifically called for the ERDA to spend, during fiscal year 1978, at

least $10 million of the solar program funding for the operation of the Solar Energy Research Institute (SERI). The deletion of this language in no way reflects any prejudice to the SERI. The conferees confirm their full support for the ERDA and urge the ERDA to move as rapidly as possible to develop the SERI consistent with a wise expenditure of the Institute's funding.

The Senate bill contained a section which required a study of the options for decommissioning or other disposition of the Western New York Nuclear Service Center, but contained a provision that the section was not to be construed to commit the Federal Government to any new assistance or practicipation in the Center and that nothing in the section should be construed to relieve any party of its responsibilities for the safe storage of nuclear waste. The House amendment contained a similar section which required a plan rather than a study, and the provision stating that nothing in the section should be construed to relieve any party of its responsibilities for the safe storage of nuclear waste. That Conferees adopted the Senate language. However, it is the view of the Conferees that the section does not preclude future Federal participation.

The Conferees accepted House language which requires that the revenues received by the Administration from the enrichment of uranium be used to offset the costs which are incurred in providing existing and future uranium enrichment service activities, both for operating and plant and capital expenditures.

The Senate agreed to recede to the House to delete language contained in the Senate bill to establish an employee grievance procedure for the Lawrence Livermore Laboratory. The Conferees note that recently, the University of California has agreed to a new set of guidelines for relations with employee organizations. This agreement is an important step in establishing an improved labor management policy. For this reason it was felt that the amendment was not required.

The House bill had a separate Title III relating to automotive propulsion research and development. Title III of the House bill was amended on the House floor on September 21. The amendment changed the title from the "Automotive Transport Research and Development Act" to the "Automotive Propulsion Research and Development Act", and deleted the concept of "integrated test vehicles" from the bill. The Senate bill had no comparable title.

The conferees agreed to accept Title III of the House bill with an amendment to Sec. 304(f) which requires special reports on grants and contracts entered into under the "Automotive Propulsion Research and Development Act of 1977".

The Conferees adopted the House provision which required a report focused on the impact of the President's non-proliferation policy on cooperative agreements in research and development with an amendment. The Conferees amended the provision so that the report is to be transmitted to the House International Relations and Science and Technology Committees and the Senate Foreign Relations and Energy and Natural Resources Committees.

The Conferees directed that the report should be made as consistent as possible with other required reports to the Congress or nonproliferation policy and initiatives.

The Conference passed Sec. 313 with the clear understanding that the action taken under this section is in response to emergency conditions resulting from the Teton Dam disaster and that it is not a major federal action. They further agreed that the effectiveness of the section depends on its prompt implementation and encourage the Secretary of Interior to request the Council on Environmental Quality to exempt this action from the environmental impact statement requirements of the National Environmental Policy Act of 1969.

In both the House and Senate-passed authorization bills, $15 million was provided to develop a program whereby the United States would embark upon the research, development and demonstration of low-head hydroelectric technology. A good deal of foreign technology utilizing turbines that can generate electricity under low-head, run-of-the-river conditions already exists, but further refinement of this technology is called for in order to reduce cost. Based upon these complementary rationales, the conferees have agreed to retain the $15 million authorization and to further characterize purposes for which this authorization is made.

The House, in its report on H.R. 6796, indicated that the authorization would be used to develop a research and development program. This entails research work, systems evaluation, site analysis and selection, and other economic, environmental and technical activities. The Senate bill and accompanying report contemplated a demonstration type program whereby a majority of funds would be utilized for demonstrating the feasibility of installing small scale hydroelectric generators in existing dams. It is the judgment of the conferees that the programs contemplated by both houses should be initiated in fiscal year 1978. Specifically, the conferees believe that ERDA should embark upon demonstration programs with full consideration to existing but unused facilities and to refine existing technology to help meet short-term goals for producing energy from low-head hydroelectric technology. At the same time, ERDA should initiate a research and development program and perform studies which will define the locations and resource potential of the sites where this technology might be used. It should be emphasized that there is no intention upon the part of the conferees to establish at this time a large research and development activity at the expense of an aggressive demonstration program. Instead, ERDA should establish an appropriately balanced program for accelerated introduction of low-head hydroelectric power generation.

The House bill included a proviso requiring that of the funds authorized for the Liquid Metal Fast Breeder Reactor (LMFBR) program, at least $10,400,000 shall be expended for the development and testing of steam generators and liquid metal pumps, and for advanced fuel development. The House bill also included an additional $5,000,000 in construction funds to build facilities for the testing of these steam generators.

These provisions were predicated on the availability of sufficient funds within the LMFBR program, as contained in the House bill, to assure that high priority component development and testing activities would be accomplished. Unfortunately, at the $80,000,000 level agreed upon for the CRBR by the conferees the impetus to component and advanced fuel development that would have been obtained by the provisions is no longer achievable, and the House proviso and capital funding addition are therefore withdrawn.

At the same time, the conferees believe that the LMFBR program should not lose sight of the need to maintain some focus on the development and testing of components of the type and size appropriate for an intermediate sized LMFBR plant, in the event that construction of such a plant may be warranted in the future.

The conferees recognize the possibility that the U.S. may need to rely on LMFBR technology at an earlier date than that currently projected, and that a strong technological base both in research areas, and in component development and testing is needed so that the U.S. will be in a position to utilize its LMFBR capabilities expeditiously should the need arise.

The Senate bill provided that all inventions made or conceived in the course of or under a guarantee authorized by this Act must be subject to the title and waiver requirements and conditions of section 9 of Public Law 93-577. The House amendment required the application of section 9 of Public Law 93-577 to a loan guarantee only in the case of default. The House receded to the Senate position.

The conferees reconfirm the fact that the Secretary has the full authority to grant apriori waivers of the United States' right to inventions made under a loan guarantee and to include provisions pertaining to terms and conditions under which the Federal government would recapture the rights to such inventions in case of default. The conferees expressed a strong consensus view that the Secretary should liberally use his authority to grant apriori waiver of Federal government rights to inventions made under a loan guarantee and in anticipation of a default the Secretary, in his discretion, has the authority to include provisions in the loan guarantee contract to insure that patents developed under the loan guarantee became part of the project assets and available to the United States.

HYGAS DEMONSTRATION PLANT

It is noted that conceptual design of a demonstration plant for the HYGAS process is already underway within the demonstration plant program at ERDA. Seven and one-half million dollars is to be spent on this 20 month project through fiscal year 1978.

Demonstration plants for high Btu coal gasification processes have already been authorized, one in 1976 (Project 76-1-b), one in 1977 (Project 77-1-b). Two processes were chosen to begin conceptual design under the authorization for the first pipeline demonstration project. At the time that the second demonstration plant was authorized in fiscal year 1977, the conferees noted in their report (S. 94-1327, H.R. 94-1718): "HYGAS technology, which has been developed in an ERDA pilot plant, offers the potential for economic success as revealed in a recent independent study made for ERDA. The conferees urge ERDA to consider the selection of a process for the demonstration plant, which has both economic promise and process reliability. The conferees recognize the importance of cost-sharing aspects in any joint program but are concerned if the best technology for demonstration is not developed properly." With these objectives in mind, the conferees wish to emphasize their concern that the best technology for demonstration be developed properly.

While the cost sharing arrangements are important aspects of the demonstration programs, any rigid application of financial formulas is unadvisable, since the purpose of the program is to demonstrate second generation technology and thereby increase its chances for success in the market place.

The current contract for conceptual design of a HYGAS demonstration plant will result in three conceptual designs in competition for two demonstration projects. The fiscal year 1977 Authorization bill provided $10 million for the second demonstration plant but no appropriations were made for that plant in fiscal year 1977. Further authorization of this plant depends upon a competition where technological criteria are given equal weight with economic criteria.

The conferees are also concerned that previous proposals which developed the HYGAS process for a demonstration plant not be dismissed as a result of the ERDA-sponsored conceptual design contract. Any such previous proposals for a HYGAS demonstration should also be eligible for the competition for the second High Btu Demonstration Plant.

The Department of Energy has assured the conferees that the HYGAS process will be a candidate for the second demonstration plant in a letter from Dr. Philip White, Acting Program Administrator for Fossil Energy.

RESERVATION ON SELECTED ITEMS IN REPORT

Senators Abourezk and Hatfield signed the Conference Report with reservations as to the decision of the Conferences to recede from the Senate provisions concerning the Clinch River Breeder Reactor.

Senator Dale Bumpers signed the conference report on the part of the Senate, but emphasized that he is strongly opposed to the conference recommendation for an authorization of $80 million for the Clinch River Breeder Reactor project. He supports the Administration's actions to halt work on the project.

Senator Bumpers also expressed opposition to the proviso adopted by the conference on the Clinch River Breeder Reactor because it may limit the obligations and authority of the Nuclear Regulatory Commission to protect the public health and safety and common defense and security as specified in the licensing process in the Atomic Energy Act and the National Environmental Policy Act.

Representative George E. Brown Jr., although he signed the Conference Report on the part of the House, emphasized that he is strongly opposed to two items of the Conference Report authorizing funds for the continuation of the Clinch River Breeder Reactor Project and language which he believes unreasonably restricts the use of those funds.

Representative Richard Ottinger, although he signed the Conference Report on the part of the House, did so with reservations to the funding for the Clinch River Breeder Reactor, the language concerning the Clinch River Breeder Reactor, the generic loan guarantee provisions, and the nuclear energy research funding provisions.

OLIN E. TEAGUE,
DON FUQUA,
WALTER FLOWERS,
MIKE MCCORMACK,
GEORGE E. BROWN, JR.,
RAY THORNTON,
RICHARD OTTINGER,
TOM HARKIN,
JEROME A. AMBRO,
MARILYN LLOYD,
WES WATKINS,
LARRY WINN, JR.,
LOUIS FREY, JR.,
BARRY M. GOLDWATER, JR.
GARY A. MYERS,
Managers on the Part of the House.

HENRY M. JACKSON,
FRANK CHURCH,
JAMES ABOUREZK,
DALE BUMPERS,
WENDELL H. FORD,
JOHN A. DURKIN,
SPARK M. MATSUNAGA,
CLIFFORD P. HANSEN,
MARK O. HATFIELD,
JAMES A. MCCLURE,
DEWEY F. BARTLETT,
PETE V. DOMENICI,
Managers on the Part of the Senate.

EXTENSIONS OF REMARKS

THE PANAMA CANAL TREATIES

HON. HARRY F. BYRD, JR.

OF VIRGINIA

IN THE SENATE OF THE UNITED STATES

Monday, October 10, 1977

Mr. HARRY F. BYRD, JR. Mr. President, the October 4 Daily News-Record of Harrisonburg, Va., carried an article which should be of interest to Members of the Senate.

This article describes the views of Mrs. Ruby V. Gustin toward the Panama Canal treaties which are now before the Senate.

Mrs. Gustin lived and worked in the Canal Zone for 33 years and recently received the Army's highest civilian award for her service in the Canal Zone.

Mrs. Gustin stated the view of many Virginians when she said that giving away the canal and paying Panama to take it "doesn't make sense."

I ask unanimous consent that the text of the article be printed in the Extensions of Remarks.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

TREATY "MISTAKE," SAYS CITY WOMAN

"I think it is a mistake."

That is how a Harrisonburg woman who spent 33 years as a civilian intelligence worker in the Panama Canal Zone assesses the new canal treaty.

Ruby V. (Jackie) Gustin recently received the Army's meritorious civilian award, the highest honor the Army presents a civilian, for her service in the Canal Zone.

"It is our first line of defense in Latin America," Mrs. Gustin said of the canal. "The U.S. built the canal and should maintain it for security reasons."

Mrs. Gustin disagrees with treaty advocates who say it would be impossible to defend the canal without Panama's help.

"Absolutely . . . we could keep it open," she stated.

Of the treaty, she added, "It looks like we are giving them a canal and paying them $50 million to take it . . . That doesn't make sense to me."

Mrs. Gustin first went to the Canal Zone in 1940 when her husband, John, was assigned to the embassy there.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee of the time, place, and purpose of all meetings when scheduled, and any cancellations or changes in meetings as they occur.

As an interim procedure until the computerization of this information becomes operational, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Tuesday, October 11, 1977, may be found in Daily Digest of today's RECORD.

MEETINGS SCHEDULED

OCTOBER 12

8:00 a.m.

Energy and Natural Resources

To continue hearings on the proposed Alaska natural gas pipeline route.

3110 Dirksen Building

Finance

Health Subcommittee

To hold hearings on S. 1391, 1470, and H.R. 8423, hospital cost containment bills.

2221 Dirksen Building

9:00 a.m.

Governmental Affairs

Permanent Investigations Subcommittee

To continue hearings to receive testimony concerning labor union insurance programs.

1114 Dirksen Building

Judiciary

To continue consideration of S. 1437, to codify, revise, and reform the Federal criminal laws.

S-238, Capitol

9:30 a.m.

Commerce, Science, and Transportation

Merchant Marine and Tourism Subcommittee

To hold hearings on S. 2008, to provide a 3-year period for the United States to reach a permanent solution of the rebating and other malpractices in our foreign ocean trades.

5110 Dirksen Building

Environment and Public Works

Transportation Subcommittee

To continue hearings to review the needs of the Federal-Aid Highway Program and the Administration's options paper on highway legislation.

4200 Dirksen Building

Foreign Relations

To continue hearings on the Panama Canal Treaties (Exec. N, 95th Cong., 1st sess.).

318 Russell Building

Governmental Affairs

To hold hearings on S. 991, 255, 300, 894, and 1685, to create a separate Cabinet-level Department of Education in the Federal Government.

3302 Dirksen Building

Judiciary

Criminal Laws and Procedures Subcommittee

To resume hearings on S. 2103, to require the additional labeling of explosive materials for the purpose of identification and detection.

1224 Dirksen Building

10:00 a.m.

Commerce, Science, and Transportation

To hold hearings on the nominations of Gillian M. Sorensen, of New York, and Sharon P. Rockefeller, of West Virginia, each to be a Member of the Board of Directors of the Corporation for Public Broadcasting.

6202 Dirksen Building

Human Resources

Education, Arts, and the Humanities Subcommittee

To resume hearings on S. 1753, to extend the Elementary and Secondary Education Act of 1965.

4232 Dirksen Building

Rules and Administration

To hold hearings on and to consider S. Res. 268, providing for radio and television coverage of Senate proceedings during consideration of the Panama Canal Treaties (Exec. N, 95th Cong., 1st sess.), to hold hearings on S. Res. 166, to create a coordinated administrative

management system for the Senate, to be followed by a business meeting on pending committee business.
301 Russell Building

Conferees
On H.R. 9005, making appropriations for the District of Columbia for fiscal year 1978.
S-207, Capitol

OCTOBER 13

8:00 a.m.
Finance
Health Subcommittee
To continue hearings on S. 1391, 1470, and H.R. 8423, hospital cost containment bills.
2221 Dirksen Building

9:00 a.m.
Judiciary
Separation of Powers Subcommittee
To hold hearings to receive testimony associated with Executive branch negotiations for the disposition of the territory and property of the United States located in the Isthmus of Panama.
1318 Dirksen Building

9:30 a.m.
Commerce, Science, and Transportation
Merchant Marine and Tourism Subcommittee
To continue hearings on S. 2008, to provide a 3-year period for the United States to reach a permanent solution of the rebating and other malpractices in our foreign ocean trades.
5110 Dirksen Building

Foreign Relations
To continue hearings on the Panama Canal Treaties (Exec. N, 95th Cong., 1st sess.).
318 Russell Building

Human Resources
Labor Subcommittee
To resume hearings on S. 2125, to amend title IV of the ERISA Act of 1974, to permit the Pension Benefit Guaranty Corporation to extend the effective date for mandatory multiemployer plan coverage.
Until 12:30 p.m. 4232 Dirksen Building

OCTOBER 14

10:00 a.m.
Banking, Housing, and Urban Affairs
To hold hearings on S. 2152, to authorize U.S. participation in the supplementary financing of the International Monetary Fund.
5302 Dirksen Building

Energy and Natural Resources
Business meeting on pending calendar business.
3110 Dirksen Building

Governmental Affairs
To continue hearings on S. 991, 255, 300, 894, and 1685, to create a separate Cabinet-level Department of Education in the Federal Government.
3302 Dirksen Building

Human Resources
Education, Arts, and the Humanities Subcommittee.
To continue hearings on S. 1753, to extend the Elementary and Secondary Education Act of 1965.
6202 Dirksen Building

Judiciary
To continue consideration of S. 1437, to codify, revise, and reform the Federal criminal laws.
S-238, Capitol

2:30 p.m.
Foreign Relations
Foreign Assistance Subcommittee
To hold hearings on the international narcotics control program and the status of U.S. prisoners in Bolivia.
4221 Dirksen Building

OCTOBER 14

9:00 a.m.
Finance
Private Pension Plans and Employee Fringe Benefits Subcommittee
To hold hearings on S. 2019 and 2125, to delay the effective date for mandatory coverage of multiemployer pension plans; and H. Con. Res 369, to revise the coverage schedule for basic benefits guaranteed by the Pension Benefit Guaranty Corporation for single employer plans.
1224 Dirksen Building

9:30 a.m.
Human Resources
Labor Subcommittee
To continue hearings on S. 2125, to amend title IV of the ERISA Act of 1974, to permit the Pension Benefit Guaranty Corporation to extend the effective date for mandatory multiemployer plan coverage.
Until 12:30 p.m. 4232 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To hold oversight hearings on issues facing HUD concerning operating costs on distressed FHA multi-family housing projects.
5302 Dirksen Building

Foreign Relations
To continue hearings on the Panama Canal Treaties (Exec. N, 95th Cong., 1st sess.).
318 Russell Building

Governmental Affairs
To continue hearings on S. 991, 255, 300, 894, and 1685, to create a separate Cabinet-level Department of Education in the Federal Government.
3302 Dirksen Building

Human Resources
Education, Arts, and the Humanities Subcommittee
To continue hearings on S. 1753, to extend the Elementary and Secondary Education Act of 1965.
6202 Dirksen Building

2:00 p.m.
Finance
Subcommittee on Taxation and Debt Management Generally
To hold hearings on S. 690, to permit the Jefferson County, Colorado, mental health center to obtain a refund of social security taxes paid.
2221 Dirksen Building

2:30 p.m.
Foreign Relations
To meet in closed session with Secretary of State Vance to discuss the Middle East and strategic arms limitation matters.
S-116, Capitol

Finance
Subcommittee on Taxation and Debt Management Generally
To hold hearings on S. 1717, to amend the Internal Revenue Code with regard to taxation of distilled spirits.
2221 Dirksen Building

OCTOBER 17

9:00 a.m.
Governmental Affairs
Civil Service and General Services Subcommittee
To hold hearings on S. 1265 and 1267, relating to the maintenance and orderly disposition of public records; and S. 1273, authorizing the GSA to renegotiate Federal property leases.
1318 Dirksen Building

9:30 a.m.
Environment and Public Works
Business meeting to consider pending calendar business.
4200 Dirksen Building

Governmental Affairs
Permanent Investigations Subcommittee
To resume hearings to receive testimony concerning labor union insurance programs.
3302 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue oversight hearings on issues facing HUD concerning operating costs on distressed FHA multifamily housing projects.
5302 Dirksen Building

Judiciary
Immigration Subcommittee
To hold hearings on the topic "Human Rights in Israeli Administered Territories."
6202 Dirksen Building

*Veterans' Affairs
To resume hearings on a study by the National Academy of Science on health care for American veterans.
Room to be announced

OCTOBER 18

9:00 a.m.
Commerce, Science and Transportation
To hold hearings on S. 2036, the Amateur Sports Act of 1977.
5110 Dirksen Building

9:30 a.m.
Governmental Affairs
Permanent Investigations Subcommittee
To continue hearings to receive testimony concerning labor union insurance programs.
1318 Dirksen Building

Judiciary
Antitrust and Monopoly Subcommittee
To resume hearings jointly with the Health and Scientific Research Subcommittee on Human Resources Committee on the regulatory and competitive aspects of the health care industry.
4232 Dirksen Building

Special on Aging
To hold hearings on proposed extension of the Older Americans Act (P.L. 93-29).
1114 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To resume markup of legislation proposing simplification in the truth in lending laws (S. 1312, 1501, 1653, and 1846).
5302 Dirksen Building

OCTOBER 19

9:00 a.m.
Commerce, Science, and Transportation
To continue hearings on S. 2036, the Amateur Sports Act of 1977.
5110 Dirksen Building

Human Resources
To resume hearings to receive testimony from Executive branch officials in connection with recent studies on human resource programs.
Until noon 4232 Dirksen Building

9:30 a.m.
Judiciary
Administrative Practice and Procedure Subcommittee
To hold hearings on proposed legislation dealing with the Department of Agriculture's policies, practices, and procedures regarding family farmers.
2228 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue markup of legislation proposting simplification in the truth in lending laws (S. 1312, 1501, 1653, and 1846).
5302 Dirksen Building

OCTOBER 20

8:00 a.m.
Finance
Health Subcommittee
To continue hearings on S. 1391, 1470, and H.R. 8423, hospital cost containment bills.
2221 Dirksen Building

9:30 a.m.
Judiciary
Administrative Practice and Procedure Subcommittee
To continue hearings on proposed legislation dealing with the Department of Agriculture's policies, practices, and procedures regarding family farmers.
2228 Dirksen Building

10:00 a.m.
Banking, Housing and Urban Affairs
To hold hearings in connection with recent increases in lumber prices and their effects on the Nation's housing industry.
5302 Dirksen Building
Human Resources
Education, Arts, and the Humanities Subcommittee
To resume hearings on S. 1753, to extend the Elementary and Secondary Education Act of 1965.
4232 Dirksen Building

OCTOBER 21

9:30 a.m.
Judiciary
Criminal Laws and Procedures
To hold hearings on S. 1487, to eliminate racketeering in the sale and distribution of cigarettes.
2228 Dirksen Building

10:00 a.m.
Banking, Housing and Urban Affairs
To continue hearings in connection with recent increases in lumber prices and their effects on the Nation's housing industry.
5302 Dirksen Building

OCTOBER 25

10:00 a.m.
Energy and Natural Resources
Energy Production and Supply Subcommittee
To hold oversight hearings on the coal leasing program and its general impact on coal development in the West.
3110 Dirksen Building

OCTOBER 26

10:00 a.m.
Banking, Housing, and Urban Affairs
To hold oversight hearings on the role of the FHA in home financing.
5302 Dirksen Building
Energy and Natural Resources
Energy Production and Supply Subcommittee
To continue oversight hearings on the coal leasing program and its general impact on coal development in the West.
3110 Dirksen Building

OCTOBER 27

9:30 a.m.
Judiciary
Constitution Subcommittee
To hold hearings on S. 35, proposed Civil Rights Improvements Act of 1977.
2228 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue oversight hearings on the role of the FHA in home financing.
5302 Dirksen Building
Energy and Natural Resources
Energy Production and Supply Subcommittee
To continue oversight hearings on the coal leasing program and its general impact on coal development in the West.
3110 Dirksen Building

OCTOBER 28

9:30 a.m.
Judiciary
Constitution Subcommittee
To continue hearings on S. 35, proposed Civil Rights Improvements Act of 1977.
2228 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue oversight hearings on the role of the FHA in home financing.
5302 Dirksen Building

OCTOBER 31

9:30 a.m.
Human Resources
Labor Subcommittee
To resume hearings on S. 1883 and 1855, to strengthen the remedies and expedite the procedures under the National Labor Relations Act.
Until 5:00 p.m. 4232 Dirksen Building

10:00 a.m.
Energy and National Resources
Energy Production and Supply Subcommittee
To hold hearings on S. 1879, to bar the granting of pipeline rights-of-way to applicants who produce oil products.
3110 Dirksen Building

NOVEMBER 1

9:00 a.m.
Judiciary
Constitution Subcommittee
To hold oversight hearings on activities of the Civil Rights Commission.
2228 Dirksen Building

10:00 a.m.
Energy and Natural Resources
Energy Production and Supply Subcommittee
To continue hearings on S. 1879, to bar the granting of pipeline rights-of-way to applicants who produce oil products.
3110 Dirksen Building

NOVEMBER 2

9:00 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To hold hearings to receive testimony on the possible effect of recombinant DNA research on the field of scientific inquiries.
5110 Dirksen Building
Judiciary
Constitution Subcommittee
To continue oversight hearings on activities of the Civil Rights Commission.
2228 Dirksen Building

NOVEMBER 3

9:00 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To continue hearings to receive testimony on the possible effect of recombinant DNA research on the field of scientific inquiries.
5110 Dirksen Building

9:30 a.m.
Human Resources
Labor Subcommittee
To resume hearings on S. 1883 and 1855, to strengthen the remedies and expedite the procedures under the National Labor Relations Act.
Until 5:00 p.m. 4232 Dirksen Building

NOVEMBER 4

9:30 a.m.
Human Resources
Labor Subcommittee
To continue hearings on S. 1883 and 1855, to strengthen the remedies and expedite the procedures under the National Labor Relations Act.
Until 5:00 p.m. 4232 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To resume oversight hearings on U.S. monetary policy.
5302 Dirksen Building
Judiciary
Constitution Subcommittee
To resume hearings on S. 1845, the Polygraph Control and Civil Liberties Protection Act of 1977.
2228 Dirksen Building

NOVEMBER 10

9:00 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To resume hearings to receive testimony on the possible effect of recombinant DNA research on the field of scientific inquiries.
5110 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue oversight hearings on U.S. monetary policy.
5302 Dirksen Building
Judiciary
Constitution Subcommittee
To continue hearings on S. 1845, the Polygraph Control and Civil Liberties Protection Act of 1977.
2228 Dirksen Building

NOVEMBER 11

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue oversight hearings on U.S. monetary policy.
5302 Dirksen Building

NOVEMBER 14

10:00 a.m.
Judiciary
Improvements in Judicial Machinery Subcommittee
To hold hearings on S. 2014, to provide greater protection to consumers in bankruptcy proceedings.
2228 Dirksen Building

NOVEMBER 15

10:00 a.m.
Judiciary
Improvements in Judicial Machinery Subcommittee
To continue hearings on S. 2014, to provide greater protection to consumers in bankruptcy proceedings.
2228 Dirksen Building

NOVEMBER 16

10:00 a.m.
Judiciary
Improvements in Judicial Machinery Subcommittee
To continue hearings on S. 2014, to provide greater protection to consumers in bankruptcy proceedings.
2228 Dirksen Building

NOVEMBER 17

10:00 a.m.
Judiciary
Improvements in Judicial Machinery Subcommittee
To continue hearings on S. 2014, to provide greater protection to consumers in bankruptcy proceedings.
2228 Dirksen Building

NOVEMBER 18

10:00 a.m.
Judiciary
Improvements in Judicial Machinery Subcommittee
To continue hearings on S. 2014, to provide greater protection to consumers in bankruptcy proceedings.
2228 Dirksen Building

DECEMBER 8

9:00 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To hold hearings on the United Nations conference on science and technology for development in 1979.
Until 5:00 p.m. 5110 Dirksen Building

DECEMBER 13

10:00 a.m.
Judiciary
Constitution Subcommittee
To hold hearings on S.J. Res. 67, propos-

ing an amendment to the Constitution with respect to the proposal and the enactment of laws by popular vote of the people of the United States.
2228 Dirksen Building

DECEMBER 14
10:00 a.m.
Judiciary
Constitution Subcommittee
To continue hearings on S.J. Res. 67, proposing an amendment to the Constitution with respect to the proposal and the enactment of laws by popular vote of the people of the United States.
2228 Dirksen Building

HOUSE OF REPRESENTATIVES—*Tuesday, October 11, 1977*

The House met at 12 o'clock noon.

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. BRADEMAS) laid before the House the following communication from the Speaker:

WASHINGTON, D.C.,
October 11, 1977.

I hereby designate the Honorable JOHN BRADEMAS to act as Speaker pro tempore for today.

THOMAS P. O'NEILL, Jr.,
Speaker of the House of Representatives.

PRAYER

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

I will lift up mine eyes unto the hills, from whence cometh my help. My help cometh from the Lord, who made heaven and earth.—Psalms 121: 1, 2.

Almighty God, our Father, our Creator and the sustainer of our lives, in this quiet moment of prayer we look beyond ourselves to Thee from whom comes our help. Lead us not into temptation but deliver us from the evils of pettiness, prejudice, and pride and keep our minds open to goodness, truth, and beauty. Thus may we work with wisdom this day and labor with love in our hearts for the good of all Thy children. Grant unto us a deep sense of justice, a broad sense of good will, and a high sense of truth that we may see the right thing to do and have the courage to do it, whatever the cost.

Bless our Nation, we pray Thee, and make her a blessing to other nations that peace may prevail in our world, justice be done, and good will reign in the hearts of all.

In Thy holy name we pray. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Chirdon, one of his secretaries, who also informed the House that on October 6, 1977, the President approved and signed a bill of the House of the following title:

H.R. 6951. An act to amend the Council on Wage and Price Stability Act to extend its termination date, and for other purposes.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment a bill and a concurrent resolution of the House of the following titles:

H.R. 1934. An act for the relief of Doctor Lawrence C. B. Chan; and

H. Con. Res. 368. Concurrent resolution calling for support of the city of Los Angeles, representing the United States in its bid before the International Olympic Committee to host the 1984 summer Olympic games.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 717) entitled "An act to promote safety and health in the mining industry, to prevent recurring disasters in the mining industry, and for other purposes."

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 3744. An act to amend the Fair Labor Standards Act of 1938 to increase the minimum wage rate under that act, and for other purposes.

The message also announced that the Senate disagrees to the amendments of the House to the bill (S. 1339) entitled "An act to authorize appropriations to the Energy Research and Development Administration for national defense programs for the fiscal years 1977 and 1978, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. STENNIS, Mr. JACKSON, Mr. CANNON, Mr. MCINTYRE, Mr. NUNN, Mr. HART, Mr. TOWER, Mr. THURMOND, and Mr. BARTLETT to be the conferees on the part of the Senate.

The message also announced that the Senate had passed a bill and joint resolutions of the following titles, in which the concurrence of the House is requested:

S. 1863. An act to authorize appropriations during the fiscal year 1978 for procurement of aircraft and missiles, and research, development, test, and evaluation for the Armed Forces, and for other purposes; and

S.J. Res. 88. Joint resolution providing for the designation of the week beginning November 13, 1977, and ending November 19, 1977, as "National Gifted and Talented Children Week."

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

WASHINGTON, D.C.,
October 7, 1977.

Hon. THOMAS P. O'NEILL, Jr.,
The Speaker, House of Representatives, Washington, D.C.

DEAR MR. SPEAKER: Pursuant to the permission granted on October 6, 1977, the Clerk has received this date the following message from the Secretary of the Senate:

That the Senate agreed to the amendments of the House of Representatives to the bill (S. 1372) entitled "An Act to establish an Under Secretary of Defense for Policy, and for other purposes."

With kind regards, I am,
Sincerely,
EDMUND L. HENSHAW, Jr.,
Clerk, House of Representatives.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

WASHINGTON, D.C.,
October 7, 1977.

Hon. THOMAS P. O'NEILL, Jr.,
The Speaker, House of Representatives, Washington, D.C.

DEAR MR. SPEAKER: I have the honor to transmit herewith a sealed envelope from the White House, received in the Clerk's Office at 12:10 p.m. on Friday, October 7, 1977, and said to contain a message from the President wherein he transmits a governing international fishery agreement between the United States and Mexico.

With kind regards, I am,
Sincerely,
EDMUND L. HENSHAW, Jr.,
Clerk, House of Representatives.

GOVERNING INTERNATIONAL FISHERY AGREEMENT BETWEEN THE UNITED STATES AND MEXICO—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 95-240)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Merchant Marine and Fisheries and ordered to be printed:

To the Congress of the United States:

In accordance with the Fishery Conservation and Management Act of 1976 (P.L. 94-265; 16 U.S.C. 1801), I transmit herewith a governing international fish-

ery agreement between the United States and Mexico, signed at Washington on August 26, 1977.

This Agreement is significant because it is one of a series to be negotiated in accordance with that legislation. It is also significant in the context of the warm and close relationship which the United States has had with Mexico for many years. I, therefore, urge that the Congress give favorable consideration to this Agreement at an early date.

JIMMY CARTER.

THE WHITE HOUSE, *October 7, 1977.*

TENTH QUARTERLY REPORT OF COUNCIL ON WAGE AND PRICE STABILITY—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Banking, Finance and Urban Affairs:

To the Congress of the United States:

In accordance with section 5 of the Council on Wage and Price Stability Act, as amended, I hereby transmit to the Congress the tenth quarterly report of the Council on Wage and Price Stability. This report contains a description of the Council activities during the first quarter of 1977 in monitoring both prices and wages in the private sector and various Federal Government activities that lead to higher costs and prices without creating commensurate benefits. It discusses in some detail the Council's studies of the outlook for collective bargaining negotiations for 1977, health care costs, automobiles, cement and the trends in industrial plant construction, as well as its filings before various Federal regulatory agencies.

During the remainder of 1977, the Council on Wage and Price Stability will continue to play an important role in supplementing fiscal and monetary policies by calling public attention to wage and price developments or actions by the Government that could be of concern to American consumers.

JIMMY CARTER.

THE WHITE HOUSE, *October 11, 1977.*

THE BRUTAL COMMUNIST REGIME IN VIETNAM

(Mr. MICHEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MICHEL. Mr. Speaker, I note that Mr. WEISS, of New York, is critical of views I recently expressed concerning a rally honoring and greeting representatives of the brutal Communist regime in Vietnam.

He says my remarks were "ill-timed." I say that any time you can tell the truth about dictators and their friends is the right time.

He says my remarks were "unfriendly." He is absolutely correct. I am unfriendly to Communist thugs.

Finally he says my remarks were "inflammatory." I sincerely hope so. I hope they serve to light the flame of commonsense and common decency and love of freedom among the Sam Browns and Ramsey Clarks who paid tribute to these totalitarians.

Mr. WEISS is entitled to his views. But when he says he and Brown and Clark and the rest of their friends were only "extending the American hand of friendship" to the Communist dictators, I must strongly disagree. The American people detest the moral idiocy of the Clarks and Browns of this Nation, and it is absurd for Mr. WEISS to say they were in any way expressing a sentiment of Americans in general.

PERMISSION FOR COMMITTEE ON HOUSE ADMINISTRATION TO MEET THURSDAY, OCTOBER 13, 1977, DURING 5-MINUTE RULE

Mr. THOMPSON. Mr. Speaker, I ask unanimous consent that the Committee on House Administration may be permitted to meet on Thursday, October 13, 1977, during the 5-minute rule to have a hearing and to begin markup on the Federal Election Commission reforms as passed by the other body.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

Mr. BAUMAN. Reserving the right to object, Mr. Speaker, I wonder if the gentleman could tell me whether or not the minority members have been consulted with respect to this matter.

Mr. THOMPSON. If the gentleman will yield, Mr. Speaker, they have.

Mr. BAUMAN. And they have no objection to meeting on Thursday; is that correct?

Mr. THOMPSON. They have no objection.

Mr. BAUMAN. What is the legislation that is being considered?

Mr. THOMPSON. The Federal Election Commission law.

Mr. BAUMAN. Is this with respect to Federal financing of congressional election campaigns?

Mr. THOMPSON. It is not. Public financing is not in the Senate-passed bill, and I do not know at the moment whether or not it will be in the House bill.

Mr. BAUMAN. It either is or is not in the legislation.

Mr. THOMPSON. It is not in the legislation which we are going to consider.

Mr. BAUMAN. It is not the subject of the hearing which the gentleman has requested permission to sit for, is it?

Mr. THOMPSON. No. Hearings have been completed on that subject.

I will say to the gentleman that as we go forward, it is possible that the issue might be raised; but it is not the current plan of the gentleman from New Jersey to do more than have the Federal Election Commission representatives testify and then we will begin markup. If in the course of the hearings that issue is raised later, it will be addressed at that time.

Mr. BAUMAN. Mr. Speaker, I withdraw my reservation of objection, and I thank the gentleman.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

CALL OF THE HOUSE

Mr. FOLEY. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 640]

Addabbo	Forsythe	Murphy, N.Y.
Alexander	Fowler	Murphy, Pa.
Ambro	Fraser	Myers, Michael
Anderson, Ill.	Frey	Nichols
Andrews, N.C.	Gaydos	Nix
Andrews, N. Dak.	Gephardt	Nolan
Annunzio	Gibbons	O'Brien
Armstrong	Glickman	Oakar
Ashbrook	Goldwater	Ottinger
Aspin	Gonzalez	Panetta
Badillo	Gudger	Patten
Baldus	Guyer	Pattison
Baucus	Hall	Pease
Beard, R.I.	Hanley	Pepper
Beard, Tenn.	Hannaford	Pickle
Bedell	Harrington	Pike
Bevill	Harsha	Pressler
Biaggi	Heckler	Preyer
Bingham	Heftel	Pritchard
Blanchard	Hightower	Pursell
Boggs	Hillis	Rahall
Boland	Holland	Railsback
Bolling	Hollenbeck	Regula
Bowen	Holtzman	Richmond
Breckinridge	Horton	Risenhoover
Brinkley	Hubbard	Robinson
Brown, Calif.	Huckaby	Rodino
Brown, Mich.	Hughes	Roncalio
Buchanan	Ireland	Rooney
Burke, Calif.	Jenrette	Rose
Burton, John	Johnson, Calif.	Rosenthal
Butler	Jordan	Rostenkowski
Byron	Kasten	Roybal
Carney	Kastenmeier	Russo
Carter	Kelly	Santini
Cavanaugh	Koch	Satterfield
Cederberg	Kostmayer	Scheuer
Chappell	Krueger	Shuster
Chisholm	Le Fante	Sikes
Cleveland	Lederer	Skubitz
Cohen	Lehman	Snyder
Coleman	Livingston	Solarz
Collins, Ill.	Lloyd, Tenn.	Spellman
Collins, Tex.	Long, La.	Steed
Conyers	Lujan	Symms
Cornwell	Luken	Taylor
Cotter	McCormack	Teague
Crane	McDonald	Thone
Cunningham	McEwen	Traxler
Dent	McKay	Trible
Diggs	McKinney	Tucker
Dingell	Maguire	Udall
Dodd	Markey	Vento
Drinan	Mathis	Walker
Duncan, Oreg.	Meeds	Walsh
Early	Metcalfe	Wampler
Edwards, Ala.	Meyner	Watkins
Edwards, Calif.	Mikulski	Waxman
Edwards, Okla.	Mikva	Weiss
Evans, Ind.	Milford	Whalen
Fary	Miller, Calif.	Wiggins
Fish	Moffett	Wilson, C. H.
Fithian	Mollohan	Wilson, Tex.
Flippo	Montgomery	Winn
Flood	Moorhead, Calif.	Wolff
Flowers	Moorhead, Pa.	Wydler
Ford, Mich.	Mottl	Young, Alaska
Ford, Tenn.	Murphy, Ill.	Young, Tex.
		Zeferetti

The SPEAKER pro tempore. On this rollcall 229 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

CONFERENCE REPORT ON H.R. 3, MEDICARE-MEDICAID ANTIFRAUD AND ABUSE AMENDMENTS

Mr. ULLMAN submitted the following conference report and statement on the bill (H.R. 3) to strengthen the capability of the Government to detect, prosecute, and punish fraudulent activities under the medicare and medicaid programs, and for other purposes:

CONFERENCE REPORT (H. REPT. NO. 95–673)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3) to strengthen the capability of the Government to detect, prosecute, and punish fraudulent activities under the medicare and medicaid programs, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

SHORT TITLE

SECTION 1. This Act may be cited as the "Medicare-Medicaid Anti-Fraud and Abuse Amendments".

PROHIBITION AGAINST ASSIGNMENT BY PHYSICIANS AND OTHERS OF CLAIMS FOR SERVICES; CLAIMS PAYMENT PROCEDURES FOR MEDICAID PROGRAM

SEC. 2. (a)(1) Section 1842(b)(5) of the Social Security Act is amended by adding at the end thereof the following new sentence: "No payment which under the preceding sentence may be made directly to the physician or other person providing the service involved (pursuant to an assignment described in subparagraph (B)(ii) of paragraph (3)) shall be made to anyone else under a reassignment or power of attorney (except to an employer or facility as described in clause (A) or (B) of such sentence); but nothing in this subsection shall be construed (i) to prevent the making of such a payment in accordance with an assignment from the individual to whom the service was provided or a reassignment from the physician or other person providing such service if such assignment or reassignment is made to a governmental agency or entity or is established by or pursuant to the order of a court of competent jurisdiction, or (ii) to preclude an agent of the physician or other person providing the service from receiving any such payment if (but only if) such agent does so pursuant to an agency agreement under which the compensation to be paid to the agent for his services for or in connection with the billing or collection of payments due such physician or other person under this title is unrelated (directly or indirectly) to the amount of such payments or the billings therefor, and is not dependent upon the actual allocation of any such payment.".

(2) Section 1815 of such Act is amended by adding at the end thereof the following new subsection:

"(c) No payment which may be made to a provider of services under this title for any service furnished to an individual shall be made to any other person under an assignment or power of attorney; but nothing in this subsection shall be construed (1) to prevent the making of such a payment in accordance with an assignment from the provider if such assignment is made to a governmental agency or entity or is established by or pursuant to the order of a court of competent jurisdiction, or (2) to preclude an agent of the provider of services from receiving any such payment if (but only if) such agent does so pursuant to an agency agreement under which the compensation to be paid to the agent for his services for or in connection with the billing or collection of payments due such provider under this title is unrelated (directly or indirectly) to the amount of such payments or the billings therefor, and is not dependent upon the actual collection of any such payment.".

(3) Section 1902(a)(32) of such Act is amended to read as follows:

"(32) provide that no payment under the plan for any care or service provided to an individual shall be made to anyone other than such individual or the person or institution providing such care or service, under an assignment or power of attorney or otherwise; except that—

"(A) in the case of any care or service provided by a physician, dentist, or other individual practitioner, such payment may be made (i) to the employer of such physician, dentist, or other practitioner if such physician, dentist, or practitioner is required as a condition of his employment to turn over his fee for such care or service to his employer, or (ii) (where the care or service was provided in a hospital, clinic, or other facility) to the facility in which the care or service was provided if there is a contractual arrangement between such physician, dentist, or practitioner and such facility under which such facility submits the bill for such care or service; and

"(B) nothing in this paragraph shall be construed (i) to prevent the making of such a payment in accordance with an assignment from the person or institution providing the care or service involved if such assignment is made to a governmental agency or entity or is established by or pursuant to the order of a court of competent jurisdiction, or (ii) to preclude an agent of such person or institution from receiving any such payment if (but only if) such agent does so pursuant to an agency agreement under which the compensation to be paid to the agent for his services for or in connection with the billing or collection of payments due such person or institution under the plan is unrelated (directly or indirectly) to the amount of such payments or the billings therefor, and is not dependent upon the actual collection of any such payment;".

(4) The amendments made by this subsection shall apply with respect to care and services furnished on or after the date of the enactment of this Act.

(b)(1) Section 1902(a) of the Social Security Act is amended—

(A) by striking out "and" at the end of paragraph (35);

(B) by striking out the period at the end of paragraph (36) and inserting in lieu thereof "; and";

(C) by inserting immediately after paragraph (36) the following new paragraph:

"(37) provide for claims payment procedures which (A) ensure that 90 per centum of claims for payment (for which no further written information or substantiation is required in order to make payment) made for services covered under the plan and furnished by health care practitioners through individual or group practices or through shared health facilities are paid within 30 days of the date of receipt of such claims and that 99 per centum of such claims are paid within 90 days of the date of receipt of such claims, and (B) provide for procedures of prepayment and postpayment claims review, including review of appropriate data with respect to the recipient and provider of a service and the nature of the service for which payment is claimed, to ensure the proper and efficient payment of claims and management of the program."; and

(D) by inserting at the end thereof the following paragraph:

"The requirement of clause (A) of paragraph (37) with respect to a State plan may be waived by the Secretary if he finds that the State has exercised good faith in trying to meet such requirement.".

(2) The amendments made by paragraph (1) shall apply to calendar quarters beginning on and after July 1, 1978, with respect to State plans approved under title XIX of the Social Security Act.

"DISCLOSURE OF OWNERSHIP AND RELATED INFORMATION

SEC. 3. (a)(1) Part A of title XI of the Social Security Act is amended by inserting immediately after section 1123 the following new section:

"DISCLOSURE OF OWNERSHIP AND RELATED INFORMATION

"SEC. 1124. (a)(1) The Secretary shall by regulation or by contract provision provide that each disclosing entity (as defined in paragraph (2)) shall—

"(A) as a condition of the disclosing entity's participation in, or certification or recertification under, any of the programs established by titles V, XVIII, XIX, and XX, or

"(B) as a condition for the approval or renewal of a contract or agreement between the disclosing entity and the Secretary or the appropriate State agency under any of the programs established under titles V, XVIII, XIX, and XX,

supply the Secretary or the appropriate State agency with full and complete information as to the identity of each person with an ownership or control interest (as defined in paragraph (3)) in the entity or in any subcontractor (as defined by the Secretary in regulations) in which the entity directly or indirectly has a 5 per centum or more ownership interest.

"(2) As used in this section, the term 'disclosing entity' means an entity which is—

"(A) a provider of services (as defined in section 1861(u), other than a fund), an independent clinical laboratory, a renal disease facility, or a health maintenance organization (as defined in section 1301(a) of the Public Health Service Act);

"(B) an entity (other than an individual practitioner or group of practitioners) that furnishes, or arranges for the furnishing of, items or services with respect to which payment may be claimed by the entity under any plan or program established pursuant to title V or under a State plan approved under title XIX;

"(C) a carrier or other agency or organization that is acting as a fiscal intermediary or agent with respect to one or more providers of services (for purposes of part A or part B of title XVIII, or both, or for purposes of a State plan approved under title XIX) pursuant to (i) an agreement under section 1816, (ii) a contract under section 1842, or (iii) an agreement with a single State agency administering or supervising the administration of a State plan approved under title XIX; or

"(D) an entity (other than an individual practitioner or group of practitioners) that furnishes, or arranges for the furnishing of, health related services with respect to which payment may be claimed by the entity under a State plan or program approved under title XX.

"(3) As used in this section, the term 'person with an ownership or control interest' means, with respect to an entity, a person who—

"(A)(i) has directly or indirectly (as determined by the Secretary in regulations) an ownership interest of 5 per centum or more in the entity; or

"(ii) is the owner (in whole or in part) of an interest of 5 per centum or more in any mortgage, deed of trust, note, or other obligation secured (in whole or in part) by the entity or any of the property or assets thereof; or

"(B) is an officer or director of the entity, if the entity is organized as a corporation; or

"(C) is a partner in the entity, if the entity is organized as a partnership.

"(b) To the extent determined to be feasible under regulations of the Secretary, a disclosing entity shall also include in the information supplied under subsection (a)(1), with respect to each person with an ownership or control interest in the entity, the name of any other disclosing entity with respect to which the person is a person with an ownership or control interest.".

(2) Section 1861(j)(11) of such Act is amended to read as follows:

"(11) complies with the requirements of section 1124;".

(b) Clause (C) of section 1866(b)(2) of such Act is amended by inserting "(i)" after "failed", and by adding after "to verify such information," the following: "or (ii) to supply (within such period as may be specified by the Secretary in regulations) upon request specifically addressed to such provider by the Secretary (I) full and complete information as to the ownership of a subcontractor (as defined by the Secretary in regulations) with whom such provider has had, during the previous twelve months, business transactions in an aggregate amount in excess of $25,000, and (II) full and complete information as to any significant business transactions (as defined by the Secretary in regulations), occurring during the five-year period ending on the date of such request, between such provider and any wholly owned supplier or between such provider and any subcontractor,".

(c)(1) Section 1902(a) of such Act (as amended by section 2(b)(1) of this Act is amended—

(A) by amending paragraph (35) to read as follows:

"(35) provide that any intermediate care facility receiving payments under such plan complies with the requirements of section 1124;";

(B) by striking out "and" at the end of paragraph (36);

(C) by striking out the period at the end of paragraph (37) and inserting in lieu thereof "; and"; and

(D) by inserting after paragraph (37) the following new paragraph:

"(38) require that an entity (other than an individual practitioner or a group of practitioners) that furnishes, or arranges for the furnishing of, items or services under the plan, shall supply (within such period as may be specified in regulations by the Secretary or by the single State agency which administers or supervises the administration of the plan) upon request specifically addressed to such entity by the Secretary or such State agency, respectively, (A) full and complete information as to the ownership or a subcontractor (as defined by the Secretary in regulations) with whom such entity has had, during the previous twelve months, business transactions in an aggregate amount in excess of $25,000, and (B) full and complete information as to any significant business transactions (as defined by the Secretary in regulations), occurring during the five-year period ending on the date of such request, between such entity and any wholly owned supplier or between such entity and any subcontractor.".

(2) Section 1903(i)(2) of such Act is amended by inserting before the semicolon at the end thereof the following: ", or by reason of noncompliance with a request made by the Secretary under clause (C)(ii) of such section 1866(b)(2) or under section 1902(a)(38)".

(d)(1) Section 2003(d)(1) of such Act is amended—

(A) by striking out "and" at the end of subparagraph (H);

(B) by striking out the period at the end of subparagraph (I) and inserting in lieu thereof ";and"; and

(C) by adding after subparagraph (I) the following new subparagraph:

"(J) provides that any entity (other than an individual practitioner or a group of practitioners) receiving payments for the provision of health related services complies with the requirements of section 1124, and supplies (within such period as may be specified in regulations by the Secretary or by the State agency which administers or supervises the administration of the plan) upon request specifically addressed to such entity by the Secretary or such State agency, respectively, (i) full and complete information as to the ownership of a subcontractor (as defined by the Secretary in regulations) with whom such entity has had, during the previous twelve months, business transactions in an aggregate amount in excess of $25,000, and (ii) full and complete information as to any significant business transactions (as defined by the Secretary in regulations), occurring during the five-year period ending on the date of such request, between such entity and any wholly owned supplier or between such entity and any subcontractor.".

(2) Section 2002(a) of such Act is amended by adding at the end thereof the following new paragraph:

"(15) No payment may be made under this section with respect to any expenditure for the provision of any health related service if such service is provided by an entity which has failed to comply with a request made by the Secretary or State agency under section 2003(d)(1)(J), for so long as such entity remains in noncompliance with such request.".

(e) The amendment made by subsection (a)(1) shall apply with respect to certifications and recertifications made (and participation in the programs established by titles V, XVIII, XIX, and XX of the Social Security Act pursuant to certifications and recertifications made), and fiscal intermediary or agent agreements or contracts entered into or renewed, on and after the date of the enactment of this Act. The remaining amendments made by this section shall take effect on the date of the enactment of this Act; except that the amendments made by subsections (c) and (d) shall become effective January 1, 1978.

PENALTIES FOR DEFRAUDING MEDICARE AND MEDICAID PROGRAMS

SEC. 4. (a) Section 1877 of the Social Security Act is amended to read as follows:

"PENALTIES

"SEC. 1877. (a) Whoever—

"(1) knowingly and willfully makes or causes to be made any false statement or representation of a material fact in any application for any benefit or payment under this title,

"(2) at any time knowingly and willfully makes or causes to be made any false statement or representation of a material fact for use in determining rights to any such benefit or payment,

"(3) having knowledge of the occurrence of any event affecting (A) his initial or continued right to any such benefit or payment, or (B) the initial or continued right to any such benefit or payment of any other individual in whose behalf he has applied for or is receiving such benefit or payment conceals or fails to disclose such event with an intent fraudulently to secure such benefit or payment either in a greater amount or quantity than is due or when no such benefit or payment is authorized, or

"(4) having made application to receive any such benefit or payment for the use and benefit of another and having received it, knowingly and willfully converts such benefit or payment or any part thereof to a use other than for the use and benefit of such other person.

shall (i) in the case of such a statement, representation, concealment, failure, or conversion by any person in connection with the furnishing (by that person) of items or services for which payment is or may be made under this title, be guilty of a felony and upon conviction thereof fined not more than $25,000 or imprisoned for not more than five years or both, or (ii) in the case of such a statement, representation, concealment, failure, or conversion by any other person, be guilty of a misdemeanor and upon conviction thereof fined not more than $10,000 or imprisoned for not more than one year, or both.

"(b)(1) Whoever solicits or receives any remuneration (including any kickback, bribe, or rebate) directly or indirectly, overtly or covertly, in cash or in kind—

"(A) in return for referring an individual to a person for the furnishing or arranging for the furnishing of any item or service for which payment may be made in whole or in part under this title, or

"(B) in return for purchasing, leasing, ordering, or arranging for or recommending purchasing, leasing or ordering any good, facility, service, or item for which payment may be made in whole or in part under this title,

shall be guilty of a felony and upon conviction thereof, shall be fined not more than $25,000 or imprisoned for not more than five years, or both.

"(2) Whoever offers or pays any remuneration (including any kickback, bribe, or rebate) directly or indirectly, overtly or covertly, in cash or in kind to any person to induce such person—

"(A) to refer an individual to a person for the furnishing or arranging for the furnishing of any item or service for which payment may be made in whole or in part under this title, or

"(B) to purchase, lease, order, or arrange for or recommend purchasing, leasing, or ordering any good, facility, service, or item for which payment may be made in whole or in part under this title,

shall be guilty of a felony and upon conviction thereof, shall be fined not more than $25,000 or imprisoned for not more than five years, or both.

"(3) Paragraphs (1) and (2) shall not apply to—

"(A) a discount or other reduction in price obtained by a provider of services or other equity under this title if the reduction in price is properly disclosed and appropriately reflected in the costs claimed or charges made by the provider or entity under this title; and

"(B) any amount paid by an employer to an employee (who has a bona fide employment relationship with such employer) for employment in the provision of covered items or services.

"(c) Whoever knowingly and willfully makes or causes to be made, or induces or seeks to induce the making of, any false statement or representation of a material fact with respect to the conditions or operation of any institution or facility in order that such institution or facility may qualify (either upon initial certification or upon recertification) as a hospital, skilled nursing facility, or home health agency (as those terms are defined in section 1861), shall be guilty of a felony and upon conviction thereof shall be fined not more than $25,000 or imprisoned for not more than five years, or both.

"(d) Whoever accepts assignments described in section 1842(b)(3)(B)(ii) and knowingly, willfully, and repeatedly violates the term of such assignments specified in subclause (I) of such section, shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than $2,000 or imprisoned for not more than six months, or both.".

(b) Section 1909 of such Act is amended to read as follows:

"PENALTIES

"SEC. 1909. (a) Whoever—

"(1) knowingly and willfully makes or causes to be made any false statement or representation of a material fact in any application for any benefit or payment under a State plan approved under this title,

"(2) at any time knowingly and willfully makes or causes to be made any false statement or representation of a material fact for use in determining rights to such benefit or payment,

"(3) having knowledge of the occurrence of any event affecting (A) his initial or continued right to any such benefit or payment, or (B) the initial or continued right to any such benefit or payment of any other individual in whose behalf he has applied for or is receiving such benefit or payment, conceals or fails to disclose such event with an intent fraudulently to secure such benefit or payment either in a greater amount or quantity than is due or when no such benefit or payment is authorized, or

"(4) having made application to receive any such benefit or payment for the use and benefit of another and having received it, knowingly and willfully converts such a use other than for the use and benefit of such other person,

shall (i) in the case of such a statement, representation, concealment, failure, or conversion by any person in connection with the furnishing (by that person) of items or services for which payment is or may be made under this title, be guilty of a felony and upon conviction thereof fined not more than $25,000 or imprisoned for not more than five years or both, or (ii) in the case of such a statement, representation, concealment, failure, or conversion by any other person, be guilty of a misdemeanor and upon conviction thereof fined not more than $10,000 or imprisoned for not more than one year, or both. In addition, in any case where an individual who is otherwise eligible for assistance under a State plan approved under this title is convicted of an offense under the preceding provisions of this subsection, the State may at its option (notwithstanding any other provision of this title or of such plan) limit, restrict, or suspend the eligibility of that individual for such period (not exceeding one year) as it deems appropriate; but the imposition of a limitation, restriction, or suspension with respect to the eligibility of any individual under this sentence shall not affect the eligibility of any other person for assistance under the plan, regardless of the relationship between that individual and such other person.

"(b)(1) Whoever solicits or receives any remuneration (including any kickback, bribe, or rebate) directly or indirectly, overtly or covertly, in cash or in kind—

"(A) in return for referring an individual to a person for the furnishing or arranging for the furnishing of any item or service for which payment may be made in whole or in part under this title, or

"(B) in return for purchasing, leasing, ordering, or arranging for or recommending purchasing, leasing, or ordering any good, facility, service, or item for which payment may be made in whole or in part under this title,

shall be guilty of a felony and upon conviction thereof, shall be fined not more than $25,000 or imprisoned for not more than five years, or both.

"(2) Whoever offers or pays any remuneration (including any kickback, bribe, or rebate) directly or indirectly, overtly or covertly, in cash or in kind to any person to induce such person—

"(A) to refer an individual to a person for the furnishing or arranging for the furnishing of any item or service for which payment may be made in whole or in part under this title, or

"(B) to purchase, lease, order, or arrange for or recommend purchasing, leasing, or ordering any good, facility, service, or item for which payment may be made in whole or in part under this title,

shall be guilty of a felony and upon conviction thereof shall be fined not more than $25,000 or imprisoned for not more than five years, or both.

"(3) Paragraphs (1) and (2) shall not apply to—

"(A) a discount or other reduction in price obtained by a provider of services or other entity under this title if the reduction in price is properly disclosed and appropriately reflected in the costs claimed or charges made by the provider or entity under this title; and

"(B) any amount paid by an employer to an employee (who has a bona fide employment relationship with such employer) for employment in the provision of covered items or services.

"(c) Whoever knowingly and willfully makes or causes to be made, or induces or seeks to induce the making of, any false statement or representation of a material fact with respect to the conditions or operation of any institution or facility in order that such institution or facility may qualify (either upon initial certification or upon recertification) as a hospital, skilled nursing facility, intermediate care facility, or home health agency (as those terms are employed in this title) shall be guilty of a felony and upon conviction thereof shall be fined not more than $25,000 or imprisoned for not more than five years, or both.

"(d) Whoever knowingly and willfully—

"(1) charges, for any service provided to a patient under a State plan approved under this title, money or other consideration at a rate in excess of the rates established by the State, or

"(2) charges, solicits, accepts, or receives, in addition to any amount otherwise required to be paid under a State plan approved under this title, any gift, money, donation, or other consideration (other than a charitable, religious, or philanthropic contribution from an organization or from a person unrelated to the patient)—

"(A) as a precondition of admitting a patient to a hospital, skilled nursing facility, or intermediate care facility, or

"(B) as a requirement for the patient's continued stay in such a facility, when the cost of the services provided therein to the patient is paid for (in whole or in part) under the State plan,

shall be guilty of a felony and upon conviction thereof shall be fined not more than $25,000 or imprisoned for not more than five years, or both.".

(c) Section 204(a) of Public Law 94-505 (42 U.S.C. 3524) (relating to annual reports of the Health, Education, and Welfare Inspector General) is amended by adding at the end thereof the following sentences: "Such report also shall include a detailed description of the case referred by the Department of Health, Education, and Welfare to the Department of Justice during the period covered by the report and, an evaluation of the performance of the Department of Justice in the investigation and prosecution of criminal violations relating to fraud in the programs of health insurance and medical assistance provided under titles XVIII and XIX of the Social Security Act, and any recommendations with respect to improving the performance of such activities by the Department of Justice. Promptly, after the Inspector General submits such a report to Congress, the Attorney General shall report to Congress concerning the details of the disposition of the cases referred to the Department of Justice and described in the Inspector General's report.".

(d) The amendments made by subsection (a) and (b) shall apply with respect to acts occurring and statements or representations made on or after the date of the enactment of this Act.

AMENDMENTS RELATED TO PROFESSIONAL STANDARDS REVIEW ORGANIZATIONS

SEC. 5. (a) Section 1152(e) of the Social Security Act is amended to read as follows:

"(e) Where the Secretary finds a Professional Standards Review Organization (whether designated on a conditional basis or otherwise) to be competent to perform review responsibilities, the review, certification, and similar activities otherwise required pursuant to provisions of this Act (other than this part) shall not be applicable with respect to these providers, suppliers, and practitioners being reviewed by such Professional Standards Review Organization, except to the extent specified by the Secretary. Nothing in the preceding sentence shall be construed as rendering inapplicable any provision of this Act wherein requirements with respect to conditions for eligibility to or payment of benefits (as distinct from reviews and certifications made with respect to determinations of the kind made pursuant to paragraphs (1) and (2) of section 1155(a)) must be satisfied.".

(b)(1) Section 1154(b) of such Act is amended—

(A) by striking out "(which may not exceed 24 months)" in the first sentence and inserting in lieu thereof "(which may not exceed 48 months except as provided in subsection (c))";

(B) by inserting ", in addition to review of health care services provided by or in institutions," in the first sentence after perform"; and

(C) by striking out "or ordered by physicians" and all that follows through "and organizations" in the second sentence and inserting in lieu thereof "by or in institutions (including ancillary services) and, in addition, review of such other health care services as the Secretary may require".

(2) Section 1154 of such Act is further amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

"(c) If the Secretary finds that an organization designated under subsection (a) has been unable to perform satisfactorily all of the duties and functions required under this part for reasons beyond the organization's

control, he may extend such organization's trial period for an additional period not exceeding twenty-four months.".

(c)(1) Section 1155 of such Act is amended—

(A) by striking out "directly or indirectly involved" in subsection (a)(6)(A) and inserting in lieu thereof "directly responsible for":

(B) by striking out "any financial" in subsection (a)(6)(B) and inserting in lieu thereof "a significant financial";

(C) by inserting after subsection (f)(2) the following new paragraph:

"(3) Any such agreement with an organization under this part may be in the form of a grant or an assistance agreement."; and

(D) by striking out subsection (g) and inserting in lieu thereof the following new subsection:

"(g)(1) Where a Professional Standards Review Organization (whether designated on a conditional basis or otherwise) requests review responsibility with respect to services furnished in shared health facilities, the Secretary must give priority to such request, with the highest priority being assigned to requests from organizations located in areas with substantial numbers of shared health facilities.

"(2) The Secretary shall require any Professional Standards Review Organization which is capable of exercising review responsibility with respect to ambulatory care services to perform review responsibility with respect to such services on and after a date not earlier than the date the organization is designated as a Professional Standards Review Organization (other than under section 1154) and not later than two years after the date the organization has been so designated, but any such designated Professional Standards Review Organization may be approved to perform such review responsibility at any earlier time if such organization applies for, and is found capable of exercising, such responsibility.".

(2) Section 1101(a) of such Act is amended by inserting after paragraph (8) the following new paragraph:

"(9) The term 'shared health facility' means any arrangement whereby—

"(A) two or more health care practitioners practice their professions at a common physical location;

"(B) such practitioners share (i) common waiting areas, examining rooms, treatment rooms, or other space, (ii) the services of supporting staff, or (iii) equipment;

"(C) such practitioners have a person (who may himself be a practitioner)—

"(i) who is in charge of, controls, manages, or supervises substantial aspects of the arrangement or operation for the delivery of health or medical services at such common physical location, other than the direct furnishing of professional health care services by the practitioners to their patients; or

"(ii) who makes available to such practitioners the services of supporting staff who are not employees of such practitioners; and who is compensated in whole or in part, for the use of such common physical location or support services pertaining thereto, on a basis related to amounts charged or collected for the services rendered or ordered at such location or on any basis clearly unrelated to the value of the services provided by the person; and

"(D) at least one of such practitioners received payments on a fee-for-service basis under titles V, XVIII, and XIX in an amount exceeding $5,000 for any one month during the preceding 12 months or in an aggregate amount exceeding $40,000 during the preceding 12 months;

except that such term does not include a provider of services (as defined in section 1861(u) of this Act), a health maintenance organization (as defined in section 1301(a) of the Public Health Service Act), a hospital cooperative shared services organization meeting the requirements of section 501(e) of the Internal Revenue Code of 1954, or any public entity.".

(d)(1) Section 1158 of such Act is amended by adding at the end thereof the following new subsection:

"(c) Where a Professional Standards Review Organization (whether designated on a conditional basis or otherwise) has been found competent by the Secretary to assume review responsibility with respect to specified types of health care services or specified providers or practitioners of such services and is performing such reviews, determinations made pursuant to paragraphs (1) and (2) of section 1155(a) in connection with such reviews shall constitute the conclusive determination on those issues (subject to sections 1159, 1171(a)(1), and 1171(d)(3)) for purposes of payment under this Act, and no reviews with respect to those determinations shall be conducted, for purposes of payment, by agencies and organizations which are parties to agreements entered into by the Secretary pursuant to section 1816, carriers which are parties to contracts entered into by the Secretary pursuant to section 1842, or single State agencies administering or supervising the administration of State plans approved under title XIX.".

(2)(A) Section 1152(b)(2) of such Act is amended by striking out "submitted to him by the association, agency, or organization" and inserting in lieu thereof "which shall be developed and submitted by the association, agency, or organization in accordance with subsection (h)".

(B) Section 1152 of such Act is further amended by adding at the end thereof the following new subsection:

"(h)(1) During the development and preparation by an organization of its formal plan to include review of services in skilled nursing facilities (as defined in section 1861(j)) or intermediate care facilities (as defined in section 1905(c)) or review of ambulatory care services, the organization shall consult with the single State agency responsible for administering or supervising the administration of the State plan approved under title XIX for the State in which the organization is located.

"(2) Such plan and any such modification shall be submitted to the Governor of such State, at the time of its submission to the Secretary, for his comments.

"(3) The Secretary, before making the findings described in subsection (b)(2) or a finding regarding the organization's capability to perform review of such services (as the case may be), shall consider any such comments submitted to him by such Governor before the end of the thirty-day period beginning on the date of submission of the plan or of any such modification (as the case may be).

(4) If, after considering such comments, the Secretary intends to make findings which are adverse to such comments, the Secretary shall provide the Governor making such comments with the opportunity to submit additional evidence and comments on such intended findings during a period of not less than thirty days ending before the findings became effective.".

(C) Section 1154 of such Act (as amended by subsection (b)(2) of this section) is further amended by adding after subsection (d) the following new subsection:

(e) In determining whether an organization designated on a conditional basis as the Professional Standards Review Organization for any area is substantially carrying out its duties in a satisfactory manner and should be considered a qualified organization, the Secretary shall follow the procedures specified in section 1152(h) (concerning the Secretary's consideration of comments of the Governor of the State in which the organization is located).".

(D) Part B of title XI of such Act is amended by adding after section 1170 the following new section:

"MEMORANDUMS OF UNDERSTANDING; FEDERAL-STATE RELATIONS GENERALLY

"SEC. 1171. (a)(1) Except as provided in paragraph (2), no determination made by a Professional Standards Review Organization pursuant to paragraphs (1) and (2) of section 1155(a) in connection with reviews shall constitute conclusive determinations under section 1158(c) for purposes of payment under title XIX, unless such organization has entered into a memorandum of understanding, approved by the Secretary, with the single State agency responsible for administering or supervising the administration of the State plan approved under title XIX for the State in which the organization is located (hereinafter in this section referred to as the 'State agency') for the purpose of delineating the relationship between the organization and the State agency and of providing for the exchange of data or information, and for administrative procedures, coordination mechanisms, and modification of the memorandum at any time that additional responsibility for review by the organization is authorized by the Secretary.

"(2) The requirement of paragraph (1) may be waived by the Secretary if (A) the State agency indicates to the Secretary that it does not wish to enter into a memorandum of understanding with the organization involved, or (B) the Secretary finds that the State agency has refused to negotiate in good faith or in a timely manner with the organization involved.

"(b)(1) The State agency may request a Professional Standards Review Organization which is entering into such a memorandum of understanding with the agency to include in the memorandum a specification of review goals or methods (additional to any such goals or methods contained in the organization's formal plan) for the performance of the organization's duties and functions under this part.

"(2) If the agency and the organization cannot reach agreement regarding the inclusion of any such requested specification, the Secretary shall review such specification and shall require that the specification be included in the memorandum to the extent that the Secretary determines that such specification of goals or methods (A) is consistent with the functions of the organization under this part and with the provisions of title XIX and the State's plan approved under such title, and (B) does not seriously impact on the effectiveness and uniformity of the organization's review of health care services paid for under title XVIII and title XIX of this Act.

"(c) Notwithstanding any other provision of this Act, the State agency may contract with any Professional Standards Review Organization located in the State for the performance of review responsibilities in addition to those performed pursuant to this part (and the cost of performance of such additional responsibilities is reimbursable as an expense of the State agency under section 1903(a)) if—

"(1) the State agency formally requests the performance of such additional responsibilities, and

"(2) the performance of such additional responsibilities is not inconsistent with this part and is provided for in an amendment to the State's plan which is approved by the Secretary under title XIX.

"(d)(1) Each State agency may monitor the performance of review responsibilities by Professional Standards Review Organizations located within the State, in accord-

ance with a State monitoring plan which is developed after review and comment by such organizations and is approved by the Secretary. The costs of activities of the State agency under and in accordance with such plan are reimbursable as an expense of the State agency under section 1903(a).

"(2) A monitoring plan developed and approved under paragraph (1) may include a specification of performance criteria for judging the effectiveness of the review performance of the Professional Standards Review Organizations. If the State agency and the Professional Standards Review Organizations cannot reach agreement regarding such criteria, the Secretary shall assist the agency and organizations in resolving the matters in dispute.

"(3)(A) Whenever a State agency monitoring the performance of review responsibilities by a Professional Standards Review Organization under a plan developed and approved under paragraph (1) submits to the Secretary reasonable documentation that the review determinations of such organization have caused an unreasonable and detrimental impact on total State expenditures under title XIX and on the appropriateness of care received by individuals under the State's plan approved under such title, and requests the Secretary to act, the Secretary shall, within thirty days from the date of receipt of the documentation, make a determination as to the reasonableness of the allegation by the State agency. If the Secretary determines that the review determinations of such organization have caused an unreasonable and detrimental impact on total State expenditures under title XIX and on the appropriateness of care received by individuals under the State's plan approved under such title, unless the Secretary determines that the organization has taken appropriate corrective action, he shall immediately suspend such organization's authority in whole or in part under section 1158(c) to make conclusive determinations for purposes of payment under title XIX (and he may suspend such authority for purposes of payment under title XVIII) until he (i) reevaluates such organization's performance of the responsibilities involved and determines that such performance does not have such unreasonable and detrimental impact, or (ii) determines that the organization has taken appropriate corrective action. Any determination made by the Secretary under this subparagraph shall be final and shall not be subject to judicial review.

"(B) The Secretary shall notify the State agency submitting such documentation, and the organization involved, in writing, of his determination, any subsequent actions taken, and the basis thereof, and shall notify the appropriate committees of the United States House of Representatives and the Senate of any such documentation submitted and the actions taken.

"(e)(1) The Secretary shall in a timely manner establish procedures and mechanisms to govern his relationships with State agencies under this part (specifically including his relationships with such agencies in connection with their respective functions under the preceding provisions of this section). Such mechanisms shall include periodic consultation by the Secretary with State agency representatives and representatives of Professional Standards Review Organizations regarding relationships between such agencies and such organizations (including the appropriate exchange of data and information between such agencies and such organizations) and other problems of mutual concern, and such procedures shall permit the State agency to be represented on any project assessments conducted by the Secretary with respect to a Professional Standards Review Organization located within its State.

"(2) Each Professional Standards Review Organization shall provide to the State agency for the State in which it is located, upon request, data or information which the Secretary requires such organizations to report to him routinely on a periodic basis, and such other data or information as the Secretary authorizes to be disclosed.".

(3)(A) Section 1155(e)(1) of such Act is amended by striking out "of a hospital or other operating health care facility or organization" and inserting in lieu thereof "of a hospital (including any skilled nursing facility, as defined in section 1861(j), or intermediate care facility, as defined in section 1905(c), which is also a part of such hospital) or other operating health care facility or organization (other than such a skilled nursing facility or intermediate care facility which is not a part of a hospital)".

(B) Section 1155(a) of such Act is amended—

(i) by inserting "(except as provided in paragraph (7))" in paragraph (1) after "institutional and noninstitutional providers of health care services"; and

(ii) by inserting after paragraph (6) the following new paragraph:

"(7)(A) Except as provided in subparagraph (B), a Professional Standards Review Organization located in a State has the function and duty to assume responsibility for the review under paragraph (1) of professional activities in intermediate care facilities (as defined in section 1905(c)) and in public institutions for the mentally retarded (described in section 1905(d)(1)) only if (i) the Secretary finds, on the basis of such documentation as he may require from the State, that the single State agency which administers or supervises the administration of the State plan approved under title XIX for that State is not performing effective review of the quality and necessity of health care services provided in such facilities and institutions, or (ii) the State requests such organization to assume such responsibility.

"(B) A Professional Standards Review Organization located in a State has the function and duty to assume responsibility for the review under paragraph (1) of professional activities in intermediate care facilities in the State that are also skilled nursing facilities (as defined in section 1861(i)), to the extent that the Secretary finds that the performance of such function by the single State agency (described in subparagraph (A)) for that State is inefficient.".

(e) Section 1160(b)(1) of such Act is amended by striking out "practitioner or provider" and inserting in lieu thereof "health care practitioner or hospital, or other health care facility, agency, or organization" each time it appears therein.

(f) Section 1163(a)(2) of such Act is amended to read as follows: "(2) Members of the Council shall be appointed for a term of three years, except that the Secretary may provide, in the case of any terms scheduled to expire after January 1, 1978, for such shorter terms as will ensure that (on a continuing basis) the terms of no more than four members expire in any year. Members of the Council shall be eligible for reappointment."

(g) Section 1163 of such Act is amended by striking out subsection (f).

(h) Section 1166 of such Act is amended—

(1) by striking out "or (2)" in subsection (a) and inserting in lieu thereof ", (2)";

(2) by inserting the following immediately before the period at the end of subsection (a): ", or (3) in accordance with subsection (b)";

(3) by redesignating subsection (b) as subsection (c);

(4) by inserting the following new subsection immediately after subsection (a):

"(b) A Professional Standards Review Organization shall provide, in accordance with procedures established by the Secretary, data and information—

"(1) to assist Federal and State agencies recognized by the Secretary as having responsibility for identifying and investigating cases or patterns of fraud or abuse, which data and information shall be provided by such Organization to such agencies at the request of such agencies at the discretion of such Organization on the basis of its findings with respect to evidence of fraud or abuse;

"(2) to assist the Secretary, and such Federal and State agencies recognized by the Secretary as having health planning or related responsibilities under Federal or State law (including health systems agencies and State health planning and development agencies), in carrying out appropriate health care planning and related activities, which data and information shall be provided in such format and manner as may be prescribed by the Secretary or agreed upon by the responsible Federal and State agencies and such Organization, and shall be in the form of aggregate statistical data (without identifying any individual) on a geographic, institutional, or other basis reflecting the volume and frequency of services furnished, as well as the demographic characteristics of the population subject to review by such Organization.

The penalty provided in subsection (e) shall not apply to the disclosure of any data and information received under this subsection, except that such penalty shall apply to the disclosure (by the agency receiving such data and information) of any such data and information described in paragraph (1) unless such disclosure is made in a judicial, administrative, or other formal legal proceeding resulting from an investigation conducted by the agency receiving the data and information."; and

(5) by inserting after subsection (c) (as so redesignated) the following new subsection:

"(d) No patient record in the possession of a Professional Standards Review Organization, a Statewide Professional Standards Review Council, or the National Professional Standards Review Council shall be subject to subpena or discovery proceedings in a civil action.".

(i) Section 1167 of such Act is amended by adding the following new subsection at the end thereof:

"(d) The Secretary shall make payment to a Professional Standards Review Organization, whether conditionally designated or qualified, or to any member or employee thereof, or to any person who furnishes legal counsel or services to such organization, in an amount equal to the reasonable amount of the expenses incurred, as determined by the Secretary, in connection with the defense of any suit, action, or proceeding brought against such organization, member, or employee related to the performance of any duty or function of such organization, member, or employee (as described in section 1155).".

(j) Section 1168 of such Act is amended by adding at the end thereof the following new sentence: "The Secretary shall make payments to Professional Standards Review Organizations (whether designated on a conditional basis or otherwise) from funds described in the first sentence of this section (without any requirement for the contribution of funds by any State or political subdivision thereof) for expenses incurred in the performance of duties by such Organizations.".

(k) Part B of title XI of such Act (as amended by subsection (d)(2)(D) of this section) is further amended by adding after section 1171 the following new section:

"ANNUAL REPORTS

"SEC. 1172. The Secretary shall submit to the Congress not later than April 1, 1978, and not later than April 1 of each year thereafter, a full and complete report on the adminis-

tration, impact, and cost of the program under this part during the preceding fiscal year, including data and information on—

"(1) the number, status (conditional or otherwise), and service areas of, and review methodologies employed by, all Professional Standards Review Organizations participating in the program;

"(2) the number of health care institutions and practitioners whose services are subject to review by Professional Standards Review Organizations, and the number of beneficiaries and recipients who received services subject to such review during such year;

"(3) the imposition of penalties and sanctions under this title for violations of law and for failure to comply with the obligations imposed by this part;

"(4) the total costs incurred under titles V, XI, XVIII, and XIX of this Act in the implementation and operation of all procedures required by such titles for the review of services to determine their medical necessity, appropriateness of use, and quality;

"(5) changes in utilization rates and patterns, and changes in medical procedures and practices, attributable to the activities of Professional Standards Review Organizations;

"(6) the results of program evaluation activities, including the operation of data collection systems and the status of Professional Standards Review Organization data policy and implementation;

"(7) the extent to which Professional Standards Review Organizations are performing reviews of services for other governmental or private health insurance programs; and

"(8) recommendations for legislative changes.".

(l)(1) Title XI of such Act (as amended by subsections (d)(2)(D) and (k) of this section) is further amended by adding after section 1172 the following new section:

"MEDICAL OFFICERS IN AMERICAN SAMOA, THE NORTHERN MARIANA ISLANDS AND THE TRUST TERRITORY OF THE PACIFIC ISLANDS TO BE INCLUDED IN THE PROFESSIONAL STANDARDS REVIEW PROGRAM

"SEC. 1173. For purposes of applying this part (except sections 1155(c) and 1163) to American Samoa, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands, individuals licensed to practice medicine in those places shall be considered to be physicians and doctors of medicine.".

(2) The second sentence of section 1101(a)(1) of such Act is amended by inserting "and in part B of this title" after "title V".

(m) Section 1861(w)(2) of such Act is amended by inserting "part B of this title or under" immediately after "entitled to have payment made for such services under".

(n) Section 1167 of such Act is amended—

(1) by inserting "or to any Statewide Professional Standards Review Council" in subsection (a) after "Professional Standards Review Organization";

(2) by inserting "or such Council" in subsection (a) after "such Organization";

(3) by inserting "or of any Statewide Professional Standards Review Council" in subsection (b)(1) after "Professional Standards Review Organization";

(4) by inserting "or council" in subsection (b)(1) after "organization";

(5) by inserting "or of Statewide Professional Standards Review Councils" in subsectin (b)(1) after "Review Organizations"; and

(6) by inserting "AND STATEWIDE PROFESSIONAL STANDARDS REVIEW COUNCILS" in the heading of the section after "PROFESSIONAL STANDARDS REVIEW ORGANIZATIONS".

(o)(1) Section 1152(b)(1)(A) of such Act is amended by striking out "subsection (c)(1)" and inserting in lieu thereof "subsection (c)(1)".

(2) Section 1155(a)(1) of such Act is amended by striking out "(subject to the provisions of subsection (g))" in the matter preceding subparagraph (A).

(3) Section 1160(b)(1) of such Act is amended by inserting "or" after "permanently" in the matter following subparagraph (B).

(p) Section 1155(a)(5) of such Act is amended by striking out all that follows "Professional Standards Review Organization" and inserting in lieu thereof a period.

ISSUANCE OF SUBPENAS BY COMPTROLLER GENERAL

SEC. 6. Part A of title XI of the Social Security Act is amended by inserting after section 1124 (added by section 3(a) of this Act) the following new section:

"ISSUANCE OF SUBPENAS BY COMPTROLLER GENERAL

"SEC. 1125. (a) For the purpose of any audit, investigation, examination, analysis, review, evaluation, or other function authorized by law with respect to any program authorized under this Act, the Comptroller General of the United States shall have power to sign and issue subpenas to any person requiring the production of any pertinent books, records, documents, or other information. Subpenas so issued by the Comptroller General shall be served by anyone authorized by him (1) by delivering a copy thereof to the person named thereon, or (2) by registered mail or by certified mail addressed to such person at his last dwelling place or principal place of business. A verified return by the person so serving the subpena setting forth the manner of service, or, in the case of service by registered mail or by certified mail, the return post office receipt therefor signed by the person so served, shall be proof of service.

"(b) In case of contumacy by, or refusal to obey a subpena issued pursuant to subsection (a) of this section and duly served upon, any person, any district court of the United States for the judicial district in which such person charged with contumacy or refusal to obey is found or resides or transacts business, upon application by the Comptroller General, shall have jurisdiction to issue an order requiring such person to produce the books, records, documents, or other information sought by the subpena; and any failure to obey such order of the court may be punished by the court as a contempt thereof. In proceedings brought under this subsection, the Comptroller General shall be represented by attorneys employed in the General Accounting Office or by counsel whom he may employ without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and the provisions of chapter 51 and subchapters III and VI of chapter 53 of such title, relating to classification and General Schedule pay rates.

"(c) No personal medical record in the possession of the General Accounting Office shall be subject to subpena or discovery proceedings in a civil action.".

SUSPENSION OF PRACTITIONERS CONVICTED OF MEDICARE- OR MEDICAID-RELATED CRIMES

SEC. 7. (a) Section 1862 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"(e)(1) Whenever the Secretary determines that a physician or other individual practitioner has been convicted (on or after the date of the enactment of this subsection, or within such period prior to that date as the Secretary shall specify in regulations) of a criminal offense related to such physician's or practitioner's involvement in the program under this title or the program under title XIX, the Secretary shall suspend such physician or practitioner from participation in the program under this title for such period as he may deem appropriate; and no payment may be made under this title with respect to any item or service furnished by such physician or practitioner during the period of such suspension. The provisions of paragraphs (2) and (3) of subsection (d) shall apply with respect to determinations made by the Secretary under this subsection.

"(2) In any case where the Secretary under paragraph (1) suspends any physician or other individual practitioner from participation in the program under this title, he shall—

"(A) promptly notify each single State agency which administers or supervises the administration of a State plan approved under title XIX of the fact, circumstances, and period of such suspension; and

"(B) promptly notify the appropriate State or local agency or authority having responsibility for the licensing or certification of such physician or practitioner of the fact and circumstances of such suspension, request that appropriate investigations be made and sanctions invoked in accordance with applicable State law and policy, and request that such State or local agency or authority keep the Secretary and the Inspector General of the Department of Health, Education, and Welfare fully and currently informed with respect to any actions taken in response to such request.".

(b) Section 1902(a) of such Act (as amended by sections 2(b) and 3(c) of this Act) is amended—

(1) by striking out "and" at the end of paragraph (37);

(2) by striking out the period at the end of paragraph (38) and inserting in lieu thereof "; and"; and

(3) by inserting after paragraph (38) the following new paragraph:

"(39) provide that, subject to subsection (g), whenever the single State agency which administers or supervises the administration of the State plan is notified by the Secretary under section 1862(e)(2)(A) that a physician or other individual practitioner has been suspended from participation in the program under title XVIII, the agency shall promptly suspend such physician or practitioner from participation in the plan for not less than the period specified in such notice, and no payment may be made under the plan with respect to any item or service furnished by such physician or practitioner during the period of the suspension under this title.".

(c) Section 1902 of such Act is amended by adding after subsection (f) the following new subsection:

"(g) The Secretary may waive suspension under subsection (a)(39) of a physician's or practitioner's participation in a State plan approved under this title and of the prohibition under such subsection of payment for any item or service furnished by him during the period of such suspension, if the single State agency which administers or supervises the administration of the plan submits a request to the Secretary for such waiver and if the Secretary approves such requests.".

(d) Section 332(c) of the Public Health Service Act (relating to considerations in the designation of health manpower shortage areas) is amended by inserting after paragraph (2) the following new paragraph:

"(3) The extent to which individuals who are (A) residents of the area, members of the population group, or patients in the medical facility or other public facility under consideration for designation, and (B) entitled to have payment made for medical services under title XVIII or XIX of the Social Security Act, cannot obtain such services because of suspension of physicians from the programs under such titles.".

(e)(1) The amendment made by subsection (d) shall apply with respect to determinations and designations made on and after the date of the enactment of this Act.

(2) The amendment made by subsection (b) shall become effective on January 1, 1978.

DISCLOSURE BY PROVIDERS OF OWNERS AND CERTAIN OTHER INDIVIDUALS CONVICTED OF CERTAIN OFFENSES

SEC. 8. (a) Part A of title XI of the Social Security Act is amended by inserting after section 1125 (added by section 6 of this Act) the following new section:

"DISCLOSURE BY INSTITUTIONS, ORGANIZATIONS, AND AGENCIES OF OWNERS AND CERTAIN OTHER INDIVIDUALS WHO HAVE BEEN CONVICTED OF CERTAIN OFFENSES

"SEC. 1126. (a) As a condition of participation in or certification or recertification under the programs established by titles XVIII, XIX, and XX, any hospital, nursing facility, or other institution, organization, or agency shall be required to disclose to the Secretary or to the appropriate State agency the name of any person who—

"(1) has a direct or indirect ownership or control interest of 5 percent or more in such institution, organization, or agency or is an officer, director, agent, or managing employee (as defined in subsection (b)) of such institution, organization, or agency, and

"(2) has been convicted (on or after the date of the enactment of this section, or within such period prior to that date as the Secretary shall specify in regulations) of a criminal offense related to the involvement of such person in any of such programs.

The Secretary or the appropriate State agency shall promptly notify the Inspector General in the Department of Health, Education, and Welfare of the receipt from any institution, organization, or agency of any application or request for such participation, certification, or recertification which discloses the name of any such person, and shall notify the Inspector General of the action taken with respect to such application or request.

"(b) For the purposes of this section, the term 'managing employee' means, with respect to an institution, organization, or agency, an individual, including a general manager, business manager, administrator, and director, who exercises operational or managerial control over the institution, organization, or agency, or who directly or indirectly conducts the day-to-day operations of the institution, organization, or agency.".

(b)(1) Section 1866(a) of such Act is amended by adding at the end thereof the following new paragraph:

"(3) The Secretary may refuse to enter into or renew an agreement under this section with a provider of services if any person who has a direct or indirect ownership or control interest of 5 percent or more in such provider, or who is an officer, director, agent, or managing employee (as defined in section 1126(b)) of such provider, is a person described in section 1126(a).".

(2) Section 1866(b)(2) of such Act is amended by inserting before the period at the end thereof the following: ", or (G) that such provider (at the time the agreement was entered into) did not fully and accurately make any disclosure required of it by section 1126(a)".

(c) Section 1903 of such Act is amended by adding after subsection (m) the following new subsection:

"(n) The State agency may refuse to enter into any contract or agreement with a hospital, nursing home, or other institution, organization, or agency for purposes of participation under the State plan, or otherwise to approve an institution, organization, or agency for such purposes, if any person, who has a direct or indirect ownership or control interest of 5 percent or more in such institution, organization, or agency, or who is an officer, director, agent, or managing employee (as defined in section 1126(b)) of such institution, organization, or agency, is a person described in section 1126(a) (whether or not such institution, organization, or agency has in effect an agreement entered into with the Secretary pursuant to section 1866 or is subject to a suspension of payment order issued under subsection (i) of this section); and, notwithstanding any other provision of this section, the State agency may terminate any such contract, agreement, or approval if it determines that the institution, organization, or agency did not fully and accurately make any disclosure required of it by section 1126(a) at the time such contract or agreement was entered into or such approval was given.".

(d) Section 2002(a) of such Act (as amended by section 3(d) of this Act) is further amended by adding at the end thereof the following new paragraph:

"(16) Any State may refuse to enter into a contract or other arrangement with a provider of services for purposes of participation under the program established by this title, or otherwise to approve a provider for such purposes, if any person who has a direct or indirect ownership or control interest of 5 percent or more in such provider, or who is an officer, director, agent, or managing employee (as defined in section 1126(b)) of such provider, is a person described in section 1126(a), and the State may terminate any such contract, arrangement, or approval if it determines that the provider did not fully and accurately make any disclosure required of it by section 1126(a) at the time the contract or arrangement was entered into or the approval was given.".

(e) The amendments made by this section shall apply with respect to contracts, agreements, and arrangements entered into and approvals given pursuant to applications or requests made on and after the first day of the fourth month beginning after the date of the enactment of this Act.

FEDERAL ACCESS TO RECORDS

SEC. 9. Section 1902(a)(27)(B) of the Social Security Act is amended by inserting "or the Secretary" after "State agency" each place it appears.

CLAIMS PROCESSING AND INFORMATION RETRIEVAL SYSTEMS FOR MEDICAID PROGRAMS

SEC. 10. (a) Section 1903(a)(3)(B) of the Social Security Act is amended by striking out "notice to each individual who is furnished services covered by the plan of the specific services so covered" and inserting in lieu thereof "notice to each individual who is furnished services covered by the plan, or to each individual in a sample group of individuals who are furnished such services, of the specific services (other than confidential services) so covered".

(b) The amendment made by subsection (a) shall apply with respect to calendar quarters beginning after the date of the enactment of this Act.

RESTRICTION ON FEDERAL MEDICAID PAYMENTS; ASSIGNMENT OF RIGHTS OF PAYMENT; INCENTIVE PAYMENTS

SEC. 11. (a) Section 1903 of the Social Security Act is amended by adding after subsection (n) (added by section 8(c) of this Act) the following new subsections:

"(o) Notwithstanding the preceding provisions of this section, no payment shall be made to a State under the preceding provisions of this section for expenditures for medical assistance provided for an individual under its State plan approved under this title to the extent that a private insurer (as defined by the Secretary by regulation) would have been obligated to provide such assistance but for a provision of its insurance contract which has the effect of limiting or excluding such obligation because the individual is eligible for or is provided medical assistance under the plan.

"(p)(1) When a political subdivision of a State makes, for the State of which it is a political subdivision, or one State makes, for another State, the enforcement and collection of rights of support or payment assigned under section 1912, pursuant to a cooperative arrangement under such section (either within or outside of such State), there shall be paid to such political subdivision or such other State from amounts which would otherwise represent the Federal share of payments for medical assistance provided to the eligible individuals on whose behalf such enforcement and collection was made, an amount equal to 15 percent of any amount collected which is attributable to such rights of support or payment.

"(2) Where more than one jurisdiction is involved in such enforcement or collection, the amount of the incentive payment determined under paragraph (1) shall be allocated among the jurisdictions in a manner to be prescribed by the Secretary.".

(b) Title XIX of the Social Security Act is amended by adding at the end thereof the following new section:

"ASSIGNMENT OF RIGHTS OF PAYMENT

"SEC. 1912. (a) For the purposes of assisting in the collection of medical support payments and other payments for medical care owed to recipients of medical assistance under the State plan approved under this title, a State plan for medical assistance may—

"(1) provide that, as a condition of eligibility for medical assistance under the State plan to an individual who has the legal capacity to execute an assignment for himself, the individual is required—

"(A) to assign the State any rights, of the individual or of any other person who is eligible for medical assistance under this title and on whose behalf the individual has the legal authority to execute an assignment of such rights, to support (specified as support for the purpose of medical care by a court or administrative order) and to payment for medical care from any third party; and

"(B) to cooperate with the State (i) in establishing the paternity of such person (referred to in subparagraph (A)) if the person is a child born out of wedlock, and (ii) in obtaining support and payments (described in subparagraph (A)) for himself and for such person, unless (in either case) the individual is found to have good cause for refusing to cooperate as determined by the State agency in accordance with standards prescribed by the Secretary, which standards shall take into consideration the best interests of the individuals involved; and

"(2) provide for entering into cooperative arrangements (including financial arrangements), with any appropriate agency of any State (including, with respect to the enforcement and collection of rights of payment for medical care by or through a parent, with a State's agency established or designated under section 454(3)) and with appropriate courts and law enforcement officials, to assist the agency or agencies administering the State plan with respect to (A) the enforcement and collection of rights to support or payment assigned under this section and (B) any other matters of common concern.

"(b) Such part of any amount collected by the State under an assignment made under the provisions of this section shall be retained by the State as is necessary to reimburse it for medical assistance payments made on behalf of an individual with respect to whom such assignment was executed (with appropriate reimbursement of the Federal Government to the extent of its participation in the financing of such medical assistance), and the remainder of such amount collected shall be paid to such individual.".

(c) The amendment made by subsection (a) shall apply with respect to medical as-

sistance provided, under a State plan approved under title XIX of the Social Security Act, on and after January 1, 1978.

STUDY AND REVIEW OF MEDICARE CLAIMS PROCESSING

SEC. 12. The Comptroller General of the United States shall conduct a comprehensive study and review of the administrative structure established for the processing of claims under title XVIII of the Social Security Act, for the purpose of determining whether and to what extent more efficient claims administration under such title could be achieved—

(1) by reducing the number of participating intermediaries and carriers;

(2) by making a single organization responsible for the processing of claims, under both part A and B of such title, in a particular geographic area;

(3) by providing for the performance of claims processing functions on the basis of a prospective fixed price;

(4) by providing incentive payments for the most efficient organizations; or

(5) by other modifications in such structure and related procedures.

The Comptroller General shall submit to the Congress no later than July 1, 1979, a complete report setting forth the results of such study and review, together with his findings and his recommendations with respect thereto.

ABOLITION OF PROGRAM REVIEW TEAMS UNDER MEDICARE

SEC. 13. (a) Section 1862(d) of the Social Security Act is amended by striking out paragraph (4).

(b)(1) Section 1862(d)(1)(B) of such Act is amended by striking out ", with the concurrence of the appropriate program review team appointed pursuant to paragraph (4),".

(2) Section 1862(d)(1)(C) of such Act is amended to read as follows:

"(C) has furnished services or supplies which are determined by the Secretary, on the basis of reports transmitted to him in accordance with section 1157 of this Act (or, in the absence of any such report, on the basis of such data as he acquires in the administration of the program under this title), to be substantially in excess of the needs of individuals or to be of a quality which fails to meet professionally recognized standards of health care.".

(3) Clause (F) of section 1866(b)(2) of such Act is amended to read as follows: "(F) that such provider has furnished services or supplies which are determined by the Secretary to be substantially in excess of the needs of individuals or to be of a quality which fails to meet professionally recognized standards of health care.".

(4) Section 1157 of such Act is amended by striking out the last sentence.

(c) The amendments made by this section shall take effect on the date of the enactment of this Act.

AMENDMENTS RELATING TO FISCAL INTERMEDIARIES

SEC. 14. (a) Section 1816 of the Social Security Act is amended—

(1) by inserting "(and to providers assigned to such agency or organization under subsection (e))" in the first sentence of subsection (*a*) after "to such providers" the second and third times it appears;

(2) by amending subsection (b) to read as follows:

"(b) The Secretary shall not enter into or renew an agreement with any agency or organization under this section unless—

"(1) he finds—

"(A) after applying the standards, criteria, and procedures developed under subsection (f), that to do so is consistent with the effective and efficient administration of this part, and

"(B) that such agency or organization is willing and able to assist the providers to which payments are made through it under this part in the application of safeguards against unnecessary utilization of services furnished by them to individuals entitled to hospital insurance benefits under section 226, and the agreement provides for such assistance; and "(2) such agency or organization agrees—

"(A) to furnish to the Secretary such of the information acquired by it in carrying out its agreement under this section, and

"(B) to provide the Secretary with access to all such data, information, and claims processing operations,

as the Secretary may find necessary in performing his functions under this part.";

(3) by inserting "after applying the standards, criteria, and procedures developed under subsection (f) and" in subsection (e)(2) before "after reasonable notice";

(4) by redesignating subsections (e), (f), and (g) as subsections (g), (h), and (i), respectively; and

(5) by inserting after subsection (d) the following new subsections:

"(e)(1) Notwithstanding subsections (a) and (d), the Secretary, after taking into consideration any preferences of providers of services, may assign or reassign any provider of services to any agency or organization which has entered into an agreement with him under this section, if he determines, after applying the standards, criteria, and procedures developed under subsection (f), that such assignment or reassignment would result in the more effective and efficient administration of this part.

"(2) Notwithstanding subsections (a) and (d), the Secretary may designate a national or regional agency or organization which has entered into an agreement with him under this section to perform functions under the agreement with respect to a class of providers of services in the Nation or region (as the case may be), if he determines, after applying the standards, criteria, and procedures, developed under subsection (f), that such designation would result in more effective and efficient administration of this part.

"(3)(A) Before the Secretary makes an assignment or reassignment under paragraph (1) of a provider of services to other than the agency or organization nominated by the provider, he shall furnish (i) the provider and such agency or organization with a full explanation of the reasons for his determination as to the efficiency and effectiveness of the agency or organization to perform the functions required under this part with respect to the provider, and (ii) such agency or organization with opportunity for a hearing, and such determination shall be subject to judicial review in accordance with chapter 7 of title 5, United States Code.

"(B) Before the Secretary makes a designation under paragraph (2) with respect to a class of providers of services, he shall furnish (i) such providers and the agencies and organizations adversely affected by such designation with a full explanation of the reasons for his determination as to the efficiency and effectiveness of such agencies and organizations to perform the functions required under this part with respect to such providers, and (ii) the agencies and organizations adversely affected by such designation with opportunity for a hearing, and such determination shall be subject to judicial review in accordance with chapter 7 of title 5, United States Code.

"(f) In order to determine whether the Secretary should enter into, renew, or terminate an agreement under this section with an agency or organization, whether the Secretary should assign or reassign a provider of services to an agency or organization, and whether the Secretary should designate an agency or organization to perform services with respect to a class of providers of services, the Secretary shall develop standards, criteria, and procedures to evaluate such agency's or organization's (1) overall performance of claims processing and other related functions required to be performed by such an agency or organization under an agreement entered into under this section, and (2) performance of such functions with respect to specific providers of services, and the Secretary shall establish, by regulation, standards and criteria with respect to the efficient and effective administration of this part. No agency or organization shall be found under such standards and criteria not to be efficient or effective or to be less efficient or effective solely on the ground that the agency or organization serves only providers located in a single State.".

(b) The Secretary of Health, Education, and Welfare shall develop the standards, criteria, and procedures described in subsection (f) of section 1816 of the Social Security Act (as added by subsection (a)(5)) not later than October 1, 1978.

(c) The amendment made by paragraphs (2) and (3) of subsection (a) to the extent that they require application of standards, criteria, and procedures developed under section 1816(f) of the Social Security Act shall apply to the entering into, renewal, or termination of agreements on and after October 1, 1978.

(d) Except as provided in subsection (c), the amendment made by subsection (a)(2) shall apply to agreements entered into or renewed on or after the date of enactment of this Act.

DISCLOSURE BY PROVIDERS OF THE HIRING OF CERTAIN FORMER EMPLOYEES OF FISCAL INTERMEDIARIES

SEC. 15. (a) Section 1866(a)(1) of the Social Security Act is amended—

(1) by striking out the period at the end of subparagraph (C) and inserting in lieu thereof ", and"; and

(2) by inserting after subparagraph (C) the following new subparagraph:

"(D) to promptly notify the Secretary of its employment of an individual who, at any time during the year preceding such employment, was employed in a managerial, accounting, auditing, or similar capacity (as determined by the Secretary by regulation) by an agency or organization which serves as a fiscal intermediary or carrier (for purposes of part A or part B, or both, of this title) with respect to the provider.".

(b) The amendments made by subsection (a) shall apply with respect to agreements entered into or renewed on and after the date of enactment of this Act.

PAYMENT FOR DURABLE MEDICAL EQUIPMENT

SEC. 16. (a) Section 1833(f) of the Social Security Act is amended to read as follows:

"(f)(1) In the case of durable medical equipment to be furnished an individual as described in section 1861(s)(6), the Secretary shall determine, on the basis of such medical and other evidence as he finds appropriate (including certification by the attending physician with respect to expected duration of need) whether the expected duration of the medical need for the equipment warrants a presumption that purchase of the equipment would be less costly or more practical than rental. If the Secretary determines that such a presumption does exist, he shall require that the equipment be purchased, on a lease-purchase basis or otherwise, and shall make payment in accordance with the lease-purchase agreement (or in a lump sum amount if the equipment is purchased other than on a lease-purchase basis); except that the Secretary may authorize the rental of the equipment notwithstanding such determination if he determines that the purchase of the equipment would be inconsistent with the purposes of this title or would create an

undue financial hardship on the individual who will use it.

"(2) With respect to purchases of used durable medical equipment, the Secretary may waive the 20 percent coinsurance amount applicable under subsection (a) whenever the purchase price of the used epuipment is at lease 25 percent less than the reasonable charge for comparable new equipment.

"(3) For purposes of paragraph (1), the Secretary may, pursuant to agreements made with suppliers of durable medical equipment, establish reimbursement procedures which he finds to be equitable, economical, and feasible.

"(4) The Secretary shall encourage suppliers of durable medical equipment to make their equipment available to individuals entitled to benefits under this title on a lease-purchase basis whenever possible.".

(b) The amendment made by subsection (a) shall apply with respect to durable medical equipment purchased or rented on or after October 1, 1977.

FUNDING OF STATE MEDICAID FRAUD CONTROL UNITS

SEC. 17. (a) Section 1903(a) of the Social Security Act is amended by redesignating paragraph (6) as paragraph (7) and by inserting after paragraph (5) the following new paragraph:

"(6) subject to subsection (b)(3), an amount equal to 90 per centum of the sums expended during each quarter beginning on or after October 1, 1977, and ending before October 1, 1980, with respect to costs incurred during such quarter (as found necessary by the Secretary for the elimination of fraud in the provision and administration of medical assistance provided under the State plan) which are attributable to the establishment and operation of (including the training of personnel employed by) a State medicaid fraud control unit (described in subsection (q)); plus".

(b) Section 1903(b) of such Act is amended by inserting after paragraph (2) the following new paragraph:

"(3) The amount of funds which the Secretary is otherwise obligated to pay a State during a quarter under subsection (a)(7) may not exceed the higher of—

"(A) $125,000, or

"(B) one-quarter of 1 per centum of the sums expended by the Federal, State, and local governments during the previous quarter in carrying out the State's plan under this title.".

(c) Section 1903 of such Act is further amended by inserting after subsection (p) (added by section 11(a) of this Act) the following new subsection:

"(a) For the purposes of this section, the term 'State medicaid fraud control unit' means a single identifiable entity of the State government which the Secretary certifies (and annually recertifies) as meeting the following requirements:

"(1) The entity (A) is a unit of the office of the State Attorney General or of another department of State government which possesses statewide authority to prosecute individuals for criminal violations, (B) is in a State the constitution of which does not provide for the criminal prosecution of individuals by a statewide authority and has formal procedures, approved by the Secretary, that (i) assure its referral of suspected criminal violations relating to the program under this title to the appropriate authority or authorities in the State for prosecution and (ii) assure its assistance of, and coordination with, such authority or authorities in such prosecutions, or (C) has a formal working relationship with the office of the State Attorney General and has formal procedures (including procedures for its referral of suspected criminal violations to such office) which are approved by the Secretary and which provide effective coordination of activities between the entity and such office with respect to the detection, investigation, and prosecution of suspected criminal violations relating to the program under this title.

"(2) The entity is separate and distinct from the single State agency that administers or supervises the administration of the State plan under this title.

"(3) The entity's function is conducting a statewide program for the investigation and prosecution of violations of all applicable State laws regarding any and all aspects of fraud in connection with any aspect of the provision of medical assistance and the activities of providers of such assistance under the State plan under this title.

"(4) The entity has procedures for reviewing complaints of the abuse and neglect of patients of health care facilities which receive payments under the State plan under this title, and, where appropriate, for acting upon such complaints under the criminal laws of the State or for referring them to other State agencies for action.

"(5) The entity provides for the collection, or referral for collection to a single State agency, of overpayments that are made under the State plan to health care facilities and that are discovered by the entity in carrying out its activities.

"(6) The entity employs such auditors, attorneys, investigators, and other necessary personnel and is organized in such a manner as is necessary to promote the effective and efficient conduct of the entity's activities.

"(7) The entity submits to the Secretary an application and annual reports containing such information as the Secretary determines, by regulation, to be necessary to determine whether the entity meets the other requirements of this subsection.".

(d) Section 402(a)(1) of the Social Security Amendments of 1967 (Public Law 90–248), as amended by section 222 of the Social Security Amendments of 1972 (Public Law 92–603), is amended—

(1) by striking out "and" at the end of subparagraph (H);

(2) by striking out the period at the end of subparagraph (I) and inserting in lieu thereof "; and"; and

(3) by adding after subparagraph (I) the following new subparagraph:

"(J) to develop or demonstrate improved methods for the investigation and prosecution of fraud in the provision of care or services under the health programs established by the Social Security Act.".

(e)(1) The amendment made by subsection (a) shall apply with respect to calendar quarters beginning after September 30, 1977.

(2) The Secretary of Health, Education, and Welfare shall establish such regulations, not later than ninety days after the date of enactment of this Act, as are necessary to carry out the amendments made by this section.

REPORT ON HOME HEALTH AND OTHER IN-HOME SERVICES

SEC. 18. (a) Not later than one year after the date of enactment of this Act, the Secretary of Health, Education, and Welfare shall submit to the appropriate committees of the Congress a report analyzing, evaluating, and making recommendations with respect to, all aspects (including the availability, administration, provision, reimbursement procedures, and cost) of the delivery of home health and other in-home services authorized to be provided under titles XVIII, XIX, and XX of the Social Security Act.

(b) Such report shall include an evaluation of the coordination of such services provided under the different titles, and shall also include recommendations for changes in regulations and legislation with respect to—

(1) the scope and definition of such services provided under such titles;

(2) the requirements for an individual to be eligible to receive such services under such titles:

(3) the standards for certification of providers of such services under such titles and (as appropriate) the uniformity of such standards for the programs under the different titles;

(4) procedures for control of utilization and assurance of quality of such services under such titles, including (as appropriate) the licensing and accreditation of agencies providing such services, a certificate of need program with respect to the offering of such services, and the development and use of norms and standards for review of the utilization and quality of such services;

(5) methods of reimbursement for such services, including (A) methods of comparing costs incurred by different providers of such services in order to determine the reasonableness of such costs and (B) methods which provide for more uniform reimbursement procedures under titles XVIII and XIX of the Social Security Act; and

(6) the preveniton of fraud and abuse in the delivery of such services under such titles,

the reasons for such recommendations, an analysis of the impact of implementing such recommendations on the cost of such services and the demand for such services, and the methods of financing any recommended increased provision of such services under such titles.

(c) In developing the report the Secretary shall consult with professional organizations, experts, and individual health professionals in the field of home health and other in-home services and with providers, private insurers, and consumers of such services.

ESTABLISHMENT OF UNIFORM REPORTING SYSTEMS FOR DIFFERENT TYPES OF HEALTH SERVICES FACILITIES AND ORGANIZATIONS; MAKING OF REPORTS UNDER MEDICARE AND MEDICAID PROGRAMS IN ACCORDANCE WITH SUCH SYSTEMS

SEC. 19. (a) Part A of title XI of this Social Security Act is amended by inserting after section 1120 the following new section:

"UNIFORM REPORTING SYSTEMS FOR HEALTH SERVICES FACILITIES AND ORGANIZATIONS

"SEC. 1121. (a) For the purposes of reporting the cost of services provided by, of planning, and of measuring and comparing the efficiency of and effective use of services in, hospitals, skilled nursing facilities, intermediate care facilities, home health agencies, health maintenance organizations, and other types of health services facilities and organizations to which payment may be made under this Act, the Secretary shall establish by regulation, for each such type of health services facility or organization, a uniform system for the reporting by a facility or organization of that type of the following information:

"(1) The aggregate cost of operation and the aggregate volume of services.

"(2) The costs and volume of services for various functional accounts and subaccounts.

"(3) Rates, by category of patient and class of purchaser.

"(4) Capital assets, as defined by the Secretary, including (as appropriate) capital funds, debt service, lease agreements used in lieu of capital funds, and the value of land, facilities, and equipment.

"(5) Discharge and bill data.

The uniform reporting system for a type of health services facility or organization shall provide for appropriate variation in the application of the system to different classes of facilities or organizations within that type and shall be established, to the extent practicable, consistent with the cooperative sys-

tem for producing comparable and uniform health information and statistics described in section 306(e)(1) of the Public Health Service Act. In reporting under such a system, hospitals shall employ such chart of accounts, definitions, principles, and statistics as the Secretary may prescribe in order to reach a uniform reconciliation of financial and statistical data for specified uniform reports to be provided to the Secretary.

"(b) The Secretary shall—

"(1) monitor the operation of the systems established under subsection (a);

"(2) assist with and support demonstrations and evaluations of the effectiveness and cost of the operation of such systems and encourage State adoption of such systems; and

"(3) periodically revise such systems to improve their effectiveness and diminish their cost.

"(c) The Secretary shall provide information obtained through use of the uniform reporting systems described in subsection (a) in a useful manner and format to appropriate agencies and organizations, including health systems agencies (designated under section 1515 of the Public Health Service Act) and State health planning and development agencies (designated under section 1521 of such Act), as may be necessary to carry out such agencies' and organizations' functions.".

(b)(1) Section 1861(v)(1) of the Social Security Act is amended by adding after subparagraph (E) the following new subparagraph:

"(F) Such regulations shall require each provider of services (other than a fund) to make reports to the Secretary of information described in section 1121(a) in accordance with the uniform reporting system (established under such section) for that type of provider.".

(2) Section 1902(a) of such Act (as amended by sections 2(b), 3(c), and 7(b) of this Act) is amended—

(A) by striking out "and" at the end of paragraph (38);

(B) by striking out the period at the end of paragraph (39) and inserting in lieu thereof "; and"; and

(C) by inserting after paragraph (39) the following new paragraph:

"(40) require each health services facility or organization which receives payments under the plan and of a type for which a uniform reporting system has been established under section 1121(a) to make reports to the Secretary of information described in such section in accordance with the uniform reporting system (established under such section) for that type of facility or organization.".

(c)(1) The Secretary of Health, Education, and Welfare shall establish the systems described in section 1121(a) of the Social Security Act (added by subsection (a) of this section) only after consultation with interested parties and—

(A) for hospitals, skilled nursing facilities, and intermediate care facilities, not later than the end of the one-year period, and

(B) for other types of health services facilities and organizations, not later than the end of the two-year period,

beginning on the date of enactment of this Act.

(2)(A) The amendments made by subsection (b) shall apply with respect to operations of a hospital, skilled nursing facility, or intermediate care facility, on and after the first day of its first fiscal year which begins after the end of the six-month period beginning on the date a uniform reporting system is established (under section 1121(a) of the Social Security Act) for that type of health services facility.

(B) The amendments made by subsection (b) shall apply, with respect to the operation of a health services facility or organization which is neither a hospital, a skilled nursing facility, nor an intermediate care facility, on and after the first day of its first fiscal year which begins after such date as the Secretary of Health, Education, and Welfare determines to be appropriate for the implementation of the reporting requirement for that type of facility or organization.

(C) Except as provided in subparagraphs (A) and (B), the amendments made by subsection (b)(2) shall apply, with respect to State plans approved under title XIX of the Social Security Act, on and after October 1, 1977.

DELAY IN, AND WAIVER OF, IMPOSITION OF REDUCTION OF FEDERAL MEDICAL ASSISTANCE PERCENTAGE DUE TO A STATE'S FAILURE TO HAVE AN EFFECTIVE MEDICAID UTILIZATION CONTROL PROGRAM

SEC. 20. (a) Section 1903(g) of the Social Security Act is amended—

(1) by striking out "With respect to" in the first sentence of paragraph (1) and inserting in lieu thereof "Subject to paragraph (3), with respect to";

(2) by striking out "by 33⅓ per centum thereof" in paragraph (1) and inserting in lieu thereof "by a per centum thereof (determined under paragraph (5))";

(3) by inserting "timely" in paragraph (2) before "sample onsite surveys"; and

(4) by adding after paragraph (2) the following new paragraphs:

"(3)(A) No reduction in the Federal medical assistance percentage of a State otherwise required to be imposed under this subsection shall take effect—

"(i) if such reduction is due to the State's unsatisfactory or invalid showing made with respect to a calendar quarter beginning before January 1, 1977;

"(ii) before January 1, 1978;

"(iii) unless a notice of such reduction has been provided to the State at least 30 days before the date such reduction takes effect; or

"(iv) due to the State's unsatisfactory or invalid showing made with respect to a calendar quarter beginning after September 30, 1977, unless notice of such reduction has been provided to the State no later than the first day of the fourth calendar quarter following the calendar quarter with respect to which such showing was made.

"(B) The Secretary shall waive application of any reduction in the Federal medical assistance percentage of a State otherwise required to be imposed under paragraph (1) because a showing by the State, made under such paragraph with respect to a calendar quarter ending after January 1, 1977, and before October 1, 1977, is determined to be either unsatisfactory under such paragraph or invalid under paragraph (2), if the Secretary determines that the State's showing made under paragraph (1) with respect to the calendar quarter ending on December 31, 1977, is satisfactory under such paragraph and is valid under paragraph (2).

"(4)(A) The Secretary may not find the showing of a State, with respect to a calendar quarter under paragraph (1), to be satisfactory if the showing is submitted to the Secretary later than the 30th day after the last day of the calendar quarter, unless the State demonstrates to the satisfaction of the Secretary good cause for not meeting such deadline.

"(B) The Secretary shall find a showing of a State, with respect to a calendar quarter under paragraph (1), to be satisfactory under such paragraph with respect to the requirement that the State conduct annual onsite inspections in mental hospitals, skilled nursing facilities, and intermediate care facilities under paragraphs (26) and (31) of section 1902(a), if the showing demonstrates that the State has conducted such an onsite inspection during the 12-month period ending on the last date of the calendar quarter—

"(i) in each of not less than 98 per centum of the number of such hospitals and facilities requiring such inspection, and

"(ii) in every such hospital or facility which has 200 or more beds,

and that, with respect to such hospitals and facilities not inspected within such period, the State has exercised good faith and due diligence in attempting to conduct such inspections, or if the State demonstrates to the satisfaction of the Secretary that it would have made such a showing but for failings of a technical nature only.

"(5) In the case of a State's unsatisfactory or invalid showing made with respect to a type of facility or institutional services in a calendar quarter, the per centum amount of the reduction of the State's Federal medical assistance percentage for that type of services under paragraph (1) is equal to 33⅓ per centum multiplied by a fraction, the denominator of which is equal to the total number of patients receiving that type of services in that quarter under the State plan in facilities or institutions for which a showing was required to be made under this subsection, and the numerator of which is equal to the number of such patients receiving such type of services in that quarter in those facilities or institutions for which a satisfactory and valid showing was not made for that calendar quarter.

"(6) The Secretary shall submit to Congress, not later than sixty days after the end of each calendar quarter, a report on—

"(A) his determination as to whether or not each showing, made under paragraph (1) by a State with respect to the calendar quarter, has been found to be satisfactory under such paragraph;

"(B) his review (through onsite surveys and otherwise) under paragraph (2) of the validity of showings previously submitted by a State; and

"(C) any reduction in the Federal medical assistance percentage he has imposed on a State because of its submittal under paragraph (1) of an unsatisfactory or invalid showing.".

(b) Section 1902(a)(26) of the Social Security Act is amended by inserting after "social service personnel" the following: ", or, in the case of skilled nursing facilities, composed of physicians or registered nurses and other appropriate health and social service personnel".

(c)(1) Except as provided in paragraph (2), the amendments made by this section shall be effective on October 1, 1977, and the Secretary of Health, Education, and Welfare shall promptly adjust payments made to States under section 1903 of the Social Security Act to reflect the changes made by such amendments.

(2) The amount of any reduction in the Federal medical assistance percentage of a State, otherwise required to be imposed under section 1903(g)(1) of the Social Security Act because of an unsatisfactory or invalid showing made by the State with respect to a calendar quarter beginning on or after January 1, 1977, shall be determined under such section as amended by this section. Subparagraph (B) of paragraph (4) of section 1905(g) of such Act, as added by this section, shall apply to any showing made by a State under such section with respect to a calendar quarter beginning on or after January 1, 1977.

PROTECTION OF PATIENT FUNDS

SEC. 21. (a) Section 1861(j) of the Social Security Act is amended by striking out "and" at the end of paragraph (13) and inserting immediately after such paragraph (13) the following new paragraph:

"(14) establishes and maintains a system that (A) assures a full and complete accounting of its patients' personal funds, and (B) includes the use of such separate account for such funds as will preclude any commingling of such funds with facility

funds or with the funds of any person other than another such patient; and".

(b) The Secretary of Health, Education, and Welfare shall, by regulation, define those costs which may be charged to the personal funds of patients in skilled nursing facilities who are individuals receiving benefits under the provisions of title XVIII, or under a State plan approved under the provisions of title XIX, of the Social Security Act, and those costs which are to be included in the reasonable cost or reasonable charge for extended care services as determined under the provisions of title XVIII, or for skilled nursing and intermediate care facility services as determined under the provisions of title XIX, of such Act.

(c)(1) The amendments made by subsection (a) shall be effective on the first day of the first calendar quarter which begins more than six months after the date of enactment of this Act.

(2) The Secretary of Health, Education, and Welfare shall issue the regulations required under subsection (b) within ninety days after the date of enactment of this Act.

PAYMENT FOR INSTITUTIONAL CARE BEYOND DATE DETERMINED MEDICALLY NECESSARY

SEC. 22. (a) Section 1158 of the Social Security Act is amended—

(1) by inserting "and subsection (d)" in subsection (a) after "section 1159"; and

(2) by adding after subsection (c) (as added by section 5(d)(1) of this Act) the following new subsection:

"(d) In any case in which a Professional Standards Review Organization disapproves (under subsection (a)) of inpatient hospital services or posthospital extended care services, payment may be made for such services furnished before the second day after the day on which the provider received notice of such disapproval, or, if such organization determines that more time is required in order to arrange postdischarge care, payment may be made for such services furnished before the fourth day after the day on which the provider received notice of such disapproval.".

(b) The amendments made by subsection (a) shall be effective on the date of enactment of this Act.

PAYMENT UNDER THE MEDICARE PROGRAM FOR CERTAIN HOSPITAL SERVICES PROVIDED IN VETERANS' ADMINISTRATION HOSPITALS

SEC. 23. (a) Section 1814(c) of the Social Security Act is amended by inserting "or subsection (j)" after "subsection (d)".

(b) Section 1814 of such Act is further amended by adding at the end thereof the following new subsection:

"Payment for Certain Hospital Services Provided in Veterans' Administration Hospitals

"(j)(1) Payments shall also be made to any hospital operated by the Veterans' Administration for inpatient hospital services furnished in a calendar year by the hospital, or under arrangements (as defined in section 1861(w)) with it, to an individual entitled to hospital benefits under section 226 even though the hospital is a Federal provider of services if (A) the individual was not entitled to have the services furnished to him free of charge by the hospital, (B) the individual was admitted to the hospital in the reasonable belief on the part of the admitting authorities that the individual was a person who was entitled to have the services furnished to him free of charge, (C) the authorities of the hospital, in admitting the individual, and the individual, acted in good faith, and (D) the services were furnished during a period ending with the close of the day on which the authorities operating the hospital first became aware of the fact that the individual was not entitled to have the services furnished to him by the hospital free of charge, or (if later) ending with the first day on which it was medically feasible to remove the individual from the hospital by discharging him therefrom or transferring him to a hospital which has in effect an agreement under this title.

"(2) Payment for services described in paragraph (1) shall be in an amount equal to the charge imposed by the Veterans' Administration for such services, or (if less) the reasonable costs for such services (as estimated by the Secretary). Any such payment shall be made to the entity to which payment for the services involved would have been payable, if payment for such services had been made by the individual receiving the services involved (or by another private person acting on behalf of such individual.".

(c) The amendments made by this section shall apply to inpatient hospital services furnished on and after July 1, 1974.

And the Senate agree to the same.

AL ULLMAN,
DAN ROSTENKOWSKI,
JAMES C. CORMAN,
OTIS G. PIKE,
CHARLES A. VANIK,
HARLEY O. STAGGERS,
PAUL G. ROGERS,
DAVID E. SATTERFIELD,
RICHARDSON PREYER,
JAMES H. SCHEUER,
BARBER B. CONABLE, JR.,
JOHN J. DUNCAN,
TIM LEE CARTER,
EDWARD R. MADIGAN,
Managers on the Part of the House.

RUSSELL LONG,
H. E. TALMADGE,
ABE RIBICOFF,
CARL T. CURTIS,
BOB DOLE,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3) to strengthen the capability of the Government to detect, prosecute, and punish fraudulent activities under the medicare and medicaid programs, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck out all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment which is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

1. REQUIREMENTS FOR TIMELY PAYMENT BY STATE MEDICAID AGENCIES SECTION 2

House bill.—The House bill requires States to make provision in their State medicaid plan for claims payment procedures which ensure that 90 percent of the bills submitted by eligible noninstitutionally-based providers will be reimbursed within 30 days, and 99 percent within 60 days. The State would not be cited for noncompliance if the Secretary found the State was acting in good faith to achieve this goal. The provision is effective for calendar quarters beginning on or after January 1, 1978.

Senate amendment.—The Senate amendment follows the House bill, except that it requires that 95 percent of claims be paid within 30 days, and 99 percent within 90 days. The provision is effective for calendar quarters beginning on or after July 1, 1978.

Conference agreement.—The conference agreement requires States to make provision in their State medicaid plan for claims payment procedures which assure that 90 percent of the bills submitted by eligible noninstitutionally based providers will be reimbursed within 30 days, and 99 percent within 90 days. This standard would be applied to clean claims, that is, those not requiring further substantiation.

The conference agreement accepts the Senate amendment regarding the effective date.

2. INCENTIVE PAYMENT FOR STATE PROGRAMS OF EDUCATIONAL AND TECHNICAL ASSISTANCE TO EXPEDITE FILING AND PAYMENT OF CLAIMS (SECTION 2)

House bill.—The House bill authorizes 90 percent Federal matching from January 1978 through September 1980 for the costs attributable to the conduct of educational and technical assistance programs for health care practitioners which the Secretary determines are likely to expedite the filing and payment of claims, with a maximum on total quarterly Federal payments under the provision of $1.25 million.

Senate amendment.—The Senate amendment contains no comparable provision.

Conference agreement.—The conference agreement accepts the Senate position.

3. PROGRAMS SUBJECT TO DISCLOSURE (SECTION 3)

House bill.—The House bill requires disclosure of ownership information for specified entities in medicare (title XVIII), medicaid (title XIX), and the maternal and child health (title V) programs.

Senate amendment.—The Senate amendment is the same as House bill, but adds the social service grant program (title XX) to the list of programs requiring disclosure.

Conference agreement.—The conference agreement accepts the Senate amendment.

4. ENTITIES SUBJECT TO DISCLOSURE (SECTION 3)

House bill.—The House bill contains no provision relating to health maintenance organizations.

Senate amendment.—The Senate amendment adds health maintenance organizations to the list of entities required to disclose ownership under the bill.

Conference agreement.—The conference agreement accepts the Senate amendment.

5. SUBCONTRACTOR OWNERSHIP DISCLOSURE (SECTION 3)

House bill.—The House bill requires a provider of services (hospital, skilled nursing facility, or home health agency) to disclose information relating to the identity of subcontractors that are 5 percent or more owned by the provider.

Senate amendment.—The Senate amendment extends the subcontractor ownership disclosure of the House bill to include all other disclosing entities under the bill (i.e., other medicaid providers, intermediaries, carriers, HMO's, and title XX (social services) providers).

Conference agreement.—The conference agreement accepts the Senate amendment.

6. MEDICAID DISCLOSURE EFFECTIVE DATE (SECTION 3)

House bill.—The House bill provides for an effective date of October 1, 1977, for medicaid disclosure provisions.

Senate amendment.—The Senate amendment changes the effective date to January 1, 1978.

Conference agreement.—The conference agreement accepts the Senate amendment.

7. FORCED CONTRIBUTIONS FOR ADMISSION TO FACILITY (SECTION 4)

House bill.—The House bill defines as a felony instances where contributions are required as a condition of entry or continued

stay at a hospital, skilled nursing facility, or intermediate care facility for patients whose care is financed in whole or in part by medicaid.

Senate amendment.—The Senate amendment deletes the provision.

Conference agreement.—The conference agreement accepts the House position.

8. EMPLOYMENT PAYMENT EXCEPTION (SECTION 4)

House bill.—The House bill provides, in defining kickbacks in the penalty statutes, that remuneration that is an amount paid "by an employer to an employee for employment in the provision of covered items or services" is exempt.

Senate amendment.—The Senate amendment is the same as House bill, but adds clarifying language that the employee must have a "bona fide" employment relationship with the employer.

Conference agreement.—The conference agreement accepts the Senate amendment.

9. MEDICARE ASSIGNMENT MISDEMEANOR (SECTION 4)

House bill.—The House contains no provision.

Senate amendment.—The Senate amendment provides that it would be a misdemeanor for a physician to willfully and knowingly violate his agreement not to charge a medicare patient more than the coinsurance and any unmet deductible amount when he agrees to accept assignment of the patient's right to receive payment.

Conference agreement.—The conference agreement accepts the Senate amendment with a modification to make clear that this misdemeanor is to apply only to situations where an individual has knowingly, willfully and repeatedly violated medicare assignment agreements.

10. PRO REIMBURSEMENT ARRANGEMENT (SECTION 5(C))

House bill. The House bill provides that arrangements with PSRO's for reimbursement of the cost of review activities are to be made in a manner similar to that provided for medicare intermediaries.

Senate amendment.—The Senate amendment includes the provision of the House bill and further provides that arrangements with PSRO's for reimbursement of the cost of review activities may be in the form of an assistance agreement.

Conference agreement.—The conference agreement accepts the Senate amendment.

11. PSRO REVIEW METHODOLOGIES (SECTION 5(C))

House bill.—The House bill requires the development of ambulatory care review methodologies by the Secretary for use by PSRO's.

Senate amendment.—The Senate amendment deletes the requirement in the House bill.

Conference agreement.—The conference agreement accepts the Senate amendment.

12. PSRO AMBULATORY CARE REVIEW SECTION 5(C))

House bill.—The House bill requires each PSRO to undertake ambulatory care review not later than 2 years after it has achieved operational status.

Senate amendment.—The Senate amendment is the same as the House bill, but adds clarifying language to permit a qualified PSRO to undertake ambulatory care review at an earlier date where the PSRO requests authority to conduct such review and is found capable to do so by the Secretary, but in no case could the Secretary require a PSRO to conduct such reviews before it achieves operational status.

Conference agreement.—The conference agreement accepts the Senate amendment.

13. STANDARD STATE MUST MEET TO DEMONSTRATE UNSATISFACTORY PSRO PERFORMANCE, AND REQUIRED SECRETARIAL ACTION (SECTION 5(d))

House bill.—The House bill provides that when a State agency monitoring the performance of a PSRO submits reasonable documentation that the PSRO decisions have caused an unreasonable and detrimental impact on *either* total State medicaid expenditures *or* on the quality of care, the Secretary shall temporarily suspend the PSRO's binding review authority for medicaid within 30 days, pending Secretarial reevaluation of the PSRO performance.

Senate amendment.—The Senate amendment provides that when a State agency monitoring the performance of a PSRO submits reasonable documentation that the PSRO decisions have caused an unreasonable and detrimental impact on total State medicaid expenditures *and* on the quality of care, the Secretary shall make a determination of the reasonableness of the State allegation within 30 days; if he determines that the PSRO decisions have had an unreasonable and detrimental impact on expenditures and quality, he may suspend the PSRO's binding authority for medicaid. The Senate amendment further provides that such action by the Secretary is final and not subject to judicial review.

Conference agreement.—The conference agreement provides that when a State agency monitoring the performance of a PSRO submits reasonable documentation that the PSRO decisions have caused an unreasonable and detrimental impact on total State medicaid expenditures and on the appropriateness of care received, the Secretary shall make a determination of the reasonableness of the State allegation within 30 days. If he determines that the State allegation is correct, he must suspend the PSRO's binding authority under medicaid immediately, unless he determines corrective action has already been taken. The suspension is effective pending Secretarial reevaluation of the PSRO's performance and reinstatement of the PSRO's authority. The conferees would note that a demonstration that PSRO decisions have had a detrimental impact on medicaid program costs would not be grounds for removing the binding authority of a PSRO under title XIX unless it was also demonstrated that this occurred because the PSRO was approving inappropriate care or services with such regularity that program costs were significantly affected.

The conference agreement further provides that such action by the Secretary is final and not subject to judicial review.

14. PSRO DELEGATION REVIEW RESPONSIBILITY TO SKILLED NURSING FACILITY THAT IS PART OF A HOSPITAL (SECTION 5(d))

House bill.—The House bill provides that a PSRO may not delegate review responsibilities to the review committee of a skilled nursing facility.

Senate amendment.—The Senate amendment provides that a PSRO may not delegate review responsibilities to the review committee of a skilled nursing facility, unless that facility (or an intermediate care facility) is part of a hospital where the PSRO is utilizing the services of the hospital's review committee.

Conference agreement.—The conference agreement generally follows the Senate amendment with a modification clarifying that a PSRO may not delegate review responsibilities to a skilled nursing facility or an intermediate care facility unless that facility is part of a hospital to which the PSRO has delegated review.

15. PRIMACY FOR REVIEW OF SERVICES IN INTERMEDIATE CARE FACILITY (SECTION 5(d))

House bill.—The House bill provides that a PSRO has responsibility for review of services in intermediate care facilities and in public institutions for the mentally retarded only if the Secretary finds that the State is not performing effective review of the quality and necessity of services in these facilities.

Senate amendment.—The Senate amendment follows the House provision, except it provides that a PSRO will perform review in an intermediate care facility where that facility is also a skilled nursing facility.

Conference agreement.—The conference agreement provides that a PSRO has responsibility for review of services in intermediate care facilities and in public institutions for the mentally retarded only if (i) the Secretary finds that the State is not performing effective review of the quality and necessity of services in these facilities, or (ii) the State requests that the PSRO be responsible for the review and waives its right to be the primary reviewer of intermediate care facility services. Additionally, in the case of facilities which provide both skilled nursing facility services and intermediate care facility services, if the Secretary finds that review of the skilled nursing facility services by the PSRO, and of the intermediate care facility services by the State, would be inefficient, he may assign review responsibility for all patients in the facility to the PSRO. The conferees understand that the Secretary may determine that the arrangement is sufficiently inefficient to justify assignment of review rights to the PSRO in any single joint facility, or in classes of facilities, such as those facilities where the proportion of intermediate care facility patients is such that separate review would pose an unjustified administrative burden.

16. NATIONAL COUNCIL MEMBERSHIP (SECTION 5(f))

House bill.—The House bill provides for staggered terms for members of the National Professional Standards Review Council effective with appointments made in 1979.

Senate amendment.—The Senate amendment is the same as the House bill, except that the effective date is changed to 1977.

Conference agreement.—The conference agreement provides for staggered terms for members of the Council beginning with any terms which, under existing law, expire on or after January 1, 1978.

17. ANNUAL REPORT ON PSRO PROGRAM (SECTION 5(k))

House bill.—The House bill requires the Secretary to submit an annual report to the Congress on the administration and cost of the PSRO program.

Senate amendment.—The Senate amendment is the same as the House bill, except that it modifies the description of specific data required to be included in the report with respect to medically unnecessary services and ambulatory care review methodologies.

Conference agreement.—The conference agreement accepts the Senate amendment.

18. PHYSICIAN REVIEW (SECTION 5(p))

House bill.—There is no provision in the House bill.

Senate amendment.—The Senate amendment deletes the restriction in present law which prevents physicians with staff privileges in a hospital from being responsible for review of services in the facility if review responsibilities have not been delegated to the hospital by the PSRO.

Conference agreement.—The conference agreement accepts the Senate amendment.

19. SCOPE OF GAO SUBPENA POWER (SECTION 6)

House bill.—The House bill authorizes the Comptroller General (GAO) to issue subpenas in his work on Social Security Act health programs.

Senate amendment.—The Senate amendment authorizes the subpenas to be issued in connection with GAO work on any Social Security Act program.

Conference agreement.—The conference agreement accepts the Senate amendment.

20. GAO DISCLOSURE OF INFORMATION (SECTION 6)

House bill.—The House bill contains provisions relating to the disclosure by the GAO of medical records information in its possession.

Senate amendment.—The Senate amendment deletes this provision.

Conference amendment.—The conference agreement accepts the Senate amendment.

21. COURT ACCESS TO GAO INFORMATION (SECTION 6)

House bill.—The House bill contains a provision to exempt from subpena or discovery proceedings in a civil action personal medical records in the possession of the General Accounting Office.

Senate amendment.—The Senate amendment deletes this provision.

Conference agreement.—The conference agreement accepts the House provision.

22. EFFECTIVE DATE FOR SUSPENSION OF MEDICAID PROVIDERS (SECTION 7)

House bill.—In the House bill the effective date for the suspension provision under medicaid is October 1, 1977.

Senate amendment.—In the Senate amendment, the effective date is January 1, 1978.

Conference agreement.—The conference agreement accepts the Senate amendment.

23. ASSIGNMENT OF RIGHTS TO MEDICAL SUPPORT AS CONDITION OF MEDICAID ELIGIBILITY; ESTABLISHMENT OF STATE PROGRAM TO COLLECT SUPPORT (SECTION 11)

House bill.—The House bill contains no provision.

Senate amendment.—The Senate amendment adds a provision to establish a medical support program under which medicaid applicants and recipients may be required by a State to assign their rights to medical support or indemnification to the State. An incentive in the form of a federal payment of 15 percent of amounts collected (in place of amounts which would otherwise be provided for medical assistance) would be provided for localities to make collections for States, and for States to secure collections in behalf of other States.

Conference agreement.—The conference agreement accepts the Senate provision with an amendment to clarify that the State agency designated to administer the State plan for child support and establishment of paternity under part D of title IV of the Social Security Act may be used for the enforcement of rights due from or through an absent parent to pay for medical care. The conferees intend that the title IV part D agency should be used to the maximum extent feasible. It is not intended that title XIX agencies establish new and separate systems for collection and enforcement of support from absent parents for payment for medical care apart from child support enforcement programs which are already established in States under the provisions of part D of title IV, since doing so would foster duplication of effort, unnecessary expense, and administrative complexity. It is expected that the program established under this section will establish adequate procedures to safeguard information and assure that a timely and simple mechanism exists to reassign rights to medical support to the individual entitled to that support if the individual's eligibility for medical assistance under title XIX is terminated.

24. NOMINATION OF INTERMEDIARIES (SECTION 14)

House bill.—The House bill authorizes the Secretary, after applying appropriate standards and criteria, to assign providers to available intermediaries and to designate a regional or national intermediary for a class of providers where he determines that such actions will result in more effective and efficient administration of the program. In such cases, the Secretary must provide the intermediary an explanation of the reasons for his determination and opportunity for a hearing. Such determinations would be subject to judicial review.

Senate amendment.—The Senate amendment deletes this provision of the House bill and substitutes a provision under which the Secretary would be prohibited from refusing to enter into or renew an agreement with a provider-nominated intermediary solely because of the fact that such intermediary serves providers located only in a single State or that the provider could be served by a different intermediary which serves providers in more than one State.

Conference agreement.—The conference agreement accepts the House language with modification to clarify those areas for which the Secretary will have to establish standards, criteria and procedures to determine whether the Secretary should enter into, renew, or terminate an agreement with an intermediary and to determine when to assign or reassign providers to intermediaries. This clarification also incorporates that part of the Senate amendment that provides that any standards and criteria established should not have the effect of excluding an agency or organization from being an intermediary solely because it operates in one State.

The clarification added by the conferees requires that the Secretary develop standards, criteria and procedures to serve as a basis for determining what constitutes effective and efficient administration. These standards and criteria would be applied in addition to those that he will also establish for the purpose of evaluating an intermediary's performance with respect to all providers or specific providers. Because of the random distribution of providers to intermediaries, both in numbers and by type of institution, there can be intermediaries with high administrative costs, lengthy processing times or other difficulties in handling claims and audit functions through no fault of their own. The intent is to make clear that the Secretary in such instances would have authority to assign or reassign providers to achieve a distribution of providers that would improve the efficiency and effectiveness of the medicare program as defined in criteria and standards.

25. AMOUNT OF INCENTIVES TO ESTABLISH STATE MEDICAID FRAUD UNITS (SECTION 17)

House bill.—The House bill provides incentives for the establishment and operation of State medicaid fraud units through the provision for 90 percent Federal funding for the period October 1, 1977, through September 30, 1980, subject to an annual maximum payment of 1 percent of medicaid expenditures in a State, or $500,000, whichever is greater.

Senate amendment.—The Senate amendment follows the House bill, except that it provides for 100 percent Federal funding during fiscal year 1978, 90 percent during fiscal year 1979, and 75 percent during fiscal year 1980, subject to the same maximum amounts in the House bill.

Conference agreement.—The conference agreement accepts the House provision with respect to the level of Federal funding. These Federal monies are to be paid directly to the qualifying State medicaid anti-fraud agency.

26. REQUIREMENT FOR LOCATION OF FRAUD UNIT (SECTION 17)

House bill.—The House bill provides that to be eligible for increased Federal matching payments, a fraud unit must be separate from the single State agency administering medicaid. In addition it must be (a) in an agency with statewide prosecuting authority, or (b) if the constitution prohibits statewide prosecuting authority, an agency with satisfactory procedures to assure prosecution by the appropriate authorities.

Senate amendment.—The Senate amendment provides that to be eligible for increased Federal matching, the unit must be separate from the medicaid operating agency, or (if different) the single State agency administering medicaid.

In addition, the unit must be: (a) in an agency with statewide prosecuting authority, or (b) if the constitution prohibits statewide prosecuting authority, an agency with satisfactory procedures to assure prosecution, or (c) an entity with formal procedures and a working relationship, satisfactory to the Secretary, for coordination with the State attorney general's office.

Conference agreement.—The conference agreement deletes the Senate amendment regarding the placement of the unit relative to the State medicaid agency. The conferees note that the intent of the Senate amendment was the same as the House provision, and the conference action represents only a technical change.

The conference agreement includes the Senate amendment permitting increased matching for an entity with formal procedures and a working relationship, satisfactory to the Secretary, for coordination with the State attorney general's office.

27. DEMONSTRATION AUTHORITY FOR IMPROVED METHODS TO INVESTIGATE AND PROSECUTE FRAUD IN MEDICARE AND MEDICAID (SECTION 17)

House bill.—The House bill contains no provision.

Senate amendment.—The Senate amendment authorizes experiments and demonstrations to develop or demonstrate improved methods for investigation and prosecution of fraud in medicare and medicaid.

Conference agreement.—The conference agreement accepts the Senate amendment.

28. UNIFORM REPORTING (SECTION 19)

House bill.—The House bill requires the Secretary to establish for each of the different types of health services institutions a uniform system for the reporting of such items as cost of operation, volume of services, rates, capital assets and bill data. This reporting system would be mandated for use by medicare and medicaid providers and such use would be phased in by type of provider.

Senate amendment.—The Senate amendment is the same as the House bill, with the additional requirement that hospitals shall use the chart of accounts, definitions, principles and statistics prescribed by the Secretary to reach a uniform reconciliation of financial and statistical data for reports to the Secretary.

Conference agreement.—The conference agreement accepts the Senate amendment. It is the intent of the conferees in agreeing to the Senate amendment that the reconciliation of data not be required on a day-to-day basis but only at such times as the uniform reports are required, and only for purposes of such reports.

29. CONDITIONS FOR WAIVER OF PAST PENALTIES FOR FAILURE TO PERFORM REQUIRED REVIEW OF INSTITUTIONAL CARE (SECTION 20)

House bill.—The House bill allows States additional time to meet the requirements of the current law concerning review of care delivered in long-term care institutions, by providing that if a State is in compliance for the calendar quarter ending December 31, 1977, the Secretary shall waive all previously assessed reductions which would otherwise be imposed on those States that failed to fulfill the requirements of the law during previous periods.

Senate amendment.—The Senate amendment provides for unconditional waiver of

all reductions in medicaid payments due to an unsatisfactory or invalid showing made with respect to a calendar quarter beginning prior to January 1, 1978.

Conference agreement.—The conference agreement provides that all penalties assessed against States for unsatisfactory or invalid showings made with respect to calendar quarters beginning prior to January 1, 1977, shall be waived unconditionally. It further provides that if a State is in compliance with the requirements of the law for the calendar quarter ending December 31, 1977, the Secretary shall waive all penalties for unsatisfactory or invalid showings for quarters occurring in 1977; if the State is not in compliance on December 31 and past penalties are imposed, the penalty will be determined by taking into account the proportion of medicaid patients in homes that were not reviewed to all medicaid patients in homes to be reviewed.

30. FORMULA FOR REDUCTION IN FEDERAL MATCHING FOR FAILURE TO CARRY OUT REVIEW (SECTION 20)

House bill.—The House bill contains no provision. Therefore, it retains the current law formula for a one-third reduction of Federal matching funds for days of care beyond 60 in a hospital, a skilled nursing facility, or an intermediate care facility, and beyond 90 in a mental hospital, if adequate review is not carried out in accordance with the requirements of the law.

Senate amendment.—The Senate amendment adjusts the reduction by the proportion of patients not reviewed to total patients in facilities to be reviewed.

Conference agreement.—The conference agreement accepts the Senate amendment, with clarification that (i) it is effective for quarters beginning after December 31, 1976, and (ii) that the reduction reflects the proportion of medicaid patients in facilities for which there is an unsatisfactory or invalid showing to total medicaid patients in facilities to be reviewed.

31. CONDITIONS FOR WAIVER OF REDUCTIONS FOR FAILURE TO PERFORM REVIEW (SECTION 20)

House bill.—The House bill specifies that if a State makes a good faith attempt to perform reviews of all institutions, and actually reviews all large institutions and 98 percent of all other institutions, it will be considered in full compliance with the requirements of the law.

Senate amendment.—The Senate amendment provides that the Secretary may waive any reduction in the Federal matching percentage if he determines that the State's noncompliance is technical or due to circumstances beyond control of the State.

Conference agreement.—The conference agreement provides that if a State makes a good faith attempt to perform reviews of all institutions, and actually reviews all large institutions and 98 percent of all other institutions (or fails to meet this standard only for technical reasons), it will be considered in full compliance with the requirements of the law. The conferees stress that the intent of the law that *all* facilities be reviewed is not changed by this provision. If a facility is not reviewed, there will be a reduction in matching unless the Secretary finds there was a good faith attempt to review the institution, and there is no evidence that any institution, or kind or type of institution, is deliberately not reviewed.

32. COMPOSITION OF MEDICAL REVIEW TEAMS (SECTION 20)

House bill.—The House bill contains no provision.

Senate amendment.—The Senate amendment provides that medical review teams reviewing care in skilled nursing facilities may be composed of physicians *or* registered nurses (current law requires that physicians be on the team).

Conference agreement.—The conference agreement accepts the Senate amendment.

33. PROTECTION OF PATIENT FUNDS (SECTION 21, ADDED BY THE SENATE AMENDMENT)

House bill.—The House bill contains no provision.

Senate amendment.—The Senate amendment requires that, as a condition for participation in the medicare and medicaid programs, a skilled nursing facility must establish and maintain a system to assure the proper accounting of personal funds. Such system must provide for separate and discreet accounting for each patient with a complete accounting of income and expenditures.

Conference agreement.—The conference agreement accepts the Senate amendment.

34. GRACE PERIOD FOR POST DISCHARGE CARE (SECTION 22, ADDED BY THE SENATE AMENDMENT)

House bill.—The House bill contains no provision.

Senate amendment.—The Senate amendment provides that when a PSRO determines that further institutional care is not medically necessary, payment may be made for only one additional day, except that a PSRO may authorize up to 3 additional days on a case-by-case basis where additional time is needed to arrange for necessary post-discharge care.

Conference agreement.—The conference agreement accepts the Senate amendment.

35. PROSECUTION OF CIVIL FRAUD BY INSPECTOR GENERAL (SECTION 23, ADDED BY THE SENATE AMENDMENT)

House bill.—The House bill contains no provision.

Senate amendment.—The Senate amendment authorizes prosecution of civil fraud cases under the Social Security Act health care programs by the Inspector General of HEW where U.S. attorneys have not initiated proceedings within 6 months of a formal referral of a case.

Conference agreement.—The conference agreement does not include the prosecution authority proposed by the Senate amendment but does provide that in addition to the requirements imposed on the Inspector General of the Department of Health, Education, and Welfare by section 4(c) of the bill, the Inspector General shall annually include in a report to the Congress information related to the Social Security Act cases referred by the Department of Health, Education, and Welfare to the Department of Justice for prosecution. This information shall include for each case a description of the number of cases referred (without individual identifiers) the types of illegal activity involved, and the amount in controversy. The Attorney General shall be required to respond to the annual report of the Inspector General by specifying the date of referral, district to which referred, and disposition of each case referred by the Department of Health, Education, and Welfare as specified in the report of the Inspector General to the Congress.

36. UTILIZATION REVIEW DEMONSTRATION PROJECTS (SECTION 24, AS ADDED BY THE SENATE AMENDMENT)

House bill.—The House bill contains no provision.

Senate amendment.—The Senate amendment directs the Secretary to establish demonstration projects to evaluate the effectiveness of PSRO reviews compared to alternative State review methods. It authorizes establishment of such projects in States which had operating onsite State evaluation systems in place on August 5, 1977, and which make application to the Secretary prior to April 1, 1978. It specifies that demonstration projects be conducted in PSRO areas which are representative of a State's medicaid population and that they be conducted in areas which comprise a significant proportion of medicaid patient days.

Conference agreement.—The conference agreement accepts the House position.

37. PAYMENT FOR CERTAIN HOSPITAL SERVICES PROVIDED IN VETERANS' ADMINISTRATION HOSPITALS (SECTION 25, ADDED BY THE SENATE AMENDMENT)

House bill.—The House bill contains no provision.

Senate amendment.—The Senate amendment authorizes, under certain circumstances, medicare reimbursement for care provided to a nonveteran medicare beneficiary in a Veterans' Administration hospital where the care was provided on the mistaken (but good faith) assumption that the beneficiary was an eligible veteran. The provision would be applicable to care furnished on or after July 1, 1974.

Conference agreement.—The conference agreement accepts the Senate amendment.

38. HOSPITAL INSURANCE FOR CERTAIN INDIVIDUALS, AGE 60 THROUGH 64 (SECTION 26, ADDED BY THE SENATE AMENDMENT)

House bill.—The House bill contains no provision.

Senate amendment.—The Senate amendment would make medicare protection (parts A and B) available on an optional basis for spouses aged 60–64 of medicare beneficiaries, others aged 60–64 who are entitled to retirement or other dependents' benefits under social security, and disability beneficiaries aged 60–64 not otherwise eligible for medicare. Persons who elect to enroll under this provision would pay the cost of such protection.

Conference agreement.—The conference agreement accepts the House position.

39. TREATMENT OF PROFESSIONAL STANDARDS REVIEW ORGANIZATIONS FOR PURPOSES OF THE INTERNAL REVENUE CODE (SECTION 27, ADDED BY THE SENATE AMENDMENT)

House bill.—The House bill contains no provision.

Senate amendment.—The Senate amendment deems PSRO's, for purposes of determining tax-exempt status under section 501 (c)(3) of the Internal Revenue Code, to be organizations organized and operated exclusively for charitable purposes.

Conference agreement.—The conference agreement accepts the House position.

40. POSTPONEMENT OF REQUIREMENT THAT STATE MEDICAID PROGRAMS PAY SKILLED NURSING FACILITIES AND INTERMEDIATE CARE FACILITIES ON A BASIS REASONABLY RELATED TO COST (SECTION 28, ADDED BY THE SENATE AMENDMENT)

House bill.—The House bill contains no provision.

Senate amendment.—The Senate amendment postpones the requirement for medicaid payments on a basis reasonably related to cost until January 1979, and provides protection against retroactive claims for failure to meet the current law requirements.

Conference agreement.—The conference agreement accepts the House position.

AL ULLMAN,
DAN ROSTENKOWSKI,
JAMES C. CORMAN,
OTIS G. PIKE,
CHARLES A. VANIK,
HARLEY O. STAGGERS,
PAUL G. ROGERS,
DAVID E. SATTERFIELD,
RICHARDSON PREYER,
JAMES H. SCHEUER,
BARBER B. CONABLE, Jr.,
JOHN J. DUNCAN,
TIM LEE CARTER,
EDWARD R. MADIGAN,

Managers on the Part of the House.

RUSSELL LONG,
H. E. TALMADGE,
ABE RIBICOFF,
CARL T. CURTIS,
BOB DOLE,

Managers on the Part of the Senate.

PERMISSION FOR COMMITTEE ON WAYS AND MEANS TO FILE REPORT BY MIDNIGHT TOMORROW

Mr. ULLMAN. Mr. Speaker, I ask unanimous consent that the report of the Committee on Ways and Means on the bill, H.R. 9346, the Social Security Financing Amendments of 1977, as amended, may be filed by midnight, Wednesday, October 12, 1977, along with any separate or minority views.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oregon?

There was no objection.

MARINE PROTECTION, RESEARCH, AND SANCTUARIES ACT OF 1972

Mr. BREAUX. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 4297) to amend the Marine Protection, Research, and Sanctuaries Act of 1972 to authorize appropriations to carry out the provisions of such act for fiscal year 1978.

The SPEAKER pro tempore (Mr. BRADEMAS). The question is on the motion offered by the gentleman from Louisiana (Mr. BREAUX).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 4297, with Mr. SHARP in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from Louisiana (Mr. BREAUX) will be recognized for 30 minutes, and the gentleman from Michigan (Mr. RUPPE) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Louisiana (Mr. BREAUX).

Mr. BREAUX. Mr. Chairman, the bill under consideration today will authorize the appropriation of funds to programs which address a problem of national importance.

According to the Environmental Protection Agency's annual report on ocean dumping, 2.7 million tons of industrial wastes and 5.3 million tons of sewage sludge were dumped into the waters off the coasts of the United States in 1976. Of the total amount of materials dumped into the oceans, over 90 percent or 94 million tons was dredge spoil.

Ocean dumping adversely effects the marine environment in and around areas where the dumping occurs. The site where the city of New York dumps its sewage sludge, which is located 12 miles out from the mouth of the Hudson River, has been characterized as a marine desert. This general region, known as the New York Bight, has been an area of intense study by the National Oceanic and Atmospheric Administration.

The combined effects of raw sewage, land runoff and industrial discharges flowing from the Hudson River, air pollution fallout, and ocean dumping have severely stressed the ecological systems of the New York Bight. I might add, Mr. Chairman, that ocean pollution and especially ocean dumping has prompted the Food and Drug Administration to close one-fifth of this Nation's shell fishing beds.

In 1972, the Congress passed the Marine Protection, Research, and Sanctuaries Act. It is the expressed intent of this Act, commonly known as the Ocean Dumping Act, to prohibit or strictly limit the dumping into ocean waters of any material which would adversely affect the marine environment.

H.R. 4297 would authorize 4.8 million dollars to EPA to carry out its responsibilities under title I of the act. This title requires EPA to establish an ocean dumping permit program, designed to bring under control and eliminate the large quantities of harmful industrial wastes, municipal sewage sludge, and dredge material being dumped into the waters off our coasts each year. In addition, title I gives the Army Corps of Engineers authority over dredged material dumping and authorizes the U.S. Coast Guard to provide surveillance over all ocean dumping activities.

The moneys authorized by H.R. 4297 will enable EPA to continue the work on gathering baseline data on existing ocean dumpsites. Such data provides the marine scientists with information as to the original conditions at the dumpsites so that they may measure and monitor the possible degradation of the marine environment in and around the dumpsite.

In addition, EPA requires funds to assess the environmental impact of materials before they are dumped into the ocean. These include tests to determine concentrations of toxic compounds, pathogens, and carcinogens. Such information is employed in the decision as to whether or not a dumping permit should be issued by EPA. Since the permit program has been in effect, EPA has phased out or denied permits to 248 former or potential ocean dumpers.

As a condition to receiving a permit, the EPA requires all sewage sludge dumpers and most industrial waste dumpers to adopt and implement land-based alternatives to ocean dumping. To insure that these phaseout schedules are met, EPA must closely monitor the progress of this group of approximately 70 interim permit holders.

On June 15, the Subcommittees on Oceanography and Fisheries and Wildlife Conservation and the Environment convened hearings to investigate the problems associated with phasing out, as soon as possible, those municipalities which are ocean dumping sewage sludge. We were pleased to learn that one sewage sludge dumper, Camden, N.J., is developing a composting alternative similar to the system currently employed by the Washington, D.C., area. According to the mayor of Camden, that city will completely phase out ocean dumping by the end of this year.

In additional oversight hearings held on September 20, the subcommittees learned that neither New York City nor Philadelphia have decided upon the alternative they will have to implement by December 31, 1981. This 1981 deadline was established by the EPA in rules and regulations published in January of this year.

Mr. Chairman, the bill under consideration includes an amendment which would prohibit the EPA from issuing any permit authorizing the ocean dumping of harmful sewage sludge after December 31, 1981. The intent of this amendment is to provide added assurance that the municipalities currently engaged in this activity will phase out their sewage sludge dumping by December 31, 1981. This amendment is consistent with EPA's regulations and it is supported by the administration.

Title II of the Ocean Dumping Act directs the Secretary of Commerce through the National Oceanic and Atmospheric Administration to monitor and research the effects of ocean dumping, to investigate the long-range effects of pollution, overfishing, and man-induced changes to ocean ecosystems, and to research alternatives to ocean dumping. H.R. 4297 would authorize $6 million to the Department of Commerce for title II.

There are currently 11 active nondredged material dumpsites and over 120 dredged material dumpsites located off the coasts of the United States. To date, monitoring surveys have been conducted on 5 of the 11 nondredged material dumpsites. The monitoring of dumpsites is an expensive operation. According to EPA, the cost of one monitoring cruise alone is on the order of $200,000 to $400,000. A complete baseline survey requires anywhere from two to four such cruises. The monitoring of one dumpsite alone requires at least two such cruises a year.

I feel the authorization levels included in H.R. 4297 provide the opportunity for NOAA to initiate a long overdue ocean pollution research program. In addition, H.R. 4297 will provide a funding level that will allow EPA and NOAA to more adequately monitor and study ocean dumping activities.

Finally, H.R. 4297 authorizes $500,000 for the Department of Commerce to designate and regulate areas of the oceans as marine sanctuaries. Recently this program has received special attention by President Carter. In his environmental message delivered on May 23, 1977, President Carter made specific reference to the marine sanctuaries program mandated under title III and its potential as a means to protect areas of the Continental Shelf against resource development.

The Marine Protection, Research, and Sanctuaries Act of 1972, is one of a myriad of laws passed over the last decade intended to protect our environment. I feel that during the next decade, the collective vigilance of those of us concerned with oceanic matters will be required to ensure the protection of the marine environment. As land, air, and fresh-water-based waste disposal and pollution activities become increasingly more restrictive, it is important that the oceans be afforded comparable protection.

H.R. 4297 will help to accomplish this important national goal and I urge my colleagues to support this bill.

Mr. RUPPE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, H.R. 4297 would authorize appropriations for fiscal year 1978 to carry out programs under titles I, II, and III of the Marine Protection, Research, and Sanctuaries Act of 1972. This act, commonly referred to as the Ocean Dumping Act, establishes regulatory control over the dumping of certain types of material into U.S. waters, and specifically prohibits the dumping of materials into waters which are harmful to the marine environment.

Title I of the act gives EPA primary regulatory authority in conjunction with the Corps of Engineers and the Coast Guard, over title I activities including the establishment of permit categories, the designation of sites and times of dumping, and the assessment of alternative means of waste disposal other than ocean dumping. We feel that this ongoing assessment of alternatives is of critical importance in order to: First, continually evaluate the overall effectiveness of new waste disposal technologies; and second, to implement these technologies in an efficient and timely manner. For title I programs in fiscal year 1978, H.R. 4297 would authorize appropriations of $4.8 million.

Title II of the act directs the Secretary of Commerce in cooperation with EPA to develop a comprehensive program which would include research and monitoring of the effects of ocean dumping and other man-induced changes in the marine ecosystem. This research activity is essential if we are to begin to understand the long-term effects of man's activities on the entire ocean system. This research, including studies of biological, chemical, and physical effects of ocean dumping and marine pollution generally, will provide more understanding regarding the overall waste-assimilative capacity of the marine environment. This information can aid us in making more sound decisions regarding the effectiveness of one form of waste disposal as compared to another form in terms of both environmental protection and economic efficiency. For title II, H.R. 4297 would authorize appropriations of $6 million for fiscal year 1978.

Title III of the Ocean Dumping Act directs the Secretary of Commerce to designate certain areas of the marine environment as sanctuaries, and issue regulations in order to preserve certain features of a particular area. H.R. 4297 would authorize appropriations for this portion of the act at a level of $0.5 million.

Finally, the bill was amended in our committee to require that all ocean dumping of sewage sludge which may unreasonably degrade human health and the marine environment to cease by December 31, 1981. The reason why the committee agreed to this amendment was our loss of confidence in EPA's ability to compel certain municipalities to adopt environmentally safe land-based alternatives to ocean dumping in the absence of a statutorily mandated termination date.

Mr. Chairman, we feel that this is an important authorization bill and therefore I strongly urge my colleagues to act favorably on H.R. 4297.

Mr. WYDLER. Mr. Chairman, those of us who live in coastal areas which have already been heavily impacted by ocean dumping are constantly aware of the problems associated with this environmental outrage.

For years, tens of millions of tons of sewage sludge, contaminated fill material, and highly toxic industrial chemical wastes have been routinely dumped in the Bight of New York. The results have been catastrophic. A marine desert has formed in which virtually all valuable marine life has been destroyed.

Ocean dumping is the obvious source of marine biological disasters on an unprecedented scale. The adverse impacts of those who make their living on or near the water, as well as on those coastal communities which periodically suffer major disasters when wind and tide conditions bring pollutants ashore is almost beyond conception. Within the past 15 months, there have been several instances of such onshore conditions which have caused all of the beaches on Long Island to be closed due to the serious threat to the health and welfare of the general public. Each such incident represents an economic disaster to those who make their living from the water. It represents a societal disaster when an area as thickly populated as the Northeast loses a major portion of its recreational beaches for a period. And most importantly, it represents the very real danger of a major health disaster in which the lives of tens of thousands of people are at stake.

Mr. Chairman, when the Committee on Science and Technology considered this legislation, I offered an amendment to add $500,000 for the specific purpose of conducting studies in the New York Bight area. While the ocean dumping program is carried out in NOAA, I hope that most of these funds will be passed through to the Environmental Protection Agency Region II Office for both near- and long-term studies. I am also glad to report, Mr. Chairman, that my amendment received unanimous support from the members of the Committee on Science and Technology.

For those of us who must live with the problems of ocean pollution resulting from ocean dumping on a daily basis, the need for immediate action is of the highest priority. I fully support the legislation before the House and I urge my colleagues to vote for this bill. The work being done under this legislation is crucial to understanding the long-term fates and effects of pollutants dumped into the marine environment.

Mr. EVANS of Delaware. Mr. Chairman, I rise in strong support of H.R. 4297, and its December 31, 1981, ban on dumping of harmful ocean sludge. The provisions of the measure are both necessary and reasonable, and I urge my House colleagues to give the bill, as reported by the Merchant Marine and Fisheries Committee, their favorable consideration.

In 1972, the Congress, in the Marine Protection, Research, and Sanctuaries Act of that year, stated the policy that "unregulated dumping of material into ocean waters endangers human health, welfare, and amenities, and the marine environment, ecological systems and economic potentialities." Title II of that act also specifies that the Secretary of Commerce conduct research and other studies "for the purpose of determining means of minimizing or ending all dumping of materials within 5 years of the effective date of this act."

These lofty goals were, and still are, highly commendable. But the simple truth of the matter is that Congress, and the Environmental Protection Agency, have somehow forgotten about that statement. In the period 1973–76, over 38 million tons of industrial waste, sewage sludge, and construction debris were dumped into the waters off the coast of the United States.

A few weeks ago, the city of Philadelphia received another interim permit which will allow them to dump 95 million pounds of sludge off the coast of my State. That works out to about 173 pounds of sludge per man, woman, and child in Delaware.

Even worse than the amount of the material dumped in the oceans is its toxic effect on the marine environment. For instance, toxic heavy metals—including mercury, cadmium, zinc, arsenic, copper, and lead—can kill marine life and can produce sublethal effects, including reduced species vitality or growth, reproductive failure, and interference with sensory functions. The toxic effect of such heavy metals in marine plants and animals may be persistant and cumulative over a long period. Shellfish are known to concentrate heavy metals in their tissues, which, if eaten, pose a health danger to man. Organisms feeding on marine plant life pass the pollutants on to higher organisms, and, as this process moves through the food chain, concentrations reach their highest levels in marine mammals, birds, and man.

In the 1972 Report on Marine Water Quality Criteria, the National Academy of Sciences suggested that there be no artificial additions of cadmium to the marine environment so that inputs of mercury, beyond those occurring naturally, should be eliminated. EPA itself has established regulations which set concentration levels of mercury and cadmium, which it believes if exceeded, would endanger the ocean environment. But, according to a GAO study released on January 21, 1977, all sewage sludge dumped into the ocean exceeded the EPA established levels for cadmium or mercury. The 26 municipal permit holders in the New York-northern New Jersey area were dumping sewage sludge containing either cadmium or mercury which exceeded by more than 100 times the established safety levels. Additionally, according to the permit issued to Philadelphia in 1975, that city's sludge also contained high concentrations of

these substances. The sludge from one or two Philadelphia treatment plants, whose sludge is dumped into the ocean, exceeded allowable cadmium and mercury safety levels by 175 and 5 times, respectively. At the other plant, the sludge was 54 times greater than safety levels for cadmium and 5 times more than for mercury.

Less than 1 year after the Philadelphia dump site was moved in 1973, clams and scallops taken from the areas surrounding the new site had accumulated high levels of cadmium. EPA has also reported that the sewage sludge dumped in 1974 in the Atlantic contained about 24 tons of cadmium and the sludge dumped in the New York Bight alone contained about 2 tons of mercury. As more and more of these materials are dumped, there is a greater and greater risk to marine life around dumping sites.

Mr. Chairman, the January GAO report goes on to list other adverse effects of ocean dumping of sewage sludge and industrial waste, including economic effects, oxygen depletion, and the biostimulation or accelerated fertilization of plant life such as algae. I ask unanimous consent that this portion be included at the conclusion of my remarks.

(See exhibit A.)

Mr. EVANS of Delaware. Mr. Chairman, the ocean is not a cesspool nor is it a garbage pit. The precious marine environment cannot tolerate, for an indefinite length of time, continued dumping of toxic sludge. Our ocean resources are a priceless source of esthetic, recreational, and economic benefits to millions of Americans on the east coast alone, yet the continuous dumping of sludge presents a clear and dangerous threat to that resource. The legislation before the House today seeks in a reasonable and responsible manner to deal with this environmental threat. The amendment offered by my good friend from New Jersey, Mr. HUGHES, requires that the Administrator of the Environmental Protection Agency suspend the dumping of sewage sludge into ocean waters as soon as possible and, in any event, by December 31, 1981. I must point out that this date—December 31, 1981—was taken directly from present EPA regulations, and in fact, legislation merely codifies the good intentions of the Environmental Protection Agency.

In fact, every permittee which now ocean dumps is under an implementation plan to phase out ocean dumping by not later than 1981. This includes the city of New York and the city of Philadelphia, which have indicated to our committee that they plan to be out of ocean dumping prior to the end of the December 31, 1981 deadline. I ask unanimous consent that a listing of the permittees on implementation plans phase out ocean dumping in EPA regions II and III which appear in the fifth annual report of the Environmental Protection Agency on Administration of Title I of the Marine Protection, Research and Sanctuaries Act of 1972 be included in the RECORD at the conclusion of my remarks.

(See exhibit B.)

Mr. EVANS of Delaware. In short, Mr. Chairman, the legislation before us today goes no further than existing EPA regulations. In fact, it goes no further than the stated objectives of the various cities and municipalities and other persons who are, in fact, dumping in the ocean right now. I simply cannot conceive of how the committee could be more reasonable on this matter.

H.R. 4297, gives municipalities over 4 years from today to finish phasing out their ocean dumping and find alternatives means of disposing of sewage sludge. This deadline would be implemented fully 9 years after the Congress stated the national policy required the ending of harmful ocean dumping, and almost 4 years after our stated goal in the 1972 act. For too long we have allowed municipalities and other persons to use the precious resources of the ocean as their own private garbage pit. The time has come for this Congress to end this wholesale abuse of our ocean resources. The bill before the House today offers a way to accomplish that goal without placing undue hardships on any municipality.

It is time to end ocean dumping once and for all. This legislation will do just that.

EXHIBIT A

APPENDIX II.—ADVERSE EFFECTS OF OCEAN DUMPING OF SEWAGE SLUDGE AND INDUSTRIAL WASTES

We reviewed several studies concerning the ocean dumping of sewage sludge and industrial wastes. The studies were prepared by such organizations as the:

Council on Environmental Quality.

U.S. Army Corps of Engineers Coastal Engineering Research Center.

National Academy of Sciences.

National Oceanic and Atmopsheric Administration.

Most of the studies agreed that, although additional research was needed, ocean dumping does produce harmful effects to the marine environment. The following sections describe in more detail the adverse effects that may result from ocean dumping.

HEAVY METALS CONTAMINATION

Toxic heavy metals—including mercury, cadmium, zinc, arsenic, copper, and lead—can kill marine life and can produce sublethal effects, including reduced species vitality or growth, reproductive failure, and interference with sensory functions.

The toxic effects of heavy metals in marine plants and animals may be persistent and cumulative over a long period. Shellfish are known to concentrate heavy metals in their tissues which, if eaten, pose a health danger to man. Organisms feeding on marine plant life pass the pollutants on the higher organisms, and, as this process moves through the food chain, concentrations reach their highest levels in marine mammals, birds, and man.

In a 1972 report on marine water quality criteria, the National Academy of Sciences suggested that there should be no artificial additions of cadmium to the marine environment and that inputs of mercury, beyond those occurring naturally, should be eliminated. Other studies concerning heavy metals contamination have reported:

Concentrations of heavy metals in the New York Bight exceeded permissible limits. One study found concentrations of copper which indicated widespread copper contamination.

While 10 parts per million (ppm) of zinc in sea water is considered toxic to marine life, one analysis showed that an average of 2,459 ppm of zinc was contained in sewage sludge.

After less than 1 year of dumping at the present Philadelphia sewage sludge dump site, clams and scallops had accumulated high levels of four metals at one or more survey stations in the 1,000-square-mile area surrounding the dump site.

The abnormal concentrations of heavy metals, microorganisms, and organic materials were correlated with reduced species diversity and generally impoverished bottom-dwelling populations in the New York Bight dumping area. Very few juvenile rock crabs were present, and adult crabs found on the sludge beds were frequently diseased or moribund. Since the sewage sludge dump site in this area is in the path of crabs and lobsters which seasonally migrate from inshore to offshore waters, this study concluded that the wastes resulted in the mortality of migrating crustaceans.

Preliminary results of another study of the New York Bight dumping area showed that fish had higher than normal levels of heavy metals in their tissues. An analysis of fish for mercury showed that weakfish with fin-rot disease had the greatest amount of mercury in their tissues. Compared with weakfish collected off the Virginia coast, which had a average of 0.31 ppm in liver tissue, diseased fish from the New York Bight had an average of 0.54 ppm in the liver tissue.

HEALTH HAZARDS

Human health can be affected by direct contact with polluted water during recreational or other activities and also by consuming contaminated fish or shellfish.

Sewage sludge contains pathogens from human fecal matter. Pathogens are bacteria and viruses that cause diseases. Viruses are the smallest known pathogenic entities and are capable of causing a variety of severe, sometimes fatal, diseases. There is concern that, even in ocean waters, viruses may survive for a period of days to weeks following discharge.

The Council on Environmental Quality recommended in 1970 that the ocean dumping of sewage sludge with large quantities of pathogens be stopped as soon as possible. About 40 percent of all sludge dumped in the New York Bight is of this type.

Another health hazard involves the human ingestion of contaminated fish. One report indicated that many of the cases of infectious hepatitis in the United States in 1972 were traced to the eating of raw shellfish taken from sewage-polluted coastal regions.

ECONOMIC EFFECTS

The coastal areas are used for recreational purposes, including swimming, boating, and sport fishing, and for commercial fishing and shellfishing, each of which has economic value to the area served.

Ocean pollution has three broad effects detrimental to various segments of the fishing industry.

Closure of areas to fishing and shellfishing.

Prohibiting sale of products because of contamination.

Impact on mortality, growth, and reproduction rates of living marine resources.

A major loss to the economy is incurred when commercially valuable fish and other seafood species are killed directly or indirectly or rendered inedible by ocean pollution. The Council on Environmental Quality estimated that in 1969 the U.S. shellfish industry incurred losses of about $63 million, or about 20 percent of the value of the potential catch, due to pollution.

One difficulty in evaluating the economic impact of pollution is the attachment of dollar values to the social costs which are outside the usual market pricing system. Calculating the monetary value of ocean-related activities that may be affected by pollution in near-shore areas is difficult.

The New Jersey Department of Environmental Protection reported in 1974 that the pollution of the New York Bight poses a po-

tential threat to the proposed Gateway National Recreation area. This area is expected to serve 15 million visitors each year.

OXYGEN DEPLETION

Oxygen is necessary for the support of marine and aquatic life and for the biological degradation of organic materials. The ocean dumping of heavy loads of organic wastes depletes the oxygen level of the water necessary to support life and alters the diversity of marine organisms. Oxygen deficiency in an area may be self-perpetuating. The accumulation of organic matter, sulfides, and some metals can act as a reservoir of future oxygen demand. Even after the disposal of the organic matter is stopped, it may be a long time before the area recovers.

Sewage sludge contains organic materials. In the New York Bight, where sewage sludge has been dumped for more than 50 years, the oxygen concentration as a percent of saturation declined from 61 percent in 1949 to 29 percent in 1969 and was as low as 10 percent in the center of the dump site. During late July through mid-October, the dissolved oxygen content of bottom waters over the sewage sludge dump site in the New York Bight is frequently less than two parts per million over several miles and is insufficient to support marine life. One study showed that sizable areas of the sea floor in the New York Bight, primarily near the sewage sludge dump site, were nearly devoid of marine life.

BIOSTIMULATION

Biostimulation is the accelerated fertilization of plant life, such as algae. This condition produces excessive quantities of plant life. When these plants die, oxygen necessary to support marine life is used in their decomposition. This process changes the nature of bottom sediments and, thus, whole communities of bottom-dwelling organisms.

Sewage sludge is rich in nutrients, such as phosphates and nitrates, that cause biostimulation. For example, areas which formerly supported surf clams in sand may become covered with algal mud, a situation to which the surf clams cannot adapt.

A report issued by the New Jersey Department of Environmental Protection in January 1974 indicated that biostimulation caused by the addition of too much of a necessary nutrient or of unnatural nutrients may have contributed to plankton blooms which have plagued some of our shore areas for several years. This has caused aesthetic and recreational problems as well as concern for the safety of marine life harvested for consumption.

TABLE 6.—*Permittees on implementation plans to phase out ocean dumping*

REGION II

Company, location, and phaseout date

American Cyanamid Co., Linden, NJ, 1980.
Middletown Sewer Authority, Belford, NJ, 1981.
Passaic Valley Sew. Comm., Newark, NJ, 1981.
Allied Chemical Corp., Morristown, NJ, 1981.
The Upjohn Manuf. Co., Barceloneta, PR, 1979.
E.I. duPont de Nemours, Linden, NJ, 1981.
City of Long Beach, Long Beach, NY, 1981.
Middlesex Co. Sew. Auth., Sayreville, NJ, 1981.
New York City, New York, NY, 1981.
Merck & Co., Inc., Rahway, NJ, 1981.
NL Industries, Inc., So. Amboy, NJ, 1981.
Modern Transportation Co., So. Kearney, NJ, 1978.
Bergen Co. Sew. Authority, Little Ferry, NJ, 1981.
Linden Roselle-Rahway Valley Sew. Auth., Linden, NJ, 1981.
Joint Meeting, Elizabeth, NJ, 1981.

Pfizer Pharmaceuticals, Inc., Barceloneta, PR, 1979.
Merck Sharp & Dohme, Barceloneta, PR, 1979.
County of Nassau, Mineola, NY, 1981.
County of Westchester, White Plains, NY, 1981.
West Long Beach Sew. Dist., Atlantic Beach, NY, 1981.
Oxochem Enterprises, Ponce, PR, 1977.
Puerto Rico Olefins Co, Ponce, PR, 1978.
Whippany Paper Board Co., Whippany, NJ, 1977.
IMC Chemicals Co., Newark, NJ, 1977.
City of Glen Cove, Glen Cove, NY, 1981.
Reheis Chemical Company, Berkeley Hts., NJ, 1978.
Briston Alpha Corporation, Barceloneta, PR, 1979.
S.B. Penick & Co., Montville, NJ, 1977.
Pfizer, Inc., Parsippany, NJ, 1977.
J.T. Baker Chemical Co., Phillipsburg, NJ, 1977.
Keuffel & Esser, Morristown, NJ, 1977.
Schering Corp., Manati, PR, 1979.
General Marine, Bayonne, NJ, 1978.
Crompton and Knowles, Reading, PA, 1979.
City of Camden, Camden, NJ, 1977.
E.I. duPont de Nemours, Edgemoore, DE, 1980.
Caldwell STP, Caldwell, NJ, 1978.
Kearny STP, Kearney, NJ, 1981.
Matawan Township MUA, Matawan Township, NJ, 1977.
Neptune Township STP, Neptune Township, NJ, 1978.
Ocean Grove STP, Ocean Grove, NJ, 1978.
West New York STP, West New York, NJ, 1981.
Wood-Ridge STP, Wood-Ridge, NJ, 1981.
Oakland STP, Oakland, NJ, 1978.
Pompton Lakes STP, Pompton Lakes, NJ, 1978.
Wanaque STP, Wanaque, NJ, 1980.
Wayne STP, Wayne, NJ, 1978.
Cedar Grove STP, Cedar Grove, NJ, 1981.
Chatham STP, Chatham, Township, NJ, 1981.
Fairfield STP, Fairfield, NJ, 1977.
Morris STP, Morris Township, NJ, 1981.
Pequannock, STP, Pequannock, NJ, 1980.
Roxbury STP, Roxbury Township, NJ, 1981.
Totowa STP, Totowa, NJ, 1981.
Lincoln Park STP, Lincoln Park, NJ, 1979.
Warren STP, Warren Township, NJ, 1977.
Washington MUA, Washington Township, NJ, 1981.
West Milford MUA, West Milford, NJ, 1977.
Spring Lake Heights STP, Spring Lake Heights, NJ, 1977.
Montville Township MUA, Montville, NJ, 1977.
Wynnewood S. U. Co., Freehold, NJ, 1977.
Asbury Park STP, Asbury Park, NJ, 1981.
Avon-by-the Sea STP, Avon-by-the-Sea, NJ, 1977.
Belmar STP, Belmar, NJ, 1977.
Atlantic Highlands STP, Atlantic Highlands, NJ, 1981.
West Paterson STP, West Paterson, NJ, 1980.
Passaic Township STP, Passaic Township, NJ. 1981.
Washington Township MUA, Washington Township, NJ. 1981.
Northeast Monmouth County Region Sewerage Auth., Monmouth Beach, NJ, 1981.

REGION III

City of Philadelphia, Philadelphia, PA, 1981.

Mr. BROWN of California. Mr. Chairman, the Committee on Science and Technology received a sequential referral of this bill because of our jurisdiction over environmental research and development. The Committee on Science and Technology has historically been deeply concerned with research and development generally; environmental research and development on ocean-related topics is of special concern, including research on both short-term and long-term effects of ocean dumping. Given the present strain on marine fisheries resources and the present load of contaminants flowing into the oceans of the world, the interest in deep seabed mining, and increasing exploitation of other ocean resources, it is imperative that we understand the long-term fates and effects of these uses of the oceans. At present, we do not have a sufficient data base to predict the impact of ocean dumping on the marine ecosystem.

Last March, the Subcommittee on the Environment and the Atmosphere held hearings on the National Oceanic and Atmospheric Administration budget proposal for fiscal year 1978. During the course of those hearings, we carefully examined their proposals pertaining to research on the effects of ocean dumping. As a result of those hearings and other information received from the ocean research community, our committee has made four relatively general recommendations dealing with ocean dumping research. The first is that research to improve the basic understanding of the dynamics of oceans, including biology, ocean chemistry, currents, seasonal changes, ocean-atmosphere interactions, benthic-water column interactions, should all be carried out. Ocean dumping should be viewed as a perturbation of a well-understood dynamic system. The committee's second recommendation is that research and development of indices of environmental quality to measure the effects of ocean dumping should be accomplished. Such new methods to measure and predict the impact of ocean dumping might include new bioassay tests. Our third recommendation is that a long-term program of baseline studies to establish points of reference against which to measure trends, changes and natural fluctuations should be developed. Our final recommendation is that information on basic processes of pollutants and their interactions with the environment should be collected so that pollution toxicity can be predicted.

The Committee on Science and Technology strongly supports the research and development work that is currently being undertaken by the federal government and would like to see an expanded program in the ocean dumping area. For this reason, our committee has agreed with the Merchant Marine and Fisheries Committee in the recommendations to increase funding rather than having the agencies internally reprogram funds for this research.

I should mention that our committee unanimously accepted an amendment to the bill which would provide an increase of $500,000 to assure that resources are available for the research, development and, ultimately, demonstration of advanced technology for comprehensive monitoring and modeling of ocean dumping effects in the New York Bight. Expanded water quality monitoring designed predict on a real-time basis the effect, fate, and distribution of pollutants which might adversely impact the use of ocean waters adjacent to and off-

shore of the Long Island and New Jersey coasts could be conducted in the New York Bight. The environmental episodes of 1976 which included fish kills, oil and toxic chemical spills, and the closure of public beaches has clearly demonstrated the need to identify the sources as well as the magnitude of these causative pollutants.

Mr. Chairman, I would like to make the point that the Committee on Science and Technology has found in the past that support for environmental research, particularly long-term research projects, has often been inadequate to support regulatory programs. We believe that ocean dumping is another case in point, and we strongly urge the agencies involved to take whatever steps that may prove necessary to make sure that the results of environmental research and development in the ocean dumping area be used to support a better regulatory program in the future.

Mr. Chairman, I fully support this bill and I urge my colleagues to join me in voting in favor of the legislation.

Mr. LEGGETT. Mr. Chairman, I rise in support of H.R. 4297. We have come a long way under the Ocean Dumping Act toward ending the use of the ocean as a garbage pit. Since the Act went into effect 4 years ago 248 former or potential ocean dumpers have been kept out of the ocean.

That is the good news. The bad news is that the total tonnage of waste dumped into the ocean annually has not diminished appreciably in the same period of time. Last year some 8.3 million tons of industrial and municipal waste and construction debris was dumped into ocean waters off of our shores. This compares with 10.9 million tons dumped in 1973. This high rate of ocean dumping continues despite an embarrassing lack of knowledge about the effect that this dumping has on the marine environment.

The total volume dumped has not declined because of an inability to solve the increasingly acute sewage sludge disposal problem. While all other categories of material has declined in volume, the amount of sewage sludge has increased, primarily as a result of increased sewage treatment.

Mr. Chairman, I believe that we are on the verge of solving the sewage sludge dilemma. Regulations promulgated by the Environmental Protection Agency—EPA—set 1981 as a deadline for the dumping of sludge by the last three urban areas using the ocean as a disposal site. The committee has received assurances from two of those communities that they will be out of the ocean before the termination date, and the EPA is hopeful that the New York-New Jersey area will implement alternatives to ocean dumping by 1981.

H.R. 4297 insures that the EPA's hopes will be realized. It makes it clear that no interim permits can be issued to sludge dumpers after 1981.

We cannot continue to regard the ocean as a food resource, recreation area, and cesspool. H.R. 4297 insures that the handful of communities still dumping sludge into the ocean will be orderly, but firmly shifted to land-based alternatives.

In addition to setting a deadline for the ocean dumping of sewage sludge, H.R. 4297 authorizes appropriations of $11.8 million to EPA and the National Oceanic and Atmospheric Administration to carry out the Ocean Dumping Act. These funds would go to administering the permit program, researching the effects of dumping and investigating environmentally acceptable alternatives to ocean dumping. The cost of this program is minimal when compared to the potential benefits associated with preserving our priceless coastal waters.

The Subcommittee on Fisheries and Wildlife Conservation and the Environment only this morning conducted a briefing on the status of the shellfish industry and the effect of pollution on this industry. The Department of Commerce indicates that the shellfish industry has ceased harvesting in over 18.5 percent of the shellfish waters because of intolerable levels of pollution. The acreage closed to shellfish production is increasing every year.

Estimating the financial loss associated with ocean pollution is difficult at best, but one source has put the loss to the shellfish industry at $226 million between 1966 and 1975. And this is merely the loss to one industry. When we calculate the damage to other ocean resources we can see that the research funds in this bill would be well spent.

The damage associated with ocean pollution is not limited to the impact on ocean resources. Over the last year the New Jersey and Maryland shore communities have witnessed the impact that ocean pollution can have on an important recreational resource. Last year New York beaches were closed for weeks in mid-summer due to an accumulation of trash and other materials. During the same summer the water off of New Jersey dropped to a disturbingly low oxygen level resulting in a massive fish kill on the New Jersey beaches.

These episodes illustrate the poor condition of our coastal waters. They also illustrate how much work is left to be done on the long-term effects of ocean pollution.

Mr. MURPHY of New York. Mr. Chairman, H.R. 4297 is a bill to continue the authorization of fiscal year 1978 funds to implement the Marine Protection, Research, and Sanctuaries Act.

This legislation, commonly known as the "Ocean Dumping Act," was overwhelmingly passed by the Congress 5 years ago. It provides for the regulation of all material being dumped into the ocean and authorizes research on the effects of such dumping on the ocean environment.

This program has played an important role in protecting our Nation's vital ocean and coastal resources from further degradation. Since 1972, through its ocean dumping permit program, the Environmental Protection Agency—EPA—has phased out 248 former or potential industrial waste dumpers. EPA's final revision of regulations and criteria for ocean dumping, published in the Federal Register on January 11, 1977, represent a substantial improvement in the procedures by which permits are administered. These regulations also declare a deadline of 1981 for the termination of all sewage sludge dumping which cannot meet EPA established criteria.

Despite this progress, it must also be noted that the administration of this ocean dumping program has been uneven. The Merchant Marine and Fisheries Committee has expended much time and effort in overseeing the administration of the EPA and Army Corps of Engineers programs established under title I of the act.

Much of the progress which I have just delineated is a result of increased pressure on EPA—pressure brought to bear by our committee.

Nevertheless, severe problems remain in the fulfillment of our national policy to cease all harmful ocean dumping as soon as possible.

Although many former ocean dumpers have adopted environmentally acceptable land-based alternatives for disposal, the volume of sewage sludge dumped into the ocean has steadily increased. This apparent inconsistency is a result of higher levels of waste treatment being required at both municipal and industrial facilities. Clearly, there is little that can be done to reduce the volume of sludge being generated in ever increasing amounts as municipalities install more advanced forms of sewage treatment.

One can only speculate about the levels of pollution which would have occurred in the last 5 years had the ocean dumping program not been established. Although that information may be impossible to obtain, it is clear that the pressures for unreasonable degradation of the marine environment will continue. Consequently, our present regulatory program must be continued to minimize the harmful effects of ocean dumping.

This bill authorizes $4.8 million in fiscal year 1978 for title I. This title provides for mandatory regulation of the dumping of harmful wastes into the ocean.

Title II, which provides for research by the National Oceanic and Atmospheric Administration—NOAA—into the long-term effects of ocean pollution, is authorized at $6.5 million in fiscal year 1978.

Title III, the marine sanctuaries program administered by NOAA, is authorized in the next fiscal year at $500,000.

The fiscal year has already begun. We cannot afford to wait any longer for this authorization. Therefore, I urge prompt consideration and passage of H.R. 4297. This piece of legislation contains a statutory termination date for the dumping of municipal sewage sludge. Although sympathetic to the purposes for which the provision was added in subcommittee, I am concerned about the inflexibility which it creates. Therefore, I will be offering an amendment to that provision when we take up the bill for final consideration.

Mr. Chairman. I yield the rest of my time to the gentleman from Louisiana (Mr. BREAUX), the chairman of our Oceanography Subcommittee.

Mr. RUPPE. Mr. Chairman, I yield back the balance of my time.

Mr. WALKER. Mr. Chairman, the Marine Protection, Research and Sanctuaries Act of 1972 which is commonly known as the Ocean Dumping Act, established a policy to prohibit, or strictly limit, the dumping of materials harmful to the marine environment. The act is organized in three sections: Title I specifies how ocean dumping shall be regulated and directs the Environmental Protection Agency to establish a permit program. In addition, title I gives the Army Corps of Engineers authority over dredged material dumping and authorizes the Coast Guard to provide surveillance over all ocean dumping activities. While three agencies are mandated responsibilities under title I, only the Environmental Protection Agency is authorized to be appropriated funds. Title II of the act deals primarily with research needed to carry out the intent of the act, to limit the ocean dumping of harmful materials. Three separate responsibilities are delegated to the National Oceanic and Atmospheric Administration under title II. One, to monitor and research the effects of ocean dumping. Two, to investigate the long-range effects of pollution, over fishing and man-induced changes in ocean ecosystems. And, three, to research alternatives to ocean dumping.

This bill, which contains the authorization for fiscal year 1978 funding for the Marine Protection, Research and Sanctuaries Act of 1972, was sequentially referred to the Committee on Science and Technology based on the committee's jurisdiction over environmental research and development. The Subcommittee on the Environment and the Atmosphere held hearings on March 3, 1977, at which NOAA witnesses presented their proposed fiscal year 1978 budget for research on effects of ocean dumping under the act.

The report of the Committee on Science and Technology and Chairman BROWN's statement have clearly set out our concerns in this area and our support of this legislation. Our committee has historically been deeply concerned with research and development generally, and with environmental research and development on ocean-related topics in particular. Under the present serious strain on marine fisheries resources and the current load of contaminants entering the marine environment, we see an ever-increasing exploitation of ocean resources. It is imperative that we understand the effects of these uses and misuses of the oceans. At present, we do not even have a sufficient data base to predict the impact of ocean dumping on the marine ecosystem.

I would particularly like to point out that our colleague, Mr. WYDLER of New York, offered an amendment to add $500,000 for studies of ocean dumping in the New York Bight area of the coasts of Long Island and New Jersey which was adopted unanimously by the Committee on Science and Technology. This year alone nearly 10 million tons of sewage sludge filled with material and chemical wastes will be dumped, and there is no relief in sight. At the current time, numerous Federal agencies, including NOAA and EPA, are involved in bight-related research. The funds included in the Wydler amendment are expected to assure that additional resources required for a comprehensive monitoring program will be made available to these Federal agencies during fiscal year 1978.

In conclusion, Mr. Chairman, I join with my colleague from the Committee on Science and Technology, Mr. BROWN, and with the members of the Committee on Merchant Marine and Fisheries in supporting this legislation and I urge my colleagues to vote in favor of the bill.

Mr. BREAUX. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore having assumed the chair, Mr. SHARP, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 4297) to amend the Marine Protection, Research, and Sanctuaries Act of 1972 to authorize appropriations to carry out the provisions of such act for fiscal year 1978, had come to no resolution thereon.

GENERAL LEAVE

Mr. BREAUX. Mr. Speaker, I ask unanimous consent that all Members may be permitted to revise and extend their remarks, and to include extraneous matter, on H.R. 4297, the bill just under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

NAVIGATION DEVELOPMENT ACT

Mr. YOUNG of Missouri. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 8309) authorizing certain public works on rivers for navigation, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Missouri (Mr. YOUNG).

The motion was agreed to.

The SPEAKER pro tempore. The Chair designates the gentleman from California (Mr. MCFALL) as Chairman of the Committee of the Whole and requests the gentleman from Indiana (Mr. SHARP) to assume the chair temporarily.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 8309, with Mr. SHARP (Chairman pro tempore) in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN pro tempore. Under the rule, the gentleman from Texas (Mr. ROBERTS) will be recognized for 30 minutes, the gentleman from Minnesota (Mr. HAGEDORN) will be recognized for 30 minutes, the gentleman from Oregon (Mr. ULLMAN) will be recognized for 30 minutes, and the gentleman from New York (Mr. CONABLE) will be recognized for 30 minutes.

The Chair now recognizes the gentleman from Missouri (Mr. YOUNG).

Mr. YOUNG of Missouri. Mr. Chairman, I yield myself 6 minutes.

Mr. Chairman, I would like to express my full support for the Navigation Development Act as reported by the Public Works and Ways and Means Committees.

This legislation would authorize a project that is vital to the St. Louis area, the Midwest, the mid-South and—in the long run—the entire United States. That project is the long needed replacement of locks and dam 26 at Alton, Ill.

Since it was proposed several years ago, this project has become the center of a storm of controversy about Federal subsidies to transportation, the river and wetland environment and the question of whether or not to impose waterway user charges.

But at the heart of this matter is a clear problem, with a simple solution offered by H.R. 8309: a 40-year-old locks and dam is falling apart, and it needs to be replaced.

We are speaking of two locks that were designed in the 1930's for small packet boats—not the large barge tows that now use the Mississippi River. Because of the small size of the locks—one 600-foot and one 360-foot lock—more than 60 percent of the river tows are forced to break into sections when they go through the locks.

That has contributed to delays at lock and dam 26 that averaged 12 hours per tow in 1976, causing delay losses of more than $5 million.

Something needs to be done about this bottleneck. There have been many proposals for rehabilitating the old locks and dam, but the fact is that—in the long run—building a new lock and dam would be safer and less expensive than repairing and expanding the old one.

A study by the U.S. Corps of Engineers showed that a satisfactory rehabilitation and enlargement of the present locks and dam would in fact cost about $40 million more than the new facility—with many more risks involved.

I recently had a chance to visit lock and dam 26, and to see firsthand the problems that bargemen are encountering there. There are cracks in the walls of the dam, holes in the foundation, and leaks in the joints. Some of the lock walls have deflected as much as 10 inches, leaving no room for error when the locks are closed.

A 1976 Corps of Engineers report said there is a possibility that erosion of the foundation sands under the dam could cause a collapse of part of the dam, and that in turn would cause millions of dollars in damage to facilities downstream.

Let us look at another reason why a new lock and dam 26 is badly needed: the present lock and dam is a virtual bottleneck between an upriver cargo capacity of 105 million tons a year and a downstream lock with a capacity of 140 million tons a year. What can the pres-

ent lock and dam 26 handle? A capacity of only 69 million tons—which sets the limit on river traffic.

And we are talking about crucial river traffic—more than 30 million tons of grain, 12 million tons of oil, 5 million tons of coal and millions of tons of other important minerals and raw materials went through the locks in 1976. The tonnage on the river is increasing at such a pace that it will exceed the economic capacity of locks and dam 26 by the mid-1980's.

Even if Congress acts now, the replacement of the locks and dam will not be completed for at least 9 years, and by that time the new lock will be badly needed.

Commerce in the Midwest is steadily increasing, making the need for efficient transportation vital. To adequately handle these increasing demands, the American highways, railroads and rivers must function together, and correcting the inefficiencies caused by the outmoded locks and dam 26 would be a big step towards that goal.

My home district, the St. Louis area, is one of many areas of the Midwest that are economically dependent on transportation and industries sensitive to transportation. The St. Louis area ranks as the ninth largest exporting region in the United States, the value of St. Louis manufacturing shipments is more than $11 billion a year—and all of this is effected by the transportation system in which locks and dam 26 plays a crucial role.

More than 45,000 jobs are directly related to the river industry, and economic studies indicate that a continued increase in barge traffic on the river will create many more jobs.

In addition, the construction of a new locks and dam 26 would provide thousands of badly needed jobs in the building trades in the St. Louis area, and to help reduce the high unemployment rate in those trades.

Farmers and consumers will also benefit from a new locks and dam 26. About 56 percent of the grain moving from the Mississippi River Basin to New Orleans for export passes by barge through lock and dam 26. In Missouri alone, about 51 million bushels of grain per year move through the facility.

Despite all of these factors, several environmental groups have criticized this project. The gist of their statements is that this would be the first step in some scheme to deepen the Mississippi River channel and make it a bargeman's paradise.

This is simply not true. The Corps of Engineers report on which the construction will be based (H.D. 94–584) states flatly that the river channel will remain at its present depth upstream from lock and dam 26. It would take an act of Congress to change that channel depth.

The reason for the 18-foot sill depth of the new lock is that it will allow for faster locking, and save time and money. That 18-foot depth will permit barges with large ice accumulations to pass through the locks easily. In January and February of 1976, more than 60 barge tows were stuck in the present locks because of the ice problem.

In answer to the environmental questions, it should also be noted that the system of locks and dams on the Upper Mississippi River built 40 years ago have created many nesting and wildlife areas near the river. Rebuilding locks and dam 26 will affect the environment no more than the other 29 dams in the Upper Mississippi system. A new 2-mile lake will be created between the new facility and the old locks and dam. But loss of wildlife lands covered by water will be offset—acre by acre—by the Government's purchase of additional land for a fish and wildlife habitat.

Mr. Chairman, the construction of a new lock and dam 26 has already been delayed too long. That construction is critical to the economic health of the St. Louis area and the entire Midwest. I urge my colleagues to support this legislation.

Mr. CONABLE. Mr. Chairman, I yield myself 3 minutes.

Mr. Chairman, the minority members of the Ways and Means Committee for the most part support title II of this bill. Through these provisions we would depart from traditional practice to impose a tax upon the use of the inland and intracoastal waterways for commercial barging.

Effective October 1, 1979, title II would levy an excise tax of 4 cents per gallon for the first 2 years, and 6 cents thereafter, upon liquid fuel used for commercial water transportation on major routes which are set forth in title I. Deep-draft vessels designed for use on the oceans, vessels used primarily for passenger transportation, and certain State and local government waterway uses would be exempt from this tax.

Under regulations which the Treasury Department is to develop within 9 months of enactment, waterway users will file returns and make payments of this tax on a quarterly basis. First-year receipts are forecast to total approximately $29 million.

The inland waterways, which have been available without charge to commercial users, have played a central role in the agricultural and commercial development of the Middle West and other areas. Barge traffic on the waterways in recent decades has grown considerably. According to industry sources, the waterways in 1974 bore 7.6 percent of the Nation's domestic freight.

The construction, operation, and maintenance costs of the inland navigation works, including locks, dams, and other facilities, have been met through general revenues. With the imposition of this tax, commercial waterway operators, in effect, will pay a portion of the costs of these rights-of-way.

Mr. Chairman, this is a significant policy initiative, one that the committee has developed cautiously so as to disrupt neither the industry upon which it will directly apply, nor the thousands of businesses that depend upon energy-efficient waterway transportation for the movement of raw materials and products.

The committee resisted appeals for the immediate levying of a tax schedule which would result in the recovery of all of the operation and maintenance costs and a substantial portion of the construction costs of this system. We believe that the imposition of a more modest tax is the responsible course to pursue at this time.

In order to have more complete information on the degree to which the various modes of freight transportation pay costs of this nature, on relative impacts of Government policies upon the modes, and on the effects of user charges upon the economy in general, the committee is directing the General Accounting Office to examine these subjects. Together with information derived from the waterways study authorized in title III of this act, these insights will be helpful to the committee in its future deliberations on user charges.

I urge the enactment of title II of this bill.

Mr. KETCHUM. Mr. Chairman, will the gentleman yield?

Mr. CONABLE. Mr. Chairman, I yield 3 minutes to the gentleman from California (Mr. KETCHUM).

Mr. KETCHUM. Mr. Chairman, as a member of the Committee on Ways and Means I, of course, was involved in the funding part of this bill. I have filed minority views, and the gentleman from Illinois (Mr. MIKVA), a member of the Committee on Ways and Means, and I will offer a motion to recommit with instructions to strike the funding portion of the bill at the conclusion of the debate.

Let me state at the outset that I am 100 percent in favor of constructing locks and dam 26. I am wholeheartedly, however, opposed to the very discriminatory method of funding locks and dam 26, and this is being used as a device simply to get the bill passed.

The gentleman from Illinois who joins me in this recommittal motion, interestingly enough, is opposed to locks and dam 26, but both of us are opposed to the method of funding. As the gentleman from New York (Mr. CONABLE), the ranking minority member of the Committee on Ways and Means, pointed out, deep-draft vessels will not be subject to the tax, nor will certain passenger-carrying vessels be subject to the tax, nor, in fact, will any other transportation be subject to the tax other than simply the barge industry. I feel that this is a very discriminatory way of attempting to fund locks and dam 26.

I am totally in favor of user fees, and I believe that there is a way that can be devised that would equitably apportion these costs to all the users of locks and dam 26. It can be done on a draft or a tonnage basis, however we wish to do it, but let us not pick one industry, and one industry alone, and decide to tax it as opposed to any vessels using locks and dam 26.

I bring this to the Members' attention only to point out that the gentleman from Illinois (Mr. MIKVA) and I will be offering a motion to recommit with instructions to strike the funding portion of the bill. I do believe that the Committee on Ways and Means can come up with a far better means of funding than that which is attached to this very discriminatory bill.

Mr. Chairman, I yield back the remainder of my time.

Mr. ROBERTS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I am particularly pleased to bring to the floor today titles I and III of H.R. 8309, the Navigation Development Act.

A key factor in bringing this legislation to the floor has been the usual fine leadership of the distinguished chairman of the full committee, the gentleman from California (Mr. JOHNSON). I wish also to extend my very warm thanks to the ranking minority member of the Subcommittee on Water Resources, the gentleman from California (Mr. DON H. CLAUSEN) and the ranking minority member of the full committee, the gentleman from Ohio (Mr. HARSHA).

I wish also to express my deep appreciation to the Committee on Ways and Means and its chairman, the gentleman from Oregon (Mr. ULLMAN) for the development of title II of this bill, which establishes a waterway user tax.

H.R. 8309, as reported, contains three titles. Title I authorizes replacement of locks and dam 26 at Alton, Ill., with a new dam and a single 1,200-foot lock. It also designates the inland waterways of the United States to which the tax in title II will apply.

These represent those waterways having a draft of 14 feet or less, used for commercial shallow draft vessels, and involving substantial and recurring Federal expenditures for the improvement of navigation.

Title II, developed by the Committee on Ways and Means, imposes a tax on fuel used in commercial transportation on inland waterways.

Title III of the bill directs the Secretary of Commerce and the Secretary of Transportation to undertake a joint study of various types and levels of user charges, including the tax imposed by title II, with regard to the impact on carriers, shippers, consumers, and affected regions. The study would be transmitted to the Congress within 3 years, with recommendations as to whether alternative or supplemental charges should be imposed, what users should be covered, and what the level of waterway user charges should be.

Locks and dam 26 is located on the Mississippi River at Alton, Ill. Above it are the Upper Mississippi River navigation system and the Illinois Waterway. Below it are found the remainder of the Mississippi River, the Ohio River navigation system which feeds into the Mississippi River and the Gulf Intracoastal Waterway. It is one of the most vitally located of the inland waterway projects. All waterborne commerce shipped between the Upper Mississippi and Illinois Rivers and the Ohio River, the Lower Mississippi River and the Gulf Intracoastal Waterway must pass through this facility.

The present 9-foot channel on the Upper Mississippi River was authorized by the River and Harbor Act of 1930. Locks and dam 26 at Alton, Ill., one of the last in the system, was completed in 1938. It is now almost 40 years old. Its physical condition has deteriorated, and it cannot efficiently serve current traffic without delays.

Many studies and recommendations have been made of the possibility of rehabilitating the existing structure rather than replacing it with a new one. The Corps of Engineers in its study considered rehabilitation and concluded that at best it would only be marginally less expensive than a new project. Other proposals for rehabilitation at substantially lesser costs have been suggested.

The committee has examined the various proposals for rehabilitation with great care. The difficulty with rehabilitation is that so little is known about the extent of damage to and the condition of the existing structure. The foundation and piles are under the structure and under the bed of the river and direct examination is not possible.

The condition of the structure could be much worse than claimed by some or better than feared by others.

It is the conclusion of the committee that in such a situation the best course of action to take is the most prudent. Given the critical role which this very important project plays in the movement of waterborne commerce and the engineering and cost uncertainties involved in rehabilitation, the committee has determined that the most prudent course of action which can be taken is the replacement of the existing facility with a new structure as recommended by the Chief of Engineers.

Much concern has been expressed over the possibility of increased environmental damage which may result from additional barge traffic on the upper Mississippi River. The potential damage is associated with bottom silt materials which are stirred up as the barge tows move along the river. The concern is that as the materials resettle, damage may be caused to bottom organisms.

The possibility of environmental damage is due not so much to construction of a single 1,200 foot lock, but rather to the construction of a second lock thereafter if deemed desirable and if authorized by the Congress.

The study of the need for, feasibility of, and effects of a second lock, which study is included in the authorization of the replacement project, together with the GREAT study authorized in the Water Resources Development Act of 1976, will provide the answers to these very important question. Any decision made as to a second lock will have the benefit of the information developed in these studies including the environmental impact study which will accompany any recommendation for a second lock.

Mr. Chairman, the report and the recommendations of the Chief of Engineers, and the final environmental impact statement accompanying the report of the Chief of Engineers to the Congress have been reviewed very carefully by the committee in its consideration of the authorization of a replacement for locks and dam 26. This environmental impact statement is considered by the Committee to provide adequate information for Congress to make a decision with respect to the recommended project, and to be in full compliance with the requirements of the National Environmental Policy Act.

I urge passage of H.R. 8309.

Mr. HARSHA. Mr. Chairman, will the gentleman yield?

Mr. ROBERTS. I yield to the gentleman from Ohio.

Mr. HARSHA. Mr. Chairman, I thank my distinguished chairman for yielding. I rise in support of H.R. 8309, the Navigation Development Act, as vital to advancing waterborne commerce in this country and the concerns of the producers, consumers and communities it serves.

This is really two major pieces of legislation, each deserving priority consideration by Congress in its own right. Adoption of the principle of a tax on users of domestic waterways for the first time in history is—by definition—a sharp break with the past, with repercussions which no one can predict with any real certainty.

Replacement of locks and dam 26 on the Mississippi River, though a single project out of a 15,000-mile system, is the key to the efficient and economic shipment of cargo on the backbone of our inland waterways and its ability to serve the heartland of this country.

Their combination in a single bill represents a confluent of competing private economic interests and equally conflicting public policy views with respect to future financing of transportation facilities.

Out of all the pulling and hauling, I believe we have managed to strike a reasonably balanced compromise. The fact that the administration now supports this bill, despite having advocated far heavier initial user levies and postponement of a locks and dam 26 decision, is evidence in support of that interpretation.

The Committee on Public Works and Transportation and the Committee on Ways and Means gave consideration to alternatives, as to both user charges and this particular project. Again, as to both project and the means of selecting and financing them in the future, the decisions embodied in H.R. 8309 preserve the ability of Congress to determine what happens next, in keeping with our congressional responsibility for tax, transportation and water resources development policy.

User charges are nothing new to me or my committee; we have them in the highway program and the airport and airways development program. You will recall that the concept of user fees in the highway program was phased in slowly, increasing trust fund eligibility and decreasing general revenues. But we took our time, we knew what we were doing, and we had some idea of the consequences.

On the waterways question, some witnesses wanted to go for 100-percent "recovery" for both operation and maintenance and capital construction costs. The administration was recommending 100-percent O. & M. and 50-percent capital. Other alternative suggestions were fuel taxes, segment tolls, lockage fees, congestion charges, tonnage taxes and so on.

The Committee on Ways and Means reported a fuel tax of 4 cents per gallon initially, going to 6 cents 2 years later. I support that, particularly in light of other alternatives and their unknown implications.

Those alternatives could be disruptive. All manner of development has taken place across the country reflecting the efficiencies and economies of water transportation. Business location and expansion decisions have been made, distribution systems established, communities developed, and private individuals and State and local governments have acted in the reasonable expectation that 200 years of precedent will not be reversed on short notice.

This is true not only of facilities in place, such as those fostering navigation; it is also true of a great variety of projects in the water resources and other fields where the very fact of a project's having been authorized triggers decisions, commitments, and actual physical development well in advance of its completion. Then too, there are many manufacturing, storage and terminal facilities on our inland waterways for which there is no economical transportation alternative.

Transportation-related development has assumed continued adequacy of facilities and some reasonable stability in the economics of the transportation service.

These are not abstract arguments. In the Ohio Valley alone, a recent survey showed that more than $54 billion has been invested between 1950 and 1976 in new and expanded plant facilities in counties bordering the Ohio River and its navigable tributaries. Much of this private investment is attributed to the availability of water transportation.

Besides steel, Ohio's chemical industry and power generating stations are largely dependent on barge transportation. Its benefits have prompted Governor Rhodes to initiate a program of river port development, and a study on the feasibility of Federal participation is in progress.

An ill-conceived user charge scheme could well curtail the effort, and at the same time work to increase costs on the main stem of the Ohio River during construction of lock expansion at Gallipolis, for which Congress has authorized preconstruction planning.

The point is that we need a much better grasp of the impact of these proposals, and therefore should not go beyond the full tax provisions contained in this bill until we do. The study authorized in title III is intended precisely to get at the kind of data we will need for sensible, responsible decisions in the future.

One final point: A lot of strong supporters of locks and dam 26 are prepared to go along with these initial user taxes, though without great enthusiasm. I thought it significant, though, that many locks and dam 26 supporters testified that they also use railroads, as much as if not more than water transportation, and thus have knowledge of the railroad industry and its problems and a stake in its survival.

That is the kind of balance that does credit to many of the interests appearing before our committee, and the kind of balance we tried to build into the bill. It is a beginning, an initial acceptance of the principle of user fees and also the best vehicle we could devise to produce the information we need before we consider further action. The studies that have been done do not adequately address what will be the regional and transportation economic impacts of the user fee. Some touch on it but none give a comprehensive statement—and none have had the experience of user fees being actually in effect. Now we will have this, and thus we can begin to actually access impacts and address all concerns, evaluating prior conclusions and developing the data needed in those areas which have not been previously covered. For this reason, and in the interest of providing a vitally needed replacement for locks and dam 26, I urge passage of H.R. 8309.

Mr. HAGEDORN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in strong support of H.R. 8309 to replace the badly deteriorated and inadequate locks and dam 26 at Alton, Ill., with a modern, reliable facility meeting fully the needs of the Upper Mississippi Basin.

Lock and dam 26 is one of only two lock and dam systems along the Mississippi River which must handle all traffic from both the Upper Mississippi and Illinois Rivers, yet with an operating capacity of 46 million tons of cargo has a capacity of less than half that of its equally busy counterpart downstream—lock and dam 27. This capacity was effectively reached nearly 7 years ago with annual traffic increases of 2 to 3 million tons annually since that time.

The increasingly lengthy delays resulting from these circumstances are costly in a number of ways, with the cumulative impact well in excess of the costs required to construct a new structure.

Most directly impacted, of course, are the barge operators themselves who must remain idle for extended periods while traffic slowly clears through the bottleneck at lock and dam 26. It is estimated that losses of $200 are incurred for each hour that the barges are inactive. As a result of serious structural failures in April of 1976, more than 1,000 barges were forced to remain idle for nearly a full week at an estimated cost of $10 million.

The delays, however, are at least as costly to the producers who must use the barges to transport their products to market, in particular the grain farmers of the Midwest who are heavily reliant upon waterway transportation. And what is costly for the producers is ultimately just as costly for the consumer.

In a sense, I approach this issue as a farmer, and specifically as a Minnesota farmer, with great appreciation for the farmer's dependency upon water transportation for the fertilizers, chemicals, and energy resources needed as production inputs, and for the shipment of the final product to market. At this point in the RECORD, I would like to submit several charts illustrating this point:

DOMESTIC INLAND MOVEMENTS OF GRAINS AND SOYBEANS, BY MAJOR SHIPPING AND RECEIVING AREAS, 1974

[In thousand tons]

Shipping/receiving areas	Corn	Soybeans	Wheat	Other [1]
Mississippi River:				
From Memphis area to Baton Rouge-New Orleans, La	78	2,454	459	60
From St. Louis area to Baton Rouge-New Orleans, La	472	626	313	
From Minnesota, Wisconsin, Iowa, Illinois area to—				
Baton Rouge-New Orleans, La	6,164	2,291	591	10
Tennessee River, Tenn., Ala., and Ky	165	52	128	5
Missouri River: From Nebraska, Iowa, Kansas City area to—				
Baton Rouge-New Orleans, La	241	107	330	
Tennessee River, Tenn., and Ky	60	1	249	
Illinois River: From northern Illinois and southern Wisconsin to—				
Baton Rouge-New Orleans, La	8,417	2,157	973	26
Tennessee River, Tenn., Ala., and Ky	432	159	102	58
Ohio River: From Louisville Engineer District to Baton Rouge-New Orleans, La	444	543	272	
Columbia River: From Celilo Falls-Kennewick, Wash., to—				
Vancouver, Wash., and Portland, Astoria, Oreg			638	14
Willamette and Yamhill Rivers, Oreg			313	5
Snake River: From Oregon, Washington, and Idaho to—				
Vancouver, Wash., and Portland, Astoria, Oreg			434	23
Willamette and Yamhill Rivers, Oreg			1,128	37
Total	16,474	8,390	5,928	247
Percent of total U.S. shipping areas	0.93	0.83	0.87	0.43

[1] Other includes barley and rye, oats, rice, and sorghum grains.

Source: U.S. Army Corps of Engineers, Waterborne Commerce of the United States, calendar year 1974, pt. 5, National Summaries, sec. 2, table 1.

ANNUAL VOLUME OF AGRICULTURAL PRODUCTS AND 1975 EXPENDITURES, MAJOR RIVER SYSTEMS, 1975 TRAFFIC BASE

River system	Annual cost (thousands) [1]	Net tons (thousands) [1]	Cost/ton [2]	Grains and soybeans: Tons (thousands) [1]	Grains and soybeans: Cost (thousands) [3]	Fertilizer and materials: Tons (thousands) [1]	Fertilizer and materials: Cost (thousands) [3]	Total agricultural products: Tons (thousands) [4]	Total agricultural products: Cost (thousands) [4]
Upper Mississippi (Minneapolis, Minn., to mouth of Missouri River)	$17,341.0	27,140.8	$0.639	11,364.1	$7,260.8	109.4	$69.9	11,473.5	$7,330.7

ANNUAL VOLUME OF AGRICULTURAL PRODUCTS AND 1975 EXPENDITURES, MAJOR RIVER SYSTEMS, 1975 TRAFFIC BASE—Continued

River system	Annual cost (thousands) [1]	Net tons (thousands) [1]	Cost/ ton [2]	Grains and soybeans		Fertilizer and materials		Total agricultural products	
				Tons (thousands) [1]	Cost (thousands) [3]	Tons (thousands) [1]	Cost (thousands) [3]	Tons (thousands) [4]	Cost (thousands) [4]
Middle Mississippi (mouth of Missouri River to mouth of Ohio River)	12,422.9	6,176.1	2.011	686.7	1,381.3	80.6	162.0	767.3	1,543.3
Lower Mississippi (mouth of Ohio River to mouth of Posses)	12,138.5	47,305.2	.257	2,912.6	747.4	4,759.6	1,221.3	7,672.2	1,968.7
Arkansas [5]	11,703.2	591.5	19.786	348.2	6,889.5	6.8	134.5	355.0	7,024.0
Ohio	18,088.6	32,508.8	.556	2,562.7	1,426.0	154.7	88.1	2,717.4	1,514.1
Tennessee	2,907.0	5,591.5	.520	71.2	37.0	108.8	56.6	180.0	93.6
Illinois	9,246.5	19,671.6	.470	12,430.4	5,842.8	28.2	13.2	12,458.6	5,856.0
Missouri	12,881.5	894.8	14.396	827.7	11,915.9	63.5	914.7	891.2	12,830.6
Warrior-Tombigbee-Mobile [5]	14,079.2	10,555.7	1.334	330.7	441.2	3.1	4.1	333.8	445.3
Columbia-Snake	2,794.0	11,895.5	.235	2,746.3	879.9	48.9	11.5	2,795.2	891.4
All systems	113,602.4	162,331.5	.700	34,280.6	36,821.8	5,363.6	2,675.9	39,644.2	39,497.7

[1] U.S. Army Corps of Engineers, Waterborne Commerce of the United States, Calendar Year 1975, pt. 5, national summaries, Vicksburg, Miss.
[2] Computed by dividing col. 1 by col. 2.
[3] Computed by multiplying tons by col. 3.
[4] Computed by adding appropriate column data, cols. 4 to 7.
[5] Does not include new capital expenditures.

Mr. Chairman, at least 25 percent of the total grain produced in this region eventually passes through lock and dam 26, an amount that cannot conceivably be covered efficiently by alternative modes of transportation. More commodity traffic goes through these locks each year than goes through the Panama Canal. Grain accounted for 53 percent of the total tonnage moving through the facility, followed by 12 percent for petroleum, and 9 percent each for coal and chemicals. When it is considered that a large percentage of these chemicals are fertilizers, it must be recognized that at least 60 percent of the total tonnage handled by the locks is directly related to agriculture.

The economic position of the farmer is, of course, directly affected by changes in his storage and transportation costs. As barges are delayed at Alton—for a 9-hour period, on the average—the entire grain marketing network is upset, with grain elevators unable either to load their grain or to accept new shipments from farmers. Alternative methods of transporting the produce to market are invariably more costly. As a result, during the most congested periods, the price of grain has plummeted north of Alton, while skyrocketing south of Alton.

The uncertainties aroused by the frequently sporadic, and uneven flow of traffic through lock and dam 26 are equally unsettling to the farmer in the sense that the supplies required by him for production must be available at a precise time. Delays caused by traffic logjams can and have wreaked havoc upon the entire harvests of farmers.

The outmoded lock and dam 26 structure is also costly to the utility user, mostly rural, in the Midwest who is dependent upon barge-transported coal to fire the generating facilities in this part of the country.

And it is unquestionably extremely costly to the strength and vitality of our entire domestic economy, an economy dependent upon grain exports to almost singlehandedly contribute to a respectable balance-of-trade situation. More than $12 billion worth of farm products passed through Alton in 1976 in transit to foreign markets, helping substantially to offset our $20 billion deficit attributable to foreign oil imports.

The Corps of Engineers, recognizing the deterioration of the facility at Alton, has urged its replacement for at least 9 years. In 1968, they rejected rehabilitation as an alternative on the grounds that this:

> . . . would create major construction problems affecting the stability of the existing structure and would seriously interfere with barge traffic during the construction period, resulting in costly delays.

The project authorized in title I of this bill entails the construction of a new dam with a single 1,200-foot lock 2 miles downstream from the present site at an estimated cost of $421 million. Construction would be expected to begin 6 months after final approval, and take approximately 8 or 9 years to complete. Maximum capacity of the locks would be raised from 73 million to 86 million tons, an 18-percent increase. This would take into account a number of changes in nonstructural, or operating techniques designed to make the most of existing capacity. The benefit-cost ratio of the project is 2.4 to 1.

I recognize the controversial nature of title II of this bill and, as with most of my colleagues, am not entirely satisfied with its provisions. It, however, represents a fair compromise by the Ways and Means Committee which deserves great credit for drafting it under difficult circumstances.

I am not unalterably opposed to some form of waterway user tax, but the effects and implications of a substantial user tax upon shippers, consumers, and various regions and communities have not yet been explored, in my opinion. A vehicle for such an exploration has been provided in title III of this bill. In the meantime, H.R. 8309 accepts for the first time in our Nation's history the principle of an inland waterway user charge, and thus represents a substantial departure from long-settled policy. It is set at a level which will not cause unintended, or unanticipated disruption or chaos.

There are substantial differences between river segments as to their capital, and operating and maintenance costs, and there are also considerable disparities in use, the volume of traffic, and the number of barges and carriers that would split up the burden of tolls on any given segment. Until we have a much clearer understanding of the various revenue alternatives that Congress has, and the impact of these alternatives upon shippers, consumers, and communities, I believe that we would be wrong to invest the amount of discretion in the executive branch to come up with some tax or charge that the other body has.

I am unable to call to mind any other area in which members of this body have shown any inclination to delegate what is, in effect, the power to tax. When one considers the uncertainty, and recognizes the severe differential effects of the tax or charge on industries, communities, and regions, the dangers of this delegation to the bureaucracy become apparent.

I urge my colleagues to support H.R. 8309, as reported, and continue to support what I hope will be the House position in bringing out a final version for the President's signature which will reflect the economic realities of waterway transportation.

Mr. Chairman, during consideration of this legislation in subcommittee, I was asked to handle it for the minority by the gentleman from California (Mr. DON CLAUSEN) the ranking minority member, who was deeply involved at the time in another matter before the House Interior Committee. In this role, I greatly appreciate the bipartisan cooperation that has been extended by the chairman of the subcommittee, the gentleman from Texas (Mr. ROBERTS), now serving as acting chairman.

Mr. DON H. CLAUSEN. Mr. Chairman, I rise in support of H.R. 8309, the Navigation Development Act. I believe the compromise worked out by the Committee on Public Works and Transportation and the Ways and Means Committee deserves the support of all Members of this body. It is responsible. It recognizes the truth—that in spite of all the studies done on the subject of user charges there are many uncertainties—serious deficiencies in my judgment. Therefore, H.R. 8309 imposes a modest user charge and causes a study to be made which will provide the answers for which we search on the short and long term impacts. With this in hand, we can proceed to raise the level of this charge to a fair, equitable, and appropriate amount and apply it to all who should bear the responsibility.

Mr. Chairman, I urge adoption of this very necessary legislative initiative. As a final note I would like to commend Mr. HAGEDORN, the manager on the part of the minority, who has acted in my stead because of my involvement with an is-

sue in my congressional district. Mr. HAGEDORN has done an excellent job in managing this very important bill and deserves recognition for his work.

In addition, the strong voice of our ranking Republican, BILL HARSHA of Ohio has, as always, provided the necessary leadership to work out a bill that addresses the problem and is equitable to all concerned.

And, finally, our distinguished and able chairman, RAY ROBERTS of Texas, has done an outstanding job and has once again, demonstrated insite, fairness, and objectivity in this very important navigation project.

Mr. ULLMAN. Mr. Chairman, I yield myself 8 minutes.

Mr. Chairman, title II of H.R. 8309, added to the bill by the Ways and Means Committee, imposes an excise tax on diesel and other fuels used by commercial cargo vessels on those inland and intracoastal waterways of the United States which are specified by name and description in title I of the bill.

The tax will be 4 cents per gallon beginning October 1, 1979, and 6 cents per gallon beginning October 1, 1981. It is estimated that the tax will produce revenues of $29 million in fiscal 1980, rising to $71 million in fiscal 1984. These revenues will be deposited in the general fund of the Treasury.

In the case of a commercial cargo vessel, only fuel consumed on the specified inland waterways will be subject to tax. The 26 waterways listed in title I of the bill include the Mississippi River—upstream from Baton Rouge—the Mississippi's tributaries, and the gulf and Atlantic intracoastal waterways.

The new tax will not apply to deep-draft oceangoing vessels, which generally do not make substantial use of the inland waterways, nor to recreational vessles, most of which are already subject to fuel taxes. In addition, the new tax will not apply to noncargo vessels such as passenger vessels and fishing boats.

Mr. Chairman, the imposition of this fuel tax reflects the decision of the Ways and Means Committee that commercial freight carriers using certain federally supported waterborne transportation facilities should pay a portion of the costs of developing and maintaining the system in the future. Imposition of the fuel tax establishes the important principle of applying the user charge concept.

The establishment of an equitable system of financing the inland waterways is a difficult task. As a result the committee also has provided through the General Accounting Office for further study of fuel taxes or other charges of federally maintained waterways. This study is intended to supplement the study provided by title III of the bill and will take into account Government expenditures for, and any charges presently imposed on, other methods of commercial transportation.

Mr. Chairman, I urge that title II be adopted.

Mr. Chairman, I strongly urge the members of this committee and of the House to oppose a recommital motion that would delete this fuel tax which has been recommended by the Ways and Means Committee. I think we must bear in mind how we arrived at where we are today. The river basin bill, passed by this body earlier in the year, was amended in the other body with the imposition of a major user charge principle that would, in my judgment, do several very adverse things.

In the first place, it would be essentially a tax levied in another name. It would subvert the constitutional principles of revenues originating in this body but, more importantly, and I think something that we all ought to consider, it would impose such a heavy burden of charges on the inland waterway users of this country that it would virtually put them out of business. There is no way that those kinds of charges could be paid without almost totally destroying the inland navigation system in this country.

That bill has been laid on the Speaker's desk. It is still at the desk. We come back now with the lock and dam portion of the bill and with a reasonable and a responsible user charge system.

For many years we have been plagued with recommendations that we needed to impose some kind of user charge on the inland waterways. Many of us have opposed those charges, I think with some justification. There has been a long history of free use of our navigable waterways by commercial vessels. But I think at this point, with the burden of an overwhelming vote in the other body for a user charge system that would virtually destroy the inland navigation system in this country, the burden is on us to come back with something reasonable and something responsible. That is what the Committee on Ways and Means has brought to this House, and that is why we strongly urge that the Members stay with the Committee on Ways and Means recommendation, that the tax on the inland waterway system is one that they generally can support, in view of the alternatives, and one that I think we can justify as a responsible approach to the problem that can tide us over a number of years. In this bill we have asked the General Accounting Office to bring us a study as to further actions that might be taken. That is where we are.

Mr. FINDLEY. Mr. Chairman, will the gentleman yield?

Mr. ULLMAN. I yield to the gentleman from Illinois.

Mr. FINDLEY. I thank the gentleman for yielding.

Mr. Chairman, I would like to express my appreciation to the chairman of the Committee on Ways and Means, as well as the leadership of the Committee on Public Works, for cooperating so closely and working with such consideration and speed to bring this measure before this committee. In my view it is a remarkable achievement in legislative compromise and intercommittee cooperation. I want to express my appreciation to the chairman of the committee for his role in this.

Mr. ULLMAN. I thank my friend, the gentleman from Illinois, for his remarks.

Mr. Chairman, I want to commend the gentleman from Texas (Mr. ROBERTS), chairman of the Subcommittee on Water Resources, and the gentleman from California (Mr. JOHNSON), chairman of the Committee on Public Works and Transportation, for the cooperation that they have extended in coming back with a new approach to this problem and presenting a responsible alternative to the House.

Mr. ROBERTS. Mr. Chairman, will the gentleman yield?

Mr. ULLMAN. I yield to the gentleman from Texas.

Mr. ROBERTS. I thank the gentleman for yielding.

Mr. Chairman, I certainly want to express my appreciation to the distinguished chairman of the Committee on Ways and Means. We have been working on this. Other members have been working on it for 40 or 50 years. It took the present chairman to come up with a workable solution, and I think we are all indebted to him. I think we can pass this bill.

Mr. ROBERTS. Mr. Chairman, I yield 7 minutes to the distinguished gentleman from Pennsylvania (Mr. EDGAR).

Mr. EDGAR. Mr. Chairman, I rise in opposition to H.R. 8309.

Both last year and this year, I introduced an amendment in the Public Works and Transportation Committee to impose a waterway user charge. In my view, continuing to subsidize the barge industry at the expense of taxpayers, and other modes of transportation such as rail and truck is an unjustifiable outrage. Establishing a system of waterway user charges is something which can be done on its own merits, not as a price to pay for the construction of a $432 million lock and dam at Alton.

Since July of this year, when it was clear that even those who opposed user charges would face continued delays in the construction or rehabilitation of essential parts of the inland waterway network without some user charge, I urged three committees of the House to approve a phased-in recovery program. I supported a 10-year phase-in to recover 100 percent of Federal operating costs and 50 percent of Federal capital costs. This program was approved by the full Senate, and received the support of the administration. The program recognizes the economic chaos to the industry which would result in imposing an immediate recovery. Yet it also is sensitive to the nearly a score of reports and studies which indicate that this massive subsidy to a single industry distorts our transportation policy and subverts the national interest.

Every administration since Franklin Roosevelt has endorsed recovery of what today amounts to $400 million annually to constructing, operating, maintaining, and rehabilitating our inland waterway system. No other form of transportation escapes paying a significant share of costs borne by the Federal Government for its rights-of-way. The approval of H.R. 8309, while perhaps a step in the right direction, will institutionalize present policy. The 4-cent tax imposed in 2 years will recover only $35 million, perhaps 8 percent of Federal costs. The ad-

ditional 2-cent tax in 1981 will be only a drop in the bucket more.

I find it no surprise that the barge industry generally favors this legislation. It is my understanding that H.R. 8309 is the result of an agreement worked out among the leadership, the chairman of the Public Works and Transportation Committee, and the chairman of the Ways and Means Committee before hearings on the issue began in July. It has been clear to me from the start that it would take a miracle to modify the levels and timing of the tax authorized by title II of this bill.

Even if there were the votes to accomplish this miracle, the modified closed rule precludes the offering of amendments to title II to modify this tax. I would like to underscore the administration position that the tax is too low by reading at this point in my statement a letter I received from Secretary of Transportation Brock Adams relating the administrations position on H.R. 8309:

DEAR BOB: I am writing to you to indicate that the Administration supports passage of H.R. 8309, which will come to the House floor shortly and will establish a 6¢ fuel tax on inland waterway commercial traffic after a two-year phase-in period. The bill would also authorize a new Lock and Dam 26 at Alton, Illinois. The Administration does feel that the recovery level set forth in H.R. 8309 is too low, but will work on the Senate side to increase the recovery level. I have enclosed a fact sheet providing you with background on this issue.

Sincerely,

BROCK ADAMS.

Mr. Chairman, I understand that there will be an attempt to recommit the bill with instructions to strike title II entirely. The arguments in favor of this recommital motion are the same ones used by the barge industry to justify the present free ride. I would like to take a moment to explode the myths about waterway user charges which have been perpetuated by those who benefit from this raid on our Treasury. These myths are as follows:

(1) Transportation of goods by barge is more energy-efficent than by other transportation forms, and should be encouraged.

(2) The goods carried by barges are basic commodities such as coal, grain, and gasoline. Raising their price would only contribute to inflation.

(3) The subsidy stimulates economic development adjacent to the waterways.

(4) Barge traffic would be diverted to other forms if a user charge were imposed.

(5) The costs of the user charge would be passed on to consumers anyway, or reduce the profits of farmers.

Mr. Chairman, pipelines are more energy efficient than other modes, yet receive no Government subsidy. Energy studies historically fail to include the energy used in getting the commodity to the waterway, a process which often uses trucks and rail. The July 1977, CBO report is illuminating on this issue. It finds:

Opponents of waterway user charges argue that barge transportation should be encouraged by a subsidy because it is more energy-efficient than competing methods of transportation. Relative energy use varies greatly in specific circumstances because of differences in size, speed, and type of shipments for barges, railroads, pipelines, and trucks. When reasonable estimates vary so widely one can only conclude that blanket statements on energy efficiency are unwarranted . . .(p. x, "Financing Waterway Development: The User Charge Debate", July, 1977)

If there is reason to subsidize basic commodities, the subsidy should be allowed for all transit modes. If economic development is desired, subsidies should be allowed for all modes in areas where economic development is needed. The barge traffic which would be diverted is that which cannot pay its own way without being subsidized. Of course, lifting this subsidy would require someone else to pick up the tab. This argument would be just as viable for subsidies of other modes. The fact is that it is the policy of the Federal Government to require any class of people who benefit from Federal expenditures to pay for that expenditure. This policy, underscored by the national transportation policy statement issued on September 17, 1975, also appears in a different form in existing law (65 Stat. 290).

Every other transit mode has user charges despite the fact that economic development is stimulated by these modes, and that the price of goods transported by these modes increases the price. When one mode does not pay its fair share, it distorts competition between modes. This is what has occurred, in my opinion.

Mr. Chairman, I also have a concern about the study which is authorized in title III. This study has been carefully drafted to almost assure the maximum delay in getting the study completed, since most of the data for the report has already been obtained. If any study is needed before a user tax is authorized, perhaps we should direct the Secretary of Transportation to study the scores of studies which have already been performed to look at the economic and social impacts of a tax. I have with me some of these studies. I see no reason why the title III study will be ignored any less than these. By the way I will be more than glad to share these studies with anyone here.

In conclusion, I urge my colleagues to vote down this legislation, and allow for a revision of the bill which will provide for a more meaningful waterway user charge proposal.

Mr. ROBERTS. Mr. Chairman, will the gentleman yield?

Mr. EDGAR. I yield to the chairman of the subcommittee.

Mr. ROBERTS. Mr. Chairman, the gentleman from Pennsylvania (Mr. EDGAR) made the statement that the chairman of the Committee on Public Works and Transportation and the chairman of the Committee on Ways and Means had made an agreement before the hearings ever started.

We had never so much as discussed it, and we would not do that in any case. I repeat that we had never so much as even discussed the matter, and I am sure the gentleman from Oregon (Mr. ULLMAN) will speak for himself.

Mr. ULLMAN. Mr. Chairman, will the gentleman yield?

Mr. EDGAR. I yield to the chairman of the Committee on Ways and Means.

Mr. ULLMAN. Mr. Chairman, let me point out that there is no way, even if I wanted to, that I could make an agreement for the Committee on Ways and Means.

Mr. EDGAR. Mr. Chairman, I respect the chairman of the full Committee on Public Works and Transportation, the acting chairman of that committee, and the chairman of the Committee on Ways and Means, and I thank the gentlemen for their statements.

The information I received from some people within the administration and in press accounts was that such a discussion did take place, lubricating the legislative path for this legislation. As a member of the Committee on Public Works and Transportation, it was indicated to me on several occasions that the Committee on Ways and Means would have sole jurisdiction over the fees and taxes. We in the Public Works and Transportation Committee would be only responsible for title I and title III, and the 4 cent and the 2 cent additional taxes would be placed in the bill by the Ways and Means Committee.

Mr. Chairman, I appreciate the clarification made by the gentleman on that, and I stand corrected.

Mr. JONES of Oklahoma. Mr. Chairman, will the gentleman yield?

Mr. EDGAR. I yield to the gentleman from Oklahoma.

Mr. JONES of Oklahoma. Mr. Chairman, I thank the gentleman for yielding.

I would also like to correct the statement that the gentleman made.

As the author of title II, the author of the substitute which became title II, of this bill, I can assure the gentleman that the formula was worked out by myself and my staff with no conversations with either the chairman of the Committee on Public Works and Transportation, the chairman of the Committee on Ways and Means, or the leadership.

Mr. EDGAR. Mr. Chairman, I thank the gentleman for his comment.

Mr. HAGEDORN. Mr. Chairman, I yield such time as he may consume to the distinguished gentleman from Arkansas (Mr. HAMMERSCHMIDT).

Mr. HAMMERSCHMIDT. Mr. Chairman, I rise in support of H.R. 8309. I support the reconstruction of locks and dam 26 and feel that action is urgently needed. I am less than enthusiastic over the proposition which would impose waterway user charges. My concern centers around the effect such charge would have on the national economy. On the one hand Congress through the Economic Development Administration and the title X regional commissions is trying to stimulate the development of depressed areas. We are providing supplemental aid to schools, medical facilities, airports, highways, and waterways to stimulate the national economy. We do this because there is a justifiable need. However, if we now preclude the waterways from realizing their potential utilities because of overly burdensome user

charges, are we then cutting off our nose to spite our face? On the one hand, giving Federal grants to aid these depressed economies and on the other taking it away.

I am especially concerned over the impact a user charge may have on the McClellan-Kerr waterway. This $1¼-billion investment may never yield the benefits Congress contemplated unless we act responsibly when user charges are imposed. When we are discussing the possibility of destroying this waterway I hope my colleagues will err on the side of caution—in order to protect this investment. I use the word "err" because of my firm belief that it is an error to impose these charges on the most efficient mode of transportation this Nation possesses.

If we are to have user charges I support the House provision since it reasonably provides for an analysis of the impacts of this legislation as it imposes a modest level of fuel tax. I personally do not believe we should impose user charges until we have the results of the study. However, the administration has precluded this option by their threat of a veto of any bill that does not contain user charges. Recognizing this, I hope that my colleagues will overwhelmingly endorse H.R. 8309.

Mr. HAGEDORN. Mr. Chairman, I yield 2 minutes to the gentleman from Illinois (Mr. FINDLEY).

Mr. FINDLEY. Mr. Chairman, I can understand the feelings of my friend and colleague, the gentleman from Pennsylvania (Mr. EDGAR), who would like to see a larger user fee become law or, at least, that there be a phasein leading to a larger user fee. There are many others who will have that same sentiment.

Yet, Mr. Chairman, I also have the feeling that if the gentleman had my experience, over the past few years, as a person representing the area in which locks and dam 26 is located, he would have really cause for rejoicing in the realization that the committee now has before it a major step forward in the establishment of a reasonable user fee.

Mr. Chairman, the gentleman said that this will yield perhaps 8 percent of the cost of operating the rivers for navigational purposes. Perhaps the estimate is about right. It will go somewhat higher when the larger level of user fee is established; but I am inclined to think myself, after the personal experience that I have had, that were it not for the compromise on the user fee level, the locks and dam project would not have moved forward.

Enormous forces have been arrayed on both sides of this issue. Railroads, of course, have had deep concern over the tax status of the barge lines, and other interests have a great stake in the efficient movement of commodities like grain through the rivers and have also had a great interest in the improvement of what is viewed as the principal bottleneck in the river transportation system.

Both of these interests have been able to rally such substantial force in behalf of their position that there had to be a compromise. Otherwise, deadlocks would have continued. I feel that this has been a remarkable achievement which should really cause those who believe in the user fee to count their blessings. A year ago the enactment of a user fee was regarded as unthinkable.

Perhaps it is only 10 percent of the loaf that some would really like to have, but it is a significant advance which should cause those persons great satisfaction.

The importance of lock and dam 26 to the Midwest, and to the entire Nation, cannot be overemphasized. Fifty-five million tons of commodities pass through this strategic link in our waterway system each year. It is as important to our Nation as the Panama Canal which has sparked so much controversy. In fact, nearly one-sixth of our Nation's annual exports are grains originating in the upper Midwest and passing through lock and dam 26. The oil, coal, agricultural products, and other commerce passing through these locks are vital to the Midwest and touch the lives in some way of nearly every resident of my central Illinois congressional district. Without this vital link the economic prosperity of the Midwest and our entire country is gravely threatened.

The problem is that the existing lock is too small for the traffic volume and the facility shows signs of serious weakening.

Moreover, this antiquated and deteriorating 600-foot long lock must handle twice as many barges as any other 600-foot lock in the Mississippi River system. The next lock south is already 1,000 feet in length, and so should be the Alton lock, since both must handle the same traffic. The Alton facility continually causes delays in moving vital heating fuel to the upper Midwest and grain to export markets. A new lock and dam would put an end to repeated interruptions of river commerce that have already cost consumers millions of dollars.

This bill is also important for another reason. For the first time it will require those who use the Nation's waterways to help pay for the operation, maintenance, and eventually construction of facilities like lock and dam 26. For years I have urged that such a user fee be instituted. It is not fair for taxpayers continually to bear the full expense of maintaining the Nation's rivers. This bill recognizes that fact and does something about it.

The Senate has already passed a similar bill authorizing a new facility, and it is vitally important for the House to act today.

Mr. HAGEDORN. Mr. Chairman, I have no further requests for time.

Mr. ROBERTS. Mr. Chairman, I have no further requests for time.

Mr. ULLMAN. Mr. Chairman, I yield 5 minutes to the gentleman from Oklahoma (Mr. JONES).

Mr. JONES of Oklahoma. I thank the Chairman for yielding, and I shall not use the full 5 minutes.

On this particular bill there are two issues that have to be resolved. One is whether or not locks and dam 26 should be built, and the other is what, if anything, is an appropriate formula for taxing the use of inland-developed waterway systems. These are related questions.

Frankly, on the first question of locks and dam 26, I have struggled very long and hard to come to a decision in favor of replacing locks and dam 26. I am now convinced that the situation in the Midwest in those areas that would use this particular facility is such that we need locks and dam 26 in order to get the wealth of agricultural and other products in that area to the market. The consumers need it to stabilize the cost of transportation for these various products.

Title II pertains to the appropriate fee for the use of inland waterway systems. As I mentioned in the colloquy with the gentleman from Pennsylvania, my substitute which was offered in the Committee on Ways and Means and accepted has now become title II. There are two parts to it. One is the tax itself of 4 cents per gallon in 1979, increasing to 6 cents per gallon in 1981. The second is a requirement that the General Accounting Office perform a study dealing specifically with the question of what is an appropriate level of taxation on commercial inland waterway use. My initial reason for offering this substitute and working out this formula was a parochial one. As many of you know, we have a developed waterway system in my State and the State of Arkansas in the form of the Arkansas River navigation system. A billion dollars of Federal funding has gone into this program. It has produced tremendous benefit for the States of Arkansas and Oklahoma in the form of new development and new jobs, and it has meant a great deal to the consumers of this country in the form of adequate, efficient, and economical transportation of products to market. So my particular interest was to make sure that whatever tax was charged would be such that it would not close down or jeopardize this navigation system we have funded.

In working out this formula I was guided by the principle that everyone should pay some share of the cost of Government, and that includes inland waterway commercial users. I was also guided by the principle that transportation policy inasmuch as possible should remain neutral, so I look upon title II as the first step in taxation toward a neutral transportation policy. I think it is fair. I think this, coupled with the GAO study to advise us of some solid facts as to what is an appropriate neutral transportation policy for this country, will give to this Congress the kind of information we need to adopt such a policy.

I think this is a good bill. It is one that ought to be passed. The motion to recommit ought to fail, and we ought to move ahead and be responsible and responsive to the taxpayers of this country.

Mr. KREBS. Mr. Chairman, will the gentleman yield?

Mr. JONES of Oklahoma. I yield to the gentleman from California.

Mr. KREBS. I thank the gentleman for yielding.

As somebody who can, I think, honestly state, No. 1, that he has not made up his mind, and No. 2, that he is far removed geographically and otherwise from this particular project, I am a little

bothered by the size of the tax that the gentleman just got through saying is going to be 4 cents, later to be raised to 6 cents, and as to how this tax was really arrived at.

It is my understanding, and the gentleman can correct me if I am wrong, that on a pay-as-you-go basis the tax really should be something like 42 or 43 cents. Am I correct on that?

Mr. JONES of Oklahoma. This is what the Department of Transportation study indicates. The Congressional Budget Office study, however, indicates that if such a tax were imposed, certain developed river systems such as the Kentucky, Missouri, Arkansas, and four other rivers would be completely closed down as far as commercial transportation is concerned. It would be penny wise and pound foolish in my judgment for us to spend $1 billion to develop a transportation system and then impose a tax that would make it unusable.

Mr. KREBS. Mr. Chairman, if the gentleman will yield further, would he for my benefit, if I may impose on him, explain why this necessarily would be the result?

Mr. JONES of Oklahoma. I cannot personally verify the Congressional Budget Office study that was given to us in committee, but this was the finding of the study. A basic premise of the report was that at some point there is a certain elasticity, and at some point the tax becomes so burdensome that the mode of transportation is no longer viable and competitive, and travel on that mode would be diverted elsewhere, either to railroads, trucking, or some other form of transportation.

Mr. KREBS. Is it the position of the gentleman, if I understand correctly, that the 6 cents tax would be the breaking point? This was not my understanding, but I may be in error.

Mr. JONES of Oklahoma. From what we know at this stage, the 6 cents tax appears to be the breaking point. This is why I have coupled with this tax a requirement for a study by the General Accounting Office which brings all studies together and focuses on the simple question of tax. They will report back to us and tell us what an appropriate tax is for waterways and other forms of transportation. I do not think we ought to be levying tax policy out of basic ignorance or without a complete grasp of what the consequences would be, so 6 cents, from what we know now, interim proposal.

Mr. KREBS. I thank the gentleman.

Mr. EDGAR. Mr. Chairman, will the gentleman yield?

Mr. JONES of Oklahoma. I yield to the gentleman from Pennsylvania.

Mr. EDGAR. Mr. Chairman, I have several questions I would like to ask the gentleman. First of all I think he is right by saying he was the author of the substitute.

Mr. JONES of Oklahoma. That is correct.

Mr. EDGAR. Is the gentleman not aware that in the Public Works Committee when we were discussing titles I and II of the bill the figure of 4 cents tax was in fact discussed?

Mr. Chairman, if the gentleman will yield further, the substitute amendment offered by the gentleman from Oklahoma was really the bringing together of some discussion that had already taken place prior to the time the Ways and Means Committee discussed the issue, and the addition offered by the gentleman and the compromise was to add the additional 2 cents. Is that not correct?

Mr. JONES of Oklahoma. No, as far as I know that is not correct. Whatever discussions were held in the Public Works Committee were not divulged to me and I do not know whether these discussions occurred before or after I offered my proposal. My original idea was to place a 4 cents fuel tax on all forms of transportation. In the course of discussion I felt this was going too far and that it needed further study. Since the main question before us was water transportation, I decided to concentrate on the waterways issue.

Mr. EDGAR. I appreciate that. We discussed it at some length and heard testimony, and the 4 cents got locked in. That tax will recover approximately 8 percent of Federal expenditures to construct, operate, and maintain the inland waterway system.

Mr. JONES of Oklahoma. Based on the discussions in the Public Works Committee, I would like to ask my distinguished colleague from Pennsylvania how that 8-percent figure is broken down in terms of transportation versus recreational or flood control, and what various benefits do we derive from what we spend on our investment.

Mr. EDGAR. Of course, it is 8 percent of what we spend on waterways, but I wonder why we did not suggest another alternative.

Mr. JONES of Oklahoma. For the past 4 or 5 years Congress has passed many resolutions out of ignorance of the facts and the consequences of the action.

I think it is time we started acting on factual information and not on ignorance of the facts.

The CHAIRMAN. The time of the gentleman from Oklahoma has expired.

Mr. ULLMAN. Mr. Chairman, I yield 2 additional minutes to the gentleman from Oklahoma.

Mr. SMITH of Iowa. Mr. Chairman, will the gentleman yield?

Mr. JONES of Oklahoma. I yield to the gentleman from Iowa.

Mr. SMITH of Iowa. Mr. Chairman, the gentleman from California has asked at what point can the States not bear the additional tax on barge transportation—I would just like to point out that last year, in one bill alone, we subsidized railroads to the tune of $900 million annually. Barges are the most efficient form of transportation in the country, so, obviously, they would be in business longer than any other form of transportation if everyone paid their own way. How much they pay depends on how much we continue to subsidize other forms of transportation; is that not right?

Mr. JONES of Oklahoma. That is very true. It is a relative question. In determining these things, we may have to take into consideration the question as to what modes of transportation should be subsidization is required, barge transportation being the most energy efficient mode of transportation, certainly should fall into this category in light of the energy shortage we are experiencing.

Mr. Chairman, I would like to add that "Huckleberry Finn" might never have been written but for the inspiration Mark Twain received from his many voyages up and down the mighty Mississippi as a strapping young riverboat pilot.

Lewis and Clark's "Journal" speaks eloquently of the hardship of land portage of canoe and supplies between the surging white waters as they searched for a Northwest passage.

From the moment our forefathers slipped paddle into water to transport a trapper's furs to market, our economic destiny has been linked to the inland waters. Just as surely as the enormity of the seas has insulated us against the ravages of war, so have the watery fingers of our rivers and streams helped place us first among world markets.

I do not intend to clutter the debate with additional facts and figures. Enough has been said of these matters. I do, however, want to speak to my colleagues on both sides of this issue.

To those of us who oppose any charge for the use of our Nation's waterways, I must candidly say the time has come for the proposal at hand. We find ourselves in a political "Catch-22," and there is no way out of our dilemma short of choking off a great river's capacity to carry the cargo of mortal men.

To those of us who demand full payment from the purse of those who use our waters, I call to mind the words of Ben Franklin:

> When the well is dry, we know the worth of water.

In my own area of the country, "full recovery" would quickly translate into "no recovery," as waterborne traffic would be driven from the waters that nurtured such economies.

In our zeal to correct past errors in judgment, let us not create new wrongs. The proposal before us is just and honorable. It leads us down an unknown path not at a gallop but at a stroll. It gives us time to seek one another's counsel, and the option to turn back if the shadows grow long.

No man suffers from knowledge, and this proposal contains the seed of such a gift. We would do well to remember T. S. Eliot's admonishment:

> History has many cunning passages . . . contrived corridors, and issues . . . deceives with whispering ambitions . . . guides us by vanities.

Let us resist our temptations, my friends, and cast a moderate lot.

Mr. VANIK. Mr. Chairman, will the gentleman yield?

Mr. JONES of Oklahoma. I yield to the gentleman from Ohio.

Mr. VANIK. Mr. Chairman, I want to make very clear to the Members here today that I support, and I support strongly, the imposition of fuel taxes in order to help recover some of the huge Federal expenditures currently being made on our Nation's inland waterways. While the fuel tax included in this leg-

islation is not as strong as I would like, I believe it is a step toward what eventually must be—full recovery of all costs by the Federal Government for maintenance and construction.

I am supporting the bill with the strong hope that the conference committee will be able to raise the fuel tax level.

Mr. Chairman, the issue before us is a fairly simple one. The Federal Government has spent literally billions of dollars over the last decades to construct and maintain an elaborate system of locks and dams and waterways in order to improve operating conditions for largely commercial waterway travel.

As an example, section I of this bill also contains authorization for close to a half of a billion dollars for a new dam facility at Alton, Ill. Current Federal expenditures for upkeep of all waterway facilities is now running close to a billion dollars each year.

The legislation before us today would simply require that the users of this extensive Federal construction and maintenance effort help pay for it. While the taxes in this bill do not provide for full recovery of Federal expenses, they are a start toward what we should require in most every Federal assistance category, whether we mean highways, railroads, or whatever.

There is much argument about who among the transportation industry is really subsidized, who has the best per mile or point-to-point ton/mile costs, and how much is being spent in alternative industries. I believe that it has been conclusively proven that each segment has its advantages, but that each segment must pay its own way.

Mr. Chairman, I urge that the House support the language before us that includes the fuel tax on waterway users. It is not fair to bill all the American taxpayers for improvements and maintenance that may only be used by some. While the tax level in this bill is not as much as either I or the administration would like, I hope that it can be raised in conference so that complete recovery of Federal expenditures can be accomplished.

Mr. JONES of Oklahoma. Mr. Chairman, I thank the gentleman.

Mr. HAGEDORN. Mr. Chairman, I yield 1 minute to the gentleman from Minnesota (Mr. STANGELAND).

Mr. STANGELAND. Mr. Chairman, I rise in support of H.R. 8309, the Navigation Development Act. This is a very necessary bill and must be enacted. It represents a reasonable compromise and addresses the concerns that have been raised over the replacement of locks and dam 26.

I believe that the Committee on Public Works and Transportation and the Committee on Ways and Means should be complimented for their work on this bill. I am pleased to see two committees come together and develop a legislative initiative which all members can support.

Mr. Chairman, I represent a farming district that depends upon waterways, trucks, and railroads for the movement of our agricultural production. Three competing modes of efficient and dependable transportation allow the farmers to provide America and the world with adequate supplies of grain. To aid our farmers in their battle with the cost-price squeeze we also need to have our supplies of fertilizer and other farm chemicals shipped upstream as cheaply and dependably as our grains are shipped downstream. The waterways assure this.

Locks and dam 26 is a vital link in the waterway system. In 1938 only 1.3 million tons of goods went through the newly opened locks at Alton. By 1975 the volume had risen to 54,568,000 tons. The tonnage at locks and dam 26 continues to rise. In 1985 close to 38.2 million tons of grain will move through the locks, and grain comprises only half of the total volume at the locks.

Other segments of the economy are also served by the locks at Alton. Close to 5 million tons of coal and 7 million tons of petroleum is shipped through the locks each year. These fuels are shipped upstream for use in electrical plants to provide lighting and heating to millions of our upper Midwest consumers, rural and urban, and to provide residual fuel oil.

Some may say that there are alternatives to Alton and the Mississippi Waterway, but I disagree. Our nearest deep water port for northwestern Minnesota is Duluth, but the Duluth Harbor is bound by thick ice each winter. For the overseas shipment of grain and the acquisition of needed chemicals and fertilizers we have to depend on New Orlenas. The most efficient method of linking the deep water port of New Orleans to the upper Midwest is the Mississippi. We use rail transport in the winter to move goods below the upper reaches of the river and we use rail and truck transport as linkages to the barges, but it is the waterway which remains the primary and best north-south mid-American roadway for commerce.

The locks at Alton are an important juncture of the Mississippi waterway. Forty years after construction, locks and dam 26 is able to accommodate the millions of tons of shipping, but with costly delays. Every year, as the barge tows increase in size and number the delays for going through the locks also increase proportionately. These delays are costly, not only in money but in time and fuel as well. I would like, at this time, to submit, for the RECORD two tables showing the costs of these delays.

You can see from these tables that the costs of delay are rising. In 1975 the total cost was $5.1 million, in 1976 it was $7.9 million. The increased cost of delays are born by the user—farmers, agri-business, small businessmen—and ultimately passed on to the consumer in the form of higher utility rates and food prices.

The need for a new and efficient lock at Alton to increase the effectiveness of the Mississippi waterway as a route of commerce and to keep down transportation costs, has brought together a wide range of groups representing business, labor, energy suppliers, and the farmer. All of these groups are united in their support for H.R. 8309. I would like, at this point, to salute the Minnesota Agri-Growth Council—an agribusiness-farmer organization—and Russ Schwandt—a founder—who have been strong proponents for the new locks and dam 26, as well as other matters affecting the agribusiness farm community. I am proud to add my voice to their ranks.

In closing, I would like to address the issue of the user charge. This bill imposes for the first time a modest waterway user charge. It would be inappropriate to do more without adequate information as to the real impact of user charges. The question of the historic free usage of our Nations waterways and the subject of user charges is an issue to be studied and debated at length before the appropriate committees of this Congress. Those who would advocate a higher user fee, without full consideration of its impact on food prices and on other consumer goods, as well as jobs, are not being responsible to the economic health of our Nation. The comprehensive study authorized in H.R. 8309 will tell us what is a fair share and who should pay. I would prefer to postpone the imposition of the user charges until the study is completed. However, I recognize the fact that the President has pledged to veto any authorization for the project unless user charges are imposed. The replacement of locks and dam 26 must proceed now—to wait only increases the total cost of the project as well as increasing the risk of collapse of the existing structure. Delay is unacceptable. Therefore, working with the realities let us act on H.R. 8309. I urge my colleagues to support this bill.

DELAY—LOCKS AND DAM NO. 26

	Average delay, both locks (hours)	Towboats both locks	Average delay, main lock (hours)	Towboats main lock	Total delay losses
1975					
January	2.96	723	4.53	415	$224,275
February	[1] 6.03	546	8.04	365	348,787
March	4.57	767	6.85	442	378,209
April	2.10	681	2.84	451	140,406
May	1.67	754	2.45	450	130,415
June	4.24	702	6.23	431	315,116
July	6.27	878	10.95	435	559,058
August	5.98	813	10.66	396	493,779
September	5.65	785	9.53	400	482,778
October	12.32	849	22.74	392	$1,041,820
November	11.04	756	17.58	381	833,177
December	3.38	703	4.78	383	242,498
Total	[2] 5.52	[3] 8,957	[2] 8.93	[4] 4,941	5,190,318
	[5] 5.65		[5] 8.73		
1976					
January	[1] 13.52	590	18.79	353	$837,299
February	[1] 13.16	649	19.32	363	845,066

	Average delay, both locks (hours)	Towboats both locks	Average delay, main lock (hours)	Towboats main lock	Total delay losses
March	6.70	772	11.16	408	$565,346
April	[1] 27.01	690	33.44	325	1,928,497
May	[7] 10.75	871	15.50	476	945,815
June	7.51	841	9.80	454	620,795
July	4.82	796	6.44	434	363,469
August	4.28	753	6.56	431	384,930
September	5.65	713	8.38	403	470,551
October	4.08	822	6.27	442	$377,777
November	3.53	714	4.94	413	290,000
December	3.98	694	5.87	407	310,773
Total	[2] 8.75 [5] 8.50	[8] 8,905	[2] 12.21 [5] 11.59	[9] 4,909	7,940,406

[1] Ice condition.
[2] Average.
[3] 6 percent of the 8,957 towboats using both locks experienced delays exceeding 20 hr and 1.30 percent experienced delays exceeding 40 hr.
[4] 10 percent of the 4,941 towboars using main lock experienced delays exceeding 20 hr and 2.40 percent experienced delays exceeding 40 hr.
[5] Weighted average.
[6] Main lock closed several days due to end cell failure.
[7] Backlog from April closure.
[8] 7.66 percent of the 8,905 towboats using both locks experienced delays exceeding 20 hr and 3.27 percent experienced delays exceeding 40 hr.
[9] 12.02 percent of the 4,909 towboats using main lock experienced delays exceeding 20 hr and 4.18 percent experienced delays exceeding 40 hr.

Mr. SLACK. Mr. Chairman, the State of West Virginia has a vital stake in water transportation. Much of our coal reaches consumers by river—the Ohio, the Kanawha, and the Monongahela. It is estimated that in the latest year rereported some 30 million tons of West Virginia coal moved on these rivers, representing a value at the mine of about $883 million and the production of 14,900 coal miners. Most of the coal carried on the three rivers is consigned to electric generating stations on the river banks which transmit energy by long distance transmission lines to inland communities throughout the Upper Ohio Basin. With the State's three river systems, probably the larger portion serves electricity consumers in West Virginia. The fuel adjustment formula promptly reflects savings in transportation costs into lower rates for homes, farms, and business establishments.

The chemicals industry of the Kanawha Valley and the northern panhandle of West Virginia on the Ohio River is critically dependent on transits via the Gallipolis and Winfield locks. In 1975 about 2.4 million tons of bulk chemicals moved into the Kanawha River from the gulf coast and from the Mississippi and Ohio River Valleys. This traffic consists mainly of bulk feed stocks and intermediates which the West Virginia chemicals industry converts into finished products for distribution by rail and truck throughout the northeast quadrant of the United States. The Gallipolis and Winfield locks are thus critical gateways on which this industry depends for essential raw materials.

The gasoline received by river barge into the Kanawha and Little Kanawha Rivers in 1975 amounted to about 29 percent of the total gasoline consumption of the State of West Virginia. Large additional quantities, not separately recorded, were received on the Ohio River upstream from Gallipolis.

Practically all of this gasoline transits the Gallipolis locks and most of it the lockage at Winfield. Alternative modes of transportation are not economically available. A large portion of the gasoline received by barge is shipped by small distributors and marketers who lack the volume for pipeline participation.

Other petroleum products received via the affected navigation works include distillate fuel oil, kerosene, jet fuel, and lubricating oils, all in substantial quantities and of importance to West Virginia industry.

In addition, important steel production in my State depends upon low-cost water transportation to meet the competition of cheap foreign steel imports. The steel industry is already undergoing severe hardship.

The user charge formula of the Senate version of H.R. 5885 as applied to these movements would drastically increase transportation costs. On the Ohio—treated as a single segment—costs by river could rise as much as 20 percent. Imposition of lockage fees as authorized by the Senate version would result in still higher charges on the affected reaches. It appears that if the proposed improvements of the Gallipolis locks and dam on the Ohio and the Winfield locks on the Kanawha were to be under construction at the same time, the user charge on a movement between Huntington and Charleston could amount to $1.93 a ton.

The charge for ICC-regulated water carriage on the Mississippi River and tributaries in 1976 averaged 5.07 mills per ton mile of cargo. This is probably close to that on the Upper Ohio and Kanawha Rivers. The river distance between Huntington and Charleston is about 100 miles. Therefore, the above stated charges per ton would amount to 19.3 mills per ton mile. The 19.3 mills would thus multiply carrier charges nearly five-fold during the period of construction.

The user charges at these levels would exert a serious adverse effect on West Virginia industry. Delivered costs of coal would rise to the competitive disadvantage of West Virginia producers. These higher costs would be translated into higher costs of electric power, thus increasing the cost of living and the costs of all industry utilizing electric power. Increased delivered costs of chemical feed stocks would be pyramided into the costs of countless finished products. Higher gasoline and petroleum products prices would constitute a levy ultimately borne by motorists, truckers, farmers and industrial users throughout the State.

There is considerable probability that under either of these impositions, neither the projected Gallipolis nor Winfield improvements could be constructed. The present benefits-cost ratio at Gallipolis, at about 4-to-1, is very favorable. However, the proposed user charges would substantially reduce the prospective tonnage and would reduce also the benefits per ton on which the ratio is calculated. It is entirely possible that the new ratio would turn out to be less than 1.0.

But, under the Senate version, even if the new benefits-cost ratio were still favorable to the Gallipolis and Winfield improvements, it might be impossible to construct the projects anyways. The entire 50 percent of construction costs would have to be paid during the period of construction, and the traffic simply might not be able to provide this much revenue. Under a levy of $1.93 per ton, every shipper who could do so would divert to other routings and other modes during the period of construction; shippers contemplating new or expanded movement would defer action until completion; and many carrier movements would be financially untenable. On the reduced tonnage, the $1.93 levy would have to be raised to unpredictable levels. It is entirely conceivable that, at Gallipolis and Winfield, even if the benefits-cost ratio remained distinctively favorable, the residual movements simply would not have the money to finance 50 percent of the project costs during the years of construction. At Gallipolis and Winfield, combined, about $142.5 million would have to be squeezed out of the traffic in only 6 years—1976 construction cost levels).

The adverse impact on the Monongahela River would be even more certain. With four projects proposed for construction, carrier charges would have to be raised to untenable levels. From Morgantown, W. Va., to Clairton, Pa., it is estimated that, under the Senate version, the proposed charges would amount to 23.5 mills per ton-mile. Some of the present lock and dam structures on the Monongahela are over 70 years old and, with continued deterioration and no replacement, might well have to be closed permanently to traffic.

It cannot be too strongly emphasized that the percentage cost recovery and waterway segment charge features of the Senate version will inevitably lead to ever increasing charge levels. Costs of operation and maintenance do not decline with reduced volumes, nor do construction costs once a project is undertaken. As volume drops under the impact of the first round of charges, the rate of charge must therefore rise to attain the specified cost recovery objective, generating an irreversible trend of rising unit costs against reduced traffic. The gradual reduction of river traffic to levels insufficient to justify continued operation and maintenance is a grim and realistic prospect under such a formula. Any hope of constructing urgently needed replacement and expansion projects on the upper Ohio, the Kanawha,

and the Monongahela would be dim indeed.

If river facilities are not improved and river costs rise on diminished volume to prohibitive levels, West Virginia's basic industries will be damaged beyond repair. Alternative means of transportation alone simply cannot do the job at acceptable costs. Indeed, the rise in water transportation costs resulting from such user charges would undoubtedly result in higher rail rates affecting enormous tonnages of existing traffic whose rates are now anchored by water competition. The inflationary consequences are beyond calculation.

It is ironic that the constructive assistance provided to West Virginia by Congress under the Appalachian Regional Development Act and for development of its water resources, may be wasted if the ill-conceived user charge formula of the Senate bill and similar measures proposed by some Members of the House are enacted.

The economic welfare of my State and its hopes for the future require that Congress retain control of waterway tax and charge levels and methods of imposition, and that it reject formulas for differential segment charges and percentages cost recovery. H.R. 8309 recognizes those imperatives and represents a reasonable attempt to provide supplemental revenue sources for urgently needed improvements to the waterway system. I urge its passage.

Mr. FRENZEL. Mr. Chairman, H.R. 8309 has taken a long time and a circuitous route to get here. It may not be anybody's first choice, but in light of the necessity to pass a bill it is as good a legislative compromise as is possible.

In this body we must live with political realities. Those realities on this issue are easily explained. The other body has passed a user fee system for our waterway traffic. The administration, hungry for revenues of any kind to balance its budget by 1981, has decided to assist the Senate in holding this desperately needed Mississippi River lock and dam hostage to the passage of user fees for all our country's inland waterways. I believe fees or taxes ought to stand on their own feet, but the linkage in this situation that confronts us is political fact, and we must now try to salvage the optimum result.

This bill is the product of both the Public Works and Ways and Means Committees. It resulted from active cooperation between the two. Both committees support it strongly.

Title I authorizes the replacement of lock and dam 26 at Alton, Ill., with a new dam and a single 1,000-foot lock. It also designates 26 inland waterways on which commercial traffic will be subjected to a tax that is discussed in title II.

Lock and dam 26 was built, along with much of the Mississippi chain, in the late 1930's. It is, today, an old concrete structure supported largely on wooden pilings driven into sand. These pilings generally sink down about halfway to the bedrock located 70 feet deep. Its structure is in a now-outmoded vertical design which has contributed to some of the major physical problems which have developed over the last 40 years.

Among these problems are large sand cavities encroaching underneath the base, cracking walls, and deep scouring immediately downstream. But the one problem that anyone can compute is that passage of water has now worn holes 3 feet deep in the stilling basin which was built with 3½ feet of concrete. That leaves just 6 inches protecting parts of the foundation. The repairs necessary over just the next 2 years will run about $10 million.

In April of last year, cracking rock walls caused the emergency daylight closing of the facility for 5 days. This, as you can guess, backed up traffic considerably. But, unfortunately, snarls and backups at lock and dam 26 are the rule rather than the exception. Last May the St. Louis Post Dispatch noted that "delays of 40 hours or more have become common at Alton." The reason is simple. The 40-year-old facility is too small to service the need.

Lock and dam 26 is one of the two locks which are solely responsible for accommodating the flow of traffic from both the Mississippi and Illinois Rivers. The Illinois chain of locks and dams has a practical capacity exceeding 60 million tons. That of the Upper Mississippi is about 45 million. These two rivers funnel their traffic into lock and dam 27 with its capacity of 105 tons. Traffic then meanders down the 120-mile-long pool of No. 26 and encounters there a practical capacity of 46 million tons.

A little elementary arithmetic will demonstrate the problem here. The actual tonnage exceeded the "practical" capacity way back in 1970. Growing by 2 to 3 millions tons per year, actual tonnage is now over 57 million tons.

Without a new lock, there are only two ways to increase the capacity level. The first is the make-believe method of redefining "acceptable delays" to a level that you think that you can meet. But redefinition does not solve problems in the real world.

The second is to increase the traffic flow through a series of "band-aid" remedies. The band-aid methods suggested includes using what is called a "ready to serve" policy with switch boats, transshipment of cargo, helper vessels, and prescheduling of boat transit—the last being a most difficult item to implement in a very competitive free market located on a floating river.

Additional changes needed to increase capacity would include modernization of lockage equipment and substantial increases in staff. I think that some of these methods may work, but I share the fears of many rivermen that that use of untried and experimental ready to serve barge policy is very dangerous for both lives and cargo. And it is extremely expensive.

So, unless we pump lots of money and time into this old structure we are stuck with a major overutilization of the facility. We can rehabilitate it, but that will surely be dangerous, and it may cost almost as much as replacement. Worse, it would still leave the now standard, huge traffic backups.

This is a vital facility. It transits about 11 percent of all shallow draft tonnage nationally and, according to the Minnesota Department of Transportation, carries over 40 percent of all the grain exported from my home State. This is only slightly greater than the national average of over 30 percent of grain exports which also flow through lock and dam 26. In total, almost 60 percent of the material which flows through lock and dam 26 is agriculturally related.

All of this information does not really hit home until you have learned something about the waterway industry. Our inland waterways, as Public Works Committee Members who have discussed the matter overseas will tell you, are the envy of other nations. Our waterways, have about 25,000 barges and 4,100 towboats plying them. Over 1,800 companies operate these barges and they employ greater than 90,000 employees.

It is especially noted that over three-quarters of these companies operate less than 10 barges and do the lion's share of the towing business. Nobody knows what exactly the lion's share is, but it is estimated to be more than half the total billings.

In short, there are lots of relatively small, mom-and-pop type, operations on the rivers. The best estimates before the Ways and Means Committee indicated that water carriers in general earn about 3 percent on sales and 5 percent on investment capital.

It is important to realize that the waterways service much of the industrial heartland of this country. Since 1952, more than 10,000 new plants or major industrial facilities have been built on the rivers and capital investment has reached nearly $175 million. The growth pattern is continuing. In just the last quarter of 1976, 128 new facilities or major expansions occurred. These expansions created over 25,000 documentable new jobs in private industry.

Navigation is only one of the factors which necessitate the construction of locks and dams. They are a vital part of our overall water resources management effort. I do believe that our environmental management has not been exactly sterling and ecosystem considerations have all too often not been the highest priority of the Corps of Engineers. Water navigation should be our most environmentally sound transportation method.

It is the most energy efficient means of transport, consuming both less gallons per ton-mile and less Btu's than its competitors. The materials, mostly steel, required for construction generate almost 50 percent greater carrying capacity than any similar use. It produces less air pollution than competing modes and it utilizes nature's very own rights-of-way thus not creating urban sprawl, traffic congestion, or the other ills frequently associated with trucks, railroads, or airlines.

Additionally, the locks and dams on the upper Mississippi, which I am most familiar with, have created and maintained important wildlife and wetlands areas. In fact, prior to the construction of the locks and dams, the upper Missis-

sippi was strictly an on-again-off-again river. Oldtimers in my district never tire of telling disaster stories about Mississippi floods, lost grain shipments, and the huge dead fish kills of a dried up riverbed. These same oldtimers can and do point out new recreational parks, wildlife returns, and increased fish catches as a result of the structures. I am not saying that the locks and dams are environmental "godsends." They clearly are not. But conversely, neither are they the devastators of our environment which is frequently alleged.

Part of the reason that we are discussing this here today is economics. The waterways are cheap to use. They are both cost competitive and cost effective. In an inflation-prone economy this is no minor point. In the 10 years from 1963 to 1973, the Wholesale Price Index rose 43 percent. In that period the cost of waterways traffic rose only 5 percent. This trend continues. In recent years shallow draft vessels have moved almost 8 percent of total freight carried in this Nation for less than 1 percent of the fare. All inland waterways totaled more—over 11 percent of intercity freight for less than 2 percent of the total tab.

Nothing is mentioned in title I about a 12-foot channel. This was, of course, a huge issue in earlier considerations. I would also oppose a 12-foot channel authorization but to suggest a prohibition in the bill seems legislatively redundant. Any new construction would require congressional passage anyway. But, prohibiting a study strikes me as unnecessary. Any such study would currently require the express approval of the Public Works Committee. This is their field of expertise. Adding general House approval would not produce any particular benefits of which I am aware.

The Rivers and Harbors Omnibus Act of 1930 set channel depth at 9 feet. Though the corps has internally indicated its desire to go to 12 feet, this has never been more than a case of an executive agency trying to broaden its turf. Deep dredging is sometimes destructive and unsightly. However, retaining the present language may better our position in the conference discussions.

Some concern has also been created by the 18-foot sill depth of the planned lock. This depth is required by the ice flow and frozen debris frequently carried by the barges in winter months. It is also a more efficient engineering technique for facilitating transit speed.

The designation of 26 inland and intracoastal waterways for taxing purposes was very carefully considered by the Public Works Committee on consultation with the corps and other outside organizations. I personally wish that some consideration of deep draft channels and harbor expenditures could have been fully discussed. However, without more information, the international political and economic considerations were mitigating. I believe that they should be more thoroughly reviewed at the first opportunity.

The environmental considerations raised deserve thorough study. In the past, our environmental record in the management of our waterway system has been less than glorious. However, there is nothing in this bill that is antienvironment. The original lawsuit brought on environmental grounds was by 21 railroads and 2 environmental groups.

Title II imposes an excise tax of 4 cents beginning on October 1, 1979, rising to 6 cents in 1981 on diesel fuel used in commercial traffic on the rivers and waterways specified in title I.

Tax revenue estimates, as computed by the committee and the Treasury Department, indicate a revenue gain of $29 million in 1980, $40 million in 1981, $58 million in 1982, $67 million in 1983, and $71 million in 1984. This would be followed by the discussion of further taxes once the study results are available.

An obvious question is raised as to why we should not have total cost recovery on the 100-percent operation and maintenance costs and 50 percent of construction costs as suggested by the administration. The answer is a little bit complicated. Despite the declared policy of the Office of Management and Budget, it is obvious that we do not have cost recovery as the prevailing policy of Government investment. Some of the examples which immediately come to mind are the billions expended in the commercial development of the jet engine, or millions for agricultural research not recovered from either agricultural business or the farmer, or the NIH chemical R. & D. later translated into valuable products for the pharmaceutical industry. The list is endless.

Cost recovery is also not the policy in other commercial transportation fields. In 1975 the total Federal highway tax collected amounted to about $5.6 billion. Of this only $2.35 billion or 42 percent was collected from trucks, trailers, or commercial vehicles. The nontax outlay was over $1 billion and the 58 percent of the tax paid by passenger vehicles was surely not specifically intended to promote "intermodal equality." The subsidies to our railroad system are in the range of double the $5 billion invested in the waterways since 1824. This amount only includes the $6.4 billion rescue of the railroad retirement program and the multimillion dollar delivery of the Railroad Revitalization and Regulatory Reform Act of 1976. This does not include either our generous actions to provide relief from passenger deficits or our decision to ignore the income generated from the massive land grants originally given railroads.

A policy of full Federal cost recovery from commercial waterway users does not make sense for a number of reasons: distribution of usage, existing collection of revenues, and unbalanced cost figures.

Recovering either the full cost of a fixed percentage of operation and maintenance and construction will place a disproportionately high penalty on commercial use. Noncommercial usage, meaning recreational boating, of our rivers and harbors is a big time item. I, for one, was surprised at the percentage of use in my area.

The upper Mississippi lockages within the St. Paul district are busy locks. In 1976 there were over 67,000 lockages on these 13 structures. The exact distribution figures were 33,777 pleasure and 33,780 commercial lockages.

Going down stream to the next engineering district, there were again about 67,000 lockages. Of these over 20,000 were by pleasure boaters. In total, over 40 percent were noncommercial boaters.

Are funds to be collected for these pleasure lockages? The answer is "No." Are any funds from these users of the waterways intended to contribute to the upkeep of our expensive waterways systems? Again, no.

The pleasure boaters do pay gasoline taxes which are collected and, on a percentage estimate basis, passed on to the land and water conservation fund. In 1976 the figure was $28 million, in 1977 $31 million, and next year, when the 2 cent rebate is phased out, the transfer will be around $60 million.

However, these Lawcon funds are, in general, not allocated to the rivers. Conversely many nonnavigation items are included in the $211 million O. & M. figure that we have frequently heard. In Secretary Adams reply to the Ways and Means Committee, he indicated that there was no way to effectively separate out recreational and other expenses from navigation under the corps' current accounting system. A partial list provided to the committee by the American Waterways Operators includes:

PARTIAL LIST

Water quality management—
Water Supply,
Low Flow Augmentation,
Public Use Plan Studies (Great),
Rainfall Gauging,
Water Quality Investigation,
Silt Reduction.
Recreation—
Small Boat Channel Dredging and Maintenance,
Dredging to Small Boat Ramps,
Visitor Facilities at Dams & Other Areas,
a. Toilet Facilities & Sewage Treatment
b. Paving Maintenance
c. Clean-up
Safety Shelters for Small Boats,
Use of Locks (Many Not Used by Commercial Craft),
Beach Erosion,
Aquatic Plant Control,
Fish & Wildlife Habitat Enhancement,
Dredging for Ecological Enhancement,
Stable Calm Water Pools,
Agriculture Production—
Silt Reduction,
Bank Protection,
Drainage & Run-off Control,
Fishing Enhancement,
a. Commercial
b. Game
Stream Flow Reduction Reducing Erosion.

Further, the figures for individual river systems vary incredibly from year to year. However, the political situation referred to earlier has determined that some form of compensation is necessary. I believe that we need to know a great deal more about any system's effects before permanent establishment of any use fees. For the present, a dread oil tax is the best idea.

Another reason arguing against full recovery is that you should not fully recover that which you have not fully spent. The Senate plan begins full recovery long before—perhaps 10 years—L. & D. 26 will be complete.

Additionally, many of the necessary expenditures on waterways are not federally related. The accepted cost estimate of non-Federal contributions is about 7 percent of total capital and 8 percent of O. & M. On top of that, local bond issues are often used to pay for docks, warehouse, wharves, and port facilities. This may add up to almost 30 percent of localized navigation costs and is often routinely included into our planning for authorizations.

To defray some of this cost, the local units—cities, counties, and parishes—frequently levy dockage and use fees on transitory and domiciled water carriers. This brings up the question of whether the commercial users get a "free ride." I cannot speak for the rest of the country but I have some knowledge of the 10 States along the Mississippi. With some limited exemptions for interstate commerce and related items, the list of taxes above and beyond Federal requirements include: All 10 impose corporate income taxes, all 10 have property taxes, 6 impose franchise taxes, all 10 have sales taxes, and 2 along with other States considering pending legislation, impose license fees.

If we are to impose a tax, it is most important that we studiously avoid a "user charge" tax. If a user charge is selectively allocated on a segment basis, the disparity between short and long hauls becomes overwhelming. Its diversionary effect on waterway usage will be phenomenal. My own idea would not be badly damaged with fees estimated to cause about 5-percent diversion of traffic to other modes, but the new or expanding waterways will be devastated. They may be expected to experience a 50- to 90-percent diversion of traffic. It is about 100 years too late to even consider a segment approach if the goal is equity rather than revenge.

If the fee is based on a simple lockage charge, the rate discrimination is also increased over distance. But a fee placed upon value of cargo transported is absolutely absurd. Yet this was the primary method designated by the Senate in the Domenici bill.

The Domenici proposal represents a huge disavowal of legislative responsibility to the executive branch by permitting it to select a method of fee collection. It also imposes charges on the rivers based upon the previous year's expenditures. This will, even with a new bookkeeping system, cause a highly variable rate structure with predictable effects upon those doing business. The expenditures on the upper Mississippi went down a million from 1973 to 1974 and up $4 million from 1974 to 1975. The lower Mississippi saw a 1½ million drop from 1973 to 1974 and 1¾ back from 1974 to 1975. This rollercoaster picture is continuing to bounce up and down. The tax's effect, even with the 1-percent cap, could be enormous.

It was helpful for me to look at several examples of the effect of a valuation tax or user fee based on standard barge sizes, carrying capacity, and average competitive rates. For a run of corn from St. Paul to New Orleans, the increase was 12.7 percent. For soybeans, more expensive but no more difficult to transport. The increase was a whopping 43.8 percent. To ship fuel oil from Baton Rouge to Chicago, the increase is 11.7 percent and steel from Pittsburgh to Cincinnati goes 76.5 percent. The difficulty in which the steel industry now finds itself is well known. It does not need any more price increases.

In short, I believe that other possible systems would be far less equitable than a fuel tax. Its other important advantages are administration, enforcement and coherence with national policies. Administrative costs would be minimal because the tax could be collected with a ship's normal fuel bills and accounted for in normal ship's pursers arrangements. The enforcement is simplified by the Coast Guard's existing authority to license and regulate all waterway fuel transfer facilities.

Because of these factors, no new costly monitoring or inspection facilities would be required. It is also consistent with the 4 cents motorboat and 4 cents commercial trucking fuel taxes and coincides with our energy package's philosophy which regards the most energy efficient of users among individual modes.

One of the most important provisions of title II is in its direction that a study of the tax policy be initiated with the passage of this bill. It will be jointly performed by the GAO and the Joint Committee on Internal Revenue. This study is to be completed by 1980 and will discuss the impact of taxes on all types of commercial transportation. It will compute the national effects of various collection systems on the economy, consumer prices and other measures.

In short, title II provides a good start at establishing a base for an equitable system.

Title III of the bill directs the Secretary of Commerce and Transportation to undertake a joint study of the various types and levels of user charges. It will focus on the various impacts of these systems upon carriers, shippers and consumers. This will be submitted to the Congress with 3 years and will be fully coordinated with the activities of the National Transportation Policy Study Commission. The Commission will be required to report its recommendations to the Congress based on the study within 6 months.

We definitely need an examination of these issues but I believe that this must be conducted in cooperation with other existing commissions and units already in the field. Particularly important is coordination with the Great River Resources Management Study funded under section 117 of the Water Resources Development Act.

"Great" has an authorization of over $9 million and its membership is composed of all the effected states and the five primarily involved Federal agencies. Its purpose is to examine and develop a master plan incorporating navigation, fish, wildlife, recreation, watershed management and water quality. I have observed their activities thus far and am hopeful that their plan will be useful.

We have heard many references to the massive volumes of studies which back up user charges and transporation fees. Of the 18 major studies often referred to, not one has examined the questions of impact on farm income, cost of living index, energy supply, energy security, regionally differential employment, regional income levels or export expansion.

Some of these studies had proposed including shallow draft vessels and others, only shallow draft channels. Some have included the Great Lakes and others, only seacoast harbors and channels. The method of recovery has also been varied. The collection proposals have included ton mill taxes, lockage fees, congestion tolls, license fees, vessel weight, and vessel size proposals.

In short, the contradictions far exceed the similarities in their conclusions. It is also interesting to note that almost one-third have specifically recommended conforming amendments to the railroad rate structure so as to prevent "predatory pricing and rate cutting." The definitive studies authorized in this bill are obviously badly needed.

Mr. Chairman, this bill was not my first choice. But, because of practical realities I am convinced that it is the best possible vehicle for rebuilding a vital link in our national transportation system, for establishing a reasonable user tax without major economic dislocations, and for assembling the information needed for future decisions. I hope it will pass today.

Mr. PRICE. Mr. Chairman, I would just like to add my thoughts to this discussion, even though my distinguished colleagues should have no doubts about where I stand on the issue of locks and dam No. 26. It is a well known fact that I have been concerned with the replacement of this facility since its need was recognized, and that I have been fighting particularly hard since the imposition of unreasonable delays in recent years.

I want to urge my colleagues to support the committee, chaired by our colleague, the Honorable RAY ROBERTS. Many areas of this country are indebted to the committee for its great work.

With our consideration of H.R. 8309, the Navigation Development Act, the time has come to eliminate once and for all the bottleneck on the Mississippi River that is slowly strangling a flow of commerce vital to our Nation's economy and balance of payments. The deteriorating condition and inadequate capacity of locks and dam No. 26 loom ever larger as an obstacle each year that Congress fails to act.

Located on the Mississippi River 20 miles north of St. Louis, locks and dam No. 26 serves as a funnel for all river traffic between the Illinois and upper Mississippi on the one hand and the Ohio, lower Mississippi, and the Gulf Intercoastal Waterway on the other. Through that funnel must pass millions of dollars worth of grain exports moving south, as well as vitally needed coal, oil, chemicals, and fertilzer on their way north.

Use of the waterway to transport these commodities conserves scarce energy re-

sources and valuable consumer dollars. But the now inadequate size of the locks is causing longer and longer delays each year. These delays are compounded by the threat of mechanical breakdowns as the near 40-year-old facility creaks under its load and that threat of mechanical breakdown increases with each passing year of congressional inaction.

The operational and procedural improvements that have been suggested were instituted last fall, and very little in the way of added efficiencies can be expected from such measures. Unless locks and dam No. 26 is rebuilt and enlarged, the delays will lengthen until they drive traffic off the river altogether. Shippers will then have to use alternate modes of transport at higher cost to consumers, or, worse yet, the traffic will not move at all and economic activity in the region will stagnate.

Rebuilding locks and dam No. 26 would provide vitally useful work for significant numbers of people at a time when millions of our Nation's citizens are unemployed. And I stress that the work itself is vital—we must rebuild the locks in order to uncork the bottleneck on the river.

And when we do replace locks and dam 26 we will have a precious and essential investment in a capital facility that will serve the economy of the Nation for upward of 50 years.

I am greatly worried, Mr. Chairman, about our capability to balance our trade and prevent further erosion of the dollar's strength in world markets. We are importing more oil each year and we are planning to decrease arms sales abroad. The population of our planet is expected to double within the next 30 years, from 4 billion to 8 billion. Without doubt we be expected to provide increasing quantities of food—and principally grain—to the rest of the world. With these prospects before us we would be shortsighted indeed if we delayed action any longer.

Congress has been actively studying locks and dam 26 since 1969, and the need for a new facility has been recognized from the outset. Several years ago, work on the project was blocked as a result of judicial interpretations of statutory authority and environmental ramifications. Last year congressional action was stymied by the 11th hour linkage of the authorization with a highly controversial user charges issue. Though the user charges issue still remains, I urge my colleagues to vote for today's bill.

By now, all of the economic and environmental aspects of the project have been exhaustively studied and debated; logic shows that the arguments against the facility simply "do not hold water." The proposed new facility will itself take 8 to 10 years to construct. Meanwhile, the delays at the present facility are growing intolerably longer. This time Congress must act, quickly and decisively, to untie the knot by authorizing the Corps of Engineers to replace locks and dam 26 without further delay.

Mr. QUIE. Mr. Chairman, I rise in strong support of H.R. 8309 which authorizes construction of a replacement for locks and dam 26 at Alton, Ill., and also imposes for the first time a fuel tax of up to 6 cents a gallon by 1981 on commercial cargo vessels sailing on inland waterways.

Even though many Members' district may be thousands of miles away from the Alton facility, I hope that each of you recognize its importance to the Nation's economy, especially that of the Upper Midwest.

Locks and dam 26 is vital. Our ability to provide grain to customers and our need to "import" oil, coal, and other energy-related products are highly dependent upon it.

Agriculture is the economic cornerstone of the upper Midwest's economy. It also is an energy-importing region, since it has no coal, no natural gas, and no oil. Eighty percent of the goods shipped through Alton are either agriculture or energy-related. More tonnage passes through locks and dam 26 than through the Panama Canal.

The Alton facility has become a bottleneck because all river traffic from the Upper Mississippi and Illinois Rivers must merge into locks and dam 26. The two rivers, which have a combined capacity of 105 million tons of cargo annually, feed into a single river and into an outmoded locks and dam system having a practical capacity of 46 million tons annually. A practical capacity is defined as being able to "lock through" without unnecessary delay.

It is a little like the merging of a two-lane highway into one lane at rush hour. Traffic slows down and in some cases it stops. The practical capacity of 46 million tons was surpassed in 1971, against a growing tonnage of 2 to 3 million tons each year. Last year 59 million tons passed through the system, 10 percent more than in 1975. This resulted in extraordinary delays averaging 18 to 21 hours, although some tows waited as long as 3 days. Figuring tows at $150 an hour, it is easy to see how shipping costs are driven up.

Mr Chairman, a constituent of mine, George Daley of Lewiston, Minn., a dairy and pork producer, put it rather succinctly recently when he said:

> The outcome of this proposal to replace Locks and Dam 26 will affect . . . my ability as a farmer to continue to earn a livelihood producing food. But it will also affect me and many others in this part of the country who produce a good share of the nation's food; it will affect this country's balance of payments, it affects consumers . . . If the cost of transporting those supplies is forced up by allowing the river to become impassable and is limited to boxcar shortages and logistics, farmers will have to bear that increased cost in prices paid for supplies.

In April 1976 a partial collapse of a wall damaged the lock, forcing an 8-day shutdown of river traffic. The Army Corps of Engineers was able to do a quick patchup job, but the structural difficulties still remain. One hundred tows pushing about 1,000 barges loaded with grain, ammonia, gasoline, and other goods were stopped.

The collapse tied up 800,000 tons of commerce valued at $225 million. The effects of the shutdown were felt in several States:

The Grain Terminal Association in Minneapolis reported a loss of $3 million in shipping time.

Some cooperatives in Illinois ran out of dry nitrogen (urea) during the critical spring planting time.

In New Orleans, 14 oceangoing vessels were idled. At $20,000 a day each, that amounts to $2,240,000.

Some gasoline suppliers in Chicago area ran out.

Sixteen barges loaded with lime needed for steel manufacturing in the Chicago-Gary, Ind., area were tied up.

St. Louis shipyards began laying off workers.

Grain prices above Alton fell 4 cents, while downstream they rose.

The problem we face today is that of a crumbling, outmoded structure. Shifting sands beneath the facility have led to increasing cracks in the dam and wrenching of the locks. If damage in the future makes it impossible to ship goods, the effects could be paralyzing. Farmers will not get fertilizer. Markets will tumble. Little grain will be exported. Dairyland power in Wisconsin, which serves more than 300,000 individuals in four States, will be cut off from 66 percent of its coal supply.

This bill was jointly developed by the Public Works and Transportation Committee and the Ways and Means Committee, and I believe it is a good bill. For the first time it establishes a user fee of 4 cents a gallon by this time next year, and up to 6 cents a gallon by 1981.

Traditionally, we have recognized free use of "water highways" as a part of our heritage. But since locks and dams were built on the river to facilitate movement of river commerce—and now with the need to expand and replace locks and dam 26 just to keep pace with economic needs—it seems necessary to have barge operators share in some of the costs of expansion.

User fees should not be established to equalize immediately the costs between rail and barge transportation. That is not their purpose. However, farmers, barge operators and others who depend on the river should not object to a more fair and equitable way of paying for our transportation system.

I strongly urge approval of this legislation.

Mr. HAMILTON. Mr. Chairman, H.R. 8309 is a reasonable compromise of difficult issues. It is a bill to place a 4-cent fuel tax on shallow draft barging and clear the way for the reconstruction of lock and dam 26 at Alton, Ill. It is recommended to us by the Ways and Means and Public Works and Transportation Committees and the leadership. I would like to draw the attention of my colleagues to some underlying facts about the barging industry and its importance to the economy of Indiana and the midwest.

The Mississippi-Ohio system is of particular service to the steel industry and agriculture. Low-cost barge transportation both for steam coal and ores and for

finished products is of crucial importance. Thomas C. Graham, president of Jones & Laughlin Steel Co., said earlier in the year that—

> Unless we can ship our steel down river by the bargeload, it will be difficult—maybe $20 a ton more difficult—to compete with foreign products.

I need not remind this body of the current state of farm prices and how reluctant we should be to add to the transportation costs of agricultural supplies and products. This additional charge comes right out of the farmers pocket.

I have in my district one of the country's larger inland shipyards that manufactures river barges and towboats. Employment at Jeffboat in Jeffersonville is over 1,500 persons. This operation has significant economic impact on this region. The uncertainty in the barge transportation industry generated by the controversy over user charges has been quite detrimental to construction in the shipyard now and in the immediate future. Not knowing what to expect and fearing that Congress and the Department of Transportation were out to strangle the barge transportation industry; barge operators have almost ceased ordering new equipment. The feeling among this group is that they would rather go broke with an old fleet than go broke with a new one. Hence, the continued full employment at this construction facility is very much in jeopardy.

These same consequences will occur in many other auxiliary related businesses that provide the livelihood for many of our citizens unless we take a reasonable approach to this very complex issue.

The legislation we have before us in H.R. 8309 I believe is a reasonable solution to this problem. It provides for construction of lock and dam 26 which is necessary to the continued viability of the barge industry.

Title II of this bill introduces the concept of waterway user charges. This in and of itself is a major policy change in our national policy. The level of tax in my option is significant and I think it imperative that moderation be exercised until this body is able to evaluate the economic impacts both by State and region and possible relocation of business.

This information will be provided to this body by the studies called for in title III of this legislation.

I believe this legislation H.R. 8309 as voted by the Ways and Means and the Public Works and Transportation Committees merits support and should not be amended.

Mr. ALEXANDER. Mr. Chairman, my views on the waterways industry are well known to many of my colleagues. My district and my State are particularly dependent upon the transportation provided by the Mississippi and Arkansas Rivers.

I have long been involved in addressing the needs of our inland waterways and in providing whatever assistance I can to support and promote the water resources of this country. I plan to continue to do this.

The taxing program that H.R. 8309 inaugurates could potentially put a stop to our inland waterway transportation system entirely. It has been hastily conceived, without analysis of the burdens and benefits that would result from a tax measure of this nature.

Not all parts of the waterways industry were heard from. No representatives of the thousands of small, independent barge operators who ply the inland waterways were given opportunity to testify.

And probably most disturbing to me is that the apparent consensus over the adoption of this charge has been produced in large part by fear. Some people in the waterways industry have been led to believe that if they do not accept this tax, they can expect to get something worse. I do not believe that veiled threats and fear produce sound public policy.

The issue has been further clouded by holding the replacement of lock and dam 26 hostage to the user charge principle.

I believe that a much wiser and more effective way to approach this issue would be to await the report of the National Transportation Policy Study Commission which is presently studying our national transportation needs and policy alternatives.

The 94th Congress created the National Transportation Policy Study Commission and gave it a mandate to evaluate all our transportation systems, including the inland waterways. I was on the Transportation Appropriations Subcommittee which originally approved funds for the study and gave it this important mandate.

The Commission's study is to be completed and a report is due to be presented to Congress by December 31, 1978. We should await that report.

It is my understanding that the Council's research should be completed this winter and that by next summer the report will be in the drafting stage.

Throughout the debate on the user charge issue, little mention has been made of the biggest loser—the consumer. It is the consumer who will have to pay for waterway user charges, and an increase in barge rates will result in an increase in water-competitive rail rates, which will also have to be borne by the consumer.

There are those of my colleagues who insist that a user charge is appropriate and equitable. If, then, it is the will of this body that barge operators will pay user charges on our inland waterways, then we must adopt a taxing program that will not totally break the back of the industry. The Senate's version of this legislation contains user charge provisions that will cripple beyond repair the most energy-efficient and cost-effective mode of transportation available today.

If we are to have a waterway user tax, then we must make good on the commitment in this bill to a study of the economic impacts of inland waterway user charges. If it is found that such taxes are counterproductive, then the tax contained in H.R. 8309 should be lifted.

It is with a great deal of reluctance that I shall vote for passage of this bill. However, in view of the critical need for replacement of lock and dam 26, and recognizing the division of sentiment within the inland waterways transportation industry and the unacceptability of the only other alternative before the Congress, I find myself compelled to support H.R. 8309.

Mr. GEPHARDT. Mr. Chairman, I rise in support of H.R. 8309, the Navigation Development Act, which authorizes replacement of locks and dam 26 and establishes a policy of waterway user fees.

I support this bill as a necessary measure to assure that the smooth and efficient passage of freight along the Mississippi River continues.

The present situation at locks and dam 26 is totally unacceptable. The facility is cracking and crumbling because of its sandy foundation which is constantly subject to shifting and settling. Emergency repairs have been authorized and are being carried out. But without work to extend the life of the facility for 50 years, the Mississippi River could well be lost as a mode of transporting freight at low cost.

A far more pressing concern is the inadequate size of locks and dam 26. It is altogether too small to accommodate the existing volume of traffic which converges at that point from the Upper Mississippi and Illinois Rivers. While the practical capacity of the locks and dam is 46 million tons a year, last year 59 million tons of freight passed through. The volume necessitates barge tows far larger than the locks and dam can efficiently handle, so most tows have to be broken up and lowered through the facility in several segments.

The situation results in terrific traffic jams on the river and long waits to gain access to the lock. Some tows are delayed as long as a week. The entire time barges are waiting, their motors are running, using up precious fuel we are all trying to conserve in this time of serious energy shortages.

I visited the Alton facility in April and took a trip through the lock. I was unprepared for the urgency of the situation and became convinced there was no alternative other than immediate action to authorize a replacement lock and dam 2 miles downriver from the existing facility.

Nevertheless, questions have been raised about whether locks and dam 26 should be replaced or just repaired to accomplish the same result for less cost. Several proposals for rehabilitation have been put forward, but in my view, they do not offer viable alternatives.

An independent engineering study of the repair plans, carried out by Sverdrup and Parcel Associates, found most of the proposed work inadequate to assure a 50-year life. To complete rehabilitation that would be sound for that length of time, if possible at all, was estimated to cost $440 million, almost as much as the price tag on a replacement.

In addition, there is considerable doubt that rehabilitation work can be done while locks and dam 26 remain in operation. If not, the Mississippi River would be virtually shut down for freight transport for 2 years.

The question that remains outstanding is the impact of the proposed project on the need for our country to develop a well-integrated, equitable, multimodal transportation network. In this connection, the suggestion of waterway user fees has become extricably intertwined with locks and dam 26 and thus H.R. 8309 appropriately raises and addresses the issue.

Title II of the bill authorizes a 4-cent (rising to 6 cents) per gallon tax on fuel used in water transportation and title III calls for a study of the economic impact of waterway user fees. The committee report, furthermore, orders a study of Federal support for all modes of commercial transportation, what effect additional charges on different modes will have on the national economy, consumer prices, energy, and so on, and make recommendations on the proper levels of taxation on all forms of transportation.

These provisions represent a good compromise on the many viewpoints expressed to the Ways and Means Committee in this regard. The administration proposed a fuel tax large enough to pay for 50 percent of the maintenance costs and 100 percent of the cost of construction projects on inland waterways. Others, however, maintained users should pay 100 percent of all costs while still others opposed any user fees at all.

Proposals on the type of fee to be imposed also varied widely. Should we tax fuel used in water transport—commercial and/or noncommercial—or should we charge for use of facilities like Locks and Dam 26?

During the committee hearings, many arguments were made on all sides raising many questions about these proposals. The one conclusion that emerged clearly from this debate is that too little is known about the impact of waterway user fees to determine the amount and type at this time.

Thus, I believe H.R. 8309, by authorizing a relatively small fuel tax, correctly establishes the principle that waterway users should pay some part of the cost of the waterway system but that a final decision on the type, kind, and amount of waterway user fees should await the outcome of two important and necessary studies.

I believe this bill offers the fairest and most reasonable approach to the difficult waterway user fee issue. In addition, it will permit the urgently needed work on a new Alton lock and dam to go forward without further delay. I urge my colleagues to join me in voting for H.R. 8309.

Mr. VENTO. Mr. Chairman, H.R. 8309, the Navigation Development Act, comes to the House with inadequate finance provisions. I favor the proposal to levy user fees which would not only provide for the construction of a new locks and dam 26 facility at Alton, Ill., but hereafter lift the burden of maintenance and construction of the inland waterway system from the taxpayer.

While the present bill sets a very significant precedent in imposing a 4-cent a gallon tax—later, 6 cents—on fuel used in barging operations, the revenues cannot amortize the $421 million cost of locks and dam 26, as well as to offset the expenses of maintaining and operating the inland waterway system. It is estimated that the tax will produce revenues of $29 million in fiscal 1980 and rise to $71 million by fiscal 1984.

Imposition of a fuel tax is a small step in the right direction. I had hoped that the House would face up to its responsibility and provide for user fees.

I fervently hope that when the bill goes to conference, the committee will raise the fuel tax rates to more realistic levels. Ultimately, perhaps, we can provide for the full recovery of the Government's expenses for all Federal transportation assistance and give the long-suffering taxpayer a break.

Mr. WALGREN. Mr. Chairman, I urge support for H.R. 8309 but I urge this support with serious reservations about waterway tolls, taxes, or user charges.

One of the most compelling arguments against waterway user taxes has always been the uncertainty of the impact which those taxes would have, particularly on regional industries and economies. Neither H.R. 8309 nor the bill that came from the other body proposes to answer this important question, except through after-the-fact analysis.

There is serious concern about the harm that imposition of a headstrong waterway use tax would cause in the Pittsburgh area. Our waterways are used more extensively than those in any other region. The rivers in the tristate area (Pennsylvania, West Virginia, and Ohio) serve one of the largest industrial complexes in the world. From Wheeling, W. Va., on the Ohio River upstream to Allenport, Pa., on the Monongahela River, a distance of about 140 miles, is located the greatest concentration of basic steel plants in this country—perhaps in the world.

Although navigable waterways around Pittsburgh account for only 1.3 percent of the Nation's navigable river miles, 12.3 percent of the total tonnage carried on the entire system is transported into and out of this area.

Recently, University of Pittsburgh economists, in cooperation with area governments and businesses, completed an analysis of the potential impact of a waterway user tax on the Pittsburgh economy. They determined that under the Senate-passed plan, the user taxes generated by the Pittsburgh district would be more than 50 percent greater than the amount spent to maintain and operate the area's inland navigation system.

University economists project that imposition of the 6-cents-per-gallon fuel tax provided for in title II of H.R. 8309 would deprive the area economy of more than $4 million annually.

If the tax burden were 10 cents per gallon, as some have proposed, then the revenue extracted from the Pittsburgh economy would be $7 million.

If the tax were 42 cents per gallon, the Federal tax would cost Pittsburgh industry and consumers $29 million per year. That would be disastrous. Yet 42 cents per gallon is the equivalent of the Senate-passed cost recovery level that has been endorsed by the U.S. Department of Transportation.

These figures refer only to direct revenue collections. By the time the consumer foots the bill for the tax, the total impact, because of "passthrough" or "ripple" effects, will be even greater. So it cannot be argued that the 6-cent fuel tax is a "minimal tax" or one that would have only a "token effect" on the Pittsburgh economy

No one knows at what point the tax will irreparably harm the Pittsburgh area (or any other region) in its ability to compete with other regional centers of commerce. Pittsburgh is especially dependent on river barging to reach steel markets in the Mississippi Valley and on the gulf coast. The steel capacity of this district exceeds the demand in that section of the country to which Pittsburgh has lowest cost access by rail and highway. River connections permit Pittsburgh mills to reach distant markets and utilize what would otherwise be excess capacity.

User charges would raise the cost of barging, and thus cause surrender of the gulf coast steel market to Japanese and European producers. Steel imports have already increased from 1.7 million tons in 1959 to a high 18.3 million tons in recent years. In fact, at their high, they rivaled in magnitude the output of the entire Pittsburgh district.

With this in mind, we must also consider the following: What tax rate will make new industrial development locate in Cincinnati or on the gulf coast rather than in Pittsburgh? At what point do the marginal industries close down, and even more unemployment result? And at what point do we simply and finally lose out to foreign producers?

There are no answers to these questions at this time, but you can see that the potential for harm is serious and widespread. It would be irresponsible to impose a new form of taxation without the greatest caution.

In summary, Mr. Speaker, the House appears ready to enact a tax with unknown impact. I vote for H.R. 8309 from a willingness to cooperate with those from other regions who rightfully want the waterway users to make a reasonable contribution to the costs of a strong waterway system.

However, a reasonable contribution must be carefully limited to prevent unknown and irreparable harm to our regional economy. The preservation of the inland waterways as a viable component of the national transportation system goes hand in hand with the preservation of Pittsburgh as a viable economy. The entire Nation has an interest in seeing that both are preserved.

Mr. MOORE. Mr. Chairman, on October 6, the House set in motion the means by which two distinct issues under separate committee jurisdictions would be considered together without full benefit of the amendment process on the House floor. The issue of construction of locks and dam 26 and the question of a tax on fuel used by commercial transportation on inland waterways found within H.R. 8309 as titles I and II re-

spectively merit separate and open consideration. The rule, House Resolution 776, denied the House that opportunity.

With this in mind, I voted to block the gag rule provisions of House Resolution 776 on October 6, so that the House could work its will upon the construction and tax features within H.R. 8309 with a free hand. My vote in this instance is consistent with past votes given in opposition to closed rules which deny equal access to the legislative process.

Even though I did not support the rule, I definitely want locks and dam 26 facilities built. However, the issue should not be held hostage to imposition of a fuel tax on commercial waterway users. Such action is poor legislative procedure and denies the opportunity for a vote to be cast on the issue of locks and dam 26 alone. If I had that opportunity, I would vote for construction of the locks and dam 26 facilities and against the tax.

As it is now impossible to strike the fuel tax from H.R. 8309 or amend it in any fashion, I am compelled to vote against the bill. Barge companies in Louisiana are already overtaxed and adequate consideration has not been given to the damage the fuel tax would impose upon barge companies caught in the vise of higher operating costs and competing modes of transportation. If ignored, employment in the barge industry will suffer and jobs will be lost. In turn, goods will be shifted to other means of transportation of a less energy-efficient nature and consumer costs will climb. Our people are already overtaxed and we should be reducing taxes to stimulate the economy instead of raising them. For these reasons, I am opposed to a tax on waterway use and am, therefore, forced to vote against H.R. 8309.

Mr. HAGEDORN. Mr. Chairman, I yield back the balance of my time.

Mr. ULLMAN. Mr. Chairman, I have no further requests for time. I yield back the balance of my time.

Mr. Chairman, I move that the committee do now rise.

The motion was agreed to.

Accordingly the committee rose; and the Speaker pro tempore (Mr. BRADEMAS) having assumed the chair, Mr. MCFALL, Chairman of the Committee of the Whole House on the State of the Union, reported that that committee, having had under consideration the bill (H.R. 8309) authorizing certain public works on rivers for navigation, and for other purposes, had come to no resolution thereon.

GENERAL LEAVE

Mr. ROBERTS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill H.R. 8309, just under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

PROTECTING THE AMERICAN TRANSIT SUPPLY INDUSTRY

(Mr. EDGAR asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. EDGAR. Mr. Speaker, the transit supply industry in the United States is in a serious crisis. The chart printed below shows that, over the past 2 years, the Urban Mass Transportation Administration has approved grant requests for only seven rail car purchase orders: An inappropriately small number given the tremendous need for new transit cars in Boston, New York, Chicago, and Philadelphia.

Clearly, our transit systems have too many needs chasing too few Federal dollars. More money must be authorized for rail car replacement and other system modernization activities.

This problem—a market problem—is compounded by the relative uncompetitiveness of domestic suppliers in securing contracts for new rail cars. Of the seven orders placed during the last 2 years, only two have gone to American manufacturers. Part of the problem rests in the unfair "terms and conditions" that the Federal Government imposes on rail car procurements. These terms and conditions have given transit operators a virtual free hand in designing hybrid vehicles for each need that surfaces; within the framework of fixed-price contracts, manufacturers have been held accountable to the performance demands of these highly complicated hybrid specifications and in this environment it is almost impossible to turn a profit. Foreign manufacturers subsidized by their respective governments are better able to swallow these losses than are American companies working in our free market economy.

I have introduced legislation designed to counter these disturbing trends in the domestic transit industry. H.R. 9036, the Public Transportation Stimulus Act of 1977, puts more money behind rail car replacement, bus acquisition, and modernization of existing transit systems. The Urban Mass Transportation Administration would be required, over a 4-year period, to make available approximately $1.3 billion for rail car replacement grants. In accompanying report language, the agency will be instructed to develop a predictable rail car replacement schedule for each of the Nation's eight rail transit cities.

When the House Surface Transportation Subcommittee concludes its hearings into Federal surface transportation policy later this year, and gets down to the task of assembling a new bill and its accompanying report, I also intend to direct the subcommittee's attention to the "terms and conditions" problem. This is a problem the administration can solve alone, but without congressional prodding I believe it will continue to postpone the issuance of a new set of standard terms and conditions.

My new bill does not mandate that all Federal rail car orders be placed with American manufacturers. This kind of outright, unbending protectionism would close the potentially-lucrative foreign rail car market to our companies. Some sanctions must be imposed on products from nations that have sanctions against our products, and something must be done to disallow foreign government subsidy of the bids submitted by foreign manufacturers. I am not sure at this stage that new legislation is needed to impose these kinds of selective penalties; I intend to explore the matter with our trade negotiator, Bob Strauss, in the near future.

What I propose now is a limited but effective course of action. With more money behind the Federal transit program, and new Federal guidelines for rail car procurements, I believe that more contracts will go to American suppliers and more jobs would be created here at home.

UMTA-FUNDED, U.S. RAIL TRANSIT EQUIPMENT PURCHASES, 1976–77

Purchasing authority: manufacturer	Value (millions)	Number of cars
1976:		
PATCO Delaware Port Authority (DRPA): [1] Canadian Vickers (Canada)	30	46
Chicago/South Suburban (ICG RR): Bombardier/MLW (Canada)	27	36
Boston 'MBTA): Hawker Siddley Canada, Ltd., (Canada)	90	190
Atlanta (MARTA): Franco-Belge (France)	56	100
Subtotal	203	372
New Jersey Department of Transportation (Erie Lackawana RR): General Electric (United States)	150	180
Total	353	552
1977:		
Chicago Regional Transportation Authority: Budd Co. (United States)	32	70
Cleveland Regional Transit Authority: Still under review, 9 bidders; 7 foreign, 2 United States	31–35	48–60

[1] Award made December 1976; final contract May 1977.

SOURCE: U.S. DOT Urban Mass Transportation Administration.

GENERAL PULASKI'S MEMORIAL DAY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ANNUNZIO) is recognized for 5 minutes.

Mr. ANNUNZIO. Mr. Speaker, 198 years ago on October 11, the great patriot and brilliant military leader Gen. Casimir Pulaski, who assisted the Americans in their fight for freedom during the Revolutionary War, sacrificed his life in the cause of liberty.

President Carter has issued a proclamation designating October 11 as General Pulaski's Memorial Day, and a copy of that proclamation follows:

GENERAL PULASKI'S MEMORIAL DAY, 1977

(By the President of the United States of America)

A PROCLAMATION

Exactly two centuries ago, in 1777, the Polish patriot Casimir Pulaski arrived on our shores to help secure the liberty of the American colonies.

In exile from his native land, he fought courageously at Brandywine and in other battles. He formed and commanded the Pulaski Legion, the famous cavalry unit which contributed valiantly to the achievement of our independence.

In October, 1779, General Pulaski died of wounds received in the siege of Savannah. In commemoration of his heroic sacrifice on behalf of American independence, our Nation has for generations paid grateful tribute to him and to the millions of Americans of Polish descent who have played a role of enduring significance in the life of our country.

Now, therefore, I, Jimmy Carter, President of the United States of America, do hereby designate Tuesday, October 11, 1977, as General Pulaski's Memorial Day, and I direct the appropriate Government officials to display the flag of the United States on all Government buildings on that day.

I also invite the people of the United States to honor the memory of General Pulaski by holding appropriate exercises and ceremonies in suitable places throughout our land.

In witness whereof, I have hereunto set my hand this sixteenth day of September, in the year of our Lord nineteen hundred seventy-seven, and of the Independence of the United States of America the two hundred and second.

JIMMY CARTER.

Casimir Pulaski was born in the Province of Podolia in 1748, and from his earliest childhood demonstrated the qualities of organization and leadership which were manifested all his life. Before he reached the age of 20, he had organized a small group that fought valiantly to prevent the partition of Poland. However, his efforts were to no avail, and he barely managed to escape with his life.

In 1777, Pulaski met Benjamin Franklin in Paris, and Franklin was so favorably impressed, he gave him a letter of introduction to Gen. George Washington. It was Washington who suggested to the Continental Congress that young Pulaski be entrusted with the grave responsibility of reorganizing the American cavalry forces. This Pulaski accomplished with such skill that he was placed in command of all our cavalry forces, and proceeded to distinguished himself in every subsequent encounter with the enemy.

In the 11th Congressional District of Illinois, which I have the honor to represent in the Congress, there exists a large Polish population. I have lived among the Polish people, I have nieces and nephews who have Polish fathers, and I am proud of my close affiliation with the Polish people.

From this close association, I have come to know the Poles as a courageous people, as a dedicated people, a patriotic people, as a religious people, and as a warm and loving people. Their courage in the face of tyranny has been demonstrated time and again over a span of centuries, their dedication to their principles has not faltered in the face of overwhelming odds. Their patriotism has been manifested in their continuing struggle for a free Poland, and their devotion to their church and to their families is evident to us all.

All of these characteristics serve to make up an extraordinary people, and Gen. Casimir Pulaski, a Pole who fought heroically for freedom, is a man to be remembered with pride and gratitude. In 1779, at the age of 31, Pulaski gave up his life on the battlefield while leading his famous cavalry legion in driving the British out of Savannah, Ga.

Pulaski neither lived to see victory achieved on the battlefield, nor did he live to see America win her fight for independence, yet his valiant efforts were instrumental in establishing this wonderful country of ours which recognizes and upholds the inherent dignity of men and women and the fundamental rights of the individual.

I am proud to join Americans of Polish descent in the 11th District, in Chicago, and all over this Nation in commenorating the 198th anniversary of General Pulaski's supreme and inspiring sacrifice during our American War of Independence.

A RESURRECTED B–1, A WARMED–OVER FB–111, OR NOTHING?

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. SIKES) is recognized for 5 minutes.

Mr. SIKES. Mr. Speaker, the House is scheduled to vote again this week on the procurement program of five B–1 combat bombers. It is a question that many thought had been settled when the House voted 202 to 199 against procurement funding in the fiscal year 1978 military budget conference report. It was assumed the B–1 was dead and buried. However, the B–1 has obstinately refused to stay dead and it may be in process of resurrection.

New life was breathed into the B–1 when the Secretary of Defense wrote Senator STENNIS of the Senate Armed Services and Appropriations Committees that it would be "a prudent step" to appropriate $20 million for initial work on a stretch version of the FB–111 to be known as the FB–111H. It has been made clear that DOD feels there is a requirement for a penetrating bomber. It has to be assumed this disclosure did not come to Congress without the knowledge of the White House.

We now have only the aging B–52, a great airplane, but one which cannot penetrate the sophisticated, modern air defenses of Europe. The B–52 would use the new cruise missile and stand off the coast during an attack. There are weaknesses here. The cruise missile is several years from procurement. It is still being tested. More importantly, it reputedly has been offered as a bargaining chip in the coming SALT talks. This may result in serious impairment of its value. The Russians know how to drive hard bargains.

The new and unexpected emphasis on the FB–111H caused eyebrows on Capitol Hill to be raised. Why, it was asked, do we not have the best if a penetrating bomber is required? The B–1 is clearly superior to the FB–111H, even though the FB–111H will use engines and other parts from the B–1.

Since it has been reestablished that a penetrating bomber is necessary for the security of America and the Western World, a new effort is in progress to fund the B–1 procurement program as originally scheduled for fiscal year 1978. This naturally follows the action of the House Appropriations Committee in refusing decisively to approve the President's request for rescission of the fiscal year 1977 B–1 funds.

There are many supporters of a stronger defense program who feel that America has been practicing unilateral disarmament, both in conventional and strategic weapons. U.S. forces are at their lowest figure since the Korean war in manpower, in naval ships, in combat aircraft; this despite a very rapid increase in numbers in each category in the Russian forces.

The strategic force picture is only a little less gloomy. In the aftermath of SALT I the term "parity" was replaced by "essential equivalence" which symbolized acceptance by the United States of Soviet numerical superiority. Moreover, in the last 5 years, the Soviets have added to their numerical advantage, and have made important strides in overtaking our former qualitative advantage. At present, the term "essential equivalence" is at best a euphemism for marginal U.S. inferiority; at worst, it reflects U.S. acquiescence in Soviet strategic superiority.

The President has said time and again that he wants to strengthen the security of the Western World. Many military experts agree that failure to procure the B–1 combat aircraft scheduled for fiscal year 1978 can be exceedingly dangerous to our defense posture. Acquiring these aircraft will be a signal to Russia and our allies that we are not sleeping while Russia arms; that we will not be content to play out the second-best poker hand to its inevitable conclusion.

RESOLUTION OF DISAPPROVAL ON DEFERRING FUNDS FOR CONSTRUCTION OF PUGET SOUND VESSEL TRAFFIC SERVICE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Washington (Mr. DICKS) is recognized for 5 minutes.

Mr. DICKS. Mr. Speaker, today I am introducing a resolution of disapproval concerning the decision by the Coast Guard and the Department of Transportation to defer funds authorized and appropriated by the Congress for further construction of the Puget Sound Vessel Traffic Service (VTS).

In authorizing and appropriating these funds which were not requested by the administration, the Congress was sending the Coast Guard a message. That message was that the Coast Guard's "business as usual" approach with regard to the establishment of VTS systems was insufficient, and that more needed to be done to protect our ports and waterways from the threat of catastrophic accidents involving oil or other hazardous cargoes carried in bulk.

As my colleagues know, in 1972 the Coast Guard was entrusted with the responsibility—much like the FAA is responsible to safeguard our Nation's airports from catastrophic accidents—to devise procedures and utilize sophisti-

cated equipment to monitor and control waterborne traffic under the Ports and Waterways Safety Act. That traffic is increasing yearly. At last report, no less than 41 ports and waterways carried at least 100,000 barrels per day of hazardous cargoes—and 7½ barrels is roughly equivalent to 1 ton. Since the passage of this enabling legislation, the Coast Guard has moved to establish sophisticated monitoring systems in exactly six locations. Clearly, the pace and scope of the Coast Guard's efforts are insufficient. And this is why the authorizing and appropriating committees in both bodies decided to take the initiative once more.

We who live in the Pacific Northwest face a unique problem, in that we can most likely expect to be the transshipment point for much of the Alaskan crude oil heading for the northern tier and Midwest States. The $8 million which the Coast Guard and Department of Transportation have decided to defer would have gone toward the completion of Puget Sound's VTS, which is now clearly deficient along the Strait of Juan de Fuca and the northern rim of Puget Sound—the exact entry point of this Alaskan crude.

In view of the longstanding mandate of the Coast Guard to protect our ports and waterways, and in view of the clear and increasing danger to our coastlines due to catastrophic oil spills, I am at a loss to understand why the Coast Guard is proceeding so slowly to establish VTS systems.

THE OBEY COMMISSION PROPOSALS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Maryland (Mr. BAUMAN) is recognized for 30 minutes.

Mr. BAUMAN. Mr. Speaker, I take this time to discuss with the House some matters which I think we ought to have laid before us prior to our consideration of the latest round of Obey Commission proposals, which are scheduled for action in the House tomorrow.

On last Friday, through the courtesy of the Speaker and the intervention of the minority leader, it was my somewhat tedious duty for 4 or 5 hours to examine House Document 95–204, which is the report of the Clerk of the House covering the period from January 1, to June 30, 1977. It was submitted to the Speaker on August 30, and is being distributed, I understand, to Members today through the Clerk's document room.

The document itself is rather lengthy, perhaps an inch or two thick. I directed most of my attention to the so-called in-district accounts. It is not, of course, my province to set myself up as an individual Member to judge what is or is not to be spent by Members of the House, but I think the basic premise that should be kept in mind is that all of these expenditures are made from taxpayers' money, provided by taxpayers to the Congress to finance our operation. Examination at length of the in-district accounts of Members shows an amazing array of individual expenditures for what some Members appear to think are official activities. For instance, one Member spent $327.70 to pay for a charter bus for bringing his constituents to the swearing-in ceremonies in January. Another Member had the taxpayers pay a rather large amount of money—as a matter of fact, $1,291—to a catering service for food and service for a constituent reception. The same Member reimbursed a Washington liquor store in the amount of $106.14 for refreshments for the same constituent reception at the time of the swearing-in.

A number of Members feel, apparently, that official duties require the sending of flowers to constituents, and have done so when people are ill or, in one case, when a clergyman was ill; others just flowers without explanation. One Member spent $200.27 for a staff Christmas party. Another Member apparently repeatedly charges BankAmericard without any explanation in large amounts for each month, and others use American Express cards in a similar manner.

Records indicate that Members have spent money to pay for tickets to political dinners, political club dues, the Capitol Hill Club, the Democratic National Club; that they have used on a number of occasions money to buy program advertisements and tickets for numerous social, service, fraternal, civic, and veterans organizations in their districts that, quite frankly, leave this Member searching for a rational explanation.

Another Member has apparently charged lunch every day for 2 months in the House restaurant to the taxpayers. Still another Member charged the taxpayers $17.50 for a tuxedo for an official function in his district, the report says, when the St. Patrick's Day Parade was rained out. Far be it from me to have anyone rained out of a St. Patrick's Day Parade, but I am not exactly sure that it warrants charging the taxpayers for one's tuxedo for that particular occasion. Other Members have charged large amounts for things such as publicity photographs. And still another Member charged a Ford-Mercury bill for the installation of a water pump and lubrication of the Member's car used by the staff, which, to me, is somewhat of a mystery. And so on, as it goes throughout hundreds and hundreds of pages of this report.

As I say, it is not my place to judge whether these expenses are proper official expenses. It is my understanding that, under the last round of Obey Commission proposals and reforms, any Member who wishes to certify that these expenses are indeed for official use then has to go through at least two steps of House officialdom to have these vouchers okayed. Apparently there has been no judgment interposed after the Members have certified these expenditures, and they have been paid. That, to me, I think is a mistake, but I think it does call for a great deal of caution on the part of all Members before we grant what is essentially a closed rule on the latest round of Obey Commission proposals which will be acted upon in the House shortly. At the very least, we should know what the full implications of these new proposals are, which, apparently, in this case, we did not.

Mr. HYDE. Mr. Speaker, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from Illinois.

Mr. HYDE. I thank the gentleman for yielding.

Mr. Speaker, in the gentleman's statement regarding all of these various payments to clubs, partisan political clubs, photographs, receptions, liquor funds, the gentleman did not mention parking tickets. Surely, no one used public funds to reimburse themselves to pay for a parking ticket, did they?

Mr. BAUMAN. It is not clear, but one of the entries does indicate a payment to the Municipal Court. It is not clear whether that is for a parking ticket.

Mr. HYDE. I see. Are these legal or illegal, these expenditures? We have a very great wave of reform sweeping over this House, following the problems with a certain committee chairman who is no longer with us. Out of that wave of reform, which was to improve things around here and to protect the taxpayers, is the gentleman saying that these expenditures that he has just listed are legal under the new reforms, the first wave of which we have already endured?

Mr. BAUMAN. It is apparently the policy of the officials of the House who pass upon these expenditures to trust the Member's individual judgment and certification. I assume, in each instance, the Member has had to sign a voucher seeking either direct payment or reimbursement and has had to certify that these were in his opinion official expenses of his office. Although I find it hard to understand, for instance, why $100 annual dues to the American Bar Association would fall in the category of official expenses.

Mr. HYDE. Would the gentleman agree that the word "reform" suffers from an almost fatal elasticity in this case?

Mr. BAUMAN. I think the gentleman has described it aptly.

Mr. HYDE. Are the same people leading the effort for more reforms that will be brought to us tomorrow?

Mr. BAUMAN. I think if the gentleman were in a court of law his question would have to be described as a leading question, but the answer is yes.

Mr. HYDE. I was going to refuse to withdraw the question, no matter what the ruling of the gentleman was.

I thank the gentleman.

Mr. DEVINE. Mr. Speaker, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from Ohio.

Mr. DEVINE. I thank the gentleman for yielding.

Mr. Speaker, I think that the revelations the gentleman has made are interesting and should be public knowledge.

Just as a matter of information, each Member of the House is entitled to a copy of this Clerk's report upon request; is that correct?

Mr. BAUMAN. That is my understanding. I was told that the report normally would have been printed in roughly 30 days after its submission, which would

have meant that it would have been available around the first of September. But last week I was given to understand that I would be allowed, as all Members have the right, to read at least a galley copy, and this was denied to me.

Finally, after a public appeal to the Speaker last Thursday, supported by the minority leader, the gentleman from Arizona (Mr. RHODES), a copy was made available to me on last Friday.

Mr. DEVINE. Mr. Speaker, I read the gentleman's remarks in the RECORD of last Thursday. That is what brought this matter to my attention.

It is my understanding this is a public document, but it is one that is little known to Members of the House and they do not get it unless they requested it. If they receive it, they find the document contains just a fountain of information.

It is my understanding they can receive it upon request; is that correct?

Mr. BAUMAN. Mr. Speaker, that is my understanding. I believe copies are available today in the Clerk's Document Room, if a staff member or the Member asks for it and signs for its acceptance.

Mr. DEVINE. Mr. Speaker, I thank the gentleman for yielding.

Mr. BAUMAN. Mr. Speaker, I can only say that I believe every Member should ponder this document carefully prior to tomorrow's action on the proposals of the Obey Commission, if for no other reason than to be extra careful about what we do in the future in the way of reforms.

Mr. HYDE. Mr. Speaker, will the gentleman yield further?

Mr. BAUMAN. I yield to the gentleman from Illinois.

Mr. HYDE. Mr. Speaker, let me ask the gentleman, what is the official name of the document to which he refers?

Mr. BAUMAN. It is the Report of the Clerk of the House, and it is House Document No. 95–204.

Mr. HYDE. Mr. Speaker, may I share with the gentleman something from a late Senator from New York who quoted Dr. Samuel Johnson. Dr. Johnson said: "Patriotism is the last refuge of the scoundrel," and he never considered the possibilities of the word, "reform."

Mr. BAUMAN. Or expense accounts.

Mr. Speaker, I yield back the balance of my time.

SOCIAL SECURITY FINANCING AMENDMENTS OF 1977

(Mr. ULLMAN asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. ULLMAN. Mr. Speaker, on October 6, 1977, the Committee on Ways and Means ordered favorably reported H.R. 9346, the "Social Security Financing Amendments of 1977," as amended. As you know, this legislation is urgently needed because it strengthens the financing of the entire social security system over both the short run and the long run.

I take this occasion to advise my Democratic colleagues in the House as to the type of rule that will be requested from the Committee on Rules to provide for consideration of H.R. 9346 on the floor of the House. The Committee on Ways and Means has instructed me to request the Committee on Rules to grant a modified closed rule which would make in order amendments by the Committee on Ways and Means, which would not be subject to amendment and which would not be divisible, and which would make in order eight additional amendments, which would not be subject to amendment and which would not be divisible, as follows:

First. An amendment by Hon. JOSEPH FISHER which would strike the provisions for mandatory coverage of Federal, State, and local employees and of employees of nonprofit organizations, but which would contain a compensating increase to maintain the actuarial status of the trust funds at the same level as in the reported committee bill;

Second. An amendment by Hon. WILLIAM STEIGER which would adjust upward the earnings limitation, adjust downward the wage base, and adjust upward the tax rate, and which would maintain the actuarial status of the trust funds at the same level as in the reported committee bill;

Third. An amendment by the Honorable ED JENKINS to reduce the wage base and increase the tax rates and which would maintain the actuarial status of the trust funds the same as in the reported committee bill;

Fourth. An amendment by the Honorable J. J. PICKLE which would strike from the bill the authority to borrow from the general funds of the Treasury;

Fifth. An amendment by the Honorable WILLIAM KETCHUM which would phase out the earnings limitation for those 65 and over and which would adjust the wage base or the tax rates or both and which would maintain the actuarial status of the trust funds the same as in the reported committee bill;

Sixth. An amendment by the Honorable JAMES CORMAN to repeal the minimum benefit;

Seventh. An amendment by the Honcrable ED JENKINS which would establish a commission to study the social security system and to report its findings back to the President and the Congress within 2 years; and

Eighth. An amendment by the Honorable BARBER CONABLE which would be in the nature of a substitute which would make numerous changes in the financing and in other provisions of the committee bill.

The above amendments are to be published in legislative language in the CONGRESSIONAL RECORD for the information of the Members of the House.

Further, the rule requested would provide for 3 hours of general debate on the bill, to be equally divided, and for not to exceed a total of 30 minutes' debate on each amendment, to be equally divided; would provide for waiving of all points of order; and finally, would provide for one motion to recommit with or without instructions.

We intend to file the committee report on H.R. 9346 by midnight, Wednesday, October 12, 1977. It is our intention to request a hearing before the Committee on Rules as expeditiously as possible.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows to:

Mr. VENTO (at the request of Mr. WRIGHT), for October 11 and 12, on account of official business.

Mr. PEPPER (at the request of Mr. WRIGHT), for today, on account of illness in the family.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. GOODLING) and to revise and extend their remarks and include extraneous matter:)

Mr. FORSYTHE, for 10 minutes, today.
Mr. RAILSBACK, for 5 minutes, today.
Mr. KEMP, for 10 minutes, today.

(The following Members (at the request of Mr. VOLKMER) to revise and extend their remarks and include extraneous material:)

Mr. ANNUNZIO, for 5 minutes, today.
Mr. GONZALEZ, for 5 minutes, today.
Mr. SIKES, for 5 minutes, today.
Mr. DICKS, for 5 minutes, today.
Mr. FOWLER, for 5 minutes, October 12, 1977.
Mr. BAUMAN, for 30 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. GOODLING) and to include extraneous matter:)

Mr. RUPPE.
Mr. MARKS in two instances.
Mr. WYDLER.
Mr. MILLER of Ohio in four instances.
Mr. ABDNOR.
Mr. MICHEL.

(The following Members (at the request of Mr. VOLKMER) and to include extraneous matter:)

Mr. VANIK.
Mr. FARY.
Mr. MAZZOLI in three instances.
Mr. TEAGUE.
Mr. ANNUNZIO in six instances.
Mr. ANDERSON of California in three instances.
Mr. GONZALEZ in three instances.
Mr. BROWN of California in 10 instances.
Mrs. SCHROEDER.
Mr. RODINO.
Mr. AUCOIN in two instances.
Mr. SIKES.
Mr. FISHER.
Mr. STOKES.
Mr. RANGEL.
Mr. ERTEL.
Mr. KREBS.
Mr. GEPHARDT.
Mr. LONG of Louisiana.

SENATE JOINT RESOLUTION REFERRED

A joint resolution of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S J. Res. 88. Joint resolution providing for the designation of the week beginning November 13, 1977, and ending November 19, 1977, as "National Gifted and Talented Children Week"; Committee on Post Office and Civil Service.

BILLS PRESENTED TO THE PRESIDENT

Mr. THOMPSON, from the Committee on House Administration, reported that that committee did on October 6, 1977, present to the President, for his approval, bills of the House of the following title:

H.R. 5742. To amend the Controlled Substances Act to extend for three fiscal years the authorization of appropriations under that act for the expenses of the Department of Justice in carrying out that act;

H.R. 6530. To amend the District of Columbia Self-Government and Governmental Reorganization Act with respect to the borrowing authority of the District of Columbia, and for other purposes;

H.R. 6655. To amend certain Federal laws pertaining to community development, housing, and related programs;

H.R. 6951. To amend the Council on Wage and Price Stability Act to extend its termination date, and for other purposes; and

H.R. 9354. To amend the act of August 25, 1958, with respect to staff allowances for former Presidents.

ADJOURNMENT

Mr. VOLKMER. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 2 o'clock and 1 minute p.m.), the House adjourned until tomorrow, Wednesday, October 12, 1977, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2527. A letter from the Acting Director, Office of Management and Budget, Executive Office of the President, transmitting, a cumulative report on rescissions and deferrals of budget authority as of October 1, 1977, pursuant to section 1014(e) of Public Law 93-344 (H. Doc. No. 95-241); to the Committee on Appropriations and ordered to be printed.

2528. A letter from the Assistant Secretary of Defense (Comptroller), transmitting a report covering the second quarter of fiscal year 1977 on receipts and disbursements pertaining to the disposal of surplus military supplies, equipment, material, and the production of lumber and timber products, pursuant to section 712 of Public Law 94-419; to the Committee on Appropriations.

2529. A letter from the Deputy Secretary of the Treasury, transmitting a draft of proposed legislation to authorize the issuance of substitute Treasury checks without undertakings of indemnity, except as the Secretary of the Treasury may require; to the Committee on Banking, Finance and Urban Affairs.

2530. A letter from the Secretary of the Interior, transmitting the annual report covering calendar year 1976 on the administration of the Federal Metal and Nonmetallic Mine Safety Act, pursuant to section 20 of the act; to the Committee on Education and Labor.

2531. A letter from the Secretary of the Interior, transmitting a report on the addition of the Oregon Trail to the National Trails System, pursuant to section 5(b) of Public Law 90-543 (H. Doc. No. 95-242); to the Committee on Interior and Insular Affairs and ordered to be printed.

2532. A letter from the Assistant Secretary of State for Congressional Relations, transmitting a report on political contributions made by Ambassador-designate David D. Newsom and by members of his family, pursuant to section 6 of Public Law 93-126; to the Committee on International Relations.

2533. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b; to the Committee on Inernational Relations.

2534. A letter from the Secretary of Health, Education, and Welfare, transmitting a draft of proposed legislation to provide for the appointment by the President of the Commissioner of Food and Drugs by and with the advice and consent of the Senate and for compensation for the Commissioner at the rate prescribed for level IV of the Executive Schedule; to the Committee on Interstate and Foreign Commerce.

2535. A letter from the Vice President for Government Affairs, National Railroad Passenger Corporation, transmitting a report covering the month of May 1977, on the average number of passenger per day on board each train operated, and the on-time performance at the final destination of each train operated, by route and by railroad, pursuant to section 308(a)(2) of the Rail Passenger Service Act of 1970, as amended; to the Committee on Interstate and Foreign Commerce.

2536. A letter from the Attorney General, transmitting a draft of proposed legislation to amend the Immigration and Nationality Act and for other purposes; to the Committee on the Judiciary.

2537. A letter from the Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics), transmitting the annual report and audit of the American National Red Cross for the year ended June 30, 1976, pursuant to section 6 of the act of January 5, 1905, as amended; to the Committee on the Judiciary.

2538. A letter from the Acting Comptroller General of the United States, transmitting a report on controlling foreign investment in national interest sectors of the U.S. economy (ID-77-18, October 7, 1977); jointly to the Committees on Government Operations, Interstate and Foreign Commerce, and International Relations.

2539. A letter from the Secretary of Transportation, transmitting a draft of proposed legislation to implement the International Convention for the Prevention of Pollution From Ships, 1973, and for other purposes; jointly, to the Committees on Merchant Marine and Fisheries, and Public Works and Transportation.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

[*Pursuant to the order of the House on Oct. 6, 1977, the following reports were filed on Oct 7, 1977*]

Mr. BINGHAM: Committee on International Relations. H.R. 9179. A bill to amend the Foreign Assistance Act of 1961 with respect to the activities of the Overseas Private Investment Corporation; with amendment (Rept. No. 95-670). Referred to the Committee of the Whole House on the State of the Union.

Mr. TEAGUE: Committee of conference. Conference report on S. 1811 (Rept. No. 95-671). Ordered to be printed.

[*Submitted Oct. 11, 1977*]

Mr. BROOKS: Committee on Government Operations. Report on allocation of budget totals by program (Rept. No. 95-672). Referred to the Committee of the Whole House on the State of the Union.

Mr. ULLMAN: Committee of conference. Conference report on H.R. 3 (Rept. No. 95-673). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BAFALIS (for himself, Mr. ABDNOR, Mr. BURKE of Massachusetts, Mr. LAGOMARSINO, Mr. MARTIN, Mr. STEERS, Mr. SARASIN, Mr. THONE, Mr. LEDERER, Mr. WINN, Mr. ALLEN, Mr. MITCHELL of New York, Mr. HOLLAND, Mr. BEARD of Rhode Island, Mr. KETCHUM, Mr. HOLLENBECK, Mr. GOODLING, Mr. LEACH, Mr. GUYER, Mr. HARRIS, Mrs. BURKE of California, Mr. HILLIS, and Mr. RICHMOND):

H.R. 9490. A bill to amend the Internal Revenue Code of 1954 to eliminate the adjusted gross income limitation on the credit for the elderly, to increase the amount of such credit, and for other purposes; to the Committee on Ways and Means.

By Mr. DON H. CLAUSEN (for himself, Mr. QUIE, Mr. VANDER JAGT, Mr. HAMMERSCHMIDT, Mr. ABDNOR, Mr. COCHRAN of Mississippi, Mr. HAGEDORN, and Mr. STANGELAND):

H.R. 9491. A bill to amend the Federal Water Pollution Control Act; to the Committee on Public Works and Transportation.

By Mr. DELANEY (for himself, Mr. BEARD of Rhode Island, Mr. MOORHEAD of California, Mr. D'AMOURS, Mr. BURKE of Florida, Mr. ZEFERETTI, Mr. EDGAR, Mr. OBERSTAR, Mr. KEMP, Mr. MITCHELL of New York, Mr. MAZZOLI, Mr. YOUNG of Missouri, Mr. STEERS, Ms. MIKULSKI, Mr. FISH, Mr. LEDERER, Mr. YOUNG of Alaska, Mr. MOLLOHAN, Mr. DOWNEY, Mr. DAN DANIEL, Mr. TREEN, Mr. LAFALCE, Mr. HYDE, Mr. LONG of Maryland, and Mr. MOAKLEY):

H.R. 9492. A bill to amend the Internal Revenue Code of 1954 to allow a taxpayer to deduct, or to claim a credit for, amounts paid as tuition to provide an education for himself, for his spouse, or for his dependents; to the Committee on Ways and Means.

By Mr. DELANEY (for himself, Mr. ROONEY, Mr. MARKEY, Mr. RINALDO, Mr. EARLY, Mr. STRATTON, Mr. NOLAN, Mr. JEFFORDS, Mr. LEVITAS, Mr. NEDZI, Mr. FORSYTHE, Mr. BUCHANAN, Mr. BROWN of Ohio, Mr. MURPHY of Pennsylvania, Mr. ADDABBO, Mr. WALSH, Mr. ALLEN, Mr. VENTO, Mr. WATKINS, Mr. CAVANAUGH, Mr. MOTTL, Mr. SEIBERLING, Mr. LIVINGSTON, and Ms. OAKAR):

H.R. 9493. A bill to amend the Internal Revenue Code of 1954 to allow a taxpayer to deduct, or to claim a credit for, amounts paid as tuition to provide an education for himself, for his spouse, or for his dependents; to the Committee on Ways and Means.

By Mr. DELANEY (for himself, Mr. CORNELL, Mr. BIAGGI, Mr. FITHIAN, Mr. TRAXLER, Mr. OTTINGER, Mr. HANLEY, Mr. AKAKA, Mr. LAGOMARSINO, Mr. FARY, Mr. ROUSSELOT, Mr. BADHAM, Mr. CLEVELAND, Mr. DORNAN, Mr. EILBERG, Mr. MURPHY of New York, Mr. CAPUTO, Mr. GOLDWATER, Mr. RUDD, Mr. LENT, Mr. YATRON, Mr. KILDEE, Mr. MOFFETT, Mr. LUKEN, and Mr. WALGREN):

H.R. 9494. A bill to amend the Internal Revenue Code of 1954 to allow a taxpayer to deduct, or to claim a credit for, amounts paid as tuition to provide an education for himself, for his spouse, or for his dependents; to the Committee on Ways and Means.

By Mr. ERTEL (for himself, Mr. ROBERTS, Mr. FLOOD, Mr. BEILENSON, Mr. KEMP, Mr. EILBERG, Mr. LUNDINE, Mr. WALGREN, Mr. JENRETTE, Mr. MARKS, Mrs. SPELLMAN, Mr. MURTHA, Mr. GEPHARDT, Mr. EDGAR, Mr. BALDUS, Mr. CONTE, Mr. HUCKABY, Mr. EDWARDS of Oklahoma, Mr. ROE, Mr. HEFTEL, Mr. AKAKA, and Mr. FRENZEL):

H.R. 9495. A bill to amend the Flood Control Act of 1970 to provide that, in determining the need for a local flood protection project, the Secretary of the Army shall consider the impact on the economy and social well-being of the local area and certain surrounding areas if flood protection is not provided, to specify the factors to be evaluated in considering such impact, and for other purposes; to the Committee on Public Works and Transportation.

By Mrs. FENWICK (for herself, Mr. SKELTON, Mr. ROE, Mrs. SPELLMAN, Mr. DUNCAN of Oregon, and Mr. LEGGETT):

H.R. 9496. A bill to provide equitable comprehensive, and exclusive benefits to (a) persons who are disabled as a result of employment-related diseases caused by the inhalation or ingestion of asbestos, and/or the inhalation of asbestos coupled with the inhalation of cigarette tobacco smoke, (b) members of such person's household, and (c) the surviving dependents of such persons whose death was due to such disease; to the Committee on Education and Labor.

By Mr. FISHER:

H.R. 9497. A bill to amend the Internal Revenue Code to provide an exception to the recapture provisions under the investment tax credit; to the Committee on Ways and Means.

By Mr. JEFFORDS:

H.R. 9498. A bill to amend the Internal Revenue Code of 1954 with respect to the time by which employers are required to pay social security taxes and withheld income taxes; to the Committee on Ways and Means.

By Mr. JEFFORDS (for himself and Mr. LUNDINE):

H.R. 9499. A bill to provide for the timely and safe disposal of radioactive ores, minerals, and mill tailings as well as physical facilities and material wastes of all types which are produced as a result of the use of nuclear energy; jointly, to the Committees on Armed Services, Interior and Insular Affairs, International Relations, and Interstate and Foreign Commerce.

By Mr. KREBS (for himself, Mrs. LLOYD of Tennessee, Mr. WALKER, Mr. STEERS, Mr. DAN DANIEL, Mr. GILMAN, Mr. HANNAFORD, Mr. HUGHES, Mr. PRITCHARD, Mr. BEDELL, Mr. OTTINGER, Mr. BURGENER, Mr. GRASSLEY, Mr. MURPHY of Pennsylvania, Mr. MOTTL, Mr. CHARLES WILSON of Texas, Mrs. SPELLMAN, Mr. ENGLISH, and Mr. GEPHARDT):

H.R. 9500. A bill to amend the Immigration and Nationality Act to provide that before an alien who is likely to become a public charge may be admitted into the United States, such alien must have an immigration sponsor post a $5,000 bond on such immigrant's behalf, and for other purposes; to the Committee on the Judiciary.

By Mr. BAUCUS:

H.J. Res. 619. Joint resolution to express the sense of the Senate and House jointly with regard to establishment of a National Water Resources Management Policy; to the Committee on Interior and Insular Affairs.

By Mr. DICKS (for himself and Mr. BONKER):

H. Res. 823. Resolution disapproving the proposed deferral of budget authority for acquisition, construction and improvements by the U.S. Coast Guard, Department of Transportation; to the Committee on Appropriations.

By Mr. FINDLEY (for himself, Mr. MCDONALD, and Mr. TREEN):

H. Res. 824. Resolution to maximize local nighttime radio service; to the Committee on Interstate and Foreign Commerce.

By Mr. THOMPSON:

H. Res. 825. Resolution dismissing the election contest against W. Wyche Fowler, Jr.; to the Committee on House Administration.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BRODHEAD:

H.R. 9501. A bill for the relief of Bogdan Bereznicki; to the Committee on the Judiciary.

By Mr. FISHER:

H.R. 9502. A bill for the relief of Casimir Jan Kray; to the Committee on the Judiciary.

H.R. 9503. A bill for the relief of Erich Jakob, Berlin, West Germany; to the Committee on the Judiciary.

H.R. 9504. A bill for the relief of Edgar G. Anzueto, Roger M. Brooks, John M. Derrick, Louis J. Rose, Henry Hartwick, Richard T. Moore, Desmond D. Richelson, Gary H. Kirkpatrick, John H. Basemore, Dale E. Startzell, Joseph M. Wittig, and Francis D. Raley; to the Committee on the Judiciary.

MEMORIALS

Under clause 4 of rule XXII,

277. The SPEAKER presented a memorial of the Senate of the Commonwealth of Massachusetts, relative to enforcement of the 200-mile fishing limit; to the Committee on Merchant Marine and Fisheries.

SENATE—*Tuesday, October 11, 1977*

The Senate met at 10 a.m. and was called to order by Hon. DALE BUMPERS, a Senator from the State of Arkansas.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Let us pray.

Lord of all power and might, the Author and Giver of all good things, graft in our hearts the love of Thy name, increase in us true religion, nourish us with all goodness that we may fitly serve Thee in this place.

May Thy spirit equip and guide the President, the Vice President, the Members of Congress, and all others who are responsible for the welfare, health, and security of the Nation. Impart to all such a sense of duty and honor which no selfish motive or moral ambiguity can corrupt or destroy.

Show us clearly what our duty is. Help us to be faithful in doing it and in the end give us hearts at peace with Thee.

We pray in the Redeemer's name. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., October 11, 1977.

To the Senate:

Under the provisions of Rule I, Section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable DALE BUMPERS, a Senator from the State of Arkansas, to perform the duties of the Chair.

JAMES O. EASTLAND,
President pro tempore.

Mr. BUMPERS thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF LEADERSHIP

The ACTING PRESIDENT pro tempore. The Senator from West Virginia is recognized.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of yesterday, Monday, October 10, 1977, be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER FOR CONSIDERATION OF SENATE CONCURRENT RESOLUTION 31—AUTOMOBILE CRASH PROTECTION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that upon the disposition of the legal services legislation, the Senate proceed to the consideration of Calendar Order 446, Senate Concurrent Resolution 31, automobile crash protection.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

COMMITTEE MEETINGS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Trans-

portation Subcommittee of the Environment and Public Works Committee be authorized to meet during the sessions of the Senate on October 11 and 12 to conduct oversight hearings.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Nuclear Regulation Subcommittee of the Environment and Public Works Committee be authorized to meet during the session of the Senate on October 13 to conduct oversight hearings.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I do not have any further need for my time.

Mr. BAKER. Mr. President, I have no requirement for my time under the standing order and I yield it back.

LEGAL SERVICES CORPORATION ACT AMENDMENTS OF 1977

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of S. 1303, which the clerk will state by title.

The legislative clerk read as follows:

A bill (S. 1303) to amend the Legal Services Corporation Act to provide authorization of appropriations for additional fiscal years, and for other purposes.

The Senate resumed the consideration of the bill.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. HELMS. Mr. President, a fundamental aspect of any free society is the ability of its citizens to defend or assert their rights before an independent and impartial judiciary.

The phrase "equal justice under the law" has a very hollow ring indeed if substantial numbers of our fellow citizens can for any reason be denied their day in court because of an inability to afford an attorney.

For some time Government and the legal profession have recognized an obligation to provide legal services to defendants in criminal proceedings who would otherwise not be able to afford a legal defense.

During the past few years many in Government have recognized a need to provide similar legal counsel in civil matters to those who otherwise would be denied many of the benefits and the protections of the American judicial process.

Since entering the Senate, I have supported, Mr. President, the principle that Government provide a means by which those who cannot afford legal counsel can indeed have their day in court.

One of the first legislative proposals I introduced, as a matter of fact, as a freshman Senator was a bill to provide legal services in civil matters for the poor. So the debate in this Chamber today and in the ensuing days, as far as the Senator from North Carolina is concerned, is not one between those who seek to assist the poor of this country in obtaining equal justice under the law and those who seek to deny them that right. I do not think, Mr. President, any Senator wants to deny that right.

The debate today is of a very different character. Mr. President, most of my career, such as it is, has been in the news business. I began as a cub reporter longer ago than I like to acknowledge. One of my first assignments was the routine one of covering city court in Raleigh, N.C. I remember the kindly old judge who presided over that court—at least I thought he was old at that time, and he was probably the ripe old age of 40—and I remember Alfonzo Lloyd, the prosecutor in that court, and I remember many conversations with the judge and with Mr. Lloyd about the whole host of defendants who would appear on Monday morning charged with various offenses growing out of celebrations over the weekend.

These defendants had no attorneys. But in the circumstances that existed in that little court, Mr. President, they really did not need an attorney because the judge and the prosecutor were not out for blood. Maybe they did not follow the judicial process all that closely, but they meted out justice. Many of the defendants went free because there was no point in convicting them and sentencing them to jail terms. Certainly there was no point in fining them because most of the defendants did not have the money to pay for the fines.

But I recall as a very young man, as a cub reporter, thinking that there ought to be a better system than this. I remember thinking what if we had a judge who was inclined to prosecute these defendants?

So this attitude, Mr. President, of wanting to see every citizen, no matter how humble, no matter how impoverished, have the assistance of legal counsel when in court has been with me for a long time.

I think most Senators feel precisely as I do—none more strongly, but perhaps equally.

In any event, the principles of equal justice under law and the right of any person to a fair and impartial determination of his claims in a court of law is strongly embraced by the vast majority of Americans.

I suspect there are very few Americans who so misunderstand the history and the purpose of this country that they would destroy these fundamentals of our heritage.

Yet, the history of the Federal Government's involvement with the delivery of legal services, first through the Office of Economic Opportunity and now through the so-called Legal Services Corporation, has been fraught with much bitterness and controversy. The reason for this controversy is very simple. Rather than limiting their activity to providing assistance with the personal and individual legal problems of the poor, the employees of the legal services program—and I would emphasize these are what we call Federal bureaucrats living at the Federal trough—these employees of the legal services program have assumed the role, and they have assumed it arrogantly, Mr. President, the role of conspicuous federally-financed advocates of political and social causes.

All across this country, under the guise of serving the poor, these taxpayer-funded social engineers have promoted militant extremism. They have promoted graduated State income tax. They have promoted student protests. They have promoted racial quotas in employment and education. They have promoted increased government welfare programs. They have promoted Indian land claims. They have promoted homosexual demands, rent strikes, and boycotts of private business.

In other words, Mr. President, these people whose salaries and expenses are paid by the American taxpayers are the intended, deliberate architects of chaos wherever they can promote it.

They have used taxpayers' money for lobbying efforts. They have used taxpayers' money for organizing special interest and pressure groups. And they have engaged, Mr. President, in class action suit after class action suit, not on behalf of the poor but to promote their own view of social "reform."

Mr. President, the demands of special interest groups regarding quotas in employment and education, abortion, the legalization of marihuana, homosexual demands, and unrestrained pornography may be protected under the first amendment, but they have no right being lobbied and promoted by taxpayer funded lawyers, who in doing so ignore the legal problems of the poor whom they are paid to represent.

There is the problem, Mr. President, another Federal program with a fancy label, but with a different potion in the bottle. Maybe some will want to challenge me on what I am saying and I will meet the challenge head on.

I have talked with members of the board of directors of the Legal Services Corporation. One of them is from my home State.

Mr. President, if Senators could hear what I have heard they would be aghast. Of course, Senators are not here and I suppose that it is assumed that this bill before us will be approved almost pro forma. But we are going to discuss it, Mr. President. We may discuss it for many days because this program with its fancy label and with all the good intentions spread out before us when it was brought into being, is a fraud. It is a fraud on the taxpayers and it is a fraud on the concept of equal justice under the law. Senators may not listen in the days to come, but it is going to be made a matter of record what this program really is and how the taxpayers' money is being wasted.

The American public resents this abuse of their hard-earned tax dollars and it is entirely proper that they do.

Mr. President, although much of the legal services activity has been concerned

with personal legal problems in such areas as housing, bankruptcy, debtor-creditor relations and family relations, a substantial amount of time and money has been spent in so-called legal activism promoting the social goals of special interest groups.

This activity under the guise of legal activism or law reform is simple, political advocacy in absolute unrestrained form. It may be carried on in the guise of litigation, but its purpose—and let us make no mistake about it—its purpose and its impact are to change and, in effect, to make law.

This activity of the legal services program amounts to nothing less than legislative activity. It is making law. It is politics in its fullest sense; and in a democracy, it is politics in its lowest sense. It is political activity even when disguised as litigation. The judicial system should be subject to the traditional checks and balances of the free political system.

It is undemocratic to give power to narrow political factions and at the same time insulate the use of this power from the restraints of free government. It is just as simple as that.

A central issue regarding this issue before us is whether the efforts for social action and social change by a narrow minority should be financed with Government money, that is to say the taxpayers' money?

There is no such thing as free money from Washington, Mr. President. It does not grow on trees here. So when we talk about Federal funds, we are not talking about any magic currency that grows on trees. We are talking about money extracted from the hard-working people of this country, who could make far better use of those funds than the Federal bureaucracy.

But that is what is happening. Using money from the taxpayers to advance the cause of one section of the population over another creates a system of new injustice. The proper forum for political questions is the political process—the constitutionally established system of checks and balances in our national and State legislatures. But the use of the judicial system and the administrative process to effect social reform makes a mockery of justice, because it makes an end run around the constitutional system of our country.

Ultimately, this practice destroys the popular consensus and support necessary for long-term reform, and indeed democratic government itself.

Mr. President, this is why, during 1973, my first year in the Senate, I strongly supported amendments to the original Legal Services Corporation bill. These amendments, which were finally adopted by Congress, sought to restrain legal services attorneys from pressuring courts to legislate rather than to adjudicate. But even if the present legal services program could be reformed to prevent these political abuses, the present approach to providing these services is deeply flawed. Essentially, the present legal services program, as is the case with so many Federal welfare programs, treats the poor clients with a patronizing approach which denies those clients the same position as the normal consumer of legal services. It thus instills an attitude of second-class citizenship.

First, the poor person seeking assistance from the legal services program does not have the freedom to choose his own attorney, as does his self-sufficient counterpart. Under the present approach, the poor client must accept whatever attorney is provided by the legal services program.

Second, the poor person seeking legal services assistance enters an attorney-client relationship which is very different from the normal relationship between attorney and client. Since the attorney and the poor client understand that the client does not control the attorney's fee, and has nowhere else to go for help, the legal services attorney tends to gain dominance in his relationship with the client. Because the attorney's fee is paid by someone other than the client, the attorney is continually faced with a potential conflict of interest situation.

Third, lawyers with a federally assured income are free to spend their time on appeals of test cases to promote issues in which they are interested. They are free to promote the national goals of special interest groups, rather than spend their time on effective representation for the poor client.

I know that we will hear pious denials of this. But any Senator who has studied this program, who has looked down beneath the veneer, is in a bad way to defend the program and these attorneys.

All right, Mr. President; some Senators may say, "What is the answer? What is the alternative?"

There is an alternative to the present system. There is an alternative which would be free of political abuses. There is an alternative which would place the poor client on the same level as any other client obtaining legal services from a private attorney. In a moment, I am going to submit a legislative proposal to create just such a new means of delivering legal services. This proposal will be in the form of an amendment. It will be, actually, a proposed substitute for the pending Legal Services Corporation bill.

This amendment would establish a small congressionally chartered corporation which would operate as both a funding and a compliance mechanism. The new corporation would transfer appropriated moneys to qualified State governments; and a State government would qualify by adopting one of three procedures which I shall discuss momentarily.

Mr. President, we talk about centralization of power in the Federal Government. I am sure there is not a Member of this body who does not go home and proclaim that he is opposed to all of the mushrooming bureaucracy. We talk about State's rights and how much better the folks back home can administer various programs if we would just take the Federal bureaucracy out of it.

That is what the people back home want to hear, and they are right. That is what they ought to have. We ought to decentralize this Federal Government. We ought to return this power now, before it completely throttles and stifles the Federal system. We have responsible State governments, and we have responsible local governments. They are more than capable of establishing and administering a responsive, efficient program for the delivery of legal services. It is time we return this ability to them.

Mr. President, under the proposal which I shall offer presently, a State government would participate in the legal services program by adopting one of the following three procedures:

First, a State could empower an existing or new State agency to disburse funds to individual attorneys representing eligible clients;

Second, it could transmit funds to the bar association with overall jurisdiction in the State, if the bar association has established a method to disburse funds to attorneys representing eligible clients, as for example, under the judicare approach; and

Third, a State could establish a method of direct payment to eligible clients or their attorneys based upon a voucher system of proof.

Within this framework, the States would have full freedom to design their own program to suit local conditions, so long as clients retain the right to obtain the individual attorney of their choice. This legislation also contains appropriate restrictions on lobbying and political activity by attorneys while engaged in activities funded by the program.

Further, this proposal includes an equitable geographic distribution of appropriated funds based upon the proportion of eligible clients in each State. The standard of eligibility set by this legislation is the same standard as that of the medicaid formula, a standard already endorsed by Congress, State legislatures, and welfare groups.

This proposal restores freedom of choice to poor people in retaining legal assistance.

Why should poor clients be denied the right to choose an attorney? Why should they be required to accept an attorney who may be more interested in a class action suit on behalf of homosexuals than he is in representing a poor client? This amendment in the nature of a substitute is client-oriented rather than attorney-oriented. And it is the poor client, the citizen without the money to hire an attorney, whose interest we presumably are trying to protect—not that of the lawyer on a Government payroll.

This amendment in the nature of a substitute provides for greater and more active participation by local bar associations. I do not know about the bar associations in the States of other Senators, but I am immensely proud of the North Carolina Bar Association. For years, the North Carolina Bar Association has taken the lead in trying to assure adequate legal representation for citizens unable to pay for it themselves. And I think that Congress will be unable to pay for it themselves. And I think that Congress will be missing a fine opportunity if we do not do everything possible to encourage even further participation by the bar association and by

the responsible attorneys in North Carolina and the other 49 States.

We should seek to involve local attorneys more intimately in the problems of the poor community, not relegate the poor to Government-paid attorneys. This amendment in the nature of a substitute will set up a sound basis for a stable, ethical attorney-client relationship.

Finally, and just as importantly, this proposal allows the peoples' representatives in the State legislatures to play a proper role in designing and implementing the program in each State.

Mr. President, the present legal services delivery system is grossly deficient and the widespread controversy surrounding it is a valid indication of that deficiency. I submit, Mr. President, that the present legal services delivery system has distorted the attorney-client relationship and has been subject to numerous political abuses in promoting the objectives of special interest groups with taxpayers' money.

The present legal services delivery system has sought, time and time again, to thrust the burden of politics upon our courts. The amendment that I shall submit momentarily will, Mr. President, go far in reforming these abuses while increasing the delivery of personal legal assistance to the poor.

Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. JAVITS. Mr. President.

Mr. HELMS. Mr. President, I think I have the floor.

The ACTING PRESIDENT pro tempore. The Senator from North Carolina.

Mr. HELMS. Mr. President, without losing my right to the floor, I should like, before presenting my amendment, to yield to the distinguished Senator from California.

The ACTING PRESIDENT pro tempore. Is there objection?

Without objection, it is so ordered. The Senator from California is recognized.

Mr. HAYAKAWA. I thank the distinguished Senator from North Carolina. I should like to make a statement on the legal services legislation before us.

Mr. President, this bill is supposed to secure rights of the poor to have legal counsel. But, actually, it threatens the right of the Congress to control the expenditure of Federal funds, the right of the taxpayers to keep public officials accountable to them, and the right of the poor to have decent, competent, responsive representation in legal matters.

When the Congress created the Legal Services Corporations in 1973, a bargain was struck, for better or worse. The Corporation came into existence but its activities were restricted in certain areas so that its grantees could not use public moneys to undermine public policy. But this bill as reported out of the Human Resources Committee of which I am a member, attempts to undo the compromises of 1973. It would lift virtually all the restrictions then imposed upon the Corporation.

The committee has knitted into this legislation more loopholes than there are in the Internal Revenue Code. And so, its handiwork will be a tissue of trouble.

Let us look at some specifics. Present law forbids the Legal Services Corporation to use Federal funds to assist clients who are poor only because they have refused to take a job. The committee has removed that stipulation altogether. This legislation would force the workers of America to pay for attorneys for persons who would rather not work. At a time when everyone is talking about welfare reform, work-fare, and job requirements for public assistance the Senate should not decide that laziness is sufficient requirement for legal aid.

Furthermore current law forbids the Legal Services Corporation and its grantees to use Federal funds in cases involving desegregation of elementary and secondary schools or to provide legal aid to dependent children under the age of 18 without parental consent or the request of a court, unless the case involves child abuse or custody proceedings, or does not involve the child's parent or guardian as a defendant. This provision was designed to keep legal services attorneys from becoming home-wreckers, turning children against their parents and overturning the authority of the family. The committee has quietly killed that provision of existing law. And, unless we reverse its decision here on the floor of the Senate, most Americans will find out about this radical threat to the integrity of the family only after it is too late to stop it.

Present law requires that a majority of the 11 Board members of the Legal Services Corporation be attorneys, and that 60 percent of the members of the boards of recipient organizations, which use Corporation funds, also be attorneys, with at least one member of each of those boards being a person eligible to receive free legal aid. The committee has changed all that too. It wants to require that the poor be represented by a poor person on the national Board of the Legal Services Corporation and that at least one-third of the local boards be composed of poor people.

I wonder how many Members of the Senate would entrust their own legal affairs to a corporation whose board was largely comprised of poor persons. No, we Senators would not want those inexperienced people running our own legal affairs. But we think they should manage the legal affairs of other poor people. Well, what is good enough for the Senate ought to be good enough for the poor; and vice versa.

If the poor had the administrative, judgmental, and professional skills necessary to administer a legal services organization, they would not be poor. It is as simple as that. They would have careers of their own in public affairs. So how can we explain the perverse insistence by the committee that at least one-third of the local legal services boards should be certifiably poor people? Does the committee not trust professional attorneys to run legal services corporations?

The answer to those questions Mr President, is not pretty. The ugly truth is that certain vested interests have a personal stake in manipulating the poor and in controlling legal services organizations. And the easiest way to exercise that control is to stack the local legal services board with poor people who lack the sophisticated training of complicated issues to understand the decisions foisted upon them by left-wing activist lawyers.

That brings us, Mr. President, to the deplorable heart of this matter: to what is the fundamental failing of this legislation.

It is not a poor people's bill. It is a lawyer's bill. It authorizes $225 million for fiscal 1978. Now, how much of that money is going to reach the poor? Why, not a cent of it! It is supposed to purchase for the poor $225 million worth of legal advice. And in the process, it will pay the salaries of thousands and thousands of lawyers and paralegal professional aides.

Nice work if you can get it, and you can get it—to paraphase the old song—if you lobby the Congress to double the Legal Services authorization. That is what this bill does. It increases the Corporation's funding from $125 million this year to $225 million next year.

At last we know what the law schools are going to do with all their surplus graduates. It is said around this town that young attorneys are a dime a dozen. But if the Senate accepts this bill, their price will rise considerably.

Of course, I have no objections to efforts by the Federal Government to stimulate the economy in order to create jobs, as long as that is done by an across-the-board tax cut for the overtaxed American worker. But if we are going to foster jobs, we should not be in the business of creating comfortably paid jobs for paper-pushing professionals. And we certainly should not attempt to camouflage the dreadful deed by pretending we are helping the poor.

Mr. NELSON. Will the Senator yield for a question?

Mr. HAYAKAWA. Certainly.

Mr. NELSON. I was listening to the Senator's language referring to comfortable paying jobs.

Mr. HAYAKAWA. Paper-pushing jobs.

Mr. NELSON. Paper-pushing jobs at comfortable salaries, was that it?

Mr. HAYAKAWA. Yes.

Mr. NELSON. Does the Senator know what the average salary is of the lawyer in the legal services program of the local staff attorney?

Mr. HAYAKAWA. I do not.

Mr. NELSON. There are clerical workers all over this building getting more money than these dedicated young men and women who went all the way through law school—clerical workers—and there are people on elevators getting almost as much.

The average salary, for the benefit of the Senator from California, of the local staff attorney is $13,248.

Mr. HAYAKAWA. That is their full salary?

Mr. NELSON. Yes. That is the average.

There is no profession in any State government, in any college, any high school, any institution in America, getting $13,248 that I have heard of.

So to suggest it is a pencil pushing, cushy job is sheer nonsense.

Mr. HAYAKAWA. I thank the Senator from Wisconsin for the correction.

Mr. HELMS. Will the Senator yield?

Mr. HAYAKAWA. Yes.

Mr. HELMS. I ask the Senator from Wisconsin, what is the salary of lawyers coming out of law school, what do they get on the average?

The Senator is talking about how low $13,000 is, what does the average lawyer upon graduating from law school receive?

Mr. NELSON. I do not know what the average is.

Mr. HELMS. I know. That figure of $13,000 is approximately the national average.

Mr. NELSON. But the lawyers checked in the city of Washington today are starting out at $24,000 and $25,000, the day they pick up their diploma.

In the Federal Government they are starting at $25,000, $26,000, $27,000, $28,000, the day they get out of law school.

Mr. HELMS. That shows how senseless the Federal Government is.

Mr. NELSON. I am talking about——

Mr. HELMS. The Senator said the Federal Government.

Mr. NELSON. How many people does the Senator have on his staff who are professionals getting $13,248?

I would like to see that.

Mr. HELMS. I do not have any just out of law school.

Mr. JAVITS. Will the Senator yield to me?

Mr. HELMS. Certainly.

Mr. JAVITS. We just took on a bright girl out of law school. She is not even admitted. We are paying her $19,000, and that is competitive with opening salaries.

Mr. HELMS. Senator is using an isolated instance, involving I am sure, a brilliant young lady.

Mr. JAVITS. Yes.

Mr. HELMS. The Senator says she is from North Carolina's law school?

Mr. JAVITS. No. She came from New York University.

Mr. HELMS. I thought the Senator said "your law school."

Mr. JAVITS. No.

Mr. HELMS. I must say that graduates from our law school are a cut above. [Laughter.]

Mr. JAVITS. I cannot accept that.

Mr. HELMS. I did not say above what. [Laughter.]

I am sure there are exceptions, but I say to the Senator that my information is that for the young people just emerging from law school. $13,000 is about it.

Mr. JAVITS. However the Senator from North Carolina feels about this, however I feel about it, I must respectfully disagree. The salary of someone emerging from law school, I would say, even in low-cost-of-living places, would be, rock bottom, a minimum of $13,000.

My impression was, without comparing it to New York or other big cities, that it would range between $15,000 and $18,000, where they are admitted to the bar.

Mr. HELMS. I admit that everything costs more in New York. That is what frightens me about going there. Garbage collectors are paid $19,000 a year.

Mr. BUMPERS. I have a son who is a third-year law student, and he costs me about $12,000 a year to keep in school. So I certainly hope he makes more than that when he gets out; otherwise, I will have to continue to subsidize him. [Laughter.]

Mr. JAVITS. I have the same situation.

Mr. HELMS. I thank the Senator from California for yielding.

Mr. HAYAKAWA. Congress is a house of law; but it is also, alas, an assembly of lawyers. Most of its Members are from the legal profession. Even so, there are a few of us who are not attorneys and who, despite that grievous handicap, have found our way here. And we therefore have a special responsibility to present a balanced view of the role of lawyers in our society. I respectfully ask my colleague to heed this assessment of the way most professionals advance their own interests through the legislative process:

> The same with lawyers. They really take care of their clients, but when those lawyers organize, get a lobbyist, those lobbyists don't care anything about clients.

Those are not my words. They were spoken by Jimmy Carter 1 year ago, at a party at Warren Beatty's house in California. Now, with the Legal Services Corporation in mind, in light of its determined efforts to expand its funding and create more jobs for more lawyers, let us carefully consider Mr. Carter's warning:

> The same with lawyers. They really take care of their clients, but when those lawyers organize, get a lobbyist, those lobbyists don't care anything about clients.

Some may contend that, without the Legal Services Corporation, the poor will have no access to our judicial system, except as helpless defendants. Nonsense! There are effective, efficient ways to provide legal aid to the poor without grossly overextending Federal agencies. But this bill does not even advert to possible alternatives. It instead would bind the hands of Congress for a full 5 years, making it almost impossible for us to improve our methods of insuring the legal rights of the needy.

At this time, above all, we should not be sinking into concrete any of the many governmental institutions designed to provide in-kind aid to the poor. Surely, every Member of the Senate is aware that the President has submitted a massive proposal to restructure welfare radically. Part of his proposal is to abolish the food stamp program, using its funding instead to provide larger cash grants to the needy. The idea behind that plan is to do away with expensive, overlapping, and duplicative programs of public assistance; to replace them with simple cash grants; and thereby to give the poor the wherewithal to attend to their own needs.

I support that general concept of replacing the maze of categorical programs with a single cash grant. I realize that my position is not the same as that of the distinguished Members of the Senate with whom I usually find myself in agreement. But I have found the welfare mess to be a hopeless tangle, providing fewer opportunities to the poor than to the well-paid professionals who live well by fighting over people's poverty with other people's money.

That includes the Legal Services Corporation. It was a disappointment to me—and I think it is a serious flaw in President Carter's welfare plan—that he has not included the Legal Services Corporation in his proposals. Let us lift the poor out of poverty—or, rather, let them lift themselves out of poverty—by giving them the cash they need to do it. And then let us get rid of all the do-gooder programs and projects that treat the poor like children.

While Congress is considering far-reaching changes in welfare, I find it incomprehensible that the Human Resources Committee would nonetheless insist upon extending the Legal Services Corporation for 5 more years. That conflicts with the administration's desire to streamline welfare. It conflicts with the public's desire to get government out of our lives. It conflicts with the desire of poor people to make their own decisions, rather than have government functionaries—yes, that means Members of Congress—running their lives for them.

This bill is designed not only to expand the legal services bureaucracy but also to entrench it so deeply that, welfare reform or no welfare reform, the administration and Congress will be unable to ever redirect that $225 million directly to the poor. Instead of guaranteeing an income for the poor, this bill guarantees the incomes of lawyers for the poor.

Perhaps Congress does not perceive a difference there, but I assure my colleagues that the poor and the taxpayers do understand it. It is the difference between a helping hand and a hustle.

Mr. President, not being a lawyer, I have to apologize for being so long-winded about this matter. But I feel very strongly that, if the Senate accepts a 5-year extension of the Legal Services Corporation, we will be like a man who has one foot in quicksand but who is too proud to admit his mistake. So he plants the other foot squarely beside his sinking limb. But in our case, it is the poor and the general public who will pay the price of our obduracy.

I therefore recommend to my colleagues that they reject the committee's bill. Let us, instead, give careful consideration to alternate means of providing legal advice to the poor; and in the process, let us remember that our solemn obligation is to help the needy, not to run their lives.

The PRESIDING OFFICER. Under the previous agreement, the Senator from North Carolina is again recognized.

Mr. HELMS. Mr. President, my remarks earlier were preliminary to the submission of an amendment in the nature of a substitute; and with the Chair's permission, I should like to defer calling up this amendment and yield to my able colleague from New York, after which I will call up my amendment.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. JAVITS. Mr. President, I ask unanimous consent that Tim Smith, of Senator STAFFORD's staff, have the privilege of the floor during the debate on this matter.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. Mr. President, as the ranking minority member of the full Committee on Human Resources, and of the Subcommittee on Employment and Poverty—which has the authorizing responsibility for the Legal Services Corporation Act and which has reported S. 1303 on behalf of the full committee—I join the Senator from Wisconsin (Mr. NELSON), our subcommittee chairman, in urging our colleagues on both sides of the aisle to approve the Legal Services Corporation Act Amendments of 1977, without amendment.

Mr. President, I have long been a strong advocate of the legal services program for the poor. In 1966, I strongly supported the addition to the Economic Opportunity Act of 1964 of section 222 (a), which required the Director to provide the poor "legal advice and representation to further the cause of justice among persons living in poverty." On May 15, 1973, I was joined by Senators NELSON, TAFT, SCHWEIKER, and BEALL, in introducing the original Legal Services Corporation Act.

The reason for my long personal identification with and advocacy of this program is that I have always believed it will help us end, in many cases, the syndrome of the poor; the wrenching, demeaning, and delibilitating cycle of poverty amid affluence that has, as one of its fundamental causes, a failure of most of the 29 million poor themselves to understand and cope with the processes of our social and economic system. Without a program of free legal services for the poor, our system of law and justice for the resolution of public or private disputes would be denied those individuals who cannot afford the legal counsel necessary to determine their rights and responsibilities.

Since then, I have advocated our legal services program as it went through and survived the storms of sometimes acrimonious debate and political controversy, finally to arrive at the point today where the U.S. Senate can demonstrate broad bipartisan support for this bill. A prodigious amount of work on the part of many dedicated individuals in recent years has resulted in many salutary developments. We have made the necessary changes; we have put professionals in charge; so that now we have a legal services program which has the enthusiastic backing of the American Bar Association and of State bar associations throughout the country.

In 1970, the President's Advisory Commission on Executive Organization indicated that the program would continue to be a subject of partisan political controversy so long as it was in the executive branch and expressed its strong belief that its retention in the Executive Office of the President was inappropriate. It was in response to those recommendations that Congress passed the Legal Services Corporation Act of 1974.

That statute created an independent corporation, outside the executive branch of Government and directly accountable to the Congress. It is governed by an 11-person Board of Directors appointed by the President and confirmed by the Senate. The Chairman is Roger Cramton, distinguished dean of the Cornell University School of Law in New York. The President of the Corporation is Thomas Ehrlich, the former dean of the Stanford Law School. The Corporation has been in existence for 2 years, and has already demonstrated the wisdom of the legislative scheme creating it. In the past 2 years, the legal services program has been stabilized and significantly improved. The Corporation provides close and careful monitoring of local programs, effective enforcement of the act and the regulations, and essential support and assistance necessary to maintain the highest quality of legal services. It does so with impressive efficiency, operating with a Washington administrative budget of less than 3 percent of the total amount appropriated by the Congress.

And, in respect of the types of cases taken by legal services lawyers, it is important to emphasize that the vast majority of cases are the unsensational civil matters encountered every day by the poor: 30 percent are family relations, 14 percent are consumer problems, 17 percent are housing complaints, and 20 percent are concerned with administrative benefits, such as social security, AFDC, SSI, and veterans benefits. Furthermore, about 85 percent of the cases are handled outside of the courts.

Some felt that we had a problem in the past with class action suits initiated by legal services lawyers. But now there are constraints on the kinds of suits which were objected to, so that class actions can be undertaken only under procedures defined in the act and according to policies established by the Board of Directors of the local program. Today class actions will be initiated, but only to make more effective use of limited resources, such as when a program is faced with repetitive litigation on behalf of individual clients and it is more efficient to bring one action on behalf of those clients.

But, Mr. President, today is not a day for recrimination—for dredging up the controversies of the past; it is a day for looking forward sanguinely to what remains to be done in the way of providing legal services for the poor of our country. While it is true we have made much progress in making meaningful for the poor the words that are etched in stone beneath the pediment of the U.S. Supreme Court building—"Equal Justice Under the Law"—some 15 million poor persons still do not have access to legal assistance.

The Legal Services Corporation has set for itself a short-term goal of providing "minimum access" to legal services—defined as two lawyers for every 10,000 poor persons—for the 29 million poor people of our country. On this basis, less than half the poor now have "minimum access" to legal services.

Put another way, we might say that the present program provides legal services to the poor at the rate of one lawyer for every 10,000 persons, which is in stark contrast to the rate for the population as a whole, to wit: 11.2 lawyers per 10,000 persons.

The inadequacy of our present efforts in this regard is further demonstrated by the fact that reliable estimates are that 23 percent of each 10,000 poor, or 2,300 persons will have need of the services of a lawyer during a given year. Is it any wonder, then, that last year the 3,000 Legal Services Corporation lawyers handled 1,250,000 cases, for an incredible average of over 400 cases per lawyer?

The Legal Services Corporation Act Amendments of 1977—S. 1303—will help us to continue our progress toward the goal of providing "Equal Justice Under the Law" for all Americans by making several much-needed modifications in existing law.

Senator NELSON has already explained each of the provisions in the bill and I do not wish to be redundant, but I would like to underscore several points.

First, the bill before us provides a $225 million authorization of appropriations to the Legal Services Corporation for fiscal year 1978 and such sums as may be necessary for each of the 4 succeeding fiscal years. The Senate has already accepted the conference report on the State, Justice, Commerce, and Judiciary appropriations bill for fiscal year 1978, which provides an appropriation of $205 million for the Corporation. On June 24 of this year, two amendments to reduce appropriations for the Corporation were rejected by a wide margin.

The purpose of the $225 million authorization is to provide the funds necessary to permit the Corporation to continue its efforts to expand legal services to areas of the country where there are none now, and to give all existing programs the capacity to offer at least a minimal level of assistance—the equivalent of 2 attorneys for 10,000 clients—to the poor people who live in their service areas. In addition, the authorization would enable the Corporation to begin to address the problems of salary comparability and additional costs of service in rural areas—problems that go beyond the minimum access plan.

Beyond fiscal year 1978, the Human Resources Committee has opted for such sums as may be necessary for the succeeding years of the authorization. It seems reasonable to expect that for fis-

cal year 1979, to complete expansion of minimum access to all areas of the country and to comply with congressional instructions dealing with salary comparability and variable costs in rural areas, an appropriation in the neighborhood of $300 million may be necessary. But the Corporation is only now beginning to make the adjustments we have requested for fiscal year 1978, and it seems premature to settle on a precise figure for 1979 until we have had an opportunity to fully assess the impact of those adjustments. Beyond 1979, it becomes much more difficult to project what kinds of increases will be necessary. Use of a "such sums" figure is not an open-ended invitation to the Corporation to come in with any numbers they like. It is a prudent approach that says that rather than fix numbers now that may be too high or too low, we want to look at a full budget justification for the succeeding fiscal years. My colleagues in the Senate should know that the Human Resources Committee, as part of its oversight functions, will be looking closely at those plans and justifications, and I am certain that our counterparts on the Appropriations Committee will be giving them even more careful scrutiny.

A 5-year authorization of the Legal Services Corporation gives the program the stability necessary for planning purposes while at the same time assuring congressional review within a reasonable period of time. When we set up the Corporation in 1974, it was reasonable to limit the authorization to 3 years. We were not certain how the Corporation would work. Its Board of Directors had not been appointed. The Corporation has been in operation now for 2 years and we have had an opportunity to measure its effectiveness. They deserve the full confidence a 5-year authorization will provide.

The second provision of S. 1303 I would like to underscore is that which requires that three of the members of the Board of Directors be eligible clients. This is an important provision and will insure that the Board be accountable and sensitive to the eligible population of poor people. Many enlightened private corporations in the United States for some time have included on their boards representatives of consumers, the public at large and, in some instances, even workers. I think this is a healthy development for our country and one that should be followed by the Legal Services Corporation. Moreover, one of the best ways I can think of for preventing the legal services program from embroiling itself in what some call the "frivolous" or "exotic" cases, is to have poor people themselves participating in the decisionmaking concerning legal services' activities. They can make significant contributions in many areas of this program.

Second, the bill before us allows the Legal Services Corporation to undertake directly, or by grant or contract, various research, training, and technical assistance activities. These provisions would make it possible to reestablish the so-called backup or support centers which were prohibited under the 1974 act. Our colleagues will recall that the so-called "Green Amendment" was a provision added on the House floor in 1973. The House and Senate conferees agreed unanimously to drop the provision. It ended up in the bill only because the President intervened, after the conference report had been filed, and insisted it be included as a condition of his signature on the bill. A lot has changed since the summer of 1974, including the fact that the House has voted overwhelmingly on three separate occasions to eliminate the restrictions imposed by the Green Amendment. If that body, the original source of the provision, is ready to eliminate it, then certainly the Senate can agree. The majority of these centers would concentrate in just one area of substantive law, such as consumer law, landlord-tenant law, or social security law, and thus provide an important source of expertise on complex legal issues. The support centers will give the Corporation the flexibility it needs, indeed is entitled to—as is any other Federal agency—to make contracts with outside groups for independent study or technical assistance.

Third, and I believe this is of the most profound significance, S. 1303 repeals the unfortunate language of section 1007(b)(7) of the 1974 act, which states that no funds may be used "to provide legal assistance with respect to any proceeding or litigation relating to the desegregation of any elementary or secondary school or school system." I realize that this is an emotional issue for many of my colleagues, and the Senate has taken what is, in my view, some unwise positions in recent weeks. Let us be clear here, however, about what we are discussing. The prohibition in the existing statute is not restricted to busing cases. It prevents any representation on issues related to school desegregation. Even if an outside organization brings a school desegregation suit in a local community and a group of parents comes to the legal services program to ask that their interests be protected, the program may not provide representation. If parents come to a legal services program to challenge a discriminatory school policy on discipline or on special education, and that issue is tied to a pending school desegregation case, the current law might be interpreted to prevent representation. If parents come to a legal services program seeking action to improve the quality of the education their children receive, and the best solution involves desegregation, the program may not provide representation even though the remedy sought may be no more than the closing of a single school or the relocation of a planned new school.

Mr. President, the full Human Resources Committee considered this action very carefully. During our markup, I moved the amendment to repeal this section, and my amendment was accepted on a vote of 10 to 3. The arguments in favor of my amendment are most compelling, and I urge the full Senate to uphold them today.

School segregation is, at one and the same time, a means of perpetuating existing class distinctions and preventing the poor from participating in the upward mobility that supposedly is the hallmark of our social system. If poor minorities are to be expected to upgrade themselves without undue governmental involvement, the route of high-quality equal education must be open to them. Indeed, the U.S. Supreme Court has so ruled. But in many places in our land, equal access to quality education remains but an empty promise. Clearly, the poor have a constitutional right peaceably and through our system of law to undertake to change these unfortunate circumstances. The provision of existing law denies parents access to the legal system to remedy that situation. It flies in the face of the stated intent of the law and should be removed. S. 1303 would remove the obstacle that now prevents this avenue of redress.

In testimony before our subcommittee, the American Bar Association expressed its unequivocal opposition to the existing prohibition on taking desegregation cases. Llewelyn Pritchard of the ABA testified on April 25 that the prohibition on taking desegregation cases, like other prohibitions, "are a clear example of the imposition of political considerations on the practice of law * * *" He emphasized that the real issue involved here is "whether citizens who are deeply affected will have the opportunity to seek resolution through our court system."

Mr. President, information that has been received from the NAACP legal defense fund and from the Mexican-American defense fund indicates that requests for representation in school desegregation cases far exceed the number of privately funded civil rights lawyers available to provide it. And prior to the enactment of the 1974 prohibition, legal services programs had been involved in approximately 50 school desegregation cases. So the need is manifest.

I hope my colleagues in the Senate will see the wisdom of repealing this egregious prohibition and, in so doing, give poor minorities the opportunity peacefully to resolve this profoundly important issue of equal access under the law.

The final point I would like to stress, Mr. President, concerns the provisions in section 9(c) respecting organizing activities of legal services lawyers. The purpose of legal services is not the direct organization of groups, important as that objective may be. When we added that restriction to the law in 1974, we specified that it should not be interpreted so as to prohibit advice and legal assistance to eligible clients. Unfortunately, however, the language of the existing law, which prohibits efforts "to encourage" or "to assist" the organization of any group, seems to contradict that exception. Thus, we have attempted to clarify the law by eliminating the language that is causing confusion and citing specific examples in the committee report of activities considered acceptable as well as those deemed inappropriate. In general, while S. 1303 would not permit lawyers "to initiate the formation of" organizations and associations, it would

permit advice and legal assistance to eligible clients who request assistance. This is, in my opinion, a perfectly permissible first amendment right.

Mr. President, Senator NELSON has already explained at some length the other provisions in the bill we have before us. So I will conclude at this point by urging my colleagues on both sides of the aisle to support the Legal Services Corporation Amendments Act of 1977. Let us go forward from today, fully confident that the heated controversies of a bygone day are safely behind us; yet fully cognizant that obstacles remain in the road before us which impede our ability to guarantee to the poor one of the principles of our American democracy: Equal justice under the law.

Mr. President, I ask unanimous consent to have printed in the RECORD, several recent newspaper editorials on the legal services bill.

There being no objection, the editorials were ordered to be printed in the RECORD, as follows:

[From the New York Times, June 9, 1977]

LAW THAT WORKS FOR THE POOR

The Federal program of legal help for the poor has come of age. After a long and turbulent fight in Congress the program was removed from Executive control in 1974 and established as a sheltered, independent corporation. Now, three years later, there is general agreement that the experiment has worked.

The mission of the Legal Services Corporation is to provide at least minimal service to the nation's 29 million poor in their contacts with civil law. Most of the aid is undramatic and uncontroversial, affecting domestic relations, housing problems, bankruptcies and public benefit programs. When first proposed, the idea was resisted with vetoes and filibusters. Now, in tribute to the corporation's strong leadership and program, there has been no opposition to authorizing legislation in a House committee, and the American Bar Association is supporting revisions to make the program more flexible.

The bill now before the House would preserve the corporation's independence, extend its life for two more years and increase its funding from $125 million to $238 million. At present, only a small portion of the needs of the poor for legal services are thus met; most of the requested increase would go toward the goal of providing the equivalent to two full-time lawyers for every 10,000 poor people by fiscal 1979. It is a modest goal; now that we have discovered the means of achieving it, Congress should supply the authority and the funds to do so.

[From the Washington Post, July 7, 1977]

LEGAL AID FOR THE POOR

The Legal Services Corporation, created three years ago out of the remains of the "war on poverty," is turning out to be remarkably healthy. A congressional conference committee voted last week to increase its budget by more than 60 per cent next year—surely a sign that it is doing something right. And the House, after an extensive debate, agreed to remove some of the restrictions that have limited its work. But the corporation is still restrained by other troubling limitations and the Senate ought to delete them when it gets the opportunity later this month.

The corporation, you may recall, grew out of a series of compromises. Those who believed that the government ought to make it possible for poor people to get the kind of legal services that others can buy accepted a long series of limitations on what the free services would be in order to get the bill out of Congress and past a threatened presidential veto. Several of those limitations were dropped this year by the House Judiciary Committee, but two of them were restored on the House floor and a new one added. These three, which seem particularly obnoxious to us, bar the corporation's lawyers from providing legal aid to poor people in matters concerning school desegregation, Indian rights and homosexual rights.

Underlying these restrictions is an obvious distaste of members of Congress for the substance of the right that some candidates for the corporation's assistance might want to assert. But that, it seems to us, is a strange test for Congress to apply. It is a test that says to the poor that, although they have the same rights as everyone else, they can exercise only those that Congress happens to believe in. As a matter of principle, lawyers who handle problems of the poor ought to be able to give them the same kind of help that they would give to paying clients; they ought not to be forced to say that they cannot handle a particular matter because Congress won't let them. That was the principle—despite the compromises—that lay behind the creation of the corporation three years ago, and it is one that deserves to be given its full dimensions now.

[From the Philadelphia Inquirer, July 7, 1977]

AN IDEA THAT IS WORKING

When the House of Representatives voted recently to extend the life of the federally-funded Legal Services Corporation for another two years, the intensity of the debate was a far cry from four years ago when the quasi-public agency was approved.

Then conservative congressmen, fueled by the rhetoric of Vice President Spiro Agnew, tried to abort the independent poverty program and, failing that, attempted to cripple it with restrictive amendments.

This time around, however, the debate was bipartisan, almost serene. Restrictive amendments, for the most part, were beaten back before the bill was approved by a 2–1 margin. It now goes to the Senate, where the only controversy is whether to extend the program for two or five years.

The lowering of the decibels is a tribute to the success of the Legal Services Corporation. During the past three years, it has proven that it can provide essential legal services to the nation's poor without unduly intruding on political decisions or having political decisions unduly intrude upon it.

Nevertheless, the corporation still has far to go before it meets its mission of providing at least "minimal" legal services to the country's 29 million poor in areas such as housing, health, domestic relations and welfare.

At the present time, 16 million poor persons live in areas where no free legal services program exists. With the expected increase in funding from Congress, the corporation can expand to provide help for another six million, including 232,000 in Pennsylvania. Even this improvement must be viewed in the proper perspective. To the corporation "minimal" legal services means two lawyers for every 10,000 persons. The general population has 14 lawyers per 10,000.

In short, the corporation's goal is modest. It is, however, an important one that deserves continued support of the Congress.

[From the Washington Star, June 22, 1977]

NO LEGAL ASSISTANCE, NO JUSTICE FOR POOR

(By Carl T. Rowan)

Why in the name of heaven should the federal government spend $217 million a year to help poor people clutter up the courts?

That's the kind of question you'll hear these days from slum landlords who don't want any barriers to evicting tenants who don't speedily cough up rent money; or merchants who don't want complications when they try to repossess the car or TV set of someone who has lost his job; or social workers who don't want government-paid lawyers meddling in their decisions as to what medical, welfare or other benefits some poor family can get.

This issue of the government providing legal assistance for the poor in civil matters will become hotter, for the Congress is in the process of deciding whether to renew the mandate of the Legal Services Corp., which expires at September's end, and whether to give it the $217 million requested.

By all the normal measurements of clout in this society, the Legal Services Corp. is an underdog. Landlords and merchants pack a far bigger wallop among our lawmakers than do the poor. And, after all, the legal services program barely survived the Nixon administration days when partisan politicking virtually froze its funding and sharply curtailed its activities. The corporation also must contend with the current "balance the budget" cries.

But someone had better realize that the Legal Services Corp. is as much a "law and order" group as the Justice Department's Law Enforcement Assistance Administration or your local sheriff's office.

You can't ask poor people, who are so tragically a part of the crime scene, to live by the law if in their days of crisis they are denied the use of the law. And we must realize that it is a crisis to be evicted and left without shelter, to lose a job because the used car you bought last week won't run, to have no money for meals because the Social Security check or the welfare payment is delayed by bureaucratic blundering.

It was some 70 years ago that the famous legal scholar Roscoe Pound declared that "justice is to be done equally to rich and to poor." We never came close to that goal until 1974 when Congress created and funded the Legal Services Corp. as a private, nonprofit successor to the Office of Legal Services which began as part of the Office of Economic Opportunity.

If we are to maintain respect for the law, Congress must continue the Corporation and give it the piddling budget it requests. That will provide only two lawyers or para-professionals for every 10,000 poor persons in America (there are 14 attorneys per 10,000 persons in the general population).

A recent study by the Bureau of Social Science Research found that 23 per cent, or about 7 million of the nation's 29 million poor persons, face civil legal problems each year. Our government legal services programs can handle only about a million cases a year.

For the other 6 million, says Thomas Ehrlich, president of the Legal Services Corp., "justice is beyond reach."

This increasingly enlightened society long ago accepted the obligation to provide a decent education for all its citizens. The Congress has set a goal of decent housing for all Americans, and is sure to say that we are all entitled to reasonable medical care.

Ehrlich now asks you and me to agree that "decent legal care is an inherent right of every American." I do agree with Ehrlich that, unless the poorest Americans can use the law, then the rights we boast about become a sham.

And, as Ehrlich says, we cannot tolerate such a sham "without betraying our principles of government and threatening the order of our society."

[From the Los Angeles Times, June 8, 1977]

POVERTY LAW: UNSHACKLING AN AGENCY

Opportunities to improve and enlarge government-funded legal services for the poor

will occur this week in Washington as well as in Sacramento.

The most crucial votes will come in the House of Representatives, where there will be decisions concerning legislation to extend the Legal Services Corp., for two more years, to increase the corporation's funding and to eliminate a number of the unwelcome restrictions placed on its work when it was established in 1974.

We have already expressed our support for legislation coming to a vote Thursday in the Senate Finance Committe of the California Legislature. SB 997 would provide for the first time sorely needed state money to add to the federal funds for poverty-law services in the state. The bill would authorize $6.5 million.

The Legal Services Corp. in Washington, established as an independent, federally funded agency in 1974, has proved its effectiveness in its first two years of operation. It has also proved that the need if far greater than anticipated, and that more money is required.

Legislation coming to the floor of the House would extend the corporation for an additional two years while increasing its appropriation from the present level of $125 million a year to $217.1 million for the fiscal year commencing in October.

The increased support is, we believe, justified. So are the reforms embodied in the new authorization bill.

Most of the reforms would, as a spokesman for the American Bar Assn. said, "unshackle" the corporation from unreasonable and unnecessary restrictions imposed by opponents of poverty law when the original law was adopted.

Among the significant changes would be the authorization for the first time for poverty-law agencies to accept desegregation cases, broadened authority to intervene in juvenile-law cases, the elimination of restrictions on how the law agencies may use private funds, and the authority to handle cases related to military service—a change made urgent by the problems created for many poor persons by their military discharges. The new law would also do away with restrictions on the use of existing back-up poverty-law centers for research, training and technical assistance.

But the new authorization bill respects the fundamentals of the original bill. It would prohibit the use of the funds for adult criminal cases. It would limit the role that poverty-law agencies can play in organizing communities or special-interest groups.

The new legislation is better than the 1974 legislation, the funding level more appropriate to the need. The bills deserve support.

[From the Miami News, June 23, 1977]

LEGAL AID FOR POOR

With the U.S. Supreme Court ripping at poor people through unwise abortion and welfare decisions, it can be hoped that lawmakers will not further add to their plight by sabotaging the independence and funding of the 3-year-old Legal Services Corp.

Equal justice under the law is more slogan than reality to too many Americans now. And lessening of the corporation's independent status, subjecting it to partisan political considerations, would mean even less effective legal attention for the poor who desperately need help with problems involving evictions, bankruptcies, job discrimination, housing and other civil matters. Even at the proposed funding level, $217 million, the corporation can meet only 15 per cent of the legal needs of the poor.

To Americans in middle and high income brackets, a legal problem is usually nothing more than an inconvenience. But to a poor person, any legal problem quickly can reach crisis proportions. Consider a government foul-up with administrative benefits—a poor family could be put at the instance mercy of a slum landlord. The poor are particularly vulnerable to consumer fraud. The repossession of an automobile can mean no transportation, and consequently no job or food for the table.

On any priority list in Washington, the Legal Services Corp. and the good work it is doing must rank high. To respect the law, Americans must have the opportunity to be served by it. Congress ought to be eager to extend the corporation's life, protect its structure and increase its budget.

Mr. JAVITS. Mr. President, it is my profound belief, based upon 11 years of experience, that of all the antipoverty programs we have developed, the one which helps most in respect of an effort to redeem the poor from that psychology which is called the poverty syndrome is the legal services effort, now incorporated in the highly professional Legal Services Corporation.

Mr. President, the amount of effort which has gone into the fashioning of this program is unusual for a program its size but well worthy of it, because of the effect which it has had in the field.

I am sure these figures have been given before, Mr. President, but I emphasize that 3,000 lawyers in the program are in 300 local programs which are essentially bar association programs, now strictly professional.

The lawyers have handled 1,250,000 cases, which are 400 cases per lawyer, with 81 percent routine civil matters; 39 percent family relations; 14 percent consumers; 17 percent housing; and 20 percent various types of governmental problems, the aged and the other, AFDC mothers, and so on; and 85 percent of the cases handled outside of court through negotiations and consultations.

Mr. President, as a practicing lawyer myself for many years, this is a most extraordinary program, and an unbelievable caseload of 400 ongoing cases per lawyer, with one lawyer for every 10,000 in the poverty classification.

I emphasize the poverty classification in this case is the true poor, that is, those who might be working and also might be working poor and, after all, that is what we want to encourage not discourage. As a matter of fact, it is the working poor for whom this program is uniquely apportioned to help them move out of the poverty cycle—and I use that in a different sense and a different word than "syndrome."

One of the things which have now been found in respect to poverty is that people can move and do in very large numbers move into and out of poverty under economic conditions and different personal conditions, and the legal services program, therefore, maintains their relationship to the social order in which they best fit in a very unique way, notwithstanding that upon occasion they have to enter into welfare payments or other aspects of the poverty cycle. So, Mr. President, I deeply believe this is the way to proceed.

Only one other question I would like to deal with, and that is the length of time of the statute.

We felt by now enough experience had been gained in the operation of the Legal Services Corporation so that we could give it a life which would encourage young lawyers, who work for very little, as Senator NELSON has just pointed out, to embrace it as an early career with some assurance it will not be in jeopardy every short period of time, as it has been before.

So we believe this represents a recognition that the program has come of age and, of course, we control the appropriations every year so that it is by no means beyond the control of Congress.

In addition, this is a program which can engender controversy we all understand that—they are litigated cases involving the rights of people, and all the more reason for settling, at least, the proposition that people shall have a right to get into court, whatever the court may do with their cases once they are before the body which can do justice.

For all of these reasons, we, in the Committee on Human Resources, consider the 5-year extension now under the circumstances, and now having had very considerable experience both with the program and the method of its administration, to be the appropriate time and, hence, incorporated that in the bill.

I thank my colleague for yielding.

Mr. HATCH. Mr. President, will the Senator yield?

Mr. JAVITS. Yes, happily. Does the Senator wish the floor? I am ready to yield.

The PRESIDING OFFICER. The Chair would have no objection except to remind the Senator that Senator HELMS still has the right to the floor.

Mr. JAVITS. I ask unanimous consent that I may yield the floor and other Senators may be recognized.

Mr. HATCH. I will yield to Senator HELMS if he wishes.

The PRESIDING OFFICER. The Senator from Utah.

UP AMENDMENT NO. 915

Mr. HATCH. Mr. President, I send an unprinted amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Utah (Mr. HATCH) proposes an unprinted amendment numbered 915.

Mr. HATCH. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 11, line 11, strike all through line 14 and insert in lieu thereof the following:

"(b) Whenever a member of Congress makes a written request for documents in the possession or subject to the control of the Corporation, the Corporation shall, within 10 days after the date of receipt of such request, submit such document (or copies thereof) to such member of Congress. If the Corporation does not have any such documents in its possession, or the Corporation (for good cause) cannot make the requested documents available within the 10 day period, it shall so notify such member of

Congress within such 10 day period. Any such notice shall state the anticipated date by which such documents will be obtained and submitted to such member of Congress, or a statement as to the reasons why such such documents are not in the possession of the Corporation, and information as to where such documents are located. This paragraph shall not be deemed to restrict any other authority of either House of Congress, or any committee or subcommittee thereof, to obtain documents from any Federal agency, department, or entity. For purposes of this paragraph, the term "document" means any book, paper, correspondence, memorandum, or other record, including a copy of any of the foregoing."

Mr. HATCH. Briefly, my amendment does two things: First, it would strike the language in S. 1303, the Legal Services Corporation Act amendments, which would allow Government-funded legal service centers to use private funds to engage in proscribed activities and second, it would provide for greater accountability by the Corporation to Members of Congress.

Currently, Government-funded centers may not spend money for union-oriented advocacy, elementary and secondary school desegregation litigation, or abortion cases. As it now stands, S. 1303 without my amendment would allow these centers to spend freely for these purposes, so long as their expenditures did not exceed the amount of private contributions.

The system would work like this: Assume that a hypothetical Government legal services center received $500,000 in Federal funds and $500,000 from private foundations. Assume, further, that it required its full $1 million funding for its existing level consumer-oriented activities. Under S. 1303, if the Federal Government contributed an extra $500,000 to that center, it would be free to take that money and use it for proabortion litigation, among other things, or, in other words, proscribed litigation.

When challenged that its activities were in violation of the intent of Congress as expressed in section 1007(b)(8) of the Legal Services Act, the center could simply reply that it was the private funds, rather than the Government appropriations, which were being used to fund the abortion litigation. In effect, the Government would have displaced private money for the very purposes which we have prohibited.

If we wish the Federal Government to spend enormous amounts of money in order to defeat the Hyde amendment abortion language—if we wish Federal funds to be used for training programs for the purpose of advocating or encouraging strikes, boycotts, and picketing—if we wish the use of large amounts of Federal funds for the purpose of school busing cases—then we should make our intention manifest to the American people through an up-or-down vote on those issues. I feel it is unfair to the American people to allow their funds to be used surreptitiously for the very purposes which we have assured them are not fundable under the provisions of the act.

Mr. President, this part of my amendment was accepted without objection by the House. I hope the Senate committee will be willing to accept this amendment also.

The second part of my amendment provides for greater accountability by the Corporation to legitimate requests of the Congress.

It has come to my attention that several Senators have had difficulty getting information from the Corporation which I must stress is only by law accountable to the Congress. If we are to keep adequate tabs on the "goings-on" of the Corporation—which is essential, because of the lack of Human Resources oversight—we must have a responsive Corporation willing and able to do what it can to answer the legitimate inquiries of the Congress. What I am suggesting here is not new or novel—in fact it tracts some of the concepts this body has previously agreed to in several reorganization bills.

This portion of my amendment will in large measure insure that the Corporation will be called to task to answer any congressional matter which will shed greater light on its activities in behalf of the public interest.

In other words, what I am asking here is that the Corporation be proscribed, even with the use of private funds, from doing that which it is proscribed from doing with the use of public funds, and that it be responsive to Members of Congress.

There have been indications by colleagues to me that they have made requests of the Corporation and these requests have not been fulfilled, requests for information, that is. I think that is abominable, because it is our responsibility as Members of the Senate and of the Congress to oversee and make sure that this particular organization, among others, is not acting outside the scope of its legislative priorities.

I think that these are very reasonable requests. I think the amendment is a reasonable amendment. If the minority and majority floor leaders are unwilling to take the amendment then I would ask for the yeas and nays.

Mr. NELSON. Mr. President, will the Senator yield for a question?

Mr. HATCH. I am delighted to yield.

Mr. NELSON. We had raised this question about requests for information by Members of Congress, and the Corporation says they respond any time there is a request.

Does the Senator have a specific example of a request that he has made to the Corporation for information that they declined to respond to?

Mr. HATCH. I have only examples of colleagues. Senator MCCLURE indicated such.

Mr. NELSON. I did not hear that. What was his request that was not responded to?

Mr. HATCH. I am not sure what it was. But he claimed he was not responded to. And there may be others. I am not sure of them.

I want to make sure, regardless of whether that is so or not, that they are responsive and that we get reasonably immediate answers to any request that we make that has to do with the oversight privileges of Congress.

Mr. NELSON. But that part puzzles me about this. In our management of this legislation I do not recall any documentation of requests from Congress that the Corporation refused to respond to. That does not mean there were not some because there are 435 Members of the House of Representatives and we have not queried them, and there may be Members here who have made such requests. The Corporation's position is that they respond to the requests they get.

Mr. HATCH. I understand. What I want to do is make sure that they do. As the Senator knows, we have not exercised oversight over this Legal Services Corporation nor have we held committee hearings to hear of complaints and other problems, some of which are not raised by this amendment, of course. But I think it is just a reasonable request, especially since really they are only responsible to Congress under the terms of the act. So I would think that that is reasonable. I also think the first part of that amendment is reasonable, because why should we allow them to do with private funds that which they cannot do with public funds. I think we should, it seems to me, proscribe what this Congress has proscribed in the past even for private funds so that we do not have a manipulation with Federal funds or with public funds.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. HATCH. I am delighted to yield.

Mr. JAVITS. I will certainly consider the Senator's effort to strike. Frankly, I do not know why the Senator complicated the effort to strike with this insertion. The striking has nothing to do with this insertion whatever. I would strongly suggest that the two matters be separated. I think they are separable anyhow.

But what I wish to ask the Senator is this about this particular amendment. This is generic. It could apply and should apply, if that is the way we are going to go, to every agency of Government. There is no reason why we have to pick the Legal Services Corporation, because we only do something like this in response to some kind of a complaint. Though we have not had, directly and currently with the consideration of this legislation, oversight hearings on the Legal Services Corporation, all of us are in the complaint receiving business. And I agree with Senator NELSON. I have heard absolutely nothing that makes it appropriate to pick out the Legal Services Corporation and impose this requirement respecting them as compared with every other agency of Government.

It seems to me to be completely discriminatory. Therefore, I oppose it because I see no reason for setting this agency up as an object of some kind of mandate which we impose on no other agency. This is very rarely a problem anyhow. I mean, Government agencies generally do not withhold from Members of Congress requests for information. I see no reason for picking out the Legal Services Corporation, especially in view of their assertion that they are very

responsive. If we incorporate this in the statute, there is no reason why we should not incorporate it for every agency of Government.

Mr. HATCH. To answer the comments of the distinguished Senator from New York, and they are appropriate and very good comments as usual, both of the floor leaders are men for whom I have inestimable respect.

I might mention that another complaint that was received was from Senator HARRY BYRD, the distinguished Senator from Virginia, who requested information from the Corporation and it was not provided.

It is not difficult for me to see why the distinguished members of the Human Resources Committee upon which I sit have not received or do not know about complaints about failure to receive information from the Legal Services Corporation, because we have not held any oversight hearings. We have not provided an opportunity for complaints to be heard by the Human Resources Committee or the Subcommittee on Employment.

Until we do I do not think we are going to find all of the complaints that people have concerning the Legal Services Corporation in this country. I might also add, although I personally feel there is much good that can be done by Legal Services Corporation and personally do not have any desire to see it destroyed or emasculated, on the other hand, I do think that it has been wrong that we have not held oversight hearings, that we have not listened to the complaints against the Corporation so that we can correct any inequities or any improprieties or any valid complaint that may be had.

I might mention, also, in that regard and with regard to the other point that the Senator raised, it is not unusual for the Senate and certainly Congress to require what we have requested here and that is responsibility to Congress.

Let me just give the Senator three perfect illustrations: The regulative reform bills for the Civil Aeronautics Board, the Federal Trade Commission, and the Federal Aviation Agency, all have similar provisions in them that require those agencies to be responsive to Members of Congress.

I think that it is the very least that we should require of the Legal Services Corporation, especially in the light of the notoriety and the controversy that has surrounded it, maybe unfortunately so, because as a result of a number of specific problems which probably make up very little in the overall scope and work of the Legal Services Corporation.

We have had a lot of fuss raised and probably had we held oversight hearings, had we had responsiveness to the Members of Congress, had we known what was going on, and had we been able to make suggestions and corrections to the legislation pertaining to the Legal Services Corporation we would not be in the position we are in today where in the Chamber I have to file an amendment that will give us those rights.

Mr. JAVITS. Mr. President, will the Senator yield again?

Mr. HATCH. I am delighted to yield.

Mr. JAVITS. I cannot agree with the Senator less when he says that oversight hearings are necessary to discover the complaint. We get legions of complaints every day which we run down and investigate, and I have not had a single one and I do not think any other Member has, as far as I know. I wonder whether the Senator himself has had any.

Mr. HATCH. Yes, I have.

Mr. JAVITS. The Senator speaks of Senator HARRY BYRD. We will ask Senator BYRD what is his complaint and whether or not information has been withheld. Remember one thing. These are lawyers and even though they are poor, they are dealing with clients and another thing that would concern me about this amendment is the client's privilege.

A Congressman in a local area might very well want to find out something very personal about an individual poor constituent. It is a very, very serious question to me as to whether the poor person thereby gives up the privilege between himself and any lawyer, because he is poor.

So this is by no means just to be swallowed whole, and I would want to examine these precedents that the Senator mentioned with respect to the CAB and this other agency compared to the legion of agencies which we have in the Federal Government.

As I say, I think this is a very separate question, especially involving the question of privilege.

Will the Senator tell me whether he intends this amendment to include privileged information between lawyer and client if it is requested by a Congressman?

(Mr. GLENN assumed the chair as Presiding Officer.)

Mr. HATCH. I will be happy to answer that question. I do not see anything in this amendment that would require a confidential communication between attorney and client to be divulged to any Member of Congress. I think that would be beyond the scope of the requirement. The Legal Services Corporation is bound by the same code of ethics as any member of the bar, any member of the American Bar Association. In fact, I would affirm very strongly that this amendment has no bearing upon confidential communications and privileged communications between the attorney and the client, albeit the attorney is sponsored and paid for by Legal Services Corporation, as well as in some cases private money.

The point I am making is, I can tell you exactly what Senator BYRD reported to me his complaint was. He asked for a copy of the clearinghouse review materials, and they were denied to him, as far as I know. It would have been very simple for them to have provided them. It did not have anything to do with privileged or confidential communications. But they were denied.

I do not know what the complaints of Senator MCCLURE are, but I have heard that he has made similar requests and has not received the courtesy of answers.

Mr. JAVITS. Have you investigated those requests?

Mr. HATCH. No.

Mr. JAVITS. Well, I think that is certainly a very elementary thing to do.

Mr. HATCH. I would like to do so, as a member of the Employment Subcommittee. By having oversight hearings, and by having Senators come in and making those complaints known, I think we could improve the legislation. As the Senator knows, we are all very busy here in the Senate, and I do not have time to spend going around investigating complaints by individual Senators. These two I have only heard of this morning. I am sure there are probably others that can be brought forward.

I believe this measure would be vastly improved by providing that this corporation, which is funded as a result of legislation passed by this body, would have to be communicative with this body, and be required to respond to requests.

Mr. JAVITS. This is like any other legislation voted by this august body; there is no reason for picking them out of the hat and implying they are not responsive. The Senator did not even ask them about these particular matters that came to his attention. That seems to me to be pretty elementary.

Mr. HATCH. I heard about them this morning.

Mr. JAVITS. Well, then, let us ask and find out from the Legal Services Corporation.

Mr. HATCH. I will be very happy if the Senate will recommit this measure and go back and hold oversight hearings. I would be very happy; I would suggest we do that. In fact, I would also say that since this particular bill involves pure law, the practice of law, the ethics of law, legal cases, litigation, and in fact we would all be hard pressed to say that it does not involve just law across the board, I would suggest that we refer it to the Committee on the Judiciary for oversight, so that we can look at it from the auspices of that very special committee. I would like to see both committees look at it.

Mr. NELSON. Mr. President, may I comment at that point?

Mr. HATCH. I would be delighted.

Mr. JAVITS. I was just going to say in response, Mr. President, that this is the first time I have heard the Senator ask for oversight hearings. I am the ranking Republican member and did not hear about it before this program expired a week ago. This is a pretty late date to refer it back to the original committee which reported out the bill, to say nothing of the Judiciary Committee.

Mr. HATCH. Mr. President, I would just add that it is in my minority views, and I do not know of any way that I can better raise the objection than by taking the time to write minority views which are supposed be read by every member of the committee and every Senator on this floor. I have already requested it, and that request has not been complied with. Maybe we will find that this interests only 10 percent of the people. That may be so, but there is nothing wrong in us requiring oversight, and requiring the Legal Services Corporation to be responsive to Members of Congress. I think it is essential to do so, especially in an area where we have had serious criticisms,

such as the one I raised yesterday on the floor of the Senate.

I know that the Senator from New York is one of the busier Senators, and it is not difficult for me to understand why he might have missed that minority statement, because he is extremely busy and does a tremendous job in the Senate. But I am very upset about it; I think we ought to have the right for other Senators to come in, in oversight hearings, and make any comments along with anyone else in our society who is responsible; and I do not think we have had that here.

If we do it, I think we will come up with better legislation, stifle future controversy, and maybe allow the Legal Services Corporation to do that for which it was originally constituted, and for which the Senator from New York fought, and I respect him for it.

Mr. JAVITS. Mr. President, there are 3,000 lawyers handling this situation now. We cannot hang up this whole program simply on that account, in my judgment. I can understand the Senator wanting it, but he does not want action on the bill. I cannot understand our going that route when this bill is pending before us on the Senate floor.

Mr. HATCH. Mr. President, if I may say this, then I will be delighted to yield to the distinguished Senator from Wisconsin: I think that when you have 3,000 lawyers in a society that have come in and asked for an appropriations increase of almost double what it was last year, based upon an inflated number of poor people in our society—29 million poor—when you and I and everyone else knows when you take transfer payments into consideration the number is not nearly that large.

Mr. JAVITS. I thoroughly disagree with you. There are 29 million poor people in this country.

Mr. HATCH. Then you are disagreeing with the Congressional Budget Office.

Mr. JAVITS. That may well be, but nevertheless I disagree.

Mr. HATCH. Of course, we may have reasonable disagreements here on the floor of the Senate, for which we respect each other. I respect the Senator and I know he respects me. I appreciate the courtesies the Senator has extended to me, as ranking minority member of the Committee on Human Resources, and the great leadership he provides.

But that still does not say we could not have a couple weeks of hearings, so that those who have serious questions about the Legal Services Corporation could bring them forth, we could get them out of the way, and make this a better piece of legislation.

I am glad to yield now to the Senator from Wisconsin.

Mr. JAVITS. We had hearings on this bill. We put them in the RECORD. We had a couple of days of hearings.

Well, go ahead.

Mr. HATCH. You had people testify for the bill. I remember Mr. Erlichman.

Mr. JAVITS. And against it.

Mr. HATCH. They were already against the bill before they came in.

Mr. NELSON. May I respond to that?

Mr. HATCH. I am trying to yield to the Senator from Wisconsin.

Mr. NELSON. As to the Senator's criticisms concerning inadequate oversight, the responsibility falls mostly on my shoulders, in that I am chairman of the Subcommittee on Employment, Poverty, and Migratory Labor, although some responsibility falls on the ranking minority member as well.

Just so the record will be clear, when the distinguished Senator from Utah refers to Members of Congress not having an opportunity to testify, I am sure the Senator knows that any Member of Congress is welcome to appear before a committee to testify on all subjects. I have never heard of any Member of Congress ever being denied the opportunity to testify before a committee on a pending issue in all my 14 years here in the Senate.

Mr. HATCH. Mr. President, will the Senator yield?

Mr. NELSON. Yes.

Mr. HATCH. What about my request of the minority leader that we want oversight hearings? What about my request to the Committee on the Judiciary, and the request of the distinguished chairman of the Judiciary Committee, Mr. EASTLAND, that this matter be referred to the Judiciary Committee?

Mr. NELSON. Let us respond to those one at a time.

No. 1, the jurisdiction over the Legal Services Act has been in the Human Resources Committee from the day the act was created. Some Members challenged the committee's jurisdiction over the Legal Services Corporation.

Mr. HATCH. I challenged it.

Mr. NELSON. It was challenged, and the challenge was defeated.

Then furthermore, I would like to point out to the Senator that in the Reorganization Act approved by the Senate earlier this year—Senate Resolution 4—the jurisdiction over the Legal Services Corporation was placed in the Human Resources Committee.

That is where the jurisdiction is, so there is not much point in referring it to the Judiciary Committee, because it would not have jurisdiction. As to the third point——

Mr. HATCH. Will the Senator yield on that?

Mr. NELSON. Yes.

Mr. HATCH. In the House, as the Senator knows, the jurisdiction is in the Committee on the Judiciary, where it rightly belongs. I contend, since it has to do with the practice of law and all things that relate thereto, it should be referred to the Committee on the Judiciary. I understand that it is presently lodged in the Committee on Human Resources, and I think it is improper for it to be there.

Mr. NELSON. I understand the Senator's viewpoint. What I am saying is that in the Senate, when the Legal Services Act was created, jurisdiction was given to the Committee on Labor and Public Welfare, now the Committee on Human Resources. It has been there for 10 years.

This year, when the Senate acted again in the Reorganization Act, jurisdiction was maintained in the Committee on Human Resources. I understand that the Senator believes it ought to be elsewhere. But that is irrelevant in terms of what we are dealing with now. It is not there.

When it becomes, if it ever does, the jurisdiction of the Committee on the Judiciary, that is another matter.

Mr. HATCH. Will the Senator yield on that?

Mr. NELSON. Yes.

Mr. HATCH. As the Senator knows, this is my first year in the U.S. Senate and I just arrived here on January 4, so I have not been able to make the request before now, but this legislation involves an authorization for 5 years into the future, without oversight hearings, as I understand it.

Mr. NELSON. I missed that. I am sorry.

Mr. HATCH. This legislation—I am saying that I was not here until this year. This is the first opportunity I have had to raise the issue. It is my suggestion that the Judiciary Committee, at the very least, have joint responsibility for the Legal Services Corporation so we can have oversight hearings, not just from the legal standpoint, not just from the human resources standpoint, especially where we have legislation that will authorize the national Legal Services Corporation to act for an additional 5 years. Without oversight hearings, I think that is terrible.

Mr. NELSON. Let me say to the distinguished Senator from Utah that it may very well be that it could be suggested that there have been inadequate oversight hearings, even though such oversight is my responsibility as chairman of the Employment Subcommittee, and has been since 1969.

Mr. HATCH. If the Senator will yield on that, I do not want to have this appear as though I am speaking harshly toward the distinguished chairman of this subcommittee, the Senator from Wisconsin. All I am saying is that, until this year, maybe it has not been raised, but I have raised it. Perhaps it has not been brought to the Senator's attention.

I do realize that the Senator certainly tries to fulfill his responsibilities as the chairman of that subcommittee. But I am suggesting here that it would have been much better, and it would be much better right now, if we would have oversight hearing that will enable people to come in and voice their complaints to these responsible people, and fellow Senators, and go into the complaints that have been made about the Legal Services Corporation, not only by the Committee on the Judiciary—I would say primarily by Judiciary.

Mr. NELSON. Let me respond by saying that I do not quarrel with what I understand to be the suggestion, if not the flat assertion, of the Senator from Utah that the subcommittee's oversight hearings on legal services have not been adequate. I, in fact, do not think they have been. Let me tell the Senator what the problem is.

If the Senator from Utah would like to have a meeting of the Subcommittee on Employment, Poverty, and Migratory Labor and assure the presence of all the Republicans, and I assure the presence of all the Democrats, and further let us

divide up the United States, let us see how many are willing to commit themselves to 6 or 7 days of field hearings out in the countryside to get the kind of information the Senator would like to have. I think he will find that kind of thing is very difficult. I understand that.

Mr. HATCH. Will the Senator yield on that point?

Mr. NELSON. Yes.

Mr. HATCH. I should be more than happy, since I am making this suggestion, to be one of those who would put forth an extra effort to attend those hearings if the Senator will join with me in recommitting this to the committee and, in committing it, at the very least, give joint responsibility to the Judiciary Committee for hearings. The Senator has admitted that we have not had proper oversight hearings.

Mr. NELSON. I do not like the implication of the suggestion that they might have been improper. All I say is that I have never served on any committee in which I would be able to stand up and flatly assert that adequate or ideal, or what have you, oversight hearings have been conducted on any program. I have conducted them for years on the poverty program. I have gone out into the States; I have gone to Texas; I have gone to California; I have gone to my State; I have sent people around the country. I still feel that they are not adequate. We do not have the resources to do that.

Mr. HATCH. If the Senator will yield.

Mr. NELSON. Let me finish on this.

The Senator has suggested and stated that Members of Congress have not been heard from. Notice of the hearings—and there were 2 days of hearings—was in the CONGRESSIONAL RECORD. All 535 Members of Congress could have appeared and, in past years, in fact, we have had testimony from Members of the House and Members of the Senate. This year, so far as I know, not a single Member asked to appear, to make suggestions or complaints.

I suggest to the Senator that a likely reason for this is that, now that we have a Legal Services Corporation in place and operating, it is doing very well and the complaints that used to be made against the legal services operation are not occurring with either the intensity or the numbers they used to because the legal services program has been vastly improved.

But, as to the oversight, we scoured the countryside to find out who come in to complain about the program. We found one. We sought them out—the American Farm Bureau.

We asked them to appear, because they are critical of the program. So we invited them to appear to testify. But they refused to come and testify. Rather, they submitted a statement for the hearing record. The National Clients Council, the National Legal Aid and Defender Association, the Legal Services Corporation, and the American Bar Association all testified. In addition, testimony was received for the record from the California legal assistance program. No Members of Congress appeared.

After all, the program has been around for over 10 years. It has been criticized. Many of the criticisms are legitimate. It has been attacked. President Nixon wanted to destroy it. Amendments have been offered. It has been refined. It has been debated back and forth. The reason we did not hear many complaints this year, I suggest to the Senator, is that there were not very many complaints to be made.

Now, I have a whole series of hearings that I must try to get conducted after we get out of session, so I do not want to make a specific commitment unless I have an opening sometime about December 24. I shall be glad to have the Senator come as a witness that day.

Mr. HATCH. I should be happy to be there.

Mr. NELSON. I have some hearings on a whole series of questions in the Small Business Committee, the Finance Committee, and the Human Resources Committee that I am attempting to get done this year. One of them involves Human Resources Committee hearings on welfare reform. One of them involves Social Security Subcommittee hearings on bringing Federal, State, and local employees within the social security program, and another concerns the social security disability insurance program. I am also intending to hold Human Resources Committee hearings on the Community Services Administration.

I am perfectly willing to set up some further oversight hearings, because I think they are always valuable. I say to the Senator, we shall pick a date and if I cannot do it because of time constraints on the number of hearings I have in November and December, plus commitments in my own State, I think we ought to be able to do it in January or February. I should like to see the best critics of the program. That is important, because it is from the critics who have constructive suggestions and thoughtful criticisms that we are going to be able to make improvements in the programs.

Let me say to the Senator that I believe his suggestions are serious, I know he is serious about them. So am I. I think the legal services program is a very fine program—not perfect, but a very fine program—which is delivering some services to the poor which are very badly needed by the poor in this country, services which are not available to enough of the poor. But I want to make the program, as I know do the Senator from Utah and the Senator from New York, as a fine a program as it can be made, and improve it as much as we can improve it.

I say to the Senator that I am happy to tackle that exact question of oversight hearings on the complaints against this program and suggestions for improvement. I am certain that I can find a day or two to do it in January or February. I shall make that commitment to the Senator from Utah.

Mr. HATCH. I am very pleased with that commitment. I know what it means because I know the Senator is an extremely busy Senator, as is the distinguished minority leader, and to ask this of the Senator is not only important, but his graciousness in being willing to do this, I think, is a good indication of the great service he is willing to extend in the Senate.

May I ask, if we have not heard the criticisms against this particular bill, and it is my understanding that since this bill was formulated that the committee has received a number of criticisms of the bill and a number of requests to testify, how can we go ahead and pass a bill that has 5 years into the future before we can do much about it, what value would hearings have?

Would the Senator be willing to recommit this until those hearings? If so, after holding the hearings, assuming nothing serious would come out of them, I would be happy to help cosponsor this bill the next time around.

Mr. NELSON. The authorization for the legislation expires at the end of this month. We need to pass a new authorization for the Legal Services Corporation.

Mr. HATCH. Do we have to pass it for 5 years until we hold the hearings?

I certainly agree with some approaches to keep the Legal Services Corporation going, but which do not extend this authorization for 5 years.

As the Senator knows, in the future, it becomes even more in excess of $200 million provided for by this authorization, it becomes as may be necessary.

Mr. NELSON. That is correct.

Mr. HATCH. I think what we ought to do is limit this in time until we have these hearings and, if they do not come to anything, then let it again come up after the first of the year and decide how many years into the future we should go. I certainly do not think it should be 5 years.

Mr. NELSON. I do not see the necessity for any hearings to extend the legislation. I do not want to be misunderstood. I think it is a superb program. I think it is providing a fine service for poor people who need it.

I think the Legal Services Corporation can be improved and I am prepared to have oversight hearings to hear criticisms to further improve the program, but not legislative hearings on the question of extending the program or for the purpose of recommitting the bill to committee

Mr. HATCH. Could we fail to extend the program for 5 years? Could we reduce it down to, say, 2 years so we have a reasonable time in which to look into it and receive the criticisms, receive the testimony, assuming there will be testimony, and I assume that there will, and exercise congressional oversight?

Mr. JAVITS. Will the Senator yield on that?

Mr. HATCH. I am more than happy to.

Mr. JAVITS. What assurance can the Senator give us this bill will not be filibustered? Can we have a time agreement if we agree on a period of years?

Mr. HATCH. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. ZORINSKY). The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, I ask unanimous consent that Mr. McNamara be granted privilege of the floor during consideration of this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS SUBJECT TO THE CALL OF THE CHAIR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess subject to the call of the Chair.

There being no objection, at 12:10 p.m. the Senate took a recess subject to the call of the Chair.

The Senate reassembled at 12:13 p.m., when called to order by the Presiding Officer (Mr. ZORINSKY).

UP AMENDMENT NO. 916

Mr. NELSON. Mr. President, I send to the desk a technical amendment on behalf of the Committee on Human Resources, and I ask for its immediate consideration. This amendment is strictly technical.

The PRESIDING OFFICER. An amendment is pending.

Mr. NELSON. I ask unanimous consent that it be temporarily laid aside, so that this technical amendment may be considered.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NELSON. Mr. President, this amendment is strictly technical in nature. This amendment corrects a mistake in the printing of S. 1303. On page 17, line 9, the language of the bill would be corrected by striking the "(a)" and inserting in lieu thereof "(4)".

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Wisconsin (Mr. NELSON) proposes an unprinted amendment numbered 916:

On page 17, line 9, insert the following:

Strike the "(a)" and insert in lieu thereof "(4)".

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

UP AMENDMENT NO. 917

Mr. HELMS. Mr. President, earlier today, I made remarks preliminary to the submission of an amendment in the nature of a substitute. I have not yet called up that amendment. I ask unanimous consent—with the consent of the distinguished Senator from Utah—that his amendment be set aside for the time being, so that I may call up my amendment, and I ask that it be stated.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from North Carolina (Mr. HELMS) proposes an unprinted amendment numbered 917.

Mr. HELMS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SHORT TITLE; PURPOSE

SECTION 1. (a) This Act may be cited as the "Federal Legal Aid Corporation Act of 1977".

(b) Where fundamental rights are to be protected and justice attained, it is essential that the institutions of government be accessible to all. In a nation where justice is dispensed by the courts it is inherent that they be available to all regardless of race, religion, sex, national origin, or personal wealth.

DEFINITIONS

SEC. 2. (a) The word "State" shall include each of the several States of the United States, the Commonwealth of Puerto Rico, and the District of Columbia.

(b) An "eligible client" shall be an individual in need of professional legal services who meets certain criteria as established in section 4, subsection (k)(4) of this Act.

(c) A "State instrumentality" shall be an agency of a State government established solely to carry out the purposes of this Act, or an existing State agency which shall have assigned to it by the State the responsibility to carry out the purposes of this Act.

ESTABLISHMENT AND GOVERNANCE

SEC. 3. (a) There is authorized to be established in the Federal city a nonmembership nonprofit corporation chartered by the Congress of the United States of America which shall be known as the Federal Legal Aid Corporation (hereinafter referred to as the "Corporation").

(b) The Corporation shall be brought into being by a board of directors (hereinafter "Board") consisting of seven members who shall be appointed by the President of the United States of America, to take office upon confirmation by the United States Senate.

(c) Of the initial members of the Board, one each shall be chosen for fixed terms of seven, six, five, four, three, two, and one year(s), respectively. Succeeding appointments to fill terms which have expired, will be for seven years each. Each person duly appointed by the President and confirmed by the Senate, to fill a vacancy, shall serve for the balance of the term to which he was appointed. No member shall be appointed for more than seven years.

(d) No more than four members of the Board shall be members of the same political party. A majority of the members of the Board shall be members of the bar of the highest court of a State and none shall be full-time employees of the United States.

(e) No fewer than four members of the Board may be present to conduct the business of the Corporation. Should there, at any time after the Corporation has come into being, be fewer than four members, as a result of the failure of the Senate to confirm nominations submitted by the President of the United States, the President may designate one of the remaining directors or, if none remain, some other citizen of the United States, to supervise the affairs of the Corporation in a manner not inconsistent with policies already established.

(f) The terms of the original members of the Board shall be measured from the date on which this Act is enacted into law.

(g) The Board of Directors shall have a Chairman, to be appointed by the President of the United States from among the duly appointed members of the Board of Directors for a term of one year, with the term of the first Chairman to be measured from the date on which this Act is enacted into law. If the President shall fail to name a Chairman within thirty days of a vacancy in the chairmanship, the members of the Board shall choose a Chairman from their own membership. No Chairman may immediately succeed himself. A Chairman may be removed at any time by a vote of a majority of the members of the Board.

(h) Meetings of the Board shall be held at the call of the Chairman, or by written request of a majority of its members, and shall be required to be held at least once in every four-month period. All meetings shall be held in the Federal city, except by unanimous agreement of the members of the Board.

(i) The purpose of the Corporation shall be—

(1) to render financial assistance to the States to enable the provision of legal assistance to qualified individual citizens who are indigent and in need of professional legal services (hereinafter "eligible clients");

(2) to assist in the provision of legal services to eligible clients by obtaining and making available information of a technical nature and making available information of a technical nature to those rendering legal services to eligible clients; and

(3) to, consistent with the provisions of this Act, set forth such procedures and regulations governing the use of Federal funds as may be authorized for expenditure by the Corporation.

(j) The Corporation shall maintain a principal office in the Federal city and shall therein designate an authorized agent for service of process.

(k) Subject to approval by a majority of the members of the Board, the Chairman shall select an Executive Director of the Corporation who shall serve at the pleasure of the Chairman, and be authorized to secure as many staff members as may be authorized pursuant to law, but in no event shall the Corporation have more than twenty-five employees. Employees of the Corporation shall serve at the pleasure of the Executive Director. No Executive Director may serve more than four years.

(l) Compensation of Board members shall be limited to cost of travel plus a per diem rate equal to one two-hundred-sixtieth the annual pay of the highest civil service grade schedule, on days actually employed on corporation affairs. The Executive Director shall be compensated at the rate of an employee in the highest civil service grade.

CORPORATION POWERS, REQUIREMENTS, AND PROHIBITIONS

SEC. 4. (a) The Corporation shall assign and disburse all funds appropriated to it to the governments of the several States, as qualify, in amounts proportionate to their respective shares of the total number of eligible clients in the United States (which shall be calculated so as to include eligible clients in the District of Columbia and the Commonwealth of Puerto Rico), as of June 30 of the fiscal year preceding the fiscal year for which an appropriation is made by Congress to further the provisions of this Act, only excepting:

(1) such funds as are necessary for administrative expenses including compensation of the Executive Director and his staff, payment of expenses and per diem of Board members, costs incurred in purchase and rental of space and equipment, and costs necessary to pay such audits, evaluations, and inspections as may be required to assure adherence to the provisions of this Act;

(2) such funds as may be made available by special grant to the various States as incentives to experiment with alternative delivery systems for legal services to eligible clients. Funds available to the Corporation for special grants shall be limited to maximum of 5 per centum of the Corporation's annual appropriation; and

(3) such funds as may be expended by the Corporation in entering into any contract as provided for in subsection (b) below. Funds available to the Corporation for such a contract shall be determined by Congress at the time of the Corporation's appropriation.

(b) The Corporation shall have the power to contract with a private or public group, association, or organization for the purpose of doing research into special legal problems encountered by those who qualify as eli-

gible clients. Such research shall be made available by the Corporation to those rendering legal assistance to eligible clients and to all others interested in such research.

(c) Funds appropriated to the Corporation, or appropriated by the Corporation to the States, shall only be used to make legal assistance available to individual eligible clients, and to pay necessary expenses as authorized by subsection (a), above.

(d) No funds shall be disbursed by the Corporation to any State until said State has qualified as set forth in section 5.

(e) Personnel employed by the Corporation and funds appropriated to the Corporation or disbursed by it to a State shall not be used or commingled with other funds being used—

(1) to initiate, organize, support, represent, or assist any training program, workshop, seminar, school, publication, newsletter, club, association, group, organization, demonstration, boycott, meeting, rally, march, strike, or any other activity, group, or institution;

(2) to support or oppose, directly or indirectly, any candidate for public or party office, or any political party;

(3) to represent any person less than eighteen years of age without formal written consent of one of said person's parents or guardian; or

(4) in a manner which tends to discriminate in favor of or against individual attorneys, employees, or clients, on grounds of race, religion, sex, or national origin;

(f) The Corporation shall not—

(1) initiate or defend litigation on behalf of clients other than the corporate entity itself;

(2) seek to influence, nor shall any funds appropriated or disbused by it be used to influence the passage or defeat of any legislation by the Congress or State or local legislative bodies or otherwise support any group or association advocating or opposing any legislative proposals, ballot measures, initiatives, referendums, executive orders, or similar enactments or promulgations.

(g) The income or assets of the Corporation shall not inure to the benefit of any director, officer, or employee thereof, except as salary or reasonable compensation for services.

(h) Persons directly or indirectly receiving compensation under this Act, as attorneys, for the provision of legal assistance, shall only receive such compensation subsequent to admission to practice law in the jurisdiction where such assistance is rendered.

(i) Persons advocating disregard or violation of Federal or State law, during their service, may not receive compensation under this Act.

(j) Notwithstanding the provisions of title I of the United States Code, all persons salaried by the Corporation, or paid from funds disbursed by the Corporation through the States in an amount which is equal to 50 per centum or more of said person's income during any four-month period, shall be subject to the provisions of rule IV of the civil service rules prescribed by the President of the United States pursuant to section 3301 of title 5, United States Code, as amended as of the date of enactment of this Act, as if said employees were employees of the Federal Government. Said employees shall not be treated as employees of the Federal Government for any purpose not specifically authorized in this Act.

(k) Funds made available by the Corporation, pursuant to this Act, may not be used—

(1) to provide legal services with respect to any criminal proceeding or, in the case of juveniles, proceedings which would be criminal if involving adults (including any extraordinary writ, such as habeas corpus and coram nobis, designed to challenge a criminal proceeding); or,

(2) for any of the political activities described in this section, or to contribute to or in any way assist any group or association participating in such activities;

(3) to maintain any action at law until such time as any and all administrative remedies provided for in applicable contracts have been exhausted; or

(4) to represent any person who fails to meet eligibility standards established in accordance with this subsection.

An individual shall be eligible for legal assistance pursuant to this Act (an "eligible client") if his assets or income would entitle him to receive benefits, in the State in which he is seeking legal assistance, under the program of the State established pursuant to title XIX of the Social Security Act or, in the event a State has not established a program, an individual shall be eligible for legal assistance pursuant to this Act if his income and assets fall below the official poverty line, as defined by the Office of Management and Budget, except that (1) no person shall be eligible for the receipt of legal services provided through this program if his lack of assets or income results from his refusal or unwillingness to seek or accept employment but in no event shall physical or mental incapacity prohibit an individual from receiving benefits under this Act, and (2) the States may impose additional eligibility criteria for the purpose of this Act.

(l) The Corporation shall evaluate annually the program for provision of legal services to eligible clients being conducted in each State. Should any such evaluation disclose: discrimination on the basis of race, religion, sex, or national origin in the provision of legal services to eligible clients; or violation of the code of professional responsibility for attorneys, in any State's program, the Corporation may terminate disbursal of funds to that State until it is determined by the Corporation that such discrimination or violation of the code of professional responsibility will no longer occur.

(m) Upon request by any Governor, Member of Congress, or authorized officials of executive branch departments and agencies, reports of particular audits, evaluations, and inspections will be made available to the requesting official or to the public. Such inspections, audits, and evaluations shall be initiated in response to the written request of any Governor, Member of Congress, or official of the executive branch whose appointment has been confirmed by the United States Senate or the separate request of a member of the Board or Executive Director of the Corporation.

(n) Violation of any of the provisions of this section by an individual shall constitute a misdemeanor. The penalties for such shall not exceed six months imprisonment or a $500 fine or both.

QUALIFICATION BY STATES

SEC. 5. (a) To qualify for assignment of funds from the Corporation, States shall be required to enact enabling legislation setting forth the manner in which grant funds will be used to furnish eligible individuals with legal assistance. Such enabling legislation shall provide for at least one of (but none other than) the following procedures:

(1) Empower a State instrumentality to administer the funds received from the Corporation and disburse such funds to attorneys representing eligible clients as such attorneys provide proof to such State instrumentality of services actually rendered eligible clients; or,

(2) Transmit the funds received from the Corporation to the bar association with overall jurisdiction in the State, which bar association shall have established a method for disbursal of funds to attorneys representing eligible clients as such attorneys provide proof to the bar association of services actually rendered on behalf of eligible clients; or,

(3) Establishment of a method of direct payment of funds received from the Corporation to eligible clients or their attorneys based upon a voucher system or other method whereby proof of services actually rendered on behalf of eligible clients is provided to the State.

(b) In their enabling legislation, all States shall (1) permit eligible clients to retain the individual attorney of their choice; (2) insure that all attorneys, while engaged in activities funded by Corporation grants:

(A) Refrain (i) from political activity, (ii) from any voter registration activity, (iii) from any activity to provide voters with, or prospective voters with, transportation to or from the polls or provide similar assistance in connection with an election, and (iv) from any activity organizing individuals or groups or encouraging groups to organize in the community.

(B) Shall not at any time identify the Corporation or any program assisted by the Corporation with any partisan or nonpartisan political activity.

(C) Maintain the highest quality of service and professional standards in providing legal services to eligible clients.

(c) In the event a State does not enact the required enabling legislation within ninety days of the effective date of this Act or the legislature of a State is not sitting when this Act becomes effective and will not be able to enact the required enabling legislation within ninety days of the effective date of this Act, the bar association of the State may submit a plan in the form of a petition, embodying the provisions of subsections (a) and (b) above to the court of highest jurisdiction in the State. Said court may adopt such plans and upon such adoption, the State shall be qualified to receive funds pursuant to this Act. Where such a plan is adopted by the court of highest jurisdiction in the State, the plan shall be annually reviewed by said court: *Provided*, That nothing contained herein shall be construed to prevent the State legislature from reviewing, amending, or revoking such plan adopted by the court of highest jurisdiction in the State.

(d) In the event a State fails to adopt a plan as provided in subsections (a), (b), and (c), above, within one hundred and twenty days of the effective date of this Act, the Corporation may assign funds for expenditure within said State in a manner to be determined by the Corporation: *Provided, however*, That, shall a State determine not to participate in a program of legal assistance to eligible clients, pursuant to this Act, the authority of the Corporation to so assign funds in that State shall be terminated.

ATTORNEY-CLIENT RELATIONSHIP

SEC. 6. (a) As this program is one for the benefit of those individuals financially unable to afford counsel, the Corporation, officers, and employees thereof, may not interfere with any attorney in carrying out his professional responsibility to anyone who has become his client, or abrogate the authority of a jurisdiction to enforce adherence by any attorney to applicable standards of professional responsibility.

(b) Nothing contained herein shall be construed to limit an attorney, representing an eligible client, from taking any necessary legal action to protect the legal rights of his client.

REPORTS AND RECORDS

SEC. 7. (a) The Corporation shall have authority to require, from the States, such reports as it deems necessary.

(b) The Corporation shall have authority to prescribe the keeping of records with respect to funds provided and shall have access to such records at all reasonable times.

(c) The Corporation shall publish an annual report by April 15 of each year which shall be filed by the Corporation with the President and with Congress.

AUDITS

SEC. 8. (a) The accounts of the Corporation shall be audited annually. Such audits shall be conducted in accordance with generally

accepted auditing standards by independent certified public accountants who are certified by a regulatory authority of a State.

(b) The audits shall be conducted at the place or places where the accounts of the Corporation are normally kept. All books, accounts, financial records, reports, files, and other papers or property belonging to or in use by the Corporation and necessary to facilitate the audits shall be made available to the person or persons conducting the audits and full facilities for verifying transactions with the balances or securities held by depositories, fiscal agents, and custodians shall be afforded to such person or persons. The report of the annual audit shall be available for public inspection during business hours at the principal office of the Corporation. The above shall not be construed to limit the authority of the General Accounting Office to conduct such audits of the Corporation as deemed necessary.

(c) The Corporation may require from every State, an annual report conducted in accordance with generally accepted accounting standards by independent certified public accountants, who are certified by a regulatory authority of the State, with respect to funds received from the Corporation. The Comptroller General of the United States shall have access to such reports and may, in addition, inspect the books, accounts, records, files, and all other papers or property belonging to or in use by the State which relate to the disposition or use of funds received from the Corporation.

RIGHT TO APPEAL, ALTER, OR AMEND

SEC. 9. The right to repeal, alter, or amend this Act at any time is expressly reserved.

APPLICABILITY OF OTHER PROVISIONS OF LAW

SEC. 10. (a) In the absence of specific reference to this Act, the provisions of the Economic Opportunity Act of 1964, as amended (and references to that Act in other statutes) shall not be construed to affect the powers and activities of the Corporation or to have an applicability with respect to programs and activities assisted by Corporation grants.

(b) Title X of the Economic Opportunity Act of 1964 is repealed.

EFFECTIVE DATE

SEC. 11. (a) Except as provided in subsection (b) this Act shall take effect on the date of its enactment.

(b) Section 10(b) of this Act shall take effect on (1) the date of incorporation of the Federal Legal Aid Corporation, or (2) the date on which the first appropriation after incorporation becomes available to the Corporation, whichever is later.

Mr. HELMS. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. HELMS. Mr. President, as to the time of the rollcall vote, the Senator from North Carolina is entirely pliable—whatever is convenient for the Senate.

I say to the majority leader that if he wishes to recess now, that suits me just fine.

RECESS SUBJECT TO THE CALL OF THE CHAIR

Mr. ROBERT C. BYRD. I thank the distinguished Senator from North Carolina.

Mr. President, I ask unanimous consent that the Senate stand in recess, subject to the call of the Chair.

There being no objection, at 12:15 p.m. the Senate recessed, subject to the call of the Chair.

The Senate reassembled at 1:40 p.m., when called to order by the Presiding Officer (Mr. MELCHER).

CONSIDERATION OF CERTAIN MEASURES ON THE CALENDAR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to proceed for 2 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I ask unanimous consent that the Senate proceed to the consideration of three measures that have been cleared for consideration by unanimous consent, and that the Senate proceed to the consideration of Calendar Order Nos. 431, 444, and 445.

The PRESIDING OFFICER. Is there objection?

Mr. BAKER. Mr. President, reserving the right to object, all three of these items have been cleared on our calendar, and we have no objection to proceeding with them.

The PRESIDING OFFICER. Without objection, it is so ordered.

INTERNATIONAL EMERGENCY ECONOMIC POWERS LEGISLATION

The Senate proceeded to consider the bill (H.R. 7738) with respect to the powers of the President in time of war or national emergency, which had been reported from the Committee on Banking, Housing, and Urban Affairs with amendments as follows:

On page 2, beginning with line 17, insert the following:

(c) The termination and extension provisions of subsection (b) of this section supercede the provisions of section 101(a) and of title II of the National Emergencies Act to the extent that the provisions of subsection (b) of this section are inconsistent with those provisions.

On page 2, line 22, strike "(c)" and insert "(d)";

On page 6, line 6, strike:

uncompensated transfers of anything of value except to the extent that the President determines that such transfers (A) would seriously impair his ability to deal with the unusual and extraordinary threat which is the basis for the exercise of authorities under this title, and insert in lieu thereof;

donations, by persons subject to the jurisdiction of the United States, of articles, including food, clothing, and medicine, intended to be used solely to relieve human suffering, except to the extent that the President determines that such donations (A) would seriously impair his authority to deal with any national emergency declared under section 202 of this title,

On page 8, beginning with line 20, strike through and including page 9, line 13;

On page 9, line 15, strike "207" and insert "206";

On page 10, line 2, strike "208" and insert "207";

On page 11, beginning with line 18, insert the following:

SEC. 208. If any provision of this Act is held invalid, the remainder of the Act shall not be affected thereby.

The amendments were agreed to.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95–466), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE BILL

The purpose of the bill is to revise and delimit the President's authority to regulate international economic transactions during wars or national emergencies. The bill is a response to two developments: first, extensive use by Presidents of emergency authority under section 5(b) of the Trading With the Enemy Act of 1917 to regulate both domestic and international economic transactions unrelated to a declared state of emergency, and second, passage of the National Emergencies Act of 1977 which provides safeguards for the role of Congress in declaring and terminating national emergencies, but exempts section 5(b) of the Trading With the Enemy Act from its coverage.

Four national emergency declarations were in effect prior to passage of the National Emergencies Act of 1976: President Roosevelt's declaration in 1933 to cope with the banking crisis; President Truman's declaration in 1950 during the Korean War; President Nixon's declaration in 1970 to deal with the Post Office strike and his declaration of a balance of payments crisis in 1971. Any emergency declaration may be used by the President in conjunction with section 5(b) of the Trading With the Enemy Act to regulate domestic or international economic transactions or control property for an indefinite period. Such emergency authority was used by President Johnson to place controls on U.S. direct investment abroad in 1968 (controls which continued until 1974), by President Nixon to impose a 10-percent surcharge on U.S. imports from August to December 1971, and most recently by President Ford to extend controls and regulations issued under the Export Administration Act when that act lapsed temporarily between September 30, 1976 and June 22, 1977. President Johnson's action was based on the continuing emergency declared during the Korean War. Presidents Nixon and Ford based their actions on the Korean emergency and the 1971 balance of payments emergency.

The National Emergencies Act of 1976 terminated emergency authority existing under declarations of national emergency in effect on September 14, 1976, the date the act became law, and specified the manner in which future national emergencies are to be declared and terminated, and emergency authorities to be exercised. Section 5(b) of the Trading With the Enemy Act was excluded from coverage by the National Emergencies Act. The act instructed Congress to study section 5(b) and propose such revisions as might be found necessary.

Exclusion of section 5(b) reflected concern for preserving existing regulations imposed under emergency authority, including the following:

(1) the foreign assets control regulations, which block the assets of, and limit transactions with, the People's Republic of China, North Korea, Vietnam, and Cambodia;

(2) the Cuban assest control regulations, which block the assets of, and limit transactions with, Cuba:

(3) the transaction control regulations, which prohibit U.S. persons from participating in shipping strategic goods to any of the following countries: Albania, Bulgaria, People's Republic of China, Cambodia, Czechoslovakia, German Democratic Republic and East Berlin, Hungary, North Korea, Outer Mongolia, Poland and Danzig, Romania, the Soviet Union, North Vietnam and South Vietnam; and

(4) the foreign funds controls regulations, which continue World War II blockage of the assets of Czechoslovakia, Estonia, the German Democratic Republic, Latvia, Lithuania, and their nationals.

EX-PRISONERS OF WAR, INC.

The bill (S. 1590) to incorporate the American Ex-Prisoners of War, Incorporated, was announced as next in order.

Mr. DOMENICI. Mr. President, S. 1590 is more than tribute to this Nation's brave heroes who have endured the agony of internment by the enemies of this Nation; for the National Organization of American Ex-Prisoners of War, Inc. exists for the purpose of honoring their country and serving their comrades and their loved ones who are disabled or disadvantaged as a result of service to our country.

In order to be effective in this mission, the American ex-prisoners of war need accreditation by the Veterans' Administration—a status which requires a Federal charter. This bill will provide them with such a charter.

I wish to take a moment to express my gratitude to the distinguished chairman of the Judiciary Committee, Mr. EASTLAND, for his prompt and expeditious attention to this worthy cause. Also, my colleagues and cosponsors, Senators THURMOND, GOLDWATER, and CHILES, should be commended for their zeal in aiding the cause of these patriots and their unique problems.

To the 5,000 ex-prisoners of war, may this be a reaffirmation of this country's gratitude for the suffering and indignity you endured.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill (S. 1590) was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following persons: Mel Madero, Albuquerque, New Mexico; Henry Goodall, Houston, Texas; Memory Cain, Santa Barbara, California; Delmar Spivey, Largo, Florida; Robinson Risner, Oklahoma City, Oklahoma; George E. Day, Eglin Air Force Base, Florida; Charles Morgan, San Antonio, Texas; Joseph G. Schisser, San Leon, Texas; Herman Molen, Las Vegas, Nevada; Joseph B. Upton, Saint Louis, Missouri; Edgar Van Valkenburg, Saint Petersburg, Florida; Pauline Brown, Tampa, Florida; Joseph R. Perry, Anaheim, California; Thornton E. Hambry, Arlington, Texas; Harry E. Steen, El Paso, Texas; Carl Allen, Macon, Georgia; James Atwell, Winter Park, Florida; Jack Aldrich, Albuquerque, New Mexico; Ernest Armijo, Los Lunas, New Mexico; William Mattson, Cheshire, Oregon; Donald T. Morgan, Tacoma, Washington; Eugene J. Shannahan, Williamsburg, Iowa; Stanley G. Sommers, Marshfield, Wisconsin; Anna Bressi, Mechanicsburg, Pennsylvania; Felix Stankus, Ipswich, Massachusetts; Jack D. Warner, Hammon, Oklahoma; Harold L. Page, Buckley, Washington; John Romine, Muskogee, Oklahoma; Albert W. Braun, Phoenix, Arizona, and their successors, are created and declared to be a body corporate by the name of the "American Ex-Prisoners of War, Incorporated" (hereafter in this Act referred to as the "corporation"), and by such name shall be known and have perpetual succession, and the powers, limitations, and restrictions contained in this Act.

COMPLETION OF ORGANIZATION

SEC. 2. The persons named in the first section of this Act are authorized to complete the organization of the corporation by the selection of officers and employees, the adoption of a constitution and bylaws, not inconsistent with this Act, and the doing of such other acts as may be necessary to carry out the provisions of this Act.

OBJECTS AND PURPOSES OF CORPORATION

SEC. 3. The objects and purposes of the corporation shall be—

(1) to encourage fraternity for the common good;

(2) to foster patriotism and loyalty;

(3) to assist the widows and orphans of deceased ex-prisoners of war;

(4) to assist ex-prisoners of war who have been injured or handicapped as a result of their service;

(5) to maintain allegiance to the United States of America;

(6) to preserve and defend the United States from all of her enemies; and

(7) to maintain historical records.

CORPORATE POWERS

SEC. 4. (a) The corporation shall have power—

(1) to sue and be sued, complain, and defend in any court of competent jurisdiction;

(2) to adopt, alter, and use a corporate seal;

(3) to appoint and fix the compensation of such officers, directors, trustees, managers, agents, and employees as its business may require;

(4) to adopt, amend, and alter a constitution and bylaws, not inconsistent with the laws of the United States or any State in which the corporation is to operate, for the management of its property and the regulation of its affairs;

(5) to contract and be contracted with;

(6) to charge and collect membership dues, subscription fees, and receive contributions or grants of money or property to be devoted to the carrying out of its purposes;

(7) to take and hold by lease, gift, purchase, grant, devise, bequest, or otherwise any property, real or personal, necessary for attaining the objects and carrying into effect the purposes of the corporation, subject to applicable provisions of law in any State (A) governing the amount of real and personal property which may be held by, or (B) otherwise limiting or controlling the ownership of real or personal property by a corporation operating in such State;

(8) to transfer, encumber, and convey real or personal property;

(9) to borrow money for the purposes of the corporation, issue bonds therefor, and secure the same by mortgage, subject to all applicable provisions of Federal or State law;

(10) to adopt, alter, use and display such emblems, seals, and badges as it may adopt; and

(11) to do any and all lawful acts and things necessary and proper to carry out its objects and purposes.

(b) For the purpose of this section, the term "State" includes the District of Columbia.

PRINCIPAL OFFICE: SCOPE OF ACTIVITIES DISTRICT OF COLUMBIA AGENT

SEC. 5. (a) The principal office of the corporation shall be located in Tampa, Florida, or in such other place as may later be determined by the board of directors, but the activities of the corporation shall not be confined to that place and may be conducted throughout the various States, the Commonwealth of Puerto Rico, and the possessions of the United States, and in other areas throughout the world.

(b) The corporation shall maintain at all times in the District of Columbia a designated agent authorized to accept service of process for the corporation and notice to or service upon such agent, or mailed to the business address of such agent, shall be deemed notice to or service upon the corporation.

MEMBERSHIP: VOTING RIGHTS

SEC. 6. (a) Eligibility for membership in the corporation and the rights and privileges of members shall, except as provided by this Act, be as set forth in the constitution and bylaws.

(b) Each member of the corporation, other than honorary and associate members, shall have the right to one vote on each matter submitted to a vote at all meetings of the members of the corporation.

BOARD OF DIRECTORS; COMPOSITION; RESPONSIBILITIES

SEC. 7. (a) Upon the date of enactment of this Act, the membership of the initial board of directors of the corporation shall consist of the following named persons: Mel Madero, Albuquerque, New Mexico; Charles Morgan, San Antonio, Texas; Joseph G. Schisser, San Leon, Texas; Herman E. Molen, Las Vegas, Nevada; Joseph B. Upton, Saint Louis, Missouri; Edgar Van Valkenburg, Saint Petersburg, Florida; Pauline Brown, Tampa, Florida; Joseph Perry, Anaheim, California; Thornton E. Hamby, Arlington, Texas; Charles Morgan, San Antonio, Texas; Harry E. Steen, El Paso, Texas; Carl Allen, Macon, Georgia; James Atwell, Winter Park, Florida; Jack Aldrich, Albuquerque, New Mexico; Ernest Armijo, Los Lunas, New Mexico; William Mattson, Cheshire, Oregon; Donald T. Morgan, Tacoma, Washington; Eugene Shannahan, Williamsburg, Iowa; Stanley G. Sommers, Marshfield, Wisconsin; Anna Bressi, Mechanicsburg, Pennsylvania; Felix Stankus, Ipswich, Massachusetts.

(b) Thereafter the board of directors of the corporation shall consist of such number as shall be selected in such manner, and shall serve for such terms as may be prescribed in the constitution and bylaws of the corporation.

(c) The board of directors shall be the governing board of the corporation and shall, during the intervals between corporation meetings, be responsible for the general policies and program of the corporation. The board of directors shall be responsible for all finances of the corporation.

OFFICERS; ELECTION OF OFFICERS

SEC. 8. (a) The officers of the corporation shall be commander, senior vice commander, three junior vice commanders, adjutant, treasurer, and the national directors. The duties of the officers shall be as prescribed by the constitution and bylaws.

(b) Officers shall be elected annually at the annual meeting of the corporation.

USE OF INCOME; LOANS TO OFFICERS, DIRECTORS OR EMPLOYEES

SEC. 9. (a) No part of the income or assets of the corporation shall inure to any member, officer, or director, or be distributable to any such person during the life of the corporation or upon dissolution or final liquidation. Nothing in this subsection, however,

shall be construed to prevent the payment of reasonable compensation to officers of the corporation in amounts approved by the board of directors of the corporation.

(b) The corporation shall not make loans to its officers, directors, or employees. Any director who votes for or assents to the making of a loan to an officer, director, or employee of the corporation, and any officer who participates in the making of such loan, shall be jointly and severally liable to the corporation for the amount of such loan until the repayment thereof.

NONPOLITICAL NATURE OF CORPORATION

SEC. 10. The corporation, and its officers, directors, and duly appointed agents as such, shall not contribute to or otherwise support or assist any political party or candidate for office.

LIABILITY FOR ACTS OF OFFICERS AND AGENTS

SEC. 11. The corporation shall be liable for the acts of its officers and agents when acting within the scope of their authority.

PROHIBITION AGAINST ISSUANCE OF STOCK OR PAYMENT OF DIVIDENDS

SEC. 12. The corporation shall have no power to issue any shares of stock nor to declare nor pay any dividends.

BOOKS AND RECORDS; INSPECTION

SEC. 13. The corporation shall keep correct and complete books and records of account and shall keep minutes of the proceedings of its members, board of directors, and committees having authority under the board of directors, and it shall also keep at its principal office a record of the names and addresses of its members entitled to vote. All books and records of the corporation may be inspected by any member entitled to vote, or his agent or attorney, for any proper purpose, at any reasonable time.

AUDIT OF FINANCIAL TRANSACTIONS

SEC. 14. (a) The accounts of the corporation shall be audited annually in accordance with generally accepted auditing standards by independent certified public accountants or independent licensed public accountants, certified or licensed by a regulatory authority of a State or other political subdivision of the United States. The audit shall be conducted at the place or places where the accounts of the corporation are normally kept. All books, accounts, financial records, files, and all other papers, things, or property belonging to or in use by the corporation and necessary to facilitate the audit shall be made available to the person or persons conducting the audit; and full facilities for verifying transactions with the balances or securities held by depositors, fiscal agents, and custodians shall be afforded to such person or persons.

(b) A report of such audit shall be made by the corporation to the Congress not later than six months following the close of the fiscal year for which the audit is made. The report shall set forth the scope of the audit and include such statements, together with the independent auditor's opinion of those statements, as are necessary to present fairly the corporation's assets and liabilities, surplus or deficit with an analysis of the changes therein during the year, supplemented in reasonable detail by a statement of the corporation's income and expenses during the year including (1) the results of any trading, manufacturing, publishing, or other commercial-type endeavor carried on by the corporation, and (2) a schedule of all contracts requiring payments in excess of $10,000 and any payments of compensation, salaries, or fees at a rate in excess of $10,000 per annum. The report shall not be printed as a public document.

USE OF ASSETS ON DISSOLUTION OR LIQUIDATION

SEC. 15. Upon final dissolution or liquidation of the corporation, and after discharge or satisfaction of all outstanding obligations and liabilities, the remaining assets of the corporation may be distributed in accordance with the determination of the board of directors of the corporation and in compliance with the constitution and bylaws of the corporation and all Federal and State laws applicable thereto. Such distribution shall be consistent with the purposes of the corporation.

EXCLUSIVE RIGHT TO NAME, EMBLEMS, SEALS, AND BADGES

SEC. 16. The corporation shall have the sole and exclusive right to use and to allow or refuse to others the use of the terms "American Ex-Prisoners of War", and the official American Ex-Prisoners of War emblem or any colorable simulation thereof. No powers or privileges hereby granted shall, however, interfere or conflict with established or vested rights.

TRANSFER OF ASSETS

SEC. 17. The corporation may acquire the assets of the American Ex-Prisoners of War, Incorporated, chartered in the State of Washington, upon discharging or satisfactorily providing for the payment and discharge of all the liability of such corporation and upon complying with all laws of the State of Washington applicable thereto.

RESERVATION OF RIGHT TO AMEND OR REPEAL CHARTER

SEC. 18. The right to alter, amend, or repeal this Act is hereby expressly reserved to the Congress.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95-479), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

STATEMENT

This bill proposes to grant a Federal Charter to the American Ex-Prisoners of War, Inc. This organization was initially incorporated in New Mexico in 1943 as the Bataan Relief Organization. It was later renamed "The American Ex-Prisoners of War" and incorporated in the State of Washington. The group now has a nationwide membership of more than 5,000 people organized into 61 chapters. Among its members are former prisoners of war from the Spanish-American War, World Wars I and II, Korea and Vietnam.

The committee adopted strict standards for the granting of Federal charters in the 91st Congress. The importance the committee places upon these standards is not lessened by its action today. However, this organization has demonstrated that it is of a unique character: organized and operated for patriotic, nonpartisan, nonprofit purposes, and conducting activities which are of a national scope and responsive to a national need.

The American Ex-Prisoners of War, Inc., have shown the committee that the group must be federally chartered to be recognized by the Administrator of Veterans Affairs. The organization must be recognized to be allowed to represent its members in Veterans Administration proceedings.

RELIEF OF CERTAIN POSTMASTERS CHARGED WITH DEFICIENCIES

The bill (H.R. 1613) for the relief of certain postmasters charged with postal deficiencies, was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95-480), explaining the purposes of the measure.

There being no objection, the except was ordered to be printed in the RECORD, as follows:

PURPOSE

The purpose of the proposed legislation is to authorize the U.S. Postal Service, on such terms as it deems just and expedient, to compromise, release, or discharge, in whole or in part, the individual liabilities of the following listed postmasters and retired postmasters to the United States for the amounts set opposite their names resulting from the mailing at an improper rate, prior to 1969, of newspapers published by Fountain-Warren Publishers of Attica, Ind.:

Postmaster and post office	Publisher	Amount
Vivian L. Smith, retired, Waynetown, Ind	Hub Press, Inc., Veedersburg, Ind	$272.18
Wayne Simms, retired, Waveland, Ind	Hub Press, Inc	412.62
Charles A. Boggs, retired, Veedersburg, Ind	do	1,687.50
Joe Silotto, Dana, Ind	Vermillion Newspapers, Inc., Dana, Ind	366.13
Wayne Hillyer, Williamsport, Ind	Fountain Warren Publications, Attica, Ind	124.17
Lawrence D. Wolf, retired, Attica, Ind	Fountain Warren Publications, Inc	511.67
Gordon Stockdale, retired, Wingate, Ind	Hub Press, Inc	177.22

STATEMENT

The facts of the case, as set out in House Report No. 95-201, are as follows:

"The Postal Service in its report to the committee stated that it favors enactment of the bill. As has been indicated, the bill would permit the Postal Service to compromise, release, or discharge, in whole or in part and on such terms as it deems just, the liabilities of seven postmasters, five of whom are now retired, to the United States for postage deficiencies charged to their accounts prior to 1969. The Secretary of the Treasury would be required to repay, out of money in the Treasury not otherwise appropriated, such sums as any individual relieved by the Postal Service has paid or had withheld in satisfaction of such postage deficiency. While the Postal Service generally has authority under 39 U.S.C. section 2601 to discharge claims against postmasters for postage deficiencies, the Comptroller General has ruled that this authority does not permit the reopening of cases in which he had denied such relief prior to the commencement of operations of the Postal Service on July 1, 1971. 50 Comp. Gen. 731 (1971).

"The postage deficiencies in question were disclosed as a result of an audit and investigation conducted in 1967 to determine whether proper postage was being paid on second-class mailings made by Hub Press, Inc., of Veedersburg, Ind. The following deficiencies were disclosed as a result of that inquiry:"

Postmaster and post office	Publisher	Amount
Vivian L. Smith, retired, Waynetown, Ind	Hub Press, Inc., Veedersburg, Ind	$272.18
Wayne Simms, retired, Waveland, Ind	Hub Press, Inc	412.62
Charles A. Boggs, retired, Veedersburg, Ind	do	1,687.50
Joe Silotto, Dana, Ind	Vermillion Newspapers, Inc., Dana, Ind	366.13
Wayne Hillyer, Williamsport, Ind	Fountain Warren Publications, Attica, Ind	124.17
Lawrence D. Wolf, retired, Attica, Ind	Fountain Warren Publications, Inc	511.67
Gordon Stockdale, retired, Wingate, Ind	Hub Press, Inc	177.22

"The publishers involved had furnished incorrect information to the post offices concerning the number of their paid subscribers, and the postmasters had failed to make the required annual verification of the publishers' mailing statements. Postal Manual section 126.66 (1966). The postmasters appeared to have misunderstood their responsibility in this regard. As a result, the second-class bulk rate of postage, rather than the required transient second-class rate, had been paid on copies of the newspapers mailed free of charge, in excess of the allowable 10 percent, to former subscribers whose subscriptions had expired for more than 6 months. In some cases, paid subscriptions had fallen below the minimum allowable level for the second-class mailing permit.

"Postal inspectors investigating this matter stated that there was an obvious need for a set of instructions or guidelines to inform postmasters of their exact duties and the procedures to be followed in accomplishing the annual verification of publishers' circulation and subscription records.

"All of the amounts have been collected from the postmasters whose accounts were charged with the deficiencies, with the exception of $124.17 which is still unpaid and charged to the account of Postmaster Hillyer.

"The Postal Service report indicates that ordinarily, a postage deficiency would be collected from the mailer, thus discharging the postmaster's account. However, most of the small Indiana newspapers involved in this case soon ceased publication; all were unable to pay the prior deficiencies. The Post Office Department and later the Postal Service were not able to develop a sufficient case for holding the parent corporation of the three publishing firms, International Industries, Inc., or the principal stockholder, Mr. Robert M. Hemphill, formerly of Wilmette, Ill., responsible for the debts of the subsidiary corporation.

"In indicating that it would favor enactment of relief as provided in the bill, after reviewing the circumstances, the Postal Service stated:

"Under these circumstances, we believe that it would be appropriate to relieve the affected postmasters of liability for the postage deficiencies. Accordingly, we favor the enactment of H.R. 6512."

The committee agrees that this is an appropriate matter for legislative relief and recommends that the amended bill be considered favorably.

RECESS SUBJECT TO THE CALL OF THE CHAIR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess awaiting the call of the Chair.

There being no objection, at 1:43 p.m. the Senate took a recess, subject to the call of the Chair.

The Senate reassembled at 1:58 p.m., when called to order by the Presiding Officer (Mr. MELCHER).

TAX AND LOAN ACCOUNTS

TIME-LIMITATION AGREEMENT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed at this time to the consideration of Calendar Order No. 413, H.R. 5675, on the condition that there be a 20-minute time limit on the bill, to be equally divided between Mr. PROXMIRE and the minority leader or his designee; that there be a time limitation on any amendment, debatable motion, appeal, or point of order of 10 minutes, and the agreement be in the usual form.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. The bill will be stated by title.

The second assistant legislative clerk read as follows:

A bill (H.R. 5675) to authorize the Secretary of the Treasury to invest public moneys, and for other purposes.

There being no objection, the Senate proceeded to consider the bill (H.R. 5675) which had been reported from the Committee on Banking, Housing, and Urban Affairs with an amendment to strike all after the enacting clause and insert the following:

That the Secretary of the Treasury is authorized, for cash management purposes, to invest any portion of the Treasury's operating cash for periods of up to ninety days in (1) obligations of depositaries maintaining Treasury tax and loan accounts secured by a pledge of collateral acceptable to the Secretary of the Treasury as security for tax and loan accounts, and (2) obligations of the United States and of agencies of the United States: *Provided*, That the authority granted under this section not be construed as requiring the Secretary of the Treasury to invest any or all of the cash balance held in any particular account: *Provided further*, That the authority granted under this section shall not be construed as permitting the Secretary of the Treasury to require the sale of such obligations by any particular person, dealer, or financial institution. Investments in obligations of depositaries maintaining such accounts shall be made at rates of interest prescribed by the Secretary of the Treasury, after taking into consideration prevailing market rates of interest.

SEC. 2. (a) Section 5(k) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(k)) is amended by adding after "Bank" in the first sentence thereof the following: "shall be a depositary of public money and" and by striking the period at the end thereof and inserting the following: ", including services in connection with the collection of taxes and other obligations owed the United States, and the Secretary of the Treasury is hereby authorized to deposit public money in any such Federal savings and loan association or member of a Federal home loan bank, and shall prescribe such regulations as may be necessary to carry out the purposes of this subsection.".

(b) Section 402(d) of the National Housing Act (12 U.S.C. 1725(d)) is amended by adding the following at the end thereof: "Insured institutions shall be depositaries of public money and may be employed as fiscal agents of the United States. The Secretary of the Treasury is authorized to deposit public money in such insured institutions, and shall prescribe such regulations as may be necessary to enable such institutions to become depositaries of public money and fiscal agents of the United States. Each insured institution shall perform all such reasonable duties as depositary of public money and fiscal agent of the United States as may be required of it including services in connection with the collection of taxes and other obligations owed the United States.".

(c) The Federal Credit Union Act (12 U.S.C. 1751–1790) is amended—

(1) by inserting after section 209 the following new section:

"SEC. 210. Any credit union the accounts of which are insured under this title shall be a depositary of public money and may be employed as fiscal agent of the United States. The Secretary of the Treasury is authorized to deposit public money in any such insured credit union, and shall prescribe such regulations as may be necessary to enable such credit unions to become depositaries of public money and fiscal agents of the United States. Each credit union shall perform all such reasonable duties as depositaries of public money and fiscal agent of the United States as may be required of it including services in connection with the collection of taxes and other obligations owed the United States."; and

(2) by redesignating section 210 of the Federal Credit Union Act (12 U.S.C. 1790) as section 211.

(d) Banks, savings banks, and savings and loan, building and loan, homestead associations (including cooperative banks), and credit unions created under the laws of any State and the deposits or accounts of which are insured by a State or agency thereof or corporation chartered pursuant to the laws of any State may be depositaries of public money and may be employed as fiscal agents of the United States. The Secretary of the Treasury is authorized to deposit public money in any such institution, and shall prescribe such regulations as may be necessary to enable such institutions to become depositaries of public money and fiscal agents of the United States. Each such institution shall perform all such reasonable duties as depositary of public money and fiscal agent of the United States as may be required of it including services in connection with the collection of taxes and other obligations owed the United States.

SEC. 3. (a) Subsection (c) of section 6302 of the Internal Revenue Code of 1954 (relating to use of Government depositaries) is amended—

(1) by striking out "or trust companies" and inserting in lieu thereof ", trust companies, domestic building and loan associations, or credit unions"; and

(2) by striking out "and trust companies" and inserting in lieu thereof ", trust companies, domestic building and loan associations, and credit unions".

(b) Subsection (e) of section 7502 of the Internal Revenue Code of 1954 (relating to mailing of deposits) is amended by striking out "or trust company" each time it appears and inserting in lieu thereof ", trust company, domestic building and loan association, or credit union".

(c) The amendments made by this section shall apply to amounts deposited after the date of the enactment of this Act.

The PRESIDING OFFICER. The Senator from Wisconsin is recognized.

Mr. DURKIN. Mr. President, will the Senator yield?

Mr. PROXMIRE. I yield to the Senator from New Hampshire.

PRIVILEGE OF THE FLOOR—H.R. 5675, S. CON. RES. 31, AND S. 1303

Mr. DURKIN. Mr. President, I ask unanimous consent that Reed Ashinoff, of my staff, be granted the privileges of the floor during consideration of the pending bill, the air bag resolution, and the legal services bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that during the debate on H.R. 5675 the following staff be granted the privileges of the floor: Kenneth McLean, Elinor Bachrach, Jeremiah Buckley, William Weber, Anthony Cluff, and Carolyn Jordan.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, I ask unanimous consent that Howard Segermark, of my staff, be granted the privileges of the floor during the consideration of H.R. 5675.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PROXMIRE. Mr. President, this bill is known as the tax and loan accounts bill. The bill was jointly referred to the Committee on Banking, Housing, and Urban Affairs and the Committee on Finance, after it passed the House by a vote of 384 to 0. Both committees reported the text of the House bill with identical amendments, by voice vote with no opposition. I understand there is no objection to the amendments made by the two committees.

Mr. President, the purpose of this legislation is to correct a longstanding problem which has led to the loss of hundreds of millions of dollars in revenues to the Federal Government over the years. I am referring to the Treasury Department's practice of holding its excess cash balances as non-interest-bearing demand deposits in its tax and loan accounts at commercial banks, until the funds are withdrawn to cover disbursements. The Treasury does not earn any interest on these balances, because Federal law presently prohibits payment of interest on demand deposits and because these moneys do not remain in the banks long enough to qualify as interest-bearing time deposits. The banks, however, do get interest on these public funds, because they are free to invest them in the overnight Federal funds market or in other short-term interest-bearing instruments.

For many years, the Treasury Department claimed that it did not lose any money on these tax and loan accounts and that the banks' earnings on those accounts were not significantly greater than the cost of maintaining the accounts. On the other hand, the General Accounting Office and certain Members of Congress, notably the late Congressman Wright Patman, had long contended that there was a substantial revenue loss involved and an excessive profit for the banks.

Finally, with the higher interest rates prevailing in recent years, the Treasury was pushed to take another look at this question. In its report on a study of tax and loan accounts, issued in July 1974, the Treasury Department found that banks were earning a net profit of $260 million a year on the cash balances held in tax and loan accounts, over and above the value of services provided to the Federal Government. Furthermore, these profits were not even spread evenly among the participating banks. Some banks earned large amounts of money on their tax and loan accounts; others barely broke even.

As a stopgap measure to stem the drain in revenues, the Treasury Department has, since 1974, been withdrawing the funds from the banks more quickly and keeping larger balances in its accounts at the Federal Reserve, where it can earn interest indirectly. However, this action has complicated the Federal Reserve's job of controlling the money supply and has required a larger volume of Federal Reserve open market operations to offset the impact on bank reserves. Moreover, for various reasons, the Treasury Department contends that under the current procedure it is not possible to realize the full amount of potential earnings on its excess cash balances.

Thus the Treasury has requested authority to invest those funds in interest-bearing obligations. This would give the Federal Government an option already generally available to State and local governments, to corporations, and to other institutions—the option to invest and receive earnings on temporarily excess operating cash.

The committees approved the language contained in the House-passed version of H.R. 5675 which would give the Treasury this investment authority. Specifically, section 1 of the bill would permit the Secretary of the Treasury to invest excess cash balances in either (*a*) interest-bearing obligations of financial institutions holding tax and loan accounts or (*b*) obligations of the United States and of agencies of the United States. Those investments are required to be made at market rates, to prevent any prospective drain of revenues similar to that which occurred in recent years.

In return, the committees understand that the depositary institutions will be compensated directly by the Treasury out of appropriations for services rendered in maintaining the tax and loan accounts and in selling and redeeming U.S. savings bonds. The Treasury estimates that there will be a net gain in revenues of $50–$100 million a year as a result of the enactment of this legislation. It is the intent of the committees that the Treasury take every step necessary to gain the maximum earnings on its tax and loan account balances, and that the rates of compensation reflect only the actual cost to the banks of the services rendered.

INCLUSION OF SAVINGS AND LOAN ASSOCIATIONS AND CREDIT UNIONS

Mr. President, I should like to draw attention to the other feature of this bill, which is to expand participation by financial institutions in the tax and loan accounts system. That system is now effectively limited to commercial banks and mutual savings banks. The House acted to include savings and loan associations in the tax and loan accounts system, on the same basis as banks. The Senate committees further amended H.R. 5675 to expand on authority contained in present law and insure that credit unions are fully authorized to hold tax and loan accounts as well. I understand there is every reason to believe that this Senate amendment will be acceptable to the House.

Sections 2 and 3 of H.R. 5675, as amended, contain the statutory authority needed to permit savings and loan associations and credit unions to participate in the tax and loan accounts system. Section 2 amends the banking laws to authorize S. & L.'s and credit unions which are federally or State chartered and federally or State insured to act as depositaries of Federal money and fiscal agents of the United States. Section 3 would amend the Internal Revenue Code to provide that timely deposits of income tax withholding and tax payments in savings and loan associations and in credit unions shall be taken as fulfillment of the tax obligation.

Mr. President, I think it is in the public interest to permit the maximum possible participation by financial institutions in holding these deposits of public tax moneys. Therefore, I urge the passage of H.R. 5675, as reported by the Committee on Banking, Housing, and Urban Affairs and the Committee on Finance.

Mr. President, I wish also to pay tribute to Representative RON MOTTL, of Ohio, who worked very hard in the House to bring this bill to passage, and who has pressed hard for Senate action and deserves a great deal of credit. He is saving the people of America between $50 and $100 million a year by his energy and force on this bill.

I understand the Senator from Arkansas has an amendment and I am happy to yield to him.

UP AMENDMENT NO. 918

(Purpose: Extend for 2 years authority of national financial institutions to make large loans at rates up to 5 percent over rediscount rate.)

Mr. BUMPERS. Mr. President, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER (Mr. HATHAWAY). The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Arkansas (Mr. BUMPERS) proposes unprinted amendment numbered 918.

Mr. BUMPERS. I ask unanimous consent that further reading be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, add the following new Section:

"SEC. . (a) Section 206 of the Act entitled "An Act to authorize the regulation of interest rates payable on obligations issued by affiliates of certain depository institutions, and for other purposes", approved October 29, 1974 (Public Law 93-501), is amended by striking out "1977" and inserting in lieu thereof "1979".

(b) Section 304 of such Act is amended by striking out "1977" and inserting in lieu thereof "1979".

Mr. BUMPERS. Mr. President, 3 years ago, the Senate passed a bill, Public Law 93-501, to authorize interest rates that banks and savings and loans could charge on business and farm loans of

$25,000 or more. The maximum rate was set at the Federal Reserve discount rate, that is, the rate it costs banks to borrow money from the Federal Reserve, plus 5 percent. This bill had the practical effect of increasing usury limits for large farm and business loans in the States of Arkansas, Montana, and Tennessee. The bill was sponsored by Senators Mansfield, Fulbright, and Brock, and signed into law on October 19, 1974, with an expiration date of July 1, 1977. A provision was included to allow those States affected to opt out from under the bill's purview by act of the State legislature.

My amendment would extend this law for 2 more years, until July 1, 1979.

Mr. President, the year this act was first passed, the prime rate for banks ranged as high as 12 percent, and the Federal Reserve discount rate hovered at times at 13 percent and even higher. As we all remember, capital under those conditions was in short supply, and financial institutions were paying substantial interest rates on borrowed funds. Interest paid on certificates of deposit, for example, generally exceeded 10 percent. Arkansas banks, as a consequence, were caught in the perverse squeeze of borrowing money which cost in excess of 10 percent and then lending it out at a rate limited by Arkansas' 10 percent usury ceiling. If there ever was a formula for how to become a "problem bank" in short order, that was it. At that time, there was a need for the bill and, happily, it passed quickly.

Now, economic conditions have changed somewhat for the better. Some say these conditions will continue, but with inflationary pressures still continuing to plague our economy, we could well see a repeat of 1973 and 1974 economic conditions with interest rates soaring again to 10 percent or higher. If that happened without the relief of Public Law 93–501, investment capital would again flee my State as it did in 1973 and 1974 in search of higher interest rates in neighboring States and this would cause the capital available to Arkansas farmers for planting and harvesting and to Arkansas businesses for growth and expansion to be in short supply.

I am not talking here about home-mortgage loans or consumer loans. For these borrowers State usury laws would continue to control. But for loans of $25,000 or more to farm and business interests, the formula of the Federal Reserve discount rate plus 5 percent would apply. Thus only substantial borrowers who can take care of themselves and who do not need the protection of State usury laws would be affected. Moreover, these borrowers would be subject to one of the fairest economic indicators, the Federal Reserve discount rate, which the Federal Reserve Board adjusts according to the economic situation of the time.

The amendment is limited to a 2-year extension. Montana changed its law after the passage of Public Law 93–501. Similar activity might follow in Arkansas and Tennessee. In any case, we would be assured during the interim that the relief of Public Law 93–501 would be available, if necessary, to the people of Arkansas and Tennessee.

My distinguished senior colleague (Mr. McCLELLAN) joins me as a cosponsor in this effort. I urge my colleagues to adopt what is essentially a bipartisan, noncontroversial measure.

Mr. President, as I say, this bill is drafted to amend title II of the present law, Public Law 93–501, which was passed in 1974. This amendment would extend that for 2 years. To give historical background to the purpose of the amendment, most of my colleagues will remember that in 1973 and 1974, interest rates in this country soared almost exponentially for about 18 months. It was not uncommon for some of the biggest corporations in the country to pay anywhere from 12- to 20-percent interest. In my State and the State of Tennessee, there is a constitutional limitation on interest rates of 10 percent. It was in 1974, because of the problems that that limitation created, that the present limit was adopted.

Mr. President, in the State of Arkansas in 1973, there was a massive outflow of money for the simple reason that banks which cannot charge more than 10-percent interest obviously cannot pay more interest on CD's and other time deposits than they take in. Yet, there were instances where banks in Arkansas actually were paying 10 percent interest on CD's, and that was also the maximum they could receive as interest income. So that was a losing proposition.

The amendment that was passed by this body in 1974 provided these things: That banks, in States where the law limited the interest rate, such as Tennessee and Arkansas, could make loans of $25,000 or more for farm and business purposes at a rate of 5 percent above the current Federal Reserve discount rate.

Mr. President, this law is really not critical at this point. I think the Federal Reserve discount rate, as of this moment, is about 5 to 5.5 percent. Under my amendment, which would continue the present law, anybody who is going to borrow $25,000 or more for business or agricultural purposes could be charged the maximum of 10 to 10.5 percent, which will be 5 percent above the present Federal Reserve discount rate. It does not bother consumers, because consumers are normally the small borrowers. They would not be adversely affected, and they would still get the benefit of the low 10 percent usurious rate set up in the constitutions of those two States.

I finally want to make this point, that the legislature of either State can opt out of this program any time they so desire. If this amendment is agreed to and the Legislature of Arkansas, when it convenes in January—I think they are going to convene in January in special session. If they do, they can vote to abrogate the action that we take here today and say, "We do not want the U.S. Congress superseding State law."

Mr. President, finally, this is a little troublesome for me. I do not like the idea of overriding State law, either. But the State of Tennessee is having a constitutional convention right now and, presumably, they are going to deal with this problem of the interest rate being inordinately low. Whether or not they will choose to raise the interest rates, I do not know; whether they will or not, I do not know. But the State of Arkansas is also in the process of setting up machinery for a new constitutional convention, which could be voted on as early as 1979. They obviously will address the issue. How they will address it, I do not know. In 1970, we had a constitution presented to the State of Arkansas and it was defeated. This is another effort that will take place, probably, 9 years after that, in 1979. What I am saying is that I do not have any intention—it is certainly not my present intention—to offer this kind of legislation again. But the present law has been in existence for 2 years. It was very helpful when it was first passed. It is not, as I say, critical now, because interest rates are fairly low.

In any event, if we have another crisis such as we had in 1973 and 1974, this could keep some banks in my State from going under.

Mr. PROXMIRE. Mr. President, in response to the distinguished Senator from Arkansas, he makes a very, very strong case. I can understand the plight of the borrowers in the State of Arkansas and the State of Tennessee. I can certainly understand the plight of the banks. It is very, very difficult for them. But, Mr. President, it is impossible for me to accept this amendment, and I shall tell the Senator from Arkansas why.

Both the State of Arkansas and the State of Tennessee, as I understand it, have written into their constitutions a usury limitation. I frankly think that kind of limitation is economically foolish, but that is a decision made by the State. The State of Tennessee, as the Senator knows, has a constitutional convention under way. They expect to be able to act within a matter of a very few months. The State of Arkansas, as the Senator from Arkansas has indicated, will begin to act in the beginning of this coming year, begin the process of changing the State constitution. It seems to me that for the Federal Government to act and overrule, in effect, either the constitutions or the people of the States of Tennessee and Arkansas is wrong. If they want to change their law, they are free to do so and can do so. They are engaged in the process of considering whether or not to make that change.

As the Senator from Arkansas has properly pointed out, the discount rate now is around 5 or 5½ percent. The amendment he proposes would simply permit loans at a little over 10 percent. Ten percent is the constitutional limitation now, as I understand it, on such loans, so the relief would not be significant now. It might be 2 or 3 years from now.

By that time, it would seem to me, there should be plenty of time for the States of Arkansas and Tennessee to act. If they do not want to act, that is their

business and they should be free to make their own decision.

Mr. BUMPERS. I thank the Senator. I have talked to the chairman of the Banking Committee about this several times and I know that, from time to time, he has felt that perhaps he could accept the amendment. I recognize the feeling of responsibility that he has to Congress in opposing the amendment.

I do say for the record, Mr. President, that Congress has, time and time again, overridden State law—for example PCA's, Federal credit unions, the Federal Land Bank—all those loans in the billions of dollars in my State are not limited by the State constitution. While I have never known any of those institutions to charge any more than the 10 percent usury rate in my State, they are eligible to and entitled to if they want to.

Mr. President, in light of the chairman's opposition to the amendment, of course I feel that I have no choice but to withdraw the amendment, because I know that the Senate will not override his feelings on this.

I did feel strongly inclined not to even offer the amendment with the knowledge he might oppose it.

But, by the same token, I feel so strongly, if many banks in our State get in the same kind of trouble again they got into in 1973 and 1974, I would have no choice, if it occurred between now and the time the Arkansas Constitutional Convention had a chance to meet, but to come back to the Senate and put this amendment on the first vehicle I could get it on because otherwise there could be a massive outflow of capital from my State. Banks lost money for about two or three quarters in that period of time, and we were put at a severe disadvantage. The constitutional convention is the first chance we have had.

But in light of the chairman's opposition, I know he labored over this, talked to bankers in my State and in the State of Tennessee, I know he has reached what he thinks is the right decision for himself, his committee, and the Senate, and in light of his opposition, Mr. President, I will withdraw the amendment.

Mr. PROXMIRE. Mr. President, I thank the distinguished Senator.

The PRESIDING OFFICER. The amendment is withdrawn.

Mr. BUMPERS. Mr. President, I ask unanimous consent to have printed at this point in the RECORD a letter to Senator PROXMIRE, it is from the Conference of State Bank Supervisors, dated October 5, 1977.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

OCTOBER 5, 1977.

Hon. WILLIAM PROXMIRE,
U.S. Senate,
Dirksen Senate Office Building,
Washington, D.C.

DEAR SENATOR PROXMIRE: The Conference of State Bank Supervisors has as its regular members those state officials who have primary responsibilities for chartering and supervising some 10,000 state chartered commercial and mutual savings banks in the 50 states plus Guam, Puerto Rico and the Virgin Islands. The Conference is the primary and most persistent organization defending the rights of states to determine respective banking and bank regulatory structures needed to serve best the citizens of respective states which have diverse sets of circumstances.

Notwithstanding this strong stance in defense of states rights, CSBS supports a four year extension of Title II of Public Law 93-501. This singular and most unique apparent exception to the concept of states rights is warranted based on the crucial public interest implications of the constitutional interest rate contraints existing in a few states; and the four year extension is warranted so as to give affected states time to work through lengthy processes of constitutional revisions, if respective citizens display an inclination to do so.

A brief background on CSBS positions relative to this Law may help explain why the Conference, a leading states rights organization, favors an extension of Title II for a reasonable period of time.

CSBS originally opposed the initial bill on the grounds that it represented federal government arrogation of statutes or constitutions of three states—Arkansas, Montana and Tennessee. Fortunately, however, through cooperative efforts of various groups including CSBS, it was possible to achieve an accommodation which would minimize the states rights question and at the same time prevent potentially extreme damage to banks and to bank services to citizens of respective states. PL 93-501 as enacted was the product of that cooperation.

In like manner, the proposed extension of Title II is an appropriate accommodation to the states rights question and to the crucial public interest question of the ability of banks to serve their trade areas without unrealistic interest rate constraints.

It is our understanding that you have supported PL 93-501 and an extension of Title II. CSBS wishes to encourage you to continue that support. Affected states need a reasonable period of time, free of the onerous cloud of unrealistic interest rate constraints, to pursue needed state constitutional changes.

Sincerely,

LAWRENCE E. KREIDER,
Executive Vice President-Economist.

UP AMENDMENT NO. 919

Mr. HELMS. Mr. President, I have an amendment at the desk, and I ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from North Carolina (Mr. HELMS) proposes an unprinted amendment numbered 919.

Mr. HELMS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill, add the following:

SEC. . (a) The Bretton Woods Agreements Act (22 U.S.C. 286-286k-2) is amended—

(1) by striking out clause (g) of the first sentence of section 5, and by inserting immediately after clause (f) the following: "or (g) approve either the disposition of more than 25 million ounces of Fund gold for the benefit of the Trust Fund established by the Fund on May 6, 1976, or the establishment of any additional trust fund whereby resources of the International Monetary Fund would be used for the special benefit of a single member, or of a particular segment of the membership, of the fund.";

(2) (A) by inserting "(a)" immediately after "Sec. 14."; and

(B) by inserting at the end of section 14 the following new subsection:

"(b) The President shall, upon the request of any committee of the Congress with legislative or oversight jurisdiction over monetary policy or the International Monetary Fund, provide to such committee any appropriate information relevant to that committee's jurisdiction which is furnished to any department or agency of the United States by the International Monetary Fund. The President shall comply with this provision consistent with United States membership obligations in the International Monetary Fund and subject to such limitations as are appropriate to the sensitive nature of the information.".

(b) (1) Section 10(a) of the Gold Reserve Act of 1934 (31 U.S.C. 822a(a)) is amended—

(A) by striking out "to and" immediately following "necessary" and inserting in lieu thereof a comma; and

(B) by inserting immediately after "International Monetary Fund" the following: "regarding orderly exchange arrangements and a stable system of exchange rates: *Provided, however,* That no loan or credit to a foreign government or entity shall be extended by or through such Fund for more than six months in any twelve-month period unless the President provides a written determination to the Congress that unique or exigent circumstances make such loan or credit necessary for a term greater than six months".

(2) Section 10(b) of the Gold Reserve Act of 1934 (31 U.S.C. 822a(b)) is amended by striking out the phrase "stabilizing the exchange value of the dollar" in the fourth sentence thereof and inserting in lieu thereof the phrase "the purposes prescribed by this section".

(c) The joint resolution entitled "Joint resolution to assure uniform value to the coins and currencies of the United States", approved June 5, 1933 (31 U.S.C. 463), shall not apply to obligations issued on or after the date of enactment of this section.

Mr. HELMS. Mr. President, the text of this amendment is identical to a bill, S. 2003, which the Senator from North Carolina introduced on August 3 of this year for himself and for the distinguished Senator from Illinois (Mr. PERCY), the distinguished Senator from Illinois (Mr. STEVENSON), and the distinguished Senator from Texas (Mr. TOWER).

Mr. President, I have a letter from Henry C. Stockell, Jr., Deputy General Counsel of the Department of the Treasury. Mr. Stockell's statement makes reference to S. 2003, which as I indicated earlier is the text of the amendment now pending. Mr. Stockell states the Treasury Department's agreement with the bill and, therefore, with the amendment.

I ask unanimous consent, Mr. President, that the letter be printed in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF THE TREASURY,
OFFICE OF THE GENERAL COUNSEL,
Washington, D.C., September 30, 1977.

Hon. WILLIAM PROXMIRE,
Chairman, Committee on Banking, Housing and Urban Affairs, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Reference is made to your request for the views of this Department on S. 2003, "A bill to amend the Bretton Woods Agreements Act and the Gold Reserve Act, and for other purposes."

The bill represents a compilation of amendments which had been proposed in the Senate last year to H.R. 13955, "A bill to

amend the Bretton Woods Agreement Act, and for other purposes." H.R. 13955 authorized U.S. acceptance of the Proposed Second Amendment of the Articles of Agreement of the International Monetary Fund (IMF) and consent to an increase in the U.S. quota in the IMF. Due to the urgency of enactment of that legislation, and Congressional time constraints, it was agreed by the Senators sponsoring these amendments that they would drop their amendments to H.R. 13955, so that the House version of the bill could be passed by the Senate. Consequently, that bill was enacted into law on October 19, 1976 (P.L. 94-564).

The present sponsors of S. 2003—Senators who had introduced amendmentts to H.R. 13955—agreed that they would reintroduce their legislative proposals during the 95th Congress. Officials of the Treasury Department expressed appreciation for that decision, which had made enactment of P.L. 94-564 possible under the circumstances noted above, and indicated that the Department would support the Senators' legislative proposals during the 95th Congress. The Treasury Department, respecting the arrangements agreed to at that time, has no objection to enactment of the provisions of S. 2003.

Specifically, S. 2003 contains the following provisions:

1. Revision of the Amendment introduced by Congressman Rousselot.—

Section 5 of the Bretton Woods Agreements Act was amended by P.L. 94-564 as proposed by Congressman Rousselot. The amendment was intended to require prior Congressional approval of any new agreement to use the resources of the IMF through a trust fund for the special benefit of a single member or segment of the membership of the IMF. (Congressman Rousselot's amendment does not affect the decision of the IMF to sell 25 million ounces of gold for a trust fund to provide balance of payments financing to lesser-developed-countries.

However, due to an error in drafting, the Rousselot amendment as presently enacted could be interpreted more broadly than was intended. P.L. 94-564 presently can be construed to require prior Congressional approval for the U.S. to vote in favor of the establishment of any new trust fund in the IMF—including one funded entirely by contributions from individual countries, for which the IMF would have only management responsibilities and no financial participation. Section 2 of S. 2003 clarifies the Rousselot amendment to reflect the Congressional intent accurately. The Treasury Department fully supports that proposed statutory change.

2. Amendment by Senator Percy on access to IMF documents.—

Section 2(2)(B) of S. 2003 constitutes an amendment introduced by Senator Percy which would require the Executive Branch to provide to those congressional committees with oversight jurisdiction over monetary policy or the IMF, any appropriate information relevant to their jurisdiction that has been furnished to the United States Government by the IMF. The purpose of this amendment is to improve Congressional oversight of U.S. international monetary policy.

The legislative history of Senator Percy's proposed amendment to H.R. 13955 makes clear that the amendment is not intended to change the present constitutional balance between the Executive and Legislative Branches nor to compel the Executive Branch to take actions inconsistent with U.S. membership obligations in the International Monetary Fund. Any information of a confidential nature provided by the U.S. Government to a Congressional committee pursuant to this provision would be handled on the same basis as classified information obtained from the Executive branch which is not publicly disclosed until its release has been cleared by the Executive Branch. Because of these safeguards, incorporated in the language of the Percy Amendment, the Treasury Department has no objection to its enactment.

3. Amendments by Senator Stevenson to section 10 of the Gold Reserve Act of 1934, as amended.—

Section 3(a)(1) and 3(b) of S. 2003 contain desirable technical drafting changes in section 10 of the Gold Reserve Act of 1934, as amended. Paragraph (2) of section 3(a) requires that no loan or credit be extended to a foreign government or entity, for the account of the Exchange Stabilization Fund (ESF), for more than a six-month period unless the President provides a written determination to the Congress that unique or exigent circumstances make such loan or credit necessary for a term greater than six months. Because this provision would be consistent with overall Treasury policy in managing the ESF, the Treasury Department has no objection to it.

4. Amendment by Senator Helms to repeal the Joint Gold Clause Resolution.—

The Joint Gold Clause Resolution makes unenforceable, in United States courts, clauses in contracts requiring payment in gold or an amount of U.S. dollars measured by gold. Senator Helms' amendment, in section 4 of S. 2003, would repeal the Joint Resolution with respect to obligations entered into after the date of enactment of Section 4.

With agreement on the Proposed Second Amendment of the IMF Articles of Agreement now in the process of ratification and with agreement to dispose of a substantial portion of the IMF's holdings of monetary gold, substantial steps have been taken toward a further reduction of the international monetary role of gold, and there is increased acceptance both in the United States and internationally that gold should be treated like any other commodity. In these circumstances, and in light of the demonstrated volatility in the price of gold that makes widespread use of gold as a measure of value in private transactions unlikely, the Treasury Department is of the view that repeal of the Joint Resolution, as proposed by Senator Helms, would not have undesirable monetary effects. The Treasury Department, therefore, supports such repeal as an appropriate step in treating gold like other commodities.

The Department has been advised by the Office of Management and Budget that there is no objection from the standpoint of the Administration's program to the submission of this report to your Committee.

Sincerely yours,

HENRY C. STOCKWELL, Jr.,
Deputy General Counsel.

Mr. HELMS. Mr. President, today I offer an amendment which will take care of some unfinished business.

Last year, when the Senate was trying to wrap up the 94th Congress, the Banking Committee, of which I was a member, sent to the full Senate, the Bretton Woods Agreement Amendments of 1976, H.R. 13955.

This bill was primarily a change in Federal law to ratify a change in the charter of the International Monetary Fund and to increase our subscription to the IMF.

The House passed the bill on July 27, and the Senate Foreign Relations and Banking Committees subsequently held hearings on it. During the course of our deliberations, it was agreed to adopt a number of amendments to the bill. In fact, all the amendments were agreed to by the leadership on both sides and by all Senators working on the bill.

Unfortunately, and at the last minute, it became clear that there was not enough time to send an amended bill back to the House and go through the unanimous-consent procedures needed for the House of Representatives to pass the Senate-amended bill and send it to the President for his signature.

There was only time enough to do one thing: to take up the bill as approved by the House of Representatives, and send an unamended bill to the President.

That is what finally happened, and it was agreed that the Senate amendments would be acted upon during the 95th Congress.

The amendment I offer today has all those amendments except an amendment offered by the junior Senator from Illinois (Mr. STEVENSON), dealing with the Exchange Stabilization Fund. I understand he is developing separate legislation concerning that agency which will be acted upon by the Senate Banking Committee.

The amendment I offer today contains four key provisions. The first is a technical improvement relating a requirement that congressional approval be granted before added IMF gold could be used for the IMF Trust Fund for less developed countries, and requiring congressional approval before any new trust fund be established that would specifically aid a single member or group of IMF members.

Primarily, this is a clarification of the Rousselot amendment adopted in the House Banking Committee and subsequently enacted. Congressman ROUSSELOT endorses this technical change in the language.

The second portion of the amendment would direct the President to provide appropriate information to the committees of Congress having oversight responsibilities in the area of monetary and international policy. This amendment was offered by the distinguished senior Senator from Ilinois (Mr. PERCY), who stated:

> The purpose of the amendment is to improve the potential of Congressional oversight of U.S. Governmental activities regarding U.S. participation in the international monetary system and U.S. foreign economic policy. The growth of economic interdependence and the increasing size of the international sector of the U.S. economy necessitate greater Congressional concern to these policy areas. For example, in this Congress we have dealt with Bretton Woods, commodity agreements, energy problems and the OECD financial safety net.

Senator PERCY has told me that there have been no problems in recent months with obtaining needed information, but such language might be important in any future investigation Congress may pursue concerning international monetary matters.

The third area of the amendment concerns the maturity of loans made by the Exchange Stabilization Fund. The language would require that the President provide Congress with a written determination any time money is used from

the ESF for loans in excess of 6-month terms.

An added provision in this portion of the amendment would amend the Gold Reserve Act to specify that the purpose of the exchange stabilization is not exclusively to "stabilize the exchange value of the dollar." That of course, is something that we automatically gave up when our Government adopted irresponsible fiscal and monetary policies in the late 1960's and into the 1970's that put the lie to the phrase, "sound as a dollar."

The final portion of the amendment would effectively repeal the "Joint resolution to assure uniform value to the coins and currencies of the United States," of June 5, 1933. This joint resolution was adopted when President Roosevelt devalued the dollar and it served to eliminate the private ownership of gold and the enforceability of gold clause contracts.

In 1973, Congress restored the right of American citizens to hold gold, but Congress did not move to allow a contract between two citizens specifying payment in gold or in dollars measured in gold to be enforceable in the courts. That oversight will now be rectified. Last year, I received letters indicating that the Federal Reserve Board Chairman and the Secretary of the Treasury had no objections to this provision. Gold clause contracts are technically nothing more than a type of commodity contract that is presently fully legal in every other commodity except gold. This reform simply makes the law consistent.

Mr. President, my staff has worked closely with officials of the Treasury Department and this language has been cleared by officials there.

I specifically wish to give credit to former Congressman Tom Rees, who capably served as chairman of the International Monetary Policy Subcommittee of the House Banking and Currency Committee. Mr. Rees is now in private law practice here in Washington, but devoted much of his valuable time in helping get these loose ends tied up.

Mr. President, the distinguished chairman and manager of the pending bill is aware of the four sections of this amendment. I feel certain that he is willing to accept it.

Mr. PROXMIRE. Mr. President, I discussed these amendments with the distinguished Senator from North Carolina. I congratulate him on offering these amendments.

I ask the Senator from North Carolina, and he can correct me if I am wrong, all four were considered noncontroversial when the committee considered them, and the Senator, I think, was a member?

Mr. HELMS. That is correct.

Mr. PROXMIRE. All were accepted by the Senate, all passed in the Senate, and they were only rejected in the House because it was necessary to get a bill identical with the House bill under the pressure of time to get it passed, so that now it is necessary and desirable we enact this legislation.

As far as I know, it is acceptable to the House. It certainly was acceptable without objection here in the Senate. So I am delighted to have a chance to accommodate the distinguished Senator from North Carolina.

Mr. HELMS. I thank the able Senator.

Mr. GRIFFIN. Will the Senator yield?

Mr. HELMS. Yes.

Mr. GRIFFIN. I understand that the legal services bill was set aside in order to take up this bill; is that correct?

Mr. HELMS. That is correct.

ORDER OF BUSINESS

Mr. GRIFFIN. I wonder, as long as the majority leader is on the floor, if I might direct a question to him.

Is it possible, after the disposition of this bill, that we, perhaps, could take up the resolution on air bags before we go back on the legal services legislation?

Mr. ROBERT C. BYRD. Under the order which I secured this morning and was about to get last night, the air bags measure will be the business of the Senate once we dispose of legal services, and I have good reason to hope and believe that we will dispose of the legal services sometime today.

Mr. GRIFFIN. I appreciate that, but I would like to say that it disturbs me no end that there are other matters of business being taken up and transacted which prolongs the time to be devoted to the Legal Services Act.

I would be reluctant, let me indicate, to agree to any unanimous-consent agreement that other business come in during this period.

Mr. ROBERT C. BYRD. Perhaps I could help the distinguished Senator by saying that I think that the time we are spending now is not taking anything away from legal services. There are various Senators who are consulting on that measure in an effort to work out their problems and we are actually not taking any time away from legal services by doing this. In the long run, those consultations are going to expedite the action on legal services.

Mr. GRIFFIN. I might say that so far as the resolution of disapproval of the air bag order by Secretary Adams, being the principal sponsor of that resolution, I would be willing to agree to a time limitation of an hour, or an hour-and-a-half, or 2 hours.

It would seem to me it would not be necessary to have any longer than that. And if these negotiations on the legal services are going to extend for any period of time, it might well serve the interests of the Senate to try to get some sort of a time agreement and go ahead and vote on the air bag——

Mr. DURKIN. Will the Senator yield at that point?

Mr. GRIFFIN. I am glad to yield.

Mr. DURKIN. I probably should state for the Senate——

Mr. ROBERT C. BYRD. Will the Senator yield to me first?

Mr. DURKIN. I am happy to.

Mr. ROBERT C. BYRD. If the Senator would allow me, I am working with my friends over here is an effort to try to bring all sides together, and I will be working with the Senator from New Hampshire in an effort to see if anything can be worked out.

Mr. GRIFFIN. I thank the majority leader.

Mr. ROBERT C. BYRD. If the Senator from Michigan will just allow us to proceed. I think legal services is going to work itself out and that the time we are spending now is really not impinging upon that item. As a matter of fact, I think we would be just in recess if we were not doing some business, in the meantime.

I assure the Senator, I think I know what I am talking about in this respect.

Mr. DURKIN. I might add, and not by way of threat, just by way of information, that if we do not table the resolution in disapproval of the air bag resolution, that the membership can have a long weekend because we will be discussing that until the time expires on Friday night.

Mr. GRIFFIN. The Senator from New Hampshire would be concerned that a majority of the Senate might be against the mandatory order?

Mr. DURKIN. I do not know if we need discussion of the resolution, we have had quite extensive discussion of the resolution.

Mr. GRIFFIN. If we have the votes on the Senator's side, he would not be concerned about voting up or down, would he?

Mr. DURKIN. I do not want to get in an argument with my good friend from Michigan, just to announce to those people who have engagements in their States that they can get an early start if we do not table that resolution. I do not want to get into an argument with the Senator. I am just trying to be nice. I am trying to let the word get out to the offices that if people have engagements they are thinking about going to on Thursday night or Friday night, in their home State, they should buy the tickets.

Mr. GRIFFIN. Is the Senator going to let the bureaucrats make the decision as to whether or not air bags go into the cars? Is that right?

Mr. DURKIN. I think we will have plenty of time to discuss the issue.

Mr. GRIFFIN. I am glad the Senator has clarified it, to know what is going on, at least.

TAX AND LOAN ACCOUNTS

The Senate continued with the consideration of H.R. 5675.

Mr. PROXMIRE. Mr. President, the Helms amendment is pending.

Mr. HELMS. May we have a vote?

The PRESIDING OFFICER. Do Senators yield back their time on the amendment?

Mr. PROXMIRE. I yield back the remainder of my time.

Mr. HELMS. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. HELMS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Who yields time?

Mr. PROXMIRE. Mr. President, now we have final passage of the measure.

The PRESIDING OFFICER. The Senator is correct.

The question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the amendments and the third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

The PRESIDING OFFICER. Do Senators yield back their time?

Mr. PROXMIRE. I yield back the remainder of my time.

Mr. HELMS. I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, and the bill having been read the third time, the question is, Shall it pass?

The bill (H.R. 5675) was passed.

Mr. HELMS. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

DEFENSE PRODUCTION ACT AMENDMENTS OF 1977

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 373.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 695) to amend the Defense Production Act of 1950, as amended.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Banking, Housing and Urban Affairs, with an amendment to strike all after the enacting clause and insert the following:

That this Act may be cited as the "Defense Production Act Amendments of 1977".

SEC. 2. Insert immediately after title VII the following new title:

"TITLE VIII—CONDUCT OF GOVERNMENT PERSONNEL

"SEC. 801. (a) As used in this title, the term—

"(1) 'contracting officer' means any employee of the United States, the independent agencies thereof, or the government of the District of Columbia, or any commissioned Reserve or Regular officer of the Armed Forces of the United States, who by virtue of his position or appointment in accordance with applicable agency regulations is authorized to solicit or select sources of supply, define or describe requirements for, audit, award, modify, terminate, or make determinations or findings with respect to or to review, certify, or evaluate contractor performance under any contract, or to otherwise exercise any part of such authority;

"(2) 'compensation' includes any payment, gift, benefit, reward, favor, gratuity or employment valued in excess of $50 at prevailing market price;

"(3) 'contractor' is any person, partnership, corporation, or agency thereof other than the United States, the independent agencies thereof, or the District of Columbia, who offers, negotiates, agrees, or otherwise contracts to supply the United States, the independent agencies thereof, or the District of Columbia, with goods, services, or supplies, and any parent, subsidiary, or affiliate thereof; and

"(4) 'procurement contract' is any agreement by which the United States, the independent agencies thereof or the District of Columbia purchase, lease, or otherwise engage in the acquisition of supplies, services, or other materiel, to include such agreements as orders for the procurement of services or supplies; awards, notices of awards; contracts of fixed price, incentive contracts, and cost and cost-plus-a-fixed-fee contracts; contracts providing for the issuance of job orders, task orders, or task letters thereunder; letter contracts and purchase orders; or any supplemental agreement with respect to any of the foregoing.

"(b) No contracting officer who at any time engaged, officially or unofficially, in duties of his office in regard to any procurement contract shall accept compensation from any contractor receiving funds under such contract for a period of two years following his employment with the United States, the independent agencies thereof, or the District of Columbia: Except that this paragraph shall not apply to any duties performed by such contracting officer more than three years before the termination of his employment with the United States, the independent agencies thereof, or the District of Columbia.

"(c) Whoever violates this section shall be guilty of a felony, and shall be fined not more than $5,000 or imprisoned for not more than one year, or both.

"(d) Whoever knowingly and willfully offers, tenders, or grants any compensation to any contracting officer in violation of this section, shall be guilty of a felony and shall be fined not more than $25,000 and imprisoned for not more than one year, or both.

"(e)(1) This title shall take effect on January 1, 1978.

"(2) This title does not preclude the continuation of employment which commenced prior to the effective date of this Act, or the receipt of compensation for such employment.

"SEC. 802. (a) The Civil Service Commission shall have the authority to coordinate and review the administration and implementation of this title. In consultation with the Attorney General, and appropriate agency heads, the Chairman of the Civil Service Commission is authorized to issue regulations and to review agency regulations to implement this title.

"(b) All departments and agencies of the Government are authorized to cooperate with the Commission and to furnish information, appropriate personnel, with or without reimbursement, and such financial and other assistance as may be agreed to between the Commission and the department or agency concerned.

"(c)(1) Any person who is offered compensation that might place him in violation of subsection (b) of section 801 of this title, prior to the acceptance of such compensation, may apply to the Commission for advice on the applicability of this title to such compensation. Such application shall be made jointly by the contracting officer and the contractor who proposes to grant such compensation, and shall contain a full and complete description of the duties of such applicant during the last three years of his employment as a contracting officer; any official responsibilities such applicant exercised with regard to any procurement contract in which an interest is or was retained by the contractor which proposes to provide such compensation; and a description by a representative of the contractor, of the complete terms and conditions of the proposed compensation, including any prospective services that such applicant will perform on behalf of the contractor. Promptly upon receipt of such application, the Commission shall publish notice thereof in the Federal Register.

"(2)(A) Not later than ten days after receipt of a completed application, the Commission shall issue an interim advisory opinion stating whether payment and receipt of such compensation would violate the intent of this title. Pending issuance of a final advisory opinion, payment and receipt of such compensation may be temporarily authorized if the interim advisory opinion finds, based on initial review, that such compensation would not result in a violation of the intent of this title.

"(B) Not later than thirty days after receipt of a completed application, the Commission shall issue a final advisory opinion stating whether payment and receipt of such compensation would result in a violation of the intent of this title.

"(3) Pursuant to regulations promulgated by the Chairman of the Civil Service Commission, interested parties are permitted to present information or comments relating to the issuance of any such advisory opinion.

"(4) The Chairman shall inform Congress, and publish a notice in the Federal Register, within thirty days after the issuance of any advisory opinion, describing—

"(A) the name of the applicant for such advisory opinion;

"(B) the contractor from which such applicant intends to accept compensation;

"(C) the duties of such applicant during the last three years of his employment as a contracting officer;

"(D) any official responsibilities such applicant exercised with regard to any procurement contract in which an interest is or was retained by the contractor which proposes to provide such compensation;

"(E) a description by a representative of the contractor, of the complete terms and conditions of the proposed compensation, including any prospective services that such applicant will perform on behalf of the contractor; and

"(F) a statement of the findings of fact and opinion which led the Commission to conclude that such compensation would or would not offend the intent of this title.

"(5) The Commission is authorized to issue a statement of findings of fact and opinion along with an advisory opinion finding that the proposed compensation would not violate the intent of this title if—

"(A) the involvement of the applicant in a procurement contract otherwise described in this title was so remote or inconsequential that it could have had no significant effect on the procurement contract in question;

"(B) the involvement of the contractor in such procurement contract was remote or inconsequential; or

"(C) the national interest requires that, the prohibitions of this title notwithstanding, such applicant should be allowed to accept such compensation.

"(d) There shall be available to any person as a defense in any criminal or civil case brought for violation of this title that—

"(1) the Commission issued an advisory opinion finding that such compensation would not violate the intent of this title; and

"(2) such person fully complied, without alteration, with the understanding of circumstances as expressed by the Commission in such statement of findings of fact and advisory opinion, and with any additional guidance or suggestions proposed by the Commission; or

"(3) the Civil Service Commission did not file a timely advisory opinion, in accordance with the provisions of subsection (c)(2)(A) or (c)(2)(B) of this section.

"(e)(1) In furtherance of the duties and responsibilities described in this title, the Commission is authorized to hold such hearings, sit and act at such times and places, administer such oaths, and require by subpena or otherwise the attendance and testimony of such witnesses and the production of such books, records, correspondence, memorandums, papers, and documents as the Commission may deem advisable.

"(2) In the case of contumacy or refusal to obey a subpena issued under subsection (e)(1) by any person who resides, is found, or transacts business within the jurisdiction of any district court of the United States, the district court, at the request of the Chairman of the Commission, shall have jurisdiction to issue to such person an order requiring such person to appear before the Commission, there to produce evidence if so ordered, or there to give testimony touching the matter under inquiry. Any failure of any such person to obey any such order of the court may be punished by the court as a contempt thereof.

"(f) All such meetings to consider applications for an advisory opinion on the applicability of section 801 of this title shall be open to the public, and a verbatim transcription of all such meetings shall be available for public inspection during regular working hours at the offices of the Commission.

"(g) The Chairman of the Civil Service Commission is required to promptly report to the Attorney General, and to provide such assistance as may be required, whenever he shall learn of an action which appears to involve a violation of this title or any other Federal law. The Attorney General shall report to the Chairman and to the Congress on the disposition of any such case.

"(h) The Chairman shall review all agency programs to assure that all positions subject to the provisions of section 801 of this title are identified, and that all persons subject to these provisions are provided adequate notice of such prohibitions and restrictions.

"(i) The Commission is authorized to develop and promulgate appropriate regulations to implement this title.

"(j) The Chairman shall report to the Congress, on an annual basis, on all activities, deliberations, and investigations, and shall recommend such legislative or regulatory actions as he deems appropriate to promote high ethical standards for Government employees.

"(k) There are authorized to be appropriated such sums as may be necessary to carry out the additional functions imposed by this title.".

Mr. PROXMIRE. Mr. President, I urge the passage of S. 695, the Defense Production Act Amendments of 1977. This is a vital piece of legislation. It would go a long way toward assuring efficient and ethical conduct of Federal procurement.

The means by which the Government purchases supplies and services has long been of concern to me. The Government each year spends far in excess of $30 billion on contracts with outside firms. It is important that we in the Congress do everything we can to assure that every dollar of the taxpayers' money is spent wisely and effectively. One major problem with Federal procurement has been the fact that the decisions of Federal acquisitions officials can be influenced by the desire of those officials for a lucrative job with the companies over which they exercise authority. Impartial studies have shown the phenomenal levels of interchange between Government and private industry, and have shown that many Federal procurement officials go to work immediately after leaving the Federal Government for companies over which they had exercised responsibility. This situation cries out for reform. No man can serve two masters, but yet, that is what we have been asking of Federal procurement officials. We have asked them to ignore their private economic interests and rigorously pursue the taxpayers' interest.

S. 695 would correct this problem, in a very simple way. It provides that, for a 2-year period after leaving the Federal Government, Federal acquisitions executives cannot accept employment with any contractor over which they had exercised responsibility. This action would remove temptation to favor outside interests.

The bill also establishes review authority with the Civil Service Commission. Under the provisions of the bill, individuals could apply to the Commission for counseling as to the effect of the bill. If the Commission finds that the employment would not offend the intent of S. 695, the individual would be free to accept this position without fear of prosecution or unfavorable public comment. This is an important mechanism to assure equitable treatment for all parties.

The bill has been carefully written to assure that it will not have an unfair impact on individuals, and was the subject of extensive hearings before the Committee on Banking, Housing, and Urban Affairs and the Committee on Governmental Affairs. Testimony was solicited from executive branch representatives, Members of Congress, and interested outside parties. After these hearings, it was unanimously supported by the Banking Committee.

I believe that this bill is a step in the right direction, and I urge its immediate passage.

Mr. President, this bill comes from our committee without opposition. It is a bill for which I am sure the distinguished Senator from New Mexico has indicated his support. He offered several amendments, and we have worked them out—incorporated them—and I think we can proceed. Senator CHILES also has some amendments.

Mr. ROBERT C. BYRD. Could we have them offered and adopted en bloc?

Mr. PROXMIRE. Mr. President, I send amendments to the desk which are proposed by the Senator from New Mexico (Mr. SCHMITT) and the Senator from Florida (Mr. CHILES).

The PRESIDING OFFICER. The amendments will be stated.

UP AMENDMENT NO. 920

The legislative clerk read as follows:

The Senator from Wisconsin (Mr. PROXMIRE), on behalf of Mr. CHILES, proposes an amendment numbered 920:

On page 21, line 4: add "Administrator, Office of Federal Procurement Policy," after "General."

On page 20, line 4: delete "officially or unofficially," and substitute "personally and substantially,"

On page 18, strike lines 18–25 and page 19, lines 1–4; insert:

(1) The term "executive agency" means an executive department as defined by section 101 of title 5, United States Code; an independent establishment as defined by section 104 of title 5, United States Code (except that it shall not include the General Accounting Office); a military department as defined by section 102 of title 5, United States Code; and the U.S. Postal Service.

(2) "acquisitions officer" means any employee of an executive agency who by virtue of his position or appointment in accordance with applicable agency regulations is authorized to solicit or select sources of supply, define or describe requirements for, audit, award, modify, terminate, or make determinations or findings with respect to or to review, certify, or evaluate contractor performance under any contract, or to otherwise exercise any part of such authority, and who receives compensation at a level equivalent to GS–11 or greater.

and renumber subsequent sections sequentially.

On page 19, line 16: insert "greater than $25,000" after "agreement".

On page 20, lines 3, 10, and 18: delete "contracting officer" and substitute "acquisitions officer".

UP AMENDMENT NO. 921

The legislative clerk read as follows:

The Senator from Wisconsin (Mr. PROXMIRE), on behalf of Mr. SCHMITT, offers an unprinted amendment numbered 921:

On page 20, line 25: add after "employment" "nor does it apply to any acquisitions officer whose employment with any executive agency terminated prior to the effective date of this Title.";

On page 20, line 25: add "(3) This Title shall not apply to any acquisitions officer who is involuntarily separated from the service, not by removal for cause or charges of misconduct, delinquency, or inefficiency, or failure at selection to a higher grade."

Mr. SCHMITT. Mr. President, my first amendment would exempt individuals who are involuntarily terminated through reductions in force or similar personnel cutbacks. This would insure equitable treatment for individuals who are suddenly terminated from Federal employment. It would not exempt individuals who are involuntarily terminated for cause, or military officers who are forced to retire by reason of being passed over for promotion.

The second amendment would provide that individuals who have left the employment of the Federal Government before the effective date of this act will be exempt from the bill's provisions. Again, this insures equitable treatment for individuals who may not be aware of the bill's provisions.

Mr. PROXMIRE. Mr. President, I have reviewed these amendments and they are acceptable to me.

Mr. President, I ask unanimous consent that these amendments, which have

been worked out carefully by the sponsors—they are amendments which I am convinced are not controversial; they have been cleared on both sides—be adopted en bloc.

The PRESIDING OFFICER. Without objection, the amendments are agreed to en bloc.

Mr. SCHMITT. I would like to ask a question of the distinguished Senator from Wisconsin. The prohibitions contained in section 801 are written very broadly such that they might be interpreted to mean that those individuals who participate in an advisory board assembled solely for the purpose of making a recommendation to a higher official would come under these provisions. These individuals are members of a board solely for the purpose of giving technical advice. Am I correct in assuming that the committee does not intend for these individuals to be covered by the prohibitions of section 801?

Mr. PROXMIRE. That is correct. As stated in the committee report, it is our intention that, in any case where an individual's involvement in a procurement decision was confined solely to rendering technical advice to a board, the Civil Service Commission should find that the proposed employment would not violate the intent of the act.

UP AMENDMENT NO. 922

Mr. PROXMIRE. I send to the desk an amendment, to change the effective date from January 1, 1978, to October 1, 1978. And move its adoption. This amendment is needed to avoid any conflict with the Budget Control Act.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Wisconsin (Mr. PROXMIRE) proposes an unprinted amendment numbered 922:

On page 20, line 22: delete "January 1" and substitute "October 1".

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

The bill (S. 695) was passed, as follows:

S. 695

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Defense Production Act Amendments of 1977".

SEC. 2. Insert immediately after title VII the following new title:

"TITLE VIII—CONDUCT OF GOVERNMENT PERSONNEL

"SEC. 801. (a) As used in this title, the term—

"(1) the term 'executive agency' means an executive department as defined by section 101 of title 5, United States Code; an independent establishment as defined by section 104 of title 5, United States Code (except that it shall not include the General Accounting Office); a military department as defined by section 102 of title 5, United States Code; and the United States Postal Service.

"(2) 'acquisitions officer' means any employee of an executive agency who by virtue of this position or appointment in accordance with applicable agency regulations is authorized to solicit or select sources of supply, define or describe requirements for, audit, award, modify, terminate, or make determinations or findings with respect to or to review, certify, or evaluate contractor performance under any contract, or to otherwise exercise any part of such authority, and who receives compensation at a level equivalent to GS–11 or greater.

"(3) 'compensation' includes any payment, gift, benefit, reward, favor, gratuity, or employment valued in excess of $50 at prevailing market price;

"(4) 'contractor' is any person, partnership, corporation, or agency thereof other than the United States, the independent agencies thereof, or the District of Columbia, who offers, negotiates, agrees, or otherwise contracts to supply the United States, the independent agencies thereof, or the District of Columbia, with goods, services, or supplies, and any parent, subsidiary, or affiliate thereof; and

"(5) 'procurement contract' is any agreement greater than $25,000 by which the United States, the independent agencies thereof or the District of Columbia purchase, lease, or otherwise engage in the acquisition of supplies, services, or other materiel, to include such agreements as orders for the procurement of services or supplies; awards, notices of awards; contracts of fixed price, incentive contracts, and cost and cost-plus-a-fixed-fee contracts; contracts providing for the issuance of job orders, task orders, or task letters thereunder; letter contracts and purchase orders; or any supplemental agreement with respect to any of the foregoing.

"(b) No acquisitions officer who at any time engaged, personally and substantially, in duties of his office in regard to any procurement contract shall accept compensation from any contractor receiving funds under such contract for a period of two years following his employment with the United States, the independent agencies thereof, or the District of Columbia: Except that this paragraph shall not apply to any duties performed by such acquisitions officer more than three years before the termination of his employment with the United States, the independent agencies thereof, or the District of Columbia.

"(a) Whoever violates this section shall be guilty of a felony, and shall be fined not more than $5,000 or imprisoned for not more than one year, or both.

"(d) Whoever knowingly and willfully offers, tenders, or grants any compensation to any acquisitions officer in violation of this section, shall be guilty of a felony and shall be fined not more than $25,000 and imprisoned for not more than one year, or both.

"(e)(1) This title shall take effect on October 1, 1978.

"(2) This title does not preclude the continuation of employment which commenced prior to the effective date of this Act, or the receipt of compensation of such employment nor does it apply to any acquisitions officer whose employment with any executive agency terminated prior to the effective date of this title.

"(3) This title shall not apply to any acquisitions officer who is involuntarily separated from the service, not by removal for cause or charges of misconduct, delinquency, of inefficiency, or failure at selection to a higher grade.

"SEC. 802. (a) The Civil Service Commission shall have the authority to coordinate and review the administration and implementation of this title. In consultation with the Attorney General, Administrator, Office of Federal Procurement Policy, and appropriate agency heads, the Chairman of the Civil Service Commission is authorized to issue regulations and to review agency regulations to implement this title.

"(b) All departments and agencies of the Government are authorized to cooperate with the Commission and to furnish information, appropriate personnel, with or without reimbursement, and such financial and other assistance as may be agreed to between the Commission and the department or agency concerned.

"(c)(1) Any person who is offered compensation that might place him in violation of subsection (b) of section 801 of this title, prior to the acceptance of such compensation, may apply to the Commission for advice on the applicability of this title to such compensation. Such application shall be made jointly by the contracting officer and the contractor who proposes to grant such compensation, and shall contain a full and complete description of the duties of such applicant during the last three years of his employment as a contracting officer; any official responsibilities such applicant exercised with regard to any procurement contract in which an interest is or was retained by the contractor which proposes to provide such compensation; and a description by a representative of the contractor, of the complete terms and conditions of the proposed compensation, including any prospective services that such applicant will perform on behalf of the contractor. Promptly upon receipt of such application, the Commission shall publish notice thereof in the Federal Register.

"(2)(A) Not later than ten days after receipt of a completed application, the Commission shall issue an interim advisory opinion stating whether payment and receipt of such compensation would violate the intent of this title. Pending issuance of a final advisory opinion, payment and receipt of such compensation may be temporarily authorized if the interim advisory opinion finds, based on initial review, that such compensation would not result in a violation of the intent of this title.

"(B) Not later than thirty days after receipt of a completed application, the Commission shall issue a final advisory opinion stating whether payment and receipt of such compensation would result in a violation of the intent of this title.

"(3) Pursuant to regulations promulgated by the Chairman of the Civil Service Commission, interested parties are permitted to present information or comments relating to the issuance of any such advisory opinion.

"(4) The Chairman shall inform Congress, and publish a notice in the Federal Register within thirty days after the issuance of any advisory opinion, describing—

"(A) the name of the applicant for such advisory opinion;

"(B) the contractor from which such applicant intends to accept compensation;

"(C) the duties of such applicant during the last three years of his employment as a contracting officer;

"(D) any official responsibilities such applicant exercised with regard to any procurement contract in which an interest is or was retained by the contractor which proposes to provide such compensation;

"(E) a description by a representative of the contractor, of the complete terms and conditions of the proposed compensation, including any prospective services that such

applicant will perform on behalf of the contractor; and

"(F) a statement of the findings of fact and opinion which led the Commission to conclude that such compensation would or would not offend the intent of this title.

"(5) The Commission is authorized to issue a statement of findings of fact and opinion along with an advisory opinion finding that the proposed compensation would not violate the intent of this title if—

"(A) the involvement of the applicant in a procurement contract otherwise described in this title was so remote or inconsequential that it could have had no significant effect on the procurement contract in question;

"(B) the involvement of the contractor in such procurement contract was remote or inconsequential; or

"(C) the national interest requires that, the prohibitions of this title notwithstanding, such applicant should be allowed to accept such compensation.

"(d) There shall be available to any person as a defense in any criminal or civil case brought for violation of this title that—

"(1) the Commission issued an advisory opinion finding that such compensation would not violate the intent of this title; and

"(2) such person fully complied, without alteration, with the understanding of circumstances as expressed by the Commission in such statement of findings of fact and advisory opinion, and with any additional guidance or suggestions proposed by the Commission; or

"(3) the Civil Service Commission did not file a timely advisory opinion, in accordance with the provisions of subsection (c)(2)(A) or (c)(2)(B) of this section.

"(e)(1) In furtherance of the duties and responsibilities described in this title, the Commission is authorized to hold such hearings, sit and act at such times and places, administer such oaths, and require by subpena or otherwise the attendance and testimony of such witnesses and the production of such books, records, correspondence, memorandums, papers, and documents as the Commission may deem advisable.

"(2) In the case of contumacy or refusal to obey a subpena issued under subsection (e)(1) by any person who resides, is found, or transacts business within the jurisdiction of any district court of the United States, the district court, at the request of the Chairman of the Commission, shall have jurisdiction to issue to such person an order requiring such person to appear before the Commission, there to produce evidence if so ordered, or there to give testimony touching the matter under inquiry. Any failure of any such person to obey any such order of the court may be punished by the court as a contempt thereof.

"(f) All such meetings to consider applications for an advisory opinion on the applicability of section 801 of this title shall be open to the public, and a verbatim transcription of all such meetings shall be available for public inspection during regular working hours at the offices of the Commission.

"(g) The Chairman of the Civil Service Commission is required to promptly report to the Attorney General, and to provide such assistance as may be required, whenever he shall learn of an action which appears to involve a violation of this title or any other Federal law. The Attorney General shall report to the Chairman and to the Congress on the disposition of any such case.

"(h) The Chairman shall review all agency programs to assure that all positions subject to the provisions of section 801 of this title are identified, and that all persons subject to these provisions are provided adequate notice of such prohibitions and restrictions.

"(i) The Commission is authorized to develop and promulgate appropriate regulations to implement this title.

"(j) The Chairman shall report to the Congress, on an annual basis, on all activities, deliberations, and investigations, and shall recommend such legislative or regulatory actions as he deems appropriate to promote high ethical standards for Government employees.

"(k) There are authorized to be appropriated such sums as may be necessary to carry out the additional functions imposed by this title.".

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. PROXMIRE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

LEGAL SERVICES CORPORATION ACT AMENDMENTS OF 1977

Mr. ROBERT C. BYRD. Mr. President, I ask for the regular order.

The PRESIDING OFFICER. The Senate will resume consideration of S. 1303, which will be stated by title.

The legislative clerk read as follows:

A bill (S. 1303) to amend the Legal Services Corporation Act to provide authorization of appropriations for additional fiscal years, and for other purposes.

Mr. SCOTT. Mr. President, I was not fully acquainted with this bill when it was first brought up. It came, as Senators know, from the Human Resources Committee. It is the Legal Services Corporation Act Amendments of 1977. I feel that it should have been considered by the Judiciary Committee, of which I am privileged to be a member. It was not even submitted to our committee.

Last night, after returning home, I read the mimeographed sheet that is put out by the Republican policy committee. I also read the committee report. When I came to the office today, I picked up the United States Code and I read the entire present law from the United States Code. I hold in my hand a pocket part, because this is a new law. It is a rehash, as Senators know, of the legal services that we had under the old poverty law that was subject to much abuse, a bill that was changed in large part, I think, through the efforts of the distinguished gentlewoman from Oregon (Mrs. GREEN).

Mr. President, I spoke with the distinguished ranking member of this committee, and he assured me that he would be here and listen to my remarks. I told him that I would talk for about 1 hour, and he said that if I put in a quorum call, he would know and he would come and listen to my remarks. I do not wish to speak in his absence, so I suggest the absence of a quorum.

Mr. NELSON. Mr. President, will the Senator withhold that for a moment?

The Senator from New York (Mr. JAVITS), as perhaps the Senator knows, is at a conference with the House on the black lung bill. He said that he would return, and I believe he has been sent for. I believe that if we have a quorum call, he will be here in 2 or 3 minutes.

Mr. SCOTT. All right.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. SCOTT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SCOTT. Mr. President, I appreciate the attendance of the distinguished floor manager of the bill and the attendance of the distinguished ranking minority member of the Committee on Human Resources.

This matter before us, I believe, is quite important, and I would like to just share my own personal thoughts with these distinguished Senators, as well as other Members of the Senate, with regard to the measure before us.

I have not studied this in great detail, although I am familiar with the fact that the bill that was adopted in 1974 was a substitute for earlier legislation we had administered by the Office of Economic Opportunity.

I know the distinguished gentlewoman from Oregon, Representative Edith Green, was in the forefront of pointing out the many abuses, pointing them out in the other body, while she was a Member of that body. She did it in a very effective way.

So we did agree on a bill in 1974 that eliminated some of the abuses that had been practiced.

But last night, in order to be familiar with the matter before us, I did spend some time at home looking at the mimeographed sheet that is furnished by the Republican policy committee, a summary of the bill, an explanation of it. Then I also read the committee report.

When I arrived at the office this morning I spent a couple of hours looking through the USCA, and I read in its entirety the legislation that was enacted in 1974.

I have since looked at the back of the report and have seen the changes that are being made.

Now, Mr. President, I know that reasonable people can have differences of opinion. I believe we have on what used to be called the Committee on Labor and Public Welfare, but is now the Committee on Human Resources, distinguished Senators and distinguished Members of the House of Representatives who have a philosophy that is somewhat different from my own.

In the process of reading last night I turned to the back page of the U.S. News & World Report, and I read an editorial there that I would like to at least share a portion of with my colleagues here. It is called "Think Positive."

This is something our more liberal friends often say the conservatives do not do. It reads like this—I will not read the entire thing, but I would like to share part of it with my colleagues. It says:

During the past few years it has become fashionable in the media generally to refer to any politician who votes against major spending programs as negative or lacking in compassion. Similarly, politicians who regularly vote for vast government social enterprises are regarded as positive or compassionate or liberal.

That is, they are for the people.

Then it goes on and speaks about the amount of our national debt, and it speaks about the amount of the deficit that we have. Then it raises the question:

What is positive about more than $4 billion in known welfare abuse, error and fraud? What is positive about a nation where there are nearly 85 full-time dependents or employees of government for every 100 productive private taxpayers? What is positive or compassionate about government housing and urban development programs which have only accelerated urban decay or isolated the poor in bleak warehouses? What is positive about a government which is printing money at a rate more than twice as fast as the Nation's economy is growing?

Then it goes on, and I will just quote the concluding paragraph, which says:

We think we know what Thomas Jefferson would have said about this rhetorical question. In 1801 he wrote: "Every man wishes to pursue his occupation and to enjoy the fruits of his labor and the product of his property in peace and safety and with the least possible expense. When these things are accomplished, all the objects for which government ought to be established are answered."

Now, Mr. President, turning to the legislation before us, I regard it as a measure that tends to stir up strife and litigation. I can understand why we need to have more judges, why we have an overcrowded court docket. I cannot help thinking about common law barratry, when we consider bills like this, and that is still a crime in many of our States. I think this bill should have been referred to the Committee on the Judiciary.

But I read about this Legal Services Corporation that is to assume responsibility "for administering the legal service program and furnish support for programs providing legal assistance to persons otherwise unable to afford such assistance."

Well, on the surface that appears to be a very commendable beginning. But let us look a little bit further. "The corporation provides funds for 300 legal services programs serving States, cities, counties, multicounty groups, Indian reservations and migrant farmers."

It has nine regional offices throughout the Nation, with a staff of 141 persons. That does not sound like very much. But it spends more than 90 percent of its funds to support the field programs. It sets guidelines within which local programs set their own client eligibility standards. Programs provide counseling in a large range of civil matters. They do not provide criminal representation. They are staffed by approximately—and I emphasize this—they are staffed by approximately 3,000 full-time attorneys, and this is a matter that concerns me.

How many departments within the executive branch of the Government have a legal staff of 3,000 full-time attorneys? How many have 1,200 paralegal assistants?

I know in reading the book that these paralegal assistants do actually go into court, and perhaps that is good training for the internship of embryo lawyers. But I wonder just how good that is for the people of the country, for the taxpayer, to be paying for the expense of 3,000 full-time attorneys and 1,200 paralegal assistants.

The purpose of this bill is to extend the Legal Services Corporation for 5 additional years. We speak of sunset laws and yet this would extend the bill. It would amend it in various respects to which I shall refer, but would extend it for 5 additional years.

Frankly, I have legislative counsel preparing amendments for me. One would change the 5 years to 1 year. One would change it to 2 years. One would change it to 3 years, and one would change it to 4 years. If we are unable to work some sort of a compromise I am going to offer these. First the 1 year, then the 2 years, then the 3 years, and then the 4 years.

It authorizes $225 million for the fiscal year of 1978, and such sums as necessary for each of the following years. It is an open-ended funding bill.

If we assume, and I do not believe it is a reasonable assumption, but if we assume that it would continue at this rate of $225 million per year, it would mean that we would have over $1 billion in 5 years' time.

The bill in the fiscal year 1975 was only $90 million. Now it is going up to $225 million. So if it is an open-ended bill, we can expect it to go beyond the $225 million and, Mr. President, I also have amendments prepared that would reduce that to $125 million—I believe that is the current amount—and would have it for each year that the measure is authorized by this bill.

The bill provides that the governing body is made up of at least three persons who are eligible to be clients of the private corporation. When we speak of a private nonprofit corporation, we are really talking about a Government corporation. Call it what you may want to, the employees of that corporation are subject to the Federal Retirement Act. They also receive the insurance the same as a Federal employee. They receive the hospitalization program that the Federal employee receives. Under this bill they would be exempted from the Hatch Act when they are not on Government time.

I would hope that Government employees are not practicing politics in our Government during public time. But I think that has happened in this predecessor organization that we did have where some of the people spent their time going through the record books and finding out who was registered to vote and even went out during Government hours and took people to the polls. This bill has a bad history and there has been an effort in 1974 to clean up some of the things.

Section 6 under power, duties, and limitations of the corporation, grants to the corporation exclusive jurisdiction as to whether a person is to be represented. I wonder if that should not be something that might be determined by a court of general jurisdiction, and I do have an amendment to provide for that.

It permits these paralegals, supervised by staff attorneys, to represent eligible clients. It repeals the requirement that only local legal service programs give preference to local residents in filling staff positions.

It clarifies circumstances under which fee-generating cases and cases involving civil action arising out of criminal convictions may be undertaken by legal service programs.

It clarifies the circumstances under which there is the prohibition against legal service programs from taking cases arising out of desertions from the armed services where counsel is available from the Department of Defense. It has model projects. It establishes legislative authority for corporations to make grants or contracts to develop national, State, regional, or local model projects to segments of the population with special difficulties of access to legal services or special legal programs with more than 3 percent of funds to be used for that purpose.

It provides for hearing examiners, requires that independent hearing examiners be appointed pursuant to corporate regulations if and when there is a hearing relating to the denial of funding.

But turning now, Mr. President, to the report that is put out by the committee, I see here my computation of $225 million for 5 years. If that should remain constant, it amounts to $1.125 billion that would be authorized out of taxpayers' money for free legal services, and I know there were 2 days of hearings—it says 2 days—I do not know how many hours were spent each day—but 2 days of hearings involving the authorization of $1.125 billion.

This corporation is not a department, an agency, nor instrumentality of the Federal Government. Its officers and employees are not officers or employees of the Federal Government. It is interesting to note, however, that the governing body of the corporation can pay without any restriction at all up to level 5 of the executive level of employment.

I know of no Government agency where the head of a department or agency can pay as many employees as he sees fit up to level 5. I asked my staff what the present pay of level 5 was, and I got two answers. One was $47,500; the other was $49,000.

They could pay any number of employees or officers of this corporation, under the bill, $47,500 or $49,000, whichever is the accurate amount.

I notice that they provide legal services in Micronesia. Micronesia: Well, now, of course we remember that being made a part of the territory of the United States just last year, but if we reflect upon it, that is an area that does not pay any Federal income taxes, so it is just a one-way street.

The agency has 300 legal service programs serving citizens in nearly 700 offices in all of the 50 States, Puerto Rico, the Virgin Islands, and Micronesia.

This idea of a total staff of persons, with only 2.9 percent of the total funds appropriated to the corporation used for

administration, sounds like a very good thing, but I wonder. These people who make this level 5, is that administration cost?

It is provided here that the programs provide legal representation and counseling in a large range of civil matters. It does not include criminal representation; but later we say that there are exceptions.

I am just looking through here, Mr. President. I know that my talk is not prepared remarks; it may be a little rambling, but it is some of the thinking that has occurred to me with regard to this bill, and it just solidifies some of the reasons why I hope we can work out some differences.

Most of the legal problems of the eligible clients fall into four broad categories. Family laws: I understand that a very large portion of the money is for divorce cases. I just wonder what effort is being made, in the area of family law, to reconcile families. One of the first questions the private lawyer in family practice asks, when a potential client comes in to talk with him, is whether there can be a reconciliation within the family, before he ever discusses what the grounds for divorce are.

It includes administrative benefits, medicare, consumer law, and housing law. Because none of the programs has sufficient resources—we are talking about $1.125 billion over 5 years, if we do not increase the amount, but because none of the programs has sufficient resources to meet all of the needs of the eligible clients, the agency now requires that each program determine, in consultation with the client community, priorities for legal assistance.

Then it speaks of the 3,000 full-time lawyers and the 1,200 paralegal assistants. Certain key provisions of the Legal Services Corporation Act are designed to protect the corporation from inappropriate control by the executive branch.

Mr. President, when we talk about the taxpayers' money, it seems to me that everyone, every official ought to, at one time or another, have to account for his stewardship. Whom does this organization account to?

I would submit that it supposedly accounts to Congress. It files a report with Congress. It is a somewhat lengthy report. I saw a copy of it today. But how many Senators read a report that comes in? For all practical effects, this group is not accountable to anyone.

Two days of hearings before the committee, for a 5-year authorization.

I am quite aware, Mr. President, that the distinguished floor leader and the distinguished ranking minority member can make some responses to some of the things I am saying. I am indebted to them, and I appreciate their indulgence in not interrupting to refute the things that I am saying. I am hopeful, if they will listen to me for an hour, that I will not have to speak to an empty Chamber for a number of days.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. SCOTT. I am glad to yield to the Senator from New York.

Mr. JAVITS. I must leave the Chamber. I am due at a markup where I am presenting the bill, and I simply have to go.

I will be very pleased if the Senator will ask for a quorum call, and I will get back as soon as I can, but I must go.

Mr. SCOTT. Did I understand the Senator from New York to suggest that we have a quorum call, and in effect have a recess for a period of time?

Mr. JAVITS. I cannot run the recesses.

Mr. SCOTT. I certainly ask for a quorum call, but when would the distinguished Senator feel he would be able to come back?

Mr. JAVITS. I will call back after I am in the committee and find out where we are. But I am involved in a markup, and simply must leave.

Mr. NELSON. Mr. President, if the Senator will yield, I wonder if we can locate the Senator from Arkansas (Mr. BUMPERS). He has an amendment he would like to call up, and perhaps we could go on with that, with the debate and vote, and so on, on the pending matter following the amendment of the Senator from Arkansas.

Mr. SCOTT. I am agreeable to that procedure, but I would like to have the distinguished Senator from New York, the ranking Republican member of the committee, or another Senator in whom he has great confidence, that might be able to relay to him the things I would say. Frankly, I would like to be talking to his ears directly.

Mr. JAVITS. Senator, let me say I just tried to get every member of the minority. I believe one will be here before long. I have really taxed the indulgence of the Foreign Relations Committee; they are all waiting for me.

Mr. SCOTT. Before the distinguished Senator leaves, let me tell him, if he does not already know, and for the information of other Senators, that we have a group of opponents to the bill who are meeting outside the Chamber for the purpose of attempting to see if we can arrive at some agreeable compromise of this bill, so that we will not have extended debate lasting over a period of days. I hope that can be accomplished; and if the distinguished Senator from Wisconsin feels that we can expedite things by calling up another amendment, I am perfectly willing to do that, but I would want to reserve the right to reclaim the floor after that amendment is acted upon, and then hopefully by that time the Senator from New York can come back.

Mr. JAVITS. I thank the Senator.

Mr. SCOTT. Mr. President, I ask unanimous consent that after the next amendment is called up I again be recognized for the purpose of continuing my remarks.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. NELSON. Mr. President, I am assuming that the Senator from Virginia would want his remarks and dialog to be consecutive, and not interrupted by any other business that is called up.

I ask unanimous consent that any business taken up between now and the time that the Senator from Virginia resumes discussion on the floor be printed in the RECORD subsequent to his remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The following remarks were made later in the day by Mr. SCOTT and printed at this point in the RECORD by unanimous consent.)

Mr. SCOTT. Mr. President, I had hoped that the distinguished senior Senator from New York would be present at this time. I had had indications that he would be here, but I realize the multiplicity of duties that the distinguished senior Senator has. In view of his inability to be here at the present time, I do not want to delay further the business of the Senate and inconvenience other Senators. So I shall go ahead with my statement.

Mr. President, there are a number of matters that I could share with the Senate that are objections to S. 1303, the measure before us. Perhaps they could best be illustrated not by direct reference to the text of the bill, or to the report or to our United States Code, but just by a reference to a short synopsis of proposed amendments that I intend to introduce, in the event a satisfactory compromise is not arrived at.

Mr. President, I intend to read the synopsis. I ask unanimous consent at this time that these proposed amendments be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

AMENDMENT NO. 1434

On page 11, line 9, beginning with "1978" strike out through line 10 and insert in lieu thereof the following: "1978".

AMENDMENT NO. 1435

On page 11, line 10, strike out "each of the four succeeding fiscal years" and insert in lieu thereof: "the succeeding fiscal year".

AMENDMENT NO. 1436

On page 11, line 10, strike out "four" and insert in lieu thereof "two".

AMENDMENT NO. 1437

On page 11, line 10, strike out "four" and insert in lieu thereof "three".

AMENDMENT NO. 1438

On page 11, line 9, beginning with "$225,000,000" strike out through the period the first time it appears in line 10 and insert in lieu thereof the following: "$125,000,000 for fiscal year 1978".

AMENDMENT NO. 1439

On page 11, line 9, beginning with "$225,000,000" strike out through the period the first time it appears in line 10 and insert in lieu thereof the following: "$125,000,000 for the fiscal year 1978 and for the succeeding fiscal year".

AMENDMENT NO. 1440

On page 11, line 9, beginning with "$225,000,000" strike out through the period the first time it appears in line 10 and insert in lieu thereof the following: "$125,000,000 for the fiscal year 1978 and for each of the two succeeding fiscal years".

AMENDMENT NO. 1441

On page 11, line 9, beginning with "$225,000,000" strike out through the period the first time it appears in line 10 and insert in

lieu thereof the following: "$125,000,000 for the fiscal year 1978 and for each of the three succeeding fiscal years".

AMENDMENT No. 1442

On page 11, line 9, beginning with "$225,000,000" strike out through the period the first time it appears in line 10 and insert in lieu thereof the following: "$125,000,000 for the fiscal year 1978 and for each of the four succeeding fiscal years".

AMENDMENT No. 1443

On page 12, strike out line 14 and insert in lieu thereof the following:

SUNSHINE PROVISION AND PROHIBITION ON OUTSIDE COMPENSATION FOR OFFICERS

On page 12, line 15, insert "(a)" after "Sec. 4.".

On page 12, between lines 19 and 20, insert the following:

(b) Section 1005(a) of the Legal Services Corporation Act (42 U.S.C. 2996d(a)) is amended by striking out "except as authorized by the Board" in the second sentence thereof.

AMENDMENT No. 1444

On page 13, strike out lines 7 through 13 and insert in lieu thereof the following:

"(B) The question of whether representation is authorized under this title, or the rules, regulations, or guidelines promulgated pursuant to this title, shall be determined only by appropriate order by a court of general jurisdiction.".

AMENDMENT No. 1445

On page 12, strike out lines 20 through 24. Redesignate the succeeding sections accordingly.

AMENDMENT No. 1446

On page 11, line 18, beginning with the word "At" strike out through the period on line 2, page 12, and insert in lieu thereof the following: "Not more than one person appointed to fill a vacancy occurring after January 1, 1977 but before July 30, 1978, shall be, when selected for appointment, an eligible client. Following July 30, 1978, not more than one member of the Board shall be an eligible client".

AMENDMENT No. 1447

On page 19, strike out lines 15 through 25.

Renumber the succeeding section accordingly.

AMENDMENT No. 1448

On page 18, strike out lines 6 through 22. Renumber succeeding sections accordingly.

AMENDMENT No. 1449

On page 16, line 10, beginning with the word "to" strike out through the word "or" on line 23, and insert in lieu thereof the following: "by inserting "(A)" after 'provide', and by inserting a comma and the word 'or' ".

AMENDMENT No. 1450

On page 11, line 16, strike out "(a)".

On page 12, strike out lines 7 through 13.

AMENDMENT No. 1451

On page 15, beginning with line 16, strike out through line 3 on page 16.

On page 16, line 4, strike out "(d)" and insert in lieu thereof "(c)".

AMENDMENT No. 1452

On page 19, line 4, strike out "three" and insert in lieu thereof "six".

AMENDMENT No. 1453

On page 17, strike out lines 17 through 23.

On page 17, line 24, strike out "(e)" and insert in lieu thereof "(d)".

AMENDMENT No. 1454

On page 14, strike out lines 3 through 5.

AMENDMENT No. 1455

On page 14, strike out lines 7 through 15.

On page 14, line 16, strike out "(b)" and insert in lieu thereof "Sec. 8. (a)".

On page 15, line 16, strike out "(c)" and insert in lieu thereof "(b)".

On page 16, line 4, strike out "(d)" and insert in lieu thereof "(c)".

Mr. SCOTT. The first amendment would provide for authorization of appropriations for the Legal Services Corporation for 1 year, rather than the 5 years as is provided in the bill.

The second amendment would provide for authorization of appropriations for the Legal Services Corporation for 2 years, rather than for the 5 years as provided in the bill.

The third amendment would provide for authorization of appropriations for the Legal Services Corporation for 3 years, rather than the 5 years that is provided in the bill.

The fourth amendment would provide for authorization for the Legal Services Corporation for 4 years, rather than 5 years as provided in the bill.

The next amendment would authorize $125 million for the Legal Services Corporation Act for 1 year, rather than the $225 million as set forth in the bill to go for the next fiscal year and the open-end appropriation for the balance of the 5 years.

The next amendment would authorize $125 million for the Legal Services Corporation for each of 2 years.

The next amendment would authorize $125 million for the Legal Services Corporation for each year of 3 years.

The next amendment would authorize $125 million for the Legal Services Corporation for each year for 4 years.

The net amendment would authorize $125 million for the Legal Services Corporation per year for 5 years.

The next amendment would modify the prohibitions on outside compensation for officers of the Legal Services Corporation.

The next amendment would require representation questions to be decided by authorization of a court of general jurisdiction.

Mr. President, I wonder if I might have the attention of the distinguished chairman of the committee inasmuch as I do not have the attention of the distinguished ranking member of the committee. I would appreciate it. I will just take about 10 more minutes.

Mr. President, the next amendment is to retain the present provisions of existing law with regard to the Legal Services Corporation with respect to research, training, technical assistance, and information.

The next amendment would be to delete the provision with respect to hearing examiners.

The next amendment would be to delete the model projects for the Legal Services Corporation Act.

Mr. President, the next amendment would reinstate the provisions with respect to fee generating cases.

The next amendment would be to reinstate existing provisions of the Legal Services Corporation Act with respect to membership of eligible clients on governing bodies.

The next amendment would be to provide for membership on the governing body of the Legal Services Corporation of not more than one eligible client.

The next amendment would be to reinstate the provisions of the Legal Services Corporation Act with respect to representation by an attorney.

The next amendment would be to increase the period for the retention of records by recipients under the Legal Services Corporation Act.

The next amendment would be to reinstate the provisions of the Legal Services Corporation Act relating to representation in military matters.

The next amendment would be to reinstate the provisions with respect to political activity on off-duty hours by attorneys under the Legal Services Corporation Act.

The next amendment would be to reinstate the requirement relating to refusal or unwillingness without good cause to seek acceptable employment as a basis for eligibility under the Legal Services Corporation Act.

Mr. President, I also have two motions that I ask be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Mr. President: I move that the bill, S. 1303, "A bill to amend the Legal Services Corporation Act to provide authorization of appropriations for additional fiscal years, and for other purposes", be referred to the Committee on the Judiciary.

Mr. President: I move that the bill, S. 1303, "A bill to amend the Legal Services Corporation Act to provide authorization of appropriations for additional fiscal years, and for other purposes", be referred to the Committee on the Judiciary, with instructions to report that bill back to the Senate within 30 legislative days.

Mr. SCOTT. The first motion would be to amend the act to provide authorization of appropriation for additional fiscal years, and for other purposes, that it be referred to the Committee on the Judiciary.

The second motion that I ask to have printed would be to refer the same measure to the Committee on the Judiciary with instructions to report it back to the Senate within 30 legislative days.

Mr. President, I appreciate the indulgence of the distinguished chairman of the committee. I hope that we can reach a satisfactory compromise of our differences and take action upon this bill.

Mr. President, I yield the floor.

(This concludes Mr. SCOTT's remarks that were made later in the day.)

Mr. BUMPERS. Mr. President, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. (Mr. RIEGLE). The Chair must advise that it will take unanimous consent to lay aside the pending amendment in order to take up another. So I ask, is there objection to taking up the amendment of the Senator from Arkansas?

Mr. BAKER. Mr. President, reserving the right to object, will the Senator from Arkansas give me just a few moments before he presses his request for unanimous consent?

Mr. BUMPERS. Certainly.

Mr. BAKER. There is no one on this side who is actively involved in the management of the bill.

Mr. BUMPERS. If the Senator wants to put in a quorum call so he can get clearance on his side, we have no objection.

Mr. BAKER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. NELSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 923

Mr. NELSON. I understand that it is satisfactory for the Senator from Arkansas to call up his amendment.

The PRESIDING OFFICER. The Chair puts again the question, is there objection to laying aside the pending amendment to take up the amendment of the Senator from Arkansas?

The Chair hears no objection. The Senator from Arkansas is recognized for his amendment.

The clerk will state the amendment.

The assistant legislative clerk read as follows:

The Senator from Arkansas proposes unprinted amendment numbered 923.

Mr. BUMPERS. I ask unanimous consent that further reading be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 20, line 11, insert the following:

"SEC. 15. Section 1007(g) of the Legal Services Corporation Act, 42 U.S.C. § 2996f(g), is amended to read as follows:

" 'The Corporation shall conduct a fair and impartial study of the relative advantages and disadvantages of the existing staff attorney method of delivering legal services as compared with other methods (or combinations of methods) including judicare, prepaid legal insurance, vouchers, and contracts with private law firms, in order to determine whether and to what degree the existing staff attorney method should be supplanted by alternative methods of delivery. A sufficient number of demonstration projects using alternative methods of delivery in both urban and rural settings shall be established nationwide to insure a valid comparison. Based on the results of such a study and on an evaluation of these results to be conducted by the National Science Foundation (which shall not subcontract for any part of the evaluation with any recipient of Corporation funds), the Corporation shall make recommendations to the President and the Congress not later than September 30, 1979, concerning improvements or changes in the methods of service delivery to render such delivery more economical, more effective and more satisfying to clients.' "

IMPARTIAL STUDY OF JUDICARE

Mr. BUMPERS. Mr. President, I am today introducing an amendment to S. 1303, a bill to amend the Legal Services Corporation Act. The purpose of the amendment is to insure that the Legal Services Corporation shall conduct a fair and impartial study of the relative advantages and disadvantages of the existing staff attorney method of delivering legal services to the poor as compared with other methods, including especially judicare. The essential difference between the two methods, of course, is that under a judicare program, each client has the right to pick his own counsel, just as patients choose their own physicians under the medicare program. Under the staff-attorney method, which is the method now being used predominantly by the Legal Services Corporation, legal services to the poor are rendered exclusively by paid Government employees who are not engaged in the general practice of law.

The present law on this subject is contained in section 1007(g) of the Legal Services Corporation Act of 1974, 42 U.S.C. § 2996f(g). This section provides as follows:

The Corporation shall provide for comprehensive, independent study of the existing staff attorney program under this Act and through the use of appropriate demonstration projects, of alternative and supplemental methods of delivery of legal services to eligible clients, including judicare, vouchers, prepaid legal insurance and contracts with law firms; and, based upon the results of such study, shall make recommendations to the President and the Congress, not later than two years after the first meeting of the Board, concerning improvements, changes or alternative methods for the economical and effective delivery of such services.

My proposed amendment would expand and clarify this section and, I believe, carry out the intent of the Congress in enacting it in the first place. The amendment would essentially do two things. It would make more clear the intent of Congress that judicare should be tested not merely as a possible supplement to the prevailing staff attorney method of delivery, but as a possible alternative as well. The amendment would also provide for an evaluation of the experiment by a third party, rather than by the Legal Services Corporation itself.

Mr. President, my amendment does not in the least assume that the experiment will show that one method of delivery is the best in all situations. Nor am I asking the Senate to endorse judicare, the staff attorney method, or any other particular method of delivering legal services to the poor. A fair and impartial test might show, however, that judicare, or a combination of judicare and prepaid legal insurance, ought to be the primary vehicle for delivering legal aid to the poor, instead of the staff attorney method now almost exclusively used by the LSC. My amendment would leave this possibility open. It does not seek to predetermine the results of the study, only that the study be fair and impartial.

Existing law requires the Corporation to submit a report to Congress on the results of its experiments and studies by July 1977, and such a report was actually submitted. It is obviously, however, an interim report, since the study is far from complete. The Corporation is not yet ready to make recommendations to Congress and, as a matter of fact, is now in the process of funding different studies in Round II of the experiment. My amendment would simply insure that the remaining portion of the experiment will be impartially designed, that its evaluation will be conducted by an impartial third party, the National Science Foundation, and that the deadline for report be extended until September 1979, in order that enough time will be given the National Science Foundation and the Legal Services Corporation to make a full and ample study and report.

Let me stress that there is no doubt in my mind that the LSC can be trusted to conduct a fair experiment. The important point is to avoid even the appearance of a conflict of interest. The LSC has traditionally used the staff attorney method almost exclusively, and members of the private bar who favor judicare may be pardoned for believing that the evaluation of any study should not be entrusted to the LSC itself. In other words, the judicare test must not only be fair, it must also be perceived to be fair by both the private bar and the general public.

The evaluation of the judicare test will not only be an evaluation of the relative advantages and disadvantages of judicare versus the staff attorney approach. It will also involve an assessment of the validity of the design and implementation of the study itself. It goes without saying, therefore, that if the evaluation is to be fair, it ought not to be conducted by anyone who participated in this design and implementation.

Mr. President, I know that all Members of the Senate share with me a determination to make the best possible legal services available to those who cannot afford them, and to accomplish this result by whatever method will be most effective, least costly, and result in the greatest client satisfaction. The purpose of my amendment is simply to insure that the inquiry now being made into these questions be completely impartial and insulated from any appearance of a conflict of interest. I am hopeful that the amendment will be acceptable to the committee and to the Senate.

Mr. President, my amendment, on the face of it, seems to be requesting something that the law already provides for. But my amendment is designed to clarify, at least, any misconceptions that anybody might have about the present requirement that the Legal Services Corporation conduct a fair and impartial study to consider the use of prepaid legal insurance, judicare, and vouchers—not just as a supplement to the present staff attorney method of providing legal services to the poor, but as an alternative.

The present law requires that the Legal Services Corporation make a study of all these different possible systems for providing the least costly and most effective legal services to the indigent and the poor who cannot afford attorneys.

I do not have any preset notions about which is the most effective way, but it has been brought to my attention that the present study, which I think was—I forget the time frame within which it was supposed to be completed. I know the first part of it has already been filed and some interim recommendations, perhaps, made to Congress and the President. This amendment is not, then, going to torpedo or disturb the study that is being made right now. But, Mr. President, the thing that I want to be sure of, and I think the thing that the Senate

wants to be sure of, is that this study is an impartial study based on legitimate demonstration projects and that it is fairly critiqued, not one of those things where the foxes watch the henhouse, or the dogs watch the meathouse, but something that has been critiqued separately by a totally disinterested group.

Now, in a nutshell, my amendment places the burden on the Legal Services Corporation to carry out demonstration projects, for example, of judicare, not in a vacuum, but in separate parts of the country, rural and urban, so that legitimate comparisons can be made as to the effectiveness of the judicare system. For the unenlightened in this body, that is simply a system for legal services almost identical to the medicare services for the delivery of health services to people who cannot afford health care.

The poor now have to go down and accept some staff attorney who may be fresh out of law school, or he may be a seasoned, brilliant attorney, but there is one sure thing, it is an a la carte situation with the people who need the legal service. He goes in and they assign him a staff attorney, assuming he meets all the criteria of determining whether or not he is entitled to the help, and he or she is at the mercy of the staff attorney until his case is resolved.

All I am saying is that we give people on medicare and medicaid in this country the right to pick their own doctor and we pick up the tab for it.

Mr. President, as I say, I have no present notions about it, no preconceptions about it, but it just might be that the people of this country would feel more secure if they could go to their own attorney or one of their choice and let him help them.

I think one of the most cogent arguments being made in this country against national health insurance is that people are afraid the next step will be that they will have to take whatever doctor they are assigned, and people in this country are not ready for that. I am not ready for it.

Maybe it is not practical, but all I am saying is that this study ought to include demonstration projects from all geographical sections of the country, populated and unpopulated areas, urban and rural areas, and that the study include the possibility of judicare, of prepaid legal services, as alternatives to the present staff attorney system.

Finally, the report ought to be critiqued by the National Science Foundation. That seems like a strange place, I know, and a strange organization to place this study with for independent critiquing.

But the present study, Mr. President, is going to be critiqued by people from the Legal Services Corporation and attorneys from the American Bar Association.

As far as I am concerned, there will still be that lingering doubt among many that the study has not been impartially evaluated.

I think in order to eliminate even a possibility of a conflict on the part of the Legal Services Corporation, that an independent judgment that could be rendered by the National Science Foundaiton should be made.

Why that foundation? Because they have got a whole division of social services and social scientists who have studied the delivery of social services in many other studies. I am not just hung up on them.

The floor manager says he might take my amendment if I would change that to GAO. I would probably go along with it, that is the normal procedure, but there are those who do not want GAO to do it.

As far as I know, there is no objection to the National Science Foundation evaluating the study.

Mr. President, I have tried to make it as short and clear as I can as to the reason for this. There are those who say that the Legal Services Corporation is already doing this, that the law already mandates they do it. But I want it clarified, I want it broadened, and I want an independent evaluation of the study when it is completed. There is still ample time.

Incidentally, there is a fourth thing the amendment does, Mr. President. As I remember, it gives them 2 years and 2 months more time than the deadline in 1977. The amendment sets the date down to September 1, 1979.

So they still, if this is adopted, have the 2-year period in which to make this study, and nobody is dislocated or discommoded as a result.

I sincerely hope that the committee will see fit to adopt the amendment.

I might say, if the Senator from Wisconsin will permit me, that the American Bar Association has endorsed the amendment.

Mr. NELSON. Mr. President, I say to the distinguished Senator from Arkansas, if the American Bar Association has endorsed the amendment, then they have also endorsed my opposition to the amendment, which is a position that the American Bar Association may very well have taken.

Mr. BUMPERS. If the Senator will yield, I slightly misspoke myself in my exhuberance and enthusiasm. I said they had endorsed it. Actually, it is the Chairman of the General Practice Section Committee on the National Legal Services Corporation of the American Bar Association that has endorsed it.

In other words, it is the sort of oversight committee of the American Bar Association that has endorsed it.

Mr. NELSON. So that the record will be balanced and clear, Mr. Robert Evans, legislative representative of the American Bar Association, states:

> The American Bar Association supports S. 1303 without amendments which would restrict the Legal Services Corporation or its program attorneys to provide effective representation for all eligible clients. The ABA has testified in support of the Corporation carrying out a study of alternative and supplemental systems for providing legal services to the poor. The Corporation is moving forward with this study, and the ABA has been following the study with great interest. Four attorneys active in the Association, including former President Robert W. Meserve and J. Thomas Greene of Utah serve on the Advisory Panel which is monitoring the alternative delivery system study.
>
> The Association has never recommended that a "study of the study" should be undertaken by a government agency such as the National Science Foundation. While we in the Association intend to review the study with care, we are not in a position to recommend to the federal government that it fund a study of another study, at least until the Corporation's study has been completed and its results made public.

That pretty well states, I say to the distinguished Senator from Arkansas, my position. It may very well be that some independent group ought to further study the results of the study that is made purusant to the directive of the statute which we adopted back in 1974.

As I am sure the Senator knows, an independent advisory panel was appointed by the Corporation. That advisory panel then selected the projects and the programs to be tested for purposes of determining how better to deliver legal services to the poor.

Those experimental programs, when they are completed, will then be in report form and available to the Congress. At that time, the American Bar Association will evaluate the studies, as will anyone else who has an interest in or out of the Congress.

Furthermore, it would be, in my judgment, the responsibility of the Subcommittee on Employment, Poverty, and Migratory Labor, of which I am chairman, to conduct comprehensive hearings on the study and take testimony, pro and con, on the studies and on the methods of delivering legal services to the poor.

I assure the Senator from Arkansas that when these studies are completed and we receive a report from the Legal Services Corporation based upon the studies that have been done, we will schedule hearings. We will ask the American Bar Association, local bar associations, representatives of various groups, and Members of Congress to come and give us their testimony, their advice, their suggestions, and their evaluation of the studies. If at that time it appears that there should be some further independent evaluation, I would be prepared to support the concept at that time.

However, I do not really see the value at this stage in writing into law a requirement that once the studies are all completed, they be referred to the National Science Foundation for the purpose of their making a reevaluation at that time. So I am reluctant to say that I oppose the amendment at this time on the ground of timeliness, but it may very well be a good idea once we have looked at it and once we have conducted hearings.

It never would have occurred to me to have referred this study to the National Science Foundation. I may be mistaken, but I do not know that it is their expertise to evaluate this kind of study. It may very well be. But I would be disinclined to write such a requirement into the statute at this time, making that requirement part of the law.

Mr. MATHIAS. Mr. President, on behalf of the managers on this side of the aisle, we associate ourselves with the comments of the distinguished Senator from Wisconsin and oppose the amendment.

Going a little beyond what I am authorized to say on behalf of the man-

agers, and getting into the area of personal comment, I might say that if the Senator from Wisconsin were present at this moment, he might be getting out a "fleece" to award.

As a member of the Appropriations Committee, I have had a rather tender interest in the National Science Foundation, and I have been very much interested in the work they have done in trying to create measurements for progress in social areas. I have been largely supportive of those efforts. But I have observed that Mr. PROXMIRE has awarded the "fleece" on a number of these projects; and I think that if we start making studies on studies, we are at least giving him a candidate for consideration.

I hope we will defer that until we get a little further along on this project and see where we are going.

Mr. BUMPERS. Mr. President, I do not know Thomas Greene of the American Bar Association Committee on the National Legal Services Corporation. Based on what the distinguished Senator from Wisconsin read into the RECORD earlier, he is at least a very peripatetic gentleman, because here is a telegram he sent me on September 15:

> Strongly urge passage of amendment to S. 1303 Legal Services Corporation Act to insure (1) fair test of all methods of delivering legal aid to poor including judicare; and (2) independent evaluation of tests of National Science Foundation or other appropriate persons or organizations.
>
> J. Thomas Greene, chairman, American Bar Assn., General Practice Section Committee on National Legal Svcs. Corp.

I understood the Senator from Wisconsin to say a moment ago that he has a telegram or some communique from this gentleman saying that he wants the Legal Services Corporation Act passed or extended without any amendments.

Mr. NELSON. No. The Senator from Wisconsin did not say that.

The only context in which Mr. Greene's name appeared is that Mr. Robert Evans, legislative representative of the American Bar Association, simply stated in his communication to me that four attorneys active in the association, including former president Robert Meserve, and J. Thomas Greene of Utah serve on the advisory panel which is monitoring the alternative delivery system study. Mr. Greene did not directly contact me in any respect concerning the Senator's amendment. He is on the panel.

Mr. BUMPERS. Mr. President, I recognize the difficulty of having an amendment adopted which the floor managers oppose. I am not sure right now whether I am going to pursue it to an up or down vote, but I say this:

I am not one who is prone toward having committees appointed to study the work of other committees or studies of studies. But I am prone to want individual analysis made of studies that are made by those people about whom the study is concerned.

When I was Governor of my State, I used to get those studies in my office, those in-house studies, and I would say, "That's just one of those dogs-watching-the-meat-house studies."

We had all kinds of regulatory bodies in my State which were supposed to regulate everything from the real estate practice—you name it. It did not make any difference whether it was massage parlors or real estate—we had a committee to oversee the operations of those particular professions in the studies. Almost without exception, the commission was made up exclusively of people engaged in that profession.

One of the reasons I offer this amendment is that I favor the Legal Services Corporation concept. I am going to vote for the bill. But I think there are some very serious concerns in this body and in Congress about where we are going with the concept. Unless we have a fair number of demonstration tests across the country, what is there going to be to evaluate?

If I were in the Legal Services Corporation and I did not want judicare or prepaid insurance or anything like that because somebody in the Legal Services Corporation might lose his job, I would be violently opposed to this amendment, as they are. They do not like it. I like the concept, and I like the Legal Services Corporation. But I also know how organizations that are set up by Congress have a system of self-perpetuation. I know how they perpetuate themselves, and I know this is not going to be any different.

I am not saying that judicare is a suitable alternative. Perhaps it should not even be a supplement. But I think it should be studied. All I am saying is that the study is being done by the Legal Services Corporation, which is opposed to prepaid services, which is opposed to judicare; and I am afraid that the study may not come out favorably inclined toward either of those concepts.

Mr. NELSON. The provision in the statute which was adopted in 1974 originated in Congress. We were the ones who decided that this study should be made. As chairman of the subcommittee, I favored it. We wrote the language, and the language says:

> The corporation shall provide for comprehensive, independent study of the existing staff attorney program under this Act and, through the use of appropriate demonstration projects, of alternative and supplemental methods of delivery of legal services to eligible clients, including judicare, vouchers, prepaid legal insurance, and contracts with law firms; and, based upon the results of such study, shall make recommendations to the President and the Congress not later than two years, after the first meeting of the Board, concerning improvements, changes, or alternative methods for the economical and effective delivery of such services.

The delay in meeting the completion deadline, which was July 1, 1977, was a consequence of the delay in the appointment of the members of the Board of Directors, so the Board cannot be blamed for that.

It may be that those of us who drafted the statute are subject to criticism for not providing the kind of independence that the Senator from Arkansas thinks ought to be there. That could be so. But I think it is designed pretty well.

They made an interim report in July 1977 showing the contracts they have let. It is a 172-page report.

I am not prepared to say to the Senator from Arkansas that I am qualified at this moment or satisfied at this moment that the study is being conducted in the best possible way—not because I know it is not, but because I do not know whether it is. I know not either way. But they are proceeding as the Congress directed them to proceed, and that proposal came through the subcommittee of which I am chairman.

They are directed to try these various methods of delivery, including judicare, which the Senator from Arkansas says they are opposed to, although I have never heard from them that they are so opposed; but, nevertheless, they are directed to study all these various proposals.

When they complete that study, and it goes to the American Bar Association for their evaluation, I am assuming they will make a good study of it. They have done lots of very good volunteer work respecting delivery of legal services to the poor, and the Legal Services concept has been of great interest to them.

I will conduct hearings, as I am sure the House of Representatives will, too, and if, in fact, valid complaints lie against the way the study is conducted because of a bias in the study or incompetence in the performance of these studies contracted for by independent contractors in various States, I assure the Senator from Arkansas I would be prepared to refer this to the appropriate place for a further independent study.

Let me say to the Senator from Arkansas I am not prepared to argue the merits of whether or not such a study at some time ought to be made. The Senator may be absolutely right, it may be perfectly clear from hearings and looking at the finished product that the study is inadequate. I do not know because they are not complete. But I have enough confidence in the Senator from Arkansas that after the American Bar Association has evaluated it, after Members of the Senate and the Senator from Arkansas have evaluated it, and after those who are interested and qualified have evaluated the study now being made, and after our hearings, it is in fact indicated at that time that there ought to be some further independent evaluation, and such is the judgment of the Senator from Arkansas, I have enough confidence in his judgment such that I will join him in supporting such an independent study.

Now, that may not assure that a further study would be done, but at least it would assure there would be 2 votes for it out of 100, and maybe we could persuade some others at that time.

Mr. BUMPERS. Mr. President, let me say I appreciate very much the sense of fairness just expressed by the Senator from Wisconsin. He has always been eminently fair and has been most highly concerned about the fate of the Legal Services Corporation and the services it renders. I will come back to that in just a moment.

But, Mr. President, there are two or three points I would like to make: No. 1, the amendment we offer will cost no more than is already going to be expended. I am not suggesting that the study be expanded, I am not suggesting that a lot more demonstration projects be taken on. But I do think this: If we wait

2 years until the final report is in, and the evaluation is made either by the Legal Services Corporation or somebody designated by them to give it some air of independence, I think the results of the study are virtually a foregone conclusion. I think the Legal Services Corporation report, and whatever so-called independent, evaluator evaluates it, are going to find the services being rendered under the present system as being excellent, of high quality, and that there should not be any disturbance of the present system.

I just almost would be willing to bet the family farm on that study and what it is going to show when it comes in here, in, we will say, July of 1979.

The interim report has already been filed. They missed the deadline on July 1, 1977. They did file a report, as the Senator from Wisconsin said, because the board was late in being selected, but it is an interim report only. The final report has not been made, and, I assume, will not be made until these demonstration projects have been completed.

Now, No. 2, if the Legal Services Corporation report comes out as I anticipate and predict it will come out, it will be subject to the very criticism that I am saying we can avoid now on the front end because everybody is going to say, "we told you 2 years ago what the study was going to show. It has shown exactly what we said it would. It is indeed a case of the dogs watching the meathouse. How can you expect them to come up with any different report?"

Now, this amendment gives us an opportunity to, No. 1, bring the National Science Foundation into it right now and let them make some suggestion to the Legal Services Corporation as to how many demonstration projects there should be and where they ought to take place, so they will be in a position to make an independent analysis. Obviously, it is just like a pollster. You have got to frame the question correctly or the results are flawed.

Mr. NELSON. Mr. President, will the Senator yield at that point?

Mr. BUMPERS. Yes.

Mr. NELSON. I interpret the Senator's amendment, as I read it, to say quite clearly that when the present study is completed, the National Science Foundation will evaluate the study. The Senator's amendment says, "Based on the results of such study and on the evaluation of these results to be conducted by the National Science Foundation, the corporation shall make recommendations."

As I read this amendment, I interpret it to mean that once the studies we are talking about are completed, the National Science Foundation will then make its evaluation of the results of the studies.

Therefore, there is nothing which can be referred to the National Science Foundation, as was suggested a moment or two ago by the Senator from Arkansas. In fact, there is not anything to refer to the National Science Foundation unless it is further proposed that they be consulted to determine what additional studies should be made. The 38 demonstration programs have been commissioned. So whatever role, under this amendment, the Senator from Arkansas has in mind would not fall upon the shoulders of the National Science Foundation until the studies were over in any event.

Mr. BUMPERS. Let me say to the Senator from Wisconsin, Mr. President, that, perhaps, I was being a little presumptuous that my amendment carry with it the implication that the Legal Services Corporation would consult with the National Science Foundation now to make certain that the studies being undertaken will be sufficient and broad enough and designed to give the National Science Foundation enough information on which they could base a decision, that they would do this now if the amendment is agreed to; and then, of course, the independent analysis would be made at the conclusion of the study.

If there is any question about that, either of two things could occur. We could correct that by colloquy or I could modify my amendment.

But I would like to read to the Senator from Wisconsin just a little quotation here that fortifies the position and the feeling and the apprehensions I have about the legitimacy of the study. Here is a letter dated April 4, 1977, from Tom Ehrlich, who is president of the Legal Services Corporation, to a fellow named Brakel, I guess it is, who is with the American Bar Foundation. Here is a quote, because the correspondence carried on between the two deals with Brakel's insistence that the study be conducted, and Mr. Ehrlich writes and says——

Mr. NELSON. What study is to be conducted?

Mr. BUMPERS. The one I am talking about—that some independent organization be brought into it. Ehrlich's response says:

> We have carefully evaluated the existing staff attorney programs and have found that they are providing high quality service. We will not precipitously force shifts in delivery methods without adequate evidence that service will be improved. I do not believe that one single approach is the best for all circumstances.

Mr. President, while I say I have no preconditions or prenotions about this, I believe that the Legal Services Corporation does, and I am reluctant to call for an up or down vote on this. I feel strongly about it. I feel so strongly that I will predict that I will be back in the Chamber 2 years from now, when that study is completed, making the same plea for the same thing and we will then spend money to do an additional study that we would not have to spend if we adopt this amendment now.

I am not saying that I think judicare is a suitable supplement or suitable alternative. I am not saying that I think prepaid legal insurance is suitable as a supplement or alternative.

All I am saying is that there should be sufficient information derived from this study that we can make a sensible evaluation which is the best. Perhaps some mix of all three or some mix of two would be suitable. But what we are getting ready to do is not to conduct a study to evaluate the study—a study of a study. What I am suggesting now is to avoid that by doing the study right in the first place because, if we do not, 2 years from now we are going to be back here sure enough authorizing a study of the study that no one likes.

Mr. NELSON. I guess we covered most of everything. This may be a bit repetitious. I feel the same way the Senator from Arkansas does respecting the question of objectivity in making studies, and if the studies disclose that there is somehow or another a bias that demonstrates in the studies that certain important areas of study or evaluations were not made, I will be as indignant as the Senator from Arkansas. A chairman of the authorizing subcommittee, I give him my word that I will do everything in my power to rectify it. I think it is important that all parties, whether in Congress or out of Congress, deal in good faith.

The Corporation in selecting the Advisory Panel has selected a distinguished list of conscientious, independent attorneys and representatives of the poor who are dedicated to the public welfare.

I only know one personally, and that is Ellen Jane Hollingsworth of Madison, Wis. She possesses a fine reputation, is able, with a great deal of integrity and dedication to the public welfare.

I have no reason to believe that all of the people on the Advisory Panel are not the same. However, the test will be what are the results of the studies, and I repeat what I said. If after evaluation by lawyers who are familiar in the field in the American Bar Association and after hearings by the subcommittee of which I am chairman, if the Senator from Arkansas is still convinced that there should be further independent evaluation, as I said, and I repeat, I have enough confidence in his good judgment to be perfectly comfortable in saying now that if he concludes that, then I will join him in an amendment or proposal for a further study.

Mr. BUMPERS. Mr. President, I am not going to belabor this. I shall take a couple minutes.

UP AMENDMENT NO. 924

Mr. President, I send to the desk a modified amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. BUMPERS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is so modified.

The modified amendment is as follows:

On page 20, line 11, insert the following:

"SEC. 15. Section 1007(g) of the Legal Services Corporation Act, 42 U.S.C. § 2996f (g), is amended to read as follows:

"The Corporation shall conduct a fair and impartial study of the relative advantages and disadvantages of the existing staff attorney method of delivering legal services as compared with other methods (or combinations of methods) including judicare, prepaid legal insurance, vouchers, and con-

tracts with private law firms, in order to determine whether and to what degree the existing staff attorney method should be supplanted by alternative methods of delivery. The Corporation shall consult with the National Science Foundation to insure that the study is impartial and that sufficient number of demonstration projects using alternative methods of delivery in both urban and rural settings shall be established nationwide to insure a valid comparison. Based on the results of such a study Corporation shall make recommendations to the President and the Congress not later than September 30, 1979, concerning improvements or changes in the methods of service delivery to render such delivery more economical, more effective, and more satisfying to clients.' "

Mr. BUMPERS. Mr. President, this modified amendment, which I hope the floor managers will see fit to accept, provides simply that the Legal Services Corporation will consult now with the National Science Foundation and solicit its suggestions and thoughts as to how to make sure that the study is an impartial study and not necessarily accept, but discuss with them, a suitable number of demonstration projects to be carried out to give the study at least some additional air of impartiality.

Mr. NELSON. I do not like, I must say, to appear to be uncooperative with the objective sought by the Senator from Arkansas. However, there are 38 projects authorized. That is the whole ball game. Now I do not know what they would consult about.

Mr. BUMPERS. Mr. President, will the Senator yield for a question?

Mr. NELSON. I yield.

Mr. BUMPERS. Are these projects authorized by Congress or are they authorized by the Legal Services Corporation?

Mr. NELSON. We authorized the projects in the legislation (sec. 1007(g)) and directed that such projects be conducted. Money was appropriated to implement this section of the Legal Services Corporation Act.

Mr. BUMPERS. Did the enabling authorization legislation provide for 38 projects?

Mr. NELSON. It did not name the numbers of projects. We did not name the number, but it is my understanding that the resources authorized in and appropriated are committed to these 38 projects, 19 of which were recently authorized. So, if there were 19 more to go that had not been authorized I would not have any objections at all. But I think we would be writing something into the statute that would not be helpful since there are no more projects to be authorized.

Mr. BUMPERS. That may be impossible, and if that were impossible, then I would not expect the Legal Service Corporation to authorize any more. But I think therein lies one of the problems, and that is the Legal Services Corporation is the one that designated the projects, the kind of projects they will be, geographical locations of the projects, and they may be suitable for an independent impartial determination of the kinds and quality of services and they may not.

But I tried to dilute the amendment as much as possible to make it acceptable in the hope that at least some outside independent party would be consulted because, under the present law and the way that the study is being conducted now, I personally, as an independent evaluator, could not possibly accept that as a fair test if it comes out the way it is, simply because it looks like it is just all fixed, as we say in Arkansas, "all saucered and blowed on the front end," to make sure the same kinds of service now being rendered will continue to be rendered for all time to come at least for the foreseeable future, and that may indeed be the best possible system of delivery of legal services to the poor. What I am saying is no one here will really trust the study and the way it is being conducted, and that is what I was trying to get at. But I am not going to force a vote on this issue because I have tried that before. I have debated issues before with two or three Senators in the chamber, and I know that the floor managers can beat just about any issue in that situation. But I honestly believe it is a good amendment. I think it is a good amendment, and I am sorry that the floor manager cannot accept it.

So I will withdraw the amendment.

Mr. MATHIAS. Mr. President, I make the point of order that a quorum is not present.

The PRESIDING OFFICER (Mr. ZORINSKY). The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection it is so ordered. Under a previous order of the Senate, the Senator from Virginia is recognized.

Mr. DOMENICI. Mr. President, will the Senator yield for a unanimous-consent request, so that a staff member may have floor privileges?

Mr. SCOTT. Mr. President, I ask unanimous consent that I may yield for that limited purpose, reserving the right to retain the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, I ask unanimous consent that George Ramonis of my staff be granted the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield to me for a unanimous-consent request, under the same conditions?

Mr. SCOTT. I yield.

ORDER FOR RECOGNITION OF SENATOR EAGLETON TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow, after the recognition of Mr. ALLEN, the Senator from Missouri (Mr. EAGLETON) be recognized for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGAL SERVICES CORPORATION ACT AMENDMENTS OF 1977

The Senate continued with the consideration of S. 1303.

Mr. McCLURE. Mr. President, will the Senator yield to me for a unanimous-consent request, on condition that he not lose his right to the floor?

Mr. SCOTT. I yield under the same conditions.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCLURE. Mr. President, I ask unanimous consent that Tom Hill, of my staff, may have floor privileges at all stages of the proceedings on this legislation.

The PRESIDING OFFICER. Without objection, is is so ordered.

Mr. McCLURE. I thank the Senator from Virginia for yielding. Mr. President, I suggest the absence of a quorum, with the understanding that the Senator from Virginia will have the floor upon the resumption of business.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. SCOTT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

(Remarks made by Mr. SCOTT at this point are printed following his earlier remarks, pursuant to unanimous consent.)

Mr. NELSON. Mr. President, as I see no one prepared to call up any amendments at this time, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. GRIFFIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. MATSUNAGA). Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. GRIFFIN. Mr. President, I see the distinguished assistant majority leader on the floor. This Senator is growing a little bit impatient wondering what the future holds. I wonder if there is any reason why, as long as we are not doing anything with respect to the legal services bill, we could not set it aside for an hour or so and take up the resolution of disapproval of the air bag rule?

Mr. CRANSTON. I believe that negotiations are under way seeking to work out a time agreement so we can deal with both air bags and legal services, with an understanding of when votes can be brought to a head on them, and that the effort is to get a time agreement on the air bag matter that would permit a vote tomorrow, if that can be done.

Mr. GRIFFIN. I know of no reason why we could not take it up now. We are not doing anything.

Mr. CRANSTON. We are doing something. We are negotiating. I am not negotiating but others are.

Mr. GRIFFIN. I take it if I propounded a unanimous-consent request there would be an objection.

Mr. CRANSTON. The Senator from New Hampshire would, I believe, object.

Mr. DURKIN. That is correct.

Mr. NELSON. The pending business, as the Senator knows, is legal services.

Mr. GRIFFIN. If the Senate were doing anything, I could understand this great desire to continue to deliberate and debate legal services. But I point out to the leadership and to the Senate that we are not doing anything on that legislation. We have been sitting here doing nothing for at least 45 minutes.

Mr. NELSON. We have been sitting here——

Mr. GRIFFIN. Longer than that.

Mr. NELSON. For 5 hours awaiting agreement.

Mr. GRIFFIN. The fact is, as everybody knows, we are under a statutory deadline with respect to the air bag matter. If the Senate and House do not act by Friday, then by default, inaction, the order of the Secretary of Transportation will go into effect. So, obviously, regardless of what happens with respect to legal services, if we are going to act on the air bag matter we need to act very soon.

The Senate, of course, can make its decision by inaction. I think the Senate will be just as responsible whether we vote or we do not vote. But I would think that all Senators, including the Senator from New Hampshire, would want to be on record on this. If he is for the air bag—and I can understand that he might be—I fail to understand why he would not want to vote on it.

Mr. DURKIN. Mr. President, if the Senator will yield, I call attention to my vote in the subcommittee, which was five to nothing in disapproval, and I call attention to my vote in the full committee against the air bag. So the Senator from New Hampshire is recorded twice, and if——

Mr. GRIFFIN. Why is he determined to prevent the Senate from voting on it then?

Mr. DURKIN. Well, the Senator from New Hampshire is not determined to prevent the Senate from voting on it.

Mr. GRIFFIN. I am glad to hear that. Why would he object then if we could have some agreement to take it up tonight and vote on it?

Mr. DURKIN. I am not opposed—as the distinguished majority whip indicated, the majority leader is now trying to work out a birdcage where both the legal services and the matter the Senator from Michigan is interested in can be the subject of time agreements.

And as I have said before, if that cannot be worked out, I can assure that there will be a long weekend because we will discuss passive restraints until the clock runs out, but that may well not be necessary. In fact, the Senate saw the majority leader walk off the floor. He is now trying to work out an arrangement, a unanimous-consent agreement, a "bird cage," whatever you want to call it.

Mr. GRIFFIN. I personally hope that the majority leader is successful and that he can get an agreement to vote at a time certain on the Legal Services Corporation.

This Senator is certainly anxious to have that legislation disposed of. But whether or not an agreement can be reached with respect to the legal services bill, I see no reason why it should have any effect upon the ability of the Senate to take action with respect to the air bag resolution.

Mr. CRANSTON. If I may comment or behalf of the leadership, I spent the last hour and a half working on efforts leading to a time agreement that would permit a vote on the air bag resolution tomorrow and on legal services with some kind of a time agreement. That is what the majority leader has been doing. We are doing this because we are aware that otherwise there will be an objection and we will not get to the matter. I wish to see us get to the matter and the Senate make a decision one way or the other. As the Senator well knows, much of the work of the Senate is done off the Senate floor, and as the Senator well knows often quorum calls are entered for that purpose and no business is conducted on the Senate floor while we are trying to work out things trying to expedite the Senate business.

I assure the Senator that is what I have been seeking to do and what Senator ROBERT C. BYRD has been seeking to do.

Mr. STEVENS. Mr. President, will the Senator yield?

Mr. CRANSTON. I yield.

Mr. STEVENS. Although I voted against the resolution disapproving the use of airbags and other passive restraints in the Commerce Committee, I was present in committee at the time it was determined that the procedure we would follow would be to insure a congressional review period on any decision concerning airbags. I think it is highly important that we get a decision in the Senate and that all Senators go on record with regard to this issue. It is related to the seatbelt interlock issue. It is something that I think cannot be allowed to sneak up on the American public. We must take a firm stand here and go on record as to what we desire to happen with regard to airbags and other passive restraints.

I would hope that this vote on the disapproval resolution that the Senator from Michigan seeks, the substance of which he knows I will oppose, will not be held hostage to the Legal Services Corporation maneuvering that is taking place now. There is a time frame involved, and I might say, as one of the committee at the time, we made a mistake in not assuring that this was a privileged matter. I do not think that will happen again in any of these oversight functions as far as actions such as regulations that the Secretary of Transportation has promulgated in this regard.

At least as far as I am concerned, I intend to keep my eyes open for this type of circumstance again.

Mr. GRIFFIN. I appreciate those remarks by the distinguished minority whip. Unfortunately despite his hope, I think it is obvious that this airbag resolution is being held hostage to the legal services bill, and to demonstrate that point, I ask unanimous consent, Mr. President, that we set aside the Legal Services Corporation Act and proceed to the consideration of Senate Concurrent Resolution 31 for 1 hour and then proceed to vote thereon.

The PRESIDING OFFICER. Is there objection?

Mr NELSON. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. FORD. Mr. President, will the Senator yield?

Mr NELSON. I wish to explain my objection. I would guess that when the roll is called, we will have a minimum of 80 votes in favor of the legal services legislation, maybe 90. It is a program that has been in existence for many years. I am not sure, the way I see things developing, that if we do not stay on the bill we are going to get an extension of the authorization. I just want to point this out.

However, I think we should vote on the air bag question.

Mr. GRIFFIN. When does the Senator wish to vote on it?

Mr. NELSON. As soon as we get a time agreement and finish the legal service legislation.

Mr. GRIFFIN. What if we cannot get an agreement?

Mr. NELSON. Legal services is in exactly the same position. The authorization expires at the end of this month. We can settle the issue with a time agreement very easily.

I might say the passive restraint question is probably a debate over nothing anyway because the House of Representatives has the resolution blocked in committee thus far, and it probably is not coming out of committee in the House. No matter what we do here it is likely to make no difference at all.

Mr. GRIFFIN. Of course, if this can be stalled along another day or so then the Senator will have a very much stronger argument in that respect, will he not?

Mr. NELSON. In what respect?

Mr. GRIFFIN. As far as the House being unable to act. But if the Senate would act tonight and send it over to the House, they would have more time to do something with it.

Mr. CRANSTON. If I could speak for one moment, I wish to say that it is by no means entirely—it may be in part—an effort related to legal services that causes objections. I believe the objections stem primarily from those interested on the pro side of air bags and not from their concerns about legal services which is quite secondary in their thinking. Nonetheless, I hope very much that we can work out an agreement and get an up and down vote on that.

Mr. GRIFFIN. When do those people who are for air bags want to vote?

Mr. NELSON. They will have to speak for themselves on that. They have been objecting up to now to our efforts to achieve a time agreement. I think we can accomplish one shortly.

Mr. GRIFFIN. If we are not going to adjourn, why can we not take up the air bag resolution now?

Mr. FORD. Let me make a point or two if I may. I am entirely in agreement with

the Senator from Alaska. We had a long discussion in regard to this procedure, and he gave me some insight from his past experience that was very valuable, and I appreciated that very much.

The Senator from Michigan is not fooling anyone here. The Senator from Michigan had been involved in trying to work out time agreements when he was a minority whip. He understands what the procedure is we are going through now, and I also remind the distinguished Senator from Michigan that we are not voting for or against air bags. We are voting on a passive restraint regulation as submitted to this Congress by the Secretary of Transportation. It has gotten into the position where everyone refers to it pro or con air bag, but actually it is a passive restraint regulation that has been presented by the Secretary of Transportation.

I assure both Senators who are on their feet that we are working and at least we have hopes of working things out, and I am not going to do anything to prohibit the distinguished Senator from Wisconsin from trying to do what he thinks is right also. I think we have an air of attempt at cooperation, and I hope, and I wish the Senator would quit pushing so much. I understand his position. But we are also pushing, and I have told him I was making an effort to work it out.

Mr. ROBERT C. BYRD. Mr. President, who has the floor?

The PRESIDING OFFICER. The Senator from Michigan does.

Mr. ROBERT C. BYRD. Will the Senator yield to me briefly?

Mr. GRIFFIN. Yes, but first I want to make it clear that I understand and appreciate the difficulties of the majority leader. He has been trying to work out an agreement and I understand that. It is my background and experience, I guess, that also makes it clear to me what is going on here. Although the majority leader is trying to get an agreement there is a strong likelihood that he will not get an agreement with respect to the legal services legislation. If that is the case then it is quite obvious that this is being used by others as a convenient way of avoiding a meaningful vote altogether on the air bag issue.

They can do that if they want to. I just want to be sure that everyone knows that is what they are doing.

I yield to the distinguished majority leader.

Mr. ROBERT C. BYRD. I thank the distinguished Senator very much.

Mr. President, the legal services bill is the unfinished business, and earlier today I secured an order providing for going to—I will refer to it as the air bag matter upon the disposition of the legal services legislation.

Throughout the afternoon I have been trying to work out an agreement. Various Members on my side of the aisle have been assisting in the matter, and I have just left the minority leader's office, where I stated to the minority leader that I could give an agreement on the air bag matter of 1 hour for debate for the tabling motion which would probably be made, but if the tabling motion failed, assuring that there would be an up-or-down vote on the air bag issue. Also, I expressed the hope that we could get an agreement on the legal services bill, because I think that is tied in with the air bag issue.

May I say to the Senator that as far as the air bag issue is concerned, we are ready to get an agreement on that for an up-or-down vote tomorrow, and hopefully we can also get an agreement on the legal services bill that would allow us to dispose of both issues tomorrow.

Mr. GRIFFIN. Is the majority leader, then, ready to propound the request that we vote on the air bag resolution tomorrow?

Mr. ROBERT C. BYRD. No, I am waiting for the minority leader. He had some other Senators he wished to consult.

Mr. GRIFFIN. If the majority leader wishes, he could go ahead and get an agreement that when the air bag issue is taken up, there will be a limitation of 1 hour on the motion to table.

Mr. ROBERT C. BYRD. If the distinguished Senator will permit me, I would rather await the minority leader having an opportunity to finish his consultations, so we can wrap up both matters in one package.

Mr. GRIFFIN. I would wish very much that could be done, but I have dropped in on some of the sessions, and my impression is that it could take weeks.

I think the question I am raising here is, what do we do about the air bag resolution if such an agreement is not reached?

Mr. ROBERT C. BYRD. I still hope we can reach an agreement on both.

Mr. NELSON. Mr. President, will the Senator yield?

Mr. GRIFFIN. Yes; I am happy to yield to the Senator from Wisconsin.

Mr. NELSON. I just want to say for clarification, for the record, that I am ready to vote on air bags at any time.

Mr. FORD. I thank the Senator very much.

Mr. NELSON. I do want the record to show, though, that the Legal Services Corporation Act amendments of 1977, which was finally brought up yesterday, was reported out of the Human Resources Committee some 5 months ago; so it was at that desk for some 5 months. We tried and tried to get this legislation considered by the Senate but we were always told, "Oh, no, we cannot get an agreement as to time, we cannot get it brought up."

Time went on, and all of a sudden it was the August recess, and we could not take it up then for fear it would interfere with that. We went on through the August recess, and finally we have it up before the Senate, after 5 months. It is not anything more than an authorization for the Legal Services Corporation. As a matter of fact, the money for the Corporation has already been appropriated for fiscal year 1978, the money that is to be authorized in this bill. Appropriated funds are already being spent for fiscal 1978 to support the Legal Services Corporation.

So I think it is necessary and important that we continue until we finish this bill, even if that busts up our intended time to adjourn. I do not like that, but it is a very important matter, and I think after 5 months of delay in getting it brought before the Senate, that it is not unreasonable for me, as the manager of the bill, to say, "Let us keep on it until we finish it."

Mr. GRIFFIN. Mr. President, if the distinguished Senator from Wisconsin will just stand by, because he may want to respond, it having been indicated that 1 hour would be an adequate time to debate this matter, I ask unanimous consent that at 1 o'clock tomorrow the Senate take up Senate Concurrent Resolution 31.

Several Senators addressed the Chair.

Mr. NELSON. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. NELSON. Mr. President, I will amend that unanimous-consent request to take care of all this. I ask unanimous consent that a time limitation of 5 hours on all amendments to the legal services bill be established, and that as soon as that expires, there be 1 hour on the passive restraints measure, and that we finish them both in 6 hours.

The PRESIDING OFFICER. Is there objection?

Mr. STEVENS. Mr. President, I am constrained to object in behalf of absent Senators.

The PRESIDING OFFICER. Objection is heard.

Mr. JAVITS. Mr. President, Senator STEVENS should not have to bear that burden. I am strongly for the bill, and I would object, because there are absent Senators who would object had they known this request would be made.

The PRESIDING OFFICER. Objection is heard.

Mr. NELSON. Does the Senator from Michigan yield the floor?

Mr. GRIFFIN. Let me yield to the majority leader.

Mr. ROBERT C. BYRD. I was going to suggest the absence of a quorum, so we could continue in our efforts to arrange an agreement on both bills.

Mr. STEVENS. Mr. President, if the Senator will allow me to make a statement? We have obtained a commitment from the insurance industry on the way air bag repacking will be handled by that industry. I think it is imperative that this be stated for the record so that the public understands it. I think it is also imperative for the public to realize that the 1979 and 1980 models of American-built motor vehicles will not have air bags or passive restraints. The requirement for this safety standard does not become effective until 1981.

I think every Senator ought to understand the possible ramifications of this issue. Even though I disagree with my friend from Michigan, I feel compelled to warn him that if we vote to disapprove the requirement for air bags, we are going to get a lot of mail from people who have been injured, asking, "Where were the air bags or passive restraints? I thought the Senate mandated them."

We are passing legislation mandating passive restraints in the future but the public is not going to understand why we are taking this action unless it is fully

explained here. I think our reasons should be made clear, and I think the commitment of the insurance industry to handle the repacking costs should be made known and put on the record for the information of everyone concerned. The availability of this information is necessary for the protection of the public.

So I think it is imperative that we get this matter before the full Senate and, therefore, have an opportunity to discuss the problems involved. Even though, as I say, I disagree with the Senator from Michigan, I think it is time we try this safety feature, and I think we ought to stress that that is just what we are doing, trying it, because no one has proved for certain that this feature will work.

Mr. GRIFFIN. Mr. President, at the suggestion of the majority leader, I make the point of order that a quorum is not present.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. SPARKMAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

NOBEL PEACE PRIZES FOR 1976 AND 1977

Mr. KENNEDY. Mr. President, all of us who share the desire for world peace and human rights welcomed yesterday's news of the award of the Nobel Peace Prizes for 1976 and 1977 to Betty Williams and Mairead Corrigan of the Northern Ireland Peace People and to Amnesty International.

The rise of the Women's Peace Movement in Northern Ireland last year was one of the most significant developments in recent years in the search for peace in Northern Ireland. It began as a cry from the heart of two courageous Catholic women against the horror of the daily violence in their lives.

The rapid and spontaneous growth of the peace movement was a dramatic symbol of the enormous grassroots desire for peace among the ordinary citizens of Northern Ireland. The movement drew broad support from both parts of the community in Northern Ireland, Protestant and Catholic, and it demonstrated the vast reservoir of hope for peace that cuts across sectarian lines in that troubled province.

Because of the peace movement and the efforts of Betty Williams and Mairead Corrigan, political leaders on both sides in Northern Ireland, the governments in London and Dublin, and people throughout the world are now more aware of the basic desire of ordinary citizens for peace and an end to the violence that has gone on so long.

As we congratulate these two courageous women for the outstanding honor they have received, we also hope that their award will bring new encouragement to their own efforts and the efforts of many others in the ongoing search for peace.

Mr. President, we also commend Amnesty International for the Nobel Peace Prize it has received. Its tireless efforts around the globe have brought hope for many victims of political oppression and injustice in many different lands. Because of the work of this outstanding organization, the goal we share of bringing freedom and human rights to all peoples in all nations is closer to reality.

Mr. President, the two Nobel Peace Prizes awarded yesterday share a common theme, the power of individual human beings, acting together as private citizens, to make a difference in their own communities and in the world around them. As my brother Robert Kennedy told the students at the University of Capetown on his visit to South Africa in 1966:

> Each time a person stands up for an ideal, or acts to improve the lot of others, or strikes out against injustice, he sends forth a tiny ripple of hope, and crossing each other from a million different centers of energy and daring, those ripples build a current that can sweep down the mightiest walls of oppression and resistance.

The ripples of hope sent forth by the Peace Women of Northern Ireland and Amnesty International have helped to bring the world closer to peace and human rights. We honor them now for the prizes they have received and for the great recognition they have earned.

Mr. President, I ask unanimous consent that a collection of news articles and editorials on this year's Nobel Peace Prizes may be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the New York Times, Oct. 11, 1977]

NOBELS GO TO TWO ULSTER WOMEN AND TO AMNESTY INTERNATIONAL

(By Robert D. Hershey, Jr.)

OSLO, October 10.—Two women who ignored danger in campaigning for peace in Northern Ireland were today belatedly named winners of the 1976 Nobel Peace Prize. At the same time, Amnesty International was named winner of the 1977 prize.

The two Northern Ireland women, Mairead Corrigan and Betty Williams, were awarded the 1976 prize jointly for their movement to end the violence between Roman Catholics and Protestants in the British province.

"Their initiative," the Nobel Peace Committee said, "paved the way for the strong resistance against violence and misuse of power which was present in broad circles of the people. Mairead Corrigan and Betty Williams acted from a deep conviction that the individual person can make a meaningful contribution for peace through constructive reconciliation."

Amnesty International, the London-based human-rights organization, was cited as a "bulwark" against increased brutality and the internationalization of violence and terrorism.

"Its efforts on behalf of defending human dignity against violence and subjugation have proved that the basis for peace in the world must be justice for all human beings," the committee said.

Mrs. Williams, 34 years old, and Miss Corrigan, 33, were understood to have been favored by the five-member selection committee last year but they could not be given the prize then because they had begun their peace-campaign several months after the Feb. 1 deadline for nominations.

Instead, 22 Norwegian newspapers raised $325,000 and awarded it to the women as a so-called "People's Peace Prize." They used the money to set up a trust fund to provide care for orphans, create jobs and begin other community projects to ease the effects of the Ulster fighting.

Mrs. Williams and Miss Corrigan, who will share a prize of $142,000, launched their peace movement after seeing three children killed by the getaway car of fleeing Irish Republican Army guerrillas in Belfast. Miss Corrigan was an aunt of the dead children.

The campaign met with widespread support in Northern Ireland, where sectarian strife has claimed more than 1,700 lives since 1969, and also attracted a tide of international sympathy.

Not since 1946, when Emily Balch, an American pacifist leader, shared it, has a woman won the Nobel Peace Prize. The prizes were established under the will of the Swedish chemist Alfred B. Nobel, the inventor of dynamite.

This is the first time since the early 1960's that two Peace Prizes have been announced at the same time. Dr. Linus C. Pauling was given the 1962 prize in 1963, when the International Red Cross was also named.

Today's announcement was made in the old Nobel Institute, near the heart of Oslo, by Aase Lionaes, chairman of the committee. She read the two brief citations in Norwegian, then a shortened English translation.

Mrs. Lionaes said the award to Amnesty International was intended to mark 1977 as prisoner of conscience year.

"In a world of increasing brutality, internationalization of violence, terrorism and torture, Amnesty International used its forces for the protection of human values," the citation said.

Amnesty International, which was founded 16 years ago in London as a voluntary group to assure human rights around the world, now has 100,000 members in 33 countries who seek to promote human rights through public reports citing violations of those rights.

A Nobel official, asked whether the committee had planned for over a year to give the 1976 award to Mrs. Williams and Miss Corrigan, said, "It's easy to assume so."

The Peace Prize and the Prize in Literature have been the most controversial of the five prizes awarded since 1901. The award of a sixth, for economics, was begun in 1969.

In 1973 two members of Norway's Parliament resigned in protest from the committee that selected Henry A. Kissinger and Le Duc Tho of North Vietnam. Parliament agreed then to study the possibility of reorganizing the peace prize committee, which until this year consisted mostly or entirely of members of Parliament.

Mrs. Lionaes said today, however, that the only change was to rename the committee last year the Norwegian Nobel Committee from the Nobel Committee of the Norwegian Parliament.

COMMITTEE "ABSOLUTELY INDEPENDENT"

"People have accepted the fact that the committee is absolutely independent of Parliament," Mrs. Lionaes declared. Since the last announcement of a peace prize, to Andrei S. Sakharov in 1975, two committee members have left Parliament, with the result that today's winners were the first picked by a committee with no parliamentary members. All but Mrs. Lionaes are men.

The presentation of the peace prices will be in Oslo. All the others are made in Stockholm on Dec. 10, the anniversary of Nobel's death in 1896.

[From the New York Times, Oct. 11, 1977]

TWO BATTLERS FOR PEACE: MAIREAD CORRIGAN AND BETTY WILLIAMS

(By Roy Reed)

LONDON, October 19.—Mairead Corrigan and Betty Williams now look like a match made in heaven, but they were a distinct long

shot for the Nobel Peace Prize when they met 14 months ago in Belfast.

Miss Corrigan, now 33 years old, was a quiet young woman working as a secretary. She was a deeply religious Roman Catholic and was known as a good family person, attentive to the people closest to her. Mrs. Williams, now 34, had two children and was married to a merchant seaman. She had no outside work and was also known as a family person. Neither had ever been involved in any public activity beyond church, school and home.

On Aug. 10, 1976, a British soldier shot the driver of an Irish Republican Army getaway car in the Andersonstown section of Belfast, not far from the Williams home. The car veered and struck three children, killing them. They were the children of Mairead Corrigan's sister.

Mrs. Williams made the first move that was to bring the two women together and ignite a movement. She went into Andersonstown, a stronghold of the I.R.A., and began asking strangers to sign a petition for peace and an end to the killing that had taken hundreds of lives on both sides since the late 1960's.

FIRST MARCH ATTRACTED 200

As part of the petition drive, she and some friends organized a small peace march. It attracted about 200 women.

Miss Corrigan saw it pass her house. She joined it, and she and Betty Williams that day became the joint leaders of a virtually spontaneous mass movement.

Ten thousand people marched with the two women the Saturday after the children were killed, and 20,000 a week after. Almost overnight, the "Peace Women" became a phenomenon. People all over the British Isles and in many other European countries sent money, letters and encouragement. Today, in Oslo, they received their greatest encouragement yet, the Nobel Peace Prize for 1976.

It was perhaps predictable that Mrs. Williams would have acted first. She is outgoing, emotional and aggressive. She is not ashamed to weep in public when her feelings overflow.

Mrs. Williams was also somewhat more conditioned to hatred than Miss Corrigan, who as a Catholic was a member of a religious and political minority in Northern Ireland. But Mrs. Williams was part of a smaller and even more despised minority. She was a Catholic married to a Protestant. Many on both sides consider mixed marriage almost treasonous.

FORMIDABLE PLATFORM PERFORMANCE

Miss Corrigan is as quiet as Mrs. Williams is talkative; she is spiritual and reserved. They make a formidable pair on the platform, the tall Mrs. Williams exhorting the crowd and the slight Miss Corrigan inspiring it.

How effective they have been in Northern Ireland is a matter of continuing debate. The Community of Peace People, as their organization is now known, is cautious about taking credit for the somewhat improved security situation in the province.

Mrs. Williams said at a meeting in London today, "During the 14 months since the movement started violent deaths in Northern Ireland have dropped by 54 percent. We hope this has something to do with our movement. We have not yet brought peace to Northern Ireland. We have created a climate for peace to become respectable."

The movement has seemed in recent months to be searching for direction. The two women have continued to travel widely, in and out of Northern Ireland, speaking to various groups and raising money. But at home the organization has shown signs of uncertainty.

PARTY INVOLVEMENT AVOIDED

The third major force in the movement is a former journalist named Cieran McKeown, who is recognized as the ideological leader. With the backing of Miss Corrigan and Mrs. Williams, Mr. McKeown has tried to steer the peace organization into what they call "community politics." They avoid party involvement, which would immediately cost them support from one side or the other in the conflict, but the mere mention of "community politics" has made many people skittish.

Organizational policy was fiercely debated at a meeting last weekend in Belfast before the 200 delegates ended with what one newspaper called a "woolly compromise" that essentially left the matter open.

Among other things, the organization has to decide how to spend the $140,000 of Nobel Prize money and an other $340,000 from the Norwegian Peace Prize that it won earlier. It has bought a headquarters, started a few dozen local chapters around the province and invested in some small community-center buildings. It has tried to help former terrorists find new lives in other countries, but it won't say how many it has helped so far. It sponsors gatherings to let Catholics and Protestants get acquainted.

There was some surprise in Belfast that the two women had won the Nobel Prize. Their organization has not been nearly so active recently as it was last year. The leaders said last spring that the group still had some 7,000 to 8,000 active adherents; the figure probably has decreased since then.

NEW CAMPAIGN IS PLANNED

Mrs. Williams said last weekend that some feared the peace movement was dying. "Well, I won't let that happen," she said.

The delegates voted to start a new door-knocking campaign to win peace recruits.

Miss Corrigan said today in Belfast that she would like to see some of the prize money go to other troubled countries, especially in furthering nonviolence.

"Other places are far worse off than we are," she said. "We have our problems but there are peop'e starving elsewhere. The world has been generous to us and let us be generous to the world."

[From the New York Times, Oct. 11, 1977]

AMNESTY UNIT, 16 YEARS OLD, USES BOTH PRESSURE AND PUBLICITY

(By Tom Goldstein)

Amnesty International, the London-based group that won the 1977 Nobel Peace Prize, began with a newspaper article 16 years ago calling for formation of such an organization.

"Pressure of opinion a hundred years ago brought about the emancipation of the slaves," wrote Peter Benenson, a lawyer, in The Observer. "It is now for man to insist upon the same freedom for his mind as he won for his body."

In founding the organization, Mr. Benenson had powerful allies, including David Astor, publisher of The Observer, and Conservative, Liberal and Labor Members of Parliament.

Since its establishment, Amnesty, which presses for the release of individuals imprisoned for their political or religious beliefs, has grown into the world's large human rights organization, with more than 10,000 dues-paying volunteers in 78 countries.

But it has only a modest staff of researchers and investigators working on a yearly budget of $500,000, and so it has relied heavily on publicity in trying to shape opinion.

From headquarters that resemble an election campaign office in central London, the staff issues a continual stream of reports on human rights violations in individual countries and affecting groups of individuals, around the world. It has also issued reports alleging torture in Israel, Brazil and Chile and by the British in Northern Ireland.

It has "adopted" and worked for the release of thousands of prisoners in Communist countries, has intervened for dissenters in the Soviet Union, and has published an English translation of The Chronicle of Current Events, an underground publication written by Soviet dissidents.

A favorite technique of the group is a mass mailing campaign to a regime holding a prisoner the group "adopted."

"The avalanche of mail bags is still the biggest annoyance to most governments," said Sean MacBride, a founder of Amnesty and former Foreign Minister of Ireland, a few years ago.

"Mail piles up," said Mr. MacBride, who won a Nobel Peace Prize himself in 1974. "It's a nuisance. Sooner or later the matter is at Cabinet level and everyone is wondering whether the prisoner is worth all this trouble. The answer frequently is no."

According to the group, in the last seven years it has involved itself in cases of more than 15,000 political prisoners and helped gain the release of more than half of them.

DISAPPROVAL OF VIOLENT METHODS

From the start, the group has declined to adopt prisoners who use or advocate violence.

In its campaigns to help free political prisoners and to end torture, the group has not escaped criticism.

It has been called imperialistic by the Soviet Union, politically motivated by South Africa and meddlesome by Argentina.

Earlier this year, an animal-protection group accused Amnesty of conducting "horrendous and disgusting" experiments on hogs. Jon Evans, president of the Association Against Painful Experiments on Animals, said the tests, which involved electric shocks and red-hot metal rods, were "valueless, serving no practical purpose at all."

Martin Ennals, general secretary of Amnesty, said the experiments were carried out on anesthetized hogs to determine whether torture inflicted with cattle prods would leave any marks. He said the experiments, which were conducted in Denmark, were necessary as a test of human torture techniques.

But generally, the work of the group is well received. Its research staff, whose members can work in 21 languages, collect and analyze data culled from many sources, including visits to prisons and interviews with the families of victims.

"CLUSTERS" OF EVIDENCE ASSEMBLED

Amnesty considers that it has verified information only when it has used a "cluster of evidence," Anthony Blane, a professor at the City University of New York and the first American to serve on the group's nine-member executive committee, said recently.

Some of its findings, such as an estimate of 50,000 prisoners in Indonesia, have been criticized as exaggerated by the State Department, but its report that torture is practiced as government policy in more than 60 countries is generally believed.

In London yesterday, Mr. Ennals said: "What we would like to be is nonexistent—unemployed. But torture is now widely practiced and is becoming more systematic, although world opinion is now much more hostile to it."

In Stockholm, Thomas Hammarberg, a Swedish journalist and chairman of Amnesty, said the prize money of $145,000 would be used to expand its work in "countries where we are weak, including parts of Asia and Latin America where there is a great demand for our help."

The award coincided with the annual "Amnesty Week," when the organization presents a summary of its work on behalf of political prisoners in dozens of countries.

[From the New York Times, October 11, 1977]

AMNESTY CHIEF FOR U.S. SEES LONG STRUGGLE

(By Pranay Gupte)

He had fully intended to take Columbus Day off, David Hawk was saying yesterday,

and then someone called with the news that Amnesty International had been awarded the 1977 Nobel Peace Prize.

"It was imposible to stay home after that, of course," said Mr. Hawk, Amnesty's executive director in the United States. "My staff of nine and I rushed to the office and it has been one telephone call after another."

"We're honored and very moved at the prize," he said. "But we're not celebrating. The time when we're going to celebrate is when there is no more torture and atrocities committed by governments around the world."

He and his London-based organization may have a long wait, considering the continuing allegations of mistreatment of political prisoners in such countries as Uganda and Chile, among others. But the intensity and passion with which Mr. Hawk delivered that remark have characterized his work, and that of his staff here, for several years.

MESSAGES ARE GRIM

Like Mr. Hawk, the staff members are young, mostly in their late 20's or early 30's. They work out of fourth-floor offices at 2112 Broadway, near West 74th Street. Colorful posters decorate the walls, but their messages are grim since they all illustrate the violation of human rights in many parts of the world.

"You know," Mr. Hawk said, "we really want to go out of business some day, when torture stops, but for now we are building up a grass-roots movement to marshal American public opinion."

The American Amnesty organization consists of 115 chapters in 32 states with an annual budget of $750,000, of which about $150,000 is channeled to Amnesty's headquarters in London, where most of the research on political prisoners is conducted.

Amnesty's tactics in this country largely involve getting sympathizers to send telegrams and letters to representatives of governments charged with violating human rights. These protests are directed to officials of the governments based in the United States and in foreign capitals.

UNFAVORABLE REACTION

The Chilean Government is a frequent target of Amnesty International, and yesterday Chile's representatives at the United Nations said they were not favorably impressed by the award of the Nobel Prize to the organization.

"Amnesty is always picking on us," a Chilean diplomat said sourly, adding that the organization did not focus "enough" on the Soviet Union and Eastern European countries.

The representative of one Eastern European country, Czechoslovakia, was not pleased with the award either. The prize, he said, was much too "Western-oriented."

But the reaction of Western diplomats at the United Nations yesterday reflected both surprise and delight.

"It's a clear signal that human rights is now a dominant issue in the global community," a Western European diplomat said.

[From the Washington Post, Oct. 11, 1977]

AMNESTY GROUP, ULSTER WOMEN WIN NOBEL PRIZES

(By Bernard D. Nossiter)

LONDON, October 10.—The human-rights lobby Amnesty International was awarded the 1977 Nobel Peace Prize today. The Nobel committee also awarded the 1976 prize retroactively to two Catholic women who led a peace movement in Northern Ireland.

Amnesty, a London-based volunteer group that turns a spotlight on political prisoners and torture in all corners of the world, was cited for its defense of human values against degradation.

The two women were honored for their attempt to waken the conscience of Northern Ireland against the campaign of bombings and shootings that has lasted there for more than eight years.

The prizes—700,000 Swedish Kroner or about $145,000 each—were announced by the Nobel committee of the Norwegian Parliament in Oslo. The committee made no award last year in order to keep the prize open for the pair, Mairead Corrigan and Betty Williams, whose nominations had arrived late.

The two women expressed surprise and joy. Corrigan, 33, said through her tears, "I am absolutely stunned and delighted. I feel very humble. I accept the prize on behalf of everyone throughout the world who works and longs for peace."

Williams, 34, was at a Savoy Hotel luncheon here to honor the peace movement when she heard the news.

"Words fail you," she said. "I felt deep down in my heart we don't deserve this. We've only been going 14 months and other people have been going for years. But I know how hard we worked and perhaps after all we have earned it."

Their movement, which they call the Peace People, was launched in August 1976 when Williams saw three children run over and killed by a runaway car. Its driver, described as an Irish Republican Army gunman, had been shot by British soldiers. Corrigan, who had once thought of joining the IRA herself, was the three children's aunt. She joined Williams' appeal to Catholics and Protestants alike to stop supporting the violence and work for peace.

For several months, the pair caught the imagination of Ulster and the world. They drew as many as 20,000 marchers, Catholic and Protestant, for one rally alone. Nearly $1 million poured in on them from West Germany, Norway and elsewhere.

The movement has never been clear about how peace should be achieved, however, and its stated aim—an end to violence—is shared even by gunmen in Ulster. Williams, Corrigan and their chief ally—a former journalist, Ciaran McKeown—have toyed with the idea of non-sectarian politics, of creating local community peace organizations to compete with existing politicians. But this proposal has divided the movement.

Sophisticated observers in Ulster agree that the movement is now irrelevant, taken seriously only in the outside world. The movement, they say, has become futile because it refuses to come to grips with the questions of politics and power that lie behind Ulster's violence—Protestant demands for preponderant influence, Catholic insistence on equal rights; the debate over whether Ulster shall stay in the United Kingdom, join the Irish Republic or go independent.

Since the peace movement began, there has been a murder almost every other day and more than one bombing each day, but the curve is declining. Comparing the first eight months this year with the same period last year, killings have gone down from 222 to 96, shootings from 1,327 to 892 and bombings from 464 to 225.

In private, British authorities give Corrigan and Williams some credit, saying that more citizens are now giving information to the police and army.

Their Nobel citation says they "acted out of a deep conviction that individual people can do meaningful efforts for peace through conciliatory work."

There is less question over the effectiveness of Amnesty, especially in a year when President Carter has insisted on human rights as a major foreign policy issue.

Amnesty, started in 1961, "adopts" the cause of political prisoners throughout the world. Last year, it was championed 3,650 prisoners in 107 different countries.

The organization campaigns strenuously for the prisoners' release and has not hesitated to publicize the torture to which many are subjected. Its files and contacts are so highly valued that several attempts have been made to break into Amnesty's offices, probably by intelligence agencies.

The organization's strength lies in its accuracy and its political impartiality. It fights abuses in Western and Eastern Europe, in the developed and the so-called developing world. It has attacked repression in Brazil and Bulgaria, Chile and the Soviet Union, South Korea and Guatemala. One report condemned British interrogation practices, since abandoned, in Ulster.

Human rights has enjoyed a great boom his year and Amnesty has benefitted. Its organization in the United States has expanded rapidly, and its London budget has almost doubled to $1,225,000.

A year ago, Amnesty's 66 full-time workers labored in a grimy loft. Now the staff has grown to more than 100 enjoying more spacious offices.

Amnesty can point to hundreds of its adopted prisoners who have been freed, although no one knows how much its pressure has counted. It is not thought likely that torture is on the wane, but Amnesty has at least embarrassed several governments.

In a sense, this is the second time that Amnesty has been honored by the Nobel committee. Sean MacBride, the organization's former director, won the Peace Prize in 1974.

Martin Ennals, Amnesty's secretary-general, called the prize "an award for human rights," adding: "People in political prisons and peace are similar and linked."

The prize committee noted that 1977 is "the year dedicated to prisoners of conscience" and said that Amnesty is trying "to protect this group of prisoners against treatment contrary to human rights.

"With its activities to defend human values against degradation, violence and torture. Amnesty International has contributed to safeguard the foundation for freedom and justice and thereby also our peace in the world."

Reuter reported from Oslo:

The two prizes, which include Nobel gold medals and diplomas as well as the money, will be presented at a ceremony in Oslo Dec. 10, the anniversary of the death in 1896 of Alfred Nobel, the Swedish inventor of dynamite who endowed the awards.

Following announcement of the award, Amnesty issued a call to governments to release all prisoners of conscience and to abolish torture and the death penalty.

The award to Amnesty was hailed by Soviet dissident Andrei Sakharov, who said the organization was a major international influence due to its "fearless defense of human rights." Sakharov won the Peace Prize in 1975.

The Swedish Royal Academy of Sciences will announce the winners of the 1977 Nobel prizes for physics and for chemistry in Stockholm on Tuesday.

[From the Washington Star, Oct. 11, 1977]

ULSTER WOMEN, AMNESTY GROUP AWARDED NOBEL PRIZES FOR PEACE

OSLO, NORWAY.—Nobel Peace prizes have been awarded to two "grassroots" peace movements—two Catholic women working to halt violence in Northern Ireland and an international group fighting human rights violations.

The Nobel committee awarded the 1977 Peace prize to Amnesty International yesterday because its work for political prisoners around the world helped "protect the value of human life."

Betty Williams and Mairead Corrigan won the 1976 prize for the Women's Peace Movement they formed in Northern Ireland. They Nobel committee had said last year that the 1976 Peace prize could be awarded this year.

Peace prizes in previous years have gone to controversial figures such as Henry Kis-

singer and North Vietnam's Le Duc Tho. But Nobel officials said the 1976 and 1977 winners "are grassroots movements which should be backed by most people."

Thomas Hammarberg, chairman of the International Executive Committee on Amnesty International, said the group would use the $145,000 prize money to build up its organization.

"Our work is important because there are political prisoners in 60–70 countries. In more than 40 countries people are tortured and in more than 120 countries there still is the death penalty, increasingly used for political crimes," he said.

Hammarberg said Amnesty International has 180,000 members in 107 countries. The group was formed 16 years ago by British lawyer Peter Berenson.

In Belfast, Corrigan wept when told she and Williams, both Catholics from Belfast, had won the 1976 prize worth about $142,000.

"There were so many people that deserved it that the prize came as a total surprise," she said. "It is a great honor and a tremendous responsibility for us to show the world that we can win the battle for peace in Northern Ireland."

The Nobel committee said the two women "acted from a deep conviction that the individual person can make a meaningful contribution for peace through constructive conciliation work."

The award to Williams and Corrigan has put their peace movement back in the headlines, but it could heighten jealousies and divisions within the 14-month-old crusade.

The delayed award to the two founders of Northern Ireland's Peace People underlined that the organization is more popular and respected abroad than it is at home.

Williams, 34, and Corrigan, 32, are considered heroines in the United States and in Western Europe. But in Northern Ireland their campaign to end eight years of warfare is beset by ideological squabbles, dwindling support and criticism of the women's leadership.

A hard-core membership of 8,000 doggedly press on, braying terrorist threats and abuse to try to bring the warring Roman Catholics and Protestants together. But much of the crusade's early support has fizzled out.

"We haven't really stopped the violence and we've hardly dented sectarianism at all," one peace worker commented bitterly. "But we stick to it because the only alternative is continuing violence and the rule of the gun."

The movement was launched Aug. 10, 1976, after a guerrilla's runaway automobile killed three small Catholic children in Belfast. Their deaths set off an emotional tidal wave that brought thousands of Protestants and Catholics together for the first time in years. Though the violence continues, the fervor has gradually diminished.

Foreign tours by Williams and Corrigan made them media superstars. But local critics said they should travel and work more on the grim realities at home. Leaders of less publicized peace groups were angered.

The women launched the campaign more than six months after the February 1 deadline for peace prize nominations last year, when all 50 candidates were rejected and no award was given. A Soviet dissident, Andrei Sakharov, won it in 1975.

Mrs. Williams said in London: "We've only been going 14 months and other people have been going for years. But I know how hard we worked and perhaps after all we have earned it."

Miss Corrigan, moved to tears by the news, said in Belfast: "I accept the prize on behalf of everyone throughout the world who works and longs for peace [and] the many people who have suffered and have been jailed in the interests of promoting peace."

The prizes are worth $141,600 to Mrs. Williams and Miss Corrigan and $145,000 to Amnesty International.

Amnesty was the 10th organization to win the peace prize. In selecting it over 53 other candidates, the Nobel committee called 1977 "the year dedicated to prisoners of conscience."

The organization, it said, "has given practical, humanitarian and unpartial support to people imprisoned because of their racial, religious or political beliefs."

Amnesty was founded in 1961 by a British attorney, Peter Benenson. Sean MacBride, of Ireland, a former peace prize winner, once served as its chairman. It claims to be the largest human rights organization in the world, with about 50,000 members in more than 60 countries and a file of 15,000 cases.

The organization attempts to win freedom for political prisoners through publicity and lobbying, sends them comforts and letters, cares for their families, and hires lawyers and keeps watch on their court cases.

An Amnesty spokesman said: "We are delighted to win the Nobel Peace Prize. We knew our name had been put forward, but we had no inkling that we would win."

The Nobel committee cited the Ulster women's "initiative to end the violence which has marked the unfortunate disintegration in Northern Ireland, and which has cost so many lives."

"Mairead Corrigan and Betty Williams acted out of a deep conviction that individual people can do meaningful efforts for peace through conciliatory work," it said.

The two Catholic women launched their movement in August, 1976, after Mrs. Williams saw three children killed by a runaway car whose guerrilla driver had been shot by British soldiers in Belfast. Miss Corrigan was the aunt of the slain children.

Braving threats on their lives by extremists, they organized peaceful marches by thousands of Protestants and Catholics in Northern Ireland, the Irish Republic and England. Last year they traveled to the United States to urge Americans to stop sending money to the combatants.

So widespread was the sentiment in Norway for honoring them last year that Norwegian newspapers raised $325,000 and gave it to them as a "People's Peace Prize." They used the money for a trust fund to create jobs, care for orphans and repair the devastation in Ulster.

In a recent interview, Mrs. Williams said the peace campaign had passed "out of the limelight" and become a "grassroots" effort by more than 100 peace groups.

The women were the seventh and eighth Britons to win the peace prize and the first from Northern Ireland. Mr. MacBride shared the prize with Japan's Eisaku Sato in 1974.

Sixteen Americans have won the peace prize. The last was Henry A. Kissinger, who shared it in 1973 with his North Vietnamese negotiating partner, Le Duc Tho, for arranging a cease-fire in Vietnam. Le Duc Tho refused to accept the award.

[From the Baltimore Sun, Oct. 11, 1977]

AMNESTY GROUP, TWO WOMEN IN ULSTER WIN NOBEL PRIZES

OSLO.—Amnesty International, the London-based organization that works for political prisoners, and two women anti-war activists in Northern Ireland won Nobel Peace Prizes yesterday.

The Nobel committee of the Norwegian parliament awarded the 1977 prize to Amnesty International for 16 years of effort on behalf of "prisoners of conscience" and against torture and the death penalty.

It gave the 1976 prize to Betty Williams, 33, and Mairead Corrigan 32, for organizing a broad-based "Peace People's' movement to end eight years of fighting in their homeland between Protestant and Catholic extremists.

[From the New York Times, Oct. 11, 1977]

TWO NOBEL AWARDS

The Nobel Peace Prize is, most often, given for battles not won, for controversies not resolved, for struggles not over. That is the case for the awards announced yesterday—the 1976 prize to Mairead Corrigan and Betty Williams, the leaders of Northern Ireland's largest peace movement, and the 1977 prize to Amnesty International, the London-based worldwide organization devoted to securing freedom for "prisoners of conscience" in all lands.

The awards committee did well to name winners for both years. It named no winner last year because it found no nominee of sufficient stature. The Peace People—the grass-roots movement of Protestants and Catholics to end the civil war in Northern Ireland had only just started last year and the two women were nominated after the committee's deadline. It is right that they receive recognition now. But it is right, also, that in a year in which the issue of human rights has received wider attention than ever before, the award to Amnesty International should not be delayed.

The example of Miss Corrigan and Mrs. Williams and their supporters has given thousands—Protestants and Catholics—the courage to stand up aaginst extremists. Likewise, Amnesty International has brought hope to thousands, imprisoned and tortured for their political beliefs. The list would be very much longer but for the work of this genuinely international movement.

The war in Northern Ireland is not ended. Unjust imprisonment and torture probably will never end. But what the Nobel awards celebrate is the equal possibility that courage and decency, also, will endure.

[From the Washington Post, Oct. 11, 1977]

NOBILITY AND THE NOBEL AWARDS

This year the committee that selects the winners of the Nobel Peace Prize did its work exceptionally well. It awarded the 1976 prize, which had not been awarded last year, to Betty Williams and Mairead Corrigan, the young Ulster women who inspired the formation of the Northern Ireland Peace Movement. It awarded this year's prize to Amnesty International, the 16-year-old organization that works for the release of "prisoners of conscience" all over the world. There is something very fitting about the conjunction of these two awards. The recipients have a great deal in common, and in important ways they also complement each other.

What Amnesty International and the Northern Ireland Peace Movement have in common is founders, leaders and members who have no use for the abstract and the grandiose in their work, but who are given instead to modest, practical and—yes—heroic here-and-now efforts. They are dedicated to relieving human anguish in the situations they have chosen to address. They are each, in slightly different senses, apolitical, insisting that neither armed violence in the one case, nor political repression in the other, is an acceptable instrument of policy—irrespective of whether you happen to share the goals of the policy or not.

The two newly honored groups also have this in common: What success they have achieved is a tribute to the capacity of ordinary individual citizens to make a difference. The Nobel committee underscored the point in giving the 1976 award to the two Irish women whose revulsion against violence in Ulster was brought into focus by the death of three Belfast children, hit by a careening IRA car whose driver had just been killed by British bullets. "Mairead Corrigan and Betty Williams," the committee said, "acted from a deep conviction that the individual person can make a meaningful contribution for peace. . . ."

Amnesty International likewise had its origin in the determination of a few hardy souls to do something about the plight of people who were suffering at the hands of various governments for their political or religious views or because of their rate or ethnic background. In 16 years it has ac-

quired over 100,000 members, is represented in almost 80 countries and has managed, to its credit, to get on all the right enemies-lists—those of repressor governments of every political stripe in every part of the world. But in the course of this expansion, it has made a point of remaining faithful to its simple, direct techniques, a kind of human-rights "buddy system" whereby individual members accept responsibility for a few individual prisoners and organize the work in their behalf. .

So you could say that these two organizations share a special spirit and a special outlook. But there is a difference, too. The Irish group is above all else—as it must be—the sworn enemy of physical violence, Amnesty International the sworn enemy of political repression. Yes, the lines do cross, and neither group is indifferent to the principal concern of the other. We observe this distinction only by way of noting that the Nobel Committee, by this particular choice of recipients, has made an important statement of its own. It has said that peace is more than the absence of conventional war and that tranquillity achieved by locking up dissidents is no peace at all.

[From the Baltimore Sun, Oct. 11, 1977]

PEACE PRIZES

September was the first month in six years in which no violent civilian death occurred in Northern Ireland. The governments of Europe and North America are solemnly engaged at Belgrade in measuring human rights. Betty Williams and Mairead Corrigan contributed much to the first fact, and Amnesty International to the second.

The Nobel Peace Prize now awarded for 1976 honors ordinary persons struggling to bring peace to their own community. The 1977 prize, honoring those who toil for the rights of strangers, is not for peace at all but a human rights prize in this human rights year.

When the Norwegian Nobel Peace Prize committee awarded no prize last year, Norway's newspapers and people collected a "People's Peace Prize" for Mrs. Williams and Miss Corrigan. In fairness to the committee, the Northern Ireland Peace Movement was then barely two months old. Honoring the young who have decades left in which to disgrace the honor is always incautious. The delayed prize this year is a considered endorsement of a popular choice.

Amnesty International is not a mass movement but a lawyers' and researchers' pressure group, now 16 years old. Its concerns are to free those imprisoned for political religious views or ethnic origin, and to end torture of anyone imprisoned. Its weapons are fact and publicity. Sometimes its selections of cases have seemed to reflect political bias. Always it has the difficulty of establishing information that governments hide. With its steadily growing reach to all countries, Amnesty International's reputation as an authority has grown steadily and should continue to do so.

Mrs. Williams and Miss Corrigan braved death to bring women and men, Catholics and Protestants, into the streets together to repudiate the terrorists of Northern Ireland. Ciaran McKeown turned their emotional appeal into an organization. He deserves a share of their prize to the extent that personalities deserve it at all. The Peace People do not draw the crowds of last year, but their viewpoint is more widely expressed, and tolerance for terrorism is diminishing. The movement has wisely decided never to become a political party, but to stress the unity of its adherents and not their differences.

The Northern Ireland Peace Movement and Amnesty International are human institutions working to better the world, composed of imperfect people trying to do the jobs of saints when the saints cannot be found. They deserve all the help they can get, including help to maintain the purity of their objectives. The Nobel Prize is just what each needs.

PRIVILEGE OF THE FLOOR

Mr. DURKIN. Mr. President, I ask unanimous consent that during the debate and motions and votes on the legal services bill as well as Senate Concurrent Resolution 31, the following staff members may have the privilege of the floor: Ed Merlis, Tom Allison, Don Jaffe, Mike Brownlee, and Reid Ashinoff.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SPARKMAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS SUBJECT TO THE CALL OF THE CHAIR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess, awaiting the call of the Chair.

There being no objection, at 7:09 p.m. the Senate recessed, subject to the call of the Chair.

The Senate reassembled at 7:14 p.m., when called to order by the Presiding Officer (Mr. DURKIN).

TIME-LIMITATION AGREEMENT—S. 457

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at such time as Calendar Order No. 433, S. 457, is made the pending business before the Senate, there be a time agreement thereon as follows: Two hours for debate to be equally divided between Mr. CRANSTON and Mr. STAFFORD; that there be a time limitation on any amendment of 1 hour; a time limitation on any debatable motion, appeal or point of order of 20 minutes; and that the agreement be in the usual form.

The PRESIDING OFFICER. Is there objection?

Mr. BAKER. Mr. President, reserving the right to object, that request is fully cleared on this side, and we have no objection to it.

The PRESIDING OFFICER. Without objection, it is so ordered.

The text of the agreement is as follows:

Ordered, That when the Senate proceeds to the consideration of S. 457 (Order No. 433), a bill to amend sec. 1662(a) of title 38, United States Code, to extend the delimiting period for completion for certain veterans and under certain conditions, debate on any amendment shall be limited to 1 hour, to be equally divided and controlled by the mover of such and the manager of the bill, and debate on any debatable motion, appeal, or point of order which is submitted or on which the Chair entertains debate shall be limited to 20 minutes, to be equally divided and controlled by the mover of such and the manager of the bill: Provided, That in he event the manager of the bill is in favor of any such amendment or motion, the time in opposition thereto shall be controlled by the minority leader or his designee: Provided further, that no amendment that is not germane to the provisions of the said bill shall be received.

Ordered further, That on the question of final passage of the said bill, debate shall be limited to 2 hours, to be equally divided and controlled, respectively, by the Chairman of the Veterans' Affairs Committee and the ranking minority member, or their designees: Provided, That the said Senators, or either of them, may, from the time under control on the passage of the said bill, allot additional time to any Senator during the consideration of any amendment, debatable motion, appeal, or point of order.

TIME-LIMITATION AGREEMENT—H.R. 3387

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at such time as Calendar Order No. 421, H.R. 3387, is called up and made the pending business before the Senate, there be a time agreement thereon as follows: Two hours for debate divided between Mr. LONG and Mr. CURTIS; provided, further, that there be a time limitation on any amendment of 1 hour; a time limitation on an amendment by Mr. JAVITS of 2 hours: Provided further, there be a time limitation on an amendment by Mr. DOMENICI of 1½ hours; and provided further, that there be a time limitation on any debatable motion, appeal or point of order of 20 minutes, and that the agreement be in the usual form.

The PRESIDING OFFICER. Is there objection?

Mr. BAKER. Mr. President, there is no objection on this side.

The PRESIDING OFFICER. Without objection, it is so ordered.

The text of the agreement is a follows:

Ordered, That when the Senate proceeds to the consideration of H.R. 3387 (Order No. 421), an act to continue until the close of June 30, 1979, the existing suspension of duty on synthetic rutile debate on any amendment (except one to be offered by the Senator from New York (Mr. JAVITS), on which there shall be 2 hours, and one to be offered by the Senator from New Mexico (Mr. DOMENICI), on which there shall be 1½ hours) shall be limited to 1 hour, to be equally divided and controlled by the mover of such and the manager of the bill, and debate on any debatable motion, appeal, or point of order which is submitted or on which the Chair entertains debate shall be limited to 20 minutes, to be equally divided and controlled by the mover of such and the manager of the bill: *Provided*, That in the event the manager of the bill is in favor of any such amendment or motion, the time in opposition thereto shall be controlled by the minority leader or his designee: *Provided further*, That no amendment that is not germane to the provisions of the said bill shall be received.

Ordered further, That on the question of final passage of the said bill, debate shall be limited to 2 hours, to be equally divided and controlled, respectively, by the Senator from Louisiana (Mr. LONG), and the Senator from Nebraska (Mr. CURTIS):

Provided, That the said Senators, or either of them, may, from the time under their control on the passage of the said bill, allot

additional time to any Senator during the consideration of any amendment, debatable motion, appeal, or point of order.

BUDGET ACT WAIVER

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of the Budget Act waiver which is at the desk on S. 1582. It has reference to Calendar Order 425.

The PRESIDING OFFICER. Is there objection? The Chair hears none. The clerk will state the resolution by title.

The assistant legislative clerk read as follows:

Senate Resolution 274, waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 1582.

The Senate proceeded to the consideration of the resolution, which was agreed to as follows:

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1972, the provisions of section 402(a) of such Act are waived with respect to the consideration of S. 1582. Such waiver is necessary because it would provide relief for the emergency water crisis facing the Ak-Chin Indian Community. The waiver would only be required for the sum of $500,000 for the engineering and hydrological studies. It is crucial that the studies start in fiscal year 1978 to begin the process in time to deliver water to the Ak-Chin Reservation before their aquifier is depleted.

The Ak-Chin rely on farming for their economic sustenance. The farming is dependent upon ground water from wells. Non-Indians surrounding the reservation are pumping from the same water basin. Because of the extensive pumping, the aquifer cannot sufficiently recharge itself, and the water level is declining at a rate which will prohibit farming on the reservation within the next few years. Starting now it will take at least two years to undertake the proper feasibility studies and construct the Federal well field and water delivery system needed by the Ak-Chin Indians.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

SETTLEMENT OF AK-CHIN INDIAN CLAIMS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration now of Calendar Order No. 325 on the Unanimous Consent Calendar.

The PRESIDING OFFICER (Mr. MATSUNAGA). Without objection, it is so ordered.

The Senate proceeded to consider the bill (S. 1582) relating to the settlement between the United States and the Ak-Chin Indian community of certain water right claims of such community against the United States, which had been reported from the Select Committee on Indian Affairs with an amendment to strike all after the enacting clause and insert the following:

That (a) the Congress hereby declares that it is the policy of Congress to resolve, without costly and lengthy litigation, the claims of the Ak-Chin Indian community for water based upon failure of the United States to meet its trust responsibility to the Indian people provided reasonable settlement can be reached.

(b) The Congress hereby finds and declares that—

(1) the Ak-Chin Indian community relies for its economic sustenance on farming, and that ground water, necessary thereto, is declining at a rate which will make it uneconomical to farm within the next few years;

(2) at the time of the settlement of the reservation, it was the obligation and intention of the United States to provide water to the Ak-Chin Indian Reservation, and such obligation remains unfulfilled;

(3) it is likely that the United States would be held liable for its failure to provide water and for allowing ground water beneath the reservation to be mined by nearby non-Indians;

(4) there exists a critical situation at Ak-Chin in that there is not sufficient economically recoverable ground water beneath the reservation to sustain a farming operation until a permanent source of surface water can be delivered;

(5) this Act is proposed to settle the Ak-Chin Indian community's claim for water by temporarily meeting the emergency needs of the Ak-Chin community through construction of a well-field and water delivery system from nearby Federal lands and obligating the United States to meet the Ak-Chin community's needs for permanent supply of water for a fixed amount to be available upon a date certain in exchange for a release of all claims such community has against the United States for failing to act consistently with its trust responsibility in the protection and delivery of the water resources of the community; and

(6) that it is the intention of this Act not to discriminate against any non-Indian landowners or other persons, but to fulfill the historic and legal obligation of the United States toward the Ak-Chin Indian community.

SEC. 2. (a) For the purposes of this Act, the Secretary of the Interior (hereinafter referred to as the "Secretary") shall undertake engineering and hydrological studies as may be necessary to determine whether there exists, on Federal lands near the Ak-Chin Indian Reservation, a source of ground water which could be taken, on an annual basis, for use in connection with any contract entered into pursuant to subsection (b) of this section, subject to the provisions in (c)(2). Such studies shall be completed and a report with respect thereto submitted to the Congress within twelve months after the date of the enactment of this Act.

(b) Within one hundred and eighty days following the submission to the Congress of the report referred to in subsection (a), the Secretary, if he determines that there exists a source of ground water which can be so taken on an annual basis, shall agree to enter into a contract or other agreement with the Ak-Chin Indian community pursuant to which the Secretary shall agree, on behalf of the United States, to—

(1) furnish, subject to the provisions of clause (2) of subsection (c) of this section, to the Ak-Chin Indian community, commencing as soon as possible following the completion of the necessary facilities under clause (2) of this subsection but in no event later tha sixty days following such completion, the delivery to the southeast corner of the lands comprising the Ak-Chin Indian Reservation, on an annual basis, of eighty-five thousand acre-feet of ground water from nearby Federal lands covered by such studies;

(2) take such action as may be necessary, to begin within sixty days following the date of such contract, to drill, construct, equip, maintain, repair, reconstruct, and operate a well field on such Federal lands, and to construct and maintain a delivery system, including canals, pumping stations, and other appurtenant works, sufficient to provide for the delivery of such ground water from such Federal lands to the southeast corner of the lands comprising the Ak-Chin Indian Reservation.

(c)(1) The delivery of ground water under clause (1) of subsection (b) shall continue until such time as the permanent surface water required under section (3) is delivered to the Ak-Chin Reservation except that the obligation to deliver such ground water during any year shall be reduced for that year by an amount equal to the amount of surface water delivered to such community pursuant to such contract during such year.

(2) Notwithstanding the provisions of clause (1) of subsection (b) of this section, the Secretary, if he determines that pumping eighty-five thousand acre-feet of ground water annually from nearby Federal lands to the Ak-Chin community would (A) not be hydrologically feasible; (B) diminish the ground water basin thereby causing severe damage to other water users; may deliver a lesser amount.

(d) The Secretary is authorized to receive, consider, and pay any claims arising under this Act from water users other than the Ak-Chin Indian community for compensation for any losses or other expenses incurred by such users by reason of the enactment of this Act.

(e) Notwithstanding any other provision of this Act, if the Secretary determines, on the basis of studies conducted pursuant to subsection (a) of this section that the pumping on an annual basis of any such ground water pursuant to clause (1) of subsection (b) of this section in excess of sixty thousand acre-feet is not possible, and the Ak-Chin Indian community does not agree to contract for such lesser amount, the Secretary shall report to the Congress an alternative plan for meeting the emergency needs of the Ak-Chin Indian community. Such alternative plan shall be submitted to the Congress within one hundred and eighty days following the submission of the report referred to in subsection (a).

SEC. 3. In addition, within two years following enactment of this Act, the Secretary shall agree to enter into a contract or other agreement with the Ak-Chin Indian community, commencing as soon as possible, but in no event later than the expiration of the twenty-five year period following the date of the enactment of this Act, the permanent delivery, on an annual basis, to the land comprising the Ak-Chin Indian Reservation, of up to eighty-five thousand acre-feet of surface water, but in no event less than sixty thousand acre-feet.

SEC. 4. As consideration on the part of the Ak-Chin Indian community for entering into any contract or other agreement pursuant to section (3), the Ak-Chin Indian community shall agree to waive, in a manner satisfactory to the Secretary, any and all claims of the Ak-Chin Indian community which it might have against the United States, the State of Arizona or agency thereof, or any other person, corporation, or municipal corporation, arising under the laws of the United States or the State of Arizona, concerning water rights of the Ak-Chin Indian community, including both ground water and surface water from time immemorial to the present.

SEC. 5. There are authorized to be appropriated for the fiscal year ending September 30, 1978, the sum of $500,000, for the fiscal year ending September 30, 1979, the sum of $42,500,000, for carrying out the purposes of section 2 of this Act.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95–460), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE MEASURE

S. 1582, as amended, would authorize a feasibility study and, based on its findings, construction of a Federal wellfield and pipeline to the Ak-Chin Reservation from nearby Federal land. The water delivery would provide emergency relief on a temporary basis to the Ak-Chin water crisis.

The water delivered under S. 1582 will be reduced annually by the amount Ak-Chin receives from its permanent supply. S. 1582 also reaffirms the obligation of the United States to meet the Ak-Chin Indian Community's needs for a permanent supply of water and establishes a fixed amount to be made available upon a date certain. By itself, S. 1582 does not mandate the sources for the permanent supply of water. No reallocation of the Central Arizona Project or other measure is required. Rather, S. 1582 is a statement of the Ak-Chin water entitlement and the government's obligation to fulfill that entitlement. It looks forward to the permanent delivery of water by future legislative and administrative actions. In exchange, the United States would receive a waiver of all claims against it for failing to act consistently with its trust responsibility in the protection and delivery of the water resources of the Ak-Chin Indian Community. The Ak-Chin would also waive their legal claims relating to water rights against the State of Arizona and other persons.

A central purpose of this legislation is to devise a settlement of the issues growing out of the water right claims advanced by the Ak-Chin Indian Community that is as equitable as possible to all parties concerned. The Committee understands that the Ak-Chin Community has expressed its willingness, not only to waive all claims for past damages in this connection, but to forgo any further claims of this nature so long as water is received under the terms and conditions of the contract authorized by this Act, and that such water shall be in lieu of any and all other water rights of the Ak-Chin Indian Community.

BACKGROUND

Prior to the last twenty (20) years, the Ak-Chin Tribe has had to contend with severe poverty. By 1961, the Ak-Chin Indian Community has discontinued the practice of leasing its farm lands to non-Indians and had decided to farm the land for itself. Careful planning and financing enabled the community to farm 4,900 acres in 1964. In the years since their profits have risen from a low of $21,353 in 1964 to over $1 million in 1976, while farming less than 5,000 acres. Because of this amazing story of growth from Federal dependency to self-sufficiency, the Ak-Chin Tribe has been able to build many modern homes for its members and improve their quality of life.

The reservation located entirely within Pinal County, Arizona, is approximately 30 miles south of Phoenix. It consists of 21,840 acres of land all of which is suitable for agriculture, with class A–1 or B–1 soil. Allowing for roads, homes, etc., the Interior Department in the past has estimated there are 19,656 arable, practically irrigable acres on the Ak-Chin Reservation, with *Winters* rights of about 90,000 acre-feet of water.

Despite an Executive action of June 8, 1912, ten (10) days after the creation of the reservation when the United States filed notice of appropriation of 70,000 acre-feet per year for the Ak-Chin Reservation, none was delivered. Today, because of dams and other construction, the reservation has no surface water supply from which to satisfy its *Winters* rights. To farm, the Tribe has had to pump groundwater from the aquifer beneath it.

Non-Indians surrounding the reservation also rely on the groundwater and mine it by intensive pumping. The aquifer has not been able to recharge at the rate of pumped water. The water table at Ak-Chin is dropping twenty feet each year. A secondary effect of the drop is that the land on the reservation has buckled.

NEED

S. 1582 is needed to fulfill the historic and legal obligation of the United States toward the Ak-Chin Indian Community. At the time of the establishment of the reservation, it was the obligation and intention of the United States to secure water for the Ak-Chin Indian Reservation. Despite the government action of filing notice of intent to appropriate water in 1912, no water was actually delivered and the obligation remains unfulfilled. It is likely that the United States would be held liable for its failure to provide water and for allowing ground water beneath the reservation to be mined by nearby non-Indian farmers to the extent that the supply has been severely adminished.

However, beyond the historical and legal problems, S. 1582 is an emergency measure. The Select Committee on Indian Affairs has legislation before it to resolve the long standing water resource problems for all five central Arizona Tribes. Further, there are both litigation and executive actions being contemplated. But the water supply at Ak-Chin is critical. There is not sufficient economically recoverable groundwater beneath the reservation to sustain a farming operation until a permanent source of surface water can be delivered.

The Ak-Chin Indian Community relies for its economic sustenance on farming for which the necessary groundwater is declining at a rate which will make it uneconomical to farm within the next few years. Because of success at farming, a traditional occupation of the Pima and Papago, they receive no appreciable welfare or social assistance benefits. Should the principal ecnomic base of the reservation collapse there would be a drastic increase in all the major forms of Federal social assistance and benefits normally provided where no economic base exists.

Estimates provided by the Bureau of Indian Affairs indicates that their annual costs for providing services, now provided by the Community, would be a minimum of $200,000 using low categorical assistance figures. An aditional one million two hundred thousand (1,200,000) would be needed for employment training and assistance to try to integrate tribal farm workers into the area labor force. These figures do not include other Federal and State aid which might be necessary. As to the costs of unemployment, increased crime rate or other secondary social failures, the information available is imprecise. But the estimated unemployment rate caused by the loss of the tribal farming enterprise would be 40 percent.

Finally, S. 1582 is needed as a legislative settlement to avoid the costly social and economic disruption of litigation. The Department of Interior has requested the Department of Justice to institute litigation by the United States on behalf of the Ak-Chin Indian Community. Approximately 200 defendants have been identified in that action. If the litigation were to proceed, potentially all non-Indian pumping would be enjoined without compensation. The catastrophic economic consequences on the non-Indian farmer with no water or compensation would reverberate throughout the area. Defaults on loans and other obligations would create economic instability. Even if the Tribe were not to prevail the litigation could take years. during wihch all land having water rights would have a clouded title. Banks might be reluctant to capitalize development proposals. In an area where racial tensions are already high, litigation might increase racial animosity. All of these adverse affects would be avoided by enacting S. 1582.

IMPROVEMENT OF ROBERTS FIELD, REDMOND, OREG.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 434.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senate proceeded to consider the bill (S. 2100) for the improvement of Roberts Field, Redmond, Oreg., which had been reported from the Committee on Commerce, Science, and Transportation with an amendment to strike all after the enacting clause and insert the following:

That, notwithstanding section 16 of the Federal Airport Act (as in effect on April 26, 1950), the Secretary of Transportation is authorized, subject to the provisions of section 4 of the Act of October 1, 1949 (50 App. U.S.C. 1622c), and the provisions of section 2 of this Act, to grant releases from any of the terms, conditions, reservations, and restrictions contained in Patent Number 1,128,955, dated April 26, 1950, by which the United States gave and granted a patent in certain property to the city of Redmond, Oregon, for airport purposes.

SEC. 2. Any release granted by the Secretary of Transportation under the first section of this Act shall be subject to the following conditions:

(1) The city of Redmond, Oregon, shall agree that in conveying any interest in the property which the United States granted the city by Patent Number 1,128,955, dated April 26, 1950, the city will receive an amount for such interest which is equal to the fair market value (as determined pursuant to regulations issued by such Secretary).

(2) Any such amount so received by the city shall be used by the city for the development, improvement, operation, or maintenance of a public airport.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95–470), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

SUMMARY AND PURPOSE

S. 2100 would remove the restrictive conditions imposed by section 16 of the Federal Airport Act (60 Stat. 179, repealed May 21,

1970, 84 Stat. 235), as they appear in the deed of conveyance dated April 26, 1950, under which the then Acting Secretary of Agriculture transferred to the city of Redmond, Oreg., approximately 1,820.55 acres to be used as a public airport. Such a release would and is intended to allow the airport property to be used for economic development.

BACKGROUND AND NEED

At the time of the above-mentioned conveyance, the U.S. Department of Agriculture was unable to convey nonairport surplus property for airport purposes without a reverter clause because of the conveyance authority contained in section 16 of the Federal Airport Act. Section 16 of the Federal Airport Act states in part:

"each such conveyance shall be on the condition that the property interest conveyed shall automatically be reverted to the United States in the event that the lands in question are not developed, or cease to be used, for airport purposes."

This inability of the Secretary to release certain of the lands conveyed pursuant to section 16 of the Federal Airport Act has in many instances been detrimental to the interests of civil aviation. In these instances more property was conveyed than was reasonably necessary for continued operation of the airport. The land not actually needed for airport purposes cannot be put to beneficial use due to existing restrictions. A release by the Secretary would allow the city of Redmond, Oreg., to use a portion of the acreage originally conveyed for purposes other than for which the land was originally conveyed.

Section 52(a) of the Airport and Airway Development Act of 1970 (49 U.S.C. 1701 et seq.) repealed the Federal Airport Act effective June 30, 1970. However, section 52(c) contained a saving provision concerning such conveyances under the Federal Airport Act, giving rise to the need for S. 2100.

The purpose of this bill is to authorize and encourage the Secretary of Transportation to grant a release from the reversionary clause contained in the deed of conveyance so that the city of Redmond may proceed with the development of portions of the property for nonairport purposes. The bill contains a safeguard against abuse in that the Secretary's authority is made subject to the provisions of section 4 of the act of October 1, 1949 (50 App. U.S.C. 1622c).

Section 4 of the act of October 1, 1949, requires that before property is released for nonairport purposes it must be determined that the property is no longer necessary to accomplish the purpose for which it was originally conveyed and is not necessary to protect or advance U.S. civil aviation. It further provides that the Secretary may impose such conditions on the conveyance as he deems necessary so as to insure that any proceeds arising from nonairport use of the property will be used for the development and maintenance of the airport.

Comparable legislation was approved in the 94th Congress in connection with airport property in Elkhart, Kans., in 1976 (Public Law 94–221), approved February 27, 1976; and in Clarinda, Iowa, in 1966 (Public Law 89–649), approved October 13, 1966.

The committee believes that enactment of S. 2100 will not result in any additional costs to the United States. The Congressional Budget Office concurs with this as stated in the letter which follows, dated September 21, 1977.

AUTHORITY FOR THE SECRETARY OF THE SENATE TO MAKE TECHNICAL AND CLERICAL CORRECTIONS—S. 695

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make technical and clerical corrections in the engrossment of S. 695.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS SUBJECT TO THE CALL OF THE CHAIR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess awaiting the call of the Chair.

There being no objection, the Senate, at 7:19 p.m., took a recess subject to the call of the Chair.

The Senate reassembled at 8:14 p.m. when called to order by the Presiding Officer (Mr. DURKIN).

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now be a brief period for the transaction of routine morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Chirdon, one of his secretaries.

EXECUTIVE MESSAGE REFERRED

The PRESIDING OFFICER laid before the Senate a message from the President of the United States submitting the nomination of Robert E. White, of Massachusetts, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Paraguay, which was referred to the Committee on Foreign Relations.

REPORT OF THE COUNCIL ON WAGE AND PRICE STABILITY—PM 122

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, which was referred to the Committee on Banking, Housing, and Urban Affairs:

To the Congress of the United States:

In accordance with section 5 of the Council on Wage and Price Stability Act, as amended, I hereby transmit to the Congress the tenth quarterly report of the Council on Wage and Price Stability. This report contains a description of the Council activities during the first quarter of 1977 in monitoring both prices and wages in the private sector and various Federal Government activities that lead to higher costs and prices without creating commensurate benefits. It discusses in some detail the Council's studies of the outlook for collective bargaining negotiations for 1977, health care costs, automobiles, cement and the trends in industrial plant construction, as well as its filings before various Federal regulatory agencies.

During the remainder of 1977, the Council on Wage and Price Stability will continue to play an important role in supplementing fiscal and monetary policies by calling public attention to wage and price developments or actions by the Government that could be of concern to American consumers.

JIMMY CARTER.

THE WHITE HOUSE, *October 11, 1977.*

APPROVAL OF BILLS

A message from the President of the United States announced that he had approved and signed the following bills:

On October 7, 1977:

S. 213. An act to amend the Accounting and Auditing Act of 1950 to provide for the audit, by the Comptroller General, of the Internal Revenue Service and of the Bureau of Alcohol, Tobacco, and Firearms.

On October 8, 1977:

S. 1307. An act to deny entitlement to veterans' benefits to certain persons who would otherwise become so entitled solely by virtue of the administrative upgrading under temporarily revised standards of other than honorable discharges from service during the Vietnam era; to require case-by-case review under uniform, historically consistent, generally applicable standards and procedures prior to the award of veterans' benefits to persons administratively discharged under other than honorable conditions from active military, naval, or air service; and for other purposes.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. JACKSON, from the Committee on Energy and Natural Resources:

Report of the Committee on Energy and Natural Resources pursuant to section 302(b of the Congressional Budget Act of 1974 (Rept. No. 95–486).

By Mr. MUSKIE, from the Committee on the Budget:

Without amendment:

S. Res. 286. A resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 897 (Rept. No. 95–487).

S. Res. 274. A resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 1582 (Rept. No. 95–488).

By Mr. TALMADGE, from the Committee on Agriculture, Nutrition, and Forestry:

Without amendment:

S. Res. 291. An original resolution authorizing supplemental expenditures by the Committee on Agriculture, Nutrition, and Forestry (Rept. No. 95–489). Referred to the Committee on Rules and Administration.

By Mr. CHURCH, from the Committee on Energy and Natural Resources:

With an amendment:

H.R. 3454. An act to designate certain endangered public lands for preservation as wilderness, to provide for the study of additional endangered public lands for such designation, to further the purposes of the Wilderness Act of 1964, and for other purposes (title amendment) (Rept. No. 95–490).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. EASTLAND, from the Committee on the Judiciary:

Charles P. Sifton, of New York, to be U.S. district judge for the eastern district of New York.

Thomas A. Ballentine, Jr., of Kentucky, to be U.S. district judge for the western district of Kentucky.

By Mr. SPARKMAN, from the Committee on Foreign Relations:

Carolyn R. Payton, of the District of Columbia, to be Director of the Peace Corps.

(The above nomination was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. CHURCH (for himself and Mr. WILLIAMS):

S. 2190. A bill to amend title XVIII of the Social Security Act to give the Secretary of Health, Education, and Welfare authority to waive all or part of an automatic increase in the inpatient hospital deductible; to the Committee on Finance.

By Mr. DOMENICI:

S. 2191. A bill for the relief of Federica Zangrando; to the Committee on the Judiciary.

By Mr. ROBERT C. BYRD (for Mr. HUMPHREY):

S. 2192. A bill to authorize the Secretary of Housing and Urban Development to make grants to local agencies for converting surplus school facilities to efficient, alternate uses, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. CHURCH (for himself and Mr. WILLIAMS):

S. 2190. A bill to amend title XVIII of the Social Security Act to give the Secretary of Health, Education, and Welfare authority to waive all or part of an automatic increase in the inpatient hospital deductible; to the Committee on Finance.

Mr. CHURCH. Mr. President, on behalf of myself and Senator WILLIAMS, I introduce for appropriate reference a bill to give the Secretary of Health, Education, and Welfare authority to disapprove all or a portion of a scheduled increase in the part A hospital insurance deductible charge for medicare beneficiaries.

This proposal is prompted by a recent Department of Health, Education, and Welfare announcement that a 16-percent hike in the part A deductible, from $124 to $144, would become effective in January 1978.

As things now stand, this increase is mandatory, because the law requires the deductible to be adjusted annually according to changes in average per diem hospital costs covered by medicare.

In addition, the coinsurance charges for long-term hospital and skilled nursing homes stays, which are linked to the deductible, would also increase by about 16 percent.

Next year, a medicare beneficiary hospitalized from 61 to 90 days would pay $36 per day, compared to $31 now. Medicare patients who must draw upon their 60-day lifetime reserve would have their daily coinsurance charge boosted from $62 to $72. And for a posthospital stay of 21 to 100 days in a skilled nursing facility, the daily coinsurance charge would rise next January from $15.50 to $18.

Our bill would help to ease this situation for medicare patients by permitting the Secretary of Health, Education, and Welfare to declare a 1-year moratorium on the ever-increasing hospital deductible and coinsurance charges, or at least to defray a portion of the scheduled increases.

I recognize that the Congress will probably not have sufficient time to act on this proposal before adjournment. However, I hope that the Senate Finance Committee and the House Ways and Means Committee can consider this legislation early in 1978.

If our proposal is enacted into law, it would be possible for the Secretary of Health, Education, and Welfare to disapprove all or a portion of the scheduled in-patient hospital deductible increase in 1978 retroactively.

I sincerely hope that a joint effort by the administration and Congress to reduce the rapid rise in hospital charges will soon be successful. But until that occurs, we cannot turn our backs on millions of aged and disabled persons who will be hard hit by the scheduled increase next January for hospital and skilled nursing facility charges.

Our bill would provide welcome relief to more than 6 million aged and disabled medicare beneficiaries expected to be hospitalized in 1978. These individuals deserve and need all the help that they can receive.

If the scheduled 16-percent increase is allowed to stand, a medicare patient's deductible charge will increase by 210 percent since the program became effective in 1966.

An outlay of $144 for a hospital stay represents a formidable obstacle for an elderly person living on a limited income. The average social security benefit for a retired worker amounts to about $234 per month. In the case of an aged couple, the average benefit is $400.

Social security is, of course, the economic mainstay for most older Americans. It represents more than half the income for 7 out of 10 individual beneficiaries and one out of two aged couples.

For these reasons, I urge prompt and favorable action on this proposal.

Mr. President, I ask unanimous consent that the text of this bill be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2190

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 1813(b)(2) of the Social Security Act is amended—

(1) by inserting "(A)" immediately after "(2)"; and

(2) by adding at the end thereof the following new subparagraph:

"(B) The Secretary may reduce or waive any increase in the inpatient hospital deductible as determined under subparagraph (A) in any case in which he determines that such increase would have a serious adverse impact on the economic well-being of individuals receiving benefits under this title.".

(b) The amendments made by this Act shall be effective with respect to adjustments of the inpatient hospital deductible determined for calendar years after 1977.

By Mr. ROBERT C. BYRD (for Mr. HUMPHREY):

S. 2192. A bill to authorize the Secretary of Housing and Urban Development to make grants to local agencies for converting surplus school facilities to efficient, alternate uses, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

SURPLUS SCHOOL RECYCLING ACT

Mr. ROBERT C. BYRD. Mr. President, on behalf of the Senator from Minnesota (Mr. HUMPHREY), introduce a bill cited as the Surplus School Recycling Act of 1977. I ask unanimous consent that a statement by Senator HUMPHREY, and the text of this bill, be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY SENATOR HUMPHREY

PUTTING EMPTY SCHOOLS TO GOOD USE

Today I am introducing the Surplus School Recycling Act of 1977.

The existence of vacant and partially unused schools is becoming a critical problem in many of our communities. Already elementary schools are suffering serious enrollment decreases, and population projections indicate this trend will continue, substantially affecting high schools in the early 1980s. The resulting unused school facilities represent valuable resources to our communities. But the burden of renovating and adapting this space is too great for many communities, which often are struggling to maintain just these school facilities that are presently required for educational purposes.

We have created for ourselves a throw away society. Our country bears the marks of wasteful disposal. It is time we shed that attitude that we can afford to throw away that which we deem no longer useful for its initial design. The Federal Government should take the lead in encouraging the use of existing resources to their full potential, for their full tenure. The bill I am introducing today is one opportunity for the Federal Government to assume such a role.

The Surplus School Recycling Act authorizes the Secretary of Housing and Urban Development to make grants to local agencies desiring to renovate and modify totally or partially empty school facilities for other uses. The Federal Government would make grants to qualifying local agencies in the amount of 80 percent of renovation costs, thus requiring some capital commitment from the agency to the actual facility in the amount of 20 percent. Qualifying local agencies would receive grants to convert school facilities to such uses as children's resource centers, senior citizen programs, and educational programs for adults or handicapped persons. Federal grants would cover renovation costs only, and not the purchase, maintenance or operation of a facility.

We need not be reminded of the potential hazard vacant buildings present—standing invitations to vandalism and rapid deterioration due to neglect. It is the shame of our communities not to make use of these valuable resources—resources that may later again be needed for the same educational purposes for which they initially were designed. It is far more difficult to revive a building that has gone unused for years, suffering extensive deterioration, than to reopen a school that has been minimally adapted, to function in some other capacity. Funding under this bill would facilitate the interim use of schools in communities that may later experience new surges in school enrollments, necessitating the reopening of former schools.

Besides addressing the problem of totally vacant schools, this bill provides alternate solutions to communities faced with imminent school consolidation as the answer to declining enrollments and rising operating costs. Throughout our history, the school has been a social center in every community. Mothers have found companionship, and a sense of involvement, through participating in the PTA, and acting as room mothers and teacher's aides. In many communities the local school has fulfilled a social purpose rivalled only perhaps by the local church. Efforts to consolidate schools are often met with great local bitterness and opposition. Parents, understandably, want their children to attend a school within walking distance. Communities do not want to give up the intimacy of their local schools. Consolidation brings a promise of broader-based control; a threat to a community's traditional range of local control. Under the Surplus School Recycling Act, the Federal Government will provide funds for renovation to local agencies desiring to occupy partially vacant schools, thus enabling local school districts to keep schools open through joint use and shared operating costs with other organizations.

This bill suggests, but does not limit, possible uses to which surplus school space could be adapted. I have a personal interest in seeing these schools used for senior citizen programs or as children's resource centers.

Too often our society has created its institutions to segregate the young from our senior citizens. Our young people are unnaturally shielded from healthy exposure to the process of aging. Senior citizens lack contact with our young people—a source of vitality throughout life regardless of one's age. Joint use of a school facility by senior citizens and students can be mutually rewarding to both groups. Large, bright classrooms are ideal for senior citizen social activities. And in schools where student lunch programs are in effect, minimal resources would be needed to expand these programs to provide lunches for senior citizens, thereby making full use of the facilities.

The existence of partially and fully vacant schools affords communities an opportunity to provide resources for children, that were excluded in past planning when demand for classroom space consumed most of a school building. During the first week of October, a children's museum—the Capital Children's Museum—formally opened very close to Capitol Hill itself. It is one of some six similar children's museums in our country. Activities at this museum re-enforce many basic concepts learned in the classroom. Children visit the museum with their class or youth group, and are able to experiment with, and experience many physical concepts that are impossible to fully illustrate within the limitations of a classroom. Public service institutions and business have contributed a fire alarm, clocks, and a small computer, which children cannot only observe, but operate or take apart as well. Children are able to experience various physical properties such as the effects of different lengthed levers on lifting a weight, and the action of a pulley.

The Capital Children's Museum occupies most of one floor in a school near the Capitol. Its location there has made it possible for the school, which is under-enrolled and was formerly under-utilized, to remain open. The school provides the museum with free space in the building, and covers the museum's utility and janitorial costs during school hours.

The Capital Children's Museum is testimony to what can be done, often with minimal funds, to revitalize vacant or partially vacant schools. It is a shameful waste to leave these school buildings unused when they could house potentially indispensable community programs. It is sad to see a community lose a cherished school because it has no affordable option to keep the school open and fully utilized by joint use with other organizations. It is up to the Federal Government to provide incentives, by funding renovation, to begin recycling these school buildings and extra space.

S. 2192

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

That this Act may be cited as the "Surplus School Recycling Act of 1977".

Findings

(a) The Congress finds that—

(1) declining school enrollments and population migration have caused the closure or underutilization of school facilities at all levels throughout the country;

(2) the school facilities that have been closed or that are underutilized represent valuable resources to communities and should be recycled for other productive uses;

(3) local communities lack the necessary funds to adequately recycle surplus school facilities on their own; and

(4) the Federal Government should assist communities in recycling surplus school facilities with Federal funds.

(b) It is the purpose of this Act to provide grants to communities to enable these communities to recycle and convert, in the most efficient, creative, and economical manner possible, surplus school facilities for other productive purposes determined by the respective communities. Such other productive purposes shall be in the fields of educational and social services and may include, but shall not be limited to, any purpose described in section 3 (a) of this Act.

SEC. 2. As used in this Act, the term—

(1) "surplus school facility" means any building or structure or part thereof which has been used during any period as a school or as a classroom or related facility for educational or training purposes including athletics but, as of the date of application for a grant to renovate such building or structure under this Act, is not so used;

(2) "renovating" means any remodeling, altering or improving of a school facility for educational or social services other than those for which it is designed at the time of the request for a grant.

(3) "costs for renovating" includes expenses for preparing drawings and specifications, for remodeling, altering, or improving a facility, for materials and labor, and for inspecting and supervising construction;

(4) "elementary or secondary school facility" means any public school facility which provides elementary or secondary education, as determined under State law, except that such term does not include any education provided beyond grade 12 or its equivalent;

(5) "local agency" means any agency or other instrumentality of a State, county, city, parish, township, or other political subdivision of a State and includes an agency or other instrumentality of one or more such political subdivisions;

(6) "school year" means an academic year or its equivalent as defined by State law;

(7) "Secretary" means the Secretary of Housing and Urban Development; and

(8) "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, or any other territory or possession of the United States.

SEC. 3. (a) The Secretary may make grants to local agencies, and such local agencies shall use the money received from such grants, to pay the costs of renovating surplus school facilities so that such facilities may be converted for use by such local agencies for productive educational and social service purposes including, but not limited to, any of the following such purposes—

(1) children's resource centers;
(2) senior citizen centers;
(3) community centers;
(4) recreational centers;
(5) vocational schools;
(6) community colleges;
(7) continuing education programs;
(8) schools for the handicapped;
(9) day care centers;
(10) preschools;
(11) walk-in centers for drug abuse or other counseling;
(12) medical facilities or centers;
(13) mental health clinics;
(14) dental facilities or centers; and
(15) recycling centers.

(b) A local agency desiring to receive a grant under this Act shall submit to the Secretary an application containing—

(1) a plan for renovating a surplus school facility and for using such facility after such renovation for educational and social service purposes;

(2) an estimate of the costs of such renovation;

(3) a statement evaluating the social and economic impact of the renovation and use of such facility for such purposes;

(4) a statement, if a program will occupy a school facility part of which is still being used as an elementary or secondary school, showing the compatibility of their joint use;

(5) such other information which demonstrates to the Secretary's satisfaction sufficient financial ability on the part of such local agency to carry out the provisions of such plan.

(c) The amount of a grant under this Act shall be 80 per centum of the estimated cost of renovation contained in the application submitted to the Secretary under subsection (b) of this section.

(d) If the amount of a grant under this Act is more than the actual cost of renovation under such grant, the local agency which received such grant shall return such surplus money to the Secretary, who shall use such surplus money to make other grants under this Act.

(e) Notwithstanding section 3648 of the Revised Statutes of the United States (31 U.S.C. 529), the Secretary may advance public money to local agencies for grants under this Act.

SEC. 4. In approving applications for grants under this Act, the Secretary shall—

(1) give priority to an application for renovating a surplus school facility which is located in a school district whose current school enrollments have decreased by 10 per centum or more from the school enrollments of the previous school year as determined by the Secretary based on the most recent information available to the Commissioner of Education, except that an educational institution other than an elementary or secondary school facility shall not be given priority under this paragraph;

(2) give priority to an application for renovating a surplus school facility which is not on the date of such application being fully utilized for a productive educational and social service purpose (other than utilization as a storage facility);

(3) require assurances that the surplus school facility for which a grant is being applied for under this Act will not, after its renovation, be used primarily as a storage facility; and

(4) include in his consideration the following factors:

(A) the need of the local agency for a grant under this Act based upon the number of surplus school facilities located in the same school district as the surplus school facility for which the local agency is applying for a grant under this Act and upon the size of the population served by that school district;

(B) the suitability of such surplus school facility for renovation and conversion to its proposed use, including the value of such facility before renovation; and

(C) the value of such surplus school facility after renovation including the number of individuals who will use such facility, the number of different uses of such facility, and the length of time during which such facility will be so used.

SEC. 5. The Secretary shall prescribe reasonable regulations to carry out the provisions of this Act and to assure that a surplus school facility renovated under this Act shall be used by a local agency in accordance with the plan of that agency required under section 3(b)(1) of this Act.

SEC. 6. For any fiscal year, no more than 10 per centum of the funds appropriated by Congress for grants under this Act shall be granted to local agencies in any State.

SEC. 7. The Secretary shall serve as a national clearinghouse to local agencies by having available publications on alternative uses of surplus school facilities and by suggesting at the request of a local agency, how a surplus school facility can best be used for educational and social service purposes given such facility's unique location and design.

SEC. 8. For each fiscal year for which funds are appropriated under this Act, the Secretary shall prepare and submit, not later than ninety days after the end of such fiscal year, to the President and the Congress a report listing the local agencies that received grants under this Act during such fiscal year and the purposes for which such grants were made. The report for the third such fiscal year shall also include—

(1) a cost analysis of the effectiveness of grants made under this Act;

(2) the findings of a survey, which the Secretary shall conduct, on the extent of the problem of school closures and partial closures nationwide, including an analysis of where and why schools are closing;

(3) results of a study and cost analysis, which the Secretary shall conduct, on the impact declining school enrollments have on local communities; and

(4) an evaluation of whether grants under this Act are the most effective and economical way of recycling surplus school facilities.

ADDITIONAL COSPONSORS

S. 247

At the request of Mr. GOLDWATER, the Senator from Oklahoma (Mr. BARTLETT) was added as a cosponsor of S. 247, a bill to provide recognition of the Women's Air Forces Service Pilots for their service to their country during World War II by deeming such service to have been active duty in the Armed Forces of the the United States for purposes of laws administered by the Veterans' Administration.

S. 2009

At the request of Mr. DOMENICI, the Senator from Michigan (Mr. RIEGLE) was added as a cosponsor of S. 2009, the home care services bill.

S. 2135

At the request of Mr. MCINTYRE, the Senator from Hawaii (Mr. MATSUNAGA) was added as a cosponsor of S. 2135, a bill to regulate commerce by providing franchisors and franchisees with certain remedies to assure fairness, and to protect against overreaching, unjust enrichment, and unjustifiable termination, and for other purposes.

SENATE RESOLUTION 268

At the request of Mr. ROBERT C. BYRD, the Senator from Hawaii (Mr. MATSUNAGA) was added as a cosponsor of S. Res. 268, to provide for radio and television coverage of proceedings of the Senate during consideration of the Panama Canal Treaties.

SENATE RESOLUTION 291—ORIGINAL RESOLUTION REPORTED AUTHORIZING SUPPLEMENTAL EXPENDITURES

(Referred to the Committee on Rules and Administration.)

Mr. TALMADGE, from the Committee on Agriculture, Nutrition, and Forestry, reported the following original resolution:

S. RES. 291

Resolved, That section 2 of Senate Resolution 144, 95th Congress, agreed to June 14 (legislative day, May 18), 1977, is amended by striking out "$300,300" and inserting in lieu thereof "$330,300".

SENATE RESOLUTION 292—SUBMISSION OF A RESOLUTION RELATING TO ORDERLY MARKETING AGREEMENTS WITH JAPAN

(Referred to the Committee on Finance.)

Mr. SCHWEIKER submitted the following resolution:

S. RES. 292

Whereas, conditions within the American steel industry are becoming increasingly grave, as evidenced by the lay-offs of thousands of steelworkers in the past months and weeks;

Whereas, many of the problems of the steel industry can be directly traced to the high level of foreign imports;

Whereas, a significant percentage of the foreign steel imported by the United States is priced below the cost of production in the exporting country, as recently affirmed by the Department of the Treasury in its finding that Japan is dumping steel in the American market; and

Whereas, the American steel industry cannot modernize and expand as long as this situation exists:

Be it resolved, that the President immediately instruct the Special Representative for Trade Negotiations to initiate negotiations with Japan and the European Community in order to achieve Orderly Marketing Agreements providing for a level of steel imports significantly below those currently in effect.

Mr. SCHWEIKER. Mr. President, today I am submitting a resolution urging the President to direct the Special Representative for Trade Negotiations to negotiate orderly marketing agreements with Japan and with the European Community limiting the amount of foreign steel flooding our country to significantly less than at present.

Our steel industry is in serious trouble. Severe losses are being suffered. Thousands of steelworkers have already been laid off; the jobs of thousands more are threatened. We must move quickly to protect the jobs of American steelworkers, and we must move quickly to insure the survival of a basic American industry.

While the problems of the domestic steel industry cannot be traced entirely to unfair foreign competition, the impact of imports is growing increasingly severe. Currently, steel imports make up approximately 18 percent of the U.S. market—a sharp increase over last year's 14 percent. In addition, the Treasury Department has recently found that Japan is "dumping carbon steel products in the American market at a price below a fair market price. It is quite evident that our steel industry has been the victim of unfair trade practices, and will continue to be unless remedial action is taken. We cannot allow the situation to deteriorate further.

For this reason, I am urging the President to take immediate steps to limit steel imports. The negotiation of orderly marketing agreements with Japan and with the European Community, calling for an import level significantly below current levels, would provide the industry with needed relief, as well as give us time to consider other long-range remedies.

The plight of the steel industry does not require that we abandon the principles of freed trade, Mr. President. What we must do, however, is insure that our competitors comply with the principles of fair trade. The orderly marketing approach will help us achieve this goal.

MOTIONS

Mr. SCOTT submitted the following motions, which were ordered to be printed and to lie on the table:

Mr. President: I move that the bill, S. 1303, "A bill to amend the Legal Services Corporation Act to provide authorization of appropriations for additional fiscal years, and for other purposes", be referred to the Committee on the Judiciary, with instructions to report that bill back to the Senate within 30 legislative days.

Mr. President: I move that the bill, S. 1303, "A bill to amend the Legal Services Corporation Act to provide authorization of appropriations for additional fiscal years, and for other purposes", be referred to the Committee on the Judiciary.

AMENDMENTS SUBMITTED FOR PRINTING

GI BILL IMPROVEMENT ACT—S. 457

AMENDMENT NO. 1433

(Ordered to be printed and to lie on the table.)

Mr. DURKIN. Mr. President, as we are all aware, the GI education bill has been, perhaps, the single most successful Federal program in the history of this Nation. However, the very aim of this program as a readjustment device was defeated for the estimated 483,000 veterans enrolled in educational programs who lost their entitlement to benefits in May 1976, as a result of the expiration of the 10-year "delimiting" period.

The amendment I am submitting with my colleagues, Senators CRANSTON, STONE, MATSUNAGA, EASTLAND, CANNON, WILLIAMS, MCINTYRE, ABOUREZK, ALLEN, CLARK, HATHAWAY, FORD, and RIEGLE, will extend the delimiting date for 2 years only for those veterans who were full-time students at the time their benefits expired, and who will continue in a full-time education program. Benefits will be provided at a rate of 50 percent in the first year of the extension and 33 percent in the second year. The only exception to the full-time requirement is where the

veteran is employed in a public safety occupation and is a part-time student in an LEAA education program.

This proposal is much more limited than my amendment which passed the Senate in the last session but died in the House. We stress that this is not a blanket 2-year extension of the delimiting date, but rather is designed to allow those who were full-time students to finish their education, those who would otherwise be unable to do so as a result of the expiration of their benefits.

Mr. President, I ask unanimous consent that the text of the amendment be printed in the RECORD.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT No. 1433

On page 14, insert "(a)" after "Sec. 203.", and between lines 16 and 17, insert the following new subsection:

(b) Section 1662 of title 38, United States Code, is amended by inserting "(1)" after "(a)" and inserting at the end of such section the following new paragraph:

"(2)(A) Notwithstanding the provisions of paragraph (1), any veteran shall be permitted to use any of such veteran's unused educational entitlement under this chapter after the delimiting date otherwise applicable to such veteran, as provided in paragraph (1), if such veteran was pursuing an approved program of education at the time of the expiration of such veteran's eligibility and such veteran was—

"(i) enrolled on a full-time basis, or

"(ii) on a part-time basis if such veteran was (aa) employed in a public safety occupation, (bb) receiving educational benefits, a loan, or compensation under any program provided for in the Omnibus Crime Control and Safe Streets Act of 1968, and (cc) enrolled under this chapter on not less than a half-time basis in a program of education appropriately related to such veteran's public safety occupation.

"(B) Notwithstanding any other provision of this chapter or chapter 36 of this title, any veteran whose delimiting period is extended under this paragraph—

"(i) may continue to use any unused entitlement under this paragraph as long as the veteran continues to be enrolled on a full-time basis (or on a part-time basis, but in no event less than a half-time basis, if such veteran was a part-time student at the time of expiration of such veteran's eligibility and was permitted to continue using such veteran's unused entitlement under the provisions of clause (ii) of subparagraph (A) of this paragraph) in pursuit of the approved program of education in which such veteran was enrolled at the time of expiration of such veteran's eligibility until such entitlement is exhausted, until the expiration of two years, or until such veteran has completed the approved program of education in which such veteran was enrolled at the end of the delimiting period referred to in paragraph (1), whichever occurs first;

"(ii) shall be entitled in the eleventh year of eligibility to an educational assistance allowance equal to one-half the amount of educational assistance allowance authorized for an eligible veteran whose delimiting period has not expired or been extended by this paragraph; and

"(iii) shall be entitled in the twelfth year of eligibility to an educational assistance allowance equal to one-third the amount of educational assistance allowance authorized for an eligible veteran whose delimiting period has not expired or been extended by this paragraph.".

(b) Section 1712 is amended by redesignating subsection (f) as (g) and inserting after subsection (e) the following new subsection:

"(f) Any eligible person shall be entitled to an additional period of eligibility beyond the maximum period provided for in this section pursuant to the same terms and conditions set forth with respect to an eligible veteran in section 1662(a)(2), except that the tenth year of eligibility for purposes of this subsection for such person shall be the last year of such person's period of eligibility and the eleventh and twelfth years shall be the first and second years, respectively, following such last year.".

LEGAL SERVICES CORPORATION—S. 1303

AMENDMENTS NOS. 1434 THROUGH 1455

(Ordered to be printed and to lie on the table.)

Mr. SCOTT submitted 22 amendments intended to be proposed by him to the bill (S. 1303) to amend the Legal Services Corporation Act to provide authorization of appropriations for additional fiscal years, and for other purposes.

ADDITIONAL STATEMENTS

LIBRARY OF CONGRESS REPORT ON EFFECTIVE TAX RATES PAID BY THE OIL AND GAS INDUSTRY

Mr. KENNEDY. Mr. President, on October 6, the Library of Congress completed a study I requested on the effective tax rates paid by the oil and gas industry.

The study employs a new method for assessing the generous Federal income tax subsidies available for oil and gas drilling. According to the study, the subsidies can result in a 3-percent "negative income tax" for some producers, and create extremely low effective tax rates for other producers—much lower than the effective tax rates paid by firms in other industries.

Mr. President, these figures dramatically demonstrate the enormous and unjustified Federal tax subsidies flowing to the oil and gas industry. Some of the wealthiest oil and gas producers in the country are actually receiving huge welfare payments from the Treasury every year. Instead of paying income tax to the Treasury, these millionaires are often paying no income tax at all on their operations, and may even be receiving extra income from the Treasury for their efforts.

It is the height of hypocrisy for these producers to be demanding even higher incentives for production, while reaping both the profit windfalls that high prices are already bringing and the tax windfalls that the Internal Revenue Code already bestows.

As part of the Energy Tax Act this year or the Tax Reform Act next year, Congress has the obligation to end these inequities. It is long past time the oil and gas industry paid its fair share of taxes.

Mr. President, the current study, prepared by the Congressional Research Service of the Library of Congress, indicates that, despite the partial repeal of the percentage depletion allowance for oil and gas by Congress in 1975, oil and gas production continues to benefit handsomely from large tax subsidies, at a time when high prices are already bringing high profits to the industry.

According to the calculations in the study, the effective tax rate on oil and gas drilling in the United States, even without the advantage of percentage depletion, is 17.2 percent, compared to the statutory Federal corporate tax rate of 48 percent and the estimated effective tax rates on corporations in other industries of about 30 to 35 percent.

In the case of oil and gas producers who also qualify for the percentage depletion allowance, the effective tax rate is actually below zero, resulting in a net Treasury payout to the producers, or a "negative income tax." The calculations in the study indicate that the net payout to such firms amounts to 3 percent of income.

The oil and gas industry has long received extremely favorable treatment under the income tax system. The best known tax advantage is percentage depletion, which allows a firm a deduction equal to 22 percent of the gross income from an oil or gas well.

In addition, producers are also allowed an immediate deduction for their "intangible" costs of drilling and development. Firms in other industries are required to "capitalize" such costs and deduct them gradually over the life of the investment. The immediate deduction for such drilling costs is available even for "development" wells, which involves drilling in proven reserves where little risk is present.

The rapid rise in oil prices and profits in 1974 automatically increased the value of the percentage depletion deduction, because the amount of the deduction was tied to the price of oil. In 1975, Congress repealed the percentage depletion deduction for the largest oil and gas producers. Under heavy lobbying pressure from independent producers, however, the deduction was retained for production not exceeding specified limits—currently 1,600 barrels a day, equivalent to over $6 million in oil revenues a year at current prices. The daily allowance will be reduced to 1,000 barrels by 1980, and the depletion percentage will be phased down to 15 percent by 1984. The 1975 legislation did not affect the deduction for intangible drilling costs.

According to estimates of the Congressional Budget Office, the cost to the Treasury of the tax subsidies for 1977 is $715 million for the intangible drilling deduction and $1.31 billion for percentage depletion. The total of the two tax subsidies is thus over $2 billion a year.

The Library of Congress study analyzes the tax breaks for oil and gas by converting the various tax provisions into effective tax rates. Basically, the study asks the following question: if each tax benefit were removed (for example, if intangible drilling costs were required to be capitalized, instead of being immediately deducted), how low a tax rate would have to be granted the firms in order to give them benefits equivalent to those available under the current tax provisions? Taking this approach, the following results were reached by the study:

Application of a 20.5-percent tax rate and capitalization of intangible costs would be equivalent to the current immediate deduction for intangible costs and the regular 48-percent corporate statutory tax rate. In other words, the immediate deduction, by itself, has the effect of reducing the 48-percent rate by more than half, to 20.5 percent.

When the 10-percent investment tax credit, available to firms in all industries for the purchase of equipment and machinery, is included in the calculation, the effective tax rate on oil and gas firms is reduced further, from 20.5 to 17.2 percent.

For producers also qualifying for the 22-percent depletion deduction an effective tax rate of minus 3 percent results from the cumulative effect of the depletion deduction and the deduction for intangible drilling costs. In other words, if these two tax benefits were eliminated, the Treasury would have to pay oil and gas producers 3 percent of their taxable income in order to maintain their equivalent tax position. The Treasury subsidy would be even greater if the investment credit were also taken into account.

Mr. President, the Library of Congress has performed a valuable service by undertaking this analysis, and I ask unanimous consent that the study be printed in the RECORD.

There being no objection, the study was ordered to be printed in the RECORD, as follows:

[The Library of Congress, Congressional Research Service]

TAX PROVISIONS AND EFFECTIVE TAX RATES IN THE OIL AND GAS INDUSTRY

(By Jane G. Gravelle, Analyst in Taxation and Fiscal Policy, Economics Division, October 6, 1977)

SUMMARY

Oil and gas production benefits from income tax treatment due to the expensing of dry hole costs and intangible drilling costs. In some cases, although not in the majority, benefits are also received in the form of percentage depletion and penalties are applied via the minimum tax.

This paper converts these tax provisions into an effective tax rate by use of a discounted cash flow model, allowing this effective rate to be compared with a standard tax rate of 48 percent and with effective rates which apply to other industries. The results indicate that oil and gas production is in a more favorable tax position (in an economic sense) than other industries on average, despite the repeal of percentage depletion in 1975. Further, those producers receiving percentage depletion benefits may actually be subject to what, in effect, amounts to a negative income tax. However, conclusions regarding provisions other than the expensing provisions are sensitive to the assumed rate of return, useful life and the decline rate of oil and gas wells.

The results of the calculations in this paper are summarized in the following tables. However, careful attention should be paid to the assumptions made in arriving at these effective tax rates, which are outlined in the paper.

TABLE 1.—*Summary of effective tax rates: total U.S. oil and gas drilling[1] under present law*

	Effective tax rate percent
A. Expensing dry holes and intangible drilling costs	20.5
Plus minimum tax at full rates (applicable to individuals only)	26.0
B. Expensing dry holes and intangible drilling costs plus percentage depletion:	
At a percentage depletion rate of 22 percent	[2] −3.0
At a percentage depletion rate of 15 percent	5.5
At a 22 percent depletion rate plus minimum tax on percentage depletion only	4.3
At a 15 percent depletion rate plus minimum tax on percentage depletion only	10.3
At a 22 percent depletion rate plus minimum tax on percentage depletion and intangibles (applicable to individuals only)	12.0
At a 15 percent depletion rate plus minimum tax on percentage depletion and intangibles (applicable to individuals only)	17.7

[1] Note that all rates except the first (20.5) are sensitive to the price-cost ratio which depends on rate of return, useful life and decline rate.

[2] A negative tax rate means that oil and gas production actually receives a subsidy rather than being subject to any tax. This subsidy can be received by offsetting deductions against other income of the taxpayer.

TABLE 2.—*Summary of effective tax rates: Development drilling*[1]

	Effective tax rate percent
With intangible drilling costs expensed	29.0
With intangible drilling costs expensed and a minimum tax on intangibles (applicable to individuals only)	40.0
With intangible drilling costs expensed and percentage depletion at 22 percent	5.0
With percentage depletion at 15 percent	12.6
With 22 percent depletion and minimum tax on depletion	12.5
With 15 percent depletion and minimum tax on depletion	17.6
With 22 percent depletion and minimum tax on both (applicable to individuals only)	32.6

[1] Assuming a virtually certain drilling of a producing well.

TABLE 3.—*Effective rate from expensing provisions plus investment credit*

(*Present law*)	*Percent*
All drilling	[1] 17.2
Development drilling	[2] 21.7

[1] The effect of including the investment credit is to reduce the effective tax rate from 20.5% in Table 1 to 17.2%.

[2] The effect of including the investment credit is to reduce the effective tax rate from 29.0% in Table 2 to 21.7%.

I. ISSUE AND APPROACH

Oil and gas production has received favorable tax treatment for many years, although one major special provision, percentage depletion, was repealed for most oil and gas producers in 1975. Even without percentage depletion, however, a substantial portion of capital investment can be deducted when incurred, resulting in a lower actual effective tax rate than would application of a standard tax system.

A lower tax rate leads to a greater allocation of capital to the production of oil and gas than would occur under a neutral tax system. Such misallocation, in terms of economic efficiency, is sub-optimal unless there is a social reason to reallocate such resources. In the past, prior to the substantial price rises of foreign oil, a major reason advanced for special treatment of the petroleum industry (in tax policy and in other areas as well, such as important quotas) was national security, because foreign oil prices were relatively low and posed a threat to the existence of a domestic industry (vital in time of national emergency). However, foreign oil prices have increased substantially and the price of new domestic oil has increased substantially as a result.

The rise in domestic oil prices to substantially higher levels led to a substantial rise in profits in the oil industry. Following this effect in 1975 the Congress repealed, for the most part, one of the major tax provisions favorable to the oil industry, percentage depletion. However, some oil and gas is still eligible for percentage depletion. Furthermore, oil and gas production continues to be allowed expensing provisions. These expensing provisions, which allow current deduction of dry hole costs and intangible drilling costs, provide substantial tax reductions for oil and gas producers.

The purpose of this paper is to determine how these provisions affect the effective tax rate on oil production. This effect is difficult to determine because there is no publicly available data on oil production alone which would provide appropriate information. Financial data for each firm, even though now reconciled with tax liability for major firms through Securities and Exchange Commission reports, is inappropriate because it aggregates foreign and domestic income, aggregates income from production, refining, transportation, maketing and any other associated businesses, and reflects specific accounting procedures of the firms involved.

Using another approach, some economic studies have compared the benefits provided to oil and to other industries to try to examine the magnitude of these economic effects. For example, Gerard Brannon estimated that the expensing provisions plus percentage depletion resulted in the equivalent of 46 percent investment tax credit as compared to a rate of about 8 to 10 percent for other industries.[1] While conversion of tax benefits into credits is useful as an input into estimates of supply and demand and other economic relationships, it is difficult to interpret.

In order to examine the effect of these provisions and interpret them into terms which have a familiar reference point—the tax rate—this paper will examine the effect of various provisions on the effective tax rate, under a number of circumstances. This can be compared with the standard 48 percent tax rate, with general observed effective tax rates in other industries and with other provisions affecting business in general. To make these estimates, some assumptions must be made about costs and on occasion useful lives and discount rates. Fortunately, however, some of the most important results are independent of discount rates and useful lives.

II. A DESCRIPTION OF TAX PROVISIONS BENEFITING OIL AND GAS PRODUCTION

There are several special tax provisions, as well as some generally available ones, which act to reduce the effective tax rate of oil and gas production. In outlining these provisions, it is useful to examine the various types of costs incurred in acquiring a producing oil or gas property and how these provisions are treated in the tax law. An explanation of why

Footnotes at end of article.

various provisions favor oil and gas production will follow.

A. Abandonment costs (dry hole costs)

Expenditures, regardless of their nature, which are associated with dry properties and wells are allowed to be deducted in computing taxable income when incurred.[2] Current deduction of investment outlays allows the deferral of taxes and provides a benefit because of the time value of money. These costs may include drilling costs for exploratory and development wells which prove dry, lease acquisition costs for properties which prove dry and various other associated costs.

B. Depletable costs

Expenditures for lease acquisition and geological and geophysical expenditures which relate to producing properties and wells are generally recovered through cost depletion over the life of the property. Depletable costs are recovered via a unit of production method where the portion of costs deducted each year is equal to the proportion of reserves recovered each year. If reserves are correctly measured, cost depletion appropriately matches the decline in value of the property with income produced from the property.[3]

Prior to 1975, an alternative method of recovering these costs was generally allowed, termed percentage depletion. Percentage depletion was allowed at a rate equal to 22 percent of gross income (minus royalty) from the well but could not exceed 50 percent of net income (after all deductions other than depletion). Royalty recipients took percentage depletion on their royalty income.

Because percentage depletion was a deduction of a specified percentage of gross income, and exceeded actual costs, it constituted a tax benefit. This tax benefit was quite substantial since various estimates indicated that it allowed a recovery of depletable costs from 4 to 16 times original costs.[4]

In 1975 (as mentioned) percentage depletion was disallowed. However, an exemption from repeal was retained for independent producers for a certain portion of oil production. Percentage depletion was to be allowed for the first 2,000 barrels of oil a day with a phase down over a five-year period to 1,000 barrels of oil a day. Beginning in 1981 the rate on the exempt portion will be phased down to 20 percent in 1981, 18 percent in 1982, 16 percent in 1983 and 15 percent in 1984, where it will remain. Alternatively a producer may elect a rate of 22 percent on secondary and tertiary production until 1984. The deduction for depletion may not exceed 65 percent of the taxpayer's net income from all sources.

At the time of enactment, the exclusion apparently would have retained about 30 percent of the dollar amount of existing percentage depletion. As the exemption and rate fall, this proportion would be expected to fall.

C. Intangible drilling costs

Expenditures for intangible costs of drilling producing wells (such as labor supplies and repairs) are allowed to be deducted when incurred.

D. Tangible drilling costs (depreciable costs)

Expenses of tangible well equipment related to producing wells are recovered as depreciation. The rate and useful life may be that generally allowed in the tax law (including double declining balance and other forms of accelerated depreciation and shorter lives under the asset depreciation range system) or may be recovered based on unit of production. Like other investment, tangible well equipment is generally eligible for the investment tax credit, and recovery of costs may potentially benefit from accelerated depreciation—two generally available tax benefits.

In addition to these tax benefits, there are some penalties imposed which offset to some extent the advantages. Both intangible drilling costs (roughly in excess of amounts if capitalized) and percentage depletion in excess of cost depletion are included in the base of the minimum tax for individuals, currently imposed at a 15 percent rate. Percentage depletion is also included in the minimum tax for corporations.[5]

A standard tax on income from a capital investment would impose a tax on revenues minus operating costs and minus a deduction for the using up of the asset (for a machine through depreciation deductions). Such a treatment allows income from the asset to be matched with costs of producing that income. Compared to this standard, expensing of investment costs through dry hole deductions and intangible drilling costs provides a tax incentive because costs are deducted prior to recognition of income, and taxes are deferred. Percentage depletion provides a tax benefit because deductions are in excess of original costs. The investment credit provides a benefit through a net reduction in original investment cost.

With the exception of expensing of dry hole costs, all of these provisions are recognized generally as tax subsidies by inclusion in the tax expenditure budget.[6] (Although the tax expenditure budget clearly does not include all items which result in favorable tax rates on certain types of investment.)

The case of dry hole costs is somewhat more complicated to deal with and substantial confusion on the issue exists because most (although not all) firms expense dry holes in their financial accounts and most of the accounting profession favors such expensing treatment. Nevertheless there is a current discussion involving the use of full cost accounting for the petroleum industry in the accounting profession which would require the capitalization of dry holes and tracts.[7]

Understanding of this issue is complicated by the fact that losses are generally allowed to be deducted in the tax law (although this deduction generally occurs in most businesses when assets are sold at a loss). Because the allocative effect of expensing of dry holes is so essential to the remainder of this paper, the following discussion is presented to show why in an economic sense expensing of dry holes provides for a relatively lower effective tax rate and concomitant encouragement of oil and gas production beyond that which would occur with a neutral tax system. (A neutral tax system would lead to the same allocation of capital which would have occurred if the tax did not exist.)

Difficulty in assessing the impact of dry hole expensing occurs because oil and gas production is unusual in that there are a large proportion of dry holes and tracts which prove to be entirely worthless as single properties but which are nevertheless a necessary acquisition cost of producing properties and wells since in an exploratory drilling operation a producer can never be sure of drilling a producing well. Because of the importance of these expenses, the failure to tax under an accretion concept or to capitalize dry holes becomes important in terms of resource allocation. Unlike other industries the costs of projects which are unsuccessful constitute a significant portion of investment outlay in oil and gas production.

To illustrate this allocative effect, consider the following example:

In a no tax world, a manufacturer might spend $100,000 on a plant which will produce over time a 15 percent rate of return (and therefore its present value at a 15 percent discount rate is $100,000). Were the current tax applied, the basis of the asset ($100,000) would be depreciated over the useful life of the plant.

An oil driller might also be willing to spend $100,000 to produce an investment yielding a 15 percent rate of return. However, in this case, assume that he expects to drill 9 dry holes for every one producing hole. If the present value of a producing well is $100,000 he would be willing to spend no more than $10,000 per well. If his expectations hold, he will now have a $90,000 expenditure on dry holes and a $10,000 expenditure on a successful well. Were the current tax applied and the dry holes expensed he would take a $90,000 deduction and, assuming sufficient other income to offset it against, he would realize an immediate tax savings of $43,200 (at a 48 percent tax rate). He would have a basis of $10,000 to depreciate over the life of the well, and would thus have smaller depreciation deductions. However, the value of deducting those items now is greater than in the future because of the time value of money.

An investor faced with these two options would clearly prefer to invest in oil production after the imposition of the tax although the two investments yield an equal before tax rate of return.[8] A neutral tax on income would leave investors indifferent between the two options.

Not only is this effect allocationally nonneutral, but it can even be shown to be inconsistent within the tax structure itself. Consider two investors spending $100,000 each to invest in oil extraction, and each finding one out of ten holes producing with a present value of 3100,000. Investor A produces oil from his well, takes a $90,000 deduction for dry holes and deducts the remaining $10,000 over the life of the producing well. Investor B sells his producing well for $100,000 to C, deducts his $90,000 loss against his $90,000 gain,[9] for no income tax liability or net loss. C, now having an asset with a basis of $100,000, depreciates it over the life of the producing well. The latter case is equivalent to what would occur with capitalization of dry holes.

The two situations are equal in an economic sense but the tax law treats them differently. Clearly, the two different effects cannot be allocationally neutral.[10]

It is important to note that the fact a tax subsidy exists does not necessarily mean that it is socially undesirable. The legal complexities of capitalizing dry holes may be significant enough to justify the efficiency losses which occur. Furthermore, there is some argument that a tax subsidy should be provided for exploratory drilling because exploratory drilling yields benefits to society in general by providing information to other producers. This "social benefit" does not yield a rate of return to the exploratory driller, however, and in the absence of a subsidy the amount of exploratory drilling may be less than desirable, considered from the perspective of society as a whole. But the precise size of the optimal subsidy may or may not correspond with that implicit in expensing of dry holes.[11]

The economic effect of the various special tax provisions in the oil and gas industry has been widely analyzed,[12] although the economic analysis has primarily focused on percentage depletion and generally pre-dated both the repeal of percentage depletion in 1975 and the price increases which occurred in 1974.

The major points which have generally been made in this literature are:

(1) The special provisions may affect price, output, proved reserve levels, rate of return or suppliers of factors of production (the latter may be primarily increases in lease acquisition costs which increase income of landowners).

(2) Quantitative studies have raised questions about the efficiency of such provisions in increasing proved reserve levels or in achieving the goals of restricting dependence on foreign imports. Furthermore, the latter purpose has become less relevant given

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Footnotes at end of article.

the incentive effects of substantial price rises which should have encouraged domestic production and to which adjustment may still be taking place.

(3) Certain of these provisions, such as dry hole costs, are a far greater incentive to exploratory drilling. Intangible drilling cost deductions are a greater incentive to drilling in proved reservoirs.

In addition to these general points, it might also be noted that the current form of the allowance for percentage depletion, because it is restricted to a given level of production, may provide no incentive to new drilling for those firms whose production is and will be above the exempt limits of the amount of oil eligible for percentage depletion.

III. EFFECT OF SPECIAL TAX PROVISIONS ON EFFECTIVE TAX RATE: ALL DRILLING

A. Methodology

In order to translate the value of the various tax benefits available to oil and gas production into equivalent effective tax rates, a discounted cash flow model will be used. This model is similar to the type used by the Federal Power Commission to set natural gas rates in the United States. The elements of this type of model are outlined in the Appendix (Section A). As shown in that derivation, a standard income tax rate of 48 percent can be converted into an effective tax rate by use of a standard formula which does not depend on useful life, decline rate (production rate) and rate of return, as long as the special tax provisions involve an expensing privilege. This is the case of the major provisions currently affecting oil and gas production.

The standard formula for an expensing provision (with a 48 percent tax rate) is:

$$\frac{.48(1-x)}{1-.48x} = \text{effective tax rate}$$

where x equals the percent of cost expensed.

In order to apply this formula, however, it is necessary to determine what portion of investments are expensed through dry hole costs and intangible drilling costs. Estimates of these amounts have been presented by the Treasury Department for oil and gas production and by the Federal Power Commission.

The Treasury estimates [13] indicated that approximately 42 percent of costs were recovered through dry hole expensing, 29 percent through intangible drilling cost deductions, 9 percent through depreciation and 20 percent through depletion. Since these estimates were provided in 1973, however, they may be substantially out of date and should accordingly be given less weight than more recent estimates.

The Federal Power Commission indicated the following rough proportions:

(1) Oil [14] (based on 1972 data):

45 percent dry hole costs, 22 percent intangible drilling costs, 7 percent depletion and 26 percent depreciation.

(2) Gas [15]

1973–1974 data:

51 percent dry hole costs, 24 percent intangible drilling costs, 6 percent depletion, 17 percent depreciation, 3 percent working capital.

1975–1976 data:

51.5 percent dry hole costs, 21.5 percent intangible drilling costs, 16 percent depreciation, 8 percent depletion, 3 percent working capital.

These ratios vary, although not substantially. There is a possibility that the Treasury data included some tangible equipment under depletion because such costs can be recovered via depletion. Further, discussions by the Federal Power Commission in both sources indicated a rising trend in the share that lease acquisition comprises of costs. Accordingly, the following ratios are assumed in analysis: [16] 50 percent, dry hole costs; 22 percent, intangible drilling costs; 18 percent, depreciation; 7 percent, depletion [17]; and 3 percent, working capital.

B. Findings

Using the formula developed in the Appendix, the effective tax rate which results from expensing dry hole and intangible drilling costs can be calculated as:

$$\frac{.48(1-.72)}{1-(.48)(.72)} = 20.5 \text{ percent}$$

In other words, the same effect could be achieved by capitalizing dry holes and intangible drilling costs and then reducing the Federal corporate tax rate on oil and gas production from 48 percent to 20.5 percent (ignoring for the moment any other tax provisions).

If expensing of dry holes were allowed but capitalizing of intangible drilling costs were required, only 50 percent of the costs would be expensed, with the resulting effective tax rate:

$$\frac{.48(1-.5)}{1-(.48)(.5)} = 31.6 \text{ percent}$$

In effect, capitalizing intangible drilling costs would increase effective tax rates on the production of oil and gas by about 10 percentage points; the remaining 16 + percentage points being attributable to dry hole expensing.

Conversely, if dry hole capitalization were required but intangible drilling costs deductions were still allowed (currently an unlikely prospect) the effective tax rate would be:

$$\frac{.48(.1-.22)}{1-(.48)(.22)} = 41.9 \text{ percent}$$

Capitalizing dry holes would add about 20 percentage points to the effective tax rate, with the remaining 6 + percentage points reflecting intangible drilling cost deductions.

Measuring the relative effects of dry hole expensing versus intangible drilling cost expensing depends on which is removed first; however, both examples illustrate the greater relative importance of expensing dry holes as compared to intangible drilling costs in reducing the effective tax rate on total drilling.

Although the minimum tax is unlikely to apply to most drilling in the United States its effects can roughly be measured, using an expensing credit or tax payment as described in Section B of the Appendix. Under present law, the minimum tax is applied at a rate of 15 percent on certain excess intangible drilling cost deductions.

As shown in the Appendix, separate effective tax rates on revenues versus return of costs must be computed in this case and from these results a single total effective tax rate can be derived. The general form of the rate on revenues is:

$$\frac{z(1-x)+wy}{1-zx+wy} = \text{effective tax rate}$$

and on costs:

$$\frac{z(1-x)}{1-zx+wy} = \text{effective tax rate}$$

where x equals percent of costs expensed, z equals the regular tax rate, w equals the rate of the minimum tax and y the portion of cost to which the minimum tax applies.

Assuming, as a polar case, that full 15 percent rate applies to all intangible drilling costs, and that the 48 percent marginal corporate tax rate applies to affected individuals, the effective tax rate on revenues would be:

$$\frac{(.48)(1-.72)+(.15)(.22)}{1-(.48)(.72)+(.15)(.22)} = 24.3 \text{ percent}$$

and the effective tax rate on return of costs =

$$\frac{(.48)(1-.72)}{1-(.48)(.72)+(.15)(.22)} = 19.5 \text{ percent}$$

Because return costs are recovered at a lower effective tax rate than revenues are taxed at, the overall effective tax rate is higher than 24.3 percent. As explained in Section B of the Appendix, the common tax rate depends on the ratio of price to cost. Using the 3.5:1 ratio discussed in the Appendix, the overall effective tax rate would be approximately 26 percent. This rate is, however, sensitive to useful life, rate of return and decline rate because it depends on the ratio of price to cost which reflects these factors.

Assuming this 26 percent rate to be correct,[18] the result is that the minimum tax on intangible drilling cost deductions adds about 5 percentage points to the effective tax rate (increasing it from 20.5 percent to 26 percent). The result also indicates that repeal of the deductibility of intangibles, where the minimum tax was already fully applicable, would raise the effective tax rate by about 5 percentage points (from 26 percent to 31.5 percent). (See discussion of effects of capitalizing intangibles above.)

Percentage depletion is also available to some production. To incorporate percentage depletion into the model (and referring to the model in the Appendix, Section C), the effective tax rate on revenues would be:

(a) At 22 percent depletion rate:

$$.205-\frac{(.22)(.48)}{1-(.48)(.72)} = .205-.161$$

= 4.4 percent effective tax rate on revenues

$$.205-\frac{(.48)(.07)}{1-(.48)(.72)} = .205-.051$$

= 15.5 percent effective tax rate on costs

Using a 2.5:1 ratio of price to cost, as discussed in the Appendix, this would convert from a tax rate to a tax *subsidy* of 3 percent.[19]

(b) At a 15 percent rate:

$$.205-\frac{(.15)(.48)}{1-(.48)(.72)} = .205-.110$$

= 9.5 percent rate on revenues

Using a 2.5:1 ratio of price to cost, as discussed in the Appendix, this would convert into a tax rate of 5.5 percent.[20]

Although these results are much less certain than those relative to the expensing allowance, percentage depletion clearly has the potentiality to convert tax rates in the oil industry to virtually no tax or even to a subsidy (in effect a negative tax rate).

If the minimum tax applied to percentage depletion but not to intangible drilling costs, the effect would be:

(a) At a 22 percent depletion rate:

$$.205-\frac{(.48-.15)(.22)}{1-(.48)(.72)} = .205-.111$$

= .4 percent effective tax rate on revenues

$$205-\frac{(.48-.15)(.07)}{1-(.48)(.72)} = .205-.035$$

= 17.0 percent effective tax rate on costs

which converts into a 4.3 percent tax rate at a 2.5:1 price-cost ratio.

(b) At a 15 percent depletion rate:

$$.205-\frac{(.48-.15)(.15)}{1-(.48)(.72)} = .205-.075$$

= 13.0 percent effective tax rate on revenues

which converts into an overall tax rate of 10.3 percent at a 2.5:1 price cost ratio.

Footnotes at end of article.

If the minimum tax were to apply to both intangible drilling costs and percentage depletion (again assuming a 48 percent marginal tax rate for individuals as well as corporations):

(a) At a 22 percent depletion rate:

$$.243-\frac{(.48-.15)(.22)}{1-(.48)(.72)+(.15)(.22)}=.243-.106$$

=13.7 percent effective tax rate on revenues

$$.195-\frac{(.48-.15)(.07)}{1-(.48)(.72)+(.15)(.22)}=.195-.033$$

=16.2 percent effective tax rate on costs

which converts into a 12.0 percent common effective tax rate at a 2.5:1 price-cost ratio.

(b) At a 15 percent depletion rate:

$$.243-\frac{(.48-.15)(.15)}{1-(.48)(.72)+(.15)(.22)}=.243-.072=17.1$$

which converts into a 17.7 percent overall effective tax rate at a 2.5:1 price cost ratio.

These effects with the minimum tax are, of course, also sensitive to the assumed price-cost ratio.[21]

These effects illustrate the greater importance of intangible drilling cost deductions to development drilling. Furthermore, if development drilling is less risky than total drilling (implying a lower price cost ratio) percentage depletion is more valuable to development drilling than to drilling as a whole.

IV. EFFECT OF TAX PROVISIONS ON EFFECTIVE TAX RATES: DEVELOPMENT DRILLING[22]

Once a producer has discovered an oil or gas reservoir, he may make decisions to drill additional wells. In this case we will assume that he incurs no dry hole costs to measure the effect of expensing of intangible drilling costs in the extreme case where he is virtually certain that oil will be produced.

FPC data suggest that if all depreciable costs are allocated to successful wells, 56 percent of his cost will be intangible drilling costs and 44 percent will be depreciable costs. Accordingly, using the standard formula

$$\frac{z(1-x)}{1-zx}$$

the effective tax rate will be:

$$\frac{.48\ (1-.56)}{1-(.48)(.56)}=29 \text{ percent}$$

Thus, if intangible drilling costs were required to be capitalized, the effective tax rate would increase by 19 percentage points (from 29 percent to 48 percent).[23] Hence, the greater effect of intangible drilling costs on development as opposed to total drilling is demonstrated.

The application of the minium tax on intangible drilling costs would yield:

$$\frac{.48\ (1-.56)+(.15)(.56)}{1-(.48)(.56)+(.15)(.56)}=36 \text{ percent}$$

effective tax rate revenues

and

$$\frac{.48\ (1-.56)}{1-(.48)(.56)+(.15)(.56)}=25.9 \text{ percent}$$

effective tax rate on costs

At a 3.5:1 price ratio, the overall rate would be 40 percent.[24]

The incorporation of percentage depletion adds a 22 percent (or 15 percent) return of revenues and loses to cost depletion deduction. To calculate the effects of intangible drilling costs plus percentage depletion the formula is:

$$.29-\frac{(.22)(.48)}{1-(.48)(.56)}=.29-.144=14.6 \text{ percent}$$

effective tax rate on revenues

The rate on costs (computed earlier at a 29 percent rate) would be unchanged (ignoring the loss of cost depletion) and the combined rate would be (at a 2.5:1 price ratio) 5 percent. (Note, however, that a slightly higher common rate would apply because of the loss of cost depletion.)[25]

At a 15 percent depletion rate:

$$.29-\frac{(.15)(.48)}{1-(.48)(.56)}=.29-.098=19.2 \text{ percent}$$

effective tax on revenues

and the combined rate (ignoring the loss of cost depletion) would be 12.6 percent.[26]

Without displaying the calculation and assuming 2.5:1 ratio, a full minimum tax on percentage depletion at a 22 percent rate would be a 19.12 effective tax rate with a 12.5 overall tax rate; and at a 15 percent depletion rate would be a 22.2 percent effective tax rate on revenues with a 17.6 percent overall tax rate. A minimum tax on both intangible drilling costs and percentage depletion at a 22 percent depletion rate would indicate a 27.1 percent rate on revenues and a 27.9 percent overall rate; at a 15 percent depletion rate the effective tax rate on revenue would be 29.9 percent with an overall rate of 32.6 percent. These effects would also vary with price cost ratios.

V. COMPARISON WITH OTHER FORMS OF INVESTMENT

In order to compare the allocative effect of special tax provisions with tax rates in oil and gas drilling, a determination of the overall effective tax rate which applies to alternative investments is required. This comparison is quite difficult, although some approximations can be made.

Observed aggregate effective tax rates in the past few years have ranged from around 31 percent to 35 percent.[27] These rates present some difficulties, however, because they represent average tax rate on return to all existing capital and not the implied rate on investment made in one period. Furthermore, they reflect accounting practices of the firms and actually include investment along a broad continuum (from very favored industries to those which pay close to the full statutory rate). Nevertheless, these observed tax rates can serve as one benchmark.

An alternative method of developing a standard for comparison is to look at the effect of the major general provision available in manufacturing—the investment credit—which is currently allowed at a 10 percent rate. In the case of manufacturing, the Treasury department estimated[28] that 65 percent of the average investment in manufacturing reflected machinery and equipment. Assuming all such investment is eligible for the credit[29] the effective tax rate can be calculated in the same form as a minimum tax (but with opposite sign), where the rate on revenues equals:

$$\frac{(.48)-(.10)(.65)}{1-(.10)(.65)}=44.4 \text{ percent}$$

and the rate on costs equals:

$$\frac{.48}{1-(.10)(.65)}=51.3 \text{ percent}$$

The overall rate ranges from 30.6 percent at a 1.5:1 ratio and 42.7 percent with a 5:1 ratio. Given fairly long useful lives suggested by these investments a fairly high price to cost ratio would be expected and, therefore, an effective tax rate closer to 42.7 percent.

It would also be desirable to include accelerated depreciation in this effect; however, it does not seem possible to account for it.[30]

In order to compare the numbers derived for the oil and gas industry with either of these standards, a further adjustment should be made to the rates to account for the investment tax credit which is available for well equipment. Because application of the minimum tax and percentage depletion is not common, particularly for corporations, only the expensing provisions will be assumed.

For total drilling the rate on revenue flows would be:

$$\frac{1.48)(1-.72)-(.10)(.18)}{-(.48)(.72)-(.10)(.18)}=18.3 \text{ percent}$$

effective tax rate on revenues

and the rate on costs would be:

$$\frac{(.48)(1-.72)}{1-(.48)(.72)-(.10)(.18)}=21.1 \text{ percent}$$

effective tax rate on costs

At a 3.5 to 1 ratio the tax rate would be 17.2 percent.

For development drilling the rate on revenues:

$$\frac{(.48)(1-.56)-(.10)(.44)}{1-(.48)(.56)-(.10)(.44)}=24.3 \text{ percent}$$

effective tax rate on revenues

and the rate on costs would be:

$$\frac{(.48)(1-.56)}{1-(.48)(.56)-(.10)(.44)}=30.7 \text{ percent}$$

effective tax rate on costs

At a 3:5 to 1 ratio the tax rate would be 21.7 percent.

In this regard it is interesting to note that the inclusion on the investment credit results in tax rate, when all factors are considered, on development drilling which is almost as low as that of overall drilling, due to the greater value of the investment tax credit for this type of drilling. This effect would be increased to the extent that accelerated depreciation occurs as well, but reduced if development drilling is less risky than total drilling.

It would also be useful to calculate the effect of repealing intangible drilling costs given that the investment credit was retained. By substituting (for total drilling) .50 for .72 and recalculating the common rate, the effect is to increase the rate to 30 percent for an effect of about 13 percentage points. In the case of development drilling by substituting 0 for the .56 and recalculating the common rate, the rate would be 43.8 percent for a 22 percentage point difference.

These effects again confirm the greater importance of intangible drilling cost expensing for development rather than total drilling.

The general results indicate, however, that oil and gas production of either type, even without percentage depletion, enjoys a much lower tax rate than average corporate profits in the economy.

FOOTNOTES

[1] Gerard M. Brannon. Existing Tax Differentials and Subsidies Relating to the Energy Industries. Studies in Energy Tax Policy. Cambridge, Ballinger Publishing Company, 1975. Professor Brannon converted these provisions into present value terms, thereby allowing them to be compared with other industries. A 46 percent investment credit would reduce the cost of capital by 46 percent.

[2] Technically, a well may receive intangible drilling cost deductions initially, and then be abandoned, with much of the cost already deducted. Costs of acquiring a property are not deducted until the entire tract proves dry. Although technically dry holes may be deducted as intangibles, in this paper they are treated as abandonment losses since deduction of their costs would occur quickly even if intangible drilling costs were not allowed to be deducted.

[3] This recovery does not result in a true economic recovery if prices are rising because of the use of historical cost depletion. However, since other assets are also depreciated using historical cost basis, this effect only has an allocational impact if useful lives of oil and gas properties are significantly different from those of other assets. Such evidence as is available indicates a range of 6 to 25 years for oil and gas deposits; the Federal Power Commission uses a life of 15 years. Treasury data presented

in testimony before the Senate Interior Committee in 1973 (Financial Requirements of the Nation's Energy Industries) indicated that in manufacturing 65 percent is recovered over 10 years (machinery) and 35 percent over 45 years (structures) for a weighted average of around 20 years. Recovery of costs in the housing industry would take an even longer period. Thus, such evidence as is available does not suggest that oil and gas properties are disfavored by use of historical cost depreciation or depletion.

[4] See Treasury statement before the Senate Interior Committee (Financial Requirements of the Nation's Energy Industries, 1973) and testimony of J. Reid Hambrick before the Ways and Means Committee (Panel Discussions on Tax Reform, Pt. 9, Natural Resources, 1973).

[5] The individual minimum tax allows a deduction of the larger of $10,000 or ½ of regular taxes paid from preference income. The minimum tax on corporations allows a deduction of the greater of $10,000 or regular taxes paid. It is unlikely that major oil and gas firms pay any minimum tax.

[6] Estimates of Federal Tax Expenditures, Prepared for the House Ways and Means Committee and Senate Finance Committee by staff of the Joint Committee on Internal Revenue Taxation, March 15, 1977.

[7] For a discussion see Brannon, Ibid., and U.S. Congress, Committee on Government Operations, U.S. Senate, The Accounting Establishment, 95th Congress, 1st Session, March 31, 1977, p. 1629–1633.

[8] Of course, if the risk in oil production is perceived as greater than in building the plant then the investor may require a risk premium; but this adjustment can occur properly only in a neutral tax environment. Furthermore, for small producers securing debt capital may be more difficult or costly in the oil drilling case, also requiring a higher rate of return.

[9] Under present law, of course, a gain on an asset held for one year or more does not incur tax at full rates. This item is, however, recognized as a tax subsidy.

[10] It is important to view allocational effects from the standpoint of an investor making a choice without sure knowledge. For an investor drilling many wells, the ratio of dry to producing holes may not be precisely what he expects and his rate of return lower or higher as a consequence. If he perceives the return as highly variable he will demand a higher rate of expected return than in the case of a safe investment. However, not realizing his exact expectations does not imply that it is proper to expense any dry holes. A manufacturer may find his plant producing a lower or higher rate of return as well. If a true accretion income tax were applied, either type of investor would recognize gains and losses reflecting returns above or below market returns and they have the option of doing so if either sells an asset. The result of favoring investment in oil and gas production is to encourage a larger flow of capital into oil and gas production which may yield, at the margin, the same (or even a higher) rate of after tax return but a lower physical return. As a result capital does not flow to its best uses. Of course, a tax on the returns to capital may create its own non-neutralities in product mix but this effect should be evaluated in a more general context.

[11] For a discussion see Joseph E. Stiglitz, The Efficiency of Market Prices in Long Run Allocation in the Oil Industry, and Frederick M. Peterson, Two Externalities in Petroleum Exploration, in Studies in Energy Tax Policy. Cambridge, Ballinger Publishing Co., 1975. The externality argument applies in the opposite direction to drilling on an existing site if other drillers also are producing from the same reservoir since any one driller can gain at the expense of others by drilling more holes and thereby reducing the amount of oil pumped by his neighbors. An argument for a tax penalty can be made in this case.

[12] For a survey and extensive annotated bibliography, see U.S. Congress, Senate Interior Committee, An Analysis of the Federal Tax Treatment of Oil and Gas and Some Policy Alternatives. 93rd Congress, 2nd Session, 1974. See also Studies in Energy Tax Policy, op. cit., 1975.

[13] U.S. Congress. Senate. Committee on Interior and Insular Affairs. Financial Requirements of the Nation's Energy Industries, March 6, 1973, p. 240–244.

[14] U.S. Congress. Senate. Committee on Interior and Insular Affairs. Estimates of the Economic Costs of Producing Crude Oil, 1976.

[15] United States of America, Federal Power Commission, Opinion No. 770–A, National Rates for Jurisdictional Sales of Natural Gas Dedicated to Interstate Commerce on and after January 1, 1973, for the Period January 1, 1975 to December 31, 1976. Docket No. RM75–11, Opinion and Order on Rehearing Modifying in Part Opinion No. 770 and Granting Petitions for Intervention. Issued November 5, 1976. Hereafter referred to as Opinion 770–A.

[16] These cost ratios, of course, reflect ratios of the average cost investment rather than the marginal cost investment. This presents no problem if one is measuring the average effective tax rates of the industry for expensing provisions; however, the allocational effects are dependent on the marginal costs. Average cost data must be used because we have no observations on marginal investments. In any case, it is not clear which way these ratios might change from the average to the marginal. More marginal investments ments. In any cases it is not clear which way drilling costs, suggesting a smaller ratio of expensable to non-expensable items, but would also tend to have a higher expected ratio of dry to producing properties suggesting a higher ratio of costs which are expensable.

[17] Working capital is recovered at the end of the project. The amount is small enough that it can be ignored with no significant effect on the outcome.

[18] The rate does not vary substantially in reasonable ranges in any case. A 5:1 price ratio would yield a rate of 25.5 percent; a 2:1 ratio would yield 29.1 percent rate.

[19] In other words, an equivalent result could be reached by disallowing expensing and percentage depletion and paying the oil producer 3 percent of taxable income (although this comparison requires other income to deduct costs against). To illustrate the effect of the price to cost ratio assumption, at 5:1 ratio the tax rate would be a positive 1.6 percent rate while at a 1.5 to 1 ratio, the tax *subsidy* would be 17.8 percent.

[20] To illustrate as in the preceding footnote, at a 5:1 ratio the tax rate would be 8 percent; at a 1.5 to 1 ratio the tax *subsidy* would be 2.5 percent.

[21] To quickly summarize, for a minimum tax on percentage depletion only, the effective rate with a 22 percent depletion rate is a 7.5 percent tax with a 5:1 ratio and a 5.8 percent subsidy with a 1.5:1 ratio; the effective rate with a 15 percent depletion rate is a 12 percent rate with a 5:1 ratio and a 5 percent rate with a 1.5:1 ratio. For a minimum tax on both percentage depletion and intangible drilling costs, the effective rate with a 22 percent depletion rate is a 13 percent tax with a 5.1 ratio and an 8.7 percent tax rate with a 1.5 to 1 ratio. At a 15 percent rate the effective tax rate is 17.3 percent at a 5:1 ratio and 18.9 percent at a 1.5 to 1 ratio.

[22] This paper does not consider the case where exploratory drilling is treated as a separate investment. If the information yielded from exploratory drilling is saleable (such as a lease right) the tax rate would be very low since 95 percent of exploratory drilling is expensed. Furthermore, if the asset were held for one year, a lower capital gains rate would apply resulting in a net subsidy.

[23] Using the 56 percent tax rate on return costs, expensing would reduce it to 34 percent for approximately the same percentage point difference.

[24] On the average, one would expect a smaller price cost ratio for development drilling because of the smaller risk. At 2:1 ratio effective rate woud be 46.1 percent. At a 5:1 ratio the rate would be 38.5 percent.

[25] At a 1:5 to 1 price to cost ratio the rate would be a 14.2 percent subsidy rate, while at a 5:1 price ratio the effect would be an 11 percent tax. The value of return flows on cost depletion, after adjusting for the expensing effect would be very small.

[26] At a 1:5 to 1 price to cost ratio the rate would be a .1 percent subsidy rate while at a 5:1 price to cost ratio, the effect would be a 16.75 percent tax rate.

[27] See Emil Sunley, Toward a More Precise Effective Rate Measure. Tax Notes, March 1, 1976. Note that while the marginal tax rate on an additional dollar is either 0 or 48 percent, the tax rate on income from an additional investment (with incentives) would be less than 48 percent.

[28] See testimony presented before the Senate Interior Committee (Financial Requirements of the Nation's Energy Industries, 1973).

[29] Some equipment is too short lived to be eligible for the full credit.

[30] The asset depreciation range is much smaller in value than the investment credit, however.

APPENDIX

A. GENERAL MODEL

In order to convert the tax provisions allowed to oil and gas production to an effective tax rate, an income stream can be set up as follows (using discrete time intervals):

$$(1)\quad C=\frac{Pa_0Q}{(1+r)^0}+\frac{Pa_1Q}{(1+r)}+\frac{Pa_2Q}{(1+r)^2}+\ldots+\frac{Pa_NQ}{(1+r)^N}$$

where:

P=Price per unit after operating costs (including royalties)

a=Percent of reserves recovered each period

Q=Total recoverable reserves

r=Discount rate

C=Present value of the income stream

By factoring out a PQ term, the expression can be reduced to:

$$(2)\qquad C=PQ\ (df)$$

where:

$$df=\frac{a_0}{(1+r)^0}+\frac{a_1}{(1+r)^1}+\ldots+\frac{a_N}{(1+r)^N}$$

The income stream can be modified to allow for a constant rate of inflation by viewing r as the real rate of return, i.e.:

$$(1+r)=(1-r^*)/(1+i)$$

where i=the rate of inflation and r^* equals the nominal rate of return. This model assumes output prices rise at the rate of inflation.

Addition of an income tax at rate z with no depreciation would be expressed as:

$$(3)\qquad C=(PQ-zPQ)\,(df)$$

In order to compare the embedded effective tax rate with a standard tax system, costs would be written off each period at a rate of a_iC. This expression could be written: [1]

$$(4)\qquad C=(PQ-zPQ)\,(df_1)+zC(df_2)$$

If inflation occurs, the discount factor associated with depreciation would differ to reflect the use of historical cost depreciation.

It can readily be shown that allowance of expensing of all costs when incurred would result in the equivalent of no income tax since:

[1] Such a system would imply unit of production depreciation; presently an option of depreciation as generally allowed in the tax code is available.

$$(5)\quad C(1-z)=(PQ-zPQ)(df_1)+z(C-C)(df_2)$$

converts to

$$(6)\quad C=PQ(df_1)$$

If a portion x of the cost is expensed, the resulting tax rate is:

$$(7)\quad C(1-zx)=(PQ-zPQ)(df_1)+z(1-x)C(df_2)$$

which can be converted into the expression: [2]

$$(8)\quad C=\left(PQ-\frac{z(1-x)PQ}{1-zx}\right)(df_1)+\frac{z(1-x)}{1-zx}C(df_2)$$

Noting the structural similarity between equations (8) and (3), a standard method for converting an expensing privilege into an effective tax rate can be derived by the following formula:

$$\frac{z(1-x)}{1-zx}=\text{effective tax rate}$$

If investment occurs in periods earlier than the first year of production the C on the left hand side of the equation is not equivalent to the C on the right hand side. When comparing to a standard tax rate, this effect does not create a problem because it occurs in other investments as well.

B. Calculating effective tax rates for tax provisions without a basis adjustment

Application of a tax in this model can be conceptually separates into two parts: a positive tax rate on revenues (or a negative cash flow) and a negative tax rate on the return of costs (or a positive cash flow). If a tax or credit is imposed without changing future deductions, a differential tax rate on revenues and return costs will occur. Such a situation will occur with items such as the minimum tax or the investment credit. The formula will be set up as follows:

$$(9)\quad C(1-zx)+wyC=(PQ-zPQ)(df_1)+z(1-x)C(df_2)$$

where:

z = regular tax rate
x = portion expensed
w = tax or credit rate (negative of credit)
y = portion of C to which the credit or tax applies

Equation (9) can be transformed into: [3]

$$(10)\quad C=\left(PQ-\frac{z(1-x)+wy}{1-zx+wy}PQ\right)(df_1)+\frac{z(1-x)}{1-zx+wy}C(df_2)$$

In this formulation, unfortunately, the same effective tax rate does not apply to the tax on revenues and the return of cost. There is no conceptual reason why the two cannot be separated; however, this does necessitate the additional step of deriving a single effective tax rate for the entire investment.

An overall tax rate could be constructed if the ratio of price to unit cost were known. By manipulation of equation (4) we can derive the following:

$$(11)\quad \frac{P}{C/Q}=\frac{(1-z)(df_2)}{(1-z)(df_1)}$$

[2] This expression can be derived by converting:

$$PQ\left(\frac{1}{1-zx}-\frac{z}{1-zx}\right)$$

to:

$$PQ\left(1-\frac{z(1-x)}{1-zx}\right)$$

[3] Derived by converting the expression:

$$\left(\frac{1-z}{1-zx+wy}\right)$$

to

$$\left(1-\frac{z(1-x)+wy}{1-zx+wy}\right)$$

The ratio of price to cost depends on the discount factor (which in turn reflects rate of return), useful life and decline rate, and on the tax rate (which is affected by any special tax provisions).

To convert the differential tax rates on revenues and costs requires use of a price cost ratio. For purposes of this calculation we will use a constant price model. The Federal Power Commission model,[4] which used an approximate 15 percent rate of return, indicated a constant price (after royalties and operating costs) of around 3½ times cost (without percentage depletion).

To convert a differential rate on revenues and costs to an overall rate can be accomplished by substituting the differential tax rates, z_1 and z_2 into an equivalent equation with an overall tax rate z;

which yields the following result:

$$(12)\quad (PQ-zPQ)(df)+zC(df)=(PQ-\bar{z}PQ)(df)+\bar{z}C(df)$$

which yields the following result:

$$(13)\quad \frac{z_2(C/Q-z_1P)}{(C/Q)-P}=\bar{z}$$

By setting C arbitrarily equal to one we can set P equal to 3.5 and solve for the overall tax rate.

C. INCORPORATING PERCENTAGE DEPLETION

Percentage depletion is available at a 22 percent rate on gross income subject to a net income limitation of 50 percent of taxable income before allowances for depletion. It will eventually decline to a 15 percent rate. Because the price used in the model is net income, the effective tax rate of the depletion allowance (with reference to P) will be higher than the statutory rate, but only slightly so because operating costs are relatively minor in oil and gas production. Furthermore, under present conditions, it would be unlikely that the net income limitation would apply.[5]

The model would be specified as:

$$(14)\quad C(1-zx)=(PQ-zPQ)(df_1)+z(1-x)C(df_2)+vzPQ(df_1)-uzC(df_2)$$

where:

v = percentage depletion rate
u = portion of C attributable to depletable costs.

This equation can be transformed into:

$$(15)\quad C=\left(PQ-\frac{z(1-x)}{1-zx}PQ\right)(df_1)+\frac{z(1-x)}{1-zx}C(df_2)+\frac{vz}{1-zx}PQ(df_1)-\frac{uz}{1-zx}C(df_2)\Bigg)$$

By factoring the tax rate on revenues would be:

$$\frac{z(1-x)}{1-zx}-\frac{vz}{1-zx}$$

and the tax rate on costs would be:

$$\frac{z(1-x)}{1-zx}-\frac{uz}{1-zx}$$

Percentage depletion's effect on the tax rate is also dependent on the price to cost ratio. FPC calculations [6] using an approximate 15 percent rate of return and assuming the presence of percentage depletion resulted in a price equal to 2½ times cost (at constant prices).

To incorporate the minimum tax on percentage depletion [7] which is equal to 15 percent of the excess of depletion, an approximation would be to use a 33 percent rate (z−w), where w= the minimum tax rate, in both revenue and cost flows.

[4] FPC Opinion 770–A.

[5] The higher the effective rate of depletion, the lower the actual tax rate. Thus, use of the statutory rate reflects a conservative approach but is believed to be reasonably accurate.

The new equation will be:

$$(16)\quad C=\left(PQ-\frac{z(1-x)}{1-zx}PQ\right)(df_1)+\frac{z(1-x)}{1-zx}+\frac{v(z-w)}{1-zx}PQ(df_1)-\frac{u(z-w)}{1-zx}C(df_2)$$

By factoring, the tax rate for revenues would be:

$$\frac{z(1-x)}{1-zx}-\frac{v(z-w)}{1-zw}$$

and the tax rate on costs would be:

$$\frac{z(1-x)}{1-zx}-\frac{u(z-w)}{1-zx}$$

To incorporate the minimum tax on both intangible drilling costs and percentage depletion, the following equation would be employed:

$$(17)\quad C(1-zx)+wyC=(PQ-zPQ)(df_1)+z(1-x)C(df_2)+v(z-w)PQ(df_1)-u(z-w)(df_2)$$

This expression can be converted into:

$$(18)\quad C=\left(PQ-\frac{z(1-x)+wy}{1-zx+wy}PQ\right)(df_1)+\frac{z(1-x)}{1-zx+wy}C(df_2)+\frac{v(z-w)}{1-zx+wy}PQ(df_1)-\frac{u(z-w)}{1-zx+wy}C(df_2)$$

Collecting terms, the tax rate on revenues would be:

$$\frac{z(1-x)}{1-zx+wy}-\frac{v(z-w)}{1-zx+wy}$$

and the tax rate on costs would be:

$$\frac{z(1-x)}{1-zx+wy}-\frac{u(z-w)}{1-zx+wy}$$

D. DEVELOPMENT WELLS: EFFECT OF EXPENSING AND PERCENTAGE DEPLETION

A development well also produces a stream of revenues. However, in this case depletion costs are already "sunk" in the sense that they do not affect investment decisions and the cost calculation of the producer is the return on his marginal well in terms of additional revenues and the flow of depletion deductions.

$$(19)\quad C=(PQ-zPQ)(df_1)+zC(df_2)+zA$$

where A = the value of depletion deductions. This amount is difficult to determine in relation to cost since a marginal well may be a higher cost (certainly not a lower cost), lower producer than the average well. An extreme case would suggest the depletion is equal to 16 percent of cost implying a constant cost of drilling wells and constant well production. (This is derived by noting that total cost depletion is 7 percent of total costs, 50 percent of costs have been expensed and the remaining cost is 43 percent. Therefore, .07/.43 would represent a maximum ratio of depletion to cost of drilling an additional well.) [8]

Basically, the application of the model to a development well follows the same approach as for total drilling. Thus, the tax rate with expensing intangibles would be

$$\frac{z(1-x)}{1-zx}$$

Since a development well reflects only two costs: intangible drilling costs and depreciable costs, the minimum tax formula would be:

$$(20)\quad C(1-zx)+wxC=(PQ-zPQ)(df_1)+zC(df_2)-zA$$

[6] FPC Opinion 770–A.

[7] The minimum tax actually applies only to total percentage depletion in excess of cost and would actually apply in full in later years, but not at all initially.

[8] The result at the maximum would be a "proper" tax rate on costs of 56 percent. This will be taken into account when feasible.

This can be converted into the standard form as in the case of total drilling (and ignoring depletion returns) by substituting x for y:

$$(21)\ C=\left(PQ-\frac{z(1-x)+wx}{1-zx+wx}PQ\right)(df_1)+\frac{z(1-x)}{1-zx+wx}C(df_2)$$

The application of percentage depletion would proceed in the same manner as for total drilling except there would be no reduction on the cost rate because the return of cost depletion drops out.

The equation for percentage depletion would be:

$$C=\left(PQ-\frac{z(1-x)}{1-zx}PQ\right)(df^1)+\frac{z(1-x)}{1-zx}C(df^2)+\frac{vz}{1-zx}PQ(df_1)$$

for a rate on revenues of:

$$\frac{z(1-x)}{1-zx}-\frac{vz}{1-zx}$$

and a rate on costs of:

$$\frac{z(1-x)}{1-zx}$$

Incorporating the minimum tax on percentage depletion:

$$C=\left(PQ-\frac{z(1-x)}{1-zx}\right)(df_1)+\frac{z(1-x)}{1-zx}C(df^2)+\frac{v(z-w)}{1-zx}PQ(df_1)$$

for a rate on revenues of:

$$\frac{z(1-x)}{1-zx}-\frac{v(z-w)}{1-zx}$$

and the same rate on costs.

Incorporating the minimum tax on both would result in:

$$C=\left(PQz-\frac{z(1-x)+wx}{1-zx+wx}PQ\right)(df_2)+\frac{z(1-x)}{1-zx+wx}C(df_2)+\frac{v(z-w)}{1-zx+wx}PQ(df_1)$$

For a rate on revenue of:

$$\frac{z(1-x)+wx}{1-zx+wx}-\frac{v(z-w)}{1-zx+wx}$$

and a rate on costs of:

$$\frac{z(1-x)}{1-zx+wx}$$

A MANIFESTO REGARDING THE TEXTBOOK SURVEY BY THE CIVIL RIGHTS COMMISSION

Mr. HAYAKAWA. Mr. President, I find myself in the peculiar position of having cosponsors without a bill, for today I am not proposing legislation. Instead, I am submitting, both to the attention of the Senate and for the consideration of the American people, a statement of conscience: A manifesto, if you will. Joining me in offering it are the distinguished Senators from North Carolina, Idaho, Utah, Nebraska, Delaware, and Wyoming: Senator HELMS, Senator MCCLURE, Senator HATCH, Senator CURTIS, Senator ROTH, and Senator HANSEN.

To every thing there is a season: A time to offer bills and a time to refrain from legislation.

We are refraining from offering legislation to correct a serious abuse of power by the Civil Rights Commission. Instead, we are appealing to the American people to make such legislation unnecessary.

There is nothing that can be so easily misunderstood as criticism of the Civil Rights Commission. It has become Washington's foremost sacred cow. And yet, just as one can criticize the Defense Department without being against defense, it should be possible to fault the Commission without opposing true civil rights. But bureaucracies have a way of identifying themselves with their jurisdictions, wrapping themselves in the flag, so to speak. That is why we want to emphasize that our challenge to the Commission does not involve any past defense of civil liberties but, rather, its present activities which imperil those freedoms.

The Commission has initiated a project which sets an ominous precedent and threatens the rights of all Americans. Several weeks ago, in a letter dated August 17 and headed, "Dear People," certain functionaries at the Commission informed a number of publishers throughout the country that "a small team of researchers" at the Commission "is investigating the nature, extent and impact of textbook biases." The ultimate result of their study will be a report, whose recommendations will be "aimed at ameliorating the problem of textbook biases as well as counteracting the negative impact of previous biases."

But in the meantime, inasmuch as the Commission's researchers "have already noted the pervasiveness of biases in textbooks presently in use," they "have decided to prepare an interim product to help people who are concerned with the problem and want to know how to counteract biases in textbooks now." This "interim product" is a "Resource List," which will be "widely disseminated throughout the country during the fall of 1977 and winter 1978 (sic)." Among the purposes of the list is "to raise the consciousness of students."

We submit to the candid consideration of the American people that, when the Commission was created by the Congress in 1957, its purpose was not "to raise the consciousness" of schoolchildren.

This consciousness-raising enterprise is presumably keeping busy seven Federal employees. But misuse of the public's taxes is not the worst part of their project.

It is disconcerting that any agency of the Federal Government should pry into the private business of book publishing. That is what the Civil Rights Commission is beginning to do, and its intrusion should be halted.

The Commission is asking textbook publishers for the "guidelines" they give authors to insure that their texts are not racist or "sexist." In other words, to insure that they portray women and racial minorities in a "positive" light. This may be an admirable goal, depending upon how one defines "positive"; but it has nothing to do with the business of Government.

The Commission's inquiry means that, if a publisher has not already forced his authors to bow to pressure group demands in their writing, he had better begin to do so. That threat is clearly conveyed by the Commission's inquisitors, who are asking publishers, "Will your textbook guidelines be available to interested persons subsequent to the lists publication this fall 1977—winter 1978? If not, please state why here."

We hope that the publishers of America will refuse to "state why here." We hope they will junk the Commission's questionnaire or send it back to those shortsighted bureaucrats who originated it. That would be a blow well struck for intellectual freedom.

But our hopes may be in vain. Where is the spirit of liberty in the academic community and the publishing industry? Why has not the Commission's attempt to play big brother to publishers and authors raised a furor among the intelligentsia? Why are not the writers of America demanding that the Commission withdraw its questionnaire and end this auto-da-fé?

Why, indeed? Because not many people want to criticize the Civil Rights Commission lest they appear to be against civil rights.

Poppycock. This is not the first time that an institution established to protect rights became an instrument for their erosion. And so, the publishers of America—most of them, anyway—are meekly submitting to the Commission their guidelines for producing officially approved books. It is no wonder that so many parents are teaching their children from reprinted "McGuffey's Readers."

So be it. If the authors and publishers of America will not defend their own civil rights against the interference of the Civil Rights Commission, no one else can really do it for them.

We, therefore, will not introduce legislation forbidding the Commission to imperil intellectual freedom by its textbook survey, even though the next step—mark well our words, for you can count on this—the next step will be for the HEW to pressure schools to use only federally sanctioned textbooks. Otherwise, school districts will lose Federal funds. It is only a matter of time.

If that happens, it will happen because publishers allowed it to happen, because they cooperated with the Federal bureaucracy in its initial intrusions into the writing and marketing of books.

All in the name of "civil rights."

REGULATION OF RECOMBINANT DNA ACTIVITIES

Mr. BUMPERS. Mr. President, it is now evident that in this session of Congress we will not pass any significant legislation to deal with research involving DNA recombinants. It is my understanding from statements by my distinguished colleagues, Senator KENNEDY and Senator STEVENSON, that there may be a move to broaden the application of existing NIH guidelines for 1 year and to study the remaining issues during that same period. If this is the judgment of my colleagues then I will accept their plan, for they have studied the issue with great care and bring special expertise to these issues.

As the Senators know, I have been deeply interested in the DNA recombination experiments despite the fact that I am not a member of the committees which might normally be involved with those issues. I introduced a bill, S. 621, back in February and then testified before the Health Subcommittee in April. Senator KENNEDY was most generous in keeping my staff and me informed about the development of his subcommittee bill, S. 1217.

It is my feeling that the relevant issues were well covered in the bill that was reported by the Human Resources Committee on July 22, 1977. Certainly the issues that I felt to be important were considered at length during the drafting and redrafting of that bill.

The three articles that follow provide information that might help us understand the implications of our actions or inactions in this area. The paper in the most recent issue of American Scientist by Dr. Bernard D. Davis of Harvard Medical School is a scholarly and interesting analysis of the risks of working with recombinant DNA. By applying his knowledge of epidemiology and evolution Dr. Davis concludes that the risks of dealing with novel recombinants may be less than those associated with known pathogens. I have always thought that to be true; it does not, of course, mean that there are no risks to be concerned about.

The articles by Nicholas Wade in Science and Judith Randal in Change magazine provide a glimpse into recent developments in the field, as well as the way the current NIH guidelines have been followed by researchers. Frankly, these reports of failures to follow the NIH regulations do not surprise me, for I have been concerned all along about the lack of real enforcement capability on the part of NIH. These problems of administration would clearly be compounded many times if we decide simply to extend the coverage of the NIH guidelines without providing further sanctions and authority to an appropriate administrator. It is troublesome also to recognize the ways in which interested scientists have abused scientific data and results in lobbying against S. 1217 these past few months. The overinflated claims about the results of the experiments related to microbial production of insulin illustrate the point perfectly.

I think these articles speak for themselves, and I ask unanimous consent that they be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From Science, Sept. 30, 1977]

RECOMBINANT DNA: NIH RULES BROKEN IN INSULIN GENE PROJECT

(By Nicholas Wade)

A breach of National Institutes of Health rules on gene splicing occurred earlier this year in the Department of Biochemistry and Biophysics at the University of California, San Francisco, one of the leading centers for practice of the new technique. No hazard resulted, but the episode underlines some of the difficulties experienced by research laboratories in adapting to the new rules.

The breach was the use of a biological component, or "vector," before it had been certified by the NIH director. The researchers, a team engaged in isolating the rat gene which codes for insulin, say they destroyed the experiment as soon as they realized their mistake.

The experiment was repeated in a certified vector and published in *Science* on 17 June. It received considerable attention because the researchers had achieved, much earlier than expected, the first step toward the goal of isolating the human insulin gene and using it for the manufacture of insulin protein. The UCSF team was in competition with a group at Harvard which was known to be working with a better source material.

UCSF's preeminence in the gene-splicer's art has brought it some mixed blessings. Because of the practical implications of what its researchers are doing, a company called Genentech has established a relationship with Herbert Boyer, one of the pioneers of the technique. Members of the insulin team have set up a nonprofit corporation, the California Institute for Genetic Research. These commercial developments are a tribute to the department's success, but have also created internal stresses. "Capitalism sticking its nose into the lab has tainted interpersonal relations—there are a number of people who feel rather strongly that there should be no commercialization of human insulin," says UCSF microbiologist David Martin.

Another mixed blessing is fame, which has attracted press attention not only to the department's achievements but also to certain internal tensions. A lengthy and circumstantial article in the June issue of the *Smithsonian* called into question the respect accorded to the NIH safety rules by UCSF researchers, and in particular by the younger, postdoctoral workers who perform most of the experiments. Written after a 3-month internship in Boyer's lab by Janet L. Hopson, formerly a reporter for *Science News*, the article observed that "half of the researchers here follow the guidelines fastidiously; the others seem to care little. . . . Among the young graduate students and postdoctorates it seemed almost chic not to know the NIH rules," Hopson noted. In a letter to the editor criticizing the article, Boyer stated that "In practice [the NIH rules] are followed seriously."

The stresses of both commercial successes and media attention came together this May when the insulin team announced their production of the rat gene. Other researchers resented not only the intrusive presence of the press but also the fact that they were hearing of their colleagues' success for the first time. The team had worked in unusual secrecy, which many regarded as inappropriate in an academic setting as well as disruptive. "People would stop talking when you came into the room, or change the subject if you tried to make conversation about how the insulin project was going," says the UCSF biochemist Brain McCarthy. The insulin team say that no secrecy was intended, and that it was the speed of obtaining results that occasioned surprise.

The secrecy and suspicion surrounding the insulin gene experiment, together with perhaps a touch of resentment, helped to fan rumors within the department alleging that the NIH rules had been broken and even that the experiment published in *Science* might not have been performed as described. The focus of the rumors was the obvious fact that the whole intricate experiment had been completed only 3 weeks after the NIH had certified the vector which the researchers used. Even experienced gene splicers were surprised by the rapidity of execution. "It is conceivably possible to do such an experiment in three weeks if everything works perfectly the first time, but you know as well as I do that science never works as well as you hope," a member of the department remarks.

"Well, what can I say? It did work well. We were all set to go," says a member of the insulin team queried on the speed of the experiment. Yet members of the team concede that an earlier experiment took place, but say it was aborted half way through and before any pertinent information had been gained.

The episode of the earlier experiment illustrates the problems experienced by research laboratories both in acclimatizing to the NIH's gene-splicing rules and in devising ways of enforcing them. "We can't run a policing service," says David Martin, until recently the chairman of the UCSF biosafety committee. "What we do is to try to raise the consciousness of the individuals involved to make them respect guidelines." Martin spent 2 days investigating the episode and concluded that a breakdown in communications was responsible. Precise details remain obscure because the minutes of the biosafety committee record only Martin's conclusion, and a lengthier account prepared for the minutes by the present chairman, James Cleaver, is far from complete.

The episode revolves about the use of the vectors—virus-like entities known as plasmids—which are used to carry genes of experimental interest into bacterial hosts. Two particularly useful plasmid vectors, known as pBR322 and pMB9, had been developed by Boyer and others. But before either could be used, it had to go through a two-stage administrative process, the first of being approved by the NIH recombinant DNA committee and the second of being certified by the NIH director. Vectors, in other words, are off limits to researchers until certified.

Plasmid pBR322 was tentatively approved by the NIH committee on 15 January, finally approved on 23 June, and certified for use on 7 July. Plasmid pMB9 was certified on 18 April.

According to both Martin and two members of the insulin team, the episode of the earlier experiment was as follows. Early this year, sometime in February, an attempt was made to produce copies of the rat insulin gene with pBR322 as the vector. The gene was linked to pBR322 and the plasmids inserted into NIH-certified bacteria designated EK2 hosts. Some of the bacteria were successfully colonized by the plasmids. To verify that the clones of colonized bacteria contained the rat insulin gene it would have been necessary to carry the experiment to completion by extracting and analyzing the DNA sequence of the genes. This step was not performed because at that moment, on or around 1 March, the team say they learned that the plasmid had not been certified for use. They decided to destroy all their clones. Further attempts were made to clone the gene with an already certified vector, known as pCR1, but without success. When pMB9 was certified, team members say, they had all their materials ready to go, and repeated the experiment from scratch in the new plasmid. Martin says that he inspected the team's records and has "complete confidence" in their statement that the entire experiment was done after the approval of pMB9. "When the manuscript appeared so soon people said 'How in hell can you do it?' But you can do it—the experiment was very straightforward," Martin said from Great Milton near Oxford, England, where he is at present on sabbatical. "I think they realized they would be questioned and that if there were any shenanigans they would be really jeopardizing a hell of a lot, not only their own careers but the whole advance of science through recombinant DNA technology."

In the categories of the NIH rules, the experiment with pBR32 was assigned to the highest available containment level short of going off campus to a specially secure laboratory. But it is clear that the experiment posed no issue of public health since it was performed in the required type of laboratory—

a "P3" facility—and with a vector which has now been certified as safe.

The experiment also took place at a time when the NIH rules were still new and local procedures for implementing them were still in a formative stage. "This was one of the inevitable things that happened as we tried to evolve a new system," comments biosafety committee chairman Cleaver.

Not wholly plain from the Martin-Cleaver accounts of the episode is how the insulin team came to believe it was all right to go ahead with pBR322 prior to certification. Howard Goodman, chief of the laboratory which did the cloning and sequencing part of the experiment, is out of the country, as he has been for most of the past year. One of his postdoctoral colleagues says there was great confusion at the time about the status of the plasmid but the reason for the confusion is "sort of cloudy now."

According to Martin, it was clear that everyone knew that pBR332 had been approved but not certified, but the NIH, Martin says, was advising researchers that certification was imminent and that they should go ahead. According to the minutes of the 20 May meeting the UCSF biosafety committee. Martin reported that the researchers "had been verbally informed that the certification of an approved EK2 vector was imminent and to proceed with its use."

This version is strenuously denied by William Gartland, director of the NIH Office of Recombinant DNA Activities, and by his only assistant, Daphne Kamely. Both say that they would never have advised use of any vector before certification. Gartland notes that the team "must have got the vectors from Boyer, who certainly knew they were not certified" because Boyer had complained repeatedly to the NIH of the delay in certification. According to Boyer, the insulin team "kept on asking" if the plasmid had been certified and he told them it had not. Boyer states that he never encouraged anyone to go ahead prior to certification. Thus the source of encouragement for the team to go ahead prior to certification remains obscure.

A different account from Martin's is given by William Rutter, a member of the insulin team and chairman of the UCSF Department of Biochemistry and Biophysics. In its memorandum filed with the UCSF biosafety committee, the insulin team had said it would use as vectors pCRI and any other vectors that might in future be approved by the NIH recombinant DNA committee. When the NIH committee approved pBR322 on 15 January, Rutter says—(the committee gave tentative approval on 15 January and full approval on 23 June)—he therefore assumed that pBR322 was sanctioned for use, since he was not then aware of the NIH distinction between approval and certification.

The UCSF biosafety committee did not learn until May that the pBR322 experiment had taken place. Researchers doing recombinant DNA experiments are required to file a description of the experiment for committee approval. But as Rutter has said, the memorandum filed by the insulin team did not mention pBR322 specifically. Researchers using the P3 laboratory at UCSF are also required to sign a logbook describing their experiment. Yet Martin says that when he inspected the logbook at the outset of his investigation, he found "nothing recorded." Those in charge of the facility "were not being compulsive enough in seeing that people were filling in the logbook"—a situation which has now been corrected, Martin adds.

Cleaver, Martin's successor as bio-safety committee chairman, told *Science* that two entries from the insulin team are recorded in the logbook between 1 February, when the logbook was instituted (the P3 lab officially opened on 9 November 1976), and the end of April. An entry on 1 February notes in the column headed "vector" that pCR1 will be used, and the second entry on 23 April gives pMB9 as the vector. The pBR322 experiment according to Rutter, took place after 1 February. The vector was not mentioned, he says, because the 1 February entry referred to the general experiment already described in the memorandum filed with the biosafety committee, in which the team had said it would use pCR1 and other approved vectors, and the logbook has to be signed only for each experiment, not for each use of the laboratory. "The signing in of the logbook meant for the insulin cloning experiments in general. The vectors were not designated specifically, and that was just human error," says Rutter. Rutter's laboratory provided the insulin gene for the experiment; it was members of Goodman's laboratory—Goodman was away until mid-April—who performed the cloning experiments.

How should a local biosafety committee respond to an incident of this sort? "I would have expected that the biohazards committee to have investigated the whole thing," says Gartland. Martin did conduct an investigation and he took action both with the NIH and the insulin team. "I felt comfortable we had resolved the question and eliminated the possibility of it happening again." he says. But in fact, written documents of the committee record criticism only of the NIH.

The pBR322 experiment raises no question of hazard but it does raise the possibility that the insulin team might have gained an unfair advantage over other researchers who had abided by the NIH rules. Another team at Harvard is also working on the same problem. Members of the USCF team say that they gained no information from the pBR322 experiment which was helpful to the later experiment with pMB9. As it happens, the Harvard team was not neck-and-neck with UCSF because it has not even now published any results.

As far as is known the pBR322 experiment is the only occasion on which the NIH rules governing recombinant DNA research have been broken. The researchers say that the breach was the result of innocent error, a statement not refuted by the available evidence. The experiment presented no hazard to public health nor, in the event, was any unfair advantage gained over competitors. As for the UCSF biosafety committee, its response included action to ensure against repetition of the incident, although not a full public account. The committee's discussion of the experiment, as reflected in the minutes of its 20 May meeting, is confined to an attempt—unsupported by available evidence—to ascribe the error to confusion generated by NIH. But both the experiment and the biosafety committee's response to it occurred in circumstances to which researchers were then still adapting, and for which there were few, if any, precedents.

[From Change magazine, Oct. 1971]

IF THE GENE SPLICERS WIN THEIR BATTLE, WILL THEY LOSE THE WAR?

(By Judith Randal)

As recently as last spring it seemed certain that Congress would enact regulatory legislation governing recombinant DNA technology—the fitting of bacteria with alien genes—before leaving Washington for its August recess. But that didn't happen; and it now appears that the legislation may be held in abeyance for months, perhaps even indefinitely. Major philosophical differences in the leading Senate and House proposals—authored respectively by Senator Edward M. Kennedy, chairman of the Senate Health Subcommittee and Congresman Paul Rogers, who holds the counterpart position in the House—are partially responsible for the slowed momentum. But nothing has so cooled Congress' efforts as the intensive lobbying of the scientific community.

Strong opposition to federal regulation surfaced in February when, at a meeting of the National Institutes of Health recombinant DNA advisory committee, NIH Director Donald S. Fredrickson read those present a bill, introduced by Senator Dale Bumpers, which would have imposed tough controls—including heavy penalties for violators—on laboratories and scientists engaged in gene transplant work. Although the Bumpers bill never got anywhere, it (and a companion measure in the House sponsored by Congressman Richard Ottinger, which was similarly ineffectual) struck a chill into molecular biologists, who until then had been pushing for congressional action as preferable to the hodgepodge of statutes that states and localities were threatening to enact.

Soon they began to recall the persecution of Galileo and to talk of Lysenkoism and threats to the freedom of scientific inquiry. When the Kennedy and Rogers bills materialized, molecular biologists criticized their provision for a "costly and unwarranted" bureaucracy. In particular, it disturbed the scientists that Congress might pass a law that would allow the states to set stricter safety requirements than those mandated in Washington. And the Kennedy measure troubled them deeply because it would create a regulatory commission six of whose eleven members would be people who had never been involved in biological research.

Consequently, the molecular researchers began consolidating their ranks in order to stifle possible dissent and gather support from other quarters of the scientific establishment, such as the American Society for Microbiology, the Federation of American Societies for Experimental Biology, the National Society for Medical Research, the Association of American Medical Colleges, and like-minded professional groups. A column in the *New York Times* by René Dubos, the distinguished Rockefeller University professor emeritus of microbiology, a resolution by the National Academy of Sciences, an editorial in *Science magazine*, and numerous letters and delegations to Capitol Hill were all devoted to the twin causes of convincing legislators that legal action, if necessary, should be light-handed and that recombinant technology is not after all as potentially dangerous as the scientists themselves had originally feared when they called for and obtained a two-year moratorium on gene-splicing experiments. (See the May 1976 Science Policy column.)

Two letters to NIH's Fredrickson that have been widely circulated have been particularly persuasive in the latter regard. One, written by Roy Curtiss III of the University of Alabama, has carried particular weight because Curtiss has from the outset been concerned about the risk problem and is, besides, a notably cautious and painstaking scientist. The other, signed by Sherwood L. Gorbach of Tufts University Medical School, purports to reflect the "unanimous agreement" (this has since been disputed) of some 50 researchers from a variety of biological disciplines who participated in an NIH-sponsored recombinant risk assessment conference held in June at Falmouth, Massachusetts.

Both letters cite evidence from "extensive studies" to conclude that the insertion of foreign genes into the enfeebled strains of E. coli bacteria (the recipients of most DNA transplants) is incapable of creating epidemics. (Both Curtiss and Gorbach, though, have urged further experimentation to clarify certain aspects of this point.)

But both letters also intimate, whether intentionally or not, that without being bluntly dishonest organized science can take advantage of public and congressional naiveté. Enthusiasts of gene technology have been reluctant to admit it, but the fact is that just as E. coli strains can be endowed with the hereditary material of whatever species a scientist chooses, so also can strains of other types of bacteria whose behavior and prop-

erties have been much less thoroughly explored.

To be sure, most recombinant work to date has been done with the familiar crippled E. coli strains, which would almost certainly fail to survive and reproduce were they to accidentally escape. But this secure situation is subject to change, the entire field being less than five years old. Still, the current lobbying effort seems orchestrated to convince people either that only E. coli will be used for this type of genetic engineering, or that if it is safe to juggle the hereditary material in one kind of microbe, it follows automatically that this is true of all microbes. Virtually ignored by the public's would-be persuaders is that the pursuit of scientific truth by academics, which entails the use of small quantities of recombinants, may pose a lesser degree of risk than the far larger batches industry can be expected to produce.

Nor is it only in downplaying the admittedly hypothetical perils of their work that gene splicers and their allies have become adept at fast talk. They have also been less than forthright in vaunting the potential practical applications of their work. A University of California, San Francisco, team's recent insertion into E. coli of the genes that program for rat insulin is illustrative. This achievement was announced in tones implying that similarly treated bacteria might soon be manufacturing human insulin for diabetics. The reality is that the UCSF experiments did not succeed in catalyzing hormone production and that, furthermore, no method is now known for pulling apart the genetic sequence that codes for human insulin from the entirety of the human DNA molecule. This means that, for the moment at least, gene jugglers are at a loss as to which genes to transplant.

Moreover, even if microbial synthesis of human insulin were just around the corner, it would not necessarily represent a major boon. The vast majority of the nation's estimated 9–10 million diabetics develop the disorder during middle or old age, when the disease is of a form usually better controlled by diet than by other means, the more so because many of these patients are insulin-resistant and derive no benefit from injections. And at any rate, there is no shortage of insulin from animal sources for younger diabetics, although the human insulin currently used by those few thousand who cannot tolerate animal insulin preparations is more costly than it might be if bacteria were to be put into service as the manufacturing vehicle.

None of this is to say that there will not be practical benefits from gene splicing, although it is difficult to predict with any precision what they will be. Nor is it to deny that the technology is an intellectually exciting tool. Rather, what is troubling is the dogmatic posture the special pleaders have adopted—all but promising maximum benefits and minimal risks from the practice of their art and arguing that they are capable of supervising themselves completely.

Their cry, to quote the Science magazine editorial alluded to earlier, is that "public fears may overcome scientific judgment." But one suspects that, at bottom, something more fundamental than the researchers' abhorrence of red tape is at stake—namely, that the legislative proposals, as presently drafted, will provide the nonscientist a role in scientific decision making.

If this is so, and if the current lobbying efforts succeed in deleting the provisions for public participation and produce token legislation or none at all, the scientific establishment will have won a battle. But in the long run, it could well discover that its policy of exclusivity has boomeranged. Mishaps occur in almost every technology, and recombinant DNA technology is unlikely to prove the exception. When the inevitable occurs, gene splicers could find they are unable to drum up the public support necessary to continue their largely tax-funded work.

[From the American Scientist, September–October 1977]

THE RECOMBINANT DNA SCENARIOS: ANDROMEDA STRAIN, CHIMERA, AND GOLEM

(By Bernard D. Davis)

Bacteria offer striking advantages in the study of the molecular basis of gene structure and function: they contain only 1/1,000 as much DNA as mammalian cells; they can be rapidly and cheaply grown in enormous numbers; and even very rare mutants or genetic recombinants can be readily selected from a huge population. These advantages became apparent soon after Avery and coworkers launched the field of molecular genetics, in 1944, by identifying the genetic material as DNA (dexoyribonucleic acid). This work also launched the field of bacterial genetics, since the transformation of pneumococci, by DNA released by one cell and taken up by another, revealed the existence of genetic recombination in bacteria. The subsequent spectacular success of molecular genetics has depended on continual interplay between chemical studies on DNA and genetic studies in bacteria.

One of the goals of this research, of course, is the understanding of mammalian gene regulation, and the importance of this knowledge cannot be overestimated. Normal regulation is the key to the mechanism of development of a fertilized egg into a differentiated organism, in which the various cells all contain the same full set of genes but differ in their pattern of gene activation and repression. Moreover, an aberration in this pattern is central to the cancer problem: for whether a particular cancer is due to viral infection, to mutation, or to an abnormality of differentiation, the loss of control of cell growth reflects a loss of normal gene regulation.

The study of such normal and abnormal regulation in the simplified background of a bacterial cell would offer great promise, since our present knowledge of regulation in mammalian cells is primitive, compared with that in bacteria. Four years ago this breakthrough was achieved, with the development of procedures for introducing DNA from any organism into bacteria. This technique of molecular recombination (gene-splicing) is obviously a highly versatile tool. Indeed, it may well turn out to be as valuable for biology and medicine as radioactive isotopes. It not only allows the regulation of mammalian genes to be studied in bacteria but it also promises to make possible the preparation of unlimited quantities, in easily purified form, of any genes and their products. Moreover, it is now easy to determine the complete DNA sequences of such a purified gene (and its adjacent regulatory region), since recently developed analytical techniques (1) have reduced the time for sequencing short DNA segments from two years to two days.

There are also prospects for many practical applications. which we can only begin to foresee. One of the more obvious uses is in the manufacture of medically valuable human proteins—for example, hormones, clotting factors, antibodies, and interferon. Antibodies may prove to be particularly valuable, since we now know that they are the products of thousands of specific genes, and immunogenetic studies are rapidly revealing a variety of specific individual deficiencies in these genes. Similarly, as the immunology of cancer advances we may expect to use antigens from individual cancers, and antibodies to those antigens, in prevention and treatment. In agriculture the incorporation of genes for nitrogen fixation in higher plants, to eliminate the need for nitrogen in fertilizer, has also been widely discussed, but this development seems more problematic since the bacterial genes would have to function within the more complex and possibly inhospitable environment of a plant cell.

THE TECHNIQUE OF MOLECULAR RECOMBINATION

Molecular recombination, like many major advances in biology, depended on unplanned interactions of several initially esoteric discoveries. The first of these was the finding that bacteria often contain one or more plasmids (small, autonomously replicating circles of DNA), in addition to their chromosome (a circle of DNA about 1,000 times the length of the cell).

While the chromosome ordinarily includes all the genes essential for growth and multiplication, plasmids, add optional genes, i.e. genes that broaden the organism's range of habitats by providing such traits as resistance to various inhibitors or the ability to use alternative food sources. Moreover, plasmids move about widely in the microbial world, occasionally picking up genes from one host cell and transferring them to another. They thus serve as a primitive precursor for sexual reproduction.

A second step toward the recombinant technique was the discovery of a peculiar method of cleaving DNA, by the use of "restriction" enzymes. Fifteen years ago these enzymes were discovered to be present in some bacteria, protecting them against infection by foreign DNA. When the sites that they attacked were finally identified, each enzyme was found to cleave DNA at a different specific short "restrictive" sequence, of 4 to 8 base pairs. The restriction sequences were further found to have palindromic symmetry: the sequence in one strand and its complement in the other (based on the constant pairing of A with T and G with C, and on reading the two strands in opposite directions) are identical. Moreover, most restriction enzymes cut these symmetrical sequences at their opposite ends, producing staggered "nicks" in the double-stranded DNA. Under ordinary conditions the DNA breaks apart at these cuts, and the short single-stranded extensions at the ends are all complementary to each other. Because DNA contains only four kinds of bases, chance will usually cause any short restriction sequence to be present in the total sequence of any large DNA, and at rather short intervals.

Under appropriate annealing conditions these complementary ("sticky") ends, on the same or on different molecules, will transiently hydrogen-bond to each other from time to time. Herbert Boyer and Stanley Cohen (2) showed that this stickiness could be used to splice foreign DNA into a plasmid. The plasmid has its circle opened—and the foreign DNA is cut into segments—by the same enzyme, and the products are then annealed together. Because all the ends are complementary, the opened plasmid occasionally links in tandem with one of the other segments before closing its circle. This unstable, reversibly closed circle, with several nicks in its DNA, is converted to a stable product by use of another enzyme, DNA ligase, which covalently seals such nicks. (This useful enzyme was discovered a dozen years ago in the course of research on genetic recombination and DNA repair in the cell.)

In order to multiply, the recombinant plasmid must now be incorporated into a bacterial host. Although the bacterium most useful for genetic studies, *Escherichia coli*, does not pick up plasmids from the medium at a detectable rate, it was discovered by Cohen in 1972 that these cells can take up free plasmid DNA from the medium at a detectable frequency if their surface is modified by heating the cells in the presence of calcium chloride. The plasmids then multiply with the cells, and after cell lysis the plasmid DNA can easily be purified.

The overall procedure is not efficient: less than one plasmid in a million will be incorporated into a cell, and only a few of these

plasmids will carry an inserted sequence. Ingenious techniques have therefore been developed for selecting those rare bacterial strains that have become hosts for a recombinant plasmid. For example, one may start with a plasmid that carries genes for two kinds of drug resistance—and that also carries a single retsriction site located in one of those genes. Since recombination will insert DNA in the restriction site, thus inactivating that gene and thereby eliminating one of the two drug resistances, it is easy to select the strains with a hybrid plasmid by plating on appropriate media: these strains will exhibit single resistance, while all others will have picked up either no plasmid (yielding no resistance) or an unrecombined plasmid (double resistance).

STORMY HISTORY

Although advances in some areas of genetics have aroused public apprehension (3), recombinant DNA seemed at first to be escaping this fate. At the very start, even though no harm from any recombinant had then (or has yet) been seen, workers in this field responded vigorously and openly to the demand that scientists take more responsibility for preventing harmful consequences of their work. Specifically, in 1975 a group of molecular biologists publicly called for a moratorium on certain experiments (4), arranged for a large international conference (at Asilomar), which was attended by the press, and urged government action to establish guidelines. The final result was an elaborate set of guidelines from the National Institutes of Health (5), which specify four levels of physical containment (P1 to P4, the strictest level) and three levels of biological containment (see below) for different kinds of experiments.

For the first two years these actions were received favorably in the press. Eventually, however, the atmosphere changed dramatically, to a large extent because of the widely publicized objections of a handful of scientists who demanded much more severe restrictions (or even a complete ban) on research in this field. Moreover, the critics not only expressed concern over the possible outbreak of an "Andromeda strain," but they also raised two further specters; that of creating dangerous chimeras by meddling with evolution, and that of creating a Golem, with a prefabricated personality, by genetic engineering in man. In the resulting highly charged atmosphere George Wald, after failing to convince a Harvard committee of the danger of building a P3 facility, sought political controls at the level of municipal government—despite the obvious inadequacies of this kind of organization for the task, and despite the long tradition of autonomy and responsible self-discipline in the academic community.

The media, of course, had a field day with such man-bites-dog stories. *Science*, the organ of an association dedicated to the advancement of science, ran almost weekly news articles that featured predictions of disaster. But although the Citizens' Experimental Review Board appointed by the Cambridge City Council started with suspension of self-regulation by scientists, they patiently listened to many dozens of hours of testimony, and the important point is that they ended up essentially endorsing the guidelines developed by scientists at the NIH. (They did recommend minor technical changes, quite inappropriate for a nontechnical committee; and they recommended local supervision, which was an appropriate area for them to judge.) But despite this encouraging outcome, the public has understandably become anxious, and federal legislation seems virtually inevitable. At the time of this writing a number of bills are under consideration, and it is not clear how restrictive the legislation will be.

NEGLECT OF RELEVANT DISCIPLINES

In the light of this history, the organizers of the temporary moratorium to make their concerns public at the start. Yet it did seem necessary to act rapidly to prevent the unrestricted incorporation of tumor viruses into bacteria, at least until after adequate exploration and reflection. Moreover, the public reaction today might well be even more negative if scientists could be accused of secrecy on a matter of such potential public interest. But though this question is moot, I believe there was one serious defect in the approach: in emphasizing their responsibility for not creating undue hazards, the molecular biologists failed to recognize how much the problem of estimating those hazards lay outside their field. In fact, the ability of an organism to give rise to an epidemic, and the mechanism of its spread, are problems in epidemiology.

Instead of recognizing that the familiar features of the organisms offered grounds for reliable, general epidemiological predictions (as we shall see below), even before laboratory studies on the new strains provided more precise information, the scientists involved proceeded as though nothing relevant was known and they were peering into a black box. The resulting preoccupation with unlimited scenarios contributed to the anxiety that they came to feel—and then transmitted to the public. To be sure, in order to establish the pathogenicity of any novel recombinants with precision, direct tests would be necessary. But a purely empirical approach could not be sufficient for the next experiment might still inadvertently unleash an Andromeda strain. Eventually, then, it would be necessary to take into account also what is known about epidemics—and this information could have been helpful from the start.

More broadly, the problem is also one in evolutionary biology, since it involves the survival and spread of novel organisms in nature. Indeed, epidemiology may be seen as an applied branch of evolution, concerned with the genetic and the ecological factors that influence the spread of agents of disease. But evolutionary considerations have also been neglected.

This neglect is hardly surprising. Biologists interested in physiological mechanisms and those interested in evolutionary origins have long lived in two rather separate cultures (6, 7). And though some of the barriers may have been broken down by the recent spectacular contributions of molecular genetics to two aspects of evolutionary biology—the mechanisms of genetic variation and the estimation of evolutionary distances—this success may also have reinforced disdain for nonmolecular approaches to evolutionary problems. But hereditary variation is only one of the two pillars of evolution. The other, natural selection, is based on population dynamics—and these events cannot be reduced to molecular terms. Hence reductionism, though a useful guide to methodology, is a poor philosophy for biologists.

Since discussions of the hazards of recombinant DNA research have continued to have little input from evolutionary biology and epidemiology, I shall approach the subject from the perspectives of these fields, first reviewing the underlying principles and then considering their application to the matter at hand.

EVOLUTION AND EPIDEMIOLOGY

Though the production of hereditary variation is the ultimate source of evolutionary change, natural selection is the main guiding force, determining which variants survive and spread. In a stable environment excessive deviations from the norm of a species ordinarily decrease an organism's ability to leave progeny and thus to succeed in the Darwinian competition. Under these circumstances the effect of natural selection is largely stabilizing. Changes in the environment are the main source of selection pressures that favor novel variants.

As evolution proceeded from prokaryotes (bacteria, with a single chromosome) to eukaryotes (higher organisms, with a more complex genetic apparatus) it also created the mechanism of genetic recombination by sexual reproduction, thereby providing vastly increased diversity for natural selection to act on. But unlimited recombination from the total pool of genetic material in the living world would be disadvantageous, because it would yield innumerable grossly unfit, nonviable progeny. Hence the evolution of sexual reproduction was accompanied by the evolution of species, separated by fertility barriers.

This restriction of interbreeding to groups of closely related organisms illustrates a more general principle: Darwinian fitness (i.e. reproductive success in the competition of natural selection) requires a balanced genome (total set of genes) (8). Natural selection judges a novel gene not in isolation but in terms of its coadaptation to the rest of the organism's genes—whether the organism is a mammal or a bacterium. This principle is crucial for assessing the possible impact of any novel organism on evolution.

Darwin had no interest in the invisible world of microbes, and Pasteur, concerned with disproving spontaneous generation and with establishing the stable differences between microbial species, resisted evolutionary ideas. Nevertheless, within less than a decade of the publication of *The Origin of Species* Pasteur unwittingly began the absorption of bacteria into the Darwinian framework. His classical studies of fermentation demonstrated that different media, such as milk or grape juice *select* for different kinds of organisms from the same mixture that can reach them from the air. However, this selection was for *classes* of microorganisms, and its extension to *variants* within a class was not recognized for many decades.

Meanwhile evolution became increasingly fused with enetics, but this fruitful synthesis could not be extended to bacteria until they were shown, in the 1940s, to possess genes—units of heredity that are linked in a chromosome and are capable of mutation and recombination. The delay was largely due to two difficulties: distinguishing stable hereditary changes from reversible physiological adaptations in bacteria and recognizing the very low frequency gene transfers in bacteria—fewer than 1 per 10^6 cells even with a fertile strain under optimal conditions. These transfers are now known to occur via plasmids, or viruses, or free DNA.

Gene transfers in bacteria do not show a sharp population boundary but simply become less efficient with increasing evolutionary distance between the donor and the recipient; hence prokaryotes have no true species. Nevertheless, the requirement of a balanced genome results in stable clusters of organisms with similar sets of genes, and these can be conveniently regarded, for purposes of classification, as species. *E. coli*, for example, is the name given to a range of strains with certain common features but also with a variety of differences—in surface molecules, nutrition, growth rate, sensitivity to inhibitors, etc. These differences determine the relative Darwinian fitness of various strains for various environments, and the name *E. coli*, applied equally to an old laboratory strain and to a strain that has recently caused gastroenteritis in a patient, fails to convey the fact that these organisms have vastly different capacities for survival and spread in nature.

Every living species is adapted to a given range of habitats. The set of bacterial strains called *E. coli*, and closely related pathogens such as the typhoid and the dysentery bacillus, thrive only in the vertebrate intestine and hence are called enteric organisms. In water these organisms survive temporarily but quickly die out. (Indeed, for that reason the *E. coli* count of a pond is a reliable index of its continuing fecal con-

tamination.) In the gut there is intense Darwinian competition between strains, depending on such variables as growth rate, nutritional requirements, ability to scavenge limited food supplies, adherence to the gut wall, and resistance to antimicrobial factors in the host. Therefore most novel strains are quickly extinguished, in the kind of competition envisaged by Darwin for higher organisms. With bacteria the process is very rapid, for with three generations per hour, differences in reproductive rate are rapidly compounded.

It is easy to demonstrate that the environment in the gut (i.e. type of food and physiological state) plays a decisive role in determining which organisms persist there. For example, when a baby shifts from breast feeding to solid food, the flora in the gut shifts dramatically from lactic acid bacteria, which produce sweet-smelling products, to *E. coli* and other foul organisms. Conversely, efforts in an earlier era to reverse the process in adults, by administering large numbers of lactic acid bacteria in the form of yogurt, were not successful. The recent increase in the frequency of antibiotic-resistance plasmids among the bacteria recovered from patients illustrates even more sharply the dominating role of natural selection in the gut. The cause is not the increased cultivation of these plasmids in laboratories (though this has been going on): it is the selection pressures exerted by widespread use of antibiotics in patients (i.e. in the natural environment of the organisms).

Various kinds of infectious bacteria differ from each other in several distinct respects (9): infectivity (the infectious dose, ranging from a few cells of the tularemia bacillus to around 10^6 cells of the typhoid bacillus); invasiveness (specific distribution of the organisms in the body); virulence (the severity of the disease once the infection has overcome natural resistance); and communicability from one individual to another. Each of these attributes, like any complex property, depends on the coordinate, balanced activity of many genes capable of independent variation. Another epidemiological distinction is between infection (presence of a microbe in a host) and disease; tuberculin-positive individuals carry tubercle bacilli, but most keep the numbers in check and are free of illness—only a few have low enough resistance, or a massive enough infecting dose, to lead to disease. An even more striking example is provided by the tetanus bacillus. This organism produces a powerful toxin, but it is a normal, noninvasive inhabitant of the gut of man and some other mammals, and its toxin is not absorbed; to cause illness it must gain access (usually by trauma) to a susceptible tissue. A patient with tetanus is therefore not a menace to his contacts.

POTENTIAL RISKS

Let us now turn to the specific problem of recombinant DNA. It is obviously easy to draw up unlimited hypothetical scenarios, and it is easy to magnify the problem by demanding assurance of absolute freedom from risk. But any realistic discussion must proceed in terms of probabilities, and for the Andromeda strain scenario we must distinguish three kinds: that experiments with a particular kind of DNA will produce a dangerous organism, that it will infect a laboratory worker, and that it will spread outside the laboratory.

It is undoubtedly now possible to produce variants of *E. coli* that would make a toxin ordinarily found in some other organism. Whether such a strain would be pathogenic depends on whether it also has the properties of infectivity, invasiveness, and virulence. Such experiments are not of pressing scientific interest, and they are prohibited by the present guidelines.

A more important question is whether the various kinds of permissible experiments have a significant risk of producing dangerous strains. Of particular interest are the so-called "shotgun" experiments (the introduction of random small fragments of the DNA of a given species into *E. coli*), since this approach is especially promising for advancing our understanding of mammalian genes. The present guidelines regard these experiments as highly hazardous and restrict them to the quite expensive P3 facilities. Moreover, experiments with human DNA (which are of greatest medical interest) are restricted even more than those with the DNA of other mammals, on the grounds that tumor virus genes picked up from human tissues would be particularly dangerous to man.

I believe that the likelihood of spreading tumor viruses by shotgun experiments has been enormously exaggerated. A mammalian cell contains a million genes equivalents of DNA, of which only a few would be inserted into any bacterial recombinant. Hence even if the genes for a tumor virus were present in the donor cells, the probability of picking them up, without selecting for them, is very low. Moreover, the unknown frequency of tumor viruses in man creates a paradox. On the one hand, if these viruses are rare, they have little chance of being present in the donor tissue. On the other hand, if they are already widely distributed, their further spread by bacterial carriers—a very inefficient process—would have little effect. Moreover, it is becoming increasingly clear that the genes of tumor viruses shade into normal host genes, and the problem is not so much preventing the spread of those viruses as understanding the special circumstances that cause those genes to give rise to a tumor in some individuals.

An even deeper question is raised by the underlying assumption that the insertion of mammalian DNA into bacteria in the laboratory is a radical departure, creating an entirely novel class of organisms. This assumption is exceedingly doubtful. The argument is simple: Bacteria can recombine with free DNA not only in the test tube, as we have seen, but also in the animal body, where a mixture of two strains of pneumococcus has has given rise to a third, recombinant strain (10). Moreover, in the gut (or in carcasses) bacteria must be continually exposed to fragments of host DNA, released by the death of adjacent host cells. Since the mechanism of bacterial uptake of DNA would not exclude mammalian DNA, we must assume that this DNA does occasionally enter bacteria.

To be sure, free DNA survives only briefly in the gut, and even under more favorable conditions its uptake by bacteria (especially the kinds found in the gut) is very inefficient. On the other hand, the scale of the exposure in nature is extraordinarily large—the collective human species excretes around 10^{22} bacteria per day. Hence even if the rate of incorporation should be far too low (by as much as 10^{10}) to detect experimentally, it is almost certain that such recombinants have been formed in nature continually over millions of years and are being formed today (11).

This argument does not imply that every conceivable recombinant has already appeared in the past. On the contrary, any individual recombinant, whether formed in nature or in the laboratory, is likely to have a unique combination of genes, just as does every newborn human baby. The problem is not one of *individual* novelty: only if the entire *class* is novel is there likely to be a novel danger for which evolution has not prepared us.

Having recognized that the inadvertent production of a harmful recombinant has a low probability, we must now consider the probability that such an organism, if formed, might cause *illness in a laboratory worker*. Let us assume the worst case (which is prohibited at present)—an *E. coli* strain that produces a potent toxin (such as botulinus toxin) absorbable from the gut. Laboratory contact with such a strain would indeed present some degree of danger, for even if the cells could survive only briefly in the body, each one might release a small amount of toxin before disintegrating, which might add up to a large enough infection to cause illness. However, to estimate this danger we must take into account the following considerations.

1. In contrast to the agents of respiratory infection, which are spread by small inocula in droplets in the air, enteric organisms, such as *E. coli* and the closely related pathogens of typhoid and dysentery, are ordinarily spread by the swallowing of large inocula in contaminated food or water. Hence even the most virulent enteric pathogens, which may turn up at any time in the thousands of diagnostic laboratories throughout the world, are relatively safe to handle with simple precautions. Among the 6,000 instances of laboratory infection recorded in the history of microbiology, the majority were due to various agents of respiratory infection (12).

2. Strain K12 of *E. coli*, used in all current work with recombinant DNA, was isolated from a patient over fifty years ago and has since been transferred innumerable times on artificial media in the laboratory. During these years one rare mutation after another has been selected by the artificial media, because it improved the organisms adaptation to the new environment. Indeed, the present product has such radically altered surface properties that if it were isolated today it might well not be classified as *E. coli*. Moreover, this adaptation to laboratory media has occurred at the cost of deadaptation to the human gut: in recent tests with a large dose in man (much larger than could be expected from a laboratory accident cells of this strain ceased to appear in the stools after a few days (13). Thus *E. coli* K12, outside the laboratory, is like a hothouse plant thrown out to compete with weeds.

3. Since an organism's adaptation to survival in nature depends on an exquisite fit of the parts produced by all its genes, the addition of a block of foreign DNA will ordinarily decrease that adaptation. Moreover, the likelihood of poor coadaptation obviously becomes greater with increasing evolutionary distance between the donor and the recipient.

4. A very large further safety factor is added by the biological containment required in the present guidelines for the presumably more dangerous work (e.g. that with random mammalian DNA). Biological containment involves the use of host cells, called EK2 strains, that have been drastically impaired in their ability to multiply and even to survive, except under very special conditions provided in the laboratory. In other words, this material has been coded for self-destruction: a degree of protection unprecedented in man's exploration of potentially hazardous new materials.

The currently certified EK2 strain, derived from *E. coli* K12, owes its fragility to several stable mutational defects, which include loss of the ability to synthesize two metabolites—thymine (a constituent of DNA) and diaminopimelate (a constituent of the cell wall)—and ultra-sensitivity to lysis by bile salts. Without thymine the cell dies because of the distortion of its attempted DNA synthesis. Without diaminopimelate the cell cannot form more wall, but it can continue to expand and so it quickly bursts. Accordingly, under conditions similar to those in the gut (which is defective in these compounds and contains bile salts) an EK2 strain not only fails to multiply but fewer than 1 in 10^8 cells survive after 24 hours. An extraordinarily sloppy laboratory accident would be required for the ingestion of 10^8 cells.

The exceedingly restricted survival of EK2 hosts under natural conditions is reassuring. However, before the cells die they might con-

ceivably transfer their recombinant plasmid to other, well-adapted cells, which could then spread the plasmid. But this problem is also taken care of by biological containment. First, the particular plasmids being used to carry recombinant genes are also defective: they have been selected for loss of genes that code for their own transmission from one cell to another (i.e. they are nonconjugative). Second, the most recently developed EK2 plasmids are nonmobilizable: unlike most normal plasmids, their transfer cannot be effected by the presence of a second, conjugative plasmid in the same cell. Although a normal conjugative plasmid could conceivably enter an EK2 cell from another cell, it has been reliably estimated that the probability of this happening and causing the transfer of the recombinant plasmid is far below 10^{-16} per recombinant per day (R. Curtiss III, pers. comm.). If it were as high as 10^{-16}, a hundred million people would each have to take up 10^8 bacteria containing a dangerous plasmid in order for the "escape" of that plasmid to become probable.

I conclude that the risk of laboratory infection by *E. coli* recombinants is much smaller than the risk encountered with known pathogens in medical laboratories.

We now come to a hazard that is much more important for the public than laboratory infection: *the initiation of an epidemic.* To place this problem in perspective we must first recognize that the words *hybrid* and *chimera,* applied to recombinants, do not imply an organism that is half *E. coli* and half something else. In fact, the recombinants made possible by the new technique are genetically 99.9 percent *E. coli,* with about 0.1 percent foreign DNA added. We can therefore make some firm predictions about their properties.

In particular, such a small addition could not conceivably endow the organism with a radically expanded habitat beyond the confines of the vertebrate gut. Hence even if the added DNA should include genes that made the organism toxic, the product would still be an enteric pathogen. It is difficult to see how such an organism could be more communicable, or more virulent, than the worst enteric pathogens produced by evolution (e.g. the organisms of typhoid or dysentery). Moreover, modern sanitation provides excellent control for this class of agents, unlike those of respiratory infection: in contrast to influenza, the appearance of a case of typhoid does not lead to an epidemic, unless sanitation is poor. Accordingly, if any toxic recombinant of *E. coli* escaped, its chain of transmission would quickly be interrupted.

Let us supplement these epidemiological principles with some facts about laboratory infections. In our government's biological warfare laboratories at Fort Detrick, where work was carried out for twenty-five years on the most communicable and virulent pathogens known, 423 laboratory infections were recorded (12). Most were due to respiratory agents, whose transmission in the laboratory via droplets was poorly controlled until closed safety cabinets were introduced in the later years. Nevertheless, only a single probable case of secondary spread to a person outside the laboratory was seen. Similarly, in the Center for Disease Control of the United States Public Health Service 150 laboratory infections were recorded, and again only one possible case of transmission to a family member was noted (12). Elsewhere in the world about two dozen laboratory-based microepidemics have been recorded, most involving no outsiders and the rest involving only a few. Of course the pathogens that produced all these infections gave an early warning—but this would also be true of any recombinant that caused disease by producing a toxin.

Tumor viruses present a special hypothetical problem, because any resulting illness would have a long latent period and thus would lack an early warning. However, this loss is balanced by the fact that viruses, by definition, have their own means of spreading. Indeed, in general the natural spread of viruses is even more effective than that of bacteria; each bacterium produces only two daughter cells, whereas each infected animal cell releases thousands of infectious virus particles. Moreover, these particles have a special coat that protects the DNA within and also facilities its entry into susceptible animal cells. Viral DNA in a bacterial plasmid, in contrast, would presumably have to become free before it would enter a human cell. In the test tube this is a very much less efficient process than viral infection of a suspectible cell, by many decimal orders of magnitude, and in the gut it would be rendered even less efficient by the rapid enzymatic digestion of free DNA. It is therefore hard to imagine that viral DNA in a bacterium would be nearly as hazardous as the same DNA in complete viral particles. Meanwhile we produce the latter material on a large scale in many laboratories—and we must do so if we are to learn to control viral infections.

I conclude that illness in a laboratory worker caused by a recombinant organism would require compounding of three probabilities, all low: that a dangerous gene will inadvertently be incorporated in the EK2 cells, that a large number of cells will be taken up, and that these cells will cause harm despite their short survival. Hence the danger appears to be vanishingly small, compared with the very real danger faced continually by medical microbiologists working with known virulent pathogens—organisms well adapted to survive and produce disease.

Because of the rapid self-destruction of the EK2 host cells, the severely impaired transmission of their plasmids, the effectiveness of sanitation in preventing the spread of enteric pathogens, and the excellent record of laboratories in avoiding the initiation of substantial epidemics, the risk of epidemic from a recombinant is clearly even smaller than the risk of laboratory infection, by a large margin—and also much less than the risk from cultivation of known pathogens in laboratories. I therefore see no realistic basis for public anxiety over possible infection by recombinants crawling out of the laboratory.

Though this assessment of a low risk is not conventional, it is also not idiosyncratic. For despite public impressions to the contrary, the experts are *not* in sharp disagreement over this issue—if we define the experts not as just any scientists, but as those familiar with epidemiology and infectious disease. In my own contacts with colleagues in this field I have encountered none who consider *E. coli* recombinants a serious hazard, compared with known pathogens; and the producers of a recent Nova program on Public Television, seeking all points of view, reported a similar experience. The Andromeda strain remains entertaining science fiction.

I would further suggest that as long as investigators are not creating undue risk for others they have the right to take risks for themselves—as they do whenever they work with pathogens (including such unknowns as the agent of "Legionnaires' Disease"). In the United States 2,348 cases of laboratory infections were recorded up to 1961, of which 107 were fatal—over half from diagnostic laboratories (13). More than balancing this cost, millions of lives have undoubtedly been saved by bacteriological research and diagnosis.

Viewed in the light of the technical considerations discussed above, the NIH guidelines seem excessively conservative—especially for the experiments with random human DNA. On the other hand, in the light of the attention that the alleged dangers have received and the resulting public anxiety, I would regard the present guidelines as a reasonable and practical response. They contain a provision for periodic revision, and the same will probably be true of any future legislation. Since the revisions will depend on public attitudes as well as on the results of actual experience with the organisms, a great deal of public education is needed.

INTERVENTION IN EVOLUTION?

The risk that we have been discussing—production of a recombinant that might cause an epidemic—is clearly a legitimate matter of public concern. Society obviously has the right to limit actions that may harm others, and the concept of freedom of inquiry has always tacitly recognized such boundaries. The matter at issue is simply the assessment of the potential harm.

Chargaff (15) and Sinsheimer (16–18), however, have asserted that the recombinant technology creates long-term evolutionary dangers and that these justify holding up the research. Their assertion introduces quite a different kind of question. Dangers from the possibility of interference in future evolution are so intangible and distant that the concern has shifted in effect from dangerous actions to dangerous knowledge. Hence the question of freedom of inquiry does arise. But before we consider a possible conflict between that right and other rights we must try to settle a simpler and more technical question: How much, in fact, is research with recombinant DNA likely to disturb evolution?

Specifically, Sinsheimer has said that we simply cannot foresee the consequences of breaching the barrier between prokaryotes and eukaryotes. But there is no evidence that there is such a barrier. On the contrary, there are many reasons to suppose that the two groups have always engaged in occasional fragmentary DNA exchange. Eukaryotes have evolved from prokaryotes and have maintained constant intimate contact with them; the mitochondria in eukaryotic cells may well be descendants of prokaryotes growing within them; and, as was noted above, prokaryotes can take up free DNA.

In addition, the allegation of danger in breaching any natural barrier to recombination turns evolutionary principles upside down. Evolution has indeed established fertility barriers between species. But these barriers do not function to prevent the formation of monsters that might take over in the Darwinian struggle: they prevent wasteful matings that would produce only unbalanced monstrosities, unable to survive. Moreover, the existence of these barriers, between even closely related organisms, clearly indicates that evolution proceeds in small steps, which will not excessively distort the genome in one respect while improving its adaptation in another. We can preserve under artificial conditions the large-step hybrids that can now be produced between distant organisms, but these products would be exceedingly unlikely to pass the test of Darwinian fitness in nature.

On a more general note, even if the recombinant technology should eventually have evolutionary consequences, it does not follow that such a development would be either unprecedented or dangerous. Man has meddled with evolution since Neolithic times—both deliberately by artificial selection and inadvertently by alterations of the environment. He has been cloning and grafting plants, domesticating animals and plants, and converting forests into fields. What has now been added is artificial recombination, as a potential source of added variation. But selection is the main directive force in evolution. Hence the supplementation of natural

with artificial recombination can hardly affect the biosphere as profoundly as the supplementation of natural with artificial selection. The chimeras of mythology are not about to descend from the realm of art into that of technology.

GENETIC ENGINEERING IN MAN?

Apprehension over undefined effects on evolution has inevitably led to concern over a specific kind of meddling—genetic engineering in man. Indeed, this concern, with all its emotional freight, may unconsciously underlie much of the alarm that has been expressed over other aspects of recombinant DNA research. But as with the other presumed hazards that we have already discussed, the moral issue is serious only if the technical prospects are realistic. Two questions stand out. How much does the development of recombinant DNA in bacteria advance us toward gene manipulation in man? And if such manipulation becomes possible, how likely is it to be used for harmful rather than for beneficial purposes?

As to the first question, the recombinant technique does not seem to be a particularly large step toward gene manipulation in man. A number of past developments are at least equally significant: the isolation and the chemical synthesis of a gene, the cultivation of human cells, the use of viruses to incorporate genes into those cells, and genetic recombination between cultural human and other animal cells. Nevertheless, it is understandable that to the public successful genetic engineering in bacterial cells would seem very close to the same achievement in human cells (19).

The second question—the dangers of misuse of genetic engineering in man—received extensive discussion in 1970. To review briefly my comments at that time (20): first, as far ahead as it is profitable to look, the medical aim of genetic engineering in man is simply *gene therapy*—the replacement of single, defective genes. For most hereditary diseases we would have to introduce the replacment DNA reliably, in the right cells, and subject to normal regulation. We still seem to be a long way from that goal.

But even if this prediction is wrong, and if we should succeed soon in genetically curing such diseases as sickle-cell anemia and the severe mental deficiency caused by phenylketonuria, we would yet be very far from manipulating the genes that generate most of the genetic diversity in behavioral traits—those that specifically direct the morphogenetic development of the brain. For this morphogenetic process must involve a very large number of genes, and so its significant manipulation would require transfer of many genes. Moreover, these genes are at present totally unknown, and they will be much harder to identify than the familiar, chemically defined genes that are responsible for various metabolic functions in the already developed organism. Finally, once these morphogenetic genes have directed the development of brain circuitry no conceivable later manipulation of the DNA could redirect those circuits (or the phenotypically acquired information stored in them). For these several reasons it is difficult to believe that a tyrant interested in altering the personalities of his subjects would find genetic engineering more useful, for the foreseeable future, than the simpler techniques that are already available: psychological, economic, pharmacological, and even surgical.

In addition, even if we could use genetic technology to mold personalities it is not clear that the technological imperative would lead us to do so, or that we would choose these techniques. Selective breeding and artificial insemination have long proved effective in animal husbandry, and they are equally applicable to man—but they have not led to a eugenic program designed to influence the human gene pool. If our society should some day decide to undertake such a program, the decision would not depend on the development of elaborate techniques for manipulating human genes in the laboratory: simple but effective techniques are already available.

The Golem, like the Andromeda strain and the chimera, remains a product of man's literary imagination and not his technology. As Philip Handler recently stated, "Those who have inflamed the public imagination [over recombinant DNA] have raised fears that rest on no factual basis but their own science fiction" (21).

LESSONS OF THE DEBATE

Some have suggested that the exhaustive debate over recombinant DNA will prove beneficial because it will lead to better mechanisms for resolving future issues of this kind. Perhaps so. But the purely conjectural risk in this case does not seem to offer a good model for the real problems of technological assessment, which involve real risks. Moreover, the issue has caused a decrease in public confidence in the sense of responsibility of scientists and an increase in pressure for detailed external control of their research, and the latter inevitably leads to emphasis on immediately visible benefits and on freedom from risk. This development threatens the intellectual freedom and the creative urge that have played so prominent a role in the spectacular success of science.

One lesson for the scientific community is the imperative need to develop more responsible and effective procedures for exploring possible dangers before communicating publicly. The question is not *whether* the public should participate in making value judgments on benefits and risks that may affect its interests: the question is *when* and *how*. Recent years have seen much praise for the virtues of maximal openness at all stages, but the history of the recent debate suggests that on issues with a large technical content, and with a large potential emotional charge, premature public involvement may be less than useful. Just as a responsible physician faced with a diagnostic problem would not immediately tell the patient that the possibilities ranged from neuritis to cancer, so the scientific community has a responsibility in transmitting conjectural information about frightening possibilities to an easily alarmed public.

A second challenge to the scientific community is that of responding more effectively when a scientific issue has generated public controversy. Debates and forums, with equal time for all points of view, are not enough. The scientific community has learned that in trying to judge questions of scientific fact in terms of evidence and logic, rather than of rhetorical skill or public stature, it must weigh the credentials of the witnesses carefully and it must rely heavily on those with authority derived from demonstrated expertise and judgment in the relevant area. But it is difficult for the public to make such distinctions without help from reliable sources; in addition, the media inevitably favor the more sensational pronouncements. Accordingly, on matters that involve a large technical content as well as value judgments, our scientific organizations would do well to develop better mechanisms for conveying to the public the collective judgment of qualified peers. To be sure, this judgment is not infallible: but it would be difficult to find a social institution with a better record of success in winnowing truth from falsehood.

Of late, perhaps because of guilt over the charge of elitism and the ills of technology, some scientists appear to be losing confidence in the objectivity of scientific knowledge and in the ability or the right of their community to speak with any authority. But while there is no room for absolute authority in science, there is also no room for extreme intellectual relativism. In the areas of its expertise the scientific community has the authority, and the obligation, to help the public to discriminate between rational and irrational views.

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THE ROLE OF CONGRESS IN THE ABROGATION OF TREATIES

Mr. GOLDWATER. Mr. President, one of the foremost issues facing this administration is how to pursue its China policy. Those persons who are apologists for or sympathetic to Communist China are clamoring for President Carter to give in to each and every demand of the mainland regime for what they call a normalization of relations. These requirements include abrogation of the mutual defense treaty between the United States and the Republic of China on Taiwan, a condition that was recently reiterated by Communist Chinese Vice Foreign Minister Yu Chan and Vice Premier Li Hsien-nien.

In implementation of this demand, the friends of Red China are seeking to persuade the administration to consider

the defense treaty as automatically having lapsed upon recognition of the Communist Government. Now, aside from the immorality of such a proposal and its guaranteed harmful effects upon our worldwide foreign policy, the fallacy in this suggestion is the fact that it is unconstitutional.

No President acting alone has authority to take action which has the effect of terminating a treaty unless he first obtains the consent of Congress. The Constitution demands a role for Congress in the abrogation of treaties, either in the form of joint action by the President and the other half of the treaty-making power, the Senate, or by action of the President together with both Houses of Congress.

Mr. President, I am surprised that this elementary constitutional fact has been ignored by the people who would have us yield to the terms of Red China. Congress role in the termination of treaties is quite firmly based upon the Constitution and historical practice, and it is most improper for the friends of Red China to ask President Carter to violate the Constitution.

In order that my colleagues may have a brief explanation of the subject, I ask unanimous consent that an article I wrote, which was printed in this morning's New York Times, entitled, "Abrogating Treaties," be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

ABROGATING TREATIES

(By BARRY M. GOLDWATER)

WASHINGTON.—In the debate over our China policy, almost no serious attention has been given to whether any of the conditions demanded by Communist China for normalized relations would require Congressional approval.

For example, on Aug. 15, Senator Edward M. Kennedy called on the Carter Administration to recognize Red China and consider our defense treaty with the Republic of China on Taiwan as having lapsed. That the President could so terminate the treaty was assumed.

The defense treaty involved provides for revocation upon one year's notice by one party to the other. It is my contention the President cannot give that notice, let alone abrogate the treaty without notice, before obtaining legislative approval.

If President Carter should seek Congressional approval, he will not get it. Public opinion against capitulating to Peking's terms is so strongly reflected in Congress that no President could obtain the necessary consent of two-thirds of the Senate or a majority of both Houses.

It is true the Constitution does not spell out how a treaty is to be terminated. But the clear intent of the Constitutional text, supported by the overwhelming weight of historical practice, proves a treaty cannot be revoked without some role for Congress.

Virtually nothing was said at the Constitutional Convention about the termination of treaties, but it is well known the Framers were concerned with restoring dependability to our treaties and were anxious to gain the respect and confidence of foreign nations. It would hardly instill confidence in other nations if a single officer could abrogate a treaty at will without any check from another department of Government.

And, it is difficult to believe that the Framers, who established the Presidency and Senate as checks upon each other in completing a treaty, did not intend a check in the converse situation, the revoking of a treaty.

The Framers may well have assumed the President would not attempt to annul a treaty independently since he is under a constitutional mandate to "take Care that the Laws be faithfully executed. . . ." As the Constitution specifies that a treaty is part of "the supreme Law of the Land" . . . the Framers undoubtedly expected Presidents to enforce and carry out treaties in good faith.

The general rule follows: As the President alone cannot repeal a statute, so he alone cannot repeal a treaty. This was the belief of James Madison who foresaw "the same authority, precisely, being exercised in annulling as in making a treaty."

It was also the belief of Thomas Jefferson, who in his manual of rules and practices of the Senate, wrote: "Treaties being declared, equally with the laws of the United States, to be the supreme law of the land, it is understood that an act of the legislature alone can declare them infringed and rescinded."

Historical practice supports Madison and Jefferson. Far more often than not, the Senate, or the whole Congress, has exercised power to approve the termination of treaties, and Presidents have usually sought legislative approval before giving notice of withdrawing from any treaty.

There are exceptions, but none support an untrammeled power of the President to annul any treaty he wishes. In particular, the United States has never repudiated a defense treaty with a friendly nation. Nor has any President alone terminated a treaty that has not been breached by the other party, been placed in conflict with a subsequent law or treaty, or become impossible of performance due to circumstances not of his making.

None of these exceptions apply to our treaty relations with the Republic of China. Even if one or two examples to the contrary can be dredged up, they cannot make legal what the Constitution makes invalid.

Nor does it follow that, should the President take the improper step of de-recognizing the Republic of China, prior treaties would lapse. In a recent study, Stanford law Prof. Victor Li concluded: "International law does not require that treaties affecting only the territory controlled by the Taiwan authorities must lapse. On the contrary, there is strong support for protecting ongoing relations. . . ."

Since the President alone could not abrogate treaties with the government on Taiwan, he must consider them as still being in effect. Any President who would violate the Constitution on such a major matter as breaking faith with the nation's treaty obligations would run the risk of impeachment.

LET US NOW PRAISE CLEVELAND

Mr. METZENBAUM. Mr. President, for many years—too many, I might say—my hometown of Cleveland, Ohio, has been subjected to national ridicule for various reasons. In some circles, it has become fashionable to use the name of Cleveland as the "punch line" in jokes.

Finally, someone has stood up to be counted as one who is tired of hearing derogatory remarks about Cleveland. I refer to Mr. James Damico, the author of an article entitled "Let Us Now Praise Cleveland," in the October 17, 1977, issue of Newsweek magazine.

To borrow a phrase from Mr. Damico's article:

I've lived in Cleveland. I even had the temerity to be born and raised there.

In fact, it is still my home and I plan to make it my home for many, many more years.

Mr. President, even though Mr. Damico has now left the shores of Lake Erie for the towers of Manhattan, his thoughts on Cleveland reflect my own and those of many thousands who are proud to claim the city of Cleveland as their home.

I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

LET US NOW PRAISE CLEVELAND

(By James Damico)

"If you don't read us," goes the ad of an ultra-trendy magazine, "you might as well live in Cleveland." A prominent television moderator shudders and pronounces "Cleveland" with the disdain he usually reserves for women's libbers. Aspiring comedians on the "Tonight" show, facing death at 12:35 in the morning and desperate for the surest laugh they can dredge up, shout "Cleveland!" and are momentarily reprieved by the automatic bark of laughter that echoes back. A new, thoroughly rational friend says grimly, "I was in Cleveland *once*," as if it were a combination Devil's Island and Chateau d'If worth any sacrifice of health and wealth to escape.

Well, I've lived in Cleveland. I even had the temerity to be born and raised there. And though I never used to give these circumstances much thought, I must admit that since it's become the pet target of every unimaginative copy writer, comedian and neighborhood life-of-the-party, I've grown defensive, even chauvinistic, about what I've always regarded as a pretty fair city, one possessed of more than its share of amenities, charm and good, honest folk.

BALLYHOO

Culturally, for example, it has a quality and range that most glamour towns can't begin to match. Its beautiful and prestigious art museum is a richly endowed jewel, which, had it been erected on Wilshire Boulevard in Los Angeles, would have been as ballyhooed as Disneyland and long ago accepted by the general public as the Taj Mahal West. Neither is it hard to imagine Atlanta happily trading its Hyatt Regency, or Houston a couple of its oil conglomerates, for the Cleveland Orchestra, one of the world's outstanding musical organizations. As for theater, Clevelanders have enough of a choice to put a healthy strain on their time, funds and behinds.

To satisfy the sports nut, the city provides a full set of professional teams, including the latest rages, team tennis and soccer. The Browns haven't won a championship since Joe Namath was a bonus baby, it's true, but they have an untarnished perigree as one of football's class aggregations; and, for their part, the Indians have operated continuously in the same city for 62 years, which is slightly more than can be said for the Padres, Dodgers, Mets and whatever other baseball teams are destined to be swallowed up in the ex-swamps of New Jersey.

Architecturally, to be sure, Cleveland is no Paris. But its gracefully proportioned and somewhat revitalized downtown is also without that devastated, ground-zero look of parts of central Detroit—about which, incidentally, I never hear anyone cracking wise—and many of its neighborhoods retain the

type of lively, individual character that was once an adornment of our cities.

But why is it that when I feel compelled to remind people of these and other positive features, their eyes glaze over and a patronizing smile of excruciating disbelief curls their lips? How has this insidious thing happened whereby my pleasant, inoffensive, totally congenial hometown has become the country's No. 1 joke city?

I'd always imagined that this kind of stigma was something a town was saddled with at birth. Like yearly flooding or rockslides from a nearby mountain, it was a congenital defect—obvious, irremediable and noncommunicable. And I'd thought that the list of those poor quaint burgs whose mere names would unfailingly provoke bemused scorn and easy laughter was fixed forever: Brooklyn (a natural), Philadelphia (a tip from traveling show people), Dubuque (the archetypal hick town), and Cincinnati (it sounded funny, especially through a vaudeville German accept). It never occurred to me that obloquy of this order was something that could be acquired by national consensus, or—God forbid—even *earned*.

I suppose the precise moment things started downhill for Cleveland was the day several years ago when its river, the Cuyahoga, caught fire. Sure, that's hysterical, but on reflection it's perfectly reasonable. After a hundred years of absorbing the most noxious and volatile chemicals from bordering plants, that tiny stream should have exploded, not merely burned. If it had happened in Pittsburgh, though, it would have been rightly cursed and deplored as an inevitable excess of industrialization, but I doubt that anybody would have started to crank out Pittsburgh jokes.

SHENANIGANS

Admittedly, the situation was compounded shortly afterward when the mayor of Cleveland, making a play for the blue-collar vote, set his own hair on fire demonstrating his skill with a welding torch. More fuel was added to all these flames by the mayor's confession that his wife skipped a White House dinner because it fell on her bowling night. (In the current election year, the same politician chose to have his sanitation men pass out questionnaires on pornography.) About such antics, there is little to be said. Yet, a city ought not to be permanently branded by the shenanigans of its elected officials. By that standard, New York might be the funniest two words in the English language.

Well, however it came about and however unfair it is, the deed is done and there surely seems to be no way, for one man at any rate, to rectify a social injustice done to an entire city. The only solace I have is the certain knowledge that someday this too shall pass. I've done a little research into the subject and I've discovered that other and far greater cities have been grossly maligned and have survived to take their proper places in the hearts and minds of their countrymen and posterity.

John's Gospel, for example, tells us that Nathanael, on hearing that the savior of mankind had arrived and that he hailed from Nazareth, exclaimed, "Nazareth! Can anything good come from Nazareth?" I can just see the glaze over his eyes and the excruciating disbelief in his smile.

COMPLAINTS AGAINST HEALTH CARE ORGANIZATIONS BY FTC

Mr. WALLOP. Mr. President, in 1975 the Federal Trade Commission filed a complaint against the American Medical Association, the Connecticut State Medical Society and the New Haven County Medical Association. In January of this year, a similar complaint was filed against the American Dental Association, the Indianapolis District Dental Society, the Indiana Dental Association, and the Virginia Dental Association and the Northern Virginia Dental Society. These health care professional organizations were charged with acts, practices, and unfair methods of competition in violation of the Federal Trade Commission Act. The trial in the American Medical Association case is underway, with the FTC nearing the end of its case-in-chief. Following a 1-month interval, the respondents will put on their rebuttal. The American Dental Association case is also moving full-speed ahead, with a pretrial conference set for later this month.

In many instances, I applaud the work that the Federal Trade Commission performs as a regulatory agency. However, in this situation, I am concerned that there has been a gross misallocation of that agency's time, resources, and energy. While the outcome of these trials will not be certain until some time in the future, what is certain at this time is that the FTC should not have instituted these suits in the first instance.

To generalize, nearly all associations of health professions personnel are nonprofit, by definition and in nature. As such, these organizational entities are not engaged in trade or commerce nor are they organized to carry on business for their own profit or that of their members. On the contrary, most of these associations were founded and continue to this day to encourage the improvement of the health of the public, to promote scientific research and development, and to represent their respective health professions.

I do not fault the objective of the FTC to protect consumers of medical and dental care, but the FTC intervention in this area is clearly a usurpation of the States' rights to regulate the practice of dentistry and medicine which directly touches the lives of their citizens.

There is no question in my mind that the health and welfare of the public is paramount in the minds of State legislatures and those bodies charged with the enforcement of State laws. My own State of Wyoming has been conscientious in this area. Our Dental Practices Act and the Medical Practices Act establish licensure and minimum education standards for medical and dental practitioners. These statutes provide for the revocation or suspension of licenses to practice dentistry and medicine under specified conditions. These laws are rigorously enforced to insure that health services of high caliber are delivered by qualified doctors and dentists.

Let us not overlook the ability of States to police any anticompetitive practices engaged in by health care associations under applicable State laws. This is a second mechanism for insuring that the public is protected from unfair practices. The Federal Trade Commission recently published a factsheet that indicated that 48 States and the District of Columbia have enacted laws which parallel the Federal Trade Commission Act. If 48 States and the District of Columbia all have laws designed to prevent deceptive and unfair trade practices, is not the FTC acting needlessly where the States have the necessary tools to proceed on their own?

In short, I agree in principle that the consuming public must not be subjected to unrestrained anticompetitive practices engaged in by any individual, be it health care associations or any other enterprises. However, in the area of dentistry and medicine, which affects each and every State resident, I must emphasize that each of the States is uniquely suited to police the professional organizations within its jurisdiction and thereby to protect its residents.

I have taken the opportunity to address the FTC litigation in order to serve notice on all arms of the Federal Government, and particularly on the Federal Trade Commission, that the 10th amendment still has vitality and must be respected. Our Founding Fathers quite wisely reserved to the States and to the people those powers not specifically delegated to the Federal Government by the Constitution. Nearly all of the States have exercised their legislative prerogatives in enacting professional practices acts and laws dealing with unfair trade practices. The States are well equipped to enforce their own laws without interference from the Federal level. The States have done a good job in this field and have satisfactorily prevented the abuse of the privileges that accompany professionalism. The Federal Government has a constitutional responsibility to defer to the States in matters so close to home.

To conclude, let me underscore the value of reasonable regulation of the health care professions to prevent deceptive and unfair trade practices. On this point, I am in accord with the Federal Trade Commission. The question boils down to which branch of government should be charged with this responsibility. State governments have been, and must remain the leaders in this area. The FTC investigations and trials are an unwarranted intrusion into the constitutional domain of the States.

NEW MEXICO STATE POLICE CRIME LABORATORY

Mr. DOMENICI. Mr. President, I would like to take this opportunity to recognize the valuable contributions the New Mexico State Police Crime Laboratory has made in the battle against crime in New Mexico.

I recently sought the views of New Mexicans on issues and concerns of interest to them, and it is not surprising that crime was listed as the No. 1 problem. Therefore I believe it is appropriate to note the services the New Mexico State Police Crime Laboratory has made to law enforcement agencies throughout the State.

Any person familiar with law enforcement, and the techniques employed to maintain law and order in this Nation, is aware that the collection and interpretation of physical evidence is a vital segment of the process. This facility has increased the use of physical evidence by

New Mexico's law enforcement agencies, which has resulted in an increase in convictions.

Americans have traditionally valued their freedom and prosperity above all other concerns since its founding following the Revolutionary War. However, an American is not truly free to enjoy his liberty or prosperity if crime exists to such an extent that citizens are fearful for their lives and property. Thus while Americans have freedom of speech, religion, and property, they do not have freedom from burglary, mugging, or murder.

Because of efforts such as the laboratory, I must be confident that Americans will someday be able to exercise their freedoms and liberties without fear of attacks on their persons or property.

I ask unanimous consent that the article appearing in the current issue of the FBI Law Enforcement Bulletin recognizing the New Mexico State Police Crime Laboratory's development and resulting effectiveness be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From FBI Law Enforcement Bulletin, October 1977]

THE NEW MEXICO STATE POLICE CRIME LABORATORY

(By Donald W. Hannah)

In 1960, it was decided that the New Mexico State Police should have a forensic crime laboratory to provide assistance for the various law enforcement agencies throughout the State. Administrative officers toured several established laboratories to observe operations and found that the most serious obstacle to implementing this decision would be the tremendous expense involved in equipping and staffing a laboratory. This funding problem was aggravated by the fact that adequate housing for the laboratory was not available. The State police headquarters building which might have provided room was already overcrowded; larger facilities were needed.

In response to these needs, a concerted fundraising effort was begun, and over the next few years, plans for a new State police headquarters complex large enough to accommodate the crime laboratory were drawn up and approved.

Construction got under way, and in January 1971, the agency moved into its newly completed facility. The top south wing of one of the buildings—approximately 10,000 square feet of space—was reserved for the crime laboratory. This area included a central hallway of approximately 1,300 square feet which would allow visitors to tour the laboratory and view the analysts through windows without disturbing their work.

INITIAL ORGANIZATION

A Law Enforcement Assistance Administration (LEAA) grant was obtained to begin buying equipment for the laboratary, and initial purchases were made for the chemistry section.

The laboratory was opened with a supervisor, a crime scene technician, and two inexperienced in-State chemists. It was planned that the chemists would receive their initial training within the laboratory itself, and receive additional training with an outside laboratory doing similar work.

It was felt that other sections of the laboratory required experienced or at least partially experienced personnel, and toward this end an experienced serologist and an experienced firearms examiner were hired from out of State.

Selecting this basic complement of personnel was difficult for several reasons. The budget was somewhat limited, yet it was felt that in order for the laboratory to be effective a high-quality staff was needed. By nature, crime laboratory work requires an array of abilities and competency in several varied fields. In addition to technical proficiency, the analyst must be able to function effectively in court as an expert witness. He must have a good basic scientific background and be capable of expressing himself in terms that lay jurors can understand. He must remain unemotional and objective while testifying, particularly if attacked by opposing counsel. The analyst should stay abreast of changes and advances in his field, and be prepared to attend various meetings of organizations involved in similar work.

In order to staff the laboratory with personnel of this caliber, it is necessary to compete on a nationwide basis. Salaries must be on a par with other laboratory systems, and State laboratory facilities must be attractive to talented out-of-State analysts. This is especially true now that Federal funds have become available to law enforcement. Forensic laboratories throughout the country are expanding and have a great deal to offer in terms of salary and working environment. For a newly operational facility, therefore, funding is the critical element in retraining well-trained analysts and attracting equally qualified personnel in the future.

Thus far, the New Mexico State Crime Laboratory has been fortunate in acquiring both Federal and State funding. Most of the laboratory's equipment has been purchased with LEAA funds; analysts and other personnel have been hired with State funds. At present, the laboratory is operating with an approximate annual budget of $235,000 and the following sections and staff: A director, three analysts in the Chemistry Section, one in the Latent Print-Photography Section, two in the Firearm-Toolmark Section, two in the Serology-Trace Evidence Section, and one in the Questioned Document Section.

In the latter part of 1971, the International Association of Chiefs of Police conducted a survey of the New Mexico State Police. A portion of that study resulted in certain recommendations concerning the laboratory. Several of these suggestions were implemented, including the establishment of the laboratory as a division of the State police.

PROBLEMS

Although the laboratory is now fully operational, a few problems remain. Even though the space is not presently needed, it is now felt that the visitor's hallway space is somewhat wasted and would have been better used to enlarge the laboratory. It has also become apparent that each section of the laboratory requires additional space for storage of supplies and evidence. Since the laboratory was not planned to serve as the central depository in the State for all physical evidence, a policy was instituted of returning all evidence to the contributing investigative agencies as soon as possible after examinations are completed. This arrangement has worked out rather well. It frees the laboratory staff from much recordkeeping and relieves the congestion in evidence storage areas. It also places the responsibility of keeping track of individual cases with the submitting agency rather than the laboratory itself. This is helpful because it is often impossible for laboratory personnel to tell when a case has been closed, and further, to obtain authority to destroy the evidence. As a general rule, the laboratory makes an effort to return evidence to the submitting agency within 30 days after examinations are completed.

Another problem encountered was a backlog in the Serology-Trace Evidence Section. Although the laboratory has the capability to do electrophoresis and other typing of physiological fluids, the rapid increase in the section's caseload has resulted in insufficient time to develop and refine necessary examination techniques. This is a genuine problem because, of late, defense attorneys are becoming more aware of laboratory capabilities and are asking, legitimately, why certain types of examinations are not being performed on the evidence. This is especially true of determining blood groupings, information which might be beneficial to the client. Prosecutors are also becoming more sophisticated in their requirements for physical evidence before they will allow a case to be taken to court. Unfortunately, we also have problems with a lack of understanding about the capabilities and limitations of a crime laboratory—a situation aggravated through the spread of misinformation by "experts" in the State.

TRAINING

Developing confidence in the laboratory's capabilities and knowledge of its limitations is, of course, the best remedy for this problem. As a result, training has become one of the laboratory's most important missions. When the laboratory first opened, a booklet with information culled from various physical evidence handbooks available at the time was printed and sent to all agencies throughout the State.

In addition, the laboratory staff conducts basic instruction at the New Mexico Law Enforcement Academy. This instruction for police officers has been combined with a tour of the laboratory, during which each student is introduced to the analysts and receives a short explanation of the process by which the laboratory handles evidence. Academy personnel, in return, have been very generous in emphasizing the value of the laboratory and the ways in which it can best help the investigator.

In mid-1975, a criminal investigator from one of the departments requested that he spend 2 weeks in the laboratory to increase his knowledge of physical evidence and his capacity to work crime scene searches. His department's chief made the request through proper channels, and the Law Enforcement Academy was asked if he could stay in one of its unoccupied rooms. Permission was granted, and the seed of a future program was planted. During the 2 weeks he spent in the laboratory, he divided his time between the sections, observing the evidence which the laboratory received and how it was handled and examined. He was also taken to crime scenes as an observer. It was found that having an observer presented no great problems, and it seemed that a greater appreciation of physical evidence and proper handling was gained. The laboratory personnel also developed greater respect for the field officers' problems.

As time went on, academy personnel expanded this idea. Funds were allocated to establish a program, which would include criminal investigators from the various departments throughout the State. It was decided that a period of 2 weeks was excessive, and the program was reduced to 4 days. It was also decided to schedule two officers at a time rather than only one. It would be required that the officers remain observers during their visit, and that they spend about 4 hours in each of the five sections. The 12 hours that are not assigned may be spent as the officers see fit—observing operations in the various sections or browsing through the literature available in the laboratory. Or if they wish, they may return to their respective departments. This aspect of the program has purposely been left unscheduled due to the varying interests and responsi-

bilities of the officers. Several have indicated that the time they spent in the different sections was sufficient. Others have expressed a desire to return to the laboratory for some additional study.

An announcement concerning the program was sent to the departments throughout the State, and the response has been very rewarding. Critiques written by those officers who have attended thus far indicate that the program is having a very positive impact.

CONCLUSION

What does the future hold? Response to our work has been complimentary and indicates that the New Mexico State criminal justice system has found a real need for the laboratory, which now services the entire State—an area of approximately 140,000 square miles. In 1976, laboratory personnel traveled about 54,000 man-miles attending court and about 19,000 miles aiding in 97 crime scene searches. The use of department planes greatly reduce traveltime, allowing analysts to accept court commitments in different parts of the State on consecutive days.

The laboratory caseload has grown from 1,052 cases submitted in 1973 to 2,368 cases in 1976. Indications are that the caseload will continue to increase as time goes on and the education and training of police officers throughout the State becomes more advanced.

In order to keep the backlog of cases to a minimum and the turnaround time on the cases realistic, additional personnel are needed and are, hopefully, forthcoming. It is also hoped that the laboratory will be expanded, and if need be, personnel placed in the field doing crime scene searches, latent prints, and photography in those areas where local departments need assistance. As more analysts are added to the staff, the scope of laboratory experience will increase, and it is felt that the extra personnel will help to provide greater continuity in the laboratory when analysts are in the field.

It may become advantageous, as the caseload increases, to establish small specialized satellite laboratories in the more populated areas of the State to cut down on traveltime to and from the main laboratory. In the meantime, the laboratory is providing a much needed service by increasing the utilization of physical evidence by New Mexico's law enforcement agencies.

ERA

Mr. BAYH. Mr. President, the October issue of Redbook magazine contains an article by Judy Carter, daughter-in-law of President Carter, entitled, "Why Nice Women Should Speak Out for ERA."

Mr. President, many reliable polls have shown that a majority of Americans endorse the principle of the Equal Rights Amendment. Thirty-five of the necessary 38 States have ratified the ERA; however, a vocal minority continues to inundate many of the remaining State legislatures with misinformation about the effects of this amendment. It is time, Mr. President, that these legislators hear from the majority, who believe in the principle of equality, as well as from the minority. It is time that the general populace makes itself heard.

Ms. Carter's article clears up many of the misunderstandings about the ERA, and makes it clear that the "nice" people of this country, who have heretofore stayed out of the battle, must make their views known if we are to pass this amendment which is so crucial to the basic equality of all of our citizens.

Mr. President, I ask unanimous consent that the text of this article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

WHY NICE WOMEN SHOULD SPEAK OUT FOR ERA

(By Judy Carter)

American voters, your majority rights are in danger. Unless the Equal Rights Amendment is ratified by March 22, 1979, it will die. And that's not what the majority of American voters want.

But how can this be? If there were a national referendum on ERA, there is no doubt that it would pass. The maximum ever recorded against ERA in a national poll was 35 per cent. Both major political parties, over 200 national organizations, the last six Presidents and a clear majority of citizens have supported it. And doesn't the majority rule in this country?

Not always. In this case the minority may decide, because ERA must be passed by state legislatures instead of by direct vote. It has been passed by 35; it needs three more to become a part of the Constitution. The opposition doesn't have to deal with the general public; it has only to focus on a few legislators' votes. That makes lobbying the name of the game—and lobbying is a bad, bad word to most of us. "Nice" people do not become involved in that sort of thing. We forget that it can be used for a good cause as well as for a selfish one.

Lobbying may sound underhanded, but it works. The 1977 ERA vote in Florida is a classic case. A reliable poll, taken a few days before the vote, showed strong support: 62 per cent in favor; 16 per cent against. The majority held equally among men and women, through all areas of the state, age groups and political parties. But the Florida senate defeated the amendment by two votes. Because of effective lobbying by the minority, Florida remains one of the states that has not ratified ERA, despite the fact that a clear majority of its citizens are in favor of it.

Lobbying can work for the majority too, but it takes work to organize it. Indiana is a good example. In the November, 1976, election, four anti-ERA senators and three anti-ERA House members were defeated by pro-ERA voters. ERA was ratified in January, 1977, soon after the new legislature convened. Many women who helped make this possible were ordinary, nonpolitical citizens whose involvement at the right time made a significant difference.

That sort of involvement in Florida, North Carolina and Nevada could have got ERA ratified this year. If only 13 legislators—two in Florida, two in North Carolina and nine in Nevada—had been influenced to vote for instead of against the amendment, it would have passed in those three states, and that would have put ERA over the top.

The opposition group Stop ERA is determined to prevent another ratification. It is supported by groups of the kind that for years have opposed all progressive legislation. They have been against women's suffrage, the income tax, the United Nations, civil rights legislation, Social Security, détente, Medicare and laws to prevent child abuse. Like other such crusades, Stop ERA is well financed by unknown sources. Attempts to find out whom the money comes from are met with vague replies or absolute refusals to answer. The group's lobbyists use well-known tactics: planting fears ("We'll have unisex bathrooms!"), simply repeating the statement when asked for proof, blatantly distorting the facts and insisting they are doing it all to protect freedom.

The underlying argument for opposing ERA is that God made women to have children and men to be responsible for both of them. The laws passed years ago to "protect" women under this reasoning have been changed in recent years to recognize women's rights to equal credit, employment and other business opportunities. Few people object to such basic fairness. But then, it would seem that few people could object to this: Equality of rights under the law shall not be denied or abridged by the United States or by an State on account of sex." And that's the wording of the Equal Rights Amendment.

Why, then, is it so difficult to gain a Constitutional guarantee that the legal gains we've made will not be repealed and that they will be incorporated into our whole system of laws? Why would the vast majority who believe women should have equal rights sit back and let a few vocal extremists take them over?

To find out, I asked a number of "nice" women to talk about ERA. Their comments were surprisingly similar, whether they were in favor of ERA or not. "I'm happy with my situation the way it is," was one comment I heard over and over. Another was, "Those ERA campaigners really turn me off." Most women admitted that they really did not know very much about what ERA would do. Those who assumed that ERA would change things a great deal were against it. Those who agreed that women should have equal rights had little enough knowledge about what ERA could do for them and enough negative feelings about its image to be wary of working for its passage.

ERA would be extremely important to these women if they were in different circumstances. As wives and mothers, most of us enjoy feeling secure and protected by our husbands. ERA will not affect that at all. Like any other Constitutional right, ERA will be there only if we need its protection. We are not required to carry guns simply because we have the right to do so. ERA does not require that any personal habits be changed; it simply guarantees a woman the same legal rights as a man if she needs them.

If your husband dies or if you are divorced, you need to have full, legally protected opportunity to care for your family. If you work, you should be able to expect equal treatment. Our daughters, of course, should have every available opportunity. ERA, like an insurance policy, will guarantee us all those things if we need them.

Obviously, ERA's image is a serious problem. Most of the attention has been focused on a very small number of ERA's millions of supporters: those who have been demanding and strident in their support, the pro-ERA groups that also support some unrelated and far more controversial issues and professional issues and professional women who emphasize discrimination in the business world. The composite has emerged as a group of shouting, aggressive, bra-burning "women's libbers," and "nice" women have been reluctant to be identified with such a group though they support ERA itself.

ERA still has a chance—if we look at the facts in time. The image is changing and the average woman has more to identify with. No one could describe Lady Bird Johnson or Betty Talmadge (wife of the Senator from Georgia)—both of whom actively support ERA—as demanding or strident. Rosalynn Carter could certainly not be accused of trying to weaken the family, though she has been outspoken in advocating equal rights. Jean Stapleton's support has given Edith Bunker fans a push to be involved too. Ellie Smeal, the new president of NOW and a stanch ERA advocate, is a housewife and proud of it.

Even with this all-star support, how much chance ERA has depends on you. Because we are so close, every effort is important. And you don't have to be an expert or a loudmouth to help. The first item of business is

to be informed, considering well the source of any information. Rumor and distortion have taken a great toll in support. Read the facts with this article. Check them out. Write for more information if you want it. Get in touch with ERAmerica, the national coalition of ERA supporters (see box on page 215). Then start talking.

If you live in a state that has already ratified ERA, you still have several avenues for action. First, write a letter to your Congressional representatives and ask that they do what they can to assist passage of the amendment. They may have a direct link to representatives from states that have not yet ratified ERA and who could be of assistance in passing it through their state legislatures. Second, urge any organization of which you are a member to support the effort with money and publicity. Third, urge anyone you know in states that haven't ratified to learn about ERA and help get it passed. (You never know when a letter like that can find the right person!) Fourth, send money. It's needed for advertising in some states, campaign contributions for electing pro-ERA legislators in targeted districts, printing and mailing information and salaries for a few full-time people to coordinate teh effort. Your contribution is an investment in your future, so give as much as you can.

If you live in a state that hasn't ratified ERA yet (and that includes states that have rejected it in the past; they can vote on it again), you have even more to do. Get ready to be a lobbyist—a nice, calm, intelligent, feminine, determined lobbyist. Here's how.

First tell your own representatives how you feel about ERA. They need to know. It is difficult for legislators to get a realistic view of their constituents' opinions when they are being bombarded by a very vocal minority. A calm voice helps them remember that the vast majority of people they represent are reasonably sane and expect them to make decisions based on what the majority will accept. In the back of every politician's mind is the possibility of being removed from office when a more acceptable candidate comes along. Your legislator needs to treat you kindly even if you don't see eye to eye.

You've found important allies if your representatives are ERA supporters. Keep in touch with them. They will need you when they are being pressured by the other side. Remember that some close votes were lost by last-minute switches.

If your representatives are against ERA or are undecided, try to convince them. The most important thing to remember is: Keep cool. Very few people have ever been convinced of anything by threats or tantrums. You may fail and you may be very frustrated, but don't blow your relationship with your legislators. They could change their minds at the last minute, too!

Begin by working with them yourself. Get your information together and ask for an appointment. Ask what their objections are, discuss your position and be sure to point out who your sources are. Of course, even if you beat them on the facts, they still have an effective defense: "The voters in my district are not for it, and I cannot vote for it." At this point retreat and find some allies. A petition supporting ERA, phone calls and letters stating support and public endorsements by local groups can help. Remember that you are not threatening your representatives in any way; you are giving them information to help them make a decision.

When convincing doesn't work, you have one more option: Find a replacement. In most states there is an election before the ratification deadline. Check with your state ERA coalition first. They should have information about potential candidates in anti-ERA districts. Get behind the best pro-ERA candidate and go to work. Voter power is a potent force, A turnover of one or two key seats in most states would ensure ratification. Remember Indiana.

We are living in an era of great historical importance for women. The next few months will be crucial in the struggle for equal rights. It is up to the majority, silent until now, to make it a reality. Our daughters and granddaughters will thank us for it.

WHY ERA IS NEEDED

All laws and court decisions are based on the U.S. Constitution's definition of rights. There is no clause in the Constitution granting legal status as persons and equal protection under the law to women.

There is no consistent pattern in state laws with regard to women. A woman's legal status may differ greatly from state to state.

The Supreme Court must treat all sex-discrimination cases on a case-by-case basis, since there is no Constitutional guarantee of rights for women.

In the case-by-case procedure, women with the fewest resources suffer most. When a woman is solely responsible for her family, she should not be required to spend her time and money in costly legal battles to gain rights she should have in the first place.

The alternative to a Constitutional Amendment to ensure women's legal status is a myriad of Federal statutes and increased bureaucracy to enforce them.

Some people say that the TRA isn't needed, arguing that women's rights are guaranteed by the 14th Amendment. However, in case after case the Supreme Court hasn't interpreted it that way. Just as women needed a separate amendment for the right to vote, they now need ERA for full and equal citizenship.

WHO SUPPORTS ERA?

The last six Presidents of the United States.

Congress (ERA passed in the House 354 to 23; in the Senate, 84 to 8).

35 state legislatures.

Over 200 organizations, including: American Baptist Women; American Bar Association; AFL–CIO and 26 affiliated unions; American Home Economics Association; American Jewish Congress; American Veterans Committee; B'nai B'rith Women; Board of Church and Society, United Methodist Church; Catholic Women for the ERA; Child Welfare League of America; Christian Church (Disciples of Christ); Coalition of Labor Union Women; Common Cause; Democratic National Committee, Girl Scouts of the U.S.A.; League of Women Voters of the United States; Lutheran Church in America; NAACP; National Catholic Coalition for the ERA; National Coalition of American Nuns; National Council of Churches (of Christ); National Council of Jewish Women; National Council of Negro Women; National Education Association; National Federation of Business and Professional Women; National Secretaries Association; Planned Parenthood Federation of America; Republican National Committee; United Church of Christ; United Mine Workers of America; United Presbyterian Church, U.S.A.; Young Women's Christian Association.

WHAT EFFECT WILL ERA HAVE?

Rights to privacy. ERA will *not* affect the individual's right to privacy. No rest rooms will be sexually integrated. The states would also retain the right to regulate cohabitation, which would allow for separate sleeping facilities as well.

Criminals laws. ERA will require that men and women receive equal penalties for the same crimes. It will not invalidate any laws as long as they apply equally to men and women. That includes rape, which is an assault, a crime against the person.

Social Security. ERA will *not* jeopardize any benefits now available under Social Security. It will allow a workingwoman's husband to receive her benefits if she dies or retires just as a wife can now receive her husband's benefit if he dies or retires.

Protective labor laws. ERA will require that protections accorded one sex be extended to include the other.

Alimony and child support. ERA will *not* make alimony unconstitutional; it will extend its benefits to include men. Contributions of both partners, monetary and nonmonetary, will be considered in making a fair division of property. ERA will make both parents equally responsible for the support of their child, again considering financial as well as nonmonetary contributions to support. The welfare of the child will remain the major criterion in awarding custody.

Family relationships. ERA will *not* alter family relationships. It has nothing to do with the customs, agreements and practices that every family works out for itself. ERA will ensure that the wife has a legal right to support from her husband in compensation for her homemaking services. Currently a wife must file for separation or divorce to gain any legal right to be supported.

Military service. The Constitution gives Congress the power to raise armies and to regulate them as it sees fit. Women have always been eligible for the draft, although they have never been called. If there is another draft, exemptions must be based on reasons that apply equally to men and women, such as marital, parental, physical or religious status. If women wish to volunteer, ERA will require that men and women be admitted to service under equal conditions, receive equal benefits of service and equal consideration for rank and assignment. Women will not be required to serve in combat unless they meet appropriate physical standards.

WHERE TO START

ERAmerica is the national coalition of ERA supporters. It is a clearinghouse for information and it coordinates ratification efforts in each state, giving assistance to state coalitions from nationwide sources. It is the place for you to send money, to volunteer and to find out whom to call in your state. The address is: ERAmerica, 1525 M Street, N.W., Washington, D.C. 20005. The phone number is: (202) 833–4354.

The National Women's Conference in Houston, Texas, November 18–20, will be voting on an ERA plank. Let your state's delegates to the conference know that you support the amendment. You can find out how to get in touch with them by calling your local NOW chapter, the League of Women Voters or the YWCA, or by writing to the National Commission on the Observance of International Women's Year, D/IWY, U.S. Department of State, Washington, D.C. 20520.

SOURCES OF INFORMATION

"Answers to Questions About Equal Rights Amendment," National Women's Party, 144 Constitution Avenue, N.E., Washington, D.C. 20002.

"Catholics and the Equal Rights Amendment," Network 224 D Street, S.E., Washington, D.C. 20003.

"The Continuing Controversy Over the Women's Equal Rights Amendment—Pro and Con," *The Congressional Digest*, June–July 1977, Vol. 56, Nos. 6–7. Congressional Digest Corp., 3231 P Street, N.W., Washington, D.C. 20007 ($2 single copy).

"The Equal Rights Amendment: A Constitutional Basis for Equal Rights for Women," by Barbara A. Brown, Thomas I. Emerson, Gail Falk and Ann E. Freedman. *The Yale Law Journal*, Vol. 80, No. 5, April, 1971.

"The Equal Rights Amendment—Senator Ervin's Minority Report and the Yale Law Journal," Citizens Advisory Council on the

Status of Women, Rm. 1336, Department of Labor, Washington, D.C. 20010.

"The Equal Rights Amendment: A report on the proposed 27th Amendment to the Constitution," Common Cause, 2030 M Street, N.W., Washington, D.C. 20036.

"Homemakers Need the Equal Rights Amendment," Housewives for ERA, Anne Follis, President, Route 3, Urbana, Illinois 61801.

"Let's Have ERA as a Signal," by Ruth Bader Ginsburg. *American Bar Association Journal*, January, 1977, Vol. 63.

"What the Equal Rights Amendment Means," National Association of Women Lawyers, American Bar Center, 1155 E. 60th Street, Chicago, Illinois 60637.

SENATOR ESTHER SORRELL

Mr. LEAHY. Mr. President, I would like to take but a brief moment to comment on an award presented to a longtime friend, Senator Esther Sorrell of Burlington, Vt.

Senator Sorrell has been chosen as one of the "Ten Outstanding State Legislators in the United States" by the Assembly of Government Employees during its 25th Annual General Assembly in Portland, Ore. The selection was made by delegates of the AGE, which is a federation of 46 independent State and local organizations representing more than 600,000 public employees from 34 States.

In noting Senator Sorrell's many achievements, the Assembly was quick to point out how often she had to fight in committee, on the floor and in conference committee to pave the way for legislation helping the State employees. According to the Vermont State Employees Association who nominated her for the award, she "consistently votes for and supports State employee benefits at the risk of alienating colleagues of both parties."

She has been a member of the Vermont Senate for 5 years and is serving her third term on the Government Operations Committee. Having been a member and active participant of various task forces ranging from employment of the handicapped to study election laws, she may indeed be quite proud of her life of public service. I consider it an honor and a privilege and ask unanimous consent to have these remarks printed in the RECORD on behalf of my friend, Senator Esther Sorrell.

There being no objection, the remarks were ordered printed in the RECORD, as follows:

TEN OUTSTANDING STATE LEGISLATORS IN THE UNITED STATES

(as selected by Assembly of Governmental Employees)

Alaska—Sen. Leland C. Croft of Anchorage authored the Public Employees Negotiation Act which gave Alaska state employees the right to bargain over working conditions and compensation. The recognized labor attorney was nominated for the outstanding state legislator award by Alaska PEA.

Arizona—Rep. Thomas N. Goodwin of Tucson was nominated for the award by Arizona PEA because of "his consistent concern and active support for state employee rights." Goodwin spearheaded legislation to improve their compensation and fringe benefits.

California—Assemblyman Wadie P. Deddeh of Chula Vista effectively chaired the Assembly Public Employees and Retirement Committee which supported successful collective bargaining and retirement bills. PEA of Riverside County says "Deddeh is one of those rare politicians who not only believes in the value of public employees and enunicates such unpopular beliefs publicly, but also acts accordingly by consistently supporting legislation in their behalf."

California—Sen. Albert S. Rodda of Sacramento is described by California State EA as "a gentleman and legislator of extreme integrity who has managed to walk the line between supporting public employee benefits and salaries while maintaining public respect and confidence." Rodda has successfully authored more than 375 bills on education, public employment, conservation, retirement, labor, election reform, taxation, consumer protection and civil rights.

Connecticut—Rep. Leo H. Flynn of Taftville has a 90% voting record for state employee legislation on both the Personnel and Appropriations Committees. An advocate of state employee and retirement legislation, Flynn is the leading spokesman for Connecticut SEA legislative programs and "is known as one of the state employees' best friends in the legislature."

Illinois—Rep. James VonBoeckman of Pekin has handled Illinois SEA's pay increase bills and other public employee legislation for four years in the face of warnings from major trade unions for his assistance to an independent labor organization. Von Boeckman's response: "No one is telling me who I can work with or what legislation I'll sponsor."

Maine—Sen. Philip L. Merrill of Portland, an aggressive advocate for the welfare of state employees, led the fight for improvements to the state collective bargaining law in the 108th Legislature on the basis that "public employees have the right to full participation in the political process and protection against legal action arising out of their employment." Maine SEA nominated Merrill for the AGE award.

Montana—Sen. Frank H. Dunkle of Helena in the 1977 session sponsored successful retirement legislation, salary and benefit increases and worked effectively to kill bills detrimental to public employees. Montana PEA nominated him because "he's dedicated to the establishment of a statewide merit system in the face of opposition from the state administration and organized labor."

North Dakota—Sen. Evan E. Lips of Bismarck was nominated by North Dakota SEA for his "concern over improving the quality of state government by making public service a viable career opportunity." In the past 16 years, Lips has been the prime sponsor or key element in the enactment of all employee-related legislation including retirement, health insurance and the Central Personnel System. In fact, "he's responsible for just about everything good that's ever happened to state employees."

Vermont—Sen. Esther Hartigan Sorrell of Burlington, reports Vermont SEA, "consistently votes for and supports state employee benefits at the risk of alienating colleagues of both parties." After failing on the Senate floor to get an amendment to a bill for binding arbitration in contract disputes, she took her fight to conference committee and, as the lone minority party member on the Senate side, after 12 hours of constant debate secured support necessary to pass the bill into law. During the same conference, she opposed both the governor and majority leadership to rally support for a 16% state employee pay hike.

TOP COP MAKES MONEY TALK

Mr. DOMENICI. Mr. President, New Mexico is very proud of Officer Greg MacAleese of Albuquerque, who has been designated recipient of the Police Service Award conferred by Parade magazine and the International Association of Chiefs of Police.

Attributed to the Crime Stoppers program initiated by Officer MacAleese is a 27.6 percent citywide crime reduction. Such a tremendous accomplishment in the fight against crime deserves national commendation and recognition.

I ask unanimous consent that the article commending Officer MacAleese be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

OUR BEST POLICEMAN—TOP COP MAKES MONEY TALK

(By John G. Rogers)

ALBUQUERQUE, N. MEX.—Here in Albuquerque a 30-year-old cop named Greg MacAleese has conceived and is coordinator of a project that's achieving solid results. The Bible says money can be "the root of all evil," but in the MacAleese anti-crime program it's the root of much good. Through a fund raised by hundreds of residents, the city pays cash to informants for clues leading to arrests and indictments of malefactors. So far total payments are more than $11,000 in amounts ranging from $50 to $2000, and all informants are promised anonymity if they want it.

Some results: 261 cases including murder, rape, robbery and burglary solved in the first 11 months of operation. Recovery of $286,000 worth of stolen property. A citywide crime reduction of 27.6 percent.

And widespread praise. Albuquerque Police Chief Bob V. Stover pronounces the project—called Crime Stoppers—"an unbelievable success." Chief Deputy District Attorney Robert A. Martin said in a letter to City Hall: "Of all the devices and programs that have come along in the area of law enforcement in the past few years, this is one that appears to be a sure winner."

For his imaginative anti-crime project, which involves innovative TV programs and has solid media and community support, Greg MacAleese has been designated recipient of the 12th annual Police Service Award conferred by Parade and the International Association of Chiefs of Police. This honor, which names MacAleese a symbolic representative of all the nation's 440,000 law enforcers, is accompanied by a roster of 10 others cited for honorable mention for superior performance.

MANY CONTENDERS

The candidates for this year's awards were, as always, nominated by their commanders, usually a city's police chief. And, as always, the judges sifting the nominations had a difficult time narrowing them down to MacAleese and the 10 others. This was because there were so many outstanding candidates arising from the great variety of good works in law enforcement.

The designation of Greg MacAleese as the 1977 Policeman of the Year points up that more than ever police are groping harder for ways to reverse the trend of increasing crime.

Plaques for MacAleese and the 10 honorable mentions will be presented to them this week in Los Angeles at the annual convention of the International Association of Chiefs of Police.

MacAleese, a former college baseball pitcher who had offers from five major league teams, calls the Crime Stoppers program "simply an exchange of commodities. Out there in the community are people who have information about crimes. We want it. And in exchange we'll pay the money and guarantee anonymity. Sometimes we get the criticism that paying informers is a sort of smelly business. But

I don't see it that way. It's commonplace after some sensational or especially repulsive crime for a reward to be offered for information. We just have a permanent setup of reward. I think about 70 percent of our telephone informants are ordinary people who happen to hear or see something and the rest are in or of the underworld."

A keystone of Crime Stoppers is publicity to keep this community of 312,000 fully aware of how it can help the cops by telephoning a special number at police headquarters. MacAleese uses three TV stations, eight radio stations and two newspapers to spread his message and he'll speak to as many as five groups a week. Even car bumper stickers urge cooperation.

"CRIME OF THE WEEK"

Crime Stoppers' most novel gimmick is "The Crime of the Week"—a three-minute show written by MacAleese depicting an actual crime in Albuquerque. The young officer rounds up amateur actors, coaches them through his script, and they appear every Monday night on a TV news program.

Says he: "There's psychology behind these shows. People are more likely to react to visual treatment. It tends to jolt their memories, to sharpen a sense of awareness of something they know about somebody. One man said to me, 'You seem to be saying I should turn in my neighbor.' I told him, 'Well, if he's a crook, I hope you do.' But we do get calls from people who wouldn't call the police directly. We are set up as a civilian and community organization, and that gives us a special status.

"Of course, if a person agrees to testify, the anonymity can't be guaranteed. But in cases in which the anonymity holds, courts here have ruled against defense lawyers who demand to know the identity of accusers.

"In one particularly brutal murder, after the conviction a witness received so many threats against himself and his family that we sent all four of them hundreds of miles away, got him a job and gave the whole family new identities. It was not only a humane thing to do but showed the underworld Crime Stoppers stands by its informants."

Albuquerque Police Detective Joe Garcia says, "What we've done is to create worry and suspicion among part of our criminal element. If they had a code of honor about squealing on each other, we've cracked into it."

Another of Crime Stoppers' TV stunts is to display mug shots of suspects. Says MacAleese: "We put a mug shot on the screen on Monday night and almost invariably we've got the guy by Wednesday. Somebody out there knows where he's holed up, and in come those phone calls."

BUILDING THE FUND

Crime Stoppers' fund that pays informants now stands at more than $37,000. Back in the beginning an appeal was sent out along with the water bills, and that brought in about $10,000 in amounts from $1 to $10. But, as the program becomes better and better known, contributions arrive almost daily. The smallest was 36 cents from a fifth-grader who explained in a letter, "It's all I can afford."

MacAleese personally makes the payoffs to the informants and, because he has received telephoned threats to his own life, he dictates the site of the meeting for his own safety and makes sure that he's paying the right person.

The 1977 Policeman of the Year began his career as a street cop, and MacAleese believes he'll go back to that duty if his present usefulness diminishes as a result of his becoming too well known. He's experienced violence—one time a gun and another time a knife was pulled on him—but his only injuries resulted from a beating by eight kids in a parking lot. Later, during a year as collector of evidence for detectives, he found that many shady characters had impulses to divulge information if they could do so safely. That was one of the elements that led to Crime Stoppers.

IMPORTANCE OF ANONYMITY

Another was an experience of his attractive wife, Jo, a concerned citizen who's running for City Council. One time she felt she had some useful information in a narcotics case: "I phoned the police and they wouldn't even listen to me unless I gave my name, address and telephone number. Later on, when Greg was thinking of Crime Stoppers, I told him about that. We agreed there ought to be some way of encouraging people to talk on an anonymous basis. Also, in the underworld, money talks. If you can make more safely squealing on a crook than risking the killing of a gas station attention, why not do it?"

Albuquerque Police Chief Stover calls MacAleese "the sparkplug that makes Crime Stoppers work." The young officer enjoys his achievements but concedes that occasionally he wonders how he might have fared as a major league baseball pitcher. Still, he says, it's rewarding to be striking out criminals.

NATURAL GAS CONFEREES

Mr. BENTSEN. Mr. President, as we all well recognize, the natural gas bill that the Senate passed last week was only produced after an enormous effort. It represents years of legislative give and take; years of study and restudy; years of debate.

Now we face a conference with our House colleagues. Many people seem to forget that 47 percent of the House membership backed a more immediate version of natural gas deregulation than that approved by the Senate. But if the Senate position on natural gas is to be fairly represented in conference, and all possible compromises fully explored, a majority of the Senate conferees should be completely convinced of the wisdom of the Senate position and have so voted.

I recognize the continuing controversy over deregulation, and I ask for no unfair advantage in the debate to follow in conference. I am not seeking the appointment of any particular conferee or group of conferees. My goal is simply to insure that Senate procedures are followed. In fact, the rules and precedents established some times are overlooked points: Conferees from the prevailing side should be in the majority and conferees can be elected or rejected by the Senate as a whole.

As Senator HUMPHREY stated in the debate on the civil rights bill in 1964:

> The conferees in theory are appointed by the Presiding Officer but in fact are designated by friends of the measure, who are in sympathy with the prevailing view of the Senate.

The Senate Democratic Caucus adopted a similar rule, which instructed that "a majority of the proposed conferees shall have indicated their support for the bill in question as passed by the Senate, and their support for the prevailing opinion of the Senate on the principal matters of disagreement with the House."

To back up these rules, the Senate, as a whole, is given the power to elect its own conferees or amend any motion to elect conferees.

In selecting the advocates of the Senate position, the Senate is not limited to members of the jurisdictional committee. This is a well recognized principle going back at least to 1896. In that year Senator Lodge was chosen as a conferee on a bill which was reported out of the Judiciary Committee, although he was not a member of that committee.

Conference is the place for compromise, and I think one can be found on the issue of deregulation. It would be impossible for 535 Congressmen to sit down as a whole and work a solution. So representative conferees will be chosen. Accordingly, the composition of the majority of the Senate conferees must reflect the 52 Senators who voted for deregulation. I have and will continue to seek assurances that a majority of the Senate conferees on the natural gas bill will be chosen from supporters of the Pearson-Bentsen bill.

Frankly, having sat on conferences, I recognize the inevitability of compromise. However, the selection of conferees should reflect what happened on the Senate floor, not what someone wishes had happened. In other words, the appointment of conferees is not another chance for the losers to win; it is the open selection by the Senate as a whole of the advocates of the Senate position.

ANOTHER MISCONCEPTION ABOUT THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, ever since the Genocide Convention first came before the Senate for ratification in 1949, it has been subject to repeated attacks that it would become a farce through which demonstrators, convicted criminals, and publicity hounds could bring trumped-up charges against the United States. Dan Smoot, in an article for American Opinion magazine, charged that since every American citizen belongs to some national, ethnical, racial, or religious group, practically every criminal case in the country would automatically become both a crime under American statutes and an international crime of attempted genocide.

As examples, he cited the hypothetical death of a Black Panther in a gun battle with police and public criticism of Communists in the press as actions which could be interpreted as causing serious mental harm and thus become violations of the convention and international crimes. Mr. Smoot's article is simply one more example of the crude sensationalism and convenient disregard of facts that has become a trademark of many of the convention's opponents.

In the first place, the Foreign Relations Committee has always included with its recommendations to ratify the convention the understanding that mental harm means permanent impairment of mental faculties. As the State Department told the committee in a 1971 clarification:

> This construction is in keeping with the generally understood meaning of the term

in the context of Article II. It would make clear that the term could not be construed as applying to various lesser forms of mental harassment toward minority groups. This construction is consistent with the negotiating history of the convention.

In addition, a second understanding states that the United States construes genocide as defined by the convention to include only those cases when the act was committed so as to affect a "substantial part" of the group involved—a group of such numerical significance that *its loss* would cause the destruction of the group as a viable entity. Clearly, Mr. Smoot's examples and all such isolated court cases would not be in violation of the Convention.

Finally, the proof is in the pudding, for in the quarter century this Convention has been in force throughout much of the world, it has not been treated lightly or invoked for publicity reasons, but has been accorded the same importance and respect as other important international conventions. Mr. President, the United States has ratified many of these other conventions, and we in the Senate know full well that they have not become playgrounds for absurd charges. Mr. Smoot and many others like him are simply using half-truths and sensationalism to delay the ratification of this important document. I urge my colleagues to look at the Genocide Convention for what it is—a crucial piece in the growing framework of international protections of human rights—and to ratify it immediately.

COMMITTEE ON RULES AND ADMINISTRATION

Mr. CANNON. Mr. President, I ask unanimous consent that a report from the Senate Committee on Rules and Administration pursuant to section 302(b) of the Congressional Budget and Impoundment Control Act of 1974, distributing the committee's allocations under the second concurrent resolution of the fiscal year 1978 budget, be printed in the RECORD.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

COMMITTEE ON RULES AND ADMINISTRATION

REPORT TO THE SENATE PURSUANT TO SECTION 302(b) OF THE CONGRESSIONAL BUDGET ACT OF 1974

ALLOCATIONS OF 2D CONCURRENT RESOLUTION AMOUNTS FOR FISCAL YEAR 1978

[In millions of dollars]

Programs	Direct spending		Entitlement programs that require appropriations action	
	Budget authority	Outlays	Budget authority	Outlays
Function 250	(1)	(1)	----	----
Smithsonian Institution trust funds	0.055	0.058	0	0
Function 500	4.00	4.00	0	0
Oliver Wendell Holmes devise fund	.004	.020	----	----
Gift and trust funds, nonrevolving (Library of Congress)	4.440	4.273	----	----
Function 800	30.00	0	0	0
Presidential election campaign fund	30.00	0	----	----
Total amount to be distributed	34.00	4.00	0	0
Controllable	0	0	----	----
All other	34.00	4.00	----	----

[1] Under $500,000.

PULASKI DAY

Mr. DOLE. Mr. President, on October 11, 1779, Casimir Pulaski, a Polish hero, lost his life fighting for the Colonies in the Revolutionary War. In recognition of his contributions, this day every year has been designated and celebrated as Pulaski Day.

PARTICIPATED AT THE BATTLE OF BRANDYWINE

Forced by Russian oppression to leave Poland, Pulaski became an exile and at first opportunity hurried to help the colonists at the outbreak of war. Benjamin Franklin engaged him for the American service and gave him an introductory letter to General Washington. At the Battle of Brandywine, September 11, 1777, while still a volunteer, he saved the retreating American Army from being cut off by the British by attacking them with just a handful of men.

"FATHER OF THE AMERICAN CAVALRY"

As a result, he was appointed brigadier general in charge of the cavalry. Using his great talents and zeal, he reorganized the existing regiments of dragoons with such skill that he justly earned the title of "Father of the American Cavalry." The following year he organized an independent corps of cavalry and light infantry which became known as Pulaski's Legion. It saved Charleston from British General Prevost and his troops on May 14, 1779.

"I CAME TO HAZARD ALL FOR THE FREEDOM OF AMERICA"

However, on October 9, 1777, Pulaski was wounded during the siege of Savannah and died from his wounds 2 days later at the age of 31. In fighting for the American cause, Pulaski was motivated by pure idealism when he crossed the seas. Two months before his death, he wrote in his last letter to Congress, "I came to hazard all for the freedom of America." We can ask no more of any man.

THADDEUS KOSCIUSZKO ALSO HELPED COLONISTS

Nor was Pulaski the only Polish soldier to help our fledgling Nation. Thaddeus Kosciuszko was sent to West Point for the purpose of strengthening the defenses of the Hudson, a job he did so well that the fortifications "frightened the very enemy from all temptation to even trying to take the highlands."

Many Polish Americans since that time have continued to serve this country with great distinction in all the great wars that we have been involved in up to the present century.

POLISH AMERICAN CONTRIBUTIONS IN OTHER AREAS

But we can be proud of the contributions Polish Americans have made in other areas to produce the rich mosaic of American life. American musical development has been greatly enhanced by the late maestro Leopold Stokowski and Arthur Rodzinski, the conductor of the American Symphony. The spiritual guidance for all Americans has been provided by the Archbishop of Philadelphia, John Cardinal Krol, and the sports enthusiasts can immediately identify with the great baseball player, Carl Yastrzemski.

America has been fortunate in her development to have been able to receive so many immigrants on her shores. The cultural and social diversity this has provided us gives us the strength we need as a nation. The sons of Polonia are a proud segment of our great land and we salute their contributions.

THE PANAMA CANAL TREATIES

Mr. SPARKMAN. Mr. President, the Committee on Foreign Relations continued hearings on the Panama Canal treaties today receiving testimony from the following witnesses: Prof. Jorge Dominguez, Center for International Affairs, Harvard University; Dr. Abraham F. Lowenthal, the Woodrow Wilson Center; Prof. Donald Dozer, University of California; Prof. Lewis Tambs, Arizona State University; Robert M. Bartell, Liberty Lobby; Franklin Delano Lopez, chairman, Puerto Rico Democratic Party; Phillip Harman, Canal Zone Non-Profit Public Information Corp.

I ask unanimous consent that the prepared texts of the statements of these witnesses be printed in the RECORD.

There being no objection, the statements were ordered to be printed in the RECORD, as follows:

TESTIMONY BY JORGE I. DOMINGUEZ

I want to thank the Committee for inviting me to come to present this testimony. I appear before you as an individual citizen, and not as a representative of Harvard University or any other organization. I would like to address my remarks to the issue of the Panama Canal treaties in the context of relations between the United States and Latin America.

I urge you to support the Panama Canal treaties as they have been submitted to you, and to reject amendments which would in fact cripple the treaties and prevent their acceptance by Panama. There are many reasons to urge ratification of these treaties; I simply want to call some of them to your attention.

1. The treaties have become a test of the steadiness of U.S. foreign policy toward Latin America, and indeed toward other countries. The treaties are the culmination of work by four Presidents of the United States of both major political parties and their Secretaries of State, in consultation with members of Congress and other interested parties. One issue that has arisen is whether the U.S. government is reliable enough as a partner in international relations, so that a bipartisan agreement on a central question for U.S. foreign policy, can in fact be implemented with broad Congressional support. The defeat of the treaties, therefore, would represent not only a substantive setback for U.S. foreign policy, but it would also make it more difficult to conduct that foreign policy in the months ahead.

2. The treaties protect U.S. national security interests in the canal better than any other alternative. The treaties guarantee that the United States will retain control of both operation and defense of the canal for the remainder of this century. More im-

portantly, the treaty provides for the long term security of the canal by engaging the government of Panama seriously in the canal's defense. What are the real threats to the continued operation of the canal? One kind of threat might be an attack by some other power on the canal; the United States has the capability to retaliate against any such attack. That defense of the canal, of course, does not depend on the presence of any U.S. forces in the area of the canal, but on the general defense capabilities of the United States. The right of the United States to defend the canal against those who might destroy it is guaranteed by Article IV of the Neutrality Treaty; this right and obligation will continue indefinitely.

Another kind of threat might be an attack that Panamanians in their frustration might have launched against the canal. By engaging Panamanians and the government of Panama gradually in the operation and defense of the canal, and by eventually turning over to them these responsibilities, the continued operation of the canal is more likely to be assured. As their own political and military responsibilities increase, and as their own economic benefits increase, Panamanians will find it ever more in their interest to defend the canal with U.S. support. Failure to ratify the treaties, failure to increase Panama's stake in the canal, would make the canal more vulnerable and its defense more difficult.

The continued operation of the Panama Canal is in the national interest of the United States. These treaties make it likely that Panama will increasingly see its national interest in keeping the canal open, too. Both countries, therefore, can gain from these treaties because their national securities will be enhanced; both countries will lose if the treaties are not ratified.

3. The treaties are necessary for the effective conduct of U.S. foreign policy toward Latin America. There is broad support in Latin America, and among Latin American governments, for these treaties. That support was symbolized recently when so many heads of state from the hemisphere came to Washington to express their support. The present relationship between the United States and Panama is often seen in Latin America as the residue of an era long past, when the United States might impose its will on weaker countries. The continuation of this situation, in the absence of a treaty, is a symbol that the United States does not yet take Latin America seriously enough in the conduct of its foreign policy. A protracted debate in the U.S. Congress over treaty ratification would also probably paralyze other initiatives in U.S. foreign policy toward Latin America. There are important issues of nuclear proliferation, human rights, private foreign investment, trade, and many others, which can only be negotiated successfully between the United States and Latin America, if Latin American governments have continuing assurances that they are treated seriously by the United States. There is no better assurance than to put an end to the present arrangement over the canal, and to ratify these treaties.

4. The treaties demonstrate the possibilities for creative United States initiatives in the hemisphere. The treaties show that the U.S. government can move forcefully on issues of common concern to countries in the Americas. The treaties show that the United States, Panama and other countries in Latin America, can identify common interests, and agree on ways to advance their common interests. The successful ratification of the Panama canal treaties may thus open the way for the negotiation of other issues of common concern to Latin America and the United States, such as I mentioned in the previous paragraph. The treaties also demonstrate that the United States can take the initiative and not merely react to real or alleged actions of other countries. The United States has demonstrated by this treaty its continued importance to Latin America. This is something the Soviet Union cannot do; this is something Cuba cannot do. And this is also something no other U.S. ally can do. The point may bear an example. I have done a fair amount of work on Cuban foreign policy. In its competition with the United States over influence in Latin America, the Cuban revolutionary government has often called attention to the U.S. failure to agree with Panama on a new canal treaty. These new treaties, therefore, have taken away this argument with one stroke, and have demonstrated to many Latin American governments—including the government of Panama—that it may be more useful for them to work closely with the United States than with any other country, including Cuba.

5. The treaties strike a subtle balance between the preservation of U.S. military rights and U.S. declared policies of non-intervention. The United States has two different political interests in these treaties, which are difficult to reconcile. One interest is to retain the right to be able to assist Panama in the future to guarantee the neutrality of the canal, using military force if necessary. Another interest is to persuade Latin American countries, and other less developed country governments in the so-called Third World, that the era of U.S. intervention in their internal affairs has passed, and that the United States is interested in responsible relations with them. This commitment to non-intervention is essential if credible relations are to be maintained with the majority of the countries of the world. To balance these two interests, delicate language is required. That delicate language appears in Article IV of the Neutrality Treaty, and I urge you to reject amendments which might modify that article. That article strikes this difficult balance of assuring that the United States and Panama will defend the canal, and at the same time indicating to the rest of the world, and to Panama, that the United States no longer contemplates intervention in the internal affiairs of other countries as a matter of routine national policy.

These treaties, in conclusion, serve the national interest of the United States by identifying those elements where constructive cooperation with Panama is possible. In doing so, the treaties signal to other countries that the United States is willing and able to conduct a responsible foreign policy toward them—one that meets the essential test of being faithful to U.S. interests while being realistic and feasible in its implementation. The defeat of the treaties would signal, on the contrary, that the United States is unable to perceive its large stakes in a common security arrangement, that it is unable to treat the people of a small country with the respect due them, that it is unwilling to put aside practices and agreements of a bygone era, that it pays little attention to the coalesced voices of Latin American governments, and that it cannot conduct a foreign policy which would relate its national interests to their realistic implementation. In order to gain as much as we can, and to lose as little as possible, I urge the speedy ratification of the Panama canal treaties.

STATEMENT BY ABRAHAM F. LOWENTHAL

Mr. Chairman: It is an honor for me to be among those asked to testify on the question of the Panama Canal treaties now before your Committee. Surely the Senate's role in considering these proposed treaties makes these hearings among the most important the Committee has held in recent years, and all concerned will want to be as helpful as possible to you.

I speak, of course, not as a "representative" of the Wilson Center or as head of its new Latin American Program, but in my capacity as a professional student of Latin America and of United States-Latin American relations. For me, as I think for practically all concerned with inter-American relations, Panama is a key issue, a test of United States policy toward the nations of this hemisphere. Proponents and opponents of the new treaties, as well as those-including some of the distinguished members of this Committee—who have not yet made up their minds: all of us agree that the Panama issue is significant, and that its time has finally come. I believe we also agree that the issue is important beyond what is immediately at stake: how best to preserve secure access for the United States to a convenient waterway. It is important, as well, for its symbolic significance, both in the Western Hemisphere and beyond. How the United States deals with the question of Panama will tell us, and the world, whether the United States is outgrowing its "hegemonic presumption" (about which I wrote in Foreign Affairs a year ago) and whether it is ready to deal on the basis of mutual respect even with the small and weak countries of the world. The outcome of the Panama debate will also tell a good deal about the strength of our democratic institutions, and about the capacity of our constitutional system to deal wisely with complex issues on which passions sometimes outrun understanding.

I tried in a recent article (which I am told was put into the record during the first day of your hearings) to show why I think it is in the best interests of the United States to work together with Panama to replace the 1903 Treaty with one grounded in today's realities and built on the principle of mutual respect and on the pursuit of shared aims. Rather than repeat my whole argument here, let me just summarize briefly why I hope the Senate will help the United States and Panama to reach agreement, on a new treaty relationship. After doing so, I would like to take a few moments to emphasize one particular point: why the Panama issue is an essential part of improving United States relations with Latin America. Finally, I would like to make some brief comments on one of the issues which has come up already in this Committee's deliberations, the "right of intervention."

THE CENTRAL QUESTION

The central question posed in Panama is whether United States interests in the Canal require us to continue to treat Panama as less than a juridical equal, as we have done from the beginning.

Those who urge the United States to cling at all cost to the anachronistic terms of the 1903 Hay-Bunau Varilla Treaty in the face of rising opposition from Panama, on the international scene, and even from within the United States are not, for the most part, unreasonable people, although some of them do approach this issue with an emotional zeal which is hard to analyze or deal with. They take their stance basically because they see no better way to protect this country's interests, even though they know that continuing and deepening conflict over Panama will result.

Those of us who favor replacing the 1903 Treaty with a new set of agreements—negotiated carefully over many months and years—believe that the United States and Panama share the basic aims of keeping the Canal open, secure, efficient and neutral. We believe, therefore, that United States interests and Panama's dignity can be reconciled through an accord—like the one before your Committee—which recognizes Panama's sovereignty and builds on the basis of the interests the two countries share.

Sticking with the 1903 Treaty would assure an era of bitter and continuing confrontation between the United States and

Panama, magnified and deepened by the effects of this struggle on United States relations with other countries of Latin America and the Caribbean.

Adopting a new set of mutually agreeable obligations promises closer cooperation between Panama and the United States and offers the chance to turn the Panama issue from an example of American intransigence into a sign that this country knows how to protect its lasting interests in a rapidly changing world.

When all is said and done, the essential choice posed by the proposed new treaties is that simple. There is no real doubt, I think, that the United States has significant (if no longer critical) economic and military interests in Panama. Few would argue, I think, that the United States has a positive legal obligation to modify its treaty relationships with Panama in order to protect those interests. The real question is whether it is wise for the United States to base its continuing access to the Panama Canal on words alone, on the terms of a discredited treaty drafted under dubious circumstances in the bygone era of imperial expansion. It seems to me that previous testimony before your Committee has established well the case for constructing a new and more viable basis for protecting U.S. access to the Canal, a basis founded not on mere words, but on shared responsibilities and benefits. In brief, the proposed new treaties should engage Panama's energies more positively in maintaining and defending the Canal as that country's chief resource, it should decrease the threats to the Canal from Panamanian bitterness, it should diminish the prospect that the United States could eventually be drawn again into a bloody military confrontation with a nationalist movement on its own territory, and it would remove an irritant in U.S. relations with all the countries of the Hemisphere, an irritant which Senator Church of the Committee has aptly called a "bone in the throat" for Latin American nations.

PANAMA AND THE FUTURE OF INTER-AMERICAN RELATIONS

Because my own research and writing has not concentrated mainly on Panama, but rather on broader issues of United States relations with Latin America, let me emphasize this last point: the larger significance of the Panama issue in hemispheric relations.

As the United States enters its third century of independence, the nature of our relations with our neighbors in Latin America and the Caribbean is changing importantly. For many years, and especially in the immediate post-war period, the United States understandably treated Latin America and the Caribbean as its "sphere of influence": the United States wielded virtually unchallenged power, economic and military, and our political leadership was unquestioned. We came to feel we could take for granted the loyalty and cooperation of our neighbors to the South; they would support U.S. initiatives, import U.S. goods, utilize U.S. weapons, welcome U.S. investment, and so on and so forth, pretty much in the nature of things.

During the last ten years, however, the bases for this country's hegemonic presumption have eroded. No longer can the United States assume that the nations of Latin America and the Caribbean will share U.S. interests and perceptions.

Objective and subjective trends of several types coalesce to produce a fact, that the countries of Latin America and the Caribbean need to be taken seriously by the United States as independent countries, each able and eager to deal with the United States on a broad agenda of issues, regional and global. And as the issues are faced, each Latin American country begins with a special sensitivity about U.S. paternalism and interventionism, about the legacy of the past.

It is in this context that the Panama issue becomes so important in U.S.-Latin American relations. U.S. relations with Panama—and especially the status of the Canal Zone—have long symbolized for Latin America all that was regrettable about its "special relationship" with the United States. All our government's attempts to convince Latin Americans that we respect their rights and understand their interests would ring hollow if we could not bring ourselves to abandon the habits of thought and practice epitomized in the Panama Canal Zone.

Sensitivity and respect are the key points here, I think. And they are points which take on even more importance as the issues before this Committee become better defined.

I am no authority on artful terms like "expeditious passage" or on the likely course of world shipping patterns and how they will affect the economics of Canal use. But one thing I—or any student of U.S.-Latin American relations—can and should say is that the Senate should not consider asserting an explicit "right" of "intervention", in Panama, or anywhere else.

The "Treaty Concerning the Permanent Neutrality and Operation of the Panama Canal" establishes a joint commitment by Panama and the United States to maintain the Canal's permanent neutrality, notwithstanding the termination of the Panama Canal Treaty or of any other treaties entered into by Panama and the United States. No clear statements are made about how the United States may exercise its obligation to maintain the regime of neutrality, and it is understandable and proper that this Committee should want to make U.S. rights in the matter somewhat more explicit. But to be surprised or upset that Panama's government officials deny that the United States will have a right to "intervene" in Panama seems to me to illustrate the problem of Panama, not to contribute toward resolving it.

Thank you for inviting my testimony. I would be glad to try to answer any questions of course.

STATEMENT OF DONALD MARQUAND DOZER

My name is Donald Marquand Dozer, and I am Professor Emeritus of Latin American History and Inter-American Relations at the University of California, Santa Barbara. My professional career in brief outline includes a Ph.D. from Harvard University, intelligence work in the Office of Strategic Services in the Latin American area from 1941 to 1943, service in the Department of State in the fields of policy, intelligence, research, and history of Latin America from 1944 to 1956 including representation of the Department at Inter-American conferences and work on strategic surveys of Latin America for the Joint Chiefs of Staff. I have also been associated as consultant with the Brookings Institution and with the Center for Strategic Studies at Georgetown University, and I served in 1971 as Fulbright lecturer to Argentina. I am author of several books on Latin American history and inter-American relations, including Are We Good Neighbors? (University of Florida Press), The Monroe Doctrine: Its Modern Significance (Knopf), and Latin America: An Interpretive History (McGraw-Hill). I have visited all the Latin American countries, most of them many times, with the exception of two or three of the smallest and have friends and other excellent sources of information in all of them. In 1972 I was presented with the Alberdi-Sarmiento award by La Prensa of Buenos Aires for outstanding contributions to inter-American friendship. I was the second United States recipient of this award since it was established in 1954.

On my recent trip to Latin American countries earlier this year government executives, business leaders, journalists, and other leaders expressed their apprehension about the adverse effects on their national economies of the increased tolls authorized in this new canal treaty for the unjust enrichment of Panama. The Carter-Torrijos Canal Treaty will require a substantial increase in tolls to provide the Torrijos government with an average of $80 million per year to service Panama's debts to a consortium of foreign lending institutions. In the new Canal treaty Panama assumes no binding obligation, like that which rests upon the United States, to keep the Canal free and open at reasonable charges.

Latin American leaders also expressed indignation over the cavalier treatment of Colombia. The Thomson-Urrutia Treaty of 1914 granted Colombia free use of the Canal for certain products of its soil and agriculture and also free use of the Panama Railroad under certain conditions. There is no protection of Colombia's treaty rights in either the new Canal Treaty or the new Neutrality Treaty. When Colombia protested this violation of its treaty rights the State Department summarily dismissed the complaint with the statement that Colombia must negotiate with Panama.

The diplomatic ineptitude of the negotiators of the new draft treaties in agreeing to pay Panama $10 million annually for discharging police and sanitation responsibility in the Canal area ignores the sad experience of the United States abrogating its police power in the cities of Panama and Colon in accordance with terms of the 1936 treaty and abdicating its responsibility for sanitation in the same two cities in accordance with terms of the 1955 treaty. Recent rioting in both Panama and Colon underscore the folly of the former concessions and the failure of Panama to collect the garbage with the attendant problems of disease-bearing rats emphasizes the folly of the latter concession.

The Hay-Pauncefote Treaty of 1901 binds the United States to defend the freedom of transit of the Panama Canal and keep it open to the vessels of all nations at charges which are just and equitable. The United States has made an unblemished record at honoring this commitment ever since opening the Canal to world traffic in 1914. During the 63 years while the United States has operated the Canal as an international public utility the citizens of all nations who have used the Canal have acquired a vested right to free and uninterrupted transit under the flag and protection of the United States.

The Isthmian Canal Convention of 1903 is the only treaty which binds Panama to Articles III and IV of the Hay-Pauncefote Treaty which makes the isthmian canal an international waterway. There is no time limit on this commitment. The national honor and integrity of the U.S. demand that we retain all the sovereign rights, power, and authority granted by Panama in perpetuity in 1903.

Contrary to false statements made by the executive branch the neutrality treaty does not give the United States the right to intervene in Panama to honor our international commitments to keep the Canal free and open to user nations. In fact the word intervention appears nowhere in either treaty and was deleted in capitulation to Panama's demands. Chairman Romulo Escobar of the Panamanian People's Party and Panama's principal treaty negotiator, has made it clear to his Assembly of Community Representatives that the United States cannot intervene to defend the neutrality of the Canal without committing an act of aggression.

The publicly stated aims of the Marxist Torrijos dictatorship of Panama are: (1) to nationalize the Canal Zone, (2) to order the United States defense forces to leave the Isthmus, and (3) to confiscate the Canal. If the Senate consents to ratification of the Carter-Torrijos Canal Treaty the Canal Zone will cease to exist. Torrijos can then order United States troops off the Isthmus just as

General Charles DeGaulle ordered United States forces off our defense bases in France.

The Isthmian Canal Convention of 1903, specifically provides for the stationing of United States forces in the Canal Zone for the defense of freedom of the interoceanic canal. Under the new treaties and President Carter's contingency plan for keeping on the alert United States troops at Fort Bragg, a parachute drop on what will be again Panamanian soil will be be an act of aggression. As long as we retain our present treaty rights in the Canal Zone we can keep the peace and regain the respect of our Latin American neighbors by maintaining a strong defense in the Canal Zone. On the other hand if the Senate consents to the new Canal treaties it will be necessary for the United States to commit an act of aggression in order to maintain the neutrality of the Canal.

What is best for the nations of the free world is also best for Panama. The wisest advice was given by nine members of the Senate Committee on Armed Services in February 1973 as follows: "In a long range, we must work with Panama to help her understand that the best guaranty of her sovereignty, security, prosperity, and nationhood lies in maintaining the historic grant of sovereignty to the United States in the Canal Zone."

The United States did not transgress in any way against the Panamanian people by guaranteeing their independence in 1903. The President of the Provisional Government of Panama, José Agustín Arango, and his associates had worked for twenty years for freedom from the tyranny of the unitary government imposed upon them by Bogotá. Whenever they undertook to reassert their independence the United States had intervened to protect the freedom of transit across the Isthmus and had supported the sovereignty of Colombia. The impudent rejection of the Hay-Herrán Treaty by Colombia was for Panama a stroke of fortune. Unwilling to see the Nicaragua canal completed in accordance with the Spooner Compromise of 1902 the Panamanian patriots resumed their independence and offered the United States a canal treaty conforming in every respect to the requirements of the Hay-Pauncefote Treaty of 1901 and the Spooner Act of 1902.

When in 1911 Theodore Roosevelt boasted "I took the Isthmus" he should have added "because Panama offered herself." We have the word of Dr. Manuel Amador, "It was our own act." (Manuel Amador, "The New Republic of Panama," The Independent, November 26, 1903). President Roosevelt considered it "fitting that the United States should . . . be the first to stretch out the hand of fellowship . . . to the new-born state."

In response to Colombian protests against Roosevelt's braggadocio the United States paid Colombia the $25 million which their congress had demanded in 1903. Under terms of the Thomson-Urrutia Treaty of 1914 the United States purchased a quit claim by which Colombia recognized the independence of Panama and acknowledged that "title to the Panama Canal and the Panama Railroad now vests entirely and absolutely in the United States without any encumbrances or indemnity whatever."

Neither in the treaty of 1903 nor in any subsequent treaty concluded between the United States and Panama are the words rental or lease or any form of these words used to define the status of the United States in the Canal Zone. The continuing argument for a leasehold status of the Zone rests entirely upon the spurious interpretation of Article XIV in that treaty in which the United States agreed to pay Panama an annuity of $250,000 in gold coin starting nine years after the signing of the treaty. A study of the history of the negotiations of 1903 shows that Bunau Varilla, in an effort to resolve a deadlock, persuaded Secretary Hay to assume the annual franchise payment of $250,000 which the Panama Railroad formerly paid to Colombia. This annual payment to Panama did not impose any limitation upon the sovereign status of the United States in the Canal Zone nor upon the ownership by the United States of the land of the Canal Zone. The Canal Zone has never been leased to the United States. It was granted in perpetuity, and in this relationship no justification can be found for a partnership arrangement with Panama for the administration of the Canal.

Contrary to false statements by the executive branch Article III, paragraph 6, of the 1936 treaty revision does not say that the Canal Zone is "territory of the Republic of Panama under the jurisdiction of the United States of America." This refers to territory of Panama in the city of Colon formerly known as New Cristóbal. United States jurisdiction over this parcel of territory was later abrogated under the terms of the 1955 treaty revision.

The ruling by the United States Supreme Court in *Wilson* v. *Shaw* (204 U.S. 24, 1907) that Panama ceded the Canal Zone to the United States is not a unilateral interpretation of the 1903 treaty as falsely alleged by our State Department. It merely affirmed decisions made by all three branches of the government of Panama in 1904. In his well known letter of October 1904 to Panama's minister, Jose de Obaldía, Secretary of State John Hay cited the Davis-Arias boundary agreement of June 1904, by which the executive conceded that Panama ceded the Canal Zone to the United States by terms of the 1903 treaty. Hay cited Law No. 88 enacted by the Panamanian National Assembly in July 1904 which used the words "the Zone ceded to the United States." Hay also cited numerous court cases by which the judicial branch of Panama acknowledged the territorial cession of the Canal Zone to the United States.

The theory of titular sovereignty has no standing at law. Originally promulgated in connection with the Taft agreement of 1904 it was dismissed out of hand by Secretary of State Hay as a "barren scepter." Later while Taft was serving as Chief Justice of the United States in 1930 he had an opportunity in delivering the decision of the Supreme Court in *Luckenback Steamship Company* v. *United States* (280 U.S. 173), to give legal standing to his theory of titular sovereignty. He did not do so. Instead he sustained the ruling decision of *Wilson* v. *Shaw*, and this ruling was again sustained in 1972 when the Supreme Court denied certiorari in the case of *United States* v. *Husband* (R). (406 U.S. 935)

A pretext advanced by the State Department for renegotiating the treaties with Panama is the international law doctrine of *rebus sic stantibus* which permits the renegotiation of treaties when the conditions of the original negotiation have changed. Conditions in international relations are constantly changing, and to seek to renegotiate treaties of territorial cession on this pretext can lead only to international chaos. For example, during the early years of the Eisenhower Administration the Soviet government questioned the validity of our Alaska Purchase Treaty of 1867. This question was answered by admission of Alaska to the Union as a new state.

The Canal Zone purchase of 1903 accords with the historic foreign policy of the United States. This policy is so firmly established in international law and in the United States Code that there is now no alternative but to incorporate the Canal Zone in the Union as a new state by joint resolution of Congress. This will mandate the President to defend the territory of the new state against invasion and will fulfill the statesman-like vision of Secretary of State John Quincy Adams in the Monroe Doctrine, of Secretary of State Henry Clay, who established the principle that an interoceanic canal must be open and free to the vessels of all nations upon payment of reasonable tolls, and of President Rutherford B. Hays who stated to Congress: "The policy of this country is a canal under American control . . . . and virtually a part of the coastline of the United States."

Persistent efforts to renegotiate treaties to surrender control over national territory and to let it pass into the hands of foreign powers only promote international instability and serve the interests of these foreign powers. Claims of the State Department that a new treaty relationship with Panama will protect the vital interest of the United States are only a vain Utopian dream. To restore good relations with Panama and the other nations of Latin America the United States must return to a Good Neighbor Policy based upon self-respect. This demands that we retain all our treaty rights in the Canal Zone. We must defend them as indispensable economic, geopolitical, and military assets. Then Congress can appropriate public funds to complete the larger third locks, authorized by law in 1939 in accordance with the approved Terminal Lake Plan.

There is no substitute for an American canal, on American soil, under American control.

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"STRATEGY, SEA POWER AND SURVIVAL: THE CASE FOR RETAINING THE ISTHMIAN CANAL"

(By Lewi A. Tambs)

On Monday, June 6, 1977 a hand carried letter arrived at the White House. Addressed to President Jimmy Carter the message cautioned him against the new Panama Canal agreements and warned that loss of the Canal, which would be a serious setback in war, would contribute to encirclement of the United States by hostile naval forces and threaten our ability to survive. The communique closed with the signatures of four former Chiefs of Naval Operations—Admirals Thomas Moorer, Arleigh Burke, Robert Carney and George Anderson.

Presidents and admirals pass, but strategic imperatives and national interests remain. The bulk of the World's seabourne commerce flows through twelve major maritime choke points; four inland seas—South China Sea, Mediterranean, North Sea and Caribbean; two interoceanic canals—Suez and Panama; and six critical passage points—Singapore, Ceylon, Horn of Africa, Gibraltar, Cape of Good Hope and Straits of Magellan. These twelve choke points have been the scene of strife ever since the sixteenth century when Western Europe launched its maritime expansion. All the major sea powers—Spain, the Netherlands, France and Great Britain-struggled for domination of these passages. But by 1945 the older commercial empires were ebbing. A new biopolar world emerged. The United States stood triumphant. Control and responsibility for the global sea lanes rested with the Americans. But, the other super power, the Union of Soviet Socialist Republics, also had national and ideological aspirations.

The US sought to restrain Soviet ambitions with the Containment Doctrine of George Kennan. Containment was essentially an updating of Sir Halford Mackinder's Eurasian Heartland thesis which envisioned land power (Russia) and sea power (Anglo-Americans) juxtaposed. Secure in their air, atomic, economic and technological superiority the North Americans erected a series of defensive encircling alliances in the Rimland or Inner Crescent of the Eurasian World Island. Simultaneously behind the NATO, Northern Tier and SEATO shield they sought to promote political progress by encouraging decolonization and liberal democracy while generating economic stability by fostering free trade and private capitalism in the Outer or Insular Crescent. Containment was, however, basically defensive. The initiative passed to the Soviets. Seeping through the encircling alliance system the Russians began fueling wars of national liberation and sowing subversion. Meanwhile, ignoring the cries of their consumers, the Communists concentrated the vast resources of the Eurasian pivot area on the production of nuclear weapons, the development of heavy industry and the advancement of space technology. Within a decade and a half they had achieved near parity. Atomic warfare became almost unthinkable; nuclear devices and intercontinental ballistic missiles unoperational. The world returned, if only tempoarily, to the classical concepts of strategy and political geography where space, place, population, endowment and development are paramount. The Russians, noteably Field Marshal V. P. Sokolovsky and Admiral Sergi G. Gorshkov, having studied and digested the geopolitical theories of Mackinder, Karl Haushofer and Thayer Mahan opted for imperial adventure.[1]

The holders of the Eurasian Heartland would challenge the Oceanic peoples of the Inner and Outer Crescents—the Americans and their allies. Construction of a high seas fleet and control of the world's sea lanes emerged as a prime objective of Soviet policy. By 1959 the Russians, having made the North Sea a virtual *mare nostrum*, accelerated their intrusion into the three other inland seas—South China Sea, (Viet Nam) mediterranean (United Arab Republic) and Caribbean (Cuba). Of the two isthmian canals, Suez—since it provided the USSR with shorter seaborne link between its Atlantic and Pacific coasts just as Panama served the United States—was targeted first. In true nineteenth century colonial fashion further efforts were directed at the six critical passage points—Singapore, Ceylon, Horn of Africa, Cape of Good Hope, Gibraltar and Straits of Magellan.

Between 1959 and 1975 the world was awash with diplomatic and military maneuvers. The People's Republic of China broke with the USSR. United States' efforts to salvage South Viet Nam and the South China Sea failed. Indonesia was, however, retrieved. The Soviet Fleet entered the Indian Ocean in force. Conflict wracked the Middle East. The Suez Canal was opened and closed. From Cuba Fidel Castro struck around the rim of the Caribbean, only to be frustrated by local nationalism and U.S. counter insurgency. Salvador Allende came and went in Chile and with him a potential threat to the Straits of Magellan.

Of greater import the bipolar world of the post World War II era faded and the day of the super tanker dawned. Four nations emerged as centers of economic and political stability in their respective regions; Japan in the Western Pacific, Iran in the Mid East, the Federal Republic of Germany in Western Europe and Brazil in South America. Recognizing the new reality the United States sought to shore up the shattered Mackinder-Kennan system along the Eurasian rimland while Brazil was given special recognition in South America. But the world had also altered in another way. The repeated closings of the Suez Canal, the economy of petroleum transport and the mounting dependency of the industrialized nations on imported oil heralded not only the advent of the super tanker, but also the evolution of a new strategic map. The oil sea lines of communication (SLOC) which had previously passed from the Middle East to Western Europe and the United States by way of the Mediterranean now ran southward through the Indian Ocean, around the Cape of Good Hope and up the South Atlantic. The world was turned upside down; the globe inverted. And the Soviets were astride the sea lanes on both coasts of Africa.[2]

In April 1974 the dominoes had begun to totter. Portugal, targeted along with Spain and Morocco by the Soviets in their Plan Oran, trembled. Mozambique and Angola swayed with Soviet-supported insurgency. Saigon fell in March 1975 and with South Viet Nam went Cambodia and Laos. Mozambique and Angola were pushed into the Socialist orbit by Russian trained and supplied Cuban regulars. The United States apparently paralyzed by its inability to implant Wilsonian democracy in Indo-China, stunned by the failure of its machines to impose its will on the minds of the North Vietnamese and torn internally by the defection of the intelligentsia, stood by helplessly. The United States which had stood triumphant in 1945 was within thirty years in retreat everywhere. America's major allies—Japan, Iran, West Germany and Brazil sensing the metaphysical crisis, scrambled to save themselves.

The proposed new agreements with Panama are but another example of the decay of America's instinct for survival, sense of strategy and commitment to freedom. Even John F. Kennedy's declaration that the mission of the United States was to make the world safe for diversity seems to be forgotten as totalitarian Marxist-Leninist regimes supported by Soviet subversion and sea power spread over the globe.

The cruise of the *USS Oregon* from the Pacific to the Atlantic during the Spanish-American War of 1898 dramatized the need for an American isthmian canal. The voyage around Cape Horn added 8,000 miles and almost two months travel time to the voyage. Assuming that Cape Horn and the Falkland Islands are in friendly hands, a modern war vessel steaming at 20 knots still needs an additional 17 days to complete the cruise around South America when compared with the 8 to 10 hours required for the Panama passage. Possession of the Panama canal, moreover, has allowed the United States the economic advantage of maintaining one fleet by shifting units back and forth rather than supporting the cost of a two ocean navy. The continuing value of this concept was proven during the Viet Nam War. In 1968 at the height of the conflict 1504 US Government vessels utilized the canal. Even in the relatively sombulent years of 1974 and 1975 the number totaled 248 and 170. Of the 176 combat surface ships and 75 attack submarines currently on active duty with the United States Navy, only 13 large aircraft carriers cannot transit the canal. However the vast majority of warships can. The need for the US Navy to retain the ability to shift units is further accentuated by the increasing presence of Soviet task forces in the Gulf of Mexcio and the Western Atlantic. This is especially critical given the numerical superiority of the Soviet Fleet which lists 214 major combat ships and 231 attack and cruise missile submarines. All of which, curiously enough, can pass through the Panama Canal.[3]

In modern naval warfare submersibles hunt submersibles. The USSR enjoys an advantage over the US attack submarines. They also have a geographical advantage. While the US is essentially a large land mass surrounded by water, the USSR is an even larger land mass essentially surrounded by land and frozen seas. Thus Soviet submarines carrying relatively short range missiles can stand off North American coasts and cover the continent, while US Polaris submersibles stationed in the North Atlantic, Indian Ocean and Western Pacific must be equipped with the expensive Trident missile system with a range of 4,000 miles. Detection, location and tracking of submarines depends on underwater sound and satellite systems; the kill by aircraft or attack submarines. Control of the Canal Zone adds to US aerial surveilance and permits the immediate transfer of attack submarines to regions frequented by Soviet submersibles, and thus aids the defense of the continental United States.[4]

US foreign and coastal commerce also depends on the Canal. In 1975 over 16 percent of all US seabourne trade used the waterway. Moreover, statistics reveal that down through the years a constant average of about 70 percent of all cargo through the Canal is bound either from or to a US port. The economics of water transport for bulk products such as grain or petroleum are well known. Midwestern grain growers who ship their cereals by way of the inland waterways and the Missouri and Mississippi on to US and foreign Pacific ports by way to the Canal depend on inexpensive tolls for their small margin of profit.

Footnotes at end of article.

If the Canal were closed many would be ruined for the Cape Horn route would result in an estimated 31 day increase in shipping time. Under US administration, rates remained relatively stable from the opening of the Canal to 1974. Current transit cost averages around 8,000 dollars per vessel.

Tolls set merely to cover operational expenses cannot be guaranteed under the new isthmian treaty. Brigadier Omar Torrijos, Panamanian Chief of State, has repeatedly stated that the Canal is a natural resource and will be exploited as such. Torrijos' need for funds is certainly understandable. Panama's external debt which amounted to 167 million dollars when the civilian government was ousted in 1968 now totals 1.5 billion. Most of these debts are owed to US banks. Torrijos and his creditors need money and the Canal is the milch cow. Even Sol Linowitz formerly of Marine-Midland Bank and currently the State Department's co-negotiator has admitted that tolls will increase immediately 25 to 30 percent upon ratification of the treaty.

This initial increase in rates will also include petroleum shipments. Oil from Alaska's North Slope has already passed through the Canal. A super tanker from Valdez transhipped its cargo at Balboa into three regular tankers which carried the oil to US ports. Since Gulf ports are unable to accommodate super tankers anyway, off-loading at Balboa is currently the most feasible. Nevertheless utilization of the four existing 10 and 20 inch diameter US Navy pipelines running through the Canal Zone might prove more economical in the long run for supplying the energy starved East Coast. Thus the argument of proponents of the new treaty that the Canal is obsolete because it cannot take super tankers is redundent. Particularly so since vessels such as the *San Juan Prospector*, at 108,770 DWT and with a length of 972' have already transited the isthmus. Erroneous also is the contention that the Canal has already reached its limit. The Canal presently handles 30 to 40 ships a day. Maximum capacity is estimated at 70 vessels per day: a figure projected for 1990. Moreover, the Terminal Lake—Third Lock Plan initiated by President Franklin D. Roosevelt but halted in 1942 would almost double the numbers of ships that could be handled if it were completed.

The charge that the Canal is vulnerable to atomic attack and sabotage is partially correct. Nothing is completely impervious to nuclear warheads. But given the prevailing balance of terror this possibility is more potential than immediate. Especially now, since the Soviets through the application of sea power and subversion are gaining their objectives anyway. Sabotage can be minimized by proper security measures. Moreover, if the existing US garrison of 9,000 cannot assure the internal security of the Zone, how can the Panamanian National Guard of 6,000, tied down as it is with running the republic protect the Canal? Especially when it must confront 1,700,000 citizens who have been deprived of their civil rights since the military coup of 1968. The question of building up the Panamanian Armed Forces has a direct relationship to human rights and military dictatorship. If the National Guard, supported by US subsidies and increased Canal tolls, is expanded to a level to provide even only adequate police protection, not military defense, will not the US be responsible for strengthening the hold upon the Panamanian people of an already repressive military regime that has banned all political parties but has permitted the Communist Party to operate openly and whose Chief Negotiator Romulo Escobar Bethancourt is "an extreme leftist and friend of "Che" Guevara." [5]

Given Soviet interest in Panama, the political coloration of Escobar, and Torrijos' open admiration for Fidel Castro, other Latin American nations are beginning to wonder about the wisdom of turning over the Canal to Panama. Brazil has a burgeoning trade with the Far East. Some 8 percent of Brazil's foreign commerce is with Japan and rising. If the Canal falls into hands hostile to Brazil there are only two other sea routes to the Pacific. One around the Cape of Good Hope is monitored by the Soviets. A second around Cape Horn is "precarious." [6] Given the hazards of the Cape of Good Hope and Cape Horn, Brazil will probably have to seek a peephole on the Pacific. The most feasible is a transcontinental route from Santos to Arica, passing by way of Bolivia and Chile or Peru. For the Brazilians like the Russians are avid students of geopolitics. They believe that since 70 percent of the world's population and 70 percent of the globe's unexploited natural resources lie along the rim in the Pacific basin which includes the Indian Ocean, that the Pacific is the ocean of the future. And Brazil is an emerging power—a land of the future.

The Pacific coast states of Latin America are also wary about the Canal, for they are even more dependent than Brazil. Thirty-four percent of Chile's maritime trade passes through Panama; 41 percent of Peru's; 51 percent of Ecuador's; 66 percent of El Salvador's; and 76 percent of Nicaragua'.[7] Higher tolls are going to hurt. Conversely, Mexican commerce will be the least effected. The Mexicans, however, should realize that as the Canal slips out of US hands Yankee interest is going to increase in the Gulf of California and the Isthmus of Tehuantepec. Argentina finds itself in a similar situation. Like many of the other Latin American nations they have vociferously supported a Panamanian take over. As the date draws near they are not so certain. For the Argentines want the British-held Kalkland Islands and fear that as US sovereignty over the Canal slips away an enlarged North American presence will be felt in the Falklands and Cape Horn as well. Neither of these prospects are welcome in Argentina. Victims of their own rhetoric, Latin American politicians are beginning to look to the US Senate to save them from Panamanian economical extortion and mounting American pressure. Many would prefer to leave the situation as is for they are aware of the similarity with Suez. They could then continue to berate the US and at the same time have their national interests preserved.[8]

But who speaks for America? In general the backers of the new treaty are the same ones who decried the reputed errors of Presidents Eisenhower, Kennedy, Johnson and Nixon for involving the US in Southeast Asia. Simultaneously these supporters salute these same chief executives for their statecraft in Panama. The concessions of 1959, 1963, 1964, 1967, 1970, 1973 and 1974 have, however, only provoked an escalation in Panamanian demands. Could it be that these presidents who supposedly followed a bankrupt policy in Viet Nam also erred in Panama? Our negotiators Ellsworth Bunker and Linowitz have assured us that the US retains the right to intervention and that US warships will receive immediate dispatch through the Canal. This appears to be a private revelation since both Torrijos and Escobar deny this interpretation. Moreover, our diplomats have protested that the only way to protect the Canal was to deed it to Panama. The Panamanians, the argument went, would never destroy their prime natural resource. Torrijos has a different view. On October 7, 1977 he proclaimed that "Senate rejection of the treaty could lead to the closing of the Canal." [9] Who are we to believe? Bunker and Linowitz or Torrijos and Escobar?

Who speaks for America? Once sovereignty is lost, the Panamanian Government will have every legal right under eminent domain to expropriate the Canal, treaty or no. Moreover, the U.S. has no assurance that Torrijos will not ally himself with his idol Fidel Castro. Nor do we have any guarantee that succeeding Panamanian governments will honor the agreement. This is a chancy business.

The Panama Canal is one of the world's major maritime choke points. Since 1959 the Soviet Union has emerged as a great maritime power. Challenging the United States and its allies—the Sea Peoples of the Mackinder thesis and the Kennan Containment Doctrine—on all the oceans of the world, the Russians have intruded into every inland sea, canal and passage point on the globe. Now as the United States withdraws into the shell of Fortress America even maritime communication between our own Atlantic and Pacific coasts is endangered. As the four former Chiefs of Naval Operations warned the President; "under the control of a potential adversary the Panama Canal would become an immediate crucial problem and prove a serious weakness in overall United States defense."

Gentlemen, I urge you to reject the proposed Panama Canal Treaty.

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[2] Geoffrey Kemp, "The New Strategic Map," *Survival* 19:2 (March–April, 1977), pp. 56–59.

[3] *The Military Balance, 1976–1977* (London: Institute of Strategic Studies, 1977), pp. 6, 9; Panama Canal Company, *Annual Report, 1973* Balboa Heights, C. Z.: 1973), p. 38; *Ibid., 1975*, p. 5, and Adm. William Read, Atlanta, in *Phoenix Gazette*, October 7, 1977, p. B–13.

[4] Richard L. Barkley, "The N-Boat Standoff," *National Review* (June 10, 1977), pp. 660–662.

[5] Raymond Estep, *A Decade of Political Change in Latin America, 1963–1973* (Maxwell Air Force Base, Ala.: Air University, 1974). p. 237.

[6] Interview with high Brazilian General Staff Officer, August 1977.

[7] Interviews Brazil, Uruguay, Argentina, Paraguay and Bolivia, August–September 1977.

[8] Council of the Americas, *United States, Panama and the Panama Canal* (New York: 1977), pp. 15–16.

[9] A P. dispatch, Stockholm in *Phoenix Gazette* October 8, 1977, p. 1.

STATEMENT BY PHILLIP HARMAN

Mr. Chairman and distinguished members of the Senate Foreign Relations Committee:

I am honored to be here today. I have been waiting for nine years to be a witness ever since the Oct. 11, 1968, overthrow of Panama's constitutional and pro-U.S. government of President Arnulfo Arias, to give testimony as to how the current Panamanian government came to power and what their objectives are that are detrimental to the best interests of the United States and of the gagged people of Panama who have lived in a police state for the past nine repressive years.

As I have been involved directly and indirectly with Panama since 1941, many people believe that I am a Panamanian. I am not. I am an American. At one time I was appointed by President Roberto Chiari as an Honorary Consul General of Panama in California. Concerning Panama, a country that was founded by my grandfather-in-law, José Agustín Arango, and a country that I have lived in and know well, especially the judicial and political background, I would be derelict in my moral obligations to my country and to myself if I did not devote all of my time and efforts in exposing the illegal and pro-Cuban-Russian military dictator-

ship in Panama that is dedicated to bring Panama under Cuban-Soviet domination. When I started my campaign in November of 1968 to expose the military regime in Panama, I was the only one doing so. After the Kissinger-Tack agreement on Feb. 7, 1974, numerous organizations emerged to protest this agreement and today this issue has engulfed most of the United States.

Today, I would like to outline three factors that I believe are pertinent as to whether or not the U.S. should ratify a treaty with the current de facto Government of Panama.

My first factor concerns the illegality of Panama today to sign a treaty with the United States. On Oct. 13, 1968, the Executive Board of the Panamanian Bar Association in a declaration addressed to the people of Panama and all professional, labor and student organizations stated:

"These events (the seizure of the Government of President Arnulfo Arias on Oct. 11, just two days ago) must be evaluated in the light of Article 2 of the nation's Constitution which clearly provides that the public power emanates solely and exclusively from the people and that it is exercised through legislative, executive and judicial agencies. Consequently, any act by an organization, institution or group other than those authorized under the national Constitution to exercise the public power is illegal and a flagrant violation of the basic principles underlying the democratic system."

I am enclosing with my statement the complete report of the Panamanian Bar Association. It should be noted that on Oct. 11, 1968, the Government of Panama ceased to be a constitutional organ and therefore any amendments to the legal 1946 Constitution would be non-constitutional and invalid as stipulated by Article 252:

"This Constitution may be amended only by a legislative act enacted by the National Assembly in regular sessions, which must be published and transmitted by the Executive to the Assembly in the first regular sessions following new elections for Deputies, so that it may again be debated and approved by an absolute majority of its members."

According to the 1972 spurious amendments of the 1946 Constitution enacted by the current Panamanian government, any new treaty must be submitted to plebiscite. However, as the Panamanian government today is non-constitutional as outlined in Article 2 and with all political parties banned and their National Assembly dissolved in 1968, even a plebiscite would not have the force of law as outlined by Articles 2 and 252 of the 1946 legal Constitution of Panama. As the United States acknowledges legitimacy of the present Panamanian government based on de facto control, it should take into consideration the possibility that any treaty ratified with Panama could be disregarded by future generations and by the constitutional governments that no doubt will come in the future. We should be reminded as to how the 1903 treaty with Panama has been so severely criticized throughout the years.

My second factor concerns the violation of human rights in Panama and in particular to the murder of a Catholic priest, Father Héctor Gallego, on June 9, 1971. On August 21, 1972, the French Press Agency from Barranquilla, Colombia, reported the statement made by Father Pedro Hernández Rabadal. I will quote a part of his official statement and will include the total news release with my statement:

"Father Gallego perished. This was the information given to me by one of the guards who seized him by order of the government. He was captured at midnight. Father Gallego was reluctant to leave the house, but, since he was a guest in the home of friends whom he did not wish to compromise, he agreed to leave.

"The guards forced him into an official car. Father Gallego, thereupon, cried out for help. But the guards struck him with a revolver until he fainted. Since he did not recover from the beating, he was taken to a military hospital, where the doctor diagnosed the case as a skull fracture. While still under observation in the hospital and without recovering consciousness, Father Gallego suffered an embolism which paralyzed him."

Faced with this emergency, the authorities in Veraguas saw themselves obliged to consult the central government and the news reached General Torrijos.

"He lamented the situation and emphasized that it was not because of his orders that this had happened, but that 'now there was no remedy.' He added that it was better that the priest perish and not all those charged with government. He also expressed fears that, if the news became known, he and his associates 'would be ousted'. It was better, under the circumstances, for the invalid priest to disappear, to be 'taken up in a plane and to be tossed into the sea'."

Furthermore, the Government of Panama prevented the Catholic Church from hiring a special investigating team from Mexico to investigate the disappearance of the priest. On July 20, 1971, the government sent an official note to the Church stating:

"Your petition cannot be accepted, since this might be interpreted almost as an attempt to lessen the legal and moral value of our demands to the United States Government concerning our right to jurisdiction in the Canal Zone. It would appear as if one were doubting the capabilities of our authorities to investigate crimes and find the responsible ones at a time when we are demanding this right in the Canal Zone."

An essentially and profoundly Christian nation, the people of Panama can forgive but they will never forget the sadistic death of Father Gallego that was ordered by Omar Torrijos. Bishop Legarra of Panama has described the priest as "an authentic witness of the Gospel" and that Father Gallego had been persecuted for defending the cause of the poor, the peasants of Santa Fe."

I also would like to quote a statement made by Ruben D. Carles, Jr., a former cabinet member of a previous Panamanian administration. Mr. Carles, an officer of the Chase Manhattan Bank in Panama, was arrested by the Secret Police (G2) of the National Guard on January 20, 1976. He is now in exile in Honduras. In a report that he made last year about his arrest and deportation, he wrote:

"The case of the Panamanian exiles of January 20, 1976 testifies to the repressive and oppressive attitude of the military dictatorship. In contrast to the statements made by the military government there has never been a conspiracy or any kind of subversive action. In spite of the fact that people in Panama officially talk about ideological pluralism and the existence of freedom in the country, there is no freedom. In spite of the fact that the Constitution permits the existence of political parties, there are no parties except the Communist Party (Partido del Pueblo—The People's Party). While the government of Panama speaks for the freedom of the people at international meetings and organizations, it treads upon the freedom of the Panamanian citizens: Panama is a country occupied by the National Guard."

Mr. Carles further wrote about his arrest prior to his deportation:

"Our guards were more human and obliging than the officers who frequently visited us. Gradually the tension subsided and soon a sympathetic and cordial relationship was established between the guards and the prisoners that contrasted with the arrogance and rudeness displayed by the officers.

After we had spent some time in that room under the previously described conditions two officers told us that we had to file individually into the adjoining building. They did not say why. We complied. There they searched us and took away our personal documents and identification cards. When we went to the next room, they snapped pictures of each individual and subsequently ordered us to step inside a hall where we faced six guards commanded by two officers. We were told to remove our clothes and hand them over to them. When we asked whether we had to strip completely they used obscenities and ordered us to even remove our socks. They put our clothes to one side and while standing next to each other we watched the guards searching our billfolds and examining the papers they found. I did not understand why there was a need to search them.

Maybe this was some sort of a phychological scheme designed to offend and morally debase prisoners. They very rudely examined and registered the contents of my billfold and allowed me to keep only my identification card. The guards kept the credit cards and other documents. Finally they removed my wife's picture. The officer very rudely told me that I won't need it where I am going.

They also took away our belts and neckties. Luckily they gave me back my buckle and my cash. Although I told the officers that I could not stand naked in a drafty place they mockingly replied that nakedness meant just what it said. Still I did not know whether they were satisfied; they wanted to see us in the nude. I just cannot understand what the chiefs in the National Guard have been teaching their subordinates."

Although racial discrimination is a form of violating human rights, I would like to bring to the attention of this Committee, a list of ten races that the current Government of Panama bans from immigrating to their country. The ten races are:

"Restricted immigration. (a) The following listed categories of persons are considered to be persons of restricted immigration to the Republic of Panama:

(1) Arabs.
(2) Armenians.
(3) Gypsies.
(4) Hindostanians.
(5) Lebanese.
(6) Negroes (whose language is other than Spanish).
(7) North Africans (of Turkish race).
(8) Palestinians.
(9) Syrians.
(10) Turks.

(b) The prohibitions against the immigration of persons of the above-listed categories is directed at the race of such persons rather than their nationality at the time of arrival."

I will include a copy of this list with my statement.

The third and last factor that I want to elaborate on pertains to communism in Panama and it is a subject that I am closer to, I believe, more than any other American. Back in the fifties and sixties, I headed what was known as the "anti-Communist world" in the Republic of Panama. Let me explain this. Within the Secret police (comparable to the FBI in our country) of any Latin American country, there is a small group of men who do nothing but try to eliminate and counteract as well as exposing communism in their country. This is a very secretive type of operation because one is not only dealing with the Communists in their country but the power of the Soviet Union behind them who supports and advises the Communist parties in all of the Latin American countries. It is a never ending battle.

Regarding Panama, the Communist Party was organized in 1930 with two basic objectives.

a. To gain control over the Government of Panama from within. This would be accom-

plished by gaining control over the armed forces of the nation.

(b) After the first objective was finalized, they would then attempt to gain control over the sovereignty of the Canal Zone through a massive propaganda campaign. Once the sovereignty is surrendered through treaties, the Canal would then be nationalized.

In 1943, during the war years, a directive was sent from the Kremlin to the Party in Panama to change their name from the Communist Party of Panama to the Peoples' Party. In Spanish it is called "Partido del Pueblo." The psychology behind this was to give the impression to the Panamanian people that their Party was for the people. However, in referring to the Party, the Panamanian people still call it the Communist Party.

The basic policy of the Kremlin concerning the Communist parties in the countries throughout the world is for these parties to be self-sufficient. However, because of the Kremlin's maritime strategy to control all the main waterways of the world, and they have classified the Panama Canal as the most important, the Panamanian Communist Party was placed in a special category with top priority which allowed the Party to receive outside aid in the form of money, propaganda material and experts in subversive and propaganda fields. This outside assistance came primarily from the Russian embassies in Cuba, Colombia and Mexico.

The Communists in Panama first showed their strength in 1941 when hiding behind other people they maneuvered the first of three overthrows of President Arnulfo Arias' governments. There were three reasons why the Communists had to remove President Arias in 1941:

a. In 1939 during his campaign for the 1940 presidency, Mr. Arias publicly said "the Soviet Union wants my country as a stepping stone to gain control over the Panama Canal."

b. During his presidency in 1941, he enacted into law Panama's Social Security System.

c. He passed a law for the right for women to vote.

These three points were negative ones to the Communists. They finally decided that President Arias was the Panamanian that should be targeted in on and be kept out of office.

On November 24, 1949, Dr. Arias again became the President. On April 1 of 1951, sensing the Communist threat to the country, President Arias signed a bill banning all Communists from holding public office. His bill was rejected in the National Assembly on April 11. A few weeks later on May 10, the agents of the Kremlin who hide behind other people in Panama, were able to topple his government and influence the Assembly to take away his civil rights for 10 years.

On the afternoon of July 22, 1956, I met with Secretary of State John Foster Dulles, in Panama at the request of President Fulgencio Batista of Cuba. I explained to the Secretary the objectives of the Communist Party of Panama and the danger to the security of the Panama Canal if and when the Communist Party gained control over the Panamanian government. I told him that when the Communists felt they had control of the National Guard, they would then seize the nation.

I further explained to the Secretary what had to be done to counteract the initiatives of the Communists in their strategy of indoctrinating the officers of the National Guard. Mr. Dulles was very receptive to what I had to say but, unfortunately, for me and Panama, Nasser grabbed the Suez Canal four days after our meeting and the Communist problem in Panama was set aside for the time being.

During the years that I exposed communism in Panama, I had profiles on over 2800 Communists whom I had identified as being associated with 22 Communist fronts, outright members of the Communist Party or who were guilty by close association with well known Communists.

In November of 1956, I gave the CIA station chief in Panama the names of Captain Omar Torrijos and his brother, Moises, also known as "Monchi" as being identified with various Communist fronts. Moises Torrijos was a very well known columnist in Panama who always slanted his columns in favor of Russia. Concerning his younger brother, Omar, he was a member of a Marxist organization in Veraguas Province called "Young Veraguas." Drew Pearson later identified him in his column on Nov. 19, 1968, as a member of the Communist Party.

Also, I gave the CIA the names of two of Omar Torrijos' sisters, Toya and Berta. In October of 1966, Toya Torrijos de Jaén (married to Marcelino Jaén who signed the economic pact with Russia last July) was arrested at Tocumen Airport in Panama for attempting to bring in two suitcases of Marxist literature. Today, she controls all scholarships at the Institute for the Formation and Exploitation of Human Resources.

Berta Torrijos is now President of the Panamanian Institute of Special Education and is prominent in women's movements. Whenever Mrs. Hortensia Allende, the widow of Salvador Allende of Chile comes to Panama, Berta Torrijos is her host.

It should be brought out at this time that 39 relatives of Omar Torrijos hold key government positions. I am enclosing a list of the relatives with my statement.

Regarding the 1964 riots in Panama from January 9-11, we documented the names of the Panamanian Communists who played a major role that caused the lives of 21 Panamanians and 4 Americans. For example, Adolfo Ahumada, now one of the treaty negotiators and currently the Minister of Labor, was one of the engineers of the riots. Ellsworth Bunker, then the Ambassador to the OAS, stated that it was Communist inspired. With my statement today I would like to enclose an article from the Washington Daily News of Jan. 31, 1964, in which they list several names among the Communists who were responsible for the riots. Of the names listed are Eligio Salas, now the head of the University of Panama, Ruben Dario Souza, currently the Secretary General of the Communist Party of Panama and Carlos Nuñez, a well known Communist who is the editorial page columnist for the government controlled newspaper, "Critica." He is also a past President of CONADESOPAZ, a Communist front organization.

The riots had nothing to do with the Panamanian people protesting the presence of the United States in the Canal Zone although this is the propaganda that the Communists wanted the world to believe and, unfortunately for us, they were successful.

The real motive behind the riots concerned Fidel Castro. In October of 1963, the Kremlin told Castro that further aid would be contingent upon his ability to produce another victory in Latin America for the Soviet master plan. As Castro's plans for Venezuela that year had failed and President Betancourt had filed aggression charges against him with the OAS, Castro decided to foment an explosion in Panama that could serve to blacken the image of the U.S. and possibly compel the OAS to give priority to the newer case and defer action on the Venezuelan charges against himself.

All the elements for a successful diversionary operation were available in Panama. Waiting to fall on the prey was an efficient and well organized Communist Party, with allied "fellow-travelling" organizations, whose activists had been skillfully trained in Cuba, Prague, Moscow and Peking for that purpose. The explosion occurred on the night of January 9. The Venezuelan charges against Castro were given a lower priority for Panama filed accusations against the U.S. before the United Nations and the OAS. Within a few days Castro flew to Moscow and was warmly embraced by Khrushchev. On January 17, accompanied by Castro, Khrushchev in a public speech at Kalinin, Russia, referred to the Panama crisis "These events in Panama were not organized by Comrade Castro. These events are the result of the predatory policy of the U.S. imperialists. He further said "They want to free themselves from the oppression of the U.S. imperialists. This is a legitimate desire and we are on the side of the people of Panama." No one expected Khrushchev to confess publicly that Castro's red hand had dipped deeply into the banks of the Canal to produce a crisis.

The start of the power of the Communist control in the National Guard finally surfaced on March 24, 1968, when the National Assembly, the Congress of Panama, impeached President Marco Robles for using government funds, to back ex-Finance Minister David Samudio, his National Liberal's choice for president, in the scheduled May 12 election.

The Assembly voted 29–0 to oust Robles. It then installed First Vice President Max Delvalle as Presid nt. As the Deputies voted, the National Guard surrounded the Assembly building and issued a statement saying that the force "cannot support the decision of the National Assembly" and would wait for a verdict from the Panamanian Supreme Court. The nine member Supreme Court ruled on April 5 that Robles' impeachment and conviction had been unconstitutional. Actually, the ruling of the Supreme Court was not valid inasmuch as the Constitution of Panama clearly states that only the National Assembly can impeach the president of the country.

By the National Guard forcing the Supreme Court to make an illegal ruling showed the strength of the Communist indoctrinated officers led by Major Boris Martinez and Lt. Col. Omar Torrijos and it was a handwriting on the wall of things to come. Vice President Max Delvalle, who was in line to assume the presidency after the impeachment of President Robles, is a member of the Jewish faith and a very prominent businessman. For reasons only known to Martinez and Torrijos, they did not want a Jewish president in the Western hemisphere even though it was for only a period of six months.

Regarding the overthrow for the third time of President Arnulfo Arias' government on Oct 11, 1968, it would take too long in this statement to go into all of the mechanics as to how the coup was done and the names of the numerous Communists who were involved. What is not known is that there were two attempts to overthrow President Robles on September 26 and 29 of that year in order to prevent President Arias from taking office on October 1. Unfortunately for the Communists, President Arias was able to take office on October 1. Actually, he still is the constitutional president as by Panama's legal Constitution he has never served his term of office.

The people of Panama were very touched by President Arias' inaugural speech especially when he talked about the rural development of the country. He was aware that only 28 percent of the farmers in his country have legal title to the land they till and he had plans for them to obtain titles that would not be costly. He knew that the farmers would be more willing to better utilize and improve their land if they had the security of ownership. A World Bank report of April, 1976, still confirm that 28 percent of the Panamanian farmers do not have title to their land. I am enclosing a copy of President Arias' inaugural speech in which he refers to "Rural Development" as a part of my statement.

One of the many fallacies that the military regime in Panama have exploited is that Omar Torrijos was the one that did the revolution against President Arias. This is not so. The coup was led by Major Boris Martínez, a former Communist leader of students at the University of Panama. Torrijos was kept innocent of the coup because of his excessive drinking problem.

After the overthrow of President Arias' government, I called Drew Pearson in the latter part of October of 1968 and asked him to do a column on the situation in Panama. I gave him the names of Boris Martínez, Federico Boyd, Omar Torrijos and others and told him that the CIA had profiles on these people. On November 19, 1968, he devoted his whole column to the coup entitled "Paint Panama Junta Pink" and identified Omar Torrijos as being a member of the Communist Party. I am enclosing a copy of his column with my statement.

On October 27 of 1968, I notified the Department of State that President Johnson and Secretary of State Dean Rusk should take into consideration that a precedent had already been set in Latin America that would allow the President not to recognize the military coup in Panama. This precedent involved the 1933 illegal government of Dr. Ramón Grau San Martín of Cuba. The U.S. withheld recognition of Dr. Gran San Martín's government because it did not represent the Cuban people. His government quickly fell. For whatever reason, President Johnson decided not to abide by this precedent and recognized the Military Junta in Panama on Nov. 13, 1968.

One of the four requisites for reopening diplomatic relations with the Military Junta was their promise to hold free elections. Actually, Panama had free elections just six months before. However, the regime in Panama did hold elections on August 6, 1972, but they were not "free." These elections were to elect 505 Community Representatives who were already chosen by the Communist controlled military.

These 505 representatives then installed the already provisional president, Demetrio Lakas, as the president and Omar Torrijos as the Chief of Government.

I would like to explain how Omar Torrijos became the Chief of Government and what happened to Boris Martinez who actually did the coup. As I was cognizant of the Communists' post-seizure strategy in Panama which was not to alarm Congress, it had to be one of "low profile." Although Martínez brought in Torrijos immediately after the coup and allowed him to share power with him, Martinez wanted to move too fast and this frightened the top members of the Communist Party such as Rómulo Escobar Bethancourt, Marcelino Jaen and Juan Materno Vásquez. Incidentally, after the coup, Escobar Bethancourt made himself the head of the University of Panama, Jaén assumed the presidency of the National Legislative Commission that makes all the laws and Vásquez appointed himself as the president of Panama's Supreme Court. The country was their's.

Five months later on March 6, 1969, the Communists "purged" Martínez and brought in Omar Torrijos, who is a brother-in-law of Jaén, to be in complete control of the National Guard and the strongman of the country. On March 14, they made him a Brig. General.

Concerning the current president of Panama, Demetrio Lakas, I would like to explain how he assumed this high position. First of all, Mr. Lakas owns all of the houses of prostitution in Panama (I am enclosing the Congressional Record of July 22, 1971 regarding Mr. Lakas with my statement). As prostitution is illegal in Panama it meant that the officers of the National Guard had to be paid off in order to stay in business. Of the many officers that Mr. Lakas made friends of in the National Guard was Omar Torrijos. On Dec. 15, 1969 Torrijos and Lakas were in Mexico City supposedly attending a horse race when the Assistant National Guard Commander Ramiro Silvera and Chief of Staff Amado Sanjur issued a communique over the signatures of the two provisional junta members, Cols. Jose Maria Pinilla and Bolivar Urrutia, proclaiming the overthrow of Omar Torrijos.

Hearing of the attempted overthrow, Lakas and Torrijos flew by chartered plane to David, a western Panamanian city 210 miles from Panama City, where he was greeted by local National Guard officers. In the meantime, Silvera and Sanjur had failed to consult in advance with most of the staff officers and commanders of the 10 National Guard districts in the interior of the country. When word of Torrijos' planned return spread, these officers rose to support him. The National Guard then arrested Silvera and Sanjour and provisional President Pinilla and Vice President Urrutia were placed under house arrest in the Presidential Palace.

A two-man civilian junta was sworn into office on Dec. 19 to replace Pinilla and Urrutia. Lakas was appointed provisional president and has been there ever since. Albert Sucre, the National Lottery director, was named Lakas' deputy.

At this time I would like to mention a few facts about the intelligence gathering forces in Panama. Prior to the coup in 1968, Panama had two intelligence sources in their country; namely, the CIA and the DENI which is the intelligence branch of the Panamanian government. They both worked together closely and in harmony. Today, there are now four intelligence agencies working against the CIA and the suppressed people of Panama:

a. The DENI of the Panamanian government.

b. The G2 of the National Guard.

c. The DGI of Cuba that operates out of the Cuban Embassy.

d. The KGB who are in Panama with the Novosti Press Agency.

Prior to the coup, the CIA had several Panamanian informants working for them. Today, the story is different as these informants are reluctant to work for the CIA due to the close surveillance of the four anti-CIA agencies who are constantly trying to find out who are the Panamanians working for the CIA. Because of this lack of Panamanian informants, the intelligence gathering of the CIA in Panama has been diminished.

To sum up the Communist picture in Panama, several factors should be noted:

a. On April 8, 1974, Omar Torrijos brought a planeload of "Montoneros" from Argentina to Panama on a Panamanian plane. The "Montoneros", if you recall, is the Marxist group in Argentina that have been doing and still are, all of the kidnappings, assassinations and riots in Argentina. How many trips they have made to Panama, we do not know. They were brought specifically to Panama to train Panamanians in subversive activities. I am enclosing with my statement a picture and article concerning their trip to Panama.

b. In 1975, Escobar Bethancourt, the chief treaty negotiator, and Aristides Royo, the deputy negotiator and Minister of Education, formed an "Anti-Fascist" Committee which included 38 Communist organizations including the "Peoples' Youth Party" which is the youth organization of the Communist Party. On July 26 of that year, their Committee celebrated Castro's 22nd anniversary of his attack on the Moncada Barracks. I am enclosing with my statement an article about this Committee formed by Bethancourt and Royo.

c. From June 28 to July 5, a Russian mission of three visited Panama to discuss the possible opening of diplomatic relations. I am enclosing an article about their visit as a part of my statement.

d. On July 11–19, another Russian mission came to Panama where they signed an economic agreement with Marcelino Jaén, Torrijos' brother-in-law. After the signing, Jaén said "with the signing of this document that constitutes the final draft of an agreement in which the Governments of the USSR and Panama have participated, is an event of deep historic significance, not only for our country but for the American continent as well, who are always facing strong forces that represent a philosophy that is contrary to the destiny of Latin America." I am enclosing a copy of Mr. Jaén's remark with my statement and the agreement that was signed.

e. Also, during this visit, the Soviets visited the fishing port of Vacamonte on the Pacific side of Panama near the Howard Air Force Base concerning a possible Russian naval base for the future.

f. On August 6, 1977, at a farewell press conference in Bogotá, Colombia, a question was asked of Torrijos by Jaime Arango of Super Radio "General Torrijos, are you a Communist?" Torrijos refused to answer but Bethancourt did by saying "Each individual has the right to choose the political ideology he likes." I am enclosing Bethancourt's complete answer with my statement.

g. On Sept. 9, 1977, after signing the treaty with President Carter, Torrijos sent a telegram to Fidel Castro when he was flying over Cuba on his way home saying "I salute you with my everlasting friendship." I am enclosing a copy of his telegram with my statement.

In conclusion, I would like to show the Committee how the current government in Panama permits our American flag to be sold in the stores to be used as rags to clean your shoes or wash your car. I cannot think of any other country in the world today that desecrates our American flag.

Thank you Mr. Chairman.

TESTIMONY OF MR. FRANKLIN DELANO LOPEZ

Mr. Chairperson, Distinguished Senators: I appear before you on behalf of the New Democratic Party-Puerto Rico, an organization of thousands of Puerto Ricans and residents of the island. Mr. Juan M. Garcia Passalacqua our counsel is here with me today.

Early on January, 1976 we decided to endorse the candidacy of Jimmy Carter on the basis of a message sent to us through his then field operation director, Mr. Tim Kraft. That message included his vision for a new policy towards Latin America.

The President has kept his promise to us. This has been excellently stated by Graham Hovey in a recent issue of the New York Times, as follows:

"President Carter has launched a Latin American policy shorn of the traditional rhetoric and prodigal promises, with strong emphasis on human rights but enough flexibility to conclude new canal treaties with Panama and to reopen relations with Cuba.

"It is a policy that relies heavily on personal contact but shuns both the visions of lavish economic aid that ushered in the alliance for progress in 1961 and the oratory of Pan Americanism—Simon Bolivar's dream of a united continent—that clothed most earlier Washington approaches to the Western hemisphere."

In fact it is not a single policy, as Carter himself emphasized in a Pan American Day speech in April, but a series of approaches to individual problems, many of which cannot be solved in the hemispheric context or through the machinery of the Inter-American system.

The President contributed the most dramatic chapter, not only with the signing cer-

emony for the Panama treaties, attended by officials of 28 hemisphere governments on September 7, but with 16 individual meetings at that time with visiting heads of State. This demonstrates the interest of Latin America in the new Panama Canal treaties. Other contacts made by administration representatives over eight months include the following:

Rosalyn Carter's official visits to seven Latin American and Caribbean nations last spring.

Secretary of State Cyrus Vance's trip to Grenada in June to attend the General Assembly of the Organization of American States and to hold individual meetings with 18 foreign ministers.

Four trips by Terence A. Todman, Assistant Secretary of State for Inter-American Affairs, including the first visit by an American official to Havana since 1961.

The 10-nation Central American and Caribbean tour in August by Andrew Young, the Chief United States delegate to the United Nations.

Two trips, covering five countries, by Patricia M. Derian, the State Department, Human Rights Coordinator and one trip to five countries by another Human Rights Specialist, Allard K. Lowenstein, an alternate United Nations delegate.

President Carter will further the process by visiting Venezuela and attempting to repair relations with Brazil at the start of his eight trips to four continents later this year.

We agree that by communicating new policies and attitudes, and by listening to the problems and suggestions of Latin leaders, the United States has regained a position of trust, confidence and leadership in the hemisphere, that indeed had badly eroded during the Johnson, Nixon and Ford presidencies.

This erosion of trust, confidence and leadership is the result of the lack of interest of previous administrations in Latin America. Our past policies with our neighbors have been characterized by improvization. We only react to Latin America when there is a threat to our national security. Example of this are the cases of Cuba, the 1965 Dominican Republic revolution, and Chile.

For that reason, for the reason that President Jimmy Carter has kept his promise to us regarding a foremost place to Latin peoples in his foreign policy, we have come to endorse his action regarding a new Panama Canal treaty. The reasons for that endorsement have been well expounded by Ambassador Sol M. Linowitz, as follows:

First, the Panama Canal issue involves far more than the relationship between the United States and Panama. It is an issue which affects all U.S. Latin American relations, for all the countries of Latin America have joined with Panama in urging a new treaty with the United States. In their eyes, the canal runs not just through the center of Panama, but through the center of the Western Hemisphere. Indeed, the problem significantly affects the relationship between this country and the entire third world, since the nations of the third world have made common cause on this issue, looking upon our position in the canal as one last vestige of a colonial past which evokes bitter memories and deep animosities. So in going forward with a mutually satisfactory basis for a new treaty with Panama, the United States will find itself in a position to improve relations with virtually all the countries of this hemisphere and, indeed, the people of the entire developing world whose attitude toward us as a nation will be importantly influenced by how we conduct ourselves on this Panama Canal issue. Second, our primary interest in the canal is to assure its free, open and neutral operation on a nondiscriminatory basis. I am convinced that the greater threat to the operation of the canal would be to try to insist upon retention of the present outmoded treaty and its anachronistic provisions which have in the past and can so easily again trigger hostility and violence. If we do not approve a mutually agreeable basis for a new treaty, we may find ourselves in the position of having to defend the canal by force against a hostile population and in the face of widespread, if not universal, condemnation. Third, in the light of these facts, I believe that the best way to preserve the canal's operation and to maintain its permanent neutrality is to substitute for the 1903 Panama Canal Treaty a new arrangement which will be mutually fair, which will properly provide for Panama's just aspirations, and which will take into full account our own national needs. Putting it another way, a new treaty is the most practical means for protecting the interest we are trying to preserve in the canal.

We live in a country inhabited by 3 million American citizens. However, we live in an American colony, just like the Canal Zone. Puerto Rico is still a colony because we do not enjoy social, economic, and political equality with our fellow citizens living in the States, because we don't have voting representation in Congress, because we don't vote for President or Vice President; in summary, because we have been kept—even after a pro-statehood party won there in 1976—in a position of inferiority. Living in a colony, you can understand why we fully endorse the President's statement upon signing the treaty that "the time for colonialism is over." We hope it will be over for us too, very soon. It will be our task—the people of Puerto Rico—to solve in the very near future our political status on the basis of equality with mainland citizens.

It is difficult for us to understand the objections to the treaty, particularly in view of a basic fact:

The United States has never had sovereignty over the canal. The 1903 treaty specifically gave the United States certain rights and authority which it would have "if it were the sovereign." Obviously, these words would not have been necessary if the United States were in fact intended to be sovereign.

For the aforesaid reasons, we can also understand that pride and happiness of the Panamanian people upon signing of the treaty, as well as its endorsement by the leaders of our sisters republics. The end of colonialism is always a happy day for those that have suffered it.

As stated by Ambassador Ellsworth Bunker, we also favor the treaty because its terms:

Assure the efficient operation of the canal.

Enable the United States to protect the canal.

Guarantee the canal's neutrality indefinitely.

Provide an economic settlement that is fair and reasonable.

Let me elaborate briefly on that position taken by our negotiators:

The United States will retain control of both operation and defense of the canal for the remainder of this century—that is until December 31, 1999. During that period Panama will take part in both operational and defense activities. This arrangement will insure that the United States can guarantee the uninterrupted, efficient operation and security of the canal after the new treaty goes into effect. At the same time it will provide Panama both the time and the opportunity to develop the experience and capability needed to assume responsibility for canal operation and defense beginning in the year 2000.

The new canal agreement will provide the basis for assuring to the United States continued access to a canal which is open and secure. As Ambassador Bunker has stated, under the new treaty U.S. forces will have the primary responsibility for maintaining canal defense until year 2000. But the United States will have important rights extending beyond that date.

A separate neutrality treaty, which will take effect simultaneously with the new Panama Canal treaty, will commit the United States and Panama to maintain a regime of permanent neutrality of the canal. Under the rules of neutrality to be set forth in the treaty, the canal is to be open to merchant and naval vessels of all nations at all times without discrimination as to conditions or charges of transit. A special provision authorizes U.S. and Panamanian warships to transit the canal expeditiously in both peace and war without being subject to any restriction as regards means of propulsion, armament, or cargo.

The treaty gives the United States defined rights to assure that the canal's permanent neutrality is maintained and places no limitations on our ability to take such action as may be necessary in the event that the canal's neutrality is violated.

It is most important to point out and reemphasize that unlike the treaty governing canal operation, the neutrality is of indefinite duration. In short, the neutrality treaty will provide a firm foundation for assuring that our long term interest in the mainteance of an open, accessible, secure, efficient canal is preserved.

For the first time since the presidency of the late John F. Kennedy, there is a serious and sincere effort to establish a new relation with Latin America. President Carter as well as our Latin American neighbors are aware that the Panama Canal treaty symbolizes the aspirations and dreams for a new hemispheric relation.

Each one of you have a grave and serious responsibility with our Nation. We should not tolerate that the Panama Canal treaty becomes the prey of political cannibals, who are more interested in their political future that the future of our Nation.

The President is actively seeking new ways to establish a strong and sound relation with Latin America and Third World countries. If you don't ratify the Panama Canal Treaty you will be undermining his leadership and weakening the role of our nation in the hemisphere and in the world. You will be ratifying in 1977, the 1903 cowboy diplomacy of Theodore Roosevelt, which stirred up a vast amount of criticism in our Nation in 1903. The press then called the terms of the Hay-Bunau Varilla treaty "piracy," "scandal," "cooked up republic," "disgrace and dishonor."

You have before you not only the Panama Canal Treaty and the future relationship of the United States with the Republic of Panama, but a potential and dangerous situation that might be detrimental to the security of our Nation. We cannot afford another Vietnam, this time in Latin America. We learned the hard way that the arrogance of power did to our Nation in Southeast Asia.

The days of confrontation are over. Our Nation has to be conscious of those prophets of doomsday who use fear as a means of intimidating our people. Let's look back at our history. Let's rediscover those deeds that makes us proud of what we are. As President Franklin Roosevelt said in March, 1933, "This great nation will endure as it has endured, will revive and will prosper . . . the only thing we have to fear is fear itself."

We believe the treaty clauses we have summarized represent an equitable agreement to liquidate a colonial situation. We are proud and happy that our President has achieved this historic breakthrough together with the Panamanian people. We do hope that very soon, under Jimmy Carter's leadership in his effort to elimimnate all points of friction in the Americas, colonialism will also end in Puerto Rico.

Thank you.

POLITICAL FACTS ABOUT MR. FRANKLIN DELANO LOPEZ, CHAIRPERSON, NEW DEMOCRATIC PARTY OF PUERTO RICO

1966, Founder of the University of Puerto Rico Young Democratic Clubs.

1967, Founder and President of the University Youth for Statehood.

1967, Vice-president of the United Statehooders Youth.

1967, Founder of the New Progressive Party.

1968, Press Secretary to the Mayor of San Juan.

1975, Chairperson, Puerto Rico Charter Americans for Democratic Action.

1976, State Campaign Director for Jimmy Carter, February 22, 1976, Democratic Caucuses.

April, 1976, Hispanic Campaign Director for the Pennsylvania Primary for Jimmy Carter.

June, 1976, Hispanic Campaign Director for the Ohio Primary for Jimmy Carter.

July, 1976, Vice-chairperson, Puerto Rico Delegation to the National Democratic Convention.

August, 1976, National Hispanic Field Coordinator for the Jimmy Carter-Walter Mondale Campaign.

November, 1976–January, 1977, Member of the Transition and Planning Staff of the Carter-Mondale Administration.

January 1977, Elected Chairperson, the New Democratic Party of Puerto Rico.

May 1977, Appointed by President Carter as Members of the First Circuit Advisory Commission on Judgeships.

Mr. Lopez is 31 years old.

STATEMENT OF ROBERT M. BARTELL

Mr. Chairman and Members of the Committee:

I am Robert M. Bartell, public relations director of Liberty Lobby. I appreciate this opportunity to appear today and present the views of Liberty Lobby's 25,000-member Board of Policy, as well as the quarter of a million readers of our weekly newspaper, The Spotlight.

Mr. Chairman, Liberty Lobby opposes the ratification of new treaties with Panama, which will, in effect, pay Panama to take the Canal Zone and all the property in it, off our hands. I know this committee has had a considerable number of witnesses covering a wide range of subjects directly bearing on ratification. However, we would like to approach the subject from a slightly different point of view from those that may have been presented in the past: the importance of ratification of the treaties to the international banking community.

I should like then to avail myself of the kind indulgence of this committee to take a look at the proposed Panama affair as future observers—say historians of the year 2000 and beyond—might view it.

To such dispassionate analysts of the future, the Canal giveaway—to give this utterly one-sided transaction its proper name—will surely appear as the most baffling mystery of the decade, perhaps of our generation. Why deed over our sovereign waterway—and a good chunk of our public funds with it—to an alien regime with unsavory antecedents and an unstable political prognosis? The American people do not want to do it; there is growing evidence that the voters of this country are overwhelmingly against the planned giveaway, and I surmise no one knows this better than the distinguished legislators of this Congress. The American military do not want it. Except for the serving Chiefs, obligated not to dissent in public from the incumbent Administration, there has been near-unanimous testimony from some of our most distinguished generals and admirals expressing concern over the delivery of this vital strategic asset of ours into the hands of what Admiral Thomas H. Moorer, a brilliant former Chairman of the Joint Chiefs of Staff, aptly identified as the "Torrijos-Castro-Moscow Axis."

American diplomacy does not really want it. In private conversation many of our leading foreign policy experts give voice to deep reservations with regard to the regime of Gen. Omar Torrijos, which is, as you know, a usurper cabal without real constitutional legitimacy in its own country. The last legally elected and inaugurated chief executive of Panama is now an exile in this country, and were he to return to office in the near future—a turn of events many of his American supporters devoutly hope for—then any treaty signed by General Torrijos would be exposed and denounced for what it really is: a worthless piece of paper.

The American security and intelligence agencies, the so-called "intelligence community" does not want it. Their Latin American experts view General Torrijos as the most unsavory, unstable and unpredictable of all serving Latin chief executives. There are reports that our narcotic enforcement agents have acquired evidence linking General Torrijos and his brothers with the illicit drug trade aimed at the U.S. The CIA is reported to have accumulated a fat dossier on the contacts between Torrijos and Fidel Castro; another dossier containing reports of contacts between Torrijos, his brother-in-law and other Panamanian negotiators on the one hand and Soviet agents on the other is said to be growing rapidly at CIA headquarters in Langley.

When Torrijos came to Washington last month to sign the Panama treaty, his principal press aide—travelling on a Panamanian diplomatic passport—was the well-known Cuban propagandist and secret agent, the Colombian-born novelist, Gabriel Garcia Marquez. And on his return to Panama from the triumphant visit to our seat of government, the first person to receive greetings from Torrijos, via aircraft radio, was none other than Fidel Castro.

Thus the most baffling question confronting future historians trying to explain the Canal giveaway will be: Who did want it? We know the Torrojis clique will reap a windfall of benefits, but keeping our eye for the moment on our side, the real question is: Cui bono? Who shall profit?

That there is a real mystery here, a set of unanswered questions lurking beneath the surface, was already adumbrated by Admiral Thomas H. Moorer, who, in the course of his testimony, demanded to know what will happen to the "Two thousand per cent increase over the $2.3 million she (Panama) received last year as income from the Canal? To me that appears to be a fantastic amount for a country with a population not much larger than Detroit. Where will the money go?"

A substantial share of the money is earmarked, of course, to the U.S. and international banks who have loaned Panama disproportionately large sums in recent years and now, in order to recover their outlay and profits, cheer on the Canal giveaway. But beyond this adroit arrangement to lure U.S. taxpayers into indemnifying the mortgageholders of the profligate Panamanian regime, I expect that future observers desirous of solving the Panama puzzle will begin by looking deeply into the hidden connections between the world of international banking and certain small countries such as Panama.

They will find that in the mid-1970's multinational mega-banking went through some extraordinary changes which the American public barely noticed. International banking grew from a trickle into a great subterranean river. In 1960, only eight U.S. banks had overseas branches, with assets of $3.5 billion. By June 1976 more than 100 U.S. banks had offices abroad, with assets totaling an incredible $181 billion—over 26 per cent of total American bank assets! In fact, for the dozen or so largest American banks, overseas operations became more important and profitable than domestic activities. In 1975, foreign financial ventures accounted for 56 percent of the Chase Manhattan's total earnings. At Citicorp, the foreign share was even larger: a full 70 per cent of total earnings. (International Debt, the Banks, and U.S. Foreign Policy, a Staff Report prepared for the Senate Foreign Relations Subcommittee on Foreign Economic Policy, August, 1977.)

The boom in offshore banking has been little short of miraculous. From 1970 through 1975 the overseas earnings of the 13 largest U.S. multinational banks shot up precipitously, from $177 million to $836 million. To appreciate this spectacular growth figure, we need only recall that during the same period the domestic earnings of the same financial group rose by less than $50 million.

And how was this stupendous upsurge in volume and banking profits attained by the giant U.S. banks? By expanding operations in the traditional centers in world finance—Zurich, Paris or London? No, not at all; so-called "offshore money centers" account for most of the boom—remote, tropical enclaves such as the Cayman Island and the Bahamas . . . and Panama.

What are offshore money centers? They are tolerant, insouciant sovereignties which are nice to banks. They ignore such common corollaries to banking as audits, supervision, taxation or oversight. What is known among financiers as the "regulatory climate" is always sunny for big banks in these nations. There are no reserve requirements and no demand for banks to disclose anything about their daily activities; in fact, some such countries have inaugurated very strict secrecy laws making it a crime for anyone to disclose what goes on in the banking world. There is no obligatory record-keeping, no prying by central bankers; in fact, once a bank sets up shop in such a protected environment, it is pretty much free to do as it pleases.

The major U.S. banks have been quick to perceive the extraordinary advantages of this sort of setup. By January 1975 there were 124 U.S. branch banks in the Bahamas and on the Cayman Islands—a remarkable number, if we recall that there are only 112 such branches in all of Europe! More than 300 U.S. and European banks have been chartered in the Caymans alone since 1970. And Panama is a close third, moving up fast: more than 110 banks chartered since 1973, more than 90 U.S. branch banks of recent establishment.

Why do the giant banks of New York, London and Paris require such far-flung branches? Most of them are only brass-plate" operations, with a nameplate on the door and a single receptionist holding the fort behind it. But on paper—when it comes to bookkeeping—these one-room branch banks are mighty finance centers. For the intricacies of international mega-finance allow the giant multinational banks to make deals in the tens of millions of dollars—deals which take place between the head offices of banks in, say New York and Paris—and then to book off" these deals via their offshore branches, thereby effectively exempting them from regulation, audits and oversight.

It is said that General Torrijos, who is given to immoderate anti-American demagoguery in public, speaks the language of the new international banking system quite ingratiatingly in private. While out of favor with most segments of our government, Torrijos has contrived to establish close relations with a number of multinational finance conglomerates, from whom he has received loans out of all proportion to his regime's known assets. Moreover, Torrijos has converted Panama into a specially protected banking enclave, where dubious deals—especially dicey currency speculation—have

found a haven from prying regulators and examiners.

Is General Torrijos about to become the beneficiary of the most senseless and ruinous giveaway in our modern history because certain high supporters in the multinational banking world have secretly promoted and advanced his cause? Unless we want to leave the solution of the Panama riddle to the historians of the 21st century, it might be well to take a close look at this question before the Carter Administration's canal transaction becomes the law of the land.

In the light of the many unanswered questions surrounding the Panama Canal question, it is evident that more information is needed. Gentlemen, the American taxpayers deserve and require answers to these questions even if the answers might step on the toes of the special interest groups which have so much at stake in the proposed giveaway, and you must supply these answers.

I therefore recommend and urge that this committee seek the answers to the following questions before any determination is made on the ratification:

1. Have the principal negotiators and official promoters of this deal—Sol Linowitz, Ellsworth Bunker, Cyrus Vance—embroiled themselves in felonious conflicts of interest? Particularly Mr. Linowitz, who is reported to have served as a paid agent for the Torrijos government in late 1973 and early 1974?

2. Who sponsored and paid for the original research and development that went into the draft canal treaty? Is it true that most of this preliminary work was done by a special adviser to Mr. Linowitz, Dr. Robert Pastor, on funds provided by the Rockefeller family holdings?

3. What was the role of the Council on Foreign Relations in drafting and developing the early position papers which led to the canal treaty draft?

4. What is the full truth about the debts owed by Panama to various U.S. and European multinational banks?

5. What is the truth of persistent reports that General Torrijos and his brothers have accumulated a large fortune in their private dealings with multinational banks and in the dope trade? How large is this fortune? Where is it banked?

6. Does the U.S. government possess true data on the volume of transactions by U.S. banks in Panama? If not, is it not true that the real purpose of Panama banking is to frustrate and in effect to nullify the entire U.S. bank regulatory process? In effect, does this not amount to a criminal conspiracy by U.S. banks against the U.S. government, the taxpayers and voters who must, in the final analysis, pay for it?

7. Is it not true that under cover of the concealment afforded by Panama, multinational banks venture into highly hazardous speculative deals, in the safe knowledge that if they incur serious losses, the U.S. taxpayer must foot the bills?

8. Why is the U.S. public not told of the highly incriminating data held in the files of U.S. intelligence and enforcement agencies, particularly the CIA and the DEA, describing the scandalous and criminal narcotics dealings of the Torrijos family? Who has sponsored the coverup of this explosive data, indicating General Torrijos and his brothers have made millions of dollars to corrupt our youth, provide safe haven and diplomatic transport for major international drug smugglers, among them the notorious Rene "Lips" Fluelen?

9. To what extent is the Soviet Bank Narodny involved in Panama, and with which American capitalists? Our newspaper, The Spotlight, has reported this involvement of the Kremlin with U.S. banks and bankers, including Robert Anderson, former Secretary of the Treasury. This matter needs a full airing and the American people should be told the truth about these questionable deals and what threat they may hold for our national security.

10. Obviously, Mr. Chairman, there is a great need for expanded supervision and oversight of the international banking community. We feel the impetus for such an expansion could well originate within this committee and so recommend.

In summary, Mr. Chairman, we applaud the intention of the committee to investigate fully all aspects of the proposed treaties, feeling that such an investigation will lead to an emphatic denial of demands America willingly sacrifice her national treasure on the altar of Third World opinion.

Mr. Chairman, we know what Panama will gain in profit from the canal. We urge you to ask yourselves what your constituents will profit from giving the canal to Panama . . . along with a sizable chunk of their tax dollars.

Thank you again for this opportunity to appear today and present our views.

BUFFALO BILL DAM POWERPLANT REPLACEMENT

Mr. HANSEN. Mr. President, I wish to join with my good friend, the distinguished Senator from Montana, in cosponsoring S. 2187, legislation authorizing the replacement of the power generating equipment at the Buffalo Bill Dam in northwestern Wyoming.

Today, while the Senate continues consideration of President Carter's national energy plan, it is important that we look to the development and utilization of alternative and, as yet, untapped sources of energy. One such source is that provided by hydroelectric powerplants. Such plants utilize a renewable resource, have long term dependability, are particularly adaptable to peaking power operations and are more environmentally acceptable. While there presently exist some 50 hydroelectric powerplants under the Bureau of Reclamation throughout the 17 Western States, many of these facilities are capable of expanded power and energy production through the upgrading of hydroelectric generator and turbine units. Thus, with minimal environmental impact, with relatively minor expenditures, the West and the Nation can make real progress in tapping new sources of energy. In the words of a recent Department of Interior report:

> Uprating existing hydroelectric generator and turbine units at Reclamation powerplants may be one of the most immediate, cost effective, and acceptable means of developing additional electrical power in the West.

Such is particularly the case with regard to Wyoming's Buffalo Bill Dam. Constructed from 1905–10, power production was added to the Shoshone project in 1922. Now over 55 years old, the powerplant needs to be replaced simply due to its advanced age as well as a result of requirements of the Occupational Safety and Health Administration.

Replacement of the plant will permit an uprating to a larger power output given the as yet unused potential for developing power at the site. Presently, the powerplant yields 5.6 megawatts. Replacing this obsolete equipment will result in a capacity of 20 megawatts, a nearly fourfold increase, yielding an additional 63.7 megawatt hours of energy annually.

Mr. President, this is the type of energy legislation which this Nation and the West needs. I urge early adoption of this bill.

THE PANAMA CANAL AND THE SUEZ CANAL—SOME SIMILARITIES

Mr. HARRY F. BYRD, JR. Mr. President, an editorial in the October 9 Moline, Ill., Daily Dispatch drew an interesting parallel between the United States relinquishing control over the Panama Canal and the withdrawal of British military forces from the Suez Canal Zone in Egypt in 1956.

Clearly there are differences between the two cases, but there are enough similarities to give pause for thought.

I ask unanimous consent that the text of this editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

PANAMA CANAL TREATY

There has been expression by some politicians that the United States Senate would, and probably should, act forthwith and without delay in ratifying the Panama Canal treaty. There are some columnists and commentators who are overburdened with dire implications of what will happen if the treaty issue gets involved in the 1978 elections.

We do not share this view that there is need for quick action on the canal issue. Instead, it would be good to take the time to examine all the implications, possible alternatives and options and to review the recent history of another canal.

For some years prior to 1956 there had been agitation in Egypt (just as there has been in Panama) for the withdrawal of British military forces from the Suez Canal zone in Egypt. The Suez was owned by an international company, primarily owned by the British and French, with the British in actual charge of canal operation and security.

Convinced it was doing the "right thing" as it shed its colonial empire, the British evacuated its military forces from the Suez and Egyptian territory on June 18, 1956. But if there was a tear in the British eye there was also a secure feeling that the canal would continue to be operated as an international waterway and Britain's great contribution to international commerce would continue. Even though the Egyptian flag now flew on the staff where the Union Jack had been, the canal was secure, wasn't it?

It wasn't. On July 26, 1958 Egyptian President Gamal Abdel Nasser shocked the British and French, and most of the rest of the world, by nationalizing the Suez Canal.

No longer was it an international waterway, owned by an international company: It was Nasser's ditch and he would say which nation's ships could use the canal and what the terms would be. It was international blackmail under the guise of "national destiny." (Nasser was a dictator who led his country into close ties with the Soviet Union. Gen. Omar Torrijos, the Panamanian chief of state, has been described by William F. Buckley Jr., who supports treaty ratification, as a "left-leaning, demogogic tyrant.")

After several months of fruitless negotiations Britain and France determined to reoccupy the Suez, and on Oct. 31, 1956, they launched air attacks against the Egyptian forces opposing their return. (Sen. Dole has released a classified document which reveals there is no provision for U.S. reoccupation of a crisis situation.)

Under pressure from the United States, which supported a UN measure which condemned the British and French action, the invasion and attempt to reoccupy were aborted. But by that time the Suez Canal was blocked by sunken and scuttled ships. It remained that way for 19 years. Governments came and went in the nations involved, Nasser passed from the scene and Egypt eventually broke its ties with the Russians. Early in this decade negotiations for reopening the canal were resumed with the United States playing a helpful role and finally, on June 5, 1975, the Suez was reopened to the world's commerce. But for 19 years any arguments about who owned or controlled the Suez were academic, it was unusable anyway.

Is there a parallel between what happened in the Suez and what could happen with the Panama Canal? Is there a lesson to be learned? We think there is.

Let us not enter into this agreement with some vague faith that all will be well or with some conscious-salving feeling that we are righting a sin of our colonial past.

If the Senate ratifies the treaty let it do so with its eyes open to all the implications and possibilities and alert to the best interests of the United States.

NOTICE CONCERNING NOMINATION BEFORE THE COMMITTEE ON THE JUDICIARY

Mr. EASTLAND. Mr. President, the following nomination has been referred to and is now pending before the Committee on the Judiciary:

James S. Brady, of Michigan, to be U.S. attorney for the western district of Michigan for the term of 4 years vice Frank S. Spies.

On behalf of the Committee on the Judiciary, notice is hereby given to all persons interested in this nomination to file with the committee, in writing, on or before Tuesday, October 18, 1977, any representations or objections they may wish to present concerning the above nomination with a further statement whether it is their intention to appear at any hearing which may be scheduled.

NOTICE CONCERNING NOMINATIONS BEFORE THE COMMITTEE ON THE JUDICIARY

Mr. EASTLAND. Mr. President, the following nominations have been referred to and are now pending before the Committee on the Judiciary:

Thomas C. Brennan, of New Jersey, to be Commissioner of the Copyright Royalty Tribunal for the term of 7 years from September 27, 1977.

Mary Lou Burg, of Wisconsin, to be Commissioner of the Copyright Royalty Tribunal for the term of 7 years from September 27, 1977.

Frances Garcia, of Texas, to be Commissioner of the Copyright Royalty Tribunal for the term of 5 years from September 27, 1977.

Clarence J. James, Jr., of Ohio, to be Commissioner of the Copyright Royalty Tribunal for the term of 5 years from September 27, 1977.

On behalf of the Committee on the Judiciary, notice is hereby given to all persons interested in these nominations to file with the committee, in writing, on or before Tuesday, October 18, 1977, any representations or objections they may wish to present concerning the above nominations with a further statement whether it is their intention to appear at any hearing which may be scheduled.

UNANIMOUS-CONSENT AGREEMENT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a time agreement as follows on S. 1303, the unfinished business:

For debate on the bill, 4 hours, to be equally divided between Mr. JAVITS and Mr. NELSON; that there is a time limitation on any amendment of 1 hour; that there be a time limitation on any debatable motion, appeal, amendments in the second degree, or a point of order, if such is submitted to the Senate, of 30 minutes; and that the agreement be in the usual form.

Mr. JAVITS. Mr. President, reserving the right to object, a number of points are to be made in this connection.

First, I will properly yield, out of time which I have as manager of the bill on the minority side, a reasonable and fair amount of time to the opponents of the bill and to the proponents of the various amendments which we contemplate, so that those Members may not feel that just because Senator NELSON and I are on the same side, time is not available to them.

The minority leader assures me that where we are on the same side in a given issue, the time goes to the minority leader, who then may yield it to those who need the time. Of course, they have their own time on amendments.

Mr. President, the Senate should know that we have discussed a number of matters which are susceptible of resolution if a time agreement is arrived at for voting on the bill. These issues are the following:

First, the duration of the bill.

Second, the authorization for appropriations.

Third, the provision in the bill which relates to how privately donated funds may be used.

Fourth, the assurances from my colleague the Senator from Wisconsin respecting oversight areas.

Fifth, the isue of what is to be the role of so-called backup centers—that is, centers for research, technical assistance, and so forth—and the effort to limit those to that function, rather than having them as some seed bed for broad-scale public service litigation.

Sixth, the issue of initiation of organizations. There, the intention is, if this works out, to stay with the present law, rather then to undertake the new amendments we have.

Also, we have agreed that on a number of issues in which we could not come to agreement, we would have votes, and the Senator from Utah has named specifically the following in respect of votes——

Mr. HATCH. Mr. President, will the Senator yield?

Mr. JAVITS. I yield.

Mr. HATCH. I think it would be better if we did not go through the specific votes tonight but go through the basic changes in the bill to which we are agreeing.

Mr. JAVITS. All right.

That is all. Those are the ones about which we have understandings. As to the others, there may be any number of votes on amendments, and the Senator from Utah is going to endeavor to hold down the number. We are going to endeavor to meet his views on as many as we can and also make a contribution toward holding down the number.

I ask my colleague whether this is generally in accord with his understanding.

Mr. NELSON. Yes. The Senator from New York states it the way I understand it.

I suppose it is clear that no final agreement has been reached here until the Senator from Utah has a chance to confer tomorrow with some of the other Members who may have amendments; that there is no final agreement until a specific time to vote is agreed upon.

I take it that it is the understanding that this will remain the pending business until it is finally disposed of.

Mr. JAVITS. We are going to agree on this unanimous-consent request.

Mr. ROBERT C. BYRD. This unanimous-consent agreement would be in place. It is just that, as I understand it, there is no agreement as to the time for final action on the measure.

Mr. HATCH. Mr. President, will the Senator yield?

Mr. JAVITS. I yield.

Mr. HATCH. I ask this question of the distinguished majority leader: If this is in the regular form, would that preclude nongermane amendments?

Mr. ROBERT C. BYRD. Yes; it would.

Mr. HATCH. Then, I would have to ask unanimous consent that nongermane amendments be in order on this bill, because I know of at least one that may fit in that category. We will try to keep them down.

Mr. JAVITS. Could the Senator specify the area of the nongermane amendments that he has in mind?

Mr. HATCH. The only one I know of would be the one by Mr. DOMENICI, which would go toward attorneys' fees in unsuccessful situations.

Mr. JAVITS. In cases where the Federal Government was the defendant.

Mr. HATCH. Right. But there may be others, so I would like to amend the regular form, and to that extent I ask unanimous consent that it be so amended.

Mr. JAVITS. That amendment then, it is understood, will be qualified.

Mr. HATCH. Yes; but I am not sure there will not be others. I am not sure.

(Mr. CRANSTON assumed the chair.)

Mr. DURKIN. Mr. President, reserving the right to object, under no set of circumstances would the nongermane amendment in any way apply to passive restraint systems.

Mr. ROBERT C. BYRD. No; they do not have that.

Mr. HATCH. No.

Mr. JAVITS. I am still in a little bit of a quandary as to how we leave this.

Mr. HATCH. It is my understanding we are agreeing this evening to a 4-hour

limitation on the bill, a 1-hour limitation on amendments, and a 30-minute limitation on amendments in the second degree, as stated by the distinguished majority leader.

Mr. ROBERT C. BYRD. That is right.

Mr. HATCH. It is my understanding we are agreeing this evening to the following affected changes in the bill and to work out language on some of the changes:

No. 1, we will reduce the authorization time of the bill from 5 to 3 years; we will agree to the authorization at $205 million for 1978, and use the language of the bill for 1979 and 1980 of such sums as may be necessary.

No. 2, that we will make it clear in the bill that private funds will not be used for prohibited purposes.

No. 3, that we will be guaranteed oversight to the extent—and we will have oversight hearings in the last few months of this year or the first 3 months of next year in accordance with the scheduling problems of the distinguished ranking majority member of the subcommittee having oversight of this particular problem; and that these oversight hearings will go into matters that have been raised by various Senators on the floor of the Senate, and any other matters that may be raised by responsible persons.

Mr. NELSON. May I say, Mr. President, if the Senator will yield, we certainly will have oversight hearings. I do not wish to be bound by the commitment to have them this year since, as I mentioned this afternoon——

Mr. HATCH. No; I said either this year or the first 3 months of next year.

Mr. NELSON. I have a substantial number we are undertaking in November and December. But we will have oversight hearings certainly in the first 3 months of next year.

The PRESIDING OFFICER. Is there objection?

Mr. STEVENS. Mr. President, reserving the right to object, I would like to know what happens to the passive restraint item we discussed previously. Is it my understanding that we are willing to have a vote by 5 o'clock? Is it part of this agreement that we will put this matter aside for an hour between 4:30 and 5:30 and vote on passive restraint by 5:30?

Mr. JAVITS. I would feel compelled to object. I feel we should finish this and then we can go to the other. I was hoping we could have a finished unanimous consent tonight.

Mr. STEVENS. Then I am compelled to object to this agreement.

Mr. BAKER. I hope we would not do that quite yet. I would hope, if the distinguished minority whip would indulge me for just a moment, he would not object at this time. I think we made real progress here.

Mr. HATCH. I think we have.

Mr. BAKER. In trying to reach this point, and I think it is clear that under the existing unanimous-consent order, that we proceed after the completion of this measure to the passive-restraint matter, and I think we are a lot closer to getting to the passive restraint now than we were 30 minutes ago.

Mr. JAVITS. Mr. President, will the Senator yield to me? I am more than happy to agree to the passive restraint if we can get a time to vote. My problem is Senator Hatch is in no position to give us any agreement respecting the conclusion of this matter.

Mr. STEVENS. I want the Senator to know I am not acting in my capacity as minority whip. I was a member of the Commerce Committee that made the assurance that there would be a vote on passive-restraint matters. As I understand the situation, tomorrow is the last possible day we can act and still leave enough time for the House to do likewise. It is my understanding that the House will be in session on Thursday, but not on Friday. If that is, indeed, the case, then we must vote tomorrow to insure that the House has the opportunity to consider this matter.

I feel that this Legal Services Corporation is being used, in effect, to hold hostage the commitment we made as members of the Commerce Committee that there would be a vote on the Senate floor on passive restraint.

Let me make it clear that I am not going to agree to any time limitation on the legal services bill unless it includes an agreement for a vote on the Senator from Michigan's air bag resolution tomorrow. I have already told him that I am going to oppose his resolution, and that I plan to urge the Senate to oppose it as well. But he is entitled to a vote under the commitment made in the Commerce Committee when he first authorized this procedure.

I have been waiting around, and I would be happy to paritcipate in any conversation other Senators want to participate in. But as far as I am concerned there are only 2 days left for action on this issue: One for the Senate, and one for the House, and basic fairness dictates that the Senator from Michigan be entitled to a vote on his resolution tomorrow. If we do not guarantee that vote, then, as far as the Senator from Alaska is concerned, we do not have a unanimous-consent agreement.

Mr. DURKIN. Mr. President, will the Senator yield?

Mr. STEVENS. Yes.

Mr. DURKIN. I was not a part, expressly or impliedly, of any agreement that the Senator from Michigan would definitely get a vote.

Mr. STEVENS. At the time we passed the bill that authorized this legislation we made a mistake in not putting into that bill the privileged resolution provision that we discussed, and I think the members of the committee who were there will admit that. Had we included it there would be no problem. It is not a commitment made this year, but a commitment made at the time we first authorized the making of these regulations dealing with passive restraint.

Mr. DURKIN. Reserving the right to object, if the Senator will yield, I would hope the Senator from New York would reconsider his inclination to object, because, if the legal services battle wears on into the night tomorrow night, and if it is on the eve of a long weekend, then, if our votes drift away, I think the burden falls upon us to talk this air bag thing into the dashboard. I do not want to do that, and the Senate does not vant to do that. So, if I could renew the request and ask my friend from New York if we could get a vote on the air bag, passive restraint, say, between 4:30 and 6 o'clock——

Mr. BAKER. Mr. President, reserving the right to object for just a second, I reiterate what I said earlier. I think we made good progress in getting this far in the agreement. I fully appreciate the statement made by the distinguished Senator from Alaska, and I am entirely in accord with it. We owe the obligation to the Senator from Michigan and, indeed, to ourselves to have a vote on this matter, in my view, tomorrow.

Let me ask this question. First, I would like to say I think tomorrow we can improve on this unanimous-consent agreement. I think in the morning we probably can get a time certain to vote, and that will liquidate this problem. What is in the morning is not now where we ' ave problems with it now.

So I wonder if we can consider an hour, even a very late hour, that would guarantee a vote to the distinguished Senator from Michigan?

Mr. STEVENS. Mr. President, if the minority leader will yield, I rely very greatly on my good friend from West Virginia and trust him. If he will assure me that there will be a vote on the air bag or passive restraint problem tomorrow, then I will withdraw my objection.

Mr. ROBERT C. BYRD. Mr. President, if the Senator will yield, the question was addressed to me.

Mr. President, I think we owe the two Senators from Michigan a vote on the air bag resolution, and I am going to do everything I possibly can, and I believe all Senators will, in good faith to try to secure a vote on that matter tomorrow.

I believe, as the distinguished minority leader has said, if we can go forward with a time agreement we have proposed here, that we will have made great steps in that direction, and I have a feeling that the rest of it will be worked out in the morning.

I will do everything I possibly can within my power to see that a vote does occur on that resolution tomorrow at some point.

Mr. DURKIN. Mr. President, will the Senator yield for a suggestion?

Mr. ROBERT C. BYRD. Yes.

Mr. DURKIN. Could we maybe even draft an agreement that the vote on the passive restraints would come an hour after final passage of the legal service bill or 5 p.m., whichever comes sooner?

Mr. NELSON. Mr. President, I would object to that. We are unable to reach an agreement, because there are certain Members who are not here who still may have a different viewpoint. But if an agreement is reached tomorrow morning on a time limitation on the pending legislation, as far as speaking only for

myself, I would be happy to set it aside at any time on an agreed time to vote so, if tomorrow morning at 10 a.m. or 11 a.m. we reach an agreement after talking with our other colleagues and then if we want a time to set aside the bill and debate and vote on the passive restraints, it is perfectly satisfactory with me, but I would want to see the settlement of a final agreement on time to vote on the pending legislation.

Mr. ROBERT C. BYRD. Mr. President, who has the floor?

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I would modify my proposal further in the following manner:

That at 1 p.m. the Senate temporarily set aside the unfinished business and proceed to the consideration of the resolution that deals with passive restraints, Senate Concurrent Resolution 31, that there be a 1-hour time limitation for debate thereon, to be equally divided between Mr. FORD and the minority leader or his designee, and that at the close of 1 hour, to wit, at 2 p.m. there be a vote, with a motion to table in order, that if the motion to table is made and fails the vote occur immediately without further intervening motion or debate or point of order on the resolution up or down, that upon the disposition of that resolution the Senate then resume consideration of the unfinished business and that a vote occur on final passage of the unfinished business, the legal services legislation, which would include the House bill, which would include substituting the Senate language, at no later than 5 p.m. on Tuesday next.

The PRESIDING OFFICER. Is there objection?

Mr. BAKER. Mr. President, reserving the right to object.

Mr. JAVITS. Mr. President, I yield to the Senator from Utah.

Mr. HATCH. Mr. President, with regard to our agreement here this evening, in addition to the guaranteed oversight, we have agreed that staff counsel will get together and work out language which will suffice for both sides in this matter with regard to the backup centers provided for in the bill.

Mr. JAVITS. Mr. President, about the backup centers, as I understand the agreement, the staff is to work out language, so we might as well specify it, which will make it clear that backup centers are to be used solely for research, training, and technical assistance, and as a clearinghouse for information and will not engage in broadscale efforts to build up public service cases.

Mr. HATCH. Or social legislation type cases or class litigation.

Mr. NELSON. I am assuming the law remains the same as to its current authority of the backup center to assist any of the local legal services programs in the representation, in any way, of an eligible client of the local legal services program.

Mr. HATCH. Except one thing: it cannot contract out these services.

Mr. NELSON. Pardon?

Mr. HATCH. It cannot contract out these services. They would have to be done in house, according to our agreement.

Mr. NELSON. I hope we are not talking about two different things.

Mr. HATCH Under current law.

Mr. NELSON. Under the current law the backup center may assist the local legal services organizations in the representation of their clients. These services are contracted out under current law.

Mr. HATCH. That is right.

Mr. NELSON. That is what the law is now, and we are not proposing to change that. What the Senator is limiting is the research activities, is that right?

Mr. HATCH. That is right. The distinguished Senator from New York did want to have one exception to that and that is with the right of the backup center or the services corporation to employ university professors, if I recall correctly.

Mr. NELSON. That is a further question.

As I understood the unanimous consent order, I did not think the central issue concerning research activities had been resolved.

We would allow, however, contracts with a university for a 5-day training program of new legal services counsel in newly created organizations. That would be a permissible kind of contract for training purposes.

Mr. HATCH. That is right. All right, now, the next step is that with regard to eligibility determination. The bill will have a language change. We will have a right to bring up an amendment to provide for judicial determination, but the bill itself will have a language change which will be appropriate under the bill to be enacted here. As I understand it, the corporation shall give an automatic right of review to any litigant who desires to have the corporation look into the eligiblity requirements, and shall give the appropriate consideration to that appeal, or an automatic right of appeal. We want to have definite language with regard to that, and still have the right to file an amendment with regard to judicial review of eligiblity determinations.

Mr. JAVITS. As to the amendment, you can have that voted on if you desire to go to that extent.

Mr. HATCH. Right.

Mr. JAVITS. But as to the corporation itself, what I said and what I have in mind is that the corporation will say that it will consider—we will say the corporation will consider any appeal to it on the question of eligibilty.

Mr. HATCH. Right; and we will work out the appropriate language to that extent.

Now, with regard to section 1007(b)(5), we will go back to the old language in the bill, and strike out all of the new language, which begins:

To initiate the formation of any association, federation, or similar entity, except that this provision shall not be construed to prohibit the provision of legal assistance to eligible clients;

Mr. JAVITS. Yes; we will go back to the law as it stands.

Mr. HATCH. Go back to the law as it stands.

The PRESIDING OFFICER. Is there objection?

Mr. BAKER. Mr. President, reserving the right to object, might I inquire of the Chair on one point in relation to the air bag matter? We made provision for a vote on a motion to table the air bag resolution, and if that fails, an immediate vote without intervening debate on the resolution itself.

Could I inquire of the Chair, is the resolution of disapproval amendable?

The PRESIDING OFFICER. The law is silent on that issue, but the specific language of the resolution would have to be construed, the Chair believes, to prohibit amendments.

Mr. BAKER. So the Chair would rule, then, that amendments were not in order; and, of course, this unanimous-consent request makes no provision for amendments, but I just wanted to make it clear that we are not providing amendments.

The PRESIDING OFFICER. The Chair has so ruled.

Mr. JAVITS. Reserving the right to object, Mr. President, I want to have two things clarified. One is that the unanimous-consent request provides for the substitution of the text of the Senate bill for the text of the House bill, and action on the House bill.

Mr. CRANSTON. It does.

Mr. JAVITS. And as to the germaneness of amendments, we are reserving an amendment respecting legal fees which relate to suits by the Federal Government as nongermane. Now, is there anything else?

The PRESIDING OFFICER. That one nongermane amendment would be in order.

Mr. HATCH. Could I ask one other thing? It is my understanding that all amendments can be filed so long as final passage is no later than 5 o'clock p.m. next Tuesday.

The PRESIDING OFFICER. That is correct.

Mr. JAVITS. Well, now, is the Senator speaking of nongermane amendments?

Mr. HATCH. I am speaking of all amendments, including the Domenici amendment, which may be nongermane.

Mr. JAVITS. That is fine, but I would not want to agree to some nongermane amendment which might become a major issue of our time.

The PRESIDING OFFICER. Is there objection?

Mr. STEVENS. Mr. President, reserving the right to object, so that the present occupant of the chair (Mr. CRANSTON) and I can send out appropriate notices, in any case there will be a vote on final passage of the legal services bill no later than 5 p.m. Tuesday?

The PRESIDING OFFICER. The Senator is correct.

Mr. ROBERT C. BYRD. And that the provisions of rule XII be waived.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The text of the agreement is as follows:

Ordered, That when the Senate proceeds to the consideration of S. 1303 (Order No. 145), a bill to amend the Legal Services Corporation Act to provide authorization of appropriations for additional fiscal years, and for other purposes, debate on any amendment in the first degree shall be limited to 1 hour, to be equally divided and controlled by the mover of such and the manager of the bill; debate on any amendment in the second degree shall be limited to 30 minutes, to be equally divided and controlled by the mover of such and the manager of the bill; and debate on any debatable motion, appeal, or point of order which is submitted or on which the Chair entertains debate shall be limited to 30 minutes, to be equally divided and controlled by the mover of such and the manager of the bill: *Provided,* That in the event the manager of the bill is in favor of any such amendment or motion, the time in opposition thereto shall be controlled by the minority leader or his designee: *Provided further,* That no amendment that is not germane to the provisions of the said bill shall be received except for an amendment to be offered by the Senator from New Mexico (Mr. DOMENICI) dealing with legal fees.

Ordered further, That on the question of final passage of the said bill, debate shall be limited to 4 hours, to be equally divided and controlled, respectively, by the Senator from Wisconsin (Mr. NELSON) and the Senator from New York (Mr. JAVITS): *Provided,* That the said Senators, or either of them, may, from the time under their control on the passage of the said bill, allot additional time to any Senator during the consideration of any amendment, debatable motion, appeal, or point of order.

Provided further, That a vote on final passage of either the House or Senate bill will occur no later than 5 p.m. on Tuesday, October 18, 1977.

Mr. ROBERT C. BYRD. Mr. President, I thank all Senators for their patience and cooperation.

VITIATION OF ORDER FOR THE RECOGNITION OF SENATOR EAGLETON TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the recognition of Mr. EAGLETON tomorrow be vitiated.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RESUMPTION OF THE UNFINISHED BUSINESS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at the conclusion of the order for the recognition of Mr. ALLEN tomorrow, the Senate resume the consideration of the unfinished business.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECESS UNTIL 9:45 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until the hour of 9:45 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

SENATE CONCURRENT RESOLUTION 52—A CONCURRENT RESOLUTION AUTHORIZING PRINTING

Mr. ROBERT C. BYRD. Mr. President, I send to the desk a concurrent resolution and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will state the concurrent resolution.

The second assistant legislative clerk read as follows:

S. CON. RES. 52

Authorizing the printing of additional copies of the booklet entitled "The Senate Chamber, 1810–1859"

Resolved by the Senate (the House of Representatives concurring), That there be printed for the use of the Commission on Art and Antiquities of the United States Senate fifty thousand additional copies of the booklet entitled "The Senate Chamber, 1810–1859".

Mr. ROBERT C. BYRD. Mr. President, I am advised by the Commission on Art and Antiquities that the booklet, "The Senate Chamber, 1810–59" will be out of stock within a few weeks. This resolution is identical to the 1976 reprint resolution, except that it specifies 50,000 copies instead of 30,000.

The PRESIDING OFFICER. The question is on agreeing to the concurrent resolution.

The concurrent resolution was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the concurrent resolution was agreed to.

Mr. BAKER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will convene at 9:45 a.m. tomorrow.

After the two leaders or their designees have been recognized under the standing order, the Senator from Alabama (Mr. ALLEN) will be recognized for not to exceed 15 minutes, after which the Senate will resume the consideration of the unfinished business, S. 1303, to amend the Legal Services Corporation Act, under a time agreement.

Rollcall votes will occur during the afternoon on that measure. At 1 o'clock p.m. tomorrow, the Senate will set aside temporarily the unfinished business and will proceed to the consideration of Calendar Order No. 446, Senate Concurrent Resolution 31, a concurrent resolution to disapprove Federal Motor Vehicle Safety Standard 208 transmitted on June 30, 1977.

After 1 hour of debate, to be equally divided and controlled, the Senate will proceed to vote. A motion to lay on the table will be in order, and i fsuch motion to lay on the table is made and carries, the Senate will immediately resume the consideration of the unfinished business. If such motion to lay on the table fails, the Senate will proceed, without intervening debate, motion, amendment, point of order, or appeal to vote up or down on Senate Concurrent Resolution 31.

Upon the disposition of Senate Concurrent Resolution 31, the Senate will resume the consideration of the unfinished business, S. 1303.

I would expect tomorrow to be a fairly long day, with rollcall votes throughout. It is hoped that the Senate will complete action on the unfinished business, the Legal Services Corporation Act, tomorrow, but in the event that action is not completed thereon tomorrow, it is the intention of the leadership to go over until Monday, and at that time to continue the consideration of the unfinished business, if not completed prior thereto.

The leadership has decided on this course of action in order that the Finance Committee may meet without interruption on Thursday and Friday to further its consideration of the energy tax bill, and also to accommodate Senate conferees in the necessary meetings with House conferees on the various measures that are in conference between the two houses.

RECESS UNTIL 9:45 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in recess until the hour of 9:45 a.m. tomorrow.

The motion was agreed to; and at 8:51 p.m., the Senate recessed until tomorrow, Wednesday, October 12, 1977, at 9:45 a.m.

NOMINATION

Executive nomination received by the Senate October 11, 1977:

DEPARTMENT OF STATE

Robert E. White, of Massachusetts, a Foreign Service officer of class one, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Paraguay.

EXTENSIONS OF REMARKS

SENATOR PELL WRITES ON HIGHER EDUCATION

HON. JOHN BRADEMAS
OF INDIANA
IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 11, 1977

Mr. BRADEMAS. Mr. Speaker, Senator CLAIBORNE PELL, the distinguished chairman of the Subcommittee on Education of the Senate Human Resources Committee, is one of the most thoughtful and forceful leaders in American education. The September 1977 issue of Case Currents includes an article by Senator PELL entitled "A Time To Watch, a Time To Work," in which he discusses Federal policy for higher education.

I believe Senator PELL's article merits the attention of all who are interested in this subject, and I insert the article at this point in the RECORD:

A TIME TO WATCH, A TIME TO WORK
(By Senator CLAIBORNE PELL)

Now is a time of watching for higher education. We must wait to see how the work we have done will work out. Still, it is a time for strong leadership.

In our two-year debate on the provisions of the 1976 Higher Education Amendments, we reaffirmed a philosophy firmly expressed five years ago: that the federal role in higher education is to guarantee access. The goal was then, and still is, to help every student receive some higher education. That is what the federal role will be, until eventually we achieve our objective that every citizen with the desire and the ability shall be able to have 16 years of education. We are moving rapidly toward that goal; I believe we shall achieve it.

We need leadership to maintain the progress we have made. We have to make sure that the federal government plays its part in helping education solve some hard problems along the way. We must see that all regulations are written simply and favorably, and we must, as always, keep our eye on funding. This is not as glamorous as the work we do on legislation. It certainly is not half as interesting. But this is the work that is needed now if we are truly interested in making the law work. For that, we need people who are prepared for a long and sometimes dull job.

ENROLLMENT DECLINE

What, then, are the problems facing higher education?

There is a drop in enrollment which some educators see almost as a death blow to many institutions. I do not see it that way. There are still thousands and hundreds of thousands and millions of potential students in America to take up the slack left by the decline in the traditional school-age population.

What is needed to overcome the loss is for us to attract more workers, more professionals, more of the general population into our schools and universities.

I will mention a few of many examples.

Increasingly, workers and professionals are turning to colleges and universities for advanced training and recertification. This is a service educators can and should provide. It is a strongly developing trend, and we can count on it.

There is another group of people whom we do not consider often but who provide a magnificent opportunity for educators. This group is our nation's prison population. There are 200,000 Americans behind bars. They are there largely because of ignorance and illiteracy, because of poverty, and because of low self-images—all of which are problems that education can help solve. I do not want to say the education is a panacea, but this is a challenge I would like to see educators answer.

Finally, I want to see education become a major leisure activity. This is a direction in which community and junior colleges have led the way. We need to see more of that. We need to see more aggressive curriculum planning and an ever-increasing sensitivity to the needs and interests of special groups. That is how higher education enrollments will not only hold steady but may even grow.

STUDENT AID

The other major problems I see for higher education are economic, but in a way that is special to education. First, the student-aid programs we have are doing well, but for only a very limited part of the population. I receive letters every day from parents and students in middle-class families who cannot afford the cost of higher education. At the same time, their incomes are just high enough to exclude them from student aid. This is the cruelest bind for them, and we must act to relieve them from this pressure.

Five or six years ago, their income may have been enough, but it is not any more. The limits we set on the programs are obsolete. Each year we must examine them and adjust for inflation. The results, if we do not do that, will be severe. College will become the playground of the very rich, who can always pay; the very talented, who will always be paid; and the very poor, for whom there is aid. We cannot allow this to happen.

Finally, there is the burden of inflation. It cuts the students' and parents' ability to pay as it raises tuition and fees. In this recession, every sector of the economy has been hurt, but education has been especially vulnerable because it depends on the work of so many people. We cannot educate more students with fewer teachers. We cannot replace doctors and professors with television sets. We cannot package the process of education. Because of that, expenses rise automatically.

Again, it is up to us to see that we take in enough money to account for ever-greater costs. That requires, above all else, leadership and unity. Each year we must put more money into our work just to maintain the same effort. If we really want to advance our role, if we want to go out and attract nontraditional students, if we want to help the hard-pressed middle class, and if we want to increase the federal share in education, then we will have to work twice as hard.

THE CARTER ADMINISTRATION AND HIGHER EDUCATION

This year, along with all these other challenges and uncertainties, we have a new administration to contend with. We have an entirely new set of players in the top positions. I believe all these people are friendly to our interests. As of yet, though, we have not heard very much and what we have heard has not met our expectations.

There has not been too much good news for us in the Carter administration statements concerning education, particularly the budget request. What is most distressing of all is that I am not sure where the administration stands on many educational issues.

During the campaign we heard that the new administration would emphasize education. The Democratic platform supported increased aid to our nation's schools and universities, and that was what President Carter said he would do. The platform talked about raising the federal share of public education beyond the 10 percent level, which is a promise of aid that our educational system badly needs.

The federal contribution to public education has always been small. It was 4.3 percent of the total in 1965. Then President Lyndon Johnson stepped in with the war on poverty. In two years, the federal share rose to 8.8 percent. The increases continued until the 1971–72 school year when the government paid for 9.5 percent of the total. That was the highwater mark. In the following years, the contribution from Washington slipped to 7.8 percent and, based on the budget that the administration presented this year, it will slip again if we do not act.

What concerns me most, though, is that there is not much consultation on matters of policy. The problems are so large and the relationship between Washington and the states is so delicate that we must move in concert with the executive branch. We cannot afford eight more years of open warfare between the executive and legislative branches. We must move, and there must be consultation.

There has always been tension between the branches of government which is something to be expected. My point is that we now have the opportunity to enjoy a consensus in the government. We have a strongly Democratic Congress and a popular Democratic president in his first term in office. More than that, the country is still ready to take on new directions and new challenges.

All that is needed is a plan of action and, more than anyone else, the President can provide that. It would be a great loss, not only for education, but for all the country if we could not find it in ourselves to work together.

EDUCATIONAL EQUITY FOR VIETNAM VETERANS

HON. MARGARET M. HECKLER
OF MASSACHUSETTS
IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 11, 1977

Mrs. HECKLER. Mr. Speaker, the current flat payment schedule of educational assistance allowances for veterans utilizing the GI bill of education is inadequate. By paying a veteran according to the number of dependents rather than according to the cost of living and of obtaining an education, we shortchange the Vietnam veteran.

The World War II GI bill took into account such factors. It provided a subsistence allowance for the veteran and provided a separate tuition allowance which took into account the differences in tuition costs around the country. This is the basic approach we must apply today to the Vietnam-era GI bill.

In recent testimony before the Veterans' Subcommittee on Education and Training, of which I am ranking minority member, Dr. John R. Silber presented an excellent case for this approach. In addition to being president of Boston University, Dr. Silber is chairman of the legislation committee of the American

Association of Independent Colleges and Universities. Because Dr. Silber is an outstanding leader in his community and a distinguished national figure in higher education, I would like to call his remarks to the attention of my colleagues in the House.

I insert his remarks in two parts, the second of which shall appear tomorrow:

PART I—DAY I

The original G.I. Bill represented the most significant federal initiative in higher education since the Morrill Act, and also the most successful. Its more recent versions have continued a tradition of assisting veterans to ease their re-entry into civilian life through education and training.

Over the history of the veterans' educational benefit, higher education itself has undergone a series of very significant changes. The most important among these are a massive expansion of the state-operated sector, major increases in the tuition charged by all institutions and the development of a massive gap between the tuition charged by state institutions and that charged by independent institutions. These changes have inevitably affected the use that veterans make of their educational benefits. Many of these effects run counter both to simple justice and congressional intent.

There are striking differences in the use veterans make of G.I. bill in the various states. In California, for example, more than 50 percent of all eligible veterans use their educational benefits in two- and four-year colleges, while in Massachusetts, the figure is only 30 percent. In Vermont, the rate is still lower: 17 percent. Although it is possible that some of these disparities have sociological explanations, it is striking that in California, the state with the highest rate of veteran use, the state colleges and universities charge an average tuition of $225 a year, the lowest in the nation, and that in Vermont, the state with the lowest rate of veteran use, the state colleges and universities charge an average tuition of $953 a year, the highest in the nation. By whatever measure—average tuition prices, typical tuition prices, or tuition prices at institutions of comparable reputation and merit—the higher the tuition price in a state or region, the lower the use by eligible veterans.

There can, of course, be no justification for extending greater educational opportunity or freedom of choice to veterans living in one state or region. The Congress would, I believe, never have deliberately introduced such discrimination into the law. But the fact is that by giving all veterans the same educational benefit, the law creates a substantial inequity. The current mechanism is clearly faulty. It is like a system in which each returning veteran arriving in California from Vietnam would be given an identical allowance for travel back to his home, in an amount equal to the average of all airline fares in the country. Under such a scheme, some veterans would get home, and others would get only part way. Such a scheme, of course, is no more than an eccentric hypothesis, for in supplying veterans with transportation home, the law wisely makes allowances for differences in cost; but we now actually use a similar scheme in paying educational benefits.

The inequity in educational benefits is further compounded by the fact that many of the areas with high tuition have equally high living costs. A veteran attending school with high tuition in such an area not only must use a greater proportion of his benefit for educational expenses, but also must pay higher living expenses. The present law, by combining educational and living expenses into one invariable entitlement, only compounds the initial inequity.

Consider the cases of two single veterans. Both, under H.R. 8701, would receive $2,790 for a nine-month school year. One enrolls at San Francisco State University. After paying tuition and fees of $200, he has $2,590, or $288 a month, for living expenses. The other veteran enrolls at a comparable institution in Ohio, the University of Cincinnati. After paying tuition and fees of $980, he would have $1,810, or $201 a month, for living expenses. These are not minor inequities: simply by the fact of his residence, the Ohio veteran receives an effective living cost benefit 30% less than that paid his comrade in California. Both these veterans have enrolled in state-supported universities. They are dealt with lavishly compared to a veteran who wishes to enroll in an independent college or university. On the average, he will pay $2,000 of his benefit for tuition, leaving him $790, or $88 a month, for living expenses. And at a great many independent universities, the tuition charge will use up the entire benefit, leaving nothing for living expenses. At Boston University, where tuition and fees are typical but far from the highest, the benefit would cover only two-thirds of the tuition charge, forcing the veteran to find another $1,000 for tuition and leaving him with nothing for living expenses.

No veteran who is entirely dependent on his G.I. benefit can attend any independent college or university in this country. It has been argued that if the taxpayer is to subsidize the education of veterans, that education should be in "low-cost public institutions," so that the drain on the public treasury will be less. Aside from a mistaken assumption that only the institutions operated by the state are public—when the fact is that all colleges and universities are public because they educate the public and nothing else—this argument inaccurately assumes that state-supported higher education is low-cost. This belief confuses the *cost* of higher education with the *price* charged to the student. The state cannot buy goods and services any cheaper than anyone else, and therefore comparable education must cost comparable sums. Whatever education the state delivers in its institutions the taxpayer must pay for at market prices. There is in fact no such thing as a free or cheap college education, and what appears to be a free lunch is in fact paid for by the taxpayer. And the state taxpayer does not benefit when federal veterans policy encourages unneeded expansion in the state sector. The state taxpayer would in fact benefit from a veterans policy that encouraged the use of unneeded capacity in the independent sector.

Where federal policy limits veteran education to state institutions, it limits veteran choice. The most obvious limitation is that present policy discourages veterans from attending small colleges, even though for some veterans such colleges may be the most appropriate choice. This limitation is in fact a form of discrimination, and only one example of the inequities in our treatment of veterans. At one end of the scale, consider a veteran who wishes to study wool technology at the University of Wyoming. He is enabled to attend the school of his choice and to have a monthly living allowance of $261 in a fairly low-cost city. At the other end is a Boston veteran who wishes to study engineering. The average tuition at Boston area institutions offering such programs would consume his entire benefit, leaving him with nothing to pay the highest living costs in the nation. If he is totally dependent on his benefit, he cannot attend a college in his home town. If he can, it is only because he has very substantial resources beyond his G.I. entitlement.

If we are to treat veterans with greater even-handedness, we need to adopt the principle of tuition equalization and cost-of-living equalization. The statistics I have cited are ample evidence of the need for such equalization. If the Congress can develop a single plan to diminish these inequities, they will have achieved significant progress towards equity for all veterans.

THOMAS COOK: OUTSTANDING MINORITY BUSINESS ENTREPRENEUR

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 11, 1977

Mr. STOKES. Mr. Speaker, it gives me great pleasure to rise on this occasion to bring to your attention and to the attention of my colleagues in the U.S. House of Representatives the outstanding record of achievement of Mr. Thomas Cook of Cleveland, Ohio. Mr. Cook is the president of the Cook Paving and Construction Co., which is one of the most prestigious and successful minority businesses in the city. So that my colleagues can familiarize themselves with this exemplary minority enterprise, I would like to take this opportunity to tell you something of the company's history.

Cook Paving and Construction Co. was incorporated in the State of Ohio in 1946. Young Thomas and his father Montry Cook had the foresight to sense that there would be a need for greater construction capability in post-war Cleveland. In the 30 years since its inception, the company has grown in service and in scope and currently provides jobs for a seasonal crew of 30 to 40 workers and full time employment for a full staff of engineers, estimators and clerical workers.

Thomas Cook has been the president of the company since 1963 upon the death of his father. Under his able guidance the company has continued to prosper. They are now certified by the State of Ohio to participate in heavy highway construction and are licensed to operate in all the municipalities of Cuyahoga County.

Mr. Speaker, in addition to his corporate functions, Mr. Cook is an active force in the civic and social organizations in our city. He is an active member of the Cleveland Engineering Society, and the Cleveland Growth Association. He is also on the board of trustees of the Quincy Savings and Loan Association, St. Lukes Hospital, Citizens League of Cleveland, and the Glenville YMCA. In addition, he is president of the North Eastern Ohio Camera Council, cofounder of the Double exposure Camera Club, and life member of Alpha Phi Alpha Fraternity and a member of the Inter-Church Council of Greater Cleveland.

In 1965, Cook Paving became the 300th member of the Ohio Contractors Association, the first black company to be accepted for membership. In 1966, they were accepted into the Associated General Contractors of America. Under the auspices of this group, Mr. Cook was selected to serve on the legislative committee which required considerable work here in Washington and numerous ap-

pearances before House and Senate committees.

Mr. Speaker, On Sunday October 16, friends and associates of Thomas Cook are sponsoring a dinner in his honor. Special tribute will also be paid to his wife, Mrs. Carribelle Cook who has been an integral force in the success of the company. At this time, Mr. Speaker, I would like to ask that my colleagues join me in congratulating the Cooks on this eventful occasion. It is a well deserved tribute to an outstanding company and an outstanding man. Let us hope that they continue to grow and prosper.

AMY'S ROLE IN THE WHITE HOUSE

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 11, 1977

Mr. RANGEL. Mr. Speaker, today I would like to share with my colleagues an article which, I feel, captures the true spirit and sincerity of our President.

After examining the close relationship with his daughter, Amy, I think it is safe to say that his attitude in this relationship exemplifies his true genuine concern for the welfare of this country. Perhaps we should all be very thankful that for now, we have a President who does have high moral standards.

Mr. Carter originally came into office as a "non-Washington" politician. Maybe having a child in the White House tends to preserve an innocence and idealism which so many others lose later in life. Although I have not always agreed with the President's position, I believe firmly that his actions are governed by the most honorable and sincerest intentions to help his fellow man.

Al Duckett is a friend of mine and thus I would like to share some more thoughts on this matter in order that we might learn how this White House works. The article, which appeared in the spring issue of Collegiate Woman's Career magazine follows:

WELCOME LETTER TO AMY

A friend remarked, the other day, that it is good to have a child in the White House again. And I agree. I recall the last time there were children living in that imposing residence on Pennsylvania Avenue, one of the things I appreciated about John Kennedy was that he would interrupt a Cabinet meeting or an international conference when John John or Caroline required his attention. I think his devotion as a father was one of his most appealing qualities. Of course, Caroline was at the age and stage when any realistic daddy would surrender to the delight and despair of hopelessness, aware that his heart is completely captive and his defenses down. The fact that little Caroline could do no wrong was documented once when a very Republican newspaper, mournfully contemplating the prospect of an extended Kennedy stay in the Presidency, observed: "Of course, it would be unthinkable to turn little Caroline out of the White House."

When realism hammered us with the terrible blow of the assassination, for me, the saddest moment was when little John-John was quoted as saying: "Now I have no one to play with."

To think that, with all the demands of world problems, domestic affairs and political upheaval, here was a father with time for his children. It was not only we adults who sensed and appreciated it. It was also the children of America for whom JFK was a romantic, winning personality.

Lyndon Johnson and Richard Nixon came to power after their children—and perhaps their idealism—had grown up. So there was no child in the White House with whom the country could relate.

So, welcome Amy Carter.

Already, you have come to the focal center of a social philosophy. Mr. Eisenhower said he felt it was his duty to enforce the Supreme Court decision on busing; he didn't feel required to agree with it. The Nixon-Ford attitudes were weather-vaned toward whatever conservative currents might blow. But here we have little Amy, first Presidential child to go to public school. And she goes, one day, hand in hand with a black child her age. It has nothing to do with forced busing or, really, with school integration. It has everything to do with the brotherhood and sisterhood of humans, a quality often denied by people who consider themselves dedicated to the fatherhood of God. President Eisenhower made history when he sent troops into Little Rock to make it possible for nine black kids to go to high school between battle-lines of angry, belligerents. There were those wistful people who declared how marvelous it would have been had the President-General been willing to go to Little Rock and take the hand of a black child and brave those barricades. That would have been melodrama. You seem to make it so simple. There will be sneers that the walk into the school house was politically contrived as there are sneers that the President who alighted from his limousine to walk to the world's premier palace of power was hamming it up for the cameras. Well, I believe, because I choose to believe, that both those actions were sincere. Further, I submit that we need not begrudge their public relations value. I think that, after such an overdose of the Imperial Presidency, there is much to be said—even for public relations about values like simplicity and sincerity and humaneness. Those who clasp to their breasts the cold comfort of cynicism may do so. I prefer the capacity to believe; that it can be so potent that it can transmute symbolism into actuality.

So, Amy, I'm glad you're you and that you're where you are and I wish you lots of happiness like you've given to some of us. You loved the lady who was hired as your nurse and who became your friend. So, they tell me, you asked to have her back. And, since there's virtually nothing, at the moment, which can be refused your family, it became possible to reach back down into a prison cell in Georgia and bring about the release of this lady who, in society's eyes, was a murderess. In your eyes, she is a companion, protector and comforter. In days to come, analysts will compare how in a crime-ridden society, your daddy's predecessor saw as compassionate the pardon of a President who had become a potentate and whose corruption was so malignant that it licensed corruption in others charged to lead; to compare that pardon with a beginning toward reaching out to reclaim to America prisoners of conscience who lived in exile and disgrace; to compare that pardon with the rehabilitative, bold and courageous rescue from a narrow prison cell of a human being who had been found guilty of serious violation of the law. Today, that woman is a willing prisoner in the embrace of love and no person can truly find fault with the kind of faith you and your Daddy and the rest of your family have in your nurse.

It might seem, Amy, that being daughter of the White House is like having Christmas every day. Yet, the same splendor, the spotlight and the adulation which are given you daily can become a crushing burden to an adult—and certainly to a child. I welcome you as First Child—right up there with my own grandchildren. But I hope that the commonsense and caring of your family will leave room for you to still live some of that magic which is childhood's special heritage. I think you will have that quality given you by those who love you most. It is a quality that cannot be appropriated in the House or legislated in the Senate or set in motion by an Executive Order. It is the kind of quality I think I see in your grandmother, Miz Lillian. I feel as though I know this lady. Your mother comes across with an unassuming but reliant kind of spirit. I know little of her but I like her style, her speaking out and use of her personal influence in the fight for ERA, her willingness to be concerned with the problem of mental health, rather than cultivating the image of chief party giver to the world. One of these days, maybe I'll be fortunate enough to sit down in an informal interview with your mother so I can come back and write a story of my impressions.

But as for your grandmother, I feel almost as though I already know her. I like the way she speaks out—so naturally, with so little inhibition. When a reporter asked her if she thought your Daddy would make a great President, she said "Yes. If he does what he said he'd do." This could not have been merely a politician's mother speaking, but the concerned candor of a mother who finds that title superior to that of mother of the President.

For you, little Amy, your father, mother, and your grandmother, I have deep respect. I wish for your fulfillment because your family is the touchstone of that hope which only yesterday seemed sick and flickering into death.

For you especially, Amy, I wish the time and space and atmosphere to run, to play, to wonder, to be as private as you wish and only as public as you wish, to have those secret dreams which light the countenances of the sleeping young and bring smiles and love in a rush to the hearts of those who guide their world.

In short, Amy, for you and your family—I wish you love, the ultimate Roots of Life.

—ALFRED DUCKETT.

LUTHER KUDER IS AGENT OF THE YEAR

HON. MARC L. MARKS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 11, 1977

Mr. MARKS. Mr. Speaker, just recently, the Travelers Insurance Cos. of Hartford, Conn., named Luther J. Kuder, the Travelers' 1977 Agent of the Year, Added to that distinction was the honor of being the subject of the cover story for the September 1977 issue of Protection, America's oldest company magazine.

I am as proud of Luther Kuder as he must be in receiving this singular honor, because he is a constituent of mine in the 24th District of Pennsylvania as well as a personal friend.

Luther Kuder is in his 78th year but shows no signs of ending his more than half century of service.

Because he is unique in this respect, I thought I might quote from the Protec-

tion story that provides the fitting tribute this man so richly deserves:

The Agent of the Year recognition is reserved for LHFS producers who excel in five categories: Production, Persistency, Service to Clients, Service to the Industry and Self-Development. There is no doubt of Luther Kuder's qualifications on any of these grounds.

A large part of the ease with which he practices his business stems from the fact that he truly likes and cares about people. On why he selected Life insurance as his profession, Luther says, "I was determined to make life better, not just for me, but for others. So many people in and around Greenville helped me when I was down and out. I had to repay them somehow. What better way than with Life insurance?"

No profile of Luther Kuder can rest solely on his business accomplishments. He is involved with numerous projects that make Greenville a better place to live and work. Recognition to his deep commitment to his hometown has been pointed out on many occasions. At the 1976 National Leadership Conference in San Francisco, Luther was honored by the Travelers for his contributions to Improving the Quality of Life.

Serve in your time and you'll be remembered for all times. Because, you see, no man can tell whether he's rich or poor by turning to his ledger. It is the heart that makes the man rich. He is richer for what he is, not according to what he has.

Mr. Speaker, I should like to personally congratulate Luther Kuder, his wife and his family. They are an asset and an honor to our district.

OUTSTANDING YOUNG WOMAN OF 1977

HON. ALLEN E. ERTEL

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 11, 1977

Mr. ERTEL. Mr. Speaker, on Saturday, October 15, 1977, the Pennsylvania Jaycettes will honor Mrs. Peggy Eckenroth Williams as their "Outstanding Young Woman of 1977." Mrs. Williams was chosen from a wide field of candidates for this honor because she best exemplifies the ideals and creed of the Jaycettes nationwide.

She has demonstrated outstanding leadership abilities in seeking to advance the quality of life for the handicapped in the community. She has given of herself unstintingly in the cause of helping others less fortunate than she. With incredible tenacity and considerable personal talent, she has vigorously sought out worthy community projects in which to enlist and offer support.

Her very genuine interest in her fellow human being is reflected in her many meaningful activities, all of which were served in the face of extreme adversity. She has indeed served the total community admirably. She has consistently displayed a remarkable lust for life and a cheerful, contagious optimism that has brought new dimensions of happiness to the lives of all who know and identify with her. She is a perfect example of the joy of living.

Mrs. Williams was recently named coordinator of the Lebanon County Multiple Sclerosis Society, in charge of fundraising and patient referrals. This would not be unusual or worthy of note, except that Mrs. Williams is herself a victim of MS and has lived with her handicap since the age of 16. To my knowledge, she is presently the only MS victim in the United States to serve in such a capacity.

I am certain that Mrs. Williams' accomplishments and personal courage are a source of inspiration to all who know and work with her. I join with the Pennsylvania Jaycettes in saluting this remarkable woman.

CONTROL OF HEALTH COSTS ON GUAM

HON. ANTONIO BORJA WON PAT

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 11, 1977

Mr. WON PAT. Mr. Speaker, as the Congress moves closer toward consideration of major legislative proposals in the fields of health cost control and national health insurance, it is vital that we take into account all of the available evidence and studies which might indicate which methods do or do not work when they are put into actual practice.

Thus far, there have been very few such studies. However, one of the most significant may have been conducted during the past 3 years on the island of Guam, by the Family Health Program, Inc., a health maintenance organization based in Long Beach, Calif. Beginning in 1973, the FHP implemented a planned health care delivery system on the island of Guam which ultimately enrolled 50 percent of the total employed population. At the end of the 3-year period, hospital utilization had been reduced by 60 percent; yet, there had been no radical shift in the population mix, age, or other factor. During a period when health care costs went up at a rate of 15 to 18 percent a year throughout the United States, the rate for FHP's group practice prepayment organization rose an average of 0.6 percent a year for each of the 3 years.

Dr. Robert Gumbiner, the president of the Family Health Program, has written a brief paper on FHP's Guam experience, which gives the details of the study and describes the methods by which FHP was able to control costs so dramatically while still providing health care of the highest quality. I strongly recommend his paper, "An Analysis of the Cost Reducing Effect of Utilization Control by a Planned Health Care Delivery System on the Population of the Island of Guam," for your reading, and include it in the RECORD:

AN ANALYSIS OF THE COST REDUCING EFFECT OF UTILIZATION CONTROL BY A PLANNED HEALTH CARE DELIVERY SYSTEM ON THE POPULATION OF THE ISLAND OF GUAM

(By Robert Gumbiner, M.D., President, Family Health Program)

ABSTRACT

The purpose of this paper is to analyze the cost reducing effect of utilization control by a planned health care delivery system on the population of the Island of Guam over a three year period.

The study involves a comparison of hospital utilization, both before and after the emergence of Family Health Program, a Group Practice Prepayment Program and Health Maintenance Life Insurance Company, an Independent Practice Association.

The population on the Island of Guam represents an outstanding opportunity to test the validity of the use of a planned health care delivery system approach in the reduction of hospital utilization and the containment of costs to a confined population.

The Island of Guam, a U.S. Territory, contains a population of approximately 100,000 individuals. This civilian population is in addition to approximately 20,000 military personnel. Approximately one-third of the working population is employed by the Government of Guam, which incorporates the equivalent of the state, county, city and school district employee population for the Island. Another 20 percent of the working population are employed by the Federal Government as support personnel for the B–52 bomber base, the Polaris missile base and miscellaneous Federal installations. The balance of the population, approximately 45 percent, is represented by civilian employment, of which a certain percentage varies from time to time due to the migrant construction workers that flow between Guam, the Philippines and Korea.

For the purpose of this study, we will deal only with the total Government of Guam employee population, 40 percent of the Federal employees population and about ten percent of the remaining civilian population (which includes the teachers of the Catholic school system, the employees of the Diocese, the students of the University of Guam and about a dozen employer groups on the Island). This article thus deals with approximately 50 percent of the employed population of the Island, representing approximately 50 percent of the total population, employee and dependents.

In 1973 Family Health Program, Inc. (FHP) was operating a Group Practice Prepayment organization consisting of approximately ten physicians practicing in a medical group practice building, formerly the Catholic Medical Center. In addition, FHP sponsored through its subsidiary health and accident insurance company, Health Maintenance Life Insurance Company (HML), an individual practice association which involved approximately 30 of the fee-for-service practitioners on the Island. In fact, these doctors comprised all of the fee-for-service physicians on the Island aside from six to eight working on contract with the Guam Memorial Hospital, two or three in public health and one or two private fee-for-service physicians. Between the two organizations, the FHP Group Practice Prepayment organization and the HML Individual Practice Association program, approximately 50 percent of the total employed population were enrolled in this planned health care system. The enrollees in FHP increased during the 1973–76 period from 14,500 individuals to 30,700 individuals. The HML enrollees, during the same period of time, increased from 10,847 individuals to 12,402 individuals.

The significant factor in this controlled experiment was the hospital utilization. When FHP first introduced its program to Guam in 1972, the only acute hospital, Guam Memorial Hospital, consisted of approximately 250 beds, which was not sufficient to satisfy the existing in-patient needs. The Government of Guam had commissioned a number of studies by various architectural firms and consulting firms which finally culminated in a four-volume consulting manual from CRESAP & Company. Projections for needed hospital care at that time and extend-

ing into the near future varied from an architectural firm's projection of 500 beds to the CRESAP estimate of 350 beds, with a secondary opinion that a new health care delivery system was needed, rather than a new hospital. However, this report also indicated that it would be impossible to establish a new healtn care system based on the following reasons: (1) The doctors on the Island were against it; and (2) There was no management there capable of arranging for and controlling a prepaid health care system.

At the end of the three-year period, during which time FHP and HML had been in control of approximately 50 percent of the health care delivery on Guam (from 1973 to 1976), the hospital population was reduced in Guam Memorial Hospital from 250 to approximately 100 bed patients. Thus, there developed 100 to 150 empty beds which could have been eliminated since the hospital was operating at less than one-half occupancy The morbidity and mortality rates had improved greatly and the FHP physicians were seeing far less individuals with advanced disease. In short, the situation where the population had been using three beds per 1,000 individuals per day had changed radically to where they were now using one bed to 1.2 beds per 1,000 population per day There had been no radical shift in the population mix, age or other mediating factor. A significant fact was that the Individual Practice Association's level of bed utilization had also been reduced to almost that of the Group Practice Prepayment organization!

In the FHP Group Practice Prepayment organization, consisting of 15 doctors, there is no motivation for the physician to hospitalize the patient unnecessarily and all elective hospitalization has to be authorized by the chief of the department (i.e., surgery, ob-gyn, internal medicine) and the Medical Director. In addition, FHP physicians saw all emergency room patients prior to admission.

Through the Individual Practice Association, consisting of 30 doctors, HML provided a full-time Medical Director whose job was not only to set up the systems for prior authorization of elective hospitalization and retroactive emergency admissions, but to organize and monitor the organization's Utilization Committee, Pharmacy Committee and Executive Committee. The Medical Director was also responsible for continued "jaw boning" with doctors who appeared to have excessive utilization of an ambulatory basis.

Payment for services rendered by the Individual Practice Association physicians was drawn from a pool which consisted of approximately 40 percent of the total premium received each month. The doctors first billed the usual fee-for-service, then the total amount of all fee-for-service billed by all doctors in the Individual Practice Association was compared against the 40 percent of the total premium. If the total fee-for-service billing was in excess of the premium allocation, the relative value scale by which the doctors billed was reduced by that variable. If it was less, it was increased by that variable. HML Insurance Company assumed the financial risk for hospitalization. Here, again, the patients could not be hospitalized for elective procedures without prior authorization of the Medical Director. In case of a dispute between the attending physician and the Medical Director, the patient was referred to another specialist (in that same specialty) in the community for a consultation at no expense to the consumer. HML also paid for out-of-area emergency as well as in-area x-ray and lab. The doctors' pool stood the cost of in-area emergency (since this, in many cases, could have been taken care of by the doctor) and off-Island referral.

During this three-year period some of the doctors were "called on the carpet" by the Utilization Committee for excessive billings and billings for multiple procedures when, in fact, only one procedure had been done. Many of the doctors in the beginning attempted to play this kind of "numbers game" but eventually learned that it did not work. The most difficult area was that of ambulatory care where, in one or two cases, individuals appeared to be seeing patients much more frequently than necessary. In one instance, a solo practitioner was seeing patients at the pace of 100 patients per day and charging each a long office call. A considerable amount of time was spent attempting to correct this. Remedying this type of "gang billing" as well as "churning" was met with only moderate success. One physician was expelled from the group for poor quality of care and inappropriate treatment after repeatedly being warned by the Utilization and Executive Committees. Fact and objectivity in other cases had to be ameliorated by political expediency.

On the whole, the significance of this project is that it did work in controlling utilization and reducing cost. In the case of the Group Practice Prepayment organization—enthusiastically; in the case of the Individual Practice Association—reluctantly. During a period when health care costs went up at a rate of 15 to 18 percent a year through the United States, the rates for the Government of Guam's Health Maintenance Organization type of coverage went up 2.6 percent a year, each year of the three-year period in the Individual Practice Association section. For the Group Practice Prepayment organization the rate rose approximately 0.6 percent a year for each of the three years.

These statistics are reliable since, in both instances, all care was provided on the same benefit levels to similar population groups. All care (ambulatory, hospital, in and out-of-area, accident, preventive care and prescription drugs) was supplied to the population covered at approximately the same cost. Since the population covered was large enough (approximately 50 percent of the total population) and the reduction of utilization significant (over two-thirds) we can consider this to be a valid experiment. The fact that the majority of the physicians in the Group Practice Prepayment program were Mainland (United States) medical school graduates while the majority of the physicians in the Individual Practice Association were foreign graduates but U.S. trained (i.e., Filipino, Taiwanese and others) is not significant in the overall. More of the Mainland trained, oriented or immigrant population joined the Group Practice Prepayment program while a larger portion of the Guamanian families joined the Individual Practice Association program. Nevertheless, hospital utilization for both groups was reduced approximately the same; to one hospital bed day per 1,000 individuals in the FHP Group Practice Prepayment program and 1.2 hospital bed days per 1,000 individuals in the HML Independent Practice Association. Thus, the ethnic orientation of the providers and consumers in both prepayment groups is of little overall significance in comparing the change in costs effected by the organization's health care delivery systems.

The important variable considered was the hospital utilization factor before and after the emergence of FHP/HML as an alternate health care delivery system. The regression in the tourist industry in 1975 and a subsequent mild economic recession on the Island did not appear to have any major effect on the hospital utilization since about 50 percent of the people were covered in full by the FHP/HML-type planned health care system. No matter what the minor variables may be, the significance of a two-thirds reduction in hospital utilization plus the significant cost control is important in spite of an approximate 45 percent increase in medical care costs over the three-year period in the rest of the United States. During that same three-year period, the Guam-medical care costs rose only between 9 to 18 percent. While hospital costs remained the same during the entire period, the hospital costs were responsible for only 20 percent of the total premium. These lower hospital costs can be counter-balanced by increased costs in other areas:

1. Living costs are higher in Guam, affecting the demands of the IPA physicians;

2. All supplies, equipment and material must be transported from the Mainland;

3. The Group Practice Prepayment organization had to transport approximately 12 of their 18 physicians from Mainland U.S. and provide them with housing allowances and automobile transportation; and

4. The costs incurred in recruiting physicians for the Group Practice every two-years were high.

Thus, the total cost of health care delivery can be equated.

It can be acknowledged that the cost of providing care by an Individual Practice Association within the same format is higher than that of providing a Group Practice Prepayment organization even with the additional cost incurred by the Group Practice as mentioned above. This is because the Group Practice Prepayment organization is run on a cost basis; whereas, the Individual Practice Association payments to physicians are based on historical fees-for-service. The Individual Practice Association is under constant pressure by the individualistic physicians to increase fees to them. In addition, an Individual Practice Association, by its very nature, is more expensive since each individual physician is practicing in his own facility and duplicating many services; such as, nurses, receptionists, billing, management, facilities and equipment.

Various political forces in the community have made repeated attempts to take over or supplant the Independent Practice Association/Health Maintenance Organization for various self-interest reasons. All of this may eventually drive up the cost to the Independent Practice Association and force it into a self-destructive pattern.

Progress is coming to Guam in the form of over bedding in the acute hospital sector. Recently a new 145 bed acute hospital has opened in addition to the existing 250 bed installation. For a total system using only 100 acute beds, this represents almost a 300 percent over-bedding. Someone will have to pay for this. If it is the third party HMOs, rates will go up to the employer/employee, otherwise the general public will pay by public support of these hospitals through increased taxes.

Time and management skill will determine whether or not this unique and successful effort in cost and quality control will survive the current political environment.

A PERSONAL EXPLANATION

HON. JOHN KREBS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 11, 1977

Mr. KREBS. Mr. Speaker, because I was attending a meeting with President Carter at the White House on October 6, 1977, I was not present for rollcall No. 635. Had I been present, I would have voted "yea."

RIGHTS OF PREGNANT WOMEN

HON. MARC L. MARKS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 11, 1977

Mr. MARKS. Mr. Speaker, last December the Supreme Court, in the case of General Electric against Gilbert, ruled that it is not sex discrimination within the meaning of title VII of the Civil Rights Act of 1964 to exclude pregnancy and related disabilities from health or disability insurance or sick leave plans. The Supreme Court's decision overruled the unanimous opinion of six Federal appellate courts and runs counter to the guidelines promulgated by the Equal Employment Opportunity Commission on this subject.

Legislation in the House, such as H.R. 6075 and my own bill H.R. 5057, does not mandate compulsory disability coverage, but would require those employers who do provide disability coverage to treat pregnancy-related disability the same as any other nonwork-related disability with regard to benefits and leave policies.

Unless the effect of the Court's decision is reversed by legislative action, pregnant women will be forced in many situations to take leave without pay with a loss of income that could seriously affect the family unity, especially since more than 60 percent of working women need to work to support their families. Further, many of the 39 million women who are working shall be the victims of discrimination in situations where employers have established discriminatory health, disability, or sick leave plans, as in the Satty and Berg cases heard by the Supreme Court last week. These cases, pointing out the importance of passage of legislation, are described by Lyle Denniston in the Washington Star, October 6, 1977, in an article which I commend to my colleagues:

[From the Washington Star, Oct. 6, 1977]

RIGHTS OF PREGNANT WOMAN ARGUED BEFORE HIGH COURT

(By Lyle Denniston)

If Harry Blackmun and Potter Stewart were truly impressed, as they seemed to be, by the plight of Nora Satty, the nation's women workers may not have lost as many of their job rights as they feared.

Satty was a $140-a-week clerk with three and a half years of seniority at the Nashville Gas Co. in Tennessee. Then she became pregnant and had to take time off.

When she got back to work, she got a temporary job that did not last long and paid $10 less a week, and she had no seniority to use in bidding for a better, permanent job.

That story was laid out before the Supreme Court yesterday in a significant test case on how federal law protects—if it does—the rights of women workers who become pregnant.

The reactions of Justices Blackmun and Stewart could be decisive, because they provided two somewhat uncertain votes in the majority of six when the court last ruled on that question.

Nora Satty's case, and a companion case involving a Richmond, Calif., teacher, Sonja Lynn Berg, provide the court with a new chance to say how far it meant to go last December in a decision that has aroused the women's rights movement.

In that decision, involving the case of a General Electric Co. worker named Martha Gilbert, the court ruled it is not illegal sex discrimination under the 1964 Civil Rights Act to deny sick pay to workers who leave the job to have babies.

That made it appear that a company could take away a whole range of privileges and rights of workers who become pregnant, including seniority rights, sick leave and even the right to return to the job.

When the Supreme Court agreed to look at the Satty and Berg cases, that threat seemed even stronger.

Women's rights activists, stirred up by the ruling and its impact, have been joined by organized labor in pressing Congress to overturn the Gilbert decision, and the Senate has voted to do so.

That effort, however, apparently has been stalled temporarily in the House, and that makes the Supreme Court's continuing attitude crucial.

Yesterday, in the first hearing on the issue since the Gilbert decision, Justices Blackmun and Stewart seemed particularly troubled about what had happened to Nora Satty.

Repeatedly, they probed Nashville Gas' lawyer for justifications of the policy that took away her job and her seniority solely because she became pregnant and took time off.

The lawyer, Charles E. Wray of Nashville, ultimately relied upon a theory that pregnancy is largely a voluntary condition and that women workers choose to serve their own interests, not the company's, when they get pregnant.

Even after Wray went through his theory, Blackmun pressed on with another question: "If a worker is absent for appendicitis, would the company protect seniority?"

Wray answered that that was a "fair assumption," thus emphasizing that pregnancy was the primary basis for Nashville Gas' policy of taking away a female worker's job security.

Stewart wanted to know what "economic self-interest" of Nashville Gas would justify taking away the job status of an "experienced employee."

It was, Wray replied, to provide an incentive for employes to "stay on the job." In withdrawing seniority from a woman who takes maternity leave, he said, the company was treating her the same as it would a worker who took educational leave, putting "personal life above that of the employer."

When the turn came for Satty's lawyer, Robert W. Weismueller Jr. of Nashville, he dwelled on the facts of her case, saying that what the gas company had done in effect was to "terminate her," with results as final for her as if she had been fired just for getting pregnant.

"She had worked for the company for three and a half years, and that meant nothing," he said. "When she came back, she was at the bottom of the seniority scale and at the bottom of the pay scale."

That, he said, makes her case different from the one involving Martha Gilbert and other women workers for GE. There, it was a company policy to refuse sick pay to workers who became pregnant. But those workers suffered no other loss of job rights and did not have their basic job status changed, as Satty had, Weismueller noted.

When the court reached the teacher's case from California, the justices and the lawyers spent most of the hour discussing whether Sonja Berg had had any right to get her test case in federal court in the first place.

She went to court to challenge a school board policy of requiring teachers to take maternity leave when they might have been fit enough to keep working and denying them the right to use built-up sick leave when they did take time off to have babies.

Her case, like Satty's, involves a claim under the 1964 Civil Rights Act.

PORTLAND'S DOWNTOWN MALL

HON. LES AuCOIN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 11, 1977

Mr. AuCOIN. Mr. Speaker, Oregon prides itself on finding solutions to its own problems, even if those solutions by comparison with the rest of the Nation are revolutionary. It is a combination of old individualism and new activism.

To my way of thinking, the way things get accomplished in Oregon is more important and significant to the rest of the Nation than the accomplishments themselves.

Nevertheless, many of the accomplishments are meritorious and deserve recognition, so I rise today to include in the RECORD a recent story published in the New York Times describing the city of Portland's nearly completed downtown mall.

As the story indicates, enthusiasm is building for the 15-block area which has enhanced the appeal of Portland's inviting downtown.

I cannot help but think of this project as bringing full circle an earlier, controversial decision to scrap a major freeway that would have allowed motorists to speed back and forth from the city to nearby suburbs. The freeway was killed because it would have acted like a centrifuge, spinning people out of the city's center and making the city less vital. The Portland Mall, on the other hand, acts like a magnet, drawing people into the city, increasing its vitality and, perhaps most ironically, its worth to the surrounding communities.

Portland, through efforts such as the mall, is not being allowed to degenerate into a meaningless glob of concrete, or an annoyance to be overcome in scurrying from one suburb to the next. Rather, the city is being refit for our times.

Ours is an age in which people can be together, not apart; they conserve, not consume; they can have quality, rather than gross quantity. Our cities are forgotten resources hidden by the tarnish of years of neglect. But underneath, the value is there and city officials and civil leaders in places such as Portland are to be commended for discovering this wealth and polishing it off for all to see, and to use.

The Portland Mall, with its wide sidewalks, renovated stores and outdoor art, is a tribute to new vision and new commitment to restoring a place for people, an energy-efficient living environment, a place of texture, diversity, interest and personal satisfaction.

The article follows:

PORTLAND, OREG., ACCLAIMS DOWNTOWN MALL

(By Les Ledbetter)

PORTLAND, OREG., September 26.—The Portland Mall, a 15-block stretch of wide side-

walks, renovated stores and outdoor art, is nearly finished, and thousands of area residents are already enthusiastic.

Begun in 1975 and scheduled for completion late this year, the mall is essentially a $15 million designer's bus stop. Although Portland's downtown has not deteriorated as much as those of other cities, the civic planners here created the project to bring in shoppers by encouraging pedestrian and bus traffic, as well as to set the style for a developing building boom in the area.

An outdoor fair this weekend, dubbed "Artquake," attracted one of the largest crowds ever seen in Portland to the downtown blocks that were filled with tents and stages offering music, food, crafts, arts, excitement and a sense of community.

Those who wandered along the new streets and sidewalks of brick and granite also got a close look at the shelters, the art works, the big signs and the kiosks designed to promote center city activity and mass transportation.

"We've lived in St. Louis and San Diego, and both could use downtown malls like this to really help the cities survive," said Mirnie Stapleton as she watched the downtown festival the other night.

"We lived in Dallas before and downtown wasn't ever a place to shop," said her friend, Pam Offutt. Both women were at Artquake with their husbands and children.

HELP FROM FEDERAL FUNDING

The Mall is being built by the Tri-County Metropolitan Transportation District, or Tri-Met, with the Urban Mass Transportation Administration paying $12 million and the three-county agency the rest.

Ten blocks of Southwest Fifth and Sixth Avenues are being reconstructed with wider and more amenable sidewalks for pedestrians and special lanes exclusively for buses that radiate from here to suburbs and satellite cities.

Imaginative passenger shelters and information kiosks are being built. Large, easy-to-read signs are being placed on the 24-foot-wide, red brick sidewalks with granite curbs.

More than $250,000 has been spent to buy and install outdoor art, some of it controversial. Private businesses have spent several million for renovation and construction in the area and have announced plans to spend millions more as Portland's downtown boom accelerates.

"Presently 22 percent of those coming in to downtown use the buses, and that will have to double by 1980 if the projected growth of downtown is to be handled efficiently," said Roger Shiels, the mall project coordinator for Tri-Met. "To make riding buses respectable, enjoyable, we have to make access better and more desirable with the mall."

Richard E. Johnson, Portland's mall coordinator, said that the major role of the city had been to clear obstacles that could have delayed or stopped the project.

"We've provided two inspectors—one to coordinate utility work and one to work with construction units," Mr. Johnson said.

This effort prevented bureaucratic delays on permits and maps, kept utility work three weeks ahead of other construction and avoided clashes with civic and city groups.

The city will also build a terminal at the north end of the mall to serve long-distance buses, which are to be kept out of the mall.

"The mall is the spine for development," said David Kottkamp, an aide to Mayor Neil Goldschmidt who deals with development. "Zoning is such that new high-rise office buildings will be constructed along this spine; the outdoor arc is critical in establishing quality."

Mr. Kottkamp expressed relief that as the mall is being completed, complaints from downtown businesses, workers, shoppers and residents have decreased, adding: "Everything was at its worst last year, all torn up, when the Mayor ran for re-election against a guy who ran against Tri-Met and the mall."

Although no businesses in the mall area failed, decreased foot traffic during construction had many worried that the mall might kill the downtown it was designed to save.

Even as these worries fade, however, some residents of the area still find fault with the mall.

LIMITED CONVENIENCE

"It's really a convenience for those who work and shop downtown, but not those who live here," said Mary Burki, president of the Downtown Community Association, which represents students, the elderly and others in the neighborhood.

Miss Burki, an urban studies major at nearby Portland State University, said the mall caused more air pollution and bus congestion, especially during rush hours, when "its real dangerous if you're slow."

She praised the free bus rides downtown and the new benches and shelters, but she said the association would like low-cost housing and "cheap" places to shop.

Private construction in the area will focus on two major hotels costing more than $50 million and on high-rise office buildings and short-term parking garages that are to cost almost $100 million.

Local stores like Meier & Frank and national chains like J. C. Penney have spent millions renovating their stores on the mall. "We're committed," said Mark Zertanna, a Meier & Frank executive.

"Ground floor vacancy is below 1 percent and rents are going up—things that haven't happened since the shopping mall east of the [Willamette] River 17 years ago," said William Naito, a local developer who organized Artquake to promote the mall and downtown Portland.

"My idea was you had to have public acceptance and approval fast," said Mr. Naito, who got support from Tri-Met, the city, the Portland-Multnomah County Metropolitan Arts Commission, local businessmen and artists, the Oregon Art Commission and the National Endowment for the Arts.

"The mall's already a success with transit experts and city council members from San Diego and Denver here to see it," he said proudly. "I even showed Mrs. Mondale around last week," he added, referring to the wife of the Vice President.

COLUMBUS DAY

HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 11, 1977

Mr. RODINO. Mr. Speaker, once again I come before my colleagues who represent every place in America to talk about the national holiday we all celebrated on October 10. Columbus Day, as most of you know, is a time very close to my heart. In the year I enter Congress, 1949, I introduced legislation to make the day that Christopher Columbus discovered the New World a national holiday. Nearly 20 years later, on June 28, 1968, President Lyndon Johnson signed the Monday Holiday Act into law with my bill included as 1 of the 2 days of the year honoring only one man.

Christopher Columbus was a complex man, courageous and eager for action and adventure, yet he was also a very sensitive man of deep faith. It was his faith and self-determination which enabled Columbus to obtain support for what so many considered an improbable or impossible venture. With his prayer upon departure, "Jesus and Mary be with us on the way," this undauntable man of faith began the voyage on September 9, 1492, that was to benefit future ages and to change the course of human civilization.

To celebrate Christopher Columbus the man is sufficient reason, in and of itself, to justify a national celebration. However, yesterday America celebrated much more than the discovery of our continent. It is the timeless spirit of Columbus that has meaning for us in 1977. Columbus was the prophecy of America to come—of the immigrant who uprooted himself from his homeland in search of a land of opportunity, of freedom, of justice—a land to which so many people have since turned for refuge and hope.

We are truly a Nation of immigrants, and on Columbus Day we paid tribute to the virtue of perseverance against the paralysis of baseless fear. I reminded my American friends of Italian descent during the joyous celebration of Columbus Day, that were it not for the Spanish Queen who supported his venture, the Portuguese mapmakers who guided him, and the various Europeans who manned his ship, the great Italian explorer would never have made his famous discovery. And his lasting accomplishment was his inspiration to those who came after him—those people of every race, color, and creed who landed on our shores and became responsible for our country's growth and greatness.

Columbus Day should make us ever more proud of our roots and respect the ways of life of other peoples. The more we learn about each other's heritage, the more American we truly become. This past week, Mrs. Mondale and I had the great pleasure of opening the American Folklife Festival in Washington, which celebrates all the traditions of ethnic America. By honoring America's various cultures, we honor the spirit of discovery, invention and exploration exemplified by Columbus.

It is not difficult to update the story of Columbus to make it meaningful for our own lives. That explorer fought tenaciously to distill truth from myth and once he found truth, to make it triumph. At a time when we are faced with the fears of domestic crime and the possibility of international nuclear holocaust, of the deprivation of our urban poor, of the bitter hardships of the unemployed and the neglected elderly and disadvantaged, we must rededicate ourselves toward a voyage of progress, to improve our human condition, to eliminate the undenied inequities which exist in our country and to find means to eradicate the sources of poverty, unrest and divisiveness. These are goals not unlike those set by the immigrants who have made America great.

Like the Italian navigator who pressed onward in his quest for the New World, let us find a resurgence of the spirit of Columbus to meet the challenges of our times.

TAX TREATMENT OF EXCHANGES UNDER CONRAIL FINAL SYSTEM PLAN

HON. JOSEPH L. FISHER

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 11, 1977

Mr. FISHER. Mr. Speaker, this amendment relates to the need to deal with the problem created by the passage of Public Law 94–253 (effective March 31, 1976) amending section 374 of the Internal Revenue Code in connection with the tax treatment of exchanges under the final system plan for Conrail. This legislation provided for no gain or loss to be recognized on exchanges under the final system plan for reorganizing the Eastern railroads but did not deal with recapture of investment tax credit which might result from such exchanges. The following discusses a recommendation for a solution to the investment credit recapture problem.

Specifically, the difficulty relates to the transfer by Erie Lackawana (Erie) of certain of its assets to ConRail effective April 1, 1976 in pursuance of the final system plan. Erie is a wholly-owned subsidiary of Dereco, Inc., which in turn is a subsidiary of Norfolk and Western (NW). Thus, Erie is a member of the NW consolidated group and its tax results are reflected in the NW consolidated group and its tax results are reflected in the NW consolidated return. Erie became an affiliate of NW in 1968 pursuant to order of the Interstate Commerce Commission (ICC) following protracted litigation by NW opposing the inclusion of Erie in its system. Notwithstanding its objections, NW was compelled by the ICC to acquire the stock of Erie in 1968 at a cost of $55 million in NW common stock.

Erie entered bankruptcy reorganization proceedings in 1972. Subsequently, the reorganization court found that Erie could not be reorganized on its own and, pursuant to the ConRail legislation, Erie conveyed a large portion of its property, including virtually all of its railroad equipment, to ConRail under the final system plan.

In March 1976, ConRail proposed tax legislation relating to the exchanges under the final system plan. This legislation was passed and became Public Law 94–253. It amended section 374 of the Internal Revenue Code by adding a new subsection (c), which provides that no gain or loss shall be recognized where rail properties of a railroad corporation are transferred to ConRail in exchange for stock or securities of ConRail or certificates of value. It further provides that the basis of assets conveyed to ConRail will be the same as their basis in the hands of the transferor railroad and that the basis of securities received by the transferor railroad corporation will be the same as the basis of the assets transferred. The legislation was introduced and progressed to passage in a very short time in order to be effective by the April 1 date of the transfers.

As a result of the fact that the basis of assets of Erie which were transferred to ConRail was greatly in excess of the value of ConRail securities and certificates of value received by Erie on the exchange, the effect of this legislation was to prevent the recognition by Erie of a substantial loss on the exchange. Notwithstanding the adverse tax effect of nonrecognition of this loss to a member of the NW consolidated group, NW supported the general thrust of the legislation because of the possibility that allowing a higher asset basis to carry over to ConRail might ultimately help ConRail and assist the Eastern railroad situation to the betterment of the entire railroad industry.

In dealing with the transfer of assets to ConRail, the amendment to Section 374 did not cover the problem of investment credit recapture. Accordingly, under section 47, an early disposition occurred with respect to the assets of Erie transferred to ConRail. As the law now stands, investment tax credit recapture would still occur, notwithstanding the fact that the exchanges pursuant to the ConRail final system plan involve nonrecognition of gain or loss and basis carryover. The impact of recapture in this situation would cost NW approximately $3 million in investment credit. The other railroad corporation involved in ConRail transfers have been reviewed and to the best of our knowledge NW is the only company which would be adversely affected by the investment credit recapture on the ConRail transfers.

Investment credit recapture in this situation is an obvious inequity and to alleviate the hardship created it is proposed to amend the Internal Revenue Code to provide that no investment tax credit recapture should occur in such an exchange. The purpose of the amendment to section 374 was to provide for a higher carryover basis in ConRail for the assets which it received. The amendment was never intended to be a revenue-raising measure nor to reduce the cash flow of any element of the railroad industry. Accordingly, I believe an amendment to prevent recapture and to keep these amounts in the railroad industry where they can be used for needed transportation purposes is fully warranted:

PUBLIC LAW 94–253

An Act to provide tax treatment for exchanges under the final system plan for ConRail

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TAX TREATMENT OF EXCHANGES UNDER THE FINAL SYSTEM PLAN FOR CONRAIL

(a) IN GENERAL.—Section 374 of the Internal Revenue Code of 1954 (relating to gain or loss not recognized in certain railroad reorganizations) is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

"(c) EXCHANGES UNDER THE FINAL SYSTEM PLAN FOR CONRAIL.—

"(1) IN GENERAL.—No gain or loss shall be recognized if, in order to carry out the final system plan, rail properties of a transferor railroad corporation are transferred to the Consolidated Rail Corporation (or any subsidiary thereof) pursuant to an order of the special court under section 303 or 305(d) of the Regional Rail Reorganization Act of 1973 in exchange solely for stock of the Consolidated Rail Corporation, securities of such Corporation, certificates of value of the United States Railway Association, or any combination thereof, provided, however, that such a transfer shall not constitute a disposition within the meaning of Section 47.

"(2) EXCHANGES NOT SOLELY IN KIND.—If paragraph (1) would apply to an exchange if it were not for the fact that the property received in exchange consists not only of property permitted by paragraph (1) to be received without the recognition of gain or loss, but also of other property or money, then rules similar to the rules set forth in paragraph (2) or (3) of subsection (a) (whichever is appropriate) shall be applied.

"(3) BASIS.—The basis of the property transferred to the Consolidated Rail Corporation (or any subsidiary thereof) in an exchange to which paragraph (1) or (2) applies shall be determined under rules similar to the rules set forth in subsection (b).

"(4) DENIAL OF NET OPERATING LOSS CARRYOVERS TO CONRAIL.—Neither the Consolidated Rail Corporation nor any subsidiary thereof shall succeed to any net operating loss carryover of any transferor railroad corporation.

"(5) DEFINITIONS.—For purposes of this subsection—

"(A) RAIL PROPERTIES.—The term 'rail properties' means rail properties within the meaning of paragraph (12) of section 102 of the Regional Rail Reorganization Act of 1973.

"(B) TRANSFEROR RAILROAD CORPORATION.—The term 'transferor railroad corporation' means a corporation which, on March 11, 1976, was—

"(i) a railroad in reorganization (within the meaning of paragraph (14) of section 102 of the Regional Rail Reorganization Act of 1973) in the region (within the meaning of paragraph (15) of such section 102), or

"(ii) a corporation leased, operated, or controlled by such a railroad in reorganization.

ALTERNATIVE:

SEC. 47(b) could be amended to add a new subparagraph: "(3) a transaction to which section 374(c) applies."

"(C) FINAL SYSTEM PLAN.—The term 'final system plan' means the final system plan (within the meaning of paragraph (6) of section 102 of such Act). Such term includes supplemental transactions under section 305 of such Act.

"(D) SUBSIDIARY.—The term 'subsidiary' means any corporation 100 percent of whose total combined voting shares are, directly or indirectly, owned or controlled by the Consolidated Rail Corporation."

(b) BASIS AMENDMENTS.—

(1) BASIS OF PROPERTY RECEIVED BY TRANSFEROR RAILROAD CORPORATIONS.—Section 358 (a) of such Code (relating to basis to distributees) is amended by striking out "or 371(b)" and inserting in lieu thereof "371(b), or 374".

(2) ALLOCATION OF BASIS.—Subsection (b) of section 358 of such Code (relating to allocation of basis) is amended by adding at the end thereof the following new paragraph:

"(3) CERTAIN EXCHANGES INVOLVING CONRAIL.—To the extent provided in regulations prescribed by the Secretary or his delegate, in the case of an exchange to which section

354(d) (or so much of section 356 as relates to section 354(d)) or section 374(c) applies, for purposes of allocating basis under paragraph (1), stock of the Consolidated Rail Corporation and the certificate of value of the United States Railway Association which relates to such stock shall, so long as they are held by the same person, be treated as one property."

(c) EFFECTS ON SHAREHOLDERS AND SECURITY HOLDERS.—Section 354 of such Code (relating to exchanges of stock and securities in certain reorganizations) is amended by adding at the end thereof the following new subsection:

"(d) EXCHANGES UNDER THE FINAL SYSTEM PLAN FOR CONRAIL.—No gain or loss shall be recognized if stock or securities in a corporation are, in pursuance of an exchange to which paragraph (1) or (2) of section 374(c) applies, exchanged solely for stock of the Consolidated Rail Corporation, securities of such Corporation, certificates of value of the United States Railway Association, or any combination thereof."

Clause (i) of section 356(d)(2)(B) of such Code (relating to receipt of additional consideration) is amended by striking out "subsection (c) thereof" and inserting in lieu thereof "subsection (c) or (d) thereof".

(d) USE OF EXPIRED NET OPERATING LOSS CARRYOVERS TO OFFSET INCOME ARISING FROM CERTAIN RAILROAD REORGANIZATON PROCEEDINGS.—Section 374 of such Code (relating to gain or loss not recognized in certain railroad reorganizations) is amended by adding at the end thereof the following new subsection:

"(e) USE OF EXPIRED NET OPERATING LOSS CARRYOVERS TO OFFSET INCOME ARISING FROM CERTAIN RAILROAD REORGANIZATION PROCEEDINGS.—

"(1) IN GENERAL.—If—

"(A) any corporation receives or accrues any amount pursuant to—

"(i) an award in (or settlement of) a proceeding under section 77 of the Bankruptcy Act,

"(ii) an award in (or settlement of) a proceeding before the special court to carry out section 303(c), 305, or 306 of the Regional Rail Reorganization Act of 1973,

"(iii) an award in (or settlement of) a proceeding in the Court of Claims under section 1491 of title 28 of the United States Code, to the extent such proceeding involves a claim arising under the Regional Rail Reorganization Act of 1973, or

"(iv) a redemption of a certificate of value of the United States Railway Association issued to such corporation under section 306 of such Act,

"(B) any portion of such amount is includible in the gross income of such corporation for the taxable year in which such portion is received or accrued, and such taxable year begins not more than 5 years after the date of such award, settlement, or redemption, and

"(C) the net operating loss of such corporation for any taxable year—

"(i) was a net operating loss carryover to, or arose in, the first taxable year of such corporation ending after March 31, 1976 (or, in the case of a proceeding referred to in subparagraph (A)(i) which began after March 31, 1976, ending after the beginning of such proceeding), but

"(ii) solely by reason of the lapse of time, is not a net operating loss carryover to the taxable year referred to in subparagraph (B),

then such net operating loss shall be a net operating loss carryover to the taxable year described in subparagraph (B) but only for use (to the extent not theretofore used under this subsection to offset other amounts) to offset the portion referred to in subparagraph (B).

"(2) SPECIAL RULE.—For purposes of paragraph (1)(C)(i), a corporation which was a regulated transportation corporation (within the meaning of section 172(j)) for its last taxable year ending on or before March 31, 1976, shall be treated as such a regulated transportation corporation for its first taxable year ending after such date.".

SEC. 2. EFFECTIVE DATE.

The amendments made by section 1 shall apply to taxable years ending after March 31, 1976.

Approved March 31, 1976.

A TRIBUTE TO GENERAL PULASKI, AMERICAN REVOLUTIONARY WAR HERO

HON. JOHN G. FARY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 11, 1977

Mr. FARY. Mr. Speaker, October 11 will mark the 198th anniversary of the death of an outstanding Polish patriot who, during the Revolutionary War, sacrificed his life for our country. General Casimir Pulaski, a hero of two continents, will always be remembered as a proud and courageous soldier, the founder of the American cavalry, and a man who gave his life for the cause of American liberty.

Born in 1748 in Podolia, Poland, of an aristocratic and distinguished family, Count Pulaski turned his interest to military affairs. At the age of 20 he joined his father and brother in forming the Confederation of Bar and, by so doing, pledged his time, fortune, and life to the independence of his country. Pulaski led the Polish insurrection against the domination of Poland by Russia, Austria, and Prussia. His heroic feats against overwhelming odds, and his fame as a cavalry leader spread throughout Europe.

General Pulaski first heard of the American rebellion against the British in Paris, and in the summer of 1777 volunteered his services to Washington's army. Impressed with Pulaski's credentials, Washington recommended that Congress commission him as a brigadier general so that he could command the cavalry.

Rather than waiting for his commission to be approved by Congress, Pulaski enlisted in the American Army as a volunteer and was given the rank of captain.

Pulaski fought with Washington at Brandywine and was credited with saving Washington's army by means of a bold cavalry charge. He also fought in the battle at Germantown. His commission as a brigadier general finally came through and he took command of the cavalry at Trenton, N.J. During the winter of 1777–78, General Pulaski joined forces with Gen. Anthony Wayne and helped defeat a British division at Haddonfield, N.J. Generals Pulaski and Wayne again fought side by side in skirmishes at Cooper's Ferry.

During the winter of 1779, Pulaski was ordered south to join forces with Gen. Benjamin Lincoln. Pulaski's Legion arrived in Charleston, S.C., while the city was under heavy seige and on the verge of surrender. He was successful in lifting the morale and the resolve of the defenders until reinforcements under General Lincoln could lift the siege itself.

General Lincoln, General Pulaski, and French Admiral D'Estaing then combined forces against the British who were occupying Savannah. Pulaski was severely wounded in this charge and died aboard the brig *Wasp* on the way to Charleston. Although he was buried at sea, funeral services were held afterward in the city of Charleston and the citizens of Savannah, Ga., erected a monument to the memory of Gen. Casimir Pulaski.

Pulaski's untimely death at the head of this famous cavalry charge served his noble dedication to the ideals for which the colonists fought. His example of sacrifice and devotion to our Nation's cause is a model of patriotism for all times.

I am sincerely proud to join Americans of Polish descent in the Fifth District in Chicago, and all over this great Nation in commemorating the 198th anniversary of General Pulaski's supreme and inspiring sacrifice during our American War of Independence.

SOME GOOD WORDS ABOUT CONGRESS—FOR A CHANGE

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 11, 1977

Mr. MAZZOLI. Mr. Speaker, criticizing Congress is the "in" thing to do nowadays. It is easy sport.

I believe, however, that today's Congress is a good one. One which serves the taxpayers well despite all the negativism in the press and on television.

My feeling is confirmed in two recent news stories—one in U.S. News & World Report by Thomas Foley and the other in the Wall Street Journal by Ervin S. Duggan and Ben J. Wattenberg.

I commend these two articles to my colleagues:

[From U.S. News & World Report, Sept. 26, 1977]

WORST CONGRESS IN YEARS—OR IS IT?

Despite the peccadilloes you read about, lawmaking today is more than a cut above what it used to be in at least six key ways.

This Congress is proving as adept as any in memory at giving itself one black eye after another.

First came the pay raise. It was handled in a way that won lawmakers blame for both taking the raise and for initially refusing to vote on it.

Then came the disclosure that for years the House and Senate have been drastically understating the costs of overseas junkets, which have long been a sore point with taxpayers.

Next was the blowup over the South Korean bribery scandal, which has filled the air with charges of cover-up and foot dragging.

Eight months into the new legislative session, it is no wonder that opinion polls continue to show public confidence in Congress hovering near an all-time low. Many Americans clearly believe that their national legislature is worthy of ridicule and disdain.

Are they correct? Judging from the headlines alone, it would seem so. Yet when you stand back and look at Congress in broad perspective, you see a much more encouraging picture.

Taking 1967 as a point of comparison, you find sweeping changes over the last decade in the way the House and Senate operate. In at least six important ways, Congress today shapes up as a better institution.

1. Congress is more democratic.

Ten years ago, fewer than 50 of the 535 members of the House and Senate, the chairmen of the standing committees, held a near monopoly on legislative power.

Chosen by seniority and serving until retirement, the chairmen were largely a law unto themselves. They were elected to Congress by a tiny fraction of the national electorate, yet they could almost singlehandedly reshape bills to suit their fancy. Or they could kill a proposal altogether, thumbing their noses at junior legislators, party leaders and Presidents alike.

Today this has changed. The toppling of three veteran House chairmen in 1975 shattered the tradition of tolerance for dictatorial excesses. Chairmen remain important figures, but their powers now are constrained by the consensus on their committees, in Congress and in the country.

What does this mean for Americans generally? It means a Congress more responsive than ever before to the sweep of voter opinion and less prone to the throttling of popular legislation by parliamentary maneuvers.

2. Legislative leadership is more widely dispersed, with younger lawmakers now playing a bigger role.

A decade ago, committee chairmen usually held a hammer lock on chairmanships of key subcommittees, too.

One result: Younger members, no matter how talented, were generally excluded from even these secondary leadership positions until they had accumulated many years of seniority and often lost any desire to examine existing policies critically.

Another result: Aging chairmen often had their hands so full that they could not give their responsibilities the attention needed.

Today, the hoarding of subcommittee chairmanships by senior legislators is forbidden. In the Senate, 57 of the 61 members of the Democratic majority, including 7 freshmen, chair at least one subcommittee. In the House, 145 of the 289 Democrats are committee or subcommittee chairmen, including some in their second terms.

In short, Congress has "spread the action," as reformers term it. Voters who send a talented newcomer to Capitol Hill can expect to see their representative carve out a niche of some influence within a few years.

3. The secrecy surrounding lawmaking has been largely stripped away.

Ten years ago, when committees met to vote on legislation, they locked their doors to public and press. When legislation reached the House or Senate floor, important amendments often were decided in unrecorded votes.

This kind of secrecy worked against a basic democratic principle: keeping Congress responsive to the people. It was an open invitation to hypocrisy, deceit and special-interest lawmaking.

By contrast, the closed door now is the exception on Capitol Hill, the open door the rule. Committees mark up bills in open meetings, with the press and interested citizens looking on. What's more, it is rare for an important question to be decided in the House and Senate chambers nowadays without a roll-call vote.

There is no question that plenty of behind-the-scenes maneuvering by special interests still goes on. But it is harder than ever before for legislators to pull the wool over their constituents' eyes. With key decisions now spread on the public record, voters can better judge whether elected officials are properly using their powers.

4. Congress's ethical restrictions have been significantly beefed up.

In the late 1960s, both houses of Congress for the first time imposed codes of conduct on their members. The standards were weak, vague and ridden with loopholes.

The House had an anemic requirement for public disclosure of Representatives' outside income that often concealed more than it revealed. In the Senate, no public disclosure at all was required, except for speaking fees. In neither chamber were there any limits on the income legislators could earn outside of Congress.

In sum, Capitol Hill was an ethical wilderness. Whether the question involved a conflict of interest, an office slush fund rustled up by special interests or a mistress on the payroll, the rule for many seemed to be: If you can get away with it, it's ethical.

In today's situation, a tough new ethics code, approved last spring, is being phased in fast. It bars acceptance of private money for office expenditures and acceptance of anything from lobbyists beyond the most minor gifts. It requires almost total public disclosure each year of lawmakers' financial holdings, and it clamps sharp limits on all outside earned income.

How rigidly the standards will be enforced remains to be seen. But the new rules are likely to achieve two things:

Make it a lot tougher for legislators to sell out to special interests.

Give voters solid information for determining whether a Congressman is looking out for the public interest or some private interest of his own.

5. Congress is more responsible in fiscal matters.

Ten years ago, the House and Senate handled spending measures in a chaotic, head-in-the-sand fashion. Money bills were dealt with piecemeal as they came up, with scant regard for the effects of each on total Government spending, the deficit and the economy.

Congress no longer flies by the seat of its pants in its spending decisions. Under a new budget-control system set up in 1974, a binding ceiling is placed on federal spending each year. Every money measure must be tailored to insure that the ceiling is not breached.

Under these procedures, Congress agreed in mid-September on a 458.2-billion-dollar spending ceiling for the fiscal year beginning October 1.

The system is no cure-all for deficits; it was not meant to be. But it insures that Congressmen will have as clear a picture as possible of the impact of their spending moves, and enables voters to call lawmakers to account for that impact.

6. Congress works harder.

A decade ago, the House and Senate were both following work schedules that smacked of the horse-and-buggy era. Congress ordinarily worked only three full days a week. Behind this truncated workweek was the habitual truancy of the so-called Tuesday-through-Thursday Club—the many lawmakers addicted to skipping home for long weekends in their districts.

Even when the legislators were in Washington, their pace was far from impressive. Committee meetings seldom were scheduled to begin before 10 a.m., usually began late and ended before noon. As for meetings of the full House and Senate, floor sessions started at noon and normally petered out after three or four hours, except during the end-of-session rush.

Such sleepy habits are now only a dim memory on Capitol Hill. While long recesses still are taken frequently, Congress puts in a full five-day workweek most of the time it is in session. Committees sometimes are gaveled to order as early as 7 a.m. Floor sessions often begin at 10 a.m. and stretch through the afternoon and into early evening or later. Thus, while congressional salaries—$57,500 per year—are at a level that many Americans consider outrageous, most legislators are working harder than ever before to earn their pay.

Not all of these changes in Congress's way of doing business are unmixed blessings. The unhorsing of autocratic committee chairmen and general dispersion of power are changes, for example, that have come at a price. They have complicated the tasks of both Congress's leaders and the White House in hammering out broad national policies.

Instead of consulting a handful of senior legislators, the norm only a few years ago, leaders now must cope with an often mercurial throng of 535 lawmakers. The result sometimes is delay and deadlock. It makes Congress look to many Americans like a headless and erratic force thrashing about wildly while national problems fester.

House Speaker Thomas P. ("Tip") O'Neill solved the problem on President Carter's energy legislation by naming an ad hoc committee to oversee work on the package. However, problems remain in the Senate.

What's more, the sweeping changes of recent years have left some big institutional problems yet to be solved.

One is the Capitol Hill bureaucracy. It has been growing hand over fist, and now numbers almost 20,000. Accompanying the staff explosion has been greater delegation of power, leading to worry that crucial decisions are being made by unelected officials.

No one would argue that Congress is about to lose the knack of getting under people's skin. In any body of elected politicians as diverse as the House and Senate, that is inevitable. But voters might find solace in the thought that Congress, after all, could be worse than it is.

Not so long ago, it was.

[From the Wall Street Journal, Sept. 26, 1977]

JOHN EHRLICHMAN'S FINAL SAD REVENGE

(By Ervin S. Duggan and Ben J. Watenberg)

Consider one evening's television fare on a day in September.

On the news, there is still more about Bert Lance's financial habits, followed by another bulletin on the Korean bribe scandal.

Then, in prime time, 90 minutes of Richard Nixon, first dogged, then desperate as he tries to convince us—too late— that he is not a crook; that the 18-minute gap on Rose Wood's tape recorder was a mysterious, but minor, accident; that the real, if unwitting, villain of Watergate was—are you ready?—Martha Mitchell.

And finally, the piece de resistance: "Washington: Behind Closed Doors," the ABC–TV extravaganza based on John Ehrlichman's eerily conspiratorial novel, "The Company." The book offers a reptilian vision of political Washington, served up with relish by producers who were only too ready to remind us that it is all "based on fact."

What are Americans to make of all this? The hapless viewer, struggling to sort out this crazy juxtaposition of fact and "fiction," can hardly be blamed if he gets the idea that Washington is a living work of soft-core pornography, acted out by characters who, to a man, have no redeeming social value. Booze, sex, bribery and blind ambition; political moguls driven by greed and ego to burglarize, blackmail, and according to "Washington: Behind Closed Doors," to murder.

It's all there on television, isn't it? It is fact, or "based on" fact, isn't it, and therefore true?

Of course not.

Like John Ehrlichman, we worked in the White House in a time of great national turmoil. As speechwriters and aides to Lyndon Johnson in the 1960s, we, too, watched a President and his high officials react to war, domestic turbulence and roiling legislative battles. Like John Ehrlichman, we learned some striking lessons about what power (and proximity to power) can do to people. Like Ehrlichman, we have written a novel about the Washington we know; we, too, have spun a plot around a President, a war, a Secretary

of State, some heavy political hardball—and some sex.

But there the similarity ends. For Ehrlichman's Washington, the Washington he wrote about and sold to Hollywood, is a place of relentless cynicism. In his melodrama (embellished by ABC), the story line is not good guys versus bad guys but—bad guys versus bad guys.

The Washington we know is something more subtle, more complicated and more moral by far. As writers, we would also suggest that it is also more interesting than rampant venality. Washington drama is, for the most part, good guys versus good guys. Flawed good guys, to be sure; good guys who, too often, fail or fall from grace; good guys who aren't always smart guys; good guys who have to act on incomplete information under great pressure; good guys who are not privileged to know in advance or with certainty which way the great march of history is proceeding—but good guys.

In real-life Washington, for example, while "Behind Closed Doors" was playing to packed living rooms across America, a different kind of drama was being enacted, a drama that pitted the Secretary of Health, Education and Welfare, Joseph Califano, against the Attorney General of the United States, Griffin Bell. At issue was a deeply serious question: How shall the nation guarantee, to black and poor students, fair access to higher education in America? By quotas (or goals, as Califano calls them), or by some less stringent method? At stake was the mind of the man both Cabinet members were struggling to persuade: Jimmy Carter's. He had to decide over a quiet weekend how his administration would stand on the question in a landmark case before the U.S. Supreme Court.

For most of the week the two men and their staff lawyers argued, plotted, cajoled, quietly enlisted allies, whispered to reporters, worried, agonized, swore to battle to the end and never compromise. It was an authentic battle-royal fought, fascinatingly, behind closed doors.

But there was nothing sinister about it. For each of the embattled Cabinet members was, and is, a decent man; each a patriot, each committed in his own way to the American idea of equal opportunity. Good guys, in short, versus good guys.

It is such battles that create the real drama of Washington—and, we believe, the truth about the capital, a truth that endures despite the television fare of recent days.

In a (joint) quarter of a century of residence in this strange and steamy city, we have served, with varying degrees of intimacy, one President, a Vice President, four Senators and one Cabinet officer. We have known, and worked with, Congressmen, lobbyists, Washington lawyers and bureaucrats. We have yet to witness an act of bribery or blackmail, graft or cynical betrayal.

We've been lucky, of course. We never met Agnew or went to dinner with Tong Sun Park.

But the Washington we know is, we believe, the real one. It is a city whose crimes and scandals, like crimes and scandals in other cities, make the headlines—precisely because they are such interesting departures from the norm.

Behind the closed doors of this Washington, and more often, right out in the open, people struggle for what they see as decent, even noble, ends. This Washington is the Washington that has set into motion Medicare, federal scholarship money, a prudent and awesome national defense force, national parks, a world-wide campaign for human rights, and nothing less than the political and military organization of what is still "the free world."

The denizens of the real-life Washington do not drink, steal or commit adultery with notably greater frequency than their counterparts in other cities. They turn out, on the Fourth of July, to watch the fireworks at Mount Vernon College and the Washington Monument and to tap their feet to the marches of Sousa and the "Up With People" chorus. Some swingers!

They are, nonetheless, often characters in a high drama. Not a drama of conspiracy, blackmail, vendetta, extortion or skulduggery, but the drama of large stakes and real issues: issues like energy and the environment, war and peace. The people of this Washington are oil lobbyists and Sierra Club members, hawks and doves, good guys, most of them, in the sense that all of them are driven by what they believe, rightly or wrongly, to be best for their country.

It is John Ehrlichman's final sad revenge that he and Hollywood, in a lurid melodrama crazily "based on fact," have done so much to discredit this real Washington, whose decent public servants are already so handicapped by the destructive myth that "they all do it."

MISCONCEPTIONS OF PRESENT SEALED BIDDING REGULATIONS

HON. JOHN KREBS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 11, 1977

Mr. KREBS. Mr. Speaker, H.R. 6362, the bill to create an Advisory Committee on Timber Sales Procedure will soon receive a rule and be considered by the full House.

The part of the bill that most concerns me is section 9, which contains a provision for repeal of the sealed bidding section of the National Forest Management Act of 1976. H.R. 6362 barely passed the House Agriculture Committee by a 22 to 20 vote and is opposed by the administration, so I do not stand alone in the belief that this legislation should not be enacted into law.

There are several misconceptions which proponents of oral bidding will be advancing in the debate to come on this legislation. Among these are the arguments that oral bidding of national forest timber does not promote collusive bidding practices, that there is no difference between oral and sealed bidding in the amount of revenue derived by the U.S. Treasury, that sealed bidding seriously hurts small dependent communities, and that the provisions of section 14(e) of the Forest Management Act do not accurately reflect congressional intent.

I would like to address these misconceptions, particularly since it seems premature to repeal regulations which have not been given an adequate period of time for fair evaluation. The fact of the matter is that sealed bidding has thus far proved to be not only quite workable, but also very profitable to the Federal Treasury and U.S. taxpayers.

COLLUSION

First, the proponents of establishing an advisory committee on timber sales argue that the oral bidding of timber sales in the West does not necessarily encourage collusive bidding practices. Several timber industry witnesses testified to that effect during the February hearings on this legislation before the Forest Subcommittee. It is possible, of course, to collude under both the sealed and the oral bidding systems, however, under sealed bidding, it is far more difficult because an unknown factor will always exist; that is, who will participate in the bidding and how high the bids will go.

Until the 1940's it had been the tradition of the Forest Service to deal exclusively with sealed bids. Since that time, however, most sales in the Pacific Northwest and California have been let by oral auction. In the East, the South, and the Lake States sealed bidding is still uniformly utilized, while in the Rocky Mountain States approximately one-half of the sales are by sealed bid and one-half by oral bids.

In those areas where sealed bidding has been used exclusively, there has been no evidence of antitrust violation. On the other hand, in the Pacific Northwest and California, where oral auctions are predominant, there have been strong indications of collusive practices involving rigging. The Justice Department has indicated there is good reason to believe that the practice of collusive bidding is not limited to a few isolated instances. Several major investigations into possible collusive bidding on Federal timber located in northern California, Arizona, New Mexico, Oregon, and Washington are currently underway.

In 1956, the House Committee on Government Operations and the Senate Committee on Interior issued a report on Federal timber sales policies which recommended that more sealed bidding be used in order to enhance competition and insure a fair return from timber for the Federal Government. In 1965, the problem in the Pacific Northwest became so severe that the General Accounting Office issued a report (No. B-125053) recommending more sealed bids be used in that region. In May of this year, the ninth circuit court upheld the Oregon conviction of the Champion International Corp. on bid rigging charges in the case of the United States against Champion International Corp. (Ore. 1974).

The intent of the sealed bidding provision of the National Forest Management Act of 1976 is to prevent such collusion from occurring. There have been laws on the books for many years against antitrust activities, but the close-knit nature of the timber industry has made it extremely difficult to establish hard evidence of collusion. The Justice Department in its April 26, 1977 letter to Secretary of Agriculture Bob Bergland has set forth the firm conviction of Department officials that sealed bidding could substantially cut down on collusive activities and promote healthier competition in bidding practices.

MORE PROFITS THROUGH SEALED BIDDING

Second, there has been disagreement concerning which method of bidding produces more revenue for the Federal Government. The latest Forest Service figures, however, from the six western

Forest Service regions for the first 6 months of the year indicate that sealed bidding consistently brought in more revenue than oral bids. Furthermore, in region 6, the most active timber producing region in the country, Forest Service data also indicate that in the same 6 months, sealed bidding produced greater revenue for the U.S. Treasury than oral bids.

Thus, in both Oregon and Washington, where a mix of oral and sealed bidding has been used since January of this year, sealed bidding produced an average of $13.39 more per thousand feet of timber sold in the western half of the region and an average of $11.45 more per thousand feet in the eastern half. Library of Congress calculations indicate that the U.S. Government would have lost between $20 and $35 million if oral bidding had been used exclusively during this 6-month period in region 6.

It has been suggested that the 6-month period is too short to be conclusive. This may well be so. It is for this very reason that a 1-year review of the present regulations should not be prevented by the premature and ill-conceived repeal of the sealed bidding requirement.

DEPENDENT COMMUNITIES

Third, another major misconception about the sealed bidding provisions of the National Forest Management Act is the assumption that sealed bidding represents a threat to the economic survival of so-called dependent communities. Those who seek repeal of the sealed bidding section would leave us to believe that present regulations provide for the exclusive use of sealed bidding. Nothing could be further from the truth. As a matter of fact, these regulations call for 75 percent oral bidding and only 25 percent sealed bidding in the case of dependent communities. This bidding formula represents a drastically watered down version of the initial regulations which called for the almost exclusive use of sealed bids. These regulations were changed in response to fears expressed by certain timber interests that sealed bidding would deprive dependent communities of an ample timber supply. However, the Justice Department conducted a survey which found that those fears were groundless. Then Assistant Attorney General Donald I. Baker, in the April 26, 1977 letter stated:

> The bid results of sealed bid sales in Region 5 and 6 under the interim regulations can best be described as normal in comparison to the observed results under oral bidding during the recent past. This fact underscores the need under permanent Section 14(e) regulations to require a showing of actual threat to the stability of the 'dependent communities' before the Forest Service should consider alternatives to the sealed bidding method.

Thus the survey clearly found that in nearly 5 months of exclusive sealed bidding in region 6, "virtually all sales were purchased by local firms."

In response to an inquiry, officials of the Forest Service have confirmed that since the beginning of the year, no closing of timber mills could be traced to the original sealed bidding regulations required by the National Forests Management Act of 1976.

Furthermore, in a September 26, 1977 letter from USDA Deputy Secretary John White to Chairman FOLEY of the House Agriculture Committee, the administration's policy on protecting dependent communities was clearly spelled out:

> With regard to the bidding question, revised regulations were issued on June 2, 1977. We believe these regulations provide adequate protection for dependent communities. After careful review of these regulations and questions raised on the effects of the regulations, we conclude it is not necessary or desirable to change the basic statute under which they were developed. We therefore oppose enactment of H.R. 6362 or Senate act, S. 1360, and we would oppose any other amendment to subsection 14(e) at this time. We need to gain experience in implementing the law and will review the regulations at the end of one year of usage. We are committed to a fair and workable implementation of the law.

The final regulations now in effect provide for an appeal to the Forest Service by an unsuccessful bidder or in the case of a community which feels that its economic survival is threatened by the award of a bid.

CONGRESSIONAL INTENT

Finally, the report on H.R. 6362 (No. 95-402) states that the legislative history of section 14(e) of the National Forest Management Act of 1976 is "meagre." Some timber interests, and certain members of the Forest Subcommittee, have stated that no discussions were held in connection with the adoption of the sealed bidding proposal and that the final interpretation of section 14(e) was not according to the congressional intent. This is simply not the case.

During the subcommittee hearings on the National Forest Management Act of 1976, I first suggested the possibility of addressing the collusive bidding situation with a punitive approach—by enforcing after-the-fact-penalties. Subcommittee members pointed out that the punitive approach would not be a desirable way to proceed. Therefore, after consultation with the Forest Service, an amendment was designed to make collusive bidding more difficult. It is true the amendment in the full committee dealt only with small timber companies and thus was more modest than the one which the conference approved. Therefore, in conference the amendment was enlarged to encompass all timber sales in the West. The conference reports were agreed to and after the President signed the legislation into law, interim regulations were implemented, followed by final regulations in June of this year.

While I have felt that the final regulations referred to above have been too liberal, I do agree with the judgment of Forest Service Chief McGuire that it is far too early to reevaluate these regulations.

BENEFITS FOR VIETNAM VETERANS

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 11, 1977

Mrs. SCHROEDER. Mr. Speaker, I wish to share my letter to the President on the GI benefit bill along with a Washington Post editorial on the subject. I regret to say the President signed the bill rather than vetoed it so Vietnam veterans will still be second class.

HOUSE OF REPRESENTATIVES,
Washington, D.C., October 6, 1977.

JIMMY CARTER,
President, The White House, Washington, D.C.

DEAR MR. PRESIDENT: I am in full accord with the Washington Post editorial this morning on benefits for Vietnam Veterans. I hope you can see your way clear to vetoing the bill.

With kind regards.

Sincerely,

PATRICIA SCHROEDER,
Congresswoman.

[From the Washington Post, Oct. 6, 1977]

BENEFITS FOR VIETNAM VETERANS

By coincidence, Congress has sent the President legislation restricting GI benefits for veterans whose "bad paper" discharges have been upgraded just at the moment when President Carter's six-month review program for upgrading those discharges is coming to an end. The President's program, it must be said, has been something less than a success. Out of the eligible 161,000 ex-servicemen with undesirable discharges, only about 25,000 applied, and only 16,000 of the applicants received the upgrading that would theoretically have entitled them to GI benefits. And while the program itself had flaws, it must also be said that it suffered in large part from the administration's failure to make a more serious effort to explain it—and to explain the problem, as well. This failure, in turn, had other consequences: In Congress—and especially in the House—it left the field open to those who find it convenient or even patriotic to write off as "troublemakers" and "incompetents" thousands of Vietnam veterans who in many cases served honorably in combat, were wounded and in some cases decorated for valor, and who subsequently deserted in opposition to the war or got themselves into other kinds of trouble.

It is this element in Congress that we have to thank for the bill now on the President's desk that would deny automatic GI benefits to veterans whose "bad paper" discharges have been reviewed and upgraded to honorable. The President has until Saturday night to decide whether this bill fits the spirit of "forgiveness" and "compassion" with which he proclaimed amnesty for draft evaders on the second day of his presidency. In the case of the draft evaders, violations of the law were pardoned and the full entitlements of a citizen were restored. But in the case of those who served and had second thoughts—who deserted or violated other military regulations—a clean slate would not be automatic. Congress would subject their entitlements to educational, health and other veterans benefits to a strict case-by-case review under standards that generally existed before the special Carter "upgrading" program and that were unrelated to the particular circumstances of Vietnam.

We believe that the bill should be vetoed on the ground that it puts too heavy a burden on a group of veterans who are already victimized by high rates of unemployment, serious readjustment problems and, in many cases, inadequate GI educational benefits. One compromise after another has been patched onto it. A few months ago, some observers (ourselves included) saw hope that legislation offered by Sens. Alan Cranston (D-Calif.) and Strom Thurmond (R-S.C.) provided a middle-way approach that was about as positive as could be expected, considering the congressional mood. But since then, the Cranston-Thurmond approach has been tightened in several ways, most notably including an overly severe and arbitrary definition of what constitutes being AWOL—absent without leave. As Rep. Thomas Downey (D-N.Y.) has noted, the bill does not take into account the reasons, circumstances and intent of an AWOL. In determining eligibility for benefits, Rep. Downey points out, "the fact that an unauthorized absence began after a successful period of service and with only weeks left in a soldier's tour of duty would be unimportant; more disturbing, any wounds, decorations or unfair treatment of a soldier would simply be ignored."

It ought to be noted that Sen. Cranston was as diligent as possible in the art of compromise. He understood, as many others in the Congress did not, that Vietnam veterans require a different approach because Vietnam was different from other American wars—different in the way it was launched, in the atmosphere that surrounded it and in its aftermath.

Although the bill sent to the President by Congress does have some useful provisions—such as giving entitlement to hospital care to individuals with bad discharges who suffered injuries in the line of duty—it falls short of what is needed. In suggesting a veto, we believe that the veterans whose benefits and livelihoods are at stake would be better served by the strict application of the President's oft-stated principles of forgiveness and compassion than by a Congress apparently unprepared to deal equitably with the necessary, unfinished business of Vietnam.

TOO MANY LAWS

HON. OLIN E. TEAGUE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 11, 1977

Mr. TEAGUE. Mr. Speaker, under leave to extend my remarks in the RECORD, I wish to include an editorial which appeared in the Fort Worth Star Telegram for September 26, 1977, written by Mr. Walt Wriston and commend it as worthwhile reading to the Members of this body.

Mr. Wriston makes two excellent observations; ones which I have spoken of many times. First, this body has abdicated its lawmaking authority by giving administrators and directors of executive agencies too much leeway in their promulgation of rules and regulations; and second, that the country would probably be just as well off if we enacted fewer laws and were not in session so long.

DEMOCRACY ENDANGERED BY TOO MANY LAWS

(By Walter B. Wriston)

Our free society is gravely imperiled, and individual freedom itself is in danger of being smothered.

The rock on which we stand is voluntarism. Democracy can be based on no other presumption. The framework which supports our unique society is that until fairly recently, most of us voluntarily conformed to the law. Today, I believe that such voluntary conformity is becoming literally impossible for the majority of the American people.

Now, only the very rich or the very poor have any possibility whatsoever of learning what the law is, surely a precondition to voluntary conformity. It is becoming increasingly true that the great bulk of our population has to ignore the law completely in order to survive. There are so many laws and regulations with the force of law that it is a fair bet that everyone is at present in violation of some statute—we just do not know which one.

Not only do we not know what the law is, we cannot afford to find out. The rich may be able to hire enough lawyers to read at least some of the laws and regulations that pour out of government at all levels, but the poor can only find out by being rousted in the street.

The web of laws is now so pervasive that much of it is useless. Since that is true, it puts the power of selective enforcement in the hands of the executive or a politician running for office or an investigative reporter looking for a story. Billy Carter found out that not having his fire extinguisher charged was a violation of law!

A dim bulb in the taillight of your car perhaps fails to pass the legal screen—the list runs on forever. It is so long that no index can be made even listing the subjects covered, let alone what the law says.

It would be tragic if what began as the rule of a law was in the end brought down through the sheer confusion the mass of law now creates. As more and more laws are put on the books each day, more and more people have to ignore them. We are training up an entire generation, who, with some justification, can have little respect for the law. Our free society, which is rooted in voluntary compliance, stands in danger of strangulation.

Madison warned that the "facility and excess of lawmaking seem to be the diseases to which our governments are most liable."

For all their insight, the framers of our Constitution could not foresee a day when approximately 500 legislators would employ 10,000 people to assist them in their legislative tasks. What they could have told their modern successors was that such a horde would propose far too much legislation.

Last year, there were 20,000 bills introduced in Congress. In a single day, not less than 242 committees and subcommittees of the Congress were in session—all, under the rules "for a legislative purpose." No wonder they produce such an indigestible mass of legislation.

Almost without being aware of it, we have ignored the basic intention of the Founding Fathers that we achieve a fair and equitable government through the separation of powers among the executive, legislative and judicial branches. We have forgotten John Locke's dictum that "the legislative cannot transfer the power of making laws to any other hands."

The executive, in the form of regulatory agencies, now fills the Federal Register day after day with explicit evidence that the separation of powers has eroded to an extent that constitutes a clear and present danger. What to do?

It used to be that the Congress was in session about three months each year. The rest of the time, members were home listening to the people who elected them. Today, Congress meets almost 12 months of the year with a few recesses, leaving a staff of 10,000 to dream up new laws.

Let us have a constitutional amendment that would limit the Congressional session to six or seven months. A shorter session, more contact with the electorate, and less with the staff and the Washington press corps, might restore some sense of perspective to our legislative process.

If we continue to force an increasing majority of our population to ignore the law, we shall have neither law nor liberty, but we will run the risk that an authoritarian government will fill the void.

CONCLUDING COMMENTS OF ACADEMIC PANEL AT WAYS AND MEANS SUBCOMMITTEE ON TRADE HEARING ON STEEL

HON. CHARLES A. VANIK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 11, 1977

Mr. VANIK. Mr. Speaker, on September 20, the Subcommittee on Trade of the Committee on Ways and Means held an all-day hearing on "World Steel Trade: Current Trends, and Structural Problems." The hearing consisted of three panels: First, the administration; second, an academic panel; and third, a panel of labor, management, and steel importers.

Because of the timelessness of the subject, I would like to include at this point in the RECORD the summary comments of the academic panel—comments which I am sorry to say included many more ideas than were offered by the entire administration panel.

The academic panel consisted of—

Dr. Paul Marshall of the consulting firm of Putnam, Hayes & Bartlett, Inc., Newton, Mass.;

Dr. Bela Gold, Professor of Industrial Economics and Director of the Research Program in Industrial Economics, Case Western Reserve University, Cleveland, Ohio;

Dr. Hans Mueller, Professor of Economics, Middle Tennessee State University, Murfreesboro, Tenn.;

Dr. F. Michael Scherer, Professor of Economics, Northwestern University, Evanston, Ill.

Mr. VANIK. You were here, I presume, during the time when the administration witnesses were stating about what they would recommend.

Out of that collective group of statements, are there any real suggestions made by the administration that would be viable for us to follow?

I might ask that of each member of the panel. What is your comment on the Government witneses' response to the discussion of today, the problems?

Dr. MARSHALL. My hope would be, and belief, is that the best chance for some short-run relief is going to be in agreements with the major exporting countries in Europe and Japan, whether it is bilateral or whether it is through OECD. I believe the administrative delay that it takes to get through the bureaucracy for antidumping, will not provide short-run relief. If there is hope in the short run, it is that Ambassador Strauss can persuade our trading partners that they are creating a vast disruption in our markets at this time and convince them to change their behavior.

I don't think that will come about unless antidumping and countervailing duty actions are taken. I think by the time those are in effect, 6 or 8 months from now, there will be other major closings, if the current conditions existed over that period of time.

Dr. GOLD. I am concerned over the threatening use made of the term "protectionism." I believe that protectionism over the long run carried to extremes will lead to grave difficulties. But when I am told that protectionism is always suicidal, I ask how suicidal has it been for the Japanese in the last 15 years? How suicidal has it been for every country in the world which has engaged in some degree of restriction of foreign trade?

The question seems to me to be: What kinds of compromises can we develop with other countries, including balancing the terms of their access to our markets according to the reasonableness of our access to their markets? But the notion that we mustn't resort to any protectionism at all regardless of what others do, because of the likelihood of immediately disastrous results strikes me as ridiculous.

It is not borne out by our experience nor by the experience of the people we are dealing with. It seems to me this is a perfectly good area for negotiation and tradeoffs to make sure we have adequate protection for ourselves.

Mr. VANIK. Dr. Scherer?

Dr. SCHERER. First of all, I think we should handle the question of dumping once and for all by having a clean case that sets the criteria and gets the data.

As far as the other areas of protectionism is concerned. I sympathize with Ambassador Strauss' position. International trade is like a complex organic molecule. It can be the glue that binds together prosperity and peace in the world, but it can also turn into an explosive, as it did during the 1930's. I think we have to be very wary of this. I think we also have to recognize that the United States is the biggest, most powerful industrial nation in the world, and that whereas other smaller nations may be able to play around with protectionism, when we as the leader go strongly protectionist, we are going to have some very severe repercussions on the structure of international trade.

Mr. VANIK. Dr. Mueller?

Dr. MUELLER. First of all, I think we should separate very precisely the short-run problem, what the Europeans call a manifest crisis.

If we identify the situation as such and we think we want to maintain a healthy steel industry, first of all, we should identify the efficient and inefficient segments of the industry, and any change in law, any application of the law, or reinterpretation of laws, should be gauged to separate the issues of whether we are trying to rescue or salvage the industry from a short-run crisis, or whether we are trying to enable them to make profits so they can expand?

I have heard these two arguments side by side. They need more money to build new capacity and more money to modernize. There is a distinction in the issues here.

Then antitrust. The foreign countries do have antitrust laws. The Common Market has a law, and the Japanese do, too. In all of these laws, the structure of the industry is gauged toward international competitiveness, and in almost every case this idea has been introduced into the interpretation of the law. I believe in our country antitrust policy is inward looking. The American market is the world, I believe, for most interpreters of the law.

What I was thinking of primarily was a way to enable companies which have several plants in the same area. Cleveland, Chicago, or Pittsburgh, where you have three or four plants all belonging to different companies, to set up joint ventures. To say that this would be in violation of antitrust laws may be an exaggeration, though, because I don't believe they have tested this.

Instead of merging directly, steel companies would swap plants, or continue the plants separately, but set up a joint venture for the blast furnace stage to increase economies of scale.

What we have now is too many small plants with too much big equipment in them, and it is being underutilized even at the top capacity they can run. They are still entirely unbalanced in the equipment between small-scale and large-scale equipment, and I think some kind of plan of joint venture or throwing together small plants located side by side might alleviate the problem.

As to taking action against Europe, I think the Europeans probably can be attacked much easier on cost and also on government involvement. But the United States right now has a positive balance of trade with Europe, and the Europeans threaten retaliation. We would have more to lose than they have. We sell them more than they sell to us, and unless our exports are less labor-intensive than our imports, I don't see how import restrictions would help our labor situation.

Finally, the point I mentioned before: government involvement. In the European case, I think this should be investigated a little further in the case of France, Britain, and Italy At the same time these industries receive funds, or low interest loans, they have also been subjected to price controls. Now, the price control in the early 1970's inflicted enormous damage on the American steel industry. The British had to contend with this for a period of about seven years. This is one of their major complaints, namely that they lost more money through price controls by the government than they got from the government in allocations. The same is true for the French steel industry. The Japanese had just a little bit of that, that is, price controls.

We therefore should investigate the whole problem of government subsidies. What was their purpose? Do they give loans to rationalize, and help them to get over the crisis of rebuilding capacity that is entirely outdated?

Then there are the LDC's. I disagree at little bit with Mr. Marshall in this respect. The LDC's are expanding their steelmaking capacity. Their cost of expansion is higher than that in the United States and double the Japanese cost. The official reason for expansion is often regional development. But we should look into this. As long as they try to become to some extent self-sufficient, so that they would not be exposed to the fluctuations of the world market, and not have their fledgling manufacturing industry exposed to the wide fluctuations in prices, this seems unobjectionable. But if they build up very costly steel capacity for export purposes and run it at a loss, I don't see that this can be justified. Moreover, the picture of subsidies and artificial exchange rates is very complicated. If we can't keep up with the Japanese cost, we can't figure out what the cost of steelmaking is in LDC's; there are too many layers of government involved there.

Again, with respect to the Trade Act, the way I have read (the latest studies on Japanese versus American costs) conclusions are drawn on selling below costs. The impression is felt that the Japanese or everybody else should sell at the administered prices. If the cost concept of the Trade Act is very fuzzy at the present time, it would be impossible, I think, to substantiate charges of selling below home market prices. I just spent time in the Common Market, and I was told by officials that they have no idea what the prices are in the markets of member countries. Even the Japanese big buyer price is discounted to some extent, and the prices charged by steel companies in the United States are not the same as list prices during a recession. This will be brought out in the forthcoming FTC study.

Mr. VANIK. Thank you very much.

On behalf of the committee, I want to express my gratitude to the panel.

THE GOP ON THE MOVE

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 11, 1977

Mr. MICHEL. Mr. Speaker, predicting the death of the Republican Party has become a small industry in some parts of the country. Not a day passes without someone listing the alleged shortcomings of the party and predicting certain doom unless we become more and more like the Democrats.

Now I recognize as much as anyone that in terms of numbers, the Republicans are not doing as well as we would hope in the Congress and in State houses throughout the Nation. But to take that unpleasant fact as the basis for predicting inevitable disaster is, I believe, to miss a very important point: the Republican Party is even now on its way back and it looks as if it is going to continue.

Do I exaggerate? I think not. More to the point, the Wall Street Journal, in an editorial, "The GOP on the Move" reminds us of an important fact that these gloom and doom salesmen ignore. In the words of the Journal, "there has been a remarkable ascendency and cohesiveness of congressional Republicans." In the Senate and the House, Republicans are pulling together. We are presenting realistic and serious alternatives to the wasteful and unimaginative big-spending programs of the Democrats who have not had a new idea since the days of John Nance Garner. Allow me to quote from the Wall Street Journal concerning this point:

These alternatives have brought an enthusiasm to the GOP that is almost palpable, for Republicans sense they can win at the polls with them; in three special House elections this year, they acquired seats held by Democrats. One, in Louisiana, had been Democratic for 103 years.

If you stop and think about it, the Republican alternatives have a familiar ring. They propose price deregulation of energy, less government regulation of business and industry; and lower tax rates and simplified tax codes, instead of the present "disgrace to the human race". The program is that which Jimmy Carter embraced on his run to the presidency, the program he abandoned once he got there.

Two important truths are found in those words, Mr. Speaker: Jimmy Carter has abandoned the program and policies he promised the American people and the Republican Party is on the road to political success. I believe that these two truths will shape the political reality of this country in the next year or so and will definitely lead to Republican successes in 1978 and 1980. The GOP is on the move and the only way it can be stopped is if Republicans abandon the principles that are at the heart of their comeback.

At this time I insert into the RECORD "The GOP on the Move" from the Wall Street Journal, October 11, 1977:

THE GOP ON THE MOVE

Only a few in the Washington press corps seem to have noticed, but coincident with the decline of President Carter and his program has been a remarkable ascendency and cohesiveness of congressional Republicans. As

James P. Gannon of our Washington bureau observed on this page last Friday, "the Senate GOP minority is discovering muscles it didn't know it had."

It was the unity of the Republican minority that killed the $50 rebate the President proposed last spring. And it has been the unity of the GOP that has caused decimation of the President's energy plan. Once the Republicans plastered the energy package for what it was, an enormous tax increase, they had a tool to chip away at the Democratic majority.

In this sense the "Loyal Opposition" has negative strength. It can block programs if it sticks together, but cannot advance its own programs beyond the rhetorical stage. Since the $50 rebate would have been a total waste and the energy plan a disaster, the Republicans have been Mr. Carter's chief asset so far, whether he knows it or not.

The GOP could not possibly stick together if it did not have alternatives attractive enough to bind together the melange of ideologies that are contained in its ranks. The fact that they are finding them now, when they couldn't pre-Carter, reflects the freedom they now have from the dictates of a Republican White House.

On energy, the lines are clearly drawn. Mr. Carter sought to reduce demand through taxation, the Republicans seek to increase supply through price deregulation. Only a handful of Republicans defected from the position in the House, and only three GOP Senators—Javits of New York, Case of New Jersey and Brooke of Massachusetts—voted with the President.

On economic policy, the lines are drawn the same way. Mr. Carter has been trying the Keynesian method—trying to increase demand by increasing spending (which means an increase in future taxation). The $50 rebate is classic Keynes. The "Urban Development Bank" Mr. Carter will unveil in February will be more of the same. The "tax reform" plan Mr. Carter's people have been wrestling with behind the scenes also aims at demand by redistributing income.

For the first time in 25 years, the Republicans have coalesced around an economic program that aims at expanding supply, largely through lower tax rates on personal incomes. The plan is essentially that designed by Rep. Jack Kemp of Buffalo, N.Y., which he was unable to sell to the Ford administration when it insisted on making tax-rate cuts contingent on spending reductions.

Two weeks ago, Mr. Kemp keynoted the Republican National Committee's meeting in New Orleans and the RNC adopted his approach without dissent. Last week, the joint minority leadership—Sen. Howard Baker and Rep. John Rhodes—announced party endorsement of the 33 percent cut in personal tax rates over three years that is embodied in the Roth-Kemp bill, Sen. William Roth of Delaware being the Senate author.

At the same time, Senator Hatch of Utah and Sen. Hayakawa of California have become aggressive on these issues, Mr. Hatch battling Internal Revenue on taxation of fringe benefits. Mr. Hayakawa pushing tax-rate inflation adjustments. In the House, Rep. Barber Conable has Republicans unified against the dizzy increases in the Social Security wage base that will hit the middle-class with much higher payroll taxes.

These alternatives have brought an enthusiasm to the GOP that is almost palpable, for Republicans sense they can win at the polls with them; in three special House elections this year, they acquired seats held by Democrats. One, in Louisiana, had been Democratic for 103 years.

If you stop and think about it, the Republican alternatives have a familiar ring. They propose price deregulation of energy, less government regulation of business and industry, and lower tax rates and simplified tax codes, instead of the present "disgrace to the human race." The program is that which Jimmy Carter embraced on his run to the presidency, the program he abandoned once he got there.

TRIBUTE TO SARAH LANDAU

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 11, 1977

Mr. MAZZOLI. Mr. Speaker, I am proud to have, as my friend, counselor and constituent Miss Sarah Landau. Sarah, who is a young 85, has gone above and beyond the call in advancing the rights of working men and women, minorities, children, and the elderly in the Louisville area and also across the Nation.

Always with humor and modesty, Miss Landau has analyzed the most abstruse of issues and has thereby contributed greatly to worthwhile and necessary social changes.

In all of these worthy efforts, she has had the love and support of her sister, Mathilda.

I commend to the attention of my colleagues an excellent tribute to Miss Landau which appeared in the August 16 Louisville Courier-Journal. She is a rare and remarkable person whose saga deserves to receive wide notice:

SARAH LANDAU: A LIFETIME ON THE BIG ISSUES, TEACHING

(By Mike Winerip)

This is going to come as a surprise to a lot of people, but Sarah Landau is 85.

A surprise because she doesn't look 85 and doesn't act 85. If she looked you right in the eye and said, "I'm 70," there would be no doubting.

It gets more surprising when you start thinking about her past. It means that when Sarah Landau spent a year going around the world alone on freighters and steamers she was 68. It means that when she stopped teaching economics at Berea College she was 72. She was active in the Job Corps placement program for poor young women until it ended—when she was 83. At 85 she is president of the Women's Overseas Service League, a member of the University Women at the University of Louisville and several Jewish organizations, and a persistant world traveler. She cooks and keeps house for her sister and manages an apartment complex with 18 tenants.

These days she does volunteer work only when asked, she says, and then apologizes for not being able to list more activities. Oh yes, occasionally she'll do an economic study for a group or club. This is an afterthought. She makes an "occasional economic study" sound like "a little ironing."

Finally, she says, there is so much correspondence to keep up with after 85 busy years.

It is fair to say this at the outset, that her life was characterized by helping others, often on a one-to-one basis, sometimes on a grand scale, working for the big issues like labor or open immigration.

Yet at no time did her support for the issues become knee-jerk. In 1938, when Republic Steel was involved in a vicious strike, Sarah Landau swore never to cross a picket line again and began getting labor into her economics teaching. But when labor became conservative in the 1960s and 1970s, supporting Nixon, opposing school busing, Miss Landau took her politics elsewhere. Then she got involved with federal social legislation, helping to train and find jobs for the poor, mostly young, black women.

There has always been some cause. After returning from a job in France with the Red Cross during World War I, she joined the Society for The Cause and Cure of War, serving as a Louisville delegate to the national convention. "I remember that well," she says, "because that was the first time I met Eleanor Roosevelt. She was a delegate too.

"And, I should add, we didn't cure war. It's still there."

She returned home long enough to graduate from the U of L and then she was off again, to New York this time, working with an agency that met the European immigrants as they got off the boat.

"They were on quota by then. I saw families split right on the dock. Once we had a couple who just missed coming in and they put them back on the boat. But they never made it back to Constantinople. They jumped off the boat. What do you think happened? Suicide. But I guess they were interesting times."

She came back to the University of Louisville as an instructor, but left in the late 1920s, during George Colvin's controversial term as president. Colvin, a man with political connections, expected complete loyalty from his professors, says Dwayne Cox, the assistant university archivist. Some of the most distinguished faculty members left at that time, including Louis Gottschalk, a well known historian who went on to build a reputation as a professor at the University of Chicago and president of the American Historical Association, "Colvin believed that teaching history should inspire you to be a patriot," says Cox, "And wound up chasing away anybody who was a real academic."

He chased Sarah Landau to the University of Chicago, where she was a teaching fellow for two years until the Depression hit full force and brought her home to Louisville and into her longest down period.

The three Landau girls had grown up comfortably. Her father owned a successful boy's-knee-pants business and a fashionable Fourth Street apartment house. The apartments were known all over the city, Miss Landau says. At that time there were six apartments of eight rooms each, rented by former Mayor Leland Taylor, by diplomats, professors and doctors. They all stayed at the Fontaine Apartments.

She tried to help her father when things got bad, but there was nothing to be done. Customers didn't buy knee pants, the retailers couldn't pay their bills and the clothing company went under. They lost their home on Fourth Street and then they lost the apartment next door. The strain was tremendous. Her father died in 1933 and her mother in 1934.

At 42 years old, when most women are comfortable in their own homes, surrounded by a husband established in his job and teen-aged children, Sarah Landau was alone with no job and little money.

So she went out and tried to get started again. She began a legal fight to get her apartment house back. It would take 33 years before she would own it again.

College jobs were tight, but she was able to get on at McNeece College in Louisiana. From there she went to Alabama College for Women and to the North Carolina Women's College, the whole time hoping to get back to a senior college.

The job wasn't there, so she took government work in Washington.

Finally in 1945, at 53, she got the faculty position she wanted, at Roosevelt University in Chicago, a new school with none of the quotas for Jews and blacks that were the rule at many of the established colleges.

There she taught labor economics, meeting Eleanor Roosevelt again, when the two were honored by the college in 1951.

She retired in 1954 at 62 and returned to Louisville, but came out of retirement again to teach at Berea off and on until 1964.

During her free summers she would go to other universities to take courses, including the University of Virginia, Columbia, the University of Pennsylvania, UCLA (where she studied writing under Joan Didion) and the London School of Economics. It was in London that she became good friends with Frida Laski, wife of former British Labour Party chairman Harold Laski. Miss Landau still visits her. "She's nearly blind and she reads talking books and listens to the radio to keep up. When I go to London now I spend most of my days reading to her and go off on my own in the evening."

Through the years she often lectured to women's groups, at the YWCA, at civic clubs and Jewish groups. Not everyone liked what she said. "I remember one time the question was, 'Miss Landau, what would happen if we went off the gold standard?'

"I said, 'We did go off the gold standard.' I got a call from a husband that night. 'What are you doing telling my wife that we went off gold?' he says. 'What kind of person are you anyway?'

"I said we did go off gold. He said prove it.

"So I called my friends in the Treasury and got them to send me the report about the time we went off the gold standard.

"And my friend in Washington, said, 'Dr. Sarah, don't you know better than teaching the truth to women?' "

If she did, she didn't pay any attention, because she went right on teaching her truth, to women and men, getting the point across in quiet ways.

James Wolfe, the former education and research director with the Kentucky Federation of Labor recalled: "For years I had tried to teach a labor course at Berea's summer school. Old man (Francis) Hutchins was president then, and he was never liberal, no matter what people think about Berea. He'd say, 'Just wait a minute young man. You're with the unions? And you want to hold a summer school in Berea—question mark. No way.'

"Next summer Sarah sent me a note asking me to come speak at the college. I asked if she had checked with Hutchins. She said not to worry, just come down. Well, I went down and we had a wonderful day and I said to her, 'How did you pull this off?'

"And she said, 'Oh I just charmed the President.' That's all. That's how she'd help—quietly behind the scenes."

None of the Landau sisters ever married. One was a retail merchandiser in New York. Mathilda, who lives with Sarah, was a schoolteacher in Louisville. "We had good times, we had dates and we had proposals," says Sarah Landau. But the Landau girls had careers.

There is no easy figuring why Sarah Landau turned out to be so outward and worldly, friends say. Her sister is just the opposite. Mathilda rarely goes out of Louisville and Sarah has been all over the world. They even look different. Sarah is stocky, solid-looking; Mathilda looks as if you could knock her over with yesterday's newspaper.

Lois Gartz, 73, a social worker for the Job Corps program Miss Landau worked with, says you cannot do a story on the woman without saying this:

"She has a good sense of humor. When something is funny we all had a good laugh, a good clean laugh; there was nothing bitter about it. She would have gorgeous laughs, see the irony in something. She didn't laugh when people slipped on a banana peels, she laughed at the irony and subtleties and genuinely funny things."

"And if something was sad, she was sad."

One of Sarah Landau's good friends is Susan Fowler, whose husband was a professor at the U of L with Miss Landau many years ago.

These days Mrs. Fowler can't get out often, and during the last couple of years some friends have put her off their list, she says, but one who always comes is Sarah Landau. "She comes here, yes indeed. She's a regular visitor, she's a regular . . . I really don't know what we talk about; we don't philosophize . . .

"She helps friends; she does that. She has tenants in her building who can't go out and she takes them to the dentist or doctor or goes shopping for them. And she can't even drive a car. She had a man who could drive for her and he died and now she's lost without him. Sometimes she'll get a young man to drive them. Usually now, she has to go by bus.

When Sarah Landau was asked what made her so different from most of her generation, she didn't know what to say. Finally she said:

"There must have been a lot of women from my era who did the same thing I did. I'm sure I'm not alone. Do I seem different?"

DR. VINCENT McKELVEY: WAS HE REPLACED FOR BEING TOO OPTIMISTIC ABOUT OUR DOMESTIC SOURCES OF ENERGY?

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 11, 1977

Mr. KEMP. Mr. Speaker, I was recently disappointed to learn that Dr. Vincent McKelvey, Director of the U.S. Geological Survey, has been forced to resign his post because of his optimistic view of our energy situation—a view that runs counter to the "Malthusian" pessimism of President Carter, Secretaries Andrus and Schlesinger, and others.

I do not believe it is a coincidence that McKelvey's forced removal from his post as Director of the U.S. Geological Survey, which is unprecedented in its history, followed closely on the heels of an important speech given by McKelvey to the TSAI forum in Boston on June 13. In that speech McKelvey refused the notion that the United States is rapidly running out of energy. There are vast amounts of hydrocarbons sealed away in forms not presently recoverable economically, such as gas in tight formations in the Rocky Mountains, gas in black shales in the Eastern United States, and gas occluded in coal beds throughout the country.

In addition McKelvey noted that there are vast reserves of natural gas in the region, both on- and off-shore. He said that investigations in the area have led to estimates of as much as 60,000 to 80,000 trillion cubic feet of natural gas available. As McKelvey said:

This is an almost incomprehensively large number. Even at the bottom of the range represents about ten times the energy value of all oil, gas and coal reserves of the United States combined.

I am especially concerned that the administration's treatment of McKelvey is part of a larger pattern of suppressing dissent on the energy issue. Earlier there was the ill-fated MOPPS study which concluded that at a price of $2.25 per Mcf the Nation would be awash with natural gas. At a price of between $2.50 and $3 we would be engulfed in it. But because this conclusion ran counter to the official line, as laid down by James Schlesinger and his mentor S. David Freeman, ERDA quickly rushed out to do another MOPPS study to contradict the first. The director of the first MOPPS study, Dr. Christian Knudsen, was fired.

I believe that this treatment of any Government official who deviates from the official administration line that the United States is on the very brink of running out of energy is an absolute scandal. Insofar as there is any shortage of energy at all it is simply due to Government price controls. Yet rather than allow a free market to operate the Carter administration insists on imposing huge taxes on the already overtaxed American people to conserve energy and promoting new sources of energy which are vastly more expensive and environmentally harmful than the conventional oil and natural gas which is presently available at a decontrolled price. By way of illustration, the proposed trans-Canada gas pipeline endorsed by President Carter will not possibly be able to deliver natural gas to the United States for less than $3 per Mcf. Yet President Carter refuses to support natural gas decontrol on the grounds that it is too expensive, despite that fact that the unregulated intrastate price is only about $2.10 per Mcf—compared to the present controlled price of $1.45.

The Wall Street Journal has consistently tried to make these facts known to the American people. Most recently it revealed that the Russians estimate the existence of as much as 350 billion trillion cubic feet of natural gas on Earth. This compares to total U.S. consumption of only 20 trillion cubic feet per year at present.

I hope that my colleagues will read this important article and join me in denouncing the administration's absurd energy policies and its attempt to stifle dissent from men like Dr. McKelvey and Dr. Knudsen.

At this point I would like to insert into the RECORD the Wall Street Journal article I referred to from September 14, and an article about Dr. McKelvey's speech from the Oil Daily, July 14, 1977:

[From the Oil Daily, July 14, 1977]

GAS TRAPPED IN "GEOPRESSURIZED" ZONES

BOSTON, MASS.—As much as 60,000 to 80,000 trillion cubic feet of gas may be sealed in the "geopressured" zones underlying the gulf coast region, an Interior Department official said.

"This is an almost incomprehensibly large number," said U.S. Geological Survey Director Dr. V. E. McKelvey, noting that "even the bottom the range represents about 10 times the energy value of all oil, gas and coal reserves of the United States combined."

The estimate is based on limited investigation of the gas dissolved in water and free above the water zone.

Additionally, McKelvey said, "the water itself represents a potential source available at pressures up to 10,000 pounds per square inch and at temperatures exceeding 300 degrees F., provided ways can be found to produce, use and dispose of it."

He said vast amounts of hydrocarbons also are sealed in forms not presently recoverable economically, such as gas in tight sandstone formations in the Rocky Mountains, gas in black shales in the eastern United States and gas occluded in coal beds throughout the country.

McKelvey said oil appeared to be the least abundant of the fossil fuels, although estimates of undiscovered oil resources were high enough to justify further exploration and development.

He said the amount of coal and oil shale is both large and relatively well known. Large amounts of gas are also believed to exist, although less is known about their extent or the technology needed to produce them.

McKelvey's remarks were delivered before a group of institutional investors attending the Tsai Forum in Boston, sponsored by G. Tsai and Co.

[From the Wall Street Journal, Sept. 14, 1977]

20 MILLION YEARS OF ENERGY

Back in April the Carter White House argued that the "energy crisis" meant that the world was going to run out of petroleum and natural gas on a certain Tuesday near the turn of the century. Because the earth would refuse to give up any more bounty, the law of supply and demand was repealed, and instead you needed a new Department of Energy and a lot of new taxes to promote conservation.

The administration no longer talks that way about natural gas, and we modestly claim some of the credit for our April 27 editorial, "1,001 Years of Natural Gas." Energy Czar James Schlesinger now concedes that just here in the U.S. we have some 30 years worth of ordinary gas, plus some 100 years of geopressured methane. The Carter folks no longer talk about the constraints of the gas resource base before any serious audience. To contend that supply and demand don't work they fall back on junk arguments, e.g. that the shortage is not of gas but of drilling rigs. When that is laughed off they argue that if supply and demand works for gas it doesn't work for oil. Some Wednesday near the turn of the century the world will run out of crude oil and even if there isn't an "energy crises" there will be a horrendous "liquid hydrocarbons crisis."

The world's real energy experts in and out of the Carter administration know that this too is nonsense. A year ago, the experts seminared in Laxenburg, Austria, under United Nations auspices. Their report, "The Future Supply of Nature-Made Petroleum and Gas" (New York: Pergamon Press), concludes that there is petroleum galore out there. President Carter ought to send Andrew Young around to pick up a copy.

In the UN report, the President will find Dr. Joseph Barnea, an Israeli citizen who was the UN's director of natural resources from 1961–65, suggesting why it is Mr. Carter is being told there is so little petroleum. The shortage is one of definition. The U.S. Geological Survey, he says, defines crude oil as ". . . a natural mixture of hydrocarbons occurring underground in a liquid state in porous-rock reservoirs and remaining in a liquid state as it flows from a well at atmospheric pressure." This definition excludes the perhaps 85% of primary crude that can be brought up under pressure, plus all the non-liquid petroleum—tar sands, oil shales, etc.

"The result is that the estimates of recoverable oil which are published cover perhaps 1% of nature-made oil in place," says Dr. Barnea. The other 99% can be recovered via the law of supply and demand. In fact, he says, the resource base itself is a function of price minus taxes." As prices expand, the natural resource base expands. As taxes and costs rise, the resouce base declines."

This is even more true for the rest of the world. Bernardo Grossling of the U.S. Geological Survey, who was also at the Austria seminar, says the reason there's been so little oil discovered in, say, Africa and Latin America, is that the surface has barely been scratched there relative to exploration in the United States.

By the end of 1975, there had been 2,425,095 wells drilled in the United States. According to Mr. Grossling, the numbers drilled in the rest of the world are as follows: U.S.S.R.—530,000; Canada—100,000; Australia and New Zealand—2,500; Western Europe—25,000; Japan—5,500; Africa and Madagascar—15,000; Latin America—100,000; South and South East Asia—11,000; China, P.R.—9,000. The United States has 75% of the world total. There are only 10,000 wells in the Middle East.

President Carter will also learn that in 1942 the best estimate of ultimate reserves of crude oil was 600 billion barrels. In 1970, Mobil's geologists were estimating two trillion. In 1973, Peter Odell, writing in the Geographical Journal, saw the resource base reaching four trillion barrels by the year 2000. This "gives very little cause for concern, not only for the remainder of this century, but also thereafter well into the 21st Century at rates of consumption which will then be five or more times their present level."

What does the Moscow Academy of Sciences think? At the Austria session, Russian scientists Nesterov and Salmanov reckoned the crude oil resource base at a bit over 12 trillion barrels, or several centuries worth of the stuff. The Russians, by the way, make our 1,001 Years of Natural Gas editorial look puny. By counting hydrosphere gases—natural gas dissolved in oceans, underground water, ice, rivers, lakes and swamps—they figure the planet contains something like 350 billion trillion cubic feet of natural gas. Thats 20 million years worth, conservatively, give or take a year.

The Club of Rome and the rest to the contrary, we aren't going to drain the last drop of oil from the earth some Wednesday. There are plenty of hydrocarbons to last until solar power comes in, so long as we will pay the cost of retrieving them. The law of supply and demand still works if allowed to. We don't need a new Department of Energy and a lot of energy-busting taxes. We only need to deregulate the price and get the politicians out of the way.

THINK "POSITIVE"?

HON. HARRY F. BYRD, JR.

OF VIRGINIA

IN THE SENATE OF THE UNITED STATES

Tuesday, October 11, 1977

Mr. HARRY F. BYRD, JR. Mr. President, I ask unanimous consent to have printed in the RECORD the editorial page from this week's U.S. News & World Report. The commentary speaks for itself.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

THINK "POSITIVE"?

(The following is an eloquent commentary on big government written recently by Warren T. Brookes in the Boston Herald American. With their permission, excerpts are reprinted here.—Marvin Stone, Editor)

During the past few years, it has become fashionable in the media, generally, to refer to any politician who votes against major spending programs as "negative," or "lacking in compassion."

Similarly, politicians who regularly vote for vast government social enterprises are regarded as "positive" or "compassionate" or "liberal" (i.e. "for the people").

What is "positive" about a government that runs annual deficits of over 50 billion dollars—and prints money to finance them?

What is "positive" or "compassionate" about a constant inflation rate of nearly 7 per cent—a rate at which half of your life savings are destroyed every 10 to 12 years?

What is "positive" about a government whose regulations now cost consumers more than 100 billion dollars a year?

What is "positive" about government health programs that have singlehandedly driven the nation's spending on health care from 5 per cent of the GNP to nearly 9 per cent, in just 10 years?

What is "positive" or "liberal" about a Social Security System that is now taking more from the taxpayers than they can ever get back—and is still going bankrupt?

What is "positive" about a public education system that now spends over $1,500 a year per student—and doesn't teach them how to read, write, or do arithmetic?

What is "positive" or "compassionate" about a welfare system that is turning millions of Americans into helpless wards of the state, and encouraging millions of others to choose dependency instead of work?

What is "positive" about a government whose total accumulated long-term debt and obligations are over 5 trillion dollars—more than the total worth of the economy?

What is "positive" about a government energy policy that succeeds only in putting millions of people out of heat and work in the middle of a severe winter?

What is "positive" about more than 4 billion dollars in known welfare abuse, error and fraud?

What is "positive" about a nation where there are nearly 85 full-time dependents or employes of government for every 100 productive private taxpayers?

What is "positive" or "compassionate" about government housing and urban-development programs that have only accelerated urban decay, and isolated the poor in bleak warehouses?

What is "positive" about a government which is printing money at a rate more than twice as fast as the nation's economy is growing?

What is "positive" or "liberal" about asking government bureaucrats to make decisions for you, which you are better able to make for yourself—and at much lower cost?

What is "positive" about government policies that first create energy shortages, and then demand billions in new taxes to "solve" them, that create a crisis, and demand even more power and control to "alleviate" it?

In short, what is "positive" or compassionate" or "liberal" about big government, with all its trappings of bureaucratic power, waste and arrogance, with all its constant threats to individual freedom, privacy and expression?

We think we know what Thomas Jefferson would have said to these rhetorical questions. In 1801 he wrote:

"Every man wishes to pursue his occupation and to enjoy the fruits of his labors and the produce of his property in peace and safety, and with the least possible expense. When these things are accomplished, all the objects for which government ought to be established are answered."

SENATE—*Wednesday, October 12, 1977*

(Legislative day of Tuesday, October 11, 1977)

The Senate met at 9:45 a.m., on the expiration of the recess, and was called to order by Hon. DENNIS DECONCINI, a Senator from the State of Arizona.

The Chaplain, the Reverend Edward L. R. Elson, offered the following prayer:

PRAYER

Let us pray:

We thank Thee, O God, for keeping us through the night and for the promise of this new day. We open our hearts to Thee and pray that this may be a day of growth in the spirit and of service for Thee, for this Nation, and for Thy kingdom in the world. Help us to meet it with quiet confidence and wisdom, whatever the day may bring. Strengthen us against temptation. Keep us loyal to truth and justice.

We pray in the name of Him who went about doing good. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., October 12, 1977.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable DENNIS DECONCINI, a Senator from the State of Arizona, to perform the duties of the Chair.

JAMES O. EASTLAND,
President pro tempore.

Mr. DECONCINI thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE LEADERSHIP

The ACTING PRESIDENT pro tempore. The Senator from West Virginia.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings of yesterday, Tuesday, October 11, 1977, be approved.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

EXECUTIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, there are some nominations on the Executive Calendar, beginning with the Environmental Protection Agency and going on through the Peace Corps. I ask unanimous consent to call them up at this time. First, I ask unanimous consent to go into executive session to consider such nominations.

There being no objection, the Senate proceeded to the consideration of executive business.

Mr. BAKER. Mr. President, I only say to my friend, the majority leader, that the names on the Executive Calendar for today under Environmental Protection Agency, the Judiciary, and the Peace Corps, are cleared for consideration and we have no objection to their confirmation.

The ACTING PRESIDENT pro tempore. The clerk will state the nominations.

ENVIRONMENTAL PROTECTION AGENCY

The assistant legislative clerk read the nomination of Steven D. Jellinek, of Maryland, to be Assistant Administrator for Toxic Substances.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the nomination was confirmed.

Mr. BAKER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

THE JUDICIARY

The assistant legislative clerk read the nomination of Charles P. Sifton, of New York, to be U.S. district judge for the eastern district of New York.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the nomination was considered and confirmed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The assistant legislative clerk read the nomination of Thomas A. Ballantine, Jr., of Kentucky, to be U.S. district judge for the western district of Kentucky.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the nomination was considered and confirmed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

PEACE CORPS

The assistant legislative clerk read the nomination of Carolyn R. Payton, of the District of Columbia, to be Director of the Peace Corps.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the nomination was considered and confirmed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of the nominations.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate resume the consideration of legislative business.

The motion was agreed to, and the Senate resumed the consideration of legislative business.

THE SENATE SCHEDULE

Mr. ROBERT C. BYRD. Mr. President, on last evening, a unanimous-consent agreement was entered into with respect to the legal services legislation. That agreement provides for a final vote on the legislation at no later than 5 p.m. on next Tuesday.

The amendments that are going to be called up for the most part—at least the more important ones—have been, I believe, fully discussed among the principals—meaning the authors of the amendments, and the managers on both sides of the aisle—and I would hope that the Senate could complete action on the legal services bill today.

There is a pretty good understanding among the principals as to what is involved in the amendments. I think that there have been, at least, tentative decisions arrived at already with respect to some of those amendments. I hope the Senate will complete action on the bill today—even if it means staying in late today.

I hope the distinguished minority leader will join with me in the expression of this hope because there is plenty of other work to be done on Monday of next week.

It is the decision of the leadership to go out of session at the close of business today—not for the purpose of taking a rest, but so as to allow the Finance Committee to meet with respect to the energy tax bill, so as to allow the Finance Committee to finalize its action on the social security financing measure, and possibly other measures, and so as to allow the conferees of the Senate to meet with House conferees on various measures that are now tied up in conference.

It is hoped that the conference area can be cleaned up to the extent possible so that, once we get into the conferences on the energy bills, action can be expedited as rapidly as possible on those bills.

So these are 2 working days, Thursday and Friday—2 working days—and I hope that Senators will take advantage of the

fact that there will be no floor action with rollcalls and quorum calls to interrupt them in their committee work and in their conference committee work.

So again I would say that I hope our cloakrooms will get out the word that today may be a long day in an effort to complete action on the legal services legislation.

Mr. President, I yield.

Mr. BAKER. Mr. President, I, too, hope we can finish the legal services bill today. We negotiated at length and with some difficulty last evening trying to get an agreement at all, and finally did get one providing for time constraints that are listed on the cover of the calendar of business for today. Later we were able, as the majority leader points out, to obtain a time for final passage, that is to say, not later than next Tuesday.

I also watched with interest as the distinguished Senator from Utah (Mr. HATCH) outlined the areas in which, apparently, the adversaries have agreed. It seems to me that there is a fair possibility we can conclude this bill earlier than we had dared hope for originally. I think there is a good chance that if the parties will continue to negotiate as they were doing last night until about 9 o'clock, we can finish this bill easily and, as I say, fairly early in the day, meaning late afternoon.

Of course, if we do not do that, then I will certainly join the majority leader in trying to finish that measure today, if that is possible, and I will assure him that we will put our Members on notice through our cloakroom that there is a strong possibility of a late session today.

But I will also take the liberty of telling Members on this side that I hope they will continue their good negotiations and conclude this bill earlier than might be expected otherwise.

Could I ask the majority leader, if we do finish legal services, say late afternoon today, and, of course, finish the air bag matter which is provided for at 1 o'clock, would it then be his intention to go out and not call up some other matter on the calendar?

Mr. ROBERT C. BYRD. Yes. That would be my intention, unless there is something that can be dealt with by unanimous consent.

May I first thank the distinguished minority leader for his very strong supporting statement of the necessity for pressing ahead, working with our Members on both sides of the aisle, keeping the amendments flowing, and getting action completed on this bill today.

Upon disposition of the legal services bill, I would be ready to go out.

That would mean then on Monday we could turn to some of the items on which we have time agreements, clean them up, and be ready for the social security financing bill, conference reports, or other matters which are pressing.

Mr. BAKER. Yes. There are a number of matters, I might say to my friend the majority leader, that now have been the subject of unanimous-consent agreements that we can turn to at the beginning of next week. I think we have got a good chance of clearing the calendar and handling other matters that may be reported from committee with expedition.

I thank the majority leader.

Mr. ROBERT C. BYRD. I thank the minority leader.

Perhaps we can also, in the meantime, try to arrive at some additional unanimous-consent agreements, on some of the measures that are still on the calendar.

Mr. BAKER. I would hope to do that.

I would not prolong this unduly, but I am reminded that he and I both aspired to an October 7 sine die adjournment. We are now 5 days past that. We have identified October 29 as a possible sine die adjournment. But I frankly do not know if we can make October 29 or not.

Looking at the calendar, I would hope that it is possible to handle the matters that must be handled on the calendar, plus those matters that will come from committee, such as social security financing, and still salvage part of the month of October in 1- or 2-day recesses as they are available while the conference committees operate, say, on energy, and while the other body tends to their business.

But I think the Senate has come very close to dispatching the essential legislation that we had in mind when we first thought of an October 7 deadline.

I congratulate the majority leader for scheduling the activities of this body so that we are this close to that legislative fulfillment.

Mr. ROBERT C. BYRD. Mr. President, it is my plan to proceed in that fashion if circumstances will permit such intermittent recesses.

I have to say also, for the RECORD, that the October 8 adjournment date was not a date that was simply settled on between the distinguished minority leader and me. That was a date that was agreed upon also between the leadership of the two Houses. But it was never to have been understood that that date was of primary importance.

It was always secondary to the completion of our work as to the energy legislation and, of course, other matters. As we have found it impossible to complete that work, of course, any tentative adjournment date has slipped and will continue to slip. That is entirely secondary to the importance of getting the work of the Senate done.

I also want to thank the distinguished Senator from Tennessee for the cooperation that I have received consistently from him in keeping legislation before the Senate, and in keeping it moving. This has enabled the Senate to complete most of its work now for this session. If the energy legislation were now on its way to the President's desk, and the supplemental appropriation completed, and were the Alaska pipeline legislation completed—on which there is a boilerplate time agreement under law—and were social security financing, and conference reports all adopted, we would be going out this Saturday sine die.

But there still remains some work to be done and until that is done, of course, we will not adjourn.

But it is my plan to have intermittent recesses to allow committees and conferences to work when such recesses can be justified and circumstances will permit.

We will have a pro forma session on tomorrow—just coming in, going out—because otherwise we could not recess for 3 days without the approval of the other body, although by precedent the Senate has done it. The Senate has, in the past, gone out from Wednesday until Monday without the approval of the other body. But I think a pro forma session tomorrow is the right procedure.

I thank the distinguished minority leader.

ORDER OF BUSINESS

Mr. BAKER. Mr. President, I had a request for part of my time under the standing order, but I am now advised that the Senator I had in mind is not going to be here, so I yield back the remainder of my time, if any, under the standing order.

Mr. ROBERT C. BYRD. Mr. President, I yield back the remainder of my time.

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Alabama (Mr. ALLEN) is recognized for not to exceed 15 minutes.

Mr. ALLEN. I thank the Chair.

PANAMA CANAL TREATIES—NO. 15

Mr. ALLEN. Mr. President, this is the 15th speech I have made on the Senate floor in opposition to the Panama Canal Treaties. I do not believe that in the course of my remarks I have been redundant, because there are so many defects in the treaties that I have been able to point out something new in each of the speeches I have made.

Mr. President, during my testimony in opposition to the Panama Canal Treaties before the Senate Committee on Foreign Relations, one of the distinguished members of the committee, Senator SARBANES, raised an issue to which I have since given considerable study. The distinguished Senator inquired whether Panama could now grant to a third country the right to construct a canal between the Caribbean and the Pacific through the territory of Panama, excluding obviously the United States territory comprising the Canal Zone. I did not then know the answer to the distinguished Senator's inquiry, although I did indicate that to the best of my knowledge, the treaty of 1903 did contain some provision affecting the ability of Panama to grant a canal concession to a government other than the United States. Having since looked into the matter, I can now report that under article V of the treaty of 1903, the United States has already in perpetuity a monopoly on any interoceanic canal construction across Panama, either inside or outside the Canal Zone.

Mr. President, the Department of State has repeatedly touted the brilliance of our negotiators in securing from the Panamanians an alleged agreement not to construct any new canal in the territory of Panama without the consent of the United States, at least not until after the year 1999. This so-called major diplomatic coup is embodied in article

XII, paragraph 2 of the canal treaty wherein appears the following:

The United States of America and the Republic of Panama agree on the following:

(a) No new interoceanic canal shall be constructed in the territory of the Republic of Panama during the duration of this Treaty, except in accordance with the provisions of this Treaty, or as the two Parties may otherwise agree;

That is in the proposed new treaty.

I find this provision ambiguous, but the Department of State asserts that our negotiators obtained this so-called concession from the Panamanians in return for our incredible agreement not even to negotiate with a third state for the construction of a new interoceanic canal anywhere in the Western Hemisphere without express Panamanian consent. In other words, Mr. President, the Department of State asserts that the quid pro quo for our agreement not to construct any new canal expect in Panama without the consent of the Panamanian dictator—the quid pro quo for that incredible concession is, or purports to be, this clause I have just quoted, which allegedly would prevent the Panamanians from constructing a canal with Soviet assistance or the assistance of some other unfriendly government.

But, Mr. President, the United States already, in perpetuity, can prevent any third nation from constructing a new canal in the territory of Panama. So we have gained absolutely nothing from this supposed Panamanian concession. They are not conceding anything. It is already provided in the 1903 treaty.

Mr. President, the plain fact is that the Department of State has set up a sham argument to justify its folly in allowing the Panamanians to tie our hands throughout the term of this proposed canal treaty and to excuse the—and I am going to be blunt about this, Mr. President—to excuse the stupidity of requiring the consent of a petty dictator before the United States of America can even negotiate with another nation for an interoceanic canal in the Western Hemisphere. This purported justification, this quid pro quo, is a sham because it is not a concession made to the United States by Panama, simply because the United States already has full authority to insist that no other nation construct in Panamanian territory a canal between the oceans.

Article V of the Isthmian Canal Convention of 1903, the Hay/Bunau-Varilla Treaty, reads as follows:

The Republic of Panama grants to the United States in perpetuity a monopoly for the construction, maintenance and operation of any system of communication by means of canal or railroad across its territory between the Caribbean Sea and the Pacific Ocean.

Mr. President, there is no ambiguity there. When treaties were drafted in this days, the documents spoke for themselves. The executive department in those days apparently did not have much tolerance for sloppy draftsmanship, but we here in the Senate today feel somewhat like Wendy and John wandering around in never-never land, trying to figure out just what these proposed new treaties actually do mean.

Mr. President, the Senate did not have that problem in 1903, and there is no doubt that under the treaty of 1903, the United States can already insist that no third nation construct a new canal in Panama. In addition, Mr. President, there can be no doubt that the right given to the United States, the monopoly given to the United States, is in perpetuity.

I might add parenthetically, Mr. President, that although the treaty of 1955 did in some respects modify article V of the treaty of 1903, the modifications in the treaty of 1955 only affect the monopoly given to the United States over railroads constructed between the two seas and do not in any way affect our existing monopoly with respect to any new strategic interoceanic canal which might be contemplated. Incidentally, too, Mr. President the treaty of 1955 itself, in extinguishing the provisions of article V with respect to railroads, still provides as follows:

In view of the vital interest of both countries in the effective protection of the Canal, the High Contracting Parties further agree that such abrogation is subject to the understanding that no system of interoceanic communication within the territory under the jurisdiction of the Republic of Panama by means of railroad or highway may be financed, constructed, maintained, or operated directly or indirectly by a third country or nationals thereof, unless in the opinion of both High Contracting Parties such financing, construction, maintenance, or operation would not affect the security of the Canal.

Therefore, even after allowing the abrogation of article V of the treaty of 1903 insofar as it affected railroads, our negotiators in 1955 nevertheless insisted that the United States be given a veto over any proposed construction of any railroads or, for that matter, highways, which connected the two oceans and which might in the judgment of the United States adversely affect the security of the canal.

Mr. President, Senators ought to review these past treaties—and I am sure many, if not all, have already done so—because a review of these past treaties shows the great care that negotiators for the United States have taken—at least up until now—in protecting the security of this vital international waterway. Our negotiators in the past have not taken lightly their responsibility to secure to the United States the control and defense of the Panama Canal, because our past negotiators have fully recognized the dire adverse strategic impact of permitting the effective control of the Panama Canal to fall into the hands of another nation or for that matter even permitting the effective control of any means of transit through the Isthmus of Panama to fall under the control of any power unfriendly to the United States.

But we have a new breed of negotiators working for us now, Mr. President, and they have seen fit to negotiate away our right to construct a sea level canal or a second canal in Nicaragua or in any other country, for example, in Mexico, at the Isthmus of Tehuantepec, all in return—and I use that term advisedly—all in return for the sham concession of the Panamanians in agreeing not to permit another country to build a canal in Panama for the 23-year term of the proposed Canal Treaty. Quite a concession, Mr. President. We extinguish a monopoly in perpetuity and they agree, in a rather loosely drafted provision, that no new canal will be constructed in Panama except in accordance with the terms of the proposed Canal Treaty—terms which do not in themselves forbid Panama to grant to the Soviet Union or some other country a right to construct a canal in Panama even within what is now the Canal Zone.

Then, too, Mr. President, Senators should note that the proposed Canal Treaty would abrogate entirely the treaty of 1955 which grants to the United States de facto control over the construction in Panama of interoceanic strategic highways or railroads which might in some way tend to damage the security of the canal or harm the security interests of the United States. Should this proposed Canal Treaty receive Senate consent, nothing whatsoever, even during the 23-year term of the treaty, would prohibit the Marxist dictatorship in Panama from entering into an agreement with Cuba, or with the Soviet Union, or with Red China, or with East Germany, or with North Korea, or with any other regime now opposed to the interests of our country—nothing—nothing would prevent Panama from agreeing to the construction of a major strategic highway or rail system with corresponding port facilities at either terminus for the purpose of threatening whatever defense forces of the United States might remain in Panama during this proposed 23-year term of surrender.

The good work of the conscientious negotiators for the United States who have represented us in the past in dealings with Panama would pretty much go down the drain if these treaties are implemented. The careful drafting of so many past treaties, protocols, and conventions designed to protect our strategic position in Panama would be, with the stroke of a pen and a two-thirds vote in the Senate, destroyed for all time.

The provisions of these proposed treaties which would destroy this past good work have not received to date sufficient attention. In our rush to examine the provisions of the treaty purporting to give us rights to defend the canal and rights to maintain the neutrality of the canal, many of us have overlooked the grave damage done to the existing fabric of our relations with Panama by the wholesale abrogation of virtually all important agreements reached with Panama over the past 74 years. Using more or less a meat-ax technique, our negotiators have wiped the slate clean, eliminating presumably both the good and the bad by specifically abrogating the treaty of 1903, the treaty of 1936, the treaty of 1955 and:

All other treaties, conventions, agreements, and exchanges of notes between the United States of America and the Republic of Panama, concerning the Panama Canal which were in force prior to the entry into force of this Treaty; and . . .

In other words, anything good in the past treaties will be wiped away, any concessions made are going to be wiped out, and we are going to start anew.

Listen to this, Mr. President, just to make sure there are no scraps or pieces around that might protect the interests of the United States:

Provisions concerning the Panama Canal which appear in other treaties—

not just these particular treaties with direct reference to Panama but in other treaties, conventions, agreements, and exchanges.

conventions, agreements and exchanges of notes between the United States of America and the Republic of Panama which were in force prior to the entry into force of this Treaty.

So that ought to pretty much do the job, Mr. President. Whatever has been done on behalf of the United States during this 74-year period is going down the tubes. Part of the package is the provision giving to the United States a monopoly over canal construction in Panama. Also slated for elimination are the provisions allowing us a right of refusal over any strategic interoceanic communications system which might damage the national security interests of our country or pose a threat to the canal.

Finally, Mr. President, Senators might rightly insist that we must have gained something in return for abrogating or nullifying three-quarters of a century of diplomacy. In my judgment, we have gained only ambiguous provisions which can be interpreted as either party chooses—either to commit the Panamanians not to construct a new canal with Soviet aid only during the 23-year term of the proposed canal treaty or to permit construction of a new interoceanic canal in Panama not inconsistent with the terms of the new proposed treaty, which terms do not in and of themselves prohibit such construction and which terms, with complete clarity, only commit the United States and Panama to study jointly the feasibility of a new sea level canal project.

Thus, Mr. President, we receive again only ambiguities to replace ironclad protections. Perhaps this proposed provision is interpreted by the present Panamanian Government in the same manner it is interpreted by our own Department of State. But what of it? The Panamanians have thus far shown little inclination to accept the interpretations given to these documents by the Department of State, and even assuming there has been a meeting of minds on this particular provision, its lack of clarity would no doubt be a seed of dispute planted in fertile soil.

I thank the Chair, and I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. ANDERSON). The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATOR EAGLETON

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for recognition of Mr. EAGLETON, which was vitiated last evening, be restored.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from Missouri is recognized for not to exceed 15 minutes.

THE ADMINISTRATION AND ARMS SALES

Mr. EAGLETON. Mr. President, in recent days the administration's new policy on conventional arms sales again has been in the news. In remarks on the Senate floor last Friday, the majority leader characterized as "somewhat disappointing" the administration's efforts thus far to curtail arms sales. Just yesterday, the Subcommittee on Foreign Assistance released a report by the Congressional Research Service, which also criticizes the administration's record on curbing arms sales. Both the majority leader's statement and the CRS report echo concerns I have felt as the Foreign Relations Committee held its hearing on the sale of AWACS aircraft to Iran, and I would like to share some of those concerns with my colleagues today.

Last May 19, President Carter announced his new policy on the sale of arms to other countries. The President pledged to reduce such sales, and further indicated that in the future, this country would not "be the first supplier to introduce into a region newly developed, advanced weapon systems which would create a new or significantly higher combat capability."

I applauded that policy then, and I applaud it today, as an enlightened stand necessary to the maintenance of world peace. However, while I am quick to praise the President's words, I must confess to a great deal of disappointment over the administration's actions thus far in implementing this new policy.

The President has promised that in the coming fiscal year there will be a substantial reduction of arms sales, below the $9.9 billion level of fiscal year 1977. It is my hope that the President will be able to fulfill this pledge; however, I cannot honestly say that this hope has been buoyed by the administration's actions in the months since the President's May 19 statement. During this period the administration has approved at least 45 foreign arms and services transactions totalling more than $4.1 billion. Nor have my hopes been buoyed by recent news articles, which quote administration sources as saying it will be 6 months before any progress on reducing arms sales can be seen, and 18 months or more before we see any "dramatic change" in foreign military sales. The President's new policy statement notwithstanding, arms sales to overseas customers continue at an undiminished rate.

I must confess that this is not what I expected to see after the President's statement last May. It was my understanding then that things would start changing immediately. It was my understanding that beginning right away—not in 6 or 18 months—it would be the policy of the U.S. Government to discourage foreign arms sales. It was my understanding that from May 19 on, the policy question to be answered in connection with each foreign arms sale would be "Why should we do this?" rather than "Is there any reason not to do this?"

I have no doubt that the President is totally sincere in his desire to reduce the flow of American arms to other nations. However, I now see that if this reduction of arms sales is to be accomplished as quickly as I and many of my colleagues would like, we will not be able to rely on the good intentions of the administration alone. We will have to become more deeply involved in the process ourselves, maintaining an even more vigilant watch on all arms transactions and utilizing the power of Congress to disapprove unwise sales.

We made a good start in this direction with our handling of the sale of seven E–3 AWACS airborne radar systems to the Government of Iran. Although we did not succeed in blocking this sale, we did succeed in further limiting such sales next year. As I already have mentioned, President Carter has specifically pledged that arms sales in fiscal 1978 will be less than in fiscal 1977. Had we allowed the AWACS sale to go forward when first proposed, the sale would have counted in the 1977 sales total, and would have raised that total—as well as the "ceiling" for 1978 sales—from $9.9 billion to $11.1 billion. Furthermore, the total fiscal year 1978 sales to date would be zero. Because we were able to delay the sale, however, the fiscal 1978 "ceiling" is only $9.9 billion, and $1.2 billion of that amount already has been "used up" by AWACS.

Therefore, if the administration is to meet its reduced arms sale goals, it can sell only another $7.7 billion worth of arms in fiscal 1978, some $3.4 billion less than if the AWACS sale to Iran had not been delayed.

Of course, this does not mean that I now am happy with the sale of the AWACS to Iran. Quite to the contrary, I still believe this transaction is most ill-advised. Despite Presidential "assurances" which accompanied the resubmission of the sale, and despite a "new" study done by the Defense Department which supposedly examined "alternatives" to selling AWACS, a number of problems remain. These include:

The possible use of the Iranian AWACS for offensive military operations and the heightening of the intensity of any potential conflict in the Middle East.

The continued need for U.S. citizens, including military personnel and technicians, to support AWACS.

The risk of loss of an AWACS to the Soviets.

The question of where this country will draw the line on selling military equipment in the future.

Furthermore, approval of the AWACS sale does nothing to alleviate, and in fact quite a bit to aggrevate, the problem of Iranian inability to operate and maintain our sophisticated defense hardware. During the past 6 years, we have made foreign military sales to Iran totaling nearly $17 billion. These involve the purchase of new hardware, and the necessary support, spares, and maintenance-type contracts. When is our country going to slow down these sales, and how much more of this equip-

ment can semideveloped Iran possibly absorb? President Carter provided an assurance to the Congress in connection with the AWACS sale that the future ability of Iran to absorb sophisticated weaponry would be carefully studied. Such a study is long overdue, given the magnitude of past U.S. sales. Certainly, before this country goes ahead and decides to sell some 140 F–16 fighters to Iran, we had better have that study. My particular regret was that it has taken so long to even start such a major study, which obviously has important implications for the need for U.S. personnel to provide support to the Iranian military.

I would simply summarize by saying that hopefully, the administration will begin to exercise more restraint in our arms sales abroad, not only in terms of overall volume, but type of equipment to be sold. In addition, I would hope that much more careful consideration will be given to the ramifications of selling to potential customers, and to the requirements for U.S. follow-on contracts and personnel. The policy declaration of the President, made last May 19, is a good place to start. But what we need now is a reiteration of the commitments made then, and a firm implementation of the policy in the actual foreign military sales activities of the Government. AWACS was a sad case of policybreaking, but I am hopeful that there will be some very significant policymaking in the future.

Mr. President, I ask unanimous consent that the executive summary section of the CRS report on arms sales be printed at this point in the RECORD.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

EXECUTIVE SUMMARY

Supplying military equipment and services to friends and allies of the United States through sales or grants has been an important and flexible instrument of American foreign policy over a long period of time. In recent years, however, the change in emphasis from grant military aid to cash sales, as well as the opening of large new markets in the Middle East, caused dramatic increases in the volume of arms sales and, in the eyes of many, deflected the program from its overall national security purposes toward less justifiable political and economic objectives.

As a presidential candidate, Jimmy Carter repeatedly criticized what he deemed to be lack of control over arms sales under the administrations of Presidents Nixon and Ford. Contending that the United States could not simultaneously be the world's leading champion of peace and the world's largest arms seller, Mr. Carter pledged to reduce the level of U.S. foreign military sales. In large measure, the principal themes of candidate Carter's critique found expression in President Carter's arms transfer policy.

On May 19, 1977, President Carter announced a new U.S. policy governing the transfer of conventional armaments to foreign states. "Henceforth," said the President, the United States would regard arms transfers as "an exceptional foreign policy implement, to be used only in instances where it can be clearly demonstrated that the transfer contributes to our national security interests." Contending that the "spiralling arms traffic" threatens world peace, the statement committed the United States to take the "first step" toward actual reductions in the global arms trade.

To implement a policy of arms restraint, President Carter established a number of controls and prohibitions, including a dollar volume ceiling on new commitments for weapons and weapons-related equipment during Fiscal Year 1978. In addition, the President declared that he had changed the "climate" under which decision-making would proceed: ". . . in the future, the burden of persuasion will be on those who favor a particular arms sale, rather than those who oppose it."

While he conceded that actual reductions in the worldwide traffic in arms would require a multilateral approach, President Carter stated that a U.S. policy of restraint was appropriate—not only because of America's "special responsibilities" as the world's largest arms seller, but also because the administration had concluded that it would have little credibility in calling for an international approach unless the United States itself followed a policy of restraint. State Department officials have since expressed cautious optimism that the U.S. initiative will prompt reciprocal actions on the part of recipient states and other major suppliers. They have at the same time indicated that continued U.S. unilateral restraint in the transfer of arms will depend in large measure on the degree to which such a multilateral response is forthcoming.

The May 19th policy statement does not in itself provide any clues as to how the administration defines the "restraint" hoped for from other major arms suppliers. The statement notes that the United States will initiate "discussions of possible measures for multilateral action" with suppliers and encourage import limitations among purchasers. Explicit in the statement, however, is the goal of actual reductions in the worldwide traffic in arms. Reductions could be attained either by parallel cut-backs by all suppliers or reductions by the United States that were not cancelled out by increases on the part of others. Statements by State Department officials since the policy was announced indicate that it is this latter approach, and not the former, that is endorsed in the President's new policy.

Essentially, the United States appears prepared to measure reciprocal restraint according to the following criteria:

a. That other suppliers do not fill the voids created by U.S. restraint. Thus they are free to continue, or even accelerate, sales to their traditional clients and to states not in the U.S. arms sale "domain."

b. That other suppliers demonstrate some sensitivity to qualitative concerns; i.e., if they must sell, at least they should try to restrict the sophistication of the technology transfer.

c In all cases, the other suppliers should consult with the United States before they initiate arms transfers or sign new arms transfer agreements.

In the four months since the policy was announced, the administration has transmitted 45 arms sale notifications to Congress, involving 18 separate countries and goods and services worth over $4.1 billion. The most controversial of these actions has been the proposal to sell Iran seven E–3A Airborne Warning and Control Systems (AWACS) aircraft and supporting parts and services at a total cost of over $1.2 billion. During this period, it has been announced or reported that the United States is prepared to negotiate the transfer of substantial amounts of military hardware to Saudi Arabia, Somalia, Egypt, Chad, and the Sudan.

Lastly, the administration recently forecast a $1.8 billion arms transfer program intended to strengthen South Korea's defenses over the next five years while the United States withdraws its ground forces. On the other side of the ledger, in June 1977, the administration denied Pakistan's request to purchase 110 A–7 aircraft and Iran's bid to buy 250 F–18Ls.

Where earlier assessments of the President's new policy would necessarily have been speculative, a pattern of arms transfer transactions has developed since May 19th which can provide initial perspectives on how the stated policy is being applied in practice. This study analyzes five distinct aspects of the new arms transfer policy. First, to provide a context, it identifies major premises of the May 19th statement and explores the degree to which these premises are supported by the information and analysis contained in the National Security Council study prepared prior to the President's policy decision. Second, the paper details arms transfer transactions approved or denied since May 19th and examines their consistency with the key premises of the announced policy. A third section assesses the implications of the trends since May 19th, especially what they presage in the context of U.S. foreign policy/national security policy. Next, the paper examines the prospects for a multilateral approach. Finally, the paper measures the probable costs and benefits for the United States if these trends hold true.

The principal conclusion of this study is that despite the stated and implied intentions of the new policy, arms sales continue to play a very substantial role in support of U.S. foreign policy and national security objectives. Rather than being used as an "exceptional foreign policy implement," U.S. arms transfers continue to occur on a rather routine basis. Although unilateral restraint in the sale of arms, as embodied in the President's policy statement, envisages actual reductions in the total volume of U.S. arms sales, this study details many regions where the administration has determined that continued sales or even new sales are necessary to American purposes. In these cases, significant reductions in the level of U.S. arms sales would entail considerable cost to American diplomatic or security interests, and—the May 19th declaration notwithstanding—would appear to impose a price that the administration is not willing to pay.

To be sure, there is a heightened sensitivity to arms control concerns, a more positive and centralized control of the executive branch's management of arms transfer requests, and new regulations governing the manner in which requests are induced or initiated. Despite these changes, however, the assessments being made on a case-by-case basis remain fairly much the same as before. A mainstream of arms sale approvals continues to flow from the review process, with restraint applied mostly at the margins.

In this respect, President Carter's arms transfer policy could be said to be a victim of its own rhetoric. By emphasizing that henceforth arms transfers would be an exceptional implement of U.S. foreign policy, subject to rigorous control and justified only by national security imperatives, the May 19th policy statement created an expectation that actual sales would become much less frequent. In brief, the language of the statement established the preconditions for a public perception that the policy as applied in practice violates the policy in principle. Furthermore, by defining the success or failure of the policy in relation to reciprocal restraint on the part of allies and adversaries, but then setting such minimal standards for their "restraint," the administration has made itself vulnerable to criticism as other suppliers continue to promote sales aggressively; e.g., the recent French F–1 Mirage sales to Iraq and Ecuador and Soviet arms transfers to Syria and Ethiopia.

It is possible, of course, that current trends will change. It could be argued that the spate of arms sales proposed by the President since May 19th represents transactions

that were well along before this administration and therefore could not be "turned off" without significant diplomatic costs. Conversely, it could be argued that any President who can cancel the B–1 bomber program after ten years of development could stop any particular arms sale. It is also possible that with the dollar volume ceiling in effect next fiscal year, the decision-making process will be more tempered, and requests which otherwise might have been approved on a case-by-case basis may be disapproved. Nevertheless, while one can always speculate that "it is too early to tell," this study concludes that the President's new policy, as applied in practice since May 19th, has yet to demonstrate a significantly reduced role for arms transfers as an instrument of U.S. foreign policy.

COMMITTEE MEETING

Mr. NELSON. Mr. President, I have been requested by the leadership to ask unanimous consent that the Rules Committee be permitted to meet until 1 p.m. today.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGAL SERVICES CORPORATION ACT AMENDMENTS OF 1977

The PRESIDING OFFICER. Under the previous order, the Senate will now resume the consideration of S. 1303, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 1303) to amend the Legal Services Corporation Act to provide authorization of appropriations for additional fiscal years, and for other purposes.

The PRESIDING OFFICER. Time on the bill is limited to 4 hours, to be equally divided and controlled by the Senator from Wisconsin (Mr. NELSON) and the Senator from New York (Mr. JAVITS), with 1 hour on any amendment in the first degree and 30 minutes on any amendment in the second degree, debatable motion, appeal, or point of order; with the final vote on either the House bill or the Senate bill to occur not later than 5 p.m. on Tuesday, October 18, 1977.

Mr. JAVITS. Mr. President, I yield myself 30 seconds just to advise my colleagues that the 2 hours I have are at the disposal of the opponents of the bill, or those who have special amendments, et cetera. If there is any time left, I will try to use it. With Senator NELSON and I being on the same side, I assure the opponents of the measure that time is available to them.

Mr. HELMS. The Senator is always very generous. The Senator from North Carolina appreciates his courtesy.

Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HELMS. On yesterday the Senator from North Carolina called up an amendment and obtained the yeas and nays on that amendment. Is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. HELMS. Mr. President, I ask that that amendment be made the pending business.

The PRESIDING OFFICER. It is the pending business.

Mr. NELSON. Does the Senator from North Carolina intend to address himself to the pending amendment at this time?

Mr. HELMS. Not at this time. I may have a few remarks, but my comments on yesterday, I believe, will suffice.

Mr. NELSON. The Senator from Wisconsin would like about 3 minutes at the beginning of the hour simply to summarize the agreement from my understanding of last night's dialogue.

Mr. HELMS. Mr. President, I will yield for that purpose.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. NELSON. Mr. President, I send an amendment to the desk on behalf of the Human Resources Committee. I am not asking for its consideration.

This amendment is offered on behalf of the Human Resources Committee, myself, and Senator JAVITS. This amendment modifies S. 1303, the Legal Services Corporation Act Amendments of 1977, in several respects.

First, the committee amendment provides for a 3-year reauthorization of appropriations for the Legal Services Corporation. S. 1303, reported to the floor by the Human Resources Committee, reauthorized the Legal Services Corporation for 5 years.

Second, the committee amendment provides an authorization of appropriations of $205 million for fiscal year 1978, and such sums as may be necessary for fiscal years 1979 and 1980. The bill reported to the floor by the Human Resources Committee provides an authorization of appropriations in fiscal year 1978 of $225 million, and such sums as may be necessary for each of the four succeeding years.

Third, the committee amendment strikes section 2(b) of S. 1303. This section of the bill would have changed current law by permitting private funds to be used for any purpose authorized by the donor, so long as those private funds were accounted for and reported as receipts and disbursements separate and distinct from funds received from the corporation itself.

Fourth, the committee amendment strikes section 9(c) of S. 1303. This section of the bill would have clarified existing law as to the kinds of activities Corporation funds could be used for in the organization of any group and in the provision of advice and legal assistance to clients who are engaged in organizing activities. The current law will remain unchanged in this particular area if the Senate bill becomes law.

Mr. President, it is only because of a very difficult parliamentary situation that the committee yields on these four points. The Legal Services Corporation Act Amendments of 1977 was reported to the floor of the Senate on May 16, 1977. For about 5 months this legislation has been on the Senate Calendar awaiting consideration by the full Senate.

Every time the managers of the legislation have sought to have the bill considered by the Senate, we have been told that a time limitation agreement on this legislation was not possible. That was achieved last night. Yesterday, Senator HATCH and others agreed to a time limitation on S. 1303, the Legal Services Corporation Act Amendments of 1977.

The time limitation agreement is as follows: 4 hours on the bill, the time to be equally divided between Senators NELSON and JAVITS; 1 hour on each amendment, the time to be equally divided in the regular order; ½ hour on each amendment in the second degree, the time to be equally divided in the regular order. The vote on final passage is to occur no later than 5 p.m. on Tuesday, October 18, 1977.

Mr. President, there are two further stipulations in the unanimous-consent agreement on the time limitation. First, the Senator from Wisconsin has agreed to hold oversight hearings on the Legal Services Corporation between now and March 31, 1978. Second, there has been a tentative agreement between the managers of the bill and Senator Hatch to limit the authority of the Legal Services Corporation to undertake, by grant or contract, specified research activities. As in the current law, the Corporation may not undertake by grant or contract research, training and technical assistance, and clearing house activities unless those activities are part of the provision of legal assistance to eligible clients, are under the Corporation's direct supervision, or are for the purpose of enabling the Corporation to carry out its own statutory responsibilities.

The tentative agreement would stipulate, either by clear legislative history or by specific language, that the Corporation could not contract for generalized research activities for the purposes of exploring areas of law which are controversial and unrelated to a specific problem of the particular client.

In short, Mr. President, what we have agreed to is to allow the Corporation to contract out, by grant or contract, for appropriate kinds of research, training and technical assistance, and clearing house activities. What would not be appropriate are the kinds of generalized research activities that concern extremely sensitive political and social issues, such as abortion and desegregation.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. NELSON. I yield.

Mr. JAVITS. Mr. President, I have heard with interest the summary of the situation, which is quite correct, but I do think in all fairness to Senator HATCH, who is a member of our committee, and who led the fight in respect of reform of the bill, who has associated with him Senator MCCLURE, Senator HELMS, Senator DOMENICI, and Senator SCOTT, it must be made clear that he has won something, to wit, he has won the concessions which we were not prepared to make, notwithstanding that we had a very substantial majority in this Chamber, I think well over two-thirds.

It is unfortunate, from our point of view, that we have had to make these concessions, but I think in fairness to Senator HATCH, who fought for them very strongly, it should be noted that these amendments on the part of the managers of the bill are in response to an agreement made with Senator HATCH speaking

for the group, which had great elements of dissatisfaction with this bill.

I thank my colleague for yielding.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, I suggest the absence of a quorum and suggest that the time be equally charged.

Mr. NELSON. May I ask through the Parliamentarian, are quorum calls charged against the time on the bill?

Mr. HELMS. Mr. President, I suggest that it be equally divided.

Mr. NELSON. I agree with the Senator from North Carolina. I ask unanimous consent that the time be equally divided from the bill.

Mr. JAVITS. Mr. President, should we not charge it to the amendment? There is an amendment pending.

The PRESIDING OFFICER. There is an amendment pending.

Is that the motion?

Mr. NELSON. Yes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THURMOND. Mr. President, I ask unanimous consent that John Napier of my staff be accorded the privilege of the floor during debate and vote on S. 1303.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1456

FORMERLY UP AMENDMENT NO. 917

Mr. HELMS. Mr. President, the pending amendment in the nature of a substitute was called up yesterday by the Senator from North Carolina. At that time, I made fairly extensive remarks on behalf of the amendment. Then the amendment was laid aside in the hope that, if discussions later in the day proved fruitful, some compromise agreement would be reached in terms of getting to a vote on this issue. That being the case, a bit of awkward situation prevails.

My discussion of my amendment in the nature of a substitute having occurred yesterday and the vote occurring today, nevertheless, I think most Senators will understand the proposal of the Senator from North Carolina. As I said yesterday on the floor, Mr. President, all Senators go home and talk about divesting the Federal bureaucracy of the inordinate amount of control and centralization that now exists. But, so often, when we are called upon to vote on a specific proposition in the Chamber, we see efforts to achieve precisely that decentralization defeated and defeated overwhelmingly.

This amendment would take out of the Federal bureaucracy the responsibility for providing legal aid to the poor. It would return it to the States under careful and strict guidelines. I, for one, believe that the poor would be far better served as a result of such a judgment by Congress if, indeed, Congress were willing to do it. The poor would have the opportunity to select their own attorney instead of taking whatever is assigned to them under the present system, which is controlled by the Federal Government and operated by the Federal Government.

As I said yesterday, Mr. President, under the proposal which is now the pending business of the Senate, a State government would participate in the legal services program by adopting one of the following three procedures:

First, a State could empower an existing or new State agency to disburse funds to individual attorneys representing eligible clients;

Second, it could transmit funds to the bar association with overall jurisdiction in the State if the bar association has established a method to disburse funds to attorneys representing eligible clients, as, for example, under the judicare approach; and

Third, a State could establish a method of direct payment to eligible clients or their attorneys based upon a voucher system of proof.

Within this framework, the States would have full freedom to design their own program to suit local conditions, so long as clients retain the right to obtain the individual attorney of their choice. This legislation also contains appropriate restrictions on lobbying and political activity by attorneys while engaged in activities funded by the program.

Further, this proposal includes an equitable geographic distribution of appropriated funds based upon the proportion of eligible clients in each States. The standard of eligibility set by this legislation is the same standard as that of the medicaid formula, a standard already endorsed by Congress, State legislatures, and welfare groups.

This proposal restores freedom of choice to poor people in retaining legal assistance.

I raised the question yesterday, Mr. President, and I raise it again today: Why should poor clients be denied the right to choose an attorney?

Why should they be required to accept an attorney who may be more interested in a class action suit on behalf of homosexuals than he is in representing a poor client? This amendment in the nature of a substitute is client-oriented rather than attorney-oriented. And it is the poor client, the citizen without the money to hire an attorney, whose interest we presumably are trying to protect—not the interests of the lawyer on a Government payroll.

This amendment in the nature of a substitute provides for greater and more active participation by local bar associations. I do not know about the bar associations in the States of other Senators, but I am immensely proud of the North Carolina Bar Association. For years, the North Carolina Bar Association has taken the lead in trying to assure adequate legal representation for citizens unable to pay for it themselves. And I think that Congress will be missing a fine opportunity if we do not do everything possible to encourage even further participation by the bar association and by the responsible attorneys in North Carolina and the other 49 States.

We should seek to involve local attorneys more intimately in the problems of the poor community, not relegate the poor to Government-paid attorneys. This amendment in the nature of a substitute will set up a sound basis for a stable, ethical attorney-client relationship.

Finally, and just as importantly, this proposal allows the people's representatives in the State legislatures to play a proper role in designing and implementing the program in each State.

Mr. President, the present legal services delivery system is grossly deficient and the widespread controversy surrounding it is a valid indication of that deficiency. I submit, Mr. President, that the present legal services delivery system has distorted the attorney-client relationship and has been subject to numerous political abuses in promoting the objectives of special interest groups with taxpayers' money.

The present legal services delivery system has sought, time and time again, to thrust the burden of politics upon our courts. The amendment that I shall submit momentarily will, Mr. President, go far in reforming these abuses while increasing the delivery of personal legal assistance to the poor.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. NELSON. Mr. President, how much time remains?

The PRESIDING OFFICER. Twenty-one minutes and 4 seconds.

Mr. NELSON. Was the time agreement 30 minutes to this amendment?

The PRESIDING OFFICER. One hour.

Mr. NELSON. And there are 21 minutes left?

The PRESIDING OFFICER. Twenty-one minutes and 4 seconds.

Mr. NELSON. How much time do I have left on this amendment?

The PRESIDING OFFICER. A little less than 21 minutes and 4 seconds.

Mr. HELMS. How much time does the Senator from North Carolina have?

The PRESIDING OFFICER. Twenty-one minutes.

Mr. NELSON. So there are 42 minutes left.

The PRESIDING OFFICER. Total.

Mr. NELSON. I thank the Chair.

Mr. President, I suggest the absence of a quorum, with the time to be charged equally.

Is that all right, on the amendment?

Mr. HELMS. I am prepared to yield back the remainder of my time. If the Senator wishes, he can charge it to me.

Mr. NELSON. Mr. President, I ask unanimous consent that the time be equally charged to each side on the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. NELSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NELSON. Mr. President, this rather comprehensive proposal by the Senator from North Carolina, who, quite obviously, has given the matter considerable thought, was not referred to the Senate Committee on Human Resources which has had jurisdiction over legal services programs. As it was drafted, it became the jurisdiction of the Judiciary Committee. Therefore, our committee, which has had jurisdiction over legal services legislation from its inception in 1965, did not have an opportunity to either conduct hearings or act on Senator HELMS' legislation in any way.

The legislation was introduced on August 5 and the Senate was in recess during the month of August. The Judiciary Committee did not conduct hearings on the bill.

Therefore, it would not be possible to act favorably, even if one should agree with it, on a piece of legislation on which we have not had hearings.

The bill would transfer the responsibility for the legal services programs to the States. There may be very useful ideas in the Senator's legislation which ought to be considered in hearings. We will, in fact, have oversight hearings on the Legal Services Corporation legislation between January and March of next year.

I say to the distinguished Senator from North Carolina that we would welcome his ideas at that time. Of course, at the time we consider the Legal Services Corporation authorization again, the committee would welcome consideration of the proposal that the Senator from North Carolina makes.

However, as manager of the bill and as a member of the Human Resources Committee, I think I can speak for myself as well as the committee. Given all of the circumstances, we would have to oppose the Senator's legislation as now drafted and as now brought to our attention as a substitute amendment.

Mr. JAVITS addressed the Chair.

The PRESIDING OFFICER (Mr. MATSUNAGA). The Senator from New York.

Mr. JAVITS. Mr. President, I yield myself 3 minutes out of the time in opposition to the amendment.

The PRESIDING OFFICER. The Senator is recognized.

Mr. JAVITS. Mr. President, the difficulty with this substitute, and it is a complete substitute, is that it goes off on a totally different premise than the legal services program which has now been in effect for 2 years. On the whole, even considering the claims of its opponents, it has done very well when we look through the list of complaints which have been made. The program stands up extraordinarily well.

What, after all, have we done?

One, we have cut the number of years. All right, the opponents want to have a quicker look, from 5 to 3 years.

Two, we have frozen the appropriation authorization at this year's figure, which has already been appropriated, $205 million, for the next 2 years it is left to the Appropriations Committee.

Three, we have stricken any effort to change the way in which private funds are handled, or to use privately contributed funds for anything other than provided by the bill.

That is a perfectly legitimate effort of the opponents.

And last, we have dealt with the question that they want to be sure these lawyers do not initiate any new organizations, so we left the law as it is.

Mr. President, that is not dismantling the program. They are serious and important amendments.

So even the opposition realizes this is an ongoing program, that it has worked well, that we have a highly professional board running it, and the only real distinction that I see between the substitute and the legal services program is the proposal that this become a State aid program, and that is contained at page 4, lines 20 to 24 of the substitute.

That I strongly oppose, and for this reason. The reason we had legal services is to try to cut the Federal load in poverty because the Federal load is very heavy with AFDC families, and many other elements of poverty, and our concern about the working poor, and our desire to keep them working, and to adjust the Federal welfare program accordingly.

In view of the fact that this is an effort to reduce throughout the country on a national scale, we should treat the poor wherever they may be on an equal basis, and we know now that if we have a State program it is going to be very different in States A, B, and C, than in States E, F, G, and H.

We know that. That is our experience. And that is exactly what we do not want in this particular program. That is the essence of it.

Therefore, Mr. President, it seems to me that the purpose of the legal services program is not a State aid program. It is an effort of the Federal Government to deal with poverty. It is an element of Lyndon Johnson's war on poverty and it turns out to be a successful and useful element.

This substitute would change it completely to a State aid program to give legal services to the poor, which in my judgment was not intended and not designed, which this is not designed for, and it was not the congressional purpose.

Therefore, I agree with Senator NELSON that we should consider such an approach. Senator HELMS undoubtedly will wish to testify about it when we have the oversight hearings, and we will welcome him. But, right in midstream, when this whole enterprise is established, when it has been reformed in terms of a professional board of directors, when it has essentially the backing, support, and implementation of the bar associations of the country—from the American Bar Association down—it would be a great mistake, in my judgment, to insert now—which is what this substitute would do—a straight State aid program. I hope the Senate rejects the amendment.

The PRESIDING OFFICER. Who yields time?

Mr. HELMS. I yield myself such time as I may require.

Mr. President, the distinguished Senator from Wisconsin put his finger on the anomaly of the situation concerning this legislation.

Here is a problem involving justice, the legal system, the law. To which committee was it referred? Not the Judiciary Committee, which, at a very minimum, should have had joint jurisdiction. Not once during the entire consideration of this program has the Judiciary Committee ever considered it. I wish they had. But that is past history.

The able Senator from New York, my friend, Senator JAVITS, in his customarily eloquent fashion, has drawn a line of demarcation between his philosophy and mine, in general. I believe that as much responsibility as possible should be returned to the States, and the local communities and it should not continue to be centralized in Washington, D.C.

This program, in my judgment, is fairly typical of the way the Federal Government operates. If you like the way the post office operates, then you will love this program. It is just about as simple as that.

Mr. McCLURE. Mr. President, will the Senator yield?

Mr. HELMS. I am delighted to yield.

Mr. McCLURE. Mr. President, I thank the Senator for yielding.

I take this time not to prolong the debate but simply to compliment the Senator for having offered the comprehensive substitute he has offered.

The Senator from Idaho does not believe there is a lack of need for assistance to poor people who cannot afford legal guidance and counsel. I think that throughout the debate on this subject we need to keep focused on the fact that it is not whether or not there are going to be legal services for the poor but how that shall be done.

The Senator from North Carolina has suggested, and the Senator from Idaho agrees with the suggestion, that it is better to be done at the State level, subject to State program, rather than federalized, whenever possible. I know that the difficulty of getting that point of view across in the Senate is very great, but I compliment the Senator from North Carolina for the effort. He has my support. I shall vote with him and urge others of my colleagues to vote with him on this amendment.

Mr. HELMS. I thank the able Senator.

Mr. President, I am perfectly willing to yield back the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. JAVITS. Mr. President, I yield myself 2 or 3 additional minutes.

Inasmuch as this question will recur again and again, this matter of the Judiciary Committee, I should like to set the record clear on that.

We had a study by a special committee headed by the Senator from Illinois (Mr. STEVENSON) on this question of committee jurisdiction, and we voted a committee reorganization based upon that study. I should now like to quote from the report of that study. We will give the exact date and the exact number later, but it is January of 1977. When the committee analyzed the situation carefully and the Senate voted to give jurisdiction to various committees, under the heading "Committee on Human Resources," page 11, this is the statement:

In the category of the public welfare generally, the committee will continue its authority over Federal poverty programs, child and youth development, legal services, and domestic voluntary programs.

It could not be clearer than that. Therefore, that question has been decided.

All we are doing is carrying out the jurisdiction which the Senate has conferred upon us. In this case, we do not even have to imply it. It says "legal services."

Mr. President, what is the rationale? The rationale, I think, is demonstrated by this debate. I say to my colleagues that this is not just a State program. This is a local program. There are 300 of these corporations throughout the country, and each is local. It is not a State. It could be a city, it could be a county, where the bar association takes the initiative to set up the legal services program; and the primary impetus and the management and the professional responsibility is bar association responsibility.

That was the great change in legal services and why we enacted the Legal Services Corporation law, because Members were satisfied that that was the way to go, rather than to make it a Washington-oriented program.

So, Mr. President, it seems to me that it is more than a State program. It is a local program, and that is the way we want to keep it. The reason is very obvious: If you interpose the layer of the State, you will have a different program in every State or most States, and perhaps in many no program at all because they do not agree with the policy, just as many of my colleagues who are opposed to this bill do not agree with the policy. But that defeats our purpose, which is to try to reduce the syndrome of poverty, and we find this a very effective way to do it.

So, Mr. President, on all those grounds, I hope the Senate will sustain the committee's position and Senator NELSON's position and mine, and reject the amendment.

The PRESIDING OFFICER. Who yields time?

Mr. NELSON. Mr. President, I join in the statement made by Senator JAVITS.

The issue is frequently raised by some Members about joint jurisdiction with the Judiciary Committee or referring legal services legislation for consideration to the Judiciary Committee. The Human Resources Committee has handled the legal services legislation for about 12 years. Under the Reorganization Act approved by the Senate this year, with the overwhelming endorsement of the Members of the Senate, the legal services legislation was specifically placed within the jurisdiction of the Human Resources Committee.

Mr. McCLURE. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. NELSON. I yield to the Senator from Idaho.

Mr. JAVITS. Mr. President, will the Senator yield, to allow me to make a correction for the record?

Mr. McCLURE. I yield.

Mr. JAVITS. To identify the report from which I read. It is Report No. 95–2 of this session of Congress, the Rules and Administration Committee, January 25, 1977, on Senate Resolution 4.

Mr. McCLURE. Mr. President, I ask unanimous consent that immediately following the disposition of the Hatch amendment, it be in order for the Senator from Oklahoma (Mr. BARTLETT) to offer an amendment; that immediately following the disposition of the Bartlett amendment, it be in order for the Senator from Idaho (Mr. McCLURE) and the Senator from Utah (Mr. HATCH) to be recognized to present their amendment.

The PRESIDING OFFICER. Is there objection?

Mr. JAVITS. I have no objection, if it is understood that this unanimous-consent agreement is subject to the overall unanimous-consent agreement on the bill.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. HELMS. Mr. President, if the Senator from Wisconsin has no further use for the time, I do not, and I will be glad to yield back the remainder of my time.

The PRESIDING OFFICER. Does the Senator from Wisconsin yield back his time?

Mr. NELSON. Mr. President, I yield back the remainder of my time. Have the yeas and nays been ordered?

The PRESIDING OFFICER. The yeas and nays have been ordered.

The question is on agreeing to the amendment offered by the Senator from North Carolina. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Missouri (Mr. EAGLETON), the Senator from Colorado (Mr. HASKELL), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Louisiana (Mr. LONG), and the Senator from Arkansas (Mr. McCLELLAN) are necessarily absent.

I also announce that the Senator from New York (Mr. MOYNIHAN) and the Senator from North Carolina (Mr. MORGAN) are absent because of illness.

On this vote, the Senator from Minnesota (Mr. HUMPHREY) is paired with the Senator from North Carolina (Mr. MORGAN). If present and voting, the Senator from Minnesota would vote "nay" and the Senator from North Carolina would vote "yea."

Mr. STEVENS. I announce that the Senator from Massachusetts (Mr. BROOKE), the Senator from Michigan (Mr. GRIFFIN), and the Senator from California (Mr. HAYAKAWA) are necessarily absent.

The result was announced—yeas 23, nays 67, as follows:

[Rollcall Vote No. 556 Leg.]

YEAS—23

Allen	Hansen	Sparkman
Bartlett	Hatch	Stennis
Byrd, Harry F., Jr.	Helms	Stevens
	Laxalt	Stone
Curtis	McClure	Thurmond
Eastland	Roth	Tower
Garn	Schmitt	Wallop
Goldwater	Scott	Young

NAYS—67

Abourezk	Ford	Metzenbaum
Anderson	Glenn	Muskie
Baker	Gravel	Nelson
Bayh	Hart	Nunn
Bellmon	Hatfield	Packwood
Bentsen	Hathaway	Pearson
Biden	Heinz	Pell
Bumpers	Hollings	Percy
Burdick	Huddleston	Proxmire
Byrd, Robert C.	Inouye	Randolph
Cannon	Jackson	Ribicoff
Case	Javits	Riegle
Chafee	Johnston	Sarbanes
Chiles	Kennedy	Sasser
Church	Leahy	Schweiker
Clark	Lugar	Stafford
Cranston	Magnuson	Stevenson
Culver	Mathias	Talmadge
Danforth	Matsunaga	Weicker
DeConcini	McGovern	Williams
Dole	McIntyre	Zorinsky
Domenici	Melcher	
Durkin	Metcalf	

NOT VOTING—10

Brooke	Hayakawa	Morgan
Eagleton	Humphrey	Moynihan
Griffin	Long	
Haskell	McClellan	

So Mr. HELM's amendment No. 1456 was rejected.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. NELSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HANSEN. Mr. President, I ask unanimous consent that Perry Pendley of my staff may have access to the floor during the consideration of this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NELSON. Mr. President, under a unanimous-consent agreement, the amendment involving desegregation will be called up shortly. What is the time limitation on that amendment?

The PRESIDING OFFICER. To which amendment is the Senator from Wisconsin referring?

Mr. NELSON. The one that was the subject of a unanimous-consent agreement, on Senator McCLURE's request, an hour ago.

Mr. HEINZ. Mr. President, will the Senator from Wisconsin yield to me?

The PRESIDING OFFICER. We were supposed to return to the amendment of the Senator from Utah, amendment No. 1457.

Mr. NELSON. Which one is that?

The PRESIDING OFFICER. This is the one temporarily set aside yesterday. And the order to recognize the Senator from Oklahoma (Mr. BARTLETT) to call up an amendment was to follow after that amendment.

Mr. JAVITS. Mr. President, I believe that the first part of the statement made by the Chair relates to events of yesterday. Is that not correct?

The PRESIDING OFFICER. That is correct.

Mr. JAVITS. And I believe it was the intention of the parties to give the floor to Senator BARTLETT for his amendment notwithstanding that arrangement of yesterday, immediately after the consideration of the pending amendment. I am sure that was it.

The PRESIDING OFFICER. The agreement as recorded, of this morning, shows that the amendment of the Senator from Oklahoma was to follow the dis-

position of the amendment to be offered by the Senator from Utah. If there is a unanimous-consent request to the contrary——

Mr. JAVITS. Mr. President, in the absence of Senator HATCH, who is obviously not ready to bring up his amendment, I ask unanimous consent that the Senator from Oklahoma may be recognized to call up his amendment.

The PRESIDING OFFICER. Is there objection?

Mr. HEINZ. Mr. President, reserving the right to object, my good friend from Oklahoma had previously asked the Senator from Wisconsin to make a unanimous-consent request requesting recognition of the Senator from Pennsylvania for 3 or 4 minutes to offer a resolution, to be called up by unanimous consent, that has been cleared with the leadership on both sides. It would not take more than, at most, 4 or 5 minutes, if the Senator from Oklahoma would yield.

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object, the distinguished Senator from Pennsylvania has stated the agreement correctly, but I believe if the Senator from Pennsylvania would yield for the Chair to respond to the request by Mr. JAVITS, Senators would know whose amendments are called up next. Once that is done, I would hope agreement could be reached to proceed with the resolution.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered. The Senator from Oklahoma is recognized.

Mr. BARTLETT. Mr. President, I have no objection to yielding to the Senator from Pennsylvania to call up his amendment at this time.

Mr. NELSON. Mr. President, how much time does the Senator from Pennsylvania request, and how much time does the Senator from Georgia request? The total request is for 5 minutes, is that correct?

Mr. HEINZ. The Senator is correct.

The PRESIDING OFFICER. Does the Senator from Oklahoma yield to the Senator from Pennsylvania for a unanimous-consent request?

Mr. BARTLETT. Yes, I yield for that purpose.

Mr. HEINZ. I thank the Senator from Oklahoma for his willingness to lay aside his amendment temporarily.

The PRESIDING OFFICER. Is the Senator's request for 5 minutes?

Mr. HEINZ. Not to exceed 5 minutes for all discussion. I ask unanimous consent to yield to other Senators for 2 of the 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROTECTION OF AMERICAN INDUSTRIES FROM UNFAIR FOREIGN COMPETITION—SENATE RESOLUTION 279

Mr. HEINZ. Mr. President, I ask unanimous consent that the Committee on Finance be discharged from further consideration of Senate Resolution 279, and that the Senate proceed to its immediate consideration.

Mr. TALMADGE. Mr. President, if the Senator from Pennsylvania will yield at that point, this request has been cleared by the chairman of the Finance Committee (Mr. LONG) and the ranking Republican member (Mr. CURTIS). I speak in behalf of both of them.

As I understand, the Senator from Pennsylvania is going to modify the resolution in accordance with language that has been drafted by the committee staff.

Mr. HEINZ. The Senator is correct. What I intend to do is call up the resolution by unanimous consent. Then I will ask for its immediate consideration, make a brief statement, and then, upon the adoption of the resolution, it would be my intention to ask unanimous consent—and I know of no objection to this—that the preamble be amended by the changes that have been agreed to by the Senator from Georgia, the Senator from Louisiana, and myself.

Mr. JAVITS. Mr. President, reserving the right to object, what is this resolution all about?

Mr. HEINZ. The resolution reaffirms support for the vigorous enforcement of laws designed to protect American industries from unfair competition by foreign industries.

The PRESIDING OFFICER. Will the Senator from Pennsylvania send a copy of his resolution to the desk, so it can be reported?

Mr. HEINZ. Yes.

The PRESIDING OFFICER. The resolution will be stated.

The assistant legislative clerk read as follows:

A resolution (S. Res. 279) reaffirming support for the vigorous enforcement of laws designed to protect American industries from unfair competition by foreign industries.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. HEINZ. Mr. President, what did we just get unanimous consent on? That further reading of the resolution be suspended?

Mr. JAVITS. I request that, yes.

The PRESIDING OFFICER. Is there objection to dispensing with the reading and proceeding with the consideration of the resolution?

Mr. JAVITS. Mr. President, reserving the right to object, and I shall not object, I have read it hastily, and I should like to ask the Senator from Pennsylvania a question.

Mr. HEINZ. Yes.

Mr. JAVITS. The resolution deals, quite properly, with the enforcement of U.S. laws, and the operative clause asks for action—

to enforce vigorously and aggressively existing laws to prevent cases of dumping, trade discrimination, and other forms of unfair competition that have an adverse impact on the American steel industry.

The "other forms of unfair competition" referred to in this resolution refer to violations of U.S. law; is that correct?

Mr. HEINZ. The Senator is entirely correct.

Mr. JAVITS. That is fine. I thank the Senator very much. I have no objection.

The PRESIDING OFFICER. Is there objection? Without objection, the Senate will proceed to its consideration.

Mr. HEINZ. Mr. President, I ask unanimous consent that the Senator from Minnesota (Mr. ANDERSON), and the Senator from South Carolina (Mr. HOLLINGS) be added as cosponsors of the resolution.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HEINZ. Mr. President, I offer this resolution today in an effort to put the Senate on record in support of an industry facing serious problems, and to suggest a minimal step which must be taken immediately.

Senate Resolution 279 was first presented at an initial steel caucus meeting on September 28 and was ultimately cosponsored by Senators RANDOLPH, GLENN, METZENBAUM, BAKER, SCHWEIKER, STEVENSON, ALLEN, BAYH, MATHIAS, LUGAR, PERCY, SARBANES, ANDERSON, and HOLLINGS.

The resolution is very simple in its intent. It merely states that our trade laws ought to be more vigorously enforced. Since all our laws should be aggressively enforced, on the surface this is a small request. In fact, much remains to be done with respect to our trade laws.

The steel industry has consistently cited unfair trade competition from Japan and the European Economic Community as one of its major problems, and there appears to be substantial evidence that this is the case. Only last week Treasury tentatively announced a finding of dumping in the Gilmore case involving carbon steel plate from Japan. Other major cases are still pending.

The study released last week by the Council on Wage Price Stability indicates clearly that European production costs are roughly equivalent to ours and, adding on transportation costs, should produce a U.S. advantage. Yet EEC steel undersells American steel here and even posts list prices that are $50 per ton below the cost of our most efficient steel mills, as documented by this same report. The COWPS study delicately refers to this as "aggressive competition" from Europe, when in fact it is in my judgment, a clear and prima facie case of dumping, and I hope for just such a finding from the Treasury Department.

Even after such a finding, however, the problem is not resolved, though it may have receded from public attention. A finding of injury must be made by the ITC, and duties must be assessed. In numerous cases Treasury is lagging years behind in the assessment of duties, and the bond that is required of importers during this lag has not been a significant deterrent to continued dumping, even after a finding has been made. The law exists; the will to enforce it apparently does not.

Likewise, more than a year ago, the steel industry brought a complaint under section 301 of the Trade Act alleging that Japan and the EEC had made an agreement which discriminated against the United States and resulted in increased quantities of steel being dumped in this country. This complaint has been pending for over a year with no decision.

In conversations with administration officials, they repeat the same refrain: existing law is sufficient to solve the steel problem. Personally, I do not believe that, but I think we should nevertheless do what we can to find out if it is not true. We will never find out, however, if we do not enforce the laws we have got.

That is precisely what this resolution is all about—to encourage enforcement of existing law—because it has not been enforced adequately thus far. Some people in the administration have gotten the hint, and the Gilmore case is a hopeful sign in that regard. Others, I fear, have not, and I think it is appropriate for the Senate to send a signal to the administration to this point that we are determined the law be enforced.

Mr. President, also relevant to the steel issue is the Organization for Economic Cooperation and Development's second meeting of its member delegation on the subject of steel held 2 weeks ago. The first such meeting was held early this summer, and regrettably, there appears to have been only marginal progress made since them. In fact, it can be said with some accuracy that the most significant agreement at the September meeting was on the date for the next one at the end of November.

The failure of our delegation to obtain more significant agreement on its objectives, including creation of a consultative/monitoring mechanism on world steel trade and insertion of a paragraph in the final communique on dumping, is a disturbing problem. Another equally disturbing matter, however, is the modesty of our objectives at the OECD. In the past weeks we have witnessed a growing public awareness of the serious problems facing the American steel industry and of the need to act aggressively to combat them. Our limited goals at the meeting and our failure to achieve even them do little to ease this growing concern among Members of Congress and the public at large.

This is not to say, of course, that nothing is happening. As I just mentioned, only last week, the Treasury Department issued a tentative finding of dumping in the Gilmore case involving carbon steel plate from Japan. Two other major cases are pending against Japan and the EEC, our negotiating partners at the OECD talks. There seems little doubt in Government circles that these are not frivolous cases and that dumping is taking place with the resulting adverse effect on domestic production and employment. Clearly the Treasury Department should be pressed to conclude its pending case as Senate Resolution 279 makes clear, and our trading partners should be pressed to cooperate with our Government in supplying cost of producton data so a judgment on dumping can be made. Efforts along this line met with little success in Paris due to the recalcitrance of the Japanese and EEC delegations.

At the same time, however, the restrained natures of this objective should be noted, and I hope our delegation will not stop at articulating this minimal point of enforcement of existing law. It is clear that the international steel market is in disarray—that dumping is continuing, that the Japan-EEC agreement on steel marketing discriminates against our producers, and that every nation's economic well-being is threatened by these two factors plus the worldwide surplus of steel that can be expected to last for the next several years. Dealing with these problems will necessitate very difficult negotiations with the EEC and Japan, both of whom have thus far shown little inclination to deal seriously with these problems.

Beyond that, however, is the question we are discussing today: our willingness to reach toward these goals. I fear that our delegation has not been sufficiently aggressive and tenacious in pursuing our proper objectives at the OECD talks. I sense a feeling in some parts of the delegation, similar to what I have seen elsewhere in the administration, that tenacity is unnecessary because no new agreements are necessary; that existing law—however inadequately it may be enforced—is sufficient to deal with our problems; and that there is no need to move in the direction of orderly marketing arrangements on steel.

Notice should be served now, however, that this attitude will not wash in the Congress, and that if strong action is not taken, Congress will take the initiative from the administration and pursue the matter itself. With over 13,000 steelworkers recently laid off and many of them certified for trade adjustment assistance—itself an admission by the Government of the trade impact of the actions of our trading partners—it is clear that firm action is in order and if the administration will not take it, the Congress will. Senate Resolution 279 will serve as a symbol of our determination in that regard.

Mr. President, to illustrate the modest nature of the OECD talks. I ask unanimous consent that the text of the OECD communique concluding the meeting be printed at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SUMMARY OF THE CONCLUSIONS REACHED AT THE SECOND MEETING OF THE AD HOC WORKING GROUP ON THE STEEL INDUSTRY

1. At its second meeting on 29th and 30th September, 1977, the ad hoc Working Group on the Steel Industry, after taking note of documents prepared by the Secretariat on supply and demand forecasts and on trends in international trade in steel, heard statements from participating countries and from the European Community on the situation in their industry and the main issues of urgent concern to them.

2. The Group noted that, since its meeting in July, the serious depression in the industry had deepened even further in OECD producing countries; in consequence, the widespread and very serious difficulties with regard to employment levels and the financial results being achieved by the Industry had grown more intense. The situation in some Member countries had deteriorated to the point where even more urgent attention to the problem was required. It was, further, the view of the Group that the problem of large world excess capacity would persist for some years and that, due to the cyclical nature of steel demand, difficulties caused by recession might well recur in the future.

3. In the examination of the current situation on the steel market a number of countries indicated that particular difficulties were being experienced for the steel products especially dependent on the demand from investment goods industries. The Group recognized that actions taken at national and international level to stimulate world economic activity would have a significant effect on the steel market.

4. The Group also recognized that governments were increasingly examining the need for structural adaptation in the steel industry and considering the domestic measures available to effect necessary adaptation in ways that would avoid adverse international impacts. The importance of the role played by a number of the developing countries in world steel production was noted and it was recognized that consideration of longer term structural adaptation would have to take such developments into account.

5. With regard to prices, concern was expressed by a number of governments at the determination in the level of steel prices. The statements made to the Group indicated that a number of different responses to this trend were appearing in several countries.

6. Having reached the common perception of the problems facing the steel industry indicated in the above paragraphs, the Group further agreed on the problem areas to which it would give priority attention at its next meeting: international trade developments, the pricing of steel products and longer-term structural changes in the world steel industry.

7. It was agreed that more information should be made available on these areas as a basis for considering the advisability of cooperative action. The data collected should permit the Group and Member governments to follow closely and on a continuing basis current and longer term trends and promote the greater common understanding of these urgent problems that is necessary for appropriate responses to be found.

8. The Group instructed the Secretariat to prepare, in consultation with Governments and for examination at the next meeting, a report on the data that would be needed, the feasibility of collecting them, and the ways in which the Group might most usefully consider the information thus provided with a view to advancing the examination of means available to alleviate the difficulties faced by the steel industry.

9. The Group decided to hold its next meeting on 30th November and 1st December, 1977.

Mr. HEINZ. Mr. President, before I send forward an amendment to the preamble, I want to indicate that the resolution really speaks for itself. It is particularly timely, because tomorrow the President will be meeting with steel industry leaders, consumers, and a variety of people from around the United States concerned with the problems of the steel industry, including unfair competition. It is a particularly appropriate meeting because only last week, on October 6, the Council on Wage and Price Stability made a report indicating clearly that European production costs are roughly equivalent to ours, and that, adding the transportation costs, there should be a uniform price disadvantage. At the same time they also found that EEC steel undersells American steel, and even posts list prices that are some $50 a ton below the cost of our most efficient steel mills. As I say, this is documented in the same report.

In conversations with some administration officials, I have been told that the existing law on antidumping, and other related laws, is sufficient to solve the steel problem. Personally, while I have some individual doubts about that, I think we should find out whether or not

that is the case. If we do not find out through the most aggressive prosecution of these laws, we will never know how good the laws we have are. Enforcement is what this resolution is all about, to encourage the enforcement of an existing law, because in my judgment—and I do not limit this by any means to the present administration, but I include the precious Ford and Nixon administrations in this—the law has not been enforced adequately thus far.

Mr. GOLDWATER. Mr. President, several of my colleagues have emphasized the importance of the American specialty steel industry to our national security. I would like to zero in on a particular aspect of this that has not yet been mentioned, and that is the importance of the research and development activities of this industry.

During the hearings held by a subcommittee of the Senate Armed Services Committee in 1972, the representative of the Department of Defense, Vice Adm. Eli T. Reich, testified in his capacity as Assistant Secretary of Defense for Installations and Logistics. This is what Admiral Reich told the subcommittee about the specialty steel industry's R. & D. effort:

During this past 100 years of their existence, specialty steel companies have conducted extensive research and development to enhance the physical properties of their products and advance their manufacturing technology in this area. Some of this research has been accomplished in cooperation with and under the sponsorship of the Department of Defense; however, much of this work has been accomplished with industry funds and with their own in-house R&D facilities. There are numerous examples where the results of this effort have had direct application and use in defense systems. . . .

The Assistant Secretary of Defense then went on to cite the new generation of jet engines and other systems which have stemmed from the specialty steel industry's R. & D. programs. He said:

The Department of Defense is vitally concerned with what happens to the specialty steel industry in this country.

Moreover, the Defense Department representative noted that—

To be available for defense needs, the specialty steel industry in the United States requires a healthy U.S. commercial market.

He went on to say that—

This is especially true if their R&D capability, which has been so valuable to defense in the past, is to be kept from eroding.

Unfortunately, many specialty steel companies have been forced to cut back on their research and development because imports have grabbed off more and more of the domestic market for this industry's bread-and-butter product lines. The quotas that the last administration imposed upon imports have just begun to change this situation and as the industry grows more viable financially it will again increase its R. & D. budget.

Testimony before the U.S. International Trade Commission has conclusively shown that the American specialty steel industry is the world's leader in technological improvement and development. In spite of the heavy subsidies foreign steel companies receive from their governments, they have not been able to match the American industry's R. & D. accomplishments.

Mr. President, if we wish to assure America's technological leadership in this vital industry, I urge the President to let the import quotas on specialty steels run their course. The quotas are just beginning to work and to restore the economic health of an industry that was afflicted by 40 percent unemployment and severely curtailed production. Surely, less than 2 more years of limitations is little enough for an industry that has suffered such serious injury from imports for nearly a decade before the quotas went into effect.

THE AMERICAN STEEL INDUSTRY'S CONTINUING CRISIS

Mr. BAYH. Mr. President, I want to take this opportunity today to reaffirm my support of Senate Resolution 279, a measure I have cosponsored which expresses the sense of the Senate that the administration should vigorously enforce the laws designed to protect American industries from unfair competition by foreign industries. Just recently, the Department of Treasury found for the first time that five Japanese steel companies were engaged in "dumping" carbon steel plates on the U.S. market. What is even more alarming is that these products have been sold, according to the preliminary determination of the Treasury Department, at as much as 32 percent below the full cost of production. Clearly, the strong concern about such practices voiced by the steelmaking community have proven to be well founded. We cannot allow this situation to continue and must impress upon our trading partners our commitment to make sure that the open trading system which we all seek is also a fair one.

The resolution approved by the Senate today puts us on record as attaching great importance to this fact. It serves notice that we intend to act with all deliberate speed. As the senior Senator from the Nation's second largest steel producing State, I intend to work vigorously to address directly and remedy effectively the very serious and complex economic problems which are now threatening the lifeblood of this most basic industry. Senate Resolution 279 marks the beginning of this important effort.

I understand that the administration is undertaking an interdepartmental review of the wide range of problems which must be solved if we are to achieve truly effective and comprehensive management of the steel industry's problems. I hope this is the last interagency review, because, as many of my colleagues know the steel industry has been almost "studied to death." At the same time, it is important that we work with the President and his key trade and economic advisers to assure prompt consideration of legislation aimed at, first, making sure that unfair and predatory pricing practices of foreign importers of steel are terminated as soon as possible to limit the damage caused to domestic industry; second, stimulating the demand for steel through changes in the Buy American Act and other programs; and third, coming to grips with the structural problems of the steel industry in a way which will bring economic and employment stability to established steel producing communities. This would entail devising a plan for capital formation necessary for industry modernization.

These are the three basic categories of the problems with which we must contend. It is our duty to explore them promptly and fully. The urgency of the steel crisis requires us to make our own specific recommendations known to the President and his advisors who are preparing recommendations in this area.

Quite obviously, any recommendations for changes in the Trade Reform Act of 1974 and other laws will have to be considered by the appropriate committees of the Congress. Shaping an effective industrial policy will not be easy but with the passage of this resolution today, I think we are well on our way. My colleague from Pennsylvania, Senator HEINZ is to be commended for his hard work on this resolution. I look forward to cooperating with him and the other concerned Senators representing the steel producing States in the days ahead.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution was agreed to.

UP AMENDMENT NO. 925

Mr. HEINZ. Mr. President, I send to the desk amendments to the preamble and ask that they be considered en bloc.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Pennsylvania (Mr. HEINZ) proposes an unprinted amendment numbered 925.

In the second whereas clause, strike "major";

In the third whereas clause, strike "contributed substantially to" and insert in lieu thereof "been a factor in" and

In the fifth whereas clause strike "failed to resolve" and insert in lieu thereof, "not resolved".

Mr. TALMADGE. This has been cleared with the Finance Committee.

Mr. HEINZ. The Senator is correct.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

The resolution, with its preamble as amended, reads as follows:

Whereas the American steel industry is facing an unprecedented crisis, in the last several weeks having suffered layoffs of more than twelve thousand workers;

Whereas a contributing factor to the problems facing the American steel industry is the dumping of imports subsidized by foreign governments into this country;

Whereas such imports have adversely affected the United States balance of payments and have been a factor in reduced employment opportunities in the American steel industry;

Whereas the Department of the Treasury has failed to be sufficiently aggressive in pursuing dumping complaints filed by American industry to their conclusion, thus permitting the continued sale of imported products below cost; and

Whereas the Office of the Special Trade Representative has not resolved a complaint alleging a violation of section 301 of the Trade Act of 1974 by the European Coal and

Steel Community and the Japanese Ministry of International Trade and Industry filed on October 6, 1976, by the American Iron and Steel Institute:

Resolved, That the Senate reaffirms its support for existing laws restricting unfair or subsidized competition from imports, particularly the Antidumping Act of 1921 and the Trade Act of 1974, and urges the President to direct Federal agencies, particularly the Department of the Treasury and the Office of the Special Trade Representative to enforce vigorously and aggressively existing laws to prevent cases of dumping, trade discrimination, and other forms of unfair competition that have an adverse impact on the American steel industry.

Mr. HEINZ. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HEINZ. Is the resolution now adopted, as amended?

The PRESIDING OFFICER. The preamble, as amended, was agreed to, and the resolution was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. HEINZ. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HEINZ. Mr. President, I want to thank the distinguished Senator from Oklahoma for yielding and making this time available.

Mr. BARTLETT. The Senator from Pennsylvania is most welcome.

LEGAL SERVICES CORPORATION ACT AMENDMENTS OF 1977

The Senate continued with the consideration of S. 1303.

UP AMENDMENT NO. 926

Mr. BARTLETT. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will state the amendment proposed by the Senator from Oklahoma.

The assistant legislative clerk read as follows:

The Senator from Oklahoma (Mr. BARTLETT) proposes an unprinted amendment numbered 926.

On page 17, line 9, strike the words: "and paragraph 7" and insert in lieu thereof a period.

Mr. BARTLETT. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. BARTLETT. Mr. President, the bill we are considering would delete section 7 in the present law. My proposal merely deletes that language of the bill which would delete section 7. It reads:

To provide legal assistance with respect to any proceeding or litigation relating to the desegregation of any elementary or secondary school system;

Mr. President, that section contains a specific restriction on the types of cases in which Legal Services attorneys may be involved. They may not become involved in lawsuits relating to the desegregation of school systems. Unfortunately, Senate bill S. 1303, as reported by the Human Resources Committee, drops this restriction. I believe that such a change would be most unfortunate.

Mr. President, I am particularly disturbed that we would open the doors once again to involvement in desegregation lawsuits by Legal Services attorneys. We all support the objective of desegregation. But we all know that many desegregation lawsuits result in the imposition of plans requiring massive busing of public school children—a policy that has been and continues to be opposed by a majority of the American people, both black and white.

Massive court ordered busing has always been a highly suspect means of achieving desegregation. The Congress has indicated in various ways that we do not like busing, although our statutory attempt to restrict it have met with little success.

Because the busing that results from many desegregation lawsuits is opposed by most of the people, and because it is such a poor way of achieving the goals of equal educational opportunity, I think it is unwise that we, in effect, force the taxpayers at large to subsidize this kind of lawsuit.

In many respects, desegregation lawsuits are excellent examples of lawsuits that do not involve "basic legal services." These lawsuits are many times used as ways to implement the social engineering goals of activists in the particular field. The rights and needs of individual clients tend to fall by the wayside.

There are other reasons why it is appropriate to retain the restrictions on corporation involvement in desegregation and busing lawsuits. As the committee report itself notes, desegregation cases can tie up substantial amounts of attorney time and resources. The more time and money that are poured into desegregation lawsuits, the less time and money there is that will be available to provide the basic legal services that indigent persons need in conducting their day-to-day activities. By retaining the restriction in the present law, we can at least in part force the corporation to direct its resources where the need for legal services is the greatest.

There is one additional factor which makes me disinclined to lift the restrictions on involvement in desegregation lawsuits. Since passage of the Legal Services Corporation Act, the Congress has acted in a fashion that will reduce even further any need that may have existed for Legal Services involvement in cases of this type. Last year, we passed the civil rights attorney's fee bill. That legislation provides significant additional incentives for private attorneys to get involved in desegregation lawuits. As a result, there seems even less need to divert Legal Services Corporation resources to these sorts of lawsuits. Adequate means of redress are available to those who wish to pursue a desegregation or busing lawsuit. You cannot say that about suits like divorces, landlord-tenant disputes, and the like. Therefore, let us put our money where the need is.

My amendment would amend the bill so as to retain the existing restrictions on Legal Services involvement—in desegregation lawsuits.

I do want to add one last note regarding the desegregation suit portion of this amendment. The House-passed version of the Legal Services authorization extension retains the restriction on involvment in desegregation suits. So, if we keep the restriction in our bill, that is just one less thing to hassle over in the conference on this legislation.

Mr. President, I strongly urge that my colleagues support this amendment, which would assure that Corporation resources are allocated to those projects more apt to be in real need of assistance.

Mr. President, I recall very well the time when various provisions, including this provision, were considered very important in order to continue having a legal services bill, and in order to remove it from the area of controversy which resulted from the abuse of the system, as many people saw it.

One of the restrictions which was placed in the bill was the restriction to prevent the attorneys from representing clients in desegregation cases. I am very concerned, in the interest of furthering the Legal Services Act, to open up the Corporation to the possibility of abuse and criticism resulting from the activities that I would expect would happen once again if this amendment fails or if the bill continues as it is regarding desegregation suits.

I think the need for a good legal services program is great. We should not jeopardize it by opening up the program to permit these kinds of activities by lawyers, which undoubtedly will lead to real difficulties throughout the country, or which I would expect would lead to such difficulties based upon the facts.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. EAGLETON. Mr. President, will the Senator from Wisconsin yield me 4 minutes?

Mr. NELSON. I yield 4 minutes to the Senator from Missouri.

Mr. EAGLETON. Mr. President, I rise in opposition to the amendment offered by the Senator from Oklahoma (Mr. BARTLETT), which would reinstate the prohibition against the Legal Services Corporation, any of its grantees, recipients, or staff attorneys participating in any proceeding or litigation relating to the desegregation of public schools, or the transportation of schoolchildren to achieve desegregation.

My colleagues will recall that, 4 months ago, I rose on this floor to defend a provision of the fiscal year 1978 HEW appropriations bill which prohibited HEW from requiring busing to achieve racial balance. The amendment before us today is totally different.

Four months ago, I attempted to delineate the two basic mechanisms by which busing for the purpose of integra-

tion can be brought about. First, there is busing that a Federal court can order to remedy proven violations of the equal protection clause of the Constitution. Second, there has been busing mandated by the Department of HEW, using a statistical formula, to achieve racial balance in each school that reflects approximately the same racial makeup as the school population in the district as a whole.

I see a vast constitutional difference between enforcing valid equal protection rights to eradicate de jure segregated education systems and creating a mechanistic right of statistical racial balance in each classroom. I vigorously support the former and, as vigorously, oppose the latter.

The bill before us today relates only to integration plans which may be enforced by a court and, as reported by the Human Resources Committee, would allow legal services attorneys to represent parents of schoolchildren who believe their constitutional rights have been violated. Perhaps more importantly, local legal services attorneys could be retained subsequent to a court order to assure that the provisions of the order are enforced.

In my view, the need to expand legal services to the poor in desegregation suits is of increasing importance. At the time of the historic Brown against Board of Education decision in 1954, the Southern States and some border States were operating dual school systems. In those districts which had maintained a dual system by law, it often can be shown that remaining patterns of segregation in the schools were caused by the former dual system. The courts have been exceedingly firm in such cases in requiring that all vestiges of the former dual system be eliminated.

It is only within the last few years that courts have been faced with suits in districts which were never segregated by law. In the 1973 Denver case, the court held that in a school district without a history of statutorily enforced segregation, the purpose or intent behind allegedly discriminatory school board actions was controlling. Within just the last month, the Supreme Court has further defined what it views as the constitutional requirements of equal protection vis-a-vis school desegregation suits.

The 1974 Detroit case prohibited busing between the city and the suburbs because the lower court record showed no evidence that the State or the suburban districts contributed substantially to segregated conditions in the city schools. This Detroit decision has subsequently been applied in Indianapolis, Dayton, Omaha, and Milwaukee to clearly state the Court's position that a remedy for any constitutional violation must be tailored to specific violation.

The purpose of this brief recital of the development of school desegregation cases is to point out that circumstances of the districts now being involved in desegregation suits in many instances, are substantially more complicated in determining violations of the Constitution and devising appropriate remedies. It has become increasingly important that adequate legal aid be made available to parents of minority schoolchildren.

Congress enacted the Legal Services Corporation Act of 1974 to assure equal treatment for all who seek redress through our civil laws. Certainly, the rights to legal services attorneys in desegregation suits is an important part of equal treatment. In fact, if Congress fails to provide access to attorneys for those who could not afford them otherwise, it has, in some respects, restricted the equal protection clause.

I urge my colleagues to defeat the amendment before us. It seems clear that a law will be enacted shortly to prohibit HEW from administratively ordering busing. I support that. But, as I have said on this floor before, I have voted for and will continue to vote for those measures which assure judicial remedies for children who are denied the full opportunity to achieve a quality education by reason of their attendance at segregated public schools.

Mr. KENNEDY. Mr. President, will the Senator yield 5 minutes to me?

(Mr. ZORINSKY assumed the chair.)

Mr. NELSON. I yield 5 minutes to the Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I rise to oppose the amendment of the Senator from Oklahoma. I do so because it is my strong feeling that we should not limit Legal Services Corporation recipients from being able to represent interests of a constitutional nature as they would be limited under the amendment of the Senator from Oklahoma.

I also remind my colleagues that the amendment of the Senator from Oklahoma is wide sweeping. It would virtually preclude the opportunity for Legal Services lawyers to participate in cases involving desegregation even if the parties that they would represent are interested in a variety of other aspects of the remedy—for example, the interests of the handicapped in a particular school district, or the interests of Spanish speaking people in programs like bilingual education, which may very well be affected by a court order. Its scope is broad and all-inclusive. It excludes the opportunity for local representation on a variety of school related issues which happen to arise in a school desegregation context.

As to the bar on desegregation representation itself, Mr. President, we are not talking about the bureaucracy or agencies of government making the determination of whether there has been segregation. The courts are going to make the determination. I think that is important. This amendment would preclude the opportunity to appear and have a judicial resolution on whether a constitutional mandate has been violated.

Mr. President, if we look back over the experience of the predecessor to the Legal Services Corporation in the period from 1970 to 1975, we find, that in the 50-odd school desegregation cases that were actually tried the great majority of plaintiffs were upheld before the courts. This indicates that the record of Legal Services centers in the past has been one of selectivity. I think the record in this area indicates quite clearly that we are not talking about frivolous cases. We are not talking about overburdening the courts. What we are talking about is cases which have been carefully selected. The track record of the Legal Services offices, I think, has been a strong one.

Mr. President, we cannot let the Civil Rights Division carry sole responsibility to fulfill this mandate. In a number of areas of governmental policy more than one agency functions. I can think of areas where I had some interest, as the chairman of the Antitrust Subcommittee. We have the Department of Justice Antitrust Division, and the Federal Trade Commission, which is an independent agency, both with broad jurisdiction in the areas of antitrust policy.

Here, local legal services groups may frequently have the best perception of what is needed by local communities and have a much keener awareness, perhaps, of what may be happening at the local level than does the Civil Rights Division.

Moreover, we have seen the flow of different administrations and Assistant Attorneys General of the Civil Rights Division; they put different emphasis and different stress at different times on various civil rights policies.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. KENNEDY. Will the Senator yield 2 more minutes to me?

Mr. NELSON. I yield 3 more minutes to the Senator from Massachusetts.

Mr. KENNEDY. The independent Legal Services Corporation and its recipients, I believe, have a keener awareness of what is happening in local communities and are sensitive to that felt need rather than reflecting centralized policy. In this too, they are making an extremely important contribution.

So, Mr. President, I hope that this amendment will be defeated. I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. NELSON. Mr. President, how much time does the Senator from New York and the Senator from Wisconsin have?

The PRESIDING OFFICER. Seventeen minutes on this amendment.

Mr. NELSON. And how much time does the Senator from Oklahoma (Mr. BARTLETT) have?

The PRESIDING OFFICER. Twenty-three minutes.

Mr. NELSON. Mr. President, the authority to participate in desegregation cases was eliminated from the statute in 1974; the Human Resources Committee this year restored the authority to permit legal services funds to be used in desegregation cases. That was done in committee by a vote of 10 to 3. I voted to restore that authority to the Legal Services Corporation and its affiliates.

At the time we adopted that provision restoring that authority, a similar provision was in the House bill. When the House bill came to the floor, the House struck that provision on a rollcall vote by a vote of 208 to 174.

Therefore, in my judgment, there is almost no chance that this provision would remain in conference, particularly on the deadlines with which we are dealing.

It is my personal judgment, at least, the elimination of the desegregation pro-

vision will not stay in the final bill even if it stays in the Senate bill.

I happen to agree with what the distinguished Senator from Missouri and the distinguished Senator from Massachusetts said on the merits of the issue. I agree philosophically with them. However, it is worthwhile to point out that this authority to undertake desegregation cases does not really involve the main thrust of what legal services is all about.

In the 12-year period—or, more fairly, I suppose, the 11-year period—since legal services started, the legal services organizations participated in 50 desegregation cases. To the best of my recollection, every single one of those cases would have been tried without the participation of the Legal Services Corporation.

In the course of that period, while legal services participated in 50 cases, they handled about 7 million other cases representing the problems of clients. That is where their most important responsibility lies.

So that one would not get a distorted view, we are talking about 7 million cases against 50.

I repeat, I voted with the 10 to eliminate the restriction in the committee bill. But I told those Senators who we were attempting to settle this issue with yesterday, to whom this is a very important question, that in my judgment no matter what happens on this floor the elimination of the restriction will not remain in at the conference anyway. Having looked at the House vote and considering the time constraints we are up against, I told the proponents of this amendment that I was prepared to get a vote and settle this legislation this year.

The authorization for the Legal Services Corporation expires at the end of this month. So far as I am concerned, desegregation is not a major issue, and I will vote to strike that authority out.

Because the majority leader, as a consequence of the legislative flow here on the floor, did not have other legislation that was urgent, legal services legislation was called up. It had been everybody's belief that it was not going to be handled this year because the appropriations had already been made for fiscal 1978. Therefore it was not a piece of legislation that had to be handled this year, whereas the energy legislation did have to be handled, as well as several other pieces of legislation.

So it was fortuitious that we were able to deal with the question at all.

However, it being near the end of the session, it was necessary to have an agreement to vote or there would be no authorization, and I think, whereas the authorization is not essential because we have the appropriation, it indeed is important.

So I agreed, out of all the negotiations we went through, and in resolving the question and getting the vote, that I would support the amendment of the Senator from Oklahoma.

For the reasons stated, I shall vote for it.

Mr. JAVITS. Mr. President, how much time is there in opposition to the amendment?

The PRESIDING OFFICER. Twenty-three minutes.

Mr. JAVITS. In opposition? I do not think so.

The PRESIDING OFFICER. Eleven minutes in opposition.

Mr. JAVITS. Would the Senator yield me 10?

Mr. NELSON. I yield the Senator from New York all the time he desires.

Mr. JAVITS. Mr. President, I will take 7 minutes, and I would like to be notified when that time has expired.

Mr. President, one thing needs to be put into focus.

I would like to first set in focus Senator NELSON's own position. He said he agreed. I wish to make it clear that there is no agreement by Senator NELSON that I know of in respect of the package agreement we have entered into with Senator HATCH and the people for whom Senator HATCH spoke as to this particular amendment.

I notified him personally that I would oppose it very strongly. I am not aware of any agreement that has been made in the context of the agreement which got us the time agreement respecting this particular amendment.

Mr. NELSON. I did not wish to leave that impression. My position on this particular amendment was not involved in the unanimous-consent agreement we made. I simply said to Members on the other side that as to this very controversial issue, that given the circumstances and the vote in the House, I would vote on their side.

Mr. JAVITS. All right. I thank the Senator very much.

There are three points to be made in this connection that are the basis for my opposition. By the way, the amendment, which was adopted by a vote of 10 to 3 in the committee, was my amendment.

First, the legal services, in terms of redeeming people from the syndrome of poverty through the dignity of having a lawyer, is also symbolic, and that desegregation issue, which bears heavily upon minorities and the poor because they live in that kind of area, therefore is a very important aspect, in my judgment and that of many others—Senators EAGLETON and KENNEDY already have spoken—respecting the fact that they really do have a lawyer, just as everyone else, for the concerns which are properly theirs. Desegregation of the public schools is, of course, a public concern of theirs. So whether there were 50 cases or more, I think that begs the issue. As a matter of fact, I am glad there are not a great many cases, because the primary business of the legal services lawyers takes up much of their time and aggregates many cases.

The second point which needs to be made in that connection and which, in my judgment, is very important, is that lawyers are not available for these suits. We have the finding on that, even in the committee report itself, at page 18, where the committee says:

> Information received by the corporation from the NAACP Legal Defense Fund and from the Mexican-American Defense Fund indicates that requests for representation in school desegregation cases far exceed the number of privately funded civil rights lawyers available to provide it, and this notwithstanding the Civil Rights Attorneys' Fees Awards Act of 1976.

Senator KENNEDY was the author of that act.

So the point is that lawyers are not available and that, therefore, the poor man should have an equal right with the one who can afford it or is in some organization that can afford it and should be able to get a lawyer, if he feels deeply aggrieved in this connection.

Last, this section was recommended by the American Bar Association. To me, that is a decisive point. Lewellyn Pritchard, who is the chairman of the pertinent committee of the American Bar Association, testified that the prohibitions on taking desegregation and other cases are "a clear example of the imposition of political considerations on the practice of law."

Mr. Pritchard went on to say:

> Whether the citizens who are deeply affected will have the opportunity to seek resolution through our court system and whether the Legal Services attorneys will be permitted to meet their ethical obligations to represent their clients fully and zealously . . .

Mr. President, it seems to me that this sums up the whole matter. If we really are going to give the poor the feeling—and we want to give them that feeling—that they, just as anyone else, can have a lawyer as a way in which to orient them away from the poverty syndrome, they cannot be denied a lawyer in respect of what is considered a violation of basic constitutional rights, if proven in court and the courts act.

By now, Mr. President, we all agree—North, South, East and West—that there is school segregation and that it needs to be corrected; that, indeed, the South has been a leader; that this particular type of provision will be far more directed against my part of the country rather than against parts of the country which traditionally we have considered subject to such desegregation suits.

So, Mr. President, for all those reasons, I believe that the hands of the Legal Services Corporations should be freed, and that is all we are doing. It is not as to any specific kind of redress, and nobody guarantees that any such suit will be won, but simply that the poor man should have the same right as the one better able to take the case into court. That, essentially, was the argument of my colleagues; that, essentially, is my argument; and I believe that is why the committee acted by such a decisive majority.

Finally, Senator NELSON says, "I do not think it is going to be in the bill." With all respect, we do not know whether it will or will not. The other body chose to lift the prohibition. If this body chooses to lift the prohibition, I shall fight for it in conference. I am not in any way committed to do anything but that. Perhaps we will have to rewrite it, or some such thing; one often does. I think the chances are excellent that the Bar Association prestige and that of the organizations which have come to us—I have described them—which have made clear the situation respecting the availability of law-

yers, and our own consciences, respecting the fact that we should not discriminate against the poor man in one branch of the law when we give him legal representation, will stand up very well, indeed, in conference.

I do not intend to be discouraged by any such prospect as Senator NELSON paints, and I shall decisively vote against this amendment for the reasons I have stated.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. BARTLETT. Mr. President, if I may have the attention of the distinguished Senator from New York, I will be happy to yield to him some additional time; because I am not planning to use all the time, and apparently there are not others on this side who desire to talk.

Mr. President, I feel that section 7 in the present law was placed there 2 years ago, along with other restrictions on legal services, because the whole question of legal services was in jeopardy due to what were considered to be abuses of the original mandate to provide legal services for the indigent.

There is no question that we all agree that the poor, in not having legal services available to them, do not always have the opportunity of achieving justice in their private lives, in the various involvements in which they find themselves, or in just normal living.

So I think there is a unanimous feeling of strong support for a good, workable legal services bill. But there is a recognition, too, that the majority of the people of this country are not interested in providing legal services in connection with class action suits or in connection with desegregation matters which are very controversial and to which the majority are opposed.

So I think it is in the interest of perpetuating a strong, effective, well-financed legal services program to approve my amendment—to continue the practice we have had in the last 2 years of not permitting desegregation cases to be dealt with by the legal services lawyers.

I am not aware of any grassroots desire from the indigent or the poor to have this change made.

I suppose that those involved with legal services may be the ones who want to make the change. However, I do not think it is in the interest of the poor themselves; because, in the final result, their personal needs which require attention in the legal area may suffer because of a disenchantment by the people of this country with the manner in which the legal services are administered and the manner in which the Corporation conducts its activities.

Mr. President, I am prepared to either yield time or yield it back.

Mr. JAVITS. Do we have the yeas and nays?

Mr. NELSON. We have the yeas and nays.

Mr. JAVITS. All right.

Mr. RIEGLE addressed the Chair.

Mr. JAVITS. Wait one minute.

The PRESIDING OFFICER. The Senator from Michigan is seeking recognition.

Mr. NELSON addressed the Chair.

Mr. BARTLETT. Mr. President, I am glad to yield to the Senator from Michigan if he wishes the time.

Mr. RIEGLE. Mr. President, what I wish to do, if the Senator has concluded, is to secure time on my own perhaps from the Senator from Wisconsin.

Mr. NELSON. Mr. President, how much time does the Senator from Wisconsin have remaining?

The PRESIDING OFFICER. The Senator from Wisconsin has 3 minutes remaining.

Mr. NELSON. Mr. President, I yield 3 minutes to the Senator from Michigan.

Mr. RIEGLE. Mr. President, I thank the Senator from Wisconsin.

I rise to oppose the amendment and wish to associate myself with the remarks of Senator EAGLETON, Senator KENNEDY, and others, who also have risen to oppose the amendment.

I might note at the outset, I was one of the Senators who voted for the Eagleton-Biden amendment to the Labor-HEW appropriations bill because I felt there was an excessive use of bureaucratic power, in terms of ordering busing, coming from HEW.

The Senator and I felt that there was some need to find an appropriate way to redress that. I think what we have here, however, is an entirely different matter because, if the poor are unable to secure legal representation regarding school desegregation matters from legal services programs, their legal rights in this area will continue to remain unvindicated.

The NAACP Legal Defense and Education Fund has indicated that in many States, where indigent minority citizens have expressed a need for school litigation to be brought, there are simply no privately funded civil rights lawyers available. It would be wrong for Congress to presume that the minority poor have alternative sources of legal assistance in this important area, if access to legal services programs in school desegregation cases continues to be denied.

While it is only fair and just to remove the current restriction, there is no evidence to suggest, however, that suddenly legal services attorneys will extensively participate in this area. Local programs set caseload limits for their attorneys, and local program boards establish priorities for the allocation of scarce resources within those limits based upon the needs of the local client community. In many communities, school desegregation would not be a high priority; in others, where poor people come to the programs and express a need to have school desegregation problems addressed, the program may, nevertheless decide to limit its representation to advice and consultation, or to litigate at the trial level without going to appeal.

Even before the restrictions were imposed in 1975, legal services attorneys participated in a limited number of desegregation cases. In fact, in the 9-year period prior to 1975 legal services attorneys were involved in approximately 50 desegregation cases nationwide. Because of the extended time and resource commitment required by such cases, programs generally refrained from taking them unless they had determined that no other form of legal assistance was available. In addition, in many of these 50 cases, legal services attorneys acted merely as local counsel assisting national civil rights organizations which had assumed major responsibility for the work.

Another reason why the removal of the restriction will not be taken as an open invitation for legal services participation in desegregation cases is that to the extent that particular desegregation cases are fee-generating by virtue of the Civil Rights Attorneys Fees Act, programs would have to attempt to refer such cases to private counsel. It is only where private counsel is not available that legal services programs could provide the legal assistance sought by poor people.

With the removal of the restriction, legal services attorneys will be able, depending on priorities and resources, to participate in but a limited number of proceedings regarding school desegregation. What is often needed as expressed by poor people seeking legal assistance is not that a legal services program undertake a school desegregation case from scratch, but rather that the program provide representation to particular groups of poor people seeking to intervene in an ongoing lawsuit. In other instances, representation may be sought in order to negotiate the resolution of an existing desegregation case to the benefit of all segments of the community. Or perhaps more likely, local legal services attorneys may be asked to monitor the enforcement of a court order relating to the desegregation of a school.

Again, let me emphasize that the removal of the restriction on legal services representation in desegregation cases will not result in any sudden surge of activity by legal services attorneys. What it will mean, rather, is that the poor will have access to legal advice, consultation, or perhaps even representation concerning their legal problems.

I ask that Senators reject the amendment.

The PRESIDING OFFICER. The time of the Senator from Michigan has expired.

Mr. BARTLETT. Mr. President, I yield to the Senator from Michigan such time as he may need.

The PRESIDING OFFICER. The Senator from Oklahoma has yielded whatever time the Senator from Michigan desires.

Mr. RIEGLE. I thank the Senator from Oklahoma.

The long and short of it is that these are crucial issues that should not be denied process.

I shall take a minute to say that I think in this area, as others, where sound and basic legal issues are at stake, the issues that only can be settled in courts and through the judicial system, it is essential that people have access to representation. There is nothing more fundamental in this country than access to education and if those issues are unclear and have to be settled as a matter of law in courts, then it seems to me appropriate that legal services, within the confines of the law as put forth here, be made available in this crucial area.

I think to write a prohibition in this area would be a grave error, and I hope that we can defeat the amendment.

I again thank the Senator from Oklahoma for his kindness in yielding time, and I yield back the floor.

Mr. BARTLETT. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. On whose time?

Mr. BARTLETT. On my time, all of the time that remains.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. JAVITS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BROOKE. Mr. President, I fully support S. 1303 as reported from the Committee on Human Resources.

When Congress created the Legal Services Corporation in 1974, we recognized the vital need of the poor for legal counsel and assistance. Yet, the Corporation was created amid the unfortunate confusion and turmoil of the spring and summer of 1974, and the diversion of our time and of our attention allowed us. I regret, to pass a less than satisfactory piece of legislation, S. 1303 significantly improves upon our earlier efforts, and should be passed without amendment.

Once the President had nominated and the Senate had confirmed its Board of Directors, the Legal Services Corporation set out quickly and efficiently to fulfill its responsibility to provide equal access to our system of justice for those unable to afford legal counsel. Since 1974 alone, more than 10 million poor persons, who were previously denied the opportunity to even discuss a legal matter with an attorney, have been provided with bare minimum access to our judicial system through an expanded program of community-based legal services offices. The Corporation, together with the dedicated staff attorneys in local programs—who, incidentally, handle in the vicinity of 350 to 400 cases a year at pay considerably lower than that offered in the private sector—have, however, only begun to meet the tremendous need for legal assistance. There are still many, many poor persons in some areas of the country in which the Corporation has yet to establish Legal Services programs. The Human Resources Committee recognized the necessity to reach these areas as quickly as possible, in conformance with the plans of the Legal Services Corporation. By authorizing such sums as may be necessary for future years, this legislation has provided those of us on the Appropriations Committee the authority to carefully scrutinize the timing and rate of future expansion, so that we can indeed guarantee equal access to our system of justice to all Americans.

But access can hardly be equally guaranteed if we in Congress carve out exceptions, restrictions and prohibitions which apply not to the wealthy or those of moderate means, but only to the poor. And these restrictions are often based not upon the particular needs of the poor, but rather upon the vagaries of public opinion. Unfortunately, this was our course in 1974. However, after extensive oversight hearings in which the views of the organized bar, poverty groups, labor and many others were expressed, the Employment, Poverty, and Migratory Labor Subcommittee decided to eliminate many of these ill-conceived restrictions on legal representation which the original act imposed upon the poor. I wholeheartedly support the committee's efforts and hope that my colleagues will join me in endorsing S. 1303.

I particularly commend the committee for repealing the prohibition against Legal Services representation of eligible clients in any school desegregation matter. This prohibition in effect closes off the most legitimate means for the redress of grievances by poor parents desperately concerned about the education of their children. For in some communities, particularly the small and isolated ones, Legal Services attorneys may be the only counsel available to provide poor parents the opportunity to express their views in ongoing desegregation cases. They may be the only local counsel available to monitor and to enforce the plan of the courts for the desegregation of the local public schools. And in some instances, they may be the only counsel to initiate litigation for the desegregation of our public schools.

We all know that the most successful and acceptable desegregation efforts have been those in which the local community works together to develop a plan which will peacefully integrate, rather than disrupt the public schools. Such plans take into account the unique needs of the whole community and its various component groups, and fashion remedies which are specifically designed to meet those needs. Legal Services attorneys, based in the community, knowledgeable about its problems and its potential, are probably more able than most to responsibly represent the educational needs of the poverty community in the many actions, compromises and negotiations necessary for the attainment of desegregated schools of proven educational quality.

Certainly, Legal Services attorneys have many, many other demands on their time. But they are the ones closest to the poverty community. And it is this community through their representatives on the board of directors of the Legal Services program which must decide whether a school desegregation matter requires attorney time and resources, or whether clients are able to secure other legal representation. This is certainly not a decision to be made in Washington, and applied to every community in the country.

I have disagreed with many of my colleagues in the Senate who have sought to limit the authority of the Federal Government to seek desegregation. But we are talking about something entirely different here. The issue is simply whether parents, seeking legal help in a local community to improve the education for their children, will be able to find a lawyer.

I urge you to follow the lead and wisdom of the Human Resources Committee in eliminating the total prohibition on legal services representation of poor parents in any school desegregation matter.

Mr. BARTLETT. Mr. President, I yield back the remainder of my time.

Mr. JAVITS. I yield back the remainder of our time.

The PRESIDING OFFICER. All remaining time having been yielded back, the question is on agreeing to the amendment of the Senator from Oklahoma (Mr. BARTLETT). The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), and the Senator from Maryland (Mr. SARBANES) are necessarily absent.

I also announce that the Senator from New York (Mr. MOYNIHAN) is absent because of illness.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) would vote "nay."

Mr. STEVENS. I announce that the Senator from California (Mr. HAYAKAWA) and the Senator from Maryland (Mr. MATHIAS) are necessarily absent.

The result was announced—yeas 38, nays 55, as follows:

[Rollcall Vote No. 557 Leg.]

YEAS—38

Allen	Goldwater	Roth
Bartlett	Griffin	Schmitt
Bentsen	Hansen	Schweiker
Biden	Hatch	Scott
Byrd, Harry F., Jr.	Helms	Sparkman
	Huddleston	Stennis
Cannon	Johnston	Stone
Chiles	Laxalt	Talmadge
Curtis	Long	Thurmond
Domenici	Lugar	Tower
Eastland	McClure	Wallop
Ford	Nelson	Young
Garn	Nunn	Zorinsky

NAYS—55

Anderson	Glenn	Metzenbaum
Baker	Gravel	Morgan
Bayh	Hart	Muskie
Bellmon	Haskell	Packwood
Brooke	Hatfield	Pearson
Bumpers	Hathaway	Pell
Burdick	Heinz	Percy
Byrd, Robert C.	Hollings	Proxmire
Case	Inouye	Randolph
Chafee	Jackson	Ribicoff
Church	Javits	Riegle
Clark	Kennedy	Sasser
Cranston	Leahy	Stafford
Culver	Magnuson	Stevens
Danforth	Matsunaga	Stevenson
DeConcini	McGovern	Weicker
Dole	McIntyre	Williams
Durkin	Melcher	
Eagleton	Metcalf	

NOT VOTING—7

Abourezk	Mathias	Sarbanes
Hayakawa	McClellan	
Humphrey	Moynihan	

So Mr. BARTLETT'S UP amendment No. 926 was rejected.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. KENNEDY. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HATCH. Mr. President, my amendment is the pending business on S. 1303. I ask unanimous consent at this time that my amendment numbered 1457 to S. 1303 be withdrawn from further consideration. We have resolved the problem. They have accepted, in essence, what I asked for. I want to withdraw it so it will no longer be the pending business.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment numbered 1457 was withdrawn.

SENATE CONCURRENT RESOLUTION 31—AUTOMOBILE CRASH PROTECTION

The PRESIDING OFFICER (Mr. MELCHER). Under the previous order, the hour of 1 p.m. having arrived, the Senate will now temporarily lay aside S. 1303 and will proceed to the consideration of Senate Concurrent Resolution 31, which the clerk will state.

The assistant legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 31) to disapprove Federal Motor Vehicle Safety Standard 208 transmitted on June 30, 1977.

The PRESIDING OFFICER. Time for debate on the concurrent resolution is limited to 1 hour, to be equally divided and controlled by the Senator from Kentucky (Mr. FORD) and the minority leader or his designee, with a vote thereon to follow at 2:10 p.m. and with a tabling motion to be in order at that time.

The Senator from Kentucky is recognized.

Mr. FORD. Mr. President, before we consider the passive restraint rule in detail, I should like to say a few words to place in context the situation in which we find ourselves. The subcommittees and full committees with jurisdiction in regard to this matter of both Houses of Congress have carefully considered the resolution now on the floor and, after such consideration, have voted with bipartisan support to uphold Secretary Brock Adams' decision to require automatic crash protection devices in new cars on a phased-in schedule beginning in model year 1982.

These subcommittees and committees on both the House and the Senate sides did not take this action lightly. This decision was the culmination of extensive hearings on both the House and the Senate sides and the careful sifting of the massive amount of documentation that has been presented to us. On the Senate side, I chaired 4 days of hearings at which 27 witnesses testified. In my view, the hearing record contains overwhelming support for the Department of Transportation's rule. The Department of Transportation has carried out the most extensive analysis of this safety rule that has ever been undertaken in the automotive area.

DOT estimates that more than $150 million has been expended on analyzing air bag systems alone. Furthermore, we have more than 1.7 billion miles of real-world experience with cars containing passive restraints which have been driven in all sorts of conditions. This field experience, coupled with the massive testing carried out by DOT, strongly suggests that we can save thousands of lives and tens of thousands of injuries every year once these systems are fully deployed.

I think it is crucial that we understand exactly the nature of the issue with which we are dealing. Every 11 minutes, another American dies in a fatal traffic accident. Serious injuries are inflicted at a rate of one every 18 seconds. Automobile accidents are the major killer of our young people between the ages of 15 and 24. Also, automobile accidents are a significant cause of epilepsy and cerebral palsy. As the subcommittee has noted, automobile accidents are the fourth major killer of people in the United States, trailing only cancer, heart disease, and stroke.

However, unlike these other killers, we do know how to save many lives that are now needlessly lost in auto accidents. If the Department of Transportation's rule becomes effective, we can take a major step to end the carnage on our highways.

It is important to realize that the Department of Transportation's rule does not mandate any particular type of technology; rather, it is a performance standard. Thus, any technology which meets the standard can be utilized. The standard does not mandate that the air cushion restraint systems be used; passive belts may be used, or any other technology which meets the safety requirements.

While many issues have been raised, it seems to me that the crucial question boils down to whether or not passive restraints work. An ever-mounting number of witnesses have come forward to tell us that their lives and the lives of their loved ones have been saved either by passive belts or air bag systems. We are warned by the opponents of this rule that air bags may impact so hard on occupants of cars that they will cause severe injury. But in our hearings, Mrs. Jimmie Daniel testified that she did not even realize she had gone into an air bag, that it was like going into a soft pillow after she crashed headlong at more than 45 miles per hour into a van. In that car were her two little grandchildren. The 4-year-old was standing up, unrestrained, near the dashboard. The 6-year-old was sitting unrestrained on an armrest in the front seat. Normally, in such a crash at speeds exceeding 45 miles per hour, it is reasonable to hypothesize that they would be thrown violently into the dashboard or even through the windshield. But, in fact, these children survived with only minor injuries.

Dr. Arnold Arms testified in our hearings. He told us that he fell asleep at the wheel and crashed into a bus, causing $15,000 worth of damage to the bus alone. Dr. Arms testified that when he realized what had happened he saw that he had hardly even a scratch on him. He was in such good shape that he got out of his car and went into the bus to examine a woman who had been seriously shaken up by the crash.

We also received a letter from "Red" Beck, a State Senator from Washington State. He, too, was in a violent crash at speeds exceeding 39 miles per hour. The occupant of the car that he hit was tragically killed. Yet, Mr. Beck was not injured. Mr. Beck's car was traveling so forcefully that after it hit the other car it veered off and sheared a light pole in two at its base. Yet even in this double collision, the air bags provided the needed protection. These people very likely are alive today because of air bags. Many thousands more like them will be alive, or not have to spend their lives in wheelchairs or be permanently disabled, if we allow this rule to become effective.

Air bag cars are not the only ones showing promising results on the road. Passive-belt cars have been driven more than 1.2 billion miles. Based on careful examination of the experience of these vehicles, it has been found that passive-belt equipped cars are about three times as effective in preventing death as identical cars which require that the passengers actively buckle up.

The analysis used most frequently by those opposed to the DOT rule was conducted by General Motors. General Motors, as it did in the past in regard to seat belts and collapsible steering wheels, along with the other automobile companies, is now calling for more testing. Even GM's analysis, which in my view is extremely pessimistic, finds that air bags are more effective than no belts for occupants.

DOT has found, after a survey of over 50,000 vehicles, that less than 20 percent of the public uses seat belts, more than 80 percent do not. We must no longer depend on the wishful thinking that people will significantly increase their seat belt use. We can put systems in cars that will automatically provide drastically increased protection. Whether we save 3,000 lives or 15,000 lives, our conclusion, I think, must remain the same.

Passive restraints are not now required, and we must wait for additional in-use data, thousands of deaths and injuries will result from such delay.

I think it is important to note that DOT's analysis has also been examined by many other groups and been strongly endorsed. The American Automobile Association has endorsed the passive restraints standard. In fact, it has suggested that the standard should even be accelerated to go into effect more quickly. The Highway Safety Committee of the International Association of Chiefs of Police, also, is all too aware of the grim statistics of automobile safety, and stated in a letter to Secretary Adams:

Thousands of United States citizens will owe their lives and continued good health to you because of your stand to require passive restraints.

The United Auto Workers have stated:

The automobile companies should be given realistic deadlines for providing passive restraints to assure adequate lead time for design production. Those deadlines must be firm and not subject to postponement. Time after time the auto industry has dragged its feet on safety issues until forced to take ac-

tion by the government and the American people. Passive restraints provide the most acceptable method for reducing highway fatalities and injuries.

The National Transportation Safety Board also supports this decision, as does a vast predominance of the insurance industry. The two quotes which are particularly significant in this regard are from experts in the auto industry itself. Edward Cole, past president of General Motors Corp., stated:

Technology is available and the need is there. I think the only way passive restraints are going to get to first base is making them mandatory. Another test will prove nothing.

John DeLorean, the ex-vice president of the General Motors Corp., also has stated that air bags are ready for "widespread production," and that no other safety system has been so "intently studied, tested, and evaluated."

Not only will passive restraints save numerous lives, but the insurance industry and the Department of Transportation estimate that they will also save multibillions of dollars a year in insurance, hospital, and other societal costs.

Mr. President, I call on my colleagues to join me in support of this crucially important rule.

Mr. President, we are now taking up Senate Concurrent Resolution 31, introduced by the distinguished senior Senator from Michigan. This resolution has the effect of disapproving a rule that was presented to Congress by the Secretary of Transportation, Mr. Adams. This rule would require that passive restraints would be incorporated in larger automobiles in model year 1982 in medium sized autos in model year 1983 and in all automobiles by model year 1984.

Mr. President, the House, as I understand it, just a few moments ago, tabled the so-called Shuster resolution in committee. Therefore, whatever the Senate is required to do today is just pro forma and means that, regardless of what we do in the Senate Chamber, this regulation will go into effect.

Mr. RIBICOFF. Will the Senator yield to me?

Mr. FORD. I yield to the distinguished Senator from Connecticut.

Mr. RIBICOFF. Mr. President, the Senate has before it Senate Concurrent Resolution 31, which seeks to have the Senate disapprove the air bags standards promulgated by Secretary of Transportation Adams.

As Governor of the State of Connecticut, Secretary of Health, Education, and Welfare, and Senator, I have had a longstanding interest in auto safety issues. I believe that these air bags standards are one of the most important automobile safety advances which the Government has ever undertaken. The potential saving in lives and dollars is great. The efficiency and economy of air bags has been well proven. The insurance industry is almost unanimous in its strong support for air bags standards. Safety experts strongly support this landmark auto safety measure.

Mr. President, I urge my colleagues to oppose Senate Concurrent Resolution 31 or any other efforts to defeat the air bags standards promulgated by the Department of Transportation.

Mr. President, I commend the Senator from Kentucky, and also the chairman of the committee, the Senator from Washington, on his "Dear Colleague" letter. I have read this very carefully and I do believe that Chairman MAGNUSON has the answers to many of the queries that have been raised. As I said, I think the air bags are one of the most important safety features ever devised and, to my knowledge, practically every safety expert supports this auto safety feature. I know, coming from an insurance State, that practically all insurance companies feel that this will be a substantial piece of equipment to save lives.

Mr. FORD. The Senator is correct.

Mr. RIBICOFF. If we save lives and save injuries, insurance premiums are going to go down.

Mr. FORD. The Senator is correct.

Mr. RIBICOFF. One of the problems facing America today is the continuing rising cost of insurance. Those of us who have, in the past, worked in the auto safety field realize the problem of what we call the second collision. The first collision is when one automobile hits another automobile, but the second collision is when part of your body hits something in your own car. I think the air bag is one of the greatest deterrents to injury to body and limb and, also, an important factor in the saving of lives.

I do commend the distinguished Senator from Kentucky for his position. It has my support. I hope his position has the support of the majority of my colleagues.

Mr. FORD. I thank the Senator from Connecticut for his remarks.

Mr. President, I listened to almost all of the testimony as it related to the passive restraint rule. Those who are opposed presented all their evidence to support their position. Those who are for it presented their substantial evidence to support their position in favor of passive restraints. We had testimony, Mr. President, even from those organizations and individuals who have made a valiant effort to improve the use of the seatbelts through publicity, civic clubs, and advertisement in order to encourage the public to use seatbelts. We found that the average use of seatbelts was approximately 20 percent. So that means that 80 percent of those who are driving cars are not using the seatbelt. Even the low estimates in regard to the life saving capacity of passive restraints find that they save at least 3,000 lives and tens of thousands of injuries per year. The Secretary of Transportation estimates that it would save 9,000 lives a year and tens of thousands of injuries. The previous Secretary of Transportation, Mr. Coleman, estimated that it would save 12,000 lives.

Mr. President, when we take all these facts into consideration, are we going to vote to save lives and particularly the lives of our young people? The passive restraint rule will serve to save thousands of lives. Mr. President, we see the need, I think, when a doctor comes before the committee and testifies that he did not know that he had the so-called air bag or passive restraint in his car. He had a collision with a city bus and totaled his automobile, and I believe the figure was $15,000 worth of damage to the city bus. He was able to walk away from that car and to treat an injured passenger in the bus.

I mentioned that a grandmother came before the committee to talk about how she went through a malfunctioning stoplight with her two grandchildren in the passenger side and had a severe collision with another car. They walked away from that accident, because they had an air bag system in their car. I think if everyone of my colleagues had an opportunity to see that car and how severely it was damaged, and to hear how grateful she was that this passive restraint was in that car to save not only her life but that of her grandchildren, we in the Senate Chamber would certainly make a decision that we are going to save lives through upholding the DOT rule.

Mr. President, there are others who will want to speak. I understand that the Senator from New Hampshire would like to make a few remarks. I am delighted to yield to him.

How much time would the Senator like?

Mr. DURKIN. If the Senator will yield, 5 minutes at most.

Mr. FORD. I yield 5 minutes to the Senator. We have some others who want to speak and if we have additional time, I shall yield to him.

Mr. President, I yield 5 minutes of my time to the distinguished Senator from New Hampshire.

Mr. DURKIN. Mr. President, I thank the Senator from Kentucky, and I think the whole country should thank him for his leadership on this issue.

I rise not just as junior Senator from New Hampshire, but I rise also as the former State insurance commissioner who, for 5 years, has been intimately involved with automobile insurance and the problems resulting from unsafe automobiles. My battle with the auto industry goes back to 1970, when we proposed, in the State of New Hampshire, a bumper standard for automobiles to cut down the property damage losses, which are two-thirds of the premium.

There is no doubt, and it will be cleared up and clarified today, that the insurance industry is supporting the DOT rule. The agents are supporting it. Why? Not because it means higher insurance rates. Usually, when the insurance industry supports something, it is for higher rates. I commend the insurance industry and the agents for the fact that this is one time that they are in battling for something that is going to lower or stabilize rates while keeping an awful lot of people out of the hospital and out of the morgue.

The Adams decision sets a performance standard which can be met either by air bags or passive seat belts or passive restraints, such as in the VW Rabbit. There is no issue about the safety or efficiency of seatbelts when worn.

The cost of such a passive seat belt system is $25.

There is no reason a passive belt system cannot be installed by Detroit if they choose to do so.

So this is not just an air bag issue, for air bags or passive seatbelts or other types of passive restraints can be utilized.

Detroit opposed the 1966 seatbelt installation requirement law with the same worn, unproved, and unsubstantiated arguments they are using now.

I do not mean the dealer, the small businessman in New Hampshire or all across the country. But I mean the executives, the automobile executives in Detroit.

If it was up to them, we would not have energy-absorbing steering wheels. One-quarter of a million people were impaled on steering wheels in collisions because the Detroit auto executives refused to accept the technology and refused to install energy absorbing steering wheels in the automobiles long after the evidence was clear.

Instead, what did they do? They made the headlights square instead of round.

The auto industry systematically underestimated the effectiveness of seatbelts. If it were up to Detroit, we would not have seatbelts in every car today. Why are we giving this same type of analysis credence with respect to passive restraints? I think we should not.

If we wait for Detroit we will be tired and old before Detroit moves to resolve what is a very serious problem.

Arguments against the safety effectiveness of air bags are undercut by top industry officials themselves, as well as by DOT.

Ed Cole, ex-president of General Motors, has stated in a letter regarding airbags:

> . . . The technology is available and the need is there. I think the only way passive restraints are going to get to first base is making them mandatory. Another test will prove nothing.

John DeLorean, an ex-vice president of General Motors and now a budding manufacturer of automobiles himself, has stated that air bags are ready for "full production," and that no other safety system has been so "fully tested."

General Motors, in August 1970, in a submission to the Department of Transportation said that they could put air bags in all 1974 vehicles. All the passenger cars, pickup trucks, and even some of the vans. That is a formal submission of General Motors which is in the records of the Department of Transportation.

There is virtually no chance at all that an air bag will fail to deploy in an accident situation. The same cannot be said for seatbelts which are not being worn when accidents occur.

In fact, of the 12,000 cars now on the road which were built in mass production, there have been no failures to deploy when they were supposed to. (Two early cases where the bags failed to deploy were in preproduction cars.) Moreover, major modifications have been built in to guard against these kinds of problems. For example, all systems have a red warning light which warns the driver if the air bag is not functioning properly. With this fail-safe system, deployment failures should be practically nonexistent.

The auto industry is vehemently opposed to making passive restraints a voluntary or mandatory option in cars. GM says this is the least attractive of all options. In addition, insurance companies, consumer groups, organized labor and others find this alternative unacceptable, because if we follow this voluntary approach we have the cost of equipping all the cars, to install the airbag, if the buyer so chooses.

It is not like adding an air-conditioner. The engineering has to be done whether the ultimate consumer elects an airbag or not. So the cost is there without the benefit.

I find the minority view proposing this possibility somewhat misleading and disingenuous—certainly inaccurate and unrealistic.

The only way to have our citizens protected by passive restraints is to mandate them.

DOT has estimated the cost of an air bag at $112 per new car. Should Detroit decide to install air bags and not less costly passive seatbelts in model year 1982 autos and after, I have great faith in the American auto industry's ingenuity in finding a better, less expensive way to do the job.

However, lest we wonder whether the extra $112 expense is worth the lives which will be saved, consider these important extra options which Detroit has willingly and profitably provided our constituents:

Vinyl roof	$150
Tinted glass sunroof	250
AM/FM radio	150
Power seats (for comfort)	143
Decorative wire wheel covers	112

The insurance savings that will accrue through use of air-bag-equipped automobiles will repay the cost of air bags over the life of the car, no matter whose estimate of air bag cost is used.

This is based on estimates by the Nationwide Insurance Co. that savings of $32.50 per year on personal injury insurance premiums will result when all of the automobiles on the road have passive restraints. The net savings per year counting collision and comprehensive premiums is thus in excess of $30.

If the air bag costs $112, as DOT estimates, then the cost will be repaid in less than 4 years. Even in Chrysler's worst case example, the cost would be repaid in less than 9 years. The average life of an automobile is 10 years.

All of these statistical analyses and technological arguments obviously are relevant, but they have diverted our attention from the real issue here—the sheer horror and agony caused by automobile accidents.

I think many people have completely lost sight of what an automobile accident can do to people.

Incredibly, in terms of death and injury to Americans, we have the equivalent of a Vietnam war every year right here at home. In 1975, 47,000 people died on our Nation's highways. A million more were seriously injured.

Opponents of the Adams mandatory decision say Americans should have a choice.

As Pulitzer Prize winning conservative columnist George Will wrote in April 14, 1977 column:

> There is a pitiless abstractness and disrespect for life in such dogmatic respect for the right of consenting adults to behave in ways disastrous to themselves. Besides, too many children passengers are sacrificed on that altar. And a large part of the bill for the irrationality of individual drivers is paid by society.
>
> Most important, society desensitizes itself by passively accepting so much carnage.

It is young people that will probably be the biggest beneficiary of passive restraints in automobiles. The highest death rate among all Americans now occurs in the age bracket of 5 to 19 years. Any parent with children of these ages knows very well how difficult it is to get them to buckle up their seatbelts. With young children it is nearly impossible.

Unfortunately, the child victims of accidents, to themselves or to their parents, do not get a choice.

A case in point happened in Florida early this summer. Mrs. Billie Daniels, who testified at hearings of the committee, struck a van at 40 miles per hour. None of the occupants were wearing seatbelts. Not only did Mrs. Daniels and her two grandchildren walk away from the accident, but their injuries were minor. Mrs. Daniels testified that all three of them surely would have died had there been no air cushion restraints in their car.

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

Mr. FORD. Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. GRIFFIN. Mr. President, I yield myself 10 minutes.

Mr. President, several lines in a column in this morning's Washington Post put this issue in perspective. After carrying on at great length about how terrible Senator GRIFFIN and Representative SHUSTER are, the columnist—Colman McCarthy— says:

> What is the rational objection against at least experimenting with a solution to reducing the carnage? If the government announced it had a possible cure for cancer, that it was well tested, low cost, reliable and passively protective, would the National Cancer Institute be denounced for wanting to try it?

Mr. President, no one is arguing—at least this Senator is not arguing—that we should not at least try air bags or that we should not try any possible cure for cancer.

This Senator is not arguing against experimentation with air bags. The fact is that we do need more experimentation with air bags.

However, the question before the Senate is whether we should proceed—without additional experimentation—to mandate that air bags be installed in all new cars, whether the individual car buyer wants it or not.

There are more rational and reasonable ways to continue testing the air bag. First of all, I would suggest—and I do not understand why this has not already been ordered by the Department of Transportation—that all Government-purchased cars be equipped with air bags.

That would get a lot of air-bag-equipped cars out on the road.

Mr. HANSEN. If the Senator will yield on that very point, Mr. President, let me observe that I offered an amendment that was adopted and I think has been passed by the Senate which would do precisely that.

Mr. GRIFFIN. I am very much in favor of that. I believe we should experiment with, and try air bags. It is important to find out about the effectiveness of air bags. Perhaps, in time, the American people may be willing to require that the air bag be put in every car that comes down the production line.

But at the present time, there has just not been enough experimentation with them.

Mr. HANSEN. The point was that my amendment, which was adopted by the Senate, would require the installation of air bags in all Government-owned vehicles. It would require the Secretary of Transportation to report back to the Congress and to the public as to the efficacy of this system, and I think does precisely what some of us would agree should be done.

I thank my friend from Michigan for granting me the time to make the observation.

Mr. GRIFFIN. Mr. President, it is true that there has been a good deal of testing of the air bags. No one denies that. In fact, DOT spokesmen have said there has been more testing of this safety device than any other safety feature that has been required in an automobile.

My response is, so what?

It does not take very much testing for an engineer to conclude that a padded dashboard is safer than a steel dashboard, or that shatterproof glass is safer than glass that shatters. But when we come to the air bag and all its intricacies and complexity, a great deal more testing should be required.

So far, with the number of cars that are on the road, there have been more than 230 tow-away accidents involving cars that were equipped with air bags.

I think it is very interesting that in 42 percent of those accidents the air bag did not inflate—even though the accidents were severe enough to require a tow truck.

Many Senators will recall a picture in the Washington Post the other day of a Congressman from Arizona, Representative UDALL. He had been asked to get in a car equipped with an air bag for a demonstration. In the picture he had a big grin but I do not know why because the air bag in the car did not go off when it was supposed to.

Perhaps Senators also read about a lawsuit in Virginia recently concluded. A woman sued General Motors after she was seriously injured in a car equipped with an air bag. The air bag did not go off. Furthermore, she was not wearing her seatbelt because she had been led to believe if she bought a car with an air bag she did not have to wear a seatbelt. Of course, that is what a lot of people think.

This may be a good time to correct a myth about the air bag order handed down by the Secretary. Over and over again, we hear the air bag referred to as a "passive restraint."

A passive restraint is something that does not require any activity on the part of the occupant of the car. But if you pin them down, you will learn that DOT contemplates and recognizes that the occupant of an air bag equipped car will also have to buckle his lap belt.

Obviously, the seat belt is not a passive restraint. It is an active restraint. So, in the final analysis, whether or not cars are equipped with air bags, it will still be necessary to buckle up to be protected.

What if you have an air bag but you do not buckle up?

First of all, if you are involved in a crash of your automobile at a speed equivalent to running into a parked car at the rate of 24 miles an hour, your air bag will not go off, and if you do not have your seatbelt on, you could be very seriously injured.

If you do not have your seatbelt on and your car rolls over, the air bag will not do you any good.

Needless to say—perhaps it should be said—if you are involved in an accident in which you are hit from the rear or from either side, the air bag is not going to do you any good. About 50 percent of all accidents are side and rear collisions—accidents in which the air bag will not help you.

Despite these considerations, I believe we should go ahead and develop the air bag. It has a lot of potential. But at present it is also a potential hazard. There are many questions about the air bag to which we do not have adequate answers.

We do not know enough about what happens to the occupant of a car when he is out on the highway and an air bag inadvertently inflates. The Department of Transportation, itself, projects that there will be in the neighborhood of 7,000 inadvertent inflations of air bags a year.

We do not know enough about what will happen to children in a car when an air bag goes off. There is much about the air bag that we do not know.

To be sure, there has been some laboratory testing, most of it sanctioned and paid for by the Department of Transportation, in addition to the road testing to which I have referred. One of the laboratory tests, paid for by DOD, conducted by an independent research firm called Calspan, used cars containing dummies or cadavers, in head-on offset collisions. In some of the cars the dummy or a cadaver was protected by a seat belt and a shoulder harness and in other cars by an air bag. In three of the four instances involving the air bag cars the experiment indicated that the DOT standard was not met. However the occupants in the other cars, with seat belts and shoulder harnesses, were adequately protected.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. GRIFFIN. I yield myself 5 additional minutes.

Mr. President, the DOT tried their darndest to downplay and perhaps even to suppress that information developed by Calspan. In fact, one of their employees may be in danger of losing his job because he dared to make that information available. The response of DOT, the response which is included in the letter of the chairman of the Commerce Committee, when they were confronted with this Calspan test, was: "Well, yes, but that is not a very extensive test, and that is not enough to go on in order to reach such a conclusion."

They are absolutely right. But we also do not have enough testing to reach a decision to put air bags in every car.

Let us keep a couple of important facts in mind. Even the Department of Transportation concedes that seatbelts, if they are used, are very effective.

In fact, if 70 percent of the people on the highway would buckle up, if somehow we could get them to buckle up, it would save more lives immediately—11,000—than the 9,000 lives that DOT is saying we are going to save when all the cars on the road have air bags.

Just stop and think for a moment. At the present time, practically all cars on the highway have seatbelts. The seatbelts are there. The people have paid for them. If they would only use them, they would have more protection than will be the case with an air bag and unbuckled seatbelt.

How long is it going to take to get air bags in all cars? If they start in 1982, it is going to take at least 15 years before the whole fleet of cars on the highway will be equipped with air bags.

If we are going to force something upon the American people, cram it down their throats—it would be a lot cheaper for them and more effective for them if we were to pass a law requiring the wearing of seatbelts, and make it a misdemeanor not to do so.

In fact, Congress made a million dollars available for a program to do exactly that—to try and promote mandatory seatbelt laws. What happened? The DOT has cancelled the program.

For the life of me, I cannot understand why DOT is not interested in getting people to buckle up. They seem only to be interested in forcing air bags in every car.

We can argue about how much the air bag will cost. The Department of Transportation says it will cost $112 additional. The auto companies estimate up to $250. General Motors has asked to have the GAO come in and audit its books, to see which estimate is right, and that was refused.

Both sides, DOT and the automobile companies, agree that once the air bag inflates or goes off, it will cost 2½ to 3 times as much as the original cost to replace it. In other words, it will cost $350 to $700 to replace every activated air bag.

So the cost here is of some interest, I believe, to purchasers of automobiles,

especially in light of the fact that there is a very, very sparse record to go on in order to justify this regulation.

Mr. President, several of my colleagues wish to speak, so I shall be glad to yield some of the available time to them.

I yield at this time to the distinguished Senator from Arizona (Mr. GOLDWATER).

Mr. GOLDWATER. I thank my friend from Michigan. I think I will need 3 or 4 minutes.

Mr. President, arguing or trying to argue against the idea of saving lives is a lot like arguing against free beer and mother love. It is a difficult thing to do.

What I am concerned with here—and I think I speak for many American people—is that the American people, once again, are being told by the Federal Government that they have to do something.

If the figures are correct that I have heard mentioned on the floor this morning, that only 20 percent of the people in this country are using seatbelts, then 80 percent of the American people do not like seatbelts. I suggest that 80 percent of the American people will not like air bags, and they do not want to buy cars with air bags in them.

I am not arguing against the scientific idea of air bags. I think it is a pretty good idea. I do not want to buy a car with air bags in it; and if I have to do so, it is going to take me a long time to figure out how to take them out. Detroit is pretty good when it comes to putting things in that the Federal Government wants.

I call attention to the action we took here a couple of years ago, in trying to clean up the air, when we ordered Detroit and other car manufacturers to change their system of carburetion. We did, and they started getting 7 to 8 miles to the gallon. So that did not work.

Mr. President, the Senator from Michigan has brought out some very good things. For example, we do not know what the effect of a side collision will be. We do not know what the effect of a rear collision will be. Far more deaths are caused by high speed, head-on collisions, when the engine comes back into the driver's compartment, than are caused by head injuries. Because of the type of windshield we have, you are badly cut up. But the danger from an engine winding up in your lap is far more serious than your head going through a windshield.

The Senator from Michigan mentioned another factor we have not been told. We are told by DOT that, yes, some of these bags will go off unexplainedly. Whether you are doing 60 miles on a crowded highway or not when that happens is beside the point. If that happens at that particular point you are going to have an accident.

But if it goes off, say, sitting in your garage, it is going to cost from $400 to $600, I am told, to reinflate the bags. On top of that it is a toxic substance they put into these bags. It is not pure air, and it may be that you are not going to find mechanics and workers willing to work on these bags once they are installed.

So, Mr. President, my argument is one I have been making for years against the Federal Government trying to run our lives and if they can force the American car buyer to buy a car with air bags in it, they can do pretty much what they want to. I am opposed to it basically because of that. I think we can continue experimenting with air bags, and I think subjecting our Federal drivers to the possible dangers of air bags is a pretty good place to start, not that I have anything against Federal drivers, but if we are going to experiment, let us experiment with someone who probably knows more about what he is doing than many of us.

Mr. President, I hope that this vote is favorable toward the motion. I think DOT made a big mistake in sending it down. There are areas where DOT and where the FAA can make rulings on safety devices such as those used in aircraft. But that might be the next place they are going to have air bags, in an airplane. I do not think that would make much sense but neither does this. So, Mr. President, to boil it down, we elected a President who said he was going to get the Federal Government out of our hair, and, by golly, now the Federal Government is in our driver's seats.

I rest my case on that.

Mr. DURKIN. Mr. President, will the Senator yield?

Mr. FORD. I yield 2 minutes to the Senator from New Hampshire.

Mr. DURKIN. I thank the Senator from Kentucky.

Mr. President, I am going to be brief. Let us talk about costs. Let us talk about the cost to society. Let us talk about the cost of welfare and the cost of health insurance. It will cost $112 for an air bag, and that is what it cost for wire wheel covers. So if you can replace the wire wheel covers you can replace an air bag. On insurance there is going to be a saving. It will easily pay for itself over the life of the car. The insurance industry is going to include the cost in the policy to replace the bag to make it operable once again.

As to choice, what choice do young kids have, young schoolkids? They do not have any choice. There is no freedom of choice there. They are the ones whose faces, teeth, mouths, jowls, what have you, are bashed up for life. How about our youth? How about the teenagers? How about our young adults? They are being decimated in automobiles.

DOT's estimates of effectiveness of passive restraints is based not only on the 12,000 cars currently on the road with passive restraints and the 500 million miles that have been driven by these cars, but by the 1,100 proving ground tests that have been conducted as well. Every argument that has been raised by the auto industry has been answered and answered fully in the record of the subcommittee hearings.

If we are going to err, let us for once err on the side of the consumer; let us for once err on the side of the people who have no lobby. The people who have no lobby are the accident victims. If we could bring the accident victim in here today, this resolution would whistle through here on a voice vote, and I doubt in that circumstance the Senator from Michigan would be bringing his resolution upon the floor. Let us not kid ourselves. We are talking about real live humans who are being decimated by the automobile, mostly our youth. I think it is time to end that carnage. I think the standards should be applied now, not the leisurely pace of the 1982 cars.

The PRESIDING OFFICER. The time of the Senator has expired.

Who yields time?

Mr. FORD. Mr. President, I yield 5 minutes to the distinguished Senator from Alaska.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, I am pleased that this matter is being considered by the full Senate and is now ready for a vote. I congratulate the able chairman of the Commerce Committee the Senator from Washington (Mr. MAGNUSON) for keeping the commitment that was made at the time the promulgation of this regulation was authorized, and that was that the full Senate would decide this issue here on the floor. This is not the kind of issue that should be decided in committee, where the opportunity for participation in the decision-making process is obviously limited to committee members only.

I have two points to make: I am worried about some of the matters raised by the Senator from Arizona. We have already taken action that requires substantial changes in passenger cars, all in the interest of consumer protection. Specifically, we have legislated the safety bumper requirements. We have legislated with regard to safety glass. We have initiated so many successful precautionary measures here in the Senate that I think the old argument as to whether or not the Federal Government should be involved in making decisions for purchasers of American and foreign built automobiles is passe.

I want to point out that Secretary Adams' decision requires that on September 1, 1981, cars with wheel bases greater than 114 inches, and this includes all 1982 model standard and luxury sized cars, with an annual production of about 2.5 million, will have to have passive restraints. On September 1, 1982, cars with wheel bases greater than 100 inches, and this includes all 1983 model intermediate and compact cars, will be included, adding to the production up to about 5 million. On September 1, 1983, all passenger, subcompact and mini-sized cars will be included in the 1984 model which will be an addition of about 2.5 million cars.

What I am pointing out is that our constituents are not going to have passive restraints in the 1978 model, the 1979 model, or the 1980 model unless they ask for them and purchase them on a special request.

The Secretary's new regulation starts the process of putting passive restraints in the 1982 model commencing September 1981.

I think it is important for us to realize that this is a decision similar to the

interlock decision. It is a decision we are making for the purchasers of these vehicles, and I, for one, think it is the right decision.

Second, when this matter was before the committee, I raised the question of the insurance coverage for the repacking of air bags once they had been deployed by virtue of an accident. I raised it particularly because those of us from the West and Northwest know what it means to have a one-car accident where a vehicle slides off the road because of ice, hits a rock or a tree, and is not involved in what would be known as a total accident on a freeway, but still enough of a collision to deploy these air bags.

The cost of repacking would be substantial in a one-car accident, particularly for someone who was not carrying collision coverage. I worried that we might have the situation that this repacking cost, which could be up to $600 on some models, would have to be borne by the owner and would not be covered by insurance because it would be part of the collision coverage which might not be applicable to a one-car accident.

I ask unanimous consent to place in the RECORD a letter that was given to me by the American Insurance Association on the day we adversely reported the resolution that is currently before us. It is a letter which commits the insurance industry to make air bag repacking coverage available to the owners of air-bag-equipped vehicles whose age makes the carrying of collision insurance uneconomical. I take it that that includes, as the prior discussion did, a separate coverage similar to the coverage that has been made available for CB radios.

For those who want air bag repacking coverage but do not want to carry collision coverage, the insurance industry must accept the responsibility for coverage of the repacking of these passive restraint items, and in particular, air bags.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

AMERICAN INSURANCE ASSOCIATION,
Washington, D.C., October 6, 1977.

Re S. Con. Res. 31, Automobile Passive Restraints

Hon. TED STEVENS,
U.S. Senate,
Washington, D.C.

DEAR TED: First, let me express, on behalf of our membership, my appreciation for your obviously difficult and well-thought out decision this morning to vote to give the Committee's negative recommendation to the captioned resolution disapproving the passive restraint standard. If the resolution is ever considered by the Senate as a whole, the Committee's nine to seven vote recommending against passage of the resolution will be of incalculable value to the proponents of passive restraint protection in automobiles. Your vote was plainly critical to this morning's result, and our members and their insureds are indebted to you.

Second, let me confirm for you the verbal commitment I gave you this morning on behalf of our Automobile Insurance Committee that the 13 company groups represented on that Committee will in fact develop and market a separate coverage for air bag repacking as described in my letter to you of October 3.

The commitment of our Automobile Insurance Committee to make air bag repacking coverage available to the owners of air bag-equipped vehicles whose age makes the carrying of collision insurance (which would include coverage for air bag repacking) uneconomical, is offered on behalf of the following insurance companies, each of which is a major writer of automobile insurance:

Aetna Life and Casualty.
The HOME Insurance Companies.
Aetna Insurance Company.
Royal-Globe Insurance Companies.
Fireman's Fund Insurance Companies.
United States Fidelity and Guaranty Company.
Selected Risks Insurance Company.
The Travelers Insurance Companies.
Reliance Insurance Companies.
Insurance Company of North America.
Commercial Union Assurance Companies.
St. Paul Fire and Marine Insurance Company.
Colonial Penn Group.

These companies have asked me to convey to you their appreciation for your careful consideration of the insurance aspects of the passive restraint standard, and for giving them a head start in the development of a new automobile insurance product!

Best wishes.

Sincerely yours,

LESLIE CHEEK, III,
Vice-President—Federal Affairs.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. STEVENS. May I have 30 seconds more, Mr. President?

Mr. FORD. I yield the Senator 30 seconds.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. I believe that if the insurance industry carries through with this commitment and does, in fact, initiate new automobile insurance coverage for owners of cars that have air bags, then this new type of insurance will prove mutually beneficial to the industry and to the owners of those vehicles.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. FORD. Mr. President, I ask unanimous consent that a telegram from the Nationwide Insurance companies be placed in the RECORD following the Senator from Alaska's remarks. Nationwide says they will give a credit under their insurance promising now for any car equipped with air bags. They also have compiled estimates of credits that will be given when air bags or other passive restraints are in the entire automobile fleet. For instance, if you live in New York City you will get $57.56 credit; in Philadelphia, $75.70; in Miami Beach, Fla., $53.54; in Broward County, Fla., $34.30; and in Baltimore, Md., $47.59.

This telegram does indicate, Mr. President, that the insurance companies will now give you a credit for using passive restraints.

There being no objection, the telegram was ordered to be printed in the RECORD, as follows:

NATIONWIDE INSURANCE CO.,
Washington, D.C., October 7, 1977.

Hon. WARREN G. MAGNUSON,
Senate Office Building,
Washington, D.C.

I am sure you are well aware almost 60 legislative days have passed since Secretary Brock Adams' decision to mandate air bags or other passive restraint devices on all American motor vehicles. Since the Secretary's decision was announced it has come under awesome attack by representatives of the automobile manufacturing industry and most vocally by Congressman Bud Shuster of Pennsylvania. In this relatively short period of time you and your colleagues I am sure have been deluged by confusing, misleading and, at times, erroneous information.

One of the areas on which the Secretary's decision has been attacked is that of cost.

Cost for the installation of air bags range from $90.00 at the low end to $235.00 at the high end. The Department of Transportation estimates that the average cost of air bags installed to protect all front seat occupants would run about $112.00. Passive seat belts, currently available in the Volkswagen Rabbit and meeting Secretary Adams' standards, are now sold installed for only $30.00 per vehicle. At Nationwide, the fourth largest auto insurer in the nation, we believe so strongly in the lifesaving potential of the air bag and passive restraint system that we have joined with a number of other insurers in offering a 30 percent discount on the personal injury protection portion of the policies of any insured who purchased an air bag or passive restraint equipped vehicle. Additionally, we have stated that once air bags or other acceptable passive systems are installed in all motor vehicles we would offer an additional discount of 23.7 percent of the premium on the bodily injury or liability portion of our insured's policies.

Just this week our actuarial department in Columbus, Ohio has completed a study of seven jurisdictions around the country in which Nationwide writes a large and broad based book of auto business. In arriving at the figures appearing below, these actuaries took the 1976 average annual premiums and adjusted them to reflect state approved premium increases which occurred in 1977. In looking at these figures please keep in mind that the personal injury protection saving (PIP) is available now to any insured purchasing an air bag or passive restraint equipped car. Bodily injury (BI) saving would not be available until virtually all American vehicles are so equipped.

City	PIP saving	BI saving	Total saving
New York City	$29.29	$28.27	$57.56
Nassau County, N.Y	26.36	26.59	52.95
Philadelphia, Pa	51.14	24.56	75.70
Chicago, Ill	11.02	41.99	53.01
Miami Beach, Fla	16.98	36.56	53.54
Broward County, Fla	10.00	24.30	34.30
Baltimore, Md	15.00	32.50	47.59

As you can see from the above table the insurance premium savings available now on the personal injury protection portions of the coverage would more than offset the cost of air bags in a time frame which is less than half the average life of the American family car. It is also obvious that once all cars are equipped with air bags or other passive systems, insurance premiums savings will offset the cost of these systems in approximately the same time frame it takes the average American to pay for his car and, of course, these savings are ongoing.

With regard to replacement of air bags once deployed, the Department of Transportation estimates the cost of reinstallation at approximately double the initial cost or $224.00. In surveying America's six largest auto insurers we have found they are unanimous in their feelings that any policyholder with collision insurance would be covered for reinstallation of a deployed air bag. Most of these companies feel this coverage would be available at no additional premium, while

two companies feel that a premium increase of one to two dollars per year might be the case.

We believe Secretary Adams' decision is a sound one. We believe our studies show the decision to be economically feasible and, in considering the stakes, a bargain.

In the next few days you and your colleagues may well be faced with voting for the status quo or casting a vote which would contribute to saving more than 9,000 American lives each year and saving literally hundreds of thousands of American motorists from serious crippling injuries.

We certainly hope, if and when the time comes, you will cast your vote against any concurrent resolution to overturn the economically sound and lifesaving decision made by Secretary Adams and the Department of Transportation.

Sincerely,

TED V. RODGERS,
Director, Federal Affairs.

Mr. FORD. I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. GRIFFIN. Mr. President, I yield 5 minutes to the Senator from Kansas (Mr. DOLE).

The PRESIDING OFFICER. The Senator from Kansas.

Mr. DOLE. Mr. President, I have listened with interest to the debate. I commend the committee for at least reporting the resolution. The primary thing that is lacking, as I have listened to those making statements on the floor today, is that there has never been an independent study. We have had limited studies by the Department of Transportation, but there is always the feeling they might have just a little bit of bias in reference to the results.

I will offer at the end of my statement a simple amendment which, I think, might help resolve many of the concerns expressed about Senate Concurrent Resolution 31. This amendment would require the General Accounting Office to conduct an independent investigation of the costs, benefits, and drawbacks of alternative passenger restraints systems. This study will evaluate lap belts, shoulder harnesses, air bags, and Volkswagen-type passive style seatbelts.

EVIDENCE SUPPORTING AIR BAGS IS INCONCLUSIVE

The minority views filed on Senate Concurrent Resolution 31 points up the serious issue under debate. This primary issue is simply whether enough information is currently available to justify the mandatory installation of air bags. The Senator from Kansas feels that there is not.

The major evidence relied on by the Commerce Committee has been furnished by the Department of Transportation. While I do not question the sincerity of the DOT officials involved, they have undeniably taken an advocate position in favor of air bags. A tendency to arrange the information in the best light can easily be discerned from the testimony of Secretary Adams and others in DOT.

I just question whether or not a bias may exist, and, therefore, we may have had a study based on some preconceived notion or signal from the Department of Transportation.

ALL STUDIES HAVE BEEN LIMITED

While DOT has looked into different parts of the passenger safety problem, they have not attempted a comprehensive study. Looking at the evidence DOT submitted, questions as to their conclusions can certainly be raised. Other experts have evaluated the same data and have taken much different positions.

Studies by the automobile industry have come up with findings diametrically opposite to DOT's conclusion on the issue of safety. However, the committee report is skeptical of these studies saying there "was a large degree of judgmental decisions built into their comparisons which may have affected the outcome of the study." I not only share this healthy cynicism but would in fairness extend it to the DOT conclusions also.

INDEPENDENT ANALYSIS IS NEEDED

The only way to resolve this difference of opinion is to have a thorough, independent study made by a disinterested source. The General Accounting Office has no stake in whether air bags are placed in cars and could offer an unbiased, expert opinion.

The General Accounting Office has a very limited ongoing study. The only question GAO is looking into is the adequacy of the evidence DOT used in projecting the benefits of mandatory passive restraints. GAO should have a clear congressional mandate to extend this study and make a comprehensive report on all passenger restraint systems.

This amendment would be a clear and concise direction to GAO to study all types of restraints and evaluate all possible efforts to protect the passengers, which we all want to do.

Mr. President, until such a comprehensive report has been made, I cannot support the DOT rule. If my amendment is attached to this resolution, Congress will be acting constructively. Not only will the highly questionable air bag standard be held in abeyance, but we will also have taken the necessary action to gather the information we need. When the GAO report is received not later than December 31, 1978, Congress can make a much more informed decision on the air bag issue. So, Mr. President, I send an unprinted amendment to the desk and ask for its immediate consideration on behalf of the Senator from Kansas and the Senator from Arizona (Mr. GOLDWATER).

Mr. FORD. Mr. President, I want to raise a point of order as it relates to the amendment.

The PRESIDING OFFICER. The Chair will state——

Mr. GRIFFIN. Will the Chair withhold its ruling until the point of order is made?

The PRESIDING OFFICER. The Chair will state that the unanimous consent agreement is that amendments are not in order. It makes no provision for any amendment.

Mr. FORD. Mr. President, I might also refer the Chair to a question by the able minority leader last night asking about amendments to the resolution, and the Chair made the statement that the language of the resolution would have to be construed so as to prohibit any amendments.

Mr. DOLE. Mr. President, I ask unanimous consent that the amendment be in order.

The PRESIDING OFFICER. Is there objection?

Mr. FORD. Reserving the right to object, I point out to the distinguished Senator from Kansas that the House has already defeated the resolution and what we are doing here is pro forma. Therefore, I will object to any amendments.

Mr. DOLE. Would the Senator from Kentucky object if we offered a separate resolution, notwithstanding what happens with the one on the floor, with reference to a comprehensive independent study by GAO, as outlined in the amendment of the Senator from Kansas? Is there any objection to that?

Mr. FORD. After we make a decision up or down on this resolution, any resolution introduced would be referred to the Committee on Commerce, Science, and Transportation, and I would be glad to consider the resolution at that time. I would object to a motion or an amendment to the resolution now. I think we should make a decision.

Mr. DOLE. I appreciate the comments of the Senator from Kentucky and thank him for his assistance.

Mr. FORD. I would point out to the Senator from Kansas and the Senator from Arizona, that the DOT rule does not require air bags to be installed in new automobiles. Any passive restraint that complies is acceptable. The requirement is no different than safety glass, the padded dash, and the energy absorbing steering column. This is just an additional requirement which builds on these previous requirements.

Mr. GRIFFIN. Mr. President, I hope the Senator from Kentucky is speaking on his time.

Mr. FORD. I thought I was speaking on yours. That is why I spoke so long. [Laughter.]

Mr. DOLE. I only ask for 30 seconds to say I appreciate the comment. Because of the agreement entered into, and because the objection has been made, I will offer this amendment as a separate resolution, and I trust the Committee on Commerce will act expeditiously in reporting the resolution.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. GRIFFIN. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 4 minutes remaining.

Mr. GRIFFIN. How much on the other side?

The PRESIDING OFFICER. The Senator from Kentucky has 8 minutes remaining.

Mr. GRIFFIN. Maybe the Senator from Kentucky will yield some time.

Mr. FORD. Mr. President, I yield 2 minutes to the distinguished Senator from Texas (Mr. BENTSEN).

Mr. BENTSEN. Mr. President, as chairman of the Transportation Subcommittee of the Committee on Environ-

ment and Public Works, I have been directly involved in numerous legislative efforts to reduce the terrible toll of highway accidents. For this reason, I rise today to take a stand in opposition to the resolution offered by my good friend from Michigan. I have followed with interest the debate over Secretary Adams' decision to require mandatory passive restraints in new automobiles. I have carefully examined the ample evidence on the performance and reliability of passive restraint systems, and have concluded that Secretary Adams' decision is, indeed, in the best interest of the public. So compelling is the need for these protective devices, I have decided to take an active role in opposing this attempt to overturn or delay the implementation of the Secretary's ruling.

Certainly, there is no disagreement with the premise that something must be done to improve the safety of automobile travel. Every 11 minutes another American dies in a fatal traffic accident. Serious injuries are inflicted at a rate of one every 18 seconds. Since we entered the automobile era, more than 2 million citizens have died on the Nation's roadways. Each year, I watch with sadness as that figure grows at an alarming rate.

Over the recent Labor Day weekend, 469 Americans lost their lives in automobile accidents. Many of you, I am sure, are familiar with that statistic. Running accounts of holiday traffic fatalities are reported by radio stations along with baseball scores and weather forecast. Somehow, we as a nation have become calloused to the tragedy of highway death. We are populated with generations of Americans who have lived their entire lives in the automobile era. We have become so accustomed to the specter of traffic death, we are insensitive to its devastating toll on our numbers. We look upon automobile fatalities as something over which we have no control.

But something can be done. Legislation originating from the Transportation Subcommittee which I chair has resulted in significant reductions in accident rates on Federal aid highways. Our experience with the Interstate System has shown that the frequency of automobile crashes is markedly lower on roadways designed according to strict safety standards. By law, interstate highways are required to use lifesaving design features such as break-away poles, anchored guard rails, clear markings, and improved highway lighting in residential areas. We have also witnessed impressive results from Federal programs to eliminate dangerous railroad grade crossings and hazardous roadside obstacles.

Our goal is to guarantee that Federal highway dollars will be invested in roads that not only are the most cost effective, but also are the safest for passenger and commercial traffic. Looking back, the record is nothing short of astonishing. Forty years ago, in 1936, there were 15.11 fatalities per 100 million vehicle miles of traffic. In 1946, the rate was 9.80. In 1956, 6.31. In 1966, 5.70 and last year, in 1976, 3.32.

However, no matter how safe we build our highways, fatal crashes will still occur. For as long as automobiles are operated at high speeds and are controlled by human beings, the traffic accident will remain a fact of life. I am convinced that future efforts to reduce automobile deaths will find the greatest payoff through improvements in the safety features of the vehicles themselves. Based on the substantial evidence that is presently available, I have concluded that passive restraint systems are the most effective way to improve vehicle safety.

In the past 5 years, 12,000 air bag-equipped cars have been produced and operated on the Nation's roadways. In the 300 documented crashes involving these vehicles, the air bag repeatedly demonstrated that it is an effective deterrent to bodily harm in frontal collisions. Other tests, simulating crashes under various driving circumstances, substantiate these conclusions. This is why virtually very major automotible insurer supports mandatory passive restraints. These companies are in business to make a profit, and realize that it is good business to reduce the number and size of medical claims filed for automobile accidents.

Passive restraints are also supported by a variety of consumer and health-related groups. I personally have received numerous letters from physicians and health professionals, all thanking me for my support on this issue.

The Epilepsy Foundation of America, which strongly supports passive restraints, estimates that 540,000 Americans annually receive serious head injuries in auto accidents. A significant proportion of those injured will eventually develop epilepsy. The Department of Transportation estimates that passive restraints can save as many as 9,000 lives each year and can prevent as many as 65,000 serious injuries. I find these figures extraordinarily persuasive.

When I first examined this issue, I was concerned about the costs that passive restraints would involuntarily impose on the consumer. The Department of Transportation projects an incremental cost of $112 for the installation of air bags in new cars, and from $25 to $50 for the passive belt. Although these figures are significant for some consumers, they are less than most of us pay for such optional items as FM radios, vinyl roofs or special wheel covers.

Furthermore, the added cost will be recovered in the first 4 years of operation through reduced insurance premiums. The Department of Transportation estimates that automobile insurance premiums will be reduced by approximately $30 for air-bag-equipped cars.

Additional consumer savings will result as the rates of traffic fatalities and injuries decrease. According to the Federal Highway Traffic Safety Administration, auto accidents cost society an average of $38 billion each year. Passive restraints can be expected to significantly reduce the amounts that private citizens and the government spend to care for and rehabilitate those who are severely injured and disabled.

I am not persuaded by the argument that this is an improper area for governmental involvement. In fact, we decided many years ago that it is appropriate to require automobile manufacturers to adhere to certain minimum safety features for the protection of drivers and passengers. Existing Federal passenger protection standards include: Shatter-proof windshields, padded dashboard, head restraints, safety bumpers, door lock standards, impact protection for steering wheels, fuel system integrity standards, and roof and side door strength standards.

The requirement for passive restraints does not constitute unorthodox governmental interference into private sector activities. I agree with Secretary Adams that there is a legitimate and justifiable reason to require manufacturers to produce safer cars that provide passive protection for their occupants.

Furthermore, I believe that a majority of my constituents will concur with this decision. A June Gallup poll showed that 46 percent of the national population would support a law requiring manufacturers to equip cars with air bags, compared to 37 percent who would oppose such a law. In the Southern States, public opinion was observed to be even more strongly in favor of mandatory passive restraints.

These statistics confirm what I have believed all along. Americans are willing to pay a little extra for an automobile that provides improved crash protection for themselves and their families. I commend Secretary Adams for his decision, and strongly oppose this effort to further delay the use of these life-saving devices.

The PRESIDING OFFICER. The time of the Senator from Texas has expired.

Mr. GRIFFIN. Mr. President, I yield 2 minutes to the Senator from Nevada.

Mr. CANNON. Mr. President, should the Senator's resolution to disapprove the Secretary's recommendation be agreed upon today, I plan to offer a resolution calling upon the President to direct the DOT Secretary to go forward with a demonstration project on air bags similar to the one former Secretary Coleman worked out with two of the auto manufacturers. Hopefully, the scope of the project might be enlarged upon to make more air bags available than called for in the original demonstration project.

Additionally, I think we can make that million dollars available again to the administrator for seat belt education. If the air bag vote is negative today, perhaps the administrator will rethink her position on the necessity for seatbelt use and education.

Mr. GRIFFIN. Mr. President, I might say that if the Senator from Nevada offers that resolution, I will offer an amendment to provide that all Government purchased vehicles be equipped with air bags.

I yield 1 minute to the Senator from New Mexico.

Mr. SCHMITT. I shall be very brief.

Mr. President, it is my intention to support the passage of Senate Concur-

rent Resolution 31 which would disapprove Federal motor vehicle safety standard 208 transmitted on June 30, 1977. There are two very basic reasons why I shall take this action.

First, air bags ought not be made a mandatory system. By now I had hoped that the feelings of our citizens regarding the constantly increasing Federal presence in their daily lives would have impressed more of the Members of the House and Senate and the executive branch. Apparently this has not yet happened, however, the actions of a Big Brother government such as that taken by Secretary Adams, will hasten the day when the American people elect a Congress and a President who will stop this ever-increasing intrusion into their rights as free people with a freedom of choice.

Personally, I would favor making air bags an optional system. Let those who want them, and can afford to pay the hundreds of dollars which they cost, do so. Ours is still a free market economy. The consumer makes the decisions. If the air bag is an idea whose time has come, the marketplace will reflect it. If, however, the American people decide that either air bags are useful but too expensive or that their worthiness has not yet been proven, that is their decision. It ought not be one made for them by the Federal Government.

This brings me to my second point, whether air bags, based upon presently available data, will actually do what the American people are being told they will do. The simple fact is that we do not know how good, how safe, the air bag system really is.

As Senator GRIFFIN and others have so ably pointed out, the data is either incomplete, confusing or subject to different interpretations. In this regard I would commend to my fellow Senators, the minority report of the Commerce Committee which accompanied Senate Concurrent Resolution 31 and ask unanimous consent that the report be included in the RECORD at this point. The plain fact is that by making this system mandatory, we might achieve the direct opposite of the desired goal of increased safety.

There being on objection, the minority views were ordered to be printed in the RECORD, as follows:

MINORITY VIEWS OF SENATORS CANNON, GRIFFIN, GOLDWATER, AND SCHMITT

(To accompany S. Con. Res. 31)

Air bags should be available to those who want them. And, if necessary, we would support government action to make sure that such an option is available to future new car buyers.

However, we strongly oppose a government mandate which, on the basis of insufficient information, would force air bags or other "passive" restraints on all car buyers.

It is important at the outset to focus on the precise issue presented by D.O.T.'s mandate. It is not whether or not the development and use of air bags should be encouraged. (They should, and they would have been—much sooner, in fact—under former Secretary Coleman's voluntary program.)

The issue is whether we know enough about air bags and other passive restraints to require their installation in all cars. We don't.

Even D.O.T. Secretary Adams admitted this in a statement released at the time he issued the rule. He candidly stated that there is ". . . substantial room for uncertainty and argument as to the true observed effectiveness of the restraint systems."

D.O.T. witnesses testified that no other automobile safety feature has ever been as thoroughly tested as the air bag. We should hope so. We can think of no other safety feature which is as costly to install and replace, and no other safety feature with the perverse potential to turn into a hazard.

What happens when an air bag inadvertently inflates on the highway? What happens to occupants, particularly children, who are "out of position," i.e., not wearing seatbelts, when an air bag inflates? What happens to the person whose air bag fails to inflate in an accident—particularly if that person, lulled by a false sense of security, is not wearing a seatbelt?

The answer of Dr. Robert L. Hess, Director, Highway Safety Research Institute at the University of Michigan:

"The bottom line is that the present data are not sufficient to determine the value of passive restraints. Such data are in sharp contrast with the data that establish the value of the lap-torso belt system."

Dr. Hess continued:

"Any attempt to compare this information [on accidents involving air bags] with an unrestrained control group (or with active belt use groups) is sheer statistical folly. Some advocates have maintained that the 'data is going in the right direction,' but the fact is that the tail and head of any possible arrow would be the same point—no direction can be perceived from present data."

Secretary Adams and others testified, in effect that 500 million miles driven by the air bag equipped cars ought to be enough. That may sound impressive. However, 500 million miles, driven over a period of several years, represent only .0005 of the one trillion miles driven annually by American motorists.

Furthermore, it is the number of accidents involving air bags—not the number of miles driven—that is important. So far, D.O.T. has records concerning about 165 accidents involving air bags, 50 of which, according to Dr. Hess, were accidents posing a threat of serious injury or death.

Fifty accidents aren't very many. And, in those fifty accidents which involved air bags—four people died.

D.O.T. spokesmen repeatedly assert that air bags have been tested more than any other government-required auto safety feature. So what? It is an "apples and oranges" comparison to relate air bags to padded dashboards. It doesn't take much engineering genius to conclude that padded dashboards are safer than steel dashboards.

To be sure, shatterproof glass is safer than glass that shatters; and not much testing is required to learn that steering columns that collapse are preferable to steering columns that impale.

But it is not clear—not at all clear—that air bags are more effective at saving lives or preventing serious injury than the system already installed in 100 million cars, the seatbelt.

The Department of Transportation concedes that, "when they are worn, seatbelt assemblies are highly effective in preventing occupant impact with the vehicle interior or ejection from the vehicle". (Statement supporting the rule.)

Another witness, Dr. Lawrence Goldmuntz, President of Economics and Science Planning, Inc., testified that his analysis of D.O.T. field data revealed that air bags are about ½ as effective as seatbelts in preventing fatalities and serious injuries.

Not surprisingly, D.O.T. has criticized Dr. Goldmuntz' analysis, just as it has criticized General Motors' computer analysis which concluded that air bags were 10% effective in reducing injuries compared with a 50% effectiveness rate for seatbelts when used.

Four facts about air bag effectiveness are undisputed:

The air bag offers no protection to the occupant of a car which crashes into an immovable object at a speed of 12 m.p.h. or less (because the air bag is designed not to deploy in such crashes). Such an impact is the equivalent of a 24 m.p.h. crash into a parked car.

Air bags offer very little or no protection, in side or rear-end crashes (about 50% of all accidents).

Based on currently available data, D.O.T. estimates that there will be 7,000 on-the-road inadvertent air bag deployments per year once all automobiles are equipped with passive restraints. (Interestingly enough, at the hearings, Secretary Adams dismissed the 7,000 projection as being based on a "very small" sample. That "very small" sample is, of course, the very same sample which inspired D.O.T. to declare that, "The air bag will be the most thoroughly developed and tested automotive safety system ever introduced into large scale production.")

(Letter of Howard Dugoff, Deputy Administrator, NHTSA, 9–22–77.)

No one really knows how often air bags will *fail* to deploy when they are supposed to deploy. Although D.O.T. maintains that, "In no instance are air bags known to have failed to deploy properly under [designed] conditions in a regular production air bag car," (ibid.) that is of little comfort to people like Mrs. Magdalena Ross of Staunton, Virginia, whose air bag failed to deploy when her car crashed into a parked truck at a speed estimated by her to be at least 20 m.p.h. Mrs. Ross, who suffered substantial injuries, was not wearing her seatbelt. Why? She thought her air bag system rendered seatbelts unnecessary.

In spite of such problems, air bags and other passive restraints are worth developing and improving. We submit, however, that the record so far falls far short of the kind of record necessary to support the sweeping requirements D.O.T. seeks to impose.

In addition, the hearings failed to resolve the following questions:

How much will air bags cost? An independent research firm, Economics & Science Planning, Inc., estimated that, including installation, replacement, insurance and fuel costs due to excess weight, air bags will cost consumers a net $25 billion over the next 20 years. At the very least, air bags will cost $112 per new car (D.O.T. estimate). Chrysler estimates $250 per car. D.O.T. and the auto manufacturers all agree that replacement of a deployed air bag will be 2 to 3 times the initial installation cost.

Can laboratory testing duplicate actual driving conditions? Because it concedes that actual field studies have been inconclusive in demonstrating the effectiveness of air bags, D.O.T. has tried to rest its case on laboratory tests. Yet in attempting to explain results of the Calspan tests, only recently made public, which revealed substantial injuries to air bag protected "occupants" (dummies and cadavers), D.O.T. argues that "additional testing" is needed. D.O.T. is saying what I have said all along: Dummies don't drive cars; people do.

How serious is the hazard posed by the presence of the air bag propellant sodium azide, a mutagenic and toxic chemical, in air bag equipped cars, particularly in junked or abandoned cars?

Will air bags perform satisfactorily in extreme cold? The D.O.T. response to this question seems to be that air bags do not inflate as fast in cold weather, but performance can be improved "if you warm up your car." That's not very reassuring.

What can be done to increase seatbelt use (which almost certainly will go down once air bags are installed in all cars)? D.O.T.'s defeatist answer is, nothing. That's too bad. Although D.O.T. has spent a total of $9 million to date on passive restraint development, it has spent only $1 million on seatbelt promotion over the past 5 years.

What is the actual seatbelt usage rate? D.O.T. says 20% but its own data reveal rates as high as 44% for vehicles involved in tow-away accidents.

How much more will mechanics charge to perform routine under-the-hood and under-the-dashboard maintenance and repair work because of their concern over actuating or damaging the air bag system?

Finally, is it fair to millions of motorists, who already use their lap and shoulder belts to require them to spend $200 for a system that offers less protection than the system they already use?

CONCLUSION

Unfortunately, debate over passive restraints seems to have polarized the various factions into pro- and anti-air bag camps. In the furor, many have forgotten the very responsible decision made by former Secretary William Coleman—based on the same record that Secretary Adams has had before him.

Secretary Coleman came forward with a plan which would have increased the present fleet of 11,000 air bag equipped cars to 450,000 by 1980.

Such a course of action would have provided air bags for those who want them—without forcing them on those who don't. Such a course of action would have provided D.O.T. and the Congress with needed additional information on passive restraint performance. Such a course of action would have encouraged the development of alternative occupant restraint systems.

That or a similarly responsible course of action is still available if S. Con. Res. 31 is adopted.

Mr. SCHMITT. Mr. President, I commend the Senator from Michigan for his efforts on this measure. I am disappointed that opponents of this resolution of disapproval are trying to imply that those of us who have attempted to have the Senate vote on this measure are somehow or other against human life. That certainly is not true.

Senator GRIFFIN's resolution does not involve a question of who is for or against air bags, or passive restraints. To my mind, it is a question of who is for or against another intrusion into the private individual can make a decision on adequate information by which the private individual can make a decision on whether this is the appropriate technology to have in an automobile that he may buy.

I hope that Senator CANNON will follow through on his proposals as he has just enumerated them. I will certainly support those proposals.

Mr. President, as I grew up to some degree technologically in the space program, I can tell my colleagues that there were many good ideas about how to make the missions to the moon and other space missions safer, but in many cases we had to reject some of those, because they were too expensive; the country could not afford them, in our judgment.

I think the same thing applies, on a smaller scale but equally importantly, to the average American in the case of the air bag. The decision is premature. We should not try to make that decision on behalf of the American people until we can present to them the costs and benefits of such an action.

Mr. GRIFFIN. Mr. President, I reserve the remainder of my time.

Mr. FORD. Mr. President, how much time do we have remaining?

The PRESIDING OFFICER. The Senator from Kentucky has 6 minutes remaining. The Senator from Michigan has 1 minute.

Mr. FORD. I yield myself 3 minutes.

The distinguished Senator from Michigan read from an article published in this morning's Washington Post; and, as some of us do on occasion, he read only those portions of the article favorable to his side of the argument.

The final paragraph of the article reads:

For those who never enter a car without nervously thinking that this ride may be the last mile, the question is less whether Congress should give its approval this week to air bags than why it must still be nine or ten years before all cars have the devices. Without doubt, many of those who must wait for safer cars will be killed in crashes before these vehicles are marketed. The freedom to do foolish things has been exercised long enough—by the auto industry and the easygoing federal government that has taken its slow time in demanding safety. The time has come for free people to have a right to make a wise purchase: a safer car.

Mr. President, arguments have been made that there has not been enough testing of passive restraints. But more testing has been conducted on passive restraints than any other safety device. No one questions the safety of shatterproof glass, no one questions the padded dash, no one questions the energy-absorbing steering column; and far less testing took place on those safety features. Opponents of the secretary's rule are using the same arguments that were heard in this Chamber against seatbelts, and now seatbelts are considered by the opponents of the rule to be the greatest things that ever happened.

But 80 percent of vehicle occupants will not wear them. It is very important to point out that we can save lives with passive restraints such as the air bag even without seatbelts. The statistics show that we can save 8,000 lives a year if not a single person uses seatbelts. That means something to me.

We could have had the air bag in the 1973 model cars. General Motors, for instance, had films showing how great air bags were. Somehow, they changed their mind about it, and 90,000 air bags are now in storage that were never used. We are going into the second generation air bags, the improved air bags.

Fifty-five percent of highway deaths occur in head-on crashes, and those are the people we are trying to save. Of course, we cannot do it all; there is no way to save all of them. I think the 55-mile-an-hour speed limit has helped some, but it has also created the CB radio industry, which seeks to avoid it.

The PRESIDING OFFICER (Mr. METZENBAUM). The time the Senator from Kentucky yielded himself has expired.

Mr. FORD. I reserve the remainder of my time. I want to give the chairman of the committee 1 minute to conclude.

Mr. STEVENS. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator from Kentucky has 3 minutes. The Senator from Michigan has 1 minute.

Mr. HEINZ. Mr. President, I have a unanimous consent request. I ask unanimous consent that Mr. Geoff Garin of my staff be accorded the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRIFFIN. Mr. President, I close my part of the debate by pointing again to the question asked by Colman McCarthy in his Washington Post column:

What is the rational objection against at least experimenting with a solution to reducing the carnage?

There is no objection to experimenting with the air bag. We can, and we should, finance more Government experimentation or private experimentation concerning the air bag—or we could return to Secretary Coleman's plan to make the air bag available on an optional basis. Incidentally, if his plan had gone into effect, there could be 450,000 air-bag-equipped cars on the highways by 1980—instead of beginning with the 1982 cars as the DOT order provides.

In addition, as I have said, another way to experiment would be to require air bags in all Government-purchased cars.

The question is not whether there should be air bag experimentation. Experimentation is needed and is desirable.

The question before the Senate is whether we want to force air bags on all new-car buyers without further testing and experimentation. I submit that the answer was provided by Dr. Robert Hess of the University of Michigan, who testified:

The bottom line is that the present data are not sufficient to determine the value of passive restraints (the air bag). Such data are in sharp contrast with the data that establish the value of the lap-torso-belt system.

Mr. President, I ask that minority views in which I concurred with Senators CANNON, GOLDWATER, and SCHMITT, be printed in the RECORD.

There being no objection, the minority views were ordered to be printed in the RECORD, as follows:

MINORITY VIEWS OF SENATORS CANNON, GRIFFIN, GOLDWATER AND SCHMITT

(To accompany S. Con. Res. 31)

Air bags should be available to those who want them. And, if necessary, we would support government action to make sure that such an option is available to future new car buyers.

However, we strongly oppose a government mandate which, on the basis of insufficient information, would force air bags or other "passive" restraints on all car buyers.

It is important at the outset to focus on the precise issue presented by D.O.T.'s mandate. It is not whether or not the development and use of air bags should be encouraged. (They should, and they would have been—much sooner, in fact—under former Secretary Coleman's voluntary program.)

The issue is whether we know enough about air bags and other passive restraints to require their installation in all cars. We don't.

Even D.O.T. Secretary Adams admitted this in a statement released at the time he issued the rule. He candidly stated that there is ". . . substantial room for uncertainty and argument as to the true observed effectiveness of the restraint systems."

D.O.T. witnesses testified that no other automobile safety feature has ever been as thoroughly tested as the air bag. We should hope so. We can think of no other safety feature which is as costly to install and replace, and no other safety feature with the perverse potential to turn into a hazard.

What happens when an air bag inadvertently inflates on the highway? What happens to occupants, particularly children, who are "out of position," i.e., not wearing seatbelts, when an air bag inflates? What happens to the person whose air bag fails to inflate in an accident—particularly if that person, lulled by a false sense of security, is not wearing a seatbelt?

The answer of Dr. Robert L. Hess, Director, Highway Safety Research Institute at the University of Michigan:

"The bottom line is that the present data are not sufficient to determine the value of passive restraints. Such data are in sharp contrast with the data that establish the value of the lap-torso belt system."

Dr. Hess continued:

"Any attempt to compare this information [on accidents involving air bags] with an unrestrained control group (or with active belt use groups) is sheer statistical folly. Some advocates have maintained that the 'data is going in the right direction,' but the fact is that the tail and head of any possibly arrow would be the same point—no direction can be perceived from present data."

Secretary Adams and others testified, in effect that 500 million miles driven by the air bag equipped cars ought to be enough. That may sound impressive. However, 500 million miles, driven over a period of several years, represent only .0005 of the one trillion miles driven annually by American motorists.

Furthermore, it is the number of accidents involving air bags—not the number of miles driven—that is important. So far, D.O.T. has records concerning about 165 accidents involving air bags, 50 of which, according to Dr. Hess, were accidents posing a threat of serious injury or death.

Fifty accidents aren't very many. And, in those fifty accidents which involved air bags—four people died.

D.O.T. spokesmen repeatedly assert that air bags have been tested more than any other government-required auto safety feature. So what? It is an "apples and oranges" comparison to relate air bags to padded dashboards. It doesn't take much engineering genius to conclude that padded dashboards are safer than steel dashboards.

To be sure, shatterproof glass is safer than glass that shatters; and not much testing is required to learn that steering columns that collapse are preferable to steering columns that impale.

But it is not clear—not at all clear—that air bags are more effective at saving lives or preventing serious injury than the system already installed in 100 million cars, the seatbelt.

The Department of Transportation concedes that, "when they are worn, seatbelt assemblies are highly effective in preventing occupant impact with the vehicle interior or ejection from the vehicle." (Statement supporting the rule.)

Another witness, Dr. Lawrence Goldmuntz, President of Economics and Science Planning, Inc., testified that his analysis of D.O.T. field data revealed that air bags are about one-half as effective as seatbelts in preventing fatalities and serious injuries.

Not surprisingly, D.O.T. has criticized Dr. Goldmuntz' analysis, just as it has criticized General Motors' computer analysis which concluded that air bags were 10% effective in reducing injuries compared with a 50% effectiveness rate for seatbelts when used.

Four facts about air bag effectiveness are undisputed:

The air bag offers no protection to the occupant of a car which crashes into an immovable object at a speed of 12 m.p.h. or less (because the air bag is designed not to deploy in such crashes). Such an impact is the equivalent of a 24 m.p.h. crash into a parked car.

Air bags offer very little or no protection, in side or rear-end crashes (about 50% of all accidents).

Based on currently available data, D.O.T. estimates that there will be 7,000 on-the-road inadvertent air bag deployments per year once all automobiles are equipped with passive restraints. (Interestingly enough, at the hearings, Secretary Adams dismissed the 7,000 projection as being based on a "very small" sample. That "very small" sample is, of course, the very same sample which inspired D.O.T. to declare that, "The air bag will be the most thoroughly developed and tested automotive safety system ever introduced into large scale production.")

(Letter of Howard Dugoff, Deputy Administrator, NHTSA, 9–22–77.)

No one really knows how often air bags will *fail* to deploy when they are supposed to deploy. Although D.O.T. maintains that, "In no instance are air bags known to have failed to deploy properly under [designed] conditions in a regular production air bag car," (*ibid.*) that is of little comfort to people like Mrs. Magdalena Ross of Staunton, Virginia, whose air bag failed to deploy when her car crashed into a parked truck at a speed estimated by her to be at least 20 m.p.h. Mrs. Ross, who suffered substantial injuries, was not wearing her seatbelt. Why? She thought her air bag system rendered seatbelts unnecessary.

In spite of such problems, air bags and other passive restraints are worth developing and improving. We submit, however, that the record so far falls far short of the kind of record necessary to support the sweeping requirements D.O.T. seeks to impose.

In addition, the hearings failed to resolve the following questions:

How much will air bags cost? An independent research firm, Economic & Science Planning, Inc., estimated that, including installation, replacement, insurance and fuel costs due to excess weight, air bags will cost consumers a net $25 billion over the next 20 years. At the very least, air bags will cost $112 per new car (D.O.T. estimate). Chrysler estimates $250 per year. D.O.T. and the auto manufacturers all agree that replacement of a deployed air bag will be 2 to 3 times the initial installation cost.

Can laboratory testing duplicate actual driving conditions? Because it concedes that actual field studies have been inconclusive in demonstrating the effectiveness of air bags, D.O.T. has tried to rest its case on laboratory tests. Yet in attempting to explain results of the Calspan tests, only recently made public, which revealed substantial injuries to air bag protected "occupants" (dummies and cadavers), D.O.T. argues that "additional testing" is needed. D.O.T. is saying what I have said all along: Dummies don't drive cars; people do.

How serious is the hazard posed by the presence of the air bag propellant sodium azide, a mutagenic and toxic chemical, in air bag equipped cars, particularly in junked or abandoned cars?

Will air bags perform satisfactorily in extreme cold? The D.O.T. response to this question seems to be that air bags do not inflate as fast in cold weather, but performance can be improved "if you warm up your car." That's not very reassuring.

What can be done to increase seatbelt use (which almost certainly will go down once air bags are installed in all cars)? D.O.T.'s defeatist answer is, nothing. That's too bad. Although D.O.T. has spent a total of $9 million to date on passive restraint development, it has spent only $1 million on seatbelt promotion over the past 5 years.

What is the actual seatbelt usage rate? D.O.T. says 20% but its own data reveal rates as high as 44% for vehicles involved in tow-away accidents.

How much more will mechanics charge to perform routine under-the-hood and under-the-dashboard maintenance and repair work because of their concern over actuating or damaging the air bag system?

Finally, is it fair to millions of motorists, who already use their lap and shoulder belts to require them to spend $200 for a system that offers less protection that the system they already use?

CONCLUSION

Unfortunately, debate over passive restraints seems to have polarized the various factions into pro- and anti-air bag camps. In the furor, many have forgotten the very responsible decision made by former Secretary William Coleman—based on the same record that Secretary Adams has had before him.

Secretary Coleman came forward with a plan which would have increased the present fleet of 11,000 air bag equipped cars to 450,000 by 1980.

Such a course of action would have provided air bags for those who want them—without forcing them on those who don't. Such a course of action would have provided D.O.T. and the Congress with needed additional information on passive restraint performance. Such a course of action would have encouraged the development of alternative occupant restraint systems.

That or a similarly responsible course of action is still available if S. Con. Res. 31 is adopted.

Mr. FORD. Mr. President, I yield the remainder of my time to the distinguished chairman of the Commerce Committee, the Senator from Washington (Mr. MAGNUSON).

Mr. MAGNUSON. Mr. President, first of all, the Commerce Committee has been looking into passive restraint systems for many years. As a matter of fact, in June 1970, after the committee held some hearings on this matter, 21 Members of the Senate joined me in a letter to then Secretary of Transportation Volpe asking that the standard be promulgated so that it would be in effect in model year 1973 automobiles.

I ask unanimous consent that the letter of June 22, 1970, be placed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

WASHINGTON, D.C.,
June 22, 1970.

Hon. JOHN A. VOLPE,
Secretary, Department of Transportation, Washington, D.C.

MY DEAR MR. SECRETARY: Congress has been gravely concerned with the intolerable toll of deaths and injuries on our nation's highways. There is strong support in the Congress for your proposal, announced in the Federal Register May 7, 1970, to require the automobile industry to equip all cars sold after January 1, 1973 with the inflatable occupant restraint system, popularly known as the air bag.

We are informed that your office has studied both the prospects and possible problems associated with the use of the air bag system, and that you have arrived at the following conclusions:

That the air bag system, in its present state of development, has high reliability and will be effective in protecting occupants in most crash situations.

That at least 20,000 lives will be saved annually, when the system is installed in all vehicles in use.

That while the proposed installation timetable places members of the auto industry under considerable pressure to design, produce, and test the system in a short period of time, the projected benefits of the system far outweigh these short-term costs to the industry.

In view of these conclusions, any further delay in the effective date of the air bag requirement is without justification. You should stand firmly by your current timetable.

Moreover, we hope that your investigation into the possibilities of retrofitting the system into vehicles sold before January 1, 1973, will point to the feasibility of a requirement that all cars on the road be equipped with the air bag system by 1975 or before.

We appreciate the new vigor you have brought to the task of reducing the senseless loss of life and property on our nation's streets, roads, and highways.

Sincerely,

Birch Bayh, Alan Bible, Edward W. Brooke, Howard W. Cannon, Alan Cranston, Frank E. Moss, Thomas J. McIntyre, Walter F. Mondale, Edmund S. Muskie, Gaylord Nelson, and John O. Pastore.

Thomas F. Eagleton, Charles E. Goodell, Vance Hartke, Warren G. Magnuson, Jennings Randolph, James B. Pearson, Joseph D. Tydings, Abraham Ribicoff, Harrison A. Williams, Jr., and Stephen M. Young.

Mr. MAGNUSON. In any case, we have followed this matter closely for many years. This year we held 4 days of hearings at which testimony was received from 27 witnesses concerning the Secretary's safety standard. Subsequently, the Consumer Subcommittee voted 5 to 0 to disapprove of Senate Concurrent Resolution 31. The full committee voted the resolution out with an adverse recommendation. This morning, the House Committee on Interstate and Foreign Commerce tabled a similar resolution.

We think, after all this has gone on, it is time to put this matter to rest. That is why the Senator from Kentucky and I agreed with the Senator from Michigan to let this resolution come to a vote. That is why we are here today. I am pleased to note a time limitation on the debate on the resolution. I believe everybody knows pretty nearly everything about it one way or another after all these years.

Mr. President, how much time remains?

The PRESIDING OFFICER. All time has expired.

ADDITIONAL STATEMENTS SUBMITTED

Mr. HANSEN. Mr. President, I will vote in favor of Senate Concurrent Resolution 31 in order to disapprove of the Department of Transportation's order mandating the installation of passive restraint devices as standard equipment on automobiles beginning with the 1982 model year.

It is my firm belief that these devices are not desired by the American people, are not sufficient to meet the safety needs of those who would rely upon them and are not the safe, easy to operate, easy to install devices they are claimed to be.

Mr. President, in the final analysis, it is the American people who will be forced to bear the expense, the inconvenience, and the burden which these devices will place upon them. It is the American people in whose behalf the Secretary of the Department of Transportation has supposedly taken this action. Yet what is the attitude of the American people toward these devices? If the mail which I have received is any indication they are opposed to air bags being forced upon them. I have received hundreds of letters in opposition to the order of the Department of Transportation and I believe that these letters are indicative of a national mood. To my way of thinking we must respect and act in accordance with that mood.

Yet perhaps we could, in the light of overwhelming evidence as to the need for such devices, set aside the views of the American people and permit the Secretary of Department of Transportation to require these devices in order to save thousands of lives and millions of dollars each year. However, such evidence does not exist with regard to air bags.

The undisputed facts are that air bags do not work in side impacts, rear accidents, rollovers, or in secondary collisions. Air bags do not inflate in accidents in which the closure rate is less than 24 miles an hour.

The fact of the matter is that in all of these cases, to be fully protected, the driver and his passengers would have to wear a lap belt and a shoulder harness, equipment which is already provided on all new cars. The fact of the matter is that the thousands of lives to be saved could be saved simply by buckling up.

Mr. President, yesterday, the Senator from North Carolina, delivered an excellent statement with regard to the nature of these devices. I would heartily recommend his statement to all of my colleagues. Setting aside the $600 to $900 cost of replacing air bags and sensors, of repairing the instrument panel and steering column, Senator HELMS quoted from General Motors service manual in detailing the hazards involved in the installation, removal, and disposal of "passenger air cushions."

Mr. President, it seems to me that there are too many questions to be resolved with regard to these devices, too many doubts remaining as to their viability and utility to allow the Senate to permit the Secretary's order to stand. There is already, in legislation passed by this body, the means of resolving these questions.

The National Energy Conservation Policy Act, adopted by the Senate on September 13, contained a provision I offered in committee which establishes as congressional policy that all passenger vans and automobiles purchased by the Federal Government after fiscal year 1978 shall be equipped, to the maximum extent technically feasible, with air bag collision protection devices or other passive restraint systems. As well, the administration would be directed to maintain records of the effectiveness of the passive restraint device and to include such information in the President's annual report to Congress.

This provision would permit the Department of Transportation and the Congress to be aware of the nature and capabilities of these devices prior to embarking upon the policy proposed by the Department of Transportation in the promulgation of the order now under consideration. I would hope that the Senate will disapprove of the Secretary's action in order that we may all act, at some later date, in full awareness of the facts concerning passive restraints.

Mr. CASE. Mr. President, I intend to support the requirement for passive restraints in cars sold in the United States. I would like to take a moment to discuss some of the key factors which contributed to my decision.

First, I am convinced that air bags or some other form of passive restaints are the most important means currently available for reducing traffic fatalities. The current seatbelt system could, I believe, provide the same level of protection if it were used by a majority of the people traveling by cars. However, it appears unlikely that either educational campaigns or legal requirements will be effective in obtaining and maintaining a high level of seatbelt usage.

Second, I believe that highway safety is a problem that requires national leadership and Federal regulations. While an individual may have the right to maim himself, he does not have the right to maim others and to burden society with the costs of highway accidents.

On the whole, I believe that passive restraints will make a significant positive impact on highway safety. I do feel that some additional testing is necessary and I urge the Secretary and my colleagues to consider additional testing of these devices before the mandatory installation dates.

Dr. Seymour Charles of New Jersey, president of the organization, Physicians for Automotive Safety, testified before the Consumer Subcommittee of the Senate Commerce Committee, in support for air bags and passive restraints. He said:

In 1975, for all ages there were 1,800,000 disabling injuries of which 150,000 were permanent crippling impairments with a total cost of 38 billion dollars. Fifty per cent of spinal cord injuries are caused by traffic accidents, which adds up to 5,300 spinal cords severed, crushed or otherwise seriously injured in such crashes . . . Let there be no mistake in your cost benefit analysis that the high cost of these irreversible disabilities is shared by all Americans.

I support the introduction of passive restraints at this time in order to reduce this terrible toll of injuries, and to avoid the loss of an estimated 9,000 lives yearly.

Mr. BAKER. Mr. President, Senate Concurrent Resolution 31, to disapprove the decision of the Secretary of Transportation to require automatic occupant crash protection devices in all new automobiles, concerns an issue which will directly affect every American. It is an issue which deserves to be decided by the Senate on its merits, and, over the last few days, I have sought to insure that such a vote will be taken prior to the October 14 deadline for congressional action. Because of my strong feeling that the Senate should have an opportunity to vote on the resolution, I intend to oppose a motion to table Senate Concurrent Resolution 31.

Should a tabling motion fail, however, I will vote against the resolution. After reviewing all of the data which has been made available to me in connection with the passive restraint issue, I have concluded that there is ample evidence indicating that air bags are effective in preventing injuries, that they would save thousands of lives and prevent many more serious injuries annually if installed on all cars, and that they are not hazardous.

Ideally, I would prefer that air bags be offered as optional equipment so that automobile buyers would be able to choose whether or not they wanted to obtain added protection. Unfortunately, however, limited production would result in greater cost, so that those who might want to purchase them would be required to pay considerably more than the $112 they would spend if air bags were standard equipment. I do not believe that we should decree that air bags should be available only to those who can afford them as an expensive option.

For these reasons, Mr. President, I support Secretary Adams' decision. I hope, however, that this body will not duck what I feel to be its responsibility to the public to vote on Senate Concurrent Resolution 31 by tabling it.

Mr. EAGLETON. Mr. President, I will vote to sustain Secretary Adams' decision, but not without reservations.

Frankly, I am concerned about the increasing burden of Federal regulation on our auto industry. In the last few years, we have mandated a dozen or more requirements on the industry, everything from dent-proof bumpers to AM–FM radios.

All of this we have done in the supposed interest of the consuming public. But what about the consumer's most basic interest—the price tag? Since 1970, average auto prices have risen 28 percent and by as much as $300 this year. Some of this increase owes to general inflation but a major share can be attributed to legislated requirements. I was very reluctant to see yet another device mandated by law and it was only after long study of the facts that I came to be persuaded that the passive restraints ordered by Secretary Adams might be worth the cost.

My decision is premised on the Department's assurance that the initial cost of an air bag system will not exceed $125 and, further, that replacement costs will not be a major problem because in an estimated two-thirds of the cases where an air bag deploys the car will be totaled anyway.

Finally, the Department has assured me that in no circumstance would it require a passive seatbelt system be equipped with an interlock or continuous buzzer. On those assurances, I will support Secretary Adams' decision.

Mr. President, I ask unanimous consent that two letters to me from Joan Claybrook, Administrator of the National Highway Traffic Safety Administration, be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

WASHINGTON, D.C.

Hon. THOMAS F. EAGLETON,
U.S. Senate,
Washington, D.C.

DEAR SENATOR EAGLETON: I am writing in response to the request from Jack Lewis of your staff for information about the initial cost of passive restraint systems and the likelihood and cost of replacement.

Passive restraints should impose no net cost on consumers. The Department of Transportation has estimated air cushion restraints would increase the price of a car by $112 (in 1977 dollars) more than the price of a car today. Mr. John DeLorean, former Vice President of General Motors, estimated the cost at about $100 in a study commissioned last year by Allstate Insurance Company. The Department estimates the price of passive belts such as are installed in the Volkswagen Rabbit at $25.

Nationwide Insurance Company as well as others have publicly stated that their insurance rates would be reduced by approximately $30 per year when most cars have passive restraints. These savings should more than pay for the initial purchase price of the air bag system in 4 to 7 years.

The Department has also estimated that less than one half of the vehicles in which the air bags deploys would have the system replaced after the crash because many of these vehicles will be totaled. While the replacement price is estimated at two and one-half times the cost of the original purchase price, this expense would be covered by collision insurance which would increase by approximately 50 cents (and no more than $1) per year for this additional coverage. A number of insurance companies have pledged to make air bag replacement coverage available for individuals who do not have collision insurance and who are at fault in the crash.

You should also be aware that the fuel economy standards and the need to conserve energy are causing a reduction in the size of automobiles and an estimated concomitant saving in operating costs of approximately $1,000 for the vehicle of 1985 over 1977 (in 1977 dollars). One of the factors which heavily influenced Secretary Adams' decision to have greater safety built into automobiles was concern over possible reductions in safety with smaller, more fuel efficient cars.

I hope that this information is what you need. If we can be of further assistance, do not hesitate to call.

Sincerely,

JOAN CLAYBROOK.

DOT incremental cost estimate for full front air cushion

[As of June 1977]

Intitial cost:	
Equipment:	
Sensor (1)	$4
Warning/diagnostics	1
Driver module	29
Passenger module	48
Equipment tools	.3
Total equipment	82.3
Vehicle changes:	
Covers	4
Wiring	3
Steering Column	1
Instrument panel	4
Padding	4
Vehicle change tools [a]	4.7
Engineering	1
Installation	5
Warranty	4
Facilities & launching	4
Total vehicle changes	34.7
Markups:	
Manufacturer profit	3
Dealer profit	10
Removed belts	—18
Total initial costs	112

[a] Padding $1.0, cover $ negligible, steering column $1, and instrument panel $2.5.

WASHINGTON, D.C.,
October 11, 1977.

Hon. THOMAS F. EAGLETON,
U.S. Senate,
Washington, D.C.

DEAR MR. EAGLETON: At the request of Mr. Jack Lewis of your staff, I would like to clarify the Department of Transportation's position regarding the use of safety belt interlock systems on passive belts. The Department is well aware of the prohibition in Section 125(b)(1) of the National Traffic and Motor Vehicle Safety Act that:

No Federal motor vehicle safety standard may—

(A) have the effect of requiring, or

(b) provide that a manufacturer is permitted to comply with such standard by means of,

any continuous buzzer designed to indicate that the safety belts are not in use, or any safety belt interlock system.

We take this language to be definitive in that no amendments to the requirements of the passive occupant crash protection standard, MVSS 208, can have the effect of requiring or allowing the use of either a continuous buzzer or an interlock to comply with the standard.

We can make no prediction at the present time as to whether other manufacturers will voluntarily install either a continuous buzzer or an interlock on passive belt systems designed to meet the requirements of MVSS 208. We believe, however, that because of the comfort and convenience of the passive belt, that most owners of cars with passive belts will use them, regardless of whether they have interlocks or buzzers. In our observations of Volkswagen Rabbits on the road, we

have seen that about 80 percent of the passive belt systems in these cars are connected and in use. Nonetheless, our prediction of the life saving and injury mitigating effects of the passive restraint standard are based on a conservative 60 percent use rate for them. We have seen encouraging results of the life-saving potential of passive seat belts in the latest survey of the Department's Fatal Accident Reporting System (FARS). This survey shows the death rate for Deluxe Model Volkswagen Rabbits equipped with the automatic shoulder belt is about one-third the rate for other VW Rabbits equipped with ordinary seat belts.

We hope that this information is responsive to your inquiry and that you are satisfied that the Department will be in full compliance with the 1974 amendments to the Act. If you would like further information on this subject, please let me know.

Sincerely,

JOAN CLAYBROOK.

Mr. BAYH. Mr. President, after an exhaustive examination of the reports and studies on both sides of the air bag question, I have decided to support the Secretary of Transportation's new phased-in safety standards for passenger model cars. On June 30, 1977, Secretary of Transportation Adams issued new standards which would require that all new domestic and imported cars be equipped with automatic or passive crash protection devices capable of preventing front seat passengers from serious injury in crashes at speeds up to 30 miles per hour. Full-sized cars would be equipped with such restaints in model year 1983, medium sized and compact cars by 1983, and subcompact cars by 1984. Passive restraints are defined as any front seat occupant restraint which protects the occupant without the occupant having to activate it. The restraint must meet a performance standard set by the Department of Transportation.

This performance standard does not require any specific technology to be utilized by automobile manufacturers. Currently, passive seatbelt systems available in this country in the Volkswagen Rabbit and air bag systems have been demonstrated to comply with the new safety standard.

I feel that it is very important to look at these new standards in light of this Nation's overall record in automobile safety. In 1975, there were 46,000 fatalities from motor vehicles and 600,000 moderate to severe injuries. The number of people killed each day in this country is the equivalent of a major airline crash. Automobile accidents are the major killer of children and young people between the ages of 1 and 24. Automobile accidents are said to be one of the major causes of paraplegia, epilepsy, and cerebral palsy and are the fourth major killer of people in the United States trailing only cancer, heart disease, and stroke.

No one contends that this abysmal record of auto safety could not be vastly improved if our Nation's drivers made full use of the seat and shoulder belts now available in the standard model cars. But the simple truth is that they do not. A recent survey of 53,000 vehicles by the Department of Transportation found that less than 20 percent of the 1977 vehicle occupants actually use seatbelts.

The Department of Transportation feels that the requirement of passive restraints is a viable alternative. The Department estimates that once the passive restraint system is fully utilized it will save approximately 9,000 lives annually and prevent more than 100,000 serious injuries. This would mean that within 10 years of full utilization, more Americans would be saved than were killed in battle in the Korean and Vietnam wars combined.

There have been a number of criticisms of the air bag and passive restraint systems that I would like to address. One of the criticisms of the air bag system is that it only provides protection in frontal crashes and does not provide adequate protection for rollover, side, and rear end crashes. This criticism reflects a misunderstanding of what airbags are designed to do. The air bag system is designed to prevent injury and death in frontal crashes. These frontal and frontal-angle crashes represent 60 percent of all crashes occurring, and produce about 80 percent of occupant deaths and serious injuries. There has never been a contention on the part of the Department of Transportation that lap belts would not be required in addition to the airbag to provide maximum safety for rollover, side, and rearend crashes.

Another criticism of the air bag system is that there has not as yet been adequate testing done on air bags. Some critics have contended, for instance, that the available test data has shown no more protection for victims in cars without passive restraint systems than those with such protection. In light of my concern over this issue, I asked the National Highway Safety Traffic Safety Administration to address this issue. I ask unanimous consent to have the response I received from Joan Claybrook, Administrator of NHTSA, inserted in the RECORD at this point.

There being no objection, the response was ordered to be printed in the RECORD, as follows:

U.S. DEPARTMENT OF TRANSPORTATION,
Washington, D.C., October 11, 1977.

Hon. BIRCH BAYH,
U.S. Senate,
Washington, D.C.

DEAR SENATOR BAYH: This responds to your request for information on the relative safety of crash victims who are, or are not, protected by occupant restraint systems and on the engineering or field test results from which the information is drawn.

The Department of Transportation has sponsored the conduct of many hundreds of thoroughly engineered proving ground and sled tests which demonstrate beyond a shadow of a doubt that the likelihood of death or serious injury in auto crashes is dramatically reduced through use of either active (safety belts) or passive (air bag or passive belt) restraint systems. The results of these tests, augmented and reinforced by data from real world accidents, provided the basis for the Department's estimate that 9,000 more lives would be saved each year if all cars were equipped with passive restraints (either air bags or passive belts), instead of today's active safety belt systems. The reason for the huge projected increase is not that passive restraints are more effective than active belts, when used—it is that four out of five American motorists today do not take advantage of the protection afforded by active belt systems.

The Department's projections of the benefits of passive restraints are supported by a substantial body of field data on the performance of 10,000 air bag equipped cars sold by General Motors between 1974 and 1976 which have now traveled over 500 million miles and 80,000 passive belt equipped cars produced by Volkswagen since 1975 which have traveled one billion miles.

You should also know that well over $100 million has been spent on research, development, and testing of air bag systems over the past decade by industry and government; there have been more than 1,000 crash and sled tests with air bag systems in a variety of crash modes.

The observed fatality rate in the air bag fleet is approximately 0.8 deaths per 100 million miles of vehicle travel compared to more than 2.0 for current passenger automobiles. Although these figures are not directly comparable, the air bag fleet result so dramatically contrasts with the experience of the overall vehicle population as to constitute a quite convincing validation of Departmental estimates.

A more direct (and certainly no less impressive) comparison can be made for the case of passive belts. Recently acquired field data on the effectiveness of restraint systems in VW Rabbits shows that the rate of fatal injuries in Rabbits equipped with passive belts is less than one-third of the rate experienced in identical Rabbits of the same years of manufacture which are equipped with conventional (active) lap/shoulder belt systems.

I am enclosing several letter and other supporting material relating to the questions of restraint system effectiveness and testing. I trust you will find that the Department's decision to mandate passive restraints was entirely consistent both with the mandate of the National Motor Vehicle Safety Act and with the overwhelming weight of empirical data.

Sincerely yours,

JOAN CLAYBROOK.

Mr. BAYH. Last, I would like to address the issue of cost. It has been contended by some of the major automobile manufacturers that the initial installation of air bags will cost up to $250 and replacement will cost consumers around $600. These figures are disputed by the Department of Transportation which estimates installation at $112 and replacement at half the automobile manufacturers estimate. In addition, DOT data from insurance firms indicates savings in insurance premiums should average $32.50 a year from air-bag cars. Increased insurance premiums to cover replacement of air bags, according to insurance companies will only cost consumers $1 a year.

Much of the controversy around airbags seemes to center on the issue of freedom of choice. Should consumers have the option of "buying" safety if they so choose. Mr. President, I think this Nation has reached a sad point if we must force our people to have to "choose" safety, whether it be in our automobiles, in our homes, or in our workplaces. This has clearly not been the position of the Federal Government in the past. The logic of those opposed to mandatory air bags would have prevented such mandatory safety devices as shatterproof windshields, padded dash-

boards, collapsible steering wheels, and properly located fuel tanks.

As Coleman McCarthy has written in today's Washington Post, "The time has come for free people to have a right to make a wise purchase, a safer car."

Mr. BARTLETT. Mr. President, I am pleased that the Senate will finally have the opportunity to address the questions raised by the Department of Transportation mandate regarding passive restraints. I strongly believe that action by the Congress to disapprove the mandate is necessary if we are to avoid yet another example of the Federal Government involving itself in decisions where it does not belong at this time.

Mr. President, before I make a few additional, brief comments on this matter, I do wish to commend the senior Senator from Michigan, Mr. GRIFFIN, for his leadership on the issue of air bags and passive restraints. Without Senator GRIFFIN's leadership and persistence, both in the Commerce Committee and on the floor, I seriously doubt whether the full Senate would ever have had the opportunity to address this issue.

Mr. President, I was immediately concerned with the Department of Transportation's air bag mandate as soon as it was issued. For that reason, I introduced Senate Concurrent Resolution 37 which would have disapproved the DOT mandate. Senate Concurrent Resolution 37 was identical to Senator GRIFFIN's resolution, Senate Concurrent Resolution 31, which we now have before us.

I am concerned with the DOT mandate because it endorsed air bags, whose cost and performance are questionable.

In many ways, Mr. President, I like the idea of having air bags in vehicles that I might ride in. Although the evidence is certainly not conclusive, I think there is substantial evidence that air bags can reduce the risk of injury in headon crashes. As a result, when it comes time for me to purchase a replacement for my trusty Pinto I expect to try to purchase a car that contains an efficient air bag or other passive restraint device.

But, Mr. President, we should recognize that there are still plenty of bugs in the air bag. And we ought to be sure this is a proven system before we force it on everyone through a Federal mandate.

I think we all saw the picture in the Washington Post recently which showed Congressman UDALL testing an air bag—and it did not open. That demonstrates pretty graphically that these things are not foolproof.

I noted also that there have been some recent test results that have come to light casting doubts on the effectiveness of the air bag.

For all these reasons, I do not believe the Federal Government should, at this time, force air bags to be installed in new cars. I urge that the Senate support Senate Concurrent Resolution 31.

Mr. MAGNUSON. Mr. President, I move to table Senate Concurrent Resolution 31, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion by the Senator from Washington to lay on the table Senate Concurrent Resolution 31.

The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. METCALF (when his name was called). Mr. President, on this vote, I have a pair with the Senator from Minnesota (Mr. HUMPHREY). If he were present and voting, he would vote "aye." I would vote "nay." Therefore, I withhold my vote.

Mr. CRANSTON. I announce that the Senator from Minnesota (Mr. HUMPHREY) and the Senator from Arkansas (Mr. MCCLELLAN) are necessarily absent.

Mr. STEVENS. I announce that the Senator from California (Mr. HAYAKAWA) is necessarily absent.

I further announce that, if present and voting, the Senator from California (Mr. HAYAKAWA) would vote "nay."

The result was announced—yeas 65, nays 31, as follows:

[Rollcall Vote No. 558 Leg.]

YEAS—65

Abourezk	Gravel	Moynihan
Anderson	Hart	Muskie
Bayh	Haskell	Nelson
Bentsen	Hatch	Packwood
Brooke	Hathaway	Pearson
Bumpers	Heinz	Pell
Burdick	Huddleston	Percy
Byrd, Robert C.	Inouye	Proxmire
Case	Jackson	Randolph
Chafee	Javits	Ribicoff
Church	Johnston	Roth
Clark	Kennedy	Sarbanes
Cranston	Laxalt	Sasser
Culver	Leahy	Schweiker
Danforth	Magnuson	Sparkman
DeConcini	Mathias	Stafford
Durkin	Matsunaga	Stennis
Eagleton	McGovern	Stevens
Eastland	McIntyre	Stevenson
Ford	Melcher	Stone
Garn	Metzenbaum	Williams
Glenn	Morgan	

NAYS—31

Allen	Domenici	Riegle
Baker	Goldwater	Schmitt
Bartlett	Griffin	Scott
Bellmon	Hansen	Talmadge
Biden	Hatfield	Thurmond
Byrd, Harry F., Jr.	Helms	Tower
	Hollings	Wallop
Cannon	Long	Weicker
Chiles	Lugar	Young
Curtis	McClure	Zorinsky
Dole	Nunn	

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Metcalf, against.

NOT VOTING—3

Hayakawa	Humphrey	McClellan

So the motion to lay on the table S. Con. Res. 31 was agreed to.

Mr. FORD. Mr. President, I move to reconsider the vote by which the motion to lay on the table was agreed to.

Mr. DURKIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

TERRITORIES OF THE UNITED STATES

Mr. JOHNSTON. Mr. President, I send to the desk a joint resolution and ask for its immediate consideration.

The PRESIDING OFFICER. The joint resolution will be stated by title.

The legislative clerk read as follows:

A joint resolution (S.J. Res. 89) to amend an Act entitled "To authorize certain appropriations for the territories of the United States, to amend certain Acts relating thereto, and for other purposes".

The PRESIDING OFFICER. Is there objection to the immediate consideration of the joint resolution?

There being no objection, the Senate proceeded to consider the joint resolution.

Mr. JOHNSTON. Mr. President, in reviewing the enrolled bill, H.R. 6550, entitled "An Act to authorize certain appropriations for the territories of the United States, to amend certain acts relating thereto, and for other purposes," a serious ambiguity has been noted in connection with section 403.

Section 403, as enrolled, could be interpreted as limiting the statutes which already apply to Guam and the Virgin Islands. This could happen in two ways.

First, the enrolled version of section 403 refers to those statutes listed in section 502a (1) and (2) of the covenant. Yet, I understand that section 502 of the covenant will not be effective until at least January.

Second, several important statutes which are now applicable to Guam and the Virgin Islands will not apply to the Northern Mariana Islands, unless specifically extended to them by Congress. Statutes such as the Immigration and Naturalization Act, the Jones Coastwise Shipping Act, and the Fair Labor Standards Act may be rendered inapplicable to the Virgin Islands and Guam under a restrictive interpretation of the enrolled version of section 403.

The joint resolution language would take care of this possible ambiguity by removing the reference to section 502(a)(2) of the covenant.

Mr. President, this is a purely technical joint resolution in nature. It has been cleared with my ranking minority member on the subcommittee and also with the House chairman, and I ask for its consideration.

Mr. McCLURE. Mr. President, before submitting the resolution let me just confirm what the Senator from Louisiana has said. It has been cleared on this side of the aisle.

I add only one comment to continue what the Senator has said. He referred to a serious ambiguity. I think it would be more appropriate to say a possibly serious ambiguity.

Mr. JOHNSTON. That is correct.

Mr. McCLURE. Because it is not certain that it is and this simply is to remove that possibility that the original language was ambiguous.

I support the adoption of the resolution.

The PRESIDING OFFICER (Mr. MORGAN). The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, I ask for consideration of the resolution at this time.

The PRESIDING OFFICER. Is there

objection to the immediate consideration of the joint resolution?

There being no objection, the joint resolution (S.J. Res. 89) was considered, ordered to be engrossed for a third reading, was read the third time, and passed as follows:

S.J. RES. 89

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled That section 403 of an Act entitled "To authorize certain appropriations for the territories of the United States, to amend certain Acts relating thereto, and for other purposes" (enrolled bill H.R. 6550, 95th Cong., 1st Sess.), be amended to read:

"Section 403. Effective on the date when Section 502 of the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America, approved by joint resolution approved on March 24, 1976 (90 Stat. 263), goes into force those laws which are referred to in section 502(a)(1) of said Covenant, except for any laws administered by the Social Security Administration, except for medicaid which is now administered by the Health Care Financing Administration, and except the Micronesian Claims Act of 1971 (85 Stat. 96) shall be applicable to the territories of Guam and the Virgin Islands on the same terms and conditions as such laws are applied to the Northern Mariana Islands."

Sec. 2. This amendatory joint resolution shall be effective as of the approval of said Act entitled "To authorize certain appropriations for the territories of the United States, to amend certain Acts relating thereto, and for other purposes" (enrolled bill H.R. 6550, 95th Cong., 1st Sess.).

Mr. JOHNSTON. Mr. President, I thank my colleague for his indulgence at this time.

Mr. McCLURE. Mr. President, would it be helpful for the Senator from Louisiana if that action were reconsidered so that it could be immediately transmitted to the House?

Mr. JOHNSTON. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. McCLURE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

LEGAL SERVICES CORPORATION ACT AMENDMENTS OF 1977

The PRESIDING OFFICER. The clerk will state the unfinished business.

The second assistant legislative clerk read as follows:

A bill (S. 1303) to amend the Legal Services Corporation Act to provide authorization of appropriations for additional fiscal years, and for other purposes.

Mr. McCLURE. Mr. President.

The PRESIDING OFFICER. The Senator from Idaho is recognized.

UP AMENDMENT NO. 927

Mr. McCLURE. Mr. President, I have an amendment at the desk and I ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Idaho (Mr. McCLURE) proposes an unprinted amendment numbered 927.

Mr. McCLURE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 13, line 11, strike the period and all thereafter through line 13 and insert the following: ", such questions shall be referred to the corporation for review and disposition. This subparagraph shall not preclude judicial review of a decision of the corporation under this subparagraph."

Mr. McCLURE. Mr. President, this amendment seeks to clarify what I believe the committee intended to do in its language relating to the question of representation.

I will read very briefly from the——

Mr. NELSON. Mr. President, may I ask the Senator which amendment he is talking about?

Mr. McCLURE. This is the question of judicial review, which has been cleared on both sides of the aisle, I say to the Senator.

The bill on its face on page 13, in subsection (B) of section 6, beginning on line 7, is as follows:

"(B) No question of whether representation is authorized under this title, or the rules, regulations, or guidelines promulgated pursuant to this title, shall be considered in any proceeding in which a person is represented by a recipient or an employee of a recipient. Such questions may be referred to the Corporation for such disposition as the Corporation deems necessary.".

That is the language of the bill, and there are those who believe that language would provide that no judicial review of representation matters is possible.

However, on page 10 of the committee report, there is this explanatory language.

Mr. NELSON. Mr. President, may we have order so that we can hear the Senator from Idaho?

The PRESIDING OFFICER. The Senator from Wisconsin is correct. There will be order in the Senate. Will Members of the Senate retire to their seats? Will the Senator from Idaho be good enough to use his microphone?

Mr. McCLURE. I thank the Chair.

Mr. President, on page 10 of the report, this explanation of that language is contained:

Section 6(a) is thus declaratory of existing law as it has been enunciated by the courts. The Committee believes that repetitive litigation of this issue is a needless drain of federal funds provided for the representation of poor people, and wastes the time of already heavily burdened courts. This amendment has been included to discourage further frivolous litigation of the issue. This section provides that questions of whether representation is authorized may be referred to the Corporation for such disposition as it deems necessary.

And there follows a further explanation of the fact that it is not the intention of the committee to cut off the right of appeal following the administrative process within there, and the processes under the Administrative Procedures Act as it has gone through the local board to the corporation, and then it could be appealed to the court.

My amendment which I have offered simply seeks to make plain on the face of the statute what is very plain in the intention of the committee in the report.

I discussed this with both the Senator from Wisconsin and the Senator from New York (Mr. JAVITS). Both have agreed, and I think this will take care of that problem.

Mr. NELSON. Mr. President, the Senator from Idaho is correct in that the amendment he offers, in fact, codifies what is the practice, but which is not entirely clear in the language of the committee bill.

I am referring to the language of the Senator's amendment which reads:

Such questions shall be referred to the corporation for review and disposition. The provisions of this subparagraph shall not preclude judicial review of a decision of the Corporation under this subparagraph.

Mr. McCLURE. I say to the Senator from Wisconsin that, to further clarify the amendment, it does strike the last sentence in subparagraph (B) that appears on page 13 of the bill, lines 11, 12, and 13.

Mr. NELSON. That is correct. The amendment proposed by the Senator from Idaho has been reviewed by the ranking minority member of the committee (Mr. JAVITS) and by myself. We agree that it is an amendment that makes clear what has been the previous practice, but was not necessarily clear in the statute.

Mr. STAFFORD. Mr. President, if the Senator will yield, I will add for the record that our understanding is that which has been stated by the manager of the bill (Mr. NELSON).

Mr. NELSON. I am prepared to yield back the remainder of my time.

Mr. McCLURE. I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to unprinted amendment No. 927 of the Senator from Idaho.

The amendment was agreed to.

Mr. McCLURE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. NELSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. NELSON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. On whose time?

Mr. NELSON. To be equally divided on both sides on the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. ZORINSKY). Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, is there an amendment pending?

The PRESIDING OFFICER. There is no amendment pending.

UP AMENDMENT 928

(Purpose: Entitles a small business or individual who prevails in a civil action having assets or income below specified amounts to costs and award for attorneys fee with respect to Federal Agencies and litigation to which the United States is a party.)

Mr. DOMENICI. Mr. President, I send to the desk an unprinted amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from New Mexico (Mr. DOMENICI) proposes an unprinted amendment numbered 928.

Mr. DOMENICI. I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 20, line 1, insert the following new Section and renumber all subsequent sections accordingly:

SECTION 14

That to provide for equal access to courts in civil actions involving the Federal Government, and for other purposes,

This Section may be cited as the "Equal Access to Courts Act of 1977".

Section 14(a)(1) The Congress finds that serious inequities and inequalities exist between the Federal Government and certain individuals, partnerships, corporations, and labor and other organizations in terms of the relative ease with which each is able, without suffering extreme economic hardship, to prevail or to secure the vindication of its rights in civil actions and in administrative proceedings.

(2) It is the purpose of this Act to diminish such inequities and inequalities by providing for the payment by the United States of attorney fees, expert witness fees, and other costs in specified situations.

(B)(1) Section 2412 of title 28, United States Code, is amended to read as follows:

"§ 2412. Attorney and witness fees and costs

"(a) Except as otherwise provided in subsections (b) and (c) of this section and in section 2678 of this title, a judgment for costs, as provided in section 1920 of this title (but not including the fees and expenses of attorneys), may be awarded to the prevailing party in any civil action brought by or against the United States in any court having jurisdiction of such action.

"(b)(1) A judgment for costs, as provided in section 1920 of this title, for the reasonable expenses of any witness or expert witness, for the reasonable cost of any study, analysis, engineering report, test or project which the court finds necessary to the litigation of the action, and for reasonable attorney fees, based upon the actual time expended by any attorney of a party and his staff in advising and representing such party, such fees to be determined at the recipient's usual rate of compensation, but not to exceed the lower of the prevailing market rate or $90 per hour, shall be awarded to any party, other than the United States or any agency or official thereof, who prevails in any civil action, including an action for judicial review of agency action brought by or against the United States, or any agency or official thereof, in any court having jurisdiction of such action.

"(2) For purposes of this subsection, the term 'party' means (1) a small-business concern as defined in section 2 of the Small Business Act (15 U.S.C. 632), or (2) an individual, partnership, corporation, or labor or any other private organization having assets valued at less than $1,000,000 and annual receipts or income of less than $100,000 in each of the five years immediately preceding the filing of the civil action in question.

"(c) In any civil action, including an action for judicial review of agency action, instituted by or against the United States, or any agency or official thereof, in which a party other than the United States or any agency or official thereof—

"(1) prevails partially, such party shall be awarded a judgment for costs and fees, as provided in subsections (a) and (b), to the extent to which he prevails; or

"(2) does not prevail, such party may be awarded a judgment for costs and fees, as provided in subsections (a) and (b), in any case in which the court finds that such an award would be in the interests of justice.

"(d) Any amount awarded for costs or fees shall be in addition to the compensation, if any, awarded in any judgment.

"(e) Any judgment against the United States for costs or fees shall be paid as provided in sections 2414 and 2517 of this title.".

(B)(2) The table of sections of chapter 161 of title 28, United States Code, is amended by striking out the item relating to section 2412 and inserting in lieu thereof the following:

"2412. Attorney and witness fees and costs.".

(C) Subsection (a) of section 2517 of title 28, United States Code, is amended to read as follows:

"(a) Any final judgment, including any final judgment for costs and fees, which is rendered by the Court of Claims against the United States shall be paid out of any general appropriation therefor, on presentation to the General Accounting Office of a certification of such judgment, by the clerk and the chief judge of such court.".

(D) Section 2678 of title 28, United States Code, is amended to read as follows:

"(a) If any judgment is rendered, or if any settlement, award, compromise, or recommendation is made in favor of award, compromise, or recommendation is made in favor of any party other than the United States, after the United States or a Federal agency has received notice that such party has retained an attorney, including the name of such attorney, such party shall be awarded reasonable attorney fees, based upon the actual time expended by such attorney and his staff in advising and representing such party, such fees to be determined at the recipient's usual rate of compensation, but not to exceed the lower of the prevailing market rate or $90 per hour, and all costs (including witness fees, studies, analyses, engineering reports, tests, and projects) necessary to the litigation. In any case in which such party does not prevail or only prevails partially, the court may award such costs and fees as it finds, in its discretion, would be in the interests of justice.

"(b) Any amount awarded under this section for costs and fees shall be in addition to the compensation awarded in any judgment, settlement, award, compromise, or recommendation.

"(c) For purposes of this section, the term 'party' means (1) a small-business concern as defined in section 2 of the Small Business Act (15 U.S.C. 632), or (2) an individual, partnership, corporation, labor or any other private organization having assets valued at less than $1,000,000 and having annual receipts or income of less than $100,000 in each of the five years immediately preceding the filing of the civil action in question.".

(E)(1)(a) Subchapter I of chapter 5 of title 5, United States Code, is amended by adding at the end thereof the following new section:

"§ 504. Costs and fees of parties

"(a) A party (other than the United States or any agency or official thereof) shall be paid by any agency conducting an agency proceeding an award for costs and fees incurred by such party in order to participate in such proceeding, if such party—

"(1) is successful in defending against the imposition by such agency of any sanction; or

"(2) is successful, in any agency proceeding in which such agency is the moving party, in opposing the issuance of, or in proposing an amendment to, any agency order which would—

"(A) affect the freedom of such party;

"(B) withhold relief from such party;

"(C) impose a penalty or fine on such party;

"(D) require the destruction, taking, seizure, or withholding of property of such party;

"(E) assess damages, reimbursement, restitution, compensation, costs, charges, or fees against such party;

"(F) require, revoke, or suspend a license of such party; or

"(G) otherwise compel or restrict such party; or

"(3) appeals or seeks judicial review of any agency action and substantially prevails, or is subject to the agency action appealed or reviewed.

"(b) For the purpose of this section—

"(1) the definitions in section 551 of the title shall apply except as otherwise provided in paragraph (3);

"(2) 'award for costs and fees' shall include the reasonable expenses of any witness or expert witness, the reasonable cost of any study, analysis, engineering report, test, or project which the agency conducting any agency proceeding finds necessary to the resolution of such proceeding, and reasonable attorney or agent fees based upon the actual time expended by such attorney or agent and his staff in advising or representing any party, such fees to be determined at the recipient's usual rate of compensation, but not to exceed the lower of the prevailing market rate or $90 per hour; and

"(3) 'party' means a party as defined in section 551 of this title who is also (A) a small-business concern as defined in section 2 of the Small Business Act (15 U.S.C. 632), or (B) an individual, partnership, corporation, labor or any other private organization having assets valued at less than $1,000,000 and annual receipts or income of less than $100,000 in each of the five years immediately preceding the initiation of the agency proceeding in question.".

(2) The table of sections of subchapter I of chapter 5 of title 5, United States Code, is amended by adding at the end thereof the following:

"504. Costs and fees of parties.".

(F) The amendments made by this Act shall have no effect on or after the day which is three years after the date of enactment of this Act.

Mr. DOMENICI. Mr. President, I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. DOMENICI. Mr. President, this is an amendment which we provided an hour and a half for in the unanimous-consent order. I do not think I shall use over 10 or 15 minutes.

In addition, for the floor manager and the ranking Republican, this is the amendment that I have circulated. It is a rather lengthy amendment. Indeed, I acknowledge that it looks more like a bill than an amendment. But I want to say, in all honesty, that I do believe if there is any bill or any proceeding on the floor of the Senate that this bill is relevant to, it is the legal services bill. I shall say why.

We are, indeed, properly preoccupied, in the main bill on the floor, with providing some reasonable attorneys' services and fees to the very poor in our society, who cannot afford to and who are entitled to the notion that we hold so dear of equal justice under the law. They do not seem to be able to get that without some assistance.

My amendment recognizes that two things have happened in our country in the last 10 or 15 years that have provided another group of Americans with what I perceive to be basically an administrative and bureaucratic denial of equal justice. The reason that I say that is that, with the growth of agencies and regulations and agencies that can impose fines—and I do not want to use OSHA as the whipping boy all the time, but I would be less than candid if I did not say that the activities of OSHA versus small businessmen and individual sole proprietorships that are not rich, brought this bill, in terms of its concept, into focus for this Senator.

What I find in our country is that we have administrators who set up rules and regulations almost in a vacuum. Then we have field people who go out and enforce them and they act almost like dictators. They walk into a small business and say, "Here is a rulebook; you have violated this section, albeit technically, because you really do what it says, but technically have not filled out the right papers."

And they lay a little fine in front of that man, "$100, pay it."

The businessman or citizen says, "I thought this was America; I want to fight you. I think you are wrong."

He will find, if he calls up his lawyer, that his lawyer will tell him, "Well you had better pay the $100 because to hire me will cost you $500 to go to court."

Right at the beginning, let me say unequivocally that this bill will pay that small businessman that has to do that reasonable attorneys' fees when he fights his Federal Government and its agencies and wins in civil and quasi-civil actions. It will also pay the average citizen who is confronted with a regulation or who has set regulations that end up affecting something they are entitled to and they have to go to court to win it. Or they get sued and they end up beating the Government. This will provide them reasonable attorneys' fees and compensation for witnesses, court costs, and the like.

My second reason for this is kind of founded on and comes into focus out of frustration. First of all, it appears to me that we are not going to change, in this country, the imbalance of overregulation and arbitrary regulatory processes. They are moving full speed ahead, whether it is IRS, OSHA, or EPA. That process of agencies of the Federal Government setting their sights on regulating and administering is going full steam ahead. I consider that concept in this bill to say that, since we really cannot seem to put any stop to that, and since it is running so fast, I want to put something in its way. What I want to put in its way is a more ready average American to stand in its way and fight. The way to fight is to hire professionals to represent you to fight that arbitrary regulatory steamroller.

So I am quick to admit that, while it is a bill intended to recompense the average American and the small businessman for legal fees, it is also a bill which will begin to put some skids under arbitrary regulation and rulemaking, because, if they get confronted enough, if they get in litigation enough with the average citizen—not the big corporations; they are already fighting them, but the average citizen—fight them enough, win a few lawsuits, get a few administrative decisions rendered on their side, and find that they have to be concerned about the impact on the average American, maybe it will slow the process.

I am not terribly concerned if it ends up costing a few million dollars. In fact, in circulating this amendment, there was a great deal of enthusiasm and some said I should put another clause in it to say that any agency that is the loser to this citizen will take these attorneys' fees out of their budget. I almost put that in there, but I want the Senate to know that it is not. It will have to be paid for out of general appropriations.

But the Senators who suggested the latter said that would be even more of a deterrent, because if OSHA found themselves paying $2 million in attorneys' fees because they got beaten for some of their fines that are unreasonable, or their rules that are out of line, or if EPA got the same, or any of the other myriad Federal agencies, maybe they would begin to look at their fieldmen and say, "Hey, you are costing us money by doing things that the courts end up saying you are wrong on." I admit that might be more of a deterrent, but in this case, I shall settle for the general kind of funding such as that provided for our poor in this legal services bill. But in this case, I say, provide it to the taxpayer, the average American that is burdened, so he will really be made whole when he has to fight with his Government and wins. Then, admittedly, I want to build a little enthusiasm in the average American to fight some bureaucracy without figuring that, if they win, they lose. Because, at least, in this instance, if they win, they will get their attorney's fees and costs and professional witnesses and witness' fees paid for by that very Government that they thought started out benevolent in these laws, with high-sounding goals that end up, rather frequently, on the opposite side of that, harassing and bothering the average American for no good.

Mr. President, the bill is rather detailed. When I talked to Senators about it in its present form there was a genuine concern that we certainly do not need to assist major corporations with attorney's fees. They have them on their staff. They fight now for their causes. So I wanted Senators to know that this amendment is identical with my bill, S. 1001.

Any American is entitled to it, but in the field of business they would have to be a small business as defined by the small business laws of this country in order to be entitled to the reimbursement provided herein.

I want to make it clear that that kind of American, or American small business, first must win in court, or win before an administrative tribunal, and must have incurred outside expenses. Then we would insist that the judge not give the attorneys what they want, but, rather, what is reasonable in that particular area of the country for the services rendered.

So the theory of this is that the justice which is implicit in our judicial system is that litigation is an adversary process and that is the way we resolve disputes, as an adversary, one available to all.

I am firmly convinced that it is not available to all because they cannot afford to fight, so they give in. When they give in, the vigor and strength of arbitrariness grows larger and stronger. This bill would begin to stop that.

Mr. President, when I introduced this bill, Senator THURMOND, Senator MCCLURE, Senator LUGAR, Senator DOLE, Senator GOLDWATER, Senator STEVENS, Senator YOUNG, Senator GARN, and Senator BELLMON were on it. I have not had a chance to contact them with reference to the amendment, but I would say, so they will know, it is the identical bill drawn in amendment form to that Senate bill 1001.

Mr. President, I reserve the remainder of my time.

Mr. NELSON. Mr. President, I yield 5 minutes to the Senator from Arizona (Mr. DECONCINI).

The PRESIDING OFFICER. The Senator from Arizona.

Mr. DECONCINI. Mr. President, I ask unanimous consent, first of all, that Romano Romani and Robert Feidler of my staff be granted privilege of the floor during debate and voting on this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DECONCINI. Mr. President, I would like to address a question to the distinguished Senator from New Mexico.

Is this amendment the same bill that is now S. 1001?

Mr. DOMENICI. Yes, it is.

Mr. DECONCINI. I would like to state for the record that this bill is presently assigned to the Judiciary Committee, and assigned to the subcommittee of which I am chairman, and due to the bank-

ruptcy and omnibus judge bill, the magistrates bill, and several others, we have not had an opportunity to hold hearings on this bill.

I am very interested in the subject matter, and I believe that there is merit here, but I have some reservations as to the Senator's amendment.

It is a bill of vast importance and would cause a decisive change.

I am not sure that we should tack this on to the legal services bill at this time. I would hope the Senator from New Mexico might be inclined to put together his case and arguments and I would guarantee substantial hearings on this bill the first of next year.

I really believe there may be merit for this sort of thing for small business and, certainly, where there is harassment. We have all seen that, particularly in the area of the Internal Revenue, not only as to small business, but sometimes as to big business and, certainly, as to individuals.

My reluctance today is to tack this on and have it made part of the law without proper hearings and going as far as it should go.

I understand that S. 1001 does not take in the fact of harassment on individuals and I believe that may be a proper allocation of this particular idea.

My question then to the distinguished Senator from New Mexico is, Is it absolutely necessary that he proceed today with this amendment on this particular bill?

As I said, I would give assurance of holding hearings, and I would welcome working on a bill because I believe that this is the right direction to go. I hate to see it done in this manner, however.

Mr. DOMENICI. Let me say first to my good friend from Arizona, incidentally, that I do not know what we are going to do. I hope I conduct myself well for the Senator's constituents because about every other day I am accused of being the Senator, or he is accused of being me.

Mr. DECONCINI. It is a compliment on this side, I can assure the Senator.

We Italians all look alike, they say.

Mr. DOMENICI. I am not complaining. It is just that sometimes they ask me why I have supported something and I did not support it. I find out they are talking about the other similar Senator with the similar name.

I say, first of all, to the Senator from Arizona, this may be a radical change in the adversary system in our court of citizens versus Government in terms of court costs and attorney fees.

I said before the Senator arrived that actually this bill is born out of frustration, to some extent, from my standpoint.

I am heartened to hear the Senator say he will have hearings. I do honestly hope, even if we vote here today, and even if I was to win that vote, I think the bill has a long way to go from becoming law.

I think the Senator and I both know that. But I hope the Senator is serious about hearings.

I would say that my research indicates that there are about 50 Federal statutes on the books now of various types, which were adopted kind of piecemeal and willy-nilly, that provide for attorney's fees for citizens of the United States when they are involved in litigation with the United States.

I am sure the Senator is aware of those. But the problem is that every time we run into the worst kind of cases, they are not covered.

I also say to the good Senator, since he is genuinely interested in this field, if we do not do something, start looking at the decisions of Federal judges where they are making the decisions for us. They are getting fed up to about here. They are finding implied in the statutes that some citizens have had to go through court, 6 or 8 months, and that judge finds that a Federal agent really should not have been in the court at all.

They are bending the law, and finding harassment, or something else, and allowing attorney's fees.

Mr. DECONCINI. Will the Senator yield?

Mr. DOMENICI. Indeed.

Mr. DECONCINI. It seems to me what the Senator says is correct. I am aware of the practice of law, of representing some people——

The PRESIDING OFFICER. The 5 minutes yielded to the Senator from Arizona have expired.

Mr. NELSON. I yield the Senator 2 more minutes.

Mr. DECONCINI. It seems to me that the best way to approach this legislatively is to hold hearings. I intend to hold hearings, regardless of the vote today, but I would welcome not having to decide that on the floor this afternoon.

I think it necessitates indepth hearings, and I will do that regardless of what happens today. I can assure the Senator of that, and he will be invited to testify.

It does not seem to me to be the best way to approach the problem today by trying to get a vote on whether or not to enact S. 1001, which is the legislative act which has been assigned properly, through the proper processes.

Mr. DOMENICI. I ask this question of the Senator from Arizona, and I also address this to Senator NELSON: I have been caught in this before, where it is said that we will have hearings, and I do not doubt the intentions of the Senator from Arizona. But, specifically, what if we got before the Senator's committee and—let us pick out an agency, the Occupational Safety and Health Act—said that at least attorneys' fees should be provided for people who have to fight that agency and end up winners.

Will the Senator's committee have jurisdiction over that? Or will we come to the floor and hear that it belongs to another committee, the one that has jurisdiction over OSHA? That is the traditional way to get caught in the middle.

Mr. DECONCINI. All I know is this: S. 1001 has been assigned to the Judiciary Committee. So far as the jurisdiction that the Senator is talking about is concerned with respect to this amendment, yes, my subcommittee will have jurisdiction.

As to the other areas that the Senator has made reference to and that I have made reference to, it may be assigned to another place if another bill has been introduced—and it may have been.

This just talks about small businesses with a certain dollar amount and the court being able to award attorneys' fees, which is acceptable to me, except that I would like to hold hearings and know more about it.

The PRESIDING OFFICER. The additional 2 minutes of the Senator have expired.

Mr. KENNEDY. Mr. President, will the Senator yield?

Mr. NELSON. I yield the Senator 3 minutes.

Mr. KENNEDY. Mr. President, I welcome the statement of my colleague and friend from Arizona about the importance of giving this careful consideration in his Judiciary Subcommittee.

Of course, the interest in awarding attorneys' fees is a welcome development to me, when we have seen this body demonstrate considerable reluctance with respect to permitting discretionary attorneys' fees in regulatory proceedings in order to protect citizens' interests therein. We have also faced considerable difficulty over a long period of time in authorizing attorneys' fees in certain cases involving civil rights.

I think it is very important to understand the potential consequences of this particular amendment. I am very concerned about the chilling effect such legislation could have on all suits brought by the Government.

Mr. DOMENICI. Mr. President, will the Senator yield?

Mr. KENNEDY. I should like to finish the thought.

This amendment has very broad implications.

It could discourage, for example, the Food and Drug Administration from trying to protect the health of the American people in the areas of the safety and efficacy of drugs, in medical devices, and a wide variety of issues. I am also concerned about whether this could hamper the efforts of the Justice Department to prosecute antitrust suits against major conglomerates. If we are to say that each time they fail there is automatically going to be compensation, then I think we are moving one of the basic standards of our judicial process in a direction which could have some extremely serious ramifications.

I strongly support awards of attorneys' fees in a wide variety of circumstances. I, too, question the wisdom of the traditional "American rule" against such awards, and—like the Senator from New Mexico—I am concerned about the special problems small business people face in defending themselves against what they feel is harassment by the Government.

Nonetheless, I do not believe we either can or should lightly adopt so broad a legislative proposal on the floor of the Senate this afternoon. Not only are the potential problems which could be

created—not to mention the overall costs to the Government—only dimly understood, but the amendment is not even germane to the legislation now under consideration.

To conclude, Mr. President, I think the offer of the Senator from Arizona to consider this amendment is the approach we should take. I believe the proposal deserves the kind of thoughtful consideration that I know he will give it, and that the other members of his committee will give it. I believe it will be unwise and perhaps dangerous for us to accept this amendment at this time.

Mr. DOMENICI. Mr. President, will the Senator yield?

The PRESIDING OFFICER. The 3 minutes of the Senator have expired.

Mr. KENNEDY. I yield.

Mr. DOMENICI. I understand why the Senator from Massachusetts raises the question of monopoly and antitrust, because I did not present this amendment to him, and he probably is referring to S. 2718—about 18 months ago or 2 years ago. I say to the Senator from Massachusetts that this is completely different.

The section as to who is entitled to recompense is defined by the small business definition, and I think, almost presumptively, it would not apply to any of the big companies in this country to which the Senator refers. I am sure it does not apply to any of the monster companies, because it is $100,000 a year maximum profit for any company.

However, I agree with the Senator that perhaps before the Federal Food and Drug Administration, there may be some small companies this might benefit. I did not want the Senator to think it was the same bill that was introduced a long time ago, because we fixed that up after we discussed it with a number of Senators.

Mr. KENNEDY. I am familiar with what the Senator is proposing. He introduced it last March as S. 1001. I still believe, however, that this whole issue requires a great deal more study. As of now, it has received none.

There are some very basic and fundamental concepts of jurisprudence involved in enforcing the statutes of this country by private right of action. We are all looking for ways and means by which we can relieve the pressures on smaller industries and businesses in this country so that they can compete more effectively, but that is not the whole issue. The amendment makes no distinction, for example, between whether a small business is the plaintiff or defendant in a particular action. Yet this is a very critical distinction, as the standards by which fee awards are to be judged are considerably different in each situation, and for sound policy reasons.

I appreciate the comments of the Senator from New Mexico, but I continue to believe his amendment is inappropriate at this time.

Mr. STAFFORD. Mr. President, will the manager of the bill yield to me?

Mr. NELSON. I yield the Senator 3 minutes.

Mr. STAFFORD. Mr. President, I hope the distinguished Senator from New Mexico will accept the offer in good faith of the distinguished Senator from Arizona to move the proposed amendment to that committee for hearings.

In the Committee on Human Resources, as the Senator from New Mexico knows, we do not have jurisdiction over this amendment and what it proposes to do. In consequence, in our committee there have been no hearings on the matter. So I think it would be appropriate and in the properly processes of the Senate for the matter to go to the Committee on the Judiciary for appropriate hearings and not for us to take this hasty action here.

I say that to my good friend while I assure him that, personally, I am in sympathy with what he proposes to do. I believe that providing small business with attorneys' fees where a small businessman prevails against the bureaucracy of our Government is appropriate. I simply urge him, in the interest of the orderly process of legislating in the Senate, to take this offer, withdraw the amendment and the vote, and let it go to hearings this winter.

Mr. McCLURE. Mr. President, I take this time just very briefly to associate myself with the remarks of the Senator from New Mexico and to thank him for introducing this amendment at this time on this bill. I agree with him that there is reason to consider this approach to the problems of the average citizen of this country as we also consider the problem of adequate legal representation for those people who cannot afford to pay for it at all.

This is legislation which I have sponsored. I cosponsored this original bill with the Senator from New Mexico. I have sponsored similar legislation in years past. We are going to pass this kind of legislation sooner or later. It has been suggested it be withdrawn and it will be subjected to hearings. We have had hearings in the past. There is no question about the need for it. There is no question about the justice of it. There is absolutely no question of the growing problem that confronts the average taxpayer, the average citizen, and the average small businessman in this country.

Years ago we took a look at the terrific economic imbalance between an individual citizen and an insurance company, and most States have enacted statutes that say in the event the insurance company is found wrong the insurance claimant will have his attorney fees paid because it was felt by most legislatures that the economic disparity between the insurance company and the claimant was so great that substantial justice was denied the claimant unless the insurance company had to bear the risk of paying the attorney fees in the event the claimant prevailed.

Mr. President, if we can make that finding that the economic disparity between an insurance company and claimant is great enough to justify this kind of a provision, how can we possibly argue that there is not an economic disparity between the Federal Government and an individual citizen that justifies the same kind of action?

So I commend my colleague from New Mexico for the leadership that he has shown in this action. I associate myself with the need for the legislation and I will say again whether it is passed today, withdrawn for hearings, subjected to hearings in the future, whatever may happen negatively about it today, or in the course of this legislation, this kind of legislation will be passed. I think it should be passed.

For me, I am ready to see that it is passed today.

I thank the Senator from New Mexico for yielding.

Mr. DOMENICI. Does the Senator from Wyoming desire to comment at this point?

Mr. WALLOP. I do.

Mr. DOMENICI. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 13 minutes remaining.

Mr. DOMENICI. I yield 5 minutes to the Senator from Wyoming.

Mr. WALLOP. I thank my friend from New Mexico.

I want to associate myself with not only his remarks but those of the Senator from Idaho.

One of the things, having been in small business myself, that I find most critical about the idea expressed in this amendment is that so very often the agencies of the U.S. Government take on a small businessman for a couple of reasons. One reason is that it is more likely to result in a case that is acceded to simply because the small businessman cannot afford, as Bristol-Myers can, a bank of 50 lawyers to take on the Federal Government. First, the Federal Government is more likely to take a small businessman on in the first place. Second, the small businessman faced with a moderate fine of, say, $500 or $1,000 or $1,500 is more likely to say that he does not have the money to defend himself in court against the power of the U.S. Government that can take him on ad infinitum to the Supreme Court while he sits and tries to find some kind of reasonable financial basis to justify taking on this claim.

In most instances he cannot. So he loses in both directions. He loses because he has acceded to it, and he loses because he did not challenge it. And having failed to challenge it, it becomes standard practice of the administrative agencies to use this as a theory on which to base other attacks on the small business community of the country.

It is absolutely no small wonder in my mind why the major corporations of this country are the heaviest contributors to the Democratic Party because specifically they are relying on this liberal Congress to destroy their competition by simply making it impossible for small business to exist. The regulatory agencies attack, attack, and attack the small and rarely do we ever see them attack the big, and the big can resist, the big can absorb, and the big can find itself elbow room to finagle around and

keep the Government in contest up through and including the Supreme Court, while the small businessmen either capitulate halfway through because they no longer have the resources to go or capitulate, in the first place, simply because they know they are fighting the entire U.S. Government and there is no darn point in taking another step forward. They have lost before they start. I have seen it with OSHA. I have seen small businessmen, faced with $100 fines that they know certainly to be outside the concept of Congress, to be outside the whole justification of the Occupational Safety and Health Act, capitulate because it is not worth taking them on for $100 fines.

So, gradually the cost, the ability to be a small businessman in this country, and the risk to do battle with your Government increases daily, and gradually one by one the small businesses of this country are going under and the business climate revolves around those who are big. When we lose a small drugstore in our part of the world we find that we have a K-Mart or a Gibson store come in with a pharmacy in the store. Every time we have a small businessman pushed to the wall by the Government and the regulatory agencies of the country the next thing we find is the big corporation sliding in that absorbs not only his business but brings with it competitive actions to other existing small businesses in the small towns.

Now, there is statutory case law that supports this. I would just like to quote some of it. In the Alyeska Pipeline Service Co. against the Wilderness Society, decided by the Supreme Court in 1975, the Court held:

> In the United States the prevailing litigant is ordinarily not entitled to collect reasonable attorney's fees from the loser. In the case of civil actions brought by or against the United States or any agency or official of the United States, acting in his official capacity, this rule is statutory and is subject to statutory exceptions only.

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

Mr. WALLOP. Mr. President, may I have 1 more minute?

Mr. DOMENICI. I yield 1 more minute.

Mr. WALLOP. Mr. President, I think this amendment is a needed addition to the bill.

I think if we are, in fact, true to our desire to look to the middle class and the small businesses of this country as the great taxpayers, then they are entitled to some of the same privileges we give to the poor and provide to the rich.

I commend my friend from New Mexico. I hope very sincerely his amendment passes, and I am proud to be associated with it.

Mr. DOMENICI. I thank the Senator from Wyoming.

I will be brief. I first want to say to my good friend from Arizona that I appreciate his assurances. I am going to insist on a vote today, and probably there will be a motion to table it, so that will be the issue instead of the vote.

However, I want you to know that your assurance is very much appreciated, and I do believe from what you have heard today, and knowing of your general feelings, and when the whole record is read, that your interest in holding some genuine hearings to find out whether or not my position that there presently is an imbalance on the side of the Federal Government and its agents and regulators versus the average American and small business, I think when you begin to look into that, you will find there is, and you will find it exists most predominantly and most vividly in the area of arbitrary rules, regulations, fines, and actions, and that one way to redress it is to encourage the average citizen to fight, and one way to do that is to assure that he will get reasonable attorney's fees and costs if he does it.

Having said that, I want to say I think Senator KENNEDY makes a point—I do not think the point is well taken with reference to big business because they are not covered here—he makes the point that maybe we are taking a bit of a chance in this bill in not knowing quite to what extent we will be reimbursing and causing people to litigate Federal agencies.

When I introduced it, I knew we were. I take the chance on the side of trying to balance the imbalance that I see growing by leaps and bounds in favor of arbitrary bureaucracy against a citizenry that has to give in not only as to the fines but also as to the attitude of more and more "We got by it last time, why shouldn't we again?" That has to be in some way moved back to some more moderate position.

I really believe litigation by a citizen and by a small businessman who says, "I do not have to risk all my money to do it," is apt to balance that if they have to go fight for it a little more.

Mr. President, today I am proposing an amendment which will grant to successful litigants in civil cases and certain agency proceedings against the Federal Government the right to an award of legal fees and other related expenses.

With several important changes, the bill is similar in concept to S. 2871 which was introduced in the last session. Subsequent to the introduction of S. 2871 last year, I solicited the views of the attorneys and others in New Mexico as to the need for this type of legislation. The response to my survey far exceeded my expectations in both the quality and quantity of the replies. Greater than 90 percent of those responding supported the concept of providing attorney's fees and related costs to private parties prevailing against the Federal Government.

Many of the reasons given for supporting this concept were based on the personal experience of attorneys whose clients have endured the unfortunate experience of having been "worn out" by inexhaustible Government resources in both administrative and judicial proceedings. Other responses reflected concern that the judicial system is losing its capacity to act as a balancing factor against arbitrary or capricious Government action because many private parties view litigation and other proceedings against the Government as being prohibitively expensive even though these proceedings have a direct and substantial impact on the economic interest of the parties.

A small percentage of those responding expressed opposition to several of the provisions of S. 2871. One major criticism was the inclusion in the bill of criminal proceedings. A number of those responding expressed the view that existing procedures more than adequately safeguard the rights of a criminal defendant unable to provide for his own defense. Irrespective of whether the facts completely support this view, it is my view that the civil and criminal provisions represent a logical distinction and can be separated. Accordingly, I have not included coverage of criminal cases in the amendment I introduce today.

Another criticism was that S. 2781 did not distinguish between private parties who are put at a clear financial or resource disadvantage in a judicial or administrative dispute with the Federal Government and those private parties who are not. Clearly some parties such as giant corporations and the very wealthy are capable of adequately protecting their interests and are not, therefore, put in a position of "caving in" when faced with litigating against the Government.

For this reason I have added a limitation on those parties who would be permitted to recover under this proposed legislation. No party other than a party qualifying as a small business or with assets valued at less than $1 million and annual receipts or income of less than $100,000 in each of the 5 years preceding the initiation of the litigation or proceeding would be permitted to recover. I would ask that the hearings on this amendment particularly focus on these specific provisions.

Further, I have added specific limitations on the rates of the attorneys' fees that would be recoverable under the bill.

Lastly, I propose to initiate this compensation program for a 3-year trial period.

Mr. President, I am convinced that this legislation is necessary in order to combat the growing tendency of escalating legal and related costs deterrring Americans from enforcing and defending their legal rights against the Federal Government. The basic problem this amendment seeks to overcome is the inability of many Americans to combat the vast resources of the Government. The Government employs thousands of lawyers assigned to enforce and defend the often lengthy and sometimes arbitrary regulations and rulings of the hundreds of Federal departments and agencies. The volumes of the annotated laws of the United States take up dozens of shelves and the rules and regulations promulgated pursuant thereto number in the hundreds of thousands. Unfortunately, these vast numbers of rules and regulations are too often subject to arbitrary interpretation and application by the Federal functionaries who are now

vested with very broad discretionary powers.

As a result, there are a few elements of life, commercial or otherwise, where the Federal Government does not—at least potentially—have some role to play, a role which often leads the regulator to take the regulated to the court on issues whose merits are highly questionable.

Concurrent with the growth of Government, there has grown up a feeling of helplessness among a large portion of the population. Many people, particularly those small businesses and organizations and individuals who are not particularly wealthy, do not know how to cope with an institution such as the U.S. Government, the size and complexity of which is so great that, literally, no one can come to terms with it.

The consequences of such a dilemma are that in the usual case, an aggrieved party has to weigh the high cost of litigation or agency proceeding against the value of the rights to be protected. In far too many cases, a party will knuckle under to a Federal order he knows to be wrong because he cannot afford the cost of taking the matter to court, or challenging an administrative action. In the case of these private parties, it is often only the most wealthy who can afford to challenge the Government.

This problem is exacerbated by the fact that the income and assets of the private litigant or defendant are generally extremely limited and, therefore, can be subject to a war of attrition on the part of a determined Federal bureaucracy. Justice for the citizen requires that the cost of securing justice not outweigh the value of the right asserted by the citizen against the Government. It is important, also, that the expense of correcting error on the part of the Government—a task which could have wide-ranging beneficial implications for other Americans—not rest wholly on the party whose willingness to go to court has helped define the limits of Federal authority.

Because of the cost of court litigation and agency proceedings, many issues of great importance—of importance in defining the relative rights of government and governed in a free society—are never tested. Surely, if society has a sufficient interest in an issue to channel thousands of dollars into the Government's case, it has an equal interest in insuring that the case is decided pursuant to a fair presentation of the issues to the court or to the administrative agency responsible for the interpretation of the regulation.

Subject to the restrictions mentioned earlier, my proposal for awarding legal fees and costs in civil actions applies to all actions in which the United States or an agency or official is a party, including tort claims and judicial reviews of agency actions. Awards of fees and costs are required to be made by courts in favor of parties prevailing over the Government in actions instituted or defended by the Government. If the private party prevails partially, he must be awarded an amount for fees and costs incurred by him in the action commensurate with his success. In cases in which the private party fails, he may be awarded fees and costs when it is in the interest of justice.

What I propose is hardly a radical concept. Today we find over 50 Federal statutes which provide for the awards of attorney's fees and related costs in specific situations. As recently as in the closing days of the last session, the Congress passed and the President subequently signed into law the Civil Rights Attorney's Fees Award Act, which permits compensation in civil actions against the United States in certain civil rights and internal revenue cases. What I propose is to eliminate the distinction between those cases which now have the benefit of specific legislation and those which do not by providing general legislative coverage for all civil cases against the Government.

The awarding of legal fees to successful private litigants should not in any way deter Government attorneys from pursuing meritorious claims. Similarly, it can hardly be regarded as an incentive to spurious litigation, as the nonprevailing party will be awarded legal fees only when the interests of justice manifestly dictate.

What it will do is to deter the governmental tendency to dispute meritorious claims in the expectation of outlasting an adversary. This is a practice which must be discouraged.

Hearings on this bill may show that improvements may be made in the details and limitations of my bill; however, I am without a doubt that they will find that this amendment represents badly needed legislation and deserves prompt attention of the new Congress. I believe it is bipartisan in nature and I find that it should receive enthusiastic support of those of widely varying political philosophies.

Mr. NELSON. Mr. President, how much time remains on the amendment.

The PRESIDING OFFICER. The Senator from Wisconsin has 17 minutes; the Senator from New Mexico has 5.

Mr. NELSON. Mr. President, I am reluctant to be placed in the position of having to oppose the amendment of the distinguished Senator from New Mexico while, at the same time, I agree with almost everything that was said by the Senator from New Mexico, the Senator from Wyoming, and the Senator from Idaho.

As chairman of the Small Business Committee, I am well aware of the compelling points made by the Senator from New Mexico and the Senator from Wyoming, and I am in agreement with them.

However, this is a major piece of legislation which is not within the jurisdiction of the Committee on Human Resources, and I think everybody is aware that even if the amendment were adopted, the House would refuse to accept it as nongermane; and, if it were not on that particular ground, they would refuse to accept it in any event in conference on this bill.

I realize the Senator from New Mexico is well aware of that, and that he desires, at least as one aspect of having introduced it, to give some visibility to an issue that is very important.

I have not seen the amendment until today, and I have not been able to read it all the way through. I happen to agree with the objectives sought. It is an incredibly complicated business, however, to design a piece of legislation in which you would treat a small businessman or even a big businessman, equitably.

Although, as was pointed out by the Senator from Wyoming and the Senator from New Mexico, at least corporate giants are financially in a situation to be able to match the legal abilities of the Justice Department or the regulatory conduct of any of the Federal agencies, and do very well on their own.

I am aware, too, that there are all kinds of harassment of individuals and of businesses. Sometimes the harassment is because of the ignorance of an individual within an agency or because of the person running the agency; sometimes it is capricious conduct by the Federal employee or agency; sometimes it is arbitrary conduct; and sometimes it is based on misguided good intent. Nonetheless, the result is all the same to the individual who is harassed by the Federal Government.

I was pleased to hear that the Senator from Arizona (Mr. DECONCINI) would, in fact, be conducting hearings on this legislation. I would hope he has the wisdom to do something in marking up the bill that none of the rest of us has been able in the past successfully to do.

I must say, however, to the distinguished Senator from Wyoming (Mr. WALLOP) that I was astonished to hear that the big corporate giants of America contribute to the Democratic Party for the devious purpose of keeping the Democrats in office so that they can establish all kinds of Federal regulations to destroy small business, who are their competitors.

I was astonished to discover that our corporate giants are capable of such a labyrinthian exercise in, as Adlai Stevenson once said, disingenuous dissembling. But if that is what they are doing, I commend them for being more clever than I thought they were. I was not aware that they contributed—at least in my State—to the Democrats, or at least to this one. But I am going to call to the attention of the corporate leaders of Wisconsin to what the Senator said, and tell them that if they are going to be honest with what the rest of the corporations of this country are doing in accomplishing their devious purpose, they ought to look more carefully at my next campaign. [Laughter.]

Machiavelli himself would be proud of these corporations, if what the Senator from Wyoming says is true.

Mr. President, the Human Resources Committee does not have jurisdiction over the amendment pending before the Senate. It is nongermane, and it will not be accepted by the House of Representatives. Though I agree with the concept,

I will be compelled to move to table the pending amendment once all time is yielded back.

Mr. WALLOP. Mr. President, will the Senator yield for a question?

Mr. NELSON. Well, knowing how verbose the Senator from Wyoming is, would he mind sending it over in writing and allowing me to see it first?

What is the Senator's question?

Mr. WALLOP. I assure the Senator from Wisconsin he does not have to answer, but can he tell me for what other reason about 65 percent of the corporate donations went to the majority party, rather than for reasons of policy?

Mr. NELSON. Well, I did not know the percentage, but I assume the reason why they do so is that they have finally recognized, all these years after Roosevelt saved the free enterprise system, that the most intelligent defender of American business is the Democratic Party.

Mr. WALLOP. I am not able to agree with the Senator's conclusions as to the reason, but the figures speak for themselves.

Mr. DOMENICI. Mr. President, will the Senator from Wyoming yield?

Mr. NELSON. I yield.

Mr. DOMENICI. How did this argument get involved with my amendment? I mean, could we not put it in the RECORD after we vote on this amendment, so that we would not be confused in terms of what we are doing here?

Mr. NELSON. I think it is appropriately placed in the RECORD, based upon the dialog that has occurred.

Mr. President, I am prepared to yield back the remainder of our time.

Mr. DOMENICI. Mr. President, I want to use 1 minute to say once again to the Senator from Arizona that I appreciate his comments today, and to my good friend the Senator from Wisconsin (Mr. NELSON), the floor manager, that I understand his position, and he does not know how much I appreciate his kind remarks about the concept of the proposal, and the encouragement that his remarks will lend as this kind of concept finds its way through Congress, as of course it will, and assuredly we will redress some of these matters; if not by a generic-type reimbursement bill, we will find the pressure so severe we will do it piecemeal among the large agencies that are causing so much concern among so many of our citizens.

Having said that, I yield back the remainder of my time.

Mr. NELSON. Mr. President, let me say that I certainly do endorse the concept, and I hope we can develop some legislation that will help so many individuals and small businesses in a confrontation with their Government, and when in fact on so many occasions the Government is wrong and the individual or the small businessman is correct.

Mr. President, I move that the amendment be laid on the table.

Mr. DOMENICI. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

Mr. DOMENICI. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, I ask for the yeas and nays on the motion to lay on the table.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. NELSON. Mr. President, as I understand it, there has been a motion to table and the yeas and nays have been ordered on the pending amendment?

The PRESIDING OFFICER. The Senator is correct.

Mr. NELSON. And the pending amendment is the amendment by the Senator from New Mexico (Mr. DOMENICI)?

The PRESIDING OFFICER. The Senator is correct.

The question is on agreeing to the motion to lay on the table the amendment of the Senator from New Mexico. The yeas and nays have been ordered. The clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Minnesota (Mr. ANDERSON), the Senator from Minnesota (Mr. HUMPHREY), and the Senator from Arkansas (Mr. MCCLELLAN) are necessarily absent.

I also announce that the Senator from New York (Mr. MOYNIHAN) is absent because of illness.

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER), the Senator from California (Mr. HAYAKAWA), the Senator from South Carolina (Mr. THURMOND), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

I further announce that, if present and voting, the Senator from South Carolina (Mr. THURMOND) would vote "nay."

The result was announced—yeas 36, nays 55, as follows:

[Rollcall Vote No. 559 Leg.]

YEAS—36

Bayh	Inouye	Percy
Brooke	Jackson	Proxmire
Cannon	Javits	Ribicoff
Clark	Kennedy	Riegle
Cranston	Long	Sarbanes
Culver	Magnuson	Scott
Eastland	Mathias	Sparkman
Glenn	McGovern	Stafford
Hart	McIntyre	Stevenson
Haskell	Metzenbaum	Stone
Hathaway	Nelson	Weicker
Hollings	Pell	Williams

NAYS—55

Allen	Byrd, Harry F., Jr.	Danforth
Baker	Byrd, Robert C.	DeConcini
Bartlett	Case	Dole
Bellmon	Chafee	Domenici
Bentsen	Chiles	Durkin
Biden	Church	Eagleton
Bumpers	Curtis	Ford
Burdick	Gravel	Garn
Griffin	Lugar	Roth
Hansen	Matsunaga	Sasser
Hatch	McClure	Schmitt
Hatfield	Melcher	Schweiker
Heinz	Metcalf	Stennis
Helms	Morgan	Stevens
Huddleston	Muskie	Talmadge
Johnston	Nunn	Tower
Laxalt	Packwood	Wallop
Leahy	Pearson	Zorinsky
	Randolph	

NOT VOTING—9

Abourezk	Hayakawa	Moynihan
Anderson	Humphrey	Thurmond
Goldwater	McClellan	Young

So the motion to lay on the table unprinted amendment numbered 928 was rejected.

Mr. DOMENICI. Mr. President, I move to reconsider the vote by which the motion was rejected.

Mr. BARTLETT. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOMENICI. Mr. President, I ask the floor managers if they would be willing to accept the amendment, now that the vote clearly indicates that I probably would win. In that case, I would ask unanimous consent that the order for the yeas and nays be rescinded.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. DOMENICI. I yield.

Mr. JAVITS. I hope the Senate will understand that it is not that Senator NELSON and I were against the amendment of the Senator from New Mexico that this whole discussion and result took place. Our situation is that this is not in the House bill, that under their unique rules of germaneness, we do not have a prayer with it. But we will take it and we will try with it. I am only giving the Senator the factual situation.

What this vote does demonstrate, which is what I gather the Senator from New Mexico desired to demonstrate, is that he has a very viable proposition which deeply interests the Senate, which can be fashioned and now put into a bill where it can actually follow through with the other body and become law.

In that sense, I am more than happy to take it. I thoroughly sympathize with it and will help to fashion it into what we can actually accomplish as a statutory proposition.

So I am entirely agreeable to a motion to vacate the order for the yeas and nays and to take the amendment. But I did not want to do that blind, without explaining the situation to the Senate.

Mr. DOMENICI. Mr. President, I wonder whether the Senator from New York will yield me 2 minutes on the bill.

Mr. JAVITS. I yield.

Mr. DOMENICI. I say this in all sincerity to the Senator from New York and the Senator from Wisconsin. I appreciate the sympathy both have expressed—and that expressed by Senator JAVITS in his last statement. However, would an up-and-down vote, in the event we were to prevail, turn the sympathy into something the Senators might use more forcibly in the conference?

Mr. JAVITS. I will use all the force and all the brains I have to get this ac-

cepted in conference. Perhaps I have been guilty of understatement. It is not that I have any reservations about the policy the Senator desires. It is just that, having been through so many conferences with the House, I know that we face a difficult situation. I would never say anything is impossible.

Mr. NELSON. Mr. President, may we have order in the Senate?

The PRESIDING OFFICER (Mr. MATSUNAGA). The Senate will be in order.

Mr. JAVITS. I would never say anything is impossible. For that purpose, actually going at it as strongly as I know how, I do not require a record vote. This is the record vote. It makes it very clear that the Senate wants the proposition which the Senator has proposed.

Mr. DOMENICI. Mr. President, I thank the Senators for supporting this concept. I think its time has come. I do believe the strong vote against tabling clearly indicates that the Senate is ready to consider reasonable reimbursement to individuals and small business people in this country who have to spend their resources to fight their own Government in the event they succeed in court.

Having made that statement, I ask unanimous consent that the order for the yeas and nays on the amendment be rescinded.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. NELSON. Mr. President, for the benefit of those who were not here during the course of the discussion of the amendment, let me repeat very briefly, because I spoke at some length in the RECORD, that I endorse the concept, the objective, sought by the Senator from New Mexico.

I think there is no question that the Senate should address itself to this question of attempting to restore some kind of balance and equity in those confrontations that are increasingly occurring between the Federal Government and its agencies and individuals and small businesses.

I think everyone in the Senate agrees with that. I have stated this earlier on the floor of the Senate. However, this is a nongermane amendment which we agreed last night by unanimous consent to be permitted to be considered on this bill. I think I should point out that whereas I endorse the concept, Senator DECONCINI did make it clear that this bill is pending in the Judiciary Committee. He stated that he is interested in the legislation, favors the concept himself and, in fact, will conduct hearings on the bill.

I think that the amendment is nongermane under the rules of the House of Representatives and will not be accepted by them.

I wish to make one further reservation as to my own position. I could not say here now that, whereas I support the concept of the Senator's bill, I would support this specific bill because I have never read it. When you have a piece of legislation that addresses itself to every single order, regulation, and legal action by the Federal Government, numbering tens of thousands, I want to be very sure that we are not creating a cure that is worse than the disease.

So I would not want to say that I will go to conference and fight for an amendment that I have never read. Even after I have read it, if I am not satisfied with it, I want the Senate to know I will not argue for it in conference no matter what the vote on this bill is because no one in this Chamber has read it so far as I know, except the Senator from New Mexico. I saw it for the first time an hour ago, and it is a very substantial amendment. So I would not want to mislead the Senate by saying I am going to go to conference and make a heroic fight. I agree we should tackle the question. I think the Judiciary Committee will do so. I am happy to accept this amendment on a voice vote.

SEVERAL SENATORS. Vote!

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from New Mexico.

The amendment was agreed to.

Mr. DOMENICI. I move to reconsider the vote by which the amendment was agreed to.

Mr. McCLURE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. PROXMIRE. Mr. President, will the Senator from Wisconsin yield?

Mr. NELSON. If I have the floor.

UP AMENDMENT NO. 929

(Purpose: To provide a modification in the prohibition regarding representation in civil matters arising under the Military Selective Service Act.)

Mr. McCLURE. Mr. President, I send an amendment to the desk on behalf of Mr. THURMOND and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Idaho (Mr. McCLURE), for the Senator from South Carolina (Mr. THURMOND), proposes an unprinted amendment numbered 929.

Mr. McCLURE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 17, line 18, beginning with the word "to" strike out all through line 23 and insert in lieu thereof a comma and the following: by adding at the end thereof a comma and "except that legal assistance may be provided to an eligible client in a civil action in which such client alleges that status as a conscientious objector was wrongfully denied prior to July 1, 1973, under the Military Selective Service Act of prior corresponding law".

Mr. McCLURE. This is with respect to the continuation of the prohibition against representation in certain actions or classes. The amendment as agreed upon will permit the Legal Services to represent a client in a civil action in which the client's status as a conscientious objector is the issue. The amendment on its face states exactly that.

I would ask the managers of the bill if it is not our understanding that it is confined to the resolution of that issue and they could not use this language to open up a whole range of other issues and thus represent them on other issues that otherwise would be prohibited.

Mr. NELSON. That is a correct statement of my understanding of the amendment. In reading the amendment, it quite clearly confines the additional authority given here to the Legal Services Corporation to that situation involving the status of the conscientious objector under the previous Selective Service Act.

Mr. STAFFORD. If the manager will yield, Mr. President, I will say for the minority that we concur with the statement of the distinguished Senator from Wisconsin.

Mr. McCLURE. Mr. President, I ask unanimous consent that at this point in the RECORD letters addressed to the Senator from South Carolina from the Veterans of Foreign Wars, the American Legion and the AmVets be printed in the RECORD with this explanation: These letters were addressed to him with respect to the bill as pending, and the amendment which has been offered is a compromise which attempts to meet, and does meet, the matter and resolves it as a compromise. It does not necessarily address itself completely to the statements which are in these letters from these veterans organizations.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

VETERANS OF FOREIGN WARS,
Washington, D.C., October 12, 1977.

Hon. STROM THURMOND,
U.S. Senate,
Washington, D.C.

DEAR SENATOR THURMOND: The Veterans of Foreign Wars of the United States opposes in the strongest possible terms the provision of S. 1303, an authorization bill to amend the Legal Services Corporation Act, which would expand the authority of the Legal Services Corporation to represent persons and proceedings involving desertion from the Armed Forces, where counsel is not available within the Department of Defense. Furthermore, we oppose any representation before the various discharge review boards and boards for correction of military records within the Department of Defense by any organization which is publicly funded. High quality representation before these boards is provided gratuitously by the Veterans of Foreign Wars and other organizations and, also, by private attorneys paid by their clients.

The President of the United States recently signed S. 1307, which became Public Law 95–126, in which the Congress of the United States expressed a strong public policy against the provision of veterans entitlement to persons who do not meet standards generally applicable to all persons. Providing legal services by the Corporation in procedure involving desertion has never been done in the past and attempting to change the law to oblige those persons who abandoned their responsibilities to our great nation is inconceivable.

To reiterate—the V.F.W. most strongly op-

poses expanding the authority of the Legal Services Corporation, a federally funded entity.

With best wishes and kindest personal regards, I am

Sincerely,

DONALD H. SCHWAB,
Director, National Legislative Service.

THE AMERICAN LEGION,
Washington, D.C., October 12, 1977.

Hon. STROM THURMOND,
U.S. Senate,
Washington, D.C.

DEAR SENATOR THURMOND: The Senate is presently considering S. 1303, that authorizes funds for the Legal Services Corporation through fiscal year 1982.

The American Legion is opposed to a provision contained in the bill that would expand the authority of this corporation to enter into proceedings or litigation involving violations of the military selective service or desertion from the Armed Forces.

It is my understanding that you plan to offer an amendment to this measure that would preclude such expansion of authority and The American Legion supports this action. I am sure you are aware that federally chartered organizations like the Legion already provide counsel and assistance free of charge to those individuals who desire redress before the Board of Military Corrections or the Military Discharge Review Boards. Enactment of S. 1303 with the "expansion provision" will not only duplicate the services we provide free of charge but require Congressional funding to accomplish this proviso.

The Legion supports your amendment and urges its adoption by your colleagues in the United States Senate.

Sincerely,

MYLIO S. KRAJA,
Director,
National Legislative Commission.

AMVETS,
Washington, D.C., October 12, 1977.

Hon. STROM THURMOND,
Russell Senate Office Building,
Washington, D.C.

DEAR SENATOR THURMOND: AMVETS National Commander, Frank D. Ruggiero, has directed this office to express his strong opposition and the opposition of the entire AMVETS organization to that language contained in S–1303 which would expand the authorization of the Legal Services Corporation to permit legal representation in proceedings involving military desertion.

We do not believe it appropriate or equitable that the American taxpayer should be required to subsidize the cost of these services to deserters where legal representation is not provided by the military services.

Sincerely,

C. DENNIS MCCLURE,
National Service and Legislative Director.

Mr. NELSON. I agree with the amendment, Mr. President. I yield back the remainder of my time.

Mr. McCLURE. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the amendment of the Senator from South Carolina.

The amendment was agreed to.

Mr. NELSON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. McCLURE. I move to lay that motion on the table, Mr. President.

The motion to lay on the table was agreed to.

Mr. JAVITS. Mr. President, I yield 2 minutes to the Senator from Virginia.

The PRESIDING OFFICER. The Senator from Virginia is recognized for 2 minutes.

Mr. SCOTT. Mr. President, I appreciate the distinguished Senator yielding time to me. I rise merely for the purpose of saying that while I have a little more than 20 amendments to this bill that have been printed I do not intend to offer any of those amendments. I appreciate the courtesies that have been shown by the floor manager of the bill and the ranking Republican. I believe some adjustments have been made in the bill because of our colloquy yesterday on the floor of the Senate and I have talked with some of my friends on this side of the aisle who feel that both Senators have been somewhat reasonable in the approach that they have taken and for that reason none of these amendments will be offered.

Mr. ROBERT C. BYRD addressed the Chair.

Mr. JAVITS. Will the Senator let me thank Senator Smith for what is an act so favorable.

Mr. SCOTT. If the distinguished Senator will yield briefly, we have been here together for 5 years and the name is SCOTT, S-C-O-T-T.

Mr. JAVITS. That shows how you can mess up a very good flattering statement even by an old veteran. [Laughter.]

I just want to say, Senator SCOTT, that I know you felt deeply about many of these. You have been very fair. We heard you. We took some action which we found hard to take especially cutting the term of this bill. We did some very substantive things and you have helped us because of it. We are very grateful to you.

Mr. SCOTT. I appreciate the Senator's comments.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to proceed for not to exceed 2 minutes without the time being charged to either side.

The PRESIDING OFFICER. Without objection, it is so ordered.

HUBERT H. HUMPHREY BUILDING

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. RANDOLPH and Mr. DOLE, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 447, S. 2169.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 2169) to name a certain Federal building in Washington, District of Columbia, the "Hubert H. Humphrey Building."

There being no objection, the Senate proceeded to consider the bill.

U.S. SENATORS, 99 OF THEM, JOIN IN SPONSORSHIP AND PASSAGE OF THE HUBERT H. HUMPHREY BUILDING BILL

Mr. RANDOLPH. Mr. President, all the Members of this body, without exception, have joined in the passage and sponsorship of legislation to name an important Federal facility in the District of Columbia the "Hubert H. Humphrey Building."

This action is an affirmative expression of love and admiration for one of the truly gallant, good, and great men, of not only the Senate but of the United States of America.

I ask unanimous consent to print the bill, S. 2169, introduced by the Senator from Kansas (Mr. DOLE) for himself, Mr. ANDERSON, Mr. RANDOLPH, Mr. STAFFORD, Mr. YOUNG, Mr. ABOUREZK, Mr. ALLEN, Mr. BAKER, Mr. BARTLETT, Mr. BAYH, Mr. BELLMON, Mr. BENTSEN, Mr. BIDEN, Mr. BROOKE, Mr. BUMPERS, Mr. BURDICK, Mr. ROBERT C. BYRD, Mr. HARRY F. BYRD, JR., Mr. CANNON, Mr. CASE, Mr. CHAFEE, Mr. CHILES, Mr. CHURCH, Mr. CLARK, Mr. CRANSTON, Mr. CULVER, Mr. CURTIS, Mr. DANFORTH, Mr. DECONCINI, Mr. DOMENICI, Mr. DURKIN, Mr. EAGLETON, Mr. EASTLAND, Mr. FORD, Mr. GARN, Mr. GLENN, Mr. GOLDWATER, Mr. GRAVEL, Mr. GRIFFIN, Mr. HANSEN, Mr. HART, Mr. HASKELL, Mr. HATCH, Mr. HATFIELD, Mr. HATHAWAY, Mr. HAYAKAWA, Mr. HEINZ, Mr. HELMS, Mr. HOLLINGS, Mr. HUDDLESTON, Mr. INOUYE, Mr. JACKSON, Mr. JAVITS, Mr. JOHNSTON, Mr. KENNEDY, Mr. LAXALT, Mr. LEAHY, Mr. LONG, Mr. LUGAR, Mr. MAGNUSON, Mr. MATHIAS, Mr. MATSUNAGA, Mr. MCCLELLAN, Mr. MCCLURE, Mr. MCGOVERN, Mr. MCINTYRE, Mr. MELCHER, Mr. METCALF, Mr. METZENBAUM, Mr. MORGAN, Mr. MOYNIHAN, Mr. MUSKIE, Mr. NELSON, Mr. NUNN, Mr. PACKWOOD, Mr. PEARSON, Mr. PELL, Mr. PERCY, Mr. PROXMIRE, Mr. RIBICOFF, Mr. RIEGLE, Mr. ROTH, Mr. SARBANES, Mr. SASSER, Mr. SCHMITT, Mr. SCHWEIKER, Mr. SCOTT, Mr. SPARKMAN, Mr. STENNIS, Mr. STEVENS, Mr. STEVENSON, Mr. STONE, Mr. TALMADGE, Mr. THURMOND, Mr. TOWER, Mr. WALLOP, Mr. WEICKER, Mr. WILLIAMS, and Mr. ZORINSKY in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the South Portal Federal Office Building of the United States Department of Health, Education, and Welfare, located at 200 Independence Avenue Southwest, in Washington, District of Columbia, is hereby designated as the "Hubert H. Humphrey Building". Any reference in any law, regulation, document, record, map, or other paper of the United States to such building shall be considered to be a reference to the Hubert H. Humphrey Building.

Mr. RANDOLPH. Mr. President, this measure was reported on October 10, 1977, from the Environment and Public Works Committee with unanimous approval of its 15 members.

Mr. President, in recent days, much has been said and written about our colleague, HUBERT HUMPHREY. Words cannot fully express the love and esteem each of us in the Senate holds for our former Vice President. We are again fortunate to have this opportunity to set forth our appreciation for his productive career.

HUBERT, the professor, teaches from lessons he learned in South Dakota during the Depression. The young HUMPHREY saw his parents sell their home and struggle for economic survival. This per-

ception is a key to his social policies. Issues of jobs, the economy, and agriculture, dramatized by the Depression, are his kind of politics. These issues are yet with us. He sees people needing help—the jobless, the farmer, the sick, the black, the children, the elderly. He has long fought for social and economic justice.

Mr. President, the current Senator and former Vice President has often been to our State of West Virginia. He has always been welcome there with genuine friendship by those men and women who live in our cities, towns, and rural areas.

Even when citizens disagree with Senator HUMPHREY, they admire this man. They have honored him and now we honor him further by our resolution, as a champion of the people who is abroad in the land.

Many vital programs administered by the Department of Health, Education, and Welfare are in being because of HUBERT HUMPHREY—medicare, the Elementary and Secondary Education Act, the Community Mental Health Act, Head Start, the Job Corps, and the health professions scholarships. Beyond the programs, is his undiminished faith in the capacity of people for rational, "comprehensive" action.

HUBERT HUMPHREY has often been battered and buffeted. But over long years his work has inspired colleagues. He has risen above political and personal misfortunes. Resilience continues as the force for him in support of programs to help the American people.

Again and again he pleads that we fulfill what he calls "America's unfinished business."

HUBERT HUMPHREY is a man with vision and compassion, a man whose personal philosophy permeates the performance of his public duties. To name the South Portal Building located at 200 Independence Avenue SW is a small but merited recognition for the vital contributions he has made to this Nation.

Mr. RANDOLPH. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95-485), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE

The purpose of S. 2169, as reported, is to authorize the naming of the South Portal Building in Washington, D.C. as the "Hubert H. Humphrey Building."

GENERAL STATEMENT

It is infrequent that the Committee on Environment and Public Works has the opportunity to recognize an individual for his unique contributions to our American way of life, Senator Hubert Horatio Humphrey is an individual deserving of such recognition.

Through over three decades of public service—as mayor of Minneapolis, a U.S. Senator, a Vice President of the United States, and as the nominee of his party for President, Hubert H. Humphrey has been in the forefront of the struggle for social and economic justice.

His strong feelings, sympathy, patience and understanding have enriched the legislation he has supported. The lives of millions of Americans—the old, the young, the disadvantaged—are better today because he has not hesitated to champion unpopular causes, taking a leadership position on key issues before they were national issues.

His fight for civil rights began while mayor of Minneapolis in 1945 when he set up the mayor's council on human relations. Senator Humphrey made his debut on the national political scene with a passionate speech in support of a civil rights plank during the 1948 Democratic convention. This event brought the Nation a man with a sense of the future, a man with vision and compassion, a man whose personal philosophy permeates the performance of his public duties. He vigorously and indefatigably works to improve the quality of life.

Born in Wallace, S. Dak., on May 27, 1911 he was graduated from the Denver College of Pharmacy and received additional education at the University of Minnesota, where he earned his Phi Beta Kappa key. He continued his education at Louisiana State University, where he earned an M.A. in political science.

After serving as a professor of political science at Macalester College, he was elected mayor of Minneapolis in 1945 and again in 1947. In 1948 Hubert Humphrey was elected to the United States Senate and reelected in 1954 and 1960. In 1964, he was elected Vice President with President Lyndon Johnson. He continued to contribute to the health of American political life by returning to the United States Senate in 1970.

Many vital programs administered by the Department of Health, Education and Welfare are here because of Hubert Humphrey's commitment to them. Medicare, the Elementary and Secondary Education Act, the Community Mental Health Act, Head Start, the Health Professions Scholarships Act—the list goes on.

It is a pleasure to be able to offer this tribute to such a man. The nation owes much to the "Happy Warrior."

The committee believes that it is appropriate to name a Federal building for a great American and recommends the new South Portal Federal Office Building at 200 Independence Avenue, S.W., Washington, D.C., which houses offices of the Department of Health, Education and Welfare, be known as the "Hubert H. Humphrey Building".

Mr. DOLE. Mr. President, we are considering a bill, with the unanimous cosponsorship of 99 Senators, to name the new south portal building of the Department of Health, Education, and Welfare for our distinguished colleague from Minnesota, Senator HUBERT H. HUMPHREY. This special action is appropriate because Senator HUMPHREY is a very special individual.

It is uncommon in life to find a man of such courage and compassion, fortitude and decency—a man whose fighting spirit is surpassed only by his spirit of charity and justice. It is heartening to know such a man, who has selflessly dedicated himself to public life in the service of the poor and underprivileged.

UNCOMMON INDIVIDUAL

Mr. President, since his first days as mayor of Minneapolis, over 30 years ago, HUBERT HUMPHREY has been a man with a mission. He has spread his message of social and economic justice vigorously and unrelentingly, often championing causes still unpopular, ideas still untried. He has blazed the trail on many key national issues.

The testament to HUBERT HUMPHREY'S success lies in the way the lives of millions of Americans have been improved. Old Americans are healthier, young Americans are better fed and educated, the lives of poor Americans have been made more bearable.

Throughout his legislative career, HUBERT HUMPHREY has touched the lives of almost all of us. He once remarked that his father's drugstore was his life, and seemed it might always be. Fortunately though, HUBERT left the drugstore to become first a mayor, then a U.S. Senator, the Vice President, and the nominee of his party for President.

PROGRESSIVE ACHIEVEMENTS

These years of public life have been most productive. The Civil Rights Act of 1964 was nursed from infancy to its passage by HUBERT. The establishment of the Peace Corps and the Arms Control and Disarmament Agency are his achievements. Scores of vital Federal programs administered by the Department of Health, Education, and Welfare are operating today because HUBERT HUMPHREY fought for them: Medicare, Head Start, the Elementary and Secondary Education Act, the Community Mental Health Act, the Health Professional Scholarship Act. The list—HUBERT HUMPHREY'S record of commitment—goes on and on.

It is all these achievements that make the new Health, Education, and Welfare building so appropriate to name for HUBERT H. HUMPHREY. They reflect something about his very noble character.

Like any great leader, HUBERT HUMPHREY has his critics. I suspect that few have always agreed with him on every issue, but few also doubt his sincerity, compassion, or courage. His concern for improving the condition of our people, however he conceives it, is real.

Our colleague is both a great political leader and a man who transcends party politics. He is a patriot, in the truest sense of the word. In his autobiography HUBERT writes,

I have loved my country in a way that some people consider sentimental and out of style. I still do, and I remain an optimist, with joy, without apology, about this country.

The Congress of the United States can only honor itself by honoring HUBERT HUMPHREY.

STANDING TRIBUTE

The naming of this building is but a small token of our esteem for HUBERT HUMPHREY, but let the unanimous support for this action be symbolic of the appreciation of the country as a whole—the country which means so much to him.

For generations to come, this building shall serve as a salute to a man we all know so well. It will serve as a reminder of the causes he stands for.

The contemporary architecture of the New HEW Building, regardless of our individual views on its aesthetics, seems characteristic of the man we are honor-

ing. For HUBERT HUMPHREY has always been a very contemporary man.

He has been a leader always ready to champion new causes and new ideas. He has always been on the frontier of improved Government and social changes.

In addition, the building was designed with people in mind. That too is appropriate, for HUBERT HUMPHREY always has been, and is, "people-oriented." His political career has been dedicated to the betterment of people.

The building we are seeking to name for him is intended to serve the same purpose. It contains a stone courtyard with a platform area to be used as a stage for lunchtime concerts. The courtyard was built in the fashion of an Italian plaza where people can gather.

The design of the building is the work of architect Marcel Breuer, who is considered one of the giants of 20th century architecture, of the caliber of Frank Lloyd Wright. The design is unusual. Unusual is how we would describe another giant, HUBERT HUMPHREY.

OVERWHELMING SUPPORT

The prompt and total support for this legislation has been overwhelming. Credit should go to the Senator from West Virginia (Mr. RANDOLPH) and the Senator from Vermont (Mr. STAFFORD), the chairman and ranking Republican respectively of the Committee on Environment and Public Works. Due to their efforts the bill was reported expeditiously to the Senate.

I also appreciate the support and assistance of the distinguished Minnesota colleague of Senator HUMPHREY, Senator ANDERSON.

In addition, Congressman QUIE and the Minnesota delegation have introduced a companion measure in the House of Representatives.

The unanimous cosponsorship of this bill by 99 Senators is a great tribute to the character and the achievements of HUBERT H. HUMPHREY.

BIPARTISAN SPIRIT

This is a bipartisan salute to a great man who has long believed and acted in a bipartisan spirit. It is a reminder that although we may disagree on specific issues, we can still work together in a bipartisan manner to hammer out solutions to the problems of our Nation—solutions that will hopefully be in the best interest of the American public as a whole.

I have worked with Senator HUMPHREY on many issues including food stamps, child nutrition, food for peace, and farm legislation, and know that he stands for bipartisan cooperation.

CONTINUING SERVICE

HUBERT HORATIO HUMPHREY will continue to serve his country and contribute to its betterment. We might expect that a man of his spirit would cope with adversity in the supreme manner he has. I know he is continuing to have an impact on legislation and developments even in his absence.

The people of the United States are fortunate to have HUBERT HUMPHREY in their service. Few have done more to improve the health, education, and welfare of their fellow Americans, and of a great many people throughout the world as well. I would just say, HUBERT, we salute you, we admire you, and we thank you.

Mr. ANDERSON. Mr. President, I rise to support S. 2169, which names the new Health, Education, and Welfare building after Senator HUBERT HUMPHREY. On behalf of the people of Minnesota I thank Senator DOLE and S. 2169's other sponsors for initiating this most gracious and appropriate tribute to Minnesota's beloved Senior Senator.

HUBERT HUMPHREY is the premier legislator of this century. Naming the new HEW building in his honor is a fitting gesture reflecting the esteem and affection that this great and good man has commanded throughout his public life. I am sure that every Member of the Senate would agree that we could initiate many resolutions similar to S. 2169 and still not do complete justice to the three decades worth of legislative achievements that constitute the Humphrey record.

As Senator DOLE points out, an HEW building named after Senator HUMPHREY makes eminent sense. Many of the programs which are the responsibility of the Department of Health, Education, and Welfare are products of the Humphrey genius. As we all know HUBERT HUMPHREY's role as a champion of the elderly, the poor, and those seeking an education, is but one chapter in a lengthy and distinguished book of accomplishments.

What is so astonishing about the Humphrey record is its tremendous breadth of concern. Each and every American has been touched in one way or another by the good work of HUBERT HUMPHREY, as have many millions of people throughout the world. Whether one speaks of medicare, the Peace Corps, food for peace, civil rights, full employment, rural development, solar energy, nuclear disarmament, or school lunch programs it is always HUBERT HUMPHREY's name which dominates the discussion. Since 1949 each new session of Congress has meant the introduction of an administration legislative program, a Democratic program, and a Republican program. But there was always one more force to consider—the Humphrey legislative agenda. Because of it, life is better for millions and millions of people everywhere. This, more than anything else, is the measure of HUBERT HUMPHREY's monumental talent, energy, compassion, and commitment.

HUBERT HUMPHREY's stature ranks with the greatest of our 20th century statesmen; he has been an inspiration for thousands of young people wishing to enter public service to do the people's work; he is the greatest Minnesotan ever, and I am proud to say he is my teacher, my colleague, and my friend.

S. 2169 is a small but touching way of thanking HUBERT HUMPHREY for what he is and what he had done for all of us. I urge the Senate to approve this resolution.

Mr. YOUNG. Mr. President, the naming of the new Health, Education, and Welfare building in Washington in honor of our distinguished colleague from Minnesota, Senator HUBERT HUMPHREY, is richly deserved.

No one has more enthusiastically and effectively labored in the cause of all the programs which this department of Government encompasses.

HUBERT has always had a great interest and concern for people and especially the disadvantaged. He has a heart as big as a washtub when it comes to all their problems.

I cannot help but think that HUBERT HUMPHREY's entire life, his ambitions and objectives were influenced in a large measure by the poverty he both experienced and witnessed during the depression and drought years of the 1930's. The area in which he grew up in South Dakota was as hard hit as any place in the United States. This has much to do with his outlook on life and its problems both as a mayor and especially as a legislator.

I know of no one in politics who has more friends or is more highly respected than HUBERT HUMPHREY. To know him is to like him and to have a vast respect for him.

In the session of Congress which is now coming to a close, even with his severe illness HUBERT HUMPHREY has been effective, and probably even more so than at any time during his long and illustrious career.

Few people have maintained as happy and friendly an attitude toward life and his fellow man as HUBERT HUMPHREY. I have known him ever since he was mayor of Minneapolis. I served with him all the years during his long and illustrious career as a U.S. Senator and also while he was its presiding officer as Vice President. Even though we are of opposite political philosophy, we have always had a most friendly personal relationship. His friendship is something I have always cherished and always will.

The "Happy Warrior" appellation accorded to him is most appropriate. It would be a much happier and better world if everyone shared his enthusiasm for life and its challenges.

I am very happy that I am privileged to join as a cosponsor of the resolution naming the new Health, Education, and Welfare building in his honor.

Mr. BAYH. Mr. President, it is an honor for me to rise in support of S. 2169, a bill to name the south portal Federal building of the Department of Health, Education, and Welfare for my distinguished and beloved colleague from Minnesota, HUBERT H. HUMPHREY.

For as long as I can remember, HUBERT HUMPHREY has been at the forefront of the fight to achieve social and economic justice for all our citizens. And HUBERT HUMPHREY did not wait for issues such as civil rights to become popular before becoming involved. He has always looked for what is right and devoted his extensive energy to winning people over to his positions.

HUBERT HUMPHREY understands the problems that face the average citzen, particularly the never-ending search for affordable health care and a decent education for our young people. As a result

of his understanding, compassion, and commitment, he has been instrumental in the creation of such programs as Head Start, medicare, community mental health centers and aid to elementary and secondary schools. Today, these programs enrich and enhance the lives of millions of Americans.

However HUBERT HUMPHREY does not look at these considerable achievements and sit back satisfied at having done his bit to give our citizens a better life, he is still fighting for better social and economic conditions. Current legislation on welfare reform and jobs for our unemployed youth will reap the benefit of his contributions.

In light of his past and continuing achievements, it is most just and appropriate to name the new Department of Health, Education, and Welfare building in Washington for this champion of all Americans. The Hubert H. Humphrey Federal Building will serve as a constant reminder of what is best in this Nation and HUBERT H. HUMPHREY himself, will continue to work to bring out the best this country's Government can offer its citizens.

NO MORE APPROPRIATE HONOR FOR A GREAT HUMANITARIAN

Mr. McINTYRE. Mr. President, I rise to voice my enthusiastic support of the proposal to name the new south portal building of the Department of Health, Education, and Welfare after our beloved and distinguished colleague, the senior Senator from Minnesota.

We who have known him and worked with him over as many years as I have, respect and admire his countless contributions to the broadest range of governmental efforts.

We have witnessed first hand his truly remarkable ability to absorb details, assess arguments, come to judgment, express his views and exert his profound influence on issues spanning the spectrum from agriculture to arms control, from energy to economics, and his name is imprinted forever on some of the most significant legislation ever enacted in all these areas.

First and foremost, Mr. President, we who know him, we who work with him, think of him as a humanitarian, perhaps one of the greatest humanitarians who ever served in this Chamber.

We know his energy to be prodigious. We know his dedication to be unswerving. We know his abilities to be awesome. But most of all, we know the dimensions of his heart—his deep compassion for those in need, his boundless concern for the aged, the infirm, the handicapped, the poor, the unschooled, the untrained, and the victims of bigotry and discrimination.

For this reason, Mr. President, I cannot think of a more appropriate way to honor this most caring of men than to place his name on an edifice in a department that is charged with answering society's collective conscience and meeting those most basic of human needs.

HUBERT H. HUMPHREY

Mr. NELSON. Mr. President, there is no Member of the U.S. Senate who is held in higher esteem by his colleagues than HUBERT HUMPHREY. There is no Senator more beloved by his State and his country than HUBERT HUMPHREY. And no Senator has made a more positive, more lasting impression on the course of history than HUBERT HUMPHREY.

He championed the cause of justice wherever he found injustice, and he did it with his always-unquenchable exuberance. He has been, and continues to be, an eloquent spokesman for the poor and the weak; his lonely battles of yesterday have become today's national goals. He is the Senate's senior statesman and the country's conscience.

The dedication of a new Federal office building in his honor is a small tribute, but an honest display of affection and respect for this giant of a man.

Mr. ZORINSKY. Mr. President, I am pleased to join with my colleagues in cosponsoring S. 2169 a bill to name the new south portal Federal building of the Department of Health, Education, and Welfare in honor of our distinguished colleague, Senator HUBERT HUMPHREY of Minnesota.

Since he began his political life as mayor of Minneapolis, HUBERT HUMPHREY has been a leader in the fight for economic and social justice in this country. His leadership in the fields of civil rights, health legislation and education should be valued by all Americans. HUBERT is a man of great compassion, integrity, and spirit. He has served his country and his party well on all levels from Minneapolis, to the U.S. Senate, to the Vice-Presidency and his party's nominee for President. It is fitting that we are honoring our colleague in this manner and I am privileged to join in offering this tribute to a great American and a wonderful human being—our friend, HUBERT HUMPHREY.

Mr. HART. Mr. President, I would like to express my strong support for S. 2169, introduced by Senator DOLE, dedicating the new Department of Health, Education, and Welfare building to my distinguished colleague from Minnesota, Mr. HUMPHREY.

It is only fitting that this building bear the name of a man who has fought tirelessly for the rights of the poor and oppressed. Senator HUMPHREY is a living legend, who has championed the cause of the farmer and the factory worker; a leader in civil rights, urban renewal, medicare and youth employment.

Mr. President, I have long admired the special qualities of my distinguished colleague, but above all, I have been intrigued by his limitless energy. While many people with that kind of energy and exuberance might be self indulgent, and lacking in self discipline and self control, Senator HUMPHREY has accomplished quite the opposite. As the Washington Post recently editorialized,

> . . . the key to Senator Humphrey's achievement and grace is and always has been an extraordinary ability to control—in fact—transcend those elements of self that distract and even destroy so many others: vindictivenes, pettiness, self pity, spite. It has been this special capacity that gives him size as a human being—and the energy to keep at it.

Clearly, few men have alined their ambition so closely with compassion and a desire to serve—and through serving have managed to improve the life and lot of everyone.

Mr. KENNEDY. Mr. President, I am proud to join today with so many colleagues on both sides of the aisle in supporting this legislation to honor one of our best loved and most outstanding colleagues. By naming the new HEW building after Senator HUBERT H. HUMPHREY, we pay an especially appropriate tribute to this giant of the Senate and to the great social issues he has served so well throughout his life and throughout his brilliant career in public service.

His record in the Senate is so full of landmarks and achievements that it would take a Humphrey speech to do them justice. Wherever you look, he is leaving his mark as an outstanding and progressive leader.

If you called the roll of leading issues in the Senate in recent years, you would find HUBERT HUMPHREY at the helm. To all of us, he is Mr. Economy, a past chairman of the Joint Economic Committee, the father of the Humphrey-Hawkins bill. He is one of the most effective spokesmen Congress has on economic issues, doing his best to bring unemployment down, to hold the line against inflation, and to bring the economy back to health.

And that is only the beginning of his talent and great ability. His reputation as Mr. Civil Rights goes back for a generation. On foreign policy, he is Mr. Arms Control, because of his leadership in seeking nuclear arms agreements and halting the flow of U.S. arms to unstable areas of the world.

He is also Mr. Agriculture for his leadership on issues vital to the farms of Minnesota and so many other States. He is Mr. Senior Citizen for his efforts to help the handicapped. On everything he touches, he leaves it better than he found it.

He also knows how to represent the constituents of his State. I doubt that the people of Minnesota ever had a better champion of their interests. He loves his State, and he serves its people well.

Mr. President, for these and many other reasons, I believe that HUBERT HUMPHREY will go down in history as one of the finest Senators America ever had, and I wish we had more like him. It is a privilege and honor for me to join in this fitting tribute to his remarkable achievements.

Mr. WILLIAMS. Mr. President, I commend my colleague from West Virginia (Mr. RANDOLPH) for bringing this resolution to the floor of the Senate to honor one of the Senate's greatest Members, the Senator from Minnesota, HUBERT H. HUMPHREY. Surely, this is a most fitting and appropriate tribute for a man who has been an endless fighter for the people that the Department of Health, Education, and Welfare serves.

As a mayor, a U.S. Senator, as Vice President of the United States and as a nominee of the Democratic Party for President, HUBERT H. HUMPHREY stands as no man's equal in his advocacy for the

poor and disadvantaged and in his compassion and decency for programs to serve all Americans. As chairman of the Committee on Human Resources which authorizes many of HEW's programs, I know that the "people's programs" of HEW have become what they are today because of his tireless support and his unstinting labor to assure all Americans equal opportunity and a decent life.

From his very early advocacy in the ranks of our party for civil rights and legislation to end invidious discrimination in our land, his call to equal treatment for all brought this Nation to a point where we could and did enact law to protect minorities. And his very early and continuing concern for adequate medical and health programs for the elderly brought about many of the programs, including medicare which today protect the elderly from the ravages of age and poverty. In the area of education, his mark is upon every law which measured our battle for Federal aid to education, leading to his involvement in the fashioning of the landmark Elementary and Secondary Education Act of 1965. Indeed, his advocacy for Federal support and Federal protection of handicapped persons throughout our Nation began long before the Congress took its recent steps to outlaw discrimination and assure equal educational opportunity for handicapped children.

Anyone who has fought for these programs over the last 20 years knows that they have always had the support and the unbreakable fighting spirit of HUBERT HUMPHREY with them. It has been one of my great pleasures to have fought by his side in these battles and thus I am very pleased to join in wholehearted support of this resolution.

A recent article and interview with the Senator from Minnesota perhaps expresses best his concern and his goals for the people of our land. When asked what he was most proud of in his life, he is quoted as saying:

I'm proud of our family first of all. I think I've got a good family, and much of that is due to my wife. What I'm most proud of in my government career is the battle I waged for civil and human rights when it wasn't very popular but I somehow had the fortitude to stick with it.

And it was a very difficult time for me. I really had some pain in the Senate for several years. I was not popular. And I was not liked, and that's hard for me to take because I'm a gregarious sort of character. But in the long run I think that what we did with civil rights is the most important thing in my public life because it opened up opportunities for millions of people.

There can be no finer tribute to this man than for the Nation to recognize what an unyielding fighter he has been at the times it has counted most—when it was not popular and when he was not liked. That is a test of a man and it is the test of the character of my good friend, HUBERT HUMPHREY.

Mr. SCHWEIKER. Mr. President, I am pleased to join in cosponsoring and supporting the legislation naming the new HEW building for our esteemed colleague from Minnesota, HUBERT HUMPHREY.

My Senate career began when Vice President HUMPHREY swore me in as a Senator in January 1969. Since that time I have seen this Senate, on many occasions, follow his good leadership in passing laws to benefit the American people.

Senator HUMPHREY is truly a giant in this body. He speaks with the passion of a man who knows the problems of Americans, not by reading about them somewhere, but by experiencing poverty himself and by his empathy with those who still seek to be a part of the American dream. His wise guidance is based on this sympathy with people from all walks of life.

By naming this building for Senator HUMPHREY, we are dedicating in his name the place where many of the programs he has fought for will be administered. I can think of no more appropriate monument for this man.

But physical monuments are not the essence of our honoring HUBERT HUMPHREY. The truest honor is the affection that is felt for him by everyone who has been touched by his life. I am not just speaking of those of us who have worked with him here in the Senate. No, I include all the little people and leaders across the country who have put their faith in this man and have never been let down. Wherever people serve people in America, you are likely to find love for the man from Minnesota.

In closing, let me simply say that I have enjoyed greatly the opportunity to grow through the friendship of HUBERT HUMPHREY, and I look forward to his early return to the Senate.

AN APPROPRIATE STEP TOWARD RECOGNIZING A GREAT MAN

Mr. ROBERT C. BYRD. Mr. President, I am pleased to note that 99 Senators have joined in cosponsoring S. 2169, a bill that would designate HEW's South Portal Building as the Hubert H. Humphrey Building. In view of Senator HUMPHREY's continuing concerns throughout his public career, such action is indeed appropriate. Moreover, I think this is a fitting tribute to Senator HUMPHREY from all his colleagues in the Senate.

Senator HUMPHREY's life spans the occurrence of most of the dramatic events in this century. Most men must be content merely to react and adapt to the circumstances of history. But HUBERT HUMPHREY can take pride in the fact that he is among that small group of persons in this generation whose dedication, intelligence, personality, and talents have allowed them to shape the circumstances of history itself for the betterment of mankind.

The chronicles of the U.S. Senate include the actions of innumerable great men. Even among this body of historic giants, however, certain individuals have shone with a special brilliance. The names of Daniel Webster, John C. Calhoun, Henry Clay, and Robert M. LaFollette have been singled out through several generations as being among some of the especially noteworthy.

It is my belief that HUBERT HUMPHREY will be numbered among these Senate luminaries in the years ahead. Throughout his career in the Senate and the Vice-Presidency, Senator HUMPHREY has left indelible marks on much legislation and many aspects of American life. His efforts and spirit have brought honor to every office and position in which he has ever served.

Senator HUMPHREY is the product of a strong Midwestern background. Though now identified with the State of Minnesota, he grew up in the farming country of South Dakota; his roots in the Midwest are thus deep and broad. With millions of other Americans, he endured many of the hardships of the Great Depression. Whereas, some men are irreparably bent and broken by adversity, HUBERT HUMPHREY was made stronger by the challenge of struggle and perseverance. His family and religious background have bred into his character an admirable mixture of compassion, courage, and optimism that are hallmarks of his political career. Indeed, he converted the old American idea of helping one's neighbor into a cardinal principle for his own political actions.

Senator HUMPHREY has played a significant role in most of the social legislation that has been enacted in the past generation. His concern and efforts have been extended to the elderly, minority groups, farmers, the poor, labor, children, the hungry, and the medically needy. He has sought domestic justice and world peace. This country and our world are better places in which to live because HUBERT HUMPHREY has been among us.

In recent months, his health has been a constant concern among his colleagues, his constituents, and his countrymen. But even in his fight against cancer, HUBERT HUMPHREY has continued to demonstrate that same indefatigable strength and courage that have inspired us so often in the past. HUBERT HUMPHREY is not only extraordinary; he is peerless.

Throughout his career, Senator HUMPHREY has possessed the ability to fulfill the expectations of his allies and supporters, while simultaneously earning the esteem and respect of his opponents. As a result, he has won the love and admiration of vast segments of the American people in a fashion not often equalled in this Nation.

Mr. President, there is a theory that history is the fruit of the confrontation of personality and opportunity. I believe that HUBERT HUMPHREY's relationship to 20th century America is evidence in support of that thesis, and I think that our action to name the South Portal Building in honor of Senator HUMPHREY would be an appropriate step toward recognizing the enormous contributions that this beloved colleague and friend has made to all of us and to America.

Mr. President, I ask unanimous consent that a statement by the Senator from Minnesota (Mr. HUMPHREY) on S. 2169, a bill to name the new south portal building of the Department of Health, Education, and Welfare as the "Hubert H. Humphrey Building," be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY SENATOR HUMPHREY

Frankly, I am overwhelmed that 99 Senate colleagues have banded together in my absence to sponsor and pass legislation to which I probably would have demurred, but by which I am deeply honored. I should admonish my esteemed colleague and very good friend, Senator Robert Dole, the chief sponsor of the Senate bill, that despite this action I will resist being elevated to the role of elder statesman above the political fray. And I hope that HEW Secretary Joseph Califano, a truly dedicated public servant, will not assume that by concurring in this tribute, he will not continue to feel my finger tapping his shoulder on matters that I believe could be handled better or more quickly by his Department.

Incredible as it may seem, I am at a loss for words. And so I will only say a profoundly felt "thank you" to Senators Dole, Anderson, Randolph, and Stafford, whom I understand were the agents chiefly responsible for bringing this bill before the Senate before I could raise any objection, and to each and every Senator—for all of whom I have the warmest regard. I also deeply appreciate the initiative of the Minnesota delegation in the House of Representatives, under the leadership of Congressman Albert Quie, in introducing a companion measure.

It must, of course, be left to the judgment of history whether the rapid action by both Houses in passing this legislation will have been precipitous. But I am grateful for the bipartisan spirit in which this action is being taken. It reflects the mutual respect that binds together the elected representatives of our people as perhaps the finest legislative body in political history. It is in the chambers of the Senate and the House where government of, by, and for the people receives its most direct and meaningful expression. So, as you do me great honor, I pay my deepest respect and extend heartfelt good wishes for the future to all of you.

The PRESIDING OFFICER. The bill is open to amendment. If there be no amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill (S. 2169) was ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the South Portal Federal Office Building of the United States Department of Health, Education, and Welfare, located at 200 Independence Avenue, Southwest, in Washington, District of Columbia, is hereby designated as the "Hubert H. Humphrey Building". Any reference in any law, regulation, document, record, map, or other paper of the United States to such building shall be considered to be a reference to the Hubert H. Humphrey Building.

Mr. RANDOLPH. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

LEGAL SERVICES CORPORATION ACT AMENDMENTS OF 1977

The Senate continued with the consideration of S. 1303.

Mr. NELSON. Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time be charged equally to both sides.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. NELSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 930

(Purpose: To authorize $205,000,000 for 3 fiscal years for the Legal Services Corporation and for other purposes.)

Mr. NELSON. Mr. President, I send to the desk an unprinted amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Wisconsin (Mr. NELSON), for himself and Mr. JAVITS, proposes an unprinted amendment numbered 930.

Mr. NELSON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 11, line 5, strike out "(a)".

On page 11, line 9, beginning with $225,000,000" strike out through line 10 and insert in lieu thereof the following: "$205,000,000 for the fiscal year 1978, and such sums as may be necessary for each of the two succeeding fiscal years".

On page 11, strike out lines 11 through 14.

On page 17, strike out lines 10 through 16.

On page 17, line 17, strike out "(d)" and insert in lieu thereof "(c)".

On page 17, line 24, strike out "(e)" and insert in lieu thereof "(d)".

On page 18, lines 1 and 2, strike out "(as amended by subsection (c) of this section)".

On page 18, line 4, strike out "(d)" and insert "(c)".

On page 12, line 21, insert "(a)" after "Sec. 5.".

On page 12, after line 24, add the following:

(b) Section 1006(a)(3)(A) of the Legal Services Corporation Act (42 U.S.C. 2996e(a)(3)(A)) is amended by inserting at the end thereof the following: "except that broad general legal or policy research unrelated to representation of eligible clients may not be undertaken by grant or contract,".

Mr. NELSON. Mr. President, this is a group of five amendments which were part of the unanimous-consent agreement last night. They are amendments which have been agreed to by both sides of the aisle; is that not correct?

Mr. JAVITS. That is correct.

Mr. NELSON. I read into the RECORD earlier in the day a statement on four of them. The fifth one we have just reached agreement on.

Mr. McCLURE. Mr. President, will the Senator yield to the Senator from Idaho?

Mr. NELSON. Yes.

Mr. McCLURE. I thank the Senator for yielding. This has been an amendment under consideration and consultation all day. It conforms with the agreement reached yesterday and the further agreement today on the five items, and it has the support of myself and all those with whom I have been in contact.

Mr. NELSON. Let me say the fifth item also was involved with backup centers and was agreed to in the general dialog last night and is in today's RECORD; is that not correct?

Mr. McCLURE. That is correct.

Mr. NELSON. This committee amendment modifies S. 1303, the Legal Services Corporation Act in several respects:

First, the committee amendment provides for a 3-year reauthorization of appropriations for the Legal Services Corporation. The bill that was reported to the floor by the Human Resources Committee reauthorized the Legal Services Corporation for 5 years.

Second, the committee amendment provides an authorization of appropriations of $205 million for fiscal year 1978, and such sums as may be necessary for fiscal years 1979 and 1980. The bill reported to the floor by the Human Resources Committee provided that there be an authorization of appropriations in fiscal year 1978 of $225 million and such sums as may be necessary for each of the 4 succeeding fiscal years.

Third, the committee amendment strikes section 2(b) of S. 1303. This section of the bill would have changed current law by permitting private funds to be used for any purposes authorized by the donor so long as those private funds were accounted for and reported as receipts and disbursements separate and distinct from funds received from the Corporation.

Fourth, the committee amendment strikes section 9(c) of S. 1303. This section of the bill would have clarified existing law as to the kinds of activities Corporation funds could be used for in the organization of any group and in the provision of advice and legal assistance to clients who are engaged in organizing activities. The current law will remain unchanged in this particular area if the Senate bill becomes law.

Finally, under the committee amendment, the Corporation would be authorized to undertake, by grant or contract, training and technical assistance, and clearinghouse activities. Research activities could also be undertaken, by grant or contract; however, broad general legal or policy questions unrelated to representation of eligible clients would not be authorized by grant or contract.

Under current law, the Corporation may not undertake, by grant or contract, research, training and technical assistance, and clearinghouse activities, unless those activities are part of the provision of legal assistance to eligible clients, are under the Corporation's direct supervision, or for the purpose of enabling the Corporation to carry out its own statutory responsibilities.

Mr. President, I am prepared to yield back the remainder of my time.

The PRESIDING OFFICER. Does the Senator from New York yield back his time?

Mr. JAVITS. Yes.

The PRESIDING OFFICER. The ques-

tion is on agreeing to the amendments en bloc.

The amendments were agreed to en bloc.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the amendments were agreed to en bloc.

Mr. NELSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Who yields time?

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield to me?

Mr. HELMS. Yes.

UNANIMOUS-CONSENT AGREEMENT

Mr. ROBERT C. BYRD. Mr. President, I think this request has been agreed to on all sides. I ask unanimous consent that upon the disposition of the amendment by Mr. HELMS, the Senate proceed without any further intervening motion, debate or amendment to third reading of the Senate bill, S. 1303; and then without any further intervening motion, debate, appeal or point of order, the Senate proceed to the consideration of the House bill, H.R. 6666, and that all after the enacting clause of that bill be stricken and the text of the Senate bill as amended be inserted in lieu thereof; and that the vote on the final disposition of H.R. 6666 then occur.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that it be in order at this point to order the yeas and nays on H.R. 6666, as amended.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

UP AMENDMENT NO. 931

(Purpose: To prohibit representation in quota cases under the Legal Services Corporation Act.)

Mr. JAVITS. Mr. President, I understand the Senator from North Carolina will ask for the yeas and nays on his amendment and if Members would give us a minute and not leave the Chamber, that would be appreciated.

Mr. HELMS. Mr. President, I ask that it be in order that I ask for the yeas and nays.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from North Carolina (Mr. HELMS) proposes an unprinted amendment numbered 931.

Mr. HELMS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 18, between lines 5 and 6, insert the following:

(f) Section 1007(b) of the Legal Services Corporation Act (42 U.S.C. 2996f(b)) (as redesignated by subsection (c) of this section) is amended by striking out "or" at the end of paragraph (6), by striking out the period at the end of paragraph (7) and inserting in lieu thereof a semicolon and the word "or" and by adding at the end thereof the following:

"(8) to provide legal assistance with respect to any proceeding or litigation involving ratios, goals, quotas or other numerically based remedies on account of race, creed, color, national origin, sex or age regarding admission or assignment of students or the hiring or assignment of personnel of any educational agency or institution.".

Mr. HELMS. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. HELMS. Mr. President, I yield myself such time as I may require.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. I thank the Chair.

Recently the Legal Services Corporation entered an amicus curiae brief in the Univerity of California against Bakke case presently before the U.S. Supreme Court. This case, of course, deals with whether a school may impose admission quotas on the basis of race and may institute a practice of discrimination against certain applicants because of their race.

The Legal Services Corporation brief supported racial quotas and the practice of certain universities of discriminating against certain students on the basis of their race. The brief maintained that "race-conscious procedures are necessary to achieve the ultimate goal of a racially integrated society." Additionally, the brief asserted that "minority lawyers do have a greater commitment to serving poor members of their race."

Mr. President, the Corporation brief submitted in the Bakke case was written and submitted without the knowledge or approval of the board of directors of the Corporation.

Mr. President, it is interesting to note the latest Gallup poll taken on the issue of reverse discrimination and the use of quotas in hiring and admissions policies of universities, showed that 83 percent of the American public opposes such reverse discrimination and only 10 percent of those polled expressed support for the concept of preferential treatment for certain groups.

It is equally important to realize, Mr. President, that 64 percent of the nonwhite participants in the poll, those who would be the natural recipients of such preferential treatment, opposed the use of quotas and other means of preferential treatment. Indeed, that 64 percent maintained that ability alone, as determined by objective tests, be the basis for hiring and college entrance.

The effect of the amendment I will submit is a simple one: it prohibits the use of taxpayers' money from being used to finance law cases involving quotas, whether referred to as goals or ratios or other so-called numerically based remedies, relating to race, creed, color, national origin, sex or age. It simply prohibits the use of taxpayers' money to achieve a result which evidence suggests is opposed to 83 percent of those taxpayers.

Now, Mr. President, I ask unanimous consent that certain portions of various columns and editorials to which I will refer be printed in the RECORD. The first is a column by Albert Shanker, president of the United Federation of Teachers, which appeared in the New York Times on September 25, 1977; the second is by Michael Novak, writing in the Washington Star on May 17, 1977; the third is by William Raspberry, in the Washington Post on September 30, 1977; the fourth is by George F. Will in the Washington Post of September 25, 1977; the fifth is from the Wall Street Journal of October 3, 1977, by John W. Bunzel, president of San Jose State University in California; and finally, Mr. President, an article from the New York Times edition of May 1, 1977, which reported on the poll to which I alluded earlier, the story headed "83 Percent in Poll Oppose Reverse Bias Plans."

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the New York Times, Sept. 25, 1977]

HIGH COURT SHOULD BAR RACIAL PREFERENCE

(By Albert Shanker)

There is no issue in American society today that is as divisive as preferential treatment along racial and ethnic lines—no issue more guaranteed to keep race relations in this country in a state of conflict. Unless the Supreme Court declares once and for all that the Constitution demands equal treatment for all Americans and bars race as a consideration, we are in for endless lawsuits, mistrust and resentment.

Most Americans believe in equal treatment. Most even feel that people who have been victims of discrimination should be given special help to "catch up" and be able to compete on an equal footing for college openings and jobs. Ben Wattenberg, co-chairman of the Coalition for a Democratic Majority, put it well in a letter he wrote to President Carter urging the President to come out against racial quotas. Wattenberg wrote:

"Educational institutions must be encouraged to recognize that there are better indices of potential academic success than mere grades and test scores. Students with deficiencies in their educational background shculd have ample access to remedial programs designed to bring their academic skills up to prevailing standards. Outreach programs should encourage and assist students in taking advantage of every opportunity to realize the full potential of their abilities. This is what is properly meant by the term 'affirmative action.'"

Wattenberg took issue with those who claim that it is the word "quota" which is objectionable—and if the practice of racial preference were called something else, opposition would vanish. He wrote: "What opponents of 'quotas' oppose is the idea that individuals should be treated on the basis of their race rather than on the basis of their individual abilities. That is what is offensive, no matter what you call it."

Allowing race or ethnic origin to be a criterion for college admission or jobs raises a host of questions and a generation of prob-

able lawsuits. What groups constitute "minorities?" Thus far, blacks, Hispanic Americans, American Indians and Asian Americans have been targeted in special admissions programs. How about Ukrainians? Indian Indians? Polish Americans? Italian Americans? Many groups can claim some discrimination, some disadvantage, some unfair treatment. How do we choose? How much weight should be given to such factors? How far should standards be lowered to admit applicants from groups so favored? And when do we stop lowering them? At college entrance? In admission to law and medical schools? In bar or medical examinations? How do those admitted, perhaps even graduated, under lesser standards avoid being stigmatized by that fact? What about the many black students who make it on their own merit? In the suspicious world we are creating, are they going to have to prove that they did so?

[From the Washington Star, May 17, 1977]

AFFIRMING THE QUALITY QUOTA

(By Michael Novak)

A recent study of the affirmative action programs in New York City's medical schools has revealed an effective way to sabotage such programs—and also a way to make them succeed.

Dr. James Curtis is in charge of the most successful of New York City's programs, at Cornell University College of Medicine. He is black. Dr. Curtis told the New York Times that many medical schools admitted blacks almost indiscriminately in the late 60's and early 70's. He said that many of those students were not able to keep up and many, embittered, did not make it.

"This failure has led to a demoralization among both students and faculty and a declining commitment on the part of the schools," Dr. Curtis said.

A policy that admits unqualified persons just because of their race is a certain way to sabotage affirmative action programs. It brings such programs into disrepute. It injures the reputation of other minority graduates. And it breeds among the public a deep sense of unfairness. It is a liberal version of racism, effected not by resistance but by the cowardly use of a double standard. It is also unnecessary. Many blacks are middle class, and some of the poor in every ethnic group have been brilliant.

Note, by contrast, how Dr. Curtis made the Cornell program succeed. He had a nonracist secret.

Dr. Curtis and his colleagues admitted minority students in larger proportion than some other New York schools, but only if they were properly qualified. "We've only lost one academically," he pointed out. His program admits students not on the basis of race, but on the basis of qualifications. To make up for past neglect, Cornell takes affirmative steps to find qualified minority students.

Most of the conflict over affirmative action programs could be laid to rest if Dr. Curtis's secret were to become part of the public patrimony. No one objects to affirmative action programs in which quality is decisive. But dishonest programs breed outrage.

Professions of medicine and law should include members of all of America's minority communities. That is good for the entire nation. It is also good for the nation if the professional schools are aggressive in recruiting those who are underrepresented in their professions.

What is wrong with affirmative action programs in some cases is their dishonesty and their racism.

[From the Washington Post, Sept. 30, 1977]

A BASIS FOR SPECIAL TREATMENT

(By William Raspberry)

The question is not merely what should be the extent and nature of special treatment for disadvantaged minorities, but what should be the basis for such special treatment.

Should it be compensation for historical disadvantage—a modern-day "40 acres and a mule"—or the means for negating the effects of present-day discrimination? Either answer contains problems of its own.

The problem here is that even if racism is general, blacks are not uniformly affected by it and, therefore, across-the-board preferences don't make sense.

Programs based on present-day discrimination would seem to demand two things: (1) a specific finding of discrimination against a particular victim and (2) the identification of the particular culprit or culprits. It's easy enough to assume that the white-controlled society at large is the culprit, except that remedies tend to involve people who, like Bakke, see themselves as innocent scapegoats.

What we may eventually have to come to, no matter how the Supreme Court rules in *Bakke*, is the necessity of dealing with discrimination against individuals (or at least discrimination in individual circumstances).

The group solutions are turning out to create about as many problems as they cure.

[From the Washington Post, Sept. 25, 1977]

THE BAKKE CASE; CULTIVATING "RACE-CONSCIOUSNESS"

(By George F. Will)

The administration's Bakke brief is the most ominous document concerning race to issue from the federal government in this century. It says race is "ordinarily" irrelevant to an individual's rights and "generally" an illegitimate basis for allocating opportunity, but . . . But for the foreseeable future America must cultivate "race-consciousness."

Professing to explain the brief, Attorney General Griffin Bell said he opposes "exclusionary" quotas. Evidently he understands neither quotas nor the brief. All quotas are "exclusionary". They exclude persons who are not members of approved groups. An early version of the brief, written before Bell's Justice Department buckled beneath pressure, made the obvious point that quotas involve "using race as a toool of exclusion"—as the medical school used them against Bakke.

In order that "the effects of past discrimination" will not "mask an individual's merit," the brief says certain government-approved racial and ethnic groups, and not just individuals, should have rights. If this doctrine saturates policy, American politics will be permanently poisoned. Politics will be an endless struggle for preference, a scramble to determine which minorities will receive what slice of educational and employment opportunities.

If you doubt that this will be permanent, consider that the brief says society must "restore victims of discrimination to the position they would have occupied but for the discrimination" against them or their "forebears." Who will decide, and by what criteria, when "restoration"—a strange word to choose—has been completed.

"As long as prior discrimination has present effects," says the brief, "mere neutrality to race is insufficient. As long as the effects . . . persist the employment of race consciousness in rectifying that discrimination should not be abandoned." Obviously "mere neutrality" on race will be impermissible, and "race consciousness" will be obligatory, for generations.

[From the Wall Street Journal, Oct. 3, 1977]

AFFIRMATIVE ACTION WITHOUT QUOTAS: THE TEMPLE PLAN

(By John H. Bunzel)

The University of California at Davis maintains that only a racially preferential admissions policy can bring about the integration of the medical school and, ultimately, the medical profession.

But whether a racially preferential admissions policy is the only way to enable more minority group members to practice medicine (or law) is open to debate.

Consider the law school admissions policy at Temple University in Philadelphia. Temple's special admissions program seeks out and "carefully, individually and affirmatively selects those applicants—*minority and majority group members*—who have an outstanding performance record and an exceptional aptitude for the study and practice of law, not necessarily reflected by their LSAT scores."

The law school's Special Admissions and Curriculum Experiments Program (Sp. A.C.E.) is open to "working men and women, and their children, irrespective of ethnic or racial or social or religious heritage, or favoritism."

In the fall semester of 1976, Temple Law School could admit only one in 10 of its applicants. Its entering class of 375 constituted, in traditional terms, "the highest quality" group in the school's history. Admissions were through two routes—"non-discretionary" and "discretionary."

The median grade point average of the "non-discretionary" admissions was well above 3.50, and the median LSAT was well up in the 600s, which was in the top 10% of those who took the examination. Roughly 75% of the entering class was admitted "through the numbers," and almost everyone admitted through the "non-discretionary" formula was a white man or woman.

"Discretionary" admissions fall within the Sp. A.C.E., which considers six categories of applicants: black, Hispanic, American Indian, Asian or any other minority group grossly underrepresented in the legal profession, non-minority groups, college grade point averages of 3.80 or above, those who overcame exceptional economic deprivation, those who display exceptional leadership ability in college or community, and those whose exceptional physical disability (including blindness) precludes their taking the regular LSAT.

High academic achievement is a requirement for consideration in the Sp. A.C.E. Further, admission is competitive within and among the six Sp. A.C.E. categories, so that being in one of the categories does not necessarily ensure admission.

The non-discretionary special admissions program differs sharply from the one which rejected Allan Bakke. At the UC-Davis medical school, a clear preference on the basis of race is granted to persons who, by the university's own standards, are not as qualified to study medicine as are non-minority students denied admission. In addition, the special admissions program at Davis reserves a fixed number of places for racial minorities only.

By contrast, Temple's program is open to all applicants. No racial or ethnic group is considered deserving of exclusive preferential treatment. The proof is that approximately twice as many whites as minorities have been admitted in the last four years through the Sp. A.C.E. In a student body of 1,115, women now constitute 36%, not the 2% of 12 years ago. Minority students still comprise less than 10%, with blacks making up less than 8% of the total enrollment. But 10 years ago they comprised only 1%.

Perhaps the single most important feature of the Temple program is a student body that includes men and women from virtually every racial, ethnic and economic class, almost every religion, age group and walk of life. Among those in this rich melting pot:

A Hungarian refugee whose family was in a Nazi concentration camp; a young man of Italian ancestry who worked in a gas station 40 hours a week from age 12 through college; an American Indian raised on a reservation; children of working-class ethnic backgrounds; policemen; black women; black veterans wounded in Vietnam; a white woman who, as a teacher, helped establish an alternative school; Poles, Lithuanians and Lebanese from the multi-group state of Pennsylvania, and a Japanese-American whose first memories are of a World War II detention camp.

This is affirmative action at its democratic best—a program that pursues integration and other desired social goals without granting special privileges in some groups at the expense of others.

[From the New York Times, May 1, 1977]

EIGHTY-THREE PERCENT IN POLL OPPOSE REVERSE BIAS PLANS: ABILITY RATHER THAN PREFERENTIAL TREATMENT FAVORED ON HIRING AND ADMISSION TO COLLEGE

An overwhelming majority of Americans believe that reverse discrimination should not be used in hiring people or determining admission to college, according to the latest Gallup Poll.

Eighty-three percent of the 1,550 adults interviewed in the survey said that preferential treatment should not be given to women or minority groups; 10 percent said it should.

However, 64 percent of the nonwhite participants in the poll said they backed the idea of making ability alone as determined by tests, the basis for hiring and college entrance.

Mr. HELMS. I thank the Chair and I reserve the remainder of my time.

Mr. JAVITS. Mr. President, I yield myself 5 minutes in opposition.

The PRESIDING OFFICER. The Senator is recognized for 5 minutes.

Mr. JAVITS. Mr. President, the Senate has already decided in an amendment which was decided by a vote of 55 to 38 that it would allow legal services attorneys to represent individual eligible clients in respect to school desegregation. This amendment is exactly of the same type.

The question is whether a poor individual who seeks admission to a school or university may contest the fact that he is barred. We do not know what side of the Bakke case he will be on, and we do not know how the Bakke case will be decided. It has just been submitted to the Supreme Court on arguments this very day.

In addition, this amendment has another fatal defect. Suppose that individual is defending; in other words, he is being sued, and he is poor, and the only way of getting him out of the poverty syndrome is through education, or education for his children; are we going to deny him representation for that reason?

I am deeply troubled about voting up or down on an issue which does not involve directly the issues which are involved in the so-called Bakke case. The text of the amendment says:

To provide legal assistance with respect to any proceeding or litigation involving ratios, goals, quotas or other numerically based remedies on account of race, creed, color, national origin, sex or age regarding admission or assignment of students or the hiring or assignment of personnel of any educational agency or institution.

It seems to me that it is almost granting the question if we are going to define a proceeding or litigation as involving ratios, goals, quotas, or other numerically based remedies. That itself is going to be a controversial issue in the very litigation in which the poor person may either be a plaintiff or a defendant.

For all those reasons, Mr. President, I feel that the amendment needs to be rejected. Indeed, Mr. President, I have been rather concerned and also rather surprised to get amendments which have been offered by my colleagues on this side, who have some deep reservations about the bill, many of which we have met by tabling amendments, because I have felt they have certainly shown good faith with us, and we wanted to vote yea or nay on the merits of every amendment.

I must say this one deeply concerns me as to whether or not it is desirable or advisable, whether Senator HELMS wins or loses, to have an expression of the Senate upon the issue of litigation on a proceeding "involving ratios, goals, quotas, or other numerically-based remedies." That definition is either invidious or too narrow, and I shall be thinking it over and consulting with Senator NELSON as to whether, just in the interest of not committing the Senate on that kind of a proposition in this particular case, in the interest of all of us, it would not be well to have the Senate test on tabling rather than having the Senate test on voting this amendment up or down.

In any event, Mr. President, for the reasons I have stated, I hope the amendment is not favorably acted upon.

Mr. NELSON. Mr. President, I might say——

The PRESIDING OFFICER. Who yields time?

Mr. NELSON. I yield myself 3 minutes.

I think the Senator from North Carolina ought to be tickled pink—that might be the wrong color for him—tickled to have this Senator move to table, because that is the only motion we have lost on so far. So I will move to table in a moment.

The legal services programs are now prohibited from undertaking school desegregation cases. They engage in very few employment discrimination cases, because attorneys' fees are available to private lawyers in such cases, pursuant to the explicit provisions of the Civil Rights Attorneys Fees Act of 1976, or title VII of the Civil Rights Act.

Since the cases are thus fee generating, legal services lawyers are prohibited by the act from engaging in them unless private counsel is, in fact, unavailable.

Mr. President, I am prepared to yield back the remainder of my time if the Senator from North Carolina and the Senator from Kentucky are.

Mr. HELMS. I am sorry; I did not hear the Senator.

Mr. NELSON. I was just saying to the Chair that I was prepared to yield back the remainder of my time if the Senator from North Carolina is so prepared.

Mr. HELMS. Mr. President, I am not certain at this point whether the distinguished Senator is going to move to table.

Mr. NELSON. Yes, I am delighted to help the Senator as best I can. As I said, that is the only motion I have lost.

Mr. HELMS. Well, Mr. President, I really have no objection to a motion to lay on the table, because anyone who knows anything about the legislative process knows that in this case a vote to table the amendment of the Senator from North Carolina is a vote to condone what the members of the Legal Services Corporation did in the Bakke case. We will be voting on the Bakke case one way or another.

I would prefer to have an up or down vote, but if the Senator feels that some Senators may be able to hide behind a procedural tabling motion, that is fine. I think it will only confirm the issue. The question is, Do we want this thing or not? I think it will be instructive to the American people, 83 percent of whom have rejected this kind of conduct.

I would hope the Senator would restrain his desire to table the amendment and let the Senate speak. We have had a lot of procedural votes that have caused me grief back home, and I would hope we would not engage in procedural obfuscation of what went on here. So I would hope the Senator will not move to table, but if he and Senator JAVITS wish to do so, that is fine. I yield back the remainder of my time.

Mr. JAVITS. Mr. President, before the Senator does that, would the Senator from Wisconsin outline what we did to Senator HAYAKAWA, which relates to this very proposition, so that the Senate will know that the amicus curiae question is settled, that, is the friend of the court brief?

Mr. NELSON. Yes. I do not view this amendment as on all four, or even one of the four, with the Hayakawa amendment. That amendment simply provided that in cases such as the Bakke case, amicus curiae briefs in which neither the Legal Services Corporation nor the local Legal Services organization had a client or a direct interest, that under those circumstances we shall forbid an amicus brief to be filed.

This is a case in which the Legal Services Corporation or its local affiliate in fact does have an actual client, who believes that in an employment situation he or she is being discriminated against and is unable to get other counsel to represent him or her. In such a case, we simply allow them to go to Legal Services attorneys and seek representation in this particular kind of case.

But I also agree with the Senator from North Carolina that there is no one here who does not know what tabling or voting straight up or down means.

Mr. HELMS. Then let us have an up or down vote.

Mr. NELSON. No, the problem with that is that there was a time, a few years ago, when there were about a dozen or 18 or so Senators who, as a matter of

philosophy and for various other reasons, would not vote to table. But as the years went by, they have all left, or the two or three or so who remain, on some occasions in the past, have decided to vote to table.

I know, and the Senator from North Carolina knows, that this is a vote on the merits. It saves a lot of time, because if we have an up or down vote, everybody is rushing by to find out more about the amendment. I am agreeing with the Senator from North Carolina, and in self defense we would both have to deny that.

I think it is a much better situation just to have the motion to table, recognizing that nobody here is so innocent that they are being fooled that they are voting on the merits.

Mr. HELMS. Just so we have an understanding that a vote in favor of tabling the amendment of the Senator from North Carolina is flying in the face of the beliefs of 83 percent of the people of America, just so the record is clear.

Mr. NELSON. Let us stipulate that the Senator from Wisconsin agrees that the Senator from North Carolina believes that tabling this amendment flies in the face of the beliefs of 83 percent of the people of the United States, and then let us have it understood that I do not believe that.

Mr. President, I yield back the remainder of my time.

Mr. HELMS. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. NELSON. Mr. President, I yield 2 minutes to the Senator from New Jersey on an extraneous matter.

MINIMUM WAGE INCREASE

Mr. WILLIAMS. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 3744.

The PRESIDING OFFICER laid before the Senate a message from the House of Representatives announcing its disagreement to the amendment of the Senate to the bill (H.R. 3744) to amend the Fair Labor Standards Act of 1938 to increase the minimum wage rate under that Act, and for other purposes, and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. WILLIAMS. I move that the Senate insist upon its amendment and agree to the request of the House for a conference on the disagreeing votes of the two Houses thereon, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. WILLIAMS, Mr. RANDOLPH, Mr. PELL, Mr. NELSON, Mr. HATHAWAY, Mr. RIEGLE, Mr. JAVITS, Mr. SCHWEIKER, Mr. STAFFORD, and Mr. HATCH, conferees on the part of the Senate.

LEGAL SERVICES CORPORATION ACT AMENDMENTS OF 1977

The Senate continued with the consideration of S. 1303.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the amendment of the Senator from North Carolina. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Minnesota (Mr. ANDERSON), the Senator from Minnesota (Mr. HUMPHREY) and the Senator from Arkansas (Mr. MCCLELLAN) are necessarily absent.

I also announce that the Senator from New York (Mr. MOYNIHAN) is absent because of illness.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) and the Senator from Minnesota (Mr. ANDERSON) would each vote "yea."

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER), the Senator from California (Mr. HAYAKAWA), the Senator from South Carolina (Mr. THURMOND), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

I further announce that, if present and voting, the Senator from South Carolina (Mr. THURMOND) would vote "nay."

The result was announced—yeas 69, nays 22, as follows:

[Rollcall Vote No. 560 Leg.]

YEAS—69

Baker	Glenn	Metzenbaum
Bayh	Gravel	Muskie
Bellmon	Griffin	Nelson
Bentsen	Hart	Nunn
Biden	Haskell	Packwood
Brooke	Hatfield	Pearson
Bumpers	Hathaway	Pell
Burdick	Heinz	Percy
Byrd, Robert C.	Hollings	Proxmire
Case	Huddleston	Randolph
Chafee	Inouye	Ribicoff
Chiles	Jackson	Riegle
Church	Javits	Sarbanes
Clark	Johnston	Sasser
Cranston	Kennedy	Sparkman
Culver	Leahy	Stafford
Danforth	Long	Stevens
DeConcini	Magnuson	Stevenson
Dole	Mathias	Stone
Domenici	Matsunaga	Talmadge
Durkin	McGovern	Weicker
Eagleton	McIntyre	Williams
Ford	Melcher	Zorinsky

NAYS—22

Allen	Hansen	Roth
Bartlett	Hatch	Schmitt
Byrd, Harry F., Jr.	Helms	Schweiker
	Laxalt	Scott
Cannon	Lugar	Stennis
Curtis	McClure	Tower
Eastland	Metcalf	Wallop
Garn	Morgan	

NOT VOTING—9

Abourezk	Hayakawa	Moynihan
Anderson	Humphrey	Thurmond
Goldwater	McClellan	Young

So the motion to lay on the table UP amendment No. 931 was agreed to.

Mr. NELSON. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. JAVITS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. WILLIAMS. Mr. President, I rise in support of S. 1303, the Legal Services Corporation Act Amendments of 1977. The purpose of this legislation is to strengthen the Legal Services Corporation to enable it to more effectively and efficiently deliver legal assistance to poor people.

Our system of jurisprudence functions at its best when opposing parties in a dispute are ably represented by vigorous advocates. It is only when this occurs that our law can be impartially interpreted and fairly enforced. The services and programs funded by the Legal Services Corporation provide opportunities whereby the poor are adequately represented and given equal access in civil justice to their legal institutions.

The legal services program had its origins in the Office of Economic Opportunity. Even though controversy surrounded the creation of that program, the concept of delivering legal assistance to the poor was recognized by Congress as critically important. Consequently, in 1974 Congress established the Legal Services Corporation Act of 1974, a private, nonprofit organization, independent of the executive branch with the responsibility for providing legal assistance to the poor in civil matters. The work of the dedicated and competent Legal Services board members, their attorneys, and paralegals has enabled the Corporation and its program to achieve bipartisan support from Congress, State and local bar associations, the American Bar Association, and many private citizens.

The majority of legal matters handled by legal services attorneys involve daily survival issues for poor people, such as shelter, employment, and consumer protection. On a daily basis the cases are not creating new precedents in constitutional or antitrust law but instead are dealing with simple issues that are critically important to human beings whose lives exist in the cycle of poverty. The financial resources available to the Corporation do not enable it to provide representation to all poor people but more clients have been reached, because of the training and utilization of paralegals as well as the development of delivery techniques for handling routine aspects of legal services' cases.

The amendments in this bill improve, strengthen, and enable the Corporation to rely on its decade of experience so that it may continue delivering quality legal assistance and also expand its services to include a larger number of poor people. Even if the Corporation reaches its short-term goal of two attorneys per 10,000 poor with a 350- to 400-case load per lawyer, every poor person will not have a lawyer. Reasonable access to legal representation for a poor person to resolve a civil dispute, is a fitting example of commitment by our Government to attempt to alleviate the effects of poverty.

Critics of this program must surely recognize that in order to make access

and opportunity to our legal system meaningful for poor people it naturally implies that the means and ability to use that system must also be made available. If the poor are required to use the law to seek a redress of their grievances but are not provided the tools to effectively utilize that system, their ability to exercise an inherent right is frustrated. Continued support for a strong, healthy, viable independent Legal Services Corporation and the programs it funds can truly help the disenfranchised persons of this society to once again believe in our system of jurisprudence and the laws they are expected to obey.

THE LEGAL SERVICES CORPORATION

Mr. CHURCH. Mr. President, the Legal Services Corporation Act amendments are a responsible piece of legislation and deserve the Senate's support. These amendments will help take the Legal Services Corporation one further step toward providing adequate legal aid for the poor in this country.

As Vice President MONDALE said in a recent speech:

For all too many impoverished Americans, the promise of justice remains just that . . . a promise. For the 16 million poor citizens who have no access to federal legal services, it is a promise waiting to be fulfilled.

The justice these Americans are seeking is rarely the stuff of which headlines are made; it will not often be carved in stone on our courtroom walls.

But for thousands of clients of the Legal Services Corporation, access to counsel has meant more than a vindication of their legal rights. It has meant a vindication of their humanity . . . a vindication of their dignity . . . a vindication of their right to be something more than a victim, the fate too often reserved for the poor.

I agree with these sentiments which are echoed by the American Bar Association. In a recent letter of support for these amendments, the president of the ABA stated:

The Legal Services Corporation has performed extremely well in fulfilling its congressional mandate and is an excellent model of a well-functioning federal program for the public good.

This support has also been voiced in Idaho as indicated in a letter from Stephen B. McCrea, president of the Board of Directors of the Idaho Legal Aid Services, Inc. I ask unanimous consent that his letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

JULY 13, 1977.

Senator FRANK CHURCH,
U.S. Senate,
Washington, D.C.

DEAR SENATOR CHURCH: As President of the Board of Directors of Idaho Legal Aid Services Inc., I urge you vote for the adoption of S 1303 without amendment.

At the present time Idaho Legal Aid Services, Inc., is serving six judicial districts in the State of Idaho on a subsistence level. In addition an office was opened in Idaho Falls to assist victims of the Teton Dam disaster. This office is in danger of being closed down because of the lack of funds. Furthermore the largest minority groups in Idaho, the migrants, and the Native Americans, continue to be without access to the legal system because of the inability of Idaho Legal Aid Services, Inc. to provide for attorneys with expertise in those fields of law.

As you know, Congress found a need and declared that equal access to the system of justice was necessary for individuals who would be otherwise unable to afford adequate legal counsel. S. 1303 would help Idaho Legal Aid Services, Inc. to implement this finding.

Thank you for your consideration.

Sincerely yours,

STEPHEN B. MCCREA,
President, Board of Directors, Idaho Legal Aid Services, Inc.

Mr. CRANSTON. Mr. President, I have been deeply involved in both the development of the Legal Services Corporation Act Amendments of 1977 and the congressional efforts to create the Corporation during the 93d Congress. I am especially proud to be an original sponsor of S. 1303, the Legal Services Corporation Act Amendments of 1977, which was ordered favorably reported by the Human Resources Committee after having been introduced by the distinguished chairman of the Subcommittee on Employment, Poverty, and Migratory Labor, Mr. NELSON.

We appear now to be approaching the end of a long road in the Senate's consideration of S. 1303.

The bill as reported contained many provisions which I collaborated on with the Senator from Massachusetts (Mr. KENNEDY), another original sponsor of S. 1303. The bill was also originally sponsored by those most steadfast friends of legal services, the chairman of the Human Resources Committee, the Senator from New Jersey (Mr. WILLIAMS), and the ranking minority member of the committee, the Senator from New York (Mr. JAVITS). We are also joined by the Human Resources Committee's newest majority member, the Senator from Michigan (Mr. RIEGLE) and the distinguished Senator from Maine (Mr. HATHAWAY), as well as the distinguished Senator from Vermont (Mr. STAFFORD).

BACKGROUND

This truly bipartisan support for the legal services program demonstrates the tremendous success of our effort a few years ago to free this program from the constraints of the political arena. Indeed, our national commitment to the concept of providing citizens, regardless of economic circumstances, with full access to our judicial system and competent legal assistance, is a truly nonpartisan one. There should be no division among us on the principle that equal access to justice and equal justice under the law are essential in our society.

Yet, a few years ago, it was clear that partisan political pressures were threatening the effectiveness of our implementation of these principles. It was clear that these pressures necessitated the removal of the legal services program from the executive branch. It was clear that establishment of a new, independent public corporation—not an agency of the Federal Government—to fund and administer the legal services program was necessary to preserve the program. Passage of the Legal Services Corporation Act of 1974 was the result of those concerns.

The Legal Services Corporation created by the 1974 act has now been operating for over 2 years. Although no program of this magnitude can operate without some difficulties, I can say without exaggeration that the Corporation has been a resounding success. The legal services program is no longer emersed in controversy. The energies of legal services attorneys and supporters are now directed full-time to the important goal of providing legal services to low-income Americans.

Mr. President, I am delighted to say that the basic congressional goal in creating the Corporation—to insure that the legal services program remains free of partisan politics—has been largely realized. The Corporation is accountable directly to Congress. Policy is set by the Board of Directors, who have proven themselves to be responsible, moderate citizens, committed to the legal services program. The Corporation has brought stability and continued success to the legal services program.

As a result, the legal services program is now sound and healthy. Of course, I do not mean to imply that the goal of equal access to our system of justice is now a reality for America's poor. There are still many, many Americans, who, because of their poverty, do not have access to legal representation. But, we have made a substantial beginning on our long journey to accomplish that goal. The substantial commitment of additional resources for the legal services program provided in the Departments of State, Justice, Commerce, and the Judiciary appropriations bill, H.R. 7556—increasing the appropriation for the Legal Services Corporation from the $125 million for fiscal year 1977 to $205 for fiscal year 1978—signed into law on August 2 as Public Law 95–86, will greatly facilitate movement toward our goal.

Mr. President, enactment of the Legal Services Corporation Act Amendments of 1977 is another important step down the long road we must travel toward obtaining equal access for low-income citizens to our judicial system. The amendments proposed in S. 1303 as reported will both enhance the delivery of legal services and insure continuation of the high quality programs now operating under the existing law. I would like briefly to describe some of the important aspects of these amendments.

DURATION OF THE LEGAL SERVICES PROGRAM AND AUTHORIZATION LEVELS

Mr. President, S. 1303 as reported proposed authorization levels of $225 million for fiscal year 1978 and such sums as may be necessary for 1979, 1980, 1981, and 1982. As I mentioned earlier, the 1978 appropriation, signed into law on August 2, provides for an appropriation of $205 million. This increase, generally consistent with the recommendations of the Corporation and administration, will permit the Corporation to continue implementing its plan to provide this Nation's poor with minimum access to legal services. This increase will be utilized by the Corporation not only to expand access to legal representation in areas not now being served, but also to avoid cutbacks in services in existing programs.

By the establishment of a "such sums as may be necessary" authorization of appropriation for the fiscal years after 1978, the exact level of funding for the

legal services program will be subject to review by Congress each year. Such review will permit determination of funding levels which the Corporation can use effectively and efficiently within a restrictive Federal budget.

Mr. President, the extension of the Corporation's authorization for a period of years is important to insure the Corporation, the projects it supports, and the clients it serves of a stable, on-going program. I believe, as does the Corporation, that sound planning can take place only in such a context. We have thus moved to remove the program from the continuing uncertainty in which it previously has operated. The Corporation and its Board of Directors—as well as the Congress—recognize the need for continuing accountability to the Congress and regular review by the Congress. This need, however, can be met without the burden and uncertainty of frequent authorization proceedings.

MEMBERSHIP OF GOVERNING BODIES

Mr. President, the Corporation is governed under current law by an 11-member Board of Directors, appointed by the President with the advise and consent of the Senate. The act, section 1004(a) provides that a majority of the Board members be attorneys. At present all 10 members of the Board—there is one vacancy—are attorneys.

There are presently no members of the client community served by the Legal Services Corporation on the Board of Directors. I believe that it is imperative that this situation be rectified, and I wrote the President a letter last week to that effect. S. 1303 provides for the appointment of members of the client community to the Board of Directors, with at least three persons appointed during the 19-month period from January 1, 1977, to July 30, 1978, and one additional person to fill a vacancy occurring prior to January 1, 1979. Following July 30, 1978, at least three members of the Board are required to be eligible clients of the program.

Since all 11 positions on the Board will be subject to appointment by the President over this period of time, this provision will permit a gradual and nonburdensome addition of client representatives to the governing Board. S. 1303 also provides that the overall Board membership shall be generally representative of interested persons and groups to insure that future Boards will be fully representative of women, minorities, and persons with significant experience in providing legal services to eligible clients.

The bill will also extend to local boards this desire to see eligible clients participating in the development of policy and program initiatives. The bill will require that at least one-third of the persons selected for governing bodies of local legal services programs be eligible clients. This requirement would complement the representation of eligible clients on the national Board.

OPEN MEETINGS

S. 1303 would also provide that the Corporation and each State advisory council be subject to the requirements and provisions of the Sunshine Act, requiring public meetings. Under current law, all meetings are required to be open unless two-thirds of those present vote to close the meeting. The bill proposes to bring the Legal Services Corporation in line with other agencies operating with Federal funds which are also subject to Sunshine Act requirements.

GRANTS AND CONTRACTS FOR RESEARCH, TRAINING, AND TECHNICAL ASSISTANCE

Mr. President, current law limits the Corporation's authority to make certain kinds of grants and contracts for research, training, and technical assistance and clearinghouse activities, unless those activities are part of the provision of legal assistance to eligible clients, are under the Corporation's direct supervision, or are for the purpose of enabling the Corporation to carry out its own statutory responsibilities.

S. 1303 will give the Corporation authority to fund all such activities, by grant or contract, if it is determined that such a course of action would be more economical or effective than adding staff to carry out the activities within the Corporation itself.

The provision in the bill as reported was requested by the Corporation and is also contained in the House-passed bill. The Corporation does not anticipate that this amendment will alter the basic structure of its Office of Program Support or the Research Institute on Legal Assistance, the Corporation's offices that now perform most of these functions. The amendment would, however, provide greater flexibility and would allow the Corporation to insure that every activity it performs is carried out in the most economical and efficient way possible.

CLARIFICATION OF QUESTIONS INVOLVING ELIGIBILITY

Mr. President, since the inception of the federally funded legal services program, parties to lawsuits in which opponents are represented by legal services attorneys have challenged, from time to time, the authority of the legal services program to provide representation to a particular client or in a particular case. Courts have uniformly held that such issues are irrelevant to the resolution of the client's case and should not be raised in this context.

S. 1303 would simply codify existing law as it has been enunciated by the courts and clarify that these questions should be raised with the Corporation, rather than in the court hearing the particular case under litigation. Under this amendment, persons, or entities feeling aggrieved by alleged noncompliance of a legal services program or its employees will be required to complain directly to the Corporation which will then review the procedures and guidelines of the local grantee. This provision thus does not change existing law, but does help to insure that any legal challenge, to the maximum extent possible, will not be utilized to delay the provision of legal assistance to eligible clients under the Act.

COURT-APPOINTMENT OF LEGAL SERVICES ATTORNEYS

S. 1303 also amends the act to insure that a court could not discriminate against legal services attorneys in its appointments of attorneys to civil cases. At present, some State or local courts which have the authority to appoint private attorneys in certain civil matters—often with compensation—have appointed legal services attorneys to serve without compensation in cases in which State law provides for the compensation of attorneys. This practice is inconsistent with the congressional purpose of expanding legal assistance to poor people, because it means that Federal funds are being used to supplant, rather than to supplement, local sources of legal assistance.

Even when State law does not provide for compensation of private counsel, a court should not rely upon legal services lawyers to provide uncompensated representation. Such practices prevent programs from implementing the caseload priorities they are required to adopt under this act.

This amendment thus provides that a court cannot discriminate against legal services in the appointment of cases.

APPLICATION OF HATCH ACT REQUIREMENTS

S. 1303 will apply the provisions of the Hatch Act to legal services attorneys and eliminate the provisions of current law which go beyond the restrictions of the Hatch Act. This amendment would not disturb the present restrictions against using Corporation funds for political purposes and against political activity by legal services program employees during their working hours. It would simply enable legal services attorneys to be involved in the same types of activities on their own time which other Federal employees are permitted to engage in, such as being candidates for nonpartisan positions; that is, school committees, library boards, and boards of education.

Mr. President, it is important to point out that this amendment does not interfere with the appropriate restrictions which insure that Corporation funds are not used to support any political activity. Restrictions, however, on the personal activities of staff attorneys that go beyond the restrictions imposed upon other governmental employees serve no public purpose and unnecessarily restrict the rights of legal services staff attorneys.

DISQUALIFICATION OF CLIENTS

Existing law provides for an absolute prohibition against representing a potential client if a prior determination has been made that the potential client's lack of income results from a refusal or unwillingness, without good cause, to seek or accept employment. This bill would amend that provision to require that such a fact be taken into consideration by a legal services program in determining an individual's eligibility for services but would not make such a prior determination an automatic disqualification. A legal services program would thus be able to consider such other factors as the validity of the procedures by which the prior determination was made, whether subsequent events have rendered the prior determination obsolete, or whether the employment that was re-

fused was appropriate for the individual. This provision would thus make more flexible a rule which has precipitated undue hardship in some case under the existing law.

ESTABLISHMENT OF PRIORITIES

S. 1303 also provides for local legal services programs to establish priorities, taking into consideration the special needs of those segments of the legal services community that have special problems which may limit their access to present legal services projects. The amendment further provides that local legal services programs receive the support and training they need to implement the priorities established after asserting the needs of the client community. This provision would not require that the needs of any special group be given priority, but would require that the local program consider their special problems when establishing program priorities.

LEGISLATIVE AND ADMINISTRATIVE ADVOCACY

Mr. President, this legislation modifies current law regarding legislative and administrative advocacy in a relatively minor, but economically important fashion. It will clarify the appropriateness of paralegal employees—who are supervised by staff attorneys—representing eligible clients in certain situations. The amendment will not change the basic rules governing administrative or legislative representation but will simply clarify that, where appropriate, paralegals employed by a project may carry out these functions under the supervision of staff attorneys. This section also clarifies that legal services attorneys are subject to the some restrictions on solicitation of clients as are private attorneys.

PREFERENCE IN HIRING

The current law provides for a preference to be given to local residents in hiring staff attorneys. This preference may conflict with other legal requirements, such as those which prohibit discrimination in employment. The bill before us will retain existing requirements that a legal services program shall solicit the recommendations of the organized bar in the community served before filling a staff attorney position but will clarify that the preference for local attorneys shall not conflict with laws of the United States respecting discrimination in employment nor will such a preference be required where the position requires proficiency in a language other than English and no qualified person resides in the community.

FEE-GENERATING CASES

Current law prevents the use of Corporation funds to provide legal assistance in fee-generating cases except in accordance with guidelines promulgated by the Corporation. This amendment clarifies the definition of fee-generating cases in the guidelines promulgated by the Corporation by excluding from the definition of fee-generating cases, social security and SSI cases—cases in which the only recovery sought by the eligible client is the amount of subsistence benefits to which he or she is statutorily entitled.

REPRESENTATION IN CERTAIN CASES

Mr. President, the bill will clarify that legal services programs may provide representation in a very narrow category of technically criminal cases which may be viewed basically as civil in nature, for example, where a Native American is arrested for hunting or fishing out of season or without a license and his claim is that a treaty has established his right to hunt or fish. The bill will also repeal certain restrictions on representation of juveniles. The present restrictions have been demonstrated to be inappropriate and because of their complexity have discouraged legal services attorneys from representing juveniles in certain cases.

SCHOOL DESEGREGATION LITIGATION

The proposed amendments will repeal the existing restrictions upon legal services programs providing legal assistance in cases relating to the desegregation of any elementary and secondary school or school system. The Senate's decisive vote today in support of the committee's repealer is a singular testament to the persistence of the Senator from New York (Mr. JAVITS) and Senator from Massachusetts (Mr. KENNEDY).

REPRESENTATION IN MILITARY CASES

Existing law prohibits legal assistance with respect to any proceeding or litigation arising out of a violation of the Military Selective Service Act or proceedings involving desertion from the Armed Forces of the United States. The Thurmond amendment adopted on the floor today will revise this restriction to permit representation of otherwise eligible clients in civil cases under the now expired selective service laws where the client alleges that a conscientious objector classification was wrongfully denied.

MODEL OF DEMONSTRATION PROJECTS

Mr. President, this provision is designed to encourage the development of high quality legal assistance systems for particular segments of the poor who have special problems of access to legal services and special legal problems. For example, such groups include elderly persons, handicapped individuals, veterans, native Americans, migrants, or seasonal farm workers or other rural persons and persons with limited English-speaking abilities. The bill provides that not more than 3 percent of the sums appropriated under the act shall be used for these programs.

Mr. President, I believe that this is an important provision to insure that these groups—for whom access to the legal system is particularly difficult—are reached by our legal services system.

CONCLUSION

Mr. President, I believe that the Legal Services Corporation Act Amendments of 1977 make moderate and necessary improvements in the present act and move us closer to equal access to our judicial system for all Americans. I urge my colleagues to approve this legislation by a resounding vote.

Mr. NELSON. Mr. President, in the debate yesterday on S. 1303, the question arose about what the Legal Services Corporation policy was in regard to responding to requests from Members of Congress. Mr. Thomas Ehrlich, president of the Legal Services Corporation, has written a letter to me which I ask be included in the RECORD at this point, which states the Corporation's policy on responding to requests from Members of Congress.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

OCTOBER 11, 1977.

Hon. GAYLORD NELSON,
Chairman, Subcommittee on Employment, Poverty, and Migratory Labor, Human Resources Committee U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: You asked how the Legal Services Corporation responds to Congressional inquiries.

It is the policy of the Legal Services Corporation to make every attempt to respond to all Congressional inquiries within 48 hours. When the Corporation is unable to be fully responsive within that time period because of the nature of the request, an interim response is made.

I hope this is of assistance to you.

Cordially,

THOMAS EHRLICH.

Mr. NELSON. Mr. President, is there any other pending amendment?

The PRESIDING OFFICER. No.

Mr. NELSON. I am prepared to yield back the remainder of my time on the bill.

Mr. JAVITS. Mr. President, I yield back my time.

The PRESIDING OFFICER. The question now recurs on the committee amendment as amended.

The committee amendment, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to consider H.R. 6666, which the clerk will state by title.

The legislative clerk read as follows:

A bill (H.R. 6666) to amend the Legal Services Corporation Act to provide authorization of appropriations for additional fiscal years, and for other purposes.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the immediate consideration of the bill.

Under the previous order, all after the enacting clause of H.R. 6666 is stricken and the text of S. 1303, as amended, is inserted in lieu thereof.

The question is on the engrossment of the amendment and the third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

Mr. ROBERT C. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to proceed for 1 minute.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I would urge Members not to leave after this rollcall vote because there is another very serious matter that may require some discussion and action and it deals with the Labor-HEW conference report.

So I would urge Members not to leave the floor after this vote.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass? The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Minnesota (Mr. ANDERSON), the Senator from Minnesota (Mr. HUMPHREY), and the Senator from Arkansas (Mr. MCCLELLAN) are necessarily absent.

I also announce that the Senator from New York (Mr. MOYNIHAN) is absent because of illness.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY), and the Senator from Minnesota (Mr. ANDERSON) would each vote "yea."

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER), the Senator from California (Mr. HAYAKAWA), the Senator from South Carolina (Mr. THURMOND), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

I further announce that, if present and voting, the Senator from South Carolina (Mr. THURMOND) would vote "nay."

The result was announced—yeas 77, nays 15, as follows:

[Rollcall Vote No. 561 Leg.]

YEAS—77

Abourezk	Glenn	Metcalf
Baker	Gravel	Metzenbaum
Bartlett	Griffin	Muskie
Bayh	Hart	Nelson
Bellmon	Haskell	Nunn
Bentsen	Hatch	Packwood
Biden	Hatfield	Pearson
Brooke	Hathaway	Pell
Bumpers	Heinz	Percy
Burdick	Hollings	Proxmire
Byrd, Robert C.	Huddleston	Randolph
Cannon	Inouye	Ribicoff
Case	Jackson	Riegle
Chafee	Javits	Sarbanes
Chiles	Johnston	Sasser
Church	Kennedy	Schweiker
Clark	Leahy	Sparkman
Cranston	Long	Stafford
Culver	Lugar	Stevens
Danforth	Magnuson	Stevenson
DeConcini	Mathias	Stone
Dole	Matsunaga	Talmadge
Domenici	McClure	Weicker
Durkin	McGovern	Williams
Eagleton	McIntyre	Zorinsky
Ford	Melcher	

NAYS—15

Allen	Hansen	Scott
Byrd, Harry F., Jr.	Helms	Stennis
Curtis	Laxalt	Tower
Eastland	Morgan	Wallop
Garn	Roth	
	Schmitt	

NOT VOTING—8

Anderson	Humphrey	Thurmond
Goldwater	McClellan	Young
Hayakawa	Moynihan	

So the bill, H.R. 6666, as amended, was passed.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. NELSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. NELSON. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make technical and clerical corrections in the engrossment of the Senate amendments to H.R. 6666.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NELSON. Mr. President, I ask unanimous consent that S. 1303 be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NELSON. Mr. President, I move that the Senate insist upon its amendments to H.R. 6666 and request a conference with the House thereon, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Chair appointed Mr. NELSON, Mr. CRANSTON, Mr. HATHAWAY, Mr. RIEGLE, Mr. WILLIAMS, Mr. KENNEDY, Mr. JAVITS, Mr. HATCH, Mr. CHAFEE, and Mr. STAFFORD conferees on the part of the Senate.

Mr. NELSON. Mr. President, I wish to make some remarks for about 60 seconds.

Mr. President, I thank the distinguished Senator from New York for his great cooperation and effectiveness in the work he has done on the passing of the authorization extending the authorization for the Legal Services Corporation. I also wish to thank those Members on the minority side who had differences of opinion with the Human Resources Committee on the language that came out of the committee for their agreeableness to work for a good compromise in order to get this bill authorized by this time this evening.

Also, I thank Mr. Scott K. Ginsburg, staff director of the Subcommittee on Employment, Poverty, and Migratory Labor, who has put in long hours in arranging for the witnesses and the hearings in the subcommittee on the legislation and has worked here on the floor. I thank Joan Hunziker of the Subcommittee on Employment, Poverty, and Migratory Labor for her assistance here on the floor on this legislation, as well as Mr. Jim O'Connell, of Senator JAVITS' staff, and Jon Steinberg of the staff of the Veterans' Affairs Committee.

Mr. EAGLETON. Mr. President, can we have order in the Chamber? This is one of the Senator's finest speeches and we would like him to be heard.

The PRESIDING OFFICER. The point of the Senator from Missouri is well taken, and the Senate will be in order.

The Senator from Wisconsin.

Mr. NELSON. I thank the Senator from Missouri for his compliment and I wish to add that given his own brevity that was the finest speech ever given by the Senator from Missouri. [Laughter.]

Mr. President, other staff members who worked on this legislation were Susanne Martinez, of Senator CRANSTON's staff; Jay Urwitz, of Senator KENNEDY's staff; Lisa Walker, of Senator WILLIAMS' staff; Jan Zarro, of Senator WILLIAMS' staff; Stephanie Smith, of Senator RIEGLE's staff; Bob Hunter, of Senator HATCH's staff, and Blair Crownouer, of the Senate legislative counsel.

Mr. JAVITS. Mr. President, I wish to join my colleague in expressing, first, my pleasure at working with he who worked so well and effectively and also to express my thanks to Scott Ginsburg and Joan Hunziker of the majority committee staff and the others mentioned by Senator NELSON, of the staffs of various other Senators and on our side. It really was an extraordinary display of both friendship and personal cooperation by Senators who had deep feelings and deep opposition to this bill. It was extraordinary, and I am very grateful to them and they helped us to show the Senate in its best light as a reasonable body that tries to do a job.

Bob Hunter of Senator HATCH's staff is especially entitled to notice as far as we are concerned, as are Senators CHAFEE and STAFFORD who helped me with the managerial chores.

I also enjoyed working with Senator NELSON, and this was a fine example of how things get done. I thank him very much.

Finally, I thank my own assistant Jim O'Connell, who was of tremendous help to me in this debate and in handling the bill.

I thank the Chair.

Mr. ROBERT C. BYRD. Mr. President, I would like to take this opportunity to commend the distinguished managers of the Legal Services Corporation bill (S. 1303), the Senator from Wisconsin (Mr. NELSON) and the Senator from New York (Mr. JAVITS) on an outstanding accomplishment in shepherding this legislation to final passage today. As we are all well-aware, this particular bill was not an easy one. It was steeped in controversy, with deeply held feelings on the part of many Members involved in several issues. Despite this fact, however, due to the willingness of the managers, Mr. NELSON and Mr. JAVITS, to work with and reason with the proponents of amendments and to seek compromises where possible, this very complex matter was able to be resolved.

In commending Senators NELSON and JAVITS on their efforts, however, I must also point out another factor that enabled the Senate to work its will in this matter. Clearly this goal could not have been achieved without the cooperation of the many Senators who participated in working out the time agreement that made a vote on final passage possible and who were willing to seek agreements, where they felt they could, on issues in which they were interested. Without this willingness and readiness to compromise—so often essential to the legislative process—the bill would certainly not have been passed today. I thank these many Members for their help.

ERDA AUTHORIZATION ACT OF 1978—CIVILIAN APPLICATIONS—CONFERENCE REPORT

Mr. CHURCH. Mr. President, I submit a report of the committee of con-

ference on S. 1811 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 1811) to authorize appropriations to the Energy Research and Development Administration in accordance with section 261 of the Atomic Energy Act of 1954, as amended, section 305 of the Energy Reorganization Act of 1974, and section 16 of the Federal Nonnuclear Energy Research and Development Act of 1974, as amended, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of October 10, 1977.)

Mr. CHURCH. Mr. President, I ask unanimous consent that during the consideration of the conference report on S. 1811 the following staff members may be given the privilege of the floor: Ben Yamagata, Willis Smith, Granville Smith, and Charles Trabandt.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHURCH. Mr. President, the conferees for the House and Senate worked hard to resolve a large number of differences between S. 1811 and the House amendment to that bill. The conference report represents a good compromise in regard to both the authorization levels for the programs and the statutory provisions controlling the conduct and implementation of the programs.

There are a number of important provisions in the conference report which I want to call to the attention of my colleagues. The House conferees agreed to accept the funding level and provisions pertaining to utilization of the Barnwell nuclear fuel plant in fiscal year 1978 for activities relating to nonproliferation objectives. With a modification, the House conferees also agreed to a study in regard to future utilization of the Barnwell facility.

The Senate conferees accepted a title in the House amendment which more clearly states the ERDA authority in the area of automotive propulsion research and development, but with a reduced authorization level of $12.5 million instead of $25 million. This title was more limited in scope than a bill with similar objectives which passed the House and Senate in the last Congress and was vetoed by President Ford.

The conferees worked to resolve a substantial difference between the two houses with regard to the Clinch River breeder reactor project. The House conferees accepted an $80 million authorization level with clarifying language with respect to the activities to be conducted with the money in the coming year. The Senate conferees accepted the House-proposed language in exchange for the lower authorization figure of $80 million, which is consistent with the Senate position of holding the project to a level of activity sufficient to maintain the contractual teams of technical expertise without initiating site preparation or construction.

The House authorized two loan guarantee programs. One provided loan guarantees for commercial biomass demonstration facilities and a second provided loan guarantees for synthetic fuel demonstration facilities. The Senate loan guarantee program was nearly identical to the latter House program. Because many of the provisions of the biomass loan guarantee program were identical to provisions in the synthetic fuels program, the conference agreed to a single loan guarantee program which incorporates, in a nonrepetitive way, the provisions of the two House programs and the Senate program.

The Senate bill contained a restriction on expenditure of authorized funds for activities relating to foreign spent fuel. The House conferees agreed to accept the Senate provisos with additional language in the bill to clarify Presidential authority and procedures.

The House amendment contained a title establishing a municipal waste grants program for demonstrating waste processing facilities. The Senate conferees agreed to accept the title with the understanding that this program would be complementary to the Resource Conservation and Recovery Act.

At this point in the RECORD, Mr. President, I ask unanimous consent to print a table which provides the totals by program area for operating expenses, capital equipment, and plant expenditures in fiscal year 1978.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

ERDA authorization totals

Fossil:	
Operating expenses	$636,600
Capital equipment	5,500
Plant	212,350
Total	854,450
Geothermal:	
Operating expenses	124,500
Capital equipment	2,500
Total	127,000
Conservation:	
Operating expenses	388,000
Capital equipment	8,670
Plant	800
Total	397,470
Solar:	
Operating expenses	344,900
Capital equipment	7,900
Plant	41,000
Total	393,800
Fusion:	
Operating expenses	207,900
Capital equipment	27,600
Plant	135,800
Total	371,300
Fuel cycle R&D:	
Operating expenses	343,885
Capital equipment	25,300
Plant	16,500
Total	385,685
LMFBR:	
Capital Equipment	35,650
Plant	208,335
Total	657,285
Nuclear R. and Applications:	
Operating Expenses	228,892
Capital Equipment	18,595
Total	247,424
LWR & Fuel Storage:	
Operating Expenses	44,000
Capital Equipment	800
Plant	3,000
Total	47,800
Nuclear Materials Security and Safeguards:	
Operating Expenses	40,106
Capital Equipment	2,794
Total	42,900
Uranium Enrichment:	
Operating Expenses	989,185
Capital Equipment	19,000
Plant	303,980
Total	1,312,165
High Energy Physics:	
Operating Expenses	188,950
Capital Equipment	42,500
Plant	16,700
Total	248,150
Nuclear Physics:	
Operating Expenses	74,444
Capital Equipment	6,725
Plant	7,900
Total	89,069
Basic Energy Sciences:	
Operating Expenses	150,000
Capital Equipment	12,075
Plant	33,400
Total	195,475
Environment & Safety:	
Operating Expenses	251,093
Capital Equipment	19,025
Plant	6,000
Total	276,118
Program Management & Support:	
Operating Expenses	317,804
Capital Equipment	4,955
Plant	11,530
Total	334,289
Changes in Inventory:	
Operating Expenses	126,300
C.E.O.:	
Operating Expenses	500
Total Operating Expenses	4,870,296
Total Capital Equipment	239,589
Total Plant	1,051,560
	6,161,445
Enrichment Revenues	−845,820
Miscellaneous Revenues	−100,720
	−946,540
Total Authorization	5,213,905,000

Mr. CHURCH. Mr. President, I believe this conference report was arrived at in the true spirit of compromise between widely differing points of view between the House and the Senate on a number of controversial and complex issues. I move the adoption of the conference report.

Mr. JACKSON. Mr. President, as chairman of the Committee on Energy

and Natural Resources, I want to express my strong support for the conference report on S. 1811 which we have before us for adoption. The conferees worked extremely hard to resolve the differences between the Senate bill and the House amendment.

The conference committee was chaired by Chairman OLIN E. "TIGER" TEAGUE, the chairman of the House Committee on Science and Technology. Congressman TEAGUE has had a long and distinguished career in the House, and it was a tribute to his leadership that the conference was completed quickly and with good will among Members of disparate views on a number of controversial issues.

I want to also commend Senator FRANK CHURCH for his able direction of the Senate conferees in defending the Senate position on numerous matters.

I want to make special mention of the fact that the Senate conferees agreed to adopt a project included in the House amendment, project 78–3–b, which is a fusion materials irradiation test facility. I believe that this project will make an important contribution to providing answers to questions relating to the most suitable materials for fusion energy reactors. The future of fusion energy can only be assured if we attack some of the underlying problems at an early enough stage to have technological solutions in hand.

Mr. President, I strongly support the adoption of the conference report on S. 1811.

Mr. HART. Mr. President, with the permission of the floor manager, the distinguished Senator from Idaho, I wish only a minute or two to clarify some specific and I think very important language in the conference report and in the legislation itself. I have had a chance to discuss this informally with the Senator, and I think we can conclude our discussion and understanding fairly quickly.

I am concerned with one provision of the conference report which deals with the Clinch River breeder reactor project, and that language is contained in section 106(d)(3), and as the chairman of the Subcommittee on Nuclear Regulation of the Environment and Public Works Committee I want to make sure that the record is absolutely clear that this section does not modify in any way the licensing and regulatory authority of the discretion of the Nuclear Regulatory Commission under the Atomic Energy Act, the Energy Reorganization Act, the National Environmental Policy Act, or any other provision of law. I would greatly appreciate it if the Senator from Idaho would give me his assurances to that effect.

Mr. CHURCH. Mr. President, I am happy to give the distinguished Senator those assurances.

The provision in the report to which he refers in no way limits the authority of the Nuclear Regulatory Commission to protect public health and safety or the common defense and security.

The Nuclear Regulatory Commission's authority to protect the environment of the Clinch River site is not limited. However, the provision does foreclose the Nuclear Regulatory Commission from interpreting the National Environmental Policy Act in conflict with the fiscal year 1978 and all prior fiscal year acts authorizing the CRBR project so as to require relocation of the site. In other words, the language conforms to the previous actions of Congress in connection with this project.

The licensing application is now pending before the NRC. The environmental impact statement has been completed on the Clinch River site, and it is my understanding that the proceedings are at that stage where the NRC may determine whether or not in the exercise of its discretionary authority a license should be issued.

There are no alternative sites before the Commission. The language of the report in no way interferes with the discretionary authority or the power of the Commission to proceed as it normally would to a conclusion of this proceeding.

Mr. HART. So that it is the Senator's understanding that regardless of the language in the section about the siting of the facility at Clinch River, if the Nuclear Regulatory Commission, in the full exercise of its statutory authority and responsibility under any of its legislative base, were to determine that the facility should not be built at all or should not go forward, that there is nothing in this legislation which requires the NRC to go ahead and license the facility.

Mr. CHURCH. The Senator is correct. There is no effort on the part of the conferees to change the basic law or to interfere with the authority of the NRC in this proceeding or any other. It just happens that the question now before the NRC is whether or not a license should issue for the project which Congress has said is to be located at Clinch River.

Mr. HART. The language which directs the Secretary of the Department of Energy and all other appropriate agencies to undertake their efforts, such efforts as are necessary, to assure the earliest possible decision is reached does not in any way preclude the NRC from a complete exercise of all its statutory authority and responsibility. It is not the intent of the conferees to push the case unduly or to pressure the NRC into a preliminary or precipitate decision which is unwise or in any way prejudicial to the public health or safety?

Mr. CHURCH. The Senator is correct.

Mr. HART. So that language should not be construed as a mandate to the Commission to act hastily or in any way cut any corners in reaching its conclusion.

Mr. CHURCH. I concur in the Senator's interpretation. The conferees expect the NRC to do its duty under the law.

Mr. BAKER. Mr. President, will the distinguished manager of the measure yield to me for a minute?

Mr. CHURCH. I yield.

Mr. BAKER. Mr. President, I have listened as carefully as I could to the colloquy between the distinguished Senator from Idaho and the distinguished Senator from Colorado, and I am not sure I got the entire drift of all of those questions and the remarks of the manager of this measure. But I think I did, and just to clarify the situation let me put two or three more questions.

The first is this: It is my understanding from the colloquy that has just occurred that while the language of section 106(d)(3) does not abridge the Nuclear Regulatory Commission's authorities with regard to protection of public health and safety or consideration of national defense and security, NRC would not be required to conduct an alternative selection analysis. Their licensing and review responsibilities on the breeder reactor project would be limited to the Clinch River site; is that correct?

Mr. CHURCH. The Senator is correct.

Mr. BAKER. I thank the distinguished Senator.

I think the fair intendment of this language is to provide that nothing in this language abridges the authority of NRC in any respect, but also nothing in this language abridges previous law with respect to location of the project.

Mr. CHURCH. I think the Senator has expressed it accurately and well.

Mr. BAKER. I thank the Senator.

Mr. HANSEN. Mr. President, I rise in strong support of the conference report on S. 1811, the authorization Act for fiscal year 1978 for energy research and development in the Department of Energy. This authorization contains a total of $6.2 billion for the conduct of our Nation's energy research and development programs. These authorized funds will be the primary source of funding for the line programs in the new Department of Energy in the coming fiscal year. The conference report represents a meaningful and reasonable compromise between the House and Senate on the funding and the activities for those energy research and development programs.

These programs include increased emphasis on our nations' renewable resource technologies, such as solar heating and cooling, ocean thermal gradient, geothermal energy, fusion and fission nuclear power. The conferees are convinced that this balance will provide a necessary mix of energy technologies for the future with which we can proceed to ultimately make the transition from a fossil-based energy economy to a renewable resource-based economy in the next century. In fact, Mr. President, it is remarkable in the 3 years of these annual energy R. & D. authorizations how far we have come with many of these advanced technology programs. For instance, funding for our Nation's solar energy research and development efforts was less than $40 million only 4 years ago. Today, it is more than 10 times that level for this coming fiscal year. Similar dramatic increases of funding mark the other renewable energy areas, such as the geothermal program. These markedly accelerated research and development programs will be coming to initial hardware fruition during the coming fiscal year and we will be entering an exciting period of demonstration with many of these new technologies during that year.

This authorization bill also includes a more than doubled funding level for

conservation research and development in the next year. Ambitious new programs will be started in the areas of biomass energy recovery, urban waste resource and energy recovery, and a whole spectrum of increased efficiency technologies for industrial, agricultural and consumer use in the future decade. These increases in our energy conservation research and development program are representative of the increased emphasis which the new administration, in concert with the Congress, is now placing on achieving increased energy efficiency and increased conservation in the period through 1985. The conferees believe that the compromise decisions made on these programs in the conference have appropriately balanced the various competing interests for the funding available in this vital area of our Nation's energy future.

This conference report also contains a meaningful and highly controversial compromise between the House and the Senate on the Clinch River breeder reactor project activity in this fiscal year. As we all remember, the Senate decided to maintain the programs' structure, but to provide for a pause for 1 year's review before continuing with the construction of the reactor project. Conversely, the House in a dramatically powerful endorsement of the breeder concept, voted overwhelmingly to continue the project with full speed ahead in the coming year and provided funds accordingly. The conference compromise provided for $80 million worth of activity, with a continued commitment to the licensing and related supporting efforts during the year. While the $30 million is very close to the Senate passed $75 million figure, carryover funds from the deferrals in fiscal year 1977 provide sufficient additional funding to allow the project to maintain a momentum level, albeit less than full speed ahead, which will continue the project meaningfully with its related licensing.

The conference report also contains a series of statutory provisions dealing with various of the energy research and development programs. The report included a new statutory scheme for the conduct of automotive research and development by the Department of Energy, amendments to the Electric Vehicle Research, Development and Demonstration Act passed in the last Congress, amendments to the Geothermal Energy Research, Development and Demonstration Act passed in the 93d Congress and a series of individual provisions dealing with a variety of current Energy Research and Development issues, such as the U.S. support for international disposition of spent nuclear fuels. All of these provisions will provide an increased direction and control over our Energy Research and Development programs and will insure that the programmatic direction is consistent with the policies that we have set in our various statutes.

Mr. President, I would urge the President to sign this bill. It represents a combination of nearly a year's worth of work by the administration, my own Energy and Natural Resources Committee and our Companion Science and Technology Committee in the other body. Its consideration has involved a series of highly controversial and well fought issues dealing with the breeder reactor, spent fuel disposition, loan guarantee incentives, and other items. It would be a great shame if the President chose to veto this first authorization bill for the programs of the new Department of Energy. We all have worked long and hard to bring that new department to fruition and it is most important that the programs within the department and energy research, development, and demonstration should proceed under the statutory provisions of this authorization act. I urge the Senate to support this bill and I urge the President to sign it into law at the very first opportunity. Thank you Mr. President.

Mr. McCLURE. Mr. President, I rise in strong support of the conference report on S. 1811, the fiscal year 1978 authorization of energy research, development and demonstration programs in the new Department of Energy and I urge its adoption and the President's early signing of it. My colleagues are discussing in detail the many programs authorized by the conference report. I want to take a few minutes to discuss several of the key provisions in this conference report which I originally authored.

Section 104. Section 104 deals with several unresolved issues remaining from our earlier consideration of legislation establishing a new Department of Energy (DOE). Each subsection deals with a specific issue raised by the transfer of our energy research, development and demonstration programs from the Energy Research and Development Administration (ERDA) into the DOE.

Subsection (a) deals with nonregulatory, R. & D. program-related hearings on the record.

Section 402(d) of the DOE Organization Act places jurisdiction in the Federal Energy Regulatory Commission for all agency determinations required by law to be made on the record after an opportunity for an agency hearing, whether regulatory or nonregulatory in nature. The section further requires that any other determinations, which the secretary determines shall be made on the record after an opportunity for an agency hearing—that is, in his discretion by regulation or practice—shall be in the Commission. An April 28, 1977, letter from ERDA to Senator ROTH lists all of the ERDA-related determinations which fall into either category. Significantly, the list includes all patent determinations under the Atomic Energy Act and the Federal Nonnuclear R. & D. Act, contract disputes and appeals, security clearances, policy and practices, and NEPA environmental statements. All of these essentially programmatic determinations under the DOE Organization Act apparently will be in the Federal Energy Regulatory Commission, subject to the delays and problems of the FPC-type procedure, and review by a non-R. & D. program staff. It is our intention that all of these determinations, and any other of a similar nature, which are required to be, or the Secretary in his discretion may determine shall be, made on the record, should be in the sole authority and jurisdiction of the Secretary, and not the Federal Energy Regulatory Commission.

The ERDA letter to Senator ROTH, which includes the nonexclusive listing of the types of determinations covered by this subsection, states as follows. I ask unanimous consent that the letter be printed in the RECORD.

There being no objection, the letter is ordered to be printed in the RECORD, as follows:

U.S. ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION,
Washington, D.C., April 28, 1977.

Hon. WILLIAM V. ROTH, Jr.,
U.S. Senate.

DEAR SENATOR ROTH: Your letter to Mr. Fri dated April 21, 1977, raised several questions concerning the decisions of this agency which are made on the record after an opportunity for a hearing. For convenience, your questions are repeated below, followed by our response. (Note that the attached documentation may in some cases refer to the Atomic Energy Commission (AEC). All such references in the Code of Federal Regulations, Title 10, were changed to the Energy Research and Development Administration and Part numbers were redesignated by a document published at 40 Fed. Reg. 8795, March 3, 1975.)

1. Please identify all of those proceedings which are required by statute to be made on the record after an opportunity for an agency hearing.

a. Nondiscrimination in federally assisted agency programs, effectuating Title VI of the Civil Rights Act of 1964. 42 U.S.C. 2000d-1, implemented by agency in 10 CFR Part 4, redesignated Part 704, at sec. [70]4.48, [70] 4.51 (Tab A).

b. Mandatory licensing of certain patents. Sections 153 and 189 of the Atomic Energy Act of 1954, as amended, 42 U.S.C. 2183 and 2239, implemented by agency at 10 CFR Part 81, redesignated Part 781. See 10 CFR [7] 81.51–.53 (Tab B).

c. Determination of reasonable royalty fee under certain mandatory licenses; payment of just compensation for certain inventions or discoveries; payment of award for certain inventions or discoveries. Secs. 157 and 189 of the Atomic Energy Act of 1954, as amended, 42 U.S.C. 2187 and 2239, implemented by agency at 10 CFR Part 80, redesignated Part 780. See 10 CFR [7]80.40 through [7]80.60 (Tab C).

d. Grant of exclusive or partially exclusive license in an invention, title to which is vested in the United States. The Federal Nonnuclear Energy Research and Development Act of 1974, P.L. 93–577, secs. 9(g)(1) and 9(g)(2), 42 U.S.C. 5908(g)(1) and (g)(2) (Tab D). (For these purposes, ERDA regulations in 10 CFR Part [7]81 are followed.) (See Tab B above.)

e. Revocation of the grant of a license or of the waiver of rights to an invention. P.L. 93–577, sec. 9(h)(7), 42 U.S.C. 5908(h)(7) (Tab E).

2. Please identify all of those proceedings which are required by rule or regulation to be made on the record after an opportunity for agency hearing.

a. Appeals involving Government contract disputes. 10 CFR 703.11; 703.108; 703.111; 703.113; 703.128 (Tab F).

b. Contract adjustment proceedings on applications for extraordinary relief under the Act of August 28, 1958, P.L. 85–804. (Act does not require opportunity for hearing). 10 CFR 703.200–703.203 (Tab G).

c. Assessment of liquidated damages pursuant to section 104(c) of the Contract Work

Hours and Safety Standards Act (40 U.S.C. 330(c)). (Act does not require opportunity for hearing.) 10 CFR Part 703, Appendix A, section 0114–026b (Tab H).

d. Hearings for the debarment of contractors. 10 CFR Part 703, Appendix A, section 0114–026c. (See Tab H above.)

e. Appeals involving disputes arising under ERDA's geothermal loan guaranty program, established pursuant to Title II of the Geothermal Energy Research, Development, and Demostration Act of 1974, P.L. 93–410 (Act does not require opportunity for hearing). 10 CFR 790.47 (Tab 1).

f. Hearings for sanction proceedings under Executive Order 11246 (Nondiscrimination in employment by Government contractors). 10 CFR 705.10; 705.11; 705.12; 705.35 (Tab J).

g. Security policies and practices relating to labor-management relations. Proceedings are conducted by National Labor Relations Board, but pertain to contractors at ERDA installations. 10 CFR 706.10 (Tab K).

h. Equal opportunity in Government employment, implementing Civil Service Commission regulations at 5 CFR Part 713. ERDA Manual Appendix 4158, Part VI, B; Part VII, A, 1 through 9; B, 1 and 2 (Tab L). (Hearing is conducted by an examiner from outside the agency.)

i. Employee appeals from adverse actions. ERDA Manual 4156–053e through i (Tab M).

j. Criteria and procedures for determining eligibility for access to Restricted Data or National Security Information (Personnel Security Clearance). 10 CFR 710.20; 710.22; 710.24; 710.27; 710.28; 710.30 through 710.33 (Tab N).

3. Please identify all of those proceedings which are, as a matter of practice made on the record after an opportunity for agency hearing.

Preparation of environmental statements pursuant to the National Environmental Policy Act of 1969, P.L. 91–190, January 1, 1970. While not required by the Act, a public hearing is held on a proposed action covered by a draft environmental statement when ERDA determines that such a hearing would be appropriate and in the public interest, based on such factors as magnitude of the action, complexity of the issues, and requests from outside the agency that a hearing be held. 10 CFR [7]11.33, so redesignated as discussed above (Tab O).

4. Please identify all of those proceedings which are not as a matter of usual practice made on the record after an opportunity for agency hearings, but have been so made at some time in the past.

We are not aware of any such proceedings.

Please let me know if further information is desired.

Sincerely,

HUDSON B. RAGAN,
Acting General Counsel.

Mr. McCLURE. Subsection 104(b) deals with another problem raised by the DOE legislation. Section 205 of the DOE Organization Act can reasonably read as placing all energy information collection, dissemination, and analysis under the Energy Information Administration in the department. All of the acts cited in subsection 104(b) mandate information programs in support of the basic technical programs, and these could be severed by section 205 from the technical programs. The subsection will ensure that these technical information programs are maintained organizationally as an integral part of the basic technical programs. The subsection does give the secretary latitude to use the Energy Information Administration to support these technical information programs.

Subsection (c) provides for affirmative congressional notification for any significant change in the ERDA field structure transferred into the new department. The term "major changes" is intended to encompass any change in the fundamental assignment of a field unit or facility, such as redesignation of a multi-program lab to be a "weapons lab," as well as other major changes, such as reduction or abolishment of a facility or reorganization of a unit.

SECTION 108

Let me turn now to a discussion of section 108, the international spent fuel disposition section. I should note at this time that it is my intention to offer this same amendment to S. 897, the Nuclear Nonproliferation bill, when it comes to the floor. I invite the attention of my colleagues to its discussion.

Section 108 was requested by the administration in the Carter May 16 Budget amendment for nonproliferation. The requested provision would give authority for U.S. participation in multinational/international studies of international spent fuel storage and transportation and for U.S. entry into agreements for "appropriate support" to increase international spent fuel storage. Twenty million dollars was included for fiscal year 1978 efforts in these areas.

In hearings on the ERDA nuclear authorization, the Committee on Energy and Natural Resources questioned administration witnesses on the administration's current plan for international spent fuel disposition, and details on how the authority contained in section 108 would be used. The committee noted that the budget justification documents accompanying the draft bill did not with specificity define the anticipated actions for increasing spent fuel storage capacity. Administration witnesses indicated that the President had not yet made a final decision on the specific options to be pursued in international discussions and negotiations. The witnesses did, in fact, indicate that one of the several options under consideration was repurchase of the foreign spent fuel and storage of it in the United States. Committee members expressed serious reservations about the wisdom of this course of action. Administration witnesses concurred that such an action would involve a host of environmental, institutional and legal complications, as well as the probability of significant costs to increase our domestic spent fuel storage capacity. The committee asked to be notified of the final decisions by the President, but still has not yet received any additional information from the administration.

COMMITTEE AMENDMENT

The Energy Committee, because of the potential problems with the agreement, in markup added the phrase, "subject to the consent of the Congress," and thereby required that any agreement providing for "appropriate support" by the United States to increase foreign spent fuel storage be approved by Congress. I suggested that there be such a requirement and Senator CHURCH suggested the specific "consent of the Congress" phrase. The administration objects to the requirement generally, since they want to have authority to proceed directly without any further congressional action. Secretary Vance, in a letter to Chairman JACKSON on September 12 discussed in detail below, stated as follows:

> The activities contemplated under this section do not involve the return of foreign spent fuel to the U.S.; rather, they involve U.S. financial support to foreign spent fuel storage facilities. Pending the outcome of the President's proposed International Nuclear Fuel Cycle Evaluation, we expect many foreign reactor operators will need to expand their spent fuel storage facilities. U.S. support for this activity should be permitted without the need for additional Congressional consent.

A consent requirement has been retained.

First, it is clear that there should be a requirement for Congressional notification and approval. The Carter policy of no reprocessing will create a major spent fuel problem internationally, since the United States has approval rights over much of the free world fuel (U.S. enriched most of it), and since many of the foreign nuclear power programs included reprocessing in planning for facilities and fuel requirements. Also, failure to reprocess denies countries of the value, in both resource and cost terms, of the unburned fuel—a value for which many may request reimbursement for replacement cost. Consequently, agreements for appropriate support probably could lead to large costs over time and undoubtedly will be closely coupled to the nonproliferation policy's continued restriction on reprocessing. Congress therefore should play a positive role.

Second, the type of consent is consistent with the House conferees' feeling on the need for full congressional, as opposed to Senate only, consideration of these agreements.

M'CLURE AMENDMENT BACKGROUND

As a result of the section 108 discussion in markup and because of ongoing policy analysis on international spent fuel disposition in the administration, we have followed the issue closely. The following events relate to the amendment.

First. On June 8 and 10, during hearings on the nonproliferation bills, the committee again asked ERDA Acting Administrator Fri to advise us of the administration policy on domestic and international spent fuel disposition. We were told only that the policy was awaiting then-pending Presidential decision.

Second. The June 30 Washington Post included an Associated Press report that the Nuclear Regulatory Commission yesterday approved the export of 27,000 pounds of uranium to fuel India's Tarapur atomic power station. The articles concluded with the following statement:

> Discussing points raised by the citizen groups, the NRC noted that the Indian government has agreed to have the U.S. repurchase spent nuclear fuel from Tarapur, as a safeguard against the conversion of that spent fuel into weapons materials.

Because of the committee's interest in the international spent fuel disposi-

tion issue and its actions in the fiscal year 1978 ERDA authorization, we were immediately concerned by this report and initiated an effort to determine the validity of the report. A copy of the Nuclear Regulatory Commission's memorandum and order on the Tarapur export application, dated June 28, 1977, was reviewed. The Commission's memo, in fact, supports the Associated Press report in this morning's paper. The Commission, based on reports of the Department of State, indicated that the United States does have an agreement with the Government of India giving the United States the option to repurchase the Indian spent fuel from Tarapur. The Commission states that "Indian Government authorities have agreed in principle to such an arrangement."

Senior administration sources confirmed at the time that the United States not only has the option to repurchase the spent fuel from Tarapur, but that exercising the repurchase option is the basis for an understanding which has been reached with the new Government of India. This would be the first such repurchase understanding by the United States. It is particularly significant that the Commission's memo also states that the apparent intention for repurchase of the Tarapur spent fuel will be followed by similar understandings with other nations. The sources further indicated that there had not yet been any decision within the administration on the ultimate disposition of repurchased spent fuel from Tarapur. In fact, however, it appears from a close reading of the Commission's memorandum that this probable repurchase and removal of the spent fuel was a significant factor in the Commission's approval of the export application, particularly in light of the nonproliferation significance attached to the detonation of a nuclear explosive device by the Government of India in 1974.

It therefore was possible that the administration was proceeding directly to a repurchase policy, even as the Congress had under consideration the exceedingly nonspecific authorization language for "international spent fuel disposition" in the ERDA authorization. In fact, one senior official indicated that the statutory language reported by the Committee on Energy and Natural Resources requiring congressional consent for any "agreement" would not be applicable to the Tarapur repurchase situation, because there is no "formal agreement," but rather an "understanding."

This series of events made clear the fact that the administration had every intention of proceeding to embark the United States on a potentially highly controversial and extremely costly program for repurchase and disposition of foreign spent fuel. And, further, the administration fully intended to do this without the agreement of the Congress and the full authorization for the required activities and funding which should be included in the ERDA authorization and appropriation. The administration thereby could repurchase the spent fuel, and without any limitation, commit the United States to its transport from India for storage in the United States.

The Tarapur events led to my amendment to S. 1811 on the Senate floor on July 12, adding the provisos to the section.

Third. On August 3, Secretary of Energy designate Dr. Schlesinger in his confirmation hearing before the Energy Committee stated that the administration shortly would announce a new policy for U.S. Government storage of spent nuclear fuel from domestic and foreign nuclear power reactors. The committee again criticized this apparent decision, with Senators ABOUREZK and DURKIN expressing serious concern about it. Senators HANSEN and DOMENICI and I wrote to President Carter on August 5, expressing strong reservations about the policy and urging the President to obtain congressional comment in the decisionmaking process. We also requested a meeting and briefing on the policy. To date, the only response has been two perfunctory acknowledgments of receipt from a White House aide and an aide to Secretary Schlesinger.

Fourth. In further hearings on the nonproliferation bills on September 12, ERDA Acting Administrator Fri, Dr. Nye of the State Department, and Dr. Keeny of the Arms Control and Disarmament Agency were asked about the administration's policy on international spent fuel disposition. Again, they only deferred to a reportedly pending spent-fuel policy decision by the President.

Fifth. Concurrent with that hearing, Secretary Vance wrote to Chairman JACKSON on September 12 to advise him of the administration's opposition to my amendment. In the letter, the Secretary acknowledged that the activities contemplated under this section . . . involve U.S. financial support to foreign spent fuel storage facilities because pending the outcome of the President's proposed International Nuclear Fuel Cycle Evaluation, we expect that many foreign reactor operators will need to expand their spent fuel storage. The Secretary commented that, "U.S. support for this activity should be permitted without the need for additional congressional consent." He did state that the contemplated activities do not involve the return of foreign spent fuel to the United States, significantly, he also stated:

> At the current time the United States is actively engaged in discussions with the Indian government which may lead to an agreement under which spent Tarapur fuel will be removed from India.

Sixth. During informal meetings on the nonproliferation bill with the administration during the week of September 26, we were informed that a General Electric team, apparently under contract with ERDA, was in India to begin review of the Tarapur spent fuel disposition problem. In fact, then, fiscal year 1978 will begin with the United States already actively involved, and perhaps implicitly, if not expressly, committed to direct U.S. support for the disposition of foreign spent fuel. The Congress, however, despite the repeated requests has never been advised of U.S. policy decision in this area.

CONFERENCE ACTION ON THE M'CLURE AMENDMENT

The conference adopted the following revised concept as a compromise proposal:

First. No commitment of authorized funds for the repurchase, transportation or storage of foreign spent nuclear fuel from power reactors (exempting fuel from research reactors and emergency situations) for storage or other disposition interim or permanent, of the foreign spent nuclear fuel in the United States:

Unless:

First. Previously authorized by Congress in legislation hereafter enacted;

Second. Previously agreed to by a concurrent resolution at the request of the administration;

Third. The President submits a plan or report to Congress with a 30-day layover—one House veto procedure.

Any presidential plan or report must include a series of specified subjects, discussing costs, sites, policy implications, international agreements, legal requirements, environmental impacts, and so forth.

Second. No commitment of authorized funds for the repurchase, transportation, or storage of foreign spent nuclear fuel from power reactors—exempting fuel from research reactors and emergency situations—unless prior notification by report with the information in first above, and layover for 30 days.

This concept reflects the following elements:

The September 12 Vance letter identified a major concern in the area of spent fuel from foreign research reactors. Current policy is to require the return of such spent fuel to the United States. The Vance letter cites the importance of that arrangement with South Africa and attached a long listing of other current contracts. These arrangements are also of particular importance because of the use of highly enriched fuels in these reactors, and the precedent that the 1974 Indian nuclear device reportedly used such fuel. It is clear that any prohibition should be on spent fuel from foreign power reactors and should expressly exempt research reactor spent fuel.

It also is clear that there should be an exemption for emergency situations, albeit with at least notification as soon as possible to the Congress.

Since the Vance letter states that it is not contemplated that section 108 authority would be used to bring spent fuel from foreign power reactors to the United States, it should not be unacceptable to apply any prohibition to such activity unless subsequently authorized by Congress. Further, the notion of at least notification and layover, if not affirmative congressional approval or opportunity for disapproval, should apply to U.S. commitments of support for overseas disposition of spent fuel from foreign power reactors.

It is noteworthy that Dr. Nye, Deputy Under Secretary of State who has led the administration nonproliferation policy effort, informed me on September 29 that Dr. Nye did not believe the State Department would object to a notifica-

tion and layover for any contractual commitment for the shipment to or storage in the United States of foreign power reactor spent fuel.

The "provided further" on the Tarapur export was included at the request of Chairman Jackson as a disclaimer of any congressional intent to directly or indirectly criticize or reverse the President's decision and the NRC's concurrence to export the fuel for Tarapur. The chairman was concerned that, in the absence of such a statutory disclaimer, the new Desai government in India or any reviewing court in the event of a challenge to the NRC decision might get the wrong signal.

It is noteworthy that the only serious input we have received from the administration on this whole subject of foreign spent fuel disposition, which is a major problem directly resulting from the President's non proliferation policy, is in the form of bits of information in communications opposing the committee (McCLURE suggested) and McClure amendments to section 105. All direct requests for information on the policy remain unanswered. Perhaps, that's the best argument.

Mr. President, I ask unanimous consent to have printed in the RECORD a letter addressed to the President dated August 5, 1977.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

COMMITTEE ON ENERGY
AND NATURAL RESOURCES,
Washington, D.C., August 5, 1977.

The PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: Dr. James Schlesinger, in testimony during his confirmation hearing before the Committee on Energy and Natural Resources on August 3rd, stated that the Administration shortly would-announce a new policy for United States Government storage of spent nuclear fuel from domestic and foreign nuclear power reactors. We are concerned greatly about the many budget, diplomatic, environmental, legal, political and technical ramifications of such a policy by the United States. We also are greatly troubled by the significant potential for further negative impact on our domestic nuclear power option resulting from this policy. We already have a national undercurrent of opposition to nuclear waste disposal and storage today at the local, state and Federal levels. This new policy could seriously exacerbate that problem and further erode the public support for the nuclear power option.

The Senate already has considered some of these nuclear waste issues in the actions on the McGovern amendment (defeating a state veto on waste disposal sites), the McClure-Church amendment (passing a requirement for Congressional approval of any U.S. bilateral or multilateral assistance agreement for spent fuel disposition), and the McClure amendment (passing a prohibition on any United States repurchase, transportation, or storage of foreign spent nuclear fuel) to S. 1811, the Fiscal Year 1978 authorization bill for the Energy Research and Development Administration (ERDA). The House of Representatives has not considered yet the companion bill, H.R. 6796. The Senate's actions, however, does make it clear that these are potentially issues of major controversy.

We sincerely believe that the forthcoming policy statement, as briefly outlined by Dr. Schlesinger, should be closely coordinated with the Congress. We would note that we asked Mr. Fri, Acting Administrator of ERDA, on June 8th and June 10th in hearings before the Energy Committee, to advise us of the Administration policy on domestic and international spent fuel disposition. We only were told that the policy was awaiting then-pending Presidential decisions. In fact, our apprehensions about the eventual new policy motivated the McClure-Church and McClure amendments to S. 1811. Dr. Schlesinger's confirmation testimony, under oath, was the first formal-word we have received since June 10th.

Mr. President, we urge you to make the Congress a full partner in your deliberations on the new policy before a final decision is made. Without prematurely passing judgment on any policy alternative for the disposition of domestic or foreign spent fuel, a full partnership is necessary to avoid any further embarrassment for the United States in nuclear power policy, resulting from a major Congressional-Executive disagreement. In any event, S. 1811, and the companion H.R. 6796, should be the proper legislative vehicle for any Fiscal Year 1978 action under a new spent fuel disposition policy.

We, therefore, request a full and candid exchange between you and your advisors and this Committee before the final decision is made. Such a meeting should occur soon after the August Congressional recess to support further action on S. 1811 and H.R. 6796. Our staffs could initiate preliminary discussions during the recess. We would appreciate very much such an exchange, Mr. President, to ensure ultimately that Congress is a full partner in the spent fuel disposition decision.

We are anxious to work with you on this policy, Mr. President, and we look forward to your response.

Sincerely,

JAMES A. MCCLURE,
PETE V. DOMENICI,
CLIFFORD P. HANSEN.

Mr. McCLURE. The potential magnitude and cost of the international spent fuel disposition problem are detailed in the following excerpt.

I ask unanimous consent that the excerpt be printed in the RECORD.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

U.S. AND FREE-WORLD DISCHARGED NUCLEAR FUEL STORAGE AND TRANSPORTATION ANALYSIS

EXECUTIVE SUMMARY

Using the 1977 revision of ERDA-25, the report "Non-US Light Water Reactor Spent Fuel Disposition," the report "US Light Water Reactor Spent Fuel Cask Transportation, Status of Current Capabilities and Limitation," and input from U.S. ERDA as bases, the requirements for storage and transport of discharged nuclear fuel were analyzed through the year 2000.

Use of the three reports permitted identification of specific U.S. and free world reactor discharges, storage basin expansion plans and capacities, shipping capabilities, and location of all reactors currently operating, under construction, or firmly planned. The reports also permitted specific identification of capacity and current inventory of existing and planned Away-from-Reactor (AFR)* storage facilities. The U.S. ERDA inputs permitted rational extension of the analysis through the year 2000.

The U.S. Pacific Basin Region, European Region and all other countries situations were analyzed. For each non-U.S. region, three individual cases were considered; all reactors shipped from storage basins just sufficient to maintain Full-Core-Discharge (FCR) capability, reactors with U.S.-Controlled fuel shipped 180 days after fuel discharge, and reactors with U.S.-controlled fuel shipped sufficient to maintain FCR capability. These cases clearly bound the probable outcome.

Considering the All Reactors—FCR Discharge Capability as the primary case:

United States

U.S. utilities are now moving aggressively to expand existing and planned reactor basin capacities. However, the only currently existing and available U.S. AFR storage capability is the GE Morris facility. As such, five U.S. reactors will lose FCR discharge capability in 1977 and one U.S. reactor could lose the ability to make its scheduled discharge in 1978.

There are four identified possible other sources of U.S. AFR capability: NFS at West Valley, AGNS at Barnwell, a GE expansion at Morris, and Exxon at Oak Ridge. If all of these facilities could be made available as planned, the U.S. would have sufficient AFR storage capacity to maintain FCR discharge capability for U.S. reactors through 1989. It must be noted that none of these possible facilities now has firm corporate commitment and two, NFS and AGNS, have indicated that they may not accept fuel for storage.

Thereafter, even with the advent in 1985 of a Long-Term-Storage-Facility (LTSF) accepting fuel 10 years after discharge, an additional 3500 MTU capacity AFR is required almost every two years. For the high-growth (510 GWe by 2000) case, six additional AFRs are required between 1990–2000. For the mid-growth and low-growth (380 GWe or 330 GWe by 2000) cases, four additional AFRs are required 1990–2000. For any case, most of the AFR requirements stem from reactors already operating, under construction, or firmly ordered.

Over 100 rail and truck casks, making over 4000 shipments, will be required by the year 2000. Through the year 2000, these casks will represent more than $0.2 billion invested capital, and $1.3 billion in operating costs. The AFR facilities will represent $0.6 billion in capital invested and over $2.5 billion in costs to the utilities over the same time period. With proper encouragement (Primarily understanding of the need and the required regulations) industry can be expected to bear all these costs.

Non-United States

In the Non-U.S., the European Region for AFR capability is very similar to the U.S., but since Europe has a much smaller currently identified AFR capability, many more new AFRs are required. For all European reactors to maintain FCR discharge capability, the first new AFR would be required in 1981 (as compared to 1989 for the U.S.) and a total of eight new 3500 MTU AFRs will be required through the year 2000.

The Pacific Basin and All Other Countries require much less AFR storage capability than either the U.S. or Europe. The total Non-U.S. requires 12 new 3500 MTU AFRs through the year 2000. However, one country—Japan—does have severe continuing storage needs.

* 1 3500 MTU AFR capital cost estimate = $75 million.

Mr. CHURCH. Mr. President, I move the adoption of the conference report.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. CHURCH. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AUTHORITY FOR THE SECRETARY OF THE SENATE TO MAKE CORRECTIONS IN THE ENROLLMENT OF S. 1811

Mr. CHURCH. Mr. President, I send a concurrent resolution to the desk and ask unanimous consent that the Senate proceed to its immediate consideration.

Mr. ROBERT C. BYRD. Mr. President, does it have to do with a conference report?

Mr. CHURCH. Yes, it does, and I believe it has been cleared on both sides of the aisle.

The PRESIDING OFFICER. The clerk will state the concurrent resolution by title.

Mr. CHURCH. Mr. President, I ask unanimous consent that the reading be dispensed with, and I will explain the purpose of the resolution.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution is as follows:

S. CON. RES. 55

Resolved by the Senate (the House of Representatives concurring), That the Secretary of the Senate, in the enrollment of the bill (S. 1811), "ERDA Authorization Act of 1978—Civilian Applications", shall make the following corrections:

1. In the beginning of the bill, in the first sentence, strike the word "ERDA", and insert in lieu thereof the words "Department of Energy";

2. In the beginning of the bill, in the second sentence, strike the words "Energy Research and Development Administration", and insert in lieu thereof the words "Department of Energy";

3. In section 101, amend the bill as follows:

(a) in subsection 101(1)(F) in the proviso, strike the word "Administrator", and insert in lieu thereof the words "Secretary of Energy";

(b) in subsection 101(5), strike the word "Administrator", and insert in lieu thereof the words "Department of Energy";

(c) in subsection 101(15)(C) in the provisco, strike the words "Energy Research and Development Administration", and insert in lieu thereof the words "Department of Energy"; and,

(d) in subsection 101, under the title "All Other Programs" subsection (iii)(b), strike the word "ERDA", and insert in lieu thereof the words "Department of Energy";

4. In section 105, amend the bill as follows:

(a) in subsection 105(a) in the first sentence, strike the words "Administrator of the Energy Research and Development Administration", and insert in lieu thereof the words "Secretary of Energy"; and,

(b) in subsection 105(c), strike the word "Administrator", and insert in lieu thereof the words "Secretary of Energy";

5. In section 106, amend the bill as follows:

(a) in subsection 106(3), which amends Public Law 94–187, section 103(d), strike the work "Administrator" in section 103(d)(1) of P.L. 94–187, and insert in lieu thereof the words "Secretary of Energy"; and, between the words "Secretary" and "and" in the second proviso in section 103(d)(3) of P.L. 94–187, insert the words "of Energy";

6. In section 108 of the bill in the first sentence, strike the words "Energy Research and Development Administration", and insert in lieu thereof the words "Department of Energy";

7. In section 202, amend the bill as follows:

(a) in subsection 202(a), strike the word "Administration", and insert in lieu thereof the words "Secretary of Energy"; and

(b) in subsection 202(b), strike the word "Administration", and insert in lieu thereof the words "Secretary of Energy";

8. In section 203 of the bill, in the first sentence, strike the word "Administrator", and insert in lieu thereof the words "Secretary of Energy", and in the third sentence, strike the word "Administrator", and insert in lieu thereof the words "Secretary of Energy";

9. In section 204, amend the bill as follows:

(a) in subsection 204(a), strike the word "Administrator" and insert in lieu thereof the words "Secretary of Energy"; and,

(b) in subsection 204(b), strike the word "Administrator" and insert in lieu thereof the words "Secretary of Energy";

10. In section 207, which amends the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5901, *et seq.*) by adding a new section 19, amend that section 19 as follows:

(a) in subsection 19(b)(1) in the first sentence, between the words "oil shale," and "and other domestic resources" insert the word "biomass,";

(b) in subsection 19(e)(1) in the second sentence between the words "subsection (b)" and "of this section" insert the words "or subsection (y)";

(c) in subsection 19(m) in the first sentence between the words "subsection (b)" and "of this section", insert the words "or subsection (y)"; and, in the second sentence in the proviso between the words "subsection (b)" and "of this section", insert the words "or subsection (y)";

(d) in subsection 19(n)(1) between the words "(k)" and "of this section", insert the words "and (y)";

(e) in subsection 19(n)(4) in the first sentence between the words "(h)" and "of this section", insert the words "and (y)", and in the second sentence between the words "(k)" and "of this section", insert the words "and (y)";

(f) in subsection 19(p)(1) between the words "subsection (b)" and "of this section", insert the words "or subsection (y)";

(g) in subsection 19(u) between the words "subsection (b)(1)," and "to make guarantees", insert the words "or subsection (y)", and between the words "and (j)" and "of this section", insert "(y)"; and,

(h) in subsection 19(y)(1), amend as follows:

(1) by striking out the comma after the words "municipal organic waste", and inserting a period; and,

(2) by inserting before the words "the following subsection" the words "With respect to a guarantee or a commitment to guarantee authorized by this subsection";

11. In Title III of the bill strike the word "Administrator" or "Administration" whenever that word appears, except in section 303(5), 306(d) where the word "Administrator" refers to the Administrator of the Environmental Protection Agency, and section 307(b) where the word "Administrator" refers to the Administrator of the Environmental Protection Agency, and insert in lieu thereof the words "Secretary of Energy" and in the same title strike the words "Energy Research and Development Administration" whenever those words appear and insert in lieu thereof the words "Department of Energy";

12. In section 401 of the bill strike the numbers "210" which appear in the first sentence and insert in lieu thereof the numbers "207"; and

13. In Title V of the bill, section 501 of the third proviso at the second sentence between the words "Such" and "prices" insert the words "criteria or".

Mr. CHURCH. Mr. President, in reporting the conference report to the bill, S. 1811, which will provide authorization of appropriations for fiscal year 1978 to the research and development programs formerly administered by the Energy Research and Development Administration, certain corrections of a technical nature are necessary prior to the Secretary of the Senate sending the enrolled bill to the President.

This concurrent resolution will make these technical corrections which would include designating the Department of Energy and the Secretary of Energy in those places in the bill which are presently identified as ERDA and its Administrator. As the Senate knows the Energy Research and Development Administration ceased to exist on October 1, but authorization for certain programs administered by that agency is still required. The management of the programs is now under the Secretary of Energy and these corrections would recognize that fact.

These technical corrections also include a reference in certain subsections to subsection (y) in that section of the bill dealing with loan guarantees. These corrections will make all subsections conform to the amendments made to the loan guarantee provisions in the bill.

Finally, with respect to the provisions dealing with the basis for the Government's charge for uranium enrichment services, a phrase, "criteria for," is added to bring that portion of the bill into conformance with the other relevant sections.

I move the adoption of the concurrent resolution.

Mr. McCLURE. Mr. President, I wish to concur with the comments made by my colleague with respect to the resolution. This is a matter which has been discussed by myself and others on this side of the aisle, and we fully concur in the resolution.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The concurrent resolution (S. Con. Res. 55) was agreed to.

Mr. CHURCH. I thank the Chair. I move to reconsider the vote by which the resolution was agreed to.

Mr. LEAHY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CONTINUING APPROPRIATIONS FOR THE DISTRICT OF COLUMBIA FOR FISCAL YEAR 1978

Mr. LEAHY. Mr. President, as chairman of the Appropriations Subcommittee on the District of Columbia, and acting for the Committee on Appropriations, I report an original joint resolution which is at the desk and I request its immediate consideration.

The PRESIDING OFFICER. The clerk will state the resolution by title.

The legislative clerk read as follows:

A joint resolution (S. J. Res. 90) continuing appropriations for the District of Columbia for fiscal year 1978.

The PRESIDING OFFICER. Without objection, the joint resolution will be considered to have been read the first time by title and the second time at length.

The joint resolution is as follows:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated out of any money in the Treasury not otherwise appropriated, and out of applicable corporate or other revenues, receipts, and funds, for the several departments, agencies, corporation, and other organizational units of the Government for the fiscal year 1978, namely:

SEC. 101. Such amounts as may be necessary for continuing projects or activities, not otherwise provided for, which were conducted in the fiscal year 1977 and for which appropriations, funds, or other authority would be available in the District of Columbia Appropriation Act for the fiscal year 1978, but at a rate for operations not in excess of the current rate in effect on September 30, 1977.

SEC. 102. Appropriations and funds made available and authority granted pursuant to this joint resolution shall be available from October 1, 1977, and shall remain available until (a) enactment into law of an appropriation for any project or activity provided for in this joint resolution, or (b) enactment of the applicable appropriation Act by both Houses without any provision for such project or activity, or (c) October 31, 1977, whichever first occurs.

SEC. 103. Appropriations and funds made available or authority granted pursuant to this joint resolution may be used without regard to the time limitations for submission and approval of apportionments set forth in 31 U.S.C. 665(d)(2), but nothing herein shall be construed to waive any other provision of law governing the apportionment of funds.

SEC. 104. Appropriations made and authority granted pursuant to this joint resolution shall cover all obligations or expenditures incurred for any project or activity during the period for which funds or authority for such project or activity are available under this joint resolution.

SEC. 105. Expenditures made pursuant to this joint resolution shall be charged to the applicable appropriation, fund, or authorization whenever a bill in which such applicable appropriation, fund, or authorization is contained is enacted into law.

SEC. 106. No appropriation or fund made available or authority granted pursuant to this joint resolution shall be used to initiate or resume any project or activity for which appropriations, funds, or other authority were not available during the fiscal year 1977.

SEC. 107. Any appropriation for the fiscal year 1978 required to be apportioned pursuant to 31 U.S.C. 665, may be apportioned on a basis indicating the need (to the extent any such increases cannot be absorbed within available appropriations) for a supplemental or deficiency estimate of appropriation to the extent necessary to permit payment of such pay increases as may be granted pursuant to law to civilian officers and employees and to active and retired military personnel. Each such appropriation shall otherwise be subject to the requirements of 31 U.S.C. 665.

SEC. 108. All obligations incurred in anticipation of the appropriations and authority provided in this joint resolution are hereby ratified and confirmed if otherwise in accordance with the provisions of this joint resolution.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the continuing resolution? The Chair hears none, and it is so ordered.

The Senate proceeded to the consideration of the joint resolution.

Mr. LEAHY. Mr. President, the Senate has passed an appropriation for the District of Columbia. The House passed it also. We are in disagreement on certain points. The conferees met earlier today, but because of the schedules in the House, the House conferees were not able to meet longer.

The Senate has expressed willingness to meet tomorrow, Friday, Saturday, Sunday, any time between the hours of 6 a.m. and midnight. But I understand this is not possible because the press of House business makes it impossible for the House Members to meet. Because of that and because of the fact that the District of Columbia's budget has run out as of September 30, I move the passage of this continuing resolution, and I yield back my time.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the joint resolution.

The joint resolution was ordered to be engrossed for a third reading and to be read the third time.

The joint resolution was read the third time.

The PRESIDING OFFICER. The question is, Shall the joint resolution pass? (Putting the question.)

So the joint resolution (S.J. Res. 90) was passed.

Mr. LEAHY. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

[Later the following occurred:]

Mr. ROBERT C. BYRD. Mr. President, the distinguished Senator from Vermont (Mr. LEAHY), the chairman of the Appropriations Subcommittee on the District of Columbia, took action a moment ago to have the Senate adopt a continuing resolution on D.C. appropriations. I did not know at that time that the matter had not been cleared with the leadership on the other side. I am sure that Mr. LEAHY had no intention of rushing the matter through without clearance. I am confident that he took the matter up feeling that it was all right to proceed, and I felt that the matter had been cleared on the other side of the aisle.

I usually ask a Senator on my side, if he is going to proceed with a matter, if it has been cleared on the other side of the aisle. In this instance I did not ask, but I thought that the full Appropriations Committee had probably directed the action.

However, I now find, as I say, that the action had not been cleared on the other side of the aisle. Therefore, I feel honorbound to ask that the action taken by the Senate with respect to the continuing resolution on the District of Columbia be vitiated, and it is my intention to ask unanimous consent to do that. I understand that Mr. LEAHY is now on his way back to the floor, and I would like to withhold until he is here, so that we will know what we are doing.

[Later the following occurred:]

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the action taken previously this afternoon on the continuing resolution on the District of Columbia appropriations be vitiated—all action thereon.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEAHY. Mr. President, I ask unanimous consent to bring up the continuing resolution which was just vitiated by the unanimous-consent action.

The PRESIDING OFFICER. The joint resolution will be stated by title.

The legislative clerk read as follows:

A Senate joint resolution (S.J. Res. 90) continuing appropriations for the District of Columbia for fiscal year 1978.

The PRESIDING OFFICER. Is there objection to proceeding to consideration of the resolution?

The Chair hears none.

The Senate proceeded to consider the resolution.

Mr. LEAHY. Mr. President, I should explain for my colleagues the routine that we just went through.

Earlier this afternoon, the Committee on Appropriations, with most members present, including Senator MATHIAS, passed unanimously the continuing resolution before the body. It was the understanding at that time that we would bring it up sometime this afternoon and seek to have it passed and sent over to the House because of the fiscal situation facing the District of Columbia—that is, that their authority to spend ran out on September 30. By my error and inadvertence, while I had mentioned this on this side of the aisle, I had not cleared it with the other side of the aisle. I realize completely the error in that and regret it. Thus I concur and join in the action of the majority leader in calling the matter back, vitiating our earlier action.

Now that it has been cleared with the ranking minority member of our committee, and he is here, I repeat, I apologize for any slight to him. It was totally inadvertent.

Mr. ROBERT C. BYRD. Mr. President, it was not inadvertence on the part of the Senator from Vermont. That is a very charitable attempt to take the blame on himself. He cleared it with me. Normally, I ask if it has been cleared on the other side. In many instances, I proceed to do that myself. But in this instance, I did not. I had my mind almost totally absorbed with respect to the Labor-HEW matter. So it is not the fault of the Senator from Vermont. If there is any fault to be placed anywhere, it is mine. It was certainly not intentional.

Mr. LEAHY. I thank the majority leader for his gracious words, but knowing that he has far more matters on his mind than I do, I can assure him that, in the future, I shall make sure these matters are taken up with the ranking minority member and all around, be-

cause I put the majority leader in a situation he should not have been put into.

Mr. MATHIAS. Mr. President, the distinguished chairman of the subcommittee makes more of this matter than is involved here. He is certainly very generous and very gracious in explaining, as he has done, what occurred. It really makes no substantive difference.

I might say to the majority leader that I think we on the minority side have great confidence in the fact that he looks after the interests of the minority. He feels that that is part of the responsibility that he assumed in the leadership of the Senate, and he discharges that responsibility toward the minority. I, as one member of the minority, appreciate it very much.

I salute the chairman of the committee for having initiated the concept of this continuing resolution, because it is an enormously important step for us to take. It in no way resolves or disposes of or prejudices the issues which divide a conference, but what it will do is provide technical legality for the operations of the municipal government in the District of Columbia. That is of substantial importance, because I do not think we want to condone, let alone encourage or be responsible for, an illegal operation.

On a personal basis, it means a lot to the employees of the District government, who have to go out and buy groceries and pay rent and, maybe, even buy some fuel to keep their houses warm on some of these frosty nights.

Mr. ROBERT C. BYRD. Some West Virginia apples.

Mr. LEAHY. Some Vermont maple syrup.

Mr. MATHIAS. Lee me say they can get Maryland apples closer.

Mr. President, I am happy to support the resolution and I thank the majority leader and the chairman for their consideration.

Mr. LEAHY. I thank the Senator. I yield back my time.

The joint resolution (S.J. Res. 90) was ordered to be engrossed for a third reading, was read the third time, and passed.

Mr. LEAHY. I move to reconsider the vote by which the resolution was passed.

Mr. MATHIAS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LEAHY. I ask unanimous consent that the Secretary of the Senate be authorized to make any technical corrections to the continuing resolution.

The PRESIDING OFFICER. Without objection, it is so ordered.

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, the distinguished Senator from Washington (Mr. MAGNUSON) is on his way to the floor. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE PROGRAM

Mr. ROBERT C. BYRD. Mr. President, I suggest that both cloakrooms alert Senators' offices that there is a possibility of further rollcall votes yet today.

Mr. BAKER. Mr. President, if the Senator will yield to me, I think that is a good idea. I would judge, then, by the majority leader's remarks, that he is thinking of a way to dispose of the HEW matter?

Mr. ROBERT C. BYRD. Hopefully, yes. I am awaiting Senator MAGNUSON'S arrival; he is chairman of the committee with jurisdiction over HEW. I would like to have the Senator take a look at the matter and see if it can be disposed of tonight. Therefore, I think Senators should be alerted to the possibility of rollcall votes yet tonight.

Mr. BAKER. I thank the majority leader, and I agree with him.

Mr. BAYH. Mr. President, I ask unanimous consent that Barbara Dixon and Abby Reed may be granted the privilege of the floor during debate and vote on the Labor-HEW measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

LABOR–HEW APPROPRIATIONS, 1978—CONFERENCE REPORT

Mr. MAGNUSON. Mr. President, I submit a report of the committee of conference on Senate amendment No. 82 to the bill (H.R. 7555) and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate numbered 82 to the bill (H.R. 7555) making appropriations for the Departments of Labor, and Health, Education, and Welfare, and related agencies for the fiscal year ending June 30, 1978, and for other purposes, having met, after full and free conference, have been unable to agree.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. MAGNUSON. Mr. President, I ask the Chair to lay before the Senate a message from the House on H.R. 7555.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House recede from its amendment to the amendment of the Senate numbered 82 to the bill (H.R. 7555) entitled "An Act making appropriations for the Departments of Labor, and Health, Education, and Welfare, and related agencies, for the fiscal year ending September 30, 1978, and for other purposes", and concur to the aforesaid amendment of the Senate with the following amendment:

In lieu of the matter proposed by the aforesaid amendment, insert:

SEC. 209. None of the funds contained in this Act shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term. This section does not prohibit payment for medical procedures, performed before the fact of pregnancy is established, necessary for the prompt treatment of the victims of forced rape or incest reported to a law enforcement agency. Nor are payments prohibited for drugs or devices to prevent implantation of the fertilized ovum, or for medical procedures necessary for the termination of an ectopic pregnancy.

UP AMENDMENT NO. 932

Purpose: To prohibit the funding of abortions except where the life or the health of the women or the fetus would suffer serious health damage.

Mr. MAGNUSON. Mr. President, I now move that the Senate concur in the House amendment to Senate amendment No. 82 with an amendment which I send to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The House concurs in the Senate amendment numbered 82 with an amendment.

The PRESIDING OFFICER. The clerk will now state the amendment offered by the Senator from Washington.

The legislative clerk read as follows:

The Senator from Washington (Mr. MAGNUSON) proposes an unprinted amendment numbered 932:

To strike the language and insert in lieu the following:

SEC. 209. None of the funds in this Act shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term, or in the case of rape or incest, or if the women or fetus would suffer serious health damage. This section does not prohibit the use of drugs or devices to prevent implantation of the fertilized ovum.

The PRESIDING OFFICER. The question is on agreeing to the motion.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

UNPRINTED AMENDMENT NO. 933

Mr. HELMS. Mr. President, I send to the desk an amendment in the nature of a substitute.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from North Carolina (Mr. HELMS) proposes an unprinted amendment numbered 933 in the nature of a substitute:

SEC. 209. None of the funds contained in this Act shall be used to pay for abortions except where the life of the mother would be endangered if the fetus were carried to term. This section does not prohibit payment for medical procedures, performed before the fact of pregnancy is established, necessary for the prompt treatment of the victims of forced rape or incest reported to a law enforcement agency. Nor are payments prohibited for drugs or devices to prevent implantation of the fertilized ovum, or for medical procedures necessary for the termination of an ectopic pregnancy.

Mr. HELMS. Mr. President, I ask for the yeas and nays.

Mr. BROOKE addressed the Chair.

The PRESIDING OFFICER. May the Chair ask the Senator from North Carolina if this is the House language?

Mr. HELMS. Not entirely.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. MAGNUSON addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

Mr. MAGNUSON. Mr. President, I hope that the Senator from North Carolina will not insist on this amendment. What we are trying to do here is to go back to the House and have some more time to, perhaps, work out something—I do not know, some compromise.

We are running late on time because of the fact that the people, millions of people, are not getting paid, on the HEW appropriation and Labor bill.

We are dealing with an amendment that does not belong on the bill, to begin with. That has been my position, as the Senator well knows. And there are so many other very important things. We are hoping that we can get the House to act on our particular language the Senate acted on and then we will have to come back and see what we can work out.

In the meantime, we have a continuing resolution which will pay people this weekend. The Labor Department will be able to do so.

I know this is a highly emotional matter to a lot of people on both sides. But it seems to me that there are many overall things more important to do tonight, right now.

I say to the Senator from Tennessee that the House may not necessarily take the continuing resolution, but in lieu they will send back a continuing resolution, just to say that they have originated it, and we will accept it.

The Senate committee was unanimous in trying to proceed this way, to take care of a unique situation.

I do not know how long this will go on. I have been involved in HEW appropriations of this matter for years. I hope someday the Senator from North Carolina and I and the Senator from Massachusetts can introduce bills. I would be glad to join the Senator in introducing a bill with his viewpoint and join anybody else in introducing a bill with my viewpoint or the viewpoint of the Senator from Massachusetts, and get it to a committee where it belongs. It becomes frustrating to have us operate this way.

I know the dedication of the Senator from North Carolina. We have so many amendments now on the HEW appropriation bill, legislative amendments, that some people have facetiously said to me, "Magnuson, when are you going to bring back the HEW bill for reconsideration? We have a few amendments—gun control, recognition of Cuba." I suppose the Panama Canal Treaty will get on now. [Laughter.]

Mr. HELMS. Let us abort the treaties.

Mr. MAGNUSON. We will have gay rights and everything else on this bill.

There should be a national policy on this matter. I hope we will not get tied up tonight. I think we are doing it right, with due consideration to the viewpoint of the Senator from North Carolina, the viewpoint of the Senator from Massachusetts, and my viewpoint. We will try to do the best we can in the meantime.

It is not our fault that this is brought up at this late date. We sent our version over there 10 days ago, I believe, and they were going to vote last Friday. They postponed it and postponed it and just voted this afternoon and left us in this position.

There are headlines in every paper in Washington tonight about the thousands of people who are going to go without pay. All these things are involved. Every American is involved in this bill. I hope we can go ahead with this procedure and get the continuing resolution going, and we will go back to the House. I suppose they will turn it down. I imagine they will. That is the way it appears. Then we will go to conference and see what we can work out on this one issue—only this one.

I wonder sometimes what people think we are doing here, when we cannot route things where they belong. Here we are, the Appropriations Committee, passing on a serious matter. We never had a bit of testimony. Nobody knows all the facts, because it did not belong on the bill. I believe there should be a full-fledged legislative review in depth of this matter and we should come out with a national policy.

I hope that tonight we can go ahead with this procedure.

Mr. SCOTT. Mr. President, will the Senator yield?

Mr. MAGNUSON. I yield. The Senator from Massachusetts yielded to me.

Mr. HELMS. I yield to the Senator.

Mr. SCOTT. Mr. President, the distinguished Senator from North Carolina is one of the best friends I have in the Senate, and we do not have identical views on this matter.

I share the concern of the distinguished Senator from Washington as to a national policy. It appears to me that the proper national policy would be to have the policy we had before the Supreme Court ruling, to say that the question of abortion is a question to be decided by the States, under the police power. There is no reason to have uniformity on matters protecting the health and the morals of the people of this country. Anyone who has studied our system of government knows that we are a nation of dual sovereignty, and rights that affect people as closely as this are decided at the State level.

I share the distinguished Senator's view that we have to get this out of the hair of the Senate so that we can put it back where it belongs. We can have one policy in the State of Washington, another in the State of Virginia, another in Massachusetts, another in North Carolina. We are a large and diverse country, with varying opinions, and it is difficult to have us all agree.

I have a proposed constitutional amendment pending before the Judiciary Committee, and we considered it in a subcommittee. It failed, by a tie vote, an equal vote, to be reported. It requires a majority.

I see the distinguished chairman of the subcommittee on the floor at this time, and I am the ranking minority member of that subcommittee.

I hope the Senate will look sympathetically on that solution or a similar solution, in order to get the abortion question out of consideration as frequently as we have it, because we waste a lot of valuable time in attempting to make decisions at the Federal level that should be made at the State level.

I am going to support a continuing resolution, contrary to the position that my friend may take with regard to this; but I think he and I might agree that the proper place to decide is in the States and not in Congress.

Mr. MAGNUSON. I do not want to get into that.

My own State, I believe 5 years ago, had an initiative on the ballot on general election day with regard to this matter, so I have no problem with knowing how the people of my State feel about it.

However, I still get back to this fact: It should be the way the Senator suggests or it should be a national policy, but it does not belong on an appropriation bill. That is only for a few months.

Every year we get tied up with this thing on appropriation bills. We might as well abolish the legislative committees on some of these tough items. The Senator stated that on his matter there was a tie vote and he could not get it out of the Judiciary Committee.

Mr. SCOTT. The Senator is correct.

Mr. MAGNUSON. That is all I have to say. I hope we do not have to spend time on this, because there are millions of people this weekend who will not have a paycheck unless we do something about a continuing resolution.

Mr. BROOKE. Mr. President, I regret that the distinguished Senator from North Carolina has called up this amendment. I had thought that we at least had a gentleman's agreement. I had discussed this matter with the distinguished Senator from Pennsylvania, the Senator from North Carolina, the Senator from Idaho, and the Senator from Oklahoma, who have been very active and strong supporters of antiabortion language in legislation before this body.

When this matter came up from the full Appropriations Committee, that we would tonight call up a continuing resolution for the sole purpose of assuring the thousands of employees of HEW and the Labor Department that they would be able to get their pay, I proposed to call up an amendment which would have provided that this continuing resolution be subjected to deletion of the so-called Hyde language which was contained in the 1977 bill.

And it was my intention until we came to this sort of gentleman's agreement, as I said, to call that amendment up and to have another vote on it because I felt that if we did not it would put the Senate at a disadvantage. The Senate has on several occasions attempted to compromise its position with the House of Representatives. The House has not attempted at any time to compromise its position in any substantive way with the Senate, nor recognized that the House had a joint responsibility with the Senate for the payment of these salaries through HEW and Labor Departments. It put the onus on the Senate

without sharing any of that responsibility itself.

Accordingly, we had worked out a plan whereby we would concur with the House and submit an amendment and then move on to the continuing resolution which we would send back to the House tonight with the hope that the House would accept it.

We did run into a problem because the House, feeling that continuing resolutions should originate in the House of Representatives, said that they would not accept it, but possibly they would send us back a continuing resolution of their own which we could adopt, all of which would continue the 1977 language of the so-called Hyde amendment, at least for the next 2 weeks, so that the employees would be paid.

All of us are concerned about these employees and their pay, and that was the reason why we entered into this agreement, or at least agreement that I thought we had entered into. So I was shocked, Mr. President, when the Senator from North Carolina for whom I have the greatest respect, called up this amendment. He and I debated this issue on this floor hour after hour, day after day. Never at any time have either of us ever taken advantage of one another, and I hope the day will never come when we do. I was really shocked when I heard the Senator from North Carolina call up this amendment. Apparently the Senator from North Carolina did not understand the agreement as I understood it and misrepresented it to the distinguished chairman of the subcommittee, Senator MAGNUSON.

I would hope that the Senator from North Carolina would not press his amendment. I would hope that we would be able to act on this. Many Senators who relied on this have already left the Senate Chamber, if they have not left the city. I do not know who they are or how many they are. But it would be a sort of breach to them if this matter were not disposed of in the manner in which we had agreed that it would be disposed of. I do not think that the position of the Senator from North Carolina would be in any way impaired by this.

Let me just repeat what I said to him earlier.

The continuing resolution, which we are suggesting, would carry with it the Hyde language in the 1977 Appropriations Act and it would be for 30 days, which means that it would expire on October 31 because it would be retroactive to October 1.

In addition thereto, the concurrence of the House with an amendment would, in effect, just say to the House that we reject your language but we submit additional language which had been drafted by the distinguished chairman of the subcommittee, Senator MAGNUSON, for the House conferees to consider. Then presumably next week we could go back to the conference, with the House of Representatives, still able to reject that language and submit additional language to us, so nothing would be gained at all by the language of the Senator from North Carolina other than possibly to embarrass the Senate in its position.

So I would hope that the Senator would withdraw this amendment and let us go forward with a continuing resolution, let the employees of HEW and Labor be paid, with this assurance—and I offer him this assurance—that the position that he espoused will not be in any way injured when we go to conference. The House of Representatives will be able to vote up or down on any language that we would propose to them, and if they are consistent with what they have done in the past, they most certainly will reject that language and send additional language back to us. Hopefully, we can compromise this matter and get it over with.

This is a major piece of legislation, a major appropriations bill. I need not tell the Senator it is the largest appropriations bill that we have to deal with. There are many people, not just the employees, but recipients as well, with whom we are concerned. All of the health money, all of the education money, all the welfare money, and all the labor money is tied up in this bill for fiscal 1978. So we really do have a serious matter before us. And in good conscience I ask the distinguished Senator, my colleague from North Carolina, if he would seriously consider withdrawing his amendment and allow us to go forward with the continuing resolution which does no harm at all, as I say again, to his position.

Mr. HELMS. Mr. President, let me say to my friend from Massachusetts that this matter could have been disposed of a long time ago. It has not been the Senator from North Carolina who held it up 1 minute. The House of Representatives has made itself perfectly clear. If we really want to resolve this issue all we have to do is approve the amendment of the Senator from North Carolina and send it back over to the House of Representatives and the whole conference report will be approved immediately.

As far as compromising on this issue, my conscience will not let me do it because we are talking about the deliberate termination of innocent human life, period. And do not ask the Senator from North Carolina to compromise on that because I cannot. I wish I could find some middle ground, but either you kill them or you do not. I am talking about the babies involved.

Mr. BROOKE. Mr. President, will the Senator yield?

Mr. HELMS. Yes.

Mr. BROOKE. I respect the Senator on that. We discussed that, and I will not ask the Senator to compromise on that issue at all, and that is not what I am suggesting to him. I would be the last to ask him to compromise on that issue because I know he feels as strongly about his position as I feel about mine, and many other Senators feel about theirs, so I am not asking him to compromise on the issue, not the substantive issue. I am asking him merely to compromise on letting us get a continuing resolution for 2 weeks which in no way impairs the Senator's position.

This matter has still to go before the conference, it has to be voted on by the House of Representatives, and it then comes back to the Senate. At some time the Senator will have an opportunity to introduce any amendment. He does not have to accept the conference report. He can make an amendment to the conference report. He has all sorts of rights and remedies as he sees fit to use. And I am not asking him to compromise any of those rights or any of those remedies. I am merely saying to him why hold up the Senate, why hold up all of these payless people when all we are trying to do is resolve a procedural matter at this time that does not in any way affect the substantive issue. If it did, then we would be asking the Senator to compromise his conscience which I know he cannot do as a man, and I respect him for that position.

Mr. HELMS. I ask the Senator this: How would voting on my amendment delay the process? If I win, fine; if I lose, then we are back to the Magnuson amendment.

Mr. BROOKE. The answer to that is that the Senator is trying to resolve the differences between the House and the Senate on the issue at this time when we are merely trying to get back to conference and work with them. The Senate has not changed its position on this at all any more than the House has changed its position. We have not had a vote on that at all.

Mr. HELMS. The House has moved toward the Senator's position.

Mr. BROOKE. No, no. I beg to differ with the Senator on that.

Mr. HELMS. Mr. President, I suggest the absence of a quorum, and maybe we can work out something on that.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BROOKE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BROOKE. Mr. President, I have discussed this matter with the distinguished Senator from North Carolina, and I now understand better his concerns and fears than I did when we were previously discussing it.

As I said, I have great respect for him. I know he is a man of great conscience, and I understand what he was saying when he said he did not want to go on record as supporting the substitute language, the so-called Magnuson language, which the Senator from Washington was sending back to the House for their consideration. I want to assure the Senator from North Carolina that this in no way locks us into any language at all.

All we are doing here is submitting language to the House to consider which, in effect, is even weaker than the language which was passed by the Senate and which was sent to the House originally.

The second thing we are trying to accomplish here is merely to have a continuing resolution which includes in it the Hyde language, which is basically the position of the Senator from North Carolina, and I give the Senator that assurance.

Mr. HELMS. With that assurance, Mr. President, I ask unanimous consent that the yeas and nays be withdrawn.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. I withdraw my amendment.

Mr. BROOKE. I thank the distinguished Senator from North Carolina.

Mr. MAGNUSON. I just want to correct the record. My friend from Massachusetts said the Magnuson language was weaker. May I suggest that is not quite the term. It is just more humane. [Laughter.]

Mr. BROOKE. I stand corrected.

Mr. ROBERT C. BYRD. Mr. President, I want to thank both the Senator from Massachusetts (Mr. BROOKE) and the Senator from North Carolina (Mr. HELMS) for their having arrived at what I hope is a resolution of the problem that faces us at the present moment.

Mr. BROOKE. Mr. President, the latest House proposal would prohibit Federal funding for abortion except where the life of the woman would be endangered if the fetus were carried to term. It also would permit undefined "medical procedures," if done before the fact of pregnancy is established, in cases of "forced" rape or incest.

The Senate should overwhelmingly reject this House language for the following reasons:

First. The House language makes no provision for abortions in cases where there would be serious health damage to the pregnant woman or the fetus she is carrying. We all know the dangers that can be involved in pregnancy. For the woman with heart disease, cancer or other serious ailments, the dangers are infinitely greater. Also, there literally are thousands of genetic diseases and conditions that could deform or handicap both the woman and the fetus and need to be taken into account in any legislation.

The Senate has been most sensitive to this issue. On at least four occasions it has voted to provide language to insure that the health of the woman and the fetus are protected. At present the Senate language would permit abortions in such cases if "medically necessary." In the interest of compromise, however, the Senate conferees have been willing to modify their language to permit such abortions only if the woman or the fetus would suffer "serious health damage." The House at no stage of our lengthy and inconclusive negotiations has shown any willingness at all to compromise on this essential issue.

Second. The House language on rape and incest is harsh on its face and we feel is unworkable. For example, it would permit payment only for "medical procedures performed before the fact of pregnancy is established." This probably means condemning innocent rape or incest victims to the use of the "morning after pill," which has been shown to be ineffective in many instances and also is a known carcinogen. Another possible "medical procedure" would involve an operation (D. & C.) to scrape the insides of the uterus. Under the House language, however, this could mean forcing a woman who sought treatment for rape to undergo a surgical procedure which may not even be necessary.

The House language on rape and incest also would require the victim to report to a law enforcement agency before payment for assistance could be authorized. This overlooks the fact that almost half of all rape or rape attempts are never reported to authorities out of fear or ignorance. When a victim does discover she is pregnant, she will seek assistance at clinics or other health facilities rather than going to police. In addition, by using the formulation "forced rape," the House prohibits assistance to victims of statutory rape which is recognized by virtually every State in the Union.

In all likelihood the House language on rape and incest would do little to prevent the pregnancies which do result from such tragedies. Thus, this House language, which is even more prohibitive than the report language in the 1977 bill, can and should be modified.

The Senate has stood fast on the fundamental issues involved in the abortion funding issue. Our conferees have been faithful to the wishes of the Senate in this matter. We have upheld the Senate position, and we will continue to do so.

Thus, we have no alternative but to recommend that the Senate reject the House language. This will make it possible for the Senate to go back to conference and seek a compromise in the spirit if not the actual language of the present Senate bill.

As Chairman MAGNUSON and I pointed out in an October 7 letter to all Members of the Senate, the Senate conferees have been striving for a fair compromise. We recognize the serious implications for programs and personnel resulting from the present situation. It has never been our wish that such hardships occur and that is why we recommended compromise language to the House. We can only hope the other body will try to meet us at least halfway.

ADDITIONAL STATEMENT SUBMITTED

Mr. HART. Mr. President, during the August 2 debate on the Flood anti-abortion amendment to H.R. 7555, many Congressmen and Congresswomen spoke out against the injustices that would result from such restrictive language. One of the more poignant statements was made by Congresswoman SCHROEDER and, insofar as we are confronted with much the same type of language again, I ask unanimous consent that her statement be printed in the RECORD.

There being no objection, the statement was printed.

Mrs. SCHROEDER. Mr. Speaker, this is a very difficult subject for me to talk about because it is a very emotional issue.

The only thing I can say in responding to some of the statements that have been made is to get very personal and talk as a woman.

I am the mother of two children, and I have lost two children, so I have had four children all told. I do not have children very well. Perhaps that is one of the reasons I ran for office.

After the birth of my last child I spent 10 days in intensive care. I am not sure whether any doctor would say to me, if I were pregnant again, that I would die; but I am also not sure that I want to put my family through trying to decide whether or not I live. I resent very much my Government's saying to me, if I am poor, that my family would have absolutely no alternative but to either attempt to find the money during a period of time that realistically is less than 5 weeks or that I should gamble and hope that I live through it.

I do not know if any Members have been in intensive care. It is not fun, and it is not a pleasant thing; but that is what we are sentencing women like me to do, unless some doctor wants to go out on a limb and say that it is absolutely certain a matter of life or death, period.

Furthermore, Mr. Speaker, I resent the fact that this government would say that to poor women and I feel very, very strongly about that. I think that when we look at the issue, we will find that we really ought to allow language including something about "medically necessary" in the amendment. If something such as a "medically necessary" provision were in there, it would cover someone like myself if I were unfortunate enough to have to be relying on medicare or medicaid.

With respect to rape or incest, if I had to ask for help because of alleged rape or incest, admittedly I would be sentenced to a form of family violence. Who could go home and say that she had been the victim of alleged incest or rape?

I urge Members to vote down the Flood language so we can consider a much more reasonable and sensible Government policy.

The PRESIDING OFFICER. The question is on agreeing to the motion to concur. (Putting the question.)

The motion was agreed to.

Mr. BROOKE. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CONTINUING APPROPRIATIONS FOR THE DEPARTMENTS OF LABOR, HEALTH, EDUCATION, AND WELFARE, AND RELATED AGENCIES FOR THE FISCAL YEAR 1978

Mr. MAGNUSON. Mr. President, from the Committee on Appropriations I report an original joint resolution which I send to the desk and ask unanimous consent for its immediate consideration.

The PRESIDING OFFICER. The clerk will state the resolution by title.

The legislative clerk read as follows:

A joint resolution (S.J. Res. 91), making continuing appropriations for the Departments of Labor, Health, Education, and Welfare, and related agencies for fiscal year 1978.

The PRESIDING OFFICER. Without objection, the joint resolution will be considered as having been read twice, and we will proceed with its immediate consideration.

The Senate proceeded to the consideration of the joint resolution.

Mr. MAGNUSON. I will say to the Senate this is similar to all continuing resolutions that we passed here many numbers of time when we were faced with some problems in conference and with difficulties.

I hope this will be passed, and the House will either come back with the same resolution or a similar one, and we can get these people who are so worried,

rightly so, taken care of over the weekend, and there are millions of them, with respect to all of the HEW and Labor Department appropriations.

I want to thank the Senator from North Carolina, my colleague from Massachusetts, and, particularly, the Senator from Pennsylvania, and all of us who have very deep feelings about this matter. I think we have done the right and wise thing tonight, and I appreciate it very much.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the joint resolution.

The joint resolution was ordered to be read a third time and was read the third time.

The PRESIDING OFFICER. The question is, Shall Senate Joint Resolution 91 pass? (Putting the question.)

So the joint resolution (S.J. Res. 91) was passed as follows:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated out of any money in the Treasury not otherwise appropriated, and out of applicable corporate or other revenues, receipts, and funds, for the several departments, agencies, corporations, and other organizational units of the Government for the fiscal year 1978, namely:

SEC. 101. Such amounts as may be necessary for continuing projects or activities, not otherwise provided for, which were conducted in the fiscal year 1977 and for which appropriations, funds, or other authority would be available in the Departments of Labor, and Health, Education, and Welfare and Related Agencies Appropriations Act for the fiscal year 1978, but at a rate for operations not in excess of the current rate in effect on September 30, 1977.

SEC. 102. Appropriations and funds made available and authority granted pursuant to this joint resolution shall be available from October 1, 1977, and shall remain available until (a) enactment into law of an appropriation for any project or activity provided for in this joint resolution, or (b) enactment of the applicable appropriation Act by both Houses without any provision for such project or activity, or (c) October 31, 1977, whichever first occurs.

SEC. 103. Appropriations and funds made available or authority granted pursuant to this joint resolution may be used without regard to the time limitations for submission and approval of apportionments set forth in 31 U.S.C. 665(d)(2), but nothing herein shall be construed to waive any other provision of law governing the apportionment of funds.

SEC. 104. Appropriations made and authority granted pursuant to this joint resolution shall cover all obligations or expenditures incurred for any project or activity during the period for which funds or authority for such project or authority for such project or activity are available under this joint resolution.

SEC. 105. Expenditures made pursuant to this joint resolution shall be charged to the applicable appropriation, fund, or authorization whenever a bill in which such applicable appropriation, fund, or authorization is contained is enacted into law.

SEC. 106. No appropriation or fund made available or authority granted pursuant to this joint resolution shall be used to initiate or resume any project or activity for which appropriations, funds, or other authority were not available during the fiscal year 1977.

SEC. 107. Any appropriation for the fiscal year 1978 required to be apportioned pursuant to 31 U.S.C. 665, may be apportioned on a basis indicating the need (to the extent any such increases cannot be absorbed within available appropriations) for a supplemental or deficiency estimate of appropriation to the extent necessary to permit payment of such pay increases as may be granted pursuant to law to civilian officers and employees and to active and retired military personnel. Each such appropriation shall otherwise be subject to the requirements of 31 U.S.C. 665.

SEC. 108. All obligations incurred in anticipation of the appropriations and authority provided in this joint resolution are hereby ratified and confirmed if otherwise in accordance with the provisions of this joint resolution.

Mr. BROOKE. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. MAGNUSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

SENATE SESSION TOMORROW

Mr. ROBERT C. BYRD. Mr. President, the Senate will be in session tomorrow and there could be rollcall votes, so I would hope that both cloakrooms will put the notices out. I have not yet decided on the meeting time, but it will not be at 9 a.m. There may very well be votes because this matter may not yet be resolved.

Mr. FORD. Does the Senator have any idea of the lateness of the hour?

Mr. ROBERT C. BYRD. I am sorry, I do not, because I do not know what the House will do and when the House will act.

Mr. MAGNUSON. When did the leader say we will meet in the morning?

Mr. ROBERT C. BYRD. I did not say. I just wanted to alert the Members that there might be rollcall votes tomorrow.

ORDER FOR RECESS UNTIL 10 A.M. TOMORROW

Mr. ROBERT C. BYRD. I ask unanimous consent, Mr. President, that when the Senate completes its business today it stand in recess until the hour of 10 o'clock tomorrow morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. ROBERT C. BYRD. Mr. President, there will be no more rollcall votes today.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now be a brief period for the transaction of routine morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Chirdon, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

REORGANIZATION PLAN NO. 2—PM 123

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States:

To the Congress of the United States:

I transmit herewith Reorganization Plan No. 2 of 1977 to consolidate certain international communication, educational and cultural, and broadcasting activities of the United States Government. I am acting under the authority vested in me by the Reorganization Act, chapter 9 of title 5 of the United States Code. I am also acting pursuant to section 501 of the Foreign Relations Authorization Act, Fiscal Year 1978 (Public Law 95–105), which provides that my recommendations for reorganizing these activities be transmitted by October 31, 1977.

This reorganization will consolidate into a new agency, to be know as the Agency for International Communication, the functions now exercised by the State Department's Bureau of Educational and Cultural Affairs and the United States Information Agency.

The principal aspects of this proposal are:

—The new agency will take over USIA's international communications programs (including the Voice of America) and the international educational and cultural exchange activities now conducted by the Bureau of Educational and Cultural Affairs.

—The agency's Director will be the principal advisor on international information and exchange activities to the President, the National Security Council, and the Secretary of State. Under the direction of the Secretary of State, the Director will have primary responsibility within the Government for the conduct of such activities. The Director, the Deputy Director and the Associate Directors of the new agency will be confirmed by the Senate.

—The two commissions that now advise USIA and the Bureau of Educational and Cultural Affairs will be combined into a single seven-member commission. Members of this nonpartisan commission will be chosen from fields related to the

agency's mission. The commissioners will be appointed by the President and confirmed by the Senate.

The purpose of this reorganization is to broaden our informational, educational and cultural intercourse with the world, since this is the major means by which our government can inform others about our country, and inform ourselves about the rest of the world.

The new Agency for International Communication will play a central role in building these two-way bridges of understanding between our people and the other peoples of the world. Only by knowing and understanding each other's experiences can we find common ground on which we can examine and resolve our differences.

The new agency will have two distinct but related goals:

To tell the world about our society and policies—in particular our commitment to cultural diversity and individual liberty.

To tell ourselves about the world, so as to enrich our own culture as well as to give us the understanding to deal effectively with problems among nations.

As the world becomes more and more interdependent, such mutual understanding becomes increasingly vital. The aim of this reorganization, therefore, is a more effective dialogue among peoples of the earth. Americans—mostly immigrants or the descendants of immigrants—are particularly well suited to enter into such an undertaking. We have already learned much from those who have brought differing values, perspectives and experiences to our shores. And we must continue to learn.

Thus the new agency will lay heavy emphasis on listening to others, so as to learn something of their motivations and aspirations, their histories and cultures.

Several principles guided me in shaping this reorganization plan. Among the most important were:

—Maintaining the integrity of the educational and cultural exchange programs is imperative. To this end, the plan retains the Board of Foreign Scholarships, whose strong leadership has done so much to insure the high quality of the educational exchange program. In addition, I intend to nominate an Associate Director who will be responsible for the administration and supervision of educational and cultural functions consolidated in the new Agency. The responsibilities presently exercised by the Department of State in relation to the Center for Technical and Cultural Interchange Between East and West, Inc., will be transferred to the new agency without alteration.

—Keeping the Voice of America's news gathering and reporting functions independent and objective. The Voice's charter, enacted into law in 1976, provides that "VOA news will be accurate, objective, and comprehensive"; that VOA will "present a balanced and comprehensive projection of significant American thought and institutions"; and that VOA will present U.S. policies "clearly and effectively, and will also present responsible discussion and opinion on these policies." Under this Administration, VOA will be solely responsible for the content of news broadcasts—for there is no more valued coin than candor in the international marketplace of ideas. I also plan to nominate an Associate Director who will be responsible for the administration and supervision of the Voice of America.

—The new agency's activities must be straightforward, open, candid, balanced, and representative. They will not be given over to the advancement of the views of any one group, any one party or any one Administration. The agency must not operate in a covert, manipulative, or propagandistic way.

—Rights of U.S. Information Agency and State Department employees must be respected. In the new agency, their career achievements will be recognized and the best possible use made of their professional skills and abilities.

The Director of the new agency will assess and advise on the impact on worldwide public opinion of American foreign policy decisions. The Agency will coordinate the international information, educational, cultural and exchange programs conducted by the U.S. Government and will be a governmental focal point for private U.S. international exchange programs. It will also play a leading role within the U.S. Government in our efforts to remove barriers to the international exchange of ideas and information.

It is not practicable to specify all of the expenditure reductions and other economies that will result from the proposed reorganization, and therefore I do not do so. The reorganization will result in greater efficiency by unifying in Washington the management of programs which are already administered in a consolidated manner in the field. For example, field officers will no longer report to two separate sets of supervisors and headquarters at home.

This plan abolishes the functions of the Advisory Committee on the Arts authorized by section 106(c) of the Mutual Educational and Cultural Exchange Act of 1961, as amended (22 U.S.C. 2456(c)). Also abolished, as a result of the consolidation of certain functions of the United States Advisory Commission on Information and the United States Advisory Commission on International Educational and Cultural Affairs in the United States Advisory Commission on International Communication, Cultural and Educational Affairs, are the functions authorized by section 603 of the United States Information and Educational Exchange Act of 1948, as amended (22 U.S.C. 1468) (requiring submission by the United States Advisory Commission on Information of a quarterly report to the Director of USIA and a semiannual report to the Congress). The new commission will report annually and at such other times as it deems appropriate (as does the existing Advisory Commission on International Educational and Cultural Affairs). Since appointments of all members of the new commission will be on a nonpartisan basis, as has been the case with the Advisory Commission on International Educational and Cultural Affairs, the requirement of section 602(a) of the U.S. Information and Educational Exchange Act (22 U.S.C. 1467(a)) that not more than three members of the Advisory Commission on Information shall be of the same political party is abolished.

Various obsolete or superseded functions under Reorganization Plan No. 8 of 1953 (22 U.S.C. 1461 note), which created the USIA, are superseded by this plan. Finally, the Plan abolishes a provision authorizing the Secretary of State to pay the expenses of transporting the bodies of participants in exchange programs who die away from home, since State no longer will conduct such programs (22 U.S.C. 2670(e)). All functions abolished by the reorganization are done so in compliance with section 903(b) of title 5 of the United States Code.

After investigation, I have found that this reorganization is necessary to carry out the policy set forth in section 901(a) of title 5 of the United States Code. The provisions in this Plan for the appointment and pay of the Director, Deputy Director, and Associate Directors of the Agency have been found by me to be necessary by reason of the reorganization made by the plan and are at a rate applicable to comparable officers in the executive branch.

In presenting this plan, I ask the support of Congress to strengthen and simplify the machinery by which we carry out these important functions of the United States Government.

Such action will make us better able to project the great variety and vitality of American life to those abroad, and to enrich our own lives with a fuller knowledge of the vitality and variety of other societies.

The new Agency for International Communication will help us demonstrate "a decent respect for the opinions of mankind," and to deal intelligently with a world awakening to a new spirit of freedom.

JIMMY CARTER.

THE WHITE HOUSE, *October 11, 1977.*

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the President's Reorganization Plan No. 2 of 1977, to consolidate certain international communications, educational and cultural, and broadcasting activities, which was received today, be jointly referred to the Committees on Governmental Affairs and Foreign Relations.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE HOUSE

ENROLLED BILLS SIGNED

At 12:27 p.m., a message from the House of Representatives delivered by Mr. Berry, one of its clerks, announced that the Speaker has signed the following enrolled bills:

S. 1372. An act to amend title 10, United States Code, to abolish one of the two positions of Deputy Secretary of Defense and to establish the position of Under Secretary of

Defense for Policy and to change the title of the Director of Defense Research and Engineering to the Under Secretary of Defense for Research and Engineering.

H.R. 1934. An act for the relief of Doctor Lawrence C. B. Chan.

The enrolled bills were subsequently signed by the President pro tempore.

At 3:08 p.m., a message from the House of Representatives delivered by Mr. Hackney, one of its clerks, announced that the House disagrees to the amendment of the Senate to the bill (H.R. 3744) to amend the Fair Labor Standards Act of 1938 to increase the minimum wage rate under that act, and for other purposes; requests a conference with the Senate on the disagreeing votes of the two Houses thereon; and that Mr. PERKINS, Mr. DENT, Mr. PHILLIP BURTON, Mr. GAYDOS, Mr. CLAY, Mr. BIAGGI, Mr. ZEFERETTI, Mr. QUIE, Mr. ERLENBORN, Mr. ASHBROOK, and Mr. PICKLE (solely for the consideration of section 12 of the House bill and modifications thereof committed to conference) were appointed managers of the conference on the part of the House.

The message also announced that the House insists upon its amendments to the bill (S. 1339) to authorize appropriations to the Energy Research and Development Administration for national defense programs for the fiscal years 1977 and 1978, and for other purposes, disagreed to by the Senate; agrees to the conference requested by the Senate on the disagreeing votes of the two Houses thereon; and that Mr. PRICE, Mr. CHARLES H. WILSON of California, Mr. BRINKLEY, Mr. DAN DANIEL, Mr. MONTGOMERY, Mr. BOB WILSON, and Mr. DICKINSON were appointed managers of the conference on the part of the House.

At 5:19 p.m., a message from the House of Representatives delivered by Mr. Hackney announced that the House recedes from its amendment to the amendment of the Senate numbered 82 to the bill (H.R. 7555) making appropriations for the Departments of Labor, and Health, Education, and Welfare, and related agencies, for the fiscal year ending September 30, 1978, and for other purposes, and concurs to the aforesaid amendment of the Senate with an amendment in which it requests the concurrence of the Senate.

ENROLLED BILL SIGNED

At 7:25 p.m., a message from the House of Representatives delivered by Mr. Hackney announced that the Speaker has signed the following enrolled bill:

H.R. 1613. An act for the relief of certain postmasters charged with postal deficiencies.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The PRESIDING OFFICER laid before the Senate the following communications which were referred as indicated.

EC-2163. A letter from the Assistant Legal Adviser for Treaty Affairs of the Department of State transmitting, pursuant to law, international agreements other than treaties entered into by the United States within the past sixty days (with accompanying papers); to the Committee on Foreign Relations.

EC-2164. A letter from the Secretary of Health, Education, and Welfare transmitting a draft of proposed legislation to provide for the appointment by the President of the Commissioner of Food and Drugs by and with the advice and consent of the Senate and for compensation for the Commissioner at the rate prescribed for Level IV of the Executive Schedule (with accompanying papers); to the Committee on Governmental Affairs.

EC-2165. A letter from the Acting Comptroller General of the United States transmitting, pursuant to law, a report entitled "Controlling Foreign Investment in National Interest Sectors of the U.S. Economy" (ID-77-18—October 7, 1977) (with an accompanying report); to the Committee on Governmental Affairs.

EC-2166. A letter from the Attorney General of the United States transmitting a draft of proposed legislation to amend the Immigration and Nationality Act and for other purposes (with accompanying papers); to the Committee on the Judiciary.

EC-2167. A letter from the Secretary of Transportation transmitting a draft of proposed legislation to implement the International Convention for the Prevention of Pollution from Ships, 1973 and for other purposes (with accompanying papers).

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that a communication transmitted by the Secretary of Transportation relative to implementing the International Convention for the Prevention of Pollution from Ships be referred jointly to the Committee on Commerce, Science, and Transportation and the Committee on Environment and Public Works.

The PRESIDING OFFICER. Without objection, it is so ordered.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. SPARKMAN, from the Committee on Foreign Relations:

Without amendment:

S. Con. Res. 53. An original concurrent resolution authorizing the printing of additional copies of hearings entitled "Panama Canal Treaties"; referred to the Committee on Rules and Administration.

H.J. Res. 573. A joint resolution commemorating General Thaddeus Kosciuszko by presenting a memorial plaque in his memory to the people of Poland on behalf of the American people (Rept. No. 95-491).

By Mr. CRANSTON, from the Committee on Veterans' Affairs:

Report of the Committee on Veterans' Affairs pursuant to section 302(b) of the Congressional Budget Act of 1974 (Rept. No. 95-492).

By Mr. LEAHY, from the Committee on Appropriations:

S.J. Res. 90. An original joint resolution continuing appropriations for the District of Columbia for the fiscal year 1978.

By Mr. MAGNUSON, from the Committee on Appropriations:

S.J. Res. 91. An original joint resolution making continuing appropriations for the Departments of Labor and Health, Education, and Welfare, and related agencies, for the fiscal year 1978.

By Mr. WILLIAMS, from the Committee on Human Resources:

With an amendment:

H.R. 5383. An act to amend the Age Discrimination in Employment Act of 1967 to extend the age group of employees who are protected by the provisions of such Act, and for other purposes (Rept. 95-493) (together with additional views).

By Mr. CANNON, from the Committee on Rules and Administration:

Without amendment:

S. Res. 289. A resolution authorizing the printing of additional copies of the Committee on the Judiciary hearing entitled "Panama Canal Treaty (Disposition of United States Territory), Part 2" (Rept. No. 95-494).

S. Res. 290. A resolution authorizing the printing of additional copies of the Committee on the Judiciary hearing entitled "Panama Canal Treaty (Disposition of United States Territory), Part I" (Rept. No. 95-495).

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that today, October 12, 1977, he presented to the President of the United States the following enrolled bill:

S. 1372. An act to amend title 10, United States Code, to abolish one of the two positions of Deputy Secretary of Defense and to establish the position of Under Secretary of Defense for Policy and to change the title of the Director of Defense Research and Engineering to the Under Secretary of Defense for Research and Engineering.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. ANDERSON (for himself, Mr. HUMPHREY, and Mr. MCINTYRE):

S. 2193. A bill to amend the Communications Act of 1934 to prohibit making unsolicited commercial telephone calls to persons who have indicated they do not wish to receive such calls; to the Committee on Commerce, Science, and Transportation.

By Mr. CURTIS:

S. 2194. A bill for the relief of Milton G. and Evelyn Hedstrom; to the Committee on Finance.

By Mr. BUMPERS:

S. 2195. A bill to amend the Packers and Stockyards Act of 1921; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. BIDEN:

S. 2196. A bill to repeal the changes in the exclusion for sick pay made by the Tax Reform Act of 1976, and for other purposes; to the Committee on Finance.

By Mr. STONE:

S. 2197. A bill to amend title 38 of the United States Code in order to provide mortgage protection life insurance to certain veterans unable to acquire commercial life insurance because of service-connected disabilities; to the Committee on Finance.

By Mr. HASKELL:

S. 2198. A bill to amend the Internal Revenue Code of 1954 to provide a credit against taxes for certain amounts paid for the care of individuals over 65 years of age and disabled individuals; to the Committee on Finance.

By Mr. MATHIAS:

S. 2199. A bill for the relief of Dr. Medhi Fakhrai; and

S. 2200. A bill for the relief of Graciela Mestroni; to the Committee on the Judiciary.

By Mr. BAYH (for himself, Mr. DOLE, Mr. CURTIS, Mr. ABOUREZK, and Mr. ZORINSKY):

S. 2201. A bill entitled "The Alcohol Fuel Incentive Act of 1978"; to the Committee on Agriculure, Nutrition, and Forestry.

By Mr. WILLIAMS:

S. 2202. A bill for the relief of Olga Szamek; to the Committee on the Judiciary.

By Mr. JOHNSTON:

S.J. Res. 89. A joint resolution to amend an Act entitled "To authorize certain appropriations for the territories of the United States, to amend certain Acts relating thereto, and for other purposes" (enrolled bill H.R. 6550, 95th Cong., 1st Sess.); considered and passed.

By Mr. LEAHY, from the Committee on Appropriations:

S.J. Res. 90. An original joint resolution continuing appropriations for the District of Columbia for the fiscal year 1978; considered and passed.

By Mr. MAGNUSON, from the Committee on Appropriations:

S.J. Res. 91. An original joint resolution making continuing appropriations for the Departments of Labor and Health, Education, and Welfare, and related agencies, for the fiscal year 1978; considered and passed.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. ANDERSON (for himself, Mr. HUMPHREY, and Mr. MCINTYRE):

S. 2193. A bill to amend the Communications Act of 1934 to prohibit making unsolicited commercial telephone calls to persons who have indicated they do not wish to receive such calls; to the Committee on Commerce, Science, and Transportation.

TELEPHONE PRIVACY ACT

Mr. ANDERSON. Mr. President, 7 million Americans will answer their phones today and listen to a voice on the other end offer to sell them a good or a service. It has been estimated that an astounding 460,000 of these phone calls daily will result in sales averaging $60 each or $28 million. Clearly, the telephone marketing industry is "big business" in the United States. In fact, at least $4 billion of the $17.5 billion that business spends annually for telephone service involves calls to sell or buy.

I am disturbed by the degree to which telephone solicitation is replacing direct mail advertising as a means of making initial contact with unwary consumers. Recently, a new automated device became available on the market which can dial 1,000 calls a day, deliver a taped sales pitch, and then record an order. Unlike direct mail advertising, unsolicited commercial telephone calls are not detectable and subject to "disregard" prior to the point at which the consumer is interrupted. I believe the right of a person not to be telephoned for the purpose of commercial solicitation in the privacy of his or her home is a legitimate interest worthy of protection.

Therefore, I am pleased to introduce, as a companion to legislation introduced today in the House by Representative LES ASPIN, S. 2193, which will protect consumers from the increasingly serious invasion of the privacy of their homes by so-called junk phone calls.

The Telephone Privacy Act amends title II of the Communications Act of 1934 and allows citizens to have their names taken off telephone marketing firms' calling lists if they wish not to receive unsolicited commercial telephone calls. The act directs the Federal Communications Commission to promulgate regulations detailing the exact procedures to be used to notify telephone marketers that a particular telephone subscriber does not wish to be called.

Basically, the bill has four main parts:

First. The bill requires that the telephone companies give each subscriber the opportunity, at least once a year, to indicate that the subscriber does not wish to receive unsolicited commercial telephone calls;

Second. Firms making such calls would, at their expense, have to obtain these numbers from the telephone company and purge their own calling lists before beginning solicitations;

Three. Firms using automated calling machines would have to limit the messages to one minute to assure consumers emergency access to their phones in areas where the caller controls the line;

Fourth. Any calls made in violation of the act would subject the violator to a fine of up to $1,000 or imprisonment of not more than 30 days per call in violation. Because any firm trying to comply with the law can be expected to make an occasional honest error, the bill provides that no prosecution can begin until the tenth complaint has been received.

The legislation, which already has more than 40 cosponsors in the House, applies to all commercial solicitations whether made by live operators, by a tape that is activated after a live operator places the call, or by the new, totally automated equipment which can make 1,000 calls a day without any attendant.

Mr. President, it is of course, not necessary to completely stop the operations of the telephone marketing industry while protecting the privacy of our citizens. The bill I am introducing today contains several important, legitimate exemptions.

Calls made in response to the express request of the person called and calls made in connection with an unpaid debt or an incomplete contract performance are exempted because they are not, by definition, "unsolicited." This provision will allow magazines to notify their subscribers to renew and department stores to notify their credit card holders of a sale once these customers agree to receive calls for such purposes.

The Telephone Privacy Act also exempts telephone calls made by and on behalf of a variety of charitable organizations: labor, agricultural, or horticultural organizations; political organizations; radio or television audience rating organizations; and public opinion polling organizations.

Mr. President, I am confident that even with these limitations the bill will protect persons who feel their lives adversely affected by unsolicited commercial telephone calls. The needs of these people is evidenced by the amount of mail which Representative ASPIN and I have received in response to press reports that this legislation would be introduced.

Mr. President, since the necessity for this legislation is best documented by those who would have us respond to their needs, I ask unanimous consent that excerpts from typical letters from my constituents be printed in the RECORD.

There being no objection, the excerpts were ordered to be printed in the RECORD, as follows:

"I have called the offending company to protest the outrage to our privacy but, being after the fact, I'm certain there is little impact felt.

"My husband is seriously ill and I am handicapped so answering the phone (which could be the doctor, hospital, or worried friends) is a real problem."—E. F., New Hope, Minn.

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"I have asthma, so bad I had to start on cortisone treatment yesterday. I also take a heart pill.

"Yesterday I had gotten into a tub of warm water to relax me after an especially bad coughing spell. The phone rang and, of course, I tried to hurry out and grab a robe. When I got to the phone some automatic voice kept 'blabbering' on. . . . I hung up, thoroughly agitated and upset, which made me have another coughing spell!

"This is absolutely intolerable! Are we going to have to refuse to go to the phone at inconvenient times knowing not if it's a really personal call or (just) a 'blabbering' recording?

"This may not seem momentous, but it is vital to some of us."—E. P. L., Minneapolis, Minn.

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"I have, this past week, been subjected to a junk phone call from an insurance company.

"I favor your efforts in preventing the growth of this cancer."—D. M. C., Golden Valley, Minn.

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"It is gratifying to hear that some responsible elected official is attempting to limit or, preferably, stop the wanton infringement of my home privacy by regulating junk telephone calls. It is already intolerable; with automated equipment I may just as well do without a private phone."—J. E. F., Minneapolis, Minn.

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"I surely hope you will introduce and actively pursue a bill that would prohibit junk phone calls.

"I live in a neighborhood where between seven and nine o'clock in the evening I receive an average of five solicitation telephone calls each night. I was really shocked to find that I had to pay for an unpublished number."—B. L. B., Minneapolis, Minn.

Mr. ANDERSON. Mr. President, the right to privacy of these and similarly inclined Americans must be protected; the Telephone Privacy Act offers this protection. I am pleased to announce that Senators HUMPHREY and MCINTYRE have already joined me as cosponsors of this bill. I invite the rest of my colleagues to join me and voice their support of the right to privacy from unsolicited commercial telephone calls.

Mr. President, I ask unanimous consent that the text of the Telephone Privacy Act, S. 2193, be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2193

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Telephone Privacy Act".

SEC. 2. Title II of the Communications Act of 1934 is amended by adding at the end thereof the following new section:

"PROHIBITION OF CERTAIN UNSOLICITED TELEPHONE CALLS

"SEC. 224. (a) (1) (A) No person may make or cause to be made any unsolicited com-

mercial telephone call to any telephone if the person who is the subscriber for such telephone has given notice, in accordance with subsection (b), that he does not wish to receive unsolicited commercial telephone calls.

"(B) No person shall cause to be made any unsolicited commercial telephone call to any telephone if such call is made entirely by automatic equipment and has or may have a duration of more than one minute.

"(2) No person may employ, or contract for, any other person to make any telephone call in violation of paragraph (1).

"(b)(1) Any person who is a telephone subscriber and who wishes not to receive unsolicited commercial telephone calls may notify the telephone company which provides telephone exchange service for such telephone that he does not wish to receive such calls. The Commission shall prescribe regulations—

"(A) specifying the manner in which such notification shall be given,

"(B) specifying the manner in which telephone companies shall make available to persons making unsolicited commercial telephone calls the names and telephone numbers of persons who do not wish to receive such calls, and

"(C) specifying the times at which and manner in which a subscriber may give or revoke such notification.

Regulations under subparagraph (C) shall require that a subscriber be given the opportunity to give such notification whenever a telephone is installed, and not less frequently than annually thereafter.

"(2) No telephone company may make any charge to a subscriber for the service of listing him as not wishing to receive unsolicited commercial telephone calls and the costs incurred by any telephone company to administer the provisions of this section shall be borne by those persons or institutions obtaining the names and telephone numbers of those subscribers who do not wish to receive unsolicited commercial calls under a fee structure to be prescribed by regulation of the Commission.

"(c)(1) Any person who violates subsection (a) of this section shall be fined not more than $1,000, or imprisoned not more than thirty days, or both. For purposes of this paragraph, each telephone call in violation of subsection (a) shall constitute a separate offense, but no person may be imprisoned for more than 6 months for any related series of violations.

"(2) No person may be prosecuted under paragraph (1) for a violation of subsection (a), unless (A) during the calendar year during which such violation occurred, the United States attorney for the judicial district in which such prosecution is brought has received at least ten written complaints of violations of such subsection by such person and (B) each of such ten complaints is made within fourteen days after the violation complained of.

"(d) For purposes of this section:

"(1) The term 'unsolicited commercial telephone call' means a commercial telephone call other than a call made—

"(A) in response to an express request of the person called, or

"(B) primarily in connection with a debt payment of which, or a contract performance of which, has not been completed at the time of such call.

"(2) The term 'commercial telephone call' means (under regulations of the Commission) any call made for business purposes by or on behalf of any business enterprise, other than a call made by an organization described in paragraph (3), (4), or (5) of section 501(c) of the Internal Revenue code of 1954 on its own behalf, by a political organization, or by a public opinion polling, or radio or television audience rating, organization.

"(3) The term 'telephone company' means any carrier (whether or not engaged in interstate or foreign communication) which provides telephone exchange service."

SEC. 3. (a) Section 2(a) of such Act is amended by striking out "The provisions" and inserting in lieu thereof "Subject to section 224, the provisions".

(b) Section 2(b) of such Act is amended by striking out "section 301" and inserting in lieu thereof "sections 224 and 301".

SEC. 4. The amendments made by this Act shall take effect on such date or dates (not later than eighteen months after the date of enactment of this Act) as the Federal Communications Commission shall prescribe by regulation.

Mr. McINTYRE. Mr. President, I am pleased today to join my colleagues Mr. ANDERSON and Mr. HUMPHREY in introducing this legislation, the Telephone Privacy Act of 1977, to provide consumers with a fair recourse against telephone "junk calls."

As my colleagues may be aware from recent reports in the news media, automated devices have recently been developed which can call entire telephone exchanges in a single day, monotonously rattling off its recorded message before turning to the next number. I am not opposed to innovative business techniques and obviously these new methods have had some success or there would not be such a surge of interest in them. However, I do think that telephone customers should be given an opportunity to protect themselves from this kind of commercial solicitation if they so wish—in the same way that they can now choose not to receive obscene or objectionable materials through the mails.

These new automated telephone devices have given commercial firms the ability to reach from anywhere in the country into the privacy of your home to sell their product. Few things are more basic in our society than the privacy of one's own home and few things can be more disruptive of that privacy than unwanted telephone calls that disturb your sleep or pull you out of the shower. The Telephone Privacy Act will screen out these calls from people who do not want them by allowing these individuals to order the phone company not to let any of these unsolicited commercial messages through.

This is a simple and sensible solution to a problem that really does not need to be a problem. I would urge my colleagues to give this fine legislation their support to speed its passage through this body.

By Mr. BUMPERS:

S. 2195. A bill to amend the Packers and Stockyards Act of 1921; to the Committee on Agriculture, Nutrition, and Forestry.

Mr. BUMPERS. Mr. President, today I am introducing a bill designed to clarify and more accurately define the rate making authority of the Secretary of Agriculture insofar as such authority may pertain to the daily operations of the Nation's various small, independently owned livestock auction sales barns.

In my own State of Arkansas, and I am sure the same can be said of every State in the Union, we have numerous small businessmen who operate livestock sales barns. They hold livestock auctions weekly or semiweekly and are paid a commission for their services. Since 1958 the rate schedules upon which their commissions were based have been filed with the Packers and Stockyards Division of USDA. The most common rate schedule used by the small barn operators called for a fixed percentage commission on each animal sold at auction, that is 2 percent, 3 percent, 4 percent of the sales price of each animal.

Until recently the Packers and Stockyards Division of USDA, while noting the filing of such schedules, made no specific findings as to the reasonableness or justness of such schedules, their silence on the point carrying the implication that the schedules were in compliance with the Packers and Stockyards Act and the intent of Congress embodied therein. In other words, while other forms of commission rates may have been agreed to by the Packers and Stockyards Division and certain barn owners, the fixed percentage commission was an acceptable approach followed by a majority of the small barn operators throughout the country.

In an administrative proceeding in the State of Texas in 1976, and more recently in a similar proceeding in Arkansas in 1977, the hearing officers of the USDA have issued decisions wherein it is stated that small auction barns are to be treated as public utilities, that a rate base should be established and a so-called "cost of serice" or "per head" rate should be applied to every auction barn in the country, apparently regardless of the size of the barn operation.

Mr. President, I have no quarrel with applying the public utility concept to the large, high volume, terminal stockyards located in Kansas City, Omaha, and other railhead cities. The large terminal yards possess all the characteristics of, and are, natural monopolies. Indeed, it was the wholesale abuses uncovered in the operations of some 71 large terminal yards which led to the passage of the Packers and Stockyards Act of 1921. By 1958, marketing patterns had changed to the point that the Congress felt the need to extend the Secretary's regulatory authority to the approximately 1,600 auction barns in operation at that time. Today the number of auction barns in the United States stands at 1980 plus.

Mr. President, I also have no quarrel with the 1958 amendment extending the Secretary's jurisdiction to the operations of the many auction barns now in existence because the meat-consuming public has a direct interest in being assured that discriminatory practices at all stockyards are prohibited. However, in passing the 1958 amendment, Congress left unreviewed the manner in which the Secretary's expanded jurisdiction would be exercised and left in effect the rigid public utility rate standards which, in my opinion, are standards wholly inappropriate to the competitive marketing circumstances that exist at the present time in the livestock industry.

So, while we can question the wisdom of the USDA applying a public utility concept to every small auction barn in the country, it is obvious on the face of the statute that the department is presently within its powers to do so. My bill would remedy this situation by limiting the Secretary's authority on rates and charges to stockyards which either have annual sales volumes in excess of 100,000 animal marketing units or have annual sales volumes in excess of 20,000 animal marketing units and are located more than 75 miles from the nearest independently owned and operated stockyard. It is important to note that the thrust of my bill is aimed at the burdensome and costly public utility ratemaking standards being imposed upon small auction barns. It fosters the fierce competition that exists between the numerous small barns we now have and it in no way disturbs the Secretary's present authority to prohibit discriminatory practices at all stockyards.

We daily extoll the virtue of free enterprise and competition. I believe that we presently have healthy competition in the livestock auction business and I want to keep it that way. If certain small barns go out of business, it should be because they failed to remain competitive and not because they were strangled by a burdensome Federal regulatory process that sought to make them public utilities when they were not, and never have been.

By Mr. BIDEN:

S. 2196. A bill to repeal the changes in the exclusion for sick pay made by the Tax Reform Act of 1976, and for other purposes; to the Committee on Finance.

Mr. BIDEN. Mr. President, I am today introducing legislation to restore a sick pay exclusion provision to our tax laws.

The sick pay exclusion was repealed by the Tax Reform Act of 1976. I believe that this action on the part of the Congress was both unwise and unfair. It will work a severe hardship on many families, at a time when they can least afford it—when illness strikes.

The action was taken in the name of tax simplification, but I believe that the unfortunate individuals who may need the benefit of the sick pay exclusion would be more than willing to put up with the added complexity—a complexity which has helped so many deserving people over the years.

For one, I am not prepared to support cutting off a tax benefit to the average taxpayer while all kinds of totally unjustified tax breaks for large corporations and wealthy individuals remain apparently unassailable in our tax laws. I am not prepared to support tax simplification that is really just a tax increase for many individual taxpayers.

When Congress repealed the sick pay exclusion, it made two mistakes. In addition to repealing it, it repealed it retroactively. We have already corrected one mistake, by eliminating the retroactive repeal, so that the repeal now is effective for tax years beginning in 1977. We should now correct the other mistake by enacting a new sick pay exclusion that is effective January 1, 1977.

The Senate, during consideration of the Tax Reform Act of 1977, actually voted to retain a modified version of the sick pay exclusion. It is this same version that my bill would enact into law. The chief modification from the previous law is that the exclusion is phased out between $15,000 and $20,200 of taxable income. I believe an upper limit is needed to make the proposal more acceptable, reduce its cost, and eliminate any possible charge that it unduly benefits those who can better afford the financial burdens of illness than others.

The sick pay exclusion was first enacted in 1954, and some further limitations on it were adopted in 1964. It was repealed in 1976. As it existed prior to repeal the sick pay exclusion provided, to a limited extent, that benefits received by employees under accident and health plans financed wholly or partially by employers could be excluded from gross income for tax purposes. It applied only to amounts paid as wages or as a wage substitute during an employee's absence from work due to injury or sickness. There were certain time and benefit limits and the maximum excludable was $100 per week. The sick pay exclusion was intended to reduce the tax burden of individuals during an extended illness. It also allowed some taxpayers to exclude from taxation a portion of their disability pension until they reached normal retirement age.

The Ways and Means Committee, in reporting out what later became the Tax Reform Act of 1976, recommended the repeal of the sick pay exclusion. Under the committee's recommendation, the only remaining vestige of it is a very limited exclusion of disability pensions for persons under 65 who have retired on disability and are permanently and totally disabled. This eliminated the sick pay exclusion for the vast majority of individuals who might have benefited from it in the past. This specific provision was not the subject of consideration or action on the floor of the House of Representatives and was adopted as one "small" part of the huge and complex Tax Reform Act of 1976.

In the Senate, the bill was reported by the Finance Committee with a provision like that adopted by the House of Representatives. However, during consideration of the Tax Reform Act an amendment was offered by Senator BAYH and adopted, by 43 yeas to 34 nays. This amendment restored the sick pay exclusion, but with a dollar-for-dollar phaseout beginning at $15,000 income. Despite the fact that the Senate, which was the only body to act directly on the sick pay exclusion issue, had voted to keep it in modified form, the conference committee chose to drop the Senate amendment and the sick pay exclusion was repealed.

Why was the sick pay exclusion repealed? An examination of the Ways and Means and Finance Committee reports, as well as the Senate debate, reveals few if any valid considerations for repeal.

The language of the House and Senate reports on this issue is virtually identical. One reason given for repeal is that the sick pay exclusion is "extremely complex." The reports say further that many taxpayers must avail themselves of professional assistance to complete the necessary forms to qualify for the sick pay exclusion. The reports go on to say: "Your committee believes that elimination of the complexity in this area is imperative." But the action recommended did not simplify the complexity, it abolished the benefit. The sick pay provision added complexity only for those who benefited from it. I am certain that those beneficiaries would have been perfectly willing to accept the added complexity to retain the much needed benefit. My concept of simplification, particularly with regard to low-and middle-income taxpayers, is that any simplification must be accomplished without a significant increase in tax liability for any major group of taxpayers. This change just does not meet that test. Higher taxes are an expensive route to tax simplification.

The reports of the two committees also noted that the provision discriminated against working taxpayers in favor of sick ones. This is certainly true, although I doubt that this worried the healthy taxpayer very much, who was probably glad to have good health. In any event, this same argument could be—but never has been—used to eliminate almost every special provision of the tax code. Our tax laws discriminate in favor of individuals who have child care expenses, who make charitable contributions, have medical expenses, pay interest, and have casualty losses. Use of the tax code is a common, if not always efficient or equitable way to achieve economic or social objectives. I wish we used it less in these ways, and I would have no objection to a total look at all tax provisions that benefit limited groups of taxpayers to determine their equity and effectiveness. However, I see no reason to pluck this one benefit out of the air and label it alone discriminatory.

The committee's reports also allege that the sick pay exclusion contains a bias in favor of wealthy taxpayers. I think this charge is questionable since apparently more than half of the benefits go to individuals with incomes of less than $15,000. However, the committee report then goes on to recommend that the exclusion "should not have a regressive effect and that the provision should be amended to direct a fairer share of its tax benefits to low- and middle-income taxpayers." And with that they recommended repeal. In my proposal, I have accepted their suggestion to direct the benefits to low- and middle-income taxpayers by retaining the sick pay exclusion, but limiting its effect to such taxpayers.

It has been argued that we do not need to provide tax-free sick pay because assistance in meeting medical expenses is available through the provisions allowing their deduction from taxable income. This seems to be completely erroneous reasoning to me. First of all, the deductability of medical expenses for tax purposes only helps to compensate for the extraordinary expenses of an illness—and then only partially. It does nothing to help meet

reductions in income which often accompany illness.

Furthermore, the taxpayer who uses the standard deduction receives no medical expense benefit. However, he or she did benefit from the sick pay exclusion which could be claimed without itemizing deductions. So the law as it is now written provides health benefits only to those individuals who itemize, leaving other people with nothing.

The final allegation has been that this was a "loophole" and that we should do away with "loopholes." I doubt that this was a loophole in the commonly accepted sense of that term, which is an unintended tax advantage. This was an intentional tax benefit offered for a worthy purpose—to help people who are ill.

Equity argues that we should put the sick pay exclusion back into the law. The cost of about $230 million is modest when compared to the total cost of tax expenditures of over $100 billion. Its benefits will be targeted to low- and middle-income taxpayers at a time when they need it most—when they are ill. What is more it will help many low-income taxpayers who, because they do not itemize deductions, will receive no benefits at all.

I believe that I have a good record in supporting the reform of our tax code to provide equity and simplification. However, I do not want to start tax reform by increasing the taxes of the wage earners and the breadwinners of our country. After we have eliminated all of the tax shelters whose sole purpose is tax avoidance, then we may want to consider other changes in the tax laws. But not until then. Certainly, the Tax Reform Act of 1976 did not achieve enough in real tax reform or tax reduction for low and middle income taxpayers to warrant even considering repeal of the sick pay exclusion.

I hope that there can be prompt action on and adoption of this piece of legislation. It would certainly be desirable for it to be passed before tax returns must be filed for the 1977 calendar year. However, if action is not taken sooner, I hope that my proposal will be considered in the context of general tax reform which I expect the Congress will undertake in 1978. By introducing it now, Members of the Senate will have the proposal before them for consideration at the time of action on tax reform legislation, if not earlier.

Mr. President, I ask unanimous consent that the text of this bill be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2196

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) subsection (d) of section 105 of the Internal Revenue Code of 1954 (relating to amounts excluded from gross income under wage continuation plans) is amended to read as follows:

"(d) Wage Continuation Plans.—

"(1) In general.—

"(A) Gross income does not include amounts referred to in subsection (a) if such amounts constitute wages or payments in lieu of wages for a period during which the employee is absent from work on account of personal injuries or sickness.

"(B) Subparagraph (A) does not apply to amounts attributable to the first 30 calendar days in such period if such amounts are at a rate which exceeds 75 percent of the regular weekly rate of wages of the employee (as determined under regulations prescribed by the Secretary).

"(C) If amounts attributable to the first 30 calendar days in such period are at a rate which does not exceed 75 percent of the regular weekly rate of wages of the employee, subparagraph (A) shall not apply—

"(i) to the extent that such amounts exceed a weekly rate of $75, and

"(ii) to amounts attributable to the first 7 calendar days in such period unless the employee is hospitalized on account of personal injuries or sickness for at least 1 day during such period.

"(D) If such amounts are not paid on the basis of a weekly pay period, the Secretary shall by regulation prescribe the method of determining the weekly rate at which such amounts are paid.

"(2) Limitation.—This subsection shall not apply to the extent that the amounts referred to in paragraph (1) exceed a weekly rate of $100 ($200 in the case of a married couple filing a joint return if both the husband and wife are individuals described in paragraph (1)).

"(3) Phaseout over $15,000.—If the adjusted gross income of the taxpayer for the taxable year (determined without regard to this subsection) exceeds $15,000, the amount which but for this paragraph would be excluded under this subsection for the taxable year shall be reduced by an amount equal to the excess of the adjusted gross income (as so determined) over $15,000.".

(b) Subsections (c) and (d) of section 505 of the Tax Reform Act of 1976 (relating to changes and exclusions for sick pay and certain military, etc., disability pensions; certain disability income) are hereby repealed.

Sec. 2. (a) Any election made under section 105(d)(7) of the Internal Revenue Code of 1954 or under section 505(d) of the Tax Reform Act of 1976 (as such sections were in effect before the enactment of this Act) for a taxable year beginning in 1977 may be revoked (in such manner as may be prescribed by regulations) at any time before the expiration of the period for assessing a deficiency with respect to such taxable year.

(b) In the case of any revocation made under subsection (a), the period for assessing a deficiency with respect to any taxable year affected by the revocation shall not expire before the date which is 1 year after the date of the making of the revocation, and, notwithstanding any law or rule of law, such deficiency, to the extent attributable to such revocation, may be assessed at any time during such 1-year period. (c) the amendments made by the first section of this Act shall apply to taxable years beginning after December 31, 1976, but such amendments shall not apply—

(1) with respect to any taxpayer who makes or has made an election under section 105(d)(7) of the Internal Revenue Code of 1954 or under section 505(d) of the Tax Reform Act of 1976 (as such sections were in effect before the date of the enactment of this Act) for a taxable year beginning in 1977, if such election is not revoked under subsection (a) of this section, and

(2) with respect to any taxpayer (other than a taxpayer described in paragraph (1)) who has an annuity starting date at the beginning of a taxable year beginning in 1977 by reason of the amendments made by section 505 of the Tax Reform Act of 1976 (as in effect before the date of the enactment of this Act), unless such person elects (in such manner as the Secretary of the Treasury may by regulations prescribe) to have such amendments apply.

By Mr. STONE:

S. 2197. A bill to amend title 38 of the United States Code in order to provide mortgage protection life insurance to certain veterans unable to acquire commercial life insurance because of service-connected disabilities; to the Committee on Finance.

Mr. STONE. Mr. President, I am today introducing a bill to provide a program of mortgage life insurance for severely disabled veterans who are otherwise unable to obtain commercial life insurance.

Under chapter 11 of title 38, United States Code, veterans who qualify for the Veterans Administration's specially adapted housing program can acquire mortgage life insurance on a group basis from the Federal Government. However, only a small class of veterans qualify for the specially adapted housing grants: those with the loss, or loss of the use of, upper and lower extremities preventing locomotion without special assistance. Many equally disabled veterans are left without insurance because they are considered uninsurable risks by commercial life insurance companies, and the Government provides no assistance to them.

Mr. President, certainly these veterans who have sacrificed so greatly for our country have an equal right and desire to protect their survivors' financial welfare when they die.

While the measure of the disability between veterans who qualify for specially adapted housing grants and the group addressed by this bill is sometimes very small, the inability to acquire mortgage life insurance protection is significant indeed. Few, if any, of the veterans we are dealing with can obtain mortgage life insurance at any price from commercial insurance companies because of their total service-connected disabilities. This bill would authorize the Administrator of Veterans' Affairs to purchase group mortgage life insurance and to provide such insurance to these worthy veterans.

This legislation is supported by the American Legion which recently adopted a resolution on the subject at its National Convention. I ask unanimous consent that this resolution be printed following my statement.

Mr. President, the severely disabled service-connected veterans has suffered greatly and deserves the understanding and consideration of Congress and the Nation. I hope that my colleagues will join me in support of this important measure to establish a mortgage life insurance program for these individuals and provide security for their families. I ask unanimous consent that a section-by-section analysis of this bill also be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

RESOLUTION NO. 7

Whereas, under present law, veterans who are eligible for Veterans Administration assistance in acquiring specially adapted housing are also eligible for mortgage life insurance on a group basis; and

Whereas, many war veterans are totally and permanently disabled from service-connected disabilities, yet are not entitled to specially adapted housing, nor are they eligible for Veterans administration mortgage protection life insurance; and

Whereas, such veterans are unable to obtain commercial life insurance at a substandard rate because of these service-connected disabilities; and

Whereas, in most jurisdictions, title to the property securing a guaranteed loan is held by the veteran and spouse, either as tenants by the entirety or joint tenants; therefore, the widow obtains title by operation of law upon the death of the veteran, and is liable for the unpaid balance on the loan; and

Whereas, the economic hardship of maintaining a home because of limited income due to total and permanent disability precludes many such veterans from securing mortgage life insurance protection; and

Whereas, The American Legion feels that Veterans Administration mortgage protection life insurance would avert these hardships by assuring funds for the payment of the outstanding balance on loans held by a veteran; now, therefore, be it

Resolved, by the National Executive Committee of The American Legion in regular meeting assembled in Indianapolis, Indiana, May 4–5, 1977, that The American Legion shall support legislation to amend title 38, United States Code, to provide mortgage life insurance for those veterans unable to acquire commercial life insurance because of service-connected disabilities.

SECTION-BY-SECTION ANALYSIS

Subsection (a) of section 1 would amend chapter of title 38, United States Code, by adding a new subchapter entitled Mortgage Protection Life Insurance. This new subchapter would add sections 791 through 795 to title 38 of the United States Code.

Subsection 791(a) as added would authorize the Administrator of Veterans' Affairs to purchase a group policy or policies of mortgage protection life insurance to provide such insurance to certain designated veterans.

Subsection 791(b) as added would grant eligibility for insurance coverage to veterans who are entitled to compensation under chapter 11, of title 38, United States Code, for:

(1) permanent and total service-connected disability, or

(2) the loss or loss of use of one lower extremity together with residuals of organic disease or injury which so affect the functions of balance or propulsion as to preclude locomotion without resort to a wheelchair.

This subsection would also provide that any veteran shall be granted insurance upon application, if such veteran can establish to the satisfaction of the Administrator, an inability to obtain commercial life insurance at a standard rate because of service-connected disability.

Section 792 as added would limit the amount of insurance provided by this proposed legislation to the lesser of the following amounts:

(1) $40,000.00;

(2) the amount of the loan outstanding on an eligible veteran's home on the effective date of this law; or,

(3) the amount of the original loan on a home an eligible veteran constructs or purchases on or after the effective date of this proposal.

This section would also provide that the amount of the insurance would be reduced in accordance with the amortization schedule of the loan, and at no time, would such amount exceed the amount of the outstanding loan, with interest. Finally, section 792 provides that any veteran electing not to be insured could thereafter be insured only upon application, payment of required premiums, and compliance with such health requirements and other conditions as the Administrator might prescribe.

Subsection 793(a) as added would authorize the Administrator to determine premium rates for the insurance based on the mortality cost of insuring standard lives. It would also authorize the Administrator to deduct the premiums from any compensation payments received by the veteran. If compensation was not being paid, the subsection would permit payment of premiums directly to the insurer. The United States would bear all costs of the insurance in excess of the premiums collected from the veterans, including the cost of administration and the excess mortality cost attributable to the veterans' disabilities. These costs would be paid from the Veterans Administration Compensation and Pension Appropriation.

Section 794 as added would provide that at the veteran's death, the insurance proceeds would be payable only to the holder of the mortgage loan, to be credited on the loan indebtedness. In this regard, when the Administrator is the holder of the mortgage loan, the proceeds would be deposited in either the direct loan or loan guaranty revolving fund.

Subsection 795(a) as added would require each policy purchased by the Administrator pursuant to this subchapter to provide for the following:

(1) reinsurance with other insurers qualified under standards established by the Administrator when the Administrator determines such action to be in the best interest of the veterans or the Government;

(2) discontinuance of the policy, either in its entirety or as to the exclusion of future loans from coverage under the policy, when determined by the Administrator to be in the best interest of the veterans or the Government. An insurer would be prohibited from cancelling any insurance previously issued to a veteran because of discontinuance of the policy with respect to future loans. If the entire policy was discontinued, the Administrator could require the transfer of the amount of any contingency reserve to a new insurer;

(3) issuance of a uniform type of certificate to veterans setting forth the benefits under the coverage;

(4) any other provisions reasonably necessary and appropriate to carry out the provisions of the proposed legislation;

(5) an accounting to the Administrator within 90 days after the end of each policy year to determine the status of all premiums and contributions that have accrued under the policy in relation to the total of the insurers expenses and all claim and risk charges. Any amount of premiums and contributions in excess of those expenses and charges is to be held by the insurer as a contingency reserve to be used only for charges arising out of the policy. This reserve is to bear interest at a rate to be set by the insurer and approved by the Administrator. When the contingency reserve reaches an amount estimated by the Administrator to adequately provide for the future adverse fluctuations in charges under the policy, the Administrator shall require the insurer to adjust the premium rates and contributions to prevent further increases in the amount of the contingency reserves. Any balance remaining in the contingency reserve when the policy is discontinued, shall be paid to the Compensation and Pensions Appropriation.

Subsection 695(b) as added would authorize the Administrator to adopt regulations with respect to this insurance which in his judgment would be in the best interest of the veterans or the Government. The Administrator would also be authorized to determine the date on which any veteran's insurance issued under this subchapter would take effect.

Subsection 795(c) as added would provide that insurance issued to a veteran under this subchapter would terminate upon the occurrence of any of the following events:

(1) satisfaction of the veteran's indebtedness under the loan upon which the insurance is based;

(2) the veteran's seventieth birthday;

(3) termination of the veteran's ownership of the property securing the loan;

(4) discontinuance of premium payments;

(5) discontinuance of the entire policy.

Subsection 795(d) as added provides that termination of the mortgage protection life insurance will in no way affect guaranty or insurance of the loan by the Administrator.

Subsection (b) of section 1 would repeal section 806 of title 38, United States Code. (Section 806 presently provides mortgage protection life insurance for veterans who are eligible for specially adapted housing assistance under chapter 21 of title 38, United States Code.)

Subsection (c) and (d) of section 1 would amend the analyses of chapter 19 and 21 of title 38 to reflect the changes in those chapters resulting from the proposed legislation.

Subsection (a) of section 2 would provide that the proposed legislation shall take effect on October 1, 1977.

Subsection (b) of section 2 would provide that any policy of insurance issued under section 806 of title 38, United States Code, shall continue in effect according to its terms until terminated, and that such a policy cannot be terminated or modified except pursuant to the provisions of section 806 (as in effect before October 1, 1977).

By Mr. HASKELL:

S. 2198. A bill to amend the Internal Revenue Code of 1954 to provide a credit against taxes for certain amounts paid for the care of individuals over 65 years of age and disabled individuals; to the Committee on Finance.

Mr. HASKELL. Mr. President, I send to the desk a bill which will provide a helpful tax credit for taxpayers who assist an elderly, or disabled relative with medical or custodial care expenses.

Many Americans contribute to the support of an elderly or disabled relative who is ill or in a nursing home and unable to pay all their own expenses. Such help is viewed as a moral and social obligation. Yet of all the provisions in the tax code designed to ease the financial plight of the elderly and disabled, nothing recognizes that profound obligation. In order to qualify for any tax relief, the elderly person or disabled adult must become a dependent, either by living with the taxpayer or by receiving at least half their support from them.

But there are many elderly and disabled people who are proud and independent people, who support themselves with part-time work and pension and social security income. Yet when an illness hits, even a minor one, their fixed income budgets cannot cope with the expense and relatives must help. And, to their credit, many families do help out willingly, even if it imposes a strain on their finances. I think we ought to recognize that selfless assistance and make the sharing of hardships within a family less of a financial burden.

Statistics show that 30 to 40 percent of all Americans live precariously close to the poverty level, and I am sure that a great many of those people are elderly and disabled. The devastatingly high

costs of medicines and hospital bills can routinely take a third or half of an elderly or disabled person's social security or retirement income. Frequently, medicare simply does not cover all those bills and the families must contribute, often putting severe financial strain on their own budgets.

This bill would allow taxpayers to receive a 30-percent credit, up to $400, for money spent to care for a nondependent elderly or disabled relative who cannot meet all their own medical and custodial care expenses. As you know, if the family has an elderly or disabled relative living in their home and receiving support, the medical expenses can be deducted as part of the family's total medical expenses. Furthermore, that family is entitled to an extra dependency exemption. If the dependent is disabled and requires special care during the working day, the family might well be eligible for the $400 dependent care credit we have recently expanded in the 1976 Tax Act.

Similarly, elderly persons who live on their own qualify for a number of helpful provisions in the Tax Code. They are entitled to an extra personal exemption; they receive special tax treatment when they sell their homes; and they qualify for the retirement income credit which has just been revised and expanded.

But our Tax Code ignores those elderly and disabled who are self-supporting independent citizens who must occasionally rely on their families during an illness.

This credit which I am proposing is not one of the special tax preferences which I so often oppose, Mr. President. It is not a loophole or an incentive that will change people's lives. Rather, I would like to think that it allows people to chose for themselves how they will live. I think that this credit will neutralize the tax provisions which now encourage elderly and disabled people to be dependents for tax purposes, or force them into nursing homes to avoid burdening their families. This will simply make that economic burden lighter for their families.

I have designed this credit so that it is administerable from IRS's point of view. My credit covers only payments made to third parties on behalf of the elderly or disabled relative for medical or custodial care. These categories of payments are defined to include hospital, doctor, and medicine expenses as well as nursing and custodial care homes, and home nursing care, by far the greatest expenses of the elderly and disabled.

Statistics for the fiscal year 1975 show that the average health care bill for those over 65 was $1,360 per year, almost three times the average health care bill for those under 65. While many of these expenses are covered by medicare, in fact only 72 percent of the total hospital expenses were covered. That leaves a significant gap. Since social security payments are less that $4,000 per year and public retirement funds frequently pay retirees less than $6,000, these medical expenses are a considerable financial burden. This tax credit is designed to help lessen that burden.

By Mr. BAYH (for himself, Mr. DOLE, Mr. CURTIS, Mr. ABOUREZK, and Mr. ZORINSKY):

S. 2201. A bill entitled "The Alcohol Fuel Incentive Act of 1978"; to the Committee on Agriculture, Nutrition, and Forestry.

FUEL FROM FARMLAND

Mr. BAYH. Mr. President, today I am introducing legislation to tap the energy potential of our Nation's farmland and open a new market for grain and other farm and forest products. I am pleased that my very distinguished colleagues, Senators DOLE, CURTIS, ABOUREZK, and ZORINSKY are cosponsors of this bill, the Alcohol Fuel Incentive Act of 1978.

Our greatest natural resource throughout our history and in the foreseeable future is the productive capacity of our rich farmland and forestland and our favorable climate. The energy that can be generated and captured each year in our growing crops is renewable. That energy must be utilized both now and in the long run as a substantial part of our overall energy program. We dare not continue our heavy reliance on foreign fuels and exhaustible domestic fossil fuels. Alcohol fuels derived from the products of our Nation's farms and forests and by reclamation of wastes are the most apparent and exploitable renewable energy source available today. Whether alcohol fuel will become commercially competitive as well as environmentally superior can only be learned by the application of our best technology to this effort. This legislation will provide an incentive for the development of that technology.

The bill I am introducing will encourage farmers to devote part of their land to fuel crops for alcohol production. If fully implemented by the Secretary of Agriculture, it will create an incentive for developing alcohol fuels from agricultural products and will allow farmers once again to plant all of their land in crops. Unlike most incentives, this one will not cost the Government a penny. Specifically, the bill would authorize the Secretary of Agriculture to allow farmers to use the set-aside acreage on their farms for the production of any agricultural or forestry product which is to be used or sold for use in the manufacture of alcohol fuel.

It is important to emphasize that this bill does not compel any change in administration of the farm program adopted in the Food and Agriculture Act of 1977. However, the bill will authorize the Secretary of Agriculture to permit farmers to use set-aside acreage to grow fuel crops, just as the Secretary now has authority to permit farmers to use set-aside acreage under certain conditions to grow sweet sorghum, hay, sunflower, castor beans and several other crops. The amendment would not impair the supply-limiting and price-supporting purposes of the set-aside programs, because it would not add to the wheat and feed grain supplies in traditional markets.

This bill is a step in removing that part of our farm program which is the most frequent irritant of farmers and consumers alike: the compelled idling of farmland from production of crops. At the same time it encourages development of a domestic and environmentally sound energy source.

Hard work and reasonably good weather in many parts of the country have produced near record crops this year. But farmers have only low prices and rising expenses as reward for their long hours and costly investments. For the last 5 years world grain supplies have stayed around 125 million tons. In 1977 the supply is expected to rise to 183 million tons and to 200 million tons in 1978. The United States now has 28 percent of the world feed grain stocks, and it will have around 52 percent in 1978 because domestic and world demand cannot absorb these record harvests. This surplus has taken its toll on the farm economy. On October 7, 1977, the wheat price was $2.31 a bushel and corn sold for $1.87 a bushel in Chicago. Prices on the farms, of course, are even lower. Corn prices are now as low as the 1973 levels, although production costs have increased 80 percent in the last 4 years. The entire rural community, which depends on farm business, feels the effect of these poor conditions.

On August 29, 1977, the U.S. Department of Agriculture, in an attempt to improve the dismal grain market next year, announced the wheat set-aside program which will take an estimated 11 million acres out of production. It is very likely that the Department will also announce a set-aside of feed grain acreage in the very near future. Clearly removing productive farmland from production earns few friends from farmers or consumers even in years of oversupply, when it may be necessary as the only way to avoid disastrous commodity prices. We should seek every possible way to make productive use of that farmland through new markets from farm crops. Alcohol fuels may have the potential to become a substantial new market.

Mr. President, alcohol fuels have recently received increased attention at the national and grassroots levels. This source of energy, of course, is not new. Blends of 90 percent gasoline and 10 percent alcohol have been used successfully in automobiles for decades. As far back as 1938, the USDA reported that ethyl alcohol "can be used with comparative success as fuel in the modern type of internal combustion engine." Alcohol-gasoline blend fuel was sold in this country during the 1930's and 1940's, and is being sold today in some countries which have limited petroleum resources.

Ethanol and methanol alcohol can be produced in every State of the Nation. Ethanol can be produced from such diverse sources as corn, wheat, milo, sugar beets, sugar cane, and other crops, including distressed grain; methanol can be produced from wood and municipal wastes. One ton of waste paper for example, can produce 68 gallons of methanol, and it has been estimated that the distressed grain from 1 year's crop in Nebraska alone could produce 20 million gallons of ethanol. A 10-percent alcohol,

90 percent gasoline blend can be used in conventional internal combustion engines without adjustment. It requires no lead additives, has a higher octane rating than gasoline and produces lesser amounts of effluents.

Mr. President, as many of the distinguished Members of this body and the other body are well aware, the Congress in recent months has considered several measures to encourage the development and use of energy from renewable resources, including alcohol fuel from agricultural and forestry products. There is great support for even greater efforts to tap the energy potential of our Nation's renewable resources.

Today, 28 distinguished Senators are joining me in sending a letter to Secretary of Agriculture Bob Bergland and Secretary of Energy James Schlesinger urging them to undertake an immediate and comprehensive effort to tap the energy potential of our Nation's renewable resources. I ask unanimous consent to insert a copy of that letter at this point in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, D.C., October 12, 1977.

Hon. BOB S. BERGLAND,
Secretary of Agriculture,
Washington, D.C.
Hon. JAMES R. SCHLESINGER,
Secretary of Energy,
Washington, D.C.

GENTLEMEN: We write to urge the Department of Energy and the Department of Agriculture to undertake an immediate and comprehensive effort to tap the energy potential of our nation's renewable resources. Our greatest natural resource throughout our history and in the foreseeable future is the productive capacity of our rich farmland and forestland and our favorable climate. The energy that can be generated and captured each year in growing crops and converted into fuels is renewable. So is the energy that may be reclaimed as fuel from urban, industrial and agricultural wastes.

Renewable domestic resources cannot provide sufficient energy to satisfy all of our nation's needs in the immediate future, but even now energy from these resources can supplement our diminishing supply of fossil fuels. In the long run renewable resources must be fully utilized and must become a substantial part of our overall energy program. We must begin now to work toward that objective. We dare not continue our heavy reliance on foreign fuels and exhaustible domestic fossil fuels.

In recent weeks we have witnessed a burst of interest in a very old energy source—alcohol fuels. As you know ethanol can be produced from grain, molasses and other agricultural products, and methanol can be produced from forestry products or by-products and from many urban, industrial and agricultural wastes. Alcohol fuels derived from the produce of our nation's farms and forests and by reclamation of wastes are the most apparent and exploitable renewable energy source available today. Ethanol and methanol fuels have been used successfully in internal combustion engines for decades. Indeed, a 129-page United States Department of Agriculture publication in 1938 reported that ethyl alcohol "can be used with comparative success as fuel in the modern type of internal-combustion engine." During the 1930's and 1940's ten percent alcohol and ninety percent gasoline blends were marketed domestically for motor fuels in standard automobiles. Some other countries whose petroleum resources are limited continue to utilize alcohol or alcohol blend fuels today. Studies have indicated that alcohol blend fuels are higher in octane rating and produce lesser amounts of effluents than gasoline alone.

Recent initiatives by Congress to increase the amount of biomass research, including research by the Department of Energy through ERDA and by the Department of Agriculture through the land grant universities, are important steps, but small ones. The newly authorized federal government loan guarantees for construction of four alcohol fuel production facilities, as provided by the Food and Agriculture Act of 1977, also are small but positive steps. We also commend the recent decision by the Senate Finance Committee in its markup of the energy tax bill to recommend removal of the four cents per gallon federal excise tax from gasoline-alcohol blends containing at least ten percent alcohol derived from agricultural or forestry products.

These recent efforts to stimulate research and utilization of alcohol fuels have made obvious to us the need for a comprehensive national effort to seek and exploit the most efficient fuels which can be produced from domestic renewable resources. Whether alcohol fuel will become commercially competitive as well as environmentally superior can only be learned by the application of our best technology to this effort. Similarly, our best technology should be applied to learn whether corn, wheat, sugar cane, sugar beets, timber, or other growing crops which may not yet be identified may be the most efficient producers of fuel from renewable resources.

Whatever may be the results, we can not afford to give less than a major national commitment to develop fuels from the productive capacity of our farmland and forestland. This is especially true at a time when our government is asking farmers to leave part of their farmland idle due to excess supplies of some farm products.

We urge your prompt response to this request for a comprehensive new effort by the Departments of Agriculture and Energy which you head.

Sincerely,

Birch Bayh, Russell B. Long, James O. Eastland, Floyd K. Haskell, James Abourezk, Alan Cranston, Spark M. Matsunaga, George McGovern, Edward Zorinsky, Frank Church, Howard M. Metzenbaum, Thomas F. Eagleton, Jess Helms, John Melcher.

Herman E. Talmadge, Robert Dole, Jacob Javits, S. I. Hayakawa, Donald W. Riegle, Charles H. Percy, Hubert H. Humphrey, John L. McClellan, Carl T. Curtis, Wendell H. Ford, Lee Metcalf, Patrick J. Leahy, Walter D. Huddleston.

Mr. BAYH. Mr. President, the bill that I am introducing today is not offered as a solution to our Nation's farm problems or our Nation's energy problems. But it can be a part of solutions to both problems. I hope my colleagues who share my concern for our Nation's farmers and energy needs will join me in passing this legislation.

I ask unanimous consent that the Alcohol Fuel Incentive Act of 1978 be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2201

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Alcohol Fuel Incentive Act."

SEC. 2. Under such regulations as the Secretary of Agriculture shall prescribe, any person participating in any year in any program administered by the Department of Agriculture under which there is an acreage set-aside program in effect for such year may be permitted, notwithstanding any other provision of law, to use the set-aside acreage of the farm for the production of any agricultural or forestry product which is to be used or sold by such person for primary use in the manufacture of a gasoline blend exempted from taxation under section 4081(c) of the Internal Revenue Code of 1954.

ADDITIONAL COSPONSORS

S. 1838

At the request of Mr. NELSON, the Senator from Michigan (Mr. RIEGLE) was added as a cosponsor of S. 1838, to insure fair and equitable representation for smaller and medium-sized businesses on Federal advisory committees.

S. 1860

At the request of Mr. ROTH, the Senator from California (Mr. HAYAKAWA), the Senator from Utah (Mr. HATCH), the Senator from Indiana (Mr. LUGAR), and the Senator from Wyoming (Mr. WALLOP) were added as cosponsors of S. 1860, the Tax Relief Act of 1977.

S. 1882

At the request of Mr. GLENN, the Senator from Indiana (Mr. LUGAR) and the Senator from Hawaii (Mr. MATSUNAGA) were added as cosponsors of S. 1882, the Arson Control Assistance Act of 1977.

S. 1940

At the request of Mr. BENTSEN, the Senators from Wyoming (Mr. HANSEN and Mr. WALLOP) were added as cosponsors of S. 1940, to amend the Federal Meat Inspection Act.

S. 1996

At the request of Mr. STAFFORD, the Senator from Indiana (Mr. BAYH) and the Senator from Hawaii (Mr. MATSUNAGA) were added as cosponsors of S. 1996, relating to survivor benefit for retirees of the reserve forces.

S. 2156

At the request of Mr. NELSON, the Senator from Hawaii (Mr. MATSUNAGA) was added as a cosponsor of S. 2156, the Minority Enterprise Venture Capital Act of 1977.

S. 2159

At the request of Mr. KENNEDY, the Senator from North Dakota (Mr. BURDICK) and the Senator from New York (Mr. MOYNIHAN) were added as cosponsors of S. 2159, to amend the Public Health Service Act.

SENATE JOINT RESOLUTION 65

At the request of Mr. KENNEDY, the Senator from Connecticut (Mr. WEICKER) should be added as a cosponsor of Senate Joint Resolution 65, relating to provide full representation of the District of Columbia in the Congress.

SENATE JOINT RESOLUTION 69

At the request of Mr. NELSON, the Senator from Michigan (Mr. RIEGLE) was added as a cosponsor of Senate Joint Resolution 69, requiring each executive department and agency to designate a small business advocate.

SENATE RESOLUTION 279

At the request of Mr. HEINZ, the Senator from Minnesota (Mr. ANDERSON) and the Senator from South Carolina (Mr.

HOLLINGS) were added as cosponsors of Senate Resolution 279, relating to unfair competition on the steel industry by foreign producers.

SENATE CONCURRENT RESOLUTION 54—SUBMISSION OF A CONCURRENT RESOLUTION RELATING TO HUMAN RIGHTS OF THE HELSINKI ACCORDS

(Referred to the Committee on Foreign Relations.)

Mr. WILLIAMS (for himself, Mr. HUMPHREY, Mr. BROOKE, and Mr. HEINZ) submitted the following concurrent resolution:

S. CON. RES. 54

Whereas the signatory states to the Final Act of the Conference on Security and Cooperation in Europe, known as the Helsinki Accords, have assumed responsibility in their respective territories for the respect of human rights and fundamental freedoms and for the promotion and encouragement of the effective exercise of civil, political, social, cultural, and other rights and freedoms which are derived from the inherent dignity of the individual;

Whereas there have been numerous instances of abuse of human rights in several signatory countries, which abuse indicates a systematic denial of the fundamental rights of the citizens of such countries; and

Whereas many such individual human rights violations have come to the attention of the world community and are of deep and most sympathetic concern to the American people and the Congress: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the President should instruct the United States delegation to the Follow-Up Meeting to the Conference on Security and Cooperation in Europe in Belgrade—

(1) to bring to the attention of the countries attending such meeting specific instances of harassment of individuals and of abrogation of human rights by certain countries, particularly of the rights of individuals attempting to monitor the compliance with the Final Act signed at Helsinki by such countries; and

(2) to urge that countries responsible for such harassment or such abrogation comply with their obligations under the Final Act signed at Helsinki to observe fundamental human rights and to redress the injuries suffered by the victims of past human rights violations.

SEC. 2. The Secretary of the Senate is directed to transmit a copy of this resolution to the President.

Mr. WILLIAMS. It has been 2 years since the United States, along with 34 other nations, became a signatory party to the Final Act of the Conference on Security and Cooperation in Europe. In this agreement the participating States pledged to respect the human rights and fundamental freedoms of the individual, including the freedom of thought, conscience, religion, and belief. I am speaking today to voice my concern that several of the signatory nations to the Final Act are not fulfilling their acknowledged obligations to protect and promote the basic rights of their citizens; indeed, they are continuing deplorable practices which are in direct violation of the aims and principles of the accord.

One of the principal objectives of the Final Act was to facilitate freer movement and contacts of individuals and groups among the participating States. Numerically, however, there have been no overall increases in the movement of people between East and West since the Helsinki accord took effect. My initial involvement in this area, as with many of my colleagues in the Senate, began with a number of individual cases where assistance was needed in obtaining the clearance necessary for immigration. We have seen firsthand evidence of the tragedy and anxiety created by the complexity and rigidity of governments unsympathetic to the plight of those wishing to emigrate.

One such individual is Yaakov Gordin, who has been trying to leave the Soviet Union since 1963. His applications were turned down at that time on the grounds of "inexpediency." In 1966 he was drafted for a 2-year tour of duty in the Soviet Army; since that time his applications for an exit visa have been refused due to his having served in the military. In 1971 his parents and brother were allowed to leave the country. His mother has since died, yet Yaakov was denied permission to attend her funeral in Israel. He has been waiting 14 years for clearance to emigrate. Mr. President, I suggest that if the Soviet Government is sincere in its intent to facilitate the freer movement of people, it show that sincerity by allowing Yaakov Gordin to join his father in Israel.

A further aim of the Final Act was to improve the access to and exchange of information among the participating States. The effectiveness of several of the signatory nations in meeting this objective has been negligible. For example, Vladimir Bukovsky, in a televised interview several years ago described the horrors of Soviet prisons and concentration camps and the inhumane treatment of political prisoners in psychiatric institutions. Because of this interview Bukovsky was sentenced to 2 years in prison, 5 years in a concentration camp, and 5 years of exile. He is in very poor health, suffering from heart, liver, and kidney diseases. Without proper medical treatment, Bukovsky has little chance of survival.

It is a bitter irony to note that in several of the nations professing adherence to the provisions of the Final Act, the only monitoring of the implementation of those provisions has been by individuals outside of the government, and that those persons are themselves suffering harassment and imprisonment for their attempts to do so. Mykola Rudenko and Alexy Tykhy, founding members of the Ukrainian Public Group To Promote the Implementation of the Helsinki Accords, have been convicted of "anti-Soviet agitation and propaganda" and have received the maximum sentences given for this charge, including imprisonment and internal exile.

Two Lithuanians, Victoras Petkus and Antanas Terleckas, have been arrested for their efforts to monitor compliance of their nation's moral and legal obligations to protect human rights. Valentyn Moroz has been imprisoned for his defense of human rights, which was referred to by Soviet government officials as "propaganda." Yuri Orlov, a physicist and dissident seeking to monitor Soviet compliance with the Helsinki Accords, was arrested and charged with "anti-Soviet activity."

Vladimir Osipov, Vladimir Bukovsky, Andrei Tuerdokhlebov, and Sergei Kovalev are more than mere names; they are individual human beings who have been punished with harsh sentences in prisons and labor camps for their devotion to the cause of human rights in the Soviet Union. In Czechoslovakia, two signers of the "Charter 77" manifesto, Valdimir Lastuvka and Alex Machacek, have recently received 3½ years sentences for drawing public attention to "Charter 77" and individual cases where human rights were being violated.

Another individual who has been harassed and persecuted in the Soviet Union is Anatoly Sharansky, arrested on numerous occasions since applying for permission to emigrate in 1973. In February 1977, he filed suit for defamation based on the airing of the anti-Semitic television documentary entitled "Buyers of Souls." In March he was arrested. It should be noted that Mr. Sharansky is a member of the same group to which Alexander Ginzburg and Yuri Orlov belong, monitoring implementation of the Hensinki Agreement.

In March 1975, he was informed by the KGB that—

> Your destiny is in our hands. You saw what happened to your friends. You have to know that no one in the West is interested in you and all that you are doing here, and nobody will say a word in the entire world if there is one more Prisoner of Conscience in the Soviet Union.

Mr. President, I find it deplorable that those individuals who voice their concern for the plight of their fellow countrymen would find their own lives and rights endangered. Their pleas for justice are heard by millions throughout the world, yet the hearts and ears of their own governments are closed to them. I believe President Carter echoed the sentiments of all Americans when he declared in his inaugural address, "Because we are free, we can never be indifferent to the fate of freedom elsewhere," We who are free to raise our voices must speak out for those who cannot be heard.

The follow-up meeting to the Helsinki Conference in Belgrade is reviewing the steps taken by the various states to implement the final act. I believe this gathering offers a unique opportunity to present specific instances of known violations of the human rights of individuals in nations proclaiming belief in the fundamental rights and freedoms of man. Among the cases which should be included in the Belgrade meetings are those being persecuted for monitoring the implementation of the Helsinki Accords. Their freedom from persecution is essential to the success of the human rights provisions contained in the agreement. If they can be silenced, the agreement will cease to have meaning for everyone threatened with violations of basic human rights.

Therefore, I am submitting a resolution which expresses the sense of Congress that specific instances of human rights violations be brought before the Belgrade meeting, particularly the cases

of harassment of individuals attempting to monitor the compliance with the Final Act signed at Helsinki.

SENATE CONCURRENT RESOLUTION 53—ORIGINAL CONCURRENT RESOLUTION REPORTED AUTHORIZING ADDITIONAL PRINTING

(Referred to the Committee on Rules and Administration.)

Mr. SPARKMAN, from the Committee on Foreign Relations, reported the following original concurrent resolution:

S. CON. RES. 53

Resolved by the Senate (the House of Representatives concurring), That there be printed for the use of the Senate Committee on Foreign Relations two thousand five hundred additional copies of each part of its hearings entitled "Panama Canal Treaties."

NOTICES OF HEARINGS

SUBCOMMITTEE ON INTERGOVERNMENTAL RELATIONS

Mr. MUSKIE. Mr. President, on Saturday, October 15, the Subcommittee on Intergovernmental Relations will continue its investigation of the status of Federal and State preparedness for the winter of 1977–78 with a hearing in Nashville, Tenn.

This hearing is a followup to the subcommittee's 3 days of hearings in Washington and the report analyzing the government's preparedness effort which the subcommittee issued earlier this week. Testimony at our earlier hearings indicated that natural gas shortages in Tennessee this winter could be the most severe in the Nation.

During the energy emergency last winter, Tennessee suffered more than most States. For example, during one of the worst weeks of the winter—January 16–22—almost 61,000 persons were temporarily out of work due to natural gas curtailments. As of mid-February, after the worst of the cold spell was over, an estimated 20,000–30,000 workers were still unemployed.

As grim as this scenario is, Mr. President, there is a very real possibility that the upcoming winter in Tennessee may be even worse.

In testimony before the subcommittee last month, Mr. Charles Curtis, Chairman of the Federal Power Commission, cited a preliminary FPC report indicating that natural gas curtailments could be expected in Tennessee beginning next month. That same report projected as many as 300 plant closings in the State over the course of the entire winter.

That is a frightening prospect—so much so that we scheduled this hearing to find out more about it.

At my request, Senator SASSER has agreed to chair the hearing. Among the witnesses we expect to hear from are Mayor Fulton of Nashville, Congressman CLIFFORD ALLEN, also of Nashville, Chairman Robert Clement of the State Public Service Commission, and a representative of the State Energy Authority. We will also hear from the Federal Energy Regulatory Commission, regarding that agency's updated projections on the supply situation for Tennessee this winter. Finally, we have asked for testimony from representatives of consumers, various public utilities and gas pipelines serving the State.

Mr. President, the Subcommittee has recently released a report on the overall state of national preparedness for another hard winter. The principal conclusion of that report is that we simply are not ready for a cold winter. In the weeks ahead, I intend to offer emergency legislation to implement the recommendations contained in that report for Federal action.

The Tennessee experience of last winter was a microcosm of the national emergency as a whole. Testimony about that experience can offer us useful guidance as to the kind of preventive actions we need to take today.

Moreover, when we focus on the national policy implications of another winter energy emergency, we must not overlook the need for preparedness at the State and local level as well. I am hopeful that the Nashville hearing will stimulate movement in that direction.

Judging from all the information I have seen thus far, the State of Tennessee is going to need all the readiness it can muster for the difficult months ahead.

The hearing on the 15th will begin at 9 a.m., in room 14 of the Legislative Plaza Building.

COMMITTEE ON RULES AND ADMINISTRATION

Mr. CANNON. Mr. President, the Committee on Rules and Administration will conduct a public hearing on the nomination of John J. Boyle, of Maryland, to be the Public Printer, beginning at 10 o'clock on the morning of Wednesday, October 19, 1977. Any persons desiring to submit statements for or against this nomination should file 50 copies thereof in the office of the committee—305 Russell Building—by noon on Monday, October 17. Any persons having questions about this hearing should telephone Miss Peggy L. Parrish, assistant chief clerk of the committee, at 202–224–0281.

ADDITIONAL STATEMENT

A SALUTE TO NATIONAL SCHOOL LUNCH WEEK

Mr. DOLE. Mr. President, this week marks a significant event in the lives of many of our constituents. October 9 through 15 is National School Lunch Week. This annual 7-day period, beginning the second Sunday of October of each year was established by Congress in October 1972 through a joint resolution. The theme adopted for this special week for the next 5 years is "Eat to learn and learn to eat."

Today, Wednesday, October 12, like every Wednesday of National School Lunch Week is universal menu day, and students across the country are enjoying the same luncheon menu. Major objectives directing the week-long activities will be to make students, teachers, administrators, parents, and communities more aware of good nutrition, and to highlight the benefits of eating a well-balanced meal at school.

30 YEARS PLUS ONE (1946–77)

On June 4, 1946 the President signed Public Law 396, the National School Lunch Act, designed ". . . to safeguard the health and well-being of the Nation's children and to encourage the domestic consumption of nutritious agricultural commodities and other foods * * *."

School meals actually had their beginning in this country early in the 1850's at a time when certain philanthropic organizations recognized the need for solving the problem of poor nutrition among children in their districts. As early as 1932 some schools received Federal loans to pay labor costs and also agricultural surpluses for their meal programs.

1966—A NEW DIMENSION

A new dimension was added to school food service with the enactment of the Child Nutrition Act of 1966. School breakfast, special milk, nonfood (equipment) assistance, and other programs enacted under this legislation demonstrated the relationship between food, good nutrition, and a child's capacity to develop and learn.

In the last decade Federal expenditures for the school lunch program have increased from less than $75 million, to over $2.4 billion for cash and commodities in fiscal year 1977. Today the lunch program serves an average of 26 million students. Fiscal year 1977 obligations for all the child nutrition programs were close to $2.8 billion.

1977—A NEW DIMENSION

A new dimension has been added to child nutrition programs in 1977: A move in the direction of preventative health care. Senate and House conferees have agreed upon a provision in the current legislation to provide for instruction about food and its relationship to good health for students and teachers, and to assist school cafeteria personnel in improving their skills in food preparation and service.

I am sure my colleagues in the Senate will join me in saluting the many persons responsible for carrying out the child nutrition programs, and their successful fulfilment of the National School Lunch Week theme, "Eat to learn and learn to eat."

A COLUMBUS DAY TRIBUTE TO JOHN SIRICA

Mr. MATHIAS. Mr. President, Judge John J. Sirica has decided to give up full-time active duty on the Federal court at the end of this month. To say that he will be missed is an understatement, but I respect his decision and wish him a rich and rewarding tenure as a "senior" judge.

No price can be put upon John Sirica's service to this Nation. At the time of Watergate, when our faith in the executive branch of our Government was shaken to its foundations, John Sirica's dedication to the judicial process insured the proper functioning of that remarkable system of checks and balances devised by the Founding Fathers to protect our liberties.

Today, a proper balance has been restored to the relationship between the judicial, legislative and executive branches of our Government. Much of the credit for that belongs to John Sirica. No one, who lived through the shattering days of Watergate, will ever forget the staunch determination of John Sirica as he sought the truth. No one, who witnessed his performance, will ever forget his insistence on due process. And nothing can ever cancel the debt we owe Judge Sirica for his devotion to the truth.

Throughout the criminal prosecutions of Watergate, John Sirica was navigating in uncharted waters, guided only by his respect for the law and his own sense of justice. I especially chose today to salute John Sirica, the son of Italian immigrants, because he embodies the very qualities of spirit that so enobled that other son of Italy to whom Americans owe so much—Christopher Columbus. In honor of Judge Sirica and in recognition of Columbus Day, I would like to quote this passage by poet-philosopher George Santayana:

Columbus found a world and had no chart,
Save one that faith deciphered in the skies;
To trust the soul's invincible surmise
Was all his science and his only art.

THE NOBEL PEACE PRIZE

Mr. EAGLETON. Mr. President, it is a measure of the growing worldwide concern for human rights that the Nobel peace prizes for 1976 and 1977 were awarded yesterday to two individuals and an international organization whose goals are the promotion of civil, political, and religious freedom for all individuals.

Mairead Corrigan and Betty Williams are two young Irish women whose abhorrence for the bloodshed and strife in Northern Ireland brought them together in 1976 in a movement to unite Catholics and Protestants against this violence. After witnessing the brutal deaths of her sister's three children, Mrs. Williams initiated a peace march that drew 200 people. Miss Corrigan witnessed this march from her home and joined in. The protest marches grew in numbers dramatically and from there the organization known as the "Peace Women" developed. Today this organization, known as the "Community of Peace People," has a membership of about 7,000.

These two women are to be commended for their selflessness and determination. Mairead Corrigan and Betty Williams remind us all that individual effort is the critical foundation for resolution of problems that plague our larger society.

Amnesty International opened its first office in London in 1961 with a small group of volunteers. Its goal was to call world attention to those governments which deny its citizens their legitimate human rights and, by doing so, to bring some measure of justice to those situations.

This organization is still staffed largely by dues-paying volunteers and now has branches in nearly 80 countries. Since its inception, Amnesty International has issued a number of invaluable reports on human rights violations in various countries and has worked on behalf of individual political prisoners in a unique system whereby Amnesty volunteers "adopt" individual prisoners and work for their relief.

As with Mrs. Williams and Miss Corrigan, Amnesty International demonstrates what a grassroots organization, made up of dedicated individuals and committed to fundamental values, can accomplish.

Mr. President, I ask unanimous consent that the following editorials be printed in the RECORD.

There being no objection, the editorials were ordered to be printed in the RECORD, as follows:

[From the New York Times, Oct. 11, 1977]

TWO NOBEL AWARDS

The Nobel Peace Prize is, most often, given for battles not won, for controversies not resolved, for struggles not over. That is the case for the awards announced yesterday—the 1976 prize to Mairead Corrigan and Betty Williams, the leaders of Northern Ireland's largest peace movement, and the 1977 prize to Amnesty International, the London-based worldwide organization devoted to securing freedom for "prisoners of conscience" in all lands.

The awards committee did well to name winners for both years. It named no winner last year because it found no nominee of sufficient stature. The Peace People—the grass-roots movement of Protestants and Catholics to end the civil war in Northern Ireland had only just started last year and the two women were nominated after the committee's deadline. It is right that they receive recognition now. But it is right, also, that in a year in which the issue of human rights has received wider attention than ever before, the award to Amnesty International should not be delayed.

The example of Miss Corrigan and Mrs. Williams and their supporters has given thousands—Protestants and Catholics—the courage to stand up against extremists. Likewise, Amnesty International has brought hope to thousands, imprisoned and tortured for their political beliefs. The list would be very much longer but for the work of this genuinely international movement.

The war in Northern Ireland is not ended. Unjust imprisonment and torture probably will never end. But what the Nobel awards celebrate is the equal possibility that courage and decency, also, will endure.

[From the Washington Post, Oct. 11, 1977]

NOBILITY AND THE NOBEL AWARDS

This year the committee that selects the winners of the Nobel Peace Prize did its work exceptionally well. It awarded the 1976 prize, which had not been awarded last year, to Betty Williams and Mairead Corrigan, the young Ulster women who inspired the formation of the Northern Ireland Peace Movement. It awarded this year's prize to Amnesty International, the 16-year-old organization that works for the release of "prisoners of conscience" all over the world. There is something very fitting about the conjunction of these two awards. The recipients have a great deal in common, and in important ways they also complement each other.

What Amnesty International and the Northern Ireland Peace Movement have in common is founders, leaders and members who have no use for the abstract and the grandiose in their work, but who are given instead to modest, practical and—yes—heroic here-and-now efforts. They are dedicated to relieving human anguish in the situations they have chosen to address. They are each, in slightly different senses, apolitical, insisting that neither armed violence in the one case, nor political repression in the other, is an acceptable instrument of policy—irrespective of whether you happen to share the goals of the policy or not.

The two newly honored groups also have this in common: What success they have achieved is a tribute to the capacity of ordinary individual citizens to make a difference. The Nobel committee underscored the point in giving the 1976 award to the two Irish women whose revulsion against violence in Ulster was brought into focus by the death of three Belfast children, hit by a careening IRA car whose driver had just been killed by British bullets. "Mairead Corrigan and Betty Williams," the committee said, "acted from a deep conviction that the individual person can make a meaningful contribution for peace. . . ."

Amnesty International likewise had its origin in the determination of a few hardy souls to do something about the plight of people who were suffering at the hands of various governments for their political or religious views or because of their race or ethnic background. In 16 years it had acquired over 100,000 members, is represented in almost 80 countries and has managed, to its credit, to get on all the right enemies-lists—those of repressor governments of every political stripe in every part of the world. But in the course of this expansion, it has made a point of remaining faithful to its simple, direct techniques, a kind of human-rights "buddy system" whereby individual members accept responsibility for a few individual prisoners and organize the work in their behalf.

So you could say that these two organizations share a special spirit and a special outlook. But there is a difference, too. The Irish group is above all else—as it must be—the sworn enemy of physical violence, Amnesty International the sworn enemy of political repression. Yes, the lines do cross, and neither group is indifferent to the principal concern of the other. We observe this distinction only by way of noting that the Nobel Committee, by this particular choice of recipients, has made an important statement of its own. It has said that peace is more than the absence of conventional war and that tranquillity achieved by locking up dissidents is no peace at all.

DEEPENING STEEL CRISIS

Mr. HEINZ. Mr. President, the entire Nation should by this time be well aware of the serious economic problems facing our domestic steel industry and the need for fast, effective action by our Government. Last week a number of Senators joined in a steel caucus to formulate proposals that will help restore the industry to economic health. Similar efforts are underway in the administration under the direction of Tony Solomon, Under Secretary of the Treasury, and hopefully a number of proposals will shortly be made public.

In case there still are those who are unconvinced about the serious nature of the steel industry's problems, I want to bring to my colleagues' attention two resolutions on this subject recently adopted by the city councils of Pittsburgh and Bethlehem, Pa., and a recent editorial in the Globe Times by Pulitzer prize winning writer John Strohmeyer. I ask unanimous consent that these items be printed in the RECORD.

There being no objection, the resolutions and editorial were ordered to be printed in the RECORD, as follows:

RESOLUTION No. 894

Whereas, Pittsburgh has been and City Council wishes the City to remain the "Steel Capital of the World"; and

Whereas, unemployment in Pittsburgh and in the United States is at an economically devastating and unacceptably high level; and

Whereas, we support fair trade but believe that the present practices of foreign governments are unfair competition in that these governments deliberately cause steel to be dumped in the American market at unrealistic prices to the detriment of the domestic industry and American workers; and

Whereas, some present and proposed Governmental policies, particularly in the area of environmental control, have and are placing domestic steel industry at a further competitive disadvantage which are likely to result in the closing of steel plants and the severe unemployment of steel workers; Therefore, be it

Resolved, That the City Council of the City of Pittsburgh, Pennsylvania, memorialize the President and the Congress to immediately review the entire foreign import question, to promptly enforce the antidumping acts, and to revise the severely restrictive and costly environmental requirements so as to ensure a continuing domestic steel supply and an employed American workforce.

Be it further resolved, that copies of this resolution be transmitted to the President of the United States, the presiding officer of each House of Congress of the United States and to each Senator and Representative from Pennsylvania in the Congress of the United States.

RESOLUTION No. 8691

Whereas the steel industry has recently been beset by a number of crippling developments, which, in the aggregate, constitute a major threat to the survival of what has often been called the bellwether of American industry; and

Whereas the full impact of steel's misfortunes was dramatically brought to Bethlehem four days ago when Bethlehem Steel Corporation announced the dismissal of 500 white-collar employees and the elimination of 300 additional salaried jobs, all part of an overall reduction of 2,500 salaried positions throughout the corporation; and

Whereas Bethlehem Steel, the nation's second largest producer, earlier announced the phasing out of 4,000 jobs in flood-ravaged Johnstown, Pa., and 3,500 jobs at the Lackawanna (Buffalo, N.Y.) plant; and

Whereas the U.S. Treasury Department yesterday confirmed what American steel spokesmen have long been stating, namely that five Japanese steel firms were guilty of "dumping" steel on the American market, a technique of selling steel for less than the cost of producing it—made possible through the subsidization of Japanese steel by its government; and

Whereas unduly restrictive anti-pollution legislation and policy, as administered by the Environmental Protection Agency, has added hundreds of millions of dollars to the cost of producing American steel, notwithstanding the undisputed fact that domestic steel companies have made dramatic improvements in the quality of both air and water discharged from their plants; and

Whereas the short-term prospects of the industry may very well have been reflected by the shutting down of fabricating shops at steel companies and, more unfortunately, by drastic cutbacks at Youngstown Sheet and Tube Corporation and the closing of the Allan Wood plant, the latter after well over a century of contributions to the economy of eastern Pennsylvania;

Now, therefore, be it resolved by the Council of the City of Bethlehem that President Carter and the Congress seriously consider the long-term implications of these appalling developments, particularly as they relate to employment opportunities and the economy of the entire Northeast; and

Be it further resolved that copies of this resolution be mailed promptly to President Carter and to Senators Schweiker and Heinz and Congressman Rooney.

STEEL'S "BLACK FRIDAY"

This steel area has long ago learned to live with production lull layoffs by its largest industry, but nothing in recent times can match the shock waves felt over the "Black Friday" cutbacks of salaried employes.

The dismissal of 500 workers and the elimination of 300 additional salaried jobs through early retirement may not be momentous in terms of numbers. The Lehigh Valley's economy is sufficiently diversified and otherwise healthy. But the cutbacks are chilling because we can sense that severence of salaried people is a last resort and symptomatic of unprecedented problems for the steel industry.

Bethlehem Steel's troubles are nationwide even worldwide. In view of what is happening, reductions here could have been worse. Eight hundred jobs cut at the same office and plant are reasonable in the context of the 2,500 total jobs eliminated in the corporatewide retrenchment. We escaped the anguish of the Lackawanna plant which lost 3,500 jobs in Bethlehem's production curtailment there last month. And, of course, we do not begin to feel the misery of Johnstown, which had to cope with 4,000 jobs phased out at the aging, flood-crippled plant.

Yet, that is small comfort. Steel clearly is in trouble. It needs help to compete on equal terms with foreign producers which, because of help from their governments, manage to sell steel here at below production costs. It needs help to maximize its profits for investments to upgrade technology and productivity.

President Carter has the power to help steel in its battle with cheap imports. Under the trade act of 1974, he has the authority to apply this country's diplomatic clout by entering into trade agreements to curb dumping by European and Japanese steelmakers. He has the option to negotiate temporary import quotas similar to the relief already granted to the color television and shoe industries.

It is compelling that the message get to the White House and Congress in full force. This is a summons for all concerned to unite—management and labor, politicians and civic leaders, and plain citizens. Organizations have the means of carrying the message directly to the policymakers in Washington. Local governments and civic clubs can forward resolutions. Citizens can sign petitions.

Our concern goes to the individuals and families who have felt the direct impact of "Black Friday." But their distress will be only the start unless there is a national effort to stem the steel industry's steady decline. And that will happen only if steel communities take the lead in convincing those in seats of national power that there is cause for genuine alarm.

FOREIGN RELATIONS COMMITTEE HOSTS LIEUTENANT GENERAL OBASANJO AND OTHER MEMBERS OF NIGERIAN DELEGATION

Mr. PERCY. Mr. President, today the chairman of the Foreign Relations Committee, Senator JOHN SPARKMAN, hosted a luncheon for the Government of Nigeria and a distinguished delegation that included:

His Excellency Lt. Gen. Olusegun Obasanjo, Head of the Federal Military Government, Commander in Chief of the Armed Forces.

Maj. Gen. Martin Adamu, member, Supreme Military Council, GOC, 2d Infantry Division.

Brig. Joseph Nanven Garba, member, Supreme Military Council, Commissioner for External Affairs.

Group Capt. Daneil Suleiman, member, Council of State, Governor of Plateau State.

Lt. Col. Saidu Ayodele Balogun, member, Council of State, Governor of Ogun State.

Bernard O. W. Mafeni, Federal Commissioner for Agriculture & Rural Development.

His Excellency George Ayodele Ogunlade, member, Federal Executive Council, Federal Commissioner for Information.

His Excellency Olujimi Jolaoso, Ambassador of Nigeria to the United States.

His Excellency B.A.T. Balewa, Chief of Protocol, Ministry of External Affairs.

Accompanied by the Honorable Donald B. Easum, American Ambassador to Nigeria.

Prior to answering questions from Senators who attended the luncheon, His Excellency Lieutenant General Obasanjo made some penetrating and thought-provoking remarks about Nigeria, Nigerian-United States relations and relationships between the United States and Africa with particular reference to the approaches being taken by the Carter administration policies as related to Africa. I ask unanimous consent that these remarks be printed in the RECORD. I commit them to my colleagues for study, and applaud the efforts made by the Government of Nigeria and by President Carter, Secretary of State Cy Vance, and by U.N. Ambassador Andrew Young and Members of the Senate and House, particularly Senator DICK CLARK, chairman of the African Subcommittee, for their accomplishments this year is bringing about a dramatic improvement in United States-Nigerian relations.

There being no objection, the remarks were ordered to be printed in the RECORD. as follows:

REMARKS BY HIS EXCELLENCY LT.-GEN. OLUSEGUN OBASANJO

Mr. Chairman, Honourable Senators, Ladies and Gentlemen, I wish to express my profound gratitude for the honour you have done me this afternoon by offering such a sumptuous luncheon. This is yet another expression of the warm hospitality which we have enjoyed since our arrival in the United States. Since my delegation and I arrived here we have been overwhelmed by the kindness and generosity of the American people.

I am fully aware of the importance of the role and responsibilities of the Senate Foreign Relations Committee in the formulation and development of the foreign policy of the United States of America. It is in full cognisance of this importance that I crave your indulgence to express concern over the most fundamental aspect of the relations between our Continent, Africa, and the United States of America.

My concern is that in spite of all the apparatus of information gathering and analysis that is available to this great Republic, there is insufficient appreciation of Africa—its past, its present status and its

future aspirations. There is no doubt in my mind that the United States is the most advanced industrial society today. If any society could be said to be moving in the direction of post-industrialisation, then yours is certainly the farthest ahead in the field. The main characteristic of this imminent post-industrial society is that it will be based on what the futurologists term "knowledge".

It is a pity that although we both wish to establish a relationship of constant consultation and co-operation in finding solutions to the problems of nations and peoples of the world, this aspiration has not been based on a sound knowledge of each other and thorough understanding of each other's situation. I sincerely believe that unless we make a more conscious effort to know and understand each other, our relationship will remain superficial, and exploitative because it will be based on stereotypes constructed from borrowed ideas and unverified information.

In the light of what I have just said I will appeal to this distinguished gathering that a conscious effort be made from now to improve our stock of knowledge of each other. For my part, I believe that America needs to know more about Africa. Our knowledge of each other must go beyond the trauma of discovering one's roots and must transcend Victorian paternalism passed on from our colonial relationship with Western Europe. For the Government and people of the United States of America, the time has come for a re-orientation which will put an end to the conception of the Continent of Africa solely as an economic market, Western Europe's political sphere of influence, a fertile ground for anthropological inquiry and the collection of curios and artifacts or the locus of the charitable instinct and urge in every affluent people.

The history of the contact and relationship between colonial Africa and Western Europe is reasonably well documented. While a small circle of professional Africanists have moved away from the Eurocentric bias of earlier studies of this period, this new light does not appear to have filtered through sufficiently to the decision makers. Even among the academicians here, little account if any, is taken of what existed in pre-contact Africa in their appreciation of our Continent today. That period in the history of our Continent should not be treated as irrelevant because it is the totality of a people's experience including its oral tradition which can properly advise an understanding of the problems and aspirations of such people.

In the case of the peoples of the Continent of Africa south of the Sahara, there is evidence of political and economic development comparable to the situation in Western Europe prior to and up to the fifteenth century. The negative effect of contact with Western Europe was that initially a process of destruction of existing social, political and economic structures was set in motion. The values which had sustained the peoples of Africa for centuries before the arrival of the Europeans were denigrated and destroyed. The citystates, kingdoms and empires which they evolved succumbed before the superior firepower and violence of the West Europeans. The lost control of their destinies and their right to self determination. In their place emerged hybrid geo-political entities. It was out of such conglomerates that the nation states which emerged on the African Continent beginning with Ghana in 1957, were fashioned.

While I do not ignore the mutual positive effects of contact between Africa and Europe the fact remains that the oldest experiment in building a modern nation state in black Africa is barely twenty years old. In my country, Nigeria for example, it can be said that our efforts in this respect did not begin until 1960. Thus we have had only seventeen years of determining the course and direction of our development and the management of our resources without the dictation of some superior external authority. We are now attempting to telescope into twenty years what you achieved in over two centuries. Therefore it is hardly surprising that there are gaps in achievement and performance between our countries in Africa and your great Republic. Yet it does not appear that the assessment and critique of our performance in the spheres of social, political and economic development take enough account of this newness of the experiment. It is in the light of this that we ask for greater understanding from you.

This understanding must include a willingness on your part to accept that our values, cultures, and lifestyles are necessarily different from yours and may not change as our societies, in their quest for self-reliance, achieve levels of industrialisation similiar to yours. Modern communications can play an important role in fostering this understanding. Unfortunately, the fact is that your powerful media organizations do not take advantage of their unique opportunities. While I would not say that they have completely neglected Africa, it seems to us that for the most part, they succeed in only encouraging mistrust between us through misinformation, distorted facts, and a lack of sensitivity and finesse in presenting African issues and problems.

In the sphere of international relations the two broad areas of operation which are capable of shaping intercourse between two nations are economic and political. In the field of economic activity we are concerned that the nature and character of the international economic system hamper both our productive capacity and the pattern of the allocation of our resources. I believe that as long as our inputs into the international trade remain subject to violent fluctuations and so long as the bulk of our share of that trade is in primary products so long will our chances of breaking through the development barrier remain limited. Yet it is in the best interest of all mankind that the gap between the standard of living in the northern hemispheric countries and their southern counterparts be drastically reduced. The equitable distribution of the wealth of the world is now of primary importance not only because we all belong to the same global economy but also because it will ensure world peace and stability.

On the Continent of Africa today we still have virtual slave-labour in South African mines and excessive dependence on the human brawn and the concentration of economic activity in the extractive industries and agriculture. The not-so-favourable activities of multinational companies however tend to limit the chances of fulfilling economic programmes designed by our countries to lift our peoples above the poverty lines. It is my sincere hope that the Government of the United States of America will use its powerful international economic and financial position to reduce the adverse impact of multinationals and redress the injustices in the sharing of world resources.

In addition, this great Republic is a world leader in the development of technology. We believe that the mechanisation of production is a proven key to the increase in the level of economic activity and the resultant improvement of the standard of living of peoples. In this regard the United States Government and people ought to make a special effort to facilitate the acquisition and transfer of technology to our countries. I seize this opportunity to thank your Government for its immediate and favourable response to our request for places in your institutions for training technical manpower. We welcome this gesture and can only hope that this is the beginning of a new era of cooperation between our two countries. We aspire to self-reliance so that we can better contribute to a more efficient use of the world's resources. You will recall that the initial resistance to mechanisation and automation in today's industrialised nations was because of the fear of the replacement of men by machines which would lead to massive unemployment and suffering. Instead, mechanisation led to increased wealth of nations and increased welfare of citizens. We are sure that the acquisition of technology by the countries of the Third World can only lead to an overall improvement in the wealth of the world. There is no cause to think that industrialisation in the countries of Africa will necessarily entail a diminution of returns to the industrialised nations or their citizens.

There are also many countries in Africa whose resource bases are so narrow as to make planning difficult. Such countries provide a splendid opportunity for regional programmes which will enable them to take advantage of economies of scale. This is yet another area where your foreign policy can make positive contribution to the Continent of Africa.

The overall import of my comments in the economic field is that the United States of America can lead action through both bilateral and multilateral arrangements to cause a review and reorientation of the position of all industrialised nations to remove slave labour, economic discrimination, corporate selfishness and other obstacles to our aspiration for economic self-reliance. On this note, I appeal to the Senate Committee here gathered that the old battle cries of capitalism, the arguments for isolationism, and the erroneous belief that economic development in Africa is about aid agencies are all obstacles in the way of the aspirations of over 200 million Africans for economic self-reliance and of increases in the volume of world trade and the consequential improvement to world welfare.

In the political sphere, Honourable Members, the last two centuries have been a period during which Africa lost its right to self determination and was the victim of political subjugation. Halfway through this century we fought and recovered our political independence and the right to manage our affairs. In the following twenty years or so, the Continent of Africa has waged a war on two fronts. First, our countries have had to ensure that national boundaries are held intact, national cohesion nurtured and the apparatus for achieving the rising expectation of our peoples established. In this regard I wish to recall the tragedy of my country's civil war. We are thankful to God that our efforts to wipe away memories of that harrowing and traumatic experience have been successful. It has been for us an exercise in human courage and magnanimity. These two principles among others continue to guide and advise the cause of our domestic policy. The most positive indication of the fact that we have put that unhappy episode behind us and which also underscores the lesson in human tragedy of our civil war is that the principal architect of this national calamity has gone on record as being ready "to contribute to Nigeria's development and to serve her best interest".

Second, we have had to combat colonialism and racism in many parts of Africa especially in Southern Africa. In both cases we have insisted that the right of African people to self-determination is not negotiable and expressed deep abhorrence against any philosophy which preaches the inequality of men and dedicate ourselves to the elimination of any political systems based on racial discrimination. All who value the right of all men and women to political and self determination and all who accept the equality of

men have been and remain our friends. I am happy to note that in this regard the present United States administration has moved the Government and people of your great Republic closer to us. I must nonetheless make some additional comments on the role and impact of the foreign policy of the United States of America on the two areas of our efforts mentioned above.

African countries are confronted by two major obstacles. One of these is the question of choosing between the two dominant ideologies for ordering their societies. Secondly, they must cope with the effect of the achievements and values of the industrialised states on their efforts. As I have earlier described, the impact of modern communications is that they introduce to our societies disruptive foreign life-styles and values. Exposure to the values of industrialised societies make it more difficult to restore and retain those values which we hold dear and which I believe could improve the quality of life of even the industrialised states.

As I said earlier on, colonial authorities put together within the same boundaries diverse ethnic groups and such boundaries sometime cut through ethnic groups, leaving the same people in two different countries. These create centrifugal forces in domestic political activities in most African countries. Added to this is the subjection of the political elite to the pressure of competition between the two dominant political ideologies. This pressure is sometime self-induced as the acquisition of formal Western education informs most politically conscious Africans of the pros and cons of the two major approaches to social and political development. Often, of course, this pressure is also induced by the flag bearers of the two ideologies who compete for power and influence in our territories, often, without any regard to the methods used to achieve their ends. We are of the opinion that our problem is not that of chcosing between capitalism or socialism. To us these are two sides of a coin, the contribution of the European mind to man's political development. To the extent that no man or woman prefers bondage to freedom, dictation to self-determination, the whole question of a choice between the one ideological position or the other ceases to be relevant.

We hold the view that a political system need not be identified with either of the two major systems to guarantee freedom or participation in the political process to its citizens, assure them of their individual freedom or improve their quality of life. In this regard the basic African concern for humaneness, justice and fairness should constitute the pillars of our, and for that matter, any political system. It is the duty of all our friends to leave us in peace to order our societies according to these cardinal principles. The forms and practices familiar to you as typifying good Government may not necessarily be suited to our ways. We, however, share in common with you the love of freedom and justice to all men. This is why we believe that the spirit of your new Administration in regard to ideological struggles is ethically superior to the interventionism of the past, and should continue to advise the policy and posture of the United States of America in dealing with other Governments.

In the area of our struggle to free our Continent from the clutches of colonialism and racism we have stepped on a few toes here and there. We are however convinced of the inalienable right of all peoples whatever their colour or creed to political self determination. This is the principle which provides the drive for our commitment to the course of justice in Southern Africa.

Our African policy is the result of a thorough analysis of the issues at stake and a realisation of the fact that our own independence is meaningless so long as any part of Africa is not free. We cannot shirk our responsibilities no matter what sacrifices we may be called upon to make to achieve majority rule in Southern Africa. We have accepted the challenge foisted on us by the intransigent minority regimes in Southern Africa and have co-ordinated our action and support for the Liberation Movements with other African countries, particularly the Frontline countries. Here again we welcome and appreciate the many gestures of President Carter's administration with the full support of the United States Congress. This adjustment of direction has gone a long way in rectifying the widely held view that the United States is more concerned with what is imagined to be its permanent policy. In this regard I wish to publicly acknowledge how much we believe in the good intentions and sincerity of the present United States administration and their current efforts aimed at averting racial war on our Continent and the consequential disturbance of world peace. The United States of America has a responsibility to the world through its political leadership. This responsibility must not be dodged because of moral blindness, political ignorance, or sentimental attachment. We hope that we can expect the understanding and support of the United States Congress as our Governments and the Government of the United States of America cooperate in this human endeavour.

Finally, there are a number of issues in our relations with you which, while being peculiar to either side, are nevertheless interconnected. These are our pre-occupation with economic development and your preoccupation with spheres of influence and strategic interests. These preoccupations are understandable but I would like to suggest to you that your pursuit of strategic interests appear to us as a combination of the insecurity of being affluent in the midst of want and a carry over of the ideological confrontation of the post-Second World War era. You have, we recognise, your legitimate interests to pursue, but when these pursuits directly and adversely impinge on our own interests, frictions emerge and threats to world peace arise. I wish to appeal to you strongly that the less resources that are allocated to armaments and the defence of strategic interests against more imagined than real dangers, the more will be available to further improve the quality of life for your own people. It may even be that you will thus positively contribute towards narrowing the gap between the world of affluence which is yours, and the world of scarcity and insecurity which is currently ours.

Honourable Senators, Congressmen, Distinguished Ladies and Gentlemen, may I invite you to rise and drink with me the hearty toast to the good health of President Carter, the well-being of the American people and the friendship and prosperity of our two peoples.

OMB RESPONDS TO COMMITTEE INQUIRY INTO COMPUTER SECURITY

Mr. RIBICOFF. Mr. President, on May 10, 1976, the Senate Government Operations Committee began a preliminary staff investigation into computer security in Federal programs and private industry.

As chairman of the committee—now known as the Governmental Affairs Committee—I directed that this preliminary staff inquiry be initiated. The decision was concurred in by Senator CHARLES H. PERCY, the ranking minority member of the committee.

On June 18, 1976, the committee issued a 448-page committee print entitled "Problems Associated With Computer Technology in Federal Programs and Private Industry." This report contained three reports by the General Accounting Office and a number of articles on computer security by experts in the automatic data processing field.

Meanwhile, the committee's preliminary staff inquiry went forward and on February 2, 1977, a 298-page staff study entitled "Computer Security in Federal Programs" was issued.

The staff study contained the results of independent investigation by the committee staff. The study reported on information developed independently by the staff indicating that computer security in civilian agencies was inadequate, that felons incarcerated in Federal prison were writing computer programs involved in the disbursement of millions of dollars in public funds and that Internal Revenue Service computers were vulnerable to a tax fraud scheme that had resulted in refund checks being made to persons who had filed fictitious returns.

Highlights of the staff study included information indicating that:

The U.S. Civil Service Commission believed that computer programers in Federal programs involving privacy data, the disbursement of public funds and economically valuable information should be subjected to full field background investigations as a condition of employment. But no such background checks were being made, except in agencies such as the Department of Defense and the Central Intelligence Agency where programers must have security clearance.

Virtually no personnel integrity standards existed in civilian Federal programs for computer programers, both in direct Federal employment and Federal contractor hire.

IRS computers were at this time vulnerable to persons who filed bogus tax returns aimed at receiving tax refunds based on the phony returns. The staff study cited three instances in which large amounts of money were received in the form of tax refunds based on fake returns. Also explained was how IRS was trying to deal with this problem.

Federal authorities throughout the civilian government had paid insufficient attention to security procedures involving computers which are used in the disbursement of large amounts of public funds. As an extreme example, the staff study detailed a situation at the U.S. Penitentiary, Leavenworth, in which felons, some with white collar crime backgrounds, some with relatively high rates of recidivism and some with convictions for murder and kidnap, were writing programs for the Agriculture Department's Commodity Credit Corporation and the Agricultural Stabilization and Conservation Service. Together these programs disbursed hundreds of millions of dollars in public funds through loans and farm emergency assistance and other forms of payments.

A senior IRS investigator, studying the possible link between the Leavenworth computer rehabilitation program and bogus tax returns allegedly emanating

from Leavenworth, found evidence to lead him to assert that the convicts at the prison might have figured out IRS computer tolerance levels or "discriminate function" tables. Knowing when the IRS computer will flag a tax return which ordinarily would not be reviewed by humans was an invaluable aid to persons wishing to receive tax refunds from bogus returns, the staff study indicated.

The same senior IRS investigator developed information indicating that tax frauds emanating from the Leavenworth penitentiary may have risen from an average refund of $600 to an average refund of $10,000. In addition, the IRS investigator developed information indicating that the "inmates, who have been exposed to the fraudulent income tax scheme, have taken their knowledge to the outside of the prison when they have been paroled or otherwise released."

The Leavenworth computer was tied directly to the Computer Science Corp.'s Infonet System based in El Segundo, Calif. Infonet was then the Federal Government's largest computer time-sharing bureau, doing at least $25 million a year in services for Federal agencies that include IRS and the Treasury Department. The staff study indicated that assertions were made by several Federal bureaus to the effect that an attempt was made to "crack" the Infonet security system and that the attempt failed. Information developed by the committee staff indicated, however, that no such attempt was made to "crack" Infonet. The computer scientist who headed up the security evaluation of Infonet, Donn B. Parker of the Stanford Research Institute, told committee staff that he was given insufficient information by Infonet to justify saying the Infonet system was secure. It was Parker's view, in fact, owing to carelessness by Federal agency users of Infonet, the system did have security shortcomings.

Owing to their national security mission, the Department of Defense and the CIA and other similar organizations had a keen awareness of securing their computer systems against compromise. DOD and CIA and other agencies concerned with national security not only continuously monitored their own computer security procedures, they frequently initiated exercises to deliberately penetrate their own systems. They also operated on the assumption that efforts were being made by adversaries to compromise their systems. It was the committee staff's view that this awareness of the vulnerabilities of computer systems—particularly those involved in highly private personal data, valuable economic data and the disbursement of public funds—should be examined for possible application in civilian agencies.

The Department of Health, Education, and Welfare, which has computers transacting a minimum of $84 billion in public fund payments, had an inordinately insufficient capability to investigate criminal abuse and detect irregularities which could lead to waste and misallocation. For example, it was not until late 1976 that HEW, under prodding from the Senate Government Operations Committee, began to train its own criminal investigators in how to investigate computer crime. Prior to this committee inquiry, HEW did not have a single criminal investigator knowledgeable in computer-related crime.

Executive branch procedures for security computer installations in the civilian sector were outlined in a National Bureau of Standards set of standards. Information developed by the committee staff indicated that the standards were vague and there was no requirement that Federal agencies use them.

Concluding the staff study were a series of findings and conclusions and recommendations for corrective action. Mr. President, I ask unanimous consent that the findings and conclusions and recommendations for corrective action be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

FINDINGS AND CONCLUSIONS

This staff study on computer security in Federal programs supports and endorses the conclusion of the General Accounting Office that the executive branch needs to improve its safeguards against criminal exploitation of and damage to automated data processing (ADP) systems.

In addition to those problem areas which were documented in the three GAO studies issued last spring, the committee staff found two areas of computer operations which are in immediate need of improved security policies and procedures.

These problem areas are, first, those concerned with the distribution of public funds, and, second, those which offer the opportunity to divert highly private or economically valuable data.

The staff finds that these two categories of computer-based operations need improvement in terms of physical security, as demonstrated in the GAO reports. But reform is also called for in terms of personnel security, an area where there have been inconsistent and inadequate policies and safeguards to insure that qualified and trustworthy individuals are selected to work on sensitive computer operations.

The staff finds that these physical security and personnel security improvements are needed in computer systems which are owned and operated by the Federal Government. In addition, computer systems and services which the Federal Government contracts to privately owned companies should be improved as well.

The staff finds that there are three categories of Federal computer operations that should be designated as critical sensitive because of the harm or loss that could result from criminal abuse, unauthorized access or manipulation of data.

These categories of computer operations are, first, those involving access to classified and national security information; second, those concerned with the distribution of public funds; and, third, those offering the opportunity to divert or otherwise abuse highly private or economically valuable data.

The staff finds that the Federal Government has taken appropriate steps to insure the integrity of those computer systems which process national security data. The staff finds that there is a keen awareness in top management of Federal agencies processing classified defense and intelligence data. But there are no corresponding safeguards, standards or adequate security procedures in many Federal programs unrelated to national defense.

As indicated in the body of this staff study, numerous experts in computer technology and systems security asserted that no computer system is absolutely secure from concerted penetration attacks. Computer experts also said that computer crimes, especially those which divert funds or convert economically valuable data, are likely to become prevalent white collar crimes in the future.

The committee staff finds that the judgments of computer experts in these matters apply to computer operations which support Federal Government projects. The committee staff wishes to alert the Congress and the executive branch that Federal Government computer systems which disburse billions of dollars in assorted benefits, tax refunds and payrolls and hold economically valuable and personal data of untold value can become targets of white collar computer criminals. That is to say, Government computer-supported projects can be victimized by white collar criminals.

Until the issuance of the GAO reports and the commencement of the committee's preliminary staff inquiry, most Federal agencies have been unprepared to cope with computer crime and the threat of physical damage. For example, at the Department of Health, Education and Welfare where computer systems distribute approximately $85 billion a year under a variety of programs—programs such as medicare, medicaid, social security and student loans—there was no capability to prevent, detect or investigate computer abuse.

It was not until June of 1976 that HEW officials made an effort to pinpoint vulnerabilities in their computer systems. The results of these efforts by HEW, as reported to the committee and detailed in this staff study, show in most instances a long-term lack of basic kinds of security and audit precautions. However, because of the establishment of more effective investigative and audit capabilities, HEW is taking action to correct deficiencies.

Under the guidance and leadership of the Office of Management and Budget (OMB), each executive agency whose computer systems are involved in the distribution of funds or the processing of valuable economic and personal data should evaluate its particular vulnerabilities and invest its resources to correct any deficiencies in ADP security. At this writing, OMB has advised the committee that such an effort has been initiated.

In the personnel area and in dealing with private contractors, the executive branch should reevaluate, clarify and strengthen security procedures. Regarding personnel practices, the committee staff found that there was agreement among Government officials and private computer experts that no matter how secure a computer is in a physical sense, physical security is of diminishing value if personnel procedures and controls are lax.

Robert E. Hampton, Chairman of the U.S. Civil Service Commission, informed the committee that Federal personnel involved in ADP work which is designated critical sensitive should be subjected to full field background investigations as a condition of employment.

Hampton's response to the committee made clear that the kinds of ADP operations which should carry the designation critical sensitive for employment purposes are those which have to do with national security data, with personal privacy information and economically valuable data, and with ADP systems that involve transactions that result in or affect the disbursement of public funds.

Hampton was careful to distinguish between those computer operations which can carry the designation critical sensitive and those which are "casual or routine" in nature and, therefore, should not require, the strict security standards associated with

critical sensitive computer-related employment.

The committee staff agrees with Chairman Hampton's position in this regard and finds that in applying both physical and personnel security improvements to Federal computer systems a distinction should be made between those duties which carry the designation critical sensitive and those whose purpose and functions do not require such designation.

Chairman Hampton said that the Civil Service Commission, at the committee's request, had contacted several agencies which have major computer facilities and found "that these agencies have not designated computer-related positions as critical sensitive for the most part; this means that a preappointment full field investigation is not a requisite for employment. The notable exception is DOD where multiple entry computers containing national security information necessitates critical sensitive classification for users.

The committee staff was assured by Defense Department and Central Intelligence Agency officials that data having to do with national security is processed in computers by persons who have been subjected to appropriate security clearances. This clearance requirement is applied to government employees as well as to employees of contractors who have access to national security data.

The committee staff found that outside the defense and intelligence realms, however, there are no personnel or physical security controls to insure that private contractors maintain standards consistent with critical sensitive computer work.

As ADP systems are used more and more by government and as more and more of these systems and related services are provided by commercial companies under contract, an increased amount of attention should be given to physical and personnel security policies in Federal programs.

The staff does not question the wisdom of the Office of Management and Budget for issuing circular A–76 directing that services, including ADP services, for Federal programs should be contracted out to private industry whenever appropriate. However, OMB circular A–76 should be revised or amended so that it gives fair and reasonable attention to the the issue of computer security. Controls should exist to provide Federal agencies with reasonable assurances that the personnel working for private firms on Federal ADP projects are trustworthy and that commercial computer facilities maintain physical security standards consistent with the sensitivity of the ADP work to be performed.

The government already insists on that assurance in the awarding of sensitive national security contracts. Defense contractors and defense contractor employees must agree to submit to background checks and other personnel security controls and maintain other security standards.

But no such requirement exists in contracts issued by Federal agencies for services unrelated to national defense but which, nonetheless, are of considerable consequence and sensitivity. Contracts to commercial firms for computer services related to the disbursement of public funds, for the housing of privacy information and or the assessment of economically valuable data should contain language attesting that personnel of the contractor firms, as well as the contractor firms themselves, are suitable for government employment. The level of suitability should be commensurate with the degree of sensitivity inherent in the Federal contracts the firms are carrying out.

In his statement given the Senate Government Operations Committee, Clarence M. Kelley, Director of the Federal Bureau of Investigation, expressed apprehension about the personnel security implications of OMB circular A–76. "Those concerned with computer security in government systems," Kelley said, "should be aware that OMB A–76 which requires government agencies to obtain all services, including computer services, from the private sector whenever possible, does not permit agencies to exempt security requirements. In the computer area, just as in any other area, the level of security can only be as high as the trustworthiness of the personnel who design and operate the system. Given the transitory nature of personnel in the private sector, it is difficult to insure the reliability of all vendor personnel." The staff finds Director Kelley's concerns about the personnel security implications of OMB circular A–76 to be valid.

OMB should make it an early priority in 1977 to strengthen circular A–76 in an appropriate manner so as to allow for consistent personnel security and suitability standards whenever the nature of the computer contract is such that it can be reasonably characterized as critical sensitive.

Owing to their national security mission and the fact that this mission leads them to think in terms of securing an installation as well as attesting to the suitability of those who work there, the defense and intelligence communities have more experience in safeguarding their own ADP systems. CIA spokesmen, for example, told the committee staff that they operate on the assumption that, first, a computer system can be penetrated, and, second, that an attempt will be made to penetrate it. Therefore, the CIA spokesmen said, they try to design and manage their computer systems in a way that makes a single compromise of less impact. Defense Department spokesmen gave the committee staff similar information.

CIA Director George Bush, in the statement he gave to the committee, said he did not think his organization should serve as a model for other Federal agencies in the computer security field. The committee staff agrees. But it is the staff's view that, in light of the potential for criminal compromise in the computer field, the fundamental principal defense and intelligence gathering agencies adhere to—that every system is able to be compromised; and that, therefore, an attempt will be made to achieve that compromise—has value throughout the executive branch. It is a principal all Government ADP officials should keep in mind when they set out to design, purchase, operate and manage their own non-defense computer programs.

All too often Government agencies outside the defense realm are not security conscious. As a graphic example of inconsistencies in the area of personnel security, felons incarcerated in the Federal prison at Leavenworth, Kansas were found to be engaged in computer programing functions for the U.S. Department of Agriculture. These programing functions had to do with ADP systems which are involved in the distribution of many millions of dollars in public funds. Some of the prisoner programers had relatively high rates of recidivism. Others had past connections with organized crime or had committed white collar crimes such as bank embezzlement, counterfeiting and interstate transportation of stolen or bogus securities. Several of the prisoner programers were in prison for having killed or kidnapped people or for armed bank robbery.

Based in part on the report of computer scientist and ADP security expert Robert P. Abbott of Berkeley, Calif., who served as a consultant in this preliminary inquiry, the committee staff's view is that it is an unwise policy for Federal Prison Industries, Inc., and the Department of Agriculture to have entered into an agreement whereby felons incarcerated at Leavenworth Federal Penitentiary are programing ADP systems that are involved in financial transactions.

There is no intention in this finding to in any way seek to discredit the principal of the rehabilitation of prisoners. Prisoners in Federal penitentiaries should have an opportunity to learn skills which will enable them upon release to find meaningful and productive work on the outside.

However, that being said, the committee staff finds that the Bureau of Prisons and the Agriculture Department are taking an unwarranted risk by having felons with backgrounds in bank embezzlement, counterfeiting, interstate traffic in stolen and bogus securities, murder, armed bank robbery and kidnapping, entrusted with programing comptuer systems that are used in financial disbursements and lending programs such as the Agriculture Department's Commodity Credit Corp. and several of the Department's farm disaster and emergency aid services.

Millions and millions of dollars are disbursed annually through these programs and the persons programing the systems that disburse these funds should be of a reasonable level of integrity. Having felons program these ADP systems is an unsatisfactory policy. It makes far more sense to have the prisoner programmers do work for Federal agencies that offers them no opportunity to compromise Government ADP systems or gain knowledge about critically sensitive processes. It is the committee staff's view, in fact, that having imprisoned felons do government financial computer programing may in the long run cause the very concept of rehabilitation to lose credibility with the government and the public.

As computer scientist Robert Abbott observed in his report to the committee, the prisoners could do equally productive ADP work by writing programs involving data which is not related to individual privacy or the disbursement of large amounts of Federal dollars.

The irony of the peculiar Leavenworth situation is that the felons are able to write ADP progams on systems which support financial transactions while incarcerated but, owing to their felonious backgrounds, it is doubtful that they could qualify for such sensitive Federal employment once they are released.

As a result of its inquiries into the criminal cases of Leavenworth inmate Frank E. Ready, former IRS revenue official David Robinson and the Betty Marie Gholston prosecution in Detroit, as well as other information provided by the Internal Revenue Service, the committee staff finds that the IRS computerized process of auditing tax returns is vulnerable to multiple filing schemes and other tax frauds.

These schemes are initiated by criminals to "beat" the tolerance levels of IRS computers in order to obtain tax refunds. The essence of such tax frauds is the creation of false tax returns, fraudulently using W–2 forms, employer identification numbers, social security numbers and bogus items of income, deductions, depreciations and other expenses.

During the course of this preliminary staff inquiry, IRS officials worked closely with the committee staff, demonstrated their concern and took remedial actions to eliminate this vulnerability. Unfortunately, the massive volume of papers and records, plus time, cost and geographic constraints, make the total elimination of this vulnerability very difficult.

The IRS has incorporated various recommendations of an internal committee composed of representatives of each IRS component concerned with the tax fraud problem. The IRS internal group members are seeking to improve their computer systems, audit procedures and investigative techniques. These steps should increase the ability

of the IRS to detect and prosecute these frauds more effectively.

At the request of IRS the steps taken by the IRS in this regard will not be detailed in this staff study.

IRS also responded to a committee inquiry regarding the feasibility of matching all W-2 forms attached to an individual return against all W-2 forms that IRS receives from employers to detect fraudulent refunds. On this subject, a report dated December 23, 1976 was written by James Owens, Assistant IRS Commissioner for Accounts, Collection and Taxpayers Services. Thomas V. Glynn, Assistant to IRS Commissioner Donald C. Alexander, forwarded Owens' report to the committee. Owens said, "We do not now check individual W-2 forms attached to tax returns against that total universe of withhholding records filed with IRS by employers to assure that withholding tax credits match. Our information returns programs (IRP) currently compares both income reported and withholding tax credit claimed by taxpayers with amounts reported by employers, but only a portion of the approximately 450 million information documents filed by payers of wages, dividends, interest, etc. Notices are sent to taxpayers whose income reported on the return is equal to the income reported by employers but whose withholding tax claimed does not agree with that reported by employers. Criteria indicative of refund fraud have been developed and are being incorporated in the IRP computer programs. These criteria will be applied against the tax year 1974 IRP file on a test basis and in subsequent tax year IRP matches if the criteria prove effective."

James Owens also said:

Notwithstanding the fact the IRP does not appear to be the complete answer to stopping fraudulent refunds before they are made, this procedure may be useful in bringing to justice those who have already perpetrated such schemes. Once a complete IRP file is available for matching, we pursue leads developed by the program and our success in prosecution will hopefully be a deterrent to those who might attempt such schemes in the future.

We should also mention that the Service (IRS) is now conducting a test on what is sometimes called the "reverse IRP concept," Basically, we are testing the theory that returns claiming refunds of withholdings where the Service has no record of W-2A from employers and no record of FICA wages from the Social Security Administration constitutes valid leads to fraudulent refund schemes. At this point in time, a sampling of such returns has been taken. Processing instructions are in draft status and will be issued to our field offices shortly.

The committee has been informed that the Intelligence Division of IRS is continuing its investigation of tax fraud matters that surfaced in both the Frank Ready case at Leavenworth and the Gholston case in Detroit.

However, the staff finds that management of security procedures and overall security awareness must be improved in the Federal Government.

Government users of the executive branch's largest commercial time-sharing bureau, Infonet, have been found to be careless.

The basic document on security in Federal programs, the Federal Information Processing Standard Publication 31 (FIPS-31), promulgated by the National Bureau of Standards, is vague and inadequate, Moreover, there is still no requirement that Federal agencies use FIPS-31 as even a "guideline."

Since FIPS-31 has no compliance mechanism to enforce its use, the document is not being tested and refined sufficiently to insure that one day a set of security standards for ADP programs will be adequate for governmentwide application.

In turn, the National Bureau of Standards is not the appropriate agency which should be responsible for enforcing security in Federal computer programs. NBS cannot bring to this pursuit the necessary persuasiveness to see to it that its guidelines, standards or requirements will be used, evaluated and ultimately enforced with some measure of effectiveness.

Given the present structure of the executive branch, only OMB, in coordination with the General Services Administration (GSA), can be the Federal office capable of effective leadership in this field. OMB, working with GSA, should take it upon itself to be the "lead" agency in this field, using the management authority and persuasive powers only it enjoys in the executive branch.

There is nothing new in this finding. As the staff interprets the Brooks Act and the Privacy Act of 1974 and the legislative intent of both these measures, it is the mission of OMB to be the "lead" agency in insuring that ADP systems in Federal programs be reasonably secure. It is now up to OMB to exercise that leadership. Once OMB's leadership is demonstrated, government agencies will begin the testing and refinement needed to make the FIPS-31 document workable and, to the degree possible, enforceable.

In addition, OMB can bring to this pursuit more of the resources available in the Federal Government. For example, the problem of computer security is directly related to the problem of computer crime and crimes made easier by computer technology. It is regrettable, that Federal authorities are not doing more to study, understand and control computer-related crime.

Government should be more assertive in mobilizing the Nation in controlling computer cirme. The Law Enforcement Assistance Administration (LEAA), which has spent billions of dollars in crime control projects including funding for the use of computers in law enforcement, has spent nothing to research the area of computer abuse to strength the ability of local, State and Federal criminal justice systems to cope with computer crime.

Law schools should be encouraged to train young attorneys in the computer field. Law enforcement officers should be trained in computer abuse. As many experts have informed the committee staff, all too often prosecutors do not know enough about computers to effectively prosecute crimes. By the same token, police frequently do not know enough to investigate computer-related crime. In the computer crime abuse continuum, all too often, the only persons who know what they are about are the violators.

The FBI and the armed services are improving their computer abuse training programs for law enforcement officers. The Justice Department has begun to make U.S. attorneys more knowledgeable in this field.

A recent case in Baltimore involving an unauthorized penetration of Federal Energy Administration files resulted in a criminal conviction in Federal court. This conviction, although it is being appealed, has given the Justice Department increased hope that U.S. prosecutors will be able to respond effectively to computer crime cases.

However, as Richard L. Thornburgh, the Assistant Attorney General for the Criminal Division, said in his statement for this committee, the Baltimore case, encouraging as it may be, still reflects weaknesses in the government's ability to prosecute computer crime. Thornburgh pointed out, for instance, that had the defendant not used a telephone in the transmission of ADP data across State lines—from Maryland to Virginia—and had he limited his transmission of the classified data to an intrastate transaction there might not have been Federal jurisdiction, even though Federal energy records were involved. Thornburgh asserts, and the committee staff agrees, that new laws such as an expansion of the mail fraud and wire fraud statutes to include intrastate as well as interstate violations may be required.

Similarly, in response to the committee's inquiry regarding problems associated with the prosecution of computer crimes, Jervis S. Finney, U.S. Attorney for the District of Maryland, described difficulties his office faced in the prosecution of the FEA case. Finney included specific recommendations for corrective action regarding the prosecution of computer cases. The committee staff finds Finney's recommendations to be worthwhile and has incorporated them into the recommendations for corrective actions which appear in the next section of this staff study.

The committee staff also finds that Federal authorities, working in coordination with law schools and other institutions capable of conducting studies, should begin now to evaluate the criminal justice system in light of computer crime. For example, the staff finds it unfortunate that LEAA, which funds all manner of law enforcement activities—from "buy-bust" pursuits of local drug agents to the purchase of armored personnel carriers for local police departments—has not sponsored research and other efforts to enable government to cope with computer crime. It is hoped that LEAA will take an active role in this area in 1977.

In addition, the American Bar Association and other private organizations concerned with the law should initiate study programs to determine what steps can be taken in curriculum development so that more courses are taught in computer abuse cases.

No computer abuse case can ever get to trial unless it is, first of all, properly investigated. In Federal programs, criminal investigators should, at the minimum, be required to enroll in the FBI's computer abuse investigations course at the Bureau's Academy in Quantico, Virginia.

The new Inspector General at the Department of Health, Education and Welfare should see that HEW's criminal investigators continue to take this course. Investigative personnel in other agencies whose computers distribute taxpayers' money should also be required to enroll in this FBI course.

RECOMMENDATIONS FOR CORRECTIVE ACTION

The staff of the Senate Government Operations Committee, in putting forward a series of recommendations for corrective action in computer programs in the executive branch, has divided its proposals into two categories—administrative and legislative.

Administrative corrective actions are those which would not require an act of Congress. In that regard, it is the staff's view that certain computer operations within the Federal Government are in immediate need of improved security procedures and policies. This is especially true relative to those computer systems which (1) control the distribution of public funds; and (2) contain and process information which offers the opportunity to divert highly private or economically valuable data.

These two types of computer systems should be designated critical sensitive so that personnel security procedures associated with these systems can be upgraded in a consistent manner and physical security can be improved.

The Office of Management and Budget (OMB) should exercise its management responsibility with respect to improved security in Federal computer programs by taking six fundamental actions.

First, OMB should direct that executive branch departments and agencies imple-

ment the recommendations of the General Accounting Office in GAO's three reports on Federal computer operations issued in April Accounting Office in GAO's three reports on and May of 1976.

Second, OMB should give priority to coordination of the activities of certain Federal agencies which have important functions in the improvement of computer security. In this recommendation, the committee staff has specific reference to the National Bureau of Standards, General Services Administration, the U.S. Civil Service Commission and others.

Third, under the management of OMB, the National Bureau of Standards should prepare a definitive schedule for workable physical and personnel standards to be applied by Federal agencies and private contractors consistent with the sensitivity of their particular systems.

Fourth, under the management authority of OMB, a compliance mechanism should be created to assure that these security standards are maintained by individual agencies.

Fifth, under the management authority of OMB, the General Services Administration should insure that computer-related contracts under its jurisdictions contain security requirements consistent with the sensitivity of the work to be performed by the contractor.

Sixth, under the management authority of OMB, the U.S. Civil Service Commission should be made responsible for appropriate personnel security policies consistent with computer programs that are designated critical sensitive.

In addition, those officials with security and investigative authority in Federal agencies whose computer systems either distribute public funds or contain highly private or economically valuable data should take appropriate steps to insure that their personnel are trained in the prevention, detection and prosecution of computer abuse.

Along with the above recommendations for corrective action which can be implemented by administrative direction, the committee staff wishes for Senators to also consider the feasibility of adopting three separate legislative measures. The committee staff developed these recommendations in the legislative area in consultation with representatives of the Department of Justice and other persons knowledgeable about the problems associated with the prosecution of computer crime.

There is ample evidence to suggest that much of the computer-related criminal activity has involved, or will involve in the future, government computer systems. Accordingly, consideration should be given to the feasibility of these legislative remedies:

First, legislation should be considered which would prohibit unauthorized use of computers owned by, operated for, under contract with, on behalf of or in conjunction with the U.S. Government.

Second, legislation should be considered to expand the wire fraud jurisdiction to reach any use of the facilities of wire communications, regardless of whether the actual signal travels interstate.

Third, legislation should be considered to clarify definitional guidelines as to whether checks, securities, and other negotiable instruments issued by computers in both the public and private sectors are forgeries if issued on the basis of improper or fraudulent data.

Mr. RIBICOFF. Mr. President, as a result of the preliminary staff investigation by the committee, legislation was drafted. I introduced the measure on June 27, 1977. It is entitled the "Federal Computer Systems Protection Act of 1977, S. 1766." It is cosponsored by Senators PERCY, MCCLELLAN, JACKSON, METCALF, KENNEDY, MATSUNAGA, JAVITS, THURMOND, GRIFFIN, DOMENICI, and HEINZ. The measure was referred to the Criminal Laws and Procedures Subcommittee of the Senate Judiciary Committee. In the House of Representatives, a similar bill was introduced by Representatives CHARLES ROSE of North Carolina and ROBERT F. DRINAN of Massachusetts and referred to the House Judiciary Committee.

The Federal Computer Systems Protection Act of 1977, S. 1766, would impose heavy prison terms and stiff fines for electronic burglars who use computers technology to steal or manipulate information, financial instruments and other property.

The bill would make it a crime to misuse the computer systems of the Federal Government, certain financial institutions and other entities involved in interstate commerce.

Punishment would be 15 years in prison or $50,000 fine, or both.

If adopted, this bill would be the first law enacted by the Congress aimed directly at controlling crime by computer or computer-related crime.

Present law, as reflected in title 18 of the United States Code, contains some 40 statutes which the Government can use to combat computer-related crime.

But all 40 of the statutes were written to combat abuses other than computer crimes and, as such, Federal prosecutors have been handicapped because they have had to construct their cases on laws that did not envision the technical aspects of computer crime.

The sponsors of S. 1766 felt this legislation was needed because of three key findings of the committee staff study of February 2, 1977, "Computer Security in Federal Programs."

The key findings were that, first, the Government was unable to adequately secure its more than 10,000 computers against fraud, compromise, and physical assault; second, that there were serious weaknesses in Government procedures for predicting the integrity of its computer personnel; and, three, that there was a serious concern on the part of Federal law enforcement and prosecutorial officials that the United States Code, title 18, should be amended to strengthen the Government's ability to prosecute computer crime.

Regarding this third finding—that title 18 of the United States Code should be amended to more specifically cover computer crime—it was noted in the committee staff study, for example, that a major computer crime conviction had been won in one case only because the perpetrator had used a telephone line to penetrate the computer system of a Federal contractor across State lines. Had the telephone been used intrastate rather than interstate, Federal prosecutors said, the wire fraud statute (18 U.S.C. 1343) may have been inadequate.

In the same case, a part of the indictment was dismissed because electromagnetic impulses which transmitted valuable data were determined not to be "property" as defined in the Interstate Transportation of stolen property statute (18 U.S.C. 2314).

In another attempted prosecution, the Government lost the case because of definitional difficulties in establishing whether checks issued by a computer on the basis of fraudulent or manipulated data were forgeries.

S. 1766 would amend title 18 in such a way as to make virtually all unauthorized use of Federal computers and computers used in interstate commerce a Federal offense.

There would be no requirement that telephones or other forms of illicit computer penetration across State lines be used in order to qualify the act as a crime. The bill is further intended to ease the jurisdictional and evidentiary burdens imposed by computer technology.

Mr. President, in introducing S. 1766 on June 27, 1977, I made introductory remarks. I ask unanimous consent that excerpts from those Senate remarks be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

EXCERPTS

This bill represents an important step forward in combating crime by computers.

The computer has meant progress in our society almost everywhere—from our ability to predict weather to our ability to detect potential health problems.

But the computer, because it has become such an essential aspect of our financial world—both in the private sector and in government—has also become vulnerable to criminal penetration. Another serious threat is the potential compromise and misuse of vast quantities of data on the private lives of individuals currently stored in the computer systems of the Federal Government and private industry.

Crime by computer is relatively new. But when it strikes it is not shy. Violators, with even a limited amount of technical knowledge, can literally steal hundreds of thousands of dollars, either from computer check-writing systems or by directing the computer to divert valuable data or costly equipment.

Our committee investigation revealed that the government has been hampered in its ability to prosecute computer crime. The reason is that our laws, primarily as embodied in Title 18, have not kept current with the rapidly growing and changing computer technology.

Consequently, while prosecutors could, and often did, win convictions in crime by computer cases, they were forced to base their charges on laws that were written for purposes other than computer crime.

Prosecutors are forced to "shoe horn" their cases into already existing laws—when it is more appropriate for them to have a statute relating directly to computer abuses.

This bill will provide the needed corrective action. My committee staff, consulting with Justice Department officials, computer security scientists, and persons expert and actively involved in the criminal justice system, concluded that this measure, if adopted by the Congress will have applicability in virtually every computer crime case not already adequately covered by an existing law.

This bill is specifically designed to give federal prosecutors a weapon against the four main categories of computer crime. They are:

(1) the introduction of fraudulent records or data into the computer system;

(2) the unauthorized use of computer related facilities;

(3) the alteration or destruction of information or files, and

(4) the stealing, whether by electronic means or otherwise, of money, financial instruments, property, services, or valuable data.

Computer technology, which has produced enormous benefits for mankind, has also produced great potential for the sophisticated white collar criminal. The simple fact as demonstrated in the staff report is that computer technology has created vulnerability to white collar crime. This bill is designed to provide criminal sanctions at all points where computer operations are targets for criminals.

There are five key stages in a sophisticated computer system, and each stage of operation is vulnerable to a particular method of criminal attack. The first and most important stage is translation of data into computer language or input, where the data is placed on card readers or magnetic tapes. At this stage criminals can introduce false data into the computer so that key documents could be removed and fraudulent records inserted. A criminal or a criminal group with access to this stage of operation could manipulate the computer with introduction of false data, and it might be years before anyone discovers the fraud.

Computer programming is the second stage of operation and occurs when the computer is supplied with a legical sequence of instructions for the solution of problems. The computer then responds in a manner dictated by the program. Programs are easily modified, destroyed, or stolen and sold to a competitor.

The third stage involves the computer's brain, known as the central processing unit (CPU). The CPU, which contains the operating system software, guides the computer and directs it to perform the necessary functions following the instructions in the program and is susceptible to various forms of electronic penetration and manipulation. Destruction of the CPU could stop computer operation and be disastrous to a government agency, industry, or company with most of its records computerized.

Once data is received from the CPU, it is translated into an intelligible form called output—the fourth stage of the operation. Output is vulnerable to theft. Criminals at this stage could steal confidential data, such as privacy information or trade secrets. The computer systems of government agencies, financial institutions, and others contain voluminous confidential data on firms and individuals; theft of such data could easily lead to blackmail or even be sold on a black market.

The final stage of the operation, communication, involves the transmission of output to other computers and/or users. The computer is vulnerable at this stage to electronic penetration. Initially, the information will be transmitted by telephone circuits, which can be tapped.

The main section of this bill makes it a federal crime to "access" a computer for the purpose of perpetrating fraud or obtaining money, property or service under false or fraudulent pretenses. It should be made clear that the term "access" specifically includes within its meaning as defined in the bill all forms of unauthorized or clandestine penetration of a computer, computer system or computer networks. These penetrations include but are not necessarily limited to:

(a) Wiretapping which is gaining access to a system via direct connection to a communication line or part of the central system.

(b) Radiation which is passive eavesdropping without direct connection. It siphons data from a system by detecting acoustic or electromagnetic signals emanating from a computer or component.

(c) Artifice or "trapdoor entry" which is the intentional introduction of a clandestine code into a system to be used later for subversion from within. It is created by unscrupulous programmers and designers. An artifice can be implanted at the time the system is implemented or during subsequent modification; it can also be implanted by a successful penetration.

(d) Impersonation which is unauthorized activity carried out by performing as a legitimate user or device such as using someone else's user identification, code and/or password to gain access to the system.

All phases of computer operations need to be made more secure from criminal penetration but all the physical security precautions in the world will be of little use if they are not accompanied by adequate personnel procedures to reduce the possibility of employment of dishonest persons. Dishonest employees who themselves engage in computer crime or engage in collusion with criminals on the outside pose the biggest threat to government and business. Computer criminals are the most sophisticated of all white collar criminals. They currently operate in an environment and under conditions in which the successful detection and prosecution of their crimes is very difficult. When they are apprehended and convicted, all too often the sentences they receive are extraordinarily light. It is for this reason that I attach great importance to the penalty provisions of this bill.

Under terms of this bill, a federal judge may, in his discretion, depending on the severity of the crime, impose jail terms of 15 years and fines up to $50,000 on computer thieves.

It is my hope that these increased penalties, unprecedented in federal criminal law for white collar crime, will deter the potential computer thief and at the same time pose a warning to all white collar criminals that the Congress of the United States sees white collar crime as a treat to our society which should be dealt with in a manner befitting the crime.

It is time to tell criminals who use computer terminals, fountain pens and phony stock certificates to rob millions of dollars, that their corrosive activities will not be tolerated.

This bill also places particular emphasis on the prosecution of crimes against the computer systems of banks and other financial institutions which are insured or regulated by the federal government. Today, financial institutions are heavily dependent on computers which process and record billions of dollars in financial transactions daily. If present trends continue, however, banks and other financial institutions will become more dependent on computers in the future. As Electronic Funds Transfer Systems are perfected and implemented, more computers, terminals, wires, data banks, and operators will be employed to operate these intricate and complex systems of recordkeeping. Electronic Fund Transfer Systems involve the use of communication and computer networks to relay, process, and store fund transfer information. They may involve transferring funds from a buyer's account to the account of a seller or from an employer to an employee.

A national Electronic Fund Transfer System could supplant the present paper exchange system so that paper currency or stock certificates as we now know them would play an insignificant role in transactions or even become obsolete.

The beginnings of a national EFTS can be witnessed today. Computers with multiprocessing capability and high speed mass memory are in operation, providing a basis for at least a regional EFTS. Taking advantage of this technology, several automated clearinghouses appeared in the early 1970's. Under the present system, banks maintain clearing balances on one another or on a common bank such as the Federal Reserve Bank. Because transactions are processed electronically, the cumbersome process of hand-sorting and paper and pen work has been eliminated; in addition, the Automated Clearinghouse rapidly adjusts balances. Automated Clearinghouses are a logical starting point for the development of a national EFTS.

The "point-of-sale" system represents a more sophisticated step in the development of an EFTS. Under a point of sale the buyer can pay for his purchase without the intervention of currency. As in an EFTS the buyer gives the store clerk an identification card to insert in a terminal linked to a bank's computer; the purchase price is then transferred from the buyer's account to the store account. If the store does not maintain an acount at the bank, the transfer process takes place as it presently does through some form of clearinghouse.

The automated clearinghouse and the point of sale systems are rudimentary compared to the sophisticated and elaborate technology required to link up a national EFTS. A national system will rely on thousands of computers, millions of terminals and millions of miles of wire with thousands of technicians and computer operators needed to man it. It can totally displace ink. The workhorse of EFTS is the computer, and the technology which makes the system possible also makes it vulnerable to criminal attack.

There are at least four areas where the protective criminal law sanctions of the bill I am introducing today will apply to EFTS.

They are:

(1) unauthorized access to a customer's account by means of the theft or reproduction of an access "key", such as the plastic card, given the customer;

(2) unauthorized access to accounts by personnel manning access terminals, such as the store employees operating the supermarket remote deposit-withdrawal system;

(3) unauthorized access to communication lines between remote terminals and information storage areas, such as a financial institution's central processing unit, in short, wiretapping; and

(4) unauthorized access at the central processing unit site by employees or outsiders.

In addition, I wish to make it clear that nothing in this legislation is intended to reduce, restrict or supersede existing statutes and nothing in this legislation reduces existing investigative authority of any law enforcement or national security agency under existing law or duly authorized practices.

The Senate Governmental Affairs Committee investigation, which led to the staff report, "Computer Security in Federal Programs," and this bill have been studied by the Office of Management and Budget (OMB). Issues raised in the staff report have been examined by OMB, which has overall fiscal and policy control of all automatic data processing (ADP) operations in the executive branch.

As a result of the attention focused on computer security by the committee inquiry, OMB is in the process of revising its government-wide regulations affecting computer security. These regulations, which are contained in OMB Circular A-71, are being strengthened and upon completion of their revision, will be made available to the public.

Not affected by the revised OMB A-71 Circular, or by this bill, is another problem raised by the Senate committee's investigation—that problem being the growing and widespread multiple-filer schemes in which violators create bogus tax forms, file them with the Internal Revenue Service and are then sent by computers sizeable refunds, ranging in amounts from $500 to $500,000.

Such schemes are already clearly against the law and neither IRS nor the Justice Department needs a new statute to control them. What is required, IRS officials have

indicated to the Committee, is an improved system for detection and such a system is being implemented, IRS officials say.

Finally, I wish to note that Senator Percy, as Ranking Minority Member of the Senate Governmental Affairs Committee, has worked closely with me and the staff for the past year as this examination of computer security and computer crime progressed. Owing to his personal knowledge of how computers fill a great need in financial transactions, Senator Percy has offered encouragement and advice and the benefit of his long and time-terested expertise in this complicated area.

The Committee investigation was conducted at the staff level by Philip R. Manuel and Fred Asselin.

Mr. RIBICOFF. Mr. President, I ask unanimous consent that S. 1766, the Federal Computer Systems Protection Act of 1977, be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1766

A bill to amend title 18, United States Code, to make a crime the use, for fraudulent or other illegal purposes, of any computer owned or operated by the United States, certain financial institutions, and entities affecting interstate commerce

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Federal Computer Systems Protection Act of 1977".

SEC. 2. The Congress finds that—

(1) computer related crime is a growing problem in the Government and in the private sector;

(2) such crime occurs at great cost to the public since losses for each incident of computer crime tend to be far greater than the losses associated with each incident of other white collar crime;

(3) the opportunities for computer related crimes in Federal programs, in financial institutions, and in other entities which operate in interstate commerce through the introduction of fraudulent records into a computer system, unauthorized use of computer facilities, alteration or destruction of computerized information files, and stealing of financial instruments, data, or other assets, are great;

(4) computer related crime directed at institutions operating in interstate commerce has a direct effect on interstate commerce; and

(5) the prosecution of persons engaged in computer related crime is difficult under current Federal criminal statutes.

SEC. 3. (a) Chapter 47 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 1028. Computer fraud

"(a) Whoever directly or indirectly accesses or causes to be accessed any computer, computer system, computer network, or any part thereof which, in whole or in part, operates in interstate commerce or is owned by, under contract to, or operated for, on behalf of, or in conjunction with, any financial institution, the United States Government, or any branch, department, or agency thereof, or any entity operating in or affecting interstate commerce, for the purpose of (1) devising or executing any scheme or artifice to defraud, or (2) obtaining money, property, or services by means of false or fraudulent pretenses, representations, or promises, shall be fined not more than $50,000, or imprisoned not more than 15 years, or both.

"(b) Whoever, intentionally and without authorization, directly or indirectly accesses, alters, damages, or destroys any computer, computer system, or computer network described in subsection (a), or any computer software, program, or data contained in such computer, computer system, or computer network, shall be fined not more than $50,000, or imprisoned not more than 15 years, or both.

"(c) For purposes of this section, the term—

"(1) 'access' means to approach, instruct, communicate with, store data in, retrieve data from, or otherwise make use of any resources of, a computer, computer system, or computer network;

"(2) 'computer' means an electronic device which performs logical, arithmetic, and memory functions by the manipulations of electronic or magnetic impulses, and includes all input, output, processing, storage, software, or communication facilities which are connected or related to such a device in a system or network;

"(3) 'computer system' means a set of related, connected or unconnected, computer equipment, devices, and software;

"(4) 'computer network' means the interconnection of communication lines with a computer through remote terminals, or a complex consisting of two or more interconnected computers;

"(5) 'property' includes, but is not limited to, financial instruments, information, including electronically produced data, and computer software and programs in either machine or human readable form, and any other tangible or intangible item of value;

"(6) 'services' includes, but is not limited to computer time, data processing, and storage functions;

"(7) 'financial instrument' means any check, draft, money order, certificate of deposit, letter of credit, bill of exchange, credit card, or marketable security;

"(8) 'computer program' means a series of instructions or statements, in a form acceptable to a computer, which permits the functioning of a computer system in a manner designed to provide appropriate products from such computer system;

"(9) 'computer software' means a set of computer programs, procedures, and associated documentation concerned with the operation of a computer system;

"(10) 'financial institution' means—

"(A) a bank with deposits insured by the Federal Deposit Insurance Corporation;

"(B) a member of the Federal Reserve including any Federal Reserve Bank;

"(C) an institution with accounts insured by the Federal Savings and Loan Insurance Corporation;

"(D) a credit union with accounts insured by the National Credit Union Administration;

"(E) a member of the Federal Home Loan Bank Systems and any Home Loan Bank;

"(F) a member or business insured by the Securities Investor Protection Corporation; and

"(G) a broker-dealer registered with the Securities and Exchange Commission pursuant to section 15 of the Securities and Exchange Act of 1934.".

(c) The table of sections of chapter 47 of title 18, United States Code, is amended by adding at the end thereof the following:

"1028----------Computer fraud.".

SECURITY OF FEDERAL AUTOMATED INFORMATION SYSTEMS

Mr. RIBICOFF. Mr. President, improvement in the ability of the Federal Government to secure its own computers and to prosecute computer crime can be achieved in part by legislation such as S. 1766.

However, the executive branch itself can initiate its own corrective actions. The lead agency in this regard is the Office of Management and Budget.

Responding to the recommendations of the Senate Governmental Affairs Committee in its staff study of February 2, 1977, the Office of Management and Budget set in motion a review of computer security in Federal programs.

Accordingly, on October 3, 1977, a draft computer security policy was published by OMB in the Federal Register.

The OMB draft computer policy addresses personnel security, physical security, and other aspects of computer security which have been under examination during the Senate Governmental Affairs Committee's preliminary staff inquiry.

Mr. President, I ask unanimous consent that the memorandum of October 7, 1977 transmitting the OMB draft computer security policy to the Senate Governmental Affairs Committee; the draft policy itself; and related documents be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

NOTICE OF OFFICE OF MANAGEMENT AND BUDGET

The attached draft computer security policy was published in the October 3, 1977 Federal Register for public comment. I would welcome any comments or suggestions.

OFFICE OF MANAGEMENT AND BUDGET,
Washington, D.C.

On September 23, 1977, the Office of Management and Budget sent a Memorandum to the Heads of Executive Departments and Establishments concerning proposed policy for the security of Federal automated information systems (Circular No. A–71).

The purpose of this notice is to solicit comments from the public on this proposed policy. Comments should be forwarded to the Information Systems Policy Division, Office of Management and Budget, Washington, D.C. 20503, within 30 days of this notice.

VELMA N. BALDWIN,
Assistant to the Director for Administration.

OFFICE OF MANAGEMENT AND BUDGET,
Washington, D.C., September 23, 1977.

To the heads of executive departments and establishments.

Subject: Proposed policy for the security of Federal automated information systems.

The attached draft memorandum supplements OMB Circular No. A–71 and provides policy guidance for developing and implementing a computer security program. Comments on the proposed policy should be forwarded to this office within 30 days. It is also requested that you provide estimates of both one-time and annually recurring resources required to implement the policy. Questions should be addressed to the Information Systems Policy Division (202) 395–4814.

WAYNE G. GRANQUIST,
Associate Director for Management and Regulatory Policy.

Attachment.

DRAFT

To the heads of executive departments and establishments.

Subject: Security of Federal automated information systems.

1. Purpose. This Transmittal Memorandum promulgates policy and responsibilities for the development and implementation of

computer security programs by executive branch departments and agencies.

2. Background. Increasing use of computer and communications technology to improve the effectiveness of governmental programs has introduced a variety of new management problems. Many public concerns have been raised in regard to the risks associated with automated processing of personal, proprietary or other sensitive data. Problems have been encountered in the misuse of computer and communications technology to perpetrate crime. In other cases, inadequate administrative practices along with poorly designed computer systems have resulted in improper payments, unnecessary purchases or other improper actions. The policies and responsibilities for computer security established by this Transmittal Memorandum supplement those currently contained in OMB Circular No. A–71.

3. Responsibility of the heads of executive agencies. The head of each executive branch department and agency is responsible for assuring an adequate level of security for all agency data whether processed in-house or commercially. This includes responsibility for the establishment of physical, administrative and technical safeguards required to adequately protect personal, proprietary or other sensitive data not subject to national security regulations, as well as national security data. It also includes responsibility for assuring that automated processes operate effectively and accurately. In fulfilling this responsibility each agency head shall establish policies and procedures and assign responsibility for the development, implementation, and operation of an agency computer security program. The agency's computer security program shall be consistent with all Federal policies, procedures, standards and guidelines issued by the Office of Management and Budget, the General Services Administration, the Department of Commerce, and the Civil Service Commission. In consideration of problems which have been identified in relation to existing practices, each agency's computer security program shall at a minimum:

a. Assign responsibility for the security of each computer installation operated by the agency, including installations operated directly by or on behalf of the agency (e.g. government-owned contractor operated facilities), to a management official knowledgeable in data processing and security matters.

b. Establish personnel security policies for screening all individuals participating in the design, operation or maintenance of Federal computer systems or having access to data in Federal computer systems. These policies should include, as appropriate, requirements for background investigations of both government and contractor personnel. Personnel security policies for Federal employees shall be consistent with policies issued by the Civil Service Commission.

c. Establish a management control process to assure that appropriate administrative, physical and technical safeguards are established for all new computer applications. While this control process should apply to all new computer applications, particular emphasis should be placed on computer applications intended to be used to issue checks, requisition supplies or perform similar functions based on programed criteria with little or no human intervention (so-called automated decisionmaking systems). The management control process shall, at a minimum, include policies and responsibilities for:

(1) Defining and approving security specifications for all new computer applications and modifications to existing applications prior to programming such applications or changes. The views and recommendations of the computer user organization, the computer installation and the individual responsible for the security of the computer installation shall be sought and considered prior to the approval of the security specifications for the application.

(2) Conducting and approving design reviews and systems tests of new or changed computer applications prior to using them operationally. The objective of the design reviews should be to ascertain that the proposed design meets the approved security specifications. The objective of the system tests should be to verify that the planned administrative, physical and technical security requirements are operationally adequate prior to the use of the system. The results of the design review and system test shall be fully documented and maintained as a part of the official records of the agency. Upon completion of the system test, an official of the agency shall certify that the system meets the documented and approved system security specifications, meets all applicable Federal policies, regulations and standards, and that the results of the test demonstrate that the security provisions are adequate for the application.

d. Establish an agency program for conducting periodic audits and recertifying the adequacy of the security of each operational computer application which processes personal, proprietary or other sensitive data, or which issues checks, requisitions supplies or performs similar functions with little or no human intervention (automated decisionmaking applications). This audit and recertification process is to be conducted by technically qualified professionals in an organization independent of the user organization and computer facility manager. Periodic audits and recertification shall be performed at time intervals determined by the agency, commensurate with the sensitivity of information processed and the risk and magnitude of loss or harm that could result from the application operating improperly, but shall be conducted at least every three years.

e. Establish policies and responsibilities to assure that appropriate security requirements are included in specifications for the acquisition or operation of computer facilities, equipment, software, or related services, whether procured by the agency or by the General Services Administration. These requirements shall be reviewed and approved by the management official assigned responsibility for security of the computer installation to be used. This individual must certify that the security requirements specified are adequate for the intended application and that they comply with current Federal computer security policies, procedures, standards and guidelines.

f. Assign responsibility for the conduct of periodic risk analyses for each computer installation operated by the agency, including installations operated directly by or on behalf of the agency. A risk analysis shall be performed:

(1) Prior to the approval of design specifications for new computer installations.

(2) Whenever there is a significant change to the physical facility, hardware or software at a computer installation. Agency criteria for defining significant changes shall be commensurate with the sensitivity of the information processed by the installation.

(3) At periodic intervals of time established by the agency, commensurate with the sensitivity of the information processed by the installation, but not to exceed three years, if no risk analysis has been performed during that time.

4. Responsibility of the Department of Commerce. The Secretary of Commerce shall develop and issue standards and guidelines for assuring security of automated information. Each standard shall, at a minimum, identify:

a. Whether the standard is mandatory or voluntary.

b. Specific implementation actions which agencies are required to take.

c. The time at which implementation is required.

d. A process for monitoring implementation of each standard and evaluating whether the standard is meeting its intended objectives.

e. Requirements for use of the standard in specifications for computer hardware, software or related services issued by the agency and the General Services Administration.

f. Requirements for use of the standard in specifications for the acquisition or construction of computer facilities.

g. The conditions or criteria under which waivers to the standards may be granted.

h. The procedures for granting waivers.

5. Responsibility of the General Services Administration. The Administrator of General Services shall:

a. Issue policies and regulations for the physical security of computer rooms in Federal buildings consistent with standards and guidelines issued by the Department of Commerce.

b. Assure that agency procurement requests for computers, software, and related services include security requirements which have been certified by a responsible agency official. Delegations of procurement authority to agencies by the General Services Administration under madatory programs, dollar threshold delegations certification programs or other so-called blanket delegations shall include requirements for agency specifications and certification of security requirements. Other delegations of procurement authority shall require specific agency certification of security requirements as a part of the agency request for delegation of procurement authority.

c. Assure that computer equipment, software, computer room construction, guard or custodial services, telecommunications services, and any other related services procured by the General Services Administration meet the security requirements established by the user agency and are consistent with other applicable policies and standards issued by OMB, the Civil Service Commission and the Department of Commerce. Computer equipment, software, or related ADP services acquired by the General Services Administration in anticipation of future agency requirements shall include security safeguards which are consistent with mandatory standards established by the Secretary of Commerce.

6. Responsibility of the Civil Service Commission. The Chairman of the Civil Service Commission. The Chairman of the Civil Service Commission shall establish personnel security policies for Federal personnel associated with the design, operation or maintenance of Federal computer systems, or having access to data in Federal computer systems. These policies should emphasize personnel requirements to adequately protect personal, proprietary or other sensitive data not subject to national security regulations, as well as applications which issue checks, requisition supplies or perform similar functions based on programmed criteria with little or no human intervention. Background investigations of Federal personnel should be required, as appropriate, commensurate with the sensitivity of the data to be handled and the risk and magnitude of loss or harm that could be caused by the individual.

THE GENOCIDE CONVENTION IS A VITAL PART OF A HUMAN RIGHTS POLICY

Mr. PROXMIRE. Mr. President, on October 4 the New York Times printed an article by perhaps the foremost remaining Soviet dissident, Andrei D. Sakharov, which focused upon the upcoming Hel-

sinki Conference concerning human rights. He concluded the article by writing:

I particularly appeal to the United States Congress, and President Carter, supported by the enormous power and influence of his country, drawing on the clearly expressed will and tradition of a free people, to declare the defense of human rights in the whole world to be a fundamental moral policy of the United States.

We are going through a period of history in which decisive support of the principles of freedom of conscience, an open society, and the rights of man has become an absolute necessity. The alternative is surrender to totalitarianism, the loss of all precious freedom, and political, economic, and moral degradation.

The West, its political and moral leaders, its free and decent peoples, must not allow this.

Mr. President, President Carter has frequently expressed his strong commitment to upholding human rights, but that is not enough. In the case of the Genocide Convention, which seeks to protect only the most basic of human rights—the right to live—it is the Senate which needs to act. I suggest that, until we ratify this convention and take action to otherwise support the President's stand, we in the Senate have no right to feel any of the pride or accept any of the well deserved praise which it has brought to him and to the United States. Until the Genocide Convention is ratified, we have not taken one of the crucial steps necessary to implement a serious human rights priority in this country; we have left our task unfinished.

Mr. President, I urge my colleagues to support the President and uphold our Nation's leadership in human rights by ratifying the Genocide Convention immediately.

TRIBUTE TO ERLE COCKE, SR.

Mr. TALMADGE. Mr. President, I have learned with regret and profound sorrow of the death in Atlanta on October 7 of a noted Georgian and a great American, Erle Cocke, Sr. He served his State and the Nation with rare distinction, towering integrity, and remarkable executive skills.

Presidents Roosevelt, Eisenhower, and Kennedy drafted him into public service, as did numerous Governors of the State of Georgia. His outstanding contributions to the banking industry were recognized by his election in 1956 to national president of the American Bankers Association.

I mourn the passing of Erle Cocke, Sr., and extend my deepest sympathy to his family. I ask unanimous consent that his obituary, which appeared in the Atlanta Journal-Constitution of October 9, and a brief biographical sketch be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ERLE COCKE, SR., 82, DIES; ONCE CHAIRMAN OF FDIC

Erle Cocke Sr., 82, an Atlantan who rose to the presidency of the American Bankers Association and the chairmanship of the Federal Deposit Insurance Corp., died Friday of cancer.

He was a financial observer at the 1944 Bretton Woods Conference which inaugurated the World Bank and the International Monetary Fund. In 1958 and 1961 he was a delegate to annual meetings of the World Bank, and in 1962, represented the United States at the 15th annual session of the International Banking School in Moscow.

Cocke was named by President Franklin D. Roosevelt to head the Atlanta area Reconstruction Finance Corp. and also served as state director of the National Emergency Council during Roosevelt's first term. He was general chairman of the 1935 Roosevelt Homecoming Celebration in Atlanta.

Through a long career in politics and public service, Cocke had been a state senator and a Georgia delegate to the Democratic National Convention in 1932, 1936 and 1952. He was appointed by then Gov. Richard B. Russell as the secretary-treasurer and executive officer of the Board of Regents of the University System of Georgia.

A native of Lee County, Cocke was named vice president of Atlanta's Fulton National Bank in 1938 and served successively as executive vice president, president and vice chairman of the board and chairman of the executive committee.

President Eisenhower appointed him director of the Federal Deposit Insurance Corp. in 1957, and Cocke was later elected chairman of the organization during the Kennedy administration.

Through the 1920's, Cocke was a banker, farmer and manufacturer in Dawson and Macon and participated in a campaign to balance agriculture with industry in Georgia and other Southern states. He served on the first Georgia Agriculture and Industrial Development Board.

Cocke was former vice president of the Central of Georgia Railroad and former consultant of the Southern Railway System.

During World War I, Cocke served as a first lieutenant in the U.S. 6th Infantry Division. In 1922, he was elected national vice commander of The American Legion.

He was a member of the National Planning Association, a member of the board of trustees of the U.S. International Chamber of Commerce and the National Press Club in Washington, D.C.

Cocke was past president of the Atlanta Clearing House from 1947 to 1951. He was a member of the Capital City Club, the Piedmont Driving Club and the Second-Ponce de Leon Baptist Church.

A cryptside service will be held at 2 p.m. Sunday at the family mausoleum in Cedar Hill Cemetery in Dawson. The Rev. James Mallary and Dr. Monroe F. Swilley Jr. will officiate.

Surviving are the widow, the former Elise Meadows; a daughter, Mrs. Eugene P. Cofield Jr. of Atlanta; a son Erle Cocke Jr. of Washington, D.C. and Dawson; five grandchildren; and two great-grandchildren.

ERLE COCKE, SR.

Erle Cocke, Sr. was an influential figure in financial and political affairs in Georgia and the nation for half a century.

A past president of the American Bankers Associaiton and a former chairman of the Federal Deposit Insurance Corporation, the Atlanta banker had served as a United States delegate to numerous international conferences.

He was a financial observer at the 1944 Bretton Woods Conference which inaugurated the World Bank and International Monetary Fund. In 1958 and 1961 he was a delegate to annual meetings of the World Bank, and in 1962 represented the U.S. at the 15th annual session of the International Banking School held in Moscow at the State University.

Mr. Cocke was an early supporter of President Franklin D. Roosevelt, who named him head of the Atlanta area Reconstruction Finance Corporation. He also served as state director of the National Emergency Council during Roosevelt's first term. He was general chairman of the 1935 Roosevelt Homecoming Celebration in Atlanta, Ga.

In 1927–28 Mr. Cocke served as a state senator from the 11th Georgia District. While in the legislature, he formed a close friendship with the late Richard B. Russell, then speaker of the house but destined later to be governor and United States Senator. While governor, Mr. Russell appointed Mr. Cocke Secretary-Treasurer and Executive Officer of the Board of Regents of the University System of Georgia.

Mr. Cocke was a Georgia delegate to the Democratic National Convention in 1932, 1936 and 1952. He served in a fund-raising role in campaigns of both Senator Russell and Senator Walter F. George.

Named a vice president of Atlanta's Fulton National Bank in 1938, Mr. Cocke during the next two decades served successively as executive vice president, president, and vice chairman of the board and chairman of the executive committee. He was president of the Atlanta Clearing House from 1947–51, and in 1956 was elected national president of the American Bankers Association.

President Eisenhower appointed him a director of the Federal Deposit Insurance Corporation in 1957. Three years later during the Kennedy administration he was elected chairman.

Born on a farm in Lee County, Georgia, Mr. Cocke moved at an early age to Dawson, in adjoining Terrell County, where his father was a planter-banker. After attending high school in Dawson, he was graduated from the University of Georgia with a bachelor of science degree in 1915.

During World War I, he fought in France as a 1st Lieutenant in the 16th Machine Gun Battalion of the U.S. Sixth Infantry Division. In 1922 he was elected national vice commander of The American Legion, which his son, Erle, Jr.; was to head 30 years later following World War II.

From 1920–31, Mr. Cocke engaged in banking, manufacturing and farming in Dawson and Macon.

Mr. Cocke played a leading role in the campaign to balance agriculture with industry in Georgia and neighboring states. He served on the first Georgia Agricultural and Industrial Development Board, which was successful in attracting many new manufacturing plants to the state following World War II.

He also served as a trustee of the Committee for Economic Development, a member of the National Planning Association, and a member of the board of trustees of the U.S. International Chamber of Commerce.

In comparatively vigorous health until the onset of his final illness in mid-summer of 1975, he continued active business pursuits as a financial consultant and a member of corporate boards. He had been a director of the Central of Georgia Railway Company, the First Georgia Bank in Atlanta, Citizens Bank of Maryland and General Acceptance Corporation. He was a consultant to the Southern Railway System and to numerous banks.

Mr. Cocke was a member of the National Press Club (Washington), Capital City and Piedmont Driving clubs (Atlanta), and the Newcomen Society, Alpha Tau Omega fraternity, and the Second-Ponce de Leon Baptist Church of Atlanta.

He is survived by his wife, the former Elise Meadows of Lowndesboro, Ala., to whom he was married on December 9, 1917; a daughter, Mrs. Eugene P. Cofield, Jr. of Atlanta; a son, Erle, Jr. of Dawson and Washington, D.C.; five grandchildren and two great grandchildren.

JUVENILE DELINQUENCY IN THE SCHOOL ACT

Mr. ANDERSON. Mr. President, S. 794, the Juvenile Delinquency in the Schools Act, is a bill of significance which should be given prompt, favorable attention.

Since becoming a cosponsor of this measure, I have received considerable response from teachers, principals, and administrators urging its passage.

I must say, however, that some principals and school administrators have taken exception to a newspaper article on school violence which I submitted to the RECORD in August.

The article describes the problem of teachers being harassed and assaulted by juvenile delinquents in the classroom. The newspaper piece indicates that in some instances teachers have had less than enthusiastic support from principals in handling these matters.

I have been assured by many of our Minnesota school principals that they are very committed to protecting teachers in the classroom and that they are most willing to back up their teachers when it comes to administering appropriate discipline.

Given the support which many of our Minnesota school principals have shown for S. 794, I believe them. I look forward to their help when the bill becomes law.

This measure envisions a cooperative effort among teachers, principals, and administrators. It in no way is intended as a rebuke to either principals or administrators without whose active assistance the program established by S. 794 cannot work.

S. 695—DEFENSE PRODUCTION ACT AMENDMENTS

Mr. BAYH. Mr. President, the Senate's action yesterday on S. 695, the Defense Production Act amendments, was an important step toward ending the abuses of public trust which have been found as a result of the so-called revolving door syndrome. This term, as my colleagues know, refers to a situation where Government contracting officials leave public service to take jobs with a private firm with whom they have had official dealings in the past, often involving the award of lucrative Government contracts. As a cosponsor of this legislation just approved, I think we have also made an important effort to enhance public confidence in the public officials who buy the billions of dollars in goods and services required by the Federal budget.

Specifically, S. 695 prohibits any Federal contracting officer from being employed for a 2-year period after leaving the Federal Government by any Government contractor over which that person had substantial official authority. In order to assure that this legislation will be interpreted fairly and consistently throughout the Federal Government, the Civil Service Commission is granted the authority to review the adequacy of conflict of interest laws and to counsel individuals on the applicability of S. 695 to them. Advisory opinions may be granted under this provision and may be used in any criminal or civil case arising from violations of the act. Such violations are considered a felony and carry a $5,000 fine and up to 1 year in prison for individuals accepting employment in violations of the terms of S. 695. A $25,000 fine and 1-year prison sentence could occur in cases of individuals offering employment proscribed under the act.

When we pause to consider that the Department of Defense alone purchases over $40 billion of goods and services per year from the private sector, it should be clear how great an opportunity exists for abuse in the Government acquisition process. The purpose of S. 695 is to remove the temptation which might prove too great for some acquisition officers and result in the American people getting an inferior product or lesser quality service in order to enhance an acquisition officer's job prospects in the private sector. But S. 695 is more than a punitive measure directed at a very, very few Federal officials who may have been guilty of the poor judgment described above. More importantly, it will provide protection for the conscientious and competent Federal acquisition officers against the influence which could be exerted by contractors by holding out the promise of post-Government employment. This should enhance the ability of the official to pass sound judgment on procurement actions.

As far back as 1960, the New York City Bar Association concluded that—

> Interviews revealed a substantial body of opinion that Government employees who anticipate leaving their agency some day are put under an inevitable pressure to impress favorably private concerns with which they officially deal.

Ten years later, the blue ribbon defense panel reached a similar conclusion. The "Fitzhugh Commission" found that "the temptation to curry favor with the contractor in the expectation of hopefully lucrative employment is present." An official Air Force memorandum expressed concern about the "mass migration of Air Force officers into the management ranks of the contractors with whom they dealt." I must note that the Department of Defense should not be singled out since Federal contracting out occurs in all Government agencies, and the remedy under S. 695 is applicable to acquisition officers of all agencies.

By effectively delaying employment with the private sector for 2 years in those cases where a procurement official has dealt in a substantial and personal way with a firm or person, we are removing temptation. In so doing we have strengthened the position of the public official and more firmly guaranteed good products and sound services for the American taxpayer from the private sector.

THE NOMINATION OF MRS. SHARON PERCY ROCKEFELLER TO THE BOARD OF DIRECTORS OF THE CORPORATION FOR PUBLIC BROADCASTING

Mr. ROBERT C. BYRD. Mr. President, the 20th century could well be called, among other designations, the "electronic age." Human science and ingenuity have invented and developed a number of electronic devices that have drastically changed the nature and scope of possible human relationships and experiences in our lifetime.

In the field of electronic communications, television and radio have exercised an immeasurable influence on recent generations. The Federal Government has ventured prudently into these media through its public broadcasting efforts, and President Carter has recently called for certain definite measures that are calculated to enhance the value of public broadcasting projects for the citizens of this country.

As a result of the growth of public broadcasting, the responsibility for the oversight of this dimension of broadcasting has become increasingly significant. It was my pleasure to join with my colleague Senator RANDOLPH and Representative STAGGERS in testifying today in support of the nomination of Mrs. Sharon Percy Rockefeller of West Virginia to the board of directors of the Corporation for Public Broadcasting, before the Committee on Commerce, Science, and Transportation. In view of her qualifications, experience, and background, I think this is an excellent nomination. Mrs. Rockefeller would be an important addition to those responsible for shaping the policies of public broadcasting in the future.

Mr. President, I ask unanimous consent to have the statement I made before the committee printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT BY SENATOR ROBERT C. BYRD BEFORE THE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. Chairman, I want to thank you and the members of the Committee on Commerce, Science, and Transportation for the opportunity of appearing before you today in behalf of Sharon Percy Rockefeller. Mrs. Rockefeller's nomination to the Board of Directors of the Corporation for Public Broadcasting is one of which I heartily approve, and it is with pleasure and confidence that I join Senator Randolph in urging a favorable report of her nomination.

The twentieth century is replete with scientific discoveries and devices that have profoundly affected mankind. But two of the modern instruments that have most significantly altered man's perceptions of his world and extended his opportunities for personal and communal growth in this age are television and radio. Through the medium of television, literally millions of men and women witnessed man's first landing on the Moon. Radio enables us to send communications almost instantly around the Earth to listeners thousands of miles away, thus effectively turning the world into an electronic neighborhood.

The potential of television and radio as media of cultural expression, communication, and the massive dissemination of ideas is almost unlimited. Unfortunately, as with most human inventions and discoveries, these media can be used to serve the best or worst of human purposes. The quality and nature of their use depend largely on the character of their stewards in each case.

The Corporation for Public Broadcasting is charged with a unique and special responsibility. It has a pioneering function in this society. Not only must it encourage the de-

velopment of a program of public broadcasting that will provide quality entertainment and intellectual challenge to a wide variety of groups and individuals in this country; the corporation must also establish a setting for the development of technical expertise and engineering advances in broadcasting. Public broadcasting is not a competitor for commercial broadcast outlets; rather, it is a complement. Public broadcasting can undertake programs and make available opportunities that would not be practical for commercial enterprises.

For these reasons, service on the Board of Directors of the Corporation for Public Broadcasting requires an enviable combination of pragmatic vision, aesthetic and intellectual sensitivity and breadth, and plain common sense.

Sharon Percy Rockefeller is especially qualified to meet the requirements of this prescription. Mrs. Rockefeller graduated cum laude from Stanford University after majoring in French literature. She now serves on the board of trustees of her alma mater, as well as on the International Council of the Museum of Modern Art in New York City, and the board of directors of W.E.T.A. here in the Washington area. In addition, she has been chairman of the board of Mountain Artisans in West Virginia since 1968, has worked as a tutor in a Headstart program in Charleston, West Virginia, and has actively aided the development of public broadcasting throughout her adopted State.

Her personal interests and experiences are wide and varied, and she would bring to her position on the Board of Directors of the Corporation for Public Broadcasting the quality of stewardship that such service and potential require. She is equipped to make the kind of judgments and offer the calibre of guidance that the public broadcast venture demands at this stage of its development.

The Corporation for Public Broadcasting in many respects functions in the role that was played by formal patrons in an earlier age. Artists, writers, and culture in general depended on the patron as a source of providence and even survival. Patrons fostered the career of a Michelangelo or a Mozart through their own abilities to give support to the gifted and talented. By making possible the development and expression of creative ability and genius, the patron nurtured cultural resources that altered the course of Western civilization, and which continue to influence and touch our lives even today.

To a large degree, determination of the quality, direction, and nature of public broadcasting are the province of the Corporation for Public Broadcasting. I hope that Public Broadcasting will realize even more fully the enormous possibilities that television and radio offer, and, in so doing, will allow increasing numbers of Americans to share and enjoy the best and most extensive cultural experiences of our own generation. I am sure that the presence of Sharon Percy Rockefeller on the board would be a positive contribution toward helping public broadcasting to fulfill its responsibilities in our society even more effectively in the years ahead.

It is with a great deal of pride and pleasure that I recommend to the committee this distinguished West Virginian, and I respectfully urge prompt and favorable confirmation of her nomination.

SHARON PERCY ROCKEFELLER PROVES HERSELF AN ARTICULATE AND ABLE WITNESS IN SENATE HEARING

Mr. RANDOLPH. Mr. President, this morning Sharon Percy Rockefeller and Gillian Martin Sorenson testified before members of the Committee on Commerce, Science, and Transportation, presided over by Senator HOLLINGS. Both of these young women have been nominated by President Carter to be Directors of the Corporation for Public Broadcasting. I have participated in many, many confirmation hearings and seldom have I heard two more sincere, articulate, and well-prepared nominees. I am confident they have the qualities needed to discharge the vital responsibilities that accompany these positions on the CPB Board.

It was my privilege to join with our able majority leader, Senator BYRD, and Representative HARLEY STAGGERS in introducing Sharon Rockefeller. As Senators know, this attractive and capable young woman is the daughter of our colleague, Senator PERCY. Senator and Mrs. Percy and Sharon's husband, West Virginia's youthful Governor, Jay Rockefeller, attended this confirmation hearing.

Mrs. Rockefeller is an effective advocate of public affairs TV and, as a mother of three small children, has a particularly keen interest in children's programing. Her involvement in public and civic affairs is a matter of record and this experience will be invaluable in her work with the CPB. As I stated at the hearing, it is my belief that she will make a meaningful contribution toward the advancement of public broadcasting in America. Mr. President, I ask unanimous consent to print in the RECORD my introductory remarks and Mrs. Rockefeller's opening statement.

REMARKS BY SENATOR JENNINGS RANDOLPH

One of the more pleasant responsibilitiies of a Senator is to introduce to Committee members the people of his state who have been chosen to occupy important Federal government positions. It is always a pleasure to share with my colleagues the gratification I feel when a West Virginia citizen comes for a nomination hearing.

It is a particular joy to join with our able Majority Leader, Senator Byrd, in introducing the young woman who is here today.

Sharon Rockefeller is a West Virginian, even though by adoption. And she is one of those special West Virginians who are residents of our state by choice, not chance. In the years she has lived in our hills of home, she has come to know our state and its people well.

Her interests are many, and she has pursued them in every area of the 55 counties of West Virginia.

Sharon is the wife of our youthful Governor and as such is active in the official and public life of the Mountain State. In the nine months Jay has been in office, she has proven herself to be an active and involved First Lady. She is a gracious hostess in the Governors Mansion, but she is not content to devote her time to social duties. Her presence here today is evidence of her determination to utilize her energies where the results can be widespread. Sharon's involvement in public and civic projects that benefit people is a matter of record.

In some respects, Sharon Rockefeller could also be called a child of the Senate. Her father is a respected member of this body, and through him many members have had the privilege of knowing her as she has grown to lovely womanhood.

The Corporation for Public Broadcasting, in its few years of existence, has demonstrated its potential for greatly influencing life in America. Through it is channeled millions of dollars in public funds. This money is the commitment we have made to support independent broadcasting free of commercial connections. Public broadcasting is the alternative that is essential in a free society and one that must be aided by public funds.

The fact that these funds are used requires particular caution that public broadcasting is not restricted by government directives that will limit its effectiveness. Membership on the Board of Directors of the Corporation for Public Broadcasting demands an appreciation of artistic and educational values and an ability to discern the gaps in programming that need to be filled. It also demands a sensitivity to the unique status of public broadcasting. Mr. Chairman, I firmly believe that Sharon Rockefeller possesses the qualities needed to make constructive and meaningful contributions toward the advancement of public broadcasting in America. If confirmed as a director, I know she will serve with enthusiasm, with dedication and with distinction.

OPENING STATEMENT BY SHARON PERCY ROCKEFELLER

I am pleased and honored to have been nominated by President Carter to be a Director of the Corporation for Public Broadcasting. In my opinion, public television and public radio are the most exciting areas of communication in America today.

To provide complete and detailed answers today assumes intimate knowledge of the many complex issues in public broadcasting. I wish to be as responsive to the Committee as possible, with the understanding that any answers be considered preliminary, rather than definitive. Fuller knowledge will come with exposure to additional facts and discussion of the important issues involved. To best operate in the public interest, I prefer keeping an open mind, with the option to reserve and refine my judgments based on all relevant facts.

I shall look forward to visiting further with the members of this committee after today's hearing, if your time so permits.

I hope very much to help foster the growth and development of public television and public radio by my possible service on the CPB Board. The promise and potential of public broadcasting for the good of the nation is immeasurable.

In 1961, Newton Minow described television as a vast wasteland. Ten years later, John Macy, the President of the Corporation for Public Broadcasting, said that the duty of public television (and radio) is to "irrigate" that wasteland. I fully concur. I am totally committed to E. B. White's wise words:

"Noncommercial television should address itself to the idea of excellence, not the idea of acceptability. . . ."

My particular areas of interest lie in public affairs programming and children's programming. I doubt that you would find it surprising that I am intensely interested in government and public policy issues. Given my life, it would be indeed unusual if I were not. To me, it is essential that public affairs be given a top priority in public broadcasting. The programs must be fair, objective and balanced: They should also be daring, tough, and thought-provoking. Although they may delve into sensitive areas, they should provide in-depth examinations of controversial topics. If it is to fulfill its mandate as an alternative medium, public broadcasting must offer strong public affairs programming.

In this regard, the "heat shield" function of the Corporation should not be overlooked. The CPB must insulate the public broadcasting system from any and all external "interference" or "control".

I am also interested in superior children's programming. On a personal level, I care about public broadcasting as a concerned mother. My children are as mesmerized by commercial television as most American children. "Unplugging this drug" is not a realistic option in my home.

Columnist, George Will, once observed that: "Disparagement of television is second only to watching television as an American pastime."

But it is not particularly constructive to bemoan the current status of commercial television. I prefer, instead, to exert what I call "mother power" or "parent power". After all, parents still have the ultimate power to turn the television "on" and "off". We even have the power to turn to the public television channel. After having watched Sesame Street for 8 consecutive years, I assure you that my children and I are grateful for public television.

I am deeply committed to the principles and purposes of public television and radio. I share the goals that lead to:

(1) Excellent, alternative programming services from diverse sources (including sufficient promotion),

(2) Adequate, long range, insulated funding,

(3) Public participation, involvement and access in the decision-making process at all levels,

(4) Local station autonomy and sovereignty to guard against centralized domination in programming, financing and scheduling,

(5) Programs which respond to local problems, needs and interests,

(6) Equal opportunity for women and minorities in the programming, training and employment practices of the CPB and the public broadcasting system,

(7) Services for target audiences, (i.e. children, the elderly, women, racial and ethnic minorities, the disabled),

(8) Upgrading of the UHF technical system,

(9) Expanded instructional services,

(10) More and better facilities,

(11) Development of new technologies.

I believe strongly in the mission of public broadcasting as the source of creative, excellent and diverse alternative television and radio programming for the American people. The needs and interests of many different audiences, instead of one mass audience, must be served. Clearly, the greatest need for the future is top-quality programming. We must have generous quantities of programs to serve many needs, including those of the new satellite system.

Since 1974, I have served as a trustee of WETA, UHF Channel 26, in Washington, D.C. I also attend and participate in meetings of the West Virginia Educational Broadcasting Authority.

In the field of education, I am a graduate and trustee of Stanford University. At the same time, as the mother of three young children, I am active in the PTA of Holz Elementary School in Charleston, West Virginia.

I have served on the boards of 20 separate bodies, with civic, cultural and philanthropic purposes. These boards include the Day Care and Child Development Council of America; Operation Crossroads Africa; the National Women's Political Caucus; the West Virginia Committee for the Humanities and Public Policy; and Mountain Artisans of West Virginia. These experiences have taught me the value of independent and objective judgment necessary to any person who might serve on the Board of the Corporation for Public Broadcasting.

I also believe that the knowledge of finances is critical to the prudent, equitable distribution of scarce Federal funds in public broadcasting. I believe my diverse experiences have given me that knowledge.

I also understand that service on a board such as that of the CPB requires concentration on long-term planning and development of policy, as well as dealing with short-range problems or current issues.

I would give the highest consideration to the fulfillment of the goals and objectives stated in the Public Broadcasting Act of 1967. This is the legislative mandate under which the Corporation for Public Broadcasting and its directors operate. In my judgment, it is both binding and controlling.

Directors of the CPB should expect to be held accountable to the public and to Congress for the way in which they spend public funds. In determining priorities, the directors and administrative officers of the Corporation should evaluate certain expenditures against others to ensure maximum return on investment to the public.

Along with everyone who is concerned with the current status of public broadcasting, I am anxious to assist in the resolution of the internal organizational conflicts within the system.

I am willing and eager to spend the time and effort necessary to be an effective and responsible member of the CPB Board. I trust that my record of public activities demonstrates my dedication to any assignment I accept.

I have been an active participant in the public lives of both my father, U.S. Senator Charles Percy, and my husband, Governor John D. Rockefeller IV, and have had a variety of experiences with local, state and federal government. I stand, however, on my own identity and accomplishments. I feel I am qualified by my own activities to respond to the educational and cultural needs of a broad spectrum of the American public.

If confirmed, I look forward to working with the members of this subcommittee, who themselves have demonstrated through the years their dedication to furthering the goals and objectives of public broadcasting.

Thank you very much.

RICHARD E. WILEY

Mr. BAKER. Mr. President, this week Richard E. Wiley leaves office as Chairman of the Federal Communications Commission.

Dick Wiley joined the Commission as General Counsel in September 1970 and was nominated and confirmed as Commissioner in January 1972. In March 1974 he assumed the chairmanship and has served with distinction.

As the ranking minority member of the Communications Subcommittee during most of Chairman Wiley's service at the Commission, I can attest to his dedication to the public interest and his effectiveness in resolving many of the difficult issues that have been before the Commission during his tenure.

As he leaves public service for private law practice, I wish him well and expect that Dick Wiley will be a hard act to follow, even for Charlie Ferris.

I ask unanimous consent that an account of Chairman Wiley's services at the Federal Communications Commission contained in Broadcasting magazine be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

UNANIMOUS VERDICT ON DICK WILEY: HIS WAS VIRTUOSO PERFORMANCE AT FCC

For several months, Richard E. Wiley—who leaves office as FCC chairman this week—has been something of an anachronism in Washington. A Nixon-era holdover in a Carter administration that includes such self-confessed consumerists as the Federal Trade Commission's Mike Pertschuk, Mr. Wiley, when asked to state his greatest accomplishment as FCC chairman, replies: "Efficiency in government."

This, obviously, was not the kind of regulator whose taste ran to change. Not only is "efficiency in government" a rare claim among public officials, neither is deregulation, or reregulation, the kind of thing most government officials would adopt as a major policy initiative. Dick Wiley did, years before it became a popular theme of the Ford administration. His was the classic conservatism: Where government is concerned, less is better.

Then, too, there were those other characteristics that set him apart: the enormous energy with which he conducted the commission's affairs, the deliberate effort to make the FCC less forbidding to those it regulates, and what spokesmen for such disparate interests as broadcasters, cable operators and citizen groups speak of as his fairness and willingness to listen.

And there seems little doubt that he leaves the FCC—to take up private practice as managing partner of the Washington office of Kirkland & Ellis ("Closed Circuit," Oct. 3)—with an enormous fund of goodwill, at least among broadcasters. The Oregon Association of Broadcasters a few months ago adopted a resolution expressing its "admiration, respect and heartfelt thanks." The National Radio Broadcasters Association presented him with a plaque describing him as a "beloved regulator . . . admired, loved and respected." And when Broadcasting several months ago ran a story dealing with a rash of commission reversals in court (and headlined "Wiley's FCC: in danger of disappearing") a communications lawyer wrote a letter expressing outrage at what he felt was criticism of the chairman and suggesting that a "tribute" would be more appropriate. The lion, it seemed, had indeed lain down with the lambs.

When Mr. Wiley—who joined the commission as general counsel in September 1970 and was named a commissioner in January 1972—assumed the chairmanship in March 1974, he had no ambitions for reshaping the industries regulated by the commission. A Broadcasting article reviewing his first year as chairman said he had been attempting to "institutionalize rhetoric as part of an activist campaign to dampen fires, not start them" (Broadcasting, March 17, 1975). He did not disagree.

But if visions of policy breakthroughs did not dance in his head, a view of an orderly, well-run FCC did. And that might have seemed the wildest dream of all. Never known for the efficiency of its operations, the commission, four years ago, was in a state of disrepair. It was three members short. A number of tough policy issues were left to be resolved. Key staff positions were vacant. And the agency seemed to be slowly sinking under the weight of backlogs.

Nevertheless, Chairman Wiley promised a vigorous, efficiently run FCC. And, as President Nixon brought the commission up to full strength (with the appointments of James Quello, Glen O. Robinson and Abbott Washburn), Mr. Wiley began delivering.

He filled the staff vacancies and began setting deadlines (announcing them in 90-day calendars). He met weekly with bureau chiefs, and he held the commission to a strenuous schedule of three or four meetings

a week. Most important, perhaps, he demonstrated a readiness to grapple with issues, no matter how thorny: He was an activist.

In time, the balky commission began to respond. Controversial, long-pending issues were disposed of. Renewal and transfer applications began moving through at a reasonably fast pace. Even backlogs began melting; incredibly, a list of several hundred petitions to deny license renewal that had been filed by citizen groups was reduced practically to zero.

In the process, Mr. Wiley made a mark on the commission as had few of his predecessors. Most of those with whom he filled staff vacancies were what some called "Wiley look-alikes"—a reference to the preference they shared with him not only for three-button suits and rep ties but also for a conservative approach to government. His mastery of a whole range of issues enabled him to dominate commission meetings. What's more, he involved himself deeply in the work of the staff in drafting major items for commission consideration, with the result that the "staff" items that emerged were often more accurately "Wiley" items—a circumstance that sometimes nettled colleagues who would have preferred presentations by an uninhibited staff.

To a large extent, some observers noted last week, Mr. Wiley was aided in making the mark he did by serving with colleagues who generally were congenial. Fortunately for Mr. Wiley, one communications lawyer observed, he did not have to deal with a Nicholas Johnson or a Kenneth Cox, both strong-minded commissioners who, when they served together with Chairman Rosel H. Hyde, threatened at times to take over the commission. (In the past year, Commissioner Joseph Fogarty is said to have given Mr. Wiley a slight taste of the trouble Mr. Hyde had known.)

If there is one criticism made of Chairman Wiley's conduct it is the eagerness to please, the willingness to compromise, the desire to adopt actions on 7-to-0 votes, if possible. One result was an unusually high percentage of unanimous votes. But there are some who say that the desire to please all contending parties can be self-defeating. Implicit in the criticism is the suggestion that, in his absorption with the trees of the opposing forces at hand, he lost sight of the forest of the public's interest.

They cite, for example the fashioning of the decisions in the media cross-ownership and pay-cable cases that were reversed by the U.S. Court of Appeals in Washington. Sources who were close to the decision-making say that the crossownership case was the product of Mr. Wiley's determination to take some action, even if not dramatic—for fear for reversal in court if nothing was done—in the face of reluctance on the part of several commissioners to do anything. The pay-cable rules, which were designed to guard against the siphoning by pay-cable operations of the sports and movie programing now seen on conventional television, were drafted under what the appeals court said was intense ex parte pressure from all contending parties. And, again, sources who were on the scene say that efforts were made to satisfy both cable and broadcaster interests. Neither side was satisfied, as events proved; both took the FCC's ruling to court, where it was overturned in a decision favorable to cable. In so doing, the court echoed the "compromise" criticism: "We are particularly concerned," it said, "that the final shaping of the rules we are reviewing here may have been by compromise among the contending industry forces, rather than by exercise of the independent discretion in the public interest the Communications Act vests in individual commissioners."

For some close observers of the FCC, one puzzling aspect of Mr. Wiley's stewardship was the dichotomy in the commission's approach to AT&T, on the one hand, and broadcasting, on the other. If the commission on occasion seemed protective of broadcasting, as some of Mr. Wiley's critics say, it pursued with vigor a policy aimed at promoting competition in the telephone field; indeed, so effective has the policy been that AT&T has secured the introduction in Congress of legislation (the "Bell Bill") aimed at affording a measure of protection against competition. ("Wiley's common carrier policy was superb," said one who believes the commission's broadcast policy had a pro-industry bias.)

As the pay cable and crossownership cases indicate, it was the courts that caused Mr. Wiley the most trouble during his chairmanship. And none caused him more anguish than the district court in Los Angeles, in the family viewing case.

Throughout his years on the commission, Mr. Wiley made such of his concern for broadcasters' First Amendment rights. That concern, shared by the commission, was reflected in the FCC's assertion—in a policy statement that seemed to fly in the face of court decisions—that broadcasters must be free to make their own decisions regarding entertainment formats, that they should not be influenced by the commission in response to complaints from the public about abandoned programing. On the other hand, the commission ruled that a George Carlin comedy record broadcast over WBAI (FM) New York was "indecent" and therefore barred from the airwaves—a ruling overturned by the appeals court as "censorship." (The commission is seeking Supreme Court review of that decision.)

And in the family viewing case, Chairman Wiley and the commission were found by Judge Warren J. Ferguson to have violated the First Amendment rights of broadcasters by pressuring them into adopting the plan under which the first two hours of prime time were to be reserved for programing suitable for the entire family. The government and the broadcasters deny there was intimidation, and the decision is being appealed, but Mr. Wiley describes the case as his "biggest disappointment."

Family viewing was not the only example of Mr. Wiley's approach to self-regulation. So also was the children's television case. The chairman persuaded television to reduce the amount of commercial time in children's programing—to a level the commission would, if necessary, impose by rule. Then the commission referred to those commitments in a policy statement that also was designed to "clarify" broadcasters' responsibilities in programing. That successful effort at nudging the industry toward a particular end—which was approved by the appeals court in an opinion upholding the commission action in the case—is believed to have given Mr. Wiley the confidence to enter talks with industry officials in what became the family viewing case.

In large part, Mr. Wiley initiated those talks in response to pressure from Congress and the public to "do something" about sex and violence on television. He was, one former commission staffer said, anxious to please the committees in Congress concerned about the problem. But Mr. Wiley does not put all responsibility on those outside forces. He describes himself as a "moralist," and says he believes television violence represents a serious problem. He would, he says, "do the same thing again."

Indeed, a streak of "moralism"—which manifests itself in the sermons he delivers on occasional Sundays at the Cherrydale Methodist church in the Washington suburb of Arlington, Va., and in the speeches he gave to the National Religious Broadcasters annual conventions in Washington—was evident in the Wiley chairmanship from the start. In his first speech as chairman to the National Association of Broadcasters, in Houston in March 1974, he called for "a new ethic in broadcasting." Station operators were urged to resist the temptation of fraudulent practices and to rededicate themselves to excellence, decency and public service (Broadcasting, March 25, 1974). Those who spurned his advice, he said, would feel the commission's wrath. And there has been a hardening of the commission's attitude toward broadcasters involved in fraudulent billing and misrepresentations to the public (although some officials note that more final orders conclude with fines and fewer with denials of renewals than they might have expected).

But if jawboning and moralism both had places in his repertoire, there is no doubt that Mr. Wiley saw one of his missions as making life a little more comfortable for broadcasters and, in more recent years, for cable operators as well. Five years ago, in a speech to the Mutual Affiliates Advisory Council, in Washington, he committed himself to what at the time seemed the rather extraordinary notion that he, as a member of the commission, should work to remove the feeling of "suspicion and distrust" he said existed between broadcasters and the FCC. His time at the commission would be well spent, he said, if he could contribute to creating a new mood of regulation—"one in which the spirit of partnership and cooperation in serving the public can flourish and prosper (Broadcasting, July 31, 1972).

And he has made a major effort to keep that commitment. "Under Wiley, broadcasters were told they could approach the FCC without fear of retribution," the National Association of Broadcasters' general counsel, Kerwin Krasnow, said the other day. "He made it a more human FCC."

Reregulation, a program he headed when a commissioner and pushed hard as chairman, is also seen as part of the humanizing process. It is designed to root out or adapt to current conditions regulations that have become obsolete over the years and have served only to burden broadcasters. Thus far, the program has produced some 600 changes in the rules—all, presumably, for the better. "From the broadcasters viewpoint," Mr. Krasnow said, "that's a plus."

That assessment, by a broadcasting industry representative, may not be surprising. But Stuart Feldstein, vice president and general counsel of the National Cable Television Association, holds a similar view. "We've had our disagreements with him, over the commission's refusal to take jurisdiction over pole attachment agreements and over the pay-cable rules, but, over-all, he's been very fair," Mr. Feldstein said. "We're quite pleased with Dick Wiley."

And well they might be. The commission in recent years has moved towards a significant deregulation of the cable television industry. Mr. Feldstein noted that the commission has repealed the leapfrogging rule, has exempted systems with up to 500 subscribers from the application of most cable rules, relaxed technical standards, suspended for 10 years the 1977 deadline for rebuilding old systems in accordance with the 1972 rules, and made compliance with the rules easier. "We don't get our way on everything," Mr. Feldstein said, "but over the years, the trend [of commission regulation] has been more favorable to us." It was not very long ago that the cable industry regarded Mr. Wiley with hostility and distrust.

Citizen groups are not generally thought of as among the most favored of the commission's constituents. Mr. Wiley was adamant in refusing to consider proposals for providing reimbursement of expenses for citizen groups that participate in commission proceedings; he insisted the lead in that matter should come from Congress, although

some other agencies have adopted reimbursement programs of their own. Some groups felt the equal employment opportunity rules the commission adopted for broadcasters last year were in some respects too lax. (So did the U.S. Court of Appeals in New York in holding that the commission decision to exempt stations with 10 or fewer employes from the requirement to file an affirmative action program was "arbitrary and capricious." The exemption now extends only to stations with five or fewer employes, the standard that had been in effect before the new rules were adopted.) And some citizen group members complain of what they say is a weak EEO enforcement program at the commission.

Yet, Pluria Marshall, of the National Black Media Coalition, who shares some of those concerns, nevertheless says Mr. Wiley has been "a good chairman." Again, it seems that Mr. Wiley's effort to make the commission, and himself, accessible, stood him in good stead. Mr. Marshall spoke with favor of the regional meetings the commission held in cities around the country to hear the complaints and views of the public (and, in separate sessons, of broadcasters), and of the monthly meetings with individuals and members of groups in Washington.

And the door to the chairman's office, he found, was open to him. "We had some cursing matches," Mr. Marshall said, "but we went back to work together. We could disagree. But he wouldn't stay mad three or four months. That was a positive sign. The dude had a lot of decency about him."

It wasn't only the opportunity to discuss matters with the commission and the chairman that impressed Mr. Marshall. The FCC-sponored conference on minority ownership of broadcast properties, held in April, "was a step in the right direction," Mr. Marshall said. So was the "politicking" of Mr. Wiley and former Commissioner Benjamin L. Hooks with the Small Business Administration in an effort to persuade it to drop its ban on loans for broadcast properties.

"His tenure as chairman didn't give us everything we wanted," he said, echoing Mr. Feldstein. "But we got something."

Maintaining contact with broadcasters, cable operators and others the commission regulates and with citizen groups was in itself a heavy burden. Mr. Wiley turned down few invitations. On more than one occasion, he delivered a speech in a city in the U.S. after landing a few hours earlier in a plane that brought him from an international meeting in Europe. And the travels never interfered with his ability to stay on top of commission business.

He thrived on the schedule and the work; he and his commission were a neat fit. He whipped it into shape and dominated it as have few chairmen, and although his activism led him, almost inevitably, into some defeats—crushing, in the case of the family viewing decision—he would have grabbed at the chance to serve at least part of another term, under President Carter.

He loved every minute, and let the world know it. When asked how he would feel on leaving the commission, Dick Wiley had a favorite response: "I'm going to leave willingly and with great grace—much as Sewell Avery was carried out of Montgomery Ward."

S. 2190, TO WAIVE ALL OR PART OF AN AUTOMATIC INCREASE IN THE MEDICARE HOSPITAL INSURANCE DEDUCTIBLE

Mr. WILLIAMS. Mr. President, I am pleased to join my colleague from Idaho (Mr. CHURCH) in sponsoring S. 2190. This bill authorizes the Secretary of Health, Education, and Welfare to rescind or reduce a scheduled increase in the medicare hospital insurance deductible.

The Secretary recently announced that the part A hospital insurance deductible would increase by 16 percent—from $124 to $144—in January 1978. In addition to the rise in the part A deductible, medicare beneficiaries will also be hit with similar increases in the coinsurance charges for extended hospital stays and skilled nursing home care. Although the deductible increase is mandatory under existing law, I feel that a further rise in health care costs would place an intolerable strain on many of our elderly citizens who are already overburdened with increasing food, shelter, and energy expenses.

It is a tragic fact that as many as 25 percent of our aged citizens are living in poverty. For a substantial number of elderly people, social security benefits represent the only income source. Despite its valuable protection, medicare still covers only 40 percent of the elderly's total medical costs. Even this protection is fast shrinking, since, ironically, medicare beneficiaries now pay over twice as much for health care as they paid a decade ago. Until we can can enact legislation to contain rising hospital costs, we must not allow additional deductible increases to further erode fixed, often inadequate incomes. To fail to alleviate this situation would be to force many aged persons to deny themselves proper medical care in order to cut expenses.

Mr. President, for those senior citizens already overwhelmed by the struggle to provide for their basic needs, an increase in medicare charges could have a devastating impact. I therefore urge passage of this measure at the earliest possible opportunity.

BOWHEAD WHALE HUNTING IN ALASKA

Mr. STEVENS. Mr. President, in August of this year, 72 Alaska Eskimo whaling captains met in Point Barrow and formed an organization entitled, "The Alaska Eskimo Whaling Commission." The commission was established to create a self-regulatory management system for the subsistence harvest of bowhead whales.

The International Whaling Commission recently voted to end the subsistence hunting of Alaska Natives for bowhead whales. This decision is an unfortunate intrusion upon the human rights of my Alaska Native Eskimo constituents. The IWC's action was taken without the participation of a single Alaska Native.

Alaska Natives have hunted bowhead whales for thousands of years. The whale is an integral part of their culture and an irreplaceable food source in the Arctic. No consideration was given by the IWC to the destruction of the Eskimo culture. A short 8-minute film, made for the Eskimos at Barrow, Alaska, on the importance of bowhead whales to the Alaskan Eskimo culture can be made available to Senators or their staff upon request.

It is imperative that the United States seek to remove subsistence hunting from IWC debate. The Alaska Native subsistence hunting of whales is the only means by which commercial whaling nations can use diplomacy to frustrate the efforts of the United States to eliminate commercial whaling activities. If the United States is to effectively curtail the world's commercial whaling activities while preserving traditional subsistence hunting of Alaska Natives, the problem of subsistence hunting must be removed from International Whaling Commission debate.

The records of the negotiations for the 1946 Whaling Convention show that the convention was intended to apply only to commercial whaling. Aboriginal whaling is not commercial whaling. I have suggested to the Departments of State and Commerce that an effort be made to establish a separate subsistence whaling commission or council, the majority of which would be subsistence whalers.

Representatives of my Alaska Native constituents are presently in Washington, D.C., describing the new regulatory system to members of the executive department and some of my colleagues here in the Senate. The whaling captains have asked me to enter into the RECORD the following statement regarding the IWC action. I ask unanimous consent that it be printed in the RECORD immediately following my remarks, along with two letters to the editor printed in today's New York Times.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STATEMENT OF THE COMMISSIONERS OF THE ALASKAN ESKIMO WHALING COMMISSION

YOU WILL NOT BURY OUR HEARTS—AT WOUNDED KNEE OR ANYWHERE ELSE

The whites told only one side.
Told it to please themselves.
Told much that is not true.
Only his own best deeds, only the worst deeds of the Indians has the white man told.—Yellow Fork of the Nez Perces. [1]

In June 1977 without prior notice to the Eskimo community (or allegedly to U.S. delegates) the International Whaling Commission imposed a moratorium on Eskimo hunting of the Bowhead Whale—hunting that has taken place for more than 7,000 years. By October 24 the United States must decide whether to preserve the Eskimo's historic right to hunt the bowhead whale or whether to abide by the abrupt and culturally genocidal actions of the IWC.

The battle lines are drawn. On one side stand a few thousand Eskimos prepared to fight for their cultural existence. Pitted against us are those white men who call themselves "conservationists" but who only have concern for preserving whales, not people.

The whites told only one side . . .

Our adversaries the conservationists have learned well the lessons of their forefathers. They express remorse for the possible danger to the bowhead by subsistence hunting of the bowhead whale. But they fail to mention that the far more serious threat to the bowhead's existence comes from oil and gas development on the outer continental shelf in the northern arctic—a development which

[1] As quoted in Brown, "Bury Our Hearts at Wounded Knee" (1970).

permits them to continue to operate their automobiles in wasteful, non-conserving fashion. And while they are forgetting about their wasteful ways, they have the audacity to call our culture "bastardized" because we have adopted the snowmobile as a device for traveling in the difficult and treacherous North. If such action is bastardly, what label should one place on those who use 4,000 pounds of steel to transport themselves two blocks to the store on a sunny afternoon?

The conservationists also object to Eskimo use of "modern" weapons to hunt the bowhead but fail to point out that these "modern" weapons are replicas of the weapons introduced to the Eskimo in the days of Yankee whaling by the white men responsible for the depletion of the bowhead whale stock. These "modern" weapons have been in use by us since the 1880's and we have not been allowed to improve these weapons even though they are responsible for some losses of struck whales.

Told it to please themselves . . .

We understand why the conservationists are behaving the way they are. To understand is not to accept or condone, however. In this situation it is to pity them for their shortsightedness and stupidity.

As we see it the conservationists have been engaged in a noble effort to reduce the slaughter of whales for commercial purposes. Through the leadership of the United States—a nation without a commercial whaling industry—these conservationists have been successful in reducing the commercial whaling of other nations. But U.S. efforts, reasoned the conservationists, could be even more effective if the U.S. offered on the altar of commercial whaling the subsistence whaling of the Eskimo. And such an offering would commit the United States to zero harvesting of whales for commercial or subsistence purposes—a goal of many conservation groups.

Thus, the conservationists have told half-truths to please themselves—to convince themselves that the sacrifice of the Eskimo culture is justified because the culture is not static and stagnant, but rather dynamic and adaptable. They told these things to please themselves—to justify the actions they took to promote commercial whale conservation and to eliminate ultimately any hunting of the bowhead. But they have told only one side.

They told much that is not true . . .

In order to sacrifice bowhead subsistence hunting, the conservationists created a body of "scientific" evidence that tried to document the proposition that continued hunting of the bowhead at any level would lead to extinction of the species. There is no scientific information to support that proposition. In fact, when asked for further information about their findings, the Scientific Committee of the IWC supported their ban on the basis that the threat from OCS development in the Beaufort Sea justified the total ban. What is it you say? Something about the "tail wagging the dog". We believe that is an apt metaphor for the convoluted findings of the Scientific Committee.

Only his own best deeds, only, the worst deeds of the Indians has the white man told.

Our adversaries spend a great deal of time slapping themselves on the back about the great conservation job they have done in the commercial whaling arena, but they ignore their own failures with respect to even communicating to us the IWC concerns about the bowhead whale. It is well documented that the IWC first raised concerns about the bowhead whale in 1972. It is also well-documented that the government first gave us notice of this concern in 1977 and that the quality of such notice was so poor that we did not realize the gravity of the situation, nor could we have been expected to, until the IWC took the precipitous action that it did in June of this year.

Instead, the conservationists talk about the great increase in the number of whales harvested in the last several years producing a six year average in excess of the average over several previous decades. The conservationists have been surprised to learn that we know that averages over six years can produce skewered and "unaverage" results when compared to averages over periods of six or seven times as large. They have also been surprised to learn that there have been harvests in previous years as large as those in the past several years—e.g. 1885—40 whales; 1896—39 whales; 1908-09—60 whales. They also talk about "struck but lost" whales but fail to point out the unreliability of to what impact those unreliable figures have on the bowhead whale population. When we polled our whaling captains to find out how many had been interviewed by government personnel who were compiling data on struck and lost whales, only one or two whaling captains had been approached. A young white guest at our whaling meeting who works at the Naval Research lab at Barrow said that his friend had conducted the survey by interviewing women and children who were coming off the ice to compile his "struck and lost" figures.

We were once friends with whites, but you nudged us out of the way by your intrigues, and now when we are in council you keep nudging each other. Why don't you talk, and go straight, and let all be well?—Motavato (Black Kettle) to the Indians at Medicine Creek Lodge.[2]

But you nudged us out of the way by your intrigues . . .

You invited us to sit down with you on June 8th of this year to discuss Eskimo whaling. We accepted your invitation and attended a meeting that reminded us more of an inquisition than a discussion. You began the meeting by informing us that at your urging the National Marine Fisheries Service was publishing a notice of "depletion" with respect to the bowhead, the first step toward Federal regulation of our bowhead hunt—and you had not yet even asked us any questions! Some conservationists referred to our society as "bastardized" and then went off to "represent" our interests in Canberra, Australia as U.S. delegates to the IWC.

Now we understand that in reaction to Secretary Andrus' recommendation in favor of an objection to the IWC bowhead ban you will attempt to villify not only the Eskimo but also those who have not marched lock-step with you. We await with interest your next barrage of advertising and news accounts which are certain to appear.

Why don't you talk, and go straight, and let all be well?

There is a way for you and for us. We respectfully request that the following action be taken:

1. The U.S. should object to the ban on subsistence bowhead hunting imposed by the IWC. That is the most prudent course and the one which meets the U.S. trust responsibilities to us and insures your cooperation at the IWC meeting in December.

2. The U.S. should explain that the objection is being made to forestall litigation with regard to whether or not the IWC has jurisdiction with regard to the subsistence hunting of the bowhead and to insure that an exemplary research and regulatory program which has our backing can be presented and approved at the December meeting of the IWC.

An objection preserves the tenuous peace and permits constructive efforts to be made between now and December. In this way, the bowhead will be preserved along with our own culture, commercial whaling conservation efforts will not be jeopardized, and no one's heart will be "buried at Wounded Knee"—or anywhere else.

[2] As quoted in Brown, "Bury Our Hearts at Wounded Knee" (1970).

SURVEY OF SOVIET ANTI-JEWISH BEHAVIOR

Mr. PELL. Mr. President, on October 3 the National Conference on Soviet Jewry announced that the State Department's Assistant Secretary for Public Affairs was presented with a survey conducted by Jewish organizations throughout the world regarding Soviet anti-Jewish behavior. The national conference is the American coordinator for the exhaustive 64 page survey.

In releasing the document, Mr. Stanley H. Lowell, chairman of the National Conference's Helsinki Monitoring Committee, said in New York that the report is a major review of the Soviet Union's implementation of the so-called basket 3 provisions in the Helsinki Final Act with regard to the Soviet Jewish community. Mr. Lowell pointed out that—

> While the record is disappointing, the balance sheet of the performance is submitted in a constructive spirit and in the hope that it may facilitate the exchange of views on the implementation sought in the followup arrangements of the Helsinki Final Act.

As Cochairman of the Commission on Security and Cooperation in Europe, I wish to associate myself with Mr. Lowell's remarks and to pay tribute to the many individuals who contributed to the really excellent survey prepared under the coordination of the National Conference on Soviet Jewry. The survey will be of great value to the Commission in its work, and I have assured the national conference that copies would be made available to the U.S. delegation to the conference now being held in Belgrade, Yugoslavia, to review implementation of the Helsinki Final Act.

Mr. President, in order that my colleagues may be aware of the scope and content of the survey released last week, I ask unanimous consent that the press release issued by the National Conference on Soviet Jewry, which includes a fine summary of the full report, be printed in full in the RECORD.

There being no objection, the press release was ordered to be printed in the RECORD, as follows:

VIOLATIONS OF HELSINKI ACT DOCUMENTED—MAJOR SURVEY OF SOVIET ANTI-JEWISH BEHAVIOR GIVEN TO U.S. GOVERNMENT

WASHINGTON, D.C. October 3, 1977.—A survey conducted by Jewish organizations throughout the world was submitted today, to Assistant Secretary for Public Affairs and Department of State Spokesman Hodding Carter III, by Marina Wallach and Aaron Goldman, representatives of the National Conference on Soviet Jewry (NCSJ). The NCSJ is the American project coordinator for for the exhaustive 64 page survey.

In releasing the document, Stanley H. Lowell, Chairman of the NCSJ Helsinki Monitoring Committee, said in New York, that the report is devoted to a major review of the USSR's implementation of Basket Three pro-

visions in the Helsinki Final Act in regard to the Soviet Jewish community.

"While the record is disappointing," Mr. Lowell pointed out, "the balance sheet of the performance is submitted in a constructive spirit and in the hope that it may facilitate the exchange of views on the implementation sought in the followup arrangements of the Helsinki Final Act."

The NCSJ has been assured by Representative Dante Facsell and Senator Claiborne Pell, Co-chairman of the Commission on Security and Co-operation in Europe (CSCE) that copies of the report, "Soviet Jewry and the Implementation of the Helsinki Final Act," will have been made available to United States delegates at the upcoming Belgrade meeting.

In presenting the report, which brings together for the first time information gathered from around the world on the reunification of families, human contacts, the free expression of religious and cultural traditions, Lowell noted that, "It is our conviction that further building of the structure of security, co-operation and detente in the world community, can effectively be accomplished only if the foundations are solid; and that the most important task of those attending tomorrow's follow-up conference in Belgrade is to seek a remedy where the USSR's record is found wanting."

In fact, the report points out that in regard to individual rights as provided in Basket Three of the Helsinki Final Act, the USSR has failed to adhere to numerous provisions. "Though it is not international law," Mr. Lowell commented, "the Helsinki Final Act is a means test, a norm against which nations may judge other nations."

REUNIFICATION OF FAMILIES

He went on to recall that, "most pressing for the world-wide Jewish community is the issue of reunification of families." According to the report, since the signing of the Helsinki Final Act, emigration visas for Soviet Jews, despite a rise in late 1976 fell at the beginning of 1977 and has in fact been lower than the number of visas granted to the signing of the Act.

Lowell pointed out that a "welcome increase" in the last three months of 1977 may be due to the "general session opening in Belgrade this week."

The report points out that, "Soviet authorities like to argue that the reduction in the number of visas granted, is merely a reflection of the corresponding reduction in the applications for emigration, due to the disappointment of Soviet Jews in Israel and their 'difficulties in absorption and adaptation'."

Lowell noted that, "there are no means to measure the number of actual applications, but the number of certified invitations for family reunification by relatives are known."

Figures compiled for the survey demonstrate that at the end of 1976, the number of Jews who had requested invitations but had not yet succeeded in leaving the country was about 186,000. Last year alone the excess of invitations over exit permits was about 22,000.

According to the report, Soviet officials have also refused exit visas to Soviet Jews because, they claim, granting such visas would "separate families." However there are provisions in the Final Act which are designed to "contribute to the solution of humanitarian problems." That is, to enable family members to live with the relatives they choose. (See page 8 of enclosed report). The report concludes that the Soviet Union is deliberately distorting the meaning of the Helsinki Final Act and dividing Jewish families.

It was also highlighted that Soviet visa officials arbitrarily forbid emigration to individuals on grounds of secrecy, and security in the most "arbitrary fashion." Often individuals applying to leave the U.S.S.R. are subject to job dismissal, demotion in military ranks, refusal of new employment, expulsion from universities, military conscription, arrest or threats of arrest and deprivation of apartments. "The most serious cases of harassment are the Prisoners of Conscience," who have been "arrested, tried and convicted of various charges because of their desire to emigrate to Israel and their activities demanding these rights for themselves and Soviet Jews in general," the report states. These Jewish POC's are detained in the most lamentable conditions and the health of several of them has deteriorated drastically."

FREEDOM OF RELIGION

One of the other major areas of concern, detailed in the survey, is the matter of freedom of religion and culture. The Helsinki Final Act states that participating States will "recognize and respect the freedom of the individual to profess and practice, alone or in the community of others, religion or beliefs in accordance with the dictates of one's own conscience."

According to the report, the U.S.S.R. has subjected the freedom of Soviet Jews to religious expression to "numerous and fundamental abridgements creating a gap between the legal norm and the reality." As examples of these abridgements the Soviet Jewish community has no all-Soviet or regional organizations, they are unable to maintain contact with Jews abroad, no religions periodicals, bulletins or literature are published, Judaic ritual objects are not manufactured and there is de facto suppression of rabbinical training within the U.S.S.R.

Fifty years ago there were more than 1,100 synagogues in the U.S.S.R. Though Soviet figures today claim that there are 92 synagogues remaining, Jewish organizations initiating this report could establish the addresses of only 57.

The position of Soviet Jews since the signing of the Helsinki Final Act has "in no way improved," the report states.

In fact, possibly the worst feature of the treatment of the Jewish religion in the USSR, according to the report, is the introduction of anti-Judaic propaganda into all forms of the Soviet media. In 1974 the Jewish Bible and lore was described in the Soviet book "The Creeping Counter Revolution" as "an unsurpassed text of bloodthirstiness, hypocrisy, betrayal, perfidy, moral dissoluteness—all base human qualities." Since the signing of the Final Act another Soviet publication has asserted that Jewish laws can be compared with the "fundamentals of jungle law, such as the best of the goyim deserved to be killed, non-Jewish property is free for all, and he who first appropriates non-Jewish property is the legitimate owner."

The report concludes that Soviet Jews are the most disadvantaged national minority in the USSR. Jews seeking to leave who voice their wishes via legal means (foreign press, appeals etc.), have been subjected to the "greatest difficulties, repression and criminal prosecution."

"The signing of the Helsinki Final Act," Mr. Lowell concluded, "was greeted by the world-wide Jewish community as a significant step towards ensuring greater security and co-operation in Europe. Now, with the meetings opening in Belgrade we would hope the United States delegation will hold the Soviet government responsible to those accords which are especially important and dear to us."

Prepared by a committee chaired by Dr. Stephen Roth, Institute of Jewish Affairs (London), with representatives from several countries. U.S. members included Stanley H. Lowell, Chairman NSCJ Helsinki Monitoring Committee, Dr. William Korey, B'Nai B'Rith International Council, Sidney Liskofsky, and Abraham S. Karilikow, American Jewish Committee, and Jerry Goodman, NCSJ. The survey was originally prepared in June of this year with the data through May 1977.

The NCSJ is the major co-ordinating agency for activities on behalf of Soviet Jews in the United States.

PACESETTER PAVES THE WAY

Mr. HEINZ. Mr. President, I have recently received press clippings and summaries of task force reports on "Energy Day" from Project Pacesetter, a program sponsored by Americans for Energy Independence (AEI). I feel this worthwhile project merits the attention of my colleagues.

AEI was founded by a concerned group of scientific, academic, professional, conservation, labor and business leaders to work with the public in order to create public support for policies and actions which will move the United States down the road toward energy self-sufficiency by the early 1980's. AEI is a private, nonprofit foundation, which is nonpartisan and nonpolitical. Their programs are designed to have an impact on a national and local level through a broad-based grassroots constituency and to create a strong public awareness of our energy situation, which will result not just in investigation of the problems, but in action, and thus in increased energy independence for the United States.

Under AEI's sponsorship, Project Pacesetter is now the Nation's first communitywide energy conservation drive. It recently had its kickoff in Allegheny County, Pa., which was the area chosen to launch the year-long energy and development program that will serve as a model for the entire nation. According to the AEI executive committee chairman, Allegheny County was picked as the prototype because this part of the country is sensitive to economic growth and is a historic center of the American energy industry. He also emphasized that southwestern Pennsylvania had learned the high price we pay for energy shortages during the harsh winter last year.

Project Pacesetter is proceeding on two fronts: Phase 1 represents organizational matters, while phase 2 will seek to encourage Allegheny County residents to make the country more self-sufficient in energy.

AEI is determined to have Allegheny County serve as the model for other communities, thereby making a pioneer energy effort which can be emulated elsewhere. I ask unanimous consent that certain relevent material on Project Pacesetter be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

PROJECT PACESETTER

PITTSBURGH, PA., September 19.—"All that someone on the other side of the world has to do to create a catastrophe here in the United States—and in Allegheny County—is to shut off our energy supplies."

So Richard P. Simmons, president of Allegheny Ludlum Steel Corporation and co-chairman of Project Pacesetter, the energy conservation and development program, told

an audience gathered here today for Project Pacesetter Task Force reports to the people.

Pointing out that the United States now buys more energy each year from foreign sources than the nation produces, Simmons said that whatever the controversy surrounding the energy shortage question, our growing dependence on sources we can't control poses a double-barreled threat to the country.

"Regardless of the hot-and-heavy debate (about the reality of our energy shortfall)," Simmons said, "there are a couple of facts that neither side can deny."

After citing our present need for foreign supplies, he said: "That means trouble in our balance of payments and in our soaring energy costs."

Project Pacesetter is the name given to the county-wide program of energy conservation and development sponsored as a pilot project here in Allegheny County by the national organization, Americans for Energy Independence.

Kicked off in May, the program is organized around six basic Task Force groups: Lloyd McBride, president of the United Steelworkers of America who also serves with Simmons as co-chairman of the project, heads the Labor Task Force; County Commissioner Chairman Jim Flaherty chairs the Government Task Force; Education is headed by Wesley Posvar, chancellor of the University of Pittsburgh; Edgar B. Speer, United States Steel chairman, has the Business and Industry Task Force; Susan Brandt, president of the League of Women Voters, Allegheny County Council, has charge of the Voluntary and Professional Task Force; and Ronald Ross Davenport, dean of Duquesne University's Law School chairs the Public Interest Task Force.

Shirley Sutton, who preceded Susan Brandt in her position with the League of Women Voters and the Task Force, is the program's executive director.

When it was announced in the early spring that Allegheny County had been chosen as a test ground for this prototype program, some skepticism was uncovered.

In the first place, nearly half the population of the nation—and, it seems safe to assume, half of Allegheny County—had serious doubts about the reality of the "Energy Crisis." And a large segment of the other half had misgivings as to the possible effectiveness of what seemed to some to be a "propaganda project."

But with the comprehensive reports made here today, participants in the program demonstrated genuine commitments to energy conservation and the implementation of energy-saving programs in all of the Task Force areas.

Task Force chairpersons reported on the major proposals of their respective groups, while noting that there were far more recommendations in each Task Force than time allowed for reporting.

Throughout the summer months, these task forces composed of approximately 300 citizens met regularly to air and discuss their programs, developing their ideas and suggestions to produce workable plans for conservation.

Joseph Odorcich, a USWA vice president speaking for McBride and the Labor Task Force, announced that organized labor would pursue a plan that called for the establishment of local energy labor-management committees to study and recommend ideas to be used in management's energy decision making process.

Labor made particular note of the relationship between energy and jobs. "Conservation and the saving of energy which is now wasted," the report reads, "should either provide more jobs, extend jobs in existence, or reduce losses to both management and labor by reducing layoffs due to cutback of fuel supplies."

The Government Task Force's major proposal calls for an energy alert system which would analyze and plot the supply and demand for energy relative to weather conditions and economic and social activity. The analysis, then, would produce a reliable indication of the probable demand and the available supply of energy at any given or projected moment.

From information gathered, an "energy index" would be derived. Assuming that the area is using 75 percent of the available energy at a specific time, an energy index of .75 would be charted. The index, updated regularly, would be widely publicized so that all segments of the community could take the measures necessary to prevent a fuel crisis. The system would work in much the same manner as the currently successful air pollution index.

Development of energy curriculum materials for elementary and secondary schools was cited as the number one priority of Wesley Posvar's Education Task Force.

Posvar emphasized that the Task Force's recommendations "represent but a beginning." He said:

"Because these first steps may be the most significant of all, it is crucial that our message to the people be convincing in the presentation of facts, but even more important than that, we must awaken in the greater community a commitment to a long-range program that will assure our energy resource survival in the decades ahead."

An energy-for-business information program, incorporating a series of workshops for local business and industries, is the major thrust of the Business and Industry Task Force according to Edgar B. Speer, chairman of the group.

Speer's group worked with 39 trade associations and chambers of commerce to create a program whose objectives, Speer said, are to encourage Allegheny County business firms—some 5,000 plus—to make basic minimum commitments to install energy conservation programs; to help these firms find and exchange relevant conservation information, and to demonstrate to the public that business is making serious conservation efforts.

The recommendation of Brandt's Voluntary and Professional Task Force was built around a program of energy conservation information. A major feature, worked out with the National Home Improvement Council, the National Home Builders' Association, and the Greater Pittsburgh Board of Realtors will be the development of a "Home Retrofit Display," a cross-section of a model which shows energy-saving building procedures and materials. The model will be exhibited in area shopping centers, then kept as a long-term exhibit. It's to include instructive material so that "retrofit" classes can be conducted by utility company representatives.

Task Force sub groups from service, women's and veterans' organizations directed particular emphasis to home insulation, specifically focusing on materials for home insulation and criteria for selecting an insulation contractor.

The Public Interest Task Force, chaired by Ronald R. Davenport, proposed contests designed to "create great energy savings in the home consumption of both gas and electricity . . . and a great deal of education about the energy shortage itself."

Dean Davenport suggested monthly contests with yet-to-be-determined prizes for those householders whose utility bills reflect the greatest percentage savings over the same months of 1976–77. The contests would be called "The Great Allegheny County, Lower Your Thermostat, Wear a Sweater, And Win a Prize in the Bargain, Set the Pace for Energy Contest."

While the contest idea is the major proposal offered by the Public Interest Task Force, the various groups making up the committee spawned a wide variety of energy conservation suggestions.

Dr. Sam Doctors of the University of Pittsburgh and Carnegie-Mellon Institute of Research told how CMIR's study, "Regional Energy Policy Alternatives: A Pilot Study of the Allegheny County Region," could be used by Project Pacesetter.

With all this work behind them, Project Pacesetter's Task Forces are taking their cues from Pitt's Posvar who has said the summer's labors are a prologue to the work that lies ahead.

The question now to be addressed, of course, is "Where does Pacesetter go from here?"

Joseph Odorcich of the Steelworkers answered.

"We swing into action," Odorcich said to the Energy Day audience. "The recommendations that can be put to work right away will be put to work right away. All recommendations will be evaluated by our Executive Committee (comprised of the co-chairmen and all Task Force heads) in the next few weeks before they get the go-ahead, especially since some of them will require the coordination of two or more of the Task Forces. At that time, we will issue a report on the recommendations Pacesetter will be endorsing."

[From the Pittsburgh Press, Sept. 19, 1977]

COUNTY KICKS OFF ENERGY PROGRAM

(By Wyndle Watson)

Project Pacesetter was officially kicked off today at an "energy day" program in the U.S. Steel Building here.

Those participating in today's program made it clear that some 300 volunteers on task forces which have set up the program have every intention of seeing.

Alegheny County become the nation's pacesetter in energy conservation.

The program is sponsored by the Americans For Energy Independence, headquartered in Washington, D.C.

Co-chairmen of the local effort are Richard P. Simmons, president of Allegheny Ludlum Steel Corp., and Lloyd McBride, president of United Steel Workers of America (USW).

The task force reports today were presented to Hazel R. Rollins, assistant administrator for conservation of the Federal Energy Administration.

Dr. Wesley Posvar, chancellor of the University of Pittsburgh, chairman of the education operations task force, said education facilities in the county will concentrate on students educating their families to the energy crisis.

Edgar B. Speer, U.S. Steel Corp. board chairman, chairman of the labor and industry task force, said that what business does will set the pace and provide the incentive for home energy conservation patterns.

Speer said his task force has contacted business organizations which represent some 5,000 businesses and is making an energy management information kit available to those firms.

"Energy conservation is quite foreign to the American people," Speer said, adding that education on the situation will be a major effort.

Ronald Davenport, dean of Duquesne University's School of Law said his public interest task force is suggesting a contest whereby consumers will submit utility bills monthly and those showing the greatest conservation over last year's usage would be eligible for prizes and public recognition.

"To the homeowner, the energy crisis is his utility bills," said Susan Brandt, president of the Allegheny County League of Women Voters and chairwoman of the voluntary and professional task force.

Her task force will present to the public a scale model home equipped with the latest home energy saving techniques, she said.

This scale model home, which will be developed with volunteer materials and labor, will be displayed in major area shopping malls and will be coordinated with classes for homeowners on decreasing home energy usage, she said.

"We expect an immediate impact on the energy consumption in Allegheny County," she predicted.

[From the Post-Gazette, Sept. 21, 1977]

COUNTY KICKS OFF "PACESETTER" ENERGY-SAVING PROGRAM

(By Paul Ayars)

Project Pacesetter, a year-long effort to enlist Allegheny County citizens in a model energy conservation program, was launched yesterday with an Energy Day presentation in the U.S. Steel Building.

Leaders of the project's six energy study task forces unveiled conservation ideas ranging from such modest proposals as turning down thermostats to an ambitious call to install a $50 million waste recycling plant.

A central theme of the hour-long presentation was the need to educate county residents to the reality of the energy crisis. County Commissioner Jim Flaherty, head of the government task force for Pacesetter said last winter's energy crisis cost the county $42 million in lost jobs.

Pitt Chancellor Wesley Posvar, head of the education task force, proposed implementing an energy curriculum in city schools to reach parents through their children.

Other means of reaching the public were outlined by industry task force head Edgar Speer, chairman of U.S. Steel Corp., and volunteer organization task force chairman Susan Brandt, president of Allegheny County League of Women Voters.

Speer said business and industry will rally its workforce to energy conservation with information flyers in pay envelopes. And on Oct. 8, Mrs. Brandt said, Boy Scouts will blanket the county with home energy audits to point out areas of waste.

These and other approaches will be coupled with an ongoing publicity campaign by Project Pacesetter in the form of billboards and newspaper, radio and television advertisements.

The program is sponsored by Americans for Energy Independence, a nonprofit, Washington, D.C.-based organization. AEI has hired a Pittsburgh public relations firm, Lando Associates, to handle the publicity campaign.

Other energy conservation proposals made at the Energy Day program include:

A scale-model display to be exhibited throughout the county of how homes can be fitted for energy conservation—installation of storm windows, attic insulation and the like, with information on available contractors and suppliers.

Establishment of countywide recycling centers for paper, glass, aluminum and other metals.

Staggered work hours to reduce rush-hour congestion.

Computer-timed traffic lights to cut gasoline waste by cars idling at intersections.

A monthly contest for residents who show the greatest reduction of energy use on utility bills, with prizes to be determined later.

Although most of the recommendations made were for voluntary participation, the public-interest groups task force chairman, Ronald Davenport, Duquesne University law school dean, suggested mandatory installation of water-saving devices in homes and rewriting existing building codes to force conservation steps.

All of the proposals are to be reviewed by project leaders, who will issue a list of endorsed Pacesetter recommendations in about three weeks.

The proposals were received yesterday by Hazel Rollins, assistant administrator for conservation of the Federal Energy Administration.

Project Pacesetter will be monitored for performance under two programs conducted by the University of Pittsburgh and Carnegie-Mellon Universiy.

The CMU study, headed by Prof. Samuel Doctors, is aimed at analyzing the effect of last winter's energy crisis and how the county responded to it.

The Pitt study, headed by Doctors and Prof. Paul Hammond, will make four surveys during the year-long Pacesetter program to compare energy use this winter with last winter's record. The Pitt study is being financed by a $150,000 grant from the FEA, with the possibility of another $150,000 next year to finish the study, Doctors said.

HARD-NOSED REALISM IN SALT

Mr. GARN. Mr. President, Fred Iklé, former Director of the Arms Control and Disarmament Agency (ACDA) displayed for 5 years a hard-nosed realism in SALT that consistently warned our policymakers against the dangers of deluding ourselves into insupportable or cosmetic SALT agreements with the Soviet Union. He questioned the primacy of deterrence policy as a posture suitable for the United States in an increasingly dangerous international environment and has represented the voice of conscience in a strategic debate whose numbers generally make short shrift of moral consideration. He represents, in short, a powerful and persuasive dissent from official orthodoxy, a voice which will be sorely missed at a time when we need it more than ever.

Now we have for public consideration an article which Mr. Iklé has written, "What To Hope for and Worry About in SALT," which appeared in Fortune magazine's October issue. The article is unique in one respect: at a time when the administration appears to be pursuing a SALT agreement impelled more by quiet desperation than by a considered, precise calculaton of American long-term interests, Fred Iklé dares to "think the unthinkable": What happens if the United States does not get a good SALT agreement and what happens if, in defiance of all the assumptions that went into U.S. thinking at the beginning of SALT in 1969, SALT does nothing to restrain the Soviet Union? He is, indeed, in rare company; besides him, only Paul Nitz, a former distinguished SALT team member, has dared to address those extremely unfashionable questions.

Nevertheless, at a time when the American public is being lulled with soothing sounds about alleged "shared concerns" by the Soviets and the United States for a solid SALT agreement, we are now recently informed by our Secretary of Defense that the Soviets have four new strategic missile systems. We have also confirmed a follow-on to the giant Delta 3 submarine—the "Typhon," equal in size to our partially completed Trident submarine, and a possible follow-on to the Backfire-B bomber.

Mr. President, at this critical time in our arms negotiations with the Soviets, Fred Iklé's perceptive analysis of "What To Hope for and Worry About in SALT" is worthy of each Senator's consideration. I ask unanimous consent that this article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

WHAT TO HOPE FOR, AND WORRY ABOUT, IN SALT

(By Fred Charles Iklé)

For better or worse, the strategic arms limitation talks between the United States and the Soviet Union have become the focal point of a historic struggle. SALT involves more than the safer management of mankind's most destructive weapons; it is also central to the contest between the world's two superpowers. Although the talks may only marginally determine the Soviet-American relationship, SALT is like the quivering pointer on the dial of a heavily loaded scale—it shows the weight and tilt of titanic forces.

Among all international agreements, meaningful arms limitations are the most difficult to implement. Their purpose is to limit or reduce the means to wage war between potential belligerents whose fundamental antagonisms still persist. The tension between attempted cooperation and continuing conflict, between reliance on a treaty and suspicion of double-crossing, strains every strand in the tender fabric of arms accords.

It stands to reason that this stress will be felt in Washington and in the country at large, leading to intense disputes about our policy on nuclear-arms control. And because these are issues of life and death for the nation, it is imperative that Congress and the public assess the thrust as well as specific results of our policies.

But how are they to judge? How can Americans tell the difference between good and bad SALT agreements?

Nuclear-arms agreements are difficult to judge because they are designed to achieve several objectives that are to some extent conflicting. The results of negotiation must be measured in at least four different currencies. First, given our strategic philosophy, SALT ought to help "stabilize" nuclear deterrence; that is, it ought to strengthen the disincentives to nuclear attack on the U.S. Second, the agreements should secure a more or less even balance between Soviet and American nuclear strength—a relationship of "parity" or "equivalence" as we have come to call it. Third, SALT ought to lead to a reduction in nuclear arsenals and their role in international affairs. Fourth, the agreement must be ultimately enforceable.

Let us gauge recent SALT developments by these four criteria.

America's nuclear strategy revolves around deterrence, a concept that has been carefully analyzed and developed over the last thirty years (always, of course, in terms of untested theory). Broadly, deterrence means that the Soviet Union's capability to devastate this country is held at bay by our threat of retaliatory devastation. To this end, our nuclear forces must be able to survive a Soviet first strike in sufficient numbers and must be able to reach their targets. Beginning about twenty years ago, American policymakers became increasingly taken by the idea that Soviet leaders would see the role of their nuclear weapons much as we see ours, and that a deal could be worked out to render this supposedly mutual deterrence more secure and less costly for both sides. Thus, the beginning of SALT.

A LACK OF CONSENSUS

It was not until 1972 that we got the first SALT treaty, limiting the defenses that may be set up against ballistic missiles. So long as it is being observed, this treaty will facili-

tate one requirement for nuclear-deterrent forces—the ability of missiles to reach their targets. But SALT has done little so far to satisfy the other requirement—that missile forces be able to survive a first strike.

It has not been for lack of our trying. The most recent effort was President Carter's initial SALT proposal last March, which would have slowed down the menacing programs in the Soviet Union for the construction of larger and more accurate missiles (imposing, of course, the same restraints on us). Had the Russians accepted this proposal, the land-based missile forces of both sides would have remained relatively invulnerable for many years.

But the Russians have often turned a cold shoulder to our notions of strategic "stability." Their violent public rebuff of Carter's proposal is consistent with their earlier rejections of similar ideas put forward more privately during the Nixon and Ford administrations. Indeed, many American experts on strategic affairs now see a deeply troubling lack of consensus between us and the Russians on the strategy of mutual deterrence and how SALT might strengthen it. Those experts worry that the Russians may not, in fact, see the role of nuclear weapons as we do.

If we are not careful, a SALT agreement might even increase the vulnerability of our deterrent. Because of the way we started the negotiations—trying to freeze the number of missiles and bombers—we have become locked into counting the number of missiles while imposing only loose constraints on their destructive power. In addition, the ceiling on the number of missiles with multiple warheads is far too high for strategic stability. If we were starting today to design a system for achieving stability, we would want just the opposite of what we have: we would want restrictions that kept all missile launchers small and with single warheads only, but that permitted each side to have a rather large (and equal) number of individual launchers. Such a force could never be eliminated by an adversary's first strike.

The basic approach in SALT today could have a further adverse impact on strategic stability. The requirement that we count missiles argues against permitting mobile missiles, which are hard to count. Yet, for stability, concealed mobile missile launchers are better than the easier-to-count fixed ones.

The extent to which SALT agreements can be made to help or hurt the survivability of our deterrent forces is a highly technical question. Yet it is clear that our ambitions have become quite modest, compared with the high hopes held for the stabilizing effect of SALT a few years ago. Perhaps the best we can anticipate—given our differences with the Russians on strategic philosophy—is that future agreements will at least not increase the vulnerability of our forces. We must see to it that SALT does not preclude unilateral measures we could otherwise take to fix emerging weaknesses.

This is not to say that the Russians may not join us someday to work out agreed measures to reduce the vulnerability of both our deterrent forces. Their cooperation with us on efforts to curb the worldwide spread of nuclear weapons suggests that in some circumstances, at least, Soviet and U.S. arms-control policies can be harmonized.

The ability to deter a deliberate, massive attack on our worldwide nuclear forces lies at the core of our entire military strategy. If this deterrent ever failed, all would be lost. Yet the possibility of massive attack on the U.S. is not the only threat we face from the Soviet nuclear forces. There are many other kinds of threats, more diffuse and political than the seemingly calculable violence of missile salvos.

If we let the Soviet Union build up an unarguable preponderance in nuclear arms, its influence in many parts of the world could grow, our alliances would be weakened, and in a crisis the U.S. and its friends could be forced to retreat. The political impact would be even more damaging if, through a SALT agreement, the U.S. formally and explicitly assigned itself an inferior position. While no one would insist on exact symmetry in American and Soviet forces, there is widespread agreement that any future SALT agreements must preserve a measure of equivalence. Parity has become the accepted benchmark.

THE RATIOS HAVE CHANGED

Many people live with the comfortable impression that such parity has existed for some time and that SALT merely needs to codify this most natural relationship. This is far from the truth. In the early 1950's, our deliverable nuclear weapons outnumbered Soviet weapons at least ten to one. In the early 1960's, the ratio was still easily two to one in our favor. By about 1970, however, the Russians had reached approximate equality overall; in addition, they had pressed ahead to surpass us on several counts. Today, they have more missiles and larger ones, and a far more vigorous program for replacing and upgrading their land- and sea-based missile forces. Thus they are also catching up—and may perhaps surpass us—in the kinds of strategic weaponry where we are still ahead: in numbers of missile warheads, the survivability of forces, and missile accuracy.

It also needs to be recalled that for twenty years after the Second World War, we relied on our nuclear superiority to offset our inferiority in conventional forces. Our conventional inferiority persists today—in fact, in terms of tanks, artillery, and aircraft, our side is now more heavily outnumbered than before. Yet we no longer have strategic superiority to offset this weakness.

Strategic parity has become a particularly elusive goal because of disagreement about what is "strategic." The Russians are deploying a new bomber (the "Backfire") that they do not want to have counted in the SALT limitations, even though it can reach the U.S. At the same time, the Russians want to limit medium-range cruise missiles that the U.S. could produce and deploy in the future—and that could play an important role in maintaining a regional military balance. Meanwhile, the Russians are beginning to deploy a medium-range *ballistic* missile that is totally unconstrained by SALT.

Should medium-range missiles be covered in an agreement designed to achieve strategic parity? Historically, of course, the medium-range nuclear weapons preceded the intercontinental ones. In the late 1950's, the Soviet Union deployed some 600 medium-range ballistic missiles, and as a counterweight we based up to 150 comparable missile overseas. However, we later dismantled every one of our medium-range missiles—an unreciprocated act of restraint, since the Russians kept nearly all of theirs. We informed our allies that part of our intercontinental strategic forces could serve as the new counterweight to the 600 Soviet medium-range missiles.

HOW THE RUSSIANS LIKE TO COUNT

The Russian negotiating tactics in SALT nearly succeeded in turning the facts of this history upside down. On the one hand, the Russians have argued tenaciously that the U.S. owes them compensation in the SALT equation for the nuclear-armed American aircraft overseas that can reach the Soviet Union, and they have wanted British and French nuclear forces to be considered as well. On the other hand, the Russians have insisted that all their own medium-range systems, which can reach our principal allies (as well a their new bomber, which could reach the U.S.), must not be counted. In short, this seems to be the Russian principle: nuclear arms are to be counted in the strategic balance if they can travel from France, Britain, Germany, or other countries into the Soviet Union, but not if they travel in the opposite direction.

We need not hold it against the Russians that they should try for a while to sell this line; after all, it's the job of their negotiators to get the best possible deal. But it does seem troublesome that so many Americans—in and out of government—have also accepted this line. And many Europeans also choose to be blind to the facts. Thus French President Valéry Giscard d'Estaing said it was his impression that the Russians "are still going for parity, not for superiority." His impression does not square with the imbalance in regional nuclear forces in Europe, where the Russians long ago moved beyond parity and are still heavily investing in new systems.

This growing imbalance poses a tough test of what the next SALT agreement can do in maintaining parity. It is here, in the agreements about regional parity—and not in the intercontinental balance—that the controversial cruise missile becomes critical. The cruise missile is the likeliest potential counterweight to the Soviet Union's new bomber and medium-range missile, neither of which Moscow is willing to limit. If we purchase a SALT agreement by giving up this counterweight, we would throw away our leverage for achieving limitations on regional nuclear weapons—a volatile front badly in need of stability and arms reductions. In the process, we would scuttle the possibility of meaningful nuclear parity.

A MORAL OBLIGATION

The third objective is to reduce nuclear arms. The goal is perhaps more philosophical than technical, more significant for its sweep than its specifics.

This objective stems from the conviction that the horrendous threat inherent in nuclear arsenals ought not to be tolerated in perpetuity. It reflects the idea that the U.S. and other nuclear powers have a moral obligation—supported, to be sure, by self-interest—to lessen this threat eventually. The objective recognizes the savagery and inhumanity of military forces ready to be launched day and night, decade after decade, to slaughter, burn, and maim hundreds of millions of innocent people.

President Carter gave fresh emphasis to this objective. His preferred SALT proposal pressed the Russians to agree to substantial reductions; but this initiative ran into heavy opposition in Moscow. The present Soviet leadership, having presided over a massive twelve-year buildup in military forces, has resisted significant arms reductions. President Ford encountered the same attitude when, at Vladivostok, he sought to negotiate lower ceilings on strategic weapons.

The objective of such reductions is rendered more elusive by the unsettled situation in regional nuclear arms and the contested boundary line between what counts in SALT and what does not. Suppose, for example, that we could negotiate an agreement to reduce from 2,400 to 2,000 those missiles and bombers that the Soviets are willing to classify as "intercontinental." If the Russians could then freely add hundreds of new bombers and medium-range missiles, claiming that these were not "strategic" weapons, wouldn't we merely be pushing down the pillow in one place while creating a bulge elsewhere?

To make our commitment to genuine nuclear reductions effective, it will not be enough to send a quick proposal off to Moscow and then at the first "*nyet*" dissolve into self-criticism and scramble for a succession of fallback proposals. Despite the formidable difficulties that stand in the

way of reductions, it is important that the U.S. persevere and give effect to the universal aspirations toward this goal. A cutback in nuclear arsenals points toward eventual escape from the overarching fear of nuclear death. Quietly but deeply felt by all informed men and women, more desolate than the fear of personal death, is the fear that their generation or their children's might meet a dreadful end in a nuclear war.

HOW TO RELY ON RUSSIAN SELF-INTEREST

The final test of a good SALT agreement is that it be enforceable. We have to succeed in keeping agreements effective so long as we rely on them, and in making them "fail-safe" in the last resort, so that our security would not be decisively damaged in the event of violation. We do not expect the Russians to keep their promises because of unshakable devotion to the belief that all treaties are sacred. We expect them to keep the agreements only if, and so long as, it suits their perceived self-interest.

It is up to us, however, to anchor the Russians' self-interest broadly so that they cannot pick and choose, violating this or that arms-control provision as it suits them while retaining the advantage of other agreed provisions that restrain us. The Russians must be made to expect that, if they fail to comply with the articles important to us, we will cease to comply with those that are important to them. More than that, the Russians would lose the "credit rating" needed to negotiate new agreements with us that may offer benefits to them.

Several rather exacting requirements must be met to anchor Soviet self-interest in upholding the agreements we negotiate. The first requirement is a treaty text that spells out all the limitations and prohibitions with great specificity. We have learned from bitter experience that the Russians exploit ambiguous language to stretch what they are permitted to do way beyond our understanding of the agreement. This results in a one-sided advantage for the Soviet Union. Washington would always find it difficult to exploit ambiguities in arms-control treaties, given the constitutional separation of powers and the intense public scrutiny of government decisions.

The Russian obsession with secrecy adds to the difficulty of nailing down what is, in fact, agreed to. Almost all the numbers that give arms-control agreements some precision and concreteness are furnished by the American negotiators. Indeed, the Americans even have to furnish the quantities of Soviet weapons. Worse yet, after we tell the Russians the number or characteristics of weapons of theirs that would be limited, they refuse to confirm or deny these data—even though the data form a critical part of the agreement that is being negotiated.

Our negotiators expend a great deal of time and patience in prolonged haggling over the treaty text, while the Russians stubbornly oppose confirming their commitments in specific language. These debates would be comic if the issues were not so serious. For example, the American negotiators might argue that if a treaty limits "heavy" missiles to a fixed number, it should spell out this number and also be clear about the difference between a "heavy" and "light" missile. The Russian negotiators would counter that both sides are agreed on the number and both sides know what a "heavy" missile is; ergo, writing this down is totally unnecessary. So the Americans would ask: If we are agreed, why don't we record our agreement to avoid future misunderstanding?"

The Russians would simply repeat their argument. Then the Americans might try another tack, by asking directly: Do you agree that your side can have no more than X missiles and that any missile wider than Y meters will count as a heavy missile?" At this point, the Russians would not answer yes or no, but instead shift to the familiar tactic of impugning the other side's motives. They would accuse the Americans of casting doubt on the preliminary agreements already reached and of undermining the negotiations by raising diversionary questions.

Furthermore, this kind of dialogue—if we can call it that—would not cease after one or two meetings, but might go on for months. For the SALT agreement in 1972, the American negotiators tried in vain, through meeting after meeting, to get an agreed definition of the important distinction between light" and heavy" missiles. As we found out later, the Russians were getting ready to deploy a much heavier new missile that they wanted to have classified as "light."

We have learned that, despite the obstinate Soviet resistance to such specificity, we must try to secure it.

THE CAPABILITY TO RESPOND

An unambiguous and detailed treaty text is only the first link in a chain we must forge to make it safe for us to rely on arms-control agreements with Russians. The second link is a capability to monitor compliance with the agreement. This is the task of verification, for which our intelligence agencies are so important. Violations have to be detectable even if camouflage and deception are used. Particularly if an important advantage is sought by calculated violation of an agreement, elaborate schemes of deception are likely.

Future progress in arms control will depend heavily on the Russians' allowing broader scope for inspection and monitoring. The first SALT agreements took a step forward by protecting certain forms of verification from interference, e.g., from attacks on reconnaissance satellites. But now these talks must cope with formidable new problems. Distinguishing weapons by range is a troublesome assignment; indeed, it is impossible in the case of the cruise missile, short of a far more generous Soviet attitude toward verification. Significant differences in the range of these pilotless aircraft will be revealed neither by their exterior nor (when some easy deceptive measures are taken) by their test flights.

There are other important requirements, further links in the chain that must be forged to make arms-control agreements safe. To the first two—a treaty text specific enough and the capability to observe indications of noncompliance—must be added a third link. This is the ability of the United States government to interpret what has been observed. And a fourth link is needed as well: the will to respond if the fact of violation is established.

All four links have their analogy in our criminal justice system. First, we need a specific law without loopholes. Second, we need the investigative tools to detect violations of the law—to perform the quiet detective work, much of it in secrecy in order not to tip off the offenders. Third, we need a trial that reaches a clear verdict, interpreting the evidence in light of the law. Fourth, we need the sentencing, a judge who is willing to spell out the consequences of a "guilty" verdict.

WHEN A "GUILTY" VERDICT IS REACHED

Neither the third nor fourth step can be taken for granted. A classic illustration of failure to reach a verdict was provided in the 1930's. As Great Britain's Prime Minister Stanley Baldwin admitted, he and his colleagues had known full well of Hitler's illegal rearmament, but he could not bring himself to present the facts to the British people. The strong pacifist feeling in the country, he admitted, made him fear that his party would lose the next election if he went to the country and said that Germany was rearming and that Britain must also do so. Baldwin was an honest man; many another politician would never have made such an appalling confession. As Winston Churchill later observed, Baldwin "carried naked truth about his motives into indecency."

Even though the third step has been taken, and a verdict of "guilty" has been reached, there may be unwillingness to take the fourth step: the decision to respond. In the spring of 1975, the Ford Administration, Congress, and the American public would all have been able to agree that Hanoi had massively violated the Paris peace accords for Indochina (whose key provisions were, in a sense, arms limitations). But the American Congress, reflecting the mood of the public, decided against any response. This reluctance is understandable, in the aftermath of the divisive and debilitating American struggle to end the agonizing involvement in Indochina. Nevertheless, this unhappy episode is an uncomfortable reminder of the fact that agreements restraining the military activities of adversaries may have to be fought over twice—first to negotiate the terms and second to rectify violations. A divided country will make it hard to accomplish the first and impossible to accomplish the second.

The last link in our chain brings us to the question of national strengths. Assume that arms agreements are specific enough and verifiable, that sufficient evidence of violation has been collected, that the verdict has been reached interpreting this evidence as a serious violation, and that the political will to respond exists. Now, what can the United States do, confronted by the formidable power of the Soviet Union?

THE IMPORTANCE OF SPENDING POWER

The ultimate enforcer of all our arms-control agreements is the superior strength and resourcefulness of the American economy. It is the capability to outspend and outperform the Russians in an arms race, should one be forced upon us. The American response to the attack at Pearl Harbor and, eight and a half years later, the attack on South Korea, provide examples.

Once we understand the role of the ultimate enforcer, many essentials of arms control and of the military balance stand out clearly. First, the American response to a breakdown of arms-control agreements requires a period of mobilization. Hence the United States cannot risk entering into agreements whose violation could immediately confer a decisive advantage. This concern made us negotiate detailed prohibitions in the ABM treaty—the 1972 treaty limiting antiballistic missile systems. The point of those prohibitions was to prevent the Russians from laying the groundwork for a major new ABM system, deployable so rapidly that it would nullify our strategic deterrent before we could respond.

Second, the terms of an arms-control agreement (plus possible undetected violations) must not give the Russians so much of an advantage that we could not catch up with them in the event of a mobilization race. So long as SALT agreements are being adhered to, our ability to deter nuclear attack does not rest critically on the numbers of missiles and aircraft; a Russian advantage in some of these numbers need not nullify our deterrent. But we have to look at these inequalities as the potential starting base for a competition in which all restraints are off.

In the last analysis, arms agreements with the Russians, to be successful, must be based on a commitment that the American people make to themselves. Most Americans would clearly prefer to curb military competition and to enjoy the full benefits of a peacetime economy—but not at the price of jeopardizing the nation's independence

and future. Therefore, they support arms agreements that make the deterrent strategy safer, preserve parity and may lead to arms reductions. The American people also demand of their government that it carefully monitor whether the Russians abide by the agreements. But they must be firmly committed should the Russians break the bargain to accept the necessary sacrifices. This commitment which can best induce the Soviet leaders to keep their promises is the source of both hope and safety.

THE PANAMA CANAL TREATIES

Mr. SPARKMAN. Mr. President, the Committee on Foreign Relations continued hearings on the Panama Canal treaties today receiving testimony from the following witnesses: Dr. William P. Thompson, National Council of Churches; John Cardinal Krol, archbishop of Philadelphia; Morris Levinson, Synagogue Council of America; Prof. Donald E. Miller, Church of the Brethren; Kenneth Boehm, Young Americans for Freedom; Mrs. Rose Marie Aragon, Richard Eisenmann, Panamanian Committee for Human Rights; and Dennis Small, U.S. Labor Party.

I ask unanimous consent that the prepared text of the statements of these witnesses be printed in the RECORD.

There being no objection, the statements were ordered to be printed in the RECORD, as follows:

STATEMENT BY DR. WILLIAM P. THOMPSON

Mr. Chairman and members of the Senate Foreign Relations Committee, I am William P. Thompson, President of the National Council of the Churches of Christ in the U.S.A., with headquarters at 475 Riverside Drive, New York City.

The National Council of Churches brings together in cooperative relationships 30 constituent Protestant and Orthodox denominations that are extensively involved in our nation and throughout the world in a variety of ecumenical ministries of mission and service. This Council, through its Governing Board, does not claim to speak for all its member churches, but it does express the considered judgment of the representatives of those churches officially delegated to sit on the Council's Governing Board.

I testify today in hearty support of early ratification of the Panama Canal Treaties signed on September 7, 1977 by President Jimmy Carter on behalf of the government of the United States and by General Omar Torrijos on behalf of the government of the Republic of Panama.

The National Council of Churches has had a longstanding interest in improved relationships between the United States and Panama. Several of the member churches of the Council have supported Christian missionary work in Panama for decades and continue today to enjoy cordial relationships and frequent communication with the autonomous Panamian churches that have emerged from such missionary activity.

On October 11, 1975, just two years ago, the Governing Board of the Council adopted a resolution stating that "It is in the interests of peace and justice that both nations (the U.S. and Panama) agree to a new relationship which truly reflects the sovereignty of Panama over its own territory." The resolution further urged "the U.S. government immediately to recognize the sovereign rights of the Republic of Panama over all Panamanian territory including the present Canal Zone, and accordingly calls on the U.S. administration and Congress to support a serious negotiation of new relationships between our two countries based on this principle." The resolution also instructed the General Secretary of the Council to constitute a delegation to go to Panama on behalf of the Council to discuss the issues involved with appropriate groups in Panama.

Such a delegation did go to Panama in early April, 1976, and met with a wide variety of groups in the Republic of Panama and in the Canal Zone, church leaders and secular groups, all from a broad spectrum of political and ideological positions. On April 7, 1976, the delegation issued a declaration which, in essence, called for a new treaty to replace the 1903 Treaty because:

A. The 1903 Treaty "represents a serious injustice to the Republic of Panama and its people."

B. The 1903 Treaty "is a hindrance to the improvement of United States relations with Latin America and other nations of the world,"

C. A new treaty "will clearly affirm the effective sovereignty of the Republic of Panama over its entire territory and its right to derive greatly increased benefits from the operation of the Canal."

Two days after President Carter and General Torrijos signed the new Treaties, on September 9, 1977, the Executive Committee of the National Council of Churches approved another resolution which "commends the governments of the United States and the Republic of Panama for negotiating and signing the new Panama Canal Treaties, urges the United States Senate to ratify them at an early date."

Thus the National Council of Churches is clearly on record in support of ratification of the Panama Canal Treaties now before the Senate. In the remainder of my testimony I wish to focus on a few key reasons why the Council comes to this position. We recognize that there are many issues at stake in these new Treaties of which you have already received substantial testimony and on which the National Council of Churches has no special expertise, e.g., questions of political sovereignty, the defensibility of the Canal, toll charges and compensation, etc. I shall focus rather on a few broad, and I believe important, matters that entail fundamental moral and ethical considerations.

1. First, it is our view that the Treaties under consideration are the result of good faith negotiations by representatives of both countries in which a large nation has dealt openly and fairly with a small nation. The September 9, 1977 resolution of the National Council of Churches Executive Committee, referred to above, contained this paragraph:

"The Panama Canal Treaties are important in and of themselves, but they assume a particular significance because they represent an important direction in U.S. foreign policy which deserves the support of U.S. churches. The framework and spirit of the negotiation of the Treaties makes clear that our nation recognizes that all nations, however small or new, are to be treated with respect as they assume an important role in world affairs. The Treaties symbolize the understanding that true security for our nation rests on the power of respect for justice rather than on the power of armed might."

2. Second, we believe the new Treaties introduce into U.S.-Panama relationships a measure of justice that was not present in our relationships under the 1903 Treaty. As is well known, the 1903 Treaty was signed by a French citizen with an unseemly haste just hours before the official Panama negotiating team arrived in Washington from Panama. The circumstances surrounding the drafting and signing of the 1903 Treaty were such that, as Secretary of State John Hay recognized, citizens of Panama would understandably feel them to be unfair and unjust. For seventy-four years that sense of injustice has continued and grown, poisoning our relationships. The head of the Catholic Archdiocese of Panama, Archbishop Marcos McGrath, has said, "This (1903) treaty is, in itself, of dubious moral validity, since it was drafted without the participation of a single Panamanian, and was accepted in Panama under duress. . ." The leader of the Methodist Church of Panama, Bishop Carlos Smith, states: ". . . for the sake of justice, Panama has the inalienable right to fully develop itself, for which it is necessary that it exercise sovereignty over the greatest natural resource of its people, that is, the so-called Canal Zone, which is an inseparable part of our national patrimony." Though undoubtedly there can be many conflicting views regarding the early history of the 1903 Treaty, it is indisputable that the Panamian people have long felt that that Treaty obligated their nation to accept an unjust situation and a loss of control over a key strip of Panama's geography, a loss no financial compensation could ever adequately repay. The new Treaties now before the Senate offer both nations an opportunity to establish a new standard of justice in their relationships, achieved as the result of prolonged but fair negotiations.

3. Third, we believe that ratification of the new Treaties will significantly reduce the threat of violence in the area of the Canal. Apart from the rights retained by the United States to defend the Canal, which in themselves are significant, it would appear that the greatest threat of sabotage or violence in the Canal area could originate with Panamanians who are so dissatisfied with current arrangements that they will almost certainly resort to violence. It has often been remarked that in a very real sense the Canal is "indefensible" in the sense that unimpeded use can easily be obstructed. It is remarkable that since its construction the Canal has not been sabotaged or obstructed by Panamanian citizens, in spite of rising frustration occasioned by the unjust relationship that resulted from the 1903 Treaty. Can one suppose that such restraint will long continue if the present opportunity for a new relationship is thwarted? One cannot predict the future, but it is reasonable to suppose that there will be far less temptation to violence in the future if the present unjust relationships are changed for the better, as provided for in the new Treaties, than if this new opportunity is rejected with the resultant anger and frustration which undoubtedly would follow such rejection. Our interest as a nation in the maintenance of peaceful and just relations between nations and in the lowering of tensions that lead to violence, argue for a prompt ratification of the new Treaties.

4. Fourth, we believe that the new Treaties are conducive not only to improved intergovernmental relationships, but will help the peoples of our two nations. There has been considerable debate as to the importance of the Canal to the United States, but there can be no debate that the Canal is of enormous importance to the people of Panama and to their development. We believe that the commitment of the United States government, often expressed, to assist developing nations of the world towards full and responsible development can be forwarded greatly, as to Panama, by the ratification of the Treaties currently before the Senate. It will be for the Panamanian people themselves, and their government, to determine just how this development should take place, but the new arrangements that the new Treaties would set in motion would offer the peoples of Panama a new hope for the control and orderly exploitation of the resources of all their territory in a way which is not possible under current circumstances.

5. Fifth, we believe that ratification of the

new Treaties will indicate to the world and to our own people in the United States that we are growing toward a new and more appropriate understanding of our role as a powerful nation in the world. From a moral viewpoint, this is of high importance. Other powerful nations of the world have, in recent decades, come to terms with new concepts of world order in which colonialism was no longer acceptable, imperialism was curbed, and in which new and small nations achieved a new role of dignity and respect in the world community. It seems to us that one issue at stake in the new Treaties is an affirmation of a new national self-concept on the part of the United States. If the Treaties are ratified it will be clear to the world community of nations that the United States is willing to seek out new relationships that are in keeping with the nature of the modern world where power does not guarantee right, and where a powerful nation such as the United States can achieve the respect of the world community by the exercise of restraint and the reordering of relationships which, however appropriate to another day, are no longer so. As the meaning of the new Panama Canal Treaties is thus understood by our people we can hope that our self-understanding as a nation will develop in keeping with the highest ideals of our national heritage.

6. Finally, we believe that if the new Treaties are approved, without reservations of proposed amendments that would imply rejection, our nation would be taking a forward step in its international relations. The world community of nations, especially the Latin American nations, would welcome such a step warmly. Rejection of the Treaties would be a severe blow to our relations with Latin American countries that overwhelmingly desire the Treaties to be ratified. The image of the U.S. would be strengthened throughout the world if ratification takes place; rejection would almost unavoidably encourage strong anti-U.S. sentiment worldwide. Ratification will nurture friendly attitudes on the part of Panamanian citizens; rejection can be expected to tempt many Panamanians to hostility. Ratification will strengthen the moral stance of our nation as we try to uphold in world affairs a standard of fairness and international understanding. Rejection will raise serious questions about our willingness to live by the moral standards we say are ours.

Mr. Chairman, I thank you for the opportunity to present this testimony and in conclusion I repeat my hope, speaking for the National Council of the Churches of Christ in the U.S.A., that the Panama Canal Treaties now before the Senate will be ratified at an early date.

TESTIMONY OF JOHN CARDINAL KROL

Mr. Chairman and Members of the Committee: I am John Cardinal Krol, Archbishop of Philadelphia. My testimony before this distinguished Committee is given in the name of the United States Catholic Conference, the civil action agency of the more than 330 Catholic Bishops of our country. At the outset, Mr. Chairman, I wish to express my personal appreciation and that of the U.S. Catholic Conference for the opportunity to present testimony in support of the proposed Panama Canal Treaties. The Catholic Bishops took an early interest in the need for a new treaty; in February 1975 the Administrative Board of the U.S. Catholic Conference adopted a policy position supporting the Kissinger-Tack agreements of 1974 and calling for a new treaty to govern relationships between the U.S. and Panama. In November 1976 the General Meeting of the Bishops adopted a second statement endorsing the need for a new treaty.

We regard this question as one of great symbolic and substantive significance for the peoples and nations of the Western Hemisphere. We also recognize that the treaties are a subject on which American citizens hold strong and differing views. In 1976 the debate in the Bishops Conference on our second policy statement illustrated that there were some differences of views among the bishops on specific aspects of our position, even though the position was adopted by a vote of 170–61.

My testimony today is based on the major themes of the two policy positions taken by the Catholic Bishops in support of a new treaty with Panama. In presenting this testimony the bishops wish to fulfill a role of responsible citizenship as well as religious leadership. We come here not to express a doctrine of faith, but to draw upon Catholic social teaching to highlight the moral dimensions of this very significant public debate taking place in our nation.

In our 1976 Statement the Bishops asserted that a moral imperative existed "to fashion a new treaty which respects the territorial integrity and sovereignty of Panama, and dissolves the vestiges of a relationship which more closely resembles the colonial politics of the nineteenth century, than the realities of an interdependent world of sovereign and equal states." (Statement on U.S.-Panama Relations, 1976)

I came here today, Mr. Chairman, to express our conviction that the treaties now before this Committee achieve the objectives called for in our 1976 Statement. It was our view in 1975 and 1976, and it is our view today, that a new treaty which acknowledges in principle and in fact Panamanian sovereignty over its own territory is a requirement of justice and peace between our two nations. A requirement of justice because the 1903 Treaty no longer can be reconciled with the concept of social justice which governs relations between sovereign nations in our interdependent world. A requirement of peace because we believe failure to reach a reasonable and just accommodation of interests between our nations needlessly threatens the peace in this hemisphere. In support of these propositions, I respectfully submit a series of considerations which specify the issues of justice and peace at stake in this case of the Panama Canal. We hope these will be of assistance to this Committee, to the Senate in its deliberations, and to American citizens as they consider this question.

Our perspective on the treaty negotiations and now on the treaties themselves has been set by a text from Pope John XXIII's encyclical on international relations, *Peace on Earth* (163). In his discussion of relations between states, Pope John said:

"Each of them accordingly, is vested with the right to existence, to self-development and the means fitting to its attainment, and to be the one primarily responsible for this self-development." (para. 86)

The terms of the 1903 Treaty acknowledge the principle of Panamanian sovereignty, but prevent its exercise in any form in the Canal Zone. Such a restriction on sovereignty, imposed from outside, makes it impossible for Panama either to realize its rights to self-development or to be the principal agent of its destiny in the world community. This is the key moral issue at stake in these treaties.

It is important to note, at this point, Mr. Chairman, that Catholic teaching on international relations does not give political sovereignty an absolute moral value. At a deeper level than political or legal sovereignty is the reality of human community, which happens to be shaped at this stage of history by a world of states. There are basic human responsibilities among people and nations which we think take precedence over the legal claims of states. At the same time, it is in our view necessary to acknowledge a real, if relative, value to the concept of sovereignty in a world of * * *.

The legitimate claims of sovereignty make it possible for a state in a still disorganized world to protect the fundamental rights of its people against outside interference and to marshall the resources and energies of its national heritage for the good of its people. These are objectives which touch the very identity and dignity as well as the socio-economic welfare of a country. They are objectives which we take for granted as the right of our own nation in the world. Yet, under the provisions of the 1903 Treaty, these minimal objectives of a state are severely restricted by us in the case of Panama.

It is this prevailing situation which cries out for redress. The great opportunity of the moment, Mr. Chairman, an opportunity of both justice and peace, is that we can redress the situation by the democratic procedure of a vote in this legislative body of the United States. It is our hope and prayer, Mr. Chairman, that the significance of this moment will not be lost in the intensity of debate presently surrounding this issue.

The substantive significance is the issue of political and legal justice I have just specified. But the symbolic significance of the moment is no less important: one of the largest and one of the smallest nations in the world have been dangerously close to conflict for over a decade; it is now possible to lay this conflict to rest and in doing so to provide an example in world affairs of how states of very different political, economic and military power can deal with each other in terms of equality, dignity, and mutual respect. There are too few examples of this kind in the world today. It would be a political and moral tragedy of the first order if we were to squander this opportunity.

Complementing this dimension of political-legal justice there is a second moral question at stake in a new treaty. Sovereignty is a political concept, but in world politics today the implications of sovereignty have significant socio-economic consequences. In both our 1975 and 1976 Statements on U.S.-Panama relations, we stressed how present restrictions on Panamanian sovereignty substantially retard the possibilities for economic development in that nation. We say this even while we readily acknowledge that the existence of the Canal, built and operated under U.S. auspices, has brought substantial economic benefit to Panama in this century. The acknowledgement of this fact should not, however, overshadow the equally relevant truth that the existing inability of Panama to integrate the Canal and territory comprising the Canal Zone into its national planning has serious long-term economic consequences ranging from urban congestion in Panama City to the level of revenue which Panama can gain from operating the Canal.

The political issue of restrictions on Panamanian sovereignty strikes at national pride and dignity; the economic issue resulting from restrictions on Panamanian sovereignty strikes at the human dignity and economic welfare of the people of Panama. It is a stated policy goal of our nation to foster the political and economic development of the nations of the Third World; in the treaties now before this Committee the potential exists to make a significant contribution to one of those nations by opening the possibility for more rational and comprehensive economic planning through restoring to Panamanian control the precious 500 square miles of territory which now bisects that country.

These remarks, Mr. Chairman, bring me to two concluding considerations: one bears upon our relations with others, a second upon our perception of ourselves as a nation. I have already commented upon the symbolic

significance of these treaties, but the idea is worthy of a final reflection. In the increasingly interdependent world of which we are a part, our relations with the nations of the developing world will be both complex and of considerable importance. The way those relations are shaped will have a decisive impact on what Pope John called the international common good. The Panama Canal Treaties constitute a prismatic case of how decisions among individual nations can contribute to the international common good. All the political and ecnomic dynamics involved between the industrialized and developing nations are reflected in this issue. We are being watched closely for signs of how we respond to these dynamics in a concrete case. There is a significant opportunity here for the U.S. and Panama to signal a new kind of relationship more vividly than the resolution of this emotionally laden problem by the stroke of the pen rather than strife between our nations.

The opportunity, however, is not confined to contributing to the international common good. It is our considered judgement, Mr. Chairman, that these treaties also achieve for the United States the basic national interest we have in a canal which is open and efficiently operated. Other witnesses will testify in detail about the political, strategic and economic dimensions of the treaties. As Bishops we bring no special technical competence to these discussions, and therefore have not stressed technical issues in this testimony. In preparing this statement, however, we have considered these elements, including the specific point we made in our 1976 Statement, that the welfare of the people living and working in the Canal Zone be given just consideration. We are of the opinion that this question and other legitimate national interests the United States has in a new treaty have been provided for in the texts now before this Committee.

We are aware that some who oppose the ratification of the treaties use an argument that in accepting a new treaty relationship the U.S. will appear weak or in retreat in the eyes of others. This assertion deserves comment, because it touches directly on how we think of ourselves as a nation, on how we conceive the values which structure our identity, and on how we wish to project ourselves in the world community. It is our view, Mr. Chairman, that the treaties provide us with an opportunity to project an image of strength which derives from the strongest dimension of our national heritage, not our military might, but the values and principles which are the foundation of our identity as a people. We are a nation born of the desire to be free from foreign domination; the concepts of liberty and self-determination are woven through the fabric of our history. It is these values which are synonymous with our political philosophy. When we affirm the values of liberty and self-determination for ourselves and for others we speak from the most significant strain of our heritage.

Our commitment to those values is perceived by others not only in terms of whether we are determined to preserve them for ourselves but also whether we are willing to affirm them in our relations with other states, especially those smaller and less powerful than we are. In the past we have been willing to take up arms in defense of liberty and self-determination; today, in this case of the Panama Canal Treaties, we can affirm the values by a peaceful act of national will in ratifying what our President has signed. In the past we have stood for the principle of nonintervention by others in the Western Hemisphere; today we are asked to manifest our commitment to the principle of nonintervention by an act of self-restraint and forbearance included in these treaties.

It is of the essence of national strength to be confident about the values which are at the heart of a nation's life and to be guided by those values in moments of great importance. We have such a moment before us and we can prove our strength by affirming for others what we most prize in our own national life.

STATEMENT BY MORRIS LEVINSON

Mr. Chairman: I am Morris Levinson, Vice President of the Synagogue Council of America and Chairman of its Committee on International Affairs. With me is Rabbi Daniel Polish, Associate Director of the Synagogue Council. The Synagogue Council is the national representative body of the three branches of American Judaism—Conservative, Orthodox and Reform. Its constituent organizations, both rabbinical and congregational are: Central Conference of American Rabbis, Rabbinical Assembly, Rabbinical Council of America, Union of American Hebrew Congregations, Union of Orthodox-Jewish Congregations of America, and United Synagogue of America. These organizations represent more than 4 million American Jews.

I would like to begin my testimony by presenting the official policy statement of the Synagogue Council about the proposed treaty:

The Panama Canal Treaty, which President Carter just signed, is in the best interest of the United States and far-sighted in terms of our relations with other nations.

The treaty assures the continued safety of the canal itself. As hostility to the arrangements provided by the 1903 treaty grows, the canal becomes increasingly vulnerable to terrorist attack and sabotage. The Joint Chiefs of Staff agree that the canal is impossible to defend. The new treaty diffuses this problem, thus assuring its continued operation. This is in the best strategic and economic interests of the United States.

Equally important, the treaty demonstrates our understanding of the political aspirations and economic objectives of smaller nations. The importance placed on this treaty by so many of the nations of Latin America is signified by the participation of over 20 heads of state in the recent signing ceremonies. The new treaty is conducive to more productive and cooperative relations with the nations of Latin America.

The treaty also signifies the commitment of the United States to end forever the vestiges of colonialism. At a time when colonial empires have been dismantled, in no small measure in response to pressure from the United States, this country is called on to examine its continued possessions of what some have regarded as a flagrant example of 19th century colonialism. Treaty negotiator Sol Linowitz has stated:

"To a large part of humanity, whether we like it or not, the Panama Canal is a colonial enclave carried over from the early part of the century . . . [that] has caused bitter resentment . . . [ratification of the treaty will] assure that we're going to set an example for the way a large nation deals with a small nation."

When the canal was opened 63 years ago it was the source of great pride for the United States. It demonstrated to the world the technical and managerial genius which this country possessed. Today this country's response to the new treaty can also be a source of pride. It can demonstrate the United States' generosity and self-confidence, and its flexibility in facing new realities. Ratification of this treaty offers the United States a chance to demonstrate its vision of a cooperative world, and a chance, once again, to be of benefit to our neighbors.

As I elaborate upon this statement, let me first acknowledge at the outset that we cannot talk with authority about the economic or security aspects of the treaty. We will have to leave that to the military and business spokesmen who will be appearing before this committee. We can speak about the moral issues which we feel the treaty addresses.

The first question which this treaty calls to mind is that of parity—of equality between nations. The Jewish tradition has always valued the ideals of equality and fairness. At the heart of its teaching is the "golden rule" of Rabbi Hillel: "What is hateful to you, do not do to your neighbor." In our own land, in the midst of great passion, these same values were at the heart of Lincoln's axiom, "Even as I would not be a slave, so I would not be a master." Equity between nations demands that what one country would not wish for itself, it ought not inflict upon another country. Our nation, which so cherishes its territorial integrity and its political independence, has for all these years found itself in the anomalous position of perpetuating a physical incursion into the sovereign soil of another nation, and thereby diminishing its political autonomy.

The ideal of fairness would require that as we would not want another nation to control a strip of land down the center of our land, so we cannot preserve our hold on such a strip of land through the territory of another.

The second question which calls itself to our attention is that of the ideal of cooperation and interdependence. The world in which the canal was built was one of autonomous nations, each asserting its influence and exercising its power to whatever extent it was able, constrained only by the limits of its own resources. The world of our day is a far different one. The truest picture of the world in which we live was the one transmitted back from the spaceship Apollo 14: a tiny lifeboat afloat in the vast sea of creation. We are truly, in the words of Archibald MacLeish, "riders on the earth, together."

The lives and resources of all human beings now are bound up in a common thread of mutual needs and common interests. What Benjamin Franklin once said of the American colonies now holds true for all the nations of the world: "We must all hang together, or we will hang separately." Whatever the lot of earlier ages may have been, the time we live in is one in which our various countries have need of one another's goodwill and friendship. We have, all of us pray, moved out of the age of aggression and confrontation and into an age of mutuality. The model of colonialism and paternalism has been replaced by one of collegiality and fraternal cooperation.

The Jewish tradition has always valued the ideal of cooperation among individuals and nations. It has fostered the teachings by which people may live together in contentment and concord. So does it look to the time when the people of the earth can find their way to sharing their resources and being attentive to one anothers needs. By our actions we can bring that time closer.

This treaty allows the United States the opportunity to demonstrate that it is endowed with breadth of vision and reservoirs of goodwill. Ours is a land blessed with resources of material and of skill. Yet it is not a selfish land. We can reach out our hand to our neighbors and share with them. We can give them of what is ours so that we may better their lot and add to their happiness. Our ethical teachings do call on us to share.

Some may deride this value as "soft-heartedness" or denounce it as perpetrating "handouts." We have been taught to view it as a virtue, making the world more habitable by benefitting one another. Even as we would practice this ideal within our own land, so do we believe it can be practiced among nations. Because the welfare of each nation now rests on the happiness and contentment of

its neighbors, we ensure our own welfare by contributing to the welfare of the people of Panama.

Finally, Mr. Chairman, I believe that this treaty addresses a practical question: the ability of the United States to respond to the new realities of this age. We do not have the luxury of responding to today's questions with yesterday's answers. Many are still mesmerized by the vision of the world in which the canal was built. They would apply the rough and ready values of that time to this decision. But those answers will not work. The people of Panama will not be docile and submissive. With or without our cooperation, it has been reported, they will come into possession of the canal. How much better it would it be, for them, for us, and for the peace and stability of our part of the world, if the transition of ownership could be done amicably and in the best interests of both peoples.

The reality of this moment is one that will acknowledge that all power does not inhere in our nation, nor all right.

The reality of this moment is one that recognizes that we cannot go it alone, that we have real need of the assistance and goodwill of our neighbor states.

And so we may respond to the realities of this moment or seek to flee from them. The counsel that we "tough it out" and hold to the understandings of an earlier time is beguiling but false. Such devotion to outworn visions is not the mark of a creative and powerful people but of an enfeebled and declining one. The ability to adapt to new demands and respond creatively to new realities is not the mark of a diminished nation, but of a vital and energetic one.

Our neighbors and the circle of nations beyond them may well regard our decision on this question as a test for the United States. To hold to old ways here might be seen less as an indication of strength than of decline. The ability to acknowledge our new world and respond to it in its own terms will be seen as a sign of our readiness to be a part of that new world. It will be token of our commitment to the ideals of the equality and cooperation among nations. It will be token of our readiness to live with them in fraternity and interdependence. It will be token of a magnanimity of spirit which we hope will mark all the dealings between the nations of the earth.

Mr. Chairman, I thank you for hearing my testimony and inviting us to present it today.

TESTIMONY OF DONALD E. MILLER

Distinguished Members of Committee on Foreign Relations: My name is Donald E. Miller, and I reside at 18 W 659 2nd St., Lombard, Illinois. I am Professor of Christian Education and Ethics at Bethany Theological Seminary in Oak Brook, Illinois, the only seminary of the Church of the Brethren. My testimony has been approved by the officers of the General Board of the Church of the Brethren and it is in behalf of the General Board that I testify. The Church of the Brethren is a Protestant denomination of over 1,000 congregations across the United States.

My special qualifications to appear before you regarding the pending Panama Canal Treaties are perhaps two-fold. I have been a member of the special committee appointed by the General Board of the Church of the Brethren to draft a statement on Biblical justice for use in the church. I have also been a part of an educational program, "In support of a New Relationship with Panama", requested by the 1976 Annual Conference of the Church of the Brethren. My specific assignment during August of this year was to lead a study tour on the topic of "Biblical Justice" to the Panama Canal Zone and to Ecuador. During our stay in Panama we spoke to the Senior Political Advisor in Panama for the United States Department of State, engineers and other employees of the Panama Canal Company, the Public Information Officer of the company, American church members inside and outside the Zone, students at the University of Panama, and Panamanian citizens on the street. An engineer employed by the Canal Zone Company served as our host during the two days of our visit.

The Church of the Brethren from early colonial days has been concerned about international peace and justice. At times criticisms of its peace stance have quieted its voice before the Government. However, more recently Brethren concerned about conscientious objection to military service, criminal justice, aid and service programs to foreign countries and other concerns, have frequently brought testimony before Congressional Committees.

While not all members of the Church of the Brethren agree about United States policy regarding Panama, and while various views were stated at the July 1976 Brethren Annual Conference discussion of the issue, that Conference did adopt an official statement about the Panama question, prefacing its recommendations with these words:

"Out of our interest in just international relationships, our concern for social/economic justice for the people of Panama and our desire to reduce international irritants that threaten peace, Brethren should encourage the negotiation of the new treaty, the eventual turnover of the Canal and return of the Canal Zone to Panama, the ratification of the treaty by the United States Senate, and the authorization and appropriation of financial resources of its implementation by the United States Congress."

The Church of the Brethren, speaking through the 1976 Annual Conference statement just quoted, is clear in its support of a newly negotiated treaty that follows the principles laid down by the Kissinger-Tack Agreement of 1974. To quote again from the Conference report, Brethren agreed to:

"1. Urge the U.S. Government to recognize the sovereign rights of the Republic of Panama over all Panamanian territory including the present Canal Zone, and accordingly call on the U.S. Administration and Congress to support a serious negotiation of new relationships between the two countries based on this principle;

"2. Support the efforts of the U.S. and Panamian Governments to proceed toward the negotiation of a new Isthmian Canal Treaty based on the Kissinger-Tack 'Agreement on Principles,' plus the principles of neutrality and arbitration, ensuring that the Canal be open, efficient, secure, and serving without discrimination."

The Church of the Brethren takes its stance regarding the proposed treaties with Panama from an understanding of the Biblical teaching about justice. Such a stance is at times at variance with the common point of view. However, the United States was founded and is nourished by a profound vision of justice that is not always commonly understood. We believe that the strength of this nation, or for that matter of any nation, rests in its commitment to a wider vision of human justice. When the vision of justice is diminished then the strength of the nation itself is jeopardized. We therefore, challenge a commonly held view that "might makes right."

Biblical justice is concerned about the well-being of the whole community of nations. Long range self-interest includes concern about the benefits to the other nations. It goes beyond the common view that immediate self-interest is decisive.

Biblical justice is willing to be fair to the weak and the poor. King David had a right to take to himself Bathsheba, his subject's wife, simply because he possessed that right. However, the prophet Nathan rebuked him for using his power to take unfair advantage of the weak. Genuine justice goes beyond the common view that the powerful may take what they can get.

Biblical justice is concerned for the new order that is come into being. When the old covenant becomes too narrowly understood and inadequate to the time, the Prophets begin to speak of a new covenant. The common mind is often more concerned about the personal advantages of the old agreement rather than the reality of the new order that has come into being.

Biblical justice discerns rightly what will strengthen relationships between persons and community. Justice originally referred to the decision made by the elders at the town gate wherein relationships within the community were strengthened. The common mind is frequently more concerned about the balancing of competing claims than of the wider well-being.

Biblical justice demonstrates a fundamental good will toward other groups. Such justice is concerned about the freedom, respect, and self-determination of other groups. The common mind is frequently more concerned about using other groups for one's own advantage.

We do not pretend to believe that any one treaty will fully embody justice in a Biblical sense. Yet we do believe that the proposed treaties are much closer to such a view of justice than is the treaty currently in effect.

Consider the well-being of the whole community of nations. It is to the well-being of both Panama and the United States for the two nations to have a greater degree of mutual respect. When Secretary of State George Marshall initiated the Marshall Plan after World War II, he declared, "Our policy is not directed against any country or doctrine but against hunger, poverty, deprivation and chaos."

That policy was in my judgment one of the most effective that the United States has ever taken. A similar policy today means acting so as to heighten respect between nations. Simple justice requires repecting the sovereignty of Panama.

The very weakness of Panama and its people calls for a policy that enables the country to gain greater strength. The Panamanians we spoke to pointed to the right of Panama to their own natural resource. The narrowness of the Isthmus is such a resource. This is not a time to reassert a colonialism that aims to keep a dependent nation weak.

A concern for the new order that is coming to be will consider that Panama has the support of the majority of American States as well as a majority of the members of the United Nations. An act that signals the economic and political strengthening of nations of the "Third World" cannot be well received among those nations. Clearly the coming new order must include a strengthening of Third World nations. "The challenge now is to determine whether the (Panama issue) becomes a monument to US shortsightedness and insensitivity to global community—or a monument to the larger human spirit that seeks the common good." (Quoted from a Brethren General Board staff member.)

A discernment about genuine relationships will see the inequity of the Treaty of 1903. Its conditions would have been considerably different had it been negotiated with Colombia, as was originally attempted. The real issue is not the matter of who controls the Canal, but of acting so as to assure widest international use of it. The present situation is an increasing irritant to the Panamanians, as my experience in Panama fully persuaded me.

A fundamental good will toward Panama will be concerned about the economy of that country as well as the economy of the United

States. The Canal is important for the United States, but it is vital to Panama. Panama has been meagerly paid for use of the Canal, and its economy sagged badly. That is obvious to anyone who steps across the Zonal boundary line.

A concern about the well-being of the whole of the United States means that judgements about these isues will not be over shadowed by military considerations. For years Panamanian soil has been used to train military personnel from other Latin America countries, a use that goes considerably beyond the Treaty of 1903. It is important that the Congress act from a sense of justice that is appropriate to the vision upon which the United States is based, for a lesser vision weakens not only this country, but its relationship to all other countries.

In summary, a concern about peace with justice leads the General Board of the Church of the Brethren to advocate ratifying the proposed Treaties with Panama. Consideration of Panama's sovereignty, economic well-being, and the relationship of the United States to the emerging world order all point to the ratification of the proposed treaties.

STATEMENT BY KENNETH F. BOEHM

Mr. Chairman, Members of the Committee on Foreign Relations:

It is a distinct pleasure for me to appear before you today representing Young Americans for Freedom, the nation's largest conservative youth group.

For two months now our group has been actively involved in the public debate over the Panama Canal issue. It was at the National Convention of Young Americans for Freedom that Ronald Reagan formally announced his opposition to the two treaties. Since then, many of our 55,000 members joined the effort by circulating petitions, distributing literature, and sponsoring debates.

My reason for appearing before you today is two-fold: first, to represent the concerns of young people who may have to live with the results of the proposed treaties. Secondly, I'd like to give you the reasons why young people, liberal and conservative alike, are alienated by the Carter Administration's campaign to give away the Canal.

Young Americans have a lot to lose if the proposed treaties are ratified. Many of the worst features of the treaties will not become true problems until the turn of the century or until a war or national emergency.

Each generation has a duty to future generations. The generation of Americans who built the canal fulfilled their duty. They made Panama independent, built the world's greatest canal, and conquered yellow fever, malaria, and other tropical diseases. A disease-ridden, swampy jungle was made into a liveable place. Succeeding generations of Americans ran the Canal fairly and efficiently. In peace, it was open to ships of all nations. In war, it was closed to, and adequately defended from, enemy forces. Today that legacy continues. Panama has the highest per capita income in Central America, yellow fever is eradicated, and the canal remains vital to the economy and security of the U.S.

What type of legacy will the two proposed treaties be? What do future generations of Americans have to lose or gain from them?

The position of Young Americans for Freedom is shared by most Americans: we lose a lot and gain nothing.

We lose a 7 billion dollar investment, the canal zone with its military bases, railroads, highway system, dry docks, and the canal itself.

We lose approximately $350 million in economic and military aid.

We lose at least $50 million a year in payments to Panama which is a 2000% increase over the current payments.

We lose the right to build another canal without Panama's approval.

We lose the right to bar Soviet naval vessels from the canal in time of war or national emergency.

We, as consumers, lose untold millions through higher canal tolls.

What do we get in return? Proponents of the treaty have tried to sell the treaties to the American public by assurances that the treaties guaranteed U.S. intervention rights, preferential passage rights in time of war, exclusive U.S. rights to build any new canal and guarantees that the canal would remain open.

The problem is that all four of these assurances have been contradicted by Panamanian chief negotiator Romulo Escobar Bethancourt.

Even assuming that the obvious problems with the treaties language are resolved, what are we really getting from the other side for our billion dollar giveaway? We are getting nothing but promises. And the history of treaties which trade real estate for promises speaks for itself.

The assumption that General Torrijos will keep the few promises he does make is dubious at best. He's broken the current treaties 11 times in the last 2 years. Dictators who overthrow democratically elected governments and who sign joint communiques with terrorists such as Libya's Colonel Qaddifi are not known for their integrity in keeping treaties.

Even if the Torrijos government were trustworthy, there's no assurance that the next government of Panama would live up to the commitments made by the current ruler. Because of Panama's history of political turmoil, the average President's tenure being just two years and four months, this is a very real risk. One of the best reasons of the U.S. owning the canal is to keep it safe from the snakepits of Central American politics.

Now I'd like to give you the reasons why I feel that the average American young person, regardless of political philosophy, has been alienated by the campaign to ratify the treaties.

The first reason is the lack of credibility in the President's words and actions in regard to this issue. Candidate Carter assured the American public "I would never give up complete or practical control of the Panama Canal Zone." President Carter, in office less than a month, appoints a new ambassador to the treaty talks. His assignment: to negotiate a treaty giving Panama complete and practical control over the Panama Canal Zone.

The second reason for the disenchantment is the "politics as usual" style of the effort to promote the treaties. This, too, became apparent from the very beginning when President Carter gave Ambassador Linowitz a special six month appointment as negotiator. He, thus, circumvented the normal Senate confirmation proceedings. If these proceedings had been held they could have probed such possible conflicts of interest as the fact that Mr. Linowitz sat on the board of directors of a major bank which had made large loans to the Panamanian government.

The wiretapping incident and related allegations that the U.S. was blackmailed into treaty concessions only served to further discredit the resulting treaties.

A third reason why American young people, regardless of political philosophy, are turned off by the campaign to promote the treaties is the obvious hypocrisy over the issue of human rights.

President Carter, in theory, has made human rights the theme of his foreign policy. He has threatened to withhold aid from countries which violate human rights. His address to the U.N. last March left no doubt as to his opposition, in theory, to those nations suppressing human rights.

In practice, President Carter has rewarded the two worst violators of human rights in the western hemisphere, Cuba and Panama, with a bonanza of proposed concessions.

Freedom House, a national organization which conducts country-by-country comparative surveys of the status of freedom, places Panama on the same level as Cuba and the Soviet Union. No country in Latin American scored lower.

Since coming to power 9 years ago by ousting the duly-elected President of Panama, Torrijos has run a Marxist police state. There's no free press, no freedom of speech, no elections, and no right to habeas corpus. There are numerous documented cases of torture. The victims included Americans as well as Panamanians.

Finally, the Panama Canal talks offered a perfect opportunity for President Carter to turn his human rights rhetoric into positive action. Instead, he went out of his way to praise General Torrijos, calling him an "enlightened dictator" who had "concern" for his people. Such blatant hypocrisy is yet another reason why you'll find few young people in favor of the treaties.

TESTIMONY OF ROSE MARIE ARAGON

Mr. Chairman: I deeply appreciate the opportunity of appearing before this Committee. I am Rose Marie Aragon, born in Argentina, a naturalized U.S. citizen and the widow of Leopoldo Aragon who immolated himself last month before the American Embassy in Stockholm protesting the violations of human rights in Panama and the signing of a treaty with the Torrijos dictatorship.

Gentlemen, I sometimes think that the blessings of freedom and democracy are more appreciated and more precious to a naturalized citizen. Some of you in this prestigious chamber may well remember those feelings expressed by your own parents.

With deep personal pain, I will describe the jailing without trial, the torture and imprisonment of my late husband, Leopoldo Aragon, in the infamous penal colony of Coiba, the Devils Island of Panama.

I will tell of, and offer documentation of the systematic and continuing pattern of gross violations of internationally recognized human rights by Panama's dictator, Omar Torrijos.

Until now, Panama's flagrant violations of human rights has been one of Washington's best kept secrets. This September 9, the Washington Post editorial page article raised questions: first, the reasons for State Department's cover-up of the true nature of the Torrijos regime; second, the reasons the State Department devised elaborate falsehoods to deny my husband a visitor's visa to accompany his American wife and American daughters to the U.S. this past August. I look to the Members of Congress to explore these implications.

THE WASHINGTON YEARS

I met and married Leopoldo Aragon, a Panamanian international journalist when he was assigned to Washington. He had received his law degree in the United States and completed graduate studies in International Law and Journalism in Spain and France. Our twin daughters, now attending college in the United States, were also born here. Leopoldo covered the White House, State Department and the Organization of American States for several Latin American and European newspapers. His first book, in Spanish, "The Kennedy Era—Inside Washington" was published then. At that time I worked for State Department with a top secret clearance. Later I worked with the Organization of American States. I have long been deeply involved with civil liberties and civil rights as my husband was devoted to the cause of human rights.

In 1967 my husband was assigned to

Czechoslovakia by Interpress Service. We went with him. After nine months he was summarily given 48 hours to leave the country. He had written too many truths about communism.

THE PANAMA EXPERIENCE

In 1971 Leopoldo was assigned to Panama. For the first time since our marriage we went to make our home in his native land.

He was to set up Interpress Service. He also wrote articles for the local press and later developed a daily news analysis program on Radio Impacto. At first he viewed the political scene with a hopeful and open mind. As his views developed he began to express them privately and then publicly.

As a working journalist, he was shown a Corps of Engineers Draft Position Paper dated February 16, 1968. That paper, according to notes my husband gave me to carry to the United States, noted that popular opposition had rejected the 1967 proposed canal treaties that the Panamanian democratic government had negotiated with the United States. The paper concluded that a new treaty could not be passed in Panama except under a strong military dictatorship. This U.S. paper recommended Torrijos as the likliest man to do the job. At that time, my husband told me about this in Panama, but suggested it was better that I not know further details.

At the end of July 1972 Leopoldo, on his return trip from a short assignment in Mexico, stopped in Costa Rica at the invitation of Gonzalo Faszio, Minister of Foreign Affairs. At the dinner that evening there was also President Figueres. They held a frank conversation about the situation in Panama. These were the subjects on which Leopoldo was later interrogated.

The next day, on his arrival at the Panama International airport, Leopoldo was arrested by the G-2, the Security Arm of the National Guard.

His arrest was witnessed by a friend who informed the family. But the Guard Headquarters told me they knew nothing about my husband. After 4 days G-2 admitted to a lawyer friend that they were holding Leopoldo, but warned him not to take the case. That lawyer suggested another who had worked for other political prisoners. This Mr. Faundes agreed to present a Writ of Habeas Corpus though he accurately predicted no result. Through his contacts he learned that my husband was charged with possession of marijuana.

He advised me to see the Attorney General. After many long days of waiting, I was told they were questioning my husband on drug charges.

I protested it was absurd and that no civilized country held a person on vague charges, denied counsel and ignored a Writ of Habeas Corpus. He replied, "In other countries, not in Panama."

I began to contact journalists throughout the world and Amnesty International, the International Committee on Human Rights and International Organizations.

My lawyer advised me to see the Minister of Justice, Materno Vasquez. For 10 days, day after day, from morning till night, I sat and I waited. When finally the Minister admitted me, it was only to say that Leopoldo was held for Subversion of Public Order.

Repeatedly I begged to see my husband. The Minister relented. I went to the jail only to be told they had received no orders. This continued for days. At last the doors of the prison opened for me and I talked with my husband after more than four weeks. He had been kept incommunicado for four weeks while tortures were inflicted on him, which as he later told us were: Blows with a rubber hose; first blows to stomach and chest; long questioning under strong lights without sleep; electric shocks to the vital parts of the body, the ears, genital organs and the anus that made him feel his insides were bursting; and hanging by the wrists and acted out executions with blank cartridges so that each time he did not know whether he was alive or dead.

My daughters and I, having had the mental torture of not knowing whether he was dead or alive and imagining what they might be doing to him, were to start on a new stage in our anguish. I extract from the journal of my daughter, Yarmila; which she writes now for one of her classes:

"Reading other people's journals of high school romances, marijuana smoking, spaced out, partying . . . I feel rather young and inexperienced. Though other experiences, I suppose will make up for the lack of those. Like waiting in line in the torrential tropical rains or scorching sun for an hour or more outside the "Model Prison" . . . most infamous place . . . where men whose ideas are too liberal and criticism too outspoken are thrown in among common criminals and tortured, most often to death . . . onil waiting to catch a fleeting glimpse of a father's ravaged but beloved face."

My lawyer and I kept demanding that my husband be brought to trial. Instead, in December 1972 he was condemned, by simple writ, to five years in prison, and one day while standing in line to bring food and bedding to him we were told he was no longer there.

He had been sent to the Penal Colony on the Island of Coiba.

The following are excerpts of Leopoldo's document:

"The prisoners are driven to Pier 18 in the Canal Zone port of Balboa under American jurisdiction, because Panama has no deep water port, and are loaded into the boat. If the trip to Coiba is hellish, it is worse if one tries to escape as I did at Pier 18 by jumping into water. It had been my hope that by doing so, I would be taken by American police who might be persuaded to take me to the hospital for injuries resulting from my torture. The shooting at me by the guards attracted a large number of American police. The shooting stopped and I shouted of my condition. The Americans agreed to take me to the hospital and so I surrendered. Then there, in front of the passive Americans I was given a severe beating with clubs, fists, rifle butts and kicks by the Panamanian guards. They handcuffed my hands behind my back. They heaved me toward the boat, but they missed. I fell into the water. I dove under the ship and made it to the underside of another pier. But I was turned over to the Panamanian guards who again beat me.

"Half drowned, I was hanged from the handcuffs to a mast for several hours. When darkness came I was chained to a ring on the deck . . . Luckily the crammed conditions prevented the guards from kicking me as hard as they might have wished.

"It was dusk of the next afternoon when the boat tied up to the jetty at the southern tip of Coiba. There were some 20 guards waiting with clubs and whips . . . someone gave me a kick that sent me reeling over the jetty into the water . . . my delay in reaching the beach saved me from one of the most bestial practices on Coiba: the running of the gauntlet of the prisoners from the jetty to the central yard. The other prisoners were running like cattle under the whips and savage cries of the guards. These were swinging their clubs, rushing the prisoners to gallop, prodding them to run faster. The guards would run ahead of them, among them, and from behind, hitting and whipping in a happy demoniacal frenzy. If someone fell, several guards would converge on him, kick him, whip him, beat him and screaming louder, drag him to his feet, forcing him to sprint like crazy, the remainder of the 300 yard distance. . . .

"Slumped on the ground, I watched from a distance. At first, the whole spectacle was incomprehensible because I did not grasp what was going on. It was a strange state of mind. . . . The black night in the background and the lights illuminating the goings on, sort of transported me to the environment of a theater. The play would soon be over and one would walk out with friends, have dinner or a drink and discuss the play. I felt no part of it. . . .

"Then suddenly I realized with terror that the thing was real. I was in it, at the receiving end like the others. The Captain's welcoming speech was short and to the point, "You just got the Coiba shock treatment. You'll get it any time you're lazy or don't figure out what we want. In Coiba there's no God, no law, no nothing, only what is for our pleasure."

The horrors continue. At Coiba Leopoldo was told how Floyd Britton another of the political prisoners had died there. The government had announced he suffered a heart attack. The truth as Leopoldo recounted it was: "With his hands handcuffed behind his back, he was placed on a stool. Guards surrounded him and clubbed him until his brains flew out."

My husband stayed in Coiba for six months. Our appeals to the international human rights organizations and to important friends of Leopoldo in other countries bore fruit. Leopoldo was brought back to the city prison hospitals. Although there are about 1,500 prisoners in Coiba, there is no medical facility. He was urinating blood and had Meniere's disease from beatings. His physical condition was terrible. Though I was told Leopoldo would be exiled, he was sent back to Coiba. Again we almost went mad. Finally in December 1973 I was ordered to buy him a one way ticket to Sweden and he was placed on a plane to Stockholm . . . where he spent two months in Karolinska hospital, recuperating from the physical and psychological tortures.

He gave several press interviews until G-2 gave me a message: "Tell Leopoldo to keep quiet. While you are still in Panama there are ways of making him come back." I had to stay to complete the teaching jobs I had taken to support us. I, too, had a severe weight loss and was emotionally drained. When we finally left Panama they made trouble at the airport, even delaying the plane, but we had many witnesses with us.

While my husband was in prison he asked me to notify the American consul of at least two Americans detained for no apparent reason. One was a graduate student, writing his thesis on Panama, who had come to watch the so-called election of "Corregidores" (Justices of the Peace). He was picked up and denied access to the Consul. Another American almost died of a beating in the cellars of the jail. U.S. Consul, Dodson's letter of resignation substantiates the U.S. passivity and the 1977 case of American citizen David Mendelson (with no political involvement) beaten and exiled, brings these cases into the present (State Department and Senator Sparkman have documentation.)

LEOPOLDO ARAGON

"Let my people decide freely" was Leopoldo Aragon's dying plea. His act of sacrifice, he said, was to "call attention to the enormity of the deprivation of human rights and political freedoms under the Torrijos dictatorship."

The exile or release of those who have been cruelly imprisoned and tortured is not the end of the story. The person changes. Psychological changes have now been recognized and a commission has been formed in Norway to study the effects of imprisonment and torture. I saw change take place in my husband. He immersed himself completely in the movement to restore human rights and

democracy in Panama. Despite his dedication he did not isolate himself and had a multitude of friends. He corresponded with his colleagues who speak and write of his warm human qualities. One, at the N.Y. Times in a personal note to me, spoke of him as "a man of great character passionately devoted to a cause of extreme importance". He was a loving husband and a devoted companion to his daughters. Others remark that he was a consistent and rational man. This consistency and rationality was demonstrated in his methodical planning for his final sacrifice for his high ideals.

Twelve years ago he wrote of another "To immolate oneself is to sacrifice oneself for others—for an ideal—for a conviction. It is an individual decision which doesn't involve nor harm another." In a letter I received on September 2nd he had sent from Stockholm. "I know what I have to do to be faithful to my destiny. I feel it with all the depth of conviction that a man can have . . . And I am going to do something that can be instinctively understood and appreciated." On September 1st, in front of the American Embassy in Stockholm he immolated himself. In his last personal message he asked me to continue the struggle, "your battle post is there."

I am here to carry on. I am here as one who has also suffered the tortures of Torrijos, tortures that continue. But mine is only one story, the only one you will hear in detail today. It started in 1972. . . . The many cases of others each year since then are documented in the volumes of The Panamanian Committee for Human Rights.

Yet Ambassador Bunker has repeated in the Congress and elsewhere what I quote from his national interview on "Meet the Press" of August 14th. The transcript reads: "What is your impression of the record of the Torrijos Government in the area of human rights?" Ambassador Bunker answered, "Well, there have been some violations of human rights by the Torrijos Government. Most of those occurred prior to 1970 when he was consolidating his position.

"Amnesty International in 1973, I think, did report that most of those violations had occurred in the early years of the regime. A year ago, they did exile some thirteen people of the right and the left who had been accused of subversion. Those, I think, have all since returned to Panama. Recently has received back nearly 100 exiles. In our report which the Administration made this Spring to the Congress, as required by law, the report stated that there was no evidence of any systematic abuse of human rights. Whenever there have been, we have called it to the attention of the Panamanian Government and have expressed our views about it."

The President of the International League for Human Rights, Attorney Jerome J. Shesteck gave the Panama Human Rights Report as an example of State Department's inaccuracies and lack of candor.

What actually happened in 1976 or that which is known. . . .

January 20: Thirteen professionals, businessmen and farmers, at least in the United States does not place them either on the right or the left. In addition an Argentinian born British subject, who had served the U.S. as a parachutist medic in Vietnam, was arrested, held incommunicado, tortured and then deported.

February: A Panamanian professor, a self-described Trotskyite was picked up at the airport on his return to Panama and planed to Ecuador to join the 13 exiles.

May: Marlene Mendizabal, a high school student of humble country family, and her fiance, Jorge E. Falconet, an engineering student disappeared. Her body was found and autopsy prevented by the National Guard. Falconet was never found.

September: Attorney Eusebio Marchosky was arrested, tortured and exiled to Miami. Blanca de Marchosky, Alma Robles de Samos, Fulvia Morales are imprisoned and maltreated, but later released. Querube de Carles was exiled. Three men, one an American, employed in the Canal Zone were arbitrarily arrested on trumped up charges of fomenting riots for the C.I.A. A formal protest was lodged with the U.S. Embassy, but later withdrawn. . . . Carlos Gonzalez de la Lastra, an executive, and Humberto Lopez, a student, escape arrest and are exiled to Venezuela. . . . More than 150 students are arrested and tortured, according to a letter written by Reverend Fernando Guardia Jaen, S. J. in the Panama Archdiocese monthly publication.

BOMBINGS AND TERRORISM

Following the January exiles there were a series of five mysterious bombings at the places of business or homes of the exiles or their associates. The bombs were all of the same type. At the end of October and on November 1st a series of similar bombs exploded in the Canal Zone, damaging government property and automobiles owned by American critics of the dictatorship and treaty negotiations. On November 29th a similar bomb was exploded in the Volkswagen of Jorge Rodriquez, seriously wounding his wife, Gilma, but leaving untouched in the rear seat Dolores Montoto. On December 23rd, 1976, an official press release of the Panama Embassy in Washington makes public a letter from Torrijos protesting that the U.S. Ambassador in Panama had told Torrijos that "Certain members of the National Guard are involved in terrorist activities which have taken place in the Panama Canal Zone in connection with explosions which last October destroyed six automobiles and damaged certain buildings . . . that the United States authorities had proof of their assertions.

Let us sum up the 1976 human rights violations listed here, which are only a small part of the known violations by Torrijos in 1976:

Exiled, 18; Arbitrarily arrested, 3; Arbitrarily arrested and maltreated, 3; Arrested and tortured, 151; Bombings, 12 (1 person seriously injured); Imprisoned without trial, 3; Murdered, 1; and Disappeared, 2.

Returning to Mr. Bunker's assertions. Of the 13 January exiles 4 only have returned. Ambassador Bunker says also that Torrijos has recently received back nearly 100 exiles. This is simply untrue..

Let us look at the numbers. In 1 year 181 persons are known to have had their human rights violated in Panama's tiny population of 1.7 million (as opposed to heavily populated Chile, Brazil, or Argentina). Translating that number of the U.S. population is the equivalent of human rights violations of more than 21,000 citizens.

Gentlemen: I think it is abundantly clear that Panama shows a consistent pattern of gross violations of internationally recognized human rights.

TESTIMONY OF RICHARD EISENMANN

Today, my testimony is confined to two points: There is, for the first time, in the Republic of Panama an absolute dictatorship. Second, I raise the question whether the plebiscite in Panama required by their Constitution, will reflect anything other than the will of the dictator.

THE MILITARY RULE

In 1968, through a military coup, for the first time in their history, Panamanians found themselves under the brutal rule of one of the most corrupt and arbitrary dictatorships of Latin America.

Since then, prison, torture, expatriation and murder have become the common procedure used by the government to deal with dissident opinion.

Following the coup, the University of Panama was closed for a year. All political parties were banned. Newspapers and radio stations were seized and all the independent media controlled. Many Panamanians were tortured, incarcerated, murdered or simply disappeared, many were forcibly expatriated.

Today Panamanians live in constant fear. Telephones are tapped, mail intercepted, houses searched in the dark of night, people arbitrarily arrested, and the population intimidated by an organization of paid informers.

Arrests are made on the grounds of "insults to the General" or "disrespect of the authorities" because of private conversations in which there was criticism of the government or its officers.

From time to time the government-controlled press publishes special government telephone numbers to which "citizens should call to denounce counter-revolutionary practices."

The government, using every imaginable resource—intimidation, blackmail, bribery (to name a few)—maintains strict control over labor unions, professional associations, farmers organizations, and other organized groups.

The very few organizations that at one time or another have expressed criticism of government policies or practices have been subjected to harassment, threats and reprisals. The instinct for self preservation forces conformity.

The government, its officers and its friends are involved in all kinds of legal and illegal businesses. The involvement of high ranking officers in drug traffic is well known.

Before the coup, Panama maintained for many years the highest sustained rate of economic growth in Latin America and one of the highest in the world. Today, the military are the social, political and economic aristocracy of a country in bankruptcy. There was a negative, −1%, growth in 1976, and unemployment was the highest in the history of the country.

THE CONSTITUTION

All governments that come to power by force try to give legitimacy to their origins and legality to their malpractices. In 1972 Torrijos dictatorship called elections for a "Constitutional Assembly". With all political parties and activities proscribed, except the government party "Movimiento Neuvo Panama" and the "Partido Del Pueblo" (Moscow oriented communist party), and absolute control of newspapers, television and radio stations, it was not surprising that the government won 504 of the 505 carefully screened "representatives".

This selected, rather than elected, assembly held its first meeting October 1, 1972. A week later the "new constitution" was approved without discussion and the "constitutional assembly," even to the surprise of its members, found itself transformed into a "Legislative Assembly"—but one without power to legislate.

The new constitution subordinates the legislative, executive and judicial power to the National Guard. It eliminates the separation of powers and places the legislative power in a "Legislative Council" composed of the Cabinet Ministers and *any* number of members appointed by Torrijos. It also states that Torrijos is the "Maximum Leader". His constitutional powers are illustrated by a literal translation of Article 277:

Article 277: "General Omar Torrijos Herrera, Commander-in-Chief of the National Guard is hereby recognized as the Maximum Leader of the Panamanian Revolution. As a consequence and to guarantee the fulfillment of the objectives of the revolutionary process, General Torrijos is hereby granted, for a term of 6 years, the following powers: To coordinate all the work of the Public Administration; appoint and remove freely all Cabinet Ministers, member of the Legislative Com-

mission, the Comptroller General, and the Sub-Comptroller General of the Republic, the general Directors of all Autonomous and Semi-Autonomous Institutions and the Magistrates of the Electoral Court to be named by the Executive Branch according to this Constitution and the law; to appoint the Commanders and officers of the Armed Forces, according to this Constitution, the law, and the military hierarchy; to appoint, with the approval of the Cabinet, all the Justices of Supreme Court, the Attorney General, Attorney of the Administration and their respective alternates; to approve government contracts, negotiation of government loans and conduct the foreign relations.

"General Omar Torrijos will have, in addition, power to participate with the right to be heard and to vote in all the meetings of the Cabinet, the Legislative Commission, the National Assembly of Representatives, the Provincial Councils of Coordination, and the Communal Committees."

The new constitution subordinates everything to Torrijos as the "Maximum Leader", and subjecting all powers to him except for those exercised by people he may, at will, appoint and remove.

Despite the dictatorial nature of the constitution, it grants the individual greater human and civil rights than even the United Nations Human Rights Declaration and The American Convention on Human Rights. However the unlimited powers of the dictator effectively denies these rights in practice.

This concentration of dictatorial powers, without parallel in the constitutions of any other Latin American country, do not give, however, a complete idea of the real power that the dictator and the National Guard exercise.

Despite the dictatorial nature of the 1972 Constitution, the individual and civil rights are broader than even the United Nations Human Rights Declaration and the "American Convention on Human Rights." However, the Constitution does not limit the powers of the dictatorship and the freedoms and rights recognized in theory, are constantly denied in daily practices.

Thus the Constitution exists only for "cosmetic" reasons and does not impose in practice any limits to the use and abuse of the governmental powers. For example, the Article 29 of the Constitution prohibits expatriation, but several hundred Panamanians live in exile and are not allowed to return to their country.

THE DECREES ABOVE THE CONSTITUTION

In 1969 the government promulgated the Cabinet Decrees 341, 342, and 343. Under these decrees, the exercise of the right of peaceful assembly is a crime against the state, dissident opinions are subversive, and all political activities are counterrevolutionary.

Decree 341, "guarantees the right of peaceful assembly, but prohibits public meetings in the cities of Panama and Colon, where more than half of the Panamanians live.

Decree 342 authorizes administrative authorities to impose up to 15 years of prison terms without the right to a hearing, without due process of law, without defense, without appeal, and without intervention of the courts. The decree is so vaguely written that it could be and has been applied to punish all kinds of activities "against the security of the state", including such "criminal" acts as written or verbal criticism against the government.

A recent case illustrates the procedures under Decree 342: On November 1976 a bomb exploded in a car driven by Judge Rodriguez, a well known opponent of the government. Rodriguez was slightly injured and his wife was badly hurt. The third passenger, Dolores Montoto, was unharmed. The G-2 men arrested the three persons, but due to the delicate condition of Gilma Rodriguez, she was hospitalized. Four weeks later the controlled press published an administrative Resolution condemning to prison Rodriguez, his wife (at that time still in critical condition in the hospital), and Dolores Montoto to 15, 7, and 5 years respectively. None of them had legal counsel and they never had an opportunity to answer the charges against them. Since then, nobody knows where Mr. Rodriguez is imprisoned. On January 1977, the Panamanian Committee for Human Rights sent a letter to Amnesty International requesting their intervention in this case.

Decree 343 is used to control newspapers, radio, and television, by imposing a rigid self-censorship seldom violated.

On January 1974 the government prohibited the publication of the newspaper "Quibo" (What's Happening) even before the first edition came out, confiscating the equipment and arresting the editors. The same thing happened in March 1975 when the government prohibited the publication of "La Opinion Publica" (The Public Opinion).

The decree was used in 1976 to close "Radio Impacto", a radio station that expressed independent opinions. The equipment of the station was confiscated and its owner, forcibly expatriated.

According to the decree, all radio and television stations are forced to tape their programs and deliver them to the Ministry of Government and Justice.

Obviously the decrees contradict the Constitution and violate the United Nations Declaration on Human Rights but, nevertheless, they are systematically enforced by the dictatorship.

As far as we know, no other Latin American dictatorships have a legislation more repressive and which violates all internationally recognized standards on human rights. Human rights violations are documented in Volume I and II published by the Panamanian Committee for Human Rights, and in the testimony presented March 30 this year before the Foreign Operations and Related Agencies Sub-Committee of the Committee on Appropriations of the House of Representatives.

Since 1968 Panama is listed by the Interamerican Press Association as a country in which "freedom of the press does not exist." Amnesty International has made reports on human right violations during the early years of the regime. Freedom House lists Panama in 1976 as a "not free country". By contrast, Brazil is listed as a "partially free" country.

Yet, the U.S. State Department, with an unbelievable lack of information or selective standards of ethics that give little honor to the moral commitments of President Carter's Administration, has denied that human rights in Panama are an area of concern, and the International League for Human Rights has criticized the State Department Reports.

THE MILITARY ABOVE THE RULE OF LAW

In Panama the rule of law does not exist. Since the inception of the dictatorship, judiciary members can be removed freely and no Justice or Judge has dared to resolve a case against the military wishes. The dictatorship often violates its own laws. On several occasions the then Minister of Government and Justice, Materno Vasquez, declared to the Press that "the interest of the state is above the law". This man is now Chief Justice of Panama's Supreme Court and recently signed on behalf of Panama "The American Convention of Human Rights."

Frequently the courts' decisions as well as the orders of civil authorities are ignored by the military.

The writ of "habeas corpus" is useless in political cases and severely limited in cases of common arbitrary detentions, because the courts do not have the authority to enforce their decisions. In all cases, a National Guard officer exercises an overriding decision on the decisions of the courts.

On the other hand, the members of the National Guard are personally above the rule of law and the citizens do not dare to initiate criminal or civil procedures against them.

Since 1968 hundreds of Panamanians have been murdered and not even one single case of political assassination has been successfully solved. In many cases the National Guard refuses to deliver the body to the family or to allow the identification of the victims.

National Guard members have earned the reputation of "shoot first and ask questions later".

The security of the person does not exist. People are arrested without formalities of any kind. Often people are detained and the National Guard refuses to acknowledge their detention.

Under these conditions the courts cannot offer effective remedy against the frequent abuses of the authorities.

THE POLITICAL FREEDOM

Political freedom can be defined as the right to participate in, modify, or change a government.

None of those possibilities are within the reach of the Panamanian people. The only elected representatives are the members of the Assembly of District Representatives, a powerless body without any significant role in the government.

Although the right to organize political parties is recognized in the Constitution, the political parties were extinguished by decree in 1968 and, since then, the dictatorship systematically has denied the right to carry on political activities of any kind.

The only exception to this rule is the "Partido del Pueblo" (People's Party), a communist Moscow oriented party, which has complete freedom since 1969, when the party decided to support the dictatorship.

In 1970 the government tried to organize a one party political system the "Movimiento Neuvo Panama". After two years of great effort and propaganda, using all the resources of the government, public opinion would not accept it. The whole idea was abandoned after one use. Thus, today the only officially allowed party is that of the Moscow/Castro Communists.

The most prominent Panamanian politician, Dr. Arnulfo Arias, who was overthrown 11 (eleven) days after his inauguration as President, elected by the overwhelming majority of votes, lives in exile and is not allowed to return to Panama. Hundreds of other Panamanians also live in exile because of their political beliefs.

THE PLEBISCITE

Your committee has called these hearings to study the Panama Canal treaties—it is appropriate to explore the parallel process of the other signatory.

The Panama Constitution provides that any Canal Treaty must be "submitted" to a national plebiscite.

However there is a confusion. The plebiscite does not have any binding effect because the power to approve a treaty belongs to the Assembly of District Representatives—(Article 141 of the Constitution).

The plebiscite is an expedient to give the treaty the appearance of a popular approval. However what kind of a plebiscite can be held without a free press, without freedom of assembly, and without freedom of thought and expression? What is the value of a plebiscite under the constant manipulation of information by the government-controlled press, radio, and television?

In 1975, one hundred Panamanians signed a document stating that without freedom of speech and assembly to discuss the Canal Treaty, a plebiscite on the pact "will be neither legitimate nor authentic". Since

then, 15 of the persons who signed the statement have been expatriated, others incarcerated, and all of them slandered by the press and harrassed by the government.

The lack of freedom has been so criticized that, after the signing of the treaty, the dictatorship has deemed it necessary to allow a carefully controlled degree of freedom to discuss the new treaty. However, the government is rushing the plebiscite in order to limit discussion. The plebiscite will be held on October 23, despite the protest of many groups that demand more time to study and discuss the Canal pacts.

The farce of the plebiscite is so evident, that today, less than 2 weeks from the plebiscite, the government has still not approved the law that is supposed to establish the voting procedures. The negotiators of both countries have contradictory views of major points of the treaties.

With some precedent, many Panamanians define the plebiscite as a procedure that gives the people the freedom to choose between voting "yes" or being expatriated.

Even under the assumption that a plebiscite would be held with all the necessary rights and freedoms guaranteed, it is impossible to think seriously that a dictator who obtained and maintained his power by sheer force, against the will of the people, is going to respect their vote in an essential matter for the survival of the dictatorship. The plebiscite is a simple problem for the Panamanian government. It does not matter how many vote aye or nay. What matters is who is going to count the votes.

The State Department knows very well that the plebiscite is a farce.

Mr. John L. Jackley prepared "A Study of the Impact of a New Canal Treaty" for the United States Embassy in Panama and, among other things he wrote "A lot of good press would be essential for success: in this situation we could make good use of the controlled press situation of the isthmus. If it doesn't work, no propaganda would sell it. But it can be given at least an initial breath of promise through skillful manipulation of the available media."

UNITED STATES RESPONSIBILITIES:

Many Americans express concern about a military dictatorship in Panama that consistently violates the most elemental human and political rights of its citizens, but—they argue—that is a fact and the United States must deal with reality.

The argument neglects the most important side of the problem: the dictatorship remains in power because it is continually armed, generously financed, politically supported, and morally approved by the United States.

The officers of the National Guard (including Torrijos) were trained by the United States under the Military Assistance Program.

Since the inception of the dictatorship, Panama "has been no. 1 in terms per capita aid" and has received more economical aid than all previous governments of Panama together. In fact this very month A.I.D. transmitted a notice to the Congress of an increase in the funding level of the proposed FY 77 program in Panama.

Recently Ambassador Bunker told a congressional committee that Panama does not have a dictatorship, but an "authoritarian regime". However, the negotiators of the Canal Treaty do not seem to be so sure of the Panamanian government's respect for human rights, because the treaty contains elaborate provisions to protect American citizens rights when those citizens are arrested by Panamanian authorities. Ironically, the Panamanians in their own land are going to have less rights than Americans.

A few days ago President Carter acknowledged that Torrijos is a dictator, but praises him as an "enlightened" man who works for the good of his people.

Constantly the State Department denies that human rights are violated in Panama despite the fact that the Department's intervention is often requested by American citizens that have been beatened, tortured, and arbitrarily jailed by Panamanian authorities

The United States is alienating Panamanians who cannot understand why the champions of democracy in their own land advocate, defend, and justify a dictatorship in Panama.

To the Panamanian it is clear that the dictatorship, without United States support, would have fallen many years ago by the weight of its errors and the democratic efforts of the people.

Thus, the argument that the United States has to deal with reality is not a valid one, when that reality is a direct consequence of a foreign policy oriented to support a dictatorship under the short-sighted premise that a strong military rule is easier to deal with, and, for that reason, more convenient for United States interests.

Latin American intellectuals observe that United States support of dictatorships strengthen anti-American sentiment in the area. History shows the result of that support. For example, Dominican Republic, the United States found it necessary to intervene militarily. In Cuba the opening was made for Fidel Castro's revolution.

Panamanians are not radical. But the United States policy of unconditional support to the dictatorship is pushing them in that direction.

Panamanians do not want United States intervention in their country. Panamanians want their freedom first then to choose fulfillment of their national aspirations, without any foreign power—not the United States, nor Cuba, nor Russia imposing a corrupt, dishonest, and brutal dictatorship, which is a tragedy for their country and shames any civilized political standard.

Since 1903 all Panamanians have wanted a new treaty to replace the one that was signed by a foreigner on behalf of Panama and imposed under the threat of losing the independence of the new born republic.

But Panamanians do not want to replace a bad treaty with one that is going to be imposed with Torrijos playing the same role that Buneau-Varilla played in 1903.

The new treaty, does not solve "the causes of conflict" between the two countries. On the contrary, it adds a few new ones, as, I am sure, many members of Congress are aware. Among other things, it is going to condemn future generations of Panamanians to live under a dictatorship as permanent as the interventionist role that the U.S. negotiators state the new treaties give the U.S.

However in this ever changing world, permanent does not mean eternal. Sooner or later the dictator will fall. Then the treaty is going to be rejected by Panamanians and their governments and all the resentment against the dictatorship will be reflected in the future relations between Panama and the United States.

U.S. Labor Party Testimony Before the Senate Foreign Relations Committee on the New Panama Canal Treaties

In the name of the U.S. Labor Party, I would like to present as our party's testimony on the issue of the new Panama Canal treaties a statement issued on September 22 by Lyndon H. LaRouche, Jr., National Chairman of the U.S. Labor Party.

In that statement, Mr. LaRouche returns to the "American system" tradition of foreign policy established by John Quincy Adams, of fostering the conditions necessary for the emergence and growth of sovereign, industrially-developing republics. From that standpoint, LaRouche takes note of two significant shortcomings in the existing treaties that must be addressed and resolved by the U.S. government.

First, as the Mexican and other governments have correctly protested, the existing treaties might be interpreted to establish a dangerous precedent of "limited sovereignty" for Latin American nations. Secondly, Ronald Reagan and other national political leaders have justifiably charged that the treaties do not adequately consider Panama's need for a climate of technological progress and industrial development, in which stability and political security for the Canal and surrounding region can be guaranteed.

To correct these defects, Mr. LaRouche has proposed two addenda to the existing treaties. First, it is in the national interest that the United States issue a new policy doctrine statement which elaborates on the positive kernel contained in the later-distorted Monroe Doctrine of 1823, and which proclaims categorical American rejection of the monetarist doctrine of "limited sovereignty." We must avow that the practical features of the current draft treaties with Panama are in no sense a precedent for a doctrine of limited sovereignty.

Secondly, legitimate U.S. interests in maintaining the security and neutrality of the Panama Canal are best served by fostering the kind of climate for intensive capital formation in Panama to which Mr. Reagan has referred. It is under these circumstances that monetarist-controlled terrorist and ultra-leftist provocateurs, who might otherwise destabilize the region, can best be isolated and contained.

It is the U.S. Labor Party's hope that these proposed addenda will cut through much of the confusion and disorientation now surrounding the national debate on the Canal issue—a debate which thus far has shed far more heat than light on the matter—and permit the national political debate to focus on the more pressing and productive issues of nuclear energy development, the export of high technology to the developing sector, and the reform of the international monetary system necessary to accomplish these national goals.

LaRouche's Proposed Amendments to Panama Treaty

Sept. 22.—In anticipation of the forthcoming testimony of Governor Ronald Reagan to the U.S. Senate on the subject of the Panama Canal treaty, I propose that the principal substantial and otherwise apparent defects in the signed draft of the treaty be remedied by means of issuance of a new policy doctrine statement, updating the Monroe Doctrine.

The following draft includes, it should be noted, a policy element recently publicly voiced by Governor Reagan, a point on which I and many other leading U.S. citizens are in essential agreement.

U.S.A. Panama doctrine

In 1823, at a time of grave peril to our nation, President James Monroe promulgated what has been known as the "Monroe Doctrine." This was done in the context of consultation with two former U.S. Presidents, Jefferson and Madison, and with key participation by then-Secretary of State John Quincy Adams. If the circumstances and intent of that doctrine are properly understood, it has an appropriate continuation in the United States Western Hemisphere policy at the present time, a continuation which ought to be clearly identified in connection with discussions of the signed draft treaty between the governments of the United States and Panama.

The circumstances were principally these:

Through various agents affiliated with the banking interests of London, Amsterdam and

Geneva, banking interests allied with the British monarchy and with circles around Lord Shelburne and William Pitt the Younger, the United States' friends in France had been variously guillotined, otherwise dead, exiled or otherwise reduced from former positions of influence. Those British agents included Danton, Marat, Mirabeau, Necker, Tallyrand and others. With the defeat of France, the imposition of the British agent Duke of Orleans on the restored French throne, and the British establishment of its Holy Alliance order upon continental Europe, the elements of the "League of Armed Neutrality" so essential to U.S. victory in the American Revolution had been eliminated. The British had thus dared to launch war against us, provoking the War of 1812, and after the Treaty of Vienna used their global hegemony in efforts to provoke us and to subvert and crush us.

It is notable, in this connection, that London-based financial interests and their allies in the British government were responsible for development of the plantation slave system in the United States during the 1815–1860 period, and were directly responsible for promoting and indeed almost creating the U.S. Civil War. Although Great Britain formally acknowledged U.S. independence at the Treaty of Paris in 1783, the United Kingdom did not in fact recognize U.S. sovereignty in practice until negotiations between Her Majesty's government and the administration of Abraham Lincoln in 1863.

It was under the dangerous circumstances of the 1815–1863 period, the period in which British power was predominantly committed to subverting and crushing our nation, that the administration of President Monroe steered through perilous political and military waters to the adoption of the so-called Monroe Doctrine.

Although the popular account of the Monroe Doctrine is that it was a de facto compact with Great Britain's naval power against Latin American intrusions by the Holy Alliance powers, those responsible for the Doctrine understood that the Holy Alliance powers were principally subjects of a British-controlled "concert of powers" on the European continent.

British Foreign Minister Canning had proposed to make de facto U.S.-British hegemony over the Western Hemisphere a treaty-agreement between His Majesty's government and the government of the United States. This would have been, in effect, U.S. granting to Great Britain official looting rights throughout Latin America. Thus, on the advice of Secretary of State John Quincy Adams, the United States declined the treaty offered by Canning.

However, the United States was in no position to make a direct confrontation with Great Britain. Hence, the Monroe Administration adopted the Monroe Doctrine, which had the double purpose of placating London while maintaining the principles of United States foreign policy doctrine for the time that the United States grew strong enough to enforce such a doctrine.

The principal distinction between the proposed treaty with Great Britain and the Monroe Doctrine was identified at that time by John Quincy Adams. The United States maintained the principle of unconditional sovereignty of new republics in the Western Hemisphere, whereas the British had a doctrine of "limited sovereignty," meaning British creation and destabilization of Latin American governments at its pleasure through British influence over such clients as Simon Bolivar.

This principal difference between Britain and the United States was most clearly expressed in the Maximilian affair, in which the combined naval forces of Great Britain, France, and Spain overthrew the legitimate Benito Juarez republican government of Mexico as part of a looting effort of debt collection against the subjugated people of Mexico.

There were two elements in the influential thinking of John Quincy Adams behind the Monroe Doctrine. First, there were extensive precedents in United States foreign policy, as notably expressed in preceding treaties for the policy of absolute sovereignty of new American republics. More fundamentally, from the political movement associated with Benjamin Franklin and his collabators leading into the American Revolution and in the establishment of the United States as a federal republic, the principal issue between the United States and His Majesty's government was American commitment to the realization of technological progress in industrial and agricultural development, in opposition to the British policy, as set forth in Adam Smith's colonialist policy in the Wealth of Nations, of keeping England's colonies and competitors in a condition of ruralized labor-intensive relative technological backwardness.

The foreign and domestic policy of the founders of the United States, from the roots of the American Revolution through the election of 1828, was the constitutional principle that the proper basis for government and law of a republic was the development of the wealth and culture of the people through promoting an environment of technological progress in discovery, in the expansion of industry and agriculture, and in the educational and free-press policies of the nation. The establishment of sovereign republics committed to those principles and enjoying the benefits of such principles is the purpose and essence of the establishment of the United States and its order of constitutional law.

Over the intervening decades, and most notably during the present century, a growing bulk of fraudulent reinterpretation of United States history has been popularized both inside the United States and abroad. The false report has been circulated that the English Plantations and republic of eighteenth century North Americans was principally an aggregation of rough, semi-literate frontiersmen. In fact, despite the efforts the efforts of the British government and allied financial interests to prevent the people of this nation from acquiring the capital needed for industrial development, our people were the most literate in the world, with a much higher level of popular culture than existed either in England or in France. It was that literacy and other factors of the superior popular culture of the English-speaking people of North America which made the American Revolution and establishment of the constitutional Federal republic possible, where efforts to the same effect failed in both England and France. Although the early United States lacked the capital resources of Great Britain, wherever our people's passion for science and technological progress were given outlets, our technical accomplishments, such as those of Robert Fulton, were conspiculously in advance of what was generally possible in the poorer level of popular culture then available in England.

Although our forefathers were largely of British origins, they represented in kernel the most advanced impulses from among the British people, who had founded societies on these shores to the purpose of establishing political and cultural forms not generally possible in the oppressive and politically backward England. This nation drew skilled persons from England, from France and other European nations, seeking here the possibility for the freer and more fruitful expression of their productive powers.

It was on the basis of those impulses and principles that the United States was founded and the foundations established for this nation's growth to great economic power.

In the early successes of the American republic and in the comparable failures of the French Revolution, a fundamental principle was demonstrated.

In the struggle between Federalist Thomas Paine and other friends of Benjamin Franklin, on the one side of the French Revolution, and in the associates of Robespierre on the other side, the allies of Paine sought to establish France as a republic committed to scientific and technological progress under constitutional principles modeled on the lessons of the United States experience. The followers of Robespierre's faction, including British agents Danton and Marat, offered an opposite conception, mob democarcy. It was the success of the latter faction which produced the hideous Red Terror in France, and led to the Napoleonic period through which British hegemony over Europe was established for most of the 19th century.

This demonstrated that the "American System" works, while the British system, and political forms derived from Rousseau and Bentham's "philosophical radicalism," led to chaos and dictatorship.

The principle underlying the success of the American System is that in a climate of freedom and cultural development of the individual focused upon objectives of technological progress, the individual member of society is encouraged to value himself or herself for his or her creative mental powers, his or her ability to discover, transmit, enrich, and practice new scientific and related conceptions through which man's dominion over nature is advanced. By so placing the valuation of the individual upon that creative mental power which fundamentally distinguishes man from such lower beasts to baboons, the individual member of a republic committed to technological progress develops respect for his or her own mind, and for the mental potentials of his fellow citizens.

This policy and cultural circumstance has two consequences essential for a republic. First, a climate of technologically progressive popular culture and education is the indispensable means for raising the productive powers of labor, which is in turn the fundamental human basis for enhancing the prosperity of the nation and its individual members. Second, the practical emphasis such a republic places on the individual human mind's creative potentials provides the basis for the prevalence of moral values consistent with the needs of humanity, and consistent with the quality of general electorate a republic requires.

The antitechnological progress prejudices associated with both the doctrines of Rousseau and those of Jeremy Bentham are intrinsically what we call today Malthusian or neomalthusian. In these latter anti-American conceptions the human individual is degraded politically and morally to likeness with a lower beast. He is degraded to the status of a mere biological individual, with more or less fixed potentialities and impulses attributed to him, just as the needs and behavior or lower beasts is apparently determined from generation to generation by a fixed generic heritage. Just as the judge who sent the great Lavoisier to the Red Terror's guillotine said. "The revolution has no need of men of science," so the Malthusians and their cothinkers degrade man generally to a lower beast-likeness fit only to find his miserable peace with existing natural conditions, and to propose political utopias in which man returns to baboon-likeness in harmony with some more primitive condition of the ecology.

It was America as the symbol and reality of the principle of technological progress which made America the cynosure of oppressed Europeans fleeing from relative zero growth to the land of opportunity here. Although we have often deviated from that principle in our foreign and domestic poli-

cies, it is the perpetuation of the American System despite those deviations which has given our nation its greatness and power, a power which depends for its perpetuation upon a repudiation of both what our forefathers regarded as the British system and of the antitechnological doctrines of philosophical radicalism traced in part to Rousseau and Jeremy Bentham.

It is therefore the historical and still imperative fundamental policy of the United States to base its domestic and foreign policy upon the principles of the American System. That is the viable continuing principle embedded in the Monroe Doctrine, and the proper basis for our policy toward Panama and other Latin American nations today.

The guiding principle at the basis of United States foreign policy is to foster sovereign republics committed to the fulfillment of the humanist principles of technological progress and the cultural development of their populations. We do not arrogate to ourselves as a nation the right to determine the internal political processes of those nations, but we do assume responsibility for the effects of our foreign policy in determining the climate in which nations pursue their internal development.

Thus, in the United States' treaty relations with Panama, it would be an abomination if such treaties promoted the circumstances under which the internal life of Panama favored atrocities of the sort symbolized by the Red Terror of Danton and Marat in 1792–1794 France. It is the vital self interest of the United States that its neighboring countries be viable republics, which those nations cannot accomplish without the circumstances favorable to technological progress in the expansion of their industry and agriculture. It is our vital interest, insofar as our means and other relevant circumstances allow, to afford to the struggling weaker republics of this hemisphere the kinds of friend in ourselves our own new republic desired during the late 18th and early 19th century.

In this connection, some critics of the treaty signed between the governments of the United States and Panama have raised the most relevant criticism that this treaty does not adequately consider Panama's need for a climate of technological progress, of fruitful capital formation in the progress of its industry and agriculture and in the corresponding advancement of the employment and cultural opportunities of its people. This criticism is a valuable one.

If we do indeed condone in Panama and other Latin American nations the conditions of raging sansculottism and the political philosophy of the culturally backward, desperate sansculottist mob, we are thus permitting the kinds of internal developments out of which the ongoing succession of social-political chaos and dictatorship must tend to prevail. In the course of later events, we might lament and denounce such political transformations of these nations, although our errors in foreign policy might have been a major contributing cause behind such unfortunate developments.

A proper United States foreign policy does not mean an unending flow of charitable donations. The entirety of modern history, in particular, demonstrates that the proper combinations of productive capital and increasing of the productive powers of labor generally means a growth in both gross and net produced wealth in industry and agriculture in excess of the growth of debt service incurred by capital formation. We can not arrogate to ourselves the prerogative of imposing such technological development policies upon sovereign nations, but we can shape our foreign policies toward nations to the effect of fostering the choice of a humanist, technological progress policy by those nations. In point of fact, most of the nations of the world would readily cooperate with such a United States policy.

We cannot, of course, take total responsibility for affording nations the external capital they require, but we are a powerful force in world affairs to the purpose of creating a general climate favorable to a humanist policy.

Other critics of the signed draft treaty between the governments of Panama and the United States, including governments friendly to the United States in this hemisphere, have expressed emphatic concern respecting elements of the treaty which appear, in their estimation, to undermine the principle of sovereignty.

There are two things to be done in response to that criticism.

We must, firstly, emphasize the included principle of the Monroe Doctrine, that the sovereignty of the republics of this hemisphere may be breached only by act of war. We must especially emphasize that point because the British Empire and its political cothinkers down to the present day have never accepted the principle of sovereignty for nations, especially not toward the nations of the southern portion of the globe. We must also emphasize that principle of the Monroe Doctrine because some influential voices within the United States itself have lately proposed that the United States participate in adoption of a doctrine of limited sovereignty.

We must, secondly, emphasize the nature of the problem giving rise to those features of the draft treaty which are the focal point of the complaints made.

The Panama Canal Zone was established as an integral part of the procedures by which the nation of Panama was established, through United States' interests directly responsible for encouraging and generally making possible the separation of Panama from the nation of Colombia. At the outset, the nation of Panama was essentially a client state of the United States, and the Panama Canal Zone an integral arrangement for the very existence of that nation. To quote one influential United States figure, "We stole the Panama Canal fair and square."

However, history moves on. The nation of Panama, originally virtually a mere puppet state of the United States, has evolved into a nation, and with the special circumstance that the ostensible prosperity of the Canal Zone abuts directly the Central American poverty of the majority of Panamanians. With the aid of certain busy bodies from outside Panama, that contrast between the modern standards of the Canal Zone and the poverty of most Panamanians has been for over a decade the specific obsession of a political ferment centered around "New Left"-type university and other students of Panama.

In this circumstance, two interests collide.

The Panama Canal remains a vital strategic economic and military interest of the United tSates. It is an important element of United States internal commerce, and without it the United States would be obliged to augment its naval and related forces most considerably.

At the same time, despite the efforts of the Panamanian government of Gen. Torrijos to maintain rational and friendly relations with the United States, he came into power in the sequel to student riots which destabilized and ended the lawful former government of that nation, and presides over a much enlarged student-led ferment of the same impulses. This unstable feature of the present internal situation in Panama, combined with a general destabilization among the countries of Central America, prompts the United States government and leading forces of the United States population to be concerned with the possibility and consequences of an overthrow of Gen. Torrijos's government by forces associated with the student "New Left."

Although we do not propose to intervene in the internal affairs of Panama, we have the right and obligation to take into account what effect internal forces such as those of the student-led ferment might have on the policies and practices of a future Panamanian government. It is our right and indeed our obligation to speak plainly on the subject of that student-centered ferment. It is essentially a sansculottist demagogues' movement in the tradition of the movements of Danton and Marat, a violent "New Left" formation of the philosophical-radical variety, of that variety which at one moment represents itself as "ultraleft" and at another proves to be a new variety of the fascist movements associated formerly with Adolf Hitler and Benito Mussolini, a movement essentially characterized by irrationalism.

If those forces were to succeed in coming into power, the identified vital strategic interests of the United States would be indeed threatened. Moreover, whereas with the case of governments with whom we have differences, but which are committed to a rational perception of vital national interests, satisfactory negotiations will usually solve problems, with a government of forces which are essentially irrational, no such avenues of negotiations exist as efficient remedies.

Consequently, the majority of United States citizens, to the extent their spokesmen inform them of such facts, will not accept a simple relinquishment of the United States' rights in the Panama Canal Zone.

As long as that problem persists, the United States has no practical alternative but to establish treaty rights which establish protection of vital United States' interests in the operation of the Canal.

For related reasons, some political currents in the United States may miss the valid kernel in the objections put forth by the government of Mexico.

It could rightly be observed that the proposed treaty increases the effective sovereignity of the government of Panama in respect to the Canal Zone, as against no treaty at all. The point is nonetheless made that the treaty implicitly sets forth a doctrine of limited sovereignity, reaffirms that as an acceptable principle at this present time. Worse, that feature of the treaty is asserted at the same time that a significant number of influential voices are proposing the promulgation of a doctrine of liimted sovereignty, and that the International Monetary Fund and World Bank, among others, have gone to new extremes in arrogating a principle of external liimtations on the sovereignty of debtor nations. It is not that the draft treaty lessens the sovereignty of Panama; it accomplishes the exact opposite. It is that the inclusion of specifications with the effect of limited sovereignty in a current treaty is deemed an offensive act of policy at this present time.

This is also an important point among Latin Americans because of current efforts in some influential quarters to foment what is sometimes termed a "Second War of the Pacific" among Chile, Peru, Bolivia, Ecuador and other nations, and related matters in Central America, including the threatened outbreak of a Guatemalean-based adventure against Belize. The proposal of a Bolivian outlet to the Pacific and Ecuadorian access to the headwaters of the Amazon River are connected to the cited features of the Panama treaty in not only the minds of some leading Latin Americans.

How do we, then, resolve this matter?

First, at the moment, relinquishing the vital interests of the United States in the Canal is, at best, a difficult proposition. Furthermore, as long as the threat of student-led overturns of the present government of Panama persist, going further in concessions

than the treaty proposes is probably unacceptable to the relevant institutions of the United States.

However, we can significantly mitigate the difficulties involved in two ways. First, we can avow, as a ruling doctrine of United States policy, that the practical features of the current draft treaty with Panama are in no sense a precedent for a doctrine of limited sovereignty, and specifically disavow any United States support for forcible adjustment of the borders of Ecuador and Bolivia.

Second, we can respond to the viable criticisms of the treaty concerning the internal economic development of Panama. Those critics rightly point toward the fact that the present draft treaty will not work. U.S. Senate ratification of the treaty will not avoid a threatened destabilization of the present government of Panama; a general destabilization of Panama and adjoining nations of Central America is already underfoot and will continue whether or not the treaty is ratified. We must therefore supplement the treaty with measures within our proper means to aid the government of Panama in isolating and otherwise neutralizing the anti-humanist, student-led irrationalist forces in Panama. We must aid Panama in neutralizing and isolating the irrationalist forces of destabilization by arranging economic development programs of the sort which inspire and sustain that quality of humanist outlook for which the American Revolution was fought and the establishment of federal republic and constitution was effected.

The approach to the reassertion of the essential content of the Monroe Doctrine identified here is the appropriate road toward proper relations within the Americas, including further steps toward full solution of the problems interlinked with the Panama Canal.

NEUTRON BOMB DECISION

Mr. HEINZ. Mr. President, the President is to be commended for soliciting the views of our NATO allies before he comes to a final decision on whether to deploy the celebrated neutron bomb. Designed as it is to arrest a sweep of Soviet tanks across Western Europe, it would see action, after all, on their home ground. It is, therefore, only an obvious courtesy to examine their attitudes. Moreover, as a practical matter, the purpose of having a more usable nuclear weapon in our inventory would be defeated if, because of adverse attitudes, the President felt inhibited in the end to use it.

Although the neutron bomb may inflict less damage than traditional weapons, it may, on the other hand, be more likely to be used. On balance, it is not self-evident what is to be preferred, and it is not surprising that the NATO planning group presently meeting in Italy is not of one mind on the subject. What is surprising is that during Senate debate on the bomb earlier this summer, the administration did nothing to dispel the impression—created by highly publicized comments of certain Army officials—that there was something approaching unanimity of opinion within NATO.

Mr. President, I urge the attention of my colleagues to a dispatch from this evening's Washington Star which I think characterizes NATO attitudes much more realistically. I ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

NATO TALKS END WITHOUT OK FOR NEUTRON BOMB

BARI, ITALY.—NATO's seven-nation nuclear planning group ended a two-day meeting today without any decision on deployment of the controversial neutron bomb.

Despite urging from U.S. Defense Secretary Harold Brown, alliance defense ministers considered political objections far too important for any quick decision on the weapon. It is designed for use against troops but spares buildings except in the impact area.

The warheads would be used in ground-to-ground Lance missiles or firing from 155-millimeter howitzers. Some 7,000 nuclear warheads are already deployed in Europe but equipped with different and what NATO officials call "dirtier" warheads.

It is unclear when President Carter will make his decision on whether to produce and deploy the weapon. U.S. sources indicated that the President's decision is largely dependent on whether the Europeans want the weapon and publicly agree to it.

The closed meeting of NATO nation officials here raised no objection to the "military utility" of the neutron warhead for tactical use, particularly against any Soviet tank thrust in Europe.

But "emotional and political" opposition was reported in most NATO countries, including the United States. Objections have been raised, particularly by Western Europe's growing and outspoken left, that the nuclear warhead is immoral.

Another point of the weapon's opponents is that because it is compact and designed for battlefield use in Europe, temptation may be greater for its fast use, thus increasing the likelihood of a larger nuclear confrontation.

The NATO group did not need unanimity to decide for or against the weapon. The United States has said it would consider "substantial consensus" as being sufficient to begin production.

But key nations where the warhead would be deployed—West Germany, Britain and Italy—seemed far away from any yes-or-no decision on the matter.

The United States told the allies that the neutron warhead is only for European use and it won't be produced until there is a decision on its deployment by European allies.

"It's not our purpose to jam anything down anyone's throat," said a U.S. source, after a meeting yesterday between Defense Secretary Harold Brown and members of the North Atlantic Treaty Organization's Nuclear Planning Group. "If it's not desired, it won't be produced. Outside the alliance, it has no utility."

In effect Brown placed the onus of responsibility for the so-called "enhanced radiation weapon," on European nations, whose military generally favor development and deployment of the weapon, but whose political leaders are reluctant to publicly support it because of uncertain reaction.

Brown told allied defense ministers that the small neutron warhead would "kill fewer people to accomplish the same military effect." Within its impact area, it would kill humans while doing only limited damage to objects, but civilian population in adjacent areas would be spared along with objects.

The nuclear planning group includes the United States, West Germany, Britain and Canada as permanent members. There also are three rotating memberships, presently held by Belgium, Denmark and Greece.

After another delay no decision seemed likely for some months, but it may figure during Carter's Brussels stopover on his four-continent swing next month.

WASHINGTON WORKSHOPS FOUNDATION

Mr. WEICKER. Mr. President, I would like my colleagues to join me in recognizing the 10th anniversary of the Washington Workshops Foundation. As many of you are aware, hundreds of high school student leaders from across the United States participate annually in this 1-week seminar, studying the human and practical elements of our National Government. The purpose of the Washington Workshops is twofold: To offer in-depth study and on-the-scene involvement in the American legislative and political process and, at the same time, to communicate this voice of American youth to our governmental leaders.

On numerous occasions I have had the opportunity to address these student groups and I am always impressed with the incisive questions asked by these concerned young leaders.

A nonpartisan foundation, the Washington Workshops annually offers a 3-week, high school, academic internship program as a followup seminar to the 1-week dialog experience. Several of these young Americans have worked on my staff over the past 9 years. Their dedication and willingness to do whatever is required has been most gratifying. They are concerned and involved individuals, determined to find solutions to the problems which frustrate all of us today.

May I offer my support and continued best wishes for the success of the Washington Workshops Foundation in the decades ahead as they now celebrate their 10th anniversary.

HOBOKEN—AMERICA'S COMEBACK CITY

Mr. WILLIAMS. Mr. President, the October 1977 issue of New Jersey Municipalities carries an excellent article by Mayor Steve Capiello of Hoboken, describing the tremendous strides that his city has made in its drive to rehabilitate and rejuvenate its blighted areas. A city of about 45,000 people occupying only about 1 square mile across the Hudson River from New York City, Hoboken in recent years has undertaken a massive, and truly effective, community development effort that has resulted in the rehabilitation of more than 20 percent of its housing stock. Mayor Capiello calls Hoboken "America's Comeback Town," and he points to a private-public partnership as the significant force behind the city's progress. Characteristically, Mayor Capiello has neglected to mention that the kind of innovative, people-oriented leadership which he has brought to the mayor's office has played an equally important role in Hoboken's successes.

Mayor Capiello's story of Hoboken's revival is particularly timely in light of the new Housing and Community Devel-

opment Act of 1977, which is designed to focus new attention on our older communities, both large and small. Hoboken has demonstrated a fine ability to combine Federal resources, such as the kind provided under the community development block grant program, with local initiative and commitment to become a better place to live and work. Hoboken is an example of some of the good things that are going on in a number of our older cities, and I believe that my colleagues will find Mayor Capiello's article especially enlightening.

Mr. President, I ask unanimous consent that the article, "Public-Private Partnership—the Key to Inner-City Revival," be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

PUBLIC-PRIVATE PARTNERSHIP—THE KEY TO INNER-CITY REVIVAL

(By Mayor Steve Capiello)

We Hobokenites are people who are proud of our rich history and past glories. But we are even more proud of what we have accomplished in the last five years.

We have been called the city of the "Urban Turnaround," "The City That Came Back," "The Vanguard of Neighborhood Preservation." Or as somebody put it: "Nobody Laughs at Hoboken Any More."

We are America's comeback town.

Our recent accomplishments have brought us national recognition that we, of course, think has been long overdue and well-deserved. Like so many cities we were down for the count.

But, we have come off the canvas, punching—and punching hard.

I am proud to announce today that our housing programs in Hoboken have resulted in more than 20 per cent of our total housing stock being rehabilitated.

To our knowledge, it is the best record of its kind in the nation

It is a record which has made Hoboken and its people proud.

We have visibly demonstrated the productive results of a public-private partnership—working for, and at the service of the people—in helping revive an urban area.

The Hoboken experience is a model of urban rehabilitation which should be packaged by the Federal government—and exported to other American cities.

If it can work in Hoboken, it can work elsewhere. Our pride is not the false pride of empty rhetoric and wishful dreams. It is the pride that comes only of hard work and solid accomplishments.

Let us look at the facts. Since 1972:

1,200 apartment units have been completely rehabilitated and thoroughly modernized. Five story tenement walk-ups now have modern kitchens, spacious rooms, elevators, garbage compactors and in many cases open space for the surrounding community.

754 new housing units have been constructed.

An old factory—a symbol of our city's decay—is now a modern 173-unit apartment complex for low and middle income families. This miracle of planning, engineering, and architectural ingenuity is today the symbol of a vital Hoboken, rebuilding and returning itself to its former position among the champions of cities.

More than 500 homeowners—the backbone of our city—have taken out special home improvement loans for improvements of up to $20,000 per building.

And this means that because almost every homeowner rents at least one apartment in his home a total of 1,600 additional units of housing have been improved.

Our $1.5 million Multi-Service Center provides centralized social services to everyone in the community who needs them.

$10 million is being spent to give us a modern water system to replace the system that was put in more than 70 years ago. These are some of the changes which have helped to turn Hoboken around.

HOUSING PROGRAM IS CENTRAL

Central to these changes is our housing program. Two elements characterize our housing work: a public-private partnership and neighborhood preservation.

Public participation in partnership with private capital begins in my office and the office of the City Council.

From the beginning, we have been involved in every stage of housing development. But that, of course, is not enough.

A public partnership with the private sector requires constant attention, especially to technical detail.

Therefore, we created our own local expertise: Men and women who know the housing development business almost as well as the developers and who know the banking business almost as well as the bankers.

Beginning with the Model Cities Agency and, continuing with its successor, the Community Development Agency, we have invested in experienced consultants whose duties have included the training of our local staff in the complex "ins" and "outs" of the housing business.

We have required our housing staff to facilitate the developer's work by processing forms, securing the necessary approvals and winning community support.

We have created programs to provide the banking community with the security they need to make the dollar commitments which no city can do without.

We have consciously adopted a policy of leveraging our public dollars to bring the maximum of private investment.

We have regularly brought together our housing people with the City Council and the heads of departments to explain and coordinate approaches to the distinct tasks of this complex process.

We have aggressively sought out people in the private sector who shared our vision of what Hoboken might be.

And little by little we have learned to talk the often arcane language of housing: "Limited Dividends," "Tax Shelters," and "Ginny Mae Take-Outs."

Our results have been a mutual respect between the public and private sector of the unique skills and contributions of each.

From that mutual respect flows the partnership—a partnership that is a negotiated relationship based upon mutual benefit and honest dealing.

Public-private partnership is one of the oldest ideas this country has ever had.

Two things distinguish the public-private cooperation of the 1970's from past examples of this partnership which have failed.

The first is a different kind of public servant. We see today on the public side a person committed to his or her city and its future, technically knowledgeable and yet responsive to community needs and desires.

And secondly, we have a goal—a goal whose pursuit prevents the perversion of this partnership.

It is our goal. It is our mission. It is our duty to bring the energy of this partnership and private capital to the great task of revitalizing and preserving the basis of strength and the source of vitality of the American City—its neighborhoods.

By neighborhoods, I mean the people in place—not uprooted, not dispersed—in their houses, with their clubs on the corner, their butcher shops down the block, the belfry of the neighborhood church against the sky, the strength that comes from honest labor in their bodies—and a feeling a community of mutual support and mutual love in their heart.

For, too often in the name of a public private partnership, neighborhoods have been destroyed to build a civic center or a 58-story hotel.

Too often in the name of public-private partnership neighborhoods have been blown away like the dust after the wrecking ball.

Too often in the name of public-private partnership family roots have been torn up—losing forever the precious sense of heritage and tradition.

What makes Hoboken different is that we have effected a public-private partnership committed to the preservation of our neighborhoods and the way of life of the people who live there.

This is not a program which has cleared out the working people to bring in high-rise buildings and parking lots.

It is a program that serves the people who already live here. For what is Hoboken or any city but its people and its neighborhoods.

Hoboken's experience means this:

That a public-private partnership can work on behalf of the people to sustain the vitality of a community's life and overcome ethnic and racial differences.

You will walk the streets of Hoboken, but you will not see the renaissance centers of other cities. You will see, however, people from all over the world, of all colors working and living together—not without differences—but in harmony and with mutual respect, committed to a vital, safe and healthy community.

We look about our city today and see all that must still be done. But we look at what has been done and remember not long ago our dismay. Well, we're back! We are America's urban contender. We are America's comeback town.

We did it through a public-private partnership deriving its strength from—and at the service of the neighborhoods.

It's a new approach, and yet it's as old as the republic itself—government and business working together at the service of the people.

LABOR DEPARTMENT INVESTIGATION OF TEAMSTERS' CENTRAL STATES PENSION FUND

Mr. WILLIAMS. Mr. President, the Central States, Southeast and Southwest Areas Pension fund has for many years been the subject of allegations of financial abuse, suspicious associations, and demonstrable wrongdoing. As one of the largest pension funds in the country, the Central States pension plan covers more than 450,000 teamster members working for more than 16,000 employers in 23 States, and the continual publicity surrounding it has been a source of embarrassment to all private sector pension funds, and especially to collectively bargained multi-employer funds, the vast majority of which are well managed and sound.

For many years, despite the presence on the books of numerous Federal criminal laws and despite several criminal investigations, little progress was made in "cleaning up" the Central States fund. In part, it was due to the difficulties encountered by criminal investigators, public interest groups, Central States fund participants, and others who were

attempting to learn about the dealings of the fund and bring about internal reform that the civil investigative and enforcement provisions of the Employee Retirement Income Security Act of 1974 (ERISA) were enacted.

We were convinced that it was time to try a new approach—to give to the Labor Department broad and powerful investigative authority, and to provide strong, yet flexible, civil equitable remedies in the Federal courts so that the Labor Department and plan participants would have the tools to enforce the fiduciary responsibility and other provisions of ERISA.

We are now beginning to see the results. I have recently received a letter from Secretary of Labor Ray Marshall, detailing the steps taken by the Department of Labor in its investigation and remedial activity concerning the Central States pension fund. The letter speaks for itself, but I want to add a few observations to highlight the significance of what ERISA has enabled the Department to accomplish:

First, there is no question whatsoever that it was ERISA's substantive standards of fiduciary conduct and ERISA's powerful civil remedy provisions that gave the Labor Department the ability to completely restructure the asset management practices of the Central States fund in a way that gives great assurances that we have seen an end to a long era of demonstrable abuse and debilitating suspicion regarding the integrity of the fund's assets.

ERISA's reforms also enabled the Department to work closely with the Justice Department and the Internal Revenue Service, so that a governmentwide approach could be used.

Second, I believe the Labor Department was entirely correct in its decision to focus first on preservation of the fund's $1.4 billion asset portfolio. In the choice between insuring the integrity of the fund's assets and proceeding against individuals for breaches of fiduciary obligations, the former was clearly the more important. As Secretary Marshall points out, the Department's investigation of the Central States Pension Fund is continuing, with the objective of determining whether fiduciary breaches have occurred that warrant proceeding against particular individuals.

My Human Resources Committee will continue to closely monitor this second phase of the pension fund investigation, as well as the Department's recently launched investigation of the Central States health and welfare fund.

Third, it is to Secretary Marshall's credit that he chose not to bring the asset management lawsuit he could have brought and instead used the threat of the lawsuit to force the resignation of the old trustees and to convince fund officials to accept independent, professional asset managers. Filing of a lawsuit would have resulted in enormously expensive, protracted litigation with possibly serious adverse consequences for the fund's participants and beneficiaries. While the Labor Department has elsewhere demonstrated its willingness and ability to litigate under ERISA in appropriate cases. I am convinced that reform of the fund's asset management practices has been accomplished more quickly and at less expense than would have been likely in litigation. And, because the Department secured all the relief regarding asset management that it could have obtained through a lawsuit, I think the secretary's choice was a good example of discretion soundly exercised.

Finally, Secretary Marshall personally deserves high commendation for recognizing the significance of the Central States investigation, both on its intrinsic merit and for its symbolic importance, and for carrying through so effectively on the pledge he made to the Human Resources Committee during his confirmation hearing. It has been one of his most impressive achievements to date. But I hope that the Department will give due credit to its other officials and staff who participated in the asset management phase of the investigation, the remedial efforts, and the very important follow-up work in actually getting the investment managers into place.

Mr. President, I ask unanimous consent that Secretary Marshall's letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. DEPARTMENT OF LABOR,
Washington, D.C., September 28, 1977.

Hon. HARRISON WILLIAMS,
Chairman, Human Resources Committee, Washington, D.C.

DEAR SENATOR WILLIAMS: This is in response to your request of July 12, 1977 that I furnish to the Human Resources Committee an updated report on our investigation of the Central States, Southeast and Southwest Areas Pension Fund.

During my confirmation hearing, I pledged to personally oversee the Department's investigation. Because of your personal interest in this matter and that of the Human Resources Committee, and because a phase of our investigatory and remedial activity has now been completed, this is an appropriate time for an update.

Although Department officials have regularly reported to Committee Staff throughout the investigation, the last formal presentation took place during the open hearing and Executive Session held by the Committee early in July 1976. During these discussions Committee members were appraised of the structure and status of the investigation. At the same time, the Committee expressed some concern over the investigation's progress and the degree of coordination among the Labor Department, the Justice Department, and the Internal Revenue Service.

When I assumed office in January 1977, these concerns were uppermost in my mind. First, I would like to report that any previous problems of coordination have been overcome. Secondly, very substantial progress has been made, especially during the last six months.

Also, as you read this report, I am sure that you will find that ERISA has given us an essential tool to accomplish what was simply not possible before its enactment. It is the fiduciary responsibility provisions of ERISA and ERISA's powerful yet flexible civil enforcement mechanisms that gave the Labor Department the authority to bring about a significant change in the asset management practices of the Central States Pension Fund.

As you will recall, your hearings in July 1976 were held just after the Internal Revenue Service had revoked the Fund's tax qualification. Accordingly, this report begins with the events that took place immediately after the revocation.

During July and August of 1976, Department investigators subpoenaed certain Fund trustees and professional staff and took their depositions. Two trustees refused to answer any questions, asserting their rights under the Fifth Amendment. The Department then notified the Board of Trustees that an assertion of the Fifth Amendment right in the context of questioning about a person's fiduciary conduct constituted a per se violation of the fiduciary's duties under ERISA. This was cause for removal from the fiduciary position. One of the two trustees then resigned. The other trustee informed our investigators that he was prepared to answer our inquiries. However, before he was deposed again, at the end of October, eleven more trustees resigned, including the trustee who had asserted his Fifth Amendment right. At the same time, the Fund's trust agreement was amended to reduce the number of trustees from 16 to 10, and six new trustees were appointed to bring the Board up to full strength. Investigatory activity continued during these months, and a substantial body of evidence was available at the time of my confirmation in January 1977.

Late in January I advised the President of the special importance I placed on the investigation and have continued to keep the President informed of important developments.

With the assistance of Eamon Kelly, whom I brought in as an advisor on leave from the Ford Foundation, I undertook a review of the investigation's status. I wanted to know what evidence we had and what kind of relief we could seek. Working with the Special Investigations Staff, the Office of the Solicitor of Labor, and officials of the Department's Pension and Welfare Benefit Programs, we assessed the evidence we had, especially its probative value. We reached agreement during the last week of January that our primary goal had to be preservation of the Fund's assets. We then decided that we had a strong case to bring to court, if necessary. But we also decided that the chance of protracted litigation was significant, and that we should explore with representatives of the Fund the possibility of achieving the relief we believed necessary without resort to litigation.

During the second week of February, I met with Secretary of the Treasury Blumenthal, Attorney General Bell, and then Commissioner of Internal Revenue-designate Kurtz. After a presentation of the status of the investigation, we had a complete discussion of the alternatives. We agreed to present a series of demands to the Fund representatives. From that point forward, we have proceeded in a fully coordinated manner. The demands made to the Fund representatives were "Government" demands.

On February 16, following a series of meetings with Chicago IRS officials, we presented our position to the Fund representatives. We informed them that we were prepared for litigation to accomplish our objectives, which consisted of three components. First, we sought the resignations of the four "holdover" trustees. As I noted above, in October 1976, after 12 of the 16 trustees had resigned, the collective bargaining parties had appointed 6 new trustees, and since that time, the Board has consisted of a total of 10, 5 appointed by labor and 5 from management. We believed that only with an entirely

new board of trustees, free of the allegations and suspicious associations of the past, could the Fund stand a good chance of proceeding with integrity. Second, we sought agreement from the trustees that they would take one of two steps to remove day to day asset control from the hands of the management and union trustees. The choices available were 1) to restructure the board of trustees so that it consisted of a majority of neutral, independent professionals, competent in the various fields of asset management, or 2) to retain the present structure of the board, but turn over complete asset investment control to one or more professional, independent investment managers. Third, we sought a series of changes in the terms of the Central States plan and in its procedures outside the asset management area, to bring the plan into compliance with ERISA's minimum standards, and to meet certain other qualification requirements of the IRS.

On February 23, at another meeting in Chicago, Fund representatives gave us the trustees' initial reply. We were told that the trustees refused to secure the resignations of the four holdover Board members, but that they were willing to discuss several alternative methods of professionalizing the Fund's asset management. These included a beefing-up of the Fund's professional staff, the hiring of an investment advisor who would direct the trustees in their decision-making, and a true independent investment manager arrangement. They also stated that the trustees would comply with our third demand, regarding plan amendments and changes in plan procedures to comply with ERISA and Internal Revenue Code rules outside the asset management area. The IRS letter granting relief from the consequences of disqualification was due to expire on February 28. From the standpoint of the IRS, the February 23 trustees' response was encouraging enough to justify an extension of relief. From the standpoint of the Department, the reply was somewhat encouraging, but it was unacceptable since it did not include resignation of holdover trustees. Accordingly, the Fund representatives were told that the response was unacceptable and our representatives returned to Washington.

On February 26, with Labor Department authorization and approval, a news release was issued by the IRS in which the Service announced an extension of relief from the disqualification, through the end of April 1977. We also announced that because insufficient progress was being made from our standpoint, we had determined to take "appropriate remedial action." On that day, we held a meeting of lawyers from the several agencies whose assistance and expertise we might draw on if we began litigation.

Within a few hours after issuance of the news release, Fund representatives informed us the trustees would meet again within a few days to reconsider their decision. We continued ahead with preparation for litigation. During the first week in March, in anticipation that the trustees might vote to change their decision, Fund representatives began serious discussions with Department officials regarding the timing of the resignation of the holdover trustees and the criteria and structuring of an independent asset management arrangement.

At a meeting on March 11, the trustees decided to comply with the Government's demands, and authorized their representatives to meet with us to discuss implementation. That meeting was held on March 12, and on March 14 the Labor Department and IRS issued identical news releases announcing the terms of the agreement. The critical terms were that the trustees would reach agreement in principle as soon as possible with one or more independent investment managers of nationally recognized stature, would make the required changes in the terms of the plan, would cause an independent legal audit to be undertaken of all Fund investment transactions, beginning with 1965, would begin making certain annual disclosures, and would secure the resignations of the four holdover trustees. When these steps were completed or underway, the Service would requalify the plan and the Department would terminate that portion of its investigation which related to Fund asset management practices.

On April 14, the trustees entered into an agreement in principle with the Crocker Bank of San Francisco, under which Crocker would become the fund fiduciary, with authority to hire other investment managers to assist in asset management. On the same day, the Department announced that the choice of Crocker was fully satisfactory from our standpoint. On April 26, the Internal Revenue Service requalified the Fund, with certain caveats. On April 29, the four holdover trustees resigned. Four replacement trustees were then chosen, in accordance with the terms of the documents governing the operations of the Fund. The Department was not involved in any manner in the selection of the new trustees.

During the latter part of April and the month of May, Fund representatives and Crocker worked diligently to put together an asset management group and a contractual structure that would be satisfactory from several standpoints. This proved to be very difficult. From the standpoint of the Government, for example, the arrangement had to satisfy several criteria. It had to provide for complete divestiture of trustee control, subject only to the obligations imposed by ERISA—that the trustees be prudent in their choice of managers and that the trustees not be relieved of their duty to monitor. It had to involve managers who were competent and who could withstand the public scrutiny that would inevitably begin when the choices were made public. The contractual structure had to be one which was workable and which met ERISA's requirements. Most important, the arrangement had to be put in place as rapidly as possible, consistent with the dictates of prudence.

When the end of May approached and the parties did not seem to be close enough to agreement, we informed the Fund representatives that time was running out, and that the Department would have to consider alternatives if progress were not made more quickly. During the week of June 6, Fund representatives informed us that they were considering a different arrangement, under which the Equitable Life Assurance Society of the United States, a large insurer headquartered in New York City, would become the Fund fiduciary, real estate related assets would be managed by Equitable and the Victor Palmieri Company, and the securities assets would be managed by Equitable, Lazard Freres, the Crocker Investment Management Company and the Mercantile National Bank of Dallas. These institutions and their management assignments were fully satisfactory to the Department.

A number of questions have been raised about the selection of the investment managers and the role of the Department in the selection process. Consequently, I would like to address this issue. Early on, we gave considerable thought to the appropriate role for the Department in the fiduciary selection process. We determined that we would not choose investment managers for the Fund. We believed that it would not be sound public policy for the Labor Department to impose its judgment on initial choices of investment managers in a contractual arrangement to which we were not a party and under a statute which placed the responsibility for prudent choosing of investment managers squarely on the trustees. However, we did believe that we could not fulfill our statutory responsibility to enforce the law if we played no role. Accordingly, we decided to exercise a veto power, if necessary. The trustees' representatives were informed that the trustees had to decide on managers, and that they would have to live with their choices unless the choices did not meet the general criteria we had announced in our March 14 news release: independence, professionalism and national stature.

We never exercised the veto because all of the choices actually made by the trustees have been fully satisfactory. However, during the course of negotiations between the trustees and various manager candidates we did express reservations on two occasions. While at no time did we have reason to question the competence of a potential manager candidate, we did express a concern, at one point, because a manager candidate had been involved, although indirectly, in a financial transaction involving Fund assets. On the other occasion, a different candidate was not sufficiently well known and was a subsidiary of a company which had another subsidiary which was a service provider to the Fund. Although we had no reason to question the competence, skill or any other merit-related aspect of either of these candidates, we believed that, given the history of this particular Fund, any manager chosen, particularly the real estate managers, would have to be unassailable in terms of public acceptance.

On June 16, the trustees resolved to instruct their representatives to proceed rapidly to prepare contracts to be entered into between the trustees and the Equitable group. That was done, and the contracts were executed during the week of July 5. Copies of the various contracts were furnished to the staff of your committee pursuant to their request on July 18.

The salient features of the contractual arrangement are as follows:

Equitable is fiduciary of the Fund. Its role can best be understood if it is described as "managing" fiduciary.

Equitable and Palmieri are the managers for real estate related assets. Equitable will manage those assets located east of the Mississippi River and Palmieri those assets to the west.

Equitable, Lazard Freres, Crocker Investment Management Company and Mercantile National Bank will each have responsibility for approximately one-fourth of the Fund's securities portfolio.

The trustees will monitor Equitable's performance as fiduciary and real estate manager, and, with Equitable, will monitor Palmieri's performance. Equitable will monitor the performance of the other managers.

The length of the contracts for Equitable as managing fiduciary, and Equitable and Palmieri as investment managers, is five years in the sense that Equitable and Palmieri may not be removed nor may their status be changed without their consent, or except for cause and upon 60 days advance notice to the Secretary of Labor and the Commissioner of Internal Revenue and with the consent of the Secretary. After the expiration of five years, only 60 days notice is required. Equitable, Palmieri, and other investment managers may resign after having given 60 days notice to the trustees, the Secretary and the Commissioner.

As managing fiduciary, Equitable has the exclusive power to appoint and remove investment managers and custodians, subject in the case of Palmieri to the 5 year termination and change of status provisions previously described; to allocate available investment funds among types of investments and among the various managers; and to develop and implement long- and short-term investment objectives. To assist the trustees in their monitoring, Equitable must report regularly and maintain complete and accurate records.

The parties presently contemplate a closing date under the contracts of October 3,

1977. That is, it is expected that management control of all or most of the assets will be transferred to the respective investment managers by that date. Under the contracts, the responsibilities and attendant potential liabilities of each of the managers commence when the asset is accepted for management by the investment manager. The period between execution of the contracts and the closing date is being used by the real estate managers to inspect and document their respective future assets. During this period, the securities assets will remain under the control of the independent banks now managing those assets. The real estate assets will continue to be managed by the trustees through the Fund's professional staff.

One critical concern for all the parties is the value of the assets. The contract provides that each manager shall evaluate each asset promptly after acceptance. If the value varies from the asset's book value and if the trustees do not agree to the new value, value will be fixed as of the date of acceptance by a "valuation committee." The committee shall consist of three persons chosen by the Department from a list of nominees selected by Equitable and Palmieri. There will be two valuation committees—one for real estate assets and one for securities.

Under the contracts, the trustees—the persons chosen by the collective bargaining parties—retain power over those aspects of Fund administration that are closely related to labor relations and collective bargaining, such as the establishment of benefit levels, enforcement of collective bargaining agreement rules, eligibility and benefit payment rules, and the actuarial soundness of the Fund.

Each contract contains a fee schedule. The fee components are:

A percentage of assets fee for Equitable for its fiduciary services, to be paid on a quarterly basis.

Flat annual fees for Equitable and Palmieri, including separate start-up fees, for management of the real estate assets.

Percentage of assets fees to Equitable, Lazard Freres, Crocker and Mercantile for management of the securities assets.

Reimbursement to Equitable or Palmieri for "supplemental services." These are services performed by subcontractors with Equitable or Palmieri. An example would be an appraisal or a legal opinion deemed necessary by one of the real estate managers.

The Equitable fiduciary contract contemplates the establishment of a special task force by the Department of Labor to assist the trustees, the fiduciary and the investment managers in obtaining technical advice and assistance, as authorized by law, from the Department and other federal agencies.

We believe that the contractual structure provides a sound basis for proper future management of the Central States Fund's giant portfolio. It entirely removes asset management control from the trustees, yet retains in them the authority and power to monitor performance. It provides sufficient security for the independent professional fiduciary and the investment managers to insure that they cannot be dismissed at the whim and caprice of the trustees, yet permits the trustees to dismiss for cause. It leaves the affairs of a private sector fund in private sector hands, yet provides for lawfully authorized government assistance and contains a triggering device to insure government oversight in the event the trustees, Equitable or the investment managers need to seek governmental advice or help on matters relating to Fund management. And it contains great promise of ending the years of suspicion, allegations and demonstrable wrongdoing that have surrounded asset management of the Fund and the persons associated with it.

With the execution of these contracts, the portion of our investigation that focused on investment management practices of the Fund has concluded. When the transfer of the assets of the Fund to independent, qualified investment managers is completed, the Department expects that it will not have to monitor future transactions in detail, although the Department has created a special task force to render technical advice to the Fund managers and to assist them in dealings with other branches of the government.

While the part of our investigation which focused on investment management practices has concluded, another part of the investigation continues. This part is designed to establish whether evidence of fiduciary breaches, during the period since January 1, 1975, warrants proceeding against persons who have served the Fund in a fiduciary capacity. Our investigative activity is shifting from what has been primarily a review of Fund records and documents to a search for evidence in the possession of others—individuals associated with the Fund, persons and entities who have done business with or borrowed from the Fund, and others whose knowledge or records may cast light on the transactions under scrutiny. Much of what we discovered in the asset management phase of our investigation will be pertinent to this second phase. In addition, we have turned over to the Justice Department evidence on twelve transactions that may warrant consideration for criminal prosecution under federal criminal statutes. We will continue to do so as we proceed with the second phase of our investigation.

In addition to our activities respecting the Pension Fund, we have begun an investigation into the Health and Welfare Fund, a plan which is also covered under ERISA. As in the past, Department officials will continue to keep you fully apprised of developments.

Sincerely,

RAY MARSHALL,
Secretary of Labor.

A VOTE FOR PUBLIC UTILITIES REGULATORY REFORM ACT—NOT AN ENDORSEMENT

Mr. ANDERSON. Mr. President, last week the Senate passed the "so-called" Public Utilities Regulatory Policy Act of 1977. In fact, this bill includes very little policy and almost no regulatory guidance. This Public Utilities Act does not resemble the President's proposal and is so markedly different from the House-passed version that it may be impossible to reconcile the differences between the versions passed by the two Houses.

I voted for final passage of this measure but my vote only represents an affirmation of my support for Senator HART's senior citizen's lifeline amendment and not for the shell of the President's proposal passed by the Senate. Many States could have benefited from the work Senator BROOKE was asking the Department of Energy to undertake in setting up examples of innovative rate schedules. The kind of rate reform envisioned by the President's proposal could be difficult for States with small regulatory staffs. Many States have failed to adopt conservation oriented rate designs since to do so would have placed bulk purchasers in their States at an economic disadvantage to neighboring States where bulk users benefit from lower rates for increased use.

As a strong supporter of Senator HART's efforts to provide interim relief from escalating utility costs for senior citizens living on fixed incomes and for Senator BROOKE's work in trying to reinstate some voluntary guidelines for conservation oriented rate designs, I want my vote for final passage of the Public Utilities Regulatory Policy Act of 1977 not to be misconstrued as endorsement of the Senate-passed version of part E of the President's energy plan.

PROPOSED ARMS SALES

Mr. SPARKMAN. Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive advance notification of proposed arms sales under that act in excess of $25 million or, in the case of major defense equipment as defined in the act, those in excess of $7 million. Upon such notification, the Congress has 30 calendar days during which the sale may be prohibited by means of a concurrent resolution. The provision stipulates that, in the Senate, the notification of proposed sale shall be sent to the chairman of the Foreign Relations Committee.

In keeping with my intention to see that such information is immediately available to the full Senate, I ask unanimous consent to have printed in the RECORD at this point the notification I have just received. A portion of the notification, which is classified information, has been deleted for publication, but is available to Senators in the office of the Foreign Relations Committee, room S–116 in the Capitol.

There being no objection, the notification was ordered to be printed in the RECORD, as follows:

WASHINGTON, D.C.,
October 12, 1977.

In reply refer to: I–8548/77ct.

Hon. JOHN J. SPARKMAN,
Chairman, Committee on Foreign Relations, U.S. Senate,
Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding under separate cover, Transmittal No. 78–7, concerning the Department of the Army's proposed Letter of Offer to Israel for major defense equipment, as defined in the International Traffic in Arms Regulations (ITAR), estimated to cost $29.2 million and support costs of $22.4 million for a total estimated cost of $51.6 million.

Sincerely,

H. M. FISH,
Lieutenant General USAF, Director, Defense Security Assistance Agency, Deputy Assistant Secretary (ISA), Security Assistance.

TRANSMITTAL No. 78–1

(Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b) of the Arms Export Control Act)

(i) Prospective Purchaser: Israel.
(ii) Total Estimated Value:

	Million
Major defense equipment*	$29.2
Other	22.4
Total	51.6

*As included in the U.S. Munitions List, a part of the International Traffic in Arms Regulations (ITAR).

(iii) Description of Articles or Services Offered:

[Deleted] AH–1S Cobra/TOW helicopters, support equipment, spare parts and armament.

(iv) Military Department: Army.

(v) Sales Commission, Fee, etc. Paid, Offered or Agreed to be Paid: None.

(vi) Date Report Delivered to Congress: October 12, 1977.

GENEVA CONFERENCE

Mr. WALLOP. Mr. President, in the rush to Geneva we seem to have lost our direction. The focus seems to be more on "getting to Geneva by Christmas" than on achieving the "lasting peace" which Geneva was designed to accomplish. "Getting there and achieving peace" are not synonymous. A great danger lies in defining success in terms of "getting there." Once there, we cannot forget that the problems are multitudinous. But the Carter administration wants to give the public its circus, to push the reluctant parties into a public forum for a flamboyant display before the mass media with little forethought of the result. That attitude of "getting there" is nowhere clearer than in the joint statement on the Middle East issued by the United States and the U.S.S.R. on October 1. In my view, this was an act of insanity, ill-conceived, counterproductive, and destabilizing.

No single act is more likely to damage the chances for a lasting settlement than the sudden inclusion of the U.S.S.R. in the peace process. It is not in America's interest to invite the Soviets back into a region in which their physical presence and political influence has shrunk to its lowest level in years. Soviet influence had been purposefully eclipsed by American diplomatic initiatives. We can ill-afford increasing Soviet credibility through mismanagement at this stage.

Both Arabs and Israelis have little confidence in dealing with the Soviet Union. The national interest of the Soviets is not the establishment of a lasting Arab-Israel peace. It is naive to assume a sudden benign interest in mankind on the part of the Soviets. Every time any stability has existed in the Middle East Russian influence has declined as most Arabs looked westward as a natural inclination. No, Mr. President, the Russians have no benign intentions. They at least perceive recent history with more clarity than do we. For whatever reasons we are disposed to ignore the reality of experience. A quick look at the record makes this clear.

The U.S.S.R. is sustaining the Middle East arms race and remains the largest arms supplier in the region. Continued tensions allow the Soviets to sell more arms and generate badly needed currency.

The U.S.S.R. exploited the economic and political chaos following the oil boycott and quadrupling of oil prices by OPEC.

The U.S.S.R. actively conspired with Egypt and Syria in the planning of the 1973 October war in direct violation of Soviet commitments to the United States.

The U.S.S.R. continues to be the major supporter of the PLO, arming and training its constituent groups and providing diplomatic shelter for its terrorist acts.

Though a cochairman of the Geneva Conference, the U.S.S.R. has no relations with Israel. The United States has relations with all the major participants. They have evidenced no hint of impartiality, and their past actions in the region breed mischief.

Soviet involvement creates complications which will hinder the already delicate progress made toward establishing a propitious negotiating environment. Geneva has become a center stage. In the spotlight of the great international media event, extremism can only supplant moderation. First of all, expectations will be high, and with them the potential for disappointment, which the Soviets will be only too eager to exploit. Second, American credibility is at stake. It will be the U.S. proposal which will be the basic starting ground for compromise. Any failures and disillusionments will be blamed on the United States. Any successes will be shared with the Soviets. The U.S.S.R. wins either way. Third, because the time frame is arbitrary and rushed, adequate time has not been granted for preparation. Therefore, proposals must rest on the table, and foreign ministers will commute to consult with their heads of state for decisions. At this point, moderation will be interpreted as weakness by domestic populations. Intransigence and polarization will be the order of the day. The potential for mischief in this public forum will be great.

This combination of circumstances is a blueprint for disaster. In order to build a solid peace, we must proceed with caution. Arbitrary time frames and media events only exacerbate the situation. With the joint statement, we have legitimized a radical element, wasted our capital of good will which had been built up in the region, and virtually eliminated any maneuvering room for the United States or for the negotiating parties. Perhaps the most tragic result is losing the opportunity to obtain a tacit understanding between the parties, a tacit understanding which would have led to prolonged stability and better negotiating climates for permanent settlement.

The Geneva Conference has a tremendous task to accomplish. Let us not complicate this task and lose what progress we have made by "getting to Geneva" at any cost.

THE HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1977 BECOMES LAW

Mr. HEINZ. Mr. President, having a few moments ago been present at the signing ceremony at the White House. I wish to make some brief remarks on the Housing and Community Development Act of 1977 which was signed into law by President Carter today.

I am a cosponsor of the Senate version of this far-reaching legislation. And as a member of the Banking, Housing, and Urban Affairs Committee and as a conferee on the bill, I am basically pleased with how the various differences between the House and Senate versions of the bill were resolved. In particular, I believe that the new language added to the community reinvestment section of the bill will strengthen the ability of the regulatory agencies to monitor the lending practice of financial institutions. No longer will the Congress allow the wholesale withdrawal of mortgage credit and home improvement loans from our older urban neighborhoods.

With adoption of the community reinvestment provision, it is now clear that the Congress is asking lending institutions to review their present credit practices and insure that the credit needs of all communities, particularly low and moderate income neighborhoods, be met.

I am not entirely pleased with how the issue of the urban development action grant program and the "impaction" formula was resolved. However, I believe it was a substantial improvement over the initial UDAG program proposed by the administration. As a cosponsor with Senators WILLIAMS and BROOKE of impaction, I would have preferred that it be included in the final bill. Adoption of impaction would have insured that a substantial portion of the discretionary grant program funds under the UDAG program be targeted to communities with the greatest needs as measured by the ratio of older housing in their jurisdiction.

Impaction was not adopted but the program has been substantially redirected to focus on the Nation's most troubled cities and urban counties. Under the compromise, the primary criterion for the selection of UDAG recipients would be the comparative degree of physical and economic distress among applicants, as measured by the factors in the Senate's impaction formula—the extent of growth lag, the extent of poverty, and the adjusted age of housing. The conferees have essentially given their approval to the concept of impaction as an important means of measuring the relative economic and physical distress among the Nation's cities and urban counties.

Notwithstanding any regrets that the impaction issue was not settled to my satisfaction, I am pleased that the CD bloc grants will now be awarded on the dual formula approach first proposed by President Ford and supported by President Carter. Taking into account, as it does the age of housing stock as a principal factor for allocating the money, this bill is good news for Pennsylvania and other northern and older States. Many Pennsylvania communities will benefit substantially. And while the bill is no cure-all and certainly no substitute for an urban development strategy, it is a step in the right direction.

The Housing and Community Development Act of 1977 is one of the most significant bills for communities of all sizes throughout the country which has passed the Congress this year. The needs of our cities, counties, and small towns—particularly our older ones—are immense. I am hopeful that the many promises contained the this act—the improvement of housing conditions, the revitalization of our neighborhoods, and the health of our cities—will become realities in future years.

AIRLINE REGULATORY REFORM

Mr. CANNON. Mr. President, in the past several months we have witnessed a great deal of debate over the issue of airline regulatory reform. The debate has taken place in congressional hearings, panel discussions involving industry representatives and administration spokespersons, and in the public forum.

The Aviation Subcommittee held weeks of hearings in March and April of this year and the full Commerce Committee has met in executive session throughout June and July to work out the details of a comprehensive reform package.

During those months, some of my distinguished colleagues have inserted newspaper editorials into the RECORD describing the pernicious and detrimental effects this legislation will wreck upon the industry, the labor force, and the public.

From these articles, it would appear that the legislation enjoys little support and the backing it does have is from those who believe they can capitalize in the wake of havoc that reform will bring about. In truth, support for this legislation is both widespread and divergent; here are just a few of those who endorse reform: President Carter, former President Ford, Secretary of Transportation Adams, and former Secretary Coleman, CAB Chairman Kahn, and former Chairman Robson, the American Conservative Union, the American Association of Retired Persons, the Aviation Consumer Action Project, Common Cause, the Food Marketing Institute, the Libertarian Advocate, the National Association of Counties, the National Association of State Aviation Officials, the National Retail Merchants Association, the National Taxpayers Union, Sears, Roebuck & Co., as well as United Airlines, Pan American Airlines, Frontier Airlines, Flying Tiger, and Federal Express and the list goes on and on.

As the Senate will soon take up the issue for debate, I would like to ask unanimous consent to have the following editorials, which appeared in newspapers around the country, printed in the RECORD.

There being no objection, the editorials were ordered to be printed in the RECORD, as follows:

[From the Courier-Journal, June 29, 1977]

AIR TRAVELERS NEED A BREAK, AND ONLY CONGRESS CAN GIVE IT

The downpour of warnings and wailing by the airline industry about proposed deregulation of domestic air travel is having an effect. Compromises are springing up like dandelions. It appears that airline deregulation and price competition—if they come at all this year—will be relatively mild and will take effect gradually.

The aviation subcommittee of the Senate Commerce Committee is putting the finishing touches on a bill designed to reform, but not eliminate, regulation of the airlines by the Civil Aeronautics Board. The bill seems sure to be far less ambitious than earlier proposals by subcommittee chairman Howard Cannon of Nevada and Senator Edward Kennedy, a subcommittee member.

TOUGHER JOB FOR EXECUTIVES

But all is not lost. The bill still would give the airlines considerably more freedom than they now have—or want—to raise and lower fares and to enter new markets. The CAB would continue to play a regulatory role, but it no longer would be a nursemaid to the industry.

Most airline executives are afraid of deregulation or even regulatory reform because it would make their jobs a lot tougher. Flexibility in setting fares and entering markets would lead to genuine competition, which in turn would lead to the unwanted discipline of the marketplace. Efficient airlines would be able to slash fares and attract more passengers. Inefficient ones would have to shape up or get out of the business.

Industry spokesmen, of course, aren't going to admit that they oppose deregulation because they fear they can't meet competitive challenges. Instead, they fill the air with pious bleatings about the public interest. Deregulation, they claim, will lead either to ruinous price wars and the collapse of the entire air transportation system, or to predatory pricing on selected routes and the emergence of an airline monopoly that can dictate to the poor consumer. Either way, the traveling public would lose.

This load of nonsense apparently is saleable in some congressional quarters. Hence the aviation subcommittee's compromises, which are designed to allay the fears roused by these phony arguments.

And the arguments most certainly are phony. Studies by Congress and by a number of economists suggest that the airline industry would be stronger, not weaker, in a less regulated, more competitive environment. The least efficient airlines doubtless would suffer—as they should. But well-run firms would prosper and new airlines would spring up to challenge the handful of big carriers that now dominate air travel. The recent spate of requests to the CAB by smaller airlines and charter carriers for the right to challenge the big airlines in a number of markets suggests that there are profits to be made by enterprising firms.

Heavy CAB regulation and lack of competition haven't helped the industry. Instead, they have made it sluggish and have led to the excess capacity that afflicts most of the biggest carriers. In a competitive environment, financial rewards would go to airlines that made maximum use of the equipment they have. Passenger load factors would be higher, and the nation would benefit from more efficient use of both fuel and capital.

But what of the other airline industry argument—that deregulation would lead to predatory pricing and monopoly? The answer is that no single airline not even a small group of airlines can gain monopoly control by undercutting its competitors so long as price flexibility is accompanied by easier access to new markets.

Predatory pricing, after all, can only be used as a weapon for a brief time and on selected routes. No airline can afford to under sell all its competitors on all its routes indefinitely. That would be suicide, not predation (besides running the risk of anti-trust indictments for restraint of trade). But, assuming an airline were able to drive out the competition on a few routes, what would it have gained?

The moment it raised its fares in order to profit from its newly won monopoly, other airlines would invade these markets, and consumers again would have the benefit of choosing among competing carriers.

Predatory pricing could be successful only if Congress granted the airlines more latitude in setting prices but failed to liberalize the rules under which airlines enter and leave the market. The aviation subcommittee bill avoids this danger.

When all else fails, the airlines muster still another argument against deregulation, one with special appeal to lawmakers from mostly rural states and districts. It goes like this: Under the present, regulated system, airlines are willing to offer unprofitable service to small communities only because the CAB, in exchange, allows them to fly high-profit routes between big cities. Without CAB regulation, service to many small communities would disappear.

In response to this argument, the aviation subcommittee proposes direct federal subsidies to maintain service on such routes. If this provision is necessary to sell the bill, the subsidy offer is worth making.

Fortunately, it's unlikely that the handouts would ever be needed. In recent years, dozens of small, unsubsidized commuter airlines have sprung up to offer service on low-density, mostly intrastate routes that the big airlines won't touch. According to economist John W. Snow, fares on these routes are comparable to those charged on the big, interstate airlines on routes of similar length, and commuter traffic has become the fastest growing segment of the airline industry.

In fact, the experience of small, intrastate airlines, which aren't subject to CAB regulation, provides an encouraging indication that deregulation nationally would be a boon for consumers. On high-density routes within such states as Texas and California, small airlines have been flying customers for as little as half the fare charged by major, in-state carriers for trips of comparable length. Yet service to smaller communities hasn't suffered.

Consumers across the land deserve the same sort of break. This year, Congress at last should give it to them.

DEREGULATED AIR TRAVEL

(By M. Stanton Evans)

WASHINGTON.—Nothing is more powerful these days than an idea whose time has passed—if the idea is that of federal regulation.

The evidence of regulatory failure looms up before us like the wreck of Ozymandias, colossal in its bulk and lugubrious in its desolation. Yet the urge to regulate indomitably persists, as Congress and the bureaucrats attempt to cure the failings of their previous interventions by proposing new ones. The protected interests and the ideological commitment are just too great, it seems, to allow for change.

Do not despair, however, for a bit of good news is at hand. In a single area—that of airline travel—the proof of regulatory foul-up has become so massive that former friends of regulation have begun to reconsider. By slow degrees, a consensus has emerged in favor of deregulation, and there is reason to believe that it may eventually achieve success.

Participants in this consensus are an amazingly varied lot. They range from people such as former Sen. James L. Buckley and Rep. Philip Crane of the American Conservative Union on the right, to Sen. Edward Kennedy on the left. Along the way the alliance has picked up support from President Carter, former President Ford, the Department of Transportation, and even the departing chairman of the Civil Aeronautics Board, which regulates the airlines.

What all these people are looking at is a pile of data showing that regulation of the airlines has blocked competitive entry, roughly doubled prices to consumers, discouraged air travel, and therefore damaged the very airlines it is supposed to be protecting. The facts establishing all of this were originally generated by conservative economists, but have recently popped up in Senate hearings, and in studies by the DOT.

Departing CAB Chairman John Robson notes, for instance, that since the agency was created in 1938, the number of "trunk lines" (major carriers) has shrunk from 21 to 10. No new trunk line has been certificated by the CAB although it received 79 applications between 1950 and 1974. Correlative to blocking entry, the agency has discouraged pricing competition among exist-

ing carriers, so that competitive behavior is limited to "frills" and other service features which jack up costs.

That it doesn't have to be this way is shown by the performance of non-CAB-regulated carriers in California and Texas—airlines which offer safe, convenient service at rates substantially lower than those promoted by the CAB. A DOT study published last year shows that Pacific Southwest Airlines, Air California and Southwest Airlines offer service roughly half as expensive as the interstate carriers ($15 coach fares from Dallas to Houston, compared to $32 for CAB-regulated carriers; five cents a mile for longer hops in California, compared to almost 10 cents a mile under the auspices of the CAB).

As a result, these intra-state airlines have substantially increased their travel volumes, maintained high load factors, and turned in high levels of worker productivity. By 1971, PSA and Air California were carrying 75 per cent of all intra-California passenger traffic, up from 29 per cent in 1961. In 1974, Southwest was hauling 60 per cent of local traffic between Dallas-Houston and Dallas-San Antonio.

The deregulatory coalition is trying to apply these lessons at the national level, and to this effect is backing a bill promoted by Sen. Kennedy and Sen. Howard Cannon, D-Nev.

Millions of American air travelers hope the effort is successful.

[From the St. Louis Post Dispatch]

CHASING AIRLINES FROM CAB NEST BECOMES A FARE GAME

(By James Deakin)

WASHINGTON.—How would you like to fly from New York to London and back for $236? Or from New York to California for $95?

With glittering inducements like this, a debate has begun over reducing government regulation of the nation's airlines. The time has come, it is being argued, for the airlines to leave Big Brother's protective shelter and venture into the competitive world of free enterprise.

There is no way to be certain that deregulation would bring lower air fares and better service. The airlines say it would be more likely to bring competitive chaos and less service, not more. But the move to reduce the regulatory authority of the Civil Aeronautics Board is serious and apparently is gaining momentum.

Last week, President Jimmy Carter threw his weight behind a Senate bill that would set up an automatic procedure for airlines to initiate new service, in competition with other airlines already flying the same routes, without first obtaining CAB approval.

"There is a tremendous potential market among Americans for airline service . . . that hasn't yet been tapped," Carter said. "I believe that more competition, lower rates, higher use of airplanes, more entry into new markets (and) better protection for small communities all tie together into a very worthwhile pursuit."

Senator Edward M. Kennedy (Dem.), Massachusetts, one of the sponsors of the deregulation bill, has quoted an estimate by the General Accounting Office that the measure would save airline passengers 1.5 billion dollars a year in reduced fares.

But Albert V. Casey, board chairman of American Airlines, told Congress recently that because airline costs are "90 per cent fixed," the deregulation bill could not bring about any widespread or significant reductions in fares.

Instead, he said, "it would cause grave and irreparable damage to the integrated air transportation network."

"There would be chaos," said Harding L. Lawerance, chairman of Braniff International. "We would have to chase the (passengers) loads. We would be here today and there tomorrow . . ."

"I should like to be able to say that TWA is not afraid of deregulation of market entry (but) I cannot," Charles C. Tillinghast Jr., chairman of Trans World Airlines, told a Senate subcommittee.

The nation's commercial airlines—except for those that operate entirely within one state—have been a regulated industry since 1938. Kennedy and other advocates of deregulation argue that this is a big part of the problem.

The Civil Aeronautics Board was set up to encourage and protect a fledging industry that needed lots of help in the Depression era. The CAB was given authority to set fares and to grant or deny routes. Billions of dollars in federal subsidies were handed out to the airlines—at first to help them survive and later to offset losses from unprofitable service, mostly to smaller communities.

But times have changed. Advocates of deregulation argue that nowadays the CAB mainly functions to protect the big trunk airlines from competition. In 1938, there were 16 trunk airlines. Today there are 10—United, TWA, American, Eastern, Continental, Braniff, Delta, National, Western and Northwest.

These 10 carriers provide more than 90 per cent of all scheduled airline service in the United States. About 8 per cent is provided by so-called local service carriers—Allegheny, Frontier, North Central, Ozark, Piedmont, Air West and others. Among big U.S. airline, Pan American, provides international service almost exclusively.

Despite the phenomenal growth of air travel, not one new domestic trunk airline has even been authorized by the CAB, although it received 79 applications to set up new trunk carriers between 1950 and 1974. Only one new local service airline has been authorized since 1950.

For five years beginning in 1969 or 1970, the CAB imposed a virtual moratorium on awarding new routes to existing airlines. It granted only two of 72 applications to provide new service. A study by the CAB's own staff said that "since approximately 1970, cases involving new domestic route authority have generally not been set for hearing."

In recent years, there has been growing criticism that the CAB's protective policies have produced airline fares that are artificially and unnecessarily high. The complaints—from the Department of Justice, the President's Council of Economic Advisers and others—have been prompted by some dramatic developments in air travel.

The lesson of these developments, the critics say, is that air travel could be much less expensive than it is. One development has been the surging growth of charter flights of fares much lower than comparable commercial flights. Another has been the lower fares offered by airlines that operate in only one state—notably California and Texas.

When the CAB approved a one-year trial period for the "skytrain" service offered by Laker Airways of Britain, it focused new attention on the disparity between charter fares and commercial fares. Laker Airways will offer roundtrip New York-London flights for $236, compared with commercial rates that range from $309 to $774.

You can fly from Los Angeles to San Francisco, a distance of 338 miles, for $18.75 on an airline that operates entirely within the state of California. But if you fly from Chicago to Minneapolis, a distance of 339 miles, it will cost you $38.89 on a CAB-regulated airline.

If you fly from Dallas to Fort Worth-San Antonio on an intrastate airline, it will cost you $23.15. But if you fly from St. Louis to Chicago on a regulated airline, it will cost you $29.63. The respective distances are 248 and 258 miles.

Why is it that intrastate airlines can offer lower fares for the same mileage? The trunk airlines say it is because weather conditions are better in California and the Southwest than they are in the East and Middle West and because it costs less to operate high-density routes.

That Los Angeles-San Francisco fare is lower because 7,500,000 persons travel between the two California cities each year, while only 1,400,000 travel between Chicago and Minneapolis, the big airlines say.

They argue also that congestion, both in the air and on the ground, is greater on many of their routes than it is in California and Texas. Moreover, they say, the intrastate airlines would have higher costs if they had to maintain connecting service. The intrastates can fly turnaround service instead of going on to other cities to make connecting flights.

The Kennedy subcommittee disputed all of these arguments. It said its studies showed that the factors cited by the trunk airlines accounted for less than half of the fare differential. The density factor had a different meaning for the subcommittee, which said the lower fares offered by intrastate airlines had attracted larger numbers of passengers.

Cost data submitted by the Boeing Co. have shown that it would be economically feasible to provide transcontinental coach service on Boeing 747 jet airliners for a one-way fare of $75 to $95, the subcommittee said. The CAB-regulated one-way fare as of Feb. 1, 1976 was $175.

Protected by CAB-imposed standard fares, the big airlines have gone in for service competition instead of fare competition, the subcommittee said. Kennedy paints a graphic word picture of two $35,000,000 jet airliners "speeding across the country side-by-side" while passengers drink champagne, eat lobster and prime beef and watch first-run movies—but each plane is only half full.

An irony of the debate is that deregulation is being pushed by liberal Democrats, the traditional friends of government regulation, and is being resisted by the big businessmen of the airline industry. The liberals argue that more competition would mean more service and lower fares.

The Senate bill as now written would establish an automatic procedure under which scheduled interstate and intrastate airlines could offer service on routes served by other airlines at fares of up to 35 per cent less than the CAB-approved fare, without CAB approval. The transition to unrestrained entry into markets would be accomplished in stages over a five-year period.

Small airlines would be given more leeway to offer new service and would be protected in various ways against raids by larger carriers, but all carriers would have some opportunity to step into markets served by other carriers. Depending on the point of view, the result would be chaos or capitalism.

LOBBYING EFFORT IS INTENSE AIRLINES FIGHTING DEREGULATION AND TRAVELERS ARE PAYING COST

(By Jack Cloherty and Bob Owens)

WASHINGTON.—Air travelers are unwittingly paying for one of the most intensive lobbying campaigns seen on Capitol Hill in recent years.

"Let's put it this way," one weary Senate aide told this column last week. "If the major airlines devoted as much effort to handling baggage as they did to lobbying Congress, no one would ever lose a suitcase."

The airline shock troops have hit Congress in the past few months to fight legislation that would lift government controls on the industry.

While most businessmen complain about the undue interference of "big government," the airline chiefs want to stay under Uncle Sam's protective wing.

The Civil Aeronautics Board, by assigning routes and setting fares, insures the airlines of limited competition and fares that will bring a 12 percent rate of return.

In fighting air fares, the Board allows the air carriers to include lobbying and advertising as legitimate operating expenses. So no matter how much lobbying they do against the consumer interest, the airlines can ultimately pass the cost on to those consumers.

And the airlines have been doing plenty of lobbying. They have hired a former Senate Commerce Committee staffer and a former Civil Aeronautics Board official to bend ears.

Individual senators on the Commerce subcommittee handing the legislation have been targeted by the airlines that operate in their states.

For example, Northwest and Frontier Airlines have been making their case with Sen. John Melcher, D.-Mont. Montana is highly dependent on Northwest and Frontier and the airlines are claiming that they will have to shutdown some operations there if deregulation goes through.

Trans World Airlines, meanwhile, is focusing on Sen. John Danforth, R.-Mo. TWA is the second largest employer in Missouri, and they are making Danforth aware that jobs may be lost if the legislation passes.

Sen. Robert Griffin, R.-Mich., is hearing a lot from North Central Airlines, which serves a number of medium-sized towns in his home state. They are claiming that the deregulation would make it impossible for them to continue serving all of these locations.

"The truth is that the bill actually guarantees continued air service to all communities that now enjoy it," a Senate Commerce staffer said. "The bill is geared to community service," he said, "and not to airline profit margins."

"The airlines are using scare tactics," says John Nammack of the National Association of State and Aviation Officials. 'They are telling all sorts of phony horror stories."

Many of the large airlines have even appealed to their passengers for lobbying help. American, Eastern and Western Airlines have stuffed the seat-back pockets of their planes with antideregulation material.

National Airlines even went so far as to appeal to its suppliers for help, saying that its "need for services could be eliminated by drastic legislative reform."

The Aviation Consumer Action Project has appealed to the C.A.B., asking that these lobbying costs be excluded from the rate base. Although the petition was filed last December, the traditionally pro-industry Board has not yet ruled on it.

"It's a very sensitive issue," a Board spokesman said. "We want to be very sure about all the facts before we rule on it."

Meanwhile, air travelers will continue to underwrite the airline lobbying effort as the deregulation bill winds its way through Congress.

[From the Atlanta Constitution, Aug. 17, 1977]

AIRLINE REGULATION

The airlines are "dogfighting" among themselves about President Carter's intentions to reduce regulation of the American airline industry. Some airlines, such as Delta, are opposed to the pending legislation, while others, such as United, support it.

It is a complicated question to be sure. But, in the long run, it's hard to argue against the deregulation moves.

Delta, however, tries very hard. The Atlanta-based airline raises a number of questions about the legislation, sponsored by Sens. Kennedy and Cannon and strongly supported by the Carter administration, which is aimed at making the airline industry more competitive and "free" from overly severe government regulation.

Delta, for example, contends the legislation would not really bring about deregulation at all, but "would create new tiers of even more government regulation in a number of areas" and "threatens ultimate nationalization."

Delta argues that deregulation would bring "chaos" to the current order of the world's best national airline system. It argues that increased airline competition is inconsistent with the government's energy conservation efforts; that it would increase government employment and expenditures to oversee the new airlines and to administer "guaranteed" airline service to smaller cities; and that it would endanger enforcement of airline safety standards.

On the other hand, Richard Ferris, president of United Airlines, sees it this way:

The bill "will gradually change the present system of government regulation to allow more of the decisions affecting air transportation to be made in the marketplace, by the people who buy the tickets.

"United strongly supports the legislation because it will make airlines more competitive, enable new carriers to enter the system and permit existing carriers to serve new routes. We believe the result will be better service to the public and new opportunities for airlines to grow. . . ."

Delta, for certain, should be listened to very carefully and its objections considered thoroughly—because it is one of the two or three best managed and most successful airlines in the world. And it is joined in its objections by a number of other airlines. But a close observation of the proposed bill shows that it does not "tear down" the airline industry; rather, it allows only modest changes to allow consumers, the marketplace, and competition (and isn't that old-fashioned American?) to play more important and positive roles in the airline industry.

And why should the airlines be afraid of modest changes, consumers, the marketplace, and competition?

CALLS FOR DECREASED REGULATION: CONTROLS HURTING AIRLINES: PERCY

The airline industry may be the next victim of government over-regulation, Sen. Charles H. Percy, R-Ill., Friday told more than 500 United Airlines employes.

"We did it to the Post Office and look at what we got," Percy said. "We did it to the railroads and look at what we got."

Percy, co-sponsor of a U.S. Senate bill on regulatory reform, said unless the trend toward increasing government control is reversed, the airlines will be unable to operate without government subsidies.

Estimating that it costs the airlines $50 to $100 billion a year to meet regulatory requirements, Percy said he does not understand industry opposition to regulatory reform.

The senator said only three passenger airlines—United, Pan American World Airways and Western Airlines—support a reduction in regulation.

"All the rest are opposed," he said, noting that he gets a lot of lobbying every time he flies on a commercial airline.

Percy said he believes the reform bill has about a 50–50 chance of passage, and expects the matter to be voted on by early next year.

If successful, Percy said airline deregulation could lead to similar reforms in other areas like the trucking industry. "We're taking the airline industry as the test one," he said, noting other industries also could benefit from the competition of the free market.

The regulatory reform bill now before a Senate committee would eliminate the need for airlines to wade through government red tape before starting a new fare program or a new air route.

Speaking at United's headquarters in Elk Grove Township, Percy said this will allow the airlines to make their own decisions more quickly and give them greater flexibility in the services they provide.

"If you trim the bureaucracy, cut back on all the red tape and add a little competition, you're going to see the airline industry grow and prosper," Percy said. "It will mean lower fares for passengers, which means more people will be flying."

Noting that the 1974 Gallup Poll showed that 45 per cent of the population had never flown, Percy said the government subsidy of the automobile has hindered development of more efficient kinds of transportation.

"It is no small wonder that 85 per cent of all intercity travel is by private auto," he said. "You don't see many people lined up at the ticket counters on the weekend to fly out of town. You see them in their cars on the highways lined up at the toll booths."

Percy said there is a tremendous growth potential in the airlines industry if prices can be kept low enough to compete with the automobile. He said this can only be done if the government red tape is reduced.

"We think you can really grow if you can get out from under government regulation," Percy said.

[From the Bellvue (Wash.) Journal American, July 21, 1977]

FLYING THE COMPETITIVE SKIES: SOME WILL CRASH, SOME WILL SOAR

(By Bruce Ramsey)

Opening up the airline business to free competition was long a dream of economists rich in theory and poor in political acumen. Now that President Carter has endorsed the idea and Congress has taken it seriously, the airlines are worried. They have fired off a barrage of press releases claiming that relaxing government regulations will ruin the industry.

They seem to have convinced Robert Twiss, aerospace editor of the Seattle Times, who writes that the Cannon-Kennedy deregulation bill "could destroy the national air-transport system in two or three years . . ." and lead to higher air fares.

Meanwhile, British entrepreneur Freddie Laker is making arrangements for his Laker Airways Skytrain Service between London and New York, scheduled to begin Sept. 26. By eliminating ticket reservations, travel agent commissions and those mouth-watering airline meals, he plans to shave the round-trip fare to $236, compared to a regular $626 economy fare and $1,312 first-class.

Earlier this year, American Airlines lowered the fare from New York to San Francisco to $228 for a simple round trip (mid-week only) compared to United's $331 off-season "Freedom Fare." United met the new low prices.

These competitive moves probably would not have been possible a few years back, before the push to deregulate the transportation industry. They are still tentative and experimental. But they can be taken as important signals of what's to come if the deregulation bill passes.

Advocates of competition argue that airline regulation has actually been airline price-fixing, resulting in the average aircraft flying one-third empty, making up the loss in higher fares. Freed from meaningful rate competition, the airlines have limited their rivalry to offering movies, "free" meals, and pamper-the-customer service.

Regulation, critics say, has worked to protect the established carriers at the expense of newcomers. When he endorsed regulatory reform in March, President Carter said that since 1950, the Civilian Aeronautics Board has received 80 applications for new trunk service—and granted none of them.

Applications for existing airlines to offer new routes get snarled for years in paperwork.

The bill sponsored by Sens. Howard Cannon (D-Nevada) and Edward Kennedy (D-Massachusetts) would allow the five largest airlines to add one new route a year, and the others to add four new routes a year. Airlines could raise fares 10 per cent a year for the first two years, 20 per cent thereafter they could reduce fares to equal their direct costs.

You'd think that the airlines would fly loops at the chance of raising prices without asking the CAB first. But with one exception—United Airlines—they oppose the bill.

That, and not their public statements, gives the clearest idea of what *they* think would happen to air fares if competition were re-introduced into their industry.

Price-cutting would hit the industry, especially on the high-density routes like London-New York. The industry estimates that 37 per cent of the routes are run at a loss, subsidized by the others; fares in these routes would rise, and some would be abandoned by the large carriers. (These would likely be picked up by the "commuter" runs like the Seattle-Victoria service that recently caused a stink by landing on Lake Union.)

The airline business is highly leveraged with debt, and follows the economic cycle of boom and bust. When the next recession hit, airlines would invade each other's markets, in an attempt to keep their planes filled. Some airlines would likely go bankrupt.

The survivors, the pro-regulation forces say, would be the big carriers, which would then dominate the industry and jack up prices. They point to the fact that United Airlines, the industry's only defector, is the largest domestic airline.

United Airlines argues that the present regulatory setup, while designed to protect the carriers, hasn't done so.

Bernie Slebos, United's vice-president for regulatory affairs, told the Seattle Chamber of Commerce last month that the airlines' average return on investment in the last five years has been a piddling 3.6 per cent. That's barely above the record of the railroads—another transportation industry with a supposedly friendly regulator, the ICC.

"Most of the carriers in this industry feel comfortable with what they've had," he said. But after a two-year study of regulation, United "could see no hope for this industry as a privately-owned and supplied industry with a continuation of this kind of regulation. . . . Unless there is reform, you're looking at an industry that's going the way of the railroads."

With gradual deregulation, Slebos argued, "eventually this industry would better serve the public if it were more able to react to the market directly, not filtered through a government agency." That's in distinct contrast to the railroads, which ICC regulation helped change from a vibrant, dynamic industry to a regulated, unionized and sluggish "public utility." The result is Amtrak and Conrail—not exactly inspiring models for the future of the aviation industry.

The security blanket of regulation may be deadening in the long run, but it has a comfortable certainty to it. The problem with a competitive shakeout is that some airlines might indeed get "shook out," which is the real meaning of predictions of "destruction of the industry." Competitive freedom never destroyed an industry as long as there was strong demand for its services.

And it has made possible some nice bargains for consumers, like those $236 Laker Airways round-trip fares.

[From the Burlington (Iowa) Hawk-Eye, Aug. 3, 1977]

AIRLINE REGULATION

A major reason government regulates so many businesses is that so many businesses want to be regulated.

Consider the airlines.

President Carter put a top priority on deregulating the airlines. He said regulation had protected the industry from competition to the detriment of consumers. Legislation was drafted.

Then the Civil Aeronautics Board received a petition from four large, successful commuter airlines. It pleaded with the government to regualte them, and everyone else.

Why? These commuters, generally serving a single state and providing air taxi facilities, have grown faster than any segment of the industry—without regulation. They could pick their markets not served by regular carriers, and set their prices. If a route was not profitable, they could scrub it without hassle. They moved into areas never adequately served with air transport, and made money.

That's the key. They apparently are making so much money that they want to keep it all. They don't want any brash upstart pushing into their territories.

But they don't want regulation all the way. They want to continue to set their own fares, without CAB interference.

So we prattle on about free enterprise, and try to make it free only for ourselves. We want the best of both worlds—protection from competitors and freedom to figure how much profit we can make.

[From the Miami Herald, Aug. 29, 1977]

GIVE AIRLINE DEREGULATION A TRY

Favorite theme of speakers at Rotary and Kiwanis club luncheons is government bureaucracy and the paperwork involved with rules and regulations forced on businessmen.

"Let's get the government off our backs," always brings thundering applause.

But that has not been the general reaction to the effort to get the federal government off the backs of the airlines. President Ford proposed in 1975 to reform economic regulation of the industry, primarily by giving the airlines greater freedom to set fares and greater freedom to start new routes and get out of old ones. The Aviation Act of 1975 would also eliminate the authority of the Civil Aeronautics Board to approve agreements among airlines to kill off competition.

President Carter has adopted the idea and the legislation has such varied support as Common Cause, the National Association of Manufacturers and the American Conservative Union.

But it is clear that most airline executives prefer the burdensome federal regulations of fares and routes to the challenge of free enterprise and competition. Delta Chairman W. T. Beebe says it would be potentially ruinous and lead to possible nationalization. Eastern's Frank Borman thinks it could lead to monopoly by the most powerful of the airlines. Chairman Arthur F. Kelly of Western told a congressional committee that any promise of lower fares in a time of continuing inflation is a cruel hoax and a delusion.

Support from within the industry has come mainly from Pan American, Air West, Frontier and United. Pan Am would love to offer domestic service to the millions of passengers it carries on a worldwide network of routes. United has a large fleet and would love to tap some of the better markets.

Nobody expects a quick and easy decision in Congress on this one, but the legislation has been given a big boost by the American Enterprise Institute for Public Policy Research. Behind that imposing name is a nonpartisan, non-profit, publicly supported education and research organization. And in its new 210-page report on airline fares and regulations, it finds that the present system "has become a major obstacle to the provision of air service at the lowest cost consistent with the furnishing of such service."

That is a serious accusation because it runs opposite to the intent of existing legislation. The study does not promise lower fares in all markets under deregulation, but makes the point that present rules seldom require airlines to operate routes that are not profitable; that present rules have not prevented airlines from abandoning service to small cities; that unregulated airlines have been stepping in to service cities when the scheduled airlines pull out.

Those three points are significant because just the opposite is argued by the industry executives who fear deregulation.

Making an airline service an unprofitable route could be just as deadly as the regulations that ruined the railroads. Preventing competition on air routes runs counter to everything the free enterprise system stands for.

A challenge never hurt a good businessman. Why not lift the government off the backs of the airlines and see what happens?

[From the Atlanta Journal, Sept. 2, 1977]

REGULATORY REFORM

The process through which federal regulatory agencies reach their decisions is coming under closer scrutiny.

It is overdue and most welcome.

What is intended by many pushing for change is not sweeping deregulation but, rather, regulatory reform that will make the process more efficient and responsive to both public and private interests.

Common Cause, a citizen lobby, recently released a study revealing what it called "a gross imbalance" of contacts by federal regulatory commissioners meeting with industry and consumer representatives.

The study, based on a review of the 1976 appointment calendars of 39 commissioners in 11 independent regulatory commissions, disclosed that contacts with industry officials were 10 times more frequent than with consumer groups.

The lack of contact with consumers is partly the result of a lack of organized consumer efforts.

Also, although commissioners may not have been inhospitable to consumer voices, they have not pressed hard to seek out consumer views.

Some changes are obviously in order.

Steps must be taken to provide public representation in commission proceedings. Improved use of public hearings—such as the kind scheduled by the Interstate Commerce Commission in Atlanta to hear comments on improved motor-carrier entry regulation—is one move in the right direction.

Proposals for establishing a consumer advocacy agency and providing for funding of public representation in agency proceedings also deserve close study.

[From the Atlanta Constitution, Sept. 1, 1977]

DELTA, EASTERN AND PAN AM MAKE LONDON PITCHES TO CAB

(By Jeff Nesmith)

WASHINGTON.—Three major airlines—Eastern, Delta and Pan American—again appealed to the Civil Aeronautics Board (CAB) during a hearing here Wednesday for certification to begin new nonstop flights between Atlanta and London.

A Pan Am official argued that provisions of a recently negotiated air transport bilateral agreement between the United States and the United Kingdom make it best suited for the flights.

Eastern said that only a low-fare excursion service it proposes to initiate between Atlanta and London will make the new flights financially viable.

And Delta, recommended for the new route in a CAB report rejected last year by President Gerald Ford, said it was still "ready when you are."

The new agreement was signed July 23, and President Carter has urged the CAB

to submit new recommendations to him by early October so that he may make a decision on the transatlantic flights by Nov. 1.

At Tuesday's proceeding, Pan American attorney James Bell noted that under the U.S.-U.K. agreement, the airline selected for the Atlanta-London flights must use Gatwick Airport in London, which has fewer connections to the European continent than Heathrow Airport.

Pan American, he said, is the only airline with flights extending from Gatwick to continental cities.

Bell said 73 per cent of the passengers now travelling from the Southwest to London are actually destined beyond the United Kingdom and said Pan American planned to provide daily flights between Atlanta and Gatwick and on to Amsterdam.

On the other hand, Delta Vice President James W. Callison said that two-thirds of the 135 passengers-a-day in its forecasts intend to stop over in London, regardless of ultimate travel plans in Europe. Therefore, he said, the requirement that planes from Atlanta use Gatwick Airport does not significantly decrease the viability of Delta's planned schedule.

In fact, Callison told the five-member board, nothing in the new transatlantic treaty requires any fundamental change in the CAB's 1976 recommendation that Delta be awarded the route. He urged the board to reaffirm the 1976 recommendation "Delta," Callison said, reciting the airline's advertising slogan, "is ready when you are."

Eastern Airlines spokesman Allison Wade said Eastern would initiate low-fare excursion prices between Atlanta and London and extend the flights to New Orleans, so that during off-peak periods New Orleans travellers could fly through Atlanta to London for $371 roundtrip.

"With our low fares, Eastern would carry more than 200,000 passengers on this route in the first year of service," Wade said.

[From the Canadian Travel News, Aug. 18, 1977]

TOURISM IS BIG BUSINESS FOR CANADA

Tourism is big business in Canada. In Ontario, for instance, it generates $2.8 billion in revenue and sustains 200,000 jobs. In 1976, according to an Ontario Government estimate, 20,755,000 tourists from the U.S. spent about $750 million in the province; another 885,000 tourists spent about $290 million. The stuff that makes retailers, restauranteurs, hoteliers, village councils, city governments, tax collectors and balance-of-payments experts in Ottawa very happy. In 1976 and for much of this year. Canada lost much of its tourist appeal, and the domestic industry and all its peripheral agencies—and Ottawa—had reason to be alarmed.

One month's figures may be just that, but in May 2.8 million U.S. residents entered Canada, up 1.3% from May 1976. Still, for Ottawa, the other travel news for May was depressing: Canadian residents returning from the U.S. numbered 3.4 million, a 7.6% jump over the previous May. And more Canadians travelled to countires other than the U.S. in May compared with the previous year, and fewer from those countires came here.

Construction volume is expected to increase in 1977 to $34,349.3 million, according to Statistics Canada. That's an 8.1% hike on the 1976 volume, which was 12% up on 1975. Alberta is expected to post the biggest increase.

The value of engineering construction, at 43.3% of the total expected volume of 1977, is up 16.9%; building activity, at 56.7%, is up only 2.3% over the year before. The strength in the engineering group of structures is primarily because of projects classified under electric power construction, and gas and oil facilities. Building construction will probably rise 2.3% with the largest dollar volume increases in residential buildings and institutional-type buildings such as schools, churches, hospitals. Expenditures on commercial buildings will decrease by 2.1% ($70.8 million).

Is Big Labor all that big? Well, yes and no. According to Labor Canada, union membership in Canada at the beginning of this year stood at 3,149,213, 3.5% above the 1976 figure. Assuredly a lot of people, but the unionists represent just 31% of the total labor force and 38.2% of non-agricultural paid workers.

Better than 68% of the total are members in unions affiliated with or directly chartered by the Canadian Labor Congress. Unions with headquarters in the U.S. accounted for 49% of the total membership, down fractionally from previous years.

What is big—in numbers and clout—is the largest union of all: the Canadian Union of Public Employees. It has 228,687 members, far ahead of the United Steelworkers of America (193,340) and the Public Alliance of Canada (159,499).

Profits. After-tax profits of industrial corporations, not seasonally adjusted, were $2,157 million for 1977's first quarter, an increase of 6.9% on the previous year. Total sales of $59 billion increased $6 billion (11.3%).

Retail sales. Department store clerks tell customers that business—especially in big-ticket items—is grim. The official figures confirm their glumness: Seasonally-adjusted retail sales in May were $5,008.7 million, a shade below the April figures.

Auto. Canadian auto makers are having a banner year. In May they turned out 171,081 vehicles, up a stunning 14.7% on a year earlier. For the first five months Canadian production reached 820,539 units, up 10.6%. Sales are another matter; in the first five months sales reached 586,898 units vs. 540,595 one year ago. Imports are making marked inroads. In May 22,071 overseas-manufactured passenger cars were sold in Canada, 47.3% more than one year earlier. Sales of Canada and U.S. made cars totalled 82,669 units, 5.8% fewer than in May 1976.

[From the New York Times, Sept. 22, 1977]

THE FEARS OF FLYING FREE

AIRLINES BEGGING TO BE FETTERED

Nobody wins when the Federal Government regulates domestic airlines. Passengers pay more—as much as $2 billion more each year, according to the General Accounting Office—than they would if airlines set their own fares and routes. Most airlines barely turn a profit: High fares are offset by millions of unsold seats because travelers are priced out of the market. And the economy suffers: Fewer travelers means fewer jobs for airline employees to serve them.

That is why a coalition of Congressional liberals and conservatives, with the support of the President, has introduced legislation to reduce domestic airline regulation. The Cannon-Kennedy bill, now before the Senate Commerce Committee, would allow an airline to lower its fares and fly a few new routes each year without obtaining the prior agreement of the Government. In addition, the bill would require the Civil Aeronautics Board to approve any application for new air service that it found to be consistent with the public interest.

Since the bill is intended to loosen Federal fetters on the industry, those unfamiliar with regulatory politics may be surprised by the opposition of many airlines and their employees' unions. Small carriers fear that the big carriers would invade their territories. The big carriers worry that small regional airlines might expand into lucrative national markets. Most airlines, it seems, have grown so accustomed to regulation that they would rather limp along as Government wards than risk open competition. Only three airlines—the giant United and two regional carriers, Hughes and Frontier—are supporting the measure and are willing to fight for business by appealing to passengers, rather than to regulators. The regulation of airlines for the sole purpose of preserving certain private interests is bad regulation. The Senate would do well to act quickly and affirmatively on the Cannon-Kennedy bill.

AND REGULATORS TRAPPED IN PARADOX

If you doubt the pernicious effect of airline regulation, consider this paradox: The six major airlines that fly between the United States and Britain traditionally oppose bargain fares, but now wish to lower them substantially on advance-purchase excursions. The Civil Aeronautics Board, whose members are dedicated to reducing the cost of international air travel, won't let them.

The key to the riddle lies in the regulatory process. In recent years, scheduled airlines have been steadily losing vacation travelers to low-cost charters. Now the airlines face an additional challenge—Britain's Laker Airways will soon start daily, no-frill, no-reservation service to London at super-cheap fares. With charters and Laker nipping at their heels, the airlines decided to fight back. They announced a new no-frill service, comparable to Lake's, plus seductive new excursion fares designed to recapture passengers from the charters.

If international air travel were sold in a truly competitive market this price war would follow a predictable pattern. The carriers would reduce fares until it ceased to be profitable to attract more riders. Poorly managed lines might go out of business, but the survivors would hold down the rates to avoid being undercut by new competitors, like Laker. Travelers would enjoy cheap, basic transportation—or champagne, caviar and first-run movies only if they were willing to pay more for such luxuries.

But international air travel is not truly competitive. The rates are set and the routes are parceled out by governments. And the Civil Aeronautics Board refuses to approve the major carriers' bargain fares without first weighing the effect on the rest of its flock—notably, the charters. Last week the Board gave the big airlines the right to compete with Laker on equal terms, but threw out the new excursion rate because it might threaten the financial stability of charter airlines. Unless the President overturns the decision, travelers will be denied inexpensive reserved seats to London.

The Board's decision is logical inside the world of regulation, but its consequences are dismaying. To preserve a delicate market, created by regulation, the C.A.B. will not permit the big airlines to try to fill thousands of empty seats on scheduled flights. Pan Am, T.W.A. and the rest are condemned to fly half empty most of the year, and their passengers are condemned to foot the bill. It would be far better, in our view, for the Board to grant every request for fare reduction and to relax all restrictions on the charter lines. There is risk in such a strategy: The charter carriers could be driven out of business. But the greater danger lies in reinforcing the regulatory syndrome of high fares and empty seats, penalizing both airlines and their passengers.

[From the Ft. Wayne (Ind.) Journal-Gazette, Aug. 9, 1977]

RELAX AIRLINE REGULATION

Gradually relaxing airline regulation to foster some healthy competition in the skies is the thrust of pioneering legislation introduced and carefully perfected by Sens. Howard Cannon and Edward Kennedy. The national interest, the air transportation indus-

try and the consumer all stand to benefit from the Cannon-Kennedy deregulation program to decrease government influence and to increase market influence on airline operations.

That's why President Carter and the most unlikely liberal-conservative-industrial coalition ever assembled vigorously support the airline bill. Called the Ad Hoc Committee for Airlines Regulatory Reform, the coalition includes Ralph Nader's Consumer Action Project, the American Conservative Union, Americans for Democratic Action, Common Cause, the National Taxpayers Union, the National Association of Manufacturers and the National Association of State Aviation Officials.

The deregulation bill primarily focuses on reducing federal control of fares, and to balance pricing freedom, it creates more competition by permitting new carriers to enter interstate service and by allowing existing airlines to expand and contract their routes. All these attractive changes—and this is important—would be phased in slowly to avoid industry disruption in emerging from the protective mantle of regulation.

Fares, for example, at an airline's option could be annually increased by 5 per cent until 1980 without interference by the Civil Aeronautics Board (CAB). After that, fares could be raised 10 per cent a year. Fare cuts of up to 35 per cent could also be made for various reasons, to stimulate traffic, to compete or simply to reflect lower costs that might result from relaxing regulation. A Government Accounting Office study found that CAB controls cost air travelers an extra $1.4 billion to $1.8 billion in the period from 1969 to 1974.

Turning to routes, small carriers could add two new routes totaling 3,000 miles a year beginning in 1979, and large airlines could annually expand with one new route of up to 2,000 miles. Airlines could also drop unprofitable routes, but small-city service would be ensured by federal subsidies as a last resort.

Another good feature in the bill maintains the inter-carrier agreements that are vital to an efficient air transportation system. The single-ticket trip, baggage forwarding and cargo arrangements among the nation's airlines would all be continued.

Although the Cannon-Kennedy legislation draws widespread approval outside the air transportation industry, the bill is generally opposed by organized labor and airline management, with the notable exception of United Airlines, the nation's largest domestic carrier. The real problem is fear—the industry is more frightened of change than it is of the much more threatening ailments that change is designed to cure.

But change is vital if the airlines are to survive.

Increasingly poor regulation is in large measure responsible for an impoverished industry. Lulled by the lack of competition during the past 20 years of CAB rules, lethargic management and labor must also share part of the blame for weak economic performance.

In the last five years, the airlines together recorded the lowest return on total capital of the nation's 30 major industries—a pathetic 3.6 per cent return that offers lenders little incentive to provide the $65 billion the scheduled carriers will need to buy new equipment and modernize their fleets in the next dozen years. Other economic statistics on airline performance are equally discouraging. The grim numbers only portend eventual nationalization.

In short, privately owned airlines must compete in the marketplace if they are to remain in the private sector. And relaxing the regulatory hold on that marketplace is the best way to fly.

[From the Omaha World-Herald, Aug. 3, 1977]

AIR BILL OKAY WITH SENATOR

WASHINGTON.—Sen. Edward Zorinsky said Tuesday he no longer fears that smaller towns and cities would suffer under legislation to reduce federal regulation of airlines.

He said his chief concern had been that it would result in a "big rush" by airlines to serve the larger markets, "abrogating their responsibility to smaller communities."

"It (the bill) has been amended, modified and improved to the point where, in my estimation, it's better than what we're living under today," he said.

Zorinsky is a member of the Senate Commerce Committee, which began considering airline deregulation legislation earlier this year.

The committee adopted language he proposed, which stated that the maintenance of "continuous, scheduled airline service for small communities and for isolated areas" was national policy.

It also approved an amendment he offered to require the Civil Aeronautics Board to consult with state aeronautical departments on service changes.

The pending legislation contains protection for smaller communities that does not exist under present law, Zorinsky said.

The Senate committee will not complete action on its bill until after the August congressional recess.

A PATTERN OF FOREIGN POLICY RETREATS

Mr. DOLE. Mr. President, I suspect many Americans today are concerned, as I am, about the emerging pattern in this administration's long string of foreign policy concessions. I detect, for example, disturbing parallels between President Carter's misguided Middle East declaration and his defective Panama Canal Treaty proposal. Are these isolated foreign policy blunders, or is there some common denominator that underlies them, and others as well?

Vietnam—Cuba—South Korea—South Africa: The list reads like a roadmap of retreats by this administration in its policies towards the rest of the world. Now, Panama and Israel can be added to the list of areas where we may have chosen to compromise our national interests for the sake of an elusive goal which seems more and more to preoccupy the efforts of the President: A recycled version of "détente" with the Soviet Union and smaller leftist-oriented governments.

I was particularly impressed with the comments in last Friday's Washington Star by syndicated columnist John P. Roche—"Sacrificing Israel To U.S.-Soviet Relations," October 7—who suggested that Israel may become "our next sacrificial offering to 'improved Soviet-American relations.' " Mr. Roche points out that we apparently learned little from our past experience with the Republic of South Vietnam which, ushered to the negotiating table by the United States in 1973, died a violent death when the "peace treaty" was scrapped 2 years later.

With this tragic experience still fresh in our minds, why are we today so willing to jeopardize national interest and security on feeble accords with the Soviet Union and other nations of a similar persuasion?

RUSH TO RECONCILIATION

I think the answer must lie in part with President Carter's desperate attempt to patch up the appearance of East-West détente, and thereby demonstrate some significant foreign policy accomplishment during his first year in office. But in his rush to reconciliation, he has created an atmosphere of "détente" at any price."

Let us look at the administration's recent agreements with the Soviet Union concerning a new Geneva Conference for the Middle East, and Extension of the SALT Accord. In both instances, there was an obvious strategic retreat by the United States on critical points of difference, in order to create a momentary mood of harmony between our governments. In neither case were the administration's major policy decisions arrived at through consultation with Congress. In both cases, the administration achieved a defective form of consensus that Moscow was only too happy to accept.

With Panama, too, we have witnessed the signature of treaties containing incredibly ambiguous language bearing directly on our vital defense interests—again, to achieve momentary "progress" with a leftist government, and again without any meaningful deliberations beforehand with Congress. It is a pattern we have seen repeated over and over again in "normalizing" relations with Cuba, admitting Vietnam to the United Nations, withdrawing troops from South Korea, and intimidating the government of South Africa.

WHAT THE SOVIETS SEE

It used to be commonly recognized that the Soviet Union would carefully monitor the actions of a new and unknown U.S. President to determine his mettle. It used to be an accepted concept that the Soviet Union better understood strength than weakness. I believe both of these concepts still hold true.

I have no doubt that Soviet leaders have closely followed the policies of our new President in the international arena. I also believe that the erratic nature of U.S.-Soviet relations since last January has been, at least in part, an intentional ploy by the Soviet Government to test the will of this new leader.

In general, what the Soviets have observed is a steady series of U.S. withdrawals and submissions on nearly every foreign policy front. In matters directly affecting our two governments, they have found this administration only too willing to make concession after concession in its awkward efforts to recapture a spirit of U.S.-Soviet détente.

I submit that a minimum amount of "backbone" might have done far more to gain and retain Soviet respect, as well as to protect American interests. It would be a serious mistake to sell ourselves short, and to sell our friends down the river in a clumsy effort to shore up this administration's sagging profile on the international scene.

Mr. President, I ask unanimous consent that the text of the John P. Roche column, which appeared in the Washington Star on October 7, 1977, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

SACRIFICING ISRAEL TO U.S.-SOVIET RELATIONS

(By John P. Roche)

(The admission of the Palestine People's Republic to the United Nations was a moving event. Ambassador Andrew Young warmly lauded its "independence struggle," and Prime Minister Yasir Arafat told an enthusiastic New York audience that, while the *Palestinians* had nothing against the American people, they were outraged by American refusal—"on orders from the defeated Zionist imperialists"—to provide $3 billion in compensation to the fledgling state.)

A fantasy? I hope so. Not because I am a charter member of some "international Zionist conspiracy," but because my support for Israel is founded on the same social democratic, anti-totalitarian premise that led me to support our one-time allies in the Republic of Vietnam, who are now at the mercy of Hanoi's butchers.

A smug, grinning lot these, as they recently were feted at the United Nations, lauded by Ambassador Young and greeted by a crew of American "Hanoi-hawks" as the redeemers of Vietnam from "world imperialism and American colonialism."

Hanoi's charmers left the celebration for Turtle Bay to join the U.N. chorus calling for the destruction of Israel. This is hardly coincidental: Israel is currently getting the same treatment formerly utilized to undermine the legitimacy of the Saigon government.

It is history, not sentiment, that has triggered my vigorous support for the Israeli refusal to be good chaps, recognize the Palestine Liberation Organization and accept the Carter-Brezhnev invitation to Munich—sorry, Geneva.

Six or eight hundred columns ago I explained I would support Israel if its population were Vietnamese. Without for a moment deprecating the Holocaust or the existential torment of both European survivors and oppressed Jews in Arab lands, my commitment to the Jewish state was founded on a conception of American international ideals.

In the Vietnamese instance, in 1964 I somberly became convinced American success was essential to maintain the credibility of our dedication to containing totalitarian aggression by conventional warfare.

It was not a cheerful decision, buoyed by Green Beret macho. I knew it would be a long, twilight struggle, but unfortunately history is not playdough. The other side can and did choose the battlefield. Hanoi covered our bet, put in its stack and launched a brillant strategy to win the war in the United States. Their agit-prop campaign, designed to undermine American support for the war, was superbly mounted.

The Saigon government—which Moscow had twice in the 1950s nominated for membership in the United Nations!—was "illegitimate." We were intervening in a "civil war," supporting a "corrupt dictatorship." "End the bombing!" "Recognize the National Liberation Front!" "Negotiate!" The din was almost unnerving. And among the intellectuals there was notable impact: Many denied any relationship between events in Asia and the Middle East.

The Israelis knew better. In 1966 I spent a long evening with Moshe Dayan in Vietnam. We agreed that any U.S. retreat from Saigon would lead through Tel Aviv. The totalitarian game plan was in both cases identical: a phony "liberation front" sponsored by a Soviet client or clients and, in the crunch, backed by conventional invasion and massive Soviet military equipment.

Indeed, a year earlier I observed in the *New York Times* that the assault on South Vietnam was part "of a worldwide pattern of aggression employing 'national liberation movements' and guerrilla warfare. Like the Vietcong, a 'Palestine Liberation Front' (the PLO was then still in embryo) could largely be composed of authentic local types (but) the 'civil war' they might initiate would be fundamentally at the service of a foreign coalition dedicated to the destruction of freedom . . .

"I hope," my commentary concluded, "our response to such a threat to Israel would echo our commitment to defend the integrity of South Vietnam."

In 1977, with Saigon renamed "Ho Chi Minh City," this has a macabre ring, but I stand pat on the basic proposition. Thus I consider the Carter-Brezhnev agreement to ignore all existing U.N. resolutions calling for direct Israel-Arab negotiations a shameful violation of our 1975 promise to clear any modifications of Resolution 242 with Jerusalem. I react with volcanic fury at the Carter effort to force the Israelis to legitimate the PLO, or evacuate any territory before a peace settlement.

I have literally been here before—in Paris, January 1973—and learned the early symptoms of a sellout: The Israeli government must reject its death warrant.

Our government seemingly learned nothing from the 1973 "peace accord" with Hanoi but it is in the American interest that Israel not become our next sacrificial offering to "improved Soviet-American relations." Maybe the Israelis will save us from ourselves.

STATES AS CITY SAVERS

Mr. KENNEDY. Mr. President, as we continue the debate here in Washington over Federal policy designed to aid America's cities, we might also take a close look at urban strategies now being implemented by State governments. In Massachusetts, these State programs are beginning to pay off.

Aside from the wise use of massive Federal assistance, State planners in Massachusetts have realized that the State can be one of the city's most valuable allies. The State's role in coordinating Federal funding programs—as well as their taxing and land use powers—is a vital part of the effort to improve the quality of urban life.

The Governor of Massachusetts, Michael Dukakis, has been a leader in prompting the creative use of State powers and resources to aid urban areas. A column in this morning's Washington Post entitled "States as City Savers," by Neal R. Peirce outlines many of the Governor's successful efforts, and similar programs in Michigan and California. These States are effectively using existing State regulatory authority to aid urban redevelopment.

Their efforts deserve our strong support, and I ask unanimous consent that this article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

STATES AS CITY SAVERS

(By Neal R. Peirce)

BOSTON.—While the Carter administration gropes for an urban policy to channel jobs and new life into the nation's cities, Massachusetts has one in place—and it's working.

Michigan, looking for ways to reinvigorate Detroit and its other imperiled industrial cities, has begun to implement an urban strategy almost as effective as the Bay State's.

And California, now a global symbol of sprawl development that robs center cities and older town centers of their lifeblood, may have a sweeping urban strategy in place by the start of 1978—if Gov. Edmund G. Brown Jr. has the political courage to implement the blueprint for city and town survival developed by his own Department of Planning and Research.

Mindful of the gross negligence with which state governments have traditionally treated cities, many mayors and minority spokesmen assume the only hope for urban America lies with huge infusions of federal aid. But wise heads have long said the states could become the cities' most valuable allies if they could only shift their immense powers—over taxes, roads, land use, government job location and federal aid programs they administer—from the detriment to the help of urban areas.

In Massachusetts and Michigan, that's precisely what's happening—thanks to two strong governors, Michael S. Dukakis and William G. Milliken.

Long before he became governor, Dukakis says, he decided there was something "'radically wrong" with policies in Massachusetts—repeated nationwide—that fostered "scatterization" of development and jobs: "We were being engulfed by city spread while the people who needed jobs the most were left in declining urban neighborhoods."

His solution didn't lie in huge appropriations for cities or vast land-use planning efforts, but rather in turning all the state's existing regulatory powers and public investment programs, in a single-minded fashion, to one goal: reinforcement of existing city and town centers.

Frank Keefe, a 28-year-old "action-oriented" planner who'd already done much to revive the old mill city of Lowell, became Dukakis' state planning director and chairman of a seven-member economic cabinet charged with making the urban-reinvestment strategy a reality.

The development cabinet hunkered down with leaders in each of the state's old urban centers. Each city was urged to identify what made it distinctive: interesting old buildings or squares, ethnic enclaves, special natural settings. Even such supposed liabilities as deserted mills or decaying waterfronts, it was suggested, could be recycled for housing, industry, shops, restaurants and recreation as part of an overall strategy for downtown and neighborhood revitalization.

Cities were offered "one-stop shopping" for needed state assistance, from clearing state building-code obstacles to commitment of funds—virtually unprecedented in the nation—for state parks in downtown areas.

The word went out to industries and developers, says Keefe: "We'll bust our backsides to help you develop in a city industrial park, to rehabilitate an old mill building, to engage in a downtown recycling project. But it's counterproductive for us to spend money extending a sewer line or highway to your development out in the middle of nowhere."

It's just as important, Dukakis says, to reinforce town centers as those in larger cities. The state fought successfully to keep post offices in the centers of Amherst and Andover "instead of putting them out in the boondocks."

Massachusetts now boasts a moderate flow of industries selecting in-city locations over the suburban sites so favored in recent years. The prospects for industries in cities are the brightest since World War II, Dukakis claims.

Shopping-center and suburban-subdivision builders oppose the Dukakis policy, but he believes most suburbanites want a respite from intense development pressure. He says that growth policy statements drawn up by 330 Bay State communities show that "villages don't want to be suburbs, suburbs don't want to be cities, and cities don't want to be wastelands."

When the nation's governors met in sweaty, striving Detroit last month, Milliken was able to show them both the splashy new Renaissance Center and several encouraging new inner-city housing and factory projects made possible by special state assistance. State governments, Milliken told his colleagues, "have a vital, necessary role to play in the saving of our cities."

Under Milliken, Michigan has sharply increased state revenue-sharing for cities; made a state "equity" payment—almost $30 million this year—for services Detroit provides its suburbs and the state; enacted a 12-year tax benefit for factory improvement or new construction; and approved a job-development authority.

Though state police are traditionally outcountry, nonurban law enforcers, Milliken threw them into Detroit to help an undermanned city police force stop a wave of felonies on city expressways. Now, despite legislative opposition, he wants to expand the program to other large cities, including Grand Rapids and Flint.

Milliken acknowledges his pro-city policy is less than popular with some fellow Republicans from suburbs and rural areas. But unattended, he told me, city problems will inevitably infect suburbs; abandoned cities would not only mean forsaking the billions already invested there, "but would mean we're abandoning the whole country."

California's proposed plan borrows heavily from the Massachusetts model, decrying spread development. The 4 to 8 million additional population California expects by 2000, the plan says, can easily be accommodated in undeveloped land in existing cities and suburbs (54,000 acres in Los Angeles County alone), or on the immediate edge of built-up urban areas.

California is currently gobbling up open spaces and farm lands at an alarming rate, notes chief state planner Bill Press. The process, he says, is incredibly wasteful of land, energy, tax dollars and underutilized buildings, streets and schools in already settled areas and the human energy of Californians obligated to commute to work over long distances.

If Brown adopts the plan, all state agencies would be obliged to tailor their policies toward urban conservation—a radical break with past practice. Brown would encounter opposition from localities forced to yield land-use decisions to regional authorities, from affluent communities obliged to share taxes with poorer communities on a regional basis, and real estate and construction interests whose exploitative development tactics would be curbed.

Yet if the most populous state does opt for urban conservation, the idea of states as city savers could gain such momentum that it would become the rule, rather than the rare exception, in years to come.

PBB MEASURES DESERVE PROMPT ACTION

Mr. GRIFFIN. Mr. President, while I realize that all Senators have been working long and arduous hours during the past few weeks, I must confess, as one Senator, that I was surprised by the indication that tomorrow the Senate will recess for a long weekend.

If the reason for such a recess at this juncture is that there is no pressing or urgent business on the calendar, let me suggest at least one item which should have the Senate's prompt consideration.

Last week, the Public Broadcasting Service aired a program produced in London called "The Poisoning of Michigan." Some may quarrel with the point of view of the program, but it did vividly portray a very real and poignant tragedy that developed in Michigan after large amounts of a fire retardant chemical, polybrominated biphenyl (PBB) were accidentally mixed in 1973 with cattle feed.

The resulting contamination of food and livestock in Michigan is the most pervasive chemical accident ever to affect the food chain in our State. Not only has the accident had a devastating economic and health impact on many of Michigan's farmers—many of whom have lost entire herds—but scientific studies indicate that most of Michigan's 9 million citizens now have traces of PBB in their systems.

Sadly, the PBB problem is not Michigan's alone. Traces of the chemical have been found recently in eight other States as well—Ohio, New Jersey, New York, Illinois, Pennsylvania, Tennessee, California, and Mississipppi.

Surely Senators from those States—and others from regions that have suffered similar chemical contamination accidents in recent years—have cause for concern. As experience has already demonstrated, chemical disasters can strike anywhere at any time.

In many such cases, as in Michigan's struggle with PBB, livestock is the first to be affected. But as chemical contaminants move through the food chain, there too often are tragic health consequences for people.

Last March, I joined with Senator RIEGLE to hold 4 days of hearings in Michigan under the auspices of the Commerce Committee's Science, Technology, and Space Subcommittee. We heard story after story of physical suffering and economic loss.

Following those hearings—and 2 additional days of testimony here in Washington—the Commerce Committee on May 16 reported S. 1531, a bill designed to enable Federal and State governments to more adequately respond to chemical disaster situations.

This bill—which has been on the calendar now for nearly 5 months—would do three things:

First, it would provide interim relief to victims through Federal grants covering up to 75 percent of the amount the State provides as compensation, pending litigation of claims against those responsible for chemical contamination.

Second, it would establish a system of Federal chemical emergency-response teams to coordinate initial testing efforts when a chemical disaster occurs or may occur.

Finally, it would substantially increase authorized expenditures for administration of the Toxic Substances Control Act—from $12.6 million to $50 million in fiscal 1978 and from $16.2 million to $100 million for fiscal 1979.

All three approaches are needed to deal effectively with chemical disasters. However, title I of the reported bill—which I sponsored initially as S. 899—is critically needed now by countless citizens in my State. It is designed to help States which help themselves by establishing State indemnity programs to assist victims of chemical disasters.

Michigan has already taken such a step through legislation that recently became effective. It provides for reimbursement to farmers whose livestock are destroyed after having been tested and found to contain PBB levels above a newly set danger line.

But this State action, helpful as it is, will not be enough to compensate many others who have suffered in this tragedy. It is not enough because the State does not have sufficient resources. Without interim Federal aid as proposed in S. 1531, many farmers and consumers will remain uncompensated for the agricultural and medical expenses suffered due to PBB poisoning.

Enactment of S. 1531, which is resting on the calendar, would help these people now, and it would also help to prevent similar occurrences in the future.

I am sorry it is necessary to call attention to the fact that, although this measure has been on the calendar since May 16, no further action has been taken by the Senate.

It seems to me that if our calendar of business is such that a recess for 4 days can be taken, surely there ought to be time in the near future to take up this legislation, which would mean so much to those in Michigan who are suffering from the PBB disaster.

Accordingly, I strongly hope that floor action on S. 1531 will soon be scheduled.

NOTICE CONCERNING NOMINATION BEFORE THE COMMITTEE ON THE JUDICIARY

Mr. EASTLAND. Mr. President, the following nomination has been referred to and is now pending before the Committee on the Judiciary:

Archie P. Sherar, of Washington, to be U.S. marshal for the eastern district of Washington for the term of 4 years vice George A. Locke.

On behalf of the Committee on the Judiciary, notice is hereby given to all persons interested in this nomination to file with the committee, in writing, on or before Wednesday, October 19, 1977, any representations or objections they may wish to present concerning the above nomination with a further statement whether it is their intention to appear at any hearing which may be scheduled.

SENATOR ZORINSKY RECEIVES THE GOLDEN GAVEL AWARD

Mr. ROBERT C. BYRD. Mr. President, precisely at this moment, I call to the attention of my colleagues, a very important event has occurred.

At exactly 7:50 p.m. this evening, the Senator from Nebraska—the very distinguished Senator from Nebraska (Mr. ZORINSKY)—has completed presiding

over the Senate for 100 hours. (Applause.)

This action makes him eligible to receive the Senate's golden gavel award, an award which is presented to Senators completing 100 or more hours in the Presiding Officer's chair during a session of the Congress.

I believe that on behalf of the Senate, we all owe the Senator from Nebraska (Mr. ZORINSKY) a debt of gratitude, and we should extend to him our deepest appreciation for the service that he has rendered to the Senate.

The PRESIDING OFFICER (Mr. ZORINSKY). Thank you, Mr. Majority Leader and the Senate, for the opportunity to have this experience. Hopefully I can continue to serve.

Mr. ROBERT C. BYRD. The Senator, in his very modest way, has responded appropriately.

ORDER FOR RECOGNITION OF SENATOR THURMOND TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that after the two leaders have been recognized under the standing order tomorrow, the Senator from South Carolina (Mr. THURMOND) be recognized for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR ROUTINE BUSINESS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow, after the recognition of Mr. THURMOND, there be a period for the transaction of routine morning business; that there be no call of the calendar or resolutions coming over under the rule, but that Senators may be permitted to speak during that period for the transaction of routine morning business; and that there be a limitation on such speeches of not to exceed 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I further ask unanimous consent that there be a 1-hour limitation on such period for the transaction of routine morning business tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

MODIFICATION OF UNANIMOUS-CONSENT AGREEMENT ON H.R. 3387 (ORDER NO. 421)

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the unanimous-consent agreement on H.R. 3387 be modified to provide for 1½ hours on an amendment to be offered by the Senator from Oklahoma (Mr. BELLMON), that there be a one-half hour limitation on an amendment to be offered by the Senator from Idaho (Mr. CHURCH), and that the agreement with respect to the division and control of time thereon be in accordance with the usual form.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXTENSION OF TIME FOR FILING CONFERENCE REPORT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the conference report on H.R. 3744, the minimum wage bill, may be filed at any time before the hour of midnight on Friday, October 14.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE MEETINGS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be authorized to meet during the session of the Senate on October 17, to mark up pending nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECONSIDERATION OF S. 1582

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the tabling of the motion to reconsider the vote by which S. 1582, a bill relating to the Akchin Indian Community, was adopted on yesterday be vitiated; that the third reading of the bill be rescinded, and that the Senate be considered to have adopted the following amendments en bloc:

On page 10, line 21, strike "1978" and insert "1979"; on page 10, line 22, strike "1979" and insert "1980"; and that the bill be considered to have been read the third time, passed, and a motion to reconsider laid on the table.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

RECESS UNTIL 10 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in recess until the hour of 10 a.m. tomorrow.

The motion was agreed to; and at 8:01 p.m. the Senate recessed until tomorrow, Thursday, October 13, 1977, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate October 12, 1977:

MINISTER

John E. Downs, of Missouri, for the rank of Minister during the tenure of his service as the Representative of the United States of America on the Council of the International Civil Aviation Organization.

DEPARTMENT OF DEFENSE

George A. Peapples, of Michigan, to be an Assistant Secretary of the Navy, vice Gary Dean Penisten.

ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH ADMINISTRATION

Gerald L. Klerman, of Massachusetts, to be Administrator of the Alcohol, Drug Abuse, and Mental Health Administration, vice James D. Isbister, resigning.

NATIONAL MUSEUM SERVICES BOARD

The following-named persons to be members of the National Museum Services Board for the terms indicated:

For a term of 1 year:

Douglas Dillon, of New York.
Neil Harris, of Illinois.
Joan Mondale, of Minnesota.

For a term of 2 years:

Mamie P. Clark, of New York.
Benjamin W. Hazard, of California.
Nancy Negley, of Texas.

For a term of 3 years:

Gary K. Clarke, of Kansas.
George Horse Capture, of Montana.
Charlotte Ferst, of Georgia.

For a term of 4 years:

Lewis Davis, of New York.
Raul A. Lopez, of California.
E. Leland Webber, of Illinois.

For a term of 5 years:

Lloyd Hezekiah, of New York.
Peter H. Raven, of Missouri.
George C. Seybolt, of Massachusetts.

CONFIRMATIONS

Executive nominations confirmed by the Senate October 12, 1977:

ENVIRONMENTAL PROTECTION AGENCY

Steven D. Jellinek, of Maryland, to be Assistant Administrator for Toxic Substances of the Environmental Protection Agency.

PEACE CORPS

Carolyn R. Payton, of the District of Columbia, to be Director of the Peace Corps.

The above nominations were approved subject to the nominees' commitments to respond to requests to appear and testify before any duly constituted committee of the Senate.

THE JUDICIARY

Charles P. Sifton, of New York, to be U.S. district judge for the eastern district of New York.

Thomas A. Ballantine, Jr., of Kentucky, to be U.S. district judge for the western district of Kentucky.

HOUSE OF REPRESENTATIVES—*Wednesday, October 12, 1977*

The House met at 12 o'clock noon.

The Reverend Walter R. Coats, First Presbyterian Church, Pennington, N.J., offered the following prayer:

Lord God of all the nations: Remind us of the words of the prophet Micah:

"What does the Lord ask of you?
Only to act justly,
To love mercy,
To walk humbly before your God."

May we act justly.

Not only for the 300 million in our land, but for those 3 billion of the world—our sisters and brothers,

May we love mercy.

For many live in misery, fear, and oppression, needing the legislation of tender compassion,

And, may we walk humbly before You.

Is this not the hardest walk there is?

So, may these Representatives of the people and of you, Lord, not rush to judgment, nor flee to indifference, but patiently perform the duties of this day, justly, mercifully, and humbly.

Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

REV. WALTER R. COATS

(Mrs. MEYNER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. MEYNER. Mr. Speaker, today's invocation was given by a man who is an outstanding example of one who knows how to combine his mission to the church, with a mission to society as well.

The Reverend Walter R. Coats, minister of the United Presbyterian Church in Pennington, N.J., has fulfilled this mission wherever he has served.

A man of profound intellect, he serves the ministry well, but not only that; in New Jersey, he has been very active in organizing school community groups, in coordinating the discussion of important public issues, and in pursuing a commitment to equal opportunities for all Americans.

So often, we see in the ministry people, who distinguish themselves, in service of God and the church. We in this Chamber take special pride in our commitment to public service and the public good.

Reverend Coats is that special kind of human being—he sees in his commitment to humanity, a service that dignifies both the House of God and the chambers of Government. His example serves us well.

He is the type of man spoken of in the Psalms:

Mark the perfect man, and behold the upright: For the end of that man is peace.

As we pursue peace among the peoples of the world, men like Reverend Coats serve us well as examples.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Chirdon, one of his secretaries.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment a bill of the House of the following title:

H.R. 1613. An act for the relief of certain postmasters charged with postal deficiencies.

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 4018. An act to suspend until the close of June 30, 1980, the duty on certain doxorubicin hydrochloride antibiotics;

H.R. 5675. An act to authorize the Secretary of the Treasury to invest public moneys, and for other purposes;

H.R. 7738. An act with respect to the powers of the President in time of war or national emergency; and

H.R. 7769. An act to authorize the creation of a record of admission for permanent residence in the cases of certain refugees from Vietnam, Laos, or Cambodia.

The message also announced that the Senate had passed bills and joint and concurrent resolutions of the following titles, in which the concurrence of the House is requested:

S. 200. An act for the relief of Bharat M. Parekh;

S. 280. An act for the relief of Ludwik Kikla;

S. 1551. An act for the relief of In Hea Kim and Myung Sung Kwon;

S. 1585. An act to amend title 18, United States Code, to make unlawful the use of minors engaged in sexually explicit conduct for the purpose of promoting any film, photograph, negative, slide, book, magazine, or other print or visual medium, or live performance, and for other purposes;

S. 1590. An act to incorporate the American Ex-Prisoners of War, Incorporated;

S. 2100. An act for the improvement of Roberts Field, Redmond, Oreg.;

S.J. Res. 80. Joint resolution to authorize and request the President to issue a proclamation designating November 8, 1977, as "National Law Student Recognition Day"; and

S. Con. Res. 52. Concurrent resolution authorizing the printing of additional copies of the booklet entitled "The Senate Chamber, 1810–1859."

AMENDING OF THE RULES OF PROCEDURE FOR THE COMMITTEE ON RULES

(Mr. DELANEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. DELANEY. Mr. Speaker, I submit for the RECORD the rules of procedure for the Committee on Rules which were amended by voice vote on Thursday, September 15, 1977, to include a new committee rule providing for a Subcommittee on Rules and Organization of the House within the Committee on Rules. The committee voted to formalize and enlarge the Ad Hoc Subcommittee on Select Committees which was created May 18, 1977. The new rule would provide for all original jurisdiction measures to be referred to the subcommittee. Any matters that the subcommittee considers will be referred back to the full committee for final action. The full committee, however, has reserved to itself the right to consider original jurisdiction measures if it prefers to handle any specific measures in the full committee.

RULES OF PROCEDURE FOR THE COMMITTEE ON RULES

RULE 1—MEETINGS

(a) The Committee on Rules shall meet at 10:30 a.m. on Tuesday of each week when the House is in session. Meetings and hearings shall be called to order and presided over by the Chairman or, in the absence of the Chairman, by the Ranking Majority Member of the Committee present as Acting Chairman.

(b) A minimum 48-hour notice of regular meetings and hearings of the Committee shall be given to all members except that the Chairman, acting on behalf of the Committee, may schedule a meeting or hearing for the consideration of emergency and/or procedural measures or matters at any time. As much notice as possible will be given to all members when emergency meetings or hearings are called; provided, however, that an effort has been made to consult the member next in rank, and so on down the line until an effort has been made with respect to all members of the minority. Copies of bills and reports to be considered for a rule by the Committee are to be sent to members of the Committee at least one day in advance of consideration by the Committee, except in cases of emergencies.

(c) Meetings, hearings, and executive sessions of the Committee shall be open to the public in accordance with clause 2(g) of rule XI of the Rules of the House of Representatives.

(d) For the purpose of hearing testimony on requests for rules, seven members of the Committee shall constitute a quorum.

(e) For the purpose of hearing and taking testimony on matters or measures of original jurisdiction before the Committee, three members of the Committee shall constitute a quorum.

(f) For the purpose of executive meetings, a majority of the Committee shall constitute a quorum.

(g) The following Committee meeting and hearings procedures shall be determined by the Chairman, acting on behalf of the Committee, in cooperation with the Ranking Minority Member.

(1) Measures or matters before the Committee which are deemed non-controversial as to both type of rule and substantive content may be scheduled for consideration by the Committee without hearings.

(2) Measures or matters before the Committee which are deemed non-controversial as to substantive content but controversial as to type of rule may be the subject of Committee hearings at which time the principal proponents and opponents will be provided an opportunity to testify only as to the type of rule to be granted.

(3) Measures or matters before the Committee which are deemed controversial as to substantive content by a minimum of six committee members will be the subject of Committee hearings at which time all interested Members of Congress, who are proponents or opponents, will be provided a reasonable opportunity to testify.

(h) There shall be a transcript of regularly scheduled hearings and meetings of the Committee which may be printed if the Chairman decides it is appropriate, or if a majority of the members request it.

(i) A Tuesday meeting of the Committee may be dispensed with where, in the judgment of the Chairman, there is no need therefor, and additional meetings may be called by the Chairman, or by written request of a majority of the Committee duly filed with the Counsel of the Committee.

(j) The Committee may permit, by a majority vote on each separate occasion, the coverage of any open meeting or hearing, in whole or in part, by television broadcast, radio broadcast, and still photography under

such requirements and limitations as set forth in the Rules of the House of Representatives.

(k) The five-minute rule in the interrogation of witnesses, until such time as each member of the Committee who so desires has had an opportunity to question the witness, shall be followed.

(l) When a recommendation is made as to the kind of rule which should be granted, a copy of the language recommended shall be furnished to each member of the Committee at the beginning of the meeting where such language is to be considered or as soon thereafter as such recommendation becomes available.

RULE 2—VOTING

(a) No measure or recommendation shall be reported, deferred, or tabled by the Committee unless a majority of the Committee is actually present.

(b) A rollcall vote of the members of the Committee may be had upon the request of any member.

(c) The result of each rollcall vote, including the names of Committee members and how they voted on specific issues, shall be available for public inspection at the office of the Committee.

RULE 3—REPORTING

(a) Whenever the Committee authorizes the favorable reporting of a bill or resolution from the Committee, the Chairman or Acting Chairman shall report the same or designate some member of the Committee to report the same to the House, such report to include the totals of any record vote thereon.

RULE 4—COMMITTEE STAFFING

(a) The professional and clerical staffs of the Committee shall serve under the general supervision and direction of the Chairman, who shall establish and assign the duties and responsibilities of the members of the staffs and delegate such authority as the Chairman deems appropriate, with the exception of the minority staff, who shall serve under the general supervision and direction of the Ranking Minority Member of the Committee.

(b) The appointment of staff members of the Committee shall be made as follows:

(1) Each member of the Committee shall be authorized to appoint one (1) staff member;

(2) The Chairman of the Committee, with concurrence of the majority party members, shall be authorized to appoint the remaining staff members authorized clause 6 of rule XI of the Rules of the House of Representatives;

(3) The Ranking Minority Member of the Committee, with concurrence of the minority party members, shall be authorized to appoint the remaining minority staff members authorized under clause 6 of Rule XI of the Rules of the House of Representatives.

(c) Each staff member appointed under subsection (b)(1) shall be paid at a rate of pay of not more than $27,600 per annum.

RULE 5—SUBCOMMITTEE

(a) There shall be one Subcommittee on the Rules and Organization of the House to be composed of seven Members appointed by the Chairman.

(b) All bills and resolutions referred to the Committee, except resolutions providing for the consideration of legislation, shall be considered as referred to the Subcommittee: *Provided, however,* That nothing contained herein shall prevent the full Committee from scheduling for consideration any matter referred to the Subcommittee pursuant to this rule.

(c) The Subcommittee is authorized to meet, hold hearings, receive testimony, mark up legislation, and report to the full Committee on all matters referred to it. The Chairman of the Subcommittee shall set hearing and meeting dates only after consultation with the Chairman of the full Committee.

RULE 6—MISCELLANEOUS

(a) The Committee shall have prepared, maintained, printed and published a calendar listing all matters formally before it. Information on this calendar shall include the number of the bill or resolution, a brief description of the measure's contents, including the legislative committee reporting it, and the name of the principal sponsoring Member.

(b) The staff shall prepare, maintain, and furnish to the members of the Committee a list of all pending bills or resolutions from other committees concerning which a hearing request has been properly filed with the Committee. This list shall be distributed to the members of the Committee on a regular weekly basis when the House is in session and shall include the number of the bill or resolution, the name of the legislative committee reporting it, the principal sponsoring Member, and the date upon which the request for a rule was filed, along with a brief analysis of the contents of the scheduled measures and a description of the rule requested by the reporting legislative committee, if so requested.

(c) For purpose of this rule, matters formally before the Committee include: bills or resolutions over which the Committee has original jurisdiction, and bills or resolutions from other committees concerning which the chairman or designated member of such committee has requested a hearing in writing and forwarded to the Committee on Rules a copy of such bill or resolution as reported, together with the final printed committee report.

(d) Executive meeting minutes shall be available to Members of Congress in compliance with clause 2(e) of rule XI of the Rules of the House of Representatives.

(e) Upon adoption of the rules and procedures of the Committee at the opening of each Congress, the Chairman may have these rules and procedures printed in an early issue of the Congressional Record.

CONGRESS SHOULD VOTE ON ALL PAY AND BENEFIT INCREASES

(Mr. PRESSLER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PRESSLER. Mr. Speaker and Members of the House, I have been concerned that last week the House passed, on a voice vote, a change in the pension plan for Members of Congress. As I understand it, this would allow Members of Congress to use their highest single year rather than the 3-year average that has been used up until now.

I believe we should have a vote on this matter. It seems to me that the hearings and the procedures used on this particular measure were unusual. In the House of Representatives, whether be it a pay raise or be it other increases in our benefits, I would like to go on record strongly that a rollcall vote would be very appropriate.

Mr. Speaker, many citizens do not object to our being compensated properly. But the manner in which we do our work is of great concern. I am for congressional reform. We should vote on increases in our pay or privileges.

APPOINTMENT OF CONFEREES ON S. 1339 AUTHORIZING APPROPRIATIONS TO ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION FOR NATIONAL DEFENSE PROGRAMS, FISCAL YEAR 1978

Mr. PRICE. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 1339) to authorize appropriations to the Energy Research and Development Administration for national defense programs for the fiscal year 1978, and for other purposes, with the House amendments thereto, insist on the House amendments, and agree to the conference requested by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from Illinois? The Chair hears none, and appoints the following conferees: Messrs. PRICE, CHARLES H. WILSON of California, BRINKLEY, DAN DANIEL, MONTGOMERY, BOB WILSON, and DICKINSON.

CONFERENCE REPORT ON H.R. 7797, FOREIGN ASSISTANCE AND RELATED PROGRAMS APPROPRIATIONS ACT, 1978

Mr. LONG of Maryland. Mr. Speaker, I call up the conference report on the bill (H.R. 7797) making appropriations for foreign assistance and related programs for the fiscal year ending September 30, 1978, and for other purposes, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Maryland?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of September 26, 1977.)

Mr. LONG of Maryland (during the reading). Mr. Speaker, I ask unanimous consent that the further reading of the statement be dispensed with.

The SPEAKER. Is there objection to the request of the gentleman from Maryland?

There was no objection.

The SPEAKER. The gentleman from Maryland (Mr. LONG) and the gentleman from Florida (Mr. YOUNG) will be recognized for 30 minutes each.

The Chair recognizes the gentleman from Maryland (Mr. LONG).

Mr. LONG of Maryland. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, at the appropriate time the gentleman from Michigan (Mr. CEDERBERG) will offer a motion to recommit.

Since the conference report has been filed, there have been various meetings with the administration on the issues originally in disagreement and the Senate indicates that grounds for compromise now exist on these issues. It is hoped we can send the bill back to conference and bring back a bill that will save us a lot of time and be acceptable to both

Houses. I believe we can bring back a better bill which both Houses can accept.

Mr. MAHON. Mr. Speaker, will the gentleman yield?

Mr. LONG of Maryland. I am glad to yield to the distinguished chairman, the gentleman from Texas (Mr. MAHON).

Mr. MAHON. Mr. Speaker, I want to join the chairman of the Subcommittee on Foreign Aid of the Committee on Appropriations, the gentleman from Maryland (Mr. LONG), in the suggestion that we support a motion to recommit the conference report on the foreign aid appropriation bill.

It was not possible to come to an agreement on many items in the original conference and much of what is brought back is in disagreement. But now, as a result of discussions with the White House, and with the Members of both the House and Senate, we believe that a better job can be done, one which will save us a lot of time and effort. I heartily support the motion to recommit that is to be offered by the gentleman from Michigan (Mr. CEDERBERG), the ranking minority member of the Committee on Appropriations and thus give us an opportunity to move more rapidly thereafter, so that the employees of the foreign aid agencies may receive their pay and in order that the work of the House and the Senate may be facilitated.

Mr. LONG of Maryland. I thank the distinguished chairman of the Committee on Appropriations.

Mr. Speaker, I yield to the distinguished gentleman from Florida (Mr. YOUNG).

Mr. YOUNG of Florida. Mr. Speaker, I find myself in somewhat of a quandary this morning. Normally I would be very strongly in support of a motion to recommit the foreign aid bill in order to get it anyplace but on the floor so we could avoid passing it into law, but there are reasons that we would be better off to vote no on this motion today. Frankly, we have some controversial matters that are a part of this conference report, and I personally would prefer to have a straight up-and-down vote on those issues. This motion prevents that.

Mr. Speaker, of course the will of the House, as it should, is going to prevail and I yield back the remainder of my time.

Mr. LONG of Maryland. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

MOTION TO RECOMMIT OFFERED BY MR. CEDERBERG

Mr. CEDERBERG. Mr. Speaker, I offer a motion to recommit.

The SPEAKER. Is the gentleman opposed to the conference report?

Mr. CEDERBERG. I am at the present time.

The SPEAKER. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. CEDERBERG moves to recommit the conference report on H.R. 7797 to the committee of conference.

The SPEAKER. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER. The question is on the motion to recommit.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. YOUNG of Florida. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 273, nays 126, not voting 35, as follows:

[Roll No. 641]

YEAS—273

Addabbo	Eckhardt	Lundine
Akaka	Edgar	McClory
Alexander	Edwards, Ala.	McCloskey
Allen	Edwards, Calif.	McDade
Ambro	Eilberg	McFall
Ammerman	Emery	McHugh
Anderson, Ill.	Erlenborn	McKay
Andrews, N.C.	Ertel	McKinney
Annunzio	Evans, Colo.	Madigan
Applegate	Evans, Ga.	Maguire
Ashley	Fary	Mahon
Aspin	Fascell	Mann
Baldus	Fenwick	Markey
Barnard	Findley	Marks
Baucus	Fisher	Mathis
Beard, R.I.	Fithian	Mattox
Beilenson	Flippo	Mazzoli
Benjamin	Flood	Meeds
Bevill	Florio	Metcalfe
Biaggi	Flowers	Meyner
Bingham	Flynt	Michel
Blouin	Foley	Mikulski
Boggs	Ford, Tenn.	Mikva
Boland	Forsythe	Miller, Ohio
Bolling	Fowler	Mineta
Bonior	Fraser	Minish
Bonker	Frey	Moakley
Bowen	Fuqua	Moffett
Brademas	Gaydos	Montgomery
Breckinridge	Gephardt	Moorhead, Pa.
Brodhead	Giaimo	Motti
Brooks	Ginn	Murphy, Ill.
Broomfield	Gore	Murphy, N.Y.
Brown, Calif.	Hamilton	Murphy, Pa.
Burke, Calif.	Hanley	Murtha
Burke, Fla.	Hannaford	Myers, Michael
Burke, Mass.	Harkin	Natcher
Burlison, Mo.	Harrington	Neal
Burton, John	Harris	Nedzi
Burton, Phillip	Hawkins	Nichols
Carney	Heckler	Nix
Carr	Heftel	Nolan
Cavanaugh	Hightower	Nowak
Cederberg	Hollenbeck	O'Brien
Chappell	Holtzman	Oakar
Chisholm	Hughes	Oberstar
Clay	Jacobs	Obey
Cleveland	Jeffords	Ottinger
Cohen	Jenrette	Patten
Collins, Ill.	Johnson, Colo.	Patterson
Conable	Jones, N.C.	Pattison
Conte	Jones, Tenn.	Pease
Conyers	Kasten	Perkins
Corman	Kastenmeier	Pettis
Cornell	Kazen	Pickle
Cornwell	Keys	Pike
Cotter	Kildee	Poage
Coughlin	Koch	Preyer
D'Amours	Kostmayer	Price
Danielson	Krebs	Pritchard
Davis	LaFalce	Pursell
de la Garza	Le Fante	Quie
Delaney	Leach	Rahall
Dellums	Lederer	Railsback
Derrick	Leggett	Rangel
Dickinson	Lehman	Reuss
Dicks	Lent	Rhodes
Dodd	Levitas	Rinaldo
Downey	Lloyd, Calif.	Risenhoover
Drinan	Long, La.	Roberts
Duncan, Tenn.	Long, Md.	Rodino
Early	Luken	Rogers
Roncalio	Smith, Iowa	Van Deerlin
Rooney	Solarz	Vanik
Rose	Spellman	Volkmer
Rosenthal	St Germain	Walgren
Rostenkowski	Staggers	Waxman
Russo	Stanton	Weaver
Ryan	Stark	Weiss
Santini	Steed	White
Sarasin	Steers	Whitten
Scheuer	Steiger	Wiggins
Schroeder	Stokes	Wilson, Bob
Seiberling	Studds	Wirth
Sharp	Thompson	Wolff
Shipley	Thornton	Wright
Sikes	Traxler	Wylie
Simon	Tsongas	Yates
Sisk	Tucker	Yatron
Skelton	Udall	Young, Tex.
Slack	Ullman	Zablocki

NAYS—126

Abdnor	Gilman	Myers, Gary
Anderson, Calif.	Glickman	Myers, John
	Goldwater	Pressler
Andrews, N. Dak.	Gonzalez	Quayle
	Goodling	Quillen
Archer	Gradison	Regula
Armstrong	Grassley	Robinson
Ashbrook	Gudger	Rousselot
AuCoin	Guyer	Rudd
Badham	Hall	Runnels
Bafalis	Hammer-schmidt	Ruppe
Bauman		Satterfield
Beard, Tenn.	Harsha	Sawyer
Bennett	Hefner	Schulze
Breaux	Hillis	Sebelius
Brinkley	Holt	Shuster
Brown, Ohio	Horton	Smith, Nebr.
Broyhill	Hubbard	Snyder
Burgener	Huckaby	Spence
Burleson, Tex.	Hyde	Stangeland
Butler	Ichord	Stockman
Byron	Ireland	Stratton
Caputo	Jenkins	Stump
Carter	Jones, Okla.	Symms
Clausen, Don H.	Kelly	Taylor
	Kemp	Thone
Clawson, Del	Ketchum	Treen
Cochran	Kindness	Trible
Coleman	Lagomarsino	Vander Jagt
Collins, Tex.	Latta	Waggonner
Corcoran	Livingston	Walker
Crane	Lloyd, Tenn.	Walsh
Cunningham	Lott	Wampler
Daniel, Dan	McDonald	Watkins
Daniel, R. W.	McEwen	Whitehurst
Derwinski	Marlenee	Whitley
Devine	Marriott	Wilson, C. H.
Dornan	Martin	Winn
English	Mitchell, N.Y.	Wydler
Evans, Del.	Mollohan	Young, Alaska
Fish	Moore	Young, Fla.
Fountain	Moorhead, Calif.	Young, Mo.
Gammage		Zeferetti
Gibbons	Moss	

NOT VOTING—35

Badillo	Frenzel	Mitchell, Md.
Bedell	Hagedorn	Panetta
Blanchard	Hansen	Pepper
Brown, Mich.	Holland	Richmond
Buchanan	Howard	Roe
Dent	Johnson, Calif.	Roybal
Diggs	Jordan	Skubitz
Dingell	Krueger	Teague
Duncan, Oreg.	Lujan	Vento
Edwards, Okla.	McCormack	Whalen
Evans, Ind.	Milford	Wilson, Tex.
Ford, Mich.	Miller, Calif.	

The Clerk announced the following pairs:

On this vote:

Mr. Richmond for, with Mr. Teague against.

Mr. Dent for, with Mr. Hagedorn against.

Mr. Buchanan for, with Mr. Hansen against.

Mr. Whalen for, with Mr. Lujan against.

Mr. Mitchell of Maryland for, with Mr. Skubitz against.

Until further notice:

Mr. Howard with Mr. Brown of Michigan.

Mr. Badillo with Mr. Frenzel.

Mr. Dingell with Mr. Charles Wilson of Texas.

Mr. Evans of Indiana with Mr. Edwards of Oklahoma.

Mr. Ford of Michigan with Mr. Duncan of Oregon.
Mr. Panetta with Mr. Holland.
Mr. Pepper with Mr. Johnson of California.
Mr. Diggs with Mr. Krueger.
Mr. Vento with Mr. Roe.
Mr. Roybal with Mr. Milford.
Mr. McCormack with Mr. Miller of California.
Ms. Jordan with Mr. Blanchard.

Ms. OAKAR, Messrs. MOORHEAD of Pennsylvania, NEDZI, and PREYER changed their vote from "nay" to "yea."

Messrs. STRATTON, WALSH, FOUNTAIN, GOLDWATER, STUMP, BROYHILL, BREAUX, RUDD, SCHULZE, SNYDER, YOUNG of Alaska, HORTON, HEFNER, RUPPE, STOCKMAN, GLICKMAN, and GAMMAGE changed their vote from "yea" to "nay."

So the motion to recommit was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

APPOINTMENT OF CONFEREES ON H.R. 3744, FAIR LABOR STANDARDS AMENDMENTS OF 1977

Mr. PERKINS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 3744) to amend the Fair Labor Standards Act of 1938 to increase the minimum wage rate under that act, and for other purposes, with a Senate amendment thereto, disagree to the Senate amendment, and request a conference with the Senate thereon.

The SPEAKER. Is there objection to the request of the gentleman from Kentucky?

Mr. ERLENBORN. Mr. Speaker, reserving the right to object, let me say under my reservation that it was only through word of mouth and the grapevine that I was advised that the gentleman from Kentucky (Mr. PERKINS) was going to make this request and a subsequent motion to send the bill to conference.

As a manager of the legislation when it was debated on the floor, I thought that I probably should be entitled to notice when the gentleman from Kentucky (Mr. PERKINS) intended to come to the floor to move to send this bill to conference. I was not so notified. Fortunately, the ranking member of our committee was notified, and he did inform me.

Mr. Speaker, I have been informed that the conferees have been recommended, and that the Speaker is ready, if we agree to send this bill to conference, to name those conferees. However, I believe the conferees as so named will not comply with section 701 of the House Rules.

Mr. PERKINS. Mr. Speaker, will the gentleman yield to me at this time?

Mr. ERLENBORN. Mr. Speaker, further reserving the right to object, I would be happy to yield to the gentleman from Kentucky.

Mr. PERKINS. Mr. Speaker, let me say to the distinguished gentleman from Illinois (Mr. ERLENBORN) that perhaps I was derelict, inasmuch as he did manage the bill on the floor, in not informing him of this action.

As has been customary all along in these matters, I discussed with the ranking minority member, the gentleman from Minnesota (Mr. QUIE), the naming of the conferees. That has been the pattern that I have followed in the past.

I regret very much that I have not discussed the naming of the conferees prior to this time with the gentleman from Illinois (Mr. ERLENBORN), and I will not let that occur in the future.

Mr. ERLENBORN. Mr. Speaker, further reserving the right to object, I have been advised—and again this is through the grapevine, but usually that source is fairly accurate—that the gentleman from Kentucky (Mr. PERKINS) will recommend as conferees on the majority side himself, the gentleman from Pennsylvania (Mr. DENT), the gentleman from California (Mr. PHILLIP BURTON), the gentleman from Pennsylvania (Mr. JOSEPH GAYDOS), the gentleman from Missouri (Mr. WILLIAM CLAY), the gentleman from New York (Mr. MARIO BIAGGI), and the gentleman from New York (Mr. LEO ZEFERETTI). Those members of our Committee on Education and Labor are to be named as conferees on the minimum wage bill.

Mr. Speaker, with the exception of the gentleman from Pennsylvania (Mr. GAYDOS), none of those members named voted on the majority side in fashioning the bill in those two major provisions that will be the subject matter of the conference, namely, the tip credit issue and the small business amendment. None of these members voted for the rate structure that was adopted in the House under the amendment that I offered, the amendment that was adopted on the floor.

Mr. Speaker, I would refer to rule 101 (e) which reads:

> The Speaker shall appoint all select and conference committees which shall be ordered by the House from time to time. In appointing members to conference committees the Speaker shall appoint no less than a majority of members who generally supported the House position as determined by the Speaker. The Speaker shall name Members who are primarily responsible for the legislation and shall, to the fullest extent feasible, include the principal proponents of the major provisions of the bill as it passed the House.

Mr. Speaker, I do not believe that the requirement that a majority of the members of the conference be those who supported the position of the House will be complied with through the naming of the conferees as suggested by the gentleman from Kentucky (Mr. PERKINS).

Therefore, Mr. Speaker, I would hope that we would not agree to send the bill to conference until the conferees who are among the majority of those who supported the House position are recommended by the gentleman.

Mr. PERKINS. Mr. Speaker, will the gentleman yield further?

Mr. ERLENBORN. Further reserving the right to object, Mr. Speaker, I yield to the gentleman from Kentucky.

Mr. PERKINS. Mr. Speaker, I would say to the gentleman from Illinois (Mr. ERLENBORN) that all the conferees whom I suggested to the Speaker voted for this bill. Further, the objections which the gentleman from Illinois has raised, when we take into consideration the full minimum wage legislation, to my way of thinking, are very minor.

I do want to state, Mr. Speaker, that I discussed the naming of the conferees with the distinguished chairman of the subcommittee, the gentleman from Pennsylvania (Mr. DENT), by telephone yesterday. We decided on the first seven senior members on the subcommittee down through the gentleman from New York (Mr. ZEFERETTI), all of whom supported the legislation as a whole and supported the main thrust of the legislation.

Therefore, Mr. Speaker, we have complied with the rule in every respect. It may be that some Member has voted against an amendment which the gentleman from Illinois (Mr. ERLENBORN) voted for; but if we followed that criterion, we would never be able to name a conferee, simply because someone objected. However, we have selected Members who have been on the committee for a long period of time and who have made a study of the minimum wage legislation and are amply qualified in every respect to serve the best interests of this House. It would be the purpose of these conferees to try as best we possibly can to carry out the intention of the House.

Mr. ERLENBORN. Further reserving the right to object, Mr. Speaker, this is a novel question. The rule that I refer to was adopted as a result of a similar dispute the gentleman from Kentucky (Mr. PERKINS) and I had on a minimum wage bill in 1973. As far as I know, the rule has not been tested with respect to how the Speaker may make such a determination.

In view of the novelty of the issue and the lack of prior notice, Mr. Speaker, I do object.

The SPEAKER. Objection is heard.

MOTION OFFERED BY MR. PERKINS

Mr. PERKINS. Mr. Speaker, I offer a motion.

The SPEAKER. The Clerk will report the motion.

The Clerk read as follows:

> Upon direction of the Committee on Education and Labor and pursuant to clause 1 of rule XX, Mr. PERKINS moves that the House take from the Speaker's table the bill (H.R. 3744) to amend the Fair Labor Standards Act of 1938 to increase the minimum wage rate under that act, with a Senate amendment thereto, disagree to the Senate amendment, and request a conference with the Senate thereon.

PARLIAMENTARY INQUIRY

Mr. ERLENBORN. Mr. Speaker, a parliamentary inquiry

The SPEAKER. The gentleman will state his parliamentary inquiry.

Mr. ERLENBORN. Mr. Speaker, is there time under the rules to debate this motion?

The SPEAKER. The Chair will state that it is a debatable motion.

Mr. ERLENBORN. How much time will be allowed and the time will be controlled by whom?

The SPEAKER. The Chair will state that the gentleman from Kentucky (Mr. PERKINS) has 1 hour and the gentleman has the right to yield.

The gentleman from Kentucky, Mr. PERKINS, is recognized for 1 hour.

Mr. PERKINS. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from Illinois (Mr. ERLENBORN) for the purpose of debate only.

Mr. ERLENBORN. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I think it is unfortunate that this matter comes before us, especially without due notice, without the Members having an opportunity to know that it is coming up and to inform themselves as to the issues. I am very sorry that we are facing those circumstances.

Mr. Speaker, as I mentioned a moment ago, the proposed conferees that I have been advised have been submitted by the gentleman from Kentucky (Mr. PERKINS) to the Speaker for appointment, if this motion is successful, consist of first the gentleman from Kentucky (Mr. PERKINS) himself. The two issues that will be the principal differences between the House and the Senate in the conference on the minimum wage bill are the tip credit and the small business amendment. In addition there will be the rate structure itself, and that amendment I offered during the consideration of the bill and it was adopted. The gentleman from Kentucky (Mr. PERKINS) did not vote with the majority of the House on any one of these three issues that are the principal issues in the conference.

The gentleman from Pennsylvania (Mr. DENT) who is another of the proposed conferees, because of his health, I am sorry to say, cannot possibly physically be present and could vote by proxy. He could not be here during the consideration of the legislation so that there is no record available as to his support or lack of support on these issues.

The gentleman from California (Mr. PHILLIP BURTON) is another one of the proposed conferees, and he also did not support the position of the House on any of these three issues.

The gentleman from New York (Mr. MARIO BIAGGI) did not support any one of the three amendments that constituted the position of the House.

The gentleman from New York (Mr. ZEFERETTI) did not support any one of the three.

The gentleman from Pennsylvania (Mr. GAYDOS) supported only one of the three amendments that constitute the prinicipal differences between the House and the other body.

Mr. Speaker, the three Members on the Republican side who will be appointed as conferees are the gentleman from Minnesota (Mr. QUIE), the gentleman from Ohio (Mr. ASHBROOK), and myself. The gentleman from Minnesota (Mr. QUIE) supported two of the three principal provisions. The gentleman from Ohio (Mr. ASHBROOK) and I supported all three. But I think it is quite obvious from a reading of the names of the Members and how they voted that a majority of the conferees will be those who voted in opposition to the position of the House.

It is well known, Mr. Speaker, of what has happened with legislation from the Committee on Education and Labor any number of times. The committee will report a bill that will be rewritten on the floor, or a substitute bill will be adopted. The other body will fashion a bill very much as the Committee on Education and Labor fashioned it. Then the House conferees from the Committee on Education and Labor will go to the conference, not to try to uphold the position of the House, but principally to accept as many of the Senate provisions as possible so that they can bring a bill back in a shape similar to or identical with the shape it was in before the House revised it during consideration on the floor. I fear, Mr. Speaker, the same thing, the same scenario in this case

Mr. Speaker, I made a similar objection a couple of years ago to the minimum wage bill, and the bill never did go to conference. The House refused to send it to conference when it was obvious that the conferees were not going to uphold the position of the House.

In the interim, Mr. Speaker, the rules of the House have been rewritten, specifically along the lines of what were the precedents prior to that, and that is that a majority of the conferees shall be those who supported the position of the House. We have had no test of that rule, as far as I know, since it was written, but that is the rule. It has been adopted by the Members of the House as a rule. It is a rule that should be complied with, and I fear, as a matter of fact I can state, it is not being complied with in this case. Under those circumstances, Mr. Speaker, I would hope that the House would agree not to send the bill to conference and that more consideration would be given to the naming of conferees who would support the House position.

Mr. JOHN L. BURTON. Mr. Speaker, will the gentleman yield?

Mr. ERLENBORN. I yield to the gentleman from California.

Mr. JOHN L. BURTON. I thank the gentleman for yielding.

Will the gentleman tell me what happens if there is a conference and the House conferees agree to a Senate position. Does that come back to the House as an amendment?

Mr. ERLENBORN. No. No, it does not. If the House agrees to a germane Senate amendment, it comes back as just part of the conference report and we will vote it up or down.

Mr. PERKINS. Mr. Speaker, I yield myself such time as I may take.

Mr. Speaker, the House Rules and Manual, 95th Congress, at page 418, has the relevant subsection of rule X, subsection (e) of section (6), states:

> The Speaker shall appoint all select and conference committees which shall be ordered by the House from time to time. In appointing members to conference committees the Speaker shall appoint no less than a majority of members who generally supported the House position as determined by the Speaker. The Speaker shall name Members who are primarily responsible for the legislation and shall, to the fullest extent feasible, include the principal proponents of the major provisions of the bill as it passed the House.

Mr. Speaker, the Members that we have suggested in every respect comply with that rule. Since I have been chairman of the committee I have followed the pattern of either taking the entire subcommittee or taking the senior members of the subcommittee responsible for the legislation.

I discussed the situation with the gentleman from Pennsylvania (Mr. DENT) yesterday. It is my hope and I expect that he will be here next week to participate in this conference.

He has given more time than any other Member perhaps in this Chamber in developing minimum wage legislation over the years. The House conferees suggested by me as chairman, after consulting and conferring with the gentleman from Pennsylvania (Mr. DENT), the chairman of the subcommittee, can be expected to support the House position as much as we possibly can. I think the Members will realize that a conference is a give-and-take affair, and none of us want to bury ourselves in concrete or make statements to that effect before the House of Representatives. But I do want to state that perhaps the principle amendment that was adopted in this Chamber was the amendment offered by the gentleman from Texas (Mr. PICKLE). That amendment was adopted—and the gentleman from Texas (Mr. PICKLE) will participate in this conference on that amendment, selected by the Speaker.

Mr. Speaker, if we deviate from the procedure that we have followed in the past and not appoint a majority of the Members who generally supported the House position, which is the case before us. we would be setting a bad precedent.

I now move the previous question on the motion, Mr. Speaker.

The SPEAKER. The question is on ordering the previous question.

PREFERENTIAL MOTION OFFERED BY MR. ERLENBORN

Mr. ERLENBORN. Mr. Speaker, I offer a preferential motion.

The Clerk read as follows:

Mr. ERLENBORN moves to lay the motion offered by the gentleman from Kentucky (Mr. PERKINS) on the table.

The SPEAKER. The question is on the preferential motion offered by the gentleman from Illinois (Mr. ERLENBORN) to table the motion offered by the gentleman from Kentucky (Mr. PERKINS).

The question was taken; and the Speaker announced that the noes appeared to have it.

Mr. ERLENBORN. Mr. Speaker, I object to the vote on ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 138, nays 266, not voting 30, as follows:

[Roll No. 642]

YEAS—138

Abdnor	Findley	O'Brien
Anderson, Ill.	Fish	Pettis
Andrews, N. Dak.	Flynt	Poage
	Forsythe	Pursell
Archer	Frey	Quayle
Armstrong	Glickman	Quie
Ashbrook	Goldwater	Quillen
Badham	Goodling	Railsback
Bafalis	Gradison	Regula
Barnard	Grassley	Rhodes
Bauman	Guyer	Robinson
Beard, Tenn.	Hall	Rousselot
Breaux	Hammer-schmidt	Rudd
Broomfield		Ruppe
Brown, Ohio	Harsha	Sarasin
Broyhill	Hollenbeck	Satterfield
Burgener	Holt	Sawyer
Burke, Fla.	Huckaby	Schulze
Burleson, Tex.	Hyde	Sebelius
Butler	Johnson, Colo.	Shuster
Caputo	Jones, Okla.	Smith, Nebr.
Carter	Kasten	Snyder
Cederberg	Kelly	Spence
Chappell	Kemp	Stangeland
Clausen, Don H.	Ketchum	Stanton
	Kindness	Steers
Clawson, Del	Lagomarsino	Steiger
Cleveland	Latta	Stockman
Cochran	Leach	Stump
Cohen	Lent	Symms
Coleman	Livingston	Taylor
Collins, Tex.	Lott	Thone
Conable	Lundine	Treen
Corcoran	McClory	Trible
Crane	McDonald	Vander Jagt
Daniel, R. W.	McEwen	Walker
Derwinski	Mann	Walsh
Devine	Marriott	Watkins
Dickinson	Martin	Whitehurst
Dornan	Michel	Whitten
Duncan, Tenn.	Miller, Ohio	Wiggins
Edwards, Okla.	Mitchell, N.Y.	Wilson, Bob
Emery	Montgomery	Winn
English	Moore	Wydler
Erlenborn	Moorhead, Calif.	Wylie
Evans, Del.		Young, Fla.
Evans, Ga.	Myers, Gary	
Fenwick	Myers, John	

NAYS—266

Addabbo	Burton, Phillip	Fary
Akaka	Byron	Fascell
Alexander	Carney	Fisher
Allen	Carr	Fithian
Ambro	Cavanaugh	Flippo
Ammerman	Chisholm	Flood
Anderson, Calif.	Clay	Florio
	Collins, Ill.	Flowers
Andrews, N.C.	Conte	Foley
Annunzio	Conyers	Ford, Mich.
Ashley	Corman	Ford, Tenn.
Aspin	Cornell	Fountain
AuCoin	Cornwell	Fowler
Badillo	Cotter	Fraser
Baldus	Coughlin	Fuqua
Baucus	Cunningham	Gammage
Beard, R.I.	D'Amours	Gaydos
Bedell	Daniel, Dan	Gephardt
Bellenson	Danielson	Giaimo
Benjamin	Davis	Gibbons
Bennett	de la Garza	Gilman
Bevill	Delaney	Ginn
Biaggi	Dellums	Gonzalez
Bingham	Derrick	Gore
Blouin	Dicks	Gudger
Boggs	Diggs	Hamilton
Boland	Dingell	Hanley
Bolling	Dodd	Hannaford
Bonior	Downey	Harkin
Bowen	Drinan	Harrington
Brademas	Duncan, Oreg.	Harris
Breckinridge	Early	Hawkins
Brinkley	Eckhardt	Heckler
Brooks	Edgar	Hefner
Brown, Calif.	Edwards, Ala.	Heftel
Burke, Calif.	Edwards, Calif.	Hightower
Burke, Mass.	Eilberg	Hillis
Burlison, Mo.	Ertel	Holtzman
Burton, John	Evans, Colo.	Horton
Hubbard	Moakley	Santini
Hughes	Moffett	Scheuer
Ichord	Mollohan	Schroeder
Ireland	Moorhead, Pa.	Seiberling
Jeffords	Moss	Sharp
Jenkins	Mottl	Shipley
Jenrette	Murphy, Ill.	Sikes
Jones, N.C.	Murphy, N.Y.	Simon
Jones, Tenn.	Murphy, Pa.	Sisk
Jordan	Murtha	Skelton
Kastenmeier	Myers, Michael	Slack
Kazen	Natcher	Smith, Iowa
Keys	Neal	Solarz
Kildee	Nedzi	Spellman
Koch	Nichols	St Germain
Kostmayer	Nix	Staggers
Krebs	Nolan	Stark
LaFalce	Nowak	Steed
Le Fante	Oakar	Stokes
Lederer	Oberstar	Stratton
Lehman	Obey	Studds
Levitas	Ottinger	Thompson
Lloyd, Calif.	Patten	Thornton
Lloyd, Tenn.	Patterson	Traxler
Long, La.	Pattison	Tsongas
Long, Md.	Pease	Tucker
Luken	Perkins	Udall
McCloskey	Pickle	Ullman
McDade	Pike	Van Deerlin
McFall	Pressler	Vanik
McHugh	Preyer	Volkmer
McKay	Price	Waggonner
McKinney	Pritchard	Walgren
Madigan	Rahall	Wampler
Maguire	Rangel	Waxman
Mahon	Reuss	Weaver
Markey	Rinaldo	Weiss
Marks	Risenhoover	White
Marlenee	Roberts	Whitley
Mathis	Rodino	Wilson, C. H.
Mattox	Roe	Wilson, Tex.
Mazzoli	Rogers	Wirth
Meeds	Roncalio	Wolff
Metcalfe	Rooney	Yates
Meyner	Rose	Yatron
Mikulski	Rosenthal	Young, Alaska
Mikva	Rostenkowski	Young, Mo.
Milford	Runnels	Young, Tex.
Mineta	Russo	Zablocki
Minish	Ryan	Zeferetti

NOT VOTING—30

Applegate	Hansen	Mitchell, Md.
Blanchard	Holland	Panetta
Bonker	Howard	Pepper
Brodhead	Jacobs	Richmond
Brown, Mich.	Johnson, Calif.	Roybal
Buchanan	Krueger	Skubitz
Dent	Leggett	Teague
Evans, Ind.	Lujan	Vento
Frenzel	McCormack	Whalen
Hagedorn	Miller, Calif.	Wright

The Clerk announced the following pairs:

On this vote:

Mr. Teague for, with Mr. Richmond against.

Until further notice:

Mr. Dent with Mr. Applegate.
Mr. Howard with Mr. Brown of Michigan.
Mr. Pepper with Mr. Frenzel.
Mr. Panetta wtih Mr. Hansen.
Mr. Mitchell of Maryland with Mr. Hagedorn.
Mr. Leggett with Mr. Buchanan.
Mr. Evans of Indiana with Mr. Skubitz.
Mr. Vento with Mr. Whalen.
Mr. Roybal with Mr. Johnson of California.
Mr. Miller of California with Mr. Krueger.
Mr. McCormack with Mr. Lujan.
Mr. Brodhead with Mr. Jacobs.
Mr. Blanchard with Mr. Holland.
Mr. Wright with Mr. Bonker.

Mr. DUNCAN of Oregon changed his vote from "yea" to "nay."

Mr. ABDNOR changed his vote from "nay" to "yea."

So the preferential motion to table was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. DINGELL). Without objection, the previous question is ordered.

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Kentucky (Mr. PERKINS).

The question was taken; and the Speaker pro tempore being in doubt, the House divided, and there were—ayes 91; noes 41.

So the motion was agreed to.

The SPEAKER. The Chair appoints the following conferees: Messrs. PERKINS, DENT, PHILLIP BURTON, GAYDOS, CLAY, BIAGGI, ZEFERETTI, QUIE, ERLENBORN, and ASHBROOK; and an additional Member, Mr. PICKLE, solely for the consideration of section 12 of the House bill and modifications thereof committed to conference.

POINT OF ORDER

Mr. ERLENBORN. Mr. Speaker, I make a point of order against the naming of the conferees as not being in compliance with the provisions of section 701 (e), rule X of the Rules of the House.

The SPEAKER. Does the gentleman from Illinois (Mr. ERLENBORN) wish to be heard on his point of order?

Mr. ERLENBORN. Yes, Mr. Speaker.

Mr. Speaker, rule X, section 701(e) provides in part:

> In appointing members to conference committees the Speaker shall appoint no less than a majority of members who generally supported the House position as determined by the Speaker.

Mr. Speaker, as I pointed out in debate earlier today, the three items in contention between this body and the other body are the rate structure, the tip credit, and the small business amendment. Every one of the majority Members, with the exception of the gentleman from Pennsylvania (Mr. GAYDOS), did not support the House position during the consideration of the bill on the floor.

I will admit, Mr. Speaker, that all of the Members who were present did vote for the passage of the bill. The passage of the bill is not in contention. Those items that are in contention between this body and the other body are the three items that I have mentioned, and the majority of the conferees named by the Speaker are not among those Members who supported the majority position in the House.

The SPEAKER. Does the gentleman from Kentucky (Mr. PERKINS) wish to be heard on the point of order?

Mr. PERKINS. I do, Mr. Speaker.

Mr. Speaker, there were numerous amendments offered to the minimum wage bill. Perhaps the major amendment that was adopted was the one increasing the exceptions from $250,000 to $500,000 for small businesses. The Speaker has taken care of that situation by appointing the gentleman from Texas (Mr. PICKLE).

If we were to follow the argument of the gentleman from Illinois (Mr. ERLENBORN), as it might apply to a situation in which some 30 or 40 Members outside the committee had offered amendments, I would think that it would set a prec-

edent that this House could not live with.

But notwithstanding that, the Members who have been suggested to the Speaker by myself as chairman of the Committee on Education and Labor, the seven ranking members of the Subcommittee on Labor Standards, headed by the gentleman from Pennsylvania (Mr. DENT), voted for the majority of the amendments that were offered to the bill on the floor of the House. By and large, all the conferees suggested to the Speaker generally supported the legislation, and that is the rule.

We must look at this picture as a whole and not pick out one or two select amendments that the gentleman from Illinois (Mr. ERLENBORN) is primarily interested in and overlook all the other amendments that the other members supported and that the suggested conferees supported.

Therefore, Mr. Speaker, it is my contention that the point of order raised by the gentleman from Illinois (Mr. ERLENBORN) is without merit and should be overruled.

The SPEAKER. The Chair is ready to rule.

This is the judgment of the Chair concerning the following language: "The Speaker shall appoint no less than a majority of Members who generally supported the House position as determined by the Speaker, and the Speaker shall name Members who are primarily responsible for the legislation and shall, to the fullest extent feasible, include the principal proponents of the major provisions of the bill as it passed the House."

That language is found in clause 6(e) of rule X of the Rules of the House.

In the opinion of the Chair, after looking over the list of conferees, and in view of the fact that the Chair has only had one additional request to name a conferee—and that is the gentleman from Texas (Mr. PICKLE), whom the Chair has named as a limited conferee—the Members that the Chair has named as conferees meet the qualification of being "primarily responsible for the legislation."

The Chair's appointment under the remaining provisions of the rule is ultimately a matter within his discretion, which the Chair feels he has properly exercised, and there is nothing in the rule requiring the Chair to consider the conferees' positions solely on the matter in dispute.

The Chair overrules the point of order.

MAKING IN ORDER ON TOMORROW CONSIDERATION OF CONFERENCE REPORT ON H.R. 3, MEDICARE-MEDICAID ANTIFRAUD AND ABUSE AMENDMENTS

Mr. ROSTENKOWSKI. Mr. Speaker, I ask unanimous consent that it may be in order tomorrow to consider a conference report on the bill (H.R. 3) to strengthen the capability of the Government to detect, prosecute, and punish fraudulent activities under the medicare and medicaid programs, and for other purposes.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

PROVIDING FOR CONSIDERATION OF HOUSE RESOLUTION 766, REFORM OF THE ADMINISTRATIVE ORGANIZATION AND LEGISLATIVE MANAGEMENT SERVICES OF THE HOUSE OF REPRESENTATIVES

Mr. LONG of Louisiana. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 819 and ask for its immediate consideration.

The clerk read the resolution, as follows:

H. RES. 819

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the resolution (H. Res. 766 providing for the reform of the administrative organization and legislative management services of the House of Representatives and for other purposes, and the first reading of the resolution shall be dispensed with. After general debate, which shall be confined to the resolution and shall continue not to exceed two hours, one and one-half hours to be equally divided and controlled by the chairman and ranking minority member of the Committee on Rules and one-half hour to be equally divided and controlled by the chairman and ranking minority member of the Committee on House Administration, the resolution shall be considered for amendment under the five-minute rule by titles instead of by sections, except that titles I, II, and III shall be considered for the purposes of this resolution as one title, and each title shall be considered as having been read for amendment. No amendments to the resolution in the House or in the Committee of the Whole shall be in order except pro forma amendments for the purpose of debate and except the following amendments, which shall not be subject to amendment except as specified in this resolution but which may be debated by the offering of pro forma amendments:

(1) amendments recommended by the Committee on Rules consistent with the terms of reference of the resolution, and said amendments recommended to any one title of the resolution shall be considered en bloc and shall not be subject to a demand for a division of the question;

(2) an amendment printed in the Congressional Record of October 4, 1977, by Representative Frenzel of Minnesota to title II of the resolution;

(3) one amendment to strike out titles I, II, and III of the resolution, and said amendment shall not be subject to a demand for a division of the question;

(4) an amendment to strike out title IV of the resolution;

(5) amendments to strike out single sections of title V of the resolution;

(6) an amendment printed in the Congressional Record of October 4, 1977, by Representative Chisholm of New York to title V of the resolution;

(7) the amendment recommended by the Committee on House Administration to title VI now printed in the resolution, and all points of order against said amendment for failure to comply with the provisions of clause 7, rule XVI are hereby waived; and said amendment shall be subject to the following amendments: an amendment to strike out, in section 611 of the amendment, the words "and this resolution"; one amendment to strike out sections 601 and 602 of the said amendment, and such amendment shall not be subject to a demand for a division of the question; amendments to strike out other single sections of the amendment; an amendment printed in the Congressional Record of October 4, 1977, by Representative Meeds of Washington; an amendment printed in the Congressional Record of October 4, 1977, by Representative Frenzel of Minnesota; and an amendment printed in the Congressional Record of October 4, 1977, by Representative Obey of Wisconsin;

(8) amendments to strike out single sections of title VI of the resolution, which amendments shall be in order only if the amendment recommended to title VI of the resolution by the Committee on House Administration has been rejected; and

(9) an amendment to strike out title VII of the resolution, which amendment shall be in order only if the amendment recommended to title VII by the Committee on Rules has been rejected.

At the conclusion of the consideration of the resolution for amendment, the Committee shall rise and report the resolution to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the resolution and amendments thereto to final passage without intervening motion except one motion to recommit.

The SPEAKER. The gentleman from Louisiana (Mr. LONG) is recognized for 1 hour.

Mr. LONG of Louisiana. Mr. Speaker, I yield 30 minutes to the gentleman from Mississippi (Mr. LOTT), pending which I yield myself such time as I may consume.

Mr. Speaker, this resolution provides for the consideration of House Resolution 766, the resolution which embodies many of the recommendations made by the Commission on Administrative Review with respect to administrative organization and legislative management services. The rule is admittedly somewhat complicated, but I believe it is a fair and just rule. I hope that the Members will bear with me as I outline its provisions so that everyone will know exactly what it does provide.

First, the rule calls for a total of 2 hours of general debate—1½ hours to the Committee on Rules which reported on titles I through V and title VII; and one-half hour to the Committee on House Administration which reported on title VI.

Next, the rule provides that the resolution shall be read for amendment by titles, instead of by sections. Additionally, provision is made that titles I, II, and III shall be considered as one title for purposes of amendment. This was felt to be necessary because of the interdependence of those titles—title I deals with the House Administrator, Auditor, and Comptroller; title II with the jurisdiction of the House Administration Committee which will set policy and guidelines for the House Administrator; and title III with the transfer of duties from the Clerk of the House. Should any of these titles be stricken, the other two would not make sense and therefore they

should be considered as one title for purposes of amendment.

Pro forma amendments shall be in order for the purpose of debate so that Members will be assured of an adequate opportunity to debate the various amendments made in order under the rule.

In discussing the various amendments that will be in order under the rule, I would like to go through the resolution title-by-title. Under titles I, II, and III, which I have just explained will be considered as one title for purposes of amendment, the following amendments will be in order:

First. Amendments recommended by the Committee on Rules which shall be considered en bloc (and shall not be subject to a demand for a division of the question).

Second. An amendment to title II which may be offered by Representative FRENZEL. This amendment appears in the CONGRESSIONAL RECORD of October 4, 1977, and would provide for a Subcommittee on Audits which would be composed of an equal number of majority and minority members.

Third. An amendment to strike all of titles I, II, and III. For the reasons I explained earlier, this amendment would not be subject to a demand for a division of the question.

Under title IV, which sets out the annual reporting requirements of the Administrator, Clerk, Sergeant at Arms, and Doorkeeper, amendments in order would be:

First. Amendments recommended by the Committee on Rules which, in this case, is a single technical amendment to clarify how these reports are to be made available to the public.

Second. An amendment to strike the title.

Under title V, which embodies several miscellaneous amendments to the rules of the House, the following amendments would be in order:

First. Amendments recommended by the Committee on Rules which shall be considered en bloc.

Second. Amendments to strike out any section of title V.

Third. An amendment to the section on the Fair Employment Practices Panel which may be offered by Representative CHISHOLM. This amendment also appears in the CONGRESSIONAL RECORD of October 4, 1977.

Under title VI, which contains the provisions relating to House operations and employees, and was reported by the Committee on House Administration, the following amendments would be in order:

First. An amendment in the nature of a substitute recommended by the Committee on House Administration. All points of order are waived against this amendment for failure to comply with the germaneness rule. The germaneness problem arises because of the words "and this resolution" which appear in section 611 of the amendment. An amendment to this amendment to delete these words is made in order under the rule.

Second. Amendments to strike any section of the substitute, except that both sections 601 and 602 would be stricken under a single motion because they both deal with the same subject areas (congressional member and legislative service organizations), and it would not make sense to strike one of these sections without striking the other.

Third. An amendment to the substitute which may be offered by Representative MEEDS which would restore the committee staff growth cap section that appeared in the original resolution.

Fourth. An amendment to the substitute which may be offered by Representative FRENZEL which would restore the allowances for Members-elect which were provided in the original resolution.

Fifth. An amendment to the substitute which may be offered by Representative OBEY which would strike the provision in section 608 of the substitute that allows the transfer of funds to the House information systems for reimbursement for computer services.

Sixth. After all amendments to the substitute have been considered and the substitute as amended is voted on—if the substitute as amended should fail—then the House would have before it the original text of title VI of the resolution for its consideration. In that event, amendments to strike any section of the original text of title VI would be in order. (Explanation: When amending the substitute, the House may vote to delete a section of the substitute that is virtually the same as its counterpart in the original text of title VI. If the House then defeated the entire substitute, it should still have the opportunity to delete those same sections in the original text as well.)

Under title VII, which creates a Select Committee on the Committee System, the following amendments will be in order:

First. An amendment in the nature of a substitute recommended by the Committee on Rules;

Second. An amendment to strike the entire title. (The entire title deals with the jurisdiction, authority, and procedures of the select committee, and it would not make sense to strike out any one section and leave others, so a single motion to strike the entire title is in order should the House fail to adopt the substitute.)

In summary, the rule, while not a completely open one, does provide the House with a wide range of opportunities to work its will. In each case, the House will have a choice between the original provisions of the resolution, the provisions as amended by either the House Administration Committee or the Rules Committee, or to strike the relevant provisions altogether. In addition, in areas where those of us who have been working with the subject saw that substantial differences of opinion existed, the rule has made various amendments in order that will allow the House to work its will in those areas.

As I stated at the beginning, the rule is somewhat complicated, but I believe that you can see from this explanation that it is a carefully thought-out and equitable rule that will provide us with a framework in which we can debate and reach a resolution on this important matter. Therefore, Mr. Speaker, I urge the adoption of House Resolution 819 so that we may debate and vote on House Resolution 766.

Mr. Speaker, I yield to the gentleman from Mississippi (Mr. LOTT).

Mr. LOTT. Mr. Speaker, I yield myself such time as I may consume.

Mr. SPEAKER, the gentlemen and ladies who were here when the rule was read I think pretty well have a clear picture of what we are talking about. It was a very lengthy rule. It took about 5 minutes just to read the rule, and that sums up the problem I think we have with this particular rule. The gentleman from Louisiana (Mr. LONG) has done a very good job in going through this rule and explaining accurately the provisions.

It is not my intention to duplicate his efforts and I do not want to waste the time of my colleagues, but I do think there are some points that need to be made about this rule.

The Rules Committee has submitted for the approval of the Members what has been termed by many to be a "modified open rule" and by others—me included—a "modified closed rule," depending on their perspective. Regardless of the terminology to which one subscribes, this rule is unnecessarily restrictive. This is why. It directs, basically, only five things. I would like to read them:

(1) It directs that the 28 technical and 11 substantive Rules Committee amendments applicable to each title of H. Res. 766 be lumped together as they are reached and considered en bloc without being subject to a division.

(2) The first 3 titles of the resolution, which deal with the House Administrator, the Comptroller, the Auditor, the House Administration Committee, and the Clerk must all be considered as one title with only a motion to strike all 3 at once made in order. There is no division of this question permitted either.

(3) Motions to strike all of title IV and all of title VII by title and motions to strike titles V and VI by section (except section 601 and 602, which are to be considered as one section) are made in order.

(4) The House Administration substitute to title VI and the Rules Committee substitute to title VII are made in order.

(5) Only 5 additional amendments by individual Members will be permitted. These amendments deal with a Subcommittee on Audits, the computer allowance, a committee staff ceiling, the Fair Employment Practices Panel, and the Members-elect allowance proposal.

None of the above amendments may be amended in any way under this rule, and no additional amendments are made in order.

These are points I want to ask all of the Members to listen to and think about for a minute.

If a Member wants to designate the Administrator as an officer of the House instead of a mere employee—not even

subject to the oath of office that the Doorkeeper is subject to—or alter the method by which he is nominated, elected, or removed, the Member cannot.

If a Member believes that Member and committee expense vouchers and financial records should be made available for public inspection, he cannot amend the resolution to require it.

If he wants to authorize the Administrator to promulgate guidelines to eliminate unnecessary and duplicative employment functions, he cannot.

If he has in mind an amendment to improve the scheduling of legislation for floor action, he may not offer it.

If he would like to have the Committee on House Administration supervise and oversee the Administrator's hiring practices, he cannot.

If he would prefer that the Office of Personnel and Work Management—the Brooks committee—carry out its functions in cooperation with studies authorized and conducted by the Select Committee on Congressional Operations, the Member will have no chance to offer that amendment.

If he feels the House auditing system itself, as the gentleman from Colorado (Mr. ARMSTRONG) feels, should be a CPA firm, the Member will have to settle for less.

If he wants guidelines promulgated with respect to the best use of House parking facilities—something that Members of Congress would certainly all understand—he cannot authorize the Administrator to do so.

If he approves of the indexing of committee hearings but not of mandating that they be abstracted, or vice versa, the Member will not be able to eliminate the one without eliminating the other at the same time.

If he wants to consolidate or eliminate certain parts of the duties or responsibilities of any of the proposed new House employees, the opportunity will not be available to the Member.

The list could go on and on. I just list a few where I know some members of the Obey Commission and the House Administration are concerned and interested. In the Rules Committee we had probably 20 amendments offered and only half a dozen were accepted, except for the technical amendments.

The die supposedly has been cast. Once again, with few exceptions, we are expected to endorse a closed rule or a modified closed rule exactly as the Obey Commission and the Committees on Rules and House Administration have presented to us. It is assumed that the general membership of the House has no expertise in administrative matters that affect us, and not only us but certainly the whole country and this body for years to come, and we should not have an opportunity to work our free will.

To me this is absolute nonsense.

Make no mistake, the Commission on Administrative Review recommendations which are embodied in House Resolution 766 will affect each of us. They have done a pretty good job and there are some good points in this bill that I think we should pass if we have the opportunity to amend and make some changes.

Mr. Speaker, it is not the merits or demerits of the bill we are debating right now. It is how we are going to take it up. Our hands are going to be tied. Once again we are talking about reforming the House, changing the rules. We do not allow ourselves a free rule or an open rule so that we can offer amendments.

What kind of hypocrisy are we dealing with? This is not a bankruptcy bill. This is not an IRS bill where we do not want to open up the tax code. This is rules changes of our own body.

What happened to the caucus mandate or the conference mandate for open rules? Certainly we should have an open rule on our own administrative methods and procedures.

I want to emphasize this point, if I can. I think it is important that we have a key vote on the rule itself and not on the previous question. Members get too confused and upset when we try to have a key vote on procedural questions, like voting on the previous question; so I hope we will not get into that. Let us vote against this modified closed rule and defeat it and go back to the Rules Committee and get a rule that will allow all Members to offer amendments as they see fit so we can make the necessary changes.

We need to have this opportunity to put in protections for the Speaker, for all the Members of the House and for the citizens of this great country.

Mr. Speaker, I strongly urge that we vote against this rule and require the Committee on Rules to come back with a rule which will open the resolution to constructive amendments.

Mr. Speaker, I yield 6 minutes to the gentleman from Illinois (Mr. ANDERSON).

Mr. ANDERSON of Illinois. Mr. Speaker, our distinguished minority leader has written a book entitled, "The Futile System: How to Unchain the Congress and Make the System Work Again." I am reminded of that title whenever we lead the charge against one of these closed rules. So often it seems like an exercise in futility to try to unchain this House from the bondage of closed rules and give it an opporuntiy to make things work again. It gets a little tiresome to hear certain self-professed "liberals" on the other side of the aisle boast about how much they have reformed things and opened things up around here over the past few years, and then to watch them turn around and vote for closed rules.

Today we have before us perhaps the most blatant example of hypocrisy, wrapped in irony, inside a paradox—we have a modified closed rule providing for the consideration of a so-called House reform. We are being asked to reform the House under an antireform procedure. This rule should receive the George Orwell "Newspeak" award for 1977—ranking alongside the statement of a general who said we had to destroy a village in order to save it. Instead of unchaining the House in order to make this futile system work, we are being asked today to accept the proposition that the only way we can reform the administrative and legislative management services of this House, and make them work, is to keep the House in chains while acting on those reforms. I say all this not in disparagement of the work done on this resolution by the Obey commission or the Rules Committee or the House Administration Committee: I think all have done a commendable job to date in fashioning and improving upon these recommendations. But all wisdom does not reside in any of these entities individually, or all three collectively, nor in the few individuals who will be privileged under this rule to offer amendments. This House—all 435 Members—should have a full, free, and final say on something as important as how this institution is to be managed in the future.

I totally reject any characterization of this rule as somehow being "fair" to the major parties concerned or as offering an opportunity to vote on the major issues and alternatives presented in the commission or in the committees which marked up this resolution. Other than giving the House a chance to strike certain titles and sections, this rule only makes in order five substantive amendments: a Frenzel amendment to establish a bipartisan audit subcommittee in the House Administration Committee; a Chisholm substitute Fair Employment Practices Panel section; an Obey amendment on computers; a Meeds amendment placing a cap on committee staff; and a Frenzel amendment providing staff for new Members elect.

To give my colleagues an example of just how "fair" this rule is, let me cite what happened in our Rules Subcommittee markup of this resolution. The minority offered some 17 substantive amendments, of which four minor ones were adopted, another two are made in order by this rule, leaving some 11 substantive amendments which we will be prevented from offering if this rule is adopted. While I cannot speak for the other committee which dealt with title VI of this resolution, I daresay there were probably several important amendments offered there which we will not be able to vote on under this rule. Moreover, many other fine suggestions for change were made in testimony before our subcommittee. And while those amendments were not all offered during our markup, I think they should have a chance to be heard, considered, and voted on in this House. And finally, I am sure that other Members, who only recently have had a chance to review this resolution, have further ideas for amendments which are deserving of our serious consideration in this House.

Mr. Speaker, in the brief time remaining, I would like to address myself to just one major amendment offered in the Rules Committee which will not be in order under this rule, and that is to make the proposed House Administrator an officer of the House, subject to approval by the House Administration Committee, elected by the House, and subject to removal only by the House. If the proposed

Administrator is the major reform of this resolution, and I think most will agree that is the case, then I certainly think we should have more debate and flexibility on this proposal than the up or down vote on titles I, II, and III which this rule will permit us. There can be no question that the Administrator will have more powers, responsibilities, staff and financial resources than all other officers combined. There can be no question that this position is more important than such officers as the chaplain and postmaster. Why, then, we must ask, is the Administrator not made an elected officer of the House under House Resolution 766? And furthermore, why should not the House have a chance by amendment to give the Administrator that status and responsibility? The only answer I get from reading the Obey Commission report is that the Administrator should be more accountable to the Speaker and the House Administration Committee than to the House—even though his proposed duties obviously affect all of us and the House as an institution.

I would caution my colleagues against simply making the Administrator nothing more than a super-employee of any one person or committee—and the resolution is sufficiently ambivalent as to just who the Administrator would be accountable to. Never before has this House concentrated more powers in any one person and made that person accountable to so few. I would have thought that the scandal which gave rise to this Commission in the first place would have taught us the dangers implicit in concentrating the powers for administering this body in a single individual, but apparently that lesson has been lost somewhere along the way.

In conclusion, Mr. Speaker, I strongly urge defeat of this rule. Only an open rule will unchain this House and permit it to work its will in making this system work. Let us demonstrate on this previous question vote that this is neither a futile or a feudal system and that we can deal with a reform issue under a truly open, reform procedure.

Mr. LONG of Louisiana. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, all the discussion that has been going on with respect to the unfairness of this rule is really very surprising to me for two reasons: One, the various amendments that have been discussed here were offered in the mark-up session of the Rules Committee on the proposed resolution, but only one of them, proposing a completely open rule, was offered by any minority member with respect to the rule itself.

No. 2, the chairman of the Rules Committee was delivered a letter dated October 4, 1977, which was placed in the folder of each of the members of the Rules Committee, signed by DAVID R. OBEY, the chairman of the Commission on Administrative Review, and also signed by Representative BILL FRENZEL, the ranking minority member of the Commission on Administrative Review. That letter requested in essence, practically without exception, the rule that was granted by the Rules Committee.

I read to the Members not all six points that were requested to be made in order in this letter, because they are the points that are covered in the rule that is here. But I read the Members only the conclusion. It says:

> Mr. Chairman, we believe that such a rule will allow the major points of controversy to be decided upon the House floor. We also want to indicate our support for the committee amendments adopted by the subcommittee. We certainly hope that the Rules Committee will grant this rule.

It seems to me that we in the Committee on Rules have structured a rule that is basically fair, that is entirely equitable. Even though it is not a completely open rule, it is a rule that will allow all issues to be fully debated on the floor. I think any reasonable person will admit that under the circumstances of the particular piece of legislation being considered, it is a very fair and just rule.

Mr. OBEY. Mr. Speaker, will the gentleman yield?

Mr. LONG of Louisiana. I yield to the gentleman from Wisconsin.

Mr. OBEY. I thank the gentleman for yielding.

Mr. Speaker, if the gentleman will permit me, I would like to point out something else. If there is any departure from the norm being engaged in in this case, it is the fact that there is any amendment at all in order, because under the usual procedure we could have brought this resolution to the House under "privilege" which would have provided no amendments whatsoever.

What we did was to merge all of the items into one bill so that amendments could be offered and we specifically made in order the amendments which were most earnestly sought by the minority and by others. In fact we made in order every amendment the minority asked to have made in order.

In addition, let me point out that several of the amendments adopted by the Committee on Rules were certainly not minor in nature. One amendment which was sought by the minority more than any other was the right to include the minority leader in the hiring process and in the firing process for the Auditor, and the other was the elimination of the associate staffer.

I would also point out that, while the gentleman from Minnesota (Mr. FRENZEL) would have preferred an open rule, and said so, and while I would have preferred a totally closed rule, because under the normal process we would have been here under a totally closed rule, this was a reasonable compromise which was in fact accepted by both the gentleman from Minnesota (Mr. FRENZEL) and myself, by virtue of that letter.

Mr. MICHEL. Mr. Speaker, will the gentleman yield?

Mr. LONG of Louisiana. I yield to the gentleman from Illinois.

Mr. MICHEL. I appreciate the gentleman's yielding.

Mr. Speaker, I am glad to hear the gentleman from Wisconsin (Mr. OBEY) acknowledge the fact that the gentleman from Minnesota (Mr. FRENZEL), who does not happen to be here on the floor now, did prefer and asked for an open rule. I know that was really a dominant feeling that he had. But you know we in the minority have to face reality around here. When are outnumbered 2 to 1 here in the House and on the Committee on Rules we have no alternative but to accept a quarter loaf or a half loaf. In this case we are offered only the crumbs and I for one am not willing to settle for that and I sense that is the way most all on the minority side feel today.

I did want the record to be clear that the gentleman from Minnesota (Mr. FRENZEL) much preferred an open rule.

Mr. LONG of Louisiana. I thank the gentleman for his remarks.

Mr. Speaker, I did not mean to indicate in any way that Mr. FRENZEL had not requested an open rule. What I did indicate, and what I reiterate at this time, is that the matter should be compromised somewhere between an absolutely closed rule and an absolutely open rule, and a compromise rule to which the gentleman from Minnesota agreed and in turn requested of the Committee on Rules.

Mr. Speaker, I yield 4 minutes to the distinguished gentleman from New Jersey (Mr. RODINO).

Mr. RODINO. Mr. Speaker, I rise in support of this rule.

I recognize that there are times when many of us feel frustrated because we believe we are denied an opportunity to speak out, but I do believe it necessary, especially when we are considering such a complicated issue and a matter that is of such urgency, that we proceed in a rational way.

I believe the rule is just and fair. It presents a rational approach for the consideration of what I consider to be a very, very urgent proposal, one which cries out for attention by this House.

All of us recognize that this House, so long considered as the people's house and so long revered because it stood as an institution that maintained its integrity, has lost the confidence of the people. Very frankly, a lot of this loss of confidence is due to the fact that we have created not order but disorder by the way we proceed.

This rule provides for the consideration of matters that urgently need attention. These matters that must be addressed include the manageability of the issues that come before this House.

I do not believe that any of us who are here would question whether the Speaker is going to have the power to dictate to the Administrator as to where we go. I do not believe we would question whether that direction would be in the interest of this House.

I believe there are enough safeguards and provisions in the recommendations—and, of course, they may be refined even under the rules—so that we will be able to do what is necessary, and that is to put this House in order by

assuring that we can manage our own affairs in a manner that is credible and in a manner that will reflect credit upon all of us.

I have served in this House for 29 years, and I feel a sense of pride in this institution and in the integrity of this institution. But let me tell the Members that during this period of time, having seen the rules change and the procedures change and having seen the Members going every which way on their own, I find myself wondering whether or not we can maintain the integrity of this institution.

There is one particular provision which I feel is most necessary to be debated before this House and to which I will address myself if the rule is adopted.

I wish to speak to that portion of the amendments to the administrative reorganization and legislative management resolution which directs itself to the creation of a Select Committee on the Committee System.

More than any other factor we consider today this will ultimately affect the ability of this House to function and discharge its role properly.

As one who has served as a Member of this House for 29 years, as a subcommittee chairman and as a committee chairman, I have experienced many rules changes and changes of procedures, but I know that the basic underlying strength of our House must be in our committee structure.

It is essential that we devise a committee structure that is proper to the tasks before us.

That enables us to devote particularized attention to issues, that develops expertise among Members.

There are presently undeniable problems in our committee structure, a structure which bursts with overlapping jurisdiction, a structure which makes it difficult for Members to attend all of the subcommittee and committee meetings for which they are assigned and responsible.

The examples of jurisdictional confusion are too numerous to outline, but we are all aware of them. The demands on the time and energy of a conscientious Member to attend all of the meetings he or she is required to attend are impossible to meet.

I believe strongly that only through extensive committee specialization can the House of Representatives best perform as a persistent accountant for the activities of Government agencies and deal with the complex policy matters to be studied and legislated each year.

I also frankly believe that of late we have been "tinkering" with our committee system and our operations, but it is now necessary for us to address the real issues and the hard questions directly.

These questions are the number of standing committees and subcommittees, their jurisdiction, and while we are at it, the membership of those committees. It is time we addressed the hard question of the balance in committee membership. This balance should reflect and accommodate the needs and interests of this institution and not only those of its individual Members.

I have stood before this body before and talked of these needs, of the astonishing total of hours we have waited to establish quorums to conduct our business, of the overlapping of committee schedules, which will not be cured by computer programing, but will only be cured by fewer subcommittees, and membership on fewer committees and subcommittees.

Each of us bears responsibility for fashioning a better institution. We have the obligation to join in making our committee structure—the base of the congressional system—vital and meaningful.

I wholeheartedly support a close hard look at our committee system. We must do what we can to contribute to better committee operation, the sharing of significant work, and we must generate a heightened interest and concern by committee members thereby inevitably producing a better work product.

I suggest that committees should be more rationally structured, with overlapping jurisdiction resolved where possible and as soon as possible. This will contribute to a more responsive Congress to better perceive what in fact is being done with regard to a given issue.

Even now I am in the process of appointing an ad hoc committee to study the jurisdiction of the subcommittees of the Committee on the Judiciary for the very purpose I suggest the Select Committee on Committees should be created. I support this creation. I urge it.

For that reason, Mr. Speaker, I support this rule, and I urge the House to adopt it so that we may get on to the business of correcting the deficiencies that now exist.

Mr. LONG of Louisiana. Mr. Speaker, I yield 6 minutes to the gentleman from Texas (Mr. BROOKS).

Mr. BROOKS. Mr. Speaker, if a confidential survey were taken of our colleagues, I suspect that those who genuinely support House Resolution 766 would be found to number no more than the fingers of one hand. And even that may be open to question.

Yet there is a feeling among some of the Members of this body that the skids are greased, so to speak, on this resolution, and that the easy way out is to vote for it.

This view, I believe, does a disservice to the Members, to the House as an institution, and to our leadership. On a measure so fraught with controversy as this one, so unsettling in its implications for the future of this body and its Members, I am reluctant to believe that Members would cast their votes on any basis other than the merits of this resolution.

Nor do I believe the leadership would want it any other way.

Mr. Speaker, House Resolution 766 would make fundamental changes in the way we govern ourselves, in the way we structure our support, in the way we use the money and the staff, and the space provided by the very generous American taxpayers. Each one of us is going to be held personally accountable for what we do in this institution and for how we spend the taxpayer's money. There is no avoiding that responsibility, and we cannot wash it away.

In deciding how to vote on this resolution and on the rule now before us, I suggest that we ask ourselves just how understanding our constituents will be if we vote for a resolution and a rule that provide for and that include the following:

First, abdicating the responsibilities we were elected to accept and turning them over to non-elected super-administrators.

Second, adding upwards of $15 million a year to costs of operating a Congress already on the edge of a billion-dollar precipice.

Third, granting ourselves and our staffs what amounts to unlimited foreign travel.

Fourth, authorizing more than 1,000 new employees at a time when the House is already overstaffed and overcrowded, thereby creating new pressures for additional House office buildings, cafeterias, parking space, and so forth.

Fifth, tripling our funds for computers and computer services and equipping ourselves very neatly, in the name of reform, with the capacity to run computerized political campaigns at taxpayer expense.

Sixth, deceiving ourselves, our employees, and the public by establishing a fair employment practices procedure which will penalize, rather than protect, the very people we should be helping.

This is not reform, Mr. Speaker. It is not good politics, and it is not good sense.

We all can understand why we do not need to do any more of this sort of thing. Mr. Speaker, this is an example of what can be done with unlimited funds by Members of Congress. We have them enumerated in the paper here and in this little book that is going to be available for all of our opponents, pointing out how somebody spent $1,300 to entertain his constituents; how one of our brothers joined the Admirals Club so he could drink whisky while waiting for an airplane. He is a good man.

Mr. Speaker, I do not object to our entertaining our constituents in any way we can, but I do not believe we should provide entertainment and say we had the U.S. Government and the taxpayers paying for it. We can do better than that.

Mr. Speaker, there are some good provisions in House Resolution 766, although I had to look for them, and by amending the resolution we can improve other provisions. We need administrative reform. We need better planning and coordination of support services. We ought to provide staff support for our very able and distinguished Speaker. A person cannot abdicate his responsibilities if he is the leader of this House. If he is the Speaker, he needs an adequate staff around him. We should assure a better balance of functions for House officials; we need and can have better policymaking and better oversight. We need improved financial management and better access to House financial reports.

We can achieve those objectives if we want to, but the price is too high if it means approval of this entire package.

Mr. Speaker, if we are serious about reforms, the changes we make should

eliminate potential abuses, rather than create new ones. It should simplify administrative procedures rather than complicating them, but it is the Members of Congress who must do these things. We must not run away from that responsibility.

Mr. Speaker, the most constructive course open to us is to defeat both the previous question and this rule. We ought not to have it. It would limit the ability of Members to provide a substitute for this legislation and to amend it fairly.

Mr. Speaker, a substitute amendment, which I would be prepared to offer if this legislation were brought back under another rule, would preserve the sound features of House Resolution 766 and amend others. It would reduce the costs, eliminate potential abuses and improve the employee grievance procedures.

I believe it would satisfy the legitimate needs which most of our colleagues perceive. This is a proper way to proceed in an institution that we cherish and are sworn to uphold.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. BROOKS. Mr. Speaker, I would ask the gentleman from Louisiana, Mr. LONG, if I may have an additional half minute?

Mr. LONG of Louisiana. I yield 30 additional seconds to the gentleman from Texas.

Mr. LOTT. Mr. Speaker, I yield 1 additional minute to the gentleman from Texas.

Mr. BROOKS. Mr. Speaker, I thank the gentlemen, I now have 1½ minutes and I yield to the gentleman from Ohio, Mr. LATTA.

Mr. LATTA. Mr. Speaker, I want to thank the gentleman from Texas (Mr. BROOKS) for yielding to me. I want to compliment the gentleman on his statement. There is not very much in his statement that I disagree with. I certainly hope the gentleman will join with us in voting down this rule. I think this is an important matter. It ought to have an open rule so that the Members of this House can work their will on amending the rules of the House. I certainly did not support this rule in the Committee on Rules when it was reported. I agree with what the gentleman has said that this is going to cost the taxpayers millions of dollars.

Mr. BROOKS. This is going to cost about $16 million.

Mr. LATTA. I thank the gentleman for yielding.

Mr. BROOKS. I now yield to the gentleman from Maryland (Mr. BAUMAN).

Mr. BAUMAN. Mr. Speaker, would the gentleman from Texas (Mr. BROOKS) not agree that it is indeed a strange perversion of logic that says the Members of the House can have complete discretion to charge just about anything that they say is official business to the taxpayers of the United States, as the gentleman referred to in the Clerk's report, but we are not trustworthy enough to consider reform and amendments to our rules under an open rule that allows us to exercise our best judgment? Is that not indeed a strange perversion of logic?

Mr. BROOKS. I quite agree with the gentleman from Maryland.

Mr. LOTT. Mr. Speaker, I yield 2 minutes to the gentleman from Colorado (Mr. ARMSTRONG).

Mr. ARMSTRONG. Mr. Speaker, it is difficult to imagine a committee report which is less responsive to the need for reform than this measure which is brought before us this afternoon. This is not reform. It does little to prevent the abuse of the taxpayers' funds, the misappropriation of public moneys, and the employment of personnel on the public payroll for improper purposes, the very scandals which prompted the Commission on Administrative Review.

Instead of reform, the Commission resolution merely allows large increases in number of personnel, increases in the dollar amount of clerk hire, and increases for travel by Members and staff.

After more than a year of study this so-called reform turns out to be little more than more perquisites, higher allowances, and more spending.

Under the rule we have before us I will be precluded from offering amendments to bring true reform to this resolution. I wish to offer the following amendments.

First, to have an independent audit of the books of the committees of this House and the Members.

Second, an amendment to require advance notice of scheduling of legislation brought to the floor of this House, the need for which has been so dramatically evident within the last two weeks.

Third, an amendment to require the Members of this body to abide by the same kind of fair employment practices which every other agency of the government and every private employer in this country are required by law to abide by.

Finally, an amendment to require a limitation on further perquisites, such as on the pensions, the abuse of which has become notorious in recent years.

Mr. Speaker, in order to permit Members such amendments, we must first defeat this proposal to clear the way for an open rule, a reform rule under which to consider reform legislation.

Mr. LOTT. Mr. Speaker, I yield 2 minutes to the gentleman from Alabama (Mr. DICKINSON).

Mr. DICKINSON. Mr. Speaker and Members of the House, I would like to join with the gentleman from Texas (Mr. BROOKS) in the statement he has made. I agree with the gentleman in what he has said.

I would like to point out, without getting into the merits or the inner workings of the bill, that what we should be concerned with here, is the perception on the part of the public, regardless of what in fact we intend to do.

In today's paper, and this was mentioned before, there is an article entitled:

Taxpayers Foot Hill Bills for Tickets, Dues, Liquor.

And, among the things that were purchased as result of our reform of last year, it says there is one Member who pays his country club dues and his bar association dues, plus another $200 for a Christmas party for his staff.

Another for a liquor dealer, another for flowers for his constituents.

Another $10 for a Harry James concert.

Even going into the renting of a tuxedo.

In a letter I got recently referring to another goody that the House just gave itself when we increased our rental in our districts, it mentioned favorably my opposition to it, but it really did not make much difference to one of my constituents, because while the article said: "Congressman Dickinson, Republican of Alabama, spoke in opposition to it," one fellow writes on the article and sent to me the following:

You just got through giving yourself a pay raise. Is there no end to the lengths all you hogs will go to, to gouge the taxpayers? Every one of you now costs more than a million dollars. You need to be all thrown out on your—expletive deleted. You are all thieves.

Mr. Speaker, the point is that there is a perception on the part of the public, and all we are doing is ripping off the taxpayers. I say to the Members that under this proposal if it goes through, there is going to be another rip off of the taxpayers.

Mr. LOTT. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania (Mr. COUGHLIN).

Mr. COUGHLIN. Mr. Speaker, it has become apparent that every time reform legislation is brought to the House floor we can be assured of two things: first, that it will increase our allowances and second, that it will be considered under a closed rule. Once again, we must contend with a gag rule preventing comprehensive reform of the House. This time the resolution number is 766, but the increased congressional benefits and parliamentary rule are essentially identical to the last "reform" resolution proposed by the Commission on Administrative Review in March.

Another unfortunate similarity is in the cost to the taxpayer. The Republican Task Force on Congressional Reform has been calling attention to these costly emoluments, such as the three new administrative positions which do not eliminate any present offices, a $12,000 computer allowance, an increase in the number of part-time employees, and the change in allocating clerk hire funds which will allow Members to increase staff at election time.

I think it is important to note that this bonanza comes on the heels of the ethics resolution passed in March which cost taxpayers more than $2 million by increasing office allowances. The recent District office hike will cost another $3.5 million. As best as can be estimated, this proposal will add over $6 million making the total cost of "reform" to the American people at least $12 million each year.

The time constraints imposed on the consideration of this resolution has resulted in a hasty and somewhat superficial review of its impact. House Resolution 766 will deeply effect every Member and it is essential that, in light of the rapid-paced deliberation, Members be allowed the chance to debate fully the

merits of this measure and to amend its defects.

Yet, amendments from both sides of the political aisle will not be permitted. If an open rule had been adopted, I would have been prepared to offer key amendments to help dispel my concerns regarding this resolution including:

First. An amendment to ensure the Minority Leader a veto over the appointment of the Administrator.

Second. An amendment to require the Comptroller to make the expense vouchers of the House available for public inspection.

Third. An amendment to require an independent audit of House accounts under the supervision of a bipartisan audit subcommittee.

Fourth. An amendment to establish a division of seven Democrats and six Republicans on the proposed Select Committee on the Committee System.

These recommendations would have further served to protect the House and the people we represent from any potential abuse of power. By promoting these safeguards, we would have helped to restore the public's faith in our institution. These checks would have prevented the administrative and support operations of the House from becoming so intensely partisan as to discriminate against the Minority. In addition, my amendments would have ensured public accountability in the financial dealings of the House, which is essential if we are truly committed to instituting real reform.

As I am sure all Members would agree, certain changes must be made in the legislative branch of Government if we are to continue to adequately serve contemporary society. The Commission on Administrative Review has accomplished a great deal in starting us on the right path to enacting necessary reform measures.

However, the resolution before us does not properly ensure against the misuse of the new powerful office of Administrator. It does not require the public disclosure of the expenditure of the taxpayer's money. It does not advocate an idependent outside audit, imperative to restoring the public's trust. It does not promote a truly successful reform effort in reorganizing our committee system by establishing a bipartisan select committee.

Frankly, I am tired of the proliferation of closed rules and of being shut out of the legislative process. All Members deserve the right to actively serve their constituents and this House by fully participating in the formation of reform measures. Legislating a sweeping change in the activities of the U.S. House of Representatives, such as House Resolution 766, under restricted procedures would be a sad departure from the democratic ideal. I share the desire of my colleagues to institute comprehensive and meaningful reform. I am only cheating myself and this body if I prevent the free presentation of suggestions from all Members. It is for this reason, that I join in opposition to the rule and advocate its defeat.

Mr. LOTT. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois (Mr. HYDE).

Mr. HYDE. Mr. Speaker, a "modified closed rule," or whatever euphemism you want to call this restrictive procedure, is simply a device fashioned by the majority leadership to obstruct this House from having an effective voice in the important task of legislating reform.

It has been said that Dr. Samuel Johnson, when he said, "Patriotism is the last refuge of a scoundrel" never considered the possibilities of the word "reform."

To support this rule is to demonstrate a taste for masochism that deserves an in-depth study, with pictures, in Playboy magazine, which, as we know, is the official policy journal of this administration.

This legislation pretends to do so many things it just does not do. For example, on page 11 of part 2 of the report, it says:

> The Commission identified numerous shortcomings in the management of House financial affairs. Management responsibility is split between the Clerk and the Committee on House Administration, rather than in the hands of a single administrator.

But really, all we do with this legislation, is substitute the new Administrator for the Clerk, the split in management responsibility with the Committee on House Administration will persist. For example, on page 23 of this report it says:

> The Committee on House Administration, however, will retain the authority to approve contracts.

One of the most intriguing stories about this Capitol building is the mystery of the missing cornerstone. We know that George Washington laid that cornerstone 184 years ago last month, and we know that someone has since mislaid it—we know not where.

And one of the most intriguing aspects about this proposed reform legislation is the mystery of the missing word—the curious disappearance of the semantic cornerstone.

We know, as is pointed out in the additional views on page 41, part 2 of the report, that it was in the Task Force Report of August 9, which all Members received. And we know that someone has since mislaid it, we know not where.

And what is the word? It is the word that would give rank and status to the proposed Administrator. The word is "officer," as distinguished from mere employee. And there is quite a difference.

As these views state:

> There can be no question that the proposed House Administrator will have more power, responsibility, staff, and financial resources than all other House officers combined. And yet, the final report avoids any reference to the Administrator as an officer.

Why?

Do you suppose some resourceful staff person thought to check the Constitution of the United States? The Constitution that each of us has taken a solemn oath to "support and defend," and which, in article 1, section 2, declares:

> "The House of Representatives shall chuse their Speaker and other Officers;"

They did not spell choose the same way then, but it meant precisely the same as it means today: "to select from a number of possible alternatives . . ."

The Constitution does not say "the Speaker shall choose the officers of the House" and the Members may only assent to his choice.

No. It says the coequal Members of the House of Representatives shall choose their officers.

And so today we are asked to create a czar, with all the powers befitting this high station, and yet he is not an officer of the House. We are asked to abdicate our responsibility, here in a Chamber dedicated to the democratic process. The irony of this ought not to be lost on any of us.

A little FEPC here, a little clerk-hire tradeoff there, easy access to faraway places with strange sounding names—all meant to make palatable this power grab disguised as sweet reform.

Read over the arrangements while you can still do something about it.

Read the long list of activities to be turned over to some "Administrator" yet to be identified.

Is there anything on that list that could not be administered by a competent Clerk of the House, given the authority, the support, the responsibility and the opportunity to do the job?

The Clerk of the House has been the chief administrative officer since the beginning of the Congress. Is this order really obsolescent, or are we merely using the system badly?

It has been alleged that in recent years the majority has used these high offices as dumping grounds for has-been politicians and political hacks. I do not subscribe to such allegations, but if it has been true in any regard—who is to blame?

And pray tell, why should we expect any different—any more discriminating choice—in the selection of our new czar?

It has been alleged that the officers of the House have garnered unto themselves "little fiefdoms," and they need to be put down. Again, I do not subscribe to such allegations, because I just have not seen it.

But if it is possible to build a fiefdom in, say, the Office of Postmaster of the House, just imagine what an empire this almighty "Administrator" will be able to carve out for himself.

We do not fault the order of administration given to us by our predecessors, but, it seems to me, any shortcomings are simply our failures in using that system.

So why create a whole new costly superstructure to cover up past mistakes? Let us put our House in order.

Why should I be championing the officers of the House—the Clerk of the House? Because, even as a member of the barely tolerated minority, I have a

vote, and the Clerk who is elected has to stand up there and take an oath to serve the House and each of us coequally. And that means something to me. And to you, if you think about it.

The cause of all this flurry of reform arose when this House endorsed its conscience over to a former chairman of the House Administration Committee, in exchange for a steady flow of emoluments and immunity to criticism. The names are different, the players are different, but are we not still playing the same old game?

Isn't the trade-off for computer funds, FEPC, et cetera, a surrender of our voice as co-equal members in how the House shall be run? The minor satisfaction of saying "I told you so" will be small consolation for what the majority will do to us today.

Mr. LOTT. Mr. Speaker, I yield 3 minutes to the distinguished minority leader, the gentleman from Arizona (Mr. RHODES).

Mr. RHODES. Mr. Speaker, there is no question that the now fragmented administrative and support activities of the House need to be coordinated and systematized if the House is to become a more effective and efficient legislative body.

We support the concept of a House administrator who is qualified by experience and education to assume the responsibilities of streamlining, improving and managing these activities, and so free the Members to devote their time and attention to legislative matters. The aim should not be to add just another very expensive layer of bureaucracy on top of the many we already have. Unfortunately, the recommendations of the House Commission on Administrative Review appear to do largely that, applying only a political patchwork to a disjointed system that needs a thorough overhaul.

The Commission proposes establishing a super-administrator who would assume many of the responsibilities now carried by the Clerk and the House Committee on Administration, including such areas as accounts, salaries, financial records, supplies and equipment, furnishings, telephones, office space, and the House Information Service.

In addition to the administrator, there also would be a comptroller, to oversee financial matters and policies, an officer of personnel and work management, and an auditor. We fully agree that improvements in the administration of these areas is called for.

However, it would seem that establishment of these new positions also would call for a concommitant reduction, if not elimination, of the bureaucracies elsewhere in the House whose duties are being reduced or eliminated. We see no such action proposed in the Commission's recommendations. If approved as they now stand, these recommendations will add considerably to the cost of House operations, which now will exceed $280 million in fiscal 1978.

Before adopting the Commission proposal, the House must be afforded the opportunity for a thorough and concentrated examination of it. On such an important matter, the Members should be able to offer appropriate amendments to insure that the revised procedures result in a system of efficient and cost-effective administrative and support activities.

That is why I urge my colleagues to join me in voting to reject the rule on House Resolution 766, the Obey Commission resolution. The resolution will not be considered under an open rule and Members are precluded from offering amendments to many important sections.

In addition, a review of the recently released Clerk's report on the first 6 months under the new Obey "reform" raises some serious questions which require careful consideration. The House has not had adequate time to understand fully the effects of the reform measures we already have adopted, nor to determine what additional changes are needed.

It would be a disservice to the House as an institution, and to the people we represent, to act hastily under the guise of reform when we need thoughtful and complete deliberation of this very important issue.

Mr. LOTT. Mr. Speaker, I yield 2 minutes to the gentleman from New Hampshire (Mr. CLEVELAND).

Mr. CLEVELAND. Mr. Speaker, I rise in opposition to the rule. However, it should be pointed out, as my distinguished colleague, the gentleman from Arizona (Mr. RHODES), has just stated, that H.R. 766 which we are about to consider, if the rule is adopted, is not all bad. There are some things in it that are positive and constructive.

My opposition to the rule is chiefly due to the fact not only it is in effect a closed rule and many amendments will not be permitted, I also would like to point out that the Committee on House Administration when it considered title VI of H.R. 766 scheduled no public hearings. If this measure is as important as the proponents think it is, at least we should have had some public hearings on the legislation.

It is my understanding that the Committee on Rules when it considered the other sections of the bill also did not have public hearings. In the House Administration Committee we went right into markup, with no opportunity to ask the type of questions we wanted to ask the members of the Obey Commission, although we had one member of that Commission serving on the Committee on House Administration.

I would like to be particularly associated with the remarks of the gentleman from Mississippi (Mr. LOTT) and the gentleman from Illinois (Mr. ANDERSON), the gentleman from Pennsylvania (Mr. COUGHLIN), the gentleman from Colorado (Mr. ARMSTRONG), and my colleague, the gentleman from Texas (Mr. BROOKS).

Mr. Speaker, time does not permit me to elaborate on the excellent points they have already so eloquently made. I did, however, write a letter to all of my colleagues and I ask unanimous consent that this be included at this point in the RECORD. It sets forth some of my objections to House Resolution 766—and because they cannot be properly addressed under this rule I urge a no vote.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Hampshire?

There was no objection.

The letter is as follows:

CONGRESS OF THE UNITED STATES,
Washington, D.C., October 11, 1977.

Dear Colleague: The more carefully I study H. Res. 766, the Obey Commission recommendations, the more concerned I become at what we are asked to do. Beneath the banner of reform, we are being asked to—

Add substantially to the costs of operating the House and thus march bravely across the frontier into the billion-dollar Congress;

Equip ourselves with the added staff, funds, and computers which will enable us to seek reelection at public expense;

Deceive the public into believing we are establishing an effective equal employment opportunity program when, in fact, we are forcing employees to choose between keeping quiet or getting fired;

Hand each Member an all-purpose, good-for-all-seasons, take-along-your-secretary credit card for unlimited foreign travel; and

Confess to our constituents that we—their elected representatives—are incapable of running the House and must turn the job over to non-elected experts.

In brief, we are being asked to weaken the constitutional foundations of the House and, at the same time, commit political suicide.

If this is what reform means, then I don't want any part of it.

Within the past month alone, we have acted to increase our district office allowances by up to $14,000 a year, to increase annual pensions for retiring Members by up to $4,000 a year, and to provide unlimited free long-distance telephone calls for ourselves and our families.

Just how long do we think it will take our constituents to catch on to how generously we are treating ourselves—at their expense?

Whether or not H. Res. 766 can be cleaned up on the floor remains to be seen. But I'm willing to try. I propose to (a) vote against the previous question on the rule, (b) get a substitute rule allowing germane amendments to H. Res. 766, and (c) support amendments to correct the grave defects to which I have alluded. If this fails, I shall vote against the resolution. I hope you will join me.

Sincerely,

JAMES C. CLEVELAND.

Mrs. HECKLER. Mr. Speaker, I rise today to protest the headlong rush to pass this so-called reform. Unfortunately, I fear it is not really a reform, but instead is merely a sham.

This proposal will increase supervision of Members' accounts and expenditures, but it will also increase the bureaucracy which already is attached to the House. It would not remove any current officers, but would superimpose an administrator over them.

In addition, this "reform" still does not provide an independent review of Members' accounts and expenditures. Although it creates a position for an auditor and provides for audits, the

auditor is internal, a creature of the House, and the audits are also internal, subject to the control of the House, its officer and its Members.

I would much prefer that we subject ourselves to an independent review, an audit by the General Accounting Office or by an independent auditing company. How can we insist, time after time and year and year, that other agencies of Government be audited, if we are unwilling to provide that independent audit of our own accounts?

It is obvious to me that an independent audit, performed by the General Accounting Office or an outside firm, would be no more expensive than that provided in this resolution, and might, indeed, be less expensive.

This point leads me to speak on another problem I have with this resolution and that is its cost. Of course, we have no real estimate of those costs. The figures provided by the Congressional Budget Office apply only to the Commission's report, and that report has been amended to include a massive section that would greatly increase the expense of this so-called reform.

Staff members of the Rules Committee are estimating that these reforms could cost as much as $10 million per year. Other estimates go as high as $16 million a year. This estimate includes such provisions as the new computer allowance and the item that provides for committee transcripts. The latter will increase each committee staff by one or two members.

I urge my distinguished colleagues to consider this "reform" in the light of other recent developments in Congress. The very fact that we are unable to consider this resolution and amend it freely is an affront to the American people.

I am very disappointed in the Rules Committee for not allowing consideration of an alternative, or a number of amendments. I had an amendment which I offered earlier on the legislative appropriation bill and hoped to offer to this bill today. This is a bill with which every Member is familiar. Every Member knows the problems of running the House and should be allowed free and unfettered debate on them. If we could not run the House, we cannot run the country.

This imposition of a modified closed rule that inhibits debate is occurring on more and more bills and it amounts to a gag rule. This is unworthy of the Congress and I must protest it.

I must also protest the excessive costs this resolution will bring because I believe we are working against the will of the American people. They do not want more bureaucracy, more regulation, more spending. If we pass this resolution, without adequate debate and consideration and without improvement through the amending process, we risk losing the confidence of the public in Congress. And I fear that confidence is already deeply shaken by recent events.

I would urge my colleagues to vote against this rule, and thereby allow amendments and discussion on this very important piece of legislation.

Mr. LOTT. Mr. Speaker, I yield the balance of my time to the distinguished minority whip, the gentleman from Illinois (Mr. MICHEL).

Mr. MICHEL. Mr. Speaker, I rise in opposition to this rule. Contrary to most of the other rules we have considered, this is not one to be considered from a partisan point of view or a division of political philosophy.

Having said that, there is no question but that on our side there will be a dominant vote against this rule, if it is not unanimous. I know from talking to Members on the majority side there is also considerable disenchantment with what we have had to go through with this whole so called "reform" procedure in the past several months. There is indeed a reservoir of resentment against this procedure on your side. I ask you therefore to join with us in defeating this rule and send it back to the Rules Committee so that some of us may have an opportunity to speak more forcefully on how we as Members can better control this House and not leave that up to some staff person, who frankly ought not to have that kind of responsibility. When I read about some of the things Members were getting reimbursed for in the Clerk's most recent report it can surely be laid to a lack of proper guidelines. I say we ought to call a halt to it. Let us go back and draw those guidelines tightly so that we don't bring any more of the wrath of the public down on this institution.

Mr. Speaker, I love this House. I would hope all our Members would have the same reverence for it. We ought to protect its integrity by voting down this rule and dealing with the subject matter in a much more precise way than permitted under this rule.

Mr. LONG of Louisiana. Mr. Speaker, I yield the remaining time to the distinguished Speaker, the gentleman from Massachusetts (Mr. O'NEILL).

Mr. O'NEILL. Mr. Speaker, I truly appreciate the fact that there seems to be a wave of opposition in this House to further ethical reforms for improved House, accounting and auditing procedures and expenditures.

I also appreciate the fact that apparently we are on the verge of defeating a rule on which we have spent much time. The committee has been working on these issues for a year with private citizens, consultants, management executives, people from the academic community and businessmen.

Now, in my opinion, the Obey commission has put together a tremendous package. We need a system which insures accountability. I admit the timing is unfortunate, because of a newspaper story today which pointed out that we used to get $500 a quarter for expenses and from that amount, we could take business deductions on our income tax returns for many personal payments. That is no longer permissible.

The truth of the matter is we have a House budget of about $250 million that we spend annually. There is no head, there is no tail to the whole situation.

I have stood up on this issue before. I can recall that I have probably received 20 letters saying that the Cannon Building was a firetrap, and I talked to everybody from the Architect of the Capitol to the building superintendent; yet we could not even clear up the corridors because no single person had the authority to give that order.

You know, if a Member wants to get a picture hung on the wall, he cannot find the proper person to do it. We need some management around here, and make no mistake about it, we need somebody that has business, accounting, and management training. Oh, it is nice to laugh and to chuckle, those of you who get on the floor every day and talk about the mismanagement of government. If there is anything that is mismanaged, it is the internal operations of this Congress. We ought to do something about it—yes, we can do something about that through this legislation, because we are spending 244 millions of dollars, and nobody has any control over it.

Now, I think the committee's action is correct when it recommends an overall House manager; we ought to have a comptroller; we ought to have an auditor.

I realize that, earlier in the year, we passed the toughest ethics bill that any legislative body has ever adopted; this is another stage of it. There has been strong opposition because this legislation would make the Members of the House publicly accountable for their office expenditures. The men are upset, the women are upset about it, and I understand their concern thoroughly. This is a golden opportunity to get together with a group over here, and all of you who are running away from this issue, to claim that you have as a substitute. We all know that is the easy way to kill this legislation.

Well, if you want to kill it, then the onus is on you, because if this rule goes down the drain, if this rule goes down the drain, I see no future for any future ethics in this Congress.

This Commission, the Obey commission, has done a beautiful job, a responsible job. How about these businessmen I mentioned, who came and gave their efforts and their time, men who are heads of large corporations, in order to put this piece of legislation together?

You are making a mistake. If you want to be political, it is all right with me. If you want to be political, it is all right with me. This is the golden opportunity. There are some dissenters on our side who do not like the fact that we passed an earlier bill that was tough, and I understand that people have been hurt by it. I have had them coming to me and telling me, "I hate to disclose. You know, there is the possibility that my children may be kidnaped if I were to disclose the wealth that I have."

I have listened to the argument. Maybe there is something to it, I do not know.

We can refuse it, and next year we can

come back again, but I say this to you right now: Do not kill this piece of legislation. If this rule is defeated, it will be pulled off the floor. You are going to answer to the public, because the public, believe me, the public wants this place cleaned up. The public wants some accountability in the internal management of this House. Two hundred fifty million dollars is spent with no management whatsoever. Who is in charge of the restaurant? Who is in charge of the garages? Who reports for work? Who does not report for work? You know, we passed a law last year in the ethics bill saying that you had to sign for your employee, as to whether he did a full week's work or a full month's work.

There are 11,000 employees on this Hill—11,000. There are reporters of the House, reporters of committees. I do not know for how many I, as Speaker have to sign. I do not know whether they are around here or not. You know, we have clerks on the third reading; we have lawyers on the third reading. I do not even know where their office is, and as Speaker of the House, I am required to sign for them. What kind of operation is that? It goes all the way down the line like that. People have to sign certificates that people are receiving a monthly wage, and nobody knows for whom they actually work. The senior man is in charge, they tell me, but the senior man does not have the right to sign the voucher.

The time has come for us to do something; and the time has come to get a manager, to get a comptroller, to get an auditor, and to make mandatory a strict accounting of that $250 million.

I want to congratulate the Members from my side of the aisle who served on the Obey commission. I think they did a brilliant job, and I certaintly hope the rule is adopted.

Mr. LONG of Louisiana. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the Chair was in doubt.

Mr. RHODES. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 160, nays 252, not voting 22, as follows:

[Roll No. 643]

YEAS—160

Addabbo	Boggs	Corman
Akaka	Boland	Cornell
Alexander	Bolling	D'Amours
Ammerman	Bonior	Danielson
Anderson, Calif.	Bonker	Delaney
Applegate	Brademas	Dellums
Ashley	Breaux	Dicks
Aspin	Breckinridge	Diggs
AuCoin	Brodhead	Dodd
Badillo	Brown, Calif.	Downey
Baldus	Burke, Calif.	Drinan
Baucus	Burlison, Mo.	Early
Beard, R.I.	Burton, John	Eckhardt
Beilenson	Burton, Phillip	Edgar
Bingham	Carr	Edwards, Calif.
Blanchard	Cavanaugh	Eilberg
Blouin	Chisholm	Ertel
	Conyers	Evans, Colo.
Evans, Ga.	Maguire	Rooney
Fascell	Mann	Rose
Fisher	Markey	Rosenthal
Fithian	Mattox	Rostenkowski
Flood	Mazzoli	Santini
Florio	Meeds	Scheuer
Foley	Meyner	Seiberling
Ford, Mich.	Mikulski	Sharp
Fowler	Mikva	Shipley
Fraser	Mineta	Simon
Gephardt	Minish	Sisk
Giaimo	Moakley	Slack
Gibbons	Moffett	Smith, Iowa
Gore	Mollohan	Solarz
Hamilton	Moorhead, Pa.	Spellman
Hannaford	Murphy, Pa.	St Germain
Harkin	Myers, Michael	Staggers
Harrington	Natcher	Studds
Harris	Nix	Thompson
Heftel	Nolan	Thornton
Holtzman	Nowak	Tsongas
Howard	Oberstar	Tucker
Hubbard	Obey	Udall
Jenkins	Ottinger	Van Deerlin
Kastenmeier	Patterson	Vanik
Koch	Pattison	Waxman
Kostmayer	Pease	Weaver
Krebs	Preyer	Weiss
Le Fante	Price	Whitten
Lederer	Rahall	Wilson, Tex.
Lehman	Rangel	Wolff
Lloyd, Calif.	Reuss	Wright
Long, La.	Rodino	Yates
Lundine	Roe	Yatron
McFall	Rogers	Young, Tex.
McKay	Roncalio	

NAYS—252

Abdnor	Dornan	Ketchum
Allen	Duncan, Oreg.	Keys
Ambro	Duncan, Tenn.	Kildee
Anderson, Ill.	Edwards, Ala.	Kindness
Andrews, N.C.	Edwards, Okla.	LaFalce
Andrews, N. Dak.	Emery	Lagomarsino
Annunzio	English	Latta
Archer	Erlenborn	Leach
Armstrong	Evans, Del.	Leggett
Ashbrook	Fary	Lent
Badham	Fenwick	Levitas
Bafalis	Findley	Livingston
Barnard	Fish	Lloyd, Tenn.
Bauman	Flippo	Long, Md.
Beard, Tenn.	Flowers	Lott
Bedell	Flynt	Luken
Benjamin	Ford, Tenn.	McClory
Bennett	Forsythe	McCloskey
Bevill	Fountain	McDade
Biaggi	Frey	McDonald
Bowen	Fuqua	McEwen
Brinkley	Gammage	McHugh
Brooks	Gaydos	McKinney
Broomfield	Gilman	Madigan
Brown, Ohio	Ginn	Mahon
Broyhill	Glickman	Marks
Burgener	Goldwater	Marlenee
Burke, Fla.	Gonzalez	Marriott
Burke, Mass.	Goodling	Martin
Burleson, Tex.	Gradison	Mathis
Butler	Grassley	Metcalfe
Byron	Gudger	Michel
Caputo	Guyer	Milford
Carney	Hall	Miller, Ohio
Carter	Hammer-schmidt	Mitchell, N.Y.
Cederberg	Hanley	Montgomery
Chappell	Hansen	Moore
Clausen, Don H.	Harsha	Moorhead, Calif.
Clawson, Del	Hawkins	Mottl
Clay	Heckler	Murphy, Ill.
Cleveland	Hefner	Murphy, N.Y.
Cochran	Hightower	Murtha
Cohen	Hillis	Myers, Gary
Coleman	Holland	Myers, John
Collins, Tex.	Hollenbeck	Neal
Conable	Holt	Nedzi
Conte	Horton	Nichols
Corcoran	Huckaby	O'Brien
Cornwell	Hyde	Oakar
Cotter	Ichord	Patten
Coughlin	Ireland	Perkins
Crane	Jacobs	Pettis
Cunningham	Jeffords	Pickle
Daniel, Dan	Jenrette	Pike
Daniel, R. W.	Johnson, Colo.	Poage
Davis	Jones, N.C.	Pressler
de la Garza	Jones, Okla.	Pritchard
Derrick	Jones, Tenn.	Pursell
Derwinski	Jordan	Quayle
Devine	Kasten	Quie
Dickinson	Kazen	Quillen
Dingell	Kelly	Railsback
	Kemp	Regula
Rhodes	Spence	Walgren
Rinaldo	Stangeland	Walker
Risenhoover	Stanton	Walsh
Roberts	Stark	Wampler
Robinson	Steed	Watkins
Rousselot	Steers	White
Rudd	Steiger	Whitehurst
Runnels	Stockman	Whitley
Ruppe	Stokes	Wiggins
Russo	Stratton	Wilson, Bob
Ryan	Stump	Wilson, C. H.
Sarasin	Symms	Winn
Satterfield	Taylor	Wirth
Sawyer	Teague	Wydler
Schroeder	Thone	Wylie
Schulze	Traxler	Young, Alaska
Sebelius	Treen	Young, Fla.
Shuster	Trible	Young, Mo.
Sikes	Ullman	Zablocki
Skelton	Vander Jagt	Zeferetti
Smith, Nebr.	Volkmer	
Snyder	Waggonner	

NOT VOTING—22

Brown, Mich.	Johnson, Calif.	Pepper
Buchanan	Krueger	Richmond
Collins, Ill.	Lujan	Roybal
Dent	McCormack	Skubitz
Evans, Ind.	Miller, Calif.	Vento
Frenzel	Mitchell, Md.	Whalen
Hagedorn	Moss	
Hughes	Panetta	

The Clerk announced the following pairs:

On this vote:

Mr. Pepper for, with Mr. Panetta against.

Mr. Miller of California for, with Mr. Hughes against.

Mr. Mitchell of Maryland for, with Mr. Frenzel against.

Mr. Richmond for, with Mr. Hagedorn against.

Until further notice:

Mr. Dent with Mr. Brown of Michigan.

Mrs. Collins of Illinois with Mr. Lujan.

Mr. Johnson of California with Mr. Whalen.

Mr. McCormack with Mr. Skubitz.

Mr. Evans of Indiana with Mr. Buchanan.

Mr. Moss with Mr. Roybal.

Mr. Vento with Mr. Krueger.

Mr. VANDER JAGT and Mr. WALGREN changed their vote from "yea" to "nay."

So the resolution was rejected.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERMISSION TO FILE CONFERENCE REPORT ON H.R. 7797, FOREIGN ASSISTANCE AND RELATED PROGRAMS APPROPRIATIONS ACT, 1978

Mr. LONG of Maryland. Mr. Speaker, I ask unanimous consent that the managers may have until midnight tonight to file a conference report on the bill, H.R. 7797, making appropriations for foreign assistance and related programs for the fiscal year ending September 30, 1978, and for other purposes.

The SPEAKER. Is there objection to the request of the gentleman from Maryland?

Mr. RHODES. Mr. Speaker, reserving the right to object, and I do so in order to ask if the Speaker can inform the House as to the program for the balance of today?

The SPEAKER. The Chair will state that immediately following the resolution of the unanimous-consent request of the gentleman from Maryland (Mr. LONG) the House will go to the confer-

ence report on Labor-HEW appropriations handled by the gentleman from Pennsylvania (Mr. FLOOD).

Following that the House will take up the rule on H.R. 8390, supplemental appropriation authorization, Defense Department, and the bill.

We will complete that and hopefully, that will be it.

Mr. RHODES. Would it be the intention of the Speaker to keep the House in session until the bill is completed?

The SPEAKER. Yes, until the business of the House is completed.

Mr. RHODES. I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Maryland?

Mr. YOUNG of Florida. Reserving the right to object, Mr. Speaker, I was attempting to reserve the right to object for the purpose of inquiring what the unanimous-consent request was. It was difficult to hear.

The SPEAKER. Will the gentleman repeat his unanimous-consent request?

Mr. LONG of Maryland. Mr. Speaker, I ask unanimous consent that the managers may have until midnight tonight to file a conference report on the bill (H.R. 7797) making appropriations for foreign assistance and related programs for the fiscal year ending September 30, 1978, and for other purposes. As the House knows, we passed a motion to recommit to go back to conference. We are hoping to have a conference at 4:30 this afternoon, and following that we hope very much that we can come back here and that we can file our report tonight.

Mr. YOUNG of Florida. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Maryland?

There was no objection.

CONFERENCE REPORT ON SENATE AMENDMENT NO. 82 TO H.R. 7555, LABOR, AND HEALTH, EDUCATION, AND WELFARE APPROPRIATION ACT, 1978

Mr. FLOOD. Mr. Speaker, I call up the conference report on Senate amendment No. 82 to H.R. 7555 making appropriations for the Departments of Labor, and Health, Education, and Welfare, and related agencies for the fiscal year ending September 30, 1978, and for other purposes.

The Clerk read the title of the bill.

(For conference report and statement, see proceedings of the House of August 2, 1977.)

The SPEAKER. The Clerk will report the House amendment to the Senate amendment.

The Clerk read as follows:

House amendment to Senate amendment No. 82: Insert the following:

SEC. 209. None of the funds contained in this Act shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term.

MOTION OFFERED BY MR. FLOOD

Mr. FLOOD. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Motion offered by Mr. FLOOD: Mr. FLOOD moves that the House recede from its amendment to the amendment of the Senate numbered 82.

The SPEAKER. The gentleman from Pennsylvania (Mr. FLOOD) and the gentleman from Illinois (Mr. MICHEL) will be recognized for 30 minutes each.

The Chair recognizes the gentleman from Pennsylvania (Mr. FLOOD).

Mr. FLOOD. Mr. Speaker, I deeply regret that we must come to the House today for another one of these votes on the issue of Federal payments for abortions. No one knows better than I how tired everybody is about this question, having voted upon it again and again and again. Unfortunately it seems we have no alternative if we are ever to resolve the dispute which is preventing the enactment of the $60 billion Labor-HEW appropriation bill.

The House has expressed its will on the issue of payments for abortions 3 times during this session of the Congress. On June 17 the House adopted the Hyde amendment by a vote of 201 to 155, and the Hyde amendment excluded payment for abortions with no exceptions.

On August 2 by a vote of 238 to 182 the House endorsed the continuation of the present law which permits payment for abortions only where the life of the mother would be endangered.

Then on September 27, by a vote of 252 to 164, the House voted to reject the Senate language which would permit payments for abortions in cases of rape or incest or "medical necessity."

Mr. Speaker, the last vote was taken only because the Senate conferees insisted that the full House vote on the Senate language. It was possible only because the gentleman from Ohio (Mr. STOKES) reluctantly agreed to introduce a resolution to instruct the House conferees. It was possible only because the House leadership was willing to schedule the resolution for consideration under suspension of the rules. All of these things were done because we were under the impression that the vote on the Senate language would expedite the resolution of the issue and would lead to enactment of the appropriation bill.

Unfortunately that impression was erroneous. When we returned to conference, we found the Senate conferees just as adamant and intransigent as they ever were. We found no disposition to compromise whatsoever on the part of the Senate conferees. They offered us some language which differed only in form but not in substance from the language which the House had just rejected by a vote of 252 to 164.

The House conferees suggested new language to accommodate the view of the Senate, especially the many Senators who were concerned over rape and incest, but again this proposal was rejected.

At this point it became very apparent that nothing could be accomplished by further conference and the conferees decided to report that they could not agree.

Mr. Speaker, if the motion I just offered is agreed to, I shall then offer the following language:

SEC. 209. None of the funds contained in this Act shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term. This section does not prohibit payment for medical procedures, nor are payments prohibited for drugs or devices to prevent implantation of the fertilized ovum, or for medical procedures necessary for the termination of an ectopic pregnancy.

We hope the Senate will accept this language today and clear this bill for the President. I would urge the Members to vote for the pending motion and to vote for the motion which I shall offer if the pending motion is agreed to.

Beyond that the only hope is that the majority of the Members of the other body will see the light, as the House has, and help us bring this controversy to an end.

Mr. MAHON. Mr. Speaker, will the gentleman yield?

Mr. FLOOD. I yield to the chairman, the gentleman from Texas.

Mr. MAHON. Mr. Speaker, we are into the new fiscal year and too many days have slipped by. Employees of the Department of Labor, the Department of Health, Education, and Welfare, and other agencies are faced with the very real possibility they will not be paid. This matter just must be settled.

We believe that this is a move toward the settlement of the matter. The proposal that will be made by the gentleman from Pennsylvania is not unacceptable to the rank and file Members of the House and I hope that the gentleman's appeal will be heard by the House and we may send the compromise language to the Senate and come to an agreement. This bill must be sent to the President so that the employees of the Government may be paid and so that the programs of the agencies involved can proceed in an orderly manner.

Mr. VOLKMER. Mr. Speaker, will the gentleman yield?

Mr. FLOOD. I yield to the gentleman from Missouri.

Mr. VOLKMER. Mr. Speaker, what I would like to know, though, is there any inclination on the part of the Senator, the gentleman from Washington, and the gentleman from Massachusetts, that this language would in any way be acceptable to them.

Mr. FLOOD. I do not know about the conference, because this is the Senate. This goes to the conferees. That was a vote of 14 to 6 by the conference.

What I want to do is have this language to the full Senate right away.

Mr. McCLORY. Mr. Speaker, will the gentleman yield?

Mr. FLOOD. I yield to the gentleman from Illinois.

Mr. McCLORY. Mr. Speaker, I want to express my support for the gentleman's motion.

Mr. Speaker, I rise in support of the Flood compromise language to the Labor/HEW appropriations bill, which would prohibit the use of Federal funds for abortions—with exceptions made where the life of the mother was in danger, in cases of ectopic pregnancies,

and for medical treatment in cases of rape and incest before the fact of pregnancy has been established and only when the incident has been reported to the proper authorities within a limited time period. Birth control devices, of course, would also not be prohibited under the provisions of the Flood language.

Mr. Speaker, I have been a strong supporter of the Hyde amendment in the past and still maintain the firm belief that Federal funding should not be used for abortions—especially when such procedures are repulsive to a large majority of the taxpayers who are supporting them.

Mr. Speaker, I believe the Flood language to be a suitable compromise to the much broader Senate language and feel that any additional exceptions would constitute Government funding of abortion as an acceptable form of birth control—to which I am opposed.

It is my hope that both the House and Senate will accept this language and release the funding necessary to many other worthwhile programs which are now without funds because of the current impasse on the abortion language of the Labor/HEW appropriations bills. In addition, Mr. Speaker, many Government employees in my congressional district and throughout the Nation will undergo an unnecessary hardship if they do not receive their full paychecks because of congressional inaction.

Mr. Speaker, I urge adoption of the Flood compromise language.

Mr. MICHEL. Mr. Speaker, I yield 3 minutes to the gentleman from Maryland (Mr. STEERS).

Mr. STEERS. Mr. Speaker, I rise fundamentally to speak against the Flood motion. Since I am not sure that I will have the opportunity, unless I rise also in opposition to the pending motion, I am opposing the pending motion; but I would point out to this body that we already have a letter from Senator MAGNUSON and Senator BROOKE in which they say that the language which is about to be proposed by the gentleman from Pennsylvania (Mr. FLOOD) is clearly no compromise. They say:

> The latest version, proposed by the House conferees, differs only in that it allows abortions when the life of the woman is endangered and "medical procedures" for some victims of "forced" rape or incest under strictly limited conditions. The Senate conferees have already rejected that House proposal.

So I think that the chances of the motion of the gentleman from Pennsylvania (Mr. FLOOD) getting passed by the Senate are minimal at best. If we defeat the Flood motion, I shall offer the Brooke-Magnuson wording, which reads as follows:

> None of the funds contained in this Act shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term or for victims of rape and incest or if the mother or fetus would suffer serious health damage.

Now, one reason, and only one reason that I am emphasizing this is that I represent one of the areas in the United States where a large number of my constituents are about to go without pay because of the deadlock between the Senate and the House. I have been authorized by the gentleman from Virginia (Mr. FISHER) and the gentlewoman from Maryland (Mrs. SPELLMAN) to say they, too, will support the wording of the amendment I just read.

Mr. Speaker, I point out that this language is truly a compromise. It is certainly less broad than some of us would want it to be, but it is certainly broader than the Flood amendment, let alone the Hyde amendment. It is not as broad as the Senate would like, but we do know the Senate would support it, at least more than the Flood motion.

Mr. Speaker, I would point out that serious physical damage is considerably narrower than "medically necessary." Among the things you could get an abortion paid for would be if you had cardiovascular disease. This would be regardless whether it occurred before or after the pregnancy. Other things are neurological disease, carcinoma, severe psychiatric disease, schizophrenia, or for example, suicidal paranoia.

The SPEAKER. The time of the gentleman from Maryland has expired.

Mr. MICHEL. Mr. Speaker, I yield 1 additional minute to the gentleman from Maryland.

Mr. CONTE. Mr. Speaker, will the gentleman yield?

Mr. STEERS. I yield to the gentleman from Massachusetts.

Mr. CONTE. Mr. Speaker, I simply want to set the record straight. The gentleman from Maryland said he opposed the Flood motion. The Flood motion is for the House to recede.

Mr. STEERS. The gentleman is right.

Mr. CONTE. The gentleman from Maryland is just the opposite.

Mr. STEERS. I really misspoke. I think we should recede and then defeat the Flood motion.

Mr. CONTE. Mr. Speaker, if the gentleman will yield further, the other point is that I hope the gentleman does not think for 1 minute that any of us would stand by and see the day when Federal employees would not be paid their salaries or programs would go down the drain because of this. We certainly could pass a short continuing resolution at any time in this House, 30 days or 15 days, until this matter could be worked out. I certainly would be for that position.

Mr. STEERS. Mr. Speaker, I am glad to hear the gentleman state that, but I point out the day has arrived when we have to do something, because these checks should have been prepared today for issuance tomorrow.

Mr. MICHEL. Mr. Speaker, I yield myself such time as I may consume only to make the observation that if we adopt the motion offered by the gentleman from Pennsylvania to recede and concur with his amendment, this will be a good vote for us here in the House to take back to the other body. In the context of the time frame, it is my considered judgment that the other body will buy that without our ever having to deal with this subject again.

On the other hand, if we should turn down the language of the gentleman from Pennsylvania at the suggestion, for example, of the gentleman from Maryland, and adopt that wishy-washy language of the other body, we have gone exactly 180 degrees away from what the House voted for in supporting the Hyde amendment, because that language of the Senate is just as wide open as can be. It is unacceptable language, if I judge the temper of this House.

Mr. Speaker, I am happy to yield 3 minutes to the gentleman from Illinois (Mr HYDE).

Mr. HYDE. Mr. Speaker, I first of all want to pay tribute to every member of the conference committee from the House under Chairman FLOOD, and the other members, even those who have not supported my position. I think they have done heroic work. They have addressed their task seriously, conscientiously, and under the greatest and most difficult of circumstances. They have gone to the meetings, which is more than can be said for some Members of the other body, and made a very serious effort to resolve this problem. So, it is in the light of those remarks that I regretfully state that I will not vote to support the motion to recede.

My reason, of course, is that this House has six times previously voted for the position that we now have, and that is in the law today. The Senate has not shown the slightest disposition to discuss, to negotiate, to move from their position. It just seems to me that this House ought to stand by the position it has adopted, which is that Federal money shall not go to pay for the taking of innocently inconvenient life.

The Senate position is abortion on demand, no matter how one colors it; no matter how one changes the words around. It still is abortion on demand, and it is a position that this Member cannot, nor never will, support.

I know how awkward, I know how difficult, I know how troublesome it is to have this pressure. I wish it were otherwise, and believe me, no one is getting any more pressure than I am, but we have taken a position. I think the position is morally sound; I think it is the right one for America.

The position is that no Federal funds go to pay for abortion. And so, with reluctance and mingled surely with admiration for the chairman of this conference committee and every member on it, I would urge the membership to vote no on the motion to recede.

Mr. FLOOD. Mr. Speaker, I have no further requests for time.

Mr. MICHEL. Mr. Speaker, I have several other requests for time. I yield 3 minutes to the gentlewoman from New Jersey (Mrs. FENWICK).

Mrs. FENWICK. Mr. Speaker, I thank my colleague for yielding to me.

Mr. Speaker, I do not know how we can address the House convincingly on this subject that we have discussed often, but somewhere, sometime, somebody

must say a few things. We all heard our colleague from Tennessee describing what the teachers in the schools were finding—children in the seventh and eighth grades who were expecting babies, not knowing even where they came from. This is what we are talking about. A third of all the abortions are being done for teenagers, and the doctors tell us quite clearly why. It is because, for the first time in the history of women, we are able to bear children at the ages of 11, 12, 13, and 14. That is one of the most pitiful and tragic problems.

It has never been true before. It has something to do with nutrition. It is changing. And one-third of all our abortions are in this field. In my own State of New Jersey, we had a 14-year-old child who had her third baby.

What are we saying when we continue to deny abortions like this? We do not know what people are up against. It is not a laughing matter. It is a tragedy for too many people. We cannot laugh at things like this. We must consider this seriously. We know there are clergymen on both sides of the question. There are honorable clergymen devoted to the salvation of souls, and the service of God on both sides of this question. It is not an open and shut single-sided issue of morality. It is a question that devout and earnest theologians are divided upon.

What should the State do under those conditions? Surely, it would be wrong to mandate abortions. But is it not equally wrong to forbid them, especially to the poor, when the clergy are trying to tell us that there are two sides, can we be sure when we take one side that we know God's will?

There are many Members in this House who understand, both men and women. We have listened to them. We respect them and we honor them. I only beg that some of those who have an opposite view would open their hearts a little bit to what is going on in our society and to try to think a little more tenderly of these small girls. Try to think a little more understandingly of the mothers trying to cope with problems they do not know how to handle when their children come to them with these problems.

This is what we are trying to say. Just do not be so sure you are right. And if the clergymen are on both sides, cannot the State stand in the middle?

Mr. FLOOD. Mr. Speaker, I yield 3 minutes for debate only to the gentlewoman from Maryland (Ms. MIKULSKI).

Ms. MIKULSKI. Mr. Speaker, I rise to make the parliamentary point of order that there are those of us who are opposed to the Hyde amendment who do support the motion to recede. We do want to recede and support the Hyde motion in that respect. However, if we do recede, I personally will oppose the language because I think it is harsh and restrictive when it comes to the point of protecting minors.

No. 1, the Flood language only allows prompt medical treatment before the fact of pregnancy. A little kid who has been raped or who is the victim of incest will not in many instances tell her mother until the pregnancy is established.

Second, the procedure that would be allowed for an individual would either be a D. & C. or the administration of the so-called morning-after pill. We do not even allow the morning-after pill or the DES stuff to be given to cows, let alone to 12- or 13-year-old little girls.

So I would hope that, No. 1, we would recede, and, No. 2, when the Flood language is moved, that it would be defeated.

Mr. MICHEL. Mr. Speaker, I yield 3 minutes to the gentleman from Maryland (Mr. BAUMAN).

Mr. BAUMAN. Mr. Speaker, I strongly urge a vote against the motion to recede. I fully appreciate the desire of the conferees, after months of fighting this battle, to make some gesture to settle with the other body a conflict which has been going on now since the Supreme Court decision was handed down several years ago. But we are not going to solve one thing by voting to recede on the Hyde amendment. It will not promote a solution. The other body will remain just as intransigent as ever. In fact, as has been correctly referred to by my colleague, the gentleman from Maryland (Mr. STEERS), two of the Members of the other body who serve on the conference and who have been most obstinate in their opposition to the Hyde amendment, have indicated that the language the gentleman from Pennsylvania has suggested is totally unacceptable to them.

So the only thing that we can accomplish by receding is a weakening of the House position.

Six times we have voted on this matter. The last time the House position was sustained by the widest margin—88 votes, I believe it was.

I have talked with the leaders of the Right to Life Movement—Protestant, Catholic, and Jewish—and all of them feel that the best possible thing we can do to save human life and to prevent the funding of abortions with taxpayers' funds is to stand by the House language.

I am sure that position will not offend our conferees. I know they are trying to do their job. I know they want to try to seek a solution to this problem. But the issue is more than all these paychecks to Government workers; it is the issue of life itself.

After having fought out this issue so many times and gone on record so many times for the right to life, how can any of us explain backing down and voting against this important principle of life?

Mr. Speaker, I urge the Members, I plead with the Members, please reject this motion to recede. Then the conferees of the House can go back in good faith and say to the Members of the other body—those who will not listen, those who are obstinate, those who do not even attend the meetings and vote by proxy—that if the Federal Government is to function and HEW is to function, the other body must come around for a change.

Mr. Speaker, the honor of this House is at stake, and, more importantly, the right to life of hundreds of thousands of people is at stake. With all due respect, I urge a "no" vote on the motion to recede.

Mr. FLOOD. Mr. Speaker, I yield 1 minute to the gentleman from Missouri (Mr. VOLKMER).

Mr. VOLKMER. Mr. Speaker, I wish to state very briefly that I extend my thanks to the House conferees for all the work they have done on this issue. I would like also to point out to the Members of the House that if we recede and vote for other language, we will not have language that has alreday been interpreted by the Supreme Court.

If we vote to recede, we will have new language that will be subject to interpretation and subject to new court battles. Therefore, I urge the Members not to recede from the Hyde language, because with the Hyde language in the bill, we will have language that has already been interpreted. We know it is constitutional, and we know what it means.

Mr. Speaker, we know that the Senate will not accept the new language of the gentleman from Pennsylvania (Mr. FLOOD), and, therefore, we should not back down from our position.

Mr. MICHEL. Mr. Speaker, I yield myself such time as I may consume.

I have no further requests for time from Members on the pending motion to recede, although there are several Members who obviously would want to be heard on the amendment that is intended to be offered by the chairman of the subcommittee.

It is my own personal feeling that we ought to recede at this juncture, because it is the only mechanism we have for ending this deadlock. Otherwise we are locked in concrete. Otherwise we will not get this legislation enacted, and we will not get the paychecks that are being held up sent to the persons who should receive them. I think the only practical thing for us to do under the parliamentary procedure here is to vote to recede. I would hope that we can do that simply by voice vote, and then we can get to the meaty debate on the amendment that will subsequently be offered by the gentleman from Pennsylvania (Mr. FLOOD).

With that, Mr. Speaker, we will rest our case.

Mr. FLOOD. Mr. Speaker, I move the previous question on the motion.

The previous question was ordered.

The SPEAKER. The question is on the motion offered by the gentleman from Pennsylvania (Mr. FLOOD).

The question was taken; and on a division (demanded by Mr. BAUMAN) there were—yeas 80, nays 62.

Mr. BAUMAN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 209, nays 206, not voting 19, as follows:

[Roll No. 644]

YEAS—209

Addabbo	Flowers	Milford
Akaka	Foley	Mineta
Alexander	Ford, Mich.	Mitchell, Md.
Allen	Ford, Tenn.	Moffett
Anderson, Calif.	Forsythe	Mollohan
	Fountain	Moorhead, Pa.
Anderson, Ill.	Fowler	Neal
Andrews, N.C.	Fraser	Nix
Ashley	Frenzel	O'Brien
AuCoin	Fuqua	Obey
Badillo	Giaimo	Ottinger
Baucus	Gibbons	Patten
Bedell	Gilman	Patterson
Bellenson	Ginn	Pattison
Benjamin	Glickman	Pease
Bingham	Gonzalez	Pettis
Blanchard	Gore	Pickle
Blouin	Gudger	Pike
Bolling	Hamilton	Preyer
Bonker	Hannaford	Pritchard
Bowen	Harkin	Pursell
Brademas	Harrington	Railsback
Breckinridge	Harris	Rangel
Brinkley	Hawkins	Reuss
Brodhead	Hefner	Risenhoover
Brooks	Heftel	Rogers
Brown, Calif.	Holland	Roncalio
Broyhill	Hollenbeck	Rose
Burke, Calif.	Holtzman	Rosenthal
Burlison, Mo.	Horton	Ryan
Burton, John	Howard	Sarasin
Burton, Phillip	Hughes	Scheuer
Butler	Jacobs	Schroeder
Carr	Jeffords	Seiberling
Chisholm	Jenkins	Sharp
Clay	Jenrette	Sisk
Cleveland	Johnson, Colo.	Slack
Cohen	Jones, N.C.	Smith, Iowa
Collins, Ill.	Jones, Tenn.	Solarz
Conable	Jordan	Spellman
Conte	Kastenmeier	Staggers
Conyers	Ketchum	Stark
Corman	Keys	Steed
Cornwell	Koch	Steers
Coughlin	Kostmayer	Stockman
Daniel, R. W.	Krebs	Stokes
Danielson	Leach	Stratton
Davis	Leggett	Studds
Dellums	Lehman	Teague
Derrick	Levitas	Thompson
Dicks	Lloyd, Calif.	Thornton
Diggs	Long, Md.	Trible
Dingell	Lundine	Tsongas
Dodd	McClory	Tucker
Downey	McCloskey	Udall
Drinan	McFall	Ullman
Duncan, Oreg.	McHugh	Van Deerlin
Eckhardt	McKinney	Walgren
Edgar	Maguire	Waxman
Edwards, Ala.	Mahon	Weaver
Edwards, Calif.	Mann	Weiss
Evans, Colo.	Martin	Whitehurst
Evans, Del.	Mathis	Whitley
Fascell	Mattox	Wiggins
Fenwick	Meeds	Wilson, C. H.
Findley	Metcalfe	Wilson, Tex.
Fisher	Meyner	Wirth
Fithan	Michel	Wolff
Flippo	Mikulski	Wright
Flood	Mikva	Yates

NAYS—206

Abdnor	Burke, Mass.	Duncan, Tenn.
Ambro	Burleson, Tex.	Early
Ammerman	Byron	Edwards, Okla.
Andrews, N. Dak.	Caputo	Eilberg
	Carney	Emery
Annunzio	Carter	English
Applegate	Cavanaugh	Erlenborn
Archer	Cederberg	Ertel
Armstrong	Chappell	Evans, Ga.
Ashbrook	Clausen, Don H.	Fary
Aspin		Fish
Badham	Clawson, Del	Florio
Bafalis	Cochran	Flynt
Baldus	Coleman	Frey
Barnard	Collins, Tex.	Gammage
Bauman	Corcoran	Gaydos
Beard, R.I.	Cornell	Gephardt
Beard, Tenn.	Cotter	Goldwater
Bennett	Crane	Goodling
Bevill	Cunningham	Gradison
Biaggi	D'Amours	Grassley
Boggs	Daniel, Dan	Guyer
Boland	de la Garza	Hall
Bonior	Delaney	Hammer-schmidt
Breaux	Derwinski	
Broomfield	Devine	Hanley
Burgener	Dickinson	Hansen
Burke, Fla.	Dornan	Harsha
Heckler	Moore	Sawyer
Hightower	Moorhead, Calif.	Schulze
Hillis		Sebelius
Holt	Mottl	Shipley
Hubbard	Murphy, Ill.	Shuster
Huckaby	Murphy, N.Y.	Sikes
Hyde	Murphy, Pa.	Simon
Ichord	Murtha	Skelton
Ireland	Myers, Gary	Smith, Nebr.
Jones, Okla.	Myers, John	Snyder
Kasten	Myers, Michael	Spence
Kazen	Natcher	St Germain
Kelly	Nedzi	Stangeland
Kemp	Nichols	Stanton
Kildee	Nolan	Steiger
Kindness	Nowak	Stump
LaFalce	Oakar	Symms
Lagomarsino	Oberstar	Taylor
Latta	Perkins	Thone
Le Fante	Poage	Traxler
Lederer	Pressler	Treen
Lent	Price	Vander Jagt
Livingston	Quayle	Vanik
Lloyd, Tenn.	Quie	Volkmer
Long, La.	Quillen	Waggonner
Lott	Rahall	Walker
Luken	Regula	Walsh
McDade	Rhodes	Wampler
McDonald	Rinaldo	Watkins
McEwen	Roberts	White
McKay	Robinson	Whitten
Madigan	Rodino	Wilson, Bob
Markey	Roe	Winn
Marks	Rooney	Wydler
Marlenee	Rostenkowski	Wylie
Marriott	Rousselot	Yatron
Mazzoli	Rudd	Young, Alaska
Miller, Ohio	Runnels	Young, Fla.
Minish	Ruppe	Young, Mo.
Mitchell, N.Y.	Russo	Young, Tex.
Moakley	Santini	Zablocki
Montgomery	Satterfield	Zeferetti

NOT VOTING—19

Brown, Mich.	Krueger	Richmond
Brown, Ohio	Lujan	Roybal
Buchanan	McCormack	Skubitz
Dent	Miller, Calif.	Vento
Evans, Ind.	Moss	Whalen
Hagedorn	Panetta	
Johnson, Calif.	Pepper	

The Clerk announced the following pairs:

On this vote:

Mr. Richmond for, with Mr. Brown of Ohio against.

Mr. Panetta for, with Mr. Hagedorn against.

Mr. Buchanan for, with Mr. Skubitz against.

Mr. Miller of California for, with Mr. Whalen against.

Until further notice:

Mr. Dent with Mr. Pepper.

Mr. Evans of Indiana with Mr. Johnson of California.

Mr. Moss with Mr. Krueger.

Mr. McCormack with Mr. Lujan.

Mr. Vento with Mr. Roybal.

Messrs. BURKE of Massachusetts, DUNCAN of Tennessee, and LONG of Louisiana changed their vote from "yea" to "nay".

Mr. ULLMAN and Mr. BLOUIN changed their vote from "nay" to "yea."

So the motion was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

MOTION OFFERED BY MR. FLOOD

Mr. FLOOD. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. FLOOD moves that the House concur in the amendment of the Senate numbered 82 with an amendment, as follows: In lieu of the matter stricken and inserted by said amendment, insert the following:

SEC. 209. None of the funds contained in this Act shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term. This section does not prohibit payment for medical procedures, performed before the fact of pregnancy is established, necessary for the prompt treatment of the victims of forced rape or incest reported to a law enforcement agency. Nor are payments prohibited for drugs or devices to prevent implantation of the fertilized ovum, or for medical procedures necessary for the termination of an ectopic pregnancy.

The SPEAKER. The gentleman from Pennsylvania (Mr. FLOOD) and the gentleman from Illinois (Mr. MICHEL) are recognized for 30 minutes each.

The Chair recognizes the gentleman from Pennsylvania (Mr. FLOOD).

Mr. FLOOD. Mr. Speaker, the House conferees on the Labor-HEW appropriation bill reluctantly agreed to the compromise language just offered because we believe something must be done to break this impasse which is currently preventing enactment of this $60 billion bill.

Fiscal year 1978 began on October 1. I have often said the Labor-HEW appropriation bill affects every man, woman, and child, in this Nation. You have heard me say that for years. As each day passes, it becomes increasingly difficult for the programs which are funded under this appropriation bill to continue to operate.

Now, our compromise language represents an attempt to accommodate those who have argued that the language of last year's conference report should be incorporated in the bill. For that reason we have added this language which makes it clear that we are not seeking to inhibit the use of morning-after pills or IUD's as methods of birth control. Similarly, we make it clear that medicaid can continue to pay for medical procedures necessary for the termination of an ectopic pregnancy.

Finally, we spell out the terms and conditions under which medicaid payments for treatment of rape and incest victims may continue.

Mr. Speaker, this language will not satisfy those who believe that the Federal Government should pay for any and all kinds of abortions. It will not fully satisfy those who believe that the Government should not pay for any abortions, regardless of the circumstances. It is going to be attacked by both sides, we know that. In short, this is entirely a compromise. I cannot guarantee that the other body will accept it, but if they do not, then they must take the responsibility for further delays in the enactment of this appropriation bill.

Now, Mr. Speaker, the House here has voted time and again on this. It is clear that a majority, a big majority of the Members here, reflect the views of their constituents, which is to prohibit the funding for abortions except under certain exceptional circumstances.

Mr. Speaker, I simply hope that this is the last time we will have to consider this matter in the first session of this 95th Congress. I urge adoption of the motion.

Mr. MICHEL. Mr. Speaker, I yield 3 minutes to the gentleman from Maryland (Mr. STEERS), for debate only.

Mr. STEERS. Mr. Speaker, I rise once again to speak against the amendment of the gentleman from Pennsylvania (Mr. FLOOD) and for the same reasons that I uttered a few moments ago.

First of all, wording on this matter of forced rape does not seem to me very fair. For example, to say to a 15-year-old girl who may not be perfect in her morality, but who was prevailed upon to succumb to a man and does allow herself to become pregnant, suppose it is a case of statutory rape, would a Member of this House care to have his or her daughter, if she were unable to find any financial backing any other way, denied the opportunity of having an abortion? That is the first thing I would mention that is wrong with the Flood amendment.

The other aspect of it is a lot broader. I do not want to be repetitive, but I do think it is worth mentioning some of the things that would be prohibited under the Flood amendment, but which would be permitted by the amendment I will offer if the Flood amendment is defeated, as I hope it will be. I point out that the language that I am supporting here is by no means as broad as the Supreme Court's interpretation of the previous language. The Supreme Court has taken the position until recently that even the economic situation of the pregnant woman is a factor to be considered in determining whether or not to grant Federal funding, but that is no longer the case.

Under my amendment, it is if there is "serious health damage." and that is a lot narrower, but it would permit Federal funding in the following cases:

Neurological disease, such as multiple sclerosis and muscular dystrophy, are very serious diseases which, if allowed to go on to term with a woman who is pregnant, would be very, very deleterious to the mother and/or to the fetus; cancer—carcinoma—cancer of the breast, cancer of the cervix, cancer of the bone or cancer of the blood, all these are examples of things where I believe that the woman should be permitted to get funding for an abortion; a severe psychiatric disease such as schizophrenia, suicidal tendencies or diagnosed paranoia are others; metabolic disorders—for example, disease of the liver, the kidney, the pancreas, or the thyroid, are others; finally, gastro-intestinal disorders such as ulcers and colitis are others. In all of these cases, it seems to me clear that the Government should not allow a woman who has no financial resources to go without the necessary abortion.

Mr. SEIBERLING. Mr. Speaker, will the gentleman yield?

Mr. STEERS. Yes, I yield to the gentleman from Ohio.

Mr. SEIBERLING. I would like to compliment the gentleman on his statement. I think we ought also to understand that, not only are there serious problems with respect to the health of some women if they are required to go to term and give birth, but there can be serious problems with the health of the subsequent offspring. For example, it is now possible for doctors to determine by examination of the amniotic fluid whether the child will be a mongoloid. Do we want to say that if a woman cannot afford to have an abortion, we are going to force her to bring a mongoloid child into the world? The same is true of sickle cell anemia, Tay Sachs disease, severe mental retardation, and would include severe deformities caused by drugs such as thalidomide or caused by diseases such as rubella.

It does seem to me ironic that we would force poor women to give birth to deformed or hopelessly diseased children when someone who can afford an abortion does not have to bring that child into the world.

Mr. STEERS. I thank the gentleman. That is why my amendment says "mother or fetus would suffer serious health damage."

Mr. FLOOD. Mr. Speaker, I yield 2 minutes for debate only to the gentlewoman from Colorado (Mrs. SCHROEDER).

Mrs. SCHROEDER. Mr. Speaker, I rise in opposition to the language offered by the gentleman from Pennsylvania. I certainly think he has made an attempt, but I think there are some things we have to think about that have been discussed before. Let us dwell on them for just a moment more.

First of all, it is not clear what we mean by, "will endanger the health of the mother"? What does that mean? Does that mean 10 percent endangerment; 90 percent; 51 percent? How does the doctor measure that? Are we not practicing medicine? I have great qualms about the Congress getting into the medical profession by such vague language.

Second, if a young woman is subjected to rape or incest, either one, she must go down and file with the law enforcement authorities. Especially in the case of incest, how could she go home at night once she has filed with the law enforcement authorities, alleging incest? We really should provide a safe shelter for a person if we insist on this prerequisite in order to get an abortion. We are insisting she subject herself to all sorts of potential abuse at home by the incest filing with law enforcement authorities.

By allowing "forced" rape and not "statutory" rape as a reason for abortion, we are not dealing with the age issue. About 3 weeks ago I checked, and there were three young women in Denver, Colo., 10 years of age, who gave birth to babies that week.

Their bodies were obviously adult, but I cannot help but think in many other ways they were just mere children themselves. I have real questions as to whether we want 10-year-olds to be the mothers of the next generation and whether we really want to say to them that the rest of their lives are going to be impacted by one act they have taken that probably was wrong and none of us would agree with but, nevertheless, the Federal Government's policy is going to be that they are going to be held accountable for it the rest of their lives.

So I hope that we will look at this amendment, I hope we will vote it down, and I hope we will move to something that I still do not like, but which I think will be a little bit more reasonable in its presentation. I hope women will not have to file with law enforcement authorities in order to qualify for an abortion, I hope we have clear standards in determining what we mean by "endangering lives of mothers." Classism is still alive if this language passes.

Mr. FLOOD. Mr. Speaker, I yield 2 minutes for the purpose of debate only to the gentlewoman from New York (Ms. HOLTZMAN).

Ms. HOLTZMAN. Mr. Speaker, I would like to say to my colleagues in the House that this amendment is not really any compromise. It does not accept the principle that women, young girls, and children who have been victimized by rape or incest can get medically safe abortions which will be financed by the Government.

This amendment does not allow abortions in the case of incest. This amendment does not allow abortions in the case of rape. Therefore, if there is an 11-year-old child who has been the victim of incest, she cannot get an abortion under this bill. Similarly, if there is a 13-year-old girl who has been the victim of rape, she cannot get an abortion under this bill.

This amendment is no compromise, and I hope it is rejected.

Mr. MICHEL. Mr. Speaker, I yield 1 minute for the purpose of debate only to the gentleman from Illinois (Mr. O'BRIEN).

Mr. O'BRIEN. Mr. Speaker, I rise in support of the Flood amendment. We have been over this area many times before. Every vote has favored the House position. I suggest we allow the conferees to hang together on the Flood language and perhaps we can carry the day the next time.

Mr. MICHEL. Mr. Speaker, I yield 3 minutes to the gentleman from Illinois (Mr. HYDE).

Mr. HYDE. Mr. Speaker, I think it should be pointed out that this amendment permits, I would suggest, thousands of abortions. At the same time, having said that, I am going to support it. But I do not think it should be viewed as anything other than a serious compromise. And it is a compromise. It has been painted as no compromise whatsoever. But if we read the language, we understand that this does not say "no abortion except to save the life of the mother." There is a judgment call in here: except where the life of the mother would be endangered.

Doctors are subjective people, and they make subject judgments. So this is not as rigid as those who oppose it would say.

Second, this section does not prohibit a payment for medical procedures performed before the act of pregnancy is established. Well, it can take over a month to establish whether or not a woman is pregnant. If we do not have some restriction on payments for abortions where rape is charged, we are offering a financial inducement to simply report a rape and we are putting a burden on the police department to investigate every one of these fraudulently reported rapes. We are inducing fraud; we will not stop abortions, because every woman who wants one will doubtless say that she was raped by an unknown assailant.

So in an effort to stop the fraud that would be inherent in any other language

than this, the language that is used is this: "before the fact of pregnancy is established."

As a matter of scientific fact, the horror stories we have been hearing are all out of proportion with reality. Very, very few pregnancies result from rape. There are many reasons why that is so, and it is a fact.

To consign to the abortion chamber hundreds of thousands of normal children because of a gigantic loophole and to permit no guidelines on the question of rape would be, I think, to abdicate the position of responsibility and morality that this House has established.

So this permits medical treatment, and such treatment is never an abortion. You do not know if you are pregnant, and you do not abort something that you do not know is there. So this is a liberalization of the position that the House has taken.

There will be abortions permitted under this language. The language is carefully drawn to prevent fraud, so in my judgment it is acceptable.

This is a far cry from what I want, and it is a far cry from what the law has been during this past fiscal year. But under the circumstances, I do believe this will prevent wholesale fraud and wholesale abortions. Therefore, with some reluctance, I will accept it.

Mr. BRINKLEY. Mr. Speaker, will the gentleman yield?

Mr. HYDE. I yield to the gentleman from Georgia.

Mr. BRINKLEY. Mr. Speaker, I thank the gentleman for yielding.

Would the gentleman agree with me that the term, "forced rape," should be reconsidered perhaps in conference so as to delete the word, "forced"?

The gentleman from Illinois (Mr. HYDE) in his remarks has referred to rape, and I think very appropriately. If we just use the term, "rape," we deal with the 11-, 12-, 13-, 14-, 15-, and 16-year-old girls, and they should certainly be entitled to the protections provided with that language.

Mr. HYDE. Mr. Speaker, if I may suggest this to the gentleman, what is essential in situations of rape is prompt reporting of the rape to the hospital, to the doctor, to the police, or to somebody so that medical treatment can be received. But if we do not leave the word, "forced," in the language, then every woman under 18 will be entitled to an abortion simply by claiming she was raped.

So that is a situation I cannot support. I grant the gentleman that when we have very young women getting pregnant, that is a very tragic situation.

I would point out to the gentleman that Ethel Waters, who recently died, wrote her autobiography entitled, "His Eye Is on the Sparrow," and in reading that book we learn that her mother was 13 when Ethel Waters was born. Ethel Waters lived into her 80's and was a great lady of the theater.

What we are suggesting is this: To take a human life for any lesser consideration is something we should not sanction and something I cannot support. It is wrong to take an innocent human life, no matter how unfortunate, no matter how tragic the circumstances in the creation of that life is.

The U.S. Supreme Court has said that capital punishment is too severe for the rapist, so why should it not be too severe for the product of that rape? At least that is the position I take.

This is reasonable compromise language. It will permit thousands of abortions. That saddens me, that troubles me, but under the circumstances, I think it is a compromise that the Senate ought to accept.

Mrs. BURKE of California. Mr. Speaker, will the gentleman yield?

Mr. HYDE. Of course, I yield to the gentlewoman from California.

Mrs. BURKE of California. Mr. Speaker, I thank you for yielding.

Is the gentleman saying that abortion is a state of mind and it does not exist if you do not know that you have an actual abortion?

Mr. HYDE. Mr. Speaker, I am saying that every hospital in the land that performs medical procedures following rape does not term that as an abortion, because there is absolutely no data that a pregnancy has occurred and you cannot abort something that is not there.

The medical procedures are performed to prevent venereal disease and to prevent implantation of the fertilized egg. All those things are done before the fact of pregnancy is known, and that is never called an abortion.

Mrs. BURKE of California. Mr. Speaker, if the gentleman will yield further, under this provision, if a woman is 2 months pregnant and does not know that she is pregnant and she goes in and asks for an abortion but says that she does not know whether or not she is pregnant, within the provisions of this language, would she be entitled to that procedure to which the gentleman has referred?

Mr. HYDE. If I can understand the gentlewoman's question, does she mean that the woman has been raped?

Mrs. BURKE of California. Yes; she has been raped.

Mr. HYDE. She has been raped and she is pregnant for 2 months and she does not know it; is that correct?

Mrs. BURKE of California. That is right. Perhaps there is no indication whatsoever in her mind that she is pregnant, but after she has the procedure, it is determined that she has a fetus.

Mr. HYDE. Were there symptoms that she was, in fact, pregnant?

Mrs. BURKE of California. She had none of the symptoms that are readily identified with pregnancy. She goes in and she has the procedure under this bill, and the doctor finds a fetus; is that correct?

Mr. HYDE. As the gentlewoman hypothecates the question, I imagine that is correct, yes.

Mrs. BURKE of California. Is the gentleman from Illinois a physician?

Mr. HYDE. To continue my answer, I would not say that that would be a violation of the provisions of this amendment before the fact of pregnancy has been established; that is right.

I am not a physician, but I know this much: There are all kinds of tests to determine whether or not a woman is pregnant.

Mrs. BURKE of California. But she does not know it.

Mr. HYDE. I think the doctor would be dutybound to administer those tests under those circumstances which the gentlewoman described earlier.

Mr. SEIBERLING. Mr. Speaker, will the gentleman yield?

Mr. HYDE. I yield to the gentleman from Ohio.

Mr. SEIBERLING. Mr. Speaker, as I understand it, the conferees of the other body have already rejected the language of the Flood amendment; is that correct?

Mr. HYDE. I do not know about that. I do not wish to mention names, but I know of two Senators who are unhappy with this amendment. However, they are unhappy with anything except their own way.

Mr. MICHEL. Mr. Speaker, I yield myself such time as I may consume.

Before yielding to the gentleman from Illinois (Mr. HYDE), to respond to that question, may I simply make it clear that the Members of the House who serve on that conference committee are there 100 percent, Republicans and Democrats alike.

When we go over there with the other body, in conference, there is one Member representing each party, two persons representing, supposedly 100 Members over there. It bothers us no end that we do not get any really good feedback from the individual Members except through some conduit which we cannot altogether rely upon.

In my judgment, if we are going to have language developed here in the House, I would like to see a good, fair shake given to us with the full Senate voting on our language, just as they asked us to do in bringing their's back here, and you do remember we gave them a vote on their language.

Mr. HYDE. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from Illinois.

Mr. OBERSTAR. Mr. Speaker, will the gentleman yield?

Mr. HYDE. I yield to the gentleman from Minnesota.

Mr. OBERSTAR. Mr. Speaker, I thank the gentleman for yielding.

I just want to make the point that while this language is objectionable to those of us who protest the Federal funding of abortions, an alternative might be offered to this language which might be even worse. Therefore, the House is really in a dilemma.

I find this language objectionable. I am opposed to it. I think it is very regrettable that the House did not vote "no" on the previous question, the motion to recede; and I find myself in concert with my colleague, the gentleman from Illinois (Mr. HYDE), in trying to resolve the dilemma here, in that if we do not accept this compromise language, which I hope would be done without a recorded vote, that there are some alternatives which will be offered that are even more objectionable than this language, amendments

that would open wide the doors to funding abortion virtually on demand.

Mr. HYDE. I thank the gentleman for his comments.

Mr. SEIBERLING. Mr. Speaker, will the gentleman yield?

Mr. HYDE. I yield to the gentleman from Ohio.

Mr. SEIBERLING. Mr. Speaker, is it the gentleman's position that even if the language of the other body is strictly construed, so that it would only apply where, for example, the woman had rheumatic heart disease or some similar ailment, nevertheless, she could not get Federal assistance to have an abortion, even if it might threaten her life if she were to have a baby?

Mr. HYDE. The Senate language does not say that. The language of the other body, as I understand it, says that a serious health problem has been found. That could mean mental distress, anguish, et cetera. That is abortion on demand.

Mr. SEIBERLING. Suppose the specific kind of diseases that would be covered were spelled out and that were taken into account. Would the gentleman in that event still stand by his position?

Mr. HYDE. If the woman's life is in danger, then she is permitted to have an abortion under existing law. Under existing law we do not need to have anything to accomplish that.

Mr. SEIBERLING. Suppose the fetus were to be born a Mongoloid. How would the gentleman feel about that?

Mr. HYDE. I would think the child should be born. Even a Mongoloid is a human being, and I should think that society would find a way to take care of the people who live on the edge of humanity rather than to be willing to exterminate them.

Mr. SEIBERLING. Mr. Speaker, I thank the gentleman for clarifying his position.

Mr. HYDE. Mr. Speaker, I thank the gentleman for giving me the opportunity.

Mr. FLOOD. Mr. Speaker, I yield 4 minutes to the gentleman from Massachusetts (Mr. EARLY).

Mr. EARLY. Mr. Speaker, I would like to take just a brief time in order to mention a couple of points to echo the sentiment expressed by the gentleman from Illinois (Mr. MICHEL). I have only been in this body for 3 years. This is one of a very few conference committees I have sat on. Our first meeting was held on July 19 and we have had many meetings since then. At each meeting the chairman, the gentleman from Pennsylvania (Mr. FLOOD), insisted on having 100 percent House attendance. At each meeting, at no time did the other branch have 40 percent of their conferees present.

When we tried to compromise it was the House in a battle with each other, compromising on a point and then offering it to three Senators. Those three Senators immediately took it, with little discussion, and rejected it. When the chairman asked for a roll call vote, it was done by proxy, with usually a 8 to 6 result. We lost every time whether we had a new proposal or not.

I would also like to make this point that as we hold up this $61 billion bill for Labor-HEW, most of which is for programs for the poor, I repeat, for the poor, we are talking about abortion on demand for poor people.

Mr. Speaker, I am personally opposed to abortion on demand. I believe that this Congress should deal with that issue and I do not believe we can effectively deal with it in an appropriation bill.

However, what we must decide today is not whether or not we oppose abortion on demand, but how abortion should be paid for in this country. I believe that it is not the Federal Government's place to provide funds for abortions. Should the majority of the residents of individual States choose to spend their State tax dollars to fund abortions, that is their right. Clearly, on a Federal level, no such mandate has ever been received. Further, if the votes in this body are any indication, the majority opposes Federal support for abortion on demand.

In a recent survey that I received over the weekend, prepared by the Alan Guttmacher Institute, titles 19 and 20, the figures show that 260,000 federally funded abortions were performed in the United States in 1976. Almost half of those abortions were performed in two States; 70,000 were performed in California and 50,000 in New York State. There is nothing in the bill or what we do today that prevents those two States from paying for the abortions. California has a billion dollar surplus. Why should California not pay for those abortions?

Governors from seven other States have suggested that if the Federal Government does not insist on paying for abortions, they will absorb the cost.

My State Governor has said no matter what the Federal Government does, the State will continue to fund abortions.

I think that is very important. We are talking about a $61 billion bill.

Mr. TSONGAS. Mr. Speaker, will the gentleman yield?

Mr. EARLY. I yield to the gentleman from Massachusetts.

Mr. TSONGAS. Mr. Speaker, would the gentleman care to state the position of our state legislature?

Mr. EARLY. Certainly. Recently they tacked on to a supplemental bill an amendment similar to the Hyde amendment.

Mr. TSONGAS. Has the Government and has the Secretary of Humane Services suggested that they will pay for abortions no matter what we do with medicaid?

Mr. EARLY. Both the Governor and the Secretary of Human Resources, Mr. Stevens, have said so.

Mr. TSONGAS. The opinion of the Massachusetts legislature is not vested in the governor's office.

Mr. SEIBERLING. Mr. Speaker, will the gentleman yield?

Mr. EARLY. I yield to the gentleman from Ohio.

Mr. SEIBERLING. Mr. Speaker, I take it then that the position of the gentleman from Massachusetts, Mr. EARLY, is that it is not really a matter of principle, but a matter of who pays for it?

Mr. EARLY. I do not take it that way at all.

Mr. SEIBERLING. That is the way it sounds to me.

Mr. EARLY. I am opposed to abortion on demand and I tried to make my position clear on that. I am saying that should the people in any given State choose to support abortions on demand through their State taxes, the Flood amendment will not prevent them from doing so.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. EARLY. May I have 1 additional minute?

Mr. FLOOD. I yield 1 additional minute to the gentleman from Massachusetts.

Mr. EARLY. In this final minute, Mr. Speaker, I just suggest this, I suggest that it is very important on both sides of the aisle that we compromise, that we compromise by sending this over to the Senate by a substantial vote because this was a compromise. The original Hyde amendment that went out of this House said "No abortions." We have now compromised more than 50 percent. In fact, any State that wants to provide abortions on demand can do so—they merely have to pay for them. This is particularly applicable to States like California and New York where almost 50 percent—120,000—of the medicaid abortions in the United States last year were performed.

Mr. MICHEL. Mr. Speaker, I yield 5 minutes to the gentleman from Massachusetts (Mr. CONTE).

Mr. CONTE. Mr. Speaker, the gentleman from Minnesota, I believe, made the statement that he hoped there would not be a rollcall on this amendment. I beg to differ with him. The last vote to recede which he and others forced onto the House floor put a lot of us who have been stalwarts on this issue in conference in a very compromising position, so to say, because the House conferees had reached an agreement last Thursday, after long debate, that we would go along with this new language submitted by the chairman of the committee, the gentleman from Pennsylvania (Mr. FLOOD). It was our understanding that the amendment came from the gentleman from Illinois (Mr. HYDE) and we went along with it. Thus we were put in the position of taking a rollcall vote receding to the Senate, which in essence we are not. We are receding, but only with the language offered by the gentleman from Pennsylvania (Mr. FLOOD).

There is one other reason why a rollcall vote is necessary. On the vote to recede the count was 209 to 206. Can you imagine if that vote went over to the Senate what their interpretation would be? They would think that the House is ready to recede on this particular issue. So it is very important—very important—regardless of how uncomfortable it is for some, to have a rollcall vote on this amendment and give a good sound endorsement of the motion offered by the gentleman from Pennsylvania, to let the Senate know where we stand on this particular issue.

Mr. Speaker, I rise in support of this new House language. All of you know of my strong stand against using medicaid funds for abortions except when the life

of the mother is endangered. But upon examining this new language, I feel justified in supporting these provisions as a legitimate compromise. But I must emphasize that in good conscience I cannot go much further. This new amendment provides for making available medicaid funds for the prompt treatment of forced rape and incest victims before the fact of pregnancy is established when reported to a law enforcement agency. What this does, is, in effect, incorporate some of last year's report language into the actual bill. This is what the Senate wanted although it would have also desired expanding the number of abortions which could be performed under medicaid. As you know, I cannot support that sort of expansionist provision.

Mr. Speaker, as I have said on a number of occasions, I realize that there are problems with physical and psychological treatment of rape and incest victims, but that does not justify abortions as the alternative.

I became frustrated in trying to find out the standard procedures for the treatment of rape victims. To my dismay there were not any. I have been told of DES and other estrogen treatments, the use of D. & C. and I have been informed of experiments combining estrogen with other substances. On the other hand, I have also received letters and telegrams from rape victims venting their disgust with present treatments. I think, this Congress has to commit itself, here and now to tell these women that we will do whatever we can by our funding of programs and research to improve the treatment of rape and incest victims. We should also get a commitment from the Department of Health, Education, and Welfare to do the same. This is the kind of positive approach we should take, not the negative one of abortion.

Mr. HYDE. Mr. Speaker, will the gentleman yield?

Mr. CONTE. I yield to the gentleman from Illinois.

Mr. HYDE. Mr. Speaker, I want to commend the gentleman for his heroic efforts in this very controversial issue, but I would like to correct the gentleman in regard to the fact that this language did not initiate with me. I was aware of it. I had studied it. It was not my language. My language is in the bill, as amended by the gentleman from Massachusetts, and I would not want that thought to be left with this Houses or with the other body.

I thank the gentleman for yielding.

Mr. CONTE. All I can say is that when we met and the chairman brought forth his language, I asked everyone where the language came from, and I was told by the other side that it came from the gentleman from Illinois.

Mr. FLOOD. Mr. Speaker, I yield 2 minutes to the gentleman from Wisconsin (Mr. OBEY).

Mr. OBEY. Mr. Speaker, what I really want to do is give the speech I had intended to give on the last bill, which was so rudely interrupted.

I just want to make one point. I hope that no one really believes that what we are doing by our actions the last few months is cutting off all Federal support for abortions, because we have not done it. No one has tried to attach an amendment to the Defense bill, for instance, to prevent abortions from being financed under the CHAMPUS program. No one has tried to attach an amendment to our own Federal employees legislation which would prohibit the insurance programs of Federal employees from providing for abortion services. So employees of HEW can get abortions under the present law now.

All we are saying under the House action is that poor women cannot. The only people we are shutting off Federal support for as far as abortions are concerned is for the poor women—no one else. Everyone else can still get them with Government-supported money and programs.

Let me also make one other point. This language does not represent any attempt at compromise, the language being proposed by the gentleman from Pennsylvania. It is merely a restatement of the present law. It merely reflects what the Attorney General said is the present law now. It does not make any exceptions for rape or incest. Do not let anyone kid you on that. It does not. So it does not represent any degree of compromise at all.

I agree the Senate has been totally uncompromising on this legislation, but I would submit to the Members that all but five Members of the House conferees—and I am one of the conferees—and all but five Members of the House conferees have also been totally unbending. There has been no willingness on either side to compromise on his question.

I would urge the Members to vote "no" on this language because it does not represent a compromise.

Mr. MICHEL. Mr. Speaker, we have no more requests for time on this side of the aisle, but summing up frankly on this side I obviously intend to support the motion offered by the gentleman from Pennsylvania (Mr. FLOOD).

If perchance that amendment is defeated, then we are really in a nightmarish kind of situation, because the kind of language that has been talked about here as an alternative is much more broad than we ever gave any kind of consideration to in this body, and it would be just a total disaster for us at this late juncture with the Senate leaving tomorrow on recess, to defeat the pending motion and not give the gentleman from Pennsylvania (Mr. FLOOD) an affirmative vote on his amendment.

I urge Members, particularly in view of the support of the gentleman from Illinois (Mr. HYDE) and the gentleman from Massachusetts (Mr. CONTE) and the gentleman from Illinois (Mr. O'BRIEN) and others who spoke on behalf of this amendment, to adopt this language.

Mr. FLOOD. Mr. Speaker, I yield 2 minutes to the gentleman from Connecticut (Mr. GIAIMO).

Mr. GIAIMO. Mr. Speaker, I urge the House to vote "no" on this language.

We have been debating abortion here. We have been debating what abortion is legal, what abortion is not legal and under what circumstances. That is not the subject before us. Abortion is legal in the United States under conditions defined by the Supreme Court. Abortion before 3 months certainly is legal whether there is rape or incest or whether there is no instance of that type crime. Any abortion within the first 3 months is legal, as I understand it.

Be that as it may, the fact is that most women are able to have abortions and to pay for them. What we are debating here is whether or not poor women—and more specifically women on medicaid—are going to be entitled to the same type of medical treatment as those women who can afford to pay for the medical treatment.

Mr. Speaker, that is what is at stake here today. I think this is a serious principle. I know there are great pressures for compromise, great pressures to try to get this Labor-HEW bill agreed to by both parties because of the fact that there are billions of dollars in appropriated funds which cannot be used at present. I recognize that fact, but we cannot compromise a fundamental principle because of that. The fundamental principle is that we are not treating people alike in this country. We are saying to all who can afford to pay, "You can have an abortion," and we are saying to that segment of women who are medicaid-type recipients that they cannot have the same kind of medical treatments that other people have. I think that is shameful.

I think that the other body is correct in its insistence on its position. I think we are wrong, and I think we should not abide by this type of language.

Mr. FLOOD. Mr. Speaker, I yield 2 minutes to the gentlewoman from Maryland (Mrs. SPELLMAN), for debate only.

Mrs. SPELLMAN. Mr. Speaker, let me just compliment the House conferees. I know that they have attempted in good faith to reach a compromise. And, certainly, at this point I want to congratulate the chairman as well, on his sincere efforts.

All too often we hear from extremes in debate like this. I stand here today as someone who is torn in two on this question of abortion. I have very strong feelings against abortion and yet I recognize there are times when there are compelling needs for abortion. I regret that I must oppose the language that is before us, because I feel it is so important that victims of rape and incest be given proper treatment.

I was a local government official for 12 years before coming here. I can tell you that young women do not report rape and do not report incest to law enforcement agencies. We are trying to change that. We are trying to change that by getting more sensitive treatment for victims from law enforcement agencies, but we have a long way to go before women will feel comfortable about going in, to report rape—especially very, very young women.

And surely we know that victims of incest most decidedly would be afraid to go to law enforcement officials to report their problems. So it is not until they learn they are pregnant that we hear from these young women. (I say young women, although I could really say "children" because many of them are mere children.)

With the language before us now this

whole class of victims would be denied help. Only by adopting a compromise will we be able to free the hostage HEW employees from payless days. Surely those employees are blameless in this whole matter.

There are programs in health and education also being held hostage. It is time for us to act to let children, senior citizens and others in need of those programs have the benefit of our labors.

So I would be most anxious to have the opportunity to vote in favor of the amendment that will be proposed by the gentleman from Maryland (Mr. STEERS). Frankly, I think that is, indeed, a compromise. Without it we still do not have compromise language.

I heard the gentlewoman from Colorado say that the Steers proposal does not go far enough. I heard my colleague, the gentleman from Minnesota (Mr. OBERSTAR) say it goes too far. One says it does not go far enough and the other one says it goes too far, so we really must have found a good compromise.

Mr. FLOOD. Mr. Speaker, I yield 2 minutes to the gentleman from Missouri (Mr. VOLKMER).

Mr. VOLKMER. Mr. Speaker, there was earlier today a disappointment for many of us, I am sure, when the House voted to recede from the Hyde amendment.

We now face a vote on the Flood amendment. There is no question I must agree with those that have some reservation about the Flood amendment and about the language contained therein, especially before the fact of pregnancy is established, whatever that means, as to establishing the fact of pregnancy, when many times, as has been stated before, that fact is not established until several months after the event has actually occurred. This could lead, I am sure, to a great number of abortions that many of us feel are not warranted.

I would also like to point out that there has been some talk here about the birth of retarded and Mongoloid children. For those of you who propose that where a doctor certifies or tells a mother that that child would be born retarded or Mongoloid, I say to you that today in this country, there are children alive today whose mothers were told that if the children were born they would be retarded or Mongoloid, and that those children are now clearly normal.

This can be verified, and this is true. It is something very serious to think about, that except for the perseverance of those parents to go ahead, even though they were told the child might be born that way, they went ahead and that child is today a normal child. So, with great hesitation I support the Flood amendment. It is a lot better than what we will have facing us as an alternative, the Senate language, which is really abortion on demand.

Mr. GLICKMAN. Mr. Speaker, earlier today I joined the overwhelming majority of my House colleagues in support of the compromise language offered by Representative FLOOD to resolve the disagreement between the House and Senate on Federal funding for abortions.

My record clearly shows that I do not agree with proposals to restrict funding for abortions for the poor. I see it as a question of equity and my opinions in that regard have not changed. But the circumstances which have now developed make it necessary that we act pragmatically. By continuing to quibble over financing of abortions for the poor, we are in effect holding back funding for health care, education, job programs and so forth designed in large part to benefit that same segment of our population: the poor. Time has come for those other needs to take precedence.

Individual Members may not like the Flood language, but it is no longer a question of this one provision. We were voting on a bill which keeps two of the largest Federal departments and a sizable number of State and local agencies running. That is what counted when I voted earlier today and I am sure this same issue weighed heavily on the decisions of my colleagues.

Mr. STOKES. Mr. Speaker, I rise to speak as a member of this conference committee, vitally concerned that this $60.1 billion bill be passed by the Congress without further delay. This mammoth bill which embodies all those programs most needed by all our constituencies is being held hostage because of the House's unwillingness to make any meaningful compromise on the question of abortion services for poor women.

Mr. Speaker, the "new" language we have before us today is no compromise and the Senate knows that and the Senate will reject it for that reason. Indeed, this language is even more regressive than the language passed last year—when it was still thought by many of us that what was passed by the Congress would not be all that important because we were sure the courts would mandate provision of abortion services for the indigent as a matter of equal protection. There can be no passing of the buck this time around, and certainly not if we are ever planning on passing this bill. As you all know, 4,000 VISTA volunteers did not receive their last pay check. Travel, strike negotiatings, and hearings have been curtailed by the Department of Labor. And we are now at the point of payless paydays for 300,000 Federal employees—all because the conferees of this body have been unwilling to yield at all to the Senate despite several offers of substantial compromise being submitted by that body which have been rejected without serious consideration by the chairman and the majority of the House conferees.

Mr. Speaker, let us talk about this new language being submitted as a compromise by the House conferees. This language would allow medical procedures for the prompt treatment of victims of forced rape or incest reported to a law enforcement agency before the fact of pregnancy is established. Let us look at what this language actually means.

The only treatments allowed here are emergency medical treatments before the fact of pregnancy is established. This means that the victim must, first of all, be aware of the need for immediate treatment. Fear and ignorance often prevent the reporting of the crime and the obtaining of treatment both to prevent pregnancy and venereal disease. Often, although a victim reports the rape to police authorities, she is not referred for rape treatment and then goes untreated. The treatment when obtained can be the administration of DES, estrogen drugs to delay ovulation, or a D. & C.

A primary rape treatment has been the administration of DES—diethylstilbestrol—which must be given within 48 hours of the attack. However, many medical facilities are now unwilling to use DES because it is a known carcinogen to women taking it as well as to any daughters subsequently born to them; it cannot be taken by many women, particularly any women who have been taking any estrogen drugs; it has serious side effects, causing illness of several days duration; and, moreover, according to a study very recently completed by the Center for Disease Control, it is not effective. The drug has been taken off the market in many other countries, has never undergone extensive testing by FDA, hearings have been held by both House and Senate committees regarding the harmfulness of the drug—and yet as part of our so-called compromise we would say this is the kind of treatment you can have if you happen to be poor because no treatment will be allowed if pregnancy has been established. We are also saying to the victim who takes DES, do not expect any help if the DES does not work and you still become pregnant. What kind of decency are we even talking about that we would even consider allowing such a case to occur when any rape victim is facing a time of tremendous trauma and crisis anyway, without having to worry about a possible resultant pregnancy?

What other kind of treatment is available? A woman can be given drugs to delay ovulation but these are not highly effective. The only other alternative is to undergo a D. & C.—dilation and curettage—or menstrual extraction, both of which are procedures which remove the contents of the uterus, thereby terminating a pregnancy—whether diagnosed as such or not. This is a surgical procedure. The consequence of this language unfortunately is that all women who are victims of rape or incest would have to submit to one of the mentioned treatments to obtain any assistance at all, regardless of whether or not a pregnancy had actually resulted. A D. & C. is certainly not a standard rape treatment procedure for any health facility. Such a requirement would result in the performance of many unnecessary surgical procedures—which we would actually be encouraging by adoption of this language—since the procedure would be allowed only before the fact of pregnancy is established and since rape victims become pregnant at the same rate as women having unprotected intercourse—approximately 4 percent. This procedure would be the only way to insure a pregnancy did not occur—yet because it is a surgical procedure it imposes a physical hardship upon women and would also tremendously increase the cost factor to the women and to the reimbursing agency.

Mr. Speaker, as if this were not problem enough, the Flood language covers only forced rape and incest. The phrase

to me appears redundant, but was done to draw a legal distinction between "forced" and "statutory" rape, thereby prohibiting treatment for teenagers—as well as older women—who have been raped but who have not incurred other bodily harm as covered in certain State statutes defining "forced" rape.

In addition, the Flood language allows treatment only for those victims of rape or incest that have been reported to law enforcement agencies. This blithely ignores even the FBI statistics—regarded as being very conservative—which estimate that at least 43.7 percent of all rapes that occur go unreported out of fear or ignorance. Clearly, incest cases will not be reported because of the nature of the act itself. Incest is generally unreported unless accompanied by violence, severe emotional disorder, or when there is a resulting pregnancy. The preventive treatment as provided in the Flood language would therefore not even be applicable for most incest victims. Abortion is the only means of terminating such a pregnancy.

Mr. Speaker, I cannot believe that any of you who have sponsored any legislation dealing with rape could possibly support this kind of language which simply makes a mockery of the intent and purposes of such legislation. Even last year's conference report allowed for the prompt treatment of rape and incest victims and did not set up the impossible, unreasonable, and insensitive restrictions found in this supposed compromise language.

Mr. Speaker, we should not kid ourselves—the Senate knows exactly what this language does and will not accept language more regressive and repressive than last year's. Therefore, if we are all concerned about passage of this huge, vitally important bill, we have an obligation to submit a reasonable compromise. Certainly the Senate conferees have submitted such to the House conferees only to see each proposal dismissed without serious consideration in a cavalier fashion without any interest in working out a reasonable alternative. In addition, what kind of justification can the House give for having held up this bill an entire extra week, when nothing was being done on the bill and when we are 2 weeks into the new fiscal year and when we know people and programs are already beginning to hurt? There is no justification for such action.

Mr. Speaker and my distinguished colleagues, I urge you to vote against the Flood-proposed language. We already know that language is unacceptable to the Senate—it is no compromise and we should be embarrassed that it is even being put forth as such. The Flood language will not get us any closer to resolving this issue or the bill—it will make this vote a false vote because we will have to vote again. What is the point of it? We should show some good faith and adopt the more meaningful compromise proposed by Senator MAGNUSON which allows abortions when the life of the woman is endangered, for victims of rape or incest, and where the mother or fetus would suffer serious health damage. Surely, we cannot object to this language if we have any concern or compassion for humanity at all. How can we expect to keep any faith with the people if we are unwilling to be concerned about their lives or their health at such a crucial time? I urge the defeat of the Flood motion.

Mr. FLOOD. Mr. Speaker, I have no further requests for time.

Mr. Speaker, I move the previous question.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Pennsylvania (Mr. FLOOD).

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Ms. HOLTZMAN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 263, nays 142, answered "present" 1, not voting 28, as follows:

[Roll No. 645]

YEAS—263

Abdnor	Derwinski	Kazen
Alexander	Devine	Kemp
Allen	Dickinson	Ketchum
Ambro	Dingell	Kildee
Ammerman	Dornan	Kindness
Andrews, N.C.	Drinan	LaFalce
Andrews, N. Dak.	Duncan, Tenn.	Lagomarsino
Annunzio	Early	Le Fante
Archer	Edwards, Ala.	Leach
Armstrong	Edwards, Okla.	Lederer
Aspin	Eilberg	Lent
Badham	Emery	Levitas
Bafalis	English	Livingston
Baldus	Erlenborn	Lloyd, Tenn.
Barnard	Ertel	Long, La.
Beard, R.I.	Evans, Ga.	Lott
Beard, Tenn.	Fary	Luken
Bedell	Fish	McClory
Benjamin	Fithian	McDonald
Bennett	Flood	McEwen
Bevill	Florio	McHugh
Biaggi	Flynt	McKay
Blanchard	Fountain	Madigan
Blouin	Frey	Mahon
Boggs	Fuqua	Mann
Boland	Gammage	Markey
Bonior	Gaydos	Marks
Bonker	Gephardt	Marlenee
Bowen	Gibbons	Marriott
Breaux	Ginn	Martin
Brinkley	Glickman	Mathis
Brooks	Goldwater	Mazzoli
Broomfield	Gore	Michel
Broyhill	Gradison	Miller, Ohio
Burgener	Grassley	Minish
Burke, Fla.	Gudger	Mitchell, N.Y.
Burke, Mass.	Hall	Moakley
Burleson, Tex.	Hamilton	Montgomery
Burlison, Mo.	Hammer-schmidt	Moore
Byron	Hanley	Moorhead, Calif.
Caputo	Hansen	Mottl
Carney	Harkin	Murphy, Ill.
Carter	Harsha	Murphy, N.Y.
Cederberg	Heckler	Murphy, Pa.
Chappell	Hefner	Murtha
Clausen, Don H.	Heftel	Myers, Gary
Clawson, Del	Hightower	Myers, John
Cochran	Hillis	Myers, Michael
Coleman	Holland	Neal
Collins, Tex.	Hollenbeck	Nedzi
Conte	Holt	Nichols
Corcoran	Hubbard	Nix
Cornell	Huckaby	Nolan
Cotter	Hughes	Nowak
Coughlin	Hyde	O'Brien
Crane	Ichord	Oakar
Cunningham	Ireland	Oberstar
D'Amours	Jenkins	Patten
Daniel, Dan	Jones, N.C.	Perkins
de la Garza	Jones, Okla.	Pettis
Delaney	Jones, Tenn.	Pike
	Kasten	Poage
Pressler	Satterfield	Traxler
Price	Sawyer	Treen
Pursell	Schulze	Trible
Quayle	Sebelius	Vander Jagt
Quie	Sharp	Vanik
Quillen	Shipley	Volkmer
Rahall	Shuster	Waggonner
Railsback	Sikes	Walker
Regula	Simon	Walsh
Rhodes	Sisk	Wampler
Rinaldo	Skelton	Watkins
Risenhoover	Smith, Iowa	White
Roberts	Smith, Nebr.	Whitehurst
Rodino	Snyder	Whitley
Roe	Spence	Whitten
Rogers	St Germain	Wilson, Bob
Roncalio	Stangeland	Winn
Rooney	Stanton	Wright
Rostenkowski	Steed	Wylie
Rousselot	Steiger	Yatron
Rudd	Stratton	Young, Alaska
Runnels	Stump	Young, Fla.
Ruppe	Symms	Young, Mo.
Russo	Taylor	Young, Tex.
Ryan	Thone	Zablocki
Santini	Thornton	Zeferetti

NAYS—142

Addabbo	Fenwick	Mitchell, Md.
Akaka	Findley	Moffett
Anderson, Calif.	Fisher	Moorhead, Pa.
Anderson, Ill.	Flippo	Moss
Applegate	Foley	Natcher
Ashley	Ford, Mich.	Obey
AuCoin	Ford, Tenn.	Ottinger
Badillo	Forsythe	Patterson
Baucus	Fowler	Pattison
Bauman	Fraser	Pease
Beilenson	Frenzel	Pickle
Bingham	Giaimo	Preyer
Bolling	Gilman	Pritchard
Brademas	Gonzalez	Rangel
Brodhead	Guyer	Reuss
Brown, Calif.	Hannaford	Rose
Burke, Calif.	Harrington	Rosenthal
Burton, John	Harris	Sarasin
Burton, Phillip	Hawkins	Scheuer
Butler	Holtzman	Schroeder
Carr	Horton	Seiberling
Cavanaugh	Howard	Slack
Chisholm	Jacobs	Solarz
Clay	Jenrette	Spellman
Cleveland	Johnson, Colo.	Staggers
Cohen	Jordan	Stark
Collins, Ill.	Kastenmeier	Steers
Conable	Kelly	Stockman
Conyers	Keys	Stokes
Corman	Kostmayer	Studds
Cornwell	Krebs	Thompson
Daniel, R. W.	Latta	Tsongas
Danielson	Leggett	Tucker
Davis	Lehman	Udall
Dellums	Lloyd, Calif.	Ullman
Derrick	Long, Md.	Van Deerlin
Dicks	Lundine	Walgren
Diggs	McCloskey	Waxman
Dodd	McDade	Weaver
Downey	McFall	Weiss
Duncan, Oreg.	Mattox	Wiggins
Eckhardt	Meeds	Wilson, C. H.
Edgar	Metcalfe	Wilson, Tex.
Edwards, Calif.	Meyner	Wirth
Evans, Colo.	Mikulski	Wolff
Evans, Del.	Mikva	Wydler
Fascell	Milford	Yates
	Mineta	

ANSWERED "PRESENT"—1

Breckinridge

NOT VOTING—28

Ashbrook	Johnson, Calif.	Pepper
Brown, Mich.	Koch	Richmond
Brown, Ohio	Krueger	Robinson
Buchanan	Lujan	Roybal
Dent	McCormack	Skubitz
Evans, Ind.	McKinney	Teague
Flowers	Maguire	Vento
Goodling	Miller, Calif.	Whalen
Hagedorn	Mollohan	
Jeffords	Panetta	

The Clerk announced the following pairs:

On this vote:

Mr. Teague for, with Mr. Richmond against.

Mr. Pepper for, with Mr. Panetta against.

Until further notice:

Mr. Dent with Mr. Brown of Michigan

Mr. Evans of Indiana with Mr. Ashbr

Mr. Flowers with Mr. Goodling.

Mr. McCormack with Mr. Whalen.
Mr. Vento with Mr. Brown of Ohio.
Mr. Roybal with Mr. Skubitz.
Mr. Koch with Mr. Lujan.
Mr. Johnson of California with Mr. Buchanan.
Mr. Krueger with Mr. McKinney.
Mr. Maguire with Mr. Hagedorn.
Mr. Miller of California with Mr. Jeffords.
Mr. Mollohan with Mr. Robinson.

Messrs. DERRICK, McDADE, and CLEVELAND changed their vote from "yea" to "nay."

Mr. HANSEN changed his vote from "nay" to "yea."

So the motion was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. FLOOD. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the motion just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

PERMISSION FOR SUBCOMMITTEE ON SBA AND SBIC AUTHORITY AND GENERAL SMALL BUSINESS PROBLEMS OF COMMITTEE ON SMALL BUSINESS TO SIT DURING 5-MINUTE RULE TOMORROW

Mr. SMITH of Iowa. Mr. Speaker, I ask unanimous consent that the Subcommittee on SBA and SBIC Authority and General Small Business Problems of the Committee on Small Business may be permitted to sit during any proceedings under the 5-minute rule tomorrow.

The SPEAKER. Is there objection to the request of the gentleman from Iowa?

There was no objection.

PERMISSION FOR SUBCOMMITTEE ON IMMIGRATION, CITIZENSHIP, AND INTERNATIONAL LAW OF COMMITTEE ON THE JUDICIARY TO SIT TOMORROW DURING 5-MINUTE RULE

Mr. EILBERG. Mr. Speaker, I ask unanimous consent that the Subcommittee on Immigration, Citizenship, and International Law of the Committee on the Judiciary may be permitted to sit tomorrow, Thursday, October 13, 1977, during the 5-minute rule.

The SPEAKER pro tempore (Mr. BRADEMAS). Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 8200 TO ESTABLISH A UNIFORM LAW ON THE SUBJECT OF BANKRUPTCY PROCEEDINGS

Mr. MURPHY of Illinois, from the Committee on Rules, submitted a privileged report (Rept. No. 95–695), on the resolution (H. Res. 826) providing for consideration of H.R. 8200 to establish a uniform law on the subject of bankruptcies, which was referred to the House Calendar and ordered to be printed.

PROVIDING FOR CONSIDERATION OF H.R. 8390, DEPARTMENT OF DEFENSE SUPPLEMENTAL APPROPRIATION AUTHORIZATION ACT, 1978

Mr. MURPHY of Illinois. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 815 and ask for its immediate consideration.

The Clerk read the resolution, as follows.

H. RES. 815

Resolved, That upon the adoption of this resolution it shall be in order to move, section 402(a) of the Congressional Budget Act of 1974 (Public Law 93-344) to the contrary notwithstanding, that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 8390) to authorize appropriations during the fiscal year 1978 for procurement of aircraft and missiles, and research, development, test, and evaluation for the Armed Forces, and for other purposes. After general debate, which shall be confined to the bill and shall continue not to exceed two hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Armed Services, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Armed Services now printed in the bill as an original bill for the purpose of amendment under the five-minute rule, said substitute shall be read for amendment by titles instead of by sections, and all points of order against said substitute for failure to comply with the provisions of clause 7, rule XVI are hereby waived. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Illinois (Mr. MURPHY) for 1 hour.

Mr. MURPHY of Illinois. Mr. Speaker, I yield 30 minutes to the gentleman from Ohio (Mr. LATTA) pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 815 provides for the consideration of H.R. 8390, the Department of Defense supplemental appropriation authorization of 1978. This is an open rule providing for 2 hours of general debate to be divided and controlled in the customary manner by the Committee on Armed Services. It is in order to consider the committee amendment in the nature of a substitute as an original bill for the purpose of amendment, and it shall be read by titles instead of by sections under the 5-minute rule. All points of order are waived against the substitute for failure to comply with section 402(a) of the Congressional Budget Act, and with the provisions of clause 7, rule XVI—the germaneness clause. At the conclusion of consideration of the bill for amendment, the previous question shall be considered as ordered on the bill and amendments thereto without intervening motion except one motion to recommit with or without instructions.

The waivers are necessary to permit consideration of those sections of the bill which contain authorizations for fiscal year 1978 in violation of the Budget Act. Section 402(a) of the Budget Act requires a May 15 reporting deadline for fiscal year 1978 authorizations. This reallocation of funds is necessary, as you know, because of the President's decision to cancel development of the B–1 bomber. Without a realinement of R. & D. and procurement funds we would be left with a deficient defense budget. The germaneness waiver is necessary to allow consideration of the committee substitute which might technically be subject to a point of order under the germaneness clause.

Mr. Speaker, H.R. 8390 is designed to provide additional authorization for strategic weapons as alternatives to the B–1. Accordingly, there is emphasis on the cruise missile, an increased range for the FB–111, intercontinental ballistic missile initiatives, and research and development to improve the penetration capabilities of the B–52. The total authorization for H.R. 8390 is $575,986,000.

These are the major components of this measure, and they represent a necessary reordering of the Defense Department's budget. Mr. Speaker, I respectfully request that we adopt House Resolution 815 so that we may proceed to the consideration of this bill.

Mr. LATTA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this rule provides 2 hours of general debate for the consideration of the defense supplemental authorization for fiscal year 1978.

A waiver of section 402(a) of the Budget Act is necessary because the bill contains fiscal year 1978 authorizations, but was not reported prior to the May 15, 1977, deadline for authorization bills. In this case the bill could not have been reported before May 15 since President Carter did not announce his recommendations against production of the B–1 bomber until June 30, 1977. The principal purpose of this bill is to provide additional authorizations for the cruise missile and related items requested by the President in connection with his recommended cancellation of the B–1 bomber production.

Mr. Speaker, in addition to providing a Budget Act waiver, this rule states that the committee substitute will be read for amendment by titles instead of by sections. In order to preserve the normal amending process, the rule makes the committee substitute in order as an original bill for the purpose of amendment.

Finally this rule waives points of order against the committee substitute for failure to comply with the germaneness rule, clause 7, rule XVI: This germaneness waiver is necessary because

the committee substitute changes a reporting date, which is not covered in the introduced bill.

Mr. Speaker, the bill authorizes a total of $575,986,000. This is $130,386,000 above the amount requested by the President in his budget amendment request submitted in July 1977.

This increase is accounted for because the committee put in an extra $151 million for F–14 aircraft. These funds were in the House-passed version of the 1978 defense authorization bill, but the amount was reduced in conference. Now the Committee on Armed Services is recommending a return to the original House position.

(By unanimous consent, Mr. LATTA was allowed to speak out of order.)

"THE BACKFIRE 'CONCESSION'"

Mr. LATTA. Mr. Speaker, I agree with the statements just made by the gentleman from Illinois about this rule. I will not take the time of the House to go into the rule. I agree with the rule and intend to support it.

On a related matter, I was most disturbed, as I am sure many Members of this House were today, to read a column by Evans and Novak on "The Backfire Concession." If the Members have not read it, I would like to have the attention of the Members of the House because I am going to read it now. That is the reason I asked to speak out of order. I think it is high time that we pay attention to what is going on, and if this article is absolutely true—and I hope it is not—I think the authorization committee that has this bill under consideration today ought to look into this matter. The article is as follows:

THE BACKFIRE "CONCESSION"

(By Rowland Evans and Robert Novak)

The tentative arms-control agreement virtually pinned down when Soviet Foreign Minister Andrei Gromyko visited the White House does not classify the Russian Backfire bomber as a strategic weapon despite a new U.S. intelligence report showing it able to reach North America with ease.

A top-secret study puts the Backfire's range at over 10,000 kilometers (about 6,200 miles), nearly double some previous estimates. Yet, the strategic arms limitation agreement relies on a Kremlin pledge—clearly unverifiable—not to use its impressive new bomber as a strategic weapon.

That alone would guarantee significant opposition to Senate approval of the SALT II treaty. But briefings within the national-security bureaucracy on the tentative agreement point to the all-too-familiar pattern of U.S.-Soviet negotiations: steady U.S. retreats with no significant Russian concessions.

Senior U.S. officials claim a major "concession" by the Soviets in agreeing to lower the overall limit of 2,400 strategic launchers (including long-range bombers) fixed at Vladivostok in 1975. But since the limit applies to each side, calling it a concession can be challenged.

More significant, the new agreement abandons President Carter's demand of last spring that Moscow effectively limit the number of its fearsome heavy missiles. Without that limitation and in the absence of U.S. heavy missiles, the Russians gave up nothing by reducing the overall limit on strategic launchers.

Similarly, there is a familiar taste to the way the tentative SALT II agreement handles two weapons systems left in limbo at Vladivostok: the U.S. cruise missile and the Soviet TU–26 bomber—the Backfire. The United States will severely limit cruise-missile ranges for three years. But, according to secret briefings, the Backfire will be limited only by "unilateral" Soviet declarations promising not to use it strategically and promising not to increase production.

Reliance on the Kremlin's word collides with highly classified Air Force briefings, featuring a chart showing the Backfire with longer range than the other bombers listed. That chart in turn reflects a recent study sponsored by the Defense Intelligence Agency and carried out by the Air Force's foreign-technology division at Wright-Patterson Air Base.

It reveals that, thanks to important aerodynamic modifications, the Backfire's "B" model—now in serial production—has substantially increased its range. If refueled once, in midair, the Backfire range is 8 per cent greater than the most advanced B–52s and 17 per cent greater than the shelved B–1. The DIA study's conclusion is unmistakable: The Backfire is an intercontinental weapon.

As part of the SALT II agreement, the Russians agree not to refuel the Backfire. But that assurance crumbles on two points: First, the Backfire can hit the continental U.S. without refueling on a one-way mission; second, the Kremlin's promises are simply not verifiable. The "B" model is fitted for midair refueling, and advanced Soviet "civilian" aircraft such as the wide-bodied IL–86 can be easily modified to become a tanker.

Nor does the Soviet "unilateral" promise not to increase production really insure against the threat to the United States of a greatly expanded Backfire fleet. Thanks to meager U.S. air defenses, the bomber is believed by the Pentagon to be a much bigger threat than is envisioned by the Arms Control and Disarmament Agency.

Thus, as informally agreed upon, SALT II describes an uneven poker game between the Russian and the American. Each is limited in his betting by table stakes. But when needed, the Russian can reach into his pocket and up the ante—by calling on the long-range Backfire bomber, not included in the overall limit on strategic launchers.

How can the U.S. negotiators countenance this? Senior officials say various U.S. intelligence agencies disagree on the Backfire's range. Yet, a 1976 study performed for the Central Intelligence Agency, which put the Backfire range at 6,000 kilometers (about 3,700 miles), has been discredited as based on faulty premises. In secret congressional testimony July 28, CIA Director Stansfield Turner himself conceded his agency's study was out of date.

U.S. negotiators are putting aside their own intelligence study and accepting Russian promises because they believe that the nation's need for an overall arms-limitation treaty outweighs inequitable provisions it may contain. That was the philosophy espoused by chief SALT negotiator Paul Warnke and his lieutenants in private life, though certainly not by candidate Jimmy Carter or a good many U.S. senators. This contrast promises a historic Senate debate with profound consequences.

Mr. Speaker, America had better take heed if this article is correct.

Mr. Speaker, I have no requests for time. I reserve the balance of my time.

Mr. MURPHY of Illinois. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. CHARLES H. WILSON).

Mr. CHARLES H. WILSON of California. Mr. Speaker, it is my understanding that the bill as it came out of the Committee on Armed Services is in violation of the Budget Act, but that a waiver has been given to cover this matter; is that correct?

Mr. MURPHY of Illinois. That is correct.

Mr. Speaker, I yield 2 minutes to the gentlewoman from Colorado (Mrs. SCHROEDER).

Mrs. SCHROEDER. Mr. Speaker, I thank the gentleman.

My question, in essence, has just been answered. I wanted to find out about the violation, that a waiver has been given, that it cannot be taken to court.

Mr. MURPHY of Illinois. That is correct, along with the germaneness rule, rule XVI.

Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

REORGANIZATION PLAN NO. 2 OF 1977—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 95–243)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Government Operations and ordered to be printed:

To the Congress of the United States:

I transmit herewith Reorganization Plan No. 2 of 1977 to consolidate certain international communication, educational and cultural, and broadcasting activities of the United States Government. I am acting under the authority vested in me by the Reorganization Act, chapter 9 of title 5 of the United States Code. I am also acting pursuant to section 501 of the Foreign Relations Authorization Act, Fiscal Year 1978 (Public Law 95–105), which provides that my recommendations for reorganizing these activities be transmitted by October 31, 1977.

This reorganization will consolidate into a new agency, to be known as the Agency for International Communication, the functions now exercised by the State Department's Bureau of Educational and Cultural Affairs and the United States Information Agency.

The principal aspects of this proposal are:

—The new agency will take over USIA's international communications programs (including the Voice of America) and the international educational and cultural exchange activities now conducted by the Bureau of Educational and Cultural Affairs.

—The agency's Director will be the principal advisor on international information and exchange activities to the President, the National Security Council, and the Secretary of State. Under the direction of the Secretary of State, the Director will have primary responsibility within the Government for the conduct of such activities. The Director, the

Deputy Director and the Associate Directors of the new agency will be confirmed by the Senate.

—The two commissions that now advise USIA and the Bureau of Educational and Cultural Affairs will be combined into a single seven-member commission. Members of this nonpartisan commission will be chosen from fields related to the agency's mission. The commissioners will be appointed by the President and confirmed by the Senate.

The purpose of this reorganization is to broaden our informational, educational and cultural intercourse with the world, since this is the major means by which our government can inform others about our country, and inform ourselves about the rest of the world.

The new Agency for International Communication will play a central role in building these two-way bridges of understanding between our people and the other peoples of the world. Only by knowing and understanding each other's experiences can we find common ground on which we can examine and resolve our differences.

The new agency will have two distinct but related goals:

—To tell the world about our society and policies—in particular our commitment to cultural diversity and individual liberty.

—To tell ourselves about the world, so as to enrich our own culture as well as to give us the understanding to deal effectively with problems among nations.

As the world becomes more and more interdependent, such mutual understanding becomes increasingly vital. The aim of this reorganization, therefore, is a more effective dialogue among peoples of the earth. Americans—mostly immigrants or the descendants of immigrants—are particularly well suited to enter into such an undertaking. We have already learned much from those who have brought differing values, perspectives and experiences to our shores. And we must continue to learn.

Thus the new agency will lay heavy emphasis on listening to others, so as to learn something of their motivations and aspirations, their histories and cultures.

Several principles guided me in shaping this reorganization plan. Among the most important were:

—Maintaining the integrity of the educational and cultural exchange programs is imperative. To this end, the plan retains the Board of Foreign Scholarships, whose strong leadership has done so much to insure the high quality of the educational exchange program. In addition, I intend to nominate an Associate Director who will be responsible for the administration and supervision of educational and cultural functions consolidated in the new Agency. The responsibilities presently exercised by the Department of State in relation to the Center for Technical and Cultural Interchange Between East and West, Inc., will be transferred to the new agency without alteration.

—Keeping the Voice of America's news gathering and reporting functions independent and objective. The Voice's charter, enacted into law in 1976, provides that "VOA news will be accurate, objective, and comprehensive"; that VOA will "present a balanced and comprehensive projection of significant American thought and institutions"; and that VOA will present U.S. policies "clearly and effectively, and will also present responsible discussion and opinion on these policies." Under this Administration, VOA will be solely responsible for the content of news broadcasts—for there is no more valued coin than candor in the international marketplace of ideas. I also plan to nominate an Associate Director who will be responsible for the administration and supervision of the Voice of America.

—The new agency's activities must be straightforward, open, candid, balanced, and representative. They will not be given over to the advancement of the views of any one group, any one party or any one Administration. The agency must not operate in a covert, manipulative, or propagandistic way.

—Rights of U.S. Information Agency and State Department employees must be respected. In the new agency, their career achievements will be recognized and the best possible use made of their professional skills and abilities.

The Director of the new agency will assess and advise on the impact on worldwide public opinion of American foreign policy decisions. The Agency will coordinate the international information, educational, cultural and exchange programs conducted by the U.S. Government and will be a governmental focal point for private U.S. international exchange programs. It will also play a leading role within the U.S. Government in our efforts to remove barriers to the international exchange of ideas and information.

It is not practicable to specify all of the expenditure reductions and other economies that will result from the proposed reorganization, and therefore I do not do so. The reorganization will result in greater efficiency by unifying in Washington the management of programs which are already administered in a consolidated manner in the field. For example, field officers will no longer report to two separate sets of supervisors and headquarters at home.

This plan abolishes the functions of the Advisory Committee on the Arts authorized by section 106(c) of the Mutual Educational and Cultural Exchange Act of 1961, as amended (22 U.S.C. 2456 (c)). Also abolished, as a result of the consolidation of certain functions of the United States Advisory Commission on Information and the United States Advisory Commission on International Educational and Cultural Affairs in the United States Advisory Commission on International Communication, Cultural and Educational Affairs, are the functions authorized by section 603 of the United States Information and Educational Exchange Act of 1948, as amended (22 U.S.C. 1468) (requiring submission by the United States Advisory Commission on Information of a quarterly report to the Director of USIA and a semiannual report to the Congress). The new commission will report annually and at such other times as it deems appropriate (as does the existing Advisory Commission on International Educational and Cultural Affairs). Since appointments of all members of the new commission will be on a nonpartisan basis, as has been the case with the Advisory Commission on International Educational and Cultural Affairs, the requirement of section 602(a) of the U.S. Information and Education Exchange Act (22 U.S.C. 1467(a)) that not more than three members of the Advisory Commission on Information shall be of the same political party is abolished.

Various obsolete or superseded functions under Reorganization Plan No. 8 of 1953 (22 U.S.C. 1461 note), which created the USIA, are superseded by this plan. Finally, the Plan abolishes a provision authorizing the Secretary of State to pay the expenses of transporting the bodies of participants in exchange programs who die away from home, since State no longer will conduct such programs (22 U.S.C. 2670(e)). All functions abolished by the reorganization are done so in compliance with section 903(b) of title 5 of the United States Code.

After investigation, I have found that this reorganization is necessary to carry out the policy set forth in section 901(a) of title 5 of the United States Code. The provisions in this plan for the appointment and pay of the Director, Deputy Director, and Associate Directors of the Agency have been found by me to be necessary by reason of the reorganization made by the plan and are at a rate applicable to comparable officers in the executive branch.

In presenting this plan, I ask the support of Congress to strengthen and simplify the machinery by which we carry out these important functions of the United States Government.

Such action will make us better able to project the great variety and vitality of American life to those abroad, and to enrich our own lives with a fuller knowledge of the vitality and variety of other societies.

The new Agency for International Communication will help us demonstrate "a decent respect for the opinions of mankind," and to deal intelligently with a world awakening to a new spirit of freedom.

JIMMY CARTER.

THE WHITE HOUSE, *October 11, 1977.*

DEPARTMENT OF DEFENSE SUPPLEMENTAL APPROPRIATION AUTHORIZATION ACT, 1978

Mr. PRICE. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 8390) to authorize appropriations during the fiscal year 1978 for procurement of aircraft and missiles,

and research, development, test, and evaluation for the Armed Forces, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois (Mr. PRICE).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 8390, with Mr. ROSTENKOWSKI in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from Illinois (Mr. PRICE) will be recognized for 1 hour, and the gentleman from California (Mr. BOB WILSON) will be recognized for 1 hour.

The Chair now recognizes the gentleman from Illinois (Mr. PRICE).

Mr. PRICE. Mr. Chairman, on behalf of the Committee on Armed Services, I bring to the floor today H.R. 8390, the Defense Department Supplemental Appropriation Authorizing Act for fiscal year 1978.

The purpose of this supplemental is clear to all of you who have in recent weeks agonized over your vote on the B–1 bomber.

In announcing his recommendation to cancel production of the B–1 bomber, the President stated that additional work for deployment of the cruise missile and improvement of the B–52 would be required immediately and he submitted a supplemental authorization and appropriation request.

The legislation which I present to you today is that request of the President, as modified by the Committee on Armed Services after thoughtful and extensive hearings beginning July 21.

In that connection, let me say that the Committee on Armed Services has not only considered the request for the specific weapons systems, it determined at the outset that a review of the viability of our strategic deterrence was necessary. That review has begun and is continuing. Because of the time constraints on the House in this session, we have brought this bill forward but the committee intends to continue its review of long-range strategic requirements and to make a determination as to whether the strategic triad of bombers, land-based missiles and submarine-based missiles need changes to assure deterrence.

I hope that the Congress will join in the tough decisions to assure the future strategic defense of this Nation and not simply leaving those decisions to the executive branch.

Mr. Chairman, the committee report has been available to all Members. It explains the bill in detail and I am not going to take extensive time today because I know the pressure under which the House is working.

Let me briefly stress some major points:

The bill contains all of the funds requested for development of the air-launched cruise missile total of $64 million, and all of the funds requested for modifications to extend the effectiveness of the B–52 aircraft, $33 million.

The committee has made some modest changes in some of the related R. & D. requests based on an extensive study by our Research and Development Subcommittee, under the able leadership of the gentleman from Missouri (Mr. ICHORD).

The only major request of the President denied by the committee was $50 million to adopt an existing wide-bodied commercial aircraft to carry and launch cruise missiles. The committee believed that it was premature to purchase or lease commercial aircraft for such purposes in fiscal year 1978. Sufficient funds are available to the Defense Department to study the concept.

The committee made three major additions:

The committee added $60 million for a new budget line item termed "ICBM Initiatives." It happens that I sponsored this amendment myself. This money would be used for research and development on the M–X missile program, the Advanced Ballistic Reentry System (ABRES) program, or such related development as determined to be necessary to assure the survivability of our land-based strategic missile forces. We found that the land-based forces were the most vulnerable of the three legs of the strategic Triad and we found insufficient attention to developing long-range improvements for this force. This initiative will provide the needed authorization for the administration to do the work necessary so that we can go into full-scale development on the M–X in fiscal year 1979. Such is necessary if replacement for our threatened land-based forces is to be available in the 1980's.

The recent statements of the Secretary of Defense quoted extensively in the committee report verifies that the threat is very real.

The committee added $20 million to investigate the desirability of developing a stretched version of the FB–111 aircraft, the FB–111H, for use as a strategic bomber. This is not an ultimate commitment to build this aircraft but in view of the demise of the B–1, the majority of the members of the committee thought investigating this alternative was a prudent course.

The committee added $151.6 million for procurement of the F–14 aircraft for the Navy. This will return the fiscal year 1978 buy to 44 aircraft plus long-lead funding for aircraft in fiscal year 1979. This is the buy originally approved by the committee in the House in the regular authorization bill for Defense but the figure was reduced in conference. The committee believed the Navy's requirement for this singularly effective aircraft is such that reconsideration was justified in the supplemental.

Mr. Chairman, this is emergency legislation to provide some strategic improvements to take the place of an unmatched aircraft which the President has chosen not to build. As I stated in my letter to the President, I think it was the wrong decision but the House has supported that decision and I think we have to be prepared to make what other improvements we can to assure our No. 1 national priority, the deterrence of global war.

This legislation is needed to provide a message to the Soviets and the rest of the world that we do not intend to allow our strategic posture to deteriorate further.

I urge support of the legislation.

Mr. Chairman, I reserve the balance of my time.

Mr. BOB WILSON. Mr. Chairman, I yield myself as much time as I may consume.

Mr. Chairman, the genesis of this legislation, H.R. 8390, was President Carter's recommendation on June 30 not to produce the B–1 bomber. This was in effect a redirection of our strategic force modernization plans. The B–1 recommendation which I opposed and still oppose but which the Congress accepted, has significant impact on both procurement, and research and development programs. There is a need for congressional action in order to proceed with both reemphasized and new programs.

The administration submitted proposed legislation to Congress in late July and it is that legislation, amended after detailed hearings, which is being considered today.

The Armed Services Committee has carefully considered this legislation but has not acted as a rubber stamp. We recommended deletions and additions to the President's request.

But the central fact to remember is that the B–1 was designed to provide overdue modernization of one leg of our strategic Triad and in the absence of the B–1 we must proceed now to provide greater assurance that the systems to be used in lieu of the B–1 will be effective. The principal alternative, as you know, is greater reliance on the air launched Cruise missile.

I personally opposed the cancellation of the B–1. But, as I stated, the House has accepted the President's decision and in the absence of the B–1, the additional work on the cruise missile and related items provided for in H.R. 8390 is quite simply the least we can do to provide some modernization of our strategic forces. The committee recommendations on H.R. 8390 are only the beginning of the committee work on strategic force modernization. As our chairman has stated, the committee intends to continue to review the long range viability of all of the elements of our strategic Triad.

The committee findings to date reveal a vacuum as regards cohesive and well-structured planning for the future of U.S. strategic forces.

The sudden change of direction represented by the B–1 cancellation is evidence of the uncertainty of our planning—and is to me evidence of the fact that Congress has to take an active role in assuring the future of our strategic deterrence.

One need only reflect that in excess of $7 billion has been spent since the mid-1960's to developing a follow-on bomber to the B–52. Yet, we are now told that that aircraft must continue to be the backbone of our manned strategic forces well into the next decade.

The new emphasis on the cruise missile is of such a critical nature that

authority to begin increased work on the system must not be delayed.

The Cruise missile, without the B–1 bomber, is the only near-term system available to supplement the aging B–52's. Remember, this aircraft today provides over 50 percent of the Nation's carriage of megatonnage. This is, I believe, an effort to help maintain our strategic deterrent capability. Note that I use the word "maintain" not "increase." We are not beginning new strategic initiatives that would be destabilizing.

Quite the contrary, if we did not make some effort to improve our forces we might send a destabilizing message to the Soviets—a message that we were ready to accept a degradation in the strategic balance.

This we must not do.

The most significant deletion on the President's proposal was the committee's refusing to authorize approximately $50 million to begin work on the wide bodied Cruise missile carrier. This would involve converting a commercial aircraft. The committee did not believe that such a large investment is justified at this time. Specifically, the committee concerns include the projected costs to militarize a commercial aircraft and the fact that the aircraft could not be reasonably hardened sufficiently to survive the defenses that a determined adversary would project from his borders.

Authorization for studies was provided in other programs to investigate if these and other problems associated with a wide body Cruise missile carrier could be resolved.

Two significant additions recommended by the committee are the FB–111H and "ICBM Initiatives."

Both are intended to provide for programs which I believe are needed.

The FB–111H deserves to be studied as an alternative to provide some modernization of our bomber fleet in case the projected goals of the Cruise missile are not achieved. At this point, the committee has merely provided enough money to begin a study of the conversion of existing F–111's to the strategic penetration role.

The authorization for "ICBM Initiatives," which was specifically proposed by the chairman of our committee, Mr. PRICE, is to provide for increased efforts in our plans for modernizing land based ICBM forces. We found in our studies that the administration earlier this year had slowed down the development of the MX, the follow-on to the Minuteman, even though all evidence indicates that our Minuteman forces will be vulnerable to the Soviet strike by the mid-1980's. Our efforts here merely will provide that the IOC and the MX does not slip any further. In addition, the committee planned that some of this ICBM Initiative money would be used to increase the efforts of the ABRES (advance ballistic reentry system) program. This is the program which has the experts in reentry technology and the committee believing that greater use of this talent should be made in examining the effect of proposals considered in the SALT negotiations.

I am personally very concerned that Defense experts do not have sufficient input on the arms control negotiations decisions.

In conclusion, the recommendations made by the Armed Services Committee on H.R. 8390 are intended to preserve our Nation's military capability. This legislation, I believe, is responsive to the present needs. It cannot be delayed if critical problems are to be addressed. I therefore urge the adoption of this bill as reported.

Mr. CHAPPELL. Mr. Chairman, will the gentleman yield?

Mr. BOB WILSON. I yield to the gentleman from Florida.

Mr. CHAPPELL. I thank the gentleman for yielding.

Mr. Chairman, will the gentleman state how much moneys are in here for the B–52 conversion, modification?

Mr. BOB WILSON. There is $33 million for the B–52 modification in this bill.

Mr. CHAPPELL. Is it the intent and purpose of this bill to authorize the use of any of these moneys for the purpose of attempting to make the B–52 low level a manned penetrating bomber?

Mr. BOB WILSON. During the testimony in our committee by the Air Force generals who were proposing this it was declared to be considered as a penetrating bomber, the B–52, at least in the few years ahead.

Mr. CHAPPELL. The intent is to authorize the Defense Department to make studies with reference to the B–52 for the role of a penetrating bomber?

Mr. BOB WILSON. For using it as a carrier for the cruise missile and as a penetrating bomber in that regard, yes, it was intended for this.

Mr. CHAPPELL. Will the gentleman state how much money is in here for the study of the FB–111 for the same purpose?

Mr. BOB WILSON. The same purpose is for $20 million for the study alone. The money for the B–52 is actually to go into conversion, that is, planning the initial conversion of the B–52. The money on the FB–111 is solely for the study of the practicality of converting of the FB–111 into a cruise missile-carrying bomber.

Mr. CHAPPELL. Let me see if I understand accurately with reference to the B–52. The $33 million which is in there is for the purpose of conversion, not research and development?

Mr. BOB WILSON. It is actually shown in the procurement portion of our bill under modifications, $33 million.

Mr. CHAPPELL. So really there is no intent to put moneys in here to attempt to make this bomber a low level penetrating one, is there?

Mr. BOB WILSON. To make the B–52 a penetrating bomber?

Mr. CHAPPELL. Yes, sir.

Mr. BOB WILSON. That is part of the conversion. That is the reason for the conversion. It penetrates today, and it will penetrate, according to the Air Force, for many years ahead, into the next decade.

Mr. CHAPPELL. Am I correct in this, that the prime purpose is to initially make the B–52 a cruise missile carrier; is that correct?

Mr. BOB WILSON. The prime purpose of the modifications we are talking about is, yes, to make it a cruise missile carrier.

Mr. CHAPPELL. I thank the gentleman.

Mr. DOWNEY. Mr. Chairman, will the gentleman yield?

Mr. BOB WILSON. I yield to the gentleman from New York.

Mr. DOWNEY. The B–52 right now is a penetrating bomber.

Mr. BOB WILSON. Right.

The additional money requested is for possible conversion of some of the classes of B–52's for Cruise missile penetration and also to be used in a standoff capacity.

Mr. Chairman, the difficulty with the B–52 as a penetrating bomber carrying Cruise missiles, as I see it, is that it has to fly at a very low altitude and it is not built as a low-altitude airplane. It is a very rough low-flying airplane, according to pilots who have tried to fly it down to altitudes of 500 feet or so.

Mr. DOWNEY. Mr. Chairman, if the gentleman will yield further, there is present in the B–52 modification program provisions for some of them to be used in standoff and some of them to effect penetration with a SRAM, is that true?

Mr. BOB WILSON. That is true.

Mr. DOWNEY. With respect to the additional money—and perhaps we are getting in a classified area here—I am not sure, but I believe there is a proposal for the Defense Department to provide some mix-up standoffs and penetrators with respect to the use of the B–52. So I am not sure that the B–52 would have to be used at such low altitudes to deliver Cruise missiles. I think they could be used more in a standoff mode.

Mr. BOB WILSON. The Air Force tells us that the B–52G will be the Cruise missile carrier and the B–52H will be the penetrating bomber. That will be the differentiation between the two.

Mr. CHAPPELL. Mr. Chairman, will the gentleman yield?

Mr. BOB WILSON. I yield to the gentleman from Florida.

Mr. CHAPPELL. Mr. Chairman, I notice that there is some $32.5 million provided for B–52 squadrons, in addition to the $33 million to which the gentleman just alluded.

Is it true that those moneys are in the bill for R. & D. purposes?

Mr. BOB WILSON. This is money that is provided for the new improvements to the old B–52's, and it is to be spent to try to bring them up to speed.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. BOB WILSON. I yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Chairman, I appreciate the gentleman's yielding.

Since we had such a discussion here in the House a few weeks ago about how the upgrading of the B–52 would be a partial substitution for the B–1 bomber, can the gentleman explain to us what this $33 million is going to do in the way of making the B–52's somewhat comparable to the B–1 bomber?

Mr. BOB WILSON. Mr. Chairman, the only way that it would be comparable to

the B–1 bomber, in return for the expenditure of $33 million, is this: This is merely the start of a modernization program or modification of the B–52, as they call it, and this would modify the B–52 to carry the Cruise missile just as the B–1 is intended to do.

Mr. ROUSSELOT. So the B–52 will just carry the Cruise missile; it will not have the other capabilities that the B–1 bomber possesses?

Mr. BOB WILSON. I imagine it will probably serve other purposes. As I say, there is money provided for a penetrating bomber to carry the SRAM and to carry other missiles and bombs in addition to the Cruise missile. The total cost, I am told, is $2.8 billion for modification of the B–52's over the next 10 years.

Mr. ROUSSELOT. Over the next 10 years. So after all the arguments we heard here a few weeks ago in which it was stated one of the alternatives was to somehow modify the B–52, that is accomplished over a 10-year period; is that what the gentleman is saying?

Mr. BOB WILSON. That is correct, over a 10-year period.

Mr. ROUSSELOT. I am wondering what we will do in the meantime.

Mr. BADHAM. Mr. Chairman, will the gentleman yield?

Mr. BOB WILSON. I yield to the gentleman from California.

Mr. BADHAM. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, perhaps I can help to respond to the question asked by the other gentleman from California (Mr. ROUSSELOT).

On page 9 of the report that came with this bill, we have 20.5 millions of dollars that will be used to accelerate by 1 year the completion of an aircraft.

This is under the section entitled "B–52 Squadrons." So presumably that is a B–52 aircraft containing upgraded offensive avionics.

For the enlightenment of the gentleman, updated offensive avionics is that means which takes a high-level bomber and makes it able to penetrate at whatever mode necessary, not stand-off as the gentleman from New York (Mr. DOWNEY) would say, and not to do all these other things, but to try to make a low-level penetrator by adding avionics to it. That results in a penetrator at low level.

If I were the President of the United States, the last thing I would ever do to any citizen of this country is to ask him to fly a B–52 over the Soviet Union at an altitude under 500 feet.

Mr. Chairman, I hope that answers the question of the gentleman from California (Mr. ROUSSELOT).

Mr. ROUSSELOT. Mr. Chairman, if the gentleman will yield further, I think that partially answers the question. But I think then we were misled a few weeks ago when we were told the B–52 could somehow be upgraded and substituted or partially substituted for the B–1 bomber.

Mr. BOB WILSON. Mr. Chairman, this is what the money in the R. & D. program is supposed to do. It is supposed to help the avionics which will make the B–52 more secure in its penetrating mode. They tell us that over the next few years new electronics and electronic countermeasures can be added to the B–52 to give more security to these penetrating programs.

Mr. ROUSSELOT. Mr. Chairman, I am sorry we were so badly misled by some of the spokesmen who said we did not need the B–1 bomber because we would have an upgraded B–52 to take its place.

Mr. DORNAN. Mr. Chairman, will the gentleman yield?

Mr. BOB WILSON. I yield to the gentleman from California.

Mr. DORNAN. I thank the gentleman for yielding. Mr. Chairman, the problem is that the B–52 becomes an entirely new issue now that the B–1 has been nearly destroyed. The commanders of our Air Force SAC wings cannot say publicly, because of their position of trust, as those entrusted with the strategic defense of this country, what their younger pilots can say who fly the equipment or what we in Congress are morally obligated to say.

Last week I flew on a 6–hour B–52 mission, and the young men who are flying these aged, subsonic, 8-engine aircraft they will tell you off the record that this Congress has given them a kamikaze suicide mission if they are ordered to respond to a Soviet first strike. This B–52, once an aircraft without peer, is not fit in the near future to penetrate the Soviet Union and bring the aircrews home.

The morale of our only two FB–111 wings is high. Why? The answer is tragic. I flew the FB–111 2 weeks ago. I asked the crews why they have high morale. Their answer, "Because our wives have some hope of our coming home in this FB–111. All of us flew the B–52 before we came here. That is a suicide mission, but we were willing to fly because that is our job. But we would not have survived and our families knew that."

Mr. Chairman, I think the rest of the time I am in Congress I will carefully monitor what happens to the B–52's aging and keep reminding this House that we denied the SAC crews an aircraft that would have given them a fighting chance.

If the President wants to do away with a manned penetrator, let him say so, but to continue to force this aging airplane, which is beginning its third decade is flat out wrong. To keep putting money into B–52 defensive avionics trying to stretch its survivability beyond reason means that what we are doing is giving American fighting men a mission which I do not think this country has ever given soldiers, sailors, or airmen in 201 years, that is a mission with no hope of survival. The B–52 should be retired soon. Its replacement should be decided by the Congress not the President.

Mr. BOB WILSON. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. PRICE. Mr. Chairman, I yield 5 minutes to the gentleman from California (Mr. CHARLES H. WILSON).

Mr. CHARLES H. WILSON of California. Mr. Chairman, as the House considers this supplemental Defense Authorization bill, I would briefly like to comment on areas of concern.

This bill includes $151.6 million for the additional procurement in fiscal year 1978 of four F–14 aircraft. This increase in unwarranted for a number of reasons.

During the House/Senate conference on the fiscal year 1978 Defense authorization bill, considerable time was devoted to reviewing naval aviation needs, and the different aircraft combination levels necessary for fleet defense and fighter attack roles. At that time, the conferees decided that a production rate of 40 F–14 aircraft in fiscal year 1978 was a rational and sound policy. This decision was based on fleet needs, and also fiscal limitations within the Navy's budget. To quote the House Conference Report, "the Senate conferees pointed out that this year's F–14 procurement plan proposed to accelerate F–14 annual production from the current rate of 36 a year to 60 a year in fiscal years 1979 and 1980, with a buyout of the program in 1981. The accelerated annual procurement of 60 F–14's could create a financial problem in the naval aviation budget which would impact on the Navy's ability to fund the F–18 program as planned. The conferees agreed that the F–18 program is essential to naval aviation and should not be lowered or stretched out. The conferees authorized $755.7 million for procurement of 40 F–14's in fiscal year 1978 with advance procurement funds for 36 F–14's in fiscal year 1979."

That decision of the conferees was based on careful deliberation and should not be revised without additional hearings.

Further, I do not believe that this F–14 increase is germane to the supplemental bill. Aside from the consideration as to what the proper naval aviation mix should be, this supplemental authorization bill is an alleged emergency measure necessitated by the Carter administration's decision to cancel the B–1.

The Secretary of Defense, following the B–1 decision, submitted to the House Armed Services Committee, proposals for accelerating the cruise missile program. These requests were limited to strategic weapons only—weapons, or weapon systems which substitute for the B–1 mission. By definition, the F–14 is not a strategic weapon.

In addition no request for any increase in the F–14 program was requested by the administration when it submitted its request for supplemental funding.

To include $151 million for unrequested procurement violates the spirit, if not the letter, of the Budget Act. Section 402 of the Congressional Budget Act restricts the reporting of any authorizing legislation after May 15, unless emergency conditions exist demanding a waiver of this section. Such emergency conditions are not present at this time to warrant increased funding for the F–14.

The insertion of these additional F–14 aircraft is a mistake, and I oppose it. This increase compromises the congressional budget process, and provides a vivid example of alleged congressional budget reform which is contradicted not by necessity, but by convenience.

Another area of concern involves the administration's apparent commitment to the FB–111H manned penetrating

bomber. The gentleman from Michigan, (Mr. CARR) has circulated a "Dear Colleague" in which he discusses a recent exchange of letters with the President on this subject. If there is a need for a manned penetrator, other than the B–1, the administration should come forward and advocate its development. The President certainly does not advocate such development at this time, or does he?

For well over a decade, we have directed millions of dollars into the development of a supersonic, manned penetrating bomber. The administration maintains that this bomber, the B–1, is not necessary and that its mission can be performed by cruise missiles. Now, they claim that $20 million for research and development of an FB–111H option is desirable.

The administration should make up its mind. If cruise missiles can perform the mission of a manned penetrating bomber, why then does the administration want the FB–111H option? And, if the administration is of the view that an advanced manned bomber is essential to maintaining a healthy defense posture, why not proceed with the most advanced system available, the B–1?

The Congress needs answers on both the FB–111H, and the F–14. While I deeply respect my colleagues on the Armed Services Committee, I find I have no alternative but to oppose these proposals.

Mr. CHAPPELL. Mr. Chairman, will the gentleman yield?

Mr. CHARLES H. WILSON of California. I yield to the gentleman from Florida.

Mr. CHAPPELL. Mr. Chairman, I wonder whether the gentleman can tell us without getting into restricted material what the status of the development of the cruise missile presently is.

Mr. CHARLES H. WILSON of California. I am not able to. Perhaps other members of the committee can give us more information about that.

There is, of course, a lot of doubt as to what type of carrier will be satisfactory to carry the cruise missile.

Mr. PRICE. Mr. Chairman, will the gentleman yield?

Mr. CHARLES H. WILSON of California. Certainly I yield to the gentleman from Illinois.

Mr. PRICE. Mr. Chairman, my understanding is that it has been flown about 22 hours, and the other flight tests that have been taken or planned so far show that the program has been moving along in a very satisfactory way.

Mr. CHAPPELL. Do we have some figure as to their range, made within the capabilities of our technology?

Mr. PRICE. The information we have the range is around 1,800 nautical miles.

Mr. BOB WILSON. Mr. Chairman, will the gentleman yield?

Mr. CHARLES H. WILSON of California. I will be happy to yield to the gentleman.

Mr. BOB WILSON. Mr. Chairman, may I say that the cruise missile has been flown a total of 22 times, and it has been tested, and the tests show that it has a great range and great accuracy, and that it is not as vulnerable as other aircraft flying because it comes in very close to the deck, about 2 or 3 hundred feet above the land or the sea, and follows an erratic pattern that makes it pretty hard to shoot down. It is a real success.

I would hope that the gentleman in his desire to push the B–1, which I endorse, as a matter of fact, I think the B–1 cancellation decision was a mistake, I would hope that he should not try to shoot down the cruise missile because it is the most important new weapons system development which we have come up with in the past 10 years or so. It has a great future. The NATO countries are interested in the cruise missile. It has a real possibility if we will allow it to be developed further.

Mr. CHARLES H. WILSON of California. The problem I have with the legislation, as I stated, is that I do not feel there is an emergency, and I do not think it has to be taken up in this manner.

Mr. PRICE. Mr. Chairman, I yield 3 minutes to the gentleman from New York (Mr. DOWNEY).

Mr. DOWNEY. Mr. Chairman, I thank the gentleman for yielding me this time.

The problem with the supplemental authorization is that it is not exactly what the President had in mind with respect to the strategic bombers.

One of the things that the Department of Defense had requested was a $50 million authorization for the study of what my friend the gentleman from California (Mr. WILSON) affectionately calls the "Fat Albert," which is the wide-body Cruise missile carrier. It is conceivable, and my friend the gentleman from California has been right before, that the wide-body Cruise missile carrier is not an effective way for our manned bomber force to proceed in the future.

It would seem to me that we would at least want to provide the Department of Defense the option of looking at this as an alternative to yet the FB–111 or the B–1.

If I am not mistaken, in the first few weeks that I was in Congress and on the Committee on Armed Services, we were privy to a study called the joint strategic bomber study that went into some detail and made some very disparaging comments with respect to the FB–111. And it did not, in that joint strategic bomber study take a look at the wide-body cruise missile carrier.

It is clear that the Department of Defense would like $50 million to lease a DC–10 or a 747 to take a look at the wide-body option. The Committee on Appropriations, as I understand it, has provided $5 million for a study. Later on I will offer an amendment to match that $5 million for fiscal 1978, in the authorization bill, just for a paper study of the wide-body cruise missile carrier. That study ought to take a look at some of the options we have been talking about here, and the ECM requirements and what other requirements there might be, and will look at some of these other issues. But I would ask the Members who are here to give it some consideration so that the Department of Defense would have an option because they had not looked at it before. As a matter of fact, they have taken a very, very hard look at the FB–111 and I for one would have a very hard time understanding restudying that option.

Mr. MILFORD. Mr. Chairman, will the gentleman yield?

Mr. PRICE. I yield to the gentleman from Texas.

Mr. MILFORD. Mr. Chairman, the most immediately appealing argument put forward to support continuing the B–1 is that $3.2 billion has already been spent on the B–1. This is, of course, a correct statement of fact. Some would contend, however, that this is not a truly valid argument for the continuance of the B–1.

I bring this up because if we are going to talk about costs already sunk in an aircraft, we have to compare the $3.2 billion spent on the B–1 to the $8.7 billion spent on the F–111 program.

Of course the response can be made to this argument that we got over 500 aircraft for the F–111 expenditure and we have gotten only four aircraft for the money spent on the B–1. But is this any answer? In both cases the money has been spent and in addition to getting the F–111's we also gained a great deal of technical knowledge. As a matter of fact more technical knowledge has been gained in the case of the F–111 than is usually the case in an aircraft program because there were several different models of the F–111 manufactured and with each one furthering our technical knowledge.

So should not we view this matter in its simplest terms: almost three times as much money has been spent on the various F–111 aircraft, including the FB–111's, than has been spent on the B–1. The fact that we have gotten four aircraft for the $3.2 billion spent on the B–1 has only an apparent persuasiveness rather than a real one.

F–111 aircraft have now flown almost 700,000 hours. The B–1 will still have to spend $1½ billion plus before its development is complete as against the $380 million for the two prototypes of the FB–111H.

But here today we are not talking about even that $380 million, we are deliberating only about $20 million which will permit the Department of the Air Force to make a study of the FB–111 to insure that we not find ourselves in a position a few years from now where no penetrating strategic bomber option is available to us.

Also, since no one can now believe that it is remotely possible that all 244 B–1's could ever be built it should be borne in mind that if only 86 were built, a number that has been talked about by its proponents, each B–1 would cost in the order of $172 million. This would be clearly unacceptable.

It has always been a fundamental principle in the development of weapon systems that modifications and improvements of existing systems be continued until obsolescence begins to set in requiring the start of a new system.

The F–111 has very great growth potential, the first major exploitation of which would be the FB–111H. This is a tried and true method and certainly in this case very much less expensive than proceeding with the B–1.

Mr. DICKINSON. Mr. Chairman, will the gentleman yield?

Mr. PRICE. I yield to the gentleman from Alabama.

Mr. DICKINSON. Mr. Chairman, I rise to support the committee's action on the President's supplemental request and to express a concern about the apparent lack of thought that went into the President's B–1 decision.

As a representative of the Research and Development Subcommittee of the House Armed Services Committee, I traveled to the west coast in August to review this country's cruise missile programs. I visited the Boeing Co., the General Dynamics Corp., and Pacific Missile Test Center. As you probably know by now, Boeing and General Dynamics are the companies that will engage in the cruise missile competition mandated by this supplemental request.

Based on the information I received on this trip, I am convinced the long-range air-launched cruise missile will be successfully developed. The technical risks associated with its development appear to be low. There may be risks associated with the schedule and cost. However, if this country is dedicated to developing these unmanned aircraft that can fly hundreds of miles with pin-point accuracy, I have every confidence we can do so.

My major concern with the cruise missile program is not based on technical matters but rather with diplomatic concerns. I believe our SALT negotiators are about to strike a bargain with the Soviets wherein severe range restrictions are imposed on the missile. This, in my view, will severely limit the missile's utility and will make it easier for the Soviet's to defend against. To me restricting the range on the cruise missile makes about as much sense as building a submarine and then not allowing it to submerge. I must admit the logic in this fails me.

Mr. Chairman, if I might, I would like to change subjects and talk briefly about the direction, or should I say, lack of direction in our strategic programs. I am perplexed, as I know many of my colleagues are, by the President's B–1 decision and the subsequent attempt by the Air Force to resurrect the F/B–111 program.

At the time the President made his decision it was my understanding the role of the manned penetrating bomber would eventually be phased out in favor of these tiny pilotless cruise missiles we have all heard so much about lately. However, the Air Force continues to tell us that the role of the manned bomber is essential in their strategic planning. So much so that they have concocted a plan which, if approved, would add 165 stretched F/B–111's, the so-called F/B–111H, to the Strategic Air Command inventory.

According to Gen. Alton Slay, Director of Air Force Research and Development, the F/B-111 H will fly as far as the B-1, as fast as the B-1, as low or as high as the B-1, and will penetrate as effectively as the B-1. General Slay indicated that the primary advantage the B-1 has over the F/B-111 H is that it will carry twice as many weapons. Put another way, it only takes 82 B–1's to do the job of 165 F/B–111 H's. On a cost basis, however, the B-1 force would cost an estimated $10.4 million whereas the F/B–111 H force would only cost about $7 billion. This is where I get very confused, Mr. Chairman. For all these years the Air Force has been telling us there is no alternative to the B-1 based on cost or effectiveness. Now that the B-1 is apparently dead, at least in the Air Force's view, they tell us the F/B-111 H is not only as effective as the B-1, but costs less.

Mr. Chairman, I think we are getting the bum's rush on this one. The Air Force is grasping at straws. Their B-1 rug has been pulled out from under them and they are now desperately trying to save the manned bomber with, as my good friend Bob Badham calls it, the "Son of TFX."

I think the administration and this Congress needs to get its act together, Mr. Chairman. We should certainly expedite the development of the long-range air-launched cruise missile, but I think we also need a manned penetrating bomber. There is absolutely no question that a mixed force of manned penetrating bombers and stand-off cruise missile carriers gives the Soviets a much greater problem to cope with. This cannot help but lead to greater deterrence.

To date, Mr. Chairman, we have spent over $3.9 billion on the B-1 program. I repeat, over $3.9 billion. If we need a new manned bomber, and I believe we do, the B-1 is the only way to go. It is ready for production. It is not a paper airplane. We know how much it will cost and what its capabilities are. I am sympathetic with the Air Force's plight. They need a new system, but not the F/B-111 H. When all the costs are wrung out on the F/B-111 H—the research and development, the additional tankers that will be needed, the additional crews, the operations and maintenance and so forth, this option will surely be more costly than the B-1.

In summary, Mr. Chairman, while I firmly support the development of long-range Cruise missiles, I believe that this country needs a follow-on manned penetrating bomber. It is clear to me that the B–1 is our only reasonable choice.

Mrs. SCHROEDER. Mr. Chairman, I rise in support of the amendment. I rarely appear before this House advocating the addition of money to defense bills, but in this particular case the investment of $5 million could yield significant dollar savings in the long run if the concept of the wide-bodied Cruise missile carrier bears the fruit I believe it will in terms of cost effectiveness.

It is important to place what this money will be used for into some sort of perspective. Simply put, the funding is being sought to study the concept of a wide-bodied aircraft such as the Boeing 747 or the DC–10 as a cruise missile carrier. I reemphasize the fact that this money is for the study of a concept. It in no way commits us to production.

There are many questions that such a study needs to address including: How many missiles of what range can be carried on the wide-body? To what extent and at what cost can the carrier be protected by ECM? What problems are associated with monitoring and controlling a large number of nuclear weapons? What would the tanker requirements be? What are the strategic and diplomatic benefits of the wide-body's longer airborne endurance? Only if we authorize and appropriate this money will we be able to address these questions satisfactorily and reach any conclusion as to the relative merits of the wide-bodied launcher.

The Armed Services Committee would, however, have us kill the opportunity to even study this option. It is no secret that many members of this committee are numbered among the B–1's biggest backers. They have placed $20 million in this bill to initiate studies related to the development of the FB–111H. The FB–111H is a penetrating bomber different only in its clothing from the B–1. The concept of the penetrating bomber has already been judged to be defective, yet the committee is unwilling to spend one-quarter as much to study an entirely new concept.

The committee has feigned some interest in the wide-bodied concept noting in the committee's report that funding in line items for the Air Force bomber penetration program and the Defense Advanced Research Projects Agency contains money for studying wide-bodied cruise missile carrier concepts. In truth this money is pointed toward the potential development of an entirely new generation of dedicated aircraft for the 1990's and beyond rather than the utilization of existing, off-the-shelf wide-bodied aircraft in the 1980's. The DARPA money is oriented toward even more futuristic basing modes.

This is not the first time the Armed Services Committee has tried to force alternatives upon the House through the early elimination of options. The committee had to be dragged kicking and screaming into allowing the Navy even to study the concept of the CVV, or midi-sized carrier. Twice the committee refused to allow the Navy to reprogram $6 million to study that concept. As in the situation we face today that money represented no commitment to the production of the CVV.

The money was to go to the study of the concept, to an assessment of the cost-effectiveness of various alternatives to putting air power to sea. Behind that behavior lay an attempt to preserve the *Nimitz*-type carrier as the only viable option. Now we are facing an attempt by the committee to kill alternatives to the B–1. During our hearings on this bill the prospect was even raised of a future proposal to reincarnate the B–1 in the role of a standoff cruise missile carrier.

There is no question but that the Armed Services Committee should be involved in the choice of options. As the authorizing committee its job is to evalu-

ate concepts and competing weapons systems alternatives necessary to perform required military missions. I have yet to figure out, however, how the committee has been able to divine the most cost-effective options in the near total absence of relevant information. The committee report on this bill has nearly declared the wide-bodied aircraft to be neither cost or performance effective before the concept has even been thoroughly examined.

The administration originally had requested $90 million to purchase, modify, and test a wide-bodied aircraft as a Cruise missile carrier. That request was later revised to $50 million when a decision was made to lease an aircraft rather than purchase one. I have been briefed by the Air Force on their proposal and there may be some reasonable disagreement on their ability to wisely utilize the $50 million in the suggested time frame. One of the unfortunate effects of the Air Force's single-minded advocacy of the B–1 over the years has been the tendency to suppress competing alternatives. The Cruise missile carrier aircraft (CMCA) alternative has only recently seen the light of day. There is no question that the proposal put foreward by DOD was whipped together on short notice.

With a cut to $5 million planned program objectives would be delayed approximately 6–8 months. The $5 million would allow the Air Force to procede with its planned concept study but postpone the actual aircraft development, modification, and testing. I believe this delay is tolerable. What is at stake on this amendment, however, is the potential killing of the examination of the wide-bodied concept, and I find that intolerable.

I feel very strongly that it is a serious mistake not to examine all serious alternatives. I do not intend to oppose the money proposed for the FB–111H for that reason, although I feel sure it will fall for the same reasons as the B–1.

I ask the House to authorize the $5 million to study the CMCA concept, an amount equal to that proposed by the Appropriations Committee. Sound decisions follow only from a competitive examination of all alternatives. I am willing to let the FB–111H advocates have their day in court. I regret that those who oppose the CMCA do not have a similar confidence in their beliefs.

Mr. BEARD of Tennessee. Mr. Chairman, I rise in support of H.R. 8390, the Department of Defense Supplemental Appropriation Authorization Act. In particular, I want to take this opportunity to commend the distinguished Chairman of our Committee on his excellent leadership. He has succinctly put in perspective the national security problems we, as a nation, face today. His recent letter to the President, in which he expressed his concern over the state of our national security and the adverse military trends we face vis-a-vis the Soviet Union, reveal why our Committee is currently undertaking a comprehensive review of the present and future state of U.S. strategic forces. These hearings are scheduled to be concluded prior to the submission of the fiscal year 1979 defense budget, and they will define the major issues which will require the attention of our Committee and the Congress in fiscal year 1979.

It is the majority of the Armed Services Committee viewpoint that the President's B–1 recommendation cannot be considered in isolation—that is the proposed cancellation of this program will dramatically degrade our strategic capabilities from projected levels in the next decade. Visits by members of the Armed Services Committee to SAC revealed that it would take many thousands of cruise missiles to compensate for the loss of this system—many more than we could ever hope to deploy. Thus, the President's B–1 decision raises fundamental questions about U.S. strategic requirements and capabilities, and if we are to take our constitutional responsibility to provide for the national security and common defense seriously, we must thoroughly review the impact of the President's recommendation. This is particularly true because of the ongoing SALT negotiations. A major U.S. proposal at SALT would, in fact, impose significant restraints on the capabilities of the cruise missile, the President's alternative to the B–1 bomber program.

Indeed, I think our hearings raised reason for serious concern about the apparent lack of coordination between U.S. strategic weapons' decisions and our SALT proposals.

In my opinion, one of the most critical U.S. SALT efforts relates to the United States maintaining a highly capable and credible retaliatory U.S. force structure. In particular, there is a need for the United States to maintain an adequate time urgent hard target capability which would deny the Soviets any illusion that they could "fight and win" a nuclear war. The committee's visit to SAC confirmed that the Soviet is posturing his forces for a "war-fighting, war-winning" capability.

Through a diverse offensive strategic force capability he is seeking the ability to neutralize a major portion of U.S. strategic forces. In particular, he seeks to destroy the U.S. silo-based ICBM, and a significant portion of U.S. submarines and bombers. Thus, as Secretary Brown has pointed out, the United States would be left with five out of six U.S. retaliatory warheads being carried by U.S. submarines in the next decade. These weapons are ineffective against Soviet ICBM silos, and other hardened targets. Indeed recent non-Government and Government analyses have concluded that the Soviet civil defense plan could reduce Soviet casualties from a U.S. retaliatory attack to levels less than they suffered in World War II. Thus, if we are to deny the Soviets any illusion that they could ever hope to gain advantage from a nuclear attack, we must maintain a diverse strategic force structure. In particular, we must retain an ICBM in a ratalitory role because it is the only U.S. weapon that can be used against the total spectrum of Soviet targets. For this reason, also, it is my belief that we needed the B–1. With its superior prelaunch survivability and penetration capability the B–1—with its weapons mix of SRAM and ALCM—would have provided a potent weapon against an elaborate Soviet air defense system and a hardening, expanding, and dispersing Soviet target base.

The Committee's concern over the state of our national security was expressed in the acceptance of an amendment to the bill which was offered by the Chairman of the Committee. This amendment was for "ICBM Initiatives," and it authorizes $60 million under the category of Air Force research, development, test, and evaluation.

The authorization had a twofold, although interrelated purpose.

A primary U.S. effort at SALT has been to deny the Soviets the capability to destroy a large portion of the U.S. silo-based ICBM force in the next decade. Yet no matter how laudatory this objective is, I have found no responsible person of technical background who believes our SALT proposals would accomplish this objective. For this reason, a part of the $60 million authorization was proposed for ABRES, a triservice R. & D. program. It is the majority of the Committee's feelings that ABRES, which represents a significant portion of U.S. investment and expertise on advanced ICBM's, could meaningfully contribute to the U.S. SALT negotiating position. Additionally, the Committee felt that increased funding in advanced ICBM technology would reduce the risk associated with the proposed fiscal year 1979 full grade development of the MX missile. The mobile MX ICBM, or more accurately, the multiple aim point system, offers the United States the present most realistic way to assure a survivable land-based ICBM system.

Only last month I received a letter from Dr. William Perry, Director, Defense Research and Engineering, in response to a letter I had written to the President which stated that:

> Based on our intelligence estimation for the mid-1980's, the Minuteman force in silos that would survive a Soviet first strike could be unacceptably low.

During our committee's hearings on the B–1 supplemental, Dr. Perry also testified that we should be prepared to accelerate the MX program in either fiscal year 1979 or fiscal year 1980 should the Soviet threat to U.S. ICBM's not diminish. In fact, since the submission of the fiscal year 1978 budget, a revision in U.S. intelligence estimates has revealed that present Soviet ICBM systems pose a more significant threat than previously realized. The improvements necessary to give these systems a credible first strike against the U.S. silo-based ICBM force are such that they probably could not be verifiably restricted by a SALT agreement. The additional money provided by the committee for MX, therefore, merely provides a beneficial hedge and strengthens the U.S. options in defining the future of the MX system.

Mr. Chairman, again I commend the chairman for his foresight and I urge acceptance of this bill and the retention of the funding for "ICBM initiatives."

Mr. PRICE. Mr. Chairman, I have no further requests for time.

The CHAIRMAN. Pursuant to the rule, the Clerk will now read by title the

amendment in the nature of a substitute recommended by the Committee on Armed Services now printed in the reported bill as an original bill for the purpose of amendment.

The Clerk read as follows:

H.R. 8390

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Department of Defense Supplemental Appropriation Authorization Act, 1978".

TITLE I—PROCUREMENT

SEC. 101. In addition to the funds authorized to be appropriated under title I of the Department of Defense Appropriation Authorization Act, 1978, funds are hereby authorized to be appropriated during fiscal year 1978 for the use of the Navy and the Air Force for procurement of aircraft and missiles, as authorized by law, in amounts as follows:

(1) For aircraft: for the Navy, $151,600,000; for the Air Force; $33,000,000.

(2) For missiles: for the Air Force, $64,000,000.

Mr. PRICE (during the reading). Mr. Chairman, I ask unanimous consent that title I be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The CHAIRMAN. Are there any amendments to title I? If not, the Clerk will read.

The Clerk read as follows:

TITLE II—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

SEC. 201. In addition to the funds authorized to be appropriated under title II of the Department of Defense Appropriation Authorization Act, 1978, funds are hereby authorized to be appropriated during fiscal year 1978 for the use of the Navy, the Air Force, and the Defense agencies for research, development, test, and evaluation, as authorized by law, in amounts as follows:

(1) For the Navy, $5,886,000.

(2) For the Air Force, $306,500,000.

(3) For the Defense agencies, $15,000,000.

SEC. 202. (a) Section 202(a)(2) of the Department of Defense Appropriation Authorization Act, 1978 (Public Law 95-79), is amended by striking out "before January 1, 1980" and inserting in lieu thereof "not later than July 1, 1981".

(b) The amendment made by subsection (a) shall take effect October 1, 1977.

Mr. PRICE (during the reading). Mr. Chairman, I ask unanimous consent that title II be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

AMENDMENT OFFERED BY MR. LLOYD OF CALIFORNIA

Mr. LLOYD of California. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. LLOYD of California: Page 3, line 17, is amended by striking "$306,500,000" and inserting "$286,500,000".

Mr. LLOYD of California. Exactly what would my amendment do? In essence, what it does is it strikes those funds for work on a rebuilt F-111 fighter, rebuilding it into a penetration bomber which is called the FB-111H.

This spring we were told that we did not need a B-1 bomber, and we were told that the option was simple and the option was clear: What we needed was a cruise missile. After that we were asked a little later on to consider the potential of a penetration bomber. So what really has occurred in all of this is that we were asked to give up the penetration bomber because it was a B-1, and now we are being asked to consider a new penetration bomber which is built on the basic airframe of the F-111 and has perhaps less than half the capability of the B-1. That is what the whole thing is about.

But I think that we have to recognize that this is in reality a backdoor approach. By striking the funds for the FB-111 we are sending a message that is clear and consistent, and it will be to those across the Potomac over there that what we want them to do is to be honest and fair with this legislative body and ask for what they really want.

I can give the Members the options in all of this. What really has gone on is that if we do not want the B-1, then we ought to have the B-52. That discussion has occurred earlier in discussion on the rule. The B-52's are, indeed, old, and they are tired, and the crews who fly them know clearly that if they are to take those airframes into combat, they have a very good chance that they will fail. In this option of a B-1 or cruise missile, something that seems to be missing is that we have had cruise missiles not only in our inventory but also in the historical armaments of the world.

The V-1 in World War II was essentially a cruise missile. Granted that it was very basic and perhaps a little crude, but so also were the defense systems that were deployed against it, and very frankly the defense systems were brought quickly into line so whereas the V-1 capability was almost 100 percent at its inception, by the end or almost at the end of the war we had reduced the strike capability to less than 10 percent. So that is an historical record which is before us.

Let us talk about some of the other options. Let us talk about hanging the cruise missiles on fighter aircraft. That is not all bad. It can be done. As a matter of fact, we can launch cruise missiles from anything. We can launch them under the water; we can launch them in the air; and we can launch them off the back of a truck. There is no problem in doing that.

The key factor in the whole thing is: Are we close enough to address the targets that we wish to address from wherever we happen to launch the missiles?

All of us have heard how we can reach out over the many miles, and if indeed that will work, let us say we are going to be able to launch 3,000 nautical miles, we really do not need an F-111H, and probably not even a B-1, and not anything else. We have solved our problem.

But it turns out we are already talking about limiting this weapons system, and therein lies the problem. If we limit the weapons system, then we have to have some way to deliver it. And in delivering it the factors come down to the basics of: Is the FB-111H the best possible penetration1cruise missile carrier that we can have? And the answer is clearly "No." Clearly the B-1 is the best.

The CHAIRMAN. The time of the gentleman from California has expired.

(By unanimous consent, Mr. LLOYD of California was allowed to proceed for 2 additional minutes.)

Mr. LLOYD of California. Mr. Chairman, in the options that have been presented to us, clearly the best option is the B-1, if indeed we need a penetration bomber. Now what we decided a few months back was that we did not want a penetration bomber. Well, if we do not want it, let us stick to it.

But if we are going to have a penetration bomber, then for goodness sake, let us pick the very best air frame that we have. The most modern aircraft weapons system that we have for the penetration bomber is the B-1. And then if we are going to carry the cruise missiles in a penetration air frame, let us go back to the B-1. For that reason I am asking the Members to delete what I consider to be a second-level penetration bomber. If the other fails, let me say clearly that I will come back and support the FB-111H, but not until we have at least looked at the very best.

Mr. MILFORD. Mr. Chairman, will the gentleman yield?

Mr. LLOYD of California. I yield to the gentleman from Texas.

Mr. MILFORD. Mr. Chairman, I thank the gentleman for yielding.

The CHAIRMAN. The time of the gentleman from California has expired.

(On request of Mr. MILFORD, and by unanimous consent, Mr. LLOYD of California was allowed to proceed for 2 additional minutes.)

Mr. MILFORD. Mr. Chairman, I would like to say to my friend, the gentleman from California, that I agree with him part of the way. The very best weapons system would be the B-1, the type we are looking for if we want a penetration bomber. The B-1 is the best, and if the gentleman will introduce an amendment to bring back the B-1 I will vote for it and I will stand up with him to ask support for it.

But we have learned here sometimes that we cannot get everything we want. Will the gentleman agree that somehow if we do not get the B-1 back, the next best thing we can do is to take the stretch FB-111?

Mr. LLOYD of California. I have to answer "yes." The gentleman is correct. But I think we have got to try to go back and get the B-1 before we commit ourselves to something of less capability.

Mr. MILFORD. I will join the gentleman from California in trying to bring back the B-1, but we have to face the issues we have on the floor, and it seems to me the FB-111 is a good insurance policy at this time.

Mr. LLOYD of California. The thing is, I do not have the option to bring back the B-1. I only have an option to take

money out, not because I do not want the FB–111.

But because I think we are out of order in the thing right now, we ought to consider first things first. Because of that, I am trying to clear the board so that clearly we can make it. Let us go up or down on that as we feel, but let us consider the FB–111H.

Mr. DICKINSON. Mr. Chairman, will the gentleman yield?

Mr. LLOYD of California. I yield to the gentleman from Alabama.

Mr. DICKINSON. Mr. Chairman, let me say that for several years I have been one on the committee that has resisted the effort on behalf of the Air Force, or whatever the agency is, to take the money out of the F–111 and keep the line open so that we have an alternative, the same thing the gentleman from Texas is talking about; but we have got to the point now where we have approximately $4 billion in sunk costs. We are not talking about taking an existing line or an existing plane. We are talking about starting with entirely new planes built on old concepts. For that reason I have had to abandon the idea of keeping the option open and saying we do not have the same viable option we had in the past, because when we consider the additional costs, the on-target costs across the board, it is another thing.

The CHAIRMAN. The time of the gentleman from California has expired.

(At the request of Mr. MILFORD, and by unanimous consent, Mr. LLOYD of California was allowed to proceed for 2 additional minutes.)

Mr. DICKINSON. Mr. Chairman, will the gentleman yield further so that I can just finish the sentence.

Mr. LLOYD of California. I yield to the gentleman from Alabama.

Mr. DICKINSON. It is for that reason I feel constrained at this point to support an amendment that will take out the money at this point, at least for the stretch version of the F–111, because we are not talking about the same situation that we were in 3 years ago when I voted against the wishes of the Air Force trying to keep the line open for the same reasons the gentleman mentions.

Mr. MILFORD. Mr. Chairman, will the gentleman yield?

Mr. LLOYD of California. I yield to the gentleman from Texas.

Mr. MILFORD. Mr. Chairman, again I have to sharply disagree with the gentleman from Altbama. The stretch–111 is a second choice; but what I fear is if we vote for the gentleman's amendment and get it kicked out, then we lose both the B–1 and the stretch–111 bomber. Then we have no penetrating weapon of any kind.

Let us defeat the amendment and bring the B–1 in head-on.

Mr. BURLISON of Missouri. Mr. Chairman. will the gentleman yield?

Mr. LLOYD of California. I yield to the gentleman from Missouri.

Mr. BURLISON of Missouri. Mr. Chairman, I would like to say that the testimony of the Secretary of Defense and the testimony of Dr. Perry, the R. & D. man at the Department of Defense, is that we will retain the B–1 option for 2 or 3 years, so it is at least that period of time before we are without the option of the B–1.

Mr. CHARLES H. WILSON of California. Mr. Chairman, will the gentleman yield?

Mr. LLOYD of California. I yield to the gentleman from California.

Mr. CHARLES H. WILSON of California. Mr. Chairman, can the gentleman from Missouri tell me how we retain the option, if the company closes down? Unless planes are built, five or six are built, the company cannot stay open. In order to keep them open for 2 or 3 years we have to continue with the additional planes for the test program.

Mr. BURLISON of Missouri. Mr. Chairman, will the gentleman yield further?

Mr. LLOYD of California. I yield to the gentleman from Missouri.

Mr. BURLISON of Missouri. Of course, it would be more expensive to start in with the program again. As I say, Secretary Brown and Dr. Perry testified to the facts just related. I do not recall the testimony as to the additional costs provided the option is exercised at a later date.

Mr. CHARLES H. WILSON of California. Mr. Chairman, will the gentleman yield further?

Mr. LLOYD of California. I yield to the gentleman from California.

Mr. CHARLES H. WILSON of California. Mr. Chairman, I do not understand how it can remain viable, because there is no other aircraft Rockwell has. That is the only thing they have been building and unless they can continue with the other two planes, they are out of business.

Mr. DOWNEY. Mr. Chairman, will the gentleman yield?

Mr. LLOYD of California. I yield to the gentleman from New York.

Mr. DOWNEY. Mr. Chairman, if you go back and decide to build the B–1 in 2 years or 3 years, does the gentleman feel that the Rockwell Co. would refuse to build the B–1?

Mr. LLOYD of California. No, but the fact remains it is much more expensive to do it in 2 or 3 years.

Mr. DOWNEY. Mr. Chairman, if the gentleman will yield further, the gentleman from Missouri conceded there is an option; it would be more expensive, but no one is discussing that.

Mr. WRIGHT. Mr. Chairman, I rise in opposition to the amendment. You may think it natural that I would oppose this amendment. I would be expected to for parochial reasons alone. The FB–111 was developed in my area and if it were to be built again, probably the major part of it would be rebuilt there. But if that were the only reason, it would not be worth even $20, let alone $20 million.

This $20 million was recommended by the Air Force as a bit of necessary and relatively cheap insurance against what might happen in the future.

I do not know what is going to happen to the B–1; none of us knows what is going to happen to the B–1. I doubt very much if the Congress, in the ultimate analysis, will be able to force the President to continue production of the B–1. What is at stake is whether or not this Nation will have any hope of a penetrating bomber capability if the B–1 goes down.

For 25 years, our deterrent has rested upon the triad of bombers, land-based missiles, and submarines. It has been effective. Now, we are told that we can do without the bombers; that penetrating bombers can be replaced by an entirely new concept of aerial launching pads lobbing in cruise missiles from outside enemy territory.

That is an entirely untried concept. There has never been a test of a cruise missile of the range that would be required. And nobody has ever explained what would keep enemy aircraft from intercepting these aerial launch pads, the B–52's or the 747's, and shooting them down even before they could launch their missiles. I would hate to be a pilot testing that idea in actual combat.

There is serious room for doubt that this concept will work. So it seems to me incumbent upon us to keep alive any option that we can to maintain the kind of deterrent that the penetrating bomber has given us all these years, and can give us in the future. Obviously, it is not the B–52. Most of the B–52's are older than the pilots who are flying them. The plane is subsonic, it is a big target. So I think these are valid reasons why, if we are not to have the B–1, this $20 million is good and necessary insurance, as the Air Force believes.

Let us look at the capability of the FB–111. It will not be able to do everything the B–1 is designed to do, but it can do most of the things, and for about one-third the unit cost.

The FB–111 can carry 15 weapons, including cruise missiles, farther than the B–1 can carry its 24, with one aerial refueling in each case.

Without any aerial refueling, it can carry a conventional bomb load 5,700 nautical miles, or about 6,600 ground miles. From bases in England, it could provide substantial target coverage without a tanker.

It is more fuel efficient than either the B–1 or the B–52.

And finally, it is a proven weapons system. It has penetrated heavily defended enemy air space over Vietnam with satisfactory survival statistics, five times better than those of the B–52. For the last 2 years it has absolutely runaway with all the honors in the SAC-wide bombing competition. The FB–111 is far from an untried concept.

I am not trying to suggest that the FB–111 is the only answer. I do not think it is. I do believe that it is a viable option to keep alive. It may be the best and cheapest of all the available options. Certainly we ought not to destroy this option just so the House would be forced to buy the B–1 on the grounds that then there would not be any other option for a penetrating bomber. That is a dog-in-the-manger attitude. It does make sense to keep alive the $20 million, the possibility of a less expensive alternative in

case the B–1 goes down, so that we do not face the absolute certainty of going into the 1980's without any penetrating bomber capability.

It seems, for those reasons, that we would be wise to reject this amendment, to follow the advice of the Air Force, the forceful suggestion of its Chief of Staff, and allow this $20 million to be invested in testing to see if indeed, in the future, it would be practical to build the stretched version.

Mr. BURGENER. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. The time of the gentleman from Texas (Mr. WRIGHT) has expired.

Mr. WRIGHT. My time has expired. If I could ask for 2 additional minutes, I would be glad to yield to the gentleman.

(By unanimous consent, Mr. WRIGHT was allowed to proceed for 2 additional minutes.)

Mr. WRIGHT. I yield to the gentleman from California (Mr. BURGENER).

Mr. BURGENER. Mr. Chairman, I would like to associate myself with the remarks of the gentleman from Texas (Mr. WRIGHT).

Mr. Chairman, I believe we are asked to guess a little bit on what the President's motivation was in cancelling the B–1, and I strongly support that, as I think the majority of the Members do. But my guess is that it was because of the cost. That is my guess. Not because it is not a good weapon and not because it is not needed.

So I would hope that this option could be kept open in the interest of the defense of this country.

Mr. Chairman, an important aspect of the overall issue of manned bombers has been obscured or misunderstood throughout recent discussions. Many perceive the question to be a decision now on either the B–1 or the FB–111H. That is not the issue.

The issue is how best to preserve a manned penetrating bomber option for the mid-1980's. B–52's will perform that mission over the near term. The unknown is whether or not they will continue to be effective in the threat environment beyond that point, and whether a more capable—more survivable—bomber will be needed.

From all the testimony received by the Congress in recent weeks, it is clear that the advent of the cruise missile has placed a new complexion on our strategic force structure. Many of the targets once planned for the B–1 will now be covered by the cruise missile. Another important effect of the inclusion of the cruise missile in the force structure is that the load requirement of the penetrating bomber is lessened, thereby making the FB–111 more attractive for this mission. Also the fact that the United States has already invested some $8 to 9 billion in the F–111 program seems to be a practical reason for pursuing as much growth potential as possible out of this modern, high performance operational system.

The essence of good planning, particularly concerning the vital strategic capability of the United States, is to hedge against any contingency. It is for that reason that so many feel so strongly that a manned penetrator is not something they are willing to concede as unnecessary, until that question is much clearer than it is at this time.

Therefore, keeping the most viable option open at the lowest cost, for an existing aircraft which, when modified, will meet the requirements of the mission is the only judgment to be made and that is the FB–111H.

No one denies that the FB–111H will meet the requirements of the bomber mission. It is undeniably less expensive to develop, to procure, and to operate. Viability—the assurance that an affordable option, one that can be defended in Congress and with the public, will in fact be available if needed, must be judged in favor of the FB–111H. The cost of maintaining the option is crucial to the question of its viability. The $20 millon requested by the USAF in the 1978 supplemental budget is only for protecting the option to look further into the feasibility and advisability of modifying the FB–111 for the future.

Mr. WRIGHT. I thank the gentleman for his remarks.

Mr. LLOYD of California. Mr. Chairman, will the gentleman yield?

Mr. WRIGHT. I yield to the gentlemen from California.

Mr. LLOYD of California. I thank the gentleman for yielding.

Mr. Chairman, I would point out to the gentleman from California, however, that, in the cost, one of the things we have to accept is that we have already spent $4.2 billion, and that is down the drain, on the B–1. So if we start out with the B–1 at this point, in cost, we will find it is a very economical investment, compared to any other option, including the FB–111H which carries really only about one-third of the total payload. In fact, I think it is less than that. And it does not have the same performance figure.

Mr. WRIGHT. Mr. Chairman, if the gentleman would permit a response at this point, I think the gentleman is relying upon invalid statistics. Air Force authorities have told me that it will carry more than one-half the payload at about one-third the unit cost. I am not arguing about the B–1. That is not the issue here. If the gentleman wants to argue about that, we will argue about that on another day. I am saying that is an option capable of keeping alive the possibility of a penetrating bomber capability if we lose the B–1.

Mr. DAVIS. Mr. Chairman, will the gentleman yield?

Mr. WRIGHT. I yield to the gentleman from South Carolina.

Mr. DAVIS. I thank the gentleman for yielding.

Mr. Chairman, the gentleman from California brings up the safety record. Maybe we should keep this clear. I have some statistics here.

THE CHAIRMAN. The time of the gentleman from Texas (Mr. WRIGHT) has expired.

(On request of Mr. DAVIS, and by unanimous consent, Mr. WRIGHT was allowed to proceed for 2 additional minutes.)

The F–111, in its various versions, has now flown almost 700,000 hours and still has, by a large measure, the best safety record of any modern high-performance combat aircraft.

I have been sure that someone would bring up on the floor today the fact that there have been three recent F–111 accidents, one in Germany, one in Australia, and one here in our own country. These accidents are indeed most unfortunate and no one regrets them more than I. They do not, however, change the fact that the safest combat aircraft in our inventory is still the F–111 and the FB–111.

With no intention whatsoever of criticizing any other of the aircraft in our inventory, I would like to give a few examples comparing the accident numbers for F–111 as against some of our other combat aircraft.

Type aircraft	Number of accidents
F–100	446
F–105	159
F–106	94
F–104	196
F–101	152
A–7	95
F–102	174
F–4	119
F–111	66

I want to repeat that in citing the number of accidents of aircraft other than the F–111, I do not intend any criticism, I merely want to state the facts. I think everyone will agree that it is only by comparison, fair comparison, that we can arrive at a conclusion as to how "safe" one aircraft is as compared to other aircraft in our inventory.

The F–111, I repeat, is the safest combat aircraft in the inventory of the United States today.

Mr. WRIGHT. I thank the gentleman for making that point. Measured by the thousands of miles flown, the F–111 has established the best safety record of any aircraft since the F–100. That means any in the last 20 years.

Mr. WYLIE. Mr. Chairman, will the gentleman yield?

Mr. WRIGHT. I yield to the gentleman from Ohio.

Mr. WYLIE. I thank the gentleman for yielding.

Mr. Chairman, the B–1 has become an issue in the debates here on this amendment. Would the gentleman please explain the parliamentary situation with reference to money for the B–1? Will this House have another vote on that issue?

Mr. WRIGHT. It is my understanding that the House will indeed have a vote on that issue at the time the Appropriations Committee brings the supplemental appropriations to the floor, probably next week.

Mr. WYLIE. It is my understanding that the money has been authorized for the B–1. The question is now whether that money will be appropriated. Is that correct or not?

Mr. WRIGHT. I think that is essentially correct, with respect to the remainder of the existing fiscal year.

Mr. WYLIE. This is an authorization bill.

Mr. WRIGHT. This is an authorization bill and what is involved in this amendment is a $20-million feature of the authorization bill to keep alive one other possible option, an FB–111H, in the event that the B–1 is canceled, so that there would be some modern penetrating bomber capability.

Mr. WYLIE. I thank the gentleman for his explanation.

Mr. CARR. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I had not intended to rise but decided to do so when the letter which had been addressed to me by President Carter last Friday was introduced into the debate.

I rise in support of the amendment and in general agreement with the previous speaker, the gentleman from California (Mr. BADHAM). However, I do think that he gave the harshest interpretation to the President's letter. I think that there is a yet more gentle interpretation to the President's message to us in the October 7 letter.

Mr. Chairman, that message basically is that the President reaffirms his decision that the Cruise missile is the strategic offensive deterrent weapon of the future. It says, in effect, that until that weapon is in place, we will continue to rely on our manned penetrating-bomber capability such as is left in the B–52.

Further, Mr. Chairman, in the third paragraph of his letter, I think the President is saying that should unforeseen circumstances prevent the implementation of our cruise missile standoff bomber carrying capability, the President wants to do what any prudent Commander in Chief would want to do, and that is to continue research and development not only with respect to the B–1 bomber, but also with respect to the FB–111H.

I would note for the record that neither President Carter nor Secretary of Defense Harold Brown asked for the $20 million that is in this bill. Rather, I think the record should show that the hearings before our committee revealed that there were three Generals in the Pentagon whose idea it was to include $20 million for the FB–111H. The first general is Gen. Alton Slay, Air Force Director of Research and Development. The second general is Gen. Davy Jones, Chief of Staff of the Air Force; and the third general is General Dynamics, which has been thumping around the Pentagon for years trying to sell the FB–111 as an alternative to the B–1 bomber. That is not news.

With, I think, the help and assistance of Secretary of the Air Force John C. Stetson, the proposal was made—and it was made to the Congress not through OSD's office, but made directly to the House and to the Senate committees and the chairmen—that $20 million be included for the FB–111H. At that point a letter was sent by the chairman of the Committee on Armed Services of the other body to our Secretary of Defense asking whether such an addition to the supplemental would be "appropriate." A response was received from the Secretary of Defense that R. & D. money to continue the study of manned penetration was indeed "appropriate" and within the guidelines of the statement of President Carter on June 30 canceling the B–1 bomber.

It is from that point that the Congress launched into this initiative, and I just want the record very clear that it is the Congress and not the administration that is pushing this $20 million.

Mr. Chairman, I hope and urge that we pass the amendment offered by the gentleman from California.

Mr. Chairman, I include at this point the letter from President Carter, as follows:

THE WHITE HOUSE,
Washington, October 7, 1977.

The Honorable ROBERT CARR,
U.S. House of Representatives,
Washington, D.C.

To Congressman Bob Carr:

I welcome the opportunity to respond to you and the other Members of Congress who wrote to me on October 5. First, I would like to emphasize that I did not make the politically difficult decision to cancel the B–1 bomber so that I could build another less capable manned bomber. I am convinced that the decision was the correct one and that the cruise missile, carried by B–52s or specialized aircraft, is the best choice for the foreseeable future.

The penetrating bomber continues to be part of our strategic triad. While I hope that it will not be necessary to produce a new aircraft, it is conceivable, though not likely, that future developments would necessitate such an action. We cannot predict accurately what future Soviet strategic systems, air defenses, and SALT ramifications might be. Because of the stakes involved, I believe we must insure against the possibility, however remote, that we might have to produce a new penetrating bomber. That is why I decided to finish the B–1's development, including the 4th aircraft, which is the last one needed in the flight test program.

We are, of course, engaged in a careful and continuing examination of the issue but I would emphasize that we have made no decision other than to study the possibility of the FB–111H being a viable option. We have not decided to develop nor to produce this or any other new manned bomber. If we do later decide to initiate such a development, then Congressional consultations would precede such a request, knowing that this would only give us the *option* to produce it in the unlikely and unforeseen event that this should become necessary.

I trust and hope that this may resolve any misunderstandings.

Sincerely,

JIMMY CARTER.

Mr. BOB WILSON. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I rise in support of the Armed Services Committee recommendation to add $20 million to the supplemental budget request to initiate studies for the development of the FB–111H manner strategic penetrating bomber.

Many other Members of this House, including this one, lament the President's recommendation and action of the Congress to terminate production of the B–1 bomber. I believe that the true worth of the B–1 will be realized by future generations at a time when it may be too late. But I believe we must face reality—at this point in time the B–1 is gone and we, here, today must take every conceivable action to minimize the damage in years to come. I have not heard a single defense expert acknowledge the fact that the manned penetrating bomber has been made obsolete by the cruise missile. If the true facts were known about the need for a manned strategic bomber when this Congress voted on the B–1, I am sure the outcome would have been quite different. The bottom line, however, is that this country needs now, and will need in the future, a strategic penetrating aircraft.

The B–52 has served us in a outstanding way, but, again, we must face reality. The technology of the B–52 dates back to the 1950's, and in spite of numerous improvements, it will not be a match for Soviet defenses that are in the current and projected Soviet inventory. The FB–111H is a system that I admit is not as good as the B–1, but very much better than the B–52. For example, at various aspect the FB–111H has a radar cross section that is over 15 times less than that of the B–52. As I am sure many of you here realize, the smaller the radar cross section, the more difficult it is for the enemy radar to find the aircraft.

I think it behooves all of us to keep in mind the fact that cruise missiles complement, but do not replace, manned penetrating bombers. I think that the administration has truly bungled the rationale accompanying the B–1 cruise missile decision. Their arguments in favor of cruise missiles have been contradictory and in my judgment have weakened the credibility of the entire supplemental budget request, when, in fact, there is a real need for both cruise missiles and strategic aircraft.

Since over 50 percent of this Nation's megatonnage is carried by the strategic bomber leg of the Triad, an option must be maintained for a strategic penetrating bomber. That option must be a viable one until the cruise missile concept is validated. I, therefore, urge your support for the FB–111H, which can provide that option.

The FB–111H only costs about one-third of what a B–1 costs and only carries about half as many bombs. but you can buy twice as many FB–111H's as you can the B–1's and get twice as many bombs for the same money.

What I am saying is to turn down this amendment and stick with the committee, the committee that decided in its wisdom that a $20 million expenditure for a study is not a bad expenditure at all and it is worth doing.

Mr. CHARLES H. WILSON of California. Mr. Chairman, will the gentleman yield?

Mr. BOB WILSON. I yield to the gentleman from California.

Mr. CHARLES H. WILSON of California. I was wondering where my friend got the figure of one-third the cost of a B–1. I think we should relate to the fact that this is a brand new plane that we

are talking about because there is very little of the old FB–111H that would be used in the new function. It will involve a new R. & D. program. So I think the gentleman's figures may be incorrect.

Mr. BOB WILSON. No, I am using the figures that General Slay submitted to us.

Mr. CHARLES H. WILSON of California. The gentleman is willing to trust those figures?

Mr. BOB WILSON. I have no reason not to trust them. He said that the B–1 will cost, for 82, $10.4 billion, and the FB–111H, for 165 aircraft, which are enough aircraft to carry the same load as the B–1, would cost $7 billion, compared to the $10.4 billion. So the actual cost per airplane is about one-third the cost of a B–1.

Mr. CHARLES H. WILSON of California. Both the gentleman from California (Mr. BADHAM), and I questioned General Slay on his figures and he acknowledged that he could not predict any figure with any accuracy at all.

Mr. BOB WILSON. I think this points up the reason for the need of a study, I must say to my friend. And in our case I believe we are only asking for $20 million.

I believe that we do not presently know what the ramifications are going to turn out to be, and it may well be that the $20 million study will be the best argument for the B–1 that you can think of. Perhaps we will turn up a study where actually the B–1 is the answer.

But, whatever it is, whether we have the B–1, or the FB–111H we have got to have one or the other to carry the cruise missiles because both are designed to carry the cruise missiles.

So I would hope that the House in its wisdom would turn down the amendment offered by the gentleman from California (Mr. LLOYD).

Mr. Chairman, I yield back the balance of my time.

Mr. BURLISON of Missouri. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I think it is appropriate to look back and see just what the president said on July 30 and what the Secretary of Defense followed with in backup information on July 1. The President said, and I quote:

> During the last few months I have done my best to assess all factors involving production of the B–1 bomber.
>
> My decision is that we should not continue with deployment of the B–1, and I am directing that we discontinue plans for production of this weapon system. The Secretary of Defense agrees that this is the preferable decision.
>
> The existing testing and development program now underway on the B–1 should continue, to provide us with the needed technical base in the unlikely event that more cost-effective alternative systems run into difficulty. Continued efforts at the research and development stage will give us better answers about the cost and effectiveness of the bomber and support systems, including electronic countermeasures techniques.

Let me back up, Mr. Chairman. Let me refer to one question the President was asked at his news conference on the same date, and I quote:

> Mr. President, what were the major factors that led to your decision against the B–1 bomber?

The President's answer:

> There are a number of factors. One is obviously the recent evolution of the cruise missile as an effective weapon itself. The tests of this system have been very successful so far.
>
> Another one, of course, is the continued ability to use the B–52 bombers, particularly the G's and H's up well into the 1980s, and the belief on my part that our defense capability using the submarine-launched missiles and intercontinental ballistic missiles combined with the B–52 cruise missile combination is adequate.
>
> We will also explore the possibility of cruise missile carriers, perhaps using existing airplanes or others as a stand-off launching base.
>
> But I think in toto the B–1, a very expensive weapons system, basically conceived in the absence of the cruise missile factor, is not necessary.

Then, Mr. Chairman, the following day when the Secretary of Defense gave his backup news conference, he said essentially the same thing. I am not going to take the time of the committee now to quote the Secretary's testimony, but there was no important divergence from what I have just read to the Members.

The point of all of this is that on June 30 of this year when the President made his decision, it was made totally on the basis that the cruise missile supplanted the need for a penetration bomber. There was no reference whatsoever to the FB–111. The first reference we had to the FB–111 came 10 weeks later, to my knowledge, when the Secretary of Defense, Mr. Brown, came before the Subcommittee on Defense Appropriations and for the first time mentioned the FB–111 and said that the administration was prepared to accept the $20 million that had been forced on them, more or less, by the authorizing committee over on the Senate side. Five days later Dr. Perry, the R. & D. man at the Department of Defense, came down to our subcommittee and said the same thing. It took them 10 weeks to come up with the thought or the idea of an FB–111.

I do not get any reassurance at all from the letter of the President to Mr. CARR dated about October 7 because there again we see the President echoing precisely what his Secretary of Defense and R. & D. man, Dr. Perry, had told us by saying that he wants this additional option that is going to cost us $20 million this year.

Let me say, Mr. Chairman, I am among that handful of Members who have supported the B–1 over the years, and on the basis of the statement and decision of the President and his Secretary of Defense of June 30, switched our vote. The evidence seemed to be, the best information seemed to be, that we had the advanced technology in the Cruise missile that supplanted a necessity for a penerating bomber.

The CHAIRMAN. The time of the gentleman from Missouri has expired.

(By unanimous consent, Mr. BURLISON of Missouri was allowed to proceed for 3 additional minutes.)

Mr. BURLISON of Missouri. Mr. Chairman, on the basis of what has happened since June 30, I at this point am reserving judgment on what I am going to do if we have another vote on the B–1 bomber. I may be switching back unless I can have some assurance that we do not need a penetrating bomber.

It seems clear to me that if we are able to have a penetrating bomber, the B–1 ought to be the only option. There is no argument but what it is the far superior weapons system. There is no argument to the fact that we have already spent well over $3 billion in research and development and advanced engineering, and that we are now ready to go into production of this weapons system.

It is ludicrous to look at a weapons system that is going to require the engines from the new B–1 be put into this old air frame that has been around for years.

I commend the gentleman from California for offering this amendment. I think he is right. I certainly intend to vote for the amendment. I hope that the Committee will do likewise.

I say that if we cannot wipe out this FB–111, if we cannot pass the amendment of the gentleman from California, I am hopeful that two or three other Members of the Chamber will switch back and we will go ahead and build the B–1 bomber. That is, if it is determined that our national security requires a penetrating bomber.

Mr. EDWARDS of Alabama. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I think listening to the debate is proof positive of the need to vote for this amendment.

See where we find ourselves: A Congress floundering around trying to decide in which direction we should go because the Pentagon and the administration are floundering around trying to decide in which direction they should go. And so the B–1 is not in issue today. Frankly it happens to be the catalyst which brought all this confusion upon us because when the President terminated the B–1 he did talk in terms of cruise missiles and he did talk in terms of the B–52, and waiting in the wings was the FB–111H. And I can only say if there had not been that one, there would have been another one in the wings waiting to move onto the scene.

We talk in terms of $20 million for an option, but $20 million is not going to buy anything. It is going to buy a few plans.

But if we really take the FB–111H to the point where we can make a decision of what we will do with it we are talking in terms of at least $380 million.

We have been hearing quotes from President Carter. We have been hearing quotes from Secretary Brown. We have been hearing quotes from General Clay,

and others. And the truth is we do not know where we are going from what they say and from what we know.

Well, my position is very simple. I do not want to put any more money into a system such as the FB–111H until somebody comes over from the Pentagon or the White House and sits down in the appropriate committee and says: "This is where we think we want to go."

To open the door with $20 million today is simply to keep that door open for $380 million down the road, when we have no earthly idea that it is the direction in which we are going. We are talking about the wide-body jets for the Cruise missiles, and there will be an amendment offered later to put $5 million into this bill to do a little study and open a budget line for that, and I will support that amendment. But until we know where we are going, until we know clearly what the administration in fact is willing to give away at the SALT agreements, where we have heard that they are laying on the table the proposition that the Cruise missile will be kept to a distance of about 1,400 nautical miles and will be flown only from manned bombers, where we have the FB–111H dropped into the picture almost the minute the B–1 is terminated, there are I think a lot of questions to be answered.

Mr. Chairman, I think it would be unwise to embark upon another venture at this time until we know where we are going.

Let me put this in perspective. We went through about 10 or 15 years of developing the B–70 and we spent about $1.3 billion, and in those days that was a heck of a lot of money. Now we have gone through 6 or 7 years or so of developing the B–1 at a cost approaching $4 billion, and that for all intents and purposes at this time is out the window.

Now, is this Congress, is this House going to roll over and play dead because the next idea of the penetrating bomber is before us?

I think it is time to say to the Defense Department, "Let's just wait a cotton-picking minute. Come over and tell us more about where you are going and then we will talk in terms of some new system."

Mr. Chairman, I leave us again with this one point. $20 million for the FB–111H is not going to buy anything. As a matter of fact, we have been told in committee that General Dynamics already has over 800 hours in the wind tunnel with an FB–111H model. This is not something somebody all of a sudden wants to start doing something on. Work has been going on, because it has been waiting in the wings. As somebody said awhile ago, they have been running around the Pentagon for years trying to sell this thing.

Mr. DOWNEY. Mr. Chairman, will the gentleman yield?

Mr. EDWARDS of Alabama. I yield to the gentleman from New York.

Mr. DOWNEY. Mr. Chairman, I think the gentleman makes an excellent statement. The gentleman is privy to the planned strategy that when the B–1 was in controversy, and still is, and particularly the controversy at the time when the Air Force made an attempt to try to mute the controversy by a JCS study.

The CHAIRMAN. The time of the gentleman from Alabama has expired.

(At the request of Mr. DOWNEY, and by unanimous consent, Mr. EDWARDS of Alabama was allowed to proceed for 1 additional minute.)

Mr. DOWNEY. Mr. Chairman, if the gentleman will yield further, they did that study, so the gentleman is telling us that General Dynamics has done a study, and they have. The Air Force has done a study on where the targets are that the FB–111 has, how many tankers it would need, what its payload would be. This is not something that needs to be studied again.

Mr. EDWARDS of Alabama. Certainly not at this time. I thank the gentleman.

Mr. MITCHELL of New York. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to speak for the amendment. Several Members have described the fact that the picture has changed markedly since our last vote on the B–1, the fact that we did not need a penetrating bomber then and no one was even talking about one. Suddenly we have the FB–111H proposed.

I sat through the hearings where we find that the cost of the FB–111 and the B–1 depends on how many you buy. If you were going to replace the B–1 with the FB–111 to deliver the equal weight, one B–1 would cost about twice what one FB–111 would cost.

The FB–111 was estimated by General Slay at about $50 million. Then we asked General Slay what the capacity was of the FB–111H and he said about half the B–1.

We asked about survivability and range and he said they are about the same.

We said then that it is about the same. It is a wash. It costs about the same if you replace it weight of weight.

He said that is not true, either, because you have to have twice the number of tankers for the FB–111H, a lot more people to service them, a lot more bases to carry them, because their takeoff time is a lot slower, so it would actually cost considerably more to buy this "pig in the poke," as the Air Force pilots have referred to it, this Air Force Edsel or paper substitute, for what is a proven excellent operational bomber.

Mr. Chairman, it is ironic, indeed, that a year or two ago we were asking the Air Force about the possibility of substituting the FB–111H for the B–1. That idea was rejected out of hand as being pretty near ridiculous at the time. Certainly it was by the same people that are telling us now that the FB–111H is a viable alternative.

Mr. Chairman, I would like to talk just a minute about the fact that the Cruise missile, an excellent weapon, but we do have severe problems with it; one of the problems is that it can be bargained away. We can bargain away the range. We can bargain away the number.

Another problem that no one has addressed today is the fact it can only carry 200 pounds internally and with the proposed fleet of 3,000 airplanes that means they can carry about 300 tons. One B–1 can carry 2,400 tons internally.

So, 13 B–1's can carry as much as the entire fleet of 3,000 Cruise missiles that have been proposed—13 B–1's for 3,000 Cruise missiles.

The reason why it is important to have a heavy penetrating bomber capability, a gravity bomb capability, is because it is the only way to deny the Soviet Union the in-place shelter capability. It is the only way to limit their civil defense program to evacuation, which is all we are ever going to have if we ever get around to any civil defense program. Right now, we do not have the throw-weight to destroy their shelters, so this would help restore the strategic balance if we had the B–1 capability. Right now, it is not in balance and it cannot be restored with the Cruise missile. There just is not enough throw-weight and not enough fallout. In addition to this, the heavy throw-weight gravity bomb also has greater flexibility than the Cruise missile, the SRAM. The heavy throw-weight is the only way we are going to get to their shelters.

So, Mr. Chairman, I urge my colleagues to vote against the FB–111H, to send the message to the administration and to the other body that this is not the way to go. All we are going to lose is a very few number of months in time, and what we are going to gain, I hope, is the B–1.

Mr. DORNAN. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, what we are discussing here is the B–2 and not the FB–111H. Some of my younger staff members call what we are engaged in here as "numbers talk," because it is very difficult to track our discourse for people who are not on the Armed Services Committee or who do not have a background with military experience to keep track of all the numbers and letters that are being thrown around.

I would like briefly to remind some of the senior Members here about another "H model" some years back, the mid-fifties, and another game Congress played to fool the taxpayers or to fool those who did not want a future extension of the F–86, or both, by creating an entirely new airplane, the F–93, and then calling it an "H model" of the F–86. This was the plane that in testing at Edwards AFB killed Capt. Joe McConnell, our leading ace from the Korean war.

The F–86H models that I flew for the California Air National Guard were larger than the F–86F's that I flew on active duty. They weighed more, looked different to a pilot's trained eye, had a clamshell canopy, J–93 engines with much higher thrust, four 20-millimeter cannons instead of six .50-caliber machineguns, and was in fact a different airplane. It was designed by North American Aviation, now Rockwell, at first as the F–93, but I was told that to get it through the Congress the Air Force could

not call it the F–93. It had to be called the F–86H, when in fact it was not a new model at all but a new aircraft, period.

That is exactly what we are doing today, playing games with numbers and designations. What we are talking about here folks is the B–2. That is correct—the B–2. There is no such creature as a stretched F–111H. First of all, let me remind the Members that on one summer day in 1962, the man with the computer brain, Robert Strange McNamara, took the Naval and Air Force systems of designations for aircraft and mixed them all together, because he personally could not keep straight in his head the Navy F–4H Phantom from the Air Force F–110 Phantom, different service versions of the same plane. Then we had McNamara inserting a "B" into the middle of a fighter designated F–111 and coming up with a one-of-a-kind misused aircraft—the FB–111. There are only 66 of them, 36 at Plattsburg AFB and 30 at Pease AFB, N.H.

As I said earlier, I flew one of them a few days ago left seat with an IP flying as my copilot. I was not surprised to learn that, in spite of its SAC mission, the F–111 is still what it was designed to be—a light tactical fighter-bomber. In that role, it is an excellent aircraft.

I was particularly impressed with the smoothness of the swingwing operation given all its birth pangs.

The majority leader is correct when he says that after the Air Force ironed out the wrinkles, the F–111 did have a good record in Vietnam. One of the other gentlemen on the majority side pointed out that overall it has a good safety record compared to other fighters. That is true but not compared to most other bombers. Remember it is not a bomber. By taking the 66 SAC aircraft off the line for stretching and complete rebuilding we are denying our forces combat ready aircraft. If not classified, it should be, how many of them are standing alert. It is our only SAC supersonic aircraft. Short legged—yes. But nevertheless covering many important targets. Now we are supposed to cut them up, create a new fuselage and bomb bay, limit the max wing sweep from 70° to 60°, new B–1 engines, new landing gear, B–1 avionics, new nose, et cetera. There will hardly be anything recognizable. In other words not an "H" model of anything but a new bird—a B–2.

Then they talk about making 100 new aircraft, totally new. Instead they should be talking about going up to Mr. SYMMS' State, Idaho, and taking the F–111A's away from Mountain Home AFB our oldest 111's and fool the taxpayers by turning them into new aircraft called "H" models. A pilot at Plattsburg Air Force Base told me—admitted to me, rather, that this General Dynamics plan is at least 4 years old. General Dynamics has always wanted to improve the F–111 fleet. It is a darned good idea for European-based medium-ranged bombers to strike Soviet backfire bases if we are attacked. We already have F–111 wings in Great Britain—"E" and "F" models.

Mr. ADDABBO. Mr. Chairman, will the gentleman yield?

Mr. DORNAN. I yield to the gentleman from New York.

Mr. ADDABBO. I am a little confused. Is the gentleman for the amendment or against the amendment?

Mr. DORNAN. I do not fault your confusion. You helped to kill the B–1 and here we are discussing a B–2. I am for the amendment.

Mr. ADDABBO. I thank the gentleman.

Mr. DORNAN. Mr. Chairman, the reason I am for the amendment to block $20 million for another bomber is that at this point I am not prepared to consider a B-2. I believe we must produce a superior aircraft the B–1. As Mr. BADHAM challenged us with the President's own words. "Why not the best?"

The CHAIRMAN. The time of the gentleman from California, (Mr. DORNAN) has expired.

(By unanimous consent, Mr. DORNAN was allowed to proceed for 1 additional minute.)

Mr. DORNAN. Mr. Chairman, I am not prepared to bury yet the Rockwell B–1.

This winner of the Collier Trophy, the finest aircraft to ever fly is the way to keep the peace—through strength. It has gone through all of the computer analysis you could want from the initial days of AMSA down to its winning of the Collier Trophy this year. Billions of dollars in R. & D. An astounding safety record. Superb engines. If we want to go back to discussing whether to foolishly dump a manned penetrating system, fine, those of you who made a losing case in this House last June, should go back and talk to the President who ignored the will of this body, and to the Defense Department which caved in to him without one "Billy Mitchell" standing up for his beliefs. I believe the generals sarcastically call it falling on your sword; or hanging up your spurs. Whatever, no one apparently felt strongly enough about the crippling of our TRIAD. But right now it is this Congress that has to stand tall. Tell the Nation, the Pentagon, and our President that we want the best—the B–1 and we will resurrect it next week. No B–2 disguised as an "H" model of anything.

I urge my colleagues to support the amendment of the gentleman from California (Mr. LLOYD) and I include my B–1 colleague letter dated today for the RECORD. Thank you, Mr. Chairman.

DEFENSE VOTE THIS WEEK

DEAR COLLEAGUE: Later this week, probably Thursday, the 1978 Supplemental Appropriations will come before the House. Of critical importance to our national security will be the decision we make in response to the Administration's funding request for work on an advanced cruise missile carrier aircraft and a penetrating manned bomber.

In his recommendation against the production of the B–1 on June 30, the President also stated that the B–1 testing and development program should center on, and provide for, the needed technical base in the event that alternative systems run into difficulty. He also spoke of his intention to continue the TRIAD including "a bomber fleet (using the cruise missile as one of its armament)." The House Committee on Armed Services after subsequent hearings concluded that a modified commercial cruise missile carrier is not cost or performance effective; that the unit cost per such aircraft would be as high as the current until flyaway cost of the B–1; and that possible SALT constraints on cruise missile range would further limit performance of cruise missile aircraft.

We urge you to consider the following when you vote on these fateful issues:

SUBSTANCE OF PRESIDENT'S AIRCRAFT DEVELOPMENT IS CORRECT

United States aircraft functioning as either cruise missile carriers or penetrating bombers are not destabilizing surprise attack weapons. They are stabilizing forces of deterrent, designed solely to dissuade our enemies from launching a surprise nuclear attack against the United States. They are "guardians of peace." Therefore, we strongly support the substance of the President's stated program for advanced strategic aircraft development.

CIVILIAN PLANES ARE NOT THE ANSWER

We agree with the decision to develop an advanced cruise missile carrier aircraft capable of dealing with Soviet threats in the early 1980s and beyond. However, we strongly disagree with the Administration's apparent choice of civilian widebodied transport for this mission. While excellent for commercial purposes, the aircraft have four fatal flaws which preclude their efficient use as cruise missile carriers and penetrating bombers:

1. They concentrate United States' strategic weapons in a few large carriers making them jackpot targets for Soviet attack.

2. Their few number, low takeoff acceleration and slow climb out from base make them vulnerable to attack from Soviet sub-launched nuclear missiles while they are trying to escape from the vicinity of their bases. Only the B–1 aircraft, specifically engineered as both a cruise missile carrier and a penetrating bomber, is sized for wide dispersal around our country and designed to escape its base before sub-launched missiles can arrive.

3. Nuclear weapons exploded above the atmosphere produce intense radio wave-like electro-magnetic pulsing radiation throughout the atmosphere which extends from horizon to horizon—easily a 1,000 mile radius. This radiation can damage and destroy vital electronic guidance and communication systems in unhardened aircraft. The only aircraft that has had nuclear electric magnetic pulse hardening incorporated as an integral part of its design is the B–1.

4. With SALT II restrictions on cruise missile range looming large, cruise missile carriers will have to fly close to the Soviet Union and penetrate standoff air and sea based defenses. Wide-bodied aircraft are TOO SOFT, TOO SLOW AND HAVE TOO BIG A RADAR SIGNATURE to penetrate even thin defenses, much less projected Soviet defense capabilities. The B–1 cruise missile carrier is the only modern aircraft with penetrating capabilities that the U.S. could deploy within the next decade.

B–1 MEETS ADMINISTRATION'S REQUIREMENTS

Designating the B–1 as the U.S. advanced cruise missile carrier and proceeding with its production would fulfill the administration's requirements to maintain a penetrating bomber option. The alternate proposal, development of the FB 111H would provide the U.S. with less capability than the B–1 and

it would not be available until well into the 1980s at the earliest.

CRUISE MISSILE NOT YET PROVEN

If the development of the cruise missile continues to go badly (the Air Force version of the long range cruise missile, ALCM–B, has not even been flight tested), the B–1 cruise missile carrier would provide an alternate capability as a penetrating bomber until the cruise missile has proven itself. If and when the cruise missiles prove their capabilities, the U.S. could then use the interchangability of the B–1 as a cruise missile carrier or a penetrating bomber by varying their missions to keep maximum stress on the Soviet defense.

IMPACT ON SALT II

Unilateral termination of the B–1 option will reduce not promote the possibility for equitable and strategically significant SALT agreement including reduction in strategic arms. So long as the U.S. unilaterally and asymmetrically limits itself by cancelling such major programs, the Soviets will have little incentive to negotiate agreements requiring both sides to make reciprocal arms trade-off and continued Soviet intransigence will be encouraged.

Preserving the B–1 option is a minimum necessary step toward demontrating U.S. resolve to maintain a safe strategic balance in the 1980s. Unilateral termination of the B–1 option would contribute to Soviet confidence that the strategic balance will continue to shift in favor of the USSR and that the U.S. will accept this shift.

UNCERTAINTIES DEMAND THAT THE B–1 OPTION BE KEPT

Before you vote on Thursday, you should be fully aware that the Administration's projections of "Essential Equivalance" in the mid-to-late 1980s have in the past presumed full production of the B–1 . . . not just aircraft 5 and 6 but full production.

We do not know with any confidence the limitations that will be imposed on the cruise missiles by technology, operation or SALT. Nor do we know with confidence future Soviet air defense capabilities. Therefore, the capacity of the cruise missile to assume the vital retaliatory role of the strategic bomber cannot be demonstrated, nor can we know what cruise missile carrier—or mix of carriers—will be cost effective, useful, or practicable.

Consequently the B–1 option must be kept open both as a strategic penetrating bomber and as a cruise missile carrier at least during this present period of uncertainty.

Sincerely,

ROBERT K. DORNAN,
STEVEN D. SYMMS,
ROBERT L. F. SIKES.

Mr. CHAPPELL. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. MILFORD. Mr. Chairman, would the gentleman yield?

Mr. CHAPPELL. I yield to the gentleman from Texas.

Mr. MILFORD. Mr. Chairman, I rise in opposition to the amendment offered by my friend from California, Mr. LLOYD.

Those who complain about the cancellation of the B–1 and the substitution of the FB–111H are blaming the President. They say the President is canceling one bomber program only to come up with another one. I suggest that we have been tricked in this whole process.

The first fact we should understand is that the President has not recommended or even suggested that the FB–111H be substituted for the B–1. All the President did is cancel the B–1, talk about B–52's with Cruise missiles and state that we may still have a need for a penetrating bomber in the future. I am going to guess that the President did not even know about the FB–111H, that he never had it in mind at all and talked about a penetrating bomber only because he is well aware that sometime in the future—probably in the mid-1980's—we may require a high-performance, high-speed penetrating bomber. There is suspicion in some quarters that certain B–1 proponents, both in and out of the Government, have embraced the FB–111H as one way of getting the B–1 program back into production.

Only recently on October 2, 1977, on Sunday evening, ABC News correspondent Jules Bergman said flatly that "Some suspect that the Air Force has brought the whole (FB–111) plan up, hoping to revive the B–1." Mr. Bergman, in his news report, said:

They feel that Defense Secretary Brown is sufficiently disturbed by the new generation of Soviet strategic missiles that he will attempt to change the mind of President Carter on the B–1, and bring it back to life.

Secretary Brown, in contrast, made it plain when he held a press conference on the 4th of October, that he stands firmly behind the President's decision to cancel the B–1 and is hopeful that the rescission of funding for B–1's number 5 and 6 will stand. Furthermore, he made it clear that while he was "willing to accept" the House and Senate Armed Services Committees' authorization of $20 million for an initial FB–111H study, he had not even considered full scale development or production of such an alternative aircraft.

This is what Secretary of Defense Brown said in his press conference on October 4, 1977:

When the President announced that we would carry on with the B–1 research, development and testing so that in the event that it turned out that we ran into technical difficulties or we misestimated the capabilities of the cruise missile, or of course if the Soviet air defense developed in a different way, we would have some sort of option. I also noted at that time we were continuing to program a fraction of the B–52 force as a penetrating bomber capability so long as it could penetrate Soviet air defenses.

Secretary Brown went on to say—and I continue quoting:

Subsequently, the Air Force came up with an alternative way of looking at this. Given that it is desirable to maintain an option, at what point does the B–1 option disperse? And it is pretty clear that after a couple of years the B–1 is not going to be—the option to produce the B–1 is going to get more difficult to exercise. Under those circumstances, the Air Force has proposed that we might want to develop and test the FB–111H—not because it is more cost effective than the B–1, but because it may be a better way to preserve an option over an extended period, should we later decide that we want a new penetrating bomber.

Secretary Brown ended by saying:

To that end the House Armed Services Committee and the Senate Armed Services Committee put into their markups of their bill of the budget amendment $20 million for FB–111H development. That would be enough, I think, to examine the design of such an aircraft. I indicated to Senator Stennis in a letter to him—I sent a letter to Chairman Stennis and also to Chairman Mahon—that I would be willing to accept such a Congressional action.

Note that part of what I have just quoted from Secretary Brown's press conference makes specific reference to the House Armed Services Committee and the Senate Armed Services Committee as having put $20 million in their authorization bills for the FB–111H.

Now it is well known that all through the years the two Armed Services Committees showed a foresight and an understanding that was not matched, at least in the early days, by some others in the Congress. The two Appropriations Committees joined the Armed Services Committees because they saw the advantages to continuing the production line of the F–111. So, it was not the President, not the Secretary of Defense, it was not the administration who started the FB–111H idea at all. It was the two Armed Services Committees who have been the long time supporters of the F–111. It would have been inconsistent for the Armed Services Committees to have done anything but what they have done. It was they who kept the F–111 line open over the years when this kind of action did not find favor with many people. In those days there was little support for the F–111 and, for the simple reason that the F–111, as long as the production line was going, posed a serious threat to the B–1. There was a strong effort to close down the F–111 line to remove the threat to the B–1.

I am convinced that in the new force structure which has been so changed by the coming into being of the Cruise missile, the B–52 and the F–111 modifications will do everything that is needed to give us the best strategic air capability that we could possibly have, shy of full B–1 production.

But let us not let the FB–111H be used as a ploy in a futile attempt to revive the B–1. If the B–1 is the issue at hand, let us face it head-on with an amendment.

Gentlemen, take a look behind the curtain and see what is really going on. Let us keep our opinions open and keep the $20 million study money in the authorization bill for the FB–111H modification until we see what our manned bomber requirements really are.

Finally, Mr. Chairman, there has been recent reference in the media to the effect that the FB–111H would be a "Texas airplane." Now, this may not be a matter of greatest moment but it is so grossly incorrect, so totally wrong, that it deserves some comment and correction.

The "H" model of the FB–111 would have approximately the same distribution of employment and expenditure throughout the United States as was true with the previous F–111 program; and that distribution was about 10 percent in Texas and about 90 percent in other States. The "H" model would involve

something in the order of 5,000 subcontractors and suppliers, widely distributed throughout the whole country. Some States would have a relatively small amount of the employment and expenditure and others would have a great deal of the work and economic benefit.

In actual fact the somewhat less than 10 percent that relates to Texas is dwarfed by the almost 43 percent that is allocated to California and the over 26 percent that is allocated to the State of New York.

In the briefest summary, then—

There would be some 5,000 subcontractors and suppliers engaged in "H" model work.

Approximately 10 percent of the work will be in Texas, 90 percent elsewhere, with almost 43 percent of the work in California and almost 27 percent of the work in New York.

The States involved extend from Arizona to Virginia.

It is perfectly obvious from the foregoing that the FB–111H is not a "Texas airplane" in any sense of that phrase.

Mr. Chairman, I hope this clears up that misunderstanding once and for all.

Mr. CHAPPELL. Mr. Chairman, I rise in support of the amendment. I do so rather reluctantly because I know one of our great friends, the gentleman from Texas (Mr. WRIGHT) is tremendously concerned about this matter, and I think most of us regret we find ourselves in this posture. I find it likewise discomforting to take a position adverse to the position of our outstanding Committee on Armed Services. Yet I feel compelled to clarify the facts and statistics I think material. Most of us recognize if we are going to build a new manned penetrating bomber we ought to build the B–1. That is where we spent the money for research and development.

In the House and the Senate we have authorized the research and development through airplanes Nos. 5 and 6 in the B–1 program, and unless the Congress takes some reverse steps those planes will be built and used to complete the R. & D. program.

In reviewing the statistics, we should talk about equal effective forces. In other words, how many FB–111's does it take to do the same job as so many B–1's?

In a conversation with General Jones just the other day, he agreed that it would take roughly 165 FB–111's to do what 61 B–1's would do. When we extend those respective forces over their 20-year life cycle that means the FB–111H program would cost over 17 billions of dollars and, it would cost some 13 billions of dollars for the B–1 program.

Why is that so? Because with the 165 FB–111 bombers, it would take 165 tankers, and with 61 B–1 bombers it would take 61 tankers. In addition to that, there are other cost considerations. Therefore the FB–111 life cycle costs exceed those of the B–1 by some $4 billion. It seems foolhardy to me for us to embark on a new program, on the eve of the conclusion of our research and development on our new generation bomber, that would give us a last generation, warmed-over bomber.

The testimony before our committee the other day was that if we take the FB–111 and upgrade it, we first would have to have a new engine, and that is the B–1 engine. Second, we would have to have a new wing, and then we would have to have a new fuselage to accommodate the avionics. When we get through with that, we would have to have a modification of the new tail section. If that is not a new airplane, I do not know what it is. It is no wonder that some people are calling this "the son of the B–1."

With this approach, we are falling back on the upgrading of an old airplane to do a new job.

There are those who talk about the unit cost of this airplane and the flyaway costs. Again, if we are interested in saving money for the taxpayers of this country, let us talk about unit costs.

Just 2 years ago the Air Force, in testimony before one of the committees, made it clear that the respective costs of the FB–111, as compared with the B–1, would be 45 millions of dollars per copy for the B–1, as against 35 millions of dollars per copy for the FB–111. Again, if we multiply the unit cost by the 165 FB–111's required, we find that involves considerably more money than the 61 B–1's it would take to do the same job.

Even if we accept the fact that it might cost up to 100 millions of dollars per copy for the B–1, as against a cost of $45 million per copy for the FB–111 in then year dollars, we would still save money on the total cost of the B–1 program. Taking these numbers into consideration, we would save over half a billion dollars.

Mr. Chairman, I think the real issue can be summed up here by pointing out that we are going to spend more money trying to discover some type of new penetrating bomber when we obviously have the best penetrator the world has ever known ready to go. It does not make sense to me to fall back on a last-generation, warmed-over bomber when we can have the next generation bomber designed to carry us on beyond the year 2000 at a considerable saving to the taxpayer. I urge the adoption of the amendment.

The CHAIRMAN. The time of the gentleman from Florida (Mr. CHAPPELL) has expired.

(On request of Mr. MILFORD and by unanimous consent, Mr. CHAPPELL was allowed to proceed for 1 additional minute.)

Mr. MILFORD. Mr. Chairman, will the gentleman yield?

Mr. CHAPPELL. I yield to the gentleman from Texas.

Mr. MILFORD. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I join with the gentleman in his position. I am for the B–1, but what we are talking about here is not the B–1; we are discussing an option. What we are confronted with here is an option, because I do not think we are going to get the B–1.

As has been stated here, we will have an opportunity to vote on the B–1, and I will join with the gentleman from Florida (Mr. CHAPPELL) and the gentleman from California (Mr. DORNAN). I will fight with them, because they are right. The best airplane is the B–1. But if we cannot get that, rather than have nothing, let us at least study this option. All we are doing here is studying the option.

Mr. CHAPPELL. Mr. Chairman, let me answer the gentleman in this way:

I am not willing to say that we cannot have the B–1 bomber. I think we can. Therefore, I am saying that if at some time in the future we decide we cannot have the best, then perhaps I would fall back and join with other Members in getting the second best. But I do not think now that this is the time to take a second-best view.

We ought to take the strongest position first, and then if we fail, we will have the opportunity to fall back and accept the second best. We can always fall back, but I am afraid that right now the tendency is to fall out. Our national security dictates we stand strong.

Mr. KETCHUM. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. LUKEN. Mr. Chairman, will the gentleman yield?

Mr. KETCHUM. I yield to the gentleman from Ohio.

Mr. LUKEN. Mr. Chairman, I rise today in support of the $20 million for the Air Force FB–111H strategic manned bomber program, as included in H.R. 8390, the Department of Defense Supplemental Appropriation Authorization Act.

The FB–111H is an excellent strategic manned penetrator. It has the ability to travel 5,700 nautical miles without refueling. It can carry Cruise missiles, as well as conventional bombs. It is an improved version of an airplane currently in Air Force inventory, the FB–111A.

The FB–111H provides a needed dimension to maintain our national defense triad. The $20 million which would be used to begin research and development of this weapon system will be money very well spent.

I urge you to support this new program for which the Armed Services Committee has voted $20 million.

Mr. KETCHUM. Mr. Chairman, I will not use the 5 minutes. I think there has been a great deal said here in support of this amendment; and certainly every possible argument that has been made in favor of the B–1 bomber has been made here today, with all the facts and figures being provided.

However, I think the really tragic thing we are facing here today is the conflict in what the President says on one day and what he says on the next day. Even more tragic, Mr. Chairman, is the Air Force and their strong support of the B–1.

The day after the B–1 had been cancelled by the President, a few of us took a trip out to SAC Headquarters, and we saw an awful lot of long faces, but there was not much comment. The Air Force has been so thoroughly "Singlaubed" that they do not dare mention a thing.

This is the real tragedy because this is where the real expertise is. These are the people to whom we pay hundreds of thousands of dollars to bring to us what they, in their expertise, consider to be the wisest course. This is how the Triad was formed.

Mr. Chairman, the President told us that the cruise missile was going to be the be-all-and-end-all, and yet we have not seen any fantastic results from the cruise missile. As a matter of fact, I understand that the last three tests have been complete fizzles, and that is a little less than 100 percent.

Therefore, Mr. Chairman, I do not think that we ought to be putting all our eggs in that basket. Certainly I do not think we ought to be putting our eggs into the basket of the 747, which anyone familiar with the radar screen would know looks not just like the barn coming at a person, but like the whole farm coming at him.

A B–1 will carry the Cruise missile. I suppose that the only legitimate thing to do to resolve all of the arguments heard on this floor today is to change the name of the B–1 bomber to the FB–111H, and let us go ahead and build it.

Mr. BADHAM. Mr. Chairman, will the gentleman yield?

Mr. KETCHUM. I yield to the gentleman from California.

Mr. BADHAM. Mr. Chairman, I would like to ask the gentleman a couple of questions.

Is the gentleman aware that this morning's paper reported our chief SALT negotiator, Mr. Warnke, as saying that they have pretty much arrived at an agreement that only we will be able to build and deploy in the neighborhood of 120 Cruise-missile platforms?

Mr. KETCHUM. That is what I understand if one believes anything he reads in the local newspaper.

Mr. BADHAM. Is the gentleman further aware that in the same SALT negotiation talks that are nearing agreement, we agreed that the backfire bomber is really not a strategic bomber and therefore does not even count in the numbers of strategic bombers?

Mr. KETCHUM. That is my understanding.

Mr. BADHAM. Does the gentleman know whether or not our so-called Cruise missile has ever flown overland, testing its radar terrain-following navigation system?

Mr. KETCHUM. I am aware of a flight in which it was attached to a bomber and that the radar following was fine up to a point. The change was that it had snowed the night before, and it could not exactly pick up where the target was supposed to be. I do understand that.

Mr. BADHAM. Mr. Chairman, I thank the gentleman for his answers.

Mr. KETCHUM. I thank the gentleman, Mr. Chairman.

I would just recall to the Members that apparently this is the same Defense Department which wants to give away the Panama Canal.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. LLOYD).

The question was taken; and on a division (demanded by Mr. LLOYD of California) there were—ayes 60, noes 23.

Mr. MILFORD. Mr. Chairman, I demand a recorded vote.

A recorded vote was refused.

So the amendment was agreed to.

AMENDMENT OFFERED BY MR. DOWNEY

Mr. DOWNEY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DOWNEY: Page 3: Strike line 17, and insert in its place the following:

"(2) For the Air Force, $311,500,000, of which $5,000,000 is authorized for the study of wide-bodied aircraft as strategic cruise missile carriers."

Mr. DOWNEY. Mr. Chairman, this is a relatively simple amendment and I hope I will not need the full 5 minutes in order to explain it.

Mr. Chairman, the President, in his request to the Congress in the supplemental authorization, asked for $50 million for the purpose of studying an option of the wide-bodied Cruise missile carrier. In the Committee on Appropriations, they determined that $5 million was all that they needed, and that is how much is in the appropriation bill. The authorizing committee on which I serve decided that no money was necessary and took it all out. All I am doing here is restoring the $5 million for the purpose of conducting a paper study to take a look at the wide-bodied Cruise missile carrier option, $5 million. What that will do, it will provide money for obtaining a concept study to analyze the operational employment concept of the wide-bodied Cruise missile carrier. It does not in any way commit us to the wide-bodied Cruise missile carrier. All that it does do is provide the Pentagon an option to take a look at the weapons system.

Mr. DAVIS. Mr. Chairman, will the gentleman yield?

Mr. DOWNEY. I yield to the gentleman from South Carolina.

Mr. DAVIS. Mr. Chairman, I want to associate myself with the remarks of the gentleman from New York (Mr. DOWNEY) and commend him for offering his amendment. If we just renew the option on the FB–111H, which it appears for the moment that we have got, then we have to present some kind of option in case the FB–111H is eliminated.

Mr. SYMMS. Mr. Chairman, will the gentleman yield?

Mr. DOWNEY. I yield to the gentleman from Idaho.

Mr. SYMMS. Mr. Chairman, I was wondering if the gentleman from New York (Mr. DOWNEY) could expand his amendment so as to include the B–1 as a Cruise missile carrier?

Mr. DOWNEY. I will let the gentleman from Idaho do that.

Mr. DORNAN. Mr. Chairman, will the gentleman yield?

Mr. DOWNEY. I yield to the gentleman from California.

Mr. DORNAN. Mr. Chairman, I was wondering if the gentleman would be inclined to include in his amendment the suggestion of the gentleman from Idaho (Mr. SYMMS) so as to include in the $5 million some analysis of the B–1 as an advanced Cruise missile carrier?

Mr. DOWNEY. This is a $5 million amendment. If the gentleman would like to offer an amendment to my amendment, then that is his option. All this is for is for the purpose of studying the wide-bodied 747 or the DC–10 for the purpose of carrying Cruise missiles.

Mr. DORNAN. This is limited to just those two aircraft?

Mr. DOWNEY. That is what the Department of Defense wanted to lease. They wanted $50 million as leasing money for wide-bodied aircraft.

Mr. EDWARDS of Alabama. Mr. Chairman, will the gentleman yield?

Mr. DOWNEY. I yield to the gentleman from Alabama.

Mr. EDWARDS of Alabama. Mr. Chairman, I support the gentleman's amendment, the purpose of which is to restore the $5 million.

Mr. LLOYD of California. Mr. Chairman, will the gentleman yield?

Mr. DOWNEY. I yield to the gentleman from California.

Mr. LLOYD of California. Mr. Chairman, I wish to associate myself with the remarks of the gentleman from New York (Mr. DOWNEY) and I support the gentleman's amendment.

Mr. ADDABBO. Mr. Chairman, will the gentleman yield?

Mr. DOWNEY. I yield to the gentleman from New York.

Mr. ADDABBO. Mr. Chairman, I support the amendment offered by the gentleman from New York (Mr. DOWNEY).

I can tell my friend with regard to the B–1 that we do have many million dollars still for research on the B–1.

Mr. ICHORD. Mr. Chairman, will the gentleman yield?

Mr. DOWNEY. I yield to the gentleman from Missouri.

Mr. ICHORD. Mr. Chairman, the gentleman is not, as I understood, restoring the $50 million as requested by the Air Force, but only the $5 million?

Mr. DOWNEY. That is correct.

Mr. ICHORD. And this will not cover the cost of any leasing of any wide-bodied aircraft as originally contemplated by the Air Force?

Mr. DOWNEY. That is correct. The $5 million is purely for a paper study.

Mr. Chairman, I yield back the remainder of my time.

AMENDMENT OFFERED BY MR. CARR AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. DOWNEY.

Mr. CARR. Mr. Chairman, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. CARR as a substitute for the amendment offered by Mr. DOWNEY: Page 3: Strike line 17, and insert in its place the following:

"(2) For the Air Force, $291,500,000, of which $5,000,000 is authorized for the study of wide-bodied aircraft as strategic cruise missile carriers."

The CHAIRMAN. The Chair recognizes the gentleman from Michigan (Mr. CARR) for 5 minutes.

Mr. CARR. Mr. Chairman, I will not take the 5 minutes. This is a perfecting

amendment to change the number "$311,500,000" to "$291,500,000" to conform to the action that the House has just taken. It is a technical amendment, and I hope the House will accept it.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Michigan (Mr. CARR) as a substitute for the amendment offered by the gentleman from New York (Mr. DOWNEY).

The amendment offered as a substitute for the amendment was agreed to.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. DOWNEY), as amended.

The amendment, as amended, was agreed to.

The CHAIRMAN. Are there further amendments? If not, the question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. ROSTENKOWSKI, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 8390) to authorize appropriations during the fiscal year 1978 for procurement of aircraft and missiles, and research, development, test, and evaluation for the Armed Forces, and for other purposes, pursuant to House Resolution 815, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER. The question is on the passage of the bill.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. CHARLES H. WILSON of California. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 347, nays 37, not voting 50, as follows:

[Roll No. 646]

YEAS—347

Abdnor	Alexander	Ammerman
Addabbo	Allen	Anderson, Calif.
Akaka	Ambro	Anderson, Ill.
Andrews, N.C.	Fithian	Meeds
Andrews, N. Dak.	Flippo	Metcalfe
Annunzio	Flood	Meyner
Applegate	Florio	Michel
Archer	Flynt	Mikulski
Armstrong	Foley	Milford
Ashley	Ford, Mich.	Miller, Ohio
Aspin	Ford, Tenn.	Mineta
AuCoin	Fountain	Minish
Badham	Fowler	Mitchell, N.Y.
Barnard	Fraser	Moakley
Baucus	Frenzel	Montgomery
Bauman	Frey	Moore
Beard, R.I.	Fuqua	Moorhead, Calif.
Bedell	Gammage	Moorhead, Pa.
Bellenson	Gaydos	Mottl
Benjamin	Gephardt	Murphy, Ill.
Bennett	Giaimo	Murphy, N.Y.
Bevill	Gibbons	Murphy, Pa.
Biaggi	Gilman	Murtha
Blanchard	Ginn	Myers, Gary
Blouin	Glickman	Myers, John
Boggs	Goldwater	Myers, Michael
Boland	Gonzalez	Natcher
Bonker	Gore	Nedzi
Bowen	Gradison	Nichols
Brademas	Grassley	Nowak
Breaux	Guyer	O'Brien
Breckinridge	Hall	Oakar
Brinkley	Hamilton	Oberstar
Brodhead	Hammer-schmidt	Patten
Brooks	Hanley	Patterson
Broomfield	Hannaford	Perkins
Brown, Calif.	Hansen	Pettis
Broyhill	Harkin	Pickle
Buchanan	Harris	Pike
Burgener	Harsha	Poage
Burke, Calif.	Hawkins	Pressler
Burke, Fla.	Heckler	Preyer
Burke, Mass.	Hefner	Price
Burleson, Tex.	Heftel	Pritchard
Burlison, Mo.	Hightower	Quayle
Butler	Hillis	Quillen
Byron	Holland	Rahall
Caputo	Hollenbeck	Railsback
Carney	Holt	Regula
Carr	Horton	Reuss
Carter	Howard	Rhodes
Cavanaugh	Hubbard	Rinaldo
Cederberg	Hughes	Risenhoover
Chappell	Hyde	Roberts
Clausen, Don H.	Ichord	Rodino
Clawson, Del	Ireland	Rogers
Cleveland	Jacobs	Roncalio
Cochran	Jenkins	Rose
Cohen	Jenrette	Rosenthal
Coleman	Johnson, Colo.	Rostenkowski
Collins, Ill.	Jones, N.C.	Rousselot
Collins, Tex.	Jones, Okla.	Rudd
Conte	Jones, Tenn.	Runnels
Corcoran	Jordan	Ruppe
Corman	Kasten	Russo
Cornell	Kazen	Ryan
Cornwell	Kelly	Santini
Cotter	Ketchum	Sarasin
Coughlin	Keys	Satterfield
Cunningham	Krebs	Sawyer
D'Amours	LaFalce	Scheuer
Daniel, Dan	Lagomarsino	Schulze
Daniel, R. W.	Latta	Sebelius
Danielson	Le Fante	Sharp
Davis	Leach	Shipley
de la Garza	Lederer	Shuster
Derrick	Leggett	Sikes
Derwinski	Lehman	Simon
Devine	Lent	Sisk
Dickinson	Levitas	Skelton
Dicks	Livingston	Slack
Dingell	Lloyd, Calif.	Smith, Iowa
Dornan	Lloyd, Tenn.	Smith, Nebr.
Downey	Long, La.	Snyder
Duncan, Oreg.	Long, Md.	Solarz
Duncan, Tenn.	Lott	Spellman
Early	Lundine	Spence
Eckhardt	McClory	St Germain
Edgar	McCloskey	Staggers
Edwards, Ala.	McDade	Stangeland
Edwards, Okla.	McDonald	Stanton
Eilberg	McEwen	Steed
Emery	McFall	Steers
English	McHugh	Steiger
Erlenborn	McKay	Stockman
Ertel	Madigan	Stump
Evans, Colo.	Mahon	Symms
Evans, Del.	Mann	Taylor
Evans, Ga.	Markey	Teague
Fary	Marks	Thone
Fascell	Marlenee	Thornton
Findley	Marriott	Treen
Fish	Martin	Tsongas
Fisher	Mathis	Tucker
	Mattox	Udall
	Mazzoli	Ullman
	Van Deerlin	Whitehurst
	Vander Jagt	Whitley
	Vanik	Whitten
	Waggonner	Wiggins
	Walgren	Wilson, Bob
	Walker	Wilson, Tex.
	Walsh	Winn
	Wampler	Wirth
	Watkins	Wolff
	Waxman	Wright
	White	Wydler
		Wylie
		Yates
		Yatron
		Young, Alaska
		Young, Fla.
		Young, Mo.
		Young, Tex.
		Zablocki
		Zeferetti

NAYS—37

Baldus	Fenwick	Rangel
Bingham	Forsythe	Schroeder
Bonior	Harrington	Seiberling
Burton, John	Holtzman	Stark
Burton, Phillip	Kastenmeier	Stokes
Chisholm	Kildee	Studds
Clay	Kostmayer	Thompson
Conyers	Luken	Volkmer
Dellums	Mitchell, Md.	Weaver
Diggs	Nix	Weiss
Dodd	Nolan	Wilson, C. H.
Drinan	Ottinger	
Edwards, Calif.	Pattison	

NOT VOTING—50

Ashbrook	Jeffords	Panetta
Badillo	Johnson, Calif.	Pease
Bafalis	Kemp	Pepper
Beard, Tenn.	Kindness	Pursell
Bolling	Koch	Quie
Brown, Mich.	Krueger	Richmond
Brown, Ohio	Lujan	Robinson
Conable	McCormack	Roe
Crane	McKinney	Rooney
Delaney	Maguire	Roybal
Dent	Mikva	Skubitz
Evans, Ind.	Miller, Calif.	Stratton
Flowers	Moffett	Traxler
Goodling	Mollohan	Trible
Gudger	Moss	Vento
Hagedorn	Neal	Whalen
Huckaby	Obey	

The Clerk announced the following pairs:

Mr. Richmond with Mr. Brown of Michigan.
Mr. Panetta with Mr. Goodling.
Mr. Rooney with Mr. Whalen.
Mr. Pepper with Mr. Skubitz.
Mr. Dent with Mr. Lujan.
Mr. Evans of Indiana with Mr. Ashbrook.
Mr. Vento with Mr. Hagedorn.
Mr. McCormack with Mr. Krueger.
Mr. Roybal with Mr. Johnson of California.
Mr. Koch with Mr. Bafalis.
Mr. Miller of California with Mr. Brown of Ohio.
Mr. Delaney with Mr. Gudger.
Mr. Badillo with Mr. McKinney.
Mr. Flowers with Mr. Beard of Tennessee.
Mr. Maguire with Mr. Huckaby.
Mr. Mikva with Mr. Kindness.
Mr. Moffett with Mr. Conable.
Mr. Roe with Mr. Crane.
Mr. Neal with Mr. Kemp.
Mr. Mollohan with Mr. Pease.
Mr. Obey with Mr. Quie.
Mr. Pursell with Mr. Robinson.
Mr. Stratton with Mr. Trible.
Mr. Traxler with Mr. Moss.

Mr. PHILLIP BURTON and Mr. STOKES changed their vote from "yea" to "nay."

So the bill was passed.

The result of the vote was announced as above recorded.

The title was amended so as to read: "A bill to authorize appropriations during fiscal year 1978, in addition to amounts previously authorized, for procurement of aircraft and missiles for the Navy and the Air Force and research, development, test, and evaluation for the Navy, the Air Force, and the Defense agencies, and for other purposes.".

A motion to reconsider was laid on the table.

Mr. PRICE. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 1863) to author-

ize appropriations during the fiscal year 1978 for procurement of aircraft and missiles, and research, development, test, and evaluation for the Armed Forces, and for other purposes and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

The Clerk read the Senate bill, as follows:

S. 1863

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Department of Defense Supplemental Appropriation Authorization Act, 1978".

TITLE I—PROCUREMENT

SEC. 101. In addition to the funds authorized to be appropriated under the "Department of Defense Appropriation Authorization Act, 1978" there are hereby authorized to be appropriated during fiscal year 1978, for the use of the Armed Forces of the United States for procurement of aircraft and missiles, and other weapons, as authorized by law, in amounts as follows:

Aircraft

For Aircraft: for the Air Force, $33,000.000.

Missiles

For Missiles: for the Air Force, $64,000,000.

TITLE II—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

SEC. 201. In addition to the funds authorized to be appropriated under the "Department of Defense Appropriations Authorization Act, 1978" there are hereby authorized to be appropriated during the fiscal year 1978 for the use of the Armed Forces of the United States for research, development, test, and evaluation, as authorized by law, in amounts as follows:

For the Air Force, $263,470,000.

For the Defense agencies, $14,000,000.

In authorizing funds under title I and title II of this Act, Congress asserts its readiness to consider, in accordance with the processes set forth in the Congressional Budget Control and Impoundment Act of 1974 and the Budget and Accounting Act, 1921, such modifications in the United States cruise missile programs as the President may recommend to facilitate either negotiation or agreement in arms limitation or reduction talks.

The SPEAKER pro tempore (Mr. SIMON). Is there objection to the request of the gentleman from Illinois?

There was no objection.

MOTION OFFERED BY MR. PRICE

Mr. PRICE. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. PRICE moves to strike out all after the enacting clause of S. 1863 and to insert in lieu thereof the text of H.R. 8390, as passed by the House, as follows:

That this Act may be cited as the "Department of Defense Supplemental Appropriation Authorization Act, 1978".

TITLE I—PROCUREMENT

SEC. 101. In addition to the funds authorized to be appropriated under title I of the Department of Defense Appropriation Authorization Act, 1978, funds are hereby authorized to be appropriated during fiscal year 1978 for the use of the Navy and the Air Force for procurement of aircraft and missiles, as authorized by law, in amounts as follows:

(1) For aircraft: for the Navy, $151,600,000; for the Air Force, $33,000,000.

(2) For missiles: for the Air Force, $64,000,000.

TITLE II—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

SEC. 201. In addition to the funds authorized to be appropriated under title II of the Department of Defense Appropriation Authorization Act, 1978, funds are hereby authorized to be appropriated during fiscal year 1978 for the use of the Navy, the Air Force, and the Defense agencies for research, development, test, and evaluation, as authorized by law, in amounts as follows:

(1) For the Navy, $5,886,000.

(2) For the Air Force, $291,500,000, of which $5,000,000 is authorized for the study of wide-bodied aircraft as strategic cruise missile carriers.

(3) For the Defense agencies, $15,000,000.

SEC. 202. (a) Section 202(a)(2) of the Department of Defense Appropriation Authorization Act, 1978 (Public Law 95-79), is amended by striking out "before January 1, 1980" and inserting in lieu thereof "not later than July 1, 1981".

(b) The amendment made by subsection (a) shall take effect October 1, 1977.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title was amended so as to read: "A bill to authorize appropriations during fiscal year 1978, in addition to amounts previously authorized, for procurement of aircraft and missiles for the Navy and the Air Force and for research, development, test, and evaluation for the Navy, the Air Force, and the Defense agencies, and for other purposes.".

A motion to reconsider was laid on the table.

A similar House bill (H.R. 8390) was laid on the table.

GENERAL LEAVE

Mr. PRICE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to include extraneous material on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

PERMISSION FOR SUBCOMMITTEE ON HEALTH AND THE ENVIRONMENT OF COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE TO SIT TOMORROW DURING 5-MINUTE RULE

Mr. EVANS of Georgia. Mr. Speaker, I ask unanimous consent that the Subcommittee on Health and the Environment of the Committee on Interstate and Foreign Commerce may be permitted to sit on tomorrow, Thursday, October 13, 1977, during the 5-minute rule.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

STATEMENT OF THE HONORABLE ROBERT N. GIAIMO ON THE CONGRESSIONAL BUDGET FOR FISCAL YEAR 1978

(Mr. GIAIMO asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. GIAIMO. Mr. Speaker, as called for in the Congressional Budget Act, the House Budget Committee has notified the Speaker of the House on the status of the fiscal year 1978 Congressional Budget. A copy of my letter to the Speaker and the committee's report are attached at the end of these remarks. I would like to inform my colleagues in the House how the Congress stands with regard to the budget resolution it adopted on September 15.

The adoption of House Concurrent Resolution 341 represents another step taken by Congress in compliance with the Budget Act which requires that the second budget resolution contain a binding floor on revenues and a ceiling on spending for the remainder of the fiscal year. The importance of these reports to my colleagues is this: Under section 311 of the Congressional Budget Act a point of order may be raised by any Member against any bill, resolution or amendment—including conference reports—which would cause the spending ceiling or revenue floor to be breached. As you know, this section of the act pertains only to aggregate figures, not to the individual functional categories.

I would like to remind my colleagues that the guidelines adopted by the House and Senate Budget Committees in determining the current level of spending and revenues were inserted in the CONGRESSIONAL RECORD on February 4, 1976, by the chairman of the Budget Committee.

The attached report from the Congressional Budget Office shows that for fiscal year 1978, the current level for budget authority is about $48 billion below the ceiling adopted in the second resolution and there is a margin of about $19 billion in outlays. In addition, the current level for revenues is above the second resolution floor by $1.1 billion. These figures reflect the enactment of ten of the regular appropriation bills. Three other appropriations bills (Labor-HEW, Foreign Assistance and District of Columbia) which have not reached this stage are, therefore, not counted as part of the current level although their adoption was assumed by the Budget Committee in establishing the ceilings for the second resolution. These bills will become part of the current level when they reach the completed conference stage.

For entitlement programs particularly in the Labor-HEW area for which payment is required by law, an estimate is included in the current level consistent with our scorekeeping guidelines. Also included in the current level for spending are mandatory amounts for which there is an anticipated supplemental, for instance the military and civilian pay raise and veterans' readjustment benefits.

In addition, to the ten appropriations bills, three other pieces of spending legislation are included in the tabulation of the current level. Those are: Emergency Unemployment Benefits Extension (Public Law 95-19), Food and Agriculture Act of 1977 (Public Law 95-

113) and Veterans' Disability and Survivor Benefits Act (H.R. 1862).

As has been done in previous fiscal years, I shall continue to provide these reports to the House in order to facilitate the consideration of any new spending and revenue measures. I would also like to take this opportunity to express my thanks to my colleagues for their continued support of the budget process. My last report to the House before the close of fiscal year 1977 demonstrated that Congress has lived well within its self-imposed spending and revenue restrictions. My hope is that the same sense of fiscal responsibility will prevail throughout fiscal year 1978.

Thank you Mr. Speaker.

HOUSE OF REPRESENTATIVES,
Washington, D.C. October 5, 1977.

Hon. THOMAS P. O'NEILL, Jr.,
Speaker,
U.S. House of Representatives,
Washington, D.C.

DEAR MR. SPEAKER: On January 30, 1976, the Committee on the Budget outlined the procedures which it had adopted in connection with its responsibilities under Sec. 311 of the Congressional Budget Act of 1974 to provide estimates of the current level of revenues and spending. I am herewith transmitting the status report under H. Con. Res. 341, the Second Budget Resolution for FY 1978. This report reflects the resolution of September 15, 1977, and estimates of budget authority, outlays, and revenues based on all completed action on spending and revenue measures as of close of legislative business, Monday, October 3, 1977.

Sincerely,

ROBERT N. GIAIMO,
Chairman.

REPORT TO THE SPEAKER OF THE U.S. HOUSE OF REPRESENTATIVES FROM THE COMMITTEE ON THE BUDGET ON THE STATUS OF THE FISCAL YEAR 1978 CONGRESSIONAL BUDGET ADOPTED IN HOUSE CONCURRENT RESOLUTION 341

REFLECTING COMPLETED ACTION AS OF OCT. 3, 1977

[In millions of dollars]

	Budget authority	Outlays	Revenues
Appropriate level	500,100	458,250	397,000
Current level	452,202	439,126	398,100
Amount remaining	47,898	19,124	1,100

BUDGET AUTHORITY

Any measure providing budget or entitlement authority which is not included in the current level estimate and which exceeds $47,898 million for fiscal year 1978, if adopted and enacted, would cause the appropriate level of budget authority for that year as set forth in H. Con. Res. 341 to be exceeded.

OUTLAYS

Any measure providing budget or entitlement authority which is not included in the current level estimate and which would result in outlays exceeding $19,124 million for fiscal year 1978, if adopted and enacted, would cause the appropriate level of outlays for that year as set forth in H. Con. Res. 341 to be exceeded.

REVENUES

Any measure that would result in a revenue loss exceeding $1,100 million for fiscal year 1978, if adopted and enacted, would cause revenues to be less than the appropriate level for that year as set forth in H. Con. Res. 341.

CONGRESSIONAL BUDGET OFFICE
Washington, D.C., October 4, 1977.

Hon. ROBERT N. GIAIMO,
Chairman, Committee on the Budget,
U.S. House of Representatives,
Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to section 308(b) and in aid of section 311(b) of the Congressional Budget Act, this letter and supporting detail provide an up-to-date tabulation of the current levels of new budget authority, estimated outlays and estimated revenues in comparison with the appropriate levels for these items contained in the most recently agreed to concurrent resolution on the 1978 budget. This is the first Parliamentarian Report for Fiscal Year 1978, and it is tabulated as of close of business October 3, 1977.

[In millions of dollars]

	Budget authority	Outlays	Revenues
1. Enacted	357,243	390,196	398,100
2. Entitlement authority and other mandatory items requiring further appropriation action	32,444	26,196	
3. Continuing resolution authority			
4. Conference agreements ratified by both Houses	62,516	22,733	
Current level	452,202	439,126	398,100
Second Concurrent Resolution	500,100	458,250	397,000
Amount remaining:			
Under ceiling	47,898	19,124	
Over floor			1,100

Sincerely,

ALICE M. RIVLIN,
Director.

PARLIAMENTARIAN STATUS REPORT SUPPORTING DETAIL, FISCAL YEAR 1978 AS OF CLOSE OF BUSINESS OCT. 3, 1977

[In millions of Dollars]

	Budget authority	Outlays
I. Enacted:		
Permanent appropriations and trust funds	234,738	218,144
Outlays from balances of prior-year authority associated with appropriation bills not yet included in Parliamentarian report:		
Foreign assistance		2,732
District of Columbia		51
HUD-Independent agencies		15,692
Labor-HEW		26,279
Offsetting receipts (included amounts generated by current appropriation action)	−45,670	−45,670
Enacted this session:		
Agriculture (Public Law 95-97)	12,749	13,520
Interior (Public Law 95-74)	10,026	8,888
Legislative (Public Law 95-94)	990	1,053
Military construction (Public Law 95-101)	2,978	3,613
Public works (Public Law 95-96)	10,294	9,436
State-Justice (Public Law 95-86)	7,709	10,942
Treasury (Public Law 95-81)	7,478	7,600
Transportation (Public Law 95-85)	6,197	14,940
Defense (Public Law 95-111)	109,753	101,910
Other spending legislation:		
Emergency unemployment benefits extension (Public Law 95-19)		215
Food and Agriculture Act of 1977 (Public Law 95-113)		850
Total, enacted	357,243	390,196
II. Entitlement authority and other mandatory items requiring further appropriation action:[1]		
Function 050:		
Retired pay (anticipated supplemental)	93	93
Department of Defense, civilian and military pay (anticipated supplemental)	2,673	2,593
Function 500:		
Public assistance (H.R. 7555)	2,550	1,609
Human development (H.R. 7555)	760	760
Function 550:		
Retired pay, PHS (H.R. 7555)	57	45
Public assistance (H.R. 7555)	10,750	7,703
Payments to social security trust funds (H.R. 7555)	7,214	7,214
Offsetting receipts	−7,214	−7,214
Function 600:		
Public assistance (H.R. 7555)	6,300	4,335
Payments to social security trust funds (H.R. 7555)	741	741
Offsetting receipts	−741	−741
Supplemental security income (H.R. 7555)	5,250	5,180
Special benefits, disabled coal miners (H.R. 7555)	968	892
Federal unemployment benefits and allowances (H.R. 7555)	1,200	1,062
Special benefits, DOL (H.R. 7555)	319	316
Railroad Retirement, payment (H.R. 7555)	250	250
Offsetting receipts	−250	−250
Regional rail transportation protective account (H.R. 7555)	50	50
Function 700:		
Readjustment benefits (anticipated supplemental)	113	
Veterans Disability and Survivor Benefits Act (H.R. 1862) (anticipated supplemental)	229	335
Function 800:		
Payment to civil service retirement and disability trust fund (anticipated supplemental)	319	319
Offsetting receipts	−319	−319
Function 920:		
Civilian agency pay raise (anticipated supplemental)	1,131	1,224
Total, entitlement authority	32,444	26,196
III. Continuing resolution authority		
IV. Conference agreements ratified by both Houses:		
HUD-independent agencies appropriation bill (H.R. 7554)	69,371	29,619
Offsetting receipts	−6,855	−6,855
Deny veterans benefits to certain individuals with upgraded discharge (H.R. 8698 and S. 1307)		−31
Total, conference agreements	62,516	22,733
Total current level, as of Oct. 3, 1977	452,202	439,126
Concurrent resolution of Sept. 15, 1977	500,100	458,250
Amount remaining:		
Over ceiling		
Under ceiling	47,898	19,124

[1] Includes anticipated supplementals and appropriations for entitlements pending in the regular Labor-HEW appropriation bill (H.R. 7555) at the amounts agreed to in conference.

Note.—Detail may not add due to rounding.

THE LABOR–HEW APPROPRIATIONS BILL: THE NEED FOR A SPEEDY RESOLUTION

The SPEAKER pro tempore (Mr. SIMON). Under a previous order of the House, the gentleman from Georgia (Mr. FOWLER) is recognized for 5 minutes.

Mr. FOWLER. Mr. Speaker, the question of Federal funding of abortions deserves the careful deliberation of the Congress. However, despite the significance of this issue, we are not justified in causing the substantial inconvenience and even suffering of hundreds of thousands of innocent people by delaying the Labor-HEW appropriations bill, H.R. 7555.

As you know, this bill is being held up in conference committee because the House and the Senate cannot agree on language concerning the use of Federal funds to finance abortions. Disagreements between the House and Senate are not unusual. In this case, however, the disagreement has extended into the new fiscal year which began October 1. The indecision on this one provision prevents action on the whole purpose of the bill—the funding of Labor and HEW programs. Some the consequences of allowing this single provision to delay passage of the bill include:

Employees of the Department of Labor and Health, Education, and Welfare will not be paid for their work after October 1. Over 12,000 workers in the Southeast region alone are being unjustly affected by our inaction.

Across the country 650,000 State and local employees whose salaries are dependent on matching funds from HEW are not being paid.

No new Comprehensive Employment and Training Act (CETA) programs can be implemented. As a consequence, efforts to reduce teenage unemployment are at a standstill.

One hundred percent of the funding for State unemployment offices has been tied up since October 1.

All funding for 1978 for Gallaudet College for the Deaf is included in this bill. The delay in enactment has caused considerable inconvenience to the college. Also, all cost-sharing programs which Gallaudet has with groups across the country which provide services for the deaf are affected. For example, the October Forum to teach the deaf in the Atlanta Metropolitan area had to be cancelled because funds will not be forthcoming from Gallaudet as promised.

HEW's field operations which monitor social service programs, medicare, and medicaid have been halted.

Most public health services such as the Public Health Service, maternal and child care services, have all been affected by the delay.

Six million dollars for Head Start have not been sent to the States in the Southeast region because the Congress has not acted on H.R. 7555.

Vista volunteers are not being paid their monthly subsistence allowance of $200.

Each day we wait to pass H.R. 7555 increases the confusion, the inconvenience and the hardship which people who have no control over the abortion issue must bear. To insist on a position which will not lead to a resolution with the Senate is irresponsible. If this issue were not linked to the appropriations bill, those unwilling to compromise on abortion would hold a more defensible position. As it is, government is being ground to a halt in the name of pressing a point.

This method of operating is neither wise nor fair. Moreover, it breeds cynicism toward government among those who have been unjustly affected by the tactic of attaching the abortion provision to H.R. 7555.

The general technique of using an appropriations bill for this sort of provision is inappropriate. This approach has resulted in our violating the timetable of the Budget Act of 1974, an act which has rationalized our taxing and spending decisions. If the tactics adopted in this case were to become our normal way of doing business, Congress would go out of business. We must not allow any single interest to sabotage this House.

Not passing the Labor-HEW appropriations bill has created difficulties for Government agencies, employees, and the people being served by Labor-HEW programs. The confusion and distress which grows each day that we do not pass this bill must be stopped. I urge my colleagues on the conference committee and in the House to agree to language which would constitute a true compromise with the Senate or else to sever the abortion issue from the Labor-HEW bill and consider abortion separately. The Labor-HEW appropriations bill can no longer be held hostage by an issue extraneous to it.

LABOR REFORM BILL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Hampshire (Mr. CLEVELAND) is recognized for 5 minutes.

Mr. CLEVELAND. Mr. Speaker, the House last Thursday passed H.R. 8410, the so-called labor reform bill, by a vote of 257 to 163. I voted in favor of final passage of the bill, although not until amendments were adopted to relax some of the more restrictive sections, and even then I was not entirely satisfied. On balance, though, I felt that the bill contains many long-needed procedural changes to enforce the rights guaranteed by the National Labor Relations Act of 1935. Because I have received a large quantity of mail about this bill, both pro and con, I want to elaborate on my reasons for voting as I did.

The Wagner Act, the popular name for the NLRA, guarantees to workers the rights to organize themselves into unions and to bargain collectively with their employers. In the vast majority of cases these rights have been recognized in good faith by employers, and representation elections and bargaining sessions have been held with no problems. In other cases, however, the law has been flagrantly violated by employers opposed to union representation at their plants; employees engaging in union organizing drives have been fired, union elections have been stalled by dilatory tactics, and even after workers have voted to unionize themselves some employers have refused to enter into bargaining sessions.

INADEQUATE INFORCEMENT

Although the Wagner Act provides workers the "rights" to organize themselves, it contains few effective provisions to enforce those rights. Employers bent on keeping unions out have therefore been able to evade, prolong, and in some cases deliberately violate, the law, because the penalties amount to little more than a slap on the wrist. In many instances employers have actually found it profitable to violate the law, because any penalties imposed by court decisions were less than the employer would have had to pay in increased wages and improved working conditions had it gone along with unionization.

A companion problem that has contributed to frustrations with the Wagner Act has been in the operations of the National Labor Relations Board, established to carry out the law and determine any unfair labor practices. Because of the backlog of cases piling up in recent years the NLRB has been increasingly slow in making determinations, with the result that some union representation cases have dragged on for years. This backup, compounded by loopholes in the law that permit stubborn employers to wear down union drives, is a principal target of H.R. 8410.

The objectives of H.R. 8410 are procedural in nature, and are designed simply to insure that the rights guaranteed by the Wagner Act are exercised with as little hindrance or delay as possible. It speeds up the NLRB's schedules for conducting union representation elections, and streamlines its procedures for handling complaints of unfair labor practices. Moreover, it provides penalties for employers who resort to illegal means to prevent union organization.

While these are certainly worthy goals, Mr. Speaker, I had serious reservations about H.R. 8410 as it was reported from the Committee on Education and Labor, because I felt that some of its provisions were unduly favorable to labor interests and harsh to employers honestly attempting to promote their own interests.

ELECTION TIME LIMITS

One such provision dealt with the time limits for holding union representation elections. I fully concur with the need to impose some limit within which such elections have to take place, but the deadlines established in the committee bill seemed inordinately strict. Those provisions would have mandated an election within 15 days in normal cases, and established an upper limit of 75 days in complicated cases. I agreed with those who argued that a 15-day limit may hamper the ability of employers, particularly small businesses, to present their own cases, and I therefore voted in favor of two amendments to extend the time limits. I am pleased that the House adopted an extension to 25 days, which will allow the employer sufficient time to counter union arguments, while still preserving the principle of expeditious

elections to determine whether workers want to be represented.

PENALTIES

The exacting of stiff penalties in cases of unfair labor practices is an effective deterrent to violation of the Wagner Act, but the penalties proposed in the committee bill seemed excessively harsh on employers, while they scarcely mentioned unions that might engage in such practices.

I was disappointed that the House failed to adopt an amendment to strike the section calling for a calculated "make whole" remedy in cases where an employer refuses to recognize the results of an election and fails to enter into bargaining talks. The bill's penalty calls for a reimbursement to employees based on figures derived from wages at the Nation's largest plants. I realize this penalty is intended to compel employers to negotiate, and that no such prod is in the present law, but it still represents an unnecessarily severe punishment.

However, in cases of double back pay for employees illegally fired for union organizing activities, I was pleased that an amendment was adopted by voice vote that lessened the pay penalty by the amount of wages earned by that worker in the interim period. That same amendment provided a double back pay penalty for unions that prevent members from working, thereby making the penalty equally applicable.

I was also pleased that the section providing for "debarment," denying Federal contracts to firms found repeatedly in violation of the labor laws, was softened somewhat to allow the Secretary of Labor discretion in applying the penalty, and to insure that an entire firm would not necessarily lose Government contracts because of violations occurring at a single plant.

EQUAL ACCESS

Another section of the bill that aroused considerable controversy would provide a labor union an equivalent opportunity to present its own case—on company time and property—if the company management had made antiunion arguments to workers during an organization period. I opposed an amendment to strike this section, on the ground that since management can compel a captive audience to hear its side, labor ought to have the same opportunity. In the same vein, I supported an amendment, which passed overwhelmingly, to allow employers the opportunity to enter union organization meetings to rebut arguments.

SUMMARY

Mr. Speaker, I am convinced that employers who have been obeying the present provisions of the National Labor Relations Act will hardly notice the change if this bill is enacted into law. It is aimed, as stated previously, at those who are intent on preventing union organization of their employees, and thereby denying those employees rights legally granted them 42 years ago. On the other side of the coin, this bill in no way encourages "compulsory unionism," as some of my correspondents have alleged. It expedites the process of holding elections, but the final choice still is up to the workers themselves. They are the ones who, by democratic ballot, will choose whether to have a union represent them or not.

PRESIDENT SIGNS H.R. 5294—FAIR DEBT COLLECTION PRACTICES ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ANNUNZIO) is recognized for 5 minutes.

Mr. ANNUNZIO. Mr. Speaker, on September 20, 1977, President Carter took the historic step of signing into law the Fair Debt Collection Practices Act. This is the first Federal legislation to comprehensibly regulate debt collection practices. The President indicated his strong interest in this legislation by holding a signing ceremony in the Rose Garden at the White House. The law is a result of 3 years of hard work by both the House and Senate to produce legislation that will protect consumers and yet is fair to reputable debt collectors. After introducing this legislation, I held hearings which documented that consumers desperately need protection from all too frequent unscrupulous debt collection tactics such as harassing or threatening phone calls, employer contact, false threats of arrest or suit, impersonation of attorneys, policemen, and public officials or threats of bodily harm or death. President Carter in his remarks noted that passage of this legislation:

. . . is a great step forward in indicating to the American people that the Congress believes that consumers need to be treated fairly.

I applaud the President's dedication to consumer protection. Following is the text of the President's remarks at the bill signing ceremony for H.R. 5294, the Fair Debt Collection Practices Act:

REMARKS OF THE PRESIDENT AT THE BILL SIGNING CEREMONY FOR H.R. 5294, FAIR DEBT COLLECTION BILL

THE ROSE GARDEN, 10 A.M., EDT

I am glad to see there is a lot of interest in this legislation. It is a great pleasure for me to meet with all of you this morning to sign H.R. 5294, which is a Fair Debt Collection bill.

Before I sign this legislation, I would particularly like to thank Senator Proxmire and Senator Riegle, who did so much hard work on this, and Congressmen Reuss, Annunzio and Wiley behind me, who fought a very difficult fight—very close in the House, very overwhelming in the Senate—to get this legislation into law.

This is the first consumer bill that I have had the opportunity to sign, and it is one of the first times, I think, in the history of our country when a consumer bill has been signed here at the White House. (Laughter) But I believe it is important for me as President to indicate my strong interest in this legislation.

It is not a minor matter to treat consumers fairly in this country. And if there is one major gap in what has been accomplished by my predecessors in the White House and by previous Congresses, it is in the protection of consumers. I hope this is the first of a series of bills I will be able to sign here on the White House lawn.

I believe that we need to pursue the opportunity for consumers to be represented before the agencies of the Federal Government which determine their right to a fair opportunity in our economic structure.

I hope that we will have a chance to enhance the use of responsible class action suits. And above all, I hope I will have a chance to sign into law an act creating the Consumer Protection Agency, which I believe is of very great importance to our country. (Applause)

The deliberate misinformation that has been promulgated about this legislation is disheartening to me, and I hope that the Members of Congress who have already shown their courage in protecting consumers against what is so often very strong pressure will again renew their effort to pass this law which will create the agency that I have described.

We now have consumer protection scattered so diversely throughout the Federal Government that it is impossible to make it effective. It would be a great saving in taxpayers money, it would be a great savings in the wasted efforts of public employees, and it would also be a great step forward in letting American people know that our free enterprise system can be fair to implement this agency in the future.

This bill assures that collection procedures are fair. Testimony that was given during the hearings on this bill showed that quite often innocent consumers, some of whom had even been misidentified as debtors, were harassed by profane language, by false statements made to them directly or by telephone, by calls after midnight to disturb a family, by threats which were contrary to the law, by alleging that consumers were violating the law when in fact they weren't. And these practices will now be made illegal among about 500 collection agencies, most of which are honest and law-abiding and do a proper job; some of which, though, need to be corrected.

About $5 billion a year are collected by these agencies, and this is a great step forward in indicating to the American people "that the Congress believes that consumers need to be treated fairly.

So because of these reasons and many others, I congratulate the Members of the House and Senate behind me, who represent many others, and express my congratulations to the consumers of America and my own pride in being able to sign this legislation, which is a great step forward. (Applause)

AMENDING THE ARMS EXPORT CONTROL ACT TO IMPROVE CONGRESSIONAL OVERSIGHT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts (Mr. DRINAN) is recognized for 5 minutes.

Mr. DRINAN. Mr. Speaker, I am today reintroducing, with 24 cosponsors, H.R. 9223, a bill to amend the Arms Export Control Act to provide for improved congressional review of major foreign weapons sales.

This bill, identical to legislation filed in the Senate by GAYLORD NELSON, would simply amend section 36(b) of the Arms Export Control Act to give the Congress 45 days during which it is in continuous session, rather than the present 30 calendar days, within which to consider and, if warranted, take action to disapprove by joint resolution all weapons sales in excess of $25 million. The only change is in the time period. "Forty-five days in which Congress is in continuous session" means that no days

during a recess of either House of Congress could count against the review period, in effect extending it for a corresponding amount of time.

This change would prevent an administration from reducing significantly or even precluding entirely congressional review of a weapons sale by proposing it during a legislative recess. The bill also extends the review period to a minimum of 45 days. The complexity and foreign policy significance of major arms transfers clearly mandate such a change. If Congress is to act responsibly, hearings must be held and adequate time allotted for debate. It is unrealistic to expect that a resolution of disapproval of a proposed arms sale could be passed in such a short period of time.

The need for enactment of this measure was underscored this week with the publication of a study of U.S. arms export policy conducted by the Library of Congress for the Senate Foreign Relations Committee. This 99-page analysis, entitled "Implications of President Carter's Arms Transfer Policy," concluded:

That despite the stated and implied intentions of the new policy, arms sales continue to play a very substantial role in support of U.S. foreign policy and national security objectives. Rather than being used as an "exceptional foreign policy implement," U.S. arms transfers continue to occur on a rather routine basis. . . . This study concludes that the President's new policy, as applied in practice since May 19th, has yet to demonstrate a significantly reduced role for arms transfers as an instrument of U.S. foreign policy.

I drew the same conclusion this week, as a result of my receipt today of a response by President Carter to a letter which Representative BENJAMIN S. ROSENTHAL and I addressed to him more than 2 months ago. In our letter of August 10, Representative ROSENTHAL and I urged the President not to propose the sale of 60 F-15 fighter aircraft to Saudi Arabia. We raised several substantive arguments against the wisdom of this transaction, which, according to recent press reports, is receiving favorable consideration by the State Department and the White House. President Carter's response failed to address most of the issues raised by Representative ROSENTHAL and myself. The President promised only to "insist as always on explicit assurances against third country transfers." It was precisely the problems associated with the enforcement of such assurances during a crisis, along with other objections, which prompted Representative ROSENTHAL and I to express our concern to the President.

If Congress is to exercise its statutory responsibility to review major weapons sales, such as the sale of large numbers of extremely sophisticated F-15 Eagles to Saudi Arabia, we must take action to extend the period of time within which we can study and act on proposed arms transfers. We must also take action to remove the possibility that a weapons sale could escape review entirely, due to a prolonged congressional recess. I hope that the Senate and the House will act favorably on this legislation to amend the Arms Export Control Act. The Library of Congress study and the President's position regarding the sale of F-15's to Saudi Arabia demonstrate that major weapons sales to very volatile parts of the world will continue, regrettably, to be a cornerstone of our foreign policy.

The exchange of letters between the President and Representative ROSENTHAL and myself follows:

WASHINGTON, D.C., *August 10, 1977.*

President JIMMY CARTER,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: We write to express our deep concern over reports that the Administration is seriously considering the sale of approximately 60 F-15 fighter aircraft to Saudi Arabia.

We recognize the important role being played by Saudi Arabia in the search for peace in the Middle East, and we share your commitment to continuing the friendly relations between our two nations. But we also are worried about what the introduction of this advanced weapon system will do to the fragile balance of power in that part of the world.

It is our belief that such a sale can only serve to destabilize the military balance in the Middle East. Saudi Arabia will not have the technological capability to utilize this highly sophisticated aircraft for many years. Neither does Saudi Arabia confront any military threat which would require the acquisition of the F-15 Eagle, one of the most advanced fighter planes in the world.

Egypt and Syria, however, possess both the trained pilots and technicians and the military incentive to use the F-15. We fear that should another round of fighting occur in the Middle East, Saudi Arabia might not be able to resist the pressure to become involved. We are aware that Saudi Arabia has not violated transfer agreements on United States purchased arms during previous Arab-Israeli wars, but it is important to point out that it did not have such a formidable arsenal in the past. There exists today as never before the distinct possibility that Saudi Arabia could use its sophisticated weapons directly against Israel or "loan" them to another Arab power.

The introduction of such an advanced technology fighter into the Arab arsenal would result in an escalation of the arms race in the Middle East and a serious increase in the threat to the security of Israel. This is particularly disturbing in light of Saudi expansion of its air base facilities near Israeli borders, its purchase of United States-made "smart bombs," and its continued acquisition of aerial tankers.

The sale of F-15's to Saudi Arabia would also violate the spirit of your own commitment to limit the sale of advanced weapons to developing nations. In May, you stated that the United States would adhere to treaty obligations to West European nations and other traditional allies, but would sell sophisticated arms to other nations only "under extraordinary circumstances." Such circumstances do not exist in Saudi Arabia, which faces no credible external threat and already possesses a formidable arsenal of United States-provided arms, including F-5 fighter aircraft.

In the interest of preserving the military balance in the Middle East and in keeping with your commendable policy to limit arms sales, we respectfully urge you to refrain from the sale of F-15 aircraft to the Saudi Arabian Government.

With best wishes.

Sincerely yours,

ROBERT F. DRINAN,
BENJAMIN S. ROSENTHAL,
Members of Congress.

THE WHITE HOUSE,
Washington, D.C., October 11, 1977.

Hon. ROBERT F. DRINAN,
House of Representatives,
Washington, D.C.

TO CONGRESSMAN ROBERT DRINAN: I am responding to your letter in which you expressed your deep concern over reports that the Administration is seriously considering the sale of F-15 aircraft to Saudi Arabia.

As you are certainly aware, the Administration has not notified the Congress of an intent to conclude such a sale. The reason is that no decision has been made on this sale.

As you mention in your letter, Saudi Arabia has played an important moderating role in the search for peace in the Middle East. We consider the Saudis a constructive partner in our efforts in the region.

The Government of Saudi Arabia entered into discussions with the United States several years ago about replacing older obsolescent aircraft. The British-manufactured Lightning air defense interceptors are rapidly aging, and the Government of Saudi Arabia has felt for some time that they no longer provide a reliable air defense. The U.S. is sympathetic to these concerns and believes that Saudi Arabia does indeed need a replacement aircraft. I do want to assure you that, if the U.S. does sell any aircraft to Saudi Arabia, we would insist as always on explicit assurances against third country transfers.

I understand the sincerity of your concern and appreciate your interest. I can assure you that I will give the most serious consideration to the issues you have raised.

Sincerely,

JIMMY CARTER.

PANAMA CANAL: THE PROBLEM AND THE REASONED SOLUTION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. FLOOD) is recognized for 5 minutes.

Mr. FLOOD. Mr. Speaker, as is well known, committees of the Congress in both the Senate and House of Representatives during recent weeks have been conducting hearings concerning the future status of the Panama Canal. Many of the statements before these committees have been published in the CONGRESSIONAL RECORD.

My statement presented on October 4, 1977, to the Senate Committee on Foreign Relations summarizes crucial points in the canal problem and offers a reasoned and historically based solution.

The indicated statement follows as part my remarks:

PANAMA CANAL: THE PROBLEM AND THE REASONED SOLUTION

Mr. Chairman, as a student of Panama Canal history and problems, I long ago recognized them as inexhaustible subjects. My interest was first aroused in early youth when former President Theodore Roosevelt used to be an occasional guest at my grandfather's home in Hazleton, Pennsylvania. During those years, I listened many hours to that great American leader while he discussed the difficulties he had to face in launching what was then, and still is, one of the most stupendous industrial enterprises in history. He naturally became my youthful ideal and inspired an interest on my part in the Canal question that has increased over the years. It has been a privilege, indeed, since being a member of the Congress, to have been an instrument in the protection of the most strategic waterway of the Americas as a vital asset of the United States for interoceanic commerce and national defense.

Instead of making a long and detailed statement, I ask that the following documents be appended to my testimony:

Hay-Pauncefote Treaty of 1901 with Great Britain and the April 22, 1977 letter of the Raja of Patiala to the Prime Minister of India.

My statement before the House of Representatives Subcommittee on Inter-American Affairs, September 22, 1971.

My address on "New Panama Canal Treaty Report: Fallacies Clarified and Constructive Program Proposed." Congressional Record, September 9, 1976, pp. H9657–60.

H. Res. 92, 95th Congress.

H.R. 1587, 95th Congress.

Dr. Karl Brandt et al "Panama Canal Sovereignty and Modernization: Memorial to the Congress," 1975.

Press release of environmental organizations of September 6, 1977 and their telegram to the President of September 6, 1977.

Panama Canal Pilot Association urges Major Modernization as Solution of Panama Canal Problems. Congressional Record, November 15, 1973, p. H. 10091.

Mario Lazo. "Panama Canal Giveaway: A Latin American's View." Washington, D.C.: Council for Inter-American Security, 1977.

Letter to the President by four former Chiefs of Naval Operations of June 8, 1977, and its forwarding endorsement by four Senators of June 15, 1977.

In my studies of Isthmian canal policy questions, I have had the benefit of extensive consultations with the best informed authorities that I could find. They included experienced engineers and geologists, Panama Canal pilots and other navigators, marine biologists, lawyers, historians, and distinguished officers of the Armed Forces with high command experience.

Though canal problems are immensely complicated, when reduced to their essentials they are relatively brief and simple. The two central ones are: (1) the question of U.S. sovereignty over the Canal Zone; and (2) the increase of transit capacity coupled with operational improvements.

From a study of extensive evidence, it is clear that one of the prime reasons for the tremendous success of the United States in the construction of the Panama Canal and its subsequent efficient maintenance, operation, sanitation, protection and defense, with tolls that are "just and equitable," during two World Wars, the Korean and Viet Nam Wars, and the Cuban missile crisis, was the exclusive sovereign control of the Canal Zone by the United States.

When the present Panama Canal questions are evaluated from their most significant angles—engineering, marine operational economic, legal, environmental, defense and diplomatic—the only commonsense solutions are: (1) retention by the United States of its undiluted sovereign control over the Canal Zone; and (2) the major modernization of the existing canal under the well known, extensively documented and strongly supported Terminal Lake-Third Locks solution. This proposal, which was developed in the Panama Canal organization as a result of World War II experience, was submitted to higher authority through official channels and won the approval of President Franklin D. Roosevelt as a post war project.

Such major modernization, on which more than $171,000,000 have already been expended, would improve the maintenance and operation of the Canal enormously, bring huge benefits to Panama, serve interoceanic commerce by increasing canal capacity and its operational efficiency for larger vessels, including larger tankers with Alaskan oil, and serve to increase employment in the United States as well as in Panama. Moreover, it is covered by existing treaty provisions, which authorize "expansion and new construction," and thus does not require the negotiation of a new canal treaty. (Congressional Record, July 24, 1939, p. 9834.) In addition, the Terminal Lake-Third Locks solution is recognized by experienced navigators, including Panama Canal pilots, as providing the best operational canal practicable of achievement and, I may add, at least cost.

In connection with costs, one of the main reasons for the insistence by the United States upon exclusive sovereign control over the Canal Zone was to protect the huge investment involved in the construction and fortification of the canal as well as the costs of its later improvements.

As a member of the Subcommittee on Defense, House Committee on Appropriations, I believe that I reflect the view of a majority of the House of Representatives as well as the people of the United States when saying that both will demand adherence to that historic U.S. canal policy.

In contrast to the modernization of the existing Canal, the much publicized proposal for a so-called "sea-level" canal, which is actually one of tidal lock design, would be operationally inferior to the existing canal as well as economically extravagant. Nevertheless, it makes a strong appeal to the inexperienced and others who think they may benefit from such a vast project. It periodically reappears as a "hardy perennial" no matter how often the impossibility of realizing any such scheme within realistic limits of cost and time may be demonstrated.

Historically, the advocacy of a "sea-level" design has been based on the alleged vulnerability of the lake and lock type.

In 1905–06, during the "battle of the levels," its supporters used the danger of "naval gunfire" as their major justification.

In 1938–39, prior to World War II, they stressed the hazards of "enemy bombing."

In 1945–48, its proponents held that "vulnerability to the atomic bomb" and other new weapon dangers "dictated" the construction of a "sea level" canal for reasons of "security and national defense."

In 1964, its advocates argued that "two sticks of dynamite" could destroy the present canal.

In 1970, they contended that the alleged "vulnerability" of the existing canal to "many forms of attack" required a tidal lock design.

In 1974–75, its supporters stressed that the dangers of "guerrilla warfare" and even "earthquakes" required construction of the "sea level" type.

The only new points in support of the "sea-level" proposal have been the use of different hobgoblins. Such advocacy is primarily based on the fallacious assumption that it is possible to construct a canal of "indestructible proportions."

The advent of nuclear weapons has negated all such assumptions, for any navigation project, regardless of type, is vulnerable to destruction by such weapons and no amount of sophistry can alter this fact. The true criteria for decision as to type are not passive defense measures embodied in canal design but "ease and safety of navigation" and this test leaves no doubt as to what type is required at Panama.

The 1947 Report under Public Law 280, 79th Congress, recommended only a "sea-level" project in the Canal Zone near the existing canal. It failed to receive Executive approval and was transmitted by President Truman to the Congress without comment or recommendation, and the Congress took no action thereon.

When the 1960 report of an independent inquiry under the House Committee on Merchant Marine and Fisheries was submitted, it opposed the construction of a "sea-level" project in the Canal Zone, as previously recommended in 1947, because of the possibility of massive slides involving a "long interruption to traffic" (H. Rept. No. 1960, 86th Congress, p. 5.)

In 1970, the report under Public Law 88–609, 88th Congress, as amended, recommended only a "sea-level" project in the Republic of Panama about 10 miles west of the existing canal.

The 1947 and 1970 "sea level" canal reports, costing about $6,000,000 and $23,000,000, respectively, were not the products of independent broadly based commissions subject to Senate confirmation, but of Executive appointed consultants to justify the predetermined decisions of a small professional and industrial group.

The maintenance, operation, sanitation and protection of the Panama Canal and its indispensable protective frame of the Canal Zone are technical problems of great complexity, requiring not only a depth of expert knowledge and experience but also the strong logistical support of a great and powerful nation.

The solution of these problems, including that of major modernization, does not consist of surrendering U.S. sovereignty over the Canal Zone and, ultimately, the Canal itself to a small, weak, technologically primitive, and unstable country but the assumption by the United States of its responsibilities as the great power leader of the Free World.

As was previously indicated, the reasoned solution is two fold: (1) re-affirmation by the Congress of full U.S. sovereign control over the Canal Zone; and (2) the major modernization of the existing canal under existing treaty provisions. Measures to implement these objectives are now before the Congress and should be promptly approved.

As to the much propagandized assertion that all of the Latin American countries desire the United States to surrender its sovereign control over the Panama Canal and Canal Zone to Panama, this is plain poppycock. I know of no better summary of Latin American feeling than that by the late Dr. Mario Lazo, a distinguished Cuban lawyer and author. In his 1977 posthumously published article, when commenting on the proposed surrender, he stated: "The almost universal reaction among the educated people of Latin America who are not politicians to a promulgated Kissinger-Bunker giveaway treaty would be, at first, incredulity, then sadness and eventually ridicule and even contempt for the once greatly respected nation that had shown itself no longer to have the will to maintain its responsibilities." (Mario Lazo, Op.Cit, p.10.)

The situation on the Isthmus is not a mere local conflict between Panama and the United States but a focal issue in the U.S.S.R. campaign for world domination by gaining control of strategic waterways. The strength of the U.S. Navy has been reduced from some 1000 vessels a decade ago to about 460 ships today. Thus, the Canal is a more vital element now for U.S. seapower than for many years. We can surrender its sovereign control only at our peril for with the loss of sovereignty all other aspects would become irrelevant. Such giveaway would quickly transform the Caribbean Sea and the Gulf of Mexico into Red lakes.

As to current efforts to polarize proponents of surrender of the Canal Zone and their opponents as liberals and conservatives, respectively, this is a monumental deception. The Canal question transcends all partisan considerations and must be resolved on the highest plane of national interest for it is a crucial issue in the current global situation, involving the security not only of the United States but also that of the entire Free World.

In these connections, I would stress the following:

The proposed new canal treaties ignore

the obligations of the United States under the Hay-Pauncefote Treaty.

They disregard the rights under that treaty of the successor states of the former British Empire and other important canal users that provide a substantial portion of Panama Canal traffic.

They represent an abject surrender to threats of violence if the treaties are not ratified.

Their ratification will extend U.S.S.R. power in the strategic Caribbean-Gulf of Mexico areas and impair the influence of the United States not only in this area but also throughout the world, especially among canal user nations.

There is ample authority to deal with local problems within the framework of existing treaties without any new ones.

The present treaties are workable. The proposed treaties would saddle the United States with grave responsibility without adequate authority, which would be an entirely impossible situation and would not work.

Finally, Mr. Chairman, the program that I recommend, which is derived from experience and is historically based, is simple:

1. Rejection of the pending treaties in their entirety;

2. Re-affirmation by the Congress of the historic U.S. policy for perpetual undiluted U.S. sovereign control over the Canal Zone;

3. Enactment of measures for the major modernization of the existing canal under existing treaty provisions.

4. Authorization for a Delegate in the Congress from the Canal Zone.

5. Reactivation of the pre-World War II U.S. Navy's Special Service Squadron with home base in the Canal Zone.

As recognized by many informed Latin Americans, this program will be best for the United States, best for world commerce, best for Panama and best for other nations of Latin America that use the Canal.

ADMINISTRATION'S ALIEN BILL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. RODINO) is recognized for 5 minutes.

Mr. RODINO. Mr. Speaker, I am introducing legislation today proposed by the administration to deal with what is characterized as the critical aspects of the undocumented alien problem. For purposes of clarification, the term "undocumented alien" has been adopted by the administration to replace the term "illegal alien" previously used by the Congress in its legislative considerations.

An undocumented alien is a person of foreign nationality who has entered the United States unlawfully, or who, after legal entry has violated the terms of his admission, generally by overstaying or accepting unauthorized employment.

There are no reliable estimates as to the total undocumented alien population of the United States, but it is thought to number in the millions.

The problem is by all means not new. It has constantly aggravated each year to the point where some observers believe that it may even now be out of control.

The Committee on the Judiciary, beginning in 1971, has held extensive hearings on the subject of "illegal aliens." The testimony of these hearings make up seven printed volumes. Three times, legislation relating to the problem has been reported by the committee, twice, during the 92d and 93d Congresses, the House acted favorably on the measure.

Although I have reservations on certain aspects of the bill I am introducing today, I am gratified to see that the President's commitment to take some action on this problem is fulfilled. It now behooves us to proceed diligently toward prompt consideration of the undocumented alien problem which becomes more serious day by day.

The President's message on undocumented aliens of August 4, 1977 covered the following areas: Employer sanctions, border enforcement, adjustment of status, foreign policy, temporary workers, and immigration policy.

The bill I am introducing does not deal with the problem in its entirety as exposed in the President's message. Instead, it addresses itself to three aspects of the issue: Adjustment of status, the creation of a new temporary alien status, and restriction of employment opportunities.

A brief section-by-section analysis of the bill is as follows:

BRIEF SECTION-BY-SECTION ANALYSIS OF ADMINISTRATION'S ALIEN BILL

Section 1. Popular title—Alien adjustment and employment Act of 1977.

Section 2. Adjustment of Status (Amnesty)—Authorizes permanent residence for those undocumented aliens who have been "continuously resident" in the United States since January 1, 1970, and who are otherwise admissible to the United States. (The Immigration and Naturalization Service estimates that some 765,000 illegal aliens may benefit from this provision.)

Section 3. Provides that any adjustments of status under Section 2 shall not be charged to any numerical ceiling on immigration.

Section 4. Creates a new temporary resident alien status for those illegal aliens who entered the United States on or before January 1, 1977 and who have been "continuously resident" since that date and are otherwise admissible to the United States.

Applications for such status must be filed within one year of the effective date of the bill. Excludes from eligibility for such status: (1) nonimmigrants who were in a valid status on January 1, 1977; (2) out of status students; (3) exchange visitors subject to the two-year foreign residence requirement; and (4) aliens who have engaged in persecution.

Provides for the issuance of appropriate documentation to aliens granted such status and authorizes their employment.

Establishes procedures for allowing aliens with this status to return to the United States after a temporary visit abroad.

Excludes such aliens from public assistance and prohibits them from bringing in relatives from abroad.

Section 5. Employer sanctions—Declares it unlawful for employers to hire aliens not authorized to work in the United States and prescribes a civil penalty of $1,000 for each alien illegally employed.

Requires the Attorney General upon belief that an employer has engaged in a pattern or practice of hiring illegal aliens to bring an action for civil penalties and injunctive relief in the appropriate United States District Court.

Creates an affirmative defense for employers who request and receive appropriate documentation (designated by the Attorney General) prior to actual employment. An employer would be given ninety days to screen existing employees. Designates the Social Security card as one of the authorized documents.

Makes it a felony to assist undocumented aliens in obtaining employment, punishable by a fine not to exceed $2,000 and/or five years imprisonment.

Section 6. Postpone effective date—sixty days after enactment.

The reservations I have on the administration's proposal are directed at the method of applying sanctions on employers of illegal aliens.

Hopefully, suitable and acceptable reasons or alternatives will emerge to these reservations from our processing of this proposal.

I commend the administration for taking the first step toward the solution of this serious problem. I shall look forward to further proposals from the administration on those areas mentioned in the President's message which were not covered by the legislation.

PULASKI DAY OBSERVED IN CONNECTICUT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Connecticut (Mr. COTTER) is recognized for 5 minutes.

Mr. COTTER. Mr. Speaker, Pulaski Day is an occasion for Polish Americans to recognize the significant contribution Gen. Casimir Pulaski made to the American fight for independence.

I am proud to share with my colleagues a proclamation issued by the Polish American Congress, District of Connecticut, to commemorate Pulaski Day, 1977.

RESOLUTION

Adopted by the Polish American Congress, District of Connecticut, on Pulaski Day Ceremonies Held in Hartford, on October 9, 1977

Honoring today the memory of General Pulaski, the great Polish patriot and the hero of the American War of Independence, we also pay tribute to General Kosciuszko an extraordinarily talented soldier and enlightened patriot.

The new ideas or ways of securing world peace pursued in forthcoming negotiations by the U.S. have to be accomplished without appeasement, without weakening America's moral, economic and military strength at the same time not deserting her allies.

We pledge our support to programs that will strengthen the viability of the U.S. in terms of social stability and civic wisdom in all sectors of American life, which we pray will result in law, order and justice to all.

A strong America, committed to the basic principles, so nobly and eloquently expressed in the Declaration of Independence and the fundamental human rights of free men, united and determined to uphold the banner of liberty, is the only hope for freedom for Poland and all captive nations.

We pay tribute to all those brave men who fought on numerous battlefields and gave their lives in defense of freedom and liberty under the noble motto of our forefathers: "For Your Freedom and Ours."

POLISH AMERICAN CONGRESS,
DISTRICT OF CONNECTICUT.

REPORT ON INSPECTION TRIP TO ENGLAND, SCOTLAND, AND IRELAND

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. CARNEY) is recognized for 5 minutes.

Mr. CARNEY. Mr. Speaker, during the August recess, I went to Ireland, Scotland, and England on official business of the Committee on Interstate and Foreign Commerce.

Mr. Speaker, I insert the official report concerning my inspection trip in the RECORD at this point. The report follows:

REPORT ON INSPECTION TRIP TO ENGLAND, SCOTLAND, AND IRELAND

(Submitted by Congressman CHARLES J. CARNEY, October 12, 1977)

Mr. Chairman, this is a report on my inspection trip to Ireland, Scotland and England from August 18 through September 2, 1977, in conjunction with my official duties as a member of the Committee on Interstate and Foreign Commerce.

I departed from Pittsburgh, Pennsylvania on Thursday afternoon, August 18th, and I arrived in Dublin, Ireland on Friday morning, August 19th. I was met at the airport by my Control Officer, Mr. Kevin J. McGuire, who is the Economic/Commercial Officer at the American Embassy in Dublin.

On Saturday, August 20th, I inspected public housing facilities around Dublin. Later that day, I traveled to Galway and conversed with local people about economic conditions; I also took a brief tour of the waterfront.

Since most business and government offices were closed on Sunday, August 21st, I inspected Glencree Cemetery in conjunction with my duties as Chiarman of the Subcommittee on Cemeteries and Burial Benefits of the Committee on Veterans' Affairs. It is a beautiful German cemetery located on land set aside by the Republic of Ireland in County Wicklow.

During World War II, a number of German airmen, between the ages of 19 and 27, were shot down over the Irish Sea and over Ireland itself. The German Government established the cemetery at Glencree primarily for the burial of these young officers, who were the flower of German manhood. Their graves are a lasting reminder of the tragedy of war.

The German Soldiers' Cemetery at Glencree was established by the National Association for the Care of German War Graves during the years, 1959–61.

The war dead of World War I and World War II that were buried in various sites of the Republic of Ireland—including islands not easily accessible—were given a permanent and dignified place of rest at Glencree.

In the 133 graves, members of the Air Force who perished in crashes, and sailors who washed ashore, were laid to rest here. Also, civilian internees aboard the British ship, "Arandora Star" who lost their lives when the ship wrecked north of the Island of Tory, are buried at Glencree.

On the Day of National Mourning, German tourists will travel from 200 to 300 kilometers to remember their war dead buried at Glencree. On that day, approximately 400 German citizens visit this cemetery.

The National Association for the Care of German War Graves is a private entity that relies on membership fees and donations from citizens of the Federal Republic of Germany. The German people have responded by contributing more than 20 million Deutsch Marks (approximately $8,600,000) to the Association. Between these private contributions and subsidies from the Federal Government, the National Association cares for more than 300 soldiers' cemeteries containing approximately 1,500,000 graves.

The National Association maintains Glencree and the other war graves outside Germany, decorates the graves on special commemoration days, guides visiting family members to the graves of their dead relatives, and takes care of these visiting family members during their stay in Ireland or wherever the cemetery is located.

When a friend or relative of a German soldier buried outside Germany is unable to take the long trip required to visit the gravesite, the National Association for the Care of German War Graves will send flowers to the soldier's grave. Once in a while, the Association will send a picture of the grave to the relative or friend. The Association has helped thousands of German citizens identify and locate their war dead. The Association attempts to ascertain the fate of each war dead, and to transfer the remains of soldiers from temporary graves to permanent, dignified resting places. The Association welcomes volunteers and voluntary contributions. During vacations, almost 100,000 German students help to tend the war graves. Last but not least, the Association works for world peace.

I was greatly impressed by the way the German people care for the graves of their war dead buried in Ireland.

On Monday morning, August 22nd, I met with the American Ambassador to Ireland, the Honorable William V. Shannon, and his wife, at the Ambassador's Residence, Phoenix Park, Dublin. Ambassador Shannon and his wife had arrived in Dublin only two weeks earlier, so they were just getting settled at the Embassy.

Phoenix Park comprises 1,760 acres and is the largest municipal park in the world within a city limits. In 1927, one of the original houses at Phoenix Park, built in 1776, became the residence of the first envoy from the United States. In 1952, the American Embassy was renovated and now consists of the Ambassador's residence, three cottages, two gatehouses, and 70 acres of lawns, gardens and orchards. The Embassy Chancery, located about 5 miles away in downtown Dublin, is a modern round building consisting of glass modular units. A rotunda in the center of the building is used for concerts, receptions, movies, lectures, plays and exhibitions. In my opinion, the American Embassy in Phoenix Park and the Chancery in Dublin, are two of the most beautiful embassy complexes in the world.

After a brief tour of the Embassy, Ambassador Shannon, Economic Commercial Officer McGuire and I had a discussion about the Irish economy. The Irish economy is slowly recovering from its recession: GNP increased 3.5% in 1976, and it is expected to increase by as much as 4% this year; industrial production and personal consumption also increased. Although the rate of inflation (18% in 1976) and the rate of unemployment (11% in 1976) continue to be serious problems, the outlook for 1977 is good.

The Government's 1977 budget was not expansionary, but it provided relief for industry through reductions in corporate tax rates. Personal income taxes and property taxes also were reduced, and subsidies for butter, milk and cheese were increased.

Recently, a new national wage agreement was reached. This agreement will govern pay raises for about half the Irish labor force for a period of 14 months. The Irish Government views the agreement as a very positive development for the economy because it will keep wage increases at modest levels in 1977.

Due to economic recovery and continued growth, Ireland's imports have increased substantially. In 1976, the United States increased its exports to Ireland by 8.5%. The Irish Government is stressing the need for investment. Ireland not only welcomes foreign investment, it also has a positive program to attract investment through grants, tax exemptions on export profits, and assistance in training workers. These policies should provide a market for a wide range of American capital goods and services. In sum, American firms will find Ireland an attractive opportunity for investment in the coming years.

Until very recently, tourism was the number one source of income for the Irish economy. However, because of the unrest in Northern Ireland, tourism in the Republic of Ireland has dropped off considerably. Cattle raising has grown rapidly and has taken the place of tourism as the country's main source of revenue. Cattle ranchers are very prosperous, largely due to Ireland's entry into the Common Market. Nevertheless, there are still a great many poor people living in the cities, particularly Dublin and Cork. The Irish Government has provided a great deal of good public housing for the urban poor, and there are more public housing units per capita in Ireland than there are in the United States.

At 10:30 a.m. on Tuesday, I had the pleasure and the privilege of unveiling the plaque commemorating the donation of the statue of Robert Emmet to the Government and people of Ireland. Ambassador Shannon made his first public address in Ireland at this ceremony. The Irish Government was represented by the Minister for Foreign Affairs, Mr. Michael O'Kennedy. Visitors from the United States at the ceremony included: Mr. and Mrs. M. Devlin, Mr. D. W. Dorman, and Mr. and Mrs. J. Cerni.

Robert Emmet (1778–1803) was a great Irish patriot who led the Irish Uprising against the oppression of the English Crown in 1803. He was arrested and hanged by the British. In 1916, Irish-born sculptor Jerome Connor created three statues of Robert Emmet. The original statue of Emmet was presented to the National Gallery of Art in Washington, D.C., on June 28, 1917, in the presence of Woodrow Wilson. The second statue was discovered in Golden Gate Park in San Francisco. The third statue, lost for many years, was found in an eastern Pennsylvania antique shop. Subsequently, it was returned to Ireland on April 13, 1966—during the 50th Anniversary of the Easter Uprising.

The statue of Robert Emmet is now located on St. Stephn's Green, and the brass plaque attached to the statue, which I unveiled, reads: "Presented to the People of Ireland by the Robert Emmet Statue Committee of the United States, April 13, 1966. Francis J. Kane, Chairman, Ambassador Scott McLeod, Devlin W. Dormer, Esquire, Hon. Michael J. Kirwan, M.C., Hon. Thomas P. O'Neill, M.C., Hon. Daniel J. Flood, M.C., Hon. John E. Fogarty, M.C., H. Mike Devlin, Esquire".

This statue of Robert Emmet not only symbolizes the Irish struggle for independence, but it also symbolizes the close friendship between the United States and Ireland.

Immediately after the dedication ceremony, I attended a luncheon meeting with Minister of Foreign Affairs, Michael O'Kennedy, and other officials of the Irish Government, at the Hibernian Hotel.

On Wednesday, August 24th, I met with American Embassy officials; we discussed U.S.-Irish trade relations and other matters of interest to our two countries.

On Thursday, August 25th, I left Dublin and travelled to Edinburgh, Scotland. My Control Officer was Vice Consul Sheldon J. Rapoport. The next morning, I attended a meeting at the American Consulate General with Miss Carol Ferguson of Wood, Mackenzie & Company. Miss Ferguson is a leading

authority on North Sea Oil. Major American oil companies, such as Exxon, Texaco and Mobil, as well as Phillips, Conoco and Hamilton Brothers, several "independents", along with BP (British Petroleum) and Shell, are heavily involved in North Sea Oil operations under contracts with the British National Oil Corporation (BNOC). The British National Oil Corporation is a means whereby the energy policies of the British Government are brought to bear on North Sea Oil activities. Further, BNOC has the option to buy more than 51% of the oil obtained from the North Sea—at market prices. The British Government also requires that two-thirds of North Sea oil be refined in Britain.

No one knows exactly how much oil there is in the North Sea, but we do know that there is more oil in the North Sea than there is in the North Slope of Alaska. Proven oil reserves are estimated at from 9 to 15 billion barrels; probable reserves are estimated at about 28 billion barrels, and possible reserves may run as high as 50 to 100 billion barrels.

According to provision of the "Oil Taxation Act of 1975", the British Government taxes commercial oil field profits basically as follows: 1) a 12½% Royalty on the wellhead value of the oil (which may be taken in kind); 2) a Petroleum Revenue Tax (PRT) of 45% of the gross revenue from the sale of oil, after deduction of royalty, current and capital expenditures, the latter raised by 75% (there are provisions for reducing the impact of the PRT so as not to reduce profitability below certain minimum levels); 3) a Corporation tax on net revenue after deduction of royalty, PRT and allowable costs.

Wood, Mackenzie & Company predicts that the net impact of North Sea oil on the British balance of payments will be an estimated 1,200 million British pounds ($2.1 billion) in 1976, increasing to about 4,900 million British pounds ($8.5 billion) in 1980. By 1985, North Sea oil could contribute more than 6,000 million British pounds (roughly $10.5 billion) to the British balance of payments. Consequently, the English believe that North Sea oil will revive their sagging economy and make them self-sufficient in oil for the next 15 to 20 years, and perhaps even longer.

However, the North Sea oil is not an unmixed blessing for the British. Scotland is using the North Sea oil as an argument for greater independence from Great Britain. In order to derive greater benefit from North Sea oil, some Scots are advocating Commonwealth status for Scotland (e.g. Canada), while others are advocating that Scotland be given the power to tax. Although there appears to be little chance of Scotland breaking away from Great Britain, there is a chance that those who want Scotland to have taxing power may achieve some measure of success.

It is interesting to note that the Irish are also exploring for oil and gas southeast of the Irish Sea off Cork. The Irish have discovered natural gas around Cork, and natural gas supplies are already being transported by pipeline to other parts of Ireland. Like the English, the Irish also hope to become self-sufficient in oil and gas within the next few years.

On Saturday, August 27th, I inspected some of the North Sea oil installations, including pipelines and storage tanks along the Firth of Forth, north of Edinburgh. I found these North Sea oil depots to be very clean. Clearly, the British are maintaining high ecological standards at their North Sea oil facilities. To date, they have been very successful at preventing oil spillage. I commend them for these efforts, and I believe that we, Americans, can learn something from the British in this regard.

On Sunday, August 28th, I had the opportunity to tour the Scottish highlands and castles around Edinburgh, and to observe the lifestyle and standard-of-living of the Scottish people. In Edinburgh, as in Dublin, there was an abundance of good public housing.

Monday, August 29th, was a bank holiday in England and Scotland. Due to an air traffic controllers' strike at London's Heathrow Airport, I exchanged my airplane ticket for a train ticket and travelled on the "Flying Scot" from Edinburgh, Scotland to King's Cross Station in England. The "Flying Scot" was a fast (average 55 m.p.h.), clean and comfortable train. The road bed was in very good condition, and the food served on the train was also very good.

On Tuesday, August 30th, I met with Charge d'Affaires Edward J. Streator, the Energy Attache, and other officials at the American Embassy in London, to discuss the current economic situation in Britain, as well as other Anglo-American policy issues.

The British economy is recovering very slowly from its recession. Gross National Product (GNP) will increase by only 1 to 2 percent this year. The unemployment rate in Great Britain currently is 6 percent, and may go even higher before the end of the year More alarmingly, prices have risen 17 to 18 percent during the past twelve months. While the present looks gloomy, prospects for the future seem brighter. Economists predict that economic growth will accelerate to 2.5 percent, and possibly higher; inflation is expected to slow down. How much the rate of inflation is reduced depends largely on the wage negotiations which are currently in progress. However, a higher growth rate would be necessary for a significant reduction in the unemployment rate.

Statistics our Embassy recently obtained from the British Government confirm that Great Britain is not in such dire straits as we have been led to believe. There are several areas where the United Kingdom's economic statistics are better than those of our own country. For example, using 1967 as the base year, and using each country's own price weights, the British had a higher real gross domestic product (GDP is the British term for Gross National Product GNP) per capita than the United States (117.4 compared to 116.0) and a higher real gross domestic product per employed civilian than the United States (121.1 compared to 106.8) in 1976.

Using 1970 as the base year (1970=100), total industrial production in Great Britain has increased to 107.9 in March of 1977. For all industries other than construction. British industrial production increased even more—to 111.7 as of February, 1977. Similarly, output per head (or output per person employed) for all goods and services in Great Britain has increased about 9 percent from 1970 to 1976; average weekly hours worked in manufacturing and certain other industries decreased from 46.4 hours in 1968 to 44.0 hours in 1976; average weekly earnings of all employees increased 178 percent during the six-year period, 1970-January, 1977.

In the long run, North Sea oil should be of substantial benefits to the British economy, primarily by relieving the balance of payments deficit which has forced the British Government to restrict economic growth. British national income will be about 4 percent higher per year during the 1980's on account of the oil from the North Sea.

As a Member of Congress from a steel-producing district, I inquired about the British steel industry. The British steel industry produces about one-fifth of the American steel industry (24 million metric tons per year compared to 121 million metric tons); whereas American steel production has been increasing, British steel production has remained roughly unchanged. During the past 50 years, the fourteen largest British steel companies have been nationalized, denationalized, and then nationalized again. After showing modest profits in the early 1970's, the nationalized British Steel Corporation may lose as much as 500 to 600 million British pounds (about $1 billion) during the three-year period ending in March, 1978. The nationalized British Steel Corporation's share of its own domestic market has slipped to 56.5 percent, so that more than 40 percent of the British market is controlled by foreign imports.

Since national health insurance will be a major issue in the 95th Congress, I also inquired about the quality and cost of health care in Great Britain. Total public expenditures on health care in Great Britain amounted to slightly over 4½ percent of GNP in 1975, and total expenditures, public and private, on health care amounted to about 5¼ percent of its Gross National Product that year. In 1975, total public expenditures on health care in the United States amounted to $50.9 billion, or 3.5 percent of GNP, and total expenditures, public and private, on health care in the United States amounted to $122.2 billion, or 8.4 percent of GNP.

The National Health Service was started in Britain on July 5, 1948; it was reorganized and begun anew on April 1, 1974. Under the 1974 reorganization plan, the Secretary of State continues to be responsible to Parliament for the National Health Service as a whole, and he determines national health policy. The Department of Health and Social Security has the central planning role and responsibility for monitoring the system. Regional Health Authorities are responsible for regional planning, the allocation of resources to Area Health Authorities, and monitoring the activities of AHA's. Area Health Authorities are responsible for the operational management of health services and for planning within their areas.

There are 14 Regional Health Authorities, each with one or more University medical schools within its boundaries. There are 90 Area Health Authorities with boundaries that match the non-metropolitan counties and metropolitan districts of local government. However, certain special arrangements are made for the London area with respect to the RHA's and AHA's. These AHA and RHA boundaries are not barriers to the movement of patients within the system.

The day to day running of the services for which the AHA is responsible is based on health districts which have a population of between 150,000 and 300,000. There is from one to six districts in each area, or a total of 205 for the entire country. Under the 1974 reorganization of NHS, the health professionals retained their status as independent contractors.

Since 1974, there are 207 Community Health Councils which represent the views of consumers of health services. There are approximately 700,000 health professionals in the British National Health Service. All are employees of the Regional and Area Health Authorities. About 70 percent of the operating costs of the NHS are for wages and salaries. Wages and salaries are determined through national machinery.

The cost of the reorganized National Health Service is still financed primarily from taxation and funds appropriated by Parliament. The Department of Health and Social Security allocates funds to the RHA's; the RHA's meet their own costs from these funds and then allocate funds to the AHA's for the cost of area services, including the cost of the Community Health Councils.

The NHS has an elaborate system for complaints. A Health Services Commissioner acts

as an ombudsman to investigate complaints which do not relate solely to the exercise of clinical judgments, or for which statutory procedures already exist.

Voluntary bodies and voluntary help in the NHS is encouraged, and some AHA and RHA grants are made to voluntary bodies which promote local health services.

A central Medical Practices Committee exists to ensure an even distribution of doctors throughout the country, and 90 Family Practices Committees—one in each Area Health Authority—are responsible for the administration of the services provided by family doctors. A single doctor may have as many as 3,500 patients on his rolls, or, if he is in a partnership, he and his partner may have up to 4,500 patients. In 1975, a typical family doctor in England had an average of 2,365 patients on his rolls.

Everyone 16 years of age and over may choose his own doctor (parents choose for children under 16), and a person may change his doctor (although the transfer takes at least 2 weeks).

All doctors are paid a basic allowance plus special allowances for: seniority, practice in groups, practice in designated areas, vocational training, number of patients, vacations, employment of staff help, rent, and so forth. Doctors who earn less than 8,500 British pounds (roughly $14,850) per year receive a supplemental payment of 312 British pounds (about $546) as of May, 1976. Hospital medical and dental staff receive 10,689 British pounds (about $18,705) per year.

Persons visiting Great Britain are treated in the National Health Service, and British citizens receive the same care in other European countries that citizens of those countries receive in Great Britain.

Under the National Health Service there is comprehensive coverage of services dealing with eye and dental problems, and everyone is entitled to the medicines and appliances prescribed by his NHS doctor (the patient pays a nominal fee to the pharmacist—children and the elderly excepted). The NHS also provides a variety of services for the mentally handicapped, including: early detection or prevention, counselling, education, training, day care, nursing and hospital services, residential accommodations, and so forth.

The people I spoke with in England think that they are receiving good day-to-day health care. The family practice of medicine is very good. I found that British citizens in all walks of life are generally satisfied with the quality of medical care; they generally favor the continuation of the existing National Health Service organizational structure. I did hear one complaint: people who need major surgery often have a fairly lengthy waiting period. On the other hand, the British system offers better preventive medicine than the American system. Overall, England's National Health Service appears to be an excellent and humane national medical insurance program.

On Wednesday, August 31, 1977, I inspected the Ford truck factory at Langley, Slough, England. My host and guide was Mr. Paul Sissons, Plant Manager. This commercial vehicle plant at Langley is the manufacturing center for all of Ford's medium and light trucks; it produces 40,000–45,000 vehicles each year, slightly more than half of which are exported. The D- and A-Series trucks are built at this 2.25 million square foot production facility. Ford's R-Series bus and coach chassis are also built at Langley. The main plant employs approximately 2,000 people.

About 40 percent of the Langley plant's employees are immigrants from the West Indies, the Indian sub-continent and Anglophone Africa. Although the situation has caused some difficulties through unorthodox religious requirements and the rekindling of regional conflicts, Ford has reduced friction to a minimum by remaining sensitive to cultural differences but firm in dealing with disruptive practices. The fact that the Langley plant's industrial relations manager was for 10 years a Colonial Office magistrate in East Africa might have had some favorable impact on the situation.

The high proportion of immigrant labor was one of the factors cited as causes of the Langley plant's excellent record of labor peace. Only 25 percent of total 1976 manhours were lost to industrial disputes, less than any other Ford plant in Britain. According to Mr. Grace, perhaps the most important reason for the good labor record was the work pace common to truck assembly facilities. Working at a slower pace and using more craftsmanship than utilized in automobile assembly operations, the workers felt a closer identification with the finished product and were relieved from the boredom which can lead to dissatisfaction.

In contrast to the stringent OSHA regulations currently in effect in the U.S., the Langley plant had very few obvious safety measures. Safety glasses and helmets were not issued during the plant tour, and the party repeatedly walked across the moving assembly line and under vehicle bodies suspended by a single chain. Despite this, Mr. Sissons stated the plant has a very low (but unspecified) rate of industrial accidents.

In 1966, Ford invested 61 million British pounds (roughly $106.7 million) in a nearby 20-acre factory complex for the production of A-Series medium trucks. An additional 500 people are employed at this facility, which is known as Langley B. Ford's Langley truck plant utilizes the most modern production techniques, and ships slightly more than half of its trucks throughout the world each year. The Langley plant is particularly noted for the high standards of its pre-delivery inspection system. The Ford Motor Company is the most profitable, and probably the most efficient, motor vehicle manufacturing company in England.

Regarding the general socio-economic climate of Britain, Mr. Sissons offered his opinion that the U.K. was undergoing a bloodless but dramatic revolution. The attitudes of workers and subordinates towards their "betters" had altered greatly during his 30 years with Ford, and Mr. Sissons stated that, unlike many of his peers, he thought these changes an improvement. He felt that once the effects of this revolution, North Sea Oil development and the shock of the entry into the EEC are brought into equilibrium, Britain could return to its role of European leadership. Interestingly, Mr. Sissons stated that the economic recovery would be possible only under a Labour Party Government.

On Thursday, September 1, 1977, I travelled to Brighton and visited the former palace and summer home of the English kings, as well as the new $30 million Convention Center and the new Sailing Marina. The Brighton Marina is reputed to be the largest, most expensive, and best sailing marina in the world.

On Friday, September 2nd, I returned to the United States. The flight home took approximately 23 hours on account of the continuing air traffic controllers' strike at London's Heathrow Airport.

AMENDMENTS TO SECTION 7 OF H.R. 3816

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. ECKHARDT) is recognized for 5 minutes.

Mr. ECKHARDT. Mr. Speaker, tomorrow when the House takes up section 7 of H.R. 3816, the Honorable FRANK EVANS of Colorado will offer an amendment sponsored also by Chairman PETER RODINO, SAM GIBBONS, NEAL SMITH, and myself. The purpose of the amendment is to weed out frivolous class action lawsuits. We will also sponsor an amendment providing guidelines for attorneys' fees. The text of both amendments follows:

Page 37, line 1, insert after "action" the following: ", other than a class action,".

Page 37, after line 3, insert the following:

"(4)(A) The defendant in any civil action commenced under paragraph (1) may petition the court, before the court certifies such action is a class action, to conduct a preliminary hearing under this paragraph in connection with such action.

"(B) The plaintiff shall be required, in any preliminary hearing conducted by the court under this paragraph, to present such evidence as may be necessary to make a prima facie showing that the defendant has committed the alleged rule violation or cease and desist order violation and that injury or damage has resulted therefrom. If the court determines that the plaintiff has failed to make such a showing, then the plaintiff may not proceed with such action as a class action under paragraph (1)."

Page 43, line 1, insert "(1)" after "(h)".

Page 43, after line 6, insert the following:

"(2) The court, in awarding reasonable attorney fees under paragraph (1), shall take into account—

"(A) the total amount of time during which the attorney for the plaintiff was directly engaged in preparing the action and in otherwise representing the plaintiff in connection with the action, and the amount of reasonable costs incurred by the attorney in connection with the action;

"(B) the prevailing rate in the community for attorney fees in similar actions;

"(C) an estimate of the likelihood that the plaintiff would prevail in the action;

"(D) the complexity and novelty of the factual and legal issues presented in the action; and

"(E) the expertise and experience of the attorney.

So that all the Members of the House will be familiar with the amendments, I would like to insert in the RECORD a copy of our "Dear Colleague" letter explaining the amendments. The "Dear Colleague" letter follows:

CONGRESS OF THE UNITED STATES,
Washington, D.C., October 12, 1977.

DEAR COLLEAGUE: On Thursday when the House resumes consideration of the consumer action section of H.R. 3816, the Federal Trade Commission Amendments, we plan to offer a series of amendments which we believe will protect against frivolous suits and excessive attorney's fees. We are writing to urge your support of these amendments and of section 7 as revised by our amendments.

A number of our colleagues have expressed the concern that enactment of the consumer action section in its present form could encourage lawyers to bring frivolous suits and blackmail innocent businesses into high settlements. Our amendment meets these concerns by providing a means of weeding out frivolous suits which do not have merit.

As you know, under present law, a suit cannot be brought as a class action unless the judge "certifies" it as a class suit. Under our amendment, the defendant could request a preliminary hearing at any time before the court makes the decision to "certify" the suit as a class action. At this preliminary hearing,

the plaintiff would have to make a prima facie showing that the defendant had violated the FTC rule or order which provides the basis for the suit. This means that the plaintiff would have to produce evidence which, if not rebutted, shows that the defendant violated the rule or order. The plaintiff would also be required to show that damages resulted from the violation. If the plaintiff fails to do this, then the class suit would be dismissed.

Adoption of this amendment will insure that frivolous class action law suits will not clog the courts, and it will protect innocent businesses from being coerced into settlements. At the same time, the amendment will not prevent the meritorious class suits from being pursued. Thus, section 7 will still provide an extremely important remedy for consumers who have been illegally ripped-off by real violations of FTC rules and orders.

We have also heard our colleagues express the fear that section 7 will result in exorbitant fees to class action lawyers. To protect against this possibility, we plan to offer an amendment which would set strict guidelines for the court in determining the fee which a class lawyer can be paid. Under present law, the court must approve the class lawyer's fee. Under our amendment the court would be required to consider the time spent by the attorney, the prevailing rate in the community for similar work, the expertise and experience of the attorney, the complexity of the case, and the risk involved. These are criteria which have been used by a number of courts already in protecting against excessive fees. By incorporating them in the language of the bill, we think they will effectively assure that class action attorneys are not awarded unfair and excessive fees.

We think these amendments meet the major objections to section 7. These amendments will protect both the innocent businesses from abuse and also assure that consumers have meaningful protection against unfair market practices. We hope you will vote for these amendments and support section 7.

Sincerely,

FRANK E. EVANS.
PETER RODINO.
BOB ECKHARDT.
SAM GIBBONS.
NEAL SMITH.

ESTABLISHMENT OF PINELANDS NATIONAL WILDLIFE REFUGE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. HUGHES) is recognized for 5 minutes.

Mr. HUGHES. Mr. Speaker, although it has been more than a year since America celebrated its Bicentennial, much of the spirit which was kindled on that occasion remains with us today. It was with tremendous pride that we were able to look back on our past and rechart the many events which led to America's emergence as the greatest Nation in the world.

One of the most important lessons we learned from our Bicentennial celebration was the need to preserve wherever possible those elements which still exist from bygone days. A country which turns its back on its past, which no longer cherishes its national heritage, is in my opinion a nation without a future.

Mr. Speaker, we have in New Jersey a unique natural resource which I believe fits that description in many ways. It is a vast wilderness area generally known as the Pinelands, or the Pine Barrens. To anyone familiar with them, the Pinelands stand as a living monument not only to colonial America, but to the times long before America ever existed. It is a region aptly described by the U.S. Interior Department as "the land that time forgot." This massive range of forests and bogs—nearly a million acres in total—is a spectacular reminder of what America looked like long before the Industrial Revolution gripped our Nation.

Unfortunately, this unique wilderness area is under siege by developers. As you know, New Jersey is the most densely populated State in the Nation. Because of their strategic location in the heart of the highly urbanized Northeast, the Pine Barrens represent one of the last remaining frontiers to be conquered by our ever growing population. Developmental pressures are so intense in this area that it is a wonder the Pinelands have survived even this long.

Mr. Speaker, it would be a travesty if we were to permit the Pinelands to succumb to these developmental pressures. It is for that reason that my distinguished colleague, EDWIN B. FORSYTHE, Republican of New Jersey, and I have drafted legislation which lays the groundwork for preserving this valuable natural resource. With a great deal of optimism, we are introducing our bill in the House of Representatives today.

First, let me tell you a little more about the Pinelands, so you can fully appreciate the enormous value of this wonderful reserve. This unbroken forest, located in southern New Jersey, constitutes the largest undeveloped stretch of land along the eastern seaboard, and covers nearly one quarter of our entire State. Within this world of pine and oak trees, cedars and shrubs, live a rare collection of plants and animals.

It is a unique combination of flora and fauna which scientists tell us exists nowhere else in the world today. In the center of the Barrens is a dwarf forest of pines and oaks which have adapted to being burned about once every 8 years—a natural phenomenon which enables new seedlings to burst forth from the parent trees. In the surrounding lowland bogs and marshes, blueberries, and cranberries are cultivated in such quantities that New Jersey now leads the Nation in blueberry production, and ranks third with respect to cranberries.

Of equal importance is the least apparent resource of the Pine Barrens—a huge underground reservoir equivalent to a lake 2,000 square miles in area and 37 feet in depth. The Interior Department estimates that the amount of water stored in this enormous aquifer is equal to the total precipitation in the region over a 10-year period. Unfortunately, the water table in most parts of the reservoir is little more than a few feet below the ground. As it is covered with just loose, sandy soil, this vital aquifer is dangerously susceptible to contamination if the wrong type of development is permitted to take place in the Pinelands.

The State of New Jersey has already taken some steps aimed at preserving the Pinelands. Responding to the threat of overdevelopment, the State legislature voted in 1972 to create the Pinelands Environmental Council, an advisory board concerned with land uses in the region. The PEC carries no legal authority, but it makes recommendations to prevent pollution, encourage land uses compatible with the scientific, educational, scenic and recreational values of the land, and to preserve and promote the agricultural qualities of the Pinelands.

Reaction to the PEC and the comprehensive development plan which it issued in 1975 have been mixed. Some people have challenged the very integrity of the PEC, charging that its membership is composed of persons with vested interests. Others have called over the years for a stronger council which would have the power to develop and actually enforce land use controls in the region. These calls have, in turn, been met with outrage by local officials, who adamantly oppose the imposition of land use controls by higher governmental bodies.

As you can see, Mr. Speaker, there is no easy solution for preserving and protecting the Pine Barrens. But even as the debate wears on over the appropriate plan for controlling development in the region, population growth and regional economic pressures continue to mount. We are fast running out of time to act.

It is against this background that Congressman FORSYTHE and I have constructed our legislation. We recognize that no level of government, on its own, is capable of providing the type of management which is desperately needed in the Pinelands. The need for cooperation is evident. However, we firmly believe that local governments are both willing and able ot play a significant and substantial role in the management of the Pinelands. That is why our bill is structured to make Pinelands management essentially a State and local initiative, with Federal involvement being held to a minimum.

Our bill provides the authority for the Secretary of Interior to establish a Pinelands National Wildlife Refuge in New Jersey. It will consist of not more than 50,000 acres, to be acquired by the Secretary following the completion of a study of the Pinelands.

This study is a crucial part of our legislation, as it will bring together the views of local, State, and Federal officials on which areas should be included in the Refuge. The study will identify the wildlife and other ecological, scenic, historical, and recreational values of the Pinelands which must be protected. It will take into consideration both existing and potential land use patterns. In addition, there are specific provisions in the legislation for public hearings which will allow local citizens to express their views.

Our bill does not stop with the creation of a central refuge, however. As part of this study, the Secretary is also au-

thorized to identify those areas outside the refuge which must be protected in order to enhance the values of the refuge. Public hearings will also accompany the identification of these areas, which we designate as "ecological management units."

In keeping with our basic commitment, the legislation provides that the local governments within each ecological management unit will have the first crack at managing these lands. They need only submit a joint management plan to the Secretary of Interior in order to qualify for Federal funding equal to 75 percent of the cost of managing the lands. In instances where the localities are unable to agree on a cooperative management plan, or simply choose not to undertake such an effort, they may defer to a State-appointed Pinelands Commission. Hopefully, though, our bill provides enough incentive for the local governments to take the lead in managing these important areas of the Pinelands.

Creation of the State Pinelands Commission is optional. If it is set up, this Commission will play a very meaningful role in the development and implementation of a proper management plan in the Pinelands. For that reason, our bill provides that membership of the Commission will be drawn largely from counties and localities within the Pine Barrens. There are also seats on the Commission for individuals who are not associated with government, but who possesses special knowledge and familiarity with the resources of the Pinelands.

The Commission will be responsible for those ecological management units which the local government choose not to manage by themselves. Once again, the Federal Government would assume 75 percent of the cost of managing the lands. As a precautionary step, our bill provides for an annual review of the various management plans, to make sure they are really serving the purposes of protecting the Pinelands, and to guarantee that the Federal funds are not being wasted.

Mr. Speaker, what we have outlined is a rather simple approach to a complex problem. We do not consider our bill the total answer to preserving and protecting the Pinelands. It is merely an effort to inject some needed Federal input into a matter which is largely the responsibility of the State and local governments. Hopefully, our bill will serve as the catalyst for a major cooperative effort in this regard, so that the "land that time forgot" will not become known as the land that we neglected.

CONFERENCE REPORT ON H.R. 7797

Mr. LONG of Maryland submitted the following conference report and statement on the bill (H.R. 7797) making appropriations for foreign assistance and related programs for the fiscal year ending September 30, 1978, and for other purposes:

CONFERENCE REPORT (H. REPT. NO. 95-701)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 7797), making appropriations for foreign assistance and related programs for the fiscal year ending September 30, 1978, and for other purposes having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 16, 28, 37, 48, and 50.

That the House recede from its disagreement to the amendments of the Senate numbered 1, 2, 3, 4, 5, 8, 9, 10, 18, 23, 25, 30, 32, 35, 38, 39, 40, 41, 42, 43, 44, 45, 46, 52, 55, 56, 58, 60, 62, 63, 65, 67, 68, 69, 70, 71, 75, 76, 77, 78, and 79, and agree to the same.

Amendment numbered 7: That the House recede from its disagreement to the amendment of the Senate numbered 7, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$76,000,000"; and the Senate agree to the same.

Amendment numbered 12: That the House recede from its disagreement to the amendment of the Senate numbered 12, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$231,250,000"; and the Senate agree to the same.

Amendment numbered 14: That the House recede from its disagreement to the amendment of the Senate numbered 14, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$115,000,000"; and the Senate agree to the same.

Amendment numbered 17: That the House recede from its disagreement to the amendment of the Senate numbered 17, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$23,750,000"; and the Senate agree to the same.

Amendment numbered 19: That the House recede from its disagreement to the amendment of the Senate numbered 19, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$25,000,000"; and the Senate agree to the same.

Amendment numbered 34: That the House recede from its disagreement to the amendment of the Senate numbered 34, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$213,000,000"; and the Senate agree to the same.

Amendment numbered 51: That the House recede from its disagreement to the amendment of the Senate numbered 51, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$82,900,000"; and the Senate agree to the same.

Amendment numbered 53: That the House recede from its disagreement to the amendment of the Senate numbered 53, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$217,500,000"; and the Senate agree to the same.

Amendment numbered 72: That the House recede from its disagreement to the amendment of the Senate numbered 72, and agree to the same with an amendment, as follows: Restore the matter stricken by said amendment, amended to change section number as follows: "503A"; and the Senate agree to the same.

Amendment numbered 73: That the House recede from its disagreement to the amendment of the Senate numbered 73, and agree to the same with an amendment, as follows: Restore the matter stricken by said amendment, amended to change section number as follows: "503B"; and the Senate agree to the same.

The committee of conference report in disagreement amendments numbered 6, 11, 13, 15, 20, 21, 22, 24, 26, 27, 29, 31, 33, 36, 47, 49, 54, 57, 59, 61, 64, 66, 74, 80, 81, 82, 83, and 84.

CLARENCE D. LONG,
DAVID R. OBEY,
EDWARD I. KOCH,
CHARLES WILSON,
SIDNEY R. YATES,
YVONNE BRATHWAITE BURKE,
EDWARD R. ROYBAL,
LOUIS STOKES,
SILVIO O. CONTE,
Managers on the Part of the House.

DANIEL K. INOUYE,
WILLIAM PROXMIRE,
J. BENNETT JOHNSTON, JR.,
PATRICK J. LEAHY,
DENNIS DECONCINI,
RICHARD S. SCHWEIKER,
EDWARD W. BROOKE,
MARK O. HATFIELD,
CHARLES MCC. MATHIAS, JR.,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 7797), making appropriations for Foreign Assistance and related programs for the fiscal year ending September 30, 1978, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

TITLE I—FOREIGN ASSISTANCE ACT ACTIVITIES

FUNDS APPROPRIATED TO THE PRESIDENT

Economic assistance

Amendment No. 1: Food and nutrition, Development Assistance: Appropriates $515,000,000 as proposed by the Senate instead of $535,000,000 as proposed by the House.

Amendment No. 2: Deletes language proposed by the House which would have allowed funds provided for loans to remain available until expended.

Amendment No. 3: Population planning, Development Assistance: Appropriates $155,000,000 as proposed by the Senate instead of $160,600,000 as proposed by the House.

Amendment No. 4: Deletes language proposed by the House which would have allowed funds provided for loans to remain available until expended.

Amendment No. 5: Health, Development Assistance: Appropriates $95,000,000 as proposed by the Senate instead of $100,000,000 as proposed by the House.

Amendment No. 6: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment, as follows:

Restore the matter stricken by said amendment, amended to read as follows: ": *Provided*, That $2,000,000 shall be available for the World Health Organization Onchocerciasis Control Program"

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 7: Education and human resources development, Development Assistance: Appropriates $76,000,000 instead of $80,000,000 as proposed by the House and $75,000,000 as proposed by the Senate.

Amendment No. 8: Deletes language proposed by the House which would have allowed funds provided for loans to remain available until expended.

Amendment No. 9: Technical assistance, energy, research, reconstruction, and selected development problems, Development Assistance: Appropriates $90,000,000 as proposed

by the Senate instead of $95,000,000 as proposed by the House.

Amendment No. 10: Deletes language proposed by the House which would have allowed funds provided for loans to remain available until expended.

Amendment No. 11: Loan allocation, Development Assistance: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which provides that of the amount made available for loans, $75,000,000 shall be available for loans repayable within 40 years, $87,000,000 shall be available for loans repayable within 30 years and $148,500,000 shall be available for loans repayable within 20 years.

Amendment No. 12: International organizations and programs: Appropriates $231,250,000 instead of $257,000,000 as proposed by the House and $224,750,000 as proposed by the Senate.

The amount provided for International Organizations and Programs includes $115,000,000 for the United Nations Development Program. The managers agree, however, that future appropriations for this activity will depend on whether or not the specialized agencies of the United Nations continue to finance technical assistance programs for developing countries through their assessed budgets.

The conferees concur with and support the position adopted by the conferees on the State, Justice, and Commerce, the Judiciary and related agencies Appropriation Bill for fiscal year 1978 on this subject. In addition, the conferees intend by this language to instruct the Administration that as long as this dual method of financing technical assistance programs of the United Nations development system continues, we will find it difficult to fully support future U.N.D.P. budget estimates. In fact, it may be expected that in considering future appropriations for United States contributions to U.N.D.P., assessed contributions for technical assistance will be balanced against request for U.N.D.P.

The Appropriations Committees are not alone in their criticism of the way U.N. development programs are financed. Five different GAO reports and a report by the Senate Committee on Government Operations also criticize this practice. Ironically, official U.S. policy itself is in agreement with the Committees' position. We intend to put an end to the current practice.

Amendment No. 13: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which earmarks international organizations and program funds for several Organization of American States' programs ($500,000 for the Special Cultural Account, $500,000 for the Special Development Assistance Fund, and $1,500,000 for the Special Multilateral Fund).

The managers have considered the President's request (transmitted in Senate Document 95–60) for an additional U.S. contribution to the voluntary funds of the Organization of American States for cultural and educational activities. In response to the Administration's concern that the United States contribute to the cultural and educational activities of the Organization of American States, the managers have agreed to an earmarking of a total of $2,500,000 specifically for this purpose. The managers have not, however, increased the amount to be provided to the OAS from the appropriations account "International Organizations and Programs".

Amendment No. 14: Places a limitation of $115,000,000 on funds to be available for the United Nations Development Program instead of $120,000,000 as proposed by the House and $110,000,000 as proposed by the Senate.

Amendment No. 15: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which prohibits the United States from making a contribution to the United Nations University.

Amendment No. 16: Places a limitation of $3,000,000 on funds to be available for the United Nations Decade for Women as proposed by the House instead of $1,500,000 as proposed by the Senate.

Amendment No. 17: American schools and hospitals abroad: Appropriates $23,750,000 instead of $25,000,000 as proposed by the House and $19,800,000 as proposed by the Senate.

The managers are concerned that funds appropriated in this account continue to be expended for institutions such as the American Hospital of Paris, the American Library in Paris, the American Hospital in Rome and the American University of Beirut. It is apparent that in many cases the host country or other interested countries are now financially capable of providing the total support for such institutions. While the managers fully understand that the purpose of these expenditures is to demonstrate United States interest in the countries where the institutions are located, it would seem that in many cases the United States interest has more than adequately been demonstrated and, therefore, additional allocations of funds are not required to accomplish that purpose.

The managers instruct the Director of the Office of American Schools and Hospitals Abroad of the Agency for International Development to provide a full report to the Appropriations Committees of both Houses justifying the expenditure of funds for the above named institutions and indicating if continued expenditures to these institutions are presently contemplated.

Amendment No. 18: American schools and hospitals abroad (foreign currency program): Deletes language proposed by the House which would have provided for the appropriation of $7,000,000 in excess foreign currencies.

Amendment No. 19: Italy relief and rehabilitation assistance: Appropriates $25,000,000 instead of $20,000,000 as proposed by the House and $30,000,000 as proposed by the Senate.

Amendment No. 20: Sahel development program: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment, as follows:

In lieu of the matter inserted by said amendment, insert the following: ": *Provided*, That no part of such appropriation may be available to make any contribution of the United States to the Sahel development program in excess of 10 per centum of the total contributions to such program"

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 21: International narcotics control: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert the following: "$37,100,000"

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

This amendment appropriates $37,100,000 instead of $39,000,000 as proposed by the House and $38,000,000 as proposed by the Senate.

Amendment No. 22: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which provides that not to exceed $3,000,000 shall be for the United Nations Fund for Drug Abuse Control and that $12,475,000 shall be available only for programs in Mexico from the funds appropriated for international narcotics control.

Amendment No. 23: Deletes language proposed by the House which dealt with the availability of unobligated balances.

Amendment No. 24: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which restricts the availability of unobligated balances to the same appropriation account as originally provided for in the appropriation Acts and under the same terms, conditions and limitations as originally prevailed.

Amendment No. 25: Retains language proposed by the Senate which deals with the deobligation of funds.

Amendment No. 26: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which restricts the availability of deobligated funds to the same appropriation account as originally provided for in appropriation Acts and under the same terms, conditions and limitations as originally prevailed. The Senate language also provides that the Appropriations Committees of both Houses shall be notified 15 days in advance before these funds may be obligated for activities, programs, projects, type of materiel assistance, countries or other operations not justified or in excess of the amount justified for fiscal year 1978.

Amendment No. 27: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment, as follows:

In lieu of the matter inserted by said amendment, insert the following: "The Mutual Security Appropriation Act, 1956, is amended by striking out section 108 thereof, effective as of October 1, 1977."

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 28: Restores language proposed by the House which requires that the various agencies and departments funded in this bill notify the Appropriations Committees of both Houses 15 days prior to the obligation of reprogramed funds.

The managers on the part of the Senate and the managers on the part of the House have agreed to this action with the firm expectation that the Executive Branch will follow the historical pattern of honoring objections to the obligation of funds for activities, programs, projects, type of materiel assistance, countries or other operations not justified or in excess of the amount justified to the Appropriations Committees for obligations under any of the specific headings mentioned in this section.

The managers agree that any activity, program, project, type of materiel assistance, or other operation specifically set forth by recipient or country and by amount to be obligated in fiscal year 1978 in the fiscal year 1978 Congressional Presentation Document shall be deemed to have been justified and the Committees informed. Similarly, amounts not in excess of the amounts proposed therein for obligation in fiscal year 1978 shall be deemed to have been justified and the Committees informed.

Any activity, program, project, type of materiel assistance, or other operation not specifically set forth by recipient or country

and by amount to be obligated in fiscal year 1978 in the fiscal year 1978 Congressional Presentation Document shall be deemed not to have been justified and the Committees not informed. Similarly, amounts in excess of the amounts proposed therein for obligation in fiscal year 1978 shall be deemed to not have been justified and the Committees not informed.

MIDDLE EAST SPECIAL REQUIREMENTS FUND

Amendment No. 29: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which prohibits the funding of the Sinai support mission from this account. Funding for the mission is provided under the security supporting assistance account.

SECURITY SUPPORTING ASSISTANCE

Amendment No. 30: Changes the reference section numbers to conform with the authorizing legislation as proposed by the Senate.

Amendment No. 31: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which allows the funding of the Sinai support mission under this account.

Amendment No. 32: Appropriates $2,202,-200,000 as proposed by the Senate instead of $2,214,700,000 as proposed by the House.

Amendment No. 33: Loan Allocation, Security Supporting Assistance: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which provides that of the amount appropriated for security supporting assistance, not to exceed $856,800,000 shall be available for grants and of the amounts available for loans, not to exceed $865,400,000 shall be available for loans with maturities in excess of 30 years but not to exceed 40 years.

OPERATING EXPENSES OF THE AGENCY FOR INTERNATIONAL DEVELOPMENT

Amendment No. 34: Appropriates $213,-000,000 instead of $215,200,000 as proposed by the House and $210,200,000 as proposed by the Senate.

Amendment No. 35: Deletes the word "appropriated" as proposed by the Senate.

Amendment No. 36: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment, as follows:

In lieu of the matter inserted by said amendment, insert the following: ": *Provided further*, That not to exceed $700,000 of funds provided to the Agency for International Development by this Act shall be available for hiring experts and consultants pursuant to 5 U.S.C. 3109 and of this amount not to exceed $100,000 shall be available for hiring experts and consultants who are retired employees of the Agency for International Development: *Provided further*, That none of the funds made available by this Act shall be available for leasing, purchasing, renovating, or furnishing of housing or office space in Cairo, Egypt, except through the Foreign Building Operations of the Department of State: *Provided further*, That not to exceed $125,000 of the funds made available by this Act shall be available for the Administrator's Development Seminar of the Agency for International Development"

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

INTERNATIONAL MILITARY EDUCATION AND TRAINING

Amendment No. 37: Restores language proposed by the House which prohibits the use of funds appropriated under this paragraph to provide international military education and training for Argentina.

GENERAL PROVISIONS

Amendment No. 38: Section 101: Deletes language proposed by the House and retains language proposed by the Senate which updates the reference used to establish the standards and criteria for water or related land resource projects financed from funds in this Act.

Amendment No. 39: Section 102: Deletes language proposed by the House and retains language proposed by the Senate which exempts the United States Emergency Refugee and Migration Assistance Fund from the restriction that not more than 20 percent of the funds made available can be obligated during the last month of availability and excludes appropriations used for loans from this exemption.

Amendment No. 40: Changes the word "title" to "Act".

Amendment No. 41: Strikes out "and/".

Amendment No. 42: Section 107: Deletes language proposed by the House which would have prohibited any indirect assistance to Uganda, Cambodia, Laos or Vietnam.

The managers on the part of the House agree that extensions of assistance to any country by multilateral institutions during fiscal year 1978, contrary to the opposition of the United States representatives as directed by the President, will be the subject of intensive Committee oversight.

Amendment No. 43: Section 109: Places a limitation on the entertainment expenses of the Agency for International Development of $15,000 as proposed by the Senate instead of $20,000 as proposed by the House.

Amendment No. 44: Section 113: Deletes the language "or likely to have the effect of aiding" and the word "indirectly" which was proposed by the House. This provision deals with the prohibition on providing security assistance to any country for the purpose of aiding the efforts of the government of such country to repress the legitimate rights of its population.

Amendment No. 45: Section 114: Deletes language proposed by the House which would have prohibited any indirect assistance to Mozambique or Angola.

Amendment No. 46: Changes the word "and" to "or".

Amendment No. 47: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which provides that the President may waive the prohibition on direct assistance to Mozambique or Angola if he determines that such assistance would further the foreign policy interests of the United States and both Houses of Congress concur.

Amendment No. 48: Deletes language proposed by the Senate which would have provided that all the salaries and related benefits of full-time Agency for International Development employees in permanent positions be funded out of operating expenses. The managers on the part of the Senate and the managers on the part of the House are in agreement that the salaries and related benefits of all full-time AID employees should be financed only by funds made available under the appropriation account entitled Operating Expenses of the Agency for International Development. While this requirement has not been incorporated into the language of the bill this year, the conferees direct that the Agency for International Development include in the budget estimate for Operating Expenses of the Agency for International Development for fiscal year 1979 all salaries and related benefits for all AID full-time employees.

Amendment No. 49: Section 115: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment, as follows:

In lieu of the matter inserted by said amendment, insert the following: "SEC. 115. None of the funds made available by this Act may be obligated under an appropriation account to which they were not appropriated without the written prior approval of the Appropriations Committees of both Houses of the Congress."

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

TITLE II—FOREIGN MILITARY CREDIT SALES

FOREIGN MILITARY CREDIT SALES

Amendment No. 50: Appropriates $675,-850,000 as proposed by the House instead of $677,000,000 as proposed by the Senate.

TITLE III—FOREIGN ASSISTANCE (OTHER)

INDEPENDENT AGENCY

ACTION—INTERNATIONAL PROGRAMS

Peace Corps

Amendment No. 51: Appropriates $82,900,-000 instead of $81,000,000 as proposed by the House, and $84,800,000 as proposed by the Senate.

FUNDS APPROPRIATED TO THE PRESIDENT

INTERNATIONAL FINANCIAL INSTITUTIONS

CONTRIBUTION TO THE ASIAN DEVELOPMENT BANK

Amendment No. 52: Changes the appropriation title as proposed by the Senate.

Amendment No. 53: Appropriates $217,-500,000 instead of $200,000,000 as proposed by the House and $235,000,000 as proposed by the Senate.

The managers agree that these funds shound be allocated as follows: Paid-in capital—$16,799,000, callable capital—$151,189,-000, and the Asian Development Fund—$49,512,000.

Amendment No. 54: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which limits the compensation provided to the United States Executive and alternate Executive Directors of the Bank to not to exceed the rate of compensation paid to U.S. executive schedule levels IV and V, respectively.

It is not the purpose of this provision to include within the $50,000 compensation limitation of the Executive Director of the Asian Development Bank, allowances and benefits ordinarily paid to U.S. Government officials posted overseas. The excluded allowarces are as follows: housing allowance, travel allowance, education allowance, representation allowance, official residence expense allowance, transfer allowance, temporary lodging allowance, shipment of automobile and limited household effects allowance, cost of living allowance and post differential allowance.

It is also not the intent of this provision to include within the $47,500 compensation limitation such allowances paid to the Alternate Director.

The managers on the part of the Senate and the managers on the part of the House are in accord on this provision. Our actions in agreeing on this specific restriction on salary levels are not intended to be punitive towards the Executive and Alternate Directors of the United States to the international development banks. Our intention is, simply, to restore principles of reason to the processes of establishing appropriate salary schedules in these banks.

The managers are aware of the fact that, as a result of this provision, U.S. Executive and Alternate Directors will receive less pay than the Directors of other nations. It is our hope this action on the part of the United States will bring about a public awareness of the clearly excessive salaries paid to the officials

and professional staffs of the international development banks. We are confident that as this public awareness spreads to other nations they too will support further U.S. initiatives to correct abuses in the personnel practices of these institutions. As the United States has led the way in contributions to the development banks, so too it can lead them back to the fundamental principles which guided their creation as institutions dedicated to the economic and social enrichment of the poor of the world.

CONTRIBUTION TO THE INTER-AMERICAN DEVELOPMENT BANK

Amendment No. 55: Changes the appropriation title as proposed by the Senate.

The managers point out that even though the budget authority figure of $523,000,000 appears in the Inter-American Development Bank paragraph, the actual budget authority level provided in this Act for the Bank is $480,000,000. The provision providing this level of funding appears in the Title V—General Provisions. It was necessary to draft the general provision and establish the budget authority level in this manner because of the effects of the House general provision providing for an overall five percent reduction in total budget authority.

The managers agree that the $480,000,000 budget authority level appropriated to the Inter-American Development Bank in this Act should be allocated as follows: Interregional paid-in capital—$36,711,000, callable capital—$182,639,000, interregional callable capital—$145,927,000, and the Fund for Special Operations—$114,723,000.

Amendment No. 56: Deletes language dealing with the authorization reference title as proposed by the Senate.

Amendment No. 57: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which limits the compensation provided to the United States Executive and alternate Executive Directors of the Bank to not to exceed the rate of compensation paid to U.S. executive schedule levels IV and V, respectively.

The managers on the part of the Senate and the managers on the part of the House are in accord on this provision. Our actions in agreeing on this specific restriction on salary levels are not intended to be punitive toward the Executive and Alternate Directors of the United States to the international development banks. Our intention is, simply, to restore principles of reason to the processes of establishing appropriate salary schedules in these banks.

The managers are aware of the fact that, as a result of this provision, U.S. Executive and Alternate Directors will receive less pay than the Directors of other nations. It is our hope that this action on the part of the United States will bring about a public awareness of the clearly excessive salaries paid to the officials and professional staffs of the international development banks. We are confident that as this public awareness spreads to other nations they too will support further U.S. initiatives to correct abuses in the personnel practices of these institutions. As the United States has led the way in contributions to the development banks, so too it can lead them back to the fundamental principles which guided their creation as institutions dedicated to the economic and social enrichment of the poor of the world.

CONTRIBUTION TO THE INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT

Amendment No. 58: Changes the appropriation title as proposed by the Senate.

The managers point out that even though the budget authority figure of $400,000,000 appears in the International Bank for Reconstruction and Development paragraph, the actual budget authority level provided in this act for the Bank is $380,000,000. The provision providing this level of funding appears in title V—General Provisions. It was necessary to draft the general provision and establish the budget authority level in this manner because of the effects of the House general provision providing for an overall 5 percent reduction in total budget authority.

The managers agree that the $380,000,000 budget authority level appropriated to the International Bank for Reconstruction and Development in this act should be allocated as follows: Paid-in capital—$38,000,000 and callable capital—$342,000,000.

Amendment No. 59: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which limits the compensation provided to the U.S. Executive and alternate Executive Directors of the Bank to not to exceed the rate of compensation paid to U.S. executive schedule levels IV and V, respectively.

The managers on the part of the Senate and the managers on the part of the House are in accord on this provision. Our actions in agreeing on this specific restriction on salary levels are not intended to be punitive towards the Executive and Alternate Directors of the United States to the international development banks. Our intention is, simply, to restore principles of reason to the processes of establishing appropriate salary schedules in these banks.

The managers are aware of the fact that, as a result of this provision, U.S. Executive and Alternate Directors will receive less pay than the Directors of other nations. It is our hope that this action on the part of the United States will bring about a public awareness of the clearly excessive salaries paid to the officials and professional staffs of the international development banks. We are confident that as this public awareness spreads to other nations they too will support further U.S. initiatives to correct abuses in the personnel practices of these institutions. As the United States has led the way in contributions to the development banks, so too it can lead them back to the fundamental principles which guided their creation as institutions dedicated to the economic and social enrichment of the poor of the world.

CONTRIBUTION TO THE INTERNATIONAL FINANCE CORPORATION

Amendment No. 60: Changes the appropriation title as proposed by the Senate.

Amendment No. 61: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert the following: "$38,000,000".

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

This amendment appropriates $38,000,000 instead of $40,000,000 as proposed by the House and $42,000,000 as proposed by the Senate.

CONTRIBUTION TO THE INTERNATIONAL DEVELOPMENT ASSOCIATION

Amendment No. 62: Changes the appropriation title as proposed by the Senate.

Amendment No. 63: Appropriates $800,000,000 as proposed by the Senate instead of $950,000,000 as proposed by the House.

Amendment No. 64: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which limits the compensation provided to the U.S. Executive and alternate Executive Directors of the World Bank to not to exceed the rate of compensation paid to U.S. executive levels IV and V, respectively.

The managers on the part of the Senate and the managers on the part of the House are in accord on this provision. Our actions in agreeing on this specific restriction on salary levels are not intended to be punitive towards the Executive and Alternate Directors of the United States to the international development banks. Our intention is, simply, to restore principles of reason to the processes of establishing appropriate salary schedules in these banks.

The managers are aware of the fact that, as a result of this provision, U.S. Executive and Alternate Directors will receive less pay than the Directors of other nations. It is our hope that this action on the part of the United States will bring about a public awareness of the clearly excessive salaries paid to the officials and professional staffs of the international development banks. We are confident that as this public awareness spreads to other nations they too will support further U.S. initiatives to correct abuses in the personnel practices of these institutions. As the United States has led the way in contributions to the development banks, so too it can lead them back to the fundamental principles which guided their creation as institutions dedicated to the economic and social enrichment of the poor of the world.

CONTRIBUTION TO THE AFRICAN DEVELOPMENT FUND

Amendment No. 65: Changes the appropriation title as proposed by the Senate.

FUTURE UNITED STATES CONTRIBUTIONS TO THE INTERNATIONAL FINANCIAL INSTITUTIONS

Amendment No. 66: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which includes a sense of the Senate provision stating that the U.S. share of contributions to future replenishments of the international financial institutions should not exceed certain specific percentages.

TITLE IV—EXPORT-IMPORT BANK OF THE UNITED STATES

Amendments Nos. 67 and 68: Retain language proposed by the Senate and delete language proposed by the House which denies financing for the export of nuclear equipment, fuel, or technology to any nonnuclear weapons state eligible to receive economic or military assistance under this act which detonates a nuclear explosive after the date of enactment of this act.

TITLE V—GENERAL PROVISIONS

Amendment No. 69: Deletes language proposed by the House which would have prohibited funding for the Inspector General, Foreign Assistance, unless the Office of the Inspector General responded to requests for information submitted by Congress or the General Accounting Office within a 35 day period or the President certified that he had forbidden the release of such information.

Amendments Nos. 70 and 71: Change section numbers.

Amendment No. 72: Section 503A: Changes section number and restores language proposed by the House which prohibits the funding of military assistance, international military education and training and foreign military credit sales to Ethiopia and Uruguay.

Amendment No. 73: Section 503B: Changes section number and restores language proposed by the House which prohibits the funding of foreign military credit sales to Argentina, Brazil, El Salvador, and Guatemala.

Amendment No. 74: Reported in technical disagreement. The managers on the part of

the House will offer a motion to recede and concur in the amendment of the Senate with an amendment, as follows:

Restore the matter stricken by said amendment, amended to read as follows:

"SEC. 503C. Of the funds appropriated or made available pursuant to this Act, not more than $18,100,000 shall be used for military assistance, not more than $1,850,000 shall be used for foreign military credit sales, and not more than $700,000 shall be used for international military education and training to the Government of the Philippines."

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 75: Section 504: Retrains language proposed by the Senate which prohibits funds appropriated by this Act from being available for the Office of the Inspector General of Foreign Assistance.

Amendment No. 76: Changes section number.

Amendment No. 77: Deletes language proposed by the House which would have prohibited funds appropriated or made available to the International Financial Institutions from being used by those institutions for the purpose of establishing or expanding production of palm oil, sugar, or citrus crops if the United States is a producer of the same, similar, or competing agricultural commodity.

Amendment No. 78: Changes section number.

Amendment No. 79: Deletes language proposed by the House which would have prohibited the use of any funds for indirect aid or trade to Cuba.

Amendment No. 80: Section 507: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which includes a sense of the Congress provision stating that the U.S. representatives to the international financial institutions should oppose loans and other financial or technical assistance to any country that persists in a systematic pattern of gross violations of fundamental human rights, where other means have proven ineffective and except when the President determines that the cause of human rights would be better served by not voting against such assistance or the assistance is directed at the impoverished majority in such country.

Amendment No. 81: Section 508: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

Restore the matter stricken by said amendment, amended to read as follows:

"SEC. 508. Notwithstanding the budget authority levels of $523,000,000 for the Inter-American Development Bank and $400,000,000 for the International Bank for Reconstruction and Development provided elsewhere in this Act, not more than $480,000,000 shall be made available by this Act for obligation or expenditure for a United States contribution to the Inter-American Development Bank and not more than $380,000,000 shall be made available by this Act for obligation or expenditure for a United States contribution to the International Bank for Reconstruction and Development: *Provided*, That this section shall apply only to the establishment of budget authority levels for the aforementioned Banks and shall not alter limitations, restrictions or other language provisions elsewhere in this Act."

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The effect of this provision is only to reduce the budget authority level from $523,000,000 reflected in the Inter-American Development Bank paragraph to $480,000,000 and reduce the budget authority level from $400,000,000 reflected in the International Bank for Reconstruction and Development paragraph to $380,000,000, and nothing more. This procedure is made possible by the general effect of the House provision requiring an overall 5 percent reduction in budget authority for payments not required by law.

While the managers have agreed to delete the general 5-percent reduction provision, it should be pointed out that, in fact, the House managers considered the effect of this provision in dealing with each of the specific appropriation accounts. This is reflected by the fact that the final conference amount totals $6,772,654,000 which is a level lying between $6,851,854,000 as recommended by the Senate and $6,694,130,300 as recommended by the House including the provision requiring a general 5-percent reduction.

Amendment No. 82: Section 509: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment, as follows:

In lieu of the matter inserted by said amendment, insert the following:

"SEC. 509. None of the funds appropriated or otherwise made available by this Act to the Export-Import Bank and funds appropriated by this Act for direct foreign assistance may be obligated for any government which aids or abets, by granting sanctuary from prosecution to, any individual or group which has committed an act of international terrorism, unless the President of the United States finds that the national security requires otherwise."

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 83: Section 510: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment, as follows:

In lieu of the matter inserted by said amendment, insert the following:

"SEC. 510. It is the sense of the Congress that the Secretary of State should prepare and submit to the Speaker of the House of Representatives and to the President of the Senate—

(1) not later than six months after the date of enactment of this section, a report on the adequacy of insurance provided by the accredited diplomatic missions to the United States to cover loss or injury arising from the wrongful acts or omissions of the employees of such missions in the United States;

(2) not later than one year after the date of enactment of this section, a report on what efforts the President and the Secretary of State have made to encourage the provision of such coverage; and

(3) not later than six months after the date of enactment of this section, a report on what the Secretary of State has done to encourage the Government of Panama to make satisfactory compensation to Dr. Halla Brown for loss or injury arising out of the accident of April 20, 1974."

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

TITLE VI—ROMANIAN RELIEF AND REHABILITATION

Amendment No. 84: Section 601: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which appropriates $13,000,000 for fiscal year 1977 for Romanian relief and rehabilitation assistance.

CONFERENCE TOTAL—WITH COMPARISONS

The total new budget (obligational) authority for the fiscal year 1978 recommended by the Committee of Conference, with comparisons to the fiscal year 1977 amount, the fiscal year 1978 budget estimates, and the House and Senate bills for fiscal year 1978 follow:

New budget (obligational) authority, fiscal year 1977	$5,596,497,000
Budget estimates of new (obligational) authority, fiscal year 1978	[1] 7,601,461,136
House bill, fiscal year 1978	6,694,131,300
Senate bill, fiscal year 1978	6,851,854,000
Conference agreement	[2] 6,772,654,000
Conference agreement compared with:	
New budget (obligational) authority, fiscal year 1977	+1,176,157,000
Budget estimates of new (obligational) authority, fiscal year 1978	−828,807,136
House bill, fiscal year 1978	+78,522,700
Senate bill, fiscal year 1978	−79,200,000

[1] Includes $2,500,000 of budget estimates not considered by the House.
[2] Estimated conference total.

The total new budget (obligational) authority for the fiscal year 1977 recommended by the Committee of Conference, with comparisons to the fiscal year 1977 budget estimates, and the House and Senate bills for fiscal year 1977 follow:

Budget estimates of new (obligational) authority, fiscal year 1977	[3] $13,000,000
House bill, fiscal year 1977	----------
Senate bill, fiscal year 1977	13,000,000
Conference agreement	13,000,000
Conference agreement compared with:	
Budget estimates of new (obligational) authority, fiscal year 1977	----------
House bill, fiscal year 1977	+13,000,000
Senate bill, fiscal year 1977	----------

[3] Not considered by the House.

CLARENCE D. LONG,
DAVID R. OBEY,
EDWARD I. KOCH,
CHARLES WILSON,
SIDNEY R. YATES,
YVONNE BRATHWAITE BURKE,
EDWARD R. ROYBAL,
LOUIS STOKES,
SILVIO O. CONTE,
Managers on the Part of the House.

DANIEL K. INOUYE,
WILLIAM PROXMIRE,
J. BENNETT JOHNSTON, Jr.,
PATRICK J. LEAHY,
DENNIS DECONCINI,
RICHARD S. SCHWEIKER,
EDWARD W. BROOKE,
MARK O. HATFIELD,
CHARLES MCC. MATHIAS, Jr.,
Managers on the Part of the Senate.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows to:

Mr. PEPPER (at the request of Mr. WRIGHT), for today, on account of illness in the family.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legisla-

tive program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. MARLENEE) to revise and extend their remarks and include extraneous material:)

Mr. FORSYTHE, for 10 minutes, today.
Mr. KEMP, for 15 minutes, today.
Mr. JEFFORDS, for 15 minutes, today.
Mr. CLEVELAND, for 5 minutes, today.

(To the following Members (at the request of Mr. EVANS of Georgia) and to revise and extend their remarks and include extraneous matter:)

Mr. ANNUNZIO, for 5 minutes, today.
Mr. GONZALEZ, for 5 minutes, today.
Mr. DRINAN, for 5 minutes, today.
Mr. FLOOD, for 5 minutes, today.
Mr. LEGGETT, for 30 minutes, today.
Mr. RODINO, for 5 minutes, today.
Mr. COTTER, for 5 minutes, today.
Mr. CARNEY, for 5 minutes, today.
Mr. ECKHARDT, for 5 minutes, today.
Mr. HUGHES, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mrs. HECKLER, prior to the vote on House Resolution 819 today.

(The following Members (at the request of Mr. MARLENEE) and to include extraneous matter:)

Mr. CARTER in three instances.
Mr. CAPUTO.
Mr. RHODES.
Mr. RUDD in two instances.
Mr. DERWINSKI in three instances.
Mr. HYDE in two instances.
Mr. MICHEL.
Mr. STEIGER.
Mr. COLLINS of Texas in two instances.
Mr. FORSYTHE.
Mrs. HOLT.
Mr. MCCLOSKEY.
Mr. MARTIN.
Mr. DORNAN.
Mr. STEERS in two instances.
Mr. ABDNOR in two instances.
Mr. SHUSTER.
Mr. BEARD of Tennessee.
Mr. LAGOMARSINO in two instances.
Mr. KASTEN.

The following Members (at the request of Mr. EVANS of Georgia), and to include extraneous matter:)

Mr. ANDERSON of California in three instances.
Mr. GONZALEZ in three instances.
Mr. MURTHA.
Mr. HEFNER.
Mr. RISENHOOVER.
Mr. VENTO in two instances.
Mr. ASPIN in 10 instances.
Mr. WALGREN.
Ms. OAKAR in two instances.
Mr. BIAGGI in 10 instances.
Mr. ALEXANDER.
Mr. MAZZOLI.
Mr. LUNDINE.
Mr. MCDONALD.
Mr. LAFALCE in two instances.
Mr. ASHLEY.
Mr. STARK in five instances.
Mr. YATRON.
Mr. BARNARD.
Mr. HAMILTON.
Mr. UDALL.
Mr. RANGEL.
Mr. MURPHY of New York.
Mr. HAWKINS in two instances.
Mr. MOORHEAD of Pennsylvania.
Mr. MICHAEL O. MYERS.
Mr. ROGERS in five instances.
Mr. AMBRO.
Mr. POAGE.
Mr. LEHMAN.
Mr. GLICKMAN.
Mr. EDGAR.
Mr. HANNAFORD.
Mrs. MEYNER.
Mr. CONYERS.

SENATE BILLS, JOINT AND CONCURRENT RESOLUTIONS REFERRED

Bills, joint and concurrent resolutions of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 200. An act for the relief of Bharat M. Parekh; to the Committee on the Judiciary;

S. 280. An act for the relief of Ludwik Kikla; to the Committee on the Judiciary;

S. 1551. An act for the relief of In Hea Kim and Myung Sung Kwon; to the Committee on the Judiciary;

S. 1590. An act to incorporate the American Ex-Prisoners of War, Incorporated; to the Committee on the Judiciary; and

S. 2100. An act for the improvement of Roberts Field, Redmond, Oreg.; to the Committee on Public Works and Transportation.

S.J. Res. 80. Joint resolution to authorize and request the President to issue a proclamation designating November 8, 1977, as "National Law Student Recognition Day"; to the Committee on Post Office and Civil Service.

S. Con. Res. 52. Concurrent resolution authorizing the printing of additional copies of the booklet entitled "The Senate Chamber, 1810–1859"; to the Committee on House Administration.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 1372. An act to amend title 10, United States Code, to abolish one of the two positions of Deputy Secretary of Defense and to establish the position of Under Secretary of Defense for Policy and to change the title of the Director of Defense Research and Engineering to the Under Secretary of Defense for Research and Engineering.

ENROLLED BILLS SIGNED

Mr. THOMPSON, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 1613. An act for the relief of certain postmasters charged with postal deficiencies; and

H.R. 1934. An act for the relief of Dr. Lawrence C. B. Chan.

BILL PRESENTED TO THE PRESIDENT

Mr. THOMPSON, from the Committee on House Administration, reported that that committee did on this day present to the President, for his approval a bill of the House of the following title:

H.R. 1934. For the relief of Dr. Lawrence C. B. Chan.

ADJOURNMENT

Mr. EVANS of Georgia. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 7 o'clock and 16 minutes p.m.), the House adjourned until tomorrow, Thursday, October 13, 1977, at 10 o'clock a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2540. A letter from the Deputy Secretary of Defense, transmitting a report on the initial allocation of the fiscal year 1978 civilian strength authorization among the military departments and defense agencies, pursuant to section 501(b) of Public Law 95–79; to the Committee on Armed Services.

2541. A letter from the Director, Defense Security Assistance Agency, transmitting a report on the impact on U.S. readiness of the Army's proposed sale of certain defense equipment to Israel (transmittal No. 78–1), pursuant to section 813 of Public Law 94–106; to the Committee on Armed Services.

2542. A letter from the Attorney General, transmitting notice of a change in an existing records system, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

2543. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the Army's intention to offer to sell certain defense equipment to Israel (transmittal No. 78–1), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on International Relations.

2544. A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting reports concerning visa petitions approved according certain beneficiaries third and sixth preference classification for the period September 16–30, 1977, pursuant to section 204(d) of the Immigration and Nationality Act, as amended, [8 U.S.C. 1154(d)]; to the Committee on the Judiciary.

2545. A letter from the Secretary of Commerce, transmitting the annual report of the Economic Development Administration for fiscal year 1976 and the transition quarter, pursuant to section 707 of the Public Works and Economic Development Act of 1965, as amended; to the Committee on Public Works and Transportation.

2546. A letter from the Chairman, Council on Environmental Quality, transmitting a prepublication copy of an interagency task force report on the Nation's wetlands; to the Committee on Public Works and Transportation.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. MURPHY of New York: Committee on Merchant Marine and Fisheries. H.R. 8159. A bill to establish uniform structural requirements for intermodal cargo containers, subject to the jurisdiction of the United States, designed to be transported interchangeably

by sea and land carriers, and moving in, or designed to move in, international trade, and for other purposes; with amendment (Rept. No. 95–963, Pt. I). Ordered to be printed.

Mr. FOLEY: Committee on Agriculture. Report on allocation of budget totals for fiscal year 1978. (Rept. No. 95–694). Referred to the Committee of the Whole House on the State of the Union.

Mr. DODD: Committee on Rules. House Resolution 826. Resolution providing for the consideration of H.R. 8200. A bill to establish a uniform law on the subject of bankruptcies (Rept. No. 95–695). Referred to the House Calendar.

Mr. CONYERS: Committee on the Judiciary. H.R. 8059. A bill to amend chapter 117 (commonly called the Mann Act) of title 18, United States Code, to prohibit the transportation of minors in interstate or foreign commerce for sexual purposes; with amendment (Rept. No. 95–696). Referred to the Committee of the Whole House on the State of the Union.

Mr. ULLMAN: Committee on Ways and Means. H.R. 9251. A bill providing that until July 1, 1978, the tax treatment of certain transportation expenses between a taxpayer's residence and place of work shall be determined without regard to Revenue Ruling 76–453 or any similar ruling; with amendment (Rept. No. 95–697). Referred to the Committee of the Whole House on the State of the Union.

Mr. ULLMAN: Committee on Ways and Means. H.R. 6715. A bill to correct technical and clerical mistakes in the tax laws; with amendment (Rept. No. 95–700). Referred to the Committee of the Whole House on the State of the Union.

Mr. WHITE: Committee on Armed Services. H.R. 6966. A bill to amend title 10 of the United States Code to provide a more equitable standard for awarding the gold star lapel button (Rept. No. 95–699). Referred to the Committee of the Whole House on the State of the Union.

Mr. FISH: Committee on the Judiciary. House Resolution 795. Resolution opposing the granting of permanent residence in the United States to certain aliens (Rept. No. 95–691). Referred to the Committee of the Whole House.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. HARRIS: Committee on the Judiciary. H.R. 1775. A bill for the relief of Karin, Michael, and Andreas Ehard; with amendment (Rept. No. 95–674). Referred to the Committee of the Whole House.

Mr. FISH: Committee on the Judiciary. H.R. 3835. A bill for the relief of Pece D. Van Arsdol; with amendment (Rept. No. 95–675). Referred to the Committee of the Whole House.

Mr. HARRIS: Committee on the Judiciary. H.R. 4404. A bill for the relief of Susan Spurrier; with amendment (Rept. No. 95–676). Referred to the Committee of the Whole House.

Mr. HARRIS: Committee on the Judiciary. H.R. 4875. A bill for the relief of Elizabeth Dumaboc Yee; with amendment (Rept. No. 95–677). Referred to the Committee of the Whole House.

Mr. FISH: Committee on the Judiciary. H.R. 7653. A bill for the relief of Jackson Ormiston Edwards Cuffy and Merle Adrianne Cleopatra Edwards Cuffy; with amendment (Rept. No. 95–678). Referred to the Committee of the Whole House.

Mr. EILBERG: Committee on the Judiciary. H.R. 7794. A bill for the relief of Piphat Phuntamala (Rept. No. 95–679). Referred to the Committee of the Whole House.

Mr. FISH: Committee on the Judiciary. H.R. 1422. A bill for the relief of Julio Ortiz-Medina (Rept. No. 95–680). Referred to the Committee of the Whole House.

Mr. FISH: Committee on the Judiciary. H.R. 1450. A bill for the relief of Hildegard G. Blakely; with amendment (Rept. No. 95–681). Referred to the Committee of the Whole House.

Mr. FISH: Committee on the Judiciary. H.R. 2256. A bill for the relief of Edmundo Alfredo Oreiro Espinueva; with amendment (Rept. No. 95–682). Referred to the Committee of the Whole House.

Mr. EILBERG: Committee on the Judiciary. H.R. 2761. A bill for the relief of Su-Hwan Choe (Rept. No. 95–683). Referred to the Committee of the Whole House.

Mr. EILBERG: Committee on the Judiciary. S. 1005. An act for the relief of Young Shin Joo (Rept. No. 95–684). Referred to the Committee of the Whole House.

Mr. EILBERG: Committee on the Judiciary. S. 1142. An act for the relief of Kam Lin Cheung (Rept. No. 95–685). Referred to the Committee of the Whole House.

Mr. FISH: Committee on the Judiciary. H.R. 7324. A bill for the relief of In Hea Kim and Myung Sung Kwon (Rept. No. 95–686). Referred to the Committee of the Whole House.

Mr. EILBERG: Committee on the Judiciary. S. 455. An act for the relief of Ermelinda Rossi (Rept. No. 95–687). Referred to the Committee of the Whole House.

Mr. EILBERG: Committee on the Judiciary. S. 556. A bill for the relief of Lee Young Soo (Rept. No. 95–688). Referred to the Committee of the Whole House.

Mr. EILBERG: Committee on the Judiciary. S. 948. An act for the relief of Chin Ah Park and Chin Suk Park (Rept. No. 95–689). Referred to the Committee of the Whole House.

Mr. EILBERG: Committee on the Judiciary. S. 1003. An act for the relief of Me Young Lee (Rept. No. 95–690). Referred to the Committee of the Whole House.

Mr. HARRIS: Committee on the Judiciary. House Resolution 796. Resolution opposing the granting of permanent residence in the United States to Arif Raza Zaidi Syed (Rept. No. 95–692). Referred to the Committee of the Whole House.

Mr. HARRIS: Committee on the Judiciary. H.R. 4535. A bill for the relief of Kazuko Nishioka Dowd; with amendment (Rept. No. 95–698). Referred to the Committee of the Whole House.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ASPIN (for himself, Mr. BADILLO, Mr. BAUCUS, Mr. BEDELL, Mr. CARR, Mr. EDGAR, Mr. EILBERG, Mr. ERTEL, Mr. FISHER, Mr. GORE, Mr. HANNAFORD, Mr. HARRINGTON, Mr. HUGHES, Mr. JENRETTE, Mr. JONES of North Carolina, Mr. KREBS, Mr. MCCORMACK, Mr. MCHUGH, Mr. MAGUIRE, Mr. MIKVA, Mr. MILLER of California, Mr. MOAKLEY, and Mr. MOLLOHAN):

H.R. 9505. A bill to amend the Communications Act of 1934 to prohibit making unsolicited commercial telephone calls to persons who have indicated they do not wish to receive such calls; to the Committee on Interstate and Foreign Commerce.

By Mr. ASPIN (for himself, Mr. MOSS, Mr. NEAL, Mr. NEDZI, Mr. OTTINGER, Mr. PEASE, Mr. SIMON, Ms. SCHROEDER, Mrs. SPELLMAN, Mr. STARK, Mr. VENTO, Mr. WAXMAN, Mr. WHITLEY, Mr. BURKE of Florida, Mr. CEDERBERG, Mr. CORCORAN of Illinois, Mr. DUNCAN of Tennessee, Mr. GUYER, Mr. HORTON, Mr. MILLER of Ohio, Mr. STEERS, Mr. WALKER, and Mr. GEPHARDT):

H.R. 9506. A bill to amend the Communications Act of 1934 to prohibit making unsolicited commercial telephone calls to persons who have indicated they do not wish to receive such calls; to the Committee on Interstate and Foreign Commerce.

By Mr. BAFALIS:

H.R. 9507. A bill to amend title 23 of the United States Code to authorize the Secretary of Transportation to obligate the United States to pay from future year apportionments the Federal share of any highway on the Interstate System through the retirement of certain State bonds or other evidences of indebtedness used for construction of such highway; to the Committee on Public Works and Transportation.

By Mr. BRODHEAD:

H.R. 9508. A bill to amend title 28 of the United States Code to provide that the courts of the United States shall have jurisdiction to review decisions of the Administrator of Veterans' Affairs; to the Committee on the Judiciary.

By Mr. DAN DANIEL:

H.R. 9509. A bill to prohibit the Secretary of the Interior from acquiring by condemnation and land for the Appomattox Court House National Historical Park; to the Committee on Interior and Insular Affairs.

By Mr. FASCELL:

H.R. 9510. A bill to amend the Atomic Energy Act of 1954 and the Energy Reorganization Act of 1974 to require the Nuclear Regulatory Commission to establish and enforce standards for the safe, long-term storage of high-level radioactive wastes, spent fuel rods, and any other radioactive wastes containing transuranic elements; to require the Energy Research and Development Administration to restore the background radiation levels at abandoned uranium mine and mill sites to levels which existed before operations commenced at the sites; to permit the States to establish and enforce nuclear waste storage standards which are more stringent than Federal standards; and for other purposes; jointly, to the Committees on Armed Services, Interior and Insular Affairs, and Interstate and Foreign Commerce.

By Mr. FOUNTAIN:

H.R. 9511. A bill to amend chapter 49 of title 10, United States Code, to prohibit union organization and membership in the Armed Forces, and for other related purposes; jointly, to the Committees on Armed Services, and Post Office and Civil Service.

By Mr. FORD of Michigan (for himself, and Mr. PHILLIP BURTON):

H.R. 9512. A bill to amend the Higher Education Act of 1965 to include the Trust Territory of the Pacific Islands in the definition of the term "State" for the purpose of participation in programs authorized by that Act; to the Committee on Education and Labor.

By Ms. KEYS:

H.R. 9513. A bill to establish a Department of Education; to the Committee on Government Operations.

By Mr. LAFALCE:

H.R. 9514. A bill to provide for the recycling of used oil, and for other purposes; jointly, to the Committees on Interstate and Foreign Commerce, Government Operations, and Science and Technology.

By Mr. MARKS:

H.R. 9515. A bill to establish an executive department to be known as the Department of Education, and for other purposes; to the Committee on Government Operations.

By Mr. MINISH:

H.R. 9516. A bill to amend the Federal Home Loan Mortgage Corporation Act; to the Committee on Banking, Finance and Urban Affairs.

By Mr. MURTHA:

H.R. 9517. A bill to amend the Disaster Relief Act of 1974 to provide for contributions to remedy damage done to railroads by disasters to the same extent contributions are presently available for damage to publicly owned airport facilities and streets and highways; to the Committee on Public Works and Transportation.

By Mr. MURPHY of New York (for himself, Mr. LEGGETT, Mr. BREAUX, Mr. ZEFERETTI, Mr. OBERSTAR, and Mr. AKAKA):

H.R. 9518. A bill to amend the Shipping Act, 1916, to provide for a 3-year period, to reach a permanent solution of the rebating practices in the U.S. foreign trade; to the Committee on Merchant Marine and Fisheries.

By Mr. NEAL (for himself, Mr. HEFNER, Mr. WHALEN, and Mr. ZEFERETTI):

H.R. 9519. A bill to amend the Omnibus Crime Control and Safe Streets Act of 1968 to provide that rescue squad members are entitled to death benefits made available under such act; to the Committee on the Judiciary.

By Ms. OAKAR (for herself, Mr. MURPHY of New York, Mr. LAFALCE, Mr. BONIOR, and Mr. KINDNESS):

H.R. 9520. A bill to amend the Regional Rail Reorganization Act of 1973 to authorize the Secretary of Transportation to guarantee notes issued to State and local taxing authorities to secure payment of tax obligations owed by a railroad in reorganization; to the Committee on Interstate and Foreign Commerce.

By Mr. O'BRIEN (for himself, Mr. GUYER, Mr. JOHN L. BURTON, Mr. WINN, Mr. MCHUGH, Mr. SANTINI, Mr. DUNCAN of Tennessee, Mr. MITCHELL of Maryland, Mr. WOLFF, Mr. LAFALCE, Mr. TRAXLER, Mr. MAZZOLI, Mr. ICHORD, Mr. PURSELL, Mr. EDGAR, and Mr. ROSENTHAL):

H.R. 9521. A bill to amend the Civil Rights Act of 1964 to make it an unlawful employment practice to discriminate against individuals who are physically handicapped because of such handicap; to the Committee on Education and Labor.

By Mr. PEASE (for himself, Mr. ROSENTHAL, Mr. BUCHANAN, Mr. DERWINSKI, Mr. BEDELL, Mr. NOLAN, Mr. MAGUIRE, Mr. CARR, Mr. UDALL, Mr. LAGOMARSINO, Mr. KREBS, Mr. BONIOR, Mr. CORRADA, Mr. WHITEHURST, Mr. BAFALIS, Mr. PATTISON of New York, Mr. DORNAN, Mr. EILBERG, Mr. GLICKMAN, Mr. WAXMAN, Mr. EDWARDS of Oklahoma, Mr. ERTEL, Mr. HYDE, Mr. WOLFF, and Mr. LEACH):

H.R. 9522. A bill to amend the Export Administration Act of 1969 to prohibit exporting to Uganda of goods subject to control under that act; to the Committee on International Relations.

By Mr. PEASE (for himself, Mr. CHARLES WILSON of Texas, Mr. MURPHY of Pennsylvania, Mr. COHEN, and Mr. HARRINGTON):

H.R. 9523. A bill to amend the Export Administration Act of 1969 to prohibit exporting to Uganda of goods subject to control under that act; to the Committee on International Relations.

By Mr. PEASE (for himself, Mr. BUCHANAN, Mr. DERWINSKI, Mr. BEDELL, Mr. NOLAN, Mr. MAGUIRE, Mr. CARR, Mr. UDALL, Mr. LAGOMARSINO, Mr. KREBS, Mr. BONIOR, Mr. VENTO, Mr. CORRADA, Mr. WHITEHURST, Mr. BAFALIS, Mr. PATTISON of New York, Mr. DORNAN, Mr. EILBERG, Mr. GLICKMAN, Mr. WAXMAN, Mr. EDWARDS of Oklahoma, Mr. BALDUS, Mr. ERTEL, and Mr. HYDE):

H.R. 9524. A bill to prohibit the importation of Ugandan products into the United States; to the Committee on Ways and Means.

By Mr. PEASE (for himself, Mr. WOLFF, Mr. CHARLES WILSON of Texas, Mr. MURPHY of Pennsylvania, Mr. COHEN, and Mr. HARRINGTON):

H.R. 9525. A bill to prohibit the importation of Ugandan products into the United States; to the Committee on Ways and Means.

By Mr. PEASE (for himself, Mr. ROSENTHAL, Mr. BUCHANAN, Mr. DERWINSKI, Mr. BEDELL, Mr. NOLAN, Mr. MAGUIRE, Mr. CARR, Mr. UDALL, Mr. LAGOMARSINO, Mr. KREBS, Mr. VENTO, Mr. CORRADO, Mr. WHITEHURST, Mr. BAFALIS, Mr. PATTISON of New York, Mr. DORNAN, Mr. EILBERG, Mr. GLICKMAN, Mr. WAXMAN, Mr. EDWARDS of Oklahoma, Mr. ERTEL, Mr. HYDE, Mr. WOLFF, and Mr. LEACH):

H.R. 9526. A bill to amend the Tariff Schedules of the United States in order to prohibit the importation of coffee which is the product of Uganda; to the Committee on Ways and Means.

By Mr. PEASE (for himself, Mr. CHARLES WILSON of Texas, Mr. MURPHY of Pennsylvania, Mr. COHEN, and Mr. HARRINGTON):

H.R. 9527. A bill to amend the Tariff Schedules of the United States in order to prohibit the importation of coffee which is the product of Uganda; to the Committee on Ways and Means.

By Mr. PRICE (for himself and Mr. BOB WILSON) (by request):

H.R. 9528. A bill to amend chapter 3 of title 37, United States Code, to provide a subsistence allowance for members of the Armed Forces enrolled in certain officer candidate programs, and for other purposes; to the Committee on Armed Services.

By Mr. RISENHOOVER:

H.R. 9529. A bill to amend the Internal Revenue Code of 1954 to restore the tax treatment of sick pay which existed before the Tax Reform Act of 1976; to the Committee on Ways and Means.

By Mr. RISENHOOVER (for himself, Mr. EDWARDS of Oklahoma, Mr. MONTGOMERY, and Mr. WATKINS):

H.R. 9530. A bill to amend title 10 of the United States Code to increase the minimum grade held by the Chief of the National Guard Bureau from major general to lieutenant general; to the Committee on Armed Services.

By Mr. RODINO:

H.R. 9531. A bill to amend the Immigration and Nationality Act and for other purposes; to the Committee on the Judiciary.

By Mr. STEERS:

H.R. 9532. A bill to provide that no Member of the Congress shall be paid salary for so long as any employee of the Federal Government is not paid because of the failure of the Congress to enact legislation appropriating funds for such purposes, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. BLANCHARD (for himself and Mr. MINETA):

H.R. 9533. A bill to require authorizations of new budget authority for Government programs at least every 6 years, to provide for review of Government programs every 6 years, and for other purposes; to the Committee on Rules.

By Mr. DRINAN (for himself, Mr. AKAKA, Mrs. BURKE of California, Mrs. COLLINS of Illinois, Mr. CORNELL, Mr. DOWNEY, Mr. EDGAR, Mr. EILBERG, Mr. HARRINGTON, Ms. HOLTZMAN, Mr. KILDEE, Mr. MAGUIRE, Mr. MAZZOLI, Mrs. MEYNER, Mr. MIKVA, Ms. MIKULSKI, Mr. MITCHELL of Maryland, Mr. MURPHY of Pennsylvania, Mr. ROSENTHAL, Mr. SEBELIUS, Mr. SIMON, Mr. STARK, Mr. STEERS, Mr. WALGREN, and Mr. WAXMAN):

H.R. 9534. A bill to amend the Arms Export Control Act to change the method of determining the period of time for adopting a concurrent resolution of Congress objecting to a proposed sale under such act; to the Committee on International Relations.

By Mr. FORSYTHE (for himself and Mr. HUGHES):

H.R. 9535. A bill to establish the Pinelands National Wildlife Refuge, and for other purposes; to the Committee on Merchant Marine and Fisheries.

By Mr. HANNAFORD (for himself, Mr. REUSS, Mr. ANNUNZIO, and Mr. NEAL):

H.R. 9536. A bill to amend the Federal Reserve Act to require that detailed minutes of Federal Open Market Committee meetings be released to the general public 3 years after the date of the meeting to which they relate; to the Committee on Banking, Finance and Urban Affairs.

By Mr. HUGHES:

H.R. 9537. A bill to direct the Attorney General to establish special drug forces for the purpose of providing temporary emergency law enforcement assistance to States and local governments; to the Committee on the Judiciary.

H.R. 9538. A bill to amend the Disaster Relief Act of 1974 relating to assistance to be provided to States and local governments during any emergency, and for other purposes; to the Committee on Public Works and Transportation.

By Mr. HUGHES (for himself and Mr. FORSYTHE):

H.R. 9539. A bill to establish the Pinelands National Wildlife Refuge, and for other purposes; to the Committee on Merchant Marine and Fisheries.

By Mr. MICHAEL O. MYERS:

H.R. 9540. A bill to establish a Neighborhood Reinvestment Corporation; to the Committee on Banking, Finance and Urban Affairs.

By Mr. ROGERS (for himself, Mr. SCHEUER, Mr. WAXMAN, Mr. MAGUIRE, Mr. MARKEY, Mr. OTTINGER, and Mr. WALGREN):

H.R. 9541. A bill to amend the Federal Food, Drug, and Cosmetic Act and related provisions of law to improve the protection of the public health and safety with respect to drugs; to the Committee on Interstate and Foreign Commerce.

By Mr. DORNAN:

H.J. Res. 620. Joint resolution requesting the President to designate November 19, 1977, as National Family Day; to the Committee on Post Office and Civil Service.

By Mr. STAGGERS (for himself, Mr. UDALL, Mr. DINGELL, and Mr. RONCALIO).

H.J. Res. 621. Joint resolution approving the Presidential decision on an Alaska natural gas transportation system, and for other purposes; jointly to the Committees on Interstate and Foreign Commerce, and Interior and Insular Affairs.

By Mr. STEERS:

H.J. Res. 622. Joint resolution making continuing appropriations for fiscal year 1978, and for other purposes; to the Committee on Appropriations.

By Mr. TUCKER:

H.J. Res. 623. Joint resolution proposing an amendment to the Constitution of the

United States to provide that aggregate expenditures of the Government of the United States may not exceed its net revenues during any fiscal year except in time of war or economic emergency declared by the Congress; to the Committee on the Judiciary.

By Mr. VANDER JAGT (for himself, Mr. LAGOMARSINO, Mr. ABDNOR, and Mr. HUGHES):

H.J. Res. 624. Joint resolution proposing an amendment to the Constitution of the United States to give citizens of the United States the right to enact and repeal laws by voting on legislation in a national election; to the Committee on the Judiciary.

By Mr. WOLFF (for himself, Mr. AKAKA, Mrs. BURKE of California, Mr. PHILLIP BURTON, Mr. CONTE, Mr. HARRIS, Mr. KOCH, Mr. ROE, and Mrs. SPELLMAN):

H.J. Res. 625. Joint resolution to authorize the President to call a White House Conference on Families in 1979, and for other purposes; to the Committee on Education and Labor.

By Mr. DORNAN (for himself and Mr. GOLDWATER):

H. Con. Res. 376. Concurrent resolution expressing the sense of the Congress with respect to the Baltic States; to the Committee on International Relations.

By Mr. BROOKS (by request):

H. Res. 827. Resolution to disapprove Reorganization Plan No. 2 of 1977; to the Committee on Government Operations.

By Mr. QUIE:

H. Res. 828. Resolution to amend the Rules of the House of Representatives to establish the Committee on Internal Security, and for other purposes; to the Committee on Rules.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

278. By the SPEAKER: Memorial of the Legislature of the State of Michigan, relative to eliminating the inequities in freight charges between virgin and recycled materials; to the Committee on Interstate and Foreign Commerce.

279. Also, memorial of the Legislature of the State of Wisconsin, relative to postponing the decision to abandon the rail line between Gillett, Wis., and Scott Lake, Mich., to the Committee on Interstate and Foreign Commerce.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. GIBBONS:

H.R. 9542. A bill for the relief of Joe Cortina of Tampa, Fla.; to the Committee on Ways and Means.

By Mr. RONCALIO:

H.R. 9543. A bill for the relief of Willard H. Allen, Jr., and Nicole J. Allen; to the Committee on the Judiciary.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

286. By Mr. QUILLEN: Petition of Howard C. Brown, Erwin, Tenn., relative to withholding income tax; to the Committee on Ways and Means.

287. Also, petition of Theda Snyder, Erwin Tenn., relative to withholding income tax; to the Committee on Ways and Means.

288. By the SPEAKER. Petition of the National Association of Secretaries of State, Boston, Mass., relative to improving the administration of the Overseas Citizens Voting Rights Act of 1975; to the Committee on House Administration.

289. Also, petition of the White Oak Borough Council, White Oak, Pa., relative to curtailing steel imports; to the Committee on Ways and Means.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 8309

By Mr. BLOUIN:

Page 8, strike out lines 19 through 25 and insert in lieu thereof the following:

SEC. 102. (a) The Secretary of the Army, acting through the Chief of Engineers, is authorized to replace locks and dam 26, Mississippi River, Alton, Illinois and Missouri, by constructing a new dam and a single, one-hundred-and-ten-foot by one-thousand-two-hundred-foot lock at a location approximately two miles downstream from the existing dam, substantially in accordance with the recommendations of the Chief of Engineers in his report on such project dated July 31, 1976, at an estimated cost of $421,000,000.

(b) The channel above Cairo, Illinois, on the Mississippi River shall not exceed nine feet, and neither the Secretary of the Army nor any other Federal official shall study the feasibility of deepening the navigation channels in the Minnesota River, Minnesota; Black River, Wisconsin; Saint Croix River, Minnesota and Wisconsin; the Mississippi River north of Cairo, Illinois; the Kaskaskia River, Illinois; and the Illinois River and Waterway, Illinois, unless specifically authorized by a future Act of Congress.

(c) There are authorized to be appropriated to the Secretary of the Army such sums as are necessary to carry out the provisions of subsection (a) of this section for fiscal year 1978 and succeeding fiscal years.

SEC. 103. (a) The Congress hereby authorizes and directs the preparation of a comprehensive master plan for the management of the Upper Mississippi River to be prepared by the Upper Mississippi River Basin Commission (hereinafter referred to as the "Commission"), acting through the Great River Environmental Action Team, and in cooperation with the appropriate Federal, State, and local officials. A preliminary plan shall be prepared by January 1, 1981. The plan shall be subject to public hearings in each affected State. The Commission shall review all comments presented at such hearings and submitted in writing to the Commission and shall make any appropriate revisions in the preliminary plan, and shall, by January 1, 1982, submit to the Congress for approval a final master plan. Public participation in the development, revision, and enforcement of said plan shall be provided for, encouraged, and assisted by the Commission. The Commission shall, within one hundred and fifty days of enactment of this Act, publish final regulations in the Federal Register specifying minimum guidelines for public participation in such processes. Approval of the final master plan shall be granted only by enactment of the Congress. Changes to the master plan proposed by the Commission shall require enactment by the Congress to become effective. All related activities inconsistent with the master plan or guidelines shall be deemed unlawful.

(b) The master plan authorized under subsection (a) of this section shall identify the various economic, recreational, and environmental objectives of the Upper Mississippi River System, recommended guidelines to achieve such objectives, and propose methods to assure compliance with such guidelines and coordination of future management decisions affecting the Upper Mississippi River System, and include any legislative proposals which may be necessary to carry out such recommendations and objectives.

(c) For the purposes of developing the comprehensive master plan, the Commission is authorized and directed to conduct such studies as it deems necessary to carry out its responsibilities under this section, with provision that it utilize, to the fullest extent possible, the resources and results of the Upper Mississippi River resources managements (GREAT) study conducted pursuant to section 117 of the Water Resources Development Act of 1976 (Public Law 94-587) and of other ongoing or past studies. The Commission shall request appropriate, Federal, State or local agencies to prepare such studies, and any Federal agency so requested is authorized to conduct any such study for the purpose of this section. Studies conducted pursuant to this section shall include, but not be limited to the following:

1. (a) The carrying capacity of the Upper Mississippi River System, and (b) the long- and short-term systemic ecological impacts of (i) present and any projected expansion of navigation capacity on the fish and wildlife, water quality, wilderness, and public recreational opportunities of said rivers, (ii) present operation and maintenance programs, (iii) the means and measures that should be adopted to prevent or minimize loss of or damage to fish and wildlife, and (iv) a specific analysis of the immediate and systemic environmental effects of any second lock at Alton, Illinois, and provide for the mitigation and enhancement of such resources. For the purposes of this paragraph, the Department of Interior shall be considered the primary agency with the cooperation of any other agencies the Commission shall deem appropriate.

2. (a) The relationship of any expansion of navigational capacity of the Upper Mississippi River System to national transportation policy, (b) the direct and indirect effects of any expansion of navigational capacity of the Nation's railroads and on shippers dependent upon rail service, (c) the transportation costs and benefits to the Nation to de derived from any expansion of navigational capacity on said River System, and (d) a specific evaluation of the need for a second lock at Alton, Illinois, and the direct and indirect systemic effects and needs for such a second lock at Alton, Illinois. For the purposes of this paragraph, the Department of Transportation shall be considered the primary agency with the cooperation of any other agencies the Commission shall deem appropriate.

3. Studies and demonstration programs, including a demonstration program to evaluate the benefits and costs of disposing of dredge spoil material in contained areas located out of the flood plain. Said program shall include, but shall not be limited to, the evaluation of possible uses in the marketplace for the dredge spoil studies and demonstration programs to minimize the environmental effects of channel operation and maintenance activities.

4. Development for the Upper Mississippi River System of a computerized analytical inventory and system analysis to facilitate evaluation of the comparative environmental effects of alternative management proposals.

(d) Guidelines developed pursuant to this section shall include, but not be limited to, guidelines for channel maintenance, minimization of dredging volumes, alternate uses of dredged material, barge fleeting, protection of water quality, fish and wildlife protection and enhancement, wilderness preservation, and management of the wildlife and fish refuges within and contiguous to the Upper Mississippi River System.

(e) To carry out the provisions of this section, there are authorized to be appropriated to the Commission $20,000,000. The Commission is authorized to transfer funds to such Federal, State or local government agencies as it deems necessary to carry out the studies and analysis authorized in this section.

(f) The Upper Mississippi River System consists of those river reaches containing commercial navigation channels on the Mississippi River main stem north of Cairo, Illinois; the Minnesota River, Minnesota; Black River, Wisconsin; and Saint Croix River, Minnesota and Wisconsin.

(g) Except for the provisions of section 102 of this Act, and necessary operation and maintenance activities, no replacement, construction, or rehabilitation that expands the navigation capacity of locks, dams, and channels shall be undertaken by the Secretary of the Army to increase the navigation capacity of the Upper Mississippi River System, until the master plan prepared pursuant to this section has been approved by the Congress.

(h) The lock and dam authorized pursuant to section 102 of this Act shall be designed and constructed to provide for possible future expansion. All other construction activities initiated by the Secretary of the Army on the Upper Mississippi River north of Cairo, Illinois, shall be initiated only in accordance with the guidelines set forth in the master plan.

Renumber succeeding sections and references thereto accordingly.

Page 8, strike out lines 19 through 25 and insert in lieu thereof the following:

SEC. 102. (a) The Secretary of the Army, acting through the Chief of Engineers, is authorized to replace locks and dam 26, Mississippi River, Alton, Illinois and Missouri, by constructing a new dam and a single, one-hundred-and-ten-foot by one-thousand-two-hundred-foot lock at a location approximately two miles downstream from the existing dam, substantially in accordance with the recommendations of the Chief of Engineers in his report on such project dated July 31, 1976, at an estimated cost of $421,000,000.

(b) The channel above Cairo, Illinois, on the Mississippi River shall not exceed nine feet, and neither the Secretary of the Army nor any other Federal official shall study the feasibility of deepening the navigation channels in the Minnesota River, Minnesota; Black River, Wisconsin; Saint Croix River, Minnesota and Wisconsin; the Mississippi River north of Cairo, Illinois; the Kaskaskia River, Illinois; and the Illinois River and Waterway, Illinois, unless specifically authorized by a future Act of Congress.

(c) There are authorized to be appropriated to the Secretary of the Army such sums as are necessary to carry out the provisions of subsection (a) of this section for fiscal year 1978 and succeeding fiscal years.

SEC. 103. (a) There is hereby created an Upper Mississippi River System Council (hereinafter referred to as "Council") consisting of the Secretary of Transportation, the Secretary of Agriculture, the Secretary of the Army, the Secretary of the Interior, the Administrator of the Environmental Protection Agency, the Chairman of the President's Council on Environmental Quality, and the Governors of the State of Wisconsin, Minnesota, Iowa, Missouri, and Illinois. The Secretary of the Interior shall serve as Chairman of the Council.

(b) The Congress hereby authorizes and directs the Council to prepare a comprehensive master plan for the management of the Upper Mississippi River System in cooperation with the appropriate Federal, State, and local officials. A preliminary plan shall be prepared by January 1, 1981. The plan shall be subject to public hearings in each affected State. The Council shall review all comments presented at such hearings and submitted in writing to the Council and shall make any appropriate revisions in the preliminary plan, and shall, by January 1, 1982, submit to the Congress for approval a final master plan. Public participation in the development, revision, and enforcement of said plan shall be provided for, encouraged, and assisted by the Council. The Council shall, within one hundred and fifty days of enactment of this Act, publish final regulations in the Federal Register specifying minimum guidelines for public participation in such processes. Approval of the final master plan shall be granted only by enactment of the Congress. Changes to the master plan proposed by the Council shall require enactment by the Congress to become effective. All related activities inconsistent with the master plan or guidelines shall be deemed unlawful.

(c) The master plan authorized under subsection (b) of this section shall identify the various economic, recreational, and environmental objectives of the Upper Mississippi River System, recommend guidelines to achieve such objectives, and propose methods to assure compliance with such guidelines and coordination of future management decisions affecting the Upper Mississippi River System, and include any legislative proposals which may be necessary to carry out such recommendations and objectives.

(d) For the purposes of developing the comprehensive master plan, the Council is authorized and directed to conduct such studies as it deems necessary to carry out its responsibilities under this section, with provision that it utilize, to the fullest extent possible, the resources and results of the Upper Mississippi River resources managements (GREAT) study conducted pursuant to section 117 of the Water Resources Development Act of 1976 (Public Law 94–587) and of other ongoing or past studies. The Council shall request appropriate Federal, State, or local agencies to prepare such studies, and any Federal agency so requested is authorized to conduct any such study for the purpose of this section. Studies conducted pursuant to this section shall include, but not be limited to the following:

(1) The Secretary of the Army shall provide for the Secretary of the Interior to undertake a study to determine: (a) the carrying capacity of the Upper Mississippi River System, (b) the long- and short-term systemic ecological impacts of: (1) present and any projected expansion of navigation capacity on the fish and wildlife, water quality, wilderness, and public recreational opportunities of said rivers, (2) present operation and maintenance programs, (3) the means and measures that should be adopted to prevent or minimize loss of or damage of fish and wildlife, and (4) a specific analysis of the immediate and systemic environmental effects of any second lock at Alton, Illinois, and provide for the mitigation and enhancement of such resources and shall submit his report containing his conclusions and recommendations to the Congress and the Secretary of the Army.

(2) The Secretary of the Army shall provide for the Secretary of Transportation to undertake studies to determine: (a) the relationship of any expansion of navigational capacity on the Upper Mississippi River System to national transportation policy, (b) the direct and indirect effects of any expansion of navigational capacity on the Nation's railroads and on shippers dependent upon rail service, and (c) the transportation costs and benefits to the Nation to be derived from any expansion of navigational capacity on said River System. The Council, acting through the Secretary of Transportation, is directed to immediately initiate a specific evaluation of the need for a second lock at Alton, Illinois, and the direct and indirect systemic effects and needs for such a second lock at Alton, Illinois.

(3) Studies and demonstration programs, including a demonstration program to evaluate the benefits and costs of disposing of dredge spoil material in contained areas located out of the floodplain. Said program shall include, but shall not be limited to, the evaluation of possible uses in the marketplace for the dredge spoil studies and demonstration programs to minimize the environmental effects of channel operation and maintenance activities.

(4) Development for the Upper Mississippi River System of a computerized analytical inventory and system analysis to facilitate evaluation of the comparative environmental effects of alternative management proposals.

(e) Guidelines developed pursuant to this section shall include, but not be limited to, guidelines for channel maintenance, minimization of dredging volumes, alternate uses of dredged material, barge fleeting, protection of water quality, fish and wildlife protection and enhancement, wilderness preservation, and management of the wildlife and fish refuges within and contiguous to the Upper Mississippi River System.

(f) To carry out the provisions of this section, there are authorized to be appropriated to the Council $20,000,000. The Council is authorized to transfer funds to such Federal, State, or local government agencies as it deems necessary to carry out the studies and analysis authorized in this section.

(g) The Upper Mississippi River System consists of those river reaches containing commercial navigation channels on the Mississippi River main stem north of Cairo, Illinois; the Minnesota River, Minnesota; Black River, Wisconsin; Saint Croix River, Minnesota and Wisconsin; Illinois River and Waterway, Illinois; and Kaskaskia River, Illinois.

(h) Except for the provisions of section 102 of this Act, and necessary operation and maintenance activities, no replacement, construction, or rehabilitation that expands the navigation capacity of locks, dams, and channels shall be undertaken by the Secretary of the Army to increase the navigation capacity of the Upper Mississippi River System, until the master plan prepared pursuant to this section has been approved by the Congress.

(i) The lock and dam authorized pursuant to section 102 of this Act shall be designed and constructed to provide for possible future expansion. All other construction activities initiated by the Secretary of the Army on the Upper Mississippi River north of Cairo, Illinois, and on the Illinois River north of Grafton, Illinois, shall be initiated only in accordance with the guidelines set forth in the master plan.

Renumber succeeding sections and references thereto accordingly.

Page 8, line 19, insert "(a)" after "section 102."

Page 8, insert after line 25 the following:

(b) The channel above Cairo, Illinois, on the Mississippi River shall not exceed nine feet, and neither the Secretary of the Army nor any other Federal official shall study the feasibility of deepening the navigation channels in the Minnesota River, Minnesota; Black River, Wisconsin; Saint Croix River, Minnesota and Wisconsin; the Mississippi River north of Cairo, Illinois; the Kaskaskia River, Illinois; and the Illinois River and Waterway, Illinois, unless specifically authorized by a future Act of Congress.

Offered by Mr. DUNCAN of Oregon:

On page 12, line 21, strike out "RM 14" and insert in lieu thereof "RM 21".

EXTENSIONS OF REMARKS

DECLINING CRIME RATE

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 12, 1977

Mr. MAZZOLI. Mr. Speaker, I would like to take this opportunity to share with my colleagues a recent newspaper article from the October 4, 1977, edition of the Wall Street Journal.

Much has been written in the past months concerning statistics which show a decrease in the national crime rate.

This decline is undoubtedly attributable to many factors such as an improving economy, better crime prevention programs, and the imposition of tougher sentences on repeat offenders.

The Law Enforcement Assistance Administration has also been instrumental by providing financial and technical assistance to State and local criminal justice programs.

However, this article also indicates that the maturing of the American population is important as an influence in the recent downward trend in the crime rate.

The article reads as follows:

MATURING POPULATION WILL BRING A DECLINE IN CRIME, EXPERTS SAY—THEY BASE THEIR PREDICTION ON SHRINKING NUMBERS OF LAWBREAKING YOUTHS

(By Timothy D. Schellhardt)

WASHINGTON.—Crime, it seems, is a young person's vocation. That is one reason the nation's crime rate, after spiraling upward almost without interruption since 1960, will be heading down in coming years.

That's right, down. Criminologists and police officials are optimistic that the soaring crime rise of the 1960s and most of the 1970s is over. Indeed, some types of crime already have started dropping—last year the reported number of murders and other violent acts declined for the first time in 16 years. And crime analysts also are encouraged by the improved economy (crime tends to rise during recessions) and growing public interest in crime prevention programs.

But the major reason for the lower crime expectations is the maturing of the U.S. population. A disproportionate number of serious crimes are committed by young people, especially teen-aged males. In coming years, there will be fewer of these people around.

"The babies born in the baby boom of the early '50s are starting to age," says James Q. Wilson, a widely known criminal-justice scholar at Harvard University. "Some of the young men who helped produce the crime wave of the '60s are getting too old for that nonsense," he says. And with the baby "bust" of recent years, there should continue to be fewer young adults to get into trouble for some time to come.

PASSING THE PEAK

As a result, crime researchers expect the crime rate to continue to drop, perhaps through the 1980s. "We're definitely past the peak," says James A. Fox, assistant professor of criminal justice at Boston's Northeastern University. Adds Harvard's Mr. Wilson, "I'm getting that feeling, too, although I'm resisting it hard since we've been misled in the past."

After being inundated with news about New York's "son of Sam" murders and daily reports of local crimes, most people are sure to be skeptical about forecasts of crime declines. Indeed, the crimes that attract the most attention, murders committed by persons who don't know their victims, still are on the rise, according to police officials.

And crime undoubtedly will remain an immense problem for years because it has such a long way to drop. From 1960 to 1976, the number of serious crimes soared 232% to 11.3 million offenses from 3.4 million. According to Federal Bureau of Investigation statistics, your chances of showing up as a crime victim in 1975 were better than one in 20, compared with one in 50 in 1960.

Yet the downturn has begun. The number of violent crimes—homicide, rape, robbery and aggravated assault—reported to police fell 4% last year. The total number of serious crimes reported to the police last year—including the four violent crime categories and the property-related offenses of burglary, larcency-theft and auto-theft—remained about even with the 1975 total. That was the first time serious offenses hadn't risen substantially since 1972.

A TWO-QUARTER DROP

Overall, serious crime declined in the last part of 1976 and early this year, according to the latest available federal crime figures. The FBI's crime index, which comprises the seven serious offenses, has dropped for two straight quarters—in the 1976 fourth period and in the first three months of this year. The 9% slide in the first quarter of 1977 was the steepest drop since the agency began issuing quarterly reports in 1958.

Last winter's abnormally cold weather no doubt discouraged lawbreaking in many U.S. cities early this year. But a Wall Street Journal survey of 20 major U.S. cities shows that serious crimes continued to decline in the second three months of this year, when the weather was warmer. Crime declined in the second quarter from the same period last year in 17 of the 20 cities surveyed, and the average drop was 8%. Initial figures for July from a number of the cities suggest that the crime slide is continuing.

In many cities, the declines have been dramatic. In Boston, the crime index fell 26% in the first quarter and 14% in the second period. Indianapolis had a 25% first quarter drop, a 13% decrease in the following three months and another 13.3% decline in July. Oklahoma City's crime rate fell 16.6% in the first three months of 1977 and 25.6% the next three months.

SURVEYING VICTIMS

Other evidence of crime decline comes from U.S. Census Bureau surveys that seek to locate, and question crime victims. Such surveys, which were begun in the early 1970s, include crimes that aren't reported to police as well as those that are. The bureau's most recent "victimization" surveys, for 1974 and 1975, suggest there hasn't been any significant increases in the crime rate since 1973.

But crime analysts say that it is demography, the study of populations, that provides the key to understanding the improving crime scene. They note that the unparalleled crime surge of the past 16 years occurred when persons born during the post World War II baby boom were reaching adolesence and young adulthood. Those are crime-prone years. Of every 100 persons arrested for burglary or auto theft, 85 are under 25 years old. So are 77 of every 100 persons arrested for robbery, and 58 of every 100 persons arrested for rape, according to FBI figures. The statistics show that involvement in crime peaks during the teenage years.

The country's teen-age population is starting to shrink this year, however. Already there are hundreds or thousands fewer young children than a decade ago. Thus, the crime experts say, there will be fewer criminals. "The baby bust is very much upon us and certainly in the 1980s that will help bring down the crime rate," Harvard's Mr. Wilson says. For the same reason, Marvin Wolfgang, director of the University of Pennsylvania's Center for Studies in Criminology and Criminal Law, sees a "significant" decreased in crime in the early 1980s.

Demographers project that by 1990, the group of Americans aged 14 to 25 will decline by 7.2 million, to 37.9 million, or 16% less than in 1975.

Mr. Fox of Boston's Northeastern University has projected the U.S. crime rate to the year 2000. His projections, to be published early next year in a book he has written, portend a continued drop in violent crimes through the 1980s and a small increase in the 1990s as offspring of "baby-boom" parents reach adolescence.

Property crimes, he says, will level off by 1980 but will begin to rise somewhat after that. His property-crime projections, he says, depend largely on how inflation fares. "Property crime is much more a product of the Consumer Price Index than is violent crime. As the CPI increases, the value of the goals in committing property crimes increases," he said. Mr. Fox adds that recent declines in property crimes reflect the nation's improved economy over the past two years.

HARD TO STEAL?

The declines also reflect increased citizen interest in crime prevention. "People are making things harder to steal," asserts Harvard's Mr. Wilson. "Cab drivers aren't carrying much change, stores have hired armed guards, and people are installing better locks and other security measures in their homes."

Many cities have cut law violations with formal crime-prevention programs. In Seattle, police have installed 75 hidden, electronic cameras in selected businesses to photograph robberies in progress. In the past 11 months, 33 robberies were photographed, leading to 26 arrests and 23 convictions. As a result of the publicity, commercial robberies in the city have plunged 50% since the program began in June, 1976.

More than 1,600 communities across the country also have begun so-called "neighborhood watch programs," with families living on a block banding together to help safeguard each other's homes. After a year's operation in two test communities, burglary fell 18% in Henrietta, N.Y., and 36% in neighboring Pittsford.

Some cities go to extremes to publicize their crime-resistance programs. On the outskirts of Naples, Fla., a giant billboard greets visitors with the message: "Warning—

Criminals & Vandals! 100,000 Eyes Are Watching You!"

TOUGHER SENTENCES

Crime analysts say another factor in the recent drop-off in crime may be the stiffer sentences being imposed by many judges against repeat offenders, the so-called "career" criminals. Putting such habitual lawbreakers in prison for longer periods of time may be reducing the crime substantially, they say. The federal Law Enforcement Assistance Administration also has helped, funding projects in 23 cities that are aimed at identifying habitual offenders, prosecuting them speedily and pressing for long prison terms.

Recent public opinion polls suggest that Americans already are worrying less about crime these days. A Harris Survey released in May showed the percentage of persons who think the crime rate in their own area is increasing dropped to 58% this year from 70% in 1975. Perhaps even more significant, the survey revealed that for the first time in a decade, the percentage of adults who say they felt "more uneasy on the streets" than they did the year before fell below 50%, to 49%.

Some police officials worry that if the crime rate continues to fall, city officials will slash their budgets and pare their police forces. This, they contend, would only trigger another crime wave. But criminologist Terence Thornberry of the University of Pennsylvania says the "police are too smart to let their budgets get cut."

"When crime goes down, they attribute it to their crime-control programs and insist these must be maintained to keep crime from rising again," Mr. Thornberry says. "When the crime rate goes up, they say they're overwhelmed and need more money to hire more police."

PRICING OF OIL IN WORLD MARKETS

HON. WILLIAM S. MOORHEAD

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 12, 1977

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, I would like to call to the attention of the House a brief, succinct, and important report prepared for the Subcommittee on Economic Stabilization of the Banking Committee by the Congressional Research Service. The subject is pricing of oil in world markets and whether the present practice of pricing oil in dollars will be continued, or whether the OPEC countries might shift to pricing oil in special drawing rights, the new unit of value established by the International Monetary Fund. The report does not answer this question—no one can make such a prediction with confidence—but it contains an important, though implicit, message.

The message is this: A future decline in the international exchange rate of the dollar raises a serious risk that hardly anyone has mentioned or even thought about. The dollar exchange rate matters more than we had thought, and a decline in the rate is potentially more harmful than we had thought.

In brief, the conclusion of the CRS report is as follows:

The OPEC countries will be tempted to shift oil pricing to SDR's—a "basket" of leading currencies—only if the dollar declines in the foreign exchange markets against this group of currencies in a substantial and sustained way. But if such a shift in oil pricing occurred, and the dollar went on declining, the result would be an increase in the dollar price of imported oil in the United States, a worsening trade deficit, more inflation, and somewhat more unemployment. In short, we would be in a vicious cycle. The decline of the dollar's exchange rate would set in motion a shift in oil pricing and then a series of events that would make our present problems worse and could further accelerate the exchange rate decline.

As long as we are dependent on imported oil for nearly half of our total consumption, the price of imported oil is a major factor in our economy, as we all know. With oil priced in dollars, the only thing we have to fear is a decision by OPEC to raise their prices, and price increase lately have been moderate. But if oil were priced in SDR's, we would have an oil price increase in the United States simply because of a decline in the exchange rate of the dollar against the other leading currencies.

The CRS report concludes, quite reasonably, that oil will probably not be priced in SDR's if the dollar continues the relative stability it has maintained against other currencies, taken as a group, since about mid-1975. But if the dollar starts a significant decline, watch out.

Mr. Speaker, it is important that we be aware of this danger. It was overlooked, for example, in the excellent midyear report of the Joint Economic Committee, which implied that a decline in the dollar exchange rate would be a good thing for output and employment in the United States. A stable, not a declining, dollar is in our interest. And as long as we continue to run a huge deficit in our foreign trade, the danger of a decline in the dollar exchange rate will be a real one.

The report follows:

LETTER OF TRANSMITTAL

U.S. HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON ECONOMIC STABILIZATION OF THE COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS,
Washington, D.C., September 12, 1977.

HON. HENRY S. REUSS,
Chairman, Committee on Banking, Finance and Urban Affairs, Rayburn House Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: Enclosed for your consideration is a report prepared by the Congressional Research Service of The Library of Congress for the Subcommittee on Economic Stabilization entitled "OPEC's Proposal To Peg the Price of Oil Exports to Special Drawing Rights," August 22, 1977.

This study was done at the request of the Subcommittee in connection with its continuing investigation of activities and decisions that might affect the problem of inflation within the United States. It is suggested that this study be made available for reading for Congress and the public.

The views and conclusions stated in the report do not necessarily represent those of the Subcommittee on Economic Stabilization or of any individual members.

Sincerely,

WILLIAM S. MOORHEAD,
Chairman.

OPEC'S PROPOSAL TO PEG THE PRICE OF OIL EXPORTS TO SPECIAL DRAWING RIGHTS

(By George D. Holliday, Economic Analyst, Economics Division, Congressional Research Service, the Library of Congress)

BACKGROUND

In the post-World War II period, the U.S. dollar has been the most widely accepted currency for international transactions. It has fulfilled all the basic functions of money—a unit of account, an asset of stable value and a medium of exchange—in the international economy. The dollar has been the preferred currency for these functions because of the important role of the United States in international trade and payments and because of the dollar's strength and stability. The strength of the dollar, in turn, has been a function of the strong external economic position of the United States and the underlying health of the domestic economy.

It is only natural that, in periods when the U.S. economy is perceived to be weaker and the stability of the dollar is questioned, foreign business and financial officials begin to consider alternative, more stable forms of international money. Since the allocation of Special Drawing Rights (SDR's) by the International Monetary Fund in 1969, attention has been focused on the SDR as a possible alternative to the dollar. The SDR has already received acceptance in official financial circles as a unit for defining currency values. Consideration by the Organization of Petroleum Exporting Countries (OPEC) of a proposal to peg the price of oil to SDR's represents another possible application—a unit of value in private international transactions. The recent discussion of such a move by OPEC is not new; it was considered by OPEC oil ministers in 1975 after a substantial depreciation of the dollar against other major currencies. The use of SDR's as a unit of value has also been considered in other international transactions. The International Air Transport Association has considered pegging international fares and cargo rates to the SDR, and Suez Canal tolls are being tied to SDR's. Chase Manhattan Bank has offered deposits and loans tied to SDR's.

Special Drawing Rights were formally adopted by the IMF in 1968 as a means of increasing world liquidity. Until that time, most observers believed that there were inadequate provisions for a growing supply of international currency to keep pace with the rapid growth of international commercial transactions. Under the 1968 agreement, SDR's were allocated to participating governments as credits on the books of the IMF. They are transferable among central banks in exchange for convertible currencies needed to settle payment imbalances. SDR's cannot be owned by private individuals or firms and thus cannot be transferred in private commercial transactions. However, since the IMF sets the value of the SDR in terms of the major convertible currencies on a daily basis, it can be referenced as a unit of value.

The SDR was originally defined in terms of a fixed amount of gold. After a reform in 1974, valuation in terms of gold was dropped and the SDR was defined as a basket of 16 major currencies. The basket includes every currency that accounted for at least 1 percent of world trade during 1968–72. The currencies were weighted according to their importance in world merchandise trade, with additional weight given to the dollar because of its unique role as an international currency. Table 1 shows the weights of each of the currencies included in the SDR basket.

	Percent
United States	33.0
Germany	12.5
United Kingdom	9.0
France	7.5
Japan	7.5
Canada	6.0

Italy	6.0
Netherlands	4.5
Belgium	3.5
Sweden	2.5
Australia	1.5
Spain	1.5
Norway	1.5
Denmark	1.5
Austria	1.0
South Africa	1.0

The method of valuation of the SDR was reviewed in 1976 and left unchanged.

Since the SDR is a composite of major currencies, it tends to be relatively stable, in the sense that it generally does not fluctuate as much as any single currency in the basket. Its value reflects the movement of both the stronger and weaker currencies. Because the dollar is heavily weighted in the SDR basket, the fluctuation of the SDR is strongly influenced by the movement of the dollar.

THE COMMERCIAL USE OF SDR'S

It is the relative stability of the SDR which makes it attractive as a unit of value in private international commercial transactions. For the OPEC countries, which fix the price of oil exports in terms of U.S. dollars, the fluctuation of the dollar can have a considerable effect on the purchasing power of their revenues. If, for example, during a given period, the dollar depreciates against other major currencies, the OPEC countries would lose some of their purchasing power: they could buy fewer goods and services from the countries with stronger, appreciating currencies. Moreover, the countries with appreciating currencies could buy more oil from OPEC with given amounts of their currencies, the buying power of OPEC in those countries would be enhanced.

The following hypothetical example illustrates the possible effects of exchange rate movements on the OPEC countries' buying power. OPEC country X sells 100 barrels of oil to the United States at the price of $10 per barrel, thus receiving $1,000. It uses all of its revenues to import from Germany and exchanges its dollar earnings for German marks at the going rate of 2.5 DM=$1. Thus, it can buy 2500 DM of German goods and services. If the dollar depreciates 10 percent against the German mark, country X can exchange its $1,000 revenues for only 10 percent less, or 2250 DM. At the same time, if Germany wants to buy 100 barrels of oil from OPEC, it pays only 2250 DM, whereas it previously paid 2500 DM. If the dollar appreciated 10 percent against the German mark, country X's buying power in Germany would be enhanced. Its $1,000 in revenues could then buy 10 percent more, or 2750 DM of German goods and services. (The hypothetical example assumes that the inflation rates in the United States and Germany do not vary.) Finally, if the OPEC country uses its revenues to import only U.S. goods and services, its purchasing power would be unaffected by fluctuations of the dollar. Country X's $1,000 would buy the same amount in the United States as before.

The risks and uncertainties that are inherent in foreign exchange transactions may be, to some extent, obviated by using the SDR as a unit of value. Thus, if OPEC pegs the price of oil to SDR's rather than dollars, its earnings may be better protected. For example, if the dollar depreciates, the stronger currencies in the SDR basket usually act as a counterweight and prevent the SDR from depreciating as rapidly. Likewise, if the dollar appreciates, the weaker currencies in the basket tend to moderate the fluctuation of the SDR. Thus, whatever happens to the dollar, SDR pricing may enable an OPEC country to depend on relatively stable purchasing power in third countries for the earnings.

However, the hypothetical example illustrates a situation in which an OPEC country might obtain less stability by changing from the dollar to the SDR as a unit of value. If the country has particularly close commercial ties to the United States, valuation in terms of the dollar (rather than the SDR) is likely to provide more stability. For example, the United States is the dominant supplier (among the major industrial countries) of imports to Venezuela and Ecuador. Whether the dollar appreciates or depreciates, their dollar revenues maintain their purchasing power in the United States. Consequently, SDR pricing of oil exports is unlikely to protect their buying power as well as dollar pricing. Likewise, other OPEC countries have strong commercial ties to single industrial powers (Indonesia-Japan, Algeria-France, Libya-Italy). For those oil producers, the major consideration is protection of their purchasing power in the countries which supply most of their imports. The overall comparative stability of the SDR and the dollar is less important to them than the fluctuation of the SDR and the dollar against the currency of their major trading partners. Thus, depending on the import distribution of an OPEC country, SDR pricing may or may not offer more stability than the present system.[1]

The possibility that the weights of the component currencies of the SDR could be changed at some time in the future adds another element of uncertainty to the commercial use of SDR's. The IMF agreement which created the SDR basket provides that the composition is to be "periodically reviewed." Since trade patterns change, the participants may decide to weight some currencies more heavily or lightly, thus changing the value and generating a significant fluctuation of the SDR against other currencies. The prospect of changes in the SDR basket may make it appear less stable as a unit of value.

In assessing the likelihood of the OPEC countries pegging the price of oil to the SDR, the question of the relative strengths of the dollar and the SDR is probably more important than the question of stability. The OPEC discussions of SDR pricing have surfaced at times when the dollar was depreciating against the SDR. When the dollar has strengthen, the discussions have dissipated. The history of exchange rate movements since the creation of the SDR highlights a major barrier to shifting from dollar to SDR pricing—the difficulty of predicting future trends in dollars/SDR rates. From the initial allocation of SDR's in 1970 to the creation of the SDR currency basket in mid-1974, the dollar dropped more than 20 percent against the SDR, reflecting two devaluations of the dollar under the old fixed exchange rate regime. However, since the 1974 reform, the dollar has performed well against the SDR. After depreciating against the SDR in late 1974 and early 1975, the dollar began to appreciate rapidly. In 1975, the U.S. dollar value of the SDR moved from $1.25 at the end of the first quarter to $1.16 at the end of the third quarter. With minor fluctuations, the dollar/SDR rate has remained at the latter level. The 1975 movement represented a 6.7 percent improvement of the dollar against the SDR.

If OPEC had implemented its proposal in mid-1975 to peg the price of its oil exports to SDR's, its members would have experienced a considerable drop in the purchasing power of their revenues. The United States on the other hand, would have benefited: its oil purchases from OPEC would have been less expensive. For OPEC oil ministers, the overall strength of the dollar vis-a-vis the SDR in the last two years is probably the most compelling reason not to proceed with the SDR pricing proposal.

[1] See Morgan Guaranty Trust Company, World financial markets, August 1975, pp. 4–11.

IMPLICATIONS FOR THE U.S. ECONOMY

The consequences for the U.S. economy of pegging the price of OPEC oil to the SDR are uncertain: they would depend, first of all, on the future course of the dollar against the SDR. The decision to adopt SDR pricing would not, by itself, generate any change. The effects on the U.S. balance of trade and domestic economic activities would depend on the subsequent fluctuation of the dollar against the SDR. Depreciation of the dollar against the SDR would have the same effects as an increase in the price of imported oil. Appreciation of the dollar would have the same effects as a decrease in the price of imported oil. The effects of increased or decreased expenditures on oil imports, in turn, cannot be predicted precisely. They would be dependent on many variables, including price elasticities (i.e., the amount of oil demanded at lower or higher prices), the fiscal and monetary reactions of the U.S. Government, and, in the case of increased U.S. expenditures, the disposition of increased oil revenues by the OPEC countries.[2]

With these reservations in mind, one can suggest some of the possible consequences which might be associated with various trends in the U.S. dollar/SDR exchange rate. One possible outcome is that the dollar/SDR exchange rate could remain stable, with only very small fluctuations. (This has, in fact, occurred since late 1975). Under this situation, SDR pricing would not affect the level of U.S. expenditures on oil imports and would have no tangible effect on the economy.

A second possible outcome would be depreciation of the dollar against the SDR. Depreciation of the dollar would result in higher prices for oil imports and, assuming low elasticity, an increased oil import bill, creating a deficit in the balance of trade (or under today's circumstances, exacerbating an already large deficit). To the extent that the flexible exchange rate adjustment mechanism works, depreciation of the dollar would mean lower foreign prices and increased foreign demand for U.S. exports and, over a period of time, a new balance of trade. The United States would, in effect, begin to export more in order to pay for higher-priced oil. The new equilibrium position would be one which provided a larger transfer of real income to OPEC.

In the domestic economy, an effective increase in the price of oil would almost certainly stimulate inflationary pressures. The prices of petroleum products and their substitutes and energy-intensive goods and services would be most affected. In addition, an increase in exports resulting from the depreciation of the dollar would probably lead to price increases in the export sector. Large increases in expenditures for imported oil may also lead to increased unemployment. Some structural unemployment would be likely as a result of reduced demand for labor employed in oil-intensive activities. At the same time, there could be reduced demand for other goods and services because of a reduction in the real income of consumers.

Another possible outcome of an OPEC decision to peg the price of oil to SDR's could be appreciation of the dollar against the SDR. The effects of dollar appreciation would probably be approximately the opposite of the second outcome. Smaller expenditures on oil imports would probably improve the U.S. trade position. The United States would need to export less to pay for the same amount of oil, and there would be a smaller transfer of real income to OPEC. Lower energy prices would help to dampen domestic inflationary pressures, and increased real

[2] *See* W. M. Corden, Implications of the oil price rise, Journal of world trade law, v. 8, March-April 1974, pp. 133–143.

income and consumer demand would help to reduce unemployment.

It should be emphasized that there is no easy way to predict which of these outcomes is most likely in the long run. The course of the dollar and the SDR are ultimately related to the health of the U.S. economy relative to the economies of U.S. trade partners. Therefore, any decision to peg the price of oil to SDR's will have uncertain consequences for the U.S. economy, and may or may not serve the interests of OPEC.

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MEMBERS' PAY SHOULD BE HELD WHEN CONGRESS FAILS TO ACT ON APPROPRIATION MEASURES BY THE END OF THE FISCAL YEAR

HON. NEWTON I. STEERS, JR.

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 12, 1977

Mr. STEERS. Mr. Speaker, today I am introducing legislation to stop the issuance of paychecks to Members of Congress while the pay checks of civil servants are held up due to the failure of Congress to act on an appropriations bill.

Four months ago, the House and Senate passed separate versions of the 1978 Labor-HEW appropriations bill which differed substantially on the issue of medicaid funding for abortion. Since that time, House-Senate conferees have failed to come up with compromise language which is acceptable to both the House and Senate.

Today, 12 days after the end of fiscal year 1977, this appropriations bill still languishes in conference.

Due to this delay, the paychecks of civil servants in the Department of Labor and HEW will be delayed. For the past week, understandably worried Labor and HEW employees have flooded my office with calls about Congress failure to pass this appropriations bill on time.

One doctor at the National Cancer Institute told my legislative assistant that he cannot purchase the material necessary to continue his cancer cell research due to an HEW order which bans purchase of new material until Congress passes the 1978 Labor-HEW appropriations bill.

Another constituent, also an HEW employee, who lives from paycheck to paycheck as many Americans do in these times of high living costs suggested that Congress pay the interest which would be charged on bills which are paid late by Labor-HEW employees due to the late receipt of paychecks.

I can only answer these civil servants by explaining the reasons for Congress failure to enact this measure. I cannot offer an excuse for it.

It seems to me that, if civil servants' paychecks are held up, because Congress does not do its job Members of Congress should not receive their paychecks either.

I am inclined to strongly believe that this appropriations bill would have been enacted before the 1977 fiscal year ran out on September 30 if the salaries of Members of Congress had been held up pending its passage.

Introduction of this bill should certainly "light a fire" under Congresspersons and help insure speedy enactment of appropriations measures.

IN SUPPORT OF H.R. 4297

HON. EDWIN B. FORSYTHE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 12, 1977

Mr. FORSYTHE. Mr. Speaker, although I was unable to attend the general debate on this bill yesterday because of an unavoidable delay in my flight from New Jersey to Washington, I would like to express my support for H.R. 4297, a bill to be voted on in the very near future by the House of Representatives authorizing funds for fiscal year 1978 activities conducted by the Environmental Protection Agency and the Department of Commerce pursuant to the Marine Protection, Research, and Sanctuaries Act of 1972. This 1972 act, commonly known as the Ocean Dumping Act, has as its primary goal the strict regulation and elimination of the ocean dumping of harmful materials into our Nation's marine waters. The massive expanses of ocean area which have been destroyed by the ocean dumping of sewage sludge, dredge spoil, and industrial wastes and acids make it clear that the funds authorized by H.R. 4297 are urgently needed.

In 1976, approximately 6 million tons of sewage sludge were dumped into our Nation's ocean waters. Ten times as much dredge spoil was discharged into our oceans. The adverse effects of these wastes are grave. Shellfish have been found to contain hepatitis virus, polio virus, and other pathogens. Pollution has closed at least one-fifth of our Nation's commercial shellfish beds. Critical portions of our marine ecosystem have been profoundly changed, in some cases permanently.

H.R. 4297 will authorize $4.6 million for title I of the Marine Protection, Research, and Sanctuaries Act. These funds will be used to support the ocean dumping program of the Environmental Protection Agency. EPA will regulate all dumping, designate recommended dumpsites, and enforce the phaseout of dumping activities of municipalities and industries.

Title II of the act will receive $6.5 million under H.R. 4297. These funds will assist the National Oceanic and Atmospheric Administration of the Department of Commerce in their efforts to conduct comprehensive research on the effects of ocean dumping. Included in NOAA's program is an analysis of the long-term effects of pollution, overfishing, and man-induced changes of ocean ecosystems. Without this basic research, EPA's regulatory policies for ocean dumping will lack a sense of direction and priority.

Title III of the act will be authorized one-half million dollars for the National Oceanic and Atmospheric Administration's marine sanctuaries program. Under this program, key marine areas are preserved or restored for their conservation, recreational, ecological, or esthetic values.

Also, H.R. 4297 contains an amendment banning the ocean dumping of sewage sludge after 1981, an amendment which has my wholehearted support. Ocean dumping must be brought to an early conclusion. The cities now dumping sludge have the technology available to end ocean dumping by 1981, but, without a clear directive from Congress, these cities will continue their ocean dumping as long as possible in order to save themselves money while continuing to destroy valuable marine resources.

I would also like to stress the need for legislation which goes beyond H.R. 4297. While I certainly endorse the 1981 deadline on the ocean dumping of sewage sludge, additional steps must be taken to give dumpers the means to meet this deadline. H.R. 5851, the Ocean Dumping Amendments Act of 1977, is a bill I introduced which 17 other members of the Merchant Marine and Fisheries Committee have cosponsored. This bill contains provisions which insure that the 1981 deadline can be met by phasing out ocean dumping and implementing waste disposal methods which are environmentally constructive.

H.R. 5851 would impose a penalty fee on ocean dumpers to remove the economic advantages of ocean dumping. Moreover, the penalty fee will be channeled back to the dumpers to fund constructive alternatives to ocean disposal of harmful wastes. With these provisions, dumpers will be induced to properly treat their wastes, and harmful pollutants can be converted into useful byproducts such as soil conditioner, compost, and energy.

Mr. Speaker, while I firmly believe Congress must enact additional legislation in the near future, there is no doubt in my mind that the bill we have before us today—with all of its provisions—is urgently needed. I ask my colleagues to support this important legislation.

ON THE POSTAL SERVICE

HON. BILL ALEXANDER

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 12, 1977

Mr. ALEXANDER. Mr. Speaker, Debbie Siler, daughter of Postmaster Wendell Kimbrough of Alicia, Ark., and a student

of the University of Central Arkansas, made a study recently of all classes of business mail service originating in the city of Little Rock, Ark. Debbie's immediate purpose was to find out how thoroughly the business firms understand the dilemma faced by the U.S. Postal Service and what alternatives to higher rates, reduction in services, and/or alternative methods of communication the business community might prefer.

In the course of her data analysis, Debbie made some findings which bring into focus the preferences of Little Rock businessmen. Listed below are some of her findings which I would like to share with my colleagues:

1. Local delivery was carried on by high standards.
2. Most firms preferred an increase in rates if necessary to continue high level service standards.
3. Most firms preferred curtailment of Saturday service as a first option.
4. Most firms felt that better management was necessary to control costs.
5. A substantial number of mailers wanted to eliminate delivery of mail entirely and resort to an "across the counter" contact with personnel in neighborhood post offices.
6. A substantial number of mailers felt that the volume of mail would diminish as rates increased and alternative methods would be used.
7. The business firms were divided on just what alternative methods would be used if forced by higher rates to go elsewhere. Private carriers and the telephone were prominently mentioned.
8. Few businesses looked with favor on electronic communications.
9. Third Classes mailers were far more concerned with the level of services than with the costs since these increased costs could and would be passed on to the consumer.
10. Closing of post offices did not seem to be cost effective and was generally unacceptable to business firms.
11. A glaring finding was the lack of knowledge which business firms have of the problems facing the USPS, also a lack of knowledge of those things available through the Postal Service, and the options available for the retention of a reliable communication system through the United States Postal Service.

PAPERWORK AND BUREAUCRACY

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 12, 1977

Mr. DERWINSKI. Mr. Speaker, the Congress is as much to blame as the other branches of the Government when it comes to accepting the responsibility for excessive paperwork.

Therefore, I commend the following editorial, broadcast by Chicago Radio-TV Station WGN on October 2, to the attention of the Members:

PAPERWORK AND BUREAUCRACY

The Federal Commission on Paperwork has just reported. It has told the President and the nation that paperwork ordered by Congress or implemented by the Executive Branch in carrying out laws passed by Congress costs about one hundred billion dollars each year. The Commission, using tons of paper for 36 different reports, made 770 recommendations for reducing or eliminating paperwork.

One of its recommendations appeals to us. It would require that as legislation is considered, the House and the Senate consider what and how much paper-work the legislation would require. It's like an environmental impact statement required for large construction projects like the Alaskan pipeline. It's like a bill we supported in Springfield recently, a bill which would have required that the cost of implementing proposed legislation be included with the bill. Of course, estimating the paper-work required might require tons and tons of additional paper-work on Capitol Hill. But, that might be the quickest way to bring home the message to Congress. Faced by a paper-work mandate on them, they might be more considerate about the amount of paperwork they demand from us.

THE PATH TO QUALITY EDUCATION

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 12, 1977

Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington Report for October 12, 1977, into the CONGRESSIONAL RECORD:

THE PATH TO QUALITY EDUCATION

In recent weeks schools have reopened across America with renewed doubts about the quality and effectiveness of our educational system. The changes and challenges confronting American educators are formidable. They include:

Steadily declining scores on high school scholastic aptitude tests;

Continuing controversy over the multi-billion dollar federal role in education;

Increasing doubts about the educational innovations of recent years including team teaching, open classrooms and para-professional aides;

Declining enrollment and skyrocketing costs which have forced many classrooms to stand empty and many schools to close;

High rates of absenteeism, vandalism, violence and a noticeable lack of discipline in many of our schools;

Growing dissatisfaction and increased militancy among teachers; and

Disgruntled taxpayers who feel they are paying more for education and getting less in return.

Our educational system has gone through major changes in recent years. In the 1960s many schools reduced the number of academic classes, weakened graduation requirements, emphasized elective courses, placed greater emphasis on vocational training, and cut back basic courses in English, history and foreign languages. Consequently students spent less time in the classroom and the mission of the schools became less clear, even confused.

This same period was also one of great expectations for the schools. In the past the function of our educational system had been to teach the three R's: reading, writing and arithmetic, but more and more our schools have been expected to instill patriotism, mold character, develop civic responsibility, assimilate races and cultures, develop high moral standards, provide occupational training, create equality of opportunity, and promote good health habits. Some persons even feel that schools are primarily responsible for their childrens personality development.

With these changes, or perhaps as a result of these changes, the role of the federal government in education also grew, and, as it grew, it came in for increasing criticism. Federal aid for the countrys 50 million elementary and secondary school children now amounts to more than $6 billion a year, a sum that represents 8 percent of the $75 billion spent by the schools. The federal dollars have been used to prod schools to attend to the needs of economically disadvantaged children, to expand libraries, to provide early childhood education and to bring innovation into the classroom, including new math, phonics, the open classroom, and bilingual education. Though limited to disadvantaged students, the influence of the federal dollar in education has had a ripple effect far beyond the immediate beneficiaries, extending to the development of curriculums and instructional materials.

With federal money, however, has come federal regulation and recordkeeping. With good reason school administrators are distressed with the demand for bookkeeping and paperwork, and most of them contend that too many strings are attached to federal aid.

Outright control of education by the federal government, once feared, has not materialized, but the long-term impact of the innovations prompted by the federal government is uncertain. The federal role came at a time when the national test scores were declining, but that does not necessarily mean that the federal innovations were the cause for the decline. Some data suggest that the federal programs actually retarded or prevented the decline in achievement among disadvantaged children that would have occurred without the federal efforts.

The upgrading of America's educational system will require dollars and lots of them. But much more is needed. There should be, in my view, no federal takeover of education, but a systematic, sustained and strengthened effort at the local and state level to balance the federal effort and keep it secondary in importance. Together with many parents, I find myself sympathetic with the most popular slogan in education today: "back to basics". It means that the schools have slipped in their teaching of the fundamentals, and must reorder their priorities, and attach central importance to restoring the traditions of critical reading, careful writing, and accurate computation.

Beyond getting back to basics, some of the things I think must also be considered include: more parental involvement, not as mobs demanding "back to basics" or against sex education, but as helpers in finding answers to quality education; more emphasis on substantial improvement and achievement in learning the basic skills; smaller schools with more individualized attention; lowered expectations about what schools can be expected to accomplish; more attention to the needs of the teacher; and renewed emphasis on responsible behavior with strict measures against misbehavior and vandalism.

CONGRESSIONAL PRIVILEGES

HON. JAMES G. MARTIN

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 12, 1977

Mr. MARTIN. Mr. Speaker, several colleagues have noted that the legislative absurdity, alias "reform," that we were asked to adopt today is an expensive bit of self-serving foolishness. The last such "reform" has just produced another embarrassing scandal in today's news, as we predicted when we unsuccessfully tried to defeat it a year ago.

The people we represent cannot understand how Members of Congress can spend thousands of dollars for personal

items, flowers, regular meals, tuxedos, theater tickets, and such entertainment and charge it to the taxpayers as official expenses. It is outrageous and I want to commend the gentleman from Maryland (Mr. BAUMAN) for his research and speech yesterday which brought this outrage into public view. I had earlier requested the overdue reports and was puzzled that they had not been printed.

Those last reforms increased the allowances for travel, telephone expenses, office rent, and official expenses away from Washington to over $45,000 a year. It made it easier for those who wanted to spend it all, by allowing the money to be spent on anything a Member wanted to certify as an official expense. Now the new proposal was to hike that to $62,000. I do not spend half that much now and my staff and I make every effort legitimately to communicate with and be personally available to answer and to listen to my constituents. Clearly, these additional expensive "reforms" were not needed any more than the last extravaganza.

I commend those who voted in today's majority to reject any further greasing of the self-interest of the few who have embarrassed this House. The vote was 160–252, with not a single Republican voting for this measure, a responsible showing for which I congratulate the gentlemen from Arizona (Mr. RHODES) the distinguished minority leader, and his whip the gentleman from Illinois (Mr. MICHEL).

UNIVERSAL COVERAGE—WHY ALL THE OUTCRY?

HON. J. J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 12, 1977

Mr. PICKLE. Mr. Speaker, an editorial in yesterday's Washington Star reflects some of the same feelings I have had about universal coverage under social security. Universal social security coverage is good for the country and good for every individual who would be participating in the system—including Members of Congress. Social security provides the only almost totally portable basic pension and guarantee against hardship that is available in the country today.

I commend the editorial to my colleagues.

WIDENING SOCIAL SECURITY

It's understandable that federal employes would be concerned about efforts to put them under Social Security. Most of them think their existing retirement plan is pretty good; and the Social Security system, after all, is in financial trouble.

But it seems to us that government workers, or at least union leaders who represent a portion of the federal work force, are excessively agitated.

What is proposed is a meshing of Social Security and the existing Civil Service retirement program. Many employes in private business and industry have similar arrangements: Social Security provides the basic retirement benefit and a separate plan provides a supplement.

The bill not only would bring in 2.6 million federal employes but also some 4 million state and local government workers who have elected to stay out of the Social Security system. Two major benefits would flow from this: It would help shore up Social Security's financial underpinning; and it would put virtually all American workers under the same basic retirement plan.

The increased coverage would infuse the Social Security system with several billions of dollars a year. While that wouldn't solve the system's long-range financial problems it ought to provide some breathing space.

It also would end a sizable drain on the system from "double dippers" who now can retire under their civil service plans, then work a few years in a job covered by Social Security and qualify for the relatively generous minimum Social Security benefit, which is designed to help low-income workers.

Perhaps the more important advantage in bringing in government workers would be that everyone would have a stake in stabilizing and improving the Social Security system. Even the retirement program of members of Congress would be meshed with Social Security; and congressmen have a well-earned reputation of looking out for themselves.

There is considerable feeling on Capitol Hill that universal Social Security coverage is an idea whose time has come. If this is so, leaders of government employe unions might do more for the workers they represent by helping Congress work out the best plan, instead of trying to scuttle it.

AIRBAG ALERT: DISAPPROVAL RESOLUTION TABLED AFTER WIRE SERVICE REPORTS COVER-UP OF UNFAVORABLE AIRBAG DATA

HON. BUD SHUSTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 12, 1977

Mr. SHUSTER. Mr. Speaker, with curious congressional symmetry, a minority of the 43-member House Interstate and Foreign Commerce Committee voted 16 to 14 to table the airbag disapproval resolution today, days after the wire services reported that: "The National Highway Traffic Safety Administration suppressed test results highly unfavorable to airbags and threatened reprisals against one of its scientists who tried to make them public. . . ."

The UPI story is inserted in the RECORD following:

AIR BAGS

DETROIT.—The National Highway Traffic Safety Administration suppressed test results highly unfavorable to air bags and threatened reprisals against one of its scientists who tried to make them public, the Detroit News reported today.

The News, in a dispatch from its Washington Bureau, quoted the scientist, Thomas H. Glenn, as saying he was "pressured by NHSTA to testify before Congress that the test results were inconclusive, but I resisted.

"If this goes any further," Glenn said, "the bastards are going to kill me."

The news said Congressional investigators found that NHTSA officials withdrew the test results Aug. 26 shortly after Glenn, who suffers from a heart condition, had placed them on the public docket—a means of making them available to interested parties.

The test results were returned to the docket a week later, but only after Rep. John Dingell, D-Mich., and several other Congressmen demanded they be released to the public, the newspaper said. Dingell is a vigorous foe of mandatory air bags.

The investigators also told the news that an NHTSA staff analysis evaluating the test results was withheld from Congress until Sept. 26. By then, both the House and Senate had completed hearings on resolutions to overturn an order by Transportation Secretary Brock Adams requiring installation of air bags on some new cars in the 1982–model year.

The air bag rule will take effect Friday unless overturned by both the House and Senate.

The allegedly suppressed tests, conducted for NHTSA by Calspan, a private research firm in Buffalo, N.Y., compared the effectiveness of air bags versus safety belts in four offset collisions of cars traveling at 38 miles per hour.

None of the cadavers and dummies used as test subjects in the seat belt-equipped cars suffered crash impacts over the injury limit set by passive restraint standards. Two of the cadavers and one of the dummies in the air bag cars would have been killed had they been living humans, the tests showed.

The news quoted Congressional investigators as saying that Glenn, the NHTSA scientist, was subjected to "a systematic pattern of harassment" after he placed the test results in the public docket.

WHEN TRUMAN PARDONED THE CIA

HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 12, 1977

Mr. HYDE. Mr. Speaker, as we read of the impending indictment of a former high ranking intelligence officer, it is useful to review a little history. Appeasing those elements in our country whose goal is to demoralize if not dismantle our intelligence agencies is dangerous, and in this context, the following column by Patrick J. Buchanan is essential reading:

[From the Chicago Tribune, Oct. 11, 1977]

WHEN TRUMAN PARDONED THE CIA

(By Patrick J. Buchanan)

WASHINGTON.—The odds are now given as even money that Justice will move to indict former Central Intelligence Agency director Richard Helms for misleading a Senate committee concerning CIA involvement in Chile.

Before the President and Atty. Gen. Griffin Bell allow this senseless hammer blow to fall upon the intelligence community, they might review how President Truman handled a similar matter 25 years ago.

In 1952, the CIA passed along to the Federal Bureau of Investigation and State a report, picked up in Seattle, that Prof. Owen Lattimore was planning a trip to Moscow. [On July 3, 1952, Lattimore was characterized by a Senate subcommittee as a "conscious articulate instrument of the Soviet conspiracy."] Receiving the Seattle report, the Department of State alerted customs officials to block Lattimore's departure. The matter broke into print.

The report proved inaccurate. Its source, a 32-year-old travel agent named Harry A. Jarvinen, was indicted by a federal grand jury. Two CIA agents, Miller Holland and Wayne H. Richardson, were called to testify. Both stonewalled, with Richardson refusing to testify "on orders of my superior." Along with Miller, he was sentenced to 15 days in prison for contempt.

But this was unacceptable to Harry Truman. Quietly bypassing Justice, the Presi-

dent issued pardons to both men, since, in the President's proclamation on Richardson's behalf, ". . . it has been made to appear to me that the said Wayne Richardson at the time of the aforesaid trial was an agent of the United States and acting in obedience to what he believed to be a lawful order from his official superior. . . ."

In passing on the President's clemency petitions CIA director Walter C. [Bedell] Smith, went further:

"That your conduct was correct and honorable is recognized by the President in granting this pardon," wrote Smith to agent Richardson. "In the eyes of the law, your record is as if the incident had never occurred. In the eyes of the agency, your meticulous compliance with orders made an enduring contribution to the national intelligence and the functioning of the Central Intelligence Agency.

"Legally and morally no fault exists, and your conscience can be clear that your conduct was honorable and in the best traditions of government service."

Truman's precedent is there for Carter to follow.

Clearly, testifying before that Senate committee, Helms was confronted with a serious moral dilemma. Should he protect at grave legal risk to himself the secrets he was sworn to protect; or should he spill the "whole truth" about CIA involvement and thereby cripple his agency, and perhaps his country? This is an issue to be debated in ethics courses in postgraduate seminars, not a matter for a federal indictment.

What sort of nation have we become? Helms, who has served his country honorably for decades, is facing this possible indictment, while the turncoat Philip Agee, who fingered dozens of CIA agents abroad, one of whom was subsequently assassinated, is told by the same Justice Department he faces no problem if he comes home to a country whose secrets he betrayed.

Indicting Richard Helms, along with John Kearney of the FBI, would further demoralize these already battered security agencies. It would necessitate opening the most sensitive strategic victory for those, here and abroad, who want the FBI and CIA further smeared, if not destroyed.

If Carter allows this travesty to proceed, it will demonstrate that he lacks utterly that sense of priorities which Truman showed. But, then, whom the gods destroy, they first make mad.

A THOUGHTFUL LOOK AT WORLD TRADE

HON. STANLEY LUNDINE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 12, 1977

Mr. LUNDINE. Mr. Speaker, in the near future Congress will be called upon to make major decisions concerning international trade policy. The trade deficit in August was the second largest on record, and domestic manufacturers face increasingly severe competition in world markets and at home. We have all been shocked by recent news of massive layoffs in the steel industry, and the specialty steel industry, with which I am particularly familiar, is concerned by the present reexamination of the 3-year quota imposed upon foreign manufacturers just last year.

At the same time we must keep in mind that American interests can be served by developing world trade. Right now one out of every six manufacturing jobs and one out of every three acres of farmland in this country produces for export. We must seriously consider ways in which we can increase the export of American made goods, and that includes taking a realistic look at the manufacturing practices of other successful trading nations.

Earl F. Myerholtz, vice president and general manager of the Marlin-Rockwell Division of TRW, Inc., presented a thoughtful, balanced look at the present international situation in a recent interview published in the Jamestown Post-Journal of Jamestown, N.Y. I have had the privilege of working with Earl Myerholtz on a variety of projects in recent years because of our mutual interest in the economic development of the southern tier. I believe that his views on international trade deserve a wide audience and I, therefore, include them in the RECORD:

VIEWS ON INTERNATIONAL TRADE

MRC is an internationally respected name in the bearing industry and Myerholtz serves as chairman of the Antifriction Bearing Manufacturers Association. He has been to Japan and has developed a tremendous respect for the manner in which that country's bearing industry has been organized and developed.

Myerholtz pointed out that through August this year, imports of bearings into the U.S. were up 38 percent from the comparable period of 1976 and the Japanese now claim between 35–40 percent of the U.S. bearing market. He noted that the most severe penetration has been in the last five years in the ball bearing field with less impact on the roller bearing market.

The MRC official said he feels that without limitations on imports, the domestic bearing industry will suffer severe damage.

The industrial leader called attention to a number of situations that place the Japanese in the favorable competitive position they occupy. A major one, he said, is the productivity of the Japanese worker. He recalled being in a plant in the country during shift change and observing the arriving worker nudge the departing one on the shoulder—with the operation continuing without a missed movement.

A second primary factor, Myerholtz said, is that the Japanese bearing cartel has been able to rationalize production and assigns one bearing size to each manufacturer, who makes them for all other manufacturers, including putting their names on them. He explains this incorporates the economy of high volume production while U.S. companies produce smaller volumes at consequently higher costs.

Myerholtz said the bearing cartel is coordinated and guided by the Ministry of International Trade and Industry, which, if its counterpart existed in the U.S. undoubtedly would be charged with monopoly and restraint of trade.

A third consideration favoring the Japanese, the MRC official said, is they tend to have more modern plants as most were constructed since World War Two while the majority of American plants are between 40–50 years old. He noted that after the war, the bearing and electronics industries were principal ones the Japanese chose to enter.

Myerholtz said the Japanese then generally selected the high volume segments of the market for specialization, primarily those from nine to 170 millimeter outside diameters.

He pointed out that MRC works closely with many of its customers in bearing design, but they end up buying Japanese-made products on a price and quality basis. He explained that if an industry has specifications calling for MRC bearings, an interchange catalogue is consulted and Japanese bearings are substituted.

Myerholtz said bearings always are built in metrics so conversion has not been a problem in the U.S. but will represent a distinct disadvantage to other U.S. manufacturers while the Japanese are "already there."

He noted that wages in Japanese industry, while still below those in the U.S., now are comparable with those in Great Britain, Italy and France, along with "unbelieveable benefits." Myerholtz said of the Japanese work force, "It's truly a family with a great pride in their industry."

Along with an outstanding work force, he veiws their management and engineering as excellent, although feeling the Japanese have no technology the U.S. cannot duplicate or improve on. He noted that in the early days of the industry, the Japanese imported the best American equipment available and improved on it, but the U.S. machines now are on a par with it.

Myerholtz pointed out that in Japan, labor management and government work as a team with the common goal of increasing sales volumes and job security while in the U.S. these entities still frequently view each other as adversaries.

From a financing standpoint, the MRC official noted American industry traditionally operates on about 70 percent of stockholder funds and equity and 30 percent debt. The Japanese, he said, operate in reverse with about 70 percent debt and 30 percent equity, resulting in very high debt service payments requiring that high volumes be maintained.

Myerholtz pointed out that last year the four major Japanese bearing manufacturers had profits of less than one cent per dollar of sales, U.S. industry, he said, had an average of about 5.3 per cent which is low for the bearing industry, due to its very high investment costs.

The MRC official noted that in an effort to become more competitive, the U.S. bearing industry is becoming more selective in its markets and type of bearings produced, discontinuing some lines. Principal markets, he said, are the automotive industry, particularly heavy duty trucks, along with aircraft engines, helicopters, industrial trucks and construction equipment.

Myerholtz said the U.S. economy still is recovering from the depression and the capital goods market, including construction and industrial equipment, has not rebounded as rapidly as hoped for.

He pointed out that such industry is kept "off balance" by unresolved government programs such as those dealing with energy and taxes. The hope is, he said, that the economy will grow sufficiently to permit MRC to retain its employment levels while investing substantial amounts in new equipment to decrease costs.

Myerholtz said additional stress also will be given increased employee involvement as the Japanese do to realize the full potential of personnel.

He noted that the U.S. government in 1973 imposed increased tariffs on bearing imports for five years, setting the rate at about 22 percent, which at the end of three years was reduced by one-fourth with a similar reduction scheduled at the end of four years. At the end of five years—in May 1978—the tariff is slated to go back to its original level of about 11 percent.

Myerholtz said the Anti-Friction Bearing Manufacturers Association now is weighing whether it should file a new petition for further relief. He said he feels, however, that such relief is not a permanent solution

and the future of the American bearing industry in 5–10 years will be determined by its ability to make improvements and lower costs.

The MRC official said all four major Japanese bearing companies now have U.S. locations, primarily for assembly only. He said they also stamp U.S.A. on their products in an effort to give the impression they are completely manufactured in the United States.

He explained that the U.S. has a good balance of trade with Europe, making imports from there much less competitive while very few American-made bearings are sold in Japan. Myerholtz said MRC sells the largest share of U.S. bearings going to Japan, but the effect on the market is miniscule. He emphasizes that licenses, issued by the Japanese government, are required to import bearings into the country.

Myerholtz said he does not object to fair trade, which he feels is necessary in world markets, but he does object to what he believes to be predatory practices employed by the Japanese. He said these involve a one-way situation, but if the U.S. had the same opportunity to sell in Japan as the Japanese do here he would not complain, but when there are two sets of rules to work within the problem becomes difficult.

The MRC official pointed out that since 1974, the company has invested $7,785,519 in capital goods at its Jamestown and Falconer plants. Such goods, he said, represent any equipment costing more than $500 and can be interpreted as the company's commitment to the area of its confidence of the future of the bearing industry locally.

POSTAL SERVICE: A VIEW FROM RURAL AMERICA—VII

HON. JAMES ABDNOR

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 12, 1977

Mr. ABDNOR. Mr. Speaker, rising second-class postal rates have prompted the demise of a number of newspapers, magazines, and other publications in recent years. While many have been alarmed at the impact of the rise in first-class rates, few stop to realize that the reason they are paying more for subscribing to their daily and weekly newspapers is due almost entirely to the hike in postage rates—147 percent since 1972.

Shooting like a rocket, the increases now scheduled until 1987 will amount to an average of 41 percent over the 15-year period or a staggering 615 percent.

In preparation of the administration's recommendations for the U.S. Postal Service, the White House invited the National Newspaper Association to field a panel for a frank discussion of their concerns over mail deliveries and postage rates at a meeting in the Executive Office Building last week.

Representing the newspapers of rural America was Colin D. Monfore, publisher of the Yankton, S. Dak., Press and Dakotan. The Press and Dakotan is eldest in continuous publication among South Dakota's 159 community newspapers.

Mr. Monfore's prepared statement for the meeting succinctly demonstrates why South Dakota newspapers and those throughout rural America who must rely almost totally on the mails for distribution are worried about the outcome of current postal policies and what the Congress and the administration plan for the future:

COMMENTS OF COLIN D. MONFORE, PUBLISHER, YANKTON DAILY PRESS AND DAKOTAN, YANKTON, S. DAK., CONCERNING U.S. POSTAL SERVICE RATES AND SERVICE, OCTOBER 6, 1977

My name is Colin Monfore. I am publisher of the Yankton Daily Press and Dakotan, Yankton, South Dakota. Ours is a six day newspaper (no Sunday publication) with approximately 10,000 subscribers in South Dakota and Nebraska. Some 51.2% of our subscribers receive their newspaper via the Postal Service, 37.6% by Rural Route delivery or P.O. Box.

We go to press at 12:00 noon in order to meet a 1:00 p.m. mail deadline. Post Office trucks get the paper into most of the surrounding communities in time for same day delivery either by our carriers or in post office boxes. Farm patrons on rural routes receive their paper sometime the next day via the Postal Service Rural Route carrier. In that there is no Sunday rural route delivery, the Saturday publications do not reach the farmer until Monday, or on Tuesday if Monday is a holiday.

Suspension of Saturday delivery, as proposed by the Postal Service, would mean that any Friday afternoon publication would not be delivered on the farm until Monday. Should Monday be a holiday, the farmer would receive Friday, Saturday and Monday publications on Tuesday. According to our research, farmers do not consider this an acceptable level of service. Two or three day old news is just as unacceptable on the farm as it would be in Washington, D.C.

There is speculation as to whether loss of Saturday service would be a prelude to three day a week service—or even less—in the interest of a *self sufficient* Postal Service. Such fears seem augmented by rumors of suspension of the traditional "next day delivery" objective, or the closing of rural post offices. Although the "farm belt" is generally conservative by nature and as such appreciates the need to operate efficiently, there is serious question as to whether such drastic cuts in postal service would in fact result in a more efficient and economical postal operation. It appears to some that the USPS is trying to put the bridle on the wrong end of the horse.

Corn Belt philosophy might ask, "at what price is this economy?" Response from farm families to newspaper questionnaires on this subject overwhelmingly suggest that farmers would be the losers, and in agriculturally oriented states like South Dakota, when the farmer loses, everybody loses. The farmer has no corner drugstore a few blocks down the road where he can pick up his newspaper, prescription, or whatever. Farmers rely on the Postal Service. Unless they drive to town, or each supplier establishes some sort of farm to farm motor route to provide such delivery, the farmer must do without until the Postal Service next stops at his mail box.

In this day of energy crisis, it hardly seems logical to dismantle an established centralized delivery service for even one day of the week. Whatever it might save the Postal Service, if at all, such savings would probably be expended many times over at the expense of the energy picture, the national economy in general and the farmer in particular.

Our farmers are already in trouble. In 1935, South Dakota had 83,400 farms. For various reasons, this number had been reduced to 43,000 by 1975, a loss of almost 50 percent. The exodus to the already troubled cities continues even now—and why not. The work is hard, the hours long and the pay is lousy. According to USDA figures the average total net income per farm in 1975 for South Dakota was $11,372. USDA figures also show that Yankton County had 930 farms in 1975 with an average size of 340 acres. One local banker suggests that establishing such a farm would require a capital investment of at least $200,000, with the net result dependent on such unpredictables as good health, good weather and the political arena. A person could do better than that with a beginners job requiring no experience at the local Post Office, getting over $13,000 a year plus for a 40 hour week, no investment, and no risk, a whole package of fringe benefits. The farm today is not the peaceful, easygoing, grandma-grandpa type picture so frequently painted in the storybooks—and we fear invisioned by too many of our city cousins, and lawmakers. It is a tough racket. It involves all the knowledge and skill handed down through the generations plus vast amounts of modern technology. It is a seven day a week operation. The livestock never takes a weekend off. Crops must be tended when the time and the weather are right. Farming is a tough and risky way to make a living.

To be successful, the farmer needs up-to-date knowledge on a myriad of subjects. This includes not only technical knowledge which he might receive through his farm journals, etc., it includes current, in-depth information on local, state, national and international news which affect his operation and his future. It is the responsibility of the press to inform its readers, and at no time in the history of this country is dissemination of governmental news more important than it is today. The complexities of the new farm bill, the ramifications of tax reform, import-export information and markets can all be highlighted by the electronic media. But the in-depth knowledge and understanding must come from the printed word. Whether it be a governmental publication, a farm journal or a local newspaper, timely delivery to the farmer in rural areas is dependent on the Postal Service. Both the level of this service and its price are therefore of major concern.

If the term "public service" has a beneficial meaning, certainly a national communication system should be high on the priority list. A viable mail delivery system at affordable rates is imperative to a free society. To price the service beyond the ability to pay would be tantamount to termination of the service. Since 1972, our average 2nd class postage per in county mail subscriber has increased 147%. This figure will be upped to 615% by 1987 according to already scheduled rate increases—an average of 41% per year for the 15 year period. Although the scheduled rate increases for all classes of mail would suggest that the Postal Service might disagree, it has been our painful experience that there is a point of diminishing return, a point where people say "no more." We believe we provide a meaningful and necessary element to the informational needs of our farm readers. We feel obligated to serve them to the best of our ability and at a price within their reach. We believe the Federal Government and the Postal Service have a similar obligation.

In Yankton County, we have less than two farmsteads per linear road mile. Yet we firmly believe in the integrity of these farm units, however sparsely situated.

It is our hope that you, too, will acknowledge that the Postal Service is the basic means of communication in rural areas, and that you will lend your support to insuring the continuance of a viable service objective at affordable rates.

THIRD WORLD COUNTRIES

HON. MARJORIE S. HOLT

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 12, 1977

Mrs. HOLT. Mr. Speaker, on October 5, our colleague, the gentleman from Michigan (Mr. DIGGS), inserted in the CONGRESSIONAL RECORD a speech by President Nyerere of Tanzania. He is certainly one of the admired and respected leaders of Africa. He is eloquent, but he makes a splendid illustration of why some third world countries are not only poor, but are destined to remain poor. It illustrates why, if they fail to change their internal social and economic policies, they are destined to remain in a perpetual condition of dependency on developed nations. It raises grave doubts as to the value of aid offered them by developed countries.

My remarks refer to third world countries that have embraced socialism, which has never been known to generate development or create wealth, but in fact prevents development and the creation of wealth. It is a system for redistributing wealth, which in the case of third world countries does not exist in the first place.

I quote from the speech of Mr. Nyerere:

> Tanzania is one of the poor countries which endorses the demand for internal economic justice, and tries to implement it. We carry out land reform, or we end the exploitation of our workers and our nation by nationalizing the mines or major industries and financial institutions; we impose heavy taxes on the rich, and concentrate our public spending on services needed by the poor, and so on.

In other words, Tanzania has systematically destroyed the incentive for productive investment and work, imposing heavy penalties on its productive citizens and preventing foreign investment. One wonders how economic development will be possible, even though Mr. Nyerere emphasizes this enormous need.

I quote him further on the effects of his policies:

> For example, if a country like Tanzania reorganizes its medical services and sends doctors to the rural areas, some of the doctors may emigrate; when we hold down the top salaries so as to reduce appalling wage differentials, some experienced managers and professional people will be tempted by higher incomes they can get in developed countries. The "brain drain" is another transfer of needed resources to the haves from the have-nots.

This is astonishing. He is complaining about a "brain drain" that the policies of his own Government have caused, and one would think that he would change those policies if they were having such a dreadful effect.

These phenomena are not peculiar to Tanzania. Even in developed industrial countries, the advent of socialism causes talent to flee and economic growth to stop. A prime example is Great Britain, from which the doctors are emigrating, capital investment has been reduced to a trickle, and productivity has diminished. The inevitable consequence of socialism is common poverty. There are lessons here for America.

Great Britain is in a condition of decline from her former eminence in the industrial world. She created the industrial revolution and achieved economic heights before starting her slide into socialism. Tanzania and other socialist nations of the Third World, however, are crushing the spirit of development before it even begins in their poor lands.

Mr. Nyerere appeals for "a new international economic order" for the transfer of resources from rich countries to the poor. Translated, this means more foreign aid of various kinds from the American taxpayers to countries such as Tanzania.

But what could we hope to achieve from such a sacrifice?

Is there some distant hope that Tanzania could develop to become a self-sufficient member of the community of nations? Or will its own internal policies keep it in a perpetual state of economic dependence, unable to rise from impoverished pleading for more welfare from free and productive societies?

There are examples where American aid has provided the seed for economic miracles. The free economies of Western Europe and Japan recovered very rapidly to self-sufficiency after World War II. The free economies of Taiwan and South Korea have reached self-sufficiency and a level of prosperity which is very high by Asian standards. Our only contributions to these countries are for the mutual purpose of common defense. But what of the aid we give to countries afflicted with rigid socialism? Mr. Speaker, it is like throwing money into the ocean.

TRIBUTE TO DR. CHARLES CALVIN COFFEY

HON. W. G. (BILL) HEFNER

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 12, 1977

Mr. HEFNER. Mr. Speaker, it is with great sadness in my heart that I rise to address my colleagues on this solemn occasion. For our Nation, the State of North Carolina, and the city of Kannapolis have lost a great leader and a man of great wisdom and courage. He was a true servant of God, both proud and modest, who in his brief lifetime came a long way and accomplished a great deal. He was Dr. Charles Calvin Coffey.

The people of my district, specifically those in Kannapolis, knew him, and loved him, and will remember him with great warmth and admiration. Through his Christian leadership he demonstrated a dedication and devotion to Christ as he brought intense love and care to all human beings; the poor, the sick, the underprivileged, and to his church. Dr. Coffey served as pastor of the First Baptist Church of Kannapolis for 24 years.

He was born in Caroline, Va., January 12, 1922, of the late Mr. and Mrs. L. W. Coffey of Fredericksburg, Va. He was graduated from High Point College, High Point, N.C., with a bachelor of arts degree and graduated with a bachelor of divinity from the Southern Baptist Theological Seminary.

He undertook further studies at the Duke University Divinity School and the Princeton Theological Seminary. He held the master of divinity degree and the doctor of laws.

Mr. Speaker, time does not permit a litany of Dr. Charles Coffey in behalf of his community, his neighbors, and humanity at large. He spent most of his adult life in service to God and his fellow man, which needs no explanation on demands of personal time and energy. But in addition to this, Mr. Speaker, he left the following record of contribution:

Denominational experiences:

Vice-Moderator, Valley Association of Virginia, 1950–51.

Member, Virginia Baptist Training Union Advisory Board, 1950–52.

President, Roanoke Virginia Baptist Missionary and Social Union, 1951–52.

Chairman and member of Missions Committee, Cabarrus Baptist Association, 1959–60.

Speaker for 1958 Southern Baptist Pastor's Conference, Houston, Texas.

Member, General Board, North Carolina Baptist State Convention, 1959–62.

Member, General Board Committee to study and revise Constitution and By-Laws of NC Baptist Convention.

Member and chairman, B.S.U. Committee, General Board, NC Baptist Convention, 1959–61.

Member of the Executive Committee, General Board, NC Baptist Convention, 1959–62.

Chairman, Business Management Committee of the General Board Executive Committee, NC Baptist Convention, 1959–62.

Member, Convention Committee for Royal Ambassador Camp, 1960–62.

Member, Convention Committee on Advance Needs of Colleges, 1960–61.

Chairman, Division of Church Programs, NC Baptist State Convention, 1962.

Chairman, Christian Action Committee, NC Baptist State Convention, 1964.

Member of Development Committee of Camp CaRAway, NC Baptist State Convention, 1964.

Trustee, NC Baptist Foundation, 1966–71.

Trustee, Golden Gate Baptist Theological Seminary, 1962–75.

Chairman of the Faculty and Administration Committee of the Golden Gate Seminary Trustees, 1970–75.

Member of the Executive Committee of the Golden Gate Trustees, 1970-75.

Member of Committee of Nomination President of Golden Gate Baptist Theological Seminary, 1975—

Member of the NC Baptist State Convention Committee to propose plan for establishing a Convention Reserve Fund, 1976.

Pastoral experiences:

Missionary to the Deaf, Louisville, Kentucky, 1946.

Student Pastor, Beechgrove Baptist Church, Crab Orchard, Kentucky, 1947.

Associate Pastor, Bainbridge Street Baptist Church, Richmond, Virginia, 1947-48.

Pastor, Tabernacle Baptist Church, Roanoke, Virginia, 1948–53.

Pastor, First Baptist Church, Kannapolis, North Carolina, 1953–77.

Other:

Invited by the Foreign Mission Board of Southern Baptist Convention in 1967 to preach for six weeks in Tanzania, Kenya, East Africa.

Invited by Home Mission Board, Southern Baptist Convention in 1968 to preach in Alaska.

Invited by the Home Mission Board, S.B.C., and the Baptist Convention of New Brunswick, Canada, to preach in Evangelistic Crusade in 1969.

Invited by the Foreign Mission Board, S.B.C,. and the Baptist Convention of Tanzania, East Africa, to conduct Evangelistic Crusade in 1976.

Civic:

Member of Cabarrus County Mental Health Advisory Board.

Clubs:

Member of Kannapolis Rotary Club since 1957, Director, Vice President, and President of Kannapolis Rotary Club.

Member and Director of Cabarrus County Executive Club.

Mr. Speaker, those who labor under a heavy load of responsibility or find it difficult to reach out and take the hand of others in need would do well to look at the examples of Charles Coffey. Few of us have the interest or the energy to accomplish as much as he did, but all of us have the opportunity.

On behalf of the Congress of the United States, I extend deepest sympathy to Dr. Coffey's wife, Jewell, his daughter, Judy, and his sons, Charles, Richard, and Edwin Lee.

Dr. Charles Calvin Coffey was born for a great purpose—and having accomplished that purpose his loss is felt by legions he has befriended. His life was an inspiration to us. We shall miss him. And we shall ponder who is capable and willing to take his place in the community, and in the State, here and for which he lived.

LET US NOW PRAISE CLEVELAND

HON. MARY ROSE OAKAR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 12, 1977

Ms. OAKAR. Mr. Speaker, while some of our towns and cities have long been the victims of gentle chiding or more severe verbal abuse, those who live in these much-maligned communities have never considered it a laughing matter. As a lifelong resident of Cleveland, and on behalf of all the fine people of this great city on the shores of Lake Erie, I submit the following article by James Damico (Newsweek, October 17, 1977) for the RECORD:

LET US NOW PRAISE CLEVELAND

"If you don't read us," goes the ad of an ultra-trendy magazine, "you might as well live in Cleveland." A prominent television moderator shudders and pronounces "Cleveland" with the disdain he usually reserves for women's libbers. Aspiring comedians on the "Tonight" show, facing death at 12:35 in the morning and desperate for the surest laugh they can dredge up, shout "Cleveland!" and are momentarily reprieved by the automatic bark of laughter that echoes back. A new, thoroughly rational friend says grimly, "I was in Cleveland *once*," as if it were a combination Devil's Island and Chateau D'If worth any sacrifice of health and wealth to escape.

Well, I've lived in Cleveland. I even had the temerity to be born and raised there. And though I never used to give these circumstances much thought, I must admit that since it's become the pet target of every unimaginative copy writer, comedian and neighborhood life-of-the-party, I've grown defensive, even chauvinistic, about what I've always regarded as a pretty fair city, one possessed of more than its share of amenities, charm and good, honest folk.

BALLYHOO

Culturally, for example, it has a quality and range that most glamour towns can't begin to match. Its beautiful and prestigious art museum is a richly endowed jewel, which, had it been erected on Wilshire Boulevard in Los Angeles, would have been as ballyhooed as Disneyland and long ago accepted by the general public as the Taj Mahal West. Neither is it hard to imagine Atlanta happily trading its Hyatt Regency, or Houston a couple of its oil conglomerates, for the Cleveland Orchestra, one of the world's outstanding musical organizations. As for theater, Clevelanders have enough of a choice to put a healthy strain on their time, funds and behinds.

To satisfy the sports nut, the city provides a full set of professional teams, including the latest rages, team tennis and soccer. The Browns haven't won a championship since Joe Namath was a bonus baby, it's true, but they have an untarnished pedigree as one of football's class aggregations; and, for their part, the Indians have operated continuously in the same city for 62 years, which is slightly more than can be said for the Padres, Dodgers, Mets and whatever other baseball teams are destined to be swallowed up in the exswamps of New Jersey.

Architecturally, to be sure, Cleveland is no Paris. But its gracefully proportioned and somewhat revitalized downtown is also without that devastated, ground-zero look of parts of central Detroit—about which, incidentally, I never hear anyone cracking wise—and many of its neighborhoods retain the type of lively, individual character that was once an adornment of our cities.

But why is it that when I feel compelled to remind people of these and other positive features, their eyes glaze over and a patronizing smile of excruciating disbelief curls their lips? How has this insidious thing happened whereby my pleasant, inoffensive, totally congenial hometown has become the country's No. 1 joke ctiy?

I'd always imagined that this kind of stigma was something a town was saddled with at birth. Like yearly flooding or rockslides from a nearby mountain, it was a congenital defect—obvious, irremediable and noncommunicable. And I'd thought that the list of those poor quaint burgs whose mere names would unfailingly provoke bemused scorn and easy laughter was fixed forever: Brooklyn (a natural), Philadelphia (a tip from traveling show people), Dubuque (the archetypal hick town), and Cincinnati (it sounded funny, especially through a vaudeville German accept). It never occurred to me that obloquy of this order was something that could be acquired by national consensus, or—God forbid—even earned.

I suppose the precise moment things started downhill for Cleveland was the day several years ago when its river, the Cuyahoga, caught fire. Sure, that's hysterical, but on reflection, it's perfectly reasonable. After a hundred years of absorbing the most noxious and volatile chemicals from bordering plants, that tiny stream should have exploded, not merely burned. If it had happened in Pittsburgh, though, it would have been rightly cursed and deplored as an inevitable excess of industrialization, but I doubt that anybody would have started to crank out Pittsburgh jokes.

SHENANIGANS

Admittedly, the situation was compounded shortly afterward when the mayor of Cleveland, making a play for the blue-collar vote, set his own hair on fire demonstrating his skill with a welding torch. More fuel was added to all these flames by the mayor's confession that his wife skipped a White House dinner because it fell on her bowling night. (In the current election year, the same politician chose to have his sanitation men pass out questionnaires on pornography). About such antics, there is little to be said. Yet, a city ought not to be permanently branded by the shenanigans of its elected officials. By that standard, New York might be the funniest two words in the English language.

Well, however it came about and however unfair it is, the deed is done and there surely seems to be no way, for one man at any rate, to rectify a social injustice done to an entire city. The only solace I have is the certain knowledge that someday this too shall pass. I've done a little research into the subject and I've discovered that other and far greater cities have been grossly maligned and have survived to take their proper places in the hearts and minds of their countrymen and posterity.

John's Gospel, for example, tells us that Nathanael, on hearing that the savior of mankind had arrived and that he hailed from Nazareth, exclaimed, "Nazareth! Can anyting good come from Nazareth?" I can just see the glaze over his eyes and the excruciating disbelief in his smile.

RESULTS OF QUESTIONNAIRE SUBMITTED TO CONSTITUENTS OF SIXTH DISTRICT OF PENNSYLVANIA

HON. GUS YATRON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 12, 1977

Mr. YATRON. Mr. Speaker, I would like to call to the attention of my colleagues, the results of my annual constituent questionnaire which was mailed to the residents of the Sixth District of Pennsylvania in July 1977.

I firmly believe that a frank exchange of views between the people and their elected representatives is the most reliable means of insuring that the will of the people is reflected in the actions of the Federal Government. The overwhelming response to this year's questionnaire is further proof of the desire of the people of the sixth district to actively participate in the legislative process.

The results show that the state of the economy is of the greatest concern to the respondents. The strong, positive efforts by the Congress to deal with the economic situation indicate that this concern is being heeded by the legislative branch. As evidenced by the results of the survey, there is also considerable concern about the status of the Panama Canal, our relations with Cuba, the U.S. foreign aid program and other pressing issues.

I am sincerely gratified by this response. The voice of the citizens of our Nation must be heard and I am hopeful that the results which follow will contribute to the better understanding of American public opinion.

RESULTS TO QUESTIONNAIRE

PRESSING ISSUES

Please number the issues listed below in the order of their priority.

1. Inflation.
2. Reduce federal spending.
3. Crime prevention control and national energy policy (tie).
4. Defense.

5. Unemployment and welfare reform (tie).
6. Tax reform.
7. Environmental protection.
8. Human rights, national health insurance and senior citizens (tie).
9. Drug abuse, Middle East and nuclear arms limitation (tie).

EMPLOYMENT

Several proposals have been offered to combat unemployment. Please rank the following according to your preference. Rank in parentheses.

A. Public service jobs on state and local levels (3).

B. Public works projects on state and local levels to generate jobs in the private sector (2).

C. Tax incentives to encourage businesses and industries to expand the number of people they employ (1).

D. No federal activity to increase the availability of jobs (4).

PANAMA CANAL

The issue of the Panama Canal will be vigorously debated in the months ahead. Please select one of the following courses of action which you believe the U.S. should pursue in this matter.

A. Negotiate a new treaty with the nation of Panama, turning over control of the Canal and the surrounding Canal Zone by the year 2000: 7 percent.

B. Negotiate with Panama a new treaty guaranteeing the neutrality of the Canal and the Canal Zone: 31 percent.

C. Negotiate a new treaty with Panama retaining full U.S. sovereignty over the Canal and the Canal Zone: 43 percent.

D. Retain control over the Canal by military means if necessary: 19 percent.

FOREIGN AID

Please select the statement below which best represents your views on foreign aid.

A. The U.S. should give no foreign aid: 15 percent.

B. U.S. foreign aid policy should be flexible, depending upon developments in our relations with recipient countries: 40 percent.

C. Foreign aid should be withheld from countries which violate human rights: 16 percent.

D. Foreign aid should be granted only if necessary to ensure our national security: 29 percent.

CUBA

Please select one of the following which best reflects your opinion concerning U.S. relations with Cuba.

A. The U.S. should pursue negotiations toward establishing full diplomatic relations with Cuba: 22 percent.

B. Establishment of full diplomatic relations should be pursued after Americans are compensated for property confiscated by the Castro regime: 13 percent.

C. Establishment of full diplomatic relations should be pursued after Cuba withdraws its troops and military advisers from Africa: 8 percent.

D. Both B and C: 35 percent.

E. The U.S. should not establish full diplomatic realtions with Cuba: 22 percent.

POSTAL SERVICE

Several proposals have been made to improve the quality of postal service provided the American public. Please rank the following options in the order of your preference. Rank in parentheses.

A. Cut mail delivery to five days a week at an annual saving of $412 million (1).

B. Retain uneconomical rural post offices for their value as social institutions (6).

C. Increase the government subsidy for postal services and extend it to 1985 (5).

D. Emphasize dependability of mail delivery rather than speed (3).

E. Base postal rates on social factors as well as on the actual cost of sending each class of mail (4).

F. Return the Postal Service to full government operation (2).

TRADE POLICY

The unrestricted importation of shoes, mushrooms, textiles, color television sets, specialty steel and other items has resulted in considerable debate regarding the fundamental direction of U.S. trade policy. Please select from the following statements, the one which best represents your views on trade.

A. The United States should impose tariffs and/or quotas on imports which endanger U.S. industries: 36 percent.

B. The U.S. should impose tariffs and/or quotas on imports which compete in any way with American products: 20 percent.

C. The U.S. should seek to negotiate agreements with our trading partners which embody voluntary restraints on exports: 23 percent.

D. The U.S. should practice free trade: 21 percent.

ENVIRONMENTAL POLICY

Which of the following best represents your view of environmental policy? (Please select one.)

A. Commitment to environmental protection and conservation will pay off in the long run with savings in energy and raw materials and we should continue a vigorous protective policy toward our environment: 25 percent.

B. The current state of the economy demands that we put environmental considerations aside and concentrate on developing our resources (such as coal) and electric power without worrying too much about the environment for the time being: 29 percent.

C. While economic considerations require that environmental standards be relaxed, we must seek to achieve a balance between economic growth and environmental protection: 46 percent.

HEALTH CARE

If a national health care program were created, which of the following would you prefer? (Please select one.)

A. Total medical care for everyone, regardless of the patient's financial resources, financed by a payroll tax similar to Social Security: 19 percent.

B. Continued reliance on some system of private health insurance with government paying only for poor, elderly, disabled and for catastrophic illnesses for everyone. Under this proposal, total cost of private health insurance premiums paid by employer-employee and self-employed would be tax-deductible: 56 percent.

C. No change in the present system of health insurance: 25 percent.

ENERGY

With the President's recent messages to the nation and the Congress, the energy issue has become the subject of intense debate across the country. Do you agree or disagree with the following potential components of a national energy policy.

A. Increased exploration, excavation and consumption of coal: Agree 88 percent; disagree, 6 percent; undecided, 6 percent.

B. Mandatory conversion of industrial, commercial and utility boilers from oil and natural gas to coal: Agree, 46 percent; disagree, 37 percent; undecided, 17 percent.

C. Imposition of taxes to discourage consumption of gasoline: Agree 21 percent; disagree 72 percent; undecided, 7 percent.

D. Increased reliance on nuclear power for electricity: Agree, 66 percent; disagree, 22 percent; undecided, 12 percent.

E. Accelerated development of solar and other nonconventional energy sources: Agree, 94 percent; disagree, 2 percent; undecided, 4 percent.

CRIME

Do you agree or disagree with each of the following proposed anti-crime measures?

A. Revision of the U.S. Criminal Code to set mandatory sentences for certain crimes: Agree, 92 percent; disagree, 5 percent; undecided, 3 percent.

B. Capital punishment: Agree, 83 percent; disagree, 11 percent; undecided, 6 percent.

C. Compensation for victims of crime: Agree, 68 percent; disagree, 21 percent; undecided, 11 percent.

D. Ban on cheap, concealable handguns: Agree, 72 percent; disagree, 22 percent; undecided, 6 percent.

E. Reform of the prison system, including reduction of overcrowding and increased emphasis on rehabilitation: Agree, 57 percent; disagree, 30 percent; undecided, 13 percent.

MILITARY FORCES

Do you agree or disagree with proposals to reestablish a system of mandatory military services in the United States?: Agree, 61 percent; disagree, 26 percent; undecided, 13 percent.

HUMAN RIGHTS

The Carter Administration has emphasized human rights as a centerpiece of its foreign policy. Do you agree or disagree with the following statements?

A. The issue of human rights is an internal matter for each country to decide for itself and one upon which the United States should not intrude: Agree, 64 percent; disagree, 29 percent; undecided, 7 percent.

B. Violations of human rights in a country should automatically result in the curtailment of U.S. military aid to that nation: Agree, 59 percent; disagree, 30 percent; undecided, 11 percent.

C. Violations of human rights in a country should automatically result in the curtailment of U.S. economic aid to that nation: Agree, 61 percent; disagree, 28 percent; undecided, 11 percent.

D. National security considerations must take priority over human rights in our foreign relations, on a country-by-country basis: Agree, 70 percent; disagree, 18 percent; undecided, 12 percent.

LAETRILE

Do you agree or disagree with proposals which would ensure that substances with medical uses, such as laetrile, are available to the American public, provided they have not been proven unsafe?: Agree, 80 percent; disagree, 9 percent; undecided, 11 percent.

THE CAMPAIGN TO LEGITIMIZE THE PLO TERRORISTS GAINS MOMENTUM

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 12, 1977

Mr. McDONALD. Mr. Speaker, despite a public stance by the U.S. Government that Israel should not be forced to negotiate with the terrorist Palestine Liberation Organization, there is substantial pressure on Israel from our Government to do just that. The PLO serves as Moscow's spearhead in the Middle East. The joint statement by the United States and Soviet Governments in support of "the legitimate rights of the Palestinian People" benefited not only the PLO but their Soviet masters. The "legitimate rights of the Palestinian peo-

ple" is a widely recognized code phrase for the establishment of a PLO-controlled Palestinian state on the West Bank of the Jordan.

The shift in the American position on the Middle East has encouraged the supporters of the PLO terrorists in our country to expand their operation. Most of the PLO support comes from the ultraleft in this country. However, some inroads have been made in the center and even among some elements on the American right. This has helped promote a major Soviet goal which is to create a Soviet presence in the Middle East either directly or through fronts such as the PLO.

On September 19, 1977, readers of the New York Times found an ad from the American Palestine Committee. It covered one-third of the page and was headed "Are We Welcoming the Murderer of Our Sons?" with a picture of Israeli Foreign Minister, Moshe Dayan.

The bulk of the ad consisted of quotations from three documents obtained by Norman F. Dacey, national chairman of the American Palestine Committee from the Central Intelligence Agency under the Freedom of Information Act. The documents according to Dacey, showed that when Israeli planes and torpedo boats attacked an American naval vessel on June 8, 1967, the Israelis knew that it was an American ship, and Dayan ordered the attack.

I have obtained from the CIA the same set of documents given to Dacey. There were four documents, not three, and they show something entirely different than Dacey's allegations. The three documents quoted by Dacey were all marked "This is Unevaluated Information." Two of the documents did not indicate the source of the information. The third gave the source as the Turkish General Staff but said specifically that the source did not indicate that the information came from their military attaché in Tel Aviv.

The fourth document not quoted by Dacey was the official CIA report on, "The Israeli Attack on the U.S.S. *Liberty*." This official report said that the Israelis were not aware that the *Liberty* was an American ship until over an hour after the attack commenced. At one point, according to the CIA report, Israeli torpedo boats were offering assistance while Israeli planes were still attacking. The CIA report suggested that the Israelis might have confused the *Liberty* with the Egyptian transport *El Quesir*.

The New York Times accepted Dacey's ad without question, despite the fact that he had a history of misquotation and misrepresentation in previous ads. In 1972, Joseph Alsop protested to the Times that he had been misquoted in a Dacey ad of June 6, 1972. When such responsible organizations as Accuracy in Media attempt to place ads in the New York Times, they are compelled to prove every allegation before the ad is accepted. However, when irresponsibles place ads, the Times makes no attempt to prevent such misrepresentations of the facts as were contained in the ad of the American Palestine Committee.

Norman Dacey has a reputation of being a "right-winger". It is interesting to note, however, that in 1972 when he filed suit in Federal district court to deny tax-exempt status to the United Jewish Appeal and the United Israel Appeal, his attorney was Abdeen M. Jabara. Jabara is a member of the National Lawyers Guild, which is a coalition of leftist extremists now under the control of the Communist Party U.S.A. He is presently suing the U.S. Government and has received information showing that the National Security Agency had obtained contents of some of his overseas telephone calls. The NSA maintained a surveillance of calls exchanged with foreign intelligence services, subversive organizations, and terrorist groups.

According to the Socialist Workers Party newspaper the Militant of September 9, 1977, Jabara, "is a well-known defender of the freedom struggle of the Palestinians." Translated into English this means that he is a supporter of the PLO terrorists. The National Lawyers Guild has published Jabara's anti-Israel propaganda and has also collaborated with the PLO. The NLG Convention, which took place in Seattle, August 18–20, 1977, heard Hassan Rahman, a PLO representative at the U.N., praise the NLG for its support of "national liberation movements and just causes around the world." An NLG delegation to the Middle East recently returned to make press statements attacking Israel.

Jabara and an associate, James Zogby, have joined together to organize the Palestine Human Rights Campaign. This group claims that PLO terrorists are being mistreated in Israeli prisons. They have disseminated a series of articles from the London Sunday Times making such allegations. Both the Sunday Times and the Jabara group use the same sources of information, two Israeli attorneys who have represented PLO terrorists. They are Felicia Langer, a member of the Communist Party of Israel, and Leah Tsemel, a member of the Revolutionary Communist League, the Israeli section of the Trotskyite Fourth International. Israel has denied the accusations.

The Palestine Human Rights Campaign was organized by the Association of Arab-American University Graduates (AAUG). Jabara is a former president and James Zogby is now vice president of the AAUG. Among the organizations that participated in founding the Palestine Human Rights Campaign were: the Middle East Research and Information Project (MERIP), (the openly pro-PLO arm of the Institute for Policy Studies); Palestine Solidarity Committee (the most active PLO support group); the Committee for Just Peace in the Middle East (a front for the Communist Party, U.S.A.); World Peace Council/U.S.A. (the American branch of the Soviet controlled, international Communist front, the World Peace Council); the National Alliance Against Racist and Political Repression (a C.P. U.S.A. front); and the Socialist Workers Party (the American section of the Trotskyite Fourth International).

The Palestine Human Rights Campaign is now running a tour for Israel Shahak, an Israeli citizen, who has protested alleged injustices committed against PLO members captured by the Israelis. While Shahak is not a Communist, he collaborates with Felicia Langer and other members of the Communist Party of Israel. Among the local contacts for Shahak's tour are: Don Will, United Methodist Church/U.N.O., New York; Nabila Mango, Association of Arab-American University Graduates, Philadelphia; Jim Zogby, Philadelphia; Ted Swedenburg, Middle East Resource Center, Washington, D.C.; Raaf Ellis, National Association of Arab-Americans, Pittsburgh; Joanne McKenna, National Association of Arab-Americans, Cleveland; and Jean Hanna, Association of Arab-American University Graduates, St. Paul, Minn.

Jabara and Zogby have worked closely in this campaign with the Socialist Workers Party. Peter Seidman, an alternate member of the National Committee of the Socialist Workers Party, has been assigned by the SWP to work with them. They have indicated some misgivings about working with the SWP because of its history of attempting to take over other organizations and movements. Seidman has assured them that the SWP wants only to help. He suggested that the major campaign should be to organize a series of lectures during the fall by Israel Shahak, Leah Tsemel, David Frankel, and Abdeen Jabara. Zogby and Jabara organized the Shahak tour and the Socialist Workers Party has brought Tsemel in to the United States for a similar tour.

On Wednesday, October 12, Tsemel is scheduled to appear in Washington, D.C. at All Souls Church. The literature distributed by the SWP does not reveal that she is a member of the Revolutionary Communist League in Israel. However, she is so identified in the Militant of May 27, 1977. The Revolutionary Communist League, Israeli section of the Fourth International, openly supports the PLO terrorists and belongs to the International Majority Tendency of the Fourth International, which supports terrorism in various parts of the world.

Leah Tsemel is an attorney, who represents a number of PLO terrorists who have been captured by the Israelis. She works closely with Felicia Langer, a Communist Party attorney who also represents PLO terrorists.

David Frankel is a correspondent for the SWP newspaper, The Militant. A number of his recent articles were datelines Israel, and consist of the same pro-PLO propaganda line that is found in other ultra-left publications.

The PLO support apparatus in the United States also includes a small Trotskyite splinter group called the Workers League. This group split from the Socialist Workers Party some years ago and is affiliated with the Workers Revolutionary Party in England, which is led by Gerry Healey. Three leaders of the Revolutionary Workers Party visited Libya earlier this year and met with Colonel Kadhafi, the Libyan ruler. They arranged to obtain over a hundred thousand dollars for their propaganda work on behalf of the Arab cause. Some of the

money was used for the purchase of new printing and communications equipment. In June 1977, representatives of the Workers Revolutionary Party met with Palestinian terrorists at a conference organized by the Libyans. They have also been in touch with Iraqi intelligence agents and more funds may be forthcoming from that source.

Recent developments in the Middle East have created confusion in leftist ranks. A sharp line is now being drawn between those who now openly support the destruction of Israel through the establishment of a PLO state, and those who believe that Israel should have the right to exist. Breira is an organization that was set up by the Institute for Policy Studies to win Jewish support to leftist causes. It is the counterpart of MERIP, the IPS project which openly supports the PLO terrorists.

The official line of Breira was to acknowledge the right of Israel to exist, while trying to create a friendly attitude in the Jewish community toward the PLO. The election of Menachem Begin a hard-line anti-Communist as the Prime Minister of Israel, and the serious moves toward peace in the Middle East, have resulted in a split in Breira. David P. Tulin, a national vice chairman, and Rabbi Yaakov G. Rosenberg, a national board member, have both resigned from Breira. They represent a faction that while leftist still supports the State of Israel. Tulin is a member of Americans for Progressive Israel, the most leftist of the Zionist groups. It grew out of Hashomer Hatsair, which Prime Minister Begin describes as, "the pro-Soviet party in Zionism." Now, even people with that background are deserting Breira, leaving it to the handful of Jews that support the PLO terrorists.

Before the split Robert Loeb, the executive director of Breira, let it be known that if his faction were defeated "Sam Rubin would be informed and his money would dry up."

Rubin is a major financial contributor to IPS and Breira, despite the fact that Breira recently "severed" its IPS relations. Rubin is the father of the pro-Vietcong propagandist Cora Weiss and has paid for many of the proterrorist propaganda activities of IPS.

Menachem Begin understands communism. In 1940, he was arrested by the Soviet secret police and sentenced to 8 years in a Soviet slave labor camp. After the Nazi attack on Russia, he was released to serve in the Polish Army. His experiences in the camp were told by him in a moving book entitled "White Nights: The Story of a Prisoner in Russia." It is unfortunate that this book has never appeared in an American edition. It was published in 1957.

Begin is a nationalist and an anti-Communist. Because of this, he can understand Arab nationalism and anti-communism. Secretary of State Vance made a major error in bringing the Russians back into the Middle East situation. Begin understands that Soviet support for the PLO means that it is a weapon not only against Israel but against any pro-Western government in the Middle East, including Jordan, Saudi Arabia, Egypt, and even Syria.

The Trotskyite supporters of Soviet imperialism have made the clearest statement on Communist ends in the Middle East. In an article published in the International Internal Discussion Bulletin of the Fourth International, volume X, No. 21, November 1973, three leaders of the international Trotskyite movement supported the "complete and unconditional right of the Palestinian Arab people to self-determination; that is, their right to reclaim all the territory from which they have been expelled." They went on to say:

> The exercise of this right presupposes the destruction of the Zionist state * * * this solution cannot be envisaged outside the context of a revolutionary overturn in the entire Near East, which alone can provide the forces necessary to liberate Palestine from the Zionist and imperialist grip. That is, the destruction of the Israeli state goes hand in hand with the abolition of the other Arab states, on the road to creating a united Arab state.

The article was written by Gerard Vergeat, an alternate member of the International Executive Committee of the Fourth International; "Jaber," a member of the International Executive Committee and the leader of the Revolutionary Communist Group in Lebanon, which participated in combat as part of the PLO against the Lebanese Christians; and "Sami" of Iraq.

The Soviets would like the PLO to be accepted as the representative of the Palestinian people. The United States should not support this. The PLO is a terrorist organization operating on behalf of Soviet communism. During times of political strife, the violent and criminal elements that exist in every society raise their heads. When they take power, we have Nazi or Communist regimes. They do not represent anyone. The PLO does not represent the people of Palestine, just as the FALN does not represent the people of Puerto Rico and Jack the Ripper did not represent the people of England.

Peace is possible in the Middle East, but it can only be achieved without the intervention of Soviet imperialism and its tools.

SOCIAL SECURITY FINANCING AMENDMENTS OF 1977

HON. NEWTON I. STEERS, JR.

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 12, 1977

Mr. STEERS. Mr. Speaker, the Social Security Financing Amendments of 1977 (H.R. 9346) is an example of congressional action moving so rapidly that legislation is being seriously considered—legislation which will have great impact on the lives of thousands of people—in spite of the fact that no hearings have been held to explore the ramifications, or the wisdom, of enacting the provisions. The concept of adopting "universal coverage" of all American workers by the social security system was raised only weeks ago at the Social Security Subcommittee of the Ways and Means Committee. It was at that time called a "trial balloon," merely a proposal with little chance of going anywhere," according to some subcommittee sources. Yet, it has now been reported out of subcommittee, has been the subject of much action in full committee mark-up, and may be reported out for floor consideration in the near future.

My office has been deluged by telephone calls and letters from constituents—and I have many civil servants living in my suburban Maryland district—who are absolutely outraged over the possibility that their pensions, which they have contributed to for years—may be "fouled up" by hasty action by the Congress. I am well aware of the fact that much misinformation has been published about the "universal coverage" provision and that this has caused a great deal of confusion. My constituents however, do not seem to be in the least confused. They are not concerned about whether or not the civil service retirement fund is merged with the social security fund. They do not care if the civil service fund bails outs the social security fund. They understand the difference between universal coverage and merger. They are concerned however, over the fact that so very few details have been addressed, that no hearings have been held, and that this action may pass the Congress in such record time that Federal workers and State and municipal workers who will be affected, will not even have heard about the changes until House action is complete. Such concerns are, to my mind, very valid. I urge my House colleagues to give very serious thought to the fact that we will be taking a totally unjustified step if we enact the universal coverage so swiftly.

My colleague and neighbor to the South, Congressman JOSEPH FISHER, is to be congratulated for his efforts in the Ways and Means Committee to at least gain a deferral in the implementation date so that a thorough review can be undertaken on the manner in which we can ultimately, if at all, merge the social security system with civil service. More importantly however, he was able to gain enough support for an amendment which specifies that no civil servant will receive a diminution of benefits or have to pay substantially more. This action by the full committee is encouraging. However, many questions remain unanswered, and my constituents are asking those questions: "If I am presently moonlighting and paying into the social security system at my second job, and paying into the civil service retirement fund at my regular job, won't my benefits be reduced if this plan is enacted?" The answer, as best I can determine, is "Yes." That, to me, is a diminution of benefits—which were paid for by the civil servant moonlighter. Another question is, "will I still be able to retire with full benefits at age 55, as I presently can under civil service retirement?" That too, has not been resolved by the language of this legislation. If such retirement

would no longer be allowed, it would surely be a diminution of benefits. But that issue, like many others, will not be addressed by the Congress until the HEW report on the methods of merging the system is completed by January 1, 1980.

It seems only fair and proper, as well as wise, at least to delay action on this proposal until Congress has given full and careful consideration to the full effects of universal coverage on the individuals employed by the Government, on the civil service retirement system, on the social security system. Serious thought should also be given to the modifications necessary in State, local, and nonprofit association pension plans in order properly to integrate them into the social security system. Focus on these and similar questions could be had in hearings of the Subcommittee on Employee Benefits of the Post Office and Civil Service Committee, which is chaired by fellow Marylander GLADYS NOON SPELLMAN.

I am, and will continue to be a strong supporter of the social security system and maintenance of the system's financial integrity. But I do not think it is fair to ask our Federal employees to join the system without giving them a chance to review the proposal and make their personal thoughts known. We also should not commit ourselves to a course of action in which none of the details are resolved. I understand that there may indeed be benefits in coverage for civil servants under this plan. However, until those details are ironed out and presented in a cohesive manner, and until I know that there will be no diminution of benefits or increase in payments for Federal employees, I cannot support this proposal.

PANAMA CANAL TREATY

HON. JAMES ABDNOR

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 12, 1977

Mr. ABDNOR. Mr. Speaker, the Panama Canal treaty has raised the ire of the country. It was the most prominent issue talked about when I was in South Dakota. I am sure that it is much the same throughout the country. I have long been on record as being opposed to the United States relinquishing its control of the canal and the Canal Zone. I have been active in trying to get the House to vote on the issue, and I would like to take this opportunity to place in the RECORD my testimony which was submitted to the Senate Foreign Relations Committee.

STATEMENT OF THE HONORABLE JAMES ABDNOR TO THE SENATE FOREIGN RELATIONS COMMITTEE

Mr. Chairman, I wish to thank you and the distinguished members of this Committee for permitting me to submit this statement for the record. There is no question that these hearings will be extremely helpful to the Senate as it considers ratification of the Panama Canal Treaty. The issue of the Treaty is a very emotional one. Almost every sector of the country has become involved and has taken a position on the treaty issue. My constituents are among those expressing themselves very strongly about the Treaty. I share the views of my constituents who almost unanimously oppose its ratification and believe it is important that these views are reflected in your record. I should also note that in addition to my expressions of opposition to the Treaty, I have joined with over 100 of my colleagues in the House in sponsoring H. Con. Res. 238 which would give the House an opportunity to vote on the issue of the Canal. I have also joined in a law suit against the President with several members of the House who feel as I do about the current proceedings. I sincerely believe that in a transaction such as this Treaty proposes that the House should have a role in the proceedings and I share the hope of my colleagues with whom I have joined in the suit that the Courts will rule in our favor.

Should that eventuate, the House will then be provided with the opportunity of voting on this very important issue. On the basis of all the information I have had an opportunity to review, I am convinced that this country's best interest could not and would not be served if this Treaty were ratified.

Many people have many reasons for opposing the Treaty. Some note the ownership question, others the matter of our national defense, and many are concerned about future use of the Canal. I have reservations about all of these issues, as well as others. I don't believe these issues and the questions surrounding them can be satisfactorily resolved to our national interest by the terms of this Treaty. I likewise share great concern over the economic implications that a new Treaty will have on this nation. We have stated in the Treaty that we will initially pay Panama $10 million a year. We will increase that by another $10 million a year if revenue permits. Panama will receive 30 percent on every ton that passes through the Canal—that could be as much as $70 million a year. We also guarantee $50 million in military sales over the next 10 years (It could conceivably be more). And we also guarantee up to $200 million in Export-Import credits, up to $75 million in AID housing guarantees and $20 million in OPIC loan guarantees. That is well over $80 million. That is just assistance. According to the Treaty we still operate the Canal and take care of maintenance costs. Considering the fact that the Canal Company has operated in the red for several years, that figure could go considerably higher. It should be noted that the Canal Company has kept the rates unrealistically low. There is no guarantee that these rates will remain anywhere close to where they are today. Considering the fact that estimates predict that nearly 45 percent of the oil produced in Alaska, as well as other commodities, will continue to be shipped through the Canal, any increase in rates would have a marked effect on the American consumer and businessman.

I have touched very briefly on some of the issues I feel show that we should reject the Treaty. I might add that none of these things really mean a thing if the Canal is not kept functional and open to unrestricted passage by the world's shipping industry. I see no evidence what-so-ever that this is possible. I think we ought to look to history once again and heed the lessons of past experience. A case in point involves the Suez Canal. The similarities are overwhelming. A somewhat private company with British governmental participation operated under the sovereignty of another country. Egypt decided to expropriate and later close the Canal. The British thought they had retained rights to protect their property, and that the declaration of the Convention of Constantinople guaranteed right of passage to vessels of all nations. The present situation of the Suez Canal explains itself. The course being charted by the proponents of this treaty is so hazardous that I think there can be only one result—disaster for all concerned if this treaty is ratified.

Thank you for permitting me to submit this statement.

CONGRESS MUST HELP OUR SENIOR CITIZENS

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 12, 1977

Mr. RANGEL. Mr. Speaker, as many minority groups have spoken out recently in America, I am happy to say that one of these is just now beginning to demand their rights after many long overdue years. This minority group of which I am speaking is that of the senior citizens.

Contrary to many people's beliefs, old age is not automatically a signal for incompetence and senility. Mandatory retirement at age 65 is an outrage and I am extremely pleased to see that H.R. 5383 (Mandatory Retirement Age bill) has passed in the House and is now being considered by the Senate.

The advantages to using our senior citizen manpower are innumerable, however, I feel the most significant positive ramification of this is the morale factor. Our older citizens are getting sick and tired of being cast aside when they reach that dreaded age. It is about time something was done for this minority as they well deserve this new and progressive attitude.

I am sure you all will enjoy this enlightening article by Nicholas Von Hoffman as it points out some important issues with regard to this question. His comments follow:

WHO SHOULD BE ALLOWED TO WORK?

(By Nicholas Von Hoffman)

The city of Seattle and the state of Maine have both done the humane and just thing by rescinding their mandatory retirement rules for employees over the age of 65. The variety in the health, endurance and quality of human beings is such that some ought to be encouraged to work until they're centenary and others ought to be put out to pasture on their 21st birthday.

The abolition of fixed-age mandatory retirement may contribute to the happiness and well-being of older workers, and it may also take a little of the pressure off the Social Security system, but it must shrink the job market for younger people. Since we have no idea yet how many or what kind of workers may want to stay on after 65, we have no way of guessing what the effects will be. In some industries, like auto, workers under the age of 65 are availing themselves of early retirement; on the other hand they had to take J. Edgar Hoover out in a box, and William Paley, chairman of CBS, last saw 65 some years ago. Many corporations make even their topmost people go to Florida at a fixed age, but that would have to be cast aside if protection from age discrimination is added to our list of civil rights. Is gerontocracy, a la China and Russia, a possibility?

The most important case in 10 years involving discrimination arises out of the age of the plaintiff, Allan Bakke. Bakke was the man who was turned down by the University of California Medical School at Davis. When he learned that, under a special ad-

mittance program, blacks with lower rating scores were accepted, he sued. The California courts ruled the preferential admittance program unconstitutional, and the case has been appealed to the U.S. Supreme Court. Most people familiar with facts believe that Bakke, who was over 30 at the time he applied, would have been admitted, not if he were more darkly pigmented, but if he had been younger.

Medical schools are loathe to take older students. They believe that scarce places should not be allotted to people who will have fewer years to practice once they graduate, but such talk is writing in smoke. We've been able to expand and build new medical schools in the past 10 years with such alacrity that the fixers, administrators and arrangers in the profession are worried less there be too many physicians. There is no practical obstacle to creating enough places so that boards of admission don't have to choose between an older, white Bakke and a younger, black Mr. or Miss somebody else.

According to some, choices can be made under the present arrangements without quotas and without injustice; just pick the most qualified. Unfortunately we're only able to distinguish between least and most qualified in the grossest sort of way. With his combined numerical rating of 468 there were 35 other students with the same score or one point higher than Bakke. You can't pick the best among students so closely clustered.

Nor need we adhere to a policy of scarcity which has all of us snapping and biting at each other for a chance to work or even to go to a vocational school. Fighting over places in school is especially inexcusable because it is so easy and so relatively inexpensive to let in whoever wishes to try. You give diplomas only to those who deserve to be stamped with the seal of competence, however. This is the least we can do in the face of the mournful numbers: less than 2 per cent of the doctors, lawyers, engineers and architects in our country are black. O. J. Simpson may star for Rent-a-Car, but how much have things really changed between him and Jackie Robinson? The quickest way for a black kid to get ahead is still to know how to do something good with a ball—base, basket or foot.

Blacks are at least temporarily reduced to the position of older people. They can vote, petition and plead, but the whites aren't afraid of them anymore. Prior to the 1960s the fear of the fire bell in the night, to use Jefferson's expression, was the bad emotion in every white gut. Then we had burn, baby, burn, and the whites found out that the night dream of slave rebellion was worse than the actuality. Hence the dearth of emergency programs and handouts to buy off the looters in New York City.

White America knows it can tough out any long, hot summer black adolescents may heat up. In a not so long run, however, nobody wins under an arrangement where there are always three grasping people for every two jobs. We must either ration work by spreading it out, i.e., something like the old four-day week idea, or we must learn to create jobs that are efficient, useful and wanted, an art we have yet to master. If Snow White and the Seven (all over 65) Dwarfs can whistle while they work, America can too.

TELEPHONE PRIVACY ACT

HON. LES ASPIN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 12, 1977

Mr. ASPIN. Mr. Speaker, I am today dropping into the hopper a bill entitled the "Telephone Privacy Act", designed to protect citizens from a growing invasion of their privacy often called junk calls.

These are commercial solicitations made over the telephone. Over the years they have often been made by live sales persons. Just this summer a new, wholly automated selling device came on the market which may very well produce a flood tide of such calls into our homes. This unattended machine can dial 1,000 calls a day, deliver a taped spiel and then record an order or expression of interest—or a violent expression of disgust.

The bill I am introducing has four main points.

First, it requires that telephone companies give every subscriber the opportunity at least once a year to indicate if they do not wish to receive unsolicited commercial telephone calls.

Second, any firm wishing to make such calls would need to obtain the list of subscribers who have hung "No Solicitors" signs on their phones and would need to purge those numbers from their calling lists.

Third, violators would be subject to a fine of up to $1,000 or imprisonment of not more than 30 days for each call in violation. Because a firm trying to comply with the law might make periodic honest errors, the bill provides that no prosecution may begin until the 10th complaint against a single firm in a single year has been received by the local U.S. attorney.

Fourth, the bill provides that the administrative costs incurred by the telephone companies in carrying out the requirements of the act are to be recovered through fees charged the commercial firms for the lists of numbers they are not supposed to call. No charge will be imposed on telephone subscribers.

Please note that the bill applies these restrictions to the makers of "unsolicited commercial calls." The restrictions do not apply to noncommercial groups like polltakers and charities.

Mr. Speaker, I am being joined in introducing this bill by 44 cosponsors. On the Senate side, Senator WENDELL ANDERSON of Minnesota is introducing an identical bill today. We are moved to act because of the considerable annoyance many Americans feel on receiving junk calls.

Junk calls are a far greater intrusion than junk mail, about which so much has been said and written. You can check your mailbox at your own convenience. You can tell most junk mail by its cover and chuck it if you choose. But junk calls bring you on the run from your garden, drag you from bed when you are trying to get over a cold, and fall smack in the middle of the family dinner hour.

There are essentially three different kinds of calls. First, we have the traditional boiler room from which banks of very live humans place calls. Then we have the semi-automated equipment which has been used for the past few years; a human places the call and when the customer comes on the line, the human front turns on a taped spiel. Third, we have the new, fully automated equipment which just came on the market in July. My legislation will give telephone subscribers the right to ban all incoming commercial solicitations, regardless of whether they are human, human-fronted, or fully automated.

With the new, fully automated equipment, junk calls will become a lot cheaper than junk mail. And that means we are likely to see—or rather, hear—a lot more junk calls. Already I am receiving letters from harried citizens in widely scattered parts of the country telling me of receiving three calls in a single day from different firms. To imagine the scope of the intrusion, check your mailbox tonight. There is usually around a half-dozen pieces of advertising mail. Imagine getting that many taped telephone advertising calls scattered through the evening.

There are other problems, as well. For example, the party placing the call controls the connection in many parts of the country. If the householder slams down the receiver while the taped spiel is going, and then picks the receiver up later, he will still hear that tape. It will not stop until the taped message has completed its cycle. A gentleman in Mobile, Ala., wrote to tell me that just as he was recently reaching for his phone to try to get a vet for his dog, the phone rang. On picking up the receiver, the tape began. The gentleman wrote that the tape continued for several minutes and eventually he had to go to a neighbor's house to call the vet. The gentleman asked, what if it had been a more serious matter than a sick dog. What if his house had been on fire or his wife had collapsed and he was trying to reach the firehouse or the emergency squad while some tape rattled on about a wondrous new product that would cure his acne. To respond to this particular problem, the legislation I am introducing limits any commercial call made with fully automated equipment to no more than 1 minute in length.

There are still other problems and annoyances resulting from these calls. For example, an unlisted number will not protect the telephone subscriber. The new automated equipment can be set to dial all numbers in an exchange serially from 0001 to 9999. That also means that a firm with 100 lines in serial will find its telephones ringing off their cradles as the machine dials each number in sequence. Another problem was pointed out to me by a small businessman who works out of his home and uses a telephone answering machine with a capacity for recording 30 incoming calls to take orders. He is already finding a number of junk calls on his answering machine and worries that they will be displacing his incoming business orders. There is, in this case, a touch of curious humor as we imagine the answering machine and the selling machine chatting with one another over the phone.

I have found some of the support for my legislation surprising. For example, a businessman who uses the boiler room technique recently called my office and voiced his support for this bill. He remarked that after one of his sales persons had had phones slammed down in her ear and been roundly cursed by sev-

eral people, she was not very good at selling when she finally got through to someone who was interested. He said, "I'd just as soon know in advance who will be teed off at a call so my people can avoid them." Several other businessmen who use phone selling have voiced similar sentiments in calls to my office.

That emphasizes my point that this is not an antibusiness bill. We are not saying to businessmen, "You have no right to sell." We are simply saying to John Q. Public that he has the right to say, "My home is my castle. Don't bug me."

I have tried here to explain the problem in my terms. Perhaps the words of numerous irritated citizens can add another dimension. Let me read extracts from some of the many letters I have received from all over the country in the last few weeks:

From San Jose, Calif.

Several days ago I read that you were interested in sponsoring legislation against "junk telephone calls"—recorded messages delivered by phone to sell some commodity. I had never heard of this latest entrepreneurial twist, although of course I had been many times irritated and inconvenienced by "live" telephone solicitors. Well, today, for the first and, your legislation permitting, I hope last time, I was awakened from a pleasant afternoon nap to hear a telephoned voice COMMAND: "Please, listen carefully! This is a recorded message. We represent the International Magazine Corporation, and we want you to . . ." At this point, enraged, I slammed down the phone. What an utterly obnoxious, rude, incredible intrusion into an afternoon! The idea that I should be awakened to listen to a machine is really the last straw.

I ardently support any legislative efforts you can make to outlaw this idiotic electronic Fuller Brush Man surrogate.

From Seattle, Wash.

I receive a minimum of four such calls each week which have gotten me out of the shower, down off ladders, in from the yard to run across freshly waxed floors, away from cooking and company and at many other inconvenient times. One does not dare not answer the telephone as most of us have close relatives in distant cities and there is always the possibility of illnesses or other emergency calls.

From Kansas City, Mo.

It has come to our attention that you are sponsoring legislation which would stop telephone sales call—bless you, sir.

Only legislation will stop this invasion of privacy; we know, for we have tried everything else—from "no more calls, PLEASE", to an unlisted number. If persistence such as theirs were directed to the energy crisis, world hunger, unemployment and inflation, these problems would disappear over-night!

Please see this bill through to passage—and enforcement—and you will have served us well and earned the undying devotion of our family—and thousands more just like us.

From Los Angeles, Calif.:

They are a form of pollution that goes right into our homes. A good place to draw the line.

From Edina, Minn.:

Bravo! Please proceed with maximum speed to introduce your bill to "protect citizens from junk telephone calls." We are already plagued by too many syrupy voiced callers "in your area" trying to sell or service something. They are most annoying and definitely an invasion of my privacy! Thank you.

From Richland, Wash.:

We would like to add our complete support to you in your fight to end junk telephone calls. My husband and I recently moved from Detroit, Michigan, where during a two month period, we received several automated phone calls. Not only did the phone ring at dinner time, but while I was bathing my infant (which caused me to remove her, wrap her in a towel and dash to the phone to listen to a recording!), during nap-time, and many other inconvenient periods during the day and evening.

Thank you for working to relieve us of this intrusion in our lives.

From Mobile, Ala.:

I have received two of these calls. The first occurred on a Saturday evening about six weeks ago just as my wife and I were leaving the house. I hung up, we left, and there was no real problem. The second also occurred on a Saturday evening about three weeks ago. That time, I was attempting to get in touch with a vet about a very sick dog. The thing that really burned me up about that last call was that I immediately became aware that hanging up did not stop it! Those so-and-sos kept my line tied up for about fifteen minutes. I had to go next door to make my call and did not find out who was responsible for it. What if there had been a fire, a need to call the police or a physician? I personally would like to see this automated calling stopped completely. At least, those people should be required to set their equipment so that a hang-up will cut it off.

From Lincoln, Nebr.:

Nothing, through the years, has infuriated me more than these phone calls. I have a phone and pay my bill for my convenience, not to help defray expenses of some business.

I never could understand how it could be legal.

From Downers Grove, Ill.:

Let me recount a recent occurrence at my residence.

A caller identified herself as a representative of "Harris Research" and asked me to answer several questions. I informed her that I believed her call to represent a form of trespass and invasion of privacy. She became very belligerent, questioned my upbringing and my courtesy, and then became abusive. Over the course of the next three hours, this woman continued to call my home to heap verbal and obscene abuse on whoever answered.

I have a telephone in my home for my convenience, not the convenience of businesses who seem to hire any idiot off the street to start at the top of the page of the local telephone directory and call everyone on the page. This abuse of the telephone by businesses must be stopped.

From Tulsa, Okla.:

I, myself, am a businessman, but still object the way computer-dialed soliciting is being developed. I have talked to several people about this, and no one is in favor. Good luck in efforts to curb this abuse!

From Alameda, Calif.:

About a year ago the phone rang and I answered it. A woman started giving me a spiel for a product or service—the exact wording escapes me.

I stopped her and told her I had an unlisted number. I then asked her how she got my number.

She was very polite. She said she was in New York and that she had no idea where I even lived. She said that a computer gives her numbers to call.

I told her I wasn't interested in whatever it was she was trying to sell and she politely hung up.

Like most Americans we value our privacy and are not interested in receiving junk calls. Needless to say, we wish you much success with your bill to end such calls.

From Highland Park, Ill.:

We're with you 2,000% to restrict Junk Phone Calls. . . .

The Fifth Freedom: Freedom from telephone sales pitches.

From Santa Clara, Calif.:

This is not the First Amendment privilege—a computer voice selling a product to a person who cannot even respond. Unsolicited advertising should be within the domain of the Fourth Amendment, so that we are secure in our persons; I am not secure in my person, when I have been roused from rest, or scorched supper, whilst some bleeping computer is telling me to buy a product I neither need nor want.

From Austin, Tex.:

My family has recently been bombarded with telephone solicitors in our home. We have three different numbers in our home so we have to answer each line when these solicitors call. We feel so helpless in this situation.

I am extremely pleased to know that you have a plan to stop this kind of invasion of privacy.

From Richmond, Va.:

I am glad to hear that someone is at last going to do something about "junk" phone calls. Both my husband and I are disabled and often find it quite painful to rise and answer the phone to hear a sales pitch. I have long held that it was the ultimate invasion of privacy.

From Waukegan, Ill.:

I am all for advertisement, but when I no longer have the decision or ability to avoid it, if I please (the best resistance to temptation), it is no longer capitalism at work, it is infringement of my rights.

Mr. Speaker, this is just a sampling of the mail I have received. I have never received so much mail or such a positive response on any previous occasion when I have announced my intention to introduce a piece of legislation. Only four of the first 100 letters coming into my office were negative.

Mr. Speaker, if there is no objection I would like to include in the RECORD at this point the text of the bill I have just introduced. The text is self-explanatory with the exception of the solitary cross-reference which is to three paragraphs of the Internal Revenue Code. Those paragraphs define a variety of groups exempt from the provisions of this bill, basically religious, charitable, scientific, literary, educational, and prevention of cruelty groups which are nonprofit and nonlobbying plus labor, agricultural, and horticultural organizations.

The bill follows:

A bill to amend the Communications Act of of 1934 to prohibit making unsolicited commercial telephone calls to persons who have indicated they do not wish to receive such calls

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Telephone Privacy Act".

SEC. 2. Title II of the Communications Act of 1934 is amended by adding at the end thereof the following new section:

"PROHIBITION OF CERTAIN UNSOLICITED TELEPHONE CALLS

"SEC. 224. (a)(1)(A) No person may make or cause to be made any unsolicited commercial telephone call to any telephone if the person who is the subscriber for such telephone has given notice, in accordance with subsection (b), that he does not wish to receive unsolicited commercial telephone calls.

"(B) No person shall cause to be made any unsolicited commercial telephone call to any telephone if such call is made entirely by automatic equipment and has or may have a duration of more than one minute.

"(2) No person may employ, or contract for, any other person to make any telephone call in violation of paragraph (1).

"(b)(1) Any person who is a telephone subscriber and who wishes not to receive unsolicited commercial telephone calls may notify the telephone company which provides telephone exchange service for such telephone that he does not wish to receive such calls. The Commission shall prescribe regulations—

"(A) specifying the manner in which such notification shall be given,

"(B) specifying the manner in which telephone companies shall make available to persons making unsolicited commercial telephone calls the names and telephone numbers of persons who do not wish to receive such calls, and

"(C) specifying the times at which and manner in which a subscriber may give or revoke such notification. Regulations under subparagraph (C) shall require that a subscriber be given the opportunity to give such notification whenever a telephone is installed, and not less frequently than annually thereafter.

"(2) No telephone company may make any charge to a subscriber for the service of listing him as not wishing to receive unsolicited commercial telephone calls and the costs incurred by any telephone company to administer the provisions of this section shall be borne by those persons or institutions obtaining the names and telephone numbers of those subscribers who do not wish to receive unsolicited commercial calls under a fee structure to be prescribed by regulation of the Commission.

"(c)(1) Any person who violates subsection (a) of this section shall be fined not more than $1,000, or imprisoned not more than thirty days, or both. For purposes of this paragraph, each telephone call in violation of subsection (a) shall constitute a separate offense, but no person may be imprisoned for more than 6 months for any related series of violations.

"(2) No person may be prosecuted under paragraph (1) for a violation of subsection (a), unless (A) during the calendar year during which such violation occurred, the United States attorney for the judicial district in which such prosecution is brought has received at least ten written complaints of violations of such subsection by such person and (B) each of such ten complaints is made within fourteen days after the violation complained of.

"(d) For purposes of this section:

"(1) The term 'unsolicited commercial telephone call' means a commercial telephone call other than a call made—

"(A) in response to an express request of the person called, or

"(B) primarily in connection with a debt payment of which, or a contract performance of which, has not been completed at the time of such call.

"(2) The term 'commercial telephone call' means (under regulations of the Commission) any call made for business purposes by or on behalf of any business enterprise, other than a call made by an organization described in paragraph (3), (4), or (5) of section 501(c) of the Internal Revenue Code of 1954 on its own behalf, by a political organization, or by a public opinion polling, or radio or television rating, organization.

"(3) The term 'telephone company' means any carrier (whether or not engaged in interstate or foreign communication) which provides telephone exchange service."

SEC. 3. (a) Section 2(a) of such Act is amended by striking out "The provisions" and inserting in lieu thereof "Subject to section 224, the provisions".

(b) Section 2(b) of such Act is amended by striking out "section 301" and inserting in lieu thereof "sections 224 and 301".

SEC. 4. The amendments made by this Act shall take effect on such date or dates (not later than eighteen months after the date of enactment of this Act) as the Federal Communications Commission shall prescribe by regulation.

PROPOSED SEC STOCK EXCHANGE RULES CHANGES WILL AGGRAVATE UNEMPLOYMENT AND DAMAGE OUR CAPITAL INVESTMENT HOPES

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 12, 1977

Mr. KEMP. Mr. Speaker, I have discussed with my colleagues on numerous occasions what I believe to be the ineffective approaches our Government often takes toward the goal of creating jobs in our economy. Frequently when we discuss these matters, the focus is on our tax code and its built-in disincentives for capital investment and savings, which is so important to the creation of real and long-term productive jobs.

Today, however, it is not the tax writers to whom I direct my criticism. It is the Securities and Exchange Commission, which has made a proposal which, if carried out, would aggravate unemployment in this country by damaging the capital markets essential to our economic health.

What the SEC has proposed to do is to allow stocks which are now traded in true auction markets on the national exchanges to be traded over the counter anywhere in the country, beginning January 1, 1978. The result of this action likely will be that our securities markets will be dispersed—or fragmented—into dealer markets, thereby denying investors the benefits and protections of the current auction market system. The resulting increased capital requirements for firms to participate in these dealer markets will drive out the smaller firms and make more difficult the raising of corporate capital which in turn makes jobs available.

From what I understand of this proposal, it is the SEC's way of spurring the securities industry to speed up its development of a so-called national market system, linking the markets nationwide.

Such a system was called for in a law we passed 2 years ago, known as the Securities Acts Amendments of 1975. While I am not here to suggest that the securities industry has moved as fast as we had hoped in setting up this national linkage, I am suggesting that the action proposed by the SEC to lift these off-board trading restrictions on January 1 would, in my opinion, be so damaging to our capital markets that it is highly questionable whether the damage could be undone. The New York Daily News in an editorial of September 26, entitled "A Terrible Mistake," states the case well in terms of economic impact. Noting that "nearly all the financial experts agree that if the SEC goes ahead with the disastrous ruling, it will cause unprecedented confusion and chaos in the stock markets," the editorial goes on to make the point that "it will make it much harder for small companies to sell stocks for raising money to expand and create jobs."

There are additional editorials from around the country which make similar arguments. Of particular note is an editorial dated September 19, from the New York Times entitled "Playing Chicken Among the Bulls and Bears." After summarizing the expected impact on our economy of this proposed SEC ruling, it touches on a point which I made earlier:

> The threat of dispersed and unlimited trading may have been a useful prod by the regulators. But carrying out the threat will risk damaging America's capital markets. Their efficient functioning is too important to the economy to permit this game of "Chicken" to persist between the securities industry and its regulator.

Mr. Speaker, while this proposal by the SEC has disturbing implications nationwide for the employment picture, as a New Yorker I can tell my colleagues that the recent experience of New York State in losing jobs has been distressing enough without the SEC's proposed contribution. I summarized our State situation when I addressed the New York Chamber of Commerce and Industry Council in May, concerning a program to revitalize New York State. At that time I said:

> Everyone knows that New York State has been losing jobs and people for several years. Between 1970 and 1975, New York State had a net loss of approximately 121,000 in population. Over the same period, the state also lost 364,000 non-agricultural jobs. A loss of 45,000 additional jobs between February, 1976, and February, 1977, shows that this trend has not changed, and explains why New York continues to suffer from double digit unemployment in spite of the continuing economic recovery throughout the rest of the nation.

What would the SEC's proposal do to this already inflamed economic situation? According to Spencer Standish, of Albany International Corp. in a letter to the SEC, it would "make it more difficult and more costly for lesser-known issuers like ourselves to raise capital in the marketplace." Mr. Speaker, this theme has been repeated many times by companies large and small—from New York and around the country—which have written to the SEC and to Congress in recent weeks expressing their concern about what the SEC proposal will do to the capital-raising mechanism of this country. And when there are disincentives and impediments to raising capital, it follows that there will be a negative reflection in our employment figures.

It is important to note, Mr. Speaker, that it is not only the issuing corporations which have reacted to this proposal. Organized labor also regards it as an alarming development. A number of my colleagues have received recent communications from the Office and Professional Employees International Union, an affiliate of the AFL–CIO. Its letter points out that this union represents 1,800 employees of the New York Stock Exchange who would lose their jobs should the SEC's proposed action be car-

ried out. The consequences likely to be felt by the capital markets are well stated, and I would like to quote:

> Without such needed capital, our major companies will find it difficult to attract capital and will be forced to curtail activities, including projected expansion, thus adversely affecting the economy of our country.

This fine union's assessment of the effect on jobs caused by this proposal is put dramatically, and its import is most disturbing. It says that the SEC's proposed action:

> . . . would result in severe dislocation of industry, the economy and tens of thousands of workers. Thousands of employees of exchanges who have made careers of their employment would lose their jobs in a relatively short period of time. Numerous other industries would be affected. Such industries and services include the legal and accounting professions, the financial press, financial printing, communications and computer services, insurance and other investment groups, and stock transfer agents. I would hazard to guess that the enactment of SEC's plan would directly or indirectly affect a million or more jobs.

Mr. Speaker, even if the figure of a million jobs is on the high side, the prediction itself should give us pause. More to the point, it should give the SEC pause.

In addition to the outcry from those sectors of our economy which will feel the impact of this regulatory burden, there also has been reaction from Congress. I am impressed with the number of my colleagues who have expressed to me their concern about this proposal, and its potential consequences in their own congressional districts. Certainly, Mr. Speaker, as I have already stated, I share those concerns. Moreover, I am encouraged to note that just last week a letter was sent by the Senate Securities Subcommittee chairman to the SEC chairman. This letter concludes, in effect, that it is questionable whether the elimination of off-board trading rules which are not "synchronized" with the development of a national market system "will serve either to facilitate a national market system or to achieve the other purposes of the Exchange Act."

Mr. Speaker, it is not the purpose of my comments today to address the rather involved legislative history of this legislation. But suffice to say it is significant that the chairman of one of the subcommittees which originally developed this legislation raises such a serious question about the SEC's course of action. Also, I noticed that the chairman of the Senate Select Committee on Small Business in a recent letter to the SEC expressed concern about this SEC proposal. The letter reminds us that "the securities markets provide a vital medium of financing for new, small and growing corporations," and fears that the proposal "might have an impact on the ability of small securities brokers and dealers in communities across the country to provide advice and assistance to smaller companies who wish to reach the public securities markets." In a later floor statement, the chairman added that "while there can be no absolute assurances of the effect of any future action, this SEC proposal seems to have more than its share of uncertainties," and so the Commission should proceed with caution." Mr. Speaker, these admonitions are timely, and I hope that the SEC will bear them in mind.

A number of economists have spoken out on the ill-timed action scheduled by the SEC. The most recent comment which has come to my attention was on NBC's "Today" show, September 26, in a discussion about the current economic woes of our country. Mr. Jay Schmeideskamp, a psychological economist with the Gallup organization, was questioned about the general wariness of consumers today. He responded that "there is a very considerable lack of confidence in the Government's economic policy," and that more specifically this is "not the time for the Government to undertake to do what the SEC has proposed to do, which is to allow firms to trade off the floor of the exchange. "That," the economist concluded, "could really undermine confidence in the investment community and with the result that it is harder to raise capital and for (the creation of) jobs." Mr. Speaker, our people need to have confidence in our Government, and our Government needs to respond with policies which will instill that confidence. The action now proposed by the SEC, as Mr. Schmeideskamp notes, will not bring about that confidence.

While the uncertainty and the expense of Federal Government regulation have a chilling effect on capital investment in a general and pervasive way, I must say that this SEC proposal would undoubtedly be one of the most economically devastating moves our Government—through its agencies—has ever presumed to force upon its citizens. The irony of this proposal, Mr. Speaker, is that the vast majority of the expert witnesses—representing the securities industry, academia, consumers, small investors, issuing corporations, and so on—who recently testified before the SEC on this issue, urged the agency not to take such a dangerous and far-reaching step, particularly given the economic consequences likely to ensue.

Why then does the SEC continue on its course of action, notwithstanding this overwhelming advice to the contrary? Perhaps a reflection from Prof. Irving Kristol, in his article entitled "A Regulated Society?" (from AEI's Regulation, July–August 1977) would add some insight here. Professor Kristol observes that many of those who fashion our Federal regulations "are discontented—often in a vague and unfocused fashion—with * * * the economic system," and that they "have little use for private economic enterprise, and are utterly indifferent to the costs they load upon us." My point here, Mr. Speaker, is not to cast aspersions on those who were instrumental in developing this off-board trading proposal. To the contrary, I assume their intentions were good. I am aware of the positive reputation the SEC enjoys among our agencies. But I must confess that Professor Kristol's observations come to mind when I consider the likely effect of this proposal on our unemployment statistics.

Mr. Speaker, from the standpoint of our Nation's economic well-being, I believe that the SEC is proceeding on a course of action which will have long-term and disturbing implications for the capital markets of this country and the millions of jobs—long-term, productive jobs—which they create. According to the Chicago Tribune of September 22, SEC Chairman Williams told that paper that the SEC "has not decided whether it will stick to its previously announced deadline of January 1." This gives me some encouragement to think that the matter is one about which the Commission still has an open mind. I hope such is the case, for there is much at stake for all of us on this issue.

MICHAEL CARDONE, A MAN OF DEDICATION

HON. JOSEPH M. GAYDOS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 12, 1977

Mr. GAYDOS. Mr. Speaker, the dedication of an individual to helping others, particularly children, is a trait all Americans admire. Consequently, I am proud to recognize in the Congress of the United States a man who has devoted much of his adult life to the benefit of others—Mr. Michael Cardone of Pittsburgh, Pa., vice president of operations for Cinemette Corp. of America.

Mr. Cardone has established an outstanding record as a humanitarian and a friend of needy children. He lives by a principle that everyone should give at least 2 hours a week in service to others.

His record, however, proves he devotes a great deal more than that. He has been cited by the March of Dimes National Foundation for donating the use of a theater for a fundraising project and by the Pittsburgh Press Old Newsboys Fund, which contributes millions of dollar to Children's Hospital, for helping to underwrite that organization's operating cost and for being one of the group's "Top 10" individual fundraisers.

Mr. Cardone also has been instrumental in the raising of nearly a quarter of a million dollars for one of the most charitable organizations in the Nation, the Variety Club. In addition to utilizing his theaters to help raise funds for various projects, Mr. Cardone, along with his close friend, George Tice, arranged the 4-day visit last year of the "Freedom Train" in Pittsburgh, which drew more than 70,000 visitors and was a highlight of Pittsburgh's Bicentennial observance.

Furthermore, Mr. Cardone has scheduled audience collections in Cinemette and other theaters in western Pennsylvania for the benefit of the Will Rogers Hospital in White Plains, N.Y. His efforts have resulted in contributions totalling hundreds of thousands of dollars.

The personal life of this remarkable man is as intriguing as his humanitarianism. Born in Philadelphia, he was taken to Italy by his parents while a child. Later, his mother and father returned to the United States and, one by one, brought their children back home.

However, before Mr. Cardone could return, World War II erupted and, for the duration of hostilities, he was separated from his family. It was not until 1949 he was able to rejoin his parents in Greensburg, Pa.

Over the years, he had forgotten the English language and so, in addition to attending school, his mother encourages him to improve its use by attending the local theater. This, ultimately, proved to be the start of his business career.

Starting as a janitor, he worked his way up to usher, doorman and finally assistant manager. Later he managed Warner Brother theaters in Tyrone and McKeesport, Pa., and eventually the Stanley Theater in Pittsburgh. He became division manager for RKO Warner Theaters and when that chain was acquired by Cinemette, he was named to his present position with jurisdiction over 200 theaters in 9 Eastern States.

Mr. Speaker, I believe Mr. Cardone is a man all Americans will respect. The trials and tribulations of his early life tempered his ability to become successful with a deep and sincere interest in assisting others to attain the same plateau.

On behalf of the Congress of the United States, I commend Mr. Cardone and wish him continued success in future endeavors.

WELFARE FRAUD: FACT AND FICTION

HON. AUGUSTUS F. HAWKINS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 12, 1977

Mr. HAWKINS. Mr. Speaker, the current debate over reform of the Nation's welfare system has highlighted the popular myths about welfare recipients and the poor in general. The popularly held views that welfare recipients are unwilling to work, remain in poverty and on welfare for generations after generation and are bent on fraud are simply not true.

In fact, information presented to the Welfare Reform Subcommittee by HEW Secretary Califano calls these asumptions into question. First, 60 percent of the Nation's poor are elderly or disabled adults or children not expected to work. Second, the poverty population is a fluid one—only 3 percent of the low-income population surveyed between 1967 and 1972 remained in poverty during the entire 6-year period. Third, the great majority of poor family heads either work or are unemployed and actively seeking work. Eighty-five percent of the poor male-headed families work at some time during the year with 29 percent working full time year round; 49 percent of poor female-headed families work during the year with 8 percent working full time year round. Nineteen percent of all poor family heads are unemployed and looking for work. With so few jobs available for these individuals, claiming that they do not want to work simply does not match the statistics.

It is distressing moreover, that the administration in emphasizing the antifraud nature of the welfare reform proposal has affirmed the public perception that welfare recipients are defrauding the Government.

In his testimony before the Welfare Reform Subcommittee on September 19 and 21, Secretary of HEW Joseph Califano reported on the results of Project Match which identified 1,712 Federal employees in the District of Columbia who received welfare benefits. Secretary Califano did not indicate how many of these individuals were in fact eligible for such benefits or how many were the results of statistical errors or inadvertent error on the part of the individual rather than fraud. In fact, only 380 of the 1,712 have incomes above the poverty budget. What we need to know is not the number of welfare recipients that are employed, but the percentage of those recipients who are in fact defrauding the Government. The administration's proposal claims that it will only allow for 4-percent fraud. How does this compare to the present system?

Unfortunately, the administration's presentation of this information and subsequent press reports underscored the inference of fraud.

Certainly we must be concerned with fraud in the system and eliminate it wherever and whenever it occurs. But releasing sensational figures to the press before a thorough investigation has been completed is not only premature but a disservice to the American public.

I would like to bring to my colleagues' attention an editorial appearing in the Washington Post on September 29 on the subject of "Project Match."

The editorial follows:

[From the Washington Post, September 29, 1977]

FEDERAL WORKERS ON WELFARE ROLLS

It probably wouldn't come under the category of "double dipping" as defined by President Carter, but many readers no doubt were troubled by a report last week that there are some federal employees who have been receiving welfare payments from the city's Department of Human Resources. At a glance, one might conclude that (1) it's one horrible example of "welfare cheats" and (2) it must be the result of a period during which DHR was being mismanaged by Joseph P. Yeldell. But neither conclusion holds up under closer examination.

For one thing, the report, disclosed by Health, Education and Welfare Secretary Joseph A. Califano, Jr. in testimony before a House subcommittee, was not the product solely of a federal "probe" of the District government. Rather, it was a city-federal effort to match the local welfare rolls with the roster of federal employees in the region. Similar checks are scheduled to be run in 19 cities; preliminary findings already indicate similar statistics in other places.

The check here turned up 1,712 federal workers, about 5 per cent of the city's total caseload under its program of Aid to Families with Dependent Children. But it wasn't known how many turned up on the list because of some error and how many might be fraud cases. Moreover, certain federal workers do qualify for public aid: Regulations permit some working parents to receive reduced public-assistance payments through the AFDC program. Also, officials note that there may still be other recipients whose eligibility may have changed without their realizing it.

This doesn't mean that the findings are invalid or that the system is fraud-free. And, as an HEW spokesman said, Mr. Califano was "not trying to prove that federal workers are worse than anyone else." The match-check is merely one of many ways to obtain information for further checking. The city government, in fact, has been running similar comparisons of Social Security payments in the city and Maryland and Virginia, as well as a match-check of its own employees and its welfare lists. DHR Director Albert P. Russo has noted that criminal prosecution will be undertaken where it's warranted.

So without excusing any infractions that may be verified later, we wouldn't read too much into what has been found so far. The city's monitoring of welfare rolls is a complicated business, and the matching of these lists is only one method of keeping tabs on the accuracy of payments. Still, the regular use and examination of available data in city hall are welcome evidence of better controls in a most sensitive area of administration.

HELSINKI'S UNFULFILLED PROMISE

HON. MORRIS K. UDALL

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 12, 1977

Mr. UDALL. Mr. Speaker, I am pleased to be able to join in the project of my distinguished colleague from Massachusetts, Mr. DRINAN, entitled "Helsinki's Unfulfilled Promise." The Helsinki accords, which were signed in Helsinki, Finland, in August 1975, included pledges from the signatory nations to allow freedom of movement across international boundaries and to facilitate unification of families split apart by political borders. Unfortunately, of the 35 nations which signed the accords, many have not chosen to fulfill their promises. The Soviet Union is one—it is the most prominent of those nations.

I would like to call the attention of my colleagues to the case of one family which has been caused great trauma and hardship by the actions of the Soviet authorities.

Yakov Izrailovich Beilin is a 45-year-old forestry technician living in Tula, in the Russian Soviet Federated Socialist Republic. Most of his family, including eight uncles and aunts who previously lived in Vilna, were all killed with their young children during World War II.

In 1973, his father died after a long illness, and the father's last request was that his family move to Israel, where, at that time, only his sister lived. Mrs. Beilin, his widow, decided to follow his wishes.

She was granted permission to emigrate, and has since moved to Israel, but her son and his family, including two children, have been refused permission, and no reason for the refusal has been given. It was surprising that Beilin was even able to obtain application for an

exit visa, for other members of the small Jewish community in Tula have found it practically impossible to obtain the visas. Again, no official reason has been given for this, but unofficially, people are told that while pensioners, who are considered a burden upon the state, will be allowed to leave, young people with their productive years ahead of them, and especially children, will not be allowed to emigrate.

Since her arrival in Israel, Mrs. Beilin has tried to gain permission for her son's emigration, but has run into the stone wall of Soviet authority, and has turned to organizations in the United States, and to this Congress, for help in publicizing her plight.

The Belgrade Conference opened last week, with the ostensible purpose of overseeing observance of the Helsinki accords. It now appears possible that, despite a continuing U.S. commitment to human rights, the conference will turn into a vehicle for repairing U.S.-Soviet relations.

If this happens, the rights of the citizens of the Soviet Union, and of citizens of other states which follow repressive policies, will be seriously damaged.

It is no longer possible for the United States to isolate itself from the rest of the world, and it is no longer possible for the Soviet Union to persecute its citizens who are merely trying to claim their rights which have been promised to them, without attracting world-wide attention and reproach.

The Soviet Government still claims that the American human rights campaign constitutes interference in the internal affairs of the Soviet Union. That is a statement they can no longer make with any authority, for the U.S.S.R. has agreed to protect and promote the human rights of its citizens not only in the Helsinki accords, but in the Charter of the United Nations, and in other international treaties and agreements. I applaud Representative DRINAN for his dedication, and urge other Members of Congress to join us in calling attention to "Helsinki's Unfulfilled Promise."

THE NATIONAL ENERGY ACT

HON. THOMAS L. ASHLEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 12, 1977

Mr. ASHLEY. Mr. Speaker, a little more than 2 months ago this body passed and sent to the Senate H.R. 8444, the National Energy Act. According to your instructions, the five standing committees worked long and hard to meet exacting deadlines and deal with a massive bill that will result in a number of hard choices for the United States. The Ad Hoc Committee on Energy which I had the honor to chair considered the program as a whole, recommended certain amendments to the House of Representatives, and we hammered out a tough—but, we thought, fair—energy program for the crucial period between now and 1985.

It is no secret, Mr. Speaker, that the President's energy program as passed by the House has been severely curtailed in the Senate. I do not intend to discuss this at this point; we will be going to conference with the Senate in the near future, and we have high hopes of being able to produce a creditable energy bill.

To borrow a phrase from another generation, Mr. Speaker, the whole world is watching what we do here. If we cannot bring ourselves to send a strong signal to the world that the United States is taking seriously the ominous prospects of the energy situation, it is hard to see how smaller, less prosperous countries can be persuaded to take the steps necessary to buy the time needed to develop new sources of energy.

Last week, the International Energy Agency, a consortium of 19 countries, including the United States, who depend on oil for the continued health of their economies, met in Paris at the ministerial level. They made a joint decision to reduce their combined oil imports to 26 millions barrels a day by 1985. This is an ambitious goal. It will take extraordinary measures to meet it, in our country as well as in the other nations. Yet meet it we must, because as Secretary Schlesinger said in his remarks to the assembled energy Ministers, there is a very good chance that there will be only those 26 million barrels a day available to all the importing nations.

The United States accounts for a major portion of those oil imports. Their cost is seriously affecting our balance of trade. We are on a collision course with economic disaster, unless we take some steps that may be painful for our special interests, but which are vitally needed for our long-term national interest.

As Secretary Schlesinger said to the IEA Ministers:

> The principal problem is one of sense of purpose, and the development of political will in each of our countries to achieve conservation, shift to more abundant sources of supply, and rapidly develop alternative sources of energy.

Mr. Speaker, I urge my colleagues in both bodies of this Congress to preserve and strengthen that sense of purpose we all shared when the President set his goals for a national energy policy.

I believe that the resolutions taken at the International Agency meeting and the words spoken by our Secretary of energy there will help to restore our perspective to this critical energy problem. I would like to share them with my colleagues:

DECISION ON GROUP OBJECTIVES AND PRINCIPLES FOR ENERGY POLICY ADOPTED BY THE GOVERNING BOARD OF THE IEA MEETING AT MINISTERIAL LEVEL ON OCTOBER 5, 1977

The governing board considering:

That the world is confronted with the serious risk that as early as the 1980's it will not have sufficient oil and other forms of energy available at reasonable prices unless present energy policies are strengthened;

That such a situation would have severe economic, social and political repercussions in all International Energy Agency countries and throughout the world;

That IEA countries must help reduce this risk by a strong and sustained policy response designed to make more effective use of energy resources and put more emphasis on less depletable energy sources;

That prompt action in this regard should be a major and essential element of IEA countries' energy policies in the development of their general economic strategy, taking into account environmental and safety aspects of the use of energy resources;

That the policy response of IEA countries should be concerted, having regard to the consequences of action in individual IEA countries for energy supply and demand in other countries, and taking into account the provisions of the Agreement on an International Energy Program and the Long-Term Co-operation Programme:

Decides:

1. That, in order to maintain equilibrium in energy market conditions, it will be the objective of IEA countries as a group to hold their total oil imports to not more than 26 million barrels per day in 1985; and that they will establish group objectives for successive periods;

2. That, in order to achieve the group objectives, IEA countries will reinforce their present efforts:

(a) By endorsing the Principles for Energy Policy set forth in Annex I hereto, which IEA countries are determined to follow in the establishment and implementation of national energy policies;

(b) By contributing, as individual IEA countries, to the achievement of the group objectives through the energy policies and measures which they adopt; the individual statements set forth in Annex II hereto describe the policies and measures which Governments intend to take for this purpose, having taken into account the Principles for Energy Policy set forth in Annex I hereto and the results of the IEA's country reviews;

(c) By reviewing systematically each year within the review process of the International Energy Agency:

The contribution of IEA countries to the achievement of the group objectives referred to in paragraph 1;

The continuing validity of the group objectives; and

The need for establishment of objectives for later years;

taking account of IEA countries' individual circumstances (including the timing considered appropriate for the implementation of energy policies), of the Principles for Energy Policy set forth in Annex I hereto, of the policies and measures stated in Annex II hereto, and of the need for ensuring equivalence of effort among all IEA countries;

(d) By accepting the need to further strengthen—by national action supplemented where appropriate by concrete measures for international cooperation and solidarity with due regard for the financial and technological implications—their policies and measures as may be necessary to meet the group objectives, taking into account the results of the reviews in the International Energy Agency.

ANNEX I

Principles for energy policy

1. Further development by each Participating Country of national energy programmes and/or policies which include the objective, formulated as specifically as possible, of reducing in absolute terms or limiting future oil imports through conservation of energy, expansion of indigenous energy sources and oil substitution.

2. Constant and careful attention to important environmental, safety, regional and security concerns to which the production, transportation and use of energy give rise, and improvement of the speed and consistency of public procedures for resolving conflicts which may exist between these concerns and energy requirements.

3. Allowing domestic energy prices to reach a level which encourages energy conservation and development of alternative sources of energy.

4. Strong reinforcement of energy conservation, on a high priority basis with increased resources, for the purpose of limiting growth in energy demand relative to economic growth, eliminating inefficient energy use, especially of rapidly depleting fuels, and encouraging substitution for fuels in shortest supply, by implementing vigorous conservation measures in various sectors along lines which include the following elements:

Pricing policies (including fiscal measures) which give incentives to conservation;

Minimum energy efficiency standards;

Encouragement and increase of investment in energy saving equipment and techniques.

5. Progressive replacement of oil in electricity generation, district heating, industries and other sectors by:

Discouraging the construction of new exclusively oil-fired power stations;

Encouraging the conversion of existing oil-fired capacity to more plentiful fuels in electricity, industrial and other sectors;

Encouraging the necessary structural adjustments in the refinery sector in order to avoid an excess of heavy fuel oil;

Directing efforts to the reduction of the use of heavy fuel oil as a primary energy source in those sectors where efficiency is low.

6. Application of a strong steam coal utilisation strategy and active promotion of an expanded and reliable international trade in steam coal, composed of the following elements:

Rapid phasing-in of steam coal as a major fuel for electrical power generation and in industrial sectors;

Further development of steam coal policies within producing, exporting and consuming IEA countries to support increased utilisation by enhancing market stability through reliable and increased export and import flows under reasonable commercial terms;

Development of policies to remedy anticipated infrastructure bottlenecks.

7. Concentration of the use of natural gas on premium users' requirements, and development of the infrastructure necessary to expand the availability of natural gas.

8. Steady expansion of nuclear generating capacity as a main and indispensable element in attaining the group objectives, consistent with safety, environmental and security standards satisfactory to the countries concerned and with the need to prevent the proliferation of nuclear weapons. In order to provide for this expansion, it will be necessary through cooperation to assure reliable availability of:

Adequate supplies of nuclear fuel (uranium and enrichment capacity) at equitable prices;

Adequate facilities and techniques for development of nuclear electricity generation, for dealing with spent fuel, for waste management, and for overall handling of the back end of the nuclear fuel cycle. (The following Delegations expressed individual positions regarding Principle No. 8, as set forth in the Conclusions of the Meeting of the Governing Board which adopted this Decision: Denmark, The Netherlands, New Zealand, Norway, Spain, and Sweden.)

9. Stronger emphasis on energy research, development and demonstration, including collaborative programmes, more intensive national efforts and greater co-ordination of national efforts, in order to make energy use more efficient and to meet future energy requirements. Each Participating Country should contribute to energy technology development, with emphasis on (a) technologies which can have relatively near-term impact, (b) policies which facilitate the transition of new energy technologies from the research and development phase to the point of utilisation, (c) technologies for broadly applicable renewable energy sources, and (d) investigation of whether there are technological possibilities for significant contributions from other renewable resources, through:

Providing the fullest possible financial support for energy research, development and demonstration;

Increasing participation in international collaborative projects to extend the effectiveness of funds available;

Encouraging investment in energy technology development by appropriate incentives;

Ensuring that R & D policies remain consistent with and supportive of the objective of ongoing energy policy.

10. Establishment of a favorable investment climate which encourages the flow of public and private capital to develop energy resources by appropriate pricing policies, by minimising uncertainties about the general directions of energy and other policies such as mentioned in Principle 2, and by providing government incentives where necessary, in order to:

Give priority to exploration activities including those in offshore and frontier areas;

Encourage rates of exploration and development of available capacities which are consistent with the optimum economic development of resources.

11. Providing in energy policy planning for alternative means, other than increased oil consumption, for meeting any development of supply shortfall or failure to attain conservation objectives, taking into account the appropriate requirements of economic development and social progress.

12. Appropriate co-operation in the field of energy, including evaluation of the world energy situation, energy research and development and technical and financial requirements, with developed or developing countries or international organisations.

JAMES SCHLESINGER, U.S. SECRETARY OF ENERGY, STATEMENT TO THE MEETING OF THE GOVERNING BOARD OF THE INTERNATIONAL ENERGY AGENCY AT THE MINISTERIAL LEVEL

Thank you, Mr. President.

Mr. President, you have stressed the gravity of the situation we prospectively face and I would like to underscore that point. Because each projection of supply/demand balance that we develop this year tends to be less favorable than the one we developed in the prior year. So that the point at which prospective demand for petroleum internationally exceeds that of prospective supply comes nearer and nearer. It now appears likely to manifest itself in the early 1980's. And therefore the question that was raised earlier with regard to access to supply is not only a matter of effective and favorable American policy. It is something that we are going to have to face ultimately. We may not be in a position in the middle 1980's, irrespective of other policies to guarantee access to supply at whatever price. The Secretary General, Mr. Van Lennep has urged us to formulate policies here today, and indeed we should. But we should also recognize that we already know what the policies must be. We already know what steps it is necessary for us to take. So it is less a question of the formulation of policies than a common determination, and a determination in each of the nations here represented to see that those policies are effectively implemented, painful as it may be internally.

And given the nature of our body politics, which are democracies, it becomes quite difficult to achieve the results of making sacrifices now against a goal which is in the somewhat more distant future. We already know what the substance of our policies must be, conservation, shifting to more abundant sources of supply, the more rapid development of alternative sources of energy. The problem of substance is not the principal problem that we face. The principal problem is one of sense of purpose, and the development of the political will in each of our countries to achieve that end. I speak for but one country. But I think that I have detected so far in the discussion some of the curiosity regarding the political will in the United States on this matter. It is, I gather, from your perspective like going to bed with an elephant. There is an apprehension the elephant might turn over and there is very little that one can do about it. And I can well understand some of the skepticism in the wake of the President's program. You have heard some of it before, starting with Project Independence in 1974. Project Independence was to reduce our oil import demand to zero. And it has not to this date been successful. President Ford's program was designed to reduce our external oil demand to 3 to 5 million barrels a day. We have not yet gotten there. So skepticism may be understandable on your parts. I think that there is a difference here, a number of differences that I will stress in regard to the President's program.

First, there is, I think, a clear-sighted recognition of the problem, and that it is not a problem that will be dissipated by rhetoric, by a wave of the wand. I think, secondly, that we recognize the very great difficulties in getting oil demand down to the level where we are a zero importer as we envisaged in Project Independence. And a much clearer recognition associated with that, that however great our own resources in the area of oil, they are limited. And, finally, we have established an objective which is hard. Let me stress that. It is hard given the character and the historical experience of the American people, who have been used to boundless expansionism and do not recognize readily finite limits. It will be hard to get down to the 5.8 million barrels a day import that the President's plan projects. But it is necessary. And let me stress that in a democracy the President has done something rare and unique: to ask for present day sacrifices to deal with the problem that goes well beyond the next election.

The problems with democracies are that they are inclined to get by with too little or too late and to put off the day of reckoning. The President has been prepared to pay the political costs. And I think that we will have success. I will come back to that in a moment.

You are all familiar with the program, which has been widely welcomed, far more widely and enthusiastically welcomed outside the United States than inside the United States. But it is designed from this standpoint to do three things: to reduce the rate of energy growth below two per cent a year; to curtail oil imports from a prospective 16 million barrels a day, were that oil available in 1985, to less than six million barrels a day and to reduce gasoline consumption by ten per cent. That means taking on the American motorist and that is a formidable force by itself. The only more formidable force that I know is the French motorist.

The important thing that I should state is that the goals have been generally accepted by the Congress and by the American people. There is an intellectual appreciation that indeed we have an energy problem. There was not that appreciation prior to January 20, or prior to the President's speech on April 18. Of course an intellectual appreciation is not sufficient. While many people recognize that somehow or other there is a problem, down in their visceras they have not necessarily developed the fortitude to deal with it. But we shall deal with that

presently. And we recognize that we have a unique responsibility. We have a unique responsibility for a number of reasons that I shall not bore you with. First, because of our size, secondly because of our national resources, resources that exceed that of other members of this group save those that border on the North Sea.

We cannot do it alone, as you know. It is necessary for us to have a high degree of cooperation from other states. We thoroughly endorse the goal of reduced dependence. That goal of reduced dependence—26 million barrels a day—will be dependent critically upon the success of the American experiment. Unless we are able to force consumption down to a level that requires less than six million barrels a day, quite obviously the 26 million barrels a day goal will not be achieved as a matter of policy. It will however, in all likelihood be achieved as a matter of brute force, because it does not appear now that there is going to be much supply in excess of 26 million barrels a day available to the IEA countries in 1985. If reality is forcing this policy upon us, let us accept it and consciously take those measures to deal with it, rather than to allow reality to creep up on us over the years and then suddenly overpower us with drastic implications for employment, inflation and for virtually insolvable balance of payments difficulties. There is one final point that I wanted to make prior to a brief discussion of where the energy program stands. And that is the necessity of nuclear power. That is enshrined in the President's program. There have been differences of view with regard to such matters as the timing of deprocessing, the character of reprocessing, the urgency of breeder development. But it should be clearly understood that in the American program nuclear power is regarded as indispensable. I think that in dealing with your own publics that this should be stressed, rather than what has occasionally been suggested that somehow or other the Administration in Washington is anti-nuclear. The program stresses total endorsement of the present generation of technology. The program also stresses, and I recognize there are differences of opinion in this regard, a certain caution and wariness before moving into the next generation of technology. But there is no question about the need to employ nuclear power more than we have in the past. I go back to the remarks of the President with regard to the gravity of the problem, the fact that our forecasts each year are more depressing than the previous year's forecasts and the very lively probability that whether or not we endorse a goal of 26 million barrels a day in 1985, something like 26 million barrels a day will be all that we will have to play with. So the policy will be continued emphasis on nuclear power.

And, of course, we intend to make much more use of our coal reserves. All of this reflects a slow and dawning recognition of the gravity of the problem that the United States faces.

Mr. Brunner, you have told us to send them a message. We shall certainly take advantage of that opportunity. But the message, at least in part, has been received. As you know, despite great skepticism, the House of Representatives acted on the President's program very quickly and very solidly. There were some elements that we removed. But within a matter of 90 days, a radical change in American policy was endorsed by the House of Representatives. Unfortunately at that time the Congress went into recess. And when the Senators went back to their States they encountered the representatives of the affected parties, as a result they came back into Washington somewhat more doubtful than exuberant.

Nonetheless, there is a momentum about this program such that it will be accepted in large part by the United States Senate. One can be deceived by reading the press today. Because in the press one sees stunning defeats in the headlines followed by stunning victories, up and down. There is much less action out there than one would infer from reading those headlines. We will expect to be reasonably successful in the program and we expect to have the legislation in place shortly. What we miss this year, we are going back for next year. Indeed, we chose in January and the following months to gauge just about what we thought we could get through, recognizing that what we were proposing was a moderate program, extraordinarily bold in relation to prior accomplishments in Washington, D.C. The goals were quite modest in terms of the gravity of the problem.

In subsequent years we will have to go back for additional legislation irrespective of whether we get the entire package. I do not expect to get the entire package, but I know that each year we will learn new things about technology, uncertainties will be resolved, there will be new opportunities to pursue. And as a consequence we will have to alter the composition of the energy package. But the President is fully determined to pursue this matter. We have the tools that are necessary for getting much of the work done and we will obtain the additional tools as they are required.

Let me reiterate. There is no question about the goals. The goals have been endorsed by the United States Congress. That means we are establishing a monitoring device so that any shortfall provides us with the justification to go back for additional legislation.

I have no doubt that in this matter we will gradually wear away the resistance. Indeed the resistance has been far less than we anticipated some months ago. Therefore I offer you these small hopes to dispel whatever skepticism you may have brought to this room, hoping that whatever skepticism that you carry away from this room will be much less than what you brought into it.

We are not doing this as a matter of virtue, but as a matter of necessity. We recognize that the United States probably is better able to compete for certain energy sources than other nations. That imposes upon us a greater responsibility.

We have the responsibility, it seems to me, to continue to play a leadership role in this matter as in other matters. And to the best of the ability of this Administration, we shall exercise it. That is part of our motivation. But the other part of the motivation is that we just have no choice. In the aggregate, the oil will not be available much beyond 1983 or 1985 or 1987 and we are all going to have to make this transition. We have about seven or eight years in which to make adjustments with some pain, but relatively painlessly. And that means that we begin now to take advantage of the time while we still have time to alter the capital stock of the United States in our case, to alter the capital stock of other countries, which is their responsibility so that we all become less oil dependent. Unless we do that, we will go on, slowly creating a capital stock that depends upon a continual rise in the flow of oil which will not be there, leading to gross wastage in future years and, of course, rising unemployment and a higher rate of inflation. These are fundamental problems. Democracy is a splendid form of government to live under, frustrating at times but, as Winston Churchill said, its advantages are not so clear until one looks at the alternatives. But democracy is a fragile form of government. And we are facing collectively and individually one of the most dramatic transitions through which the world and the economic world must go—transition away from cheap and abundant oil. Unless we take advantage of the time that we have and unless we wish to avoid going steaming into that wall in the middle 1980's, we will unleash, I fear, a degree of political and social unrest of a sort that we in the United States have not witnessed in the 1930's. I cannot refer to the experience of other countries; on the solution of this problem, rests the future of our free societies.

That is the fundamental basis on which the President has chosen to take action. It is a reflection of his commitment and his determination. We intend to carry it through. We cannot afford to fail. Thank you very much, Mr. President.

PADDY LIVINGSTON, DEAN OF BASEBALLERS

HON. MARY ROSE OAKAR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 12, 1977

Ms. OAKAR. Mr. Speaker, it is with deep regret that I call the attention of the House to the recent death of a Clevelander who was one of the greats of early baseball, Paddy Livingston. At 97 years of age, Paddy had been the last surviving player of the inaugural season of the American League in 1901. He was a catcher, and he shared the field with many of the legendary figures of baseball, including Ty Cobb, Honus Wagner, and Nap Lajoie.

Earlier this year Paddy was interviewed by the Cleveland Plain Dealer, and his remarks show the tremendous spirit he had, and the delight he took in the game. In honor of Paddy, I would now like to insert into the RECORD a copy of the article which recounts this interview:

LIVINGSTON DIES AS DEAN OF BASEBALLERS

Paddy Livingston, last surviving player from the American League inaugural season of 1901, died Monday at St. John Hospital.

Livingston, who made his major league debut with Cleveland as a catcher in 1901, celebrated his 97th birthday Jan. 17.

Livingston's professional baseball recollections are especially striking in an era when major leaguers are signing million-dollar contracts.

He played only one game for Cleveland in 1901, then returned to his shipbuilding job here. He was next approached about playing for pay when 24.

"I didn't know anything about scouts," Livingston told Dan Coughlin in a recent Plain Dealer article. "This guy came up to me and asked if I'd be interested in going away. Pretty soon I got a letter from the Wheeling club. I wrote back and said I'd play for $150 a month. They said they could get any catcher for $100. I said you can't get this catcher. They gave me $125 and I went.

"Boys, what a year I had. I hit for two bases, three bases. I didn't hit many home runs. I caught, I ran like a deer and I threw."

Livingston went from Wheeling to Cincinnati to Indianapolis, where he made $400 a month.

"The next year they wanted to cut me to $300. I wouldn't go. I held out. So Indianapolis sold me to Philadelphia.

At Philadelphia Livingston played for Connie Mack, whom he came to idolize.

"They used to say that you had to be a Catholic to play for Connie Mack's Athletics, but that wasn't true," Livingston said. "We had about five or six Masons on the team. I roomed with one. George Burns. At night I'd kneel down next to my bed to say

my prayers and he'd get down on the other side. I'd say a Hail Mary and he'd be praying a lot longer than me."

Livingston played with Cleveland, Philadelphia, Cincinnati and St. Louis in the majors and for several minor league and sandlot teams.

He batted against Walter Johnson and threw to teammate Eddie Collins as Ty Cobb attempted to steal second. Honus Wagner, Chief Bender, Nap Lajoie, John McGraw and Cy Young were his contemporaries.

"They were gentlemen. All of them," he said. "There was no swearing and cursing in the locker room, not like today. There were no scandals."

Livingston never resented the salaries earned by modern players.

"The players are worth all they can get," he said. "I couldn't get it. I'm glad they can."

Mr. Livingston worked for 43 years in the City of Cleveland's bridge maintenance department. He retired in 1963.

He is survived by sons James J., Patrick J., Robert F. and John I., all retired; daughters Mrs. Ralph Hesland and Mrs. Emil Vistyak; 13 grandchildren, and 27 great grandchildren.

THE CONGRESSIONAL RECORD IS NOT A RECORD

HON. WILLIAM A. STEIGER

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 12, 1977

Mr. STEIGER. Mr. Speaker, had we taken up the Obey commission recommendations today, I would have spoken in support of making the CONGRESSIONAL RECORD an accurate reflection of our proceedings. This is an effort for which I have worked over the past 8 years.

Under the Obey commission recommendations, we would have made the first important step toward an honest record. During a 6-month trial period, statements not spoken in whole or in part on the House floor will be set off by use of a clearly distinguishable symbol preceding and succeeding them.

The fight for an honest CONGRESSIONAL RECORD is not a new one. I have worked for this since 1970. More than a decade before, the distinguished Senator from Oregon, Richard L. Neuberger, called for CONGRESSIONAL RECORD reform. In an April 20, 1958, New York Times magazine article, he made an articulate case for a verbatim record of proceedings.

Senator Neuberger's article is one of the most thoughtful and persuasive I have seen. The problems he detailed have only grown, and the Obey commission's proposals were the first firm step toward effectively dealing with them.

It is important to note that Senator Neuberger expressed concern that it cost approximately $1.7 million to produce the RECORD and that some RECORDS were as much as 256 pages long. The fiscal year 1976 cost of the RECORD was $14.6 million, nearly 10 times higher than 18 years before. A 256-page RECORD is commonplace; between fiscal years 1972 and 1976, the number of RECORD pages jumped from 38,500 to 51,000.

I hope his article will receive careful consideration by all who read the RECORD. It follows:

THE CONGRESSIONAL RECORD IS NOT A RECORD

(The public and history are entitled to a true account of what happens in Congress. But they won't get it, says a Senator, as long as members may revise the transcript at will.)

(By Richard L. Neuberger)

WASHINGTON.—In the tense debates over foreign policy and the domestic economy taking place these days beneath the stately dome of our Capitol, a member of the United States Senate often will explain that he is speaking primarily "for the record." This may be done to rationalize the lack of attention paid his remarks. On many occasions, however, it is undertaken by the sponsor of a bill to provide what he describes as "a record of legislative history," so that an executive agency or department of government, later administering the law under consideration, will have fairly precise knowledge of what the author of the act had in mind.

When these Senators use the term "record," they are not thinking of some nebulous chronicle or journal. They have specific reference to one particular record, and one only. This is the Congressional Record, which since 1873 has been the daily account of proceedings in our Senate and House of Representatives when they are in session. It is one of the most important publications in the land, for it is supposed to report faithfully the debates and discussions which shape the laws governing 171,000,000 Americans and their role in world affairs.

I use the word "supposed" advisedly, because the official transcript of debates in the Senate and House is frequently revised, amended, subtracted from and even embellished with lengthy additions. These changes occur before the transcript ever reaches the printed pages of the Congressional Record. Senators and Representatives are permitted to doctor and edit their speeches, virtually at will. It is for this reason that I have introduced a resolution to write into the rules of the Senate that "no changes of a substantive nature" can henceforth be made in the text of what is taken down by the Senate's staff of skilled shorthand reporters.

It is my hope and that of my lone cosponsor, Senator Gordon Allott of Colorado, that once the Senate adopts such a sensible and logical rule, the House will do no less than follow the example.

After a major debate in the Senate over an issue which stirs profound emotions, such as civil rights or foreign aid, I have seen many Senators sitting around a circular glass-topped table in the reporters' workroom, virtually rewriting the speeches and reports just delivered on the floor of the Senate. Some will totally expunge comments made in the heat of debate that may seem indiscreet or unwise in the cold, gray light of the next dawn and in the inflexible type of the Congressional Record. Others will be adding after-thoughts, which may furnish an extra fillip to a reply that was flat or ineffective when uttered under the duress of argument in the Senate chamber. This entire process of addition and revision has impelled one Washington wit to suggest that a United States Senator, or his counterpart in the House, is evidently the only person on earth who can sigh, "I wish I'd said that," and then actually say it!

Yet the privilege now vouchsafed Senators and Representatives of changing the Congressional Record has its grave and even alarming aspects. To some degree, the integrity of government is at stake. What is said on the Senate floor certainly helps to frame the content and tenor of our laws.

As a first term member of the Senate, I am particularly conscious of the impact of new facts and new ideas during debate. Legislators are as susceptible as anybody to startling claims and charges. Correspondents in the press galleries take down sensational or significant statements voiced on the floor, and flash them to newspapers and other outlets all over the nation. This, in turn, creates public opinion—the ultimate authority in a free land. Is it not absurd that many of these statements later can be edited, toned down or completely eliminated?

Indeed, the practice of altering the text of debate in the Senate and the House is so prevalent that it actually has been sanctified in the rules which regulate the publication of the Congressional Record. These even allow Senators and Representatives to take home transcripts of speeches delivered in the halls of Congress, to be leisurely reconstructed at the fireside in the presence of handy reference volumes and one's family and counselors. If this is not rewriting contemporary history, then what is it?

Let me emphasize that no personal opprobrium attaches to this practice, nor should it. The practice has become part of Congressional custom. It is now virtually second nature for a Senator or Representative to "revise" remarks which he uttered on the floor. Every member does it—frequently out of self-protection, because his antagonist in debate is quite likely to do so. The author of this article has done it, although he trusts he has done it with circumspection. The only way to end the habit is by a rule which cuts off the privilege of all legislators simultaneously.

So far as legal liability is concerned there are few holds barred in Senate debate. Under the Constitution, a member of Congress may not be required to answer in court for what he says in either chamber. This encourages many excesses. A Senator may compare the President of the United States to a convicted felon. A Senator can question the learning of a Supreme Court justice, the patriotism of a leader of labor, or the financial ethics of a corporation executive.

Such indiscretions cause a powerful ripple when they are spoken, and often they leave an atmosphere of controversy and bitterness for weeks thereafter. Is it right that they can be edited out of the Congressional Record? Senator Lyndon Johnson of Texas, Majority Leader of the Senate, has said that "there are few documents more important than the Congressional Record. Locked in its pages are the debates, the resolutions, the bills, the memorials, the petitions and the legislative actions that are the reason for the existence of the Senate. It is a document which affects our laws, our precedents and our judicial decisions." But would not the Record be of far more enduring value if it were immune to self-serving alterations?

When the rule proposed by Senator Allott and me is discussed in the cloakrooms, some of our colleagues express qualms that debate might be unduly inhibited if only grammatical corrections can be made before the transcript is set in type for the pages of the Congressional Record. Senators, they predict, may tend to tighten up and refrain from voicing their real feelings if every occasion in the Senate is to be governed by the words from the Rubaiyat: "The moving finger writes, and having writ, moves on."

To such warnings there may be some validity, but I believe they are canceled out by obvious advantages if the record written on the Senate floor is final. Men will count to ten before they give vent to the personal abuse and character assassination which have done so much to bring American public life into disrepute. If forbidding alterations in debate transcripts leads to a greater degree of restraint, is that necessarily bad? I would venture that our excesses in debate are worse than our inhibitions, such as they may be.

Undoubtedly a record which can be altered tends to encourage off-the-cuff re-

marks and so-called "horseback" opinions in debate, Senators are relaxed because the transcript can be doctored before a single issue of the Congressional Record is deposited in the mail sack. Yet is not the important fact what the Senators actually said in seeking to persuade each other in floor discussion prior to a roll-call vote, rather than what they subsequently want their constituents to think they said?

As I see it, the way to correct or improve an argument made in debate, if it proves inaccurate or reckless when read in type, should properly be in explanatory remarks spoken later on the Senate floor.

The very masthead, "Congressional Record," ought to assure rigid fidelity to truth and circumstances. Why else should the Government spend approximately $1,700,000 a year to publish some 43,000 copies of the Record?

The Record can be a tome of impressive proportions. During lengthy sessions, with both branches of Congress in operation, a single issue may total as many as 256 pages. This is by no means confined to actual proceedings on the floor. Actual debate may occupy less than half the space. Senators and Representatives routinely receive unanimous consent to print in the Congressional Record newspaper editorials, magazine articles, letters, telegrams, brochures, and even poetry which they regard as significant or meritorious. Such permission is rarely denied, because he who thwarts unanimous consent for a colleague may never receive unanimous consent for himself.

Thus members have included in the Congressional Record the entire text of Henry George's "Progress and Poverty," the French dueling code and a whole set of recipes for shrimp and other Louisiana table delicacies. I imagine there are few of us who always restrict our inclusions to the legislative business at hand. Essays about the history of the Pacific Northwest are my own particular weakness.

In the actual body of the Record, these inclusions may be of virtually unlimited length although, generally speaking, they must be germane to the matter under discussion. An appendix at the back of every issue, contains insertions which can be on virtually any subject but are held to about two printed pages in quantity—unless the member submits, at the time of his request for unanimous consent, an estimate from the Government Printing Office as to how much it will cost to publish his material.

Yet this restraint may readily be circumvented by separating voluminous documents into individual insertions of shorter length. On a single day last August, for example, a famous Democratic Senator of liberal reputation received unanimous consent to include in the appendix of the Congressional Record thirty-one separate pamphlets prepared by an anti-vivisectionist organization. Some members in both bodies use the appendix to publicize press releases from chambers of commerce in their districts or to herald prize-winning essays by local high school seniors. I have done the latter myself.

The House of Representatives allows far greater latitude even than the Senate in tolerating distortion of the Congressional Record. A member of the House can speak perfunctorily for two minutes on the floor and then receive unanimous consent to "revise and extend" his remarks. He later can transform such sweeping permission into an address of sixty-minute proportions, which is published in the Congressional Record as though spoken in its entirety on the floor.

These "phantom" speeches are nothing less than deception of the folk who see the Record back home. While we in the Senate enjoy considerable laxity in being able to alter the transcript of debate, at least what Senators change and edit was actually spoken in the chamber of the Senate. The practice by the House of encouraging "ghost" speeches is infinitely less defensible.

Despite its limited circulation, the Congressional Record enjoys an influential readership. Each Senator may send the Record free to one hundred of his constituents, while every Representative may place sixty-eight of the home folks on the mailing list. A paid subscription to the Record costs $1.50 a month when Congress is in session.

If my own mailing roster is at all typical, the Congressional Record goes to men and women in each state who are leaders in thought and opinion—editors, authors, teachers, school and college administrators, business executives, trade union officials, political party chairmen. I receive approximately four times as many requests for a free subscription to the Record as I am able to satisfy. Alas, few of these unrequited souls seem to want the Record eagerly enough to pay $1.50 monthly for the privilege; there is only a handful of paid subscribers in the entire nation—about 1,500.

My own readers of the Record frequently write to me about some passage which has won their fascinated attention. The letter can be a criticism that I seem to talk too much or a commendation for having said "just the right thing" when the Senate was considering national forest appropriations of urgent importance to Oregon.

This preoccupation with the Record might be still more intense if its readers realized the loving care with which it is edited by those professionaly entrusted with its publication. No group working on Capitol Hill is comprised more truly of career people than those who compile the Congressional Record. One reporter, the late Theodore F. Shuey, took down debates until he was 89.

James W. Murphy, 83 years old, the present chief reporter of Senate debates, is decended from a family whose members began taking down Senate proceedings as early as 1848, even before there was an official Congressional record of the kind published today. During that period, the Congressional Globe, owned by the private printing firm of Blair & Rives, disseminated Congressional debates in somewhat attenuated form. These elliptical summaries often left the reader suspended in mid-repartee, as it were. In spite of the Globes sketchiness, however, its reporters began to be paid at public expense in 1855. When the Government Printing Office was authorized five years later, it was merely a matter of time and patience until, in 1873, the publication of proceedings on "the Hill" became entirely a public undertaking.

Mr. Murphy who holds a law degree from Georgetown University, went to work in the Senate as a shorthand reporter in 1896. Regardless of his years, Mr. Murphy tries to read carefully every transcript taken down by his staff of six skilled shorthand reporters, who revolve their service on the Senate floor in hour-long shifts. This means that each reporter records debate for ten minutes out of every hour. He spends the rest of the time painstakingly reading his notes into a dictaphone, after which they are transcribed by an experienced typist. As a further precaution, the reporter reviews the transcript for accuracy before it ever reaches the desk of Mr. Murphy or of his chief lieutenant, John D. Rhodes.

Both of these men possess the authority and the knowledge to make such changes in syntax and grammar as seem necessary to preserve Senatorial reputations for profundity. Malapropisms in speech—but not in substance—are eliminated. Contractions get ironed out into finished phrases. Mr. Rhodes has told me that one of his favorite aphorisms is that of Mark Twain, who allegedly said, "The difference between the exact word and almost the exact word is the difference between lightning and the lightning bug."

It is the very diligence with which the Record is edited that has impelled me to introduce my resolution forbidding substantive changes in the transcript of debates. I am convinced that the transcript is as accurate as human effort can make it.

Can the Congressional Record be made a more popular avenue for circulating information about the principal policy-making arm of the American Government? I believe it can, and I would suggest these methods for doing so:

(1) There would be far more faith and confidence in the Congressional Record if the public knew, for a certainty, that the transcript of debate had to remain just as taken down by the reporters. Indeed, the inevitable added zest and controversy and slips and lapses could make the Record a far more lively and readable document.

(2) Too much extraneous material now clutters the main body of the Record. Actual proceedings on the Senate floor are all but lost in a vast mass of tables, letters and communications. This, in turn, adds to the forbidding size of the Congressional Record, so that the casual reader is discouraged from the start. I would restrict these inclusions to the appendix, which then could be printed separately once a week. In order to narrow the dimensions of the appendix, I would apply a ceiling to the amount of material any one Senator and Representative could ask to have published. Greater selectivity undoubtedly would be in the public interest.

(3) The Congressional Record might be made more prepossessing by indicating more clearly when a new participant is entering a debate. As the Record appears now, it requires virtual 20/20 vision to pick out at a glance the headings which separate one topic in the Record from another.

(4) Somebody like Mr. Murphy should have the authority to order the inclusion of charts or maps in the Record when they are fully justified—as, for example, the afternoon when Senator Allen J. Ellender of Louisiana addressed the Senate for three fascinating hours while he described the most extended tour ever made of Siberia during modern times by an official of the American Government.

None of these reforms will assure the Congressional Record an overnight popularity matching "Gone With the Wind" or "The Call of the Wild." But they could help to make it a far more readable and successful organ of free government at a time when such parliamentary bodies as the Congress of the United States face the sternest challenge of their whole existences.

SILVER JUBILEE OF SISTER CLARE O'KEEFE

HON. JEROME A. AMBRO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 12, 1977

Mr. AMBRO. Mr. Speaker, on Saturday, October 15, 1977, the citizens of the town of Huntington, many civic and religious leaders, as well as the parishioners of St. Patrick's Church in Huntington, N.Y., will come together to celebrate the silver jubilee of Sister Clare O'Keefe as a member of the Dominican Sisters of Amityville.

For my colleagues who are not familiar with the Dominican Sister of Amityville,

this is a group of women who, under the patronage of St. Dominic, have long labored in the Catholic educational systems of both Brooklyn and Long Island. In tune with the trend of recent years, these women have also become increasingly involved in the community life outside of the parishes.

Sister Clare epitomizes both the traditional values and the new spirit which have been the hallmark of this order in that she is not only the administrator for religious education of a large suburban parish, a lector and eucharistic minister, but also a member of the town of Huntington's Consumer Protection Board, the chairperson of the Board of Directors of the Melville House for Boys, and a member of the Rockville Centre Diocesan Television Board.

Besides performing admirably in all of these functions, Sister Clare has found the time to obtain numerous graduate degrees including a masters degree in theology from Manhattan College, a masters degree in business administration from New York University, and presently is matriculating at C. W. Post College where she will soon be receiving a masters degree in counseling.

The town of Huntington and St. Patrick's Parish are blessed with her presence. I have nothing but the highest praise and regard for Sister Clare who has given of herself and her talents unselfishly, and I am proud to call her a friend. I salute her and congratulate her on her 25 years in the religious life and I commend her to this body as a model of dedication and enthusiasm.

TRIBUTE TO JULIAN BOND

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 12, 1977

Mr. STARK. Mr. Speaker, I would like to take this opportunity to bring the work of the Muleskinners Democratic Club of Oakland, Calif., to the attention of my congressional colleagues. For many years the Muleskinners have been untiring champions of the Democratic Party in Oakland, performing every task from fundraising to getting out the vote in their community. Their assistance has been invaluable to many aspiring Democratic candidates, and in this work the Muleskinners have served the Democratic Party and their community with creativity, vision, and commitment.

This weekend the Muleskinners will be honoring Julian Bond—who has been of great assistance to many Bay Area candidates—in a testimonial dinner. Mr. Bond, currently a member of the Georgia State Senate and one of the foremost civil rights leaders of our times, has pursued his diverse causes with almost unequaled vigor and dedication. From his days as co-founder of the Student Nonviolent Coordinating Committee, his year-long battle to secure his rightful place in the Georgia House of Representatives, his cochairmanship of the Georgia Loyal National Democratic Delegation in 1968, through his current activities as—to name only a few—president of the Southern Poverty Law Center, State Senator, accomplished writer, and sometimes actor, Julian Bond has served as one of our country's leaders of conscience. He has lived, in the words of Daniel Berrigan, not in the comfortable center of our times in society, but at the farthest frontier—dreaming, daring, risking—living an out-front, authentic, caring, human life—only out of which human progress and fulfillment is possible. I wish to thank Julian Bond for his contributions to our times, and to applaud the Muleskinners for pausing to recognize his accomplishments.

PROPOSED RECORD STATEMENT HONORING MAYOR TOM CLARK

HON. MARK W. HANNAFORD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 12, 1977

Mr. HANNAFORD. Mr. Speaker, too often I find that deserving public officials perform their functions day in and day out while receiving little encouragement from their constituents or their peers. This sad fate has fortunately not befallen one servant of the people, namely Dr. Thomas J. Clark, the mayor of Long Beach, Calif., a thriving metropolis which constitutes much of the 34th Congressional District I represent.

Mayor Tom works quietly and effectively at his duties. No one of my acquaintance can recall a more responsible, thoughtful city leader for Long Beach than Mr. Clark has been. Republicans, Democrats, and political independents are united in praise of this man who has held the city's highest office since 1975.

Mayor Clark's public service career began in 1956 when he was elected President of the East Long Beach Lions Club. His further civic endeavors included memberships on the Long Beach City Park Commission, the Long Beach City Council—since 1966—and the State Board of the League of California Cities.

Most recently, the mayor was elected first vice-president of the Los Angeles County Division of the League of California Cities.

Numerous community organizations have seen fit to commend the mayor for his accomplishments. Long Beach City College last year placed the mayor in its "Hall of Fame." The Long Beach District Board of Realtors gave him a "People-to-People Service Award" for showing "outstanding civic responsibility." And the Toastmasters Club made Mayor Tom an honorary member as a "tribute to the qualities of his life which exemplify the attributes so valuable in those who dedicate their lives to civic duties."

In closing this brief tribute to a man who deserves still greater praise, I will state that it is sometimes better to let the words of others represent one's own thoughts. I hope my colleagues assembled here today will join with me in echoing the best wishes of those who have recognized the admirable civic spirit of Dr. Thomas J. Clark, mayor of Long Beach.

JACK C. VAUGHN—TEXAN

HON. JAMES M. COLLINS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 12, 1977

Mr. COLLINS of Texas. Mr. Speaker, last week Congress spent another busy week passing more and more laws. And as we were ending up on Friday, I heard about the death of my good friend, Jack C. Vaughn.

As soon as I got back to Dallas, Dee and I walked back down our alley to see Mary Jo Vaughn. As we turned into our neighbor's front door, I thought vividly that it is not the laws we pass in Washington that make America great. It is the men and women and their spirit that moves us forward. Last week we lost a good man.

Jack C. Vaughn was an outstanding Texan. As a young man just out of college, he was told he had a serious cardiovascular condition. He was advised to lead a sheltered life.

That was 30 years ago. During this period he has been a dynamic driving force active in every phase of our business and civic activities. He did not sit back, but instead stayed on the move every minute.

Jack called himself an independent oilman. His business interests were broad. He was a major stockholder in Vaughn Petroleum, Vaughn Building, Vaughn Capital, and Chama Cattle Co. He was on the executive committee of First International Bancshares, and the Dr. Petter Co. He was a large rancher, publisher and financier.

But Jack was also always in the forefront of every project in the community. He served on the board of Dallas Fine Arts, YMCA, Chamber of Commerce, Dallas Civic Opera, Wadley Molecular Medicine, Texas Board of Corrections, Southwestern Medical, University of Texas Foundation, St. Marks, Baylor Dental School, and the SMU Publications Board.

He was a member of Lovers Lane Methodist Church, Dallas Gun Club, YPO, William Bend Polo, Phi Delta Theta, and was president of Brookhollow Country Club. He was active in seven Petroleum trade associations.

As Dee and I extended our warmest sympathy to his wife, Mary Jo, and his children, Jack, Robert, David and Sharon, I thought of his full life. It was 30 years ago they told Jack to take it easy. But he was enthusiastic and wanted to get things done. He was never discouraged and always looked to the future. Jack C. Vaughn left a great record of achievement as he made every day count so that our community has grown and developed with his dynamic spirit.

FRANCES HARDIN

HON. HERMAN E. TALMADGE

OF GEORGIA

IN THE SENATE OF THE UNITED STATES

Wednesday, October 12, 1977

Mr. TALMADGE. Mr. President, we are all aware of the importance of education in the complex world in which we must live and work today. We very often lament shortcomings in public education and it must be said that there is good reason for concern in many areas.

However, we do not often enough recognize the dedication and hard work of teachers, without whom of course quality education would be impossible. Mrs. Frances Hardin of Sandy Springs, Ga., a classroom teacher for 27 years, has dedicated herself to quality education, and her good work was recently recognized in a local newspaper article.

I commend Mrs. Hardin for a job well done and ask unanimous consent that the article about her be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

SHE TRAVELS FOR BENEFIT OF OTHERS

(By Martha Sutton)

Being a school teacher is not all bad.

Dodging paper wads and saying "please be quiet" for the one-millionth time might not be everybody's cup of tea, but it does have definite advantages.

Like having summers off.

And for a great number of educators, the annual sabbatical means a chance to broaden their own education through travel.

Frances Hardin, a former social studies teacher at three Sandy Springs elementary schools and now a librarian at Northwestern Elementary, made the "wild-eyed" discovery in 1962 that learning geography out of a book and seeing it first hand are entirely different "animals."

That was when the Sandy Springs resident made a three-week bus tour through the Western United States. Now, she hasn't stopped traveling since.

"I thought I went to the end of the world," Mrs. Hardin exclaimed. "For the first time I realized the relationship between geography and occupations, between geography and how people live."

She came back with a new enthusiasm and firsthand knowledge which she imparted to her students.

Since that time her worldwide travels have evolved into a series of lectures illustrated by color slides.

Mrs. Hardin is in demand as a speaker by such groups as Kiwanis, Golden Age Clubs, garden clubs and summer camps. She is listed in the Metro Council of Speakers. Also a member of the Audubon Speakers Group, she served as naturalist this summer at an Audubon Colony at Cedar Mountain near Brevard, N.C.

She has made presentations at the University of Georgia and on WETV, the Atlanta-Fulton educational station.

And when traveling, Mrs. Hardin goes with a purpose.

"I'm so pleased to use my travels for educational purposes," she exclaims. "In fact, I wouldn't travel at all were it not for the opportunity to enrich others. I'm always in hope that someone will take what I have brought back, be inspired and enlarge on it."

Mrs. Hardin studies curriculum needs and tailors her photography while abroad to meet those needs.

"If the sun is shining, I take my own photographs. If it's not, then I by a photo." She uses whatever means available, including photographing from other texts, to complete the study of a country.

The garage and closets of her Sandy Springs home are filled with cassette boxes marked with the names of countries and with filing cabinets full of information. Her slides are numbered and recorded so that any one is instantly available.

For instance, a teacher might want her students to see the Olduvai Gorge, where scientist Mary Leaky discovered the remains of the oldest man. Mrs. Hardin can not only provide the slide, but firsthand knowledge from having been there.

Following her initial trip, which took her to the American West, the social studies teacher took a 56-day trip to Europe, sailing both ways.

She signed up for programs like "Meet the Irish" so that she might visit homes, talk to members of chambers of commerce and make contacts with community leaders.

Mrs. Hardin, who has taught social studies at Liberty Guinn, Guy Webb and James L. Riley elementary schools, made other trips to Scandinavia and to the Iron Curtain countries, Czechoslovakia, Hungary and Yugoslavia.

She has also been on excursions to the Middle East, the Orient, India, Nepal and Kashmir, the Caribbean Islands and Central America.

From the outset, she incorporated her travels into her teaching.

She has carried all her own food into the Himalayas, as Hillary did, and fished for salmon on the Alaska Peninsula at Brooks Fishing Camp, the northernmost point in Alaska. It was in this Eskimo Village where she stayed in a nine-room hotel run by the man who sent out the search party after Will Rogers and Wiley Post.

J. T. Hardin, husband of the world traveler "would not budge" as far as traveling was concerned during most of the 30 years the Hardins have been married. But he finally did manage to tear himself away from his work recently, long enough to make a trip with her to Hawaii.

Mrs. Hardin says he fell in love with the islands and she thinks persuading him to do more traveling will be easier from now on.

THE WORDS OF PEGGY WILLIAMS

HON. ROBERT S. WALKER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 12, 1977

Mr. WALKER. Mr. Speaker, I would like to share with you and my colleagues the words of a lady named Peggy Williams.

A recent article published in a newspaper in my district speaks of the many fine activities of a rare kind of individual. Peggy Williams is a victim of multiple sclerosis. Also, she has recently been named the "Outstanding Young Woman of 1977" by the Pennsylvania Jaycettes. The article fully outlines the vitality and zest for life that has led this handicapped person to work to ease the pain of many other human beings, similarly afflicted and fortunate enough to come in contact with her in the community of Lebanon, Pa.

Her work is a public service of the highest and most worthy caliber. As public servants ourselves, I believe we can all receive a great deal of inspiration from her words. While a victim herself she is fiercely working to conquer multiple sclerosis.

(By Peggy Williams as quoted by the Lebanon (Pa.) Daily News)

Try your best to ignore the stares and remarks of others. Instead, try to concentrate on your personal appearance. Self-consciousness depresses the spirit, so develop a good sense of humor, self confidence and a sense of independence.

Finally, draw on your spiritual resources for strength in time of need. Light a candle rather than curse the darkness and cherish everything that reinforces your determination to keep going.

I have to keep busy. I don't need time on my hands to think about my aches, pains and frustrations. So I keep busy and I pray.

I'm thrilled with my job. I'm doing something that suits me beautifully, helping others like myself and helping to find a cure for MS.

IDI AMIN

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 12, 1977

Mr. DORNAN. Mr. Speaker, on September 11, CBS' "60 Minutes" broadcast an interview with Henry Kyemba, former Cabinet official and personal secretary to Ugandan Dictator Idi Amin.

In May of this year, Mr. Kyemba narrowly escaped being the sixth appointed minister to be murdered by Amin.

Kyemba's description of Amin, of the brutal murder of Ugandan civilians—estimated to be between 150,000 and 300,000—of the religious genocide directed against Christian tribes and Moslems, and of the terror which grips and rules Uganda confirms the worst of press accounts.

Kyemba describes Amin as timid and fearful. This is not so surprising when one recalls that mankind has before been oppressed by such men whose strength lies in the terror they wield and whose power is bought from the palace guard and sycophantic advisers. Amin is no different. His death squad, the State Research Bureau, is recruited from southern Sudanese tribes and paid to do his bidding with new cars, rich food, wristwatches, and fancy clothes. This praetorian guard orchestrates midnight raids on homes and villages, mutilates and dismembers bodies throwing their remains to the crocodiles, and orders prison inmates to smash the skulls of fellow inmates with sledgehammers. Amin's taste for blood is literal, he often boasts of how on several occasions he has eaten human flesh. Suffering from fits of rage and anger he is consumed with paranoia and its recipients are family, friends, and the population at large. Finally, we have all come to learn that Amin, wounded from the embarrassment of the Israel raid on Entebbe, ordered the execution of the lone remaining hostage, the bedridden, 70-year-old Mrs. Dora Block.

In the face of all Amin's barbarism, mass carnage, and suppression of basic

human freedoms, the world stands idly by, and the United Nations remains conspicuously quiet. Black African nations struggling for world political and economic equality, shamefully sanction Amin with their silence or an occasional standing ovation for a modern two-bit Hitler—last OAU meeting. It is long overdue for the United States, for this Congress, to do more than condemn the Amin regime with words.

Although the United States severed diplomatic and economic relations with Uganda nearly 4 years ago, U.S. dollars continue to support its government. U.S. coffee imports alone provided one-third of Uganda's total export earnings. Even worse, the United States has experienced a 33-percent increase in Ugandan coffee imports for the first half of this year over the same period of time last year. There is also evidence that U.S. companies are providing Amin with airplane parts, communications equipment, and luxury goods like cigarettes and liquor. These luxury goods and the cash from export sales are what Amin uses to pay his mercenaries, to buy military equipment from the Soviet Union, and to enrich his own personal fortune.

If we can further put the "economic squeeze" on Uganda then we may well contribute to toppling his government of which gifts and payoffs are vital to its mainstay. I have cosponsored and wholeheartedly endorsed Congressman DON PEASE'S three-part legislative program of economic boycotts. One bill would prohibit the importation of Ugandan goods into the United States. A second would amend the Export Administration Act to stop U.S. exports to Uganda, and the third would amend the Tariff Act to establish a ban on Ugandan coffee imports into the United States.

I believe the American people would agree that a small increase in the price of coffee and an overall insignificant loss in export sales is more than worth the possible liberation of an oppressed people. More than that, though, this legislative packet represents a moral commitment by the Congress and the public to squash the fires of totalitarianism around the globe.

Mr. Speaker, I ask unanimous consent that the "60 Minutes" interview with Henry Kyemba be made part of the RECORD and I commend it to my colleagues' attention. Mr. Michael Wallace shows again in this incredible interview that he is without peer as an electronic journalist. For over a decade I engaged in this fascinating profession of television interviewing and I have never, repeat never, witnessed a more skilled artisan at work than Mike Wallace. He is truly the greatest. Read in horror what must have been his most shocking task ever as a prober for facts and truth.

[60 Minutes Interview]

KYEMBA AND AMIN

MIKE WALLACE. Fifteen high government officials or businessmen were executed two days ago in Uganda—convicted by a military tribunal of plotting against Uganda's President Idi Amin. Public executions are common in Uganda. Henry Kyemba, who was Amin's Minister of Health, told us these latest executions were just a continuation of the atrocities directed by the African dictator. He also told us that reports that Amin had been in a coma last week after an operation were just not true.

Kyemba had been Amin's personal private secretary before joining the cabinet. Living now in exile in Great Britain, after six years with Amin, he has written of his experiences in a chilling new book, to be published shortly in the United States. It is called *A State of Blood*. Kyemba left Uganda last May. We spoke to him recently in London.

Mr. Kyemba, how many killings do you believe have taken place?

HENRY KYEMBA: My estimate of the killings up to now is roughly a hundred and fifty thousand. Amin has killed everybody. Not only Christians, he has killed Moslems. He has killed the intelligentsia. He has killed the uneducated. He has killed women and children. He'll order to kill when he's having a cup of tea with you or having steak with you on a table.

WALLACE. You've heard him give those orders?

KYEMBA. I have heard him and I—I have known it to have been executed. He's ordered people to be killed with such phrases as, "Give him V.I.P. treatment."

WALLACE. The State Research Bureau, which is responsible for at least some of the killing. That's a mild and academic sounding euphemism for what is, in effect, the secret police, or his own private police force.

KYEMBA. Belonging to the State Research Bureau in Amin's government really means that you are licensed to kill without fear of being accountable for whatever action you've taken. They can kill in public, in full view of television cameras, anywhere, and nothing will be done about it. Most of the people in the State Research Bureau are not Ugandans. They are recruited by Amin from the southern Sudanese tribes.

WALLACE. If that is so, how are they paid? How much are they paid?

KYEMBA. Their wages are insignificant. They'll murder you. They'll murder anybody. [Gunshots] Loot his property. Take all the money from your account, as much as they want, and go back to the Sudan.

WALLACE. One hears that prisoners sometimes are given sledgehammers, and that they have to batter each other's heads in, sometimes in the sight of their own families, and then the last survivor is shot.

KYEMBA. My brother was killed in almost exactly the circumstances you described. He was taken to that headquarters of the Public Safety Unit when they are battering the victims as if they are killing chickens.

WALLACE. Mr. Kyemba, you stayed on with Amin from the very beginning, right through almost six years, until just last May. You knew about the atrocities. Why did you stay?

KYEMBA. I knew that, given my personal relationship with Amin, I might be able to restrain the excesses of his regime.

WALLACE. Yes. But you also got a—an anonymous letter which, my understanding is, said, "You're next!"

KYEMBA. That's true. It certainly was the catalyst, but I had already made my decision to leave.

WALLACE. Amin has said that you channeled government funds into what he called "a very fat bank account abroad". And one of his aides says that if Kyemba did return to Uganda, he would have a lot of charges to answer. You know that?

KYEMBA. I've heard about it. It doesn't surprise me. Amin knows very well when he says this sort of thing that there is no truth in what he says—because he would be the first person to send you a copy of the evidence he has got. And I wish you had any—the slightest evidence of what he has said. I don't have to answer that.

WALLACE. Do you fear for your life even though you are out of Uganda?

KYEMBA. Amin is stupid enough to try and channel some of the millions of dollars he keeps to some people to try and harm me. He sent his intelligence chap to London to find out where I was living, and he was stopped at London airport. He possibly will try through some other channels, but I'm taking care of myself.

WALLACE. You write that Amin, literally, has a taste for blood. What do you mean?

KYEMBA. I mean literally. He has admitted to me that he has tasted human meat, not once, not twice, and I believe it. He has described it in the presence of other people how he has tasted human meat, and how it tastes salty compared to some other meats and more salty compared to others.

WALLACE. Well, why would he want to brag about cannibalistic tendencies, if you will?

KYEMBA. I wouldn't call it mere bragging. It is something that he feels that has got to bo known by those around him.

WALLACE. Is he himself a courageous man?

KYEMBA. Surprisingly not. Amin is very timid. He hides his cowardice into this fury where he orders the killing. But when fighting starts, Amin is the first to flee.

WALLACE. You have talked very soberly, Mr. Kyemba, and you have said that you will not say anything that you do not know to be true. What you are telling us now about Amin's cowardice you know to be a fact or you believe?

KYEMBA. I know this to be a fact. In 1969, when there was an attempt on Obote's life, when Amin's own soldiers ran to his house to tell him that the President then had been—an attempt had been made on his life, before he had stood to see what was happening, he was over the barbed-wire fence tearing his feet and fleeing 20 miles away into hiding. He had to be persuaded to come back later for the hospital to dress his wounds. These wounds I saw. When the fighting started at Entebbe during the Israeli raid, one of Amin's own close relatives telephoned us to say Amin had gone into hiding. This is the Field Marshal who masquerades as the most powerful and courageous man in the world.

WALLACE. We've heard so much about Entebbe and Amin's humiliation that the Israelis were able to fly in and take out the hostages under his very nose. What actually happened to Dora Block, the woman in her seventies, who was in the hospital after the rest of the hostages had been flown back to Israel?

KYEMBA. They snatched her from the hospital bed, leaving her handbag, her stick and her dress behind. They took her in the hospital gown, forced—ran her downstairs to the waiting cars, in full view of people in the casualty department. Everybody was running to this—out of the wards to see what the old woman was—what was being done to the old woman.

WALLACE. She must have been protesting?

KYEMBA. She was protesting. Nobody could raise a finger because they would turn their guns on the people who—who were coming in to assist. They've seen this sort of thing time and again. It was not the first time it had been done.

WALLACE. And so she was simply spirited away, murdered?

KYEMBA. She was spirited away, and within a short while everybody knew she would be a dead woman.

WALLACE. When you learned about this, what did you say to Amin? What did Amin say to you?

KYEMBA. I telephoned Amin within minutes of my being informed that the State Research boys had been to pick up this old lady. And he just said: "Oh, is that so? I will check." I knew he knew fully well what mission he had sent these people to do. Those people could not have gone into my hospital to pick out a 75-year-old woman and murder her without Amin knowing it.

WALLACE. Amin had been such a friend of Israel, and then five years ago—[snaps fin-

ger] almost like that—turned his back on Israel, ordered all Israelis out within three days, and developed this relationship with Muammar Qaddafi, the leader of Libya. What is that all about?

KYEMBA. Amin is a mercenary.

WALLACE. A mercenary?

KYEMBA. He—A mercenary. He will sell himself to the highest bidder at the first opportunity. Israel was not in a position to pay for his armaments. Libya was.

WALLACE. Do you have any idea how much money he has amassed?

KYEMBA. Millions of dollars.

WALLACE. And where does this money come from, Mr. Kyemba?

KYEMBA. Uganda produces a lot of coffee.

WALLACE. Yes.

KYEMBA. A lot of cotton. A lot—most of the coffee is bought by the United States of America. Amin's planes are serviced in the United States. He has got Boeings, C–130's, Gulfstreams, all maintained and serviced in the United States, with American crews. It is, certainly, ironical to find that the United States, a country with such a standard of human rights, should maintain one of the greatest tyrants in Africa today, while at the same time it is attacking the Soviet Union on human rights, and attacking Rhodesia on mistreatment of the black man.

WALLACE. What you seem to be saying is that the American policy towards Uganda is somewhat hypocritical?

KYEMBA. Absolutely. It is—It is hip—hypocritical in the sense that action is lacking on behalf of the Administration. We've had very nice words from President Carter and from Andy Young. They've said they hated Hitler, there is no reason why Amin should be loved. That is absolutely fine, but we still wait to see what action the United States is doing in this regard.

WALLACE. Should we expect Idi Amin to show up at the General Assembly meeting of the United Nations this year?

KYEMBA: Amin will try to put in an appearance—attend a meeting where he could possibly bring the meeting into disrepute. The United Nations has been absolutely inactive as far as Amin's atrocities are concerned.

WALLACE. Why?

KYEMBA. Well, Amin has been able to play for time, and the United Nations has been too preoccupied with the killings going on in Rhodesia and South Africa, and has completely forgotten the killings going on in black Africa.

WALLACE. You mean that Idi Amin is worse, if you will, than Ian Smith of Rhodesia and John Vorster of South Africa?

KYEMBA. How many people has John Vorster and Ian Smith killed? Or both of them put together? Amin has murdered no less than five of his own appointed ministers. Amin regards the entire country of Uganda as his own household, as his own bank. And any money that comes into the land—country is regarded as Amin's own money.

WALLACE. What does he do with all of this money?

KYEMBA. Well, Amin believes that, for his own security, for his future, he must carry millions of dollars with him and keep it readily available.

WALLACE. Now, wait—millions?

KYEMBA. Millions of dollars available for his use. We've heard him call out in the cabinet room to an official to get ready five or six million dollars, ready before he leaves for the United States when he went to address the United Nations Assembly. He told us in the cabinet that he needed this money because he was—he had some special mission to pay off certain people in the United States. He called it out—with all of us watching him, and we couldn't believe our ears that he's talking about five million dollars as if it is five, ten dollars—

WALLACE. Do you have any idea who he was going to pay off in the United States, or was the—just payment for services rendered, or for an airplane, or—?

KYEMBA. Well, Amin has got many contacts in the United States, and I believe this is where the money's spent.

WALLACE. On a broadcast recently, I saw a group of black journalists who had just returned from Uganda. And during the time that they were there, there was even an interview with Amin. And what they said, in effect, that life in Kampala, life in Entebbe, was calm. There was no terror. They seemed to give the lie to everything that we have heard, and certainly everything that you have said.

KYEMBA. Amin was under heavy pressure by the world press, and an attempt was made to improve his tarnished image. The 11-million Ugandans cannot accept that, by the black American journalists enjoying a free ride to Kampala and the hospitality of the Ugandan people on the blood of their brothers and sisters, and running back to the United States to tell the world, on the programs you referred to, does any—any good to the black race just because Amin happens to be black.

WALLACE. The fact is that Idi Amin has waged an expensive campaign to win the hearts and minds of black American journalists. He has flown numerous black reporters, all expenses paid, to Uganda, and apparently he has persuaded some of them. Assorted black-owned newspapers and radio stations have published considerable pro-Amin material. For just one example, New York's Amsterdam News. Their reporter, Carlos Russell, writes: "I did not feel the sense of oppression or terror which has characterized the negative diatribe prevalent in the Western press." And he went on: "President Amin possesses the street sense and strength of Malcolm X, the flamboyancy of Adam Clayton Powell, the fervor of Dr. Martin Luther King." There has been similar favorable coverage in The Bilalian News, distributed nationwide by the World Community of Islam in the West, formerly known as the Black Muslims.

Though each of the major U.S. black groups has come down hard against the regimes of Ian Smith of Rhodesia and John Vorster of South Africa, not one has taken an official position on Idi Amin's government. The NAACP, the SCLC, the Urban League, even the Congressional Black Caucus plead insufficient firsthand knowledge of conditions in Uganda to warrant their coming out against him. Certain black leaders, as individuals, notably Vernon Jordan, Roy Wilkins and Bayard Rustin, have come down hard on Idi Amin. But it is a fact, as Henry Kyemba told us, that there are those in America's black media and black leadership who have, so far, seen fit either to praise him, or to remain silent.

STATEMENT OF THE HONORABLE PAUL G. ROGERS

HON. PAUL G. ROGERS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 12, 1977

Mr. ROGERS. Mr. Speaker, on August 5, 1977, I introduced H.R. 8891, the Drug Safety Amendments of 1977, legislation which would significantly revise the existing treatment of drugs under the Federal Food, Drug, and Cosmetic Act. Today, I am joined by six other members of the Subcommittee on Health and the Environment, Mr. SCHEUER, Mr. WAXMAN, Mr. MAGUIRE, Mr. MARKEY, Mr. OTTINGER, and Mr. WALGREN in reintroducing this legislation.

This measure will not only assure that drugs on the market are safe, but also will provide the individual with valuable information on specific prescription drugs in the form of patient package inserts, will provide the public with far greater information as to the reasons for the approval of specific drugs, and will assist the Food and Drug Administration in speeding the approval of important new drugs. The subcommittee expects to schedule hearings on this proposal in the near future.

ON U.S. INVOLVEMENT IN THE ULSTER ISSUE

HON. BRUCE F. CAPUTO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 12, 1977

Mr. CAPUTO. Mr. Speaker, at present the Carter administration is contemplating the possibility of U.S. involvement in the conflict currently taking place in Northern Ireland. Past experiences of American involvement abroad have taught us that before any successful action can be taken, we must have a clear understanding of the nature of the specific circumstances of the individual conflict in question. Vietnam was a clear example of the disasterous effect an intervention policy can have on a situation if we fail to understand fully the situation involved.

In an effort to prevent the repetition of this mistake, I would like to enter into today's RECORD a copy of a letter which appeared in the Letters to the Editor section of the September 7 New York Times.

Mr. Paul Towers' letter, dated August 30, 1977, is a fine example of the insight necessary on the formulation of any policy of foreign involvement. I would highly recommend to the administration that a great deal of study precede the formulation of any policy of involvement in Northern Ireland.

The article follows:

ON U.S. INVOLVEMENT IN THE ULSTER ISSUE

To the Editor:

Media reports of discussions within the Carter Administration and between it and the British and Irish Governments reveal that the United States may become involved in Northern Ireland. The critical question is how should Washington become involved. It would be counterproductive for American values and interests for the United States to provide economic aid to Northern Ireland or to encourage American investments there. The area is in conflict for political, not sectarian or economic reasons. These political reasons should be addressed first.

The Irish dimension of Northern Ireland should be recognized again by Britain as it did at the Sunningdale conference in late 1973. Even more important, the United Kingdom should be encouraged to declare its intent ultimately to withdraw from Northern Ireland with a view to facilitating Irish reunification. The largest party in Ireland, Fianna Fail, now governing in the Irish Republic, has periodically called for such a

British declaration. The risk of a civil war during a transitional period has been exaggerated. The long-settled unionists (Crown adherents) of Northern Ireland are entitled to a respected place in an all-Ireland state. Recent secular changes in the Irish Constitution and the growth of pluralist attitudes throughout Ireland suggest that a climate of toleration and mutual respect under the rule of law can be obtained in a united Ireland.

The Ulster problem is international and should be perceived as such. The creation of Northern Ireland in 1920 was an act of a paritially disengaging Britain that produced a majority community of unionists—who previously were a part of the unionist minority in Ireland. One-fortieth of the British electorate, the unionists of Northern Ireland, are not perceived as British by the Westminster regime. Indicative of the non-British nature of Northern Ireland, special legal, political and economic arrangements obtain in the center's direct rule of the periphery. Good-will central efforts have been made to narrow the community relations gap in Northern Ireland and to reform administrative performance and social practices. Yet violence and polarization persist, and the periphery of 1.5 million persons is guarded by 32,000 military forces, draining British resources without contributing to a long-term solution. Symptoms have been treated. Systemic issues have been neglected.

Supporting decolonization in Southern Africa and seeking a long-term settlement in the Arab-Israeli dispute, the United States is entitled and obligated to try to shape decisions in the Anglo-Irish context which look toward peaceful change consistent with the history of decolonization in many parts of the world. Economic aid for Northern Ireland will serve only to advance economic differences throughout Ireland and to strengthen forces in both communities of the area who for different reasons wish to perpetuate division and confrontation.

There is no overriding reason why Anglo-American relations should suffer if the United States were to raise basic political questions inherent in the Ulster issue with the oldest parliamentary democracy. Britain has led the way elsewhere in accepting nonviolent changes in vexing territorial situations inherited from the past. The United States has a voice, if it will use it.

PAUL F. POWER.

PITTSBURGH CHAMBER OPPOSES WATERWAY USER TAX

HON. JOSEPH M. GAYDOS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 12, 1977

Mr. GAYDOS. Mr. Speaker, in the near future, it is expected this House will consider legislation that will have serious implications for users of the Nation's inland waterways system.

I would like, therefore, to insert into the RECORD for the attention of my colleagues a copy of the official position on this issue as taken by the Greater Pittsburgh Chamber of Commerce. It is the contention of the chamber a waterway user tax could have grave economic impact on western Pennsylvania, an observation with which I wholeheartedly agree.

The material follows:

WATERWAY USER TAX

The Greater Pittsburgh Chamber of Commerce supports a balanced national transportation policy which includes adequate Federal support for inland waterways. A waterway user tax could have grave economic impact on Western Pennsylvania and should be fully studied before being imposed in any form.

I. THE ISSUE

Senator Domenici (R., N.M.), has introduced S. 790 which would provide for the replacement construction of Locks and Dam 26 and establish an inland waterways users fee. Opponents' pressures have delayed the badly needed construction of the Locks and Dam resulting in a court order requiring a congressional mandate for any construction projects. This court order in turn has halted major reconstruction on the badly deteriorated locks and dams in the Pittsburgh area—especially Locks and Dam 3 on the Monongahela which is 70 years old. The bill (S. 790) has been ordered reported to the senate floor by two committees to which it was jointly referred. There are now two versions of the waterway user charge issue for senate consideration. The full Committee on Environment and Public Works has reported a version which calls for the immediate authorization of Locks and Dam 26 plus a user charge to recover 100% of all waterways operation and maintenance phased in over five years.

The second version of this bill has been reported by the Senate Committee on Commerce, Science and Transportation with an amendment by Senator Russell Long which deletes a waterway user charge stipulation and requires that a $5 million study of the impact of user charges be completed by January 1979.

II. THE CHAMBER'S VIEW

The Greater Pittsburgh Chamber of Commerce supports a balanced national transportation policy and believes that this must include adequate federal support for inland waterways.

While all modes are needed and used in industry, the tri-state waterways are vital to the economic life of the area. The Monongahela River carries more tonnage per mile than the famous European rivers—Rhur, Rhine or Thames. About 80% of America's coal is mined in the states on either side of the Ohio River. Because our rivers provide efficient transportation between the coal mines and the coal consumers, our local steel mills pay about 15% less for their coal allowing them that thin competitive edge with foreign producers. Local power stations also benefit.

The rivers provide the only practical means of transporting the massive amounts of coal consumed by the steel industry and in fact are the only way many local mines can ship their coal to their customers.

The steel consuming regions of the south and the southwest are prime targets for overseas steel mills. Unless the Pittsburgh area mills can ship their steel down the river by barge load, it will be as much as $20 a ton more difficult to compete with foreign producers. Therefore, an inland waterways tax would put local industry at a serious competitive disadvantage and affect other industries in the Pittsburgh area as well.

Not only is river transportation providing the most energy efficient mode, but it also causes less air and noise pollution as well as having the best safety record.

Any of the several Waterway Tax proposals, whether they advocate a ton mile tax, lockage fee or fuel tax will be a severe blow to Western Pennsylvania industry and crippling to the State's economy. Since Pittsburgh is 470 miles further from the Gulf ports than our Chicago competitiors, and some 800 miles further than the St. Louis industrial area, any user charge will tend to shift future industrial expansion from the Pittsburgh district to these areas. Likewise, a similar effect will result if the curtailment of waterway traffic caused by system deterioration is allowed to continue.

The Chamber therefore urges adequate federal support of the inland waterways be made available but cautions against the establishment of any waterway user charge/tax until such regional economic impacts have been thoroughly assessed as proposed by the Senate Committee on Commerce, Science and Technology.

III. THE OTHER SIDE

Proponents of the Waterway Users Tax argue that waterways should be self-supporting with regard to costs of operation and maintenance, amortization of capital investment and interest on unamortized investment. They claim the tax will help to eliminate the economic distortions which result from varying degrees of governmental support in the transportation industry. Failure to apply user charges equitably to all modes of transportation impedes competition and prevents rational economic growth in transportation.

IV. RECOMMENDED ACTION

(A) The Chamber Board of Directors should approve and endorse the above stated policy.

(B) At the appropriate times, letters in support of position should be sent by designated members of The Chamber to the appropriate public officials.

(C) Chamber members well versed in this issue should be prepared to give public testimony supporting The Chamber's views.

A PROTESTANT CLERGYMAN VIEWS ABORTION

HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 12, 1977

Mr. HYDE. Mr. Speaker, on August 16, 1977, the Washington Post printed an interesting article by Wesley Seminary Dean, J. Philip Wogaman, entitled "Abortion as a Theological Issue."

An excellent response to this article was written by Dr. Harold O. J. Brown of the Trinity Evangelical Divinity School, Deerfield, Ill. Dr. Brown is a leading Protestant clergyman and author, and since the Post declined to published his article, I thought it might be useful to share it with my colleagues.

ABORTION A QUESTION OF FORMALISTIC TRIVIALITY?

(Harold O. J. Brown)

From the perspective of those of us deeply committed to the right of the developing child to life, one of the most frustrating features of the pro-abortionist party is its apparent determination to turn what for us is an inescapably burning question of life and death, of the dignity and ultimate meaning of human life, into a series of legal or formalistic issues. The recent column by Wesley Seminary dean J. Philip Wogamon, "Abortion as a Theological Issue" (The Post, August 16) furnishes a good example. Dean Wogaman's essay is part of a serious effort being made by a small, distinguished group of ethical scholars to counteract what seems to be a growing swell of anti-abortion sentiment in the Congress, the courts, and among the general populace. (Lest it be thought

that this represents the overly-optimistic assessment of an anti-abortionist, let it be noted that Wogaman, together with my former teacher James Luther Adams and several other similarly-famed ethicists, have expressly cited this swell as the reason for the recent publication of their "Call to Concern" in opposition to the Hyde Amendment banning the use of federal funds for elective abortion.)

Anti-abortionists have frequently found fault with the major news media for what we see as tendentious reporting—for example, the frequently-made statement that *Roe* v. *Wade*, the major 1973 Supreme Court pro-abortion decision, permits abortions "early in pregnancy." So it does. But it also permits them late in pregnancy, indeed right to live birth, provided only that a physician may be found to state that continuing the pregnancy would endanger the woman's physical, mental, or emotional health. Since no journalist can be a specialist in every area he has to cover, and given the exigencies of a daily newspaper or even weekly newsmagazine, such lapses will never be totally avoidable and may generally reflect only pressure of times not prejudice or the wish to mislead. When a prominent ethicist does the same thing, particularly when he offers the evidence refuting his own position in the very essay in which he pleads it, one is forced to ask just what it is about easy access to government-funded abortions that is so precious that scholars lose their wits over it.

Henry Hyde, Republican from Illinois and author of the controversial Hyde Amendment, has stated—quite correctly—that "medical science tells us the unborn is human life." Since Dean Wogaman cannot gainsay this, he first reduces its significance by a false concession: "If all he means by this is that the fetus is physically human in the sense that any part of a human being is fully human, then there is no argument."

But of course Congressman Hyde and the pro-lifers—in keeping with medical and biological science generally—mean more. They mean that the developing fetus is not merely "human," but "a human," a particular, individual human life with unique characteristics that will never be duplicated. By saying this, we have not yet met Dean Wogaman's basic contention, namely that we should be concerned not with merely being biologically a human, but with being a human person, defined in a particular way. But it is interesting that Dean Wogaman, even in arguing against Hyde, does not state the Congressman's case with complete accuracy. This suggests what both pro- and anti-abortionists all know, i.e. that it is much harder to make a convincing presentation of the pro-abortion case against a background of medical, biological fact than it is if one can move the argument over to areas of formal philosophical, legal, and even theological concern. Thus Dean Wogaman—contrary to Congressman Hyde—wants to make the argument a theological-philosophical one. Curiously, the only reason that Wogaman can adduce for making a theological argument out of what Hyde calls a medical-biological one is a philosophically and theologically based definition of what a person is: it involves the capacity for awareness and even God's relating to us. Wogaman is in effect giving us a theological reason for discounting what Hyde presents as a biological argument—a curious twist, inasmuch as Wogaman, at least by implication, claims to be a defender of the separation of church and state.

But it is not only here that Dean Wogaman, together with a number of other scholars, seems—if we may put it thus without offense—to have lost his wits. He offers "scientific evidence" to help us locate the dawning of personal awareness "possibly somewhere around the fifth month . . . hardly right after conception nor during the first two or three months," when, he reassures us, "most abortion occur." Later he argues against concern for the potentialities of a fetus "prior to the dawning of its awareness and personhood." But strangely he then goes on to argue for the total decriminalization of abortion (actually accomplished in *Roe* v. *Wade*), even though that means permission to abort long after the fetus, by Wogaman's own criteria, has become a human person.

This evident inconsistency—calling it a person but permitting it to be killed—is not a mere lapse, for Dean Wogaman made the same contention in a 1975 pamphlet produced for the Religious Coalition for Abortion Rights, reprinted in the Human Life Review, with which I was associated at the time. He is in effect so afraid that we right-to-lifers might mistakenly protect something that is not yet fully human on his own terms that he is willing to allow unchecked destruction of fetuses that he explicitly admits having attained personal awareness.

As a final touch, Wogaman and the cosigners of his "Call for Concern" appeal to Congress and the President not to adopt laws—such as the Hyde Amendment—that might imply that the judgment of several named "thoughtful religious groups," including Dean Wogaman's own, is somehow immoral. Has no "thoughtful religious group" ever misjudged the morality of anything?

The same argument could have been used against integration, since many thoughtful religious groups held—and some still do—that racial segregation is quite moral. Banning it certainly implied that those groups were somehow immoral. Surely the question is not what might cast aspersions on what more or less numerous, more or less thoughtful religious groups may think, but what is right. If the unborn child deserves protections according to Dean Wogaman's own criteria, then at the very least Hyde should apply from the sixth month of pregnancy onward, and not merely Hyde, but a total prohibition of late abortion. If the unborn child is from conception not merely "potentiality of life," as the United States Supreme Court erroneously called it, but "human life in the process of development," which every biologist and medical scientist knows it to be, then the question of the obligation to protect it and the limits within which such protection can be granted certainly takes precedence over the possible danger of somehow implying immoral judgments to thoughtful religious groups. If Dean Wogaman's argument is an example of their thoughtfulness, it would not suffice to implicate them in immorality, but it certainly would bring them under urgent suspicion of extreme mental fuzziness.

HEARING BY THE SUBCOMMITTEE ON CRIME REGARDING DISCONTINUATION OF THE NATIONAL CRIME SURVEY

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 12, 1977

Mr. CONYERS. Mr. Speaker, the Subcommittee on Crime, which I chair, of the Committee on the Judiciary will hold a hearing on Thursday, October 13, 1977, to examine the announced intention of the Acting Administrator of the Law Enforcement Assistance Administration to discontinue the National Crime Survey.

The National Crime Survey, popularly known as the victimization survey, is conducted by the Bureau of the Census under contract with LEAA. The National Crime Survey represents a survey of over 60,000 households and 50,000 business establishments each year, designed to generate accurate statistics on the nature and incidence of serious crime in this country. The crimes that are surveyed include rape, personal and commercial robbery, assault, personal and household larceny, motor vehicle theft, and burglary of a household or business establishment.

This victimization survey differs dramatically from the FBI's Uniform Crime Reports in that data is also obtained from victims who fail to report the incident to the police, the survey is not subject to reporting differences among the police agencies that comprise the UCR, and the National Crime Survey enables us to collect a great deal of information about the victim, his or her offender, and the nature of the crime.

The hearing on October 13, 1977, will commence at 1 p.m., in room 2141 of the Rayburn House Office Building.

Those wishing to testify or to submit a statement for the record should address their requests to the House Committee on the Judiciary, 2137 Rayburn House Office Building, Washington, D.C. 20515.

EDUCATIONAL EQUITY FOR VIETNAM VETERANS

HON. MARGARET M. HECKLER

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 12, 1977

Mrs. HECKLER. Mr. Speaker, yesterday we shared the benefit of remarks by Dr. John R. Silber regarding the need to equalize educational opportunity for Vietnam-era veterans under the GI bill. Dr. Silber, many Members of Congress and veterans themselves believe that the best way to accomplish this goal is to provide supplemental tuition assistance for veterans who live and study in regions of the country where the cost of living and learning is higher than in others.

Yesterday, Dr. Silber demonstrated that the current flat-payment system of educational assistance allowances is inadequate for such veterans. By paying a veteran according to the number of dependents rather than according to the cost of living and of obtaining an education, we shortchange the Vietnam veteran.

We know that the higher the cost of living and of obtaining an education, the lower the participation rate in the GI bill by veterans. Thus, the flat-rate payment system creates inequity.

Today, Dr. Silber, who is president of Boston University and chairman of the legislation committee of the American Association of Independent Colleges and Universities, argues for a return to the World War II system of payments. Under this plan, the differences in tuition costs around the country are recognized and veterans may obtain additional edu-

cational assistance allowances when necessary and to compensate for this fact.

The information follows:

PART II

I would like to suggest the establishment of a separate entitlement for tuition expenses, treating these as distinct from living expenses. Ideally, this entitlement should be in the form of a voucher redeemable in an amount equal to the actual tuition charged by an accredited school chosen by a particular veteran. As budgetary restraints dictate, legislation should incorporate a ceiling, a self-help requirement, or a percentage formula. I would point out, however, that if such qualifications are too severe they vitiate the principle of tuition equalization.

The Congress has in the past been rightly concerned whether a tuition entitlement would lead to abusive tuition increases by educational institutions. To prevent such increases, legislation should prohibit any special tuition rate for veterans. Although with such a prohibition, market forces would probably be sufficient to prevent excessive tuition charges, assurance could be made doubly sure by calculating the benefit amount on the base of 1977–78 tuition fees, to be indexed in succeeding years to the Cumulative Price Index.

Living expense payments should consist of a basic entitlement, adjusted upward according to the number of dependents a veteran has and according to the cost of living index for the metropolitan area in which his school is located.

Much of the recent opposition to the reestablishment of a tuition entitlement has been based on a fear of a recurrence in abuses alleged to have occurred under the World War II G.I. Bill. Government policy should not tolerate such abuses. The government ought to revoke the eligibility of institutions guilty of repeated negligence, and prosecute individuals and institutions guilty of fraud. I believe that such a policy of prosecution, strictly and fairly enforced, would win the support and applause of higher education in the United States. No bill ever written was safe from abuse; it is the clear responsibility of the executive branch—in this case, the Veterans' Administration—to formulate rational administrative procedures to limit abuse and to repair to the courts when these fail. With a good good will, the control of abuses is not an insoluble problem, and I am sure that the VA recognizes its obligation to solve such problems as arise in the interest of the veteran. Given the serious inequities that exist in the absence of tuition equalization, the VA should not oppose a Congressional problem purely in the interests of making its own job easier.

It must be recognized that any effective tuition equalization program will constitute an increased cost to the federal taxpayer. I believe that the Vietnam veteran—who constitutes at least 90 percent of all veterans now entitled to benefits—is deserving of increased help from the taxpayer. The benefits under the G.I. Bill have long been justified as programs to aid veterans as they re-enter civilian life. No veterans in the history of our arms have faced so traumatic a re-entry as the Vietnam veterans. While others were exempted from the draft—or evaded it—the Vietnam veteran was sent into a war from which he did not return as a conquering hero. He now faces an employment rate higher than the national average: the rate for all Americans stands at 7.1 percent, but for Vietnam veterans it is at 7.8 percent. And among the youngest of these—those between 20 and 24—it is at the devastating rate of 17.4 percent compared to an overall figure of 11.3 percent. Countless studies have demonstrated that those without college degrees are very vulnerable to unemployment. The most recent of these, published by the Conference Board last April, showed that the unemployment rate among those who have completed college is less than one-third the rate of those who have not.

It is sometimes argued that other federal aid programs—such as the SEOG and BEOG grants—are available to allow veterans to attend the college of their choice. For veterans who are eligible for these programs, such funding is an appropriate mechanism for choice. That is why I have suggested that SEOG and BEOG grants be subtracted from the entitlement. But the various loan programs and the College Work Study program are not grants. To require veterans to make use of these programs is to reject the whole concept of special assistance for veterans. As long as we believe that veterans through their service earn an entitlement, tuition equalization programs are the most effective way of ensuring a reasonable amount of choice.

Education in the United States has historically served as a gateway to equal opportunity. In 1862, a far-sighted Congress passed the Morrill Act, which established a base for our superb sector of state-supported higher education. In 1944, an equally far-sighted Congress passed the first G.I. Bill, which opened higher education to millions of Americans who would otherwise have been very unlikely to get it. I should remark in passing that the Congress did not establish a vast system of federal universities in which to educate veterans: rather, it passed legislation to use the existing capacity, then still primarily in the independent sector. The present Congress, by establishing programs that will extend to our veterans not only access but choice, has the opportunity to pass landmark legislation in the tradition of its predecessors.

CARTER ENERGY PLAN IS A TAX BILL—NOT AN ENERGY BILL

HON. JOHN J. RHODES

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 12, 1977

Mr. RHODES. Mr. Speaker, there has been much debate over the President's proposed energy legislation. The October 10, 1977, issue of Time magazine contained a very illuminating essay about the energy crisis. I would like to share with you a letter I wrote to the editor of Time, as well as the text of the essay:

OCTOBER 11, 1977.

THE EDITOR,
Time Magazine, Time and Life Building, Rockefeller Center, New York City, N.Y.

EDITOR: Though the "bottle" was not labeled as such, your essay entitled "Yes, There Is An Energy Crisis" expressed vintage Republican concern over the direction in which President Carter is pointing our national energy policy.

Your criticisms of the President's energy plan are the same as those expressed by Republican Members of the House when he introduced his legislative package.

His reliance on taxes to discourage consumption of oil and natural gas totally ignores the need to provide incentives for private industry to develop better means of utilizing domestic fossil fuel sources and to explore the potential in such new fields as nuclear, geothermal and solar energy.

In short, Mr. Carter's proposed energy plan is a tax bill, not an energy bill.

I hope Time's readers take note of your comments as the debate over the Carter energy program heats up in the weeks ahead. Given the President's approach, we may need to find a way to utilize that "heat" to help us keep warm this winter.

Yours sincerely,

JOHN J. RHODES, M.C.,
Minority Leader.

YES, THERE IS AN ENERGY CRISIS

Six months have passed since President Carter unwrapped his national energy plan, and the energy crisis has become a confusion crisis. Indeed, three Presidents, including Carter, have produced three separate energy programs, yet the nation remains as perplexed as ever by the fundamental question: Is there really an energy shortage? More precisely, since no one contends that coal and uranium supplies are running out, is there a shortage of oil and gas?

At one extreme, analysis like M.I.T. Professor of Technology Carroll Wilson argue that, given the wrong set of bad-luck breaks (for instance, a Saudi decision to hold back production), world oil supply could run short of meeting needs in as little as ten years. That agrees with Carter's warning last April that demand could begin to exhaust "all the proven reserves in the entire world by the end of the next decade."

At the other extreme, the United Nations Institute for Training and Research contends that there is enough oil and gas in the world to last 100 years or more—provided that industrial nations are willing to pay the price of developing it. Former Defense Secretary Melvin Laird says that there is no energy shortage, only a production shortage brought about by unwise Government policy. Says Economist Morris A. Adelman, an M.I.T. colleague of Wilson's: "The gap is like the horizon, always receding as you walk, ride, or fly toward it."

Getting the experts to describe the "crisis" often seems like asking them to analyze a Rorschach ink blot: each responds in terms of his own specialty. Most economists feel that the problem is not one of supply but of price—the cost of getting oil and gas to market. Specialists in international finance say that price as such is less important than the fact that consuming countries cannot keep handing over more and more money to the OPEC cartel members without imperiling global financial stability. By year's end the import bill for the U.S. alone will total $45 billion. Meanwhile, national security analysts say the real problem is what will happen if the U.S. continues importing half its oil, and producing nations decide one day to turn off the tap. The CIA finds the ultimate X factor to be the Soviet Union. In an analysis that Carter drew on heavily in shaping his national energy plan, the CIA predicted that the U.S.S.R. some time in the mid-1980s would switch from being an oil exporter to to a major importer, swallowing enough OPEC supplies to spread shortages throughout the West.

Making confusion worse, the experts nearly all use the same numbers—but confess that those numbers are far from fully reliable. Obviously, a key figure is the size of the world's pumpable oil reserves. Yet the most widely quoted data on global proven reserves come from trade journals, notably the Tulsa-based *Oil and Gas Journal*. The magazines get their figures from a hodgepodge of sources, particularly the governments of producing countries and the oil companies that operate there. Sometimes the sources give out widely divergent numbers, and an embarrassing amount of guesstimating goes on. On balance, the numbers show a gentle decline in proven reserves over the past five years, but no one knows for sure if that is really what is happening. Says Oil Economist John Lichtblau: "I find it a little frightening that world oil policy is made on the basis of the figures these magazines put out. The numbers are speculative, especially for

countries in the Middle East and Africa, yet everyone uses them."

The slippery statistics impress the public far less than do the headlines that new production from Alaska, Mexico and the North Sea has created an oil glut, forcing Saudi Arabia and Kuwait to make small discounts in prices (TIME, Sept. 26). Small wonder that a recent New York *Times*/CBS poll showed that 57 percent of those questioned thought the energy situation less serious than the Administration says.

That is a bad misjudgment. The situation is indeed serious, but not in quite the way that the Administration believes. The Carter program seems to assume that there is little margin to increase oil and gas production, especially in the U.S.—but if that is the assumption, it is wrong. If there are painful oil and gas shortages in the future—and there may well be—it will not be because the fuels are not there to be found. A shortage might strike because producers have not developed ways of bringing potential supplies to consumers at an affordable price. The Government is not giving them enough incentive to do so.

It may be, as Secretary of Energy James Schlesinger says, that there are no more than 120 billion bbl. of potentially recoverable crude in the U.S. at present prices—roughly an 18-year supply at current consumption rates. And though drilling activity has accelerated dramatically around the world since the quintupling of OPEC prices that began in 1973, new finds have been disappointing. But many promising sites have yet to be drilled—the outer continental shelf off the U.S. coast, for example, or much of the northern Norwegian coast. Oil geologists generally think there are no Saudi-size deposits waiting to be discovered, but there might be a few more North Slopes and North Seas.

Besides that, oceans of unpumped oil are known to exist in the U.S. Only about a third of the oil in a well is ever brought to the surface by present methods—primarily, letting it gush out under its own pressure. The remaining two-thirds is usually written off as "unrecoverable." Sophisticated secondary and tertiary recovery methods exist to get that oil out: injecting high-pressure steam or liquid chemical solvents to dissolve the crude from tiny fissures in the rock. Some drilling experts calculate that the recovery rate could be increased to 60 percent which would almost double U.S. recoverable reserves. The market price would be high—$14 to $20 per bbl.—but it might be reduced by technological breakthroughs.

The U.S. also has by present estimates more than 1.8 trillion bbl. of oil locked in shale in the Rocky Mountain states—about 15 times the nation's estimated potential reserves from conventional sources. Burning the oil out of the shale—the most promising method—would require a market price of perhaps as much as $25 per bbl. to make it profitable. Yet even at the present average U.S. price of $11.50 per bbl. for newly discovered domestic oil, Ashland Oil and Occidental Petroleum last month were given federal approval to begin development of a joint shale-oil project in western Colorado.

Perhaps another 2 trillion bbl. of oil is thought to lie in the great deposits of goo known as tar sands, much of which are in Canada. At present world prices, they are on the verge of becoming economical to develop. Two plants are already extracting oil from tar sands in Alberta's Athabasca fields, and Shell Canada plans to spend $4 billion for a third plant, which will start producing in the early 1980s.

The trouble with Carter's energy plan is that it does not provide for Government incentives that could help private industry bring petroleum from unconventional sources to market at a price the economy could afford. Instead, the program focuses on conservation—inducing the U.S. to use up more slowly the oil and gas that the nation knows it can count on producing. Conservation is necessary, but not sufficient: at best it only postpones the ultimate day of reckoning. As Laird observes: "Conservation alone is a slow walk down a dead-end street."

The centerpiece of the Carter program is a plan to raise U.S. oil prices, presently averaging $8.52 per bbl. at the well-head for domestic oil of all price categories, up to the OPEC-set world level of about $13.50. This would be done by imposing a tax on producers at the well. Then to soften the blow to the economy, the Government would give back most of the money to consumers in the form of rebates. The scheme is intended to discourage consumption, but it is doubtful how effective a deterrent it would be. Nearly 40% of all petroleum consumption in the U.S. on any given day is used to run the country's automobiles, and though the price of gasoline has all but doubled in the U.S. since the days of the Arab oil embargo, Americans are today consuming about 7% more gasoline than they were before the price shot up at the pump. Carter's wellhead tax would only add about 6¢ to 8¢ to the price of a gallon of gasoline by 1985, and who seriously thinks this will discourage Sunday driving by anyone?

Worse still, the oil companies would not get a cent of the revenues to invest in exploration and development of new energy sources; they would have to finance R. and D. on their own. A far better idea would be to channel the wellhead taxes into R. and D.—perhaps by setting up a federal corporation to underwrite the efforts of companies struggling to find economical ways of coaxing oil out of otherwise exhausted wells, burning it out of shale or extracting it out of tar sands. Russell Long, the Louisiana Democrat who heads the Senate Finance Committee, has threatened to eliminate the wellhead tax from the Carter program unless the revenues are used to help expand production. He has a powerful point. Politically, it would be improper to let the oil companies reap "windfall" profits from raising the domestic price to OPEC levels, and adequate safeguards can be drafted to ensure that R. and D. aid to the companies is used for only that.

The Senate could wisely take several other steps to improve the energy program that sailed through the House almost intact. One would be to phase out controls on natural gas, leaving prices to find their own level in a free market. The present controlled price of $1.47 per 1,000 cu. ft. is too low to lure enough gas out of the ground—as witness last winter's factory and school closings. A move to deregulate has run afoul of an on-again, off-again filibuster by Senators from states that rely heavily on low gas prices. The most likely compromise will be an increase in the regulated price, perhaps, to just over $2 per 1,000 cu. ft. That might be enough at present, and abrupt deregulation might be too great a shock to consumers. But drillers searching for hard-to-get gas need the assurance that perhaps two or three years from now the market rather than the regulators will set the price.

Also, the Administration and Congress need to rethink what must be done to increase the use of coal. Carter and Energy Secretary Schlesinger plan on a 65-percent increase in coal use by 1985, but they assume that this will happen as an automatic consequence of forcing power plants and factories to switch from oil and gas to coal as boiler fuel. This may be too ambitious a target, since it could be achieved only if that segment of U.S. industry that is capable of using coal as fuel multiplies its consumption four or five times above present levels in less than a decade. The Senate has voted the Administration less authority than it wanted to order plants to switch to coal, and Carter's plan to grant tax breaks to industry in order to spur conversion to coal use may not prove to be sufficient; the legislators would do well to vote more financial aid.

Most of all, the energy program needs basic reassessment. And that must begin with the old question: Will there be an energy shortage in the future? The answer: Only if we let it occur. There may be more shortages of natural gas, but they would be the consequence of inadequate price rather than nonexistent supply. There could well be a severe shortage of oil, but the scarcity would be less of the physical quality than of imaginative ways of bringing crude to market at an acceptable cost. There is no shortage of coal or nuclear power, but there are bottlenecks to be broken. In the case of the atom, the time is at hand to take a fresh, hard look at the wisdom of the Administration's opposition to breeder reactors, which produce more fuel than they consume. It is urgent to get started on a comprehensive plan for the development of alternative energy sources. Says Milton Russell of the Washington-based research house Resources for the Future: "If by 1985 alternative sources are in proper development, there will be no cause for alarm. You don't have to have them in place. You have to have them in train." To meet even that deadline, time is running out.

A major rewrite of the energy program is too much to ask of Congress in the few weeks remaining in this session. Whatever happens to this year's national energy plan, the nation will need another in 1978. In promoting it, the Administration should summon the nation to a long, patient effort both to conserve energy and to increase production—and instead of picturing the struggle as the "moral equivalent of war," should make it as plain as an oil rig in the desert that if the U.S. wants to avoid shortages, it has to pay the price.—CHRISTOPHER BYRON.

U.S. WOOL INDUSTRY AT A CROSSROAD

HON. W. R. POAGE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 12, 1977

Mr. POAGE. Mr. Speaker, on September 29, the President signed into law the Food and Agriculture Act of 1977. Title III of that act provides for the continued support of wool and mohair at levels more in line with its costs of production. The support price for wool has been frozen at 72 cents per pound since 1970, even though the cost of producing wool has increased significantly during this period. The Food and Agriculture Act of 1977 removes the freeze on the wool support price and provides for it to be supported at what amounts to approximately 74 percent of parity through 1981. I comment the Congress for approving these needed improvements in the National Wool Act.

Even though the wool producers of the United States are assured of a fair price for their production for the next 4 years, the problems of the domestic wool industry are far from being solved. At other times, I have informed my colleagues of the great losses sheep producers are suffering from predatory animals. While some tools have been made available for controlling coyotes, it is vital that effective predicides be made available to our sheep producers if the sheep industry is to survive in the West. Surely, it is not necessary to destroy a great industry in order that individuals who never saw a

coyote should be comforted by the knowledge that these animals are not being disturbed.

The greatest economic problem faced by the wool producers of the Nation is whether or not there will be a domestic demand for their wool in the future. When the National Wool Act of 1954 was first enacted, wool production in the United States equaled almost 300 million pounds, grease basis, and in excess of 100 million pounds of scoured wool was being imported each year. Ten years ago, about 266.5 million pounds of scoured wool was used by the apparel industry of the United States with an additional 103.6 million pounds being used by the carpet industry. Prior to the explosion of the synthetic industry, wool was the king of the apparel industry.

The situation is much different today. Total domestic wool production in 1977 is expected to be only about 110 million pounds, grease basis, with the anticipated level of imported scoured wool being less than 20 million pounds. Total domestic mill consumption of scoured wool for both carpets and apparel will probably be less than 120 million pounds in 1977. It does not take an expert to see that the wool industry of the United States is in a critical period at present and that something must be done now to reverse the declining production trend of the industry before it is too late.

But first, it is important to consider why the American wool industry got into its present condition. Just as it was 20 years ago, wool is still regarded as the best fiber for outer wear and other apparel. Woolen suits are known for their wearability, warmth in winter, and coolness in the summer. Wool absorbs and holds dye as well, or better, than any other fiber and woolen garments retain their shape better than almost any other fabric. Yet, in spite of the desirability of wool as an apparel fiber, its demand has continued to slip in the face of growing competition from synthetics.

The staff of my Subcommittee on Livestock and Grains has recently contacted several dozen firms in the textile, apparel, and carpet industry to determine the reasons for the lack of demand for wool. Although there have been some exceptions, the reason most commonly given for the lack of demand for wool in their fabrics is the wide variations in its price. They point out that when an apparel manufacturer plans to market a new piece of apparel, it needs to be able to purchase the fabric necessary at a rather steady price during the period they produce the apparel item. Synthetic manufacturers have been able to agree to supply their products to the apparel industry for the same price over a long period of time. Wool scouring plants have been unable to do so due to the great variability of wool prices on the world market.

As a result of the competitive advantage of the synthetic industry, it has been able to dominate the apparel and carpet industry in the recent past. In 1960, only 29 percent of the fiber used in the textile industry was synthetic, but today over 70 percent of the fibers used are synthetic. In 1976, the total synthetic fiber usage by the textile industry was in excess of 8 billion pounds. During the same period, wool's share of the textile market dropped from 7 percent to less than 2 percent.

There are indications, however, that wool may have a brighter future if the wool industry immediately begins to capitalize on its opportunities. Synthetic fibers are almost totally derived from the world's scarce resources of oil and natural gas. The United States and the other nations of the world are now realizing that the supply of these sources is not inexhaustible and are taking steps to curtail their nonessential use through increased taxation and other means. Since the synthetic fiber industry uses about 1 percent of the total energy used in the United States, it is logical to assume that it, too, will face curtailments and increasing costs in the future. On the other hand, wool requires little fossil fuels in its production and processing and should be little affected by the energy situation in the future. Hence, its competitive advantage should increase in the future.

Another factor which should enhance the position of the wool industry in the future is the recent increase in consumer preference for natural fibers like wool, mohair, and cotton. The present generation of Americans have grown up using synthetics and have only recently discovered the great comfort and wearability of clothing made of natural fibers. As a result, the domestic demand for wool by the apparel industry has increased somewhat in recent months.

Clothing manufacturers have realized that Americans are changing in their clothing preferences and have begun to increase their output of all-wool and wool-blend apparel. Textile research of the recent past has led to development of wool-polyester blends which capitalize on the desirable qualities of both fibers while minimizing their undesirable traits. Indications point to an increase in such blends in the future.

One of the reasons that wool has recently been used more in the textile industry is its relatively stable price which has been brought about during the past year with the assistance of the Australian Wool Corp (AWC). The AWC has placed a large stockpile of scoured wool in bonded warehouses in Charleston, S.C. This wool is available to the textile industry at a floor price high enough to help hold up the domestic price of wool. Yet, the presence of the AWC wool stockpile serves to stabilize the wool price in the United States by assuring the textile industry that it will not run short of wool. For this, the American wool industry should be thankful since American textile manufacturers are now better able to assure apparel manufacturers of a steady supply of woolen fabric at a steady price over long periods of time. The net result has been an increase in the use of wool by the apparel industry.

Even with all of these improvements, the wool producers of the United States must still do much if they are to save their industry in the future. The greatest threat to the wool industry in the future is the loss of an American textile industry. Already many textile manufacturing operations have discontinued their wool operations and others are expected to do so in the future. Much of the wool fabric being used today in the United States was produced in Taiwan, Korea, and other countries in the Far East where labor rates allow textile manufacturers to be more competitive in the world market. If all of the wool-using textile manufacturers in the United States cease their operation, American wool producers would not be competitive with wool produced in Australia if this were to happen and it would result in the demise of the American wool production industry.

Such a situation cannot be allowed to occur. An American wool production and textile industry is essential, just as it is in cotton, if we are to be assured of supplies of natural fabric during periods of interrupted world trade resulting from armed conflict. For this reason, part of the responsibility of assuring a viable domestic industry must be with the Federal Government. However, the major responsibility must be assumed by the domestic producing and textile industries.

In my opinion, there are several things that can and should be done. First, the sheep producers of the United States must cooperate with the sheep industry of Australia in an effort to increase the demand for wool in the United States. I have been assured by representatives of the Australian Wool Corp. that the AWC is willing to increase its expenditures for the promotion of wool in the United States. The AWC does not have to support an American wool industry. Right now, it could just as profitably ship all of its wool to the Far East for spinning into woolen fabrics. However, the AWC has taken the position that a strong wool textile industry in the United States will prove to be more beneficial to Australian producers in the long run, because they feel that for a long time our buying power is going to be far greater than that of the Orient. I hope American wool producers will understand this and strive for greater cooperation with the AWC in improving the demand for wool in the United States.

The American textile industry must also assume a greater share of the costs of promoting wool in the United States. Only with a strong demand for its products can the domestic textile industry continue to exist in the future in the face of strong competition from imported textile products. Textile workers and their unions must also assume a share of the wool promotion effort if they are to have jobs in the future.

Achieving a steady increase in wool usage in the future will not be an easy task. American consumers must be taught the advantages of apparel made of wool or wool-blends and apparel must be made available in styles that will be purchased by consumers. More research must be done on blending wool and other fibers to produce more desirable and wearable clothing. But, most of all, research must be done to determine the kinds of wool and wool-blends that consumers will purchase.

Should the trend toward increased wool demand continue, the American

wool industry must also be prepared to increase its production as well as accept increased foreign wool imports. At present, the sheep industry is slaughtering its young ewe lambs for the meat trade and not building up its wool producing ewe herds. Those who want to stay in the lamb business will, of course, follow a different course, but those who are interested in wool production must place more emphasis on wool producing sheep than on the meat-type sheep that are currently in great demand by the packing industry. Wool and lamb producers can, and should, continue to work together. Actually, each will be a part of the other's business, but the emphasis must be different and, at this time, we are considering the problems of the wool producers.

A controversial issue which must be considered is the wool import tariff of the United States. Currently, all imported fine wool is subject to a tariff of 25.5 cents per scoured pound. It is no secret that the Australian Wool Corp. is seeking a 60-percent reduction in this tariff during the Tokyo Round of the Multilateral Trade Negotiations about to enter full-swing in Geneva. Understandably, our sheep producers are very reluctant to agree to any reduction in the wool tariff, nor would I ask them to do so in the absence of other concessions, but I feel that they may find merit to a reduction in the tariffs provided the Australians agree to limit their imports and set a fairly high base import price as they have indicated they are prepared to do. Such an agreement would assure the domestic textile industry of a ready supply of wool at rather steady and reasonable prices without placing unnecessary economic pressure on the U.S. sheep industry. However, it is very important that such an arrangement does not also include a sharp reduction in the tariff on imported woolen and worsted textiles. Such a reduction would further increase the competitive advantage of foreign textiles in the United States and lead to an even greater reduction in the number of U.S. textile mills using wool and an ultimate increase in the price of woolen goods. Such price increases always accompany the loss of a domestic source of production, but they always come too late to help the domestic production.

Thus, in summary, the wool producers of the United States, through the National Wool Growers must begin now to seek a solution to the problems facing their industry while capitalizing on the growing demand for wool in the United States. To achieve a solution, the wool growers must work with the Nation's textile manufacturers, labor unions, and apparel manufacturers in an effort to achieve their mutual goals. This coalition may very well also need the cooperation which has been offered by the Australian wool growers. With the vast number of problems facing the wool industry, the industry can use all of the help and and cooperaton it can get. Without such an effort, there is a strong chance that the wool industry may soon find itself so far down the road to extinction that no one can save it.

THE B–1: COSTS OF RESTARTING

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 12, 1977

Mr. LaFALCE. Mr. Speaker, today I received a detailed report from the Comptroller General of the United States concerning the developments surrounding the B–1 bomber program in light of the decision of the Appropriations Committee late last month not to approve the President's proposed rescission of funds from the fiscal year 1977 budget for this program.

I believe that the Comptroller General's report is of definite interest, particularly with respect to the fact that the costs of stopping and restarting this program will come to at least $100 million and perhaps much more. Because of the intense interest in this program with in the Congress and elsewhere, I am inserting the text of the Comptroller General's letter in the RECORD.

COMPTROLLER GENERAL
OF THE UNITED STATES,
Washington, D.C., October 12, 1977.

Hon. JOHN J. LaFALCE,
House of Representatives.

DEAR MR. LaFALCE: This is in reply to your letter of September 30, 1977, in which you asked that we monitor the executive branch's actions and inform you of major developments in the B–1 bomber program. Pursuant to your request, we have been in contact with officials of the Department of Defense (DOD) and representatives of Rockwell International (Rockwell), one of the prime contractors for the B–1 program.

As you know, the Congress did not approve the President's proposal to rescind $462 million in budget authority that was determined to be excess to DOD's needs as a result of the decision to terminate the program. Consequently, this budget authority was required to be made available for obligation on October 5, 1977, by the Impoundment Control Act of 1974, title X of Public Law 93–344, July 12, 1974—the expiration of the 45-day period prescribed for the consideration of rescission proposals under the Act. We have confirmed that the $462 million rejected for rescission was made available by the Office of Management and Budget for obligation on October 5, 1977. We have also determined that the Secretary of Defense has taken steps to utilize this budget authority in the B–1 program. On October 4, 1977, the Secretary, DOD, requested the Department of the Air Force to submit a restructured B–1 program description that includes proceeding with the production of the fiscal year 1977 B–1 bombers. Pursuant to the Secretary's memorandum, the Department of the Air Force transmitted telegrams on October 4, 1977, to concerned departmental activities in order to obtain the material requested by the Secretary.

DISCUSSIONS WITH DOD

On October 6 and 11, 1977, members of this Office met with representatives of the U.S. Air Force in the Office of the Deputy Chief of Staff, Research and Development, Aircraft Division, who informed us that all of the budget authority that was appropriated for the B–1 program has been made available in the Air Force. This amount, approximately $1.16 billion, includes the $462 million that was proposed, but rejected, for rescission and approximately an additional $698 million that was to be used for both prior program expenditures and anticipated termination costs.

The DOD officials told us that, because of the earlier termination of the program, about $100 million would be lost as a result of terminating and then having to restart the B–1 program due to Congress' rejection of the rescission proposal. This sum is comprised of approximately $25 million in costs associated with personnel reductions and the later rehiring of such personnel and about $75 million for terminating future B–1 bomber production contracts.

We were told that the cost per aircraft will now probably increase due to having stopped the program. The exact amount of any increase, of course, will have to be the subject of negotiations between the Government and the prime contractors. In this regard, DOD told us that the Department cannot, at this time, afford to build the seventh B–1 aircraft and that termination costs for cancelling this aspect of the program will be roughly $25 million.

The departmental officials told us that if the decision was made to build all of the next three aircraft originally contracted for (numbers five, six, and seven) that the total cost for the program would increase from about $1.16 billion to approximately $1.4 billion—an increase of $240 million.

Insofar as restarting the program is concerned, we were told that a delay can be expected in the delivery of aircrafts five and six. Aircraft five was originally scheduled for delivery in August of 1979. Even assuming contract activities can resume promptly, DOD does not expect the fifth B–1 bomber can be delivered before February 1980. And, aircraft six, originally scheduled for delivery in November 1979, is not expected to be delivered before July or August 1980.

Rockwell sent an unsolicited proposal to the Department of Defense on October 6, 1977, for the construction of bombers five and six. While the specifies of any future contract with the prime contractor are a matter of negotiation, DOD representatives told us that it is possible hat some work may have to be done elsewhere if DOD and the prime contractor cannot reassemble the same team that was gathered for work under the original contracts.

We were also told that the U.S. Air Force Aeronautical Systems Division was planing on submitting to its higher command at Andrews Air Force Base, the Air Force Systems Command, its tentative plan for the B–1 bomber program on October 7, 1977, and that the final plan was contemplated for submission on October 17, 1977. At present, the Air Force estimates that it could, with the proper authorizations from higher headquarters, get Rockwell back into active program activities within 24 hours. In turn, DOD estimates that it would take Rockwell approximately 60 days to begin actual production work. This delay is due to the fact that over 8,000 people were laid off as a result of the termination of the B–1 program, and numerous subcontracts terminated.

DISCUSSIONS WITH ROCKWELL

Representatives of Rockwell agreed with DOD that delivery on aircrafts five and six would be delayed and costs increased as a result of having terminated the original contracts. Rockwell told us on October 7 and 11, 1977, that aircraft five could be delivered in March 1980 and aircraft six in September of that year. If constructed, B–1 bomber seven could be delivered in March 1981.

In discussing contract costs, in what the company described as "comparable environments," Rockwell said aircrafts five, six, and seven were originally estimated at a cost of $650–700 million. In light of recent events Rockwell says it could cost the Government up to $680 million to build only aircrafts five and six. If the Government chose to build aircraft seven, additional costs would be about $150 million. In summary, Rockwell says the additional cost to the Government

to build all three bombers, in light of having stopped and then restarting production, is expected to range between $130–180 million.

Rockwell said its unsolicited proposal of October 6, 1977, to build aircrafts five and six at a not-to-exceed cost of $680 million is good only until November 1, 1977. Company representatives estimate that costs are expected to increase between $5–10 million for every month of delay. Rockwell projects that it would take about 6 months to finalize any contract with DOD for B–1 bomber production and that it would take about 90 days to get the subcontractors back on the job. (There are said to be 53 major subcontractors involved.) During the 6-month period estimated for contract finalization, Rockwell said it would undertake its B–1 operations pursuant to the bilateral agreement proposed on October 6, 1977.

Finally, Rockwell told us that it believed it would cost the Government about $50 million in termination costs to discontinue production work on aircraft seven. When compared with a company-estimated cost of about $150 million to build the seventh B–1 bomber, this means that Rockwell projects an additional outlay of $100 million beyond already expected Rockwell costs would be needed for the Government to acquire the seventh aircraft.

We hope the foregoing will be of assistance to you. We will continue to monitor further actions by the executive branch and will notify you of further developments, as appropriate.

Sincerely yours,

ELMER B. STAATS,
Comptroller General of the United States.

A BILL TO ASSIST IN PRESERVATION OF URBAN NEIGHBORHOODS

HON. MICHAEL O. MYERS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 12, 1977

Mr. MICHAEL O. MYERS. Mr. Speaker, today I am introducing a bill which would establish a Neighborhood Reinvestment Corporation as a Federal Government Corporation to assist the urban neighborhoods in our large metropolitan cities to preserve and strengthen the urban neighborhoods which make up the building blocks of our cities. The Federal Government, over the past 30 years, has engaged in large-scale assistance to many of our cities, such as my city of Philadelphia, in an attempt to assist these cities in meeting their development and housing needs.

These efforts, it is true, have been massive insofar as the dollars involved, but have left much to be desired in the final product. These efforts, such as urban renewal, model cities, the neighborhood development program, the open space program, the urban beautification program, the Federal highway program, the urban mass transportation, and many others have sought to attack the urban problems on a citywide effort, rather than attempting to zero in on the smaller, yet most vital, part of the urban community, that is, the neighborhoods themselves.

Large cities, such as Philadelphia, are made up of hundreds of such neighborhoods, many of whose residents have lived in these neighborhoods for generations, but our Federal Government efforts have in most cases by-passed them. The recent experience of the community development block grant program has been encouraging, but this too depends on the effort of the city itself to spread the money in such a way so that all areas of the city can benefit.

The bill that I am introducing today seeks to use the dynamic energy of our urban neighborhoods and the community groups that have organized in these neighborhoods, together with the local government, in my case, the city of Philadelphia, and financial lending institutions in these communities to work together to pool their financial resources to assist in such efforts as rehabilitating the existing housing stock in these neighborhoods rather than whole scale demolition of good solid housing stock and the resulting new high-rise type housing in its place.

My city of Philadelphia probably has the largest amount of existing housing stock that is available for rehabilitation purposes for single-family use. This Neighborhood Reinvestment Corporation would provide the initial seed capital to begin neighborhood rehabilitation efforts and to begin at last to use the efforts of local community groups to improve their housing and to provide a better living environment for the citizens of these neighborhoods.

This bill draws upon the excellent efforts of the existing Neighborhood Reinvestment Task Force that has been ongoing since 1969. This task force is made up of representatives from the Department of Housing and Urban Development, the Federal Home Loan Bank Board, the Comptroller of the Currency, and the Federal Reserve Board. It is currently active in 33 cities and primarily operates with some contributions from the participating financial regulatory agencies, and a small amount of private foundation support, and a grant from the Department of Housing and Urban Development.

My bill would institutionalize this effort, greatly expand the Federal Government funds available for these purposes and pledge the Federal Government's assistance for housing the great energies that exist in our urban neighborhood communities.

TRIBUTE TO CHARLES E. CLELLAND, ON HIS RETIREMENT

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 12, 1977

Mr. STARK. Mr. Speaker, I would like to take this opportunity to thank Charlie Clelland personally for more than 30 years of public service as the fire marshall of Livermore, Calif. As a member of Livermore's Fire Service, Charlie has consistently and successfully sought to reduce the loss of life that all too frequently results from fire and panic. His down-to-earth common sense has, in fact, prevented many a tragedy.

This weekend Charlie will be honored with a testimonial dinner on the occasion of his retirement. Charlie's "old-fashioned" notions of tradition, loyalty, and dedication, enhanced by his personal honesty and fairness have been an enormous contribution to the community he has served so faithfully. Charlie's contribution to his community will not be forgotten on this occasion, or in the days to come.

THE LABOR BILL

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 12, 1977

Mr. MICHEL. Mr. Speaker, when business and labor get into an argument over labor law reforms, there is often an innocent bystander who gets hurt—the American worker. Big business speaks up for business. Big labor speaks up for big labor. But when the battle is joined, it is often the worker, for whom no one speaks, who is hurt.

This forgotten American, the working man, is the subject of an incisive and informative editorial in the Washington Post. As the Post points out, although much was said by business and labor during the recent debate over proposed changes in the labor law, "No one seems to talk in the workers behalf." When the most liberal newspaper in the United States makes that point in an editorial, I believe it can safely be said that there is wide agreement that it is in the public interest—and in the interest of every American worker—for Congress to make certain that any labor reform bill takes into consideration the interests of the worker as well as that of business and big labor.

I could not in all conscience support the version of this bill that passed the House because it was obvious that it was tilted too much toward the perceived needs of big labor unions, not enough toward the legitimate needs of business and not at all toward the worker. I hope the Senate comes up with a fair bill that meets the needs of all concerned—including the public.

At this point I wish to insert into the RECORD, "The Labor Bill" from the Washington Post, October 12, 1977:

THE LABOR BILL

The tinkering that was done to the labor bill on the floor of the House of Representatives improved it some, but not much. The friends of organized labor had the votes lined up, and from among the amendments offered they accepted only those that were quite palatable, never mind that their performance gave the impression that they were prepared to water down the bill. The result is that the Senate faces the major task of trying to turn this one-sided piece of legislation into the basic reform the labor laws need.

It is not to endorse everything that is in the House-approved bill to observe that our quarrel is primarily with what the bill fails to do, as distinct from what it does. It is true, as organized labor has successfully argued to a majority of House members, that some employers have abused the existing law and used its loopholes to frustrate

legitimate organizing efforts and to deprive employees of their legal rights. But it is also true that organized labor has engaged in practices that are just as questionable. And this bill, unfortunately, attempts to deal only with the first half of the problem.

It became quite clear as the arguments over this legislation went forward that the people the labor laws were originally written to protect are being increasingly forgotten. Business leaders talk about their problems in opposing or bargaining with labor unions. Union leaders talk about their problems in bargaining with employers or trying to organize plants over management opposition. No one seems to talk in the workers' behalf. The union leaders, of course, claim that they do—and no doubt their predecessors once did. But the rhetoric of this debate underlines the degree to which much of organized labor now acts as an independent force, deeply concerned about its own internal and external needs, which sometimes are—but sometimes are not—the same as the needs of the people it is supposed to be representing.

That is the point we urge the Senate to keep in mind as it tries to add some balance to the bill the House has approved. Certain of the bill's provisions are designed to protect the interests of workers; but others are designed to protect the interests of unions as unions and not as representatives of workers. Similarly, some of the proposals that business leaders have been trying to get Congress to consider are designed only to protect business interests against unions without regard to their effect on workers. Sorting these out is not easy, but it is a job the Senate must do if it has any intention of producing a bill that deserves to be called a labor-reform act.

GEORGIAN MAKES GLOBAL IMPACT ON ENVIRONMENT

HON. DOUG BARNARD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 12, 1977

Mr. BARNARD. Mr. Speaker, a man in my district has attained statewide, national, and worldwide acclaim among people concerned with the future.

Dr. Eugene Odum of the University of Georgia is recognized as the father of ecology. His rational, probing approach to the problems of growth patterns and finite resources pioneered our present views of our ecosystem. He was making himself heard 25 years ago, when his first book on the subject was published.

Dr. Odum was awarded the internationally prestigious Tyler Award last April at the White House. EnviroSouth magazine has published a tribute to him, and I include it as an extension of my remarks in the RECORD:

GEORGIAN MAKES GLOBAL IMPACT ON ENVIRONMENT

There are awards, and then there are awards.

The Tyler Award is the latter. It is an international tribute, along with a check for $150,000, presented to outstanding ecologists by Pepperdine University, Malibu, CA. In essence, the honor is the greatest award presented in the ecological arena, and is viewed by many, indeed, as the equivalent to the Nobel Prize.

The 1977 "Tyler," given in April by President Carter midst the trappings of a White House ceremony, went to a Southerner, Dr. Eugene P. Odum of Athens, GA. Dr. Odum is Alumni Foundation Distinguished Professor, Callaway Foundation Professor of Ecology and Director of the Institute of Ecology (which he founded in 1962) at the University of Georgia.

In simple English, Eugene Odum is virtually the father of ecology, and in a multiplicity of ways. First of all, his *Fundamentals of Ecology*, which pioneered a new approach based on energetics and ecosystem concepts, has been the most widely used text in this country and abroad since its initial printing in 1953. And his shorter book *Ecology* (1963, 1975), has served as an important guide to ecological principles for both student and citizen.

His writings have just about run the environmental gamut, ranging through such topics as coral reefs, salt marshes, the environmental aspects of atomic energy, and distribution and population ecology of birds.

His research has spanned a seemingly unexcelled spectrum of ecological accomplishment among his fellow Southerners, research which has yielded not only regional but global impact. Having played a major role, for instance, in establishing in 1954 the University of Georgia's Marine Institute at Sapelo Island, Dr. Odum had a firm hand in 20 years of research on Georgia salt marsh estuaries which resulted in a new public awareness of the value of wetlands.

In 1955, he was named as a delegate to the first Atoms-for-Peace Conference in Geneva, and is an early pioneer in the field of radiation ecology. He planted the seed for what later evolved as the Savannah River Ecology Laboratory. His spadework on the International Biological Program and IBP's first national committee culminated in an intensive, five-year study of major ecological systems through which theoretical concepts of "systems ecology" was applied to large-scale resource management.

And the list goes on and on and on.

Having advanced through the ranks at the University of Georgia, beginning as an instructor in 1940, Dr. Odum, like we said, is virtually the father of ecology, through his writing, his research and his myriad other contributions. But perhaps more important, he is fathering a new brand of ecology which he calls a "holistic" or down-to-earth concept.

For all too long, he believes, we have been treating the environment as many separate and independent entities. Dr. Odum contends we must fuse all the parts and consider them as one, or "holistic." Such a theory Dr. Odum told us is "common sense wisdom," through which everything is dependent on everything else.

"The whole is more than the sum of the parts," he preaches, in the ecological sense that "a forest is more than trees, and water is not the sum of the two gases it is made of."

With this holistic approach in mind, we asked Dr. Odum, "What is the most critical, the most important environmental issue affecting the Southeast as a region?"

His answer was another question: "Are we going to be able to manage our growth to avoid some of the traps that others have made before us?"

As he explained it, "We have an opportunity to make a more orderly, sensible growth" than have other regions, and one in which we can "keep the general Southern traditions of enjoyment of nature and enjoyment of the out-of-doors"—if the Southern states, the members of the region work together as a whole.

Carrying his notion a step farther, Dr. Odum hopes the diverse fields of economics and ecology can be brought together as a whole, for while ecology is the study of the house, economics is the management of the house. Each working in harmony with the other can make a valuable contribution to the whole, according to "Odumism."

Using the Southern wetlands as a case in point, Dr. Odum said change leading toward wetland protection must begin at the educational and political level.

"We must try to influence our Southern legislators and congressmen, because they are frightened that any environmental protection will endanger the economy. It has been proven that the environment is beneficial to the economy."

"Like father, like son" is an all-too-worn-out cliche, But it describes Eugene Odum almost perfectly. His father, the late Howard W. Odum, who was Director of the Institute for Research in Social Science at the University of North Carolina, Chapel Hill, distinguished himself in the social sciences with his classic *Southern Regions Of The United States*, a 1936 volume which urges a regional approach to social planning, a way of thinking which set in motion the younger Odum's advancement of holism.

In similar tradition, Eugene Odum's son, William E. Odum, is expounding the precepts set forth by his own father as an associate professor of environmental science at the University of Virginia, Charlottesville.

Dr. Odum and his brother, Dr. Howard T. Odum, the respected professor of environmental engineering at the University of Florida, Gainesville, jointly received the Institut de la Vie International Award, in Versailles, France, in 1975, still another Nobel equivalent in ecological circles, for their collaborative work in ecology as an "integrative discipline."

Whether the topic is radioactive tracers in studies of food chains, or the ability of birds to endure long flights, or the kaleidoscope of other components of the ecosystem, the name Eugene Odum will endure for untold years, even generations to come.

His work has kindled life and spirit into a whole new trend of ecological planning. A life that may well offer salvation to the environmental quality of this region as we know it today.

GEN. HENRY HUGLIN COMMENTS

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 12, 1977

Mr. LAGOMARSINO. Mr. Speaker, I would like to bring to the attention of my colleagues the following column by my constituent Gen. Henry Huglin. General Huglin is a retired Air Force brigadier general and syndicated columnist. He comments on the European community and the strengths of economic integration.

His comments follow:

HOW FARES THE EUROPEAN COMMUNITY?

(By Henry Huglin)

BRUSSELS.—The European Community, EC, often known as the Common Market, headquartered here in Brussels, celebrated its 20th anniversary this year.

This international entity of nine European nations has achieved more than its detractors believed possible, but much less than the fervent European integrationists had hoped.

The EC is well established. It will evolve slowly, encompassing more nations and gradually further integrating its members' economies, currencies, and eventually, perhaps, their political structures and sovereignties.

The Community, as an overall economic entity, started out in 1957 with six member nations: Belgium, France, West Germany, Luxembourg, Italy, and the Netherlands. In 1973, Britain, Denmark, and Ireland joined.

Greece and Portugal have applied for membership, and Spain is expected to apply soon. But economic problems exist over these countries' entries; hence, full membership for them, if achieved, will come in the 1980's.

The treaty which set up the preceding grouping, the European Coal and Steel Community in 1951, expressed objectives of the member nations which are valid for the broader Community: "to substitute for historic rivalries a fusion of their essential interests; to establish, by creating an economic community, the foundations of a wider and deeper community among people long divided by bloody conflicts; and to lay the bases of institutions capable of giving directions to their future common destiny."

What has been achieved so far are a customs union, under which internal tariffs were eliminated; a common agricultural policy; and a common labor market.

By 1980, full economic and monetary union is to come into being. Then, goods, services, and capital will be able to move freely within the Community.

Direct elections are scheduled for next June for members of the European Parliament, which has, as yet, limited but growingly important functions.

The evolution of the Community has been and will continue to be an on-going, long-term process. Progress has been made by a gradual change in peoples' nationalistic habits of mind, through tangible benefits of progressive economic integration, followed by increased political cooperation and acceptance of growing interdependence in many fields.

The population of the European Community is about 25 percent greater than ours, living in an area one sixth our size. The Community's gross product is about 90 percent of ours. Yet its imports are nearly three times ours and its exports about 50 percent greater. We had a surplus of $7 billion in trade with the Community in 1976.

The overall EC forecast for 1977 projects 4 percent real growth, a reduction of unemployment to 4 percent, and a lowered inflation rate of 7–8 percent.

As to our country's attitude, for three decades we have supported the idea of and steps toward European integration.

The primary reason is that the two World Wars, into which we got deeply involved, started as internal European conflicts; and we obviously want no third.

Then it has been perceived as easier and better for us, in security, monetary and trade matter, to have one friendly unity of western European nations than the disparate conglomeration that has conflicted in Europe for centuries.

President Carter has said: "U.S.-Europe relations is at the heart of U.S. foreign policy. In economic policy, their cooperation with each other and with Japan is necessary both to their prosperity and to the progress of developing countries; growing European unity can help to fulfill this promise. Europe will be better able to fulfill its role in U.S.-European-Japanese cooperation in the degree that it can speak with one voice and act with one will."

Our government has been able to work closely and well with the evolving Community. And there are no Community developments in prospect which would harm our economic, security, or political interests in Europe.

Moreover, growing interdependence in all major fields is the unavoidable wave of the future. Hence, whatever promotes functioning interdependence in Europe can, in turn, generally promote interdependence across the Atlantic, with Japan, and the world as a whole—to our mutual benefit in the long term.

Therefore, we have good reasons to welcome the peaceful, effective evolution of the integration of the European Community.

CONVIVIAL POLITICS: GOOD WORDS FOR A NEW MINISTRY—BY ALAN GEYER

HON. ROBERT W. EDGAR

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 12, 1977

Mr. EDGAR. Mr. Speaker, Mr. Alan Geyer, executive director of the Churchs' Center for Theology and Public Policy, addressed a gathering of a number of our colleagues last Thursday. I was impressed by Mr. Geyer's contemporary perspective concerning the interface between religion and politics, and I would like to share his prepared remarks with my colleagues:

STATEMENT BY MR. ALAN GEYER

My Fellow Politicians:

That is not really a frivolous greeting! It is the essence of a truly free society that all of us regard ourselves as politicians and do not allow any special class to monopolize that distinction—or any special class to escape from it, including the clergy.

The French politician and lay theologian, Jacques Ellul, in his new book *The Ethnics of Freedom*, declares:

"All life today is in fact oriented to politics. The political question imposes itself on everything, and voluntarily or involuntarily all our judgments are political. It is a wrong question, then, to ask whether the Christian should take part in politics. He is fully doing so already. The only question is to know how to participate in such a way as to bring a certain freedom into this order of necessity, or to manifest Christian freedom within it."

I am sure that the first part of that quotation is already a deeply held conviction of everyone here tonight. You all believe that some kind of mixture of religion and politics is both good and inevitable, or you wouldn't be here. What we must consider is how to bring real human freedom into this order of necessity.

By any standard, some mixtures of religion and politics are more liberating than others—or more appropriate to this new study center than others are. Let me state very clearly what this center will *not* be, at least not in my primary sense.

1. We will not be a new lobby. The churches already speak with many voices through their many lobbies. If, however, we can provide a place where activists are welcome for periods of research and reflection; where they may encounter knowledgeable leaders in other fields; where they may be helped to understand their own style of work through action research—then the center's fellowship with activists may be a welcome complement to the lobbying profession. We pray that it shall be so.

2. Speaking of praying: we are disinclined to put all our eggs into prayer breakfasts—not because we're against either prayer or breakfast but because the personal piety of politicians is very lavishly attended to by others.

3. We will not be preoccupied with the personal morality of politicians—which is all some people mean by the term "political ethics." Now the honesty and chastity of politicians are greatly to be desired, I suppose, especially if you read political novels like "The President's Mistress" or "The 'R' Document"—but they are not fundamental issues of public policy or social justice. It is a horrendous flaw in our great spectator sport of personality politics that we allow such titillating matters to divert huge amounts of public energy from urgent policy matters.

4. Our center will not be primarily devoted to the study of the "civil religion"—that is, the presumed religious innards of our body politic to which we Americans appeal for all policy justifications, we "darlings of Divine Providence," as Reinhold Niebuhr put it. That topic has also been lavishly attended to by others.

5. This will not be a center for the study of the constitutional and legal niceties of church-state relations. There are, of course, some very serious issues on that front—but legal scholars and civil libertarians are quite vigilant there. We have a more basic interest in the theology of politics, which demands a much broader and richer content than any doctrine of church and state. Next spring, we will hold an inaugural consultation on the theology of politics which we hope will be the beginning of a continuing study fellowship among those for whom this is a serious vocational subject.

6. One more of these negatives: we will not become a second Brookings Institution. We should not even try to match the major secular policy institutes in doing specialized studies of the more detailed aspects of governmental problems. Rather, we shall always try to mix technical issues with the humanistic issues raised by theology and ethics. Our specialization is a thoroughly cross-disciplinary approach which permits no special claims of privilege for either technical expertise or religious authority.

The proper focus of this center, then, will be on secular issues and processes of public policy, especially those matters which concern "justice to the poor, the powerless, and the oppressed" and "peace for the whole human family." These are imperatives grounded in Christian faith—but that faith, in turn, is rooted in a more ancient prophetic heritage. One of the principal founders of the Washington Theological Consortium told me a couple of weeks ago that the more he studies the Scriptures, the more he is convinced that Jews and Christians must stand together on the common ground of justice interpreted as lovingkindness.

We must also reach beyond both Jewish and Christian traditions. Ananda Coomaraswamy, a thoughtful Hindu friend of Christians, once wrote:

"The modern Christian, who thinks of the world as his parish, is faced with the painful necessity of becoming himself a citizen of the world; he is invited to participate in a symposium and a convivium; not to preside—for there is Another who presides unseen—but as one of many guests."

It is in this sense that we need a convivial theology: an intellectual strategy, rooted in the Incarnation itself, for celebrating common humanity and the authentically universal work of Christ.

If ethically sensitive world religions cannot work together—and even draw spiritual strength from one another—I do not know how we can expect nation-states, or races, or classes, or competing ideologies to make peace or achieve justice together.

I confess that this seems, in some respects, a very bad time for launching such a center.

Many of the dominant moods and trends of American religious life seem forbidding. Some have called contemporary religious phenomena a new Great Awakening. It may really be a Great Impertinence. This is a season of religious narcissism and exhibitionism: of zealous retreat, on the one hand, and T-shirt, and-bumper-sticker piety, on the other. More seriously, churches are exhausting themselves in new schisms over sex and ordination, liturgy and charismatics, mindless emotionalism and Biblical literalism. There is an altogether scandalous introversion of religious energy.

This introversion, I believe, is completely contrary to the mission of a "Church for Others." Ten years ago, a World Council of Churches study declared that the church "must live 'ex-centeredly'. It has to seek out those situations in the world that call for

loving responsibility and there it must announce and point to shalom. . . . We must stop thinking from the inside towards the outside."

If this narcissism in the churches were only an irrelevance which sapped prophetic energies, it would be bad enough. Unfortunately, there is a "mean streak" in the resurgent religiosity of these days which too easily inspires a "born-again" bigotry, a vengeful attitude toward criminal justice, and a resurrection of Cold War hostilities.

Similarly, there are some forbidding moods and trends in our political life. Public confidence in government—in the whole race of politicians and bureaucrats—is at a very low level, even lower than the normally low level which is endemic in this society. We have been through a long dark night of the soul in our national self-respect: repeated shocks of domestic violence, defeat in a protracted war, lawlessness at the highest levels of government have seemingly drained our moral energies and almost made us shockproof. Dissensus—by which I mean a fierce fragmentation of interests and groups within our society—runs very deep. Government seems stalemated on many fronts, which means stagnation in our economic and social policies. Never have so many politicians willingly, and even eagerly, retired from their own public careers. My political science students of recent years have come of age without much visible evidence that government can do them any good, or solve any difficult problem.

Whatever our political discouragements, this is hardly the most auspicious moment economically for launching such a center. It's not just that the economy continues to stagnate: it's that many foundations have diminishing resources for sustaining institutions in the private sector. Never have economists themselves, who have done so much to develop public policy studies, been so shattered in their professional self-confidence.

Why, then, with this mixture of religious impertinence, political disillusionment, and economic doldrums, should we meet to celebrate the inauguration of a new center for theology and public policy, of all things?

Perhaps, just perhaps because these very troubles of our times offer us a stunning opportunity to help renew the vocations of political leadership in our society. Some of you sophisticates know that the Chinese character for "crisis" is exactly the same as the one for "opportunity."

One way of describing the intellectual opportunity offered by this center is to say that we shall be studying systems as well as problems: that is, our political system and its interaction with the other systems of our society—and other societies. We mean to think (strange word!) about basic political and economic ideas about our system—and let them engage our most serious theological concepts. This will not be a center where we celebrate "the end of ideology": it will be a center where we hope to contribute vitally to the renewal of ideology. By the renewal of ideology, I mean the clarification and reconstruction of what we believe politically.

Neither an individualistic religion nor a purely pragmatic politics can adequately grasp systemic realities. Individualism never faces up to our organic interdependence, either in our own society or in the family of nations. Pragmatism forever tries to solve problems one-by-one, piecemeal, without facing up to the vital linkage among most if not all critical problems.

To study systems in religious perspective is to remember the appealing truth of the pioneer American conservationist, John Muir: "When you try to touch one thing by itself, you find it hitched to everything in the universe."

What this center is properly about is to inquire into the most severe systemic breakdowns in our own society and in its relationships with the world: the most hurtful and devastating derangements of human community. More positively, it is to help define a more equitable and compassionate political response to these breakdowns and derangements.

The indictment of a Ku Klux Klansman last week, 14 years after the bombing of Sixteenth Street Baptist Church in Birmingham, reminded me of Stokely Carmichael's lament of the last decade:

"When unidentified white terrorists bomb a Negro church and kill five children, that is an act of individual racism, widely deplored by most segments of the society. But when in the same city, Birmingham, Alabama, not five but 500 Negro babies die each year because of a lack of proper food, shelter, and medical facilities, and thousands more are destroyed and maimed physically, emotionally, and intellectually because of conditions of poverty and deprivation in the ghetto . . . society either pretends it doesn't know of this situation, or is incapable of doing anything about it."

To think systemically is to know about that situation and prepare to do something about it.

There is no coherent or humane system in this nation's approach to health care, even though we are now spending more on health than we are on the military. Millions of our poor are excluded from any dependable scheme of health care. Our more well-to-do citizens are exploited and victimized by medical, clinical, and drug entrepreneurs. Health security is not yet a human right in America.

All this has crucial implications for theological education. Training for ministry in our seminaries tends to neglect these systemic aspects of health. Clergy learn through clinical and other programs to become adjunct junior professionals to the present health establishment. They do not learn how to confront the health needs of their people on a broad social and cultural front. I would therefore propose that our center work with the Washington Theological Consortium in developing some new models of health ministry which are forthrightly oriented toward issues of public policy and toward citizen participation in the health sector.

There is likewise no system—no rational policy or policy structure—in this nation's approach to its cities. The administration, under a bit of pressure from black leadership, is scrambling around just now, trying to come up with an urban policy of some kind. Seventy-three years after Lincoln Steffens' "The Shame of the Cities," it is perhaps our greatest shame that we are sacrificing thousands of our urban young people on the altars of unproved dogmas about inflation and money and welfare. We have yet to become civilized enough to make it a national commitment to employment security as a human right. Surely we need new models of urban mission and ministry which are system-oriented and policy-directed. Perhaps here, too, we can work together through the Washington Theological Consortium.

There is no humane system—no effective framework of mutual respect and accountability—in this nation's relationship to the poorer countries of the world. If there were, how differently we would make our decisions about currency, the terms of trade and investment, agricultural production and food reserves, and energy policy!

We have no orderly system for political control of our own military technology. We have six times as many nuclear warheads as we had when the SALT talks began eight years ago. Our hucksterings of arms to other countries is up from less than $1 billion in 1970 to over $11 billion in 1977. We keep promiscuously breeding new generations of weapons: Trident subs at $2 billion apiece, cruise missiles, M–X missiles, Mark 12–A missiles, neutron bombs, AWACS, satellite killers—and neither Congress nor the public nor other nations seem able to build a firm resistance to such promiscuity, partly because the bureaucratic momentum of military technology increasingly discourages any meaningful political participation in the crucial early decisions about research and development. And, because we are not yet very serious about the economic conversion of military industry, millions of American workers and thousands of industrialists cling desperately (and understandably) to weapons production for their livelihood—as if this "free economy" couldn't possibly survive without wars and rumors of wars.

If this were only a wasteful extravagance, it would be terrible enough. But the wasting of the human race is at stake. After some years of nuclear complacency, the probability of nuclear war has re-escalated since 1975.

Now, having bared my own soul so indulgently, I feel a lot better—and you probably feel a lot worse! But I will excuse you from the necessity of accepting my own brilliant judgments if you will agree that a focus on systemic inquiry, both politically and theologically (and in the same place), is a rather new and imperative kind of ministry.

Any controversial new ministry can only make its way effectively if it is prepared to de-mythologize some dominant styles of religious opinion and practice. This particular center would do well to scout the myths we shall surely encounter.

Some will say that religion in the 1960s was too radical and activist and that we must continue this long season of retreat and introversion. The truth, I think, is that most styles of religious activism in the 1960's were too sporadic, short-lived, and superficial: they attracted media coverage but they never really dominated our church establishments. In short, most church folk have no excessive habits of political engagement to withdraw from! Ralph McGill, editor of the Atlanta Constitution, wrote that most churches waited until the last act on civil rights, and even then had only a bit part to play.

Some will say: laity want clergy to go slow in politcal matters. I think the truth is more complicated. Laity do tend to resent monologue from their preachers. More and more laity are attaining levels of education and professional competence which equip them for a lay ministry far above being "pastor's little helpers." Johannes Hoekendijk laments our chronic tendency to create "church-domesticated laity, tamed and caged by the church" instead of being empowered for their apostolate in the world. I suspect that more persons (especially young persons) have been lost to the churches in the past decade after concluding that the churches simply don't do anything very important or very interesting, than have been lost because the churches are too provocative or controversial. Let us never underestimate the yearning of our laity for leadership nor the losses the churches suffer from lack of leadership.

Some will argue: when you emphasize politics, you weaken theology and spirituality. Let us learn to challenge that myth as being profoundly unbiblical and untrue to our prophetic heritage from Amos to Jesus. When Jesus set his face to go up to Jerusalem, he was deliberately going directly to the very centers of political power which could cost him his life—and which did. The Crucifixion can never be apprehended as a religious event until it is first grasped as a political event. How false it is to regard the relationship between religion and politics as a zero-sum game—as if any exaltation of politics will diminish religious faith, or vice-versa.

But some will still insist: Christian nurture must precede political involvement. That claim strikes me as both bad psychology and bad theology. At any rate, the churches are full of too many people who are always getting "nurtured" while forever postponing their involvement. Christian preaching and education which presupposes that folks can learn much about the meaning of discipleship without struggling with principalities and powers in the world is shallow indeed. The most genuinely spiritual congregations I know are those to whom members bring the burdens of their apostolate and therefore seek, in company with others, to understand what God is doing with their lives in the world.

The great prior fact that the church must never forget is that "God so loved the *world*. . . ." The right order in thinking and speaking about the church is God-World-Church, not God-Church-an-then-World.

Now at last, having tried to impress you with how spiritual I really am, I conclude with an appeal to you to recognize how patriotic I really am.

The churches must be concerned about our nationhood and renewing our self-respect as a people. We shall never have the commitment, the energy, or the consensus required for great political achievements if we do not identify with treasures in our own heritage as a people. My favorite source of such treasures is the late Judge Learned Hand, the great man who belonged on the Supreme Court but somehow never made it. He really returns us to our opening question tonight: how to bring true liberty into the necessary order of politics. The occasion was a most patriotic one: "I Am An American Day" 33 years ago in Central Park, with all the ethnic variety of New York City gathered 'round, in the very midst of a long war. Judge Hand asked his audience:

"What then is the spirit of liberty? I cannot define it; I can only tell you my own faith. The spirit of liberty is the spirit which seeks to understand the minds of other men and women; the spirit of liberty is the spirit which weighs their interest alongside its own without bias; the spirit of liberty remembers that not even a sparrow falls to earth unheeded; the spirit of liberty is the spirit of Him who, near two thousand years ago, taught mankind that lesson it has never learned, but has never quite forgotten: that there may be a kingdom where the least shall be heard and considered side by side with the greatest. . . .

"(the) spirit of an America which has never been and which may never be; nay, which will never be except as the conscience and courage of Americans create it; . . . (the) spirit of that America which lies hidden in some form in the aspirations of us all. . . ."

Thank you, each and every one of you, for being here tonight.

POSTAL SERVICE: A VIEW FROM RURAL AMERICA—VI

HON. JAMES ABDNOR

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 12, 1977

Mr. ABDNOR. Mr. Speaker, South Dakotans and rural America continues to be gravely concerned about the future of the U.S. Postal Service, and what the Congress has in mind as it ponders postal reform.

I commend to the attention of my colleagues two editorials appearing recently in our daily press.

[From the Sioux Falls (S. Dak.) Argus Leader, Sept. 30, 1977]

RESOLUTION FAVORING SIX-DAY MAIL SERVICE IS POSITIVE STEP

Question: Would you believe the members of Congress or the U.S. Postal Service about public support for or against elimination of Saturday mail service?

The House voted 377 to 9 earlier this week in favor of a resolution urging that the current six delivery days per week be retained. But at midweek, a Postal Service spokesman restated the same policy the agency had before the vote. He said: "We will not decide whether or not to eliminate Saturday delivery until after the completion of an opinion survey on public reaction."

The Postal Service has had a cutback in service in mind since last spring, following the recommendation of a federal study commission to go to five delivery days per week. The Commission on Postal Service said this would save the agency $412 million per year.

The study commission paid for a public opinion sampling which concluded that the majority of Americans would be willing to do without Saturday mail delivery if that would result in lower postal rates. That toll has been attacked by U.S. Reps. Charles H. Wilson, D.-Calif. and James M. Hanley, D.-N.Y. The Postal Service has since decided to Commission its own poll, but results of the new poll have not yet been announced.

In our opinion, the members of Congress have a much better feeling for the needs of the public with respect to mail service than either the first or second polls touted by the Postal Service. The congressmen have gotten an earful from their constituents about the agency's plans for the mails.

A saving of $412 million claimed by the Postal Service in eliminating six-day service should be questioned sharply. What is not calculated is the adverse effect on citizens and business. The resultant delay in the mails, already plagued with a weekend bulge, would not help either individuals or business. The curtailment would impede communication and commerce. A reduction would affect both urban and rural users in a detrimental way. However, rural states would feel the impact more, because citizens rely on the mail for more things, including second class delivery of their newspapers.

The congressional resolution against reduction in service has no force of law. Wilson and Hanley have introduced a bill requiring that Saturday service be continued. The bill would also increase the federal subsidy for the Postal Service and make the postmaster general a presidential appointee. An increased subsidy is essential for effective mail service. The postmaster general is now named by the 11-man board of Governors of the Postal Service; these members are appointed by the president. Direct presidential appointment of the postmaster general and his return to the cabinet would make the Postal Service more responsive to the public.

The resolution upholding six-day mail service is a positive step. The vote reflects the public's interest. Congress should now enact a law embodying the features of Wilson's and Hanley's measure. The Postal Service should be told to retain and improve six-day mail service. Unless the members act, the Postal Service will undoubtedly go its own bureautic way.

[From the Huron (S. Dak.) Daily Plainsman, Oct. 4, 1977]

POSTAL OPTIONS

Although the U.S. House of Representatives passed a resolution by a vote of 377 to 9, calling upon the Postal Service to maintain mail delivery six days a week, spokesmen for the service say they have not given up the idea of eliminating Saturday delivery.

What they are waiting for, they say, are the results of a public opinion survey on the proposed cutback. Depending upon where such polls are taken and what questions are asked, that survey could be slanted to come out just about the way the Postal Service wants it to.

For instance, a survey conducted on Wall Street would undoubtedly produce the answer that Saturday mail service is not important. And that answer would be correct there, because the stock market doesn't operate on Saturday. A survey taken in South Dakota where nearly everyone, particularly rural residents, depends upon Saturday mail, would promote an opposite response.

We expect that the Postal Service could get an excellent report on just where Saturday mail is considered very important part of the service by simply polling its own postmasters. And it would certainly not be too difficult to continue service in those areas where it is needed, even if it were to be discontinued in areas where it might not be considered to be essential.

There are several options open to the Postal Service if it is to live up to its name. One of these would be to ask the same representatives, who voted 377 to 9 to continue Saturday service, for the money to do so. Another would be to continue this service where it is needed.

There are also several options open to the Congress if the management of the Postal Service should insist that it no longer is a service organization. One of these would be to put that service back under congressional control and then provide some positive guidelines for its operation.

After nearly 400 members of Congress give an issue an affirmative vote, the idea of conducting another survey apparently to find out whether those congressmen understand what their constituents really want seems a little odd. As a matter of fact it could be interpreted as an insult to those elected legislators.

We have a hunch that the members of Congress who voted for the continuation of Saturday mail service are reading their mail a little more carefully than the top management of the Postal Service that delivers it.

THE ATTORNEY GENERAL'S BUREAUCRATIC ARROGANCE

HON. ELDON RUDD

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 12, 1977

Mr. RUDD. Mr. Speaker, I am most concerned and irritated by the bureaucratic indifference and arrogance of the Attorney General when it comes to responses to legitimate congressional inquiries and requests.

Despite repeated attempts to obtain information and answers to important questions concerning the Justice Department's questionable action against former FBI Special Agent John Kearney, Attorney General Griffin Bell has ignored my requests and refused to cooperate in any way to provide the information that I am seeking.

My colleagues will remember that Special Agent Kearney is the man who helped obtain critical evidence against criminal terrorists of the Weather Underground, who were responsible for more than 19 bombings around the country in the late 1960's. Mr. Kearney's investigative work led to the in-

dictment of several of these criminals who are unfortunately still at large and have never been brought to trial for their heinous crimes.

Almost as soon as he took office, Attorney General Bell instructed the Department of Justice to press for the indictment and trial of Mr. Kearney on the highly questionable grounds that he had violated Federal law in obtaining the evidence that resulted in these indictments against members of the Weather Underground.

The Attorney General singled out Mr. Kearney for this action, since almost simultaneously he ordered that no indictments be brought against Special Agent Kearney's superiors who must have authorized the wiretaps and mail openings that produced the evidence used by the Government to obtain indictments against the Weather Underground terrorists.

I believe that documents exist within the Justice Depratment to show that Mr. Kearney was acting in accordance with clear policy established by high government officials—including the Attorney General of the United States who at that time was Ramsey Clark.

I have asked Attorney General Bell to provide some of that documentation, which has already been partially quoted by former Justice Department officials in Senate testimony that I discovered.

But the Attorney General has ignored all basic concerns and requests that I have registered with him in the Kearney matter. With the exception of one belated form-type response to my first letter on April 19—which has been followed up by other letters from me in an attempt to obtain the information I am seeking—the Attorney General has ignored my requests and steadfastly refused to produce this information.

Mr. Speaker, since when does a Cabinet officer have the right to invoke the awesome power and resources of the U.S. Government, and refuse to acknowledge or satisfy the requests of elected representatives of the people who seek information and justification for his action?

Mr. Bell has decided that the Government must prosecute John Kearney. He has ordered the Justice Department to use whatever resources it must—along with other agencies of Government—to indict and prosecute, leading to possible conviction and sentencing of a former FBI special agent who is now left to his own personal resources to defend himself, his reputation, and his future.

He must also depend upon evidence and documentation that is under the Attorney General's control in order to conduct such a defense.

I deplore the bureaucratic arrogance of the Attorney General. I publicly ask him now—as I have previously requested in my personal letters to him—for documentation concerning Justice Department policy on the Department's intelligence-gathering activities during the period in question.

Because of the course that he has taken of persistently ignoring and refusing such legitimate requests for information, I believe that it is incumbent upon me to bring this to the attention of Congress. The action he is taking against former FBI Special Agent John Kearney should be terminated.

Mr. Speaker, both those of us in the Congress and the general public are well aware of bureaucratic arrogance and unresponsiveness of Federal agencies to the public's concerns.

Columnists Jack Anderson and Les Whitten authored a recent column on the results of President Carter's survey of Congress concerning dilatory action, annoyance, and inefficiency experienced by Congressmen and their staffs when dealing with Federal agencies.

The Department of Justice was not included in Anderson's and Whitten's list of worst offenders, but as the result of my experience that agency under the administration of Mr. Bell deserves this dubious distinction, and I would like to add them to the list at this time.

It is ironic that the Federal Bureau of Investgation, according to the Anderson and Whitten column, received high marks from Members of Congress for being one of the "most responsive" agencies when it comes to congressional constituent inquires. I believe that the entire Justice Department under Mr. Bell would benefit enormously if the Attorney General would emulate the FBI's efficiency and cooperation in responding to congressional inquiries and requests.

Mr. Speaker, I would like to include the Anderson and Whitten column at this point in the RECORD:

[From the Washington Post, October 1, 1977]

IRRITATING BUREAUCRATS FACE CURBS

(By Jack Anderson and Les Whitten)

The dauntless Jimmy Carter, embarking on perhaps his most quixotic crusade, will next strive to take the annoyances out of government.

He has called upon members of Congress to help him determine which government agenices are the most obstructive and obnoxious. A confidential report, summarzing the responses of 200 legislators, has just been submitted to the President.

It fairly bristles with the caustic comments of congressional offices, which are engaged in the daily struggle of extracting straight answers from indifferent bureaucrats. The most powerful congressmen have found themselves stuck in the bureaucracy's flypaper.

Even more exasperating are the experiences of everyday citizens who deal with the bureaucracy. Increasingly, the governed are not giving their consent; rather, they are throwing up their hands in disgust over the complex forms, endless runarounds and unresponsive answers they get from their government.

We have had access to President Carter's confidential survey, which provides an extraordinary measure of the frustration level induced by the bureaucracy. The government office with the highest irritation rating appears to be the Office of Workmen's Compensation.

Liberals and conservatives alike have become hopelessly ensharled in the spiderweb of red tape surrounding the office. Some applicants simply "give up waiting for benefits and retire instead," Sen. Gary Hart (D-Colo.) reported to the White House.

Sen. Barry Goldwater (R-Ariz.) agreed. He found workmen's compensation "totally inefficient in every manner . . . It takes forever to get a reply." Aides to Sen. James Pearson (R-Kan.) said they "dread" dealing with the office because it "has repeatedly been insolent, arrogant and dilatory."

Rep. Norman Dicks (D-Wash.) told the White House about his vain attempt to secure workmen's compensation for an eligible and needy constituent. The effort took months; Dicks was promised eight times that officials would call him back; ultimately they lost the man's file.

The Social Security Administration also registers high on the annoyance index. Some of its executives take a totalitarian attitude toward inquiries; they tend to regard themselves as sovereigns instead of servants. They "cite cryptic rules in order to fend off inquiries," complained Rep. Joseph Ammerman (D-Pa.).

Sen. John Glenn (D-Ohio) reported that Social Security often doesn't acknowledge letters, and Rep. Philip Burton (D-Calif.) added that those who answer the letters have "a long way to go in improving their basic English." There were hundreds of complaints about "extremely long delays" and "rudeness."

The Occupational Safety and Health Administration came under fire for "harassment," "too many forms" and "unnecessary paperwork." No less than liberal Sen. George McGovern (D-S.D.) castigated it for "overregulation of small business [and] nitpicking enforcement."

The Immigration and Naturalization Service also scored high for sheer nastiness. Sen. Birch Bayh (D-Ind.) called it "confusing, understaffed and backlogged . . . No one," he added, "understands how its decisions are made." Echoed Sen. Howard Metzenbaum (D-Ohio): "It would be easy to form the impression that immigration employees hate all foreigners and wish they would just stay home."

A few agencies drew praise from Capitol Hill. The "most responsive" agency, said Sen. Carl Curtis (R-Neb.), is the FBI. The Defense Department was widely cited for its military efficiency in responding to requests. The Passport Office was lauded for its "well-trained personnel who care." And the Veterans Administration, despite some criticism, received more plaudits.

Perhaps Sen. Jack Garn (R-Utah), put it best: "If each administrator were simply to place top priority on a courteous response to each inquiry . . . you would probably cut my casework problems by 40 per cent."

President Carter will send copies of the confidential survey to the worst agencies, a White House aide explained, to "force them to look at the real world." Individual citizens can help him rate the federal agencies by reporting their experiences to the National Suggestion Box, Box 2009, Washington, D.C. 20013. A citizens' irritation rating will be compiled from the individual responses.

Of course, the government abounds with efficient and intelligent bureaucrats. But collectively, they seem constantly to provide more government but less service at higher cost.

TRADE AND THE DOMESTIC TEXTILE INDUSTRY

HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 12, 1977

Mr. LEHMAN. Mr. Speaker, because of my participation in the interparliamentarian conference, I was unable to take part in a discussion held under a special order on September 27 concerning the domestic textile industry and international trade. I wish to take this opportunity to express my views on this important subject at this time.

The textile and apparel industry is one of the most vital industries in America today. Employing 2.3 million workers,

over one in eight manufacturing personnel depend on this industry for their livelihood. Yet, a growing tide of textile and apparel imports has endangered the continued existence of this key industry.

According to the U.S. Census Bureau, the physical volume of textile imports has increased 250.6 percent since 1966. This has resulted in a decrease of both domestic employment. The International Ladies Garment Workers Union estimates that between 1961 and 1976 approximately 150,000 people lost potential employment in this industry. Further rapid growth of imports could have a critical impact.

It is for this reason that I urge the administration not to lower the import quotas in the forthcoming Geneva negotiations authorized by the 1974 Trade Act. Such action would be a catalyst for further unemployment in the textile industry.

The U.S. textile and apparel industry cannot withstand further competition for our domestic markets. The American textile worker earns an average wage of $3.50 an hour, and must compete with wages lower than one-seventh that amount in such countries as South Korea and the Republic of China. In an industry which is already highly competitive, more imports will simply mean more firms out of business and more workers out of jobs. This will only add to the high unemployment levels of minority groups and women, who constitute a large percentage of textile laborers. Such jobs should not be sacrificed to low cost imported goods from abroad.

Present duties on textiles and apparel are not excessive and do not prevent imports from coming to our shores. The past growth pattern makes this point clear. A reduction in duties could however, tip the competitive scale further in favor of imports and wreak havoc on our domestic industry. For this reason, I urge no further duty cuts for textiles and apparel.

ANTIREBATING BILL

HON. JOHN M. MURPHY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 12, 1977

Mr. MURPHY of New York. Mr. Speaker, the Committee on Merchant Marine and Fisheries has been seeking to enact legislation that will carry out our national shipping policy as stated in the Merchant Marine Act of 1936 and the Shipping Act, 1916. That is, to establish and maintain a strong merchant fleet, owned by American citizens, manned by American crews, and capable of serving as a naval and military auxiliary in time of war or national emergency.

This national policy also specifically provides that we have a merchant marine sufficient to carry a substantial portion of our commerce in our foreign trades.

Common carriers by water in the foreign commerce of the United States are regulated by the Federal Maritime Commission. The Commission does not have regulatory authority over the transport of bulk cargo, including tankers, via vessels owned or chartered by the operators. The routes served by common carriers in our foreign commerce are referred to, generically, as "liner trades."

One of the most pressing problems facing the U.S.-flag liner fleets is that of rebating. Although the Shipping Act, 1916 prohibits any carrier subject to the jurisdiction of the Federal Maritime Commission from offering any direct or indirect monetary inducement to attract cargo that departs from the rates contained in its published tariff, nevertheless the Commission is now investigating 27 ocean carriers—9 U.S.-flag and 18 foreign flag—and 215 shippers or consignees known or believed to have paid or received rebates in our liner trades.

The basic cause of rebating is overtonnaging, and consequently, a measure of control over capacity is probably the long-term solution to this problem. Nevertheless, our shipping laws prohibit this practice although rebating is a commonly accepted competitive practice in virtually all foreign trades other than our own. That it is a harmful practice in the U.S. liner trades is best described in a statement made by Manuel Diaz, president of Adherence Group, Inc., with 30 years experience in ocean shipping:

> It results in unreasonable preference and advantage or prejudice and disadvantage to shippers, ports and other concerned interests.
>
> It never benefits the consumer; and ultimately, must result in predatory competition leading to unbridled rate wars which will ultimately make it impossible for privately-owned companies to continue to operate much less to replace their fleets.
>
> In a nutshell, the result of illegal rebating, whatever its degree, is the enrichment of a few at the expense of the public interest and commerce between nations.

I am introducing a bill, today, which has already been introduced by Senator INOUYE (S. 2008), which I believe will serve as an excellent framework for our committee to conduct hearings and fashion an effective and practical solution to the problem of maintaining equality of competitive opportunity among American carriers, and between American carriers and their foreign competitors, while best protecting the interests of all the shipping public.

The proposed legislation would provide for a 3-year period to reach a permanent solution of rebating practices in the U.S. foreign trades.

There are three major provisions in this bill:

First. All carriers and shippers in the Foreign Commerce of the United States must respond fully to an FMC order of hearing and investigation relating to rebates. Failure to cooperate subjects a carrier to severe penalties including denial of entry of such carrier's vessels into U.S. ports.

Second. An amnesty provision intended to encourage everyone who had engaged in rebating to come forward and disclose. This amnesty provision expressly will not affect any settlements already reached between the FMC and certain carriers, consignors, and consignees.

Third. A requirement that the FMC within 18 months of enactment of this bill report to the Congress on the results of rebating disclosures encouraged by the amnesty provision.

I have already reserved 2 days for hearings, October 14 and October 20, 1977, at which dates we expect to hear from numerous witnesses including all Government agencies which have statutory responsibilities affected by illegal rebating.

THE PROBLEM OF ULSTER

HON. JONATHAN B. BINGHAM

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 12, 1977

Mr. BINGHAM. Mr. Speaker, President Carter recently broke the traditional silence of American Governments on the subject of Northern Ireland. His statement was not so much of interest because of its content, as because of the fact that it was made by an American President.

For too long British Governments have successfully argued that the problem of Ulster was an internal problem for the British, with which Americans had no business meddling. The argument flies in the face of President Carter's position that human rights everywhere are properly the concern of all humankind. Moreover, the problem of Northern Ireland is clearly an international problem, involving as it does the United Kingdom and the Republic of Ireland, as well as the people of Ulster, most of whom consider themselves Irish, not English.

Two recent editorials are of interest in this connection. The first is from the Advocate, an 84-year-old Irish-American Weekly Newspaper published in New York, and is dated September 24, 1977. The second is from The Irish Times of Dublin, dated October 1. The editorials follow:

> The British Government has been urged to make an "explicit and symbolic expression of repentance" for the "long history of injustice visited by Britain upon Ireland." The call is made (July 26, 1977) in a special report commissioned by the Church of England on how the British people can help in bringing about a solution to the problems of the North.
>
> The report spells out the responsibilities of Christians in Britain to do something constructive about the troubles in the North. But it notes that attitudes to Ireland held in Britain have long been ambivalent and dominated by stereotypes.
>
> "There is a particular need for us to avoid the easy dismissal of a whole society and its problems—'those impossible people' which reflects surviving imperial attitudes rather than a realistic attempt of two close neighbors to live side by side.
>
> "In view of the long history of injustice visited by Britain upon Ireland, it may be that real neighbourliness can only be brought about by an explicit and symbolic expression of repentence on our part both for what has been done amiss in time past and for our part in its continuance," the report declares.
>
> It calls on the British Government to start political talks once again, saying that the only beneficiaries of the present political im-

passe are the paramilitary groups. But, it adds, that while power-sharing may prove to be essential in the long run, it should not be a precondition of talks taking place.

"The effect of standing pat," says the report, "is not even wise in terms of the strategy of reducing terorism—as events in Malaysia in the 1950's demonstrated, you can only effectively defeat a modern guerrilla movement by making progress on the political front and engaging 'the hearts and the minds' of the community at large."

However, it warns that Britain should not assume that it has even the germ of political solutions within its grasp, "Our contribution as the sovereign power may well be the crucial and painstaking one of holding the ring and identifying and removing obstacles to an agreement."

The report says that it is unrealistic for British commentators to look for political solutions without at the same time engaging with the fact of violence and, in some measure, acknowledging their own part in it.

"The history of Ireland—particularly that part recalled whenever the Catholic and Protestant communities celebrate their separate existence—is punctuated by scenes of violence enacted by Britain and answering violence from one or other of the Irish communities."

Nevertheless, while Britain carries the constitutional and legal responsibility for Northern Ireland, the report says that that does not mean that all responsibility rests in Westminister. It is shared by the government and people of the Republic of Ireland and by the two communities in the North.

The report, commissioned by the Church of England's Board of Social Responsibility, was written by Mr. Giles Ecclestone, secretary of the board, and Canon Eric Elliott, a minister working in Belfast. It was produced in response to a call from the Irish churches to discuss the Northern problem and bring it to the attention of the British people.

FANATICS ALL!

All Governments have one main aim: to stay in power; British or Irish, Tory or Labour, Fianna Fail or Coalition.

Mr. Callaghan's Government is no exception, and his gambit with Mr. Lynch and Mr. O'Kennedy this week is part of the pattern. He is, he makes clear, the Prime Minister of the United Kingdom of Britain and Northern Ireland; he is not going to give up any part of it without a struggle. Thus, he can tell Jack Lynch that he, Callaghan, is the guarantor of the people of Northern Ireland, while our men at the talks feel inhibited as to their long-term ideals for that same part of Ireland, our own country.

To be sure, we offended no-one too much in London. There was a bit about power sharing (not in the communique) and that will crackle for a bit; but nothing fanatical, of course. Fanatical is a great word in the English press; it denotes any Irishman or woman who believes that we could run our own country.

Yes, that's fanaticism for you, as some of the London journalists will define it.

One might think that those who hope for a united Ireland are, in fact, the people of balance and reason: who see the prospect of two nations with an interlocking history, with much in common today, with hostages to fortune mutually given, learning to live side by side as good neighbours and not in a relationship where bitterness and intermittent warfare continue, as they do today and have done for centuries.

To aspire to a united Ireland is to wish to be rid of factionalism and sectarianism, both of which are guaranteed to continue for as long as Britain remains.

Britain and Ireland must sort out their future or have it sorted out for them. Britain is now a minor country on the world scene. Ireland is one of the few remaining places where she can throw her weight about—and does so. It is as crude at that.

To know about war is an army's business. Britain's army is now well up on modern urban tactics. No-one else has gained from the present conflict.

One should not belittle the easing of a cross-border tangle here and there; an advance in economic co-operation can only do good; but if, at bottom, Callaghan continues to stake out the Six Counties as his terrain, as Norman magnates did eight centuries ago, then journeys to London are a waste of time, and, indeed, even a humiliation.

SUSPENSION OF THE NATIONAL CRIME SURVEY

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 12, 1977

Mr. CONYERS. Mr. Speaker, I wish to call to the attention of my colleagues a decision by the Law Enforcement Assistance Administration to suspend data collection for this country's only ongoing survey of the victims of serious crime.

The national crime survey—the so-called victimization survey—is designed to collect accurate statistics on the incidence and nature of crimes involving serious violence and property offenses. Unlike the FBI's uniform crime reports, which depend on police departments to assess the incidence of crime, the national crime survey obtains its information from a representative sample of some 60,000 American households and 50,000 businesses across the United States. This survey collects detailed offender and victim data for rape, robbery, assault, larceny, household burglary, and the commercial crimes of burglary and robbery.

From strictly a statistical point of view, the survey is far superior to the existing FBI police reports since it gathers data on crimes both reported and not reported to the police. In addition, because the survey employs a large, representative sample and utilizes one format, it is not subject to serious differences in reporting practices among the 13,000 law enforcement agencies which comprise the FBI's uniform crime reports.

Among the advantages of the survey are the following:

First. Checks accuracy of FBI's police reports;

Second. Supplies offense and victim data identifying those most at risk;

Third. Provides an accurate assessment of changes in crime rates—quarterly and annually;

Fourth. Includes data on fear of crime and citizen evaluation of seriousness of crimes—supplements added to questionnaire;

Fifth. Gauges rates of reporting and nonreporting to the police; and

Sixth. Permits a more accurate assessment of criminal justice effectiveness—particularly city surveys.

With the above in mind, the subcommittee will hold an oversight hearing on Thursday, October 13, to review the decision to suspend this valuable survey for a period of approximately 1 year. Perhaps a little historical background might help underscore the reasons for our concern over the matter.

The Acting Administrator of LEAA 2 months ago approved a staff recommendation that this survey be suspended. Coincidentally, at the time LEAA was deciding to drop this survey, the Attorney General's staff was recommending to him that a criminal justice statistics bureau be set up in the Department, with the national crime survey to be a key component of that Bureau's activity. This struck me as a classic case of the right hand not knowing what the left was doing, prompting me to write the Attorney General to ask for clarification of this apparent inconsistency. I received an interim reply from the Office of the Attorney General, indicating that they were reviewing the matter. In the meantime, the subcommittee has been contacted by researchers and others in the criminal justice statistics user community, protesting the planned suspension of this survey.

Having received no further communication from the Justice Department, I was quite surprised to read in the Los Angeles Times, the Washington Post, and the New York Times of an interview with Acting Administrator Gregg, who announced that LEAA was suspending the survey because of "serious" questions about data collection, including the quality of the questionnaires that have been used.

I am deeply concerned about the apparent confusion and delay which has surrounded this decision. At a time when this Nation needs an accurate barometer to measure crime—particularly if we are to gauge whether a real decrease in the crime rate has occurred in 1977—it astounds me that LEAA would terminate data collection in apparent contradiction of its own published statistical goals, the policy of OMB, and the plans for a Bureau of Criminal Justice Statistics.

I call the attention of my colleagues to this most serious matter for it would appear that unless this decision is reconsidered, we in Congress will be forced to rely on the crime reporting system which is widely recognized as the least accurate of the two.

I am also informed that because of technological reasons and the start-up of the 1980 census, suspension of the national crime survey could well mean its termination until the mid 1980's.

I invite all those with a concerted interest in the reliability of crime statistics to attend our hearing at 1 p.m., in room 2141 of the Rayburn House Office Building. At this hearing, members of the user and statistical community will provide some background concerning the merits of continuing to collect victimization statistics. We will also have on hand a representative of the Census Bureau which conducts the survey for LEAA, and the Acting Administrator of LEAA, who we hope will provide an explanation of this most confusing and disturbing situation.

THE OPTICAL DELUSION—PART III

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 12, 1977

Mr. BIAGGI. Mr. Speaker, I am pleased to insert the third part of a recent investigative series in the New York Daily News on the retail eyeglass industry. The entire series focuses on widespread consumer fraud in the industry and this particular article goes right to the heart of the problem—namely the glaring disparity in eyeglass prices.

At best consumers are vulnerable to paying exorbitant prices for eyeglasses and equipment merely by virtue of where they shop. Contained in this article is a sample breakdown of prices for frames and lenses quoted from some 20 different stores surveyed by the Daily News reporters. The disparity is startling, the ability of the consumer to be protected is nonexistent.

Currently the FTC is developing rules to lift the ban on advertising on eyeglasses. This could result in savings of 25 to 40 percent, based on prices in those States where bans are in effect.

I now submit the article—"Eyeglass Prices Are Nothing To Be Proud Of," by William Sherman:

EYEGLASS PRICES ARE NOTHING TO BE PROUD OF

Americans are buying their eyeglasses in the dark. Part of the problem is advertising—virtually every state has prohibitions against optometric price ads.

The same pair of glasses—with the same frame and the same lenses—sells at anywhere from $36 to $83.50 at different stores around New York City. But if you didn't do shopping, you wouldn't know the difference.

What's more, if you bought the glasses in one of the three states, not including New York, where there are no restrictions on advertising, you would probably pay 25% to 40% less for those glasses, according to federal surveys.

The bans range from total prohibition of any type of advertisement, even a practitioner's name, in 25 states like Connecticut to states like New York where there are fewer restrictions.

And although these bans are supposed to protect the consumer, the real effect is price protection for the retailer.

Because of the prohibitions and other industry practices the Federal Trade Commission describes as "monopolistic," it is estimated that American consumers pay as much as $400 million a year in excessive eyeglass prices.

Advertising prohibitions keep retail prices artificially high, say economists who testified before the FTC, much higher than the 200% wholesale-to-retail markup on clothing, food and other staples.

Without active competition, say the economists, retailers charge whatever the market will bear and in New York City, where 2 million pairs are sold annually, the market bears plenty—600% to 800%.

Frame prices are the item retailers jack up most and on Madison Ave., an American Optical Co. "Stadium" frame which wholesale for $5.50 is sold as a separate item for $40.

Optometric lobbyists contend that price advertising would allow large corporate, or non-professional discount chains into the business, resulting in poor quality glasses. Most retailers in the United States are individual practices owned by optometrists.

Still, over the years, laws have been relaxed in many states allowing optometrists to work for lay, or non-professional corporations such as Peoples' Drugs in Washington, D.C., an area where there are no advertising prohibitions.

In New York State, prohibitions on all forms of eyeglass price ads were lifted only a year ago, but there are still restrictions against displaying discounts, coupons, endorsements and each ad must contain the specific frame manufacturer, model number, and type and manufacturer of lens. It is cumbersome.

Jan Dorman, executive director of the New York State Optometric Association, said frankly, "We're against advertising. We're against commercial optometry. There are too many variables, too many prescriptions, and the consumer deserves to have one man prescribe and dispense his glasses."

In almost every state where there is an optometric lobby, or a government board which controls the practice of otpometry, there are advertising restrictions.

Strangely enough, Dorman's opponents, the large commercial chains such as Cohen's Optical and Sterling Optical, members of the Optical Retailers' Association rarely advertise even though they supported lifting restrictions.

"Even the large commercial houses don't want to advertise because they don't want a price war," said Dorman. "There's enough business for everybody."

So there is almost no price advertising in New York City for eyeglasses even though it's a $170 million annual industry in the five boroughs.

Retailers argue that prescriptions are so complex that large discount houses can easily deceive customers as to what they are getting for their dollars.

However, a News investigation disclosed that there appears to be no relationship between how much you pay for glasses and the quality of the goods you receive, even if you go to "guild opticians."

Reporter Hugh Wyatt, who bought 20 pairs of glasses around New York City, found in many cases, the quality of his costlier purchases at fancy boutiques was worse than less expensive glasses bought at high volume stores. The glasses were evaluated by optometrists at the State University of New York's Optometric Center.

At prices ranging from a low of $31.90 to a high of $69 for the identical glasses, Wyatt's prescriptions were inaccurately filled and frames and lenses were mangled by technicians. Most of the stores he visited were large commercial establishments.

Reporter Kiki Levathes, who visited 20 Manhattan stores and asked for price quotations for duplicating her Bausch and Lomb Ray Ban glasses found a range from $36 to $83.50, a difference of 132%.

The high prices, said the expensive retailers, are due to better service. But at most of the stores, regardless of price, sales personnel pressured reporters to buy such things as more expensive high fashion frames, oversize lenses, or tints to match their eye or hair color.

Here is a sampler of their shopping experiences:

At three stores in one retail chain and two stores in another, different prices were quoted for the same glasses. In one case, two salespeople in the same store quoted different prices.

Most retailers told the reporters they could wear soft contact lenses costing up to $300 even though those lenses are contra-indicated, improper, for their vision problem, astigmatism.

Four stores refused to sell the relatively inexpensive Stadium frame even though that common model is easily available from the American Optical Co., one of the three largest ophthalmic manufacturers in the world.

Several sales people insisted to Levathes that she needs "oversize lenses" for her standard size frame. The oversize lenses cost about $15 more and according to optometists at the center, are unnecessary for her frame.

Both reporters were given advice on prescriptions, vision problems and fitting glasses by salespeople and clerks who are not licensed by the state as optometrists or opticians.

Questions about quality and price were often challenged by retailers who asked the reporters why they were so curious. Some acted insulted. Others refused to answer queries and one asked Levathes to leave his store.

Wyatt asked for an itemized bill at each store. Without such an account he wouldn't have had any idea of what he was paying for; was it the frames, the lenses, the examination, the labor? Still, many stores didn't break down his tab and told him simply that "everything" was included in the package.

At some stores, Levathes found practitioners who were frank. "Soft lenses wouldn't serve you any purpose," said optometrist Jay Baxter who works at Kimbe Opic, 711 Fifth Ave. "It wouldn't be correct for your prescription. I wouldn't even prescribe hard lenses for you. It's not worth it.

When asked why he would charge $15 for a frame which wholesales for $11.60 with no exam included in the package, Baxter shrugged and said, "You rarely hear of an optician operating with less than a 200 percent markup. It goes as high as 500 percent higher. We charge whatever the market will bear."

Stanley Bryer, an optician whose store is at 510 Madison Ave., quoted the highest price in the Ray Ban sample, $83.50: $48.50 for the frame, and $35 for the lenses which wholesale for about $5.00.

"I admit my frame is overpriced," said Bryer. "But I sell my services, I don't just sell the frame. I offer good eye care with follow ups and adjustments."

"Salesgirls in the low-priced chain stores who are not trained and licensed opticians or optometrists, are not qualified to be on the floor fitting and recommending frames," Bryer added.

Gerard J. Cevaseo, president of Sterling Optical Co., one of the largest low priced chains, dismissed the argument that his stores sell at a low price because "quality" care isn't provided.

"We get our lenses primarily from Bausch and Lomb and American Optical. We buy in bulk and we get a reduction in price because we buy in tremendous volume. Our average stores does 20 to 30 times the volume of the private optical shop."

Cevaseo, whose chain has 86 stores in 15 states, estimated that Sterling sells 750,000 pairs of glasses annually. "The gross markup in the business ranges from three to 20 times wholesale scale. You might pay $30 for a pair of glasses from Sterling that would cost $60 at Lugene's (an expensive optician)."

As for quality control, Cevaseo said his firm spot checks lenses for quality and added, "We can provide full one hour service; 15 minutes for an eye exam, 5 minutes to select the frame and another 15 to 20 minutes to mark edge and insert the lenses into the frames."

Optometrists at the university center said it is "impossible" to perform a proper eye exam including all the crucial tests in less than 45 minutes.

Cevaseo said, "An experienced optometrist can do it in seven minutes."

On giving advice on glasses, Cevaseo said, "Why pay an optician or an optometrist $28,000 to $35,000 a year to do something a reasonably intelligent girl can do for $110 or $120 a week."

James O'Keefe, head of the New York Division of Lugene Opticians, a high priced chain of eight stores in four states disagreed with Cevaseo. "We don't believe you can get good glasses in an hour. We are concerned about giving a good product which sometimes means disappointing people on time."

Both Lugene and Sterling advertise, but the Sterling campaign, especially outside of New York City, is much bigger. Cevaseo said advertising is "good" for the consumer adding that it "increases competition."

O'Keefe said, "I'm afraid the quality will suffer. It will help the dishonest opticians sell an inferior product."

The Federal Trade Commission, which has repeatedly urged lifting all bans on advertising, says that the "quality of material issue is a moot point with regard to eyeglass prices."

Surveys have shown that 85 percent of the lenses sold in the United States have a wholesale price ranging from about $5 to $7 a pair. FTC surveys show that lenses and frames are uniformly marked up much higher in states that prohibit advertising.

Expensive or not, there is virtually no eyeglass price advertising, in New York City.

One expert says he has the answer to the entire pricing and markup problem. Optometrist Charles W. McQuarrie, president of the American Optometric Association says, "It's simple. I charge $32 for an eye examination and provide the glasses to patients at cost. If I do one exam every 45 minutes I still make money. That way the buyer knows exactly what he's getting."

ONE PAIR, 18 PRICES

A pair of glasses passes through several stages from the manufacturers' machines to your eyes. And at each stage the product is marked up in price.

Manufacturers convert glass and plastic raw materials into frames and lenses. In the manufacture of lenses, two firms, American Optical Co. and Bausch and Lomb, control about 80 percent of the domestic market. They also produce about 25 percent of all the frames produced in this country.

Some 85 percent of all lenses are produced by manufacturers to a wide variety of prescriptions and need no special surfacing. Some strong prescriptions, bi-focals and trifocals, are sent to wholesale laboratories for extra work.

But most lenses and frames go directly from the manufacturer to the retail store with a markup of about 100 percent. However, retailers buying in bulk can get discounts.

Finally, the retailer sells them to you and all the costs—raw materials, labor and profit—are passed along. It is at this stage that the materials are marked up the most, up to 500 percent.

But the price varies from store to store, and in New York City, where there is virtually no price advertising, the consumer has no way of knowing whether he or she is getting a bargain.

News reporter Kiki Levathes priced an identical pair of Bausch and Lomb Ban "aviator" glasses at 20 Manhattan stores.

There was no eye examination included in the price and the lenses, because of her mild prescription, would be stock, needing no special work.

The wholesale price for the frame is $11.60. The lenses, which would have been left to the retailer's discretion, average about $5 wholesale. Total wholesale package: $16.60.

Here are the retail prices she was quoted:

Practitioners	Frames	Lenses	Total
A. R. Trapp, 488 Madison Ave	$30.00	$30.00	$60.00
Cohen's Fashion Optical Co., 767 Lexington Ave	25.00	16.95	41.95
Community Lens, 788 Madison Ave	22.00	14.00	36.00
Gimbel's Optical, 125 E. 86th St	32.00	23.00	55.00
Grand Central Optical Co., Inc., Grand Central Station	22.00	23.00	45.00
I. J. Stone, 342 Madison Ave	25.00	25.00	50.00
Kimbe Optic, 711 Fifth Ave	45.00	30.00	75.00
Lugene Opticians, 1058 Madison Ave	35.00	46.50	81.50
Lugene Opticians, 38 E. 57th St	35.00	31.50	66.50
Maurice Jaitin Inc., 1314 Second Ave	27.50	18.50	46.00
Meyrowitz Inc., 555 Madison Ave	27.50	43.50	71.00
Meyrowitz Inc., 839 Madison Ave	27.50	38.50	66.00
Meyrowitz Inc., 1170 Madison Ave	27.00	43.50	70.50
Page & Smith Opticians, 33 58th St	25.00	38.00	63.00
Pildes Opticians, 1010 Third Ave	24.95	18.50	43.45
Purdy Opticians, 506 Madison Ave	25.00	27.00	52.00
Stanley Bryer, 510 Madison Ave	48.50	35.00	83.50
Sterling Optical, 795 Lexington Ave	23.95	23.95	47.90
The Lens & Eye Inc., 1051 Third Ave	35.00	30.00	65.00
Ultimate Spectacle, 1032 Third Ave	26.50	38.50	65.00

THE PANAMA TREATIES: FURTHER DECAY OF AMERICA'S INSTINCT FOR SURVIVAL

HON. ELDON RUDD

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 12, 1977

Mr. RUDD. Mr. Speaker, I strongly believe that the Congress must seriously study the impact of the proposed Panama Canal Treaties in the context of the history of the past 30 years.

Testifying before the Senate Foreign Relations Committee yesterday, Dr. Lewis A. Tambs, professor of history at Arizona State University, gave his scholarly analysis that the proposed treaties are a further step in our Nation's consistent retreat around the world. He stated that—

The proposed new agreements with Panama are but another example of the decay of America's instinct for survival, sense of strategy, and commitment to freedom.

I believe that Dr. Tambs' historical overview and his straightforward analysis of the proposed treaties is one of the most important contributions to congressional consideration of these proposals. I include his testimony at this point in the Record:

STRATEGY, SEA POWER, AND SURVIVAL: THE CASE FOR RETAINING THE ISTHMIAN CANAL

On Monday, June 6, 1977, a hand-carried letter arrived at the White House. Addressed to President Jimmy Carter, the message cautioned him against the new Panama Canal agreements and warned: "that loss of the Canal, which would be a serious setback in war, would contribute to encirclement of the United States by hostile naval forces and threaten our ability to survive." The communique closed with the signatures of four former Chiefs of Naval Operations—Admirals Thomas Moorer, Arleigh Burke, Robert Carney, and George Anderson.

Presidents and admirals pass, but strategic imperatives and national interests remain. The bulk of the World's sea-borne commerce flows through 12 major maritime choke points: four inland seas—the South China Sea, the Mediterranean, the North Sea, and the Caribbean: two interoceanic canals—Suez and Panama; and six critical passage points—Singapore, Ceylon, the Horn of Africa, Gibraltar, the Cape of Good Hope, and the Straits of Magellan. These 12 choke points have been the scene of strife ever since the 16th century when Western Europe launched its maritime expansion. All the major sea powers—Spain, the Netherlands, France, and Great Britain—struggled for domination of these passages. But by 1945 the older commercial empires were ebbing. A new bipolar world emerged.

The United States stood triumphant. Control and responsibility for the global sea lanes rested with the Americans. But the other super power, the Union of Soviet Socialist Republics, also had national and ideological aspirations.

The U.S. sought to restrain Soviet ambitions with the Containment Doctrine of George Kennan. Containment was essentially an updating of Sir Halford Mackinder's Eurasian Heartland thesis, which envisioned land power (Russia) and sea power (Anglo-Americans) juxtaposed. Secure in their air, atomic, economic, and technological superiority, the North Americans erected a series of defensive encircling alliances in the Rimland or Inner Crescent of the Eurasian World Island.

Simultaneously behind the NATO, Northern Tier, and SEATO shield they sought to promote political progress by encouraging decolonization and liberal democracy while generating economic stability by fostering free trade and private capitalism in the Outer or Insular Crescent.

Containment was, however, basically defensive. The initiative passed to the Soviets. Seeping through the encircling alliance system, the Russians began fueling wars of national liberation and sowing subversion.

Meanwhile, ignoring the cries of their consumers, the Communists concentrated the vast resources of the Eurasian pivot area on the production of nuclear weapons, the development of heavy industry, and the advancement of space technology. Within a decade and a half they had achieved near parity. Atomic warfare became almost unthinkable; nuclear devices and intercontinental ballistic missiles unoperational. The world returned, if only temporarily, to the classical concepts of strategy and political geography where space, place, population, endowment, and development are paramount.

The Russians, noteably Field Marshal V. P. Sokolovsky and Admiral Sergi G. Gorshkov, having studied and digested the geopolitical theories of Mackinder, Karl Haushofer, and Thayer Mahan opted for imperial adventure.[1]

The holders of the Eurasian Heartland would challenge the Oceanic peoples of the Inner and Outer Crescents—the Americans and their allies. Construction of a high seas fleet and control of the world's sea lanes emerged as a prime objective of Soviet policy.

By 1959 the Russians, having made the North Sea a virtual *mare nostrum*, accelerated their intrusions into the three other inland seas—South China Sea (Viet Nam), Mediterranean (United Arab Republic), and Caribbean (Cuba). Of the two isthmian canals, Suez—since it provided the U.S.S.R.

with shorter seaborne link between its Atlantic and Pacific coasts, just as Panama served the United States—was targeted first.

In true 19th century colonial fashion, further efforts were directed at the six critical passage points—Singapore, Ceylon, the Horn of Africa, the Cape of Good Hope, Gibraltar, and the Straits of Magellan.

Between 1959 and 1975, the world was awash with diplomatic and military maneuvers. The People's Republic of China broke with the U.S.S.R. United States' efforts to salvage South Viet Nam and the South China Sea failed. Indonesia was, however, retrieved.

The Soviet Fleet entered the Indian Ocean in force. Conflict wracked the Middle East. The Suez Canal was opened and closed. From Cuba, Fidel Castro struck around the rim of the Caribbean, only to be frustrated by local nationalism and U.S. counter-insurgency. Salvador Allende came and went in Chile, and with him a potential threat to the Straits of Magellan.

Of greater import, the bipolar world of the post-World War II era faded and the day of the super-tanker dawned.

Four nations emerged as centers of economic and political stability in their respective regions: Japan in the Western Pacific, Iran in the Mid East, the Federal Republic of Germany in Western Europe, and Brazil in South America. Recognizing the new reality, the United States sought to shore up the shattered Mackinder-Kennan system along the Eurasian rimland while Brazil was given special recognition in South America.

But the world had also altered in another way. The repeated closings of the Suez Canal, the economy of petroleum transport, and the mounting dependency of the industrialized nations on imported oil heralded not only the advent of the super tanker, but also the evolution of a new strategic map.

The oil sea lines of communication (SLOC) which had previously passed from the Middle East to Western Europe and the United States by way of the Mediterranean now ran southward through the Indian Ocean, around the Cape of Good Hope, and up the South Atlantic. The world was turned upside down; the globe inverted. And the Soviets were astride the sea lanes on both coasts of Africa.[2]

In April, 1974, the dominoes had begun to totter. Portugal, targeted along with Spain and Morocco by the Soviets in their Plan Oran, trembled. Mozambique and Angola swayed with Soviet-supported insurgency. Saigon fell in March, 1975, and with South Viet Nam went Cambodia and Laos. Mozambique and Angola were pushed into the Socialist orbit by Russian-trained and supplied Cuban regulars.

The United States, apparently paralyzed by its inability to implant Wilsonian democracy in Indo-China, stunned by the failure of its machines to impose its will on the minds of the North Vietnamese, and torn internally by the defection of the intelligentsia, stood by helplessly. The United States, which had stood triumphant in 1945, was within 30 years in retreat everywhere. America's major allies—Japan, Iran, West Germany, and Brazil—sensing the metaphysical crisis, scrambled to save themselves.

The proposed new agreements with Panama are but another example of the decay of America's instinct for survival, sense of strategy, and commitment to freedom. Even John F. Kennedy's declaration that the mission of the United States was to make the world safe for diversity seems to be forgotten as totalitarian Marxist-Leninist regimes supported by Soviet subversion and seapower spread over the globe.

The cruise of the *U.S.S. Oregon* from the Pacific to the Atlantic during the Spanish-American War in 1898 dramatized the need for an American isthmian canal. The voyage around Cape Horn added 8,000 miles and almost two months travel time to the voyage. Assuming that Cape Horn and the Falkland Islands are in friendly hands, a modern war vessel steaming at 20 knots still needs an additional 17 days to complete the cruise around South America, compared with the 8 to 10 hours required for the Panama passage.

Possession of the Panama canal, moreover, has allowed the United States the economic advantage of maintaining one fleet by shifting units back and forth, rather than supporting the cost of a two-ocean navy.

The continuing value of this concept was proven during the Viet Nam War. In 1968, at the height of the conflict, 1,504 U.S. Government vessels utilized the canal. Even in the relatively sombulent years of 1974 and 1975 the number totaled 248 and 170.

Of the 176 combat surface ships and 75 attack submarines currently on active duty with the United States Navy, only 13 large aircraft carriers cannot transit the canal.

However the vast majority of warships can. The need for the U.S. Navy to retain the ability to shift units is further accentuated by the increasing presence of Soviet task forces in the Gulf of Mexico and the Western Atlantic. This is especially critical given the numerical superiority of the Soviet Fleet, which lists 214 major combat ships and 231 attack and cruise missile submarines—all of which, curiously enough, can pass through the Panama Canal.[3]

In modern naval warfare submersibles hunt submersibles. The USSR enjoys an advantage over the U.S. attack submarines. They also have a geographical advantage. While the U.S. is essentially a large land mass surrounded by water, the USSR is an even larger land mass essentially surrounded by land and frozen seas.

Thus Soviet submarines carrying relatively short-range missiles can stand off North American coasts and cover the continent, while U.S. Polaris submersibles stationed in the North Atlantic, Indian Ocean, and Western Pacific must be equipped with the expensive Trident missile system with a range of 4,000 miles.

Detection, location, and tracking of submarines depends on underwater sound and satellite systems; the kill by aircraft or attack submarines. Control of the Canal Zone adds to U.S. aerial surveillance and permits the immediate transfer of attack submarines to regions frequented by Soviet submersibles, and thus aids the defense of the continental United States.[4]

U.S. foreign and coastal commerce also depends on the Canal. In 1975 over 16 percent of all U.S. seaborne trade used the waterway. Moreover, statistics reveal that down through the years a constant average of about 70 percent of all cargo through the Canal is bound either from or to a U.S. port.

The economics of water transport for bulk products such as grain or petroleum are well known. Midwestern grain growers who ship their cereals by way of the inland waterways and the Missouri and Mississippi on to U.S. and foreign Pacific ports by way of the Canal depend on inexpensive tolls for their small margin of profit. If the Canal were closed, many would be ruined, for the Cape Horn route would result in an estimated 31-day increase in shipping time.

Under U.S. administration, rates remained relatively stable from the opening of the Canal to 1974. Current transit cost averages around $8,000 per vessel.

Tolls set merely to cover operational expenses cannot be guaranteed under the new isthmian treaty. Brigadier Omar Torrijos, Panamanian Chief of State, has repeatedly stated that the Canal is a natural resource and will be exploited as such.

Torrijos' need for funds is certainly understandable. Panama's external debt, which amounted to $167 million when the civilian government was ousted in 1968, now totals $1.5 billion. Most of these debts are owed to U.S. banks. Torrijos and his creditors need money, and the Canal is the milk cow.

Even Sol Linowitz, formerly of Marine-Midland Bank and currently the State Department's co-negotiator, has admitted that tolls will increase immediately 25 to 30 percent upon ratification of the treaty.

This initial increase in rates will also include petroleum shipments. Oil from Alaska's North Slope has already passed through the Canal. A super tanker from Valdez transshipped its cargo at Balboa into three regular tankers, which carried the oil to U.S. ports. Since Gulf ports are unable to accommodate super tankers anyway, off-loading at Balboa is currently the most feasible.

Nevertheless, utilization of the four existing 10 and 20 inch diameter U.S. Navy pipelines running through the Canal Zone might prove more economical in the long run for supplying the energy starved East Coast. Thus the argument of proponents of the new treaty that the Canal is obsolete because it cannot take super tankers is redundant. Particularly so since vessels such as the San Juan Prospector, at 108,770 DWT and with a length of 972 have already transited the isthmus.

Erroneous also is the contention that the Canal has already reached its limit. The Canal presently handles 30 to 40 ships a day. Maximum capacity is estimated at 70 vessels per day—a figure projected for 1990. Moreover, the Terminal Lake—Third Lock Plan initiated by President Franklin D. Roosevelt, but halted in 1942, would almost double the numbers of ships that could be handled if it were completed.

The charge that the Canal is vulnerable to atomic attack and sabotage is partially correct. Nothing is completely impervious to nuclear warheads. But given the prevailing balance of terror, this possibility is more potential than immediate. Especially now, since the Soviets through the application of sea power and subversion are gaining their objectives anyway.

Sabotage can be minimized by proper security measures. Moreover, if the existing U.S. garrison of 9,000 cannot assure the internal security of the Zone, how can the Panamanian National Guard of 6,000, tied down as it is with running the republic, protect the Canal? Especially when it must confront 1,700,000 citizens who have been deprived of their civil rights since the military coup of 1968.

The question of building up the Panamanian Armed Forces has a direct relationship to human rights and military dictatorship. If the National Guard, supported by U.S. subsidies and increased Canal tolls, is expanded to a level to provide even only adequate police protection, not military defense, will not the U.S. be responsible for strengthening the hold upon the Panamanian people of an already repressive military regime that has banned all political parties, but has permitted the Communist Party to operate openly, and whose Chief Negotiator Romulo Escobar Bethancourt is "an extreme leftist and friend of 'Che' Guevara."[5]

Given Soviet interest in Panama, the political coloration of Escobar, and Torrijos' open admiration for Fidel Castro, other Latin American nations are beginning to wonder about the wisdom of turning over the Canal to Panama.

Brazil has a burgeoning trade with the Far East. Some 8 percent of Brazil's foreign commerce is with Japan, and rising. If the Canal falls into hands hostile to Brazil there are only two other sea routes to the Pacific. One around the Cape of Good Hope is monitored by the Soviets. A second around Cape Horn is "precarious."[6]

Given the hazards of the Cape of Good Hope and Cape Horn, Brazil will probably have to seek a peephole on the Pacific. The

Footnotes at end of article.

most feasible is a transcontinental route from Santos to Africa, passing by way of Bolivia and Chile or Peru.

For the Brazilians, like the Russians, are avid students of geopolitics. They believe that since 70 percent of the world's population and 70 percent of the globe's unexploited natural resources lie along the rim in the Pacific basin which includes the Indian Ocean, that the Pacific is the ocean of the future. And Brazil is an emerging power—a land of the future.

The Pacific coast states of Latin America are also wary about the Canal, for they are even more dependent than Brazil. Thirty four percent of Chile's maritime trade passes through Panama; 41 percent of Peru's; 51 percent of Ecuador's; 66 percent of El Salvador's; and 76 percent of Nicaragua's.[7] Higher tolls are going to hurt.

Conversely, Mexican commerce will be the least effected. The Mexicans, however, should realize that as the Canal slips out of U.S. hands, Yankee interest is going to increase in the Gulf of California and the Isthmus of Tehuantepec.

Argentina finds itself in a similar situation. Like many of the other Latin American nations, they have vociferously supported a Panamanian takeover. As the date draws near, they are not so certain. For the Argentines want the British-held Falkland Islands, and fear that as U.S. sovereignty over the Canal slips away an enlarged North American presence will be felt in the Falklands and Cape Horn as well. Neither of these prospects are welcome in Argentina.

Victims of their own rhetoric, Latin American politicians are beginning to look to the U.S. Senate to save them from Panamanian economical extortion and mounting American pressure. Many would prefer to leave the situation as is for they are aware of the similarity with Suez. They could then continue to berate the U.S. and at the same time have their national interests preserved.[8]

But who speaks for America? In general the backers of the new treaty are the same ones who decried the reputed errors of Presidents Eisenhower, Kennedy, Johnson, and Nixon for involving the U.S. in Southeast Asia. Simultaneously, these supporters salute these same chief executives for their statecraft in Panama.

The concessions of 1959, 1963, 1964, 1967, 1970, 1973, and 1974 have, however, only provoked an escalation in Panamanian demands. Could it be that these presidents who supposedly followed a bankrupt policy in Viet Nam also erred in Panama?

Our negotiators Ellsworth Bunker and Linowitz have assured us that the U.S. retains the right to intervention and that U.S. warships will receive immediate dispatch through the Canal. This appears to be a private revelation, since both Torrijos and Escobar deny this interpretation.

Moreover, our diplomats have protested that the only way to protect the Canal was to deed it to Panama. The Panamanians, the argument went, would never destroy their prime natural resource. Torrijos has a different view. On October 7, 1977, he proclaimed that "Senate rejection of the treaty could lead to the closing of the Canal."[9] Who are we to believe? Bunker and Linowitz, or Torrijos and Escobar?

Who speaks for America? Once the sovereignty is lost, the Panamanian Government will have every legal right under eminent domain to expropriate the Canal, treaty or no treaty. Moreover, the U.S. has no assurance that Torrijos will not ally himself with his idol, Fidel Castro. Nor do we have any guarantee that succeeding Panamanian governments will honor the agreement. This is a chancy business.

The Panama Canal is one of the world's major maritime choke points. Since 1959, the Soviet Union has emerged at a great maritime power. Challenging the United States and its allies—the Sea Peoples of the Mackinder thesis and the Kennan Containment Doctrine—on all the oceans of the world, the Russians have intruded into every inland sea, canal, and passage point on the globe. Now as the United States withdraws into the shell of Fortress America, even maritime communication between our own Atlantic and Pacific coasts is endangered. As the four former Chiefs of Naval Operations warned the President: under the control of a potential adversary the Panama Canal would become an immediate crucial problem and prove a serious weakness in overall United States defense.

Gentlemen, I urge you to reject the proposed Panama Canal Treaty.

FOOTNOTES

[1] V. D. Sokolovsky, *Military Strategy: Soviet Doctrine and Concepts* (New York: Praeger, 1963), and Sergel G. Gorshkov, *Red Star Rising at Sea*. T. A. Neeley, Jr., trans (Naval Institute, Press, 1974).

[2] Geoffrey Kemp, "The New Strategic Map," *Survival* 19:2 (March-April, 1977), pp. 50–59.

[3] *The Military Balance, 1976–1977* (London: Institute of Strategic Studies, 1977), pp. 6, 9, Panama Canal Company, *Annual Report, 1973* Balboa Heights, C.Z.: 1973), p. 38, *Ibid., 1975*, p. 5, and Adm. William Read, Atlanta, in *Phoenix Gazette*, October 7, 1977, p. B–13.

[4] Richard L. Barkley, "The N-Boat Standoff," *National Review* (June 10, 1977), pp. 661–662.

[5] Raymond Estep, *A Decade of Political Change in Latin America, 1963–1973* (Maxwell Air Force Base, Ala.: Air University, 1974), p. 237.

[6] Interview with high Brazilian General Staff Officer, August 1977.

[7] Interviews Brazil, Uruguay, Argentina, Paraguay and Bolivia, August–September 1977.

[8] Council of the Americas, *United States, Panama and the Panama Canal* (New York: 1977), pp. 15–16.

[9] A.P. dispatch, Stockholm, in *Phoenix Gazette*, October 8, 1977, p. 1.

IN RECOGNITION OF GWEN TILLEMANS

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 12, 1977

Mr. LAGOMARSINO. Mr. Speaker, I would like to bring to the attention of my colleagues the following article in recognition of my constituent, Gwen Tillemans, and her outstanding efforts in both public and private life. She truly provides an example that all should try to emulate.

The article follows:

GWEN TILLEMANS PROUD SHE HELPED POLITICIANS

(By Tony Joseph)

Although she has every right to be, Gwen Tillemans is not bitter about the near-fatal attack on her. She's only puzzled by it.

And so is everybody else who knows her and can't understand why the robber who entered her modest Oxnard home last Halloween night would want to kill her.

He almost did.

Before running from the house with $30 from her purse, the intruder plunged a large knife into her back. She hovered between life and death for a week, and then miraculously recovered.

It was a senseless crime. Mrs. Tillemans would have given him the money. She's a giving person who has given so much of her time to others since moving to Ventura County 15 years ago. Although mostly working for political causes, Mrs. Tillemans has also been involved in community causes, strictly on a volunter basis.

And suddenly there she was, lying in her bdroom bleeding from her wounds while her husband Pat and 92-year-old mother were within a few feet from her in other rooms, oblivious of the event that had just taken place.

Such a paradox for someone who had made only friends, even among Democrats against whom she worked in a variety of roles with the Republican party. She began as a volunteer in the gubernatorial campaign of Richard Nixon in 1962 and soon became president of the Ventura County Republican Women's Club. Eventually, she held positions in connection with all Republican women throughout the state.

Mrs. Tillemans is not rich. At least not in terms of what you put in the bank. She and Pat owned the largest resort in the Midwest, but working there was more fun than profit. When they sold it in 1962 and came West, they did not make nearly enough money on which to retire. But they got more than just the money out of all those years.

"It was a beautiful way to live," Mrs. Tillemans recalled of the 20 years she and her husband worked the Hartford Beach Resort, located in Milbank, South Dakota. Part of the resort the Tillemans' bought from Hubert Humphrey.

Mrs. Tillemans' political loyalties are curious considering she was born and raised in the same state which elected George McGovern senator. Mrs. Tillemans worked actively in Ventura County to help defeat him.

Of course, that meant she also helped to put Nixon in the White House, but she has no regrets about that. "Watergate wasn't any worse than anything that's happened in the past," she said. "If I had those tapes, I'd have eaten them."

Naturally, when talking of her political achievements, Mrs. Tillemans prefers to discuss how she helped the career of Rep. Bob Lagomarsino from the time he was a state senator. For her work, Lagomarsino later appointed Mrs. Tillemans to his finance committee. She also worked hard to send Assemblyman Chuck Imbrecht to Sacramento. He returned the favor by making her a voting member of the state central committee.

Her personal career in politics is extensive, considering it has been centered in the county. After serving as treasurer of the Oxnard Republican Women's Club Mrs. Tillemans became president for two terms and voted second vice president of the Ventura County Republican Women's Club. Later, she would serve as president and treasurer of the Southern Division Republican Women and a voting member of the board.

After becoming budget chairman of the California Federation of Republican Women, she was appointed last year to the executive committee of the federation. She has been asked to run for office with the state federation, but her loyalty and dedication to improving things on the home front has discouraged her from doing so. "I don't want to leave my county post," she said. "There's too much to do here. This is an important county because of all the people moving here."

When Mrs. Tillemans moved here it wasn't to become active in politics, although she conceded she had always been fascinated by the political system and hoped one day to become a part of it. But she and Pat's real reason for coming to California was the weather. And the reason for their staying remains the same. "The weather here is beautiful," she said. After living her whole

life in South Dakota, Oxnard must indeed look like a Shangri-La.

Born Gwen Schultz in Twin Brooks, S.D. ("A town I doubt is even there any more"), Gwen was one of five children, the others all boys. Her father sold rural land owned by the government and also worked the farm that the family lived on. Gwen said her father was also involved in politics and her grandfather was a Civil War hero. "He was one of the best soldiers and finest horsemen in the Union Army," Mrs. Tillemans recalled. She wasn't just bragging. Much had been written about this man who came across the ocean from Holland as a shoemaker and eventually became a postmaster to the Senate under President Harrison.

It was a tough act for the rest of the family to follow, but Gwen did her best. After growing up in the isolated atmosphere of a farm, she became senior class president of Willow Lake (S.D.) High School and was a member of the school's championship women's basketball team. Her musical pitch not only won her a spot with the school's glee club, it also got her traveling around the state where the club performed.

The bad times Gwen Schultz had were also bad times for everybody else. When the Depression came, she felt it was time to be on her own and make her own way. "My ambition then was just to take care of myself," she recalled. "I wanted to get a job and relieve my parents of responsibility."

Naturally, she had to leave the farm, but her childhood memories were good ones. "Everybody should grow up on a farm," she said. "Today, everything, including pleasure, is created for kids."

Working in a department store and teaching in adult education barely left her enough time to meet anybody, but if people find love they're not looking for, this was the case for Gwen Schultz, whose last name changed two years after meeting her husband in Milbank, S.D., where he worked as a baker.

The Tillemanses' success story in business hardly compared with Carnegie or Rockefeller, but it was a success story nonetheless. Starting with only $40, they parlayed that and their good credit into their own bakery. They made a lot of dough, and some money.

Still, working long hours every day, they managed to save enough to buy the resort. And believe her when she says they were ready to get out of the kitchen and into the resort business. Besides, their only child, Patsy Lou, now 39, was born then and Mrs. Tillemans wanted a family life. "I ran the resort myself for a while until my husband sold the bakery," she said. "It was a funny thing then. The war was on and there was gas rationing, yet the resort business was booming. I still can't explain why we did so well."

The resort business in the Midwest is, of course, seasonal, and during the off-season, the Tillemanses came to California, where Pat Tillemans worked for Douglas Aircraft making airplane parts. It was just a job at the time, but it helped them make the eventual move to this state. They settled on Oxnard because of relatives living there. Besides by that time Patsy Lou had grown up and was working for a Catholic Church program with delinquent girls. She's currently enrolled at USC working on her master's degree in psychology. Patsy Lou has a story all her own to tell, what with her experience with the FBI in Washington, D.C. "She's always been very independent," said her mother.

While Pat Tillemans worked in Oxnard in the insurance business, his wife got involved in Republican politics and never regretted it even in light of Watergate. She said her enthusiasm for the GOP didn't wane even during the worst of the worst scandal in political history. "I liked him (Nixon) very much, but I feel sorry for him now," she said. "It's very unfortunate this happened. I can't imagine he let it go as far as he did.

In retrospect, Mrs. Tillemans believed Nixon made a good president because of his progress with foreign policy. "Many of his ideas were good. If he had only gotten the Congress to go along with him," she said

In any case, that's all Watergate under the bridge for both Mrs. Tillemans and the GOP, and she believes the party in Ventura County was never in better shape. "We're healthy here," she contended. "This and Santa Barbara County are the only two counties in the state that have gained membership in the GOP among women for the past two years."

Of course, she points to victories by Lagomarsino and Imbrecht as an example of the power the party wields in the area. But she also believes the two men would have made it regardless of party strength. "Lagomarsino is a good man. He really thinks of the people of this county. In Imbrecht—there's no end to his political heights."

Is there an end to Mrs. Tillemans' political heights? Probably. But even she won't say where. She plans to eventually run for Oxnard City Council and would also consider running for a school board post.

She's a woman who literally never says die. But she still thinks of that night when she almost did die.

"We had finished dinner. Pat was in the garage, and my mother was in her bedroom," she recalled. "The patio door was open when I lay down on my bed. Suddenly, I felt this terrible hit in my back—like a hammer." She felt a hand go over her mouth, but she was able to remove the hand and scream. That brought her mother charging into the room and scared her attacker away.

At first, Mrs. Tillemans wasn't even aware she had been stabbed. But as blood dripped on the carpet, she became painfully aware she had been, and it was serious. Just how serious was discovered at the hospital, where doctors told her the knife had struck one-quarter inch from her heart.

Her friends prayed for her as she lay in the intensive care unit for almost three weeks. She believes the prayers helped. "I am a devout believer in God," she said.

Incredibly, she not only fully recovered physically from her attack, but also emotionally. "I bear him (her attacker) no malice. I feel sorry for him. I feel sorry for anybody as mixed up as that," she said.

Did she ever think of moving from the area afterward? No. Mrs. Tillemans never ran from anything. "Maybe I'm dumb in a lot of ways," she said. "This is a good city. I like it here. She has a lot of friends who like having her here.

CARGO PREFERENCE BILL

HON. PAUL N. McCLOSKEY, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 12, 1977

Mr. McCLOSKEY. Mr. Speaker, with respect to the cargo preference bill, debate on which has been postponed until next week, the Baltimore News American ran an article on October 2 entitled: "Unionized Merchant Marine Unable To Compete."

The thrust of the article reflected the fact that our extensive program of maritime subsidies has not worked.

The wages we pay to our subsidized seamen have made our subsidized ships noncompetitive. Likewise, an almost-incredibly large percentage of those same seamen's wages is extracted by maritime union leaders for the purpose of electing candidates to Congress pledged to increase Federal assistance to the merchant marine.

Last week I inserted at page 32799 of the CONGRESSIONAL RECORD, on October 6, 1977, an article describing how one such maritime union, the Seafarer's International Union (SIU), has attained amazing political power through its diversion of the subsidized wages of its members into political campaign contributions.

For a union of 12,000 members, the SIU was the 13th ranked union in the United States in 1976, contributing $348,720 to Federal candidates, at a per capita of $29.06 per member.

It was recently called to my attention that another maritime union, the Marine Engineers' Beneficial Association (MEBA), has historically been even more effective in stimulating political contributions, not only from its members, but from its pensioners.

I must confess to my own surprise last year, in receiving a contribution of $1,500, not from the active Masters Mates and Pilots, but from the retired Masters Mates and Pilots Political Action Committee. I had never before received a contribution from a group of retirees, and I can only ascribe my new good fortune to the fact that I have recently ascended to the high position of ranking minority member of the House Merchant Marine Subcommittee.

For the benefit of our colleagues I am pleased to insert in the RECORD a Wall Street Journal article on the Marine Engineers Beneficial Association, written 6 years ago by one of the Nation's top reporters, Jerry Landauer. Mr. Landauer had the tenacity, back in 1971, to interview a number of retired members of the Marine Engineering Union (MEBA) which, 5 years later, in 1976, was to set a new national record for political involvement by contributing over $56 per active member to candidates for Federal office. MEBA's total of $539,771 ranked seventh among the Nation's unions, although the union itself numbers only 9,500 members. This per capita contribution was over 500 times larger than the average member of the AFL–CIO throughout the Nation.

The attached articles provide a good object lesson in practical political power in the United States today.

[From the Wall Street Journal, Nov. 15, 1971]

PENSIONS AND POLITICS—SHIP ENGINEERS' UNION GETS RETIRED MEMBERS TO FUND CAMPAIGNING; MEBA USES CONTRIBUTIONS TO AID FRIENDS OF LABOR

(By Jerry Landauer)

For half his lifetime, 73-year-old James Green has been a union man, proud of his membership in the Marine Engineers Beneficial Association, AFL–CIO. He's retired now, living in Baltimore and drawing a union pension of $315 a month. "Things are getting kind of tough," he reflects. Yet along with nearly 2,000 other pensioners he grudgingly gives his union $10 every month, "to help them out."

The Marine Engineers, or MEBA, is not a union that seems in need of help. It collects initiation fees of $1,000 from young men wanting to join, and it can afford to pay President Jesse Calhoon a $75,000 salary.

But MEBA lacks a membership willing to give generously to the union's political fund.

So, to compensate for stinginess among seagoing engineers, it leans on pensioners who can't so easily elude the political collectors—and at times leans on deceased members widows, too.

Supposedly, the retirees are all donating voluntarily, as federal law requires. But because the union controls pension payments, a member applying for retirement thinks twice before refusing to contribute. Once a pensioner has agreed to give, the union makes sure he doesn't forget; it deducts the $10 contributions from the monthly retirement checks it sends out.

In most cases, the oldsters supplying political dollars don't know where their money is going. "I didn't know it was for politics," says Jimmy Green.

HELP FOR SEN. FONG

The union's retired men are supplying more than $250,000 this year, mostly for campaign contributions to help AFL–CIO President George Meany reelect labor's friends and fight political battles such as the one brewing in Congress to compel payment of pre-freeze wage boosts. Collectively, MEBA's pensioners constitute the chief financial backers of the campaign-giving operation of the AFL–CIO's Committee on Political Education, the federation's political-action arm.

Last year this union of only 13,000 members managed to send campaign checks to more than 120 candidates for Congress. The individual amounts ranged up to $6,250, which went to GOP Sen. Hiram Fong of Hawaii; the union brass bought 25 tickets at $250 apiece to a fund-raising event for Mr. Fong at New York City's Waldof-Astoria Hotel.

In all, the Marine Engineers spent $450,000 for political purposes last year, displacing the Seafarers International Union at the spearhead of a $1 million-a-year drive by maritime labor to expand subsidies for the U.S. merchant marine. (Just 11 Representatives opposed a $506 million maritime subsidy bill for this fiscal year; Senators authorized the money without a roll-call). And only two unions in any field, the 1.3 million-member United Auto Workers and the 455,000-member International Ladies Garment Workers, reported raising more for national politics last year than MEBA.

The bulk of MEBA's money—$224,617—came from 1,750 or so pensioners giving as much as $170 each to the Marine Engineers Beneficial Association Retirees Group, an uninformatively titled outfit that's actually a political fund. Pensioner Jimmy Green was among 1,535 men who gave precisely $120 each, in 12 installments of $10. As the money rolled in, the retirees group transferred $201,000 in eight installments, to Mr. Meany's COPE. No other union's fund came close to matching this big gift.

"I'M NOT TALKING ABOUT THAT STUFF"

MEBA's massive political fund-raising is known only to a few labor insiders. President Calhoon won't answer questions about any aspect of the union's fund-raising or political spending. "I'm not going to talk about this stuff," his public relations counselor quotes him as saying. And though the tactics used seem questionable to some, union chieftains appear confident that no government agency will act to break up their collective scheme. So far, certainly, the Justice Department has made no effort to determine how this little union has raised so much political cash.

The union has been careful, however, to avoid infringing certain legal prohibitions. The retirees fund is set up as an independent entity, separate and distinct from the union. If it were admittedly part of MEBA, the fund couldn't donate to candidates for President, Senator or Representative, either directly or through COPE; unions and corporations can't legally contribute members' dues or shareholders' assets to campaigns for federal office.

Apparently to give the appearance of independence, the retirees fund recently moved from MEBA headquarters near the New York waterfront to a small office in Washington, and to preserve that appearance the union shields the fund's five trustees from interviewers; though their names are known, the union refuses even to tell where they live. "This information isn't secret," President Calhoon's publicist explains. "It's just not available to the press."

What is available, though, is the record of political donations; by law, in reports to the clerk of the House of Representatives, a political treasurer must identify the source of all donations exceeding $100. These reports show, among other things, that MEBA's pensioners are giving more than are most of the union's highly paid brass.

President Calhoon, for one, isn't listed among the donors to separate, straightforwardly named political kitties sponsored by each of the two districts constituting the National Marine Engineers union. His salary last year exceeded $80,000, plus $15,473 in "retroactive pay." Vice President Charles A. Black (1970 salary: $68,851) started with $120 for politics, not one dime more than pensioner Jimmy Green (1970 retirement income from the union $3,780).

Moreover, the union's collectors rarely seems to tap themselves. John F. Brady, secretary of MEBA District 2 in Brooklyn (salary $28,620) and treasurer of the district's political fund, listed no donations above $100 in his reports to the clerk of the House, not even from district president Raymond McKay (salary: $43,112 plus $20,671 for expenses.) But Mr. Brady has on occasion collected more than $100 from widows whose dead husbands failed to pay political "voluntaries" as the union calls them, on time.

Among several cases that can be documented, Mr. Brady in 1969 collected $705, partly for his political fund and partly to pay union assessments, from Lorraine Clark, a widow in Oshkosh, Wis. He even issued a receipt—for political gifts that must by law be voluntary—in the name of her late husband, Otto Clark, a MEBA man who died months before.

In the same year, Mr. Brady required Jeanne R. Crehan of Kenmore, N.Y. to sign over a $325 check to the union before she could receive survivor's benefits following her husband's death. "Please have Mrs. Crehan sign this check and return it to this office," he instructed. The written reason: "Mr. Crehan didnt pay any voluntaries, and the $325 check represents voluntaries of $65 per year for the years 1964 through 1968 inclusive."

"A SONG AND DANCE"

Indeed, if voluntary means informed consent, no more than a small fraction of the union's vast political income can be so regarded. George Birmingham of Baltimore, an alert 81-year-old, does know that he's giving "to politicians who vote the way our lobbyists want them to." But talks with dozens of donating pensioners suggest that most don't know the political purpose.

Lawrence Henkel of Baltimore believes his annual $120 gift "pays for our doctors." Lionel Brown of Brooklyn assumes he's giving to some welfare fund: "I'm a union man and I listened to what they told me," he says. George Wansor of New York says he's donating "because the union came to me with a song and dance about hiring a lawyer to take care of our pensions." John E. Palmer, a pensioner in the Bronx, believes he's helping to buy eyeglasses or finance clinic care for other men; "It's got nothing at all to do with politics," he feels sure.

Some fraction of the retirees fund's expenditures ($30,560 of $294,312 last year) is indeed devoted to what the fund calls "nonpolitical purposes." But these purposes include large fees to friendly Senators who travel frequently to Baltimore for short speeches. In one six-month period, four Senators each earned fees (the largest, $2,500, went to Democrat Gale McGee of Wyoming) for imparting knowledge about maritime matters in brief talks to recruits at MEBA's training school there; delivery of just 805 words yielding $2,000 for Maryland Republican Charles Mathias.

MEANWHILE, BACK AT THE SEAFARERS

While the MEBA chiefs won't talk about their politicking, inside sources say they seem confident that the union's collection methods can withstand legal attacks. This confidence could be based on the respectful treatment that Congressmen and ranking Nixon men are still giving the Seafarers International Union, even though that union's political activities have run afoul of the law.

In June 1970, the Justice Department won indictment of the Seafarers on 17 counts of conspiring to violate the election laws. Among other things, the indictment alleged that foreign seamen were paying into that union's political fund (1970 receipts: $344,905) for the right to work aboard higher-paying U.S. flag ships.

The union has denied the charges. In any case, all sorts of things have happened since the indictment to keep the Seafarers happy. Lawmakers authorized $475,000 to dredge a channel leading to the Seafarers training base at Piney Point, Md. More recently, a galaxy of big names—House Speaker Carl Albert, House GOP Leader Gerald Ford, Sen. Ted Kennedy, presidential aspirant Henry Jackson, Commerce Secretary Maurice Stans (President Nixon's chief 1968 fund-raiser)—all appeared at the Seafarers annual convention to embrace the union leadership or, in the words of Maritime Administrator Andrew Gibson, to praise it "for proving that labor unions are looking ahead for the welfare of the working man."

[From the Baltimore News American, Oct. 2, 1977]

UNIONIZED MERCHANT MARINE UNABLE TO COMPETE

(By Sterling Noel, Hearst News Service)

From time to time writers, members of Congress and those concerned with the sea and ships comment upon the dramatic decline in recent times of the U.S. Merchant Marine.

The subject is generally treated as a phenomenon beyond the scope of human control, much in the manner of natural catastrophes such as volcanic eruptions and earthquakes.

It isn't that we don't know what has happened to the U.S. Merchant Marine. It's just that most people don't want to talk about it.

The reason for his is the fear of offending labor and their unions, which are largely responsible for said decline.

The simple economic principle involved is the cost of shipping. What has happened to the U.S. Merchant Marine is that the union pay scale for officers and crew of American ships has removed them from competition with the ships of all other nations.

This being the case, it is generally true that the only shippers who can afford to use U.S. bottoms are those who are subsidized by the government, or otherwise restricted by law from using more economic foreign transport.

Exceptions are found in the growing container-ship business, which is largely an American innovation. Foreign shipping people have not caught up with us yet, so we can still compete. When they do, then it will be a new ball game.

The figures show how depressing this situation has become. Thirty years ago America was the world's major maritime nation with some 4,000 merchant ships plying the oceans.

They carried 85 percent of all U.S. seaborne trade.

Twenty years later, by 1968, we had fewer than 2,000 left of this fleet and we were carrying 6 percent or less of our own seaborne trade.

Now our position is down to 10th place in world's shipping and we have only 530 ships in world trade.

In contrast, a country almost unknown in world shipping in 1947 when we were paramount, the Soviet Union, has now passed us in world shipping, rising to sixth place with 2,000 merchant ships plying the seas.

To combat this decline, Congress years ago took the obvious step of subsidization. The figures show that it hasn't worked, as it has with other nations. Analysts say American shipping rates are still too high to compete so all of these hundreds of millions have been largely wasted.

The federal subsidy amounted to $70,000 for each seagoing berth in 1970. By 1976 this had risen to 131,000 for each berth, for a total cost of more than $300 million, and it is still ineffective.

The question Congress is going to have to decide one day is what steps must be taken to make American ships competitive.

BATTERED WOMEN

HON. ROBERT W. KASTEN, JR.

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 12, 1977

Mr. KASTEN. Mr. Speaker, I would like to share with my colleague two articles written by a Milwaukee attorney that illustrate the problems of women who are repeatedly beaten by their husbands.

As L. Mandy Stellman documents, battered woman face an indifferent criminal justice system that considers wife beating a domestic problem, instead of the serious crime that it is.

Ms. Stellman's articles accurately describe the way things are today. They should emphasize to us the compelling need for action by Congress on a bill I have cosponsored to provide aid to cities like Milwaukee that are in critical need of facilities to aid battered women.

The articles follow:

STOP DOUBLE STANDARD IN BATTERED WIFE CASES

The police had been there many times before. They knew Patricia and her husband very well. While Patricia, now five months pregnant, was feeding her 2 year old son, her husband demanded his dinner and when it didn't come immediately, he grabbed Patricia by the throat kicked her in the stomach and beat her unmercifully with fists and elbows.

She went to the hospital with a ruptured spleen that had to be removed. She lost the baby. The husband was ordered to appear in the office of the district attorney. He was never prosecuted for a crime and Patricia lives in fear of another attack.

And then there is Elizabeth. When the police responded to a neighbor's telephone call, they found Elizabeth with red welts on her face, neck and arms. Her 9 year old daughter was crying. "Daddy wouldn't stop hitting mommy," the child kept repeating over and over between sobs. The hitting and the battering stopped only when a neighbor intervened. Elizabeth spent three weeks in the hospital. She sustained a broken jaw loose teeth and severe bruises. Time may heal the physical injuries. Her husband was charged with battery and the court found him guilty and placed him on probation. But he has threatened Elizabeth with "more of the same," and she lives in fear.

These are only two of the hundreds of cases of battery, a criminal act, brought to the attention of the district attorney's office. The names are fictitious, but the facts are only too true. Few cases ever result in prosecution of the man who beat a woman.

What we have in Milwaukee is selective prosecution of the battery law; a man attacking a man is battery; a man attacking a woman is often considered a "domestic quarrel."

DOUBLE STANDARD IN THE DA'S OFFICE

We have a double standard in the district attorneys office that is unconscionable for those sworn to uphold the law—yet the law on battery is very clear.

The Wisconsin Statute states: (Ch. 944.20) "Whoever causes bodily harm to another by an act done with intent to cause bodily harm to that person or another without the consent of the person so harmed may be fined not more than $200 or imprisoned for not more than six months or both."

Until very recently, almost all cases involving wife battering were handled by the district attorney's office, even though few ended with prosecution in the courts. Recently, the district attorney and city attorney, ignoring Wisconsin law, have decided together that women being beaten by men should be given an even lower priority. Now they have been turned over to students as part of the law school training.

Now these students can "play judge" with the lives of powerless women, most of whom are of low income.

What this all adds up to is that sexist attitudes of community leaders such as politicians, judges, police, district attorneys, welfare workers, etc., are reflected by the way they treat those helpless, powerless women who have been beaten by men.

PROBLEM IS TREATED AS A DOMESTIC ONE

Almost all police departments and law enforcement agencies have treated, and continue to treat, the battered woman problem as a domestic issue and not as a serious problem involving violent criminal activity. It is not unusual to find law enforcement personnel advising the battered woman to "go home and make up with your husband."

According to the police and the district attorney's office, most battered women who come to their attention are a problem because they don't follow up on the charges against the men.

Why don't the women follow through? It starts with the woman being economically dependent upon the man who is the breadwinner and totally in control of the family money. If the husband or boy friend is a heavy drinker, and/or beats her, unless the woman has job skills and a place to provide for her children, she is literally trapped in an economic bind that forces her to remain with the husband or boy friend, or—almost as a last resort—she may become a welfare recipient.

Battered women are emotionally beaten down, too. Their self-esteem is low, as they feel ashamed of their "family problems." They avoid neighbors who may hear the screaming and the crying. The battered woman lives in isolation, reluctant to involve others with her problems. She somehow feels she has brought this upon herself, that she deserves what is happening. She not only lives in fear—she lives with no hope for the future.

When children are involved, the mother must deal with their fears and must often protect them from the rage of the man. Life is a constant state of terror for her and her children.

What does this all add up to? It adds up to an abomination! A woman gets little help from the prosecutor's office, and certainly no protection from further attacks from her assailant—who has no worry, since he faces little chance of the battery laws being enforced.

There is one exception. And the police know about it because it involved Teresa, who was well known to the police. They had been called many, many times to Teresa's residence, at least 10 times in the past two years for "domestic quarrels" and beatings. Twice her husband was ordered to the district attorney's office; never was he charged with a crime. The last time the police were called was to pick him up for first degree murder. He had put a pillow over Teresa's head; she died in a few mintues.

No, the police don't have to go to Teresa's home anymore; and the district attorney's office doesn't have to hesitate about prosecuting. Murder laws are always enforced.

REACTION—BATTERED WOMEN ENCOURAGED TO EXPOSE BRUTISH MEN

Hurray for Mary Beth Murphy and The Milwaukee Sentinel for the series on battered women!

Now when a woman tells her neighbors, friends and relatives that her husband beats her, they aren't going to be so hesitant about believing her.

More and more women have "come out of the closet" in recent months, taking positive action against the men who beat them. And more will speak out as a result of your excellent articles.

Since the police, the district attorney and the city attorney are obviously of no help to a battered woman, now what the women can do is to publicly announce to all she comes in contact—the butcher, the baker, the milkman and particularly his employer—my husband is a wife beater!

That should do it! Let's start shouting!

The recent Sentinel series on the battering of women certainly points out the shortcomings of our professional community. The women who have been beaten saw doctors, lawyers, clergy, social workers, psychiatrists, psychologists, marriage counselors and a whole host of other "experts."

Where have these concerned experts been over all these years of seeing women so conspicuously covered with the evidence of physical abuse—black eyes, bruises, broken bones?

In fact, there seems to be some evidence that many of these experts told the women that the women had brought this upon themselves. Others told these women to go back to their violent spouse and "make up"—knowing or suspecting that the husbands would beat them again.

This kind of insensitivity by our fellow Milwaukeeans says something about either male chauvinism or the attitude of "I don't give a care." Take your pick!

In the recent series on the battering of women, it is interesting to note how the public officials reflect their concern for the beaten women, knowing full well that death for these women is always lurking in the shadows.

David Felger, of the City Attorney's Offices, says that women's cases have not been given understanding; and then he allocates them to the lowest level of consideration in the City Attorney's Office—sending the battered women to talk with Marquette University law students who also handle neighbor arguments about garbage, and music playing too loud.

Dist. Atty. E. Michael McCann says his department takes battering of women seriously and promptly, then, with the agreement of Felger's office, sends them to the

City Attorney's Office knowing full well that they will end up with students who haven't even been oriented as to the problems of battered women, and how to prevent the women from being battered.

This is being concerned? That's less consideration than is given to traffic violators, or to a person who passes a $10 worthless check.

If a man beats a man at a bar or on the street or anywhere without the police being present, that man will be arrested. The police don't have to be present, they don't have any concern about being charged with false arrest, or about being reprimanded by their superiors.

With respect to a man beating a women, a wife or a girl friend, then the police have a different set of rules of their own not based on the law. Now, for reasons which only the police have decided, when a woman is battered, the police have to be present when the assault takes place for them to do anything; they claim they might be accused of false arrest—even though the women is standing in front of the officer with all the evidence of the battering showing, and certainly, the police know their superiors couldn't care less if they take no action.

Isn't it interesting how the double standard is practiced, which means, of course, men can't batter men without being arrested, but men can batter women from here to next week without arrest.

At least there is only one standard when it comes to murder; when the man eventually murders his wife, or she fights back and kills him when she has passed the point of tolerance, then the police will be there—in force.

If the police believe in prevention, as we keep hearing from our police chief with respect to wife beatings, the police obviously have no program—and no interest.

When a woman is beaten by her husband or boy friend, if you are a police officer and do not wish to help in her time of crisis, then you announce publicly that she loves to be beaten (somehow or other, men never like to be beaten, only women) then, as a police officer, you don't have to do anything.

So, if a cop wishes to "cop out" of responding to a call by a beaten woman, he rationalizes not responding, or brushing off wife battering as unimportant by saying that women love to be beaten. Or, as a police officer, you use every tactic possible to discourage the woman from filing a complaint against her husband or boy friend and then joyfully announces, "But she won't prosecute, so why do anything?"

Maybe this attitude about women by police officers is reflected in the very high divorce rates, the high rate of alcoholism and the excessive number of family problems police display, as reported in literature about the personal lives of police.

One of the messages one gets from the articles in The Milwaukee Sentinel on the battered women is the obvious lack of concern of the husband for his children. Following the beating, the woman has to flee for her life with the children and try to find refuge away from the home where all the children's necessities remain. He gets the house all to himself with all the comforts—knowing full well that everything his wife and children need for survival are in the house he occupies.

So the perpetrator of the crime is left with the spoils, while the victim has to fend for herself and the children. What kind of man is this who thinks so little of his children that he lets them wander the city begging for food, clothing and shelter?

And the woman is supposed to go back to that man who obviously is prepared to beat her again. What kind of children will these be when they are older?

RELAXATION OF TENSIONS IN KOREA

HON. HELEN S. MEYNER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 12, 1977

Mrs. MEYNER. Mr. Speaker, I was pleased to take part in a Conference of Japanese and U.S. Parliamentarians on Korean problems which was held in the Cannon caucus room on September 19 and 20. Various aspects of the Korean situation were discussed in four working sessions.

I took a particular interest in the third working session on "Prospects for Tension Reduction and Political Accommodation in Korea." Discussions on Korea often seem to be characterized by vicious circles of fear and hostility. I feel that we must seek ways of breaking out of this distructive situation. Many of the participants in this session had interesting suggestions to make in this regard.

The Honorable Tokuma Utsunomiya, a member of the House of Representatives of the Japanese Diet, offered a particularly interesting paper on "Relaxation of Tensions and Korean Reunification." Although space does not permit inclusion of his full remarks, I would like to share his opening remarks on "Causes of Tension in the Korean Peninsula" with my colleagues. I am certain that you will all find it interesting and provocative:

I. CAUSES OF TENSION IN THE KOREAN PENINSULA

Military and political tensions, said to stem from differences in the political systems of the two Koreas, continue to exist in the Korean Peninsula. The South Korean Government, for instance, constantly refers to the dangers of direct and indirect Communist aggression from the North and this fear of the "threat from the North" forms the cornerstone of its domestic and foreign policies.

However, in addition to the simple reason of two states with differing systems existing in what was once a single nation, there are a number of other factors contributing to the present tension in the Korean Peninsula and I believe that we need to clarify these different factors in finding ways of lessening this tension.

I would first like to list these causes of tension and, later, add explanations.

(1) North and South Korea are more identical in their language, their alphabet and their culture than East and West Germany. Whereas a unified Germany emerged only a little over 100 years ago, Korea has been one nation and substantively maintained its independence from the year 938, when Wang Kon established the Kingdom of Koryo, until 1910 when it was annexed by Japan. Thus, there is today among the peoples of both North and South Korea a keen realization of the irrationalities inherent in the division of their country into two separate entities and a deep desire for unification of the entire Korean race. The governments of both North and South Korea interpret these identical sentiments on the opposite side of their border as threats and indications of aggressive intent against themselves.

(2) The Korean Peninsula is the only region in the world where the East-West Cold War of the post-World War II era erupted into a large-scale hot war. Regardless of what may have sparked the Korean War, the fact remains the 38th Parallel has been for many years the most tense of all frontlines in the East-West Cold War.

Because of this, the Korean Peninsula is where a situation and a consciousness of tension still remains the strongest. This is particularly so in South Korea, while it was North Korea, which was able to observe at first-hand confrontation developing between the Soviet Union and China, that early realized the East-West Cold War had lost its original significance and had substantially become a facade. However, in South Korea, the rapprochement between Japan and China and between the United States and China and the sudden change in Vietnam, served only to arouse a sense of heightened danger and to lead to a further strengthening of South Korea's Cold War setup. This sense of danger is evident in the covert activities of such organs as the Korean CIA aimed at expanding the influence of those circles in Japan, the United States and elsewhere still interested in perpetuating and escalating the Cold War.

(3) Economically, South Korea has always been a country centered on small-scale rice farming and small-scale fisheries along its complex seacoast. It has not been blessed, as in the case of North Korea, with underground mineral wealth, hydro-electric power and forestry resources. However, in such an economy as that of South Korea, the farming and fishing villages provide a constant source of surplus labor. The situation is the opposite to that in North Korea, which constantly complains about its labor shortage. The North-South division of Korea has made it impossible for both parts of the country to mutually complement each other and has made the economic independence of the Korean peoples extremely difficult.

In order to continue its economic growth, South Korea has no alternative but to push its industrialization by relying on foreign aid and foreign capital. To cover the deficits in its balance of payment arising from the induction of foreign capital, South Korea has had to rely on foreign trade earnings and cumulative foreign loans, aside from U.S. military procurements and tourist revenue, some of it earned in a questionable manner. The need to earn through foreign trade has resulted in brutal labor conditions in South Korea, including low wages and long hours of work. In order to suppress the dissatisfaction of the general populace at these condition, the South Korean Government has found it necessary to resort to repressive measures and spying on its own people by the KCIA.

To justify this repression, the South Korean Government has had to place undue emphasis on "the threat from the North." These policies have not only made natural economic exchange with North Korea impossible, but has resulted in an expansion of military expenditures. This, in turn, has forced the South Korean Government into the vicious cycle of having to further emphasize "the threat from the North," in order to gain greater military and economic assistance from abroad.

As one means of improving its balance of payments position and earning foreign exchange, South Korea has been exporting to Japan, at prices based on low wages raising suspicions of dumping, light industrial products and imitations of Japanese quality goods, such as Japan's famous hand-woven Oshima "kasuri" kimono material. This practice has come as a heavy blow to Japan's small and medium enterprises. In addition, South Korea has succeeded in winning bids on construction and public works projects in the oil-producing countries of the Near and Middle East by undercutting all other bidders and has dispatched Korean workers to work on these projects under poor work-

ing and living conditions. All this is being done in order to earn foreign exchange.

As a result, some 2,000 South Korean workers rioted in protest in Saudi Arabia on March 13 of this year. Further, the common practice of providing Korean prostitutes to foreign tourists, including Japanese, is regarded in Japan as a deliberate policy on the part of the South Korean Government to earn foreign exchange.

Practices unthinkable in a country that respects freedom of the press and human rights are rife in South Korea. All these practices may be regarded as arising out of the requirements of South Korea's economic expansion program. Whatever the case, these practices have aroused popular dissatisfaction and are one of the major causes of continued tension in the Korean Peninsula.

(4) Political freedoms, in the sense we know them, do not exist in North Korea and it is not difficult to imagine that repression of human rights, such as that described by Aleksandr Solzhenitsyn, is common in North Korea. However, repression is common in all Communist countries, in varying degree, and does not necessarily make North Korea a particularly dangerous country. When we examine North Korea's policies in the field of light industries, farming and housing, it is apparent North Korea needs peace to carry out its economic program.

However, North Korea fears war, for reasons which are apparent, and has built most of its war industries underground. There is no doubt the North Koreans are making preparations to maintain their war potential against sustained bombing over a long period of time.

At the same time, North Korea's excessive military expenditures and war preparations are obstructing its economic development and, it is apparent that the popular livelihood of the North Korea peoples is being subjected to heavy pressures. In addition, when North Korea has to purchase new and advanced arms from the Soviet Union, the conditions imposed by the Soviet Union both as to price and method of payment are most severe. There is no doubt these conditions have had a grave and adverse effect on North Korea's balance of payments position. Further, the fact that North Korea has close to 600,000 men under arms or assigned to military tasks has deprived the country of its most productive and youthful industrial and farm workers. Judging from North Korea's population, announced as being 15,950,000 in 1975, the maintenance of this large military force has placed a great strain on North Korea's economy.

South Korea's rapid economic growth, sustained by foreign capital, has made the leaders of North Korea worried and fretful and has prompted them to import industrial plants on a vast scale from West Germany, Japan and other countries on a commercial deferred-payment basis. However, the unexpected drop in the world prices of mining products, which are North Korea's prime export items, has made it extremely difficult for North Korea to keep up its payments for these imports of industrial plants. It appears North Korea must become more versed in international trading practices and, at the same time, must overcome its bureaucratic rigidity.

When we examine in detail North Korea's management of its present economy, it is difficult to imagine that North Korea has intentions of advancing south by force just for the sake of exporting its socialism to South Korea. Further, it is impossible for North Korea to wage a long-range war without the participation or without the assistance of the Soviet Union and China. The possibilities of such participation or assistance are far less today than in the 1950s. Further, it is much more apparent today than in the 1950s that the North Korean Government authorities do not want to have their country become a military appendage to either the Soviet Union or China.

However, there is one problem that could arise. If the withdrawal of U.S. forces from South Korea is carried out without any approach or any understanding being reached with North Korea and if vast military and economic aid is given to South Korea in compensation for the withdrawal and, furthermore, if the Park Chung-hee Government continues to maintain its deep hostility toward the North, there is no guarantee North Korea's leaders might not succumb to the temptation of getting rid of the Park Chung-hee regime should they find themselves at a military advantage over the South. This same thing may be said of the South.

FINANCIAL SECURITY OF SOME FEDERAL EMPLOYEES JEOPARDIZED

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 12, 1977

Mr. STARK. Mr. Speaker, I have been contacted by several social security offices in my district. Over 70 people in just a couple of days have expressed their deep concern about the uncertainty that exists regarding their pay due to the failure of the House and Senate to pass the 1978 Labor-HEW appropriations bill before the end of fiscal year 1977.

I can certainly understand their anxieties and frustrations, especially when most of these employees have a family to support. Thousands of other Federal employees find themselves in similar situations throughout the country. I am inserting the text of a letter I received from one group of employees which I think eloquently describes their feelings:

DEPARTMENT OF HEALTH,
EDUCATION, AND WELFARE,
October 7, 1977.

Hon. FORTNEY H. STARK,
Congressman, 9th District,
U.S. House of Representatives.

SIR: During the last 48 hours, the employees of this office have been notified that the very real possibility of not receiving full and timely remuneration for services rendered currently exists. The reasons for this circumstance have been presented to us by responsible authorities and duly discussed. However, this discussion has not assuaged our fears nor lessened our concern. On the contrary, our anxiety has been heightened and therefore, we feel that the authorities responsible for this situation be reminded of their obligations to their constituency.

It is our understanding that the delay in appropriating funds for the Department of Health, Education, and Welfare is political in nature due to a controversial and highly volatile issue. We feel that Congress fails to recognize the fact that waiting until the last moment to decide on funding for an entire department of the Federal government is, in itself, a highly volatile issue and deserves to be ranked in highest priority.

Granted, it is entirely feasible that Congress will act at the last moment, appropriate funds, and all employees will continue with their appointed job descriptions. In the strongest possible terms, the employees of this office object to this type of irresponsible legislative action.

To enumerate all the financial obligations each of us must meet, let alone feed and clothe our families, would be a mute point. What we object to is the mental and emotional anguish we are experiencing due to the delay in appropriating funds. The inaction by the House of Representatives constitutes harassment of the highest order and cannot be tolerated. The electorate has chosen its representatives to speak for them in Washington and, as a sizable portion of that electorate, we, as federal employees, feel that our voice and our concerns are not being heard.

In lodging this formal protest, the employees of this office feel that affirmative and expeditious action will take place to rectify the situation. We sincerely trust that our faith in speedy and timely congressional action will not be betrayed.

I am hopeful that in the very near future the House and Senate can agree to language regarding the Federal funding of abortions so we can pass the conference report and relieve this situation. Personally, I feel the position of the House has been inflexible and wholly lacking in compassion. But, regardless of how one feels on the abortion issue, I think it is imperative that we take action to insure the payment of these Federal employees is not jeopardized. After all, if these employees are not paid, aside from the enormous financial trouble that will be caused them as individuals, a critical problem will result from their inability to help those most in need—the aged, the blind, and the disabled.

Let us act promptly and with compassion.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee of the time, place, and purpose of all meetings when scheduled, and any cancellations or changes in meetings as they occur.

As an interim procedure until the computerization of this information becomes operational, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Thursday, October 13, 1977, may be found in Daily Digest of today's RECORD.

MEETINGS SCHEDULED

OCTOBER 14

9:00 a.m.
Armed Services
Arms Control Subcommittee
To hold a closed meeting to receive testimony on the current status of the SALT II negotiations.
S-407, Capitol

Finance
Private Pension Plans and Employee Fringe Benefits Subcommittee
To hold hearings on S. 2019 and 2125, to delay the effective date for mandatory coverage of multiemployer pension plans; and H. Con. Res. 369, to revise the coverage schedule for basic benefits guaranteed by the Pension Benefit Guaranty Corporation for single employer plans.
1224 Dirksen Building
Government Affairs
Civil Service and General Service Subcommittee
To hold a business meeting to consider S. 666, to provide early retirement benefits for non-Indian employees of the Bureau of Indian Affairs and the Indian Health Service; and S. 1133, 865, 386, and H.R. 5054, to repeal the apportionment requirements for employment with the civil service system.
S-210, Capitol

9:30 a.m.
Human Resources
Labor Subcommittee
To continue hearings on S. 2125, to delay the effective date for mandatory coverage of the multiemployer pension plans.
Until 12:30 p.m. 4232 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To hold oversight hearings on issues facing HUD concerning operating costs on distressed FHA multi-family housing projects.
5302 Dirksen Building
Foreign Relations
To continue hearings on the Panama Canal Treaties (Exec. N. 95th Cong., 1st sess.).
318 Russell Building
Governmental Affairs
To continue hearings on S. 991, 255, 300, 894, and 1685, to create a separate Cabinet-level Department of Education in the Federal Government.
3302 Dirksen Building

2:00 p.m.
Finance
Subcommittee on Taxation and Debt Management Generally
To hold hearings on S. 690, to permit the Jefferson County, Colorado, mental health center to obtain a refund of social security taxes paid.
2221 Dirksen Building

2:30 p.m.
Foreign Relations
Foreign Assistance Subcommittee
To hold hearings on the international narcotics control program and the status of U.S. prisoners in Bolivia.
4221 Dirksen Building

3:00 p.m.
Finance
Subcommittee on Taxation and Debt Management Generally
To hold hearings on S. 1717, to amend the Internal Revenue Code with regard to taxation of distilled spirits.
2221 Dirksen Building

OCTOBER 17

9:00 a.m.
Governmental Affairs
Civil Service and General Services Subcommittee
To hold hearings on S. 1265 and 1267, relating to the maintenance and orderly disposition of public records; and S. 1273, authorizing the GSA to renegotiate Federal property leases.
1318 Dirksen Building

9:30 a.m.
Environment and Public Works
Business meeting to consider pending calendar business.
4200 Dirksen Building
Governmental Affairs
Permanent Investigation Subcommittee
To resume hearings to receive testimony concerning labor union insurance programs.
3302 Dirksen Building
Select Nutrition and Human Needs
To hold oversight hearings on nutrition as it relates to health policies at HEW, and to discuss research programs at N.I.H.
1224 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue oversight hearings on issues facing HUD concerning operating costs on distressed FHA multifamily housing projects.
5302 Dirksen Building
Judiciary
Immigration Subcommittee
To hold hearings on the topic "Human Rights in Israeli Administered Territories."
6202 Dirksen Building

10:15 a.m.
*Veterans' Affairs
To resume hearings on a study by the National Academy of Science on health care for American veterans.
4232 Dirksen Building

OCTOBER 18

9:00 a.m
Commerce, Science and Transportation
To hold hearings on S. 2036, the Amateur Sports Act of 1977.
5110 Dirksen Building

9:30 a.m.
Governmental Affairs
Permanent Investigation Subcommittee
To continue hearings to receive testimony concerning labor union insurance programs.
1318 Dirksen Building
Special on Aging
To hold hearings on proposed extension of the Older Americans Act (P.L. 93-29).
1114 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To resume markup of legislation proposing simplification in the truth in lending laws (S. 1312, 1501, 1653, and 1846).
5302 Dirksen Building
Governmental Affairs
To hold hearings on S. Res. 258, to establish a Senate Office on Nominations to assist the Senate in the exercise of its confirmation of nominees submitted by the President.
3302 Dirksen Building

2:30 p.m.
Judiciary
Antitrust and Monopoly Subcommittee
To hold a closed business meeting to consider S. 1874, to allow consumers and other parties who have not dealt directly with an antitrust violator to recover their damages under the antitrust laws.
S-146, Capitol

OCTOBER 19

9:00 a.m.
Commerce, Science, and Transportation
To continue hearings on S. 2036, the Amateur Sports Act of 1977.
5110 Dirksen Building
Human Resources
To resume hearings to receive testimony from Executive branch officials in connection with recent studies on human resource programs.
Until noon 4232 Dirksen Building

9:30 a.m.
Governmental Affairs
Permanent Investigations Subcommittee
To continue hearings to receive testimony concerning labor union insurance programs.
1318 Dirksen Building
Judiciary
Administrative Practice and Procedure Subcommittee
To hold hearings on proposed legislation dealing with the Department of Agriculture's policies, practices, and procedures regarding family farmers.
2228 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue markup of legislation proposing simplification in the truth in lending laws (S. 1312, 1501, 1653, and 1846).
5302 Dirksen Building
Governmental Affairs
To continue hearings on S. Res. 258, to establish a Senate Office on Nominations to assist the Senate in the exercise of its confirmation of nominees submitted by the President.
3302 Dirksen Building
Human Resources
Education, Arts, and the Humanities Subcommittee
To resume hearings on S. 1753, to extend the Elementary and Secondary Education Act of 1965.
Until noon 6226 Dirksen Building
Rules and Administration
To hold hearings on the nomination of John J. Boyle, of Maryland, to be Public Printer, followed by a business meeting on pending calendar business.
301 Russell Building

OCTOBER 20

8:00 a.m.
Finance
Health Subcommittee
To hold hearings on S. 1391, 1470, and H.R. 8423, hospital cost containment bills.
2221 Dirksen Building

9:30 a.m.
Judiciary
Administrative Practice and Procedure Subcommittee
To continue hearings on proposed legislation dealing with the Department of Agriculture's policies, practices, and procedures regarding family farmers.
2228 Dirksen Building

10.00 a.m.
Banking, Housing, and Urban Affairs
To hold hearings in connection with recent increases in lumber prices and their effects on the Nation's housing industry.
5302 Dirksen Building
Human Resources
Education, Arts, and the Humanities Subcommittee
To continue hearings on S. 1753, to extend the Elementary and Secondary Education Act of 1965.
4232 Dirksen Building

OCTOBER 21

9:30 a.m.
Judiciary
Criminal Laws and Procedures
To hold hearings on S. 1487, to eliminate racketeering in the sale and distribution of cigarettes.
2228 Dirksen Building

10.00 a.m.
Banking, Housing, and Urban Affairs
To continue hearings in connection with recent increases in lumber prices and their effects on the Nation's housing industry.
5302 Dirksen Building

OCTOBER 25

10:00 a.m.
Energy and Natural Resources
Energy Production and Supply Subcommittee

To hold oversight hearings on the coal leasing program and its general impact on coal development in the West.
3110 Dirksen Building

OCTOBER 26

10:00 a.m.
Banking, Housing, and Urban Affairs
To hold oversight hearings on the role of the FHA in home financing.
5302 Dirksen Building
Energy and Natural Resources
Energy Production and Supply Subcommittee
To continue oversight hearings on the coal leasing program and its general impact on coal development in the West.
3110 Dirksen Building

OCTOBER 27

9:30 a.m.
Judiciary
Constitution Subcommittee
To hold hearings on S. 35, proposed Civil Rights Improvements Act of 1977.
2228 Dirksen Building
10:00 a.m.
Banking, Housing, and Urban Affairs
To continue oversight hearings on the role of the FHA in home financing.
5302 Dirksen Building
Energy and Natural Resources
Energy Production and Supply Subcommittee
To continue oversight hearings on the coal leasing program and its general impact on coal development in the West.
3110 Dirksen Building

OCTOBER 28

9:30 a.m.
Judiciary
Constitution Subcommittee
To continue hearings on S. 35, proposed Civil Rights Improvements Act of 1977.
2228 Dirksen Building
10:00 a.m.
Banking, Housing, and Urban Affairs
To continue oversight hearings on the role of the FHA in home financing.
5302 Dirksen Building

OCTOBER 31

9:30 a.m.
Human Resources
Labor Subcommittee
To resume hearings on S. 1883 and 1855, to strengthen the remedies and expedite the procedures under the National Labor Relations Act.
Until 5:00 p.m. 4232 Dirksen Building
10:00 a.m.
Energy and National Resources
Energy Production and Supply Subcommittee
To hold hearings on S. 1879, to bar the granting of pipeline rights-of-way to applicants who produce oil products.
3110 Dirksen Building

NOVEMBER 1

9:00 a.m.
Judiciary
Constitution Subcommittee
To hold oversight hearings on activities of the Civil Rights Commission.
2228 Dirksen Building
10:00 a.m.
Energy and Natural Resources
Energy Production and Supply Subcommittee
To continue hearings on S. 1879, to bar the granting of pipeline rights-of-way to applicants who produce oil products.
3100 Dirksen Building

NOVEMBER 2

9:00 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To hold hearings to receive testimony on the possible effect of recombinant DNA research on the field of scientific inquiries.
5110 Dirksen Building
Judiciary
Constitution Subcommittee
To continue oversight hearings on activities of the Civil Rights Commission.
2228 Dirksen Building

NOVEMBER 3

9:00 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To continue hearings to receive testimony on the possible effect of recombinant DNA research on the field of scientific inquiries.
5110 Dirksen Building
9:30 a.m.
Human Resources
Labor Subcommittee
To resume hearings on S. 1883 and 1855, to strengthen the remedies and expedite the procedures under the National Labor Relations Act.
Until 5:00 p.m. 4232 Dirksen Building

NOVEMBER 4

9:30 a.m.
Human Resources
Labor Subcommittee
To continue hearings on S. 1883 and 1855, to strengthen the remedies and expedite the procedures under the National Labor Relations Act.
Until 5:00 p.m. 4232 Dirksen Building

NOVEMBER 9

10:00 a.m.
Banking, Housing, and Urban Affairs
To resume oversight hearings on U.S. monetary policy.
5302 Dirksen Building
Judiciary
Constitution Subcommittee
To hold hearings on S. 1845, the Polygraph Control and Civil Liberties Protection Act of 1977.
2226 Dirksen Building

NOVEMBER 10

9:00 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To resume hearings to receive testimony on the possible effect of recombinant DNA research on the field of scientific inquiries.
5110 Dirksen Building
10:00 a.m.
Banking, Housing, and Urban Affairs
To continue oversight hearings on U.S. monetary policy.
5302 Dirksen Building
Judiciary
Constitution Subcommittee
To continue hearings on S. 1845, the Polygraph Control and Civil Liberties Protection Act of 1977
2228 Dirksen Building

NOVEMBER 11

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue oversight hearings on U.S. monetary policy.
5302 Dirksen Building

NOVEMBER 14

10:00 a.m.
Judiciary
Improvements in Judicial Machinery Subcommittee
To hold hearings on S. 2014, to provide greater protection to consumers in bankruptcy proceedings.
2228 Dirksen Building

NOVEMBER 15

10:00 a.m.
Judiciary
Improvements in Judicial Machinery Subcommittee
To continue hearings on S. 2014, to provide greater protection to consumers in bankruptcy proceedings.
2228 Dirksen Building

NOVEMBER 16

10:00 a.m.
Judiciary
Improvements in Judicial Machinery Subcommittee
To continue hearings on S. 2014, to provide greater protection to consumers in bankruptcy proceedings.
2228 Dirksen Building

NOVEMBER 17

10:00 a.m.
Judiciary
Improvements in Judicial Machinery Subcommittee
To continue hearings on S. 2014, to provide greater protection to consumers in bankruptcy proceedings.
2228 Dirksen Building

NOVEMBER 18

10:00 a.m.
Judiciary
Improvements in Judicial Machinery Subcommittee
To continue hearings on S. 2014, to provide greater protection to consumers in bankruptcy proceedings.
2228 Dirksen Building

DECEMBER 8

9:00 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To hold hearings on the United Nations conference on science and technology for development in 1979.
Until 5:00 p.m. 5110 Dirksen Building

DECEMBER 13

10:00 a.m.
Judiciary
Constitution Subcommittee
To hold hearings on S.J. Res. 67, proposing an amendment to the Constitution with respect to the proposal and the enactment of laws by popular vote of the people of the United States.
2228 Dirksen Building

DECEMBER 14

10:00 a.m.
Judiciary
Constitution Subcommittee
To continue hearings on S.J. Res. 67, proposing an amendment to the Constitution with respect to the proposal and the enactment of laws by popular vote of the people of the United States.
2228 Dirksen Building

CANCELLATIONS

OCTOBER 14

10:00 a.m.
Human Resources
Education, Arts, and the Humanities Subcommittee
To continue hearings on S. 1753, to extend the Elementary and Secondary Education Act of 1965.
6202 Dirksen Building

OCTOBER 18

9:30 a.m.
Judiciary
Antitrust and Monopoly Subcommittee
To resume hearings jointly with the Health and Scientific Research Subcommittee on Human Resources Committee on the regulatory and competitive aspects of the health care industry.
4232 Dirksen Building

SENATE—*Thursday, October 13, 1977*

(Legislative day of Tuesday, October 11, 1977)

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by Hon. JAMES R. SASSER, a Senator from the State of Tennessee.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

They that wait upon the Lord shall renew their strength; they shall mount up with wings as eagles; they shall run, and not be weary; and they shall walk and not faint.—Isaiah 40: 31.

Help us, O Lord, to pace our work according to Thy Word—to run when we are able, to walk when we ought, to wait when we must. Keep our strategy in the cadences of Thy spirit. In everything do through us only what is best for this Nation and give us the wisdom to leave undone that for which we are not ready.

In Thy holy name we pray. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., October 13, 1977.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable JAMES R. SASSER, a Senator from the State of Tennessee, to perform the duties of the Chair.

JAMES O. EASTLAND,
President pro tempore.

Mr. SASSER thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE LEADERSHIP

The ACTING PRESIDENT pro tempore. The Senator from West Virginia is recognized.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings of yesterday, Wednesday, October 12, 1977, be approved.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I have no use for my time.

RECOGNITION OF THE LEADERSHIP

The ACTING PRESIDENT pro tempore. The Senator from Tennessee.

Mr. BAKER. Mr. President, I have no request or need for my time under the standing order. I yield it back.

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from South Carolina (Mr. THURMOND) is recognized for not to exceed 15 minutes.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum without prejudice to the orders for the recognition of Senators. I ask unanimous consent that it be charged against the time of the two leaders.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. THURMOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

S. 1833, THE SO-CALLED LABOR LAW REFORM BILL

Mr. THURMOND. Mr. President, I wish to speak briefly on legislation which is pending in the Human Resources Subcommittee on Labor—S. 1883. Initially, I had intended to testify before the committee, but the hearing at which I was scheduled to testify was canceled, and it appears it may be impossible to reschedule hearings before the Senate adjourns.

In the event I am unable to testify when the hearing is rescheduled, I am proceeding to make my remarks now, so as to formally express my opposition to the bill. This bill, as a whole, Mr. President, will disrupt the delicate balance in our Nation's labor-management laws, and, therefore, not serve in the best interest of a good national labor-management policy.

One of the cardinal principles of sound labor-management policy is fairness on the part of Government. Government should not favor one side in a labor dispute over the other. Neither should it dictate terms. The ideal role of Government is as referee.

I do not doubt the desire of the sponsors and the subcommittee to adopt an equitable labor policy for American workers. Nevertheless, it is my belief that S. 1883 allows an unfair advantage to unions in their organizational activities.

During the last 20 years, rank and file workers have shown an increasing dissatisfaction with unions, and especially big unions, and more especially the leadership of big unions—labor bosses. In the last 2 years, union organizers have lost more representation elections than they have won. Between 1967 and 1976, the number of elections to withdraw recognition of a labor union increased from 234 to 612.

Mr. President, as the unions have lost support with the rank and file workers, labor bosses have exerted ever-increasing pressure on Congress to enact legislation favorable to union organizing attempts. In the South, where unions have met their most significant resistance, their need is particularly great. In fact, the provisions of this bill seem tailor-made to facilitate the unionization of industry in the South and Southwest.

In testimony before the House Subcommittee on Labor-Management Relations on the companion bill to S. 1883, Mr. Robert T. Thompson, one of my constituents and one of the eminent attorneys in our State, stated what hundreds of South Carolinians have repeatedly told me within the last several months:

> The true impact of H.R. 8410 would be to arm union organizers with potent new organizing tools to foist unions on employees. Organized labor has sought this legislation not because of slow and inefficient Board proceedings, and not because of alleged employer abuse, but simply because it has failed to persuade significant numbers of workers that unionism is in their best interests.

I can only agree with Richard L. Lesher, president of the Chamber of Commerce of the United States, who, analyzing the interest of union bosses in this legislation, said:

> They hope to gain from the government what they have been unable to win from the workers.

Mr. President, this is a private relief bill for union bosses.

Now, Mr. President, I shall turn to several specific provisions of the bill which most trouble me.

First is the provision to increase the size of the NLRB from 5 to 7 members. This is reminiscent of the "court-packing" escapade of the 1930's.

Moreover President Carter, in his July 18, 1977, message to Congress on labor reforms, stated that it was his desire to make the regulatory agencies such as the NLRB more responsive. Efficiency experts, though, counsel a reduction in the size of regulatory boards. Their logic is impeccable. More Board members require larger staffs, and larger staffs create more bureaucratic red tape. If the end is greater responsiveness, we want less bureaucracy, not more.

Second, the election timetables established in S. 1883 are unduly short. It is my understanding that there are three different ones allowing three different intervals between petition by the unions for organizational elections and the actual date when the election is held: 15 days, if a majority of the employees have designated the union as their bargaining agent; 45 days, if a smaller number have signed cards; and 75 days, if the Board finds issues of exceptional novelty or complexity.

This arrangement is obviously designed for the maximum convenience of the prounion forces. It allows union organizers to work under cover until they have a majority of the votes, and then call an election, secure in the knowledge that the opposition will not have adequate time to make their case. On the other hand, if an election is called when the organizers have not rounded up a majority, they have a full 45 days, and maybe 75, to campaign further.

This setup is an organizer's dream. It is a nightmare, though, for anyone truly interested in fairness. To quote Mr. Thompson again:

Surely if any group should be sensitive to the basic inequity of this election process, it should be the Members of Congress. It is essential that voters in union elections, as well as political elections, have the opportunity to become fully informed on the issues in order to make a sound and reasoned decision. In labor-management relations, this requires that both the union and employer have an adequate opportunity to communicate, in a non-coercive fashion, with employees regarding the issue of union membership.

Another part of the bill, section 3 (b) (1) (A), goes so far as to require the NLRB to adopt regulations to permit union organizers to address employees on company premises during working hours when an employer has exercised his right to do so. S. 1883 does not, however, change the proscriptions, which are strict, on employer contact with employees. Here, once again, we see a departure from the Board's traditions of even-handed justice.

Mr. President, the presumption of unfairness raised by these three sections is only confirmed when we look at other provisions—double backpay for discharged employees, compensation for workers whose employers have refused to bargain, and debarment from Federal contracts of employers who violate NLRB orders. This bill contains a sackful of Christmas presents for unions, and management must be content with a lump of coal.

One of the most disturbing aspects of the bill is its implications for compulsory unionism. Reed Larson, president of the National Right to Work Committee, stressed the effect S. 1883 will have on the rank and file worker. In his testimony before the subcommittee, he stated:

Regrettably, enactment of S. 1883 in its present form will do nothing to correct these coercive provisions of the NLRA. It will do nothing to guarantee working people the right to represent themselves or to make up their own minds about union affiliation. On the contrary, its passage will promote compulsory unionism by forcing additional hundreds of thousands of employees to join or pay dues to unions whose representation they oppose. It will have this effect, despite Labor Secretary Ray Marshall's claim that nothing in the bill "will make union membership mandatory."

We applaud Secretary Marshall's statement of high purpose and his recognition of the fact that the American people strongly object to any expansion of compulsory unionism. But, sad to say, this is precisely what passage of S. 1883 will do.

I hope the subcommittee will reject the favoritism of S. 1883 and adopt instead the impartiality embodied in the bill proposed by Senator HATCH, S. 1855. This bill is not antilabor and it is not antimanagement; it is proemployee. It gives employees the right to secret ballot in deciding whether to have union representation and whether to call, maintain, or resume a strike; protects their right to hear from both sides during a campaign; and provides that they shall not be fined for exercising any rights guaranteed by the National Labor Relations Act.

The distinguished columnist, Anthony Harrigan, has pointed out that provisions contained in S. 1883 are changes, not reforms. We need to bring greater balance to our Nation's labor laws by enacting reforms such as the Hatch bill or by removing the special exemption given to unions under the antitrust laws. These are true reforms.

Mr. President, it is my hope that the committee will not report S. 1883 to the Senate; but in the event it is reported, I shall have to vote against it, in the interest of preserving some semblance of balance in our national labor-management policy.

ROUTINE MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of routine morning business, for not to exceed 1 hour, with statements therein limited to 5 minutes.

PETITIONS

Mr. BAKER. Mr. President, I have received petitions requesting repeal of the Federal withholding tax from four of my constituents, Mr. Joe Horton, Mr. J. R. Bowman, Mr. H. C. Brown, and Ms. Theda B. Snyder. These Tennesseans have requested that I present their petitions to the Senate, and I now submit them for appropriate referral.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The petitions—POM-314—were referred to the Committee on Finance.)

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that today, October 13, 1977, he presented to the President of the United States the enrolled bill (S. 2169) to name a certain Federal building in Washington, District of Columbia, the "Hubert H. Humphrey Building."

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. MUSKIE, from the Committee on the Budget:

Without amendment:

S. Res. 287. A resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 2149 (Rept. No. 95-496).

By Mr. MAGNUSON, from the Committee on Appropriations:

Without amendment:

H.J. Res. 626. A joint resolution making continuing appropriations for the fiscal year 1978, and for other purposes.

HOUSE JOINT RESOLUTION REFERRED

The joint resolution (H.J. Res. 626) making continuing appropriations for the fiscal year 1978, and for other purposes, was read twice by its title and referred to the Committee on Appropriations.

ENROLLED BILL SIGNED

The bill (H.R. 1613) for the relief of certain postmasters charged with postal deficiencies was signed today by the Acting President pro tempore (Mr. SASSER).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. PERCY:

S. 2203. A bill for the relief of Dr. Cosme R. Cagas, his wife, Linda San Diego Cagas, and his children, Elcee Cagas, Chess Cagas, Georgina Cagas, and Chester Cagas; to the Committee on the Judiciary.

By Mr. GRAVEL (for himself, Mr. CURTIS, Mr. ANDERSON, Mr. BAKER, Mr. BARTLETT, Mr. BENTSEN, Mr. BUMPERS, Mr. CHURCH, Mr. CRANSTON, Mr. DOMENICI, Mr. DOLE, Mr. DURKIN, Mr. EAGLETON, Mr. FORD, Mr. GOLDWATER, Mr. GRIFFIN, Mr. HASKELL, Mr. HANSEN, Mr. HATFIELD, Mr. HATHAWAY, Mr. HAYAKAWA, Mr. HUMPHREY, Mr. HEINZ, Mr. LEAHY, Mr. LUGAR, Mr. MATHIAS, Mr. MATSUNAGA, Mr. MCINTYRE, Mr. MORGAN, Mr. MOYNIHAN, Mr. MUSKIE, Mr. PACKWOOD, Mr. PERCY, Mr. RIBICOFF, Mr. RIEGLE, Mr. SPARKMAN, Mr. STEVENSON, Mr. THURMOND, Mr. TOWER, Mr. WALLOP, Mr. WEICKER, Mr. WILLIAMS, and Mr. ZORINSKY):

S. 2204. A bill to amend section 4940 of the Internal Revenue Code of 1954 to reduce the excise tax based on the investment income of private foundations from 4 percent to 2 percent; to the Committee on Finance.

By Mr. SCOTT:

S. 2205. A bill to terminate the authorization for the Delaware Bay to Cape Charles Intra-Coastal Waterway; to the Committee on Environment and Public Works.

By Mr. MATHIAS:

S. 2206. A bill for the relief of Raymond Vishnu Clemons; to the Committee on the Judiciary.

By Mr. EAGLETON (for himself and Mr. DANFORTH):

S. 2207. A bill to increase the authorization of appropriations for the development of Wilson's Creek National Battlefield, Missouri; to the Committee on Energy and Natural Resources.

By Mr. HEINZ (for himself and Mr. RANDOLPH):

S.J. Res. 92. Joint resolution to amend the "Joint Resolution to authorize the President to proclaim October 15 of each year as 'White Cane Safety Day'" (Public Law 88-628) to change the name of the day to "Blind Pedestrian Safety Day"; referred to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. GRAVEL (for himself, Mr. CURTIS, Mr. ANDERSON, Mr. BAKER, Mr. BARTLETT, Mr. BENTSEN, Mr. BUMPERS, Mr. CHURCH, Mr. CRANSTON, Mr. DOMENICI, Mr. DOLE, Mr. DURKIN, Mr. EAGLETON, Mr. FORD, Mr. GOLDWATER, Mr. GRIFFIN, Mr. HASKELL, Mr. HANSEN, Mr. HATFIELD, Mr. HATHAWAY, Mr. HAYAKAWA, Mr. HUMPHREY, Mr. HEINZ, Mr. LEAHY, Mr. LUGAR, Mr. MATHIAS, Mr. MATSUNAGA, Mr. MCINTYRE, Mr. MORGAN, Mr. MOYNIHAN, Mr. MUSKIE, Mr. PACKWOOD, Mr. PERCY, Mr. RIBICOFF, Mr. RIEGLE, Mr. SPARKMAN, Mr. STEVENSON, Mr. THURMOND, Mr. TOWER, Mr. WALLOP, Mr. WEICKER, Mr. WILLIAMS, and Mr. ZORINSKY):

S. 2204. A bill to amend section 4940 of the Internal Revenue Code of 1954 to reduce the excise tax based on the investment income of private foundations from 4 to 2 percent; to the Committee on Finance.

Mr. GRAVEL. Mr. President, I introduce on behalf of myself and several of my colleagues a bill to reduce the 4-percent tax on private foundations to 2 percent. The Senate voted for adoption of a nearly identical provision last year during consideration of the Tax Reform Act of 1976, but it was deleted in conference with the House. H.R. 8483 has been introduced in the House with bipartisan support and cosponsorship of a majority of the House Ways and Means Committee members. With the broad support evident in the House for this provision it appears that the time is ripe for Senate action.

The 4-percent tax was requested by Treasury in 1969 to cover the cost of auditing foundations and enforcing compliance with the law. Prior to 1969 foundations were free from tax. The 1969 Tax Reform Act instituted restrictions on foundations and required Treasury to enforce these restrictions. Since then the Internal Revenue Service has audited nearly all U.S. foundations and found high degrees of compliance with the 1969 reforms. The Service has determined that the tax could be reduced to 2 percent while still covering the costs involved in auditing and enforcing the law with respect to foundations. The Department of Treasury in a letter from Lawrence Woodworth, Assistant Secretary for Tax Policy, has taken the position that it will not oppose the change proposed by this bill.

Reduction of the 4-percent tax on foundations to 2 percent will restore $30 million annually to charitable purposes. The tax on foundations reduces directly on a dollar-for-dollar basis the charitable distributions of foundations. Foundations are required to distribute for charitable purposes the greater of their net income or 5 percent of the value of their assets. Under this minimum payout requirement the law allows foundations to credit as a payout for charitable purposes the amount paid as tax. Thus, the tax directly reduces the amount which foundations are required to distribute for charitable purposes. A reduction in the tax will directly increase dollar for dollar the flow of funds from foundations for charitable purposes.

Treasury has estimated the cost of supervising foundations at $10 million annually. By reducing the tax to 2 percent, Treasury will still raise $30 million annually from foundations, more than enough to finance IRS supervision and enforcement.

Private philanthropy has traditionally served an important function in our Nation. The foundations have taken leadership roles in education, health services, housing, and community development. Foundations have the flexibility and independence to act where Government cannot, to develop innovative and perhaps politically infeasible new ideas and programs. Once proven, these programs are often adopted by Government agencies and the foundations go on to new areas, breaking new ground in education, art, social services, and other areas of significant impact on our society. Therefore, I hope that the Senate would join me and my colleagues who have cosponsored this bill, and act to return to the charitable purposes for which it was dedicated the funds now flowing into the Federal Treasury. I urge my fellow Senators to reduce to 2 percent the 4-percent Federal tax on foundations.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2204

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) subsection (a) of section 4940 of the Internal Revenue Code of 1954 (relating to excise tax based on investment income) is amended by striking out "4 percent" and inserting in lieu thereof "2 precent".

(b) The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1976.

Mr. CURTIS. Mr. President, I am happy to join with the distinguished Senator from Alaska, Mr. GRAVEL, and my other colleagues in the introduction of a bill which would reduce the tax imposed upon foundations from its present 4 to 2 percent.

At the time this was imposed we tried to limit the tax to an amount equal to the cost to the Government of auditing and policing nonprofit institutions in their dealings with the Internal Revenue Service. It has worked out that the 4-percent tax levied was more than twice the amount needed. This extra 2 percent turns out to be a tax on the beneficiaries of the foundations giving. In other words, if a foundation gives a sum of money to a college, the actual gift is reduced by the amount of tax that the foundation had to pay. I am strongly in favor of reducing the tax from 4 to 2 percent.

It has also been my finding, after studying the foundations for some years and becoming acquainted with those who have created foundations and those who have managed them, that very few foundations come into being for tax-avoidance reasons. They come into being primarily because the donor decides he wants to do something for his fellowman, that he wants a good work to be carried on that will improve our quality of life and that will make a contribution to society.

Our community foundations perform a needed role in our society. They become the agent for many small givers who would like to do good with their money. Memorials and gifts of all kinds which are too small to be handled as separate foundations—or even as separate funds—can be turned over to a community foundation. This plan has worked well. It has made it possible for a number of people to join together and accomplish a single purpose for the betterment of their community.

Nebraska is a small State population-wise, but it is typical of many States. We have in our State some very fine church colleges and independent colleges. They carry a sizable portion of the statewide burden of higher education. Were these institutions to go out of existence or cease to be first-rate institutions of higher learning, the burden on our tax-supported schools would become much greater, and Nebraskans would have to pay a great deal more in taxes. Individual giving is splendid; church support for colleges is likewise a great thing. But I doubt that any of our colleges could survive in a creditable manner without the help of foundations. Foundations have in the past, they are now, and they will continue to be in the public interest—as well as the taxpayers' interest.

Mr. President, I hope that this tax reduction bill can become law without great delay. It is long overdue.

By Mr. EAGLETON (for himself and Mr. DANFORTH):

S. 2207. A bill to increase the authorization of appropriations for the development of Wilson's Creek National Battlefield, Mo.; to the Committee on Energy and Natural Resources.

Mr. EAGLETON. Mr. President, I am pleased to introduce this bill to authorize increased appropriations for developing Wilson's Creek National Battlefield, Mo. On this historic 1,752-acre site was fought the decisive Civil War battle that gave Union forces control of Missouri.

The National Park Service has designed a master plan to restore the site to its 1861 condition. Additionally, a visitors center and interpretive displays at key points will help the visitor understand the significance of the battle. This project is estimated to cost about $8 million and take 5 years to complete.

ADDITIONAL COSPONSORS

S. 1820

At the request of Mr. METCALF, the Senator from Wyoming (Mr. WALLOP) was added as a cosponsor of S. 1820, the National Natural Diversity Act.

S. 1939

At the request of Mr. GRAVEL, the Senator from New Mexico (Mr. DOMENICI) was added as a cosponsor of S. 1939. to amend the Internal Revenue Code.

S. 1996

At the request of Mr. STAFFORD, the Senator from New Mexico (Mr. SCHMITT) was added as a cosponsor of S. 1996, to amend title 10. United States Code.

SENATE CONCURRENT RESOLUTION 44

At the request of Mr. JACKSON, the Senator from Ohio (Mr. METZENBAUM) was added as a cosponsor of Senate Concurrent Resolution 44, honoring Gen. Thaddeus Kosciuszko.

AMENDMENT NO. 1415

At the request of Mr. MELCHER, the Senator from Iowa (Mr. CLARK), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from South Carolina (Mr. HOLLINGS), and the Senator from Minnesota (Mr. ANDERSON) were added as cosponsors of amendment No. 1415, to be proposed to S. 457, the GI Bill Improvements Act.

SENATE RESOLUTION 293—SUBMISSION OF A RESOLUTION DISAPPROVING REORGANIZATION PLAN NO. 2

(Referred to the Committee on Governmental Affairs.)

Mr. RIBICOFF submitted the following resolution:

S. RES. 293

Resolved, That the Senate does not favor the reorganization plan numbered 2 transmitted to the Congress by the President on October 12, 1977.

Mr. RIBICOFF. Mr. President, I request that the text of Reorganization Plan No. 2 of 1977 be printed in the RECORD.

There being no objection, the plan was ordered to be printed in the RECORD, as follows:

REORGANIZATION PLAN NO. 2 OF 1977

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, October 11, 1977, pursuant to the provisions of chapter 9 of title 5 of the United States Code.

AGENCY FOR INTERNATIONAL COMMUNICATION

Section 1. Establishment of the Agency for International Communication—

There is hereby established in the executive branch an agency to be known as the Agency for International Communication (the "Agency").

Section 2. Director—

The Agency shall be headed by a Director (the "Director"), who shall serve as the principal advisor to the President, the National Security Council, and the Secretary of State on the functions vested in the Director. The Director shall report to the President and the Secretary of State. Under the direction of the Secretary of State, the Director shall have primary responsibility within the Government for the exercise of the functions vested in the Director. The Director shall be appointed by the President, by and with the advice and consent of the Senate, and shall be entitled to receive compensation at the rate now or hereafter prescribed by law for Level II of the Executive Schedule.

Section 3. Deputy Director—

A Deputy Director shall be appointed by the President, by and with the advice and consent of the Senate. The Deputy Director shall act for, and exercise the powers of, the Director during the Director's absence or disability or during a vacancy in said office and, in addition, shall perform such duties and exercise such powers as the Director may from time to time prescribe. The Deputy Director shall be entitled to receive compensation at the rate now or hereafter prescribed by law for Level III of the Executive Schedule.

Section 4. Associate Directors—

The President, by and with the advice and consent of the Senate, may appoint four Associate Directors, who shall perform such duties and exercise such powers as the Director may from time to time prescribe and who shall be entitled to receive compensation at the rate now or hereafter prescribed by law for Level IV of the Executive Schedule.

Section 5. Performance of Functions—

The Director may establish within the Agency bureaus, offices, divisions and other units. The Director may from time to time make provision for the performance of any function of the Director by any officer, employee or unit of the Agency.

Section 6. Negotiations—

(a) Under the direction of the Secretary of State, the Director shall prepare for, manage and conduct negotiations with representatives of foreign states or international organizations on matters for which responsibility is vested in the Director or in the Agency.

(b) For the purpose of conducting such negotiations, or for the purpose of exercising any other authority vested in the Director or in the Agency, the Director may—

(1) consult and communicate with or direct the consultation and communication with representatives of other nations or of international organizations; and

(2) communicate in the name of the Secretary of State with diplomatic representatives of the United States in this country and abroad.

Section 7. Transfer of Functions—

(a) There are hereby transferred to the Director all functions vested in the President, the Secretary of State, the Department of State, the Director of the United States Information Agency, and the United States Information Agency pursuant to the following:

(1) the United States Information and Educational Exchange Act of 1948, as amended (22 U.S.C. 1431–1479), except to the extent that any function in sections 302, 401, or 602 is vested in the President;

(2) the Mutual Educational and Cultural Exchange Act of 1961, as amended (22 U.S.C. 2451–2458a), except for: (A) such functions as are vested by sections 102(b)(6), 102(b)(10), 104(a), 104(e)(1), 104(e)(2), 104(f), 104(g), 105(a), 105(b), 105(c), 106(a), 108; (B) to the extent that such functions were assigned to the Secretary of Health, Education and Welfare immediately prior to the effective date of this Reorganization Plan, sections 104(b), 105(d)(2), 105(f), 106(d), and 106(f); and (C) to the extent that any function therein is vested in the President or the Secretary of State, sections 106(b) and 106(c).

(3) Public Law 90–494 (22 U.S.C. 929–932, 1221–1234), to the extent that such functions are vested in the Director of the United States Information Agency;

(4) Sections 522(3), 692(1), and 803(a)(4) of the Foreign Service Act of 1946, as amended (22 U.S.C. 922(3), 1037a(1), and 1063(a)(4)), to the extent such functions are vested in the Director of the United States Information Agency or in the United States Information Agency.

(5) Section 4 of the United States Information Agency Appropriations Authorization Act of 1973, Public Law 93–168;

(6)(A) Sections 107(b), 204 and 205 of the Foreign Relations Authorization Act, Fiscal Year 1978, Public Law 95–105, 91 Stat. 844; and (B) to the extent such functions are vested in the Director of the United States Information Agency, section 203 of the Act;

(7) the Center for Cultural and Technical Interchange Between East and West Act of 1960 (22 U.S.C. 2054–2057);

(8) Sections 101(a)(15)(J) and 212(e) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(J), 1182(e));

(9) Section 2(a)(1) of Reorganization Plan No. 8 of 1953 (22 U.S.C. 1461 note);

(10) Section 3(a) of the Arts and Artifacts Indemnity Act (20 U.S.C. 972(a));

(11) Section 7 of the Act of June 15, 1951, c.138, 65 Stat. 71 (50 U.S.C. App. 2316);

(12) Section 9(b) of the National Foundation on the Arts and Humanities Act of 1965 (20 U.S.C. 958(b));

(13) Section 112(a) of the Higher Education Act of 1965 (20 U.S.C. 1009(a)), to the extent such functions are vested in the Department of State;

(14) Section 3(b)(1) of the Woodrow Wilson Memorial Act of 1968 (20 U.S.C. 80f(b)(1));

(15) Section 201 of Public Law 89–665, as amended by section 201(5) of Public Law 94–422 (16 U.S.C. 4701(a)(9));

(16) The third proviso in the twenty-third unnumbered paragraph of title V of Public Law 95–86 (headed "United States Information Agency, Salaries and Expenses"), 91 Stat. 440–41;

(17) The twentieth unnumbered paragraph of title I of Public Law 95–86 (headed "Center for Cultural and Technical Interchange Between East and West"), 91 Stat. 424;

(18) Section 4(d)(1)(F), 4(f)(1)(F), 4(g)(1)(F), and 4(h)(1)(F) of the Foreign Service Buildings Act, 1926, as amended (22 U.S.C. 295(d)(1)(F), 295(f)(1)(F), 295(g)(1)(F), and 295(h)(F)); and

(19) Sections 1, 2, and 3 of the Act of July 9, 1949, c. 301, 63 Stat. 408 (22 U.S.C. 2681–2683).

(b) There are hereby transferred to the Director all functions vested in the Assistant Secretary of State for Public Affairs pursuant to Section 2(a) of the John F. Kennedy Center Act (20 U.S.C. 76h(a)).

Section 8. Establishment of the United States Advisory Commission on International Communication, Cultural and Educational Affairs—

(a) There is hereby established an advisory commission, to be known as the United States Advisory Commission on International Communication, Cultural and Educational Affairs (the "Commission"). The Commission shall consist of seven members who shall be appointed by the President by and with the advice and consent of the Senate. The members of the Commission shall represent the

public interest and shall be selected from a cross section of educational, communications, cultural, scientific, technical, public service, and business and professional backgrounds. The members shall be appointed on a nonpartisan basis. The term of each member shall be three years except that of the original seven appointments, two shall be for a term of one year and two shall be for a term of two years. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which a predecessor was appointed shall be appointed for the remainder of such term. Upon the expiration of a member's term of office, such member may continue to serve until a successor is appointed and has qualified. The President shall designate a member to chair the Commission.

(b) The functions now vested in the United States Advisory Commission on Information and in the United States Advisory Commission on International Educational and Cultural Affairs under sections 601 through 603 and 801(6) of the United States Information and Educational Exchange Act of 1948, as amended (22 U.S.C. 1466–1468, 1471(6)), and under sections 103(b) and 107 of the Mutual Educational and Cultural Exchange Act of 1961, as amended (22 U.S.C. 2456(b), 2457), respectively, are hereby consolidated and vested in the Commission, as follows:

The Commission shall formulate and recommend to the Director, the Secretary of State, and the President policies and programs to carry out the functions vested in the Director or the Agency, and shall appraise the effectiveness of policies and programs of the Agency. The Commission shall submit to the Congress, the President, the Secretary of State and the Director annual reports on programs and activities carried on by the Agency, including appraisals, where feasible, as to the effectiveness of the several programs. The Commission shall also include in such reports such recommendations as shall have been made by the Commission to the Director for effectuating the purposes of the Agency, and the action taken to carry out such recommendations. The Commission may also submit such other reports to the Congress as it deems appropriate, and shall make reports to the public in the United States and abroad to develop a better understanding of and support for the programs conducted by the Agency.

(c) The Commission shall have no authority with respect to the Board of Foreign Scholarships or the United States National Commission for UNESCO.

Section 9. Abolitions and Supersessions—

(a) The following are hereby abolished:

(1) The United States Information Agency, including the offices of Director, Deputy Director, Deputy Director (Policy and Plans) (5 U.S.C. 5316(67)), Associate Director (Policy and Plans) (5 U.S.C. 5316(103)), and additional offices created by section 1(d) of Reorganization Plan No. 8 of 1953 (22 U.S.C. 1461 note), of the United States Information Agency, provided that, pending the initial appointment of the Director, Deputy Director and Associate Directors of the Agency their functions shall be performed temporarily, but not for a period in excess of sixty (60) days, by such officers of the Department of State or of the United States Information Agency as the President shall designate;

(2) One of the offices of Assistant Secretary of State provided for in section 1 of the Act of May 26, 1949, c. 143, 63 Stat. 111, as amended (22 U.S.C. 2652), and in section 5315 (22) of title 5 of the United States Code;

(3) The United States Advisory Commission on International Educational and Cultural Affairs (22 U.S.C. 2456(b));

(4) The United States Advisory Commission on Information (22 U.S.C. 1466–1468);

(5) All functions vested in or related to the United States Advisory Commission on International Educational and Cultural Affairs and the United States Advisory Commission on Information that are not transferred to the Director by section 7 or consolidated in the Commission by section 8 of this Reorganization Plan;

(6) The Advisory Committee on the Arts, all functions thereof, and all functions relating thereto (22 U.S.C. 2456(c)); and

(7) The functions vested in the Secretary of State by section 3(e) of the Act of August 1, 1956, c.841, 70 Stat. 890 (22 U.S.C. 2670(e)).

(b) Sections 1, 2(a)(2), 2(b), 2(c)(3), 3, 4, and 5 of Reorganization Plan No. 8 of 1953 (22 U.S.C. 1461 note) are hereby superseded.

Section 10. Other Transfers—

So much of the personnel, property, records, and unexpended balances of appropriations, allocations and other funds employed, used, held, available, or to be made available in connection with the functions transferred or consolidated by this Reorganization Plan, as the Director of the Office of Management and Budget shall determine, shall be transferred to the appropriate department, agency, or commission at such time or times as the Director of the Office of Management and Budget shall provide, except that no such unexpended balances transferred shall be used for purposes other than those for which the appropriation was originally made. The Director of the Office of Management and Budget shall provide for terminating the affairs abolished herein and for such further measures and dispositions as such Director deems necessary to effectuate the purposes of this Reorganization Plan.

Section 11. Effective Date—

This Reorganization Plan shall become effective at such time or times, on or before July 1, 1978, as the President shall specify, but not sooner than the earliest time allowable under section 906 of title 5 of the United States Code.

DEPARTMENT OF EDUCATION HEARINGS CANCELED TOMORROW

Mr. NUNN. Mr. President, on behalf of Senator RIBICOFF, I wish to announce that the hearings scheduled for Friday, October 14, 1977, on S. 991, to create a separate, Cabinet-level Department of Education in the Federal Government, and related bills, S. 255, S. 300, S. 894, and S. 1685, by the Committee on Governmental Affairs, have been postponed until further notice.

ADDITIONAL STATEMENTS

BOWHEAD WHALES AND THE IWC: BOTH ENDANGERED

Mr. CRANSTON. Mr. President, I have written the President of the United States to voice my deep concern over a possible U.S. objection to the proposed moratorium by the International Whaling Commission on the hunting of bowhead whales, a species on the edge of extinction. I believe, as do many others, that such an objection would be ill-advised and potentially ruinous to the declining population of bowheads and to the survival of the IWC itself.

I ask unanimous consent that the text of my letter to President Carter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, D.C., October 12, 1977.

Hon. JIMMY CARTER,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: You are receiving recommendations from the Departments of Interior, Commerce, and State regarding a United States objection to the International Whaling Commission's zero quota for the taking of bowhead whales. I want to express my strong view that the survival of the bowhead whale, the posture of the United States as champion of the IWC, and the future of the IWC itself may well depend upon your decision, as President of the United States, *not* to file an objection to the proposed rule, but rather to seek other solutions to the problem created by the whale hunting desires of native Alaskans.

I believe that the arguments against a U.S. objection to the zero quota are both sound and compelling.

First, the bowhead whale may be the most endangered of the great whales. Its world population is six to ten percent of what it was a hundred years ago; the stock in Alaskan waters numbers between 800–3,000 whales.

Second, the take by Alaskan natives has grown from a 1946–1970 average of 10 per year to 48 in 1976, accompanied by an alarming rise in whales killed but lost: from zero to ten in 1973 to 37 in 1976. At the same time, the number of hunters has increased threefold. In 1976 the IWC directed the United States to take corrective measures. But the Spring 1977 hunt saw 26 whales killed, 77 wounded and lost and two killed and lost. This tragic waste is occurring at a time when the dependence of the Eskimo upon whale products for food and utensils has declined. And, sadly, the harpoon skills of the great native whalers, and the cultural tradition those skills evidenced, are overshadowed by the new and gory technology of bombs shot from shoulder guns. The inaccuracy of the new killing methods account, in large measure, for the steep rise in whales slaughtered, or painfully wounded, and lost.

Finally, the action of the United States in the matter of the bowhead whale could well determine the survival of the International Whaling Commission, which is just now—after years of effort by the U.S.—emerging as a strong arbiter for the whaling nations of the world. Those of us, Mr. President, who have worked to assure the success of the IWC remember your own efforts in 1972 when, as Governor of Georgia, you led the American delegation to the IWC in its successful fight for a ten-year moratorium on commercial whaling.

I respectfully ask you to reaffirm that commitment by not filing an objection to the IWC moratorium. The alarmingly low population of the bowhead, the future of the IWC as a viable international body, and the credibility of the U.S. as the foremost champion of the survival of the whale populations of the world are all, in my view, strong arguments for the course of action I urge upon you.

With best regards,
Sincerely,

ALAN CRANSTON.

THE NATIONAL EDUCATION ASSOCIATION NEEDS A LESSON IN THE FREE ENTERPRISE SYSTEM

Mr. GOLDWATER. Mr. President, several months ago I received a letter from a constituent and good friend of mine, Dr. Richard L. Harris, who is Superintendent of the Maricopa County schools in Arizona. His letter dealt with his concern about the steady erosion of belief in the free enterprise system among our Nation's young people. He called my attention to the direct attack the National Education Association is making on business and the free enterprise system through a publication jointly sponsored by the NEA entitled, "A Working Economy for Americans."

Now having had an opportunity to read this 30-page booklet, I am shocked. I am amazed to learn that the Nation's largest teacher union is bent on preaching a strong bias in favor of socialism to the children of this country. I am astounded to find that any group of educators would allow their name to be tied to propaganda which openly downgrades the achievements of private enterprise.

The "big brother" approach to our economic problems set forth in the NEA booklet is at best simplistic and shows a dismal ignorance of economic facts. At worst, it is a clear case of the NEA endorsing an effort to involve the Federal Government in every aspect of our free economy, which in the end will bring them, and other unions, more power, just as Government and union direction of the economy has done in, and to, Britain.

The message in this document is clear. It argues "the private enterprise system is in need of change."

In fact, it blames all the ills of our society on private business. According to the booklet, our system of "profit-motivated operations of private business have led to inequalities of wealth and income, unemployment, inflation, urban blight, pollution, and other problems."

From this, the NEA paper instructs that the solution to all our economic problems is for "Government to play a greater role in restructuring and planning the economy."

The booklet even indicates that our country was lucky to get as far as we have under the free enterprise system.

Mr. President, this pamphlet is an incredible composite of left-wing notions and socialist schemes.

It is antimilitary defense.

It defends massive Government spending as not being inflationary.

It supports economic manipulation and controls.

It suggests establishment of "public industries," which are in reality a misnomer for nationalization.

It argues for the Federal chartering of private corporations.

It calls for bigger public works programs.

It urges use of the tax system to achieve a redistribution of incomes and wealth.

And so on and so on.

In other words, the entire liturgy of socialist dogma is contained in this booklet.

And the truly disturbing part of it is the realization that this one-sided, bitter attack on deeply founded American principles has been jointly produced by a national teachers organization.

It is not known how widely this booklet is being used as suggested or required reading material for classroom instruction by individual member teachers of the NEA, but the potential for brainwashing our children at an impressionable age with this biased, political garbage is great. It could easily appear, if left unexplained, to be an authoritative document having the endorsement of teachers themselves.

Mr. President, it would be impossible in a brief statement to correct each and every fallacy and inaccuracy in the NEA booklet. But to illustrate the fact that this paper, in addition to being flagrantly prejudiced, is filled with errors and misstatements, I will discuss one such instance.

First, the booklet makes a big issue out of the claim that the cost of adequate housing today is supposedly beyond the reach of 80 percent of all American families.

Yet, the National Association of Realtors recently completed a report examining this very allegation in which it concluded that housing has actually become much more "affordable" today than it was in years past.

The NAR reports that a record 4.2 million house sales were made in 1976 with nearly half of all buyers being renters moving up to homeownership and half also being under 35 years old.

In addition, figures recently cited by Professional Builder magazine show that in 1940, the ratio of annual family income to the median sale price of housing was 5 percent. In 1975, this had dropped to only 2.8 percent. In other words, the typical house cost five times more than the average annual family income in 1940 and now costs less than three times the same family income.

Also, according to the 1975 annual housing survey of the Bureau of the Census, fully 65 percent of American households enjoy homeownership, almost the opposite of what is erroneously asserted by the NEA in its publication.

Thus, Mr. President, I charge that the NEA booklet is a fraud upon intellectual honesty. I charge that it is a biased and inaccurate polemic of socialist thought.

Instead of promoting such exercises in propaganda, I hope the teacher's union will take some lessons in the free enterprise system and rethink its position.

Mr. President, I would also urge those who cherish traditional American values to consider the advice of Dr. John Howard of Rockford College, who recently said:

> The defense of capitalism needs to be redirected to the values and attitudes of the people, and particularly the reestablishment of economic self-reliance as a cherished priority.

Our children need to learn and understand this. If they are misled by the National Education Association and publications such as "A Working Economy for Americans," then clearly we are losing the battle in showing children what has made, and can continue to make, this country great.

Mr. President, I applaud School Superintendent Harris for having called this matter to my attention, and I will conclude my remarks today by quoting from his letter to me.

Mr. Harris writes:

> America stands at a crucial point in history. America's future depends on her economic freedom. Either governmental economic coercion, or the people's freedom to buy, sell, and exchange will prevail. This is the struggle and America's freedom is at stake.

READJUSTMENT PROBLEMS FOR VIETNAM VETERANS

Mr. MELCHER. Mr. President, on Tuesday, October 4, I introduced amendment No. 1415 to S. 457 to provide for a one-time conditional extension of the delimiting period for veterans who served between 1964 and 1970. Because there has been considerable concern about the philosophical and fiscal implications of a delimiting extension I feel it necessary to briefly elaborate upon my amendment.

The amendment would extend the delimiting period only for those Vietnam-era veterans who truly demonstrate that they need an extension of the time period in which to initiate or complete their education and training, and that they have not reasonably readjusted from their military service. I believe that the inordinately high rate of unemployment among veterans age 25 to 35 indicates that there are still serious readjustment problems remaining among a significant minority of Vietnam veterans. Closer examination of the problem reveals that those who bore the greatest brunt of the war have been the least served by a readjustment program which at the time of their separation was designed for "cold war" peacetime veterans. Lacking civilian-related skills and an effective readjustment program they were forced to take menial dead-end "Jobs for Vets." These vets, being the last hired, became also the first fired.

Now they urgently need the readjustment education and training to acquire the skills necessary for productive and secure careers in the private sector. My amendment would provide these veterans who sacrificed so much for their country a limited 2-year period to avail themselves of their rightfully earned entitlements in their time of need.

After staff consultations with the Budget Committee, I have established that my amendment's cost is well within the funds available in the veterans' functions budget for new program initiatives, $450 millon. The amendment would allow sufficient funds for other program initiatives, including lowering the ceiling on the accelerated entitlement provision in S. 457 from the current $1,000 to a more realistic $500 figure for those who demonstrate need.

I believe that a reasonable criteria for

the establishment of need for a conditional extension of the delimiting period would be comparable to the needs test imposed upon those persons seeking eligibility for accelerated entitlement under the provisions of S. 457.

The majority of veterans currently in training under the GI bill—62 percent—are earning in excess of $13,000 a year; an income that would preclude the vast majority of these veterans from an extension of the delimiting period provided under amendment 1415. I also believe that the majority of veterans in school have planned their education so as not to be terminated prior to completion by the delimiting period. So amendment 1415 would benefit substantially those veterans who are currently unable to use their readjustment benefits, who are unemployed or underemployed, and will be able to enter GI bill programs only with the enactment of the accelerated entitlement and a conditional delimiting date extension amendment.

This does not provide a 2-year delimiting date for all veterans seeking educational funding. It does instead provide for a 2-year period from January 1, 1978, to January 1, 1980, during which veterans who served in the earlier days of the Vietnam era and who can demonstrate need can have one last chance to use the entitlement they earned, but could not realistically use at the time of discharge.

CHALLENGES FACING INTERNATIONAL TRADE

Mr. JAVITS. Mr. President, on October 10, 1977, I had the opportunity to speak before the first Southern Forum under the auspices of the members' council of the Chamber of Commerce of New Orleans, in New Orleans, La., on a mounting protectionist fever in this country and its effect on the world economic system and a vital need for international action on loans and credits. In that speech, I sought to counter the simplistic arguments presented by protectionists about the regressive effect of international trade on the national economy to emphasize the effective laws we have on the books.

In the last 5 months, I have presented my views on the future direction of the world economy on the floor of the Senate, before the Senate Committee on Banking, Housing and Urban Affairs, and in questioning the witnesses who appeared before the Foreign Relations Committee, during our hearings on authorization for the U.S. participation in the IMF Witteveen Facility. In addition, I have discussed the matter before numerous public bodies. I am engaging in this debate to spur the responsible officials, business and labor leaders both in the United States and abroad, to develop the necessary economic, political, and diplomatic solutions to these problems. The situation, if unchecked, will have the gravest consequence for the free world.

I found the members of the Southern Forum to be very concerned about the rising forces of protectionism in this country and well informed about the severe repercussions on U.S. trade that may result from our going protectionist in this country. I would like to share with my colleagues the speech that I presented before that distinguished body and ask unanimous consent that it be printed in the RECORD.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

SPEECH OF SENATOR JACOB K. JAVITS

TRADE NOT AID

I appear today before this distinguished group to share with you my concerns about the state of the free world's monetary system and economy and particularly the challenges facing the United States in this respect. International trade is a vital element of the system.

The people of New Orleans do not have to be educated about the benefits of international trade. Recent economic impact studies have shown that the Port of New Orleans and its related trade industries generate more than 70,000 jobs in Louisiana, with a $4 billion economic impact, which accounts for almost 11 percent of the gross Louisiana state product.

The Port of New Orleans is closely linked to the rapid industrial development of the South, handling its growing exports of paper and paper products, woodpulp, and construction machinery and bringing in imports of iron and steel products, plywood, motor vehicles, coffee, meat and alcoholic beverages.

One does not have to be an expert specializing in international economics to understand that the world economy today is undergoing enormous pressures and is being subjected to unprecedented challenges. We read every day about the increasingly strident call by elements of U.S. business for protectionist action against imports and about the concerns for the continued creditworthiness of non-oil developing as well as some developed countries. We note with alarm the effect of continued current account surpluses in the OPEC countries on the ability of the rest of the world to finance its balance of payment deficits; and, the continued high levels of inflation and unemployment that are seriously cutting into the ability of many countries to undertake sustainable real growth policies.

In the last five months, particularly in testimony that I presented in late August before the Senate Committee on Banking, Housing, and Urban Affairs, I have sought to alert the American people to the danger of a severe economic depression, if adequate economic and political measures are not taken in time to strengthen the fragile structure of the international monetary and economic system.

Reaction to my public pronouncements has been particularly significant for its diversity. Senior Administration officials in the State and Treasury Departments have taken strong exception to my views and have gone out of their way to stress that the system as a whole is not in any such position of imminent danger. The reaction of the U.S. public has, however, been supportive of my concern. I have found the American people to be instinctively uneasy about the world's economy and money. Because of the technical nature of these international economic issues, they have, however, been unable to articulate their grave concerns about these potential economic dangers. I also have found this uneasiness and concern widely shared in Western Europe.

We are in the midst of a crisis of confidence with respect to capital investment and risk taking, but even worse, we are stagnant—without real innovation or enterprise in the industrialized free world.

President Carter has called upon us to act as if we were at war, but he does not heed this call himself in terms of the measures he asks of us. By the time we get to the balanced budget in fiscal year 1981, we may have tripped over enough rocks strewn in our paths to destroy ourselves economically. We need to reach out boldly, as in war, to build up markets, develop infrastructure, improve material productivity both in agriculture and in industry, and develop and improve new sources of energy. To take but two examples: improvements in coal utilization and development of alternate energy sources in the United States alone could add to what is required to keep us prosperous for a decade, while similar improvements in agri-business in the developing countries could give the people living in these countries adequate nutrition without undue import strains and together could keep the international economy strong until the year 2000. We have it in our own hands to accomplish these tasks.

The basic question that we must ask ourselves is whether the human personality is so blind or so perverse that it must experience catastrophe before it will act.

My purpose in raising these issues is not to be a "doomsday prophet" to be vindicated if the bottom falls out of the system which I shall work indefatigably to prevent. On the contrary, I am engaging in this debate to spur the responsible officials, business and labor leaders both in the United States and abroad, to develop the necessary economic political and diplomatic solutions to these problems. They must do so or face a situation, which, if unchecked, will have the gravest consequences for the West.

I am concerned about the rising forces of protectionism here and abroad that are presenting simplistic arguments about the deleterious effect of international trade on the national economy. These forces have been primarily responsible for the serious deterioration in the international economic climate, which has already undergone severe shocks as a result of the international debt question and its far reaching implications for the health of the international economy.

International trade and finance are integrally linked and must be dealt with in a systematic and coordinated manner. I am concerned that international policy-makers are concentrating on the details of these questions and are failing to develop a broad systematic solution to the overall problems facing the international economy. I would like to present briefly some of my views on international trade and then turn to the adequacy of international capital flows.

I can understand and sympathize with the concerns of US workers in a particular industry who are about to lose their jobs when the share of competing imports goes up in the US market. Protection from imports—through temporary quotas and increased duties—would appear to be an easy solution for the problems facing such workers in an industry. It is, however, not the solution for the problems of the U.S. economy, which is so closely tied to the world economy. For any strong movement towards protectionism in the United States will be met by similar restrictions by our trading partners against US exports. These now account for 7 percent of our GNP but our imports are a big factor in international trade because of the size and buying power of the huge U.S. market. Such constriction in world trade would only compound the slow down that is already evident in world trade this year and would hasten the economic catastrophe that we are seeking to avoid.

In opposing a "protectionist" solution to our trade problems, I face the existence of some serious problems in particular industries. The problems facing the US steel industry are especially familiar to all of us and

the intended shut down of US steel capacity will involve the loss of many jobs. Zenith Corporation which makes television sets has announced the laying off of 5–6,000 workers. The US textile industry continues to face serious competition from abroad.

In many cases, workers who are told they are losing their jobs because of imports are, in fact, losing their jobs for other reasons. These reasons may have some import content but are not primarily import related. For example, failure to modernize may often make a plant non-competitive, (there is a great deal of this in the steel business.); so, too, do changing markets, or regional or transportation factors. It is all to easy to blame a layoff on the foreigner. There are, however, cases which deserve governmental attention due to the impact of imports. These must be balanced against the demand of workers in the export industry; that concern does not help the individual worker who must be helped by us.

We in the Congress should not and cannot, thus, turn a deaf ear to the plight of workers who face severe dislocation or job loss due significantly to imports. In developing an open solution to our international trade problems, we must ensure that the individual workers are made whole and assisted through effective adjustment programs that will retrain them for work in growing sections of our economy, maintain them until they work and relocate them where there are jobs. These programs must be innovative, and if they are costly, we must be prepared to bear those costs.

Furthermore, we must reexamine our assistance programs to workers who are laid off due to imports and take a serious look at proposals for removing the link which bases worker adjustment assistance on import injury and for increasing the duration and quality of benefits. In any event, we cannot make the US worker a hostage to our continuing calculated trade deficits of $25–30 billion per year, which we are incurring as our contribution to the international adjustment process.

We must also ensure that US workers are not losing their jobs because of unfair competition from abroad. Import competition in the US market should be welcome, but only if it is not violative of US laws and does not put US industry at an unfair disadvantage in its own market. U.S. industry should be encouraged to file well-documented antidumping and countervailing duty actions. The Administration for its part should expeditiously investigate these complaints to ensure that US industry is protected by the legal remedies available under the law.

The potential repercussions on international trade of any moves in the US toward protectionism makes any unilateral solution very dangerous. In many cases, the restriction of competing imports will not even solve the problems facing a US industry as I have already noted.

To avoid the danger of miscalculation, we must resist the temptation presented by the easy solution of protectionism. Rather, we must enter into international discussions—both bilaterally and multilaterally—with our major trading partners to liberalize trade in a nondiscriminatory manner.

The Multilateral Trade Negotiations in Geneva as well as similar trade discussions in the OECD in Paris must be given the strong support of the American people in order to succeed. It is critical that we avoid the temptation to use these international discussions as legitimizing devices for internationally sanctioned "protectionism".

Recently, a new concept, "Organized Free Trade" was suggested as a way of avoiding protectionism and trade wars by French Prime Minister Raymond Barre, who also serves as his country's Minister of Economy and Finance. Noting that the application of the "principle of free trade as an absolute dogma can be very harmful," the French Prime Minister indicated that France is seeking some collective rules that will allow for orderly growth of trade and limit the ability of some nations to succeed in a "massive penetration" of other countries' domestic markets.

I reject this approach to international trade, because it appears to be a euphemism for cartelization or a division of markets. The international economy has not yet begun to recover from the disruptive actions of the OPEC cartel for me to even begin to entertain the thought of endorsing the concept of cartelization. The approach would play havoc with the notion of comparative advantage which is the cornerstone of an efficient international economic system and would perpetuate inefficient industries.

The French plan is, however, noteworthy in one respect; it focuses on the development of an agreed set of rules for international trade. The present rules under the GATT must be reviewed, not to make them more restrictive, but to ensure that they are responsive in dealing with trade-distorting measures that were not envisaged when the present rules were adopted after World War II. The Congress has given US trade negotiators the authority in the Trade Act of 1974 to revise the GATT and it is especially important that negotiations on GATT reform move ahead concurrently with progress in the more traditional tariff-cutting aspects of the trade negotiations.

These negotiations on GATT reform as well as on those on sectors, which will develop internationally-sanctioned solutions to problems in particular industries, will provide the fora for developing the "non-protectionist" answer to the trade issues buffeting the international economic system. The critical element in the "non-protectionist" solution that I am offering is the need to develop cooperative market management which will resolve the conflict demands on the international trading system resulting from the tension between conflicting domestic economic systems.

The new international trading system will have to deal with increased governmental intervention in domestic economies and particularly on the effect of full employment policies and other domestic goals on international trade. New international rules on "dumping" and "subsidies" as well as on unfair trading practices must be worked out to protect the legitimate concerns of importing countries while also taking into account the legitimate social goals of the exporting countries.

I concur with the conclusion of the annual GATT study of international trade that "the spread of protectionist pressures may well prove to be the most important current development in international economic policies, for it has reached a point at which the continued existence of an international order based on agreed and observed rules may be said to be open to question." Governments will have to undertake concerted efforts in the negotiations to ensure the continued maintenance of the international trading system by once again becoming sensitive to the "requirements of the system" and not only their parochial needs.

A vital element of the international economic system is the relative position of the less-developed countries, which collectively has deteriorated in the last four years as a result of their need to finance the deep imbalances in their balance of payments. These countries are quickly coming up against limits on their ability to borrow in the commercial channel and must increase their exports to the industrialized countries if they are to have any chance of improving their situation. World Bank President McNamara, in his recent address before the Bank's annual meeting, projected that the less developed countries will be able to increase their exports of manufactured goods from about $33 billion in 1975 to $94 billion in 1985 if the industrialized countries will display "a continued tolerance to accept such a rapid expansion in imports." It is crucial to the future viability of the system that the less developed countries find this tolerance for their exports otherwise they will be unable to pay their large oil bills and their increasingly burdensome debt service.

The trade problems that I have just described are symptomatic of a greater disequilibrium that has characterized the international economic and monetary system since the abandonment of the Bretton Woods system in 1971; and, the fourfold increase by the OPEC countries in the price of petroleum in 1974. The deep imbalances in the balance of payments positions of the oil importing countries, especially those in the non-oil producing third world, have, when added to their difficulties, resulted in excessive borrowing, depressed growth and high rates of inflation.

The non-oil developing countries financed these balance of payments imbalances by borrowing heavily both from private and public sources. Net private credit flows largely by commercial, and especially US banks engaged in international operations, to the LDC's have totalled more than $50 billion since 1973, with $21 billion advanced in 1976 alone. The outstanding external debt of these countries to both private and public entities in the industrialized countries, while only $83 billion in 1973, has been estimated at between $140 and $170 billion by the end of 1976 and nearly $200 billion by the end of 1977.

To overcome the shortfalls in their current accounts, these countries have mortgaged their futures and as we must look forward to perhaps continuing imbalances by them of up to $150 billion by 1985. I am extremely concerned that such a situation cannot continue indefinitely.

In the immediate period after the drastic OPEC price increase, it was possible for the non-oil LDC's to incur the debt because, as a whole, they were relatively debt free. We have now reached the point, however, where continued heavy borrowing to finance trade deficits without concomitant improvements in other aspects in their current accounts will put these countries further into debt without any real hope of generating the surpluses needed to get out from under that debt.

While it is essential that these developing countries receive large amounts of additional capital flows, these flows must not allow them to avoid needed economic adjustment policies, without which the additional capital will be only a holding action without generating real economic growth. Until now, the existence of a sophisticated and resourceful complex of financial intermediaries in the industrialized countries has given many developing countries the means for putting off sorely needed economic adjustment policies while having access to credits for financing balance of payments deficits. Several of the non-oil developing countries have commercial bank debts of more than $2 billion each.

While I believe that the commercial banks have followed conservative lending practices in their allocation of credit by country and risk category, the banks are quickly coming up against self-imposed or regulatory agency imposed limitations on their exposure in certain countries. Commercial bankers are seemingly agreed that they will not be able to continue to finance these deficits at the same level (75 percent of total financing) as in the 1974–1977 period.

New methods must thus be found to coor-

dinate the lending policies of the private sector in problem countries with the involvement of the International Monetary Fund and other international financial institutions.

Member countries of the IMF are obligated to permit the IMF to supervise their economic policies if they avail themselves of the so-called upper credit tranches. Commercial banks must insist that countries in weak balance of payments positions first enter into IMF standby arrangements requiring economic performance criteria—conditionality—before considering any increases in their country exposure. By conditioning their loans on these LDC's successfully meeting the IMF criteria, the banks would reinforce the IMF in ensuring that recipient countries are meaningfully seeking to resolve their basic economic problems.

Although the actual operation of any working relationship between the private financing institutions and the IMF would have to be carefully designed, I support, in principle, Treasury Secretary Blumenthal's recent call for a study of the possibilities of developing a closer interaction between the private commercial banks and official financing through the IMF.

The pivotal role played by our private commercial banks in successfully helping to recycle the massive amounts of petro-dollars from their OPEC depositors to their oil importing customers must not obscure the fragile basis on which the financing arrangements have been built. The essential weakness of this system is in the short term structure of the OPEC deposits and the longer term nature of the credit that the banks extend to the deficit countries. The dependence of the banking system on the goodwill of a small group of depositors makes the banks "hostage" to the threat of sudden withdrawals.

Commercial banks cannot stand indefinitely the danger of borrowing short and lending long in an international system subject to extreme political pressures. We must take steps to reduce this dependence. We must insist that if OPEC countries want the financial security afforded by our strong economy, their deposits must be of a longer term so that the overall term structure of the banking system's external credits and debits more closely tracks.

In addition, we must urge the OPEC countries to bear a greater part of the risk for recycling these funds. Until now, the OPEC surplus countries have avoided the risk that comes with the investment of these funds by letting the banks of the major industrialized countries do the actual lending to the weaker countries, while receiving a guaranteed return on their deposits. The OPEC countries must be encouraged also to provide much greater lending through international financial institutions to the countries most affected by their oil price increases.

Even if we are able to persuade the OPEC countries to assume increased responsibility for the maintenance of the international monetary system, the industrialized countries and the international financial institutions will continue to bear the major responsibility for finding ways to finance the expected current account deficits.

As a general proposition, it is essential that we recognize that the system now requires virtually permanent and substantially higher levels of capital flows to the developing non-OPEC world. The consequences of failing to recognize this fact could be the major policy mistake of this generation.

Bilaterally we must maintain and increase all forms of our aid programs, international lending, direct private investments and bond financing.

Multilaterally we must provide the international financial institutions with the means and authority to play a much greater role in making the transfer of resources and technology more efficient.

As I have already indicated, it has been the commercial banking system which has met the challenge to the monetary system posed by the need to recycle the petro-dollars back to the deficit countries. It is now time for the official institutions, the IBRD, the IMF and the national development banks, to assume the leadership in meeting the recycling needs of the system. With annual current account oil price induced deficits of between $20–$25 billion annually expected to continue for the developing countries alone for the next ten years, it is incumbent upon the world leaders to develop an overall plan on how these deficits will be funded, rather than to come up with patchwork solutions.

I am particularly encouraged by the recent creation within the International Monetary Fund of the "Witteveen Facility". With its additional $10 billion in available credit, this emergency capital pool will expand the IMF's ability to meet the challenges posed by the present massive deficits. I regret only that the size of the facility could not have been the $16 billion Mr. Witteveen had originally asked for. I believe, therefore, that further increases in IMF quotas are needed to expand more substantially the capital available to the IMF for balance of payments financing and to insure that the international economic system will not break down under the strain of continued large deficits. Total quotas will stand at $45 billion when the expansion agreed to in the 1976 Jamaica Agreement goes into effect early next year. A further increase of another $25–$30 billion should be seriously considered.

Although the creation of the "Witteveen facility" may have reduced the immediate need for the OECD Financial Support Fund, the so-called "safety net" proposal first made by Secretary Kissinger in 1974, I continue to believe that its importance has not diminished. This is evidenced by the economic and monetary problems of a number of developed countries in Western Europe, Latin America and Asia. By supplementing resources available through the IMF, the "safety net" would provide emergency sources of credit for OECD countries encountering serious balance of payments difficulties.

The IBRD and the other international lending banks should continue to have our support. These institutions have proved to be an effective mechanism for stimulating economic development in the developing world, and should be provided with the needed capital to increase significantly their lending to that part of the world. I support an increase in the general capital of the World Bank, which will reach $40 billion when the selective capital increase of $8 billion goes into effect next year. The general increase should be significantly larger than the last $8 billion increase, conceivably as high as $20–$25 billion.

We must realize, however, that foreign borrowing cannot be a substitute for export earnings. A strong export performance is the indispensable base for a sustained use of foreign credits. The developed countries must, therefore, increase the opportunities for trade expansion with—and among—the developing countries; accelerate technology transfers; and give greater encouragement to private sector investment on fair terms to investors and host countries in the developing areas of the world.

Any attempt at outlining the specific mechanisms for effecting the resource transfers must recognize the dual nature of the problem.

On the one hand, the real threat posed to the viability of the international economic system by the credit stringency comes from a small group of better off countries. Although still considered in the "developing camp" their economic problems more closely resemble those of the industrialized countries. Countries such as Mexico, Brazil and South Korea have this potential for dislocating the system; so, too, do the OECD members on the northern periphery of the Mediterranean—Turkey, Spain and Portugal—with aggregate current account deficits of $8 billion and outstanding external obligations to both private and public sources of $20 billion at the end of 1976.

For these and other countries in this category aid alone is not the answer. Concentrated programs involving monetary and trade policies geared to making fundamental changes in the long-term structure of their internal as well as external accounts are necessary. Such programs should be worked out by the individual countries together with the IMF, the IMRD and creditor countries. Specific attention should be paid to the impact of domestic economic and political conditions on private foreign investment. Short-term credits should be used only to provide the necessary financing to bridge the financial shortfalls, but in no instance, should these credits be used to avoid real economic adjustment.

The poorer non-oil developing countries, with lower per capita GNP, fall into the second group. Individually, these countries do not pose real threats to the continued viability of the system. Had the recently completed rescheduling of Zaire's external public debt not occurred, the system would probably not have been threatened by the default, although Zaire's creditors would have been severely affected. Yet the problems of a Zaire coupled with those of other countries in this category are real and immense, and if the number of countries in that category greatly expanded, a general collapse could be touched off. To help these countries, we must continue to provide bilateral and multilateral aid that will assist the needy elements of the population and provide the required capital for projects that will contribute to economic growth, with marked attention to food needs which can be met.

Because the poorer countries face similar problems, we should develop a general approach to helping them. In addition to working closely with individual countries on a case by case basis in situations where restructuring their debts may be necessary, we should be prepared to help them increase their export earnings by providing economic opportunities rather than concentrating only on aid.

Although I am opposed to meeting the LDC demands for commodity indexation, we should accept fair plans to stabilize commodity prices by engaging in specified commodity agreements, providing for some financing of selected buffer stocks and underwriting export earnings through economic programs similar to the Stabex Plan under the Lome Agreement.

We should also expand our system of Generalized Trade Preferences, which will permit the LDC's to increase their exports of manufactured and semi-manufactured products. I believe that an expansion of GSP can be undertaken while taking into account the very legitimate concerns for ensuring that our own labor force is not adversely affected.

A restructuring of the relationship between donor countries is also needed. Major diplomatic efforts should be undertaken to require effective redeployment of the excess resources drained from both the developed and the developing countries by the OPEC cartel.

In addition, we must quickly adopt a strategy to reduce the price of oil and the imbalance in international payments resulting from our large oil imports by developing alternative sources of energy and introducing drastic conservation policies.

Also, we should encourage the Soviet Union and other Eastern European countries to participate actively in the operation of the international economic system by joining the World Bank, the IMF and other international financial institutions. With the exception of Romania and Yugoslavia, these countries have stayed away from these institutions, although the Soviet Union was to have been a member of the IMF and was assigned a quota at the Bretton Woods Conference.

It is important that we bring these countries more fully into the system not only because their financial systems have become increasingly tied to the capitalist world (Eastern Europe's external debt to both governments and commercial banks in the West reached $36 billion in 1976 while Eastern European deposits in the Western banks totalled $6 billion), but as importantly because the financial relationship between Eastern Europe and the developing countries has also mushroomed. The outstanding debt of the LDC's to the Soviet Union and its Eastern European allies under economic and military aid agreements is estimated to have exceeded $11 billion at the end of last year.

Whether the Socialist leadership of the Eastern countries likes it or not these countries are part of the system and we must ensure that they accept their share of the responsibility for its operation. We must avoid the recurrence of situations such as that which occurred in Egypt last year when the Soviet Union insisted that Egypt continue to repay its military debt (estimated at $4 billion) on schedule while the Western industrialized countries were feverishly raising funds to bail out Egypt's balance of payments.

Even with the expanded official resource transfers and the increased cooperation between governments that I have described, we simply cannot provide enough aid under present bilateral or multilateral programs; nor will aid by other nations appreciably fill the gap which exists today in what is needed for reasonable development by the LDC's. The private enterprise system of the developed world simply must be brought into the picture in a massive way.

Government policies must take note of the factors which foster, and those which threaten, the international business system and ensure that it operates—with proper safeguards—at greater levels of efficiency and productivity.

Government policies in the industrialized countries must be reexamined and developed further to ensure that they properly support private sector efforts in the developing countries. The developing countries, for their part, must demonstrate their receptivity by generating the proper investment climate and setting fair economic conditions that are conducive to foreign investment.

An agreed upon code—or treaty—for foreign private investment is vital.

The complex economic issues that I have described raise political questions that cannot be resolved by Finance Ministers or central bank heads alone. It is crucial that these economic programs be dealt with at the highest political level by Prime Ministers and heads of state at well-planned summit conferences. The May, 1977 London Summit Conference gave the United States and the leading industrial countries the chance to exercise their leadership role; such summit conferences must be institutionalized and continued annually. In addition, we must develop ways to bring the responsible leaders of the LDC's into the international decision-making process to ensure that their views and concerns are reflected in these critical decisions.

I have sought to share with you today my concerns about two interrelated problems facing the international economic system: the need for both continued open trade and for higher levels of capital flows to the countries most affected by the oil price increases.

It is essential that responsible world leadership develop a long-term, coordinated solution that takes into account both the trade and financial aspects of the question. The most far-reaching and generous program of bilateral and multilateral assistance will fail in the face of increased protectionism and trade barriers. Similarly, meaningful reductions in trade barriers will not significantly help in LDC's in the long-run, if they do not get the needed short-term financing to "bridge their financial shortfalls" until the expected increase in export earnings takes place.

The American people will not give their all—and properly so—if they are presented with piece-meal programs and analyses that down-play the seriousness of the international economic situation. I am, however, confident that the American people would be prepared to make the necessary sacrifices if they are properly informed of the gravity of the situation and are presented by the Administration with a detailed and appealing plan.

In conclusion, we must never lose sight of the fact that the major industrialized countries, with a combined GNP of well over $3 trillion, have the wherewithal to meet these challenges to the international economic system.

I consider that these issues pose the major political and economic dilemma of the coming decades which will only be solved if the industrialized and developing countries, as well as those in the OPEC cartel and Eastern Bloc can work together effectively. If we can achieve this cooperation, then I believe that we will be able to act in time to avoid a major depression.

MERIT SELECTION FOR DISTRICT JUDGES

Mr. HUDDLESTON. Mr. President, the creation of judicial selection commissions to assist in the selection of Federal judges is rapidly gaining momentum. In October 1976, Senator FORD and I were the second to adopt such a commission and since that time, the number of formal and informal commissions has grown to a total of 14. This method of selecting Federal judges is clearly an idea whose time has come, and I anticipate that more Senators will use it as they become acquainted with its tremendous advantages. The distinguished former Senator from Maryland, Joseph D. Tydings, has written an article on this subject for the September 1977, Judicature journal. I ask unanimous consent that this article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

MERIT SELECTION FOR DISTRICT JUDGES

(By Joseph W. Tydings)

Patronage, the saying goes, is the lifeblood of politics. For United States senators, patronage consists in large part of federal judgeships. Yet, in the last three years, a surprising number of senators have relinquished their control of this plum. Since 1974, when Florida Senators Lawton Chiles and Richard Stone adopted a merit-selection plan, senators of thirteen states have promised to choose federal judges on merit.[1] By formal charter, most of these senators have established standing commissions to evaluate and recommend candidates for federal district judges. These plans signal the advent of openness and objectivity in the nomination of judges.

Openness and objectivity are too often rare commodities under the traditional system of senatorial courtesy which gives United States senators a virtual veto over nominees not to their liking, if not the basic power to nominate federal judges in their state. Briefly, senatorial courtesy works as follows:

(1) The senator or senators from the state involved, if of the President's party, suggest one (or at times more) candidates for the bench to the attorney general and the President. (If the state has no senator of the President's party, the suggestions come from the congressional delegation or other political allies of the President).

(2) The Department of Justice does a limited amount of screening for competence, and the FBI conducts a background check.

(3) The twelve-member ABA Committee on the Federal Judiciary investigates and reports on the qualifications of the nominee in confidence to the attorney general.

(4) In most instances, the attorney general then submits the "senatorial nominee" to the Senate for confirmation.

(5) The Senate Judiciary Committee holds a hearing if the senators from the nominee's state have returned their "blue slips" indicating approval. The power of any senator to kill a judicial nomination lies in their discretionary return of the "blue slip," since the custom of the Judiciary Committee is not to hold hearings until the slip is returned.

CHANGING THE SYSTEM

The present system has its staunch supporters, led by the Judiciary Committee's long-time Chairman James Eastland. For the most part, it has worked well over the years, producing a sound judiciary with some balance of input by the legislative and executive branches.

Many senators would undoubtedly consider it an usurpation of senatorial prerogatives for the President to initiate any mandatory changes in the selection procedure. One reason that there was so little opposition to President Carter's executive order creating thirteen merit selection nominating committees for Courts of Appeal judges was that each appellate court generally covers several states; thus, no single senator automatically controls each appellate judgeship. But selection of a United States district judge is a power jealously guarded by many senators. It is an extremely important source of political patronage, and many senators consider judicial selection to be one of the duties they were elected to perform. Thus, there is a natural reluctance to relinquish this power even to non-elected merit selection bodies, which are the decision-makers under most of the new voluntary selection panels.

Nevertheless, merit selection plans are gaining in popularity. In addition to intragovernmental pressures on individual senators to adopt merit plans, there are a number of other important considerations such as administrative convenience and public opinion which may induce even more senators to

[1] One or both senators from California, Colorado, Florida, Georgia, Indiana, Iowa, Kentucky, Massachusetts, New York, Ohio, Oklahoma, Pennsylvania, and Virginia have set up some form of "merit plan" involving one or more nominating commissions. In addition, Senator Adlai Stevenson submits names of judicial candidates to five Illinois bar associations for their comments and evaluation before suggesting a name to the attorney general.

rely on nominating commissions. The imminent enactment of S. 11, the omnibus judgeship legislation which would create more than one hundred new federal judgeships, will bring with it demands on senators' time and staff—and a deluge of favor seekers. Since senators are almost always identified with their appointments, they usually take considerable care in making them. A flood of vacancies will make this process more difficult and will inevitably delay nominations. A merit selection panel could free a senator from most of the detail work involved in investigating candidates, not to mention the tough political "base touching" procedures required. If the senator becomes involved at all, it would be towards the end of the process instead of the beginning.

President Carter, an early champion of the merit selection system as governor of Georgia, and Attorney General Bell, whose support of merit selection was made very clear in his nomination hearings, probably will not make any recommendations to change the process of federal district judge selection until a review has been made of the work of the "citizen nominating committees" created in each U.S. circuit for the Courts of Appeal judgeship vacancies. Moreover, as differing district court voluntary systems are established, other senators will have an opportunity to observe the strengths and weaknesses of each method before considering or instituting plans of their own. Logically, the spread of voluntary plans will probably forestall any executive order or proposal for mandatory change in the selection process for at least the next two years.

FLEXIBILITY

One important benefit of this spate of individual plans is that senators may tailor their plans to the needs of their states. For example, Senator Birch Bayh has proposed two panels in Indiana, one for each judicial district, and Senators Herman Talmadge and Sam Nunn have divided Georgia's seventeen-member commission into three groups, one for each district. The division of the panels is not a substantive distinction since the selection process and criteria are the same for the panels operating in the same state. It does highlight, however, how senators can freely fashion their own system. An executive plan adopted today would probably not retain this flexibility.

The commissions are also demonstrating their flexibility in the varying degrees of confidentiality which they observe. In Iowa, commission meetings will be open to the public. In California, Florida, Iowa, Kentucky and Massachusetts, the names of all those nominated will be published. In Colorado, Senators Floyd Haskell and Gary Hart designed a merit plan which provides that, upon the President's nomination to fill a vacancy, "the criteria used or developed by the [selection] commission in its recommendations as to the nominees shall be made available to the general public."

The senators retain varying degrees of control over the ultimate selection of a candidate. Under the Pennsylvania plan, the senators submit the three to five panel-chosen names directly to the President without any indication of preference. The Kentucky, Iowa, and Colorado plans similarly minimize senators' involvement.

The Florida panel submits about five names to its senators, who then pick one and send it to the President. Indiana Senator Birch Bayh's proposed system would have him submit a list of names to the appropriate panel which would then pare the list to five, from which he would select one. Massachusetts Senator Edward Kennedy chooses one name from the four submitted by his panel. Though this procedure limits the power of the President to make the final selection, it is still a tremendous improvement over the present system. Its greatest virtue is that it precludes an obviously unfit nominee.

CHOOSING THE COMMISSIONERS

Senators from four states have kept sole authority to appoint panel members. Senator Kennedy, at his sole discretion, chooses his nine-member commission as does Senator Harry Byrd of Virginia. New York Senator Daniel Moynihan also selects the entire panel, though he has stipulated that he will choose six lawyers and three professors of government—currently, one each from Harvard, Yale and Columbia. Senators Nunn and Talmadge of Georgia choose their entire seventeen-member panel jointly.

In other plans, senators make some appointments, but other sources, including the state bar, also choose commissioners. For example, each Pennsylvania senator chooses six members of the panel, and two are chosen by the deans of the state's six law schools. Each Kentucky senator has three appointments, and the state bar association has three choices; the Florida and Iowa plans are identical in this regard.[2]

The Oklahoma Bar has six appointments on a thirteen-member panel; six nonlawyers are chosen by the governor, and the odd choice, a nonlawyer, is chosen by the other twelve commissioners. The Oklahoma panel is unique, however, in that the senators have absolutely no input in the selection process; rather, they use the state merit selection panel, which was established when Senator Dewey Bartlett was governor. (Senator Wendell Ford of Kentucky created a panel in his state as governor, but he and Senator Walter Huddleston use a separate commission for federal nominations.) The Oklahoma panel's list is sent directly to the President without comment by the senators.

Bar representation, whether by charter or informal, is important because of the unique perspective and legitimate expertise lawyers can contribute, and because the bar must have confidence that the judges are worthy representatives of the profession. Nominees from all plans, of course, are still subject to scrutiny by the Justice Department and the American Bar Association.

The Oklahoma plan's requirement that there be a nonlawyer majority on the panel is a concept followed by other plans.[3] In fact, the impetus of many of the plans is, in part the desire to give diverse voices a say in selection of judges. Consequently, members are chosen by charter or senatorial affinity to represent the state populace in regards to race, sex, hometown, occupation, and party affiliation.

The Kentucky panel includes a minister, newspaper editor, and college administrator; the Iowa commission has on it a farmer, housewife, and a former mayor; the California panel consists of businessmen and women, a former president of the National Organization for Women, and the general counsel of the Mexican-American Defense Fund. Diversity of occupation is a barometer of a panel's overall diversity, since, for example, businessmen and bankers tend to have many of the same values and acquaintances as the lawyer members. Characteristics which are underrepresented in the bar should be brought to the panel by the lay members. An anticipated result of these plans is that the judiciary will be more closely identified with the citizenry over whom it presides.

One procedure that all the President's Circuit panels and some senatorial panels follow—advertising vacancies and soliciting applications—is bound to produce a more diverse and representative pool of talent than a single senator is likely to gather on his own. Recruitment of outstanding candidates who are reluctant to seek the office is essential to the success of this process. As long as the individual panel members reflect their constituency, bringing a familiarity with the particular interest group, occupation, or region each represents, the panels will contribute real dynamism to the make-up of the federal bench. The lay members, then, must perform more than a mere evaluating role to provide the desired balance to the lawyers' input.

BIPARTISAN REPRESENTATION

Consistent with the goal of promoting diversity and public confidence are quotas on party affiliation. Only Ohio and Pennsylvania formally provide for bipartisan membership on the panel.[4] In California, however, the senators are from opposite political parties, and this represents a significant political sacrifice on the part of senior Senator Alan Cranston. Since he became a senator in 1969, Cranston has served under Republican presidents and he has had little influence over judicial appointments. Now, with a Democratic administration, he could recoup missed opportunities by recommending faithful party members to fill vacancies. Instead, the senator has created a merit selection panel, on which he selects four members and his Republican colleague, S. I. Hayakawa, selects two. Theirs is the only panel on which senators from opposite parties cooperate.

Party politics also present a potential source of confrontation with the White House. An illustration of this occurred in Florida in 1975. The merit panel submitted to the Democratic senators a list of six qualified people, one Republican and five Democrats. The senators chose a Democratic nominee to send to President Ford. Subsequently, an unofficial group from among the state Republican leadership recommended to the President the names of three Republican state court judges and urged the President to appoint one of them rather than the senators' nominee from the selection panel. Ultimately, the President chose the panel's nominee.

An analogous situation now exists with the Pennsylvania and Oklahoma plans, since both senators from those states are Republicans. However, whereas the Florida panel was heavily Democratic, the party representation on these Republican senators' panels is more evenly divided. Although President Carter is not committed to accepting the names submitted by any senators, his record of support of merit plans should make a state Democratic party think twice before challenging a merit selection panel recommendation. Moreover, almost all the participating senators, either formally or by a tacit understanding, are committed to attempting to block a nominee who is not from a merit panel list for the vacancy, and the President probably would not want to spark such a controversy.

After this article was written, Senator Thomas J. McIntyre of New Hampshire, a Democrat, announced the creation of a district judge nominating commission in his state. The commission will include the chief justice of the state supreme court, the president of the state bar association and five other members whom the senator appoints. Four of its members are lawyers and three are nonlawyers, though no specific quotas were established.

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[2] California, Colorado, Florida, Indiana, Iowa, Kentucky, Ohio, and Oklahoma involve the state bar in appointing commissioners. Other appointing authorities are: the governor of Oklahoma, law school deans in Indiana and Pennsylvania and the Indiana Trial Lawyers Association.

[3] Only Ohio, however, has a formal nonlawyer "quota" in its charter.

[4] On the Ohio panel, no more than eight of the twelve members may be of the same party. In Pennsylvania, the majority cannot be from one party.

The panel will meet confidentially and it will transmit five nominees in confidence to the senator. A spokesman said the senator intends to recommend only those whom the commission nominates.

New Hampshire is the only state where two senators from the same party are not working together on a commission. New Hampshire's junior senator, John A. Durkin, will continue to evaluate candidates himself.

THE FUTURE

There remain many imponderables with these panels, since some of them have yet to make their first recommendations.[5] The senators may discover that it is not worthwhile to publish notices in general circulation newspapers, or they may find their questionnaires deficient in some area, or they may find it helpful to allow judges on their panels, or they may find the lawyer members unduly influencing the panels. These and many other problems will arise which each senator must work out, keeping in mind the goals of prompt, high quality appointments. How well these panels can function without staff or subsidies or how willing senators will be to devote resources to them will be other indications of their futures. Another harbinger will be the inclinations of the 1978 freshman class of senators, many of whom will undoubtedly come from states with merit selection plans for their state judiciary.

Public opinion, of course, weighs heavily in the minds of senators considering whether to establish a merit selection plan. Those who have already initiated a plan undoubtedly feel that, even if the judicial candidates ultimately recommended by the panels are identical to those who would have been picked under the traditional system, the change is welcome because it opens the process to public scrutiny and it thereby establishes the integrity of government. The traditional system has always been subject, however unfairly, to the inference that it was a political refund counter for campaign IOU's held by senators' close friends, campaign contributors and supporters. The appointments more often than not surface as a *fait accompli*, already immune from public scrutiny. A purely political selection procedure, which has nonetheless produced a fine judiciary, does little to inspire public confidence.

Although it has always been important for Americans to know how their judges are chosen, it has become even more important in the last two decades as federal judges have undertaken traditional "legislative functions." Ordering the funding for road and prison construction and mandating the integration of schools and the reapportionment of legislatures are decisions which go to the heart of our national governance; such decisions are made regularly by federal district judges. Citizens are entitled to know how these judges were chosen. They should be confident that careful study and investigation preceded a nomination, that objective criteria (not political trade offs) were the basis for selecting our federal bench.

There was a time when the judiciary even more than the Congress and the Presidency was perceived as sacrosanct, and judges were beyond public reproach, but this national climate has changed. The merit selection process goes a long way towards adapting to contemporary pressures and perceptions of our basic governmental operations.

The Missouri plan for state merit selection was enacted in 1940, but a generation later there were still barely a handful of state plans. Today there are plans in twenty-eight states plus the District of Columbia, Guam, and Puerto Rico. Senators have adopted merit plans for federal judgeships at a far more rapid pace. With the leadership of President Carter and Attorney General Bell there is every reason to expect this trend to continue.

We can reasonably expect that the current example of the participating senators will put pressure on adherents of the traditional system. The moment will soon come—if it has not come already—when a voter holds up his hand at a campaign question and answer session and asks, "Senator, your colleague from our neighboring state spells out exactly how he chooses federal judges and who helps him decide. What do you do?"

When that happens, our senators will realize that an open process is not only good for the judiciary but also good politics.

[5] As of July 15, nine panels had acted to nominate district judges or U.S. attorneys: California, Florida, Georgia, Iowa, Kentucky, Massachusetts, New York, Ohio, and Pennsylvania.

INVESTMENT POLICY ACT OF 1977

Mr. PERCY. Mr. President, the House Committee on Banking, Finance and Urban Affairs recently held hearings on H.R. 7102, the Investment Policy Act of 1977 introduced by my colleague, Congressman DAN ROSTENKOWSKI. This legislation is identical to S. 1055, which was introduced by Senator HUMPHREY and myself on March 21, 1977.

Consideration of this legislation could not have come at a better time, particularly in light of the crisis we are now experiencing in the steel industry.

While the short-term problem with steel, according to the industry, centers on dumping of products onto the U.S. market at prices less than what is charged in the exporting country, the long-range solution can come only from plant modernization, expansion, and improvements.

If enacted, this legislation would go a long way to make that possible by declaring for the first time a national policy in support of sufficient incentives to assure maximum capital for investment in the private sector.

It would do this by requiring that the President make an annual investment policy report to Congress on how to deal with the levels of capital necessary for small, medium, and large businesses. The administration also would be required to implement declared investment policy.

I should point out, Mr. President, that neither the need for capital investment nor the knowledge of that need is new. Warning signs have been apparent for years. It has now become particularly acute as a result of growing foreign competition and rapidly rising interest costs here at home raising the costs of debt financing and a depressed stock market making equity financing less feasible. There is now little doubt that in future years the need for capital will become even more critical.

Without increased capital formation greater productivity will be stifled, real economic growth will diminish and fewer jobs will be created.

Let us look for a moment at what our growth requirements will be. By 1985, the United States will need $4.5 trillion in capital. This is three times the $1.5 trillion of the past decade.

In addition, at least 19 million new jobs will need to be created, which is 7 million more than we created during the past decade.

A large percentage of investment during this period—it was 62 percent during the 1960's—will have to be devoted only to plant modernization, for meeting environmental standards and expansion.

According to the Commerce Department private fixed investment must increase from the 10.4 percent of GNP of the 1965 to 1974 period, to 12 percent of GNP between now and 1980. Only then will we have a capital stock sufficient to promote full employment, control pollution and fully develop domestic energy resources.

Unfortunately, the United States since 1960 has had the lowest level of capital investment among the major industrialized countries. Take, for example, the fact that the investment and productivity growth of Japan has been three times greater than our own. In addition, the growth and investment rates of Germany, France, and Canada have all been substantially greater than that in the United States.

Mr. President, Congress and the administration must begin now to turn this series of events around and come up with answers on how to reach the future investment levels needed in the U.S. private sector.

Insight into how to achieve these investment levels was presented in testimony on September 27 before the House Banking Committee's Subcommittee on Economic Stabilization by Mr. Robert W. Galvin, chief executive officer of Motorola Inc. and by Dr. Richard W. Rahn, executive director of the American Council for Capital Formation of Washington, D.C.

Mr. Galvin, a former member of the President's Commission on International Trade and Investment, and the Intelligence Review Board, has also served as a director and president of the Electronic Industries Association. He is currently on the board of directors of Chicago Junior Achievement and is a trustee of the University of Notre Dame and the Illinois Institute of Technology.

Dr. Rahn is a member of the National Association of Business Economists and serves on the advisory board of the business division of the Borough of Manhattan Community College, CUNY.

Dr. Rahn was also a Washington representative for the New York Merchantile Exchange and was the acting head of the management department of the Polytechnic Institute in New York.

Mr. President, I ask unanimous consent that the statements of Mr. Galvin and Dr. Rahn be printed in the RECORD.

There being no objection, the statements were ordered to be printed in the RECORD, as follows:

STATEMENT BY ROBERT W. GALVIN

Members of the Committee, my name is Robert W. Galvin. I am Chief Executive Officer of Motorola Inc.

Motorola for 49 years has been a leader in the design and manufacture of electronic parts and equipment. We operate plants in seven states and fifteen foreign countries, with a total employment of 57,000 people. This year our sales will be about $1.8 billion dollars.

I am here to support H.R. 7102, the Investment Policy Act of 1977.

The economy of this nation touches us all. Each of us is part worker, customer and owner.

The American economic system is firmly based on the principle of the private ownership of the means of production and service. Competitive private enterprise has been a key, indispensable factor in developing a U.S. economy where citizens enjoy a living standard equalled in few parts of the world.

It has made us a leader in world trade. It makes more goods available to the public at reasonable prices. It expands market opportunities and spurs innovative development. It creates wider employment opportunities and more jobs. It contributes to price stability, generates government revenues in the form of taxes, and it provides profits for a renewed cycle of investment and expansion.

Private investment is the seed from which private enterprise grows. Successful private enterprise must be encouraged—it does not simply happen. Encouragement for capital investment needs to be provided in order for us to move toward more and better jobs for our citizens and a better quality of life for this country.

There is no clear public policy which recognizes the role of investment or capital formation in our economy. There is no adequate understanding as to the need for investment encouragement if the private sector is to meet new demands. A link is missing. A legislative policy is the appropriate remedy. The Environmental Policy Act and the Employment Act are models. They state policy without implementation.

The Employment Act of 1946 originally included a policy to "promote free competitive enterprise . . . maximum employment, production and purchasing power." This wording was deleted during Conference. The final bill dealt primarily with employment—hence, its title. No public policy on investment—a linking issue—has emerged. It is time to correct this oversight.

Why?

What is a policy?

Why is it important?

How does an investor feel and think, and how is he or she motivated by policy?

A constructive policy is a guiding, driving force. For example, our company has a policy of respect for the dignity of each individual. From this policy flows cooperative human relations, improved work, customers better served. Through satisfaction, the employee and company prosper.

I suggest that federal declaration of investment policy will have favorable consequences. Among them are: A constructive way for government and business to pull together. Some see government and business in adversary roles. What new forces may be harnessed if the perception moves to a balanced view of common interests? Such a change does not preclude the government's conventional and simultaneous responsibility to appropriate regulation. But on this subject, we could move forward on common policy. All instrumentalities of government could work to respect investment. More confident investors would invest more.

A pre-condition for private investors is reasonable confidence in the political environment in which they invest and compete. Investors over the world are being demotivated by the absence of sufficient political respect for investment and the property it employs. Significant increments of private investment funds are being withheld from progressive use and/or are being moved to comparatively more hospitable environments.

Our country's history of respect for private ownership of the means of production and service makes the U.S. a comparative magnet today. But that attractiveness has a certain tentativeness to it. We hear new-coming foreign investors say, "I can't afford to risk—to invest as much in my country. Yours is better, at least for now." Ironically, they add, "But it looks like your country is only a decade or two behind ours in closing out fair opportunities for investment."

How much better if these investors could know explicitly of our government's respect for investment? How much more enthusiasm—how much more investment would they bring?

Of greater importance, American investors echo the same Most say, "The U.S. is not far behind Britain where the political environment discourages investment." Driven by such feeling, you can be sure that some businesses are not being started or others not being expanded. That means jobs foregone, incomes not earned, tax bases not increasing. If the feeling magnifies, the results would be tragic.

Just as the Employment Act policy of seeking maximum employment helped move the country toward that objective for decades, so can a positive Investment Policy move us even closer to the employment goal and the other positive objectives of a dynamic economy.

Is there a potential shortage of capital? Various numbers will be presented here. I have no numbers as I am not an expert on aggregates.

What I do know is that the need of most companies is big. If one wants to compete and survive selling many hamburgers, one better have equipment and inventory like the local McDonald's.

The steel maker will need to extensively modernize and may be pressed to liberalize stocking and financing of sales. To succeed in semi-conductors, one must invest in projection printers, ion in-planters and plasma equipment just to produce tomorrow's products which were only designed yesterday. And success will require more working capital.

Further, the social obligations of environmental requirements or putting each unemployed to work at the rate of $20,000 to $30,000 of investment per person show investment needs to be tremendous and essential.

Remember, the capital needs of business are two-fold. First, facilities, equipment and tools. Only if we put new tools and equipment in the hands of trained people every few years can they be productive and able to practice modern technologies. Second, working capital which is inventory that has to be afforded and receivables that have to be financed to provide the products or services in expanding amounts. Note, the new working capital needs of a company are large in relation to each increased dollar of sales.

A policy act does not call for specific implementation. It should be non-controversial. It should point the way and be our guide and influence for decades. So, I make no suggestions for later implementation. But I do suggest issues which I hope will be avoided.

Please don't let others in government force preference or guidances on us as to wherein we invest.

Please don't opt for federal financing of investment. Unproductive priorities and regulation would follow.

Tax us fairly. Regulate us fairly. Assure us you want us to earn a generous return on our investment, so we can reinvest. Help us communicate the truth as to the moderateness of the earnings of business in general.

If you do, you will be taking the constructive option to turn our country away from insufficient private employment long term and away from expanding welfare expenses.

Give tens of millions of investors the positive signal. Give them reasonable follow-through on the policy over the years, and watch us each over a reasonable time do a little bit more, and some a great deal more, which will aggregate to creating millions of jobs that would never be started, and all the sales and income and tax base and R&D that also would never be started.

With the resultant improved productivity, economics of size and positive motivation, the U.S. investor companies would be invincible in serving our domestic needs and unbeatable in competition with the Japanese and Continental companies throughout the world.

STATEMENT BY DR. RICHARD W. RAHN

Mr. Chairman and members of this distinguished committee: My name is Richard W. Rahn, Executive Director of the American Council for Capital Formation. I am grateful for this opportunity to express the Council's views on H.R. 7102, "The Investment Policy Act of 1977."

The American Council for Capital Formation is supported by a diverse and growing group of individuals, businesses, and other organizations. Our supporters are united in the belief that only through an increased rate of saving and productive investment will this nation be able to create adequate jobs for a growing labor force, sustain a high rate of economic growth, compete effectively in world markets, and ultimately win the battle against inflation.

The American Council for Capital Formation believes that one of the most effective ways to increase the rate of saving and investment is through policies which reduce the bias in our tax laws against capital formation. I will not take the time of the Committee today to outline the tax program we advocate, but I do wish to stress the great need for tax reduction which will enable business to maintain a high level of capital investment in productive plant and equipment, which will in turn provide jobs for our citizens and encourage a strong and durable growth path for our economy.

My statement is brief and can be summarized as follows:

1. The American Council supports passage of H.R. 7102, "The Investment Policy Act of 1977."

2. We believe that the Investment Policy Act can serve as a useful vehicle to draw attention to the critical capital shortage in our country today.

3. To improve the bill, we urge the Committee to amend H.R. 7102 to give the Council of Economic Advisers, instead of the Council on Wage and Price Stability, the primary responsibility for implementing this proposal.

PURPOSE OF H.R. 7102

The American Council supports the passage and implementation of the Investment Policy Act of 1977. The Act recognizes not only the importance of but the necessity for maintaining high levels of private investment, increased job opportunities, and increased production of goods as being the policy and responsibility of the federal government. However, we do not construe the Act to mean that any governmental unit has responsibility for engaging in national economic planning, or for providing direct or indirect investment capital to industry. On the contrary, we feel that such measures would be counter-productive and misallocate resources, thereby reducing economic efficiency and the economic freedoms of this nation.

This proposal does not require the creation of any new governmental bureaucracy, or the expenditure of significant amounts of public funds. Rather, it encourages a more systematic consideration of the capital formation needs of our country by the Congress and the Executive Branch. It is our hope that implementation of the Investment Policy Act, by identifying investment disincentives, will provide the information needed for our policymakers to develop more constructive tax and other economic policies.

We understand this Act to mean "to assure maximum investment in private enterprise," the existing bias in our tax laws against capital formation should be reduced.

FOCUS ON CAPITAL SHORTAGE

The American Council believes that the Investment Policy Act can serve as a useful vehicle to draw attention to the critical capital shortage in our country today.

Recent serious studies of the United States' long-term capital outlook by such organizations as the Bureau of Economic Analysis of the Department of Commerce, the Brookings Institution, the New York Stock Exchange, Data Resources, Inc., and others have all agreed that the demand for capital will be increasing at a much greater rate than we have experienced in the recent past. Yet there are some who say that capital investment is not a problem, and others even assert that we are over-invested.

In recent years, the United States has devoted a smaller share of its national output to capital investment than any of its major industrialized foreign competitors. A recent study prepared by the Treasury Department for the years 1960–73 showed that the United States trails all major competitors in the industrialized world, in terms of the percentage of the Gross National Product devoted to investment, and, not surprisingly, in the growth rate of worker productivity. Only the United Kingdom has a worse record in the growth rate of output.

The lack of investment over the last decade and a half has contributed in large measure to the shortages in basic materials industries during periods of expansion. This has substantially added to inflationary pressures, limited job opportunities, and lowered rates of advance in living standards for the average consumer.

We are convinced that the inadequate rate of saving and investment previously referred to is largely the result of this bias against saving and investment in our public policies. We tax saving and investment as if they were sins rather than virtues. Currently we tax some forms of capital well into the prohibitive range. By prohibitive range, I mean at such excessive rates as to discourage investment in capital. As a result, it is likely that we could actually increase governmental tax revenue by reducing the tax rate.

Let me give one brief illustration. If we decided to tax corporate-held capital at a 100% tax rate, how much revenue would the government receive? Of course, it would receive nothing, for over the long-run no one would invest in corporate-held capital. I assert that we already tax corporate capital in some cases at rates above 90%. One easily arrives at the first 84% by calculating the maximum tax that could be paid through the federal corporate profits tax combined with the individual income tax on dividends.

When one adds state and local income taxes, capital gains taxes, excise taxes, sales taxes, and takes into account the underreporting of depreciation and inventory expenses, plus the cost of tax and compliance advice from accountants and lawyers, it can easily be seen that we are approaching confiscatory tax rates on corporate capital.

It is the hope of the American Council that implementation of the Investment Policy Act, by identifying such investment disincentives, will provide the information needed for our policymakers to develop more construction tax and other economic policies.

IMPROVEMENTS ON H.R. 7102

There has been discussion as to whether operating responsibility for the Act should be given to the Council on Wage and Price Stability or to the Council of Economic Advisers. It is our understanding that the Act is designed as a complementary piece of legislation to the Employment Act of 1946, which resulted in the creation of the Council. Since the Investment Policy Act of 1977 explicitly recognizes the necessity of a high level of investment to create an adequate number of jobs in the private sector, it seems that it would be more appropriate to place the operating responsibility for the Act with the Council of Economic Advisers.

The Act also mandates the submission of an Investment Policy Report to Congress. For the Report to have a high level of visibility, we suggest the Investment Policy Report be included as a section in the Council of Economic Advisers' Economic Report of the President, submitted annually to Congress. Much of the information required by the Investment Policy Act is already included in the Council of Economic Advisers' Report. Since it is widely read and extensively reported in the press, any recommendations in the Investment Policy Report section would readily become known to the American people and their political leaders.

It is important to reiterate that the implementation of the Investment Policy Act will not require creation of any new governmental agency, or the expenditure of significant additional amounts of public funds. The Investment Policy Act will merely recommend programs to reduce the existing bias against saving and productive investment as well as programs for reducing regulatory impediments against capital formation. It will also recommend programs to reduce the risk premiums businessmen have been forced to include in their investment decision-making process, which in turn have reduced the aggregate amount of investment.

In conclusion, the Investment Policy Act of 1977, if properly interpreted and implemented, can be a step toward raising our consciousness of the importance of saving and investment in creating full employment, a high level of economic growth, and reducing inflationary pressures.

COURT DECISIONS UNDER THE FREEDOM OF INFORMATION ACT

Mr. ABOUREZK. Mr. President, since Congress passed the Freedom of Information Act in 1967 and amended it extensively in 1974, much information about Federal Government decision-making and operations has been disclosed to the public. However, a significant amount of information still is withheld by the Government. The act permits withholding if the material falls within nine specific exemptions designed to protect, among other things, personal privacy, trade secrets, national security and law enforcement activities. Nevertheless, many Freedom of Information Act requests are denied on questionable grounds, including avoidance of Government embarrassment.

The 1974 amendments provided for quicker and easier court challenges of these denials. As a result, many court actions have been brought under these amended procedures. To help agencies keep track of the decisions in these cases, the Justice Department's Office of Legal Counsel twice a year publishes a list of court rulings on the Freedom of Information Act. This list particularly is useful because it includes a notation of the exemption, or other provision of the act at issue in the ligitation.

The Subcommittee on Administrative Practice and Procedure, which I chair, recently received the latest case list comprising opinions issued up to July 1977. To enable Congress, and members of the public that use the act, also to keep abreast of current litigation, I want to place this revised list in the RECORD.

The list provides guidance to the public and to Federal agencies on court interpretations of the act's provisions. This may serve to reduce the vast amount of litigation over the act by avoiding duplicative lawsuits. The compilation also apprises litigants in pending suits of the success of certain arguments for disclosure, and clarifies for future requesters the Government's substantive information policies. The list also aids Congress in monitoring and evaluating the effectiveness of the statute.

Since the case list is not readily available to the public or to other Members of Congress, I ask unanimous consent that it be printed in the RECORD.

The PRESIDING OFFICER. There being no objection, the list was ordered to be printed in the RECORD, as follows:

(1) *Abrahamson Chrysler-Plymouth* v. *NLRB*, 91 L.R.R.M. 2343 (N.D. Ill. Jan. 29, 1976), temporary restraint of agency proceeding pending disposition of FOI claim.

(2) *Abrahamson Chrysler-Plymouth* v. *NLRB*, Civ. No. 76–C–248 (N.D. Ill. Nov. 2, 1976), X7(A).

(3) *Ackerly* v. *Ley*, 420 F.2d 1336 (D.C. Cir. 1969), X5, 6.

(4) *Amerace Corp.* v. *NLRB*, 91 L.R.R.M. 2344 (W.D. Tenn. Dec. 15, 1975), preliminary injunction of agency proceeding pending disposition of FOI claim.

(5) *Amerace* v. *NLRB*, 92 L.R.R.M. 3497 (W.D. Tenn. June 10, 1976), X5, 7(A), (C), (D).

(6) *AFGE* v. *Rosen*, 418 F.Supp. 205 (N.D. Ill. 1976), attorney's fees (a)(4)(E).

(7) *American Jewish Congress* v. *Morton*, Civ. Act. No. 75-1541 (D.D.C. April 30, 1976), X3.

(8) *American Mail Line, Ltd.* v. *Gulick*, 411 F.2d 696 (D.C. Cir. 1969), X5.

(9) *AMF* v. *NLRB*, 91 L.R.R.M. 2420 (D. Colo. Feb. 12, 1976), temporary restraint of agency proceeding pending disposition of FOI claim.

(10) *Amway* v. *FTC*, 1976-1 Trade Cas. para. 60,798 (D.D.C. Mar. 10, 1976), X4, 5, 7(A), (D), *in camera* inspection.

(11) *Anchorage Building Trades Council* v. *HUD*, 384 F.Supp. 1236 (D. Alas. 1974), X7.

(12) *Anderson* v. *Butz*, 550 F.2d 459 (9th Cir. 1977), (a)(1)(D), (a)(2)(B) publication.

(13) *Ash Grove Cement Co.* v. *FTC*, 371 F. Supp. 370 (D.D.C. 1973), *remanded* 511 F.2d 815 (D.C. Cir. 1975), *rehearing denied* 519 F.2d 934 (D.C. Cir. 1975), X5, 7.

(14) *Aspin* v. *Department of Defense*, 348 F. Supp. 1081 (D.D.C. 1972), *aff'd* 491 F.2d 24 (D.C. Cir. 1973), X5, 7.

(15) *Associated Dry Goods Corp.* v. *EEOC*, 419 F. Supp. 814 (E.D. Va. 1976), parties (a)(4)(B), X1-9, discretionary release.

(16) *Association of American Railroads* v. *United States*, 371 F.Supp. 114 (D.D.C. 1974), X3.

(17) *Astro Communications Laboratory* v. *Renegotiation Board*, Civ. No. 2403-70 (D.D.C. May 16, 1974), (a)(2), X5.

(18) *Atlas Industries* v. *NLRB*, 91 L.R.R.M. 2676 (N.D. Ohio Feb. 23, 1976), injunction of agency proceeding pending resolution of FOI claim, X5, X7(A).

(19) *Aug* v. *Natl. Railroad Passenger Corp.*, 425 F.Supp. 946 (D.D.C. 1976), X2, 3, 4, 5, 6, 7, "agency".

(20) *Automobile Club of Missouri* v. *NLRB*, 71 CCH Lab. Cas. para. 13,672 (D.D.C. May 15,

1973), prohibiting termination of agency proceeding pending resolution of FOI request.

(21) *Aviation Consumer Action Project* v. *Washburn*, 535 F.2d 101 (D.C. Cir. 480 F.2d 1195 (D.C. Cir. 1972), exhaustion of administrative remedies.

(22) *Aviation Consumer Action Project* v. *CAB*, 412 F.Supp. 1028 (D.D.C. 1976) X3, 5, (a)(2).

(23) *Aviation Consumer Action Project* v. *CAB*, 418 F.Supp. 634 (D.D.C. 1976), X1, (by implication), X5, (a)(6)(C), "prompt disclosure."

(24) *Aviation Consumer Action Project* v. *Washburn*, 535 F.2d 101 (D.C. Cir. 1976), X5, FACA.

(25) *B & C Tire Co., Inc.* v. *IRS*, 376 F. Supp. 708 (N.D. Ala. 1974), (a)(3), X3, 5, 7.

(26) *Babcock & Wilcox Co.* v. *Rumsfeld*, 70 F.R.D. 595 (N.D. Ohio 1976), reverse FOI case, jurisdiction, X3 (18 U.S.C. § 1905).

(27) *Bachrack* v. *CIA*, No. CV 75–3727–WPG (C.D. Cal. May 13, 1976), X3.

(28) *Baker* v. *CIA*, 425 F.Supp. 633 (D.D.C. 1977), X3.

(29) *Baldwin* v. *Finney*, Civ. No. 75–1221 (D.D.C. Dec. 20, 1976), X7(A).

(30) *Bannercraft Clothing Co.* v. *Renegotiation Board*, 466 F.2d 345 (D.C. Cir. 1972), *rev'd and remanded* 415 U.S. 1 (1974), injunction of agency proceeding pending resolution of FOI suit, (a)(3).

(31) *Baptist Memorial Hospital* v. *NLRB*, 92 L.R.R.M. 2645 (W.D. Tenn. April 2, 1976), X5, 7(A), (C), (D).

(32) *Barceloneta Shoe Corp.* v. *Compton*, 271 F.Supp. 591 (D.P.R. 1967), X4, 7.

(33) *Barnes & Noble Bookstores* v. *NLRB*, 92 L.R.R.M. 2169 (S.D.N.Y. Mar. 12, 1976), X7.

(34) *Bayview Associates* v. *NLRB*, 75 CCH Lab. Cas. para. 10,524 (D.D.C. Dec. 20, 1974), injunction of agency proceeding pendng examination by plaintiff of (a)(2) indices.

(35) *Bell* v. *United States Department of Defense*, 71 F.R.D. 349 (D.N.H. 1976), X1, *in camera* inspection.

(36) *Bellingham Frozen Foods* v. *Henderson*, 91 L.R.R.M. 2761 (W.D. Wash. Mar. 5, 1976), X5, 7(A), (C), (D).

(37) *Bennett* v. *United States Department of Defense*, 419 F.Supp. 663 (S.D.N.Y. 1976), X1, 3, 5.

(38) *Benson* v. *General Services Administration*, 289 F. Supp. 590 (W.D. Wash. 1968), *aff'd* 415 F.2d 878 (9th Cir. 1969), X2, 4, 5.

(39) *Benson* v. *United States*, 309 F.Supp. 1144 (D. Neb. 1970), X7.

(40) *Black* v. *Sheraton Corp. of America*, 371 F.Supp. 97 (D.D.C. 1974), X7.

(41) *Blaisdell* v. *Department of Defense*, Civ. No. CV 77–83–DWW (C.D. Cal. May 5, 1977), X1.

(42) *Blue* v. *Bureau of Prisons*, Civ. No. C–75–2092A (N.D. Ga. August 12, 1976), "agency records", "agency", attorney's fees, X5, fees.

(43) *Bodner* v. *FTC*, 74–2 CCH Trade Cas. para. 74,289 (D.D.C. Oct. 31, 1974), discovery.

(44) *Bodner* v. *FTC*, 1975 CCH Trade Cas. para. 60,118 (D.D.C. Jan. 9, 1975), *Vaughn* v. *Rosen* index requirement.

(45) *Bodner* v. *FTC*, Civ. No. 74–1189 (D. D.C. Feb. 24, 1975), X5.

(46) *Boston University* v. *NLRB*, 95 L.R. R.M. 2447 (D. Mass. April 28, 1977), X7.

(47) *Boult* v. *Department of Justice*, Civ. No. C76–1217A (N.D. Ga. Oct. 22, 1976), (a)(6)(C), *Vaughn* v. *Rosen*, index requirement.

(48) *Brandon* v. *Sampson*, Civ. No. 73–2232 (D.D.C. April 24, 1974), X3.

(49) *Brawer* v. *FBI*, Civ. No. 75–1700 (D. D.C. Feb. 28, 1977), exhaustion of administrative remedies, time limits.

(50) *Bristol-Myers Co.* v. *FTC*, 284 F. Supp. 745 (D.D.C. 1968), rev'd 424 F.2d 935 (D.C. Cir. 1970), *cert. denied* 400 U.S. 824 (1970), X4, 5, 7.

(51) *Brockway* v. *Department of the Air Force*, 370 F. Supp. 738 (N.D. Iowa 1974), *rev'd* 518 F.2d 1184 (8th Cir. 1975), X4, 5.

(52) *Bryant* v. *IRS* Civ. No. 76–31–SD (D. Me. July 21, 1976), X7(A).

(53) *Burroughs Corp* v. *Schlesinger*, 403 F. Supp. 663 (E.D. Va. 1975), X4, reverse FOI case, 18 U.S.C. § 1905.

(54) *Campbell* v. *United States Civil Service Commission*, Civ. Act No. 75–M–494 (D. Colo. Sept. 4, 1975), *aff'd* 539 F.2d 58 (10th Cir. 1976), X2, 5, 6.

(55) *Capital Cities Communication, Inc.* v. *NLRB*, 409 F. Supp. 971 (N.D. Cal. 1976), injunction of agency proceeding pending resolution of FOI claim, X7(A).

(56) *Celmins* v. *United States Department of Treasury* Civ. Nos. 76–2161, 76–2162 (D. D.C. April 25, 1977), X6.

(57) *Center for Nationall Policy Review on Race & Urban Issues* v. *Richardson*, Civ. No. 2177–71 (D.D.C. Dec. 8, 1972), *rev'd sub nom. Center for National Policy Review on Race & Urban Issues* v. *Weinberger*, 523 F.2d 370 (D.C. Cir. 1974), (a)(3), X7.

(58) *Center for National Policy Review on Race & Urban Issues* v. *Richardson*, 534 F. 2d 351 (D.C. Cir. 1976), X7.

(59) *Cervase* v. *Department of State*, Civ. No. 76–2338 (D. N.J. April 1, 1977), X1, tardy classification, *in camera* inspection.

(60) *Cessna Aircraft Co.* v. *NLRB*, 405 F. Supp. 1042 (D. Kan. 1975), *rev'd* 542 F.2d 834 (10th Cir. 1976), (a)(3), (4)(B), X5, 7(A), (C), (D).

(61) *Chamber of Commerce of the United States* v. *Legal Aid Society*, 423 U.S. 1309 (Douglas, Circuit Justice 1975), X3, discovery.

(62) *Chamberlain* v. *Alexander*, 419 F. Supp. 235 (S.D. Ala. 1976), X3, 5, 6, 7(A), (C), (D), (a)(2)(C).

(63) *Chappell* v. *Hodgson*, Civ No. 15,-480 (D. Conn. July 23, 1973), X6.

(64) *Chassen Bakers Inc.* v. *NLRB*, 91 L. R.R.M. 2345 (M.D. Pa. Dec. 12, 1975), temporary restraint of agency proceeding pending disposition of FOI claim, X7(A).

(65) *Charles River Park "A", Inc.* v. *HUD*, 360 F. Supp. 212 (D.D.C. 1973), *remanded* 519 F.2d 935 (D.C. Cir. 1975), X4, reverse FOI case, 18 U.S.C. § 1905.

(66) *Chavkin* v. *Alexander*, 401 F.Supp.. 817 (S.D.N.Y. 1975), X7.

(67) *Chrysler Corp.* v. *NLRB*, 92 L.R.R.M. 3191 (S.D. Mich. July 7, 1976) X5, 7(A),, (C), (D).

(68) *Chrysler Corp.* v. *Schlesinger*, 412F. Supp. 171 (D. Del. 1976), X4, 18 U.S.C. § 1905, 5th Amendment notice requirement, reverse FOI case.

(69) *Church of Scientology of California* v. *Bell*, Civ. No. 76–1006 (D.D.C. June 8, 1977), X5.

(70) *Church of Scientology of California* v. *Bush*. Civ. No. 75–1048 (D.D.C. June 8, 1977, X1, 3, 7(E), *in camera* inspection.

(71) *Church of Scientology of California* v. *Department of Defense*, Civ. No. 75–4072F (C.D. Cal. June 2, 1977), X1, 6, 7(C), (D), *in camera* inspection.

(72) *Church of Scientology of California* v. *United States Department of Justice*, 410 F. Supp. 1297 (C.D. Cal. 1976), X1, 2, 5, 7(A), (D), (F).

(73) *Church of Scientology of California, Inc.* v. *ERDA*, Civ. No. 76–0011 (C.D. Cal. Sept. 23, 1976), "agency records", which agency's.

(74) *Ciba-Geigy Corp.* v. *Mathews*, 428 F. Supp. 523 (S.D.N.Y. 1977), "agency", "agency records".

(75) *Citizens for a Better Environment* v. *United States Department of Commerce*, 410 F.Supp. 1248 (N.D. Ill. 1976), X3, 4.

(76) *City of Concord* v. *Ambrose*, 333 F. Supp. 958 (N.D. Cal. 1971), (a)(1), (2), (3), X2, 5.

(77) *Cleaver* v. *Kelley*, 415 F. Supp. 174 (D.D.C. 1976), *vacated and remanded per curiam* Civ. No. 76–1831 (D.C. Cir. Nov. 23, 1976), *on remand* 427 F.Supp. 80 (D.D.C. 1976), (a)(6)(C).

(78) *Clement Brothers Co.* v. *NLRB*, 282 F.Supp. 540 (N.D. Ga. 1968), *aff'd* 407 F.2d 1027 5th Cir. 1969), X7.

(79) *Climax Molybdenum Co.* v. *NLRB*, 407 F.Supp. 208 (D. Colo. 1975), *aff'd* 539 F.2d 63 (10th Cir. 1976), X5, 7(A), (C), (D), discovery.

(80) *Cogswell* v. *FDA*, Civ. No. 51990–ACW (N.D. Cal. June 5, 1970), X3, 4, 5, 7.

(81) *Collins* v. *Federal Highway Admin.*, Civ. Act. No. 6486 (E.D. Va. July 29, 1968), X7.

(82) *Columbia Packing Company, Inc.* v. *United States Department of Agriculture*, 417 F.Supp. 651 (D. Mass. 1976), X6.

(83) *Comey* v. *AEC*. Civ. Nos 73–1258, 73–1358 (7th Cir. July 27, 1973), X5.

(84) *Commercial Envelope Mfg. Co.* v. *SEC*, 450 F.2d 342 (2d Cir. 1971), FOI suits brought in D. Cts., not Cir. Ct.

(85) *Committee to Investigate Assassinations, Inc.* v. *Department of Justice*, Civ. No. 71–1829 (D.C. Cir. Oct. 24, 1973), X7.

(86) *Committee on Masonic Homes* v. *NLRB*, 414 F.Supp. 426 (E.D. Pa. 1976), *vacated and remanded for clarification* 95 L.R.R.M. 2457 (3d Cir. May 9, 1977) venue, (a)(4)(B), (D), X5, 6, 7(A), (C), (D).

(87) *Communist Party of the U.S.* v. *U.S. Dept. of Justice*, Civ. Act. No. 75–1770 (D.D.C. March 23, 1976), (a)(4)(E), mootness, backlog.

(88) *Consumers Union* v. *Board of Governors of the Federal Reserve System*, Civ. No. 1766–73 (D.D.C. May 31, 1974), X4.

(89) *Consumers Union of the United States* v. *Board of Governors of the Federal Reserve System*, 410 F.Supp. 63 (D.D.C. 1975), (a)(4)(E) attorney's fees.

(90) *Consumers Union of the United States, Inc.* v. *Consumer Produce Safety Comm'n.*, 400 F.Supp. 848 (D.D.C. 1975), *rev'd and remanded* Civ. No. 75–2059 (D.C. Cir. July 5, 1977), case or controversy, reverse FOI case.

(91) *Consumers Union v. Interstate Commerce Comm'n.*, 1975 CCH F. Carr. Cas. para. 82,528 (D.D.C. Aug. 13, 1974), declaratory relief.

(92) *Consumers Union* v. *Saxbe*, 1974 CCH Trade Cas. para. 75,057 (D.D.C. May 9, 1974), declaratory relief, X4, 7.

(93) *Consumers Union* v. *Veterans' Administration*, 301 F.Supp. 796 (S.D.N.Y. 1939), *dis'd as moot* 436 F.2d 1363 (2d Cir. 1971), X2, 4, 5.

(94) *Continental Oil Co.* v. *FPC*, 519 F.2d 31 (5th Cir. 1975), X4, reverse FOI case.

(95) *Control Data Corp.* v. *FTC*, No. 4–74–Civ.–25 (D. Minn. May 3, 1974), X2, 5, 7.

(96) *Control Data Corp.* v. *FTC*, No. 4–74–Civ. 412 (D. Minn. Sept. 3, 1975) *motion for reconsideration denied* (Oct. 16, 1975), X5, 7(A), (D), *in camera* inspection, fees.

(97) *Cook* v. *Willingham*, 400 F.2d 885 (10th Cir. 1968), Ct. records are not agency records.

(98) *Cooney* v. *Sun Shipbuilding & Drydock Co.*, 288 F.Supp. 708 (E.D. Pa. 1968), X7.

(99) *Cooper* v. *Department of the Navy*, 396 F.Supp. 1040 (M.D. La. 1975), X5.

(100) *Cowles Communications, Inc.* v. *Department of Justice*, 325 F.Supp. 726 (N.D. Cal. 1971), X7.

(101) *Cox* v. *Levi*, 427 F.Supp. 833 (W.D. Mo. 1977), X2.

(102) *Cox* v. *United States Department of Justice*, Civ. No. 76 CV 470–W–3 (W.D. Mo. April 29, 1977), (a)(2)(C), X2, 7, "reasonably segregable."

(103) *Cox* v. *United States Department of Justice*, Civ. No. 77–0299–CV–W–3 (W.D. Mo. June 15, 1977), "records."

(104) *Cox* v. *United States Department of Justice*, Civ. No. 76 CV 777–W–4 (W.D. Mo. June 27, 1977), X2, 7(C).

(105) *Crown Central Petroleum Corp.* v. *Kleppe*, 424 F.Supp. 744 (D. Md. 1976), reverse FOI case, X3 (42 U.S.C. § 2000e–8(e), 18 U.S.C. § 1905, 44 U.S.C. § 3508).

(106) *Cuneo* v. *Laird*, 338 F.Supp. 504 (D.D.C. 1972), *rev'd and remanded in part sub nom. Cuneo* v. *Schlesinger*, 484 F.2d 1086 (D.C. Cir. 1973), *cert. denied* 415 U.S. 977 (1974), X2, 5.

(107) *Cuneo* v. *Rumsfeld*, Civ. No. 75–2219, 40 Ad. L. 2d (P & F) 943 (D.C. Cir. March 24, 1977), (a)(4)(E) attorney's fees.

(108) *Cupp* v. *Levi*, Civ. Act. No. 75–399 (W.D. Pa. August 5, 1975), exhaustion of administrative remedies.

(109) *Cutler* v. *CAB*, 375 F.Supp. 722 (D.D.C. 1974), X3, 4.

(110) *David B. Lilly Co.* v. *The Renegotiation Board*, 521 F.2d 315 (D.C. Cir. 1975), (a)(2), X5.

(111) *Dean* v. *Butz*, 428 F.Supp. 477, 477–481 (D. Hawaii 1977), (a)(1)(D) publication.

(112) *Deering Milliken, Inc.* v. *Nash*, Civ. Act. No. 75–864 (D.S.C. Nov. 12, 1975), *rev'd in part and remanded sub nom. Deering Milliken, Inc.* v. *Irving*, 548 F.2d 1131 (4th Cir. 1977), X5, 7(A), (C), (D).

(113) *Diapulse Corp.* v. *FDA*, 500 F.2d 75 (2d Cir. 1974), fees.

(114) *DiModica* v. *FBI*, Civ. No. C75–2480A (N.D. Ga. April 19, 1977), duty of agency to search, burden of proof on whether records are exempt.

(115) *Disabled Officer's Association* v. *Rumsfeld*, Civ. No. 76–0520 (D.D.C. Feb. 24, 1977), X6, "agency records," "records."

(116) *Distillery, Rectifying, Wine and Allied Workers* v. *Miller*, 68 CCH Lab. Cas. para. 12,750 (W.D. Ky. May 17, 1972), X5, 7, discovery.

(117) *Ditlow* v. *Shultz*, 379 F.Supp. 326 (D.D.C. 1974), *decision deferred* 517 F.2d 166 (D.C. Cir. 1975), X4, 6.

(118) *Ditlow* v. *Volpe*, 362 F.Supp. 1321 (D.D.C. 1973), *rev'd sub nom. Ditlow* v. *Brinegar*, 494 F.2d 1073 (D.C. Cir. 1974), X3, 4, 5, 7.

(119) *Donn Products, Inc.* v. *NLRB*, 93 L.R.R.M. 2065 (N.D. Ohio Aug. 12, 1976), X7(A), 5, 6.

(120) *Dorl* v. *Levi*, Civ. No. 75–2077 (D.N.J. March 8, 1977), X5, 6, "agency records," "reasonably segregable."

(121) *Duncan* v. *United States Civil Service Commission*, 426 F.Supp. 41 (E.D. La. 1976), X6, discovery.

(122) *E. L. Rice and Co.* v. *Nash*, 92 L.R.R.M. 3280 (E.D. Mich. July 7, 1976), X7 (A), (C), (D).

(123) *East Tenn. Research Corp.* v. *Tennessee Valley Authority*, 416 F.Supp. 988 (D.D.C. 1976), (a)(4)(B, E).

(124) *Echols* v. *NLRB*, 525 F.2d 288 (6th Cir. 1975), jurisdiction.

(125) *Electri-Flex Co.* v. *NLRB*, 412 F.Supp. 698 (N.D. Ill. 1976), (a)(4)(B), injunction of agency proceeding pending resolution of FOI suit, X5, 7(A).

(126) *Emery* v. *Laise*, 421 F. Supp. 91 (D.D.C. 1976), (a)(4)(F).

(127) *Epstein* v. *Resor*, 296 F.Supp. 214 (N.D. Cal. 1969), *aff'd* 421 F.2d 930 (9th Cir. 1970), *cert. denied* 398 U.S. 965 (1970), X1.

(128) *Equal Employment Opportunity Commission* v. *Los Alamos Constructors, Inc.*, 382 F.Supp. 1373 (D.N.M. 1974), X5.

(129) *Etheridge* v. *IRS*, 74–1 U.S.T.C. para. 9354 (N.D. Ga. March 12, 1974), (a)(3), X7, exhaustion of administrative remedies.

(130) *Ethyl Corp.* v. *EPA*, 478 F.2d 47 (4th Cir. 1973), X5, executive privilege.

(131) *Evans* v. *Department of Transportation*, 446 F.2d 821 (5th Cir. 1971), *cert. denied* 405 U.S. 918 (1972), X3.

(132) *Exner* v. *FBI*, 542 F.2d 1121 (9th Cir. 1976), (a)(6)(C).

(133) *Exxon Corp.* v. *FTC*, *384 F.Supp.* 755 (D.D.C. 1974), "identifiable records," X5, 7.

(134) *Fackelman* v. *Department of Justice*, Civ. No. C–75–2157A (N.D. Ga. 1976), (a)(4)(A), fees waiver of *Vaughn* v. *Rosen* index requirement.

(135) *Farrell* v. *Ignatius*, 283 F. Supp. 58 (S.D. N.Y. 1968), Ct. will not entertain FOI suit until complaint filed.

(136) *Fenster* v. *Fletcher*, Civ. No. 822–71 (D.D.C. Aug. 16, 1971), X4, 5.

(137) *Fensterwald* v. *CIA*, Civ. Act No. 75–282A (E.D. Va. Oct. 22, 1975), X6, attorney's fees.

(138) *Firestone Tire and Rubber Co.* v. *Department of Transportation*, Civ. Nos. 75–232A, 76–965, 76–1053 (N.D. Ohio Oct. 21, 1976), X4, 5, 7(A), (E), discovery, Rule 34, (a)(2), (a)(2)(c).

(139) *First Girl, Inc.* v. *Department of Labor*, Civ. No. 75C–3133 N.D. Ill. July 7, 1976), X4, 7, equitable discretion.

(140) *Fisher* v. *Renegotiation Board*, 473, F.2d 109 (D.C. Cir. 1972), *on remand* 335 F.Supp. 1171 (D.D.C. 1973), X4, 5

(141) *Fitzgibbon* v. *CIA*, Civ. No. 76–700 (D.D.C. Jan. 10, 1977), Fees.

(142) *Florence* v. *United States Department of Defense*, 415 F.Supp. 156 (D.D.C. 1976), X1, (a)(4)(E) attorney's fees.

(142.5) *Fonda* v. *CIA*. No. 76–0285 (D.D.C. July 8, 1977), X1, 2, 3 (50 U.S.C. § 403), X5, 6, 7(F), duty of agency to search, description by requester of records sought, *in camera* inspection, discovery, work produce.

(143) *Forsham* v. *Mathews*, Civ. Act. No. 75–1608 (D.D.C. Feb. 5, 1976), "agency records" (constructive possession).

(144) *Fotomat Corp.* v. *NLRB*, 92 L.R.R.M. 3708 (N.D. Ohio July 21, 1976, X7(A).

(145) *Frankel* v. *SEC*, 336 F.Supp. 675 (S.D. N.Y. 1971), *rev'd* 460 F.2d 813 (2d Cir. 1972), *cert. denied* 409 U.S. 889 (1972), 4, 5, 7

(146) *Fruehauf Corp.* v. *IRS*, 369 F. Supp. 108 (E.D. Mich. 1974), *aff'd and remanded* 522 F.2d 284 (6th Cir. 1975), *vacated and remanded* 45 U.S.L.W. 3569 (Feb. 22, 1977), (a)(2)()(C), X3 (26 U.S.C. §§ 6103, 7213), equity powers.

(147) *Fungone* v. *Bureau of Prisons*, Civ. No. C75–2498 (N.D. Ga. Feb. 27, 1976), X5, 7, discovery, burden of proof on whether records are exempt.

(148) *Furr's Cafeterias, Inc.* v. *NLRB*, 416 F.Supp. 629 (N.D. Tex. 1976), X5, 7(D).

(149) *Gates* v. *Schlesinger*, 366 F.Supp. 797 (D.D.C. 1973), X5, "agency."

(150) *General Cigar Company, Inc.* v. *Nash*, 89 L.R.R.M. 2863 (D.D.C. July 1, 1975), preliminary injunction of agency proceeding pending disposition of FOI claim

(151) *Genera Dynamics Corp.* v. *Dunlop*, 427 F.Supp. 578 (E.D. Mo. 1976), reverse FOI case X3 (18 U.S.C. § 1905), X4.

(152) *Gerico Inc. NLRB*, 92 L.R.R.M. 2713 (D. Colo. May 4, 1976), X5, 7(A), (D).

153) *Getman* v. *NLRB*, 77 L.R.R.M. 3063 (D.D.C. Jan. 21, 1971), aff'd 450 F.2d 670 (D.C. Cir. 1971), *app'l for stay of order den.* 404 U.S. 1204 (Black, Circuit Justice 1971) X4, 7.

(154) *Gibson* v. *Department of the Treasury*, Civ. No. C–3–75–316 (S.D. Ohio Nov. 5, 1976), X3, discretionary release.

(155) *Gideon* v. *Benson*, Civ. Act. No. TH 75–78–C (S.D. Ind. July 24, 1975), duplicate and derivative records.

(156) *Gifford-Hill, Inc.* v. *FTC*, 1975–2 CCH Trade Cas. para. 60,674 (D.D.C. Jan. 13, 1976), X4, 5, 7(A), (D), discovery.

(157) *Gimbel Bros.* v. *NLRB*, 92 L.R.R.M. 2733 (E.D. Pa. May 27, 1976), injunction of agency proceeding pending resolution of FOI suit on appeal, X7(A).

(158) *Ginsburg* v. *Richardson*, 436 F.2d 1146, 1152–53 (3d Cir. 1971), X5.

(159) *Ginsburg, Feldman & Bress* v. *FEA*, Civ. No. 76–77, 39 Ad. L. 2d (P & F) 332 (D.D.C. June 18, 1976), X2, 7, 7(E), (a)(2).

(160) *Glickman, Lurie, Eiger & Co.* v. *IRS*, Civ. Act. No. 4–75–Civ. 303 (D. Minn. Oct. 14, 1975), X3 (26 U.S.C. §§ 6103(a), 7213(a)).

(161) *Goland* v. *CIA*, Civ. Act. No. 76–0166 (D.D.C. May 26, 1976), X1, "agency records.""

(162) *Goldstein* v. *Levi*, 415 F.Supp. 303 (D.D.C. 1976), (a)(4)(E) attorney's fees.

(163) *Goodfriend Western Corp.* v. *Fuchs*, 91 L.R.R.M. 2454 (D. Mass. Feb. 23, 1976), *rev'd* 535 F.2d 145 (1st Cir. 1976), *cert. denied* 45 U.S.L.W. 3306 (Oct. 19, 1976), X5, 7(A), (D).

(164) *Grassetti* v. *Weinberger*, 408 F.Supp. 142 (N.D. Cal. 1976), X5, 6.

(165) *Green* v. *Kleindienst*, 378 F.Supp, 1397 (D.D.C. 1974), X4, 7.

(166) *Grissom* v. *NLRB*, 364 F.Supp. 1151 (M.D. La. 1973), Ct. not entertain FOI suit until complaint filed.

(167) *Grumman Aircraft Engineering Corp.* v. *Renegotiation Board*, 425 F.2d 578 (D.C. Cir. 1970), *on remand* 325 F.Supp. 1146 (D.D.C. 1971), *aff'd* 482 F.2d 710 (D.C. Cir. 1973), *rev'd* 421 U.S. 168 (1975), X3, 4, 5.

(168) *Guckian* v. *GSA*, Civ. Act. No. 75–2156, 38 Ad. L. 2d (P & F) 1061 (D.D.C. April 20, 1976), *remanded with instructions to vacate per curiam* Civ. No. 1410 (D.C. Cir. July 8, 1976), *on remand vacated mem.* Civ. No. 75–2156 (D.D.C. Oct. 13, 1976), X5.

(169) *Halperin* v. *Colby*, Civ. Act. No. 75–676 (D.D.C. June 4, 1976), XI.

(170) *Hankamer Ready Mix Concrete Co.* v. *NLRB*, 92 L.R.R.M. 2720 (D. Kan. May 25, 1976), injunction of agency proceeding pending resolution of FOI suit, X5, 7(A), (C), (D).

(171) *Harbolt* v. *Alldredge*, 464 F.2d 1243 (10th Cir. 1972), X7.

(172) *Harbolt* v. *Bensinger*, Civ. No. 76–H–1737 (S.D. Tex. Feb. 28, 1977), "agency records," "records."

(173) *Harowe Servo Controls, Inc.* v. *NLRB*, 92 L.R.R.M. 2572 (E.D. Pa. Mar. 11, 1976), X7(A), (C), (D).

(174) *Hartford Fire Inc. Co.* v. *NLRB*, 73 CCH Lab. Cas. para. 14,409 (D.D.C. March 1, 1975), exhaustion of administrative remedies.

(175) *Harvey's Wagon Wheel, Inc.* v. *NLRB*, 91 L.R.R.M. 2410 (N.D. Cal. Feb. 5, 1976), *vacated in part and remanded* 550 F.2d 1139 (9th Cir. 1976), X7(A), *in camera* inspection.

(176) *Hawkes* v. *IRS*, 71–2 U.S.T.C. para. 9640 (W.D. Tenn. July 21, 1971) *rev'd and remanded* 467 F.2d 787 (6th Cir. 1972), *on remand* Civ. No. C–70–409 (W.D. Tenn. Nov. 5, 1973), *aff'd* 507 F.2d 481 (6th Cir. 1974), X2.

(177) *Hayden* v. *CIA*, No. 76–284 (D.D.C. Oct. 18, 1976), X1, 3, 6, 7(D), (E), (F), *in camera* inspection.

(178) *Hayden* v. *United States Department of Justice*, 413 F.Supp. 1285 (D.D.C. 1976), (a)(6)(A), (a)(4)(B).

(179) *Herman* v. *Middendorf*, Civ. Act. No. 75–1246 (D.D.C. Dec. 16, 1975), X5.

(180) *Hicks* v. *Freeman*, 397 F.2d 193 (4th Cir. 1968), X2.

(181) *Higgs* v. *CIA*, Civ. No. 76–884 (D.D.C. March 7, 1977), X2, 3, 6, Privacy Act, *in camera* inspection, "reasonably segreable".

(182) *Hogan* v. *United States*, Civ. No. 73–1385 (S.D. Fla. Jan. 25, 1974), (a)(2), X2, 5.

(183) *Holiday Inns Inc.* v. *Kleppe*, 40 Ad. L. 2d (P & F) 66 (W.D. Tenn. Oct. 29, 1976), reverse FOI case, X3 (18 U.S.C. § 1905), X4.

(184) *Holiday Magic, Inc.* v. *FTC*, Civ. No. 1878–72, 32 Ad. L. 2d (P & F) 703 (D.D.C. March 16, 1973), X7.

(185) *Holly* v. *Acree*, Civ. Act. No. 75–2116 (D.D.C. Mar. 29, 1976), X6, 7(C), (a)(4)(F) (CSC disciplinary proceeding)

(186) *Holly* v. *Acree*, 72 F.R.D. 115 (D.D.C. 1976), (a)(4)(E) attorney's fees.

(187) *Honeywell Information Systems, Inc.* v. *NASA*, Civ. No 76–377 (D.D.C. July 28, 1976), reverse FOI, discretionary, releases X4.

(188) *Hook Drugs* v. *NLRB*, 91 L.R.R.M. 2797 (S.D. Ind. Mar 5, 1976), X5, 7(A)

(189) *Howard Johnson Restaurant, Inc.* v. *NLRB*, 95 L.R.R.M. 2471 (W.D. N.Y. April 14,

1977), injunction of agency proceeding pending resolution of FOI claim.

(190) *Hrynko* v. *Crawford*, 402 F.Supp. 1083 (E.D. Pa. 1975), unintelligible records.

(191) *Hughes Aircraft Co.* v. *Schlesinger*, 384 F.Supp. 292 (C.D. Cal. 1974), X3 (42 U.S.C. § 2000e), X4, delegation of responsibility for promulgation of regulations, reverse FOI case

(192) *Hurt* v. *United States*, Civ. No. 72–3183 (9th Cir. Sept. 11, 1974), rule 34.

(193) *Hyde Park Products Corp.* v. *Acree*, Civ. Act. No. 75 Civ. 2713 (S.D.N.Y. Nov. 18, 1975), X7.

(194) *ITT American Electric* v. *NLRB*, 92 L.R.R.M. 2815 (N.D. Miss. May 3, 1976), preliminary injunction of agency proceeding, X5, 7(A), (D).

(195) *ITT Continental Baking Co.* v. *FTC*, Civ. No. 75–1218, 40 Ad. L. 2d (P & F) 183 (D.D.C. July 9, 1976), X7(A).

(196) *ITT Gilfillan, Inc.* v. *Froehlke*, Civ. No. 416–73 (D.D.C. June 28, 1973), X4, 5.

(197) *In re Grand Jury Witness Subpoenas*, 370 F.Supp. 1282 (S.D. Fla. 1974), X4, 7.

(198) *Independent Investor Protective League* v. *New York Stock Exchange*, 367 F. Supp. 1376 (S.D.N.Y. 1973), "agency".

(199) *Institute for Weight Control, Inc.* v. *Klassen*, 348 F. Supp. 1304 (D.N.J. 1972), X7.

(200) *Instrument Systems Corporation* v. *United States*, 546 F. 2d 357 (Ct. Cl. 1976), discovery.

(201) *International Paper Co.* v. *FPC*, 438 F. 2d 1349, 1358–59 (2d Cir. 1971), *cert. den.* 404 U.S. 827 (1971), (a)(3), X5.

(202) *Irons* v. *Gottschalk*, 548 F.2d 992 (D.C. Cir. 1976), X3 (35 U.S.C. § 122), description by requester of records sought, "reasonably segregable".

(203) *Irons* v. *Schuyler*, 321 F. Supp. 628 (D.D.C. 1970), *aff'd in part and remanded in part*, 465 F.2d 608 (D.C. Cir. 1972), *cert. denied* 409 U.S. 1076 (1972), *on remand sub nom. Irons* v. *Gottschalk*, 369 F. Supp. 403 (D.D.C. 1974), X4, "identifiable records".

(204) *Jaffe* v. *CIA*, Civ. No. 76–1394 (D.D.C. April 7, 1977), *Vaughn* v. *Rosen* index requirement.

(205) *Jaffess* v. *Secretary, HEW*, 393 F. Supp. 626 (S.D.N.Y. 1975), (a)(6)(C).

(206) *Jamco International, Inc.* v. *NLRB*, 91 L.R.R.M. 2446 (N.D. Okla. Feb. 11, 1976), X5, 7(A).

(207) *Kaminer* v. *NLRB*, 90 L.R.R.M. 2269 (S.D. Miss. July 8, 1975), "agency records," X7(A), (C), (D), *in camera* inspection.

(207.5) *Kanter* v. *IRS*, Civ. Nos. 76 C3384, 76C 3515, 76 C 4264, 76 C 4265, 76 C 4267 (N.D. Ill. May 27, 1977), X7(A), burden of proof on whether records are exempt, discovery, *Vaughn* v. *Rosen* index requirement.

(208) *Kaye* v. *Burns*, 411 F.Supp. 897 (S.D. N.Y. 1976), (a)(4)(E), mootness, X8.

(209) *Kent Corp.* v. *NLRB*, Civ. No. 73–M–1090 (N.D. Ala. Feb. 27, 1974), *rev'd* 530 F.2d 612 (5th Cir. 1976), (a)(2)(A), (C), X5.

(210) *Kerr* v. *United States Dist. Ct.*, 511 F.2d 192 (9th Cir.), *aff'd on non FOI grounds* 96 S. Ct. 2119 (1976), "agency," discovery.

(211) *Klaus* v. *Blake*, 428 F. Supp. 37 (D.D.C. 1976), XI, *in camera* inspection.

(212) *Klaus* v. *NSC*, Civ. No. 75–1093 (D.D.C. Oct. 22, 1976), X1, 3.

(213) *Koch* v. *Department of Justice*, 376 F. Supp. 313 (D.D.C. 1974), X5, 7.

(214) *Kramer* v. *Antitrust Division, Department of Justice*, 40 Ad. L. 2d (P & F) 7 (D.D.C., July 15, 1976), X7(A), mootness, declaratory relief.

(215) *Kreindler* v. *Department of the Navy*, 363 F.Supp. 611 (S.D.N.Y. 1973), 372 F.Supp. 333 (S.D.N.Y. 1974) ("interim opinion"), X4, 5, 6.

(216) *Kruh* v. *GSA*, 61 F.R.D. 1 (E.D.N.Y. 1974), X1.

(217) *Kruh* v. *GSA*, 421 F.Supp. 965 (E.D.N.Y. 1976), X3.

(218) *LaMorte* v. *Mansfield*, 438 F.2d 448 (2d Cir. 1971), X7.

(219) *Larouche* v. *FBI*, Civ. No. 75 Civ. 6010 (S.D.N.Y. Feb. 16, 1977), time limits.

(220) *Legal Aid Society of Alameda County* v. *Shultz*, 349 F.Supp. 771 (N.D. Cal. 1972), X3, 4, 7.

(221) *L'Eggs Products Inc.* v. *NLRB*, 93 L.R.R.M. 2488 (C.D. Cal. Sept. 14, 1976), X6, 7(A), (C).

(222) *Lennon* v. *Richardson*, 378 F.Supp. 39 (S.D.N.Y. 1974), injunction of agency proceeding pending resolution of FOI suit.

(223) *Levin* v. *Department of Treasury*, Civ. No. 73–1215, 34 Ad. L. 2d (P & F) 633 (S.D. Fla. March 22, 1974), X4, 6.

(224) *Lewis* v. *Weinberger*, 415 F.Supp. 652, 658–661 (D.N.M. 1976), (a)(1)(D) publication.

(225) *Lincoln National Bank* v. *Lampe*, 421 F.Supp. 346 (N.D. Ill. 1976), (a)(4)(B).

(226) *Local 30, United Slate, Tile, etc. AFL–CIO* v. *NLRB*, 408 F.Supp. 520 (E.D. Pa. 1976), X5, 7(A), (C), (D).

(227) *Local 32, Plumbers* v. *Irving*, 91 L.R.R.M. 2513 (W.D. Wash. Feb. 24, 1976), X5, 7(A), (C), (D).

(228) *Lombardo* v. *Handler*, 397 F.Supp. 792 (D.D.C. 1975), "agency."

(229) *Long* v. *IRS*, 339 F.Supp. 1266 (W.D. Wash. 1971), X2, 5, 7.

(230) *Long* v. *IRS*, 349 F.Supp 871 (W.D. Wash. 1972), X2, 5.

(231) *Long* v. *IRS*, No. C75–2285 (W.D. Wash. June 1, 1976), "records," X3 (18 U.S.C. § 1905), "reasonably segregable."

(232) *Lord & Taylor* v. *United States Department of Labor*, Civ. No. 75 Civ. 2839 (S.D.N.Y. Aug. 27, 1976), (a)(2)(C), X2, 5.

(233) *Luzaich* v. *United States*, Civ. No. 4–76–Civ. 442 (D. Minn. Feb. 16, 1977), X3, 7(C), (D), attorney's fees.

(234) *M. A. Schapiro & Co.* v. *SEC*, 339 F.Supp. 467 (D.D.C. 1972), X3, 4, 5, 7.

(235) *Marathon Le Tourneau Co.* v. *NLRB*, 414 F.Supp. 1074 (S.D. Miss. 1976), X5, 7(A), (C), (D).

(236) *Maremont Corp* v. *NLRB*, 91 L.R.R.M. 2645 (W.D. Okla. Mar. 3, 1976), 91 L.R.R.M. 2804 (Mar. 17, 1976), Civ. No. 76–1402 (10th Cir. Oct. 5, 1976), X5, 7(A), (C) (D), (a)(4)(E).

(237) *Marks* v. *CIA*, 426 F.Supp. 708 (D.D.C. 1976), X1, 3, 7.

(238) *Mason* v. *Levi*, Civ. Nos. 76–1205, 76–1404 (4th Cir. April 13, 1977), X3, "identifiable records."

(239) *McCoy* v. *Weinberger*, 386 F.Supp. 504 (W.D. Ky. 1974), X4.

(240) *McDonald* v. *General Mills Inc.*, 387 F.Supp. 24, 31–32 (E.D. Cal. 1974), (a)(2)(C).

(241) *McDonnell Douglas Corp.* v. *NLRB*, 92 L.R.R.M. 2072 (C.D. Cal. Mar. 17, 1976), X5, 7(A), (C), (D).

(242) *McIntyre* v. *Warner*, Civ. No. 1350–73 (D.D.C. Oct. 3, 1974), X2, 5, 7.

(243) *McNeal* v. *Department of Justice*, Civ. No. 6–70890 (E.D. Mich. Nov. 8, 1976), X6, Privacy Act.

(244) *Mead Data Central, Inc.* v. *Department of the Air Force*, 402 F.Supp. 460 (D.D.C. 1975), X5, describing withheld records.

(245) *Meisler* v. *United States Department of Justice*, Civ. No. 75–417 (W.D.N.Y. Feb. 24, 1977), X2, 5, 7(C), (D).

(246) *Merrill* v. *Federal Open Market Committee of the Federal Reserve System*, 413 F.Supp. 494 (D.D.C. 1976), "prompt discharge", (a)(1)(D), (a)(2)(B), X2, 5.

(247) *Mervin* v. *Bonfanti*, 410 F.Supp. 1205 (D.D.C. 1976), Privacy Act, "records".

(248) *Metropolitan Life Insurance Co.* v. *Usery*, 426 F.Supp. 150 (D.D.C. 1976), reverse FOI case, X3 (42 U.S.C. § 2000e-8(e), 44 U.S.C. §3508, 18 U.S.C. §1905), X4, 6, 7, discretionary release.

(249) *Military Audit Project* v. *Bush*, 418 F.Supp. 876 (D.D.C. 1976), *motion to require service denied* Civ. No. 75-2037 (D.C. Cir. Jan. 14, 1977), *In camera* inspection, X1, 3.

(250) *Military Audit Project* v. *Kettles*, C.A. No. 75-666 (D.D.C. May 17, 1976), X4, 5.

(251) *Miller* v. *Smith*, 292 F.Supp. 55 (S.D. N.Y. 1968), X5.

(252) *Mims* v. *United States*, No. 8935 Civil (D.N.M. July 8, 1971), X5.

(253) *Mink* v. *EPA*, 464 F.2d 742 (D.C. Cir. 1972), *rev'd* 410 U.S. 73 (1973), X1, 5.

(254) *Misgades & Douglas* v. *Schuyler*, 328 F.Supp. 619 (E.D. Va. 1971), *dis'd as moot* 456 F.2d 255 (4th Cir. 1972), X3, 4, 5.

(255) *Misgades, Douglas & Levy* v. *Sonneberg*, 39 Ad. L. 2d (P & F) 1146 (E.D. Va. Nov. 5, 1976), attorney's fees.

(256) *Misgades, Douglas & Levy* v. *Sonneberg*, Civ. No. 76-481A (E.D. Va. Jan. 13, 1977), X3 (35 U.S.C. § 122), leaks, effect of.

(257) *Missouri Portland Cement Co.* v. *FTC*, CCH Trade Cas. para. 74,124 or 74,279 (D.D.C. Dec. 15, 1972), *on reconsideration* CCH Trade Cas. para. 74,280, X5.

(258) *Mitsubishi Electric Corp.* v. *Department of Justice*, 39 Ad. L. 2d (P & F) 1133 (D.D.C. Sept. 10, 1976), (a)(6)(C).

(259) *Mobil Oil Corp.* v. *FTC*, 406 F.Supp. 305 (S.D.N.Y. 1976), X3, 4, 5, 7, "informer's privilege".

(260) *Montrose Chemical Corp.* v. *Train*, 491 F.2d 63 (D.C. Cir. 1974), X5.

(261) *Moore-McCormack Lines, Inc.* v. *I.T.O. Corporation of Baltimore*, 508 F.2d 945 (4th Cir. 1974), X7.

(262) *Morton* v. *Ruiz*, 415 U.S. 199, 232–236 (1974), (a)(1)(D).

(263) *Morton-Norwich Products, Inc.* v. *Mathews*, 415 F.Supp. 78 (D.D.C. 1976), X2, 5, *in camera* inspection.

(264) *Moss* v. *Laird*, Civ. No. 1254–71 (D.D.C. Dec. 7, 1971), X1.

(265) *Mylan Pharmaceuticals, Inc.* v. *NLRB, Region 6*, 407 F.Supp. 1124 (W.D. Pa. 1976), X7(A), (C), (D), discovery.

(266) *Nader* v. *Dunlop*, 370 F.Supp. 177 (D.D.C. 1973), X5, FACA.

(267) *National Airlines* v. *CAB*, Civ. Act. No. 75–613 (D.D.C. Oct. 10, 1975), X3, *in camera* inspection.

(268) *National Association of Government Employees* v. *Hampton*, Civ. No. 76–1041 (D.D.C. Sept. 3, 1976), X3, 4.

(269) *National Cable Television Association* v. *FCC*, 479 F.2d 183 (D.C. Cir. 1973), "identifiable records", X4, 5.

(270) *National Commission on Law Enforcement and Social Justice* v. *CIA*, Civ. No. CV–75–3644–MML (C.D. Cal. Oct. 20, 1976), X1, 3.

(271) *National Courier Association* v. *Board of Governors of the Federal Reserve*, 516 F.2d 1229 (D.C. Cir. 1975), X5.

(272) *NLRB* v. *Biophysics System, Inc.*, 91 L.R.R.M. 3079 (S.D.N.Y. April 12, 1976), X7 (A), (C).

(273) *NLRB* v. *Hardeman Garmet Corp.*, 406 F.Supp. 510 (W.D. Tenn. 1976), *on motion to stay energy proceeding* 91 L.R.R.M. 2425 (W.D. Tenn. Feb. 3, 1976), *rev'd* 95 L.R.R.M. 2780 (6th Cir. June 22, 1977), X7 (A), (C), (D), preliminary injunction of agency proceeding pending resolution of FOI claim.

(274) *National Nutritional Foods Association* v. *Mathews*, 418 F.Supp. 394 (S.D. N.Y. 1976), X5.

(275) *National Parks and Conservation Association* v. *Kleppe*, 547 R.2d 673 (D.C. Cir-1976), X3 (18 U.S.C. § 1905), X4, 6, burden of proof on whether records are exempt.

(276) *National Parks and Conservation Association* v. *Morton*, 351 F.Supp. 404 (D.D.C. 1972), *rev'd and remanded* 498 F.2d 765 (D.C. Cir. 1974), *on remand* Civ. Act. No. 436–72 (D.D.C. Oct. 23, 1975), X4.

(277) *National Prison Project of the ACLU Foundation, Inc.* v. *Sigler*, 390 F.Supp. 789 (D.D.C. 1975), (a)(2)(A), X6.

(278) *National Public Radio* v. *Bell*, Civ. No. 75–1593 (D.D.C. Feb. 5, 1977), X5, 7(A).

(279) *National Resources Defense Council* v. *Nuclear Regulatory Commission*, Civ. No. 76–0592 (D.D.C. April 14, 1977), X5.

(280) *Nationwide Building Maintenance, Inc.* v. *Sampson*, Civ. No. 76–1453 (D.C. Cir. April 18, 1977), (a)(4)(E) attorney's fees.

(281) *Neal-Cooper Grain Co.* v. *Kissinger*, 385 F.Supp. 769 (D.D.C. 1974), "person", X3 (18 U.S.C. § 1905), X4, reverse FOI case.

(282) *New England Medical Hospital Center* v. *NLRB*, 548 F.2d 377 (1st Cir. 1976), exhaustion of administrative remedies, X7(A).

(283) *New Mexico ex rel, Reynolds* v. *Kleppe*, Civ. No. 75–684–M (D.N.M. Dec. 10, 1976), X5.

(284) *Nichols* v. *United States*, 325 F.Supp. 130 (D. Kan. 1971), *aff'd* 460 F.2d 67 (10th Cir. 1972), *cert. denied* 409 U.S. 966 (1972), "record".

(285) *Niemeir* v. *Watergate Special Prosecution Force*, 420 F. Supp. 794 (N.D. Ill. 1976), X5.

(286) *Nixon* v. *Sampson*, 389 F.Supp. 107 (D.D.C. 1975), X1, 3 (44 U.S.C. §§ 2101, 2107, 2108), "agency".

(287) *Nolen* v. *Rumsfeld*, 535 F.2d 890 (5th Cir. 1976), (a)(2, 3).

(288) *North American Van Lines, Inc.* v. *United States*, 412 F.Sup. 782, 795 (N.D. Ind. 1976), (a)(1).

(289) *Northern California Power Agency* v. *Morton*, 396 F.Supp. 1187 (D.D.C. 1975), (a)(1)(B), (C).

(290) *Ollestad* v. *Kelley*, Civ. Act. No. CV 74–2486–LTL (C.A. Cal. Dec. 18, 1975), X5, 6.

(291) *Open American* v. *Watergate Special Prosecution Force*, 547 F.2d 605 (D.C. Cir. 1976) time limits, (a)(6)(A), (C).

(292) *Orange County Vegetable Improvement Co-op Association* v. *Department of Agriculture*, Civ. Act. No. 75–842 (D.D.C. Nov. 17, 1975) X5.

(293) *Ott* v. *Levi*, 419 F.Supp. 750 (E.D. Mo. 1976), X2, 7(C), (D), (E).

(294) *Owens* v. *U.S. Bureau of Prisons*, 379 F.Supp. 547 (D.D.C. 1974), (a)(3).

(295) *Pacific Architects and Engineers, Inc.* v. *Renegotiation Bd.*, 505 F.2d 383 (D.C. Cir. 1974), X4, 5.

(296) *Pacific Molasses Co.* v. *NLRB*, 95 L.R.R.M. 2639 (E.D. La. April 22, 1977), X6, 7(A), (C), (D).

(297) *Pacific Photo Type, Inc.* v. *NLRB*, 92 L.R.R.M. 2560, (D. Hawaii May 6, 1976), X7(A).

(298) *Packer* v. *Kleindienst*, Civ. No. 1988–72 (D.D.C. July 8, 1974), "prompt disclosure".

(299) *Parker* v. *EEOC*, Civ Act. No. 74–1262 39 Ad. L. 2d (P & F) 1074 (D.D.C. May 29, 1975), *aff'd* 534 F.2d 977 (D.C. Cir. 1976), X3 (sec. 706 of the Civil Rights Act of 1964).

(300) *Pasco, Inc.* v. *FEA*, 252 F.2d 1391 (T.E.C.A. 1975), (a)(1), X2.

(301) *Pass* v. *Department of the Air Force*, Civ. No. 1–76–118 (D. Tenn. Oct. 1, 1976), X5.

(302) *Penzoil Co.* v. *FPC*, 534 F.2d 627 (5th Cir. 1976), X4, 9, reverse FOI case, discretionary release.

(303) *People of the State of California* v. *Richardson*, 351 F.Supp. 733 (N.D. Cal. 1972), *aff'd sub nom. People of the State of California* v. *Weinberger*, 505 F.2d 767 (9th Cir. 1974), X3.

(304) *Pepsi Cola Bottling Co.* v. *NLRB*, 92 L.R.R.M. 3527 (D. Kan. June 18, 1976), temporary restraint of agency proceeding pending disposition of FOI claim, X5, 7 (A), (C), (D).

(305) *Petkas* v. *Staats*, 364 F. Supp. 680 (D.D.C. 1973), *rev'd and remanded* 501 F.2d 887 (D.C. Cir. 1974), X4, promise of confidentiality.

(306) *Pharmaceutical Manufacturers Association* v. *Weinberger*, 401 F. Supp. 444 (D.D.C. 1975); 411 F.Supp. 576 (D.D.C. 1976), reverse FOI case, X4, 21 U.S.C. § 331j, 18 U.S.C. § 1905.

(307) *Philadelphia Newspaper, Inc.* v. *HUD*, 343 F.Supp. 1176 (E.D. Pa. 1972), X5, 7.

(308) *Philadelphia Newspaper, Inc.* v. *Department of Justice*, 405 F.Supp. 8 (E.D. Pa. 1975), X6, 7(C), (D).

(309) *Phillippi* v. *CIA*, 546 F.2d 1009 (D.C. Cir. 1976), X1, burden of proof on whether records are exempt, *in camera* inspection.

(310) *Pilar* v. *S.S. Hess Patrol*, 55 F.R.D. 159 (D. Md. 1972), X5, 7.

(311) *Pitman* v. *Department of Interior*, Civ. No. 76–F–1022 (D. Colo. May 24, 1977), X2, 5.

(312) *Planning Research Corp.* v. *FPC*, Civ. No. 75–1540, 40 Ad. L. 2d (P & F) 1073 (D.C. Cir. March 10, 1977), reverse FOI case, X4.

(313) *Polymers, Inc.* v. *NLRB*, 414 F.2d 999 (2d Cir. 1969), *cert denied* 396 U.S. 1010 (1970), X2, 5.

(314) *Ponce* v. *Housing Authority*, 389 F. Supp. 635 (E.D. Cal. 1975), X4.

(315) *Pope* v. *United States*, 424 F. Supp. 962 (S.D. Tex. 1977), (a)(4)(E), X5, work product, attorney's fees.

(316) *Porter County Chapter of Isaak Walton League* v. *AEC*, 380 F. Supp. 630 (N.D. Ind. 1974), (a)(3), X4, 5, personal notes not agency records.

317) *Poss* v. *NLRB*, 91 L.R.R.M. 2232 (D.D.C. Dec. 17, 1975), X7(A), (D).

(318) *Preferred Land Corp.* v. *SEC, CCH* Fed. Sec. para. 94,555 (D.D.C. May 1, 1975), X7.

(319) *Production Molded Plastics* v. *NLRB*, 408 F. Supp. 937 (N.D. Ohio 1976), injunction of agency proceeding pending resolution of FOI claim.

(320) *Public Citizens Health Research Group* v. *United States Department of Labor*, Civ. No. 76–887 (D.D.C. May 20, 1977), X6, duty of agency to search, "agency records".

(321) *Rabbitt* v. *Department of the Air Force*, 383 F. Supp. 1065 (S.D.N.Y. 1974), *on motion for reconsideration* 401 F. Supp. 1206 (S.D.N.Y. 1974), X4, 5, 6, executive privilege.

(322) *Ramer* v. *Saxbe*, 522 F.2d 695 (D.C. Cir. 1975), (a)(1)(D), (a)(2)(B), publication.

(323) *Ray* v. *CIA*, Civ. No. 76–0903 (D.D.C. Jan. 25, 1977), X1, 3, *in camera* inspection, "agency records" (by implication).

(324) *Rayner & Stonington, Inc.* v. *FDA*, Civ. No. 68–1995 (E.D. Pa. Aug. 14, 1969), X5, 7.

(325) *Read's Inc.* v. *NLRB*, 91 L.R.R.M. 2722 (D. Md. Feb. 17, 1976), injunction of agency proceeding pending resolution of FOI claim, X7(A).

(326) *Reinoehl* v. *Hershey*, 426 F.2d 815 (9th Cir. 1970), fees.

(327) *Retail Credit Company* v. *FTC*, Civ. Act. No. 75–0895 (D.D.C. May 10, 1976), X5, 7(C), *in camera* inspection.

(328) *Retail Credit Company* v. *FTC*, 39 Ad. L. 2d (P & F) 1016 (D.D.C. Aug. 17, 1976), (a)(4)(E) attorney's fees.

(329) *Richardson* v. *Spahr*, 416 F.Supp. 752 (W.D. Pa. 1976), X1, 3 (50 U.S.C. § 403), Exec. Order 11652.

(330) *Robbins Tire & Rubber Co.* v. *NLRB*, 92 L.R.R.M. 2586 (N.D. Ala. April 16, 1976), exhaustion of administrative remedies, X5, 7(A), (C), (D).

(331) *Robertson* v. *Department of Defense*, 402 F.Supp. 1342 (D.D.C. 1975), X3 (Civil Rights Acts), privacy, 42 U.S.C. § 2000e.

(332) *Robertson* v. *FAA*, Civ. No. 1970–71 (D.D.C. Oct. 31, 1972), *aff'd* 498 F.2d 1031 (D.C. Cir. 1974), *rev'd* 422 U.S. 255 (1975), X3.

(333) *Robins & Weill, Inc.* v. *United States*, 74–1 U.S.T.C. para 9299 (M.D.N.C. Feb. 25, 1974), discovery.

(334) *Robles* v. *EPA*, 484 F.2d 843 (4th Cir. 1973), X6.

(335) *Rocap* v. *Indiek*, 539 F.2d 174 (D.C. Cir. 1976), "agency", "agency records", (e).

(336) *Rodriguez* v. *Swank*, 318 F.Supp. 289 (N.D. Ill. 1970), (a)(1)(D).

(337) *Roger J. Au & Son, Inc.* v. *NLRB*, 405 F. Supp. 1200 (W.D. Pa. 1975), *aff'd* 538 F.2d 80 (3d Cir. 1976), discovery, X7(A), (C), (D).

(338) *Rose* v. *Department of Air Force, Civ.* No. 72–1605 (S.D.N.Y. 1972), *rev'd and remanded* 495 F.2d 261 (2d Cir. 1974), *aff'd* 425 U.S. 352 (1976), *on remand* Civ. No. 72 Civ. 1605 (LRM) (S.D.N.Y. Jan. 21, 1977), X2, 6, "reasonable segregable".

(339) *Rural Housing Alliance* v. *United States Department of Agriculture*, Civ. No. 2450–72 (D.D.C. May 9, 1973), *rev'd and remanded* 498 F.2d 73 (D.C. Cir. 1974), *on bill of costs* 511 F.2d 1347 (D.C. Cir. 1974), (a)(2), X4, 6, 7.

(340) *Safeway Stores Inc.* v. *FTC*, 428 F. Supp. 346 (D.D.C. 1977), X5, leaks, waiver of exemption.

(341) *St. Elizabeth's Hospital* v. *NLRB*, 407 F.Supp. 1357 (N.D. Ill. 1976), injunction of agency proceeding pending disposition of FOI claim.

(342) *St. Louis Post Dispatch* v. *FBI*, Civ. No. 75–1025 (D.D.C. June 22, 1977), X2, *in camera* inspection, *Vaughn* v. *Rosen* index requirement.

(343) *Santoro* v. *Attorney General of the United States*, Civ. No. 76 Civ. 1803 (GLG) (S.D.N.Y. Oct. 8, 1976), duty of agency to search, "agency records."

(344) *Santra Belarus, Inc.* v. *NLRB*, 409 F. Supp. 271 (E.D. Wis. 1976), exhaustion of administrative remedies.

(345) *Saunders* v. *Dogin*, Civ. No. CV–75–4109–MML (C.D. Cal. April 28, 1977), X7(C), (D), "reasonably segregable.

(346) *Save the Dolphins* v. *United States Department of Commerce*, 404 F.Supp. 407 (N.D. Cal. 1975), X4, "record".

(347) *Schaffer* v. *Kissinger*, 505 F.2d 389 (D.C. Cir. 1974), X1.

(348) *Schecter* [*sic*] v. *Richardson*, Civ. No. 710–72 (D.D.C. July 17, 1972), X3.

(349) *Schecter* v. *Weinberger*, Civ. No. 2319–72 (D.D.C. June 7, 1973), *rev'd and remanded* 506 F.2d 1275 (D.C. Cir. 1974), X3 (42 U.S.C. § 1306).

(350) *Schwartz* v. *IRS*, 75–1 U.S.T.C. para. 9389 (Sept. 23, 1974), *clarification ordered* 511 F.2d 1303 (D.C. Cir. 1975), X5, reverse FOI case.

(351) *SDC Development Corp.* v. *Weinberger*, Civ. Act. No. CV–75–1799–IH (C.D. Cal. Nov. 11, 1975), *aff'd sub nom. SDC Development Corp. v. Mathews*, 542 F.2d 1116 (9th Cir. 1976), X3, records, library materials.

(352) *Seafarers International Union, AFL–CIO* v. *Baldovin*, 508 F.2d 125 (5th Cir. 1975), (a)(3).

(353) *Sealand Terminal Corp.* v. *NLRB*, 414 F.Supp. 1085 (S.D. Miss. 1976), X5, 7(A).

(354) *Sears, Roebuck & Co.* v. *GSA*, 384 F.Supp. 996 (D.D.C. 1974), *stay of order dissolved* 509 F. 2d 527 (D.C. Cir. 1974), *on action for declaratory judgment* 402 F. Supp. 378 (D.D.C. 1975), *remanded* Civ. No. 75–2127, 40 Ad. L. 2d (P & F) 1063 (D.C. Cir. April 1, 1977), X3 (18 U.S.C. § 1905), X4, 6, 7, reverse FOI case *de novo* hearing, burden of proof on whether records are exempt.

(355) *Sears, Roebuck & Co.* v. *NLRB*, 433 F.2d 210 (6th Cir. 1970), (a)(3).

(356) *Sears, Roebuck & Co.* v. *NLRB*, 346 F.Supp. 751 (D.D.C. 1972), *aff'd* 480 F.2d 1195 (D.C. Cir. 1973), *aff'd in part, rev'd in part and remanded* 421 U.S. 132 (1975), (a)(2)(A), X5, 7.

(357) *Sears, Roebuck & Co.* v. *NLRB*, 473

F.2d 91 (D.C. Cir. 1972), injunction of agency proceeding pending resolution of FOI case.

(358) *Sears* v. *Gottschalk*, 357 F.Supp. 1327 (E.D. Va. 1973), *aff'd* 502 F.2d 122 (4th Cir. 1974), "identifiable records", X3, 4.

(359) *Seattle Building & Construction Trades Council, AFL-CIO* v. *Henderson*, 82 L.R.R.M. 2362 (W.D. Wash. Jan. 22, 1973), X5.

(360) *Secretary of Labor* v. *Farino*, 490 F.2d 885 (7th Cir. 1973), (a)(3).

(361) *Seiler* v. *Department of Transportation*, Civ. No. 73-CV-143 C (W.D. Mo. March 25, 1975), X5, 6.

(362) *Sellers* v. *Kelly*, Civ. No. C 75-1458 A (N.D. Ga. May 14, 1976), X5.

(363) *Serchuk* v. *Richardson*, Civ. No. 72-1212 (S.D. Fla. Nov. 28, 1972), X3.

(364) *Shakespeare Company* v. *United States*, 389 F.2d 772 (Ct. Cl. 1968), *pet'n dis'd* 419 F.2d 839 (Ct. Cl. 1969), *cert. denied* 400 U.S. 820 (1970), use of FOIA as a discovery tool.

(365) *Sharp* v. *Federal Deposit Ins. Corp.*, Civ. Act. No. 75-1428 (D.D.C. Oct. 15, 1975), "agency."

(366) *Shaver* v. *Levi*, Civ. No. C75-1206A (N.D. Ga. April 20, 1977), X2, 7(C), (D), (E), (F).

(367) *Sheraton Inn* v. *NLRB*, 84 L.R.R.M. 2385 (D.D.C. Aug. 13, 1973), preliminary injunction of agency proceeding pending resolution of FOI claim.

(368) *Shouse* v. *Burris*, Civ. Act. No. CV 475-198 (S.D. Ga. Dec. 23, 1975), proper party defendant.

(369) *Sierra Club* v. *Morton*, 395 F.Supp. 1187 (D.D.C. 1975), X5.

(370) *Simons-Eastern Co.* v. *United States*, 55 F.R.D. 88 (N.D. Ga. 1972), X5.

(371) *Skolnick* v. *Campbell*, 454 F.2d 531 (7th Cir. 1971), (a)(3).

(372) *Skolnick* v. *Kerner*, 435 F.2d 694 (7th Cir. 1970), "agency."

(373) *Skolnick* v. *Parsons*, 397 F.2d 523 (7th Cir. 1968), jurisdiction.

(374) *Smith* v. *Switzer*, 73-2 U.S.T.C. para. 9490 (W.D. Pa. May 30, 1973), (a)(3), exhaustion of administrative remedies.

(375) *Sondregger* v. *United States Department of the Interior*, 424 F.Supp. 847 (D. Idaho 1976), X4, 6.

(376) *Soucie* v. *David*, 448 F.2d 1067 (D.C. Cir. 1971), X4, 5.

(377) *Southwest Motor Freight, Inc.* v. *NLRB*, 411 F.Supp. 1019 (E.D. Tenn. 1976), injunction of agency proceeding pending resolution of FOI claim.

(378) *Steadman Security Corp.* v. *SEC*, CCH Fed. Sec. para. 93-735 (D.D.C. Jan. 25, 1973), X5, 7, discovery.

(379) *Stelmer* v. *Department of the Army*, Civ. Act. No. 75-2617 (E.D. Pe. April 28, 1976), (a)(4)(B), X5, 6.

(380) *Sterling Drug, Inc.* v. *FTC*, 450 F.2d 698 (D.C. Cir. 1971), X4, 5.

(381) *Stern* v. *Richardson*, 367 F.Supp. 1316 (D.D.C. 1973), X2, 5, 7.

(382) *Stokes* v. *Hodgson*, 347 F.Supp. 1371 (N.D. Ga. 1972), *aff'd sub nom. Stokes* v. *Brennan* 476 F.2d 699 (5th Cir. 1973), X2, 5.

(383) *Stone* v. *Export-Import Bank of the United States*, Civ. No. 74-129 (N.D. Fla. April 17, 1975), *aff'd* 552 F.2d 132 (5th Cir. 1977), X4.

(384) *Stretch* v. *Weinberger*, 359 F.Supp. 702 (D.N.J. 1973), *aff'd* 495 F.2d 639 (3d Cir. 1974), X3.

(385) *Swift* v. *IRS*, Civ. Act. No. C75-77R (N.D. Ga. Dec. 8, 1975), X5.

(386) *Talbott Construction Co.* v. *United States*, 49 F.R.D. 68 (E.D. Ky. 1969), X5.

(387) *Tax Aanalysts and Advocates* v. *IRS* 362 F.Supp. 1298 (D.D.C. 1973), *modified in part and remanded* 505 F.2d 350 (D.C. Cir. 1974), (a)(2), X3 (26 U.S.C. §§ 6103(a)(1), 7213 (a)(1)), X4, 5.

(388) *Tax Analysts and Advocates* v. *IRS*, 405 F.Supp. 1065 (D.D.C. 1975), X3.

(389) *Tax Reform Research Group* v. *IRS*, 74-1 U.S.T.C. para. 9374 (D.D.C. April 17, 1974), X4, equitable jurisdiction.

(390) *Tax Reform Research Group* v. *IRS*, 419 F.Supp. 415 (D.D.C. 1976), X3, 5, 6, 7(C), "agency records".

(391) *Teamsters, Local 705* v. *NLRB*, 82 L.R.R.M. 3014 (D.D.C. Mar. 27, 1973), preliminary injunction of agency proceeding pending resolution of FOI claim.

(392) *Temple-Eastex, Inc.* v. *NLRB*, 410 F.Supp. 183 (E.D. Tex. 1976), burden of proof on whether records are exempt, X5, 7(A)(C), (D).

(393) *Television Wisconsin, Inc.* v. *NLRB*, 410 F.Supp. 999 (W.D. Wis. 1976), failed to state a claim because did not allege FOI request which complied with (a)(3).

(394) *Tennessean Newspaper, Inc.* v. *FHA*, 341 F.Supp. 1013 (M.D. Tenn. 1971) *rev'd* 464 F.2d 657 (6th Cir. 1972), X5.

(395) *Tennessean Newspaper, Inc.* v. *Levi*, 403 F.Supp. 1318 (M.D. Tenn. 1975), X7(C).

(396) *Theriault* v. *United States*, 503 F.2d 390 (9th Cir. 1974), *on remand* 395 F.Supp. 637 (C.D. Cal. 1975), equity jurisdiction, *de novo* hearing, executive privilege, X4, 5.

(397) *Thrifty Drug Stores Inc.* v. *FTC*, 40 Ad. L. 2d (P & F) 108 (D.D.C. Dec. 17, 1976), reverse FOI case.

(398) *Tietze* v. *Richardson*, 352 F.Supp. 610 (S.D. Tex. 1972), X2.

(399) *Title Guarantee Co.* v. *NLRB*, 407 F. Supp. 498 (S.D.N.Y. 1975), *rev'd and remanded*, 534 F. 2d 484 (2d Cir. 1976), *cert. denied* 45 U.S.L.W. 3251 (Oct. 4, 1976), (a)(4)(B), X5, 7(A), (C), (D), injunction of agency proceeding until records disclosed.

(400) *Tuchinsky* v. *Selective Service System*, 294 F. Supp. 803 (N.D. Ill. 1969), *aff'd* 418 F. 2d 155 (7th Cir. 1969), X6.

(401) *Turner* v. *Kelly*, 411 F. Supp. 1331 (D. Kan. 1976), venue.

(402) *Tyler* v. *Defense Supply Agency*, Civ. No. 76-752-N (E.D. Va. March 31, 1977), exhaustion of administrative remedies.

(403) *Union of Concerned Scientists* v. *Nuclear Regulatory Commission*, Civ. No. 76-370 (D.D.C. Feb. 1, 1977), X5.

(404) *Union Oil Company of California* v. *FPC, 542 F. 2d 1036 (9th Cir. 1976)*, reverse FOI case.

(405) *United States* v. *DeVaughan*, 414 F. Supp. 774 (D. Md. 1976), (a)(1, 2).

(406) *United States* v. *Imbrunone*, 379 F. Supp. 256 (E.D. Mich. 1974), (a)(2)(C), (a)(3).

(407) *United States* v. *J. B. Williams Co.*, 402 F. Supp. 796 (S.D.N.Y. 1975), (a)(2)(A), (C), X5, 7.

(408) *United States* v. *Leichtfuss*, 331 F. Supp. 723 (N.D. 111. 1971), (a)(2).

(409) *United States* v. *Murdock*, 548 F. 2d 599 (5th Cir. 1977), discovery.

(410) *United States* v. *Trucking Employees, Inc.*, 13 F.E.P. Cases 376 (D.D.C. April 5, 1976), reverse FOI case, X3 (42 U.S.C. § 2000e-8(e)), X4, 7.

(411) *United States* v. *Wahlin*, 384 F. Supp. 43 (W.D. Wis. 1974), discovery.

(412) *United States* v. *Walker*, 491 F. 2d 236 (9th Cir. 1974), "records."

(413) *United States ex rel. Parco* v. *Morris*, 426 F. Supp. 976, 985-986 (E.D. Pa. 1977), (a)(1)(D) publication.

(414) *United States Steel Corp.* v. *Schlesinger*, 8 CCH E.P.D. para. 9717 (E.D. Va. Sept. 20, 1974), X4, reverse FOI case.

(415) *United Telephone Co. of Pennsylvania* v. *FCC*, 375 F. Supp. 992 (M.D. Pa. 1974), (a)(3), injunction of agency proceedings.

(416) *USS-OCF-W&M* v. *Eckard*, Civ. No. 76-1933 (D.D.C. Dec. 9, 1976), reverse FOI case, X4.

(417) *Vaughn* v. *Rosen*, 484 F. 2d 820 (D.C. Cir. 1973), *cert. denied* 415 U.S. 977 (1974), *on remand* 383 F. Supp. 1049 (D.D.C. 1974), agency's burden on proof on whether records are exempt, X2, 5, 6.

(418) *Vaughn* v. *Rosen*, 523 F. 2d 1136 (D.C. Cir. 1975), X2, 5.

(419) *Vegas Village Shopping Corp.* v. *NLRB*, 92 L.R.R.M. 2683 (C.D. Cal. April 26, 1976), X5, 7(A), (C), (D).

(420) *Vermont Low Income Advocacy Council, Inc.* v. *Dunlop*, 71 F.R.D. 343 (D. Vt. 1976), *aff'd sub nom. Vermont Low Income Advocacy Council* v. *Usery*, 546 F. 2d 509 (2d Cir. 1976), (a)(4)(E) attorney's fees.

(421) *Verrazzano Trading Corp.* v. *United States*, 349 F. Supp. 1401 (Cust. Ct. (1972), X5.

(422) *Vietnam Veterans Against the War* v. *Laird*, Civ. No. 2277-70 (D.D.C. Oct. 15, 1971), X3, 6.

(423) *Virginia Independent Schools Ass'n* v. *Commissioner of Internal Revenue*, Civ. Act. No. 75-925 (D.D.C. Mar. 25, 1976), X5, discovery.

(424) *Virginia-Carolina Freight Lines, Inc.* v. *United States*, 411 F.Supp. 356 (W.D. Va. 1976), X5.

(425) *Washington Research Project, Inc.* v. *HEW*, 366 F.Supp. 929 (D.D.C. 1973), *aff'd in part, rev'd in part, and remanded* 504 F.2d 238 (D.C. Cir. 1974), *cert. denied* 421 U.S. 963 (1975), (a)(2), X4, 5, 6.

(426) *Wecksler* v. *Shultz*, 324 F.Supp. 1084 (D.D.C. 1971), X4, 5, 7.

(427) *Weisberg* v. *GSA*, Civ No. 75-1448 (D.D.C. March 10, 1977), X3, 5.

(428) *Weisberg* v. *United States Department of Justice*, 489 F.2d 1195 (D.C. Cir. 1973), *cert. denied* 416 U.S. 993 (1974), X7.

(429) *Weisberg* v. *United States Department of Justice*, 543 F.2d 308 (D.C. Cir. 1976), X7, discovery.

(430) *Weissman* v. *CIA*, C.A. No. 75-1583 (D.D.C. April 14, 1976), *remanded in part* C.A. No. 76-1566, 40 Ad. L. 2d (P & F) 829 (D.C. Cir. Jan. 6, 1977), X1, 3, 6, 7 *in camera* inspection.

(431) *Wellford* v. *Hardin*, 315 F.Supp. 175 (D. Md. 1970), *aff'd* 444 F.2d 21 (4th Cir. 1971), *on motion for reconsideration* 330 F.Supp. 915 (D. Md. 1971), X4, 5, 7.

(432) *Wellford* v. *Hardin*, 315 F.Supp. 768 (D.D.C. 1970), X7.

(433) *Wellman Industries* v. *NLRB*, Civ. No. 73-74 (D. S.C. April 13, 1973), *aff'd* 490 F.2d 427 (4th Cir. 1974), X4, 7.

(434) *Westinghouse Electric Corp.* v. *Schlesinger*, 542 F.2d 1190 (4th Cir. 1976), *cert. denied* 45 U.S.L.W. 3749 (May 7, 1977), X3, 4, reverse FOI case 18 U.S.C. § 1905, 42 U.S.C. § 2000e.

(435) *Westinghouse Electric Co.* v. *Schlesinger*, 392 F. Supp. 1246 (E.D. Va. 1974), X3 (42 U.S.C. § 2000e-8(e)), 4, 7, 18 U.S.C. § 1905, reverse FOI case.

(436) *Westinghouse Electric Corporation* v. *United States Nuclear Regulatory Commission*, Civ. No. 76-1611 (3d Cir. March 22, 1977), reverse FOI case, X4, discretionary release.

(437) *Williams* v. *IRS*, 345 F.Supp. 591 (D. Del. 1972) *aff'd* 479 F.2d 317 (3d Cir. 1973), X5, 7.

(438) *Wine Hobby, U.S.A., Inc.* v. *United States Bureau of Alcohol, Tobacco, and Firearms*, 363 F. Supp. 231 (E.D. Pa. 1973), *rev'd* 502 F.2d 133 (3d Cir. 1974), X6, "similar files".

(439) *Wolfe* v. *Froehlke*, 358 F.Supp. 1318 (D.D.C. 1973), *aff'd* 510 F.2d 654 (D.C. Cir. 1974), X1.

(440) *Wolfe* v. *Weinberger*, 403 F.Supp. 238 (D.D.C. 1975), X5, "agency," FACA.

(441) *Wood* v. *CIA*, Civ. No. 75-366 Civ. T-K (M.D. Fla. Jan. 6, 1977), X1, 3, *Vaughn* v. *Rosen* index requirement, refusal to disclose whether records exist.

(442) *Woolbright* v. *CIA*, Civ. No. CV 76-2448 LEW (C.D. Cal. Jan. 12, 1977), X1, 3, refusal to disclose whether records exist.

(443) *Wu* v. *Keeney*, 384 F.Supp. 1161 (D.D.C. 1974), X5.

(444) *Wu* v. *Natl. Endowment for Humanities*, 460 F.2d 1030 (5th Cir 1972), *cert. denied* 410 U.S. 926 (1973), X5.

(445) *Yamaha Int'l Corp.* v. *FTC*, Civ. Act. No. 74-475 (D.D.C. Dec. 9, 1975), X5.

SENATOR JESSE HELMS UPON FILING SUIT ASKS THE U.S. SUPREME COURT TO RULE ON MEANING OF ARTICLE IV, SECTION 3

Mr. HELMS. Mr. President, today I have been joined by three of our distinguished colleagues—Mr. MCCLURE, Mr. THURMOND, and Mr. HATCH—in filing suit with the U.S. Supreme Court to settle the issue of whether or not the President can dispose of the Canal Zone by treaty without authorization from both Houses of Congress. We also have been joined by our distinguished colleague from the House, Mr. FLOOD, and by four States plaintiff, the States of Idaho, Iowa, Louisiana, and Nebraska. In addition, the attorney general of the State of Indiana, and Mr. William Drummond, of the Canal Zone, have joined in their own right.

The Constitution, in article IV, section 3, very clearly says that "the Congress" has power to dispose of U.S. territory and property. Ratification of a treaty does not meet this requirement because only one House of Congress, the Senate, is involved in a treaty.

The executive branch is saying that it has the power of disposing of U.S. territory "concurrently" with the Congress—that is, the President can dispose of U.S. territory by treaty, without action by both Houses.

We are asking the Supreme Court to rule that in the case of the Canal Zone the President has no power to act at all without authorization from both Houses. We are asking the Court to declare either that Congress has exclusive power, or that the President cannot exercise such power when Congress has already entered the field, or when it would deprive U.S. citizens of their civil and constitutional rights.

Of course, Congress began to legislate in the matter in 1902, when it authorized the President to acquire the Canal Zone. Congress has set up a code of law, a U.S. district court, a bill of rights. U.S. citizens in the zone presently enjoy these rights—all of which would be abolished under the proposed Panama Canal treaties.

It is highly significant that the attorneys general of five States have joined in this suit. Four States are parties plaintiff: Idaho, Iowa, Louisiana, and Nebraska. The attorney general of Indiana joins in his own right at the request of an Indiana Member of Congress and pursuant to a concurrent resolution of the Indiana Legislature and under Indiana Code 4–6–1–6.

Because of the States plaintiff, we have moved to seek original jurisdiction before the U.S. Supreme Court, as provided in the Constitution under article II, section 2, clause 2. The States are seeking a declaration that the President and the Secretary of State have exceeded their authority by the threatened loss of the votes of their delegation in the House of Representatives, and that their States will bear an unreasonably increased burden on their interstate and foreign commerce.

A similar suit was dismissed by the U.S. Supreme Court 3 months ago on grounds that it was "premature" without touching on its merits. The Court apparently felt that the issue was not ripe since no treaty had actually been presented. Now that a treaty has been signed and sent to the Senate, we feel that the issue is ripe.

WHAT WILL THE EFFECT OF THE SUIT BE?

If the Court declares that the President has exceeded his authority, then any action by the Senate would be null and void.

HOW COULD THE PRESIDENT HAVE EXCEEDED HIS AUTHORITY?

First. If the Court rules that the Congress has exclusive power to dispose of U.S. territory and property, then he has no authority whatsoever to dispose of the canal without action by both Houses of Congress.

Second. If the Court rules that the President does have concurrent authority with Congress to dispose of U.S. territory and property, but that Congress has already preempted the field, then he has no authority to repeal existing territorial legislation by treaty. The proposed Panama Canal treaty eliminates the Canal Zone Code and the U.S. District Court at Balboa.

Third. Similarly, even if the President does have concurrent authority, he cannot exercise that authority in such a way so as to deprive U.S. citizens of their constitutional and statutory rights. A long line of court decisions have established that the President cannot exercise his foreign relations power to deprive U.S. citizens of their civil rights. Citizens now living in the Canal Zone would find their legal jurisdiction transferred to Panama, and they would lose their constitutional protections and the safeguards established by Congress for their benefit.

Mr. President, I ask unanimous consent that the complaint of the plaintiffs and the motion for leave to file complaint by the States be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[In the Supreme Court of the United States, No. —, Orig.]

JESSE A. HELMS, JAMES A. MCCLURE, STROM THURMOND, ORRIN G. HATCH, DANIEL J. FLOOD; STATE OF IDAHO, STATE OF IOWA, STATE OF LOUISIANA, STATE OF NEBRASKA; WILLIAM R. DRUMMOND, AND THEODORE L. SENDAK, PLAINTIFFS, v. CYRUS R. VANCE AND JAMES E. CARTER, JR., DEFENDANTS

COMPLAINT

Jurisdiction

1. The original jurisdiction of the Court is invoked under Art. III, Sec. 2, cl. 2 of the Constitution of the United States for declaratory relief authorized by Section 2201 of Title 28 of the United States Code. The suit prays for a ruling as to the exclusive authority of Congress to dispose of territory and property of the United States under Art. IV, Sec. 3, cl. 2 of the Constitution or, if such a right does not exist, a ruling that any concurrent disposal power lodged in the Executive branch as an implication from its acknowledged treaty power, (Art. II, Sec. 2, cl. 2) may not be so exercised by the President as to effect a repeal of existing territorial legislation or divest United States citizens residing in the Canal Zone of their recourse to Constitutional guarantees.

Parties

2. The States of Idaho, Iowa, Louisiana and Nebraska appear herein in their sovereign capacity and as representative of their citizens for the relief hereinafter prayed, suing on their own behalf and for the benefit of all other States similarly situated. These four States are represented in Congress by eight Senators and eighteen Representatives. On information and belief they annually ship by water to other States and foreign destinations in excess of $10 billion in farm and manufactured products, a substantial proportion of which passes through the Panama Canal, subject to its tolls.

3. Plaintiffs Jesse A. Helms, James A. McClure, Strom Thurmond and Orrin G. Hatch are duly elected members of the Senate of the United States having their official residence in the District of Columbia. They sue on their own behalf and for the benefit of all Senators similarly situated.

4. Plaintiff Daniel J. Flood is a duly elected member of the House of Representatives of the United States, having his official residence in the District of Columbia. He sues on his own behalf and to preserve the voting rights of all members of the House of Representatives.*

5. Plaintiff William R. Drummond is a citizen and employee of the United States, is a resident of the Canal Zone, and President of Local 1798, American Federation of Government Employees, AFL–CIO. He sues herein as an individual and as representative of the class of all United States citizens having their permanent residence in the Canal Zone.

6. Plaintiff Theodore L. Sendak is the Attorney General of the State of Indiana and has his official place of business at 219 State House, Indianapolis, Indiana. Pursuant to request of an Indiana Congressman and a concurrent resolution of the Indiana legislature dated April 15, 1975, he sues under Indiana Code 4–6–1–6 to request prior Congressional authorization of any alienation of the Canal Zone.

7. Defendant Vance is the Secretary of State of the United States. He is the principal Executive Branch official charged with enforcement of the policies of the President in foreign affairs, and has supervised negotiation of the proposed treaty with Panama, which defendants have submitted to the Senate for ratification.

8. The President is the head of the Executive branch and the responsible superior of Secretary Vance. By statute he exercises administrative and military control over the Canal Zone. The President possesses direct Constitutional authority as Commander-in-Chief of the Armed Forces of the United States and has the capability of authorizing unopposed Panamanian occupation of the Canal Zone at any time.

THE CANAL ZONE

9. In June, 1902 an Act was approved (57th Cong. 1st Sess., Ch. 1302, Public No. 183, the "Spooner Act") whereby Congress authorized and directed the President to negotiate for the acquisition of a suitable strip of land across the Panamanian isthmus for the construction and operation of a transoceanic canal, the legislative requirement being that the agreement should provide perpetual control thereof under United States jurisdiction.

10. On November 18, 1903 the President, specifying that statute as his authority, entered into an agreement with the newly formed Republic of Panama (Isthmian Canal Convention, a/k/a the Hay-Bunau-Varilla Treaty, 33 Stat. at L. Pt. II, pp. 2234–2241) which included the stated Congressional requirements. The agreement was proclaimed on February 26, 1904.

11. In accordance therewith, Congress

(a) Appropriated from the Treasury and paid:

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*On October 3, fifty-one other Reprsentatives filed an action in the District Court for the District of Columbia for a similar declaration of their right of review. (Civ. No. 77–1733)

$25 million to Colombia;
$10 million to the Republic of Panama;
$40 million to a French company which held the Canal concession;
$4 million compensation to individual land holders of the Zone; and
$56 million in subsequent annuity payments to the Republic of Panama.

(b) Expended in excess of $1.5 billion for construction and maintenance of Canal and Zone facilities.

(c) Enacted legislation for the governance of the Zone, including the establishment of a judicial system, a bill of rights, and civil and criminal codes to be applied to resident United States citizens and nationals, (the Canal Zone Code, P.L. 87-845, 76 A Stat. 1, 48 U.S.C. §§ 1301 *et seq.*)

(d) Created the Panama Canal Company (until 1950, the "Panama Railroad Company") to operate the canal, giving it "perpetual succession in its corporate name, unless dissolved by Act of Congress." (2 C.Z.C § 61(b)).

(e) Directed the transfer of the Canal and its facilities to the Panama Canal Company (2 C.Z.C. § 73), which has since operated it.

12. Among the Courts so established by Congress is the United States District Court for the District of the Canal Zone (3 C.Z.C. § 10). It was made a part of the 5th Judicial Circuit (28 U.S.C. § 41) and this Court was given review jurisdiction over its judgments (28 U.S.C. § 1252). The Court is presently without any judge and on information and belief no nomination of any judge has been made by the President.

13. On February 7, 1974 the then Secretary of State, Henry Kissinger, without legislative authorization, executed with Panama in the name of the United States a "Joint Statement of Principles" pursuant to the terms of which the State Department promised to void the 1903 Convention, transfer the Canal and Zone properties to the Republic of Panama, and submit its residents, including American citizens, to the jurisdiction of the laws and courts of Panama. The current treaty proposal states that it is drawn in accordance with the 1974 statement.

THE PROPOSED AGREEMENT WITH PANAMA

14. On September 7, 1977 the President signed an agreement to enter into a treaty with Panama which by its terms

a) Terminates the Isthmian Canal Convention of 1903,

b) Recognizes the Republic of Panama as territorial sovereign in the Zone, and grants it "plenary jurisdiction over the former Canal Zone".

c) Dissolves "the Panama Canal Company and the Canal Zone Government".

d) Transfers to Panama without charge "all right, title and interest the United States of America may have with respect to all real property, including non-removable improvements thereon".

e) Turns over the Canal to Panama "in operating condition and free of liens and debts".

f) Grants to Panama "a fixed annuity of ten million United States dollars" plus an equal amount for services, plus a further $10 million if realized from Canal profits, plus .30/ton on all vessels transiting the Canal, (approx. $43 million) or a total of approximately $70 annually.

g) Extinguishes the jurisdiction of the United States District Court for the Canal Zone District and extends Panamanian civil and criminal jurisdiction over citizens of the United States resident in the Zone.

15. The proposed treaty is limited in time. Such time is referred to therein as a "transition period". It terminates on December 31, 1999 after which "only the Republic of Panama shall operate the Canal and maintain military forces, defense sites and military installations within its national territory."

16. The described agreement between the United States and the Republic of Panama was submitted by defendants to the Senate for ratification as a treaty and on September 16, 1977 was referred by the Senate to its Committee on Foreign Relations (123 Cong. Rec. S. 15144) where it is presently pending.

THE THREATENED INJURY

17. The proposed payment of approximately $70 million annually to the Republic of Panama would result in an increase of more than 200% in the tolls now charged for the transit of goods shipped from the plaintiff States to the West Coast states and in their overseas trade and would thereby unreasonably increase the burden on such commerce.

18. Such an increase in tolls would not only cause a loss of trade to plaintiff States, but would burden anticipated shipments of oil from Alaskan or other Pacific sources to Eastern and Mississippi States, diminish the use of refineries now located in the South, and decrease the utilization of shipping facilities in seacoast ports.

19. Additionally, ratification of the said proposal as a treaty would deprive the plaintiff States of any consideration thereof by or vote thereon by their delegations in the House of Representatives and decrease the effective franchises of their citizens.

20. The plaintiff Senators would be injured by any ratification of the said proposal as a treaty in that they would thereby lose the benefit of any review by a Congressional conference committee and be deprived of its evaluation by the Senate Armed Services and Commerce Committees, which are the responsible bodies to evaluate Panama Canal legislation under Senate Rules 25.1(d) and (f). Further, the submission of the proposal in treaty form presents it as a moral commitment by the United States and the Senate consideration normally given to debatable legislation would be diminished.

21. Under the Constitution (Art. IV, Sec. 3 cl. 2) Congress has an exclusive right to dispose of properties of the United States. By submission of the proposal in treaty form it will be considered only by the Senate and the plaintiff Representative* will be completely deprived of any opportunity to consider or vote on its terms.

22. Under the proposal as signed and submitted, plaintiff Drummond and all other citizens of the United States resident in the Canal Zone would, without a hearing, lose their Constitutional protections and their reliance on the bill of rights and civil and criminal laws enacted by the Congress for there benefit.

23. On behalf of the interests of the State of Indiana, plaintiff Theodore L. Sendak complains of the loss of votes to the delegation of that State in the House of Representatives and the consequent deprivation *pro tanto* of the franchise of Indiana citizens, the threatened burden on Indiana's commerce, and the adverse effect on the State's relative position in government which would result from any recognition of unreviewable property disposal powers in the Executive branch.

Wherefore, plaintiff's pray the Court to issue a judgment pursuant to 28 U.S.C. § 2201 declaring that

1. The Canal, the rights to the use of the Canal Zone and the improvements therein are properties of the United States;

2. The Congress has an exclusive constitutional authority to direct their disposition; or

3. In the event that the Executive possesses concurrent power under the treaty clause to dispose of such property, a further declaration that such authority may not be exercised

a) in contravention of existing legislation, or

b) so as to deprive citizens of the United States of their Constitutional and statutory recourse.

Respectfully submitted,

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WILLIAM J. GUSTE, Jr.,
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GEO. S. LEONARD,
Attorney for the Individual Plaintiffs.

OCTOBER 13, 1977.

[In the Supreme Court of the United States, No. —, Orig.]

STATE OF IDAHO, STATE OF IOWA, STATE OF LOUISIANA, STATE OF NEBRASKA, PLAINTIFFS, v. CYRUS R. VANCE, AND JAMES E. CARTER, JR., DEFENDANTS

MOTION FOR LEAVE TO FILE AN ORIGINAL COMPLAINT

Pursuant to Rule 9 of the Rules of this Court and the annexed brief in support hereof, the States plaintiff invoke the Court's jurisdiction under Art. III, Sec. 2, cl. 2 of the Constitution of the United States, and pray the Court's leave to file the attached complaint as an original action, upon the ground that the States which are parties to the suit appear herein in support of their sovereign interest to preserve their proportionate voice in Congress and avoid a threatened burden on their commerce.

BRIEF IN SUPPORT OF MOTION FOR LEAVE TO FILE ORIGINAL COMPLAINT

The issue

Four States are parties plaintiff and allege an injury to themselves and to their citizens in a matter affecting their sovereign interest. Directly, and in their *parens patriae* capacity, they invoke this Court's original jurisdiction under Art. III, Sec. 2, cl. 2 of the Constitution to pray a declaration that the federal officials named as defendants have exceeded the authority of the executive branch of government to the injury of the States and their people by the threatened loss of the votes of their delegation in the House of Representatives and an unreasonably increased burden on their interstate and foreign commerce.

Defendants have asserted the existence of an implied Constitutional foreign affairs authority (Art. II, Sec. 2, cl. 2) to alienate United States property, pursuant to which they have executed and submitted to the Senate for ratification in the form of a treaty, a proposal which would dispose of the territorial rights and properties of the United States in the Canal Zone to the Republic of Panama and would cede civil and criminal jurisdiction over the United States citizens and nationals resident in the Zone from the courts established by Congress to the Panamanian courts.*

Plaintiffs in opposition claim that the Canal, the Canal Zone, its structures and the rights exercisable by the United States in the Zone are properties of the United States which may only be disposed of by the whole Congress under the authority of the property Clause, Art. IV, Sec. 3, cl. 2. Further, plaintiffs say that if in law the concurrent disposal powers claimed by the executive branch should exist, the many enactments of Congress previously approved by the executive for the governance of the Zone have foreclosed any further exercise of such right since statutes in areas of specific Congressional authority under the Constitution may

* Although the desirability of this proposed arrangement is being sharply debated by these parties and the public in general, that is conceded to be a political issue which is not involved in this case.

not be repealed by implication through a treaty which is inconsistent with their terms. Finally, plaintiffs argue that the executive's foreign affairs power would not in any event extend to the making of agreements with foreign nations which would deprive individual United States citizens of their rights under the Constitution.

The facts underlying this disagreement between the parties on the relative powers of the executive and legislative branches of government under the Constitution are set out in the attached complaint. Plaintiffs are not aware of any material dispute between the parties on these facts.

Jurisdiction

The original jurisdiction of this Court over States suing directly and as representatives of their citizens has been ruled on,

"Our conclusion therefore is that the original jurisdiction vested by the Constitution in this court over controversies in which a state is a party is not affected by the question whether the state is party plaintiff or party defendant; that a dispute as to the title to real estate is a question of a justiciable nature, and can properly be determined in a judicial proceeding; and that the United States is to be taken, for the purposes of this case, as the real party in interest adverse to the state. We are of opinion, therefore, that this court has jurisdiction of this controversy, and is called upon to determine the case upon its merits."—*Minnesota* v. *Hitchcock*, 185 U.S. 373, 22 S.Ct. 650, 656 (1902).

"An inspection of the bill discloses that the nature of the injury complained of is such that an adequate remedy can only be found in this court at the suit of the state of Missouri. It is true that no question of boundary is involved, nor of direct property rights belonging to the complainant state. But it must surely be conceded that, if the health and comfort of the inhabitants of a state are threatened, the state is the proper party to represent and defend them." *Missouri* v. *Illinois*, 180 U.S. 208, 21 S.Ct. 331, 344 (1901).

The jurisdiction of the Court over constitutional questions was spelled out by Mr. Justice Marshall in *Cohens* v. *Virginia*, 19 U.S. (6 Wheat) 264, 404, 5 L.Ed. 257, 291 (1821):

"It is most true that this court will not take jurisdiction if it should not; but it is equally true, that it must take jurisdiction if it should. The judiciary cannot, as the legislature may, avoid a measure because it approaches the confines of the constitution. We cannot pass it by because it is doubtful. With whatever doubts, with whatever difficulties, a case may be attended, we must decide it if it be brought before us. We have no more right to decline the exercise of jurisdiction which is given, than to usurp that which is not given. The one or the other would be treason to the constitution. Questions may occur which we would gladly avoid, but we cannot avoid them. All we can do, is to exercise our best judgment, and conscientiously to perform our duty. * * *"

Since *Marbury v. Madison*, 1 Cranch 137, 5 U.S. (L. Ed.) 60 (1803) one of the most important of those constitutional issues has been the duty of the judicial branch to hold executive officials, including the President, within the ambit of their Constitutional powers, *Youngstown Sheet & Tube Co. v. Sawyer*, 343 U.S. 579, 72 S. Ct. 863 (1952), *National Treasury Employees Union v. Nixon*, 492 F. 2d 587 (CADC 1974).

Nor is it an objection that such questions most often arise in the context of heated public debate. As Mr. Justice Frankfurter pointed out in his concurrence in *Youngstown*, (343 U.S. at 596, 72 S. Ct. at 890),

"* * * To deny inquiry into the President's power in a case like this, because of the damage to the public interest to be feared from upsetting its exercise by him, would in effect always preclude inquiry into challenged power, which presumably only avowed great public interest brings into action. And so, with the utmost unwillingness, with every desire to avoid judicial inquiry into the powers and duties of the other two branches of the government, I cannot escape consideration of the legality of Executive Order No. 10340."

A determination of the property rights of the United States under a conflict between statute and treaty is a proper question for the exercise of this Court's original jurisdiction, *United States v. State of Maine, et al.*, 420 U.S. 515, 95 S. Ct. 1155 (1975). This principle has been many times reiterated with respect to the claims of the States to undersea lands.

"It is contended that since Texas was admitted to the Union with its maritime boundary not yet settled, United States foreign policy on the extent of territorial waters, to which Texas was admittedly subject from the moment of admission, automatically upon admission operated to fix its seaward boundary at three miles. This contention must be rejected. As we have noted, the boundaries contemplated by the Submerged Lands Act are those fixed by virtue of Congressional power to admit new States and to define the extent of their territory, not by virtue of the Executive power to determine this country's obligations *vis-a-vis* foreign nations. 363 U.S. at pages 30–36, 80 S. Ct. at pages 979–982. It may indeed be that the Executive, in the exercise of its power, can limit the enjoyment of certain incidents of a Congressionally conferred boundary, but it does not fix that boundary. . . . the dealings of the Executive with other nations cannot affect the State's rights in any way as a domestic matter."—*United States v. States of Louisiana, etc.* 363 U.S. 1, 51, 64–5, 80 S. Ct. 961, 990, 997 (1960).

"It cannot be ignored that the application of the Convention to Texas here would allow Texas, unlike all other States except Florida, to expand its own state boundaries beyond the congressional limitation simply because of a rule governing the relationships between maritime nations of the world. This is a domestic dispute which must be governed by the congressional grant. There is no reason why an international treaty should be applied when it simply works to take away land from the United States in order to give to Texas more land than it ever claimed historically. We cannot believe that Congress intended such a result."— *United States v. State of Louisiana*, 389 U.S. 155, 160–1, 88 S.Ct. 367, 370 (1967).

Form of action

The parties having standing and the subject matter being one within the Court's proper cognizance, the principal question is whether the relief prayed is appropriate to the case. Basic authority arises under 28 U.S.C. § 2201 which provides that declaratory judgments may be issued by ". . . any court of the United States, . . .". The factors to be considered in exercising this jurisdiction were set out in *Maryland Casualty Co. v. Pacific Coal & Oil Co.*, 312 U.S. 270, 273, 61 S.Ct. 510, 512 (1941).

"Basically, the question in each case is whether the facts alleged, under all the circumstances, show that there is a substantial controversy, between parties having adverse legal interests, of sufficient immediacy and reality to warrant the issuance of a declaratory judgment. See *Aetna Life Ins. Co. v. Hayworth*, 300 U.S. 227, 239–42, 57 S.Ct. 461, 463, 464, 81 L.Ed. 617, 108 A.L.R. 1000."

This analysis has been repeated in many cases, *Golden v. Zwickler*, 394 U.S. 103, 89 S.Ct. 956 (1969), *Steffel* v. *Thompson*, 415 U.S. 452, 94 S.Ct. 1209 (1974), *Roe v. Wade*, 410 U.S. 113, 125, 93 S.Ct. 705, 712 (1973), *Abbott Laboratories v. Gardner*, 387 U.S. 136, 148, 87 S.Ct. 1507, 1515 (1967), *State of Florida v. Weinberger*, 492 F.2d 488 (5 Cir. 1974) and is concurred in by the writers, 3 *Davis* Adm. Law Tr. c. 21 (1958), *Jaffe* Judicial Control of Administrative Action, C. 10 (1965).

The question raised by the complaint is substantial in law. Apart from the property interest of the United States in the Canal, and supporting structures, housing areas, railroads, government buildings and the like, this Court in *Wilson v. Shaw*, 204 U.S. 24, 33, 27 S.Ct. 233, 235 (1907) held that the Zone is itself a possession of the United States, the 1903 treaty being described in 1948 as a lease "extending until agreement for abrogation or unilateral abandonment by the United States", *Vermilya-Brown Co. v. Connell*, 335 U.S. 377, 383–4, 69 S.Ct. 140, 144, *Acc. U.S. v. Husband R.* (Roach), 453 F.2d 1054 (5 Cir. 1971) *cert. den.* 396 U.S. 935 (1972), *Lucas v. Lucas*, 232 E.Supp. 466 (D.C.C.Z., 1964) *Huasteca Petroleum Co. v. United States*, 14 F.2d 495, (E.D.N.Y. 1926), 26 Op. A.G. 376 (1907). Starting at least with *United States v. Fitzgerald*, 40 U.S. 785, 15 Pet. 407, 421 (1841), it has many times been held that the power to dispose of property of the United States is exclusively in the competence of Congress under the property clause, *Osborne v. United States*, 145 F.2d 892 (9 Cir. 1944), *Alabama v. Texas*, 347 U.S. 272, 74 S.Ct. 481 (1951), *Tugade v. Hoy*, 265 F.2d 63 (9 Cir. 1959). The power so given to Congress is "unlimited", *Sierra Club v. Hickel*, 433 F.2d 24, 28 (9 Cir. 1970) *aff'd.* 405 U.S. 727, 92 S.Ct. 1361 (1972) and includes authority to prescribe the times, conditions, and mode of transfer and selection of the recipient, *Gibson v. Chouteau*, 13 Wall. 92, 99 (1872), *Irvine v. Marshall*, 20 How. 558 (1858), *Emblen v. Lincoln Land Co.*, 184 U.S. 660, 664, 22 S.Ct. 523, 525 (1902).

As the allegations of the attached complaint show, the controversy is also substantial in a factual sense, in that it involves the rights of the United States in approximately three hundred and twenty-five square miles of land, title to improvements who replacement value is estimated to be in excess of three and a half billion dollars, the repeal by implication of the Canal Zone Code and other statutes which provide the laws for the Zone, the existence of its courts and the complex administrative organization which has heretofore been created by the Congress, and any Constitutional recourse by more than 3500 citizens resident in the Zone who will be involuntarily transferred to Panamanian jurisdiction.

The issue also involves adverse legal interests in that question necessarily presents a choice between mutually incompatible interpretations of Constitutional authority by the branches of government represented by the parties plaintiff and defendant. Plaintiffs assert an exclusive Constitutional disposal power in Congress. The defendants assert a concurrent Constitutional disposal power in the Executive, offering in principal support a summarization of authorities in an opinion of the current Attorney General, —— Op. A.G. ——, August 11, 1977* to that effect. Of greater practical importance, however, to the question of adverse legal interests, is that the agreement with Panama has now been signed by the President and has been sent to the Senate for ratification as a treaty.

The final question is whether the current situation is also one of sufficient immediacy and reality to warrant the issuance of a declaratory judgment at this time? Admittedly, three months ago it was judicially held that it was not. A prior action raised the same legal question in the United States District Court for the District of Columbia follow-

Contra, 34 Op' A.G. 320, 322, (1924).

ing President Carter's announcement that a treaty proposal to deliver the Canal and its citizenry to the Republic of Panama would be completed and presented to the Senate by June, 1977 (Civ. No. 77-0083). The District Court denied an injunction to maintain the *status quo* and dismissed the case without reaching the merits, holding that the action was premature, the nonstate plaintiffs lacked standing, and the issue was probably a political question. On appeal (Nos. 77-1226 and 77-1295) the District Court was affirmed on the stated ground that the matters presented were not ripe for consideration. On June 20, 1977, this Court declined review (No. 76-1576). The decisions of the lower courts are reprinted in that petition.

The situation has now matured and the former areas of doubt have been resolved by publication of the proposed treaty language, (State Dept. Sel.Docs. Nos. 6, 6A, 6B). The signed agreement is now before the Senate for ratification, and that body has referred it to its Committee on Foreign Relations for review (123 Cong.Rec.S.15144, Sept. 16, 1977). The adverse positions of the parties have therefore been defined and the Senate is preparing to act on a treaty proposal which—if plaintiffs' contentions are valid—would be Constitutionally void regardless of ratification or rejection.

Nor is it an objection to ripeness at this time that the proposed agreement does not become effective until six months after an exchange of ratifications. In a similar situation, as this Court pointed out in *Buckley v. Valeo*, 424 U.S. 1, 96 S.Ct. 612 (1976), ripeness exists where an "all but certain exercise" of authority can be shown, 96 S.Ct. at 681.

Conclusion

A proper case for the exercise of the Court's original jurisdiction is presented. The interest of the States is sovereign in character, the issues are defined, the problem is immediate, the subject matter is justiciable and substantial, and the relief prayed is a traditionally appropriate judicial method of resolving the question. Leave to file the complaint under the Court's original jurisdiction should be granted.

Respectfully submitted,

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OCTOBER 13, 1977.

LEGAL SERVICES CORPORATION

Mr. McCLURE. Mr. President, the legislation we considered yesterday involved not only an increase and extension of funding for the Legal Services Corporation, but perhaps more importantly, as it came from the committee it contained a subtle and at the same time sweeping alteration of the charge the Corporation is directed by Congress to carry out. In my judgment, this change was wrong, not only from a basic philosophical objection, but because it effectively seeks to legitimize activities which clearly violate the scope and intention of existing law.

We adopted an amendment which I offered which seeks to maintain the ban against direct funding of special research and support centers known as "back-up centers." This ban, contained in the so-called Green amendment, was designed to insure that the attention of the Legal Services Corporation and its fund recipients is directed to those activities falling within the intent of the enabling legislation; specifically, as stated in the declaration of purpose, "to provide equal access to the system of justice in our Nation to individuals who seek redress of grievances," and "who would otherwise be unable to afford adequate legal counsel.

The declaration of purpose also states, "to preserve its strength the legal services program must be kept free from the influence or use by it of political pressures." Unfortunately, the intent of the original legislation has already been circumvented in many instances in spite of the safeguards included in the act, such as that created by the Green amendment. Legal services personnel have engaged in outright lobbying, political organization, solicitation of clients, class action suits, and other activities clearly outside the scope of congressional intent. Repeal of the Green amendment language can only exacerbate the tendency of fund recipients away from representation of poor clients before the bar and toward activities aimed at effectuating a particular political viewpoint.

Let me give some examples of the activities our tax dollars have supported through the Legal Services Corporation.

First. The Legal Services Corporation supported Massachusetts Law Reform Institute which actively lobbied in behalf of graduated State income tax to be voted on in a special election in the State, while at the same time working on a ccurt case which forbade corporate financial contributions to the campaign against the graduated tax.

Second. The Legal Aid Bureau of Baltimore argued for restructuring utility rates before the Maryland Public Service Commission.

Third. In Maine, Pine Tree Legal Assistance, Inc., is actively involved in the efforts to force the State to cede two-thirds of its territory to the Passamaquoddy and Penobscot Indian tribes.

Fourth. Legal Services Corporation attorneys have filed and become involved in school busing cases in direct contravention of the Legal Services Corporation Act.

Fifth. Legal Services Corporation fund recipients have actively solicited clients through publications and direct contact with individuals about their working and living conditions.

Sixth. Most recently, the Legal Services Corporation has intervened in the Bakke reverse discrimination case, and filed briefs on behalf of the petitioner in the case, the regents of the University of California.

Defenders of these activities argue that they are only examples of eligible clients using the legal system to protect their rights through legal means. They argue that even where a number of nonpoor are included in a class the commonality of interest brings specific class actions under the authority of the act since even one member of the class falls within the definition of elegible client. I cannot agree with this line of reasoning. What it means is that legal services is no longer a poor people's program created to serve a narrow, but very important purpose—the provision of legal counsel to those otherwise unable to obtain representation on their own. It becomes a program of social crusaders who use the poor as a springboard for activities aimed at affecting social and institutional change. What started in 1965 as a $3.1 million program has grown to a $125 million program, and this 40-fold increase has not resulted from a commensurate increase in the number of clients, but rather a growth in the sort of high profile, politically motivated activity, even in areas outside the geographic locality in which specific fund recipients are established, to which their lawyers seem so inexorably attracted.

It has become a program not to impartially seek justice in a court of law and to represent poor clients on a personal, individual level, but one which uses public funds to seek political change outside the electoral process. Statements to the contrary notwithstanding, this was not the intent of Congress when it created the Legal Services Corporation; moreover, I cannot believe the sort of perversion of congressional intent which has characterized legal services activities in several instances accords with the function most Members of this body feel the corporation should serve with tax dollars.

The crucial point is this: the fact public tax dollars are used to support Legal Service Corporation activities creates a unique responsibility. The Federal Government must not be in a position of favoring one side over another in a political matter; yet this is precisely the effect of allowing Federal dollars to be used in this manner. What is more disturbing is that this effect occurs not openly and aboveboard as a legitimate function of Government, but deceptively under the auspices of a program intended for a different purpose altogether. It may in fact be viewed as amounting to a violation of the first amendment guarantee of the right of free speech, since taxpayers are in effect forced to comment favorably on those political questions in which Legal Services Corporation fund recipients chose to become involved, through the forced contribution of tax dollars. The Supreme Court has repeatedly affirmed the principle that the first amendment guarantees the right to remain silent as well as the right to speak out on an issue, and recently concluded that the contribution of money for the purpose of engaging in advocacy is as much a question of speech as opening your mouth.

Mr. President, I do not argue that retention of the prohibition of direct funding of back-up centers would alleviate these problems; but it would forestall their continued growth and proliferation. Allowing direct Legal Services Corporation funding of activities clearly outside the scope of the desirable and necessary purpose of providing legal service to those unable to afford representation on their own, will only serve to use up resources that should be available for the representation of the genuinely needy. Taxpayer support of back-up centers will aid those militant activities in the ranks of

legal services lawyers in promoting activities and suits to encourage broad social changes of the attorneys' own preference, rather than focusing on individual cases of individual clients. Federal funding of such centers can amount to a taxpayer subsidy of advocacy of forced busing, liberalized abortion laws, and other actions with which many taxpayers do not agree. Public funds should not be used to support private political causes.

The amendment which the Senate adopted was a compromise. The future actions of those involved will tell whether it simply expanded the support for the legitimate representation of poor people in their individual legal problems or acted as the springboard for even more violations of the letter and the spirit of the law. I sincerely hope it is the former. I realistically expect it will be the latter.

DEPARTMENT OF ENERGY IN PERSPECTIVE

Mr. WALLOP. Mr. President, the rapidly rising cost of Government is a concern to us all. Sometimes, however, I am afraid that in the day-to-day conduct of our business, we become insensitive to meaning of the figures with which we deal. Western Crude Oil, Inc., a Denver-based company has published an information sheet that dramatically emphasizes the magnitude of those figures, using as an example the new Federal Department of Energy.

The projected $10.6 billion budget of the Department of Energy represents $50 for each and every member of the total U.S. population. It exceeds the 1975 capital and exploration expenditures of the petroleum industry for exploration and production of domestic crude oil, natural gas, and natural gas liquids by more than $1 billion. And it exceeds the 1974 profits of the seven largest oil companies—profits which have been called obscene.

Because these figures may be of interest to my colleagues, I ask unanimous consent that the information sheet to which I refer be printed in the RECORD.

There being no objection, the information sheet was ordered to be printed in the RECORD, as follows:

$10.6 BILLION? THEY CAN'T BE SERIOUS

The new Department of Energy will consolidate the functions of the Federal Power Commission, Federal Energy Administration and the Energy Research and Development Agency as well as acquiring energy functions from four cabinet departments and one independent agency.

Actually, by totalling the number of employees and the fiscal budget of all the departments and energy functions that now will be assumed by the Department of Energy, they will employ 19,767 people and dispose of a fiscal 1978 budget of $10.6 billion.

To put that budget in perspective, consider the following:

1. It represents $500,000 per Department employee.

2. It represents $50 for each and every member of the total U.S. population (212 million).

3. It represents $266,871 for each of the 39,763 wells drilled in 1976.

4. It represents $58.35 for each of the 181,855,700 feet drilled in 1976.

5. It represents $3.59 for each barrel of domestic crude oil production in 1976.

6. It represents $1.67 for every barrel of petroleum products consumed in 1976.

7. It represents 10¢ for every gallon of gasoline consumed in 1976.

8. It represents $0.3434 on every barrel of proven crude oil reserves as of December 31, 1976 (30.9 billion barrels).

9. It exceeds 1975 capital and exploration expenditures by the petroleum industry to explore for and produce domestic crude oil, natural gas and natural gas liquids ($9.4 billion, according to the Chase Manhattan Bank) and it is almost three-fifths of capital expenditures in all U.S. petroleum sectors that year ($17.7 billion).

10. It exceeds the 1974 profits of the 7 largest oil companies—profits which were called "obscene."

If you believe this budget won't increase next year, you'd better look under your pillow in the morning . . . someone may have left you a quarter.

TRIBUTE TO RAY KROC OF McDONALD'S FAME

Mr. PERCY. Mr. President, I would like to take just a moment of the Senate's time today to wish happy birthday to a good friend, Ray Kroc.

This past Saturday, in Chicago, a number of Ray's friends gathered to celebrate his 75th birthday and his distinguished and remarkable career.

As all my colleagues know, Ray Kroc is something of a legend. The McDonald story is famous worldwide. It is the story of an enterprising man who developed an idea to its fullest and made it successful.

Ray Kroc became involved in the fast food business during his years of selling restaurant equipment that could mix five milk shakes at one time. During his business rounds, he discovered two brothers, named McDonald, who had ordered several machines for their hamburger stand in California.

With his curiosity sparked by the notion of a restaurant mixing dozens of milk shakes at once, Ray Kroc approached the brothers with the idea of franchising the fast food business throughout the country. The first franchise was opened in Des Plaines, Ill.

The rest is history. There are now more than 4,300 restaurants throughout the world, employing more than 257,800 people, most of them young people, I might add.

Ray Kroc has proven that the American system, the free market works. He has shown that perseverance, dedication, and hard work pay off.

However, the true worth of a man, I think, is measured by what he does with his success. All of us owe a great deal of thanks to Ray Kroc for the contributions he has made to the arts and to sports. His creativity as a businessman is matched only by his concern as a philanthropist.

But Ray Kroc and his lovely wife Jean have done more than just donate their time and their interests to civic and social causes, they have remembered and given to those in less fortunate circumstances. Ray Kroc's generosity will never be forgotten.

HUBERT H. HUMPHREY BUILDING

Mr. HATHAWAY. Mr. President, one of the great pleasures of serving in the Senate is the contact that we have with people of great stature. It does not happen often, either here or anywhere else, but the occasional nearness to men and women of vision and goodness is one of our greatest rewards.

Politics may be thought by many to be an arena of scoundrels and self-servers. I must say it has not always been an easy charge to defend. But greatness and politics should blend together. And to our everlasting benefit, they sometimes do.

Plato, writing several hundred years before the birth of Christ, talked about the necessity of greatness in politics. In fact, he said that greatness and wisdom would be needed if his own state was to succeed. This is the way he put it:

Until philosophers are kings, or the kings and princes of this world have the spirit and power of philosophers, and political greatness and wisdom meet in one, and those commoner natures who pursue either to the exclusion of the other are compelled to stand aside, cities will never have rest from their evils—no, nor the human race, as I believe—and then only will this our state have a possibility of life and behold the light of day.

The "possibility of life" that Plato talked about was given to us by such great men as Thomas Jefferson. And that wonderful gift has been and made even stronger—by such great men as HUBERT HUMPHREY.

Many of our elderly who have medical care under the medicare program can thank HUBERT HUMPHREY for their health. Parents whose children participate in the Head Start program owe a great deal to HUBERT HUMPHREY. People who have benefited from the Community Mental Health Act or the Elementary and Secondary Education Act or any number of other "people-oriented" program have benefited from the hard work and the vision of HUBERT HUMPHREY.

A look at Senator HUMPHREY's record shows his concern for the well-being of the American people. So much of his legislation was aimed at helping people with their health, and their education, and their happiness.

Much of Senator HUMPHREY's work has become people programs, administered by the Department of Health, Education, and Welfare. His visions are carried out, in part, in the HEW Building at 200 Independence Avenue.

HUBERT HUMPHREY's name should be on that building—just as it is in the hearts of the American people, for whom he has cared so much.

COMMON CAUSE STAFF DISTORTS TRUTH, MISLEADS MEMBERS

Mr. SCHWEIKER. Mr. President, it is with sincere regret that I rise today to advise my colleagues that the once effective and respected Common Cause Washington, D.C., lobby has changed.

In the early years of Common Cause's existence under the able direction of John Gardner, I was tremendously im-

pressed by the goals, the style and the decency of the self-styled "people's lobby." On more than one occasion I replied to constituents asking my opinion of Common Cause that it was effective and respected on Capitol Hill. Time and again I have cast my vote on the same side of an issue that Common Cause favored, because I felt they were on the right side. According to Common Cause's own voting scorecards I voted against their position only 2 times out of 54 votes in the years 1971–76.

Sadly, earlier successes have apparently gone to the heads of the people on Common Cause's Washington payroll who are supported by the dues of interested citizens, many of them my constituents. I cannot now remain silent while these Common Cause Washington payrollers supply misleading and even false information to well-intentioned constituent members who are paying their salaries and relying upon them for the truth about what is happening on Capitol Hill.

I refer specifically to a large amount of material which Common Cause's staff has circulated widely to its members and to the media in the aftermath of the Senate's failure to enact a public financing measure. Common Cause favored the bill, but other Senators and I believed it had been so badly mangled and compromised that it was a sham to label it "election reform."

Common Cause's Washington staff, miffed because they did not get their way, leveled a personal attack on Senators CASE, CHAFEE, DANFORTH, JAVITS, HATHAWAY, HEINZ, PERCY, and me. On literature mailed to members, we were placed on what the Common Cause Washington staff labeled "The Common Cause Dishonor Roll" and their accounts of our actions were titled "Profiles in Political Cowardice." A Common Cause staffer publicly questioned our integrity.

Mr. President, were that all that Common Cause's Washington staff had done, I would have remained silent, though I must be frank and say that I was quite disappointed after all the times I have fought for the things Common Cause favored, to find myself the target of such a vitriolic personal attack.

But, Mr. President, I have now discovered that Common Cause, Washington, is circulating not only misleading and deceptive attacks on me but, in addition, has disseminated outright false information about my actions on the floor of the Senate. I feel other Senators should be made aware when a group such as Common Cause's Washington staff disseminates dishonest information about what happened in the Senate.

In a letter replying to one of my constituents, a member of Common Cause who had questioned the accuracy of their material attacking my actions, Common Cause, Washington, stated:

> First, Senator Schweiker speaks of a "backroom change" by which primary elections were excluded from coverage in S. 926. He does not explain how this came about. In the normal course of the legislative process, changes in any bill are made openly, in the committee which handles the bill. We have no record here, nor does there appear to be any record extant, of any "backroom change" in dropping the primary coverage from the original bill. It was done openly, during markup sessions. Senator Schweiker could have argued against it, and indeed may have done so. But he could also could (sic) have voted to let the Senate itself vote on the bill, and offered a floor amendment to put primary coverage back in. He did not do so. Three times, instead, he voted to keep the Republican filibuster going.

Frankly, I am shocked at the dishonesty of Common Cause's treatment of this issue. The CONGRESSIONAL RECORD of July 27 at page 25174 tells the true story. An amendment to reinstate primary coverage was in fact offered. The CONGRESSIONAL RECORD shows that I voted for it. The CONGRESSIONAL RECORD also shows that I stated that if Senators such as those which Common Cause has now labeled as its heroes truly wanted to pass a good public financing bill, they would accept the primary coverage amendment. My RECORD statement follows:

> Mr. President, I rise in strong support of the amendment of the Senator from Oregon.
>
> I have believed that the right kind of public financing could make significant improvements in the conduct of our elections by reducing the impact of big money and special interest money, and by giving our people fairer and better informed choices.
>
> But it is vitally important that the public financing bill we enact is the right one. If we enact a bad bill, the best we can hope for is that the idea of public financing will be discredited and the law repealed after one or two elections. The worst that can happen is that the law will favor one group over another, or will entrench incumbents, or will otherwise warp the electoral process in a way that the incumbent party is happy to make it permanent.
>
> Therefore it is essential that the Senate conduct full debate on this bill, carefully consider all amendments, and make sure any bill we approve is the right bill for America. The bill in its present form is badly flawed. There are a number of serious problems with it. Certainly one of the most serious is its failure to provide public financing coverage for primary elections. Public financing of Presidential elections pushed special interest money into congressional elections. And this bill, in its present form, would now push that special interest money into the primaries. In a primary the special interest money is not going to take a chance opposing an incumbent. So the present money edge already enjoyed by incumbents will become even greater.
>
> Therefore, Mr. President, I believe it is imperative that we adopt the amendment of the Senator from Oregon. I urge that my colleagues support it if they are serious about getting a good public financing bill passed rather than one which will give incumbents a special interest edge at public expense.

The amendment was defeated 56 to 37. It was after this vote, and in large part because of it, that I opposed cloture on a faulty bill.

What is so tragic is that these paid Common Cause lobbyists are supplying Members, who rely upon them for accurate information, with not only misleading but sometimes totally inaccurate reports and at the same time smearing Senators with whom they disagree. It is little wonder in my mind that Common Cause, Washington, is no longer held in the high regard it once was by many Members of Congress, because of such tactics. I think this sort of behavior is grossly unfair to the thousands of members of Common Cause who have put their faith and their dues behind Common Cause.

Mr. President, I appreciate the chance to set the record straight and to correct the misinformation circulated to the media and to trusting Common Cause members by their Washington staff.

CONGRATULATIONS TO CHARLIE FERRIS

Mr. PELL. Mr. President, on Monday, October 17, Charles D. Ferris will be sworn in as Chairman of the Federal Communications Commission. I take this opportunity to express my great pleasure at the appointment of Charles Ferris to this position and to extend to him my hearty congratulations.

The Federal Communications Commission plays an exceptionally important role in our national life, and in the lives of individual citizens. Interstate communications by telephone, telegram, radio, and television, via wires, the airwaves, and satellites, are a part of the daily lives of nearly every American. With constantly improving and more sophisticated technology, interstate communications will be playing an even more important role in our daily lives in the coming years.

The Federal Communications Commission has the heavy responsibility of assuring that our Nation is provided the best interstate communications system possible by our private communications industry. The Commission also has the responsibility of assuring that the public interest is given first and foremost consideration in our national communications policy.

Having worked with Charlie Ferris during his years as chief counsel of the Senate Democratic policy committee, I know he will do a superb job for the American people as Chairman of the FCC. He is an extremely intelligent and able man with a strong dedication and sensitivity to the public interest.

The American people will be well served by his chairmanship of the FCC. I congratulate him and look forward with pleasure to his chairmanship.

AN ASSESSMENT OF THE CARTER ADMINISTRATION'S PROPOSED ENERGY PROGRAM

Mr. HANSEN. Mr. President, in August, Mr. John Hill, former Deputy Administrator of the Federal Energy Administration who is now a vice president of F. Eberstadt & Co., Inc., spoke to the American Bar Association in Chicago, Ill. assessing the Carter administration's proposed energy program.

Mr. Hill very succinctly draws attention to one of the major fallouts that is occurring, because of the nature of the President's energy package. The Government under the Carter program is not a sharer of risks, rather it is a significant part of the risk that industry and consumers face in making choices to help solve the national energy problem. This

country cannot succeed in its task of meeting the grave energy problems when the Government itself becomes the major cause of uncertainty. I commend this address to my colleagues on the eve of the announcement of Senate and House conferees who will address these issues in conference, and I ask unanimous consent that it be printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

AN ASSESSMENT OF THE CARTER ADMINISTRATION'S PROPOSED ENERGY PROGRAM

I appreciate this opportunity to be here today to address this distinguished audience on the subject of our nation's energy future. I frankly must admit that I have not seen so many lawyers under one roof since my days at FEA and the meetings I used to have with our General Counsel's office to finalize rule-makings. And the number is sure to grow. Although this room appears to be capable of holding at least a thousand persons, it will not be large enough to hold the Energy and Natural Resources Section of the ABA within five years if Washington follows the path outlined by the President. By 1982 this group may have to assemble at Wrigley Field.

My task here today is to provide my comments on the President's proposed energy program, much of which—curiously enough—passed the House of Representatives last Friday evening in what must stand as some kind of a speed record for that disjointed, highly spirited body. This is not an easy task, given the program's complexity and the fact that I am supposed to limit my remarks to 30 minutes, but let me give it a try.

Like Mr. Carter, I believe that the need to reduce our dependence on imported energy is not only a valid objective, but also one that is absolutely essential to our future well-being:

(1) Energy is central to our national security. If our energy supplies are not secure, we are:

(a) Neither secure as a nation;

(b) Nor ultimately free, either to make choices at home or to pursue our foreign policy objectives as we define them.

(2) Energy is central to economic stability and well-being. If our energy supplies are not secure, our economy is not secure and future growth is in doubt.

Against this general consensus, the immediate question at hand is whether or not the Carter program will reduce our dependence on foreign oil; whether or not it will remove the threat of current trends to our economic future and our national security.

In addressing this question, I should note that much of what I have to say here today is the result of some calm reflection on the nation's energy and economic situation that has occurred since I left Washington last year—the type of calm reflection that one never has the chance to do while immersed in the rough and tumble of our nation's capital. To the extent that I am critical of parts of the Carter program, I must acknowledge that many of the same criticisms apply as well to parts of the Ford program of which I was a part—in both its design and its marketing. Recognizing errors in one's past efforts, however, while not easy, is the price of calm reflection—of continually reassessing issues and where one stands.

In approaching the Carter program, let me start with some "descriptive" observations.

(1) The proposed program is long—Initially 580 pages as it left the White House last April and even longer as it left the House of Representatives last Friday night.

(2) The proposed program is comprehensive—No stone is left unturned. It addresses (through taxes, regulations, appropriations—all the tools of government) everything there is to address, including: cars; airplanes; busses; boats; highways; television sets; refrigerators; irons; air conditioners; heating systems in Federal office buildings; big oil companies; small oil companies; air quality; coal; nuclear power; bicycles; refineries; the North Slope; the poor; the rich; international shipping operations; colleges and universities; farmers; utilities; the OCS; hair dryers; steel production; benzene and toluene; trucks; houses; solar energy; geothermal; state regulatory commissions; competition with the petroleum industry; old oil; new oil; "new" new oil; SNG; plutonium, and so on, to name only a few.

(3) Besides being long and comprehensive, the proposed program is also quantitative and precise—If enacted into law, material provided by the White House indicates that:

(a) Imports will be reduced to 6 million barrels per day by 1985—not 7, not 5.3, but 6;

(b) 4.6 million barrels per day—not 4 or 5 or about 5, but 4.6—of oil imports will be saved by 1985;

(c) GNP will be increased by 0.7% by 1978 and 0.4% by 1985 (these estimates, I might note, have been revised 4 or 5 times since April 20, but the same precision of 10ths of percentage points is always there);

(d) Cars getting 27.0–28.0 mpg will get a rebate of $299 in 1978, $259 in 1980 and $57 in 1985, a perfect curve of point estimates demonstrating where the consumer will cross-over;

(c) Fuel bills for homeowners will be 9% less in 1985 in New England, 11% less in New York, 14% less in the Southwest, and 6% in the Northwest.

Everything will be better with this program and we know how much better to the first decimal point.

(4) Besides being long, comprehensive, quantitative and precise, the program is economically staggering—It will raise billions of dollars of revenues for the U.S. Treasury between now and 1985. Part of the additional revenues will be returned to citizens through a precise formula; the rest—and apparently a far greater proportion—will be used to finance the pursuit of other objectives considered to be politically desirable in today's Washington. In addition to the large revenue or income redistribution aspects of the program, it is also economically staggering in terms of the degree of proposed intervention into every corner—every nook and cranny—of our national economy: autos, transportation, appliances, housing, industrial production, agriculture, etc. Virtually everything sold in commerce will have to be redesigned or revalued; materials competition and substitution will be the order of the day. Some plants will expand; others will close. Some will win, some will lose. We don't know who they are yet; neither the White House nor the House of Representatives examined these questions. We don't have estimates to the first decimal point for the bad news, but, we will find out in due course.

Given these descriptive attributes—the laudable goals and objectives, the program's comprehensiveness and length, its quantitative underpinnings and precision, and its staggering, but largely unknown, economic implications, what, we may ask, will the program do? If enacted, what will be achieved? After jumping through all of these hoops, what will the world look like 5–10 years down the road when the dust has settled? Let me briefly suggest first what the program will not do.

Of some importance, I think, is the difficult fact that in spite of all its complexity, its precision and its quantitative trappings, the program will not achieve the intended or proposed goal of reducing our oil imports to 6 million barrels per day by 1985. I am not the first (nor probably the last) to suggest this little piece of obtrusive reality. The Library of Congress has drawn the same conclusion; the Congressional Budget Office has drawn the same conclusion; virtually every economist I know who has taken the time to examine the question has drawn the same conclusion.

The reasons for this outcome are many. They include problems with the Administration's demand estimates; problems with the Administration's supply estimates; and perhaps, most important, an almost total lack of understanding of the impact of the role of government envisioned by the Carter program on our economy and individual corporations.

The FEA demand model (as modified at the last minute by expert consultants working with Mr. Schlesinger) is probably as sophisticated as any energy demand model around. I would pit it against those of MIT, the Ford Foundation, Standard of Indiana and Exxon. Although it is "state of the art," the only thing we know for certain about the model is that it is wrong—at least in its short-term mode. People simply cannot—and do not—rearrange their lives and their capital over the near term in response to price changes in something as fundamental as energy. The actual data for 1975 and 1976—which reflected much higher consumption figures than should have been the case with the FEA model—prove this to be the case. Equally troubling for the Administration's demand estimates is a new twist in energy economics. According to FEA data, homeowners will pay less for energy under the Carter program than they would without the program—and they will use less. A backward sloping demand curve? I doubt it, and to the extent that I am right, the Carter program will not achieve its demand projections.

There are even greater problems on the supply side, particularly in light of changes that must have been introduced into the FEA model by the Schlesinger team. In the case of oil, for example, we are told that the Carter program will produce more oil than the existing regulatory regime but that revenues to be received by producers from the Carter program will be less than existing law. Less revenues to producers, but more oil. This is, I suggest, not only counter-intuitive; it is also bad economics. Unless there is something unique about oil, it strains the imagination to believe that lower industry earnings over the next five years will produce more oil than higher industry earnings.

Apart from these general econometric problems regarding the Administration's supply and demand curves, there are other problems with the Administration's supply estimates of political and institutional nature. As best I can tell from material provided by the Administration and from discussions with various policy makers, their estimates regarding oil production on the OCS are based on an extrapolation of past rates of activity modified to reflect their plans for Federal lease sales. This rate, I suggest, is overly optimistic. It does not take into account delays in OCS activity which will occur as a result of the OCS legislation now winding its way through Congress with the Administration's support. This legislation will require new institutions at the State and Federal level; these institutions will have to define and establish their role and their staffs; relationships between these institutions and the industry will have to be established; regulations will have to be promulgated. These developments will take time; they will generate conflicts that have to be resolved. OCS exploration and development activity will be slowed down accordingly.

My concern here is not to debate the merits of the legislation; it may be good or

bad, legitimate or illegitimate. Rather, my concern is simply to request that policy makers recognize the "real world" delays associated with this kind of legislation and adjust their production estimates accordingly. It might even be prudent to build in some delays related to litigation that might potentially be generated by this legislation. New law is being established here and new laws (at least in the recent past) have been fertile ground for those seeking to block development of energy resources or industrial activities.

A similar problem exists with the Administration's supply estimates for coal between now and 1985—estimates based on (1) the assumption, perhaps "evangelical faith" is a better term, that we can have our environmental cake and eat it too and (2) on a complete lack of recognition of the constraints imposed on expanded coal utilization by declining labor productivity, internal problems within the UMW, and woefully inadequate transportation systems. The new amendments to the Clean Air Act regarding non-significant deterioration and the new surface mining law will impair the use of coal and delay its development for the same kinds of institutional and legal reasons noted above in the case of the OCS. To believe otherwise is to be totally ignorant of the events of the past decade.

Again, my concern is not to debate the merits or demerits of these bills. Rather, my concern is that the Administration has not reflected these realities in its estimates of coal production for 1985. In its rush to judgment, it has assumed these problems away. There is no "Murphy's Law" in their religion. I suggest, however, that we will know better in 1985 when coal production is far below 1.2 billion tons per year; when projects are tied up all over the U.S. in the courts or in administrative agencies. The realities of the real world will persist; they cannot be assumed away, no matter how earnest our faith.

I could continue this list of problems indefinitely, but I think my point is clear: the supply and demand expectations of the program's designers are much too optimistic. The program will not reduce imports to 6 million barrels per day by 1985. If I were a betting man, I would put my money on something closer to 10.

If, as I believe, the program will not achieve its energy objectives, what will it achieve? What will be the fruits of this amazing array of government laws, regulations, taxes, and exhortations? The list is long, but let me offer a few of the more critical results of the Carter program.

First, the program will help finance welfare reform, national health insurance, and perhaps even tax reform. And, if they use their energy revenues wisely, the decision makers may even be able to do all of these things while helping the President meet his policy objective of balancing the Federal budget by 1980.

Second, the program will encourage unemployment and inflation by first making much of the nation's plant and equipment both unproductive and non-competitive, and second, by diverting billions of dollars of purchasing power from the consumer to nonproductive ends.

Third, it will create an even larger bureaucracy to interpret the laws, codify the necessary regulations, and carry out the necessary compliance. Several lawyers I know in Washington are frankly ecstatic about the program. They are probably right—the program's real title perhaps ought to be the "Lawyers Relief Act of 1977."

Fourth, the program will end the debate in the energy area about who—to use a concept developed by Lewis Lapham in his article "The Energy Debacle" in the August 1977 issue of Harpers—"controls buying and selling in the company store." Instead of the merchant class (the energy industry and the makers of energy consuming products) and the consumer interacting in the marketplace to define who sells what and at what price, this function will now be performed by the technocratic class—as Lapham calls them, the "ambitious mandarins" of the public institutions.

Fifth, the program will subsidize, at the expense of the consumer, at least two labor unions—the UMW and the Maritime Workers.

And finally, the program will create the need for another crash national energy program—probably just after the 1980 elections—to solve the energy problems that this program will not solve.

If these are some of the implications of the President's energy program, where, we may ask, did it go astray? This is, again, a complex question on which everyone seems to have a view. Although cognizant of this complexity let me offer my own observations in highly abbreviated form.

I am convinced, for starters, that the program and its designers started in the wrong place. Instead of starting from the basic realities of the dynamics of energy and economic behaviour, the Carter Administration appears to have started with:

(1) A static, almost accounting-like view of energy resource availability and utilization, and

(2) A moralistic, transcendental view of man—a view which sees man as wasteful, destructive to his surroundings, and essentially incapable of acting to insure his own well being.

From this basic metaphysical posture, the President and his advisors proceeded to define how citizens ought to behave if they are to stand upright before their god. With this vision in hand, it was basically a straightforward step to establish those laws and regulations seemingly capable of engineering all of us towards our collective salvation—towards, to use a term prevalent in Washington today, a collective rebirth. In short, the program has little to do with energy and a lot to do with morality and 17th century social philosophy.

A second reason for the fact that the Carter program will achieve a series of unintended results—and not the intended objectives—centers around the Administration's belief in the government's ability to engineer even the most minute decisions in the market place and to do so on the basis of econometric models—the classical tool of modern day evangelists, regardless of their economic or political persuasion, regardless of their particular cause.

Most people, I find, don't understand economic models. The common view is that they not only tell us about the future, but that they do so with precision. The truth is that econometric models are nothing more than a complex set of equations which try to predict the future on the basis of statistical correlations perceived—or believed to be perceived—in the past. As such, they are useful—but they are extremely limited, particularly in the energy area where past data is spotty and there is no historical experience that corresponds to today's world. As you know, energy prices generally declined in real terms between 1935 and 1970. A data base in which to look for correlations involving rising energy prices simply does not exist.

The issue here is not that the Carter Administration has its econometric models; I am glad they do. Nor is my concern that they turned on their computers to generate their energy policy; they obviously didn't. My concern is the strength of conviction they appear to hold in the validity of their models—not only as a justifier of "truth," but also to the exclusion of all other models. Senator Bob Packwood was on to something when he asked Mr. Schlesinger last week if "anyone's estimates had any validity other than their (the Administration's) estimates." Knowing what I know about econometric models in general, and the Administration's in particular, it frankly makes me nervous to see the degree to which they believe in what their models say.

The concern is perhaps best described in an interesting article by Scotting Reston during the height of the Viet Nam conflict reflecting on a briefing by Secretary McNamara he had attended several days before. It seems that Mr. McNamara had his models. These models had their input data (body counts, tons of bombs dropped, number of mission's flown, etc. etc.) and they had their output curves. When the curves converged, the war apparently would be at an end, or, at minimum, in the final mopping-up stages. Mr. McNamara demonstrated great skill with the data—the estimates—the curves, and apparently was even willing to identify the point where the U.S. was at that time on the curves. Mr. Reston was very impressed by the display—the intellectual grasp, the scientific quality of the presentation. But when it was over, he had a simple question: This is all very impressive but does it mean anything? Does all of this data and these curves have any relationship to the reality of the jungles or the aspirations of the Vietnamese, both northern and southern? This was in 1965—and as we now know, the answer was NO. No, the models used to predict the future ulimately had no relationship to reality. Like those responsible for the conduct of the war, today's energy administrators have their systematic models; they have their data and their forecasts. Unfortunately, they also appear to have the same belief in their models as Mr. McNamara had in his. Like before, the results, in fact, will not be the same as those predicted in prophecy—of that I am absolutely certain.

Let me close this part of my comments by noting what I consider to be perhaps the chief reason why the Carter program will not achieve its intended objectives. The fatal flaw, in my mind, centers around the basic role it defines for government, a subject I have touched upon briefly before. Historically, government has generally viewed its role in solving national economic problems (which the energy problem is) as one of taking or sharing risks with individuals or private corporations. This was the case in the government's response to the depression, to World War II, to the economic pause of the late 1950's and early 1960's, to Sputnik and, to some extent, to the problems of urban decay. With the possible exception of urban decay, I would judge this approach to have been reasonably successful in the past. We came out of the depression; we survived the war economically intact; we moved the economy to new plateaus in the 1960's; we went to the moon.

We see another role for government in the Carter energy program however. Instead of being a sharer of risks, government is now a significant part of the risk that industry and consumers face in making choices to help solve the national energy problem. Instead of helping to facilitate the adjustment, it is now proposed that government become the primary agent for punishing errant behavior. The government has not acted to help remove uncertainty; it has become a major cause of uncertainty itself. The implications of this fact are not difficult to discern. As might be expected, people are already acting to minimize risks in the face of this governmental role. Capital investments are being deferred; shorter pay-back periods are being demanded on investments; everyone is trying to reduce their exposure to government's next move, whatever it may be. Few are thinking boldly or taking risks.

Such a mode, in my mind, is not conducive to solving our nation's energy problem—to

achieving Mr. Carter's 6 million barrels per day in 1985. If anything, it probably is only conducive to higher levels of imports by 1985 than if we did nothing.

These observations may sound overly cynical, but I hope that such a characterization will not be allowed to obscure the possibility that they may indeed be valid. If history is any guide, I think these observations have as much chance of being valid in 1985 when we are looking back as any others. It was certainly true with Prohibition—another moral venture. It was true with Viet Nam when David Halberstam's "best and brightest" came to town with their moral vision about Southeast Asia and their models and their intentions. It was true of the War on Poverty. After nine years of involvement in Washington, most of them spent trying to do the same things that Mr. Schlesinger and his staff are now trying to do and with the same tools, models, and hope, I am frankly skeptical about government's ability to engineer fine-tuned solutions to specific problems. In fact, I think Thoreau was right when he told us that we should run for our lives if someone from government drops by to tell us that for only a small sum, the government can solve all of our problems—can take away all of our worries. Clearly, history demonstrates the fact that government will not be particularly successful when it sets out to re-engineer its citizens into a morally upright stance on the basis of even the most noble of intentions and the best of intelligence.

I do not think, by the way, that the Carter program and the implications I have drawn should lead one to adopt any doomsday-type attitudes. I do not see the end of the West or a permanent decline in the economy—at least as a result of the Carter energy program. For one thing, economic forces are extremely powerful—even against Washington, and our economy is amazingly resilient—even against Washington. Government can facilitate or frustrate but it cannot reverse or redefine fundamental economic forces which are working in our favor. Secondly, we have a robust and creative society. People are continually going around creating things, solving problems, adjusting and persevering; and they are doing so with neither the permission nor the encouragement of their government. And third, there is still some chance that the more troublesome aspects of the Carter program will be changed while leaving the good parts (and there are a number of good parts) intact. There are some people, I hear, in the Senate that believe that government can often help solve problems better if it does so through simple means—through simple measures that are based in experience and not in morality. If their number is large, we may, in fact, have cause for joy by the end of the year.

AMERICAN JEWISH CONGRESS SUPPORTS PANAMA CANAL TREATIES

Mr. CRANSTON. Mr. President, the American Jewish Congress recently called for "speedy ratification" of the Panama Canal Treaties, noting that the treaties "securely protect the interests of the United States and guarantee continued efficient operation of the canal."

The American Jewish Congress is a national human rights organization founded in 1916 by the revered Louis Brandeis, Rabbi Stephen Wise, and other American Jews to strengthen Jewish life in America and help Israel's people live in dignity and peace. The good work of this organization is well known in my State of California.

Rabbi Arthur Hertzberg, president of the Congress, made a fine statement concerning the treaties, and I ask unanimous consent for his statement to be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

POSITION OF THE AMERICAN JEWISH CONGRESS ON RATIFICATION OF THE PANAMA CANAL TREATIES

The American Jewish Congress welcomes the recent signing of the proposed treaties between the United States and Panama. This occasion can serve as an admirable example and precedent demonstrating that even in difficult and complicated situations, direct negotiations between conflicting parties with a sincere desire to avoid confrontation can result in compromise and resolution.

The proffered treaties acknowledge and take account of the sovereignty of the Republic of Panama over the Canal Zone. At the same time they securely protect the interests of the United States and guarantee continued efficient operation of the Canal. Most important, they carefully assure the long-term neutrality of the Canal and its continued, unobstructed availability for use by the United States and all other nations.

The American Jewish Congress supports the proposed treaties as correctly reflecting the legitimate aspirations, goals and obligations of both our own country and the Republic of Panama. We urge the speedy ratification of the pacts by the Senate, confident that such action will underscore our nation's long-held commitment to the preservation of peace and the protection of the rights of sovereignty of all states.

FUEL FROM AGRICULTURAL PRODUCTION

Mr. DOLE. Mr. President, I am pleased to be a cosponsor of the Alcohol Fuel Incentive Act S. 2201. At a time when we face an emergency in fuel supply shortages, we must do everything possible to increase our own supply and to derive benefit from our ability to produce in the agriculture and forestry sectors great quantities of renewable resources. Our present surplus situation in wheat, for example, has caused economic disaster in the wheat producing area because of resulting low prices. The gasahol idea must be advanced in every way possible.

This Senator from Kansas was one of the supporters of the provision in the farm bill to carry out research on this gasahol idea and to establish pilot plants to produce alcohol from agricultural products. My amendment to the energy bill, providing a 4-cent gallon tax exemption on fuel containing at least 10 percent alcohol, should also be an economic incentive for alcohol production.

I have some reservations about the implementation of this proposal. We must be careful not to increase the production of a commodity that is already in surplus which is the reason for a crop set-aside requirement in the first place. If an increase in production of a crop that is not in surplus can be encouraged for the purpose of producing alcohol then everybody benefits. If, for instance, trees could be planted on set-aside acres without penalty to the farmers, we would be encouraging a crop that is a good converter to alcohol and not in surplus.

Plants to make alcohol from these materials may take about 3 years to construct, so the sooner we pass legislation to encourage alcohol utilization as a fuel the sooner we will help alleviate our energy shortage problem.

THE PANAMA CANAL TREATIES

Mr. SPARKMAN. Mr. President, the Committee on Foreign Relations continued hearings on the Panama Canal treaties today receiving testimony from the following witnesses: Lane Kirkland, AFL–CIO, appearing on behalf of George Meany; Martin Gerber, United Auto Workers; Panelists from the Canal Zone: Alfred J. Graham, AFL–CIO, Canal Zone Central Labor Union & Metal Trades Council; Capt. J. R. Williams, Panama Canal Pilots' Association; Rene C. Lioeanjie, Central & South America National Maritime Union; John Fred Schlafly, American Council for World Freedom; Gary L. Jarmin, The American Conservative Union; Dr. Herminio Portell-Vila, American Security Council; Hon. Hamilton Fish, former Congressman from New York.

I ask unanimous consent that the prepared text of the statements of these witnesses be printed in the RECORD.

There being no objection, the statements were ordered to be printed in the RECORD, as follows:

STATEMENT OF GEORGE MEANY

Mr. Chairman, I appreciate this opportunity to appear before you to urge approval by the Senate of the Panama Canal treaties.

We of the AFL–CIO have a vital interest in these treaties both as citizens, concerned with the security and welfare of our country, and as trade unionists, representing thousands of workers employed in the Canal Zone.

At its last meeting, on August 29 and 30, the AFL–CIO Executive Council discussed the Panama Canal treaties at some length. Following this discussion and analysis of the summary terms of the treaties, the Council unanimously adopted the following statement:

"After thirteen years of on-again, off-again negotiations between the governments of the United States and Panama, two treaties have been agreed to which radically alter the Panama Canal Treaty of 1903.

"According to the Joint Chiefs of Staff, the treaties of 1977 provide for continuing freedom of action of the United States to maintain neutrality of the Canal and further guarantee U.S. access and rights to use all land and water areas and installations necessary for the defense of the Canal through the year 2000.

"Job security and rights of workers in the Canal Zone, both U.S. and Panamanian, will be assured. Since 1949, the AFL has called for justice in the Canal Zone in arguing for equal pay for equal work, so that Panamanian citizens would not be exploited through a double standard of remuneration. Through the years, particularly during the long and arduous periods of negotiations groping toward a new treaty, the AFL–CIO has maintained a vigilant stance concerning workers' rights in the Canal Zone and the safekeeping of the elements of U.S. defense inherent in the Panama Canal Agreement.

"We are satisfied that the new treaties cover both considerations adequately. U.S. citizens now employed in the Canal Zone will be protected and remunerated as U.S. government employees and will be offered new benefits tailored to fit the new treaty characteristics, such as early retirement.

"After reviewing the summary of the new treaties, and based on the assumption that it is an accurate reflection of the final treaty language, which is not yet available, the

AFL–CIO Executive Council views the two Panama Canal Treaties guaranteeing the permanent neutrality of the Canal and the operation and defense of the Canal through the year 2000, as instruments worthy of support by U.S. citizens and their elected representatives. These new instruments constitute a just and enduring basis for harmony in the Western Hemisphere, and we support their ratification by the Senate."

Mr. Chairman, our position is based on practical grounds, in the light of the circumstances of the modern world, and the conviction that we have more to gain today, in terms of the broad interests and ideals of the United States, then we have to lose, by approval of these treaties.

In the public debate of recent weeks over the wisdom of these treaties, some arguments have drawn attention to the dubious circumstances surrounding the original treaty of 1903. I do not propose to rehash that question, for it has no bearing on our position.

While historically interesting, revisionist aspersions on the role of this country in a by-gone era are scarcely relevant to the issues actually before you. Adverse judgments by this generation on the actions of another generation in another world, three-quarters of a century ago, may excite the moralism of some but they have little persuasive appeal to our members today. Nor are latter-day efforts to portray Theodore Roosevelt as some sort of an internatonal brigand likely to rally broad public support behind these treaties.

In fact, the Panama Canal treaty was renegotiated twice, in 1936 and in 1955, with duly constituted Panamanian governments, with significant modifications in its terms and increases in annual compensation to Panama.

In no way should the treaties now before you be painted or regarded as acts of atonement for American "guilt", for we are guilty of nothing. On the contrary, the construction and operation of the Panama Canal by the United States was and is an extraordinary service to humanity and to all the maritime nations of the world. The American people have every right and reason to continue to regard this as a proud chapter in our history, as has been taught to school children for generations. And I, for one, deeply deplore and resent the campaign by Latin American demagogues, and by our own guilt-mongers, to condemn it as a locus of American "imperialism" or "racism", as was put forward at the ILO last June.

But the time has now come to bring to the fore another aspect of American pride; our pride in the fact that we are not and do not want to become an old-time colonial power, clutching a sort of cloudy, semi-sovereignty over this strip of territory, for its own sake, like some faded banner of past glory.

Our real interest in this canal is simple and concrete and derives from its only real purpose and function. The function of the Panama Canal is to offer transit to the vessels of all nations (which can fit into its locks) from the Atlantic Ocean to the Pacific Ocean. That is all.

Mr. Chairman, I accept as valid the assurances by the President of the United States, supported by the Secretaries of Defense and State and by the Joint Chiefs of Staff, that the terms of the treaties afford adequate guarantees that this function will continue to be performed without let or hindrance and that there is no serious risk, as a consequence of these treaties, that American vessels, commercial or military, will ever be deprived of full access to this vital passageway between the oceans. I have no reason, in the face of those solemn and expert assurances, to interpose any less-informed judgment to the contrary.

Beyond that, I believe that the continued assertion of sovereignty, for no definiable further reason, over a narrow strip of land, inside and dividing the territory of another country, would not, in the modern world, be an asset, but could on the other hand, be a liability.

Mr. Chairman, speaking for the AFL–CIO, we therefore support and strongly urge the approval of the Panama Canal treaties.

STATEMENT OF MARTIN GERBER

INTRODUCTION

My name is Martin Gerber. I am a Vice President of the United States Automobile, Aerospace and Agricultural Implement Workers of America (UAW) and I office at 800 East Jefferson Ave., Detroit, Michigan 48214. I am accompanied by Stephen I. Schlossberg, UAW Director of Government and Public Affairs.

The UAW is the largest industrial union in the world. We represent approximately a million and a half workers and their families. Our members are concentrated mainly in the automobile, aerospace, and agricultural implement industries. Taken together with their wives and children, UAW represents more than 4½ million persons throughout the United States and Canada. These workers are organized into some 1400 Local, self-governing unions.

The UAW does much more than bargain for its members. It is active in world, national and civil affairs and citizenship and legislative activities, conducts schools and camps for actve members, and drop-in centers for retired members. We are, by mandate of our constitution and tradition, deeply involved in the larger issues of the quality of life of war and peace and morality in foreign policy.

UAW'S PARTICULAR INTEREST IN THE CANAL ISSUE

The UAW takes its position in favor of the Canal Treaties as a group of United States citizens interested in furthering and protecting United States interests in the Canal and in the Western Hemisphere. As you probably are aware, we do not have members of our union working on a regular basis in the Canal Zone. Therefore, we do not come to you as a special interest group. Rather, our concern is on a much larger scale. We are deeply concerned that the United States project an image abroad which truly reflects the nature of our country and the fundamental principles for which this nation has stood for the past two centuries. We are also concerned with maintaining efficient international transportation routes to speed international trade, and with our defense posture. Our examination indicates that the Treaties now before you protect our interests in all of these areas.

They represent a giant step forward in the relationships which the United States maintains not only with the Republic of Panama but with all of Latin American and indeed with the entire Third World. They show that the United States does not wish to deport itself as the world's larger nations did earlier in this century. Rather it is the intention of the United States to establish relationships with other countries based on fairness and mutual respect. It is not our intention to force our views on other countries nor to make them supine before us. We seek equality and justice, not superiority in our relations with others. These Treaties show that we both believe in and practice the fundamental principles on which our country was founded and under which we have lived since our own revolution.

The UAW International Executive Board acted in 1975 on the issue on the Panama Canal, urging then that the United States control over the Canal be phased out over a period of years. A similar resolution was passed by our more than 3,000 delegates at the 25th Constitutional Convention in May of this year. These resolutions were not adopted in a vacuum. They were based on our considered judgment as to what was morally right and in the best interests of the United States and on our findings growing out of constant and ongoing relationship with free trade unionists in Latin America, many of whom have suffered persecution, and free trade unionists all over the world.

August 30th of this year, our International Executive Board unanimously passed the following resolution:

"After 13 difficult years of negotiation, the United States and Panama have reached agreement on a treaty that would, over an agreed upon phase-out period, cede to Panama, between now and the year 2000, full sovereignty over the Panama Canal.

"The UAW supports this long overdue diplomatic effort and finds it consistent with the position we adopted in September, 1975, that U.S. control over the Canal should be phased out over an appropriate period. We urge the Senate to ratify this treaty promptly.

"It is clear that the draft agreement provides fully for the defense and safety of the Un'ted States, as well as the Canal itself and for labor and commercial interests connected with the operation of the Canal.

"We are assured by no less an authority than the Joint Chiefs of Staff that the proposed treaty gives the United States the necessary rights and powers to defend the Canal, guarantees our complete access to it and preserves its vital neutrality. We have even been assured of a role in the building of any new sea level canals in Panama. United States Navy and supply ships will have priority, when necessary, in the use of the Canal. We will, under these understandings, maintain naval bases there until the year 2000 and, moreover, the power, after the year 2000 to protect the integrity of the Canal.

"It is appropriate that the United States, a nation which was founded in a revolt against colonialism, takes this cooperative initiative to end the Canal Zone's status as an American colony.

"The Isthmian Treaty of 1903, which created the colonial enclave known as the Canal Zone, was signed between the United States and a Frenchman, Phillippe Bunau-Varilla, without participation by Panama.

"The negotiations just completed should, when the treaty is ratified, not only improve relations with Panama significantly, but with Latin American generally. Many countries there have regarded the U.S. conduct in Panama as an obsolete relic of the past.

"This treaty could lead to a new era of cooperation and stabiility. It proves that United States initiatives in such vital areas of life as human rights are not mere rhetoric.

"The Panama Canal Company, under the treaty, will be operated by a board of directors consisting of five Americans and four Panamanians and administered by an American with a Panamanian deputy until 1990, when the positions would be reversed. Thus, for the immediate future and beyond, the American presence will be constructive and continuing.

"Those employed by the Panama Canal Company and/or the American government, both American and Panamanian, would continue to work in the Canal Zone and would have complete protection, including benefits tailored to the special circumstances presented by the treaty. They would have the same rights and privileges as U.S. government employees overseas, although three years from ratification they would be subject to some Panamanian laws.

"The U.S. Senate should reject the unfounded propaganda barrage from the far right and those who have been misinformed and misled by the reactionaries.

"The Senate should overwhelmingly approve the proposed treaty because it adequately provides for U.S. interests as well as those of Panama and the rest of the world."

We do not agree wth those who say that

ending what we see as colonialism in Panama is a sign of weakness. On the contrary, we view the United States phasing out of control over the Canal Zone and the Canal—the tearing down of the fences and the ceding of full sovereignty over its land to a small nation—as a signal of strength, maturity, and enlightened self-interest. Only a major, secure power could make such a gesture. It is evidence of the internal and external national will to practice what we preach and to walk honorably in the world. It is those who are independently strong and powerful who can afford to do what is right. Doing what is right in the case happens also to be in our own self interest. If we are to continue to lead the free world, we must do so by commanding the respect and admiration of the world's nations and peoples—not by flaunting our size, wealth and power. International politics is not a game of virility and manhood testing. It is the pursuit of national self-interest, in the broadest sense, by means of reason and common sense.

A recent article in the UAW publication, Solidarity, contains two significant interviews with UAW members. The article reports:

"Manuel Felix, 50, a member of Local 1183 in Newark, Del., recalled that 'the original treaty was signed by a government that only lasted two weeks. Most major governments of the world have given up direct colonialism, and we shouldn't hang on to it. The Panamanians must have the Canal to feel they are no longer a colony.

" 'Being from Mexico, I realize how they feel. From what I've read, our rights are fully protected by the treaty. If we don't ratify the treaty, world opinion will severely castigate us as a colonial power . . . and if you light a fuse, you get an explosion.' "

"His views were echoed by Dave Nicholson, 26, a committeeman for UAW Local 1975, Ypsilanti, Mich. 'That land belonged to the people of what is now Panama before we took it, and it must be returned. The Panamanians have got the short end of the stick. Strategically, the canal is almost indefensible. Economically, it's rapidly being outmoded. The big new supertankers just can't get through it. Older shipping can continue to use the canal under the terms of the treaty. Our rights would be the same as any other country's That's fine.

" 'A good friend of mine was raised in the Canal Zone. He says most Panamanians look at our presence there as U.S. manipulation of their political system.' "

NATIONAL DEFENSE OF THE U.S.

As an organization, we are concerned with the defense of our country. We believe that the United States must be militarily strong if it is to maintain a credible profile abroad. The treaties fully protect the United States defense interests in the Panama Canal. Our naval vessels will continue to be able to transit the Canal both during the time that we are responsible for its operation and the period thereafter.

This interest is, we believe better protected by the United States making certain changes with respect to the Canal's administration to take into account Panama's increasing aspirations. Indeed, we believe that failure to do this will present a threat to our defense posture. Increasing hostility to our operation of the Canal will make our job more difficult and could, if that hostility should rise to greater levels, pose a threat to the effiecient functioning of the Canal.

There is no doubt that it is easier to protect the Canal against sabotage in a country with a friendly population than one in which a hostile people views our presence as an intrusion.

THE PERMANENT PROTECTION OF THE CANAL'S NEUTRALITY

We have heard much in the recent press of secret cables and of dispute as to the right of the United States, in perpetuity, to protect the neutrality of the Canal. I want now to present the UAW's view on that issue.

First of all, we respect and believe the President of the United States, the Secretary of State and the word of our military chiefs. We also believe the words of our trusted negotiators. Second, we believe in the inherent power of the United States, and the public statements our leaders have made absolutely commit us and, indeed, empower us to guarantee, permanently, that neutrality. Third, General Torrijos' own words lay this contention to rest. He has said that the Canal will be permanently "under the protective umbrella of the Pentagon." But we cannot expect too much of the other side. They have their treaty haters and difficult constituencies with which to deal. They have face-saving needs which a mature political democracy should be able to understand.

Fourth, defending the Canal against international attack is a defense task neither the Panama nor U.S. forces specifically stationed in Panama could by themselves undertake successfully. In World War II we were prepared to defend the Canal in areas far removed from the Zone itself, keeping enemy craft away from its approaches. In the nuclear age, we must depend even more on our overall hemispheric and global military posture to deter a specific strategic attack.

Fifth, in terms of U.S. defense interests, perhaps the most important aspect of these treaties is what they don't do—they do not limit in any way our ability to draw upon our whole range of military options to act in defense of the canal in any way we find necessary, not only during the duration of the Panama Canal Treaty, but thereafter into the 21st century. As a practical matter, we can, will and must defend the neutrality of the Canal.

Finally, I am a negotiator and know something about negotiation. In the final analysis, the real agreement rests on the strength and integrity of the parties and on what is promised and not promised—not on the unilateral claim or disclaim of one person on the negotiating team of one side. No one familiar with labor negotiations takes seriously an effort by a member of a management or union team to undermine public opinion by trying to draw doubts around a sphere of understandings. Sometimes it is in the best interests of both parties and the common good not to dot every "i" and cross every "t". Some things depend on reality and the facts of life.

While I am not an international lawyer, I am a negotiator. My reading of the public discussion of the Neutrality Treaty fails to show that substantial differences exist. The Panamanians, we must understand, have a political problem with anything which smacks of the right of the United States to take any action within their territory after the expiration of the Panama Canal Treaty. The Neutrality Treaty I would point out does not speak of intervention. It speaks only of maintaining the regime of neutrality. Comments by the Panamanian negotiators which have been published in the press indicate that Panama understands that the United States intends to assure the continued neutrality of the Canal after the year 2000. Panama's only reservation concerns the possibility of United States intervention in Panamanian internal affairs. Given the history of our relations with Panama and with Latin America, that concern is understandable. Moreover, as a trade unionist, I know that in many Latin American countries the word "intervention" has a sinister meaning. When a totalitarian government intervenes in the unions, it takes them over.

We should not be alarmed by statements from the Panamanian side on this subject. Indeed the absence of comments would be remarkable. We can have no right to intervene in any country. That is clear from both the UN Charter and from the OAS Charter. But under the Neutrality Treaty we do have the right to maintain the regime of neutrality of the Panama Canal. Our commercial and defense interest in the Canal is protected by this provision. Panama does not dispute our right to maintain the regime of neutrality. Therefore, the controversy is much ado about nothing.

Similarly there has been much discussion about the concept of expeditious passage contained in Article 6 of the Neutrality Treaty. Panama's negotiators have made clear that this means the speediest possible transit. I submit that a more rapid trip through the Canal than that would be difficult to arrange. I will leave it to the lawyers to debate these questions on a more sophisticated level. I merely wish to point out that in practical terms the Neutrality Treaty meets the test of being both sufficiently broad to cover various possible situations while at the same time being sufficiently precise so as to leave no doubts about the intention of the drafters.

PROTECTION OF THE GOVERNMENT AND PANAMA CANAL COMPANY EMPLOYEES

We are assured that the treaties adequately protect the economic security of those who are United States Citizens and Panamanians who have given long years of service to our Government and the Corporation. Our conclusions on this score do not rely entirely on government assurances but on conversations of UAW officials with Zone union officials.

The treaty provides job security for employees whose jobs are transferred to Panama. The same terms and conditions of employment will apply, and special provisions have been made concerning health and retirement benefits.

Of course, employees who are displaced are also of great importance. They should not be victimized by treaty provisions. For these employees—and the numbers should be relatively small—various options are provided: placement in other U.S. Government jobs, assistance in finding private sector positions, relocation allowances. Also, in view of the unique circumstances, the U.S. will provide a special optional early retirement program to all employees of the Panama Canal Company and Canal Zone Government with liberalized entitlement and annuity provisions. This language is imprecise but I would hope that the implementing legislation will provide for retirement after 20 years of service with no reduction in annuity. I believe this is fair treatment to these employees who have worked hard to keep the Canal running efficiently and safely over the years. So from a labor point of view, we find the Treaty provides well for current employees who will remain with the Canal enterprise and who will be displaced.

COMMUNISM IN PANAMA

There has been much scare talk of the potential danger of Communist takeover of the Canal once the treaty is ratified. I am constrained to comment on that talk. I note, at the outset, that my information is that there are not many Communists in Panama.

I recently returned from Canada where I met and talked with one of the Separatist leaders in Quebec. Many dispassionate observers feel that the seccession of the Province of Quebec would be tragic for Canada and also for Quebec itself. There is, however, some disagreement on the issue. But there is little disagreement that the treatment of the French speaking majority by the English speaking minority over the years bred this kind of response. There is similar breeding

ground for dissension and internecine struggle in the history of Northern Ireland.

It has been said that those who don't learn by history are doomed to repeat it. If we remain as a foreign and chronic irritant, in short as a colonial, imperial power on the soil of Panama, continuing to fence off the country from the enclave, denying national dignity to the country, treating the Canal not as a resource we operate by treaty but as a personal possession, do we not by these attitudes and actions create a breeding ground for Communist and other totalitarian movements in Panama? We in the UAW have struggled with Communists over the years. We know that they generally oppose genuine reforms because the worse conditions are, the better their chances to grow and prosper.

Of course, no one can say with certainty what the future will bring, but reasonable people would have to agree that Communism in Panama would be deprived of a root issue upon which to build if the treaties are ratified. Conversely, a turn down would give the Communists a ready made and controlling issue to run with—not only in Panama, but all over Latin America.

The Senate should never forget that the Communists oppose the treaty. It is their people who are agitating in the streets of Panama against the treaty. Simply put, it is the Communists who are placing their bets on the emotionalism and the frenzy of the far right in this country. Doesn't that tell us something?

The most sensible course to set back the present Communism drive and to cut off the Communist future in Panama is to take away their main rallying cry by ratifying the treaties. In doing so, this country not only "sends a message" to Panama and to South America, it sends one to the Communists too.

NATIONALISM IN LATIN AMERICA

The single most powerful political sentiment in Latin America is not Communism, however, but the far more conservative passion of national pride . . . old-fashioned nationalism, just as it is in the U.S.A. Virtually all Latin Americans, irrespective of their political coloration, view the canal issue primarily in terms of "Yankee" respect for a small Central American republic.

Every Senator here—and in the Senate—understands deeply the meaning of American patriotism. Why then not extend in generosity and magnitude that same understanding to one of the smallest and militarily weak countries in the world—Panama?

Why not, in short, legitimize their own fierce devotion to country, to history, to culture and, finally, to belief in national pride?

BIPARTISANSHIP

The UAW headquarters is in Michigan. That state is our heartland. For that reason we take particular pride in the fact that spirit of Senator Vandenberg lives on.

It is true that the Republican National Committee and some of its leaders have joined the chorus of emotionalism and voted to oppose the treaties. But the spirit of bipartisanship in crucial foreign affairs decisions by this country is alive and well. Former President Ford and former Secretary of State Kissinger have shown the way to good sense bipartisanship in this delicate matter. They, along with other prominent Republicans such as the junior Senator from California have urged the ratification of these treaties. We are pleased too that such very conservative forces as those represented by the National Review and its editor, William Buckley have endorsed the treaties. Indeed, Mr. James Burnham writing in National Review has said:

"Judging by the probable consequences for our national securty and interest, it is time for us to leave. In fact, the weakest feature of the new treaty is its failure to get us out soon enough."

Burnham predicts that, if the treaty fails, "the aftermath would probably be bad, and might be very bad both for the country and for those responsible for the rejection."

Garry Wills, the Journalist, has reminded us of the words of Samuel Johnson, a great conservative which are appropriate in considering the Canal issue today. Mr. Wills wrote:

"The pride of power has destroyed armies to gain or to keep unprofitable possessions. Those are the words of Dr. Johnson in 1771. He was attacking the foolish zeal of Englishmen who wanted to wage war with Spain in order to assert not only the possession of the Falkland Islands but sovereignty as well.

"The case is uncannily similar to our Panama Canal controversy. Johnson, the great conservative, was merciless against those who confused 'shame of deserting a project' with real loss, and who would risk the lives of men on the terms of a legal phrase. The question was not one of pride and sovereignty, he argued, but of use and cooperative gain He mocked the men who 'profess to be disturbed by incredibilities.' "

And Wills also says:

"Those who say we would be capitulating to blackmail by accepting the treaty are like men who say they will not be 'blackmailed' by rain clouds into carrying an umbrella. They are not brave; just dumb."

THE ECONOMICS OF PANAMA

The United States is clearly on record against exploitation of small countries and in favor of the development and economic independence of the "have not" nations. How else do we square our foreign aid programs and our participation in multinational projects?

In the light of the above given, the new treaties become a national imperative not only for Panama, but also for the United States.

Perhaps it has been laid on the record before, in any event, I will do so now. Panama's major natural resource is the Canal, which, in the final analysis, is there because of Panama's geography. In 1970 118.9 millions of tons of cargo passed through the Canal. That year Canal profits were 175 million dollars, of which Panama received a pitiful one per cent—less than $2,000,000. In that same year the Empire State Building's net profits were more than $13 million In 1976 the U.S. rented three military bases in Spain for $20 million a year. But how cheap is the rent on the Canal? Most of Panama's million and a half citizens live in abject poverty, while the world's richest and most powerful nation controls her major resource. By ratifying the treaties the Senate will enable this small nation to help itself rather than to raise the income of the world's richest nation.

So, we should ratify these treaties not because of any abstract theory of morality but because in simple bread and butter decency terms. It is right, fair and long overdue.

CONCLUSION

The Treaties are of course negotiable documents. In negotiation, neither party gets all that it asks for. General Torrijos has been quoted as saying that Panama did not get as much in the Treaties as he expected. Treaty critics in both countries have concentrated their opposition on areas where compromises were required. But the measure of any agreement is whether it protects the vital interests of the parties The answer in this instance is clearly yes as far as the United States is concerned.

Because United States defense and commercial interests are adequately protected and because it is in the enlightened self-interest of the United States and the people of the world, particularly those of Panama, we urge ratification of these treaties.

We see this a felicitous moment in history when moral values coincide with security interests. We must take full advantage of this opportunity.

STATEMENT OF CANAL ZONE LABOR UNION AND METAL TRADES COUNCIL

Mr. Chairman, members of the Committee, my name is Alfred J. Graham, President of the Canal Zone Central Labor Union and Metal Trades Council, AFL–CIO.

The CLU–MTC represents 14 local unions in the Canal Zone, affiliated with nine national AFL–CIO unions. We represent the largest organized group of U.S. citizen employees of the Panama Canal Co./Canal Zone Government. We also represent a significant number of non-U.S. citizen employees of the Company/Government.

Our presentation will be in two parts. The first part will cover Employee Privileges and Immunities along with labor provisions written into the Treaty. The first part has been submitted for the record. The second part will be an oral presentation to the Committee, on the Canal Zone, the Government employees working there, and the present and future interests of the United States in the Canal. We are U.S. Government Employee labor representatives. As such, our self-interests cannot overshadow the best interest of the United States in this matter. Our silence and acquiescence to the terms of this Treaty would surely put us in the position of parasites; "trading off" the best interests of the United States for "assurances" that our labor interests will be taken care of. The CLU–MTC refuses to take that position. Although, individually, we may differ in our approach to the problems of this Treaty, no CLU–MTC representative has, or will "trade off" the best interests of the United States in this matter.

EMPLOYEE PRIVILEGES AND IMMUNITIES

As written into the new Panama-U.S. Treaty, Employee Privileges and Immunities are for the most part satisfactory provided, of course, that one accepts in good faith these assurances of privileges and immunities given to us by our own government.

We are not satisfied with the lack of Treaty provisions that would solve the dual citizenship problem once and for all.

The Republic of Panama has a Citizenship Law that in our opinion was enacted for the sole purpose of harassing U.S. citizens born to American parents on the Isthmus of Panama. The law states that these Americans are Panamanian Citizens. The high officials of Panama have all indicated that these U.S. Employees will be treated as Panamanian Citizens. We requested that the Treaty stipulate that Panama will surrender all claim of Panamanian Citizenship, in the past and for the duration of the Treaty, on all U.S. Citizens born on the Isthmus of Panama, if the U.S. Citizen makes his or her intention known to the U.S. State Department. This request was denied. If Panama becomes sovereign over the Canal Zone these employees fear that they will be subject to further harassment from the Government of Panama. This apprehension is not without substance, citizens of Panama have no civil rights. At this time, with the Chairman's permission, I would like to present, for the record, the official position of our State Department in respect to these U.S. Citizens, dated March 4, 1975. Their position can be defined in one sentence extracted from this letter.

"Such persons continue to be Citizens of Panama although they may also be United States Citizens and are subject to the laws

and regulations of that Country while residing there."

We are not satisfied with the lack of Treaty provisions that would provide for the transfer of employees who do not wish to live or work under the joint administration of the Panama Government. For U.S. Citizens, this benefit is at the option of the new agency, "The Canal Commission", which is composed of that Government. For non-U.S. Citizens this benefit is not provided for at all. Without these provisions, guaranteed before ratification, the Canal Zone will not be efficient, and it will not be secure.

LABOR PROVISIONS IN NEW PANAMA—U.S. TREATY

As a result of the July meeting of the AFL-CIO Panama Canal Committee, I was elected by the Committee and appointed by AFL-CIO President George Meany to be the AFL-CIO Labor Advisor to the U.S. Treaty Negotiating Team. I worked with the U.S. Treaty Team on Treaty labor provisions until August 26, 1977. Most of the labor provisions we required are included in the new Treaty.

One of the most important labor provisions, Optional Open-Ended Early Retirement, will require legislation. However, we are grateful for the attention President Carter and his staff gave this matter by stipulating that the U.S. Government would sponsor this legislation in the Treaty.

We face other labor problems with DOD. Canal Zone Government operations that will become DOD functions, if the Treaty is ratified, are in danger of losing the Washington, D.C. pay base and Canal Zone leave benefits. Canal Zone teachers, in particular, are left in limbo as to what their entire future employment status will be.

The loss of repatriation rights and leave benefits are other factors now under consideration by the present Company/Government, that may affect as much as 50 percent of the present U.S. work force, prior to the possible ratification of this Treaty. Were the worst of these proposals implemented at least half of the present U.S. work force would be economically forced to remain in the Canal awaiting possible transfer rights that will be administered at the option of the new Canal administrators, "The Canal Commission". The new Canal Treaty addresses itself to this problem. The Canal Zone Governor, the Department of the Army, the Department of State and other agencies affected by this Treaty, have all indicated, and have all gone on record in this hearing or others, that they are opposed to affording transfer of the present employees "at the option of these employees".

There is no mention in this Treaty as to whether or not, the employee who remains working in the Canal, will retain his present benefits cited above. The Treaty uses the phrase, "Conditions will be generally no less favorable."

This leads the Canal employee to believe that he or she will lose something. The question of course is what. This Treaty makes absolutely no mention of protections for employees who, in good faith, trains someone to take his or her job and then is pressured out of the system by "The Commission" who no longer needs their presence. It makes no mention of protections for employees scattered throughout the work force who cannot or will not live and work under the conditions of this dictatorship.

An employee who is guaranteed an early retirement or job transfer, at his or her own option, throughout the duration of this Treaty, not just those displaced immediately, but all employees, would not be as apprehensive about staying.

Only through these guarantees will be new agency be able to maintain the necessary and willing personnel required to make this "transition" efficient and effective. By a simple Executive Order, these transfer guarantees, can be effected.

LABOR LEGISLATION

We will be seeking labor legislation for the following:

1. Optional open-ended early retirement (15 years, 50 percent, no loss of annuity). A benefit that would greatly support the new agency in the retention of qualified employees through the transition period.
2. Unemployment compensation for non-U.S. employees.

CONCLUSION

Although, it would appear, except for those important issues cited above, that the Treaty provides sufficient labor protections we wish to go on record at this time opposing the new Panama-U.S. Treaty. President Meany does not speak for the affiliated local unions of the CLUMTC when he supports this treaty.

President Meany's office is not aware, as we are, that the present provisions of this Treaty, by excluding all of the above, will not provide for the protection and efficiency of the Canal. The protection and efficiency of the Canal will directly depend upon whether or not the employees believe that they are being treated reasonably, and in good faith. They do not, generally, believe that they are.

This concludes the labor section of our testimony.

Legislative Representative Of The Canal Zone Central Labor Union and Metal Trades Council Statement Before The Senate Committee on Foreign Relations.

Contrary to the statements of our negotiators, and others, we believe it an accurate statement when we say that our Executive Branch has decided that it is in the best interest of this Nation to sacrifice the Canal in favor of the continued presence of the multi-billion dollar private foreign investment in Latin America. This action appears to be based on the theory that the turnover of the Canal will somehow appease and stabilize Panama and the rest of Latin America, that a new and more modern relationship will exist once this Treaty has been ratified.

In order to promote this action, it has been necessary for our Executive Branch to reinterpret history and the Constitution of the United States; economically, materially, and militarily support an oppressive, racist dictatorship in the subjugation of the Panamanian people; apart from the Canal assets, expend even further billions in tax funds, and sacrifice the economic base and political freedom of the very non-U.S. and U.S. employees who maintain this Canal. By so doing, this action will destroy the very efficiency and security that this Canal is dependent upon.

We finally believe that the reasons given, by our negotiators for ratifying this Treaty are neither valid nor sound.

PAST HISTORY OF CANAL

There has been much commentary made that the 1903 Treaty was made, not with a Panamanian, but with a Frenchman, Phillip Bunau-varilla, whose only interest was in recovering 40 million dollars promised to the bankrupt French Canal Company.

Little is mentioned of the fact that prior to entering into this 1903 Treaty, known as the Hay-Bunau-Varilla Treaty, the United States had entered into negotiations, and in good faith on our part did ratify the Hay-Herran Treaty with the then dictatorship Government of Colombia. Herran, the dictator's agent, agreed to the terms of this Treaty. But, this dictator was not dealing in good faith with the United States. After his personal agent had made an agreement for 10 million dollars, he decided to call an extraordinary meeting of the Colombian Senate for the sole purpose of rejecting the Hay-Herran Treaty, January 23, 1903, and to set the stage for further monetary negotiations on the matter.

It is interesting to note that the dictatorship of Colombia, in its very deposing of the lawfully elected President of that Country, used this very action as the reason for disbanding the Colombia legislature and thereby establishing himself as the supreme ruler of Colombia.

While this thinly masked shakedown was in progress, another of several previous Panamanian breakaway revolutions was set into play.

It was because of this Frenchman that the Panama Junta Government was able to secure 100,000 dollars to support and effect their revolution, and it was because of this help and this man's unique knowledge of the Congress and Executive Branch of the United States that he was appointed their Treaty negotiator. Without his help there could have been no revolution. By offering and effecting a new Treaty with the U.S., this Frenchman secured the independence of Panama. Contrary to statements otherwise on November 2, 1903 the U.S. Warship Nashville did not prevent Colombian troops from landing in Panama. In fact, they disembarked in full view of this Warship in Colon, Panama. The commanders of these Colombian troops crossed the Isthmus by train, were bribed with 10,000 dollars by the Panama Junta Government, returned to Colon and departed with their troops.

There has been much said of the unfortunate 1964 Panama riots in which 21 Panamanians were killed. These riots are presented, by our own negotiators as an act of nationalism when in fact, for the majority of these rioters, it was a chance to loot, steal and destroy property. They became unmanageable because the Panama Government refused to allow the Panama Guardia National Police enforce order in the streets of Panama. Little is said of the fact that the majority of the 21 Panamanians killed in these riots died of suffocation in a building in Panama that they themselves, or men like them, set on fire. They were found with their pockets stuffed with stolen monies.

It was not the Canal that was being threatened in 1964 and it is not the Canal that our negotiators are primarily trying to protect with this new Treaty today. It was, and is private foreign investment, and the expulsion of that investment in Panama and the rest of Latin America.

GOODWILL WITH THE PEOPLE OF LATIN AMERICA

Even apart from the allegations that there exists a Corps of Engineer Study, dated February, 1968 recommending that Panama should be ruled by a dictator, there is no doubt, at least in respect to Chile and Panama, that our Government relied upon and supported dictatorships in order to protect private foreign investment in these countries.

It is difficult not to notice that 90 percent of Latin America is composed of dictatorship governments. This Committee was given testimony that "Panama is not a full-blown democracy." It is, however, a full-blown racist dictatorship with a proven record of inefficiency and corruption.

It is the opinion of the CLU-MTC that President Carter's Treaty Signing Ceremony in Washington, D.C. sat democracy in Latin America back 100 years. It amazes us to witness a U.S. President, with a Human Rights Platform gather together the largest group of anti-human rights dictators in Central and South America and honor them by signing a Treaty with another dictator. These dictators do not represent the people of their country, they impose their will by force of arms supplied in many cases by our own Government.

To the people of these countries, the President of the United States is the Champion of

human rights and yet, by this one single act, he has repudiated their right to gain back these human rights. In Panama, this Treaty represents the last hope of the people of Panama for a return to a Democratic system of Government. These people will not soon forget that it was the United States that perpetuated this dictatorship.

GOOD FAITH FROM THE EXECUTIVE BRANCH

Ambassador Bunker and Mr. Linowitz have testified over and over again that the Canal Zone will be turned over to the *People* of Panama. This is what they label as "Educating" the American voter.

You can be assured that, even apart from the assets of the Canal, multi-billions of U.S. tax monies will not be turned over to the Panamanian "People". As usual with military dictators, the "People" will benefit little or nothing from this Treaty.

The American "People" will not benefit from this Treaty. Even the multi-national and banking interests will not gain the protections that they are seeking by this Treaty.

The Canal employees are being used as pawns to this Treaty according to a report submitted to our State Department in 1976. Mr. Chairman, you haven't read this report. I would like to submit it into the record of these hearings at this time. The State Department denies that this document represents their position, but yet every recommendation made in this report has been implemented. The recommendations given, range from influencing Canal labor and civil groups, with or without their knowledge, re-educating these employees through "manipulation" of the controlled news media, eliminating interference from the Canal Zone Company/Government, and the assistance of the Panama Government in all of the above. This report even has its own enemies list, of which of course I am a member. The object of this report is to use Canal Labor and civil groups to help sell this Treaty or to, at least, neutralize these groups.

At this time, Mr. Chairman, I would like to submit into the record, a protest letter dated September 21, 1977, to Congressman Zablocki, Chairman of the House International Relations Committee in which I describe the actors, and actions taken by our own State Department in which to comply with these objectives. Ambassador Jordan, and Mr. Linowitz are knowing principals to these actions at least.

If you still are not convinced that our Executive Branch has misrepresented the true objectives and benefits accrued from this Treaty, let me present several more issues that cannot be disputed.

Our Executive Branch has strongly emphasized that without this Treaty with this particular dictatorship, there will be sabotage in the Canal. They have not told this Committee that it was this dictatorship Government that bombed Canal Zone cars and buildings and that in a written protest letter from our State Department, delivered by Ambassador Jordan, our Government had "positive proof" that Guardia National Officers participated in these bombings. This letter further specifically cautioned against the public disclosure of its contents.

They have not told this Committee that it was this dictatorship Government, substantiated by our own intelligence documentation, that have on a number of occasions planned and participated in riots against the Canal Zone and the U.S. Government.

They have not told this Committee that it is this dictatorship government, through its controlled mass news media, that is pouring out hate against the Canal and the U.S. Government.

They have not told this Committee these substantiated facts because they are engaged in a "siege attitude". They are protected by a presidency that is generally regarded as open and honest. They are not confronted with a hostile U.S. news media, and finally the full damage of their actions cannot be assessed until after this Treaty has been implemented.

CONCLUSION

In conclusion Mr. Chairman I wish to state as a labor representative that all I seek, if this Treaty is ratified, is that the Canal Employee retain his or her civil rights, as you and I know them, without being economically destroyed. If this position makes me dangerous to our State Department, and they have indicated that they consider me as such, then I strongly insist that there is something fatally wrong with our State Department's position in this matter. If they are allowed to continue in these repressive actions described above, then surely there must be a weakness in our system of Government. Civil Rights is not a conservative issue, nor is our rights in the Canal.

This issue is a non-partisan issue and should be labeled as such. I am dismayed that it is not.

I would be more than happy to answer any questions that this committee wishes to ask.

Thank you.

STATEMENT OF CAPT. J. R. WILLIAMS

Mr. Chairman and Members of the Committee, I welcome this opportunity to provide certain employee related impressions on the new Panama Canal Treaty.

In order to further introduce myself to you, I have been a Panama Canal pilot for 11 years and possess a United States Coast Guard license as Master of Ocean Vessels, Unlimited Tonnage. I hold the rank of Commander in the United States Naval Reserve.

BACKGROUND

Although only recently of primary interest in the United States, the Panama Canal Treaty issue has been the dominant concern of employees for several years. Early in 1977, when a general outline of the Treaty began to emerge, the Panama Canal Pilots Association developed on active interest in what future situation pilots, and other employees, would be placed in a post-treaty environment characterized by two major changes to the current situation:

(1) The elimination of United States political jurisdiction over the community.

(2) An employee transition period that would be in progress for the entire life of the Treaty, which implies a reduced scope of employment and promotional opportunities for U.S. citizen workers. More importantly, however, the duration of the Treaty clearly stipulates a shorter career period that will profoundly influence the retention of newer employees in key positions.

A primary Treaty objective of the United States, and as expressed by our negotiators, is to keep the Canal open and efficiently operated for the benefit of all nations; certainly a worthy goal. An absolutely essential ingredient to its fulfillment will be the retention of a skilled work force that is dedicated to the Canal, competent, and highly motivated. Governor Parfitt's statement in this regard have already alerted you to this necessity.

The Pilots Association, therefore, in cooperation with other Canal Zone unions, sought to achieve Treaty language that recognized the unique situation created by the Treaty as it impacts upon the employees. This has been generally accomplished in two broad aspects; one being an early retirement concept, and second, a general provision for collective bargaining—as yet absent from the isthmian labor scene.

A very important characteristic that has typified employee union efforts during this period has been a mutual realization that our futures are as closely intertwined as our present interdependence. In this regard, Panama Canal pilots are only one of several essential categories of employees crucial to the operation of this international public utility. Further, these employees, and their families, constitute a community that is very dependent upon the continuation of good schools, medical care, and related services.

In short, gentlemen, we are all in the same boat.

SOME PROBLEMS THAT WE HAVE ENCOUNTERED

It has been, and continues to be, to some extent, extremely difficult to convince top management that the canal work force is career oriented; not the usual overseas employment that is rotational in nature, and that attracts a less committed type of individual.

For many employees on the waterway, particularly at the locks, where specialized skills are absolutely vital to the canal operation, the attitude has traditionally been demonstrated to be a highly motivated and professional one. The continuation of the Canal's efficiency is absolutely dependent upon this extraordinary degree of skilled dedication.

Pursuant to the retention of these, and other skilled employees, there will be required legislation consistent with the spirit of commitments made to employees, both in the Treaty and in Department of the Army Assurances.

Specifically important will be the development of a genuinely liberalized early retirement statute in keeping with Department of the Army intent to retain essential skills.

One personnel policy viewpoint of management pertinent to the period of a new Treaty, is to entice people to remain on the job with unspecified forms of premium pay. We are not opposed to this, of course, but our attitude becomes wary when it is clearly indicated that "at some point in time possibly these incentives would no longer be required, or would be adjusted for recruitment purposes as local skilled labor becomes available."

Being informed in advance that this viewpoint has a certain acceptance is helpful, but also causes an apprehension about management's intent once our skills become readily replaceable from the local labor pool.

Concluding this portion of my statement, I recommend that the gentlemen of this Committee obtain a report to the Chairman of the Board of Directors of the Panama Canal Company from the Personnel Committee of the Board, which was submitted last January. This report, we are informed, contains specific recommendations relating to employee matters, based upon board member perceptions of how Canal employees should be dealt with in a new Treaty.

IMPRESSIONS ON CHANGE IN JURISDICTION OVER THE CANAL ZONE

For most Canal Zone residents, the elimination of United States political jurisdiction over their communities is truly a profound change that will require individual and thoughtful adjustment by many, if not most, employees.

For second and third generation employees, this represents a complete alteration of their actual self-identity. This "crisis", such as it is, includes many Panamanians of West Indian origin, who have identified solely with a Canal Zone existence for their entire lives and English is that primary language.

However, most employees appear to be quietly developing an individual attitude that will cope with such an impending change. It is a very personal reaction that makes it nearly impossible to provide any sort of institutional or otherwise organized opinion.

These aspects, coupled with the fact that the jurisdictional change is not in keeping with the career expectations of most em-

ployees residing in the Canal Zone, is a very important fact that cannot be over-emphasized.

Recognizing this, however, it should be borne in mind that what was previously blind resistance to change has moderated considerably, to the point that a more open-minded tolerance to "wait and see" is now prevalent.

How many key employees, such as pilots, will terminate their employment if this Treaty enters into force? Preliminarily, our estimate is that perhaps fewer than five, possibly as many as ten, pilots would take steps to resign. This number could go much higher with the ranks of newer men, if legislative and related responses fall significantly short of expectations.

My conversations with other Canal Zone union officials provide a similar picture for other categories of employees.

This rather conditionally optimistic outlook on attrition of key employees should be received, however, by keeping in mind one very critically important element that will, to a great extent, determine the success of this Treaty. By this, I am referring to the necessity of a hospitable and cordial attitude towards former Zone residents by the Panamanian Government that translates into a spirit of active and harmonious cooperation in administering the affairs of the Canal.

That there is a realistically tolerant expectation of this development is probably a significant factor—among others—that has contributed to a marked reduction in the resignation rate of U.S. citizen employees.

The immediate post-Treaty transition era will obviously be a delicate period requiring the disciplined restraint and good judgment of all concerned.

A related aspect of this situation that should be recognized, however, is that in those categories of employment where loss of jobs is most likely to occur, the very generous application of severance benefits and priority transfer policies should govern in all cases. It is obvious that the extreme dislocation, coincident with loss of employment in this situation would justify such measures.

PANAMA CANAL PILOT REQUIREMENTS FOR THE FUTURE

The Panama Canal, compared with other major pilotage waters, presents a combination of navigational conditions that make for a very demanding shiphandling task; possibly the most difficult in the world.

Due to several reasons, including the prolonged and continuing uncertainty posed by this Treaty issue, there is a genuine concern, both by this Association and the Panama Canal Company, about the maintenance of a proficient pilot force with high professional standards that will assure the confidence of shipowners throughout the world.

Therefore, it is essential, in order to continue operating an efficient canal, that these high standards be maintained.

At present, Panama has very few pilot candidates ready to be trained. The Panamanian Government is aware of this, and is taking steps to train merchant marine officers at the recently established Escuela Nautica in Panama. The United States could assist in this situation by increasing the quota of Panamanian cadets eligible to attend the United States Merchant Marine Academy at Kings Point, New York.

There is one final observation on this subject that we would like to make, and stress its importance very heavily. That is the essential requirement for the United States to take every reasonable step to fulfill its Treaty obligations to the employees in order that no substantial exodus of pilots ensues. If, in reaction to a high resignation situation, short cuts or some form of "crisis management" were to be adopted to fill a sudden need for pilots, the resultant deterioration of professional standards—triggering even more resignations—could very well inhibit the ability of the Panama Canal to maintain its traditional high standards of performance.

CONCLUSION

Gentlemen, in these few pages, I have attempted to explain, with as much candor and precision as possible, the likelihood of a sufficiency of pilots, and other critically important workers, remaining employed in order to keep the Canal operating efficiently. If questions arise from my observations, I will attempt to answer them.

Concluding then, and conditioned by the viewpoints contained in this statement; the Treaty language, with its general recognition for the unique circumstances that it creates for employees, shows promise of providing a workable employee transition period.

STATEMENT OF RENE LIOEANJIE

I am Rene Lioeanjie, Regional Director for the National Maritime Union in Latin America and the Caribbean. I am appearing on behalf of the National Maritime Union, which represents approximately 7,000 workers of which approximately 98 percent are non-U.S. citizens, in all phases of the operation in the Canal Zone. These members are spread throughout the Panama Canal Company, Canal Zone Government, Department of the Army, Navy, Air Force and the Armed Forces Non-Appropriated Fund activities. These workers are employed in practically every bureau.

President George Meany of the AFL–CIO has expressed the views of organized labor with respect to the Panama Canal Treaty revisions.

The National Maritime Union's position has continually been since the beginning of the negotiations some 13 years ago, to do what we can as a labor union to look out for our members and leave the treaty negotiations to those experts in that field. Therefore, my brief comment is intended to reflect only on the labor guarantees and protections that are in the treaty for all Canal Zone employees.

Rather than enumerate and comment on every labor provision in the treaty, which we have been reviewing for some weeks, I shall summarize my comments by saying that it is our opinion that all of the employees employed in the Canal Zone will be adequately protected by the labor provisions in the treaty if unemployment benefits are extended to all employees in the Canal Zone that may be affected by the treaty and if the implementing legislation includes adequate open ended early optional retirement provisions for all employees.

Thank you Mr. Chairman. I shall attempt to answer any questions that you and the committee may have pertaining to these labor guarantees.

TESTIMONY OF FRED SCHLAFLY

My name is Fred Schlafly. I am a graduate of Georgetown University and Harvard Law School. I live in Alton, Illinois and practice law in the states of Illinois and Missouri. I am Chairman of the Emergency Task Force on the Panama Canal.

Here follows some of the many reasons why the United States Senate and House of Representatives should not ratify the treaty signed by President Carter and dictator Torrijos on September 7, 1977 calling for the surrender of our Canal and Canal Zone:

1. Starting in 1872 Presidential Commissions had repeatedly reported in favor of an American Canal through Nicaragua. In 1889 Congress chartered the Maritime Canal Company of Nicaragua. On November 16, 1901 the Walker Commission, appointed by President Theodore Roosevelt, reported in favor of the Nicaragua route. This route took advantage of the large deep lake in Nicaragua and of the San Juan River. However, in 1902 the French offered to sell all the canal work they had done and the equipment they had in Panama for $40 million dollars. This persuaded President Roosevelt that Panama might be the most practicable route. The residents of Panama were rightly concerned that the proposed canal might be built in Nicaragua because of the much shorter distances involved for American shipping.

As soon as they seceded from Colombia they energetically started negotiations with the United States and drafted the November 18, 1903 Treaty which Congress approved on February 26, 1904. The words "in perpetuity" in this Treaty, which occur seven (7) times, were taken from the recommendation of the United States Isthmian Canal Commission made on January 18, 1902 to Congress that the "grant" for a Canal Zone should not be for a term of years but "in perpetuity." See Senate Document No. 123, 57th Cong., 1st Sess., p. 9. As a consequence, the "in perpetuity" words were embodied in the 1902 Spooner Act authorizing the purchase of the Canal Zone, and also in the November 18, 1903 Treaty with Panama.

2. After the United States started work on the Canal, a law suit was filed to enjoin Leslie M. Shaw, Secretary of the Treasury, from paying money for the construction of the Canal on the theory that the Canal Zone is not part of the territory of the United States. In 1907 in this case of *Wilson* v. *Shaw*, 204 U.S. 24 at 32, 33, our Supreme Court unanimously decided that:

"The title to what may be called the Isthmian or canal zone, which, at the date of the act, was in the Republic of Colombia, passed by an act of secession to the newly formed Republic of Panama. . . . A treaty with it, ceding the canal zone, was duly ratified. 33 Stat. at L. 2234. Congress has passed several acts based upon the title of the United States. . . .

"Article 2 of the treaty, heretofore referred to, 'grants to the United States in perpetuity the use, occupation and control of a zone of land and land under water for the construction, maintenance, operation, sanitation, and protection of said Canal.' By Article 3, Panama 'grants to the United States all the rights, power, and authority within the zone mentioned and described in Article 2 of this agreement . . which the United States would possess and exercise if it were the sovereign of the territory within which said lands and waters are located, to the entire exclusion of the exercise by the Republic of Panama of any such sovereign rights, power or authority.'

". . . It is hypercritical to contend that the title of the United States is imperfect, and that the territory described does not belong to this nation, because of the omission of some of the technical terms used in ordinary conveyances of real estate."

In *U.S.* v. *Husband Roach*, 453 F.2d 1054, 1057 (1971) cert. denied 406 U.S. 935, the United States Court of Appeals held:

"The Canal Zone is an unincorporated territory of the United States."

Our State Department ignores these cases and tried to claim that "The United States does not own the Panama Canal Zone . . . under law we do not have sovereignty in Panama."

These assertions are contrary to the unanimous Supreme Court decision in *Wilson* v. *Shaw* and to the clear language of our 1903 Treaty with Panama which excluded Panama "in perpetuity" from "any such sovereign rights, power or authority."

3. In the case of *Sioux Tribe of Indians* v. *United States*, 316 U.S. 317, 324, 326 (1942) our Supreme Court held:

"Section 3 of Article IV of the Constitution confers upon Congress exclusively 'the

power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States.'

"Since the Constitution places the authority to dispose of public lands exclusively in Congress, the executive's power to convey any interest in these lands must be traced to Congressional delegation of its authority."

Congress has not delegated to the Presidency its exclusive power to dispose of the public lands in Panama. Therefore, President Carter has no power to negotiate the Treaties he signed on September 7, 1977, before receiving such a delegation from Congress.

4. Besides the false argument that Panama has some kind of sovereignty over our Canal, the Carter administration also claims that, if we don't surrender the Canal, the Panamanians might destroy it by guerrilla warfare. The first answer is that our very powerful enemies in World War II were unable to destroy or injure the Canal, although they knew how vital it was to move our troops and ships. Second, Panamanians who plotted to destroy the Canal would probably be reported in advance because the Canal is Panama's chief source of income. Destruction of the Canal would bring poverty to Panama which now has the highest standard of living in Central America.

However, if the United States Congress approves the Carter-Torrijos Treaties then there will be opportunities for sabotage because the Canal Zone will disappear and the United States will lose ownership and share control of the forts and bases guarding our Canal and Canal Zone.

5. Paragraph 5 of Article IV of the Treaty obliges the United States:

"to maintain its armed forces in the Republic of Panama in normal times at a level not in excess of that of the armed forces of the United States of America in the territory of the former Canal Zone immediately prior to the entry into force of this Treaty."

Annex A to article IV of the Treaty requires the United States to permit Panama to jointly control a long list of our defense sites and bases as soon as the Treaty is ratified. Three years later another list of United States facilities will come under joint control with Panama. Paragraph (3) (a) of Annex B of the Treaty provides that:

"Only the Flag of the Republic of Panama shall be flown in Military Areas of Coordination."

Supporters of the Treaty allege that the United States could recapture the Canal Zone if the Treaty is violated. To do so, the United States would itself have to violate the Treaty. Paragraph 5 of article IV limits the armed forces to a level "immediately prior to entry of force of this Treaty." To recapture the Canal Zone and the many bases which the treaty requires us to surrender to Panama would require forces much superior to our present forces and much loss of life in attempting to recapture our bases. Why expose our military men to these most unnecessary dangers? Furthermore, nothing in the Treaties prevents Torrijos from inviting Communist troops from Cuba or Russia to come to Panama to defend the Canal and its forts.

6. The chief contention of witnesses for the Treaty seems to be either that the United States took advantage of Panama in 1903 or that the 1903 Treaty is out of date. The United States generously paid in full every claimant. We paid $10 million dollars to the Republic of Panama, $40 million dollars to the French Canal Company for what it had done and for its equipment, millions to the property owners in the Canal Zone for the purchase of all their land and other property, and $25 million dollars to the Republic of Colombia. The historians say that the United States paid a total of $80 million for title to our Canal Zone. All these claimants acknowledged fair and full payment. However, in November 1946 Alger Hiss, then head of the Political Affairs Office of our State Department, who later served time for denying that he turned secret documents over to the Communists, sent a report to the United Nations in which he described the Canal Zone as one of America's "occupied territories." In the 1960's and 1970's our State Department has been repeating Alger Hiss' argument that the Panama Canal is not "the sovereign property of the United States," and also that the "Panama Canal is a colonial enclave." In terms of both price per acre and total price, the United States was far more generous to Panama than to all other sellers of land the United States bought, including the Louisiana Purchase, the Florida Purchase, the Alaska Purchase, and the Gadsden Purchase of New Mexico and Arizona, added together. (House Doc. No. 474, 89th Congress p. 361.)

The Panama Canal Spillway reported on July 16, 1976 (Volume 14, No. 49) that the Canal benefits for fiscal year 1975 to Panama were $253,130,000. This gives Panama, with its 1.6 million population the highest per capita income in Central America, when it was the poorest country before the Canal was started.

It is a mistake to say that the United States pays "rental" for the Canal Zone. In 1903 the United States assumed the obligation of the Panama Railway Company for payment of its annuity, first made to Colombia and then to Panama, of $250,000 per year. Because of inflation the United States increased this annuity to $2,328,000.

7. The surrender of our Canal and Zone in Panama, proposed by President Carter and Ambassadors Bunker and Linowitz will cost the American taxpayers dearly. First, we will be giving up an asset for which our taxpayers paid approximately $7 billion dollars and which, with inflation, is now worth about $12 billion dollars. Second, Lieutenant General V. H. Krulak USMC (Ret.) in an article in the Strategic Review, 1976 Winter Issue, has described what surrender of the Panama Canal would mean to America in terms of our military security and financial costs:

"By closing down the canal at their own whim, [the Panamanians] could double the cost of maritime fuel for a voyage from the west to east coasts of the United States and more than double the average transit time from coast to coast. When it is realized that fully 8,000 ships a year carry cargo through the Canal, destined for U.S. ports, the resultant increase in retail costs of the commodities is evident.

"A common argument is that the Canal has largely lost its strategic value to the United States because our principal combatant ships are too large to get through the locks. Actually, a total of only 13 ships in the U.S. Navy have beams too great to permit passage through the waterway. The remainder of the fleet, some 470 ships—not to speak of an equal number in reserve—can use the Canal, and do so beautifully.

"Without absolute control of the Canal and the essential contiguous land, the United States could not accept the hazard of a one-ocean navy. It would be essential at once to initiate construction of fleets independently able to meet a crisis in either the Atlantic or Pacific—a massive expenditure which we are now spared only because of our control of the Canal."

8. Not only does the proposed Treaty give control of the Canal and Zone to Panama, but it requires us to pay Panama to take the Canal. From 1978 to the year 2000, Panama will receive $10 million per year in guaranteed cash, plus $10 million per year for police and other utilities, plus 30 cents for each ton going through the Canal, estimated at $50 million per year, plus an additional $10 million per year if Canal revenues permit.

In addition, Panama will receive Export-Import Bank credits of up to $200 million, up to $75 million in credits from the Agency for International Development, $20 million in credits from the Overseas Private Investment Corporation, and $50 million in military sales credits. This totals $345 million in loans guaranteed by the U.S. taxpayers.

In short the shippers, most of whom are Americans, will be paying Panama about $80 million per year, and American taxpayers will be putting up $345 million, in order to give Panama the privilege of taking our great American Canal away from us.

9. The question must be asked, cui bono? For whose good is this surrender of America's greatest single investment? Of course it is for the benefit of Marxist Torrijos who allows only one political party, which is the Communist Party, to operate in Panama.

The next biggest beneficiaries are the ten giant American banks who have loaned over $2 billion to the bankrupt Torrijos government.

The evidence not only indicates that these big banks are willing to let our Canal be transferred to Torrijos so that he gets funds to repay their loans, but that they furnished the agent to negotiate this surrender of our Canal.

President Carter appointed Mr. Sol Linowitz to negotiate the surrender of our Canal.

When Congressman Robert Dornan exposed Mr. Linowitz's conflict of interest as a director and member of the Executive Committee of the Marine Midland Bank of New York, which had loaned large sums to Panama after Torrijos became its dictator, Mr. Linowitz resigned, but instead of resigning as U.S. negotiator, he resigned his bank directorship.

10. On July 19, 1977, the Soviet Union and Panama signed an Economic Pact which gave the Communists:

1. The right to build, open and operate a bank in Panama;

2. The right to take advantage of the Colon Free Zone, which includes Old France Field in the Canal Zone, for the selling of Soviet merchandise; and

3. The right to construct a hydro-electric plant in Panama.

Former Commander-in-Chief, Pacific, Admiral John S. McCain testified on July 29, 1977 that the United States should reclaim Old France Field in our Canal Zone and use it as an air base to protect our Canal. Instead Torrijos has made it available to the Russians, seven weeks before he came to the White House to sign the Treaty giving him title to our Canal and Canal Zone.

11. We sympathize with the ten giant American banks who made large, uncollectible loans to the Torrijos dictatorship. Most of them have branches in Panama and should have been able to discover that the interest alone on Panama's debts take 38 percent of its income. Perhaps these banks relied on the unauthorized and never ratified Kissinger-Tack Agreement signed February 7, 1974 which talked of ceding all the U.S. territory in the Canal Zone to Panama.

The directors of these giant banks are a Who's Who of American business and finance. Could that explain why two of our country's best known public relations men, F. Clifton White, who worked for Senator Goldwater in his 1964 campaign for the Presidency, and Joseph Neopolitan, who worked for Vice President Humphrey's campaign for the Presidency in 1968, were hired for $200,000 to sell the surrender of our Panama Canal?

12. Some of these same giant banks were criticized for very large loans to Bert Lance and for selling to unwary buyers their New York City bonds of questionable value. It is certainly hoped that these ten leading American banks are not directly or indirectly involved in the high powered campaign, extending from the White House to a movie

star in California, to persuade American taxpayers to approve the surrender of the greatest single construction and investment our country ever made, our Canal and American Zone in Panama. Another surrender, after the abandonment of our friends in Cuba, Southeast Asia, Angola, Mozambique, and our Monroe Doctrine, might be construed as the twilight of the great American Republic, which built the Canal for less than all the time and cost predictions.

STATEMENT BY GARY L. JARMIN

Mr. Chairman, the American Conservative Union appreciates the opportunity afforded by the committee to present our views with regard to the proposed Panama Canal Treaties. The ACU is the nation's largest conservative organization with over 100,000 members and 40 state affiliate chapters. The ACU is one of the leading organizations opposed to these treaties and has, as a part of this effort, established a "Task Force to Save the Panama Canal" headed by the distinguished senior Senator from South Carolina, Strom Thurmond.

We believe there are many valid reasons why these treaties should be rejected by the Senate, but chief among them is the problem of the contradictory interpretations by Panamanian and U.S. officials with regard to key provisions guaranteeing: (a) the United States the right to intervene to defend the canal; (b) preferential passage for U.S. warships in time of major conflict or war; (c) the neutrality of the canal; and (d) keeping it open under all circumstances (except in the case of natural disasters).

The major source for this conflict over interpretations is primarily based on the statement made by Panama's chief treaty negotiator, Dr. Romulo Escobar Bethancourt, before the Panamanian National Assembly on August 19th and the remarks by another of Panama's treaty negotiators, Carlos Lopez Guevara, as disclosed in a confidential State Department cable made public by Senator Robert Dole. The ACU, we feel is particularly justified in addressing this issue since it was the ACU which first obtained a copy of Dr. Escobar's speech as printed in the August 20th issue of *Matutino*, a Panamanian newspaper, translated these remarks and made them public on September 2nd by issuing numerous copies to many Senators, including some members of this committee, Congressmen, the media and others.

If there is no objection Mr. Chairman, I would like to submit for the record a full translation of Dr. Escobar's remarks made before the Panamanian National Assembly on August 19th:

TRANSLATION

"The original (American) position was that to reach an agreement with Panama there would have to be a neutrality treaty and a military treaty. The military treaty would be made before the end of this century to be operative after the year 2000. This kept the negotiations stalled for a long time, because Panama opposed the enactment of a military treaty. Such a treaty would have implied two things: First, the continued U.S. military presence in Panama after the end of the present treaty (2000); and second, the United States, as a great power, is a country frequently involved in wars in other parts of the world, and we did not want that, because of the existence of a military treaty, the future youth of our country to have to go fight in the American battlefields with the pretext that this related to the defense of the Panama Canal. This was a position that Panama maintained until the United States withdrew the idea of a military treaty. We were then able to negotiate a neutrality treaty alone.

With regard to the neutrality pact, the following situation arose: The United States asked if Panama would disagree with the idea of the Canal being neutral. We told them we didn't, that on the contrary, a long-standing aspiration of Panama had been that the Panama Canal would be neutral. They said that they wanted the Panama Canal to be neutral and we said we entirely agreed with them. Differences then arose only in what they understood by neutrality and what we understood by neutrality. They proposed that Panama and the United States declare that the Canal was neutral and that the United States would guarantee that neutrality. Panama was opposed to this concept, explaining that we did not want the United States to maintain a guarantee over the State of Panama, using the neutrality issue as an excuse. This was another source of debate that kept the negotiations stalled until the United States gave up the idea of its guaranteeing the Canal's neutrality.

Another of the positions they presented was that Panama must agree to maintain the Canal permanently neutral and permanently open. We told them that Panama could commit herself to maintain the Canal permanently neutral because that was her wish. Panama has no interest in having anything other than a neutral Canal, the Panama Canal, because otherwise the Isthmus of Panama could become a battlefield. But we said Panama could not promise to maintain the Canal permanently open because of three circumstances that might arise. One, because of natural causes; we explained that an earthquake could take place, for instance, which would close the Canal, and, in such a situation, Panama could not be under an obligation to keep it open. Another possibility was temporary disruptions—landslides could take place and the Canal would have to be closed to carry out clean up operations. The third possibility was that the Canal could become unprofitable for Panama; in such a situation, Panama could not be tied down to keeping open a canal which was not earning revenues. They (United States negotiators) accepted the first two reasons—natural causes and temporary disruptions—but they did not accept the third reason, lack of profits. This, too, kept the negotiations stalled for a long time.

They argued that if the Canal was not profitable, Panama could obtain money from the United States or the other countries that use the Canal to keep it open. We told them that when the new treaty with the United States ended, we did not want Panama to be under either direct or indirect obligation to turn to the United States or any other country to request money to keep the Canal open. Our respective positions remained unchanged until we reached the agreement I am about to describe. They said, we can't present to our Congress an article that states you will close the Canal because of insufficient revenues. And we said we could not present an article committing us to operating the Canal permanently when we have no way of knowing if the Canal someday will yield no profit. We finally agreed to eliminate that article, and so Panama was freed of the obligation to maintain the Canal open permanently. The negotiations then went exclusively to the issue of neutrality.

The United States then proposed that there be a neutrality treaty between Panama and the United States and no one else. Because they did not want for either the Russians, the Cubans or the Chinese—they said so exactly—to intervene in the neutrality of the Panama Canal. Our position was that neutrality didn't make any sense if limited to two countries as a result of a treaty between the United States and Panama and that we opposed the other countries not having the right to join in that treaty. They changed their position and agreed to allow the countries of the American continent (except for Cuba), but no others, to join. We said no, that this was meaningless, because in case of a war between the United States and Russia or China, those countries not being a part of the neutrality agreement would be under no commitment to respect the Canal or the Isthmus of Panama. That was another reason for long delays, until they finally accepted the idea that all the countries of the world could join the neutrality treaty.

Later, there arose the problem of choosing a forum for all the nations of the world to join the pact. We said it had to be done in the United Nations. They answered that they did not much like the idea of the United Nations because of their problems with the non-aligned countries, the Third World, the Arabs, etc. They proposed the O.A.S. We agreed, provided that this body only serve as a depository, as the physical location where all the nations of the world would sign the treaty, and that O.A.S. would have no say in determining which countries would sign. This was another cause for discussion. It was solved through a protocol of neutrality—that famous protocol which has been attacked as giving the United States the right to intervene in Panama by some who apparently read such a description in a Miami newspaper. This protocol is only a note* indicating the existence of the neutrality pact. It summarizes the agreement and sets down that country such-and-such agrees to abide by it. That is the famous protocol. It is the same thing as the neutrality treaty but in the form of a protocol (that is what it is called), and the O.A.S. is the depository.

Another issue was preferential right of way through the Canal for American warships. The Americans said that they had two problems. First, they had to please the Pentagon—they had to present it with something it liked so it would support the treaty; and second, that as they would be leaving Panama as soon as the treaty ended, they should be allowed at least that much, if nothing else, because they built the Canal. We pointed out that we recognized they had indeed built the Canal, but that writing in the neutrality pact that the United States warships would have preferential right of way over the rest of the vessels violated the neutrality treaty and that was contrary to the objective of the treaty we were negotiating. This was another cause for lengthy discussion and much analysis. They searching through their books and we searching through ours; they invoking their treaty writers and we invoking ours. This is how these discussions are carried out. Changing their position, they asked for preferential right of way during times when the United States was at war—originally they wanted it in times of peace and war—and that this right be granted only when requested by the ship's captain. We said no—that war time was the least appropriate moment to grant preferential passage rights since it would be a violation of neutrality. After long discussions they accepted that U.S. warships could not be granted preferential rights. Then both countries set about looking for a formula which would not involve preferential rights, and we came to the agreement that the warships of the United States, in times of peace or in times of war, and the warships of Panama—we still don't have any now, but maybe by the year 2000 we will have some—will have the right to speedy passage through the Canal. This means that they will have the right to as rapid a passage as possible. We were able to agree on this because it's not in any country's interest to have another nation's warships delaying for long in its territorial waters; so the faster they go through, the better.

Another of the issues in the neutrality pact that we were—I should explain that

*The meaning of "note" is not clear. It could mean a note of explanation or a small piece of paper.

I am giving you the true picture of what the neutrality agreement will consist of. We did not give in either to the American's insistence that the United States and Panama jointly declare the neutrality of the Canal. We said that the declaration of the Canal's neutrality was an act relating to Panama's sovereignty, and that it would have to be a unilateral declaration. After long discussion, they accepted that the declaration would be made by Panama alone, in other words, that Panama be the one to declare the Canal permanently neutral. They proposed that in our declaration we say that the state of neutrality was intended to prevent the Canal from becoming a theater of war. We answered that we were declaring the Canal neutral so that neither the Panama Canal nor the Isthmus of Panama would become a theater of war. They wanted to separate the Canal and the Isthmus. We told them that we could not do that, that the Canal was part of our Isthmus, and that our neutrality only made sense if it covered both the Canal and the rest of the country. We wouldn't be any better off if, rather than dropping a bomb in the canal, they dropped it, for example, on Ocu or Santiago. They accepted that the declaration of neutrality be worded in such a way that neither the Canal nor any part of the Isthmus of Panama could be the object of reprisals in the course of another nation's conflict.

The other point we made in relation to our concept of neutrality is that it is not a neutrality which will allow the United States ships to transit peacefully, but rather one which will allow ships flying all the flags in the world to transit peacefully, notwithstanding what country may be involved, its being a communist country, a fascist country, or a monarchy—that we were not insistent on its being a democratic country to allow it peaceful passage. And finally, that the pact was to be made between the two countries, and it is stated there that Panama declared the neutrality of the Canal, in the manner that I already explained to you, following the establishment of a neutrality pact with the United States and a commitment being made on the part of both nations to maintain that neutrality. This concept of maintaining the neturality was that which replaced their original position of guaranteeing the neutrality. The upholding of the neutrality is indicated within the treaty and in the protocol all other countries are committing themselves to this protocol.

Later came a discussion on their proposal that the two countries commit themselves to upholding this neutrality under all circumstances. We said that if the phrase "under all circumstances" was included, two important exceptions would have to be made. The first was that this would apply only so long as internal order was not involved, since these are problems for one country or our national guard to address; and second, in the case of an attack on the Isthmus or the Panama Canal by a third country. This was cause for much discussion, and in the end, they preferred to leave out the phrase so that we would not include the exception. We also pointed out that the neutrality pact must indicate clearly that after the 31st of December 1999 at 12 o'clock noon—or at 12 noon as Edwin (Edwin Fabroga) says or at 12 midnight as Ahumada (Adolfo Ahumada) says—that from that date on, the American troops could not be in Panama. After much discussion, they said, "We don't like that phrase—that there can be Russian troops or Cuban troops." Then a proposal was made to change the phrase to read that from the 31st of December 1999 on only Panamanian troops could be stationed in Panama. We were in perfect agreement with them. They were happy, because they had been half-thinking that we are going to call in the Russians, and we were happy because one of our aspirations was precisely that our troops be the only ones here.

So this is the "problem" with the neutrality pact. (Sarcastic) The criticisms made of it—some that you have heard or have read—indicate that we give the United States the right to intervene in our country after the year 2000. These critics think that rights of intervention are granted in the treaty. To the great powers, no one gives the right of intervention; they intervene whenever they feel like it with or without a treaty. When they (the Americans) landed in Santo Domingo, they had no military treaty with Santo Domingo, nor had any right of intervention in Santo Domingo, and they landed anyway. But there are people here who think that it is in the articles of a code (law code) that tell a country if it has the right to intervene or not, and they don't know that it is the bayonets, the guns, and the atomic bomb that gives a country the strength to intervene. And so a country like the United States can land in Panama whenever it feels like it after the year 2000 with or without a neutrality pact. But it cannot land, for example, in Russia, even if Russia tells it to land. Those are the facts of the matter so that with the neutrality pact, we are not giving the United States the right of intervention. What we are giving is an assurance that the Canal will be permanently neutral, that we are not going to close the Canal so that their ships or this ship or that ship cannot go through. Why this neutrality pact? Because they are thinking, "By the year 2000 this country (Panama) may have gone socialist and become our (U.S.) enemy and we now want to make sure that even if they become socialist, they cannot close our passage."

And, frankly speaking, they do not need this neutrality pact to intervene or not intervene. They need it to present it to their Congress, to tell their Congress, "Look, we are giving the Canal to those Panamanians, but we retain the right to watch over it so that they behave themselves." That's the truth. It's an internal political problem; they are trying to solve an internal problem with a Congress intensely opposed to these negotiations and one which, in addition, includes members who have not been elected by the American people but rather who have become members of Congress of their own accord—these are certain Panamanians living here and others in Miami. (n.b. Referring to exiled people opposed to Torrijos' government.)

So about the neutrality pact, these are its real contents, distinguished Representatives. It was very carefully thought out, as you can see from my description of how its final form was arrived at. I might add that we feel very proud of the way the matter has been resolved. You should have seen the original draft they presented along with the military treaty. Agreeing totally to that would have been shameful; I would not have dared to sit at this table now to give you any kind of explanation if I'd brought with me their original draft for the military treaty and the neutrality treaty.

The other problem concerned the option for the construction of the sea level canal. Two months ago, almost on the day of the opening of the Alaskan pipeline, President Carter delivered a speech in which he said that his government was deeply interested in the construction of a sea level canal either through Panama or through another point in Central America, and right after President Carter's speech the American negotiators brought the question of the option to the negotiating table. During the earlier negotiations of 1966 and 1968 this issue had been intensely debated by the negotiators of that time, Doctor Diogenes de la Rosa and others since it was at that time that they (the Americans) were making the studies which they later completed and they wanted to speed up the time-table for possible construction. But in the present round of negotiations it appears they had put the problem aside until now, with President Carter's speech and the Alaskan oil.

And so the discussion of the option began. We talked about this option approximately two times and we arrived at no conclusion. Then came the Bogota conference.

There, the problem of the option truly made for a crisis, because there a very complete proposal was laid out for agreement by all the presidents, with Carter working through negotiators Linowitz and Bunker, and our side being represented by our Chancellor, Gonzales Revilla, and our negotiating team. The (U.S.) proposed that Panama have an option to build a sea level canal at an unspecified time, and second, that Panama commit herself to the idea that no other country could construct a sea level canal. They presented that proposal in Bogota, and we read it to the presidents. It was the proposal that the negotiators had brought and we read it to them, and as a result the negotiations between the two countries were broken off.

The General said in his statement that we had come to this Bogota conference to celebrate a new treaty only to find that we had come to a wake. There, the struggle between the two countries began, with Bogota taking part also, since the other presidents were meddling as if they were Panamanians too.

There was no way to reach an agreement on what they proposed. Panama's delegation wrote a proposal which met with general approval. Read word for word, it is more or less like this:

Article 3—The possibility of constructing a third set of locks or a sea level canal.

1. The Republic of Panama and the United States agree that a sea level canal could be important in the future or in the context of international relations.

Consequently, after its approval, the question of construction will be dealt with. There isn't even an option. The option relates only to studying the matter. We will sit down and analyze with the United States if it is feasible. If it is, the two countries will build it, maybe during the next 10 or 15 years. The generations of the future will be much more prepared. We do not give you a copy of the treaty because its release is pending on the announcement of President Carter and of General Torrijos, and its becoming an official document. We will publish it wholly when it does become (official), and we will debate it publicly.

The ones who cannot prove that this treaty is better than the one of 1903, that perpetuity is better, will have the problem. That the two million dollars a year is better than what is proposed now. We don't care if they say that General Torrijos is a dictator; those who are opposed and say that we are not revolutionaries—let them grab their knapsack and their grenades and go prove it with deeds.

CONTINUATION OF STATEMENT BY GARY L. JARMIN

In his speech, Dr. Escobar made eleven points about the Neutrality Treaty and its Protocol but, reduced to basics, four items stand out. First, the U.S. will not have any defense rights past the year 2000 and will not be the guarantor of the neutrality of the Canal. Second, U.S. warships will not get preferential treatment in terms of transiting the Canal, even in time of war, after the year 2000. Third, the Panamanians think that it will not be necessary for them to abide by the Neutrality Treaty in cases of foreign attack or internal disorder. In short, from the Panamanian standpoint, the U.S. role in Canal affairs will be very limited until 1999 and virtually non-existent thereafter, which is a far cry from what we have heard about how the Canal will be kept open and that

adoption of this treaty will make it easier to defend our interests.

The question of interpretation is extremely crucial with respect to any treaty and, especially, with regard to this one. But just as important, what actually transpired during these negotiations, i.e., what original proposals were offered by both the U.S. and Panama, what was rejected by either side, why it was rejected and what was compromised, is something that must be fully disclosed in order to clearly understand the intentions, interpretation and strategic outlook of the respective parties (fortunately, Senator Howard Baker had the wisdom to request this information from Secretary Vance on the opening day of these hearings). For example, when he made his speech before the Panamanian National Assembly, Dr. Escobar stated:

"You should have seen the original draft they presented along with the military treaty. Agreeing totally to that would have been shameful; *I would not have dared to sit at this table now to give you any kind of explanation if I'd brought with me their original draft for the military treaty and the neutrality treaty.*" (emphasis added)

The question that must be answered is: *What* was the United States' original draft for the military and neutrality treaty and *why* did we compromise?" It seems clear from Dr. Escobar's statements, and, those of other Panamanian officials, that they consider it absolutely intolerable for the United States to have the right to intervene to defend the canal. It should be equally intolerable for the United States Senate to agree to such an outrageous prospect. If the United States does *not* have the clear, legal right, under the terms of this agreement, to defend the Panama Canal, so vital to the protection of our commerce and national security interests, then how can we justify or have the right to defend our interests anywhere in the world?

The United States and Panama are now attempting to resolve these differences by issuing some statements to satisfy opponents of the treaties in their respective countries. But watered down, generalized agreements of interpretation to satisfy opponents of the treaties will not suffice. Whatever actions are necessary should be taken by the United States Senate in order to clarify in the neutrality treaty precisely what our (U.S.) rights are. We cannot, and should not, leave it up to anyone's "interpretation," now or in the future, as to exactly what the United States' rights and privilege are under the terms of this treaty.

Should the U.S. Senate ratify these treaties in their present form, we will be risking, down the road, a major confrontation with Panama over whether or not the United States can intervene militarily to defend the neutrality of the canal.

On the neutrality issue, it is clear that Articles I and II of the Neutrality section are unilateral statements of neutrality by Panama alone. Neither article mentions the United States in conjunction with a declaration of neutrality; they are simply a unilateral declaration by Panama. The fact that Panama alone makes the declaration of neutrality is crucial for one important reason: It simply means that only Panama can declare when the neutrality of the canal has been violated. This means the United States could not legally take any action to defend the canal, if it thought the neutrality of the canal was being violated, without Panama first declaring a violation of the neutrality.

For example, in his August 19th speech, Dr. Escobar stated that Panama could not agree, in writing, that it be obligated to keep the canal open if it was not "making money" or in the case of "internal disorder." Refusal by Panama to oblige itself with maintaining the openness of the canal under these circumstances is very important for several reasons. First of all, it must be understood that the Panamanian government is basically Marxist in orientation and outspokenly aligns itself with Cuba and other "pro-socialist" countries. In an international crisis, such as occurred in Cuba in 1962, can we be assured that riotous students, in sympathy to Cuba, would not attempt to disrupt the operation of the canal to prevent the passage of U.S. warships? Could not the Panamanian government conveniently declare during such a crisis that the canal was not making money and, therefore, have to close it indefinitely?

In addition, given the heavy communist influence in Panamanian labor unions, could not one day, in a similar crisis, the pilots who move ships through the canal suddenly declare a strike and, thus, paralyze the transit of U.S. warships.

There is also one other provision that would provide for the Panamanians a perfectly legitimate (legal) excuse to hold the transit of U.S. warships. Under Article III, section 1, subsection (e), the treaty provides that warships can be "required to certify that they have complied with all applicable health, sanitation and quarantine regulations." Obviously, the Panamanians could, in an international crisis, declare that all U.S. warships transiting the canal be stopped indefinitely to undergo a health and sanitation inspection. And what could we do about it? Send in the Marines? It makes no sense that this provision be listed under the "vessels of war" section to begin with. Yet, it provides a convenient excuse for the Panamanians to violate the "principle" of neutrality.

MAINTAINING ADEQUATE DEFENSE OF THE CANAL

From the outset, it should be clearly understood that the Panama Canal is still and always will be vital to the defense of the United States. We do not have a two-ocean navy. We have instead a one-ocean navy with two-ocean responsibilities. The transit of warships and war material, troops, etc., from one ocean to another, as during the Cuban missile crisis and Bay of Pigs invasion, is still critical to our national security in moment of international crisis.

There is only one way to guarantee the adequate defense of the canal: The United States should continue, in perpetuity, to maintain a military presence in the Canal Zone. By the year 2000 all U.S. military troops are to be withdrawn and the defense of the canal will be entirely in the hands of the Panamanians. However, the Panamanians are poorly trained and equipped to adequately defend the canal. If 100,000 U.S. troops cannot completely defend the canal, as the Pentagon has stated, then how can 10,000 soldiers of the Panamanian National Guard defend it?

Today we have only 10,000 U.S. troops defending the Canal Zone and, thus far, they have been able to defend it without any major problems. The major reasons for this success is quite simple: They are U.S. troops, not Panamanian. This deterrent role is validated by the same reason our troops in Guantanamo protect it from attack by the Cubans. After all, if we accept the Defense Department's argument that we cannot defend the Panama Canal with 100,000 troops, then how can 5,000 U.S. troops in Guantanamo defend it against 300,000 Cubans? We can and do defend Guantanamo primarily because of the deterrent of a U.S. military presence. It is obvious that the United States military presence in the Canal Zone serves as a deterrent to any potential foe whether it be foreign or domestic. Once U.S. troops are withdrawn, the deterrent is removed. Under these circumstances the canal will become more vulnerable, not less. There is only one way to guarantee an adequate defense of the canal and that is to insure a permanent U.S. military presence.

The United States should have insisted on the right to keep U.S. troops in the Canal Zone indefinitely and not agree to any termination date. Ambassador Bunker told this committee that there is no country with which Panama maintains a "closer" relationship than the United States. If this is true, then why shouldn't the United States be allowed to keep troops in the Canal Zone? The U.S. has military forces in many countries throughout the world. There are few that would argue that Germans, Greeks or Koreans feel their national sovereignty and integrity are threatened by the presence of U.S. troops. And neither should the Panamanians. Yet the U.S. capitulated on this very crucial issue. Obviously, the best way to keep a military presence in Panama would be to reject these treaties and keep control of what is rightfully U.S. territory. However, at the very least, the U.S. and Panama could have agreed to lease military bases to the U.S. after the year 2000. If the U.S. had insisted on such a provision in these treaties, then the question over whether or not we have the right to intervene would not exist. The United States Senate can and should insist that the treaties be altered to provide for a continuing U.S. presence in Panama. The Canal is too vital to the commerce and defense interests of the United States to entrust that only the Panamanian National Guard (which can barely tame a mob of rioting students) will have the sole defense responsibility. The crucial aspect of deterrence must be maintained, and that can only be accomplished by guaranteeing a continued U.S. military presence in the Canal Zone.

VIOLENCE AND LATIN AMERICAN RELATIONS

Two of the central arguments that proponents of the treaties have given for their ratification are: (a) that if we don't give up the canal we will increase the prospects for violence and sabotage from the Panamanians, and, (b) that we will irreparably harm our relations with Latin America. Both are spurious arguments at best.

The United States has been able to adequately defend the canal against sabotage in the past and there is no reason we can't continue to do so in the future. But more importantly, it is the Panamanians who would want to prevent any sabotage since they benefit most from the Canal. Approximately 13% of Panama's GNP, 20% of its jobs and 3% of its foreign exchange comes from the Canal Zone, none of which the Panamanians are going to want to lose. If there is to be any substantial amount of violence, however, this will largely be the result of the U.S. raising the expectations of the Panamanians to an unrealistic degree and by allowing ourselves to be blackmailed by the threats of violence from Panamanian officials. Frankly, it is quite intolerable that our U.S. negotiators continued bargaining with the Panamanians when these threats were made. No nation should negotiate with another under such circumstances. We should have instead cut off negotiations immediately when such threats were made and told the Panamanians that, until they acted more reasonably, we would never discuss a new treaty

The real issue we are facing is a decision between the most acceptable and least acceptable risks. Certainly we do run the risk of some violence if we reject these treaties, however, this risk is much less than taking the chance of one day finding ourselves having to send in Marines to protect the canal from external or internal threats. This risk of violence or sabotage is also far less of a risk than taking the chance of having Panama become a totally communist state or even a procommunist state (which many argue it already is), firmly allied with Cuba and the U.S.S.R.

Israel's problem with regard to the West Bank serves as an excellent example of confronting a similar "risk" scenario. Many

argue that Israel must give up the West Bank to the Palestinians or risk a new war with the Arab powers and continued guerrilla attacks by the PLO. However, Israel considers the prospect of a hostile Palestinian state next to its belly a far greater risk than holding on to the West Bank which is very strategic to Israel's defense. For Israel there are risks either way. Once again, it comes down to what is the most versus the least acceptable risk. When looking at the potential risk of violence from wild-eyed Panamanian students, it is certainly far less than the enormous risks the U.S. will be taking in giving up the canal to a Marxist dictatorship while having no guarantees of our right to protect the canal in the future.

There is one final point that should be made regarding the violence argument. If there is any violence because these treaties are rejected by the Senate, the fault for this should fall squarely on the shoulders of the Executive branch. The White House and our negotiators allowed themselves to be blackmailed by the threats of violence and, now, they are using the same tactics to pressure the Senate into ratifying the treaties. Had our government not negotiated such a terribly vague and unreasonable agreement in the first place, the Senate would not have to face such a difficult decision. In essence, the White House has attempted to place the onus of any future violence on those who conscientiously refuse to support such an unacceptable agreement. The White House is simply trying to avoid any political fallout by "passing the buck" to the Senate.

Perhaps one of the major reasons these treaties are basically unacceptable in the first place, comes as a result of the failure of the Executive branch to consult and advise the Senate during the negotiations. By totally ignoring the Congress, these treaties were presented as a *fait accompli*. Obviously, much more acceptable treaties could have been negotiated had the Senate been consulted. The Senate should not allow itself to be used as a "rubber stamp" by the White House but, instead, properly exercise its authority by insisting on the best treaty, not a document of capitulation to a cabal of Marxist dictators.

LATIN AMERICAN RELATIONS

Perhaps the greatest myth promoted by supporters of the treaties is that the Senate's rejection of them will severely harm our relations with other Latin American countries. The support among Latin American nations for these treaties is not nearly as widespread as is believed. Privately, many of our Latin American allies will state that they are extremely worried over the prospect of a Marxist, pro-Cuban government having control of the Canal Zone. One has to remember that many of these nations have been threatened by communist subversion, from both Cuba and the Soviet Union, and they are not terribly excited over having Soviet influence increase, or appear to increase, so dramatically in the Western Hemisphere.

The lack of enthusiasm by our Latin American allies for the Panamanian position was clearly demonstrated by an almost totally unnoticed event that occurred only two months ago. Panama called a conference in Bogota, Colombia, on August 5th and invited 25 Latin American nations to attend. This conference was to provide a demonstration of solidarity with Panama's position on the treaties. Only five nations, Colombia, Costa Rica, Jamaica, Mexico and Venezuela bothered to attend.

In addition, if threats of violence are deemed the best way to get concessions from the U.S., we should expect more unfriendly demonstrations from Latin American countries, rather than improved relations.

In conclusion, it must be understood, as the past has shown us, that Latin American respect for the U.S. goes up when we take a tough stance and goes down when we capitulate. The United States' stock in Latin America went up after the missile crisis of 1962 and the Dominican crisis of 1965, but we suffered a severe loss of prestige after the Bay of Pigs debacle. Ratification of these treaties will only signal to our Latin American allies that the U.S., once again, is capitulating to the Marxist advance in our hemisphere. Ratification will gain us few new friends but will only undermine even further the respect and credibility of the U.S. throughout Latin America.

In summary, these treaties pose graver risks than the United States and any of our Latin American allies can afford. It is particularly dangerous that we should turn control of the canal over to an oppressive regime that is ideologically aligned with our chief adversaries. Concluding a vague and unreasonable agreement with an irresponsible government is nothing more than a blueprint for disaster. Perhaps the time has come for a new treaty, but not *this* agreement with *this* Panamanian government. The American Conservative Union urges the Senate to act accordingly and to vote against the ratification of these treaties.

STATEMENT BY DR. HERMINIO PORTELL-VILA

Honorable Chairman, Distinguished Members of the Committee on Foreign Relations, Ladies and Gentlemen:

Much has been said in recent days about the manner in which the United States established its presence in the Panama Canal Zone. It is alleged that the U.S. "stole" the territory in order to build the Canal.

As a one time Cuban Ambassador, and as a former professor of history at the University of Havana and at a number of institutions of higher learning in the United States, I have had occasion to study the historical origins of the Panama Canal. And I must submit that the facts do not correspond to many of the popular conceptions now advanced in many quarters.

Let us begin at the beginning, for to understand the present, we must know the past.

The Republic of Panama (28,783 square miles and 1,670,000 inhabitants), came into being in 1903 as a result of the plans of President Theodore Roosevelt for the United States to build an inter-oceanic canal across the Isthmus of Panama after the French had tried and failed. The French rights were bought by the United States. Panama had up to then been an integral part of Colombia, although there had been some unsuccessful secessionist attempts. The first American dealings with the Republic of Colombia for an agreement regarding the canal ended in a deadlock, and not much foreign prodding was needed for a revolutionary movement leading to the proclamation of independence, as the separatist feeling was there and Colombian rule was ineffective.

The Panama Canal has been in operation since August 15, 1914, open to peaceful international traffic and with a continuous increase in the number of the ships using it and their total tonnage. For more than sixty years, it has functioned efficiently and peacefully, rendering most important services to world shipping, helping the economic life of the Republic of Panama, and being very useful to the security, the trade and the economy of the United States as well.

There can be no question that the security of the Panama Canal is vitally important to the United States. Neither can there be doubt that the Canal is in more danger now than at any time before because of Soviet bases and garrisons in Cuba and Soviet domination of the Castro regime. The Castro regime itself is an avowed enemy of the United States; the regime in Panama is only slightly less hostile.

Arnulfo Arias, the last constitutionally elected president of Panama, was inaugurated on Oct. 1, 1968, and ten days later had been deposed by an uprising of the Panamanian National Guard, led by its top officers. They in turn were deposed almost immediately by another officer, Colonel (now General) Omar Torrijos-Herrera. He has been the leftist dictator of Panama for the past 9 years, behind a caricature of constitutional government in which the nominal chief of state is "President" Demetrio B. Lakas.

Torrijos was barely 39 years old when he seized power. The son of school teachers, he climbed through the ranks by regular promotion, a stern but skillful military officer who had not opposed repressive measures against the Panamanian rioters in 1964.

In the first months of his dictatorship Torrijos was considered something of a "playboy." However, in 1969, while visiting New York City, Torrijos told a reporter for the local periodical "Tiempo' that he would like to return to Castro "the visit" that an invading Cuban "guerrilla" had made to Panama in April, 1959. He added that in fact the "first revolution exported by Castro had gone to Panama and that in just reciprocity he ought to return that blow." In the remarks, Torrijos indicated he favored granting the anti-Castro Cubans a base in Panama for their attacks against Communist Cuba, even if his Foreign Minister did not like the idea.

The Castro-controlled press in Havana exploded against Torrijos, and the official newspaper "Granma" said that "The abominable canal man, the gorilla Torrijos, who promoted himself to general and has his chest covered with embroidery and medals, did not surprise anybody with his effrontery." From then on, "Radio Havana," "Prensa Latina" and "Granma," called Torrijos a "gorilla."

All this changed when the Panamanian leftist lawyer Romulo Escobar-Betancourt (no relative of Venezuelan's ex-President, Romulo Betancourt), gained influence over Torrijos because of his close contacts with university students, workers and some demagogic elements surrounding Torrijos. Soon, the Torrijos regime helped organize excursions to Communist Cuba so that Panamanians might observe a communist dictatorship in action. As Torrijos began leaning more to the left, the Castroite press stopped calling him a "gorrilla." The Panamanian political police, under the comand of Col. Manuel Noriega, now lists anti-Communist Cuban exiles among the people to be watched and persecuted.

In 1972, Castro sent delegates, posing as students, to attend the VIII Congress of the Federation of Panamanian Students. Actually, they were specialists in propaganda, political repression and socialist "reform." That was the year in which Panama voted in favor of diplomatic relations with Communist Cuba at a meeting of the Organization of American States. But it also was the year in which the rubber-stamp National Assembly of Panama proclaimed Torrijos "The Maximum Leader of the Revolution." By mid-1974, Communist Cuba and Panama had restored diplomatic relations. Meantime, in Panama, agitation increased for new treaties with the United States regarding the Panama Canal. A massive propaganda campaign was launched to arouse and mold international public opinion against U.S. control of the Panama Canal. Government officials, diplomats, students, professional people, labor bosses, newsmen and others, also were enlisted in the campaign at home and abroad. Torrijos himself played an important role by travelling abroad and attending several international gatherings, some in Africa and Asia.

In Latin America, Venezuela's President, Carlos Andres Perez, became an enthusiastic supporter of Torrijos. So did Mexico's Echeverria, Chile's Allende, Peru's Velasco-Alva-

rado, Argentina's Campora and Peron, and Colombia's Lopez-Michelsen, the latter conveniently forgetting the millions of dollars Colombia had received from the United States in exchange for its endorsement of the original Panama Canal Treaty.

With Torrijos winning ever more international support, the U.S. government abandoned the psychological contest over the Canal and allowed itself to be cornered in a fight it chose not to continue.

In the early 1970's, neighboring Costa Rica opened its doors to Soviet agents, first for trade and later on for regular diplomatic relations. Soviet-Panamanian contacts increased via border crossings from Costa Rica. Panamanian leftists thus had the cooperation of both the Cuban communists and Soviet agents.

The controlled Cuban press now praised Torrijos. In April, 1973, Raul Roa, the Cuban Foreign Minister, while attending a meeting of the U.N. Security Council, formally gave Panama the backing of Communist Cuba in Panama's claims to the Panama Canal. Torrijos reciprocated with a statement that "each hour that Cuba is kept isolated are sixty minutes of Latin American shame." On August 20, 1974, Cuba and Panama announced that they were re-establishing diplomatic relations and that they had much in common as to international goals. From then on the two countries worked together in attacking the United States.

More government-financed and sponsored trips to Communist Cuba by Panamanian leftists were conducted. On January 10, 1976, it was dictator Torrijos himself, accompanied by scores of newsmen, diplomats, policemen and military, who visited Castro. He went from Havana to Santiago de Cuba for a spectacular gathering, followed by a special tour of Cuban military installations around the U.S. naval base at Guantanamo Bay. The idea was to link the Panama Canal and Guantanamo as "terra irredenta" to be rescued from the United States.

In April, 1976, Torrijos visited Jamaica and Prime Minister Michael Manley, already at work to impose a socialist dirtatorship there, urged that the negotitions for a new Panama Canal Treaty be intensified so that Panama "should have absolute control over that interoceanic waterway." Torrijos, meantime, continued his travels to all Latin American countries, trying to get direct, personal commitments from the other rulers.

The United States, outmaneuvered on all sides, soon resigned itself to tolerate attacks, insults, threats, slanders and protests until it finally approved the drafts of two new Panama Canal treaties. The ceremonial signing in Washington brought most heads of governments in this hemisphere, including those accused by the United States for dictatorial excesses. By all appearances, most came not to honor the United States for its concessions, but to celebrate its humiliation.

The Administration failed to recognize that it was helping dictator Torrijos consolidate the hold of his oppressive regime over the Panamanian people, now in its ninth year. Torrijos now emerged as a hero, statesman, redeemer, even a "reformer."

Panamanian exiles in the United States, and throughout the hemisphere, considered themselves betraved, and said so. The Christian-Democratic Party of Panama, at considerable risk, issued a protest against the help being given to the Torrijos dictatorship by the U.S.

But Panama's leftists are not yet satisfied. They want the United States out of Panama NOW, without waiting for a new date, and they are saying it. Torrijos' leftist adviser, Romulo Escobar-Betancourt, now advises Panamanians to be patient—for the time being, because, he says, there will soon be another round of national and international pressure against the United States.

Already, there are ill omens for the U.S. Cuba now serves as a powerful Soviet military base, less than eight hundred miles from the Canal. Cuba itself has demonstrated a military capacity to transport to Angola, across the Atlantic, twenty thousand soldiers with military equipment supplied by the Soviet Union. Last July 22, the Republic of Panama and the Soviet Union signed a treaty of trade and friendship that has had little publicity in the United States. Under the accords, Moscow would have its own stores in the Free Trade Zone at Colon harbor, in Panama, and a branch of the Soviet bank in Panama City. The Russians also are interested in developing the harbor of Vacamonte, on the Pacific Coast, a few miles from the U.S. Howard Air Force Base, and are reported ready to build a hydro-electric plant at Bocas del Toro, on the Caribbean coast of Panama. When the new round of pressure comes, the Soviet Union already will be established in Panama.

Let's look at the record of Torrijos himself. By seizing power, setting up a military dictatorship, and then veering to the left, Torrijos has shown time and again that he is a political opportunist not to be trusted. What he promises today, he will renege on tomorrow. Why should he respect the new Canal treaties any more than he respected the previous ones, or abide by the Constitution of his country, for that matter?

Panamanian citizens in great numbers have fled their country to save their lives or to avoid being put in prison, where torture and ill-treatment are the rule. Ezekiel Muhtar, a Panamanian citizen now living in exile in Miami, Fla., has described the atrocities at the Island of Coiba, on the Pacific Ocean, where Torrijos keeps his political prisoners, in his book "La Mordida," now in its second edition.

The Panamanian Committee on Human Rights in September 1976 issued its first report on the violation of human rights by the Torrijos regime. It begins with a list of 28 citizens who have been murdered during the political persecutions there. Three of them, Encarnacion Gonzalez, Dorita Moreno and Marlene Mendizabal, were women. The list included the name of Father Hector Gallegos, a Catholic priest who was arrested by the Torrijos police in Santa Fe, Veraguas Province, and has not been heard of since. There is reason to believe he was tortured and killed, and his body was dumped into the sea, weighed down with concrete blocks.

There is a partial list of Panamanian political exiles compiled by the Committee on Human Rights, and it comprises the names of 94 people: men and women, prominent citizens and humble laborers, businessmen, priest, lawyers, newspapermen, farmers, students, military officers and professors.

In January, 1976, while Torrijos was visiting Communist Cuba, a group of businessmen met and drafted an appeal for guarantees to agricultural and industrial production, and also as to tax collections and trade regulations. They were immediately rounded up and expelled, some as far away as Ecuador. They were not allowed to take with them money, valuables or even spare clothing.

The "G–2" of the political police in Panama, copied even to the name from the Cuban "G–2", terrorizes the people of Panama. Its boss is Col. Manuel Noriega, an admirer of Cuba's Secret Police Chief, the notorious Maj. Manuel Pineiro. Both meet with a certain frequency, in Panama or in Cuba. Pineiro has sent special groups of his agents to be stationed in Panama, among them Maj. Anselmo Martinez, who arrived in Panama by way of Belize in May, 1977.

Half a dozen broadcasting stations in Panama City and elsewhere have been taken over by the Torrijos dictatorship. All others are very much controlled, as is the case with periodicals and wire services—"Prensa Latina," the Castro propaganda organization, excepted.

The game played with the university and high school students is very clever. Their control is in the hands of communist leaders among the professors and sutdent body. They can easily and quickly fan passions, pushing the youngsters into violent activities with different degrees of virulence, especially as to the Panama Canal. They are given limited leeway, followed by beatings and persecution if they go beyond a certain limit.

Economically, Panama is very heavily indebted. The money spent by Trujillo and his friends in propagandizing the Panama Canal issue runs into many millions. The foreign debt is staggering and few know where the money goes or what is done with it. The economic crisis is part and parcel with political and administrative corruption.

Nepotism is rampant. One of Torrijos' brothers, Moises, who became wealthy as a trader and trafficker, is ambassador to Spain. Several nephews, after undergoing training in subversion and "guerrilla" warfare in Castro's schools for the foreign youngsters, now have important positions in the Torrijos dictatorship and they are known to work with the communists. Torrijos' brother-in-law, Marcelino Jaen, handles foreign relations and was the Panamanian official who signed the recent trade and friendship agreement with the Soviet Union.

"Panama will be the next 'Cuba,' under Soviet domination." This is the sad conclusion of those who know what is going on in Panama and the role that Communist Cuba plays in all of this in the service of Soviet imperialism.

Regardless of assurance to the contrary, the stage is set for a round of new pressures on the United States, designed to force it out of the Panama Canal Zone long before the year 2000. The Soviets and their Cuban and Panamanian followers are waiting.

It should be noted that General Torrijos has just completed another tour of Europe, with a final stop in Finland. Very little is known about the contacts Torrijos had while in Finland, which as we know, borders on the Soviet Union.

But it is well known that Torrijos admires Castro and approves his brand of a communist dictatorship. In an interview on Channel One of the French TV September 2, Torrijos said, (and I quote): "I greatly admire Fidel Castro because he changed his country's social structure despite the risks this entailed." (unquote) Does Torrijos want to change the social structure of Panama for a Communist one? What will happen then to the Canal treaties?

While Torrijos was flying back to Panama City from Washington, D.C., on September 9, after the ceremonial signing in Washington, he sent the following message to Castro: "As I fly across Cubas skies on my return to my fatherland, I greet you with friendship, as always. It is my wish that the Cuban people, under your skillful leadership, may continue on their march toward Latin American progress. In Latin America your name is associated with feelings of dignity linked to the elimination of all remnants of shameful colonialism."

That was the real Torrijos speaking!

SPEECH OF HON. HAMILTON FISH

I am honored to appear before this distinguished committee of the United States Senate in opposition to the surrender and giveaway of the American canal in Panama to the Communist existing government there.

I served for almost 25 years on the Foreign Affairs Committee of the House and for approximately 10 years was its ranking Republican member and was ranking Re-

publican member of the Rules Committee for 4 or 5 years. I was also chairman of the first Congressional committee to investigate Communist activities, policies, principles and ideologies back in 1930 and believe I know as much about the aims and purposes of the Communists as anyone in the United States today. I have written several books on the subject.

I am convinced that the Communist tyrannical government at Moscow is the most monstrous form of government that has existed anywhere since Lenin seized power by force and violence in Russia 60 years ago.

The surrender and giveaway of the American canal in Panama to the Communist government of that nation might just as well have been given to Cuba or the Soviet Union and it is time the American people knew the truth of this aspect of this infamous blackmail treaty. If adopted it would be a day of infamy, playing directly into the hands of the Communist dictators at Moscow.

For years the leading Communists at Moscow have been endeavoring to encircle and surround the United States. The take-over by the Communist party and government in Panama would be the greatest victory the Soviet Union has achieved since our surrender to them at Yalta. Our committee back in 1930 did not persecute any liberals or radicals, as its main purpose was merely to find out the definite policies, principles and objectives of Communism at home and abroad. Those who testified such as the Communist candidates for President, minced no words—they hated our form of government. They hated both our religion and freedom. They preferred the red flag to an American flag and they favored a dictatorial, tyrannical government with a world capital at Moscow. There has been absolutely no change in their plans and objectives. The Communist hierarchy hates the U.S., our freedoms and human rights, the religion of our people and above all, because we are the only powerful nation with a limited arsenal of nuclear weapons and submarines that prevents them from Communizing the entire world. They have only one God and his name is Lenin who told them they must Communize the world and in doing so, if they exterminated three-quarters of the people and one quarter remained Communist, that would solve the problem.

This is the reason why they have built up an enormous arsenal of huge nuclear weapons and have a superiority over us for 2 or 3 to 1 in almost every category of nuclear weapons. That is the reason that they are going deeply underground to protect the Russian people whenever they get ready to attack us. They know as well as we do that we have no quarrel with the Russian people and have no desire for additional territory and will not turn on the nuclear button unless attacked. On the other hand, the Communists at Moscow who killed 30 million of their own people and Solzhenitsyn places it at 60, would not hesitate whenever it is to their advantage, to destroy between 100 and 130 million Americans in one night. The whole world would then go Communist within ten days time.

It is simply playing Russian roulette by trying to maintain that the Soviet Union and I don't mean the Communists of France or Italy, have changed their tactics or strategy. They are our enemies, and they are preparing to destroy the United States whom they regard together with the Chinese, as their bitterest enemy.

I want the American people simply to know the truth—and I have tried to convey that message to my old friend George Meany, President of the American Federation of Labor–CIO, who has been one of the most consistent opponents of Communism in this country and throughout the world, by the following letter.

SEPTEMBER 23, 1977.

Mr. GEORGE MEANY,
815 16th St., NW.,
Washington, D.C.

DEAR MR. MEANY: I am writing to you as one of my old friends whom I have always admired for your strong stand against the spread of world Communism and for human rights. I confess that I was shocked to learn of your support of the surrender of the American canal to the Communist government of Panama. Not only is the president of Panama an avowed Marxist, but is the virtual head of the Communist People's Party—the only party that exists in Panama. I am informed that both his father and mother were Communists. We might just as well turn the canal over to the Soviet Union. This is nothing but a blackmail scheme by the Communists in Panama to get the equivalent of 700 million dollars from the United States along with the canal or twice the cost of the canal.

To me it is almost treasonable, aiding and abetting our enemies and in case of war, it would amount to treason. I hope when you have a chance to read the contents of the treaty, in which we agree not to build any other canal and in which we have no right to defend it after the year 2000, other provisions affecting adversely the interests of our own American wage earners in Panama, that you will consider, or at least not be active or use your influence for it with the Senators. Polls show that 2 or 3 to 1 are opposed to it everywhere and I believe as soon as the truth is known, that it will become ten to one.

I have always been on the side of peace—I opposed World War II until the attack on Pearl Harbor. I opposed the war in Vietnam and I am still opposed to war with the Soviet Union unless attacked. For that reason I urge strengthening our nuclear defense so no nation would dare attack us.

I honestly believe that if the Senate ratified the treaty, it would be the greatest Communist victory since Yalta and start an epidemic of sequestration of American property throughout the world. And that even the NATO will lose faith in our reliability to keep our commitments to them if we surrender the American canal to a Communistic government in Panama.

Mr. Kissinger, who prevented President Ford from seeing Solzhenitsyn, the greatest freedom fighter in the world and opposed Ford's three defense recommendations in his last speech to Congress is now more responsible than anyone else in aiding and abetting our enemies.

With kind regards and best wishes.

Sincerely yours,

HAMILTON FISH.

The veteran organizations; the American Legion and the Veterans of Foreign Wars, non-partisan organizations composed of Democrats, Republicans and Independents, have taken a very outspoken stand against the surrender of the American canal. Why? Because it is against our own security and strengthens the power of the Communists. I take the position openly and without any apologies to anyone, because this is a free country and I believe in the rights of all people to that freedom that does not exist in the Soviet Union, to say to this distinguished Senate committee that to turn over the canal to the Communist government of Pamana is aiding and abetting our enemies and verges on treason. If it was in time of war it would be treason. Furthermore, I believe politically that 75 to 90 percent of the American people are unalterably opposed to this surrender to the Communists. If the treaty is adopted, Watergate would be a mere mosquito bite. If elected public officials, supposed to represent their people back home, defy them and surrender this canal, built by Theodore Roosevelt and the American people 68 years ago, and run efficiently ever since, to the Communists, that is their privilege.

There is probably not a single state that in any referendum, would support this blackmail treaty, aiding and abetting our enemies. No wonder that the American Legion, the Veterans of Foreign Wars and at least two-thirds of the members of the Democratic party, which control this Administration, are bitterly opposed to the surrender of the canal.

Any Senator, naturally has the right to vote any way he wants and to give his reasons. I am not here for the purpose of trying to prevent any Republican or Democrat from committing political suicide. I am not here even in behalf of my own party, for if I were, I would remain silent and hope that the treaty be adopted and that would bring back the Republican party in the biggest landslide that every occurred. But I am here as an American who loves our country and wants to see its nuclear defense weapons strengthened immediately so no nation would ever dare attack and destroy the United States. And in conclusion I quote a statement made by Max Eastman, a well known former pro-Bolshevik radical and Socialist who said: "One thing, one thing only can save freedom and democracy and that is a clear and bold understanding. Freedom and democracy must have from its leaders incisive and uncompromising exposures of the barbaric nature of the Communist society and the devious methods of the Communist attack. The closer our military and economic cooperation may be, the more pitiless must these exposures be. You cannot save democracy by shutting your eyes to the horrors of dictatorship. You cannot stop the night from falling by turning the lamps down."

In case any supporter of President Carter when a candidate for office a year ago pledged never to surrender "actual control of the canal," should take exception to my criticism of the President or members of his administration, let me quote what former President Theodore Roosevelt said: "To announce that there must be no criticism of the President or that we are to stand by the President, right or wrong is not only unpatriotic and servile, but is morally treasonable to the American people. Nothing but the truth should be spoken about him or anyone else, but it is even more important to tell the truth—pleasant or unpleasant—about him than anyone else."

President Theodore Roosevelt was the most courageous and popular President in the last 100 years and if he had lived one year longer, he would have been nominated by acclamation for President by the Republican party, and would have been overwhelmingly elected. He was the sponsor for the building of the canal and as a great admirer and supporter of T.R. having left the Republican Party to be elected three terms on the Progressive or Bull Moose ticket to the Assembly, I knew him politically and personally, probably better than anyone alive today except his own family. The very attempt to undo what he considered one of the most constructive acts in his great career is like impeaching him or sticking a dagger in his back in his grave at Oyster Bay. I would be derelict to the memory of this great American President if I did not raised my voice to defend his honor, integrity and patriotism.

GILBERT KINNEY AT THE CORCORAN GALLERY OF ART

Mr. PELL. Mr. President, I take pleasure in bringing to the attention of my colleagues an excellent article published in a recent edition of Art World on Mr. Gilbert Kinney, who was appointed in

July to serve as interim director of the Corcoran Gallery of Art here in Washington.

In part this article points out that Mr. Kinney's "steadying influence has been the most constructive force felt at the Corcoran in recent years."

The Corcoran is one of our Nation's most distinguished centers of art, both in an educational sense and as a setting for important exhibitions. Mr. Kinney has given new emphasis to the Corcoran's outstanding collection of 18th and 19th century American art. The American collection, Mr. Kinney explains, is "the gallery's keystone," and its emphasis is particularly in the public's interest.

As chairman of the Senate Subcommittee on Education, Arts and Humanities, I commend Mr. Kinney for the important work he is accomplishing, and I ask unanimous consent that this article which details his contributions to the cultural vitality of Washington and the Nation be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

KINNEY AT THE CORCORAN

(By Viola Drath)

Since Gilbert Kinney's appointment as interim director of Washington's Corcoran Gallery of Art in July, the search for a permanent replacement for Roy Slade, who accepted the presidency of the Cranbrook Academy of Art, proceeds at a more leisurely pace.

The ex-diplomat's quiet commitment and his fundraising expertise have already generated a new confidence at the troubled Corcoran. The ambitious goal of the summer fund drive, $300,000 to be matched by $325,000 from grants by the Cafritz and Ford Foundations and the NEA, has been met. With a nearly balanced million dollar budget, the first art museum of the nation's capital and one of the last surviving private institutions, has a new lease on its independence.

"For the first time in years, the Corcoran is on sound financial footing", Kinney, a life trustee and former vice president of the Corcoran's "Friends", explains. While discussing climate control for the sweltering upstairs gallery rooms, roof repairs, space utilization, the faculty enrichment program and other improvements, Kinney never loses sight of the Corcoran's unique status and responsibility and its resulting freedom.

Kinney's ideas for drawing more people into the museum range from a thorough cleaning of the facade and a good sculpture, preferably a donation, for the corner of 17th Street and New York Avenue, to broader support from corporations and a younger public. Along with the transients waiting in line at the White House he hopes to attract the people from the suburbs in Maryland and Virginia. Even though the Corcoran's membership has remained a stable 3,000 over the years, he recognizes that this is "a problem shared by Washington's public institutions." Considering their stiff competition for the spotlight, the Corcoran has become "a challenging place" for Kinney.

Fifteen years of service in the State Department have taught the new director to see to it that ideas are promptly realized. The Corcoran's treasured American Collection of 18th and 19th century art was swiftly moved up front where it is easily accessible to be public.

"The people who come to Washington," Kinney comments, "come to see, along with contemporary art, the works of Mary Cassett or William Morris, art they cannot see at home. Our emphasis on the American Collection, the gallery's keystone, simply reflects the public's interest."

The Corcoran's variegated exhibition schedule echoes its commitment to regional and contemporary art with retrospectives of Kenneth Noland's and Howard Mehring's work. Shows of current photographs by Sally Mann and Mike Mitchell as well as the photographs by Manuel Alvarez Bravo of the twenties confirm its leading role in the field of photography while tribute is paid to representational art with the exhibition of the William A. Clark Collection in celebration of the Corcoran's 50th anniversary in April 1978.

Kinney, 46, who inherited Henry Raeburn's splendid portrait of Eliza Gowdie from his father, a senior vice president and treasurer of the J. Walter Thompson advertising agency, has "always been interested in art."

Long before his realization that the foreign service was "not a growth industry" led to his departure from the State Department in 1973, Kinney's interest had been divided between political and cultural affairs. A collector since 1958, when he purchased a street scene by Utrillo, he and his wife Ann have shared in building a remarkable, predominantly postwar American abstract expressionist collection that includes works by Hopper O'Keefe, Hofmann, an early Still, Diebenkorn's exquisite "Ocean Park No. 7" and a sculpture by David Smith among others.

Kinney, a Phi Beta Kappa with a B.A. in History and a M.A. in International Relations from Yale, served as founder and executive vice president of the American Committee for Borobudur from 1973–75. Within a year he raised $1.3 million as the U.S. contribution toward the restoration of the crumbling 9th century Buddhist sanctuary in Indonesia. As a trustee and vice president he also became "very involved" in the affairs of the Archives of American Art, an affiliate of the Smithsonian Institution.

It was his summer neighbor in Northeast Harbor, Maine, Zbigiew Brzezinski, who introduced him to Jimmy Carter. Subsequently he became a supporter of Carter's campaign and its Mid-Atlantic Regional Finance Coordinator. After Carter's inauguration Kinney was briefly assigned to the State Department's educational and cultural division, headed by Assistant Secretary Joseph D. Duffey who will take charge of the National Endowment for the Humanities.

Kinney's considerable experienced in politics and art, his softsell methods, and his gift for understatment are not easily matched. In view of the detrimental succession of directors trying to follow Hermann Warner Williams' assured footsteps since 1968, Kinney's steadying influence has been the most constructive force felt at the Corcoran in recent years.

NOTICE CONCERNING NOMINATION BEFORE THE COMMITTEE ON THE JUDICIARY

Mr. EASTLAND. Mr. President, the following nomination has been referred to and is now pending before the Committee on the Judiciary:

Isaac George Hylton, of Virginia, to be U.S. marshal for the eastern district of Virginia for the term of 4 years (reappointment).

On behalf of the Committee on the Judiciary, notice is hereby given to all persons interested in this nomination to file with the committee, in writing, on or before Thursday, October 20, 1977, any representations or objections they may wish to present concerning the above nomination with a further statement whether it is their intention to appear at any hearing which may be scheduled.

NOTICE CONCERNING NOMINATIONS BEFORE THE COMMITTEE ON THE JUDICIARY

Mr. EASTLAND. Mr. President, the following nominations have been referred to and are now pending before the Committee on the Judiciary:

Wallace P. Bowen, of Oregon, to be U.S. marshal for the district of Oregon for the term of 4 years vice Everett R. Langford, term expired.

Harry H. Marshall, of Illinois, to be U.S. marshal for the southern district of Illinois for the term of 4 years vice Carl H. Slayback, resigned.

On behalf of the Committee on the Judiciary, notice is hereby given to all persons interested in these nominations to file with the committee, in writing, on or before Thursday, October 20, 1977, any representations or objections they may wish to present concerning the above nominations with a further statement whether it is their intention to appear at any hearing which may be scheduled.

NATIONAL COMMISSION ON NEW TECHNOLOGICAL USES OF COPYRIGHTED WORKS

Mr. ROBERT C. BYRD. Mr. President, there is a measure that has been cleared for passage by unanimous consent. It is Calendar Order No. 442. I ask unanimous consent that the Senate proceed to its immediate consideration.

The ACTING PRESIDENT pro tempore. The bill will be stated by title.

The legislative clerk read as follows:

(A bill (H.R. 4836) to extend by 7 months the term of the National Commission on New Technological Uses of Copyrighted Works.

The ACTING PRESIDENT pro tempore. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. KENNEDY. Mr. President, given the technological advances of recent years, the work of the National Commission on New Technological Uses of Copyrighted Works becomes increasingly important. I have become personally interested in this area as author of the 1974 Freedom of Information Act Amendments, as a member of the Judiciary Committee which developed the recent rewrite of the Federal copyright laws, and as chairman of the Office of Technology Assessment. Each of these areas of interest to me will be touched by the work of the Commission.

In its report on H.R. 4836, the Judiciary Committee encouraged the creation of a clearance mechanism for effectuating the provisions of the copyright revision law relating to library photocopying. Since the new law recognizes that certain library photocopying activi-

ties might constitute copyright infringement, and since it nonetheless is a matter of public policy to support reasonable and prompt access to copyrighted materials, Congress contemplated the development of "workable clearance and licensing procedures."

I do not believe, however, that this means that only a single clearance mechanism is inevitable. As chairman of the Antitrust Subcommittee of the Judiciary Committee, I am convinced that a number of copyright clearinghouses could well develop if the competitive forces in the marketplace are allowed to work. Public libraries, universities, professional educational organizations, and publishers could conceivably develop efficient and competitive clearance centers for all or even classes of published works.

I make this observation, Mr. President, only to make clear that the Judiciary Committee and the Senate are not endorsing establishment of any single clearance procedure by our encouragement of the establishment of some clearance procedure prior to the effective date of the copyright law revision. We are not approving any antitrust exemption or favored position for any single clearinghouse. That would be inconsistent with the basic principles of our competitive marketplace.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95-477), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE BILL

The purpose of the proposed legislation is to amend Public Law 93-573 to extend the date for submission of the final report of the National Commission on New Technological Uses of Copyrighted Works from December 31, 1977, to July 31, 1978.

BACKGROUND

The Commission on New Technological Uses of Copyrighted Works in the Library of Congress was authorized by Public Law 93-573 which became effective on December 31, 1974.

The statutory purpose of the Commission is to study and compile data on the use of copyrighted works in conjunction with automatic data processing systems and photocopying machines.

It consists of 13 members appointed by the President, 12 of whom are drawn in equal proportions from among these groups:

1. Authors and copyright owners;

2. Copyright users; and

3. The general public.

The 13th member is the Librarian of Congress. The Register of Copyrights is an ex officio member.

The Commission was charged with making a report by December 31, 1977, to Congress recommending changes in the law necessary to deal with the copyright problems created by computer technology and photocopying.

The act, as it was passed in 1974, authorized an appropriation for only half of the Commission's statutory life. This original authorization expired on June 30, 1976, but was extended during the last session for the full term by Public Law 94-314, which was approved on June 21, 1976.

STATEMENT

Although the law creating the Commission was enacted on December 31, 1974, appointments were not made by the President until July 25, 1975, 7 months later. Because of this late start, the Commission has requested that its life be extended for 7 additional months. According to the Executive Director of the Commission, the extension will not require expenditure of funds beyond the original 3-year budget estimate of $2,461,400 largely because no funds were expended during the first 8 months following the enactment of the authorizing legislation.

The committee is recommending favorable action on H.R. 4836, not only to permit the Commission to conclude its work on the matters assigned to it by Public Law 93-573, but also to permit the Commission to continue its work in assisting the various interests in the formulation of guidelines interpreting the library photocopying provisions of the legislation for the general revision of the copyright law.

The report of this committee on the copyright revision legislation (Report No. 94-473) recognized that certain library photocopying activities would be acts of copyright infringement. The Congress obviously did not wish to prevent reasonable and prompt access to copyrighted materials and consequently the committee recommended that "workable clearance and licensing procedures be developed." The Chairman of the Commission has assured this committee that the Commission will assist the creation in the private sector of such clearance mechanisms. The committee believes that the creation of such a clearing house prior to the January 1, 1978, effective date of the revision act is highly desirable and that the efforts of those in the private sector to establish such clearance mechanisms should be encouraged by public policy.

The ACTING PRESIDENT pro tempport. The bill is open to amendment. If there be no amendment to be proposed, the question is on the third reading of the bill.

The bill (H.R. 4836) was read the third time and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

COMMITTEE MEETING

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Education, Arts, and the Humanities Subcommittee of the Human Resources Committee be authorized to meet during the session of the Senate on Thursday, October 20, to consider S. 1753, education amendments of 1977, with the understanding that the bill will not be reported to the full Senate this session.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

RECESS SUBJECT TO THE CALL OF THE CHAIR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess subject to the call of the Chair.

There being no objection, the Senate, at 10:36 a.m., recessed until 10:46 a.m.; whereupon the Senate reassembled when called to order by the Acting President pro tempore (Mr. SASSER).

RECESS UNTIL 11:30 A.M.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess until the hour of 11:30 a.m. today.

There being no objection, the Senate, at 10:46 a.m., recessed until 11:30 a.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. RIEGLE).

RECESS UNTIL 12 NOON

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess until 12 o'clock noon today.

There being no objection, the Senate, at 11:30 a.m., recessed until 12 o'clock noon; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. ROBERT C. BYRD).

The PRESIDING OFFICER. The Senate will receive a message from the House of Representatives.

MESSAGE FROM THE HOUSE

A message from the House of Representatives delivered by Mr. Berry, one of its clerks, announced that:

The House has passed the joint resolution (H.J. Res. 626) making continuing appropriations for the fiscal year 1978, and for other purposes in which it requests the concurrence of the Senate.

The House has passed without amendment the bill (S. 2169) to name a certain Federal building in Washington, District of Columbia, the "Hubert H. Humphrey Building."

The House has passed the bill (S. 1863) to authorize appropriations during the fiscal year 1978 for procurement of aircraft and missiles, and research, development, test, and evaluation for the Armed Forces, and for other purposes, with an amendment in which it requests the concurrence of the Senate.

The House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3) to strengthen the capability of the Government to detect, prosecute, and punish fraudulent activities under the medicare and medicaid programs, and for other purposes.

The House has agreed to the concurrent resolution (H. Con. Res. 377) directing the Clerk of the House of Representatives to make a correction in the enrollment of H.R. 3, in which it requests the concurrence of the Senate.

QUORUM CALL

Mr. TALMADGE. Mr. President, I suggest the absence of a quorum until Senator DOLE comes to the floor and then, as soon as Senator ROTH is ready, I will ask for consideration of the conference report on H.R. 3 at that time.

The PRESIDING OFFICER. The absence of a quorum has been suggested. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. TALMADGE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. NELSON). Without objection, it is so ordered.

MEDICARE-MEDICAID ANTIFRAUD AND ABUSE AMENDMENTS—CONFERENCE REPORT

Mr. TALMADGE. Mr. President, I submit a report of the committee of conference on H.R. 3, and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. NELSON). The report will be stated.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3) to strengthen the capability of the Government to detect, prosecute, and punish fraudulent activities under the medicare and medicaid programs, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees on the part of both Houses.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of October 11, 1977.)

Mr. TALMADGE. Mr. President, almost from their inception, medicare and medicaid have been plagued with widespread fraudulent and abusive practices.

Year after year Congress has investigated and repeatedly been shocked by the ripoffs in the health care programs designed to help our poor and older citizens.

Last year I was pleased to introduce, jointed by many of my colleagues, the original medicare and medicaid antifraud bill.

I described it as an opportunity for the Congress to give a clear loud signal to the thieves and the crooks and the abusers that we mean to call a halt to their exploitation of the public and the public purse.

Mr. President, with the enactment of H.R. 3, that signal will be heard in unmistakable tones.

This important piece of legislation is designed to slow down, if not halt, many of the fraudluent practices in the $47 billion medicare and medicaid programs.

But, if we cannot stop fraud, under these amendments we will have new capacity to detect and punish wrongdoing. For example, instead of medicare fraud being a misdemeanor as it is now, it would be classified as a felony punishable by up to 5 years imprisonment and a fine of up to $25,000.

But, once again, while Congress can enact laws which support vigorous investigation and prosecution, we cannot administer those laws.

Much will depend upon the skill and dedication of those charged with enforcing the law.

At this point, all we can do is provide every possible means of support to those committed to law enforcement.

H.R. 3 reflects in its provisions the extensive time and effort devoted by several committees of the Congress in exposing fraud and abuse in medicare and medicaid.

For example, the Senate's Special Committee on Aging has, for years, vigorously and imaginatively exposed the fastbuck artists and the exploiters who prey on our older Americans.

That committee has sought, as we on the Finance Committee have, to keep the Federal programs for the poor and sick and the old from being corrupted and subverted.

The permanent Subcommittee on Investigations of the Senate Government Operations Committee has also invested many months of hard—and often unpublicized—effort designed to reveal and remedy shortcomings in the multibillion-dollar medicare and medicaid programs.

The permanent subcommittee deserves the thanks and commendation of all of us.

I would be remiss if I were not to acknowledge the great and continuing contribution to this bill from its inception to this point made by my colleague, Senator BOB DOLE, Congressman DAN ROSTENKOWSKI, chairman of the Ways and Means Health Subcommittee, Congressman PAUL ROGERS, chairman of the Health Subcommittee of the Commerce Committee who, along with others, worked with us to improve and expand on the original antifraud proposal and provided amiable and constructive leadership in conference.

They have made a good bill even better.

H.R. 3 is significant and urgently needed legislation.

It does credit to both Houses of Congress and was in fact adopted by the House this morning by an overwhelming vote of 401 yeas to 5 nays, House Concurrent Resolution 377.

Mr. President, I move adoption of the conference report on H.R. 3, along with the accompanying concurrent resolution correcting a technical error in the enrollment of this bill.

Mr. President, before I move the adoption of the conference report, I am delighted to yield to my distinguished colleague who works with me on the Finance Committee, and also on the Subcommittee on Health.

Mr. ROTH. I thank the chairman.

Mr. President, I have no concern about almost all of the provisions of H.R. 3. I agree with the chairman that it contains many very desirable changes which will strengthen efforts to control medicaid and medicare fraud and abuse. I do have a very real concern, however, about the provisions of section 14, as they relate to new power given the Secretary to assign and reassign providers among intermediaries and to designate regional or national intermediaries.

As the Members of this body who serve with me on the Committee on Finance will recall, when this original language from the House reached us, I was very concerned about the power of the Secretary of Health, Education, and Welfare arbitrarily to assign providers in the State of Delaware or any other State, to fiscal intermediaries operating out of Philadelphia. We have too many situations now where the Federal Government decides it wants completely to bypass the small States, and I strenuously raised the point that providers within a given State should not arbitrarily have an intermediary in another State imposed upon them if they wished to be served by an intermediary within their own State. The Finance Committee adopted language reflecting that concern.

Later, the Finance Committee deleted the House-passed language and retained existing law on this question. I raised the issue of the Roth amendment again, and again the committee supported my view. Necessarily, however, the language which was drafted was within the context of existing law: but it stated clearly that the Secretary could not find an intermediary within a State to be inefficient or ineffective solely because it operated within one State alone, or because the providers it served could be served by another agency or organization which also serves providers located outside the State.

When the matter got to conference, there was only brief consideration of my amendment, and later only the first qualifying clause—that relating to operating within one State alone—was retained. I have asked for a qualifying letter from the Department of Health, Education, and Welfare on this subject, but I have not yet received it. Accordingly, I should like to direct certain questions on this matter to the distinguished chairman of the Subcommittee on Health, Mr. TALMADGE, if I may.

First, under what circumstances could the Secretary, under the provisions of the bill as it is now before us, impose a Philadelphia intermediary upon the State of Delaware?

Mr. TALMADGE. Only where he found that it was efficient and economical.

Mr. ROTH. Is it the chairman's understanding that it is the intent and purpose of the bill that providers should be served by intermediaries within their State if they wish to be so served?

Mr. TALMADGE. It is, when more efficient and economical only.

Mr. ROTH. I appreciate the chairman's giving these answers. I would say that this is a matter I would like to have the opportunity to further explore within the subcommittee at a later time.

Mr. TALMADGE. I would be delighted to do so.

If the Senator from Delaware will yield at that point, let me say I happened to be presiding in the Finance Committee, as the Senator knows, when his amendment was reconsidered and adopted. Unfortunately, it was rejected in a clarifying amendment in the House. Senator CURTIS asked for its reconsideration the second time. So the conferees considered it not only once, but they considered it twice.

As the distinguished Senator from Delaware knows, the conferees would not agree to the amendment proposed by the Senator from Delaware.

I would suggest that if the Department of Health, Education, and Welfare does not administer the act in accordance with the views and judgment of the distinguished Senator from Delaware, that he take the appropriate vehicle which comes from the House and again attach his amendment to that appropriate ve-

hicle which comes from the House. I feel sure that the senior ranking Republican on the committee (Mr. CURTIS) would be delighted to appoint the Senator as a conferee so he could argue, with his usual eloquence, his own case with the House on another occasion.

I assure the Senator that I will be completely cooperative in his efforts in that regard as I was in this instance.

Mr. ROTH. I thank the distinguished Senator from Georgia. I appreciate his assistance both in the committee and in conference.

Mr. TALMADGE. Mr. President, I yield to the distinguished ranking minority member on our subcommittee, whom I have commented upon in my remarks as being most cooperative and helpful in the passage of this legislation, not only this legislation but all other legislation which has been before the Subcommittee on Health of the Finance Committee.

Mr. DOLE. Mr. President, I thank my distinguished chairman.

Mr. President, I commend Senator TALMADGE because it has been his initiative and leadership which have brought about these necessary changes, and I am pleased to join my colleague in bringing the conference report on H.R. 3, the medicare and medicaid antifraud and abuse amendments to the floor.

Senator TALMADGE deserves recognition for his leadership, commitment, concern and hard work on behalf of this legislation. His efforts to combat the insidious problems of fraud and abuse in these Government programs are well known.

H.R. 3 is designed to give us the tools necessary to accomplish the difficult task before us. Fraud and abuse is not the sole responsibility of any one group. Each of us, in our own way, must seek to put an end to practices that jeopardize the moneys in these programs that are meant to care for our poor, our elderly, and our disabled.

It is not the intention of this legislation, which I am proud to have cosponsored, to question the practices of the many honorable health professionals who participate in the medicare and medicaid programs. It is, however, our clear intention to penalize those who are less than honorable, those who cheat our citizens by cheating the programs.

Mr. President, we have all waited some time to have this legislation before us. The work that has been accomplished and the cooperation of not only my colleagues here in the Senate but those in the House says a great deal for our Government. Again I thank my distinguished friend from Georgia, Mr. TALMADGE, and join him in encouraging acceptance of this conference report.

Mr. TALMADGE. Mr. President, I move the adoption of the conference report.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

DIRECTING THE CLERK OF THE HOUSE OF REPRESENTATIVES TO MAKE A CORRECTION IN THE ENROLLMENT OF H.R. 3

Mr. TALMADGE. Mr. President, I send a House concurrent resolution to the desk and ask unanimous consent that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will state the concurrent resolution by title.

The legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 377) directing the Clerk of the House of Representatives to make a correction in the enrollment of H.R. 3.

The PRESIDING OFFICER. The question is on agreeing to the concurrent resolution.

The concurrent resolution (H. Con. Res. 377) was agreed to.

Mr. TALMADGE. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. TALMADGE. Mr. President, I move to reconsider the vote by which House Concurrent Resolution 377 was agreed to.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. TALMADGE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

BUDGET ACT WAIVER

Mr. ROBERT C. BYRD. Mr. President, there is a budget waiver at the desk, Senate Resolution 287, which accompanies calendar order No. 440, S. 2149. I ask unanimous consent that the Senate proceed to the consideration of the budget waiver. I do this on behalf of Mr. MUSKIE.

Mr. BAKER. Mr. President, reserving the right to object, I have no objection to proceeding to the consideration of these matters. Both the budget waiver and the measure that it relates to are cleared for consideration and passage on our calendar.

The PRESIDING OFFICER. The resolution will be stated.

The legislative clerk read as follows:

A resolution (S. Res. 287) waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 2149, a bill to create the district court for the Northern Mariana Islands, and for other purposes.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its consideration.

The resolution (S. Res. 287) was considered and agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of S. 2149, a bill to create the district court for the Northern Mariana Islands. Such waiver is necessary to permit consideration of the bill in order to implement the Covenant to establish the Commonwealth of the Northern Mariana Islands.

On March 24, 1976, the President approved Public Law 94–241 which approved the joint resolution of the Congress approving the covenant to establish a Commonwealth of the Northern Mariana Islands. Pursuant to that covenant certification was made to the President that the Mariana Islands District Legislature and a plebiscite of voters domiciled in said islands had approved the covenant. On April 21, 1977, the Constitution of the Commonwealth of the Northern Mariana Islands was submitted to the President for approval pursuant to section 202 of the covenant. It is anticipated that prior to, or on or about, January 9, 1978, the President will proclaim the date or dates which terminate the Trusteeship Agreement and establish the de facto government of the Commonwealth under said Constitution and the covenant.

Under article IV of the covenant, the United States agreed to establish a court of record to be known as the "District Court for the Northern Mariana Islands". S. 2149 is a bill to create such court.

Since the government of the Commonwealth will require a period of time, after the date to be proclaimed by the President, within which to legislatively create the local courts required by the Commonwealth constitution, it is imperative the S. 2149 be enacted by the first session of the ninety-fifth Congress in order that the Federal court required by article IV of the covenant can exercise judicial authority at the earliest date after the said date to be proclaimed by the President.

Enactment of S. 2149 will authorize the expenditure of funds during fiscal year 1978 from budget function 750 in an amount estimated at $418,000.

For the foregoing reasons, pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to S. 2149, as reported by the Committee on the Judiciary.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

DISTRICT COURT FOR THE NORTHERN MARIANA ISLANDS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of calendar order No. 440, S. 2149.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senate proceeded to consider the bill (S. 2149) to create the district court for the Northern Mariana Islands, implementing article IV of the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America, which had been reported from the Committee on the Judiciary with amendments as follows:

On page 2, line 19, after "circuit" insert a comma and "including a judge of the District Court of Guam who is appointed by the President,";

On page 4, line 1, strike "and V" and insert "and V of the covenant provided by the Act of March 24, 1976 (90 Stat. 263)";

On page 6, line 21, following the period,

insert "The district court established by this Act shall be a district court as that term is used in section 3006A of title 18, United States Code.";

The preamble was amended as follows:

In line 4, strike "March 26, 1976" and insert "March 24, 1976";

In line 5, strike "90 Stat. 266" and insert "90 Stat. 263".

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95-475), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE BILL

The purpose of the bill is to implement article IV of the covenant to establish a Commonwealth of the Northern Mariana Islands in political union with the United States of America, by establishing the District Court of the Northern Mariana Islands, and specifying the jurisdiction of the court, both original and appellate.

PURPOSE OF AMENDMENTS

1. The first amendment to the preamble merely corrects an erroneous date of approval of the joint resolution which approved the covenant.

2. This amendment to the preamble corrects an erroneous citation to statutes at large.

3. Since the District Court of Guam is not a "district court" as technically defined in 28 U.S.C. 451, it is necessary to specifically include a judge of the District Court of Guam as one of the judges which may be assigned by the chief judge of the ninth circuit to serve temporarily as a judge of the District Court of the Northern Mariana Islands.

4. This amendment clarifies the fact that the references to articles IV and V are references to articles of the Covenant to Establish a Commonwealth of the Northern Mariana Islands as approved by Public Law 94-241, 90 Stat. 263. This also clarifies the reference to article IV in section 4(b) of this act.

5. The Criminal Justice Act is applicable in the District Court of Guam pursuant to subsection (k) of section 3006A of title 18 United States Code. Since the courts of Guam and the Northern Mariana Islands are generally treated equally, the language of this amendment makes certain that the Criminal Justice Act shall apply in the District Court of the Northern Mariana Islands.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the amendments be considered en bloc.

The PRESIDING OFFICER. Without objection, the committee amendments are considered and agreed to en bloc.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The bill, with its preamble, reads as follows:

Whereas section 401 of the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America, approved by section 1 of the joint resolution of March 24, 1976 (Public Law 94-241; 90 Stat. 263), provides that the United States will establish a District Court for the Northern Mariana Islands: Now, therefore,

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) there is hereby established for and within the Northern Mariana Islands a court of record to be known as the District Court for the Northern Mariana Islands. The Northern Mariana Islands shall constitute a part of the same judicial circuit of the United States as Guam. Terms of court shall be held on Saipan and at such other places and at such times as the court may designate by rule or order.

(b)(1) The President shall, by and with the advice and consent of the Senate, appoint a judge for the District Court for the Northern Mariana Islands who shall hold office for the term of eight years and until his successor is chosen and qualified, unless sooner removed by the President for cause. The judge shall receive a salary payable by the United States which shall be at the rate prescribed for judges of the United States district courts.

(2) The Chief Judge of the Ninth Judicial Circuit of the United States may assign justices of the High Court of the Trust Territory of the Pacific Islands or judges of courts of record of the Northern Mariana Islands who are licensed attorneys in good standing or a circuit or district judge of the ninth circuit, including a judge of the District Court of Guam who is appointed by the President, or the Chief Justice of the United States may assign any other United States circuit or district judge with the consent of the judge so assigned and of the chief judge of his circuit to serve temporarily as a judge in the District Court for the Northern Mariana Islands whenever such an assignment is necessary for the proper dispatch of the business of the court. Such judges shall have all the powers of a judge of the District Court for the Northern Mariana Islands, including the power to appoint any person to a statutory position, or to designate a depository of funds or a newspaper for publication of legal notices.

(3) The President shall appoint, by and with the advice and consent of the Senate, a United States attorney and United States marshal for the Northern Mariana Islands to whose offices the provisions of chapters 35 and 37 of title 28, respectively, United States Code, shall apply.

(4) If the President appoints a judge for the District Court for the Northern Mariana Islands or a United States attorney or a United States marshal for the Northern Mariana Islands who at that time is serving in the same capacity in another district, the appointment shall, without prejudice to a subsequent appointment, be for the unexpired term of such judge or officer.

(c) The provisions of chapters 43 and 49 of title 28, United States Code, and the rules heretofore or hereafter promulgated and made effective by the Congress or the Supreme Court of the United States pursuant to titles 11, 18, 28, United States Code, shall apply to the District Court for the Northern Mariana Islands and appeals therefrom where appropriate, except as otherwise provided in articles IV and V of the covenant provided by the Act of March 24, 1976 (90 Stat. 263). The terms "attorney for the government" and "United States attorney" as used in the Federal Rules of Criminal Procedure (rule 54(c)) shall, when applicable to cases arising under the laws of the Northern Mariana Islands, include the attorney general of the Northern Mariana Islands or any other person or persons as may be authorized by the laws of the Northern Marianas to act therein.

SEC. 2. (a) The District Court for the Northern Mariana Islands shall have the jurisdiction of a district court of the United States, except that in all causes arising under the Constitution, treaties, or laws of the United States, it shall have jurisdiction regardless of the sum or value of the matter in controversy.

(b) The district court shall have original jurisdiction in all causes in the Northern Mariana Islands not described in subsection (a) jurisdiction over which is not vested by the Constitution or laws of the Northern Mariana Islands in a court or courts of the Northern Mariana Islands. In causes brought in the district court solely on the basis of this subsection, the district court shall be considered a court of the Northern Mariana Islands for the purposes of determining the requirements of indictment by grand jury or trial by jury.

SEC. 3. The district court shall have such appellate jurisdiction as the Constitution and laws of the Northern Mariana Islands provide. Appeals to the district court shall be heard and determined by an appellate division of the court consisting of three judges, of whom two shall constitute a quorum. The judge appointed for the court by the President shall be the presiding judge of the appellate division and shall preside therein unless disqualified or otherwise unable to act. The other judges who are to sit in the appellate division at any session shall be designated by the presiding judge from among the judges assigned to the court from time to time pursuant to subsection 1(b)(2): *Provided, however,* That only one of them shall be a judge of a court of record of the Northern Mariana Islands. The concurrence of two judges shall be necessary to any decision by the district court on the merits of an appeal but the presiding judge alone may make any appropriate orders with respect to an appeal prior to the hearing and determination thereof on the merits and may dismiss an appeal for want of jurisdiction or failure to take or prosecute it in accordance with the applicable law or rules of procedure.

SEC. 4. (a) The relations between the courts established by the Constitution or laws of the United States and the courts of the Northern Mariana Islands with respect to appeals, certiorari, removal of causes, the issuance of writs of habeas corpus, and other matters or proceedings shall be governed by the laws of the United States pertaining to the relations between the courts of the United States and the courts of the several States in such matters and proceedings, except as otherwise provided in article IV of the covenant: *Provided,* That for the first fifteen years following the establishment of an appellate court of the Northern Mariana Islands the United States court of appeals for the judicial circuit which includes the Northern Mariana Islands shall have jurisdiction of appeals from all final decisions of the highest court of the Northern Mariana Islands frcm which a decision could be had in all cases involving the Constitution, treaties, or laws of the United States, or any authority exercised thereunder, unless those cases are reviewable in the District Court for the Nothern Mariana Islands pursuant to section 3 of this Act.

(b) Those portions of title 28 of the United States Code which apply to Guam or the District Court of Guam shall be applicable to the Northern Mariana Islands or the District Court for the Northern Mariana Islands, respectively, except as otherwise provided in article IV of the covenant. The district court established by this Act shall be a district court as that term is used in section 3006A of title 18, United States Code.

SEC. 5. This Act shall come into force upon its approval or at the time proclaimed by the President for the Constitution of the Northern Mariana Islands to become effective, whichever is the later date.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS SUBJECT TO THE CALL OF THE CHAIR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess awaiting the call of the Chair.

There being no objection, at 12:46 the Senate recessed, subject to the call of the Chair.

The Senate reassembled at 1:33 p.m. when called to order by the Presiding Officer (Mr. CULVER).

ANNOUNCEMENT OF MEETING BY COMMITTEE ON APPROPRIATIONS

Mr. ROBERT C. BYRD. Mr. President, I take the floor at this time to announce that the Appropriations Committee will have a meeting at 2:30 p.m. today to consider the continuing resolution which has come over from the House of Representatives, dealing with District of Columbia appropriations, Labor-HEW appropriations, and foreign aid appropriations. The acting chairman of the committee, Mr. MAGNUSON—he is the chairman of the subcommittee that handles the bill—and the ranking member of the committee, Mr. YOUNG, are very hopeful that a quorum of that committee can be quickly assembled at the hour of 2:30 p.m. I hope that our respective cloakrooms can get the word out and help the ranking member and the chairman get a quorum, so action can be taken quickly.

Mr. YOUNG. I do not think there is any objection to the bill itself, but just the procedure. The rules that it should go to the Appropriations Committee for their consideration. Many feel we can pass a bill this afternoon. I hope we can.

Mr. ROBERT C. BYRD. I thank the distinguished Senator from North Dakota.

RECESS UNTIL 2 P.M.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess until the hour of 2 p.m. today.

There being no objection, the Senate, at 1:34 p.m., recessed until 2 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. CHILES).

RECESS UNTIL 2:45 P.M.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess until 2:45 p.m. today.

There being no objection, the Senate, at 2 p.m., recessed until 2:45 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. ALLEN).

CONTINUING APPROPRIATIONS, 1978

Mr. MAGNUSON. Mr. President, from the Committee on Appropriations, I report, without a written report, House Joint Resolution 626, making continuing appropriations for the fiscal year 1978, and for other purposes.

The PRESIDING OFFICER. Will the Senator please send the resolution to the desk so that it may be stated?

Mr. MAGNUSON. I might say for the record that we sent to the House last night two continuing resolutions, one for HEW-Labor, the other for the District of Columbia, and the House resolution added foreign aid, so all three are combined in the continuing resolution.

The PRESIDING OFFICER. The resolution will be stated by title.

The legislative clerk read as follows:

A joint resolution (H.J. Res. 626) making continuing appropriations for fiscal year 1978, and for other purposes.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the joint resolution.

The Senate proceeded to consider the joint resolution.

Mr. MAGNUSON. Mr. President, the House passed and sent to the Senate earlier today House Joint Resolution 626. This joint resolution is the traditional continuing appropriations resolution with which we are all familiar.

The Committee on Appropriations met a few moments ago and reported this joint resolution back to the Senate without amendment.

It is urgent that we immediately pass this joint resolution so it can be sent down to the President for his approval. Otherwise, many employees cannot be paid and functions of Government cannot proceed.

This joint resolution covers the Departments of Labor; HEW, and related agencies, the District of Columbia, and salaries and expenses of employees administering foreign assistance and related programs. It is effective only until October 31, 1977.

Mr. President, I ask the Chair to put the question.

I yield to the Senator from North Dakota.

Mr. YOUNG. Mr. President, I am pleased that the Senate was able to act so expeditiously on this continuing resolution, which the House only passed last night. I thought it was necessary under our rules to refer the bill to the Appropriations Committee, even though part of it was approved yesterday. It does involve three major appropriations bills, but only effective for a short time. I hope the resolution will be passed without any changes at all.

Mr. STEVENS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MAGNUSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEAHY. Mr. President, as Chairman of the Senate Appropriations Subcommittee on the District of Columbia, I am pleased to support the joint resolution passed by the House this morning that will provide legal authority for the District of Columbia city government to continue its operations.

On September 30, legal authority for the city to incur obligations expired. Since that time, the city has been continuing its basic operations. In a practical sense, this has appeared to be necessary. In a strictly legal sense, however, this has not been proper, as the city has not had the legal authority to incur obligations to spend any money. Next Tuesday, the city government hopes to meet its payroll for the first payday since September 30 for salary earned in the month of October. Meeting next Tuesday's payroll without this continuing resolution would be a significant violation of the law. Not meeting next Tuesday's payroll would represent a significant disruption to the many employees of the District of Columbia city government and would represent a great disservice to them and their families.

Because of these circumstances, I initiated action yesterday on behalf of the Committee on Appropriations to provide a continuing resolution for the city government. This resolution, Senate Joint Resolution 90, passed the Senate yesterday evening. I am pleased that the House took the initiative this morning, also to pass a continuing resolution for the District of Columbia city government, which I fully support.

The House and Senate have both passed an appropriation bill for 1978 for the city government and the House and Senate conferees are meeting to try to resolve the differences in the two versions of the bill. In working toward this end, we had a conference meeting yesterday and, while we were unable to reach full agreement at yesterday's meeting, I am hopeful that an agreement will be reached in the very near future.

Mr. EAGLETON. Mr. President, we are now discussing the continuing resolution which will permit the employees of the Department of Health, Education, and Welfare to be paid.

As I read the continuing resolution, it will, on the subject of abortion, clearly preserve the law as presently established, that is, the Hyde antiabortion language of the fiscal 1977 HEW appropriations bill will be in full force and effect. This, in my personal opinion, is as it should be.

Now, if I may, Mr. President, I would like to address myself to a legislative event that occurred on the Senate floor last night. This event relates to the abortion question and thus has, at least, an indirect bearing on the instant continuing resolution.

Last evening, the Senate adopted the following compromise language in an effort to resolve the conflicting positions of the Senate and House conferees on the Labor-HEW appropriations bill with respect to the abortion issue. Let me slowly and carefully read the following language:

None of the funds in this Act shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term, or in the case of rape or incest, or if the mother or fetus would suffer serious health damage. This section does not prohibit the use of drugs or devices to prevent implantation of the fertilized ovum.

This action was taken by a voice vote rather late into the evening and at a time when most Members of the Senate were of the belief that no further substantive legislative activity would occur.

While I fully sympathize with the Senate managers of the bill, and respect their efforts to see that the programs operated by the Departments of Health, Education, and Welfare and Labor do not grind to a halt, I wish to go on record as opposing the "compromise" language adopted on the Senate floor last night. Although I am troubled that the language adopted would allow federally funded abortions in cases of rape or incest, the most serious loophole in the compromise language is the provision which would allow federally funded abortions "if the mother or fetus would suffer serious health damage."

Although I know this is a well-intentioned attempt on the part of Senator MAGNUSON to compromise with the House, the substitution of the "serious health damage" language is not substantively different from the original Senate language which allowed Federal payment for abortions when it was determined to be "medically necessary." In my view, this so-called "compromise" would leave the door equally wide open for abortion on demand.

It is my profound belief, Mr. President, that life is a continuum, from first beginnings in the womb to the final gasp of the dying, and that the first function of society, the primary responsibility of Government, is to protect life and to create conditions which permit each person to flourish and to reach his or her fullest potential. Where there is a question concerning human life, I believe that society, by its basic governmental charter, must come down on the side of life.

The PRESIDING OFFICER. The joint resolution is open to amendment. Are there amendments to be offered? If not, the question is on the third reading and passage.

The joint resolution was ordered to a third reading, was read the third time, and passed.

Mr. MAGNUSON. Mr. President, I move to reconsider the vote by which the resolution passed.

Mr. BROOKE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MESSAGE FROM THE HOUSE

ENROLLED BILL SIGNED

A message from the House of Representatives delivered by Mr. Hackney, one of its clerks, announced that the Speaker has signed the enrolled bill (S. 2169) to name a certain Federal building in Washington, District of Columbia, the "Hubert H. Humphrey Building."

The enrolled bill was subsequently signed by the Acting President pro tempore (Mr. SASSER).

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Chirdon, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

RECESS UNTIL 3:30 P.M.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess until the hour of 3:30 p.m. today.

There being no objection, the Senate, at 2:50 p.m., recessed until 3:30 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. ROBERT C. BYRD).

AUTHORITY FOR TELEVISION CAMERA IN SENATE CHAMBER

Mr. CANNON. Mr. President, I ask unanimous consent that a television camera be permitted in the Senate Chamber while the Senate is not in session at some time during the coming week, for the purpose of testing out the adequacy of the lighting, the adequacy of the sound system, and other matters related to the possible telecasting of the debates in the Senate next year on the Panama Canal treaties.

The PRESIDING OFFICER. Is there objection

Mr. CANNON. I might say, Mr. President, that this would be done at a time when the Senate is not in session, would not require the moving in of any equipment that would disturb the Senate when it is in session, and would be done in an unobtrusive manner entirely.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Nevada? The Chair hears none, and it is so ordered.

What is the will of the Senate?

QUORUM CALL

Mr. BAKER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 4 P.M.

Mr. BAKER. Mr. President, I ask unanimous consent that the Senate stand in recess until the hour of 4 o'clock p.m.

There being no objection, at 3:32 p.m. the Senate took a recess until 4 p.m.; whereupon the Senate reassembled when called to order by the Presiding Officer (Mr. MATSUNAGA).

RECESS UNTIL 5 P.M.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess until 5 o'clock p.m. today.

There being no objection, the Senate, at 4 p.m., recessed until 5 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. MATSUNAGA).

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistance legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so orderd.

MESSAGE FROM THE HOUSE

ENROLLED BILL AND JOINT RESOLUTION SIGNED

A message from the House of Representatives delivered by Mr. Hackney, one of its clerks, announced that the Speaker has signed the following enrolled bill and joint resolution:

H.R. 3. An act to strengthen the capability of the Government to detect, prosecute, and punish fraudulent activities under the medicare and medicaid programs, and for other purposes.

H.J. Res. 626. Joint resolution making continuing appropriations for the fiscal year 1978, and for other purposes.

The enrolled bill and joint resolution were subsequently signed by the Acting President pro tempore (Mr. SASSER).

RECESS UNTIL 5:33 P.M.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess for 30 minutes.

There being no objection, the Senate, at 5:03 p.m., recessed until 5:33 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. MATSUNAGA).

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a brief period for the transaction of routine morning business not to extend beyond 30 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

(Later the following occurred:)

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a limitation on speeches during morning business at this point for not to exceed 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered

Mr. ROBERT C. BYRD. I would ask that this request appear at the beginning of the period of morning business, otherwise Senators would not be permitted under the rules to speak at all.

Mr. ALLEN. Mr. President, I appreciate the majority leader waiting until I concluded my remarks when he pulled that time limitation.

Mr. ROBERT C. BYRD. My request had nothing to do with the Senator's speech. As the Senator knows, under the rules of morning business Senators cannot speak except by unanimous consent. So I think the record ought to show there was that unanimous consent.

The PRESIDING OFFICER. The Chair observes the Senator's speech was within the 10-minute rule.

Mr. ALLEN. I wanted to keep it short.

Mr. ROBERT C. BYRD. I note the Senator read his speech, which is rather unusual.

Mr. ALLEN. I wanted to keep it as short as possible. If I had ad libbed it might have been somewhat longer.

Mr. ROBERT C. BYRD. The Senator is a very able and resourceful Senator.

PANAMA CANAL TREATIES—NO. 16

Mr. ALLEN. Mr. President, I am going to count this my speech No. 16 on the Panama Canal since the treaties were signed by the two heads of state.

Mr. President, I read today in the Washington Star a very interesting article touching on a matter about which perhaps all Senators should become knowledgeable. The article reports that U.S. Department of Justice sources have confirmed that there is a sealed narcotics indictment in the eastern district of New York against one Moises Torrijos, brother of the present Panamanian Dictator Omar Torrijos. The Washington Star newspaper story does not state the substance of the indictment, but it does report that the indictment has never been disclosed allegedly, because Moises Torrijos has not returned to the United States since the time the indictment was issued, apparently some time during 1972.

You know, Mr. President, I wondered at the time of the signing of the Panama Canal treaties why Moises Torrijos was not in attendance inasmuch as he is currently Ambassador to Spain and presumably would have wished to share in the celebrations held down at the Pan American building. At the time, it did seem strange that since diplomats from every Spanish-speaking country in the world did seem able to attend, yet the brother of the present head of the Panamanian Government found it inconvenient to share in the festivities.

Sometimes, Mr. President, I am slow to get the full picture, but I am beginning to understand the answers to some of the questions that have been troubling me, and there have been plenty of questions, Mr. President, about these treaties. Since reading the article in the Star, I have had brought to my attention certain other bits and pieces of information which perhaps should be further highlighted or recalled. Apparently, Mr. President, back some time in early 1972 or perhaps late 1971, Rafael Richard, the son of the Panamanian Ambassador to Taiwan—I believe the correct date was July 8, 1971—was arrested in New York carrying luggage containing some 150 pounds of heroin. Mr. Richard, who was fairly young for a diplomat, was traveling on a diplomatic passport signed by Mr. Juan Tack, whom Senators will recall negotiated with then-Secretary of State Henry Kissinger for the Kissinger-Tack agreement which formed the framework for subsequent negotiations leading to these proposed treaties now being considered in the Senate. But Mr. Richard was not on his first visit to the United States; he was instead on his fifth visit. And according to a New York Times article by Benjamin Welles, dated March 15, 1972, Mr. Richard had brought into the United States 150 pounds of heroin each trip. But, Mr. President, let us see what happened to Mr. Richard. According to the New York Times—and, of course, that is the only information I have to go on as to this particular item, the information available in the newspapers—Mr. Richard was given the full privileges of diplomatic immunity and apparently allowed to leave the United States without further question.

Mr. Richard's uncle was not quite as lucky. As reported in the Times, his uncle, Guillermo Gonzalez, and I quote, "an intimate and former bodyguard of Moises Torrijos," was convicted of a felony charge related to heroin smuggling and sentenced to seven years in prison. If Mr. Gonzalez is in prison, perhaps he would know more about this matter, but I do not know whether he has been required to serve his full term and is, therefore, still incarcerated.

About this same time, Mr. President, three American narcotics agents were ordered expelled from Panama by Mr. Juan Tack on 24-hours notice. Mr. Tack asserted that the men, who were agents of the U.S. Bureau of Narcotics and Dangerous Drugs, were interfering with "the internal affairs of Panama." Some internal affairs, Mr. President, I might say, and some diplomats.

So, Mr. President, today we learned that there is a sealed indictment waiting for Mr. Moises Torrijos, Ambassador to Spain, waiting for Mr. Moises Torrijos up there in the eastern district of New York, waiting up there for some 5 years now with no public disclosure whatsoever that Ambassador Torrijos was being sought by our Government. Mr. Moises Torrijos may have known he is being sought by our Government. He found it convenient not to be in the United States over a 5-year period on any occasion. But, Mr. President, the American people did not know and the American people have got to have sharp eyes to pick this story up off the fifth page of the Washington Star to try to piece together just what is going on.

Now, there has been another recent sealed indictment, not 5 years old, but a fairly new sealed indictment which has recently been made entirely public. That indictment involves one Mr. Tongsun Park. Tongsun Park has shown no great inclination to return to the United States either, and quite properly the citizens of the United States have been advised that Tongsun Park is under indictment. Yet, Mr. President, Moises Torrijos is treated differently.

I hold no brief for Mr. Tongsun Park, but it does seem he received one type of treatment and Moises Torrijos another.

On Wednesday, I talked to some extent about the ironclad language used by our negotiators in securing the Panama Canal Treaty in 1903. I pointed out that our negotiators back in those days could and did draft a document which reflected a meeting of the minds, a document without ambiguity, and a document which could be enforced. I am pleased to report to the Senate, Mr. President, that the year following the negotiation of the treaty of 1903, our Government took the prudent step of negotiating with Panama a document entitled "A Treaty for the Mutual Extradition of Criminals." This extradition treaty of 1904 is also an ironclad document without ambiguity. The preamble reads this way, Mr. President:

> The United States of America and the Republic of Panama, being desirous to confirm their friendly relations and to promote the cause of justitce, have resolved to conclude a treaty for the extradition of fugitives from justice between the United States of America and the Republic of Panama.

So, they set forth the purpose of this treaty pretty clearly there in the preamble. Article I of this treaty reads this way:

> The Government of the United States and the Government of the Republic of Panama mutually agree to deliver up persons who, having been charged with or convicted of any of the crimes and offenses specified in the following article, committed within the jurisdiction of one of the contracting parties, shall seek an asylum or be found within the territories of the other: Provided, that this shall only be done upon such evidence of Criminality as, according to the laws of the place where the fugitive or person so charged shall be found, would justify his or her apprehension and commitment for trial if the crime or offense has been there committed.

We have been advised by the Washington Star that there is a sealed indictment handed down by a grand jury in the eastern district of New York against Ambassador Moises Torrijos, but we do not know what the charges are, we do not know what the evidence is. So, Mr. President, we are left to speculate whether this treaty of 1904 would apply. Presumably, the crime charged would be a felony. Presumably, the crime charged would justify his apprehension and commitment for trial if the crime or offense charged had been committed in Panama. Mr. President, I do not know where Ambassador Moises Torrijos is located today. Perhaps he is

at his post in Spain, and perhaps the Department of Justice ought to see if we have an extradition treaty with Spain as we do with Panama. But one thing is certain, Mr. President, when I have referred to the regime in power in Panama as a gangster dictatorship, I have not used the term lightly.

Mr. President, I ask unanimous consent that an article from the Washington Star and an article from the New York Times be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

UNITED STATES INDICTED BROTHER OF TORRIJOS, SOURCE IN JUSTICE DEPARTMENT SAYS

The brother of Panamanian chief of state Omar Torrijos was indicted in New York five years ago on federal narcotics smuggling charges but U.S. authorities have never been able to arrest him, Justice Department sources have confirmed.

"There is a sealed narcotics indictment in the Eastern District of New York" against Torrijos' brother Moises, a knowledgeable department official said yesterday.

"It has never been unsealed because we have never found him back in this country to arrest him," this source said.

The Miami Herald reported yesterday that Atty. Gen. Griffin Bell told President Carter about a variety of allegations that members of Torrijos' family have been involved in smuggling drugs to the United States.

Department spokesman Robert Havel confirmed that Bell discussed the matter with Carter on October 3.

After inquiries from members of Congress, Bell briefed Carter on the situation. The President agreed with Bell's recommendation that the Justice Department provide the same briefing to congressional leaders, Havel said.

HOUSE MEMBER CHARGES NARCOTICS SMUGGLING INQUIRY TOUCHES "HIGHEST LEVELS" OF PANAMA GOVERNMENT

(By Benjamin Welles)

WASHINGTON, March 15—Representative John M. Murphy charged today that an investigation into heroin smuggling into the United States had touched the "highest levels" of the Government of Panama.

Mr. Murphy, Democrat of Staten Island, who is chairman of a House subcommittee on the Panama Canal, named Juan Tack, Panamanian Foreign Minister, and Moises Torrijos, Panamanian Ambassador to Spain, as the officials allegedly involved in narcotics. Mr. Torrijos is a brother of Brig. Gen. Omar Torrijos, ruler of Panama.

José Antonio de la Ossa, the Panamanian ambassador here, issued a statement vigorously denying the charges. He suggested that Mr. Murphy was reviving old charges because he had been "cold-shouldered" by Panamanian officials during his recent inspection visit to the Panama Canal.

He suggested too that Mr. Murphy was using the drug charges to impede progress toward a new Panama Canal treaty which if negotiated, would restore "sovereignty" over the Canal Zone to the Panamanian Republic.

Late yesterday Mr. Tack ordered the expulsion of three American narcotics agents from Panama within 24 hours. He asserted that the men, agents of the United States Bureau of Narcotics and Dangerous Drugs, had "intervened in the internal affairs of Panama."

The expulsion followed initial reports two days ago in the syndicated column of Jack Anderson linking Mr. Tack and Mr. Torrijos with narcotics smuggling. The first hint of the development came a week ago in a brief allusion by the Panama Canal subcommittee to "confidential" information passed to the subcommittee by the Bureau of Narcotics.

United States officials involved in the treaty negotiations, which have been under way here since June, declined to speculate whether the flareup would jeopardize the talks. Panamanian diplomats, who denied recent reports of an "impasse," said that they thought the talks would not be fundamentally affected.

Mr. Murphy said in an interview today that he and other subcommittee members had been briefed here on Jan. 24 by Customs Bureau agents placed at their disposal by Myles Ambrose, then Director of the Treasury's Bureau of Customs and now President Nixon's special consultant for drug abuse enforcement. The subcommittee was then preparing to visit Panama and the Canal Zone.

A passage from the unpublished report of the subcommittee dated March 8 and entitled "Overview of the Narcotics Problem in Panama" cited a recent drug-smuggling case involving Panamanians and stated in part:

"The [customs] briefing team concluded that based on the customs investigation this case reached into the highest levels of Panamanian officialdom and included Moises Torrijos, the brother of Gen. Omar Torrijos and the Panamanian Foreign Minister, Juan Tack."

The subcommittee report also asserted that this involvement "was confirmed by B.N.D.D. officers in the Republic of Panama on Feb. 23 during the subcommittee briefing in that country."

The State Department said that the bureau had denied "in writing" that its agents had implicated Mr. Tack or Mr. Torrijos in its briefings of the House subcommittee.

A spokesman for the Customs Bureau said that it had nothing to add to what it had told Mr. Murphy and his subcommittee colleagues.

Charles W. Bray 3d, the State Department spokesman, said that the department considered the expulsion of the three agents, Wilbur Plase, Ruben Monzon and Charles W. Cecil Jr., as unwarranted.

Mr. Murphy, a graduate of West Point and a decorated infantry commander in World War II and the Korean war, cited growing drug abuse among American servicemen and dependents in Taiwan, Okinawa, the Philippines, Vietnam, and, especially, Panama.

The subcommittee recalled details of two recent drug-smuggling cases that, it contended, involved Mr. Tack and Mr. Torrijos.

One concerned the arrest in New York last July 8 of Rafael Richard, son of the Panamanian Ambassador to Taiwan. Mr. Richard, who was 23, was travelling on a diplomatic passport signed by Mr. Tack, which gave him immunity from prosecution.

At the time of his arrest he was on his fifth visit to the United States, during each of which he had brought about 150 pounds of heroin, the report said.

He was with Guillermo Gonzáles, his uncle, an intimate and former bodyguard of Moises Torrijos.

Mr. Gonzáles, who was believed to be the ringleader, was convicted and sentenced to seven years. The report said United States sources believe that Mr. Tack and Mr. Torrijos were not only sanctioning but were abetting this smuggling.

The other case involved Joaquin Gonzáles, former international transit chief of Tocumen International Airport at Panama, who was indicted in the smuggling of $1-million worth of heroin to Dallas.

Mr. Gonzáles was arrested by the United States authorities Feb. 6, 1971, when he entered the Canal Zone to attend a baseball game. He was flown to Texas to stand trial and was sentenced to five years. Mr. Tack exerted strong but unsuccessful diplomatic efforts to have him released, the subcommittee said.

DISTRICT COURT FOR THE NORTHERN MARIANA ISLANDS

Mr. ROBERT C. BYRD. Mr. President, will the Senator from Kansas allow me to proceed for just two or three requests? I ask unanimous consent, on behalf of Mr. EASTLAND, that third reading and passage of S. 2149 be reconsidered for the sole purpose of offering a technical amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senate proceeded to reconsider the bill.

UP AMENDMENT NO. 934

Mr. ROBERT C. BYRD. Mr. President, on behalf of the Senator from Mississippi (Mr. EASTLAND) I call up the amendment at the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from West Virginia (Mr. ROBERT C. BYRD) on behalf of the Senator from Mississippi (Mr. EASTLAND) proposes unprinted amendment numbered 934:

On page 7, after line 4, insert the following:

SEC. 6. There is authorized to be appropriated such sums as may be necessary to carry out the purposes of this act.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the bill be read the third time, passed, and that the motion to reconsider be laid on the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORIZATION FOR CERTAIN ACTION DURING RECESS TO MONDAY NEXT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that during the recess which I anticipate will be a recess over until Monday noon, the Secretary of the Senate be authorized to receive and refer messages from the House of Representatives and from the President of the United States.

Mr. BAKER. Mr. President, reserving the right to object——

The PRESIDING OFFICER. The Senator from Tennessee reserves the right to object.

Mr. ROBERT C. BYRD. Mr. President, I modify my request as follows: I ask unanimous consent that during the recess of the Senate over until Monday, the Secretary of the Senate be authorized to receive messages from the House of Representatives and from the President of the United States.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that during the recess over until Monday, the Vice President of the United States, the President of the Senate pro tempore, the Acting President pro tempore be authorized to sign all duly enrolled bills and joint resolutions.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I yield the floor to the distinguished

Senator from Kansas who has been patiently waiting for recognition.

The PRESIDING OFFICER. The Senator from Kansas is recognized for a period of not to exceed 10 minutes.

THE PANAMA CANAL AND ALLEGATIONS OF DRUG TRAFFICKING

Mr. DOLE. Mr. President, Panamanian strongman Gen. Omar Torrijos will be in Washington tomorrow to meet with President Carter. Reportedly, they will discuss the proposed Panama Canal treaties, and the recent controversy circulating around differing interpretations of treaty language. There is another serious matter which has just come to my attention, which I hope will also be clarified during Torrijos' visit, or soon afterward. This involves allegations of direct involvement by General Torrijos and other members of his family in drug trafficking in the United States and elsewhere, that the distinguished Senator from Alabama (Mr. ALLEN) alluded to with regard to one incident.

Now, obviously the President of the United States cannot select the individual with whom he conducts his negotiations in international affairs. By the same token, however, our executive branch does have some choice in what is hidden or revealed to the public, which could bear upon those negotiations. It is my understanding that a number of documents now in the possession of the U.S. Drug Enforcement Administration have been "classified," which bear directly upon allegations of drug trafficking by General Torrijos. Those documents should be immediately turned over to the U.S. Senate for examination.

I am told that there is presently within the files of the Drug Enforcement Administration a large volume of materials bearing upon this matter. I have been given a list of 44 specific file codes containing information on the subject.

I am especially troubled to learn that an overt attempt was reportedly made to keep this information out of public purview by moving the intelligence files to another location for temporary safekeeping. I am advised that, just recently, perhaps to avoid embarrassment, these files were returned to the Drug Enforcement Administration's central office.

Mr. President, I do not like to jump to conclusions, and I do not necessary believe everything I am told. However, I do consider the source of this information to be sufficiently reliable to give me deep concern about the nature of the Panamanian leader with whom we are dealing. Suggestions that he—perhaps in conjunction with Fidel Castro—is involved in an illegal international drug operation is cause enough for concern. The allegation that these drugs are being funneled directly into the United States, and that General Torrijos himself may be profiting directly from drug sales, makes the matter all the more serious.

SENATE SHOULD HAVE INFORMATION

At the very least, I believe the Justice Department—and the Drug Enforcement Administration in particular—should make its findings on this matter known immediately to the appropriate Senate committee or committees, which can then decide what effect the information might have on ratification of the Panama Canal Treaties. I believe the Subcommittee on Separation of Powers, of the Senate Judiciary Committee, would certainly be entitled to take a look at this material, along with the Senate Foreign Relations Committee, and perhaps others.

Mr. President, I am calling upon the administration to address this serious matter immediately. I believe that President Carter should discuss these allegations with General Torrijos and request a full explanation. There is no better time for this than tomorrow.

In addition, it would be useful for the President himself to examine the files in possession of the Drug Enforcement Administration, and approve their release to appropriate Senate panels for full investigation. If any portion of these allegations are found to be accurate, I hope that the necessary information will be made available to all Members of Congress, and to the American public before the Panama Canal Treaty ratification process is completed.

Mr. President, as the Senator from Kansas indicated, the list containing DEA file references contains about 44 different references. In an effort to be totally cautious, and after making investigation as to whether or not the numbers themselves were classified, and being told that perhaps they were not, but to be on the safe side, after having experienced just last week with the State Department, the Senator from Kansas will not make public the reference numbers, but the Senator from Kansas does believe it is appropriate, at the proper time, to turn these references over to the proper committee, and I would hope that, based on the information available, the files could be subpenaed or otherwise brought before the appropriate committees in Congress, perhaps in executive session, and looked into very carefully.

But it seems to me that if someone were to ask, "How does this bear on the ratification of the treaties," the Senator from Kansas might state that if these allegations were true, it would have a great bearing on the ratification of the treaties, because it involves one of the principal participants and that individual's integrity.

So I would hope, based upon the statement that, come tomorrow, the President will discuss this matter, if he checks with the DEA and finds the information to be accurate, with General Torrijos.

Mr. President, I yield back the remainder of my time.

Mr. BAKER. Mr. President, I once again commend the Senator from Kansas for his diligence and care in pursuing aspects of this matter which is of so much interest to us. The remarks made by him today, and earlier by the distinguished Senator from Alabama, are in excess of the information available to me, but I would like to add to the record that part that I know, so that he will be seized with what I know, and can determine where to go from here.

The majority leader is present and can corroborate what I am about to say, but I see no reason for not reporting to the Senate that the Attorney General briefed us in connection with certain matters in this respect, and he briefed the chairman and the ranking Republican member of the committee in certain respects. I have suggested to the Attorney General, and it is my understanding that he agreed, that the appropriate jurisdictional committees of the Senate be briefed on such matters as might be relevant to the subject of their consideration.

Mr. President, the only reason I say this is to let the Senator from Kansas know that there has been a contact with the administration, and that it has been my insistence, and I believe that of the majority leader as well, that the Senate be informed on whatever aspects may be relevant, if any. I do not know the details of the transactions or the allegations. I cannot speak for their truthfulness. But I thought, in view of the interest and importance of the matter, the Senate ought to be kept fully informed.

Mr. ROBERT C. BYRD. Mr. President, the minority leader has correctly stated the situation as to our being briefed, and we have been assured we would continue to be briefed as to any further information which comes to the attention of the Attorney General upon this matter.

Mr. BAKER. Mr. President, I would only reiterate one part, to make sure it is entirely clear: It was at our insistence that the Department of Justice make sure that the relevant committees of the Senate be fully apprised of whatever information might be relevant to our consideration of relevant matters.

Mr. DOLE. Mr. President, I appreciate being informed that the matter is moving along. Does that include information as to the allegation that the files may have been removed and then returned?

Mr. BAKER. No. I prefaced these remarks by saying that the Senator from Kansas had more information than I had, and it was to that that I was referring.

Mr. ROBERT C. BYRD. Mr. President, I want to say that I have full confidence in the intention of the Attorney General of the United States to bring to our attention the full relevant information, as he has done, and I have no doubt that he will continue to bring to the attention of the joint leadership and Senate committees any information that he has bearing on this matter.

Mr. President, I yield the floor.

Mr. THURMOND. Mr. President, I commend the able Senator from Kansas for bringing this information to the Senate. It would be my hope that the files referred to by him, that contain such information, would be made available by the administration to the Separation of Powers Subcommittee of the Committee on the Judiciary. I feel that these charges are too serious to be passed on lightly. I feel that this matter should be gone into carefully, and that there should be no action on the part of the administration to withhold files. I do not predict that they will, but I feel very strongly that the information in these

files should be made available to the Members of the Senate.

Mr. HATCH. Mr. President, as ranking minority member of the Separation of Powers Subcommittee, I also would like to thank the distinguished Senator from Kansas for his enlightenment of the Senate, and I think the country, today.

I have had a lot of reports from various sources that the Torrijos regime has been participating for a number of years in drug trafficking. I have, for the most part, chosen to carefully watch those reports, but have not had any particular source that I was willing to rely upon, until today, to give me any indication or information that would lead to reliable or verifiable proof of such trafficking.

We have held some extensive hearings in the Separation of Powers Subcommittee, and we have tried to do everything in our power to bring out a variety of matters concerning the Panama Canal on both sides. I commend the distinguished Senator, and I do believe that the administration ought to provide us with these files, ought to provide us with the appropriate people who can testify, and let us know who they are, so that we can once and for all get this matter out in the open, and determine exactly what type of regime we are dealing with, and above all, what kind of a person we are dealing with in Omar Torrijos.

The chairman of the committee is here on the floor, and I do not mean to usurp his function by making this particular request, but let me just say this, for myself personally: I feel that it is a very reasonable request, and we ought to be able to look into the matter. I think for the benefit of all Members of the Senate, and certainly for the benefit of the country as a whole. As everyone knows, this Panama Canal problem has become one of the paramount problems of our day. There are differing viewpoints and differing sides to this question, but I would like to see both sides brought out, and not just one side. I am not sure we have had enough brought out on the impact of the treaty side to keep people properly informed.

I think the people should know if there is evidence of drug trafficking, and if the evidence you have indicated can be obtained, I think we ought to see it.

I thank the Senator from Kansas for his statement on the floor of the Senate, and certainly want to give any support I can to the committee and to the American people.

ORDER FOR CONSIDERATION OF H.R. 3387 ON MONDAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on Monday, after the two leaders have been recognized under the standing order, the Senate proceed to the consideration of Calendar Order No. 421, H.R. 3387, an act to continue until the close of June 30, 1979, the existing suspension of duty on synthetic rutile.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, reserving the right to object——

The PRESIDING OFFICER. The Senator from Tennessee reserves the right to object.

Mr. BAKER. I would say to the majority leader that I am sure that is cleared on our side, but with a notation on my calendar, I would ask that the majority leader withhold the request for a moment.

Mr. ROBERT C. BYRD. Mr. President, I withhold the request for the moment.

Mr. BAKER. Mr. President, I would say to the distinguished majority leader that the matter is cleared and we have no objection to proceeding as he suggests.

Mr. ROBERT C. BYRD. Mr. President, I thank the minority leader and I renew my request.

The PRESIDING OFFICER. Is there objection? The Chair hears none. and it is so ordered.

RECESS UNTIL 6:30 P.M.

Mr. ROBERT C. BYRD. Mr. President, the Senate is still awaiting word from the other body which will allow the Senate to appoint conferees on the various and sundry energy bills, four in number, which have been passed by the Senate and sent to the other body. For the time being, I ask unanimous consent that the Senate stand in recess until the hour of 6:30 p.m. today.

There being no objection, the Senate, at 6 p.m., recessed until 6:30 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. MATSUNAGA).

DEFENSE PRODUCTION ACT AMENDMENTS OF 1977

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the tabling, reconsideration, passage, and third reading of S. 695 be vitiated for the purpose of offering a technical amendment to S. 695. The amendment is noncontroversial and has been cleared on both sides.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 935

Mr. ROBERT C. BYRD. Mr. President, I call up the amendment at the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from West Virginia (Mr. ROBERT C. BYRD), on behalf of the Senator from Wisconsin (Mr. PROXMIRE), proposes an unprinted amendment numbered 935:

On page 21, lines 19 and 23 and page 23, line 9 change the term "contracting officer" to "acquisitions officer"

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, was read a third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill, as amended, was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

RECESS SUBJECT TO CALL OF THE CHAIR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess, awaiting the call of the Chair.

There being no objection, at 6:34 p.m. the Senate recessed, subject to the call of the Chair.

The Senate reassembled at 6:56 p.m., when called to order by the Presiding Officer (Mr. ROBERT C. BYRD).

MESSAGE FROM THE HOUSE

A message from the House of Representatives delivered by Mr. Hackney one of its clerks, announced that:

The House insists upon its amendment to the amendment of the Senate numbered 8 to the bill (H.R. 5289) for the relief of Joe Cortina of Tampa, Florida; requests a conference with the Senate on the disagreeing votes of the two Houses thereon; and that Mr. STAGGERS, Mr. ASHLEY, Mr. ULLMAN, Mr. BOLLING, Mr. FOLEY, Mr. DINGELL, Mr. ROGERS, Mr. ECKHARDT, Mr. SHARP, Mr. MOFFETT, Mr. CHARLES WILSON of Texas, Mr. REUSS, Mr. ROSTENKOWSKI, Mr. VANIK, Mr. CORMAN, Mr. WAGGONNER, Mr. RANGEL, Mr. ANDERSON of Illinois, Mr. BROWN of Ohio, Mr. HORTON, Mr. WYDLER, Mr. BROWN of Michigan, Mr. STEIGER, Mr. COLLINS of Texas, and Mr. ARCHER were appointed managers of the conference on the part of the House.

The House insists upon its amendment to the amendment of the Senate to the bill (H.R. 4018) to suspend until the close of June 30, 1980, the duty on certain doxorubicin hydrochloride antibiotics; requests a conference with the Senate on the disagreeing votes of the two Houses thereon; and that Mr. STAGGERS, Mr. ASHLEY, Mr. ULLMAN, Mr. BOLLING, Mr. FOLEY, Mr. DINGELL, Mr. ROGERS, Mr. ECKHARDT, Mr. SHARP, Mr. MOFFETT, Mr. CHARLES WILSON of Texas, Mr. REUSS, Mr. ROSTENKOWSKI, Mr. VANIK, Mr. CORMAN, Mr. WAGGONNER, Mr. RANGEL, Mr. ANDERSON of Illinois, Mr. BROWN of Ohio, Mr. HORTON, Mr. WYDLER, Mr. BROWN of Michigan, Mr. STEIGER, Mr. COLLINS of Texas, and Mr. ARCHER were appointed managers of the conference on the part of the House.

The House insists upon its amendment to the amendment of the Senate numbered 6 to the bill (H.R. 5146) to amend the Tariff Schedules of the United States to provide for the duty-free entry of competition bobsleds and luges; requests a conference with the Senate on the disagreeing votes of the two Houses thereon; and that Mr. STAGGERS, Mr. ASHLEY, Mr. ULLMAN, Mr. BOLLING, Mr. FOLEY, Mr. DINGELL, Mr. ROGERS, Mr. ECKHARDT, Mr. SHARP, Mr. MOFFETT, Mr. CHARLES WILSON of Texas, Mr. REUSS, Mr. ROSTENKOWSKI, Mr. VANIK, Mr. CORMAN, Mr. WAGGONNER, Mr. RANGEL, Mr. ANDERSON of Illinois, Mr. BROWN of Ohio, Mr. HORTON, Mr. WYDLER, Mr. BROWN of Michigan, Mr. STEIGER, Mr. COLLINS of Texas, and Mr. ARCHER were appointed managers of the conference on the part of the House.

The House insists upon its amendment to the amendment of the Senate numbered 3 to the bill (H.R. 5037) for the relief of Jack R. Misner; requests a conference with the Senate on the disagreeing votes of the two Houses thereon; and that Mr. STAGGERS, Mr. ASHLEY,

Mr. ULLMAN, Mr. BOLLING, Mr. FOLEY, Mr. DINGELL, Mr. ROGERS, Mr. ECKHARDT, Mr. SHARP, Mr. MOFFETT, Mr. CHARLES WILSON of Texas, Mr. REUSS, Mr. ROSTENKOWSKI, Mr. VANIK, Mr. CORMAN, Mr. WAGGONNER, Mr. RANGEL, Mr. ANDERSON of Illinois, Mr. BROWN of Ohio, Mr. HORTON, Mr. WYDLER, Mr. BROWN of Michigan, Mr. STEIGER, Mr. COLLINS of Texas, and Mr. ARCHER were appointed managers of the conference on the part of the House.

The House disagrees to the amendment of the Senate to the amendment of the House to the amendment of the Senate numbered 82 to the bill (H.R. 7555) making appropriations for the Departments of Labor, and Health, Education, and Welfare, and related agencies, for the fiscal year ending September 30, 1978, and for other purposes; requests a conference with the Senate on the disagreeing votes of the two Houses thereon; and that Mr. FLOOD, Mr. NATCHER, Mr. SMITH of Iowa, Mr. PATTEN, Mr. OBEY, Mr. ROYBAL, Mr. STOKES, Mr. EARLY, Mr. MAHON, Mr. MICHEL, Mr. CONTE, Mr. O'BRIEN, and Mr. CEDERBERG were appointed managers of the conference on the part of the House.

The House has passed without amendment the joint resolution (S.J. Res. 89) to amend the Act entitled "To authorize certain appropriations for the territories of the United States, to amend certain Acts relating thereto, and for other purposes" (enrolled bill H.R. 6550, Ninety-fifth Congress, first session).

Mr. JACKSON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum has been suggested, and the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. JACKSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. MATSUNAGA). Without objection, it is so ordered.

JOE CORTINA—ENERGY AMENDMENT

Mr. JACKSON. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 5289.

The PRESIDING OFFICER laid before the Senate a message from the House of Representatives insisting upon its amendment to the amendment of the Senate numbered 8 to the bill (H.R. 5289) for the relief of Joe Cortina of Tampa, Fla., and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. JACKSON. I move that the Senate disagree to the amendment of the House and agree to the request of the House for a conference on the disagreeing votes of the two Houses thereon, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. JACKSON, Mr. CHURCH, Mr. METCALF, Mr. JOHNSTON, Mr. ABOUREZK, Mr. HASKELL, Mr. BUMPERS, Mr. FORD, Mr. DURKIN, Mr. METZENBAUM, Mr. MATSUNAGA, Mr. HANSEN, Mr. HATFIELD, Mr. MCCLURE, Mr. BARTLETT, Mr. WEICKER, Mr. DOMENICI, and Mr. LAXALT conferees on the part of the Senate.

DUTY ON CERTAIN ANTIBIOTICS—ENERGY AMENDMENT

Mr. JACKSON. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 4018.

The Presiding Officer laid before the Senate a message from the House of Representatives insisting upon its amendment to the amendment of the Senate to the bill (H.R. 4018) to suspend until the close of June 30, 1980, the duty on certain doxorubicin hydrochloride antibiotics, and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. JACKSON. I move that the Senate disagree to the amendment of the House and agree to the request of the House for a conference on the disagreeing votes of the two Houses thereon, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. JACKSON, Mr. JOHNSTON, Mr. DURKIN, Mr. METCALF, Mr. HASKELL, Mr. BUMPERS, Mr. METZENBAUM, Mr. MCCLURE, Mr. BARTLETT, Mr. DOMENICI, and Mr. LAXALT conferees on the part of the Senate.

JACK R. MISNER—ENERGY AMENDMENT

Mr. JACKSON. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 5037.

The PRESIDING OFFICER laid before the Senate a message from the House of Representatives insisting upon its amendment to the amendment of the Senate numbered 3 to the bill (H.R. 5037) for the relief of Jack R. Misner, and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. JACKSON. I move that the Senate disagree to the amendment of the House agreed to the request of the House for a conference on the disagreeing votes of the two Houses thereon, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. JACKSON, Mr. JOHNSTON, Mr. DURKIN, Mr. METCALF, Mr. HASKELL, Mr. BUMPERS, Mr. METZENBAUM, Mr. HATFIELD, Mr. MCCLURE, Mr. WEICKER, and Mr. DOMENICI conferees on the part of the Senate.

DUTY-FREE ENTRY OF BOBSLEDS—ENERGY AMENDMENT

Mr. JACKSON. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 5146.

The PRESIDING OFFICER laid before the Senate a message from the House of Representatives insisting upon its amendment to the amendment of the Senate numbered 6 to the bill (H.R. 5146) to amend the Tariff Schedules of the United States to provide for the duty-free entry of competition bobsleds and luges, and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. JACKSON. I move that the Senate disagree to the amendment of the House and agree to the request of the House for a conference on the disagreeing votes of the two Houses thereon, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. JACKSON, Mr. HASKELL, Mr. FORD, Mr. JOHNSTON, Mr. ABOUREZK, Mr. DURKIN, Mr. METZENBAUM, Mr. HANSEN, Mr. HATFIELD, Mr. BARTLETT, and Mr. LAXALT conferees on the part of the Senate.

SENATE CONFEREES ON ENERGY LEGISLATION

Mr. ROBERT C. BYRD. Mr. President, the Senate conferees have now been appointed to work with the House conferees on the four energy bills which have been sent to the House. It was for this purpose that the Senate stayed in so long. Hopefully, now the conferees can progress while the Senate is awaiting the fifth and last of the energy bills, which will be reported by the Finance Committee.

I wish to express my appreciation to the leadership of the other body for its cooperation in taking action which makes a conference possible on each of the four measures, and thus makes possible the appointment of Senate conferees so that the conference action on those four energy measures will not have to be delayed until the Senate's final action on the fifth component of the national energy policy package which the Senate awaits, as I stated, reporting by the Finance Committee.

I thank all Senators, and especially the officers of the Senate, the people at the desk, the pages, who have waited so long and so patiently throughout this day.

ORDER FOR A RECESS UNTIL MONDAY, OCTOBER 17, 1977

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until the hour of 12 o'clock noon Monday.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER THAT NO ROLLCALL VOTES OCCUR ON MONDAY PRIOR TO 2 P.M.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that if any rollcall votes are in order prior to the hour of 2 p.m. on Monday they not occur until the hour of 2 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, that bill is under a time agreement. It is anticipated that there will be rollcall votes during the afternoon.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, on Monday the Senate will convene at 12 noon. After the two leaders or their designees have been recognized under the standing order, the Senate will proceed to the consideration of Calendar Order No. 421, H.R. 3387, an act to continue until the close of June 30, 1979, the existing suspension of duty on synthetic rutile.

RECESS UNTIL MONDAY OCTOBER 17, 1977

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate. I move in accordance with the previous order, that the Senate stand in recess until the hour of 12 o'clock noon on Monday next.

The motion was agreed to; and at 7:05 p.m. the Senate recessed until Monday, October 17, 1977, at 12 noon.

NOMINATIONS

Executive nominations received by the Senate October 13, 1977:

DEPARTMENT OF STATE

Oliver S. Crosby, of Washington, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Guinea.

E. Gregory Kryza, of Virginia, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Islamic Republic of Mauritania.

DEPARTMENT OF JUSTICE

Herman Sillas, Jr., of California, to be U.S. attorney for the eastern district of California for the term of 4 years, vice D. Dwayne Keyes.

George L. Miller, of North Carolina, to be U.S. marshal for the middle district of North Carolina for the term of 4 years, vice P. Ellis Almond.

John A. Roe, of Iowa, to be U.S. marshal for the northern district of Iowa for the term of 4 years, vice Melvin A. Hove, term expired.

HOUSE OF REPRESENTATIVES—*Thursday, October 13, 1977*

The House met at 10 o'clock a.m.

The Reverend H. Jack Morris, pastor, Largo Community Church, Mitchellville, Md., offered the following prayer:

Almighty God, our Heavenly Father, we thank You for Your benevolent hand of blessing that so graciously rests upon our beloved land, its peoples, and its leaders.

Thank You for blessing us with life, liberty, prosperity, and the pursuit of happiness, and many other innumerable gifts.

Grant to all of us simple faith to walk in the ways of the Lord, courage and strength to bear life's burdens, humility of mind to acknowledge God and to be thankful, and the forgiveness of our sins so that we may live in harmony with God and our fellow man.

To You alone, O God, belongs dignity and honor, power and majesty, glory and praise, gratitude and thankfulness forever and ever. Amen.

CALL OF THE HOUSE

Mr. RHODES. Mr. Speaker, I make the point of order that a quorum is not present.

Mr. WRIGHT. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 647]

Abdnor	Dingell	Moakley
Ambro	Drinan	Moffett
Archer	Edwards, Okla.	Mollohan
Armstrong	Evans, Ind.	Murphy, N.Y.
Ashbrook	Fenwick	Patterson
Ashley	Fountain	Pepper
Badillo	Gammage	Pickle
Bafalis	Gibbons	Quie
Beard, Tenn.	Harrington	Rinaldo
Bedell	Harsha	Roncalio
Beilenson	Hightower	Rose
Bingham	Holland	Roybal
Boggs	Jacobs	Ruppe
Bolling	Jeffords	Scheuer
Bonior	Johnson, Calif.	Skubitz
Brown, Ohio	Johnson, Colo.	Udall
Burke, Mass.	Jones, Okla.	Van Deerlin
Chappell	Keys	Vento
Chisholm	Koch	Walker
Clausen, Don H.	Lujan	Watkins
	McCloskey	Whalen
Collins, Ill.	McDade	Whitten
Conyers	McKinney	Wiggins
Delaney	Mann	Wilson, C. H.
Dellums	Meyner	Young, Alaska
Dent	Mikva	Young, Tex.
Diggs	Miller, Calif.	

The SPEAKER. On this rollcall 355 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate agrees to the report of the committee of conference reported in disagreement on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 7555) entitled "An Act making appropriations for the Departments of Labor, and Health, Education, and Welfare, and related agencies for the fiscal year ending June 30, 1978, and for other purposes," and that the Senate agreed to the amendments of the House to the amendment of the Senate numbered 82 with an amendment to the foregoing bill.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 3744) entitled "An act to amend the Fair Labor Standards Act of 1938 to increase the minimum wage rate under that Act, and for other purposes," disagreed to by the House; agrees to the conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. WILLIAMS, Mr. RANDOLPH, Mr. PELL, Mr. NELSON, Mr. HATHAWAY, Mr. RIEGLE, Mr. JAVITS, Mr. SCHWEIKER, Mr. STAFFORD, and Mr. HATCH to be the conferees on the part of the Senate.

The message also announced that the Senate had passed bills and joint resolutions of the following titles, in which the concurrence of the House is requested:

S. 1582. An act relating to the settlement between the United States and the Ak-Chin Indian community of certain water right claims of such community against the United States;

S. 2169. An act to name a certain Federal building in Washington, District of Columbia, the "Hubert H. Humphrey Building";

S.J. Res. 89. Joint Resolution to amend an act entitled "To authorize certain appropriations for the territories of the United States, to amend certain acts relating thereto, and for other purposes" (enrolled bill H.R. 6550, Ninety-fifth Congress, first session);

S.J. Res. 90. Joint resolution making continuing appropriations for the District of Columbia for fiscal year 1978; and

S.J. Res. 91. Joint resolution making continuing appropriations for the Departments of Labor and Health, Education, and Welfare, and related agencies, for the fiscal year 1978.

REQUEST FOR CONTINUING RESOLUTION

(Mr. MAHON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MAHON. Mr. Speaker, I have a statement to make, which is of interest to all Members of the House. We have tried in the Committee on Appropriations to avoid a continuing resolution this year. I think continuing resolutions are undesirable financing procedures. But we have come to the point where we have to have one or have chaos in some of the departments and agencies of Government. Members of the Committee on Appropriations, working in concert with the Speaker and the leaders of the House, are proposing now a continuing resolution for the period from October 1 to October 31. Insofar as I know, there is nothing controversial or difficult in respect to this continuing resolution. Certain employees are confronted with payless pay days and these people must be paid. There are a number of agencies of the Government which have employees who must be paid including employees the Department of Labor, HEW, the District of Columbia, and those working on assistance programs. So in a moment I will ask unanimous consent to bring up a continuing resolution. Under this procedure, unanimous consent is required. The Senate, in my judgment, will act quickly and get the measure to the White House.

I have taken this time because of the importance of the matter and I did not

want to surprise anybody by making this unanimous-consent request.

Mr. RHODES. Mr. Speaker, will the gentleman yield?

Mr. MAHON. I yield to the distinguished minority leader.

Mr. RHODES. Mr. Speaker, I understand the unanimous-consent request will be for the immediate consideration of the resolution, not for the passage of the resolution.

Mr. MAHON. That is correct.

Mr. RHODES. There will be an hour of debate on the resolution itself, if the unanimous-consent request is granted?

Mr. MAHON. The unanimous consent would take only moments, if everybody would agree, and I think everybody would be in favor of doing what we have to do under the circumstances.

Mr. RHODES. Mr. Speaker, if the gentleman will yield further, there would be agreement by the chairman of the Committee on Appropriations to share the time available for debate with other Members?

Mr. MAHON. The gentleman is correct.

REQUEST FOR CONSIDERATION OF HOUSE JOINT RESOLUTION MAKING CONTINUING APPROPRIATIONS

Mr. MAHON. Mr. Speaker, I ask unanimous consent that it shall be in order today to consider in the House a joint resolution making continuing appropriations for the fiscal year 1978, and for other purposes.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

Mr. STARK. Mr. Speaker, reserving the right to object, could I inquire of the distinguished chairman of the Committee on Appropriations whether, with this continuing resolution for the month of October in those States which do not currently pay for abortions for poor people, would poor women be able to have federally funded programs to provide abortions to them during this period of time?

Mr. MAHON. Mr. Speaker, if the gentleman will yield?

Mr. STARK. I will be glad to yield to the distinguished chairman.

Mr. MAHON. Mr. Speaker, the present law would obtain.

The present law with respect to abortion would continue from October 1 to October 31.

That is fairly simple, and there is no change in the present law with respect to abortion.

Mr. STARK. Further reserving the right to object, does the present law contain what is now referred to as the Hyde amendment, which prohibits abortion?

Mr. MAHON. The present law contains the Hyde amendment, which was adopted, if we can call it that, for fiscal year 1977, last year.

Mr. STARK. Then I must object.

The SPEAKER. Objection is heard.

PERSONAL EXPLANATION

Mr. MIKVA. Mr. Speaker, yesterday, October 12, responsibilities in my district prevented me from voting on final passage of H.R. 8390, the Department of Defense Supplemental Appropriations Act (rollcall No. 646). Had I been present, I would have voted "yes."

PERMISSION FOR COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE TO MEET DURING DEBATE AND 5-MINUTE RULE

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent that the Committee on Interstate and Foreign Commerce may be permitted to sit this morning during debate and under the 5-minute rule.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

THE HUBERT H. HUMPHREY BUILDING

Mr. ROBERTS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 2169) to name a certain Federal building in Washington, District of Columbia, the "Hubert H. Humphrey Building," and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

Mr. BAUMAN. Mr. Speaker, reserving the right to object, I do so only for the purpose of observing that however much any individual in this country may deserve respect for his public service——

Mr. ROBERTS. Mr. Speaker, I am unable to hear the gentleman. I do not know whether the acoustics are bad in here or what.

Mr. BAUMAN. I say to the gentleman from Texas, however much any public servant deserves credit for that service, we have already seen an instance recently where a Federal building in Baltimore was named for a former Member of Congress, who subsequently has been indicted by the Federal Government for alleged crimes while he was in office, to-wit, taking bribes. I do not make certainly the slightest intimation that the Senator from Minnesota would ever fall into a similar category.

But it seems to me that we get on dangerous ground when we continually name public buildings after living people whose records are open to future interpretation and revelation. Certainly all of us have a great deal of sympathy for the problems the Senator from Minnesota has faced. But I think it is a bad precedent to set, and I would hope that at some point we might get away from this kind of instant glorification while the public servant is still around.

Mr. Speaker, I withdraw my reservation of objection.

Mr. ROBERTS. I thank the gentleman.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 2169

An act to name a certain Federal building in Washington, District of Columbia, the "Hubert H. Humphrey Building"

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the South Portal Federal Office Building of the United States Department of Health, Education, and Welfare, located at 200 Independence Avenue Southwest, in Washington, District of Columbia, is hereby designated as the "Hubert H. Humphrey Building". Any reference in any law, regulation, document, record, map, or other paper of the United States to such building shall be considered to be a reference to the Hubert H. Humphrey Building.

Mr. FINDLEY. Mr. Speaker, I heartily endorse the proposal under which a new Federal building will bear the name of the esteemed Member of the other body, Mr. HUMPHREY.

Senator HUMPHREY is revered for many achievements and richly deserves this recognition. For the past few years I have had the privilege of an especially close relationship with him in connection with the development of the title XII, the famine prevention program, as well as other foreign policy and agricultural matters.

I have been amazed at his never-flagging zeal. In fact if a single word were to be selected to represent Senator HUMPHREY, I would choose the word zest. He has zest for every undertaking, and it has not diminished even in the difficult days when he has been hospitalized.

In giving my enthusiastic support for this recognition, I wish my dear friend from Minnesota a full recovery, so that he can impart zest to his wide-ranging endeavors for many years to come.

To me, he symbolizes the best in service to humanity.

Mr. MINETA. Mr. Speaker, I rise in support of S. 2169, a bill to name the new HEW South Portal Federal Office Building in Washington, D.C., in honor of Senator HUBERT H. HUMPHREY.

No one has more enthusiastically and effectively labored in the cause of all the programs which this department of Government encompasses.

HUBERT HUMPHREY's stature ranks with the greatest of our 20th century statesmen.

As a mayor, a U.S. Senator, as Vice President of the United States, and as a nominee of the Democratic Party for President, HUBERT H. HUMPHREY stands as no man's equal in his advocacy for the poor and disadvantaged and in his compassion and decency for programs to serve all Americans. As chairman of the Committee on Human Resources which authorizes many of HEW's programs, I know that the "people's programs" of HEW have become what they are today because of his tireless support and his unstinting labor to assure all Americans equal opportunity and a decent life.

The Civil Rights Act of 1964 was nursed from infancy to its passage by Senator HUMPHREY. The establishment of the Peace Corps and the Arms Control and Disarmament Agency are his achievements. Scores of vital Federal programs administered by the Department of Health, Education, and Welfare are operating today, because HUBERT H. HUMPHREY fought for them: Medicare,

Head Start, the Elementary and Secondary Education Act, the Community Mental Health Act, the Health Professional Scholarship Act.

His record in the Senate is so full of landmarks and achievements that it would take a Humphrey speech to do them justice. Wherever you look, he is leaving his mark as an outstanding and progressive leader.

He also knows how to represent the constituents of his State. I doubt that the people of Minnesota ever had a better champion of their interests. He loves his State, and he serves its people well.

Mr. Speaker, for these and many other reasons, I believe that HUBERT HUMPHREY will go down in history as one of the finest Senators America ever had. It is a privilege and an honor for me to join in this fitting tribute to his remarkable achievements.

Mr. WALSH. Mr. Speaker, it is an honor for me to rise in support of S. 2169, a bill to name the South Portal Federal Building of the Department of Health, Education, and Welfare after the distinguished senior Senator from Minnesota, HUBERT H. HUMPHREY.

Senator HUMPHREY has long been a champion of the disadvantaged. His concern for people includes the elderly, the mentally retarded, the handicapped, the poor, and the victims of discrimination.

Because of this sincere concern, Senator HUMPHREY worked tirelessly on legislative programs which were administered by the Department of Health, Education, and Welfare. The fruits of his labors were embodied in such programs as the Elementary and Secondary Education Act, the Peace Corps, Head Start, civil rights legislation, and countless others.

Since many of these vital programs have been entrusted to the Department of Health, Education, and Welfare, it is appropriate that this body bestow a small token of honor upon Senator HUMPHREY by naming one of the HEW buildings after him.

Even though Senator HUMPHREY has had his critics and has not obtained unanimous support on each and every issue, his work, complemented by sincerity, compassion, courage, and bipartisan spirit, has certainly inspired his colleagues.

I think we can all agree that Senator HUMPHREY has been one of the great political leaders of this century. He has been, and remains, a patriot in every sense of the word.

Without question, HUBERT HORATIO HUMPHREY, will continue to serve our country as well as he has in the past, and the people of this country are, indeed, fortunate to have HUBERT H. HUMPHREY in their service.

Mr. Speaker, I am privileged to lend my support to this bill in honor of this remarkable man.

Mr. ROBERTS. Mr. Speaker, we are considering a bill introduced by Senator DOLE, with the cosponsorship of the entire Senate body to name the new South Portal Building of the Department of Health, Education, and Welfare for the distinguished Senator from Minnesota, Senator HUBERT H. HUMPHREY. HUBERT HUMPHREY is a premier legislator of the country. Naming the new Health, Education, and Welfare building is a fitting gesture reflecting the esteem and affection that this great and good man has commanded throughout his public life.

Mr. Speaker, throughout three decades of public service, as mayor of Minneapolis, a U.S. Senator, a Vice President of the United States, and as the nominee of his party for President, HUBERT H. HUMPHREY has been in the forefront of the struggle for social and economic justice.

His strong feelings, sympathy, patience, and understanding have enriched the legislation he has supported. The lives of millions of Americans, the old, the young, the disadvantaged, are better today, because he has not hesitated to champion unpopular causes, taking a leadership position on key issues before they were national issues.

In 1948, HUBERT HUMPHREY was elected to the U.S. Senate and reelected in 1954 and 1960. In 1964, he was elected Vice President with President Lyndon Johnson. He continued to contribute to the health of American political life by returning to the U.S. Senate in 1970.

Many vital programs administered by the Department of Health, Education, and Welfare are here today, because of HUBERT HUMPHREY'S commitment to them. Medicare, the Elementary and Secondary Education Act, the Community Mental Health Act, Head Start, the Health Professions Scholarships Act—and the list goes on.

In light of his past and continuing achievements, it is most just and appropriate to name the new Department of Health, Education, and Welfare building in Washington for this champion of all Americans. The Hubert H. Humphrey Federal Building will serve as a constant reminder of what is best in this Nation and HUBERT H. HUMPHREY himself, will continue to work to bring out the best this country's Government can offer its citizens.

Mr. QUIE. Mr. Speaker, the bill we are considering today is one which allows all of us to express to Senator HUBERT HUMPHREY our recognition and appreciation for all he has stood for and accomplished in the areas of health, education, and welfare legislation. Because of HUBERT'S dynamic role in these areas, it is fitting indeed that the new South Portal Federal Office Building, housing the Department of Health, Education, and Welfare, should be named in his honor.

It is difficult to recall any major legislation in any of these areas upon which Senator HUMPHREY has not left his mark. Furthermore, his outstanding record is augmented daily, as this irrepressible man continues to do everything possible to improve the situation of all those in need—the poor, the sick, the old—and indeed, our entire population. Those of us who know him as our friend share this privilege with the hundreds of thousands who have benefited from his tireless efforts, through which they, too, know his friendship.

The entire Minnesota delegation joined me in sponsoring the House companion to S. 2169, and I am pleased that the House has agreed today to pay tribute to this man who has done so much for our Nation by passing this bill.

Mr. HAGEDORN. Mr. Speaker, I rise in strong support of S. 2169, a bill to name the new HEW South Portal Federal Building in Washington, D.C. in honor of Senator HUBERT H. HUMPHREY. I am privileged, as a member of the Minnesota House delegation, to be a sponsor of the House version of this bill.

There is no more appropriate building in the country with which to honor the man. For three decades, Senator HUMPHREY has been the pre-eminent advocate of legislation designed to promote the health, education, and welfare of the American people. Many of the programs which will be administered in this building were programs originally conceived by Senator HUMPHREY, including medicare, the Elementary and Secondary Education Act, the Health Professions Scholarship Act, and much civil rights legislation.

This is certainly not to suggest that we could not have selected scores of other buildings and named them just as appropriately for the Senator. His imprint upon legislation in the area of agriculture and foreign affairs has been an equally deep one. Senator HUMPHREY is one of those rare legislators whose expertise is broad, and whose impact in a variety of areas has been felt; he is one of a dwindling breed of Renaissance Men in the other body, an individual justifiably confident of his knowledge and abilities in the full realm of those issues with which government is concerned.

While I have not always agreed with Senator HUMPHREY on the specifics of legislation, it is impossible not to admire him for his commitment and courage on those issues that he felt were right, his articulateness and forthrightness in defense of his positions, and his ability and skillfulness in securing passage of his initiatives.

I am privileged to be a small part of an effort to honor this giant of a man, a man who has, and I know will continue, to do so much for Minnesota and the Nation.

Mr. VENTO. Mr. Speaker, the dedication of the Health, Education, and Welfare building in honor of my friend and esteemed colleague, Senator HUBERT H. HUMPHREY, may rank as one of the most important achievements of this 95th Congress.

A more fitting tribute to this stalwart and courageous Minnesota Senator is difficult to envision. More than any other legislator, HUBERT HUMPHREY deserves major credit for the many humanitarian programs which are the essence of our Government's efforts to bring about social and economic justice. So many vital Federal programs which we sometimes take for granted—medicare, Head Start, the Community Mental Health Act—are operating today because HUBERT HUMPHREY fought for them.

It is a special tribute to the Humphrey spirit and philosophy that all 99 of his Senate colleagues joined in sponsoring this legislation. I was proud to join Congressman AL QUIE and other Members of the Minnesota delegation in bipartisan sponsorship of the House companion bill. And the unanimous support of our colleagues in the House speaks well of the noble tradition that is so closely and

rightfully associated with Minnesota's senior Senator. From the beginning of his political career, Senator HUMPHREY has been the healer, the one who brought divergent groups and interests together for the consensus which is so vital and important to the workings of our democracy. What better honor than to have this consensus on legislation honoring his name and his philosophy.

It is also fitting that the HEW building be named after someone who has been such a strong leader in education. For many years, Senator HUMPHREY was a part, an important part, of every great step forward in education. He presented new ideas which are now considered fundamental.

Long before others in the field even thought about the problem, Senator HUMPHREY recognized that State and local governments could not bear the full costs of providing quality education. He declared education a right of all citizens and called for a Federal guarantee of full educational opportunities. He proclaimed schooling necessary to break the cycle of poverty eroding the backbone of our Nation. And he taught us that education is an investment, with full repayment through increased productivity and a more fully developed national potential. Because of his leadership, the Federal Government agreed to accept its responsibility to education and the general public understood more clearly the necessity of maintaining and nurturing quality education programs for all young citizens.

As a teacher, I share his feelings and have utmost respect for his integrity and achievements. But it is not only teachers and students who should be grateful. We have all benefited from his efforts. It is only right that we pay tribute to him by dedicating in his honor the building in which "his" programs will be implemented and the goals for which he stands will come closer to achievement.

Mr. STANGELAND. Mr. Speaker, I wish to rise in support of the resolution to name the HEW Southeast Annex in Washington, D.C., the Hubert H. Humphrey Building.

In supporting this legislation we are paying tribute to a great American who has distinguished himself with a lifetime of public service as mayor of Minneapolis, Senator of Minnesota, Vice President of the United States, and now again as Senator.

Mr. HUMPHREY has carried his party's label proudly and taken seriously the responsibilities of political office. His record is such that it serves as an example to us all, both as Members of Congress and as private citizens. His ability to follow through on his beliefs has made him well loved in Minnesota, the United States, and the entire world.

It seems to me most fitting and appropriate that this great honor be bestowed upon Mr. HUMPHREY who has fought so hard all these years for the things he believed would make life better for his fellow citizens.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ROBERTS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate bill just passed.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

CONFERENCE REPORT ON H.R. 3, MEDICARE-MEDICAID ANTI-FRAUD AND ABUSE AMENDMENTS

Mr. ROSTENKOWSKI. Mr. Speaker, I call up the conference report on the bill (H.R. 3), to strengthen the capability of the Government to detect, prosecute, and punish fraudulent activities under the medicare and medicaid programs, and for other purposes, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of October 11, 1977.)

Mr. ROSTENKOWSKI (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the statement be dispensed with.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, could the gentleman explain to us why it is necessary to do it by unanimous consent?

Mr. ROSTENKOWSKI. If the gentleman will yield, I asked for unanimous consent yesterday, and no one objected to it.

Mr. ROUSSELOT. Further reserving the right to object, the gentleman is only asking unanimous consent to discontinue reading the statement?

Mr. ROSTENKOWSKI. That is right.

The SPEAKER. The Chair would state that the conference report is in order. The unanimous-consent request comes only to the reading of the statement.

Mr. ROUSSELOT. It is only to the reading of the statement?

The SPEAKER. Yes.

Mr. ROUSSELOT. I thank the Chair.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The SPEAKER. The gentleman from Illinois (Mr. ROSTENKOWSKI) and the gentleman from Tennessee (Mr. DUNCAN) will be recognized for 30 minutes each.

The Chair recognizes the gentleman from Illinois (Mr. ROSTENKOWSKI).

Mr. ROSTENKOWSKI. Mr. Speaker, I yield myself such time as I may consume.

Mr. ROSTENKOWSKI. Mr. Speaker, I am very pleased to rise in support of the conference report on H.R. 3, the medicare-medicaid antifraud and abuse amendments. This report represents the culmination of a process that began more than a year ago when my colleague, Mr. ROGERS, and I joined with the distinguished gentleman from Georgia, Senator TALMADGE, to focus increased congressional attention on the problems of fraud and abuse in our Federal health financing programs. H.R. 3 demonstrates the ability of two House committees to work quite closely together on issues of such mutual concern. In this regard, both the gentleman from Tennessee (Mr. DUNCAN) and the gentleman from Kentucky (Mr. CARTER) are to be commended for the cooperation and assistance they have given Mr. ROGERS and me in the development of this bill and in guiding it through some admittedly complex procedural situations.

In the conference, Mr. Speaker, the minor differences between the two versions of H.R. 3 were amicably resolved with most time being devoted to four medicaid issues—State versus PSRO review, assignment of rights of medicaid payment, funding of State medicaid fraud control units, and medicaid penalties relating to utilization review of long-term care. I am sure my colleague from West Virginia, my friend (Mr. STAGGERS), will address these issues in a moment.

With respect to other issues, the House conferees accepted some changes in the disclosure, penalty and suspension sections which we regard as technical improvements. House conferees did not agree to several Senate amendments that we felt were more appropriate for consideration as part of other legislation.

One issue in particular, the interrelationship of tax policy and health policy, which emerged in the Senate amendment pertaining to the tax treatment of PSRO's is a broad subject area that we feel must be examined in significant detail. I have assured Senator DOLE and the other Senate conferees that the entire impact of the tax code on the financing and delivery of health care is an issue that the Ways and Means Subcommittee on Health hopes to explore during the next session. And I would even take this opportunity to solicit the views of members and others concerned about specific areas appropriate for the committee's review.

Another amendment that the House conferees were unwilling to accept was a Senate amendment originally sponsored by the Senator from California (Mr. CRANSTON) which would allow certain individuals age 60 to 64 to buy into the the medicare program. The Cranston amendment is designed to help a group of individuals who are particularly vulnerable to exhorbitantly high rates for health insurance. A typical situation is one in which the breadwinner, when he turns 65, retires and begins medicare coverage. Once his employment-based health insurance is lost, his spouse, if under 65, is left without health coverage at an affordable price. This is a very complex issue which we intend to review at the earliest opportunity. We must examine the policy questions inherent in expanding the medicare-eligible population as well as the administrative feasi-

bility of the approach outlined in the Senate amendment.

Mr. Speaker, aside from the provisions that I have noted, the other conference agreements were of a minor technical nature. As finally developed, H.R. 3 is a very good bill; it will help to defend medicare and medicaid against fraud and abuse; it gives HEW and the States sturdy tools to work with in other areas where the programs need to be strengthened. I urge my colleagues to support this report.

Mr. Speaker, I yield such time as he may consume to the distinguished chairman of the Committee on Interstate and Foreign Commerce, the gentleman from West Virginia (Mr. STAGGERS).

Mr. STAGGERS. Mr. Speaker, I rise in support of the conference report. I am pleased to join my colleague, the gentleman from Illinois (Mr. ROSTENKOWSKI), in recommending the conference report on H.R. 3, the medicare-medicaid antifraud and abuse amendments.

I wish to compliment the two subcommittee chairmen, the gentleman from Florida (Mr. ROGERS) and the gentleman from Illinois, Mr. DAN ROSTENKOWSKI, for the great work they did in the conference. I think we came out with a very good report, one which maintains practically all of the House provisions. This legislation passed by a vote, I believe, of 362 to 5 when the bill was originally considered. Most of those original provisions are contained in the conference report. There was complete agreement between the Senate and the House on what those provisions should be.

I wish to compliment not only the conferees from our Committee on Interstate and Foreign Commerce, but the conferees from the Committee on Ways and Means. I commend also the Members of the Senate, because the conferees worked together very well, and the staff worked hard in getting these matters straightened out. The help that they provided the conferees in working out the agreement was invaluable.

So I wish to compliment and commend both the minority staff and the majority staff, as well as all the Members, the gentleman from Kentucky, Dr. CARTER, and all the other Members from our side, as well as the members of the Committee on Ways and Means, for the splendid job they did in bringing together an agreement on a very complex situation.

Mr. Speaker, the chairman of the Health Subcommittee of the Ways and Means Committee has noted that the House provisions were generally retained, although technical and clarifying amendments recommended by the Senate were included in many provisions. However, several provisions included in the conference report represent a compromise between the House proposal and the Senate amendment. These are:

First, section 2, regarding timely payment of claims by State medicaid agencies.

The conferees agreed to require State medicaid programs to pay 90 percent of clean claims within 30 days, and 99 percent within 90 days, effective July 1, 1978. Additionally, we agreed to recede from the provision establishing special funding for State programs of technical assistance to expedite the filing and payment of claims, since States may receive matching funds under the current law for these activities.

Second, section 5d, regarding State monitoring of PSRO performance.

The conferees agreed that when a State demonstrates that PSRO decisions are having a detrimental impact on total State medicaid expenditures, and that this is happening because a PSRO is approving inappropriate care, then the Secretary will suspend the PSRO's binding review authority under medicaid. The conference report clarifies that the Secretary must determine the reasonableness of the State allegation within 30 days, and immediately suspend the PSRO's authority if it is reasonable and corrective action has not been taken. The Secretary's decision is not subject to judicial review.

The conference report also clarifies that a State will be the reviewer of care in an intermediate care facility (ICF) unless the State requests that the PSRO do the review, or the State is not performing the review satisfactorily. The State would also review ICF services in facilities delivering both skilled nursing facility and ICF services unless the Secretary specificially finds that this arrangement is inefficient and burdensome.

Third, section 17, regarding State medicaid fraud units.

The conferees adopted the provisions for 90 percent funding recommended by the House. Provision for funding of units without statewide prosecuting authority was agreed to if the unit has satisfactory arrangements for referral of cases for prosecution.

Fourth, section 20, regarding reductions for failure to perform required medicaid reviews of institutional care.

The conference report provides for waiver of any reductions imposed for periods prior to 1977. Reductions imposed in 1977 would be waived if the State is in compliance with the requirements of the law by December 31. Any reduction in funds that is imposed if the requirements of the law are not met would be adusted to reflect the amount of noncompliance.

In addition to these provisions, the conferees agreed to a Senate amendment which was not contained in the House bill, section 11 allows States to require the assignment of medical care payments from absent parents or third party payors as a condition of medicaid eligibility. States may establish units, or use existing units, to collect these payments due, and they can retain part of what would be the Federal share of the collections as an incentive to carry out the activity.

Mr. Speaker. I recommend the conference report to the House.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield such time as he may consume to the chairman of the Subcommittee on Health and the Environment, the gentleman from Florida (Mr. ROGERS).

Mr. ROGERS. Mr. Speaker, I am pleased to join my distinguished colleagues in recommending the H.R. 3 conference report to the House.

My colleagues have explained the agreements of the conferees. The basic provisions of the House bill have been kept intact. I am particularly pleased to note that the conference agreement has retained the significant role established for the States in the process of reviewing and monitoring the performance of the PSRO's in the medicaid program, while providing the PSRO's with the opportunity to function fully and demonstrate their capabilities. If a State provides reasonable documentation that a PSRO is not operating effectively, and is approving inappropriate care which is resulting in increased medcaid budgets, the Secretary will withdraw that PSRO's binding authority under medicaid until corrective action is taken. The conferees agreed that this protected the State's interest and preserved the concept of a single review authority for services covered under both medicare and medicaid. This provision, and the existing authority of HEW to carry out demonstration projects, made the amendment suggested by the Senate to mandate large-scale demonstrations of alternate State systems unnecessary in our view, and the Senate receded from it.

I also want to note that H.R. 3 provides the opportunity that the States have desired to free themselves of the reductions in medicaid matching assessed by the Secretary for past failure to perform required reviews of institutional care. Members will recall that $250 million was assessed against some 20 States this year, and similar amounts in reductions for failure to do the reviews in earlier years were pending. We have waived reductions assessed prior to this year, and allowed States to earn the waiver of 1977 reductions by coming into full compliance by the end of the year. We have also made the formula for loss of Federal matching more appropriate by tying it to the degree of noncompliance.

I would note one additional provision which was added to the Senate bill on the floor, and which was not included in the conference report; that is, legislation to postpone the effective date of the requirement that States pay for long-term care facility services on a basis reasonably related to cost. This provision has been in the law since 1972. It was to be effective July 1, 1976, allowing States ample time to prepare for it. HEW delayed issuing regulations until the effective date, so a further delay resulted. The regulations require the systems to be in place January 1, 1978. Postponement for an additional year did not seem warranted, and we did not agree to it.

I believe the legislation we present to you today can be of significant assistance to the prosecutors and program administrators who are determined to find and eliminate fraud and abuse in our publicly financed health care programs.

During hearings on H.R. 3, Attorney General Bell testified in favor of the concept of tightening up the law in order to crack down on abuses and fraud in the medicare and medicaid areas. And for good reason. HEW estimates that

fraud and abuse in these areas cost the Government, and thus the American taxpayer as much as $800 to $900 million annually.

During the hearings, I asked the Attorney General if the Justice Department should not and could not become more involved in detecting and prosecuting fraud and abuse in the health sector.

I was pleased that the Attorney General, in a speech given last month, specifically mentioned medicare and medicaid as an area where the Justice Department intended to become more involved as part of its crackdown on white-collar crime. I commend Griffin Bell for this.

With the resources of the Justice Department involved, I think we will see more action.

Since then I have learned that the FBI is training men and women in the area of auditing medicare and medicaid records. In all, 350 FBI agents have received special training so far in these two areas. Additionally, 1,100 agents have received special training in auditing procedures which will be applicable to health investigations in general.

The Justice Department, working with the Inspector General of HEW, will give us the resources we need to enforce the provisions of H.R. 3 which make fraud and abuse a felony. I am optimistic that with this tougher law and the resources available we will see dramatic results.

H.R. 3 is the product of close cooperation between the Interstate and Foreign Commerce Committee and the Ways and Means Committee. The solid working relationship which these committees established in developing this legislation continued throughout the conference committee with the Senate, and has resulted in a conference report which we can jointly recommend to the Members without reservation.

I want to make particular note of the contribution made by my colleague, the Honorable DAN ROSTENKOWSKI, to this effort. His leadership in assuring that the working relationship of the two subcommittees was cooperative and mutually beneficial was most significant. Additionally, my good friend and colleague, Dr. CARTER, was most helpful and supportive throughout our work on this bill, as was Mr. DUNCAN, the ranking Republican member of the Ways and Means Health Subcommittee.

The cooperation with the Senate was also excellent. Senator TALMADGE should particularly be commended for his leadership and assistance in this area. We have a fine working relationship which will stand us in good stead as we move to mutual consideration of other health issues.

I urge the Members to support the conference agreement.

Mr. DUNCAN of Tennessee. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the conference report on H.R. 3, the medicare-medicaid antifraud and abuse amendments.

This legislation as agreed to and reported by the conferees, would go a long way toward helping to reduce the fraudulent and abusive practices that unfortunately exist in the medicare and medicaid programs, and that have become even more prevalent and costly to our taxpayers in recent years.

H.R. 3 reflects careful deliberation, and genuine cooperation, by members of several legislative committees involved with the legislation, in both Houses of Congress. It tackles many difficult issues boldly and responsibly, including the upgrading of criminal offenses for those who would attempt to defraud the programs, the duties and functions of PSRO's, the ability of the States to finance tough new programs for investigating and prosecuting medicaid fraud, and the required disclosure of ownership and financial information by providers in the programs. Many long-needed administrative reforms are provided for, and the various changes brought about by the legislation undoubtedly will be of significant benefit not only to the program beneficiaries and recipients, but to all of our country's taxpayers who pay the bill for the services that are provided.

Mr. Speaker, this legislation is absolutely necessary if we are to begin to get a handle on spiraling health care costs, as well as the more specific problems of fraud and abuse in health programs financed or operated with Government funds. I strongly recommend that my colleagues support the enactment into law of H.R. 3, by approving the report of the House and Senate conferees.

Mr. Speaker, I yield such time as he may consume to the gentleman from Kentucky (Mr. CARTER).

Mr. CARTER. Mr. Speaker, I thank the distinguished gentleman for yielding.

Mr. Speaker, I support the conference report on H.R. 3—the medicare-medicaid antifraud and antiabuse amendments. This measure represents the final product of many extensive hearings and markup sessions which began in the 94th Congress.

I believe that this legislation is needed to strengthen our Government's capacity to detect and prosecute fraudulent and abusive activities under the medicare and medicaid programs.

However, we cannot expect this bill alone to solve the problem.

Coupled with this expanded authority to detect fraud—must come improved administration of these health programs.

We know that our programs can only be as good as the people who administer them—and I trust that the provisions of this legislation will be carried out and enforced as diligently as possible. Only with the cooperation and commitment of government on all levels can we expect significant progress in solving the fraud and abuse problem.

Mr. Speaker, this conference report is very similar to the House-passed bill—although there were actually 40 differences between the House and Senate bills. Most of the changes we adopted were relatively minor in nature.

Also—the conferees decided not to adopt two of the more controversial Senate amendments.

We did not accept the amendment which would have delayed for 1 year the requirement that State medicaid programs pay skilled nursing facilities and intermediate care facilities on a basis reasonably related to cost.

Second—we did not adopt the Senate amendment which would have directed the secretary of HEW to conduct demonstration projects to compare PSRO review methods with State programs.

The conference report does include a number of provisions which should strengthen the Government's ability to detect and prosecute fraudulent activities. These provisions include: increased penalty provisions and increased disclosure requirements to prevent the kind of "cozy relationships" we have heard reported between certain types of providers. However—I would like to emphasize that these disclosure requirements do not apply to individual practitioners or groups of practitioners—but instead apply to hospitals—skilled nursing facilities—independent clinical laboratories—and other facilities that claim reimbursement under medicare and medicaid and title XX of the Social Security Act.

In addition—the conference report also includes changes designed to assist the professional standards review organizations in their review of the quality and appropriateness of medical care.

It is not the intent of the conferees to convert PSRO's into fraud and abuse units. That is not their mission.

However—we hope that when the PSRO finds a pattern of abuse—it would notify the appropriate State agency which has responsibility for investigating fraudulent activities—to determine whether or not there is a problem.

Mr. Speaker, this is an important piece of legislation which will help prevent fraudulent diversion of program funds which are sorely needed to pay for health care for our Nation's poor and elderly.

I urge that the conference report on H.R. 3 be favorably considered.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 2 minutes to the gentleman from Missouri (Mr. VOLKMER).

Mr. VOLKMER. Mr. Speaker, although this bill generally is a very good bill and I wish to commend the gentlemen from wish to commend the gentlemen from West Virginia, Illinois, and Florida on the work they did but, as they know, there is one provision in this bill that I seriously object to. As a result, when it passed the House I felt that it was necessary to vote against it. That was the provision on the antifraud units in requiring that the States do it the way it is provided for in the bill.

It bothers me to no end, having been a State legislator for 10 years in Missouri, and now to be here, to see Members of Congress feeling that they know better than do the State legislators and the State government concerning how to run the State government itself. That is just what is occurring in this bill. The bill says it can only be done in this way.

As a result, Mr. Speaker, I would like to take just a little time to tell the Members what is going to happen in Missouri as a result of the provision in this law. That is, that on Monday there will be meetings in this Federal Capitol of Missouri Government officials and HEW to try to work out the problem. As a result, we may have a single State agency administering HEW as a division instead

of a department with the fraud unit exactly where it is right now, with no change.

But what you have done, instead of a departmental director having overall authority over a medicaid program, which is one of the largest programs in the State, you will have a division director, but the departmental director will have no authority over that divisional director or that program.

That is one of the things that can occur and is being contemplated.

The SPEAKER. The time of the gentleman has expired.

Mr. ROSTENKOWSKI. I yield 1 additional minute to the gentleman from Missouri.

Mr. VOLKMER. To qualify for 90-percent funding the fraud unit can be transferred, as I read the law and understand it, to another department outside of the Department of Social Services. Not to the Attorney General's office, because that will not occur in Missouri.

I believe I know Missouri government and I believe the people in Missouri know Missouri government better than the Members of Congress from the other States do.

That unit may be transferred to another department outside the Department of Social Services in order to qualify for a 90-percent funding.

One of those two things will occur. The question is: Will that improve the operation of the fraud unit for medicaid? I guarantee you that it will not for the simple reason that this fraud unit is one that is doing a good job right now and I do not believe that you are going to improve it one bit. You will just cause trouble for the State government.

Mr. ROSTENKOWSKI. Mr. Speaker, I have no further requests for time.

Mr. DUNCAN of Tennessee. Mr. Speaker, I yield such further time as he may consume to the gentleman from Kentucky (Mr. CARTER).

Mr. CARTER. Mr. Speaker, in answer to the distinguished gentleman from Missouri (Mr. VOLKMER) I state that it is very necessary that the House and the Senate took the action which they did. I think it is very important that the antifraud groups be separate from medicaid in the States. Actually if we have a unit in one department that is policing that agency, then it is an in-house investigation and it does not amount to anything. It must be separate to be effective. I believe that that is the way it should be done. I believe it will benefit all the other 49 States, and Missouri also.

Mr. ROSTENKOWSKI. I have no further requests for time. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER. The question is on the conference report.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. ROSTENKOWSKI. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 402, nays 5, not voting 27, as follows:

[Roll No. 648]

YEAS—402

Abdnor	Dornan	Keys	Regula	Sisk	Van Deerlin
Addabbo	Downey	Kildee	Reuss	Skelton	Vander Jagt
Akaka	Drinan	Kindness	Rhodes	Slack	Vanik
Alexander	Duncan, Oreg.	Kostmayer	Richmond	Smith, Iowa	Waggonner
Allen	Duncan, Tenn.	Krebs	Rinaldo	Smith, Nebr.	Walgren
Ammerman	Early	Krueger	Risenhoover	Snyder	Walker
Anderson, Calif.	Eckhardt	LaFalce	Roberts	Solarz	Walsh
Anderson, Ill.	Edgar	Lagomarsino	Robinson	Spellman	Wampler
Andrews, N.C.	Edwards, Ala.	Latta	Rodino	Spence	Watkins
Andrews, N. Dak.	Edwards, Calif.	Le Fante	Roe	St Germain	Waxman
Annunzio	Edwards, Okla.	Leach	Rogers	Staggers	Weaver
Applegate	Eilberg	Lederer	Roncalio	Stangeland	Weiss
Archer	Emery	Leggett	Rooney	Stanton	White
Armstrong	English	Lehman	Rose	Stark	Whitehurst
Ashbrook	Erlenborn	Lent	Rosenthal	Steed	Whitley
Ashley	Ertel	Levitas	Rostenkowski	Steers	Wiggins
Aspin	Evans, Colo.	Livingston	Rousselot	Steiger	Wilson, Bob
AuCoin	Evans, Del.	Lloyd, Calif.	Rudd	Stockman	Wilson, C. H.
Badham	Evans, Ga.	Lloyd, Tenn.	Runnels	Stokes	Wilson, Tex.
Baldus	Evans, Ind.	Long, La.	Ruppe	Stratton	Winn
Barnard	Fary	Long, Md.	Russo	Studds	Wirth
Baucus	Fascell	Lott	Ryan	Stump	Wolff
Bauman	Fenwick	Luken	Sarasin	Taylor	Wright
Bedell	Findley	Lundine	Satterfield	Teague	Wydler
Benjamin	Fish	McClory	Sawyer	Thompson	Wylie
Bennett	Fisher	McCloskey	Scheuer	Thone	Yates
Bevill	Fithian	McCormack	Schroeder	Thornton	Yatron
Biaggi	Flippo	McDade	Schulze	Traxler	Young, Alaska
Bingham	Flood	McEwen	Sebelius	Treen	Young, Fla.
Blanchard	Florio	McFall	Seiberling	Trible	Young, Mo.
Blouin	Flowers	McHugh	Sharp	Tsongas	Young, Tex.
Boggs	Flynt	McKay	Shuster	Tucker	Zablocki
Boland	Foley	McKinney	Sikes	Udall	Zeferetti
Bolling	Ford, Mich.	Madigan	Simon	Ullman	
Bonior	Ford, Tenn.	Maguire			
Bonker	Forsythe	Mahon			
Bowen	Fountain	Mann			
Brademas	Fowler	Markey			
Breaux	Fraser	Marks			
Breckinridge	Frenzel	Marlenee			
Brinkley	Frey	Marriott			
Brodhead	Fuqua	Martin			
Brooks	Gammage	Mathis			
Broomfield	Gaydos	Mattox			
Brown, Calif.	Gephardt	Mazzoli			
Brown, Mich.	Giaimo	Meeds			
Broyhill	Gibbons	Metcalfe			
Buchanan	Gilman	Meyner			
Burgener	Ginn	Michel			
Burke, Calif.	Glickman	Mikulski			
Burke, Fla.	Goldwater	Mikva			
Burke, Mass.	Goodling	Milford			
Burleson, Tex.	Gore	Miller, Ohio			
Burlison, Mo.	Gradison	Mineta			
Burton, John	Grassley	Minish			
Burton, Phillip	Gudger	Mitchell, Md.			
Butler	Guyer	Mitchell, N.Y.			
Byron	Hagedorn	Montgomery			
Caputo	Hall	Moore			
Carney	Hamilton	Moorhead, Calif.			
Carr	Hammer-schmidt	Moorhead, Pa.			
Carter	Hanley	Moss			
Cavanaugh	Hannaford	Mottl			
Cederberg	Hansen	Murphy, Ill.			
Chappell	Harkin	Murphy, N.Y.			
Chisholm	Harrington	Murphy, Pa.			
Clausen, Don H.	Harris	Murtha			
Clawson, Del	Harsha	Myers, Gary			
Clay	Hawkins	Myers, John			
Cleveland	Heckler	Myers, Michael			
Cochran	Hefner	Natcher			
Cohen	Heftel	Neal			
Coleman	Hightower	Nedzi			
Collins, Tex.	Hillis	Nichols			
Conable	Holland	Nix			
Conte	Hollenbeck	Nolan			
Conyers	Holt	Nowak			
Corcoran	Holtzman	O'Brien			
Corman	Horton	Oakar			
Cornell	Howard	Oberstar			
Cornwell	Hubbard	Obey			
Cotter	Huckaby	Ottinger			
Coughlin	Hughes	Panetta			
Cunningham	Hyde	Patten			
D'Amours	Ichord	Pattison			
Daniel, Dan	Ireland	Pease			
Daniel, R. W.	Jacobs	Perkins			
Danielson	Jeffords	Pettis			
Davis	Jenkins	Pike			
de la Garza	Jenrette	Poage			
Dellums	Johnson, Colo.	Pressler			
Derrick	Jones, N.C.	Preyer			
Derwinski	Jones, Okla.	Price			
Devine	Jones, Tenn.	Pritchard			
Dickinson	Jordan	Pursell			
Dicks	Kasten	Quayle			
Diggs	Kastenmeier	Quie			
Dingell	Kazen	Quillen			
Dodd	Kelly	Rahall			
	Kemp	Railsback			
	Ketchum	Rangel			

NAYS—5

Crane	McDonald	Volkmer
Gonzalez	Symms	

NOT VOTING—27

Ambro	Dent	Pepper
Badillo	Johnson, Calif.	Pickle
Bafalis	Koch	Roybal
Beard, R.I.	Lujan	Santini
Beard, Tenn.	Miller, Calif.	Shipley
Beilenson	Moakley	Skubitz
Brown, Ohio	Moffett	Vento
Collins, Ill.	Mollohan	Whalen
Delaney	Patterson	Whitten

The Clerk announced the following pairs:

Mr. Dent with Mr. Bafalis.
Mr. Delaney with Mr. Whalen.
Mr. Santini with Mr. Lujan.
Mr. Shipley with Mr. Miller of California.
Mr. Ambro with Mr. Johnson of California.
Mr. Badillo with Mr. Beard of Rhode Island.
Mr. Pepper with Mr. Beilenson.
Mr. Pickle with Mrs. Collins of Illinois.
Mr. Roybal with Mr. Patterson of California.
Mr. Koch with Mr. Brown of Ohio.
Mr. Moakley with Mr. Mollohan.
Mr. Vento with Mr. Skubitz.
Mr. Moffett with Mr. Whitten.

Mr. CRANE changed his vote from "yea" to "nay."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ROSTENKOWSKI. Mr. Speaker, I ask unanimous consent to revise and extend my own remarks, and that all Members may have 5 legislative days within which to revise and extend their remarks on the conference report just agreed to.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

DIRECTING CLERK TO MAKE CORRECTION IN ENROLLMENT OF H.R. 3

Mr. ROSTENKOWSKI. Mr. Speaker, I ask unanimous consent for the imme-

diate consideration of the House concurrent resolution (H. Con. Res. 377) directing the Clerk to make a correction in the enrollment of the bill (H.R. 3) to strengthen the capability of the Government to detect, prosecute, and punish fraudulent activities under the medicare and medicaid programs, and for other purposes.

The Clerk read the title of the concurrent resolution.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 377

Resolved by the House of Representatives (the Senate concurring), That in the enrollment of the bill (H.R. 3) to strengthen the capability of the Government to detect, prosecute, and punish fraudulent activities under the medicare and medicaid programs, and for other purposes, the Clerk of the House of Representatives shall make the following correction: In proposed paragraph (3) of section 1903(b) of the Social Security Act (as contained in section 17(b) of the bill), strike out "(a)(7)" and insert in lieu thereof "(a)(6)".

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

CONTINUING APPROPRIATIONS FOR FISCAL YEAR 1978

Mr. BOLLING, from the Committee on Rules, reported the following privileged resolution (H. Res. 329, Rept. No. 95-703), which was referred to the House Calendar and ordered to be printed:

H. RES. 829

Resolved, That upon the adoption of this resolution it shall be in order to consider the joint resolution (H.J. Res. 626) making continuing appropriations for the fiscal year 1978, and for other purposes, in the House.

Mr. BOLLING. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 829 and ask for its immediate consideration.

The SPEAKER. The Clerk will report the resolution.

The Clerk read the resolution.

The SPEAKER. The question is, Will the House now consider House Resolution 829?

The question was taken; and (two-thirds having voted in favor thereof) the House agreed to consider House Resolution 829.

The SPEAKER. The gentleman from Missouri (Mr. BOLLING) is recognized for 1 hour.

Mr. BOLLING. Mr. Speaker, I yield 30 minutes to the gentleman from Illinois (Mr. ANDERSON), pending which I yield myself such time as I may consume.

Mr. Speaker, this is an unusual enough way of dealing with the problem, so that it occurred to me that the Members might actually want to know what is going on. We have just by a two-thirds vote agreed to the consideration of a rule which is designed to do something very simple.

I will yield in just a minute to the distinguished chairman of the Committee on Appropriations, but just a few minutes ago the chairman of the Committee on Appropriations and the ranking minority member, the distinguished gentleman from Michigan (Mr. CEDERBERG), appeared, as I understand it, representing the unanimous view of the members of the Committee on Appropriations, recommending this rule so that we could extend for 2 weeks the ability and the responsibility of the United States to pay some of the employees of the Federal Government.

There is no attempt in this resolution and in this action to alter any policy matter. As the chairman of the Committee on Appropriations will explain, this process makes it possible to meet the Federal payroll. It does not prejudice the right of anybody with regard to any policy decision which will have to be made in the future. It is an entirely neutral action with regard to policy. I think it is very important that we do it and do it promptly.

Mr. Speaker, I yield such time as he may consume to the gentleman from Texas (Mr. MAHON), the distinguished chairman of the Committee on Appropriations.

Mr. Speaker, the gentleman seeks no time, I, therefore, reserve the balance of my time.

Mr. ANDERSON of Illinois. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise merely to express my support for the adoption of House Resolution 829.

The gentleman from Missouri (Mr. BOLLING) has correctly explained to the House the necessity for the adoption of a rule which would make in order the consideration of a continuing resolution.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield?

Mr. ANDERSON of Illinois. I yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Speaker, I take this time simply to affirm an understanding the gentleman from Texas (Mr. MAHON) gave me earlier this morning.

In the pending resolution allowing continuing appropriations until the end of this month, on page 2, paragraph 2, when it states that "Appropriations made by this subsection shall be available to the extent and in the manner available in the fiscal year 1977," that language in fact continues in effect the language of the Flood-Conte-Hyde amendment which states that "None of the funds contained in this section shall be used to perform abortions except where the life of the mother would be endangered if the fetus is carried to term"; is that correct?

Mr. MAHON. Mr. Speaker, if the gentleman from Illinois (Mr. ANDERSON) will yield, I agree that that is correct. That is the language contained in the law as it has applied during fiscal year 1977.

Mr. BAUMAN. Mr. Speaker, I have one other question to ask of the chairman of the Committee on Appropriations.

Yesterday the other body, in an extraordinary act of arrogance, passed a continuing resolution which in fact is a derogation of the House's constitutional right to appropriate funds and initiate appropriations. That action appears on page 33369 of the RECORD. No such provision as the one I just quoted appears in the other body's resolution.

Is it the intention of the chairman of the Committee on Appropriations to go to conference on these resolutions, or is it in fact his intention to present our resolution, if it is passed today, to the other body so that it can either accept it or reject it?

Mr. MAHON. Mr. Speaker, we would by all means stand solidly on the House's constitutional right to originate appropriation bills. I appreciate the defense made by the gentleman from Maryland with respect to the gesture that was made by the other body on yesterday. I can anticipate no circumstances under which the House would entertain such a procedure.

I feel that we will have no great difficulty in passing a simple continuing resolution of the nature being presented today.

Mr. BAUMAN. Mr. Speaker, I thank the gentleman from Texas (Mr. MAHON) for his assurances, and I thank the gentleman from Illinois (Mr. ANDERSON) for yielding.

Mr. ANDERSON of Illinois. Mr. Speaker, if I may once again gain the attention of the distinguished chairman of the Committee on Appropriations, I have been asked to make this inquiry—and I believe the gentleman answered a similar question earlier when he sought unanimous consent for the consideration of the resolution—Under any discussion that may ensue on the resolution, is it the intention of the gentleman from Texas to yield 30 minutes of his time to the minority side of the aisle?

Mr. MAHON. Mr. Speaker, will the gentleman yield?

Mr. ANDERSON of Illinois. I yield to the chairman of the committee.

Mr. MAHON. Yes; I would be glad to assure the gentleman that I will yield time in that fashion.

Mr. ANDERSON of Illinois. Mr. Speaker, I thank the gentleman for his assurance.

Mr. YOUNG of Florida. Mr. Speaker, will the gentleman yield?

Mr. ANDERSON of Illinois. I yield to the gentleman from Florida.

Mr. YOUNG of Florida. Mr. Speaker, I appreciate the gentleman's presenting that question to the chairman of the Committee on Appropriations, and I have one further question.

Under this rule, since it is a hastily drawn rule and we have not had time to analyze it, although it is a very brief rule, would amendments be in order or would amendments not be in order in the consideration of the joint resolution?

Mr. ANDERSON of Illinois. No. The resolution reads that it would be considered in the House and, therefore, amendments would not be in order under this resolution.

Mr. YOUNG of Florida. Mr. Speaker, will the gentleman yield further?

Mr. ANDERSON of Illinois. I yield to the gentleman from Florida.

Mr. YOUNG of Florida. Would a motion to recommit or a motion to recommit with instructions be in order under this rule?

Mr. ANDERSON of Illinois. It is my understanding that a motion to recommit with or without instructions would be in order under this resolution.

Mr. YOUNG of Florida. Mr. Speaker, I thank the gentleman for his explanation.

Mr. MAHON. Mr. Speaker, will the gentleman yield?

Mr. ANDERSON of Illinois. I yield to the chairman of the Committee on Appropriations.

Mr. MAHON. Mr. Speaker, the purpose of the gentleman's yielding to me is so I may explain that with respect to the time, time will be yielded to Members for the purpose of debate only.

Mr. ANDERSON of Illinois. Mr. Speaker, I understand that.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield?

Mr. ANDERSON of Illinois. I yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Speaker, I appreciate my colleague's yielding.

This action today appears to be some kind of a speed record in getting a rule moved to the floor. I think it is an evidence of greased lightening procedure, when the Appropriation Committee can obtain a rule in less than 45 minutes.

What did this take, less than an hour?

Mr. ANDERSON of Illinois. I believe the gentleman is correct. Unanimous consent was sought shortly after the House convened at 10 o'clock this morning, and when that unanimous-consent request was refused, the chairman of the committee did promptly come before the Committee on Rules, which went into session at about 10:30 this morning.

We listened to the chairman of the committee, and I heard no audible dissent to his request for a rule. He was supported by the ranking minority member of the Committee on Appropriations, the gentleman from Michigan (Mr. CEDERBERG).

Mr. ROUSSELOT. I have no objection to the effort to obtain a quick rule, because I do understand the situation facing the conferees from the House. But that does show how fast we can move.

Mr. ANDERSON of Illinois. We are capable of expeditious action on occasion.

Mr. ROUSSELOT. Certain Government employees on the Federal payroll have been calling us and saying they are going to go out of business tomorrow if this continuing resolution does not get quick action. Social Security Administration officers have been encouraging their employees to call our offices to get quick action, because their payroll might be phased down tomorrow.

This action today certainly shows how fast we can respond.

Mr. ANDERSON of Illinois. Yes, indeed.

Mr. Speaker, I have no further requests for time, and I urge the adoption of House Resolution 829.

Mr. BOLLING. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. MAHON. Mr. Speaker, pursuant to the rule just adopted, I call up the joint resolution (H.J. Res. 626) making continuing appropriations for the fiscal year 1978, and for other purposes.

The Clerk read the title of the joint resolution.

The Clerk read the joint resolution, as follows:

H.J. RES. 626

Resolved by the Senate and House of Representatives of the United States of America in Congress Assembled, That the following sums are appropriated out of any money in the Treasury not otherwise appropriated, and out of applicable corporate or other revenues, receipts, and funds, for the several departments, agencies, corporations, and other organizational units of the Government for the fiscal year 1978, namely:

SEC. 101. (a) (1) Such amounts as may be necessary for continuing projects or activities which were conducted in the fiscal year 1977, and for which appropriations, funds, or other authority would be available in the conference agreement on the Departments of Labor, and Health, Education, and Welfare, and Related Agencies Appropriation Act, 1978 (H.R. 7555), but at a rate for operations not in excess of the current rate or the rate provided for in said appropriation act, whichever is lower.

(2) Appropriations made by this subsection shall be available to the extent and in the manner available in the fiscal year 1977.

(b) Such amounts as may be necessary for continuing projects or activities which were conducted in the fiscal year 1977, and for which appropriations, funds, or other authority would be available in the District of Columbia Appropriations Act, 1978 (H.R. 9005) as passed the House of Representatives or the Senate, but at a rate of operations not in excess of the current rate: *Provided,* That the Advisory Neighborhood Commissions shall be continued at an annual rate of not to exceed $500,000; and

(c) Such amounts as may be necessary to continue to pay the salaries and related personnel benefits of employees engaged in carrying out the functions which would be provided for in the Foreign Assistance and Related Agencies Appropriation Act, 1978 (H.R. 7797) as passed the House of Representatives or the Senate. The provisions of this subsection shall not be construed to provide appropriations to commence or continue any program, project or activity provided for in said appropriation act.

SEC. 102. Appropriations and funds made available and authority granted pursuant to this joint resolution shall be available from October 1, 1977, and shall remain available until (a) enactment into law of an appropriation for any project or activity provided for in this joint resolution, or (b) October 31, 1977, whichever first occurs.

SEC. 103. Appropriations and funds made available or authority granted pursuant to this joint resolution may be used without regard to the time limitations for submission and approval of apportionments set forth in 31 U.S.C. 665(d) (2), but nothing herein shall be construed to waive any other provision of law governing the apportionment of funds.

SEC. 104. Appropriations made and authority granted pursuant to this joint resolution shall cover all obligations or expenditures incurred for any project or activity during the period for which funds or authority for such project or activity are available under this joint resolution.

SEC. 105. Expenditures made pursuant to this joint resolution shall be charged to the applicable appropriation, fund, or authorization whenever a bill in which such applicable appropriation, fund, or authorization is contained is enacted into law.

SEC. 106. No appropriation or fund made available or authority granted pursuant to this joint resolution shall be used to initiate or resume any project or activity for which appropriations, funds, or other authority were not available during the fiscal year 1977.

SEC. 107. Any appropriation for the fiscal year 1978 required to be apportioned pursuant to 31 U.S.C. 665, may be apportioned on a basis indicating the need (to the extent any such increases cannot be absorbed within available apropriations) for a supplemental or deficiency estimate of appropriation to the extent necessary to permit payment of such pay increases as may be granted pursuant to law to civilian officers and employees and to active and retired military personnel. Each such appropriation shall otherwise be subject to the requirements of 31 U.S.C. 665.

SEC. 108. All obligations incurred in anticipation of the appropriations and authority provided in this joint resolution are hereby ratified and confirmed if otherwise in accordance with the provisions of this joint resolution.

The SPEAKER. The gentleman from Texas (Mr. MAHON) is recognized for 1 hour.

Mr. MAHON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we have already discussed this continuing resolution in some detail earlier today. I know of no one, with the exception of one Member, who would have any objection to it at this point.

The object of the continuing resolution is to enable persons who are working for the Government and who, under the law, are entitled to be paid to get their full pay next week when their pay becomes due.

That is the purpose of the continuing resolution, Mr. Speaker; and it affects the personnel working on the foreign operation programs; it affects employees of the District of Columbia; it affects the Department of Labor; it affects the Department of Health, Education, and Welfare, and other agencies.

This continuing resolution prohibits starting any new programs. Generally speaking, this is a typical housekeeping resolution designed to give a little more time for the settlement of issues on appropriation bills between the House and the othre body. At this time it appears we will be able to resolve the foreign aid appropriation bill next week.

Mr. Speaker, I see that the gentleman from Kentucky (Mr. NATCHER), the chairman of the Subcommittee on the District of Columbia, is here on the floor. I think we can resolve the conference differences in the near future.

Of course, we still have this problem of what to do about the abortion issue on the Labor-HEW appropriation bill; and the gentleman from Pennsylvania and others from his subcommittee are undertaking to resolve that matter, so that some sort of solution will be made of that in the near future, we hope.

Mr. Speaker, that is where we are at the moment, the object being, as I stated before, to provide pay for people who are entitled to be paid.

Mr. CEDERBERG. Mr. Speaker, will the gentleman yiled?

Mr. MAHON. I yield to the distinguished gentleman from Michigan.

Mr. CEDERBERG. Mr. Speaker, I would hope that the House would act very promptly on this continuing resolution.

I recognize, as we all do, that there are certain controversial matters still pending, which brought about the necessity for this resolution.

I would hope that we do not get involved in trying to solve those problems here this morning.

What we are interested in and what we have to do is to pass this resolution so that we can assure those Federal employees whose pay is threatened next week that they will be paid.

That is what we are talking about here, Mr. Speaker.

Mr. MAHON. Mr. Speaker, the gentleman is indicating, I think, that he feels the issue is clear-cut. I share the view which the gentleman apparently has, and I think we should move the previous question as soon as reasonably appropriate and get this matter behind us.

Mr. CEDERBERG. I would hope so, Mr. Speaker. I do not want to imply by that statement that we should cut anybody off summarily; but I would hope that we would do our best in trying to get the previous question ordered as quickly as possible.

Mr. MAHON. Mr. Speaker, I yield such time as he may consume to the gentleman from Florida (Mr. YOUNG), for debate only.

Mr. YOUNG of Florida. Mr. Speaker, I thank the gentleman for yielding.

I understand the gentleman has yielded for purposes of debate only, and I have no intentions of even attempting to offer an amendment at this point.

I just want to make sure that it is well understood that the one section of this joint resolution with which I have direct concern, section 102(c), that is in the area of foreign aid, we are talking only about salaries and other personnel services relative to those salaries of the persons who will be paid by this continuing resolution.

Mr. MAHON. Mr. Speaker, the gentleman is correct. We are not undertaking to solve the foreign aid program problems and issues. We are restricting ourselves in this continuing resolution to providing authority to pay the salaries of personnel working on the foreign assistance programs.

Mr. YOUNG of Florida. Mr. Speaker, I thank the chairman for his confirmation of my understanding of this language.

I want to say to the chairman that I support this continuing resolution.

However, I would also say to the chairman that the reason I am concerned with this particular section is the holdup of the conference report on the foreign aid bill. I would like my colleague to know while there are still some controversies surrounding that matter, they are not addressed in this resolution.

I do not want anybody to miss his or her payday, and I urge the adoption of this continuing resolution.

Mrs. SCHROEDER. Mr. Speaker, will the gentleman yield?

Mr. MAHON. I yield such time as she may consume to the gentlewoman from Colorado (Mrs. SCHROEDER) for the purpose of debate only.

Mrs. SCHROEDER. Mr. Speaker, I just want to ask the chairman, the gentleman from Texas (Mr. MAHON) one question. My understanding is that the new funding in the continuing resolution will then allow the funding to go on for this short period of time either at the conference level or the old level, whichever is lower?

Mr. MAHON. It would be the lowest, yes.

Mrs. SCHROEDER. It would be the lowest, whichever one it is?

Mr. MAHON. That is correct.

Mrs. SCHROEDER. So that there are many programs in which there were significant additions that will be in trouble in a short period of time because they will not receive the new funding if we do not finish the bills, is that correct?

Mr. MAHON. That is correct.

Mrs. SCHROEDER. I thank the gentleman. I support the continuing resolution. I appreciate the answers of the gentleman from Texas (Mr. MAHON) to my questions.

Mr. MAHON. Mr. Speaker, I move the previous question on the joint resolution.

The previous question was ordered.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MAHON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the joint resolution (H.J. Res. 626) just passed by the House.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

FEDERAL TRADE COMMISSION AMENDMENTS OF 1977

Mr. ECKHARDT. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 3816) to amend the Federal Trade Commission Act to expedite the enforcement of Federal Trade Commission cease and desist orders and compulsory process orders; to increase the independence of the Federal Trade Commission in legislative, budgetary, and personnel matters; and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from Texas (Mr. ECKHARDT).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill H.R. 3816, with Mr. KAZEN in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee rose on Monday, October 3, 1977, section 7, of the committee amendment in the nature of substitute, had been considered as read, printed in the RECORD, and open for amendment at any point, and pending was an amendment offered by the gentleman from Texas (Mr. KRUEGER).

AMENDMENT OFFERED BY MR. EVANS OF COLORADO

Mr. EVANS of Colorado. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. EVANS of Colorado: Page 37, line 1, insert after "action" the following: ", other than a class action,".

Page 37, after line 3, insert the following:

"(4)(A) The defendant in any civil action commenced under paragraph (1) may petition the court, before the court certifies such action as a class action, to conduct a preliminary hearing under this paragraph in connection with such action.

"(B) The plaintiff shall be required, in any preliminary hearing conducted by the court under this paragraph, to present such evidence as may be necessary to make a prima facie showing that the defendant has committed the alleged rule violation or cease and desist order violation and that injury or damage resulted therefrom. If the court determines that the plaintiff has failed to make such a showing, then the plaintiff may not proceed with such action as a class action under paragraph (1)."

Mr. EVANS of Colorado. Mr. Chairman, one of the problems that many of us have had with this section of the bill dealing with class actions has been the possibility that people or attorneys might bring frivolous actions without good justification or a sound basis for them, placing companies in court at great expense. None of us want this. My amendment is designed to prevent this.

Under the provisions of my amendment, before a class action could proceed after having been filed, and upon request of the defendant, the plaintiff would have to make a prima facie showing that there had been a violation of a rule of regulation, and a prima facie showing that there had been resulting damages. Failing that, the class action would be dismissed. The amendment is simple. I think it is a reasonable amendment, and I hope it can be accepted by both the chairman and the ranking minority member of the committee.

Mr. SANTINI. Mr. Chairman, will the gentleman yield?

Mr. EVANS of Colorado. I yield to the gentleman from Nevada.

Mr. SANTINI. I thank the gentleman for yielding.

What type of preliminary hearing or what Federal Rule of Civil Procedure is the gentleman referring to in the context of the preliminary hearing?

Mr. EVANS of Colorado. I believe it is rule 23. The chairman of the committee could better inform the gentleman on that request.

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield?

Mr. EVANS of Colorado. I yield to the gentleman from Texas.

Mr. ECKHARDT. I thank the gentleman for yielding.

The bill establishes certain internal procedures in the bill with respect to governing class actions, but it also adopts the limitations of rule 23 with respect to class actions.

Mr. SANTINI. If the gentleman will yield further, and therein is defined a preliminary hearing?

Mr. ECKHARDT. That is the customary practice in putting into effect rule 23, because a class action may not be permitted by the court unless the court finds certain additional things, one of which is that the class action procedure is appropriate and is the preferred method of handling the case.

The amendment offered by the gentleman from Colorado (Mr. EVANS) would add another requirement but would not eliminate any of the requirements of rule 23, and that is the determination that a prima facie case has been shown by the plaintiff.

Mr. SANTINI. Then if I understand the gentleman correctly, there are no specific procedural provisions, but the gentleman is suggesting the general language in the bill and customary practice in the Federal Court is going to be the standard by which the preliminary hearing is conducted?

Mr. ECKHARDT. Essentially so, but under this amendment there would have to be a preliminary hearing if the defendant petitions for it.

Mr. EVANS of Colorado. I would say to the gentleman that as a protection against frivolous actions being brought and at the request of the defendant the plaintiff under this amendment would be required to show prima facie that a rule had been violated and that damage or injury flowed therefrom. The burden of proof, of course, would be on the plaintiff.

Mr. SANTINI. If the gentleman will yield further, the gentleman from Colorado has distinguished himself for many years as a legislator and, regrettably, he is going to terminate that impressive career. Has the gentleman in the course of either his legislative career or in the pursuit of his profession had occasion to experience first-hand preliminary hearings or judicial determinations of prima facie evidence?

Mr. EVANS of Colorado. I have not myself been personally responsible for the request for injunctions, for example, but I have been closely enough connected with them, brought by others in a firm, which provided me with the background and understanding of what those procedures are. And it is, as in most of the cases when a burden is placed on a party in a proceeding, to do certain things. There are evidentiary showings you have to present, hopefully to persuade a judge that you have made out a prima facie case, for example, in this case that a rule or regulation has been violated and that damage has flowed therefrom.

Mr. SANTINI. My concern is—and I really appreciate the gentleman's genuine interest in trying to clean up section 7—in my experience as a judge—and as a reflection of my observation of other judges—that in many preliminary hearings and prima facie evidentiary showings have become simply a perfunctory prelude to litigation and they are not hearings of substance or in depth determinations.

Our overly congested court system runs into this abrupt decisionmaking reality, "All right, you have got a case. Let's go."

The CHAIRMAN. The time of the gentleman from Colorado has expired.

(By unanimous consent, Mr. EVANS of Colorado was allowed to proceed for 1 additional minute.)

Mr. EVANS of Colorado. Mr. Chairman, I would respond by saying that obviously judges are human beings and so are attorneys and they are subject to error. We all are. But obviously the intent of the preliminary hearings, or the preliminary hearings I have been familiar with, have been based on the reasonable supposition that the judge will look objectively and he will require the burden of proof to be sustained with evidece that is brought to the court, and that is exactly what I meant.

Mr. SANTINI. Is the gentleman referring to preliminary hearings as opposed to civil proceedings?

Mr. EVANS of Colorado. I am speaking about civil proceedings.

Mr. WIGGINS. Mr. Chairman, will the gentleman yield?

Mr. EVANS of Colorado. I yield to the gentleman from California.

Mr. WIGGINS. Mr. Chairman, is the gentleman aware that the precise procedure he is recommending in his amendment has been precisely disapproved by the Federal courts, including the U.S. Supreme Court?

Mr. EVANS of Colorado. The gentleman is not aware of it.

Mr. WIGGINS. I think the gentleman should be aware of it. This is not a novel procedure. It is just a discredited one.

Mr. EVANS of Colorado. I would strongly disagree with the courts if that is their opinion.

The CHAIRMAN. The time of the gentleman from Colorado has expired.

(On request of Mr. ECKHARDT, and by unanimous consent, Mr. EVANS of Colorado was allowed to proceed for 2 additional minutes.)

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield?

Mr. EVANS of Colorado. I yield to the gentleman from Texas.

Mr. ECKHARDT. If the distinguished gentleman from California, who is very experienced in the field of law, can give me an example of a case in which the courts have said that this procedure is improper or unconstitutional, I would like to hear it, because then I may perhaps be able to answer.

Mr. WIGGINS. Mr. Chairman, if the gentleman will yield, on my own time I am willing to cite a good number of cases which hold exactly as I have indicated.

Mr. ECKHARDT. Mr. Chairman, if the gentleman will yield further, there are many cases in which a prima facie case is required to be shown as a prerequisite to a court determination. One of those, of course, is in virtually every type of restraining order or injunction. In the law of many States, for instance in the State of Texas, there is a provision on the open beaches bill that a prima facie case exists as a matter of presumption that the public is entitled in the use of the beach unless overturned. There are many instances in which the prima facie case has a function with respect to judicial determination.

The gentleman may be talking about some provisions respecting a stay order. It is difficult to join issue with him unless he will mention the cases.

Mr. WIGGINS. Mr. Chairman, if the gentleman will yield further, I will be pleased to yield to the gentleman on my own time with respect to cases which are pertinent.

The CHAIRMAN. The time of the gentleman from Colorado (Mr. EVANS) has expired.

Mr. WIGGINS. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, the pending amendment establishes a preliminary hearing on the merits for the purpose of aiding the court in determining whether or not to certify the class under rule 23. The procedure has been tried before and in a majority of cases has been held insufficient as both unwarranted and unauthorized under rule 23, which is the class action rule. The procedure has been characterized as prejudicial and harmful to the parties, and has been disapproved. I want to refer to specific cases and specific pages as necessary to that effect.

Mr. ECKHARDT. Mr. Chairman, if the gentleman will yield, will the gentleman tell me one of these cases?

Mr. WIGGINS. If the gentleman will permit me to do so, I will be glad to.

The first case is the famous Eisen case. The citation to the circuit court opinion, for the gentleman's benefit, is 479 F2d, 1005.

The discussion of the so-called or minihearings commences on page 1015 of that opinion. I will read for just a moment from that opinion. It says:

> But neither in amended Rule 23 nor in any other rule do we find provision for any tentative, provisional or other makeshift determination of the issues of any case on the merits for the avowed purpose of deciding a collateral matter such as which party is to be required to pay for mailing, publishing or otherwise giving any notice required by law. In most cases the so-called tentative findings and conclusions arrived at without the salutary safeguards applicable to all full scale trials on the merits will be extremely prejudicial to one or the other of the parties who bear the brunt of such findings and conclusions, and such prejudice may well be irreparable.

Now, on the next page of that opinion the Court discusses other decided cases. The Court acknowledges that three cases, primarily the Dolgow case, which for the gentleman's information is cited at 438 F.2d 825 (2d Cir., 1971), holds to the contrary. It supports the position of the gentleman from Colorado, but in commenting on the Dolgow case, it says:

> Of the few Districts Court decisions on the point—

The point of minihearings—

> most of these disagree, as, of course, does the Fifth Circuit, with the innovations described in Dolgow—

The reference to the Fifth Circuit is to a very-well considered opinion by Judge Wisdom in which he reviews this concept of preliminary hearings.

The Supreme Court had occasion to consider this notion of a minihearing on the merits preliminary to a certification of the class. The Supreme Court disapproved the procedure, and in doing so it had the following comments. The Court said:

Additionally, we might note that a preliminary determination of the merits may result in substantial prejudice to a defendant, since of necessity it is not accompanied by the traditional rules and procedures applicable to civil trials. The court's tentative findings made in the absence of established safeguards, may color the subsequent proceedings and place an unfair burden on the defendant.

The Supreme Court noted with approval, in the gentleman's own State, in the case of Mackey International, 452 F. 2d 424, Judge Wisdom said in that case:

In determining the propriety of a class action, the question is not whether the plaintiff or plaintiffs have stated a cause of action or will prevail on the merits, but rather whether the requirements of Rule 23 are met.

The issue of merit is irrelevant to that determination, but the gentleman's amendment places it squarely at issue. That is why I say that the gentleman is attempting to write into law discredited theories that have been considered and rejected by the weight of authority in our Federal court.

The CHAIRMAN. The time of the gentleman from California has expired.

(At the request of Mr. ECKHARDT, and by unanimous consent, Mr. WIGGINS was allowed to proceed for 2 additional minutes.)

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield?

Mr. WIGGINS. I yield to the gentleman from Texas.

Mr. ECKHARDT. Mr. Chairman, I did not disagree with Judge Wisdom, but what Judge Wisdom was saying is that the provisions of rule 23 do not require the making of a prima facie case. Now, I certainly agree to that. That is the only reason this amendment is necessary. If, of course, rule 23 required a prima facie case showing, this amendment would make no difference; but the court is certainly not telling Congress that such a process is discredited. That is not for the court to determine. That is for Congress to determine.

Mr. WIGGINS. I think those courts are entitled to careful attention when they describe the very process here proposed as being prejudicial.

Mr. EVANS of Colorado. Mr. Chairman, will the gentleman yield?

Mr. WIGGINS. I yield to the gentleman from Colorado.

Mr. EVANS of Colorado. Mr. Chairman, I am delighted the gentleman has done the research he has done and cites the decisions the gentleman has referred to.

I must confess a strong disagreement with the findings of the court he refers to. I believe that a procedure which could protect a defendant against frivolous actions that could be brought far outweighs any possible prejudice that may occur to a defendant by such preliminary proceedings.

The CHAIRMAN. The time of the gentleman from California has again expired.

(On request of Mr. EVANS of Colorado and by unanimous consent, Mr. WIGGINS was allowed to proceed for 3 additional minutes.)

Mr. EVANS of Colorado. I just simply feel that there is a much stronger case for the acceptance of my amendment than for any prejudice that may occur to a defendant. Further, the choice would be the defendant's.

Mr. WIGGINS. Let me conclude by saying that it is clear that the maker of the amendment by his own admission had not considered these cases which have considered the very issue involved. There is no question about their holdings. They reject it. They reject it as a matter of statutory interpretation of rule 23, and they also reject it as a matter of policy with respect to prejudice and fairness. The suggested procedure is going to complicate issues involving class actions. To bifurcate such actions and have two trials is simply to multiply existing confusion by two. That is not in the public interest.

Miss JORDAN. Mr. Chairman, will the gentleman yield?

Mr. WIGGINS. I yield to the gentlewoman from Texas.

Miss JORDAN. The gentleman from California is citing support for his argument and quoting from the circuit court decision. I am sure that the gentleman from California recognizes that the judgment of the circuit court was set aside by the Supreme Court.

Mr. WIGGINS. That is why I cite the Supreme Court opinion, which confirms the decision of the circuit court.

Miss JORDAN. But the point is that the Supreme Court did not deal with the rationale the circuit court dealt with.

Mr. WIGGINS. Quite to the contrary. On page 177 of the Supreme Court opinion which I previously cited, there is a discussion at length with respect to this problem, and the Court comes to precisely the same conclusion as did the circuit court.

Miss JORDAN. I really hesitate to get into the——

Mr. WIGGINS. I have the opinion before me, and I would be delighted to let the gentlewoman read it.

Miss JORDAN. What the gentleman from California is saying, in essence, however, is not that the amendment offered by the gentleman from Colorado should not be adopted by this body, because it has been soundly discredited by the Supreme Court of the United States? That is not the gentleman's position, is it?

Mr. WIGGINS. This language has never been before the Supreme Court, but the issue of a minihearing with respect to certification of a class has been before the Supreme Court. That is exactly what the amendment is addressed to, and the Supreme Court found it to be contrary to rule 23, and prejudicial.

Miss JORDAN. The Supreme Court was really talking about where the burden of proof lies.

Mr. WIGGINS. No, no, not at all. Again, I think the gentlewoman should read the opinion. It is right here.

Miss JORDAN. What the Supreme Court apparently did say is that the preliminary hearing would be prejudicial to the rights of the defendant; is that not correct?

Mr. WIGGINS. Yes, it said "substantial prejudice to the defendant."

Mr. SANTINI. Mr. Chairman, I rise in rampaging ambivalence about the amendment.

Mr. Chairman, I appreciate the merit and the thrust of the distinguished gentleman's amendment. It may be meritorious in addressing a serious deficiency and an outstanding argument of contention that has been raging over this section 7 since it was born. But I am also persuaded by the remarks of the gentleman from California that there may be some very serious legal deficiencies; and we are, rather than aiding or abetting a sinking ship, simply poking another hole in its hull. The distressing thing, to me, is that we are now attempting on the floor of this House to revamp, to patchwork, to mend up, to salvage the ignominious deficiencies of section 7. We are trying to write section 7 and deliberate on its legal merits here in the House. It is preposterous to think that a matter of this magnitude should be examined in this context. We do not know the legal consequences of the preliminary hearing proposal. This concept was never addressed in any debate testimony or evidence before the subcommittee or before a full committee of this Congress. So here we are, not at the 11th hour, not at the 12th hour—because there has been a stay of execution on section 7 for 1 week now—but here we are, at the 13th hour, trying to rewrite, revamp, and salvage a section that was deficient in its inception.

Mr. Chairman, I would urge my colleagues to reject it.

Mr. EVANS of Colorado. Mr. Chairman, will the gentleman yield?

Mr. SANTINI. I yield to the gentleman from Colorado.

Mr. EVANS of Colorado. I thank the gentleman for yielding.

Mr. Chairman. I think, No. one, yes, we are trying to salvage section 7. There is no question about that. Whether we will be successful or not will be up to this body. But we do this every year, all the time, on bill after bill, trying to salvage this or that or to improve this or that. Let me just make one comment. And, in particular, I would direct my attention to the distinguished gentleman from California in this regard.

The gentleman from California criticizes my proposed amendment on the grounds that the Supreme Court has found that such a proceeding would be prejudicial to a defendant. I think if we look carefully at the language of my amendment it says that this pre-hearing will take place only in the event the defendant requests it. So the judgment is in the hands of the defendant. And if the defendant were to see what the defend-

ant thought was frivolous and unsupported class action filed against him, he might elect to ask for a preliminary hearing as provided in my amendment.

Mr. WIGGINS. Mr. Chairman, will the gentleman yield?

Mr. SANTINI. I yield to the gentleman from California.

Mr. WIGGINS. I thank the gentleman for yielding.

Mr. Chairman, the proper procedure for the disposition of frivolous claims is not a minihearing on the merits but, rather, it is a motion for summary judgment. And I for one have said, in viewing this procedure recommended in the bill, that the procedure does violence to the whole summary judgment procedure. We all know how to work with summary judgments. That is the manner in which frivolous claims are historically and properly dealt with under the law.

Mr. BARNARD. Mr. Chairman, will the gentleman yield?

Mr. SANTINI. I yield to the gentleman from Georgia.

Mr. BARNARD. Mr. Chairman, section 7 is an unnecessary piece of legislation. It would strain our judicial system; it would interfere with a mandate Congress has given the FTC; and it would not benefit the public as a whole. For these reasons, I urge you to support the Krueger amendment to strike section 7 of H.R. 3816.

Consumers should be able to defend themselves against unscrupulous and fraudulent operators who plague our country. And if enactment of section 7 of H.R. 3816 truly offered this guarantee, I would be an enthusiastic supporter. However, this is not the case.

Section 7 permits attorneys to sue for violation of the Federal Trade Commission's vague and technical rules and orders. Unfortunately, these regulations rarely address the hardcore fraud problems. Rather, they only formulate prohibitions against certain unfair or misleading consumer practices.

Consequently, a legitimate company might find itself the defendant in a class action suit for simply misinterpreting an imprecise rule or its notification section. Clearly, it would be unfair to impose a liability on a company under these circumstances.

Under section 7, individual consumers would not have to be notified of a law suit. Thus, the vast majority of consumers in whose names these class actions are brought might never know of the existence of the suits nor receive any money.

Mr. Chairman, I am concerned that consumers will reap little reward from the mushrooming of class action lawsuits which will inevitably go hand-in-hand with enactment of section 7. Further, the additional burden to our already overtaxed judicial system should not be minimized.

Does such an insignificant gain for the consumers justify the costs to our judicial system and legitimate business? I think not.

Presently, the Federal Trade Commission is required to act on behalf of all consumers. We cannot expect this sense of public responsibility to be duplicated by private attorneys.

Mr. SANTINI. Mr. Chairman, I would say, in conclusion, that I think each one of us present on the House floor this morning and into this afternoon should realize that we are asked to be engaged, in this 13th hour salvage effort because of the basic and inherent deficiencies in the section. I know there will be other conscientious and dedicated Members of this body who will come forward to join the gentleman from Texas in placing their fingers in the dike. But I would urge those Members who want this issue clearly thought through and analyzed to adopt the Dutchboy salvation of this deficient section.

Mr. LEVITAS. Mr. Chairman, will the gentleman yield?

Mr. SANTINI. I yield to the gentleman from Georgia, because I know he intends to place his finger in the dike.

Mr. LEVITAS. I thank the gentleman for yielding.

Mr. Chairman, I am sure the gentleman knows my great respect for him.

The CHAIRMAN. The time of the gentleman from Nevada (Mr. SANTINI) has expired.

(On request of Mr. LEVITAS and by unanimous consent, Mr. SANTINI was allowed to proceed for 2 additional minutes.)

Mr. LEVITAS. Mr. Chairman, will the gentleman yield?

Mr. SANTINI. I yield to the gentleman from Georgia.

Mr. LEVITAS. Mr. Chairman, I sincerely respect the ability and the conscientiousness of the gentleman from Nevada (Mr. SANTINI), and I understand that he has joined with my colleague, the gentleman from Texas, in seeking to strike section 7 altogether.

However, I suggest that we as legislators have a responsibility to view each proposal by way of amendment on its merits, and if it is a meritorious amendment, if it improves a bill which has the possibility of passing, I do not think we should do a disservice to the people of America by saying we would rather have an imperfect piece of legislation to consider, rather than to make it as good as we can, before we exercise our judgment to strike or not to strike.

Mr. SANTINI. Mr. Chairman, I appreciate the gentleman's observations, and I respect both his legal and legislative acumen.

However, I disagree emphatically with the thrust of the gentleman's contention. It is my firm conviction that we would do an outrageous disservice not only to the American people but to the American system of jurisprudence if we attempt this 13th hour salvation effort. I know we do a lot of that sort of thing on the House floor, as the gentleman from Colorado (Mr. EVANS) observed, but I hardly think that precedent should encourage us to toss out all the established case law and all the established procedural practice in the critical area of class actions in such a pellmell, hurry-scurry, helter-skelter fashion.

Mr. WIGGINS. Mr. Chairman, will the gentleman yield just briefly?

Mr. SANTINI. I yield to the gentleman from California.

Mr. WIGGINS. Mr. Chairman, this issue of preliminary hearing is inexorably involved in the question of notice, because the plaintiffs and the defendants in a preliminary hearing are entitled to notice. And yet this whole matter of having the preliminary hearing is going to largely be for determining if there is enough substance in the claim in order to shift the cost and the onus or future onus to the defendant. As a court has already said, that is not permitted under rule 23.

Mr. ECKHARDT. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, it comes with ill grace from those who feel that there should be a most careful consideration of the validity of the case before the case may become a class action, to now urge, relying on a most specious argument, that such careful consideration injures the defendant.

As the distinguished author of the amendment, the gentleman from Colorado (Mr. EVANS), has pointed out, the defendant cannot possibly be prejudiced because he does not have to ask for the preliminary proceeding at all. The preliminary proceedings in which a prima facie case is established is triggered by the defendant's request for one.

It has been argued to me in private that there should be most careful consideration of whether or not a case has initial merit. I must say that those who have opposed the class action process, those who have been the most strongly heard in the halls and in the offices, have not made this argument public, and that is at least one of the reasons why, as the gentleman from Nevada (Mr. SANTINI) said, questions like this cannot be addressed in the committee. It has been argued by them that there ought to be the most careful consideration of whether or not a case is one having initial merit before it may be used as a class action, because of the powerful aspects of the class action suit with respect to the recovery involved.

The gentleman from Colorado (Mr. EVANS), the gentleman from Florida (Mr. GIBBONS), the gentleman from New Jersey (Mr. RODINO), and myself, as well as the gentleman from Iowa (Mr. SMITH), have offered this amendment as a reasonable answer. The authors and the supporters of this proposal are most sensitive to the concerns of business. I think the very listing of their names indicates their interest in the small business community. Yet this is opposed as somehow oppressive to the defendant.

I want to say here that although the gentleman from California (Mr. WIGGINS) is a most distinguished legal mind, he has rendered an almost "Frankfurterian" twist to the argument concerning the Supreme Court's decision in the matter.

In the Eisen case, the court below, whose judgment was completely vacated by the Supreme Court, had gone into this question to some extent. The Supreme Court only went into the question with respect to the matter of costs of notice and acted on that. Its statements were in deference to the interests of the defendant. The defendant might have been subjected to paying the costs of notice.

The whole concern was with respect to the defendant.

Furthermore, the Supreme Court was not enunciating a principle of constitutional authority; the Supreme Court was merely construing rule 23. The cases it cited were in substantiation of the Supreme Court's decision, which is a correct one, that rule 23, though it requires a determination that the particular suit lends itself to a class action and may best be tried that way, and that the suit is one in which an ordinary action, not a class action, would not be adequate to attain reasonable relief, rule 23 does not require a prima facie showing which goes to the question of whether or not the suit does more than state a cause of action. Rather, the suit has some evidence in support of the ultimate decision.

Mr. WIGGINS. Mr. Chairman, will the gentleman yield?

Mr. ECKHARDT. I yield to the gentleman from California.

Mr. WIGGINS. Mr. Chairman, I ask the gentleman, What theory or rule of law would permit the court to go forward in a hearing for the purpose of determining the suitability of a class action?

The CHAIRMAN. The time of the gentleman from Texas (Mr. ECKHARDT) has expired.

(On request of Mr. WIGGINS and by unanimous consent, Mr. ECKHARDT was allowed to proceed for 2 additional minutes.)

Mr. WIGGINS. Mr. Chairman, will the gentleman yield further?

Mr. ECKHARDT. I yield to the gentleman from California.

Mr. WIGGINS. To continue, Mr. Chairman, how could that hearing go forward without notice to the plaintiffs because notice to the plaintiffs is only determined after the class is certified?

Mr. ECKHARDT. The suit does not attain the status of a class suit until, No. 1, it is filed as such; and No. 2, if the defendant petitions for a hearing before the court, the court certifies it as a class action. Until that point the suit may not proceed as anything other than an ordinary suit and may not proceed as a class action.

Mr. WIGGINS. Mr. Chairman, if the gentleman will yield further, I am concerned about the interests of the plaintiffs, that great mass of plaintiffs who do not even know about this lawsuit commenced on their behalf. Their rights are being litigated in this minihearing without provision for notice to them at all.

Mr. ECKHARDT. No. We only add one other requirement in addition to the requirements of rule 23.

As the gentleman well knows, a multijurisdictional suit, which most class actions are, is handled in this way. The court holds a pretrial hearing in which the court determines whether the standards of rule 23 have been complied with. Those standards, of course, include, first, that the suit is more expeditiously handled as a class action than as individual actions. It gives the court wide leeway in its judgment as to whether the class-action process is the better or the other process is the better.

An opportunity is afforded to the defendant, if he wishes to raise it, to make the contention that this is a strike suit, that there is really no basis to it, and that it is merely brought for the purpose of harassing the defendant. At that point, if the defendant asks that this be done, one of the elements of establishing a class action, not of ultimately winning the suit and without relation to ultimately winning the suit, is that the plaintiff establish that there is, in fact, a prima facie showing that a cause of action exists.

The CHAIRMAN. The time of the gentleman from Texas (Mr. ECKHARDT) has expired.

(By unanimous consent, Mr. ECKHARDT was allowed to proceed for 1 additional minute.)

Mr. ECKHARDT. To continue, Mr. Chairman, if we decide that this is a desirable measure—and I think it is; I have been urged by many Members here that we should be assured that the suit is a serious one—we can establish that.

There is nothing the Supreme Court can tell us to the contrary, whatever our policy may be. Policy is to be determined here, not a block or two away unless it is a constitutional question. I am sure the gentleman does not raise that question?

Mr. WIGGINS. No, I am not raising at this moment a constitutional question other than on the issue of notice. But let me repeat what a distinguished judge has said concerning this problem of notice to the plaintiffs.

The CHAIRMAN. The time of the gentleman has again expired.

Mr. BROYHILL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, this amendment and one or two others that are proposed to be offered here were described as a compromise. I frankly do not know who the proponents are compromising with. Apparently the proponents of this section 7, those people who like section 7 trying to compromise with themselves. I do not see that as any compromise at all.

They are offering this amendment here, now, at this late hour. It shows very clearly that there are massive defects in this section 7 that should have been corrected at the committee level but the fast procedure that we used in bringing up this bill shows that the committee has not done its job and that we should strike this section and permit a more thorough consideration of this idea, not only in the Committee on Interstate and Foreign Commerce, but I suggest also in the Committee on the Judiciary.

I say that because the Department of Justice has before it at the present time a complete study and a survey of Federal class actions and a study of the class action problems, to determine whether or not the class actions are an adequate way to get redress of consumer complaints.

So, Mr. Chairman, it is amusing, if we were not discussing this right of action that is going to be put into the law here that has such a serious and far-reaching effect upon the total business community, that here, at the last moment, they are bringing in an amendment to try to fix up a bad provision.

Mr. ECKHARDT. Will the gentleman yield?

Mr. BROYHILL. I will not yield at the present time.

Mr. Chairman, it has been brought out that the amendment that has been put forward here is not going to do that much to improve the bill. In fact, it could not only have an adverse effect on the defendants, innocent defendants, but it also could have an adverse effect on defendants in that it prejudices their rights in a class action trial.

This is not my amendment. This is an amendment that is being advocated by those who bring you class actions, and if they want to amend their own turkey, then I say I am not going to oppose it.

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield?

Mr. BROYHILL. Yes.

Mr. ECKHARDT. The gentleman knows from his experience with me that we have usually had the opponents to various measures come before our committee and ask for amendments. Will the gentleman not affirm to me that neither J. C. Penney nor Sears, Roebuck appeared before our committee yet they had been in our offices almost every day when we were drawing the rulemaking procedure?

Mr. BROYHILL. The gentleman held hearings on this bill within a few days after introducing it. As far as I know, even the American Bar Association has had no opportunity to come in for testimony on this.

Mr. ECKHARDT. If the gentleman will yield still further, they were invited to appear and did not choose to come in.

Mr. BROYHILL. The American Bar Association came and they said they had not had time to come up with a position on that but that they had some very sincere reservations about this proposal and had not had time to develop all of their reasons.

The full effects that this section 7 are going to have, have not been considered either in hearings of the subcommittee. The fact that the gentleman said that certain people had not come forward certainly is not good reason to pass this legislation.

Mr. ECKHARDT. If the gentleman will yield further, will the gentleman not concede that the bar did come in and they had 2 weeks, and we told them they could come in at any time until a certain listed time and bring in a further statement? They did not do so.

Mr. BROYHILL. This just shows the complexity of this issue is such that even such a learned group as the American Bar Association takes a little more than 2 weeks to come up with their opinions on what the impact of this is going to have on the judiciary.

Mr. ECKHARDT. If the gentleman will yield further, they never came in and have not come in to this time.

Mr. BROYHILL. The gentleman has not held any more hearings. No one knows what the judiciary would say. There is no evidence in the hearing record. There is no discussion of the impact that this is going to have on the judiciary.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Colorado (Mr. EVANS).

The question was taken; and on a division (demanded by Mr. ECKHARDT) there were—ayes 15, noes 9.

So the amendment was agreed to.

The CHAIRMAN. Are there further amendments to section 7?

Mrs. SCHROEDER. I move to strike the last word.

Mr. Chairman, I just wanted to ask the gentleman, who is a very fine chairman and has worked so hard on section 7, a few questions that I had about section 7.

I have had many of my automobile dealers very, very worried about if section 7 were to pass whether or not there would be massive class actions on the commercial paper that they are handing out for their cars. I have read the section. There is nothing in there that I could find that would allow people to bring a lot of class actions on commercial paper because the allowable defenses all seem to be very singular, individual actions, and it would be very difficult to see how they could have a class action defense. Defenses allowed would be whether or not the car was delivered, or whether or not there was something defective about the car and so forth, and with those different defenses that a buyer would have, I see no way a class action could occur under rule 23 of the Federal Rules. I am asking the gentleman from Texas if that is the way he reads section 7, or if there is some new authority in there that we have not seen before in re the commercial paper of auto dealers.

Mr. ECKHARDT. Will the gentlewoman from Colorado yield?

Mrs. SCHROEDER. I will be delighted to yield to the gentleman.

Mr. ECKHARDT. I thank the gentlewoman for yielding. The gentlewoman is speaking about a rule of the Federal Trade Commission that provides that if an automobile dealer sells an automobile and receives for it a note, and then ultimately sells that note to a bank, it is necessary under the rule that the paper be stamped to indicate that it was consumer paper and is subject to the claims and defenses of the buyer.

Mrs. SCHROEDER. And that is the rule now. Is that correct?

Mr. ECKHARDT. That is the rule now.

Mrs. SCHROEDER. And it must be stamped, and then the buyer still has the defense. Is that the reason it is stamped? Is that correct?

Mr. ECKHARDT. That is right. Formerly the financial institution, there being no notification that this was consumer paper, might collect on the installments on the automobile even though the automobile might not have been delivered, or the automobile might have had a broken block, or other conditions might have existed that would create a defense by the purchaser of the automobile against payment to the seller. So this rule is for the purpose of notifying the world that this is consumer paper. Therefore the bank would know if it bought the note that it might be subject to the defense of failure to deliver or of a contention that express warranties or the implied warranty of suitability for use was in fact violated.

Now, No. 1, this rule could not possibly apply to class actions under section 7 because the rule is required to specify that it will trigger class actions. That was by virtue of the amendment offered by the gentleman from Florida, Mr. PAUL ROGERS, in the committee, an amendment which I favored and I think is a good amendment.

No. 2, even if this rule permitted class actions as a general proposition, rule 23 provides standards with respect to what constitutes a proper class action. All of the cases must be substantially alike. Well, automobile dealer A has failed to deliver a car or is alleged to have failed to deliver a car. Automobile dealer B delivered it solely to the purchaser who did not want it any more and he alleges it was a violation and he tried to give it back but the company would not take it. Automobile dealer C is alleged to have sold a car with a broken block when it was said to be a clean car. Obviously all of those cases are very, very separate cases based on entirely different facts. It is impossible for me to conceive of a situation in which a class action would lie under rule 23 even if the Federal Trade Commission has allowed that there be one.

Mrs. SCHROEDER. I thank the gentleman.

AMENDMENT OFFERED BY MR. LEVITAS

Mr. LEVITAS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. LEVITAS: Page 36, line 9, insert ", subject to paragraph (3)(B)," after "then".

Page 36, line 25, insert "(A)" after "(3)".

Page 37, line 1, insert ", other than a class action," after "action".

Page 37, after line 3, insert the following:

"(B) Any person, partnership, or corporation which intends to commence a class action under paragraph (1) shall notify the Commission in writing of such intention. No such action may be commenced if the Commission, during the 60-day period following the receipt of such notice—

"(i) commences a civil action, based upon the rule violation or cease and desist order violation which is alleged by the person, partnership, or corporation giving notice to the Commission, against the person, partnership, or corporation which would be the defendant in the action which the person, partnership, or corporation giving such notice intends to commence; or

"(ii) transmits notice to the person, partnership, or corporation giving notice to the Commission that the class action which such person, partnership, or corporation intends to commence would interfere with, or would be inconsistent with, any policy or activity for the Commission in enforcing or otherwise carrying out the provisions of this Act.

Mr. LEVITAS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Georgia?

There was no objection.

Mr. LEVITAS. Mr. Chairman, the purpose of this amendment is not to salvage section 7. It is not to put a finger in the dike. It is something that I think as a matter of policy this committee should agree with as we consider the substance of section 7.

Until the introduction of section 7, the FTC rules, the agency rules were enforceable only by the agency itself. The agency under section 5 of the Federal Trade Commission law has the power to deal with deceptive or unfair trade practices. By its rulemaking power the Federal Trade Commission has interpreted what is an unfair trade practice and it has taken that very broad language and specified by rule what specific practices are considered to be unfair.

When the agency finds violations of this rule, it initiates enforcement procedures which frequently end in cease-and-desist orders based upon the agency's interpretation of what its policy was as embodied in the rules to begin with.

If we are to permit private class actions to enforce Federal Trade Commission rules, it seems to me altogether appropriate that the Federal Trade Commission, since its rule is being enforced by the private action, should have two opportunities: They should be notified that this enforcement action is being commenced by a private citizen and following that the agency should have the opportunity to determine whether it wants to bring the enforcement action in its own name or to determine that the nature of the action being proposed to be brought by the private citizen is inconsistent with the policy the Commission imposed in its rule to begin with.

To do otherwise would go beyond the entire concept of the Federal Trade Commission, which establishes its rules as it understands the purpose of enforcement and the very broad language of the section 5 provision of unfair trade practices.

For that reason, and also to eliminate the possibility of specious suits and also to circumscribe to the proper ambit of enforcement the FTC rules, I think it is altogether proper to adopt this amendment, whether or not you decide to vote for section 7 or to vote for the Krueger amendment.

AMENDMENT OFFERED BY MR. ECKHARDT TO THE AMENDMENT OFFERED BY MR. LEVITAS

Mr. ECKHARDT. Mr. Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

Amendment offered by Mr. ECKHARDT to the amendment offered by Mr. LEVITAS: In section 20(a)(3)(B)(ii) of the Federal Trade Commission Act, as proposed to be added by the amendment, insert before "transmits" the following: "if such notice is given to the Commission during the one-year period following the effective date of the rule or cease and desist order involved,".

Mr. ECKHARDT. Mr. Chairman, I generally favor the Levitas amendment. It does two things. The first thing, I believe, is certainly agreeable to the author and I think it is a very beneficial thing to do; that is, it provides that the Federal Trade Commission will have the first opportunity to bring a suit in which parties seek restitution and to afford them restitution. If the Federal Trade

Commission does not move to protect Jane Doe where she has been cheated in the marketplace, then Jane Doe may proceed by her own attorneys; but she has to first seek Federal Trade Commission aid.

I see nothing wrong with that, because the Federal Trade Commission may desire to handle those cases which might set precedents respecting Federal law. If they do so, she has no reason to complain.

The second section, though, does give me some problems.

Mr. BROYHILL. Mr. Chairman, will the gentleman yield?

Mr. ECKHARDT. I yield to the gentleman from North Carolina.

Mr. BROYHILL. Mr. Chairman, again proceeding under the same line of reasoning I used a few moments ago, if the gentleman wants to amend the gentleman's bad section and to make it in compliance otherwise, I would agree.

Mr. ECKHARDT. Mr. Chairman, I refuse to yield further. I will always yield for a serious question to my able and distinguished colleague from North Carolina.

Mr. LEVITAS. Mr. Chairman, will the gentleman yield on that point?

Mr. ECKHARDT. I yield to the gentleman from Georgia.

Mr. LEVITAS. Mr. Chairman, I would like to point out that the amendment which the gentleman is offering is not to the gentleman's section 7, but rather to my amendment to the gentleman's section 7.

Mr. ECKHARDT. That is correct. Now, the gentleman from Georgia in the gentleman's first proposal is absolutely correct and that is that the Federal Trade Commission should control the matter if it desires to get into it.

The problem I have had with the present law is that if Jane Doe is told, "No, we will not get you relief, though you have been cheated in the marketplace, we haven't got enough attorneys," she has no remedy and, of course, this first part does not disturb that proposition.

The second part of the amendment provides that if the Federal Trade Commission decides that Jane Doe's suit should not be brought, it may say no to Jane Doe on policy bases peculiar to the Federal Trade Commission.

And, of course, that also implies that it can say yes to Mary Roe, who has a similar case, and the Commission may make the determination purely subjectively. Now, I recognize what the gentleman from Georgia is trying to do there, and I think it is a desirable thing, but I think that perhaps his approach could be altered in an effective way without giving that much subjective authority to the Federal Trade Commission.

As I understand him, he feels that the Federal Trade Commission should not let these suits get completely out of hand, that there may be persons who are bringing actions that seek to obtain objectives far from those originally intended by the rule. I am suggesting a slight modification to his second portion—I do not touch the first—and that is to provide that the Federal Trade Commission may, within a year after the rule, do precisely what his amendment would do permanently.

I think that is desirable because the Federal Trade Commission might decide within that year, "Let's hold off a while; maybe we were wrong in putting into the rule the right to bring an individual action at all," and then it could rapidly, within that year, amend its rule so as to deny such action.

The CHAIRMAN. The time of the gentleman from Texas has expired.

(On request of Mr. SANTINI and by unanimous consent Mr. ECKHARDT was allowed to proceed for 2 additional minutes.)

Mr. SANTINI. Mr. Chairman, will the gentleman yield?

Mr. ECKHARDT. I yield.

Mr. SANTINI. Do I understand correctly that the gentleman is speaking in support of the Levitas amendment, provided it is modified by his amendment?

Mr. ECKHARDT. That is correct. I favor the Levitas amendment if it is so modified, and would vote for it.

Mr. SANTINI. Were the thoughts contained in the Levitas amendment ever discussed in subcommittee or full committee?

Mr. ECKHARDT. No, because the Federal Trade Commission did not ask for that protection. What Mr. LEVITAS is doing is offering additional protection to the Federal Trade Commission so that its policies will not be overturned. The Federal Trade Commission thought the bill was all right as it was.

Mr. SANTINI. When did the distinguished author of the legislation first give birth to his interest in and support of the Levitas concept?

Mr. ECKHARDT. Well, this is kind of getting like that abortion argument yesterday—when does a generation commence? All I can say is this: That I had always thought this floor was for the purpose of permitting the Members to bring their ideas forward.

Mr. BROYHILL. Mr. Chairman, will the gentleman yield on that point?

Mr. ECKHARDT. I yield to the gentleman from North Carolina.

Mr. BROYHILL. The committee system, as I understand, is for the purpose of working out legislation in committees so that it can be brought to the floor and not have all of this debate and discussion on differences here on the floor. That is why I insisted that this section be stricken.

Mr. ECKHARDT. I agree with the gentleman that I had nothing to do with a very salutory thing in order to get as close as we can to agreement, but I do not agree with the gentleman—I do not agree with the gentleman that this floor should be a kind of a stock exchange in which we register transactions on the board. I think we need the kind of exchanges that the gentleman from Georgia, the gentleman from Nevada or the gentleman from New Jersey bring forth.

Mr. BROYHILL. Mr. Chairman, I move to strike the last word.

The gentleman might stay in the well of the House. It is not the opponents of section 7 who are offering amendments; it is the author of section 7 who is offering amendments to his own creation. I say the committee system has not worked.

Mr. ECKHARDT. Mr. Chairman, if the gentleman will yield, the gentleman from Georgia (Mr. LEVITAS) will tell the gentleman that I had nothing to do with generating this amendment; and I have some disagreement with it, but not total disagreement.

Mr. BROYHILL. The gentleman is endorsing amendments that are being brought to him from all over the chamber. For what purpose I do not know, but apparently it may be to try to patch up a bill that looks like it is going down in defeat.

Mr. ECKHARDT. I do it to make the bill a better bill than it was when we brought it out of committee.

Mr. BROYHILL. Why was not that done in committee then, so that we could have had a full discussion of these issues at that time and we could have had a full consideration of the impact that this bill is going to have on the judiciary?

Mr. ECKHARDT. Because, I will say to the gentleman, our committee, like every other one operates through considerable staff input and the first time members not on our committee have an opportunity for real participation from every quarter is on this floor, and I defend that process.

Mr. BROYHILL. In my judgement, the committee should be run by the members and not by a staff.

Mr. ECKHARDT. The committee is pretty well run by members, but we also have the duty to let other persons in the body have some part in the process.

Mr. BROYHILL. Mr. Chairman, if I could have my time back, let me comment for just a moment on the Levitas amendment.

The amendment does not really do anything. It has a very odd effect, in fact. If we have a whole raft of these class action suits, then the Chairman of the Federal Trade Commission is going to have to allocate a good portion of his resources to studying all of the suits that are going to be brought to his attention under the Levitas amendment. It is impossible for them to do an adequate job on even one suit, much less the likelihood of hundreds of suits that will be brought to their attention within the 60-day timeframe that is required in the Levitas amendment.

Furthermore, I am not sure that the Federal Trade Commission would actually stop any suits, because the Chairman of the Federal Trade Commission, it is my understanding, is saying that he hopes that they do have all of these suits coming up in county courthouses and in State courthouses and in Federal courthouses all over the land. This is rather odd, I think, that the Federal Trade Commission and the Chairman would take this position, but apparently this is the position that they have taken. So I do not see that the Levitas amendment is going to do anything, and as amended by the gentleman from Texas it just takes it right back to ground zero as to

where we are under the terms of the bill.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. ECKHARDT) to the amendment offered by the gentleman from Georgia (Mr. LEVITAS).

The amendment to the amendment was agreed to.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Georgia (Mr. LEVITAS), as amended.

The amendment, as amended, was agreed to.

AMENDMENT OFFERED BY MR. GIBBONS

Mr. GIBBONS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. GIBBONS: Page 43, line 1, insert "(1)" after "(h)".

Page 43, after line 6, insert the following:

(2) The court, in awarding reasonable attorney fees paragraph (1), shall take into account—

"(A) the total amount of time during which the attorney for the plaintiff was directly engaged in preparing the action and in otherwise representing the plaintiff in connection with the action, and the amount of reasonable costs incurred by the attorney in connection with the action;

"(B) the prevailing rate in the community for attorney fees in similar actions;

"(C) an estimate of the likelihood that the plaintiff would prevail in the action;

"(D) the complexity and novelty of the factual and legal issues presented in the action; and

"(E) the expertise and experience of the attorney.

Mr. GIBBONS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. GIBBONS. Mr. Chairman, I do not think this is a very controversial amendment and I hope it improves this bill. This amendment merely sets out some criteria about which the court would be required to judge the reasonableness of attorney fees to be set by the court after the case is completed and the plaintiff has prevailed, if the plaintiff does prevail. That is all that the amendment does. The amendment simply says that the judge, in studying the reasonableness of attorney fees, must take into consideration the time that the attorney was involved, the skill of the attorney, the complexity of the matter, the reasonableness of all of the component charges that may be a part of attorney fees.

The amendment also says that they must be in line and certainly not excessive, compared to those that usually prevail in his own area where the case is tried.

As an illustration, a case tried in Tampa, Fla., would certainly not require the same attorney fees as a case tried in Washington, D.C., or New York City would require.

Mr. Chairman, I will be glad to answer any questions any Member may have. If there are no questions, I would be glad to yield back the balance of my time.

Mr. WIGGINS. Mr. Chairman, I move to strike the last word.

Mr. Chairman, the amendment offered by the gentleman from Florida (Mr. GIBBONS) is innocuous in one respect because it simply restates what the law is for determining the reasonableness of attorney fees.

It is more than innocuous, however, It is unintentionally deceptive, because it is advertised as a means of improving this bill. Of course, it does not do anything to remove the difficulties which have heretofore been stated with respect to section 7; it merely recites those factors now considered by the court in fixing reasonable attorney fees.

In addition to the amendment's being innocuous and perhaps unintentionally deceptive, it might also be unintentionally mischievous. At the present time courts may fix reasonable attorney fees and consider all factors bearing upon the reasonableness of the fees sought. Now, as far as I know, for the first time in a statute, we delineate five specific criteria.

That would by implication preclude the court from considering a sixth factor, a seventh factor, or an eighth factor, if in fact such factors were relevant to the issue of attorney fees.

For at least three reasons, therefore, Mr. Chairman, I would urge the defeat of the amendment.

Mr. GIBBONS. Mr. Chairman, will the gentleman yield?

Mr. WIGGINS. I yield to the gentleman from Florida.

Mr. GIBBONS. Mr. Chairman, the gentleman from California (Mr. WIGGINS) is a distinguished lawyer and an able lawyer. I recognize his skill and his ability.

I want to assure the gentleman from California that it is not my purpose to deceive any Members here about this matter. I am merely trying to set out what I think the existing law is as far as attorney fees are concerned. I would rather have it in the statute books. I would prefer that rather than have it scattered around through a bunch of court decisions that are sometimes hard for people to pull together.

If the gentleman from California (Mr. WIGGINS) would like to add any other criteria, I would be most happy to consider those criteria. It is not my purpose to bind the hand of the judge who finally has to set reasonable attorney fees or to exclude from his determination any facts that are relevant to the reasonableness of those fees, and I hope, as the author of this amendment, that that explanation will be a part of the legislative history of this issue.

I realize that setting reasonable attorney fees is a very complex task. As a lawyer, I have been on both sides of that question. I have been on the side where I was looking for reasonable attorney fees, and I have been on the side where I had to defend against people who were seeking what were termed as reasonable attorney fees.

Mr. WIGGINS. Mr. Chairman, if I may reclaim my time, let me say that if I were drafting the amendment anew, I would include an escape valve at the end saying: "and such other factors as may be relevant to the issue of reasonable attorney fees and costs."

Mr. GIBBONS. Mr. Chairman, I would ask unanimous consent that that language be included in this amendment, if that is agreeable to the gentleman from California.

Mr. WIGGINS. Mr. Chairman, I think more important is the fact that this amendment was advertised in the gentleman's "Dear Colleague" letter received today in our offices in this fashion: The letter says that this amendment, plus the one we have already acted upon, meets the major objections to section 7.

That is what I meant, of course, when I said the amendment is unintentionally deceptive, because it does not meet those objections at all.

Mr. GIBBONS. Would the gentleman agree that the language he has proposed be included in the amendment? If he would, I would make a unanimous consent request to that effect.

Mr. WIGGINS. Mr. Chairman, I am not offering an amendment to the amendment.

Mr. GIBBONS. Mr. Chairman, I just want to be cooperative with the gentleman.

Mrs. FENWICK. Mr. Chairman, will the gentleman yield?

Mr. WIGGINS. I yield to the gentlewoman from New Jersey.

PARLIAMENTARY INQUIRY

Mrs. FENWICK. Would it be proper, Mr. Chairman, to pose a parliamentary inquiry?

The CHAIRMAN. The gentlewoman will state her parliamentary inquiry.

Mrs. FENWICK. Mr. Chairman, I am wondering if perhaps I should offer an amendment to the amendment offered by our colleague, the gentleman from Florida (Mr. GIBBONS), adding the words at the end of the amendment as suggested in the colloquy.

The CHAIRMAN. The Chair will inform the gentlewoman that she may offer an amendment to the amendment if she so wishes.

Mrs. FENWICK. I thank the Chairman.

The CHAIRMAN. The time of the gentleman from California (Mr. WIGGINS) has expired.

Mr. ECKHARDT. Mr. Chairman, I move to strike the requisite number of words.

Frankly, Mr. Chairman, while the gentlewoman from New Jersey is drawing up her amendment, may I say that I think that this amendment is a desirable one. I think it has been drafted in the sense of an amendment to the amendment because it says that these considerations must be taken into account. It does not exclude other considerations by the court, but it would make the fact stronger and clearer that we do not intend to preclude other matters from being considered by the court than those enumerated.

Of course, the gentleman from California (Mr. WIGGINS) is correct in that many courts have delineated these con-

siderations. The gentleman from Florida (Mr. GIBBONS) has agreed with him that that is true and he is not attempting to sell his amendment as something that goes beyond most of the State case law. However, the point is that not all courts consider all of these factors, nor are they compelled by law.

Mr. Chairman, the gentleman from Florida (Mr. GIBBONS) feels that a distillation of the court decisions should be placed in statutory law, and it seems to me that that is a most salutary purpose.

Mr. Chairman, I favor the amendment.

AMENDMENT OFFERED BY MRS. FENWICK TO THE AMENDMENT OFFERED BY MR. GIBBONS

Mrs. FENWICK. Mr. Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

Amendment offered by Mrs. FENWICK to the amendment offered by Mr. GIBBONS: At the end add the following: "and such other considerations as are, in the opinion of the court, desirable."

Mrs. FENWICK. Mr. Chairman, I offer this amendment to the amendment of our colleague, the gentleman from Florida (Mr. GIBBONS), in order that the court will be able to take into consideration any other elements which the court considers proper in deciding on the attorney's fee.

I thank the Chair.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from New Jersey (Mrs. FENWICK) to the amendment offered by the gentleman from Florida (Mr. GIBBONS).

The amendment to the amendent was agreed to.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Florida (Mr. GIBBONS), as amended.

The question was taken; and the Chairman announced that the ayes appeared to have it.

Mr. ECKHARDT. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

QUORUM CALL VACATED

The CHAIRMAN. One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to clause 2, rule XXIII, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

The pending business is the demand of the gentleman from Texas (Mr. ECKHARDT) for a recorded vote.

A recorded vote was refused.

So the amendment, as amended, was agreed to.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. KRUEGER).

The question was taken; and the Chairman announced that the ayes appeared to have it.

Mr. ECKHARDT. Mr. Chairman, I demand a recorded vote, and pending that, I make a point of order that a quorum is not present.

The CHAIRMAN. The Chair will count. Eighty-one Members are present, not a quorum.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

QUORUM CALL VACATED

The CHAIRMAN. One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to rule XXIII, clause 2, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

The pending business is the demand of the gentleman from Texas (Mr. ECKHARDT) for a recorded vote.

A recorded vote was refused.

So the amendment was agreed to.

The CHAIRMAN. The Clerk will read section 8.

The Clerk read as follows:

INDEPENDENT APPOINTMENT OF PERSONNEL

SEC. 8. Section 2 of the Federal Trade Commission Act (15 U.S.C. 42) is amended by adding at the end thereof the following new undesignated paragraph:

"The appointment of any officer (other than a Commissioner) or employee of the Commission shall not be subject, directly or indirectly, to review or approval by any officer or entity within the Executive Office of the President.".

AMENDMENT OFFERED BY MR. ECKHARDT

Mr. ECKHARDT. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ECKHARDT: Page 44, strike out line 6 and all that follows down through line 13.

And redesignate the following sections accordingly.

Mr. ECKHARDT. Mr. Chairman, section 8 would prohibit White House clearance of five policymaking positions at the FTC. While I am sympathetic to the purpose of the section, I do not think that this legislation is the appropriate place to address this matter. Our committee has before it a bill which would apply this principle to all of the so-called independent regulatory agencies. Frankly, I think that such a bill is the appropriate place to resolve this issue for all these agencies. Therefore, I urge adoption of the amendment.

Mr. BROYHILL. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, as the gentleman from Texas has indicated, this amendment carries out the desires of the President as expressed in a letter that was addressed to the chairman of the committee recently. I feel that it does improve the bill and will support the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. ECKHARDT).

The amendment was agreed to.

The CHAIRMAN. Are there further amendments to section 8?

If not, the Clerk will read section 9.

The Clerk read as follows:

SUBMISSION OF BUDGETARY AND LEGISLATIVE RECOMMENDATIONS TO CONGRESS

SEC. 9. The first section of the Federal Trade Commission Act (15 U.S.C. 41) is amended by adding at the end thereof the following new undesignated paragraphs:

"Whenever the Commission submits any budget estimate or request to the President or the Office of Management and Budget, it shall concurrently transmit a copy of such budget estimate or request to the Congress.

"Whenever the Commission submits any legislative recommendations or any testimony or comments on legislation to the President or the Office of Management and Budget, it shall concurrently transmit a copy thereof to the Congress. No officer or agency of the United States shall have any authority to require the Commission to submit its legislative recommendations or its testimony or comments on legislation to any officer or agency of the United States for approval, comments, or review, before the submission of such recommendations, testimony, or comments to the Congress.".

Mr. ECKHARDT (during the reading). Mr. Chairman, I ask unanimous consent that section 9 be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas

There was no objection.

AMENDMENT OFFERED BY MR. ECKHARDT

Mr. ECKHARDT. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ECKHARDT: Page 44, strike out line 14 and all that follows down through page 45, line 8.

And redesignate the following sections accordingly.

Mr. ECKHARDT. Mr. Chairman, I have an amendment to strike section 9. Section 9 provides for concurrent submission of budgetary and legislative recommendations to OMB and the Congress. Once again, this is a matter which I think should be resolved for all independent agencies at one time. Either all agencies should clear these matters through OMB, or none of them should do so.

I think the OMB bill is the appropriate place to consider this, and I urge adoption of the amendment.

Mr. BROYHILL. Mr. Chairman, will the gentleman yield?

Mr. ECKHARDT. I yield to the gentleman from North Carolina.

Mr. BROYHILL. Mr. Chairman, for the same reasons I expressed with regard to the amendment preceding this, this is an amendment that does correct some of the concerns that were expressed by the President. I would agree with this amendment on this side.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. ECKHARDT).

The amendment was agreed to.

The CHAIRMAN. The Clerk will read section 10.

The Clerk read as follows:

CITIZEN PETITIONS FOR RULEMAKING

SEC. 10. Section 18(b) of the Federal Trade Commission Act (15 U.S.C. 57a(b)) is amended—

(1) by inserting "(1)" immediately after "(b)";

(2) by redesignating clauses (1), (2), (3), and (4) as clauses (A), (B), (C), and (D), respectively; and

(3) by adding at the end thereof the following:

"(2) If the Commission receives a petition for the issuance, amendment, or repeal of a rule described in subsection (a)(1)(B) of this section, the Commission shall either grant or deny the petition within 120 days after the date the petition is received by the Commission. If the Commission grants such a petition, it shall, as soon as is practicable after the date the petition is granted, commence a proceeding under this section as requested by the petition. If the Commission denies such a petition, it shall notify the petitioner of the denial and the reasons therefor and shall publish such reasons in the Federal Register.".

Mr. ECKHARDT (during the reading). Mr. Chairman, I ask unanimous consent that section 10 be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

The CHAIRMAN. Are there any amendments to section 10?

If not, the Clerk will read section 11.

The Clerk read as follows:

STATEMENT OF BASIS AND PURPOSE

SEC. 11. The last sentence of section 18(e)(15)(C) of the Federal Trade Commission Act (15 U.S.C. 57a(e)(5)(C)) is amended to read as follows: "In the review under this subsection of such a rule, the court may not review the contents and adequacy of any statement of basis and purpose required by subsection (b)(4) except as part of a review of the rulemaking record taken as a whole.".

APPLICATION OF FEDERAL TRADE COMMISSION ACT TO SAVINGS AND LOAN INSTITUTIONS

SEC. 12. (a) Section 5(a)(2) of the Federal Trade Commission Act (15 U.S.C. 45(a)(2)) is amended by inserting "savings and loan institutions described in section 18(f)(2)(D)," immediately after "banks,".

(b)(1) Section 6(a) of the Federal Trade Commission Act (15 U.S.C. 46(a)) is amended by inserting ", savings and loan institutions described in section 18(f)(2)(D)," immediately after "banks".

(2) Section 6(b) of the Federal Trade Commission Act (15 U.S.C. 46(b)) is amended by inserting "savings and loan institutions described in section 18(f)(2)(D)," immediately after "banks,".

(3) The proviso at the end of section 6 of the Federal Trade Commission Act (15 U.S.C. 46) is amended by inserting ", savings and loan institutions described in section 18(f)(2)(D), immediately after "banks".

(c)(1) Section 18(f)(1) of the Federal Trade Commission Act (15 U.S.C. 57a(f)(1)) is amended—

(A) in the first sentence thereof, by inserting "or savings and loan institutions described in paragraph (2)(D)" immediately after "banks";

(B) in the second sentence thereof, by inserting immediately after "System" the following: "(with respect to banks) and the Federal Home Loan Bank Board (with respect to savings and loan institutions described in paragraph (2)(D))"; and

(C) in the last sentence thereof—

(i) by inserting "each" before "such Board" the first place it appears therein;

(ii) by inserting "either" before "such Board" the second place it appears therein;

(iii) by inserting "or savings and loan institutions described in paragraph (2)(D), as the case may be," after "banks" the first place it appears therein;

(iv) by inserting "or savings and loan institutions, as the case may be," after "banks" the second and third places it appears therein; and

(v) by striking out "the Board" and inserting in lieu thereof "either such Board".

(2) Section 18(f)(2) of the Federal Trade Commission Act (15 U.S.C. 57a(f)(2)) is amended—

(A) in subparagraph (B) thereof, by striking out "and" at the end thereof;

(B) in subparagraph (C) thereof by striking out the period at the end thereof and inserting in lieu thereof "; and"; and

(C) by adding at the end thereof the following new subparagraph:

"(D) savings and loan institutions which are members of a Federal Home Loan Bank or the accounts of which are insured by the Federal Savings and Loan Insurance Corporation, by the division of consumer affairs, established by the Federal Home Loan Bank Board, under section 5 of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464).".

AUTHORIZATION OF APPROPRIATIONS

SEC. 13. (a) The first sentence of section 21 of the Federal Trade Commission Act, as so redesignated by section 7, is amended—

(1) by striking out "and not to exceed" and inserting in lieu thereof "not to exceed"; and

(2) by inserting after "1977" the following: "; not to exceed $63,000,000 for the fiscal year ending September 30, 1978; and not to exceed $70,000,000 for the fiscal year ending September 30, 1979".

(b) The second sentence of section 21 of the Federal Trade Commission Act, as so redesignated by section 7, is amended by striking out "1977" and inserting in lieu thereof "1978".

TECHNICAL AND MISCELLANEOUS AMENDMENTS

SEC. 14. (a)(1) Section 5(m)(1)(A) and section 5(m)(1)(B) of the Federal Trade Commission Act (15 U.S.C. 45(m)(1)(A); 45(m)(1)(B)) each are amended by adding at the end thereof the following new sentence: "In such actions, the district courts of the United States are empowered to grant mandatory injunctions and such other and further equitable relief as they deem appropriate.".

(2) Section 6 of the Federal Trade Commission Act (15 U.S.C. 46) is amended by inserting after paragraph (h) the following new paragraph:

"(i) To accept gifts and voluntary and uncompensated services, notwithstanding the provisions of section 3679 of the Revised Statutes (31 U.S.C. 665(b)).".

(3)(A) The first undesignated paragraph of section 9 of the Federal Trade Commission Act (15 U.S.C. 49) is amended—

(i) by inserting immediately after "for the purposes of this Act" the following: ", or any other provision of law enforced by the Commission,"; and

(ii) by inserting "or other physical" immediately after "documentary" each place it appears therein.

(B) The second undesignated paragraph of section 9 of the Federal Trade Commission Act (15 U.S.C. 49), as amended by section 3(a), is amended by inserting "or other physical" immediately after "documentary".

(C) The fourth sentence of section 5(b) of the Federal Trade Commission Act (15 U.S.C. 45(b)) and the third sentence of the fifth undesignated paragraph of section 9 of such Act (15 U.S.C. 49) are amended by inserting immediately after "writing" the following: ", or shall be recorded through the use of any electronic or mechanical recording device,".

(D) The last sentence of the fifth undesignated paragraph of section 9 of the Federal Trade Commission Act (15 U.S.C. 49) is amended by inserting "or other physical" immediately after "documentary" each place it appears therein.

(4)(A) Section 19(a)(1) of the Federal Trade Commission Act (15 U.S.C. 57(b)(a)(1)) is amended to read as follows:

"(a)(1) If any person, partnership, or corporation violates—

"(A) any rule under this Act respecting unfair or deceptive acts or practices (other than an interpretive rule, or a rule violation of which the Commission has provided is not an unfair or deceptive act or practice in violation of section 5(a)); or

"(B) any final cease and desist order issued by the Commission which is applicable to such person, partnership, or corporation;

then the Commission may commence a civil action against such person, partnership, or corporation for relief under subsection (b) in a district court of the United States or in any court of competent jurisdiction of a State.".

(B) Section 19(d) of the Federal Trade Commission Act (15 U.S.C. 57b(d)) is amended—

(i) by striking out "subsection (a)(1)" and inserting in lieu thereof "subsection (a)(1)(A)";

(ii) by inserting immediately before "or the unfair or deceptive act or practice to which" the following: "the cease and desist order violation to which an action under subsection (a)(1)(B) relates,"; and

(iii) by inserting "(as prescribed by section 5(g)(2))" after "has become final".

(b)(1) Section 5 of the Wool Products Labeling Act of 1939 (15 U.S.C. 68c) is amended by striking out "wood" in the second paragraph and inserting in lieu thereof "wool".

(2) Section 9(b)(1) of the Fur Products Labeling Act (15 U.S.C. 69g(b)(1)) is amended by striking out "volating" and inserting in lieu thereof "violating".

Mr. ECKHARDT (during the reading). Mr. Chairman, I ask unanimous consent that section 11 and the rest of the bill be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

The CHAIRMAN. Are there any amendments to this section or to any other section of the remainder of the bill?

Mr. PICKLE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, much has been said about the Federal Trade Commission's lack of resources to push for redress of consumer damages. That may be partially true, but I would like to suggest that the FTC is not making efficient use of its personnel. I refer specifically to the FTC's enforcement—or more accurately, lack of enforcement—of the Robinson-Patman Act. I have been following this matter for several years, including 2 years during the 93d Congress when I served as ranking majority member of the Special Subcommittee on Investigations of the House Committee on Interstate and Foreign Commerce. The subcommittee held extensive hear-

ings on the FTC's enforcement of the act. We looked at a number of Robinson-Patman cases in close detail and found a consistent pattern where Robinson-Patman violations were downgraded or lost in the depths of the FTC. It appeared that the FTC, with Justice Department support, had virtually repealed the act and was not following the congressional mandate to enforce it. This can be seen by the fact that formal investigations initiated by the Bureau of Competition fell from a peak of 159 in 1967 to a low of only 5 in 1973.

These findings were supported by the 1976 report of the Ad Hoc Subcommittee on Antitrust, the Robinson-Patman Act, and Related Matters of the Committee on Small Business (H. Rept. 94–1738). The ad hoc subcommittee also examined charges that the Robinson-Patman Act is anticompetitive and concluded that "When these arguments are tested and compared with reality, in the light of experience, history, and the accepted principles of economics, such arguments are found to be fallacious and untenable."

The FTC's bias against Robinson-Patman cases can be seen in the FTC investigation of the beer industry, an investigation I have followed for too many years. In 1972, after four years of Robinson-Patman investigation, the FTC finally decided to make the beer investigation lead into a structure or a Sherman Antitrust Act case. As of this time, a report still has not been issued in the case. A staff report was finally submitted to the Commission last November. The Commission considered the matter until April of this year and then referred it back to the Economic Bureau and the Bureau of Competition for an economic report. They have a very tentative deadline to report back to the Commission by December 31, 1977.

Yet in all probability, a Robinson-Patman action could have been successfully brought five years ago. This is not just my opinion. In February, 1972, a Federal District Court in Houston (*Pearl Brewing Company* v. *Anheuser-Busch, Inc.* 339 FS 945; Eastern District Texas) stated indictum that evidence did exist proving Anheuser-Busch, Inc. had violated the Robinson-Patman Act by predatory pricing practices.

In spite of the Federal court's observations, the FTC decided after years of work to seek a structure case. I stated in testimony before the ad hoc subcommittee, "By the time one is developed, the RP violations may have driven all the regional brewers out of business." Since that time, two of the three independently owned breweries in Texas have been taken over by large corporations—Pearl Beer by the Southdown Corp. and Lone Star by Olympic Beer—and the continued production of some brands is in doubt. This situation is not unique to Texas, but has occurred throughout the nation as small breweries are overwhelmed by competition from large national brands.

Nor is the situation unique to breweries. The subcommittee hearings disclosed similar FTC reluctance to file RP cases against large supermarket chains and bakeries, to name just a few.

In essence, the record reveals a virtual administrative repeal of the Robinson-Patman Act by the FTC. The Commission seems satisfied to ignore Robinson-Patman violations which allow the formation of monopolies or oligopolies. Instead the FTC likes to grab the headlines with tough-talking press releases proclaiming the advent of another FTC trust-busting structure case. But that is often all the FTC gets, as the big cases often drag on for years without reaching a conclusion, as in the beer case or the more publicized IBM case. Would it not be wiser to stop the process of monopolization with a Robinson-Patman action instead of waiting for the monopoly to be created?

In ignoring the Robinson-Patman violations the FTC is also ignoring the expressed will of Congress. If the Robinson-Patman Act is a bad act—and I think it is not—then the FTC should come to Congress and make the case for its repeal. But until that time, it is the duty of the FTC to enforce the act.

I think it is quite possible that if the FTC concentrated on the more manageable Robinson-Patman cases, it would free personnel from the almost endless drudgery of structure cases. The additional resources might then be focused on recovery of consumer damages, and much of the need for section 7 would be eliminated.

I must confess, however, that my years of experience in dealing with the FPC do not make me optimistic that it will follow this course. The Commission seems only too happy to ignore congressional direction, and hostility toward the Robinson-Patman Act is deeply ingrained within the agency.

Mr. RAILSBACK. Mr. Chairman, I rise in support of the Krueger amendment to delete section 7 of H.R. 3816, the Federal Trade Commission Amendments of 1977. This section of the bill would create a new section 20 to the Federal Trade Commission Act containing a number of provisions which apply if the private suit is to be brought in behalf of a class. In essence, this would provide that notice to class members need only be given by publication in newspapers, radio, television or other medium, by posting at locations where class members are likely to see the notice, or by individual notice to each member of the class who can be identified through reasonable efforts. In addition, individual notice may be provided to a sample or subgroup of the class. The amount of damages would be aggregated by statistical sampling and estimates. I believe that the constitutional guarantee of due process requires more than this. The Federal Rules of Civil Procedure—rule 23 contains provisions for notice in class action cases and the Supreme Court has interpreted that as requiring individual notice to class members. In *Eisen* v. *Carlisle & Jacquelin*, 417 U.S. 156, the Supreme Court rejected sample and media forms of notice that could not guarantee notice to the individual members of the class. No doubt a sample or media method would be more convenient and less expensive, but improved efficiency is no justification for the contravention of constitutional rights. Stop to consider the possible impact of section 7: Those not receiving notice would be barred from litigating their claims and if they spoke up too late, the funds available for recovery might already be exhausted. Those latecomers are consumers, too, and their interests deserve protection. On the other hand, the defending firm would not have the opportunity to confront all of the plaintiffs, yet it would still have to provide damages sufficient to compensate each. No matter how well-intended, section 7 clearly should be deleted.

Mr. PREYER. Mr. Chairman, the various amendments that have been offered to section 7 of the bill do improve this section and address some of the problems concerning our judicial system in the section. Chairman ECKHARDT deserves credit for his efforts to compromise the differences over this section.

But I conclude that the problems created by section 7 are much too complex to be solved by amendments written on the House floor. We should wait for the results of the studies being undertaken by the Justice Department and the Judicial Council. We should get the views of the Judiciary Committee.

Let me list briefly these issues affecting our judicial system.

The first is the potential for court congestion. Class actions, especially of the type envisioned by section 7, require a good deal of judicial time. The impact of such actions on already overburdened judiciary should be carefully analyzed.

Second, section 7 would establish special class action procedures appliable to these private rights of action under the FTC Act. In effect, it would mandate a revision of part of rule 23 of the Federal Rules of Civil Procedure. The wisdom of piecemeal revisions of the Federal Rules is questionable, especially since the administration has indicated that it will be examining the entire question of class actions in some depth. In my opinion, it makes no sense to legislate piecemeal changes to rule 23 in these circumstances. It would be much preferable to wait until we have the products of the administration's efforts.

Another troublesome aspect of the special procedures that would be established by section 7 is its notice provisions. These requirements would relax the requirements imposed by the Supreme Court for notifying members of the affected class. This raises questions as to the constitutionality of these notice provisions and as to their basic fairness.

Another area of concern is the role that State courts would play under section 7. Enforcement of the FTC Act has been the exclusive responsibility of the FTC and Federal courts; we ought to be aware of the likely effects diffusing this responsibility before acting. A further area which needs examination concerns the wisdom of imposing complex procedural requirements, such as those set forth in section 7, on State courts.

A related issue that should be covered by the study is the concept of

fluid recovery of damages. If section 7 were enacted, it would establish a method of proving damages that is radically different from the present, longstanding rules as to proof of damages. We considered fluid recovery exhaustively when the parens patriae legislation was up last year and, in the end, we permitted fluid recovery but limited its applicability to cases involving hardcore antitrust cases on price-fixing violations, which are brought by State attorneys general. By contrast, section 7 would expand the use of fluid recovery to private actions involving alleged unfair or deceptive practices, an area of the law which is extremely vague. Before we authorize a major expansion in the use of fluid recovery, we should know whether it is necessary and advisable. This is one more reason why I urge that the amendment be adopted.

Mr. BROYHILL. Mr. Chairman, we have before us today H.R. 3816, amendments to the Federal Trade Commission Act. During the progress of that bill through the committee I raised several concerns over the broad sweep of this legislation and the impact that it could have on business. In the past few years the authority of the FTC has been expanded considerably under other legislative authority, and I continue to be concerned that additional broadening authority at this time would be premature and inappropriate. To that end I proposed a simple extension to the appropriations of the FTC in lieu of the present bill.

However, the committee decided that the authority of the FTC should be expanded and proceeded with H.R. 3816.

While I still have several reservations about this legislation, I am pleased that the committee has deleted one particularly offensive provision. That provision would have altered the term "corporation" under the present FTC law by including not-for-profit organizations. The effect of this major change would have been immediately to extend FTC authority to include regulation of not-for-profit organizations on the same basis as business corporations. That would have meant that every college and university, professional association, church, social club, philanthropy, charitable organization or any other voluntary membership or eleemosynary organization would have been subject to FTC regulation. During hearings on the bill and during special hearing on the specific issue of extending FTC statutory authority over nonprofit organizations, testimony by various parties clearly pointed out the unique status of not-for-profit organizations, and the undesirability and lack of justification for extending the present FTC power and authority to regulate profit-making corporations to the power and authority to do so for not-for-profit organizations. Clearly, the original FTC law was not intended to cover nonbusiness activities; and that authority should not now be extended. It seems to me that the agency has more than enough to do in regulating business concerns without the need to extend its jurisdiction to regulate nonbusiness groups—groups which are completely different from business organizations in purpose, intent, and "ownership". There does not appear to be a compelling reason, moreover, to add an additional layer of Federal regulatory authority upon groups which in many cases are already overburdened with Federal regulation. Contraction, rather than expansion, would comport with the present administration initiatives in the area of Federal regulatory power.

Further, during hearings on the bill the FTC itself provided a very weak case for the need or necessity of extending its already expansive ambit to encompass not-for-profit organizations. The not-for-profit organizations that testified, however, presented a strong and convincing argument against inclusion in FTC authority. Organizations, including the American Association of Medical Colleges, the American Dental Association, and the American Medical Association, pointed out the detrimental and potentially debilitating effects upon the nonbusiness activities of not-for-profit organizations that FTC regulation could have.

Mr. Chairman, while I reiterate that many of the provisions of this legislation should not, in my opinion, be enacted, I must also note my satisfaction that my colleagues on the committee agreed with me on the issue of not-for-profit organizations, and expressed their belief and intent that activities of such organizations are not properly the subject of FTC jurisdiction.

Mr. McCLORY. Mr. Chairman, the Federal Trade Commission does not require the additional enforcement efforts placed in the hands of private litigants under section 7. It has an abundance of authority under existing law to police and enforce its own rules and orders, specifically the Magnuson-Moss Act, wherein it is authorized to file civil actions "to redress injury to consumers" resulting from violations of agency rules or from unfair or deceptive acts or practices, and section 13(b) of the FTC Act, which gives the Commission authority to seek injunctions whenever it believes someone "is violating or is about to violate" the FTC Act.

There are a number of distinctions between parens patriae actions by the State attorneys general, which we authorized last year in the Antitrust Improvements Act, and the consumer class actions suits authorized by section 7 of the legislation now before us. An examination of these distinctions confirms my belief that parens patriae actions afford a necessary and desirable method of redress for consumers, but that section 7 suits will create difficulties for all concerned—the consumer, the courts, the businessmen, and the Federal Trade Commission itself.

Last year, when we enacted the parens patriae legislation, we limited the aggregation of damages provision to price fixing, thus confining the threat of multimillion-dollar recoveries to what has been generally regarded as the most heinous antitrust offense. Section 7 actions, on the other hand, can be founded not only on price fixing, and not only on other violations of the antitrust laws, but on a cornucopia of possible consumer abuses ranging from deceptive advertising claims to the minutiae and confusion of FTC-mandated changes in the holder in due course doctrine.

Suits can be brought under section 7, furthermore, by "any person injured" by a violation of a FTC rule or order. On its face, this appears to be a broader standard of actionable injury than the "injury to business or property" standard of Clayton section 4. If no limits are set in this legislation on the nature and extent of actionable "injury," even greater legions of new plaintiffs will come into the courts.

Under parens patriae, actions are brought by a State official who carefully evaluates consumer claims and, on the record to date, files only those cases which have substantive merit. The FTC proceeds with a similar sense of responsibility, it might be added, in exercising the authority which it now has under the Magnuson-Moss Act to bring suit on behalf of consumers. Under the provisions of section 7, however, the way is opened for harassment actions of little substance brought wholesale against businesses for their alleged violations of vaguely worded FTC trade regulations.

The parens patriae statute limits actions to Federal courts, whereas section 7 allows enforcement actions to be filed in State courts. The latter are unfamiliar with the process of dealing with Federal Trade Commission regulations and may be expected to render inconsistent and conflicting interpretations of the Federal Trade Commission Act. As a result, the resources of the FTC will have to be spread thin in an effort to monitor all these actions, rather than being applied in a coherent and consistent enforcement program.

In conclusion, I would suggest that the perfecting amendment offered by Mrs. FENWICK which we adopted, providing that the court may grant relief only if the violation of a cease-and-desist order "is one which a reasonable man would have known under the circumstances was dishonest or fraudulent," is not particularly helpful. Besides being vague in itself, it has no application to violations of a trade regulation. If the purpose of Mrs. FENWICK's amendment was to make sure that a businessman is not sued for a violation he committed unknowingly, it would seem more logical to direct it to the violation of a trade regulation applied industrywide than to a cease-and-desist order imposed on a single company.

The CHAIRMAN. Are there further amendments? If not, the question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. KAZEN, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 3816) to amend the Federal Trade Commission Act to expedite the enforcement of Federal Trade Commission cease

and desist orders and compulsory process orders; to increase the independence of the Federal Trade Commission in legislative, budgetary, and personnel matters; and for other purposes, pursuant to House Resolution 718, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole?

Mr. ECKHARDT. Mr. Speaker, I demand a separate vote on the so-called Krueger amendment.

The SPEAKER. Is a separate vote demanded on any other amendment?

PARLIAMENTARY INQUIRY

Mr. BROYHILL. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. BROYHILL. Mr. Speaker, is it not correct that we would be acting on section 7 as written in the bill and not on the amendments as adopted by the Committee of the Whole if the Krueger amendment is adopted?

The SPEAKER. The amendment is to strike section 7 of the bill. The vote will be on that.

Mr. BROYHILL. Mr. Speaker, if the Krueger amendment is defeated, then what is in the bill is the section as written in the bill and not the amendments that were adopted?

The SPEAKER. We are back to the original committee bill.

Mr. BROYHILL. The original committee bill only, and not the amendments that were adopted?

The SPEAKER. The gentleman is correct.

Mr. BROYHILL. I thank the Chair.

The SPEAKER. The Clerk will report the amendment on which a separate vote has been demanded.

The Clerk read as follows:

Amendment: On page 35, strike line 14 and all that follows through line 5 on page 44, and redesignate the following sections accordingly.

The SPEAKER. The question is on the amendment.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. ECKHARDT. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 281, nays 125, answered "present" 1, not voting 27, as follows:

[Roll No. 649]

YEAS—281

Abdnor	Glickman	Myers, John
Akaka	Goldwater	Natcher
Alexander	Goodling	Neal
Ammerman	Gradison	Nedzi
Anderson, Ill.	Grassley	Nichols
Andrews, N.C.	Gudger	Nowak
Andrews, N. Dak.	Guyer	O'Brien
Applegate	Hagedorn	Panetta
Archer	Hall	Pattison
Armstrong	Hamilton	Perkins
Ashbrook	Hammer-schmidt	Pettis
Ashley	Hanley	Pickle
Badham	Hannaford	Pike
Barnard	Hansen	Poage
Baucus	Harkin	Pressler
Bauman	Harsha	Preyer
Bedell	Heckler	Pritchard
Bennett	Hefner	Pursell
Bevill	Heftel	Quayle
Blanchard	Hightower	Quie
Blouin	Hillis	Quillen
Boggs	Holland	Rahall
Boland	Hollenbeck	Railsback
Bowen	Holt	Regula
Breaux	Horton	Rhodes
Brinkley	Hubbard	Rinaldo
Broomfield	Huckaby	Risenhoover
Brown, Mich.	Hughes	Roberts
Broyhill	Hyde	Robinson
Burgener	Ichord	Rogers
Burke, Fla.	Ireland	Rooney
Burleson, Tex.	Jacobs	Rose
Butler	Jeffords	Rostenkowski
Byron	Jenkins	Rousselot
Carter	Jenrette	Rudd
Cavanaugh	Johnson, Colo.	Runnels
Cederberg	Jones, N.C.	Ruppe
Chappell	Jones, Okla.	Russo
Clausen, Don H.	Jones, Tenn.	Santini
Clawson, Del	Kasten	Sarasin
Cleveland	Kazen	Satterfield
Cochran	Kelly	Sawyer
Cohen	Kemp	Schulze
Coleman	Ketchum	Sebelius
Collins, Tex.	Kindness	Sharp
Conable	Kostmayer	Shipley
Conte	Krebs	Shuster
Corcoran	Krueger	Sisk
Cornwell	LaFalce	Skelton
Coughlin	Lagomarsino	Skubitz
Crane	Latta	Slack
Cunningham	Leach	Smith, Nebr.
Daniel, Dan	Leggett	Snyder
Daniel, R. W.	Lehman	Spellman
Davis	Lent	Spence
de la Garza	Livingston	Stangeland
Delaney	Lloyd, Calif.	Stanton
Derrick	Lloyd, Tenn.	Steed
Derwinski	Long, La.	Steiger
Devine	Lott	Stockman
Dicks	Lundine	Stratton
Dodd	McClory	Stump
Dornan	McCormack	Symms
Duncan, Oreg.	McDade	Taylor
Duncan, Tenn.	McDonald	Thone
Edwards, Ala.	McEwen	Thornton
Edwards, Okla.	McHugh	Traxler
Emery	McKay	Treen
English	McKinney	Trible
Erlenborn	Madigan	Tucker
Ertel	Mahon	Ullman
Evans, Del.	Mann	Vander Jagt
Evans, Ga.	Marks	Volkmer
Evans, Ind.	Marlenee	Waggonner
Findley	Marriott	Walgren
Fish	Martin	Walsh
Fithian	Mathis	Wampler
Flippo	Mattox	Watkins
Flood	Mazzoli	White
Florio	Meeds	Whitehurst
Flowers	Meyner	Whitley
Flynt	Michel	Whitten
Foley	Milford	Wiggins
Ford, Mich.	Miller, Ohio	Wilson, Bob
Forsythe	Mitchell, N.Y.	Wilson, C. H.
Frenzel	Montgomery	Wilson, Tex.
Frey	Moore	Winn
Fuqua	Moorhead, Calif.	Wright
Gammage	Murphy, Ill.	Wylie
Gephardt	Murphy, N.Y.	Yatron
Giaimo	Murphy, Pa.	Young, Alaska
Gilman	Murtha	Young, Fla.
Ginn	Myers, Gary	Young, Mo.
		Young, Tex.
		Zeferetti

NAYS—125

Addabbo	Early	Myers, Michael
Allen	Eckhardt	Nix
Ambro	Edgar	Nolan
Anderson, Calif.	Edwards, Calif.	Oakar
Annunzio	Eilberg	Oberstar
Aspin	Evans, Colo.	Obey
AuCoin	Fary	Ottinger
Badillo	Fascell	Patten
Baldus	Fenwick	Pease
Beilenson	Fisher	Price
Biaggi	Ford, Tenn.	Rangel
Bingham	Fowler	Reuss
Bolling	Fraser	Richmond
Bonior	Gibbons	Rodino
Bonker	Gore	Roe
Brademas	Harrington	Rosenthal
Breckinridge	Harris	Ryan
Brodhead	Hawkins	Scheuer
Brooks	Holtzman	Schroeder
Brown, Calif.	Howard	Seiberling
Burke, Calif.	Jordan	Simon
Burke, Mass.	Kastenmeier	Smith, Iowa
Burlison, Mo.	Keys	Solarz
Burton, John	Kildee	St Germain
Burton, Phillip	Le Fante	Staggers
Caputo	Lederer	Stark
Carr	Levitas	Steers
Chisholm	Long, Md.	Stokes
Clay	Luken	Studds
Collins, Ill.	McCloskey	Thompson
Conyers	McFall	Tsongas
Corman	Maguire	Van Deerlin
Cornell	Markey	Vento
Cotter	Metcalfe	Walker
D'Amours	Mikulski	Waxman
Danielson	Mikva	Weaver
Dellums	Mineta	Weiss
Diggs	Minish	Wirth
Dingell	Mitchell, Md.	Wolff
Downey	Moorhead, Pa.	Wydler
Drinan	Moss	Yates
	Mottl	Zablocki

ANSWERED "PRESENT"—1

Gonzalez

NOT VOTING—27

Bafalis	Fountain	Patterson
Beard, R.I.	Gaydos	Pepper
Beard, Tenn.	Johnson, Calif.	Roncalio
Benjamin	Koch	Roybal
Brown, Ohio	Lujan	Sikes
Buchanan	Miller, Calif.	Teague
Carney	Moakley	Udall
Dent	Moffett	Vanik
Dickinson	Mollohan	Whalen

The Clerk announced the following pairs:

On this vote:

Mr. Teague for, with Mr. Moakley against.

Mr. Sikes for, with Mr. Pepper against.

Mr. Fountain for, with Mr. Koch against.

Mr. Dent for, with Mr. Moffett against.

Mr. Bafalis for, with Mr. Carney against.

Mr. Beard of Tennessee for, with Mr. Miller of California against.

Mr. Brown of Ohio for, with Mr. Beard of Rhode Island against.

Mr. Lujan for, with Mr. Vanik against.

Until further notice:

Mr. Benjamin with Mr. Dickinson.

Mr. Gaydos with Mr. Mollohan.

Mr. Patterson of California with Mr. Roybal.

Mr. Udall with Mr. Johnson of California.

Messrs. CAVANAUGH, HUGHES, LEHMAN, BAUCUS, GLICKMAN, TUCKER, Mrs. SPELLMAN, and Mr. KOSTMAYER changed their vote from "nay" to "yea."

Mr. VENTO changed his vote from "yea" to "nay."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

The SPEAKER. The question is on the amendment as amended.

The amendment, as amended, was agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. BROYHILL

Mr. BROYHILL. Mr. Speaker, I offer a motion to recommit.

The SPEAKER. Is the gentleman opposed to the bill?

Mr. BROYHILL. I am, in its present form, Mr. Speaker.

The SPEAKER. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. BROYHILL moves to recommit the bill H.R. 3816 to the Committee on Interstate and Foreign Commerce with instructions to report the same to the House forthwith with the following amendment:

Page 45, after line 8, insert the following new section:

CONGRESSIONAL REVIEW OF PROPOSED RULES

SEC. 10. (a) Section 18(a)(1) of the Federal Trade Commission Act (15 U.S.C. 57a(a)(1)) is amended by striking out "The" and inserting in lieu thereof "Subject to the provisions of subsection (i), the".

(b) Section 18 of the Federal Trade Commission Act (15 U.S.C. 57a) is amended by adding at the end thereof the following new subsection:

"(i)(1) Notwithstanding any other provision of this Act, stimultaneously with prescribing any rule under this Act, the Commission shall transmit a copy thereof to the Secretary of the Senate and the Clerk of the House of Representatives. Except as provided in paragraph (2), the rule shall not become effective, if—

"(A) within 90 calendar days of continuous session of Congress after the date the rule is prescribed, both Houses of Congress adopt a concurrent resolution, the matter after the resolving clause of which is as follows: 'That Congress disapproves the rule prescribed by the Federal Trade Commission dealing with the matter of , which rule was transmitted to Congress on .', the blank spaces therein being appropriately filled; or

"(B) within 60 calendar days of continuous session of Congress after the date the rule is prescribed, one House of Congress adopts such a concurrent resolution and transmits such resolution to the other House, and such resolution is not disapproved by such other House within 30 calendar days of continuous session of Congress after such transmittal.

"(2) If, at the end of 60 calendar days of continuous session of Congress after the date on which a rule is prescribed, no committee of either House of Congress has reported or been discharged from further consideration of a concurrent resolution disapproving the rule, and neither House has adopted such a resolution, the rule may go into effect immediately. If, within such 60 calendar days, such a committee has reported or been discharged from further consideration of such a resolution, or either House has adopted such a resolution, the rule may go into effect not sooner than 90 calendar days of continuous session of Congress after such rule is prescribed unless disapproved as provided in paragraph (1).

"(3) Congressional inaction on, or rejection of, a resolution of disapproval under this subsection shall not be deemed an expression of approval of the rule involved.

"(4) For purposes of this subsection—

"(A) continuity of session is broken only by an adjournment of Congress sine die; and

"(B) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of 30, 60, and 90 calendar days of continuous session of Congress.".

(c) The amendments made in this section shall apply to any rule of the Federal Trade Commission which has not become final on or before October 13, 1977. If any such rule becomes final after such date, but before the effective date of this section, such rule shall cease to be in effect and shall be subject to the provisions of section 18(i) of the Federal Trade Commission Act, as added by subsection (b).

Redesignate the following sections accordingly.

Mr. BROYHILL. Mr. Speaker, what this motion to recommit does is to add an amendment to this bill that would provide for congressional review and possible veto of Federal Trade Commission rules. This is the same amendment that the gentleman from Georgia (Mr. LEVITAS) and I and others have been attempting for so long to have added not only to the Federal Trade Act but also to so many other acts around here to provide for more congressional oversight, authority, and review of what these agencies are doing.

Mr. Speaker, the Federal Trade Commission has very broad and awesome powers to write rules and regulations over the economic life of our country. I would call attention to the report from the Government Operations Committee on some of the proposed rules that are being considered at the Federal Trade Commission at the present time. They are very broad.

What we are hearing from home from our businesses is this.

Mr. Speaker, we are hearing from home, from business people who are saying, "Mr. Congressman, we want to know what the rules of the road are, but we do not know what the rules are. We can't understand the rules and regulations you write."

One businessman told me, "It's like when we read Einstein's Theory of Relativity, when I read some of those rules up there; I can understand the words, but I don't understand the sentences."

Mr. Speaker, it is high time that the Congress has a say in what the rules are. Remember, rules and regulations have the effect of law.

Mr. LEVITAS. Mr. Speaker, will the gentleman yield?

Mr. BROYHILL. I yield to the gentleman from Georgia.

Mr. LEVITAS. Mr. Speaker, I would like to say that this motion to recommit with instructions is extremely important. It is the only means which we will have to add to this legislation the provision which would give the Congress the right to cast a veto over rules and regulations adopted by the unelected bureaucracy. This amendment is substantially identical with the legislative veto amendment I have offered on many other occasions and which this House has uniformly adopted.

This motion to recommit, if adopted, will be immediately reported back to the House with the amendment on it that we have adopted time and time again. This is our opportunity to say that we, the Congress, make the rules and not the unelected bureaucracy.

Mr. Speaker, I urge support for this motion to recommit offered by the gentleman from North Carolina.

Mr. ECKHARDT. Mr. Speaker, I rise in opposition to the motion to recommit.

Mr. Speaker, a moment ago the distinguished gentleman from North Carolina was urging to the Committee of the Whole House that it was extremely inappropriate to bring up amendments that had not been presented before the Committee for the first time in this body. This amendment could have been brought up even in committee, or it could have been brought up in the Committee of the Whole House and we would have had time to debate it to find out what it is all about.

Now, let me tell you something about this provision. It is not like some of those that we have voted for before. This provision requires concurrent action of both Houses. Under the provisions of article I, section 7, paragraph 2 of the Constitution, anything requiring the concurrence of both Houses is itself subject to Presidential veto. Should we not have had an opportunity in an amendment brought before this body during the Committee of the Whole House to amend that provision?

This is the wrong way to legislate on important legislation before this body.

I know that this body has at times adopted the congressional veto; but do you know that that is one of the most complex matters that this body can deal with? Should we not have the opportunity to discuss it fully and amend it?

This is precisely as if we had a measure before us on a closed rule. Only the gentleman from North Carolina (Mr. BROYHILL), and those to whom he will yield during his 5 minutes, and myself have an opportunity to discuss it at all. It is not subject to amendment.

Mr. Speaker, I urge strongly that we vote against this provision brought up at the last minute. If we should adopt this provision, of course, we bring before this Congress the details of every single rule that the Federal Trade Commission makes.

Mr. LEVITAS. Mr. Speaker, will the gentleman yield?

Mr. ECKHARDT. I do not have sufficient time. The gentleman knows I only have 5 minutes. Had the gentleman brought it up earlier, the gentleman would have had full time; but I will yield.

Mr. LEVITAS. Mr. Speaker, I would just like to clarify one point. This

amendment will not require a concurrent resolution. It can either be done by a concurrent resolution or one House can exercise a one-House veto and the other body—let me finish.

Mr. ECKHARDT. Mr. Speaker, I refuse to yield further.

Mr. Speaker, I would like to point out that I only got this resolution a few minutes ago. I had to ask the gentleman from Georgia (Mr. LEVITAS) for a copy. The gentleman did not have one and I got it from the minority. But it is even worse if it permits one House to veto a rule that the Federal Trade Commission makes under the authority of both Houses.

I suggest we should have had time to debate this matter, this is entirely improper to do it in this way. If this honorable body will permit the minority, who commands the motion to recommit, to initiate legislation in this manner, then the majority has lost the control that it is entitled to by the votes of the people of the United States.

Mr. Speaker, I urge most strongly that we vote down this motion to recommit, as we nearly always do, when a last minute attempt is made to serve the interests of special interests—by permitting them a second chance to come to Congress and veto actions taken by the Government of the United States.

I urge most strongly that the vote to recommit be voted down.

The SPEAKER. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER. The question is on the motion to recommit.

The question was taken; and the Speaker announced that the noes appeared to have it.

Mr. BROYHILL. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 272, nays 139, not voting 23, as follows:

[Roll No. 650]

YEAS—272

Abdnor	Butler	Duncan, Oreg.
Alexander	Byron	Duncan, Tenn.
Anderson, Calif.	Caputo	Edwards, Ala.
	Carr	Edwards, Okla.
Anderson, Ill.	Carter	Eilberg
Andrews, N.C.	Cederberg	Emery
Andrews, N. Dak.	Chappell	English
	Clausen, Don H.	Erlenborn
Applegate		Ertel
Archer	Clawson, Del	Evans, Del.
Armstrong	Cleveland	Evans, Ga.
Ashbrook	Cochran	Evans, Ind.
AuCoin	Cohen	Findley
Badham	Coleman	Fish
Barnard	Collins, Tex.	Fisher
Baucus	Conable	Fithian
Bauman	Corcoran	Flippo
Beard, Tenn.	Cornwell	Flowers
Bedell	Coughlin	Flynt
Bennett	Crane	Forsythe
Bevill	Cunningham	Fountain
Blanchard	D'Amours	Fowler
Blouin	Daniel, Dan	Frenzel
Boggs	Daniel, R. W.	Frey
Bowen	Davis	Fuqua
Breaux	de la Garza	Gammage
Brinkley	Delaney	Giaimo
Broomfield	Derrick	Gilman
Brown, Mich.	Derwinski	Ginn
Broyhill	Devine	Glickman
Burgener	Dickinson	Goldwater
Burke, Fla.	Dicks	Goodling
Burke, Mass.	Dodd	Gore
Burleson, Tex.	Dornan	Gradison
Grassley	McDonald	Santini
Gudger	McEwen	Sarasin
Guyer	McKay	Satterfield
Hagedorn	McKinney	Sawyer
Hall	Madigan	Schulze
Hamilton	Mahon	Sebelius
Hammer-schmidt	Mann	Sharp
	Marks	Shipley
Hanley	Marlenee	Shuster
Hannaford	Marriott	Sikes
Hansen	Martin	Sisk
Harkin	Mathis	Skelton
Harris	Mattox	Skubitz
Harsha	Mazzoli	Slack
Hefner	Michel	Smith, Nebr.
Heftel	Milford	Snyder
Hightower	Miller, Ohio	Spellman
Hillis	Mitchell, N.Y.	Spence
Holland	Montgomery	Stangeland
Holt	Moore	Stanton
Horton	Moorhead, Calif.	Steed
Hubbard		Steers
Huckaby	Mottl	Stockman
Hughes	Murphy, Pa.	Stratton
Hyde	Murtha	Stump
Ichord	Myers, John	Symms
Ireland	Myers, Michael	Taylor
Jacobs	Neal	Thone
Jenkins	Nedzi	Thornton
Jenrette	Nichols	Traxler
Johnson, Colo.	Nowak	Treen
Jones, N.C.	O'Brien	Trible
Jones, Okla.	Panetta	Ullman
Jones, Tenn.	Pettis	Vander Jagt
Kasten	Pickle	Volkmer
Kazen	Pike	Waggonner
Kelly	Poage	Walgren
Kemp	Pressler	Walker
Ketchum	Preyer	Walsh
Keys	Pritchard	Wampler
Kildee	Pursell	Watkins
Kindness	Quayle	White
Krebs	Quie	Whitehurst
Krueger	Quillen	Whitley
Lagomarsino	Rahall	Whitten
Latta	Railsback	Wilson, Bob
Leach	Regula	Wilson, C. H.
Lederer	Rhodes	Wilson, Tex.
Lent	Risenhoover	Winn
Levitas	Roberts	Wolff
Livingston	Robinson	Wright
Lloyd, Calif.	Rogers	Wydler
Lloyd, Tenn.	Rose	Wylie
Lott	Rousselot	Yatron
Lundine	Rudd	Young, Alaska
McClory	Runnels	Young, Fla.
McCloskey	Ruppe	Zeferetti
McCormack	Russo	
McDade	Ryan	

NAYS—139

Addabbo	Eckhardt	Minish
Akaka	Edgar	Mitchell, Md.
Allen	Edwards, Calif.	Moorhead, Pa.
Ambro	Evans, Colo.	Moss
Ammerman	Fary	Murphy, Ill.
Annunzio	Fascell	Murphy, N.Y.
Ashley	Fenwick	Myers, Gary
Aspin	Flood	Natcher
Badillo	Florio	Nix
Baldus	Foley	Nolan
Beard, R.I.	Ford, Mich.	Oakar
Beilenson	Ford, Tenn.	Oberstar
Biaggi	Fraser	Obey
Bingham	Gephardt	Ottinger
Boland	Gibbons	Patten
Bonior	Harrington	Pattison
Bonker	Hawkins	Pease
Brademas	Heckler	Perkins
Breckinridge	Hollenbeck	Price
Brodhead	Holtzman	Rangel
Brooks	Howard	Reuss
Brown, Calif.	Jeffords	Richmond
Burke, Calif.	Jordan	Rinaldo
Burlison, Mo.	Kastenmeier	Rodino
Burton, John	Kostmayer	Roe
Burton, Phillip	LaFalce	Roncalio
Cavanaugh	Le Fante	Rooney
Chisholm	Leggett	Rosenthal
Clay	Lehman	Rostenkowski
Collins, Ill.	Long, La.	Scheuer
Conte	Long, Md.	Schroeder
Conyers	Luken	Seiberling
Corman	McFall	Simon
Cornell	McHugh	Smith, Iowa
Cotter	Maguire	Solarz
Danielson	Markey	St Germain
Dellums	Meeds	Staggers
Diggs	Metcalfe	Stark
Dingell	Meyner	Steiger
Downey	Mikulski	Stokes
Drinan	Mikva	Studds
Early	Mineta	Thompson
Tsongas	Weaver	Young, Mo.
Tucker	Weiss	Young, Tex.
Van Deerlin	Wiggins	Zablocki
Vento	Wirth	
Waxman	Yates	

NOT VOTING—23

Bafalis	Gonzalez	Patterson
Benjamin	Johnson, Calif.	Pepper
Bolling	Koch	Roybal
Brown, Ohio	Lujan	Teague
Buchanan	Miller, Calif.	Udall
Carney	Moakley	Vanik
Dent	Moffett	Whalen
Gaydos	Mollohan	

The Clerk announced the following pairs:

On this vote:

Mr. Teague for, with Mr. Carney against.

Mr. Bafalis for, with Mr. Koch against.

Mr. Brown of Ohio for, with Mr. Moakley against.

Mr. Buchanan for, with Mr. Moffett against.

Mr. Lujan for, with Mr. Pepper against.

Mr. Dent for, with Mr. Miller of California against.

Until further notice:

Mr. Benjamin with Mr. Whalen.

Mr. Gaydos with Mr. Vanik.

Mr. Gonzales with Mr. Mollohan.

Mr. Johnson of California with Mr. Udall.

Mr. Roybal with Mr. Patterson of California.

So the motion to recommit was agreed to.

The result of the vote was announced as above recorded.

Mr. ECKHARDT. Mr. Speaker, pursuant to the instructions of the House, I report back the bill H.R. 3816 to the House, with an amendment.

The SPEAKER pro tempore (Mr. BROWN of California). The Clerk will report the amendment.

The Clerk read as follows:

Amendment: Page 45, after line 8, insert the following new section:

CONGRESSIONAL REVIEW OF PROPOSED RULES

SEC. 10. (a) Section 18(a)(1) of the Federal Trade Commission Act (15 U.S.C. 57a(a)(1)) is amended by striking out "The" and inserting in lieu thereof "Subject to the provisions of subsection (i), the".

(b) Section 18 of the Federal Trade Commission Act (15 U.S.C. 57a) is amended by adding at the end thereof the following new subsection:

"(i)(1) Notwithstanding any other provision of this Act, simultaneously with prescribing any rule under this Act, the Commission shall transmit a copy thereof to the Secretary of the Senate and the Clerk of the House of Representatives. Except as provided in paragraph (2), the rule shall not become effective, if—

"(A) within 90 calendar days of continuous session of Congress after the date the rule is prescribed, both Houses of Congress adopt a concurrent resolution, the matter after the resolving clause of which is as follows: 'That Congress disapproves the rule prescribed by the Federal Trade Commission dealing with the matter of ——, which rule was transmitted to Congress on ——', the blank spaces therein being appropriately filled; or

"(B) within 60 calendar days of continuous session of Congress after the date the rule is prescribed, one House of Congress adopts such a concurrent resolution and transmits such resolution to the other House, and such resolution is not disapproved by such other House within 30 calendar days of continuous session of Congress after such transmittal.

"(2) If, at the end of 60 calendar days of continuous session of Congress after the date

on which a rule is prescribed, no committee of either House of Congress has reported or been discharged from further consideration of a concurrent resolution disapproving the rule, and neither House has adopted such a resolution, the rule may go into effect immediately. If, within such 60 calendar days, such a committee has reported or been discharged from further consideration of such a resolution, or either House has adopted such a resolution, the rules may go into effect not sooner than 90 calendar days of continuous session of Congress after such rule is prescribed unless disapproved as provided in paragraph (1).

"(3) Congressional inaction on, or rejection of, a resolution of disapproval under this subsection shall not be deemed an expression of approval of the rule involved.

"(4) For purposes of this subsection—

"(A) continuity of session is broken only by an adjournment of Congress sine die; and

"(B) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of 36, 60, and 90 calendar days of continuous session of Congress."

(c) The amendments made in this section shall apply to any rule of the Federal Trade Commission which has not become final on or before October 13, 1977. If any such rule becomes final after such date, but before the effective date of this section, such rule shall cease to be in effect and shall be subject to the provisions of section 18(i) of the Federal Trade Commission Act, as added by subsection (b).

Redesignate the following sections accordingly.

Mr. ECKHARDT (during the reading). Mr. Speaker, I ask unanimous consent that the amendment may be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. BAUMAN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 279, nays 131, not voting 24, as follows:

[Roll No. 651]

YEAS—279

Addabbo	Biaggi	Burton, Phillip
Akaka	Bingham	Caputo
Alexander	Blanchard	Carr
Allen	Blouin	Carter
Ambro	Boggs	Cavanaugh
Ammerman	Boland	Chisholm
Anderson, Calif.	Bolling	Clay
	Bonior	Cleveland
Anderson, Ill.	Bonker	Cohen
Andrews, N.C.	Brademas	Coleman
Annunzio	Breaux	Collins, Ill.
Ashley	Breckinridge	Conte
Aspin	Brodhead	Conyers
AuCoin	Brooks	Corcoran
Badillo	Brown, Calif.	Corman
Baldus	Burgener	Cornell
Baucus	Burke, Calif.	Cornwell
Beard, R.I.	Burke, Mass.	Cotter
Bedell	Burlison, Mo.	Coughlin
Bellenson	Burton, John	D'Amours
Danielson	Krebs	Richmond
de la Garza	Krueger	Rinaldo
Delaney	LaFalce	Risenhoover
Dellums	Lagomarsino	Rodino
Derrick	Le Fante	Roe
Dicks	Leach	Rogers
Diggs	Lederer	Roncalio
Dingell	Leggett	Rooney
Dodd	Lehman	Rose
Downey	Lent	Rosenthal
Drinan	Levitas	Rostenkowski
Duncan, Oreg.	Livingston	Russo
Early	Lloyd, Calif.	Ryan
Eckhardt	Long, La.	Santini
Edgar	Long, Md.	Sarasin
Edwards, Calif.	Luken	Sawyer
Eilberg	Lundine	Scheuer
Emery	McClory	Schroeder
English	McCloskey	Seiberling
Ertel	McCormack	Sharp
Evans, Colo.	McDade	Shipley
Evans, Del.	McEwen	Simon
Fary	McFall	Sisk
Fascell	McHugh	Skelton
Fenwick	McKay	Skubitz
Findley	McKinney	Slack
Fish	Maguire	Smith, Iowa
Fithian	Mann	Solarz
Flood	Markey	Spellman
Florio	Marks	St Germain
Flowers	Mattox	Staggers
Foley	Mazzoli	Stangeland
Ford, Mich.	Meeds	Stanton
Ford, Tenn.	Metcalfe	Stark
Forsythe	Meyner	Steed
Fowler	Mikulski	Steers
Fraser	Mikva	Stokes
Fuqua	Mineta	Stratton
Gammage	Minish	Studds
Gephardt	Mitchell, Md.	Thompson
Giaimo	Mitchell, N.Y.	Thornton
Gibbons	Moorhead, Pa.	Traxler
Gilman	Motti	Tsongas
Glickman	Murphy, Ill.	Tucker
Gonzalez	Murphy, N.Y.	Udall
Goodling	Murphy, Pa.	Ullman
Gore	Murtha	Van Deerlin
Gradison	Myers, Michael	Vander Jagt
Hagedorn	Natcher	Vento
Hamilton	Neal	Volkmer
Hanley	Nedzi	Walgren
Hannaford	Nix	Walker
Harkin	Nolan	Walsh
Harrington	Nowak	Wampler
Harris	Oakar	Watkins
Hawkins	Oberstar	Waxman
Heckler	Obey	Weaver
Heftel	Ottinger	Weiss
Hightower	Panetta	Wilson, Bob
Hollenbeck	Patten	Wilson, C. H.
Holtzman	Pattison	Wilson, Tex.
Howard	Pease	Wirth
Huckaby	Perkins	Wolff
Hughes	Pickle	Wright
Jacobs	Pike	Wydler
Jeffords	Preyer	Wylie
Jenrette	Price	Yates
Jones, Okla.	Pritchard	Yatron
Jordan	Pursell	Young, Mo.
Kasten	Quie	Young, Tex.
Kastenmeier	Rahall	Zablocki
Keys	Rangel	Zeferetti
Kildee	Regula	
Kostmayer	Reuss	

NAYS—131

Abdnor	Crane	Hefner
Andrews, N. Dak.	Cunningham	Hillis
	Daniel, Dan	Holland
Applegate	Daniel, R. W.	Holt
Archer	Davis	Horton
Armstrong	Derwinski	Hubbard
Ashbrook	Devine	Hyde
Badham	Dickinson	Ichord
Barnard	Dornan	Ireland
Bauman	Duncan, Tenn.	Jenkins
Beard, Tenn.	Edwards, Ala.	Johnson, Colo.
Bennett	Edwards, Okla.	Jones, N.C.
Bevill	Erlenborn	Jones, Tenn.
Bowen	Evans, Ga.	Kazen
Brinkley	Evans, Ind.	Kelly
Broomfield	Flippo	Kemp
Brown, Mich.	Flynt	Ketchum
Broyhill	Fountain	Kindness
Burke, Fla.	Frenzel	Latta
Burleson, Tex.	Frey	Lloyd, Tenn.
Butler	Ginn	Lott
Byron	Grassley	McDonald
Cederberg	Gudger	Madigan
Chappell	Guyer	Mahon
Clausen, Don H.	Hall	Marlenee
	Hammer-schmidt	Marriott
Clawson, Del		Martin
Cochran	Hansen	Mathis
Collins, Tex.	Harsha	Michel
Milford	Rhodes	Stockman
Miller, Ohio	Roberts	Stump
Montgomery	Robinson	Symms
Moore	Rousselot	Taylor
Moorhead, Calif.	Rudd	Thone
	Runnels	Treen
Moss	Ruppe	Trible
Myers, Gary	Satterfield	Waggonner
Myers, John	Schulze	White
Nichols	Sebelius	Whitehurst
Pettis	Shuster	Whitley
Poage	Sikes	Whitten
Pressler	Smith, Nebr.	Wiggins
Quayle	Snyder	Winn
Quillen	Spence	Young, Alaska
Railsback	Steiger	Young, Fla.

NOT VOTING—24

Bafalis	Gaydos	Mollohan
Benjamin	Goldwater	O'Brien
Brown, Ohio	Johnson, Calif.	Patterson
Buchanan	Koch	Pepper
Carney	Lujan	Roybal
Conable	Miller, Calif.	Teague
Dent	Moakley	Vanik
Fisher	Moffett	Whalen

The Clerk announced the following pairs:

On the vote:

Mr. Moakley for, with Mr. Teague against.
Mr. Carney for, with Mr. Bafalis against.
Mr. Koch for, with Mr. Lujan against.

Until further notice:

Mr. Whalen with Mr. Benjamin.
Mr. Dent with Mr. Goldwater.
Mr. Moffett with Mr. Brown of Ohio.
Mr. Miller of California with Mr. Gaydos.
Mr. Fisher with Mr. Buchanan.
Mr. Pepper with Mr. Mollohan.
Mr. Vanik with Mr. O'Brien.
Mr. Roybal with Mr. Conable.
Mr. Patterson of California with Mr. Johnson of California.

Mr. ERTEL changed his vote from "nay" to "yea."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ECKHARDT. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed, H.R. 3816.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment a bill and a concurrent resolution of the House of the following titles:

H.R. 4836. An act to extend by seven months the term of the National Commission on New Technological Uses of Copyrighted Works; and

H. Con. Res. 377. Concurrent resolution directing the Clerk of the House of Representatives to make a correction in the enrollment of H.R. 3.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3) entitled "An act to strengthen the ca-

pability of the Government to detect, prosecute, and punish fraudulent activities under the medicare and medicaid programs, and for other purposes."

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 1811) entitled "An act to authorize appropriations to the Energy Research and Development Administration in accordance with section 261 of the Atomic Energy Act of 1954, as amended, section 305 of the Energy Reorganization Act of 1974, and section 16 of the Federal Nonnuclear Energy Research and Development Act of 1974, as amended, and for other purposes."

AUTHORIZING CERTAIN APPROPRIATIONS FOR TERRITORIES OF THE UNITED STATES

Mr. PHILLIP BURTON. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate joint resolution (S.J. Res. 89) to amend an Act entitled "To authorize certain appropriations for the territories of the United States, to amend certain Acts relating thereto, and for other purposes" (enrolled bill H.R. 6550, Ninety-fifth Congress, first session), and ask for its immediate consideration.

The Clerk read the title of the Senate joint resolution.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 89

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That section 403 of an Act entitled "To authorize certain appropriations for the territories of the United States, to amend certain Acts relating thereto, and for other purposes" (enrolled bill H.R. 6550, Ninety-fifth Congress, first session), be amended to read:

"SEC. 403. Effective on the date when section 502 of the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union With the United States of America, approved by joint resolution approved on March 24, 1976 (90 Stat. 263) goes into force those laws which are referred to in section 502(a)(1) of said Covenant, except for any laws administered by the Social Security Administration, except for medicaid which is now administered by the Health Care Financing Administration, and except the Micronesian Claims Act of 1971 (85 Stat. 96) shall be applicable to the territories of Guam and the Virgin Islands on the same terms and conditions as such laws are applied to the Northern Mariana Islands.".

SEC. 2. This amendatory joint resolution shall be effective as of the approval of said Act entitled "To authorize certain appropriations for the territories of the United States, to amend certain Acts relating thereto, and for other purposes" (enrolled bill H.R. 6550, Ninety-fifth Congress, first session).

The SPEAKER pro tempore. It there objection to the request of the gentleman from California?

Mr. DON H. CLAUSEN. Mr. Speaker, reserving the right to object, I would like to ask the gentleman in the well, the gentleman from California (Mr. PHILLIP BURTON) a question. Is the reason for the unanimous consent request intended to concur with the Senate action taken on the 12th of October relating to section 403 of H.R. 6550 and section 502 of the Marianas covenant and to remove the ambiguities involved; and is that the reason for the unanimous consent request?

Mr. PHILLIP BURTON. Mr. Speaker, if the gentleman will yield, that is entirely correct.

Mr. DON H. CLAUSEN. Mr. Speaker, I yield to the gentleman from California (Mr. LAGOMARSINO).

Mr. LAGOMARSINO. Mr. Speaker, I would say to my colleagues, I have discussed this matter with the gentleman from California (Mr. PHILLIP BURTON). It appears there is an ambiguity with regard to the legislation we just passed relating to trust territories, in that we referred to legislation that is not yet in effect. If this resolution before us today is not adopted, there could be—probably there is not—but there could be a situation where it could be claimed that some criminal laws, immigration laws and other laws, would not go into effect.

Mr. DON H. CLAUSEN. Mr. Speaker, let me further state that according to the Senate record the Senator from Louisiana, Mr. JOHNSTON, and Senator MCCLURE have stated their concurrence with this point of view.

Mr. Speaker, I, therefore, withdraw my reservation of objection.

Mr. BAUMAN. Mr. Speaker, reserving the right to object, and I do so only because of my respect for my colleague, the gentleman from California. As the gentleman knows, as we near adjournment time, it is the season to be jolly. I just wanted assurance that there is no nongermane amendment dealing with foreign aid, abortion, energy, or anything like that, that the other body might try to throw in.

Mr. PHILLIP BURTON. Mr. Speaker, if the gentleman will yield, I can assure my colleague that thanks to the guidance and leadership of the gentlemen on that side of the aisle, we have avoided that pitfall in this matter.

Mr. BAUMAN. Mr. Speaker, with that assurance, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

NAVIGATION DEVELOPMENT ACT

Mr. ROBERTS. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 8309) authorizing certain public works on rivers for navigation, and for other purposes.

The SPEAKER pro tempore (Mr. BROWN of California). The question is on the motion offered by the gentleman from Texas (Mr. ROBERTS).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill H.R. 8309, with Mr. MCFALL in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee rose on Tuesday, October 11, 1977, all time for general debate on the bill had expired.

Pursuant to the rule, no amendment to title II of said substitute, and no amendment in the nature of a substitute changing title II of said substitute shall be in order, except amendments offered by direction of the Committee on Ways and Means, and said amendments shall not be subject to amendment.

The Clerk will now read by titles the committee amendment in the nature of a substitute recommended by the Committee on Public Works and Transportation now printed in the reported bill as an original bill for the purpose of amendment.

The Clerk read as follows:

H.R. 8309

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I

SEC. 101. This title may be cited as the "Navigation Development Act".

SEC. 102. The project for the replacement of locks and dam 26, Mississippi River, Alton, Illinois, and Missouri, is hereby authorized substantially in accordance with the recommendations of the Chief of Engineers in House Document Numbered 94–584, including authorization for the evaluation and study referred to in paragraph 16d of such recommendations, at an estimated cost of $432,000,000.

SEC. 103. The following inland and intracoastal waterways of the United States are subject to this Act:

(1) Alabama-Coosa Rivers: From junction with the Tombigbee River at river mile (hereinafter referred to as RM) 0 to junction with Coosa River at RM 314.

(2) Allegheny River: From confluence with the Monongahela River to form the Ohio River at RM 0 to the head of the existing project at East Brady, Pennsylvania, RM 72.

(3) Apalachicola-Chattahoochee and Flint Rivers: Apalachicola River from mouth at Apalachicola Bay (intersection with the Gulf Intracoastal Waterway) RM 0 to junction with Chatthoochee and Flint Rivers at RM 107.8. Chattahoochee River from junction with Apalachicola and Flint Rivers at RM 0 to Columbus, Georgia, at RM 155; and Flint River, from junction with Apalachicola and Chattahoochee Rivers at RM 0 to Bainbridge, Georgia, at RM 28.

(4) Arkansas River (McClellan-Kerr Arkansas River Navigation System): From junction with Mississippi River at RM 0 to port of Catoosa, Oklahoma, at RM 448.2.

(5) Atchafalaya River: From RM 0 at its intersection with the Gulf Intracoastal Waterway at Morgan City, Louisiana, upstream to junction with Red River at RM 116.8.

(6) Atlantic Intracoastal Waterway: Two inland water routes approximately paralleling the Atlantic coast between Norfolk, Virginia, and Miami, Florida, for 1,192 miles via both the Albermarle and Chesapeake Canal and Great Dismal Swamp Canal routes.

(7) Black Warrior-Tombigbee-Mobile Rivers: Black Warrior River System from RM 2.9, Mobile River (at Chickasaw Creek) to confluence with Tombigbee River at RM 45. Tombigbee River (to Demopolis at RM 215.4) to port of Birmingham, RM's 374–411 and upstream to head of navigation on Mulberry Fork (RM 429.6), Locust Fork (RM 407.8), and Sipsey Fork (RM 430.4).

(8) Columbia River (Columbia-Snake Rivers Inland Waterways): From The Dalles at RM 191.5 to Pasco, Washington (McNary Pool), at RM 330, Snake River from RM 0 at the mouth to RM 231.5 at Johnson Bar Landing, Idaho.

(9) Cumberland River: Junction with Ohio River at RM 0 to head of navigation, upstream to Carthage, Tennessee, at RM 313.5.

(10) Green and Barren Rivers: Green River from junction with the Ohio River at RM 0 to head of navigation at RM 149.1.

(11) Gulf Intracoastal Waterway: From St. Mark's River, Florida, to Brownsville, Texas, 1,134.5 miles.

(12) Illinois Waterway (Calumet-Sag Channel): From the junction of the Illinois River with the Mississippi River RM 0 to Chicago Harbor at Lake Michigan, approximately RM 350.

(13) Kanawha River: From junction with Ohio River at RM 0 to RM 90.6 at Deepwater, West Virginia.

(14) Kaskaskia River: From junction with the Mississippi River at RM 0 to RM 36.2 at Fayetteville, Illinois.

(15) Kentucky River: From junction with Ohio River at RM 0 to confluence of Middle and North Forks at RM 258.6.

(16) Lower Mississippi River: From Baton Rouge, Louisiana, RM 233.9 to Cairo, Illinois, RM 953.8.

(17) Upper Mississippi River: From Cairo, Illinois, RM 953.8 to Minneapolis, Minnesota, RM 1811.4.

(18) Missouri River: From junction with Mississippi River at RM 0 to Sioux City, Iowa, at RM 734.8.

(19) Monongahela River: From junction with Allegheny River to form the Ohio River at RM 0 to junction of the Tygart and West Fork Rivers, Fairmont, West Virginia, at RM 128.7.

(20) Ohio River: From junction with the Mississippi River at RM 0 to junction of the Allegheny and Monongahela Rivers at Pittsburgh, Pennsylvania, at RM 981.

(21) Ouachita-Black Rivers: From the mouth of the Black River at its junction with the Red River at RM 0 to RM 351 at Camden, Arkansas.

(22) Pearl River: From junction of West Pearl River with the Rigolets at RM 0, to Bogalusa, Louisiana, RM 58.

(23) Red River: From RM 0 to the mouth of Cypress Bayou at RM 236.

(24) Tennessee River: From junction with Ohio River at RM 0 to confluence with Holstein and French Rivers at RM 652.

(25) White River: From RM 9.8 to RM 255 at Newport, Arkansas.

(26) Willamette River: From RM 14 upstream of Portland, Oregon, to Harrisburg, Oregon, at RM 194.

SEC. 104. The authorizations for appropriations contained in this Act are for those fiscal years which begin on or after October 1, 1977.

Mr. ROBERTS. Mr. Chairman, I ask unanimous consent that title I be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

AMENDMENT OFFERED BY MR. BLOUIN

Mr. BLOUIN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BLOUIN: Page 8, strike out lines 19 through 25 and insert in lieu thereof the following:

SEC. 102. (a) The Secretary of the Army, acting through the Chief of Engineers, is authorized to replace locks and dam 26, Mississippi River, Alton, Illinois and Missouri, by constructing a new dam and a single, one-hundred-and-ten-foot by one-thousand-two-hundred-foot lock at a location approximately two miles downsteam from the existing dam, substantially in accordance with the recommendations of the Chief of Engineers in his report on such project dated July 31, 1976, at an estimated cost of $421,000,000.

(b) The channel above Cairo, Illinois, on the Mississippi River shall not exceed nine feet, and neither the Secretary of the Army nor any other Federal official shall study the feasibility of deepening the navigation channels in the Minnesota River, Minnesota; Black River, Wisconsin; Saint Croix River, Minnesota and Wisconsin; the Mississippi River north of Cairo, Illinois; the Kaskaskia River, Illinois; and the Illinois River and Waterway, Illinois, unless specifically authorized by a future Act of Congress.

(c) There are authorized to be appropriated to the Secretary of the Army such sums as are necessary to carry out the provisions of subsection (a) of this section for fiscal year 1978 and succeeding fiscal years.

SEC. 103. (a) The Congress hereby authorizes and directs the preparation of a comprehensive master plan for the management of the Upper Mississippi River to be prepared by the Upper Mississippi River Basin Commission (hereinafter referred to as the "Commission"), acting through the Great River Environmental Action Team, and in cooperation with the appropriate Federal, State, and local officials. A preliminary plan shall be prepared by January 1, 1981. The plan shall be subject to public hearings in each affected State. The Commission shall review all comments presented at such hearings and submitted in writing to the Commission and shall make any appropriate revisions in the preliminary plan, and shall, by January 1, 1982, submit to the Congress for approval a final master plan. Public participation in the development, revision, and enforcement of said plan shall be provided for, encouraged, and assisted by the Commission. The Commission shall, within one hundred and fifty days of enactment of this Act, publish final regulations in the Federal Register specifying minimum guidelines for public participation in such processes. Approval of the final master plan shall be granted only by enactment of the Congress. Changes to the master plan proposed by the Commission shall require enactment by the Congress to become effective. All related activities inconsistent with the master plan or guidelines shall be deemed unlawful.

(b) The master plan authorized under subsection (a) of this section shall identify the various economic, recreational, and environmental objectives of the Upper Mississippi River System, recommend guidelines to achieve such objectives, and propose methods to assure compliance with such guidelines and coordination of future management decisions affecting the Upper Mississippi River System, and include any legislative proposals which may be necessary to carry out such recommendations and objectives.

(c) For the purposes of developing the comprehensive master plan, the Commission is authorized and directed to conduct such studies as it deems necessary to carry out its responsibilities under this section, with provision that it utilize, to the fullest extent possible, the resources and results of the Upper Mississippi River resources managements (GREAT) study conducted pursuant to section 117 of the Water Resources Development Act of 1976 (Public Law 94–587) and of other ongoing or past studies. The Commission shall request appropriate Federal, State or local agencies to prepare such studies, and any Federal agency so requested is authorized to conduct any such study for the purpose of this section. Studies conducted pursuant to this section shall include, but not be limited to the following:

1. (a) The carrying capacity of the Upper Mississippi River System, and (b) the long- and short-term systemic ecological impacts of (i) present and any projected expansion of navigation capacity on the fish and wildlife, water quality, wilderness, and public recreational opportunities of said rivers, (ii) present operation and maintenance programs, (iii) the means and measures that should be adopted to prevent or minimize loss of or damage to fish and wildlife, and (iv) a specific analysis of the immediate and systemic environmental effects of any second lock at Alton, Illinois, and provide for the mitigation and enhancement of such resources. For the purposes of this paragraph, the Department of Interior shall be considered the primary agency with the cooperation of any other agencies the Commission shall deem appropriate.

2. (a) The relationship of any expansion of navigational capacity of the Upper Mississippi River System to national transportation policy, (b) the direct and indirect effects of any expansion of navigational capacity of the Nation's railroads and on shippers dependent upon rail service, (c) the transportation costs and benefits to the Nation to be derived from any expansion of navigational capacity on said River System, and (d) a specific evaluation of the need for a second lock at Alton, Illinois, and the direct and indirect systemic effects and needs for such a second lock at Alton, Illinois. For the purposes of this paragraph, the Department of Transportation shall be considered the primary agency with the cooperation of any other agencies the Commission shall deem appropriate.

3. Studies and demonstration programs, including a demonstration program to evaluate the benefits and costs of disposing of dredge spoil material in contained areas located out of the flood plain. Said program shall include, but shall not be limited to, the evaluation of possible uses in the marketplace for the dredge spoil studies and demonstration programs to minimize the environmental effects of channel operation and maintenance activities.

4. Development for the Upper Mississippi River System of a computerized analytical inventory and system analysis to facilitate evaluation of the comparative environmental effects of alternative management proposals.

(d) Guidelines developed pursuant to this section shall include, but not be limited to, guidelines for channel maintenance, minimization of dredging volumes, alternate uses of dredged material, barge fleeting, protection of water quality, fish and wildlife protection and enhancement, wilderness preservation, and management of the wildlife and fish refuges within and contiguous to the upper Mississippi River system.

(e) To carry out the provisions of this section, there are authorized to be appropriated to the Commission $20,000,000. The Commission is authorized to transfer funds to such Federal, State or local government agencies as it deems necessary to carry out the studies and analysis authorized in this section.

(f) The upper Mississippi River system consists of those river reaches containing commercial navigation channels on the Mississippi River main stem north of Cairo, Illinois; the Minnesota River, Minnesota; Black River, Wisconsin; Saint Croix River, Minnesota and Wisconsin; Illinois River and Waterway, Illinois; and Kaskaskia River, Illinois.

(g) Except for the provisions of section 102 of this Act, and necessary operation and maintenance activities, no replacement, construction, or rehabilitation that expands the navigation capacity of locks, dams, and

channels shall be undertaken by the Secretary of the Army to increase the navigation capacity of the upper Mississippi River system, until the master plan prepared pursuant to this section has been approved by the Congress.

(h) The lock and dam authorized pursuant to section 102 of this Act shall be designed and constructed to provide for possible future expansion. All other navigation-related construction activities initiated by the Secretary of the Army on the upper Mississippi River north of Cairo, Illinois, and on the Illinois River north of Gratton, Illinois, shall be initiated only in accordance with the guidelines set forth in the master plan.

Renumber succeeding sections and references thereto accordingly.

Mr. BLOUIN (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Iowa?

There was no objection.

Mr. BLOUIN. Mr. Chairman, let me explain just very briefly what this amendment does. I do not intend to take a long time on this proposal today. I think the need for a new lock and dam at Alton, Ill., is well documented. The legislation has been debated off and on around this House for enough years so that prolonging the debate at this point accomplishes very little.

What our amendment does—and our amendment is cosponsored by Congressmen, MIKVA, QUIE, FRASER, and OBEY, as well as myself—is to put two provisions into this legislation that are already included in the Senate bill, which has already passed the Senate.

The first is a prohibition on the deepening of the 9-foot channel other than routine dredging north of the Alton lock and dam, north of Cairo, Ill., on the upper Mississippi system.

The second provision establishes a comprehensive study of the upper Mississippi River system as to how it fits into our future water transportation plans in this country and how that, as part of water transportation, fits into our overall transportation program in this Nation. It accomplishes that study, unlike the Senate version which creates a new council but rather by working through the existing GREAT team, an arm of the Upper Mississippi River Basin Commission, and having that council, which already exists and which is already into a study, broaden its scope, work on the entire upper Mississippi River system and report back to this body with its findings before any further development of the upper Mississippi River system takes place.

The second provision, as I said, is a routine prohibition on a dredging or a deepening of the 9-foot channel.

Mr. Chairman, I would like to read a letter, if I may, a very brief letter, from the U.S. Department of the Interior, from Mr. Robert L. Herbst, Assistant Secretary for Fish and Wildlife and Parks:

DEAR MR. BLOUIN: It has come to our attention that you have cosponsored amendments to H.R. 8309, a bill addressing Alton Dam and the Upper Mississippi River System.

As you know, the Administration and this Department oppose any channel depth in excess of 9 feet north of Cairo, Illinois. We also support studies to determine carrying capacity, natural resource impact of expanded navigation, and the effect of any expansion on other aspects of the transportation network.

From the specific point of view of the Fish and Wildlife Service, we have no objection to the concept of the master planning provision.

A similar letter has been sent to cosponsors of the amendments.

Mr. Chairman, I think that letter states the case very clearly that this amendment will put this bill more in line with administration policy and more closely to a position where, if our version of the user fee prevails, the President would be more willing to accept the overall package in deference to a desire to have a higher fee.

Most importantly, in my opinion, it makes the bill far more acceptable to those who are concerned about the balanced development and growth of the upper Mississippi River system.

Mr. Chairman, I live on the river. I live in a town which has a history which goes back 150 years and longer. The town and the district I represent depends upon the Mississippi River and the whole system. It depends not just on the availability of that river for transportation, but for recreation, wildlife, fishing, and conservation uses, as well.

The CHAIRMAN. The time of the gentleman from Iowa (Mr. BLOUIN) has expired.

(By unanimous consent, Mr. BLOUIN was allowed to proceed for 3 additional minutes.)

Mr. BLOUIN. Mr. Chairman, there is no reason why this Congress or any body has to prohibit the proper navigational use or hinder the proper navigational use of that waterway. But at the same time, there is no reason why we have to turn it into a sewer. There is no reason why we have to inihibit the ability of others to use that river for other proper gains and proper recreational efforts. There is absolutely no reason why people in the small communities who make their bread and butter off of tourism dollars have to face the possibility or using that because of the increased unwise development and improper development of that waterway system.

I think our amendment strikes a balance. It allows all sides to live in reasonable harmony on a system that has meant so very much to the heartland of this country. It allows that part of the Nation—our part of the Nation—to use that system to move our products, as well as to fish and hunt and do whatever else people enjoy doing on a water system such as that.

Mr. Chairman, I think it is a good balance. I think it is a fair and equitable approach. I think it is essential if this bill is going to garner the kind of widespread support it ought to have.

Mr. VOLKMER. Mr. Chairman, will the gentleman yield?

Mr. BLOUIN. I will be happy to yield to the gentleman from Missouri.

Mr. VOLKMER. Mr. Chairman, I am trying to understand the mechanics of the gentleman's amendment.

The gentleman is authorizing a commission. Is this commission, then, to work over or act as an umbrella or another commission over the GREAT that is now operating?

Mr. BLOUIN. No, it does not replace the GREAT.

Mr. VOLKMER. This, then, changes the amendment as it was?

Mr. BLOUIN. The amendment is changed from what it was originally.

Mr. VOLKMER. As printed in the RECORD?

Mr. BLOUIN. It is not the version as printed in the RECORD. It is the same in every respect except for two small changes. No. 1, we do not create a new commission. We have to GREAT assigned the responsibilities of carrying out this study.

No. 2, we do not interfere with the construction of flood prevention projects on that river. This relates only to the navigation-related projects.

Mr. FRENZEL. Mr. Chairman, will the gentleman yield?

Mr. BLOUIN. I yield to the gentleman from Minnesota.

Mr. FRENZEL. Mr. Chairman, we did not get a chance to see the gentleman's amendment before it was proposed.

It appears to me that the gentleman really wants to amend title III, on which there is a study. The amendment is substituting a separate study. Is it possible the gentleman is in the wrong section?

Mr. BLOUIN. Mr. Chairman, it really does not make much difference where we start, except at the very beginning we amend page 8 by restating identically the first paragraph of title I, except for the appropriations figure, and we adjust that accordingly to transplant the study funds in another section of the bill.

The CHAIRMAN. The time of the gentleman from Iowa (Mr. BLOUIN) has expired.

(On request of Mr. FRENZEL and by unanimous consent, Mr. BLOUIN was allowed to proceed for 1 additional minute.)

Mr. FRENZEL. Mr. Chairman, will the gentleman yield further?

Mr. BLOUIN. I yield to the gentleman from Minnesota.

Mr. FRENZEL. Mr. Chairman, as I understand the gentleman's amendment, the gentleman provides $20 million or he authorizes that amount for this study in his amendment?

Mr. BLOUIN. That is correct.

Mr. FRENZEL. And the amendment reduces the base authorization by $11 million?

Mr. BLOUIN. That is correct.

Mr. FRENZEL. How does the gentleman reconcile those figures?

Mr. BLOUIN. The $11 million in the original appropriation in the basic bill was, as I understand it, what the committee assumed would be the cost of the studies that the basic bill called for, pro-

viding for the completion of the studies that were in the bill. The expansion of the studies, as approved by the Senate and as found in this amendment, are financially accounted for in the extra $9 million.

It is my opinion that since we are not creating a new council, we will more than likely not need as much money, and the $20 million figure will probably be able to be adjusted downward. I would hope that could be done in the conference committee when this issue certainly gets to conference.

The CHAIRMAN. The time of the gentleman from Iowa (Mr. BLOUIN) has again expired.

(By unanimous consent, Mr. BLOUIN was allowed to proceed for 1 additional minute.)

Mr. FRENZEL. Mr. Chairman, will the gentleman yield further?

Mr. BLOUIN. I yield to the gentleman from Minnesota.

Mr. FRENZEL. Mr. Chairman, the amendment seems to be a little bit more complicated than I had thought.

I thank the gentleman for his explanation.

Mr. BLOUIN. Mr. Chairman, the $421 million figure, in any event, is the same committee figure used to authorize construction of a new lock and dam, constructed in such a fashion as to provide for additional second lockage capacity if and when it is decided that is needed, and that is identical to the wording of the House bill.

Let me also make one further point. I intend to vote for this bill on final passage regardless of what happens to this amendment. I am convinced that this language is more than likely to end up in the bill in the conference committee anyway, if it is not put in here. I just cannot believe that this Congress is going to pass legislation without at least the provision for a 12-foot channel or some type of a channel on the Upper Mississippi.

The CHAIRMAN. The time of the gentleman from Iowa (Mr. BLOUIN) has again expired.

(On request of Mr. OBERSTAR and by unanimous consent, Mr. BLOUIN was allowed to proceed for 2 additional minutes.)

Mr. OBERSTAR. Mr. Chairman, will the gentleman yield?

Mr. BLOUIN. I yield to the gentleman from Minnesota.

Mr. OBERSTAR. Mr. Chairman, the gentleman's amendment grants a very substantial role to the Department of the Interior. It says that the Department of the Interior shall be considered the primary agency.

I would just like to know on what authority the gentleman is basing his language in this bill. What is the present role of the Department of the Interior on the Mississippi River?

Mr. BLOUIN. I am sure the gentleman is aware of their involvement. They have a very active and involved role in nearly all aspects of the river.

Mr. OBERSTAR. What is the role of the Department, under the gentleman's amendment?

Mr. BLOUIN. Mr. Chairman, let me tell the gentleman first why we chose the Department of the Interior.

The Corps of Engineers has an image as one agency that would automatically approve just about any kind of a transportation capacity for that river. On the other hand, the other agency, the Department of Transportation, which has to an extent been involved in the waterway transportation system, has just as much of a knee-jerk reaction in favor of substantial user fees and pay-as-you-go types of cost provisions.

We think that with those two agencies which are already involved, with as automatic reflex positions as they have, it would be wise to bring another agency into it, headed up, again, remember, through GREAT, going into the study with an open mind. We think that the Department of the Interior has that open mind in terms of how our Upper Mississippi waterway system fits into our transportation plan.

Mr. OBERSTAR. It just seems to me that the gentleman is vastly expanding a role of a department that is not clearly associated with, nor has it a history of association with, the waterway inland navigation development programs of the United States, and that the gentleman is giving the department a role for which it is not suited.

Mr. BLOUIN. I would agree with the gentleman's concern that he is now voicing if we had gone ahead with our original amendment to create a council chaired by the Secretary of the Interior. But we are not proposing that.

The CHAIRMAN. The time of the gentleman from Iowa (Mr. BLOUIN) has expired.

(On request of Mr. HARSHA and by unanimous consent, Mr. BLOUIN was allowed to proceed for 3 additional minutes.)

Mr. HARSHA. Mr. Chairman, will the gentleman yield?

Mr. BLOUIN. I yield to the gentleman from Ohio.

Mr. HARSHA. Mr. Chairman, on the first page of the gentleman's amendment, he says as follows:

> There are authorized to be appropriated to the Secretary of the Army such sums as are necessary to carry out the provisions of subsection (a) of this section for fiscal year 1978 and succeeding fiscal years.

That refers to the construction of a lock at dam 26, does it?

Mr. BLOUIN. If the gentleman will forgive me, would he read his question again.

Mr. HARSHA. I have the gentleman's amendment. I think it is the latest one.

In section 102, subsection (a), the gentleman authorizes the construction of dam 26 at a cost of $421 million.

Mr. BLOUIN. That is correct.

Mr. HARSHA. Then in subsection (c) the gentleman authorizes "such sums as are necessary" to be appropriated to the Secretary of the Army.

Can the gentleman tell me the reason for these two authorizations?

Mr. BLOUIN. It is to insure that there will be sufficient funds to complete the project.

Mr. HARSHA. Next, I want to make sure that I am correct in this assessment of the gentleman's amendment, that the amendment precludes any study of the feasibility of navigational projects on the Kaskaskia River, Ill., and the Illinois River and Waterway, Ill.; is that correct?

Mr. BLOUIN. It precludes any study.

Mr. HARSHA. But the gentleman also says, in subsection (b) on the first page, the following:

> . . . Neither the Secretary of the Army nor any other Federal official shall study the feasibility of deepening the navigation channels. . . ."

Mr. BLOUIN. Of deepening the navigation channels, correct. In terms of deepening, it precludes any study of anything below a 9-foot capacity. That point should be very clear.

The CHAIRMAN. The time of the gentleman from Iowa (Mr. BLOUIN) has expired.

(On request of Mr. HARSHA and by unanimous consent, Mr. BLOUIN was allowed to proceed for 5 additional minutes.)

Mr. HARSHA. Mr. Chairman, will the gentleman yield further?

Mr. BLOUIN. I yield to the gentleman from Ohio.

Mr. HARSHA. To continue, Mr. Chairman, in the event that there is an ongoing study of either the Kaskaskia River, Ill., or the Illinois River and Waterway, Ill., that would have to stop under the provisions of the gentleman's amendment, would it not?

Mr. BLOUIN. If it is a study involving the deepening of the river, yes, it would have to stop; that is correct. That is the clear intent of that part of the amendment.

Mr. HARSHA. I just wanted the Members from the State of Illinois to know that they would be preempted and that any studies now ongoing would have to stop.

Mr. BLOUIN. If they are Federal studies, that is correct.

Mr. SNYDER. Mr. Chairman, will the gentleman yield?

Mr. BLOUIN. I yield to the gentleman from Kentucky.

Mr. SNYDER. Mr. Chairman, I have not had a chance to study the gentleman's last amendment. I did look at the other amendment.

Mr. BLOUIN. They are substantially the same, as pointed out.

Mr. SNYDER. The gentleman has done away with the council in his amendment; is that correct?

Mr. BLOUIN. Correct.

Mr. SNYDER. And the gentleman is actually saying that the operation should be through the apparatus of the GREAT study which this body authorized at a cost, I believe, of $9.1 million, estimated. The GREAT studies provide for the participation of the States of Wisconsin, Minnesota, Illinois, Missouri, and the gentleman's State of Iowa. It includes the participation of EPA, the Department of the Army, the Department of Agriculture, the Department of the Interior, and the Department of Transportation.

How does the lead agency, Interior, function with those different departments under the gentleman's amendment?

Mr. BLOUIN. They would all remain involved in the study except that, insofar as where specifically referred to, the Department of the Interior would be the lead agency for the study, in terms of the expansion capacity of that river.

Mr. SNYDER. What does the gentleman mean by "lead agency"?

We are talking about the EPA, the Army, Transportation, Interior, and Agriculture, who are all involved in the GREAT study already. What function will Interior take that they do not already have in this joint effort with the other agencies?

Mr. BLOUIN. The intent is to put them in the leadership role in terms of steering the study.

Mr. SNYDER. Is the gentleman giving them a veto power?

Mr. BLOUIN. No.

Mr. SNYDER. Who will make the determination as to what weight they will get? You know, I think the GREAT study is a pretty great thing.

Mr. BLOUIN. But it has gotten to be a problem so much so that one State has dropped out. We are attempting to improve its scope and its credibility.

Mr. SNYDER. The purpose of it is as follows:

> The GREAT study will develop a master plan setting forth a multi-objective river system management strategy addressing navigation, fish and wildlife, recreation, watershed management, water quality, and other water and related land resource needs, and will stress the resolution of conflict between the use of the river for navigation and its viability as a fish and wildlife and recreation resource.

That is the charge to the GREAT study. What will the gentleman's study develop that is not already going to be developed in that charge with the GREAT study? What does the gentleman intend to develop further than that?

Mr. BLOUIN. Our intent is clearly spelled out in section 102(c) 1, 2, 3, and 4.

Mr. SNYDER. What are the goals that the gentleman is trying to arrive at that are not already enumerated in the charge for the GREAT study? Does the gentleman have anything he wants to arrive at that is not already enumerated in this GREAT study?

Mr. BLOUIN. If the gentleman will turn to page 3 of my amendment, he would be able to read it. As I have already stated, it is in section 102(c) 1, 2, 3, and 4.

Mr. SNYDER. I would if I had one.

Mr. BLOUIN. The gentleman's table has about eight of them, there are only five of you sitting there, that should leave a few open.

The CHAIRMAN. The time of the gentleman has again expired.

Mr. HARSHA. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, it is obvious that there are several ambiguities in the amendment. The author of the amendment could not explain the two authorizations himself that I pointed out.

This same amendment was in the bill that was passed by the other body. Because of the broad scope of this bill and the uncertainty about what it contains, even the author could not explain it to me. It would tie the hands of the conferees on the House side if we adopted the amendment which is substantially the Senate language. We could not then perfect the amendment when we go to conference, because there would be nothing in the conference.

Both amendments having been accepted, the hands of the House would be tied, so that is one reason I think the amendment should be defeated. But more than that, there is an ongoing study of the entire Upper Mississippi River basin which encompasses everything that is conceivably pertinent to that particular river basin. This study is the so-called GREAT study that was authorized by the 1976 Water Resources Development Act, which authorized the Secretary of the Army to investigate and study, in cooperation with interested States and Federal agencies through the Upper Mississippi River basin, the development of a river system management plan in the format of the GREAT river study for the Mississippi River from the mouth of the Ohio to the head of navigation at Minneapolis, incorporating total river resource requirements—total river resource requirements—including, but not limited to, navigation, the effects of increased barge traffic, fish and wildlife, recreation, watershed management, and water quality, at an estimated cost of $9,100,000. Mr. Chairman, that study is going on at a Federal expenditure of over $9 million.

That is an all-encompassing study. It will provide all of the information that is possibly needed for the proper management of the Upper Mississippi River basin.

In addition to that, the bill authorizes another study by the Secretary of Commerce and the Secretary of the Army, found on pages 16, 17, and 18 of the bill, setting forth every conceivable economic, environmental, and recreational impact that this particular issue could have in the Upper Mississippi River Valley. I think that that is enough study, Mr. Chairman, and that we ought not to delay this process nor tie the hands of the conferees by this superfluous amendment here. Mr. Chairman, I urge the House to defeat it.

Mr. SNYDER. Mr. Chairman, will the gentleman yield?

Mr. HARSHA. I yield to the gentleman from Kentucky.

Mr. SNYDER. I thank the gentleman for yielding.

I want to commend the gentleman for his statement and join him in opposing this amendment.

Obviously, the thrust of the amendment is nothing but a duplication, as the gentleman has indicated, of the GREAT study. We have authorized $9.1 million. All we are doing is blowing another $11 million to run it on up to $20 million. I think the taxpayers deserve a better break than that.

Mr. HARSHA. Not only that, but they are precluding the other States and the other Federal agencies from studying navigation projects, particularly the Illinois River system.

Mr. SNYDER. The gentleman is eminently correct.

Mr. FINDLEY. Mr. Chairman, will the gentleman yield?

Mr. HARSHA. I yield to the gentleman from Illinois.

Mr. FINDLEY. I thank the gentleman for yielding.

The gentleman from Ohio has spent a lot of time studying this question reflected in his comments today, and I want to say that I certainly concur in his argument, and especially the point he made at the outset that if there is anything in the pending amendment which merits the consideration of the conferees, it will be before the conference anyway, because the Senate has already adopted language in substance identical to that which is now pending before us.

Mr. HARSHA. The gentleman is correct.

Mr. OBERSTAR. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I yield to the gentleman from Michigan (Mr. BONIOR).

Mr. BONIOR. Mr. Chairman, while H.R. 8309 addresses many of the economic needs of the upper Mississippi River and will facilitate the movement of commodities up and down the river, it does not address the numerous environmental concerns of the area's ecosystem. The Blouin amendment seeks to address these concerns in two ways. First it calls for a prohibition on building a 12-foot channel on the upper Mississippi or studying the possibility of such a channel.

One of the major controversies of lock and dam 26 is whether the new lock and dam is the beginning of a move for a 12-foot channel although the Rivers and Harbors Omnibus Act of 1930 sets the channel depth of the Mississippi at 9 feet. While the Army Corps of Engineers and the Public Works and Transportation Committee deny that this is the beginning of a 12-foot channel, numerous corps documents indicate that lock and dam 26 is designed to accommodate a 12-foot channel and once the new facility is built, the cost of dredging a 12-foot channel will be greatly reduced. A 1970 corps general design memorandum No. 2 on replacement of lock and dam 26 states:

> The lower sills in the lock were set at 18 feet below the minimum tailwater to provide a 15 foot clearance for a 12 foot navigation channel plus 3 additional feet to provide for ice, frozen soil, or debris that frequently clings to barges during winter months.

Numerous authorities do not believe that the corps has given up on the idea of a 12-foot channel although it is illegal. Judge Richey of the U.S. district court studied the 12-foot channel argument and concluded:

> The Corps would have this court conclude that the 12 foot channel has therefore been rejected and that no systemwide improvements to that effect are contemplated by the

proposed Lock and Dam 26. This contention is unworthy of belief. (382 Federal Supplement 610)

The imposition of a 12-foot channel would present numerous environmental problems because of the increasing dredging needed to sustain that channel depth. Increased dredging of the river presents the following environmental hazards among others:

First. The deeper channel will require more dredging to maintain the channel and too often the dredging spoil is disposed of on backwater areas which helps eliminate this valuable habitat which serves as the home for numerous species of birds and animals.

Second. Dredging destroys the bottom dwelling organisms which decompose organic matter and are an integral part of the river ecosystem.

Third. Dredging increases the turbidity of the river. This reduces the ability of light to penetrate the water, which reduces photosynthesis and oxygen production. In addition, the water becomes increasingly murky and less beautiful.

Fourth. Dredging resuspends biostimulants like phosphorus which are found in the sediment. These biostimulates then speed up algae production and increase eutrophication.

Fifth. As more of the river's life dies, their bodies cover the river bed with organic matter which fills in shallow portions of the river.

Even the corps final environmental impact statement entitled, "Mississippi River Between the Ohio and Missouri River Regulating Works," April 1976, indicated that approximately 25 percent of the remaining chutes and backwater areas will be destroyed due to navigational improvements without a 12-foot channel. With a 12-foot channel the loss would be much greater. This will ruin the habitat of a number of species of fish, animals, and birds as well as a number of plant species which thrive in this habitat. The impact of increased dredging can be seen all to well on the Missouri River which has lost 50 percent of its surface area due to channel-stablization procedures.

I agree with Judge Richey that the idea of a 12-foot channel is not dead, in spite of the legal prohibitation against it and the numerous environmental problems it would cause. I introduced an amendment in committee to prohibit a 12-foot channel and totally support the inclusion of this provision in H.R. 8309 especially when the consequences of a 12-foot channel are as damaging as they are.

The Blouin amendment also addresses environmental concerns by setting up a study by the GREAT team (great river environmental action team). They would develop a master plan for the river system taking into account not only the economic considerations but the environmental and recreational ones as well. Once this master plan is approved by the Mississippi River Commission and the Congress, no new construction could be undertaken unless it fit into the master plan. In developing this master plan, two studies would be mandated. The first would be a study of the environmental impacts of further construction on wildlife, water quality, and recreational use of the river. This study would be headed by the Department of the Interior and is very much needed.

The Blouin amendment also mandates a study of the relationship of any expansion of the navigational capacity of the Upper Mississippi to our national transportation policy, particularly the railroads. This study would be done by the Department of Transportation in consultation with other involved agencies. This study is needed because the continued expansion of the navigational capacity of the Upper Mississippi which is advocated by the Corps of Engineers has adversely impacted other forms of transportation. A study done by the corps would be prejudiced in favor of inland waterway transportation regardless of the consequences of transportation policy nationwide. DOT is concerned with the impacts of navigational improvements not only on the barge industry but on competing forms of transportation as well and would be able to make an objective study which would be needed before the master plan is developed.

One evidence of the corps' lack of concern for nationwide transportation policies is the corps' objection to user fees which would recover some of the huge investment this country has made in inland waterways. While the corps objects to them, DOT totally supports them because the investment in these waterways has amounted to a large subsidy by the American taxpayers to the barge industry. A 1975 study shows that 44 percent of the barge industries' expenditures were from Federal subsidies while Federal subsidies amounted to 1 percent of the expenditures of air carriers and highways and 2 percent of the railroads.

The user fees in this bill are hardly adequate, they will recover at the most only 25 percent of the operations and maintenance costs of the inland waterway system and none of the capital construction costs on this 25,000-mile system with 212 navigation locks and dams. Only 6 percent of the $488 the corps spent on commercial navigation projects in fiscal year 1977 would be recovered under the provisions of H.R. 8309 and it is expected that corps investment will climb to $841 by fiscal year 1982. Annually the corps and the Coast Guard spent almost $1 billion to support our inland and coastal waterways. Vessels on these waterways do not maintain or pay for the use of these waterways with the notable exception of the St. Lawrence Seaway where tolls on vessels and cargos not only cover operations and maintenance costs but annually return to the Treasury some of the original capital investment.

DOT has done numerous studies on the impacts of user fees on commodity prices and has shown that the average increase in feed crops costs would be less than 1 percent if a user fee recovered 100 percent of operation and maintenance costs, and the impact of the fees in this bill would be only one-fourth of that. The added cost of oil with a user fee recovering 100 percent of operation and maintenance costs would be 1.5 to 1.9 percent and the added cost of electricity because of added coal costs would be one-one hundredth of a cent per kilowatt hour.

Some have argued that we should not tax barges which are energy efficient, however, a Congressional Budget Office paper "Financing waterway development: the user charge debate" states:

Estimates of barge energy use generally fall in the range of 500–700 BTUs per ton mile, the estimates for rail are usually in the 300–700 BTU's and oil pipelines, 400–500 BTUs.

For these reasons, I believe that the user fee in this bill is much too low and that we should adopt a policy of user fees which recover 100 percent of operation and maintenance and 50 percent of construction costs like the Senate has.

The Blouin amendment makes much needed improvements in this bill and addresses the environmental concerns which this bill does not. In addition, the inclusion of the Blouin amendment would make the bill more consistent with the Senate bill which contains these provisions.

Mr. BREAUX. Mr. Chairman, will the gentleman yield?

Mr. OBERSTAR. I yield to the gentleman from Louisiana.

Mr. BREAUX. I thank the gentleman for yielding.

Just very briefly, I oppose the gentleman's amendment. I think if we adopt it, we would see a classic case of Congress studying itself to death and authorizing yet another study on top of a study that exists already, which has been complemented by an ongoing study itself. So I think we have reached a point where our studies, instead of giving us vital information, end up killing projects badly needed. Therefore, I strongly oppose the amendment.

Mr. SKUBITZ. Mr. Chairman, will the gentleman yield?

Mr. OBERSTAR. I yield to the gentleman from Kansas.

Mr. SKUBITZ. I thank the gentleman for yielding.

Will my colleague tell me how many studies have been carried on with regard to an overall waterway program?

Mr. OBERSTAR. My time limits do not permit me to list all the studies that have been carried out.

Mr. SKUBITZ. But I read in title III where we are talking about another study. Since 1939 there have been 19 different studies carried on with respect to water users tax in this country.

Mr. OBERSTAR. That is the point I was making a moment ago, that there are too many studies. I thank the gentleman for his comments.

Mr. SKUBITZ. Why do we suggest another one in title III?

Mr. OBERSTAR. Mr. Chairman, it is not yet Halloween, but the hobgoblins are already out. In fact, we might call this the hobgoblin amendment. It is encouraged and inspired not by my colleagues but by folks who see hobgoblins and spooks and booby traps all along the Mississippi River. They want to prevent

the Corps of Engineers from taking any further action on the Mississippi River in line with its principal role to insure navigation along the inland waterways of our country. The proposal to give the Department of the Interior a role for which it is not suited and to give it responsibility for which it is not equipped is simply to add another layer of bureaucracy on the Mississippi River navigation program over the Corps of Engineers. It is clearly an effort to prevent something that has already been taken care of in the committee report, an effort to assure that a 12-foot channel cannot be built in the Mississippi River, and we have already done that in the committee report.

I would like to quote from the committee report, which says:

> The authorization of a replacement dam with a 1,200-foot lock in no way constitutes an endorsement of, or a commitment to a study or construction of a 12-foot channel on the Upper Mississippi River.

This language could not be any plainer or clearer about the intention of the committee. The language in the report is clear about the thrust of this legislation, which is to assure that careful analysis will be done, that careful study will be made before any further action is taken with respect to expanding navigation on the Mississippi River. The language of the gentleman's original amendment and the language that is now in the bill which has passed the other body would have added another layer on top of the GREAT river study project which is now under way. They are now conducting the very studies proposed in the gentleman's amendment and it would cost another $9 to $12 million, as the gentleman from Kansas pointed out, in addition to the other studies.

As I already pointed out, giving a role to the Department of Interior and other agencies would simply add another layer, preventing the Executive branch from having one clear line of authority on this Mississippi River study, and I think the amendment is clearly intended to prevent any report from being printed, any study from being conducted on the Mississippi River, let alone a favorable study to continue an already fine navigation program.

So this is simply an obstructive amendment that this body ought to defeat and defeat soundly.

Mr. HAGEDORN. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. BURGENER. Mr. Chairman, will the gentleman yield?

Mr. HAGEDORN. I yield to the gentleman from California.

Mr. BURGENER. Mr. Chairman, I would like to associate myself with the remarks of the previous speaker, the other gentleman from Minnesota (Mr. OBERSTAR), and in opposition to this amendment.

Mr. Chairman, if I were to suggest that the Federal Government use the taxpayers' money to construct an automobile plant, and then turn that plant over—free of charge—to the Ford Motor Co., I would not be taken seriously. And rightly so—even though such an action should result in lower retail prices on Ford automobiles.

But this is almost exactly what has been done in the case of commercial water transportation. The Federal Government—at public expense—has built, maintained, and operated a costly system of navigable waterways for the benefit, principally, of commercial barge companies and their customers. The barge companies have been using this system free of charge—and it has been justified on the basis that it has brought about lower barge rates than would otherwise be possible.

When you consider that every dollar spent by those who ship by water is matched by services worth 41 cents of taxpayer money, it is not surprising that barge lines are able to undercut their competitors.

But the majority of freight shippers do not have access to, or cannot use, barge transportation. They must use other forms of transportation—such as the railroads—whose rates reflect the full cost of doing business.

These shippers are greatly disadvantaged relative to their competitors who do use water transportation. Or—to put it another way—those who ship by water have the advantage of a significant subsidy for their transportation expenses.

The proposal before us is a proper one insofar as it does finally establish the principle that the barge industry should pay a user charge.

But the charge it proposes falls far short of adequacy. Even so, it establishes a vitally important principle.

The fuel tax proposed here would cover about one-sixteenth of current Federal navigation-related expenses. Even when that tax climbs from 4 to 6 cents per gallon, in 1981, it would recover less than one-tenth of these expenditures.

Thus, while the proposed tax would impose no real limiting dicipline over future waterway spending projects, nor does it create "instant" equity among competing forms of transportation, it is a small step in a very important direction.

Mr. HAGEDORN. Mr. Chairman, I rise in opposition to the amendment as a back-door attempt to rig—in advance—water resources development policy in this country.

It is nothing short of that, and the fact is obvious when you look at the amendment. This is the opening shot in a campaign to put the Department of the Interior in the catbird seat when it comes to calling the shots on water resources.

Why do I say that? Look at the amendment. It is loaded with meaningless provisions that serve as nothing but camouflage for its intent.

We find, for example, a ringing declaration that there shall be no channel in the upper Mississippi or related systems deeper than 9 feet. That is totally unnecessary. No one has any earthly intention of dredging the Mississippi to a 12-foot channel.

Then there is this study of the upper Mississippi. Who could object? Its only apparent deficiency on the surface is the fact that it duplicates a whole raft of studies already authorized or otherwise provided in this bill.

Here is the key. Not only is the study called for duplicative, but we find that the Secretary of the Interior made the lead agency with respect to that element of the study relating to carrying capacity of the river.

Moreover, with respect to the impact of any increase of navigation capacity on national transportation policy, railroads and shippers dependent on railroads, we find the Department of Transportation as the lead agency.

These are not arcane subtleties, Mr. Chairman, not to those of us who have historically had the legislative responsibility for the types of improvements involved. Such an approach would cut out, or severely subordinate, the role of the Corps of Engineers with its expert capability to make balanced recommendations encompassing both in navigation and environmental considerations.

There appears to be a new game in town, gamesmanship by studies. He who asks the questions is giving half the answer.

To put the Department of the Interior into this position with respect to the Upper Mississippi River Basxi Basin would shortchange considerations other than environmental. That is for openers.

But am deeply concerned that if we do so in this instance, and start cutting and trimming the role of the Corps of Engineers, we will wind up with the Interior Department gaining increasing control of water resources policy.

I may as well put it bluntly: Chop the corps out of its traditional role and you will diminish the ability of the Committee on Public Works and Transportation, with its jurisdiction over the corps, to authorize improvements needed for a variety of purposes throughout the country. This affects your district and mine.

The outcome of this vote could well help determine whether the programs of the Corps of Engineers winds up in the Department of the Interior.

Mr. RUPPE. Mr. Chairman, I rise in support of H.R. 8309, the Navigation Development Act, which, in pertinent part, authorizes replacement of locks and dam 26 at Alton, Ill., with a new dam and a single 1,200-foot lock at an estimated cost of $432 million including a study of the desirability and feasibility of a second lock, imposition of a 4- to 6-percent excise tax on fuels used by commercial cargo vessels on specified inland waterway systems, and studies, jointly and separately, by the Secretaries of Commerce and Transportation and by the General Accounting Office.

The studies will assess the impacts of this excise tax on carriers, shippers, users, and international trade. These agencies will seek to enlarge upon past studies and balance the equities in regional development and competing users of the waterways in a cooperative process with the National Transportation Policy Study Commission. Meanwhile,

the General Accounting Office will be asked to undertake a separate study of the effect of fuel taxes and other possible charges on the users of federally-maintained waterways in which it will give consideration of the subsidies extended to competing modes of commercial transportation and their impact on the national economy.

I am satisfied that a new modern locks and dam 26 is justified though I am very concerned about the possibility that this proposal in its present form could result in a precipitous rush to further develop the Mississippi River system. I will address this concern in greater detail later in these remarks.

I am satisfied also that the principle of user pay has been more positively established albiet in an understandably cautious approach. While mindful of the trite phrase, "There ain't no free lunch," which in this case is likely to result in some consumer burdens, I am optimistic that users of an affected system will likely be more cautious in their demands for Federal, and taxpayer, assistance. I should note the apparent misconception under which many of my colleagues labor and that is the notion that for the first time users of a U.S. waterway system are willing to pay a charge for services rendered. Users of the gateway into the Great Lakes, the St. Lawrence Seaway, have been paying tolls since 1959, and are at this very moment facing higher commodity and lockage tolls.

The studies initiated by the legislation, I expect, will not only address the problems of the systems primary users but will involve the secondary beneficiaries in an effort to balance the equities. A paramount concern of mine relates to the disposition of revenues derived from a system of user charges. As indicated in a recent Workboat article, I believe, for example, that shoreline property owners adversely affected by waterways use and development should receive fair compensation from the system rather than having all revenues set aside for the general fund or for further system development.

I have indicated my concern for any rush to expansion of the Mississippi River system especially above Cairo, Ill. To this end, I support the amendment surfaced by the gentleman from Iowa (Mr. BLOUIN). His detailed proposal would establish a council that would develop a master plan for the management of the upper Mississippi River system in cooperation with the appropriate Federal, State, and local officials. The process of developing a comprehensive master plan for the management of the upper Mississippi River system as a prerequisite to further development appears to have been built upon the sometimes traumatic experiences of a current winter navigation demonstration program for the Great Lakes. I would expect any plan developed to be subject to continuous review and improvement as any congressionally approved demonstration programs or other development initiatives proceed.

In balance, I find that an equitable compromise has been struck in H.R. 8309 as amended by the Blouin proposal.

AMENDMENT OFFERED BY MR. ROBERTS AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. BLOUIN

Mr. ROBERTS. Mr. Chairman, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. ROBERTS as a substitute for the amendment offered by Mr. BLOUIN:

Page 8, strike out lines 19 through 25 and insert in lieu thereof the following:

SEC. 102. (a) The Secretary of the Army, acting through the Chief of Engineers, is authorized to replace locks and dam 26, Mississippi River, Alton, Illinois and Missouri, by constructing a new dam and a single, one-hundred-and-ten-foot by one-thousand-two-hundred-foot lock at a location approximately two miles downstream from the existing dam, substantially in accordance with the recommendations of the Chief of Engineers in his report on such project dated July 31, 1976, at an estimated cost of $421,000,000.

(b) The channel above Cairo, Illinois, on the Mississippi River shall not exceed nine feet, and neither the Secretary of the Army nor any other Federal official shall study the feasibility of deepening the navigation chanels in the Minnesota River, Minnesota; Black River, Wisconsin; Saint Croix River, Minnesota and Wisconsin; the Mississippi River north of Cairo, Illinois; the Kaskaskia River, Illinois; and the Illinois River and Waterway, Illinois, unless specifically authorized by a future Act of Congress.

(c) There are authorized to be appropriated to the Secretary of the Army such sums as are necessary to carry out the provisions of subsection (a) of this section for fiscal year 1978 and succeeding fiscal years.

SEC. 103. (a) The Congress hereby authorizes and directs the preparation of a comprehensive master plan for the management of the Upper Mississippi River to be prepared by the Upper Mississippi River Basin Commission (hereinafter referred to as the "Commission"), acting through the Great River Environmental Action Team, and in cooperation with the appropriate Federal, State, and local officials. A preliminary plan shall be prepared by January 1, 1981. The plan shall be subject to public hearings in each affected State. The Commission shall review all comments presented at such hearings and submitted in writing to the Commission and shall make any appropriate revisions in the preliminary plan, and shall, by January 1, 1982, submit to the Congress for approval a final master plan. Public participation in the development, revision, and enforcement of said plan shall be provided for, encouraged, and assisted by the Commission. The Commission shall, within one hundred and fifty days of enactment of this Act, publish final regulations in the Federal Register specifying minimum guidelines for public participation in such processes. Approval of the final master plan shall be granted only by enactment of the Congress. Changes to the master plan proposed by the Commission shall require enactment by the Congress to become effective. All related activities inconsistent with the master plan or guidelines shall be deemed unlawful.

(b) The master plan authorized under subsection (a) of this section shall identify the various economic, recreational, and environmental objectives of the Upper Mississippi River System, recommended guidelines to achieve such objectives, and propose methods to assure compliance with such guidelines and coordination of future management decisions affecting the Upper Mississippi River System, and include any legislative proposals which may be necessary to carry out such recommendations and objectives.

(c) For the purposes of developing the comprehensive master plan, the Commission is authorized and directed to conduct such studies as it deems necessary to carry out its responsibilities under this section, with provision that it utilize, to the fullest extent possible, the resources and results of the Upper Mississippi River resources managements (GREAT) study conducted pursuant to section 117 of the Water Resources Development Act of 1976 (Public Law 94-587) and of other ongoing or past studies. The Commission shall request appropriate Federal, State or local agencies to prepare such studies, and any Federal agency so requested is authorized to conduct any such study for the purpose of this section. Studies conducted pursuant to this section shall include, but not be limited to the following:

1. The carrying capacity of the Upper Mississippi River System, and (b) the long- and short-term systemic ecological impacts of (i) present and any projected expansion of navigation capacity on the fish and wildlife, water quality, wilderness, and public recreational opportunities of said rivers, (ii) present operation and maintenance programs, (iii) the means and measures that should be adopted to prevent or minimize loss of or damage to fish and wildlife, and (iv) a specific analysis of the immediate and systemic environmental effects of any second lock at Alton, Illinois, and provide for the mitigation and enhancement of such resources.

2. The relationship of any expansion of navigational capacity of the Upper Mississippi River System to national transportation policy, (b) the direct and indirect effects of any expansion of navigational capacity of the Nation's railroads and on shippers dependent upon rail service, (c) the transportation costs and benefits to the Nation to be derived from any expansion of navigational capacity on said River System, and (d) a specific evaluation of the need for a second lock at Alton, Illinois, and the needs for such a second lock at Alton, Illinois. For the purposes of this paragraph, the Secretary of the Army acting through the Chief of Engineers shall be considered the primary agency with the cooperation of any other agencies the Commission shall deem appropriate.

3. Studies and demonstration programs, including a demonstration program to evaluate the benefits and costs of disposing of dredge spoil material in contained areas located out of the flood plain. Said program shall include, but shall not be limited to, the evaluation of possible uses in the marketplace for the dredge spoil studies and demonstration programs to minimize the environmental effects of channel operation and maintenance activities.

4. Development for the Upper Mississippi River System of a computerized analytical inventory and system analysis to facilitate evaluation of the comparative environmental effects of alternative management proposals.

(d) Guidelines developed pursuant to this section shall include, but not be limited to, guidelines for channel maintenance, minimization of dredging volumes, alternate uses of dredged material, barge fleeting, protection of water quality, fish and wildlife protection and enhancement, wilderness preservation, and management of the wildlife and fish refuges within and contiguous to the Upper Mississippi River System.

(e) To carry out the provisions of this section, there are authorized to be appropriated to the Commission $20,000,000. The Commission is authorized to transfer funds to such Federal, State or local government agencies as it deems necessary to carry out the studies and analysis authorized in this section.

(f) The Upper Mississippi River System consists of those river reaches containing

commercial navigation channels on the Mississippi River main stem north of Cairo, Illinois; the Minnesota River, Minnesota; Black River, Wisconsin; and Saint Croix River, Minnesota and Wisconsin.

(g) Except for the provisions of section 102 of this Act, and necessary operation and maintenance activities, no replacement, construction, or rehabilitation that expands the navigation capacity of locks, dams, and channels shall be undertaken by the Secretary of the Army to increase the navigation capacity of the Upper Mississippi River System, until the master plan prepared pursuant to this section has been approved by the Congress.

(h) The lock and dam authorized pursuant to section 102 of this Act shall be designed and constructed to provide for possible future expansion. All other navigation-related construction activities initiated by the Secretary of the Army on the Upper Mississippi River north of Cairo, Illinois, shall be initiated only in accordance with the guidelines set forth in the master plan.

Renumber succeeding sections and references thereto accordingly.

Mr. ROBERTS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. ROBERTS. Mr. Chairman, this amendment is an amendment in the nature of a substitute to the amendment offered by the gentleman from Iowa. This substitute is essentially the same as the gentleman's amendment but with some minor revisions which insure that the studies of the Upper Mississippi River and of the need for and impact of any expansion of navigation capacity are performed by the appropriate agencies.

The gentleman's amendment would assign the basic responsibility for the comprehensive study and development of a master plan to the Upper Mississippi River Basin Commission. We agree with this concept, as this is a proper role for the River Basin Commission. However, the gentleman's amendment in section 102(c)(1) designates the Department of the Interior as the primary agency for studying environmental impacts on, and protection measures for, the Upper Mississippi. We feel this is an unwarranted expansion of the traditional role of the Department of the Interior and that this part of the study, as the other parts of the study, should properly be done by the Commission. Our substitute provides for that.

Our substitute also makes it clear that the Secretary of the Army who is responsible for the development and maintenance of this Nation's inland navigation system, will play the primary role in determining the feasibility of, and need for, a second lock in the replacement of locks and dam 26 whenever a study of such a second lock is undertaken.

Finally, our substitute makes it clear that the prohibition against any construction activities by the Secretary of the Army which are not in accordance with the master plan applies only to navigation related projects and not to other projects such as flood control projects.

Mr. Chairman, the substitute we offer perfects the gentleman's amendment and insures that it will result in an effective and workable study and master plan for the Upper Mississippi River. I urge adoption of the substitute.

Mr. OBERSTAR. Mr. Chairman, will the gentleman yield?

Mr. ROBERTS. I yield to the gentleman from Minnesota.

Mr. OBERSTAR. Mr. Chairman, I want to compliment my chairman on this amendment, which responds to the questions that I had about the amendment of the gentleman from Iowa. It does keep the study intact, assigns the proper lead role to the Corps of Engineers, the agency that is properly endowed with talent and years of experience for handling navigation works and the substitute amendment retains the essential protection against deepening of the Mississippi River channels and consequent expansion of navigation unless specifically authorized by further act of Congress.

Mr. HARSHA. Mr. Chairman, will the gentleman yield?

Mr. ROBERTS. I yield to the gentleman from Ohio.

Mr. HARSHA. Mr. Chairman, the minority will accept the amendment. It is an improvement over the present amendment offered by the gentleman from Iowa; but it still does not relieve us of the problem of having three or four additional studies going on. I do not see the necessity of any further study, except what is already authorized, but this is an improvement and we will accept it.

Mr. QUIE. Mr. Chairman, will the gentleman yield?

Mr. ROBERTS. I yield to the gentleman from Minnesota.

Mr. QUIE. Mr. Chairman, the gentleman from Ohio talks about an additional study. As I understood, this will allow the GREAT Study to continue its work and that is the study we are talking about; is that correct?

Mr. ROBERTS. That is correct.

Mr. QUIE. Mr. Chairman, if the gentleman will yield further, I certainly support that, because while there have been some objections by some people, I think GREAT has been doing an outstanding job.

The second point that the gentleman raises, it is of tremendous concern along the Mississippi River that this may in some way lead to deepening of the channel. I believe we will stay at the 9-foot and never go to a 12-foot channel. Is this a part of the legislative history, or does the gentleman's amendment carry a prohibition going against deepening the channel below 9 feet?

Mr. ROBERTS. Mr. Chairman, it carries a prohibition.

Mr. QUIE. Mr. Chairman, I thank the gentleman and support the Roberts substitute.

Mr. BLOUIN. Mr. Chairman, will the gentleman yield?

Mr. ROBERTS. I yield to the gentleman from Iowa.

Mr. BLOUIN. Mr. Chairman, let me first ask a couple questions, if I may. As I understand it, the gentleman's amendment is language-wise nearly identical to our original amendment?

Mr. ROBERTS. Except with two or three points.

Mr. BLOUIN. To make the Secretary of the Army as the primary agency and to limit the study scope to what they are involved in at this point?

Mr. ROBERTS. Yes.

Mr. BLOUIN. Mr. Chairman, if the gentleman will yield further, judging by the temper of floor and the desire on the part of the committee to want to respond to many of our concerns, I think this is more than fair and I would be willing to accept this as a clear substitute.

The CHAIRMAN. The time of the gentleman from Texas has expired.

(By unanimous consent, Mr. ROBERTS was allowed to proceed for 1 additional minute.)

Mr. MICHEL. Mr. Chairman, will the gentleman yield?

Mr. ROBERTS. I yield to the gentleman from Illinois.

Mr. MICHEL. I thank the gentleman for yielding to me. All I want to do is to follow up on the question asked by the gentleman from Minnesota (Mr. QUIE) with respect to the prospects of any 12-foot channel. Do I understand correctly that the language in the gentleman's amendment absolutely forecloses the possibility of studying a 12-foot channel in the Mississippi above Cairo, Ill., including all of its tributaries? I ask this question because, as the gentleman knows, the Illinois River runs all the way through my district, and those of us who live along that river are dead set against deepening that channel. Anything that would lead to even a study of it would have to get our opposition.

Mr. ROBERTS. The answer to the gentleman is yes.

Mr. MICHEL. I thank the gentleman.

Mr. FRASER. Mr. Chairman, will the gentleman yield?

Mr. ROBERTS. I yield to the gentleman from Minnesota.

Mr. FRASER. I want to make sure—I have not had a chance to compare the language of the two amendments, but is it the gentleman's intention that the environmental concerns expressed in the original amendment are carried forward in his amendment?

Mr. ROBERTS. Yes.

Mr. FRASER. The concern about the environment and the requirement to look at those issues, to look at this point?

Mr. ROBERTS. I emphasize again that this is the committee that brought that subject to the Congress.

Mr. FRASER. I thank the gentleman.

Mr. Chairman, the language we are offering is a compromise worked out between Representatives BLOUIN, OBEY, MIKVA, QUIE and myself. We fully support this amendment which is aimed at protecting the Upper Mississippi River System from what we see as potentially adverse environmental impacts if the safeguards we propose are not incorporated into the locks and dam 26 bill. Similar language was developed by Senator GAYLORD NELSON and included in the Senate-passed version.

Our two-part amendment does not affect the rebuilding of the new 1,200-foot lock at Alton, Ill. However, there can be no further expansion of the Upper Mississippi River's navigation system until Congress approves a master plan. The master plan, to be submitted to Congress

for approval in 1982, would identify the various economic, environmental and recreational objectives of the Upper Mississippi River system. The amendment also mandates a study of the Upper Mississippi by the Secretary of the Interior to determine the carrying capacity of the river system and a study by the Department of Transportation into the role of the new lock in the national transportation system. The second part of our amendment would prohibit any studies of the feasibility of deepening the present 9-foot navigation channel above Cairo, Ill., unless specifically authorized by Congress. Cairo is at the confluence of the Mississippi and Ohio Rivers and all 27 locks on the Upper Mississippi are north of this point.

We accepted the Quie proposal which would use the existing structure of the Upper Mississippi River Basin Commission to coordinate development of the master plan instead of creating a new Council to direct work on the master plan. In return, we would keep our original language directing the Departments of Transportation and Interior to be the lead agencies on certain environmental and transportation studies.

The Department of the Interior will be the lead agency working with the Commission when conducting studies on the following issues:

First, determining the carrying capacity of the Upper Mississippi River System; second, examining the long and short-term systemic economic impact of present and any projected expansion of navigation capacity on fish, wildlife, water quality, wilderness and public recreational opportunities; third, means and measures that should be adopted to prevent or minimize loss of or damage to fish and wildlife; and fourth, analyze the immediate and systemic environmental effects of any second lock at Alton and provide for the mitigation and enhancement of such resources. Since Interior is the primary agency for these studies, this does not preclude participation by other agencies which the Commission feels should have a voice.

Bob Herbst, Assistant Secretary of Interior for Fish and Wildlife and Parks has expressed support for our amendment in an October 5 letter to my office. Herbst explains:

As you know, the Administration and this Department oppose any channel depth in excess of 9-feet north of Cairo, Illinois. We also support studies to determine carrying capacity, natural resource impact of expanded navigation, and the effect of any expansion on other aspects of the transportation network. . . . From the specific point of view of the Fish and Wildlife Service, we have no objection to the concept of the master planning provision.

The Department of Transportation working with the Basin Commission will be the lead agency when looking at the role of a new lock in our national transportation system. DOT will also examine: First, effects any expansion of navigational capacity will have on our railroads and on shippers dependent upon rail service; second, transportation costs and benefits to our country which might be derived from an expansion of the Upper Mississippi River's navigational capacity; and third, the need for a second lock at Alton, Ill.

Secretary Brock Adams supports the amendment. In a letter received by my office this morning, he writes:

I understand that your amendment would have no effect on the construction of a new lock and dam 26, would require a master plan for the Upper Mississippi navigation system, and would bar a deepening of the channel above Cairo, Illinois, without authorization from Congress. Since the Department supported the Nelson amendment, it would not be opposed to and would support your amendment.

We appreciate the Secretary's support and applaud his efforts to see that we study carefully the role of navigation development in our national transportation system.

The Western Railroad Association also supports this language. General Counsel J. D. Feeney writes:

These sections require, for the first time, careful consideration of how new barge projects affect the overall barge, rail and highway networks. The current practice is to consider barge projects as isolated changes without regard to their effects on shippers using other parts of the transportation system. This can lead to construction which increases overall transportation costs instead of promoting more efficiency.

In the October 5 letter, Mr. Feeney continues:

The formulation of a master plan . . . is a comprehensive approach to Midwest transportation which is absolutely necessary in order for Congress and the public to evaluate proposed barge projects. While the Upper Mississippi River Basin Commission's "GREAT I" study is a preliminary step in the right direction, the master plan mandates the assessment on a broader geographic basis which is needed to avoid grave financial impact on rail-oriented businesses.

The prohibition on studying the feasibility of a 12-foot navigation channel on the Upper Mississippi unless authorized by Congress is also an important part of our amendment. While the Corps of Engineers denies that rebuilding locks and dam 26 with an 18-foot sill depth is a step toward dredging for a 12-foot channel, Corps documents indicate otherwise. Representative DAVID BONIOR has done an excellent job of addressing this issue in his supplemental views in the committee report.

The concern is that the increased sill depth—from 10 to 18 feet—will make a stronger case for a 12-foot navigation channel. The sill depth in the lock would provide a 15-foot clearance for a 12-foot navigation channel plus 3 additional feet to provide for ice, frozen soil, or debris that frequently clings to barges during winter months. And 12-foot navigation could pass freely through the new lock and dam 26 of Alton, Ill. The Corps says this feature is only a side benefit. If all current locks were replaced on the Upper Mississippi's current 9-foot channel with locks like the one authorized in this bill, a 12-foot channel could be accomplished without major expenditures—a proposal that would have a good cost/benefit ratio.

Another matter to consider is the possibility of having the Corps dredge a de facto 12-foot channel. Last March, the first tow of the 1977 navigation season, the motor vessel *Ann King* with 12 loaded barges, grounded at Reads Landing, Minn. At the time, according to a March 29 corps report, the channel had depths of 9.5 to 10.5 feet. The overloaded barges had grounded within the buoy marked navigation channel.

On March 30, the Corps of Engineers, St. Paul District, initiated emergency dredging at Reads Landing. To quote from the corp's report:

Emergency dredging will be accomplished to a depth of 12-feet.

This concerns me especially when viewed in light of potential adverse environmental effects caused by the excess dredge spoil, such as turbidity of the river water and resultant wildlife loss and water quality degradation. Although this amendment does not prohibit such emergency dredging, I think it puts Congress on record as concerned about the possibility of having the Corps proceed with 12-foot channel studies without guidance from Congress. This is why I feel it is important to have the 12-foot channel language in the committee report and, more importantly, in the bill itself.

I believe our amendment is designed to insure the balanced growth of the Upper Mississippi River Basin. As representatives of States bordering the basin, we are particularly interested in maintaining the system's multipurpose character by providing recreation and environmental as well as commercial benefits.

Mr. SNYDER. Mr. Chairman, I move to strike the requisite number of words. I do that for the purpose of addressing a question and, I hope, clarifying this.

Am I correct that in the gentleman's prohibition against more than a 9-foot channel, that is not intended to mean that the Corps of Engineers will have to go in to fill the pool right behind the dam or wherever it is over 9 feet deep?

Mr. ROBERTS. The gentleman is absolutely correct. It is also necessary that we have a deeper sill depth within the lock. The gentleman is correct. I appreciate his pointing it out.

Mr. SNYDER. I just thought that ought to be clear for the record. I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. ROBERTS) as a substitute for the amendment offered by the gentleman from Iowa (Mr. BLOUIN).

The amendment offered as a substitute for the amendment was agreed to.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Iowa (Mr. BLOUIN), as amended.

The amendment, as amended, was agreed to.

The CHAIRMAN. Are there further amendments to title I?

If not, the Clerk will read title II.

The Clerk read as follows:

TITLE II—TAX ON FUEL USED IN COMMERCIAL TRANSPORTATION ON INLAND WATERWAYS

SEC. 201. IMPOSITION OF TAX.

(a) Chapter 31 of the Internal Revenue Code of 1954 (relating to special fuels) is amended by adding at the end thereof the following new section:

"SEC. 4042. TAX ON FUEL USED IN COMMERCIAL TRANSPORTATION ON INLAND WATERWAYS.

"(a) IN GENERAL.—There is hereby imposed a tax upon any liquid used during any calendar quarter by any person as a fuel in a vessel in commercial water transportation.

"(b) AMOUNT OF TAX.—The tax imposed by subsection (a) shall be—

"(1) in the case of a use after September 30, 1979, and before October 1, 1981, 4 cents a gallon, or

"(2) in the case of a use after September 30, 1981, 6 cents a gallon.

"(c) EXEMPTIONS.—

"(1) DEEP-DRAFT OCEAN-GOING VESSELS.—The tax imposed by subsection (a) shall not apply with respect to any vessel designed primarily for use on the high seas which has a draft of more than 12 feet.

"(2) PASSENGER VESSELS.—The tax imposed by subsection (a) shall not apply with respect to any vessel used primarily for the transportation of persons.

"(3) USE BY STATE OR LOCAL GOVERNMENT IN TRANSPORTING PROPERTY IN A STATE OR LOCAL BUSINESS.—Subparagraph (B) of subsection (d)(1) shall not apply with respect to use by a State or political subdivision thereof.

"(d) DEFINITIONS.—For purposes of this section—

"(1) COMMERCIAL WATER TRANSPORTATION.—The term 'commercial water transportation' means any use of a vessel on any inland or intracoastal waterway of the United States—

"(A) in the business of transporting property for compensation or hire, or

"(B) in transporting property in the business of the owner, lessee, or operator of the vessel (other than fish or other aquatic animal life caught on the voyage).

"(2) INLAND OR INTRACOASTAL WATERWAY OF THE UNITED STATES.—The term 'inland or intracoastal waterway of the United States' means any inland or intracoastal waterway of the United States which is subject to the Nevigation Development Act by reason of section 103 of such Act (as in effect on the date of the enactment of such Act).

"(3) PERSON.—The term 'person' includes the United States, a State, a political subdivision of a State, or any agency or instrumentality of any of the foregoing.

"(e) DATE FOR FILING RETURN.—The date for filing the return of the tax imposed by this section for any calendar quarter shall be the last day of the first month following such quarter."

(b) Section 4293 of such Code (relating to exemption for United States and possessions) is amended by striking out "chapters 31 and 32" and inserting in lieu thereof "section 4041, chapter 32,".

(c) The table of sections for chapter 31 of such Code is amended by adding at the end thereof the following new item:

"Sec. 4042. Tax on fuel used in commercial transportation on inland waterways."

(d) The amendments made by this section shall take effect on October 1, 1979. The first proposed regulations under section 4042 of the Internal Revenue Code of 1954 shall be published in the Federal Register not later than the day which is 9 months after the date of the enactment of this Act.

Mr. ULLMAN (during the reading). Mr. Chairman, I ask unanimous consent that title II be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Oregon?

Mr. HARSHA. Mr. Chairman, I ask unanimous consent that we may offer a perfecting amendment to title I.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

AMENDMENT OFFERED BY MR. HAGEDORN

Mr. HAGEDORN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. HAGEDORN: On page 12, line 21 of the bill, strike "14" and insert in lieu thereof "21".

Mr. HAGEDORN. Mr. Chairman, the purpose of this amendment is to correct an error.

Mr. ROBERTS. Mr. Chairman, will the gentleman yield?

Mr. HAGEDORN. Yes, I yield to the gentleman from Texas.

Mr. ROBERTS. This is strictly a corrective amendment. It should have been "21" instead of "14" miles. It is 21 miles. The gentleman is correct, and we accept his amendment and would like to thank the gentleman for calling it to our attention.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Minnesota (Mr. HAGEDORN).

The amendment was agreed to.

The CHAIRMAN. Is there objection to the request of the gentleman from Oregon to dispense with further reading of title II?

There was no objection.

The CHAIRMAN. Are there any committee amendments to title II?

Mr. PIKE. Mr. Chairman, I move to strike the last word.

Mr. Chairman, it is my understanding that under the rule a motion to strike title II would not be in order. And that is too bad, because this product of a shotgun wedding between a needed public works project and an unneeded tax is poor legislation, to start with. It has been described, first of all, as a user tax. It is not a user tax. It is a sort of user tax. This is a tax which applies to commerce, which is vital to our Nation, but does not apply to pleasure. The commercial vehicles will pay the tax and the pleasure vehicles will not pay the tax.

Mr. ROBERTS. Mr. Chairman, will the gentleman yield?

Mr. PIKE. I yield to the gentleman from Texas.

Mr. ROBERTS. The pleasure boats already pay the tax.

Mr. PIKE. The pleasure boats already pay the tax, but it does not go to any of this project. That is not where the shotgun was being pointed.

Mr. ROBERTS. If the gentleman will yield further, this goes right into the Treasury.

Mr. PIKE. The pleasure boat tax does not. It goes to the land and water recreation fund.

Mr. KETCHUM. Mr. Chairman, will the gentleman yield?

Mr. PIKE. I yield to the gentleman from California.

Mr. KETCHUM. The chairman is quite right. There is a tax for the pleasure boats, but that is used as a user fee for the land and water conservation fund.

Mr. PIKE. The gentleman is correct. The shotgun was aimed at commerce. It was not aimed at the pleasure boat. That is the first thing that is wrong with this tax.

The second thing that is wrong with it is that this is a tax on American commerce because it is a tax for the shallow water draft boats, and these are the American boats. We have the dredged Chesapeake Bay out there and we have all of the deepwater harbors in the area, and these are used by Liberian boats, by the Russian boats, and they do not pay the commerce tax; they do not pay the diesel fuel tax. So this is a tax aimed against American commerce while our competing ships do not pay any tax.

Finally, if there is one thing I thought we were interested in in this Congress, it was the conservation of energy. We spent weeks and weeks and weeks in the Committee on Ways and Means and we spent a long time on the floor of the House trying to find ways to conserve energy. We look for energy-efficient uses and, in so doing, for example, we took the tax off of the diesel fuel which is used by buses. Barges are 5 times as fuel efficient as buses in moving tonnage around the country. They are even more fuel efficient than oil pipelines in moving fuel around the country. So what we are doing here is that for the first time in 200 years we are putting a tax on the most fuel-efficient, energy-efficient method of transportation in the United States of America. This is a contradiction of everything we have been doing and everything we have been talking about, as far as energy is concerned. It is a terrible product of a shotgun pointed.

Mr. SNYDER. Mr. Chairman, will the gentleman yield?

Mr. PIKE. I yield to the gentleman from Kentucky.

Mr. SNYDER. I thank the gentleman for yielding.

Mr. Chairman, what the gentleman is saying is absolutely 100 percent correct. There is only one problem, and that is that if we do not enact the fuel tax, we are not going to have any more further improvements on the navigational systems to go ahead and improve this great fuel-efficient way of moving cargo, because the administration has said they are going to veto the bill.

Mr. PIKE. Mr. Chairman, I think that what the gentleman is stating is also the fact. All I am saying to the gentleman is that I am not willing to submit to the shotgun, and I hope that the motion to recommit, which will come from the gentleman's side, will provide for striking out the fuel tax.

Mr. EDGAR. Mr. Chairman, I move to strike the last word.

The CHAIRMAN. Without objection, the gentleman is recognized. The Chair would, however, state that under the rule even pro forma amendments are not allowed to title II.

When the committee reaches consideration of title III, then it might be possible to discuss this in a more normal parliamentary fashion. If the gentleman from Pennsylvania (Mr. EDGAR) will permit, the Clerk will read title III.

The Clerk will read.

The Clerk read as follows:

TITLE III

SEC. 301. (a) The Secretary of Commerce and the Secretary of Transportation jointly shall undertake a study, in consultation with the Secretary of the Treasury, the Secretary of Agriculture, the Administrator of the Federal Energy Administration (or his successor), and the Secretary of the Army, and make findings and policy recommendations, regarding any fuel tax imposed on inland waterway users, or alternative or supplemental charges, and on related matters. Such study shall include, but not be limited to, a consideration of the following areas:

(1) The economic impacts on (i) carriers and shippers using the inland waterways, (ii) users, including the ultimate consumers, of products which are transported on the inland waterways, and (iii) the balance of payments of the United States based on our international trade. The pricing and diversion effects on competition for freight. The effects upon the costs of energy, and the increases resulting therefrom, if any, in the amounts paid by consumers for energy. An evaluation of effects on regional development, including consistency with Federal policies as set forth in other legislation.

(2) The extent to which the Federal Government should seek to recover some or all of Federal expenditures for the benefit of waterborne transportation from the users of the facilities for which such expenditures are made.

(3) The classes and categories of waterway users upon whom fuel taxes, or other charges, should be imposed.

(4) The waterways of the United States (including specifically ports) which should be included in any system of fuel taxes or other forms of charges on users, together with the economic impact and effect on such waterways and users of such inclusion.

(5) The comparative levels of benefits received from Federal expenditures on waterways by (i) commercial users, and (ii) other users, including, but not limited to, users for recreation, reclamation, water supply, hydroelectric power, flood control, and irrigation purposes.

(6) The disposition and application of revenues derived from the taxes and other charges imposed on waterway users, including consideration of trust fund mechanisms.

(b) Not later than three years after the date of enactment of this Act, the Secretary of Commerce and the Secretary of Transportation shall transmit to Congress a final report of the study authorized by this section, together with their findings and recommendations and those of the Secretary of the Treasury, the Secretary of Agriculture, the Administrator of the Federal Energy Administration (or his successor), and the Secretary of the Army.

(c) Nothing in this Act shall be construed to prohibit or otherwise restrict the National Transportation Policy Study Commission established by section 154 of Public Law 94–280 from studying any matter authorized to be studied by this section, and notwithstanding subsection (c) of such section 154, not later than six months after the submission of the final report by the Secretary of Commerce and the Secretary of Transportation required by subsection (b) of this section, the National Transportation Policy Study Commission shall submit to Congress its evaluation and review of such report, together with its recommendations, including any necessary legislation.

Mr. ROBERTS (during the reading). Mr. Chairman, I ask unanimous consent that title III be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. EDGAR. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would like to speak to the comments of the gentleman from New York (Mr. PIKE) about energy efficiency. I would not like the RECORD to indicate that everyone is in agreement with his statement that barges are the most efficient energy transportation mode. I think pipelines are more efficient than barges.

There are studies that indicate that barges, while they do have some efficiency in the area of energy, are not necessarily the most efficient mode.

I draw the attention of the House to the Congressional Budget Office report of July 1977, in which the following statement is found:

> Opponents of waterway user charges argue that barge transportation should be encouraged by a subsidy because it is more energy-efficient than competing methods of transportation. Relative energy use varies greatly in specific circumstances because of differences in size, speed, and type of shipments for barges, railroads, pipelines, and trucks. When reasonable estimates vary so widely one can only conclude that blanket statements on energy efficiency are unwarranted . . .

One of the reasons that I focus our attention on this statement is that it is part of a whole series of reports that have come out relating to the issue of waterway user fees and charges. While I recognize the concern of the gentleman who took the well on title II, I would want the House to focus its attention on some of the many competent reports by the Department of Transportation, the Army Corps of Engineers, and the Congressional Budget Office, all of which suggest that reasonable recovery of waterway user fees is good policy today, and would have made sense 40 years ago.

Mr. Chairman. I would hope that the study authorized by title III of this bill will look at the impact of the minimal tax we are applying in title II. If the study concludes that a higher tax is more appropriate I hope we can come back in 2 or 3 years to provide for a higher recovery of the more than $400 million in annual Federal expenditures obligated to construct, operate, and maintain the inland navigation system.

Mr. PIKE. Mr. Chairman, will the gentleman yield?

Mr. EDGAR. Before I yield to the gentleman from New York, I would like to clarify a part of Tuesday's debate.

Mr. Chairman, it has been brought to my attention that reference was made during Tuesday's debate on this legislation that the Public Works and Transportation Committee reviewed the environmental impact statement relating to the replacement of lock and dam 26, and finds this report to be in full compliance with the requirements of the National Environmental Policy Act. As a member of this committee, I want to make it clear that as far as I know, the committee did not officially consider the merits of the environmental impact statement. Even if we had, I do not see such consideration or authorization of lock and dam 26 in H.R. 8309 as waiving compliance with all the requirements of the National Environmental Policy Act, or any other applicable statutes. I strongly feel that it would set a bad precedent to give any legal foundation to this statement made during Tuesday's debate. Because this issue is being litigated currently, I feel it is important to clarify the statement made by the acting chairman of the Public Works and Transportation Committee.

I now yield to the gentleman from New York.

Mr. PIKE. Mr. Chairman, I will simply say that the Congressional Budget Office study did say that, but the Department of Transportation figures themselves are included in my dissenting views, which are found on page 49 of the committee report. After looking at the CBO studies and a lot of the other studies, we find that the Department of Transportation came down with statistics on Btu's per ton-mile showing the following figures:

Domestic waterway, 479; oil pipeline, 525; railroad, 649; and trucks, to which we have just given a break, 2,811.

Mr. EDGAR. Mr. Chairman, I appreciate the gentleman's clarification. I would indicate to the gentleman that there is also some controversy on the development of those studies, because many of the energy studies historically fail to include the energy used in getting the commodity to the barge, and I think all of that has to be taken into consideration.

I would like to point out that even if everything the gentleman says is correct about barges and energy efficiency, that is not enough in my mind to justify a Federal subsidy of a magnitude of 42 percent of revenues for the entire industry. The statistics cited by the gentleman from New York would indicate that there are only marginal energy savings by the barge mode over the pipeline mode, even neglecting the questionable methodology of the DOT study which was pointed out by the Congressional Budget Office report. No one suggests that we subsidize pipelines.

The fact remains that the barge industry continues to get a free ride at the expense of other transportation modes. The lack of a reasonable waterway user charge or tax is a distortion of Federal transportation policy. I feel title II is only a cautious first step in ending this outrageous raid on the Federal Treasury.

Mr. KETCHUM. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I really have no wish to prolong the debate on lock and dam 26. I personally believe that the reconstruction is necessary; there are those Members in the House who do not. But by combining title II with the rest of the bill, we really are talking about apples and oranges.

If we really want to develop a system of user fees, I will be more than happy, as I am sure the gentleman from New York (Mr. PIKE) and some of the other Members of the House who are equally concerned would be, to sit down and try to discover an equitable way of applying user fees for public projects—not just for

this one but for any public project. The way they are being applied in this bill is, in my opinion, which is shared by some Members, bound to be discriminatory.

We are taxing one mode of transportation involving diesel fuel. If we really want to tax diesel fuel, then I suppose we might talk about taxing the hundreds of thousands of gallons of diesel fuel used by the railroads.

There are user fees for highways. We all pay them. There are user fees for aircraft fuel. All of us who use aircraft pay them in one way or another, even though there are some inequities there, I might add.

However, Mr. Chairman, it seems to me that if we really want to approach this subject in a fair, equitable manner, not under blackmail from the White House that says, "If you do not do this, we will not do that," we should sit down rationally and discuss it rationally.

Mr. Chairman, I have right here before me a study conducted by the American Enterprise Institute of waterway user charges. They give us a number of alternatives; license fees, congestion charges, ton-mile taxes, lockage fees, et cetera. They even discuss fuel taxes and segment tolls.

However, the gentleman from New York is quite correct. I just do not believe that we should be operating under a blackmail principle to get something done that should be done.

Mr. Chairman, if the Members feel that there is no other way to get this bill passed, they should vote for my recommittal motion which I hope I will be recognized to offer and let the Committee on Ways and Means go back and discuss user fees in a more rational way, a way which will be equitable to pleasure boats, to anything using that waterway, not only that waterway, but all of the great waterways that we have in the United States.

Mr. ROBERTS. Mr. Chairman, will the gentleman yield?

Mr. KETCHUM. I yield to the gentleman from Texas.

Mr. ROBERTS. Mr. Chairman, I thank the gentleman for yielding.

What we are doing here is making some equitable adjustment. Last year this Congress passed one bill that had the railroads using $900 million in providing their own rights-of-way. The trucks pay a portion for the highways.

Mr. Chairman, this is a step in the right direction. It may not be perfect. I am sure it is not, but I am sure we will have many more chances to look at it.

I thank the gentleman for yielding.

Mr. KETCHUM. Mr. Chairman, I thank the gentleman.

I think so often we do these things, saying, "Let us do it now and we will talk about it later." Then we never talk about it later.

Mr. Chairman, the Assistant Secretary of the Treasury offered us this business about the railroads paying for their own rights-of-way. I have nothing against the railroads. I think that they did a marvelous job in building America, but nobody can tell me that they paid for their own rights-of-way.

Mr. COLEMAN. Mr. Chairman, will the gentleman yield?

Mr. KETCHUM. I yield to the gentleman from Missouri.

Mr. COLEMAN. Mr. Chairman, I rise today in support of H.R. 8309 and express my appreciation to the members of both the House Public Works and Transportation Committee and the House Ways and Means Committee for their efforts in bringing this legislation to the floor of the House. I would like to speak in support of an important project in my district that would be affected by congressional action on this legislation.

The Army Corps of Engineers, under the Flood Control Act of 1965, is constructing the Smithville Reservoir in northwest Missouri. When the dam is completed in 1978, it will inundate the Trimble Wildlife Area which is owned by the Missouri Department of Conservation. The Trimble Wildlife Area is the home of Missouri's native Canada geese flock. As part of the $70 million Smithville Reservoir project, the Corps of Engineers was required to replace the Trimble Wildlife Area.

In its September 1976 feasibility report to the Congress the corps recommended that Congress authorize acquisition of approximately 2,500 acres at a site known as Jackass Bend on the Missouri River and turn that land over to the State of Missouri to mitigate the loss of the Trimble Wildlife Area. The corps' decision was made in cooperation with the U.S. Fish and Wildlife Service and the State of Missouri and has been endorsed by Missouri Governor Teasdale.

When the lock and dam 26 authorization was taken up by the other body as S. 1529, the Rivers Harbors Basin Act, Senators DANFORTH and EAGLETON introduced an amendment that would authorize the corps to proceed with acquisition of Jackass Bend and to reimburse the State of Missouri for the value of capital improvements made at Trimble and the expenses involved in moving the Canada geese to the new site. This amendment was adopted, however, as you know, S. 1529 died when reported to this body.

The House rules prevent my offering this amendment as part of our consideration of H.R. 8309. However, both Senators have indicated to me that they are going to attempt to see that this amendment is adopted as part of H.R. 8309. It is likely that this bill will come back to conference with a number of Senate amendments attached, including the Danforth-Eagleton amendment to authorize the acquisition of Jackass Bend. Therefore, I rise to urge support by the members of the House Public Works and Transportation Committee for this important amendment when it comes up in conference.

Mr. KETCHUM. To continue, Mr. Chairman, many of the railroads did pay for their own rights-of-way. I am not trying to make a case against the railroads, but the western railroads certainly did not. For every section of land they obtained and helped to develop I commend them. I think they did a fantastic job. I hope we will not use that as an argument to establish a user fee which is placed on only one segment of industry, and that is what we will do if we pass this bill with title II contained in it.

Mr. DUNCAN of Oregon. Mr. Chairman, will the gentleman yield?

Mr. KETCHUM. I yield to the gentleman from Oregon.

Mr. DUNCAN of Oregon. Mr. Chairman, I share many of the viewpoints expressed by the gentleman from California (Mr. KETCHUM), but I cannot agree with him in the totality of his remarks.

He is certainly entitled, I think, to characterize this user tax to be the result of blackmail, but I personally think that the Members on both sides of the aisle and the two committees which have considered this piece of legislation have done a remarkable job.

The CHAIRMAN. The time of the gentleman from California (Mr. KETCHUM) has expired.

(On request of Mr. DUNCAN of Oregon and by unanimous consent, Mr. KETCHUM was allowed to proceed for 1 additional minute.)

Mr. DUNCAN of Oregon. Mr. Chairman, will the gentleman yield?

Mr. KETCHUM. I yield to the gentleman from Oregon.

Mr. DUNCAN of Oregon. Mr. Chairman, as I was saying, I think they have done a remarkable job in coming up with a piece of legislation which represents a very difficult compromise.

If we could agree that our mutual views were the only correct views, then I could subscribe 100 percent to what the gentleman said. However, I remember Adlai Stevenson years ago said in a speech that no matter how sure he was that he was right, he always tried to remember that just maybe the other guy was right.

Therefore, Mr. Chairman, I choose not to call it "blackmail." I choose to call it a compromise of a very difficult problem.

I believe that the gentleman from Texas (Mr. ROBERTS), the gentleman from Oregon (Mr. ULLMAN), and the minority members on these two committees have done a remarkable job.

I would like to say one more thing on the gentleman's time, if I might, and that is although the issue has primarily been joined here on the problems of the Mississippi Valley, that we in the Pacific Northwest are very proud of our inland waterway system which enables us to bring the produce of a great inland empire down that inland waterway to the docks in Portland.

Further, we are grateful for the correction of what was a typographical error in the original bill.

Mr. FRENZEL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, the most recent speaker, the gentleman from California (Mr. KETCHUM) indicated that we should support a motion to recommit that will send this decision back to the Committee on Ways and Means. I would simply like to remind the Members that the Committee on Ways and Means held extensive hearings and deliberated long and hard on this matter. It has brought title II to the Members as its best rec-

ommendation in a very difficult situation. The committee does not want the matter back.

I believe that the committee has produced the best compromise it could in the difficult situation it faced. As the distinguished gentleman from New York (Mr. PIKE) has indicated, it is a bit of a shotgun situation. However, if we do not use a shotgun, we may find ourselves in a position where there is a cannon pointed at the head of this vital transportation industry.

Mr. Chairman, I urge, at the proper time, that title II be sustained.

Mr. SNYDER. Mr. Chairman, will the gentleman yield?

Mr. FRENZEL. I yield to the gentleman from Kentucky.

Mr. SNYDER. Mr. Chairman, it has been noted many times by proponents advocating full recovery taxes on the use of the inland waterways, a figure of $140,000,000 spent in 1976 by the Corps of Engineers for the operation and maintenance of those waterways.

The problem, Mr. Chairman, as I see it, is that the figure quoted comes from the Corps of Engineers Washington office which is a compilation of broad based budget sums from field offices of the corps. Now I cannot quarrel with the total amount which is stated, but in trying to find out what all is included in those O and M expenditures, I find that a lot of it has nothing to do with the commercial barge users to which the tax for cost recovery applies.

Part of the money in the O and M account is for water quality management, public use plan studies, such as the great study on the Upper Mississippi River, rainfall gaging, water quality investigation, and others.

A lot of the money stated is used for recreation in dredging small boat harbors, safety shelters for small boats, visitor facilities at dams and other areas, beach erosion, fish and wildlife habitat enhancement, dredging for ecological enhancement, aquatic plant control, the use of locks by recreational craft, and many of these locks are not even used by commercial barge traffic.

Further, a good deal of O and M money is expended to assist agricultural production by silt reduction bank protection, drainage and run-off control, and stream flow reduction which reduces erosion.

The O and M expenditures includes money for commercial and game fishing enhancement, bank stabilization to protect roads, cities, and railroad rights-of-way. A lot of the projects where locks were built, were not to improve navigation, but to provide for salinity control, such as the Old River lock and dam about 200 miles above New Orleans which was built to protect the Port of New Orleans and the water supply of the city. If nature had been allowed to take its course, and the corps had not built the Old River control structure, New Orleans would now probably only have a mud flat for the Mississippi River bed.

Present O and M costs also include money for area development, the regulatory costs of permits, and contracts made with local law enforcement agencies to protect visitors at facilities.

Now, Mr. Chairman, I find no fault with the way the Corps of Engineers keeps its accounts, as there has been no need in the past for each and every detail of this ledger to be broken down line by line, but I do believe before we start thinking about charging barge lines for everything that is in the O and M engineers figures we better know of what they consist. That is why I support this bill, Mr. Chairman, and the studies that will be generated by it in order that we can better address the impacts. I would also hope the corps will give a better account in the future of what O and M expenditures should actually be directly accountable to the commercial navigation interests, and what is accountable to others.

Mr. OBERSTAR. Mr. Chairman, will the gentleman yield?

Mr. FRENZEL. I yield to the gentleman from Minnesota (Mr. OBERSTAR).

Mr. OBERSTAR. Mr. Chairman, I thank the gentleman from Minnesota (Mr. FRENZEL) for yielding this time and I join in the gentleman's plea not to send this bill back to the Committee on Ways and Means which has done such an excellent job on reviewing the matter of the tax.

It also should be pointed out, and I am sure the gentleman from Minnesota (Mr. FRENZEL) would also agree, that this is not a recovery tax, it is simply a method of finding some equitable means of having our inland waterway users pay their fair share of taxes. The question of recovery is an issue to be addressed in the study. That is the question to which the gentleman from Kansas (Mr. SKUBITZ) addressed himself, and that is farther down the pike, and will be addressed at a later time.

Mr. FRENZEL. I thank the gentleman for his observations and I do agree with the gentleman.

Mr. GEPHARDT. Mr. Chairman, will the gentleman yield?

Mr. FRENZEL. I yield to the gentleman from Missouri.

Mr. GEPHARDT. Mr. Chairman, I thank the gentleman for yielding to me and I wish to associate myself with his remarks.

Mr. Chairman, I also serve on the Committee on Ways and Means with the gentleman. I remember very well the debate that went on in that committee on this question. I agree with the gentleman that even though this may not be a perfect solution to an imperfect situation, I think we have arrived at a meaningful compromise.

I think it is important to point out that the bill calls for a study that one of our colleagues in the committee put into the bill which I believe will lead us to some definite conclusions.

If the gentleman from California (Mr. KETCHUM) believes we ought to reach some conclusions on where we ultimately should be on user fees, lockage fees and fuel fees, I think it is important to point out that this fuel tax has a definite precedent to the diesel fuel tax on trucks. In fact, this is based on that model. While there might be a question as to where we ultimately should go, I think the study called for in the bill will tell us where we should ultimately go and then the Congress can come back with lockage fees, or a fuel tax that will adequately and reasonably cover the situation.

Mr. QUIE. Mr. Chairman, will the gentleman yield?

Mr. FRENZEL. I yield to the gentleman from Minnesota (Mr. QUIE).

Mr. QUIE. Mr. Chairman, I thank the gentleman for yielding to me.

As a person who represents a district that follows the Mississippi River from the Iowa border up to St. Paul, and then the St. Croix River north through Washington County and also as a person who is concerned and interested in the question of agriculture, I say that the alternatives to not adopting title II are totally unacceptable, both on the question of losing lock and dam 26, which is absolutely necessary, and the possibility of putting more serious roadblocks in the way of the barge industry that is needed to carry the goods not only from the midwest down, but back up to the midwest in order that we may survive.

Mr. FRENZEL. Mr. Chairman, I thank the gentleman and I yield back the balance of my time.

Mr. SKUBITZ. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I ask unanimous consent to proceed for 2 additional minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Kansas?

Mr. MADIGAN. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. SKUBITZ. Mr. Chairman, I have severe reservations about the failure of this bill to come to grips with the issue of water user fees. It is, in my opinion, unfortunate that we are choosing to pussy-foot around the users fee issue once again.

The barge industry in this country is not the poor struggling child of neglect that some of our colleagues would have us believe. Nor for that matter is it the kindly friend of the farmer and the shipper. The barge industry is—in fact—a consortium of giant corporations with collective sales exceeding $16 billion a year. Look at the names of a few of those poor struggling companies: United States Steel, Ashland Oil, Texas Gas Transmission Co., those folks are poor like July in Washington is cold.

Yet look at the bill we have before us today. We are asking for a measly 6 cents fuel tax on waterway traffic after a 2-year phase-in period—I sure hope United States Steel does not go broke.

What will that tax recover for the U.S. taxpayer of his dollars spent on rivers, canals, and inland waterways? Less than 10 percent of the Federal cost. H.R. 8309 represents a permanent guarantee of 90 percent plus Federal subsidy for the barge operators of this Nation.

I concur wholeheartedly with the administration's views on this matter as expressed to me by Transportation Secretary Brock Adams.

The administration has relayed to me that it views the level of recovery embodied in H.R. 8309—the waterway user fee—as being totally inadequate. Consequently the administration plans to ac-

tively work with Senate conferees to ensure that the recovery level is substantially higher.

I could not agree more with the administration on this matter. Taxpayers are currently providing subsidies for the barge industry to the tune of $400 million a year—and the barge industry is crying like a stuck pig over a 6 cents fee. That fee will not come close to the actual cost in question.

There is no earthly justification by which this free ride can be continued. Barge operators are a profitmaking business—and quite a business at that. One could do much worse than to run a business where profits are pocketed and costs are underwritten by the American taxpayer.

I need not take the time of this body to again point out that regulated barge operators are generaly owned by the Nation's largest corporations.

I do not again need to take the time of this body to explain that most barge traffic is completely unregulated so that perpetual manipulation and undercutting of railroad rates is not only permitted but encouraged by the system itself.

It is ironic, Mr. Chairman, that representatives of cities from the States of Ohio, Maryland, and Massachusetts were before the Interstate and Foreign Commerce Committee—pleading with us to advance them the money owed by the bankrupt railroads as back taxes.

If we do this the Federal Government will be shelling out $317 million owed by the bankrupt Penn Central. I might add that the Penn Central is not one of those railroads that received any free land from the Government.

The State of Illinois alone is owed more than $20 million by the Penn Central. All the while no one has indicated that the State will collect one nickel in taxes from the user of lock and dam No. 26 and yet the low construction cost on this project has been placed at $421 million.

How in the name of commonsense can this body shell out $421 million for the primary use of the barge industry while they fail to pay a single dime to the communities that they pass through?

That 90 percent of this industry is not regulated and is able to underbid its competitors—the trucking industry and the railroads—only adds to the ridiculousness of us levying a measly 6 cent tax against them.

I am going to support this bill but only because I am hopeful that the conference committee will get down to basics and tackle this gross inequity.

I do not need to remind this body that our treatment of waterway users continues to distort and make impossible a balanced national transportation policy.

Earlier this Congress I introduced H.R. 8254 which would have applied a tax on barge operators based on ton-miles. I used the ton-mile approach because that represented a way to equitably assess a charge against barges—which would recover at least 100 percent of the Federal dollars used—for the annual maintenance and upkeep of our waterway system—forgetting construction costs.

The trucking industry has paid most of its way as long as anyone can remember. You have all seen the signs on the back of semitrailer trucks reading "this vehicle pays so many thousands of dollars in highway taxes each year." Well, I guarantee you have never seen a sign like that on any barge.

The railroad industry is paying taxes for every little town and village through which railroad tracks pass. It is no wonder barge operators are offering—so-called cheaper rates. Why not? Every lock, dam, and channel they use is built, paid for and maintained by the Government.

The meaningless gas tax contained in this bill will permit water carriers to claim that they are repaying Uncle Sam for his generosity. In fact—Uncle Sam will be giving them a 90-percent subsidy in order to compete for the same traffic that railroads and common motor carriers are competing for.

Those supporting the token user charge in this bill will argue that railroads have received great grants and gifts from the Federal Government. They will argue that the land grants of a hundred years ago which helped open up the West now justify a Christmas tree for the barge operators. That is sheer nonsense. The eastern or southern railroads never got land grants. The few western roads that did get Government land long ago paid for it by providing service to the Government free of charge or way below cost.

It is high time we took decisive action to take this unnecessary burden off the back of the American taxpayer. The question of users fees has been studied to death—every administration since Franklin Roosevelt has favored waterway users fees. There have been over 15 major studies since 1939 favoring use of waterway user fees. Title II suggests another study with regards to any fuel tax or alternative tax.

I suggest it is time to stop studying the issue and start recovering a little money—and a lot of self-respect.

The issue is clear and, my friends, the question is simple. The question is: Who should pay the operating expenses of United States Steel and Ashland Oil? I believe those operating expenses should be paid by United States Steel and Ashland Oil—and all the other water carriers—and I am not going to vote to support this bill so long as it is nothing but a sop of a gasoline tax.

Mr. HARSHA. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, lest there be some misunderstanding, all the hue and cry here is not because of the inequity of levying the tax on one user as opposed to not levying the tax on another user. The hue and cry here is the effort to send this bill back to the committee so that the tax that is levied can be raised substantially.

Let me point out any such tax represents a drastic change in the historic national policy dating back to the Northwest Ordinance of 1787. The free waterways policy then established, combined with assumption of Federal responsibility for continuing operation, maintenance, and improvement, has been of incalculable benefit to the Nation. On that foundation industries furnishing employment to millions have been established. Major cities have grown to their present size. Low-cost transportation of bulk commodities has been made available permitting the development of otherwise depressed regions, strengthening our American farm economy and our balance of payments, and providing an efficient and economical means for distribution of coal and petroleum products to offset in a measure rising energy costs.

In the Ohio Valley alone according to the most recent survey of the Ohio Valley Improvement Association more than $54 billion has been invested from 1950 through 1976 in new and expanded plant facilities in counties bordering the Ohio River and its navigable tributaries. The bulk of this enormous investment was induced by the availability of low-cost water transportation. In considering supplemental sources of revenue to fund the rising costs of waterway improvement, therefore, it has been necessary to consider also the grave risks involved in changing the rules governing our waterway transportation system both as to impacts on existing trade relations and investment and on essential future improvement of the waterways to accommodate our growing needs for water transportation. H.R. 8309, I believe, meets those conditions.

There are other innumerable benefits as a result of the now existing Federal policy in dealing with waterways.

However, there are many difficult issues to adjudicate here and this bill represents a carefully worked out formula for the imposition of a tax on fuel used by shallow draft vessels on specified inland waterways. It is designed to provide supplemental revenues for funding improvements to the inland waterway system, retaining strictly within congressional initiative and control all questions as to the level and form of the tax. It is a reasonable compromise, and because there are difficult issues and many unanswered questions about the level and the form of the tax, we have set forth this study because we do not know the impact of these taxes, how they are going to affect competing modes of transportation, or whether they are going to permit them to raise their rates and cause an inflationary impact on the entire Nation. This is a reasonable compromise.

Mr. Chairman, I urge any motion to recommit with instructions to take out title II be voted down.

Mr. BEDELL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I think it is important that the House understand exactly what has happened and exactly where we stand on the whole user fee situation. First of all, the Senate previously passed legislation which

called for the users to pay 100 percent of operation and maintenance and 50 percent of construction costs phased in over a 10-year period. Brock Adams, in testimony before the House Public Works Committee, stated that the President would not sign a bill unless it contained significant user fees, and he defines those in his words as being what was in the Senate bill.

There were a number of us who felt we should have an opportunity on the floor of this House to debate this issue as to whether there should be user fees in the bill. I had an amendment which would have called for 25 percent of operation and maintenance and 25 percent of construction costs to be phased in over 5 years, and I requested from the Rules Committee that there be an opportunity to discuss that one amendment. The Rules Committee did not grant such a rule.

I came to the floor with no intention of doing anything about it, but a vote was called for on the rule and very much to my surprise we received over 160 votes to oppose that rule. I think it is very clear that there are a significant number of Members in this Chamber who believe that there should be user charges on our waterways, not just a diesel tax.

My main argument is that whenever you have the user pay a percentage of the cost of any service furnished to that user, then the user serves as a watchdog to see that there is not unnecessary waste, because any of the waste is going to be partly charged against that user.

The point I would like to make very strongly to the committee chairman is that if we do pass this bill and if it goes to conference I hope the House conferees will not lose sight of the fact there was a significant indication there were a number of people in the House who felt there should be higher user fees. Certainly there has been no opportunity within the House to vote whether or not such higher user fees should be imposed.

Mr. EDGAR. Mr. Chairman, will the gentleman yield?

Mr. BEDELL. I yield to the gentleman from Pennsylvania.

Mr. EDGAR. Mr. Chairman, I would like to commend the gentleman in the well for the gentleman's aggressive activities on this particular legislation. I shared with the gentleman my concern in the Committee on Rules that there be an open opportunity to discuss the policy issues which relate to the imposition over a phased-in period of time of some percentage of user fees. I supported the gentleman's amendment. I think it was a mistake of the Committee on Rules not to permit that amendment to be offered at this time. I would hope that in light of the fact the bill is now before us and the rule did succeed, that we have before us a 3-part bill that constructs locks and dam 26, puts the most minimal user tax on possible, 4 cents and then 2 cents, and finally calls for a study.

Mr. Chairman, I will support a motion to recommit, because I am opposed to the bill; but I will not support a motion if it is in order to recommit with instructions to strike title II, because while I am opposed to the section, title II as being too small, I do not think we should strike that from its impact on the construction of locks and dam 26, as well as moving on to a reasonable user fee concept.

I think that we in the House should have the opportunity to debate the possibilities of phasing in user fees; but I would hope that title II and the rest of the bill go intact to the Senate and in conference it is my hope that the 4 cents and 2 cents would be increased.

Mr. Chairman, I thank the gentleman.

Mr. VENTO. Mr. Chairman, will the gentleman yield?

Mr. BEDELL. I yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Chairman, I concur with the gentleman's remarks. I want to rise in opposition to the instructions to recommit.

I very much support the higher user fee. I think it is regrettable that we did not have the opportunity to debate that on the floor and at some reasonable point to send it back.

The Committee on Ways and Means tugged and pulled and did the best they could to make the job work. This lock and dam is a vital part of the transportation system of the river. We all like to see the projects go forward with a better hope of funding than exists.

I hope our comments are heard today and the conference committee will try to pursue a better record on this.

Mr. GEPHARDT. Mr. Chairman, will the gentleman yield?

Mr. BEDELL. I yield to the gentleman from Missouri.

Mr. GEPHARDT. Mr. Chairman, I thank the gentleman. I appreciate the gentleman's remarks. I agree that the time for the user fee has come.

The CHAIRMAN. The time of the gentleman from Iowa has expired.

(At the request of Mr. GEPHARDT, and by unanimous consent, Mr. BEDELL was allowed to proceed for 2 additional minutes.)

Mr. GEPHARDT. Mr. Chairman, if the gentleman will yield further, I agree with the gentleman. The time for a user fee has come. I simply want to say that we are at a point where we can rationally and reasonably decide what that level should be.

I would ask the gentleman, does the gentleman not agree with me that it makes sense to have the kind of study called for in this bill, which would compare what the Federal Government has done with regard to other modes of transportation in terms of subsidy and would also address themselves to the terms of the question of what the overall impact of a user fee at a definite level would be?

Mr. BEDELL. I do. This is something that should be considered. We have already had a stack of studies this high. As pointed out earlier, I have a study put out by the Congressional Budget Office, which says:

> Federal subsidies are equal to about 42 percent of all barge revenue, compared with 3 percent for railroads, 1 percent for trucking companies, and no subsidy at all for pipelines.

It seems to me this tells it pretty clearly and answers that one question.

I agree, we should not do anything too radical. That is why my amendment would have put in only 25 percent with the taxpayers continuing to pay 75 percent. Under my amendment, we would be subsidizing barges for 30 percent of all revenues, compared to 3 percent for railroads and 1 percent for trucks. It seems to me that is a pretty modest way to move.

As I mentioned earlier, when users have to pay for a given percentage of services furnished, the users are concerned about waste in that program.

Mr. STEIGER. Mr. Chairman, will the gentleman yield?

Mr. BEDELL. I yield to the gentleman from Wisconsin.

Mr. STEIGER. Mr. Chairman, I want to thank the gentleman from Pennsylvania. There will be at least two votes for the motion to recommit. I intend to seek recognition for a motion to recommit and send the bill back to the Committee on Public Works.

I do not believe that it would be appropriate, given the circumstances, for us to attempt to send it to the Committee on Ways and Means, with the other alternative. Therefore, I am delighted to have at least another vote.

The CHAIRMAN. The time of the gentleman from Iowa has again expired.

(By unanimous consent Mr. BEDELL was allowed to proceed for 1 additional minute.)

Mr. MADIGAN. Mr. Chairman, will the gentleman yield?

Mr. BEDELL. I yield to the gentleman from Illinois.

Mr. MADIGAN. I want to thank the gentleman from Iowa for yielding, and associate myself with his remarks. I make the point that with the gentleman from Iowa, I voted against the rule. I have been an opponent of this bill. I do not think the lock and dam is necessary, and I think that to reasonable, open-minded people, that fact could be established. I am going to vote against the motion to recommit if I am able to be here, and I would like to have the opportunity to vote against the bill.

I am afraid I am not going to have that opportunity because I am going to be obliged to leave, which is the reason I objected to the earlier unanimous-consent request of Mr. SKUBITZ. I want to say now that I would not object again if Mr. SKUBITZ wanted to renew his request.

Mr. SKUBITZ. Mr. Chairman, will the gentleman yield?

Mr. BEDELL. I yield.

Mr. SKUBITZ. I would like to call the attention of my colleagues to the fact that those who talked about having another study of user fees ought to realize that since 1939 we have had 19 different studies on this one topic alone, and every President from Franklin Delano Roosevelt down has recommended the user fee.

Mr. MICHEL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I must say that I agree with a great deal of what has been said by the gentleman in the well and those who joined with him. I do find myself kind of betwixt and between on this whole problem of building lock and dam 26. It so happens that

3 years ago the unlikely combination of MIKVA and MICHEL joined up and caused this lock and dam 26 construction project to be struck out of an authorization bill that included some rather hangover language from the turn of the century that gave the Corps of Engineers blanket authority to go ahead with this lock and dam without this kind of proceeding ever having taken place. I feel we did the country and the Congress a service by bringing to public attention that we were not going to abdicate this responsibility in the future. We need to debate these projects openly and aboveboard, and that is of course what has taken place here now.

You know, the Panama Canal is in the news these days. If I can recall some of the comparative figures, if one added up all the imports and exports to and from the United States going through the Panama Canal it would approximate something like 83 million tons. Through locks and dam 26 the tonnage is something in the neighborhood of 53 to 60 million tons, so we are not talking about an insignificant facility at Alton, Ill.

We do have problems in my area, particularly with the rural community, which uses the barge lines for shipment of grain, particularly to the gulf ports, but I must say that the kind of tax, token tax that is in the bill leaves me somewhat cold. I would, in fact, prefer a significant user fee. I recognize, however, the conditions that prevail here today. We are either going to get that token tax or nothing at all, but simply want to make the record clear, that in my opinion the few cents of tax that is going to be in here certainly is not going to break up the barge lines and hope we get a better shake for the taxpayer out of the conference agreement.

Mr. SMITH of Iowa. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I think I should point out that the reason the 6 cents does not yield very much in revenue is because barges are so efficient. There is no better way to raise money than by a fuel tax. To talk about a toll user fee on barges would be comparable to having toll gates on all of the highways and stopping trucks every few miles to collect a fee. We would spend more money collecting fees than we receive in fees. It is a good thing barges are so efficient that they will not raise much money with the 6 cents fuel tax. We do not levy tax on trucks according to so much per mile. It is so much per gallon. If someone can buy a truck which gets twice as many miles per gallon of fuel, they pay less tax per ton-mile. That is the way it ought to be. I think all this talk about setting up toll gates and collecting user fees would result in spending most of the money on $20,000 or $25,000 a year collectors and paperwork and nonsense. That could be more redtape, more paperwork, and ending up with little in the Treasury.

There has been talk about big barge companies. There are also some other big companies in this. Everyone knows the real opposition to this has been from the railroads. The railroads have been around here for the last several years wanting billions of dollars in handouts. For lack of a better solution, I have voted for them too but do not believe they are little proprietorships. The Burlington Northern Railroad has been one of those vigorously opposing this legislation. It has 4.2 million acres of Western land. They have 5 millions of acres of mineral rights and produce gas and oil. They have 35 affiliated companies. Talk about big companies that are involved, the railroad companies are as big as any of the other companies. If a conglomerate furnishes a service needed by society that is good and the barges have been doing that. Except for the Rock Island, the railroad companies are almost all a part of a conglomerate. We all know that the railroads lobbyists have been the principal opponents of this bill. They used the environmentalists for a front for a while. They hoodwinked them into acting as a front before they knew they were being used. But when that was exposed, they had to find some other scapegoat, so they started to talk about user fees and try to hold the bill hostage until we pass legislation providing user fees. The fact of the matter is that railroads are not doing their jobs and should spend more time taking care of other existing business instead of trying to deny us alternate transportation services.

In Iowa, from April 30, 1976, to April 30, 1977, 111 hopper cars were ordered and they only delivered 77. That meant 136 million bushels of grain could not move because the railroads did not provide the cars. They ought to take care of the business that is offered to them instead of trying to hold hostage a business they do not want to take care of.

What we really have here is a lock and dam that is badly needed. Let us forget about all of these other bugaboos and diversions that the railroad lobbyists have raised in this case. Talking about user fees, and other matters have merely been excuses for opposing approval of the project. That is all they are.

I urge the House to give an overwhelming vote of approval to this bill and illustrate what we think of the underhanded and heavyhanded lobbying that has held it up for 2 years.

Mr. KREBS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, for the benefit of my colleagues who want to vote on this issue very badly, let me state at the outset that I will reluctantly vote for the bill. I am convinced in my own mind that the dam apparently is necessary. The reason that I will vote for it only reluctantly is the same as some of the reasons mentioned by my colleagues, namely, the size of the fees. The only reason I rise to say a few words is that I believe I attended most of the discussions which took place here, but nowhere in this discussion have I heard any of my colleagues, particularly those who consider themselves fiscal conservatives, ever mentioning the question of a balanced budget.

I know that when it comes to all sorts of programs that cost substantially less than this particular project, which I understand is going to cost some $432 million—we invariably hear fiscal conservatives talk about a balanced budget. But here we are trying to recoup at least a fraction of the cost, and there is even an attempt to do away with that effort.

It seems to me that the 6 cents we are imposing here really represents an insignificant amount, as compared to the 42 cents that would be required to recoup the cost of this particular project.

The reason I am voting for the bill is that, the lock and dam is necessary, and, secondly, because of the precedent that I hope we will be setting by indicating that we are going to start recouping some of the costs of projects that have added so substantially to our budget.

Mr. DERWINSKI. Mr. Chairman, two wrongs do not make a right. The obvious strategy here is to use the imposition of a user tax as a belated argument for approval of this long-debated project, locks and dam 26. The locks and dam and user tax should stand each on its own merits and not be subject to this shotgun marriage.

This bill deliberately does not address the issues involved in the rebuilding of navigation systems above and below locks and dam 26, a multibillion-dollar, comprehensive series of projects contemplated by the Corps of Engineers.

If there is to be a user charge and the principle is accepted by the waterways industry, then obviously there should be a direct relationship between the user charge and Federal costs, rather than an artificial, arbitrary figure.

Therefore, taking note of all the conflicting interests and long-term implications of this bill, I believe that a vote against H.R. 8309 is the one which I must cast on behalf of my constituents.

Mr. HARKIN. Mr. Chairman, I'm going to support H.R. 8309, but not without some reservations about the relationship of the fuel tax provision to replacement of locks and dam 26.

My position on locks and dam 26 has always been that a number of conditions would have to be present before I would support replacement of the existing facility with one 1,200-foot lock.

First, it would have to be determined that rehabilitation of the existing facility would not be adequate to handle projected traffic growth, and would perhaps be as costly as replacement. While there continues to be disagreement on this question, with studies on both sides supporting the cost effectiveness of replacement and rehabilitation, one thing is clear; the existing facility creates a bottleneck for river traffic which results in long, costly delays. Shippers are losing $14,000 a day because grain, coal, and fuel sit at the locks waiting to go through. A new, single 1,200-foot lock appears to be justified at this time.

Second, there would have to be a prohibition against the dredging of a 12-foot channel. While the committee report states that the bill "does not change the existing 9-foot authorization" I would feel more comfortable with a strict prohibition against such a development. I intend, therefore, to support the Blouin amendment to prohibit any study of deepening the Upper Mississippi River channel, unless ordered by Congress.

Third, there would have to be some sort of user fee provision to accompany

authorization for locks and dam 26. This is where I do not believe the House has gone far enough. Recovering 6 percent of the total, annual Federal expenditures on the inland waterway system is not my idea of achieving fairness in the Government subsidization of various transportation modes. By constrast, the Senate user fee provision would eventually recover 50 percent of construction and all operation and maintenance costs.

For this reason I would have supported the Bedell compromise had it been made in order by the rule on H.R. 8309. Unfortunately it was not, and we are now faced with either supporting or rejecting a token fuel tax provision.

I cannot understand the rationale of such a small fee when we know that expansion of locks and dam 26 will direct badly needed rail shipments to bargelines, could result in railroad bankruptcies and put thousands of railroad workers out of jobs. This small tax completely ignores the barge industry's unfair advantage over competing freight carriers, with Federal subsidies equaling 42 percent of all barge revenues compared with 3 percent for railroads, 1 percent for trucking, and nothing for pipelines.

It is a fact that rail transportation can move most goods in volume between the same points with less than one-third the fuel, one-third the air pollution, and one-tenth the land as all other forms of transportation.

This is not the time to be penalizing the railroads while we pretend to be injecting fairness into these transportation subsidies. Between January 1970 and February 1977 my own State of Iowa lost 1,140 miles of rail line service through abandonments. No State in the Nation lost more track mileage during that time. I am concerned about this, and I think unless we adopt a user fee provision more resembling the Senate measure, we will unnecessarily further contribute to this trend.

For that reason, while I will vote for H.R. 8309, I intend to urge the House conferees to carefully consider the Senate user fee provision when this bill goes to conference. I would hope that my colleagues would do the same.

Mr. RAILSBACK. Mr. Chairman, as many of you know I represent the 19th District of Illinois which has 219 miles on the Mississippi River, and whose district is largely agricultural. The Mississippi River and lock and dam 26 are very important to my district and all of the Midwest.

Just as the farmers of New Jersey and adjoining States depend on the New Jersey Turnpike or the Garden State Parkway to transport their farm products to the great Northeast, the farmers of the Midwest depend on the Mississippi River and the Illinois Waterway.

Because of its position on the Mississippi, lock and dam 26 is just south of the place where the Mississippi and Illinois Rivers converge, bringing goods to and from busy Chicago and Lake Michigan. Lock 25, a 600-foot lock handles approximately 25 million tons of goods. The next lock south, lock 26 handles more than twice as much—55 million tons, due to its location below the water fork. Just south of this point on the river is lock and dam 27 which is in good condition. It is a 1,200-foot lock and it can handle the considerable waterborne commerce of the waterway. Beyond lock and dam 27 the Mississippi runs free to the great port cities of the Gulf of Mexico. I cite this to you because the Mississippi is truly a road in the same sense as any busy road here in the Northeast.

As the Midwest stretches to realize its full economic potential, traffic through lock and dam 26 has increased significantly. More than 58 million tons of cargo—10 percent of the total moved on all of the country's 25,543 miles of commercially navigable inland waterways were squeezed through the Alton locks last year.

It is expected that the tonnage moving through this facility will continue to grow by 2 or 3 million tons each year, with 73 million tons expected by 1981. Towboat captains pushing barges north and south disperse the Midwest's agricultural plenty upon which this Nation has learned to depend to such a great extent. Thirty percent of the total U.S. grain export moved through locks and dam 26 last year. This volume contributed over $4 billion to our balance of payments. Of the grain delivered to export elevators at the gulf ports, 80 percent arrived by barge.

Products needed by farmers to grow such crops are shipped upriver—fertilizers, chemicals, and fuels so critical to the food-growing process. As far as the 19th District is concerned agricultural products make up the obvious. However, energy-related products, coal, other fuels, not to mention steel, and a host of raw materials and finished products move upon the river daily.

At a time when we are all concerned about energy consumption a modern towboat moves a ton of freight 400 miles on a gallon of diesel fuel.

There is a power cooperative upriver, not in my district, which supplies power to more than 100,000 homes—most of them rural residents. It took 1,200,000 tons of coal to fuel this generator last year to provide them with electricity, and every ton of that coal moved through locks and dam 26. The only way this generator can receive this vitally needed fuel is by river transportation.

The farmers in the 19th District have informed me that they are not looking for a handout. They have said that they rely so heavily on efficient transportation for the exportation of their grain and for their fuel and fertilizer in return that they must insist on a first-class transportation system. To this end they have urged the implementation of user fees.

In considering all sides of this issue it is my opinion that the action we take today to authorize new construction will mean faster and more economical movement of our commodities to market, resulting in more income for our farmers, better prices for the consumer—and hopefully a big boost for the Nation's economy and energy consumption as well as output.

In the 94th Congress I joined Congressman PAUL FINDLEY in sponsoring legislation which would authorize the construction of a new lock and dam 26. Again, on February 9, 1977, I joined Congressman FINDLEY in sponsoring legislation which would authorize the construction of the facility at Alton, which is in his district and adjacent to mine. Nothing in either bill shall be construed as authorizing a 12-foot channel. The legislation which we consider today states that no plans exist for construction and maintenance of a 12-foot channel for the Lower Mississippi River at this time. It seems to me that the Public Works and Transportation Committee has done an outstanding job in protecting our environmental concerns. Title I of this bill in no way changes the existing authorization for anything but a 9-foot channel. I certainly agree with this provision and feel that any consideration of a 12-foot channel or a second lock must first be approved by the Congress.

I am delighted that this bill has now reached the House floor, and would urge my colleagues to agree to it.

Thank you very much.

Mr. FLORIO. Mr. Chairman, there are two questions that need asking as to the wisdom of Congress voting a half-billion dollars of taxpayers' money to be invested in new, larger capacity for barges on the upper Mississippi.

First. Is L. & D. safe? Is more barge capacity needed at Alton, Ill.—the site of locks and dam 26?

Second. Is such investment, in fact, creating public policy by distorting the financial foundations under the Nation's common carriers—the railroads—and also affecting other public policy in ways that need to be analyzed from a public point of view?

The answer to the first question is easy: Let me read you the September 27 report of the Minnesota Department of Agriculture:

> Grain shipments by barge on the upper Mississippi Waterway from Minnesota, through September 11, 1977, are down 32 percent, compared to the 1976 volume for the same period. . . . Cleared for export this season have been 2,072 barges, compared to 3,057 barges in 1976, each carrying an average of 1,500 tons of grain—3,108,000 tons in 1977 compared to 4,585,500 tons in 1976.

Is L. & D. safe? The Corps of Engineers knows what is wrong with L. & D. 26. They stated, in the corps June 1974, final environmental statement, that "the most critical major repair work needed at this time is protection against riverbed scouring immediately downstream of the structure."

Guess what the low bid for repair of the downstream protection stone was—

as the corps St. Louis District admits? $960,157. The bid was made last month by the Lukins Brothers of Columbia, Ill. Is the corps shy about telling why they did not replace the protection stone in the course of ordinary maintenance? Did they choose to pursue a decision to build a new locks and dam by citing the unsafe condition of L. & D. 26, as though it is not their entire responsibility to maintain it?

Further, as independent engineering studies have indicated, relatively modest investment could substantially improve the throughput at L. & D. 26—so that additional demand to 1990 and beyond could be satisfied. Inasmuch as the barge interests seem to want the taxpayer to invest half-a-billion in additional capacity, the alternatives should be examined with great care. Are the barge interests willing to pay for what they want the public to build?

The human cost of such a decision would also be large. Railroads are far more labor intensive than are barges. The ratio of nine rail jobs sacrificed for every barge job created seems to indicate that the States will acquire some very large welfare costs in addition to taxpayers' costs for capital, interest, and operating cost. Further, rail taxes would be threatened for thousands of school districts. Railroads, as common carriers and as economic forces in thousands of communities, cannot be ignored as an unfortunate byproduct of the Corps of Engineers rush to rebuild L. & D. 26.

Is more capacity needed at Alton, Ill.? It is very doubtful that such need can easily be demonstrated. At the height of the Russian grain shipments in 1973, the barge operators said they were experiencing delays that cost them $5 million per year. The proposal to rebuild L. & D. 26, in effect, saddles the U.S. taxpayer with perhaps $50 million per year to remedy an occasional constriction at L. & D. 26 that "costs" the owners $5 million per year. We obviously need to repair the facility and help the barge people become somewhat more expert at using what they have.

The second question: Is Corps of Engineers' investment in waterway capacity distorting the financial underpinning under the only national common carriers—the railroads—and also distorting other public policy?

Let me read you a letter written recently by the Manager of the United Purchasers Association in Des Moines, Iowa, Terry J. Voss. It says it all:

> Our company has some concern over the proposed enlargement of Locks and Dam 26 at Alton, Illinois. I work for nine co-op elevators located on the Burlington Northern, the Chicago and Northwestern, the Illinois Central Gulf, the Milwaukee and the Rock Island.
>
> Our concern is not directly concerned with L&D 26 itself, but of the adverse effects it will have on the railroads that serve us. Our major concern is that the barges take the "gravy" traffic and leave less desirable freight to railroads.
>
> This will surely increase our costs by reducing the railroads' profits. That, in turn, will increase our costs (and those of our farmer customers) by the rails raising the rates for grains, fertilizers, etc., to offset the loss of more of their bulk traffic to the barges. We fear the Iowa farmer—and everyone else not located near a river—will suffer because of this careless investment by the Corps of Engineers.
>
> We earnestly hope you will defeat this boondoggle Bill H.R. 8309 on L&D 26.

Aside from Mr. Voss' persuasive analysis of just how such projects as lock and dam 26 intrude into public policy in matters not intended nor approved by Congress—let me point out that massive threats to overall national employment, to the very nature of our free economy—are also inherent in H.R. 8309.

There is an obvious problem ahead if we persist in such uneconomic public investment as that contemplated by H.R. 8309. The unemployment of thousands of rail workers will cost the States, local communities, and tax districts great sums in welfare costs.

If the railroads in the Midwest are further undermined by such investment as H.R. 8309 requires, we will quickly have a ConRail-West on our hands. So far, ConRail has gotten more than a billion from the taxpayers; ConRail now needs more. H.R. 8309 provides the vehicle for the nationalizaton of the rail industry, and all that implies.

Are we so hell-bent to take care of the few dozen barge companies and the 50 or so large corporations that are barge owners that we are in danger of forgetting how we got here in the first place? The energy crisis, our resource concerns, land use, environmental questions, and other problems of contemporaneity remind us constantly that private capital, in free markets, has been the explosive driving force behind the U.S. economy for 200 years. If our society politicizes decisions about transportation capacity, which is, in effect, what H.R. 8309 does—can the rest of the U.S. economy escape the grim results that came with such abandonment of free markets in England, Italy, and other nations? It is not an idle question. H.R. 8309 is a dagger at the heart of the private enterprise system of the United States.

Ponder this: Railroad rates have to generate the capital required to pay wages, materials, fuel, taxes, and must replenish fixed and rolling stock, as well as finance necessary expansion of capacity. Rails spend 25 cents of every dollar they take in maintaining their rights-of-way. Trucks, 5 cents. Barges? Nothing. The 4 cents per gallon provided for in H.R. 8309 will not even begin to match the enormous public cost of the barge capacity sought—to say nothing of the burden that a collapsing rail network will impose on taxpayers.

Certainly a good way to express our concern for our free economy, our taxpayers, and our railroads—as well as the adverse environmental impacts of more barge traffic on the upper Mississippi is to vote against H.R. 8309.

Mr. ROSTENKOWSKI. Mr. Chairman, I rise to voice my opposition to H.R. 8309. This bill would provide for the construction of a new locks and dam 26 and establish a fuel tax on users of the inland waterway system. The debate over locks and dam 26 has been ongoing for several years. The user fee issue has been argued for decades.

Both of these issues have generated a great deal of controversy. The obvious intent here is that by putting these two issues together, one will carry the other. I do not know whether either of these measures, standing alone, could pass this body.

When the Ways and Means Committee met to write title II of this bill, I voted to show my belief that the users of our expensive inland waterway system should help defray its enormous cost.

But now I am looking at legislation which is not merely a revenue bill. H.R. 8309, if enacted, will raise an estimated $35 million in annual revenues. Estimated outlays for fiscal year 1977 is $488.7 million, for both new construction and operation and maintenance of our inland waterway system. The cost estimate for replacement of locks and dam 26, funded by this bill, is $421 million. The impact of a 4-cents tax is negligible.

I cannot support new construction of locks and dam 26 until we have a more realistic user fee. The Secretary of Transportation unveiled a program that would recapture 50 percent of new construction and 100 percent of operation and maintenance. By imposing a straight fuel tax of 40 cents a gallon, the revenue generated would amount to $350 million. In relation to the figures I quoted above, it is my belief that this is a more realistic measure to justify the funding of a project like locks and dam 26.

It is because of this that I ask you to join me in voting against H.R. 8309.

The CHAIRMAN. The question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. MCFALL, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 8309) authorizing certain public works on rivers for navigation, and for other purposes, pursuant to House Resolution 776, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute

adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. STEIGER

Mr. STEIGER. Mr. Speaker, I offer a motion to recommit.

The SPEAKER. Is the gentleman opposed to the bill?

Mr. STEIGER. I am, Mr. Speaker.

The SPEAKER. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. STEIGER moves to recommit the bill H.R. 8309 to the Committee on Public Works and Transportation.

The SPEAKER. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER. The question is on the motion to recommit.

The motion to recommit was rejected.

The SPEAKER. The question is on the passage of the bill.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. ROUSSELOT. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 331, nays 70, not voting 33, as follows:

[Roll No. 652]

YEAS—331

Abdnor	Brademas	Crane
Addabbo	Breaux	Cunningham
Akaka	Breckinridge	Daniel, Dan
Alexander	Brodhead	Daniel, R. W.
Allen	Brooks	Danielson
Ambro	Brown, Calif.	Davis
Ammerman	Brown, Mich.	de la Garza
Anderson, Calif.	Broyhill	Delaney
	Burgener	Devine
Anderson, Ill.	Burke, Calif.	Dickinson
Andrews, N.C.	Burke, Mass.	Dicks
Andrews, N. Dak.	Burlison, Mo.	Diggs
	Burton, John	Dodd
Annunzio	Burton, Phillip	Dornan
Armstrong	Butler	Downey
Ashley	Caputo	Duncan, Oreg.
Aspin	Carter	Duncan, Tenn.
Badham	Cavanaugh	Early
Badillo	Cederberg	Eckhardt
Baldus	Chappell	Edwards, Ala.
Barnard	Chisholm	Edwards, Okla.
Baucus	Clausen, Don H.	Eilberg
Bauman		Emery
Beard, R.I.	Clawson, Del	English
Bedell	Clay	Erlenborn
Bennett	Cleveland	Ertel
Bevill	Cochran	Evans, Colo.
Biaggi	Cohen	Evans, Del.
Bingham	Coleman	Evans, Ind.
Blanchard	Collins, Ill.	Fary
Blouin	Conyers	Fascell
Boggs	Corcoran	Findley
Boland	Corman	Fithian
Bolling	Cornell	Flippo
Bonker	Cornwell	Flood
Bowen	Cotter	Flowers
Flynt	Livingston	Rhodes
Foley	Lloyd, Calif.	Richmond
Ford, Mich.	Lloyd, Tenn.	Rinaldo
Ford, Tenn.	Lott	Risenhoover
Forsythe	Luken	Roberts
Fountain	Lundine	Robinson
Fowler	McClory	Rodino
Fraser	McCloskey	Roe
Frenzel	McCormack	Rogers
Frey	McDade	Roncalio
Fuqua	McEwen	Rose
Gammage	McFall	Rousselot
Gephardt	McHugh	Rudd
Giaimo	McKay	Runnels
Gibbons	McKinney	Ryan
Gilman	Mahon	Santini
Ginn	Marks	Satterfield
Glickman	Marlenee	Sawyer
Gonzalez	Marriott	Scheuer
Goodling	Martin	Schroeder
Gore	Mathis	Sebelius
Gradison	Mattox	Sharp
Grassley	Mazzoli	Shipley
Gudger	Meeds	Shuster
Hagedorn	Metcalfe	Sikes
Hall	Meyner	Simon
Hamilton	Michel	Sisk
Hammer-schmidt	Mikulski	Skelton
	Milford	Slack
Hanley	Miller, Ohio	Smith, Iowa
Hannaford	Mineta	Smith, Nebr.
Hansen	Minish	Snyder
Harkin	Mitchell, Md.	Solarz
Harris	Mitchell, N.Y.	Spence
Harsha	Moffett	St Germain
Hawkins	Mollohan	Staggers
Heckler	Montgomery	Stangeland
Hefner	Moorhead, Calif.	Stanton
Heftel		Steed
Hightower	Moorhead, Pa.	Steers
Hillis	Moss	Stokes
Holland	Murphy, Ill.	Stump
Hollenbeck	Murphy, N.Y.	Symms
Horton	Murtha	Teague
Howard	Myers, Gary	Thompson
Hubbard	Myers, John	Thone
Huckaby	Myers, Michael	Trible
Hyde	Natcher	Udall
Ichord	Neal	Ullman
Ireland	Nedzi	Van Deerlin
Jeffords	Nichols	Vander Jagt
Jenkins	Nix	Vento
Jenrette	Nolan	Volkmer
Johnson, Colo.	Nowak	Waggonner
Jones, N.C.	O'Brien	Walsh
Jones, Okla.	Oakar	Wampler
Jones, Tenn.	Oberstar	Watkins
Jordan	Obey	Weaver
Kasten	Panetta	White
Kastenmeier	Patten	Whitehurst
Kazen	Pease	Whitley
Kelly	Perkins	Whitten
Kemp	Pettis	Wiggins
Keys	Pickle	Wilson, Bob
Kindness	Poage	Wilson, C. H.
Krebs	Pressler	Wilson, Tex.
Krueger	Preyer	Winn
LaFalce	Price	Wright
Lagomarsino	Pritchard	Wydler
Latta	Pursell	Wylie
Le Fante	Quie	Yatron
Leach	Quillen	Young, Alaska
Leggett	Rahall	Young, Fla.
Lehman	Railsback	Young, Mo.
Lent	Rangel	Zablocki
Levitas	Regula	Zeferetti

NAYS—70

Applegate	Holt	Ruppe
Archer	Holtzman	Russo
Beilenson	Hughes	Sarasin
Bonior	Jacobs	Seiberling
Brinkley	Ketchum	Skubitz
Burke, Fla.	Kildee	Spellman
Burleson, Tex.	Kostmayer	Stark
Byron	Lederer	Steiger
Carr	Long, La.	Stockman
Collins, Tex.	Long, Md.	Stratton
Conte	McDonald	Studds
D'Amours	Maguire	Thornton
Dellums	Markey	Traxler
Derrick	Mikva	Treen
Derwinski	Moore	Tsongas
Dingell	Mottl	Tucker
Drinan	Murphy, Pa.	Waxman
Edgar	Ottinger	Weiss
Edwards, Calif.	Pattison	Wirth
Evans, Ga.	Pike	Wolff
Fenwick	Quayle	Yates
Fish	Rooney	Young, Tex.
Florio	Rosenthal	
Harrington	Rostenkowski	

NOT VOTING—33

Ashbrook	Dent	Moakley
AuCoin	Fisher	Patterson
Bafalis	Gaydos	Pepper
Beard, Tenn.	Goldwater	Reuss
Benjamin	Guyer	Roybal
Broomfield	Johnson, Calif.	Schulze
Brown, Ohio	Koch	Taylor
Buchanan	Lujan	Vanik
Carney	Madigan	Walgren
Conable	Mann	Walker
Coughlin	Miller, Calif.	Whalen

The Clerk announced the following pairs:

On this vote:

Mr. Moakley for, with Mr. Walgren against.

Mr. Carney for, with Mr. Taylor against.

Until further notice:

Mr. Dent with Mr. Ashbrook.

Mr. Johnson of California with Mr. Goldwater.

Mr. Koch with Mr. Shulze.

Mr. Mann with Mr. Whalen.

Mr. Reuss with Mr. Brown of Ohio.

Mr. Pepper with Mr. Conable.

Mr. Patterson of California with Mr. Lujan.

Mr. Gaydos with Mr. Madigan.

Mr. AuCoin with Mr. Broomfield.

Mr. Fisher with Mr. Guyer.

Mr. Benjamin with Mr. Bafalis.

Mr. Miller of California with Mr. Beard of Tennessee.

Mr. Roybal with Mr. Buchanan.

Mr. Vanik with Mr. Coughlin.

Messrs. EDWARDS of California, CARR, YOUNG of Texas, ROSTENKOWSKI, PATTISON of New York, and Mrs. SPELLMAN changed their vote from "yea" to "nay."

Messrs. BAUCUS and BONKER changed their vote from "nay" to "yea."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed a joint resolution of the House of the following title:

H.J. Res. 626. Joint resolution making continuing appropriations for the fiscal year 1978, and for other purposes.

SENATE AMENDMENTS TO H.R. 5037, FOR THE RELIEF OF JACK R. MISNER

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 5037) for the relief of Jack R. Misner, with Senate amendments thereto and concur in Senate amendments No. 1 and No. 2 and concur in Senate amendment No. 3 with an amendment.

The Clerk read the title of the bill.

The Clerk read the House amendment to the Senate amendments, as follows:

Strike out the text of the Senate amendment Numbered 3 and insert in lieu thereof the text of H.R. 8444 as passed the House (other than title II thereof and items in the table of contents relating thereto) as follows:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.
(a) SHORT TITLE.—This Act may be cited as the "National Energy Act".
(b) TABLE OF CONTENTS.—
Sec. 1. Short title; table of contents.
Sec. 2. Findings and statement of purposes.
Sec. 3. National energy goals.
Sec. 4. References to Federal Power Commission and Federal Energy Administration.

TITLE I—PRICING, REGULATORY, AND OTHER NONTAX PROVISIONS

PART I—ENERGY CONSERVATION PROGRAMS FOR EXISTING RESIDENTIAL BUILDINGS

SUBPART A—UTILITY PROGRAM

Sec. 101. Definitions.
Sec. 102. Coverage.
Sec. 103. Residential energy conservation plans.
Sec. 104. Utility programs.
Sec. 105. Temporary programs.
Sec. 106. Federal standby authority.
Sec. 107. Relationship to other laws.
Sec. 108. Contract provisions.
Sec. 109. Rules.
Sec. 110. Product standards.
Sec. 111. Authorization of appropriations.
Sec. 112. Study respecting energy efficiency standards.

SUBPART B—WEATHERIZATION GRANTS FOR THE BENEFIT OF LOW-INCOME FAMILIES

Sec. 121. Federal Energy Administration weatherization grant program.
Sec. 122. Farmers Home Administration weatherization grant program.
Sec. 123. Availability of labor.

SUBPART C—SECONDARY FINANCING AND LOAN INSURANCE FOR ENERGY CONSERVING IMPROVEMENTS

Sec. 141. Purchase by Government National Mortgage Association of loans to low- and moderate-income families for energy conserving improvements.
Sec. 142. Loan insurance for energy conserving improvements under title I of the National Housing Act.
Sec. 143. Loan insurance for energy conconserving improvements in multifamily projects under section 241 of National Housing Act.
Sec. 144. Standby authority of Government National Mortgage Association to purchase loans for energy conserving improvements.

SUBPART D—MISCELLANEOUS

Sec. 161. Energy conserving improvements for public housing.
Sec. 162. Energy conserving standards for newly constructed residential housing insured by Federal Housing Administration or assisted by Farmers Home Administration.
Sec. 163. Solar energy systems.
Sec. 164. Studies.
Sec. 165. Authorization for appropriations for new building performance standards grants.
Sec. 166. Secondary financing by Federal Home Loan Mortgage Corporation of solar energy and energy conserving improvement loans.
Sec. 167. Secondary financing by Federal National Mortgage Association of solar energy and energy conserving improvement loans.
Sec. 168. Weatherization study.

PART II—ENERGY EFFICIENCY OF CERTAIN PRODUCTS; USE OF RECOVERED MATERIALS

SUBPART A—ENERGY EFFICIENCY STANDARDS FOR CONSUMER PRODUCTS OTHER THAN AUTOMOBILES

Sec. 201. Test procedures.
Sec. 202. Energy efficiency standards.
Sec. 203. Effect of standards on other law.
Sec. 204. Technical and conforming amendments.
Sec. 205. Appropriations authorization.
Sec. 206. Effects of other laws on procedures.

SUBPART B—DISCLOSURE OF AUTOMOBILE FUEL EFFICIENCY TAX

Sec. 211. Disclosure in labeling.
Sec. 222. Disclosure in advertising.

SUBPART C—USE OF RECOVERED MATERIALS

Sec. 241. Use of recovered materials.

SUBPART D—OFF-HIGHWAY MOTOR VEHICLES AND BICYCLES

Sec. 261. Off-highway motor vehicles.
Sec. 262. Bicycle study.

PART III—ENERGY CONSERVATION PROGRAM FOR SCHOOLS AND HEALTH CARE FACILITIES AND BUILDINGS OWNED BY UNITS OF LOCAL GOVERNMENT

SUBPART A—SCHOOLS AND HEALTH CARE FACILITIES

Sec. 301. Statement of findings and purposes.
Sec. 302. Amendment to the Energy Policy and Conservation Act.
Sec. 303. Technical amendments.

SUBPART B—BUILDINGS OWNED BY UNITS OF LOCAL GOVERNMENT

Sec. 321. Statement of findings and purpose.
Sec. 322. Amendment to the Energy Policy and Conservation Act.
Sec. 323. Application of Davis-Bacon Act.

PART IV—NATURAL GAS

Sec. 401. Findings and purposes.
Sec. 402. Definitions.
Sec. 403. Calculation of the current Btu related price.
Sec. 404. Sales of new natural gas.
Sec. 405. Sales of old natural gas under existing contracts.
Sec. 406. Sales of old natural gas under new contracts.
Sec. 407. Sales of old natural gas under rollover contracts.
Sec. 408. Effective dates of rules with respect to maximum lawful prices.
Sec. 409. Special pricing provisions.
Sec. 410. Incremental pricing of natural gas.
Sec. 411. Essential agricultural uses.
Sec. 412. Natural gas storage facilities.
Sec. 413. Administrative procedure, enforcement, and judicial review.
Sec. 414. Intrastate contracts and transactions.
Sec. 415. Relationship to the Emergency Natural Gas Act of 1977.
Sec. 416. Jurisdiction of the Commission under the Natural Gas Act.
Sec. 417. Conforming amendments to the Natural Gas Act.
Sec. 418. Amendments to the Emergency Natural Gas Act of 1977.

PART V—PUBLIC UTILITY REGULATORY POLICIES

Chapter 1—GENERAL PROVISIONS

Sec. 501. Purposes.
Sec. 502. Definitions.
Sec. 503. Application to Federal Power Act.
Sec. 504. Advisory Committee.

Chapter 2—IMPROVING EFFICIENCY OF USE OF ELECTRICITY

Subchapter A—General Provisions

Sec. 505. Coverage.

Subchapter B—National Minimum Standards for State Regulated Electric Utility Rate Regulation

Sec. 511. Minimum standards for rates of service.
Sec. 512. Minimum standards respecting advertising.
Sec. 513. Minimum standards respecting pollution control costs.
Sec. 514. Automatic adjustment clauses.
Sec. 515. Prohibition against special nonaggregate inclusions.
Sec. 516. Relationship to other applicable law.
Sec. 517. Solar, wind, and small electric generating systems.

Subchapter C—Other Requirements for State Regulated Electric Utilities

Sec. 521. Load management techniques.
Sec. 522. Standards for information to consumers.
Sec. 523. Minimum procedures for termination of electric service.

Subchapter D—Nonregulated Utilities

Sec. 526 Requirements.

Subchapter E—Requirements Applicable to State Regulatory Authorities

Sec. 531. Compliance determination authority for State regulated electric utilities.
Sec. 532. Determination of costs of service.
Sec. 533. Alternative loan management techniques.
Sec. 534. Master metering.
Sec. 535. Participation in regulatory proceedings by States and by electric consumers.

Subchapter F—Enforcement and Review

Sec. 536. Prohibitions.
Sec. 537. Enforcement.
Sec. 538. Judicial review.

Chapter 3—IMPROVING EFFICIENCY OF, AND PRESERVING COMPETITION IN, GENERATION AND TRANSMISSION OF ELECTRICITY

Sec. 541. Interconnection, pooling, wheeling, and central dispatch.
Sec. 542. Continuance of service.
Sec. 543. Consideration of proposed rate increases.
Sec. 544. Automatic adjustment clauses.
Sec. 545. Electric utility reliability.
Sec. 546. Cogeneration.
Sec. 547. Interlocking directorates.
Sec. 548. Applicability of antitrust laws.

Chapter 4—CONSUMER REPRESENTATION AND ASSISTANCE TO STATE AGENCIES

Sec. 551. Financial assistance for State agencies and for consumer representation.
Sec. 552. Representation of consumer interests before Federal Power Commission.
Sec. 553. Responsibilities of Administrator.

Chapter 5—NATURAL GAS UTILITIES

Subchapter A—General Provisions

Sec. 561. Findings.
Sec. 562. Definitions.

Subchapter B—Requirements for Gas Utilities

Sec. 566. Coverage.
Sec. 567. Gas utility rate design proposals.
Sec. 568. Minimum standards respecting advertising.
Sec. 569. Minimum procedures for termination of gas service.
Sec. 570. Nonregulated utilities.

Subchapter C—Administration, Enforcement, Review

Sec. 581. Prohibitions.
Sec. 582. Enforcement.
Sec. 583. Compliance determination authority for State regulated gas utilities.
Sec. 584. Judicial review.

Chapter 6—SMALL HYDROELECTRIC POWER PROJECTS

Sec. 586. Incentive program.
Sec. 587. License charges.
Sec. 588. Transfers of authority.
Sec. 589. Conduit hydroelectric facilities.

PART VI—CONVERSION FROM NATURAL GAS AND PETROLEUM TO COAL AND OTHER FUEL RESOURCES

SUBPART A—GENERAL PROVISIONS
Sec. 601. Findings and statement of purposes.
Sec. 602. Definitions.
Sec. 603. Territorial application.
Sec. 604. Effect of environmental requirements.
SUBPART B—PROHIBITIONS; EXEMPTIONS
Sec. 611. New electric powerplants.
Sec. 612. New major fuel-burning installations.
Sec. 613. Existing electric powerplants and existing major fuel-burning installations.
Sec. 614. Supplemental natural gas boiler fuel conservation authority.
Sec. 615. Prohibition on use of natural gas for decorative outdoor lighting.
Sec. 616. Exemption for qualifying cogeneration facilities.
Sec. 617 Exemption for high Btu synthetic gas derived from coal.
Sec. 618. Terms and conditions of exemptions.
SUBPART C—ENFORCEMENT; ADMINISTRATION
Sec. 621. Administrative procedures.
Sec. 622. Enforcement and penalties.
Sec. 623. Citizen suits.
Sec. 624. Preservation of contractual rights.
Sec. 625. Information.
SUBPART D—MISCELLANEOUS PROVISIONS
Sec. 631. Emergency powers of the President.
Sec. 632. Federal activities.
Sec. 633. Impact on employees.
Sec. 634. Annual report.
Sec. 635. Authorization of appropriations.
Sec. 636. Studies.
Sec. 637. Effects of other laws on procedures.
Sec. 638. Conforming amendments.
Sec. 639. Effective dates.
PART VII—FEDERAL ENERGY INITIATIVES
SUBPART A—FEDERAL VAN POOLING PROGRAM
Sec. 701. Federal van pooling program.
SUBPART B—DEMONSTRATION OF SOLAR HEATING AND COOLING IN FEDERAL BUILDINGS
Sec. 721. Definitions.
Sec. 722. Federal solar program.
Sec. 723. Duties of Administrator.
Sec. 724. Transfer of appropriations.
Sec. 725. Submission of proposals.
Sec. 726. Authorization.
SUBPART C—USE OF ENERGY CONSERVATION AND SOLAR ENERGY IN FEDERAL BUILDINGS
Sec. 741. Findings.
Sec. 742. Policy.
Sec. 743. Purpose.
Sec. 744. Definitions.
Sec. 745. Establishment and use of life cycle cost methods.
Sec. 746. Energy performance targets for existing buildings.
Sec. 747. Energy audits and retrofitting of existing Federal buildings.
Sec. 748. Energy preference for leased buildings.
Sec. 749. Budget treatment of energy items by Federal agencies.
Sec. 750. Reports.
Sec. 751. Transfer of functions.
Sec. 752. Authorization of appropriations.
SUBPART D—USE OF ADVANCED PHOTOVOLTAIC ENERGY DEVICES IN FEDERAL FACILITIES
Sec. 761. Short title.
Sec. 762. Photovoltaic energy program.
Sec. 763. Purpose.
Sec. 764. Acquisition of systems.
Sec. 765. Administration.
Sec. 766. Systems evaluation and purchase program.
Sec. 767. Advisory committee.
Sec. 768. Definition.
Sec. 769. Authorization.

SEC. 2. FINDINGS AND STATEMENT OF PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) the United States faces an energy shortage arising from increasing demand for energy, particularly for oil and natural gas, and insufficient domestic supplies of oil and natural gas to satisfy that demand;

(2) unless effective measures are promptly taken by the Federal Government and other users of energy to reduce the rate of growth of demand for energy, the United States will become increasingly dependent on the world oil market, increasingly vulnerable to interruptions of foreign oil supplies, and unable to provide the energy to meet future needs:

(3) all sectors of our Nation's economy must begin immediately to significantly reduce the demand for exhaustible energy resources of oil and natural gas by implementing and maintaining effective conservation measures for the efficient use of these and other energy sources; and

(4) consistent with all Federal, State, and local environmental requirements, the United States must promptly develop renewable and essentially inexhaustible energy sources and convert the Nation's economy to greater utilization of coal, biomass, and other domestic alternative fuel resources in order to ensure sustained, long-term economic growth, protect the public health and welfare, and preserve national security.

(b) STATEMENT OF PURPOSES.—The purposes of this Act are—

(1) to reduce the growth in demand for energy in the United States through carefully considered institutional and technological changes to conserve exhaustible energy resources produced in this Nation and elsewhere, while not significantly inhibiting beneficial economic growth;

(2) to reduce significantly this Nation's demand for oil (particularly imported oil) and natural gas, to discourage the use of oil and natural gas while assuring, to the greatest extent possible, that such fuels will be available for essential needs, and to encourage the use of coal and other fuels and renewable energy sources to the greatest extent possible, for the benefit of present and future generations;

(3) to establish, through regulation of interstate commerce, taxation, reform of electric utility rate structures, and other measures, a comprehensive energy conservation program applicable to all persons, including Federal and State agencies and local governments, and a program to develop this Nation's indigenous energy resources to achieve the national energy goals established by this Act;

(4) to ensure that all actions taken under or pursuant to this Act are carried out in accordance with applicable environmental requirements;

(5) to ensure that all Federal agencies fully utilize their authorities in furtherance of the purposes of this Act by carrying out programs designed to prohibit or discourage the use of natural gas and oil as a primary energy source and by maximizing the efficient use of energy and conserve natural gas and petroleum of all forms in programs funded or administered by such agencies;

(6) to educate all users of energy to insist that all goods and services are energy efficient and to consider lifetime costs in purchasing decisions respecting goods and services of every kind and description;

(7) to prevent unemployment due to temporary or long-term shortages in supplies of natural gas and oil;

(8) to protect the security of the United States; and

(9) to provide incentives to increase the amount of domestically produced energy in the United States for the benefit and security of present and future generations.

SEC. 3. NATIONAL ENERGY GOALS.

The Congress hereby establishes the following national energy goals for 1985:

(1) Reduction of the compounded average rate of energy growth in the United States to not more than 2 percent annually and maintenance of that rate thereafter.

(2) Reduction of the level of oil imports to less than six million barrels per day.

(3) Achievement of a 10 percent reduction in gasoline consumption from the 1977 level.

(4) Improvement of the efficiency in the energy use of heating and cooling systems in 90 percent of residential buildings, schools, and hospitals.

(5) An increase in annual coal production to at least 400 million tons above 1976 production levels.

(6) Use of solar energy in more than 2½ million homes.

SEC. 4. REFERENCES TO FEDERAL POWER COMMISSION AND FEDERAL ENERGY ADMINISTRATION.

If the Federal Power Commission or the Federal Energy Administration is terminated, any reference in this Act (or any amendment made thereby) to the Federal Power Commission or the Federal Energy Administration shall be deemed to be a reference to the officer, department, agency, or commission in which the principal functions of such Commission or Administration (as the case may be) are vested, transferred, or delegated pursuant to law.

TITLE I—PRICING, REGULATORY, AND OTHER NONTAX PROVISIONS

PART I—ENERGY CONSERVATION PROGRAMS FOR EXISTING RESIDENTIAL BUILDINGS

Subpart A—Utility Program

SEC. 101. DEFINITIONS.

As used in this subpart—

(1) The term "Administrator" means the Administrator of the Federal Energy Administration.

(2) The term "natural gas" means natural gas as such term is defined in the Natural Gas Act.

(3) The term "public utility" means any person, State agency, or Federal agency which is engaged in the business of selling natural gas or electric energy, or both, for purposes other than resale.

(4) The term "regulated utility" means a public utility with respect to whose rates a State regulatory authority exercises ratemaking authority.

(5) The term "nonregulated utility" means a public utility which is not a regulated utility.

(6) The term "rate" means any price, rate, charge, or classification made, demanded, observed, or received with respect to sales of electric energy or natural gas, any rule, regulation, or practice respecting any such rate, charge, or classification, and any contract pertaining to the sale of electric energy or natural gas.

(7) The term "ratemaking authority" means authority to fix, modify, approve, or disapprove rates.

(8) The term "residential building" means any building used for residential occupancy which is not a new building to which the final standards under section 304(a) of the Energy Conservation and Production Act apply and which has a mechanical or electrical system for heating or cooling, or both.

(9) The term "residential customer" means any person to whom a public utility sells natural gas or electric energy for consumption in a residential building.

(10) The term "residential energy conservation measure" means—

(A) caulking and weatherstripping of exterior doors and windows;

(B) furnace efficiency modifications including—

(i) replacement burners designed to reduce the firing rate or to achieve a reduction in the amount of fuel consumed as a result of increased combustion efficiency.

(ii) devices for modifying flue openings which will increase the efficiency of the heating system, and

(iii) electrical or mechanical furnace ignition systems which replace standing gas pilot lights;

(C) clock thermostats;

(D) ceiling, attic, wall, and floor insulation;

(E) hot water heater insulation;

(F) storm windows and doors, multiglazed windows and doors, heat-absorbing or heat-reflective glazed windows and doors;

(G) replacement furnaces which exceed the energy efficiency standards promulgated under section 325 of the Energy Policy and Conservation Act by not less than an amount determined by the Administrator to provide substantial energy conservation benefits;

(H) devices associated with load management techniques as defined in section 521 (b);

(I) devices to utilize solar energy or windpower for any residential energy conservation purpose, including (but not limited to) heating of water, space heating or cooling; and

(J) such other measures as the Administrator may by rule identify for purposes of this subpart.

No measure referred to in subparagraphs (B) through (I) shall be treated as a residential energy conservation measure for purposes of this subpart unless such measure is warranted to meet a specified level of performance over a period of not less than three years.

(11) The term "residential energy conservation plan" means a plan approved by the Administrator pursuant to section 103(c) which is developed by a State regulatory authority or by a nonregulated utility.

(12) The term "State" means a State, the District of Columbia, and, at the discretion of the Administrator, Puerto Rico.

(13) The term "State regulatory authority" means any State agency which has ratemaking authority with respect to the sale of electric energy or natural gas by any public utility (other than by such State agency); except that in the case of a public utility with respect to which the Tennessee Valley Authority has ratemaking authority such term means the Tennessee Valley Authority.

(14) The term "State agency" means a State, a political subdivision thereof, or any agency or instrumentality of either.

(15) The term "suggested measures" means, with respect to a particular residential building, the residential energy conservation measures which the Administrator, in the rules prescribed pursuant to section 103 (a), determines to be appropriate for the location and the category of residential buildings which includes such building. In determining which of the residential energy conservation measures shall be suggested measures for a location and category of residential building, the Administrator shall consider the resulting cost of the inspection required to be conducted under section 104 (a) (1) (B) (i) and its effect on the willingness of residential customers to participate in the utility program.

(16) The term "utility program" means a program meeting the requirements of section 104 carried out by—

(A) a regulated utility pursuant to a residential energy conservation plan developed by a State regulatory authority;

(B) a nonregulated utility pursuant to a residential energy conservation plan developed by such utility; or

(C) a regulated or nonregulated utility pursuant to an order of the Administrator issued under section 106.

SEC. 102. COVERAGE.

This subpart shall apply in any calendar year to a public utility only if during the second preceding calendar year either (1) sales of natural gas by such utility for purposes other than resale exceeded 10 billion cubic feet or (2) sales of electric energy by such utility for purposes other than resale exceeded 200 million kilowatt-hours.

SEC. 103. RESIDENTIAL ENERGY CONSERVATION PLANS.

(a) PROMULGATION OF RULES BY ADMINISTRATOR.—The Administrator shall, not later than 120 days after enactment of this Act, publish an advanced notice of proposed rulemaking with respect to rules on the content and implementation of residential energy conservation plans. Not later than 60 days after the date of publication of the advanced notice of proposed rulemaking, and after consultation with the Secretary of Housing and Urban Development, the Secretary of Commerce, acting through the National Bureau of Standards, the Consumer Product Safety Commission, and the heads of such other agencies as he deems appropriate, the Administrator shall publish a proposed rule on content and implementation of such plans. After publication of such proposed rule, the Administrator shall afford interested persons an opportunity to present oral and written comments on matters relating to such proposed rule. A rule prescribing the content and implementation of residential energy conservation plans shall be published not earlier than 45 days after publication of the proposed rule.

(b) CONTENT OF RULES.—The rules promulgated under subsection (a)—

(1) shall identify the suggested measures for residential buildings, by climatic region and by categories determined by the Administrator on the basis of type of construction or any other factors which the Administrator may deem appropriate;

(2) shall include—

(A) standards which the Administrator determines necessary for general safety and effectiveness of any residential energy conservation measure;

(B) standards which the Administrator determines necessary for installation of any residential energy conservation measure; and

(C) standards for the programs and procedures required under subsections (d) (4) and (e) (3) and standards, developed in close consultation with the Federal Trade Commission, for the programs and procedures required under subsections (d) (2) and (e) (2); and

(3) may include such other requirements as the Administrator may determine to be necessary to carry out this subpart.

(c) SUBMISSION AND APPROVAL OF STATE RESIDENTIAL ENERGY CONSERVATION PLANS.—(1) Not later than 180 days after promulgation of rules under subsection (a), each State regulatory authority may submit and each nonregulated utility shall submit a proposed residential energy conservation plan to the Administrator. The Administrator may, upon request of a State regulatory authority or non-regulated utility, extend for good cause shown the time period for submission of a plan by such authority or utility. Each such plan shall be reviewed and approved or disapproved by the Administrator not later than 90 days after submission. If the Administrator disapproves a plan, the State regulatory authority or nonregulated utility may submit a new or amended plan not later than 60 days after the date of such disapproval, or such longer period as the Administrator may, for good cause, allow. The Administrator shall review and approve or disapprove any such new or amended plan not later than 90 days after submission. After approval of a plan, a State regulatory authority or nonregulated utility may submit an amended plan and such plan shall be approved or disapproved in the same manner as the original plan.

(2) If the Governor of any State notifies the Administrator and the State regulatory authority not later than 30 days after promulgation of rules under subsection (a), the department or agency of such State, which is receiving funds under part C of title III of the Energy Policy and Conservation Act for purposes of carrying out a State energy conservation plan under such part, may (in lieu of the State regulatory authority) submit a proposed residential energy conservation plan to the Administrator for the utilities regulated by such State regulatory authority. In any case where such plan has been submitted by such department or agency, the references in this subpart (other than in section 101(13)) to the State regulatory authority shall be treated as references to such department or agency, with respect to each utility over which such State regulatory authority exercises ratemaking authority. Any such plan may, in the discretion of the Governor, apply to nonregulated utilities in the State in the same manner as to regulated utilities. In any such case reference in this subpart to regulated utilities (including reference to regulated utilities with respect to which a State regulatory authority exercises ratemaking authority) shall, with respect to such State, be treated as references also to nonregulated utilities and references to nonregulated utilities shall not apply.

(3) Paragraph (2) shall not apply in the case of the Tennessee Valley Authority or to any public utility with respect to which the Tennessee Valley Authority has ratemaking authority.

(3) (A) The Governor of each State (or his designee) shall, not later that 270 days after the date of the enactment of this Act, prepare with respect to the service area of each utility in such State—

(i) a list of suppliers and contractors who sell and install residential energy conservation measures, and

(ii) a list of banks, savings and loan associations, credit unions, and other public and private lending institutions which offer loans for the purchase and installation of residential energy conservation measures.

The Governor (or his deignee) shall make such lists available to the utilities in such State and to other persons. In the case of any utility's service area for which the Governor or his designee has not prepared and made available any such list within such 270-day period, the Administrator shall prepare and make available such list, as soon as practicable after such period.

(B) The lists required under subparagraph (A) shall be prepared in a fair, open, and nondiscriminatory manner, and in preparing and making available such lists, the Governor or his designee (or the Administrator) shall take such steps as may be necessary to—

(i) prevent unfair, deceptive, or anticompetive acts or practices by persons selling or installing residential energy conservation measures and institutions offering loans for the purchase and installation of such measures, and

(ii) assure that any person who alleges any injury resulting from a violation of the requirements of this subparagraph shall be entitled to redress under procedures established by the Governor or his designee (or the Administrator).

(d) REQUIREMENTS FOR PLANS FOR REGULATED UTILITIES.—No residential energy conservation plan submitted by a State regulatory authority shall be approved by the Administrator unless such plan—

(1) requires each regulated utility over which such State regulatory authority exercises ratemaking authority to implement a utility program which meets the requirements of section 104;

(2) contains an adequate program for preventing unfair, deceptive, or anticompetitive acts or practices affecting commerce which relate to the implementation of utility programs within such State, including—

(A) provisions to assure that the lists made available under section 103(c)(3) are prepared and sent as provided in section 104(a)(1)(C),

(B) provisions to assure that, in carrying out procedures under section 104(a)(1)(B) respecting financing of suggested measures (including the rates, terms, and procedures used in connection with such financing and the inspection referred to in section 104(a)(1)(B)), the utility will not unfairly discriminate among—

(i) residential customers,

(ii) suppliers and contractors of such measures, or

(iii) lending institutions in the utility's service area which offer loans for the purchase and installation of residential energy conservation measures, and

will not discriminate between measures which are purchased from, or installed by, the utility and measures which are purchased from, or installed by, other persons under such program,

(C) provisions to assure that any person who alleges any injury resulting from a violation of any plan provision required under subparagraph (A) or (B) shall be entitled to redress under procedures established by the State regulatory authority or an appropriate State agency designated by such authority, and

(D) provisions to assure that in the case of a furnace which uses as its primary source of energy any fuel or source of energy other than the fuel or source of energy sold by a utility, such utility will not inspect such furnace, install any replacement furnace referred to in section 101(10)(G), or make or inspect any furnace modification referred to in section 101(10)(B);

(3) contains adequate procedures to assure that each regulated utility will carry out such utility program;

(4) contains adequate procedures to assure that each regulated utility will, in connection with such program, charge fair and reasonable prices and charge rates of interest for loans which generally reflect prevailing rates of interest for similar loans in the State in which the borrower is located; and

(5) is adopted after notice and public hearing; and

(6) meets such other requirements as may be contained in the rules promulgated under subsection (a).

(e) REQUIREMENTS FOR PLANS FOR NONREGULATED UTILITIES.—No residential energy conservation plan proposed by a nonregulated utility shall be approved by the Administrator unless such plan—

(1) provides for the implementation by such utility of a utility program which meets the requirements of section 104;

(2) contains adequate procedures for preventing unfair, deceptive, or anticompetitive acts or practices by such utility which relate to the implementation of such utility program including—

(A) provisions to assure that the lists made available under section 103(c)(3) are prepared and sent as provided in section 104(a)(1)(C),

(B) provisions to assure that, in carrying out procedures under section 104(a)(1)(B) respecting financing of suggested measures (including the rates, terms, and procedures used in connection with such financing and the inspection referred to in section 104(a)(1)(B)), the utility will not unfairly discriminate among—

(i) residential customers,

(ii) suppliers and contractors of such measures, or

(iii) lending institutions in the utility's service area which offer loans for the purchase and installation of residential energy conservation measures, and

will not discriminate between measures which are purchased from, or installed by, the utility and measures which are purchased from, or installed by, other persons under such program,

(C) provisions to assure that any person who alleges any injury resulting from a violation of any plan provision required under subparagraph (A) or (B) shall be entitled to redress under procedures established by the Administrator or an appropriate agency or authority designated by the Administrator, and

(D) provisions to assure that in the case of a furnace which uses as its primary source of energy any fuel or source of energy other than the fuel or source of energy sold by a utility, such utility will not inspect such furnace, install any replacement furnace referred to in section 101(10)(G), or make or inspect any furnace modification referred to in section 101(10)(B);

(3) contains adequate procedures to assure that such utility will, in connection with such program, charge fair and reasonable prices and charge rates of interest for loans which generally reflect prevailing rates of interest for similar loans in the State in which the borrower is located;

(4) contains procedures pursuant to which such utility will submit a written report to the Administrator not later than one year after approval of such plan, and biennially thereafter, regarding the implementation of such utility program and containing such information as may be prescribed by the Administrator in the rules promulgated under subsection (a); and

(5) meets such other requirements as may be contained in the rules promulgated pursuant to subsection (a).

SEC. 104. UTILITY PROGRAMS.

(a) REQUIREMENTS FOR UTILITY PROGRAMS.—(1) Except as provided in subsection (b) and section 105, each utility program shall include—

(A) procedures designed to inform, no later than January 1, 1980, and each two years thereafter before January 1, 1985, each of its residential customers who owns or occupies a residential building, of—

(i) the suggested measures for the category of buildings which includes such residential building;

(ii) the savings in energy costs that are likely to result from installation of the suggested measures in typical residential buildings in such category;

(iii) the availability of the arrangements described in subparagraph (B) and the lists made available under section 103(c)(3);

(iv) suggestions of energy conservation techniques, developed by the Administrator, such as adjustments in energy use patterns and modifications of household activities which can be employed by the residential customer to save energy and which do not require the installation of energy conservation measures (including the potential savings in energy costs that are likely to result from the adoption of the Administrator's suggestions);

(B) procedures whereby the public utility, no later than January 1, 1980, will, for each such residential customer, offer to—

(i) inspect the residential building to determine and inform the residential customer of the estimated cost of purchasing and installing each suggested measure and keep a copy of the inspection report on file which shall be available to any subsequent owner without charge, except that a utility shall be required to make only one inspection of a residence unless a new owner requests and offers to pay for a subsequent inspection;

(ii) have the suggested measures (other than replacement furnaces described in section 101(10)(G)) installed if this clause applies as provided in subsection (b);

(iii) assist such residential customer in securing a loan to finance the purchase and installation costs of suggested measures;

(C) procedures whereby the public utility prepares and sends to each of its residential customers the lists made available pursuant to section 103(c)(3) to the extent that the sending of such lists is practicable, as determined by the Governor or his designee (or the Administrator in any case in which the Administrator prepared such list) and

(D) procedures to assure that all amounts expended or received by the utility which are attributable to the utility program (including any penalties paid by such utility under section 106) are accounted for on the books and records of the utility separately from amounts attributable to all other activities of the utility and are not charged to customers of the utility as part of any rate charged for electric power or natural gas, except that any amounts expended by the utility to provide information under provisions referred to in subparagraph (A) shall be treated for such purposes as a current expense of providing utility service and charged to all customers of such utility in the same manner as current operating expenses of providing such utility service.

(2) The costs of carrying out any activity as part of a utility program under this section (other than the costs of providing information under the provisions referred to in paragraph (1)(A)) shall be charged to the person for whom such activity is performed. Such costs shall be stated separately from the cost of providing utility service on any billing submitted by the utility to such person.

(3) In the case of any person who becomes a residential customer of a utility carrying out a utility program under this section after January 1, 1980, and before January 1, 1985, not later than 60 days after such person becomes a residential customer of such utility, such utility shall inform such person of the items listed in subparagraph (A) of paragraph (1) and offer such person the opportunity to enter into arrangements referred to in subparagraph (B) of paragraph (1).

(b) SUPPLY AND INSTALLATION BY UTILITIES.—(1) After the date 2 years after the date of enactment of this Act, any public utility which directly or indirectly supplies or installs any residential energy conservation measure (other than a measure referred to in subsection 101(10)(H)) shall be treated for purposes of this subpart as supplying or installing such measure under a program under this section. After such date 2 years after the date of enactment of this Act, the provisions of subsection (a)(1)(B)(ii) shall apply and public utilities shall be required to offer to have suggested measures installed under programs under such provisions, if the Administrator determines that—

(A) the supplying or installing of such measures by utilities would not have a substantial anticompetitive effect, and

(B) the supplying or installing of such measures would result in a substantial increase in the number of residential customers likely to install suggested measures, and would not result in excessive prices for residential energy conservation measures.

Before making his determination under subparagraph (A), the Administrator shall take

into account a report by the Federal Trade Commission respecting such determination. Such report shall be undertaken by the Federal Trade Commission and submitted to the Administrator within 18 months after the date of enactment of this Act and shall include a study of the effect on competition of requiring utilities to supply or install such measures under the program under this subpart.

(2) Subection (a)(1)(B)(ii) shall not apply and a public utility may not directly or indirectly supply or install any residential energy conservation measure (other than a measure referred to in subsection 101(10)(H)) after the date 2 years after the date of the enactment of this Act if—

(A) the State regulatory authority or the Administrator determines that there are available sufficient numbers of suppliers or installers of suggested measures in the area to be served by the utility.

(B) the State regulatory authority, the Administrator, or the Federal Trade Commission determines that the supplying or installing of such measures by such utility would have a substantial anticompetitive effect, or

(C) the State regulatory authority or the Administrator determines that prohibiting utilities from supplying or installing such measures will not result in a substantial reduction of the number of residential customers likely to install suggested measures.

(3) Subparagraphs (A) and (C) of paragraph (2) shall not apply to any public utility which directly or indirectly supplied or installed any such measure prior to April 20, 1977.

(4) For purposes of section 106(d), any violation of the prohibition contained in this section shall be treated as a violation of a plan promulgated under section 106(a).

(c) TERMINATION OF SERVICE.—No utility implementing any program under this section may terminate or threaten to terminate utility service to any customer by reason of any default of such customer with respect to payments due for energy conservation measures installed pursuant to such program.

(d) LOANS BY UTILITIES.—(1) Except as provided in paragraph (2), nothing in this section shall be construed as prohibiting any public utility from making loans to residential customers for the purpose of financing the purchase and installation of residential energy conservation measures. In the case of any such loan made by a public utility to a residential customer for such purpose, the public utility shall permit the residential customer to repay the principal and interest of such loan as a part of his periodic bill (over a period of not less than 3 years unless he otherwise elects) except that—

(A) a lump-sum payment of outstanding principal and interest may be required upon default in payment by the residential customer (other than a late payment by such customer), and

(B) no penalty shall be imposed for payment of all or any portion of the outstanding loan amount prior to the date such payment would otherwise be due.

(2) After the date 2 years after the date of the enactment of this Act, no public utility subject to a plan under this subpart may make any loan to finance the purchase or installation of any residential energy conservation measure if the Administrator has determined, after notice and opportunity for public hearing, that—

(A) such loans are being made by such utility at unreasonable rates or on unreasonable terms and conditions, or

(B) such loans made by such utility have a substantial adverse effect upon competition.

(3) For purposes of section 106(d), any violation of the prohibition contained in this section shall be treated as a violation of a plan promulgated under section 106(a).

SEC. 105. TEMPORARY PROGRAMS.

Any State regulatory authority or public utility may apply for a temporary exemption prior to the promulgation of rules pursuant to section 103. A temporary exemption may be granted for the requirements of section 104 for a period not to exceed 3 years after the date of enactment of this Act, if such authority or utility demonstrates to the satisfaction of the Administrator that it has implemented or proposes to implement an energy conservation program for residential customers which is likely to result in the installation of suggested measures in a substantial proportion of residential buildings in its service area.

SEC. 106. FEDERAL STANDBY AUTHORITY.

(a) STANDBY AUTHORITY FOR STATE REGULATED UTILITIES.—If a State regulatory authority does not have a plan approved under section 103(c) within 270 days after promulgation of rules under section 103(a), or within such additional period as the Administrator may allow pursuant to section 103(c)(1), or if the Administrator determines that such State regulatory authority has not adequately implemented an approved plan, the Administrator shall—

(1) promulgate a plan which meets the requirements of section 103 and which applies to the residential buildings which would have been covered had such plan been so approved or implemented, and

(2) under such plan, by order, require each public utility in the State to offer, not later than 90 days following the date of issuance of such order, to its residential customers a utility program prescribed in such order which meets the requirements specified in subsection (a) of section 104.

(b) NONREGULATED UTILITIES.—If a nonregulated utility does not have a plan approved under section 103(c) within 270 days after promulgation of rules under section 103(a) or within such additional period as the Administrator may allow pursuant to section 103(c), or if the Administrator determines that such nonregulated utility has not adequately implemented an approved plan, the Administrator shall, by order, require such nonregulated utility to promulgate a plan which meets the requirements specified in subsection (e) of section 103.

(c) FAILURE TO COMPLY WITH ORDERS.—If the Administrator determines that any public utility to which an order has been issued pursuant to subsection (a) or (b) has failed to comply with such order, he may file a petition in the appropriate United States district court to enjoin such utility from violating such order.

(d) CIVIL PENALTY.—(1) Any public utility which violates any requirement of a plan promulgated under subsection (a) or which fails to comply with an order under subsection (a) or (b) within 90 days from the issuance of such order shall be subject to a civil penalty of not more than $25,000 for each violation. Each day that such violation continues shall be considered a separate violation.

(2) A civil penalty under this subsection shall be assessed by an order of the Administrator made on the record after notice and opportunity for a hearing.

(3) Any person who requested a hearing in accordance with paragraph (2) regarding the assessment of a civil penalty and who is aggrieved by an order assessing a civil penalty may file a petition for judicial review of such order with the appropriate United States Court of Appeals. Such a petition may only be filed within the 30-day period beginning on the date the order making such assessment was issued.

(4) If any person fails to pay an assessment of a civil penalty—

(A) after the order making the assessment has become a final order and if such person does not file a petition for judicial review of the order in accordance with paragraph (3), or

(B) after the court in an action brought under paragraph (3) has entered a final judgment requiring such payment

the Attorney General shall recover the amount assessed (plus interest at currently prevailing rates from the date of the expiration of the 30-day period referred to in paragraph (3) or the date of such final judgment as the case may be) in an action brought in such court. In such an action, the validity, amount, and appropriateness of such penalty shall not be subject to review.

SEC. 107. RELATIONSHIP TO OTHER LAWS.

(a) STATE AND LOCAL LAW.—Nothing in this subpart shall supersede any law or regulation of any State or political subdivision thereof, except to the extent that the Administrator, upon petition of a public utility and for good cause, determines that such law or regulation prohibits a public utility from taking any action required to be taken under this subpart.

(b) LAWS RELATING TO UNFAIR COMPETITION AND DECEPTIVE ACTS.—Nothing in this subpart shall be construed as restricting the authority of any agency or authority of the United States or of any State under any provision of law to prevent unfair methods of competition and unfair or deceptive acts or practices by public utilities.

(c) TRUTH IN LENDING.—Nothing contained in section 104(4) of the Truth in Lending Act (15 U.S.C. 1603(4)) or the regulations issued pursuant thereto shall be deemed to exempt sales or credit extensions by public utilities under this subpart.

(d) PUBLIC UTILITY HOLDING COMPANY ACT OF 1935.—No loan made by a utility under a utility program under this subpart shall be treated as the acquisition of any security, asset, or other interest in any business for purposes of section 9 of the Public Utility Holding Company Act of 1935.

SEC. 108. CONTRACT PROVISIONS.

No public utility shall be subject to any liability under any provision in any contract which restricts any public utility from lending, borrowing, or entering a new line of business, if such lending, borrowing, or entering a new line of business is required under this subpart.

SEC. 109. RULES.

The Administrator is authorized to promulgate such rules as he determines may be necessary to carry out this subpart.

SEC. 110. PRODUCT STANDARDS.

The Administrator shall consult with the Secretary of Commerce, acting through the National Bureau of Standards, with regard to any product or material standard which is relied on in implementing this subpart as a basis for judging the efficacy energy efficiency, safety, or other attributes of energy conservation materials, products, or devices, and with the Federal Trade Commission for the purpose of insuring that such standards do not operate to deceive consumers or unreasonably restrict consumer or producer options, and that such standards (when applicable) are suitable as a basis for making truthful and reliable disclosures to consumers regarding performance and safety attributes of energy conservation products, materials, and devices.

SEC. 111. AUTHORIZATION OF APPROPRIATIONS.

There are hereby authorized to be appropriated to the Administrator for each of the first three fiscal years beginning after the date of the enactment of this Act $5,000,000 to carry out his responsibilities under this subpart.

SEC. 12. STUDY RESPECTING ENERGY EFFICIENCY STANDARDS.

(a) STUDY.—(1) The Administrator shall undertake a study and submit recommenda-

tions (including recommendations for legislative action) to the President and Congress respecting the application of energy conservation standards to existing residential buildings. Such study shall include an analysis of, and recommendations respecting—

(A) the type and coverage of residential energy conservation standards, if any, which are necessary and desirable to carry out the purposes of this Act, and

(B) any measures necessary to insure compliance with such standards.

(2) The study and recommendations referred to in paragraph (1) shall include an analysis of—

(A) whether or not Federal financial assistance (within the meaning of title III of the Energy Conservation and Production Act) should be withheld or conditioned in the case of existing residential buildings which do not meet energy conservation standards and whether or not some other means of insuring compliance with such standards should be implemented, and

(B) the classes or categories of existing residential buildings and building owners which should be exempted from any mandatory program which may be recommended under paragraph (1).

(b) CONSULTATION.—In carrying out his functions under subsection (a), the Administrator shall consult with appropriate representatives of the building community (including representatives of labor and the construction industry, engineers, and architects), with appropriate public officials and organizations of public officials, and with representatives of consumer groups. For purposes of such consultation, the Administrator shall, to the extent practicable, make use of the National Institute of Building Sciences.

(c) CONSIDERATION OF FACTORS.—In making any recommendations under subsection (a) of this section, the Administrator shall consider—

(1) the economic impact of the measures recommended on the property owners,

(2) the savings in energy costs resulting from measures recommended throughout the estimated remaining useful life of the existing residential buildings to which such recommendation applies,

(3) the cost of complying with such measures,

(4) the cost of administering any such measures recommended under subsection (a)(1)(B),

(5) the total cost, per Btu, in obtaining the energy savings likely to result from such recommended measures, computed for each class of existing residential building to which such recommendation applies, and

(6) any other factors the Administrator considers relevant.

(d) SUBMISSION.—The recommendations developed by the Administrator under subsection (a) shall be submitted to the President and the Congress not later than 18 months after the date of the enactment of this Act.

Subpart B—Weatherization Grants for the Benefit of Low-Income Families

SEC. 121. FEDERAL ENERGY ADMINISTRATION WEATHERIZATION GRANT PROGRAM.

(a)(1) Section 412(7)(A) of the Energy Conservation in Existing Buildings Act of 1976 is amended—

(A) by inserting "125 percent of" after "is at or below"; and

(B) by inserting the following after "Budget,": "except that the Administrator may establish a higher level if the Administrator, after consulting with the Secretary of Agriculture and the Director of the Community Services Administration, determines that such a higher level is necessary to carry out the purposes of this part and is consistent with the eligibility criteria established for the weatherization program under section 222(a)(12) of the Economic Opportunity Act of 1964,".

(2) The last sentence of section 413(a) of such Act is amended by striking out "in which the head of the household is a low-income person." and inserting in lieu thereof "occupied by low-income families.".

(b)(1) Section 413(b) of such Act is amended by inserting the following new paragraph at the end thereof:

"(3) The Administrator, in coordination with the Secretaries and Director described in paragraph (2)(A) and with the Director of the Community Services Administration and the Secretary of Agriculture, shall develop and publish in the Federal Register for public comment, not later than 60 days after the date of enactment of this paragraph, proposed amendments to the regulations prescribed under paragraph (1). Such amendments shall provide that the standards described in paragraph (2)(A) shall include a set of procedures to be applied to each dwelling unit to determine the optimum set of cost-effective measures, within the cost guidelines set for the program, to be installed in such dwelling unit. Such standards shall, in order to achieve such optimum savings of energy, take into consideration the following factors—

"(A) the cost of the weatherization material;

"(B) variation in climate; and

"(C) the value of energy saved by the application of the weatherization material.

Such standards shall be utilized by the Administrator in carrying out this part, the Secretary of Agriculture in carrying out the weatherization program under section 504(c) of the Housing Act of 1949, and the Director of the Community Services Administration in carrying out weatherization programs under section 222(a)(12) of the Economic Opportunity Act of 1964. The Administrator shall take into consideration comments submitted regarding such proposed amendments and shall promulgate and publish final amended regulations not later than 120 days after the date of enactment of this paragraph.".

(2) Section 412(9) of such Act is amended to read as follows:

"(9) The term 'weatherization materials' means—

"(A) caulking and weatherstripping of all exterior doors and windows;

"(B) furnace efficiency modifications limited to—

"(i) replacement burners designed to reduce the firing rate or to achieve a reduction in the amount of fuel consumed as a result of increased combustion efficiency,

"(ii) devices for modifying flue openings which will increase the efficiency of the heating system, and

"(iii) electrical or mechanical furnace ignition systems which replace standing gas pilot lights;

"(C) clock thermostats;

"(D) ceiling, attic, wall, floor, and duct insulation;

"(F) storm windows and doors, multiglazed windows and doors, heat-absorbing or heat-reflective window and door materials; and

"(G) such other insulating or energy conserving devices or technologies as the Administrator may determine, after consulting with the Secretary of Housing and Urban Development, the Secretary of Agriculture, and the Director of the Community Services Administration.".

(c) Section 415 of such Act is amended—

(1) by striking out "weatherization materials, except that" in subsection (a) and all that follows through the period at the end of such subsection and inserting in lieu thereof the following: "weatherization materials and related matter described in subsection (c), except that not to exceed 5 percent of any grant made pursuant to section 413(a) and not more than 5 percent of any amount allocated under this section may be used for administration in carrying out duties under this part."; and

(2) by striking out subsection (c) and inserting in lieu thereof the following:

"(c)(1) Except as provided in paragraph (2), not more than $800 of any fiscal assistance provided under this part may be expended with respect to weatherization materials and the following related matters for any dwelling unit—

"(A) the appropriate portion of the cost of tools and equipment used to install such materials for such unit;

"(B) the cost of transporting labor, tools, and materials to such unit;

"(C) the cost of having onsite supervisory personnel; and

"(D) the cost (not to exceed $100) of making incidental repairs to such unit if such repairs are necessary to make the installation of weatherization materials effective.

"(2) The limitation of $800 described in paragraph (1) shall not apply if the State policy advisory council, established pursuant to section 414(b)(1), requests the Administrator to provide for a greater amount with respect to specific categories of units or materials in the State, and the Administrator approves such request.".

(d) Section 422 of such Act is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 422. There are authorized to be appropriated for purposes of carrying out the weatherization program under this part, not to exceed $55,000,000 for the fiscal year ending September 30, 1977, not to exceed $130,000,000 for the fiscal year ending September 30, 1978, not to exceed $200,000,000 for the fiscal year ending September 30, 1979, and not to exceed $200,000,000 for the fiscal year ending September 30, 1980, such sums to remain available until expended.".

SEC. 122. FARMERS HOME ADMINISTRATION WEATHERIZATION GRANT PROGRAM

(a) Section 504 of the Housing Act of 1949 is amended by adding the following new subsection at the end thereof:

"(c)(1) In addition to other duties specified in this section, the Secretary shall develop and conduct a weatherization program for the purpose of making grants to finance the purchase or installation, or both, of weatherization materials in dwelling units occupied by low-income families. Such grants shall be made to low-income families who own dwelling units or, subject to the provisions of paragraph (2), to owners of such units for the benefit of the low-income teants residing therein. In making grants under this subsection, the Secretary shall give priority to the weatherization of dwelling units occupied by low-income elderly or handicapped persons. The Secretary shall, in carrying out this section, consult with the Director of the Community Services Administration and the Administrator of the Federal Energy Administration for the purpose of coordinating the weatherization programs under this subsection, section 222(a)(12) of the Economic Opportunity Act of 1964, and part A of the Energy Conservation in Existing Buildings Act of 1976.

"(2) In the case of any grant made under this subsection to an owner of a rental dwelling unit, the Secretary shall provide that (A) the benefits of weatherization assistance in connection with such unit will accrue primarily to the low-income family residing therein, (B) the rents on such dwelling units will not be raised because of any increase in value thereof due solely to weatherization assistance provided under this subsection and (C) no undue or excessive enhancement will occur to the value of such unit.

"(3) In carrying out this subsection, the Secretary shall (A) implement the weatherization standards described in paragraphs (2) (A) and (3) of section 413(b) of the Energy Conservation in Existing Buildings Act of 1976, and (B) provide that not more than $800 of any grant made under this section be expended, with respect to any dwelling unit, on weatherization materials and related matters described in section 415(c) of the Energy Conservation in Existing Buildings Act of 1976, except that the Secretary shall increase such amount to $1,500 to cover labor costs in areas where the Secretary, in consultation with the Secretary of Labor, determines there is an insufficient number of volunteers and training participants and public service employment workers, assisted pursuant to the Comprehensive Employment and Training Act of 1973, available to work on weatherization projects under the supervision of qualified supervisors.

"(4) For purposes for this subsection, the terms 'elderly', 'handicapped', 'low income' and 'weatherization materials' shall have the same meanings given such terms in paragraphs (3), (5), (7), and (9), respectively, of section 412 of the Energy Conservation in Existing Buildings Act of 1976.".

(b) Section 513(b) of such Act is amended by inserting the following before the semicolon at the end thereof: ", except that not less than $25,000,000 of such amount is authorized to be appropriated for making grants pursuant to section 504(c)".

SEC. 123. AVAILABILITY OF LABOR.

The following actions shall be taken in order to assure that there is a sufficient number of volunteers and training participants and public service employment workers, assisted pursuant to the Comprehensive Employment and Training Act of 1973, available to work in support of weatherization programs conducted under part A of the Energy Conservation in Existing Buildings Act of 1976, section 222(a)(12) of the Economic Opportunity Act of 1964, and section 504(c) of the Housing Act of 1949:

(1) First, the Administrator of the Federal Energy Administration (in consultation with the Director of the Community Services Administration, the Secretary of Agriculture, and the Secretary of Labor) shall determine the number of individuals needed to supply sufficient labor to carry out such weatherization programs in the various areas of the country.

(2) After the determination in paragraph (1) is made, the Secretary of Labor shall identify the areas of the country in which there is an insufficient number of such volunteers and training participants and public service employment workers.

(3) After such areas are identified, the Secretary of Labor shall take steps to assure that such weatherization programs are supported to the maximum extent practicable in such areas by such volunteers and training participants and public service employment workers.

Subpart C—Secondary Financing and Loan Insurance for Energy Conserving Improvements

SEC. 141. PURCHASE BY GOVERNMENT NATIONAL MORTGAGE ASSOCIATION OF LOANS TO LOW- AND MODERATE-INCOME FAMILIES FOR ENERGY CONSERVING IMPROVEMENTS.

The Federal National Mortgage Association Charter Act is amended by adding the following new section at the end thereof:

"PURCHASE OF ENERGY CONSERVING IMPROVEMENT LOANS TO LOW- AND MODERATE-INCOME FAMILIES

"SEC. 314. (a) As soon as practicable after the date of enactment of the National Energy Act, the Secretary shall direct the Association to begin making commitments to purchase, and to purchase, loans and advances of credits (and related purchase certificates and other related instruments) in accordance with this section.

"(b) In accordance with the directive issued by the Secretary under subsection (a), the Association shall make commitments to purchase and purchase, and may service, sell (with or without recourse), or otherwise deal in, loans and advances of credit (and related purchase certificates and other related instruments) which are insured under title I of the National Housing Act and which are made to low- and moderate-income families for the purpose of purchasing and installing energy conserving improvements in one- to four-family dwelling units owned by such families. A loan or advance of credit may be purchased under this section only if—

"(1) the term of repayment does not exceed 15 years and is not less than 5 years, except that there shall be no penalty imposed if the borrower repays such loan or advance of credit at any time before the term of repayment expires:

"(2) such loan or advance of credit involves an interest rate which the Secretary establishes (after consulting with the Secretary of Agriculture and the Administrator of the Federal Energy Administration), taking into account the probable scope of the program at such rate and the impact a program at such rate may have on credit markets, the Federal budget, and on inflation, for the purpose of encouraging the making of loans and advances of credit to be purchased under this section, at or below the maximum interest rate permissible for such a loan or advance of credit insured under title I of the National Housing Act, but in no event shall such rate be below that which the Association is required to pay under subsection (d); and

"(3) the amount of any such loan or advance of credit does not exceed $2,200.

"(c) The Secretary shall direct the Association to give priority to purchasing loans and advances of credit under this section which are made to low- and moderate-income elderly or handicapped persons or to families with which such persons reside.

"(d) The Association may issue, to the extent and in such amounts as may be approved in appropriation Acts, to the Secretary of the Treasury its obligations in an amount outstanding at any one time sufficient to enable the Association to carry out its functions under this section. Each such obligation shall mature at such time and be redeemable at the option of the Association in such manner as may be determined by the Association, and shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of the obligation of the Association. The Secretary of the Treasury is authorized and directed to purchase any obligations of the Association issued under this section, and for such purposes the Secretary of the Treasury is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Secondary Liberty Bond Act, as now or hereafter in force, and the purposes for which securities may be issued under the Second Liberty Bond Act, as now or hereafter in force, are extended to include any purchase of the Association's obligations hereunder.

"(e) No State or local usury law or comparable law establishing interest rates or prohibiting or limiting the collection or amount of discount points or other charges in connection with loan transactions or any State law prohibiting coverage of loan insurance required by the Association shall apply to transactions under this section.

"(f) The Association is authorized to—

"(1) sell loans and advances of credit purchased under this section at prices which it determines will help promote the objectives of assuring that operations under this section are, to the extent feasible, fully self-supporting; and

"(2) pay for services performed in carrying out its functions under this section without regard to any limitation on administrative expenses heretofore enacted.

"(g) The total amount of outstanding purchases and commitments authorized by the Secretary to be made pursuant to this section shall not exceed amounts approved in appropriations Acts, but in no case may such amount to exceed $2,000,000,000 at any one time.

"(h) The Secretary shall establish a purchase price to be paid by the Association for loans and advances of credit under this section which shall be adequate to compensate the lender for a reasonable return on such loan or advance, plus such reasonable costs as are normally incurred in originating, servicing, and otherwise processing such loans and advances.

"(i) Any loan or advance of credit purchased under this section shall be purchased with the recourse to the originator.

"(j) For purposes of this section—

"(1) the term 'low- and moderate-income family' means a family, including a single individual, whose income does not exceed 90 per centum of the median income for the area, as determined by the Secretary with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than 90 per centum of the median for the area on the basis of his findings that such variations are necessary because of prevailing levels of construction costs, unusually high- or low-median family incomes, or other factors;

"(2) the term 'energy conserving improvements' shall have the same meaning given such term in subparagraph (2) of the last paragraph of section 2(a) of the National Housing Act; and

"(3) the terms 'elderly' and 'handicapped person' shall have the meaning given such terms by paragraphs (3) and (5), respectively, of section 412 of the Energy Conservation in Existing Buildings Act of 1976.".

SEC. 142. LOAN INSURANCE FOR ENERGY CONSERVING IMPROVEMENTS UNDER TITLE I OF THE NATIONAL HOUSING ACT.

Subparagraph (2) of the last paragraph of section 2(a) of the National Housing Act is amended to read as follows:

"(2) the term 'energy conserving improvements' shall mean the purchase and installation of weatherization materials as defined in section 412(9) of the Energy Conservation in Existing Buildings Act of 1976; and".

SEC. 143. LOAN INSURANCE FOR ENERGY CONSERVING IMPROVEMENTS IN MULTIFAMILY PROJECTS UNDER SECTION 241 OF NATIONAL HOUSING ACT.

Section 241 of the National Housing Act is amended by adding the following new subsection at the end thereof:

"(e)(1) Notwithstanding any other provision of this section, the Secretary may insure a loan for purchasing and installing energy conserving improvements (as defined in subparagraph (2) of the last paragraph of section 2(a) of this Act) and for purchasing or installing (or both) individual utility meters in a multifamily housing project without regard to whether the project is covered by a mortgage insured under this Act.

"(2) Notwithstanding the provisions of subsection (b), a loan insured under this subsection shall—

"(A) not exceed an amount which the Secretary determines is necessary for the purchase and installation of individual utility meters plus an amount which the Secretary

deems appropriate taking into account amounts which will be saved in operation costs over the period of repayment of the loan by reducing the energy requirements of the project as a result of the installation of energy conserving improvements therein;

"(B) be insured for 90 percent of any loss incurred by the person holding the note for the loan; except that, for cooperative multifamily projects receiving assistance under section 236 or financed with a below market interest rate mortgage insured under section 221(d)(3) of this Act, 100 percent of any such loss may be insured;

"(C) bear an interest rate not to exceed an amount which the Secretary determines, after consulting with the Administrator of the Federal Energy Administration, to be necessary to meet market demands;

"(D) have a maturity satisfactory to the Secretary;

"(E) be insured pursuant to a premium rate established on a sound actuarial basis to the extent practicable;

"(F) be secured in such manner as the Secretary may require;

"(G) be an acceptable risk in that energy conservation benefits to be derived outweigh the risks of possible loss to the Federal Government; and

"(H) contain such other terms, conditions, and restrictions as the Secretary may prescribe.

"(3) The provisions of subsection (c) shall apply to loans insured under this subsection.

"(4) The Secretary shall provide that any person obligated on the note for any loan insured under this section be regulated or restricted, until the termination of all obligations of the Secretary under the insurance, by the Secretary as to rents or sales, charges, capital structure, rate of return, and methods of operation of the multifamily project to such extent and in such manner as to provide reasonable rentals to tenants and a reasonable return on the investment."

SEC. 144. STANDBY AUTHORITY OF GOVERNMENT NATIONAL MORTGAGE ASSOCIATION TO PURCHASE LOANS FOR ENERGY CONSERVING IMPROVEMENTS.

The Federal National Mortgage Association Charter Act is amended by adding the following new section at the end thereof:

"STANDBY AUTHORITY TO PURCHASE LOANS FOR ENERGY CONSERVING IMPROVEMENTS

"SEC. 315. (a)(1) Whenever the Secretary finds that insufficient credit is available to finance the purchase and installation of energy conserving improvements (as defined in subparagraph (2) of the last paragraph of section 2(a) of the National Housing Act), the Secretary shall direct the Association to begin making commitments to purchase, and to purchase, loans and advances of credit (and related purchase certificates and other related instruments) in accordance with this section.

"(2) The Secretary may direct the Association to terminate its activities under this section whenever he or she determines that the conditions which gave rise to the determination under paragraph (1) are no longer present.

"(b) In accordance with the directive issued by the Secretary under subsection (a), the Association shall make commitments to purchase and purchase, and may service, sell (with or without recourse), or otherwise deal in, loans and advances if credit (and related purchase certificates and other related instruments) which are insured under title I or section 241 of the National Housing Act and which are made for the purpose of purchasing and installing energy conserving improvements in dwelling units.

"(c) The Association may issue, to the extent and in such amounts as may be approved in appropriation Acts, to the Secretary of the Treasury its obligations in an amount outstanding at any one time sufficient to enable the Association to carry out its functions under this section. Each such obligation shall mature at such time and be redeemable at the option of the Association in such manner as may be determined by the Association, and shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of the obligation of the Association. The Secretary of the Treasury is authorized and directed to purchase any obligation of the Association issued under this section, and for such purposes the Secretary of the Treasury is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as now or hereafter in force, and the purposes for which securities may be issued under the Second Liberty Bond Act, as now or hereafter in force, are extended to include any purchase of the Association's obligation hereunder.

"(d) No State or local usury law or comparable law establishing interest rates or prohibiting or limiting the collection or amount of discount points or other charges in connection with loan transactions or any State law prohibiting the coverage of loan insurance required by the Association shall apply to transactions under this section.

"(e) The Association is authorized to—

"(1) sell loans and advances of credit purchased under this section at prices which it determines will help promote the objective of assuring that operations under this section are, to the extent feasible, fully self-supporting; and

"(2) pay for services performed in carrying out its functions under this section without regard to any limitation on administrative expenses heretofore enacted.

"(f) The total amount of outstanding purchases and commitments authorized by the Secretary to be made pursuant to this section shall not exceed amounts approved in appropriations Acts, but in no case may such amount exceed $3,000,000,000 at any one time.".

Subpart D—Miscellaneous

SEC. 161. ENERGY-CONSERVING IMPROVEMENTS FOR PUBLIC HOUSING.

Section 5(c) of the United States Housing Act of 1937 is amended by adding the following new sentence at the end thereof: "In addition to any other authority to enter into annual contribution contracts under this subsection, the Secretary may, subject to the approval in appropriation Acts, enter into such contracts aggregating not more than $10,000,000 per annum for financing the purchase and installation of energy conserving improvements (as defined in subparagraph (2) of the last paragraph of section 2(a) of the National Housing Act) in existing low-income housing projects, other than projects assisted under section 8, which the Secretary determines have the greatest need for such improvements based on the energy consumption of the projects and the amount of such consumption which can be reduced by such improvements.".

SEC. 162. ENERGY CONSERVING STANDARDS FOR NEWLY CONSTRUCTED RESIDENTIAL HOUSING INSURED BY FEDERAL HOUSING ADMINISTRATION OR ASSISTED BY FARMERS HOME ADMINISTRATION.

(a) Section 526 of the National Housing Act is amended by inserting the following new sentence at the end thereof: "Such standards shall establish energy performance requirements that will achieve a significant increase in the energy efficiency of new construction, until such time as the energy conservation performance standards required under the Energy Conservation Standards for New Buildings Act of 1976 become effective. Such requirements shall be implemented as soon as practicable after the date of enactment of the National Energy Act.".

(b) Title V of the Housing Act of 1949 is amended by adding the following new section at the end thereof:

"MINIMUM PROPERTY STANDARDS FOR ENERGY CONSERVATION

"SEC. 528. To the maximum extent feasible, the Secretary of Agriculture shall promote the use of energy saving techniques through minimum property standards established by him for newly constructed residential housing assisted under this title. Such property standards shall, insofar as is practicable, be consistent with the standard established pursuant to section 526 of the National Housing Act and shall incorporate the energy performance requirements developed pursuant to such section. Such property standards shall be implemented as soon as practicable after the date of enactment of this section.".

SEC. 163. SOLAR ENERGY SYSTEMS.

(a) Subparagraph (3) of the last paragraph of section 2(a) of the National Housing Act is amended to read as follows:

"(3) the term 'solar energy system' means any addition, alteration, or improvement to an existing or new structure which is designed to utilize solar, wind, or other solar-derived energy to reduce the energy requirements of that structure from other energy sources, and which is in conformity with such criteria and standards as shall be prescribed by the Secretary in consultation with the Administrator of the Federal Energy Administration.".

(b) Section 203(b)(2) of such Act is amended by adding the following new sentence at the end thereof: "Notwithstanding any other provision of this paragraph, the amount which may be insured under this section may be increased by up to 20 percent if such increase is necessary to account for the increased cost of the residence due to the installation of a solar energy system (as defined in subparagraph (3) of the last paragraph of section 2(a) of this Act) therein.".

(c) Section 207(c)(3) of such Act is amended by adding the following new sentence at the end thereof: "Notwithstanding any other provision of this paragraph, the amount which may be insured under this section may be increased by up to 20 percent if such increase is necessary to account for the increased cost of the project due to the installation of a solar energy system (as defined in subparagraph (3) of the last paragraph of section 2(a) of this Act) therein.".

(d) Section 501 of the Housing Act of 1949 is amended by adding the following new subsection at the end thereof:

"(f) With respect to any limitation on the amount of any loan which may be made, insured, or guaranteed under this Act for the purchase of a dwelling unit, the Secretary may increase such amount by up to 20 percent if such increase is necessary to account for the increased cost of the dwelling unit due to the installation of a solar energy system (as defined in subparagraph (3) of the last paragraph of section 2(a) of the National Housing Act) therein.".

SEC. 164. STUDIES.

(a) The Secretary of Housing and Urban Development (hereinafter in this section referred to as the "Secretary") shall, in coordination with the Secretary of Agriculture, the Secretary of the Treasury, the Administrator of Veterans' Affairs, the Administrator of the Federal Energy Administration, and such other representatives of Federal, State, and local governments as the Secretary shall designate, conduct a study for the purpose of determining the need for, the feasibility of, and the problems of requiring, by mandatory Federal action, that all residential dwelling units meet applicable energy efficient stand-

ards. The subjects to be examined shall include, but not be limited to, mandatory notification to purchasers, and policies to prohibit exchange or sale, of properties which do not conform to such standards.

(b) In conducting such study, the Secretary shall consider at least the following factors—

(1) the extent to which such requirement would protect a prospective purchaser;

(2) the extent to which such requirement would contribute to the Nation's energy conservation goals;

(3) the extent to which such a requirement would affect the real estate, home building, and mortgage banking industries;

(4) the difficulties of administering such a requirement and the sanctions required to make such a requirement effective;

(5) the likely problems and disruptions for sellers and purchasers as a result of the implementation of mandatory Federal actions, taking into account the experience of the Department of Housing and Urban Development under the Real Estate Settlement Procedures Act of 1974 and the Federal Disaster Protection Act of 1973;

(6) the extent to which the available supply of residential dwellings could be reduced at the time of application of such mandatory Federal actions, and the resulting effect on the price of those remaining dwelling units eligible for sale; and

(7) the impact on major housing rehabilitation efforts and voluntary efforts for energy conservation, during the period of development of the standards, as a result of the uncertainty with respect to what standards might be imposed.

(c) The Secretary shall report, no later than 1 year after the date of enactment of this section, to both Houses of the Congress with regard to the findings made as a result of such study along with any recommendations for legislative proposals which the Secretary determines should be enacted with respect to the subject of such study.

(d) In addition to the study described in subsections (a) through (c), the Secretary shall conduct a study of the feasibility of underground construction of residential housing and changes in housing codes and financing which may be necessary as the result of the adoption of this construction method. The Secretary shall transmit a preliminary report at the end of the first year after the date of enactment of this Act and a final report no later than 3 years after such date to both Houses of the Congress with regard to the findings made as a result of such study along with any recommendations made for legislative purposes which the Secretary determines should be enacted with respect to the subject of such study.

SEC. 165. AUTHORIZATION FOR APPROPRIATIONS FOR NEW BUILDING PERFORMANCE STANDARDS GRANTS.

Section 307(b) of the Energy Conservation Standards for New Buildings Act of 1976 is amended to read as follows:

"(b) There is authorized to be appropriated for the purpose of carrying out this section, the following amounts—

"(1) for the fiscal year ending September 30, 1977, not to exceed $5,000,000;

"(2) in the fiscal year ending September 30, 1978, not to exceed $10,000,000; and

"(3) in the fiscal year ending September 30, 1979, not to exceed $10,000,000.

Any amount appropriated pursuant to this subsection shall remain available until expended.".

SEC. 166. SECONDARY FINANCING BY FEDERAL HOME LOAN MORTGAGE CORPORATION OF SOLAR ENERGY AND ENERGY CONSERVING IMPROVEMENT LOANS.

Section 302(h) of the Federal Home Loan Mortgage Corporation Act is amended by adding at the end thereof a new sentence, to read as follows: "The term 'residential mortgage' also includes a loan or advance of credit insured under title I of the National Housing Act whose original proceeds are applied for in order to finance energy conserving improvements, or the addition of a solar energy system, to residential real estate. The term 'residential mortgage' is also deemed to include a loan or advance of credit for such purposes not having the benefit of such insurance and to include loans made where the lender relies for purposes of repayment primarily on the borrower's general credit standing and forecast of income with or without other security.".

SEC. 167. SECONDARY FINANCING BY FEDERAL NATIONAL MORTGAGE ASSOCIATION OF SOLAR ENERGY AND ENERGY CONSERVING IMPROVEMENT LOANS.

Section 302(b) of the Federal National Mortgage Association Charter Act is amended by adding at the end thereof the following new paragraph:

"(3) The corporation is authorized to purchase, service, sell, lend on the security of, and otherwise deal in loans or advances of credit made for energy conserving improvements and solar energy systems described in the last paragraph of section 2(a) of the National Housing Act, whether or not insured under such section. To be eligible for purchase, any such loan not so insured may be secured as required by the corporation.".

SEC. 168. WEATHERIZATION STUDY.

The Administrator of the Federal Energy Administration, the Secretary of Housing and Urban Development, the Secretary of Agriculture, and the Administrator of the Community Services Administration shall conduct a joint study which shall monitor, in a coordinated manner, the weatherization activities authorized by this Act and amendments made thereby and those weatherization activities undertaken independently of this Act and such amendments. Such officials shall report to the Congress within one year from the date of enactment of this Act, and annually thereafter, concerning—

(1) the extent of progress being made through weatherization activities toward the achievement of national energy conservation goals;

(2) adequacy and costs of materials necessary for weatherization activities; and

(3) the need for and desirability of modifying weatherization activities authorized by this Act, and amendments made thereby, and of extending such activities to a broader range of income groups than are being assisted under this Act and such amendments.

PART II—ENERGY EFFICIENCY OF CERTAIN PRODUCTS; USE OF RECOVERED MATERIALS

Subpart A—Energy Efficiency Standards for Consumer Products Other Than Automobiles

SEC. 201. TEST PROCEDURES.

(a) PUBLICATION OF TEST PROCEDURES.—Section 323(a)(3) of the Energy Policy and Conservation Act (42 U.S.C. 6293(a)(3)) is amended—

(1) by striking out "Except as provided in paragraph (6), the" and inserting in lieu thereof "The"; and

(2) by striking out the last sentence and inserting in lieu thereof the following: "Except as provided in paragraph (6), such proposed test procedures shall be published not later than August 31, 1977.".

(b) PRESCRIPTION OF TEST PROCEDURES.—Section 323(a)(4) of such Act (42 U.S.C. 6293(a)(4)) is amended—

(1) in subparagraph (A), by striking out "(A) Except as provided in paragraph (6), the" and inserting in lieu thereof "The";

(2) in subparagraph (A), by adding at the end thereof the following: "Except as provided in paragraph (6), such test procedures shall be prescribed not later than December 30, 1977."; and

(3) by striking out subparagraph (B).

(c) EXTENSIONS.—Section 323(a)(6) of such Act (42 U.S.C. 6293(a)(6)) is amended to read as follows:

"(6) The Administrator may delay the publication of proposed test procedures under paragraph (3) or the prescription of test procedures under paragraph (4) for a type of covered product (or class thereof) if he determines that he cannot, within the applicable time period, publish proposed test procedures or prescribe test procedures applicable to such type (or class) which meet the requirements of subsection (b), and he submits to the Congress a report of such determination together with the reasons therefor, and also publishes such determination (and reasons) in the Federal Register. In any such case, he shall publish such proposed test procedures or prescribe such test procedures as soon as practicable, but in no event later than 90 days after the date specified in paragraph (3) or (4), as the case may be.".

(d) REEVALUATIONS OF TEST PROCEDURES.—Section 323(a) of such Act (42 U.S.C. 6293(a)) is amended by adding at the end thereof the following:

"(7)(A) Not later than 3 years after prescribing a test procedure under this section (and from time to time thereafter), the Administrator shall—

"(i) conduct a reevaluation in order to determine whether such procedure should be amended, and

"(ii) make, and publish in the Federal Register, such determination.

In conducting such reevaluation, the Administrator shall take into account such information as he deems relevant, including technological developments relating to the energy efficiency of the type (or class) of covered product involved.

"(B) If the Administrator determines under subparagraph (A) that a test procedure should be amended, he shall promptly publish proposed test procedures incorporating such amendments and afford interested persons an opportunity to present oral and written data, views, and arguments. Such comment period shall not be less than 45 days.".

SEC. 202. ENERGY EFFICIENCY STANDARDS.

Section 325 of the Energy Policy and Conservation Act (42 U.S.C. 6295) is amended to read as follows:

"ENERGY EFFICIENCY STANDARDS

"SEC. 325. (a)(1)(A) The Administrator shall, by rule, prescribe an energy efficiency standard for each type (or class) of covered product specified in paragraphs (1) through (13) of section 322(a).

"(B) The Administrator may, by rule, prescribe an energy efficiency standard for any type (or class) of covered product of a type specified in paragraph (14) of section 322(a), if he determines, for the purposes of this section, that—

"(i) the average per household energy use within the United States by products of such type (or class) exceeds 150 kilowatt-hours per year for any 12-calendar-month period ending before such determination;

"(ii) the aggregate household energy use within the United States by products of such type (or class) exceeds 4,200,000,000 kilowatt-hours per year for any such 12-calendar-month period;

"(iii) substantial improvement in the energy efficiency of products of such type (or class) is technologically feasible; and

"(iv) the application of a labeling rule under section 324 to such type (or class) is not likely to be sufficient to induce manufacturers to produce, and consumers and other persons to purchase, covered products of such type (or class) which achieve the maximum energy efficiency which is tech-

nologically feasible to attain and is economically justified.

In the case of any type (or class) of covered product which uses a fuel other than electricity, the standards to be applied in clauses (i) and (ii) shall be the amount of Btu's of such fuel necessary to generate the kilowatt-hours of electricity referred to in clauses (i) and (ii), respectively.

"(C) Not later than 2 years after the date of the enactment of this subparagraph, the Administrator shall publish in the Federal Register a list of those types (and classes) of covered products which he considers may be subject to standards authorized to be prescribed under subparagraph (B). The Administrator may revise such list from time to time thereafter.

"(2) No standard for a type (or class) of covered product shall be prescribed pursuant to paragraph (1) if—

"(A) a test procedure has not been prescribed pursuant to section 323 with respect to that type (or class) product, or

"(B) the Administrator determines, by rule, that the establishment of such standard will not result in significant conservation of energy.

For purposes of section 327, a determination under subparagraph (B) with respect to any type (or class) of covered product shall have the same effect as a standard prescribed for such type (or class) under this section.

"(3) Energy efficiency standards for each type (or class) of covered product prescribed under this section shall be designed to achieve the maximum improvement in energy efficiency which the Administrator determines is technologically feasible and economically justified. Such standards may be phased in, over a period not in excess of 3 years, through the establishment of intermediate standards, as determined by the Administrator.

"(4) In determining whether a standard is economically justified under paragraph (3), the Administrator shall consider, after receiving any views and comments furnished with respect to the proposed standard under section 336—

"(A) the economic impact of the standard on the manufacturers and on the consumers of the products subject to such standard,

"(B) the savings in operating costs throughout the estimated average life of covered products in the type (or class) subject to such standard which are likely to result from the imposition of such standard,

"(C) the total energy savings likely to result directly from the imposition of the standard,

"(D) any increase in the initial charge for, and expenses of maintenance, repair, or use of, such covered products which is likely to result from the imposition of the standard,

"(E) the total cost, per Btu, in obtaining the energy savings likely to result from imposing the standard, computed for such type (or class) of covered product by dividing the average charges and expenses referred to in subparagraph (D) by the energy savings (expressed in Btu's) referred to in subparagraph (C),

"(F) any lessening of the utility or the performance of the covered products likely to result from the imposition of the standard.

"(G) the impact of any lessening of competition determined in writing by the Attorney General that is likely to result from the imposition of the standard, and

"(H) any other factors the Administrator considers relevent.

For purposes of subparagraph (G), the Attorney General shall, not later than 60 days after the publication of a proposed rule prescribing an energy efficiency standard, make a determination of the impact, if any, from any lessening of competition likely to result from such standard and transmit such determination in writing to the Administrator, together with an analysis of the nature and extent of such impact. Any such determination and analysis shall be published in the Federal Register.

"(5)(A) Subject to subparagraph (B), the Administrator may, on application of any manufacturer, exempt such manufacturer from the application of all or part of the requirements of any rule prescribing an energy efficiency standard under this subsection for any period which does not extend beyond the date which is 24 months after the date such rule is prescribed, if the Administrator finds that the annual gross revenues to such manufacturer for the preceding 12-month period from all its operations (including the manufacture and sale of covered products) does not exceed $8,000,000. In making such finding in the case of any manufacturer, the Administrator shall take into account the annual gross revenues of any other person who controls, is controlled by, or is under common control with, such manufacturer.

"(B) The Administrator may not exercise the authority granted under subparagraph (A) with respect to any type (or class) of covered product subject to an energy efficiency standard established under this section unless he makes a finding, after obtaining the written views of the Attorney General, that a failure to allow such exemptions of manufacturers under subparagraph (A) would likely result in a substantial lessening of competition.

"(6)(A) A rule prescribing an energy efficiency standard for a type of covered product (or class) shall specify a level of energy efficiency higher or lower than that which otherwise applies (or would apply) for such type (or class) for any group of covered products which have the same function or intended use, if the Administrator, in his discretion, determines that products within such group—

"(i) consume a different kind of energy from that consumed by other covered products within such type (or class), or

"(ii) have a performance-related feature which is not part of other products within such type (or class), justifying a higher or lower standard from that which applies (or will apply) to other products within such type (or class). In determining under this subparagraph whether a performance-related feature justifies the establishment of a higher or lower standard, the Administrator shall consider such factors as the utility to the consumer of such a feature, the capacity of the product resulting from, or which constitutes, such feature, and may consider such other factors as he deems appropriate.

"(B) Any rule prescribing a higher or lower level of energy efficiency under subparagraph (A) shall include an explanation of the basis on which such higher or lower level was established.

"(7) In prescribing energy efficiency standards under this subsection, the Administrator shall give priority to the establishment of energy efficiency standards for types of products (or classes thereof) specified in paragraphs (1), (2), (5), (6), (9), (12), and (13) of section 322(a).

"(8)(A) Not later than 5 years after prescribing an energy efficiency standard under this section (and from time to time thereafter, the Administrator shall—

"(i) conduct a reevaluation in order to determine whether such standard should be amended in any manner, and

"(ii) make, and publish in the Federal Register, such determination.

In conducting such reevaluation, the Administrator shall take into account such information as he deems relevant, including technological developments with respect to the type (or class) of covered product involved, and the economic impact of the standard.

"(B) If the Administrator determines under subparagraph (A) that a standard should be amended, he shall promptly publish a proposed rule incorporating such amendments and afford interested persons an opportunity to present oral and written data, views, and arguments. Such comment period shall not be less than 45 days.

"(b) Any energy efficiency standard shall be prescribed in accordance with the following procedure:

"(1) The Administrator shall (A) publish an advance notice of proposed rulemaking which specifies the type (or class) of covered products to which the rule will apply, and (B) invite interested persons to submit, within 45 days after the date of publication of such advance notice, written presentations of data, views, and arguments relevant to establishing such an energy efficiency standard.

"(2) An advance notice of proposed rulemaking under paragraph (1) shall be published by the Administrator—

"(A) in the case of types of covered products (or classes thereof) of the types specified in paragraphs (1), (2), (5), (6), (9), (12), and (13) of section 322(a), not later than 30 days after a test procedure with respect to that type of covered product (or class thereof) has been prescribed, or 45 days after the date of the enactment of this subparagraph, whichever is later; and

"(B) in the case of types of covered products (or classes thereof) specified in paragraphs (3), (4), (7), (8), (10), and (11) of section 322(a), not later than 30 days after a test procedure with respect to that type (or class) of covered product has been prescribed, or one year after the date of the enactment of this subparagraph, whichever is later.

"(3) A proposed rule which prescribes an energy efficiency standard for a type (or class) of covered products may not be published earlier than 60 days after the date of publication of advance notice of proposed rulemaking for such type (or class). The Administrator shall determine the maximum improvement in energy efficiency that is technologically feasible for each type (or class) of covered products in prescribing such standard and if such standard is not designed to achieve such efficiency, the Administrator shall state in the proposed rule the reasons therefor. After the publication of such proposed rulemaking the Administrator shall afford interested persons, in accordance with section 336, an opportunity to present oral and written comments (including an opportunity to question those who make such presentations, as provided in such section) on matters relating to such proposed rule, including—

"(A) whether the standard to be prescribed is economically justified (taking into account those factors which the Administrator must consider under subsection (a)(4)),

"(B) whether the standard will achieve the maximum improvement in energy efficiency which is technologically feasible,

"(C) if the standard will not achieve such improvement, whether the reasons for not achieving such improvement are adequate, and

"(D) whether such rule should prescibe a level of energy efficiency which is higher or lower than that which would otherwise apply in the case of any group of products within the type (or class) to be subject to such standard.

"(4) A rule prescribing an energy efficiency standard for a type (or class) of covered product may not be published earlier than 60 days after the date of publication of the proposed rule under this section for such type (or class). Such rule shall be published as soon as practicable after such 60-day period, but in no event later than 2 years

after publication of the advance notice. Such rule shall take effect not earlier than 180 days after the date of its publication in the Federal Register. Such rule (or any amendment thereto) shall not apply to any covered product the manufacture of which was completed before the effective date of the rule or amendment as the case may be.

"(c) An energy efficiency standard prescribed under this section shall include test procedures prescribed in accordance with section 323, and may include any requirement which the Administrator determines is necessary to assure that each covered product to which such standard applies meets the required minimum level of energy efficiency specified in such standard.".

SEC. 203. EFFECT OF STANDARDS ON OTHER LAW.

Section 327(b) of the Energy Policy and Conservation Act (42 U.S.C. 6297(b)) is amended to read as follows:

"(b)(1) If a State regulation is prescribed on or before the date of the enactment of the National Energy Act which establishes an energy efficiency standard or similar requirement respecting energy use or energy efficiency of a type (or class) of a covered product and which is not superseded by subsection (a)(2), then any person subject to such regulation may file a petition with the Administrator requesting that the Administrator prescribe a rule under this subsection which supersedes such State regulation in whole or in part. The Administrator, after consideration of the petition, the views of the affected State, and the comments of any interested person, shall issue such requested rule only if the Administrator finds (and publishes such finding) that—

"(A) there is no significant State or local interest sufficient to justify such State regulation; and

"(B) such State regulation unduly burdens interstate commerce.

"(2) If a State regulation is prescribed after such date of enactment which establishes an energy efficiency standard or similar requirement respecting energy use or energy efficiency of a type (or class) or covered product and which is not superseded by subsection (a)(2), then such State regulation is superseded. Notwithstanding the requirement of the preceding sentence, such State may file a petition with the Administrator requesting a rule that such State regulation is not superseded pursuant to this paragraph. The Administrator, after consideration of the petition and the comments of interested persons, shall prescribe such rule only if he finds there is a significant State or local interest to justify such State regulation; except that the Administrator may not prescribe such rule if he finds that such State regulation would unduly burden interstate commerce.

"(3) Notwithstanding subsection (a)(2), any State prescribing a State regulation which provides an energy efficiency standard or similar requirement respecting energy use or energy efficiency for such type (or class) of a covered product may file a petition with the Administrator requesting a rule that such regulation not be superseded. The Administrator, after consideration of the petition and the comments of interested persons, shall prescribe such rule only if he finds (and publishes such finding) that—

"(A) there is a significant State or local interest to justify such State regulation; and

"(B) if there is a Federal energy efficiency standard applicable to such product, such State regulation contains a more stringent energy efficiency standard than such Federal standard;

except that the Administrator may not prescribe such rule if he finds that such State regulation would unduly burden interstate commerce.

"(4) The Administrator shall give notice of any petition filed under this subsection and afford interested persons a reasonable opportunity to make written comments thereon. The Administrator, within 6 months after the date any petition is filed, shall deny such petition or prescribe the requested rule, except that the Administrator may publish a notice in the Federal Register extending such period to a date certain. Such notice shall include the reasons for delay. In the case of any denial of a petition under this subsection, the Administrator shall publish in the Federal Register notice of such denial and the reasons for such denial.

"(5) The requirement of the first sentence of paragraph (2) shall not continue in effect—

"(A) after 3 years from the date of the enactment of this paragraph, in the case of any type (or class) of covered product specified in paragraph (1), (2), (5), (6), (9), (12), or (13) of section 322(a), and

"(B) after 5 years from the date of the enactment of this paragraph, in the case of any type (or class) of covered product specified in paragraph (3), (4), (7), (8), (10), or (11) of section 322(a).".

SEC. 204. TECHNICAL AND CONFORMING AMENDMENTS.

(a) AMENDMENTS TO SECTION 324(a).—Section 324(a) of the Energy Policy and Conservation Act (42 U.S.C. 6294(a)) is amended—

(1) in paragraph (1), by striking out "(or class thereof)" and all that follows and inserting in lieu thereof: "(or class thereof), the Commission determines under the second sentence of subsection (b)(5) that labeling in accordance with this section is not technologically or economically feasible."; and

(2) in paragraph (2), by striking out "(or class thereof)" and all that follows and inserting in lieu thereof: "(or class thereof), the Commission determines under the second sentence of subsection (b)(5) that labeling in accordance wtih this section is not technologically or economically feasible or is not likely to assist consumers in making purchasing decisions.".

(b) AMENDMENTS TO SECTION 324(c).—Section 324(c)(5) of such Act (42 U.S.C. 6294(c)(5)) is amended by inserting "including instructions for the maintenance, use, or repair of the covered product," after "energy consumption," in the matter following subparagraph (C).

(c) AMENDMENT TO SECTION 326.—Section 326 of such Act (42 U.S.C. 6296) is amended by adding at the end thereof the following:

"(d) For purposes of carrying out his responsibilities under this section, the Administrator may require, under authority otherwise available to him under this part or other provisions of law administered by him, each manufacturer of covered products to submit such information or reports of any kind or nature directly to the Administrator with respect to energy efficiency of such covered products, and with respect to the economic impact of any proposed energy efficiency standard, as the Administrator determines may be necessary to establish and revise test procedures and energy efficiency standards for such products and to insure compliance with the requirements of this part. The provisions of section 11(d) of the Energy Supply and Environmental Coordination Act of 1974 shall apply with respect to information obtained under this subsection to the same extent and in the same manner as it applies with respect to energy information obtained under section 11 of such Act.".

(d) AMENDMENT TO SECTION 333.—(1) Section 333 of such Act (42 U.S.C. 6303) is amended by adding at the end thereof the following new subsection:

"(d) Before assessing against any person any civil penalty under this section, the Administrator or the Commission, as the case may be, shall provide to such person notice of the proposed penalty. The determination to assess a civil penalty after such notice shall be made on the record after opportunity for any agency hearing pursuant to section 554 of title 5, United States Code. The order assessing such penalty shall state the findings and the basis for such assessment. If the person against whom a civil penalty is assessed fails to pay the penalty within the time prescribed in such order, the Administrator or the Commission, as the case may be, shall file a petition for enforcement of such order in any appropriate district court of the United States. A copy of the petition shall be promptly sent by registered or certified mail to the person against whom such order is sought to be enforced. At the time a petition for enforcement of such order is filed the Administrator or the Commission, as the case may be, shall certify and file in such court the record upon which such order was issued. The court shall have jurisdiction to enter a judgment enforcing, modifying, and enforcing as so modified, or setting aside in whole or in part, such order or the court may remand the proceeding for such further action as the court may direct.".

(2) Section 333(a) of such Act (42 U.S.C. 6303(a)) is amended by striking out "subsection (b)" and inserting in lieu thereof "subsection (c)".

(3) Section 333(c) of such Act (42 U.S.C. 6303(c)) is amended by striking out "section 323(d)(2)" and inserting in lieu thereof "section 323(c)".

(e) AMENDMENTS TO SECTION 335.—Section 335(a) of such Act (42 U.S.C. 6305(a)) is amended—

(A) by inserting after "or rule," in the last sentence thereof the following: "or order such Federal agency to perform such act or duty,", and

(B) by striking out the parenthetical clauses in paragraphs (1) and (2) thereof.

(f) AMENDMENTS TO SECTION 336.—(1) Section 336(a)(1) of such Act (42 U.S.C. 6306(a)(1)) is amended by striking out "(1)", and by striking out "325(a)(1), (2), or (3)" in the first sentence thereof and inserting "325(a)" in lieu thereof.

(2) Section 336(a)(1)(B) of such Act (42 U.S.C. 6306(a)(1)(B)) is amended by striking out "paragraph (1), (2), or (3) of" in the first sentence thereof.

(3) Section 336(a) of such Act (42 U.S.C. 6306(a)) is amended by striking out paragraph (2).

(4) Sections 336(b)(1) and (2) of such Act (42 U.S.C. 6306(b)(1) and (2)) are each amended by striking out "section 323 or 324" and inserting in lieu thereof "section 323, 324, or 325".

(5) Section 336(b) of such Act (42 U.S.C. 6306(b)) is amended by striking out paragraph (5).

(g) AMENDMENT TO SECTION 338.—Section 338 of such Act (42 U.S.C. 6308) is amended by adding at the end thereof the following new sentence: "Each such report shall specify the actions undertaken by the Administrator in carrying out this part during the period covered by such report, and those actions which the Administrator was required to take under this part during such period but which were not taken, together with the reasons therefor.".

SEC. 205. APPROPRIATIONS AUTHORIZATION.

Section 339(a)(3) of such Act is amended to read as follows:

"(3) in addition to amounts authorized for such purposes under section 29(a) of the Federal Energy Administration Act of 1974, $3,300,000 for fiscal year 1978.".

SEC. 206. EFFECTS OF OTHER LAWS ON PROCEDURES.

The procedures applicable under part B of title III of the Energy Policy and Conservation Act (42 U.S.C. 6291 and following) shall not—

(1) be considered to be modified or affected by any other provision of law unless such other provision specifically amends such part (or provisions of law cited therein), or

(2) be considered to be superseded by any other provision of law unless such other provision does so in specific terms, referring to such part, and declaring that such provision supersedes the provisions of such part.

Subpart B—Disclosure of Automobile Fuel Inefficiency Tax

SEC. 221. DISCLOSURE IN LABELING.

(a) DISCLOSURE.—Section 506(a)(1) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2006 (a)(1)) is amended by striking out "and" at the end of subparagraph (B), by redesignating subparagraph (C) as subparagraph (D), and by inserting after subparagraph (B) the following new subparagraph:

"(C) containing in the case of any automobile the sale of which is subject to the tax imposed by section 4064 of the Internal Revenue Code of 1954, a statement indicating the amount of such tax, and".

(b) TIME AND MANNER OF DISCLOSURE.—Section 506(a)(3) of such Act (15 U.S.C. 2006(a)(3)) is amended by inserting after the first sentence thereof the following new sentence: "The time and manner by which the statement referred to in paragraph (1)(C) must be included on any label may be prescribed so as to take into account any special circumstances or characteristics.".

SEC. 222. DISCLOSURE IN ADVERTISING.

(a) DISCLOSURE.—The Federal Trade Commission may prescribe rules requiring disclosure of any tax imposed by section 4064 of the Internal Revenue Code of 1954 with respect to any automobile advertised in any television broadcast or advertisement in writing which states the price or fuel economy of an automobile or which advertises an identifiable model type of automobile. In prescribing any such rule, the Federal Trade Commission shall take into account any special circumstances or characteristics.

(b) ENFORCEMENT.—A violation of a rule under subsection (a) shall be deemed an unfair or deceptive act or practice in or affecting commerce, for purposes of the Federal Trade Commission Act.

(c) RULE OF CONSTRUCTION.—Nothing in this section shall be construed as restricting any authority of the Commission under any other law.

Subpart C—Use of Recovered Materials

SEC. 241. USE OF RECOVERED MATERIALS.

(a) FINDINGS.—The Congress finds that—

(1) significant amounts of industrial energy and other scarce natural resources are conserved in certain major energy-consuming industries where recovered materials are utilized in their manufacturing operations;

(2) substantial additional volumes of industrial energy and other scarce natural resources will be conserved in future years if such major energy-consuming industries increases to the maximum feasible extent utilization of recovered materials in their manufacturing operations;

(3) millions of tons of recoverable materials which could be used by such industries are needlessly wasted and buried each year at great cost to State and local governments, while technology and methods exist whereby those materials could readily be made available for utilization; and

(4) the recovery and utilization of such recovered materials can substantially reduce the dependence of the United States on foreign natural resources and reduce the growing deficit in its balance of payments.

(b) PURPOSES.—The purposes of this section are to conserve valuable energy and scarce natural resources, promote the national security, and protect the environment by—

(1) directing that targets for increased industrial utilization of recovered materials be established for certain major energy-consuming industries;

(2) creating procedures whereby such industries may cooperate with the Federal Government in the establishment and achievement of such targets; and

(3) providing incentives for increased industrial utilization of energy-saving recovered materials in such major energy-consuming industries.

(c) TARGETS FOR USE OF RECOVERED MATERIALS.—Part D of title III of the Energy Policy and Conservation Act is amended by inserting the following new section after section 374:

"TARGETS FOR USE OF RECOVERED MATERIALS

"SEC. 374A. (a) For purposes of this section the term 'energy-saving recovered materials' means aluminum, copper, lead, zinc, iron, steel, paper and allied paper products, textiles, and rubber, recovered from solid waste, as defined in the Solid Waste Disposal Act.

"(b) Within one year after the date of enactment of this section, the Administrator shall set targets for increased utilization of energy-saving recovered materials for each of the following industries: The metals and metal products industries, the paper and allied products industries, the textile mill products industry, and the rubber industry. Such targets—

"(1) shall be based on the best available information,

"(2) shall be established at levels which represent the maximum feasible increase in utilization of energy-saving recovered materials each such industry can achieve progressively by January 1, 1987, and

"(3) shall be published in the Federal Register, together with a statement of the basis and justification for such targets.

"(c) In establishing targets under subsection (b), the Administrator shall consult with the Administrator of the Environmental Protection Agency and with each of the major industries subject to this section, and shall consider—

"(1) the technological and economic ability of each such industry progressively to increase its utilization of energy-saving recovered materials by January 1, 1987, and

"(2) all actions taken or which before such date could be taken by each such industry, or by Federal, State, or local governments to increase that industry's utilization of energy-saving recovered materials.

"(d) Any target established under subsection (b) may be modified if the Administrator—

"(1) determines that such target cannot reasonably be attained, or that it should require greater use of energy-saving recovered materials, and

"(2) publishes such determination in the Federal Register, together with a basis and justification for such modification.

"(e) Within each of the industries subject to this section, the Administrator shall notify each corporation which is a major energy consumer (within the meaning of section 373) of the requirements of this section. Not later than January 1, 1978, the chief executive officer of each such corporation (or individual designated by such officer) shall include in his report to the Administrator under section 375, or if section 376(g) applies, prepare and transmit a report which includes a statement of the volume of energy-saving recovered materials that such corporation is using in each of its manufacturing operations located in the United States and what plans, if any, the corporation has to increase the utilization of such materials in those operations in each of the next ten years. Not later than January 1, 1979, and annually thereafter, each such corporation shall include in such report a statement of the progress it has made to increase its utilization of energy-saving recovered materials to reach targets established under this section by the Administrator for its industry. Such reports shall contain such information as the Administrator determines is necessary to measure progress toward meeting the industry targets established under this section.

"(f) The Administrator shall include in his annual report under section 375(c) a report on the industrial energy and natural resource conservation and recovery program established under this section. Each such report shall include—

"(1) a summary of the progress made toward the achievements of targets set by the Administrator under this section; and

"(2) a summary of the progress made toward meeting such targets since the date of publication of the previous report, if any.".

(d) TECHNICAL AMENDMENTS.—Section 376 of such Act is amended by—

(1) inserting "or 374A" after "section 372" in subsection (b), and

(2) inserting "or any target under section 374A" after "374" in subsections (c) and (f).

Subpart D—Off-Highway Motor Vehicles and Bicycles

SEC. 261. OFF-HIGHWAY MOTOR VEHICLES.

(a) IN GENERAL.—Title III of the Energy Policy and Conservation Act is amended by adding the following new part at the end thereof:

"PART F—OFF-HIGHWAY MOTOR VEHICLES

"OFF-HIGHWAY MOTOR VEHICLE CONSERVATION STUDY

"SEC. 385. Not later than one year after the date of the enactment of this section, the Secretary of Transportation shall complete a study of the energy conservation potential of recreational motor vehicles, including, but not limited to, aircraft and motor boats which are designed for recreational use, and shall submit a report to the President and to the Congress containing the results of such study. Such report shall contain recommendations respecting the desirability and practicability of applying fuel efficiency standards or taxes on fuel use (or both) to such vehicles."

(b) CONFORMING AMENDMENTS.—The table of contents for such Act is amended by inserting after the item relating to part E the following:

"PART F—OFF-HIGHWAY MOTOR VEHICLES

"Sec. 385. Off-Highway motor vehicle conservation study."

SEC. 262. BICYCLE STUDY.

(a) FINDINGS.—The Congress recognizes that bicycles are the most efficient means of transportation, represent a viable commuting alternative to many people, offer mobility at speeds as fast as that of cars in urban areas, provide health benefits through daily exercise, reduce noise and air pollution, are relatively inexpensive, and deserve consideration in a comprehensive national energy plan.

(b) STUDY.—Not more than one year after the date of enactment of this Act, the Secretary of Transportation shall complete a study of the energy conservation of potential bicycle transportation, determine institutional, legal, physical, and personal obstacles to increased bicycle use, establish a target for bicycle use in commuting, and develop a comprehensive program to meet these goals. In developing the program, consideration should be given to educational programs, Federal demonstrations, planning grants, and construction grants. The Secretary of Transportation shall submit a report to the President and to the Congress containing the results of such a sudy.

PART III—ENERGY CONSERVATION PROGRAM FOR SCHOOLS AND HEALTH CARE FACILITIES AND BUILDINGS OWNED BY UNITS OF LOCAL GOVERNMENT

Subpart A—Schools and Health Care Facilities

SEC. 301. STATEMENT OF FINDINGS AND PURPOSES

(a) FINDINGS.—The Congress finds that—

(1) the Nation's nonrenewable energy resources are being rapidly depleted;

(2) schools and health care facilities are major consumers of energy, and have been especially burdened by rising energy prices and fuel shortages;

(3) substantial energy conservation can be achieved in schools and health care facilities through the implementation of energy conservation maintenance and operating procedures and the installation of energy conservation measures; and

(4) public and nonprofit schools and health care facilities in many instances need financial assistance in order to make the necessary improvements to achieve energy conservation.

(b) PURPOSE.—It is the purpose of this part to authorize grants to States and to public and nonprofit schools and health care facilities to assist in identifying and implementing energy conservation maintenance and operating procedures and in evaluating, acquiring, and installing energy conservation measures to reduce the energy use and anticipated energy costs of schools and health care facilities.

SEC. 302. AMENDMENTS TO THE ENERGY POLICY AND CONSERVATION ACT.

(a) AMENDMENT TO TITLE III.—Title III of the Energy Policy and Conservation Act is amended by adding at the end thereof the following new part:

"PART G—ENERGY CONSERVATION PROGRAM FOR SCHOOLS AND HEALTH CARE FACILITIES

"DEFINITIONS

"SEC. 391. For the purposes of this part—

"(1) The term 'building' means any structure which includes a heating or cooling system, or both, the construction of which was completed on or before April 20, 1977.

"(2) The term 'energy conservation measure' means an installation or modification of an installation in a building which is primarily intended to reduce energy consumption or allow the use of a more desirable energy source, including, but not limited to—

"(A) insulation of mechanical systems and the building structure;

"(B) storm windows and doors, multiglazed windows and doors, heat absorbing or heat reflective glazed and coated windows and door systems, additional glazing, reductions in glass area, and other window and door system modifications.

"(C) automatic energy control systems;

"(D) equipment required to operate variable steam, hydraulic, and ventilating systems adjusted by automatic energy control systems;

"(E) solar space heating or cooling systems, solar electric generating systems, or any combination thereof;

"(F) solar water heating systems;

"(G) furnace or utility plant and distribution system modifications including—

"(i) replacement burners designed to reduce the firing rate or to achieve a reduction in the amount of fuel consumed as a result of increased combustion efficiency,

"(ii) devices for modifying flue openings which will increase the efficiency of the heating system,

"(iii) electrical or mechanical furnace ignition systems modifications, including replacement of standing gas pilot lights, and

"(iv) utility plant system conversion measures including conversion of existing oil- and gas-fired boiler installations to alternative energy sources, including coal;

"(H) caulking and weatherstripping;

"(I) lighting fixture retrofits, to the extent that such retrofit reduces the watts per square foot level for illumination and conserves energy;

"(J) energy recovery systems;

"(K) cogeneration systems which produce steam, heat, or other forms of energy as well as electricity for use primarily within a building or a complex of buildings owned by a school or health care facility and which meet such fuel efficiency requirements as the Administrator may by rule prescribe; and

"(L) such measures as have been identified by an energy audit, carried out in accordance with rules promulgated by the Administrator under section 365(e)(2), for which it is shown that a substantial amount of energy will be saved, and such other energy conservation measures as the Administrator may determine appropriate under section 365(e)(1).

No lighting fixture retrofit which increases the general illumination level of a facility shall be treated as an energy conservation measure under this paragraph unless the Administrator finds that such increase is necessary to conform to any applicable State or local building code, or, if no such code applies, such increase is deemed desirable by the Administrator.

"(3) The term 'health care facility' means a public or nonprofit institution which is a medical facility as defined in section 1633 of the Public Health Service Act, as in effect on the date of the enactment of this part.

"(4) The term 'public or nonprofit institutioin' means an institution owned and operated by—

"(A) a State, a political subdivision of a State or an agency or instrumentality of either, or

"(B) an organization exempt from income tax under section 501(c)(3) or 501(c)(4) of the Internal Revenue Code of 1954.

"(5) The term 'school' means a public or nonprofit institution which—

"(A) provides, and is legally authorized to provide, elementary education or secondary education, or both, on a day or residential basis;

"(B)(i) provides, and is legally authorized to provide, a program of education beyond secondary education, on a day or residential basis;

"(ii) admits as students only persons having a certificate of graduation from a school providing secondary education, or the recognized equivalent of such certificate;

"(iii) is accredited by a nationally recognized accrediting agency or association; and

"(iv) provides an educational program for which it awards a bachelor's degree or higher degree or provides not less than a two-year program which is acceptable for full credit toward such a degree at any institution which meets the requirements of clauses (i), (ii), and (iii) and which provides such a program;

"(C) provides not less than a one-year program of training to prepare students for gainful employment in a recognized occupation and which meets the provisions of clauses (i), (ii), and (ii) of subparagraph (B); or

"(D) is a residential child care institution.

"(6) The term 'school facilities' means buildings housing classrooms, laboratories, dormitories, athletic facilities, or related facilities operated in connection with a school.

"(7) The term 'State' means a State, the District of Columbia, Puerto Rico and, at the discretion of the Administrator, any territory or possession of the United States.

"(8) The term 'State energy agency' means the State agency responsible for developing State energy plans pursuant to section 362 of this Act, or, if no such agency exists, a State agency designated by the Governor of such State to prepare and submit the State plan required under section 394 of this part.

"(9) The term 'State school facilities agency' means an existing agency which is broadly representative of public institutions of higher education, private nonprofit institutions of higher education, public elementary and secondary schools, private nonprofit elementary and secondary schools, public residential child care institutions and private nonprofit residential child care institutions, public vocational educational institutions, private nonprofit vocational institutions, and the interests of handicapped persons, in a State or, if no such agency exists, an agency which is designated by the Governor of such State which conforms to the requirements of this paragraph.

"(10) The term 'State health care facilities agency' means an existing agency which is broadly representative of the public hospitals, the private nonprofit hospitals, public facilities for long-term care, and private nonprofit facilities for long-term care in a State, or, if no such agency exists, an agency designated by the Governor of such State which conforms to the requirements of this paragraph.

"(11) The term 'preliminary energy audit' means any survey of a building that is conducted in accordance with rules issued by the Administrator and—

"(A) identifies the type, size, and energy use level of such building and the major energy using systems of such building;

"(B) determines appropriate energy conservation maintenance and operating procedures, and

"(C) indicates the need, if any, for the acquisition and installation of energy conservation measures,

except that for the purposes of section 393(a)(1), such term shall mean a survey which identifies the type, size, and energy use level of such building and the major energy-using systems of such building.

"(12) The term 'energy conservation project' means an undertaking to acquire and to install one or more energy conservation measures in a building which is a school or health care facility.

"(13) The term 'energy conservation project costs' includes only costs incurred in the design, acquisition, construction, and installation of energy conservation measures.

"(14) The term 'technical assistance program' means a program carried out in accordance with rules issued by the Administrator which provides assistance to schools and health care facilities—

"(A) to conduct specialized studies identifying and specifying energy savings and related cost savings that are likely to be realized as a result of modification of maintenance and operating procedures in a building, or as a result of the acquisition and installation of one or more specified energy conservation measures in such building, or as a result of both, and

"(B) the planning of specific remodeling, renovation, repair, replacement, or insulation projects related to the installation of energy conservation measures in such building.

"(15) The term 'technical assistance program costs' means costs incurred for the use of existing personnel or the temporary employment of other qualified personnel (or both such types of personnel) necessary for a technical assistance program.

"(16) The term 'energy conservation maintenance and operating procedure' means modification or modifications in the maintenance and operations of a building, and any installations therein, which are designed to reduce energy consumption in such building and which require no significant expenditure of funds.

"GRANT AUTHORIZATION

"SEC. 392. (a) The Administrator is authorized to make grants to—

"(1) States to assist in conducting preliminary energy audits pursuant to section 393,

"(2) States, schools, and health care facilities in payment of technical assistance program costs, and

"(3) schools and health care facilities in payment of energy conservation project costs incurred in connection with energy conservation projects.

"(b)(1) Except as provided in paragraph (2), the Federal share of the costs incurred in connection with any preliminary energy audit, any technical assistance program, or any energy conservation project shall not exceed 50 percent thereof and the remainder of the costs shall be provided from sources other than Federal funds.

"(2) Funds available to the Administrator under section 396(a)(3) may be used to pay up to 90 percent of the program or project costs for technical assistance programs or energy conservation projects if the Administrator determines that such programs or projects meet the criteria of a class of severe hardship as such class is determined, by rule, by the Administrator, taking into account climate, fuel costs, or fuel availability, ability to provide the required matching non-Federal funds, and such other factors that he deems appropriate.

"PRELIMINARY ENERGY AUDITS

"SEC. 393. (a) The Administrator shall, by rule, not later than 60 days after the date of enactment of this part—

"(1) prescribe guidelines for the conduct of the preliminary energy audits required for the development of State energy plans, including a description of the type, number, and distribution of preliminary energy audits of schools and health care facilities that will be required to provide a reasonably accurate evaluation of the energy conservation needs of all such facilities in each State,

"(2) prescribe guidelines for the conduct of preliminary energy audits that may be required in determining which schools and health care facilities qualify for grants for technical assistance programs and energy conservation projects under a State plan, and

"(3) prescribe rules governing the allocation among the several States of funds for grants for preliminary energy audits, taking into account the population and climate of such States and such other factors as he may deem appropriate.

In the case of States which, without the use of financial assistance under this part, conduct preliminary energy audits which fulfill the terms of the guidelines issued by the Administrator and which are approved by the Administrator as a part of the State energy plan of such State pursuant to section 394(c), the funds allocated for purposes of this subsection shall be added to the funds available for technical assistance programs or energy conservation projects for such State and shall be in addition to amounts otherwise available under the allocation for such purposes pursuant to paragraph (1) of section 396(a).

"(b) In any case in which a State does not conduct the preliminary energy audits required under subsection (a)(1) of this section within two years after the date of the enactment of this part, the Administrator may conduct such audits within such State.

"STATE PLANS

"SEC. 394. (a) The Administrator shall, by rule, not later than one hundred and twenty days after the date of enactment of this part, prescribe guidelines for the development of State plans for the implementation of technical assistance programs for, and the implementation of energy conservation projects in, schools and health care facilities in such State. The guidelines may be amended from time to time by the Administrator after due notice and shall include—

"(1) a description of the factors to be considered by the State energy agency in determining which technical assistance programs and energy conservation projects will be given priority in making grants pursuant to this part, including such factors as climate, fuel availability and fuel cost, and energy conservation goals,

"(2) a description of the criteria to be used in establishing a State program to identify persons qualified to conduct preliminary energy audits, and carry out technical assistance programs and implement energy conservation projects, and

"(3) a description of the types of energy conservation measures deemed appropriate for each region of the Nation.

"(b) The Administrator shall invite the State energy agency of each State to submit, within one hundred and twenty days after the effective date of the guidelines prescribed pursuant to section 394(a), or such longer period as the Administrator may, for good cause, allow, a proposed State plan under this section for such State. Such plan shall include—

"(1) a statistical survey of schools and health care facilities identifying the type, size, and energy use levels of such buildings and their major energy using systems, and an estimate of the energy savings that may result from the modification of maintenance and operating procedures and installation of energy conservation measures in such facilities,

"(2) a description of the number and type of school and health care facilities in such State that may qualify for financial assistance for technical assistance programs and energy conservation projects under the Administrator's guidelines,

"(3) a description of the energy conservation needs of the schools and health care facilities of such State,

"(4) a recommendation as to the types of technical assistance programs and energy conservation measures considered appropriate for schools and health care facilities in such State, together with an estimate of the costs of carrying out such programs and acquiring and installing such measures in each year for which funds are appropriated,

"(5) a program for identifying persons qualified to conduct preliminary energy audits, carry out technical assistance programs, and install energy conservation projects,

"(6) a description of the policies and procedures to be followed in the allocation of funds among eligible technical assistance programs and energy conservation projects within such State, including recommendations as to how priorities should be established between schools and health care facilities, and among competing proposals taking into account such factors as cost, energy consumption, and energy savings (except that schools in any State shall not be allocated less than 30 percent of the funds for technical assistance programs and for energy conservation projects within such State and health care facilities in any State shall not be allocated less than 30 percent of such funds within such State),

"(7) a description of procedures for assuring that certifications will be obtained from the appropriate State health facilities agency and State school facilities agency, respectively, that the proposed State plan is consistent with existing programs for health and education facilities, respectively, in such State pursuant to subsection (b) of section 395, and

"(8) a statement of the extent to which, and by which methods, such State will encourage utilization of solar space heating, cooling, and electric systems and solar water heating systems where appropriate.

"(c) Each State plan submitted under this section shall be reviewed and approved or disapproved by the Administrator not later than ninety days after receipt by the Administrator. If such plan meets the requirements of subsection (b), the Administrator shall approve the plan. A State energy agency may submit a new or amended plan at any time after the submission of the original plan if the agency obtains the consent of the Administrator.

"(d)(1) If a State plan has not been approved under this section within two years and ninety days after the enactment of this part, or within ninety days after completion of the preliminary audits under section 393(a)(1), whichever is later, the Administrator may take such action as necessary to develop and implement without regard to subsection (b)(7), such a State plan and to carry out the functions which would otherwise be carried out under this part by the State energy agency, in order that the energy conservation program for schools and health care facilities may be implemented in such State.

"(2) Notwithstanding any other provision contained in this section, a State may, at any time, submit a proposed State plan for such State under this section. Such plan shall be reviewed by the Administrator and approved or disapproved not later than ninety days after receipt by the Administrator. If such plan meets the requirements of subsection (b) and is not inconsistent wtih any plan developed and implemented by the Administrator under paragraph (1), the Administrator shall approve the plan and withdraw any such plan developed and implemented by the Administrator.

"CONFORMANCE WITH STATE PROGRAMS

"SEC. 395. (a) Applications of States, schools, and health care facilities and State plans pursuant to this part shall be consistent with—

"(1) related State programs for educational facilities in such State, and

"(2) State health plans under sections 1524(c)(2) and 1603 of the Public Health Service Act, and shall be coordinated through the review mechanisms required under section 1523 of the Public Health Service Act and section 1122 of the Social Security Act.

"(b) No application of a State, school, or health care facility under this part shall be approved by the Administrator unless the appropriate State health facilities agency or the State school facilities agency, respectively, for such State shall have certified that it conforms to the requirement of this section.

"ALLOCATION OF FINANCIAL ASSISTANCE

"SEC. 396. (a) The Administrator shall provide grants for carrying out technical assistance programs and energy conservation projects from the sums appropriated for any fiscal year under section 398 (b) and (c) only upon annual application and shall allocate the sums appropriated for that fiscal year in the following manner:

"(1) eighty percent among school and health care facilities in the several States in accordance with a formula to be determined by the Administrator, by rule, taking into account population and climate of each State, and such other factors as the Administrator may deem appropriate;

"(2) ten percent among schools and health care facilities in the several States, as the Administrator shall determine, after taking into account the availability and cost of fuel or other energy used in, and the amount of fuel or other energy consumed by, schools and health facilities in the several States, and such other factors as the Administrator may deem appropriate; and

"(3) ten percent for making grants in excess of fifty percent of program or project costs as authorized by section 392(b).

"(b) Funds allocated to projects and programs in any State for a fiscal year under this section but not obligated or expended in such fiscal year shall be available for reallocation under subsection (a) of this section in any subsequent fiscal year for which an appropriation is made pursuant to this part.

"(c) Notwithstanding any other provision of this section, the total of grants made in any year to schools and health care facilities in any one State under this part shall not exceed 12.5 percent of the total appropriation for such grants in that year.

"(d) The Administrator shall prescribe rules limiting the amount of funds allocated to a State which may be expended for administrative expenses by such State.

"APPLICATIONS

"SEC. 397. (a) Applications of States, schools, and health care facilities for financial assistance under this part shall be made annually, shall be submitted to the Administrator by the State energy agency, and shall contain, or shall be accompanied by, such information as the Administrator may reasonably require.

"(b) Applications for technical assistance programs and energy conservation projects shall be accompanied by a listing and description of technical assistance programs and energy conservation projects proposed to be funded within the State during the fiscal year for which such application is made, and such information concerning expected expenditures as the Administrator may, by rule, require.

"(c) The Admiinstrator shall not provide financial assistance to States, schools, or health care facilities for technical assistance programs or energy conservation projects unless the application for a grant for such program or project has been submitted through, and been approved by the appropriate State health care facilities agency or State school facilities agency, respectively, and has been approved by the State energy agency.

"(d) The Administrator shall not provide financial assistance under paragraph (2) or (3) of section 392(a) unless the State has provided reasonable assurances that it has—

"(1) established procedures to assure that all programs and projects conform to the State plan for such State as approved by the Administrator;

"(2) established procedures to assure that funds made available under this part will be expended in compliance with the requirements of this part and with rules promulgated under this part;

"(3) established procedures to insure that funds will be allocated among eligible applicants on the basis of relative need, taking into account such factors as cost, energy consumption, and energy savings;

"(4) established procedures for implementation of energy conserving maintenance and operating procedures in those facilities for which projects and programs are proposed;

"(5) implemented a program to identify persons qualified to conduct audits, to carry out technical assistance programs, and implement energy conservation projects;

"(6) established policies and procedures designed to assure that financial assistance provided under this part will be used to supplement, and not to supplant, State, local, or other funds, and, to the extent practicable, to increase the amounts of such funds that would be made available in the absence of Federal funds for carrying out this part;

"(7) established procedures to provide reports to the Administrator in such form and containing such information (including information for evaluation purposes) as the Administrator may reasonably require and to keep such records and furnish access thereto as the Administrator may find necessary to assure the correctness and verification of such reports; and

"(8) establish procedures to insure that equitable consideration is given to all eligible public or nonprofit institutions regardless of size and type of ownership.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 398. (a) For the purpose of making grants to States to conduct preliminary energy audits pursuant to sections 392(a)(1) and 393, there is hereby authorized to be appropriated not to exceed $20,000,000 for the fiscal year ending September 30, 1978, and $5,000,000 for the fiscal year ending September 30, 1979, such funds to remain available until expended.

"(b) For the purpose of making technical assistance grants to States, schools, and health care facilities pursuant to section 392(a)(2), there is hereby authorized to be appropriated not to exceed $60,000,000 for the fiscal year ending September 30, 1978, $45,000,000 for the fiscal year ending September 30, 1979, and $20,000,000 for the fiscal year ending September 30, 1980, such funds to remain available until expended.

"(c) For the purpose of making energy conservation project grants to schools and health care facilities pursuant to section 392(a)(3), there is hereby authorized to be appropriated not to exceed $220,000,000 for the fiscal year ending September 30, 1978, $250,000,000 for the fiscal year ending September 30, 1979, and $280,000,000 for the fiscal year ending September 3, 1980, such funds to remain available until expended.

"(d) For the expenses of the Administrator in administering the provisions of this part, there are hereby authorized to be appropriated such sums as may be necessary for each fiscal year in the three consecutive fiscal year periods ending September 30, 1980, such funds to remain available until expended.

"ANNUAL REPORT

"SEC. 399. The Administrator shall, on March 1 of each year, submit to the Congress a detailed report of the actions taken under this part in the preceding calendar year and the actions planned to be taken in the next calendar year. Such report shall show the allocations made (including the allocations made to each State) and include information on the types of conservation measures utilized and not utilized, with funds allocated, and an estimate of the energy savings, if any, achieved.

"ADMINISTRATION

"SEC. 400. The Administrator is authorized to prescribe such rules as may be necessary in order to carry out the provisions of this part.".

"(b) TABLE OF CONTENTS.—The table of contents for such title III is amended by inserting the following at the end thereof:

"Part G—Energy Conservation Program for Schools and Health Care Facilities

"Sec. 391. Definitions.
"Sec. 392. Grant authorization.
"Sec. 393. Preliminary energy audits.
"Sec. 394. State plans.
"Sec. 395. Conformance with State programs.
"Sec. 396. Allocation of financial assistance.
"Sec. 397. Applications.
"Sec. 398. Authorization of appropriations.
"Sec. 399. Annual report.
"Sec. 400. Administration.".

SEC. 303. TECHNICAL AMENDMENTS.

(a) SECTION 1502.—Section 1502 of the Public Health Service Act is amended by adding at the end thereof the following new paragraph:

"(11) The promotion of an effective energy conservation and fuel efficiency program for health service institutions to reduce the rate of growth of demand for energy.".

(b) SECTION 1532(b)(2).—Section 1532(b)(2) of the Public Health Service Act is amended by deleting the period after "made" and inserting in lieu thereof: ", or in the case of non-substantive reviews, provision for a shortened review period.".

(c) SECTION 1532(c).—Section 1532(c) of the Public Health Service Act is amended by deleting the comma in paragraph (9)(A) after "construction" and inserting in lieu thereof: ", including the costs and methods of energy provision," and by adding at the end thereof the following new paragraph:

"(10) The special circumstances of health service institutions and the need for conserving energy.".

Subpart B—Buildings Owned by Units of Local Government

SEC. 321. STATEMENT OF FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) the Nation's nonrenewable energy resources are being rapidly depleted;

(2) buildings owned by units of local government are major consumers of energy, and such units have been especially burdened by rising energy prices and fuel shortages;

(3) substantial energy conservation can be achieved in buildings owned by units of local government through the implementation of energy conservation maintenance and operating procedures; and

(4) units of local government in many instances need financial assistance in order to make the necessary improvements in buildings owned by them to achieve energy conservation.

(b) PURPOSE.—It is the purpose of this part to authorize grants to States and units of local government to assist in identifying and implementing energy conservation maintenance and operating procedures to reduce the energy use and anticipated energy costs of buildings owned by units of local government.

SEC. 322. AMENDMENT TO THE ENERGY POLICY AND CONSERVATION ACT.

(a) AMENDMENT TO TITLE III.—Title III of the Energy Policy and Conservation Act is amended by adding at the end thereof the following new part:

"PART H—ENERGY CONSERVATION PROGRAM FOR BUILDINGS OWNED BY UNITS OF LOCAL GOVERNMENT

"DEFINITIONS

"SEC. 400A. For the purpose of this part—

"(1) The terms 'buildings', 'health care facility', 'school', 'State energy agency', 'technical assistance program costs', and 'energy conservation maintenance and operating procedure' have the meanings provided by section 391.

"(2) The term 'unit of local government' means the government of a county, municipality, or township, which is a unit of government below the State (determined on the basis of the same principles as are used by the Bureau of the Census for general statistical purposes). Such term also means the recognized governing body of an Indian tribe or Alaskan native village which performs substantial governmental functions.

"(3) The term 'building owned by a unit of local government' means any building, other than a building utilized primarily by a school or health care facility, which is owned by one or more units of local government, and which is—

"(A) primarily occupied by the offices or agencies of such unit or units, and which is

"(B) not intended for seasonal use by such offices or agencies.

"(4) The term 'preliminary energy audit' means any survey of a building that is conducted in accordance with rules issued by the Administrator and—

"(A) identifies the type, size, and energy use level of such building and the major energy using systems of such building;

"(B) determines appropriate energy conservation maintenance and operating procedures; and

"(C) indicates the need, if any, for the acquisition and installation of energy conservation measures,

"(5) The term 'technical assistance program' means a program carried out in accordance with rules issued by the Administrator which provides assistance to units of local government—

"(A) in conducting specialized studies identifying and specifying energy savings and related cost savings that are likely to be realized as a result of modification of maintenance and operating procedures in a building.

"(B) in the planning of specific remodeling, renovation, repair, replacement, or insulation projects related to the installation of energy conservation measures in such building, and

"(C) in such other planning as the Administrator may deem appropriate.

"GRANT AUTHORIZATION

"SEC. 400B. (a) The Administrator is authorized to make grants to—

"(1) States and units of local government to assist in conducting preliminary energy audits for buildings owned by units of local government, and

"(2) States and units of local government in payment of technical assistance program costs for technical assistance programs for buildings owned by units of local government.

"(b) The Federal share of the costs incurred in connection with any preliminary energy audit or any technical assistance program, shall not exceed 50 percent thereof and the remainder of the costs shall be provided from sources other than Fedral funds,

"PRELIMINARY ENERGY AUDITS

"SEC. 400C. (a) The Administrator shall, by rule, not later than sixty days after the date of enactment of this part—

"(1) prescribe guidelines for the conduct of the preliminary energy audits for buildings owned by units of local government by State energy agencies, including a description of the type, number, and distribution of preliminary energy audits of such buildings that will be required to provide a reasonably accurate evaluation of the energy conservation needs of all such buildings in each State.

"(2) prescribe guidelines for the conduct of preliminary energy audits by State energy agencies or by units of local government, or both, that may be required in determining which buildings of units of local government qualify for grants for technical assistance programs, and

"(3) prescribe rules governing the allocation among the several States of funds for grants for preliminary energy audits for buildings owned by units of local government, taking into account the population and climate of such States and such other factors as he may deem appropriate.

"STATE PLANS

"SEC. 400D. (a) The Administrator shall, by rule, not later than one hundred and twenty days after the date of enactment of this part, prescribe guidelines for the development of State plans for the implementation of technical assistance programs for the implementation of technical assistance programs for buildings owned by units of local government in such State. The guidelines may be amended from time to time by the Administrator after due notice and shall include—

"(1) a description of the factors to be considered by the State energy agency in determining which technical assistance programs will be given priority in making grants pursuant to this part, including such factors as climate, fuel availability and fuel cost, and energy conservation goals, and

"(2) a description of the types of energy conservation measures deemed appropriate for each region of the Nation.

"(b) The Administrator shall invite the State energy agency of each State to submit, within one hundred and twenty days after the effective date of the guidelines prescribed pursuant to subsection (a), or such longer period as the Administrator may, for good cause, allow, a proposed State plan under this section for such State. Such plan shall include—

"(1) a description of the energy conservation needs of the buildings owned by units of local government of such State;

"(2) a description of the number and type of buildings owned by units of local government in such State that may qualify for financial assistance for technical assistance programs under the Administrator's guidelines;

"(3) a recommendation as to the types of technical assistance programs considered appropriate for buildings owned by units of local government in such State, together with an estimate of the costs of carrying out such programs;

"(4) a statistical survey of buildings owned by units of local government identifying the type, size, and energy use levels of such buildings and their major energy using systems, and an estimate of the energy savings that may result from the modification of maintenance and operating procedures in such buildings;

"(5) a description of the policies and procedures to be followed in the allocation of funds among eligible technical assistance programs within such State, including recommendations as to how priorities should be established between buildings owned by units of local government, and among competing proposals taking into account such factors as cost, energy consumption, and energy savings; and

"(6) a statement of the extent to which, and by which methods, such State will encourage utilization of solar space heating, cooling, and electric systems and solar water heating systems where appropriate.

"(c) Each State plan submitted under this section shall be reviewed and approved or disapproved by the Administrator not later than ninety days after receipt by the Administrator. If such plan meets the requirements of subsection (b), the Administrator shall approve the plan. A State energy agency may submit a new or amended plan at any time after the submission of the original plan if the agency obtains the consent of the Administrator.

"ALLOCATION OF FINANCIAL ASSISTANCE

"SEC. 400E. (a) The Administrator shall provide grants for carrying out technical assistance programs from the sums appropriated for any fiscal year under this part only upon annual application.

"(b) Funds allocated to programs in any State for a fiscal year under this section but not obligated or expended in such fiscal year shall be available for reallocation under this section in any subsequent fiscal year for which an appropriation is made pursuant to this part.

"(c) Notwithstanding any other provision of this section, the total of grants made in any year in any one State under this part shall not exceed 12.5 percent of the total appropriation for such grants in that year.

"(d) The Administrator shall prescribe rules limiting the amount of funds allocated to a State which may be expended for administrative expenses by such State.

"APPLICATIONS

"SEC. 400F. (a) Applications of States and units of local government for financial assistance under this part shall be made annually, shall be submitted to the Administrator by the State energy agency, and shall contain, or shall be accompanied by, such information as the Administrator may reasonably require.

"(b) Applications for technical assistance programs shall be accompanied by a listing and description of technical assistance programs proposed to be funded under this part within the State during the fiscal year for which such application is made, and such information concerning expected expenditure as the Administrator may, by rule, require.

"(c) The Administrator shall not provide financial assistance for technical assistance programs under this part unless the State has provided reasonable assurances that it has—

"(1) established procedures to assure that all programs and projects conform to the State plan for such State as approved by the Administrator;

"(2) established procedures to assure that funds made available under this part will be expended in compliance with the requirements of this part and with rules promulgated under this part;

"(3) established procedures to insure that funds will be allocated among eligible applicants on the basis of relative need, taking into account such factors as cost, energy consumption, and energy savings;

"(4) established policies and procedures desgined to assure that financial assistance provided under this part will be used to supplement, and not to supplant, State, local, or other funds, and, to the extent practicable, to increase the amounts of such funds that would be made available in the absence of Federal funds for carrying out this part; and

"(5) established procedures to provide reports to the Administrator in such form and containing such information (including information for evaluation purposes) as the Administrator may reasonably require and to keep such records and furnish access thereto as the Administrator may find necessary to assure the correctness and verification of such reports.

"AUTHORIZATION OF APPROPRIATION

"SEC. 400G. (a) For the purpose of making grants to States or units of local government, or both, to conduct preliminary energy audits under this part there is hereby authorized to be appropriated not to exceed $7,500,000 for the fiscal year ending September 30, 1978, and $7,500,000 for the fiscal year ending September 30, 1979, such funds to remain available until expended.

"(b) For the purpose of making technical assistance grants under this part to States and units of local government, there is hereby authorized to be appropriated not to exceed $25,000,000 for the fiscal year ending September 30, 1978, and $25,000,000 for the fiscal year ending September 30, 1979, such funds to remain available until expended.

"(c) For the expenses of the Administrator in administering the provisions of this part, there are hereby authorized to be appropriated such sums as may be necessary for each fiscal year in the two consecutive fiscal year periods ending September 30, 1979, such funds to remain available until expended.

"ANNUAL REPORT

"SEC. 400H. The Administrator shall, on March 1 of each year, submit to the Congress a detailed report of the actions taken under this part in the preceding calendar year and the actions planned to be taken in the next calendar year. Such report shall

show the allocations made (including the allocations made to each State) and include an estimate of the energy savings, if any, achieved.

"ADMINISTRATION

"SEC. 400I. The Administrator is authorized to prescribe such rules as may be necessary in order to carry out the provisions of this part.".

(b) TABLE OF CONTENTS.—The table of contents for such title III is amended by inserting the following at the end thereof:

"Part H—Energy Conservation Program for Buildings Owned by Units of Local Government

"Sec. 400A. Definitions.
"Sec. 400B. Grant authorization.
"Sec. 400C. Preliminary energy audits.
"Sec. 400D. State plans.
"Sec. 400E. Allocation of financial assistance.
"Sec. 400F. Applications.
"Sec. 400G. Authorization of appropriations.
"Sec. 400H. Annual report.
"Sec. 400I. Administration.".

SEC. 323. APPLICATION OF DAVIS-BACON ACT.

The Federal employee or officer primarily responsible for administering any program established under any provision of, or amendment made by, part III of title I of this Act which provides for Federal funding shall take such steps as are necessary to insure that all laborers and mechanics employed by contractors or subcontractors in the performance of work on any construction utilizing such funds will be paid at rates not less than those prevailing on similar construction in the locality, as determined by the Secretary of Labor in accordance with the Act of March 3, 1931 (40 U.S.C. 276a–276a–5, known as the Davis-Bacon Act); and the Secretary of Labor shall have with respect to the labor standards specified in this section the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 5 U.S.C. Appendix) and section 2 of the Act of June 13, 1934 (40 U.S.C. 276c).

PART IV—NATURAL GAS

SEC. 401. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) during the early history of this Nation's petroleum industry, natural gas was a byproduct of the production of crude oil, was not readily marketable, and was often treated as waste and flared;

(2) the natural gas market changed dramatically through the course of the last 40 years as a national distribution system was built to deliver natural gas to commercial and industrial consumers throughout the Nation;

(3) the Congress enacted the Natural Gas Act in 1938 to protect consumers and to provide a regulatory structure through which interstate pipelines and natural gas producers could be assured an opportunity to earn a fair rate of return;

(4) in 1954, the Supreme Court held that the Natural Gas Act applied to the wellhead sale of natural gas in interstate commerce thereby subjecting producers selling natural gas in interstate commerce, but not those selling natural gas within the same State in which it was produced, to a regulatory standard based upon a determination of historic production costs;

(5) since 1973, the differential between the price of natural gas and the price of crude oil on a Btu basis has widened with the continuation of cost-based regulation of natural gas and with a fourfold increase in world oil prices;

(6) estimates of the proven reserves of natural gas have declined while demand for this premium and relatively inexpensive fuel has increased;

(7) at the same time as proven reserves have declined and demand has risen, increasing proportions of new supplies of natural gas have moved to the unregulated intrastate market, resulting in growing critical shortages in the interstate market of the fuel which provides 30 percent of the Nation's energy; and

(8) a new system of natural gas pricing is needed to eliminate the distortions created by the existence of two separate markets for natural gas and to reflect the costs and risks associated with finding new supplies of natural gas, as well as the costs associated with reliance upon alternative fuels in the absence of new supplies of natural gas.

(b) PURPOSES.—The purposes of this part are—

(1) to bring the natural gas market into better balance by reducing the demand for natural gas and increasing the supply through the establishment of a uniform and incentive-based pricing system for new natural gas which provides fair and equitable producer revenues and protects consumers;

(2) to deal with short-term shortages of natural gas through extension of the allocation provisions of the Emergency Natural Gas Act of 1977; and

(3) to provide for the conservation of natural gas by pricing natural gas to low-priority users at a level which will provide incentives for conservation and conversion to other, more plentiful, fuels.

SEC. 402. DEFINITIONS.

As used in this part—

(1) The term "Commission" means the Federal Power Commission.

(2) The term "person" includes the United States and any State, and any political subdivision, agency, or instrumentality of either.

(3) The term "natural gas" has the same meaning as such term has under section 2(5) of the Natural Gas Act.

(4) The term "old natural gas" means natural gas other than new natural gas.

(5) The term "new natural gas" means natural gas—

(A) produced from a new lease on the Outer Continental Shelf; or

(B) produced (other than from the Outer Continental Shelf) from a new well the completion location of which—

(i) is 2.5 statute miles or more (horizontal distance) from any old well;

(ii) is 1,000 feet or more deeper than the deepest completion location of an old well, if any, which is within 2.5 statute miles (horizontal distance) of such new well; or

(iii) is in a newly discovered reservoir.

(6) The term "Outer Continental Shelf" has the same meaning as such term has under section 2(a) of the Outer Continental Shelf Lands Act (43 U.S.C. 1331(a)).

(7) The term "new lease" means a lease, entered into on or after April 20, 1977, of submerged acreage—

(A) which was not leased before April 20, 1977; or

(B) which was leased before such date, under a lease which terminated or was abandoned before such date and was not in effect on such date.

(8) The term "new well" means a well the surface drilling of which was begun after April 20, 1977.

(9) The term "old well" means any well which—

(A) produced crude oil, natural gas, or both, on or before April 20, 1977; or

(B) was capable of producing crude oil, natural gas, or both, on April 20, 1977.

(10) The term "completion location" means the subsurface location from which crude oil or natural gas is or has been produced from a reservoir.

(11) The term "horizontal distance", with regard to an old well and a new well, means the distance, measured horizontally and without regard to topography, between—

(A) the surface location of the old well, and

(B) the closest point of the completion location of the new well vertically projected to the same elevation as the surface location of the old well.

(12) The term "reservoir" means a porous and permeable underground formation containing a natural accumulation of producible crude oil, natural gas, or both, confined by impermeable rock or water barriers and characterized by a single natural pressure system.

(13) The term "newly discovered reservoir" means any reservoir which, on or before April 20, 1977, was not discovered, by the drilling of a well, to contain natural gas.

(14) The term "new contract" means any contract, entered into after April 20, 1977, for the sale of natural gas which was not previously subject to an existing contract.

(15) The term "rollover contract" means any contract, entered into after April 20, 1977, for the sale of natural gas that was previously subject to an existing contract which expired at the end of a fixed term specified by such existing contract.

(16) The term "exisiting contract" means any contract for the sale of natural gas entered into on or before April 20, 1977.

(17) The term "current Btu related price" means the most recently published Btu related price calculated pursuant to section 403.

(18) The term "inflation adjustment" means, with respect to any calendar quarter, the amount determined by dividing—

(A) the first revision of the implicit price deflator, for the calendar quarter which immediately precedes such calendar quarter, seasonally adjusted, for the gross national product as computed and published by the Department of Commerce; by

(B) the implicit price deflator, for the first calendar quarter of 1977, seasonally adjusted, for the gross national product as computed and published by the Department of Commerce.

(19) The term "Mcf" means, with respect to natural gas, 1,000 cubic feet of natural gas measured at a pressure of 14.73 pounds (avoirdupois) per square inch and a temperature of 60° Fahrenheit.

(20) The term "Btu" means British thermal unit.

(21) The term "United States" includes the Outer Continental Shelf.

(22) The term "State" means each of the several States and the District of Columbia.

SEC. 403. CALCULATION OF THE CURRENT BTU RELATED PRICE.

(a) CURRENT BTU RELATED PRICE.—Within 30 days after the date of the enactment of this Act, and on a monthly basis thereafter, the Commission shall calculate and publish in the Federal Register the current Btu related price. Such Btu related price shall be computed by dividing—

(1) the average per barrel domestic refiner cost of acquiring domestic crude oil during the preceding 3 calendar months, by

(2) a Btu conversion factor of 5.8 million Btu's per barrel.

(b) COMPUTATION OF DOMESTIC REFINER COST OF CRUDE OIL.—For purposes of paragraph (1) of subsection (a), the average per barrel domestic refiner cost of acquiring crude oil shall be computed without regard to—

(1) costs associated with the purchase of entitlements under the regulation issued under section 4 of the Emergency Petroleum Allocation Act of 1973,

(2) the tax imposed by section 4986 of the Internal Revenue Code of 1954 or any credit or payment allowable under such Code in connection with such tax, or

(3) the cost of crude oil transported through the trans-Alaska pipeline (within the meaning of section 8(g)(2)(A) of the

Emergency Petroleum Allocation Act of 1973).

SEC. 504. SALES OF NEW NATURAL GAS.

Except as provided in sections 409 and 413, the maximum lawful price for any first sale of new natural gas produced in the United States and delivered during any calendar month which begins on or after the date of the enactment of this Act shall be the higher of $1.75 per million Btu's or the current Btu related price at the time of such deliveries.

SEC. 505. SALES OF OLD NATURAL GAS UNDER EXISTING CONTRACTS.

Except as provided in sections 409 and 413 (e)(4), the maximum lawful price for any first sale of old natural gas produced in the United States and sold under an existing contract shall be the product of multiplying—

(1)(A) in the case of any such first sale subject to the jurisdiction of the Commission under the Natural Gas Act, the just and reasonable price established by the Commission and applicable to sales of natural gas under such contract on April 20, 1977 (without regard to any appeal of such price determination pending on April 20, 1977), or

(B) in the case of any other such first sale, the price applicable on April 20, 1977 under such existence contract; by

(2) the inflation adjustment.

SEC. 406. SALES OF OLD NATURAL GAS UNDER NEW CONTRACTS

Except as provided in sections 409 and 413 (e)(4), the maximum lawful price for any first sale of old natural gas produced in the United States and sold under a new contract shall be $1.45 per million Btu's multiplied by the inflation adjustment.

SEC. 407. SALES OF OLD NATURAL GAS UNDER ROLLOVER CONTRACTS.

(a) MAXIMUM LAWFUL PRICE RULE.—Except as provided in sections 409 and 413(e)(4), and subject to the limitations of subsection (b), the Commission shall, by rule, prescribe the maximum lawful price for any first sale of old natural gas produced in the United States and sold under a rollover contract.

(b) LIMITATIONS.—(1) In the case of any first sale of old natural gas to which the provisions of this section apply, if such old natural gas was committed or dedicated to interstate commerce on April 20, 1977, the maximum lawful price prescribed by the Commission under this section may exceed the maximum price permitted under a previous existing contract to the extent that such price is necessary to permit the recovery of increaed costs in order to maintain production of such natural gas, but in no event may any such price exceed $1.45 per million Btu's multiplied by the inflation adjustment.

(2) In the case of any first sale of old natural gas to which the provisions of this section apply, if such old natural gas was not committed or dedicated to interstate commerce on April 20, 1977, the maximum lawful price prescribed by the Commission under this section may exceed the maximum prices permitted under a previous contract to the extent that such price is necessary to permit the recovery of increased costs in order to maintain production of such natural gas, but in no event may any such price exceed—

(A) the product of multiplying the inflation adjustment by $1.45 per million Btu's, if the contract price applicable on April 20, 1977, was less than or equal to $1.45 per million Btu's; or

(B) the current Btu related price, if the contract price applicable on April 20, 1977, was greater than $1.45 per million Btu's.

(c) COMMITTED OR DEDICATED TO INTERSTATE COMMERCE.—For purposes of this section, the term "committed or dedicated to interstate commerce" shall not be construed as applicable to any old natural gas which was sold under a limited term certificate of 5 years or less, a temporary emergency contract pursuant to section 7(c) of the Natural Gas Act, or a contract authorized by section 6 of the Emergency Natural Gas Act of 1977.

SEC. 408. EFFECTIVE DATES OF RULES WITH RESPECT TO MAXIMUM LAWFUL PRICES.

The Commission shall promulgate and make effective rules required to be prescribed under section 407 within 60 days after the date of the enactment of this Act. Such rules shall apply to deliveries of natural gas with respect to the first sale of which section 407 applies and which occur on or after such date of enactment.

SEC. 409. SPECIAL PRICING PROVISIONS.

(a) GENERAL RULE.—The Commission may, by rule, prescribe a maximum lawful special price, applicable to the first sale of high cost natural gas produced in the United States. Such special price may exceed the applicable maximum lawful price established by section 404, 405, 406, or 407 to the extent that such special price is necessary to provide reasonable incentives for the production of high cost natural gas.

(b) HIGH COST NATURAL GAS.—For purposes of this section, the term "high cost natural gas" means natural gas produced—

(1) from submerged acreage located beneath more than 500 feet of water;

(2) from a completion location more than 15,000 feet (true vertical depth) below the surface location of the well;

(3) from geopressurized brine; or

(4) under such other conditions as present extraordinary risks or costs.

(c) ADJUSTMENTS.—In the case of a first sale of natural gas with respect to which the seller bears all or part of the cost of compression, gathering, processing, liquefaction, or transportation of such natural gas, the Commission may by rule, provide for an adjustment to the maximum lawful price established by section 404, 405, 406, or 407, or prescribed under subsection (a) of this section or section 413(e)(4), to reflect such cost borne by such seller.

SEC. 410. INCREMENTAL PRICING OF NATURAL GAS.

(a) GENERAL RULE.—(1) Not later than 90 days after the date of the enactment of this Act, the Commission shall, by rule, provide that, to the maximum extent practicable, the amount by which the average cost of natural gas delivered after such date of enactment to any pipeline company exceeds the product of the average cost of natural gas delivered to such company during the 12-calendar-month period immediately before the date of enactment of this Act multiplied by the inflation adjustment, shall be initially allocated to the rates and charges of such pipeline company applicable to sales of natural gas to—

(A) low-priority users served by such pipeline company, and

(B) local distribution companies for resale to low-priority users served by such local distribution company,

until the rates or charges applicable to such low-priority users, served by such pipeline company or such local distribution company, equal the reasonable cost of substitute fuels (as determined by the Commission) to such low-priority users.

(2) Not later than 90 days after the date of the enactment of this Act, the Commission shall, by rule, provide that, to the maximum extent practicable, the dollar amounts allocated to any local distribution company pursuant to subparagraph (B) of paragraph (1) shall be allocated by such local distribution company to the rates and charges of such company applicable to sales of natural gas to low-priority users.

(3) The rule required to be prescribed under paragraph (1) shall, to the maximum extent practicable, provide that after the rates and charges of a pipeline company applicable to sales of natural gas to—

(A) low-priority users served by such pipeline, and

(B) local distribution companies for resale to low-priority users served by such local distribution company,

equal the reasonable cost of substitute fuels (as determined by the Commission) to low-priority users, served by such pipeline company and such local distribution companies, further increases in the average cost of natural gas delivered to such pipeline company shall be allocated to the rates and charges of such pipeline company applicable to sales of natural gas to all customers of such pipeline company.

(b) DEFINITIONS.—For purposes of this section—

(1) The term "low-priority user" means any user other than a high-priority user.

(2) The term "high-priority user" means any person who—

(A) uses natural gas in a residence, or

(B) uses natural gas in a commercial establishment in amounts of less than 50 Mcf on a peak day.

(3) The term "pipeline company" means any person engaged in the business of transporting natural gas by pipeline other than as a local distribution company.

(4) The term "local distribution company" means any person engaged in the business of transportation and local distribution of natural gas and the sale of natural gas for ultimate consumption.

SEC. 411. ESSENTIAL AGRICULTURAL USES.

(a) PRIORITY FOR ESSENTIAL AGRICULTURAL USES.—Notwithstanding any other provision of law, no pipeline company and no local distribution company may curtail deliveries to any person who uses natural gas for any agricultural use identified as an essential use by the Secretary of Agriculture under subsection (b)(1), unless such curtailment of deliveries to such person does not reduce the quantity of natural gas delivered to such person below the use requirement specified in subsection (b)(2) or is necessary in order to meet the needs of high-priority users.

(b) IDENTIFICATION OF USES AND DETERMINATION OF REQUIREMENTS.—The Secretary of Agriculture shall, by rule—

(1) not later than 60 days after the date of the enactment of this Act, identify those agricultural uses for which an assured supply of natural gas is essential and with respect to which alternative fuels are not economically practicable or reasonably available, as determined by the Commission, and

(2) not later than 120 days after such date of enactment, determine the natural gas use requirements of persons using natural gas for agricultural uses identified under paragraph (1) in order to meet the requirements of full food and fiber production and processing and to otherwise preserve public health, safety, and welfare.

The determination of use requirements under paragraph (2) may allow for additional amounts necessary in cases in which production capacities are extended or in cases in which new production facilities are added, but only if such extensions or additions are determined by the Secretary to be necessary in order to meet national food and fiber production requirements and to otherwise preserve public health, safety, or welfare.

(c) DEFINITIONS.—For purposes of this section—

(1) The term "agricultural use" means, when used with respect to natural gas, an agricultural or food processing use of natural gas, including the use of natural gas—

(A) for irrigation pumping,
(B) for crop drying, or
(C) as a process fuel or feedstock in the production of fertilizer, agricultural chemicals, or food.

(2) The term "high-priority user" means any person who—
(A) uses natural gas in a residence,
(B) uses natural gas in a commercial establishment in amounts of less than 50 Mcf on a peak day, or
(C) uses natural gas in any other use the curtailment of which the Commission or the State regulatory authority, as the case may be, determines, by rule, would endanger life, health, or maintenance of physical property.

(3) The term "pipeline company" means any person engaged in the business of transporting natural gas by pipeline other than as a local distribution company.

(4) The term "local distribution company" means any person engaged in the transportation and local distribution of natural gas and the sale of natural gas for ultimate consumption.

(5) The term "State regulatory authority" means any State agency which exercises ratemaking authority or reviews the conditions for termination of service by any local distribution company located within such State.

SEC. 412. NATURAL GAS STORAGE FACILITIES.

(a) GENERAL RULE.—Not later than 60 days after the date of the enactment of this Act, the Commission shall by rule, require that the injections to, and withdrawals from, storage facilities of any interstate pipeline company are made at such times and to such extent as will ensure that the needs of low-priority users served by such interstate pipeline company will not be satisfied to the detriment of high-priority users served by such interstate pipeline company. Such requirements may include—

(1) schedules of minimum net rates of injection of natural gas into such storage facilities during periods immediately preceding peak demand periods of high-priority users;

(2) prohibitions on the withdrawal of natural gas from such storage facilities for purposes of satisfying needs of low-priority users;

(3) provisions requiring that, if such interstate pipeline company fails to comply with any requirements of such rule and such failure results in the purchase of natural gas by such interstate pipeline company to satisfy needs of high-priority users at an average cost which exceeds the average cost of the natural gas which would have been available to high-priority users if the requirements of such rule had not been violated, such excess cost shall not be borne by high-priority users; and

(4) such other measures as the Commission determines appropriate to carry out the purposes of this section.

(b) DEFINITIONS.—For purposes of this section—

(1) The term "high-priority user" means any person who—
(A) uses natural gas in a residence,
(B) uses natural gas in a commercial establishment in amounts of less than 50 Mcf on a peak day,
(C) uses natural gas as a process fuel of feedstock for which alternative fuels are not available,
(D) uses natural gas in any use identified by the Secretary of Agriculture under section 411(b)(1), but only to the extent of the use requirement established under section 411(b)(2), or
(E) uses natural gas in any other use the curtailment of which the Commission determines, by rule, woud endanger life, health, or maintenance of physical property.

(2) The term "low-priority user" means any person other than a high-priority user.

(3) The term "interstate pipeline company" means any person engaged in the transportation of natural gas who is subject to the jurisdiction of the Federal Power Commission under the Natural Gas Act.

SEC. 413. ADMINISTRATIVE PROCEDURE, ENFORCEMENT, AND JUDICIAL REVIEW.

(a) ADMINISTRATIVE PROCEDURE.—(1) Subject to paragraphs (2), (3), and (4) of this subsection, the provisions of subchapter II of chapter 5 of title 5, United States Code, shall apply to any rule or order issued under this part having the applicability and effect of a rule as defined in section 551(4) of title 5, United States Code.

(2) Notice of any proposed rule or order described in paragraph (1) which is substantive and of general applicability shall be given by publication of such proposed rule or order in the Federal Register. In each case, a minimum of 30 days following the date of such publication and before the effective date of the rule shall be provided for opportunity to comment; except that the 30-day period for opportunity to comment before the effective date of the rule may be waived if the Commission finds that strict compliance would seriously impair the operation of the program to which such rule or order relates and such findings are set out in the Federal Register at the time of the publication of such proposed rule or order.

(3) To the maximum extent practicable, an opportunity for oral presentation of data, views, and arguments shall be afforded with respect to any proposed rule or order described in paragraph (1). To the maximum extent practicable, such opportunity shall be afforded before the effective date of such rule or order. Such opportunity shall be afforded no later than 10 days after such date in the case of a waiver of the entire comment period under paragraph (2) and no later than 45 days after such date in all other cases. A transcript shall be made of any such oral presentation.

(4) Any officer or agency authorized to issue rules, regulations, or orders described in paragraph (1) shall provide for the making of such adjustments, consistent with the other purposes of this Act, as may be necessary to prevent special hardship, inequity, or an unfair distribution of burdens and shall in rules prescribed by such officer or agency establish procedures which are available to any person for the purpose of seeking an interpretation, modification, or rescission of, exception to, or exemption from, such rules, regulations, or orders. If any such person is aggrieved or adversely affected by the denial of a request for such action under the preceding sentence, he may request a review of such denial by the officer or agency and may obtain judicial review in accordance with subsection (b) when such denial becomes final. The officer or agency shall, by rule, establish procedures, including an opportunity for oral presentation of data, views, and arguments, for considering requests for action under this paragraph.

(b) JUDICIAL REVIEW.—Any person aggrieved or adversely affected by any rule prescribed, or order issued, by the Commission under this part may obtain judicial review of such rule or order in the United States Court of Appeals for the District of Columbia Circuit pursuant to the provisions of chapter 7 of title 5, United States Code.

(c) ENFORCEMENT.—(1) It shall be unlawful for any person—
(A) to violate any provision of this part; or
(B) to violate any rule prescribed, or any order issued, under this part.

(2)(A) Whoever violates any provision of this part or any provision of any rule prescribed, or order issued, under this part shall be subject to a civil penalty, which may be assessed by the Commission—

(i) in the case of any violation relating to the production, gathering, sale, transportation, or distribution of natural gas, of not more than $20,000 for each violation; and
(ii) in the case of any violation not referred to in clause (i) of this subparagraph, of not more than $2,500 for each violation.

(B) Before assessing any civil penalty under this paragraph, the Commission shall provide to such person notice of the proposed penalty. The determination to assess such penalty shall state the Commission's findings and the basis agency hearing pursuant to section 554 of title 5, United States Code. The order of the Commission assessing such penalty shall state the Commission's findings and the basis for such assessment. If the person, against whom a civil penalty is assessed, fails to pay the penalty within the period precribed in such order, the Commission shall file a petition for enforcement of such order in any appropriate district court of the United States. A copy of the petition shall be sent by registered or certified mail to the person against whom such order is sought to be enforced. At the time a petition for enforcement of such an order is filed, the Commission shall certify and file in such court the record upon which such order was issued. The court shall have jurisdiction to enter a judgment enforcing, modifying, and enforcing as so modified, or setting aside in whole or in part, the order of the Commission, or the court may remand the proceeding to the Commission for such further action as the court may direct.

(3) Whoever willfully violates any provision of this part or any provision of any rule prescribed, or order issued, under this part—
(A) shall be imprisoned not more than one year for each violation; or—
(B) shall be fined—
(i) in the case of any violation relating to the production, gathering, sale, transportation, or distribution of natural gas, not more than $40,000 for each violation, or
(ii) in the case of any violation not referred to in clause (i) of this subparagraph, not more than $10,000 for each violation; or
(C) shall be both so imprisoned and so fined.

(4) For purposes of this subsection each day of violation shall be treated as a separate offense.

(5) Any individual director, officer, or agent of a corporation who knowingly and willfully authorizes, orders, or performs any of the acts or practices constituting in whole or in part a violation of any provision of this part or any provision of any rule prescribed, or order issued, under this part shall be subject to penalties under this subsection without regard to any penalties to which that corporation may be subject under paragraph (2) or (3), except that no such individual director, officer, or agent shall be subject to imprisonment under paragraph (3) unless he also had knowledge, or reasonably should have known, of notice of noncompliance received by the corporation from the Commission.

(d) INFORMATION.—(1) In order to obtain information to carry out its authority under this part and to enforce compliance with the requirements of this part, the Commission may—
(A) sign and issue subpenas for the attendance and testimony of witnesses and the production of books, records, papers, and other documents;
(B) require any person, by general or special order, to submit answers in writing to interrogatories (including requests for reports or for other information) and such answers shall be made within such reasonable period, and under oath or otherwise, as the Commission may determine; and
(C) secure, upon request, any information from any Federal department or executive agency.

(2) The Commission may not exercise authority under subparagraph (C) with respect to information, in the possession of a Federal agency, the disclosure of which to another Federal agency is expressly prohibited by law.

(3) In the case of any refusal to obey a subpena, or to obey an order of the Commission issued under this subsection, the appropriate United States district court may, upon petition of the Commission, issue an order requiring compliance with such subpena or order of the Commission and any failure to obey such an order of the court may be punished by the court as a contempt thereof.

(e) GENERAL RULEMAKING AUTHORITY.—(1) The Commission shall have power to issue procedural rules in enforcing compliance with the provisions of this part and rules prescribe and orders issued under this part.

(2) The Commission shall have power to further define terms used in this part consistent with the definitions set forth in, and the purposes of, this part.

(3) The Commission shall have power to prescribe rules, applicable to any first sale to which the provisions of section 404, 406, 407, or 409 apply or to any sale to which paragraph (4) applies, relating to contract terms other than price, including contract duration, conditions of termination, and delivery obligations.

(4)(A) Except as provided in subparagraph (B), the Commission may, by rule, prescribe a maximum lawful price applicable to any sale of natural gas other than sales to which the provisions of sections 404, 405, 406, 407, and 409 apply if it determines such maximum lawful price is necessary to prevent circumvention of any provision of such sections.

(B) Subparagraph (A) shall not apply to any sale for resale of natural gas if such sale is subject to the provisions of the Natural Gas Act.

(5)(A) On the request of any State agency having regulatory authority over the drilling of natural gas wells or the production of such wells, the Commission shall delegate to such State agency the authority to determine whether the requirements of section 402(5)(B)(iii) (relating to the definition of new natural gas) have been satisfied for purposes of applying section 404.

(B) Any such delegation shall be upon terms and conditions prescribed by the Commission. The Commission may rescind any such delegation at any time by notifying the State agency of such rescission. The Commission may review any determination made by any State agency pursuant to the delegation of authority under this paragraph and, within one year after such determination, reverse or modify such determination.

(C) For purposes of subparagraph (B), the one-year limitation of such subparagraph shall not apply in any case—

(i) involving a fraudulent filing with the State agency or the Commission, or

(ii) involving a failure to file information required by the State agency, or by the Commission pursuant to the terms and conditions of the delegation under this paragraph.

SEC. 414. INTRASTATE CONTRACTS AND TRANSACTIONS.

(a) MOST FAVORED PRODUCER CLAUSES.—No natural gas price determined under this part may be taken into account for purposes of applying any provision of a contract which determines, or permits renegotiation of, the price of any natural gas or terminates such contract on the basis of any sale of natural gas not sold under such contract, any sale of crude oil, or any sale of any refined petroleum product.

(b) AUTHORIZATION OF CERTAIN SALES AND TRANSACTIONS.—(1) The Commission may, by rule or order, authorize any intrastate pipeline to sell natural gas to, or transport natural gas on behalf of, any interstate pipeline upon such terms and conditions, including provisions respecting fair and equitable prices, as the Commission determines appropriate. No person shall be subject to regulation under the Natural Gas Act or as a common carrier under any provision of Federal or State law by reason of making any sale, or engaging in any transportation, of natural gas authorized by the Commission under this subsection.

(2) For purposes of this subsection—

(A) The term "intrastate pipeline" means any person, engaged in the transportation of natural gas by pipeline, who is not subject to the jurisdiction of the Commission under the Natural Gas Act.

(B) The term "interstate pipeline" means any person, engaged in the transportation of natural gas by pipeline, who is subject to the jurisdiction of the Commission under the Natural Gas Act.

(c) CLAUSES PROHIBITING COMMINGLING.—Any contractual provision—

(1) prohibiting the sale or commingling of natural gas subject to such contract with natural gas subject to the provisions of the Natural Gas Act, or

(2) terminating, or granting any party the option to terminate, any obligation under any such contract as a result of such sale or commingling,

is hereby declared against public policy and unenforceable with respect to any sale or transportation of natural gas authorized by the Commission under subsection (b) and with respect to the first sale of any natural gas to which the provisions of section 404, 406, 407, 409, or 413(e)(4) apply.

SEC. 415. RELATIONSHIP TO THE EMERGENCY NATURAL GAS ACT OF 1977.

Nothing in sections 404 through 407 and sections 409 and 413(e)(4) shall apply to any price for the sale of natural gas which is allowed under section 4 of the Emergency Natural Gas Act of 1977.

SEC. 416. JURISDICTION OF THE COMMISSION UNDER THE NATURAL GAS ACT.

(a) DEREGULATION OF CERTAIN FIRST SALES.—(1) Section 1(b) of the Natural Gas Act (15 U.S.C. 717(b)) is amended to read as follows:

"(b)(1) Except as provided in paragraph (2), the provisions of this Act shall apply to the transportation of natural gas in interstate commerce, to the sale in interstate commerce of natural gas for resale for ultimate public consumption for domestic, commercial, industrial, or any other use and to natural-gas companies engaged in such transportation or sale.

"(2) The provisions of this Act shall not apply—

"(A) to any other transportation or sale of natural gas;

"(B) to the local distribution of natural gas;

"(C) to the facilities used for such distribution;

"(D) to the production or gathering of natural gas;

"(E) to any sale of natural gas to which the provisions of section 404, 406, 407, 409, or 413(e)(4) of the National Energy Act apply or to any sale or transportation of natural gas authorized by the Commission under section 414(b) of such Act; or

"(F) to any person to the extent to which such person makes a sale of natural gas to which the provisions of section 404, 406, 407, 409 or 413(e)(4) of the National Energy Act apply or to any sale or transportation of natural gas authorized by the Commission under section 414(b) of such Act.".

(2) Section 2 of the Natural Gas Act (15 U.S.C. 717a) is amended by striking out subsection (6) and inserting in lieu thereof the following:

"(6) 'Natural-gas company' means a person engaged in the transportation of natural gas in interstate commerce or the sale in interstate commerce of such gas for resale, but does not include any person to the extent that such person makes a sale of natural gas to which the provisions of section 404, 406, 407, 409, or 413(e)(4) of the National Energy Act apply or makes a sale or engages in the transportation of natural gas authorized by the Commission under section 414(b) of such Act.".

(b) COMMISSION JURISDICTION OVER SYNTHETIC NATURAL GAS.—Section 1(b) of the Natural Gas Act, as amended by subsection (a), is further amended by adding at the end thereof the following new paragraph:

"(3)(A) Except as provided in subparagraph (B), the provisions of this Act shall apply to—

"(i) any facility owned and operated by a natural-gas company or an affiliate thereof for the manufacture of pipeline-quality gas for the purposes of transportation in interstate commerce or sale in interstate commerce for resale for ultimate public consumption,

"(ii) the transportation in interstate commerce or sale in interstate commerce for resale for ultimate public consumption of pipeline-quality gas, and

"(iii) any natural-gas company affiliate engaged in such manufacture, transportation, or sale.

"(B) The provisions of this Act shall not apply to the mining, production, sale, delivery, or any other activity related to the furnishing of hydrocarbon-containing material (other than natural gas) to a natural-gas company or its affiliate for the production of such pipeline-quality gas.

"(C)(i) If, before the date of the enactment of this paragraph, any natural-gas company or its affiliate was engaged in the manufacture of pipeline-quality gas from hydrocarbon-containing material, the Commission shall issue a certificate for such manufacture of such pipeline-quality gas without requiring further proof that the public convenience and necessity will be served by such manufacture, and without further proceedings pursuant to this Act or any other provision of law.

"(ii) If, before the date of enactment of this paragraph, a certificate of public convenience and necessity has been issued by the Commission authorizing the transportation in interstate commerce of pipeline-quality gas manufactured from hydrocarbon-containing material or the sale in interstate commerce for resale for ultimate consumption of such pipeline-quality gas, the Commission shall issue a certificate for such transportation or sale for resale without requiring further proof that the public convenience and necessity will be served by such transportation or sale for resale and without further proceedings pursuant to this Act or any other provision of law.

"(iii) Application for such a certificate shall be made to the Commission by such natural-gas company or its affiliate within 90 days after such date of enactment. Pending the determination of any such application, the continuance of such manufacture, transportation, or sale for resale, shall be lawful.

"(D) For purposes of this subsection, the term 'pipeline-quality gas' means a mixture of hydrocarbons in a gaseous state (i) the principal ingredient of which is methane and (ii) which is interchangeable and compatible with natural gas as determined, by rule, by the Commission.".

SEC. 417. CONFORMING AMENDMENTS TO THE NATURAL GAS ACT.

(a) AMENDMENT TO SECTION 4.—Section 4(a) of the Natural Gas Act (15 U.S.C. 717c(a)) is amended by adding at the end thereof the following new sentence: "For purposes of this section, any price for any sale of natural gas, to which the provisions of section

404, 406, 407, 409, or 413(e)(4) of the National Energy Act applies, shall be deemed just and reasonable if such price does not exceed the appropriate maximum lawful price established in, or prescribed under, such provisions.".

(b) AMENDMENT TO SECTION 5.—Section 5(a) of the Natural Gas Act (15 U.S.C. 717(a)) is amended by adding at the end thereof the following new sentence: "For purposes of this section, any price for any sale of natural gas, to which the provisions of section 404, 406, 407, 409, or 413(e)(4) of the National Energy Act applies, shall be deemed just and reasonable if such price does not exceed the appropriate maximum lawful price established in, or prescribed under, such provisions.".

(c) AMENDMENT TO SECTION 7.—Section 7(c) of the Natural Gas Act (15 U.S.C. 717f(c)) is amended by adding at the end of the first paragraph thereof the following new sentence: "The Commission may not deny a certificate of public convenience and necessity under this section solely on the basis of the price for any sale of natural gas, to which the provisions of section 404, 406, 407, 409, or 413(e)(4) of the National Energy Act applies, if such price does not exceed the appropriate maximum lawful price established in, or prescribed under, such provisions.".

SEC. 418. AMENDMENTS TO THE EMERGENCY NATURAL GAS ACT OF 1977.

The Emergency Natural Gas Act of 1977 is amended—

(1) in section 2, by striking out paragraphs (2), (3), and (4) and inserting in lieu thereof the following:

"(2) The term 'pipeline' means any person engaged in the transportation of natural gas.";

(2) in section 2, by redesignating paragraphs (5), (6), and (7) thereof as (3), (4), and (5), respectively;

(3) in section 4(a)(1), by striking out subparagraphs (A) and (B) and inserting in lieu thereof the following:

"(A) any pipeline to make emergency deliveries of, or to transport, natural gas to any other pipeline or to any local distribution company for purposes of meeting such requirements; or";

(4) in section 4(a)(1), by redesignating subparagraph (C) thereof as subparagraph (B);

(5) in section 4(a)(1), by striking out "April 30, 1977" and inserting in lieu thereof "April 30, 1979";

(6) in section 4(a)(2), by striking out "interstate" wherever it appears;

(7) in section 4(a)(3), by striking out "interstate";

(8) in section 4(d), by striking out "interstate pipelines, intrastate";

(9) in section 4(f)(2)(A), by striking out "by August 1, 1977, to the maximum extent practicable," and inserting in lieu thereof "as expeditiously as practicable,";

(10) in section 4(f)(2)(B), by striking out "interstate" both places it appears;

(11) in section 7, by striking out "an interstate pipeline" both places it appears and inserting in lieu thereof "a pipeline" and by striking out "such interstate" and inserting in lieu thereof "such";

(12) in section 9(c), by striking out "August 1, 1977," and inserting in lieu thereof "April 30, 1979,"; and

(13) in section 12(b), after "October 1, 1977,", by inserting "October 1, 1978, and June 1, 1979,".

PART V—PUBLIC UTILITY REGULATORY POLICIES

Chapter 1—GENERAL PROVISIONS

SEC. 501. PURPOSES.

The purposes of this part are—

(1) to increase the efficiency of generation, transmission, and distribution of electric power through encouragement of competition, through incentives for efficiency, and through prescription of reliability standards;

(2) to establish national minimum standards for electric ratemaking to encourage efficient use of electric energy to—

(A) insure that electric utility rates are designed to encourage energy conservation by minimizing (i) energy consumption and (ii) the need for new generating capacity,

(B) provide for reasonable rates to electric consumers, and

(C) assure that States which implement rate reforms are not placed at a competitive economic disadvantage by reason of the failure of other States to implement such reforms; and

(3) to provide for greater consumer representation in regulatory proceedings, to provide notice procedures respecting termination of service to electric consumers, and to provide technical and financial assistance to State regulatory authorities.

SEC. 502. DEFINITIONS.

As used in this part:

(1) The term "Administrator" means the Administrator of the Federal Energy Administration.

(2) The term "Commission" means the Federal Power Commission.

(3) The term "electric consumer" means any person, State agency, or Federal agency, to which electric energy is sold other than for purposes of resale.

(4) The term "electric utility" means any person, State agency, or Federal agency, which sells electric energy.

(5)(A) The term "State regulated electric utility" means any electric utility other than a nonregulated utility as defined in subparagraph (B).

(B) The term "nonregulated utility" means a nonregulated public system or a nonregulated cooperative. Such term does not include an electric utility with respect to which the Tennessee Valley Authority has ratemaking authority.

(C) The term "nonregulated public system" means an electric utility which is a State agency or Federal agency unless a State regulatory authority has substantially the same ratemaking authority respecting the rates of such utility as such authority has with respect to other electric utilities subject to its jurisdiction.

(D) The term "nonregulated cooperative" means a private cooperatively organized electric utility unless a State regulatory authority has substantially the same ratemaking authority respecting the rates of such utility as such authority has with respect to other electric utilities subject to its jurisdiction.

(6) The term "Federal agency" means any agency or instrumentality of the United States, but does not include the District of Columbia.

(7) The term "rate" means any (A) price, rate, charge, or classification made, demanded, observed, or received with respect to sale of electric energy to an electric consumer, (B) any rule, regulation, or practice respecting any such rate, charge, or classification, and (C) any contract pertaining to the sale of electric energy to an electric consumer.

(8) The term "ratemaking authority" means authority to fix, modify, approve, or disapprove rates.

(9) The term "rate schedule" means the designation of the rates which an electric utility charges for electric energy.

(10) The term "sale" includes an exchange of, or a charge for transmission of, electric energy.

(11) The term "State" means a State or the District of Columbia.

(12) The term "State agency" means a State, political subdivision thereof, or any agency or instrumentality of either.

(13) The term "State regulatory authority" means any State agency which has ratemaking authority with respect to the sale of electric energy by any electric utility (other than by such State agency), and, in the case of an electric utility with respect to which the Tennessee Valley Authority has ratemaking authority, such term means the Tennessee Valley Authority.

(14) The term "bulk power facility" means a bulk power generating facility or a bulk power transmission facility.

(15) The term "bulk power generating facility" means electric generating equipment (and associated facilities) designed for, or capable of, operation at a single site with an aggregated capacity of 200 megawatts or more.

(16) The term "bulk power transmission facility" means an electric transmission line (and associated facilities) designed for, or capable of, operation at a nominal voltage of 200 kilovolts or more, between phase conductors for alternating current or between poles for direct current.

(17) The terms "evidentiary hearing" and "evidentiary proceeding" means (A) in the case of a State agency, a proceeding (i) which includes notice to, and an opportunity for, participants to present direct and rebuttal evidence and to cross-examine witnesses, and a written decision based upon evidence appearing in a written record of the proceeding, and (ii) which is subject to judicial review; and (B) in the case of a Federal agency, a proceeding conducted in accordance with section 556 of title 5, United States Code.

(18) The term "class" means with respect to electric consumers, any group of such consumers who have similar characteristics of electric energy use, such as—

(A) the nature of requirements placed by such group upon the system of the electric utility, and

(B) the amount of kilowatt demand and kilowatt-hour requirements placed by such group upon the system of the electric utility.

SEC. 503. APPLICATION TO FEDERAL POWER ACT.

Section 3 of the Federal Power Act is amended by inserting "(a)" after "SEC. 3." and by adding the following at the end thereof:

"(b) For purposes of this Act, the term 'bulk power facility', 'bulk power generating facility', 'bulk power transmission facility', 'electric utility', 'evidentiary hearing' and 'evidentiary proceeding' have the same meaning as when used in part V of title I of the National Energy Act.".

SEC. 504. ADVISORY COMMITTEE.

(a) ESTABLISHMENT AND COMPOSITION.—There is established a Utility Advisory Committee (hereinafter in this section referred to as the "Committee") to advise the Commission respecting its duties and functions under chapter 2 of this part, sections 541 through 546 of this Act, and chapters 4 and 5 of this part, and to advise the Administrator respecting his duties and functions under subpart A of part I and part VI of this title. The Committee shall be composed of at least 12 members appointed by the President as follows:

(1) at least 3 representing utilities (one representing publicly owned utilities, one representing privately owned utilities, and one representing nonregulated cooperatives);

(2) at least 5 representing State regulatory authorities from different parts of the country;

(3) at least 3 representing consumers of utilities (at least one from groups of residential consumers, at least one from groups of commercial consumers, and at least one from industrial consumers); and

(4) at least one representing conservation organizations.

A vacancy in the Committee shall be filled in the manner in which the original appointment was made.

(b) TERMS.—Members of the Committee shall serve for terms of 2 years.

(c) PAY AND TRAVEL EXPENSES.—While away from their homes or regular places of business in the performance of services for the Committee, members of the Committee shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) of title 5 of the United States Code.

(d) AUTHORIZATION.—There are authorized to be appropriated not more than $50,000 in each of the fiscal years 1978, 1979, and 1980 to carry out the provisions of this section. No other amounts are authorized to be appropriated unless specifically provided by law enacted after the date of the enactment of this Act.

Chatper 2—IMPROVING EFFICIENCY OF USE OF ELECTRICITY

Subchapter A—General Provisions

SEC. 505. COVERAGE.

(a) APPLICATION OF CHAPTER.—The requirements of this chapter do not apply to sales of electric energy by an electric utility—

(1) in any calendar year beginning less than 2 years after the date of enactment of this Act, or

(2)(A) in any calendar year beginning 2 years or more after the date of enactment of this Act but less than 7 years after such date of enactment unless such sales of electric energy by such utility during the second preceding calendar year exceeded 750 million kilowatt-hours, or

(B) in any calendar year beginning 7 or more years after such date of enactment unless sales of electric energy by such utility during the second preceding calendar year exceeded 200 million kilowatt-hours.

Except in the case of section 515 (relating to prohibition against special nonaggregate inclusions) and section 536(c) (relating to contracts by Federal agencies) the requirements of this chapter apply only to sales of electric energy for purposes other than resale.

(b) EXTENSION.—Upon application to the Commission by an electric utility, and for good cause shown, the Commission may provide that the 2-year period specified in subsection (a) may be extended for one additional period of not more than 2 years with respect to such utility.

Subchapter B—National Minimum Standards for State Regulated Electric Utility Rate Regulation

SEC. 511. MINIMUM STANDARDS FOR RATES OF SERVICE.

(a) MINIMUM STANDARDS FOR RATES.—Each State regulated electric utility shall, in making sales of electric energy subject to this chapter, comply with the following minimum standards respecting the rates at which such energy is sold:

(1) Except to the extent permitted under subsection (b), rates for providing electric service to each electric consumer (or class thereof) shall be designed, to the maximum extent practicable, to reflect the costs of providing electric service to such consumer (or class). For purposes of carrying out this paragraph, the rate per kilowatt, or per kilowatt-hour, for electric service during any period to any electric consumer (or class thereof) shall not decrease as kilowatt, or kilowatt-hour, consumption by such consumer increases during such period except to the extent that such utility shows in an evidentiary hearing that such decrease reflects the decrease in such cost of providing electric service to such consumer (or class) as such consumption increases during such period.

(2)(A) The rates for providing electric service to each class of electric consumers shall be on a time-of-day basis which reflects the costs of providing electric service to such electric consumers unless such rates have been determined (in an evidentiary hearing by the State regulatory authority, or the Commission in any case in which such authority has not assumed responsibility under section 531) not to be cost-effective with respect to such class.

(B) The rates for providing electric service to each class of electric consumers shall be on a seasonal basis which reflects the costs of providing service to such consumers unless such rates have been determined (in an evidentiary hearing by the State regulatory authority, or the Commission in any case in which such authority has not assumed responsibility under section 531) not to be cost-effective with respect to such class.

(C) A rate for a class of electric consumers shall be treated as cost-effective for purposes of subparagraph (A) only if the long-run benefits of such rate are likely to exceed the metering costs associated with the implementation of such rates.

(D) If any time-of-day rate has been determined not to be cost-effective under subparagraph (A) for any class of consumers, each electric utility shall offer such rate to each consumer in such class willing to pay the costs of metering associated with such rate.

(E) Each electric utility shall offer each electric consumer (or class thereof) an interruptible rate which reflects the cost of providing interruptible service to such customers.

(3) The Commission may prescribe voluntary guidelines respecting the terms and conditions of any rate offered under subparagraphs (A), (B), and (E) of paragraph (2) and the types of load management systems and terms and conditions of rates offered under section 521.

(4) For purposes of this section, costs of providing electric service shall be determined as provided in section 532.

(b) LOWER RATES.—(1) No provision of this title shall prevent an electric utility, a State regulatory authority, or other State agency from fixing, approving, or allowing to go into effect a rate for electric energy for essential needs of residential electric consumers (as defined by the State regulatory authority) which is lower than that otherwise required by paragraph (1) of subsection (a).

(2) A State regulatory authority which has enforcement responsibility may, upon application of any electric consumer, prescribe a temporary exception pursuant to which an electric utility rate schedule which does not comply with the requirements of subsection (a) will be fixed, approved, or allowed to go into effect, with respect to such consumer. Any such exception shall comply with the following requirements:

(A) such exception may apply only to the type of use and amount of use of electric energy as does not exceed the amount the electric consumer used prior to the date of enactment of this Act;

(B) the electric consumer who applies for such exception demonstrates to such State regulatory authority in an evidentiary hearing that such exception is necessary to avoid significant economic hardship to such consumer; and

(C) such exception does not remain in effect more than 5 years after the date of enactment of this Act.

(c) GATHERING INFORMATION ON COSTS OF SERVICE.—(1) Each State regulated electric utility shall gather information under such rules promulgated by the Commission as the Commission determines necessary to allow State regulatory authorities (and other persons) to determine the costs associated with providing electric service. For purposes of this section and section 532 (relating to determination of costs of service), such rules shall include requiring the gathering of the following information—

(A) the costs of serving each electric consumer class and of serving different consumption patterns within such class, based on voltage level and time of use; and

(B) representative daily kilowatt demand load curves for all electric consumer classes combined, and representative daily kilowatt demand load curves for each electric consumer class for which there is a separate rate; and

(C) annual capital, operating, and maintenance costs—

(i) for transmission, and distribution services of such utility, and

(ii) for each generating unit to meet kilowatt demand on such electric utility.

Such rules shall provide that information required to be gathered under this subsection shall be presented in such categories and such detail as may be necessary to carry out the purposes of this subsection.

(2) The Commission within 180 days after the date of enactment of this Act, shall, by rule, prescribe the methods, procedure, and format to be employed by electric utilities in gathering the information described in this subsection. Such a rule may provide for the exemption by the Commission of an electric utility or class of electric utilities from gathering all or part of such information, if such utility shows and the Commission finds, after public notice and opportunity for the presentation of written data, views, and arguments (and so states in such rule) that gathering such information is not likely to further the purposes of this chapter. The Commission shall periodically review such finding and may revise such rule.

(3) Not later than 2 years after the date of enactment of this Act, and every 2 years thereafter, each electric utility shall file with—

(1) The Commission, and

(2) any State regulatory authority which has ratemaking authority for such utility the information gathered pursuant to this section (if such information is not otherwise required to be filed with such authority),

and publish or otherwise make such information available to the public, in such form and manner as the Commission shall prescribe. In addition, each electric utility shall publish or make such information available to the public, in such form and manner as the Commission shall prescribe, not later than 60 days prior to the commencement of any hearing on an application for any rate increase.

SEC. 512. MINIMUM STANDARDS RESPECTING ADVERTISING.

(a) RECOVERY OF EXPENSES.—For purposes of rate determinations, no rate of a State regulated electric utility shall be determined to be in compliance with this subchapter if such utility recovers from its electric consumers through such rate any direct or indirect expenditure by such utility—

(1) for promotional advertising, or

(2) for political or institutional advertising.

(b) CERTAIN ADVERTISING NOT COVERED.—Subsection (a) shall not apply to—

(1) advertising which informs electric consumers how they can conserve electric energy or can reduce peak demand for electric energy.

(2) notices required by law or regulation,

(3) public information regarding service interruptions, safety measures, or emergency conditions,

(4) advertising concerning employment opportunities with such utility, and

(5) public distribution or explanation of existing or proposed rate schedules, or hearings thereon.

(c) DEFINITIONS.—For purposes of this section—

(1) The term "advertising" means the commercial use, by an electric utility, of any

media, including newspaper, printed matter, radio, and television, in order to transmit a message to a substantial number of members of the public or to such utility's electric consumers.

(2) The term "institutional advertising" means any advertising which is designed to create, enhance, or sustain an electric utility's public image or goodwill with the general public or such utility's electric consumers.

(3) The term "political advertising" means any advertising for the purpose of influencing public opinion with respect to any legislative, administrative, or electoral matter, or with respect to any controversial issue of public importance.

(4) The term "promotional advertising" means any advertising for the purpose of inducing the public to select or use the service or additional service of an electric utility or to select or install any appliance or equipment designed to use such utility's service.

SEC. 513. MINIMUM STANDARDS RESPECTING POLLUTION CONTROL COSTS.

(a) RECOVERY OF COSTS.—Each State regulated electric utility may recover from its electric consumers the reasonable costs incurred by such electric utility for any pollution control facility.

(b) DEFINITION.—For purposes of this section, the term "polution control facility" means a facility which is used to remove, alter, dispose of, or store pollutants, contaminants, waste, or heat.

SEC. 514. AUTOMATIC ADJUSTMENT CLAUSES.

(a) PROHIBITION.—Except as otherwise provided in subsection (b), no increase in any rate may be made by any State regulated electric utility unless—

(1) opportunity for consideration of the lawfulness of such increase in an evidentiary hearing is afforded prior to the date such increase takes effect.

(2) such rate increase is pursuant to an automatic adjustment clause which has been determined by the State regulatory authority (or the Commission as provided in section 531), after evidentiary hearing, to effectively provide incentives for efficient use of resources (including, in the case of fuel, incentives for economical purchase and use of fuel) and to be necessary to enable such utility to meet its immediate short-term financial obligations, or

(3) such increase reflects an increase in the cost of electric power purchased from a centrally dispatched power pool (as defined in section 202(b)(4)(B) of the Federal Power Act).

(b) INTERIM RATES.—The prohibition contained in subsection (a) shall not apply to interim rates which take effect subject to a later determination of the amount of such rates and to a requirement of refund of any overcharge with interest.

(c) REVIEW OF CLAUSE.—(1) No automatic adjustment clause shall be treated as meeting the requirements of subsection (a)(2) unless the rate schedule containing such clause is reviewed by the State regulatory authority having ratemaking authority with respect to such utility (or by the Federal Power Commission as provided in section 531) not less often than every 2 years to insure the maximum economies in those operations and purchases which affect such rates. No such automatic adjustment clause may be treated as meeting such requirements for any period in excess of 4 years after such clause has been reviewed in an evidentiary hearing unless such clause is again reviewed in such an evidentiary hearing before the expiration of such period and the State regulatory authority makes the finding required under subsection (a)(2).

(2) In making a review under this subsection, the reviewing authority shall examine and, if appropriate, cause to be audited the practices of such utility relating to expenses subject to an automatic adjustment clause. Each such utility shall provide reports on such practices as required by such authority, which shall be made available to the public, and shall contain such information as such authority may require to implement the purposes of this subsection (including a disclosure of any ownership or corporate relationship between such utility and the seller of fuel or other items).

(d) DEFINITION.—As used in this section, the term "automatic adjustment clause" means a provision of a rate schedule which provides, without prior evidentiary hearing, for increases and decreases in rates reflecting increases and decreases in the amount of operating expenses (not including any expense attributable to the imposition of any tax under section 4991 of the Internal Revenue Code of 1954).

SEC. 515. PROHIBITION AGAINST SPECIAL NONAGGREGATE INCLUSIONS.

(a) The rates of any electric utility which is a State utility agency shall, consistent with section 511(a), be based on the total costs of—

(1) all electric energy generated by all facilities of the entire system of such utility; and

(2) all electric energy purchased by such utility which is sold by such utility.

(b) The term "State utility agency" means an agency of a State (not including any political subdivision or agency thereof) which is an electric utility.

SEC. 516. RELATIONSHIP TO OTHER APPLICABLE LAW.

Nothing in this subchapter shall be construed as authorizing or requiring the recovery by an electric utility of revenues, or of a rate of return, in excess of the amount of revenues or a rate of return determined to be lawful under otherwise applicable State or Federal law.

SEC. 517. SOLAR, WIND, AND SMALL ELECTRIC GENERATING SYSTEMS.

Each State regulated electric utility shall—

(1) within 2 years after the date of enactment of this Act, include in the rates for the sale of electric power by such utility—

(A) rates which do not discriminate against the use of solar electric generating systems, including electric generating systems which use wind power, and other small electric generating systems of 15,000 kilowatts of capacity, or less, and

(B) rates and conditions under which excess power generated by such systems may equitably be sold to such utility except that such rates and conditions shall not require such utility to purchase electric energy from any such system during any period at any rate which exceeds the highest cost at which such utility generates electric energy, or purchases electric energy from any other source, during such period; and

(2) take such other steps as may be prescribed by the State regulatory authority, by rule, in order to prevent any other unreasonable discriminatory practice (as defined by the Commission) against such systems, or the regulated utilities to which such systems sell, or from which such systems purchase, electric power.

Subchapter C—Other Requirements for State Regulated Electric Utilities

SEC. 521. LOAD MANAGEMENT TECHNIQUES

(a) PRACTICABLE AND COST EFFECTIVE TECHNIQUES.—Each State regulated electric utility shall—

(1) offer to its electric consumers such alternative load management techniques which have been determined (as provided in section 533) to be practicable and cost-effective; and

(2) submit, as a part of any application for a rate increase, an analysis of the cost-effectiveness of such other load management techniques as have been identified under section 553(2)(A) prior to 1 year before the date of application.

(b) DEFINITIONS.—For purposes of this section:

(1) The term "load management technique" means any technique (other than a rate described in section 511(a)(2) to reduce maximum kilowatt demand on the electric utility or the maximum kilowatt demand of an electric consumer, including ripple or radio control mechanisms, energy storage devices, interrupted or interruptible electric service, load-limiting devices.

(2) A load management techniques is cost-effective if—

(A) such technique is likely to reduce maximum kilowatt demand on the electric utility or the maximum kilowatt demand of an electric consumer, and

(B) the long-run benefits of such reduction are likely to exceed the long-run costs associated with implementation of such technique.

SEC. 522. STANDARDS FOR INFORMATION TO CONSUMERS

(a) PROPOSED RATE SCHEDULES.—Each State regulated electric utility shall transmit to each of its electric consumers—

(1) not later than 60 days after the date of commencement of service or 90 days after this title takes effect with respect to such utility, whichever last occurs, and

(2) not later than 30 days (60 days in the case of a utility which uses a bimonthly billing system) after such utility's application for any change in a rate schedule applicable to such consumer,

a clear and simple statement of the existing and any proposed rate schedule applicable to such consumer.

(b) EXISTING RATE SCHEDULES.—Each such State regulated electric utility shall transmit to each of its electric consumers not less than once each year a brief, clear, and simple summary of the existing rate schedules applicable to each of the major classes of its electric consumers, and identification of any classes whose rates are not summarized. Such summary may be transmitted together with such consumer's billing or in such other manner as the utility deems appropriate.

(c) STATEMENT OF CONSUMPTION.—Unless such information is otherwise provided as part of a bill for electric service (or in any other manner which has been determined by the State regulatory authority (or the Commission as provided in section 531) to be adequate to make such information available to the consumer), on request of an electric consumer of such an electric utility, such utility shall transmit to such consumer a clear and simple statement of the actual consumption (or degree-day adjusted consumption) of electric energy for each billing period during the prior year (except when such consumption data is not reasonably ascertainable by the utility).

SEC. 523. MINIMUM PROCEDURES FOR TERMINATION OF ELECTRIC SERVICE.

No State-regulated electric utility may terminate electric service to any consumer of electric energy except pursuant to procedures prescribed by the State regulatory authority (or the Commission, in any case in which such authority has not assumed responsibility as provided in section 531). Such procedures shall be prescribed by such authority (or Commission) not later than 30 days following assumption of enforcement responsibility and shall—

(1) provide that no electric service to an electric consumer may be terminated until reasonable prior notice (including notice of rights and remedies) has been given to such consumer and such consumer has had a rea-

sonable opportunity, at least 15 days before any such termination) to contest the proposed termination in an impartial hearing in which such consumer has had the opportunity to dispute the reasons for such termination and opportunity to establish whether or not a deferred payment plan for any amounts owed is reasonable, and

(2) provide that no electric service to a residential electric consumer may be terminated on account of nonpayment for electric service during any period where termination of service would be especially dangerous to health, as determined by the State regulatory authority (or the Commission in any case in which such authority has not assumed responsibility and provided in section 533) if such consumer establishes in an impartial hearing that such consumer is unable to pay for such electric service without undue hardship.

Such procedures shall also include special provisions for elderly and handicapped consumers to assure that such consumers are made aware of, and are able to avail themselves of, their rights (as provided in this section). No electric service may be terminated before the procedures required under this section have been completed.

Subchapter D—Nonregulated Utilities

SEC. 526. REQUIREMENTS.

(a) APPLICATION OF SUBCHAPTERS B AND C.—The provisions of subchapters B and C (other than section 521, relating to load management techniques, and, in the case of nonregulated cooperatives, sections 521, 512, relating to advertising, and 514, relating to automatic adjustment clauses) shall apply to each nonregulated utility in the same manner as such provisions apply to each State regulated electric utility, except that any action required to be taken by a State regulatory authority under such provision shall, in the case of a nonregulated utility, be taken by such utility.

(b) LOAD MANAGEMENT.—Each nonregulated utility shall consider alternative load management techniques (as defined in section 521 (b)) and shall promptly implement those which are practicable and cost effective (within the meaning of section 521(b)(2)).

(c) COSTS OF SERVICE.—Each nonregulated utility shall establish and utilize methods for determining cost of service in accordance with section 532.

Subchapter E—Requirements Applicable to State Regulatory Authorities

SEC. 531. COMPLIANCE DETERMINATION AUTHORITY FOR STATE REGULATED ELECTRIC UTILITIES.

(a) DETERMINATION BY STATE.—A State regulatory authority which has ratemaking authority with respect to an electric utility may determine whether or not such utility is in compliance with the requirements of subchapters B and C if—

(1) such authority notifies the Commission (at such time, and in such manner, as the Commission shall prescribe by rule) that such authority assumes such responsibility with respect to such utility and certifies that it has adequate authority to carry out the requirements applicable to such authority under this chapter.

(2) such authority makes such determination of compliance by an electric utility with the requirements of subchapters B and C in an evidentiary hearing, and

(3) complies with the requirements applicable to such authority under this chapter.

(b) DETERMINATION BY COMMISSION.—If such State regulatory authority has not complied with subsection (a) or if such authority withdraws its assumption of responsibility under subsection (a), the Commission shall, upon the application of any State regulated electric utility, determine in an evidentiary hearing whether or not such utility is in compliance with such requirements and shall carry out the requirements of this subchapter, until such time as such State regulatory authority notifies the Commission that it assumes such responsibility and certifies that it has adequate authority to carry out the requirements of this subchapter.

(c) COMMISSION REVIEW OF ENFORCEMENT.—(1) Not later than 2 years after the date of enactment of this Act (and every 2 years thereafter), each State regulatory authority which has assumed responsibility under this chapter shall submit to the Commission a report (containing such information as the Commission by rule may require), describing the extent to which such authority has implemented the requirements of this part.

(2) If upon complaint to the Commission, or upon the Commission's own motion, and after notice and an evidentiary hearing, the Commission finds that any utility or utilities regulated by a State regulatory authority that has assumed responsibility pursuant to subsection (a) hereof exhibit a pattern of noncompliance with any requirement of subchapter B or C, the Commisssion shall publish such finding which shall be prima facie evidence in any court that the rates of such utility or utilities are not in compliance with such requirement under subchapter B or C of this chapter. The preceding sentence shall not apply in any case in which the Commission has not made any such finding or in any case in which the Commission, after notice and an evidentiary hearing, has reversed any such finding.

(3) The absence of any finding by the Commission under paragraph (2) shall not be treated in any court or administrative proceeding as a finding by the Commission that the rates of any utility regulated by any State regulatory authority are in compliance with the requirements of subchapters B and C.

SEC. 532. DETERMINATION OF COSTS OF SERVICE.

(a) METHODS TO DETERMINE COSTS OF SERVICE.—(1) Each State regulatory authority which has assumed responsibility under section 531 shall prescribe methods for determining costs associated with providing electric service to electric consumers (and classes thereof) by each electric utility over which it has ratemaking authority. The Commission shall prescribe such methods for each State regulated utility with respect to which no such assumption has been made.

(2) Such methods shall, to the maximum extent practicable and to the extent consistent with section 516, reflect differences in cost-incurrence, for each electric consumer (or class thereof), attributable to daily and seasonal time of use of service. In prescribing such methods, there shall be taken into account the extent to which total costs to an electric utility are likely to change if—

(A) capacity is added to meet peak demand relative to base demand, and

(B) additional kilowatt-hours of electric energy are delivered to electric consumers.

(b) FINDINGS REQUIRED.—A State regulatory authority which has assumed responsibility under section 531 (or the Commission in the case of an electric utility with respect to which no such assumption has been made) may not make a determination of compliance with section 511 unless—

(1) such authority (or the Commission, as the case may be) has made findings of fact respecting—

(A) the factors which cause changes in the daily and seasonal peakloads of such utility and of the electric consumer classes served by such utility;

(B) the costs of serving each electric consumer class and of serving different consumption patterns within such class, based on voltage level and time of use; and

(2) such authority (or Commission, as the case may be) bases the determination of such compliance on such findings and on the methods prescribed under paragraph (1) of subsection (a).

(c) LOWER RATES.—In the case of any electric utility which does not have a lower rate as described in section 511(b)(1) in effect on the date 2 years after the date of the enactment of this Act, the State regulatory authority (or the Commission in any case in which such authority has not assumed responsibility under section 531) shall determine, after an evidentiary hearing, whether or not such a rate should be implemented by such utility.

SEC. 533. ALTERNATIVE LOAD MANAGEMENT TECHNIQUES.

Each State regulatory authority which has assumed responsibility under section 531 (or the Commission in any case in which such authority has not assumed such responsibility) shall consider in an evidentiary hearing, initially within 2 years of the date of enactment of this Act and thereafter no less often than once during each subsequent 2-year period, alternative load management techniques for purposes of carrying out the requirements of section 521.

SEC. 534. MASTER METERING.

The Commission shall prescribe rules requiring each State regulatory authority which has assumed responsibility under section 531 to prohibit or restrict the use of such bulk or master meters in buildings as it deems necessary to carry out the purposes of this chapter. Such rules shall provide that in determining whether or not to prohibit or restrict such meters in any building, such authority shall consider the potential energy savings of central heating, cooling, and domestic hot water systems in buildings in which the output of such systems to separate units is measured separately and charged to such units. Such rules may apply to buildings construction of which commenced less than 1 year after the date of promulgation thereof only to the extent the Commission determines that such application is economically feasible.

SEC. 535. PARTICIPATION IN REGULATORY PROCEEDINGS BY STATES AND BY ELECTRIC CONSUMERS.

(a) INTERVENTION.—Any electric consumer or State agency may intervene as of right as a party in any evidentiary hearing or other proceeding of a State regulatory authority which has assumed the authority to make determinations under this chapter (or of the Commission in any case in which the State authority has not assumed such authority) if such hearing or other proceeding affects such consumer or State agency and relates to the determination of compliance with the requirements of this chapter.

(b) COMPENSATION FOR COSTS OF PARTICIPATION.—(1)(A) Unless an alternative means for assuring electric consumer representation is adopted in accordance with paragraph (2), if an electric consumer of an electric utility prevails in a ratemaking proceeding before a State regulatory authority (or before the Commission where responsibility has not been assumed by such authority under section 531) in which such consumer has alleged that any rate proposed by an electric utility is not in compliance with any requirement of subchapter B or C, such utility shall be liable to compensate such consumer for reasonable attorneys' fees, expert witness fees, and other reasonable costs of preparing for, and participation in, such proceeding (including fees and costs in obtaining judicial review of such proceeding). Such consumer may collect such fees and costs from such utility in a civil action in any court of

competent jurisdiction, unless such State regulatory authority (or the Commission, as the case may be) has adopted a reasonable procedure pursuant to which such authority—

(i) determines the amount of such fees and costs, and

(ii) includes an award of such fees and costs in its order in the proceeding.

Such procedure may require that as a condition of receiving such award such consumer demonstrate in a preliminary proceeding that, but for the ability to receive such award if he prevails, such consumer may be unable effectively to participate in such proceeding.

(B) For purposes of subparagraph (A), an electric consumer shall be deemed to have prevailed in a proceeding if such consumer's participation in the proceeding substantially contributed to disapproval or modification of a rate proposed by an electric utility on grounds that the rate did not comply with any requirement of subchapter B or C.

(C) A State regulatory authority (or the Commission, as the case may be) may prescribe reasonable requirements that persons with the same or similar interests have a common legal representative in the proceeding, as a condition of receiving fees and costs under subparagraph (A).

(2) Paragraph (1) shall not apply to proceedings before a State regulatory authority if the State or such authority has provided an alternative means for providing adequate compensation to persons—

(A) who have, or represent, an interest (i) which would not otherwise be adequately represented in ratemaking proceedings, and (ii) representation of which is necessary for a fair determination in the proceeding, and

(B) who are unable effectively to participate in such proceeding because such persons cannot afford to pay reasonable attorneys' fees, expert witness' fees, and other reasonable costs of preparing for, and participating in, such proceeding (including fees and costs of obtaining judicial review of such proceeding).

(c) TRANSCRIPTS.—Each electric utility shall make available at cost of reproduction to parties in a proceeding before a State regulatory authority transcripts of such proceeding.

Subchapter F—Enforcement and Review

SEC. 536. PROHIBITIONS.

(a) STATE REGULATED UTILITIES.—Except for an increase referred to in section 514(a)(2) or (3), no State-regulated electric utility may increase any rate at which it sells electric energy unless such utility has been determined to be in compliance with the requirements of subchapters B and C. Such determination shall be made as provided in sections 531 and 532 at the proceeding at which such rate is fixed, modified, or approved by the State regulatory authority (or by the Commission in any case in which the State has not assumed responsibility as provided in section 531).

(b) NONREGULATED UTILITIES.—(1) Except for an increase referred to in section 514(a)(2) or (3), no nonregulated public system (as defined in section 502(5)(C)) may increase any rate at which it sells electric energy unless such system has determined that it meets the requirements of subchapter D.

(2) No nonregulated cooperative (as defined in section 502(5)(D)) may violate the requirements of this chapter made applicable under subchapter D.

(c) CONTRACTS BY FEDERAL AGENCIES.—No contract between a Federal agency and an electric utility for sale of electric energy by such Federal agency for purposes of resale may contain any provision inconsistent with the requirements of this chapter. Any such inconsistent provision shall be null and void. This subsection shall apply notwithstanding section 505(a)(2) (relating to volume of electric energy sold).

SEC. 537. ENFORCEMENT.

(a) INJUNCTIONS.—Upon petition of any Federal agency, or State agency referred to in section 535(a), the appropriate United States district court shall have jurisdiction to enjoin an electric utility from violating any prohibition contained in section 536. Each electric consumer of an electric utility (1) who may not maintain an action against such utility in a State court or (2) who is a consumer of a nonregulated public system which is a Federal agency may petition the United States district court to enjoin such utility from violating any such prohibition.

(b) NONREGULATED COOPERATIVES.—Any person who is a member of a nonregulated cooperative may bring a civil action in the appropriate United States district court against such cooperative for purposes of obtaining enforcement of the requirements of the prohibition contained in section 536 (b)(2) if such action may not be brought by such person against such cooperative in a State or local court.

SEC. 538. JUDICIAL REVIEW.

(a) COMMISSION OR STATE AGENCIES.—The Commission or any State agency referred to in section 535(a) may obtain review of any determination referred to in section 536 made by a State regulatory authority or a nonregulated public system by commencing a civil action in the United States court of appeals for any circuit in which such authority or system is located. Such court shall have jurisdiction to review such determination in accordance with chapter 7 of title 5, United States Code.

(b) UTILITIES AND CONSUMERS.—(1) Any electric utility with respect to which a determination referred to in section 536 has been made or any electric consumer of such a utility may obtain review of such determination by commencing a civil action in the United States court of appeals for any circuit in which such authority or system is located if such determination was made—

(A) by a nonregulated public system which is a Federal agency,

(B) by a State regulatory authority or nonregulated public system whose determination is not reviewable by a State court of competent jurisdiction, or

(C) by a State regulatory authority or nonregulated public system whose determination is reviewable by such a court in a review proceeding in which—

(i) the Commission may not intervene as a matter of right, or

(ii) the court does not treat any finding under section 531(a) as prima facie evidence of noncompliance with the provisions of this chapter.

(2) Any Federal agency which is an electric consumer of an electric utility with respect to which a determination referred to in section 536 has been made may obtain a review of such determination by commencing a civil action in the United States Court of Appeals for any circuit in which such authority or system is located. Such court shall have jurisdiction to review such determination in accordance with chapter 7 of title 5, United States Code.

(3) Except as provided in subsection (c), nothing in this subsection or section 537 shall be construed to prohibit any electric consumer or electric utility from obtaining review in any State court of competent jurisdiction in the case of any determination referred to in section 536 made by a State regulatory authority or nonregulated public system which is a State agency, or to affect the jurisdiction of the United States Supreme Cour to review any decision of a State court on writ of certiorari in accordance with section 1257 of title 28, United States Code.

(c) REMOVAL.—In the case of any action brought by the Commission or a State agency under subsection (a) or by a Federal agency under subsection (b)(2), the court may order that any action respecting the same matter brought by any electric consumer or electric utility in a State court shall be removed to, and consolidated with, the action brought under subsection (a) or (b)(2) if such removal and consolidation will result in a more expeditious determination of such actions.

(d) FEDERAL COURTS.—Notwithstanding any other provision of law, no opportunity for review of a determination of compliance with the provisions of this chapter in the courts of the United States shall be available except as provided in this chapter.

Chapter 3—IMPROVING EFFICIENCY OF, AND PRESERVING COMPETITION IN, GENERATION AND TRANSMISSION OF ELECTRICITY

SEC. 541. INTERCONNECTION, POOLING, WHEELING, AND CENTRAL DISPATCH.

(a) REGIONAL DISTRICTS.—Section 202(a) of the Federal Power Act is amended:

(1) by striking the word "voluntary" from the first sentence; and

(2) by inserting "for the purpose of assuring the goals set forth in this part and to assure maximum competitive opportunities for the purchase and sale of electric energy at wholesale at the lowest possible cost" immediately after "districts" in the third sentence.

(b) Section 202(b) of such Act is amended to read as follows:

"(b)(1) Whenever the Commission, on its own motion or upon application of any State commission or of any electric utility or the owner or operator of any qualifying cogeneration facility (as defined in section 546(b)(2) of the National Energy Act), and after public notice and notice to each State commission and electric utility directly affected and after evidentiary hearing, finds it necessary or appropriate in the public interest, it shall by order direct an electric utility to—

"(A) establish physical connection of its transmission facilities with the facilities of any other electric utility or qualifying cogenerator, or

"(B)(i) sell or deliver energy to or exchange energy with,

"(ii) provide pooling for,

"(iii) provide wheeling, or otherwise transmit energy for, or

"(iv) otherwise coordinate with,

such utility or cogenerator. For purposes of this paragraph, the term 'wheeling' means transmission of electric energy among electric utilities and qualifying cogeneration facility (as defined in section 546(b)(2) of the National Energy Act), but such term does not include the transmission of electric energy to an ultimate consumer (other than to a qualifying cogenerator for purposes of providing backup power, as determined by the Commission).

"(2) No order may be issued under subparagraph (A) of paragraph (1) unless the Commission determines that—

"(A) such order will benefit consumers of an electric utility by reducing costs of supplying electric energy to such consumers or will otherwise provide public benefits in assuring that supplies of electric energy are generally made available with greater economy and with regard to the proper utilization and conservation of natural resources, and

"(B) no utility subject to such order or consumers of such utility will suffer economic hardship thereby.

The Commission may not issue an order under paragraph (1) upon application of any electric utility or the owner or operator of any qualifying cogeneration facility to direct an electric utility to establish physical connection or to provide wheeling services unless the electric utility or qualifying cogeneration facility which makes an application for

such connection or wheeling demonstrates to the Commission that such electric utility or owner or operator of any qualifying cogeneration facility is ready, willing, and able to provide reimbursement reasonably due for the costs (including capital and operating costs) incurred by the electric utility or owner which is requested to make physical connection or to wheel electric energy.

"(3) Whenever the Commission, on its own motion or upon application of any electric utility within a regional district established under this Act, and after public notice and notice to each State commission and electric utility directly affected and after evidentiary hearing, finds such action necessary or appropriate in the public interest it may by order direct any electric utility owning or operating any bulk power transmission facility located (in whole or in part) within such district to increase the transmission capacity of such facility.

"(4)(A) With respect to each regional district established under this Act in which a centrally dispatched power pool is not operating, upon its own motion or upon application the Commission shall commence a proceeding to determine whether requiring operation of such a power pool in such area is technologically and economically feasible and in the public interest. To the extent that the Commission determines, after public notice and notice to each State commission and after evidentiary hearing, that operation of such a pool is technologically and economically feasible and in the public interest, the Commission shall by order require operation of such a pool.

"(B) For purposes of subparagraph (A), the term 'centrally dispatched power pool' means—

"(i) a power pool which utilizes a central dispatch system for all generation facilities (other than cogeneration facilities which are not required to be included as provided under regulations under section 546(a)(2) of the National Energy Act) in a regional district and in which, to the extent technologically and economically feasible as determined by the Commission, each electric utility which owns or operates a bulk power generation facility in such region participates, or

"(ii) an exchange or other system which the Commission determines is more effective or substantially as effective as a power pool referred to in clause (i) in assuring the most economical utilization of generation and transmission facilities in such area.

"(C) For purposes of subparagraph (B), the term 'central dispatch system' means a centrally coordinated system for controlling the generation and transmission of electric power in an area which system is designed to obtain the most economical utilization of generation and transmission facilities in such area.

"(5) The Commission shall prescribe the terms and conditions of the arrangement to be made between the persons affected by any order under this subsection, including the apportionment of cost between them and the compensation or reimbursement reasonably due to any of them if the parties fail to agree to such terms and conditions.

"(6) The Commission shall have no authority under this subsection to compel the enlargement of generating facilities for purposes of this subsection, nor to compel an electric utility to take any action under paragraph (1) if the Commission determines that to do so would impair the ability of the electric utility to render adequate service to its customers.".

(c) APPLICATION OF FEDERAL POWER ACT.—(1) The first sentence of section 201(b) of such Act is amended by inserting "(other than sections 202(b), relating to interconnection, pooling, wheeling, and central dispatch, and 205(k), relating to unfair competition)" after "Part" and by adding the following at the end thereof: "The provisions of sections 202(b) and 205(k) shall apply to the electric utilities and other persons specified therein.".

(2) Section 201(e) of such Act is amended by inserting "(other than facilities subject to such jurisdiction solely by reason of sections 202(b) and 205(k))" after "Part.".

SEC. 542. CONTINUANCE OF SERVICE.

(a) CONTINUANCE OF SERVICE.—Section 202 of the Federal Power Act is amended by inserting the following new subsection at the end thereof:

"(g) In order to insure continuity of service to retail and wholesale customers, the Commission—

"(1) shall require, by rule, each public utility to report promptly any anticipated shortage of electric energy which would affect such utility's capability of serving its wholesale customers,

"(2) shall require, by order, such utility to accommodate such shortage in a manner which affects the retail customers of the utility and the retail customers of such utility's wholesale customers in a nondiscriminatory manner, and which gives due consideration to public health and safety.

"(3) shall require, by order, such connection of facilities and such generation, sale, delivery, exchange, or transmission of electric energy, pooling, wheeling, or other transmission service or other coordination as in its judgment will best serve the public interest, and

"(4) shall, by rule, require each public utility to submit contingency plans respecting electricity supply shortages.

No order may be issued under this paragraph, except after evidentiary hearing.".

(b) CONFORMING AMENDMENT.—The last sentence of section 202(c) of such Act is amended by striking out "affected by such order" and inserting in lieu thereof "affected by any order under this subsection or subsection (g)".

SEC. 543. CONSIDERATION OF PROPOSED RATE INCREASES.

(a) NEW SCHEDULES.—(1) Section 205(e) of the Federal Power Act is amended by striking out "(e) Whenever" and inserting in lieu thereof the following: "(e) Except as otherwise provided in subsection (f) in the case of proposed rate increases, whenever".

(2) Section 205 is amended by adding the following new subsection at the end thereof:

"(f)(1) Whenever any such new schedule contains a change in any rate, charge, classification, or service, or any rule, regulation, or contract relating thereto, which results in any increase in the charges to any customer for electric energy, 30 days before filing such schedule, the public utility shall provide notice of such schedule to the Commission and to each customer which purchases electric energy for resale from the public utility.

"(2) The Commission may, open its own initiative, and shall, upon complaint, enter into an evidentiary hearing concerning the lawfulness of such schedule and shall suspend the operation of such schedule and defer the use of such rate, charge, classification, or service until a lawful schedule is established by final order of the Commission based upon the record of such evidentiary hearing. The last sentence of subsection (e) shall apply to any hearing referred to in this subsection.

"(3) The Commission upon its own initiative or upon application of any person, shall determine whether or not to require such public utility to furnish additional revelant data or information to support any such new schedule. In any case in which the Commission determines that a decision with respect to the application of such utility requires additional relevant data or information, except for a period determined by the Commission (not in excess of 14 days, or 21 days in case of the first such determination, the time after such determination and before such utility furnishes such additional data or information shall be added to the 10-month and the 12-month periods referred to in this subsection and subsection (d)(2).

"(4) The Commission shall render a decision with respect to such new schedule within 10 months of the original filing of such schedule. If the Commission fails to issue a final order within such period, it shall immediately notify the President of the Senate, the Speaker of the House of Representatives, and the Chairmen of the appropriate Committees of the House and Senate of such failure, and shall cease to have authority under this subsection with respect to such schedule.

"(5) In any case in which the Commission has not completed the evidentiary hearing within the 10-month period, the Chairman of the Commission shall continue and complete such hearing concerning the lawfulness of such schedule. In any case in which the Commission has not issued a final order within such 10-month period, the Chairman shall issue a final order thereon within 12 months from the original filing of such new schedule. The same provisions of law as apply to any hearing conducted or final order issued by the Commission under this subsection shall apply to any hearing conducted or final order issued by the Chairman under this subsection and the Chairman shall have the same authority as the Commission with respect to any such hearing or order. An order of the Chairman under this subsection shall be based upon the record of the hearing conducted under this subsection. A final order of the Chairman with respect to such schedule shall be treated for purposes of this Act as a final order of the Commission.

"(6) No schedule to which this subsection applies may take effect unless established by a final order under this subsection.

"(7) Notwithstanding section 3147, for purposes of this subsection, the term 'person' includes any State or political subdivision thereof or any agency or instrumentality thereof.

"(g) For purposes of this section, the term 'lawful', with respect to a new schedule filed by a public utility under subsection (d), means just, reasonable, and otherwise lawful. Such schedule shall not be considered lawful if differences between such utility's wholesale rates under such schedule and its retail rates are unreasonable or anticompetitive.".

(b) CERTAIN NEW SCHEDULES PROHIBITED.—Section 205(d) of such Act is amended by inserting "(1)" after "(d)" and by adding at the end thereof the following:

"(2) A public utility may not file a new schedule which seeks to increase a rate to any customer for electric energy or power, which rate is the subject of a prior schedule which is pending before the Commission but which has not taken final effect, or any amendment to such pending schedule (other than a technical or clerical amendment), unless such prior schedule was filed 10 months or more before the filing of such new schedule.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply only with respect to schedules filed after the date of the enactment of this Act under section 205(d) of the Federal Power Act.

SEC. 544. AUTOMATIC ADJUSTMENT CLAUSES.

(a) AUTOMATIC ADJUSTMENT CLAUSES.—Section 205 of the Federal Power Act is amended by adding the following at the end thereof:

"(h)(1) Except as otherwise provided in paragraph (2) of this subsection, the Commission may not allow to go into effect any increase in any rate of any public utility unless—

"(A) opportunity for consideration of such increase in an evidentiary hearing is afforded prior to the date such increase takes effect,

"(B) such rate increase is pursuant to an automatic adjustment clause which the Commission has determined, after evidentiary hearing, effectively provides incentives for efficient use of resources (including, in the case of fuel, incentives for economical purchase and use of fuel) and is necessary to enable such utility to meet its immediate short-term financial obligations, or

"(C) such increase reflects an increase in the cost of electric power purchased from a centrally dispatched power pool (as defined in section 202(b)(4)(B)).

"(2) The prohibition contained in paragraph (1) shall not apply to interim rates which take effect under subsection (e)(1)(B).

"(3)(A) If a rate schedule of a public utility contains an automatic adjustment clause, the Commission shall review such schedule not less often than every two years to insure the maximum economies in those operations and purchases which affect such rates. No such automatic adjustment clause may be effective for any period in excess of 4 years after such clause has been reviewed by the Commission in an evidentiary hearing unless such clause is again reviewed in such an evidentiary hearing before the expiration of such period and the Commission makes the finding required under paragraph (1)(B).

"(B) In making a review under subparagraph (A), the Commission shall examine and, if appropriate, cause to be audited the practices of such public utility subject to an automatic adjustment clause. Each public utility shall provide such reports on such practices as may be required by the Commission, which shall be made available to the public, and shall contain such information as the Commission shall require to implement the purposes of this subsection (including a disclosure of any ownership, corporate relationships, and other legal or financial relationships between the utility and the seller of such fuel or other items).

"(C) Any purchaser of electric energy for resale which purchases electric energy subject to such adjustment clause may examine the records of the public utility pertaining thereto from which it purchases electric energy to insure compliance with applicable schedules and Commission rules.

"(i) On its own motion or upon complaint, the Commission shall after affording an opportunity for evidentiary hearing, issue an order directing a public utility to cease or modify any practice which does not result in the most economical purchase and use of fuel or other items.

"(j) As used in this section the term 'automatic adjustment clause' means a provision of a rate schedule which provides, without prior evidentiary hearing, for increases and decreases in rates reflecting increases and decreases in the amount of operating expenses (not including any expense attributable to the imposition of any tax under section 4991 of the Internal Revenue Code of 1954).".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date one year after the date of enactment of this Act with respect to public utilities which file a schedule containing any rate increase after the expiration of such one year period.

SEC. 545. ELECTRIC UTILITY RELIABILITY.

(a) RELIABILITY RULES.—(1) Not later than 2 years after the date of enactment of this Act, after consultation with representatives of State regulatory authorities, and after a reasonable opportunity for interested persons to submit oral and written data, views, and arguments, the Commission shall prescribe rules respecting electric utility reliability.

(2) The Commission shall base such rules on the availability of electric energy to a consumer at the point of use. The Commission shall, in prescribing such rules require a level of reliability—

(A) sufficient to meet the demonstrated public need; and

(B) not in excess of that which is cost-effective (except where necessary for purposes of subparagraph (A)),

as determined by the Commission.

(3) The Commission, in prescribing such rules, shall—

(A) give consideration to the technological feasibility, energy conservation, and environmental impact of such standards;

(B) minimize capital costs and operational and maintenance expenses related to such standards;

(C) recognize different requirements of reliability of different consumers due to use, need, alternative sources, location, and other matters;

(D) provide that the relationships between the reliability of generating, transmission, and distribution equipment and operating and maintenance procedures are consistent with the reliability of the entire electric system; and

(E) consider the availability of emergency electric energy from nonutility sources.

(4) Such rules may require minimum standards of quality in the purchase, construction, operation, and maintenance of bulk power facilities.

(5) Not less often than every 5 years, the Commission shall review and, after consultation with representatives of State regulatory authorities and after a reasonable opportunity for the presentation of oral and written data, views, and arguments, make appropriate amendments in such rules.

(b) IMPLEMENTATION RULES.—The Commission, after consultation with representatives of State regulatory authorities, and after a reasonable opportunity for interested persons to submit oral as well as written data, views, and arguments, shall prescribe such rules (and may issue orders and take such other action) as may be necessary or appropriate to assure implementation of subsection (a). Such rules (and other actions) under this subsection may include—

(1) sampling, testing, and other quality control requirements applicable to facilities (or components thereof) to which rules under subsection (a) apply, and

(2) provisions, relating to performance warranties and measure of damages, which shall be included by electric utilities in contracts between such utilities and their suppliers.

(c) ENFORCEMENT.—For the purpose of enforcement, a rule, order, or other action under this section shall be treated as a rule or order under the Federal Power Act.

(d) DELEGATION TO STATES.—The Commission may authorize (on such terms and conditions as it determines appropriate) any State regulatory authority to exercise any part of the Commission's authority under subsection (b) if the Commission determines that such State authority has the capability to effectively exercise such authority within its jurisdiction.

SEC. 546. COGENERATION.

(a) COGENERATION RULES.—Not later than 1 year after the date of enactment of this Act, the Commission shall, after consultation with representatives of State regulatory authorities, and after a reasonable opportunity for other interested persons to submit oral as well as written data, views, and arguments, prescribe rules requiring electric utilities to offer to sell electric energy to the owner or operator of a qualifying cogeneration facility and to offer to purchase electric energy from such owner or operator. Such rules shall insure that rates for such sales and purchases are just, reasonable, in the public interest, and do not discriminate against cogeneration. Such rules shall include—

(1) rules for allocating costs of a qualifying cogeneration facility between those incurred in generating electric energy and those incurred in generating other forms of energy;

(2) rules respecting the interconnection of a qualifying cogeneration facility to the distribution system of any electric utility or to a centrally dispatched power pool as defined in section 202(b)(4)(B) of the Federal Power Act;

(3) rules respecting the responsibility of the owner or operator of a qualifying cogeneration facility during periods of electric shortage;

(4) rules respecting the minimum reliability standards for the qualifying cogeneration facility; and

(5) rules which specify the reliability of emergency electric energy service available to the qualifying cogeneration facilities.

Such rules may not (A) require an electric utility to purchase electric energy from a qualifying cogeneration facility during any period at a rate which exceeds the highest cost at which such utility generates electric energy, or purchases electric energy from any other source, during such period, or (B) authorize such cogeneration facility to make any sale for purposes other than resale.

(b) DEFINITIONS.—For purposes of this section:

(1) the term "cogeneration facility" means a facility which produces—

(A) electric energy and

(B) other forms of useful energy (such as steam or heat) which is, or will be, used for industrial, commercial, or space heating purposes.

(2) The term "qualifying cogeneration facility" means a cogeneration facility which the Commission determines—

(A) meets such requirements respecting minimum size and fuel efficiency as the Commission, by rule, prescribes; and

(B) in the case of a cogeneration facility which is not owned by a utility and which is, or will be, directly connected to an electric utility, the owner or operator of such facility has offered such utility an opportunity to construct and operate such facility on terms acceptable to such owner or operator.

(c) ENFORCEMENT.—For the purposes of enforcement, a rule under this section shall be treated as a rule under the Federal Power Act.

(d) DELEGATION TO STATES.—The Commission may authorize (on such terms and conditions as it determines appropriate) any State regulatory authority to exercise any part of the Commission's authority under this section if the Commission determines that such State regulatory authority has the capability of effectively exercising such authority within its jurisdiction.

(e) EXEMPTION FROM FEDERAL POWER ACT.—Not later than 1 year after the date of enactment of this Act, the Commission shall, after consultation with representatives of State regulatory authorities, prescribe rules exempting qualifying cogenerators in whole or part from the Federal Power Act, the Public Utility Holding Company Act, and from State laws and regulations respecting electric utility regulation, if the Commission determines such exemption is necessary to carry out the purposes of this part. No such exemption shall be modified, except for good cause shown, with respect to any such cogenerator after such exemption takes effect with respect to such cogenerator.

SEC. 547. INTERLOCKING DIRECTORATES.

(a) DISCLOSURE.—Section 305 of the Federal Power Act is amended by adding the following new subsection at the end thereof:

"(c)(1) On the date one year after the date of enactment of this subsection, and annually thereafter, any person who is an officer or director of a public utility and who holds the position of officer, director, partner, ap-

pointee, or representative of any entity listed in paragraph (2) shall file with the Commission, in such form and manner as the Commission shall prescribe, a written statement concerning all such positions held by such person. Such statement shall be available to the public.

"(2) The entities referred to in paragraph (1) are as follows—

"(A) any investment bank, bank holding company, foreign bank or subsidiary thereof doing business in the United States, insurance company, or any other organization primarily engaged in the business of providing financial services or credit (other than a bank-referred to in subsection (b), a mutual savings bank, or a savings and loan association;

"(B) any company or organization that is authorized by law to underwrite or participate in the marketing of securities of a public utility;

"(C) any company, firm, or organization which produces or supplies electrical equipment or coal, natural gas, oil, nuclear material, or other fuel, for the use of public utilities;

"(D) a company, firm, or organization which during any of the 3 immediately preceding calendar years, was one of the 20 largest purchasers of electric energy sold by such public utility (or by any public utility which is part of the same holding company system),

"(E) any entity referred to in subsection (b), and

"(F) any company, firm, or organization which is controlled by any company, firm, or organization referred to in this paragraph.

"(3) For purposes of this subsection and subsection (d)—

"(A) the term 'public utility' includes any company which is a part of a holding company system which includes a registered holding company, unless no company in such system is an electric utility and

"(B) the terms 'holding company', 'registered holding company', and 'holding company system' have the same meaning as when used in the Public Utility Holding Company Act of 1935.".

(b) PROHIBITIONS.—(1) Such section 305 is amended by adding the following new subsection at the end thereof:

"(d)(1) Except as provided in paragraph (2), if the Commission finds, after notice and opportunity for public hearing, that it adversely affects the public interest for an officer or director of a public utility to hold the position referred to in subsection (c)(1), it shall be unlawful for such officer or director to hold the position with respect to which such finding has been made. Such finding may be made—

"(A) on an individual basis,

"(B) in the case of entities referred to in subsection (c)(2)(A), on the basis of the extent of interests held by such entities in utilities, or

"(C) in the case of entities referred to in subsection (c)(2)(C), on the basis of the amount of equipment or fuel supplied to public utilities.

"(2) Paragraph (1) shall not—

"(A) apply in any case in which subsection (b) applies, or

"(B) prohibit any individual from holding any position with more than one company system, any company of which is a registered holding company,

"(3) The Commission may, by rule or order, exempt any individual within a class or category covered by a finding under subparagraph (B) or (C) of paragraph (1) from the prohibition contained in such paragraph if it finds, upon a showing in such form and manner as may be prescribed by the Commission, that neither the public nor private interests will be adversely affected thereby.

"(4) No authorization under subsection (b), the failure of the Commission to act under paragraph (1) of this subsection, nor any exemption under paragraph (3) of this subsection may be used as a defense to any action brought under section 8 of the Clayton Act.".

(2) The amendments made by this subsection shall not apply to any person before the date 2 years after the date of the enactment of this Act.

SEC. 548. APPLICABILITY OF ANTITRUST LAWS.

(a) APPLICATION.—Nothing contained in this chapter or the amendments made thereby shall—

(1) be deemed to convey to any person immunity from civil or criminal liability, or to create defenses to actions, under the antitrust laws, or

(2) restrict any authority the Commission may have under the Federal Power Act to regulate unfair methods of competition.

(b) DEFINITION.—For purposes of this section, the term "antitrust laws" includes—

(1) the Sherman Act (15 U.S.C. 1, and following);

(2) the Clayton Act (15 U.S.C. 12, and following);

(3) the Federal Trade Commission Act (15 U.S.C. 41, and following);

(4) the Wilson Tariff Act (15 U.S.C. 8 and 9; and

(5) the Act of June 19, 1936, chapter 592 (15 U.S.C. 13, 13a, 13b, and 21A).

Chapter 4—CONSUMER REPRESENTATION AND ASSISTANCE TO STATE AGENCIES

SEC. 551. FINANCIAL ASSISTANCE FOR STATE AGENCIES AND FOR CONSUMER REPRESENTATION.

(a) GRANTS.—Title II of the Energy Conservation and Production Act is amended by striking out section 203 and inserting in lieu thereof the following:

"ESTABLISHMENT OF PROGRAM

"SEC. 203. (a) The Administrator is authorized, in accordance with the provisions of this title, to make grants to State utility regulatory commissions—

"(1) for purposes of section 203A (relating to staffing);

"(2) for purposes of section 205(d) (relating to participation in proceedings); and

"(3) for purposes of section 204(1)(B) (relating to innovative rate structures).

"(b) No grant shall be made under this title unless an application therefor has been submitted to the Administrator in such form and manner as the Administrator may require. The Administrator may not approve an application of a State agency unless such authority assures the Administrator that funds made available under this title will be in addition to, and not in substitution for, funds made available to such State agency from other sources.

"(c) No grant may be made under this title after September 30, 1980.

"GRANTS TO IMPROVE STAFFING

"SEC. 203A. The Administrator may make grants to assist any State utility regulatory commission in improving its staff capacity to effectively regulate electric utilities. No grant may be made under this section unless the Administrator determines that such State utility regulatory commission—

"(1) requires additional staff in order to effectively carry out its regulatory authority, and

"(2) agrees to institute a system for assessing and collecting fees in a just and equitable manner from every electric utility subject to its jurisdiction, or otherwise secures the funds, to maintain the additional staff made possible under such grant following expiration of the grant.".

(b) FUNDING FOR INNOVATIVE RATE STRUCTURES.—Section 204(1)(B) of such Act is amended by inserting the following before the comma at the end thereof: "which encourage the development and operation of innovative rate structures which encourage conservation, are equitable and nondiscriminatory among the various classes of electric consumers, promote the efficient use of electric energy, and comply with the requirements of chapter 2 of part V of the National Energy Act".

(c) PARTICIPATION IN PROCEEDINGS.—(1) Section 204(2) of such Act is amended by inserting "or nonregulated public system (as defined in section 502 of the National Energy Act)" before "which relates".

(2) Section 205 of such Act is amended by adding the following new subsection at the end thereof:

"(d) The Administrator may make grants to State utility regulatory authority to provide for the establishment and operation of programs which meet the requirements of 537(b)(2) of the National Energy Act (respecting participation in proceedings) and which meet such other requirements as the Administrator shall prescribe by rule.".

(d) AUTHORIZATIONS.—Section 207 of such Act is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 207. There are authorized to be appropriated—

"(1) not to exceed $40,000,000 in any fiscal year for grants under section 203A (relating to staffing);

"(2) not to exceed $5,000,000 in any fiscal year for grants under section 205(d) (relating to participation in proceedings); and

"(3) not to exceed $5,000,000 in any fiscal year for grants under section 204(1)(B) (relating to innovative rate structures).".

(e) ALLOTMENTS.—Such title II of such Act is amended by adding the following new section at the end thereof:

"ALLOTMENT OF SUMS

"SEC. 208. (a) In each fiscal year the Administrator shall allot the sums appropriated under this title equitably among the States on the basis of population, except that—

"(1) no State which qualifies for a grant under section 203A (relating to staffing) or section 204(1)(B) (relating to innovative rate structures) may receive less than one-half percent or more than 5 percent of amounts appropriated for grants under section 203A (relating to staffing) or section 204(1)(B) (relating to innovative rate structures), respectively, for any fiscal year; and

"(2) no State which qualifies for a grant under section 205(d) (relating to participation in proceedings) may receive less than 1 percent or more than 3 percent of amounts appropriated for grants under such section for any fiscal year.

"(b) The Administrator may withhold any part or all of any grant under this title if such Administrator finds that the State regulatory authority or other person is not carrying out the program as described in the application or has violated assurances contained in the application.".

(f) CONFORMING AMENDMENTS.—The table of contents for title II of such Act is amended by striking out the item relating to section 203 and inserting in lieu thereof the following:

"Sec. 203. Establishment of program.
"Sec. 203A. Grants to improve staffing."

SEC. 552. REPRESENTATION OF CONSUMER INTERESTS BEFORE FEDERAL POWER COMMISSION.

The Federal Power Act is amended by redesignating sections 319 and 320 as 320 and 321, respectively, and by inserting the following new section after section 318:

"OFFICE OF PUBLIC COUNSEL

"SEC. 319. (a)(1) There shall be established, within sixty days after the date of en-

actment of this section, an independent office in the Commission to be known as the Office of Public Counsel (hereinafter in this section referred to as the 'Office').

"(2)(A) The Office shall be administered by a Director. The Director shall be appointed by the President, by and with the advice and consent of the Senate.

"(B) The term of office of the Director shall be 4 years. The Director shall be responsible for the discharge of the functions and duties of the Office. He shall be appointed and compensated (without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, classification, and General Schedule pay rates) at a rate not in excess of the maximum rate prescribed for GS–18 of the General Schedule under section 5332 of title 5 of the United States Code.

"(3) The Director may appoint, fix the compensation, and assign the duties of employees of such Office, and he may procure temporary and intermittent services to the same extent as is authorized under section 3109 of title 5, United States Code. Each bureau, office, or other entity of the Commission and each department, agency, and instrumentality of the executive branch of the Federal Government and each independent regulatory agency of the United States shall provide the Office with such information and data as it requests. The Director is authorized to enter into, without regard to section 3709 of the Revised Statutes of the United States (41 U.S.C. 5), such contracts, leases, cooperative agreements, or other transactions as may be necessary in the conduct of his functions and duties.

"(4) In addition to any other duties and responsibilities prescribed by law, the office—

"(A) shall have standing to become a party to any proceeding, formal or informal, which is before the Commission;

"(B) may petition the Commission for the initiation of proceedings on any matter within the jurisdiction of the Commission;

"(C) may seek judicial review of any Commission action, to the same extent such review is authorized by law for any person;

"(D) shall solicit, study, evaluate, and present before the Commission in any proceeding, formal or informal, the views of those States and political subdivisions thereof and consumers of electric energy affected by proceedings before the Commission, whenever the Director determines, for whatever reason (such as size or location), that such State or political subdivision or consumer might not otherwise be adequately represented before the Commission in the course of such proceedings; and

"(E) shall evaluate and represent, before the Commission and before other Federal agencies (when their policies and activities significantly affect public utility matters subject to the jurisdiction of the Commission) and by other means assist the representation of the interest of States and political subdivisions thereof and consumers of electric energy in safe, efficient, reliable, and economical electric utility services.

"(5) The budget requests and budget estimates of the Office of Public Counsel shall be submitted concurrently to the Congress and to the President.

"(6) There are authorized to be appropriated to the Office of Public Counsel for the purpose of carrying out the provisions of this subsection not to exceed $500,000 for the fiscal year 1978, not to exceed $2,000,000 for the fiscal year 1979, not to exceed $2,200,000 for the fiscal year 1980, and not to exceed $2,400,000 for the fiscal year 1981.

"(b)(1) The Director of the Office may, pursuant to rules prescribed by him, provide compensation for reasonable attorneys fees, expert witness fees, and other costs of participating in any proceeding before the Commission to any person—

"(A) who has, or represents, an interest (i) which would not otherwise be adequately represented in such proceeding, and (ii) representation of which is necessary for a fair determination of the proceeding taken as a whole, and

"(B) who is unable effiectively to participate in such proceeding because such person cannot afford to pay costs of preparing or making oral presentations, conducting cross-examination, and making rebuttal submissions in such proceeding.

"(2) The aggregate amount of compensation paid to all persons in any fiscal year under this subsection may not exceed $2,000,000.".

SEC. 553. RESPONSIBILITIES OF ADMINISTRATOR.

The Administrator, for the purpose of carrying out his functions under title II of the Energy Conservation and Production Act, shall—

(1) publish a list identifying the State regulatory authorities and nonregulated utilities to which the provisions of chapter 2 of part V are applicable;

(2) inform, on a continuing basis, the State regulatory authorities and nonregulated utilities identified pursuant to paragraph (1) with respect to—

(A) the identification (for purposes of section 521 of the National Energy Act) and development of load management techniques, including the results of experiments in load management;

(B) developments and innovations in electric utility ratemaking throughout the United States, including the results of experiments in rate structure and rate reform;

(C) methods for determining cost of service under section 532; and

(D) any other data or information which the Administrator determines to be of assistance in carrying out the provisions of chapter 2; and

(3) State agency having responsibility with respect to planning and siting of bulk power facilities such technical assistance (including assistance in developing demand forecasting methods and in using techniques for choosing the desired degree of reliability) as he determines is appropriate; and

(4) provide on a formal or informal basis such appropriate technical assistance as is requested by a State regulatory authority, electric utility, or nonregulated utility.

Chapter 5—NATURAL GAS UTILITIES

Subchapter A—General Provisions

SEC. 561. FINDINGS.

The Congress finds that improvements in gas utility rate design and other improvements in the policies applicable to such utilities have great potential for reducing the cost of gas utility services to consumers and current and projected shortages of capital, and for encouraging energy conservation.

SEC. 562. DEFINITIONS.

As used in this chapter:

(1) The term "gas consumer" means any person, State agency, or Federal agency to which natural gas is sold other than for purposes of resale.

(2) The term "gas utility" means any person, Federal agency, or State agency which sells natural gas.

(3) The term "natural gas" shall have the same meaning as such term has under section 2 of the Natural Gas Act.

(4) The terms "State-regulated gas utility", "nonregulated utility", "evidentiary hearing" and "evidentiary proceeding", "nonregulated public system", "nonregulated cooperative", "rate", "rate schedule", "sale", and "State regulatory authority" shall have the same meaning as such terms have under section 502; except that the term "gas" shall be substituted for "electric" and "electric energy" wherever those terms appear in section 502.

Subchapter B—Requirements for Gas Utilities

SEC. 566. COVERAGE.

The requirements of this subchapter (other than section 567) apply only to sales of natural gas by a gas utility for purposes other than resale in a calendar year beginning two or more years after the date of the enactment of this Act; except that such requirements of section 569 shall not apply to a gas utility in any calendar year unless such sales by such utility exceeded 10 billion cubic feet of gas during (1) the second preceding calendar year or (2) any calendar year after 1975 but before such second preceding calendar year.

SEC. 567. GAS UTILITY RATE DESIGN PROPOSALS.

(a) STUDY.—(1) The Administrator, in consultation with the Commission, with the participation of representatives of the State regulatory commissions, gas utilities, and gas consumers, shall study and report to Congress on gas utility rate design. Such study shall address the effect (both separately and in combination of the following factors upon the items listed in paragraph (2): incremental pricing; marginal cost pricing; end user gas consumption taxes; wellhead natural gas pricing policies; demand-commodity rate design; declining block rates; interruptible service; seasonal rate differentials; and end user rate schedules.

(2) The study under paragraph (1) shall address the effect (both separately and in combination) of the factors listed in paragraph (1) upon the following:

(A) natural gas pipeline and local distribution company load factors;

(B) rates to each class of user, including residential, commercial, and industrial users;

(C) the change in total costs resulting from such designs (including capital and operating costs) to gas consumers or classes thereof;

(D) demand for, and consumption of, natural gas;

(E) end use profiles of natural gas pipelines and local distribution companies; and

(F) competition with alternative fuels.

(b) PROPOSALS.—Based upon the study prepared pursuant to subsection (a), the Administrator shall develop proposals to improve gas utility rate design and to encourage conservation of natural gas. Such proposals shall include recommendations of the Commission, of any.

(c) TRANSMISSION TO CONGRESS.—The proposals prepared under subsection (b) shall be transmitted to each House of Congress not later than twelve months after the date of enactment of this Act for review and such further action as the Congress may direct by law. Such proposals shall be accompanied by an analysis of—

(1) the projected savings (if any) in consumption of natural gas, and other energy resources,

(2) changes (if any) in the cost of natural gas to consumers, which are likely to result from the implementation nationally of each of the proposals published under this subsection, and

(3) the effects of other provisions of this Act on gas utility rate structures.

SEC. 568. MINIMUM STANDARDS RESPECTING ADVERTISING.

(a) RECOVERY OF EXPENSES.—For purposes of rate determinations, no rate of a State-regulated gas utility which makes sales of natural gas subject to this chapter shall be determined to be in compliance with this subchapter if such utility recovers through such rate from its natural gas consumers any direct or indirect expenditure by such utility—

(1) for promotional advertising, or
(2) for political or institutional advertising.

(b) CERTAIN ADVERTISING NOT COVERED.—Subsection (a) shall not apply to—

(1) advertising which informs natural gas consumers how they can conserve natural gas,

(2) notices required by law or regulation,

(3) public information regarding service interruptions, safety measures, or emergency conditions,

(4) advertising concerning employment opportunities with such utility, and

(5) public distribution or explanation of existing or proposed rate schedules, or hearings thereon.

(c) DEFINITIONS.—For purposes of this section:

(1) The term "advertising" means the commercial use, by a gas utility, of any media, including newspaper, printed matter, radio, and television, in order to transmit a message to a substantial number of members of the public or to such utility's natural gas consumers.

(2) The term "institutional advertising" means any advertising which is designed to create, enhance, or sustain a gas utility's public image or goodwill with the general public or such utility's natural gas consumers.

(3) The term "political advertising" means any advertising for the purpose of influencing public opinion with respect to any legislative, administrative, or electoral matter, or with respect to any controversial issue of public importance.

(4) The term "promotional advertising" means any advertising for the purpose of inducing the public to select or use the service or additional service of a gas utility or to select or install any appliance or equipment designed to use such utility's service.

SEC. 569. MINIMUM PROCEDURES FOR TERMINATION OF GAS SERVICE.

No State-regulated gas utility which makes sales of natural gas subject to this subchapter may terminate natural gas service to any consumer of natural gas based upon nonpayment for such service, except pursuant to procedures prescribed by the State regulatory authority (or the Commission, in any case in which such authority has not assumed responsibility as provided in section 583). Such procedures shall be prescribed by such authority (or Commission) not later than 30 days following assumption of enforcement responsibility and shall—

(1) provide that no natural gas service to a consumer may be terminated based upon nonpayment for such service until reasonable prior notice (including notice of rights and remedies) has been given to such consumer and such consumer has had a reasonable opportunity (at least 15 days before any such termination) to contest the proposed termination in an impartial hearing in which such consumer has had the opportunity to dispute the reasons for such termination and opportunity to establish whether or not a deferred payment plan for any amounts owed is reasonable, and

(2) provide that no natural gas service to a residential consumer may be terminated on account of non-payment for natural gas service during any period where termination of service would be especially dangerous to health, as determined by the State regulatory authority (or the Commission in any case in which such authority has not assumed responsibility as provided in section 583) if such consumer establishes in an impartial hearing that such consumer is unable to pay for such natural gas service without undue hardship.

Such procedures shall also include special provisions for elderly and handicapped consumers to assure that such consumers are made aware of, and are able to avail themselves of, their rights (as provided in this section). No natural gas service may be terminated based upon nonpayment for such service before the procedures required under this section have been completed.

SEC. 570. NONREGULATED UTILITIES.

The requirements of this subchapter (other than section 568 in the case of nonregulated cooperatives) shall apply to each nonregulated utility in the same manner as such requirements apply to each State-regulated gas utility, except that any action required to be taken by a State regulatory authority under such provision shall, in the case of a nonregulated utility, be taken by such utility.

Subchapter C—Administration, Enforcement, Review

SEC. 581. PROHIBITIONS.

(a) STATE-REGULATED UTILITIES.—No State-regulated gas utility subject to this subchapter may increase any rate at which it sells natural gas (other than pursuant to a purchased gas adjustment clause applicable to the rates and charges of such utility) unless such utility has been determined to be in compliance with the requirements of subchapter A. Such determination shall be made as provided in section 583 at the proceeding at which such rate is fixed, modified, or approved by the State regulatory authority (or by the Commission after such proceeding in any case in which the State has not assumed responsibility as provided in section 583).

(b) NONREGULATED UTILITIES.—(1) No nonregulated public system (as defined in section 561) may increase any rate at which it sells natural gas (other than pursuant to a purchased gas adjustment clause applicable to the rates and charges of such utility) unless such system has determined that it meets the requirements of subchapter A.

(2) No nonregulated cooperative (as defined in section 561) may violate any applicable requirement of subchapter A.

SEC. 582. ENFORCEMENT.

(a) INJUNCTIONS.—Upon petition of any Federal agency or affected State agency, the appropriate United States district court shall have jurisdiction to enjoin a gas utility from violating any prohibition contained in section 581. Each natural gas consumer of a gas utility (1) who may not maintain an action against such utility in a State court or (2) who is a consumer of a nonregulated public system which is a Federal agency may petition the United States district court to enjoin such utility from violating any such prohibition.

(b) NONREGULATED COOPERATIVES.—Any person who is a member of a nonregulated cooperative may bring a civil action in the appropriate United States district court against such cooperative for purposes of obtaining enforcement of the requirements of the prohibition contained in section 581 if such action may not be brought by such person against such cooperative in a State or local court.

SEC. 583. COMPLIANCE DETERMINATION AUTHORITY FOR STATE REGULATED GAS UTILITIES

(a) DETERMINATION BY STATE.—A State regulatory authority which has ratemaking authority with respect to a gas utility may determine whether or not such utility is in compliance with the requirements of section 581 if—

(1) such authority notifies the Commission (at such time, and in such manner, as the Commission shall prescribe by rule) that such authority assumes such responsibility with respect to such utility and certifies that it has adequate authority to carry out the requirements applicable to such authority under this chapter,

(2) such authority makes such determination of compliance by a gas utility with the requirements of this chapter applicable to such utility in an evidentiary hearing, and

(3) such authority complies with the requirement contained in subsection (c)(1).

(b) DETERMINATION BY COMMISSION.—If such State regulatory authority has not complied with paragraphs (1) through (3) of subsection (a) with respect to any utility or any determination or if such authority withdraws its assumption of responsibility under subsection (a), the Commission shall, upon the application of any State-regulated gas utility, determine in an evidentiary proceeding whether or not such utility is in compliance with such requirements until such time as such State regulatory authority notifies the Commission that it assumes such responsibility.

(c) COMMISSION REVIEW OF ENFORCEMENT.—(1) Not later than 2 years after the date of enactment of this Act (and every 2 years thereafter), each State regulatory authority which has assumed responsibility under this chapter shall submit to the Commission a report (containing such information as the Commission by rule may require), describing the extent to which such authority has implemented the requirements of this part.

(2) If upon complaint to the Commission, or upon the Commission's own motion, and after notice and an evidentiary hearing, the Commission finds that any utilities regulated by a State regulatory authority that has assumed responsibility pursuant to subsection (a) hereof exhibit a pattern of noncompliance with subchapter A, the Commission shall publish such finding which shall be prima facie evidence in any court that the rates of such utilities are not in compliance with section 581.

(3) The absence of any finding by the Commission under paragraph (2) shall not be treated in any court or administrative proceeding as a finding by the Commission that the rates of any utility regulated by any State regulatory authority are in compliance with section 581.

SEC. 584. JUDICIAL REVIEW.

(a) STATE OR FEDERAL AGENCIES.—The Commission, or any affected State agency may obtain review or any determination referred to in section 581 made by a State regulatory authority or a nonregulated public system by commencing a civil action in the United States court of appeals for any circuit in which such authority or system is located. Such court shall have jurisdiction to review such determination in accordance with chapter 7 of title 5, United States Code.

(b) UTILITIES AND CONSUMERS.—(1) Any gas utility or natural gas consumer of a gas utility with respect to which a determination referred to in section 581 has been made may obtain review of such determination by commencing a civil action in the United States court of appeals for any circuit in which such authority or system is located if such determination was made by a State regulatory authority in a review proceeding in which—

(A) the Commission may not intervene as a matter of right, or

(B) the court does not treat any finding under section 583(c) as prima facie evidence of noncompliance with the provisions of section 581.

Such court shall have jurisdiction to review such determination in accordance with chapter 7 of title 5, United States Code.

(2) Any Federal agency which is a natural gas consumer of a gas utility with respect to which a determination referred to in section 583 has been made may obtain a review of such determination by commencing a civil action in the United States Court of Appeals for an any circuit in which such authority or system is located. Such court shall have jurisdiction to review such determination in

accordance with chapter 7 of title 5, United States Code.

(3) Except as provided in subsection (c), nothing in this subsection or section 582 shall be construed to prohibit any consumer from obtaining review in any State court of competent jurisdiction in the case of any determination referred to in section 581 made by a State regulatory authority or nonregulated public system which is a State agency, or to affect the jurisdiction of the United States Supreme Court to review any decision of a State court on writ of certiorari in accordance with section 1257 of title 28, United States Code.

(c) REMOVAL.—In the case of any action brought by the Commission or a State under subsection (a) or by a Federal agency under subsection (b)(2), the court may order that any action respecting the same matter brought by any natural gas consumer in a State court shall be removed to, and consolidated with, the action brought under subsection (a) or (b)(2) where such removal and consolidation will result in a more expeditious determination of such actions.

(d) FEDERAL COURTS.—Notwithstanding any other provision of law, no opportunity for review in the courts of the United States shall be available except as provided in this chapter

Chapter 6—SMALL HYDROELECTRIC POWER PROJECTS

SEC. 586. INCENTIVE PROGRAM.

Part I of the Federal Power Act is amended by adding at the end thereof the following new section:

"SEC. 30. (a) The Congress declares that, because of the increasing shortages of natural gas and petroleum, and the urgent need to develop environmentally acceptable sources of electric energy to meet the needs of the Nation, the public interest requires the rapid development of the hydroelectric potential of the numerous existing dams on the Nation's waterways which are not being used to generate electric power where such development is technologically feasible, economically beneficial, and not environmentally harmful.

"(b) The Commission shall establish a program to—

"(1) encourage municipalities, electric cooperatives, industrial development agencies, nonprofit organizations, and other persons to undertake the development of small hydroelectric projects in connection with existing dams which are not being used to generate electric power, and

"(2) use simple and expeditious licensing procedures under this Act for such projects in connection with such existing dams in such manner as the Commission deems appropriate, consistent with the applicable provisions of law.

"(c)(1) The Commission is authorized to make grants (and commitments to grant) of up to 50 percent of the project costs of any small hydroelectric project which the Commission finds—

"(A) will be constructed in connection with any existing dam,

"(B) has received all necessary licenses and other required Federal, State, and local approvals,

"(C) will provide useful information as to the technical and economic feasibility of—

"(i) the generation of electric energy by such projects, and,

"(ii) the use of energy produced by such projects,

"(D) will have no significant adverse environmental effects, including effects on fish and wildlife, on recreational use of water, and on stream flow, and

"(E) will not have a significant adverse effect on any other use of the water used by such project.

"(2) In making grants under this subsection, the Commission shall give priority to any such project proposed by any municipality, electric cooperative, industrial development agency or nonprofit organization, or by any person other than a utility. An applicant other than an applicant entitled to priority under the first sentence of this paragraph which proposes such projects or participates jointly with any other person in such projects may receive grants under this section only on a finding by the Commission that no other similar project can carry out the purposes of paragraph (1) and that the proposed project cannot be reasonably carried out by any municipality, electric cooperative, industrial development agency, nonprofit agency, nonprofit organization, or person other than such a utility.

"(d)(1) The Commission is authorized to make loans to any municipality, electric cooperative, industrial development agency, nonprofit organization, or person other than a utility, of up to 50 percent of the project costs of a small hydroelectric project which meets the requirements of subsection (c)(1)(A), (B), (D), and (E) of this section. The Commission may make loans to a person or an industrial development agency only upon a finding that the operation of the project will result in substantially increasing employment or preventing a substantial loss of employment in the area to be served by the project.

"(2) The Commission shall give preference to applicants under this section who do not have available alternative financing which the Commission deems appropriate to carry out the project.

"(3) Every loan made pursuant to this subsection shall bear interest at the discount or interest rate used at the time the loan is made for water resources planning projects under section 80 of the Water Resources Development Act of 1974 (42 U.S.C. 1962–17(a)) and shall be for a term not less than twenty-five years and not more than fifty years, as the Commission deems appropriate.

"(4) Amounts repaid under loans made pursuant to this subsection shall be deposited into the Treasury as miscellaneous receipts.

"(e) The Commission shall encourage applicants for licenses for small hydroelectric power projects to make use of public funds and other assistance for the design and construction of fish and wildlife facilities which may be required in connection with any development of such project.

"(f) In making grants and loans under this section and in issuing licenses for small hydroelectric power projects, the Commission shall encourage joint participation, to the extent permitted by law, by those eligible to receive grants or loans under this section.

"(g) Nothing in this section shall be construed to preclude licensees of small hydroelectric power projects from entering into contracts to sell electric energy to (1) any person for such person's consumption, or (2) any utility for resale under such terms and conditions as the Commission may approve.

"(h) Notwithstanding any other provision of Federal, State, or local law, licensees of small hydroelectric power projects shall not be charged for the water used to operate such small hydroelectric power project licensed under this Act except to the extent that such water is consumed by such project or results in costs being imposed on the supplier of such water, or, upon a finding by the Commission that such charge is necessary or appropriate in the public interest.

"(i) Every licensee of a small hydroelectric power project licensed pursuant to this Act shall furnish the Commission with such information as the Commission may require regarding equipment and services proposed to be used in the design, construction, and operation of such projects and the Commission shall have the right to forbid the use in such project of any such equipment or services it finds inappropriate for such project by reason of cost, performance, or failure to carry out the purposes of this section. The Commission may make public information it obtains under this subsection, other than information which may not be released pursuant to section 1905 of title 18, United States Code.

"(j) In the case of projects receiving both grants and loans under this section, the total amount of Federal funds expended for such project shall not exceed 75 percent of the total project cost.

"(k) Before issuing any license under this Act for the construction or operation of any small hydroelectric power project (whether or not in connection with an existing dam) the Commission—

"(1) shall assess the safety of existing structures in any proposed project (including possible consequences associated with failure of such structure), and

"(2) shall consult with the Council on Environmental Protection Agency, and the Department of Interior with respect to the environmental effects of such project.

Nothing in this subsection shall be deemed to exempt such project from any requirement applicable to any such project under the National Environmental Policy Act, the Fish and Wildlife Coordination Act, the Endangered Species Act, or any other provision of Federal law.

"(l) Nothing in this section authorizes the grant or loan of funds, or simple and expeditious licensing, for construction of any new dam or other impoundment.

"(m) There is hereby authorized to be appropriated for each of the fiscal years ending September 30, 1978, September 30, 1979, and September 30, 1980—

"(1) $50,000,000 for grants made pursuant to subsection (c); and

"(2) $50,000,000 for loans made pursuant to subsection (d), such funds to remain available until expended.

"(n) For purposes of this section, the term—

"(1) 'small hydroelectric power project' means any project of not more than twenty thousand horsepower (or fifteen thousand kilowatts) of installed capacity;

"(2) 'electric cooperative' means any cooperative association eligible to receive loans under section 4 of the Rural Electrification Act of 1936 (7 U.S.C. 904);

"(3) 'industrial development agency' means any agency which is permitted to issue obligations the interest on which is excludable from gross income under section 103 of the Internal Revenue Code of 1954;

"(4) 'project costs' means the cost of all facilities and services used in the design and construction of a project;

"(5) 'utility' means any person engaged in transmission, or distribution, or both, of electric energy for profit;

"(6) 'nonprofit organization' means any organization described in section 501(c)(3) or 501(c)(4) of the Internal Revenue Code of 1954 and exempt from tax under section 501(a) of such Code (but only with respect to a trade or business carried on by such organization which is not an unrelated trade or business, determined by applying section 513(a) to such organization);

"(7) 'existing dam' means any dam, the construction of which was completed on or before April 20, 1977, and which does not require any dam construction or enlargement (other than repairs or reconstruction) in connection with the installation of any small hydroelectric power project.".

SEC. 587. LICENSE CHARGES.

Section 10(e) of the Federal Power Act is amended by inserting before the period at the end thereof the following: ": *Provided further,* That, for licenses involving a Gov-

ernment dam issued subsequent to December 31, 1975, the annual charge shall be no more than $1 for each kilowatt of installed capacity".

SEC. 588. TRANSFERS OF AUTHORITY.

Notwithstanding section 4 of this Act, if the Federal Power Commission is terminated, any reference (other than a reference respecting licensing) in this chapter (or any amendment made therein) to the Federal Power Commission shall be deemed to be a reference to the officer, department, agency, or commission in which the principal functions of the Federal Energy Administration are vested, transferred, or delegated pursuant to law.

SEC. 589. CONDUIT HYDROELECTRIC FACILITIES.

Part I of the Federal Power Act is amended by adding the following new section at the end thereof:

"SEC. 31. (a) Except as provided in subsection (b) or (c), the Commission shall grant an exemption from the requirements of this part, including any license requirements contained in this part, to any facility (not including any dam or other impoundment) constructed, operated, or maintained for the generation of electric power which the Commission determines, by rule or order—

"(1) is located on non-Federal lands, and

"(2) utilizes for such generation only the hydroelectric potential of a manmade conduit, which is operated for the distribution of water for agricultural, municipal, or industrial consumption and not primarily for the generation of electricity.

"(b) The Commission shall not grant any exemption under subsection (a) to any facility the installed capacity of which exceeds 15 megawatts.

"(c) In making the determination under subsection (a), the Commission shall consult with the United States Fish and Wildlife Service and the State agency exercising administration over the fish and wildlife resources of the State in which the facility is or will be located, in the manner provided by the Fish and Wildlife Coordination Act (16 U.S.C. 661, et seq.), and shall include in any such exemption—

"(1) such terms and conditions as the Fish and Wildlife Service and the State agency each determine are appropriate to prevent loss of, or damage to, such resources and to otherwise carry out the purposes of such Act, and

"(2) such terms and conditions as the Commission deems appropriate to insure that such facility continues to comply with the provisions of this section and the terms and conditions included in any such exemption.

"(d) Any violation of a term or condition of any exemption granted under subsection (a) shall constitute a violation of a rule or order of the Commission under this Act."

PART VI—CONVERSION FROM NATURAL GAS AND PETROLEUM TO COAL AND OTHER FUEL RESOURCES

Subpart A—General provisions

SEC. 601. FINDINGS AND STATEMENT OF PURPOSES

(a) The Congress finds that the protection of public health and welfare, the preservation of natural security, and the regulation of interstate commerce require the establishment of a program for the expanded use, consistent with applicable environmental requirements, of coal and other fuels as primary energy sources for existing and new electric powerplants and major fuel-burning installations.

(b) The purposes of this part, which shall be carried out in a manner consistent with applicable environmental requirements, are—

(1) to reduce the importation of petroleum and increase the Nation's capability to use indigenous energy resources of the United States to the extent such reduction and use are in the best interests of the United States;

(2) to conserve natural gas and petroleum for uses other than as a boiler fuel or for the generation of electricity and to conserve such resources for the benefit of present and future generations;

(3) to encourage and foster the greater use of coal and other fuels, in lieu of natural gas and petroleum as a primary energy source for existing and new electric powerplants and major fuel-burning installations, and for other purposes;

(4) to encourage the use of synthetic gas derived from coal and, to the extent permitted by this part, to encourage the use of synthetic gas derived from coal mixed with natural gas;

(5) to prohibit or, as appropriate, minimize the use of natural gas and petroleum as a primary energy source for existing and new electric powerplants, major fuel-burning installations, and for other purposes;

(6) to require the improvement or modernization of existing and new electric powerplants and major fuel-burning installations, which utilize natural gas or petroleum as a primary energy source and which cannot utilize coal or other fuels, in order to conserve natural gas and petroleum;

(7) to require that existing and new electric powerplants and major fuel-burning installations which utilize petroleum, coal, or other fuels pursuant to this part comply with applicable environmental requirements;

(8) to insure that all Federal agencies utilize their authorities fully in furtherance of the purposes of this part by carrying out programs designed to prohibit or discourage the use of natural gas and petroleum as a primary energy source and by taking such action as lies within their authorities to maximize the efficient use of energy and conserve natural gas and petroleum in programs funded or carried out by such agencies;

(9) to insure that adequate supplies of natural gas are available for essential agricultural uses, including crop drying, seed drying, irrigation, fertilizer production, and production of essential fertilizer ingredients for such uses; and

(10) to reduce the United States' vulnerability to energy supply interruptions.

SEC. 602. DEFINITIONS.

For the purposes of this part—

(1) The term "Administrator" means the Administrator of the Federal Energy Administration.

(2) The term "person" means any individual, corporation, company, partnership, association, firm, institution, society, trust, joint venture, or joint stock company, or any State, the District of Columbia, Puerto Rico, and any territory or possession of the United States, or any agency or instrumentality thereof.

(3) The term "natural gas" means—

(A) natural gas, as defined in section 2(5) of the Natural Gas Act, other than—

(i) natural gas which is commercially unmarketable (either by reason of quality or quantity) as determined under rules prescribed by the Administrator; and

(ii) natural gas which is produced by the user from a well the maximum efficient production rate of which is less than 250 million Btu's per day;

(B) liquid petroleum gas; and

(C) synthetic gas derived from crude oil.

(4) The term "petroleum" means crude oil, residual fuel oil, and products derived from crude oil other than—

(A) synthetic gas derived from crude oil;

(B) liquid petroleum gas; and

(C) liquid, solid, or gaseous waste byproducts of refinery operations which are commercially unmarketable, as determined under rules prescribed by the Administrator.

(5) The term "coal" means anthracite and bituminous coal and lignite.

(6) The term "other fuels" means electricity or any fuel (other than coal, natural gas, or petroleum) and includes—

(A) petroleum coke, uranium, biomass, wood, and renewable and geothermal energy sources;

(B) synthetic gas derived from coal; and

(C) liquid, solid, or gaseous waste byproducts of refinery operations which are commercially unmarketable, as determined under rules prescribed by the Administrator.

(7) The terms "electric powerplant" and "powerplant" mean any electric generating unit, including a gas turbine or a combined cycle unit, which produces electric power for purposes of sale or exchange and—

(A) has the design capability of consuming any fuel (or mixture or combination thereof) at a fuel heat input rate of 100 million Btu's per hour or greater; or

(B) is a combination, of two or more electric generating units (excluding, if determined appropriate by rule by the Administrator, any such unit not having a design capability to consume any fuel (or mixture or combination thereof) at a fuel heat input rate of less than 100 million Btu's per hour) which are located at the same site and which in the aggregate have a design capability of consuming any fuel (or mixture or combination thereof) at a fuel heat input rate of 250 million Btu's per hour or greater.

Such terms do not include any such unit subject to the licensing jurisdiction of the Nuclear Regulatory Commission.

(8) The term "new electric powerplant" means—

(A) any electric powerplant (other than a peakload powerplant) the onsite construction or replacement of which, in accordance with final drawings or an equivalent design document approved by the State regulatory authority, had not commenced on or before April 20, 1977; or

(B) a peakload powerplant (i) the construction or acquisition of which, in whole or in part, had not been contracted for on or before April 20, 1977, or (ii) if contracted for on or before such date, the construction or acquisition of which could be canceled, rescheduled, or modified without—

(I) adversely affecting electric system reliability (as determined by the Administrator after consultation with the Federal Power Commission and the appropriate State regulatory authority), or

(II) incurring significant financial penalty (as determined under rules prescribed by the Administrator).

(9) The term "existing electric powerplant" means any electric powerplant other than a new electric powerplant.

(10) The terms "major fuel-burning installation" and "installation" mean a unit, other than an electric powerplant, consisting of a boiler, gas turbine unit, combined cycle unit, or internal combustion engine which—

(A) has a design capability of consuming any fuel (or mixture or combination thereof) at a fuel heat input rate of 100 million Btu's per hour or greater; or

(B) is a combination, of two or more such units (excluding, if determined appropriate by the Administrator, any such unit having a design capability to consume any fuel (or mixture or combination thereof) at a fuel heat input rate of less than 100 million Btu's per hour) which are located at the same site and which in the aggregate have a design capability of consuming such fuel at a fuel heat input rate of 250 million Btu's per hour or greater.

(11) The term "new major fuel-burning installation" means any major fuel-burning installation—

(A) the construction or acquisition of which, in whole or in part, had not been contracted for, on or before April 20, 1977; or

(B) if contracted for on or before such date, the construction or acquisition of which could be canceled, rescheduled, or

modified without incurring significant financial penalty (as determined under rules prescribed by the Administrator).

(12) The term "existing major fuel-burning installation" means any installation—

(A) which is not a new major fuel-burning installation, and

(B) which has the design capability of consuming any fuel (or mixture or combination thereof) at a fuel heat input rate of 300 million Btu's per hour or greater.

The provisions of subparagraph (B) shall not apply to exclude any installation from being considered an existing major fuel-burning installation if the Administrator finds, by order, that it is technically and financially feasible (as determined under rules prescribed by the Administrator), in view of the remaining useful life of such installation, for such installation to comply with the prohibitions to which such installation would be subject if it were treated as an existing major fuel-burning installation.

(13) The term "primary energy source" means the fuel or fuels used by any existing or new electric powerplant or major fuel-burning installation or the use of which by such powerplant or installation is technically feasible, except it does not include, as determined under rules prescribed by the Administrator—

(A) the minimum amounts of fuel required for boiler startup, testing, flame stabilization, and control uses, and

(B) the minimum amounts of fuel required to alleviate or prevent unanticipated equipment outages and emergencies directly affecting the health, safety, or welfare which would result from electric power outages.

(14) The term "site limitations" means, when used with respect to any powerplant or installation, specific limitations associated with a particular site which relate to the use of coal or other fuels as a primary energy source for such powerplant or installation, such as—

(A) inaccessibility to coal or other fuels;

(B) lack of transportation facilities for coal or other fuels;

(C) lack of adequate facilities for the handling and storage of coal or other fuels;

(D) lack of adequate means for the disposal of wastes from such powerplant or installation; and

(E) lack of an adequate and reliable supply of water for use in compliance with applicable environmental requirements.

(15) The term "applicable environmental requirements" includes—

(A) any Federal, State, or local government law, standard, limitation, or other requirement (including any final order of any Federal or State court) applicable to emissions of environmental pollutants (including air and water pollutants) or disposal of solid waste residues resulting from the use of coal or other fuels or natural gas or petroleum as a primary energy source or from the operation of air pollution control equipment in connection with such use; and

(B) any standard, limitation, or other requirement established by, or pursuant to, the Clean Air Act, the Federal Water Pollution Control Act, the Solid Waste Disposal Act, or the National Environmental Policy Act of 1969.

(16) The term "peakload powerplant" means a powerplant the generation of which in kilowatt hours does not exceed, for any 12-month period, such powerplant's design capacity multipled by 1,500 hours. Not later than 90 days after the date of the date of the enactment of this Act, the Federal Power Commission shall prescribe rules under which a powerplant's design capacity may be determined for purposes of this paragraph.

(17) The term "cost", unless the context indicates otherwise, means total costs (both operating and capital) incurred over the estimated useful life of an electric powerplant or major fuel-burning installation, discounted to present value, as determined by the Administrator in consultation with the State regulatory authority or other State agency, as appropriate. In the case of an electric powerplant, such costs shall take into account any change required in the use of existing electric powerplants in the relevant dispatching system and other economic factors which are included in planning for the production, transmission, and distribution of electric power within such system.

(18) The term "Btu" means British thermal unit.

(19) The term "Mcf" means, when used with respect to natural gas, 1,000 cubic feet of natural gas.

(20) The term "qualifying cogeneration facility" shall have the same meaning as given such term in section 546(b).

(21) The term "State regulatory authority" means any State agency which has ratemaking authority with respect to the sale of electricity by any electric utility.

(22) The term "electric utility" means any person or Federal agency which sells electric power.

(23) The term "Federal agency" has the same meaning as is given the term "agency" in section 551(1) of title 5, United States Code.

SEC. 603. EFFECT ON ENVIRONMENTAL REQUIREMENTS.

Except as provided in section 631, nothing in this part shall be construed as permitting any existing or new electric powerplant or major fuel-burning installation to delay or avoid compliance with applicable environmental requirements.

SEC. 604. TERRITORIAL EXPANSION.

The provisions of this part shall apply in all the States, Puerto Rico, and the territories and possessions of the United States, except that the provisions of sections 611, 612, and 613 shall only apply to powerplants and installations situated on lands within the contiguous 48 States, Alaska, and the District of Columbia.

Subpart B—Prohibitions; Exemptions

SEC. 611 NEW ELECTRIC POWERPLANTS.

(a) No new electric powerplant shall use natural gas as a primary energy source.

(b) No new electric powerplant shall use petroleum as a primary energy source.

(c) Any person who proposes to use petroleum or natural gas, or both, as a primary energy source for a new electric powerplant may file a petition with the Administrator requesting an exemption for such powerplant from the prohibition of such use under subsections (a) and (b).

(d) The Administrator, after consideration of a petition filed under subsection (c) for a temporary exemption and any comments thereon, shall grant such exemption, by order, for such period as the Administrator determines appropriate if he finds that the petitioner has demonstrated that for the period of the proposed exemption—

(1) despite diligent good faith efforts to obtain a contract or other arrangements for an adequate and reliable supply of coal or other fuels as a primary energy source, it is likely such supply will not be available to such powerplant;

(2) despite diligent good faith efforts, site likely such supply will not be available to expected to be overcome;

(3) the prohibitions of subsections (a) and (b) could not be satisfied without violating applicable environmental requirements; or

(4) the issuance of such exemption furthers the purposes of this part.

No exemption under this subsection, including any extensions or renewals thereof, may exceed a period of 5 years' duration.

(e) After consideration of a petition filed under subsection (c) requesting a permanent exemption and any comments thereon, the Administrator shall grant such permanent exemption, by order, if he finds that the petitioner has demonstrated that—

(1) there is no site at which—

(A) despite diligent good faith efforts to obtain a contract or other arrangements for an adequate and reliable supply of coal or other fuels as a primary energy source, it is likely that such supply will be available at a cost (taking into account associated facilities for the transportation and utilization of such fuel) which, based upon the best practicable estimates, does not substantially exceed the costs, as determined by rule by the Administrator, of using petroleum derived from imported crude oil as a primary energy source during the useful life of the powerplant;

(B) despite diligent good faith efforts, site limitations would permit the location of a powerplant using coal or other fuel as a primary energy source;

(C) the prohibitions of subsections (a) and (b) could be satisfied without violating applicable environmental requirements; and

(D) the required use of coal or other fuels would allow the petitioner to obtain adequate capital for the financing of such powerplant; or

(2) the issuance of such exemption furthers the purposes of this part.

(f) Before the Administrator grants any petition for an exemption under subsection (d) or (e), the Administrator shall submit a copy of the petition to the Federal Power Commission for the purpose of the Commission's certifying that there is no alternative supply of electric power which can be obtained without impairing reliability of service.

(g) In the case of any petition for a permanent exemption from the prohibitions of subsection (b) applicable to a new electric powerplant, the Administrator shall grant such exemption, by order, if the petitioner certifies that such powerplant is to be constructed and operated solely as a peakload powerplant.

(h) If the appropriate State regulatory authority has not approved a powerplant for which a petition for an exemption has been filed under subsection (c), such exemption may not take effect until the Administrator has determined that approval by such State regulatory authority has occurred.

(i) Any new electric powerplant issued an order before the effective date of this part pursuant to section 2(c) of the Energy Supply and Environmental Coordination Act of 1974 shall, notwithstanding the provisions of such section 2(c), be subect to the provisions of this part, except that if such order became final before such date, the preceding provisions of this section shall not apply to such powerplant. Nothing in this subsection shall be construed to affect the validity of any such final order or to require the Administrator to reissue any such order.

SEC. 612. NEW MAJOR FUEL-BURNING INSTALLATIONS

(a)(1) No new major fuel-burning installation which is a boiler shall use natural gas or petroleum, or both, as a primary energy source.

(2)(A) The Administrator may, by rule, prohibit categories (identified in such rule) of new major fuel-burning installations, other than boilers, from using natural gas or petroleum, or both, as a primary energy source. In identifying categories of new major fuel-burning installations pursuant to this subparagraph, the Administrator shall take into account any special circumstances or characteristics of each category of such installations (such as the technical feasibility of burning coal or other fuels and the size or location of such installations). Any

such rule shall not apply in the case of any new major fuel-burning installation subject to such rule pending a resolution of any petition for an exemption for such installation which may be filed with the Administrator not later than 60 days after such rule is published under section 621(g).

(B) The Administrator may, by order, prohibit any new major fuel-burning installation, other than a boiler, from using natural gas or petroleum, or both, as a primary energy source if such installation is not, at the time of the issuance of such order, in a category identified in a rule prescribed under subparagraph (A). The Administrator shall not issue an order under this subparagraph to any installation if it is demonstrated that such installation would have been granted an exemption, if such prohibition had been established by rule pursuant to subparagraph (A) rather than by order pursuant to this subparagraph.

(b) Any person who proposes to use petroleum or natural gas, or both, as a primary energy source for any new major fuel-burning installation may file a petition with the Administrator requesting an exemption for such installation from the prohibitions of subsection (a)(1) or (2)(A).

(c)(1) The Administrator, after consideration of a petition for a temporary exemption from the prohibitions of subsection (a)(1) or (2)(A) and any comments thereon, shall grant such exemption, by order, for such period as the Administrator determines appropriate, if he finds that the petitioner has demonstrated that for the period of the proposed exemption—

(A) despite diligent good faith efforts to obtain a contract or other arrangements for an adequate and reliable supply of coal or other fuels, it is likely such supply will not be available to such installation;

(B) despite diligent good faith efforts, site limitations exist which cannot reasonably be expected to be overcome;

(C) the prohibitions of subsection (a)(1) or (2)(A) could not be satisfied without violating applicable environmental requirements;

(D)(i) such installation is not technically capable of using coal; and

(ii) despite diligent good faith efforts to obtain a contract or other arrangements for an adequate and reliable supply of synthetic fuels derived from coal, such supply will not be available to such installation and the petitioner has a contract or other similar arrangement binding on the petitioner and the supplier of such fuels to provide such a supply at the end of the period of the proposed exemption; or

(E) the issuance of such exemption furthers the purposes of this part.

(2) No exemption under paragraph (1), including any extensions or renewals thereof, may exceed a period of 5 years' duration, except that any exemption based on subparagraph (1)(D) may, upon petition, be extended an additional period of 5 years. Notwithstanding the preceding provisions, any exemption based on subparagraph (1)(D) may not be effective after December 31, 1994.

(d)(1) After consideration of a petition requesting a permanent exemption from the prohibitions of subsection (a)(1) or (2)(A) and any comments thereon, the Administrator shall grant such permanent exemption, by order, if he finds that the petitioner has demonstrated that—

(A) there is no site proposed by the petitioner at which—

(i) despite diligent good faith efforts to obtain a contract or other arrangements for an adequate and reliable supply of coal or other fuel, it is likely that such supply will be available at a cost (taking into account associated facilities for the transportation and utilization of such fuel) which, based upon the best practicable estimates, does not substantially exceed the costs, as determined by rule by the Administrator, of using petroleum derived from imported crude oil as a primary energy source during the useful life of the installation;

(ii) despite diligent good faith efforts, site limitations would permit the location of an installation using coal or other fuels as a primary energy source;

(iii) the prohibitions of subsection (a)(1) or (2)(A) could be satisfied without violating applicable environmental requirements; and

(iv) the required use of coal or other fuels would allow the petitioner to obtain adequate capital for the financing of such installation;

(B) the issuance of such exemption furthers the purposes of this part; or

(C) in the case of any installation other than a boiler—

(i) the use of a primary energy source, other than natural gas or petroleum, is technically infeasible; and

(ii) a substitute heat source is not possible due to process requirements.

(2) The Administrator, upon the filing of a petition, may, by order, grant a permanent exemption from any prohibition under subsection (a)(1) or (2)(A) applicable to a new major fuel-burning installation, if the petitioner certifies that—

(A) such installation uses, or proposes to use, a mixture or combination of petroleum or natural gas and other fuels as a primary energy source, and

(B) the petroleum or natural gas used in such combination or mixture will not exceed, during any 12-calendar-month period, 25 percent of the total Btu heat input of the primary energy sources of such installation or a greater percentage which is the minimum percentage needed to maintain fuel efficiency of such mixture or combination, as determined under rules prescribed by the Administrator.

(e) Any new major fuel-burning installation issued an order before the effective date of this part pursuant to section 2(c) of the Energy Supply and Environmental Coordination Act of 1974 shall, notwithstanding the provisions of such section 2(c), be subject to the provisions of this part, except that if such order became final before such date, the preceding provisions of this section shall not apply to such installation. Nothing in this subsection shall be construed to affect the validity of any such order or to require the Administrator to reissue any such order.

SEC. 613. EXISTING ELECTRIC POWERPLANTS AND EXISTING MAJOR FUEL-BURNING INSTALLATIONS.

(a)(1) No existing electric powerplant—

(A) shall use natural gas as a primary energy source on or after January 1, 1990;

(B) if such powerplant used petroleum as a primary energy source on or before April 20, 1977, shall convert to the use of natural gas as a primary energy source; or

(C) shall use natural gas as a primary energy source in greater proportions than the average yearly proportion of natural gas which—

(i) such powerplant used as a primary energy source in calendar years 1974 through 1976, or

(ii) if such powerplant began operations on or after January 1, 1974, such powerplant used as a primary energy source during the first two calendar years of its operation.

(2) The Administrator may prohibit any existing electric powerplant from using petroleum or natural gas, or both, as a primary energy source, if—

(A) such powerplant had on April 20, 1977, or thereafter acquires, the technical capability to use coal or other fuels as a primary energy source; and

(B) the use by such powerplant of coal or other fuels as a primary energy source is financially feasible (as determined under rules prescribed by the Administrator).

(3) In the case of any existing electric powerplant in which it is technically and financially feasible (as determined under rules prescribed by the Administrator) to use—

(A) a mixture of coal or other fuels and petroleum as a primary energy source, or

(B) a combination of coal or other fuels and petroleum or natural gas as primary energy sources,

the Administrator may prohibit, by order, such powerplant from using petroleum or natural gas, or both, in amounts in excess of the minimum amount necessary to maintain fuel efficiency of such mixture or such combination.

(b)(1) The Administrator may prohibit any existing major fuel-burning installation from using petroleum or natural gas, or both, as a primary energy source, if—

(A) such installation had, on April 20, 1977, or thereafter acquires, the technical capability to use coal or other fuels as a primary energy source; and

(B) the use by such installation of coal or other fuels as a primary energy source is financially feasible (as determined under rules prescribed by the Administrator).

(2) In the case of any major fuel-burning installation in which it is technically and financially feasible (as determined under rules prescribed by the Administrator) to use—

(A) a mixture of coal or other fuels and petroleum as a primary energy source, or

(B) a combination of coal or other fuels and petroleum or natural gas as primary energy sources,

the Administrator may prohibit, by order, such installation from using petroleum or natural gas, or both, in amounts in excess of the minimum amounts necessary to maintain fuel efficiency of such mixture or such combination.

(c)(1) The prohibitions under subsection (a)(2) and subsection (b)(1) shall be established—

(A) by rule, in the case of powerplants or installations in a category of powerplants or installations, respectively, identified by the Administrator in such rule, or

(B) by order, in the case of any powerplant or installation which is not, at the time the proposed order is issued, within any such category.

(2) In prescribing any rule under paragraph (1)(A), the Administrator shall take into account any special circumstances or characteristics of each category of powerplants or installations (such as the technical feasibility of burning coal or other fuels and the size, age, or location of such powerplants or installations). Any such rule shall not apply in the case of any existing electric powerplant or major fuel-burning installation subject to such rule pending a resolution of any petition for any exemption for such powerplant or installation which may be filed with the Administrator not later than 60 days after such rule is published under section 621(g).

(d)(1) Any person who proposes to use natural gas or petroleum as a primary energy source for any existing powerplant or major fuel-burning installation, and such use would be prohibited under subsection (a)(1) or under any rule prescribed under subsection (a)(2) or subsection (b)(1), may file a petition with the Administrator requesting a temporary or permanent exemption for such powerplant or installation from such prohibition. The prohibition of subsection (a)(1)(A) shall be stayed with respect to any existing powerplant, pending a resolution of any petition for any exemption from such prohibition which is filed at any time after the effective date of this part, but at least one year before the date such prohibition first takes effect.

(2) The Administrator, after consideration of a petition for an exemption from a prohibition under subsection (a) (1) or (2) or subsection (b) (1) and any comments thereon, shall grant such exemption, by order, for such period as the Administrator determines appropriate if he finds that the petitioner has demonstrated that for the period of the proposed exemption—

(A) despite diligent good faith efforts to obtain a contract or other arrangements for an adequate and reliable supply of coal or other fuels as a primary energy source, it is likely such supply will not be available to such powerplant or installation at a cost (taking into account associated facilities for the transportation and utilization of such fuel) which, based upon the best practicable estimates, does not substantially exceed the costs, as determined by rule by the Administrator, of using petroleum derived from imported crude oil as a primary energy source during the useful life of the powerplant or installation;

(B) natural gas will be used as a primary energy source by the petitioner in a powerplant which is a peakload powerplant (determined only with regard to its usage of natural gas);

(C) despite diligent good faith efforts, site limitations exist which cannot reasonably be expected to be overcome;

(D) such prohibition could not be satisfied without violating applicable environmental requirements;

(E) in the case of an existing major fuel-burning installation—

(i) such installation is not technically capable of using coal; and

(ii) despite diligent good faith efforts to obtain a contract or other arrangements for an adequate and reliable supply of synthetic fuels derived from coal, such supply will not be available to such installation and the petitioner has a contract or other similar arrangement binding on the petitioner and the supplier of such fuels to provide such a supply at the end of the period of the proposed exemption;

(F) the issuance of such exemption furthers the purposes of this part;

(G) in the case of an existing major fuel-burning installation, the use of a primary energy source other than petroleum or natural gas is technically infeasible, and a substitute heat source is not possible due to process requirements; or

(H) in the case of an existing electric powerplant, the Federal Power Commission has certified that there is no alternative electric power supply which can be obtained without impairing reliability of service.

(3) The Administrator, upon the filing of a petition, may, by order, grant a permanent exemption from any prohibition under subsection (b) applicable to an existing major fuel-burning installation, if the petitioner certifies that—

(A) such installation uses, or proposes to use, a mixture or combination of petroleum or natural gas and any other fuels as a primary energy source, and

(B) the petroleum or natural gas used in such combination or mixture will not exceed, during any 12-calendar-month period, 25 percent of the total Btu heat input of the primary energy sources of such installation or a greater percentage which is the minimum percentage needed to maintain fuel efficiency of such mixture or combination, as determined under rules prescribed by the Administrator.

(4) If a petition is filed with the Administrator for a permanent exemption from the prohibitions of subsection (a) (1) (B) for the use of liquefied natural gas by a powerplant as a primary energy source, the Administrator shall grant such exemption, by order, if the Administrator of the Environmental Protection Agency has certified that the use of coal by such powerplant as a primary energy source would not comply with applicable environmental requirements.

(5) No exemption (other than a permanent exemption) under this subsection, including any extensions or renewals thereof, may exceed a period of 5 years' duration, except that—

(A) any exemption on paragraph (2) (E) may, upon petition, be extended an additional period of 5 years, but such exemption shall not be effective after December 31, 1994; and

(B) an exemption based on paragraph (2) (B) shall not be effective after December 31, 1994.

(6) The Administrator shall not issue an order under subsections (a) and (b) to any powerplant or installation if it is demonstrated that such powerplant or installation would have been granted an exemption if such prohibition had been established by rule pursuant to subsection (c) (1) (A) rather than by order.

(e) Upon publication of any proposed order under subsection (a) or (b) in the case of any existing major fuel-burning installation or upon the recipt of any exemption under this section, the Administrator shall request the Federal Trade Commission to evaluate the impact of the proposed order or a denial of the proposed exemption on competition and provide to the Administrator, within 120 days of receipt of such request, written views and recommendations, if any, concerning such impact. Any such views or recommendations shall be available to the public. The Administrator shall consider such views and recommendations in issuing any such order or exemption.

(f) (1) Notwithstanding any other provision of law, no proposed order under subsection (a) or (b) (or modification thereof) which may result in the use of coal as a primary energy source may be issued—

(A) until the Administrator of the Environmental Protection Agency notifies the Administrator under section 119(d) (1) (B) of the Clean Air Act, or

(B) if such notification is not given, until the date which the Administrator of the Environmental Protection Agency certifies, pursuant to section 119(d) (1) (B) of such Act, is the earliest date which the powerplant or installation will be able to comply with all applicable requirements of section 119 of such Act.

(2) Such order (or modification) shall not be effective during any period certified by the Administrator of the Environmental Protection Agency under section 119(d) (3) (B) of such Act. Notice or certification pursuant to this subsection shall be provided within 270 days of the date the Administrator of the Environmental Protection Agency receives notice of such proposed order (or modification).

(g) The provisions of this section shall not apply to any powerplant or installation for which an order issued pursuant to section 2(a) of the Energy Supply and Environmental Coordination Act of 1974 before the effective date of this part is pending or final or which, on review, was held unlawful and set aside on the merits. Nothing in this subsection shall be construed to affect the validity of any such order or be construed to require the Administrator to reissue any such order.

(h) The Administrator shall, by rule, require that existing electric powerplants which, on or after April 20, 1977, uses a mixture or combination of petroleum and coal or other fuels as a primary energy source may not increase their use of petroleum as a primary energy source unless a permit is issued by the Administrator authorizing such increased use of petroleum. Such permit shall be issued if—

(1) the Administrator finds that the petitioner has (A) demonstrated that the powerplant cannot comply with the requirements of the Clean Air Act, including any applicable implementation plan, as defined in section 110(d) of the Clean Air Act, without the issuance of a permit and (B) established the duration of the need for increased petroleum to comply with such plan; and

(2) the appropriate State regulatory authority, as determined by the Administrator, has certified to the Administrator that the increased use of petroleum by such powerplant is necessary to permit the powerplant to comply with such implementation plan.

Such permit shall be issued only for such period as the Administrator determines a need exists for such increased use of petroleum.

(i) In making a determination of financial feasibility under this section, the Administrator shall take into account costs, as defined in section 602(17).

SEC. 614. SUPPLEMENTAL NATURAL GAS BOILER FUEL CONVERSION AUTHORITY.

(a) The Administrator may, by rule, prohibit the use of natural gas as a primary energy source in any existing boiler (other than a major fuel-burning installation) if the Administration determines that—

(1) such boiler is used to produce steam for space heating purposes;

(2) such boiler had the capability on or before April 20, 1977, to use petroleum as a primary energy source;

(3) such boiler consumes 50 Mcf or more of natural gas per day on a peak day; and

(4) such prohibition is consistent with the purposes of this part.

(b) The Administrator may, by rule, prohibit the use of natural gas as a primary energy source in any new boiler (other than a major fuel-burning installation) if the Administrator determines that—

(1) such boiler will be used to produce steam for space heating purposes;

(2) such boiler will consume 50 Mcf or more of natural gas per day on a peak day; and

(3) such prohibition is consistent with the purposes of this part.

(c) The Administrator shall exempt any person from any rule prescribed pursuant to subsection (a) or (b) if such person demonstrates to the Administrator that an adequate and reliable source of petroleum is not likely to be available to such person during the period of exemption.

(d) For purposes of this section—

(1) The term "new boiler" means any boiler the construction of which the Administrator determines commenced on or after the date of the enactment of this section.

(2) The term "existing boiler" means any boiler other than a new boiler.

SEC. 615. PROHIBITION ON USE OF NATURAL GAS FOR DECORATIVE OUTDOOR LIGHTING.

(a) Not later than 180 days after the effective date of this part, the Administrator shall, by rule, prohibit any natural gas pipeline or local distribution company from providing natural gas service to any residential, commercial, or industrial customer for use in outdoor lighting. The Administrator shall take into account any special circumstances or characteristics in prescribing such rule.

(b) The Administrator shall, by order, exempt any natural gas pipeline or local distribution company from the rule required to be prescribed under subsection (a) concerning the continuation of such service in effect on the date of the enactment of this Act upon the filing of a petition therefor by such pipeline or company, or by any interested person. Such exemption shall be for such period as, and to the extent that, the Administrator finds—

(1) such exemption is necessary to protect public safety;

(2) such exemption is necessary to permit the installation of substitute lighting where

no outdoor lighting (other than that using natural gas) exists on the date of the enactment of this Act;

(3) compliance with such rule would entail extraordinary expense by the petitioner and would not be cost justified; or

(4) the issuance of the exemption furthers the purposes of this part.

(c) As used in this section, the term "outdoor lighting" means lighting by any stationary source which is not located inside any building.

SEC. 616. EXEMPTION FOR QUALIFYING COGENERATION FACILITIES.

The Administrator, upon the filing of a petition, may, by order, grant an exemption from any prohibition under this subpart applicable to any qualifying cogeneration facility, if—

(1) he finds that the petitioner has demonstrated that economic and other benefits of cogeneration are unobtainable unless petroleum or natural gas, or both, are used in such facility, and

(2) includes in the order a statement of the basis for such finding.

SEC. 617. EXEMPTION FOR HIGH BTU SYNTHETIC DERIVED FROM COAL.

(a) Any person who is prohibited by any provision of section 611, 612, 613, or 614, or any rule or order, thereunder from using natural gas as a primary energy source may petition for a permanent exemption from such prohibition pursuant to this section.

(b) The Administrator shall grant an exemption, by order, from any prohibition on the use of natural gas as a primary energy source under this part or any rule or order thereunder if the Administrator finds that the petitioner has demonstrated that—

(1) such petitioner owns, or is entitled to receive, at the point of manufacture, synthetic gas derived from coal;

(2) the Btu content of such synthetic gas is equal to, or greater than, the Btu content of the natural gas to be covered by such exemption plus the approximate Btu content of any natural gas consumed or lost in transportation;

(3) such petitioner delivers, or arranges for the delivery of, such synthetic gas to a pipeline or pipelines which by transport or displacement are capable of delivering such synthetic gas, mixed with natural gas, to such person;

(4)(A) in the case of any such transportation in interstate commerce (within the meaning of the Natural Gas Act), such transportation has been certified by the Federal Power Commission;

(B) in the case of any other transportation, such transportation has been approved by the State authority which exercises regulatory jurisdiction over the rates and charges applicable to such transportation; and

(5) all necessary permits, licenses, or approvals from appropriate Federal, State, and local agencies (including Indian tribes) have been obtained for construction or operation of the facilities for the manufacture of the synthetic gas involved.

(c) In granting any exemption under this section, the Administrator shall, after consultation with the Federal Power Commission, consider the appropriateness of the use of the synthetic gas involved for the benefit of the petitioner rather than for possible uses, including residential and small commercial users which consume less than 50 Mcf of natural gas per day on a peak day.

(d) Nothing in this part shall be construed as affecting the use by any major fuel-burning installation of synthetic gas which is derived from coal and which is not mixed with natural gas as the primary energy source of such installation.

(e) If, at the time the Administrator makes his findings under subsection (b), the petitioner has not demonstrated that all necessary permits, licenses, and approvals from appropriate Federal, State, and local agencies (including Indian tribes) have been obtained for the construction and operation of the facilities for the manufacture of the synthetic gas with respect to which such exemption is sought under this section, such exemption, if granted, shall not be effective until the Administrator determines that such permits, licenses, and approvals have been obtained.

SEC. 618. TERMS AND CONDITIONS OF EXEMPTIONS.

Any exemption from any prohibition under this subpart shall be on such terms and conditions as the Administrator determines appropriate, including, in the case of any such exemption (other than from a prohibition under section 615), terms and conditions requiring the use of effective fuel conservation measures which are practicable and consistent with the purposes of this part. The terms and conditions applicable in the case of any temporary exemption shall be designed to insure that upon the expiration of such exemption, the persons covered by such will comply with the otherwise applicable prohibitions.

Subpart A—Enforcement; Administration

SEC. 621. ADMINISTRATIVE PROCEDURES.

(a) Except to the extent otherwise provided in this section, rules prescribed under this part shall be made in accordance with the procedures set forth in section 553 of title 5, United States Code.

(b) Before prescribing any rule or issuing any order imposing a prohibition under this part, the Administrator shall publish such proposed rule or order in the Federal Register, together with a detailed statement of the reasons for such rule or order, and in the case of a rule, a detailed statement of any special circumstances or characteristics required to be taken into account in prescribing such rule. In the case of any such order, a copy shall be transmitted to the person who operates any such powerplant or installation subject to such order.

(c) Any petition for an exemption from any prohibition under this part or for any permit under section 613(h), shall be filed at such time and shall be in such form as the Administrator shall by rule prescribe. The Administrator, upon receipt of such petition, shall publish a notice thereof in the Federal Register together with a detailed summary of the reasons set forth in such petition for requesting such exemption or permit, and provide a minimum of 45 days for written comments thereon. Rules required under this subsection shall be prescribed not later than 90 days after the date of the enactment of this Act.

(d) Any denial of any petition for an exemption or a permit under this part shall be published in the Federal Register, together with the reasons for such action.

(e) In the case of any rule or order by the Administrator imposing a prohibition or prohibition or granting an exemption (or permit) under this part, any interested person shall be afforded an opportunity to present oral data, views, and arguments, including an opportunity, by means of conferences or other informal procedures, to question—

(1) other interested persons who have made oral presentations, and

(2) employees and contractors of the United States who have made written or oral presentations or who have participated in the development of the proposed rule or order, with respect to disputed issues of material fact, but only to the extent the Administrator determines that such questioning is likely to result in a more timely and effective resolution of such issues.

(f) A transcript shall be kept of any oral presentation made in accordance with this section.

(g)(1) Any rule or order to be prescribed by the Administrator imposing a prohibition or granting an exemption (or permit) under this part shall be published in the Federal Register and shall not take effect earlier than the 60th day after such rule or order is published.

(2) Any person aggrieved by a rule or order referred to in paragraph (1) or in section 631, or by the denial of such a rule or order, may at any time before the 60th day after the date such rule or order is prescribed (or denied), file a petition with the United States court of appeals for the circuit wherein such person resides, or has his principal place of business, for judicial review thereof. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Administrator. Such agency thereupon shall file in the court the written submissions to, and transcript of, the written or oral proceedings on which the rule was based as provided in section 2112 of title 28, United States Code.

(3) Upon the filing of the petition referred to in paragraph (2), the court shall have jurisdiction to review the rule or order (or denial thereof) in accordance with chapter 7 of title 5, United States Code, and to grant appropriate relief as provided in such chapter. No rule or order (or denial thereof) may be affirmed unless supported by substantial evidence.

(4) The judgment of the court affirming or setting aside, in whole or in part, any such rule or order (or denial thereof) shall be final, subject to review by the Supreme Court of the United States upon certain certiorari or certification as provided in section 1254 of title 28, United States Code.

(5) A copy of any proposed rule or order to be prescribed or issued by the Administrator which imposes a prohibition under this part (other than under section 614, 615, or 632), or which grants an exemption, shall be transmitted by the Administrator to the Administrator of the Environmental Protection Agency and the Administrator shall request such agency to comment thereon within the period provided to the public unless a longer period as provided by the Clean Air Act. In any such case, the Administrator of the Environmental Protection Agency shall be afforded the same opportunity to comment and question as is provided other interested persons under subsection (e).

(6) The Administrator, within 6 months after the initial public comment period applicable to any petition for an exemption or permit, shall grant or deny such exemption or permit, except that the Administrator may publish a notice in the Federal Register extending such period to a specified date. Such notice shall include the reasons for such extension.

SEC. 622. ENFORCEMENT AND PENALTIES.

(a)(1) Any person who violates any provision of this part, or rule or order thereunder, shall be subject to a civil penalty, which shall be assessed by the Administrator, of not more than $25,000 for each violation. Each day of violation shall constitute a separate violation.

(2) In the case of any electric powerplant granted an exemption as a peakload electric powerplant, any person who operates such powerplant during any 12-calendar-month period in excess of that authorized in such exemption, shall be liable for a civil penalty, which shall be assessed by the Administrator. The amount of such civil penalty may not exceed an amount equal to $10 per barrel of oil or $3 per Mcf of natural gas used in operation of such powerplant in excess of that authorized in such exemption.

(3) Any person operating a major fuel-burning installation granted an exemption under section 612(d)(2) or section 613(d)(3) which, for any 12-calendar-month period, uses petroleum or natural gas, or both, in excess of that use allowed by such exemption shall be liable for a civil penalty, which shall be assessed by the Administrator. The amount of such civil penalty may not exceed an amount equal to $10 per barrel of oil or $3 Mcf of natural gas which were used in excess of such use allowed by such exemption.

(4) Before assessing against any person any civil penalty under this title, the Administrator shall provide to such person notice of the proposed penalty. The determination to assess a civil penalty after such notice shall be made on the record after an opportunity for an agency hearing pursuant to section 554 of title 5, United States Code. The order of the Administrator assessing such penalty shall state the Administrator's findings and the basis for such assessment. If the person against whom a civil penalty is assessed fails to pay the penalty within the time prescribed in such order, the Administrator shall file a petition for enforcement of such order in any appropriate district court of the United States. A copy of the petition shall promptly be sent by registered or certified mail to the person against whom such order is sought to be enforced. At the time a petition for enforcement of such an order is filed, the Administrator shall certify and file in such court the record upon which such order was issued. The court shall have jurisdiction to enter a judgment enforcing, modifying, and enforcing as so modified, or setting aside in whole or in part, the order of the Administrator, or the court may remand the proceeding to the Administrator for such further action as the court may direct.

(b) Any person who willfully violates any provision of this part, or rule or order thereunder, shall be subject to a fine of not more than $50,000, or by imprisonment for not more than one year, or both, for each violation.

(c) Any individual director, officer, or agent of a corporation who willfully authorizes, orders, or performs any of the acts or practices constituting in whole or in part a violation of this part, or rule or order thereunder, shall be subject to penalties under this section without regard to any penalties to which the corporation may be subject, except that no such individual director, officer, or agent shall be subject to imprisonment under subsection (b), unless he also knows, or reasonably should have known, of notice of noncompliance received by the corporation from the Administrator.

(d) No person shall be subject to any penalty under this section with respect to the operation of any powerplant in excess of that allowed by an exemption granted on the basis of the operation of such powerplant as a peakload powerplant if it is demonstrated to the Administrator that such operation was necessary to meet peakload demand and that other peakload powerplants within the same system as such powerplant were unavailable for service due to unit or system outages.

(e) Whenever it appears to the Administrator that any person has engaged, is engaged, or is about to engage in acts or practices constituting a violation of this part or any rule or order thereunder, the Administrator may request the Attorney General to bring a civil action to enjoin such acts or practices, and, upon a proper showing, shall grant, without bond, mandatory or prohibitive injunctive relief, including interim equitable relief.

SEC. 623. CITIZENS SUITS.

(a) Except as otherwise provided in subsection (b), any aggrieved person may commence a civil action for mandatory or prohibitive injunctive relief, including interim equitable relief, against—

(1) any person who is alleged to be in violation of any provision of this part, or any rule or order thereunder; or

(2) any Federal agency which has a responsibility under this part if there is an alleged failure of such agency to perform any act or duty under this part which is not discretionary.

The United States district courts shall have jurisdiction over actions brought under this section, without regard to the amount in controversy or the citizenship of the parties.

(b) No action may be commenced—

(1) under subsection (a)(1)—

(A) before the 60th day after the date on which the plaintiff has given notice of the violation (i) to the Administrator, and (ii) to any alleged violator of such provision, rule, or order; or

(B) If the Administrator has commenced and is diligently prosecuting a civil action to require compliance with such provision, rule, or order, but, in any such action, any person may intervene as a matter of right; or

(2) under subsection (a)(2), before the 60th day after the date on which the plaintiff has given notice of such action to the Administrator.

Notice under this subsection shall be given in such manner as, the Administrator shall prescribe by rule.

(c) In any action brought under subsection (a), the Administrator, if not a party, may intervene as a matter of right.

(d) The court, in issuing any final order in any action brought under subsection (a), may award costs of litigation (including) reasonable attorney and expert witness fees) to any party, whenever the court determines such award is appropriate.

(e) Nothing in this section shall restrict any right which any aggrieved person (or class of aggrieved persons) may have under any statute or common law to seek enforcement of this part or any rule thereunder, or to seek any other relief (including relief against the Administrator).

(f) For purposes of this section, if a person owning, operating, or controlling any electric powerplant or major fuel-burning installation complied in good faith with a provision, rule, or order under this part, then he shall not be deemed to have violated any provision of this part by reason of the invalidity of such provision, rule, or order.

SEC. 624. PRESERVATION OF CONTRACTUAL RIGHTS.

(a) The provisions of this section shall apply to any natural gas the use of which is prohibited by the provisions of section 611, 612, 613, or 614, or any rule or order thereunder.

(b)(1) Any person who receives such natural gas for such prohibited use pursuant to a firm service contract, in effect on April 20, 1977, between such person and any interstate pipeline, may transfer all or any portion of his interests under such contract to such interstate pipeline and receive in consideration therefor just compensation (as determined by the Administrator) from such pipeline.

(2)(A) Any person who receives such natural gas for such prohibited use pursuant to a contract, in effect on April 20, 1977, between such person and any person other than an interstate pipeline, may transfer his contractual interests under such contract to any person and receive in consideration therefor just compensation (as determined by the Administrator) from the person to whom such contractual rights are transferred.

(B) Any person who would have transported or distributed the natural gas subject to a contract with respect to which contractual interests are transferred to any other person pursuant to subparagraph (A) shall be entitled to receive just compensation (as determined by the Administrator) from the person to whom contractual rights are transferred.

(c)(1) Any provision of any contract which prohibits any transfer authorized by subsection (b) or terminates such contract on the basis of such transfer shall be unenforceable in any court of the United States and in any court of any State.

(2) No State may enforce any prohibition on any transfer authorized by subsection (b).

(d) For purposes of this section—

(1) The term "just compensation" means—

(A) in the case of paragraphs (1) and (2) (A) of subsection (b), an amount not to exceed the amount by which—

(i) the reasonable costs (excluding capital costs) incurred during the remainder of the period of the contract described in subsection (b) and directly associated with the use of an alternative fuel by the applicable existing electric powerplant or major fuel-burning installation,

(ii) exceeds the price of natural gas, to which the provisions of this section apply, during such period; and

(B) in the case of subsection (b)(2)(B), an amount equal to any loss of revenue, during the remaining period of the contract with respect to which contractual interests are transferred pursuant to subsection (b)(2), to the extent such loss is directly incurred by reason of the discontinuation of the transportation or distribution of natural gas resulting from the transfer of contractual interests pursuant to subsection (b)(2) and is not offset by revenues derived from other transportation or distribution which would not have occurred if contractual interests had not been transferred.

(2) The term "interstate pipeline" means—

(A) any person who transports natural gas, the transportation of which is subject to the jurisdiction of the Federal Power Commission; and

(B) any person who receives natural gas, from a person described in subparagraph (A), for distribution to ultimate consumers.

(3) The term "contractual interests", with respect to a contract described in subsection (b)(1), includes the right to receive natural gas as affected by any applicable curtailment plan of the interstate pipeline filed with the Federal Power Commission or State regulatory authority.

(4) The term "State" means each of the several States, the District of Columbia, Puerto Rico, any territory or possession of the United States, and any political subdivision of any of the foregoing.

(e) For purposes of paragraphs (1) and (2) (A) of subsection (b), in determining the amount of just compensation the Administrator shall, to the maximum extent practicable, apply any liquidated damages provision set forth in the applicable contract, but in no event may such amount exceed the maximum prescribed in subsection (d)(1)(A).

(f) The amount paid by any interstate pipeline pursuant to any transferred contractual interests and any amount paid by such pipeline as just compensation pursuant to subsection (b) shall be deemed just and reasonable for purposes of sections 4, 5, and 7 of the Natural Gas Act. If a transfer of contractual interests pursuant to subsection (b) requires the sale of natural gas to an interstate pipeline by any person other than the person whose contractual interests are transferred, such former person and such sale shall thereby become subject to the jurisdiction of the Federal Power Commission under the Natural Gas Act.

(g) No supplier of natural gas under any contract, with respect to which contractual

interests have been transferred under this section, shall be required to supply natural gas in volume amounts which, on an annual basis, exceeds the lesser of—

(1) the annual volume determined by reference to maximum delivery obligations specified in such contract;

(2) the volume which would have been delivered or for which payment would have been made during such annual period pursuant to such contract but for the application of section 611, 612, 613, or 614 of this part; or

(3) the volume actually delivered or for which payment would have been made pursuant to such contract during the 12-calendar-month period ending immediately before such transfer of contractual interests pursuant to this section.

SEC. 625. INFORMATION.

(a) For purposes of carrying out his responsibilities under this part, the Administrator may require, under the authority of this part or any other authority administered by him, any person owning, operating, or controlling any new or existing electric powerplant or major fuel-burning installation or any other person otherwise subject to this part to submit such information and reports of any kind or nature directly to the Administrator with respect to implementing the provisions of this part and insuring compliance with the provisions of this part and any rule or order thereunder. The provisions of section 11(d) of the Energy Supply and Environmental Coordination Act of 1974 shall apply with respect to information obtained under this section to the same extent and in the same manner as it applies with respect to energy information obtained under such section.

(b) In the case of responsibilities expressly given by this part to the President or the Federal Power Commission, subsection (a) shall be applied as if the references to the Administrator were references to the President or the Federal Power Commission, as the case may be.

Subpart D—Miscellaneous Provisions

SEC. 631. EMERGENCY POWERS OF THE PRESIDENT.

(a) If the President—

(1) declares a severe energy supply interruption, as defined in section 3(8) of the Energy Policy and Conservation Act, or

(2) finds, and publishes such finding, that a national or regional fuel supply shortage exists or may exist which the President determines—

(A) is, or is likely to be, of significant scope and duration, and of an emergency nature;

(B) causes, or may cause, major adverse impact on public health, safety, or welfare or on the economy; and

(C) results, or is likely to result, from an interruption in the supply of coal or from sabotage, or an act of God;

the President may, by order, allocate coal to any electric powerplant or major fuel-burning installation, in accordance with such terms and conditions as he may prescribe, to insure reliability of electric service or prevent unemployment, or both.

(b) In the event the President declares a severe energy supply interruption, as defined in section 3(8) of the Energy Policy and Conservation Act, the President may, by order, prohibit any new or existing electric powerplant or major fuel-burning installation from using natural gas or petroleum, or both, as a primary energy source for the period specified in the order. Any such order may authorize a waiver or modification of any Federal, State, or local law, standard, limitation, or other requirement applicable to emissions of environmental pollutants or any applicable environmental requirement if the President finds, and publishes such finding in the Federal Register, that such waiver or modification is necessary by reason of the prohibitions of such order (and the supply interruption on which it is based) and that no alternative means are practicable which would result in compliance with such environmental requirements. Any such waiver or modification shall be made under such terms and conditions as the President may prescribe to insure compliance with applicable environmental requirements to the maximum extent practicable under the circumstances. Such waiver or modification may cause or contribute to a violation of a primary ambient air quality standard only to the extent the President finds and publishes his finding that no alternative means are practicable to avoid such violation.

(c) The President may, by order, stay the application of any provisions of this part, or any rule or order thereunder—

(1) in the case of any provision, rule, or order applicable to any new or existing electric powerplant, if the Federal Power Commission finds, and publishes such finding, that an emergency exists, due to national, regional, or systemwide shortages of coal or other fuels, or disruption of transportation facilities, which emergency is likely to affect reliability of service of any such electric powerplant; and

(2) in any other case, to the extent the President determines is necessary to alleviate or prevent any emergency adversely affecting the public health, safety, or welfare.

(d)(1) Except as provided in paragraph (3), any order issued by the President under this section shall not be effective for longer than the duration of the interruption or emergency, or 90 days, whichever is less.

(2) Any such order may be extended by a subsequent order which the President shall transmit to the Congress in accordance with section 551 of the Energy Policy and Conservation Act. Such order shall be subject to congressional review pursuant to such section.

(3) Notwithstanding paragraph (1), any order issued under this section shall remain effective throughout the 15-calendar-day period during which any order described in paragraph (2) is subject to congressional review under section 551 of the Energy Policy and Conservation Act.

(e) The authority of the President to issue any order under this section may not be delegated. This subsection shall not be construed to prevent the President from directing any Federal agency to issue rules or regulations implementing such order.

(f) Any order issued under this section shall be published in the Federal Register. To the greatest extent practicable, the President shall, before issuing any order under this section, but in no event later than 5 days after issuing such order, report to Congress of his intention to issue such order and state his reasons therefor.

SEC. 632. FEDERAL ACTIVITIES.

(a) No Federal facility (or unit thereof)—

(1) constructed by or on behalf of the United States or any agency or instrumentality thereof, after the effective date of this part, or

(2) effective beginning January 1, 1985, owned by the United States or any agency or instrumentality thereof,

shall use natural gas as the primary energy source for such facility or unit, unless the President determines in each case and informs the Congress of his determination, and the reasons therefor, that such use is necessary for national security reasons or to meet other requirements of law. The President shall review each such determination every two years and submit a report to the Congress on the results of such review. Any such facility permitted to use natural gas by the President shall establish and carry out effective fuel conservation measures, as determined by the Administrator.

(b) In order to implement the purposes of this part, the President shall, not later than 30 days after the effective date of this part, cause to be issued an order—

(1) requiring each Federal agency which is empowered to extend Federal assistance by way of grant, loan, contract, or other form of financial assistance, to promptly effectuate the purposes of this part, particularly those relating to the conservation of petroleum and natural gas, by rule, in such contracting or assistance activities within 180 days after issuance of such order, and

(2) setting forth procedures, sanctions, penalties, and such other provisions, as the President determines necessary to carry out such requirement effectively, including procedures for each agency to annually transmit to the President, and make available to the public, a report on the actions taken and to be taken to implement such order.

(c) The President may exempt by order any specific grant, loan, contract, or other form of financial assistance from all or part of the provisions of this section if he determines such exemption is in the national interest. The President shall notify the Congress in writing of such exemption at least 60 days before it is effective.

(d) The President shall annually submit a detailed report to the Congress on the actions taken to implement this section, including the progress and problems associated with implementation of this section.

SEC. 633. IMPACT ON EMPLOYEES.

(a) The Administrator shall conduct continuing evaluations of potential loss or shifts of employment which may result from the issuance of any rule or order imposing any prohibition under this part, including, if appropriate, investigating threatened plant closures or reductions in employment allegedly resultng from such rule or order. The results of such evaluations and each investigation shall promptly be made available to the public.

(b) On a written request filed with the Administrator by or on behalf of any employee who is discharged or laid off, threatened with discharge or layoff, or otherwise discriminated against, by any person because of the alleged effects of any such rule or order, the Administrator shall investigate the matter and, at the request of any party, shall hold public hearings, after not less than 30 days notice, at which the Administrator shall require the parties, including any employer involved, to present information on the actual or potential effect of such rule or order on employement and on any alleged employee discharge, layoff, or other discrimination relating to rule or order and the detailed reasons or justification therefor. At the completion of such investigation, the Administrator shall make findings of fact as to the effect of such rule or order on employment and on the alleged employee discharge, layoff, or discrimination and shall make such recommendations as he deems appropriate. Such report, findings, and recommendations shall be available to the public.

(c) Nothing in this section shall be construed to require or authorize the Administrator to modify or withdraw any rule or order under this part.

SEC. 634. ANNUAL REPORT.

The Administrator shall submit to the Congress on March 1 of each year a detailed report prepared by him in conjunction with the Administrator of the Environmental Protection Agency of the actions taken under this part and under section 2 of the Energy Supply and Environmental Coordination Act of 1974 during the preceding calendar year, and the actions to be taken. Each such

report shall include data on the effectiveness of this part in achieving the purposes of this part.

SEC. 635. AUTHORIZATION OF APPROPRIATIONS.

(a) There is authorized to be appropriated to the Administrator for fiscal year 1978 $11,500,000, including such sums as are authorized in section 29 of the Federal Energy Administration Act of 1974, to carry out the provisions of this part (other than section 636(a)) and section 2 of the Energy Supply and Environmental Coordination Act of 1974.

(b) There is authorized to be appropriated to the Administrator of the Environmental Protection Agency $2,000,000 in fiscal year 1978 for the report required under section 636(a).

SEC. 636. STUDIES.

(a) The Administrator of the Environmental Protection Agency shall conduct, on a continuing basis, a program of monitoring, to the greatest extent possible and in accordance with the applicable authorities and provisions of the Clean Air Act, the emissions from new and existing electric powerplants and major fuel-burning installations required to use coal or other fuels by reason of this part or otherwise using coal or other fuels and the effect thereof on the public health, safety, and welfare. Such Administrator shall submit an annual report to the Congress on such program. In carrying out his responsibilities under this section, the Administrator of the Environmental Protection Agency shall consult with the other Federal and State agencies concerned with the health effects of such emissions.

(b) The Administrator, in consultation with the National Governors' Conference, other Federal agencies, interested persons, and organizations, shall conduct a study of the socioeconomic impacts of expanded coal production on States, including local communities, and on the public, including the adequacy of housing and public, recreational, and cultural facilities for coal miners and their families and the effect of any Federal or State laws or regulations on providing such housing and facilities. Within 1 year after the date of the enactment of this part, the Administrator shall submit a detailed report on the results of such study to the Congress, together with any recommendations for legislation he may consider appropriate.

(c) The Administrator shall conduct a detailed study of the uses of petroleum and natural gas as a primary energy source for combustors. In conducting such study, the Administrator shall—

(1) identify those categories of major fuel-burning installations in which the substitution of coal or other fuels for petroleum and natural gas is economically and technically feasible, and

(2) determine the estimated savings of natural gas and petroleum expected from such substitution.

Within 1 year after the date of the enactment of this part, the Administrator shall submit a detailed report on the results of such study to the Congress, together with any recommendations for legislation he may consider appropriate.

SEC. 637. EFFECTS OF OTHER LAWS ON PROCEDURES.

The procedures applicable under this part, or section 2 of the Energy Supply and Environmental Coordination Act of 1974, shall not—

(1) be considered to be modified or affected by any other provision of law unless such other provision specifically amends such part or section, or

(2) be considered to be superseded by any other provision of law unless such other provision does so in specific terms, referring to this part or such section, and declaring that such provision supersedes this part or such section.

SEC. 638. CONFORMING AMENDMENTS

(a) Section 11(g) of the Energy Supply and Environmental Coordination Act of 1974 is amended—

(1) by striking out paragraph (2), and

(2) in paragraph (1) by striking out "(g)(1)" and inserting in lieu thereof "(g)".

(b) The preceding provisions of this part shall not affect any order issued under subsection (a), or any final order under subsection (c), of section 2 of such Act, and the authority of the Administrator to amend, repeal, rescind, modify, or enforce any such order, or rules applicable thereto shall remain in effect nothwithstanding any limitation of time otherwise applicable to such authority. Except as provided in the preceding sentence, the authority of the Administrator under such section 2 of such Act shall terminate on the effective date of this part.

SEC. 639. EFFECTIVE DATES.

Unless otherwise provided in this part, the provisions of this part shall take effect 180 days after the date of the enactment of this Act, except that the Administrator may issue rules pursuant to such provisions at any time after such date of enactment, which rules may take effect no earlier than 180 days after such date of enactment.

PART VII—FEDERAL ENERGY INITIATIVES

Subpart A—Amendment to Section 381 of Energy Policy and Conservation Act

SEC. 701. CONSERVATION PLAN AUTHORIZATION.

Section 381 of the Energy Policy and Conservation Act is amended by adding at the end thereof the following new subsections:

"(e) The plan developed by the President pursuant to subsection (a)(2) shall be applicable to Executive agencies as defined in section 105 of title 5, United States Code, and to the United States Postal Service.

"(f) In addition to funds authorized in any other law, there is authorized to be appropriated to the President for fiscal year 1978 not to exceed $25,000,000, and for fiscal year 1979 not to exceed $50,000,000, to carry out the purposes of subsection (a)(2).".

Subpart B—Demonstration of Solar Heating and Cooling in Federal Buildings

SEC. 721. DEFINITIONS.

As used in this subpart—

(1) The term "agency" means—

(A) an Executive agency as defined in section 105 of title 5, United States Code; and

(B) each entity enumerated in subparagraphs (B) through (H) of paragraph (1) of section 5721 of title 5, United States Code.

(2) The term "building" means any structure owned by the United States or any agency, including any such structure occupied by an agency under a lease-acquisition agreement under which the United States or an agency will receive fee simple title under the terms of such agreement without further negotiation.

(3) The term "solar heating" means, with respect to any building, the use of solar energy to meet all or part of the heating needs of such building (including hot water), or all or part of the needs of such building for hot water (where its remaining heating needs are met by other methods).

(4) The term "solar heating and cooling" means, with respect to any building, the use of solar energy to provide all or part of the heating needs of such building (including hot water) and all or part of the cooling needs of such building, or all or part of the needs of such building for hot water (where its remaining heating needs are met by other methods) and all or part of the cooling needs of such building.

(5) The term "solar energy equipment" means equipment for solar heating and solar heating and cooling.

(6) The term "Administrator" means the Administrator of the Federal Energy Administration.

SEC. 722. FEDERAL SOLAR PROGRAM.

The Administrator shall develop and carry out a program to demonstrate the application to buildings of solar heating and solar heating and cooling technology in Federal buildings.

SEC. 723. DUTIES OF ADMINISTRATOR.

(a) In exercising the authority provided by section 722, the Administrator shall—

(1) solicit and consider proposals by any agency to apply solar heating and solar heating and cooling technology to any existing or proposed building;

(2) promulgate, by rule, criteria by which such proposals will be evaluated, which criteria shall provide for the inclusion in each proposal of a complete analysis of the present value of the costs and benefits of the proposal to the agency, and for the demonstration, to the maximum extent practicable, of innovative and diverse applications to a variety of type of buildings of solar heating and solar heating and cooling technology, and for location of demonstration projects in areas where a private sector market for solar energy equipment is likely to develop;

(3) evaluate each such proposal pursuant to the criteria promulgated pursuant to paragraph (2);

(4) provide assistance by interagency agreement for the cost of implementing a proposal (which costs shall be limited to design, acquisition, construction, and installation of solar energy equipment); and

(5) provide, by rule, that agencies report to the Administrator periodically such information as they acquire respecting maintenance and operation of solar equipment.

(b) In carrying out the responsibilities, pursuant to paragraphs (2) and (3) of subsection (a), the Administrator shall provide an opportunity for consultation to the Administrator of the General Services Administration and the Administrator of the Energy Research and Development Administration.

SEC. 724. TRANSFER OF APPROPRIATIONS.

In carrying out a proposal for which the Administrator has provided assistance, any agency may use funds transferred to it by the Administrator to enter into such contracts as may be necessary to complete the project described in that proposal.

SEC. 725. SUBMISSION OF PROPOSALS.

(a) Each agency responsible for the construction of new buildings or operation of existing buildings shall, within one hundred and eighty days after publication of criteria under section 723(a)(2), submit initial proposals to the Administrator for installation of solar energy systems on selected buildings under its control.

(b) Such initial proposal shall include a list of the specific buildings proposed to be provided with solar energy systems, the funds required for the system, the proposed implementation schedule, the estimated savings in fossil fuels and electricity, the estimated payback time, and such other information as may be required by the Administrator.

(c) Thereafter, each agency may submit proposals to the Administrator for additional solar energy systems for buildings under their control on a schedule established by the Administrator but not greater than two-year intervals.

SEC. 726. AUTHORIZATION.

There are authorized to be appropriated to the Administrator through fiscal year 1980 to carry out the purposes of this subpart not to exceed $100,000,000.

Subpart C—Use of Energy Conservation and Solar Energy in Federal Buildings

SEC. 741. FINDINGS.

The Congress finds that—

(1) there is an urgent need to promote the design, construction, and operation of buildings to conserve and make more efficient use of fuels and energy;

(2) a shift from dependence on nonrenewable to renewable energy sources would have a beneficial effect on the Nation's overall energy supply;

(3) programs for energy conservation in buildings, along with the use of renewable energy sources, would stimulate industries and create new job opportunities for supply and servicing new or improved energy-conserving and energy-supplying systems and equipment;

(4) in the construction or renovation of buildings, the cost of energy consumed over the life of such buildings must be considered as well as the initial cost of such construction or renovation; and

(5) the Federal Government, being the largest energy consumer in the United States, should be in the forefront in implementing energy conservation measures along with the use of renewable energy sources.

SEC. 742. POLICY.

It is the policy of the United States that the Federal Government has the opportunity and responsibility, with the participation of industry, to further develop, demonstrate, and promote the use of energy conservation and solar heating and cooling in Federal buildings.

SEC. 743. PURPOSE.

It is therefore the purpose of this subpart to promote the use of commonly accepted methods to establish and compare the life cycle costs of operating residential, commercial, industrial, and Federal buildings, and the life cycle fuel and energy requirements of such buildings, with and without special features for energy conservation and the use of solar heating and cooling. It is also the purpose of this subpart to aim for a reduction of energy use in existing Federal buildings by 20 per centum by 1985.

SEC. 744. DEFINITIONS.

For purposes of this subpart—

(1) the term "Administrator" means the Administrator of the Federal Energy Administration;

(2) the term "life cycle cost" means the total costs of owning, operating, and maintaining a building over its economic life, including its fuel and energy costs, determined on the basis of a systematic evaluation and comparison of alternative building systems; in the case of leased buildings the life cycle cost shall be calculated over the effective remaining term of the lease;

(3) the term "preliminary energy audit" means a determination of the per square foot energy demand, either actual or calculated, of existing buildings and of the physical characteristics of such buildings including but not limited to their age, use, construction, and retrofit potential;

(4) the term "Federal building" means any building, structure, or facility or part thereof which is constructed, renovated, or leased specifically for use by the United States or by an agency or agencies thereof; and

(5) the term "existing Federal building" means any Federal building for the construction, renovation, or leasing of which funds have been appropriated or otherwise actually made available prior to the date of the enactment of this subpart, and the term "new Federal building" means any other Federal building; except that a building shall be considered a "new Federal building" even though funds for its construction, renovation, or leasing have been made available prior to that date if (A) its construction, renovation, or leasing has not been completed prior to that date, and (B) the Administrator determines that the plans for such construction, renovation, or leasing can still feasibly be modified to take into account the provisions of this subpart relating to new Federal buildings.

SEC. 745. ESTABLISHMENT AND USE OF LIFE CYCLE COST METHODS.

(a) The Administrator, in consultation with the Director of the Office of Management and Budget, the National Bureau of Standards, the Administrator of the Energy Research and Development Administration, the Administrator of the General Services Administration, and the Secretary of Housing and Urban Development, shall—

(1) establish practical and effective methods for estimating and comparing life cycle capital and operating costs for residential, commercial, industrial, and Federal buildings, including the life cycle fuel and energy requirements for such buildings; and

(2) develop and prescribe the forms to be used and the procedures to be followed in applying and implementing the method so established and in conducting the preliminary energy audits required by section 747.

(b) All new Federal buildings shall be life cycle cost effective as determined in accordance with the methods established under subsection (a). In the design of new Federal buildings, preference shall be given to life cycle cost rather than first cost.

(c) In addition, the Administrator shall take such actions as may be necessary or appropriate to promote to the maximum extent possible the use and acceptance of such methods in the construction and renovation of non-Federal public buildings and in the construction and renovation of other buildings, structures, and facilities in all segments of the economy.

SEC. 746. ENERGY PERFORMANCE TARGETS FOR EXISTING BUILDINGS.

In addition to establishing methods for estimating and comparing life cycle costs under section 745, the Administrator, in consultation with the Administrator of the Energy Research and Development Administration, the Administrator of the General Services Administration, the Secretary of Housing and Urban Development, and the Director of the Office of Management and Budget, shall establish energy performance targets for existing buildings, structures, and facilities, and shall take such actions as may be necessary or appropriate to promote to the maximum extent feasible compliance with such targets by all existing Federal buildings within the United States. The performance targets established under the preceding sentence shall be compatible with standards adopted or developed by the Secretary of Housing and Urban Development.

SEC. 747. ENERGY AUDITS AND RETROFITTING OF EXISTING FEDERAL BUILDINGS.

(a)(1) As soon as possible after the date of the enactment of this subpart, each Federal agency shall conduct a preliminary energy audit of all existing Federal buildings under its jurisdiction, occupancy, or control which contain thirty thousand or more square feet, and shall furnish the results of such audit to the Administrator. The Administrator shall submit to the Congress a full report on all preliminary energy audits conducted under this paragraph no later than December 31, 1977.

(2) As soon as possible after the completion of the preliminary energy audits required under paragraph (1) (and concurrently with such audits to the extent feasible in the case of any agency), each Federal agency shall conduct a preliminary energy audit of all existing Federal buildings under its jurisdiction, occupancy, or control which contain one thousand or more but less than thirty thousand square feet, and shall furnish the results of such audit to the Administrator. The Administrator shall submit to the Congress a full report on all preliminary energy audits conducted under this paragraph no later than December 31, 1978.

(b)(1) Each Federal agency shall, in accordance with this subsection, select from each preliminary energy audit conducted by such agency under subsection (a) appropriate buildings for retrofit measures to improve their energy efficiency in general and their life cycle cost effectiveness in particular. Such measures shall include, without being limited to, energy conservation measures and measures involving solar technology.

(2) At least 1 per centum of the total gross square footage contained in all existing Federal buildings which are under the jurisdiction, occupancy, or control of any Federal agency, and which are included in a preliminary energy audit conducted by such agency under subsection (a), shall be retrofitted by such agency under paragraph (1) pursuant to actions taken or arrangements made by such agency during the first year after the date of the enactment of this subpart; and an additional percentage of such total gross square footage equal to at least 1 percentage point higher than the percentage applicable under this paragraph in the preceding year shall be so retrofitted pursuant to actions taken or arrangements made during the second and third such years, with a view to achieving full compliance with paragraph (3) by the time specified therein.

(3) By no later than January 1, 1990, all existing Federal buildings which are under the jurisdiction, occupancy, or control of any Federal agency shall have been the subject of such retrofit measures under paragraph (1) as will assure their maximum possible life cycle cost effectiveness.

SEC. 748. ENERGY PREFERENCE FOR LEASED BUILDINGS.

Each Federal agency, in leasing buildings or before exercising lease renewal options on buildings heretofore leased for its use or the use of any other Federal agency, shall give an appropriate preference to buildings which use solar heating and cooling or which otherwise have a high degree of energy efficiency in general life cycle cost effectiveness in particular.

SEC. 749. BUDGET TREATMENT OF ENERGY ITEMS BY FEDERAL AGENCIES.

Each Federal agency, in the preparation and submission of its budget requests for any fiscal year, shall specifically set forth (and identify in a separate line item or items) the funds being requested for retrofit measures to be undertaken in accordance with section 747(b), and the portion of any other funds being requested which represents the initial costs of construction or renovation attributable to capital equipment for energy conservation or the utilization of solar energy.

SEC. 750. REPORTS.

Each Federal agency shall periodically furnish the Administrator with full and complete information on its activities under this subpart, and the Administrator shall annually submit to the Congress a comprehensive report on all activities under this subpart and on the progress being made toward achievement of the objectives of this part.

SEC. 751. TRANSFER OF FUNCTIONS.

Within sixty days after the effective date of any law creating a Federal Department of Energy or its equivalent (or within sixty days after the enactment of this subpart if the effective date of such law occurs prior to the enactment of this subpart), the functions vested in the Administrator of the Federal Energy Administration under this subpart and any funds which may have been appropriated pursuant to section 752 of this subpart, to the extent necessary or appropriate, may, in accordance with regulations prescribed by the Office of Management and Budget, be transferred to and vested in such Department.

SEC. 752. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Administrator such sums, not exceeding $2,000,000 in the aggregate, as may be necessary to enable him to perform the functions vested in him under this subpart.

Subpart D—Use of Advanced Photovoltaic Energy Devices in Federal Facilities

SEC. 761. SHORT TITLE.

This subpart may be cited as the "Federal Photovoltaic Utilization Act".

SEC. 762. PHOTOVOLTAIC ENERGY PROGRAM.

There is hereby established a photovoltaic energy commercialization program (hereafter in this subpart referred to as the "program") for the accelerated procurement and installation of photovoltaic solar electric systems for electric production in new and existing Federal facilities, using technologically and technically approved and proved equipment.

SEC. 763. PURPOSE.

The purpose of the program shall be to accomplish the following:

(1) accelerate the growth of a commercially viable photovoltaic industry in order to make this energy system available to the general public as an option which can reduce national consumption of fossil fuel;

(2) conserve fossil fuel costs of the Federal Government;

(3) stimulate the general use within the Federal establishment of life-cycle costing and innovative procurement methods; and

(4) develop program performance data to support policy decisions on future incentive programs with respect to energy.

SEC. 764. ACQUISITION OF SYSTEMS.

The program shall provide for the acquisition of photovoltaic solar electric systems and associated storage capability, primarily for use by the Department of Defense. The acquisition of photovoltaic electric systems shall be at an annual level substantial enough to allow use of low-cost production techniques. The Administrator is authorized to make the acquisitions authorized by this section through the use of multiyear contracts.

SEC. 765. ADMINISTRATION.

The Administrator shall administer the program and shall—

(1) insure that the installation of photovoltaic electric systems pursuant to this subpart shall not interfere with defense-related activities;

(2) prescribe such rules and regulations as may be appropriate to monitor and assess the performance and operation of photovoltaic electric systems installed pursuant to this subpart; and

(3) report annually to Congress on the status of the program.

SEC. 766. SYSTEMS EVALUATION AND PURCHASE PROGRAM

The Administrator and the Administrator of the Energy Research and Development Administration shall jointly establish, within sixty days following the date of the enactment of this subpart, a photovoltaic systems evaluation and purchase program to provide such systems as are required by the Secretary of Defense to carry out this subpart. In acquiring photovoltaic systems under this subpart, the Administrator of the Energy Research and Development Administration shall insure that such systems reflect the most advanced technology and shall schedule purchases in a manner which will stimulate the early development of a permanent low-cost private photovoltaic production capability in the United States.

SEC. 767. ADVISORY COMMITTEE.

There is hereby established an advisory committee to assist the Administrator in the establishment and conduct of the program. Such committee shall be composed of the Secretary of Defense, the Secretary of Housing and Urban Development, the Administrator of the National Aeronautics and Space Administration, the Administrator of the Energy Research and Development Administration, the Administrator of the General Services Administration, the Secretary of Transportation, the Administrator of the Small Business Administration, the Postmaster General, and such other persons as the Administrator deems necessary.

SEC. 768. DEFINITION.

As used in this subpart, the term "Administrator" means the Administrator of the Federal Energy Administration, or his successor.

SEC. 769. AUTHORIZATION.

For photovoltaic system acquisition, there is authorized to be appropriated to the Administrator not to exceed $39,000,000 for the period beginning October 1, 1978, and ending September 30, 1981.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia?

Mr. BAUMAN. Mr. Speaker, reserving the right to object, I wonder if the gentleman from West Virginia could inform the House precisely what the nature of this request is.

It is my understanding that it is not just for the relief of someone on a private bill.

Mr. STAGGERS. If the gentleman will yield, no, the intent of this, I will inform the gentleman from Maryland, is to go to conference on the Senate amendments which we will take from the Speaker's table if this is passed. It has to do with the National Energy Conservation Policy Act and automobiles, and so forth.

Mr. BAUMAN. Could the gentleman from West Virginia explain to the House precisely how the leadership has determined these energy bills are going to be treated. There was a great deal of speculation in the press about the Senate submitting the various parcels of the energy bill and the House treating them as one. How is this to be treated parliamentarily?

Mr. STAGGERS. I think I can explain that to the gentleman. By this method the other body has attached to the bill for the relief of Jack R. Misner, a small bill, the National Energy Conservation Policy Act.

Mr. BAUMAN. The National Energy Conservation Policy Act?

Mr. STAGGERS. That is right, and that has to do with conservation and putting onto appliances the electrical or whatever energy they would use, and it also has to do with automobiles.

If this is granted we would ask to go to conference and we do it on each separate part until we come to one title of the bill and we say on that they have to go to conference on one title of the bill.

Mr. BAUMAN. The conferees of the House will be selected from the Ad Hoc Committee on Energy?

Mr. STAGGERS. They have not been selected, but if this is done they will be selected immediately, all from the Ad Hoc Committee.

Mr. BAUMAN. They certainly will not be selected from the objectors to the Private Calendar. The gentleman's request does deal with a private bill.

Mr. STAGGERS. I am not talking about the private bill.

Mr. BAUMAN. Mr. Speaker, I assume the distinguished gentleman from Ohio (Mr. ASHLEY) and others will be among the conferees.

Mr. STAGGERS. I understand they will be included.

Mr. BAUMAN. Mr. Speaker, may I also inquire, is it correct this arrangement totally destroys the rules of germaneness within this body?

Mr. STAGGERS. It is within the rules of germaneness of the other body.

Mr. BAUMAN. Mr. Speaker, germaneness is out the window but I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia.

There was no objection.

A motion to reconsider was laid on the table.

APPOINTMENT OF CONFEREES ON H.R. 5037, FOR THE RELIEF OF JACK R. MISNER

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 5037) for the relief of Jack R. Misner, with the House amendment to the Senate amendment thereto numbered 3, insist on the House amendment, and request a conference with the Senate thereon.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia? The Chair hears none and appoints the following conferees: Messrs. STAGGERS, ASHLEY, ULLMAN, BOLLING, FOLEY, DINGELL, ROGERS, ECKHARDT, SHARP, MOFFETT, CHARLES WILSON of Texas, REUSS, ROSTENKOWSKI, VANIK, CORMAN, WAGGONNER, RANGEL, ANDERSON of Illinois, BROWN of Ohio, HORTON, WYDLER, BROWN of Michigan, STEIGER, COLLINS of Texas, and ARCHER.

AMENDING TARIFF SCHEDULES OF THE UNITED STATES PROVIDING FOR DUTY-FREE ENTRY OF COMPETITION BOBSLEDS AND LUGES

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 5146) to amend the tariff schedules of the United States to provide for the duty-free entry of competition bobsleds and luges, with Senate amendments thereto and concur in Senate amendments numbered 1, 2, 3, 4, and 5, and concur in Senate amendment numbered 6 with an amendment.

The Clerk read the title of the bill.

The Clerk read the House amendment to the Senate amendment, as follows:

Strike out the text of Senate amendment numbered 6 and insert in lieu thereof the text of H.R. 8444 as passed the House (other than title II thereof and items in the table of contents relating thereto).

The SPEAKER. Is there objection to the request of the gentleman from West Virginia?

Mr. BAUMAN. Mr. Speaker, reserving the right to object, I just wanted to ask the gentleman from West Virginia if this is what the Carter energy plan has finally come to, bobsleds? In view of the tough sledding?

Mr. STAGGERS. Mr. Speaker, I might say the other body might think so, but we are experienced on this side and we are trying to do the best job we can.

Mr. BAUMAN. Mr. Speaker,. I thank the gentleman and withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

A motion to reconsider was laid on the table.

APPOINTMENT OF CONFEREES ON H.R. 5146, DUTY-FREE ENTRY OF COMPETITION BOBSLEDS AND LUGES

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 5146) to amend the Tariff Schedules of the United States to provide for the duty-free entry of competition bobsleds and luges, with a House amendment to the Senate amendment thereto numbered 6, insist on the House amendment, and request a conference with the Senate thereon.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia? The Chair hears none and appoints the following conferees: Messrs. STAGGERS, ASHLEY, ULLMAN, BOLLING, FOLEY, DINGELL, ROGERS, ECKHARDT, SHARP, MOFFETT, CHARLES WILSON of Texas, REUSS, ROSTENKOWSKI, VANIK, CORMAN, WAGGONNER, RANGEL, ANDERSON of Illinois, BROWN of Ohio, HORTON, WYDLER, BROWN of Michigan, STEIGER, COLLINS of Texas, and ARCHER.

SUSPENDING DUTY ON CERTAIN ANTIBIOTICS

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 4018) to suspend until the close of June 30, 1980, the duty on certain doxorubicin hydrochloride antibiotics, with a Senate amendment thereto and concur in the Senate amendment with an amendment.

The Clerk read the title of the bill.

The Clerk read the House amendment to the Senate amendment, as follows:

Strike out the text of the Senate amendment and insert in lieu thereof the text of H.R. 8444 as passed by the House (other than title II thereof and items in the table of contents relating thereto).

(Text of the amendment appears during consideration of H.R. 5037 today.)

The SPEAKER. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

A motion to reconsider was laid on the table.

APPOINTMENT OF CONFEREES ON H.R. 4018, SUSPENDING DUTY ON CERTAIN ANTIBIOTICS

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 4018) to suspend until the close of June 30, 1980, the duty on certain doxorubicin hydrochloride antibiotics, with a House amendment to the Senate amendment thereto, insist on the House amendment, and request a conference with the Senate thereon.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia? The Chair hears none, and appoints the following conferees: Messrs. STAGGERS, ASHLEY, ULLMAN, BOLLING, FOLEY, DINGELL, ROGERS, ECKHARDT, SHARP, MOFFETT, CHARLES WILSON of Texas, REUSS, ROSTENKOWSKI, VANIK, CORMAN, WAGGONNER, RANGEL, ANDERSON of Illinois, BROWN of Ohio, HORTON, WYDLER, BROWN of Michigan, STEIGER, COLLINS of Texas, and ARCHER.

HOUSE AMENDMENT TO SENATE AMENDMENT TO H.R. 5289, FOR THE RELIEF OF JOE CORTINA OF TAMPA, FLA.

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 5289) for the relief of Joe Cortina of Tampa, Fla., with Senate amendments thereto, concur in Senate amendments numbered 1, 2, 3, 4, 5, 6, and 7, and concur in the Senate amendment numbered 8 with an amendment.

The Clerk read the title of the bill.

The Clerk read the House amendment to the Senate amendment, as follows:

Strike out the text of the Senate amendment and insert in lieu thereof the text of H.R. 8444 as passed by the House (other than title II thereof and items, in the table of contents relating thereto).

(Text of the amendment appears during consideration of H.R. 5037 today)

The SPEAKER. Is there objection to the request of the gentleman from West Virginia?

Mr. GIBBONS. Mr. Speaker, reserving the right to object, I only do so to point out to the chairman that this is my little bill. The gentleman whose relief we are trying to obtain is quite ill and quite elderly, and badly needs the relief. I realize this is a very controversial bill he has the honor of sponsoring here, and I certainly hope the conference will do all it can to protect at least Joe Cortina.

Mr. STAGGERS. We have already done that.

Mr. GIBBONS. I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia?

Mr. BAUMAN. Mr. Speaker, reserving the right to object, the gentleman has repeatedly asked permission to agree to certain Senate amendments and to disagree with a substitute amendment to others. The Senate amendments we have been asked to agree to, are all these germane to the different bills, or do they also deal with other matters?

Mr. STAGGERS. They are all technical changes to conform to what the House has passed.

Mr. BAUMAN. They do not deal with any substantive matters?

Mr. STAGGERS. That is correct.

Mr. BAUMAN. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

A motion to reconsider was laid on the table.

APPOINTMENT OF CONFEREES ON H.R. 5289, FOR THE RELIEF OF JOE CORTINA

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 5289) for the relief of Joe Cortina of Tampa, Fla., with a House amendment to the Senate amendment No. 8 thereto, insist on the House amendment, and request a conference with the Senate thereon.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia? The Chair hears none, and appoints the following conferees: Messrs. STAGGERS; ASHLEY; ULLMAN; BOLLING; FOLEY; DINGELL; ROGERS; ECKHARDT; SHARP; MOFFETT; CHARLES WILSON of Texas; REUSS; ROSTENKOWSKI; VANIK; CORMAN; WAGGONNER; RANGEL; ANDERSON of Illinois; BROWN of Ohio; HORTON; WYDLER; BROWN of Michigan; STEIGER; COLLINS of Texas; and ARCHER.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 7073, FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT AUTHORIZATION, 1978

Mr. SISK, from the Committee on Rules, submitted a privileged report (Rept. No. 95–705) on the resolution (H. Res. 830) providing for consideration of the bill (H.R. 7073) to extend the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, which was referred to the House Calendar and ordered to be printed.

APPOINTMENT OF CONFEREES ON H.R. 7555, LABOR, AND HEALTH, EDUCATION, AND WELFARE APPROPRIATION ACT, 1978

Mr. FLOOD. Mr. Speaker, I move to take from the Speaker's table the bill (H.R. 7555) making appropriations for the Departments of Labor, and Health, Education, and Welfare, and related agencies for the fiscal year ending September 30, 1978, and for other purposes, with a Senate amendment to the House amendment to Senate amendment numbered 82, disagree to the amendment of the Senate, and request a conference with the Senate on the disagreeing votes of the two Houses.

The Clerk read the title of the bill.

The SPEAKER. The Clerk will report the motion.

The Clerk read as follows:

MOTION OFFERED BY MR. FLOOD

Mr. FLOOD moves to take from the Speaker's table the bill H.R. 7555, making appropriations for the Departments of Labor, and Health, Education, and Welfare, and related agencies for the fiscal year ending September 30, 1978, and for other purposes, with a Senate amendment to the House amendment to Senate amendment numbered 82, disagree to the amendment of the Senate, and request a conference with the Senate on the disagreeing votes of the two Houses.

PREFERENTIAL MOTION OFFERED BY MR. STEERS

Mr. STEERS. Mr. Speaker, I offer a preferential motion.

The Clerk read as follows:

Mr. STEERS of Maryland moves that the House concur in the Senate Amendment to

the House Amendment to the Senate Amendment No. 82.

The SPEAKER. The gentleman from Pennsylvania (Mr. FLOOD) is in control of the time, and the gentleman is recognized for 30 minutes.

PARLIAMENTARY INQUIRY

Mr. RHODES. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. RHODES. Mr. Speaker, since the gentleman from Maryland (Mr. STEERS) made the motion which is being considered by the House, does the gentleman from Maryland not have control of the time?

The SPEAKER. In response to the parliamentary inquiry, the preferential motion made by the gentleman from Maryland (Mr. STEERS) does not take the time from the gentleman from Pennsylvania, the chairman of the committee, who previously had the time under his original motion. The motion was in order. The vote will come first on the preferential motion.

The Chair recognizes the gentleman from Pennsylvania (Mr. FLOOD).

Mr. FLOOD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as my colleagues know, yesterday, by a vote of 263 to 142, we adopted compromise language relating to Federal payments for abortions. As the Members know, this was done in a sincere effort to break the deadlock over the Labor-HEW appropriation bill for 1978. That bill had been stalled for some 2 months over the issue of Federal funds for abortions. Time and again the House has expressed its position on this issue by re orded votes.

The language adopted by the House yesterday was a retreat from the strong position taken by the House in adopting the original language of the Hyde amendment, make no mistake about that. The House has compromised its original position.

The compromise language adopted by the House yesterday was sent to the Senate late yesterday. The Senate, by voice vote, amended the compromise language of the House and has sent its amendment back to the House for further action.

Just so the Members will know what has taken place, let me make it clear that the Senate did not vote on the House language. It chose, instead, to send back its own amendment, which was adopted by a voice vote. The language sent to the House by the Senate reads as follows:

None of the funds in this act shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term, or in the case of rape or incest, or if the woman or fetus would suffer serious health damage. This section does not prohibit the use of drugs or devices to prevent implantation of the fertilized ovum.

Mr. Speaker, this language is very, very similar to the language that was submitted earlier to the House conferees. In the judgment of the House conferees, this language does not differ substantially from the original Senate language. It does not represent a real compromise; it bears no semblance to a compromise at all.

Mr. Speaker, I think the House should disagree to the Senate amendment and send the bill back to conference, with the expectation that a satisfactory agreement can be reached. Both the House and the Senate have debated this issue long enough now. I believe that a further confrence is the best alternative to resolve the issue so that the Labor-HEW appropriations bill can be cleared for the President's signature.

Mr. Speaker, I urge the adoption of the motion which I have offered.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield?

Mr. FLOOD. I yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Speaker, I thank the gentleman for yielding.

I just want to ask the distinguished gentleman a question. The gentleman from Pennsylvania stated that he urges the adoption of his motion. I assume the gentleman from Pennsylvania, then opposes the motion to concur in the Senate amendment offered by the gentleman from Maryland (Mr. STEERS).

Mr. FLOOD. That is correct. I could not have stated it better myself.

Mr. STARK. Mr. Speaker, will the gentleman yield?

Mr. FLOOD. I yield to the gentleman from California.

Mr. STARK. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I rise to urge the support of the Steers motion. I would like to point out to those Members who have a concern for life that although there is a continuing resolution for 30 days, the continuing resolution does not include some $500 million for health care and research for the living.

This is an amount they suggested so strongly they would like to have for health care. The Senate is also preventing elementary and secondary assistance in the amount of another $550 million from going into effect.

I think we have debated this enough and we have had enough votes on the issue. All Members have had a chance to be recorded once a day for the past 5 days. I also think that if we do not adopt the Steers motion now, we will be denying billions of dollars in programs for health research to help the living and to help these people that the right-to-lifers so eloquently suggest they would like to save. Yet, by the same token, by not proceeding with this reasonable and far too compromising compromise, we are delaying these programs.

Mr. Speaker, we ought to proceed with this matter and give these funds to HEW. I urge the adoption of the Steers motion.

Mr. MICHEL. Mr. Speaker, I yield myself such time as I may consume.

I guess, technically, with the motion of the gentleman from Pennsylvania (Mr. Flood) deserving an hour's time of debate, and with the preferential motion of the gentleman from Maryland (Mr. STEERS) also deserving an hour, rather than having 1 hour of debate on whether we should or should not agree with the Flood position and another hour on whether or not we should or should not agree with the Steers position, for the sake of debate and for the sake of facilitating the debate, I would at this juncture yield to the gentleman from Maryland (Mr. STEERS) to make the case for his preferential motion. Then we can debate both in context so that, I think, the Members will more clearly understand what the issue is.

Mr. Speaker, I yield 5 minutes to the gentleman from Maryland (Mr. STEERS).

Mr. STEERS. Mr. Speaker, I thank the gentleman.

This is, of course, really the same issue which I approached the House on yesterday afternoon, but at that time the Members will recall that we were not able to vote on the motion that I had described to them because the House, in its wisdom, decided to approve the Flood version.

Mr. Speaker, I said yesterday that there was little chance that the other body would concur in the Flood amendment, and now I have to say that they have rejected the Flood amendment and it has come back to us with the exact wording which I had urged us to adopt yesterday.

Mr. Speaker, it seems to me, laying aside for the moment the merits of the issue, that we have a very clear choice here as to whether we, as a responsible body, wish to continue and perpetuate an impasse, or whether we wish to resolve that impasse and settle it and put it behind us once and for all.

Mr. Speaker, if I can get the Members, or if we can get the Members, to approve the motion that is now before the House, which is to concur in the language of the other body, why, then, we have solved the problem; and it will not thereafter be confronting us, as it will again if we continue in this uncompromising position.

I know many Members think, perhaps, that the other body has been uncompromising; and I understand that they believe we have been uncompromising.

Certainly the amendment which was approved by the House yesterday was something of a concession toward the viewpoint I hold. However, it cannot be claimed that it was anywhere near the mid-point.

Mr. Speaker, I want to say a few words about the Senate language which is now before the House. The key words are "serious health damage."

I realize that that language is going to be subject to some abuse, but the fact is that whenever we leave any choice to a doctor, we are saying, to a degree, that we are leaving it to the woman and her doctor. I happen to believe that that is a reasonable position.

Mr. Speaker, I want to run through two or three of the same things that I went through yesterday which are not going to be solved if we do not do something today to approve the Senate language.

Remember, "serious health damage" is not what the other body wants. It is what the other body has grudgingly given up its position for. It is what the Senate has offered us as a compromise. It is not as broad as "medically necessary." Keep in mind that "medically necessary" would

allow the doctor to take into account such things as the economic position of the pregnant woman. It would determine that the Federal Government should fund even in cases where there might not be a serious health damage problem, but where there were other factors.

Mr. Speaker, some of the Members heard this yesterday, and I apologize, but some certainly have not. It is very important to realize that these examples which I am going to recite are examples of illness on the part of a pregnant woman, whether incurred before or after she became pregnant, but they are things which would not be provided for under the Flood amendment language, which the gentleman from Pennsylvania is urging us to adhere to, to perpetuate the impasse.

Mr. Speaker, they are things which a woman could be suffering from, and yet she would be forced to have her baby, since she has no money, even though the fetus or she will face serious health damage.

Let me mention six major items:

Cardiovascular disease. For example, rheumatic fever, thrombosis, and heart and blood disease.

I repeat, these are things where the woman has these diseases where we would not be allowing her to get Federal funding. We would force her to go to term, in effect, or somehow get an abortion without any funding.

Second, neurological disease. Examples are: multiple sclerosis and muscular dystrophy.

Third, Carcinomas. These are cancers, such as cancer of the breast, cancer of the cervix, cancer of the bone, or cancer of the blood.

Fourth, severe psychiatric diseases. Such examples are schizophrenia, suicidal or diagnosed paranoia.

The SPEAKER. The time of the gentleman has expired.

Mr. MICHEL. I yield 2 additional minutes to the gentleman from Maryland.

Mr. STEERS. Fifth, metabolic disorders. Examples are diseases of the liver, kidney, pancreas, and thyroid.

Finally, sixth, gastrointestinal disorders. Which would include ulcers and colitis.

Let us keep in mind that, again, the underlying problem here is, "Do we want to get rid of this problem once and for all?" If you will vote for the motion now pending before the House, we will deal with this problem on this appropriation bill.

If you want to continue this impasse and have Federal employees face payless paydays, when the continuing resolution has expired, then you will not do so.

Let me tell you, I put in a bill which will deny Members of Congress their own salary checks if executive branch employees do not get paid. It is my belief that you will probably not want to vote your own salary as long as you are denying the salaries to tens of thousands of Federal employees who are ready and willing and who work hard.

Finally, keep in mind that defeat of my amendment says: "Madam, you can afford an abortion. Please feel free to buy one, for we are talking only about legal and permissible abortions. But if you do not have the money, you must have this unwanted child, which you would not have if you had enough money.

Mr. SEIBERLING. Mr. Speaker, will the gentleman yield?

Mr. STEERS. I yield to the gentleman from Ohio.

Mr. SEIBERLING. Is it not the truth that the Members of Congress who derive their medical benefits from the Government's medical program, if their wives want to have an abortion because of a serious medical problem, that the Government will pay for that abortion? Should we not deny ourselves that which we are going to deny to poor people, that same opportunity?

Mr. STEERS. That is a very good point.

Mr. SEIBERLING. I would also like to ask the gentleman, if the gentleman would yield further, if the gentleman does not agree, when the gentleman from Illinois (Mr. MICHEL) yesterday said:

> If we are going to have language developed here in the House, I would like to see a good, fair shake given to us with the full Senate voting on our language.

That it is a fact that the Senate has now voted?

Mr. STEERS. The Senate was so unimpressed with the Flood amendment, they did not even have a recorded vote, but they did vote.

The SPEAKER. The time of the gentleman has expired.

Mr. MICHEL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I did not hear what the gentleman from Ohio (Mr. SEIBERLING) said. I wonder if the gentleman would repeat what he said?

Mr. SEIBERLING. I merely said what the gentleman said yesterday. The gentleman from Illinois said yesterday that he would like to see a good fair shake given to us with the full Senate voting.

Mr. MICHEL. Yes?

Mr. SEIBERLING. They have voted.

Mr. MICHEL. Yes; but let me remind the gentleman that the vote that was taken in the Senate was by a voice vote immediately following on an amendment by Senator BROOKE amending the continuing resolution to put a change in the language. This was defeated 11 to 9, 20 percent of the Senators there, which, in my judgment, is not a very good representative vote of that body.

Whereas, when we have votes on this issue, whether in the committee or in the House, we have made it a significant kind of a vote. I submit we have got good grounds on which to ask the other body to put it to a rollcall vote.

Frankly, we are now back in the parliamentary situation where this body will have an opportunity no doubt to vote on the preferential motion of the gentleman from Maryland, which is the Senate language, and, defeating that, hopefully consent to the motion of the gentleman from Pennsylvania (Mr. FLOOD).

I would say further that what we have in that Senate language is not their original language, but it certainly is not a measure of compromise. When they were talking about it earlier, it was permanent health damage. Now it is serious. It is really not a tightening up but a relaxing of even more than their original position. So to have the House today adopt the motion of the gentleman from Maryland puts us 180 degrees just opposite of the position we have traditionally taken three or four or five times. As a matter of fact, somebody earlier today asked me, "Bob, what is coming up next?" and I said, "Well, you haven't voted on abortion yet today, so why don't we bring it up one more time?" Obviously we can dispose of it. But at this juncture I will yield 1 minute to the gentlewoman from New Jersey (Mrs. FENWICK).

Mrs. FENWICK. I thank my colleague for yielding.

I just would like to bring this to the attention of the House, and I am not going to take even 1 minute. What we are doing here if we do not vote for the Steers amendment is to say that we will deny public funds for a legal operation, a procedure that is done legally if you have the money. We will deny it when the doctors say that severe health damage is in prospect. It is almost unbelievable. We are talking about cancer and heart disease, somebody who may die, and we are saying, no, because this is a medicaid program you cannot have the money. That is the question.

Are we serious in this House that we are really going to say, no, we are not going to let a poor woman have a life-saving operation or be spared severe health damage, that we are not going to let her have a perfectly legal medical procedure which other people can afford? I cannot believe this House is going to do that.

Mr. MICHEL. Mr. Speaker, I yield 1 minute to the gentleman from California (Mr. KETCHUM).

Mr. KETCHUM. I thank the gentleman for yielding.

I certainly would urge the support of the Steers amendment to this bill. We have been up and down this hill now for God knows how many weeks. It does not make any difference what one's position is on abortion; we are talking about a humanitarian gesture. I just cannot believe that this House will stand so obdurate and obstinate that they will not at least yield this far.

I strongly support this amendment and urge its adoption.

Mr. FLOOD. Mr. Speaker, I yield 2 minutes to the gentleman from Maryland (Mr. MITCHELL).

Mr. MITCHELL of Maryland. Mr. Speaker, the House makes all of us very proud from time to time. If we review the record of this session of the Congress, we will see it has been a magnificent record of accomplishment, of reform, and of improvement. The record we have compiled so far is an excellent record, and an evidence of how excellent it has been is the increase in the popularity of the Congress. Our ratings have gone up from nearly zero to a decent point.

Now we threaten all the gains that we have made by a bull-headed, intransi-

gent position that we have taken, which does not make any sense at all. We threaten to undo what we have done with the American people by "hanging tough" on an issue, and now the questions are being raised.

My constituents ask me: Has the Congress gone insane to hold employees in a blackmail position?" My constituents are asking me: "Is the issue really that important that we who live from pay check to pay check must suffer because of a bull-headed, intransigent position taken by the House?"

I do not think we are. I do not think we should be willing to do this. I think that in a sense of compromise, no matter where we stand on the abortion issue, in the sense of compromise we can clean ourselves up so that no one may say we are mad men dealing with the lives of human beings and no one can say we are trying blackmail because of something we feel so strongly about.

The Steers proposal offers an honorable compromise. Take it away from just this issue, take it in the level of the importance of this House in the whole process of government, and we will then support the Steers amendment.

Mr. MICHEL. Mr. Speaker, I yield 2 minutes to the gentleman from Massachusetts (Mr. CONTE).

Mr. CONTE. Mr. Speaker, first of all I would like to direct the attention of my good friend, the gentleman from Maryland, who said that people were suffering because of payless paydays, to the fact that it is not so, and I told that to the gentleman from Maryland (Mr. STEERS) yesterday when he tried to impress upon the House that unless we accepted the Senate language there would be payless paydays.

I stated, that I for one, as a member of the conference committee would not stand for payless paydays or allow good programs that I have voted for and fought for along with the gentleman from Maryland to go by the boards. I would not see them go down the drain. I said we could have a continuing resolution here in a matter of a day, and we did, and we passed a continuing resolution today and the Senate has adopted that continuing resolution and it has gone down to the President, so there will be no payless days and no programs will go down the drain.

Now let us see what the Senate has done. Some say we are bullheaded. Let us go back in retrospect. The first amendment we had here was the so-called Hyde amendment which said no medicaid funds for abortion—period. Then we went to conference with the Senate and there I amended that amendment and said no medicaid funds for abortion except where the life of the mother is in danger. That was the first compromise. And since that time what has the Senate done? They took out their words "except where medically necessary" and they have inserted words in here that are tantamount to the same thing, "except if the woman or fetus would suffer serious health damage."

Some of the experts say that just about in every birth there is damage to the veins of a woman, so any woman would have serious health damage if the pregnancy were carried to term.

Furthermore, they have the term in here, "or in the case of rape or incest."

The SPEAKER pro tempore. The time of the gentleman from Massachusetts has expired.

Mr. MICHEL. Mr. Speaker, I yield 2 additional minutes to the gentleman.

Mr. CONTE. Mr. Speaker, these words were unnecessary. I told them on the Senate side that the language was not necessary.

Pregnancy resulting from rape is extremely rare. In Buffalo, N.Y., a study in 1969 indicated that there had not been a pregnancy from confirmed rape in over 30 years; in Chicago up through 1967 in over 9 years; and in St. Paul up through 1972 in over 10 years.

In the District of Columbia, there was only one. In a District of Columbia report it indicates that out of 300 rape victims only 1 victim became pregnant. So why put it in here? There is a reason. Under the compromise language that we offered to the Senate, we said that this section would not prohibit payment for medical procedures performed before the fact of pregnancy is established if the treatment were prompt. If victims of forced rape and incest were treated promptly, there would not be a pregnancy. They can go in the day after or a week later and be treated with DES or D & C and they would not become pregnant.

So why put this language in the Senate bill? I will tell you why. It is for only one reason, to prevent abortion upon demand.

Any woman, who wants an abortion under medicaid, could go in and say, "I was raped," and there could be a lot of perjury. There would be a lot of complications. This is the problem with the language in the Senate amendment. I say we have compromised. Give us a chance to go back to the Senate. Give us a chance to see whether we can reach a compromise between the House and the Senate and not let them jam this language down our throats.

Mr. FLOOD. Mr. Speaker, I yield 2 minutes to the gentleman from Minnesota (Mr. OBERSTAR).

Mr. OBERSTAR. Mr. Speaker, the House has worked its will, and by an impressive vote, on the language offered by the gentleman from Pennsylvania, that language is a concession to the other body. It is one that does not compromise the position of those of us who oppose abortion. It does not compromise our position, because it does not in any way allow abortion. It is responsive, on the other hand, to the very genuine, realistic, understandable concerns of those who want to protect a woman from pregnancy resulting from forcible rape or incest. That is a very understandable concern.

The Flood language does allow medical treatment, stopping short of abortion, for a rape or incest victim before pregnancy has been established.

Now, medical treatment is something entirely different from abortion. That period of time, that interval between fertilization and implantation, is a very critical time to which the Flood language addresses itself. It is language that pro-life advocates can support. It is language I can support.

Mr. Speaker, I commend the gentleman for offering it. It is language that I hope the House will support. But first, I appeal to the House to reject the preferential motion of the gentleman from Maryland.

Mr. Speaker, I urge support for the language of the gentleman from Pennsylvania.

Mr. MICHEL. Mr. Speaker, I yield 5 minutes to the gentleman from Illinois (Mr. HYDE).

Mr. HYDE. Mr. Speaker, the Senate language provides each and every doctor with a dual capacity. Instead of being just a healer, he now becomes an executioner as well. It provides him with a license to kill. I am weary unto death of hearing people say, "I am against abortion, but"—and then refuse to lift a finger to stem the tide of 1 million abortions in this country every year.

Incidentally, I wish my good friend, the gentleman from Maryland, could have been with me Monday night when someone got up in a meeting and said, "Hyde, why are you so much against abortion? Don't you know there are too damn many people on welfare?"

We hear time and again how many people would like to exterminate the poor and get rid of that problem by cutting down on their numbers. That is their solution to the welfare problem. That is not my solution, but it is some people's solution. To be an accessory to that solution, to me is outrageous and incredible.

Now, let us talk about the rape and incest language that the gentleman from Maryland offers. That is an invitation to gigantic wholesale fraud. A woman merely walks in and says, "I was raped, assailant unknown," and she gets an abortion and the unborn child is killed forthwith.

By the way, the Supreme Court said that capital punishment for a rapist is cruel and unusual punishment, but of course the product of that rape is expendable, socially expendable. There is no requirement that the rape be reported to the police, but it provides a financial inducement to a woman to report a crime. The International Association of Chiefs of Police and the International Association of Sheriffs have said:

> Don't do this to us. We will have to investigate every report, and you know that 90 percent of them are going to be fraudulent.

We are not insensitive to the problems of women who have been raped. The language the House offered yesterday provides some guidelines that would take care of the true rape situation and would not invite the fraud. The House language is infinitely superior.

Then, we come to the really outrageous language in the proposal offered by the gentleman from Maryland; that is, "if the woman or fetus would suffer serious health damage." What is the tradeoff? A human life for some doctor's judgment call on what is serious health damage. Would you kill Helen Keller? What about the Director of the Veterans' Administration if he had been born with

the disabilities he has today, under the Senate language, would you say he is socially expendable?

The term "serious health damage" is a judgment call by a doctor who has a financial interest in making his judgment call. I submit to the Members that it is hopelessly vague, and I point out to them that in California, the Sunshine State that I admire so much, 92 percent of abortions are done for mental health reasons—mental health reasons. So, the Members know how reliable and how sensible a standard that is.

I ask the Members, are all people born with a disability subhuman? Is somebody going to decide, because this child may be born with some disabling health condition, it is therefore subhuman and should be terminated? I submit to the Members that life is not just for the privileged or the planned or the perfect. Life is for everybody, and we ought not allocate to ourselves the role of Almighty God and say:

> This child may have some defect, this child may be born without arms, and hence it is disposable, expendable, and may be killed.

We are called cruel. Is there anything more cruel than killing a defenseless, innocent, human being? Is there anything more violent? This Nation tonight stands awash in the blood of 1 million abortions every year, 300,000 of them paid for by the taxpayers. What is so difficult, what is so conceptually difficult, about thinking of the unborn child?

We think of young girls who are pregnant, unwanted pregnancies, the tragedy of being brought up in the ghetto, the tragedy of renal disease. What about the tragedy of a human life being thrown away because we have no alternatives? Have we exhausted our capacity for caring for human beings by telling poor women that the only answer is killing their unborn young? The Senate, wants to subsidize death to the smallest, most voiceless, most defenseless human beings alive, and that is the unborn. I hope we will resist this overwhelmingly.

Mr. MICHEL. Mr. Speaker, we have no further requests for time on this side, except I would simply say, in summing up on this side, that as a member of the conference committee, and speaking solely for the other two members on this side—I am sure the chairman can speak for the rest of the members on this side—we are just as weary as all of the rest of the Members of going over the same old plowed ground in conference with the other body. But I would like to let all the Members know that we are willing to do that one more time if given the opportunity to bargain in good faith.

I would implore the Members, then, to vote down the preferential motion offered by the gentleman from Maryland (Mr. STEERS), because it is a complete abdication, absolutely, lock, stock, and barrel, of the earlier position which we took and concedes the Senate position.

There has been compromise in good faith on the part of the House Members. We would like to go back one more time. If we adopt the motion offered by the gentleman from Pennsylvania (Mr. FLOOD) and we go to conference, then we will make that one last effort and hope to come back here with an agreement.

Mr. FLOOD. Mr. Speaker, I, of course, rise in opposition to the preferential motion. The language that we are being asked to accept here is the same language exactly that the House conferees—and the Members know this—rejected at the conference table. We told the Senate conferees—the two of them who were there, by the way—that this language is too permissive and it is unacceptable to a great majority of the Members of the House. Therefore, this language is absolutely no different than the language that this House rejected on September 27, when we voted on House Resolution 780, the resolution, the Members will recall, to instruct conferees.

We have a difference here about words. Words may be different, so far as the Senate is concerned. But the end result is still the same. We would be permitting payment for abortions for all sorts of reasons, including emotional problems, and what have you. In short, we would still be paying for abortions on demand, no matter how the Senate thinks they change the words.

By the way, Mr. Speaker, seven times now we have voted on this matter, and each time the House has made it perfectly clear that it does not want to pay for abortion on demand.

Mr. Speaker, I could go on and on and on, like Tennyson's brook, about the objectionable aspects of this language in the motion offered by the gentleman from Maryland. But I do not want to take the time, obviously, of my colleagues now. I urge the Members to reject this motion. Do not forget that this is a preferential motion and we are voting "no" on the first motion. The first motion is the preferential motion. The first one we are voting on is the preferential motion, and the vote there, of course, is "no." That is the situation. I urge the Members to reject that motion and give us, for Heaven's sake, an opportunity to meet the Senate in order to arrive at an acceptable compromise.

Mr. STOKES. Mr. Speaker, I rise in opposition to Chairman FLOOD's motion to disagree and urge the House to concur in the Steers amendment. Mr. Speaker, just yesterday, I rose on the House floor and indicated that the "new" language was no compromise and that the Senate would reject it for that reason. Four hours after I spoke the Senate rejected the Flood compromise language and offered the Magnuson compromise language which read as follows:

> None of the funds in this act shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term, or in the case of rape or incest, or if the women or fetus would suffer serious health damage. This section does not prohibit the use of drugs or devices to prevent implantation of the fertilized ovum.

As expected the Senate approved this language. In addition, the Senate passed a continuing resolution, carrying with it the Hyde language in the 1977 appropriations act.

Mr. Speaker, the Magnuson amendment was a substantial compromise from the Senate's position with regard to the provision of abortions where medically necessary. The Senator's proposal made provisions for abortions where the life of the woman would be endangered, for victims of rape or incest, and where the mother or the fetus would suffer serious health damage. In the name of humanity and decency, I cannot see how we can rationally reject this kind of proposal.

This is not talking about abortion on demand. This language is not talking about social justice—we evidently gave that issue up several months ago. This language is talking about very real concern for poor women and very real, serious medical problems.

How do we have the audacity to suggest that these women who are at higher risk of illness, because they are poor and have less access to quality medical care, should not be allowed abortions when they are seriously ill or are carrying a diseased or severely deformed fetus? Were these women related to us would we not be concerned about listening to their doctors when a serious medical problem was in evidence?

Mr. Speaker, throughout the conference committee deliberations, there has been a strong feeling among several of the House conferees that exceptions for women with medical problems would allow some women and some doctors to defraud the system. What are we saying about those we represent when we allow that kind of thinking to dominate public policy? What is this saying about those who are patients suffering from illness, of those women who may be suffering from cancer, from diabetes, or any number of other equally serious conditions? What are we saying about their doctors?

Mr. Speaker, when the American College of Obstetricians-Gynecologists and the American Medical Association have both made strong statements discussing the medical complications confronting pregnant women suffering from other medical problems, I am amazed that we in this House can so casually dismiss the medical judgment of those who know the situation best.

I must ask just for whom or for what are we working when we are unwilling to listen to those in a position to know? Are we saying that we are so afraid that someone may take advantage that we should say no to everyone regardless of their circumstances? How heartless and callous can we be? We do not stop the whole medicaid program because a few may take advantage. How can we say no to a woman who is already ill and for whom a pregnancy, in a doctor's opinion, would be inadvisable because of her condition? That is what we are talking about here.

We are also talking about women who may find as the result of prenatal testing (which is covered by medicaid) that they are carrying a genetically diseased or seriously deformed fetus. How can we refuse an abortion when the fetus has sickle cell, Tay Sachs or where deformed as the result of the mother having ingested certain drugs? How can we be that insensitive? Indeed, such a circum-

stance can prevent those parents from ever risking the birth of another child if this option is not available to them.

Mr. Speaker, I also find it paradoxical that those who seem to be so afraid of "fraud" by patients and by doctors are actually acknowledging the desperation felt by women faced with unwanted pregnancies. Yet those same Members have refused to discuss the issue in any substantive compromise.

Mr. Speaker, all the Senate is asking at this point is for some humane, decent compromise so we may at last achieve final passage of this bill. Certainly, on a HEW bill, which is the bill designed to administer to human needs and social service programs, we should be willing to accept a humane compromise such as that offered by Congressman STEERS. Mr. Speaker and my distinguished colleagues, I urge you to reject the Flood motion to disagree and instead to concur with the Steers amendment.

Ms. HOLTZMAN. Mr. Speaker, I believe it is unconscionable and self-defeating to deny medically safe abortions to indigent girls, teenagers, and women. Nonetheless, I reluctantly support the Steers amendment.

This amendment provides that abortions are to be financed by the Federal Government only in cases of rape or incest, or when the mother will suffer serious health damage as a result of pregnancy.

To defeat the Steers amendment would be to sanction "serious health damage" for poor women. To defeat this amendment would be to force poor women who are the victims of rape and poor youngsters who are the victims of incest to choose between the trauma of birth and the health risks of self-induced abortions.

To condemn the living in this manner is to make a mockery of the term "right to life."

By opposing this amendment the entire Health, Education, and Welfare appropriation bill will be held hostage to the most radical antiabortion position. The living will be deprived of the benefits of additional funding for many important programs contained in the bill. These include $580 million for health-related programs—for example, $19 million for maternal health care, $21 million for family planning, $281 million for medical research—$449 million for elementary and secondary education, $153 million for education to the handicapped, $327 million for student assistance for higher education, $27 million for social and rehabilitation services, $150 million for child development, $104 million for programs for the aging.

Surely those who claim to be pro-life should have some small compassion for the living and allow these expanded programs to take effect now.

Mr. FLOOD. Mr. Speaker, I move the previous question on the motion to disagree and on the preferential motion to concur.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the preferential motion offered by the gentleman from Maryland (Mr. STEERS).

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mrs. FENWICK. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 163, nays 234, not voting 37, as follows:

[Roll No. 653]

YEAS—163

Addabbo	Ford, Tenn.	Mineta
Alexander	Forsythe	Mitchell, Md.
Allen	Fowler	Moffett
Anderson, Calif.	Fraser	Mollohan
	Frenzel	Moorhead, Pa.
Andrews, N.C.	Fuqua	Moss
Ashley	Giaimo	Neal
Badillo	Gilman	Nix
Baucus	Ginn	Ottinger
Bellenson	Glickman	Panetta
Bingham	Gonzalez	Pattison
Blanchard	Gudger	Pease
Bolling	Hannaford	Pettis
Brademas	Harkin	Pickle
Breckinridge	Harrington	Preyer
Brinkley	Harris	Pritchard
Brodhead	Hawkins	Railsback
Brooks	Hefner	Rangel
Brown, Calif.	Heftel	Richmond
Brown, Mich.	Holland	Risenhoover
Broyhill	Holtzman	Rose
Buchanan	Horton	Rosenthal
Burke, Calif.	Howard	Ryan
Burton, John	Hughes	Sarasin
Burton, Phillip	Jacobs	Scheuer
Butler	Jeffords	Schroeder
Carr	Jenrette	Selberling
Chisholm	Johnson, Colo.	Sisk
Cleveland	Jones, Tenn.	Slack
Cohen	Jordan	Solarz
Collins, Ill.	Kastenmeier	Spellman
Conyers	Ketchum	Stark
Cornwell	Keys	Steed
Daniel, R. W.	Kostmayer	Steers
Danielson	Krebs	Stockman
Davis	Krueger	Stokes
Dellums	Leggett	Studds
Derrick	Lehman	Thompson
Dicks	Levitas	Thornton
Dingell	Lloyd, Calif.	Tsongas
Dodd	Long, Md.	Tucker
Downey	Lundine	Udall
Drinan	McCloskey	Ullman
Duncan, Oreg.	McCormack	Van Deerlin
Eckhardt	McFall	Waxman
Edgar	McKinney	Weaver
Edwards, Calif.	Maguire	Weiss
Evans, Colo.	Martin	Whitley
Evans, Del.	Mattox	Wiggins
Fascell	Meeds	Wilson, C. H.
Fenwick	Metcalfe	Wilson, Tex.
Findley	Meyner	Wirth
Flippo	Mikulski	Wolff
Foley	Mikva	Yates
Ford, Mich.	Milford	

NAYS—234

Abdnor	Burlison, Mo.	Emery
Akaka	Byron	English
Ambro	Caputo	Erlenborn
Ammerman	Carney	Evans, Ga.
Andrews, N. Dak.	Carter	Evans, Ind.
	Cavanaugh	Fary
Annunzio	Cederberg	Fish
Applegate	Chappell	Fithian
Archer	Clawson, Del	Flood
Armstrong	Cochran	Florio
Aspin	Coleman	Flowers
Baldus	Collins, Tex.	Flynt
Barnard	Conte	Fountain
Bauman	Corcoran	Frey
Beard, R.I.	Cornell	Gammage
Bedell	Cotter	Gaydos
Benjamin	Crane	Gephardt
Bennett	Cunningham	Gibbons
Bevill	D'Amours	Goodling
Biaggi	Daniel, Dan	Gore
Blouin	de la Garza	Gradison
Boggs	Delaney	Grassley
Boland	Derwinski	Hagedorn
Bonior	Devine	Hall
Bonker	Dickinson	Hamilton
Bowen	Dornan	Hammer-schmidt
Breaux	Duncan, Tenn.	
Burgener	Early	Hanley
Burke, Fla.	Edwards, Ala.	Hansen
Burke, Mass.	Edwards, Okla.	Harsha
Burleson, Tex.	Eilberg	Heckler
Hightower	Moore	Sawyer
Hillis	Moorhead, Calif.	Sebelius
Hollenbeck		Sharp
Holt	Mottl	Shipley
Hubbard	Murphy, Ill.	Shuster
Huckaby	Murphy, Pa.	Sikes
Hyde	Murtha	Simon
Ichord	Myers, Gary	Skelton
Ireland	Myers, John	Skubitz
Jenkins	Myers, Michael	Smith, Iowa
Jones, N.C.	Natcher	Smith, Nebr.
Jones, Okla.	Nedzi	Snyder
Kasten	Nichols	Spence
Kazen	Nolan	St Germain
Kelly	Nowak	Staggers
Kemp	O'Brien	Stangeland
Kildee	Oakar	Stanton
Kindness	Oberstar	Steiger
LaFalce	Obey	Stratton
Lagomarsino	Patten	Stump
Latta	Perkins	Symms
Le Fante	Pike	Thone
Leach	Poage	Traxler
Lederer	Pressler	Treen
Lent	Price	Trible
Livingston	Pursell	Vander Jagt
Lloyd, Tenn.	Quayle	Vanik
Long, La.	Quie	Vento
Lott	Quillen	Volkmer
Luken	Rahall	Waggonner
McClory	Regula	Walsh
McDade	Rhodes	Wampler
McDonald	Rinaldo	Watkins
McEwen	Roberts	White
McHugh	Robinson	Whitehurst
McKay	Rodino	Whitten
Mahon	Roe	Wilson, Bob
Markey	Rogers	Winn
Marks	Roncalio	Wright
Marlenee	Rooney	Wydler
Marriott	Rostenkowski	Wylie
Mathis	Rousselot	Yatron
Mazzoli	Rudd	Young, Alaska
Michel	Runnels	Young, Fla.
Miller, Ohio	Ruppe	Young, Mo.
Minish	Russo	Young, Tex.
Mitchell, N.Y.	Santini	Zablocki
Montgomery	Satterfield	Zeferetti

NOT VOTING—37

Anderson, Ill.	Coughlin	Moakley
Ashbrook	Dent	Murphy, N.Y.
AuCoin	Diggs	Patterson
Badham	Ertel	Pepper
Bafalis	Fisher	Reuss
Beard, Tenn.	Goldwater	Roybal
Broomfield	Guyer	Schulze
Brown, Ohio	Johnson, Calif.	Taylor
Clausen, Don H.	Koch	Teague
	Lujan	Walgren
Clay	Madigan	Walker
Conable	Mann	Whalen
Corman	Miller, Calif.	

The Clerk announced the following pairs:

On this vote:

Mr. AuCoin for, with Mr. Moakley against.
Mr. Clay for, with Mr. Ertel against.
Mr. Koch for, with Mr. Walker against.
Mr. Diggs for, with Mr. Schulze against.

Until further notice:

Mr. Dent with Mr. Ashbrook.
Mr. Teague with Mr. Reuss.
Mr. Mann with Mr. Repper.
Mr. Miller of California with Mr. Murphy of New York.
Mr. Corman with Mr. Badham.
Mr. Fisher with Mr. Bafalis.
Mr. Conable with Mr. Broomfield.
Mr. Patterson of California with Mr. Brown of Ohio.
Mr. Roybal with Mr. Beard of Tennessee.
Mr. Anderson of Illinois with Mr. Don H. Clausen.
Mr. Johnson of California with Mr. Coughlin.
Mr. Lujan with Mr. Goldwater.
Mr. Walgren with Mr. Guyer.
Mr. Madigan with Mr. Taylor.

So the preferential motion was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The question is on the motion offered by the

gentleman from Pennsylvania (Mr. FLOOD).

The motion was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore (Mr. ROSTENKOWSKI). Without objection, the Chair appoints the following conferees: Messrs. FLOOD, NATCHER, SMITH of Iowa, PATTEN, OBEY, ROYBAL, STOKES, EARLY, MAHON, MICHEL, CONTE, O'BRIEN, and CEDERBERG.

There was no objection.

GENERAL LEAVE

Mr. FLOOD. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the motion just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

PERMISSION FOR COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE TO FILE REPORT ON H.R. 9418

Mr. ROGERS. Mr. Speaker, I ask unanimous consent that the Committee on Interstate and Foreign Commerce may have until midnight tonight to file a report to accompany H.R. 9418.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

PERMISSION FOR COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION TO SIT ON OCTOBER 20, 1977, DURING THE 5-MINUTE RULE

Mr. ROBERTS. Mr. Speaker, I ask unanimous consent that the Committee on Public Works and Transportation may be permitted to meet on Thursday, October 20, 1977, during the 5-minute rule to have a markup on legislation pending before the committee.

The SPEAKER pro tempore. Is there objection to the request of the gentleman fromTexas?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, could the gentleman tell us which bills are involved and whether or not this has been cleared with the minority?

Mr. ROBERTS. If the gentleman will yield, they have been cleared with the minority. These are three minor bills that are primarily in the Aviation Subcommittee that they wanted to finish up. This would complete our legislative program, and that is the only day we would have a chance to get them out and to get them on the extension.

Mr. ROUSSELOT. Further reserving the right to object, the gentleman's unanimous-consent request is only for 1 day?

Mr. ROBERTS. Yes, sir, just 1 day, October 20.

Mr. ROUSSELOT. Next week?

Mr. ROBERTS. Yes, sir, and that is the only day the full committee can meet to get them out, and, assuming we meet our deadline, that is the last chance we have to get them on the extension.

Mr. ROUSSELOT. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

PERMISSION FOR SUBCOMMITTEE ON MINES AND MINING OF COMMITTEE ON INTERIOR AND INSULAR AFFAIRS TO SIT TOMORROW DURING 5-MINUTE RULE

Mr. KAZEN. Mr. Speaker, I ask unanimous consent that the Subcommittee on Mines and Mining of the Committee on Interior and Insular Affairs may be permitted to sit tomorrow during the 5-minute rule. We are taking testimony on the mining law, and there is no markup. It will be just the taking of testimony.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, the gentleman assures us that there will be absolutely no markup of any kind?

Mr. KAZEN. Absolutely no markup.

Mr. ROUSSELOT. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the gentleman from Texas?

There was no objection.

PERSONAL EXPLANATION

Mr. VANIK. Mr. Speaker, this afternoon I had to miss attendance in the House and several votes in order to attend a White House conference on the steel import problem. I regret that this was necessary.

THE CHALLENGE OF GROWTH: INSIGHTS OF MAYOR MICHAEL A. BILANDIC

(Mr. ROSTENKOWSKI asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. ROSTENKOWSKI. Mr. Speaker, it gives me a great deal of pride to share with you and my colleagues the recent remarks of the mayor of Chicago, Michael A. Bilandic, before the Commercial Club of our great city.

This address captures, I believe, that spirit of far-sightedness and civic cooperation so essential to the successful leadership of any great city. The mayor identifies those qualities of citizenship which have made great improvements possible in Chicago since its earliest days as a commercial and cultural center. He traces the business community's heroic response to the disastrous great fire of 1871 and its magnificent support of the historic Columbian Exposition in the 1890's. Outlining the 1909 "Chicago Plan," Mr. Bilandic praises the Commercial Club's leadership in promoting one of the most exciting and fruitful architectural periods in city history.

With these historical perspectives as a backdrop, the mayor calls for a rekindling of the civic pride so evident in that city's early days. Today's challenge, the building of the long-awaited Burnham Corridor, presents another opportunity for Chicagoans to unite for future progress.

Mr. Speaker, this address offers real insight into what makes a great urban center grow and prosper, providing constantly improving conditions of life for its citizens. I am pleased, therefore, to offer the remarks of our distinguished mayor:

ADDRESS BY MAYOR MICHAEL A. BILANDIC

Thank you Mr. Stuart. It is indeed a pleasure to be with you tonight at your 677th meeting. It is appropriate that the first meeting of this historic club's season should fall so near the 106th anniversary of the great fire of October 8, 1871. The great fire that fanned through the city, gutting 18,000 buildings and virtually destroying the central business district, left 100,000 Chicagoans homeless and killed over 250 of our citizens.

In the midst of this desolation, many of the residents viewed the ruins and were disheartened, predicting that Chicago would never rise again. John Greenleaf Whittier, the celebrated poet, described the cry as "The City of the West Is Dead."

But louder even than the doomsayers were other voices. John Stephen Wright, an early Chicago business leader, stood surveying the smoldering ashes of his home.

When one of Wright's friends asked him, "well, what do you think of the future prospects of Chicago now?", he resolutely responded, "Chicago will have more men, more money and more business within five years than she would have had without the fire."

The Chicago Tribune, whose own building at Dearborn and Madison had been destroyed, still managed to publish a paper within three days, that proclaimed, "cheer up!"

Joseph Medill, capturing the spirit of the city, wrote: "In the midst of a calamity without parallel in the world's history, looking upon the ashes of thirty years' accumulation, the people of this once beautiful city have resolved that Chicago shall rise again."

As in all times of tragedy there are those who despair and abandon hope. And there are those who are courageous and stay to fight. Those who stayed to fight in Chicago worked miracles even by today's standards.

Incredibly within two decades, the city was not only physically and financially rebuilt, but was vying with other leading cities in the nation to host the Columbian exposition, the 400th anniversary of the discovery of America by Columbus. Although all of the cities came forward with generous offers of sites and subsidies, "Chicago surpassed them all in the munificence of her pledges and as a result won the much coveted honor."

The Official designation of Chicago as the site of the Fair was made by Congress on April 25, 1890. Following this came the miracle of the creation of the Columbian exposition with its magnificent marble buildings—and a miracle it was.

As the official souvenior booklet of the exposition expounded, "A miracle in the brief space of time employed, in the magnitude of the work accomplished, in the beauty of the landscape gardening, in the glory of the architecture, and in the perfect adaptation of means to ends. The swamps along the shore of Lake Michigan became a dream of Venice, the sand heaps bloomed in parterres of glowing flowers, the barren spaces were made glad with graceful forms of art, and where nature had rioted in almost savage desolation arose the . . . Palaces of Peace, the highest type of architectural skill and the most marvelous manifestation of man's mastercraft that ever charmed the world."

Behind the design of this magnificent achievement were several gifted architects

and planners, one of whom was Daniel Burnham. Burnham's imagination and passion were fired by the idea of creating a vast, open and green shoreline. He was determined to make Chicago "a city beautiful." For years he appealed to civic-minded groups to support his plan. Finally one group caught the spark of Burnham's dream: that group was the Commercial Club, earning the designation "the parent of the Chicago plan", which was published in 1909.

However, the publishing of this visionary, but practical plan was just the beginning of the struggle to breathe life into the architectural drawings.

The first step was the establishment of a planning commission to study and execute the Chicago plan. This task fell to Mayor Fred Busse.

Now history tells us that Mayor Busse was a very practical-minded fellow, but I can't help but believe he had a strong romantic streak. After all, Fred Busse set a precedent with which I am in full accord and followed myself. We were the only two Chicago mayors to marry while in office.

Mayor Busse recognized the compatibility of both the practical and beautiful aspects of the Chicago plan, when he told the city council: "This plan is not to be considered as the embodiment of an artist's dream or the project of theoretical city beautifiers who have lost sight of everyday affairs and who have forgotten the needs and interests of the mass of people. On the contrary, the men who produced the Chicago plan are all hard-boiled businessmen. Making Chicago attractive to visitors from all parts of the world will add to Chicago's resources a very great asset, the value of which will be reflected in every piece of real estate within our limit."

The resulting Chicago Planning Commission was a group of 328 business and civic leaders charged with the implementation of Burnham's plan. Not surprisingly, and almost without exception, the members of the Commercial Club's plan committee turned up on the Chicago Planning Committee, evidencing a clear commitment on the part of this organization to follow through with the monumental proposal it had sponsored.

And this commitment was essential. Like all new and progressive ideas, the Chicago plan was roundly criticized. There were those who felt it was simply impractical and idealistic. There were those who felt, in those hard times, that money spent for public improvements was wasteful. To combat these sentiments, one of the plan's proponents, Frederick Stanley Oliver, urged the citizens to consider "what it means to our city to have . . . a great broad highway from the congested districts of the west side to the lake front, where the poor may come to mingle with nature to slake their thirst for health-laden air at the brink of old Michigan; what it means to have North Michigan Boulevard widened and extended to Chicago Avenue, with a proper and befitting bridge over our grand canal; what it means to have at the mouth of the Chicago River, an outer harbor—as well as to possess modern bridges for the great thoroughfares that cross the river; realize, if you can, the importance to our city of the proposed subway system, and then stand with us."

By 1911, the committee was ready to effect the first concrete improvement called for under the plan. A successful bond isssue would pave the way for the widening of 12th Street and carrying it by viaduct across the railroad yards south of the Loop. However, the bond issue initially met with great resistance and it appeared at the outset that the referendum would fail. It took all segments of the city working together to reverse this prediction. Books were published. The press mounted an intensive campaign. Finally the people of Chicago were convinced. The 12th Street project got underway.

The plan commission then pushed further ahead with the Burnham Plan. Textbooks were written for the schools—the first time a text in planning was admitted for study by an American school board. Lecture programs were created to reach the citizens with solid information in a successful attempt to convince the public of the need for the proposed park land, lakefront development, and the street and highway programs.

Slowly, but inevitably, people's skepticism and opposition were converted to confidence and devotion to the Chicago plan. The citizens of the city saw the wisdom of the plan, saw that the expenditure of funds now could only save money in the long run, as well as be an investment in Chicago's property values.

All finally came to agree with your distinguished commercial club member, Charles H. Wacker, Chairman of the Chicago Planning Commission, when he stated: ". . . A beginning must be made. Obviously, the work that must first be done should be made of a nature to benefit the largest number of people and that which is most necessary. All thinking persons who are not prejudiced will agree on that. Also work must first be done where it can be done before the cost becomes prohibitive through high property values." His words, and the spirit of this club, and the commission on which your members so ably served, are again equally applicable in today's Chicago.

Just as the Commercial Club and Daniel Burnham in 1909 stood at the threshold of an historic event, so does the Commercial Club stand in such an important position today. I have reference, of course, to the Burnham corridor.

The Burnham corridor is but another part of the total Burnham plan. Many phases of that plan have been long completed—the widening of Michigan Avenue, the creation of the outer drive, lakefront parks—but this most recent chapter of the Burnham plan remains for us to complete.

An outlying transportation artery, such as the Burnham corridor, was sketched in Burnham's original plan. Its feasibility is not in doubt. It has been the object of extensive study for several years. And in fact, all unbiased and fair-minded people have admitted the wisdom of this plan.

The Burnham corridor development is, in fact, an economic classic. It will cause the infusion of one billion 200 million dollars into the economy of the city and the State of Illinois. With other related public works programs, it will provide 47,000 jobs. It will rejuvenate an industrial area, improve the flow of traffic and revitalize Midway Airport—all without adding one cent to the tax burden of the citizens of this Nation, in that the necessary money has been lying idly in a trust fund awaiting an agreement satisfactory to all concerned parties.

It will not be easy. We may well experience more difficulties in building a road than Daniel Burnham did, simply because Burnham did not have to deal with the modern-day intrusion of Federal governmental processes in local government.

Opposition has been voiced. This is not unusual, perennially opposition always develops when public improvements and change are suggested.

As that prominent citizen Oliver stated in discussiong opposition to the 1909 Burnham plan: "In a great city like this, made up of so many heterogeneous elements, it would be, of course, too much to expect, on any important matter, anything approaching unanimity of opinion, but it does not seem unreasonable to look for it occasionally when the best thought of broadminded public-spirited citizens, eminently qualified to pass an intelligent opinion, have indicated the undoubted wisdom of a certain line of action. Yet it is difficult to recall any great proposed public work, which has been frequently given years of patient and intelligent study, which has not felt the virulent assault of an ofttimes ignorant and selfish, but too frequently sordid opposition. Sometimes it is due to an honest and differing opinion, but more often to a narrow and unreasonable selfishness . . . and too often to a demogogic assault for political advantage."

Like Daniel Burnham, we are going to need the strong support of all segments within our city to achieve our goal. The beginnings of that cooperative spirit are here. The media, for instance, have all supported the Burnham corridor concept.

The Sun-Times editorialized, "Chicago must reclaim decaying areas of the city and a declining tax base if it is to remain an economic and cultural center. . ."

Just recently the Tribune explained: "unless better transportation is provided for trucks and for workers, thousands of acres that could be contributing to the city's prosperity will continue to deteriorate into vacant lots, junk yards, stagnant business, and dilapidated housing. The loss to the city—in real estate values, taxes, industrial production, and jobs—will be measured in the billions of dollars. . . . Compared with what is to be gained, the price is still a bargain. It is worth noting that if construction had not been delayed by years of sniping, haggling, political vacillation, and stubborn governors [just as construction of the Michigan Avenue bridge in 1920 was delayed by objections which are now wholly forgotten], the expressway could have been built for half what it will cost now. And by 10 or 15 years from now, the cost will have doubled again."

Just recently the Federal Government has indicated that it will support us by trying to speed up the paperwork involved in completing the corridor. Once again, on the State level we are experiencing the intergovernmental cooperation we enjoyed under your member, Richard Ogilvie, a great governor and statesman, an early supporter of the Burnham Corridor and a good friend.

I am certain that the commitment of the Commercial club to Chicago in 1977 is equal to, if not greater than that of the Commercial Club in 1909. Evidence of this fact is that almost one-half of the business representatives on our economic development commission are commercial club members.

I think this is a tribute to the business community that more should be aware of. As Paul Harvey, the news commentator, recently implored: "Pray that our battered businessmen survive! The teachers, the writers, the 'thought shapers' have been condemning businessmen."

He noted that "in the sixties, with our Nation's productive economy in high gear, business and businessmen were disdained, accused of 'lacking a social conscience'."

"When recession pinched off some luxuries, the detractors switched to suggesting panacea. Because however intellectual one might be, he still uses and wants cars and clothes and packaged foods and handy appliances and the money with which to buy them. And he can't produce them. Only businessmen can. The teachers and preachers and writers want theaters and concert halls and museums and libraries and schools and colleges, and philosophers don't pay for those things; they are suported by the profits from business!

The 'socially conscious' want urban renewal and less poverty and more employment.

They imagine that Government can provide such.

But Government can provide only what profitable business can support."

Mr. Harvey continues, "Congress is contemplating a 'guaranteed annual income for all Americans.'

Good or bad, Congress could not even consider such expenditures if business did not provide a taxable surplus.

We can give food stamps to unemployed only as long as our farmers produce more food than they eat.

You want to help the poor—start a new business.

A profitable business.

Because without profitable businesses there is no money for medical research, social justice, education or the arts.

There will be no lights without generators.

Let's bandage the image of our battered businessman and help him get about his business of providing everything we need and most of what we want."

These comments of Mr. Harvey's highlight the importance of the business community, an importance we in Chicago have always appreciated. Without a doubt, the business leaders of Chicago have always done more than their fair share. It was our businessmen and women who helped take Chicago from the ashes to where it is today. Most people would be shocked to learn that only nine countries in the world generate more gross national product than we do in the city of Chicago.

This incredible achievement is the result of business, labor, Government and the community working together to reach a level of production that even optimistic John Stephen Wright, on that long ago October day, would never have imagined for the city of Chicago.

Historically the Commercial Club has always figured prominently in Chicago's progress. We look forward to your continued prominence in Chicago's future. I am confident that the Commercial Club of 1977 will surpass the work of their illustrious predecessors by rallying with us to bring about the early completion of the Burnham Corridor.

To accomplish this we may need to consider a campaign of the type the Commercial Club undertook to convince Chicagoans of the merits of Burnham's original plan—a campaign to shake people free of the misconceptions and misunderstandings of this worthwhile transportation and industrial corridor.

Your participation and support of this Burnham Plan of 1977 is essential. The shaking and planning have begun. Let us move forward together!

IMPLICATIONS OF MANDATING UNIVERSAL SOCIAL SECURITY COVERAGE BY 1982

(Mr. HANLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. HANLEY. Mr. Speaker, it is imperative that my colleagues understand the implications of the recent action of the Social Security Subcommittee of the Committee on Ways and Means. I am referring to the approved proposal mandating universal social security coverage by 1982 included in H.R. 9346. This bill represents a rather frantic effort to solve the problems of a depleted social security fund at the expense of more than 6 million Federal, State, and local government employees.

I find it extremely distressing, that a bill that affects the retirement benefits of so many Federal employees has not yet been considered by the Committee on Post Office and Civil Service. This bill requires the melding of the civil service retirement system with the social security system. This is obviously under the jurisdiction of the Committee on Post Office and Civil Service Committee and this committee should have the opportunity to review the pertinent sections of H.R. 9346. I am pleased to learn, Mr. Speaker, that you have sequentially referred this bill to the Post Office and Civil Service Committee.

One major problem presents itself immediately—the civil service retirement fund and the social security system were not created for, or serve the same purpose. The civil service retirement fund was created in 1920 in order to attract and retain talented career civil servants. Congress wanted to offer Govement workers a full retirement income based on years of service. The social security system on the other hand was formed to provide an income assistance plan to supplement private pension plans and savings. Two vastly different plans, and yet the Social Security Subcommittee apparently sees little difficulty in integrating them. To be more accurate, they do not know what problems might emerge.

The subcommittee's legislative approach to this matter is not at all comforting. The bill provides for a study to be done by the Secretary of Health, Education, and Welfare in consultation with the Civil Service Commission. The Secretary is to include features to assure that Federal employees not be put at a disadvantage during this integration, either in their coverage protection or in contributions. This study is to be completed by 1980, 2 years before universal coverage is to become effective. This is a blatant legislative flaw. It is a classic cart before the horse situation.

Is it not conceivable that in the course of this study it could emerge that the two systems cannot be equitably merged? Is it not conceivable that it may simply prove to be unworkable, financially unsound, and may deprive many civil servants of the rights and benefits they now enjoy. The bill does not cover these contingencies; and that means that the subcommittee is mandating universal coverage irregardless of the results of the study. It would be far more logical to legislate a study to be done to examine, in total, the problem of the social security system. Let the Secretary of the Department of Health, Education, and Welfare and the Civil Service Commission determine why the funds have become depleted over the years and outline all the possible ways to remedy the situation.

By mandating universal coverage by 1982 the subcommittee has chosen a route that could be a short-term solution without recognizing some long-range implications in other areas. It would be unfortunate, to say the least, to have this measure passed and have the social security fund solvent only to get in trouble because the root causes of the deficiency were not carefully examined. It would be terribly unfair to augment the sinking social security fund with money that Federal employees have set aside, in good faith, in order to assure themselves a decent retirement.

I am very much opposed to H.R. 9346 in its present form and sincerely hope that my colleagues will review this legislation carefully. Let us not balance the books of the social security system at the expense of millions of career civil servants.

REPEAL 1976 ESTATE TAX MISTAKES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. CORCORAN) is recognized for 5 minutes.

Mr. CORCORAN of Illinois. Mr. Speaker, I am sure that by now all of my colleagues are aware of the uproar created by the Gift and Estate Tax Reform Act of 1976. I have received numerous calls and letters from constituents, voicing their objections to the carryover basis provisions contained in that act.

On October 6, the House Ways and Means Committee held hearings on the carryover basis to consider repealing these provisions. Mr. Speaker, I believe the so-called carryover basis provisions constitute bad tax policy. I am inserting into the CONGRESSIONAL RECORD a copy of the statement which I submitted to the committee during these hearings:

STATEMENT BY THE HONORABLE TOM CORCORAN

Mr. Chairman, I believe that the Committee should be commended for its initiative to conduct these hearings on the carryover basis provisions of the Estate and Gift Tax Reform Act of 1976. I am pleased to present this testimony on an issue which has created a most anxious and growing concern among my constituents and citizens throughout the country as they become aware of its meaning. People want these provisions repealed as quickly as possible.

The Estate and Gift Tax Reform Act of 1976 (H.R. 14844) evolved out of the concern of the Congress, and specifically, the Committee on Ways and Means, for the need to preserve the nation's family farms and for the need to reduce the trend toward greater concentration of business ownership into fewer and fewer hands. Overall, the estate tax provisions of the bill are responsive to the basic problem, including a substantial increase in the level of tax-free estates by means of the basic estate tax credit. I am also supportive of the measures which provide family farms and small businesses with an alternate valuation standard to allow a portion of their assets to be assessed at their current economic use, rather than according to the value which the government determines to represent the highest and best use of the property. H.R. 14844 represents a significant effort to alleviate the problems which, before its enactment, required the forced sale of farms and small businesses to pay the Federal estate tax.

However, Mr. Chairman, the beneficial effects of these reforms have been severely diluted by Section 6 of that bill which amends the income tax law to provide that the basis of property acquired from a decedent dying after December 31, 1976, shall be the same in the hands of his executor and heirs as it was in the hands of the decedent immediately before his death. Conservative estimates have revealed that the carryover basis provision will reduce the total relief provided in this legislation by more than $1 billion in the long run. Thus, the present estate tax burden on farmers and small businessmen which H.R. 14844 sought to eliminate, has been replaced by an income tax burden of perhaps greater magnitude! In addition, I believe that an income tax provision for a carryover basis has no place in an estate and gift reform bill.

Section 6 also adds to the complexity of our tax laws by requiring a determination of the basis of a capital asset in the hands

of the decedent. In many cases these records are not available, particularly in instances where family farms and small businesses have been passed down through several generations. And once the basis has been determined, these records must be maintained for long periods of time until the property is eventually sold. Almost paradoxically, these record-keeping requirements will be particularly burdensome on the very farmers and small businessmen that this legislation was supposed to help and hardly represent a simplification of the laws prior to this reform.

Another primary objective of this estate bill was to provide relief to highly illiquid estates. But because the carryover basis provision does not contain an exception for farm or small buisness property, it is equivalent to a capital gains tax at death to the extent that appreciated property must be sold. For example, if it is necessary to sell appreciated farm assets to pay the estate tax, the carryover basis provision requires the payment of a capital gains tax before payment of the estate tax. Thus, the executor order to pay the combined income and estate taxes is forced to sell more assets of the estate in tax liability of the estate.

This tax policy has created the so-called "lock-in" phenomenon, whereby a beneficiary who receives property with a low carryover basis is obviously encouraged to hold the property beyond the time when prudent investment sense would otherwise dictate its sale. The capital gain subject to tax would be too large to permit a sale, and the longer an asset is held, the more generations it passes through, the larger its increase in value over that at its original acquisition, and the stronger the lock-in. I believe this to be unsound tax policy, because property should neither be held nor disposed of for tax reasons only, but for personal or business purposes.

Mr. Chairman, the Estate and Gift Tax Reform Act of 1976 was intended to make long overdue changes in the estate and gift tax areas, with particular emphasis on the special problems faced by farmers and small businessmen. The carryover basis relief in the Act, I believe, has negated the relief which other provisions have provided relative to the estate tax. Therefore, I urge the Committee to support H.R. 6123, introduced by the gentleman from New York, Mr. Conable, and cosponsored by myself and many of our colleagues, to repeal these unwanted and unfair carryover basis provisions contained in the Act.

DEBATING THE PANAMA CANAL'S FUTURE IN THE RIGHT CONTEXT IS CRUCIAL TO THE VALIDITY OF OUR ACTIONS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. KEMP) is recognized for 15 minutes.

Mr. KEMP. Mr. Speaker, I have been following the national debate over the new Panama Canal Treaties with great interest. I have read newspaper accounts of its terms and of support for, and opposition to, it. I have read quite carefully the statements of the administration on what they construe the treaties' terms to mean. I have studied the testimony now being presented in Congress, and I have made a diligent attempt to secure as much information as possible on what the Panamanians and other Latin Americans are saying to their own people, in their press and in private, about the terms of the treaties.

I am fearful that the almost unanimous concentration of the public's foreign policy attention on these treaties will draw too much of their attention away from matters equally as crucial to our national security, and I speak specifically of negotiations about a new strategic arms limitation agreement with the Soviet Union, about what the administration is doing to decimate our strategic deterrent capabilities—eliminating the B–1 strategic bomber, canceling production of the Minuteman III intercontinental ballistic missile program, jeopardizing the advantage of U.S. leads in Cruise missile development, et cetera.

As a member of the House Subcommittee on Defense Appropriations, I believe the Panama Canal issue must be examined, and then hopefully decided, in the context of international moves with respect to the major, strategic waterways of the world.

I wish to concentrate my remarks today on this point—the Panama Canal in the context of Soviet actions and initiatives in countries commanding approaches to the world's most important waterways.

Let me make a point at the outset. The campaign to ratify the proposed treaties has become just that—a campaign. It is being orchestrated by political operatives who are advised daily by people in and out of government on how to garner and publicize additional support. The Panamanian Government has retained the services of a leading, professional political campaign organization here in Washington to help it sway public opinion here, on how to sell the treaties through Madison Avenue techniques similar to selling soap.

I regret this, not because it has never happened before; we all know that it has. But, rather, because that kind of fanfare and fireworks approach can obscure the real issues. And control over the world's major waterways is certainly a real issue.

In a world whose dimensions have been shrunk by instant communications, by satellites which can report the location of, and identify with high accuracy, every vessel on the oceans' surfaces, and by the new phenomenon on a Soviet white water navy operating anywhere it wants any time it wants, every major waterway becomes a component which relates to every other. If you know what is going on at every one of them at the same time, you know how to effect what will go on at every one of them at a future point in time. And the Soviets have the increased capability of doing just that.

Yet, in my opinion, an examination of what proponents and opponents of the treaties have said so far shows too little discussion of the future of the canal in the context of the world's waterways.

There are not that many of these waterways. Only about 2 dozen of truly major commercial importance for international trade, and about half of these are crucial for the deployment of naval vessels. They are, as one would expect by logic, spread out over the globe's surface, from Gibraltar, Suez, to the Strait of Malacca, the Cape of Good Hope, the Strait of Magellan, the Strait of Hormuz, to the Panama Canal. There are others.

In 1955, the Soviets had control of none of these waterways and effective influence over almost none. It has not been that way since, and I only wish I had a chart of the world on the wall behind me so I could show my colleagues the dramatic impact the Soviets have had in gaining control or influence of the waterways. That influence has become global in every sense, and it has, in one way or another, reached every single waterway.

Let us look at them one by one.

THE STRAIT OF GIBRALTAR

This is probably the most familiar strait to Americans. It is, of course, between the southernmost tip of the Iberian peninsula—the peninsula on which we find Portugal and Spain—and the northernmost tip of western Africa, specifically at Morocco. It figures in our history back to the days of the Phoenicians and Greeks, when the strait was called the Pillars of Hercules, and the days of the Roman Empire. Until the opening of the Suez Canal at the eastern end of the Mediterranean Sea at the beginning of this century, it was the only entrance into and exit out of the Mediterranean. I do not think I have to recite its importance during the Second World War and the fight for North Africa, Sicily, and Italy.

Its importance has not diminished since then. Whether it is a war in the Mideast, as we had in 1948, 1956, 1967, and 1973, or a crisis on Cyprus, or the trade route for oil from the Arab producing countries, or in relation to NATO and our 6th Fleet or the Soviet's massive buildup of naval vessels in the Mediterranean, it must be seen as a vital waterway.

I made note of this back in December 1975 in remarks in this Chamber, "The Strategic Implications of the Rapidly Growing Soviet Presence along the Vital Sea Routes to the Suez Canal," pages 39129–39134, December 8. One paragraph in those remarks summarized the relative strengths of the United States and the Soviet navies in the Mediterranean at the height of the Yom Kippur war in 1973, and I quote:

> At the height of the Yom Kippur war in 1973—and the Yom Kippur confrontation between the United States and the Soviet Union—the Soviet Mediterranean fleet had 90 heavy ship-killing missiles of the 150-mile range class aimed at the United States' 6th Fleet. In contrast, the American fleet had only 14 such missiles with a top range of 35 miles. Every major combatant ship—or "high-value target" as the Navy refers to them—in the U.S. fleet was targeted around the clock by a trailing Soviet missile ship, each fully prepared for an instant first strike. This disparity between U.S. and Soviet capabilities was crucial in that war and confrontation, because when the Soviets pressured us into coercing Israel to halt its assault on the Egyptian 3d Army or risk an assault on our forces, we had no alternative but to back down and insist the Israeli's back down.

The Soviets understand the importance of this waterway to us and to them. It is not a secure strait today—for us.

Two years ago the Communists came to power in Portugal. They failed to consolidate their gains early enough to keep from sliding back out of power, but they

are still a heavy influence in the governing socialist coalition. What happens to be one of the largest ports in Europe and not by coincidence one of the closest to the Strait of Gibraltar? Portugal's capital city, the port of Lisbon.

After one passes through the Strait, heading west to east into the Medterranean, a ship has Moscow and Cuba-oriented Algeria on the southern littoral then equally Communist-oriented Libya also to the south both lying on the Mediterranean coast of North Africa.

You then approach Egypt and the northwestern entrance to the Suez Canal and then the Red Sea, the route to the oil-producing States of the Persian Gulf, thence the Indian Ocean, thence the Pacific. It is appropriate to discuss the Suez Canal and the Red Sea at this point.

THE SUEZ CANAL AND THE RED SEA

The Suez Canal is, of course, the northwestern entrance to the Red Sea. If the canal is closed, there simply is no means of seaborne transit to western Europe and the United States from the oil-producing countries, except to go all the way down the east coast of the African Continent, around the Cape of Good Hope, and then all the way around the west coast of the continent to get to western Europe or across the South Atlantic to get to the United States. When the canal is closed, as it was for 8 years following the 1967 Mideast war, thousands of miles—and billions in cost—are added to oil transportation and thousands of miles—and days of valuable time—are added to naval movements.

The Suez Canal was originally controlled by a joint British-French-Egyptian company. But the canal was nationalized in 1956 by Egyptian President, Col. G. A. Nasser. Nasser moved increasingly into the Soviet orbit, and the direct Soviet military influence along the canal was felt.

Although Egypt under President Anwar Sadat has moved out from under the Soviet orbit, the Mideast remains one of the most volatile hotspots in the world. It is a place where peace simply is not assured and where major outbreaks of hostility always seem to be on the horizon. It is disturbing to me, too, that the Egyptian Government has again begun discussions on various types of assistance from the Soviet Union, engaging in a formal series of meetings earlier this year.

But the Suez Canal is not solely an Egyptian question. Even if the canal itself is open, access to it from the Indian Ocean cannot be guaranteed if the southern entrance to the canal—the Red Sea and the Gulf of Aden—is closed. And that is becoming an increasing possibility, if the port of Djibouti in the former French Federation of Afars and Issas should fall in Communist hands, either from Ethiopia or Somalia, both of which have territorial claims over the recently independent colony.

As you travel southeast from the canal, you go south through the Red Sea. Saudi Arabia is to the east, Yemen and the Peoples Democratic Republic of Yemen. To the west, after you leave the Egyptian coast on the Red Sea is Sudan, with its unstable history of pro- and anti-Communist military coups, and then the pro-Soviet government of Ethiopia, which is presently engaged in a Soviet-supplied border war against the Somalians, who are also supplied by the Soviets. The Red Sea narrows severely at its southeastern exit into the Gulf of Aden, and it is here that you have on one side, Djibouti, the principal rail center for access to the sea for Ethiopia.

And, on the other side, the Peoples Democratic Republic of Yemen, formerly the British colony of Aden, now clearly alined with the Soviet Union. Please note that this means you have Soviet-supplied Somalia to the south and the PDR of Yemen to the north as you go from the Red Sea into the Indian Ocean through the Gulf of Aden.

The Soviets have for several years had a naval missile handling facility at the Somalian coastal town of Berbera, the former capital of British Somaliland, located on the Gulf of Aden, only about 250 miles from the strait joining the Red Sea and the Gulf of Aden. Then Secretary of Defense, James Schlesinger, addressed himself to this facility in testimony before the Senate Committee on Armed Services on June 10, 1975. I quote from it:

As early as 1962, the Soviets agreed to assist the government of Somalia in constructing port facilities in Berbera, a small port overlooking the entrance to the Red Sea. The harbor was completed in 1969, and by 1971 sixteen Soviet ships paid visits to the port. In 1972, Marshal Grechko visited Somalia for the signing of a Soviet-Somali Agreement, and this was soon followed by an increase in Soviet use of facilities at Berbera, including the establishment of a naval communications site and the arrival of a barracks and repair ship which has remained as a permanent feature ever since. In late 1973, the USSR began initial construction of what has subsequently been identified as a missile storage and handling facility at Berbera, suggesting that the Soviets had plans for such a facility even before the events of the October 1973 war and the introduction of a more frequent U.S. presence.

In July of last year, the USSR signed a Treaty of Friendship and Cooperation with Somalia, similar to those signed with Egypt, Iraq and India. Several months later, approximately coincident with a visit by the Commander of the Soviet Navy, Admiral Gorshkov, we noted the beginning of a significant expansion of Soviet facilities at Berbera, including expansion of the POL storage, construction of additional housing ashore, and the beginning of a very long airstrip. The emerging configuration of a missile storage and handling facility became apparent. It is evident that the USSR is in the process of establishing a significant new facility capable of supporting their naval and air activities in the northwest Indian Ocean.

The USSR has also provided assistance to the Government in South Yemen in managing the former British port of Aden, which was the fourth largest bunkering port in the world when the Suez Canal was in operation. This port lies directly across the Gulf of Aden from Berbera and commands the northern side of the entrance to the Red Sea.

Mr. Speaker, details were provided both in the following weeks and on November 11, when a UPI wire of that day summarized the more recent Soviet developments in Berbera:

The Soviet Union has stationed a guided missile patrol boat at Berbera, Somalia, along with 15 to 20 antiship missiles, according to intelligence reports reaching the Pentagon.

The boat and missiles could cut off an entrance to the Red Sea, an approach to the Suez Canal. "This is evidence of a major new weapons system being introduced into the Indian Ocean (area)," one source said.

Early this summer, Schlesinger said, "we have evidence of Soviet missiles at Berbera." He backed it up with photographs taken from a spy plane. Somalia denied the statements and Congressional delegates which went to see for themselves were not allowed inside the complex, one group was turned away by an armed Russian marine.

At that time, the sources said, two missile crates had been detected. At the end of October, U.S. intelligence found between 15 and 20 SSN2, Styx missiles, with a range of about 25 miles and a conventional warhead. A Styx sunk an Israeli destroyer in the 1967 fighting.

The ship is the 128-foot OSA–II class. Navy sources say it is "the most numerous missile boat in Soviet service with 120 units operational in the Soviet navy."

Mr. Speaker, it should be made clear the facility is still there and serving these purposes for the Soviets.

Now that one is in the Indian Ocean, there are two routes out of it. One is to the South Atlantic, around the Cape of Good Hope at the southernmost tip of the African Continent, the route which had to be used when the Suez Canal was closed. The other is across the Indian Ocean and to the South China Sea, via the Strait of Malacca, and thence to the Pacific. Let me discuss each of these.

THE CAPE OF GOOD HOPE

This cape's importance is obvious. It is not only the means of going between the South Atlantic, thus to Europe and North and South America, and the Indian Ocean, thus to the Persian Gulf States, South Asia, and the Far East, but it is in that context, the principal alternative to the Suez Canal.

The cape's future lies with the future of South Africa. It is the southern tip of South Africa. Thus, its future is embroiled with the tension associated with the future of the area, a future already shaping its use, for to get from the Persian Gulf to the cape, the quickest route along the east coast of Africa is down through the Mozambique Channel, the waterway lying between Mozambique and the Malagasy Republic—formerly Madagascar.

We know from press reports, because it has been openly acknowledged, that Mozambique is receiving massive aid from the Soviet Union. Its president has hosted the Soviet leadership and has been hosted by them; he has welcomed Fidel Castro; and, he has served willingly as the main point of entry for arms and munitions against Rhodesia, which is landlocked west of Mozambique. But let me return to the question of the Cape of Good Hope.

There are four major ports in South Africa for commercial traffic—Durban, East London, and Port Elizabeth on the Indian Ocean side, and Cape Town on the Atlantic side. You also have the

naval port of Simonstown, lying right at the cape. Their future will be decided by the future of the country.

Few things could better summarize the importance of the cape and what is going on there now—with respect to Soviet and United States naval forces and with respect to maritime commerce—than several paragraphs from the report to me of my administrative assistant upon his return from Simonstown last December. I quote:

1. Before the reopening of the Suez Canal, 70 ships per day went around the Cape, headed to or from North and South America and Western Europe and, principally, the oil fields of the Persian Gulf. That figure has *not* declined significantly, because many of these vessels are too large to use the Suez Canal. All the supertankers still go around the Cape, and this is about 12 per day. Seventy-percent of the oil to western Europe, from the Persian Gulf, goes around the Cape today. To the supertanker, the Suez Canal is irrelevant.

* * * * *

3. Simonstown is the most sophisticated naval base on the African continent. It has full machinery and technological capabilities for modern weaponry. * * * * * Simonstown is being dramatically enlarged and modernized too.

* * * * *

6. The "increase in Soviet activity has been phenomenal in recent years"—enormous amounts of war material on their cargo ships.

Two things of interest:

First, before the Angolan war, the Soviets were very discreet. Their military hardware was below deck, and one had to find out through intelligence sources. (The first arrival of major arms equipment from the Soviet Union to the Angolan port of Luanda was March 25, 1975.) After the Angolan war was over, they stopped making pretences. They now carry missile launchers, heavy armor, and even aircraft on top of the decks.

Second, in response to my question as to how many U.S. naval vessels are operating along the sea lanes at any given point in time, either on the Atlantic side or the Indian Ocean side, I was informed, "Zero." Not one. Only an occasional submarine. Yet, in contrast, the Soviets often have 30 vessels operating along this route, naval vsesels.

Mr. Speaker, it goes without saying that the use of port facilities along the South African coast would greatly enhance the at-sea capability which the Soviets are already deploying and demonstrating. This could be accomplished in the next decade, if the United States is unmindful of the strategic consequences of the future of the area.

THE STRAIT OF MALACCA

As I indicated a moment ago, the Strait of Malacca is the principal passage from the Indian Ocean to the Pacific, via the South China Sea. The strait lies between the southernmost tip of the Asian mainland—at Malaysia and Singapore—and the Indonesian island of Sumatra.

This strait's future has been dramatically effected by the outcome of the war in Indochina. The strait lies about 700 miles south of Vietnam and Cambodia. If traffic through it were ever interdicted, ships would have to go hundreds of miles further, out of the way, and at great expense of time and dollars.

The future of the South China Sea, into which the strait runs at its eastern end, could be heavily influenced, as would the strait, by what happens to the naval port facility at Cam Ranh Bay, Vietnam. Prior to the U.S. buildup in South Vietnam, Cam Ranh Bay was of no real military importance. Its only conceivable importance lay in what could be done with it. And, we did it. Cam Ranh Bay was turned into the second largest man-made naval port in the world, second only to the one the Allies constructed at Normandy for the invasion in 1944. We withdrew, and the Communists won.

What is the future of Cam Ranh Bay? The Soviets are now negotiating with the Vietnamese for full use of that Bay—and those facilities. If they obtain them, they could dominate the South China Sea and the Strait of Malacca because the Soviets have no warm water port in the Pacific. Access of the trade routes to Japan and the United States could be easily and quickly intercepted.

THE STRAIT OF MAGELLAN

Lying at the southern tip of South America, this strait is owned outright by Chile. As a matter of fact, the strait actually goes through an island chain at the country's southernmost point.

Which was the first country in South America to "go Communist?" It was, of course, Chile, under Salvador Allende. Allende's outright support of guerilla movements in Latin America and his ties to Moscow and Havana told the world where he stood. So did his internal policies. He was overthrown by tactics repugnant to most Americans, but it kept Communist control away from the strait, and in this particular context, worked significantly to our advantage.

THE PANAMA CANAL

Thirteen major trade routes of the world go through the Panama Canal. Claims to the contrary notwithstanding, all but the largest naval vessels and crude oil carriers use it easily. The reason we have had such a dramatic decrease in U.S. naval vessels using the canal has to relate to directions from Washington associated with the negotiations, and no one can convince me to the contrary. The percentage decline was too dramatic for it to have related to any other factor, especially the size of vessels.

Shadowed first by Soviet submarine capabilities operating from Castro's Cuba on the Caribbean side of the canal, then by Allende's Chile on the Pacific side, the future of the canal now rests with the decisions made by the United States and the government of General Omar Torrijos.

Where does Torrijos stand on this matter of the Soviet Union and the United States? There is an answer which takes this out of speculation. The answer is what he is now doing with respect to his relations with the Soviet Union. On July 19, his government signed an agreement with the Soviet Union setting forth five areas for future bilateral talks. Those talks will cover Soviet purchases of Panamanian sugar at per ton prices higher than Panama can sell them anywhere else, construction by the Soviets of a hydroelectric plant, Soviet use of the free trade zone at the Panamian city of Colon, and establishment of a major Soviet bank in Panama to facilitate Soviet trade in all of Latin America.

This agreement did not happen overnight. Torrijos has made it clear that he sees Castro's Cuba as the trend setter in the Caribbean, and the relationship between the two has amounted to more than handshakes.

I think the new agreement with the Soviet Union and the increasingly friendly association between Torrijos and Castro may explain the context in which the Panamanians are offering the terms of the new treaties. Their context, not the one which has been explained to us by American negotiators and proponents, is quite obviously how they view the treaties' terms and how they intend to rely upon and enforce them. When one considers the United States's intended future use of the canal and its critical importance to our national security—and it must be of such importance because our national administration is putting its heaviest emphasis on how it interprets the treaties' terms in a framework of security interests, nothing could be more important than understanding how the Panamanians intend to interpret those terms.

This need not be speculation. Direct light has been shed upon it this week, and not by us. Rather, by them.

On October 4, Senator ROBERT DOLE of Kansas released the text of a confidential State Department cable which shows conclusively that the United States and Panamanian officials have far different interpretations of key defense provisions in the proposed treaties. This cable says that the U.S. Embassy is likely to be faced with increasing irritation and perhaps public disavowals of U.S. interpretations of the treaties. It warns that any assertion that seems to claim a right to intervene in Panama to protect U.S. use of the canal is almost sure to be challenged there.

Yet, that right is what we have been told by U.S. negotiators and our administration that we do and will continue to have. It is the central point of the debate. And, it is in severe disagreement among the two parties to the treaties. If the United States does not have a right of expeditious passage—giving U.S. warships preferential or head-of-the-line treatment for passing through the canal—then our use of that canal in times of war or international crisis is so limited as to pose a severe threat to our react capability. The cable from Panama says that the preferential passage section had been tentatively accepted by Panama but was subsequently "specifically rejected." The cable goes on to say the Panamanians are disturbed over U.S. assertions that the treaties give the United States the right to intervene in Panama.

In order that there be no speculation about the text of this cable, I will place it into the RECORD at this point in our proceedings:

Subject: Negotiator's concern over hearings:

1. The Political Counselor called Carlos Lopez Guevara on another matter this morning and found him disturbed over some of the testimony before the Senate Foreign Relations Committee—particularly the first day. Two matters seemed to trouble him most:

A. Interpretation of the expeditious-passage clause that U.S. war vessels get "pref-

erential" treatment or that they may "go to the head of the line". Lopez Guevara said that Royo and Escobar tentatively accepted preferential treatment for U.S. and Panamanian war vessels, but in a later session this was specifically rejected by Panama and the word "expeditiously" was substituted.

B. Assertions that the treaty gives the U.S. any right to "intervene" in Panama. He said that article IV means nothing more than what it says. "Intervention is simply forbidden by international law," he said. "Panama cannot agree to the right of the U.S. to intervene." He urged that U.S. officials stop using the term "intervention" in describing its rights under the treaty. He also expressed the view that those testifying before the committee on Monday had made too much of General Torrijos' statement that Panama was under the umbrella of the Pentagon. "The General was stating a fact, not giving the U.S. any right to intervene." He said he had no way of knowing what Torrijos thought of the testimony, but he, Lopez, personally was disturbed with many of our interpretations. He promised to "set the record straight" in a speech he is to make tonight.

2. The political counselor pointed out some statements which Panamanian negotiators had made which do not accord with our understanding of the neutrality agreement. He said that, on balance, the positions on neutrality given by Escobar and Royo, while not identical with our interpretation, were moderate in the Panamanian context. However, certain statements taken by themselves and out of the overall context, have proved difficult to explain to skeptical senators. He pointed out that most of the difficulties in the Senate so far have some from uncommitted senators such as Baker and Stone, rather than hardline treaty opponents. He suggested that it might be useful if the Panamanians would establish a standard position, rather than speak extemporaneously on this delicate question.

3. Lopez Guevara said he understood the difficulties which U.S. negotiators face and asked for copies of some of the offending remarks. However, he cautioned that, no matter how necessary in the American process, there were some things that no Panamanian government could accept.

4. Comment: As the negotiators are aware, Lopez Guevara, though a moderate and reasonable man, is relatively inflexible on some questions. As he pointed out, he was at the head of those who did not accept the concept of priority passage for U.S. war vessels.

He is considered a technician within the government, but he is influential. As we talk with other negotiators and officials who are campaigning for the treaty here, we will urge caution on any statement concerning U.S. rights under the neutrality treaty. But we are likely to be faced with increasing irritation over—and perhaps public disavowals of—our interpretations. Any assertion which seems to claim a right to intervene in Panama's domestic affairs is almost sure to be challenged here.

Mr. Speaker, this cable raises exactly the kind of question to which the American people—and the Congress of the United States—are entitled to have answers drawn from reality, not hoped-for circumstances.

You cannot expect a Member of Congress, or any informed American citizen, to look at what is going on in terms of the world's strategic waterways, then look at what the substantial and substantive differences of opinion are between the United States and Panama over the treaties now before us, and expect them to be supported.

NATIONAL GRANDPARENTS DAY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. BURKE) is recognized for 20 minutes.

Mr. BURKE of Florida. Mr. Speaker, today I introduced a bill which will provide for the annual proclamation of the first Sunday of September after Labor Day of each year as National Grandparents Day.

Bernice and Alan Courtney, two well-known and outstanding American radio personalities from South Florida, formed an organization named CROG. The letters stand for Civil Rights of Grandparents and the organization is dedicated to serving the long-ignored rights of grandparents. The following is a press release sent out earlier this year spelling out the rules of this organization:

CROG—CIVIL RIGHTS OF GRANDPARENTS

Bernice and Alan Courtney are proud to announce the formation of CROG—Civil Rights of Grandparents. CROG is a non-profit, non-partisan organization dedicated to serving the long ignored rights of Grandparents (GP).

We have Mothers Day, Fathers Day. Isn't it time we observed GP Day?

GP should have the right to spoil their Grandchildren without Parental interference.

GP should have the right to discipline their Grandchildren without Parental interference.

GP should have visiting rights by inviting their children and Grandchildren to dinner but the children and Grandchildren must make and serve the dinner.

GP should have the right to exaggerate the talents and charms of their Grandchildren even as they have the right to be critical of their shortcomings.

GP should have the right to expect their Grandchildren to consult them when they claim to have a problem.

All CROG members must carry snapshots of their Grandchildren for proper identification.

CROG will make available to its members who never attended College, a Special Diploma from the "University Of Hard Knocks".

CROG will fight to protect its members from being deprived of their right to work, if they wish, regardless of age, so long as they are capable and willing.

CROG will sponsor Radio, Tv, and press articles to educate all politicians and fellow citizens about the rights of GP.

CROG will fight to preserve the Free Enterprise Capitalistic System that made this Country possible.

CROG will petition U.S. Congressmen, State Legislators, and local Officials to recognize the voting power of some thirty million Grandparents.

CROG will sponsor annual Dinner Testimonial Awards for the outstanding GP of the year.

CROG will sponsor a newsletter, bumper stickers and other promotional methods to make this a widely recognized and respected National Institution. The dues will be nominal yearly.

Will you help us?

Mr. Speaker, on May 16, 1977, the Senate passed Senate Joint Resolution 24 which would authorize the President to issue a proclamation designating the first Sunday in September following Labor Day each year as National Grandparents Day.

It is my understanding that the House Post Office and Civil Service Committee referred this bill to the Subcommittee on Census and Population.

Mr. Speaker, I am introducing a bill today as a companion measure to the one passed by the Senate on May 16. It is my understanding, however, that there are 3 other dates proposed by various House Members, one setting the date November 16, which has 26 cosponsors in the House. I do not feel that the dates are significant or for that matter the first Sunday after Labor Day is better than another insofar as it relates to grandparents. But, Mr. Speaker, I would think the designation of such a day is a good idea since it will expand the interest of people today in tracing their parental roots to honor not only their grandparents, but their great-grandparents and great-great grandparents.

Mr. Speaker, it is my opinion that people will learn a great deal by the study of history and study of one's family history can be very enlightening. Although my bill may, to some, sound frivolous, I however, believe it is important to children to learn and appreciate their heritage and they should learn firsthand from their grandparents and their other relatives the accomplishments, the struggles and successes of past generations.

We are more and more becoming aware that for too long now, our culture has been youth-oriented—now we know that the amount of the elderly in our population will be older in the future. I think it is now time that we reinstituted a learning and appreciation among our young for their forebears.

Mr. Speaker, I urge my colleagues to join with me as a cosponsor.

VETERANS' EDUCATIONAL EQUITY ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Massachusetts (Mrs. HECKLER) is recognized for 10 minutes.

Mrs. HECKLER. Mr. Speaker, I am today pleased to introduce, along with my distinguished colleague from Wisconsin, Father CORNELL, the Veterans' Educational Equity Act. This much-needed legislation would equalize educational opportunity for millions of veterans across our land.

The primary purpose of the Veterans' Educational Equity Act is to further refine and develop both the conceptual premises and the practical application of one of the most successful social programs our Nation has ever known—the GI bill of educational rights.

Since the time that the Pilgrims first resolved that those who served their colony in a military capacity merited special compensation, our Nation has honored its veterans with benefits which range from medical services and treatment to educational readjustment opportunities. I can say from my experience as ranking minority member of the Veterans' Subcommittee on Education and Training that this principle endures. Indeed, the legislation I introduce today is a qualitative extension of this principle.

It would implement the following three refinements:

First. After paying the first $400 of his or her tuition, a veteran with higher tuition costs could obtain compensatory payments by the Veterans' Administration of two-thirds of the remaining tuition, up to a maximum payment of $1,000. This tuition equalizer would be paid directly to the veteran after successful completion of the semester or term, thus preventing fraud or abuse;

Second. Tuition equalizer payments cannot increase by more than 6 percent a year. This cost containment provision prevents unfair or unscrupulous increases in tuition costs;

Third. The time period available to veterans to utilize their educational benefits would be extended by 2 years. This additional time is necessary in order for the veteran to recover lost opportunity precipitated by operative constraints in the existing legislation.

This legislation addresses the needs of today's young veteran who wishes to pursue educational opportunity but who is restricted or prevented from doing so because of the prohibitively high cost of living and of obtaining an education in many areas of the country. It improves upon, but does not replace, the current flat-rate system of educational assistance payments.

Under the flat-rate system, each veteran is granted the same amount of money (subject to the number of dependents) regardless of where he or she may live and regardless of tuition costs. This schedule of payments is most inflexible.

In contrast, the World War II GI bill was more finely tuned and took into account such factors as cost of living and of obtaining an education. It granted each veteran a $76 monthly subsistence allowance and a $500 maximum annual tuition payment. With the average cost of tuition for the World War II veteran at $505, this was, in effect and for most, a total payment of tuition costs.

Today, however, the average tuition cost for the Vietnam veteran who must attend a private, independent college or university is $2,100. The flat payment system does not approach meeting this expense. In fact, it is shocking to learn that, according to the Veterans' Administration's own figures, a veteran attending a private college today needs $1,700 more annually to reach the benefit level of his World War II counterpart.

The evidence is very strong that the differences between the two GI bills produces unequal educational opportunity for today's veteran. The veteran who attends California State University (San Francisco) pays 15 percent of his or her benefit allowance for tuition and has 85 percent remaining to meet subsistence expenses. But the veteran who attends Northeastern University (Boston) pays 97 percent of his or her benefit allowance for tuition. The remaining three percent must contribute toward paying living expenses which the Department of Labor says are the highest in the Nation.

This example is not extreme; it is typical for the great number of veterans who have limited or no access to low-cost institutions of higher learning. As an example of this situation, a veteran in Boston who desires to enroll in an engineering program has no alternative—he must enroll in a high cost institution or not at all. This no-choice situation nearly always occurs in a community which has a high cost of living. This double difficulty fails to be addressed by the current flat payment system.

As I have already noted, the Veterans' Administration would be authorized by this legislation to pay annual tuition increases up to a limit of 6 percent. This protective cap prevents the kind of unscrupulous increases in tuition which opponents of this measure fear.

But, Mr. Speaker, the real protection that will be afforded to the veteran, the Federal Government and the taxpayer in this regard is the marketplace itself. While existing law prohibits educational institutions from charging veterans higher tuition than other students, and while the protective cap provision of this bill is a further safeguard, the marketplace will provide the ultimate iron-clad protection we seek. No institution or class of institutions can afford to price itself out of the market by attempting to increase tuition for the sole purpose of taking advantage of what is but a limited amount of Federal funds. And by paying the veteran only upon successful completion of his program, the possibility is precluded that an individual may take the money and run without ever having attended courses.

The tuition payment formula Father Cornell and I propose is consistent with the historical posture of the Congress with regard to veterans' educational assistance allowances. That is, it pays only a part of the tuition and subsistence expenses of the veteran.

The GI bill has never been designed to pay all of the education and/or subsistence expenses of the veteran. Rather, the educational adjustment program is designed to provide a form of assistance to the veteran in his effort to leave military life and return to his previous status as a civilian. Indeed, the return that this program has brought to our Nation in terms of tax dollars obtained and lives fulfilled is immeasurable; while the GI bill clearly is a social program, there is no need whatsoever to transform it into a social welfare program. Adjusted to allow for tuition equalization, the GI bill is further and adequately refined to meet the needs of changing times.

The 2-year extension of the period in which a Vietnam-era veteran may pursue his or her education is necessary because of the unique circumstances which marked the Vietnam war.

During the first 6 years of the Vietnam-era GI bill, educational assistance payments were extraordinarily small. In 1966, for example, the first year of the bill's operation, the monthly assistance allowance for a single veteran was $100. Even a veteran attending a low-cost institution could gain no comfort or encouragement from this rather paltry sum.

Major increases in educational assistance allowances did not occur until the current decade, and even then the level of assistance did not begin to reach a realistic state until after 1972, a full 6 years following the inception of the program. Mr. Speaker, the incentive to the Vietnam veteran to utilize this bill has been absent throughout most of its existence.

It has been argued that this unprecedently low level of educational assistance was the direct consequence of the fact that the war was a confusing conflict to many and, from its beginning to its end, cause a great deal of tumult at home. Regardless, the fact remains that no other GI bill has had such an inadequate and unheralded history. Given these considerations, our investment in this legislation is both appropriate and just.

Mr. Speaker, the cost of this legislation, as reckoned by the Veterans' Administration, is $332 million for fiscal year 1978. As a total figure for tuition equalization and a 2-year extension of the delimiting date, this amount is very economical.

Tuition equalization is supported by the American Legion and numerous Vietnam veterans' groups, such as the National Association of Concerned Veterans and the National Association of Veterans' Program Administrators. It is supported by the prestigious American Council on Education, numerous other higher educational organizations and associations, and the National League of Cities and U.S. Conference of Mayors.

This bill is a considered attempt to address the necessary and unfinished busines of Vietnam: We have a great deal to accomplish in this regard. But, Mr. Speaker, our young veterans deserve no less.

EQUITY FOR VIETNAM VETERANS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin (Mr. CORNELL) is recognized for 5 minutes.

Mr. CORNELL. Mr. Speaker, I am pleased to join the gentlewoman from Massachusetts (Mrs. HECKLER) in introducing the Veterans Educational Equality Act. This legislation is intended to correct a serious defect in the present GI bill—the failure to provide veterans in all States with the same educational opportunities.

If a veteran happens to live in a region where education costs are comparatively high, or if a private institution best meets his or her educational goals, the present payment program will simply provide less educational opportunity than afforded the more fortunate veteran who lives in an area where tuitions are lower.

Our bill is aptly titled for it does indeed bring greater equity into the veterans' educational training program. By making VA payments comparable to tuition costs, it provides every veteran, no matter where he or she lives, with the same educational opportunities.

Another problem that has plagued many Vietnam-era veterans has been the 10-year delimiting-date restriction. For

quite a few of these young people the monthly payments were inadequate to support a family and pay educational expenses so they delayed using their GI bill and now face the loss of these benefits because of the delimiting date. Our legislation extends the period to use educational benefits up to 2 more years for those veterans currently enrolled in a course of study in order to enable them to complete their educational programs.

One of the most striking features of our bill, Mr. Speaker, is its simplicity. Because the veteran is paid directly by the VA, the schools will have a minimum of paperwork to handle. Because the veteran receives a tuition-equalizer payment after he or she has succesfully completed the semester or term, the chances for overpayments or fraud are practically eliminated. Because tuition-cost payments cannot be increased by more than 6 percent a year, the opportunity for schools to take advantage of this program is greatly reduced. This is not a complicated, cumbersome, unmanageable program we are proposing. It is a direct, simple way of addressing a source of great inequity in the GI bill.

Mr. Speaker, I urge my colleagues in the House to join us in working for the enactment of the Veterans Educational Equity Act.

A BILL FOR TAX RELIEF AND FUTURE SECURITY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. WOLFF) is recognized for 5 minutes.

Mr. WOLFF. Mr. Speaker, on October 4, I reintroduced H.R. 7587, which will allow certain individuals to establish modified individual retirement account (IRA) plans and to make their contributions to employer-sponsored pension plans deductible from their gross income. This legislation has up to this point received the bipartisan support of 31 Members of the House, reflecting all shades of the political spectrum.

H.R. 7587 is designed to meet two present inequities in the tax law. First, this legislation improves the system for IRA plans, which now allow an individual not covered by an employer-sponsored pension plan to set aside the lesser of $1,500 or 15 percent of his or her income per year and receive a current tax deduction from their gross income for the amount set aside, H.R. 7587 would enable people to set up modified IRA's even if they are covered by a pension plan, yet if that plan offers only meager benefits. Currently, if an individual is covered by an employer-sponsored plan, regardless of the extent of the benefits, then that individual is ineligible to set up an IRA plan. H.R. 7587 would enable such individuals to set up IRA plans, which, when combined with their current contributions to the employer-sponsored plan, would equal the current IRA limits.

Second, H.R. 7587 would enable individuals who contribute to employer-sponsored plans to deduct those contributions from their current gross income. In this way, these contributions would be treated the same as IRA contributions are now treated, which are in fact themselves contributions to a pension plan. As a result, the individual who contributes to an employer-sponsored pension plan will, like the present contributor to an IRA plan, be able to have the advantages of deferred taxation. That is, both of them will be able to deduct their contributions now and pay taxes on the income which made up the contributions later and at, most likely, a lower tax rate due to their retirement.

Mr. Speaker, I therefore believe that H.R. 7587 will add a greater equity to our tax system, and deserves the thoughtful consideration and full support of the Congress.

HOUSE RESOLUTION 766—ADMINISTRATIVE REFORM (OBEY COMMISSION)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ANNUNZIO) is recognized for 5 minutes.

Mr. ANNUNZIO. Mr. Speaker, on yesterday the House debated the rule for the consideration of House Resolution 766, administrative reform (Obey Commission). The rule was defeated, but had we debated House Resolution 766, I was prepared as chairman of the Subcommittee on Personnel and Police of House Administration to bring to the attention of my colleagues some of the responsibilities under my jurisdiction which affect this House.

The Subcommittee on Personnel and Police, which I have the privilege to chair in its original report in 1973, recommended the consolidation of some of the functions of the House in order to do away with duplication and to achieve greater efficiency. It made recommendations on the barbershops, the House document room, the Clerk's document room, and so forth. It went so far as to recommend the abolishing of the Office of the Doorkeeper, and the consolidating and realining of the duties of that office with the Clerk and Sergeant at Arms.

Mr. Speaker, on the whole, the present system functions well. It is about time the positive side is given equal emphasis, for it is far more impressive. We have heard only the negative from the critics of the House.

For example, under the present system the U.S. Capitol Police Force was changed from an inept patronage police force to a fine, well-trained professional police force with an outstanding performance record. We are now phasing out, by attrition, the Metropolitan Police Unit detailed to the Capitol Police Force at a savings in salaries of approximately $300,000 annually. And when this program is completed, the annual savings will be well over $1,000,000 annually.

Another example is the House Post Office. Under the guidance of the committee, working with the new postmaster, Robert V. Rota, an outstanding job has been done. In the past 3 years, the volume of mail handled in the House Post Office has more than doubled. Presently, the post office handles approximately 8,400,000 pieces of mail per month, and delivers mail to two additional buildings, HOB Annex No. 1 and HOB Annex No. 2. Special expedited delivery services have been established with the White House, the State Department, the Social Security Administration, and the Library of Congress. Also, the House Post Office now X-rays every piece of mail and every package which comes through the post office as a special precaution to stop delivery of mail that might have been rigged with explosive devices.

This was accomplished by changing the classification of certain positions, rearranging the hours and the workload of the existing positions, and by the addition of only six people who were specially trained to X-ray the mail.

Another example is the office of records and registration which operates under the jurisdiction of the Clerk of the House and administers the Federal Election Campaign Act. The Committee on House Administration and the Clerk structured that office to utilize existing facilities and thus saved the taxpayers thousands of dollars. This savings is especially evident when one compares the operating costs of the records and registration office with the office of the Secretary of the Senate and the General Accounting Office which are the other administering agencies specified in the Federal Election Campaign Act of 1971.

Hundreds of thousands of dollars have been saved through the in-house typewriter repair service and stencil cutting service now available under the office equipment service and all the in-house services carried on by the office of property supply and repair service such as, making our own draperies, doing our upholstering and refinishing of desks and furniture, cabinetmaking, and so forth.

There are many other examples but my brief remarks do not permit their enumeration at this time.

Mr. Speaker, I want to emphasize that these are not services that are going to become operative in 1978 or 1979. These services have been in operation and are being offered this very minute. They have been brought about over the years by the Committee on House Administration and the House officers.

I believe that the present system of the House officers and the Committee on House Administration is capable of bringing about any and all of the so-called reforms that are being recommended by the Commission. The House officers and the Committee on House Administration are responsive to the needs and wishes of the Speaker and the Members. As elected public officials they are sensitive and responsive to the needs of the House and the wishes of the taxpayers.

Many of the so-called problems are overstated. The Obey commission report mentions that there are no job descriptions for the positions in the Office of the Doorkeeper and the Office of the Sergeant at Arms. That is not so. In 1973, as chairman of the Subcommittee on Personnel, the first action taken by the subcommittee was to bring in outside professional classifiers at no cost and they reevaluated and reclassified and updated the position descriptions for every

position under the four House officers—a total of 750 jobs. These position descriptions are on file in the office of our subcommittee. By the way, the net result of this survey was the abolishment of 30 positions, downgrading of 167 positions, upgrading of 70 positions, transferring some functions to the Architect, and combining other functions for greater efficiency which resulted in a savings of approximately $900,000 per Congress. This is an ongoing program.

Mr. Speaker, I would also like to emphasize that all of the classification was done with the help of the U.S. Civil Service Commission, the General Accounting Office, my staff director, and my secretary in the office. I would also like to point out that in 1973 my staff director received a salary of $15,000 and my secretary received a salary of $9,000 annually.

A desk audit was completed on every position under the jurisdiction of the four House offices. The individuals involved were given an opportunity to correct their job descriptions, the final classifications were based on the job descriptions, and we have held the line firmly to this day.

The Committee on House Administration controls the number of jobs under the four House offices. All requests for new jobs are made through the House officers to the Subcommittee on Personnel and Police. After the subcommittee has held a hearing and made a recommendation, be it for 1, 10 or 50 jobs, the recommendation is then sent to the full committee for final action.

I would like to point out at this time the total number of job increases since 1973, even with the addition of the two new House office buildings, has been low, and absolutely no jobs have been added unless they were fully justified. I know my colleagues will agree with me that we have been extremely careful in making expenditures, and yet, we have not cut services to the Members and the citizens they represent.

It is my feeling that with a few changes, the Commission's basic concerns can be brought about more efficiently and more economically under the present system. Possibly it may be necessary to add a coordinator or troublleshooter or an ombudsman to the staff of the Committee on House Administration. The duties of this individual would be to coordinate the functions of the House officers, to be a troubleshooter, to seek out problems and make recommendations to the leadership and the Committee on House Administration that would prevent or clear up problems, and to work closely with the Members and committees in order to meet their specific needs.

The addition of this function to the Committee on House Administration would certainly result in greater efficiency in carrying out the duties of the House and would also bring about substantial savings to the taxpayers.

It has been said that we are in an era of reform just for sake of reform, but I want to say that I have been around this House much too long and have too high a regard for this House to stand idly by while its image is being destroyed in the name of reform.

Mr. Speaker, in conclusion I would like to wholeheartedly endorse title VII. Title VII is needed now, for it is absolutely necessary that we straighten out the jungle of committees that have been created in the name of reform and that exist today in the House of Representatives. We already have had enough reform. We have had so much reform that it is virtually impossible for a Member to work effectively, attend committee meetings without disruption, and to pay attention to the job he was elected to do and that job is to be a good lawmaker.

It was never intended by our forefathers to have men elected to the Congress of the United States to devote their full time on procedural matters, instead of on legislative matters.

The problems facing this country are great. We must get this House back in order. It is in disarray. We already have over 180 subcommittees. We also have too many select committees which have infringed on the rights of the standing committees of the House and have duplicated their efforts.

I strongly urge the Speaker and the leadership to do everything in their power to introduce a resolution, as suggested under title VII of the Obey commission report, authorizing the formation of a special committee for the purpose of putting this House in order. Only when the House is restored to order can we act effectively in resolving the energy problem, the inflation problem, the unemployment problem, the tax reform problem, the trade problem, and the myriad of other problems that confront our Nation today. These problems are great, but they are not insurmountable.

However, we must first reorganize this House so that we can meet without interruptions and without four or five meetings going on at the same time. I urge all of my colleagues in the House to urge the Speaker and the leadership to move full speed ahead on title VII.

ODAP AND THE REORGANIZATION PLAN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. RODINO) is recognized for 5 minutes.

Mr. RODINO. Mr. Speaker, because I represent a district in which drug abuse is a very real and pressing problem, and as a member of the Select Committee on Narcotics Abuse and Control, I am deeply concerned by one aspect of this reorganization plan. I am referring to the section which would abolish the Office of Drug Abuse Policy (ODAP).

ODAP was created by the Congress to carry out several important functions. Specifically, it was Congress intent to establish at the highest level an entity which would: formulate drug abuse policy and strategy; coordinate the efforts and functions the various Federal agencies involved in the fight against drug abuse in this country; and insure executive accountability to the Congress on drug abuse policy.

I might add that numerous efforts were made by the distinguished gentleman from Florida (Mr. ROGERS) and myself to statutorily establish ODAP, and this was finally accomplished despite the strenuous opposition of the Ford administration.

The Carter administration has indicated on several occasions that this reorganization plan will not eliminate any of the functions presently performed by ODAP. We have received assurances that the President will clearly delineate the role and authority of his Special Assistant on Health Issues and that this assistant, in consultation with the domestic policy staff, will formulate a comprehensive Federal policy to deal with this serious problem of drug abuse. Further, we have been assured that the Special Assistant will be fully accountable to the Congress and that there will be no invocation of Executive privilege with regard to testimony before congressional committees.

By means of these assurances, the administration has indicated to the Congress and the Nation that it recognizes the underlying purposes and objectives which led to the creation of ODAP and that it will develop alternative means for the attainment of these objectives.

It is important to reemphasize that the problems which existed at the time ODAP was established still remain. ODAP has made much progress in dealing with these problems in the brief period of its existence, and this progress should continue. The administration has assured us that it will; and I know that my colleagues and I will monitor closely the activities and operation of the alternative mechanism which is established to formulate drug policy and to direct interagency coordination efforts.

In conclusion, Mr. Speaker, I am confident that the elimination of ODAP does not represent a lessening of the President's commitment to attacking the problem of drug abuse in this country. I am hopeful that the new structure for Presidential decisionmaking in this area will prove to be very effective and that high priority, including the allocation of necessary resources, will continue to be accorded to this serious national problem.

STATEMENT OF CONGRESSMAN WILLIAM D. FORD ON H.R. 9512, A TECHNICAL AMENDMENT TO THE HIGHER EDUCATION ACT THURSDAY, OCTOBER 13, 1977

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. FORD) is recognized for 5 minutes.

Mr. FORD. Mr. Speaker, as chairman of the Subcommittee on Postsecondary Education, I call to the attention of my colleagues legislation scheduled for consideration next week which is designed to correct a problem only recently brought to our attention.

I was informed early this month of an Office of Education determination that

institutions of postsecondary education in the Trust Territory of the Pacific Islands were not eligible for participation in programs authorized by several titles of the Higher Education Act of 1965, as amended.

This determination in February of this year was a reversal of the Office of Education's earlier certification of eligibility and resulted from the discovery that statutory authority did not exist despite the widely held understanding, both in Congress and in the executive branch, that such authority was intended.

Specifically, the trust territory has been denied participation in the programs authorized by the following titles of the Higher Education Act: Title I, Community Services and Continuing Education; Title II, College Library Programs; Title III, Strengthening Developing Institutions; The VI–A, Undergraduate Instructional Equipment; and Title VIII, Cooperative Education.

At this point, I should like to insert in the RECORD a letter dated September 13, 1977, from the Commissioner of Education to the Director of Territorial Affairs in the Department of the Interior which explains the actions of the Office of Education in detail.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE, OFFICE OF EDUCATION,
Washington, D.C., September 13, 1977.

Mrs. RUTH G. VAN CLEVE,
Director, Office of Territorial Affairs, Department of Interior, Washington, D.C.

DEAR MRS. VAN CLEVE: Thank you for your letter requesting my review of the recent determinations that the Community College of Micronesia and the Micronesian Occupational Center do not meet the statutory eligibility requirements for five of the institutional assistance programs authorized under the Higher Education Act of 1965, as amended.

When these two institutions applied for eligibility to participate in Federal programs of financial assistance to students and institutions of higher education in 1971 and 1972 respectively, they were correctly cited as eligible to participate in the student assistance programs under Title IV of the Higher Education Act (20 U.S.C. 1088(a), 1088a), and in the academic facilities programs under Title VII of the act (20 U.S.C. 1132e–1(10)). Extension of eligibility to residents of the Trust Territories to participate in these student financial aid programs was provided under Sections 461 and 462 of the Higher Education Act as added in 1968 by Section 451 of P.L. 90–575. Institutions in the Trust Territories became eligible to participate in the academic facilities program in 1972 under the amendment to the Higher Education Act made by Section 161 of P.L. 92–318, which added a new Title VII to the Higher Education Act (see 20 U.S.C. 1132e–1(10)). There are other specific provisions of the Higher Education Act that make permanent residents of the Trust Territories eligible to participate in programs of Federal assistance authorized by the Higher Education Act, such as the College Work-Study program, where eligibility was extended in 1968 (42 U.S.C. 2752(a)), and the Teacher Corps Program, where eligibility was extended in 1974 (20 U.S.C. 1103(c)(2)).

As stated in the attached letters to the two institutions, the Higher Education Act contains no general statutory authority to declare these institutions eligible to apply for participation in Title I, Community Service and Continuing Education; Title II, College Library Programs; Title III, Strengthening Developing Institutions; Title VI–A, Undergraduate Instructional Equipment; and Title VIII, Cooperative Education.

This is because eligibility for purposes of these programs is governed by Section 1201 (a) and (b) which require an eligible institution to be in a State (20 U.S.C. 1201(a)), but in the definition of State do not include the Trust Territory of the Pacific Islands (20 U.S.C. 1201(b)).

Two of these programs have definitions of eligibility set out in the program statutes which do not include the Trust Territories. For instance, the State grant program under Title I (20 U.S.C. 1003(a)) makes no provision for an allotment to the Trust Territories, despite providing allotments for other U.S. dependencies. Similarly, the provision which governs allotments under Title VI–A makes no reference to the Trust Territories (20 U.S.C. 1122(a)(2)). Finally, the amendment made by Section 129 of P.L. 94–482 which struck out Part D of Title IV (Cooperative Education) and made it Title VIII of the Higher Education Act, placed this program under the eligibility provision of Section 1201(a) and (b), explained above, and thus removed eligibility to participate in the Cooperative Education Program from the two institutions of higher education in Micronesia.

While we regret that these determinations may adversely affect these institutions in Micronesia, we have no authority to waive basic statutory requirements for institutional eligibility.

If I may be of further assistance, please let me know.

Cordially,

ERNEST L. BOYER,
U.S. Commissioner of Education.

At a meeting of the Committee on Education and Labor yesterday morning, this situation was discussed. The committee unanimously agreed that this omission was not intended, and I was directed to prepare and introduce legislation in the form of a technical amendment to correct it. This legislation, H.R. 9512, was introduced yesterday and was cosponsored by the distinguished chairman of the Subcommittee on National Parks and Insular Affairs of the Committee on Interior and Insular Affairs (Mr. PHILLIP BURTON).

Further, the committee unanimously directed the chairman (Mr. PERKINS) to seek to have this bill placed on the suspension calendar for House consideration next week.

Mr. Speaker, in anticipation of such consideration, I am bringing this situation to the attention of my colleagues at this time in an effort to assure expeditious passage so that the schools which are now participating in these programs will not be jeopardized.

In this connection, I would like to insert in the RECORD at this point the text of H.R. 9512, a letter from the Director of the Congressional Budget Office indicating that enactment of this bill will result in no additional cost to the Federal Government, a letter from the Director of Territorial Affairs and a letter from the Office of Education requesting that this situation be remedied.

A bill to amend the Higher Education Act of 1965 to include the Trust Territory of the Pacific Islands in the definition of the term "State" for the purpose of participation in programs authorized by that Act

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) Subsection (b) of Section 1201 of the Higher Education Act of 1965 is amended to read as follows:

"(b) The term 'State' includes, in addition to the several States of the Union, the Commonwealth of Puerto Rico, the District of Columbia, Guam, American Samoa, the Virgin Islands, the government of the Northern Mariana Islands and the Trust Territory of the Pacific Islands.".

(b) Subsection (a) of section 491 of the Higher Education Act of 1965 is amended by striking out "includes the Trust Territory of the Pacific Islands" and inserting in lieu thereof "has the meaning set forth in section 1201(b)".

(c) Sections 602(a)(2), 1001(b)(2), and 1012(a) of the Higher Education Act of 1965 are each amended by inserting ", the government of the Northern Mariana Islands, the Trust Territory of the Pacific Islands" after "American Samoa".

(d) Nothing in this Act, the Higher Education Act of 1965, or any other provision of law shall invalidate any payments or other benefits provided under the Higher Education Act of 1965 to an agency or institution in the Trust Territory of the Pacific Islands or to the government of the Northern Mariana Islands prior to the enactment of this Act.

CONGRESSIONAL BUDGET OFFICE,
Washington, D.C., October 13, 1977.

Hon. CARL D. PERKINS,
Chairman, Committee on Education and Labor, U.S. House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has reviewed the House reported bill H.R. 9512, which technically amends the Higher Education Act of 1965 to include the Trust Territory of the Pacific Islands and the Northern Mariana Islands in the definition of a state. The Higher Education Act Amendments of 1976 had omitted defining these territories as a state under several provisions.

Based on this review, it appears that no additional cost to the government would be incurred as a direct result of enactment of this bill. However, this bill would make the Trust Territories of the Pacific Islands and the Northern Marianas eligible for benefits under a number of discretionary federal programs. Thus, while no additional expenditures are mandated by the bill, the relevant federal agencies might seek additional funds in order to provide such benefits.

Sincerely,

JAMES BLUM,
For ALICE M. RIVLIN,
Director.

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C. October 11, 1977.

Hon. WILLIAM D. FORD,
Chairman, Subcommittee on Postsecondary Education, House of Representatives, Washington, D.C.

DEAR CHAIRMAN FORD: I was pleased to receive a copy of your October 4 letter to Commissioner of Education Boyer requesting of him draft legislation to correct a legislative oversight so as to grant eligibility to the Trust Territory of the Pacific Islands for Titles I, II, III, VI–A and VIII of the Higher Education Act, as amended.

Your letter stated that, since there is no legislative history to indicate this ineligibility was intentional, and since the Micronesian institutions were previously declared eligible by the Office of Education, you are anxious that this situation be remedied as soon as possible. We agree with your position.

The Trust Territory is eligible to participate in other portions of the Higher Education Act of 1965, as amended, such as Title IV—Student Assistance—Grants, Guaranteed Student Loans, College Work Study, National Direct Student Loans, and Title VI—Academic Facilities.

Last February, Micronesia's two post-secondary institutions, the Community College of Micronesia and the Micronesian Occupational Center, received letters from the U.S. Office of Education stating that those institutions were no longer eligible to participate in Titles I, II, III, VI-A and VIII, for which they were previously declared eligible. This decision was reached because the definition of a "State" in Section 1201(b) includes the States, the Commonwealth of Puerto Rico, the District of Columbia, and the territories of Guam, American Samoa, and the Virgin Islands, but not the Trust Territory of the Pacific Islands.

During FY 76, the Community College of Micronesia and the Micronesian Occupational Center each received $3,930, or a total of $7,860, under Title II-A of the Higher Education Act—College Library Programs, and in FY 75, each received $3,918 under Title II-A of the Higher Education Act, or a total of $7,836. This is not much money compared to state-side standards, but even that small amount is a substantial contribution to the development of college libraries and to the students in the Trust Territory.

Last year the U.S. Office of Education informed the Trust Territory of the Pacific Islands that it was eligible to apply for a grant under Title III of the Higher Education Act—Strengthening Developing Institutions, and was encouraged to do so. Following submission of the application, the Trust Territory was held to be ineligible.

In addition to discussions with HEW staff about this matter, I had written to Commissioner Boyer last May 9 requesting that the issue be reviewed to determine whether the Micronesian post-secondary institutions could continue to participate in the programs for which they were previously declared eligible. Enclosed for your information is a copy of Commissioner Boyer's September 13 response.

We are pleased with the progress made to date by the Micronesian post-secondary institutions. The Micronesian Occupational Center received full accreditation this year from the Western Association of Schools and Colleges. The Community College of Micronesia is due to have an accreditation review this coming spring. These institutions would undoubtedly benefit from the provisions of the Higher Education Act, including such titles and provisions as Strengthening Developing Institutions and Post-Secondary Planning Commissions, if they were eligible to participate.

Sincerely yours,

Mrs. RUTH G. VAN CLEVE,
Director,
Office of Territorial Affairs.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE, OFFICE OF THE SECRETARY,
Washington, D.C., October 13, 1977.

Hon. WILLIAM D. FORD,
Chairman, Subcommittee on Postsecondary Education, Committee on Education and Labor, House of Representatives, Washington, D.C.

DEAR BILL: Thank you for your letter of October 4, 1977, to Commissioner Boyer relating to the eligibility of institutions in the Trust Territory of the Pacific Islands to participate in several programs authorized by the Higher Education Act of 1965.

The Higher Education Act of 1965 contains no general statutory authority making institutions in the Trust Territory eligible for all programs authorized by that Act. While specific statutory authority exists for institutions in the Trust Territory under Title IV (Student Assistance) and Title VII (Construction of Academic Facilities), no authority exists for participation in Title I (Community Services and Continuing Education), Title II (College Library Assistance and Library Training and Research), Title III (Strengthening Developing Institutions), Title V (Education Professions Development), Title VI (Financial Assistance for the Improvement of Undergraduate Instruction), Title VIII (Cooperative Education), Title IX (Graduate Programs), Title X (Establishment and Expansion Community Colleges), Title XI (Law School Clinical Experience Programs), and the authorization for statewide postsecondary planning under Title XII.

It is my understanding that this situation resulted from legislative oversight. We recognize that you are attempting to correct it and agree with your objective.

Sincerely,

DICK WARDEN,
Assistant Secretary,
for Legislation.

CRITIQUE OF PROPOSED ORDER ON SECURITY CLASSIFICATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. PREYER) is recognized for 5 minutes.

Mr. PREYER. Mr. Speaker, several weeks ago, the White House solicited the views of the Subcommittee on Government Information and Individual Rights, which I chair, with regard to the proposed Executive order on security classification. I think the willingness of the Carter Administration to have our comments on this order before it is issued is, indeed, commendable.

In response to their request, I have submitted a lengthy critique which, in view of the importance of the order and the lack of public comment thus far, deserves wider circulation. I am including my general comments at this point in the RECORD. In addition to these general comments, a section-by-section analysis has also been prepared but, due to its length, I will not place it in the RECORD. Persons who are interested in it may obtain a copy from the Government Information and Individual Rights Subcommittee office.

The comments follow:

CRITIQUE OF THE PROPOSED EXECUTIVE ORDER ON SECURITY CLASSIFICATION

INTRODUCTION

The following critique is divided into two parts. The first is a general evaluation of the proposed order, with emphasis upon its treatment of the following areas: the classification process, the authority to classify, oversight and accountability, the marking of unclassified portions, and secrecy agreements. The second part is a section-by-section commentary.

In both parts, an effort has been made to identify those provisions which appear to be praiseworthy as well as those deserving of criticism.

PART I: A GENERAL EVALUATION

The proposed Executive Order on security classification drafted by the Carter Administration is an improvement over Executive Order 11652, the current order on this subject. Its provisions should result in curbing to a greater degree, improper and unnecessary use of the classification system. Information classified under previous orders should also become available sooner than would otherwise be the case. The proposed order also attempts, for the first time, to remedy problems which have not heretofore been treated in previous orders on this subject.

But, for its good points, the proposed order is nonetheless weighted towards secrecy, and does not adequately balance, as it purports to do, the competing interest of public access. While the order does restrict the number of federal agencies with classification authority, it is not clear that the order will result in fewer officials exercising such authority, or will result in less information being classified, or will result in earlier declassification than under the existing order. Moreover, the proposed order does not go far enough in some instances in correcting the problems which it seeks to remedy. Its oversight and control mechanisms, in particular, are notably deficient in detecting and correcting abuses of the system. Finally, it contains a number of provisions not directly related to the classification process itself, which could have the effect of promoting secrecy, rather than openness.

THE CLASSIFICATION PROCESS UNDER THE PROPOSED ORDER

The proposed order retains the three classification categories of previous orders: "Top Secret", "Secret", and "Confidential". For a "Top Secret" classification to be applied, disclosure of the document in question must be "reasonably expected to cause exceptionally grave damage to the national security". For a "Secret" designation to be applied, "serious damage" must be reasonably expected; and for a "Confidential" classification, "significant damage" must be reasonably expected.

In addition to making this judgment, the classifier must also determine prior to classification that the document in question contains information meeting any one of thirteen classification criteria, set forth in proposed order. For the most part, these criteria elaborate in more specific terms what is meant by the phrase "national security", defined elsewhere in the proposed order as the "foreign policy or national defense interests of the United States".

The proposed order also identifies several categories of information whose classification is prohibited per se. Included in this section are requirements that if the classifier is in doubt whether a particular document should be classified, that he should strike the balance in favor of public access, or where in doubt as to the level of classification, that the lower level should be assigned.

At the time the original classification decision is made, the order imposes on the classifier the responsibility of assigning a declassification date or event to the document being classified. The proposed order provides no general declassification schedule, however, as the current order does, to guide this decision. It is left entirely to the discretion of the classifying authority. For persons who hold only "Secret" or "Confidential" classifying authority, and who are not "heads of agencies" with classifying authority, the order imposes a 6-year maximum on the period the document may be classified. For persons who hold "Top Secret" classification authority, or who are heads of agencies with "Secret" or "Confidential" authority, however, two additional options are available, First, an automatic declassification date or

event later than 6 years, but no more than 20 years, may be assigned the document. Alternatively, if the head of the agency has designated certain categories of information for review at the end of 20 years, and the information falls within any such category, the classifier may simply assign such information to be reviewed at the end of 20 years.

If persons with "Secret" or "Confidential" classification authority wish to specify a declassification date in excess of 6 years, or, if the information falls into the categories established by the agency guidelines, wish to mandate its review in 20 years from the date of origination, they must presumably obtain the approval of a person with "Top Secret" classification authority, or the approval of the agency head, as the case may be.

All classified documents which have not been automatically declassified within 20 years of their origination must be reviewed by the agency concerned at such time to determine if continued classification is necessary. If such documents do not fall within the categories established by the agency's guidelines, their classification cannot be continued. However, if they do fall within the guidelines, their classification may be continued indefinitely thereafter in ten-year increments. The order further provides that agency heads and the Director of Central Intelligence may even seek a waiver of the ten-year review requirement for particular documents.

Declassification of a document may be requested at any time by a member of the public, and the order implies, but does not expressly require, that a denial of such request may be appealed within the agency concerned to a special departmental committee. No interagency review mechanism for appeal of agency decisions is apparently available, however, except for denials of requests for presidential papers. This procedure contrasts with the existing order which permits declassification requests only for documents which are at least ten years old, but provides an interagency appeal mechanism for denials of requests which have been appealed within the agency.

COMMENTS ON THE PROPOSED CLASSIFICATION PROCESS

The standards for imposing "Top Secret" and "Secret" classifications under the proposed order are the same as those under the existing order. The standard for imposing a "Confidential" classification, however, has been altered slightly in the proposed draft to require that disclosure be "reasonably expected to cause significant damage", rather than simply "cause damage", to the national security.

The proposed classification criteria are new and are unquestionably desirable. Whether they are drawn tightly enough, however, to prevent their being used to justify improper use of the classification system, however, is debatable. (See the specific comments on the classification criteria at pp. 11–12, *infra*.) Further the order contains no requirement that the classifier mark the document he is classifying to show which of the criteria he is relying upon. Such a requirement would considerably strengthen this provision.

Most importantly, the proposed order, in setting the criteria for classification, contains no requirement that the classification decision be weighed in terms of the competing interest of the public in having the information in question. In this regard, it ignores the spirit of the Freedom of Information Act. The order should expressly direct that classifiers take the public's need for the information in question into account at the time the classification decision is made.

The prohibitions on classifying particular types of information do expand on those contained in the existing order, and on balance, must be considered an improvement. It should be recognized, however, that certain "prohibitions", e.g. "when in doubt, don't classify", are not really prohibitions at all, but are matters left to individual judgment. Furthermore, in this particular case, the National Security Council directive implementing the present order contains a similar provision.

Perhaps the most significant change in the classification process proposed by the new order is the manner in which declassification is carried out. The General Declassification Schedule contained in the present order is done away with entirely, and, similarly, the authority to "exempt" documents from the general schedule has been eliminated. In their place, the new order would establish a declassification procedure which is based largely upon the discretion of the classifying agency and official.

Under the General Declassification Schedule contained in the existing order, "Secret" documents are classified for a maximum of 8 years; and "Confidential" ones, for a maximum of 6 years. "Top Secret" documents assigned to the general declassification schedule are declassified after 10 years. Under the existing order, however, persons with "Top Secret" classification authority could "exempt" a document from the general schedule providing it fell within one of four categories of information. Any document so exempted would be reviewed under the existing order 30 years from the date of its origination.

Under the proposed order, the fact that "Secret" classifiers can only classify a document for a maximum of 6 years instead of 8 years, seems a modest improvement over the timetable called for in the general schedule. But the significance of this change pales when considered in light of the remaining provisions which permit the classification of a document to be continued without review for up to 20 years, largely at the discretion of the agency and the classifier. The proposed order would permit persons with "Top Secret" classifying authority, and the heads of agencies with "Secret" or "Confidential" authority, to assign a classification review date of 20 years to any document which falls into general categories established by guidelines promulgated by the head of the agency concerned. There are no standards contained in the order to govern the promulgation of such guidelines, no requirement that the guidelines be published, or even that they be transmitted to the Oversight Office created by the order. Without such controls, the proposed order, in effect, allows each agency to decide for itself which types of information will be assigned to 20-year review, and which will not.

It is possible, then, if not probable, that more classified documents will be assigned to a 20-year declassification review, than are now being "exempted" and assigned to 30-year review. The procedures established by the proposed order could easily result, therefore, in more information being kept secret longer than is the case under the existing order, despite the fact that the maximum period of classification prior to review has been shortened from 30 years to 20 years.

A preferable approach would be to assign all documents to a General Declassification Schedule (and permit advance dates to be assigned in the judgment of the classifier), and simply a classification review at the expiration of the date called for in the schedule. This would provide a means whereby a document with continued sensitivity could be reassigned to the schedule, but would be subject to continuing reviews at specified intervals. Such a declassification schedule might provide for reviews of "Confidential" material to take place after three years; "Secret" material after five; and "Top Secret" after seven. If continued classification were found desirable upon such review, the document could be reassigned to the schedule to be reviewed again upon the expiration of the specified time limit. If felt desirable, special allowance could be made for the declassification of documents provided by foreign governments to allow for greater periods of classification.

Under both the existing and the proposed orders, the classification of a particular document can be continued indefinitely. Under the proposed order, however, classification reviews must take place every ten years, except where the head of an agency or the Director of Central Intelligence has obtained a "waiver" of the ten-year review requirement. The proposed order sets no limits on the length of the waiver, nor does it provide who shall grant the waiver. It also sets no standards to govern the award of such waiver. In theory, at least, it provides a means where the head of an agency could prevent declassification review at any time.

This is a particularly objectionable provision. As a matter of policy, no classified document should be exempted from the ten-year review requirement.

The proposed order would allow the public to request the declassification of any document at any time. Under the present order such requests may be made only for documents which are at least ten years old. This is an improvement, but one should note that it only succeeds in making the order consistent with the rights a member of the public already has to seek declassification under the Freedom of Information Act. The proposed order fails to clarify, as well, the appeals process for such requests. It would appear that an appeal within the agency concerned is contemplated, similar to the appeal of an FOIA request, but agencies are not explicitly required by the order to have such a process. This should be required.

THE AUTHORITY TO CLASSIFY

The proposed order reduces by ten the number of agencies which have the authority to classify information, and downgrades the degree of classification authority which some agencies possess under the current order. (For a list of those agencies whose classification authority would be eliminated or downgraded, see discussion at page 13, *infra*.)

The proposed order also changes somewhat the manner in which this authority is delegated. Under the current order, the head of an agency with classification authority is empowered to designate an unlimited number of "senior principal deputies and assistants" within the agency to have classification authority. This authority cannot be further delgated. Under the new order, the heads of agencies with classification authority may also delegate classification authority to an unlimited number of officials, subject only to the qualification that their duties regularly require the origination of classified information. However, this level of officials is authorized to delegate this authority (except for "Top Secret" authority) further to a second level of officials, subject also to the same general limitation. The new order, therefore, permits an even greater diffusion of classification authority than under the present order.

The elimination of classification authority for ten Executive agencies is unquestionably an improvement. However, its actual impact upon the number of persons currently authorized to classify information, as well as the number of classification actions taken by the government, can only be considered as minimal. For example, in the ten agencies

whose classification authority would be eliminated, a total of 22 persons presently have classification authority. Thus, the proposed order would reduce the total number of officials with classification authority—13,976 in 1976—very slightly. Moreover, the total number of classification actions taken by these ten agencies in 1976 was only 297 actions. When compared with the 4,517,914 classification actions which took place government-wide, the anticipated reduction resulting under the proposed order must be considered as negligible.

Finally, the fact that the proposed order permits an unlimited delegation of "Secret" and "Confidential" classification authority from one level of officials to a subordinate level may well result in a significantly greater number of officials with the power to keep information secret than we have under the present order. There is no requirement in the proposed order that the head of an agency approve such delegation of authority, and no provisions that lists of such delegations be published or even transmitted to the Oversight Office.

ACCOUNTABILITY AND OVERSIGHT

In general, the proposed order contains several provisions designed to provide greater accountability and oversight of the classification system. It further creates a new office, the Security Information Oversight Office, to monitor the implementation of the order. But the new Oversight Office is left out at many crucial junctures in the classification process, and the provisions of the draft order which do seek to provide greater accountability, for the most part, fall short of their goal.

1. *The Security Information Oversight Office.* The Oversight Office is placed under the General Services Administration, rather than under the National Security Council where the current oversight office is assigned. Given GSA's lack of political or economic leverage over most agencies with classification authority, placing the Oversight Office within GSA does not seem to portend particularly vigorous enforcement of the order.

The Oversight Office is given the power under the order to overturn classifications it finds to have been improper, but the order apparently does not envision the Oversight Office acting on appeals of declassification requests from the agencies. This would mean that the power to overturn classifications would only be exercised in those cases where improper classifications were identified by the Oversight Office during inspections of the agencies concerned, or brought to its attention on an ad hoc basis. Exercise of this authority, therefore, will presumably be rare. The order itself does not require the Oversight Office to make inspections for the purpose of identifying improper or unnecessary classification, or provide any mechanism for it to challenge an assigned classification.

2. *Accountability in the Classification Process.* Although the order provides that a document must meet one of thirteen classification criteria before it can be classified, it does not require that the classifier indicate which of the criteria he is relying upon to classify the document. Nor does it require that the classifier place his identity on the document so classified.

The proposed order does require that the person who assigns a document to a 20-year review must place his name and the reasons for assigning this document to the 20-year review on the originator's file copy. It does not require, however, that this same information be placed on copies of the document, or on documents which are subsequently derived from this document. To ascertain whether such document had been properly assigned to a 20-year review, therefore, the Oversight Office, or an agency official making a review pursuant to a declassification request, must obtain access to the originator's file copy. At the least, such a procedure will be inconvenient; at the worst, it will be ignored as part of the review process. If this provision is to result in greater accountability, the markings placed on the originator's file copy should be carried over to other copies as well.

The proposed order also gives the Oversight Office no role in approving the guidelines adopted by each agency which will serve as standards for assigning documents to a 20-year review, or in checking the practice of obtaining waivers for subsequent 10-year reviews.

Finally, the proposed order provides no mechanism or incentive for personnel within the agencies to assert challenges to the classification of a particular document. It suggests that an agency may adopt such a procedure but it does not require it. A procedure whereby challenges were encouraged, and could be made and evaluated without an employees' career being jeopardized, would be an improvement.

3. *Sanctions.* The proposed order provides that willful violations of the order which the agency head determines are serious may be punished by a variety of administrative means. All of the sanctions recommended were available under the existing order, although they were not specifically identified. The order does not provide, however, that violations of the order be reported to the Oversight Office, nor that the Oversight Office be apprised of the action taken. It further provides no authority for the Oversight Office itself to take action, or recommend action, against agency employees.

4. *Derivative Classifications.* The proposed order contains provisions which attempt to deal, for the first time, with the problem of derivative classification, or the practice of persons without classification authority assigning classifications to documents which they have generated on the basis of other classified materials on which they have relied as sources. In essence, the proposed order would require that such persons attempt to verify the classification status of the document upon which they rely, and requires such persons to assign the same declassification date as the source document. Although the enforcement of these provisions is likely to be difficult, they are commendable efforts to deal with the problem.

5. *Compartmentation.* The proposed order also deals, for the first time, with the practice of compartmentation, or the practice of limiting the dissemination of classified materials by assigning special designators to such materials. This practice has been conducted by intelligence agenices of the government for many years, although not expressly authorized by the Executive order. The new order would require that such compartments be approved by the head of the agency concerned, that they be terminated unless renewed every three years, and that existing compartments be reviewed. These provisions, although legitimizing, in effect, additional "classifications" appear to institute appropriate controls over their use.

MARKING UNCLASSIFIED PORTIONS OF CLASSIFIED DOCUMENTS

The proposed order requires the marking of unclassified portions of classified documents, but provides that an agency may seek waiver of this requirement from the Oversight Office "for good cause".

This aspect of the proposed order is one of its most important features. The marking of unclassified portions should greatly facilitate declassification reviews under the order, as well as reviews for purposes of responding to requests under the Freedom of Information Act. Waivers of this requirement should, therefore, be the rare exception. It would be preferable to replace the "good cause" standard with more specific criteria to justify such waivers.

SECRECY AGREEMENTS

The proposed order requires that the Oversight Office develop a uniform "secrecy agreement" which agencies with classification authority "may require" as a condition to gaining access to classified information.

This provision is singularly objectionable. In practice, it would add very little to an agency's authority. Indeed, the CIA already requires its employees to sign such an agreement as a condition of employment. If an agency finds that one of its employees has revealed classified information, it may already terminate his employment or deny him further access. Where the government has found secrecy agreements to be particularly useful, however, is in laying a legal basis to enjoin the publication of classified materials. To sanction the use of such a procedure government-wide should have a distinctly "chilling effect" on potential "whistle blowers", and seems particularly inappropriate in an Executive order whose objective is greater openness.

EXTENSION OF INDOCHINA MIGRATION AND REFUGEE ASSISTANCE ACT OF 1975

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. EILBERG) is recognized for 10 minutes.

Mr. EILBERG. Mr. Speaker, on October 18, the House will consider under Suspension of the Rules, a Senate amendment to H.R. 7769, a bill to adjust the immigration status of Indochinese refugees.

The Senate amendment extends the Indochina refugee assistance program for a year, and thereby continues authority for special projects and social services, which are urgently needed by Indochina refugees. Equally important, it continues reimbursement to States and local governments, with a 4-year phasedown formula, for those welfare costs incurred in behalf of Indochina refugees.

The Senate amendment has received the unanimous support of my Sucommittee on Immigration, Citizenship, and International Law, since in our judgment, it provides for an orderly phasedown of the Federal responsibility for Indochina refugees.

For the benefit of my colleagues, I wish to insert in to the RECORD at this point a copy of the Senate amendment:

SENATE AMENDMENT TO H.R. 7769

Strike out all after the enacting clause and insert:

TITLE I—ADJUSTMENT OF STATUS OF INDOCHINA REFUGEES

SEC. 101. That (a) the status of any alien described in subsection (b) of this section may be adjusted by the Attorney General, in his discretion and under such regulations as he may prescribe, to that of an alien lawfully admitted for permanent residence if—

(1) the alien makes an application for such adjustment within six years after the date of enactment of this title;

(2) the alien is otherwise eligible to receive an immigrant visa and is otherwise admissible to the United States for permanent residence, except for the grounds for exclusion specified in paragraph (14), (15), (20), (21), (25), and (32) of section 212(a) of the Immigration and Nationality Act; and

(3) the alien has been physically present in the United States for at least two years.

(b) The benefits provided by subsection (a) shall apply to any alien who is a native or citizen of Vietnam, Laos, or Cambodia and who—

(1) was paroled into the United States as a refugee from those countries under section 212(d) (5) of the Immigration and Nationality Act subsequent to March 31, 1975, but prior to January 1, 1979; or

(2) was inspected and admitted or paroled into the United States on or before March 31, 1975, and was physically present in the United States on March 31, 1975.

SEC. 102. Upon approval of an application for adjustment of status under section 101 of this title, the Attorney General shall establish a record of the alien's admission for permanent residence as of March 31, 1975, or the date of the alien's arrival in the United States, whichever date is later.

SEC. 103. Any alien determined to be eligible for lawful admission for permanent residence under this title who acquired that status under the provisions of the Immigration and Nationality Act prior to the date of enactment of this title may, upon application, have his admission for permanent residence recorded as of March 31, 1975, or the date of his arrival in the United States, whichever date is later.

SEC. 104. When an alien has been granted the status of having been lawfully admitted to the United States for permanent residence pursuant to this title, his spouse and children, regardless of nationality, may also be granted such status by the Attorney General, in his discretion and under such regulations he may prescribe, if they meet the requirements specified in section 101(a) of this title. Upon approval of the application, the Attorney General shall create a record of the alien's admission for permanent residence as of the date of the record of admission of the alien through whom such spouse and children derive benefits under this section.

SEC. 105. Any alien who ordered, assisted, or otherwise participated in the persecution of any person because of race, religion, or political opinion shall be ineligible for permanent residence under any provision of this title.

SEC. 106. When an alien is granted the status of having been lawfully admitted for permanent residence pursuant to the provisions of this title the Secretary of State shall not be required to reduce the number of visas authorized to be issued under the Immigration and Nationality Act, and the Attorney General shall not be required to charge the alien any fee.

SEC. 107. Except as otherwise specifically provided in this title, the definitions contained in the Immigration and Nationality Act shall apply in the administration of this title. Nothing contained in this title shall be held to repeal, amend, alter, modify, effect, or restrict the powers, duties, functions, or authority of the Attorney General in the administration and enforcement of the Immigration and Nationality Act or any other law relating to immigration, nationality, and naturalization. The fact that an alien may be eligible to be granted the status of having been lawfully admitted for permanent residence under this title shall not preclude him from seeking such status under any other provision of law for which he may be eligible.

TITLE II—EXTENSION OF THE INDOCHINA MIGRATION AND REFUGEE ASSISTANCE ACT OF 1975

SEC. 201. Section 2 of the Indochina Migration and Refugee Assistance Act of 1975 is amended to read as follows:

"SEC. 2. (a)(1) Subject to the provisions of subsection (b), there are authorized to be appropriated, in addition to amounts otherwise available for such purposes, such sums as may be necessary for carrying out the provisions of paragraphs (3), (4), (5), and (6) of section 2(b) of the Migration and Refugee Assistance Act of 1962 with respect to aliens who have fled from Cambodia, Vietnam, or Laos.

"(2) Funds appropriated under this Act shall be made available to State or local public agencies to reimburse them for the non-Federal share of costs under title IV and XIX of the Social Security Act for the provision of cash or medical assistance to aliens who have fled from Cambodia, Vietnam, or Laos.

"(b)(1) None of the funds authorized to be appropriated by subsection (a) may be available for obligation after September 30, 1981.

"(2) The amount of assistance (including the amount of reimbursement as described in subsection (a)(2)) provided to a State or local public agency under section 2(b) of the Migration and Refugee Assistance Act of 1962 for the purpose of providing cash or medical assistance to aliens who have fled from Cambodia, Vietnam, or Laos may not exceed—

"(A) for the fiscal year ending September 30, 1979, 75 per centum, and

"(B) for the fiscal year ending September 30, 1980, 50 per centum, and

"(C) for the fiscal year ending September 30, 1981, 25 per centum,

of the cost (including the non-Federal share of costs as described in subsection (a)(2)) of the State or local public agency in providing such assistance for such purposes for the fiscal year ending September 30, 1978.

"(c) In addition to amounts otherwise available for the purposes of this Act, there are authorized to be appropriated $25,000,000, to remain available until expended, for special projects and programs, administered in whole or in part by State or local public agencies or by private voluntary agencies participating in the Indochina refugee assistance program, to assist minor and adult refugees in resettling and in gaining skills and education necessary to become self-reliant.".

SEC. 202. (a) Section 4(b) of the Indochina Migration and Refugee Assistance Act of 1975 is amended to read as follows:

"(b) Not later than December 31 of each year ending prior to January 1, 1982, the Secretary of Health, Education, and Welfare shall transmit to such committees a report describing fully and completely the status of refugees from Cambodia, Vietnam, and Laos.".

(b) Section 4(c) of such Act is repealed.

Amend the title so as to read "An Act to authorize the creation of a record of admission for permanent residence in the cases of certain refugees from Vietnam, Loas, or Cambodia, and to amend the Indochina Migration and Refugee Assistance Act of 1975 to extend the period during which refugee assistance may be provided, and for other purposes.".

HOUSE TELEPHONE DIRECTORY ISSUED TODAY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. THOMPSON) is recognized for 5 minutes.

Mr. THOMPSON. Mr. Speaker, Members' offices, committees, and other House offices are now receiving copies of the fall 1977 issue of the official telephone directory of the House of Representatives. This is the first such comprehensive directory ever compiled and published by the House.

Its publication, under the auspices of the Committee on House Administration, received outstanding cooperation and assistance from the Clerk of the House and his able staff, from the House Information System staff, the Architect of the Capitol, the Joint Committee on Printing, the staff of the Government Printing Office, and the House Postmaster, who handles the distribution of the directory. To all of these House officials and employees, I express my thanks and that of our committee.

The directory contains an alphabetical listing with room numbers and phone numbers of the House staff members who require the regular use of the phone in their daily work. This section is followed by a listing of employees of Members' offices, both Washington and district staff personnel, with addresses and phone numbers. Next is a listing of all committee staff and subcommittee staff employees, with similar information. The directory also contains similar data on the leadership staff, officers of the House, ad hoc legislative service organizations, the executive branch, a general classified listing of House service offices, and miscellaneous offices.

Mr. Speaker, the House telephone directory should be an important tool for Members and staff of the House and Senate, as well as for executive agencies, the public, and others having reason to deal with congressional offices. We are hopeful that it will increase office efficiency by reducing the need for second or third calls to locate an employee of a subcommittee, office, or other staff facility.

It also contains the new centrex system Government dial numbers for Federal agencies, which has just recently become effective.

The directory will be available for sale to the public through the Superintendent of Documents, U.S. Government Printing Office. The price will be $2.50 per single copy. Beginning next year, the House telephone directory will be published in updated versions four times each year. The annual subscription rate through GPO will be $9.50 for the four issues.

In a directory of this size, there are bound to be some errors and omissions. The data included has been updated through September 15 in most instances. There is a correction form included at the back of the directory to inform the committee of errors noted. Please let us know of necessary changes for the next issue and also let us have your suggestions to improve the format organization, or to expand the scope of the directory.

GOOD WISHES TO JACK VALENTI

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. ROONEY) is recognized for 5 minutes.

Mr. ROONEY. Mr. Speaker, I am pleased to call the attention of my colleagues to the announcement on Tuesday of this week that the Motion Picture Association of America has extended the contract of its president and chief executive officer, Jack Valenti, for 7 years.

It was my privilege to come to know Jack Valenti during the years from 1963 to 1966 when he served on the White House staff as special assistant to President Lyndon B. Johnson.

He joined the Motion Picture Association in 1966. He is the third president of the association, which was established

in 1922, succeeding Will H. Hays and Eric Johnston in that capacity.

It was under his administration that the Motion Picture Association adopted the widely-used and extremely useful system of rating motion pictures according to their suitability for viewing by various age groups. As a result, parents particularly, are able to judge whether a particular film will be be appropriate for their children to view, and all movie goers are accorded an opportunity to be better informed about the nature of films they may wish to see.

That Mr. Valenti has been a popular and able chief executive of MPAA is evident in the fact that his contract still had a year to run when the board of directors unanimously voted to retain his services through 1984. At that time he will have completed more than 18 years as president of the association.

The member companies of the association are:

Allied Artists Pictures Corp.; Avco Embassy Corp.; Columbia Pictures Industries, Inc.; Metro-Goldwyn-Mayer, Inc.; Paramount Pictures Corp.; Twentieth Century-Fox Film Corp.; United Artists Corp.; Universal Pictures, a division of Universal City Studies, Inc.; and Warner Bros., Inc.

I congratulate them for their good judgment in keeping such a qualified and personable individual as Jack Valenti in this important position, and I extend my warm regards and good wishes to Jack for his continued success.

THE SMALL BUSINESS CAPITAL, INVESTMENT, AND BUSINESS OPPORTUNITY ACT OF 1977

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. LAFALCE) is recognized for 10 minutes.

Mr. LAFALCE. Mr. Speaker, the Small Business Capital, Investment, and Business Opportunity Act of 1977 represents, in my judgment, a unique and multifaceted approach to alleviating what is perhaps the most urgent need of small business today—its ability to obtain access to equity funds.

During the latter part of 1976, the former Administrator of the Small Business Administration, Mitchell P. Kobelinski, commissioned a task force to consider small business' problems in attracting venture and equity capital. This blue ribbon panel, chaired by William J. Casey, a distinguished lawyer and businessman, who served as the Chairman of the Securities and Exchange Commission, as President and Chairman of the Import-Export Bank, and as Under Secretary of State, issued its report early in 1977 indicating an urgent need for legislative relief. Since that time, I have personally considered this problem in depth, and have held hearings before my Subcommittee on Capital, Investment, and Business Opportunities, taking testimony from Vernon Weaver, the present Administrator of SBA, Mr. Casey, and the most respected economists, venture capitalists and small businessmen I could find. My investigation reveals a consensus of opinion that enhancement of the ability of small business' to form and attract new capital is essential for a healthy economy. Small business accounts for 97 percent of all businesses, more than half of all business receipts, and more than half of our Nation's work force. The problems of small business, therefore, are the problems of our Nation.

Mr. Speaker, I ask that a section-by-section analysis of the text of the legislation, which incorporates many of the task force's recommendations, be printed at the conclusion of these introductory remarks.

SECTION-BY-SECTION ANALYSIS TO SMALL BUSINESS CAPITAL, INVESTMENT, AND BUSINESS OPPORTUNITY ACT OF 1977

TITLE I—AMENDMENTS TO SMALL BUSINESS INVESTMENT COMPANY ACT OF 1958

SEC. 101. SBA Purchase of Certain Small Business Investment Company Debentures.

While SBIC's are authorized to provide for equity financing to small business concerns, there is an increasing tendency for them to make capital available in the form of debt. This results from the SBIC's need for funds to service its own leveraged debt; pure equity investments, such as common stock, do not generally provide them with funds with which to do this. This section is designed to provide the SBIC with funds at 3% interest *only if* these funds are used to make true equity investments. These are referred to in the section as "equity capital" which is defined to include stock (or similar interests in the event the small business concern is conducting its affairs in other than a corporate form). "Equity capital" is further defined to exclude stock or other interests which require the regular payment of interest, or which are required to be repurchased by the small business concern (which would make them the equivalent of debt).

SEC. 102. Guarantees on Start Up Financing.

Start up situations are generally the riskiest of all venture capital investments. Presently, the SBIC shares with the government the risk of loss on such investments in that the SBIC is allowed a deduction from ordinary income for the amount of any losses on such investments. However, this has not served to stimulate SBIC participation in start up situations; rather, more mature and hence less risky venture capital situations are presently being sought. This section enables the SBA to guarantee the SBIC up to 75 percent of any loss it may sustain as the result of investment in equity capital of any start up investment in a small business concern. "A start up small business concern" is defined to mean a business less than one year old, or a business less than 5 years old which (a) has never earned a profit, or (b) has had revenues less than $250,000 over its last two years.

SEC. 103. Associate Administrator for Investment.

This would clarify that the Associate Administrator for Investment shall be responsible solely for the SBIC program.

SEC. 104. Effective Date.

Amendments made by Title I are effective upon enactment.

TITLE II—AMENDMENTS TO THE SECURITIES ACT OF 1933

Sec. 201. Materiality of Information; Limited Offering Exemption.

The SEC promulgated Rule 146 to provide a "safe harbor" for private offerings claiming the protection of the private offering exemption set for that section 4(2) of the act. As a result of certain ambiguities in the Rule, some uncertainty as to the Rule's application has resulted. It is unclear from the Rule that the only information required to be furnished under the Rule is *material* information. This section amends section 19 of the Securities Act of 1933 to clarify Rule 146 in that it authorizes the Commission to require merely material information.

Further, this section liberalizes Rule 144. That Rule presently provides a limitation on the amount of restricted securities that can be sold within any six-month period by limiting such sales to the lesser of 1 percent of outstanding securities of the same class or the trading activity within a four-week period. The amendment reduces the measuring period to three months, and provides that where such securities are traded on a national exchange, sales of such securities may be the *greater* of such sales or 1 percent of the outstanding securities of the same class.

This amendment becomes effective 120 days after enactment, in order to give the SEC sufficient time to amend its rules to the extent they are inconsistent with the provision of the Act.

It is thought that this Amendment will facilitate small business' access to the public security markets, which has fallen off dramatically in recent years.

Sec. 202. Increase in "Regulation A" Offering.

Presently, the Securities Act of 1933 provides for a limited registration for security offerings not in excess of $500,000. This dollar limit has not been increased since 1933. As a result of the magnitude of legal fees and other expenses involved, relative to the maximum amount to be netted on such an offering, this provision has fallen into disuse. In order to restore the original statutory intent, and to encourage smaller offerings, this amendment extends the availability of the "Regulation A offering" to offerings not greater than $3 million.

Sec. 203. Standing to Sue.

This amendment is intended to rectify the anomaly, under present law, which enables a purchaser who has been fully informed to seek recession from the issuer if the issuer has not fully complied with Rule 146 with respect to another purchaser. It provides that a purchaser who has been fully informed in a transaction, may not seek recision of the transaction as a result of the issuers failure to furnish all necessary information to another purchaser.

Sec. 204. Effective Date.

The amendments made by Section 202 and 203 shall take effect upon enactment.

TITLE III—AMENDMENT OF THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

Sec. 301. Application of Prudent Man Rule.

This amendment clarifies that a fiduciary's performance is to be judged by total portfolio performance, as distinguished from the performance of individual assets comprising the portfolio.

Additionally, this section provides for the creation of a "basket exemption" of up to 5 percent of the plans assets, which may be invested in "small business securities". This provision is intended to permit the nation's pension plans, who are controlling an increasing large proportion of assets available for investment, to invest in venture capital situations.

TITLE IV—AMENDMENTS TO THE INTERNAL REVENUE CODE

Sec. 401. Increase in the Amount of Surtax Exemption.

Presently the rate of corporate of income tax if 20 percent on the first $2,000, and 22 percent on amounts thereafter. However, for amounts in excess of $50,000, there is an additional "surtax" of 26 percent. Section 401 amends the surtax provisions to extend the surtax exemption to the first $100,000. Thus, after the amendment, the corporate income tax rates will be as follows: first $25,000, 20 percent; next $75,000, 22 percent; amounts in excess of $100,000, 46 percent.

Sec. 402. Non Recognition of Gains on Certain Sales and Exchanges in Small Business Concerns.

In recent years, much of the incentive to invest in venture capital type situations has been dissipated as a result of confiscatory provisions in the Internal Revenue Code. The capital gains tax and the provisions for taxing preference income can together approach a tax of almost 50 percent on long term capital gains. As a result, investment in venture capital situations has been inhibited, since the risk-reward ratio has made such investments unattractive. The amendment would create a deferral of tax by way of roll-over for certain equity investment in small businesses. If an equity investment in a "small business concern" is sold, and within the ensuing eighteen months, reinvested in another equity interest in a small business concern, then any gain on the first transaction will be deferred. The definition of "a small business concern" is similar to that found in Section 1244. For a corporation, paid in capital and surplus cannot exceed $1 million; net worth cannot exceed $2 million. The definition of small business concern, however, is not restricted to corporations; it may include other persons such regulations as the Secretary of Treasury may prescribe. There is an additional limitation up on ownership of a small business concern: no part of equity can be owned directly or indirectly by a corporation other than an SBIC, or another small business concern. The deferral is accomplished by reducing the basis of the new property by the amount of the gain deferred.

Sec. 403. Restoration of Qualified Stock Option.

Until recently, a corporation was able to provide its management with qualified stock options which provide an incentive for management's continued participation in the growth of the business. However, recently these provisions were curtailed for all corporations. This has the effect of unduly hampering the ability of emerging corporations to attract top quality people, as a result of inability to compete effectively with larger corporations in the area of direct compensation. By being able to grant qualified stock options, it is hoped that small business' ability to attract top management personnel will be enhanced.

Sec. 404. Eligibility of SBIC To Be Shareholder of Subchapter S Corporation.

A Subchapter S corporation although nominally a corporation is taxed, at its election, similar to a partnership—which taxes its partners, not the partnership. Presently, SBIC's are unable to be shareholders in such corporations. The amendment merely makes an SBIC eligible to be such a shareholder.

Sec. 405. Reserves for Losses On Equity Investments of Small Business Investment Companies.

Presently, an SBIC is allowed to create a loss reserve for debt investments only; expected losses from equity investments cannot be reserved. This in part provides a stimulus for SBIC's to provide funds to small bsuiness concerns by way of loans, rather than equity. The effect of this amendment is to treat equity investments the same as debt investments for reserve purposes, so as to negate any distinction between the two from a tax perspective.

Sec. 406. Increased Availability of Section 1244 Stock.

Section 1244 treats certain stock as a non-capital asset, and permits a deduction from ordinary income from losses resulting from investment therein. Generally, these losses are limited in any one year to $25,000 for an individual, $50,000 in the case of a married couple filing jointly. The amendment would extend these annual loss deductions to $50,000 in any one year for an individual, and $100,000 in any one year for a married couple filing jointly.

Furthermore, the amendment would also change the definition of Section 1244 stock. Presently, it is defined to include only those corporations issuing less than $500,000 worth of stock, with a net worth of less than $1 million. The amendment would extend these limits to include those corporations issuing up to $1 million worth of stock, with a net worth of up to $2 million.

TRIBUTE TO JAMES M. ROCHFORD: A LAW ENFORCEMENT PROFESSIONAL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ROSTENKOWSKI) is recognized for 5 minutes.

Mr. ROSTENKOWSKI. Mr. Speaker, I was surprised and saddened to learn that a close friend of mine announced that he was ending a long and admirable career of service to the city of Chicago. My friend is James M. Rochford who has been a member of the Chicago Police Department for several decades and its leader since 1974.

Superintendent Rochford served his city and his department well. His career spanned 30 years and much of that time was spent on the streets: 10 years as a patrolman and 4 as a sergeant. Yet, even after moving to the top command, Jim seized every opportunity to get in the trenches with his men. Because of his street sense, he had the respect not only of his police force but also of the community.

That was his trademark during his tenure, first as part of the management team and later as its commander. He took the helm during a time when department morale was low. With a firm hand, he attacked the department's problems immediately upon assuming office. Soon his men and women could point with pride to their vigorous leader.

His zeal to be a leader of his men naturally provided him an opportunity to be one of the leaders of his city. He used the knowledge he gained on the streets to accomplish that end. Jim Rochford took himself to the neighborhoods where the people live. He made himself visible and accessible. Whether riding subway trains or touring the site of a natural disaster or a civil distubance, the citizenry and the department saw their superintendent of police and his concern for their problems.

Jim Rochford most certainly was a leader in the fight against crime. He set high standards for himself and demanded the same of his officers. His commitment was to make the city safe, and he did much in that regard. By being an innovator, the department developed the finest communications network of any police force.

The superintendent was never a man to duck the difficult assignments. Perhaps this attribute was merely an extension of his much-decorated military service in the South Pacific during World War II.

It was that training that led Jim Rochford, as first deputy superintendent, to forgo ordering one of the 13,000 men under his command to launch an assault on a man barricaded in his apartment. Instead, it was Jim Rochford who entered the dwelling unarmed and talked a man who had killed two police officers and wounded four others, into surrendering. He was a chief who led not simply by command, but through example.

But he was also cautious. In 1967, the police department was searching for a new head and Jim Rochford was asked to submit his name. He declined by anannouncing that he did not have enough experience for the top post. Recognizing his professional police talent and experience, the new superintendent chose Jim as his No. 1 man.

Once the superintendent's job next opened in 1973, the Chicago Police Board began its search for a replacement. The board contacted the International Association of Police Chiefs to assist them in screening candidates from across the country. As the selection process continued, the Association of Police Chiefs recommended Jim to the Chicago Police Board. In turn, the police board recommended Jim and two other well-qualified candidates for the post. Finally, no one was surprised when our late Mayor Richard J. Daley chose Jim Rochford as the best man for the job.

It is difficult for me to imagine the Chicago Police Department without Jim Rochford. In the 4 years he has been superintendent, his leadership has been progressive. But, a man must also be progressive when it comes to his other equally important job as head of his family.

As he heads to a new career in private industry, I am sure that Jim will be blessed with good fortune in repayment for his long and dedicated service to the public. But, if I know my friend, Jim Rochford, his retirement as superintendent of the Chicago Police Department will not end his career as a major contributor to the safety and well-being of the city of Chicago and the people he loves.

REMARKS OF MELVIN C. HOLM, CHAIRMAN OF THE BOARD OF THE CARRIER CORP.

(Mr. HANLEY asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. HANLEY. Mr. Speaker, much has been said across this land, and indeed in this Chamber, about how the public sector and the private sector must work together to deal with the problems confronting our great Nation.

Often, those of us in the Congress debate at great length exactly how far the Federal Government should go in dealing with these problems, how much the Federal Government has a right or a duty to infringe upon the free enterprise system. Often, we question the role each should have in dealing with issues of vital national concern.

I think it would do us all some good to take a moment to dwell on the comments of a great American, a man who literally has worked his way from the ground up to head a corporation whose success he can be most proud of. I speak of Melvin

C. Holm, chairman of the board of the Carrier Corp.

On the 26th of September, Mel Holm spoke eloquently to the annual meeting of Associated Industries of New York State, Inc., at Lake Placid. His remarks dealt with the very issue of the private sector and the public sector working together for the good of both, and for the good of all the people of this Nation.

I offer his comments now, for the benefit of my colleagues:

I believe that the best time to deal with problems, if one can pick his time, is the first thing in the morning when you are fresh and full of vim and vigor. So let's have at it.

Do you ever get the feeling that the world is moving faster and faster? So many different crises seem to develop with paralyzing swiftness and at least some of them seem to be almost beyond solution. In less time than it takes to pronounce "intercontinental ballistic missile", I am sure that you can think of many that have cost you long hours of anxious thought.

I am not qualified to discuss the control of nucelar weapons or an easy solution to Middle Eastern problems. But there are other problems which I run up against constantly that I sometimes wish were not there. Of course, wishing won't help, but a real desire for solution by all parties to a problem can help a great deal.

There are those that question whether our free enterprise system can survive. My answer is that it will survive because it must survive. We are all in it together—government, labor, industry and the farmer. As one of our nation's founders said, "We must all hang together or assuredly we shall all hang separately."

But I have been made notably uneasy by a kind of centrifugal motion in our society, a falling apart of its necessary elements, a growing lack of sympathy among governmental purposes, business, the public in general, organized labor and agriculture. If it continues, we will all have difficult times.

Of course it's easy to blame someone else and this may be part of the problem.

Let's start out with government. As an opener, consider the problem of government expenditures at the local state and national levels.

I certainly hope that you agree with me when I say that this problem is king-sized. These costs keep mounting at an alarming rate. Fiscal irresponsibility is spread so wide as to endanger our free enterprise system. And too often the proposed solution is to increase taxes.

A case in point is the matter of the personal income tax in New York State. I'm not going to dwell on this subject—all of you know it painfully well. We as businessmen must press strongly for corrective action in this regard, and if we can't get action from certain of our present government officials, then we should get busy and elect those who will act.

The same applies to government expenditures in total. We must fight hard to bring about the action that is needed to bring them under control.

And then there are those who feel that whenever there is a problem in industries serving the public that government should step in. But how many industries operating under strict government regulations have served the public as well as those that were free to develop.

At times of high unemployment, we hear that the government should be the employer of last resort. I ask you at what point will the heavy weight of unproductive employees overbalance the constructive contribution of useful work and destroy our economic system?

We as businessmen certainly are concerned about these matters. However, we need to be more than just concerned.

Each of us must be involved in good politics and governmental affairs. Each of us has too much at stake personally, for our famalies, for the coming generations and for the state and the nation to accept the luxury of letting someone else do it.

Let me tell you about a recent experience Carrier has had in working with government. As our population grows and we are packed tighter together and at the same time as resources are harder to come by, some action by government is needed.

In a landmark piece of legislation, the California legislature passed a statute requiring the state energy commission to set minimum standards for a long list of appliances, including air conditioners and heating products. The California commission proposed a set of standards and then scheduled hearings. It put a fork in the road for our industry. Some went down one path and chose to fight and some went down the other and chose to work with the commission.

Some years before, Carrier Corporation already had made a carefully considered decision to work for higher efficiency in air conditioning and heating. This occurred before the energy crisis and the decision was based on economic grounds. We knew energy costs were going up. We knew that operating expense would soon become as important as first cost for purchases of equipment in extreme climates and that some day operating cost would be more important. Although higher efficiency increased manufacturing cost, we believed it to be the wave of the future. We led the industry in the breadth of our line of high-efficiency cooling and furnaces and the array of heat pumps we offered. Nevertheless, the standards proposed by the California Energy Commission were so extreme that they would have wiped out most of the industry, including many Carrier products, in the state of California, an extremely important market.

Some people objected. They charged that the word "appliance" was not meant to cover central residential air conditioners and furnaces. They sued on the basis that Federal energy laws would preempt state standards. The suit was dismissed.

We took a different road. We believe in Federal preemption of energy standards, but California was already there and Federal action appeared to be some time away. We believed that insofar as we could, we should help the California commission reach rational decisions. We put our research people, engineers and executives to work preparing the facts the commission needed to consider. We made available to the commission the knowledge gained from thousands of hours of research and engineering on what efficiencies can be achieved and how long it takes. Our people returned again and again many times to expand on information the commission indicated a special interest in. Eventually the printed testimony from Carrier could have been piled in a stack more than a foot high, and it was information, not argumentation.

The California Energy Commission established their standards. We believe they are based on rational considerations. They have required and will continue to require considerable engineering effort. But they can be met and they will have energy.

We believe high efficiency can be sold where it is important. But we also believe in minimum standards that place a floor under the marketing effort. We are not dismayed or disappointed by the action taken in California. And the time we put into it is proving to have been completely worthwhile. The California standards appear to have become the basis for similar standards now being established by a number of states. With some changes in concept to accommodate seasonal conditions and different climatic zones, they may provide an important influence in the creation of Federal energy standards. There are smart people in the government as well as in business. Given a fair shake at working together, we can do wonders.

Do we know how to work with government? If we don't, we'd better learn. It is becoming less and less possible to ignore.

Let me talk briefly about labor. I suspect that almost every man in this room has at one time or another lived by the sweat of his brow. Although I did not finish, I attended the agricultural school at Michigan State College. I supported myself by milking cows in the very early morning and in the very late afternoon; like digging ditches and riding a bicycle you don't forget how.

So we are not so different after all from the people who work in our plants. We are tied by our common humanity and our common wish for the good of mankind. We are working very hard to tell our employees what our problems and our goals are, and how we hope to solve the one and achieve the other. For example, Carrier has just completed a very well attended course conducted for us by the Federal Mediation Service at which our personnel executives and our labor leaders went to school side by side to learn to get along together.

Sometimes we are prone to consider ourselves as the good guys and all those in government and organized labor as the bad guys. I suggest that we take a good look at ourselves because I think this is an erroneous conclusion.

Do we really know what business and industry are about? Are we doing what we need to do so as to have a predictable future? Do we really believe in competition all the way or only so long as it benefits us? Are we ready to live by the law of supply and demand? If not, we will all be in serious trouble because it can't be repealed.

Certainly a primary responsibility of business is to make a profit. And along with it are other responsibilities—to make products and services of value and to create and maintain personally rewarding and steady employment.

I said at the outset that we have serious problems to cope with. I believe that we can solve our problems by reasoning together, by talking together and by working together—business, government and labor. If we do it energetically and successfully, the problems will find answers and we assuredly will not hang separately.

My friends, let us resolve to hang together.

Thank you very much.

PINELANDS PRESERVATION ACT

(Mr. FORSYTHE asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. FORSYTHE. Mr. Speaker, the approximately 970,000 acres which constitute the New Jersey Pinelands are the most extensive wildland tract on the mid-Atlantic seaboard. Described by the Department of the Interior as "a land that time forgot" this area is situated on the outer portion of the Atlantic Coastal Plain and was until recently, in geological terms, part of the ocean floor.

This seemingly remote region of flat unbroken pine-oak forests, low shrubs, and dense swamps contains the vegetational patterns one expects from an area which is in geological transition from ocean floor to forest. In fact, the vegetation of the Pinelands is considered to be one of the last relics of that which is believed to have existed along the ice perimeter during the last major glaciation.

This unique area, which sits above an enormous underground reservoir containing about 17.7 trillion gallons of water, has spawned an ecosystem that can be found nowhere else in the United States. In addition to their historically significant vegetational patterns, the Pinelands are the home of over 38 species of mammals, 91 species of butterflies, 24 species of fish, 13 species of frogs and toads, 10 species of salamanders, 18 species of snakes, and 144 species of birds and waterfowl, many of which depend on the marshes of the Pinelands on a seasonal basis.

At least 21 species of northern plants and 6 species of butterflies reach their southernmost limits in the Pinelands. In precisely the same area, over 110 types of southern plants and 5 species of butterflies reach their northernmost limits. A combination of such range overlaps of this magnitude occurs nowhere else in North America.

The overlap of wildlife and plant ranges, the transitional geological status of the region and the unique flora and fauna which can be found in the Pinelands make this an area of national significance.

The Pinelands are also rich in history. Although early farmers bypassed this inhospitable region in favor of the richer farmland to the west, the area supported such industries as iron, brick, tile, glass, and paper. Little of that industrial activity has endured, but many historical sites remain which provide good insights into the early attempts of our American forebears to tame the North American Continent and the wilderness called the Pinelands.

For the over 50 million people who today have easy access to the region, this island of primeval wilderness provides an important educational and recreational opportunity for interaction between man and a natural ecosystem. Its beautiful lakes, wild streams, and expansive forests constitute a laboratory for scientists and an extensive outdoor playground for a constantly increasing number of hunters, campers, and fishermen.

Mr. Speaker, I have described to you the present ecology of the Pinelands and I hope my description also will fit the future. Unfortunately, the multitude of educational and recreational values within the Pinelands depend on the wild character of the area. A character which is being threatened.

Because of their unique land and water resources, the Pinelands are being subjected to ever-increasing demands for varying forms of development. In fact, the changes in land use patterns have been accelerating over the years so that the Pinelands are being eroded. The Pinelands were originally estimated to comprise over 2,000 square miles. Today, however, as a result of developmental pressures only about 1,500 square miles remain.

This island of primeval wilderness which exists amidst a sea of urbanization deserves—no, it demands—to be protected for present and future generations of Americans.

It is for this reason that I and Congressman HUGHES are today introducing the Pinelands Preservation Act which provides for the creation of a national wildlife refuge of no more than 50,000 acres in the Pinelands. Our legislation provides for the creation of ecological management units which may be managed by local governments for the benefit of the refuge. Our legislation also provides financial assistance to local governments which wish to undertake management programs within the ecological management units. If local governments elect not to manage the area, the State may create a commission to protect the ecological and other values of the refuge. If such a commission is created it must count among its members representatives of the Pinelands residents, as well as other interests. However, there is no mandate that such a commission be created and there are no sanctions if the State or the localities elect not to move forward.

Mr. Speaker, I believe the Pinelands can and should be preserved not only for the sake of New Jersey but also for the entire United States. I am looking forward, therefore, to the early enactment of the Pinelands Preservation Act.

The bill follows:

H.R. 9539

A bill to establish the Pinelands National Wildlife Refuge, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Pinelands Preservation Act".

SEC. 2. FINDINGS.

The Congress finds the following:

1. The New Jersey Pinelands are the most extensive wildland tract along the Middle Atlantic seaboard.

2. The rich diversity of wildlife and plants in the Pinelands which include a variety of vanishing, rare and restricted species, represent a unique natural laboratory for study by scientists and students.

3. A large number of northern flora and fauna reach their southernmost limits in the Pinelands while in the same area numerous southern flora and fauna reach their northernmost limits, thereby creating an overlap of ranges of a magnitude which occurs nowhere else in eastern North America.

4. The vegetation of the Pinelands is a relic of vegetation which is believed to have existed along the ice perimeter during the last major glaciation.

The unique geological formations found within the Pinelands represent significant processes illustrating the interrelationship between natural aquifers and vegetation patterns.

The ecological, historical and educational and scientific values of the Pinelands offer an unparalleled educational and recreational opportunity to more than 30 million people who live in close proximity to the region.

SEC. 3. DEFINITIONS.

As used in this Act—

(1) The term "ecological management unit" means any area of lands and waters within the Pinelands which—

(A) is adjacent, or near, to the boundaries of the refuge; and

(B) if appropriately protected, conserved, and managed by the owners thereof (whether public or private) will preserve or enhance the ecological, historical, scenic, recreational, and educational resources of the refuge.

(2) The term "lands and waters" includes lands, waters, and interests in lands and waters.

(3) The term "local government" means any political subdivision (including, but not liimted to, any city or township) of the State.

(4) The term "Pinelands" means the area within the State consisting of approximately 970,000 acres which is commonly known as the Pinelands.

(5) The term "refuge" means the Pinelands National Wildlife Refuge required to be established under section 5.

(6) The term "Secretary" means the Secretary of the Interior.

(7) The term "State" means the State of New Jersey.

(8) The term "unit management plan" means a program of specific actions, that are consistent with the general guidelines established by the Secretary under section 4(c)(2)(C), undertaken within an ecological management unit for the purpose of preserving or enhancing the ecological, historical, scenic, recreational, and educational resources of the refuge.

SEC. 4. SECRETARIAL STUDY AND REPORT

(a) Study.—(1) The Secretary shall conduct a comprehensive study of the Pinelands for purposes of—

(A) determining which lands and waters therein should be included within the refuge;

(B) determining which lands and waters should be included within ecological management for the protection, conservation, and management of such lands and waters in order to achieve the preservation or enhancement of the ecological, historical, scenic, recreational, and educational resources of the refuge; and

(C) developing a comprehensive plan for the management of the refuge.

(2) In undertaking such study, the Secretary shall—

(A) consult with appropriate officials of the State and of any local government which has jurisdiction over lands and waters within the Pinelands; and

(B) conduct public hearings at places within, or near to, the Pinelands, and in such other places as may be appropriate, for the purpose of providing interested persons with an opportunity to express their views with respect to matters covered by the study.

(3) The study required under paragraph (1) shall cover such matters as are necessary and appropriate to achieve its purposes, including, but not limited to, the identification and evaluation of—

(A) the species of fish, wildlife, and plants, and the biotic communities, which are within the Pinelands, with particular emphasis being given to any such species or communities which are endangered, threatened, or unusual;

(B) all significant habitats within the Pinelands of the species and communities referred to in subparagraph (A).

(C) the dangers, if any, which threaten to degrade the quality of the habitats referred to in subparagraph (B), taking into consideration water supply and water quality, land availability, air quality, and other relevant factors;

(D) the historical, scenic, recreational, and educational resources of the Pinelands; and

(E) the existing land use patterns, as well as alternative beneficial uses of the Pinelands.

(b) Report.—After the study required to be made under subsection (a) is completed, the Secretary shall promptly prepare and publish in the Federal Register a report thereon (hereinafter in this Act referred to as the "report") which shall—

(1) set forth those matters required to be identified and evaluated under subsection (a)(3);

(2) propose those lands and waters, of not more than 50,000 acres in the aggregate, of the Pinelands which should be included within the refuge because of their significant fish, wildlife, and plant values and unique ecological, historical, scenic, recreational, and educational resources;

(3) set forth a refuge management plan, which shall—

(A) provide a mechanism for a continuing assessment of the matters listed in subsection (a)(3), which mechanism shall provide for review and comment by interested members of the public during the assessment process,

(B) specify those actions which are necessary to preserve and enhance the ecological, historical, scenic, recreational, and educational resources of the refuge,

(C) provide guidelines to assist the Secretary in determining priorities for implementing the actions referred to in subparagraph (B), and

(4) propose those areas of lands and waters which should be designated as ecological management units and recommend general guidelines referred to in subsection (a)(1)(B) with respect to such lands and waters.

(c) Hearings and Actions by Secretary After Report.—(1) After publication of the report under subsection (b), the Secretary shall—

(A) provide such technical assistance as the Secretary deems appropriate to any State or any local government which has jurisdiction over lands and waters within the Pinelands and which requests such assistance to enable it to evaluate the report; and

(B) hold public hearings in, or near to, the Pinelands and in such other places as may be necessary to provide interested persons with an opportunity to comment on the report.

(2) After holding public hearings under paragraph (1), the Secretary shall by regulation—

(A) designate the boundaries of the refuge;

(B) establish, and designate the initial boundaries of, ecological management units;

(C) promulgate general guidelines referred to in subsection (a)(1)(B) with respect to lands and waters within such ecological management units; and

(D) promulgate a refuge management plan.

(d) Time Limitations.—The Secretary shall carry out this section as soon as pacticable, but in no case shall the regulations required under subsection (c)(2) be issued later than October 1, 1979.

SEC. 5. ESTABLISHMENT AND ADMINISTRATION OF REFUGE.

(a) Establishment.—The Secretary shall establish the Pinelands National Wildlife Refuge by publication of a notice to that effect in the Federal Register at such time, after the designation of the refuge boundaries under section 4(c)(2)(A), that the Secretary determines that lands and waters within such boundaries sufficient to constitute an efficiently administrable refuge have been acquired.

(b) Adjustment of Boundaries.—After all lands and waters within the boundaries of the refuge designated under section 4(c)(2)(A) have been acquired by the Secretary, the Secretary may thereafter add to the refuge any lands and waters he deems appropriate which are acquired through donation and shall by regulation make corrections in the boundaries of the refuge to reflect the acquisition of any such lands and waters.

(c) Administration.—The Secretary shall administer the refuge (including any lands and waters acquired for purposes of the refuge before the date of the establishment of the refuge) in accordance with the refuge management plan promulgated under section 4(c)(2)(D), the provisions of the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd–ee), and such other laws, rules, and regulations applicable to the refuge system as the Secretary deems appropriate to carry out the purposes of this Act, including the administration of the refuge for public recreation uses in accordance with the Act of September 28, 1962 (16 U.S.C. 460k—4).

(d) Acquisition of Lands and Waters.—(1) Except as provided in paragraph (2), the Secretary may acquire lands and waters within the boundaries of the refuge by one or more of the following means:

(A) Donation.

(B) Purchase (with donated, transferred, and appropriated funds).

(C) Exchange.

(2) The Secretary may not acquire lands and waters within the boundaries of the refuge which are owned by the State or any local government except through donation.

(3) Any lands and waters within the boundaries of the refuge which are under the jurisdiction of any Federal agency other than the Department of the Interior shall be transferred to the Secretary unless the executive officer of such agency determines that the retention of jusrisdiction thereof within such agency is necessary for the accomplishment of the mission of such agency.

SEC. 6. STATE COMMISSION FOR THE PINELANDS.

(a) In General.—If the State establishes a legal entity (hereinafter referred to in this Act as the "Commission") which the Secretary finds to meet the requirements set forth in subsection (b), the Commission shall be eligible for financial assistance under section 7.

(b) Requirements for Commission.—The requirements for the Commission are as follows:

(1) The Commission must have a governing body consisting of not more than 18 members appointed by the Governor of the State. The membership of the governing body must be apportioned as follows:

(A) One-third of the membership must be officers or employees of counties of the State that are, in whole or part, within the boundaries of the refuge or any ecological management unit, or both.

(B) One-third of the membership must be officers or employees of local governments (other than counties) that are, in whole or part, within any such boundaries.

(C) One-sixth of the membership must be officers or employees of the State.

(D) One-sixth of the membership must be individuals not associated with any local government or the State, who are specially qualified to serve as members because of their knowledge of the ecological, historical, scenic, recreational, and educational resources of the Pinelands.

In addition, the Secretary or his delegate must be an ex officio member of the Commission.

(2) The Commission must possess authority—

(A) to develop and implement a unit management plan for any ecological management unit for which it is the eligible government under section 7(a); and

(B) to delegate to any local government the responsibility for carrying out, within its jurisdiction, any action or function under a unit management plan developed by the Commission for an ecological management unit.

SEC. 7. FINANCIAL ASSISTANCE.

(a) Definition.—For purposes of this section, the term "eligible government" means, with respect to any ecological management unit—

(1) the local government which owns, or exercises any governmental jurisdiction over, any lands and waters within such unit;

(2) the State, if it owns, any lands and waters within such unit;

(3) two or more of the eligible governments referred to in paragraph (1), or two or more of the eligible governments referred to in paragraphs (1) and (2), acting collectively in the development or implementation, or both, of a unit management plan for such unit; or

(4) the Commission, if—

(A) no financial assistance under subsection (c) with respect to the unit is applied for by the eligible government referred to in paragraph (1), (2), or (3, as the case may be, before the close of the 12-month period after the date on which the unit is established under section 4(c)(2)(B), or, if such assistance is applied for, the Secretary does not approve the application within such 12-month period;

(B) the Secretary refuses to provide further financial assistance under this section to any eligible government referred to in paragraph (1), (2), or (3), as the case may be, after finding that such government has not satisfactorily developed or implemented a unit management plan for such unit; or

(C) responsibility for the development or implementation or both, of a unit management plan for the unit is voluntarily transferred to the Commission by the eligible government referred to in paragraph (1), (2), or (3), as the case may be; or

(b) PLANNING GRANTS.—(1) The Secretary may make a grant to any eligible government for purposes of assisting the eligible government to develop a unit management plan.

(2) Any grant made under this subsection shall be equal to 100 percent of the reasonable costs, as determined by the Secretary, of developing the unit management plan concerned.

(c) MANAGEMENT GRANTS.—(1) The Secretary may make annual grants to any eligible government for purposes of assisting such government to manage such unit in accordance with a unit management plan. The amount of any annual grant made under this subsection with respect to any ecological management unit shall not exceed 75 percent of the reasonable costs, as determined by the Secretary, of implementing the unit management plan for such unit during the year for which the grant is awarded.

(2) The Secretary may not make a grant under this subsection to implement any unit management plan unless the Secretary finds that—

(A) the specific actions proposed to be taken by the eligible government under the plan are consistent with the general guidelines established under section 4(c)(2)(C) and will preserve or enhance the ecological, historical, scenic, recreational, and educational resources of the refuge; and

(B) the eligible government has such governmental powers, including, but not limited to, the acquisition of scenic, conservation, and agricultural easements, as may be necessary to carry out such actions.

(3) No eligible government is required to have received a grant under subsection (b)

as a condition of eligibility for a grant under this subsection.

(4) The Secretary and the appropriate eligible government shall annually review each unit management plan to determine if modifications to the plan, or changes in the implementation of the plan, are necessary in order to achieve the purposes of this Act. The Secretary shall require, after consultation with the eligible government, any such modification or change deemed necessary or appropriate to be made.

(d) ADMINISTRATION AND LIMITATIONS.—(1) Applications for grants under this section shall be submitted in such form and manner as the Secretary shall prescribe.

(2)(A) Except as provided in subparagraph (B), in any case in which there is with respect to any ecological management unit two or more eligible governments referred to in subsection (a)(1), or two or more eligible governments referred to in subsection (a)(1) and (2), no application for a grant under this section with respect to such unit shall be considered by the Secretary unless that number of those eligible governments which, in the opinion of the Secretary, is required to act collectively in order to achieve the purposes and objectives for which the grant is sought file a joint application for such assistance as an eligible government referred to in subsection (a)(3).

(2) In any case in which the State and one or more local governments would be required to act collectively as the eligible government with respect to any ecological management unit and the State refuses to participate in a joint application for a grant under this section, or refuses to join with the other local governments in voluntarily transferring responsibility to the Commission for the development or implementation of a unit management plan for such unit, the Secretary shall declare the lands and waters located within such unit that are under the jurisdiction of the State not to be a part of such unit. After declaring lands and waters under the jurisdiction of the State not to be a part of any ecological management unit, the Secretary shall by regulation—

(i) adjust the boundaries of such unit to reflect the withdrawal of such lands and waters; or

(ii) if the lands and waters remaining after such withdrawal do not, in the opinion of the Secretary, constitute an ecological management unit—

(I) rescind the establishment of such unit outright, or

(II) rescind the establishment of such unit and include, through appropriate boundary adjustments, any of such remaining lands and waters within one or more other ecological management units.

(3) Any grant made under this section shall be subject to such terms and conditions as the Secretary deems necessary and appropriate to protect the interests of the United States.

(4) The Secretary may make payments of grants awarded under this section in advance or by reimbursement.

(5) The Secretary shall approve or disapprove any application for a grant under this section not later than the 60th day after the application is received by the Secretary. If the Secretary disapproves any such application, the Secretary shall provide to the eligible government a written statement of his reasons for disapproval. Any eligible government whose application is so disapproved may resubmit the application to the Secretary after making appropriate changes.

(6) The Secretary may not consider any application for a grant under this section with respect to any ecological management unit for which the Commission is the eligible government (except in cases where the Commission is the eligible government by reason of voluntary transfer under subsection (a)(3)(C)) until after the close of the 12-month period beginning on the date on which the unit is established under section 4(c)(2)(B).

(7) Any eligible government which receives a grant under this section shall make available to the Secretary and to the Comptroller General of the United States, or any of their authorized representatives, for purposes of audit and examination, any book, documents, papers, and records that are pertinent to the funds received by it under the grant.

(8) The Secretary shall issue such regulations as may be necessary and appropriate to carry out this section.

SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated—

(1) for the fiscal year ending September 30, 1979, $4,500,000 for the purpose of carrying out section 4 (other than subsection (c)(1) thereof);

(2) for the fiscal year ending September 30, 1980, $1,000,000 to provide the technical assistance authorized under section 4(c)(1);

(3) for the fiscal years ending September 30, 1980, September 30, 1981, and September 30, 1982, a total of—

(A) $25,000,000 to acquire the lands and waters which will compromise the refuge;

(B) $10,000,000 to administer the refuge; and

(C) $7,500,000 to carry out section 7.

ADJUSTING TRAVEL ALLOWANCE

(Mr. THOMPSON asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. THOMPSON. Mr. Speaker, the Committee on House Administration, under the authority granted in Public Law 92–184, as amended, has issued Committee Order No. 32 which is effective October 1, 1977.

The purpose of the order is to adjust the travel allowance to compensate for inflation and maintain parity with the rest of the Federal Government.

The committee order follows:

COMMITTEE ORDER NO. 32

Resolved, That effective October 1, 1977, until otherwise provided by order of the Committee on House Administration, reimbursement for travel by members and employees by privately owned conveyance shall be at the rate of 17 cents per mile for automobile, 15 cents per mile for motorcycle, 36 cents per mile for aircraft, and that such reimbursement shall be made in accordance with rules and regulations established by the Committee on House Administration.

RESOLUTION INTRODUCED TO DECLARE THE RECENT AGREEMENTS AND PROPOSED TREATY INVOLVING THE FUTURE OF THE PANAMA CANAL ARE NULL AND VOID

(Mr. MILFORD asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. MILFORD. Mr. Speaker, I have introduced a concurrent resolution that declares the recent agreements and proposed treaty involving the future of the Panama Canal are null and void.

Article IV, section 3, clause 2, of the Constitution of the United States provides that Congress "shall have power to dispose of and make all needed rules and regulations respecting the territory or other property belonging to the United States." My resolution prohibits the President from conveying, relinquishing, ceding, or otherwise transferring any sovereign rights of the United States in the Panama Canal Zone without specific authority enacted into law by the House and Senate. Furthermore, this resolution would halt Senate consideration of a treaty until such legislation is passed.

While there have been several other resolutions and bills introduced concerning the proposed Panama Canal Treaty, they generally address the subject with an assumption that the treaty will be considered by the Senate. My resolution would resolve any doubts concerning the legality of the recent negotiations and the resulting treaty agreements between Panama and the State Department negotiators. If passed, my resolution declares the recent negotiations and agreements are not valid because the President has no authority to negotiate such an agreement. Since the President was not authorized by Congress to negotiate the treaty, and Congress alone has the power to dispose of any U.S. property or territory, the President should not even submit the treaty to the Senate for ratification.

In recent months there has been a considerable amount of debate and testimony concerning the role of the House of Representatives in any agreement that would dispose of the Panama Canal or property and territory in the Canal Zone to Panama. I believe this to be a very relevant issue and must be resolved before the United States enters into any permanent agreement with Panama.

It should be noted that any action initiated by the executive department in the past concerning Panama has been done as a result of congressional legislation. The Hay-Varilla Treaty of 1903 was in fact authorized by an act of Congress. The Spooner Act directed the Executive to make an arrangement with Panama to acquire in perpetuity the properties necessary for construction of a transoceanic canal.

In later years, additional agreements were made with Panama involving boundary changes and disposal of small amounts of territory. In 1932, Congress granted authority to the Secretary of State to adjust the boundary line between Panama and the Canal Zone so a legation building could be built on land that had been a part of the Canal Zone.

Again in 1955, property transfers, in the treaty of mutual understanding and cooperation with Panama were conditional upon congressional approval. This treaty specifically stated:

> The United States of America agrees that, subject to the enactment of legislation by the Congress, there shall be conveyed to the Republic of Panama . . .

In each case the executive department sought and obtained legslation passed by Congress before these agreements could be implemented.

These precedents cannot be overlooked when we are talking about negotiations

or a proposed treaty that would dispose of total U.S. control and ownership of the Panama Canal to Panama. If previous administrations felt it necessary to seek congressional authorization and approval before entering into any agreement involving the transfer of property or territory to Panama, surely the present administration should follow the same course.

At recent hearings before the Subcommittee on Separation of Powers of the Senate Committee on the Judiciary, State Department officials were asked whether the Carter administration would involve the House of Representatives in the actual decision to transfer the canal to Panama. They answered that the question was still undecided because negotiations were still in progress. Now that the full provisions of the treaty are known, we can see that the administration clearly has no intention of seeking full congressional approval.

The 1903 treaty was a result of an act of Congress. Therefore any annulment of this treaty should require full congressional approval. Anything less would be an abdication on the part of the House of Representatives of its constitutional authority. I, for one, do not want to be associated with this type of action.

Mr. Speaker, I would like to have printed in the RECORD a copy of my resolution as follows:

Whereas article IV, section 3, clause 2, of the United States Constitution vests in the Congress the power to dispose of territory or other property belonging to the United States; and

Whereas the United States possesses full and absolute sovereign rights with respect to the Canal Zone; and

Whereas the Congress has not authorized the President or any other representative of the United States to enter into or to conclude treaty or other negotiations which may result in disposition of Canal Zone territory or other property; and

Whereas any impairment of the sovereign rights of the United States in the Canal Zone would be inimical to the welfare of the United States and to international peace and security: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of the Congress of the United States that, unless hereafter specifically authorized by a law enacted by the Congress—

(1) the sovereign rights of the United States in the Canal Zone shall not be conveyed, relinquished, ceded, or otherwise transferred, wholly or in part; and

(2) no Federal funds shall be made available for the conduct of any negotiations or the implementation of any treaty or other agreement which may impair the sovereign rights of the United States in the Canal Zone.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows to:

Mr. PEPPER (at the request of Mr. WRIGHT), for today, on account of illness in the family.

Mr. CORMAN (at the request of Mr. WRIGHT), after 4:30 today, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. GOODLING) to revise and extend their remarks, and to include extraneous matter to:)

Mr. CORCORAN of Illinois, for 5 minutes, today.

Mr. KEMP, for 15 minutes, today.

Mr. BURKE of Florida, for 20 minutes, today.

Mr. RAILSBACK, for 5 minutes, today.

Mrs. HECKLER, for 10 minutes, today.

(The following Members (at the request of Mr. YOUNG of Missouri) to revise and extend their remarks and include extraneous material:)

Mr. CORNELL, for 5 minutes, today.

Mr. WOLFF, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. GONZALEZ, for 5 minutes, today.

Mr. RODINO, for 5 minutes, today.

Mr. FORD of Michigan, for 5 minutes, today.

Mr. PREYER, for 5 minutes, today.

Mr. EILBERG, for 10 minutes, today.

Mr. THOMPSON, for 5 minutes, today.

Mr. ROONEY, for 5 minutes, today.

Mr. LAFALCE, for 10 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. BROYHILL, to revise and extend his remarks and include extraneous matter just before final passage of H.R. 3816.

Mr. FORSYTHE, and to include extraneous material notwithstanding the fact that it exceeds two pages of the RECORD and is estimated by the Public Printer to cost $805.

(The following Members (at the request of Mr. GOODLING), and to include extraneous matter:)

Mr. ARCHER in three instances.

Mr. WHALEN in two instances.

Mr. CARTER in two instances.

Mr. DERWINSKI in two instances.

Mr. GOLDWATER.

Mr. LAGOMARSINO in four instances.

Mr. BURGENER in two instances.

Mr. WHITEHURST.

Mr. ASHBROOK in four instances.

Mr. CUNNINGHAM.

Mr. VANDER JAGT.

Mr. DORNAN in three instances.

Mr. MOORE.

Mr. ABDNOR in two instances.

Mr. GILMAN in two instances.

Mr. FRENZEL in three instances.

(The following Members (at the request of Mr. YOUNG of Missouri) and to include extraneous matter:)

Mr. EDWARDS of California.

Mr. MAZZOLI.

Mr. NIX.

Mr. SCHEUER.

Mr. ANDERSON of California in three instances.

Mr. GONZALEZ in three instances.

Mr. FRASER in ten instances.

Mr. BEARD of Rhode Island.

Mr. RODINO.

Mr. DOWNEY.

Mr. RAHALL.

Mr. ROE.

Mr. AUCOIN.

Ms. OAKAR.

Mr. JONES of Oklahoma.

Mr. BLANCHARD.

Mr. VANIK.

Mr. NOLAN.

Mr. MURPHY of New York.

Mr. LEHMAN.

Mr. STARK.

Mr. SATTERFIELD.

Mr. DRINAN in three instances.

Mr. MANN.

Mr. RUSSO.

Mr. PICKLE.

SENATE BILL REFERRED

A bill of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 1582. An act relating to the settlement between the United States and the Ak-Chin Indian community of certain water right claims of such community against the United States; to the Committee on Interior and Insular Affairs.

ENROLLED BILL AND JOINT RESOLUTION SIGNED

Mr. THOMPSON, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a bill and a Joint Resolution of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 3. An act to strengthen the capability of the Government to detect, prosecute, and punish fraudulent activities under the medicare and medicaid programs, and for other purposes; and

H.J. Res. 626. Joint resolution making continuing appropriations for the fiscal year 1978, and for other purposes.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 2169. An act to name a certain Federal building in Washington, District of Columbia, the "Hubert H. Humphrey Building".

ADJOURNMENT

Mr. YOUNG of Missouri. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 39 minutes p.m.) the House adjourned until tomorrow, Friday, October 14, 1977, at 10 o'clock a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2547. A letter from the Director of ACTION, transmitting notice of a proposed new records system, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

2548. A letter from the Assistant Secretary of State for Congressional Relations, transmitting a draft of proposed legislation to amend the Immigration and Nationality Act to provide for the classification of certain aliens as special immigrants; to the Committee on the Judiciary.

2549. A letter from the Chairman, U.S. Commission on Civil Rights, transmitting a report on affirmative action, pursuant to secton 104(b) of Public Law 85–315; to the Committee on the Judiciary.

2550. A letter from the Acting Comptroller General of the United States, transmitting a report on U.S. military sales to Saudi Arabia (ID–77–19, October 11, 1977); jointly, to the Committees on Government Operations, and International Relations.

2551. A letter from the Acting Chairman, Federal Energy Regulatory Commission, transmitting the Commission's comments on the President's decision and report on the Alaska natural gas transportation system, pursuant to section 8(f) of Public Law 94–586; jointly, to the Committees on Interstate and Foreign Commerce, and Interior and Insular Affairs.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

[*Omitted from the Record of Oct. 12, 1977*]

Mr. LONG of Maryland: Committee of conference. Conference report on H.R. 7797 (Rept. No. 95–701). Ordered to be printed.

Mr. BOLLING: Committee on Rules. House Resolution 829. Resolution providing for the consideration of House Joint Resolution 626 Joint resolution making continuing appropriations for the fiscal year 1978, and for other purposes (Rept. No. 95–703). Referred to the House Calendar.

Mr. ROBERTS: Committee on Veterans' Affairs. Report on allocation of budget totals to subcommittees (Rept. No. 95–704). Referred to the Committee of the Whole House on the State of the Union.

Mr. SISK: Committee on Rules. House Resolution 830. Resolution providing for the further consideration of H.R. 7073. A bill to extend the Federal Insecticide, Fungicide, and Rodenticide Act, as amended (Rept. No 95–705). Referred to the House Calendar.

Mr. PERKINS: Committee on Education and Labor. H.R. 9378. A bill to amend title IV of the Employee Retirement Income Security Act of 1974 to postpone, for 2 years, the date on which the corporation first begins paying benefits under terminated multiemployer plans; with amendment (Rept. No. 95–706). Referred to the Committee of the Whole House on the State of the Union

Mr. STAGGERS: Committee on Interstate and Foreign Commerce. H.R. 9418. A bill to amend the Public Health Service Act to require increases in the enrollment of third-year medical students as a condition to medical schools' receiving capitation grants under such act, and for other purposes; with amendment (Rept. No. 95–707). Referred to the Committee of the Whole House on the State of the Union.

REPORTED BILLS SEQUENTIALLY REFERRED

Under clause 5 of rule X, bills and reports were delivered to the Clerk for printing, and bills referred as follows:

[*Omitted from the Record of Oct. 12, 1977*]

Mr. ULLMAN: Committee on Ways and Means. H.R. 9346. A bill to amend the Social Security Act and the Internal Revenue Code of 1954 to strengthen the financing of the social security system, to reduce the effect of wage and price fluctuation on the system's benefit structure, to provide coverage under the system for officers and employees of the United States, of the State and local governments, and of nonprofit organizations, to increase the earnings limitation, to eliminate certain gender-based distinctions and provide for a study of proposals to eliminate dependency and sex discrimination from the social security program, and for other purposes; with amendment (Rept. No. 95–702, Pt. I). Referred to the Committee on Post Office and Civil Service for a period ending not later than October 17, 1977, for consideration of section 301 of the bill and amendment as reported by the Committee on Ways and Means, and ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. DELLUMS (for himself and Mr. MCKINNEY):

H.R. 9544. A bill to amend the District of Columbia Self-Government and Governmental Reorganization Act with respect to the payment of certain revenue bonds issued by the Council of the District of Columbia; to the Committee on the District of Columbia.

By Mr. BRINKLEY (for himself and Mr. WHITEHURST):

H.R. 9545. A bill to amend title 10 of the United States Code to provide essential medical and dental care to members or former members of a uniformed service and their dependents where the member or former member is entitled to retired or retainer pay or equivalent pay; to the Committee on Armed Services.

By Mr. BURKE of Massachusetts:

H.R. 9546. A bill to amend title XVI of the Social Security Act to provide for an exclusion from resources of an amount deposited as prepayment of funeral and burial expenses; to the Committee on Ways and Means.

By Mr. FITHIAN:

H.R. 9547. A bill to encourage the use of agricultural commodities in the production of certain blended fuels; to the Committee on Agriculture.

By Mr. GOLDWATER:

H.R. 9548. A bill to amend title 38 of the United States Code in order to waive the payment of premiums for the National Service Life Insurance by certain persons who have attained age 70; to the Committee on Veterans' Affairs.

By Mr. LAFALCE:

H.R. 9549. A bill to encourage investment in small business concerns, and for other purposes; jointly, to the Committees on Education and Labor, Interstate and Foreign Commerce, Small, Business, and Ways and Means.

By Ms. OAKAR (for herself, Mr. CAVANAUGH, Mr. PEPPER, Mr. RANGEL, Mr. RAHALL, Mr. DOWNEY, Mr. CORRADA, Mr. YATRON, Mr. DUNCAN of Tennessee, Mr. GOODLING, Mrs. LLOYD of Tennessee, Mr. MURPHY of Pennsylvania, Mr. FAUNTROY, Mr. CORNELL, Mr. VENTO, Mr. HORTON, Mr. JEFFORDS, Mr. ROE, Mr. HARRINGTON, and Mr. WON PAT):

H.R. 9550. A bill to amend the Older Americans Act of 1965 to provide that the Commissioner of the Administration on Aging may make grants to assist older persons adversely affected by natural disasters, and for other purposes; to the Committee on Education and Labor.

By Ms. OAKAR (for herself, Mr. SKELTON, Mr. EILBERG, Mr. HILLIS, and Mr. AKAKA):

H.R. 9551. A bill to amend the Older Americans Act of 1965 to provide that the Commissioner of the Administration on Aging may make grants to assist older persons adversely affected by natural disasters, and for other purposes; to the Committee on Education and Labor.

By Ms. OAKAR (for herself, Mr. GILMAN, Mrs. HECKLER, Mr. JEFFORDS, Mr. MICHAEL O. MYERS, and Mr. STEERS):

H.R. 9552. A bill to require that the Hungarian Crown of Saint Stephen and other relics of the Hungarian royalty remain in the custody of the U.S. Government and that they not be transported out of the United States, unless the Congress provides otherwise by legislation; to the Committee on International Relations.

By Mr. TEAGUE (by request):

H.R. 9553. A bill to authorize appropriations for the Federal Fire Prevention and Control Act of 1974, and to change the name of the National Fire Prevention and Control Administration to the U.S. Fire Administration; to the Committee on Science and Technology.

By Mr. WALKER (for himself, Mr. PANETTA, Mr. WALGREN, Mr. JENRETTE, Mr. MARRIOTT, and Mr. BENJAMIN):

H.R. 9554. A bill to amend the Internal Revenue Code of 1954 to provide to individuals who have attained the age of 62 a refundable credit against income tax for increases in real property taxes and utility bills; to the Committee on Ways and Means.

By Mr. WYLIE:

H.R. 9555. A bill to amend the Truth in Lending Act; to the Committee on Banking, Finance and Urban Affairs.

By Mr. BUCHANAN:

H.R. 9556. A bill to amend the worker adjustment assistance provisions of the Trade Reform Act of 1974 in order to provide that workers may be covered under certification of eligibility to apply for such assistance if they are totally or partially separated from adversely affected employment within 2 years before the date of the petition for such certification, to extend by 52 weeks the period for which workers may receive trade readjustment allowances, and for other purposes; to the Committee on Ways and Means.

By Mr. DON H. CLAUSEN (for himself, Mrs. HECKLER, Mrs. FENWICK, Mr. FRENZEL, Mr. FREY, and Mr. GRASSLEY):

H.R. 9557. A bill to amend the Federal Water Pollution Control Act; to the Committee on Public Works and Transportation.

By Mr. DUNCAN of Tennessee (for himself and Mr. DON H. CLAUSEN):

H.R. 9558. A bill to amend section 9441 of title 10, United States Code, to provide for the budgeting by the Secretary of Defense, the authorization of appropriations, and the use of those appropriated funds by the Secretary of the Air Force, for certain, specified purposes to assist the Civil Air Patrol in providing services in connection with the noncombatant mission of the Air Forces; to the Committee on Armed Services.

By Mr. HARRIS (for himself and Mr. KEMP):

H.R. 9559. A bill to amend the Omnibus Crime Control and Safe Streets Act of 1968 to include resue squad members in the group of persons eligibe for public safety officers' death benefits; to the Committee on the Judiciary.

By Mr. HARRIS (for himself and Mr. KASTENMEIER):

H.R. 9560. A bill to amend the Immigration and Nationality Act to facilitate the admission into the United States of more than two adopted children, and to provide for the expeditious naturalization of adopted children; to the Committee on the Judiciary.

By Mrs. HECKLER (for herself, Mr. CORNELL, Mr. EDGAR, Mr. GUYER, Mr. MOTTL, Mr. WALSH, Mr. BALDUS, Mr. BRODHEAD, Mr. CLEVELAND, Mr. D'AMOURS, Mr. DELANEY, Mr. DOWNEY, Mr. HANLEY, Mr. HARRINGTON, Ms. HOLTZMAN, Mr. MCHUGH, Mr. MOAKLEY, Mr. NEDZI, Mr. PANETTA, Mr. QUIE, Mr. REUSS, Mr. RINALDO, Mr. STUDDS, Mr. THOMPSON, and Mr. WHITEHURST):

H.R. 9561. A bill to amend title 38, United States Code, to provide for the payment of supplemental tuition allowances to certain veterans pursuing educational programs for purposes of offsetting the differences in State educational costs; to the Committee on Veterans' Affairs.

By Mrs. HECKLER (for herself, Mr. CORNELL, Mr. CAPUTO, Mr. CARR, Mr. FLORIO, Mr FORD of Michigan, Mr. LAFALCE, Mr. LEDERER, Mr. LEHMAN, Mr. LUNDINE, Mr. MITCHELL of New York, Mr. MOORHEAD of Pennsylvania, Mr. NOLAN, Mr. OTTINGER, Mr. PATTISON of New York, Mr. PURSELL and Mr. RISENHOOVER):

H.R. 9562. A bill to amend title 38, United States Code, to provide for the payment of supplemental tuition allowances to certain veterans pursuing educational programs for purposes of offsetting the differences in State educational costs; to the Committee on Veterans' Affairs.

By Mr. KEMP (for himself, Mr. COLLINS of Texas, Mr. CONABLE, Mr. DICKINSON, Mr. EMERY, Mr. EVANS of Delaware, Mr. FORSYTHE, Mr. FRENZEL, Mr. FREY, Mr. GRASSLEY, Mr. HANSEN, Mr. HILLIS, Mr. JEFFORDS, Mr. KASTEN, Mr. KETCHUM, Mr. LATTA, Mr. MILLER of Ohio, Mrs. PETTIS, Mr. PRITCHARD, Mr. PURSELL, Mr. QUILLEN, Mr. SCHULZE, and Mr. THONE):

H.R. 9563. A bill to provide for permanent tax rate reductions for individuals and businesses; to the Committee on Ways and Means.

By Mr. KEMP (for himself and Mr. LIVINGSTON):

H.R. 9564. A bill to provide for permanent tax reductions for individuals and businesses in order to expand both job opportunities and productivity in the private sector of the economy; to the Committee on Ways and Means.

By Mr. KEMP (for himself, Mr. ROUSSELOT, Mr. RAILSBACK, Mr. WALGREN, Mr. CLEVELAND, and Mr. GOODLING):

H.R. 9565. A bill to provide for an alternative amortization period for pollution control facilities; to the Committee on Ways and Means.

By Mr. MAHON:

H.J. Res. 626. Joint resolution making continuing appropriations for the fiscal year 1978, and for other purposes; to the Committee on Appropriations.

By Mr. NOLAN (for himself, Mr. ABDNOR, Mr. AKAKA, Mr. BEDELL, Mr. DE LUGO, Mr. EVANS of Delaware, Mr. EVANS of Georgia, Mr. FORD of Tennessee, Mr. FRASER, Mr. FRENZEL, Mr. HUGHES, Mr. MITCHELL of Maryland, Mr. OBERSTAR, Mr. PATTISON of New York, Mr. PEPPER, Mr. PURSELL, Mr. QUAYLE, Mr. RUSSO, Mr. TRAXLER, Mr. TUCKER, Mr. WALGREN, Mr. WOLFF, Mr. YOUNG of Alaska, and Mr. YOUNG of Missouri):

H.J. Res. 627. Joint resolution authorizing the President to proclaim the third week of May of 1978 and 1979, as National Architectural Barrier Awareness Week; to the Committee on Post Office and Civil Service.

By Mr. BURKE of Florida:

H.J. Res. 628. Joint resolution to authorize and request the President to issue annually a proclamation designating the first Sunday of September after Labor Day each year as National Grandparents Day; to the Committee on Post Office and Civil Service.

By Mr. MILFORD:

H. Con. Res. 378. Concurrent resolution expressing the sense of the Congress regarding the sovereign rights of the United States in the Canal Zone; to the Committee on International Relations.

By Mr. KEMP (for himself, Mr. BADHAM, Mr. BURGENER, Mr. COLLINS of Texas, Mr. FORSYTHE, Mr. GOODLING, Mr. HEFTEL, Mrs. HOLT, Mr. HUGHES, Mr. HYDE, Mr. KINDNESS, Mr. JOHN T. MYERS, Mr. QUIE, Mr. STEERS, and Mr. WHITEHURST):

H. Res. 831. Resolution to express the sense of the House with respect to administrative policy changes by the Internal Revenue Service; to the Committee on Ways and Means.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BEILENSON:

H.R. 9566. A bill for the relief of George F. Roth; to the Committee on the Judiciary.

By Mr. HEFTEL:

H.R. 9567. A bill for the relief of Judge Louis Le Baron; to the Committee on the Judiciary.

By Mr. JEFFORDS:

H.R. 9568. A bill for the relief of Renate Irene McCord; to the Committee on the Judiciary.

By Mr. KEMP:

H.R. 9569. A bill for the relief of Jack R. Misner; to the Committee on Ways and Means.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

290. By the SPEAKER: Petition of the Executive Committee of the Legislative Council of the State of Oklahoma, relative to U.S. relations with the Republic of China; to the Committee on International Relations.

291. Also petition of the 119th Convention of the International Typographical Union, Cincinnati, Ohio, relative to postal service; to the Committee on Post Office and Civil Service.

292. Also petition of the Iosco County Democratic Party, Hale, Mich., relative to the retirement age under social security; to the Committee on Ways and Means.

EXTENSIONS OF REMARKS

DR. ROSALYN S. YALOW

HON. DAVID E. SATTERFIELD III

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 13, 1977

Mr. SATTERFIELD. Mr. Speaker, it is a pleasure for me to call attention to the fact that two of the three Americans who were honored today with the Nobel prize in medicine are full-time, career employees of the Veterans' Administration.

Dr. Rosalyn S. Yalow is a senior medical investigator at the Bronx, N.Y., Veterans' Administration Hospital. She was awarded half the prize for her pioneering work in endocrinology, the study of glandular secretions, using the technique of radioimmunoassay which he and the late Dr. Solomon A. Berson, also of the Bronx VA Hospital, devised and introduced.

Dr. Andrew V. Schally, senior medical investigator at the New Orleans, La., VA Hospital, shares the other half of the prize with Dr. Roger Guillemin of the Salk Institute. Dr. Schally and Dr. Guillemin have made many pioneering discoveries in peptide hormone chemistry.

Dr. Yalow has spent her entire professional career in the Bronx VA Hospital, and has won numerous other high honors for her scientific contributions. She was the first woman to be appointed a VA senior medical investigator. She holds the rank of distinguished service professor at the Mount Sinai School of Medicine, in addition to serving as chief of the nuclear medicine service and director of the Solomon Berson Research Laboratory at the Bronx VA Hospital.

Dr. Yalow established the first radioisotope laboratory in the VA system, in 1947. She was one of the first winners of the annual Federal Women's Award for outstanding achievement. She and Dr. Berson were jointly honored with the first presentation of the VA's highest research recognition, the William S. Middleton Award.

A year ago Dr. Yalow received the Albert Lasker Basic Medical Research Award, the first woman to be so honored.

She also has been honored with the Dickson prize of the University of Pittsburgh, the Howard Taylor Ricketts Award of the University of Chicago, the Koch Medal of the Endocrine Society, and the Award of the American College of Physicians for distinguished contributions in medical science.

She has been the recipient of the Veterans' Administration Exceptional Service Award and the American Medical Association's Scientific Achievement Award, Modern Medicine magazine's Distinguished Achievement Award and the A. Cressy Morrison Award in natural sciences of the New York Academy of Sciences.

Dr. Yalow is a member of the National Academy of Sciences.

Her research has been associated with the technique of radioimmunoassay and extending its use. This important research methodology has led to numerous advances in physiology and clinical medicine because of its precision and value in measuring minute quantities of many pharmacologic and biologic sub-

stances, including drugs, hormones, viruses and enzymes.

The technique is used in more than 4,000 laboratories in this country alone, and has been described as one of the most important advances of the past 20 years in basic research that can be directly applied to clinical medicine.

The independent discoveries of Dr. Schally and Dr. Guillemin also are examples of basic research that has direct application to patient care. Their findings were recognized by the Royal Caroline Institute for laying the foundations of modern hypothalmic research, and have potential value in treating infertility, diabetes, acromegaly, arthritis and kidney disease.

Dr. Schally has been chief of the Endocrinology and Polypeptide Laboratory at the New Orleans VA Hospital since 1962. He holds the academic rank of professor of medicine at Tulane University School of Medicine.

Dr. Schally also was awarded the Albert Lasker Basic Medical Research Award, in 1975, and the William S. Middleton Award of the Veterans' Administration, in 1970.

His contributions also have been recognized with the Van Meter prize of the American Thyroid Association, the Ayerst-Squibb Award of the U.S. Endocrine Society, the Charles Mickie Award of the University of Toronto, and the Gairdner Foundation National Award.

More recently he has been recipient of the Edward T. Tyler Award and the Borden Award of the Association of American Medical Colleges.

Selection of these two Federal employees for the highest honor in medical research is of great importance to American veterans, as well as to the Nation as a whole. The honor is not only a tribute to their own accomplishments, but to the outstanding medical research being conducted throughout the Nation by the Veterans' Administration.

Conduct of research is one of the three legislative missions of the Veterans' Administration, as spelled out in title 38, the enabling legislation of the department of medicine and surgery. Nearly 6,000 VA physicians participate annually in research activity at 130 VA hospitals.

The VA medical research budget is approximately $105 million annually. Last year, individual VA scientists published more than 6,000 scientific articles in professional journals and presented almost that many lectures at scientific meetings throughout the country, sharing their knowledge with other scientists and physicians.

In addition to these individual projects, however, the VA annually conducts about 30 multihospital cooperative studies. These traditionally have generated significant knowledge of benefit not only to patients in the VA health care delivery system, but to the entire world.

Landmark contributions of these cooperative studies include those which first established the value of chemotherapy for tuberculosis and for mental illness. Other findings of significant importance evaluated drug treatment for hypertension, delineated new knowledge of neurological disease, metabolic disorders, stroke prevention, the aging process, arteriosclerosis, chemotherapy as an adjuvant treatment after cancer surgery, the value of anticoagulant drugs, the nature of sickle cell disease and treatment for alcoholism.

Veterans' Administration researchers performed pioneering studies in kidney and liver transplants, the implantation of heart pacemakers, and in other fields.

It is therefore especially gratifying to me to see that this fine research activity has been recognized today, as well as the outstanding scientists whose individual studies have contributed so much.

MAN OF THE YEAR AWARD TO HON. NICHOLAS J. BUA

HON. MARTY RUSSO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 13, 1977

Mr. RUSSO. Mr. Speaker, the Honorable Nicholas J. Bua has been chosen by the Justinian Society of Lawyers in Chicago as the recipient of their Man of the Year Award and will be honored the evening of October 17 by the group.

He is currently president-elect of the American Justinian Society of Jurists, a 1,100-member organization of Italo-American judges throughout the United States and its possessions.

It is an honor for me to be personally acquainted with Judge Bua and I want to take this opportunity to share with my colleagues some of the accomplishments of this distinguished jurist that led to his selection for the coveted award.

Judge Bua was appointed as a Judge of the U.S. District Court of the Northern District of Illinois in July of 1977. Prior to his appointment to the Federal bench by President Carter, he served as a judge of the circuit court of Cook County, 1964–76. In 1976, he was elected a justice of the Illinois Appellate Court—First District, Chicago.

In 1972 the Supreme Court appointed him a member of the prestigious Supreme Court Rules Committee, a position he still holds, and since 1970 he has served on the executive committee of the Judicial Conference of the State of Illinois. He is a member of many professional associations and has received special awards for his contributions to programs of continuing legal education. A 1953 graduate of DePaul University College of Law, he was selected this year as the recipient of their Distinguished Alumni Award.

Obviously it is difficult to list all the achievements of a man such of Judge Bua, but I think it might help provide a clearer picture of just how effective and talented he is if I cite home comments and statistics from law groups themselves.

In November of 1975, he was the recipient of the highest rating of the Chicago Bar Association Committee on Judicial Candidates—94.7 percent—in connection with the screening of over 300 applicants for supreme, appellate, and circuit court judges.

In September 1976, the Chicago Bar Association announced the results of the poll of its members concerning the retention election of 32 circuit judges. Judge Bua, again, received the highest rating ever given to any judge during the entire 100-year history of the Chicago Bar Association—a finding of over 99 percent in categories involving the candidates' integrity, legal knowledge, judicial temperament.

In 1977, in connection with the screening of 18 prospective nominees for appointment to the Federal District Court for the Northern District of Illinois, the judge was found "highly recommended" by the Chicago Bar Association, receiving a percentage rating of 96.19 percent, the highest among the 18 names submitted by Senator ADLAI E. STEVENSON, to the association.

The judge is also a writer, a lecturer and has done extensive work with groups such as the Committee on Continuing Legal Education of the Chicago Bar Association, the University of Chicago Law School, De Paul University College of Law and the Illinois Judicial Conference.

I think it is evident that the Justinians have chosen a most outstanding gentleman as their Man of the Year. Next Monday will be a festive evening for all involved, and it will be a pround evening for Judge Bua and his lovely wife of 34 years, Camille and daughter Lisa Annette.

I know my colleagues join with me in congratulating Judge Bua and commending him for his fine service to the legal world.

TRIBUTE TO INMAN MILLS

HON. JAMES R. MANN

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 13, 1977

Mr. MANN. Mr. Speaker, this month, Inman Mills of Spartanburg County, S.C., is celebrating its 75th anniversary—an event in which all concerned, both past and present, can take great pride. It is a particular source of pride to its president, James A. Chapman, Jr., whose family founded and has provided the dynamic leadership that has sustained Inman Mills throughout its 75-year history.

As a corporate citizen of Spartanburg County, Inman Mills is an important part of a local textile community that is providing 18,600 persons with gainful employment in the production of goods that are valued at $628.6 anually.

The textile-fiber-apparel industry, as you know, Mr. Speaker, is vital to the economic health of America, and we are most fortunate to have stable companies such as Inman Mills, forming the backbone of this essential industry and contributing to the well-being of community, State, and country.

I am proud to have this opportunity to congratulate Mr. Chapman, the officers, stockholders, and employees of Inman Mills on this diamond jubilee and to offer my sincere hope that Inman and the scores of mills like it in other communities of our Nation will continue to prosper long into the future.

REPUBLIC OF CHINA CELEBRATES DOUBLE TEN

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 13, 1977

Mr. ASHBROOK. Mr. Speaker, on Monday of this week the Republic of China on Taiwan celebrated its national day—the commemoration of its founding by Dr. Sun Yat-sen.

In recent years under the previous administrations and the present one there has been a move by some to abandon our ally the Republic of China on Taiwan to get closer relations with Communist China. As I have stated previously, this would be a mistake. It would hurt us. It would seriously harm Taiwan's ability to survive. I urge continuation of our full range of relations with the Republic of China.

Recently the Air Force magazine published an interesting article entitled "Taiwan and the U.S. Posture in the Pacific." At this point I include its text in the RECORD:

TAIWAN AND THE U.S. POSTURE IN THE PACIFIC

(By Gen. T. R. Milton, USAF (Ret.))

As we all know, there is a move afoot to establish full diplomatic relations with the People's Republic of China. But the PRC has intimated that first we should sever relations with the Republic of China on Taiwan, abrogate our defense treaty, and withdraw all U.S. military personnel from the island.

Naturally enough, there also is a move afoot to meet these demands as a way of speeding the consummation of this new relationship. Prominent among the advocates of abandoning our old friends on Taiwan is Sen. Ted Kennedy of Massachusetts, along with various other people in and out of government.

The rationale behind all this is simple. We will gain great stature, if not immediate friendship, with a nation of 800,000,000 people at the expense of a nation of only 17,00,000. We will also be enlisting this huge nation on our side against the USSR. Or, perhaps, it will be enlisting us. Seemingly, it will not matter in that joyous union of former enemies. As for Taiwan, well, we can give those Chinese some sort of reassurance. It will necessarily be well short of what we have given them in the past, but that is the way it goes.

When Chiang Kai-shek and the remnants of his army came ashore on Taiwan twenty-eight years ago, it was a bleak moment for him and for those who dreaded a Communist Asia. For all practical purposes, Marshal Chiang and his side were finished, and much of the Western world made that judgment. For a variety of reasons, the U.S. did not. As time passed the Nationalists on Taiwan became the military force they should have been on the mainland. Corruption was replaced with discipline and dedication. The Double Ten parades of the fifties and sixties, with the old Marshal reviewing his troops, were something unforgettable. Meanwhile, Taiwan began to prosper in a remarkable way, and the initial resentment of the native Taiwanese toward the mainlanders subsided with the realization that things had never been better.

The beautiful subtropical island of Taiwan has always been coveted by someone. The Dutch wanted it, and for nearly forty years of the 17th century, had it, shared during part of that time with the Spanish. It was the Dutch, in fact, who imported the Chinese from the mainland as a source of labor, the Taiwan aborigines being either incapable or intractable. It was a Chinese pirate who drove out the Dutch and brought in a more educated class of Chinese. Peking took control of the island for the first time at the end of the 17th century. The Japanese conquered Taiwan late in the 19th century and kept it until 1945. It has not, then, had an unbroken record as a Chinese province. However, that is beside the point. It is Chinese territory now, Nationalist Chinese territory, and if we concede that there is only one legitimate Chinese government, Taiwan goes along in the deal. That seems to be the position of Peking and the rapprochement advocates in this country.

Putting the matter of ethics and loyalty aside for the moment, consider what Taiwan means to the United States military posture in the Pacific. Presumably, we intend to remain faithful to our Korea and Japan defense obligations. Our bases in the Philippines are still basic to our ability to operate in the western and southwestern Pacific, and so the security of the Philippines is important to our own self-interest. A line drawn from Japan through Okinawa to the Philippines passes by Taiwan. It is scarcely logical not to include Taiwan in the line.

It has made sense in other ways over the past twenty-five years. The Chinese have been far more to us than mere base providers. As sophisticated and highly skilled people, they have been one of our best allies in the real sense of the word. During Vietnam much of our fighter overhaul was done in Taiwan. And while it is still not possible to detail their contributions, the Nationalist Chinese did some significant, and dangerous, jobs for us during that unhappy war.

Our strength in the Pacific is reaching the point of bare credibility, and will, with the Korean withdrawal, grow even more marginal. Giving up a strong ally makes no sense, and never mind the moral implications. When that ally has proved itself over the years to be faithful, as well as capable, it makes even less sense.

However, there is another consideration that does not come up for much discussion these days. Suppose the Nationalist Chinese refuse to roll over. It is a likely course for them to take, given their past record. Having taken that stand, and bereft of their old friends, where do they turn for arms and security? To the USSR, says Professor David Rowe of Yale, an Asian specialist, in an article in the July 22 *National Review*.

There is a certain logic in that prediction. After all, it would unite the two sworn enemies of Communist China. An unfriendly Taiwan would do very bad things to that western Pacific frontier of ours.

From what we know of them, the Chinese Communists are a pretty tough bunch. Sentiment seems to play a minor, or even nonexistent, role in their affairs. Thus, while it would appear that we, as the other world power, could capitalize on the present Soviet-Chinese enmity, we should do so with our eyes open. There is nothing in Communist China's past history, nor in Mao's little Red Book, to indicate we really can be good friends. They have more to gain, it would seem, than we, by a closer relationship. Why, then, should we sacrifice our friends, and a good deal of self-respect, by throwing Taiwan into the deal?

THE ENERGY TAX PLAN: "FACING THE BOGYMAN"

HON. BILL ARCHER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 13, 1977

Mr. ARCHER. Mr. Speaker, the Wall Street Journal published on September 28, 1977, an editorial commentary on the Senate's consideration of the energy tax bill. I hope that my colleagues will take the time to read it:

FACING THE BOGYMAN

The U.S. Senate is saving us from President Carter's tax increase/energy plan. It has been an admirable display of common sense. Now if the Senate can sort out correct economics from prevailing economics, it could take a giant step toward solving our energy problems.

After the Senate broke the filibuster against natural gas deregulation and the Finance Committee sidetracked the proposed wellhead tax, Mr. Carter exhorted it to "act responsibly" and ward off "special interest attacks." Well, the special interests that we worry most about are those that want some $35 billion in new tax revenues with which to buy votes. Mr. Carter got his plan through the House, for instance, by loading it up with handouts to New England fuel oil consumers. Speaker Tip O'Neill's constituents would not have to pay replacement costs for the energy *they* burn. Happily, the Finance Committee has its own notions of responsibility, and has been chopping down the taxes and handouts one after another.

The Finance Committee is still bedeviled, though, by a set of widespread but incorrect notions: That the wellhead tax would increase prices and thus promote conservation; that U.S. consumers are not currently paying the world price for energy; that removing price controls from crude oil would result in new "windfall profits" for the oil companies; that decontrol would be costly for the consumer. None of these things is true, for reasons cogently outlined nearby by Charles E. Phelps and Rodney T. Smith of the Rand Corp.

Prices are set on the margin. All of the above misconceptions result from the failure to understand or apply this simple and universally accepted rule of economics. The price of a commodity will be the cost of producing the last unit necessary to bring supply and demand into balance. What counts is not the average cost of production, but the cost of the most expensive unit. Throughout the energy debates, even most economists have suffered an apparent congenital inability to apply this simple lesson to petroleum.

In the U.S. market, the marginal barrel of oil is imported, at the world price. The marginal price is the world price. The price of energy is the world price. Price controls on refined products have now been eliminated or made ineffective, simply because it eventually became apparent to nearly everyone that product prices could not be set by controls, but only by world market forces.

Price controls remain on domestic crude oil. But the effect of the controls, and the accompanying entitlements program, is

merely to transfer profits from one oil company to another. This is why the "special interests" have in fact been deeply divided. Specifically, the current program transfers profits from domestic producers to importers. In its folly, the United States government has been subsidizing the purchase of OPEC oil.

The effect of Mr. Carter's wellhead tax would be to capture these profit transfers for the politicians. With the money in hand, the politicians can divvy up the largess, so much for Mr. O'Neill's homeowners, so much for Senator Long's energy research quasi-corporation. Meanwhile, the wellhead tax receipts of $12 billion a year would be drained out of the energy companies. Incentives to produce in the U.S. would be further diminished, and reliance on imports would further increase.

Once you understand that prices are set on the margin and consumers are already paying the world price, though, a painless solution emerges. If you decontrol the price of crude oil the world price of refined products will not go up. The consumer won't have to pay an extra penny.

If you decontrol, you simply will end the profit transfers. The rewards for producing oil in Texas will no longer have to be divided with the sheiks, nor will they go to the politicians. The incentives will be in the right place. People will be able to explore for oil and develop energy alternatives with less fear that Washington will expropriate the rewards of a successful venture. Production will be maximized. Imports will be minimized. Alternative energy sources, of which there are plenty at the right price, will be brought on as they become economically competitive. Once the government stops making the problems worse instead of better, we can all applaud Mr. Carter for building up a strategic petroleum reserve to minimize the national security problem.

The Senate is timidly edging toward this solution, trying to find a way to phase in the imagined costs. It is willing to pay a price to avoid Mr. Carter's Rube Goldberg devices. There will be a stampede the day enough Senators recognize that the costs of decontrol are a child's bogyman.

TRIBUTE TO VOLUNTEER FIRE DEPARTMENT OF LAUREL, MD.

HON. GLADYS NOON SPELLMAN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 13, 1977

Mrs. SPELLMAN. Mr. Speaker, I rise to salute an organization which has dedicated itself to the safety and well-being of the citizens of the Laurel, Md., area for over three-quarters of a century. As a resident of the community for the past 10 years, it has been my pleasure to have witnessed the dedication, zeal, and unselfish valour of those who are members of the Voluntary Fire Department of Laurel, Md.

It was after a devastating fire in 1888, which leveled 12 buildings and the Presbyterian Church on Main Street, that citizens, headed by Albin Fairal, were motivated to organize what was a loosely knit fire brigade into three viable units, one company for each of the wards of the city. These three companies, located at 8th and Main, comprised of just a handful of men and equipped with hand-drawn reels, merged into one department which is now located at 9th and Montgomery. On October 13, 1902, the by-laws for the first fire department of Laurel were written.

David M. Fisher was the first chief of the fire department, and since his day, some 75 years ago, the organization has grown from that small band of brave men to the 125 volunteer members and 5 career fire fighters which comprise the department today. Under the leadership of James Chenault, the fire chief, and Warren H. Litchfield, the president, the Laurel Volunteer Fire Department responds to over 1,200 calls a year, and, as it did in those early days, serves the surrounding communities of Anne Arundel Howard, and Montgomery as well.

Mr. Speaker, the city of Laurel is a very special city, because its people are very special people. They have a finely honed sense of community without being parochial; they willingly involve themselves in mutual concerns yet judiciously maintain their individuality; they protect the integrity of the privacy of others but never fail to help their neighbors in need. The Voluntary Fire Department of Laurel reflects the fine virtues of those it serves. The department's motto, "Service to Others," precisely describes the commitment each member has made to his neighbor, and I find it a great privilege to stand before this body today to express my respect and admiration for these individuals who serve so selflessly. I know my colleagues will join me in wishing this fine organization a memorable 75th birthday and in extending our most sincere congratulations and appreciation for the irreplaceable service it has rendered to the citizens of their corner of Prince George's County.

TRIBUTE TO PASTOR J. ALFRED SMITH

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 13, 1977

Mr. STARK. Mr. Speaker, I would like to take this opportunity on the 58th anniversary of the Allen Temple Baptist Church to pay tribute to Pastor J. Alfred Smith of Oakland, Calif., who serves this congregation and the Oakland community with particular honor and dedication.

Pastor Smith has worked to solve a wide range of community problems; housing for senior citizens, a youth center for teenagers, an improved economic climate for the city, better police/community relations. His leadership in the United East Oakland Clergy, the New Oakland Committee, the Board of the Clorox Youth Center, and the board of directors of the Spanish Speaking Unity Council all pay tribute to his concern for the Oakland community. He is also a teacher and, as such, has served as an inspiration to students at Merritt Junior College and the Golden Gate Theological Seminary. He has done all this with tireless dedication, high principle, enthusiasm and notable success.

Allen Temple Baptist Church and Pastor Smith have made their church a community center offering a year-round tutorial program for students, a creative living center for those who need emotional support, an educational scholarship program for young people in need of financial help, and a source of information for those in east Oakland who do not know where to turn.

Pastor Smith's sense of public duty and tireless attention to the needs of the community is a special witness to his Christian faith and serves as an inspiration to all who serve and worship with him.

POSTAL SERVICE: A VIEW FROM RURAL AMERICA—VIII

HON. JAMES ABDNOR

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 13, 1977

Mr. ABDNOR. Mr. Speaker, my office, like those of all my colleagues, has been hearing a lot in the past few years from constituents about what has been happening with the U.S. Postal Service. I would like to share some observations about the USPS costs and operations which have come to me from Mr. Ray Stoltz of Rapid City, S. Dak. Mr. Stoltz has owned and operated the Coast to Coast Store in Rapid City for 40 of his 68 years, during which he has had a lot of contact with the postal system.

His comments merit consideration, in particular, his observation:

In my 40 years in business I *never* found I could increase my volume of business by raising prices.

Mr. Stoltz writes:

In these 40 years I mailed 80,000 sale circulars per year or a total of 3,200,000 over the 40 years. At an average cost of 6 cents per piece, I spent a total of $192,000 a year with the post office. There were about 12 businesses that mailed the same quantity over these years for a total of $2,304,000 a year.

When I first started business we merely counted the total number of circulars for each local city route and bundled them. The carrier did not have to case these circulars but merely left one at each house. Then came a new order that each circular mailed in the city had to have an address. So *now* the carrier had to case all the circulars and get them in the proper receptacle. Now the carrier had more work and he had to place the addressed circular at the correct home address. Delivering these 3rd class sale circulars in Rapid City did not make any added expense to the local post office and it paid them $2,304,000 a year.

What is happening today in every town and city in the United States? The newspapers are including the circulars in their newspapers at a much smaller charge than the post office. This revenue alone probably would be nearly sufficient to pay the deficit.

Now what about parcel post packages. I am sure the post office has lost about 50 percent of the package business. They also have lost some of the 1st class mail. Today we receive or send nearly 80 percent of our packages via U.P.S. and it is a very satisfactory system. When we used parcel post, our damages ran about 30 percent of the packages or the package was badly broken up. Now we have no problem.

In my 40 years in business I *never* found I could increase my volume of business by raising prices. If I raised prices above my competitors or above value, the items did not sell. In the past inflationary years our prices raised in proportion with inflation but *not* like the post office at 300 percent or 400 percent above inflation.

I certainly agree the post office is entitled to an increase in the postage rate but not to 13 cents. A 9-cent rate in first class and fast delivery will eventually bring back the business. A reasonable rate on parcel post and proper care of packages plus fast delivery will also increase the parcel post business. The 3rd class will immediately come back if the rate is decreased to competitive costs.

It is my opinion the post office department thought they had a monopoly on letters and packages and no one would infringe on this business. They could run the post office as sloppy as they felt like and still retain business. They have lost the confidence of the American people. It is the fault of the postal department themselves for the loss of this volume business.

TRADE AND THE DOMESTIC TEXTILE INDUSTRY

HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 13, 1977

Mr. LEHMAN. Mr. Speaker, because of my participation in the Inter-Parliamentarian Conference, I was unable to take part in a discussion held under a special order on September 27 concerning the domestic textile industry and international trade. I wish to take this opportunity to express my view on this important subject.

The textile and apparel industry is one of the most vital industries in America today. Employing 2.3 million workers, over one in eight manufacturing personnel depends on this industry for a livelihood. Yet, a growing tide of textile and apparel imports has endangered the continued existence of this key industry.

According to the U.S. Census Bureau, the physical volume of textile imports has increased 250.6 percent since 1966. This has resulted in a decrease of both domestic employment and domestic productivity. The International Ladies Garment Workers Union estimates that between 1961 and 1976, approximately 150,000 persons lost potential employment in this industry. Further rapid growth of imports could have a critical impact.

It is for this reason that I urge the administration not to lower the import quotas in the forthcoming Geneva negotiations authorized by the 1974 Trade Act. Such action would be a catalyst for further unemployment in the textile industry.

The U.S. textile and apparel industry cannot withstand further competition for our domestic markets. The American textile worker earns an average wage of $3.50 an hour, while workers in such countries as South Korea and the Republic of China receive wages lower than one-seventh of that amount. In an industry which is already highly competitive, more imports will simply mean more firms out of business and more workers out of jobs. This will only add to the high unemployment levels of minority groups and women, who constitute a large percentage of textile laborers. Such jobs should not be sacrificed to low cost imported goods from abroad.

Present duties on textiles and apparel are not excessive and do not prevent imports from coming to our shores. The past growth pattern makes this point clear. A reduction in duties could, however, tip the competitive scales further in favor of imports and wreak havoc on our domestic industry.

SEXUAL ASSAULTS

HON. JAMES H. SCHEUER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 13, 1977

Mr. SCHEUER. Mr. Speaker and Colleagues, last evening an episode of the television show "All in the Family" was previewed to congressional staff and members of the public under the auspicies of our very distinguished colleagues; the Honorable PETER RODINO of New Jersey, and the Honorable HERBERT HARRIS of Virginia.

The episode dealt with the very important and tragic subject of sexual assaults. The woman many of us have come to know as Edith Bunker was attacked and sexually assaulted in her own living room by a stranger with marked sexually psycopathic tendencies. While the incident was confined to a television screen during this particular incident, the pattern so poignantly dramatized by a talented cast of actors is an all too frequent occurrence in our society.

We must make a determined effort to stop sexual assaults in America. Until sexual assaults are ended, however, we must sensitize and humanize the treatment that is afforded to the victims of such horrible crimes. We must break the all too familiar patterns of the past in which the countless victims of sexual violence have been treated by the criminal justice system as if they were the criminal. No longer can we tolerate conditions which lead to victims of these offenses feeling like prisoners of fear. But there is more that must be done urgently.

We also must look deeper into the factors that are causing Americans to commit these senseless crimes of personal violence. The Committee on Science and Technology's DISPAC Subcommittee, which I chair, plans to conduct hearings early next session on the subject of Research into Violent Behavior. The first aspect of violence that we intend to explore is that of sexual assault. It is my hope that our subcommittee can work together with several of our colleagues on the complex problems related to sexual assault prevention and control.

Again, I salute my distinguished colleagues for their valuable work in this field. I also applaud Mr. Norman Lear and the members of the "All in the Family" team for their courage and sensitivity in dealing with the emotion-charged issue of sexual violence.

ANYONE FOR SETTING FEDERAL BUDGET PRIORITIES: THE CASE AGAINST SUPPLEMENTAL AUTHORIZATIONS FOR THE PENTAGON

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 13, 1977

Mr. CONYERS. Mr. Speaker, last week I had the opportunity to testify before the House Budget Committee's task force evaluating the problems and potential of the congressional budget process after 2 full years of operation. I argued that of all the goals set forth in the Budget Act of 1974, the one that has received the least attention is the goal of "establishing national budget priorities," as mandated in section 2(4). My argument was as follows: First, we have not found a method for defining and ordering the goals, or priorities, reflected in the budget resolutions we approved; second, until we have some yardsticks for comparing Federal goals, the values, needs, and costs underlying these goals, for example, of full employment, price stability, decent housing, revitalizing cities, energy self-sufficiency, national security, and so forth, we will not possibly be in a position to determine how much is enough to spend on the various goals, what is the most effective means to implement them, and what tradeoffs will be necessary; third, we continue to make budget choices by tinkering with existing programs, adding or subtracting increments from the budget base, rather than evaluating whether these programs are adequate or necessary at all in relation to the goals we have; and fourth, the budget process currently does not anticipate and plan for future needs and, essentially, has us confirm budget choices we made years ago about conditions that existed years ago, particularly in the area of "national security."

The question of setting national priorities that I addressed in my testimony before the Budget Committee has come into sharper focus this week as the House considers supplemental authorizations for defense.

Yesterday the House approved a $561 million defense supplemental bill, which includes funds for further development of Cruise missiles. Next week the House will be called upon to consider an additional $1.4 billion to resurrect the B–1 bomber. And to complicate the matter further, the President recommended funds to study the viability of the FB–111H so-called penetrating bomber as a backup weapon, should the B–1 bomber program be ultimately eliminated and should the Cruise missile system prove inadequate. We now find ourselves in the position of having two or three weapons systems that accomplish the same thing. If past experience is any guide, the Pentagon will get more than it wants and far more than it needs. The capability of the military machine to create weaponry faster than we can comprehend the costs and consequences of is inexhaust-

ible. But leaving aside this matter for the time being, the real question, that the madcap process by which we approve weapons development illustrates, is: How much is enough, and how much are we sacrificing of our domestic goals by always acceding to Pentagon wishes? That we are making such sacrifices all the time should be clear to us, as it was to Arthur Burns, Chairman of the Federal Reserve Board, when he observed in a New York lecture he gave in 1968:

To the extent that we allocate labor, materials, and capital to national defense, we cannot satisfy our desires for other things. The civilian goods and services that are currently foregone on account of expenditures on national defense are, therefore, the current real cost of the defense establishment.

I ask my colleagues whether there really is any rhyme or reason in our current approach to defense spending and, if not, whether or not we should fashion some better means of establishing Federal budget priorities that enable us to compare the values, needs, and costs across the whole spectrum of Federal activity? For how else will we be in a position to make judgments among the capital needs of the future and the tradeoffs that will be necessary, which according to Brookings and other sources, will involve: $400 billion by 1980 to build 25 million new homes in order to meet the national housing goal; $400 billion over the next 10 years to maintain current levels of agricultural production; $600–$900 billion to create an adequate energy supply over the next 10 years; $70 billion through 1990 for public transportation; $165 billion through 1983 to maintain adequate pollution controls; and $4–$11 billion, depending on the comprehensiveness, to establish national health insurance; and so forth.

VETERANS INSURANCE PREMIUM WAIVER

HON. BARRY M. GOLDWATER, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 13, 1977

Mr. GOLDWATER. Mr. Speaker, I have again introduced legislation to provide a premium waiver exemption for certain veterans, holding a national service life insurance policy.

Essentially, the bill will exempt those veterans, upon reaching 70 years of age, who have paid premiums on their term insurance for 25 years or more, from any form of premium payment.

Many veterans have informed me that, at their time of separation, they were advised not to convert their policies because GI rates were, and would continue to be, less than commercial rates. Unfortunately, this was not the case, and rates have increased exorbitantly. A veteran, at age 70, now pays a monthly premium of $61.80 for the maximum $10,000 insurance policy. If he is fortunate, or unfortunate enough to live to the age of 90, his premium payment soars to $554.00 monthly. By the time a veteran reaches age 70, he has more than paid for his policy.

In addition, because of technicalities within the present law governing premium waivers which require 100 percent disability, and waiver requests before age 65, some veterans who are 100 percent disabled are faced with these astronomical monthly payments.

In most cases, these veterans are retired. They are receiving Federal retirement assistance in one form or another, such as social security, medicare, medicaid, et cetera. It makes absolutely no sense at all, after having encouraged these veterans to keep their policies, to make them turn around and pay a substantial percentage of their modest income back to the Federal Government.

The provisions of this bill insure that the value of the policy has been paid to the Federal Government. Given that this is the case, these senior citizens need and merit relief.

ISLANDS IN THE SHAME

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 13, 1977

Mr. DORNAN. Mr. Speaker, just 2 weeks ago one of President Carter's principal appointed officials—a militant leftwing activist prominent in pro-Hanoi efforts during the war in South Vietnam—celebrated the Communist triumph over that blood-soaked land with an impassioned speech in New York City.

At the very moment Sam Brown, director of ACTION, praised Hanoi's agents on Manhattan Island, attempts were being made to identify the remains of 22 young Americans on the beautiful island of Oahu. A few brief hours before, I stood with my distinguished colleague from Mississippi, Mr. MONTGOMERY, at Hawaii's Hickam Air Force Base, among a handful of officials whose tragic honor it was to welcome home fellow citizens who gave their lives in the cause of freedom. Thus continued, with little public notice and virtually no national respect, the painfully slow, humiliating return of American prisoners of war and missing in action.

The same men who now take bows in New York, and who presided over the devastation of South Vietnam, participate in this sneering effrontery with which the Hanoi regime treats the Government of the United States and the loved ones of Americans who disappeared in the jungles, waters, and often the prisons of Communist Vietnam.

Mr. Speaker, I have, at times, voiced angry and emotional words on this incredible travesty against national pride and human sensibility. The contrast of that Sunday 2 weeks ago, however, seemed beyond such anger and emotion, until I found it expressed profoundly by columnist Patrick J. Buchanan in the article I submit to you for thoughtful review. I urge all Americans to consider these sad and bitter words:

ALL OF HANOI'S LITTLE HELPERS GATHER FOR HUGE GALA ANTI-AMERICAN PARTY

(By Patrick J. Buchanan)

WASHINGTON.—A decade ago, using old press credentials, this writer was right in the thick of the violent demonstration before the Pentagon, mounted by the "antiwar movement."

At one point there passed by, hauled arm and leg by half a dozen sweating U.S. marshals, what appeared to be a semi-crazed, middle-aged college professor, bellowing into every open mike shoved in his direction something about his constitutional rights and the horrors of U.S. policy in Asia.

Who's the nut, I inquired of one of the marshals. David Dellinger, he replied. Sure enough, it was the selfsame Dellinger then heralded in the press as the conscience of the "peace movement."

We know now the kind of peace Dellinger had in mind. It was not the just peace where the people of South Vietnam would choose, free of coercion, their own form of government. It was the Carthaginian peace of a Communist victory.

The evidence is conclusive. Last Sunday, Dellinger surfaced in the midst of a throng of 2,500 Americans who applauded, cheered and wept with joy in a New York theater as in bobbed the little stooges Hanoi has sent over to spout the party line at the UN General Assembly.

"Welcome, welcome in the name of the American people," beamed Ms. Cora Weiss, another movement leader. As one reporter described the scene, "The audience . . . rose to its feet, roared and clapped for many minutes."

Given his turn to speak, Dellinger turned to his newest cause, the "war against the people of Puerto Rico," presumably being waged by the United States. This reference, too, was cheered. Strange, is it not, how the latest cause of the American haters in the Communist and Third World is almost invariably the personal cause of Dave Dellinger?

Another celebrity spotted in the crowd applauding Hanoi's demand for U.S. aid was former Attorney General Ramsey Clark, apparently unfazed that he was sent home from Hanoi stuffed like a Christmas goose with Communist propaganda about how well the American POWs were treated.

Consider if you will the character of the regime these Americans were celebrating.

It is one to whom atrocity and terror were legitimate weapons of war, which traffics diplomatically in the bodies of American servicemen, which two years after its victory, hold in concentration camps 300,000 former friends and allies of the United States. Its repressive rule in the south has created a new classification of refugees, "the boat people." These are the thousands of families of Vietnamese, from infants to aging grandparents, who push off in leaky boats and rafts into the South China Sea, preferring death by drowning to life under the regime which those 2,500 were cheering.

But perhaps the most startling presence in that hall was that of President Carter's Director of Action, Mr. Sam Brown. Apparently, overcome with emotion, Brown told a reporter:

"I am deeply moved . . . It's difficult to describe my feelings—what can you say when the kinds of things that 15 years of your life were wrapped up in are suddenly before you?"

Well, Sam, some folks might say that any American who spent 15 years working for a Communist victory in Vietnam does not deserve to be a citizen of this republic, let alone serve in an official position of high honor.

When the thousands of Vietnam veterans lying maimed in hospitals around the country reflect on their wounds, and the friends lost, resisting Hanoi's aggression, one won-

ders what they must think of the nauseating spectacle which took place in New York a week ago.

WHALEN CALLS FOR ACTION ON PREGNANCY DISCRIMINATION BILL

HON. CHARLES W. WHALEN, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 13, 1977

Mr. WHALEN. Mr. Speaker, earlier this year I called for prompt action on legislation to amend the Civil Rights Act in order to protect pregnant workers from sex discrimination. In particular, I expressed concern over the Supreme Court's decision in the case of General Electric Co. versus Gilbert.

In the Gilbert decision, the Court held that it was permissible for General Electric to offer its employees a sick leave and health benefits plan that covered all manner of elective surgical procedures and accidental injuries—but denied benefits in cases related to pregnancy. It is my opinion that the Court was unduly narrow in its interpretation of the sex discrimination provisions of title VII of the Civil Rights Act, so I gladly joined with many of my colleagues in cosponsoring legislation that would overcome that interpretation of the law.

When I commented on this matter in the March 8 CONGRESSIONAL RECORD, I noted my concern that the Gilbert decision would result in additional challenges to the laws we have enacted to protect against sex discrimination. This is one time that it is a sad duty to have to say that I was right.

Last week, the Supreme Court heard arguments in two more sex discrimination cases. These were Nashville Gas Co. versus Satty, and Richmond Unified School District versus Berg.

Mr. Speaker, in light of continuing developments, I renew my call for action in the House on legislation to outlaw sex discrimination against pregnant workers. The Senate has overwhelmingly approved similar legislation and I hope that we will soon follow suit.

At this point in the RECORD, I wish to insert two items. The first is a story that apeared in the October 6 issue of the Washington Post, reporting on the Satty and Berg cases. The second is an editorial that the Post ran on September 21, just after the Senate voted 75–11 to pass legislation to end discrimination against pregnant workers.

JOB PENALTIES FOR PREGNANCY CITED IN TWO COURT CASES—JUSTICES ASKED TO DECIDE WHETHER REGULATIONS CONSTITUTE SEX DISCRIMINATION

(By Morton Mintz)

The Supreme Court heard lawyers argue yesterday whether the penalties for pregnancy imposed by two employers violated civil rights laws forbidding sex discrimination.

One of the employers, Nashville Gas Co., as a matter of policy pays sick leave to employees disabled by heart attack, auto accidents, back trouble and other afflictions unrelated to their jobs. The Tennessee utility also credits them with across-the-board pay increases approved while they are away and lets their seniority build normally.

But when female employees take pregnancy leave, the firm, also as a matter of policy, puts them on leave without pay and strips them of their job seniority.

For Nora D. Satty, whose clerical job was eliminated by a computer after she had an unplanned pregnancy, these were the results:

She lost $732 in wages during the three months she was away to have a baby in early 1973.

Her 3½ years of seniority were wiped out.

She was rehired for a temporary project, at a starting wage $10 under her previous pay of $142.80 a week.

She applied for three permanent jobs, any one of which would have been hers had she been on sick leave, but lost each to a woman with less seniority.

She was fired when the temporary project ended a month after it had started.

Justices Harry A. Blackmun and Thurgood Marshall asked for the company's justification for taking away seniority from women employees who leave to have a child.

Nashville Gas rewards employees whose personal values dictate that they stay on the job rather than putting their personal lives over their employer's interests, replied attorney Charles K. Wray.

Justice William J. Brennan Jr. inquired if the utility would give its usual sick-leave advantages to an employee injured in an auto accident caused by his or her own gross negligence.

Marshall embroidered the hypothetical negligence to include drunkenness, "smoking reefers and injecting heroin."

Wray said that such an employee was owed the same presumption as a heart-attack victim: he'd rather be at work than in a hospital bed.

But in the case of a pregnant woman, the presumption is that she wants a child, he said. No one inquired about the possible relevance of the accidental nature of Satty's pregnancy.

Wray apparently astonished Marshall by citing a company "right" to return Satty to her job, giving her preference over an outsider.

"She also had a right to the job if no one in the world wanted it," Marshall remarked.

For Satty Robert W. Weismuller Jr. argued that the company had injured his client "forever," partly by sending her to the bottom of the seniority and pay scales, without demonstrating such actions to be business necessities.

Wray, however, said the company merely had followed a "straightforward pregnancy policy" that was not a subterfuge to evade the Civil Rights Act of 1964, and that was consistent with a Supreme Court decision in a case involving General Electric Last December.

The justice devoted a second hour to arguments involving Sonja Lee Berg, a Richmond, Calif., kindergarten teacher. She was the sole breadwinner for her husband, who was studying for the ministry, and herself.

After she became pregnant five years ago, she sought to continue teaching right up to the onset of childbirth. Her personal physician certified that she could do this.

But the Richmond Unified School District insisted she comply with a policy requirement to take maternity leave, without drawing on her accrued sick leave pay, starting the first day of the seventh month of pregnancy. The school board also ordered her to submit to an examination by a board physician. She refused, and won a court injunction allowing her to work until just before the baby's birth.

Berg's attorney, Mary C. Dunlap, argued yesterday that the board never showed distrust of a non-pregnant employee by ordering an examination by its own doctor. In contrast, school board attorney Arthur W. Walenta Jr. said school authorities had a right to seek medical information about Berg through the board's own physician.

The Ninth U.S. Circuit Court of Appeals ruled for Berg, saying she was entitled to both the sick and legal fees, and ordered the school board to grant similar benefits in similar cases.

In like fashion, the Sixth U.S. Circuit Court of Appeals ruled that Nashville Gas owed Satty sick leave pay, $9,456 in gross wages she otherwise would have earned, reinstatement with full seniority, and attorney's fees.

Arguing for overruling the appellate courts, lawyers for both employers cited the GE decision which involved a sickness and accident plan providing benefits without regard to sex, but excludiing benefits arising from pregnancy.

A divided court held that the plan did not violate the Civil Rights Act, saying that gender-based discrimination does not result simply because disability benefits are not all-inclusive.

Last month, the Senate voted 75 to 11 to require employers to include pregnancy benefits in any workers' disability plan they offer.

EQUAL RIGHTS AT WORK

The Senate took a needed step toward providing women with on-the-job equality last week. By a vote of 75 to 11, it passed an amendment to the Civil Rights Act of 1964 requiring that pregnancy be included in any worker's disability program offered by employers. The immediate effect of the legislation, if it becomes law, will be to overturn a Supreme Court decision holding that the exclusion of pregnancy from such programs is not discrimination based upon sex. That decision seemed to be a strained interpretation of the 1964 act when it was announced last December, and we urge the House to join the Senate promptly in undoing it.

The way in which many employers look upon pregnancy has long been a problem for many working women. A male employee unable to work because he has broken a leg, say, playing touch football usually was able to use sick leave or receive disability pay until he recovers. But a female employee who has been unable to work because she was having a baby has often been denied sick leave as well as disability pay and sometimes summarily was dismissed. This attitude began to change a decade or so ago; but it is still sufficiently widespread to put a hardship on many women who either must work before, during and after pregnancy, or who want to. The amendment passed by the Senate says employers must not treat women who can't work because of pregnancy differently from the way they treat men (or women) who can't work because of some other physical condition. About half of the states already have similar laws.

In a country in which 36 million women work and some 80 per cent become pregnant during their working lives, this change is not insignificant. Yet it is overdue. Two-thirds of those 36 million are in the work force because of pressing economic needs at home. About 40 per cent of all pregnant women now work during pregnancy, and many of them return to work as quickly as they can after the baby is born. Common sense requires that for these women, at least, pregnancy be treated as no more a disruption of their working lives than a broken leg. When continuity at work has as large a role in determining pay scales, promotions and pension rights as it now does in many industries, treating pregnancy as such a temporary disruption rather than a termination of employ-

ment is a major step toward giving working women equal rights.

GUN CONTROL IS NOT CRIME CONTROL

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 13, 1977

Mr. ASHBROOK. Mr. Speaker, the gun control zealots will use anything to try to strengthen their case. The nationally syndicated columnist John Lofton recently pointed out how the communications director of the National Council to Ban Handguns recently blamed the "Son of Sam" killings on "the absence of effective gun control laws."

As my good friend John Lofton points out the answer to crime is not gun control but criminal control. But those who would take the guns away from the law abiding are caught up in their own fantasy world. Instead of dealing with the very real problem of crime, they want to restrict a right that Americans have had for more than two centuries.

John Lofton's column is deserving of attention by all those concerned with this issue. At this point I include its text in the RECORD and commend it to the attention of my colleagues:

WHY NOT HAVE CRIMINAL-CONTROL LAWS?

(By John D. Lofton, Jr.)

I am not what the anti-gun nuts (AGN) in their rhetorical recklessness would call a gun nut. I do not own any firearms. I have never hunted. I have never even fired a gun. However, I am constantly amazed at just how stupid and law-abiding the AGN's think criminals are.

In a letter to the editor to the Washington Post, Susan Love, communications director for the National Coalition to Ban Handguns, addresses herself to the recent mass murders in New York City committed by the so-called "Son of Sam." Asking the question why these senseless killings occurred, Ms. Love answers, in part:

"In the absence of effective gun-control laws, fear begins to take hold and spread among citizens who realize that virtually anyone can obtain a gun—usually on short notice. Had a simple, nationwide licensing and/or registration law been in effect, Son of Sam's purchase of his .44 cal. handgun would very likely have been a matter of public record—a record that would help to solve the mystery of his identity."

Now, think about this observation for a moment. Does anyone really believe that a person planning to commit a crime with a gun, especially a murder, is going to commit this illegal act with a firearm either licensed or registered in his or her own name? Isn't it much more likely that anyone contemplating a criminal act using a gun would use a gun that is either stolen or registered or licensed in somebody else's name? Of course.

In fact, the day after Ms. Love's letter appeared, David Berkowitz was arrested and charged with the Son of Sam murders and from what we now know, this is exactly what he did!

According to press reports, federal firearms agents say that Berkowitz obtained the $144 Charter Arms Bulldog .44 caliber revolver he allegedly used in the Sam murders from an old Army buddy, Billy Dan Parker, who bought it legally from a local pawnshop in Houston, Tex. Berkowitz reportedly asked Parker to buy the gun because he did not have a Texas driver's license, which is required for identification in weapons purchases in the state. Parker says he used Berkowitz's money to make the purchase.

What Ms. Love's letter does is once again raise the question of gun control laws and just how effective they really are in deterring crimes like the one allegedly committed by the Son of Sam. In my own judgment, applying basic common sense and elementary logic, the answer is: not very. How could they be?

By merely possessing the gun he had in New York City, Berkowitz was violating one of the strictest gun control laws in the nation. In transporting his weapon from Texas to New York, Berkowitz undoubtedly violated numerous gun-control laws along the way. Obviously none of these laws deterred Berkowitz one iota.

Why in the world do the AGN's assume that someone who is going to commit murder, or any other serious gun crime, that this someone will have second thoughts because in committing their crime they might also be violating a gun control law? The assumption is ridiculous on its face.

In an interview, Ms. Love tells me that, as the name of her organization states, their real goal is the banning of all handguns, not just the licensing and registering of these weapons. Irrationally, in my opinion, she says this is to be desired even if it could be demonstrated that handguns do more good than harm. That is, that on balance, for example, it could be shown that more handguns are used by innocent people to defend themselves than are used to accidentally shoot loved ones or friends.

So, how would all handguns be banned, since there are an estimated 40-million-plus of these illegal weapons in circulation and their average lifetime is said to be about 100 years? Well, either through outright confiscation, which raises serious constitutional problems, or by asking the owners of these weapons to voluntarily turn them in, the cost of which would run into the billions of dollars.

But, again, what the Anti-Gun Nuts visualize as happening seems to me to be totally out of touch with reality. Would an individual contemplating a gun crime, which carries a much more severe penalty than the violation of a gun-ban law, really turn in his weapon? I think not. Thus, only the law-abiding citizen would be the person most likely to disarm.

And what if it were possible to completely ban all handguns in the United States? Would it be feasible to completely stop the flow of illegal handguns into the country, most of which would be easily accessible to criminals? Again, I think not in light of the fact that the government has been unable to stop the flow of millions of illegal aliens into the country.

The most effective way to reduce gun crime is to control gun criminals, not guns. There should be mandatory heavy penalties for anyone using a gun in the commission of a crime. The more I listen to the AGN's talk, the more I am convinced that this is the way to proceed.

NATIONAL BELLAMY WEEK

HON. NICK JOE RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 13, 1977

Mr. RAHALL. Mr. Speaker, Princeton High School and the surrounding communities in my congressional district are today celebrating National Bellamy Week with a number of special activities which will be climaxed with the Princeton High School, Mercer County, W. Va., receiving the national honor which is presented annually to one high school in the Nation.

West Virginia Gov. John D. Rockefeller IV has proclaimed October 14 as "Francis Bellamy Award Day" throughout West Verginia in honor of the 36th annual Bellamy Flag Award presentation. Princeton Mayor Herbert Fink has signed a proclamation making this "National Bellamy Week" in the city.

Princeton High School was named for the award last spring by the directors of the Bellamy Foundation, based on the evaluation of faculty, a curriculum which meets the needs and benefits of the student body.

I would like to take this opportunity, Mr. Speaker, to express my heartfelt congratulations to Princeton High School and the surrounding communities for a job well done.

WATER RESOURCE DEVELOPMENT IN SOUTH DAKOTA

HON. JAMES ABDNOR

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 13, 1977

Mr. ABDNOR. Mr. Speaker, the importance of the legislation on our calendar this week has prompted me to forego an invitation to appear before the South Dakota Water Development Association, holding their annual convention in Pierre today.

Next to our people, water is South Dakota's most important resource. The development of environmentally and economically sound projects to carefully utilize this precious commodity is, in my view, the foremost issue in our State.

My remarks for this meeting were delivered by my field representative, Vern Larson, and I include them in the RECORD:

WATER RESOURCE DEVELOPMENT IN SOUTH DAKOTA

Members of the Water Development Association and friends, I am pleased to have the opportunity to appear before you today on behalf of Congressman Jim Abdnor. I appreciate the chance to share with you some of Jim's views on such an important issue as water resource management, development, and policy. It is especially nice to be with you—the members of the South Dakota Water Association—with which the Congressman has such close ties, such a strong allegiance, and so many warm friendships. I hope I can do justice to his views for you today. . . .

Water resource development policy is not, and should never be allowed to become, a politically partisan issue. There is no more important issue to the future of our State, and although we should not be politically partisan in this respect, we can and must be partisan when it comes to the notion that we cannot continue to let opportunity pass us by each year in the Missouri River.

Each acre-foot, of the millions which flow by us each year, is quite literally an opportunity lost to improve the economic, social and aesthetic lives of our citizens—not to

mention their health. We may find ourselves miles apart on other issues, but there can be no doubt that our abundant water resources must be put to work for us.

Of course, there are many sincere and valid differences of opinion as to exactly how we ought to proceed on any particular project; which projects ought to be given the highest priority; and, in some cases, even if a particular proposed project should be considered at all. Each of these disagreements must be weighed on its own merits, however, in its own context and in full recognition of the overall costs and benefits to the people of South Dakota.

None of us knows all the answers—or even all the questions. We all want what is best for our state, however, and just what will be best is not always clear. All sides of the issue must be discussed. It is in that spirit that Jim Abdnor takes the positions he does and that I offer these comments.

If there was ever a question that our water ought to be put to work for us, the 1976 drought—the worst in this century for many parts of our State, and just one of several in recent years—should have dispelled any doubt which may have remained.

Make no mistake: Even the maximum development of our surface and groundwater resources cannot take the place of adequate and timely rainfall. There is no reason, though, that South Dakotans should always be faced with potential shortages of water for domestic and livestock purposes.

Nor is there any reason why the ravages of drought must be permitted to maintain a stranglehold upon the State's crop production. No one is idealistic enough to suggest that every cropland acre or even every farm will ever enjoy the benefits of irrigation. But Congressman Abdnor, for one, is idealistic enough to believe a substantially increased level of development can materially reduce the impact of future droughts—which are inevitable—and exert a stabilizing influence upon the State's economy far beyond that experienced by those who benefit directly from these projects.

A vital link in the effort to obtain maximum use of our water resources is often overlooked, however, in the drive to develop irrigation. Irrigation can greatly increase our farm production, but so can more efficient use of the moisture which is delivered naturally. Conservation is the only hope for the future as far as many of our natural resources—including land and water—are concerned. In many cases, conservation is already the only hope for today. We'd better become experts in conservation before it's too late.

Assuming even the most efficient possible use of precipitation, however, South Dakota will always remain a water short State. According to the Water Resources Council, the Missouri River Basin has only one-tenth the annual run-off per acre as compared to the New England States. Only the arid, desert States of the southwest have less run-off per acre.

In terms of run-off per capita, though, the Missouri River Basin actually has more run-off than rainy New England. In this sense, South Dakota is blessed with an abundant quantity of water. Many people are surprised to learn there is enough water stored in the great Missouri reservoirs of the State to cover all of the nearly 50 million acres in South Dakota to a depth of nearly a foot. Enough water flows through the State each year to cover the entire State to a depth of about six inches.

It's painfully obvious we are missing the boat, so to speak, by not putting this resource to use where it is so badly needed. But, seeing the need to put the resource to use and actually doing so are two different things. The economics of agriculture and the financial wherewithal of those in need of water are not always equal to the expenses involved. Furthermore, we all agree that water resource planning is important but it often seems that the need for planning becomes an excuse for failing to act to develop our water resources. Certainly, policy and planning studies are essential. But what's the point if nothing is accomplished?

Let me discuss some of the major water resource development issues of importance to South Dakota in which Congressman Abdnor has been actively involved:

Among the water resource problems we have been concerned with in Washington are flood, erosion and sedimentation control. Hopefully, the funds we were able to secure for the Rapid City and Sturgis flood control projects will provide the necessary protection for South Dakota's "monsoon belt". As far as erosion on the Missouri is concerned, we again failed last year to achieve authorization of an operational program under which the federal government accepts its full responsibility in dealing with this problem. We did, however, persuade the Congress to double the funding authorization for the "Streambank Erosion Control Research and Demonstration Program". This program was authorized in the Water Resources Development Act of 1974 at a level of $25 million nationwide. Last year, in lieu of an Abdnor bill to authorize a full-fledged operational program, Congress increased the authorization limit to $50 million. We anticipated a comparable doubling of funding for erosion control in our state. Subsequently, in the appropriations bill passed this year, we were successful in obtaining nearly a million dollars for the Goat Island area in Yankton County.

The Corps' "umbrella study" which was forwarded to Washington earlier this year addressed erosion control further, and Congressman Abdnor will continue his efforts to provide the necessary legislative authorization and direction for them to fully live up to their responsibility.

Another issue addressed in the "umbrella study" is the potential for additional hydropower facilities on the Missouri. In light of our still increasing dependence upon foreign oil, this matter requires our closest attention.

Environmental trade-offs must be fully weighed, but it appears that at least the Gregory pumped-storage site should be authorized and constructed without delay. With it, all possible multipurpose features, such as irrigation as well as rural and municipal water supplies, should be considered. Congressman Abdnor has had legislation drafted to authorize construction of the dam and will be introducing it very soon. Senator McGovern will offer it on the Senate side.

Jim has also had legislation drafted to authorize the Bureau of Reclamation to make available low-cost Missouri Basin hydropower to irrigation projects constructed and operated by irrigation districts organized under state law. This bill would give privately constructed projects the same benefit of low-cost power as is available to projects built by the Federal Government. We are negotiating the final form of the bill and expect to introduce it prior to adjournment of Congress at the end of this month. Both Senator McGovern and Congressman Pressler have expressed their interest in joining Jim in sponsoring this measure.

A third bill Congressman Abdnor has had drafted will re-authorize the Belle Fourche Irrigation Project. The intent is to authorize the Bureau of Reclamation to bring this project up to modern day standards. As you know it was among the very first projects built by the Bureau. It is time the project is given a complete renovation, and we have been working with the Belle Fourche Irrigation District Board to bring it about. The Board is currently reviewing the draft bill, and Jim will introduce it as soon as they give their final approval.

Those are the three primary water development bills on which we are concentrating our attention at the present time. Their prospects are uncertain but so were prospects for enactment of Congressman Abdnor's bill to authorize the Pollock-Herreid Unit. Indeed, prospects for the Pollock-Herreid Unit, like the Oahe Unit, remain uncertain. We did get the necessary authorization legislation passed over the odds against it, though, and we can only and must continue to persevere if water development is to amount to more than a slogan in our state.

Speaking of the Oahe Unit, let me get right to the point concerning Jim's perspective by reading his September 27 letter to the Governor:

HOUSE OF REPRESENTATIVES,
Washington, D.C., September 27, 1977.

Hon. RICHARD F. KNEIP,
Governor of South Dakota,
Pierre, S. Dak.

DEAR DICK: I am in receipt of a copy of Senator McGovern's letter of September 14 enclosing correspondence from Secretary Andrus and pointing out that unless there is agreement within South Dakota on the Oahe Unit the Administration plans no further action. As far as the Administration is concerned, of course, the position of the Sub-district Board is key as long as they hold the master contract.

As you will recall, I wrote every Senator who supported the Abourezk Amendment, to delete funding for the Oahe Unit, to ask if a referendum would be persuasive in reversing their position. Enclosed for your information are copies of the replies I have received. You will note that, generally speaking, the Senators have an open mind. It is evident, though, that the position of the Administration will continue to be important, that the Congressional delegation must be united, that South Dakotans must take some action to demonstrate conclusively our support for the project, and that in the final analysis funding is unlikely as long as the local contracting authority remains negative.

In my view the project is not dead yet but may never recover from its current dormancy if people of the state and the Sub-district as currently districted do not elect officials who will actively support it. Alternately, I believe there is some potential that the project could be continued if (a) redistricting of the Sub-district results in a positive position on the part of the board or (b) the master contract is assigned to an authority which is more representative of the interest of the prospective beneficiaries and supportive of the project. (In the latter instance providing representation of those who have a valid negative interest in the project, e.g., a canal or wildlife habitat site, would be a problem and a subject of criticism, I'm sure.)

Finally, we have made a concerted effort to impress upon both the Administration and Congress the obligation to our state, which has made the idea of "alternatives" plausible to South Dakotans. Unfortunately, few in either branch of government appreciate our point of view in this regard, with the result that there are really no alternatives in the sense that Oahe Unit funding can be transferred to them. Any project which might be proposed must stand on its own merits. I have enthusistically endorsed each proposal which has been suggested and will continue to do everything I can to see to fruition any water development proposal which will benefit our state. I am, frankly, skeptical that any can pass the strict economic, environmental, and political criteria which have been applied to the Oahe Unit in the past and the still tougher criteria which apparently will be applied to new starts, however.

I hope this is helpful, Dick. I am furnishing a copy of this letter to the Republican

leadership of the Legislature for their information also. I look forward to being of any possible further influence on this important issue and to any suggestions you may have in this regard.

Sincerely,

JAMES ABDNOR,
Member of Congress.

We look forward to the meeting Senator McGovern has scheduled for the 12th of November in Sioux Falls. We will be participating and certainly hope it will be a productive meeting.

Jim would also want me to add that, while we disagree with the position of the Oahe Sub-district Board on the Oahe Unit, we are actively and as forcefully as possible pursuing the other projects they have proposed. These are not alternatives to the Oahe Unit but, rather, additional projects to be considered on their own merits.

It goes without saying that Jim wholeheartedly supports the Lower James addition to the Oahe Unit. It is unfortunate that the opposition of the Oahe Board may hold the Lower James project up, as it has the Oahe Unit itself.

There are, of course, other projects which deserve to be discussed in detail. But in the interest of time, I'll just mention them and Congressman Abdnor's most recent efforts to promote them:

The WEB pipeline—Jim initiated extensive contacts with various Federal agencies in an effort to obtain financial assistance to support their ongoing activities. He has also offered to introduce legislation to authorize the pipeline as a Federal Reclamation project if the local sponsors wish.

The Potter County irrigation project—the Congressman has corresponded with the Department of Interior. Upon receiving a somewhat negative reply, he urged that they take a closer look and send someone out to view the project area and visit with the local supporters.

The Yankton and Mitchell community drought projects and the Springfield project—the Mitchell and Yankton projects were funded by the Economic Development Association after we attended meetings in Denver and were able to convince regional EDA officials these projects are within the authority of the law as passed by Congress. The Springfield project is covered under a separate authorization.

Jim has been in repeated personal contact with EDA on Springfield's project, and we are delighted it was funded Wednesday

The West River pipeline—our involvement in this potential project thus far has been limited to attending several meetings at which it has been discussed. The Congressman feels, however, that we should not let the fact this project would entail out-of-state diversion of water for industrial purposes stand in the way of its consideration. It may be the only way to provide a decent water supply to many western South Dakota communities; and it should be judged on the merits of its potential to do so, as well as its overall implications for the state.

The issue of industrial water marketing and water allocation has generated a great deal of controversy. There should be no controversy surrounding this issue—the control of water in the Missouri River Basin was given to the states west of the 98th Meridian by the express will of Congress in the Flood Control Act of 1944. No executive memorandum or administrative action of any type can change that policy—only Congress can do so. And, I don't believe Congress will be inclined to do so unless the states of the Basin get into a dispute among themselves.

Unfortunately, it is evident from the actions of the Administration in the water policy review currently underway that they do not share the commitment to states' rights, which has been demonstrated by Congress and the states themselves.

This matter culminated recently with the passage of a resolution offered by Senator Curtis from Nebraska which expressed the sense of the Senate that no new national water resources policy shall be implemented without Congressional concurrence. Senator McGovern was a co-sponsor of the resolution, along with 33 other Senators, and it passed without dissent. In addition to calling for Congressional oversight, the resolution establishes reasonable periods of time for citizen and state input into the final regulations.

Hopefully Senator Curtis' resolution will signal greater consideration of the views of others on the part of the Administration and a halt to the way certain members of the Administration have attempted to arbitrarily enforce their will with respect to water development policy. In a related issue I should also mention Congressman Abdnor has urged that a hearing be scheduled in South Dakota to take testimony on the Administration's proposed acreage limitation regulations. These proposed regulations are still another of numerous examples of the arbitrary position taken by certain members of the Administration in ignoring historical precedents, local circumstances, and the views of others.

I could go on at much greater lengths. There is just no end to the water development issues of importance to South Dakota. The potential for water development to benefit our state is truly boundless; and I hope it has been evident from my remarks that Congressman Abdnor's effort to meet the challenge has also been considerable. If you have any suggestions how we can improve our efforts and enhance water development in our state, I know Jim is anxious to hear them. Your comments are always welcome.

The activities of the Association are a valuable service to the future of the citizens of our state. We commend your efforts. It has been my pleasure to be with you and, again, thanks for the opportunity to express a few thoughts on Congressman Abdnor's behalf.

A TRIBUTE TO DR. JAMES C. McDONALD

HON. CLAIR W. BURGENER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 13, 1977

Mr. BURGENER. Mr. Speaker, a good friend, an outstanding educator in my district stepped down from his post as superintendent of the Fallbrook Union High School District, and he is owed a special salute for his exemplary career. Dr. Jim McDonald has served as Fallbrook's superintendent for 14 years and has become recognized throughout the State of California as a leader in the advancement of education and public school administration. Under Dr. McDonald's leadership, the Fallbrook system was selected as one of the pilot school districts by the State Advisory Commission for Planning, Programing, and Budgeting System for California and has remained in a leadership role in school planning, programing, and budgeting.

Always concerned with scholastic achievement of our young people, in 1974 Jim McDonald was chosen as a member of the board of directors of the National Merit Scholarship Corporation and continues to serve with distinction in policy development which guides this nationwide corporation whose aim is scholastic excellence.

A graduate and hall of fame member of Hamline University, Jim McDonald has not confined his tireless efforts to the classroom, but has exerted an important leadership role in community and civic affairs, as well. He has served as president of the Rotary Club in both Vista and Fallbrook, American Red Cross chairman, and chairman of the United Community Chest.

In conclusion, Mr. Speaker, I don't think the Fallbrook area could have enjoyed any better school administrator and community leader than Dr. Jim McDonald, an outstanding educator. Jim McDonald will be missed in the Fallbrook Union High School District but will undoubtedly contribute his experience and energies for many years to come in other endeavors.

THE CRUDE OIL TAX

HON. BILL ARCHER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 13, 1977

Mr. ARCHER. Mr. Speaker, the Wall Street Journal published an excellent commentary on the proposed crude oil tax in its September 28, 1977, edition. I commend it to the attention of my colleagues in the Congress:

THE FLAW IN THE CRUDE OIL TAX

(By Charles E. Phelps and Rodney T. Smith)

The U.S. Senate has been grappling with the crude oil tax proposed by President Carter. So far the debate has centered on whether the revenue should be rebated to consumers or used for development of new energy sources. Inability to agree on that issue led the State Finance Committee to vote against the tax Monday, but because it's the centerpiece of the administration's energy plan immediate efforts were begun to resurrect it.

Aside from arguments about how to spend the revenue, there are important economic questions that need to be raised about a crude oil tax.

The stated purpose of the Carter plan is to raise the cost of petroleum products to the "world price." By conventional calculations this would mean an increase of five cents to seven cents a gallon, and thus would promote conservation. In fact, however, U.S. consumers already are paying the world price for refined products. The chief effect of the tax would be to extract some $12 billion a year from the oil industry, in the process increasing U.S. dependency on imported oil.

A simple way to understand why the U.S. consumer is already paying the world price is to look at the world trade in refined products. U.S. price controls do hold down the price producers receive for domestic crude oil. But at the same time the U.S. is importing gasoline and fuel oil, principally from refineries in the Western Hemisphere. The exporting countries, especially the Netherlands Antilles and Venezuela, also ship refined products to the European market.

Naturally, these refineries sell their goods to the highest bidder. If the U.S. market were not paying the world price, all of their products would flow to Europe instead. In fact, the U.S. has continued to import all

types of refined products throughout the period of the controls, although the volume of trade has fluctuated during the period. In a vain attempt to discredit the primacy of world market forces, government studies have calculated that the cost of importing European products into the U.S. exceeds domestic prices. Actually, the pattern of world product trade already shows such a transaction could be uneconomic because Europe is a net importer of refined products from the Western Hemisphere.

MISFOCUSED DEBATE

The U.S. government, in its attempt to influence refined product prices, has consistently failed to understand the importance of the world-wide pricing mechanism. Because the crude oil tax would affect only U.S. refiners, it would have no noticeable effect on product prices, which are set in world markets. Thus the debate on the crude oil tax is misfocused because of the mistaken belief that consumers will bear the major burden of the tax. Instead the proposals would set up huge fund transfers without affecting the final cost. This can be seen by simply assessing the impact of various petroleum regulations.

The price of domestic crude oil is held below the world level by controls initially imposed in 1971 and extended by the 1975 Emergency Petroleum and Conservation Act. These controls reduce U.S. crude oil production below what it otherwise would be because producers receive less than the world price for their product. For vertically integrated firms such as the "majors" this is not too important, because the production of oil for their affiliated refiners allows them to offset imports of foreign oil at the world price. Instead of taking the profit in producing subsidiaries, they take it in refining subsidiaries. In effect they get the world price for domestically produced oil, and thus have no incentive to artificially increase imports.

Another regulation, called the Allocation Program, established the rights of refiners to the lower-priced, domestic crude oil—on the basis of historical contracts for deliveries in the base year of the program (1972). This forced crude oil producers to sell oil to refiners for $5 per barrel, while comparable oil was valued at $12 to $14 per barrel on the world market. Because the market for refined products operated at the world level, this was a transfer of funds from producers to refiners. These transfers can be calculated at $16 billion in 1975 and $19 billion in 1976, though due to vertical integration much of this was a bookkeeping transfer of profits from production subsidiaries to refining subsidiaries.

However, prices of refined products were unaffected, since these transfers didn't alter the margin cost of refining, and according to conventional economic theory prices are set by the marginal costs of production.

Next, the government attempted to control market prices by establishing price ceilings on refined products. This proved totally ineffective because the conditions of the market dictated lower prices for products than the regulations required. This again confirms that prices of refined products were being set by market forces.

In late 1974 the government inaugurated the entitlements program. Under it, refiners using more than the national average of "old oil"—oil from existing domestic fields at their 1972 rate of output—were required to purchase monthly "entitlements" from refiners that use less than the average. The purchase price of the entitlements reflected the difference in cost between the price-controlled old oil and the world price.

The idea, of course, was to provide a financial cushion for the companies that didn't have much "cheap" domestic oil. But a corresponding impact was that refiners promptly began to import more foreign oil to run through domestic refineries, thus increasing their volume of crude oil and their share of the entitlements. In effect, the entitlements program now subsidizes imported oil to the amount of $2.50 to $3 a barrel. The expansion in domestic refining replaced imports of refined products but domestic consumption and domestic product prices were virtually unchanged.

Finally, the inability of the U.S. government to overcome the world pricing mechanism in refined products was further evidenced in January 1976, when President Ford removed a $2 a barrel supplemental tariff on imports of crude oil. This reduced the price of crude oil to U.S. refiners by nearly five cents a gallon. But once again the prices of refined products in U.S. markets did not change when the tariff was removed. The price was set not in the U.S. but in the world market, which was not affected by the change in U.S. government policy.

EFFECT OF CRUDE OIL TAX

On the basis of this experience, what will happen if the Senate enacts the crude oil tax? The profit transfers that take place under current regulations from crude oil producers to refiners will terminate. The tax will capture these transfers for the U.S. government, which will receive $12 billion per year when the tax is fully implemented in three years. Refiners will not be able to recoup lost profits by charging higher prices for their products, because prices will continue to be determined primarily by the world market. This transfer, like the earlier ones, will not affect consumer prices. And if it does not affect consumer prices, it will create no new incentive for conservation.

After the imposition of the crude oil tax, all domestic oil will be valued at the controlled price, not the world price. Consequently, domestic oil production by the vertically integrated corporations will decline. Since there will be no incentives to increase conservation and reduce demand, this shortfall will have to be made up by imported oil. U.S. dependence on foreign oil will increase.

If the crude oil tax is adopted, it will have significant economic effects, primarily income transfers. The government will receive about $12 billion in tax revenues, implying that after-tax net revenues of petroleum corporations will fall about $6 billion. This transfer will be noticeable to stockholders of these corporations, since after-tax net revenue of U.S. petroleum corporations was about $15 billion in 1976.

The price of refined petroleum products will continue to be set by forces at work in the world market and not by current efforts of our government to regulate consumer prices. The price of products will not change, and consumers will be essentially unaffected, unless the Senate decides to rebate to them a portion or all of the tax. The goal of encouraging further energy conservation will not be achieved, and the U.S. as a country will increase its income transfers to OPEC as a result of the increased dependence on foreign oil.

MINIMUM WAGE EXEMPTION

HON. J. J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 13, 1977

Mr. PICKLE. Mr. Speaker, I want to place in the CONGRESSIONAL RECORD the language of my amendment adopted by the House on September 15, 1977. My amendment raises the exemption for retail and service establishments that are privately owned and operated under the minimum wage laws from $250,000 gross annual sales to $500,000.

The Senate passed another version of this amendment, and thus my amendment will be subject to discussion in the conference.

My amendment is as follows:

ENTERPRISE COVERAGE

SEC. 12. (a) Section 3(s)(1) (29 U.S.C. 203 (s)(1)) is amended to read as follows:

"(1) is an enterprise whose annual gross volume of sales made or business done is not less than $500,000 (exclusive of excise taxes at the retail level which are separately stated;".

INADEQUACIES OF CURRENT BAIL LAWS

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 13, 1977

Mr. MAZZOLI. Mr. Speaker, I would like to take this opportunity to share with my colleagues a recent article from Parade magazine which examines the deficiencies in our current bail laws.

This article highlights some of the problems associated with inadequate bail laws which in some cases allow suspects to be released from jail before their victims are out of the hospital.

Statistics show that a significant number of repeat offenders are released on bail who then commit additional dangerous or violent crimes while awaiting trial for the first offense. For example, 22 percent of those defendants arrested in the District of Columbia for a felony offense in the last quarter of 1976 were either on bail, probation, or parole at the time of their new arrests.

The House on September 26, 1977, approved H.R. 7747, a bail reform bill for the District of Columbia. This bill seeks to protect the public from dangerous or violent criminals and to ameliorate some of the inequities in the present bail system.

I am hopeful that this bill will serve as a model for other jurisdictions which are considering changes to their bail laws.

The article reads as follows:

OUR BAIL BREAKDOWN

(By Murray Teigh Bloom)

When Charles Gray and Barbara Gaston were arrested in Miami in August 1975 on charges of smuggling $7.5 million worth of heroin, the Drug Enforcement Administration (DEA) estimated it had spent $375,000 trying to nab this much-traveled courier couple.

At first their bail bond was set at $500,000 each. But their expensive lawyer argued that the Bail Reform Act of 1966, covering all federal prisoners, called for either no bail or only reasonable bail. The U.S. Attorney argued forcefully against bail reduction because the couple had several sets of false identification and access to Swiss bank accounts worth several millions. Nevertheless, bail was reduced to $100,000 each, which meant they could get out by producing only $10,000 cash each and assuring the bailbondsman of adequate collateral.

Very quickly they put up the $20,000 cash—brought by an associate—and very quickly they disappeared. A week later federal investigators learned they had withdrawn $400,000 from their account in Zurich. The DEA has spent more than $150,000 trying to recapture them. The couple's piddling $20,000 cash was forfeited, but at this writing the U.S. still has not collected the remaining $180,000 from the bonding company.

BUSINESS AS USUAL

There are more than a thousand similar cases around the country: major drug law violators who have forfeited their bail or appeal bonds and fled. And usually they resume their trade.

But it's not just the drug cases where bail is one of the thorniest issues in criminal justice today. Consider:

Chicago Police Superintendent James M. Rochford has complained that each year the police there arrest 40,000 criminals already out on bond.

Some 60–70 percent of armed holdups in the nation's capital are committed by persons out on bail, according to the Washington Chief of Police.

In 1976 Chief Justice Walter H. McLaughlin of the Massachusetts Superior Court told a U.S. Senate committee that "one of the greatest causes of crime is letting known criminals loose without bail or small bail for months and sometimes years before we are able to reach them for trial."

Still, our tradition is to presume innocence until proven guilty. Confining a suspect merely because he can't post bail flies in the face of this concept.

The 1966 revolution in our bail practices arose largely from a desire to give the poor a better break. Bail experiments in New York and elsewhere found that under controlled conditions many many suspects could be released in their own recognizance, without having to post high bail through professional bondsmen. At the same time bondsmen all over the country were coming under increasing scrutiny because of high profits and low practices. In a continuing federal investigation in Pennsylvania, more than 71 defendants—mainly bail bondsmen—have been accused of giving kickbacks to magistrates, bribing city and country officials and accepting payoffs from defense attorneys. The indicted owed millions to various county courts on forfeited bonds because the people they bonded didn't appear for trial.

NO BAIL NECESSARY

Similar problems in many states helped lead to the Bail Reform Act. In essence the new law was pegged on reliability rather than money; if the accused seemed likely to appear for trial, then he could be released without bail. In time some 48 states adopted various reform programs. Illinois and Kentucky eliminated bail bondsmen altogether. They made it easy for almost anyone to be released on his own recognizance or by posting only 10 percent of the total bail.

All this prompted the bitter comment in Washington, D.C., of U.S. District Court Judge George L. Hart, Jr..: ". . . if a defendant promised me he was going to murder three persons, I would have to let him go on bail."

And in Chicago, Judge Arthur Dunne of the Cook County Circuit Court commented: "You lie awake worrying what some person you admitted to bail may be doing to some innocent citizen." As the law now stands, he added, you cannot deny bond except in murder cases. Yet an Illinois investigation in 1974 even found that 15 persons charged with murder were out on bond.

Apparently under the new bail rules even a suspect deemed an immediate danger could get out. When Albert B. Underwood III, a University of California student, was arrested for possession of two sawed-off shotguns, he was released on $500 bail. He promptly built several pipe bombs and mailed them to the officers who had arrested him. His bail was revoked and he was imprisoned—only to be ordered released by California's highest court on the ground that a judge cannot consider a defendant's dangerous propensities.

The liberal bail rules went even further. In July 1976, a Los Angeles grand jury reported that convicted criminals were frequently freed on bail while their cases were being appealed. And in many cases the appellate courts took a year to reach a decision. The grand jury statement added: "Criminal law loses its effect if punishment is not swift and sure. This principle is violated when a defendant is released on bail during a lengthy period of appeal."

Many judges, police chiefs and prosecutors have also concluded that the state and federal bail reforms of the 1960's went much too far. "A depressing failure," former Deputy U.S. Attorney General Harold R. Tyler called it.

130,000 FUGITIVES

And in New York City, where it was estimated there might be 130,000 fugitives from bail, the Daily News commented: "In a properly working system bail might make sense. In a battered and sinking ship, it's just another hole in the side through which the rats can scurry."

One reason for the present bail mess is that some arguments made for the Reform Act depicted the typical criminal as a poor and downtrodden victim of society. He usually isn't anything of the kind. More typically, he's a cunning professional who uses his free time on bail to commit other crimes, partly to provide money for his defense. As Chicago Police Superintendent Rochford pointedly wondered recently: "Do the courts ever inquire about the fee an attorney receives for handling a repeater, and the source of his money?"

Besides committing more crimes, criminals out on bail can intimidate witnesses. In Washington, D.C., according to one study, 1,000 criminal cases a year are dropped because of witness intimidation. As former Assistant U.S. Attorney Lee Cross said: "There is something wrong in a society in which a girl who has been shot in the back must hide from her attackers because the suspects were freed after being caught."

IRONIC JUSTICE

As a result of this and similar cases all over the country, justice inevitably moved to its logical and ultimate indignity: the prosecution witness is locked up for his own protection while the accused is let out on bail.

No one pretends that pretrial detention is the perfect answer. For example, what do we do about defendants who are jailed without bail and later found innocent? But clearly it's time for our states to amend the easy bail provisions that disregard common sense and the frightening criminal statistics. Isn't it time we accepted the fact that many criminals, because of their known histories, are simply too dangerous to be allowed out on bail while awaiting trial—or an appeal?

PERSONAL NOTICE

HON. BILL FRENZEL

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 13, 1977

Mr. FRENZEL. Mr. Speaker, yesterday on rollcall No. 643, I was recorded as paired against the motion on the rule on House Resolution 766. That pairing was a mistake. Had I been present, I would have been obliged to vote for the rule.

NEW PROPOSALS: NO ANSWER TO SOCIAL SECURITY PROBLEMS

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 13, 1977

Mr. ASHBROOK. Mr. Speaker, two recent proposals concerning the social security system I believe have little merit. These are the proposals to raise the age for social security benefits and to place Federal, State, and local government employees under social security.

The House Ways and Means Committee has approved a bill mandating universal social security coverage. All Federal employees, all State and local government employees and all employees of nonprofit organization would be required to participate in social security. The bill also provides for a study of methods of integrating the social security system, the civil service retirement system and other retirement systems.

Some 2.6 million Federal employees would be affected by the provisions of this bill. In addition, approximately 4 million State and local government workers would be brought into the social security system.

I am strongly opposed to such a move. The legislation raises uncertainty about retirement benefits for those now outside the social security system. These people have paid into their own retirement programs—many of which are excellent—and they are counting on the benefits they have been promised. It would be unfair now to change the rules of the ball game and merge the various retirement programs into social security.

In addition, the Carter administration's Secretary of Commerce Juanita Kreps has recommended raising the social security age to 68. I strongly believe that raising the age for social security benefits would be a serious mistake. After working 30 or more years and paying money into the social security system, a person deserves to receive the benefits he or she has been counting on. It would be a breach of faith to now raise the age for benefits.

Both these proposals are attempts to bail out the social security system. By raising the age for benefits and bringing more workers under the system, it is contended, the financial situation could be eased at least temporarily.

The social security system does have some difficult times ahead. One of the main problems has been that too many have tried to make a welfare plan out of social security instead of fulfilling its its original purpose. Raising the age for benefits or mandating universal social security coverage, however, is no way to solve the financial difficulties.

I urge my colleagues to reject both these proposals.

DON'T BE FUELISH

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 13, 1977

Mr. McDONALD. Mr. Speaker, as a partial response to the President's outbursts over opposition to his energy program at his press conference today, I would like to call attention to an article called "Don't Be Fuelish," by Robert G. Anderson that appeared in The Freeman for October, 1977.

In my view, Mr. Carter sounded more like Ralph Nader than the President of the United States. Evidently, the President does not understand the economics of the free market system under which we are supposed to be operating. Government controls have never increased the amount of any commodity. Government regulation has stifled natural gas production by holding the price down artificially and the same is going to happen to oil under the President's proposal. The natural gas shortage of last winter was created by the Federal Government—the culmination of long years of price controls. The free working of the law of supply and demand will provide the necessary incentive to bring in the additional supplies of gas and oil that everyone knows we have. Conservation is just not the answer without increased production. Rationing and controls merely spread the shortages out evenly and distort the market and inevitably dry up supplies.

The article follows:

"DON'T BE FUELISH"

(By Robert G. Anderson)

The American consumer finds it hard to believe the commercial: "Please don't use my product." Buy small, drive less, lower the thermostat, recycle, stop wasting energy—the latest culprit in the energy debate has become the "piggish" consumer.

Millions in advertising are now expended to reprimand the consumer for consuming. Public utilities as well as the petroleum industry urge consumers to use less of their products. Even the automobile industry has joined in the plea—promoting smaller cars, car pooling, and less travel.

Such strange behavior is not the way of the market. Providing the consumer with more for less—creating better products—has been the traditional role of the producer. Producers in competition with one another have turned to advertising as a means of promoting, rather than curtailing, the use of their products.

That suppliers of energy should call upon consumers to curtail energy consumption would seem to be an act of irrationality in a free, competitive market place. But such behavior by producers today is not so much a mark of their insanity as it is a measure of the extent to which market forces have been blocked or abandoned in the energy business. An unfettered market for energy simply does not exist.

Price, in a free market, reflects changes in supply and demand. Assuming a steady demand, prices tend to fall when supply becomes abundant, and prices rise when things are scarce. High prices are a signal to consumers to conserve; and to producers, high prices are a spur to increased productivity. But the free movement of price is now restricted by government.

This political interference has hampered the use of price as a means of allocating energy resources. Higher prices, a signal to increase energy supplies and decrease energy consumption, are prevented by government edict. Such government controls on price, as well as regulations hampering production, have discouraged any significant increase in the total supply of energy.

These political barriers to higher prices, and restrictions on production, have generated a widening gap between available supplies of energy and consumer demand. Producers—unable to respond to this disequilibrium through upward price adjustments or increased production—are forced into an advertising program to discourage consumption of their own products and services.

This strange turn in advertising is one of the inevitable consequences of earlier political intervention. Nevertheless, many people blame the market for this new development. Only when it is realized that such behavior is a product of government interference with market forces can any remedy be found.

The extent of government ownership of energy resources and energy-generating facilities is a primary source of the problem. Government legal ownership and government control in the energy field is awesome. Unlike private owners, government owners of resources need not respond to the demands of consumers. The motivating force of gain, which activates the employment of private resources, is absent when the resources are owned by government. Government employs its resources according to political determinations rather than market decisions.

Throughout the world, huge energy-rich land and sea areas are either directly owned or controlled by governments today. Access to these properties by private energy producers, if permitted at all, is at the total discretion of government. In many cases, the government reserves to itself all rights to exploit these resources.

POLITICAL DOMINATION

The presence of government is even more universal in the delivery of electricity and natural gas. Much of the utility industry is legally owned by government. That which remains nominally in private hands is under the direct control of government, and decisions regarding prices, production, and distribution are under government jurisdiction. As a result, the entire industry is dominated by political concerns.

The tragedy of our age is that political decisions are so heavily motivated by envy and guilt. Political redistribution of wealth and deprivation of consumers has been the logical consequence of these attitudes. The law has been used to reallocate property and direct the activities of the citizenry; and the government-owned resources are employed in a similar manner. Convinced that the "social justice" of collectivism demands both a reordering and a redistribution of economic resources, government responds by using all of its resources toward that end.

Obviously, what the political planners seek is radically different from what individual consumers want. A private owner of resources is forced to respond to the will of consumers if he wishes to prosper, but the resources of government are responsive to political rather than market pressures. The political will of a collectivist society is never the same as the individual consumer's choice in the use of his own purchasing power.

Today's political will decrees that low prices, resource preservation for posterity, the reduction of private profit, and reduced consumption are desirable goals in the energy field. To implement these goals, the government enacts various restrictive laws and withholds its resources from production.

Industries that traditionally have served the consumer well in the energy field rapidly are losing their freedom to do so. Government insists that energy resources must be preserved for future generations and that today's consumer is guilty of massive waste. Political concern for the poor prevents energy price rises, and political bias against industrial profits discourages increased production.

ECONOMIC SABOTAGE

The pursuit of these political goals is as effective a program of economic sabotage as anyone could devise. The conflict generated by a collectivist philosophy of envy and guilt assures ultimate chaos in our society. Meanwhile, producers of energy respond as best they can with the freedom they still retain.

The utility industry, forbidden by government to raise rates and hampered in developing additional capacity, is the classic victim of this political philosophy. Government, believing that low rates are best, that consumers are wasteful, and that resources must be preserved for future generations, thus restrains the utility industry. The industry, in desperation, resorts to a campaign urging consumer conservation, a program costly to consumer and producer alike.

The petroleum industry also is the victim of these political beliefs. Legislation holding oil prices below market rates restricts profit margins and destroys incentive to produce. Legal barriers against private producers remove government-owned oil lands as a source of additional supply. International government cartels limit world supplies of oil. Adverse tax laws and production quotas further limit the output. With production thus restrained, the petroleum industry responds, as do the utilities, to advocate reduced consumption. Limiting the gap between existing supplies and growing demand becomes the primary concern of both industries.

The withholding of government-owned energy resources and the political bias against private production has left energy producers with but one option—to advertise for lower consumption of their products. Unable to expand productive capacity, they are attempting to forestall the political alternative: bureaucratic rationing of resources thus rendered scarce.

An advertising campaign to discourage consumption may allow frozen prices to continue to serve temporarily as the means of allocating resources. However, the limitation of production steadily raises costs and applies pressure for price increases. The hampering of new production ultimately will be borne by the consumer in a lower standard of living as energy resources are either not available in quantities desired, or available only at significantly higher prices. The fundamental problem still remains.

PLEASING THE GOVERNMENT

"Conservation" advertising also is being done by some of the energy-related industries. Automobile manufacturers, for example, have been urging a reduction in the use of their energy-using products. Unlike the petroleum and utility industries, these producers still retain their freedom to expand production and sell their products at market-determined prices. Still, they engage in aggressive promotion of small cars, urge less driving, and encourage owners to trade less often, keep the old car longer.

The frightening aspect of this advertising is that it is undertaken to "please" the government rather than to serve the consumer. The automobile industry clearly is intimidated after a decade of continual harassment by government regulations and production

standards. More and more, the type of vehicle produced is ordained by government rather than by the consumer. The automobile industry is well aware of its dependence on a satisfied government.

In a free market the consumer is sovereign. The producer responds by diverting his resources and directing his advertising toward the desires of the consumer. Today, the regulatory power of government is gaining ascendance over the sovereign consumer. To survive, the producer must be ever conscious of government's will as well as the consumer's choice.

Whether consumers want small cars, less driving, more car pooling, or more aged cars is irrelevant. It's what the government says is best! The automobile companies recognize this fact and respond to these political goals through their advertising programs. Just as they have been forced to meet government-imposed standards of construction, they likewise structure their advertising to government orders. Hypocrisy in advertising becomes a condition for business survival.

These pleas by the private producers of energy and of energy-using products are not of their own making. Just as the well-being of the consumer suffers from a decline in total production, so, too, does the well-being of the producer. The fault must be placed on government, and its counter-productive political philosophy of envy and guilt. As long as our society is governed by this collectivist mentality, our economic well-being must suffer.

Yet, the market continues to respond. When hampered by radical government intervention, market forces turn to the areas remaining free. The options of energy producers have declined to the extent that they must now resort to advertising against the interests of themselves as well as consumers.

In the pursuit of political goals in the energy industry, government has hampered production, taxed away profits, frozen prices below the market, and frustrated consumer choice. The result is a decline of our standard of living, and even our remaining freedom to be "fuelish" may soon be denied.

Isn't that foolish?

PERSONAL EXPLANATION

HON. EDWARD P. BEARD

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 13, 1977

Mr. BEARD of Rhode Island. Mr. Speaker, regretably I was absent from the floor of the House during the vote taken on H.R. 3, the conference report on medicare-medicaid antifraud and abuse amendments. During the time of this vote, I was attending a historical event for the State of Rhode Island and also had a special audience with the Secretary of Commerce, Juanita Kreps. At that time, a grant amounting to $4.1 million was presented to the Rhode Island O.I.C. before a substantial number of Rhode Island business, clerical, and government leaders.

If I was present, I would have voted in favor of H.R. 3 which I had previously voted in favor of on September 23, 1977.

WHERE CREDIT IS DUE

HON. JIM MATTOX

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 13, 1977

Mr. MATTOX. Mr. Speaker, next week is International Credit Union Week and I would like to take this opportunity to salute the achievements of our Nation's credit unions and congratulate them for so many years of service to millions of working Americans.

Through recession and inflation, credit unions have continued to be of great benefit to their 17 million members, many of whom would likely face financial difficulties were it not for the reliable, low-cost services provided by credit unions.

Before the advent of credit unions, it was the commercial banks and certain other private lending institutions that were the primary sources of credit for Americans.

But the Great Depression of the 1930's eroded both the confidence of citizens in their banks and the ability of those institutions to provide services to their customers. Especially hard hit were the millions of working-class Americans who found needed loans beyond their reach—loans that could have served as a spur to the sluggish Depression economy.

As more and more citizens moved from rural areas into urban industrial surroundings, it became apparent to the Nation's lawmakers that an alternative institution was needed to provide credit for the growing population of working Americans—an institution in which they could have the utmost confidence and one that could provide easily obtained, low-cost services.

There were many who said it was an outlandish idea. Working men and women cooperatively owning and operating their own financial institution? It seemed an impossible dream.

But the years since 1934, when the Federal Credit Union Act first established credit unions, have shown those early critics to be wrong—credit unions have firmly established themselves as a viable and beneficial part of this Nation's economy.

Because they are nonprofit, and because the credit union members cooperatively own and run the organization, they are better able to "cater" to the specific needs of their members, with services and dividends that commercial banks and other types of lending institution are not set up to provide.

And, more often than not, when those banks and lending institutions refuse to loan money to certain customers, the credit union has been there to assist.

In the age of "problem banks," credit unions have maintained an untarnished image and are held in the highest regard by their members.

Mr. Speaker, not only have credit unions been of unparalleled service to their members, they have shown themselves to be beneficial to the economy as a whole. By providing the resources for millions of Americans to purchase homes, cars, and other items, they are helping to stimulate our Nation's economy and are thus assisting in the battle against unemployment and inflation.

During the week of October 16–22, International Credit Union Week, I urge my colleagues in Congress and my fellow citizens to take note of and commend credit unions for the valuable services they have provided to their members and this Nation.

THE BURDEN OF ILLEGAL ALIENS

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 13, 1977

Mr. DERWINSKI. Mr. Speaker, illegal aliens are becoming an increasing burden to the American taxpayers and the American economy. In order to solve this growing problem, we must have streamlined and effective enforcement procedures, which includes a tightened and expanded border patrol force.

This proposal is effectively addressed in an editorial broadcast over Chicago Radio Station WBBM, on September 23. I direct the attention of the Members to the editorial which follows:

ILLEGAL ALIENS

Illegal aliens are a big problem for the United States, but how to stop them from coming into the country is an even bigger problem. Millions of the illegals are working in jobs our own citizens should have and they get about $13 billion a year in benefits paid for by tax dollars. But given our heritage as an immigrant nation and our relationship with other countries, particularly Mexico, President Carter has found it hard to crack down on the illegals who are already here, although he proposes beefing up the border patrol and imposing stiff fines on U.S. employers who hire illegals. Soon after the announcement of the President's plan, however, the Border Patrol estimated the flood of illegals increased by 51 percent.

That's exactly what we see as the problem. If the President is going to grant a kind of amnesty to the illegal aliens already in this country, what's to stop more from hurrying in under the deadline? The Border Patrol is admittedly too small to cover the ground now. And what's that supposed to mean to the thousands of people abroad who wait patiently and legally for their visas? Doesn't it make a sham of our immigration laws and quotas?

If the United States had guards along every foot of our borders it wouldn't stop all people from sneaking into the country, but the present force must be strengthened. With that part of the President's program we agree. But we can't support the sections which offer lenient terms to those illegals already here. They make a mockery of fairness. And, even worse, what kind of citizens can we expect these people to be when we reward them at the outset for disobeying the law and getting away with it?

That's our opinion. We'd welcome a reply.

THE MORAL RIGHTS OF ARTISTS

HON. ROBERT F. DRINAN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 13, 1977

Mr. DRINAN. Mr. Speaker, on July 13, 1977, I introduced H.R. 8261, a bill to amend the copyright law "to secure the rights of authors of pictorial, graphic, or sculptural works to prevent the distortion, mutilation, or other alteration of such works, and for other purposes." The short title of the bill is the "Visual Artists Moral Rights Amendment of 1977."

The moral rights of artists is a doctrine well known in many nations around the world, except the United States. The concept is a part of the Berne Convention which has been ratified by a large majority of foreign countries. The United States has never acceded to that treaty in large part because of its provision on moral rights. If H.R. 8261 becomes law, I am hopeful we will then be able to join the rest of the world in recognizing this important right.

NATURE OF THE RIGHT

It should be noted that the moral right of artists is, in some respects, an amorphous doctrine. While it has certain well defined features, it also contains elements of ambiguity at the perimeters. Legal scholars disagree on the nature and scope of the concept, and other nations, while agreeing on some central features, disagree on the outer limits. In order to understand fully the contours of H.R. 8261, it is helpful to examine briefly the nature of the doctrine.

It should first be recognized that the moral right of an artist is really an extension of the personality of the author and seeks to protect the creativity which produced the art work. It must be carefully distinguished from copyright, which seeks to protect the economic or property interest of the artist. Because copyright is a property right, it follows the work of art and in one sense adheres to it wherever it may be. Thus a copyright is transferable and assertable by the owner of the copyright, irrespective of the creator of the copyrighted work.

On the other hand, the moral right is, as I noted, a part of the artist's personality and as such remains with the creator of the art work even though that work may be transferred to other owners. The work moves on with the copyright, but the moral right stays with the creator of the work. Because of this fundamental difference between copyright and moral right, it has been argued that statutory recognition of the moral right should not be undertaken in the context of the copyright law.

As I indicated earlier, H.R. 8261 is an amendment to the copyright statute. I have taken that approach because that law is a readily available vehicle to carry the moral right and because that law embodies, at the Federal level, the full extent of protection for artists. While the moral right could be established in separate legislation, it makes sense, in my judgment, to incorporate it into the existing copyright statute.

SCOPE OF THE RIGHT

Having noted the differences between copyright and moral right, it follows that the scope of the moral right consists of different elements. The Berne Convention contains the most widely accepted definition of the moral right and it is thus a good starting point. That convention expressly recognizes two aspects of the moral right and contains a third, open-ended provision.

First, the Berne Convention gives the artist the right to claim authorship of a work—the so-called right of "paternity." Thus if a work should be published or exhibited without the artist's name, the creator may assert a right to have the publisher or exhibitor identify the work by name. In addition the artist may require the publisher or exhibitor to remove her or his name if the work is improperly identified. And of course, the artist has the right to remain anonymous if that is the course he or she wishes to follow.

Second, the Berne Convention gives the artist the right to object to any "distortion, mutilation, or other alteration thereof." This is frequently referred to as the right of "integrity." It protects the artist's work from misuse by subsequent owners—misuse in the sense that the work is being distorted against the original design of the author. In the American case of Crimi against Rutgers Presbyterian Church, the artist sued the defendant church for obliterating frescoes he had created for it several years earlier. A New York court refused to recognize the moral right of integrity of the work and thus denied the artist any relief.

Third, the Berne Convention has a kind of residual clause that seeks to pick up a number of other elements of the moral right. It states that the artist may object to "any other action in relation to the said work which would be prejudicial to his honour or reputation." It is not altogether clear what specific rights this give to the artist, except to allow each nation which signs the Convention to identify such rights through its legislative, executive, or judicial branches. It would undoubtedly cover the case in which Shostakovich and other Russian composers sued 20th Century Fox to prevent it from using their music as background in an anti-Communist movie. Those Russian composers lost their case in the American courts because we do not recognize the moral right in any respect. When they brought a similar suit in France, the court awarded them a judgment because that nation does recognize the moral right.

DESCRIPTION OF H.R. 8261

Of the three elements of the moral right contained in the Berne Convention, my bill contains the first two expressly, that is, the rights of authorship and integrity are given explicit statutory recognition. With respect to the third, somewhat open-ended provision, my bill contains a more limited provision. It allows the artist to protect any condition on the use of the work which the artist has recorded in the Copyright Office.

I am aware that a number of visual artists have not been accustomed to and indeed have not utilized the copyright law as a means of protecting their interests. I am also advised that organizations like the Boston Visual Artist Union and groups in the Bay Area in San Francisco are seeking to encourage artists to use the copyright law more frequently. But whatever use is made of that law by visual artists, my bill would not require that the work first be copyrighted before the moral right attaches. Even the third part of my bill, which allows protection of conditions recorded in the Copyright Office would not require the artist filing such conditions to copyright the work.

In my judgment, requiring the artist to record the specific limitations he or she wishes to impose on subsequent owners of the art work is a fair way of giving some content to the open-ended provision of the Berne Convention. It will also serve to blunt criticism that owners are left to the whim of an artist in the use of the work. Thus using the example of the Shostakovich case, if my bill had been law at that time, the Russian composers would have won that suit in U.S. courts if they had first recorded their desire not to allow their music to be used as background without their prior consent. Therefore, even if an artist is unavailable or even dead, the owner of the work will be able to check with the Copyright Office first so that he or she will not run afoul of any restriction on the use of the work.

DURATION OF THE RIGHT

This bundle of three distinct aspects to the moral right comprises the heart of H.R. 8261. To be sure, the bill raises other issues related to the assertion of the right. First, in European countries there has been much discussion over the duration of the moral right. Some have argued that it should last as long as the work is in existence, assertable by the heirs of the artist or in their absence by a governmental agency. On the other hand, some argue that, since the moral right is really an extension of the artist's personality, its duration should be coterminous with the life of the artist.

My bill adopts a kind of middle ground. Since it would incorporate the moral right into the copyright law, it gives that right the same duration as copyright, which is the life of the author plus 50 years. I should note that this period of duration has been, together with the moral right, the two major stumbling blocks to U.S. ratification of the Bern Convention.

COVERAGE

H.R. 8261 also raises another important question: who shall be covered by it? The Bern Convention covers any "author," a word whch is defined very broadly as it is in our own copyright law. My bill is more limited. It would apply only to authors of "pictorial, graphic, or sculptural" works. This limitation was included because the so-called "visual" artists are the least organized and are the least protected among artists in America.

Many composers, for example, protect their interests through contractual arrangements which are negotiated with the help of other persons and organizations in the industry. Visual artists, on the other hand, tend to be fragmented and unorganized, a condition which appears to be changing. I have noticed in recent years a growing awareness among the visual artists to assert their just concerns through organizational strength.

I should add too that, in all candor, the major opposition to establishing the moral right in America in the past has come from the so-called users of copyright: the movie makers and the television industry. While I do not think that alone should be grounds for denying protection to other artists, if such additional protection is needed, it may well be a factor in seeking to take a first, modest step to enact some moral rights legislation.

RELATED ISSUES

Needless to say, H.R. 8261 does not exhaust the subject of moral rights. There are a number of issues which my bill leaves unresolved. For example, some countries have recognized, as part of their moral right, the privilege of the artist to withhold the work totally from the market. In one sense, the United States already observes that right in the copyright law. Furthermore some nations give the artist the right to make modifications in the original work or even to withdraw it from the public domain, compensating the current owner for it. Additionally some scholars maintain that part of the moral right is to be free from "vexatious" criticism of the art work. That concept is, of course, contrary to our copyright law which authorizes nonconsented use of the work for criticism under the "fair use" doctrine. In addition any attempt to legislate in this area would raise serious first amendment questions.

Finally I should note that the laws of foreign countries are divided as to whether any aspect of or the entire moral right may be transferred or waived. Some nations have adopted the view that moral rights may be waived, but not transferred. Let me give you an example of what I mean. Suppose a painter notices that the current owner of one of her paintings has altered the work in some significant, offensive way. At this point, the painter, knowing of the mutilation, has a choice of either asserting her claim or foregoing it. If the latter course is followed, it may be that she will be held to have waived any objection if on some future occasion she wishes to assert her claim of unlawful distortion.

This waiver concept must be compared carefully to the doctrine of transfer. Nations that recognize a waiver may not recognize transferability. That is, the artist may not, by contract or otherwise, transfer her or his moral rights. In a nation where such transfer rights are recognized, the artist may, because of youth, need for money or recognition, contract away all of his or her moral rights. Frankly I am not sure whether American law should allow waiver or transfer of the moral right.

I should note, in this connection, that in 1946 Western Hemisphere nations met in Washington, D.C., and signed the Inter-American Convention on the Rights of the Author in Literary, Scientific and Artistic Works. That convention, which incidentally the United States has also refused to sign, gives the artist the right "to dispose of or waive" the moral rights recognized in that convention.

CONCLUSION

I should note, in concluding, that the arts have always been the orphan in the American political family. Writing in the Harvard Law Review over 35 years ago, Martin Roeder observed: "Busy with the economic exploitation of her vast natural wealth, America has, perhaps, neglected the arts." That is a large understatement of the insensitivity which has characterized the attitudes of elected officials for a very long time.

In a very real sense the greatness of a nation is measured by the respect which it accords the creative work of its people. And a large measure of that respect is reflected in the attitudes of the Government toward the arts, attitudes which inevitably are embodied in the laws of the land. If the Congress fails to enact positive, effective statutes to protect the rights of artists, the United States, with all its wealth, power, and achievements, will be judged, at best, a second rate civilization.

COMMENDATION OF TULSA'S MUSCULAR DYSTROPHY TELETHON

HON. JAMES R. JONES

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 13, 1977

Mr. JONES of Oklahoma. Mr. Speaker, it is again with the greatest pleasure that I am able to take this opportunity to inform my colleagues of the success of my State's participation in the recent 1977 Labor Day Telethon.

This year was the eighth annual Labor Day Telethon telecast by one of my district's broadcasting stations, KTUL–TV. The management and staff of KTUL–TV have rendered notably generous services to this particular cause—undoubtedly shown by the final off-the-air toteboard figure of $211,294.

This favorable outcome of Oklahomas' involvement in and contributions to the 1977 Labor Day Telethon was further shown by the 16-percent increase of contributions by the people of eastern Oklahoma over last year's contributions. Clubs and organizations too numerous to mention joined with firefighters, letter carriers, Kiwanis, U.S. Jaycees, CB'ers, McDonald's Restaurants, Seven-Eleven Stores, youth groups, church groups, and others to insure the success of this year's telethon.

Furthermore, hundreds of volunteers manned pledge phones for 19 consecutive hours not only in the city of Tulsa, but also in other cities such as Bartlesville, Claremore, Cushing, Hartshorne, Henryetta, Mannford, Muskogee, Okmulgee, Owasso,. Pawhuska, Ponca City, Poteau, Pryor, Stillwater, Tahlequah, Vinita, Wagoner, and McAlester.

It is also important to note that Representative LES ASPIN of Wisconsin has nominated Jerry Lewis, the national chairman of Muscular Dystrophy Association, for the Nobel Peace Prize. The nomination has been accepted by the Nobel Prize Committee of the Norwegian Parliament for the 1978 award.

I hope my colleagues will join with me in their sincere appreciation for the generous support of my State and various other States for this commendable cause to help the victims of muscular dystrophy.

A TRIBUTE TO G. W. "BUD" QUADE

HON. CLAIR W. BURGENER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 13, 1977

Mr. BURGENER. Mr. Speaker, one of the outstanding school administrators in southern California has announced his retirement, and I would like to pay a special tribute to a friend and outstanding public official, Bud Quade. The Escondido Times Advocate recently devoted its lead editorial to Bud Quade's career, and I could not state Bud's value any better. I would like to include the editorial here and add my own special congressional salute to an exemplary administrator and a fine gentleman:

[From the Escondido (Calif.) Times-Advocate, Sept. 22, 1977]

A PUBLIC OFFICIAL WHO WILL BE MISSED

The time for retirement from our chosen professions or vocations eventually comes for all of us. Such retirements are seldom noticeable if that person has been in the private sector of our society, although the private person's contributions to society may have been just as valuable.

The person working in the private sector (for a private business) is not necessarily subject to public scrutiny, public ire, public praise, public comment—not like the public official, working for a public agency.

Being a public official—especially an administrator of a public agency—has to take its toll over the years in some way, as that public official is subjected to the pressure of dealing with public employes, the elected officials of the legislative body to which you're responsible and the public itself. Some public officials can cope with that sort of pressure; some cannot.

Some public officials have that certain something, that intangible thing, that personality quality, that ability to get along with people, that diplomacy that is necessary to marry with the ability to be a business manager; the two facets being necessary to make an outstanding administrator.

What's this got to do with retirement? This community is going to lose an outstanding public administrator through retirement. And this is the time to say it, although it may be a personal embarrassment to him, as he's that kind of person: He doesn't want any fuss about it.

G. W. "Bud" Quade (nobody calls him Guilford, which is his given name) has announced his retirement (technically it's a resignation) as superintendent of the Escondido Union High School District, effective next June 30. We think that Bud Quade

fits our comments above. He is an outstanding administrator in our book. He will be missed. We know that we will miss him.

Quade has been in the district 30 years, 22 of them as superintendent. He has survived in a post in the same district for a longer period of time than could be expected, as school superintendents are subject to the whims of changing boards of trustees.

We imagine that one of the reasons that Bud wanted to stay in Escondido (many school superintendents choose to move on periodically for more money, a bigger district, or incompatibility with the staff or trustees) is because the district and the job had become a part of him. He said as much when he told trustees in his written resignation: "My employment with the district has been far more than a job or position for me. It has been a vital part of my life. . . . I deeply appreciate the opportunities that I have had in this district, and I trust that I have contributed to the successful operation of what I consider to be an exceptionally fine high school district."

Knowing Bud Quade, those comments were sincere and from the heart. We suggest that we're not alone in assuring Bud that he has, in fact, contributed greatly to the successful operation of the Escondido Union High School District.

Quade will carry some fond memories with him, especially from the early days of his career—tent classrooms, a split campus, the opening of Poway and San Marcos high schools (both of which were then in this district), the opening of Orange Glen and San Pasqual high schools, Poway and then San Marcos breaking away and forming their own districts.

We salute Bud Quade: a teacher, an educator, an administrator and a first-class guy.

THE DEPARTMENT OF ENERGY: $10.6 BILLION?

HON. BILL ARCHER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 13, 1977

Mr. ARCHER. Mr. Speaker, the attached commentary on the budget of the new Department of Energy was recently brought to my attention. It puts the moneys involved into a unique perspective and I think that it is well worth reading by my colleagues in the Congress.

$10.6 BILLION? THEY CAN'T BE SERIOUS!

Actually, by totalling the number of employees and the fiscal budget of all the departments and energy functions that now will be assumed by the Department of Energy, they will employ 19,767 people and dispose of a fiscal 1978 budget of $10.6 billion.

To put that budget in perspective, consider the following:

1. It represents $500,000 per Department employee.

2. It represents $50 for each and every member of the total U.S. population (212 million).

3. It represents $266,871 for each of the 39,763 wells drilled in 1976.

4. It represents $58.35 for each of the 181,855,700 feet drilled in 1976.

5. It represents $3.59 for each barrel of domestic crude oil production in 1976.

6. It represents $1.67 for every barrel of petroleum products consumed in 1976.

7. It represents 10¢ for every gallon of gasoline consumed in 1976.

8. It represents $0.3434 on every barrel of proven crude oil reserves as of December 31, 1976 (30.9 billion barrels).

9. It exceeds 1975 capital and exploration expenditures by the petroleum industry to explore for and produce domestic crude oil, natural gas and natural gas liquids ($9.4 billion, according to the Chase Manhattan Bank) and it is almost three-fifths of capital expenditures in all U.S. petroleum sectors that year ($17.7 billion).

10. It exceeds the 1974 profits of the 7 largest oil companies—profits which were called "obscene."

If you believe this budget won't increase next year, you'd better look under your pillow in the morning—someone may have left you a quarter.

GROWING POLITICAL TURMOIL IN FRANCE

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 13, 1977

Mr. LAGOMARSINO. Mr. Speaker, I would like to bring to the attention of my colleagues the following column by my constituent, Gen. Henry Huglin. General Huglin is a retired Air Force brigadier general and syndicated columnist. He comments on the growing political turmoil in France:

FRANCE IN GROWING POLITICAL TURMOIL

(By Henry Huglin)

NORMANDY, FRANCE.—The French evoke in us Americans a mixture of admiration, of their elegance, savoir faire, and gracious way of life, and annoyance, over their superiority attitudes, pessimism, and self-centeredness.

But now relations between our country and France are excellent.

On their part, the French are again getting into political turmoil. They seem to have difficulty governing themselves quietly for very long. And the stability knitted together by the imperious Charles de Gaulle appears to be unravelling. Their politics are welling up once more into fervent partisanship and bitter rivalry—over the election of members of the National Assembly, which is due next March.

The three-year-old administration of President Giscard d'Estaing has been a disappointment and is in trouble. Inflation is running 12 percent and unemployment 8 percent; and production is falling. And the rich-poor gap in France continues to be the greatest of any advanced country, and a cause of discontent.

A coalition of Socialist, Communist, and Left Radical parties, under Mr. Francois Mitterand, is leading in the opinion polls. Yet, this coalition is coming apart—under the bind created by Moscow's attacks on Eurocommunism and the French Communist party trying to follow a very tricky path.

If the coalition of the left were to hold together and present a sound, workable platform, the coalition of Mr. Giscard's governing Republican party and Mr. Jacques Chirac's Gaullist party would likely be defeated.

But any program the left coalition can now agree upon will likely appear too radical and too subject, potentially, to authoritarianism and fiscal recklessness for the majority of the basically conservative, individualistic, and liberty-loving French to support when the election comes.

Further, two recent books are having an effect on French opinion. In "The Totalitarian Temptation" Jean Francois Revel effectively points out the chasm between what Communists say and do. And in "Mitterand's 180 Days" novelist Philippe de Commines cuttingly forecasts how, if the Socialist-Communist coalition should come to power, it would quickly break apart.

So, the outcome of next year's election is now quite uncertain. But, in any event, the French are in economic trouble and embarked on another period of political ferment and, perhaps, drift.

As to the ties between France and our country, we need to recognize that they are and never have really been close.

Although France was our first ally, she allied herself with us out of hostility to Britain, and not because the French government under Louis XVI believed in government of, by, and for the people.

And, though in World Wars I and II we became allies and are allies now in NATO, France and our country have never been as close politically as we have been and are with Britain and Canada, or even are now with Japan.

Recently, an experienced French correspondent based in Washington put our attitudes in good perspective:

"The Americans are, of course, weaned on Lafayette and on our role in your revolution. From that point on we were not so close. Even your soldiers in two world wars went to Europe to find the French living all closed up in their little worlds—closed even to other Frenchmen . . .

"You have a small number of Americans who have a passionate love for France, and a great mass of Americans who are rather indifferent but think the French are a difficult people, hard to understand. As we are. But, as you do, we believe passionately in democracy and freedom."

Although we are not close, we and the French have no grave problems in prospect. However, for overly-sensitive prestige reasons, they would make a permanent denial of landing rights for their supersonic Concorde airliner—which denial now seems unlikely—a cause celebre for a minor wave of anti-Americanism.

For the future, if the French deal effectively with their internal problems, which in the long term they likely will, our ties could become stronger, but principally within the various grouping of nations in which we interact.

We should hope that the French again will find good leadership, and political stability with continued economic and social progress.

With their basic strengths and experience, they have a significant contribution to make, if they will, in helping deal with the future of Europe, the Atlantic Community, the economic, trade, fiscal, and geopolitical problems we commonly face—and indeed with all the major troubles of the world.

LABOR LAW REFORM

HON. JOSEPH L. FISHER

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 13, 1977

Mr. FISHER. Mr. Speaker, on October 6, the House passed a labor law reform bill (H.R. 8410) that will expedite existing procedures for determining employee representation and impose addi-

tional sanctions against those who would obstruct an orderly process. I voted for this bill because it helps to insure that workers have a fair chance in choosing the representation they prefer, insulating them from unfair pressures on the part of employees and unions.

Unfortunately, labor and employer protagonists have greatly exaggerated the scope and the purpose of this measure and have strived mightily to make this a political litmus test. In my judgment the bill is essentially a procedural reform that will facilitate the working of the law. No basics of labor law would be altered significantly by passage of this bill.

Critics of the bill claim that it does not go far enough, that more basic reform is required. Perhaps more structural change is needed, and I hope that the Education and Labor Committee will consider such legislation in the near future, but for the time being this bill addresses some of the more obvious flaws in existing law.

The mix of provisions in this bill, I believe, represents an evenhanded approach for improving labor relations law.

Specifics of the bill include:

A reasonable time schedule for elections once the principle of an election is agreed to;

Protection for employees who are fired illegally for union organized activities;

Expanded employee access to information from both unions and employers;

Moderate additional penalties on companies that have bargained illegally;

Improved ability of the National Labor Relations Board to prevent wildcat strikes; and

Expansion of the NLRB from five to seven members to speed up what have been very slow moving procedures.

My votes on amendments to this bill reflect my judgment that an even handed approach should be retained. I voted against an amendment that would have delayed election procedures. I voted for amendments that improved employee access to both union and management information. I voted against the proposition that the NLRB could award employees for lost pay due to a delay in bargaining because I think this would be difficult to administer. (The majority of the House voted for this proposition.)

I believe the bill will prove beneficial to both employees and employers as it firms up the rules of the game. If employers feel it to be one-sided, I would welcome preparation of legislation to improve labor relation law from their viewpoint.

GI EDUCATION AND TRAINING PROGRAM

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 13, 1977

Mr. EDWARDS of California. Mr. Speaker, recently the Washington Post carried an article by Colman McCarthy in reference to the current GI education and training program. The article expressed the view that the current program was inadequate and Mr. McCarthy placed most of the blame on the distinguished chairman of the Subcommittee on Education and Training, the Honorable OLIN E. TEAGUE, for failure to enact a variable tuition supplement for education and training purposes.

Mr. Speaker, Mr. TEAGUE's record of service to his country in war and peace is well known to my colleagues and those familiar with veterans' benefits and services administered by the Veterans' Administration. Few people received more recognition for distinguished service in combat during World War II than the very able gentleman from Texas. His record of service in the Congress in behalf of all veterans is unsurpassed and because of his dedication to veterans he is affectionately known in the Congress and throughout the "veterans' world" as "Mr. Veteran."

Mr. Speaker, I have been privileged to serve with Mr. TEAGUE for a number of years as a member of the Committee on Veterans' Affairs. During this period we have worked to establish a very good GI education and training program for all veterans. This is not to say that I do not have some problems with certain aspects of the program. I am deeply concerned with new administrative burdens placed upon colleges and universities in my State of California by the enactment of Public Law 94–502, I am concerned with what I consider to be lack of due process under current VA hearing procedures; the VA's continuing insistence that educational institutions maintain records of students' attendance, although the law does not require them to do so; holding educational institutions secondarily liable for overpayments to veterans; and satisfactory progress standards currently being imposed on educational institutions by the Veterans' Administration. These are some of the things that seriously concern me and I have had serious discussions with VA officials regarding these problems which I hope can be resolved.

In no case, Mr. Speaker, have I ever known the gentleman from Texas to refuse to hear both sides of any issue. He usually goes out of his way to make sure everyone has an opportunity to express their view. This certainly was the case during hearings held on September 15 and 16 on pending bills that would provide for variable tuition subsidies and accelerated entitlements under the GI education and training program. Some 14 witnesses testified during the hearings and had ample opportunity to present their views. I am not aware that most of the witnesses found it shameful "that all the Carter administration and the leadership of the committee could offer was an across-the-board increase," as suggested by Mr. McCarthy.

On the contrary, any veteran with at least 18 months of active duty is entitled to $310 per month under the bill already passed by the House. If the veteran uses his full 45 months of entitlement, he will receive more than $13,000 in cash assistance. Of course, there are various other benefits available in addition to the monthly benefit through the Veterans' Administration.

Although there could be improvements in the current program, there is no basis to conclude that the very able gentleman from Texas (Mr. TEAGUE) is responsible for the failure of the House committee to enact a variable tuition subsidy for those attending so-called high tuition schools in some States.

It is Congress as a whole which must bear the responsibility for any shortcomings in the veterans' education program and Congress as a whole which must act to alter the program if need be.

LT. HERBERT DYNGE, RETIRING POLICE OFFICER

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 13, 1977

Mr. LAGOMARSINO. Mr. Speaker, I would like to bring to the attention of my colleagues the fact that one of my constituents, Lt. Herbert Dynge of the Ventura Police Department, is retiring after 25 years of outstanding service to the public and, specifically, to the Ventura County communities of Santa Paula and Ventura.

Throughout his life, Lieutenant Dynge has had many accomplishments. He is a graduate of numerous special schools, among them the National FBI Academy and the Delinquency Control Institute. In addition, the lieutenant has raised a fine family of six children, two of whom are married.

During his career in Ventura, Lieutenant Dynge has served in a variety of responsible positions, including both a patrol and detective lieutenant. When the lieutenant returned to the Ventura Police Department after 3 years in Santa Paula he was required to begin again as a patrolman. With tremendous dedication and determination he was transferred to the Detective Bureau within a year of his return, and promoted to lieutenant by November 1963.

In honor of his retirement, the lieutenant's friends and coworkers are holding a retirement party Saturday, October 15. The retirement party will be held at the American Legion Hall, 83 South Palm Street, Ventura, Calif.

We all wish him the best. His dedication and sense of duty will be sorely missed by all of our citizens.

HAMILTON FISH, SR., OPPOSES PANAMA CANAL TREATY

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 13, 1977

Mr. GILMAN. Mr. Speaker, a distinguished former member of this body, the Honorable Hamilton Fish, Sr., testified today before the Senate Foreign Relations Committee, which is formally considering the Panama Canal treaties. Former Congressman Fish whose home is in my congressional district and whose distinguished son, the Honorable HAMILTON FISH, Jr., is also a Member of this body, is an internationally recognized expert on International Relations. While in the House, he served for nearly 25 years on the House Foreign Affairs Committee, 10 of which he was the ranking minority member.

As we continue our deliberations of these important treaties, I recommend to my colleagues for their consideration these thought-provoking comments on the Panama Canal. The full text of Congressman Fish's testimony follows:

SPEECH OF HON. HAMILTON FISH BEFORE THE SENATE FOREIGN RELATIONS COMMITTEE ON THURSDAY, OCTOBER 13, 1977

I am honored to appear before this distinguished committee of the United States Senate in opposition to the surrender and giveaway of the American canal in Panama to the Communist existing government there.

I served for almost 25 years on the Foreign Affairs Committee of the House and for approximately 10 years was its ranking Republican member and was ranking Republican member of the Rules Committee for 4 or 5 years. I was also chairman of the first Congressional committee to investigate Communist activities, policies, principles and ideologies back in 1930 and believe I know as much about the aims and purposes of the Communists as anyone in the United States today. I have written several books on the subject.

I am convinced that the Communist tyrannical government at Moscow is the most monstrous form of government that has existed anywhere since Lenin seized power by force and violence in Russia 60 years ago.

The surrender and giveaway of the American canal in Panama to the Communist government of that nation might just as well have been given to Cuba or the Soviet Union and it is time the American people knew the truth of this aspect of this infamous blackmail treaty. If adopted it would be a day of infamy, playing directly into the hands of the Communist dictators at Moscow.

For years the leading Communists at Moscow have been endeavoring to encircle and surround the United States. The take-over by the Communist party and government in Panama would be the greatest victory the Soviet Union has achieved since our surrender to them at Yalta. Our committee back in 1930 did not persecute any liberals or radicals, as its main purpose was merely to find out the definite policies, principles and objectives of Communism at home and abroad. Those who testified such as the Communist candidates for President, minced no words—they hated our form of government. They hated both our religion and freedom. They preferred the red flag to an American flag and they favored a dictatorial, tyrannical government with a world capital at Moscow. There has been absolutely no change in their plans and objectives. The Communist hierarchy hates the U.S., our freedoms and human rights, the religion of our people and above all, because we are the only powerful nation with a limited arsenal of nuclear weapons and submarines that prevents them from Communizing the entire world. They have only one God and his name is Lenin who told them they must Communize the world and in doing so, if they exterminated three-quarters of the people and one quarter remained Communist, that would solve the problem.

This is the reason why they have built up an enormous arsenal of huge nuclear weapons and have a superiority over us of 2 or 3 to 1 in almost every category of nuclear weapons. That is the reason that they are going deeply underground to protect the Russian people whenever they get ready to attack us. They know as well as we do that we have no quarrel with the Russian people and have no desire for additional territory and will not turn on the nuclear button unless attacked. On the other hand, the Communists at Moscow who killed 30 million of their own people and Solzhenitsyn places it at 60, would not hesitate whenever it is to their advantage, to destroy between 100 and 130 million Americans in one night. The whole world would then go Communist within ten days time.

It is simply playing Russian roulette by trying to maintain that the Soviet Union and I don't mean the Communists of France or Italy, have changed their tactics or strategy. They are our enemies, and they are preparing to destroy the United States whom they regard together with the Chinese, as their bitterest enemy.

I want the American people simply to know the truth—and I have tried to convey that message to my old friend George Meany, President of the American Federation of Labor–CIO, who has been one of the most consistent opponents of Communism in this country and throughout the world, by the following letter.

NEW YORK, N.Y.,
September 23, 1977.

Mr. GEORGE MEANY,
Washington, D.C.

DEAR MR. MEANY: I am writing to you as one of my old friends whom I have always admired for your strong stand against the spread of world Communism and for human rights. I confess that I was shocked to learn of your support of the surrender of the American canal to the Communist government of Panama. Not only is the president of Panama an avowed Marxist, but is the virtual head of the Communist People's Party—the only party that exists in Panama. I am informed that both his father and mother were Communists. We might just as well turn the canal over to the Soviet Union. This is nothing but a blackmail scheme by the Communists in Panama to get the equivalent of 700 million dollars from the United States along with the canal or twice the cost of the canal.

To me it is almost treasonable, aiding and abetting our enemies and in case of war, it would amount to treason. I hope when you have a chance to read the contents of the treaty, in which we agree not to build any other canal and in which we have no right to defend it after the year 2000, other provisions affecting adversely the interests of our own American wage earners in Panama, that you will consider, or at least not be active or use your influence for it with the Senators. Polls show that 2 or 3 to 1 are opposed to it everywhere and I believe as soon as the truth is known, that it will become ten to one.

I have always been on the side of peace—I opposed World War II until the attack on Pearl Harbor. I opposed the war in Vietnam and I am still opposed to war with the Soviet Union unless attacked. For that reason I urge strengthening our nuclear defense so no nation would dare attack us.

I honestly believe that if the Senate ratified the treaty, it would be the grestest Communist victory since Yalta and start an epidemic of sequestration of American property throughout the world. And that even the NATO will lose faith in our reliability to keep our commitments to them if we surrender the American canal to a Communistic government in Panama.

Mr. Kissinger, who prevented President Ford from seeing Solzhenitsyn, the greatest freedom fighter in the world and opposed Ford's three defense recommendations in his last speech to Congress is now more responsible than anyone else in aiding and abetting our enemies.

With kind regards and best wishes.

Sincerely yours,

HAMILTON FISH.

The veteran organizations; the American Legion and the Veterans of Foreign Wars, non-partisan organizations composed of Democrats, Republicans and Independents, have taken a very outspoken stand against the surrender of the American canal. Why? Because it is against our own security and strengthens the power of the Communists. I take the position openly and without any apologies to anyone, because this is a free country and I believe in the rights of all people to that freedom that does not exist in the Soviet Union, to say to this distinguished Senate committee that to turn over the canal to the Communist government of Panama is aiding and abetting our enemies and verges on treason. If it was in time of war it would be treason. Furthermore, I believe politically that 75 to 90 percent of the American people are unalterably opposed to this surrender to the Communists. If the treaty is adopted, Watergate would be a mere mosquito bite. If elected public officials, supposed to represent their people back home, defy them and surrender this canal, built by Theodore Roosevelt and the American people 68 years ago, and run efficiently ever since, to the Communists, that is their privilege.

There is probably not a single state that in any referendum, would support this blackmail treaty, aiding and abetting our enemies. No wonder that the American Legion, the Veterans of Foreign Wars and at least two-third of the members of the Democratic party, which control this Administration, are bitterly opposed to the surrender of the canal.

Any Senator, naturally has the right to vote any way he wants and to give his reasons. I am not here for the purpose of trying to prevent any Republican or Democrat from committing political suicide. I am not here even in behalf of my own party, for if I were, I would remain silent and hope that the treaty be adopted and that would bring back the Republican party in the biggest landslide that ever occurred. But I am here as an American who loves our country and wants to see its nuclear defense weapons strengthened immediately so no nation would ever dare attack and destroy the United States. And in conclusion I quote a statement made by Max Eastman, a well known former pro-Bolshevik radical and Socialist who said: "One thing, one thing only can save freedom and democracy and that is a clear and bold understanding. Freedom and democracy must have from its leaders incisive and uncompromising exposures of the barbaric nature of the Communist society and the devious methods of the Communist attack. The closer our military and economic cooperation may be, the more pitiless must these exposures be. You cannot save democracy by shutting your eyes to the horrors of

dictatorship. You cannot stop the night from falling by turning the lamps down."

In case any supporter of President Carter when a candidate for office a year ago pledged never to surrender "actual control of the canal", should take exception to my criticism of the President or members of his administration, let me quote what former President Theodore Roosevelt said: "To announce that there must be no criticism of the President or that we are to stand by the President, right or wrong is not only unpatriotic and servile, but is morally treasonable to the American people. Nothing but the truth should be spoken about him or anyone else, but it is even more important to tell the truth—pleasant or unpleasant—about him than anyone else."

President Theodore Roosevelt was the most courageous and popular President in the last 100 years and if he had lived one year longer, he would have been nominated by acclamation for President by the Republican party, and would have been overwhelmingly elected. He was the sponsor for the building of the canal and as "a great admirer and supporter of T.R. having left the Republican Party to be elected three terms on the Progressive or Bull Moose ticket to the Assembly, I knew him politically and personally, probably better than anyone alive today except his own family. The very attempt to undo what he considered one of the most constructive acts in his great career is like impeaching him or sticking a dagger in his back in his grave at Oyster Bay. I would be derelect to the memory of this great American President if I did not raise my voice to defend his honor, integrity and patriotism.

THE FEAST OF ST. GERARD MAIELLA

HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 13, 1977

Mr. RODINO. Mr. Speaker, I would like to call to the attention of my colleagues a very special celebration to be held in my home district this weekend, one in which I traditionally participate. It is the feast of St. Gerard Maiella, an annual celebration that has been a part of my home parish of St. Lucy's Church in Newark for 78 years.

The person who the feast honors, St. Gerard, was a humble man who led a simple but meaningful life. Living in the town of Muro, Italy in the mid-18th century, he was an apprentice to a tailor when his religious faith guided him to the monastery of the Redemptionist Brothers. He continued his craft as a lay brother in the monastery, while doing good works for the people of his community. The life of St. Gerard provides us with an example of deep faith and human compassion, of diligence to his craft and commitment to his church—even without the formal recognition of becoming a part of the monastic order.

In the spirit of St. Gerard, my friends and neighbors have joined together in the St. Gerard Men's Society and the St. Gerard Ladies Guild of Newark to do good works for almost a half century now. In recognition of their community service, I am proud to mention a special honor of this year's feast. The shrine of St. Gerard at St. Lucy's Church has been dedicated recently by Newark Archbishop Peter Gerety as a national shrine.

In honoring the St. Gerard Shrine at St. Lucy's, we are also remembering the late Gerard Spatola, a very active member of St. Lucy's parish, who helped make St. Lucy's the heart of my home community.

And it is thanks to his daughter, my good friend Mrs. Geta Spatola O'Connor, that we have our 3-day celebration this weekend. Geta, who is president of the St. Gerard Ladies Guild, and her husband Gerald O'Connor, who is president of the St. Gerard Men's Society, planned the feast along with the most reverend pastor of St. Lucy's Church, Father Joseph J. Granato.

This weekend's feast is a time when the faithful gather together to pay tribute to the saint whose simple humanity and unshakeable faith have given strength to our community for generations.

HEALTH CARE IN THE ARMED SERVICES

HON. THOMAS J. DOWNEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 13, 1977

Mr. DOWNEY. Mr. Speaker, yesterday the Military Personnel Subcommittee of the House Armed Services Committee held hearings on the general quality of health care delivery in the armed services. A portion of those hearings were devoted to a particularly critical situation at the Oakland Naval Hospital in California.

The Oakland Hospital has been suffering from serious equipment and staffing shortages for some time, as is the case with most major military medical facilities. These specific deficiencies have resulted in tragic consequences, which I have been investigating. My office has uncovered at least seven deaths and numerous injuries due to the general shortages at Oakland. Additionally the overall morale at Oakland and throughout the military medical corps is at an all-time low.

Various members of the Oakland house staff have tried to correct the situation there, but have unfortunately met with marginal success. It was only after one courageous doctor went public with revelations of shortages and unacceptable health care that the Navy began to take the Oakland situation seriously.

I would like to publicly thank Mr. Michael T. Rose of the law firm Robins, Davis & Lyons of St. Paul, Minn., for his invaluable and untiring help. His assistance in preparing my testimony and general remarks has resulted in an excellent set of opening hearings into this most serious matter.

I would also like to convey my appreciation to Robins, Davis & Lyons for permitting Mr. Rose, an acknowledged expert in the field of military law, to travel to Washington for these hearings.

WILDERNESS AREA IN VIRGINIA

HON. G. WILLIAM WHITEHURST

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 13, 1977

Mr. WHITEHURST. Mr. Speaker, on June 22, 1977, I introduced H.R. 7970, a bill to designate certain lands within the National Forest System in Virginia as wilderness. At the same time, I inserted in the RECORD a description of the various areas which would be affected.

In further reference to my bill, which I believe is an important step toward protection of the remaining wilderness in the eastern part of our country, I am pleased to take this opportunity to share with my colleagues an article which appeared in the October 1977 issue of Commonwealth, the magazine of Virginia. The article, entitled "Ah, Wilderness," was written by Randy Johnson.

I hope that my colleagues will give this material full consideration, and I would welcome cosponsors for my bill.

AH, WILDERNESS

(By Randy Johnson)

Why are citizens groups like the Virginia Wilderness Committee lobbying for federally protected wilderness areas in Virginia when almost two million acres of National Forest already exist? Focusing on areas that may contain Virginia's last remnants of virgin forest, a strong movement among conservationists, fishermen, backpackers and other concerned citizens is aiming its appeal at Congress this fall. The supported legislation, introduced by Rep. G. William Whitehurst, will extend the protection of the Wilderness Act to five parcels of land in Virginia's National Forests, where, as part of the National Wilderness system, the processes of nature would be allowed to dominate.

Few Virginians have been as affected by the appeal of the state's wildlands as John Connelly. As the owner of Richmond-based Alpine Outfitters, John has watched his business grow from one store to three in seven years. Although he worries about the ecological impact on the outdoors of the hikers he has equipped, he views his role philosophically: "I rationalize this by saying that these people are going to buy the equipment anyway, so if they buy it from me I can emphasize the conservation techniques of camping. The more people that go out and enjoy the outdoors the more people there are to write to their representatives in support of wilderness designation. If nobody knows about it then nobody cares."

John explains the popularity of backpacking and his shops demographically: "The majority of our customers are in the 21 to 35 age group, in the middle and upper middle income bracket, and they are typically

college-educated, many with graduate degrees." Besides resembling many of Richmond's leisure-oriented young professionals, those frequenting Alpine Outfitters appear similar to the typical wilderness user described by Forest Service studies. But, like Virginia Wilderness areas, John's customers are by no means typical. "Right now we have a program going with the Manpower Authority in Norfolk and we're taking 50 underprivileged kids into the outdoors, many of whom have never seen the mountains. We're taking them up near the James River Face Wilderness for swimming, canoeing, and backpacking. Just today I got an order from the Bon Air Learning Center. The Corrections people in this area are taking problem kids out and doing outdoor things. They've had psychologists find that, after these trips, the kids self esteem and confidence levels are much improved. The therapy of wilderness!"

Like most who try, John finds it difficult to explain the lure of the wild areas. "Why does anyone climb any mountain? It's pretty neat being up there, if only for a few minutes; it does something to you, to me anyway."

From the standpoint of that indescribable aura of the wild, Virginia's wilderness proposals are pertinent indeed. Both the Ramsey's Draft and the Rich Hole Wilderness proposals involve huge stands of virgin spruce and hemlock that tower over the deep shade beneath their crowns. Neither of the areas has ever felt the logger's saw. Ramsey's Draft, the St. Mary's River acreage is an enclosed watershed, hemmed in by a horseshoe of mountain ridges which drain into the Shenandoah Valley over the spectacular waterfalls and cascades of the St. Mary's River.

The Mountain Lake Wilderness acreage is a highland plateau which sits squarely on the Eastern Continental Divide; the streams on its Eastern flank flowing to the Atlantic and those on its West flowing to the Gulf of Mexico. In addition to possessing its own stand of virgin forest, the Mountain Lake area is noted for its mature hardwood forest and the unbelievably lush blanket of ferns flourishing beneath it. The Peter's Mountain territory is also a fine hardwood forest distinguished by a high mountain bog, where grows the round-leafed sundew, one of those extraordinary plants which seizes and eats insects. The St. Mary's River is also the site of a rare high mountain pond. These botanical rareties illustrate the ecological reasons why preservationists feel these unique areas require wilderness status. The Wilderness Act emphasizes the need to preserve areas where a constant genetic pool of common and rare plant and animal species can survive for scientific study. The scientific and educational emphases of the Wilderness Act are especially germane to Virginia's Mountain Lake proposal, where the University of Virginia's Biological Research Station is located. If given wilderness designation by Congress, the station's long-term studies of this Southwestern Virginia wilderness could continue without risking interference by man. The Wilderness Act, prohibiting timber harvesting and motorized travel in designated areas, provides the solitude and challenge associated with backpacking while assuring that mature forests of unharvested timber will retain the primeval and virgin scenery associated with wilderness.

What about those who don't care to heft a 50-pound pack for an extended trek into the wilderness? Marvin Garrette, assistant managing editor of the Richmond Times-Dispatch, personifies the hiker who occasionally likes to get away from "things like police radios and ringing telephones" to a place "to take my kids walking." Some opponents of wilderness designation fear that the lack of motorized access to wilderness will inhibit its use by the average citizen, not to mention the aged or the handicapped. Preservationists stress the generally small size of the Virginia areas proposed for wilderness designation and the fact that day hiking, like that preferred by Garrett, is perhaps the primary use of these areas. The Virginia Polytechnic Institute and State University Outing Club publishes a short hiking guide that includes many day hikes in nearby wilderness proposal areas as suggestions for students with limited time.

The proposed Ramsey's Draft and Mountain Lake Wildernesses are especially suited to family day hikes. Since the 1940s the Augusta County Garden Club has maintained a short nature trail through the giant hemlocks of the Ramsey's Draft. The proposed Mountain Wilderness preserve is easily explored by a short loop trail that winds through mature hardwood forests, passes a virgin stand of hemlock and returns past a viewpoint and a stand of mountain laurel that blooms brilliantly in June.

Wilderness proponents point out that Virginia, with its Skyline Drive, Blue Ridge Parkway, and numerous roads to mountain summits, has ample facilities for those who require a motorized glimpse of natural terrain. Is it too much, they ask, to protect some of the last stands of virgin forest in Virginia to balance the trend that has for decades eroded the wilderness?

Like many Virginians, Garrette has reservations about increased participation of the federal government that he feels might accompany wilderness designation. Yet the land proposed for protection is already part of the National Forest and, in Garrette's view, "If you look at it with any understanding of Virginia history you see what has happened to wilderness if you don't put in some restrictions.

"I think it has to be designated a wilderness area," he continues, although "the government has hurt some areas, like the James River, in attempting to help them when they should be protecting these areas where you have to get a couple of scratches or burrs in your hair."

Wilderness preservation does have its opponents. Often those opposing statutory wilderness charge that much needed harvestable timber is "locked up." Virginia wilderness seems exempt from this charge, not only because the size of the proposals are small in comparison to those in the Western United States, but also because four of the five Virginia areas are already classed by the Forest Service as noncommercial timber. Both the Peter's Mountain and the St. Mary's River areas produce poor quality commercial timber on slopes too steep and rocky for logging. The timber in the Ramsey's Draft and Rich Hole areas is also classified as noncommercial in order to protect the scenic value of the giant hemlocks. The inclusion of these lands in the wilderness system will add legislative permanence to what conservationists fear may be only temporary concern by the Forest Service.

At present, with but one statutory wilderness in Virginia, 8,800 acres of 1,600,000 in Virginia National Forests are protected as wilderness. If all the areas proposed are approved by Congress, something less than 4 percent of the total National Forest acreage in Virginia would be affected. When one considers that an area like Ramsey's Draft harbors the state's largest hemlock and one of the few "natural balds" in this part of the Appalachians, then "locking up" these areas appears to its supporters an admirable goal.

One Virginia organization on record against wilderness designation is the Virginia Bear Hunters Association. In their opposition to the legislation, the bear hunters emphasize the banning of motor vehicles from wilderness areas as a restriction on their and others ability to use the areas. Ironically, supporters insist, the Wilderness Act in no way restricts wilderness proponents are anti-hunter. The hunting despite the bear stalkers' charge that hunters' emphasis on the banning of vehicles from these small areas seems all the more puzzling when one considers that most of both the Jefferson and George Washington National Forests are open to hunting and accessible by vehicle. In addition, large acreages are maintained as Wildlife Management Areas where habitat is specifically manipulated to promote forage for game animals.

In viewing this situation, preservationists emphasize the importance of large tracts of roadless and undisturbed forest that black bear require to maintain a healthy breeding population between hunting seasons. Michael Penfold, supervisor of the Jefferson National Forest, is charged with the responsibility of weighing the two sides of this conflict before he and his staff make their recommendations opinion of the wilderness proposals. When asked if bear hunters are simply averse to carrying their kills out of the woods without the aid of a vehicle, Mr. Penfold responded "That's certainly part of it. The basic technique for bear hunting with dogs is one of putting the dogs on the bear and following your prey by road system, so bear hunters want roads open. However, in terms of bear habitat you need to have roads closed. It's kind of a conflict and in terms of the Jefferson proposals, the roads have already been closed so there isn't a drastic change in management." As in the Jefferson, the roads traversing proposed wildernesses within the George Washington National Forest have also been closed making access by vehicle unlikely whether or not wilderness status is granted by Congress. Ramsey's Draft, St. Mary's River, and Rich Hole have large populations of black bear with hunters constituting a large number of the Virginians using these areas. When hunting seasons ends, the protection of the Wilderness Act would further ensure that the black bear, deer, grouse, bobcat, turkey, beaver, grey fox, and other rarely seen species that populate Virginia wildlands would have the room and remoteness to rear their young.

Wilderness often combines ecological and wildlife benefits with recreational ones. Like the mutual benefits to hunter and hunted, wilderness provides the assurance that wild streams, on the one hand, will remain free-flowing and unpolluted, and on the other hand, will continue to provide anglers with native trout to outwit. The Ramsey's Draft is enormously popular with fishermen, as is the St. Mary's River. The Rich Hole also supports native brook trout in all its major streams.

The problems attributed to recreational use may be the most controversial objection to statutory wilderness. Litter, overcrowding, and the deterioration of facilities which have accompanied the recreation boom of the last few years have led some rural residents to envision hordes of strangers and city folks descending on them in search of the ideal wilderness, bringing all their urban ailments with them. This situation prompts a Forest Service policy of nonpromotion in Virginia's first wilderness and presumably in those that are proposed for inclusion in the legislation before this Congress. "Right now we're following a policy of quiescence; you won't see any signs on maps or on the Blue Ridge Parkway saying 'the James River Face Wilderness'," says Forest Supervisor Penfold.

It's understandable that rural residents prefer those uses of our National Forests that bring revenue into local economies or emphasize traditional uses like hunting. In making its recommendations to Congress, the Forest Service has to balance the needs of local residents against the sometimes national significance of public land. The relative lack of appropriate wild land in the East makes the protection of wilderness one such balancing act between local and national goals. "I think there is a need for

wilderness designation in the East," reflects Mike Penfold. "If you look at the land ownership patterns, the opportunity for appropriate forest land, it has to be provided and it boils down to the responsibility of the Forest Service in the absence of any similar state or private land."

Not that every wilderness area proposed is therefore worthy of designation. "In terms of studying wilderness and other roadless areas for inclusion, we need to get it out of the realm of controversy and emotionalism and deal with it on the basis of the best use of the resource. If we don't, the first national crisis on timber will erode the worst wilderness areas from the system and begin a dangerous precedent. Wilderness preservationists should ponder this," warns the Jefferson National Forest supervisor.

Most important to wilderness proponents is the understanding that wilderness is not just a recreational resource. As today's wilderness recreationist gets older and the leisure boom moderates, the emphasis on wilderness recreation may very well be replaced by an emphasis on the ecological and scientific importance of these undisturbed natural environments. When this occurs, whether one visists wilderness or not, one may benefit from its existence.

Concern for the long term preservation of these ecologically balanced enclaves is perhaps the driving force behind those who write letters and lobby for Congressional action on wilderness. In the instances where the Forest Service is currently managing these areas for their scenic, not commercial value, conservationists worry that changing priorities could wipe out what remains of the primeval forest that once covered Virginia.

Wilderness proponents urge that, as citizens of a state that values its historical landmarks, Virginians base their present efforts in an appreciation of the past. If those working for wilderness are successful, Virginians would not only be able to proudly claim places like Mount Vernon, but also the last remnants of a wilderness heritage that stood even as George Washington himself surveyed it.

FIREMEN—OUR BEST FRIENDS

Hon. John E. "Jack" Cunningham

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 13, 1977

Mr. CUNNINGHAM. Mr. Speaker, this week is National Fire Prevention Week as designated by Congress. Many designations of special days or weeks are merely honorary. However, the observance of National Fire Prevention Week is a most serious matter. Last year over 700,000 families were struck by flaming disasters. Lives are lost and untold millions of dollars are wasted each year due to fire.

Fire Prevention Week dramatizes the need for more effective communication with our citizens to help them save lives and property—lives and property that are sometimes lost due to a failure to adequately prepare for and prevent fires.

Mr. Speaker, for the past 2 weeks my staff and I have had the privilege of having a fireman from my home district in Seattle serve as a special projects intern in our office. Mr. Robert H. Clark, a 19-year veteran of the Seattle force is a fine example of all our Nation's firefighters. Men dedicated to saving the lives of our citizens. Men with particular traits designed to cope with waiting for and coping with disaster.

Bob Clark performed a great service for me. As Members of this body know, we are faced with a wide variety of issues in our day-to-day work. Sometimes we may not have the time to fully explore those issues and problems facing various segments of our society. Bob shared his expertise with my staff and myself and I can say that now we are aware of certain problems facing those in the firefighting profession. These problems range from training programs, arson prevention, pension plans, and a myriad of others.

The experience of having Mr. Clark in our office was both illuminating and enjoyable. I urge my colleagues to consider implementing an intern program such as this and to get to know the men who fight fires. They may be our best friends.

I congratulate Bob Clark and every single fireman in this Nation for their hard work and devotion to duty.

FLUIDIZED BED COMBUSTION

HON. TIM LEE CARTER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 13, 1977

Mr. CARTER. Mr. Speaker, over the past few weeks I have been inserting in the RECORD information concerning a new process for burning coal known as fluidized-bed combustion (FBC) system. The two previous inserts can be found in the Extensions of Remarks on September 20 and on September 23.

To briefly review the information in those articles, FBC uses sized and crushed coal and limestone that are mixed in a heated chamber in such a manner that the mixture of coal and limestone is aerated to produce a mass of particles that behave like a fluid. The coal and limestone fluid is then burned. Water flows through coils that are submerged in the combustion chamber and is heated into steam.

The FBC process promises low sulfur dioxide and nitrogen oxide emissions coupled with high overall efficiency in generating heat and power. In addition, FBC boasts the capability of burning many types and grades of coal, including eastern coal, as well as municipal sludge and refuse, industrial and agricultural cellulosic waste material, oil shale, and petroleum fractions. Also, FBC offers low capital and operating costs as compared with conventional coal-fired boiler systems.

With these articles on FBC, I have been trying to bring to the attention of every Member that there is a need for more research and development into cleaner and more efficient methods of burning coal.

Coal is a vital part of this Nation's energy future. In the development of the national energy plan, we have found that the well-being of the United States will depend heavily upon a continuous and secure supply of fossil fuels and especially, on a greater use of America's coal.

Why is America's coal so important? The General Accounting Office in a report entitled "U.S. Coal Development—Promises, Uncertainties," states that—

> It (coal) represents 90 percent of the Nation's total fossil fuel reserves. Yet, it currently supplies only 18 percent of energy needs. Coal's importance grows, however, when you consider that domestic oil and gas supplies are limited, and declining rapidly . . . and that the dependence on (uncertain) foreign energy sources continues to increase.

It is well established that coal constitutes a secure and abundant alternative energy source. Increased use of coal would greatly reduce the amounts of oil and gas used by the utility and industrial sector. It would thus make domestic supplies of these fuels available for the unique requirements of the residential, commercial, and transportation sectors of the economy.

It is expected that coal will provide for at least one-half of our domestic energy needs by the year 1984. Such an increased use of coal would help in balancing our foreign trade deficit and lessen the U.S. dependence on foreign energy supplies.

Most important, the increased use of coal for heat and power would benefit not only the coal mining regions of the United States but would ease the supply problems facing the energy-starved Northeast, the cold Midwest, and, to a great extent, all other areas of this great country of ours.

Mr. Speaker, fluidized-bed combustion is one technology being developed to provide more clean and economically efficient ways to use our vast coal resources to meet national energy needs. The objective of the Federal Government's coal program is to develop, on an accelerated and cost-effective basis, technology that will permit rapid commercialization of processes that are technically and economically sound, environmentally acceptable, and which represent efficient use of natural resources. The FBC system has been given optimistic reviews by both the Energy Research and Development Administration and the Tennessee Valley Authority with respect to these objectives. ERDA and TVA have pilot projects underway which have every indication of success.

I am pleased to insert into the RECORD today a summary of a report entitled "Application of Fluidized-Bed Technology to Industrial Boilers." This report summarizes a new area in which the FBC technology is being applied successfully: industrial boilers. The manufacturing industries that consume most of the industrial boiler fuel in the United States include chemicals, petroleum refining, paper, primary metals, food, and many other industries. The application of the FBC process to industrial boilers is one design, a step away from being put into commercial use. ERDA has funded several projects on FBC. Among these are the Georgetown University/Fluidized-Bed Combustion Corp. and the Exxon Research and Engineering Co.

The report that follows was written by M. H. Farmer, E. M. Magee, and F. M. Spooner of the Exxon Research and Engineering Co., Linden, N.J.:

SUMMARY

This study is a small part of the Government's program to develop coal-fired fluidized-bed combustion technology. The study is confined to industrial boilers, and the purposes are to determine the potential for applying coal-fired FBC to industrial boilers with a firing rate of at least 100 million BTU/Hr. and to assess the various impacts associated with deployment of the technology through the year 2000.

A survey of operators of large industrial boiler systems shows that the installation of coal-fired FBC boilers will be considered when:

The reliability of FBC technology is commercially demonstrated to achieve continuous boiler operation of about one year duration and with effective control of emissions.

The economics of FBC technology are demonstrated to be competitive with alternative ways of firing solid coal.

The principal alternatives with which FBC must compete are:

Use of low sulfur "compliance" coal in a conventional boiler, with an electrostatic precipitator (ESP) to control particulate emissions.

Use of high sulfur coal in a conventional boiler, with a flue gas scrubber to control SO_2 emissions and particulates.

The economics of these alternatives have been developed in 1975 constant dollars, for a Gulf Coast location, on a basis excluding the cost of coal itself, whether it is of compliance quality or high sulfur. As an example, the results for alternative technologies are shown below for the case of adding a single coal-fired 100 KPPH industrial boiler system at an existing manufacturing plant that has a petroleum-fired boiler system.

SINGLE COAL-FIRED BOILER SYSTEM ADDING TO EXISTING OIL-FIRED PLANT

[Steam cost (ex. fuel) in 1975 dollars per thousand pounds]

	High-sulfur coal		Low-sulfur "compliance" coal	
	FBC	Conventional with scrubber	FBC	Conventional with ESP
100 KPPH	3.59	3.95	3.15	2.90
400 KPPH	2.49	2.83	2.05	2.01

The estimates (based on current FBC costs) indicate a distinct advantage for FBC technology over conventional coal-firing plus flue gas scrubbing for high sulfur coal. With compliance coal, results are a stand-off in cost at the larger size, with a moderate advantage for conventional firing at the 100 KPPH size. All FBC costs (in constant dollars) are expected to improve significantly as this new technology matures.

FBC technology has potentially important and even decisive, advantages that are not captured by the above estimates. The advantages include flexibility to combust different coals, good control of NO_x emissions, flexibility to readily achieve higher sulfur capture if SO_2 emission regulations are tightened, relatively unobjectionable solid wastes for which uses are under development, and ability to be fabricated and shipped in modules for simple field assembly.

However, it is important that commercial development should occur before the growing coal-fired industrial boiler market is preempted by other coal-use technologies. Preemption is possible if, at the time industrial decision-makers must make commitments to new boilers, other technologies are commercial while FBC technology has not been fully demonstrated. It is believed that the industrial boiler potential of FBC could be impaired if the technology is not demonstrated to be commercially reliable by 1981. Major Governmental funding of FBC development programs suggests that reliability will be demonstrated in time. The estimates of coal-fired FBC potential assume that this will be the case. On this basis, the most probable nationwide potential is estimated to be:

Year	Cumulative number of industrial FBC boilers	10^{15} Btu per year	1,000 bbl/d of oil equivalent
1980	7	0.01	5
1985	200	.29	136
1990	685	.99	462
1995	1,170	1.69	793
2000	2,050	2.97	1,400

Most of the estimated potential is expected to be in the chemicals, petrochemicals, petroleum refining, paper, primary metals, and food industries. Geographically, more than 90 percent of the potential is expected to be in regions that FEA has designated Appalachian, Southeast, Great Lakes, and Gulf Coast.

The FBC potential can be related to the value of manufacturing that is estimated to be supported by large coal-fired FBC boilers. For the above regions, the FBC-related "Gross Product Originating" is estimated to be:

[In billions of 1975 dollars]

Region	FBC-related GPO			
	1985	1990	1995	2000
Appalachian	3.5	12	22	30
Southeast	3.1	11	19	35
Great Lakes	3.1	11	19	36
Gulf coast	4.2	15	26	48
Total	13.9	49	86	159

The above estimates are for the "most probable" case considered and apply to existing manufacturing applications. Separate estimates were also made of maximum and minimum potentials and amount, respectively, to slightly less than double and approximately one quarter of the above figures.

Other estimates associated with the most probable potential are that:

The equivalent of 2000 industrial FBC boilers, with an average capacity of 200 KPPH and a cumulative erected cost of almost $6 billion (1975 constant $), would be installed through the year 2000.

Coal requirements for the FBC boilers would approximate 140 million tons in the year 2000, and would have an F.O.B. mine value of $2 billion.

Associated limestone requirements would be about 50 million tons in the year 2000, with an F.O.B. quarry value of $170 million.

Also, in the year 2000, emissions relating to the coal-fired FBC boilers in compliance with Federal Standards for new point sources, would approximate 48 million tons of solid wastes, 132,000 tons of particulates, 660,000 tons of NO_x, and 1.6 million tons of SO_2.

Despite the seemingly large estimates of emissions, examination of two Air Quality Control Regions (Metropolitan Houston-Galveston and West Central Illinois) suggests that utilization of FBC-technology industrial boilers is likely to have a much smaller impact on ambient air quality than (a) the impact caused by sources other than industrial boilers, and (b) the emissions impact of existing coal-fired equipment in regions that currently use coal to a significant degree. In the latter case and in the long run, a net beneficial effect is possible if FBC installation replace existing coal-fired units.

Low sulfur coals containing appreciable amounts of alkaline ash, when used in conjunction with FBC technology, may alleviate the problem of switching to coal from natural gas and oil. Available technical data are inadequate, and thorough experimental investigation of this important possibility appears desirable. Most Southwestern lignites, which also contain appreciable amounts of alkaline ash, are not compliance coals if combusted conventionally but may become so in fluid-bed units. This possibility is of considerable potential importance to industry located in the Gulf Coast area. Thorough experimental investigation appears desirable.

Compliance with New Source Performance Standards (NSPS) may not be sufficient in some industrial areas of the country which are already at, or beyond, the Federal or state/local limits for ambient air quality. The Metropolitan Houston-Galveston area (AQCR 216) is an example of a highly industrialized area, of critical economic importance to the nation, where current levels of particulates and NO_2 are close to the primary standards for ambient air quality. Directionaly, even with excellent control technology, coal use in new installations will make matters worse unless the existing situation is improved.

Where FBC technology is not the technology of choice, industrial boiler fuel demand is expected to be satisfied by a combination of:

Conventional use of compliance coal

Application of control technologies such as FGDS ("scrubbers") to non-compliance coal

Use of solvent refined coal or other forms of cleaned coal

Use of coal-in-oil slurries

Continuing use of oil and natural gas

Additionally, it is speculated that some industrial plants will purchase steam from central plants while others may substitute electricity for steam in some industrial processes.

COFFEE VERSUS OPIUM

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 13, 1977

Mr. DERWINSKI. Mr. Speaker, the Chicago Tribune's distinguished columnist, Bob Wiedrich, very effectively discusses the new crop substitution program aimed at eradicating the opium poppy crop in his column of Tuesday, October 11. This program could have a dramatic effect on the international drug racket.

His column directs attention to the overall importance of the new Asian coffee market:

THAI COFFEE MAY CROWD OUT OPIUM

(By Bob Wiedrich)

LOS ANGELES—Some of northern Thailand's Meo hill tribesmen are converting their primitive economy from junk to java.

In fact, they are getting so adept at growing coffee beans instead of opium poppies that there are fears that the industrious Thai might become serious competitors on the Asian coffee market.

And that has prompted Kenya and several South American countries to balk at furnishing the Thias with any more seeds with which to carry out a program aimed at substituting other crops for the deadly but traditional opium.

Maj. Gen. Pow Sarasin, a Thai police official here for meetings with his American counterparts, disclosed the blacklisting of

Thailand in the world coffee marketplace during an interview.

"The nations of the world all deplore the international heroin traffic from Southeast Asia that has created an intolerable addiction problem for Western Europe," he said.

"But few of them seem ready to meet their responsibility with the kind of financial aid necessary to end the production of 600 tons of raw opium a year in the Golden Triangle region of Southeast Asia."

Right now, Gen Sarasin said, Thailand only has 500,000 young coffee trees under cultivation by about 1,000 Meo tribesmen living in some 25 villages near the junction of the Thai, Laotian, and Burma borders.

Under a $2.3 million, five-year United Nations crop substitution program that ends this year, the hill people have slowly discovered that growing coffee and other crops can be just as financially productive as raising opium poppies on the hillsides.

This year saw the first harvest of Thai coffee grown at altitudes of more than 3,000 feet.

And the report received from an impartial expert in Geneva, Switzerland, is that the initial crop is of very high quality.

"Bearing in mind that the coffee tree lasts between 50 and 100 years and that villagers are now asking for 30,000 to 40,000 seedlings for each village, we can see the beginning of a settled agriculture and prospects of an income that will satisfy these people," Gen. Sarasin said.

The Thai government has asked the UN for a three year extension of the crop substitution program, the bulk of whose funds come from the United States.

However, it is Sarasin's conviction and that of the Thai royal government, that the nations of Western Europe also should make greater contributions to Southeast Asian opium eradication.

Because, as Sarasin points out, at least 500 tons of the Golden Triangle opium comes from Burma on its way to Western clandestine markets.

And Thailand, because of its strategic location as a major drug trafficking route, also has become a victim country of the burgeoning smuggling operations.

In 1959, there were about 79,000 registered opium addicts in the country. Now, there are an estimated 300,000 heroin addicts in Thailand, 50 per cent of whom are between the ages of 14 and 25, injecting and smoking Southeast Asian heroin that often reaches 99 per cent purity.

Compare that with the 2 or 3 per cent average strength of the street level Mexican heroin being sold on most American streets and the extent of the Thai heroin problem becomes dramatically apparent.

Only the United States, with 500,000 to 600,000 heroin addicts, ranks ahead of Thailand in the severity of drug addiction.

Three years ago, 3½ pounds of raw opium sold for $200 to $250 at the Burma-Thai border. Now it sells for a mere $50.

"That means people are afraid to buy opium because of the fear of arrest," Sarasin explained. "The price has been down since 1976.

"In that year, our forces seized 642 kilograms [1,412 pounds] of heron. They arrested over 100 major traffickers.

"This forced the traffickers to stop moving opium in 10 ton quantities by caravan from Burma into Thailand. They have now started converting the opium to morphine base or heroin on the Burma side of the border. They are having to resort to individual body carriers to smuggle drugs through.

"And our goal—the game plan—is to keep the pressure on through enforcement efforts to keep the price down and to force the hill farmers to turn to other agricultural crops."

The average opium farmer used to derive about $250 a year from a half acre plot of opium poppies. Now he gets only $50 at depressed prices.

However, the same Meo tribesman can grow about $400 a year worth of coffee on the same half acre. And he also can plant another $60 worth of kidney beans a year between the coffee trees.

Cabbages are another crop that can share living space with coffee at a profit of about $350 annually per half acre, Sarasin said.

In all, the crop substitution program is teaching the hill people how to grow 17 different agricultural crops, including potatoes at $600 a half acre annually.

And there are long range plans for a coffee processing center at Chiang Mai, the last large population center in Northern Thailand before the jungles of the Golden Triangle embrace the mountainous terrain.

Obviously, eradicating the 50-ton-a-year Thai opium poppy crop isn't going to solve the problem. There still are the 550 tons grown annually in neighboring Laos and Burma.

But, as Sarasin explains, the hill tribesmen recognize no international boundaries. And good news travels fast. Burma has also started a crop substitution program with UN help. And there is hope that Communist Laos might do the same.

FOREIGN AID DOESN'T AID

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 13, 1977

Mr. DORNAN. Mr. Speaker, the issue of whether or not foreign aid actually helps the people of the countries concerned is one that comes before this body at frequent intervals. I would like to call my colleague's attention to an article on this subject, in the summer issue of Policy Review, a publication of the Heritage Foundation of Washington, D.C. The authors, Prof. Peter Bauer of the London School of Economics and John O'Sullivan, an economic journalist for the Daily Telegraph of London, present a perceptive analysis of the new international economic order (NIEO) as it was presented at such recent conferences as the Commonwealth Conference in London and the north-south dialog in Paris.

Their analysis covers the underlying assumptions of the proposed system, its likely results, as well as the value of its main policies such as greater foreign aid, stabilization of commodity prices, debt cancellations, and the transfer of technology. They point out that the material backwardness of Asia and Africa is not due to Western exploitation and assert also that Third World poverty is not as severe as often stated, due to problems involved with statistics and differing means of measuring income.

The authors conclude that the objectives of the NIEO—and of government-to-government foreign aid in general—are both undesirable and unattainable, especially since only a world government with extensive or almost totalitarian powers could enforce NIEO goals. I would like to insert their informative and interesting analysis of the actual effects of well-intentioned foreign aid in the RECORD at this time:

ORDERING THE WORLD ABOUT: THE NEW INTERNATIONAL ECONOMIC ORDER

(By Peter Bauer and John O'Sullivan)

In 1975, to mark Somalia's commitment to the ideals of the International Women's Year, the President announced that in the future women would enjoy equal rights of inheritance with men. Twelve Muslim religious leaders protested that this violated Koranic law. Whereupon they were shot.

This instructive tale should warn us that the liberal ideas and phraseology of the West, once transplanted to the Third World, often assume fantastic and distorted forms. We might bear this in mind when assessing the interminable discussions on the establishment of a "New International Economic Order" (NIEO) at the "North-South Dialogue" in Paris, The Commonwealth Conference in London and the numerous United Nations Conferences on Trade and Development (UNCTAD) and other UN gatherings in Geneva, New York, Nairobi, Delhi and wherever else luxury hotels are to be found.[1]

For, on the face of it, the NIEO boasts an impeccably Western, indeed English, genealogy. It is the most far-reaching application of Fabian socialist theories of wealth distribution, state control and economic planning to international economic relations yet attempted by Third World governments and their Western cheerleaders. In no sense, of course, is it new. Its Fabian inspirations apart, the various UN and other declarations, in which the NIEO is embodied, contain wearisomely familiar demands for still greater foreign aid; comprehensive schemes for "stabilizing" (i.e. raising) commodity prices, transferring technology and cancelling debt repayments by developing countries; and even hazy notions of restricting Western production of synthetic substitutes for Third World products.

But some little novelty is introduced in the arguments justifying these claims. No longer is foreign aid solicited as an act of charity. Indeed, charity is indignantly rejected as demeaning. Nor is it still justified principally as the means of ensuring economic development in less developed countries—though that remains a secondary argument. Today, in international forums, the large-scale transfer of resources from the West to the Third World is demanded as a *right*. It is presented as some small recompense for the West's unjust economic exploitation, past and present, which is alleged to have caused the poverty of the developing world. But the NIEO goes beyond even this. Its demands clearly imply that everyone everywhere should be entitled to a substantial income by virtue of being alive, regardless of economic performance.

Dr. Julius Nyerere, the austeritarian Tanzanian dictator, put these arguments succinctly during his 1975 state visit to Britain:

"In one world, as in one state, when I am rich because you are poor, and I am poor because you are rich, the transfer of wealth from rich to poor is a matter of right; it is not an appropriate matter for charity.

"The objective must be the eradication of poverty and the establishment of a minimum standard of living for all people. This will involve its converse—a ceiling on wealth for individuals and nations, as well as deliberate action to transfer resources from the rich to the poor within and across national boundaries."

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[1] For a restrained and relatively reasonable statement of the views of the proponents of the NIEO see a new book by a UN civil servant of Indian nationality: Jyoti Shankar Singh, *Toward a New International Economic Order*, N.Y., 1976.

Endlessly and sanctimoniously repeated, almost never rebutted, such arguments have not been without effect. Mr. Callaghan told Commonwealth statesmen that 650 million people had *per capita* incomes of less than $34 a year and that this was "the most serious challenge to our age and to our leadership." At the recent Paris Conference, the West, alias the "North," agreed to set up a commodity stabilization fund and to grant more aid, beginning with another $1,000,000,000 to the hardest-hit poor countries. And, expressing a general journalistic consensus, Mr. Keith Richardson of the *London Sunday Times* admits that the West enjoys a "disproportionate share of the world's wealth" (does it not also have a disproportionate share in creating that wealth?) and doubts if we can keep our present ill-gotten living standards.[2]

But are the arguments in support of the NIEO valid? And would the consequences of implementing it be those desired by the Third World's Western sympathizers? Or those experienced by the Somalis?

WAS LENIN RIGHT?

Is it, first, really true that Western prosperity is founded on the economic exploitation of Asia and Africa? For this seems to be plainly contradicted by common observation. Sweden and Switzerland, two of the world's richest nations, had no colonies at all and few direct economic contacts with the Third World. Portugal, on the other hand, which relinquished large colonies only recently, is the poorest nation in Western Europe.

Nor can the extreme poverty and backwardness of aborigines, pygmies, nomads and African tribesmen be due to exploitation in international transactions since these groups have almost no links with the rest of mankind. Indeed the usual relationship is between material backwardness and lack of external contacts. If we examine the "Fourth World" countries listed in the U.N. agency documents as least developed, namely Burundi, Chad, Lesotho, Ethiopia, Rwanda, Afghanistan, Bhutan, Nepal and Sikkim, we find that they are scarcely involved in trade with the West. Certainly their trading links are fewer and less extensive than those between the West and Malaysia, Hong Kong, Venezuela, South Korea, Singapore, Mexico and Taiwan—all relatively prosperous and developing rapidly in flat contradiction to NIEO reasoning.

Such examples clearly support the traditional pre-Leninist view of international trade, namely that it benefits both parties. In more modern jargon, it is not a "zero-sum game" in which one man's gain is necessarily another's loss. Western nations undoubtedly benefited from the access to raw materials brought by trade. Yet did not developing nations also obtain access to markets, to a variety of goods, to new ideas and information and to such complementary resources as capital, enterprise and specific skills? Without these, would not the Third World be much poorer today?

Moreover, even amongst developing countries with equal access to trade opportunities, some have prospered more than others.[3] Why? Surely the principal reason is that nations, peoples, tribes, communities and ethnic groups are not equally endowed with those qualities which mainly determine economic achievement. These are not, as is commonly supposed, plentiful raw materials and the supply of capital on easy terms, but aptitudes, social customs, motivations, modes of thought, social institutions and political arrangements. For it is these qualities which influence people's willingness to save, work hard, take risks, and to seek and develop the economic opportunities, however limited, that are available.[4]

How else can we explain the many startling group differences in economic performance where economic opportunities have been identical, or broadly similar, or even relatively unfavorable to the successful group—the Chinese, Indian and Malays in Malaya, the Asians and Africans in East Africa and the Greeks and Turks in Cyprus? Have not some groups "failed" in the narrowly economic sense because of such factors as a preference for the contemplative life over the active; a reluctance to undertake profitable tasks traditionally regarded as demeaning; and a social hierarchy in which mere economic success is not particularly esteemed? Why should such preferences necessarily be condemned?

HUMAN RIGHTS IN THE THIRD WORLD

In recent years, however, a less justifiable influence favoring poverty and economic backwardness has made its appearance—namely, the economic and other policies pursued by Third World governments. Everyone is well-informed about the expulsion of Asians from East Africa which, incidentally, at a stroke reduced *per capita* income in those countries and widened the gap between them and the heartless West. But, in general, Western liberal opinion has been strangely and culpably blind to the extent of the persecution of economically productive, perhaps relatively well-off, but politically unpopular minorities.

It ranges in kind from discrimination in employment to expulsion and even massacre, and geographically from Algeria to Burma, Egypt, Ghana, Indonesia, Iraq, Kenya, Malawi, Malaysia, Morocco, Nigeria, Sri Lanka, Tanzania, Uganda, Zaire and Zambia. So much for the theory that wealth is synonymous with power.[5]

And when such groups as the enterprising Indian community in Burma are driven out, they take with them scarce skills, the ability to generate capital locally and often an indispensable service to the local community. President Mobutu's expulsion of Greek and Portuguese traders from Zaire, for instance, caused a breakdown in the bush trading and distribution system. Farmers were thus unable to market their produce effectively: in some cases, planting stopped altogether.

Some regimes do not stop at persecuting minorities. Dr. Nyerere's government in Tanzania has in the last decade forcibly moved millions of people into collectivized villages, and sometimes simply into the bush. Among the methods of encouragement employed are the destruction of existing homes, physical force and barring recalcitrant elements from such social facilities as communal transport, beer shops, ceremonial dances and cattle auctions. The numbers of people subjected to this new life certainly runs into millions. Some estimates are as high as six to eight million (*The Washington Post*, May 6, 1975) and even thirteen million (*The Times*, April 20, 1977) out of a total population of fifteen million.

It is hardly likely that agricultural prosperity will be improved by this disruptive move to a variant of the collective farming that has been a disaster everywhere else. Another article in *The Washington Post* (February 7, 1977) reports that both food production and rural living standards have in fact declined. Is that perhaps the reason there is so little official data on the economic achievements of *ujamaa* policy, as a sympathetic official of the World Bank lamented?

Tanzania's general economic failure, relative to less ideological neighboring countries, is unmistakable. It has indeed provoked Dr. Nyerere into sour complaints that Kenya's prosperity is merely the tawdry jewelry of the harlot. He can hardly claim, however, that Tanzania aims at a higher goal than wealth—equality, spartan virtue, African socialism, or whatever. For, like a quiz contestant who asks both to open the box *and* take the money, President Nyerere demands that nations which have successfully sought enrichment should subsidize his nation's austerity.

That is only one, admittedly glaring example. Other government policies, which have served to impoverish further the people in developing countries, include restrictions on the inflow of foreign capital and on the activities of expatriates; the establishment of costly and inefficient state monopolies in trading, transport, banking and industry; widespread restrictive licensing on economic activity; penal taxation of small-scale farmers; the political diversion of resources to state-sponsored enterprises that cannot survive unassisted; and the suppression of private firms that inconveniently compete with them.

HOW POOR IS THE THIRD WORLD?

But the Third World is far from being a homogeneous, uniform group of countries, all sunk in an identical poverty that is irremediable without foreign aid. Numerous regions and groups there are actually more

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[2] Two recent articles in *Commentary* further elucidate a more critical view of the NIEO. See Peter Bauer, "Western Guilt and Third World Poverty," *Commentary*, January 1976 and Peter Bauer and B. S. Yamey, "Against the New Economic Order," *Commentary*, April 1977.

[3] Edwin J. Feulner, Jr. in *Congress and the New International Economic Order*, Washington, D.C., 1976, provides a brief and incisive comparison of two island economies, Sri Lanka and Taiwan:

"Another comparison is between the island nations of the Republic of Sri Lanka (Ceylon), a nation of 14 million and the Republic of China (Taiwan) a nation of 15 million inhabitants. Foreign capital was a major factor in the early post war development of both Taiwan and Sri Lanka. Then the government of the latter started a widespread nationalization program in 1961 and strengthened this in 1970 to form a national plan for a socialist society. The effect of these policies has been to limit the investment of new private funds in Sri Lanka. Per capita output has dropped from $128 in 1963 to $110 in 1974.

"The Republic of China was also essentially an agrarian economy but they have followed a policy of industrialization encouraging private investment by a liberalization of government control and tax concessions. Today Taiwan is one of the fastest growing economies in Asia. In 1967 output per capita was $209, in 1974 it had jumped to $700, second only to Japan among Asian countries. Even allowing for the possibility that significant error is present in the figures, the correlation between economic freedom (including private foreign investment) and successful development (and improved personal well-being) is vividly illustrated by these comparisons."

[4] A full-length analysis of the underlying conditions and of their economic importance is provided in Peter Bauer and B. S. Yamey, *The Economics of Under-Developed Countries*, Chicago, 1957. For a debate on some of these issues, see Barbara Ward and Peter Bauer, *Two Views on Aid to Developing Countries*, London, 1966.

[5] In order to carry out such policies a tame press is, of course, highly desirable. There has been much discussion among Third World nations (who disagree on many points but who tend to agree on this one) on the best means of insuring a controlled flow of information. The Fall 1977 issue of *Policy Review* will include an article by the American journalist, Jeffrey St. John, on this increasing tendency toward organized suppression of a free press. For a broad view of the decline of human rights around the world, see Robert Moss, *The Collapse of Democracy*, New Rochelle, N.Y., 1976.

prosperous than some in the West—compare Chinese communities in South-East Asia with much of rural Ireland and Southern Europe. And among Third World countries which have enjoyed rapid economic growth are South Korea, Taiwan, Hong Kong, Malaysia, the Ivory Coast, Kenya, Brazil, Colombia, Mexico, Venezuela and, of course, the oil states of the Middle East which were treated as less developed until 1973 despite high *per capita* incomes.

Properly considered, then, the Third World is little more than an arbitrary classification covering half the world's population and including societies ranging from millions of aborigines to populous cities—the composition of which is occasionally altered with an arbitrariness bordering on caprice. The developed world is only slightly more homogeneous. It would make little sense to talk of an income "gap," especially a "widening gap," between two such shifting classifications, even if the statistical bases for comparison were otherwise valid. Of course, they are nothing of the sort.

Professor Oscar Morgenstern, in his book, *On the Accuracy of Economic Observations*, quotes an unnamed civil servant as admitting: "We shall produce any statistics that we think will help us to get as much money out of the United States as we can. Statistics which we do not have, but which we need to justify our demands, we shall simply fabricate." His light-hearted approach is certainly not contradicted by the black comedy of the Nigerian population estimates. When Professor Peter Kilby, a leading independent American scholar, put the population at 37.1 million, the official 1963 census produced an estimate of 55.6 million—a figure not unconnected with the then government's need for inflated parliamentary representation. Even today, when parliamentary representation is of little moment in Nigeria, the UN's estimate of its population is ten million less than the Nigerian government's.

Honest statistics, however, would be only marginally less inaccurate. National income comparisons, for instance, are rarely adjusted for differences in age composition. Yet the proportion of children is much larger in developing countries than in the West. And both the incomes and requirements of children are lower than those of adults—not to allow for age composition in such statistics is to transform age differences into income differences.

Another major flaw arises from how changes in life expectation are interpreted statistically. In the last 25 years, mortality has declined substantially in the Third World. Since most people like to live longer and to see their children survive, this is surely an improvement. Without much doubt the standard of living of those who would otherwise have died has improved. But there are, as a result, more children and old people in the population. So this improvement is registered in national income statistics as a decline in per capita income and a widening of the gap.

The aggregate effect of these and other flaws is to exaggerate, often wildly, the poverty of developing countries and hence the gap between them and the West. In an article published in 1963, subsequently expanded into a book, Professor Dan Usher, who lived and worked for several years in Thailand, estimated on the basis of personal observation and sophisticated statistical analysis that living standards there were approximately one-third of those in Britain. Yet, as Professor Usher points out, calculations based on conventional statistics put per capita income in Britain at fourteen times that of Thailand, where accordingly the people must be "desperately, if not impossibly, poor." It is such Laputan estimates which form the basis of NIEO declarations, of presidential demands for "reparations" from the West and of Mr. Callaghan's conviction that 650 million people have to subsist each year on less than the goods and services that £20 would purchase in Britain or $34 in the United States, or one breakfast every three weeks with nothing left over for other meals, accommodation, clothing, medicine or any other goods and services.

So much for the arguments justifying the NIEO. What of its likely effect?

IS FOREIGN AID ENOUGH?

Let us first deal with two general points. Were the NIEO to be implemented seriously, it would clearly mean a transfer of resources from groups in the West to groups in the Third World. If people's aptitudes, motivations and economic capacities were everywhere the same and official policies broadly favorable, this could be achieved without a reduction in the wealth and income of mankind as a whole. NIEO documents often assume tacitly that this is so.

Yet we have already noticed that people's abilities to take advantage of economic opportunities differ very radically. And, paradoxically, this is confirmed by one of the NIEO's principal demands—namely, debt cancellation. For the argument that debtors face great, even insurmountable, difficulties in repaying loans means that the borrowed capital has been wastefully employed. Otherwise the incomes in recipient countries would have increased by more than the cost of the capital. This is further confirmed by the fact that the great proportion of Third World government debt arises from foreign aid loans on concessionary terms. Often the grant element in these loans has been over half the nominal value, sometimes over 90 percent. Moreover, the burden of debt has *already* been much reduced by inflation and by various disguised forms of substantial default.

The NIEO, therefore, especially in the form of debt cancellation, represents a transfer of resources from those who can use them productively to those who cannot. World income as a whole must therefore either fall or fail to rise as it otherwise would. If this effect were concentrated in the West, some NIEO advocates would presumably count it as a gain—a step towards a more egalitarian, if poorer, world. But, insofar as the West's income is reduced, so is its capacity to trade with developing countries, some of which in consequence share in this virtuous impoverishment.

Secondly, official wealth transfers go to Third World governments, not to the population at large. Inevitably, this increases the power of the ruling groups over their peoples—an effect often reinforced by the preferential treatment accorded to governments establishing state-controlled economies.[6] To Western supporters of aid programs, there is nothing objectionable in this. They enthusiastically urge vigorous state action to promote development and social and economic equality.

But this is where the Somali distorting mirror effect intrudes. For between the intentions of Third World governments and those of their Western sympathizers, there is a wide and widening gap.

It is the over-riding aim of almost all Third World governments to consolidate and extend their own power over their subjects. Surely this is patently clear from the policies they consistently pursue? Monopolies, valuable licenses and other privileges are granted to those who support the government, often very prosperous people. Quite small properties and businesses, on the other hand, are often confiscated wholesale. Small-scale producers of export crops have often been singled out for penal taxation at the hands of state export monopolies. And there have been countless instances of massive discrimination against poor members of ethnic minorities distinct from the ruling group, even though they may sometimes be indigenous to the country—such as Tamil plantation workers in Sri Lanka and Ibo clerks and laborers in Nigeria.

What have such policies got to do with promoting either equality or development? Very little. In fact, they hold development back. But they have a great deal to do with placating government supporters, winning over entrenched groups, making more and more people dependent upon government decisions for their economic success or failure, and depriving potential opponents, or merely disfavored groups, of power, advantages and even of their livelihood. Indeed, a Burmese cabinet minister was candid enough to admit privately that, although the expulsion of foreigners damaged the economic interests of the Burmese, he favored the policy simply in order to rid his country of aliens.

And, as for equality, some conspicuous beneficiaries of aid are relatively well-to-do, even very rich. They are rulers, politicians, civil servants, members of Westernized elites, businessmen close to the government and the more politically astute local academics—not to mention foreign economic advisers and employees of international organizations.

Would not the large-scale transfer of resources under the NIEO strengthen such governments in power, keep them financially solvent, help to conceal the disastrous results of their policies, and generally increase state power and politicization of society? And, in a contemporary politicized society, the rewards of political power rise proportionately; but the penalties of exclusion rise exponentially.

During Mrs. Gandhi's rule in India, well over ten million people were sterilized, very many forcibly, sometimes with great brutality and fatal results. According to an academic Indian report, which forms the basis of an article in *New Scientist* (May 5, 1977) the compulsory sterilization campaign included such methods as: organized manhunts; dawn police raids to catch people, physical force to hold down the victims; entire villages fleeing from sterilization squads; refusal to admit unsterilized people to hospitals; the withholding of licenses from taxi-drivers, rickshaw-drivers and others unless they could produce sterilization certificates; and the use of economic policy and civil service pay and promotion to foster the program "voluntarily." And the report noted significantly that compulsion was exercised on a partial basis. Administrators, the urban elite and local politicians were able to avoid it, even when they had more than the usual quota of children; whereas an almost random brutality was employed against poor people, village-dwellers and minorities like the Muslims, who rioted in consequence and were shot down.

[6] A clear-cut example of how government-to-government aid programs often enrich the class at the expense of the needy is given in an article entitled "Food Bungle in Bangladesh" by Donald F. McHenry (Ambassador Andrew Young's deputy at the UN) and Kai Bird (a journalist for *Newsweek International*). Writing in the Summer 1977 *Foreign Policy* they relate in detail how approximately 90 percent of the U.S. food aid to Bangladesh went to favored groups in the cities (bureaucrats, the armed services, rich businessmen, etc.). Practically none went to the starving people in the countryside. This sort of activity is not confined to the Third World, of course. *The Washington Post* on July 7, 1977, reported that a substantial amount of Small Business Administration funds intended to help minorities actually went to white (and prosperous) businessmen using blacks as fronts.

It is, of course, commonplace in societies that are both multi-racial and highly-politicized for minorities to find themselves economically ruined and even physically threatened. Who controls the government becomes a life-and-death matter, sometimes literally so. Asians have been expelled from East Africa, Ibos massacred in Northern Nigeria and the Chinese subjected to various degrees of discrimination all over South-East Asia. Naturally they suffer most. But such struggles, expulsions and civil wars also inflict extreme hardship on the rest of the population as, for instance, food shortages when the trading system breaks down.

Does all this sound a far cry from bland World Bank communiques hymning "partnership in development"? Well, in November 1976, at the very height of the compulsory sterilization campaign, Mr. Robert McNamara, the President of the World Bank and a large supplier of finance to India, congratulated the Indian Health and Family Planning Minister on his government's "political will and determination" in popularizing family planning. It is the Somali distortion again—some spice being added by the report that Somalia is Mr. McNamara's "second favorite African country." His "real African favorite," however, is Tanzania where he doubtless imagines an exciting development in rural democracy is spontaneously erupting.

Third World governments have nonetheless taken precautions against Mr. McNamara and others suddenly realizing what Somalia is really like. Into one of the NIEO declarations they have written the condition that: "Every country has the right to adopt the social and economic system that it deems most appropriate for its own development and not to be subjected to discrimination of any kind as a result." Discrimination here is broadly defined; it includes failure to provide aid.

DO THE POOR REALLY BENEFIT?

We have so far assumed that the NIEO will actually transfer resources from the rich to the poor. But will it do so? Take, for instance, one specific and widely-canvassed proposal to which Western countries have now reluctantly agreed—commodity agreements to maintain stable prices. If these are intended to transfer wealth from rich to poor, then they are inefficient to the point of perversity.

To begin with, primary producers of raw materials are by no means necessarily poor. The OPEC countries are an extreme example of the opposite—and were so long before 1973. Rich countries, in fact, are net exporters of major primary products and their close substitutes. Moreover, within the less developed world, those countries which export such products are generally to be found among the most prosperous. And, within the exporting countries themselves, the main beneficiaries of commodity agreements and higher prices are likely to be existing producers, the scheming administrators and politicians—all relatively prosperous people already.[7]

And how will such schemes work in practice? Commodity agreements can normally be maintained only if they exclude potential producers from entering the market. Only thus can supply be restricted and prices raised. Yet the excluded producers are usually poorer than those inside the cartel—and than those who otherwise gain, both internationally and within exporting countries. Their poverty is thus perpetuated.[8]

It is also noteworthy that most of the suggested agreements cover commodities (e.g., tea, rubber, copper) that are subsequently used in mass consumption products. Poor Third World countries are net importers of many of these. So the contrived increase in prices will tax consumers, often regressively, in rich and poor countries alike, at a time of world-wide inflation. And the experience of the OPEC cartel suggests that poor people will not be protected against these price rises by anything more substantial than rhetoric.

But commodity agreements also tend to be unstable. If the incomes of those inside the cartel are to be kept up, then not only must the supply of the commodity reaching the market be controlled effectively; so must the supply of its close substitutes. Yet the resulting high price itself stimulates the search for new sources and the development of new substitutes. So, save in very exceptional circumstances where control of a scarce and indispensable resource is confined to a few countries, any commodity scheme will succeed in raising prices for a prolonged period only at the cost of large sums of the money being tied up in unsold stocks.

In the meantime, while prices remain high, potential producers and excluded countries will grow increasingly hostile and restive. Why should they not be allocated export rights and quotas? Why should they be denied this arbitrary and guaranteed "license to print money"? Only massive international pressure could prevent them from undermining the agreement by introducing or expanding their competing supplies. International tensions far more destructive than those exhibited in the North-South dialogue would thus be stimulated by the scheme's continuance; and, should it eventually collapse, incomes and prices would fall through the floor.

It is clear, therefore, that commodity agreements would harm many poor people, benefit few poor people and enrich quite a number who are already prosperous. Some relatively rich people in the West might also be discommoded, but that is surely an insufficient benefit for so much waste, conflict and distress. So much for his cornerstone of the NIEO. Debt cancellation, as we have already shown, specifically benefits the improvident and affects the poorest least of all. And the transfer of technology, as expounded in NIEO documents, is a notion too vague and mystical for systematic assessment.

WOULD AN NIEO WORK IN PRACTICE?

But all this does not justify dismissing the NIEO as unimportant. If the "eradication of poverty" and the confining of income differences, both within and between countries, to within a narrow band were to be seriously pursued, then a far-reaching, intensive and persistent coercion would be required. Nothing less would remove or overcome the wide and deeply-rooted variety of attributes, motivations, values, customs, social institutions, living conditions and political arrangements of different countries, societies, groups and individuals which lie behind income differences.

NIEO advocates admit, for instance, that the use of substitutes and the application of new inventions in Western industries would need to be limited in order to protect commodity agreements and to maintain Third World export earnings. What else is this but the internationalization of industrial restrictive practices, maintaining high-cost production and thus harming the poorest everywhere? Yet if Western governments fail to enforce such luddite interventions, will they not be pressed to step up direct tax-financed wealth transfers by way of compensation? Indeed, Dr. Nyerere has obligingly made clear that they will be required to step up such transfers in any event—until world economic equality has been substantially achieved or, in practice, indefinitely.

But who will enforce these policies and transfers? Western governments acting voluntarily? Hardly. National governments acting under pressure from a combination of other governments, or from international organizations, in accordance with agreements they had thoughtlessly endorsed? Perhaps, but for how long? Would policies that substantially depressed or retarded the living standards of Western voters survive more than a few democratic elections? Again, hardly. Only a world government with extensive, or indeed almost totalitarian powers would stand a reasonable chance of enforcing such an economic order indefinitely.

And such powers would need to be exercised indefinitely. As with commodity agreements, the exercise of some powers would perversely create and reinforce economic differences rather than reduce them. They would thus be continually manufacturing the justification for their own existence: and if, for whatever reason, economic differences were to be reduced within and between countries, this would not abate egalitarian demands one whit. As Tocqueville observed, when social differences have narrowed, those that remain appear particularly offensive.

And, finally, the commitment to the NIEO is by its very nature open-ended. Third World incomes, as we have already seen, depend principally upon domestic factors, not on external donations. So any obligation to establish minimum living standards in the Third World, or to reduce international income differences substantially or to any specified extent, implies a completely open-ended Western commitment, determined by the Third World's performance. At the very least, international redistributive taxation would be required. Attempts to enforce this permanent, world-wide standardization, then, would lead to increasing international tension, a Hobbesian war of all against all, the spread of totalitarian powers and to further erosion of the West's power and influence.

Is it unreasonable, in the light of these considerations, to regard Dr. Nyerere's call for a world "ceiling on wealth" as "first and foremost a matter of political will and determination" as something more, and more sinister, than harmless cant? Or to hope that, when Western leaders warmly endorse the NIEO's objectives, they are simply indulging in the political equivalent of singing "Auld Lang Syne" on New Year's Eve?

In summation, the objective of the NIEO is, of course, quite unattainable. There is no prospect whatever of transforming the Third World into a series of prosperous, socially just, high-income Swedens by the methods proposed. But we might well create one, two, three, many Somalias.

[7] William Schneider, Jr., of the Hudson Institute, has written a useful book on this subject, *Food, Foreign Policy and Raw Materials Cartels*, N.Y., 1976.

[8] See Peter Bauer, "Foreign Aid Forever?" *Encounter*, March 1974.

HIGH CANCER RATES IN COUNTIES WITH PETROLEUM INDUSTRIES

HON. TIM LEE CARTER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 13, 1977

Mr. CARTER. Mr. Speaker, I should like to call to the attention of my esteemed colleagues a recent article about the pattern of elevated cancer death rates in counties where the petroleum industry is most heavily concentrated.

That article, from the October 7 issue of Science magazine published by the American Association for Advancement of Science, concludes that "further study is needed to determine whether these patterns result from exposure to chemical carcinogens, including polycyclic hydrocarbons, involved in the manufac-

turing of petroleum." Nevertheless, the statistics show significantly higher rates for cancer of the lung, the nasal cavity and sinuses, and of the skin in those counties.

On October 4, I had noted another Science article about a National Institute for Occupational Safety and Health sponsored study of which industries are most hazardous to their workers. That study indicated that the petroleum industry ranked as the sixth most hazardous in exposing workers to carcinogens or toxic chemicals.

While we are concerned about the on-the-job hazards to America's working men and women, I submit that this new article points to perhaps the greater concern about the possibility of a pollution hazard spreading beyond the workplace.

I want to stress that I note this information not as an attack on the oil industry but as further evidence that we need to continue the critical work of finding the causes of cancer and, where possible, eliminating them. We also need, as the article points out, further study before reaching final conclusions about what actually may be causing our alarming cancer incidence.

Mr. Speaker, I include for the RECORD this article about the cancer mortality in U.S. counties with petroleum industries:

CANCER MORTALITY IN U.S. COUNTIES WITH PETROLEUM INDUSTRIES

Abstract. A survey of cancer mortality from 1950 to 1969 was conducted in U.S. counties where the petroleum industry is most heavily concentrated. Male residents of these counties experienced significantly higher rates for cancers of the lung, the nasal cavity and sinuses, and the skin (including malignant melanoma) compared to male residents of counties with similar demographic characteristics. Further study is needed to determine whether these patterns result from exposure to chemical carcinogens, including polycyclic hydrocarbons, involved in the manufacturing of petroleum.

Polycyclic aromatic hydrocarbons (PAH) are found in crude petroleum, in the high boiling residues of catalytically cracked oils, in other pyrolysis products, in soots, and in air surrounding refining operations (1). Although exposure to PAH in several occupational groups has induced cutaneous and pulmonary cancers in man (1, 2), there has been no clear indication that petroleum refinery workers are exposed to excess risk (3). However, indirect evidence of a hazard was suggested recently by a national survey of lung cancer mortality indicating that such mortality was higher among males in U.S. counties with petroleum manufacturing industries, and by a Los Angeles study correlating lung cancer rates in census tracts to airborne levels of PAH emitted, in part, from petroleum refineries (4). To evaluate this issue further, we compared the mortality rates from various cancers during 1950 to 1969 in U.S. counties involved in petroleum manufacture with the rates in a group of counties with similar demographic characteristics but no involvement in the industry.

A total of 604 U.S. counties had plants engaged in petroleum manufacture (standard industrial classification code 29) according to the 1963 *Census of Manufactures*, although there were less than 20 employees in over one-third of these counties (5). Selected for study were 39 petroleum-industry counties (PIC) where at least 100 persons were employed and where the estimated number of workers divided by the county population exceeded 0.01. The fraction employed reached 0.07 in one PIC but was usually under 0.02. It was 0.017 for the 39 PIC combined, involving about 50,000 petroleum workers. The number employed by sex was not available per county, but national statistics show a predominance of male workers over female (ratio 7:1), with 95 percent of all of the employed being white (6).

TABLE 1.—*Demographic indices for the petroleum-industry counties (PIC) and control counties in 1960*

Indicator	PIC	Control counties
Percentage urban	74.2	71.1
Population density*	53.5	58.1
Median school years completed by adult population	10.6	10.7
Median family income	6083	5635
Percentage nonwhite	11.2	9.4
Percentage foreign parentage	10.5	11.1

*Population per square mile.

Nearly all the PIC were involved in petroleum refining, at least since 1940. Although located in 16 states, over one-half were concentrated in Texas, Louisiana, Arkansas, Oklahoma, and Kansas. The PIC ranged in population from about 5000 to 500,000 (median 37,000) as of 1960, the midyear of the study period, with a total of about 3 million.

For comparison, we selected 117 counties comparable by geographic region (same or neighboring state), population size, and various demographic indicators (Table 1). Non-petroleum manufacturing industries were nearly equally apportioned between the PIC and control counties, except that chemical manufacturing plants tended to occur in the PIC. In 11 of the 39 PIC the chemical and petroleum work forces were about equal. Only 6 of the 117 control counties had similar involvement (a fraction employed of at least 0.01) in the chemical industry.

Age-adjusted mortality rates during 1950 to 1969, for 23 cancer sites, were calculated among white residents in the individual PIC and control counties (7), in all PIC combined and all control counties combined, and in groups of PIC and control counties stratified by urbanization category. Standard errors were computed (8) for comparisons (Student's t-test) of the differences in mortality rates between the FIC and control groups.

Ratios of the age-adjusted cancer mortality rates among white males in the PIC to the rates in control counties are shown in Table 2. Mortality in the PIC was significantly high for all cancers combined. The largest ratios were for cancer of the nasal cavity and sinuses and for lung cancer. In addition, mortality was significantly high for cancers of the skin (both malignant melanoma and nonmelanotic skin cancer), testis, stomach, and rectum. Low mortality was observed for brain cancer.

Table 3 lists the mortality ratios for these cancers among white males in three groups stratified by population. The rates for cancers of the nasal cavity, lung, and skin were high for all three groups, while the excesses for other cancers were limited to highly populated counties (9). Among white females in the PIC, the mortality rates were significantly high for lung cancer but not for cancers of the nasal cavity and skin nor for all cancers combined (10).

The cancer patterns in the PIC may be due partly to the concomitant presence of chemical industries, which have been previously correlated on a county level with various cancers, including cancers of the nasal cavity, lung, and skin (11). For the 11 PIC with heavy involvement in the chemical industry, the nasal cancer mortality rate was exceptionally high, while the rate for the remaining 28 PIC exceeded the control rates to a far lesser extent (12). For lung and skin cancers, rates were also highest in those PIC with chemical plants, but the relative excess associated with the presence of both industries was not as great as for nasal cancer (13). Bladder and liver cancers, prominently correlated with chemical industry counties (11), were not excessive in the PIC.

If, in fact, the higher cancer rates in the PIC resulted mainly from the small percentage of males employed in the industry being exposed to petrochemicals, and if the remainder of the population were at normal risk, then the relative risk to workers would be substantial, particularly among subgroups exposed to hazardous processes. However, these correlations should be interpreted cautiously. Information was not available on the occupations or other exposures of county residents who died of cancer, or on their specific location or duration of residence within the county. Nonfatal cancers were not ascertained, and the information obtained from death certificates may not accurately reflect incidence. Although the PIC and control counties were generally comparable with respect to region, urbanization and socioeconomic status, there may be differences in other variables that influence the results.

TABLE 2.—*Ratios of age-adjusted mortality rates, 1950 to 1969, among white males in petroleum industry counties to those in control counties by cancer site*

Cancer site	*Ratio*
Buccal cavity and pharynx	1.04
Esophagus	1.06
Stomach [1]	1.09
Colon	1.02
Rectum [2]	1.07
Liver	1.06
Pancreas	1.05
Nasal cavity and sinuses [1]	1.48
Larynx	1.09
Lung [1]	1.15
Prostate	0.98
Testis [2]	1.10
Kidney	1.05
Bladder	1.02
Melanoma and other skin [2]	1.10
Brain [2]	0.94
Thyroid and endocrine	1.04
Bone and connective tissue	0.98
Hodgkin's disease	0.96
Other lymphomas	1.01
Multiple myeloma	1.05
Leukemia	1.03
All sites combined [1]	1.06

[1] $P<.01$.
[2] $.01<P<.05$.

TABLE 3.—*Ratios of age-adjusted mortality rates from 1950 to 1969 among white males in petroleum industry counties to rates in control counties separated according to population size for selected cancer sites*

Cancer site	Population (1,000's)		
	Less than 25	25 to 99	100 plus
Stomach	0.99	1.02	[1] 1.15
Rectum	0.85	1.01	[1] 1.13
Nasal cavity and sinuses	1.29	[1] 1.78	[1] 1.45
Lung	[2] 1.10	[1] 1.15	[1] 1.17
Testis	0.89	0.94	[2] 1.18
Brain	1.01	0.98	0.93
Melanoma and other skin	1.21	1.03	[2] 1.12
All cancers combined	1.03	[1] 1.05	[1] 1.08

[1] P less than .01.
[2] .01 less than P less than .05.

Nevertheless, the geographic patterns are in line with published observation on cancer in related occupational groups. Squamous skin cancers have been reported as a complication of exposure to PAH among wax

pressmen, workers in the shale oil industry, and mule spinners and machinists exposed to cutting oils (1). A possible excess of melanoma was recently noted among workers who handled polychlorinated biphenyls in a northeastern petrochemical plant (14). Nasal cancers have not been related to petroleum exposures, except for tumors of the ethmoid sinus in a small group of workers manufacturing isopropyl alcohol (15). Potentially leukemogenic is exposure to benzene in the petroleum industry (16), but no significant excess of leukemia was found in the PIC. The correlations with lung cancer in the study are a cause for concern because lung cancer occurs excessively among other PAH-exposed groups, including roofers, coke-oven workers, and gas-generator employees (1, 2); and the high rates of lung cancer among female residents in the PIC raise the possibility of a pollution hazard speading beyond the workplace.

The findings of this survey suggest the need for industry-wide epidemiologic studies to clarify the risk of cancer among various groups of petroleum workers and to evaluate the possible effects of petrochemical emissions released into neighboring communities.

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9. For lung cancer, the rates (deaths per year per 100,000 population) increased from 30.0 to 35.7 to 45.5 among the three urbanization groups of the PIC as opposed to 27.2 to 31.1 to 39.0 for the control counties. The rates for nasal cancer varied little with urbanization, remaining at about 0.6 in the PIC and 0.4 in the control counties. Skin cancer rates declined with urbanization (4.2, 3.3, and 3.3 in the PIC compared to 3.4, 3.2, and 3.0 in the control counties).

10. The PIC/control counties mortality ratios for white females were (total and three urbanization categories of Table 3, respectively): lung cancer, 1.06, 1.21, 1.07, 1.05; nasal cancer, 0.77, 0.70, 0.58, 0.76; skin cancer, 1.01, 1.00, 1.05, 0.99; all cancers combined, 1.01, 0.98, 1.02, 1.02.

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12. The mortality rate for nasal cancer for the 11 PIC combined was 0.8 (about double the control and national rates) and exceeded 0.7 in eight of the 11 counties. The rate for the 28 PIC without heavy chemical industrial involvement was 0.5.

13. The mortality rates for each of nasal, lung, and skin cancers were reported to be higher by 10 percent in chemical-industry counties (*II*). The mortality rates for lung and skin cancers in the PIC where chemical industries were heavily concentrated were roughly 10 percent higher than in the PIC without a heavy concentration of chemical industries, which were in turn higher (12 percent for lung cancer and 7 percent for skin cancer) than the control rates. However, rates for nasal cancer in the PIC with chemical industries were over 50 percent higher than rates in the remaining PIC.

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WHO IS CHARLIE MATTHEWS? WHAT DOES HE HAVE TO DO WITH H.R. 1037 AND H.R. 1614?

HON. JOHN M. MURPHY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 13, 1977

Mr. MURPHY of New York. Mr. Speaker, who is Charlie Matthews?

He is the executive director of the National Oceans Industry Association.

Who or what is the National Oceans Industry Association?

NOIA was established by Thomas D. Barrow, the president of Humble Oil Co.—now the Exxon Corp.—to promote the interests and protect the privileged status of Exxon and the big oil companies who subsequently became members—and the big oil companies' foreign-flag fleet.

The foreign-flag fleet was set up by U.S. oil companies to carry foreign oil to America. By using foreign-flag ships, big oil can avoid millions of dollars a year in U.S. taxes; they can employ low-paid foreign crews who work for as little as $160 a month; and they can use cheap, unsafe ships—such as the *Argo Merchant*, the "rust bucket" that had inadequate navigational equipment—she was 24 miles off course when she grounded—and a multicountry foreign crew including a captain and helmsman who could not communicate with each other in the minutes before disaster struck. That floating time-bomb ran aground and spilled 7.5 million gallons of oil off Nantucket Island creating an oil slick 120 miles long.

The above are represented by Charlie Matthews.

On May 5, 1976, at high noon, Charlie Matthews told the administrative assistant of the Outer Continental Shelf Committee:

You'd better tell Jack (Murphy) to cancel going before the Rules Committee on Wednesday because we have eight sure votes there and he is going to be embarrassed when he loses.

He did not have the votes in the Rules Committee, but he did put full-page two-color ads in newspapers such as the Washington Post claiming the OCS bill would set up a Federal oil company, which it would not, of course. However, Charlie's "Exxon's" propaganda worked—the OCS bill was recommitted by a 2-vote margin, on September 26, 1976, 2 days before the 94th Congress ended. The stated reason of the bill's opponents was that it would set up a Federal oil company.

On October 6, 1977, Charlie Matthews said:

We stopped him (Jack Murphy) on cargo equity and we're going to stop him on OCS this session.

On September 29, Charlie "Exxon" and his friends sent a letter to NOIA members with the following message:

. . . We are working with House Rules Committee members in an effort to kill the bill in that Committee this year. This, however, is more a hope than a reality. The bill could be on the House floor as early as the week of October 10th or more likely the week of the 17th.

The OCS bill is on the President's and on Speaker Tip O'Neill's "must list" of legislation for completion this year. The Maritime and Building Trades Labor Unions are unitedly supporting the Murphy version of the bill as reported by his Committee. Joining forces against us also are environmentalist groups, consumer groups, no-growth advocates and the coastal zone management forces in the state government on the East and the West Coasts.

Late last week we met with representatives of the Departments of Energy and the Interior and some of the House and Senate Committee staff people to tell them what we didn't like about the bill. All the government people at the meeting were either responsible for drafting or implementing the OCS legislation. This was undoubtedly the most distressing meeting I ever attended. The average age of those people involved was approximately thirty years. We are about to place in their hands control over our future activities on the OCS. They cannot have on the average more than one month's exposure to what the OCS is all about and they totally lack any understanding of our business.

I found these people to be very pleasant, congenial, well-meaning, and idealistic. Their lack of experience and almost total naivete and the years of "catch-up" education which they require is very scary. It is frightening to think they will be responsible for the future orderly development of the OCS under the new legislation. If they get their way with this bill, it will have a crippling effect on our business and yours.

And so on.

And on August 18, 1977, Charlie's friends at Exxon sent a letter to their 687,000 stockholders again darkly warning of the OCS bill. They trotted out the same old argument, that the bill would put the Federal Government in the oil and gas business. They even made up an acronym for it—FOGCO, the Federal

Oil and Gas Co.—as if this term were used in the bill.

And these are the same people and the same tactics being used against H.R. 1037, the cargo equity bill.

And they are doing it in the mass media—especially the New York Times and the Washington Post, the latter now identified with the major groups opposing the bill. These two newspapers have incessantly, repeatedly and hysterically attacked the cargo equity legislation.

The most noxious charge is that the cargo bill is a "political payoff" to President Carter, to members of the Merchant Marine and Fisheries Committee and to me for accepting legal contributions from the maritime industry.

Never mind the fact that the bill would:

Start to rebuild America's merchant marine flag fleet and its shipbuilding industrial base;

Increase seafaring, shipyard, and related jobs by 25,000 especially among minority groups;

Protect the marine environment by using well trained U.S. crews on safely equipped U.S. vessels;

Aid our balance of payments deficit by $75 million.

These newspapers have alleged impropriety on the part of the bill's supporters, and they have enlisted public interest groups by "scare" stories of the high cost of the bill. They have used Charlie Matthews' figures developed by the big oil/foreign-flag fleet lobby.

When the General Accounting Office study, which I requested, proved that against all of the bill's benefits it would cost the average American consumer only $1 a year in extra gasoline costs, a hysterical newspaper campaign was developed to inflate the GAO figures.

What could possibly be the relationship between these attacks on a modest cargo equity bill by two newspapers who purport to be the pillars of journalistic excellence and Charlie "Exxon"?

Perhaps there is none.

But consider the following facts.

The major oil companies do not want the bill—everyone knows that.

And neither do the operators of the foreign-flag fleet.

And who are they? Here is a list of foreign-flag tanker ownership:

Foreign-flag tankers owned by major petroleum companies

	Number of vessels	Total deadweight tons (thousands)
British Petroleum	71	6,547
Chevron	30	4,449
Exxon	164	16,257
Gulf	29	2,572
Mobil	45	5,168
Shell	123	14,499
Texaco	55	5,889
Total	517	55,372

Notice the last five companies who own 80 percent of the foreign-flag tankers:

Exxon, Gulf, Mobil, Shell, and Texaco.

Now how much did the New York Times earn in advertising revenues from the major oil and gas companies in recent years?

A sum of $1,000,000 in the first 8 months of 1977—$4,000,000 since 1974.

And this does not even include money spent on product advertising, such as the "put a tiger in your tank" ads. These were only revenues on policy statements by the oil giants—statements against Congress attempts to pass energy legislation like H.R. 1037 and H.R. 1614. The total advertising revenues if product advertising were included would be even more astronomical.

And who paid 95 percent of that $4,000,000 to the New York Times?

Exxon, Gulf, Mobil, Shell, and Texaco.

And what about the Washington Post, who timed their most hysterical attack on cargo equity the day before H.R. 1037 was to come up on the floor of the House? How much did the Washington Post earn in advertising revenues from the major oil and gas companies since 1974, $619,000 in the first 8 months of 1977—$2,358,000 snce 1974.

And who paid 82 percent of that $2,358,000 to the Washington Post?

Exxon, Gulf, Mobil, Shell, and Texaco.

Now I do not say there is anything wrong with that. But if you accept the standards these two papers have used concerning the legal campaign contributions made to the President, members of the Merchant Marine and Fisheries Committee, and myself, is it not fair to question their aggressive advocacy of the vested interests of Charlie Matthews—and Exxon and Gulf and Mobil and Shell and Texaco?

Charlie Matthews said on October 6, 1977:

> We stopped him (Jack Murphy) on cargo equity and we're going to stop him on OCS this session.

And that is all right, Charlie.

You represent the "big guys" who use a foreign-flag fleet because they do not want to pay U.S. taxes; they do not want to pay highly trained U.S. merchant seamen; and they do not want to pay for the safety equipment on their floating rust buckets.

That is your job, Charlie—but I have mine.

I am committed to a U.S.-flag merchant marine crewed by U.S. seamen on U.S. ships and a U.S. shipbuilding industrial base to support the United States in times of national emergency.

And when you and your big oil bosses "pooh-pooh" the defense argument and claim the foreign-flag tankers will be available in an emergency, just remember, Charlie: President Tolbert of Liberia did not support the objectives of the United States in the Middle East war and in 1973 ordered the American-owned tankers flying his nation's flag not to go to the Middle East. And remember during the Korean and Vietnam conflicts, foreign crews on foreign-flag tankers refused to sail or sailed under violent protest, the ships carrying war supplies to our troops in South Korean and South Vietnam because they disagreed with the wars.

Finally, I say to Members who have witnessed the supposed unbiased mouthings of those who have lied and unleashed an unbelievable barrage of garbage against this bill and its supporters, to consider the ultimate source.

And I ask Members to remember, a vote against H.R. 1037 or H.R. 1614 is a vote for Charlie Matthews—and Exxon and Gulf and Mobil and Shell and Texaco.

HUMAN RIGHTS IN SOUTH KOREA—I

HON. DONALD M. FRASER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 13, 1977

Mr. FRASER. Mr. Speaker, the conference of Japanese and United States Parliamentarians on Korean problems, which was held in Washington September 19 and 20 under the sponsorship of the Institute for Policy Studies, produced a number of significant papers which addressed problems of concern to the House, including human rights in South Korea. One of the papers on that subject which I found very useful is "Political Repression and Economic Development in the Republic of Korea: A Necessary Relationship?" by Prof. Bruce Cumings of the University of Washington.

In his paper, Professor Cumings develops the provocative thesis that political repression and authoritarianism in South Korea is related more to the pattern of economic development that has been pursued in South Korea since the mid-1960's than to either national security concerns or political culture. His argument is that the economic development strategy adopted by South Korea of export-led growth, using cheap labor as the primary lure to foreign investment, has required the exclusion of political parties, unions and other organizations which would otherwise represent the interests of workers.

This is a very disturbing thesis, but one which deserves careful consideration. If Professor Cumings is correct, the relationship between economic development strategy and political repression in South Korea is one to which we should pay far more attention than we have in the past. I would like to enter into the RECORD excerpts from Professor Cuming's paper:

EXCERPTS FROM POLITICAL REPRESSION AND ECONOMIC DEVELOPMENT IN THE REPUBLIC OF KOREA: A NECESSARY RELATIONSHIP?

(By Bruce Cumings)

We must start this discussion paper with the obvious: the Republic of Korea has, in the past several years, changed from a system of formal procedural democracy to one of frank, thorough-going authoritarianism with only the slightest pretense of democracy (what is called "Korean-style democracy"). We must also begin with the understanding that South Korea is not unique in this respect. The past decade has witnessed the proliferation of similar authoritarian regimes throughout the world; Brazil, Chile, Argentina, Iran, and others, taking their place

alongside existing dictatorships of the right and left. Unlike earlier authoritarianisms, however, the above cases occurred in nations with at least rudimentary democratic systems (with the exception of Iran) and the promise that there might be more democracy to come as their economies developed. Thus we witness the defeat of the hopes of an entire generation of democrats, in the U.S., Korea, and elsewhere.

How are we to understand and explain this phenomenon? In the case of Korea, we find multiple explanations, each worthy of our discussion. Some suggest that Korea has always had an authoritarian political pattern; the years of formal democracy under Syngman Rhee (1948–60) and Chang Myun (1960–61) simply put a facade on this traditional system. Others find in Korean culture, or in the Korean family, or in childrearing patterns, a continuing hierarchy of unquestioned authority. Gregory Henderson has interpreted the Park regime's dictatorial tendencies in terms of a military intrusion into a tradition of civil rule. One could also cite the specific background of Park Chung Hee in unquestionably authoritarian structures, meaning the Japanese Imperial Army before 1945 and the ROK Army ever since. Last, we hear the argument that South Korea never institutionalized fundamental guarantees of human and political rights; thus the principles that Americans have taken to be "self-evident" are hardly so in the Korean context, and who are we to impose our standards on them? (This has become almost a litany among apologists for the Park regime, in Korea and elsewhere.)

We do not lack for explanations, it seems. I would like to offer yet another one (which I think is better, of course!) which has the virtue of linking Korean authoritarianism with that found in many other developing countries. In this way Korea, long held to have a political pattern so unique that it required unique theories (Henderson, 1968),[1] joins the world. In short, I wish to argue that Park's authoritarianism is directly linked to the pattern of economic development that has been pursued in the ROK since the mid-1960's; indeed, that given the economic strategy of export-promoted growth the political outcome (repression) is almost overdetermined. I will briefly outline the argument and then provide some detail and a couple of case studies.

* * * * *

IV. THE PARADIGM: FREE EXPORT ZONES

The pattern we are discussing reaches its logical conclusion with the so-called free export zones, of which Korea has two: in Masan (MAFEZ) and a newer one in Iri. Here foreign firms (almost exclusively Japanese and American) invest directly in wholly-owned subsidiaries or joint ventures with Koreans; these are labor-intensive enterprises, mostly electronic component manufactures and simple things like nuts and bolts, screws, nails, etc. Advanced technology is not required; cheap labor is. The Korean government is expected to provide "adaptable low-cost labor, all with at least primary education . . . expected to be continually available from the surrounding towns . . . workers are not allowed to organize labor unions or to take any collective action." (Choe, 1975) In addition to this, the government is expected to provide all sorts of "service": guarantees of certain levels of profit remission to the metropolitan country; tariff and tax exemption; simplified customs procedures; law and order. In 1973 the MAFEZ paid 11,500 won (or about $28) per month to its unskilled workers who in turn constituted 83 percent of the total MAFEZ work force. Of these 70 percent were females, mostly young girls from the surrounding countryside. Anti-pollution measures are nonexistent. Finally, there is not even the trickling-down of technology in such circumstances; the "product cycle" (Vernon, 1966) stops working when people are just sampling out nails, making integrated circuits with hand-me-down technology, and so on (Choe, 1975). The MAFEZ is simply an industrial platform that would be in Japan or the United States if either country could supply labor at about 15 cents per hour.

V. THE LEADING SECTOR: ELECTRONICS

It is a common feature of "late" (in world time) industrialization that the less-developed countries maximize their comparative advantage in cheap labor to lower the costs of producing a given item, so that the item is then competitive on the world market. Then, through diffusion of technology, entrepreneurship, and innovation the backward country outstrips the competition and comes to dominate world trade in a given commodity. The Japanese have done this with electronics, automobiles, steel, and other items. If the Koreans can do likewise, so the argument goes, the current repression of labor is simply the price that must be paid for future development, when Korea's comparative advantages shift to other areas. Unfortunately the Korean electronics industry, constituting 10 percent of all exports in 1973, does not exhibit this pattern. South Korea did not begin exporting electronic equipment and components until 1962. In the mid-1960's, major multinational firms such as Motorola, Fairchild, Signetics, Toshiba, Control Data, and others entered the Korean market. By 1972 eight foreign firms produced 34 percent of Korea's total production and 54 percent of electronic exports (Suh, 1975). They came to the ROK, of course, because of the abundant supply of skilled labor at low cost.[2]

They brought with them capital, advanced technology, production know-how, and market structures abroad. As Suh points out, "when the already developed technologies are brought in for predetermined markets, there is unlikely to be any incentive for technical innovation." He finds, indeed, a conspicuous lack" of any such innovations on the Korean side, which bespeaks the inequality in resources between greater and lesser in this international system.

Growth targets for the Third Five-Year Plan envision a trebling of 1976 levels of electronics production and exporting. In 1980 the ROK is expected to produce $2.5 billion in electronics exports. When Japan reached that level, its exports accounted for only 25 percent of its total production; the rest went to the domestic market. In 1980 in Korea, however, exports will constitute 60 percent of total production. Yet without a big domestic market, the product cycle effect rarely works.

Suh concludes his excellent article with the following statements:

"The relationship between the product cycle and the shift of comparative advantage among nations becomes meaningless to those countries where the international specialization of electronics is based only on labor cost advantages.

". . . there is a real danger that the Korean electronics industry may develop into a permanent satellite of a few advanced countries under the guise of the international division of labor."

We are thus left with the possibility that this pattern of very "late" development may mean little real development at all; drawing an analogy with agriculture, one wag termed this a sort of "slash-and-burn" program. That exaggerates the situation, but it delineates metaphorically the current costs of Korean development, quite apart from the political and social ones we have been discussing.

CONCLUSION

There are no doubt examples of countries where the Korean-type pattern of economic development has not had authoritarian political consequences, although they do not pop easily to mind. It is also true that other factors entered into Park's decision to go authoritarian in the early 1970's. Two prime ones would be the serious threat to Park's power posed by Kim Tae-jung in 1971, and the American withdrawal from Indochina which bred in South Korea the perspective of the last domino in East Asia. Yet the turn to frank authoritarianism was possible only because of the existing repressive apparatus, symbolized by the KCIA. In other words, we witness in the early 1970's a kind of "breaking out" of the basic repressive structures; what was latent became manifest. This structure was, in turn, elaborated under American guidance after the coup in 1961. If Americans did not actually urge such structures on the Koreans, they at least provided *post facto* blessings by lauding the stability of the regime. In this they have been joined by Japanese, World Bank, and IMF pundits who frankly advocate a repressive political economy. In other words, the responsibility for Korean repression spreads widely; it is not limited to Park Chung Hee. To answer, finally, the question posed in Part III, I am convinced that such a politics *is* contingent on and interdependent with the pattern of economic development pursued in South Korea.

There remains one last question, that of the projected U.S. troop withdrawal and its effects on the Korean political economy. Since this will be treated in detail in our conference, I will simply make one point. The center-periphery dependency relationship in which South Korea finds itself is now guaranteed not just by the economic arrangements we have been discussing, but by the presence of American power on the ground in Korea. Most analysts believe that this American guarantee was essential to the initial, mid-1960's, foreign investor confidence in South Korea that made possible the very high subsequent capital inflow. In other words, the troops have been another element in the required political stability in the South. If and when they are withdrawn, the military component will be weakened (of course) but the psychological sense of security and confidence will suffer even more. Although South Korea seems to me to be fully capable of defending itself, by itself, many in Korea and elsewhere do not believe this and consequently see their economic interests threatened. I would suggest that this is a key source of the current opposition to the withdrawal.

[1] See suggestions for additional reading at the end of this paper.

[2] Suh quotes a top manager of the leading multinational corporation in Korean electronics as privately admitting that "the average productivity of the Korean workers was 20–25 percent higher than similar workers in the U.S. But, the wage rate in Korea is less than one-tenth the U.S. rate."

WAYNE GIRL SCOUTS CROP WALK FOR HUNGER

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 13, 1977

Mr. ROE. Mr. Speaker, on Sunday, October 16, residents of the township of Wayne, my congressional district and State of New Jersey will join with Senior Girl Scout Troop 29, first-class Scouts of our community, in a 10-mile walk through Wayne in a CROP Walk for Hunger to raise funds to help hungry people; participate, by experience, in the

daily existence of millions of poverty-stricken people throughout the world; and register, by their deep concern, the need for food and self-help aid to CROP to help hungry people help themselves.

I rise in support of their efforts and seek national recognition of the outstanding public service that CROP—the Community Hunger Appeal of Church World Services—is making to the world's hungry. To better understand this distinguished organization's purpose, goals and objectives, with your permission, I would like to insert at this point in our historic journal of Congress the following information:

CROP works to do two things: To make people in the United States aware of the extent and nature of world hunger, and to raise funds for Church World Service—CWS—and other agencies to use in combating it. For hundreds of thousands of Americans, CROP is the way they can extend a helping hand to fellow humans they could not otherwise reach. For hundreds of thousands in other lands, CWS and CROP are indeed the hand of friendship and God's love—not a handout, but a hand up.

Church World Service is the cooperative agency through which some 30 denominations bring relief and development aid to people in great need. Through offerings taken in their congregations, these denominations provide the basic financial support for the work of CWS. CROP, the Community Hunger Appeal of CWS, works outside the regular church channels to raise public awareness of hunger issues and to seek additional funds.

The way CWS applies CROP resources outlines its approach to world need:

Food—for nutrition centers and food-for-work—to help people who are hungry now build a future with food—and more.

Appropriate Technology—equipment and other materials that may seem primitive to us, but are "just the thing" in other societies.

Technical consultants—augmenting appropriate technology with the experience, knowledge, and ideas of experts.

Seeds—for small farms, home, and school gardens—perhaps the most welcome aid CWS gives.

Emergency aid—people in a Guatemala earthquake or a Colorado flood, both are the concern of CWS/CROP. Aid to refugees, family planning, and development education round out a comprehensive program of assistance now, self-development for the future and learning together to understand hunger's causes.

Across the United States of America volunteers form the backbone of CROP. They speak at community gatherings, schools, service clubs, and churches. They write articles or appear on radio and TV. They tell their friends and neighbors, and they organize fund raising events that educate about world hunger while raising much-needed resources.

Some of the more popular CROP events are:

Hunger walks. Walkers secure sponsors who give on the basis of miles walked. Many local committees now use this method to stimulate both giving and community interest.

Fasts for the hungry. Participants identify personally with hungry people while raising funds through sponsors who give according to how many hours the fasters go without eating.

Home-to-home canvasses. For years the chief method of carrying out CROP appeals, volunteers raise funds and commodities by calling on their neighbors and organizing others to do the same.

Friendship farmer program. Whether cooperatively farming a large tract, donating the proceeds from an acre of grain or selling an animal for CROP, many rural Americans have found this to be an ideal way to share.

Individual and group projects. Vacation church school projects, coin cards, special offerings, work days and other marathons such as bowl-a-thons and hymn-a-thons are just some of the ways people are showing their concern.

Educational programs. Schools, clubs, churches, ecumenical meetings, wherever people want to learn more about world hunger, CROP has supportive materials—films and filmstrips, program and study resources—as well as speakers and leaders, ready to help them out. Last year CROP provided assistance to educational gatherings in nearly every State.

Mr. Speaker, may I also take this opportunity to express my personal deep concern which I know is shared by all of us in the Congress for the worldwide hunger and malnutrition that exists today—and yet should not be with the vast wealth of natural and human resources, knowledge, technical expertise, and know-how available today—and respectfully urge early consideration of the following legislation that I have joined with many of our colleagues in sponsoring to provide a greater commitment by the people of the United States of America in this critical area of need:

H. CON. RES. 44

Whereas an estimated four hundred and sixty million persons, almost half of them young children, suffer from acute malnutrition because they lack even the calories to sustain normal human life; and

Whereas those who get enough calories but are seriously deficient of proteins or other essential nutrients may include half of the human race; and

Whereas the President, through his Secretary of State, proclaimed at the World Food Conference a bold objective for this Nation in collaboration with other nations: "that within a decade no child will go to bed hungry, that no family will fear for its next day's bread, and that no human being's future and capacities will be stunted by malnutrition"; and

Whereas all the governments at the World Food Conference adopted this objective; and

Whereas in our interdependent world, hunger anywhere represents a threat to peace everywhere, now and in the future;

Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of Congress that—

(1) every person in this country and throughout the world has the right to food—the right to a nutritionally adequate diet—and that this right is henceforth to be recognized as a cornerstone of United States policy; and

(2) this policy become a fundamental point of reference in the formation of legislation and administrative decisions in areas such as trade, assistance, monetary reform, military spending, and all other matters that bear on hunger; and

(3) concerning hunger in the United States we seek to enroll on food assistance programs all who are in need, to improve those programs to insure that recipients receive an adequate diet, and to attain full employment and a floor of economic decency for everyone; and

(4) concerning global hunger this country increase its assistance for self-help development among the world's poorest people, especially in countries most seriously affected by hunger, with particular emphasis on increasing food production among the rural poor; and that development assistance and food assistance, include assistance given through private, voluntary agencies, increase over a period of years until such assistance has reached the target of 1 per centum of our total national production (GNP).

H.R. 1184

To establish grants for research endeavors for the purpose of assisting in the development and utilization of new and improved methods of food and fertilizer production.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Food Research and Development Act of 1977".

SEC. 2. (a) The Congress finds that—

(1) the world is facing a serious shortage of food;

(2) current agricultural techniques are inadequate to meet the food needs of future generations in the United States and other countries;

(3) with many areas of the world facing actual or imminent malnutrition and starvation, it is essential that the proportion of food resources used to produce meat and dairy products in the United States be reduced so as to free greater amounts of food resources for direct human consumption;

(4) dependence on energy-intensive agricultural techniques has made the food system in this country vulnerable to disruption by drastic price increases in energy sources and to the exhaustion of available supplies of fossil fuels in the years ahead; and

(5) the large amount of fertilizer and chemicals now used to produce agricultural commodities in the United States is having an adverse impact on our environment.

(b) It is the purpose of this Act to fund new research for the purpose of assisting the development and utilization, in the United States and other coutries, of (1) new low-cost foods of high nutritional value, and (2) improved, low-cost methods of food and animal feed production, fertilizer production, and irrigation which make maximum efficient use of energy, land, water, and protein resources and promote the preservation of environmental quality.

SEC. 3. There is established a Food Research Advisory Committee within the United States Department of Agriculture (hereinafter referred to as the "Committee").

SEC. 4. (a) The Committee shall be composed of one representative from each of the following organizations:

(1) the Board of Agriculture and Renewable Resources, National Academy of Sciences;

(2) the Cooperative State Research Service, United States Department of Agriculture;

(3) the Agriculture Research Service, United States Department of Agriculture;

(4) the Experiment Station Committee on Organization and Policy of the National As-

sociation of State Universities and Land Grant Colleges, Division of Agriculture;

(5) the Food and Agriculture Organization of the United Nations;

(6) the National Science Foundation;

(7) the Office of Sea Grant of the National Oceanic and Atmospheric Administration, United States Department of Commerce;

(8) the Office of Technology Assessment of the Congress of the United States;

(9) the Agency for International Development, United States Department of State;

(10) the Food and Nutrition Board, National Academy of Sciences;

(11) the Industry Liaison Panel, Food and Nutrition Board, National Academy of Sciences; and

(13) the Consumer Liaison Panel, Food and Nutrition Board, National Academy of Sciences.

(b) The representative from each such organization shall be appointed by the head of such organization.

(c) A vacancy in the Committee shall be filled in the manner in which the original appointment was made.

SEC. 5. The Committee shall—

(1) determine the specialized research areas for which the Secretary of Agriculture (hereinafter referred to as the "Secretary") shall appoint review boards described in section 8;

(2) accept evaluations of applications for research grants under this Act from such review boards for the purpose of evaluating them further on the basis of scientific merit and on the basis of funding priorities, and making recommendations to the Secretary with regard to the applicants who should receive such research grants;

(3) accept recommendations from such review boards and make recommendations to the Secretary pursuant to section 9(d); and

(4) make the recommendations specified in subsections (b) and (g) of section 8.

SEC. 6. (a) Members of the Committee shall serve without pay.

(b) While away from their homes or regular places of business in the performance of services for the Committee, members of the Committee shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) of title 5, United States Code.

SEC. 7. (a) The Committee shall appoint a Director who shall be paid at a rate not to exceed the rate paid an individual holding a grade GS–17 of the General Schedule.

(b) With the approval of the Committee, the Director may appoint and fix the pay of such additional personnel as he deems desirable.

(c) The Director and the staff of the Committee shall be appointed subject to the provisions of title 5, United States Code, governing appointments in the competitive service, and shall be paid in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(d) Upon request of the Committee, the head of any Federal agency is authorized to detail, on a reimbursable basis, any of the personnel of such agency to the Committee to assist it in carrying out its duties under this Act.

(e) The Administrator of General Services shall provide to the Committee, on a reimbursable basis, such administrative support services as the Committee may request.

SEC. 8. (a) There is created within the Committee a review board for each specialized research area with regard to which the Committee makes recommendations for the purpose of awarding grants under this Act.

(b) Each review board shall be composed of not more than six members appointed by the Secretary upon the recommendation of the Committee. These members shall be selected from distinguished authorities in the specialized area of agricultural research for which the review board to which they are appointed is responsible.

(c) Each member of each board shall serve for a four-year term, except that the Committee may provide that not more than one-half of the first members appointed to each board shall serve a two-year term.

(d) Any member who has served on any such review board may not serve on such board for a period of at least two years after his previous term on such a review board expires.

(e) The specifications which apply to the Committee and which concern pay, travel expenses, staff personnel, use of personnel of other Federal agencies, and administrative support from the Administrator of General Services shall apply to each review board.

(f) Each review board shall accept and review applications for research grants to be made under this Act with respect to the specialized area of research for which the review board is responsible. After reviewing such applications, the board shall make recommendations to the Committee that certain of the applications should be considered by the Committee for purposes of the Committee's making a further recommendation to the Secretary concerning the applicants who should receive a grant under this Act. Each board shall review and evaluate such applications on the basis of the scientific merit, feasibility, and significance of the research project proposed in the application and on the basis of the competency and facilities of the applicant to perform the project.

(g) Each review board shall meet as often as necessary, as recommended by the Committee, to perform its functions under this Act.

SEC. 9. (a) In January of each year the Secretary shall make grants to colleges and universities, agencies of the Federal or State governments, and private or international organizations and businesses which have applied and been selected for such grants under this Act. These grants shall be made to applicants for the purpose of financing research projects which are designed to develop new, low-cost foods of high nutritional value and to improve methods of food and fertilizer production through making maximum efficient use of energy, land, water, and protein resources while promoting environmental quality. These research projects may include—

(1) the treatment of waste materials with microorganisms;

(2) the separation of protein from inedible plant fibers;

(3) the enhancement of nitrogen fixation and photosynthesis in plants;

(4) the improvement of aquaculture techniques;

(5) the development of methods of increasing the protein content and yield of crops;

(6) the development of methods of improving the resistance of crops to insects, diseases, weather conditions, and other growth-inhibiting factors;

(7) the development of improvements of fertilizer production through the more extensive use of natural fertilizers and microbiological techniques;

(8) the development of improved methods of irrigation and dry-land farming, including techniques involving the use of desert areas and salt water;

(9) the development of improved methods of processing vegetable and nonanimal protein into nutritious, low-cost foods and low-cost livestock feed; and

(10) improving the digestibility of foods.

(b) Each application shall be filed no later than the July 1 which precedes the January in which the awards of grants will be made.

(c) Not less than 10 per centum of the sums available for grants in any year shall be reserved for grants to applicants who are from or working in agriculturally underdeveloped nations, as determined by the Secretary, and whose work is directly related to serving the food needs of such nations, except that such sums may be made available to other applicants if the Committee advises the Secretary that not enough meritorious applications from applicants from or working in such nations were submitted.

(d) Each applicant who receives a grant under this Act shall commence the research project no later than six months after receiving the grant and shall file an annual progress report with the Secretary who shall review such report. If the Secretary determines that any project is progressing unsatisfactorily, he shall notify the appropriate review board which shall evaluate the progress of such project and may make a recommendation to the Committee that funding under this Act for the project be terminated. The Committee may been recommend to the Secretary that such funding be terminated by the Secretary in an appropriate manner.

(e) No grant made under this Act shall be made for the purpose of funding a project for a period exceeding five years.

(f) Payments pursuant to any grant made under this Act shall be made in annual installments.

SEC. 10. There is created a Special Food Research and Development Fund (hereinafter referred to as the "fund"). The fund shall consist of sums appropriated to it and shall be used for the sole purpose of making research grants under this Act.

SEC. 11. (a) The Secretary may make full use of the Agriculture Extension Service, the Agriculture Marketing Service, and other appropriate bodies within the Department of Agriculture for the purpose of encouraging market acceptance of food products and production techniques developed as a result of research projects funded under this Act.

(b) The Secretary shall take steps to utilize, as much as practicable, in nutrition programs funded by the Federal Government the food products developed as a result of projects funded under this Act.

(c) The Secretary, in conjunction with the Commissioner of the Food and Drug Administration, shall take such steps as may be necessary to insure that any food product developed in whole or in part pursuant to a grant issued under this Act is both safe and nutritious before it may be commercially marketed or used in federally sponsored nutrition programs.

SEC. 12. Any commercially marketed food product developed in whole or in part pursuant to a grant issued under this Act shall be labeled according to its ingredients and their percentage predominance, and vitamin, protein, fat (saturated, unsaturated, and polyunsaturated), and calorie content in accordance with regulations which shall be promulgated by the Commissioner of the Food and Drug Administration.

SEC. 13. The Secretary of Agriculture shall convene annual International Conferences on Food Research and Development. At such conferences he shall present and disseminate information relating to new developments in food and fertilizer production, including information derived from projects funded under this Act. The Secretary shall provide assistance to participants from underdeveloped nations with food shortages to attend such conferences.

SEC. 14. The Secretary of Agriculture shall conduct a study of the effect of existing public policy, including Federal and State regu-

lation of food products, on the utilization of new methods of food production, fertilizer production, irrigation, and processing vegetable protein. The study shall be submitted to Congress no later than eighteen months after the date of enactment of this Act.

SEC. 15. The Secretary shall conduct a study of the effect of new methods of food production, fertilizer production, irrigation, and processing of vegetable protein on the economic condition of small farmers. The study shall be submitted to Congress no later than eighteen months after the date of enactment of this Act.

SEC. 16. (a) There are authorized to be appropriated for the purposes of carrying out the provisions of this Act $50,000,000 for the fiscal year ending June 30, 1976, and such sums as may be necessary for any fiscal year thereafter.

(b) Not less than 85 per centum of the sums appropriated for any fiscal year under this section shall be appropriated to the fund described in section 10.

SEC. 17. The Committee shall continue to exist until Congress provides a specific termination date.

H. RES. 792

Whereas hunger and malnutrition remain daily facts of life for millions of people throughout the world;

Whereas there is a need to examine the continuing paradox between increasing worldwide hunger and malnutrition and the burdensome grain surpluses in the United States;

Whereas it is in the interest of the United States to reduce significantly hunger and malnutrition and to assist in the efforts of nations and people to improve the capability to feed themselves;

Whereas the economic, food, and development policies of the United States significantly affect the nutritional, social, economic, and political conditions of developed and developing nations;

Whereas the United States needs to develop a clearly defined and coordinated food and development policy that reflects the interrelationships between domestic and international hunger and malnutrition;

Whereas Americans are concerned about, and wish to make a valuable contribution to, the process of formulating policies to meet basic human needs; and

Whereas in this time of greater national emphasis on protecting basic human rights, there can be no higher priority than the preservation of life itself: Now, therefore, be it

Resolved, That the President should establish a Commission on Domestic and International Hunger and Malnutrition (hereinafter referred to as the "Commission") so that the President and the Congress may better understand the pervasiveness of hunger and malnutrition and take necessary steps to counteract the problem.

SEC. 2. (a) The Commission should—

(1) establish clearly the causes of hunger and malnutrition and the relationship between domestic and international hunger and malnutrition;

(2) identify and evaluate existing Federal programs and policies related to hunger and malnutrition; and

(3) develop for the President and the Congress specific recommendations for policies and legislation to reduce significantly hunger and malnutrition throughout the world and assisting in implementing such recommendations.

(b) To carry out the purposes of subsection (1), the Commission should—

(1) assemble, correlate, integrate, and generate information and resources on food, hunger, malnutrition, and related concerns;

(2) assess the organization and structure of current programs which affect domestic and international hunger and malnutrition;

(3) analyze and present findings to the President, the Congress, and the Public; and

(4) assist the President and Congress in implementing its findings, conclusions, and recommendations.

SEC. 3. The Commission shall be a balanced membership composed of fifteen persons appointed by the President from individuals who represent diverse backgrounds, taking into account age, wealth, and relationship to the problems of hunger and malnutrition.

SEC. 4. The Commission should—

(1) not later than six months after the date of the appointment of its final member, prepare and transmit to the President and the Congress an interim report on the progress achieved in implementing the provisions of section 2 of this resolution together with a schedule of activities and goals for the following six months;

(2) not later than one year after the date of appointment of its final member, prepare and transmit a report containing a detailed statement of findings, conclusions, and recommendations; and

(3) assist for a period of up to one year after the transmission of the final report in the implementation of its recommendations, and conduct an educational program to disseminate its findings to the people of the United States .

SEC. 5. The Clerk of the House shall transmit a copy of this resolution to the President.

Mr. Speaker. I appreciate the opportunity to call your attention to our Girl Scouts CROP Walk for Hunger and know you will want to join with me in extending our best wishes and deep appreciation for their noble action program to help eliminate human misery and the enormous waste of mind and body that hunger and poverty feed upon.

In closing, let me share with you for thoughtful consideration the CROP appeal for the future which reads as follows:

A FUTURE WITH FOOD . . . AND MORE

The future is bleak for the 1.85 billion people of the developing world. More than half of them are malnourished. Some are starving. Almost all are impoverished.

CROP is committed to change this. Through food for today's hunger. Through self-help programs for tomorrow. Through changing life-styles. By providing the resources. By helping people develop their full potential . . . with dignity . . . justice . . . and food for all.

It's not going to be easy. It won't happen overnight. But it must happen. In our interdependent world, their hunger is our hunger. Their future our future.

Will it be a future free from hunger and poverty? It can be, but more is needed.

More than food. More than relief. More than a handout. A helping hand. The means to grow. To develop.

That's what CROP is giving. Won't you help.

COUNCIL ON WAGE AND PRICE STABILITY REPORT ON AMERICAN STEEL INDUSTRY: HOW LONG IS "FOR VERY LONG"?

HON. CHARLES A. VANIK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 13, 1977

Mr. VANIK. Mr. Speaker, on October 7, the Council on Wage and Price Stability released its report to the President on "Prices and Costs in the United States Steel Industry." Like most Government reports, it offers a good deal of information but no solutions.

I was interested in statements which appeared on pages 12 and 13 of the summary of the report. On page 12, the report noted—

The present discounts of as much as 10 to 20 percent below U.S. list prices are indicative of aggressive price competition by European and Japanese exporters. Given their production costs, they cannot sustain such deep cuts *for very long.* Nor will they continue to discount at this rate if world demand for steel revives. Until such a revival takes place, however, U.S. steel firms, like their foreign counterparts, will continue to suffer from aggressive price competition. (Emphasis added.)

What is politely described in this paragraph is massive dumping and continued selling below cost of production by state-backed-and-subsidized European steel firms. If the various European governments cannot keep up these massive subsidies "for very long," then American private enterprise steel firms probably can survive. But since in many cases, the foreign government and its entire national treasury stands behind the foreign steel companies, they can continue to sell drastically below price indefinitely. And on the next page of the report, it is stated:

Worldwide demand for steel, heavily dependent on the pace of continued economic recovery, is expected to fall short of supply *over the next few years,* creating pressures in many countries to increase exports to maintain operating rates and employment. The U.S., a net importer with low tariff barriers, will be sharply affected by these competitive pressures from imports. (Emphasis added)

In other words, the pressures which led various foreign governments increasingly to subsidize their steel operations to maintain full employment will continue over the "next few years."

Thus it appears to me that there is a contradiction within these two pages of the council's report: Foreign producers cannot keep exporting at prices so drastically below the cost of production "for very long" but the pressures to do so will continue for the "next few years."

Mr. Speaker, U.S. steel companies cannot survive the "next few years" of continued dumping and foreign government-subsidized exports.

The council's idea of "for not very long" means the destruction of tens of thousands of domestic steel jobs and the economic collapse of steel mill towns throughout the Nation.

We need solutions, Mr. Speaker, not studies promising relief sometime "over the next few years."

CHILD PORNOGRAPHY FOUGHT BY THE HONORABLE DALE E. KILDEE

HON. JAMES J. BLANCHARD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 13, 1977

Mr. BLANCHARD. Mr. Speaker, one of our colleagues, the Honorable DALE E.

KILDEE of Flint, Mich., has worked hard his freshman term in Congress to advance legislation to prevent the exploitation of children in pornographic materials. While such abuse of children is widely deplored, developing legal language to effectively put a stop to the practice requires both skill and diligent work. A Flint Journal editorial described his work on the bill and the issues faced by the Senate at the time it neared a vote on this vital legislation. I was happy to support Congressman KILDEE in his effort.

Therefore, it is my pleasure to insert this editorial so that all of us may share its account of our colleague's efforts:

SENATE'S APPROVAL DUE PORNO BILL

Passage of the bill introduced by Rep. Dale E. Kildee, D-Flint, aimed at halting trade in child pornography may prove to be a landmark piece of legislation.

Its importance lies as much in the manner in which it approaches its objective as it does in the objective.

The objective is, of course, to prevent the exploitation of children to satisfy the sexual aberrations of a few. It is difficult to imagine many areas in which a law could gather wider support.

Kildee's bill approaches the problem not from the traditional basis of trying to halt the activity because it is obscene and offends the popular moral standards, but from the grounds that the law is necessary to protect children from harm.

This bill met some opposition from members of the House Judiciary Committee, which is considering a bill of its own. It was argued that the bill might be unconstitutional because it provides for the prosecution of distributors and sellers of pornography without requiring that the matter be proved obscene.

Kildee disputed the arguments by pointing out that his bill does not deal with the Constitutional question of obscenity, but aims at stopping child abuse in the manner of child labor laws passed early in this century.

Kildee also argued that those child labor laws set a precedent for making the sale of the products produced by illegal child labor subject to prosecution.

It is this distinction that makes the Kildee bill of even greater interest than the bill itself might warrant.

The fact the House passed the bill by the overwhelming margin of 375 to 12 is significant, but it is necessary to point out that this does not settle the question of constitutionality. Who wants to be on record as having voted in opposition to any bill designed to do away with such a reprehensible act as using immature children for pornographic purposes?

Nor does the fact the Kildee bill attempts to evade entirely the question of obscenity and freedom of speech necessarily mean that the courts will not ultimately decide the bill does limit the rights of the sellers of the material.

The decision on that is what makes it quite possible it will become a landmark piece of legislation.

The Flint Journal along with a growing number of others have urged new approaches to the problem of pornography to avoid those pitfalls such as trying to decide what is obscene or what constitutes a set of moral standards common to the people or how far the First Amendment can be stretched—or limited—without undermining the concept of free speech and a free press.

One way in which to do this is to consider pornographic activities in the light of the harm they do to individuals. Such an approach cannot deal adequately with the overall production and distribution of pornography without slipping back into the problems mentioned above, but it does provide an avenue for dealing with specific phases of the pornographic industry.

The very obvious phase of the industry to consider first in this approach is the exploitation of children. Here are self-evident victims, individuals who are being harmed by any acceptable social standard. Furthermore, they are members of a class (the immature) with a long history of legislation designed specifically to protect them from harm.

The Kildee bill offers a simple, clear test for the concept of dealing with pornography separate from having to decide what constitutes a universal set of moral standards in a diverse and changing society.

It is a sound and promising approach to a particularly obnoxious aspect of pornography and as such deserves a full hearing before the public and a complete examination in the courts.

That is why we urge the Senate to accept it as it stands for early consideration and quick adoption.

INDOCHINA LIBERATION

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 13, 1977

Mr. DORNAN. Mr. Speaker, in all of the praise over the liberation and democratization in which many in this country have seen fit to revel since the fall of Saigon in April 1975, one fact is quite clear. During the last 2 years, internal events in the countries of Indochina, especially Cambodia, have shown that these so-called "liberation movements," which the Peter Bournes, Sam Browns, and Tom Haydens of this country so enthusiastically defended, have unleased a repressive reign of terror which history will surely rank alongside those as fiendish and dehumanizing as Stalin's purges and Hitler's concentration camps.

A recently published article in the Washington Post and an editorial in the New York Times cogently commented on this point and I insert it in the RECORD at this point.

"LIBERATION" COMES TO VIETNAM

In the swell of opposition to the war in Vietnam during the decade before America's withdrawal, there was always a minority, small but vehement, that looked to the Communists as saviors of that unhappy land. They carried Vietcong flags in peace demonstrations, hailed Ho Chi Minh as the George Washington of his country, and invariably spoke of the North Vietnamese as liberators.

One organ of this celebration was The New York Review of Books, and so it comes as a surprise—a welcome one—to find reprinted in a recent issue an article from the French journal L'Express by André Gelinas, a French-Canadian Catholic priest and Chinese scholar who settled in Vietnam in 1948, and was expelled in July 1976, 15 months after the North Vietnamese troops arrived in Saigon.

The picture that Father Gelinas paints of South Vietnam since its "liberation" is one of widespread misery, constant surveillance, incessant propaganda, endless indoctrinations, arbitrary arrests, executions, imprisonments, and exile to remote areas. He describes a society where an arrogant bureaucracy reaches into every corner of life, where books are burned, citizens are denounced, and informers thrive.

Father Gelinas observes that "the methods, the doctrine and very weight of the police and bureaucratic apparatus" in the South now "are entirely Russian." That seems right. At least, it is in accord with Hannah Arendt's observation, based largely on the experience of Stalinism, that "terror is the essence of totalitarian domination." In the list of countries that are today suffocating the rights of their citizens, Vietnam must rank high.

To be sure, this finding, however repugnant, does not make a case in favor of the American intervention in Vietnam. The men we supported were scarcely true-blue democrats. Nor should it impede the ongoing efforts by the Administration to establish relations with Hanoi. There are good reasons for coming to diplomatic terms with regimes that do not share American values, and the United States owes a special debt to the Vietnamese people. But for those who opposed the war, Father Gelinas's report contains bitter and inescapable ironies.

The British magazine Spectator has drawn an interesting parallel between our war against the Vietcong and the British war against the Boers: "The pro-Boers and the pro-Vietcong were wrong about the "enemy' but right about the war. The Boers were idealized as gallant underdog nationalists, which, like the NLF [the National Liberation Front], they were, but which view overlooked the fact that they were fighting as well to keep their hands on the wealth of the Rand and to continue oppressing the blacks, as the NLF was fighting to institute a mindless totalitarian dictatorship."

The Vietnam experience was always more complex than ideologues of either side could allow. America may have played a villain's role there, but the heroes of that tragedy were never easy to discern.

[From the Washington Post, Aug. 1, 1977]

SOUTH VIETNAM TODAY: A HARSH LIFE

(By Lewis M. Simons)

BANGKOK, THAILAND.—One year after the unification of the two Vietnams, life in the southern part of the country and its former capital, Saigon, seems not so much oppressive as harsh.

The Hanoi government has put pressure on the southerners to make them conform to Communist ways, but this pressure has been applied gradually and according to a well-defined plan.

Gathering details of how this plan is taking effect is somewhat easier than learning about xenophobic Cambodia and, to a certain extent, Laos. An extensive foreign diplomatic corps lives in Hanoi and there are some consulates in Saigon, now called Ho Chi Minh City.

The main sources of information about life in the south, however, are letters from residents to relatives living abroad, the government's own news media and the continuing flow of refugees.

These bits and pieces of information making their way to Bangkok, a major Vietnam-watching outpost, make it clear that life is tough, but unlike Cambodia, that there apparently have been few executions of anti-Communists.

Instead, the regime has arrested, isolated or, as Prime Minister Pham Van Dong put it recently, "rehabilitated" active supporters of the U.S.-backed Nguyen Van Thieu government. This is a euphemism for psychological or physical punishment.

Groups singled out for particularly harsh treatment are former senior military officers, activist clergy, and private businessmen.

Between 40,000 and 400,000 southerners, many of them senior officers in the former southern army, have been sent to "rehabilitation" or "reeducation" camps since the Communist victory more than two years ago.

According to reports from some of the 15,000 refugees who have fled Vietnam since the end of the war, life in these camps is extremely hard. An unknown number of internees have died from malnutrition and disease, they say.

A refugee who reached Thailand last month said in an interview that his two brothers, who had been officers in non-combat positions, were arrested just after the fall of Saigon. "No member of our family has heard from them since. We don't know where they are or if they are dead or alive," said the refugee, who asked that he not be identified, for fear of jeopardizing his relatives still in Vietnam.

Both Buddhist and Roman Catholic clergymen are having difficulty. As they have done in the North, the Communists are working toward eliminating organized religion in the South, or at least reducing its effectiveness.

A Western diplomat who served recently in Hanoi said that the authorities have moved to bring the clergy under their influence by granting them privileges and by creating such groups as the Patriotic Buddhist Organization.

Although Communist authorities in Hanoi often make a point of conducting Western visitors to church services, this diplomat said, young Vietnamese were being taught to shun religion and most congregations comprised only older people.

Acording to several Western and nonaligned diplomats here who observe Vietnamese affairs, the authorities have been rounding up clergymen who had been active opponents of the Thieu government simply because it was feared that they might organize opposition to the Communists.

A Vietnamese monk who has lived in Bangkok for six years said two Catholic bishops, Tran Huu Thanh and Nguyen Van Thuan, were arrested and died in jail of "unknown causes." Other Catholic clerics still held include Archbishop Nguyen Van Binh; the bishop of Danang, Pham Ngoc Chi; and the bishop of Vinhlong, Nguyen Van Diep.

The monk showed personal letters and circulars from Saigon, Paris and several cities in the United States that contained these and the names of others reportedly arrested in the last few months.

Among them were Thich Tri Quang, a leader of Saigon's An Quang pagoda, who had been labeled "the red monk" by Thieu and was perhaps the most important religious figure to oppose the former government. Others were the leader of the Hoa Hao sect, Luong Trong Tuong; most leaders of the Cao Dai sect, and a highly venerated wandering monk, Nguyen Thanh Nam.

There have been some news reports in recent months of large-scale self-immolations of Budhist monks.

Some observers, however, believe that these reports are somewhat exaggerated. One diplomat whose government maintains an embassy in Hanoi said he had seen only one confirmed report of six nuns and three monks burning themselves to death last year in Cantho, a city in the Mekong Delta.

Another, and perhaps the most obvious, target for the new government is the capitalist system in the South. The Ho Chi Minh City Communist Party organization recently announced that it intended to "complete the transformation" of private industry and commerce and turn all farms into collectives in the next two years.

Private business still goes on in the South, but the government's statements, monitored in Bangkok on radio and over the Vietnam News Agency wire, make it clear that entrepreneurs are being squeezed out of the economic picture.

"Capitalists" and "speculators" are frequently blamed for the massive economic problems that have plagued southern Vietnam since the flow of U.S. aid was halted.

Although the economy is still described as "multi-sectoral," the Communists emphasize the takeover of the private sector by the state. The Vietnam News Agency has warned businessmen that they must realize that socialism is the "inevitable law of the Vietnamese revolution."

The news agency and Vietnam Radio mention from time to time that the government faces considerable problems, particularly in the South. Usually though, reference to difficulties is couched in reports of progress, such as increases in irrigation canal mileage or electrical power wattage.

Some observers believe that the drive toward socialism in the agricultural sector is partly to blame for a 45,000-ton rice shortfall this year, although they concede that Vietnam was struck by a severe drought and unusual cold in the rice-producing areas of the Mekong Delta and the Red River.

One of the problems the Communists inherited from the Thieu government was unemployment. According to official statements, some 1 million Saigonese were out of work when the Communists came to power. Since then, half of these people have been sent out of the city to "new economic zones," collective farms reclaimed from the jungle.

Another 200,000 "volunteers" have also gone out to the zones. Some refugees reaching Thailand have told of extreme hardships in these areas, including shortages of food, tools, housing material and medicines.

One Eastern European diplomat described the new economic zones as a "brilliant stroke of organization talent" by the Communists. But, he conceded, "There probably have been some deaths from malnutrition and disease. This is only natural because of bureaucratic shortcomings in a project of such scope."

Some observers in Bangkok and in Western capitals believe that the impressive organizational ability of the Vietnamese government is responsible for keeping the flow of refugees out of the country relatively low.

Compared with an estimated 15,000 Vietnamese, mainly the so-called "boat cases" who have reached various Southeast Asian countries, 25,000 Cambodians and 88,000 Laotians have fled to Thailand.

Refugee workers here believe though, that the basic reason for the relatively small number of Vietnamese leaving is that their journey is much more hazardous.

"I'm sure that if it was as easy to cross the South China Sea as it is to swim the Mekong from Laos to Thailand, we'd have many, many more Vietnamese making a run for it," one international agency officer said.

BOUNDARY WATERS, A ROMANCE

HON. DONALD M. FRASER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 13, 1977

Mr. FRASER. Mr. Speaker, the October/November issue of Outdoor America, an Izaak Walton League publication, contained an article describing the allure of the Boundary Waters Canoe Area to wilderness seekers. Written by Justin Isherwood, the article sketches a portrait of an area whose fate is now in the hands of Congress.

Isherwood eloquently constructs the case for bringing full wilderness protection to the area. He notes its uniqueness:

Few places remain in the United States where man and the wilderness can become one, where the solitude of nature can be felt and the intricacies of the life-cycle can be explored to the fullest . . .

It is a place that a nation needs, a place to send its people so they might get a fix on where they are and where in continuing journey they wish to go.

And he draws attention to its history:

There is an answer to whether the BWCA should be preserved. It is an answer dictated by the long memory of that region. A memory that knows the curious chemistry that is compounded between people, water, rocks, and woods . . .

The earth keeps a diary of the way things were. With a pencil of its own manufacture it selects privileged places to write letters of its experience. The Boundary Waters is special container where the old correspondence is kept. A place that remembers.

He concludes:

Such should be reason enough to leave the BWCA alone, as a memorial to the planet's first days and to the ghosts of mountains.

I commend the article to my colleagues' attention.

BOUNDARY WATERS, A ROMANCE

(By Justin Isherwood)

The canoe is an invention of the earth itself. Born of birch and cedar and spruce it was a vehicle built for the highways that the American land provided. In the northern regions of this continent the canoe made it possible to go from sea to sea despite the almost impenetrable forest. It was sacrement in the religion of a race. The Iroquois Messiah, Hiawatha, was said to have spent the last years of his life clearing rocks from the river roads that connected the many tribes of his people.

The canoe allowed the early explorers to reach the continent's interior long before overland exploration. The names of those explorers still ring with their achievement. Marquette, Joliet, Grosliers, Radisson, Carver, MacKenzie.

As men they were giants, they traveled the portages at a wolf's lope carrying 180 pounds. It could easily have been sadness, from the drugery, pain and dying, that they gave as inheritance. The sheer gut bustin' work that labored heart and drove the breath wild while tormented by flies. Sadness was not the inheritance, instead they bestowed a joy, the simple life loving pleasure they felt at being alive, a gift given to the generations by men who loved their work. The songs they sang reflected the cadence of the paddles in unique harmony with the land. They had a brag that as voyageurs they were the best of mankind, who could sing the sweetest, work the longest, carry the heaviest loads and love the best.

Much of that tradition has been lost in today's mechanized world. The canoe has almost been replaced by the power boat, and the satisfaction derived from a hard day's toil in the wild has become a rare experience instead of an accepted way of life.

Few places remain in the United States where man and the wilderness can become one, where the solitude of nature can be felt and the intricacies of the life-cycle can be explored to the fullest.

The course of history has been an endeavor to teach the land tricks, from which rise the farms, the cities, great dams, highways, mines, quarries, oil wells. The land became the obedient and loyal hired hand whose principle was to service. We developed engines with which we can put furrows to any ground, only the question remains whether all ground shall be put to the plow. That question takes on its real value when a wilderness area sits astride a considerable wealth. It is easy to say yes to those natural and wilderness area for whom a use has not yet

developed. The test of course and courage is to leave be an area whose potential resource wealth is great.

The Boundary Waters is a long enduring romance. A romance fueled by the millions who have been to that kingdom of water, millions who have been there under primal conditions propelled only by muscle and bone. Many come to that country searching the unexplored wilderness that is within themselves. They come to hear in the silences the words of wood and water that are orchestrated with the workings of their own heart. Soldiers have come to the Boundary Waters after a war's end, to let their bodies uncoil from the fist that held them, to forget the sounds they have heard of anger at full throttle.

Others come to find their gods or some solid definition of goodness, a definition strong as the white pines that have grown huge among the rocks. They come to find definitions for words, much used words, to find fit for them in their own lives. It is this place, the BWCA, that permits a million travelers their search among the unchanged stillnesses. The wilderness experience is the quaint expression, being beyond tongue to properly tell it, for the nourishment comes direct, as if our bodies sprouted leaves to make muscle and sense of sunlight. A need that is ancient among us, Moses went to the wilderness, and Jesus, and Twain and Melville and Thoreau. Wilderness has had its wrench on the wisdom of man for as long as man has been. It is a long and constant romance, beginning with the raw stuff of tourists creating from them something more than a sightseer with a handful of photos to show where they have been. It is a place that a nation needs, a place to send its people so they might get a fix on where they are and where in continuing journey they wish to go.

There is an answer to whether the BWCA should be preserved. It is an answer dictated by the long memory of that region. A memory that knows the curious chemistry that is compounded between people, water, rocks and woods. This is a special reaction that leaves minds touched with the soft sound of winds passing over vanished mountains. And rocks that once hearing songs sung, echo and re-echo the music that builds in volume till the tune becomes manifest in each who pass.

One of those remaining places is the Boundary Waters Canoe Area in northern Minnesota.

The BWCA is an old and experienced place. The naked or thinly clad rocks of the region were once high and ancient mountains. Mountains that were higher than the Rockies, higher than the Alps, some say as high as any that ever were. The Laurencian Mountains that were made from the just cooled mantle of a new born planet. A crust heaved up by the titanic groans of continental collision.

Those mountains fell in gentle cataclysm with but thin thunder made of their passing. Time took the mountains down. Time incarnate with sinews of wind and rain, it was time that unbolted those mountains, grain by grain till only the foot prints of the lofty peaks remain. The rocks of the BWCA are like cellar walls left in the wake of old farm houses long after the farmer passes, a testament of what once was. The mind has instruments sensitive enough to touch old walls of house and mountain and hear the faint echces of the hollers and shouts that the lives in those mountains and houses made.

The earth keeps a diary of the way things were. With a pencil of its own manufacture it selects privileged places to write letters of its experience. The Boundary Waters is a special container where the old correspondence is kept. A place that remembers. The soil is shallow there, glaciers polished the rocks smooth so there'd be memory of the mountains. Other places got the till, layers and layers of sand, gravel and clay, a ground good for farmers, corn and potatoes. The BWCA was left a bare boned skeleton for the curious to see what is underneath, so to see how the land was made, a favor granted by creation itself. Such should be reason enough to leave the BWCA alone, as a memorial to the planet's first days and to the ghosts of mountains.

AID TO ARGENTINA

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 13, 1977

Mr. LAGOMARSINO. Mr. Speaker, I would like to bring to the attention of my colleagues a letter I have received from the Argentine Embassy yesterday and a few of my comments regarding the amendments in the foreign aid appropriations bill dealing with Argentina:

WASHINGTON, D.C.,
October 12, 1977.

HON. ROBERT LAGOMARSINO,
U.S. Congress,
Washington, D.C.

DEAR MR. LAGOMARSINO: For your information I am enclosing the text of Law No. 21.650, as it was published in the Argentine morning daily "La Opinión". By this law, put into effect on September 27, 1977, the Government has restored the constitutional option to leave the country, granted to people held without charge under the state of siege.

I would also like to point out that on the same date a commission was established to study, on an individual basis, the corresponding cases.

Finally, I want to tell you that in the continuous process that is taking place and according to an information received yesterday, October eleventh, 132 persons were freed.

Sincerely

JORGE A. AJA ESPIL,
Ambassador.

COMMENTS BY ROBERT J. LAGOMARSINO, M.C.

Mr. Speaker, I am strongly opposed to the amendments to bar funds for military training assistance and FMS sales credits to Argentina.

On May 23, the House rejected an attempt to eliminate these funds for Argentina. The reasons for not prohibiting such aid to Argentina are just as valid today as they were in May.

The issue of human rights is the focal point of debate on the question of providing assistance to Argentina. I believe as does the Carter administration that it can best implement its human rights objectives by retaining the option to make funds for training programs available. I must repeat what Assistance Secretary of State for Latin American Affairs Terrence Todman has said about security assistance. He says it is "a political tool that provides us an opportunity to exert some influence on (government's) attitudes and actions." The administration wants to retain these funds for Argentina so that it may have flexibility in pursuing its goals in human rights and in promoting hemispheric security. If we cannot maintain a dialogue with Argentina on the question of human rights, we will restrict the possibility of exercising any significant influence on them.

Already, we see that the conditions in Argentina are improving. Late this summer I had, along with several of my colleagues on the Inter-American Affairs Subcommittee, the opportunity to visit Argentina. Our discussions with government officials there left me with the clear understanding that American ties with Argentina serve as a positive influence in that country. I strongly believe, and my personal visit reconfirms this, that an elimination of assistance to Argentina would be counter-productive. By singling out Argentina, we offend their national pride and enhance the prospects of a new military regime—a regime which would be more repressive and less willing to accept American representations for improved respect of human rights.

Just recently, the Argentinian government has taken significant steps to improve its internal conditions. President Videla has given certain prisoners the option of exile over a term in prison and, on Oct. 11, released 132 prisoners. These positive actions in the area of human and political rights illustrate that, given the right combination of pressure and understanding, the situation in Argentina can continue to be improved.

Some of my colleagues have argued that U.S. assistance helps to glorify the military in Argentina and that it ties our country to the repressive policies of the Argentina government in the eyes of its people.

The repressive policies of that government, as unacceptable as they are, do not occur in a vacuum, but are prompted by serious terrorist activities. Threats to American diplomats and business executives, kidnappings of businessmen and even an American child, and destruction of American property are all acts which we should equally deplore. We certainly will not protect American interests by passing legislation in this body which only serves to reduce the administration's leverage and credibility with the Government of Argentina.

We met many individuals and groups concerned with human rights. While none of them could be said to be satisfied with the situation in Argentina, almost all of them did say they felt that President Videla was an honest man trying to do his best. They did say that things could, and probably would, be worse should Videla be replaced by others in the military.

Finally, I find it difficult to understand why, in particular, the training programs for Argentina should be so controversial. The courses included are: "Aircraft rotor-propeller repair," "aircraft electrician", "aircraft instrument repair," "maintenance management", "quartermaster officer advanced", "academic instructor school," "English language", and "personnel management officer". These courses are clearly not designed for police training or civilian police action.

HENRY REUSS ON THE URBAN DILEMMA

HON. MARY ROSE OAKAR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 13, 1977

Ms. OAKAR. Mr. Speaker, the commitment of HENRY REUSS to the solution of our urban problems is common knowledge to all of us in the Congress as well as those who dwell in our cities. Mr. REUSS, as chairman of the Banking Committee and the recently created Subcommittee on the City, has shown an extraordinary sensitivity to and understanding of the urban dilemma.

I would like to take this opportunity to place in the RECORD an interview with HENRY REUSS, conducted by Leo Penne of the National League of Cities (Nation's

Cities, September 1977). This is the first installment in a two-part interview. I believe that it demonstrates the work and wisdom of HENRY REUSS, and the article follows at this point:

WHAT IS HENRY REUSS UP TO?

(NOTE.—Last fall when Rep. Henry Reuss (D-Wis.), chairman of the influential Committee on Banking, Finance, and Urban Affairs, announced that hearings on the rebirth of the American city would be open only to experts and thinkers from the academic community as well as representatives of community and civil rights organizations, some eyebrows were raised in the urban fraternity, including ours (see "No City Officials Need Apply," Nation's Cities, October, 1976). Come the first of the year, Reuss announced that he would chair a non-legislative Subcommittee on the City and has, since, embarked on an ambitious series of hearings that have had as witnesses city officials, including Tom Moody, mayor of Columbus, Ohio, and NLC's second vice president, and Chris Lindley, council member from Rochester, New York, and NLC board member, as well as members of the wider community concerned with urban policy. "What," many people have asked since then, "is Henry Reuss up to?"

(To find out, we asked Contributing Editor Leo Penne to go to Capitol Hill and ask the man himself. Their conversation went on for an hour, and because it offers such a clear view of one of the most important and incisive minds in American urban affairs, we have decided to print it for you almost in its entirety, half this month and the remainder in the October issue.—F.J.)

NATION'S CITIES. Logically, the first question to ask about the subcommittee is, "why?" I guess especially since the Congress already has a transportation committee that deals with public transportation, a housing committee that deals with urban housing; a public works committee that deals with urban public works. One can go down the line, and for every problem and program area, you have a committee or a subcommittee operating. But you thought it important to exert some effort and to invest considerable resources in creation of a subcommittee on the city. Why?

REUSS. Simply because Congress wasn't looking at the overall problem of the city in any systematic way. Your listing of the various committees with jurisdiction is itself a reason why some central focal point to look at it altogether was needed.

Incidentally, to your list you could have added Ways and Means with its tax and social security and welfare programs; Government Operations with its revenue sharing; and Interior with its open space and historic area programs, and many, many others.

In fact, in my view, the problems of the city are inseparable. Those problems, indeed, do make a seamless web. And our effort has been to try to see the interrelationships between various problems and various programs designed to deal with them.

One of the troubles, of course, is that Congress over the years has responded to individual problems by individual programs, and the side effects and by-products of those programs have frequently contributed to the problem rather than the solution. It's necessary to have a highway system, but we found that urban highways were splitting neighborhoods and causing economic devastation to the central city. It is necessary to have mortgage insurance, but as is well known, the application of FHA over the years has contributed considerably to the proliferation of suburbs and exurbs and urban sprawl generally.

So we'd want in the Congress one place where we could take an overall look at things. And the mere fact that we don't have legislative jurisdiction, that is, the power to ourselves produce a statute, is, in my view, a good thing rather than a bad thing because we aren't diverted by the necessity of working endlessly in the specific wording of specific statutes.

N.C. So you don't see the subcommittee as a sort of residue committee that is simply picking up items that are not picked up elsewhere. Rather, you see it as a place where coherence can be made or a place where questions pertaining to the intersection of separate issues are taken up?

REUSS. Definitely the latter. To the extent that no committee pays attention to some issues, we are, I suppose, a residue, catchall subcommittee. But our main function is to look at things that do receive intensive attention from other committees.

For example, I certainly don't fault Ways and Means for not spending plenty of time considering the taxes that affect the city. Yet, it is apparent that large parts of the federal tax code either work in ways that hurt cities or produce consequences that Congress never really foresaw and didn't specifically legislate.

N.C. I'm interested that you think that not having legislative responsibility is an advantage. I would think that at first glance an outsider would perceive that to be a disadvantage or a weakness—that the subcommittee would be less likely to be taken seriously because it didn't have power.

REUSS. A man alighting here from the moon would probably say that it doesn't make sense to boast about one's lack of power. But, in fact, if we were to try to set up a committee here that would have jurisdiction over everything having to do with the cities—all housing, all transportation, all taxation, all revenue sharing, all job legislation, all environmental legislation—it would be a committee with 435 members and be the entire House. So it just wasn't within the realm of practicality to think of that. So maybe my gloating about the fact that we don't have legislative jurisdiction is making the best of reality, but actually if we are to be a thinking committee rather than a committee that fusses around with specific statutory language, it is just as well not to have the responsibility of getting out 10 bills a year, which would absorb all our time.

Part of this, I suppose, is personal. I've been here now for 23 years. I'm chairman of the Committee on Banking, Finance, and Urban Affairs, which is the closest to a city committee, I believe, that we have, comprising as it does the Subcommittee on Housing, the Subcommittee on Economic Stabilization, which deals with traumas like New York City, and several other subcommittees that have some city jurisdiction like that on financial institutions.

So being here and in charge and having been, long before I got to Congress, intensely interested in the city, and, I must confess, being apprehensive of the fact that nature abhors a vacuum and that if we didn't fill it with something, some other enterprising committee might do it, we're doing it.

N.C. Would you expect that at any time in the future it would become a legislative committee?

REUSS. No. I wouldn't want to start trying to raid other committees of their jurisdiction. One, it would fail. And secondly, it would make everybody hopping mad in the process and absorb all my time in a war that I was sure to lose.

N.C. On the substance side, you've had now, I think, three hearings—one on the impact of the federal budget on cities, one on foreign experience and its relevance to American cities, and one on the impact of tax policy. Out of those hearings, what have you concluded that might be forwarded as recommendations to legislative committees?

REUSS. We are drawing up a report on the first hearing that you mentioned, namely, that on the impact of the federal budget, and our recommendation, assuming my subcommittee goes along with me, would be that the Office of Management and Budget and the congressional budget committees that are working on similar problems work out an arrangement whereby to the maximum possible extent the impact of the budget on cities is separately delineated, just as the impact of the budget on state and local government is now separately delineated.

So we will get out a very specific report on it. On our European experience and its relevance to activities here, there have been a whole series of spin-offs from that. I'm not yet sure we're going to get out a generalized report on that, but from the hundreds of ideas dredged up at the hearing from foreign experience, we're now planting those ideas quite broadly in city governments, in congressional committees, in the executive branch, and wherever.

On the third hearing you mentioned, namely, the hearing on the effect of the federal tax code on urban development, we plan to get out a set of recommendations very shortly to both the Ways and Means Committee, which is going to have to write tax reform legislation, and to the administration, namely, the Treasury, which is going to have to forward its recommendations by next fall, and we want to get in our recommendations in timely fashion before they start work on whatever changes in the code they're going to make. And this is very important because in bygone days, the taxwriting committees have had to work on city problems starting at scratch on their own. We think that we can have a constructive impact there.

We've got another couple of hearings coming up within the next couple of months that I think will be timely. One on the city and energy: what will be the impact of the president's energy program on the cities, and what other things can the cities do that will help on the energy question.

In my view, the city is due for somewhat of a renaissance because of the energy shortage. The city is a marvelous way to save on commuting and travel. It is a marvelous way to save on heat by grouping housing together, row housing or clusters or whatever.

N.C. I think, to follow up on that issue, our point of view is very much consistent with what you have expressed, that the city is inherently an energy conserver. But we saw very little in the president's packaging proposals that either explicitly or implicitly took that into account.

There seemed to be much less emphasis on alternative sources; alternatives to the traditional fossil or to nuclear that might be appropriate for cities. There was no mass transit money contained in the proposal. There was very little indication that what was being proposed in the energy package consciously had been related to what had been or might be proposed in transportation or in housing or in other areas of policy. Do you agree?

REUSS. Yes, I note the same gap, but nobody is perfect, and there will be a round two on energy. And that is why we want to have a series of hearings at which, of course, the leading witnesses will be city people to try to evolve a city-oriented energy Phase II program in which special attention will be given to the energy-saving potential of mass transit, more use of bicycles, and the shanks' mare for walking, changes in city planning to effect energy conservation, and architectural methods of conserving energy, which really hold out, in my view, quite as much promise as some of the things in the president's existing program.

N.C. What is the strategy for trying to take the kinds of recommendations that the Subcommittee on the City might develop

and that might pass Congress to the point where they can actually be implemented by the executive branch, where fragmentation of urban responsibility also exists?

REUSS. You're right in saying that the executive branch is also in a state of turmoil as far as the city is concerned. And one of the first things I did after setting up our city subcommittee here in Congress was to urge upon the new Carter administration the evolution of some institution in the executive branch that would take an overall view. It may well be, and maybe we should be optimistic about it, that the urban committee headed by the secretary of HUD, Pat Harris, can evolve into just such a city-concerned coordinating agency.

So far as I know, OMB hasn't institutionalized the problems of cities at all. They need a lot of basic education over there. They look to their regular budget headings, and as long as it falls under that, that's the extent of their concern.

But as I view what's needed, you need, one, a city-oriented committee or subcommittee in Congress. I think we've got that now in the House. You need a city-oriented coordinating body or agency in the federal government. They are now, given a little luck, moving toward that though they certainly need to co-opt the Office of Management and Budget in the coordinating process.

Thirdly, and very importantly, an urban—a national urban policy, which is what our subcommittee is all about, requires huge institutional input from the mayors and governors and other local officials, and from the public: business, labor, and thoughtful citizens.

And my idea is that we ought to get these groups together: the Congress, the executive, state and local government, plus private citizens and institutions. But at least we're started on the process in the Congress, and I hope in the executive.

N.C. That last point suggests maybe a theme consistent with the hearings on the taxation and on the impact of budget, that we may be well advised to look less to federal direct grant programs for solutions to city problems and more to the causes and results of public actions in the private sector.

REUSS. Yes, that's fair. It's my feeling that it doesn't really help much to talk about a great new Marshall plan for the cities, implying the expenditure of unrealizable billions each year to rescue them from the agonies to which they have been put very largely by the federal government.

N.C. What do you mean by that?

REUSS. By that I mean that it was the federal government that brought about the unemployment and the inflation that has dogged the city during the 1970s and brought New York City, for instance, to its knees. It's the federal government that has bollixed up the welfare system so that it is detested alike by those that contribute to it and those who receive its benefits. It's the federal government that spawned knock-them-down urban renewal projects, neighborhood-dividing urban highways, inhuman high-rise public housing projects like Pruitt-Igoe in St. Louis and lack of attention to rehabilitation and neighborhood development.

It's the federal government that has set up a tax system that is absurdly costly in terms of revenues lost and largely produces, so far as appears, bonanzas for the wealthy, whether they are in the form of second and third homes for millionaires who get very juicy tax subsidies or in the form of rewards paid to speculators for building suburban shopping centers and, thus, doing their bit to fracture the economics of the central city.

So if the federal government would simply stop doing that which is wrong, the cities might surprise their detractors by doing a good deal of reviving all by themselves. Having mentioned some things for which I think the federal government is responsible, I should point out, too, that the states are considerable sinners. It's the states that have failed to provide localities with either tax systems that enable them to survive or geographical and metropolitan arrangements that enable them to govern. There are some honorable exceptions, of which Minnesota is a shining example.

But, it's the states like New York, which loaded New York City up, shortchanging it of welfare funds, shortchanging it of higher education funds, and creating ridiculous municipal employee pension schemes without funding them, that have failed.

So if the states and federal government would reform themselves and stop ruining the city, it would be just amazing how soon the city could recover. Having said all that, I certainly would not for one moment suggest that the federal government does not have an important and money-heavy role to play in aiding cities. It's got to help on housing; it's got to help on general expenditures; it's got to help on air and water pollution; it's got to help on mass transit and other things.

But if we would stop doing that which is wrong and then put adequate assets onto the commanding heights of urban problems such as those that I've just named, I think we could forget about three or four hundred dinky programs that give psychic joy to their authors but are inadequately funded and don't really accomplish very much.

N.C. Do you think that the likely squeeze on the availability of federal grant money makes this approach not only right but necessary?

REUSS. Yes, I do because if we go on as we have, continuing the errors that contribute to the sickness of the cities and then attempting to put bandages on the wounds by hundreds of little underfunded or unfunded programs, we're just going to see more fiscal decay and social bitterness.

N.C. You have apportioned shares of the blame to the federal government and to the states. What about city governments?

REUSS. There is enough blame to go around, but in general my observation is that even the best mayor in the world with a sensitive and cooperative local common council or legislature can't really make headway against the mass of wrongheaded federal and state programs or lack of programs.

EPA SHIFTS TO EMPHASIZE RECYCLING SEWAGE ON LAND

HON. GUY VANDER JAGT

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 13, 1977

Mr. VANDER JAGT. Mr. Speaker, an article by Tom Grubisich appears today in the Washington Post titled "EPA Shifts to Emphasize Recycling Sewage On Land." As Members of the House are aware, I have had a long term interest in this method of management of municipal wastewater, so, of course, I am pleased by this new direction being emphasized by the Environmental Protection Agency under the very capable leadership of its Administrator, Douglas Costle; Deputy Administrator, Barbara Blum, and Assistant Administrator for Water and Hazardous Materials, Thomas Jorling.

It is gratifying to note the article's credit to the Muskegon system in my district which provides ample demonstration of the low cost and high quality water resulting from the utilization of this approach. It simply makes great economic and environmental sense. It makes particular sense when compared with "conventional" and so-called "advanced waste treatment" processes that attempt to "dispose" of wastes, the out-of-sight, out-of-mind syndrome that we must outgrow, because it is too costly and too wasteful of resources. Common chemicals in sewage are pollutants and cause severe problems when discharged to lakes and streams, but are nutrients when applied to crop land. Attempts to remove those "pollutants" from sewage by physical, chemical, or biological means have become very costly in recent years. The Muskegon type alternative avoids those costs by recycling the "pollutants," nitrogen, and phosphorus, through farm crops. The result is clean water and agriculture production to help offset the cost of sewage treatment.

Mr. Grubisich discusses related legislation now being considered by the House and Senate conferees as they work out differences in amendments to the Water Pollution Control Act. Our very capable and highly esteemed colleague, Mr. CLAUSEN, has developed this legislation earning the nearly unanimous support of his House associates in the conference. Combined with the EPA directive, it will provide a powerful incentive for mayors, county and city council members, and the sanitary engineering profession to stop building "conventional" treatment processes that are costly and leave water dirty, and give much more attention to recycling systems that are less costly and provide clean water. Mr. Speaker, I commend this article to your attention and to the attention of our colleagues in both the House and the Senate:

EPA SHIFTS TO EMPHASIZE RECYCLING SEWAGE ON LAND

(By Thomas Grubisich)

After years of promoting expensive, elaborate plants that treat sewage and then discharge it into streams and rivers, the federal Environmental Protection Agency, in a major shift, plans to "press vigorously" for recycling sewage on land.

Under the process emphasized by the new policy, partially treated sewage would be sprayed onto fields where it would be absorbed slowly and enrich the soil. The change was detailed last week in a memo from EPA administrator Douglas M. Costle to officials at the agency's regional offices throughout the country.

One immediate effect, according to an official at the regional office covering metropolitan Washington, is that "it will stiffen our backs" in resisting Montgomery County's efforts to build a 60-million-gallon regional sewage treatment plant at Dickerson that could cost over $400 million. The plant would discharge treated wastes above water intake pipes on the Potomac River.

Because EPA dispenses the federal grants that pay for 75 per cent of the cost of constructing water clean-up projects, the new policy could have a major impact on the technology and politics of sewage treatment.

Instead of concentrating on choosing among types of expensive sewage-plant hardware, as many local jurisdictions did in the past, communities seeking federal money to help build sewage treatment facilities will have to show they gave thorough consideration to land treatment.

Such treatment involves extensive spraying of pretreated sewage onto agricultural land or other open space. The sewage is absorbed and purified by the soil instead of being discharged into rivers and streams, officials say. The spraying operation is similar to irrigation projects on farmland in the Western states in the sense that movable sprayers are used.

If land treatment becomes widespread, it could have a major impact on land use. A large sewage treatment operation would require thousands of acres that would be used over and over again. The sprayed fields could be farmed but not developed for housing or other similar uses.

Besides getting a big, new push from EPA, land treatment also is gaining more support in Congress. Conferees from the House and Senate public works committees are considering legislation that would increase the federal contribution from 75 to 87½ per cent, to promote use of the widely known but not extensively used process.

In his memo, EPA administrator Costle said:

". . . The utilization of land-treatment systems has the potential for saving billions of dollars. This will benefit not only the nationwide water pollution control program, but will also provide an additional mechanism for the recovery and recycling of waste water as a resource."

This is because substances that would be pollutants in the water become nutrients when sprayed on the soil.

Applicants for clean-up funds, to build treatment plants, he said, in an underlined passage "should be required to provide complete justification for the rejection of land treatment."

In asking for federal funds to build a big regional plant at Dickerson, Montgomery County officials said they had considered land treatment, but rejected the alternative because it was too costly and required too much land.

However, EPA, in rejecting the Montgomery application last year, said the county had not given land treatment enough attention and that, furthermore, the proposed Dickerson plant was itself too expensive as well as oversized.

One of the few major municipal land-treatment operations started in recent years is in Muskegon, Mich. For some time after it opened, in 1973, the facility limped along and was widely criticized for not living up to expectations.

But all that changed, says its director, Dr. Ara Demirjian, after irrigation equipment became fully operational, objectionable odors were eliminated through equipment changes, and corn yields on land sprayed with the treated sewage were increased from 30 to 81 bushels per acre.

Demirjian said Muskegon's land treatment, which covers 5,200 acres, costs 17 cents per thousand gallons, versus 50 to 60 cents per thousand gallons in an advanced treatment plant.

Last year's corn crop, he said, brought in $1 million, and revenues from this year's should be higher. There have been no recent increases in sewage service rates, he said, even though the cost of energy—used in the pumping and spraying operation—has doubled.

In addition to influencing negotiations between EPA and Montgomery County on the Dickerson proposal, the new policy thrust also could have an impact on rapidly growing Poolesville in northwestern Montgomery.

The town commissioned Kamber Engineering Inc. of Rockville to assess land treatment, but after the consulting firm's negative analysis was criticized, local officials hired another firm from Chicago to take another look.

"We've got one helluva fight going on," Sam E. Zattiero, president of the town council, said. Some landholders, he said, oppose land treatment because "let's face it, the process takes a lot more acreage out of development than a sewage-treatment plant."

HUMAN RIGHTS IN SOUTH KOREA—II

HON. DONALD M. FRASER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 13, 1977

Mr. FRASER. Mr. Speaker, on September 19 and 20, parliamentarians from the United States and Japan met in the caucus room of the Cannon House Office Building to discuss problems of U.S. and Japanese policy toward Korea. The Japanese delegation included 17 members of the Diet, representing four different Japanese political parties as well as a contingent of independents. They brought with them a deep concern over the issue of human rights in Korea and over the high level of tensions between North and South Korea. I was privileged to participate in some of the discussion at this conference.

I would like to call to the attention of my colleagues three papers in particular dealing with the subject of human rights in South Korea. Prof. Richard Falk of Princeton University presented a paper on "Human Rights and U.S. Policy toward Korea," Prof. Jerome A. Cohen of Harvard Law School wrote on "The State of Human Rights in South Korea," and Prof. Bruce Cumings wrote on "Political Repression and Economic Development in the Republic of Korea: A Necessary Relationship?"

I would like to enter into the RECORD excerpts from the paper by Prof. Falk, which analyze U.S. policy toward human rights in South Korea and concludes that the Carter administration is moved to take human rights into account in its policy mainly because it is dependent on large appropriations of funds from Congress. His analysis emphasizes that congressional funding of South Korea constitutes the main form of leverage available to the U.S. Government in regard to human rights in South Korea. As he points out, verbal declarations on this subject are empty as long as there is no willingness to take into account the performance of the Park regime on human rights when enacting appropriations bills in Congress. I commend this paper by Professor Falk to my colleagues:

HUMAN RIGHTS AND U.S. POLICY TOWARD KOREA

There is an obvious tension between the abuse of human rights by the South Korean government and continued American support for that government by way of aid and protective security arrangements. A basic contention of this paper is that the Carter Administration is seeking, so far at least, to resolve this tension without altering fundamental U.S. policy toward Korea as it has evolved since 1945. At the same time, the Carter stand on human rights places the new Administration in a defensive posture on Korea. As such, it creates an opening through which to mount pressure for a new approach toward Korean issues. To be effective, this pressure must be mounted by the U.S. Congress, reinforced by Japanese support at the highest possible levels. My objective in this paper is to clarify this opportunity as it relates to human rights as well as to suggest the direction of a different, more positive Korea policy for the United States.

II. THE CARTER PERSPECTIVE

In his campaign for the Presidency, Jimmy Carter displayed a concern for American policy in Korea. He promised to withdraw nuclear weapons and the remaining American troops from South Korea. Candidate Carter singled out South Korea, along with Chile, as a country where American support for a repressive regime was objectionable. In the primaries preceding his nomination Carter said, "It should be made clear to the South Korean government that its internal oppression is repugnant to our people."

The transition from candidate Carter to President Carter is still underway. The results to date are mixed. Most attention has been fixed on the fulfillment of the troop withdrawal pledge. The announcement by President Carter of an intention to withdraw 33,000 of the 41,000 or so American troops in South Korea over the next few years has been hailed as an important step in disengaging the United States. Even Richard Barnet, an acute critic of Carter's overall foreign policy, calls "the Korean withdrawal . . . the most explicit foreign policy initiative yet made by the Carter Administration; unlike most of the others, it does not appear riddled with exceptions, caveats, and loopholes . . ." (Barnet, "Carter's Patchwork Doctrine," Harper's, Aug., 1977, p. 34). To similar effect correspondent William Beecher writes that, "On Korea, the President overrode the doubts of his generals, his CIA director and some of his most experienced diplomats . . ." (The Boston Globe, Aug. 19, 1977, p. 23). What is less noticed, however, are the compensatory reassurances made by the Carter Administration to soften opposition to the withdrawal both in Washington and Seoul. Part of this process involves assisting with the military buildup of Korean armed forces to the tune of $2 billion over the next few years. Another more relevant part of this process is the reaffirmation of the reality of America's strategic interest in South Korea. This reaffirmation has gone so far as to have President Carter reassert more or less, the Schlesinger view that American nuclear weapons would be available, if needed, to halt a North Korean military advance.

Most relevant, however, in relation to our inquiry here is the clear indication by authoritative Administration officials that the American security commitment to Seoul will not be influenced by failures on the part of the South Korean government with respect to human rights. In a significant sense, I think it is fair to conclude that the Carter Administration has traded off human rights in exchange for relative acquiescence in the troop withdrawal. In the background of such an approach is the older view that North Korea is so repressive that human rights for Korea as a whole is upheld by assuring the security of South Korea, no matter how repressive the latter becomes.

In effect, human rights is automatically assimilated into the containment approach to security in the peninsula. As William Barnds expresses this view, "Even a minimal concern for human rights requires the recognition that a takeover of the entire peninsula by North Korea—one of the most rigid totalitarian states on earth—would spell the end of any hope that Koreans would enjoy the most basic human rights (Worldview).

Referring specifically to Korea (and Iran) Secretary Vance indicated quite clearly that in these instances where "the strategic situation is of critical importance," the United States would not allow human rights considerations to get in the way of arms transfer

or sales (see Press Conference, Dept. of State Bull., Feb. 28, 1977, p. 164). More comprehensively, Richard Holbrooke, Assistant Secretary for East Asian and Pacific Affairs, in testimony before Congress, suggested that the essence of U.S. policy toward Korea is "to phase out our ground forces in Korea, while insuring that the security of Korea is in no way threatened" (Dep/State Bull., LXXVI, April 4, p. 322). In the course of this testimony Mr. Holbrooke indicated that the "primary objective" of the United States is "to maintain a deterrent that will insure peace on the peninsula" (p. 324).

As was also made clear, such an objective could only be achieved by helping "in the strengthening of the armed forces of the Republic of Korea through a program of foreign military assistance . . . designed to concentrate on areas where Korean capabilities need improvement," (p. 324). In the course of this testimony Mr. Holbrooke also indicated, somewhat ritualistically that the United States was concerned about human rights in South Korea and asserted that, "We will continue to express our concern in authoritative ways" (p. 325). He qualified this posture, however, by arguing that whatever was happening vis-a-vis human rights "it would be a serious mistake to cut back our longstanding assistance to the South Korean armed forces which helps forces better cope with the formidable task of protecting their country against the threat from the north" (p. 325).

It would appear, then, that human rights considerations are relevant mainly because the Carter Administration realizes that its security policy for Korea depends on large appropriations of funds that must be approved by Congress. To the extent that the Park government engages in blatant forms of repression, especially against widely respected individuals, it will arouse Congressional resistance.

Such resistance will be an embarrassing encounter for a leadership that has placed such a premium on its commitment to the realization of human rights. For this reason there seems to be evidence of Carter-based pressure on Seoul to do away with the most blatant outrages. It is in this spirit that we should understand reports from South Korea of "intense psychological and physical pressures" on imprisoned political dissidents "to get them to sign statements of repentance" so as to gain release from jail (NYT, Aug. 3, 1977, p. A3).

As one dissident leader said to an American journalist: "We think these partial releases are a public relations facesaving gimmick and an effort to divide us "(NYT, Aug. 3, 1977, p. A3). It is indicative of the human rights situation in South Korea that such a statement to a foreigner is made punishable by emergency decree and can lead to a seven-year jail sentence, constituting the crime of criticizing the government to a foreigner.

At this stage I find it persuasive to conclude that American policy toward Korea is unchanged in the Carter Administration. The troop withdrawal represents an accelerated application of the Nixon Doctrine, and although controversial, cannot be understood as a decisive step toward military disengagement. What is more significant is that the withdrawal is occurring in a diplomatic context in which "security" considerations are being considered exclusively in the "containment" sense.

In other words, as yet, there is no evidence of any Carter initiative to redefine America's security interest by opening up possibilities for "peaceful settlement" of the conflict. Instead our role seems designed to perpetuate the conflict by encouraginng South Korea to believe it can idefinitely count on U.S. military support in the event that the status quo is challenged. Finally, the available evidence suggests that Carter's Korean policy will subordinate human rights concerns to security goals, although this assesment may be revised to the extent that Congressional support for military aid is less likely to be forthcoming unless the human rights situation in South Korea seems to be improving.

There is no indication however, that President Carter or his close advisors accepts the position argued by Congressman Donald Fraser to the effect that South Korea's capacity to defend itself militarily presupposes liberalization of governing policies and a widening base of political support among the Korean people (see also Barnds. Worldview July/Aug. '77, p. 14). This position implicitly draws on the Vietnam experience to contend that military hardware is much less critical to the national security of a dependent ally than is political morale.

Such a view would have far-reaching implications, moving human rights from its present status as windowdressing to the very center of American efforts to make South Vietnam "secure." I do not think, therefore that there is much reason to be encouraged so far by what the Carter Administration has done or proposes to do about Korean policy, either on the diplomatic front or with regard to human rights.

* * * * *

IV. HUMAN RIGHTS AND A NEW U.S. POLICY TOWARD KOREA

Previous sections have argued that abuses of human rights in South Korea are severe and structural, and that American policy toward Korea in the Carter period appears to be only tactically different from that of previous administrations. The basic alternative position taken by both Donald Fraser and Kim Dae Jung argues that the political viability of South Korea depends on establishing democratic rights, and on an economic system that makes a far greater effort at fair distribution of the growth dividend.

Of course, even those who believe in the Fraser-Kim approach do not advocate that the United States now deal with Park Chung Hee as it did a few years earlier with Salvador Allende, or for that matter with Ngo Dinh Diem, or numerous others. "Destabilization" of a foreign government by covert operations is not an acceptable form of statecraft, and it should be renounced as an instrument of U.S. foreign policy. At the same time, the U.S. Government is free to condition its support for South Korean security as it sees fit, and it certainly has the discretion to insist upon a shift toward a political approach to security on the part of the Seoul government.

At present, these possibilities to exert influence seem virtually blocked by the play of forces within the executive bureaucracy. Whatever President Carter's personal preferences may be, it is unlikely that, as matters now stand, much can be practically done to encourage human rights in South Korea. Presidential dependence on Congressional authorizations (included in the context of engaging U.S. military forces under the 1953 Mutual Security Treaty), however, creates considerable leverage on the part of Congress, and ultimately for American public opinion. This leverage can be used to make Carter diplomats insist that a failure by Seoul to improve their human rights image will jeopardize American support, direct and indirect, and can be exerted in a variety of settings with different degrees of severity.

The degree of Congressional willingness to challenge Carter on Korean policy depends on several factors. First of all, the influence-peddling scandal has been aptly described as "a wild card" with reference to Congressional attitudes. A reliable public opinion poll, for instance reveals a surprisingly high level of concern among the American people about the scandal, with 63% of those interviewed indicating that the investigation has not been going fast enough (NYT, Sept. 1, 1977, pp. A1, A14). In the afterglow of Watergate members of Congress may be exceedingly reluctant to support Seoul to the extent that such support could be construed unfavorably by voters, as evidence of having been influenced or taken gifts.

In this climate the Carter Administration may be under pressure to distance itself from the Park regime, especially if its repressive policies gain any prominence, and as a consequence, the Fraser-Kim approach to internal security may begin to attract significant support. In this event, the United States, besides becoming more pointed on the human rights situation, might be induced to undertake independent diplomacy designed to reduce tensions on the peninsula, including normalization of relations with North Korea, even making a move toward a "two Koreas" stand similar to the one Japan has been evolving (and similar in image to the American relationship since 1967 with both sides in the Arab-Israeli conflict).

If North Korea is receptive, as there is reason to think it would be, then South Korea would have to become increasingly "provocative" to maintain any credible claim that an emergency situation persisted to justify suspension of political freedoms. Moves in that direction would tend to stiffen American opposition to the mutual security commitment, and might create serious splits among the ruling groups in South Korea, including even some support in Seoul for tension-reduction in North-South relations.

For reasons indicated earlier, without repression Park woud soon fall and therefore it is unlikely that advocacy of human rights from outside will alter the style of domestic governance, although a Korean variant of "decompression" may emerge. What is possible to envision, however, is a move away from the pretext that repression is a response to external danger. Ironically the human rights initiatives, therefore, open up a political dynamic in Korean-American relations that holds out some real prospect for contributing to peace in Korea without much hope of improving greatly the protection of human rights.

This limited improvement in the Korean situation could be better encouraged by Japanese diplomacy and public opinion. A major rationalization of the American approach to Korean policy, especially in recent years, is that its revision would upset the Japanese to such an extent as to endanger the Japanese-American relationship. If the Japanese diplomatic stance made it evident that the reverse were true—namely, that a continuation of the present American "tilt" on Korean security was deeply disturbing to the Japanese—then the pressure in the Carter Administration would become very great indeed.

Of course, there are uncertainties in the course proposed here. For one thing, the pressure produced has a polarizing effect on options and could lead Seoul to pursue a nuclear weapons program of its own as a way of perpetuating the status quo. Such a plan of action has some obvious frightening implications in the Korean context, but its plausibility is far from evident.

It is possible that North Korea would not be responsive to a diplomacy of tension-reduction. Such a development would tend to vindicate the orthodox American position that "containment" of North Korea via military means is the overriding priority of Korean policy. On balance, it seems unlikely that North Korea would reject American moves to move in a "two Koreas" direction; even if it did, adjustments could be made as the approach unfolded.

In conclusion, then, it seems possible to envision concern with human rights as an important element in "forcing" a new Ameri-

can policy on Korea, especially in the realm of security thinking and planning. Ultimately, the future of human rights in South Korea will be shaped by domestic factors, but these factors can be influenced in a positive way, by tension-reducing diplomacy that removes any credibility from claims that repression is an outgrowth of the external threat. Authoritarianism which is rampant throughout the Third World, and connected closely with economic strategies and imperatives, and should not, therefore, be primarily understood in South Korea as being a special legacy of divided country tensions or the American presence.

These features of the Korean situation may inhibit to some degree oppositional tendencies, and, therefore, it is arguable, but by no means assured, that American disengagement will contribute also to liberalizing pressures within South Korea.

SOLAR AND WIND POWER

HON. LES AuCOIN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 13, 1977

Mr. AuCOIN. Mr. Speaker, I rise today to introduce into the RECORD an exchange of letters between the Energy Research and Development Administration and me. My purpose in placing these letters in the RECORD is to underscore my concern for development of decentralized solar and wind power generating facilities.

We frequently hear that these new forms of power generation are not economically competitive today, and that they will not produce any major portion of our Nation's energy supply for many years to come. These remarks usually apply to centralized solar and wind generating facilities.

We also are told that even the most active solar heating systems on the market today have relative long pay off periods when compared to conventional fuel costs.

Advocates of solar and wind power contend that the best way to overcome these obstacles for both centralized and decentralized power facilities is to accelerate applied research and to devise tax incentives for their use.

I agree with those advocates. But I believe another ingredient to the eventual success of solar and wind power application is convincing the American public these are not will-of-the-wisp fantasies.

Not long ago man yearned to go to the moon, but thought it was an impossible dream. We proved that false. We also have disproved that we were powerless to combat and conquer debilitating and crippling diseases such as polio. We are even hot on the trail of killers such as cancer and heart disease. On a less grand scale, we have created virtual wonders in our computers, in our machines, even in our everyday household appliances.

Therefore, it is not unreasonable to assume we can overcome the obstacles preventing us from harnessing the Sun and wind. If we want to bad enough, we can. It will take leadership and imagination, and it will take perseverance.

As my letter to the acting administrator of ERDA suggests, I believe the Pacific Northwest represents a prime testing ground for solar and wind power generating facilities.

I think our region, with its hydroelectric system in place, is an excellent place to begin experimenting, not just with large solar and wind power facilities, but also with decentralized systems. The reply from ERDA is encouraging in that it concurs with me that more must be done to advance solar and wind power generation opportunities of this type.

Further, I am encouraged that ERDA recognizes that small firms, indeed individuals, have the potential to make great contributions and, therefore, should not be overlooked in terms of supporting research they carry out:

Mr. ROBERT W. FRI,
Administrator, Energy Research and Development Administration, Washington, D.C.

DEAR MR. FRI: Lee Johnson, editor of a publication called *Rain*, has written me, as he has you, regarding his concern over attempts, whether deliberate or not, to undermine small efforts everywhere to accelerate development of solar power.

Mr. Johnson, in his letter, complains that Honeywell, Inc., the contractor for the Transportable Solar Laboratory, undercut public confidence in efforts to develop solar power in the Northwest, calling it one of the poorest regional candidates for solar power in the nation.

Without engaging in polemics with Honeywell, Inc., I would like to register my own displeasure with such notions.

I have been among the leaders in the Northwest in calling for a national experiment combining the existing Columbia River hydroelectric grid with centralized *and* decentralized solar and wind generating facilities. The value of this would be to offset solar and wind powers' weakness of generating power when the sun shines or the wind blows and not being able to store power for dormant periods. The Columbia River dam system, with its tremendous capacity to impound water, could literally serve as a giant battery.

My idea has received brickbats from those who claim centralized solar plants are not commercially competitive with other generating sources. I will concede that. However, as Mr. Johnson noted in his letter, there are a number of existing solar technologies, largely decentralized in nature, that are competitive now. Installed on a large enough scale, they could be a significant factor in a subregional energy conservation/new generation strategy.

Moreover, the argument advanced that the Pacific Northwest with its relatively cheap hydroelectric power is a poor candidate to enter into solar power development is off base.

The exact opposite should be true. The base of a cheap power source gives the Northwest greater negotiating room to experiment. Indeed, legislation already is being placed before Congress to consolidate power sources in the Northwest into a pooling arrangement to maximize the benefits from this resource of cheap energy in order to build new, expensive thermal generating plants.

Surely, if the concept has validity as a way to buffer the impact in terms of cost passed on to consumers from the construction of nuclear plants, the concept can be applied to solar and wind power sources.

Finally, let me conclude by theorizing that power generation in the future may not be as we know it today. That is, power may be generated in localities for use in the immediate area around the generation source.

There are many reasons arguing for this approach, not the least of which is the waste involved in transmitting power great distances. The power loss, not to mention the unused ground swallowed up into right-of-ways, is inefficient.

Thus, we should do all we can to encourage, rather than discourage, efforts to develop small power sources. It is no reflection on large firms, but, in truth, we might expect such a breakthrough to come because of the diligence of a small firm, if not a single man toiling at a work bench.

Regardless of the outcome, however, I believe it is extremely important to stimulate exploration in this field, and to instill public confidence in possible alternative energy sources.

With warm regards,

Sincerely,

LES AuCOIN,
Member of Congress.

WASHINGTON, D.C.,
September 30, 1977.

Hon. LES AuCOIN,
House of Representatives.

DEAR MR. AuCOIN: Thank you for your letter to Mr. Robert W. Fri, Acting Administrator, dated August 17, 1977, which has been sent to me for reply.

I am impressed with the time and thought you have devoted to using solar and solar-derived energy in conjunction with the hydro storage potential in the Northwest.

A considerable dialogue continues among energy planners on centralized and decentralized applications of solar technologies. Of course, solar space heating and cooling applications are on-site applications, and the Northwest indeed can make much use of such direct thermal conversion systems. Other solar related technologies can be modular in nature and adaptable to both on-site and centralized utility oriented applications.

It is in the solar electric applications areas, and principally with wind systems, photovoltaics and thermal power systems, that a choice can be made. In our program activities up until now, we have tended to emphasize large systems because these require the most development and offer an easily accessible market (the utility grid). However, we are developing a strong program in dispersed solar thermal power systems and are funding a number of activities in the area of small-scale wind systems. Our program plan for photovoltaics calls for a wide variety of demonstrations of different size and application. Our technology assessment activities for FY 78 center around a comprehensive program to assess the social, economic and technological feasibility of decentralized solar systems. We estimate that about half of our funding goes toward decentralized applications.

Enclosed for your information is a copy of a letter to Mr. Lee Johnson of RAIN Magazine in response to his comments about the ERDA Transportable Laboratory appearance in Portland in 1976. Also included are copies of the study entitled "Solar Energy in America's Future" and the Mitre analysis of the economics of "Solar Space and Water Heating."

We also are quite aware of the contribution which small firms can make to the energy efforts. It is ERDA's policy and practice to encourage and support the participation of small business in our programs. A recent analysis indicates that 25% of the Solar Energy outlay for FY 1976 and the Transition Quarter went to small and minority businesses. We are proud of this record of achievement.

The solar solicitations have been drafted in such a way as to encourage maximum par-

ticipation by small business concerns. We have simplified the application process by providing specific proposal instructions, by imposing page limitations, and by including sample task diagrams and blank forms. Small business involvement is itself one of the selection criteria.

A number of solar solicitations are being released with a predetermined proportion of the awards set aside for small business. Some are only open to small businesses. We plan to expand these efforts in the future to further increase the amount of funding going to such enterprises.

Thank you for your interest in the ERDA solar energy program. Please let me know if we can be of any further assistance.

Sincerely,

H. H. MARVIN,
Director, Division of Solar Energy.

SON OF FAP

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 13, 1977

Mr. ASHBROOK. Mr. Speaker, President Carter's welfare reform proposal—the job and income security program—is a dismal flop. Despite all the ballyhoo, what Carter has given us is a warmed-over version of the family assistance plan.

I am in strong support of welfare reform. The current situation is an expensive mess. It is fraught with abuse and poor administration.

President Carter's job and income security program, however, is no solution to this mess. Instead, it would establish a single nationwide program of cash assistance. This is a return to the ill-fated guaranteed family income concept which went down to a ringing defeat during the Nixon administration.

If the Carter proposal is accepted, more, not less, people would be the recipients of public funds. More, not less, money would be required to finance the program. I am sure that this is not what most taxpaying Americans have in mind when they consider welfare reform.

For the information of my colleagues I am including an editorial by nationally syndicated columnist James J. Kilpatrick on the Carter welfare proposal:

[From the Washington Star, Oct. 11, 1977]

MEET JISP, SON OF FAP

(By James J. Kilpatrick)

This was the way the headline read, a couple of weeks ago: "Moynihan Unhappy at Welfare Plans." From the news story, it appeared that Daniel Patrick Moynihan, who had praised the President's welfare program in August, had changed his mind in October. Now he found it "grievously disappointing."

"My God," cried the junior senator from New York, "it's certainly not liberal legislation."

For all practical purposes, the senator's pronouncement made it unanimous. Heavens to Betsy, I would add, it certainly is not conservative legislation either.

What we have, in Mr. Carter's Job and Income Security Program, is a direct descendant of Mr. Nixon's ill-fated Family Assistance Program. The same causes that brought the death of FAP are likely to kill off JISP as well. And fine with me.

One hates to be excessively critical, for today's welfare mess is precisely as Mr. Carter has described it: a mess. The several programs are shot through with fraud and maladministration. The present system tends to encourage a status of permanent dependency. Almost any change, it might be supposed, would represent an improvement.

But liberals and conservatives alike are discovering, as they dig more deeply into Mr. Carter's program, that often it is indeed better to bear the ills we have than to fly to others that we know not of.

The White House asserts, in defense of JISP, that Mr. Carter's program would "simplify" the administration of public welfare. The President would abolish Food Stamps, Supplementary Security Income and Aid to Families with Dependent Children. In their place he would substitute a single uniform, nationwide program of cash assistance.

This sounds simpler. But on close examination, it becomes evident that the proposed reforms are far more complicated than the existing programs; they would require vastly more checking and monitoring by inspectors and auditors; they would not reduce the number of welfare claimants, but rather would make the number greater still.

When the President first started tinkering with "welfare reform," he was confident that a more equitable plan could be devised at no higher price. He knows better now.

At the federal level, welfare now costs about $27.9 billion a year. Mr. Carter would raise that sum to $30.7 billion, but that is only for starters. The White House projection gives no account of $3.4 billion that would be lost to the Treasury through Mr. Carter's income tax credit proposals. These days, everything gets inflated. In net added costs to the Treasury, we are talking of a price tag around $36 billion.

A line could not be held even at that figure. Once JISP were written into law, Congress would confront an irresistible temptation to raise the level of cash assistance in every election year. The Carter program is compounded like a basic recipe for lemonade: Add sweeteners as desired.

The President's greatest problem, as Sen. Moynihan's blast made clear, is that the White House has no constituency for this bill. Almost everyone is vaguely in favor of "welfare reform," but few persons feel passionate on the issue. Take away the federal bureaucrats, and whom do you have left?

Welfare claimants might provide a potent constituency in themselves, but people on welfare instinctively distrust the name of "reform." Well they might. As a general proposition, poor people are better off in the hands of their oppressors than in the arms of their benefactors.

Most of the truly important elements of Mr. Carter's plan already have been written into law. Federal welfare statutes already contain stiff work requirements; the food stamp program already has been made more generous, so that it amounts to a veritable guaranteed annual income. The administration already has taken significant steps to cut down on fraud.

My thought would be to hang onto the mess we have, which is at least a known and familiar mess, and to make haste slowly in fashioning "reforms." Mr. Carter's warmed-over hash made no hit with Sen. Moynihan, and the senator has a chef's credentials. After all, Pat Moynihan was father to FAP.

HUMAN RIGHTS IN SOUTH KOREA—III

HON. DONALD M. FRASER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 13, 1977

Mr. FRASER. Mr. Speaker, I have previously mentioned my participation in a conference of United States and Japanese Parliamentarians on Korean Problems held on September 19 and 20 here in Washington. One of the papers presented to this conference which I believe deserves careful consideration by Members of this body is Prof. Jerome A. Cohen's paper on "The State of Human Rights in South Korea." Professor Cohen has been one of the most assiduous and careful students of human rights in Korea, both North and South, for many years, and has testified before my Subcommittee on International Organizations on human rights problems in both North and South Korea.

In his paper, Professor Cohen documents in detail some of the aspects of the violations of human rights. He describes the use of torture by the Korean Central Intelligence Agency, including running a flame over an individual's whole body, forcing cold water into nostrils through a tube and electric shocks applied to genitals. He also mentions the case of a Korean student, So Sang, who was so horribly disfigured by torture by the time he appeared in court on espionage charges that his eyelids and ears had disappeared and his fingers no longer separated from each other. Professor Cohen also mentions a case which is too little known to Members of this body: 13 former members of the national assembly were arrested and tortured by the KCIA after President Park seized emergency powers in 1972, and one of them was paralyzed from the waist down as a result of his torture. Professor Cohen's paper is a grim reminder of conditions in South Korea. I enter into the RECORD excerpts from his paper prepared for the conference of Japanese and United States Parliamentarians on Korean Problems:

THE STATE OF HUMAN RIGHTS IN SOUTH KOREA

"Human rights practices in Korea have been carefully considered in formulating this proposed security assistance program." So reads the United States Defense Department's "Congressional Presentation" for the fiscal year 1978 security assistance program, which attempts to justify the recently authorized appropriation of $280,400,000 for military aid to the Republic of Korea (ROK).

What does this delphic statement mean? What weight should the United States and Japan attach to human rights considerations while jointly seeking to maintain the peace and security of East Asia? What "human rights" should we be concerned with in Korea? To what extent are they being observed? What policies can we suggest to promote the observance of human rights in Korea?

These, I take it, are fundamental questions to be discussed at this important conference. We meet almost five years after President Park Chung Hee declared martial law and

dissolved the National Assembly in October 1972, as the first formal steps toward ending the then existing constitutional system and substituting in its place the so-called "Yushin Constitution." Since then, Park's "revitalizing reforms" have made South Korea a far more repressive place than it was during the decade that followed his 1961 military coup against democratic government. The role that I have been assigned at this conference is to summarize the fate of human rights in the South during the past five years. I have not been asked to discuss the even graver repression that exists in North Korea, nor the extent to which South Korea's KCIA has inhibited Koreans in the United States, from exercising rights guaranteed to them by our law. But my views on both the situation in the DPRK and in this country have been made known in my testimony before the Fraser Subcommittee on various occasions.

This summary will focus on political and civil rights rather than economic and social rights, for it is the former that have created the major controversy both inside and outside Korea. Moreover, other speakers will focus on economic and social policies and their implications for Korea's development and for human rights. Observers plainly differ over the costs and benefits of the ROK's developmental strategy that makes the country increasingly dependent upon foreign capital and resources, and they debate such matters as whether the ROK has done enough to reduce income differentials among various strata of its population or to improve the status of women. Yet it seems clear that in many respects the ROK has continued to make impressive, if uneven, economic and social progress. We would not be meeting here had the Park regime made commensurate progress in fostering political and civil rights. Instead, what we have witnessed since 1972 is tragic retrogression repression so thorough and comprehensive that it has created profound doubts in the U.S. and in Japan about the long-run viability of our two countries' support for the Park regime and even perhaps for the ROK itself.

This brief report on the state of human rights in South Korea will focus on three aspects: (1) state officials' arbitrary violation of the integrity of the person outside the judicial system; (2) arbitrary manipulation of the judicial system for purposes of political repression; and (3) restraints upon freedoms of expression.

ARBITRARY VIOLATIONS OF THE PERSON

As to the first, political murder has not become a staple of life in the South as it has at various times in certain communist countries and as it is today in Uganda, to cite only the leading non-Communist example. Nevertheless, there have been cases of "mysterious" deaths. For example, on October 16, 1973, Professor Tsche Chong-Kil, who spent the year 1970–72 at Harvard Law School on a prestigious Harvard-Yenching Fellowship, was picked up by the Korean Central Intelligence Agency shortly after having lamented, in a supposedly secret faculty meeting, policy brutality against some of his colleagues and students at Seoul National University's Law Faculty. He was never seen alive again. Four days later the government announced that Tsche had been arrested on charges of spying for North Korea and that after making a full confession he had committed suicide by jumping out the window of an interrogation center. Yet the accusation of spying was never substantiated, Tsche's supposed confession was never published, the report of his "suicide" has been treated with the utmost skepticism, and the fact that his widow, a medical doctor, was denied permission to examine the corpse hardly inspired confidence in what appears to have been a hastily contrived story.

Even more mysterious was the subsequent death of the ardent patriot and intellectual leader, Chang Chun-Ha, who initiated a "one million citizens' petition for a democratic amendment of the Yushin Constitution" in early 1974. When the movement began to snowball, the Park regime put an end to it by invoking newly-promulgated "emergency decrees" that authorized up to 15 years in prison for any person who "asserted, introduced, proposed or petitioned for revision or repeal" of the Yushin Constitution. Chang was arrested with his colleagues, was "hanged upside down and simultaneously . . . burned with a flame on several parts of his body," and then sentenced to the maximum term by a court-martial rather than regular court. Domestic and foreign pressures later forced the regime to release Chang and hundreds of intellectuals, students and religious and literary figures condemned by the military tribunals. Shortly afterward, however, Chang, an experienced mountain climber who had once conquered the formidable mountains of Western China to join the Chinese and Korean forces resisting Japanese imperialism, was reported to have fallen to his death from a cliff while climbing a hill near Seoul. An unidentified man was reportedly seen near him just before he fell. When a prosecutor showed interest in the circumstances of Chang's death, he was immediately hushed. Many others were puzzled but no one could afford to be too curious.

Kim Dae Jung, the charismatic democrat who made such an impressive showing against Park in the 1971 presidential election that Park put an end to such elections, was undoubtedly targeted for a similar fate. After kidnapping Kim from a Tokyo hotel room and spiriting him out of Japan by ship in August 1973, the KCIA was on the verge of dumping him overboard, bound, gagged and weighted, when a nationwide outcry in Japan and vigorous behind-the scene diplomacy by the United States saved Kim's life. Kidnapping itself, of course, is one of the most flagrant violations of the person short of murder.

Obviously, mysterious deaths and kidnaping have a profoundly chilling effect upon those who might wish to speak out against the policies of the Park regime as Tsche, Chang and Kim did, each in his own way. Yet far more intimidating has been the widespread use of torture following arbitrary arrest. This is why Korea's only living ex-President, Yun Po-Sun, has characterized the Park regime as "government by torture," for it has been highly dependent upon pervasive and systematic violations of human bodies and minds to maintain its control. The "Genghis Kan cooking" to which Chang Chun-Ha was subjected when the KCIA ran a flame over his body is only one of many exquisite and esoteric techniques the Park's missions have devised. The reports of Amnesty International and other organizations that have investigated KCIA torture have documented how cold water is forced up the nostrils through a tube, how electric shocks are applied to the genitals, toes and other sensitive parts, and how people are hung from the ceiling and spun around, beaten and kicked mercilessly, stripped naked in sub-zero weather and doused in water, made to stand or sit without sleep for days on end, and subjected to various forms of psychological intimidation.

Most of those tortured are unknown to the press and the outside world. Those whose detention tends to attract publicity are often better treated. Nevertheless, even well-known persons suffer physical abuse if their behavior is considered sufficiently provocative, as occured in the cases of Tsche, Chang and Kim. In 1975, after students recently paroled from jail spoke out against the tortures they had suffered, 13 former opposition National Assemblymen revealed that they too had been tortured shortly after President Park seized emergency powers in the autumn of 1972. One of them, Ch'oe Hyong-U, was paralyzed from the waist down as a result of this mistreatment. In his statement to the National Assembly he noted that several cattle dealers had recently been arrested for forcing their animals to drink a large amount of water to increase their weight just before they were sold for slaughter. Ch'oe asked: "Why haven't the KCIA and other agents who used water torture on national assemblymen been arrested? Are the assemblymen less important than the cattle?"

In these circumstances is it any wonder that the Park regime has gone to great lengths to hinder Congressmen like Donald Fraser and agencies like Amnesty International from interviewing victims of Park's terror? Of course, after they are released from interrogation centers and torture chambers, most victims are extremely reluctant to talk about their experiences, out of fear that government agents might make good their threats to retaliate against those who break their silence. In some cases shame is also a factor. For example, in his speech to the National Assembly, Ch'oe Hyong-U declined to reveal details of his wife's torture on the ground that human decency prevented him from describing it. A number of women students who protested against Park's repression have been arrested by the KCIA, tortured and repeatedly raped, as in the case of several Ewha University students in late 1973. Understandably, most of these rape victims have kept silent about their ordeal.

In many cases people have been tortured not so much to elicit information and evidence from them as to intimidate them. Large numbers of persons have been detained, interrogated, tortured and then released after a few days, with no thought apparently given to bringing any legal proceeding against them. Like the even more widespread overt surveillance of people's homes, their activities and their mail, this type of official action is designed to frighten Koreans into conformity.

In other cases torture has been applied for the specific purpose of obtaining evidence to be used in criminal prosecutions. One of the most grisly instances of this involved So Song, a handsome Korean resident of Japan who had returned home to study at Seoul National University. By the time he appeared in court on espionage charges after interrogation by the KCIA, his body and face were horribly burned. His eyelids and ears had disappeared, his fingers had adhered together, and his eye-glasses had to be bound to his head. His condition presented a certain challenge to interrogators who operated under bureaucratic requirements that the accused authenticate his confession by placing his fingerprints upon it. Since So had no fingers left, his captors proved as imaginative as they were punctilious by having him authenticate his confession with a toe-print. The fact that the Yushin Constitution maintains the previous Constitution's prohibition of torture did not lead the court to exclude the confession from evidence, for the new Constitution pointedly fails to retain its predecessor's ban on the admission of coerced confessions.

Another gruesome case that is far from unique is that of medical student Suh Kwang Tae, who in late 1975 was seized by the ROK Counter Intelligence Corps on suspicion of espionage. By the time he appeared for trial, he was obviously deranged and unable to recognize his relatives. Nevertheless he was sentenced to 15 years in prison. After a month in a hospital he recovered his sanity and repudiated the purportedly "voluntary"

confession that had helped to convict him. Suh's arms were scarred by what he said had been the lighted cigarettes of army investigators. He also testified that he had been beaten and forced to kneel with a stick behind his knees while men wearing army boots stamped on his legs, that he had been denied food and sleep for seven days, that he had been tortured until he became unconscious and that a stick had been poked into his stomach until he vomited blood. Yet, Suh claimed, it had been the psychological torture of being held in solitary for six months without access to family visitors, and not the physical abuse, that had driven him mad. After hearing Suh's testimony the appellate court confirmed the verdict but reduced his sentence to eight years.

ARBITRARY MANIPULATION OF THE JUDICIAL PROCESS

If such drastic methods have to be used to obtain evidence for formal legal proceedings, the pressure becomes enormous to distort those proceedings in order to prevent revelation of the methods of extracting the evidence as well as the dubious nature of the evidence itself. Thus the judicial process has inevitably become corrupted in various ways despite the continuing claim of regime spokesmen that "the independence of the judiciary is guaranteed by the Constitution, and is not subject to interference by anyone." The classic case was the 1974 conviction of 22 members of the so-called "People's Revolutionary Party" for alledgedly having organized to overthrow the government and replace it with a regime sympathetic to North Korea. By universal—not merely Western—standards of fairness, the judicial process by which those defendants were tried can only be termed a farce.

The trial was held not before a regular court but before a military tribunal established by the 1974 emergency decrees. Hearings were closed, with only one member of each defendant's family allowed to attend. The "confessions" submitted as evidence were admitted even though they were extracted under hideous forms of torture. Moreover, 42 prosecution witnesses testified in the absence of defense lawyers, who were apparently under house arrest at the time. In any event the defense was not permitted to question prosecution witnesses and statements. No defense witnesses were allowed. Government-controlled media proclaimed the guilt of the accused before judgment was rendered. No foreign journalists were permitted at the trial because, according to the Prime Minister, "[t]here was too great a risk they might misunderstand and misrepresent what happened in court." In April 1975, after the Supreme Court upheld the eight death sentences and all but two of the prison sentences meted out below—but before the accused could exercise their rights to petition the Supreme Court for retrial and petition the President for mercy—the eight condemned to death were unlawfully hung, despite assurances from the Public Prosecutor's Department that no executions would take place until the accused had an opportunity to exhaust their rights.

The government cremated the bodies of a number of those executed, thereby preventing any examination for signs of physical torture. After a careful investigation that pieced together a coherent account of this case, Amnesty International concluded that the charges against the so-called PRP had been fabricated just as a 1964 prosecution of the same group had been.

Because of the outcry at home and abroad against these judicial murders—even the normally discreet U.S. Department of State protested—and because resort to courts-martial for punishing civilians is generally unattractive, military tribunals no longer enforce Park's continuing rule by emergency decree. Yet the regular courts that have had to deal with subsequent political prosecutions have behaved in most irregular fashion. This was demonstrated by the trial of Kim Dae Jung and the 17 other prestigious leaders who on March 1, 1976, issued a declaration of national conscience calling upon President Park to resign and restore democratic government. The March 1 group was immediately proscribed for violating Emergency Decree No. 9, a Draconian catch-all that prohibits 'disseminating falsehood," opposing the new Constitution that guarantees Park's one-man rule and publicly defaming" the emergency decree itself. The three levels of judicial proceedings that resulted in long prison sentences for the principal "offenders," and even longer deprivations of political and civil rights for virtually all, mocked minimal standards of fairness.

Although the accused and their families demanded an open and free trial, the admission of spectators was restricted to limited numbers of ticket-holding friends and relatives, and the trial was conducted in what the Washington Post reporter on the scene called "an atmosphere of intimidation and hostility." Since the defendants were charged with disseminating groundless rumors and misrepresenting facts, they sought to call a variety of witnesses to demonstrate the truth of what they had stated, but the court permitted merely three. The only defense witness allowed to testify in support of their statements on the economy was taken to the KCIA office prior to his court appearance, so that, by the time he testified, he had become a prosecution witness; this economist who had often criticized the regime's reliance upon foreign lenders and investors dropped his head and kept silent when questioned by the defense. Frustrated by the court's refusal to allow the testimony and documentary evidence they sought to introduce, defense attorneys walked out in protest. They were also outraged by the regime's refusal to allow them freely to confer with the dependents who were in detention.

The bizarre nature of the trial is best illustrated by the fact that the accused were not permitted to challenge the validity of the decree they were charged with violating because by its terms it had prohibited judicial scrutiny. Moreover, despite the fact that the prosecutors were permitted to quote passages from the March 1 declaration to support their case, the defendants were precluded from showing why those statements were accurate. Nevertheless, in the hope of giving the appearance of a fair trial, the defendants were allowed to deliver long orations, often including opinions that would bring arrest outside the courtroom, since the court was confident that the heavily censored news media would give the public no hint of the views expressed. "These aren't legal proceedings," one diplomat declared. "They remind you of showcase trials in Communist countries."

There was never any danger that the defendant's arguments might persuade the judges. Not only were they precluded by law from considering challenges to the emergency decree itself, but Park's "revitalizing reforms" have subjected the judiciary to a "reappointment" process that has screened out the less cooperative elements. Scores of judges have been purged, including nine of the ten Supreme Court judges who constituted the majority vote in a landmark decision rendered just before "revitilization" that aroused Park's ire. Thus one can well understand why the March 1 group called for the creation of a judiciary that is truly independent of the political authorities and capable of protecting the people against tyranny.

LEGAL SERVICES FOR THE ELDERLY AND POOR

HON. JOHN M. MURPHY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 13, 1977

Mr. MURPHY of New York. Mr. Speaker, the United Jewish Council of the East Side is an organization providing social services for the elderly and poor on the Lower East Side of Manhattan. The executive director of this council, Rabbi Joseph Langer, has been very active in securing improved legal services for the ethnic poor of the Lower East Side. Rabbi Langer recently appeared before the Board of Directors of the Legal Services Corporation to discuss the council's interest in this matter. I include his statement at this point which I commend to your reading:

LEGAL SERVICES FOR THE ELDERY AND POOR

The United Jewish Council of the East Side, a coordinating body of forty-five neighborhood religious, secular, civic and fraternal organizations, has been serving as an advocate on behalf of the elderly and poor for almost a decade. The Council sponsors a variety of projects to assist Lower East Side residents, currently operating out of seven offices within the neighborhood. Similar Jewish Community Councils can be found in more than 20 neighborhoods throughout New York City and in most major metropolitan areas within the United States.

Many Jewish Community Councils were born as a result of feelings of systematic exclusion of the Jewish Poor and other ethnic poor from Office of Economic Opportunity (OEO) programs when they were initiated during the mid-sixties. A report by the New School for Social Research then estimated that 272,000 or 15.1% of the Jewish population of New York City fell below the poverty level. On the Lower East Side of Manhattan a study for the Brookdale Foundation indicated 26.5% of the Jewish population can be considered poor.

The Inspection Division of OEO and the New York Human Resources Administration Office of Review have confirmed the exclusion of the Jewish poor from New York City anti-poverty projects. Senator Daniel P. Moynihan has excellently documented this factor in his book Maximum Feasible Misunderstanding which I highly recommend. Since my time is limited to elaborate comprehensively on this topic, I will be glad to provide a copy of my paper Anti-Poverty Efforts and the Ethnic Poor: A Decade of Exclusion to the members of the Board of the Legal Services Corporation.

I am happy to report that during the last few years the City's Administration has made significant attempts to resolve the many issues that particularly affect the ethnic poor. In the forefront of this effort have been the members of New York City's Congressional delegation.

The Jewish Community has always been a strong supporter of the concept of free legal services to the poor. I would like to underscore and reaffirm our belief in the need for legal protection to all regardless of economic circumstances. Personally I am proud to have served on the Advisory Board to the Brooklyn C.A.L.S. office for the last three years.

To successfully provide legal services to all the poor I would like to offer some suggestions and comments from our experiences during this last decade.

OUTREACH

To successfully fulfill the mandate of service to the poor a neighborhood storefront cannot be opened with the expectation that all poor will immediately "break down the doors" seeking assistance and relief.

There are many barriers; age, handicaps, language, cultural isolation or tradition, fear and economics are just a few that prevent utilization of this service by all poor. This is an area neglected by some offices.

The delivery system established in each office should provide the mechanism to address these problems. There are many innovative approaches that result in success. They range from circuit riding—outposting staff in local institutions, i.e. senior centers, housing projects, clubs, schools—to door to door information outreach in certain specified residential sections of a neighborhood.

It can include speaking engagements by the managing attorney at locations where the poor congregate informing them of their legal rights—preferably in their own language—and describing the services the Local Legal Services office can provide. It may be necessary to deal with the entire framework of free service, which to many groups of poor smack of welfare and is frowned upon through a traditional cultural reluctance of taking "relief". A useful tool is the utilization of the ethnic media, press, radio, and television, to get this message across. Multilanguage mailing is highly effective to target population groups. Lists are available through churches, senior centers, housing projects, clubs and local governmental agencies.

In New York City outreach is continuously waged by the Department for the Aging, in mandating that programs under Title III and VII of the Older Americans Act, have outreach components. Many of the techniques mentioned previously have successfully been adapted in Council projects aimed at reaching the isolated, homebound and non-English speaking.

Other governmental agencies—the Social Security Administration, Department of Social Services, to mention just a few—have initiated projects aimed at reaching this population.

Of course language proves to be the fundamental problem.

LANGUAGE

I am sure I do not have to elaborate on the problem of language in the delivery of legal services. Section 1006(b)(6) of the Legal Services Corporation Act states "In areas where significant numbers of eligible clients speak a language other than English as their principal language, the Corporation shall, to the extent feasible, provide that their principal language is used in the provision of legal assistance to such clients." I am afraid that some legal services projects, intentionally or unintentionally, are violating this part of the Act.

We find a lack of adequate Yiddish speaking personnel in legal services projects in New York City. This is true at all levels—attorney, clerical and social work.

In other areas of government there have been affirmative attempts to meet the need of the Yiddish speaking. As a result of Executive Order 11625 the Department of Commerce has effectively extended their services and those of the Office of Minority Business Enterprise to the Yiddish speaking. The Social Security Administration publishes Social Security, S.S.I. and Medicare informational pamphlets and forms in Yiddish. Department of Health, Education and Welfare Secretary Joseph Califano has directed HEW agencies to make efforts in this area. The Alcohol, Drug Abuse and Mental Health Administration Minority Advisory Committee has been asked by the Secretary to include the Yiddish speaking community in its deliberations.

New York State and City employ Yiddish as a language in hiring personnel for programs and composing documents and forms. The New York City Board of Education offers bi-lingual programs in its schools in Hebrew, Yiddish and Russian. Incidentally, the concentration of Soviet immigrants in New York has become overwhelming. They are unfortunately a new large class of Jewish poor that must be assisted.

GROUP REPRESENTATION

Perhaps the most difficult question facing legal services projects is the representation of groups or classes of poor clients. This issue must be addressed by the Legal Services Corporation in the context of developing policy and adequate grievance procedure for when inter-group conflict arises. Compliance with Section 1607.3(a) of the Legal Services Act, providing integrated poor representation of Legal Services Project Boards, is one step to resolution of this issue.

We have witnessed legal services projects strongly emphasize community development; with the net result of the exclusive representation of one group, leading to conflict and the polarization of poor against poor. Hand in hand goes the role as "house counsel" to anti-poverty agencies. The goals of some of the agencies may be questionable.

As you are aware, community development is not primarily limited to appearance in the courts. It is the systematic representation at all levels of governmental agencies and elected officialdom. This means local school boards, community planning boards, hospital boards, mental health boards, poverty boards, health systems agency boards, and local housing projects boards. It means meeting with planners, developers, financiers, packagers, banks, private and nonprofit housing companies.

One poor group will see the benefit of the utilization of urban renewal land for the development of much needed low income housing. Another may see it as a tool for economic development projects that translate in jobs for poor neighborhood residents. This group is not against housing for the poor. . . It perceives the interests of the poor differently.

Exclusive representation can actually exclude a poor group from the entire system with no mechanism to legitimately represent its interests. Inter-group conflict intensifies polarizing poor against poor. A vehicle must be established to represent the poor denied counsel.

I appreciate this opportunity to present my views. I respectfully urge that the Corporation focus on these significant issues with corrective action wherever possible to be an immediate goal. Thank you.

WHEN EVERY FARM HAD A HIRED MAN

HON. RICHARD NOLAN

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 13, 1977

Mr. NOLAN. Mr. Speaker, for enjoyment and something light to think about, I direct the attention of my colleagues to the following article, which aptly describes what it was like "when every farm had a hired man."

WHEN EVERY FARM HAD A HIRED MAN

(By Dave Wood)

Strides in agricultural mechanization are sweeping a picturesque character from our midst. Time was when every one of our neighbors who farmed more than 80 acres and milked more than 15 Holsteins also fed and sheltered that wonder of rural wonders, a Hired Man.

Nowadays, with pipeline milking systems, self-propelled combines and tractor-powered augers that dig a post hole zip-zip, the hired man has been dumped on the garbage heap of progress, along with the sulky plow, the corn binder and the DeLaval cream separator.

But anyone who grew up on a farm in the '40s remembers the three basic types of hired men.

First, there was the Married Hired Man, Edward. He and his wife Mathilda worked for the "well-fixed" farmer and lived with their kids in a rent-free bungalow down by the cow pasture. He got free milk from the milk house, free eggs from the hen house, a side of beef every year and $50 to $75 a month, whether he needed it or not. Edward lacked vision and the spirit of adventure—but he was "steady."

Then there was the Neighbor Boy Hired Man, Leroy. He came from a large family at the end of the coulee. He helped with chores morning and night during the winter and rode the bus to high school in town. In the summer, Leroy worked a 12-hour day, his pay went up, he bought an old Model A, hung a squirrel tail from its aerial and then rolled it over the first time he drove it to a Wednesday night dance. The following week, Leroy joined the U.S. Army.

And finally there was the Confirmed Bachelor Hired Man, Adolph. Adolph was Norwegian. And he was 54 years old. He'd sold his share of the home place to his married brother Norris years back. Although Norris had never bothered to pay him, Adolph was happy to have shucked off "awl dat ree-sponsability." Adolph wore long johns year 'round, smelled not unpleasantly of sweat and horse manure.

He said little to the farmer and nothing at all to his wife, managing a wisp of a grin if she served lutefisk, gammel ost or blood klub for supper. But he was good to their kids. He teased the little girl about "dat Nelson boy" across the road, and he taught the boy how to whittle.

Adolph built the straightest fence in the coulee. He knew more horse remedies than the veterinarian. He shocked a shock of oats that never fell down. He stacked straw at threshing time with the artistry of Peter Paul Rubens.

And he drank. Like a fish. On Saturday night, Adolph got his pay check and headed for town, on foot, and didn't return until the money was gone. Prof. Einar Johnson of Augsburg's Education Department well remembers his father's Adolph. Seems that Einar worked every Saturday with Adolph:

"Val, Einar, it's Saturday agin, kid."

"That's right, Adolph."

"Yah, it'ss Saturday. Ay gass ay gott go tew town tewnight an' get *drunk*. Dew-ay ever *dread dat!*"

And off he'd go to Alexandria, where the bartenders were waiting.

Curiously, the rigors of such a weekly ritual never seemed to take their toll on Adolph. "Goldarn, but that Adolph sure is a tough son-of-a-buck," said the townspeople as they watched Adolph stride back toward the farm on Monday morning, late for milking.

Recently, two farmer friends and I traded Adolph stories regarding his physical durability. Art Munson told us a story about an Adolph he'd hired back in the '40s.

"Damned if Adolph didn't go tew town diss vun veekend. He came back tew home on Sunday night, but he couldn't find da house. He got intew da silo rehum an' apparently taught it vuss hiss bedrheum. I gass he must haf laid down right in al da silage jewce. Becuss vhen vee found him on Monday morning, hiss hair vuss *froze* right tew da floor! Vee had tew pore hot vatter on hiss hair yustt tew gat him lewce."

"My God, Art, did he die?"

"Die, Hell! Heece op at da old folk's home right now. Heece ninety-tree jeerce old."

Our Adolph never got frozen to the silo-room floor, but he was usually late for Monday morning milking. And he didn't live to be 93. Just 81. When I read in the Whitehall Times last week that Adolph had "passed away at the home of his sister," I thought hard about Adolph, how he smelled, how he built fence, how he stacked straw, how he shoveled lutefisk, and I went down into our south Minneapolis basement and got me a stick to whittle.

HOUSE OF REPRESENTATIVES—*Friday, October 14, 1977*

The House met at 10 o'clock a.m.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

The righteous shall be glad in the Lord, and shall trust in Him.—Psalms 64:10.

Our Father God, we offer unto Thee the gratitude of our hearts for Thy goodness to us and we pray that Thou will grant unto us, the Representatives of our people, the wisdom we need that with understanding and positive thinking we may make sound decisions and pass just laws for the benefit of our Nation.

Give to us strength of body, clarity of mind, and health of spirit which will enable us to face the challenges of this day with courage and live through the troubles of these times with faith and hope. In times of doubt give us light; in periods of despair give us life; and in moods of discouragement give us love that we may make this day a better day for our people and every tomorrow a better day for all Thy children. In the spirit of Him who gives life to all we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate disagrees to the amendments of the House to the amendment of the Senate to the bill (H.R. 4018) entitled "An act to suspend until the close of June 30, 1980, the duty on certain doxorubicin hydrochloride antibiotics," agrees to a conference requested by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. JACKSON, Mr. JOHNSTON, Mr. DURKIN, Mr. METCALF, Mr. HASKELL, Mr. BUMPERS, Mr. METZENBAUM, Mr. MCCLURE, Mr. BARTLETT, Mr. DOMENICI, and Mr. LAXALT to be the conferees on the part of the Senate.

The message also announced that the Senate disagrees to the amendments of the House to the amendments of the Senate numbered 3 to the bill (H.R. 5037) entitled "An act for the relief of Jack Misner," agrees to a conference requested by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. JACKSON. Mr. JOHNSTON, Mr. DURKIN, Mr. METCALF, Mr. HASKELL, Mr. BUMPERS, Mr. METZENBAUM, Mr. HATFIELD, Mr. MCCLURE, Mr. WEICKER, and Mr. DOMENICI to be the conferees on the part of the Senate.

The message also announced that the Senate disagrees to the amendments of the House to the amendment of the Senate numbered 6 to the bill (H.R. 5146) entitled "An act to amend the Tariff Schedules of the United States to provide for the duty-free entry of competition bobsleds and luges," agrees to a conference requested by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. JACKSON, Mr. HASKELL, Mr. FORD, Mr. JOHNSTON, Mr. ABOUREZK, Mr. DURKIN, Mr. METZENBAUM, Mr. MCCLURE, Mr. BARTLETT, Mr. DOMENICI, and Mr. LAXALT to be the conferees on the part of the Senate.

The message also announced that the Senate disagrees to the amendments of the House to the amendment of the Senate numbered 8 to the bill (H.R. 5289) entitled "An act for the relief of Joe Cortina of Tampa, Florida," agrees to a conference requested by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. JACKSON, Mr. CHURCH, Mr. METCALF, Mr. JOHNSTON, Mr. ABOUREZK, Mr. HASKELL, Mr. BUMPERS, Mr. FORD, Mr. DURKIN, Mr. METZENBAUM, Mr. MATSUNAGA, Mr. HANSEN, Mr. HATFIELD, Mr. MCCLURE, Mr. BARTLETT, Mr. WEICKER, Mr. DOMENICI, and Mr. LAXALT to be the conferees on the part of the Senate.

THIRTIETH ANNIVERSARY OF BREAKING THE SOUND BARRIER

Mr. DORNAN. Mr. Speaker, today, I would like to salute a remarkable American and a remarkable Air Force. Thirty years ago today, Capt. Charles E. "Chuck" Yeager climbed into the Bell XS–1 rocket powered research plane at Muroc, Calif., now Edwards AFB, and took a historic flight for his service, his country, the world. That day, he became the first man to fly faster than the speed of sound.

While he eventually became a national hero because of that flight, recognition of his great feat was delayed because the flight was classified. Only a few knew of his bravery or of the accomplishment of our Air Force. Fewer still knew that Yeager had broken three ribs in an accident the day before the flight, kept it to himself and obtained a special device to enable him to close the X–1's door.

As his military records reflect, now-General Yeager has always shown great courage and heroism in both war and peace. That first supersonic flight was as meaningful as any in winged flight because it was truly a step into the unknown—a world Chuck Yeager has never feared.

His exploits make him one of America's most honored fliers. A double ace in World War II with 13 victories, General Yeager has flown more than 10,000 hours in 155 different types of aircraft. During 9 years as the Nation's leading test pilot he also became the first man to fly mach 2 in the Bell X–1A on December 12, 1953.

General Yeager has received all of his country's top awards for contributions to the history of flight, including the Collier, Mackay, and Harmon trophies.

On December 14, 1973, at age 50, he became the youngest and first military person on active duty ever to be enshrined in the Aviation Hall of Fame.

On February 28, 1975, Chuck retired after 34 years of service. On December 23, 1975, the President, on behalf of the Congress, presented him with a special medal for his historic flight in the Bell XS–1 rocket which now hangs next to Lindbergh's *Spirit of St. Louis* in the National Air and Space Museum.

After President Ford so honored Chuck this airman without peer indicated his desire to retire to his home in Indio.

After all, General Yeager has earned his right to relax in the Sun.

PERMISSION FOR SUBCOMMITTEE ON MERCHANT MARINE OF THE COMMITTEE ON MERCHANT MARINE AND FISHERIES TO MEET TODAY DURING 5-MINUTE RULE

Mr. ZEFERETTI. Mr. Speaker, I ask unanimous consent that the Subcommittee on Merchant Marine of the Committee on Merchant Marine and Fisheries may be permitted to meet today during the 5-minute rule to have a hearing on H.R. 9518, to amend the Shipping Act, 1916, to provide for a 3-year period, to reach a permanent solution of the rebating practices in the United States foreign trade.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

PERMISSION FOR SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS OF THE COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE TO SIT TODAY DURING 5-MINUTE RULE

Mr. ZEFERETTI. Mr. Speaker, I ask unanimous consent that the Subcommittee on Oversight and Investigations of the Committee on Interstate and Foreign Commerce may be permitted to sit today during the 5-minute rule.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

AUTHORIZING SPEAKER TO APPOINT RESIDENT COMMISSIONER FROM PUERTO RICO TO SELECT COMMITTEE ON POPULATION

Mr. WRIGHT. Mr. Speaker, I ask unanimous consent that the Speaker be authorized to appoint the Resident Commissioner from Puerto Rico as one of the members of the Select Committee on Population authorized by House Resolution 70.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

Mr. BAUMAN. Mr. Speaker, reserving the right to object, I am not certain I heard the gentleman. I wonder if the

gentleman could tell us what committee this is?

Mr. WRIGHT. Mr. Speaker, it is the Select Committee on Population.

The SPEAKER. It is an appointment to the Select Committee on Population.

Mr. BAUMAN. Mr. Speaker, I thank the gentleman, and I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

APPOINTMENT AS MEMBERS OF SELECT COMMITTEE ON POPULATION

The SPEAKER. Pursuant to the provisions of House Resolution 70, 95th Congress, and the authority of the House just granted, the Chair appoints as members to the Select Committee on Population the following Members and Resident Commissioner from Puerto Rico: Mr. SCHEUER, New York, chairman; Mr. HARRINGTON; Mrs. COLLINS of Illinois; Mr. NEAL; Mr. RICHMOND; Mr. SIMON; Mr. AKAKA; Mr. BEILENSON; Mr. GEPHARDT; Mr. KILDEE; Mr. CORRADA; Mr. ERLENBORN; Mr. MCCLOSKEY; Mr. KINDNESS; Mr. HOLLENBECK; and Mr. STOCKMAN.

CONFERENCE REPORT ON H.R. 6415, EXPORT-IMPORT BANK ACT EXTENSION TO SEPTEMBER 30, 1978

Mr. NEAL. Mr. Speaker, I call up the conference report on the bill (H.R. 6415) to extend and amend the Export-Import Bank Act of 1945, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of September 26, 1977.)

Mr. NEAL (during the reading). Mr. Speaker, I ask unanimous consent to dispense with further reading of the statement.

The SPEAKER. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

The SPEAKER. The gentleman from North Carolina (Mr. NEAL) and the gentleman from Ohio (Mr. STANTON) will will be recognized for 30 minutes each.

The Chair recognizes the gentleman from North Carolina (Mr. NEAL).

Mr. NEAL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the conference report on H.R. 6415 retains almost all the provisions of the bill the House passed in May by a 281 to 126 vote. It deserves our full support.

I would like to take a few minutes to explain the need for this legislation and the few changes that were made in conference. The Eximbank is the official export credit institution of the United States. All the major trading nations have similar institutions or programs, some of which are heavily subsidized.

Exim's function is to foster the expansion of U.S. exports by extending credit and guaranteeing loans in support of export sales. Since it lends at market-related rates, it makes a profit and pays its own way. It has a beneficial effect on our balance of trade and was responsible for 500,000 U.S. jobs in 1977.

The Bank requires a 3-month extension of its charter—from June 30, 1978, to September 30, 1978—in order to bring its programs in line with the recently revised fiscal year. This provision of H.R. 6415 was agreed to by the Senate.

The need for a 3-month extension gave us an opportunity to deal with other issues such as human rights, nuclear exports and subsidized export financing that are simply too important to wait until next year, when the Bank will require a charter renewal and new commitment authority.

The human rights provision of H.R. 6415 was designed to insure that the Bank's actions are consistent with U.S. human rights policy. The provision recognized that the Bank is not an aid program, but a trade promotion institution. It called on Exim's Board of Directors to "take account" of the human rights situation in the country to receive the Exim-supported exports and also of the effect the export itself would have on the human rights situation.

This provision was accepted in principle by the Senate, but altered slightly in conference to make clear that the Bank should rely on the State Department for advice on human rights rather than make its own determination. The Bank has already begun to act in accordance with the intent of this amendment. The Department of State reviews proposed Bank credits from a U.S. foreign policy perspective, including a human rights consideration. H.R. 6415 insures that Eximbank actions will continue to be consistent with U.S. human rights policy.

The House-passed provision concerning international competition in export financing was revised slightly in conference to mandate the Bank to cooperate with other U.S. Government agencies in international negotiations directed toward reciprocal reduction of Government-subsidized export financing. The Bank is already engaged in negotiations toward reducing international competition in export financing. The conferees deleted language which could have been misconstrued to imply a desire for unilateral reduction in U.S. export financing.

All but one of several House-passed provisions concerning nuclear exports were accepted by the conferees. The conference provisions would: Require Exim to bring any nuclear-related loan to Congress for the same 25-day consideration period that loans over $60 million must now pass; mandate that any country which materially violates U.S. or International Atomic Energy Agency (IAEA) safeguards, or detonates a nuclear device—except the United States, Britain, France, China, and Russia—shall receive no more Exim support, unless the President waives the prohibition for "national interest" reasons; and prohibit the Bank from supporting the export of liquid metal fast breeder nuclear reactors and nuclear fuel reprocessing plants, neither of which has ever been exported.

The House provision requiring advance consultation between Congress, and the Secretary of State and the Director of the Arms Control and Disarmament Agency before any proposed Eximbank financing of nuclear exports has been replaced by language in the report. The administration agreed to conduct such consultations upon request by the appropriate committees or subcommittees of Congress. Letters to that effect are appended to the conference report.

This legislation is supported by the Eximbank, and the State and Treasury Departments. It was cosponsored by all 19 members of our International Trade Subcommittee and passed the Banking Committee with only one dissenting vote. It passed the House by over a 2 to 1 margin, and the Senate without objection. The conference report deserves our full support.

Mr. STANTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise to urge my colleagues to support the conference report before us.

This is in fact quite a noncontroversial conference report. In the bill, which you will remember we passed handily under suspension of the rules, the Congress takes care of minor technical problems in the U.S. Export-Import Banks authorization legislation.

The main purpose of H.R. 6415 is to extend the Export-Import Bank Act of 1945, as amended, from June 30, 1978, to September 30, 1978, in order to bring the Bank's statutory operating authority into line with the fiscal year. When the Export-Import Bank Act was last extended, the fiscal year ended on June 30; since the fiscal year has now been changed to end on September 30, the expiration date of the Export-Import Bank Act required changing as well. The House and the other body were in agreement on the need for this 3-month extension of the Bank's authority.

The difference between the House and the other version arose from the inclusion by the House in this extension bill of substantive amendments concerning human rights, international export financing competition, and antinuclear proliferation policy. The other body deleted these sections from H.R. 6415 on the grounds that such amendments could be considered when a bill to approve a multiyear extension of the Eximbank is before Congress. The House refused to give up its amendments and a conference was called.

Following consultations with our colleagues in the other body, we agreed to some modifications in the House language to satisfy a few valid objectives which they raised. There are only three such changes.

First, in the human rights section, we changed the language slightly to make sure it was understood that the Export-

Import Bank was to rely on the State Department for information on whether the proposed Exim transaction involves a human rights violating country. We believe the new language is absolutely clear. My colleagues would be interested to know that the Eximbank on its own has begun submitting proposed projects to the State Department for guidance on human rights conditions in anticipation of this legislation.

Second, the conferees cleared up a section of the bill which could have been wrongly construed as requiring Exim to unilaterally reduce its official export financing. In the revised language, Exim is required to continue its negotiations with other countries to reduce their export subsidies.

Finally, in the realm of financing nuclear power exports, the conferees agreed to scrap the somewhat cumbersome consultation process. The original language would have required a meeting between a State Department representative, an Arms Control and Disarmament Agency representative, and the Congress. The committee has now received letters from State and the Arms Control Agency expressing their willingness to consult with us whenever there is a question about the nuclear proliferation aspects of any Eximbank transaction.

All conferees have signed this conference report and it enjoys the support of the administration and the Export-Import Bank. Again, let me remind my colleagues that the Export-Import Bank will be before the Congress again next year for its multiyear authorization. We have already begun a thorough review of the Eximbank's policies in anticipation of our hearings early next year.

I urge support for this conference report.

Mr. ROUSSELOT. Mr. Speaker, I have serious misgivings regarding this legislation. It is important, as the House recognized, that any extension of the Export-Import Bank Act be coupled with a determined effort to achieve, through international negotiations, the elimination of "all forms of government supported export financing." The conference report provides a mandate for such negotiations to proceed, and I would hope that the U.S. Government will work vigorously to negotiate the necessary agreements without undue delay.

I believe that the conference report language on human rights has several significant shortcomings:

One. The committee of conference deleted the requirement that the Export-Import Bank take into account "all available information" concerning human rights conditions in the country which receives assisted exports. I believe it is desirable to insure that the Bank would consider views from all available sources which might bear on the human rights implications of exports and that "principal" reliance upon the Department of State may reduce the ability of the Bank to make a fully informed judgment on the merits of a loan.

Two. The deletion of the reference to "fundamental freedoms" is unfortunate. Although I would agree that "fundamental freedoms" could be said to be encompassed within the term "human rights," if we are sincerely interested in promoting the cause of human rights, we should take every opportunity to explain what we consider the term to mean, so that "human rights" cannot be interpreted in any manner which would be inconsistent with the total disregard for fundamental freedoms by the governments of such countries as the Soviet Union, Communist China, and Uganda.

Three. Finally, it is unfortunate that the Bank will no longer be required, but will only be permitted, to take the human rights situation in a given country into account in determining whether to assist exports to that country. The conference report states that:

> The reason for this change is that, the conferees recognize that the effect of the exports on human rights cannot be predicted with certainty and precision, and therefore, prefer language which reflects such indeterminacy.

I do not believe that the fact that human rights effects canot be predicted precisely is a sufficient excuse for relieving the Export-Import Bank of the duty to take human rights considerations into account.

In my opinion none of the above changes does anything to advance the cause of human rights for which the Carter administration so loudly proclaims its commitment at the same time that it quietly accepts weakening amendments.

Mr. REUSS. Mr. Speaker, as one of the seven House conferees on H.R. 6415, I rise in support of the conference report. The Senate adopted virtually all of the House-passed bill, which was approved in May by a 281 to 126 vote. The bill was sponsored by all 19 members of the Subcommittee on International Trade, Investment and Monetary Policy. Mr. Neal, the subcommittee chairman, is to be congratulated for his leadership in getting such wide-ranging support for the legislation, as is Mr. STANTON of Ohio, the ranking minority member, who has also done an outstanding job.

The House and Senate conferees were in agreement on the need to extend the Export-Import Bank Act of 1945, as amended, from June 30, 1978, to September 30, 1978, in order to have the Bank's authority coincide with the fiscal year.

The disagreements on House provisions concerning human rights, nonproliferation policy, and international export credit competition were resolved by compromise language that clarifies the intent of the House on these provisions. The conference report on the bill insures that Eximbank loans and guarantees are consistent with U.S. policy on human rights and nuclear powerplant financing without imposing additional burdens on the Bank's staff.

Exim is mandated to get human rights clearance on its transactions from the State Department—which it is already doing. On nuclear-related Exim exports, the State Department and Arms Control and Disagreement Agency have agreed in letters to conduct thorough consultations upon the request of the appropriate committees or subcommittees. The conference report, like the House-passed bill, also requires that the Bank increase its efforts to achieve reciprocal international reductions in Government-supported export financing.

The legislation is supported by Exim and the Treasury and State Departments. It has already been overwhelmingly approved by the House and the Senate. I support this report as submitted by the conference committee and urge my colleagues to do the same.

Mr. STANTON. Mr. Speaker, I have no further requests for time.

Mr. NEAL. Mr. Speaker, I have no further requests for time, and I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER. The question is on the conference report.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. ASHBROOK. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 281, nays 62, not voting 91, as follows:

[Roll No. 654]

YEAS—281

Akaka	Corman	Grassley
Alexander	Cornell	Gudger
Allen	Cornwell	Hagedorn
Ambro	Cotter	Hall
Ammerman	Coughlin	Hamilton
Anderson, Calif.	D'Amours	Hanley
	Daniel, Dan	Hannaford
Andrews, N. Dak.	Daniel, R. W.	Harris
	de la Garza	Hawkins
Annunzio	Delaney	Hefner
Applegate	Dellums	Heftel
Ashley	Derrick	Hightower
Aspin	Derwinski	Hillis
Baldus	Dicks	Horton
Barnard	Dingell	Howard
Baucus	Downey	Hubbard
Beard, R.I.	Drinan	Huckaby
Bedell	Eckhardt	Hughes
Benjamin	Edgar	Hyde
Bennett	Edwards, Ala.	Ireland
Bevill	Edwards, Calif.	Jeffords
Blanchard	Eilberg	Jenkins
Blouin	English	Jones, N.C.
Boggs	Erlenborn	Jones, Okla.
Boland	Ertel	Jones, Tenn.
Bonior	Evans, Del.	Jordan
Bonker	Evans, Ga.	Kastenmeier
Brademas	Evans, Ind.	Kazen
Breaux	Fary	Kildee
Breckinridge	Fascell	Kostmayer
Brinkley	Fenwick	Krebs
Brodhead	Findley	LaFalce
Broomfield	Fish	Le Fante
Brooks	Flippo	Leach
Brown, Calif.	Flood	Lederer
Brown, Mich.	Florio	Leggett
Broyhill	Flowers	Lehman
Burlison, Mo.	Foley	Lent
Burton, Phillip	Ford, Tenn.	Levitas
Butler	Forsythe	Lloyd, Calif.
Carney	Fountain	Long, La.
Carr	Fraser	Long, Md.
Cavanaugh	Frenzel	Lott
Cederberg	Fuqua	Luken
Chappell	Gammage	Lundine
Chisholm	Gaydos	McClory
Cleveland	Gibbons	McCloskey
Cochran	Gilman	McCormack
Cohen	Ginn	McDade
Coleman	Glickman	McEwen
Conable	Gonzalez	McFall
Conte	Gore	McHugh
Corcoran	Gradison	McKinney

Madigan	Pattison	Steers
Mahon	Pease	Steiger
Markey	Perkins	Stockman
Martin	Pettis	Stokes
Mathis	Pike	Stratton
Mattox	Preyer	Studds
Mazzoli	Price	Stump
Meeds	Pritchard	Teague
Meyner	Quie	Thompson
Michel	Railsback	Thone
Mikulski	Rangel	Thornton
Mikva	Regula	Trible
Milford	Rhodes	Tsongas
Minish	Richmond	Tucker
Mitchell, Md.	Rinaldo	Udall
Mitchell, N.Y.	Rodino	Vander Jagt
Moffett	Rogers	Vanik
Mollohan	Rooney	Vento
Montgomery	Rosenthal	Waggonner
Moore	Ruppe	Walgren
Moorhead, Calif.	Ryan	Walsh
	Sarasin	Wampler
Moorhead, Pa.	Sawyer	Watkins
Murphy, Ill.	Scheuer	Weiss
Murphy, Pa.	Schroeder	White
Murtha	Sebelius	Whitehurst
Myers, Michael	Seiberling	Whitley
Natcher	Sharp	Whitten
Neal	Shipley	Wilson, Bob
Nedzi	Sikes	Wilson, C. H.
Nichols	Simon	Winn
Nix	Skelton	Wirth
Nolan	Skubitz	Wright
Nowak	Smith, Iowa	Wydler
O'Brien	Smith, Nebr.	Wylie
Oakar	Solarz	Yates
Oberstar	Spellman	Yatron
Obey	St Germain	Young, Fla.
Ottinger	Staggers	Young, Tex.
Panetta	Stangeland	Zablocki
Patten	Stanton	Zeferetti
Patterson	Stark	

NAYS—62

Abdnor	Fithian	Myers, Gary
Archer	Flynt	Myers, John
Armstrong	Hammer-schmidt	Poage
Ashbrook		Pressler
Badham	Hansen	Quayle
Bauman	Harsha	Quillen
Burgener	Holt	Risenhoover
Burke, Fla.	Holtzman	Roberts
Burleson, Tex.	Ichord	Robinson
Byron	Jenrette	Rousselot
Caputo	Kasten	Satterfield
Carter	Kelly	Schulze
Collins, Tex.	Ketchum	Shuster
Davis	Kindness	Snyder
Devine	Lagomarsino	Spence
Dickinson	Latta	Symms
Dornan	Lloyd, Tenn.	Taylor
Duncan, Tenn.	McDonald	Traxler
Early	Marlenee	Volkmer
Edwards, Okla.	Miller, Ohio	Walker
Emery	Mottl	Weaver

NOT VOTING—91

Addabbo	Fisher	Moakley
Anderson, Ill.	Ford, Mich.	Moss
Andrews, N.C.	Fowler	Murphy, N.Y.
AuCoin	Frey	Pepper
Badillo	Gephardt	Pickle
Bafalis	Giaimo	Pursell
Beard, Tenn.	Goldwater	Rahall
Beilenson	Goodling	Reuss
Biaggi	Guyer	Roe
Bingham	Harkin	Roncalio
Bolling	Harrington	Rose
Bowen	Heckler	Rostenkowski
Brown, Ohio	Holland	Roybal
Buchanan	Hollenbeck	Rudd
Burke, Calif.	Jacobs	Runnels
Burke, Mass.	Johnson, Calif.	Russo
Burton, John	Johnson, Colo.	Santini
Clausen, Don H.	Kemp	Sisk
	Keys	Slack
Clawson, Del	Koch	Steed
Clay	Krueger	Treen
Collins, Ill.	Livingston	Ullman
Conyers	Lujan	Van Deerlin
Crane	McKay	Waxman
Cunningham	Maguire	Whalen
Danielson	Mann	Wiggins
Dent	Marks	Wilson, Tex.
Diggs	Marriott	Wolff
Dodd	Metcalfe	Young, Alaska
Duncan, Oreg.	Miller, Calif.	Young, Mo.
Evans, Colo.	Mineta	

The Clerk announced the following pairs:

Mr. Dent with Mr. Anderson of Illinois.
Mr. Addabbo with Mr. Frey.
Mr. Koch with Mr. Pursell.
Mr. Bingham with Mr. Bafalis.
Mr. Murphy of New York with Mr. Goldwater.
Mrs. Burke of California with Mr. Rudd.
Mr. Biaggi with Mr. Beard of Tennessee.
Mr. AuCoin with Mr. Young of Alaska.
Mr. Badillo with Mr. Whalen.
Mr. Giaimo with Mr. Wiggins.
Mr. Fowler with Mr. Del Clawson.
Mr. Pickle with Mr. Crane.
Mr. Steed with Mr. Kemp.
Mr. Slack with Mrs. Heckler.
Mr. Wolff with Mr. Livingston.
Mr. Waxman with Mr. Lujan.
Mr. Mineta with Mr. Cunningham.
Mr. Moakley with Mr. Gephardt.
Mr. Miller of California with Mr. Guyer.
Mr. Diggs with Mr. Hollenbeck.
Mr. Bowen with Mr. Marriott.
Mr. Harrington with Mr. Roncalio.
Mr. Jacobs with Mr. Krueger.
Mrs. Keys with Mr. Marks.
Mr. Mann with Mr. McKay.
Mr. Van Deerlin with Mr. Metcalfe.
Mr. Ullman with Mr. Charles Wilson of Texas.
Mr. Santini with Mr. Treen.
Mr. Russo with Mr. Sisk.
Mr. Rostenkowski with Mr. Roe.
Mr. Reuss with Mr. Holland.
Mr. Rose with Mr. Johnson of Colorado.
Mr. Moss with Mr. Brown of Ohio.
Mr. Runnels with Mr. Beilenson.
Mr. Roybal with Mr. Buchanan.
Mr. Danielson with Mr. Clay.
Mr. Burke of Massachusetts with Mr. Duncan of Oregon.
Mrs. Collins of Illinois with Mr. Dodd.
Mr. John L. Burton with Mr. Don H. Clausen.
Mr. Conyers with Mr. Fisher.
Mr. Evans of Colorado with Maguire.
Mr. Pepper with Mr. Rahall.
Mr. Harkin with Mr. Johnson of California.
Mr. Ford of Michigan with Mr. Young of Missouri.
Mr. Andrews of North Carolina with Mr. Goodling.

Mr. STANGELAND and Mr. APPLEGATE changed their vote from "nay" to "yea."

Mr. SPENCE changed his vote from "yea" to "nay."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

DIRECTING CLERK TO MAKE CORRECTIONS IN ENROLLMENT OF H.R. 6415, EXPORT-IMPORT BANK ACT EXTENSION TO SEPTEMBER 30, 1978.

Mr. NEAL. Mr. Speaker, I ask unanimous consent for the immediate consideration of the Senate concurrent resolution (S. Con. Res. 46) providing for corrections to be made in the enrollment of the bill (H.R. 6415) to extend and amend the Export-Import Bank Act of 1945.

The Clerk read the title of the Senate concurrent resolution.

The SPEAKER. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

The Clerk read the Senate concurrent resolution, as follows:

S. CON. RES. 46

Resolved by the Senate (the House of Representatives concurring), That the Clerk of the House of Representative, in the enrollment of the bill (H.R. 6415) to extend and amend the Export-Import Bank Act of 1945, shall make the following correction:

At the beginning of the bill, strike out "That".

At the end of the bill, strike out "8 of the Export-Import Bank Act of 1945 is amended by striking out 'June 30' and inserting in lieu thereof 'September 30'.".

The SPEAKER. The gentleman from North Carolina (Mr. NEAL) is recognized for 1 hour.

Mr. NEAL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, Senate Concurrent Resolution 46 is simply a technical measure that corrects the conference report on H.R. 6415, a bill to extend and amend the Export-Import Bank Act of 1945. The correction is necessary because a provision not in dispute between the House and Senate was inadvertently included in the conference report on H.R. 6415. If the bill were to be enrolled as it stands, two identical and duplicative provisions would appear in the statute. I have cleared this measure with our ranking minority member, Mr. STANTON.

The Senate concurrent resolution was concurred in.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. NEAL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report on H.R. 6415, to extend and amend the Export-Import Bank Act of 1945.

The SPEAKER. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

CAPABLE STAFF MAKES QUICK ACTION POSSIBLE

Mr. MAHON. Mr. Speaker, comments in the press and otherwise today suggest that the House of Representatives moved with lightning speed in passing a continuing resolution avoiding a payless payday for thousands of Federal workers.

That was indeed the case, Mr. Speaker, and I think it would be appropriate at this time to pay tribute to the unexcelled staff which made this highly technical and complicated resolution and floor action possible.

The chief staff person responsible for preparing the continuing resolution was Keith Mainland, clerk and staff director of the Committee on Appropriations. With the assistance of other members of the committee staff, staff of the leadership, the House Parliamentarians, and the staff of the Senate Appropriations Committee, this whole process was made possible in less than a 24-hour period.

Mr. Speaker, the criticism is frequently made that there is too much staff on Capitol Hill, and without doubt that is true in some instances. But a situation such as the continuing resolution shows

that there are many employees on Capitol Hill who are extremely capable and dedicated and who without question work long hours and exemplify the finest traditions of public service.

PERSONAL EXPLANATION

Mr. DANIELSON. Mr. Speaker, I missed the last rollcall because of having attended a conference at the White House. If I had been present, I would have voted "aye."

AUTHORIZING SECRETARY OF TREASURY TO INVEST PUBLIC MONEYS

Mr. MITCHELL of Maryland. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 5675) to authorize the Secretary of the Treasury to invest public moneys, and for other purposes, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Strike out all after the enacting clause and insert:

That the Secretary of the Treasury is authorized, for cash management purposes, to invest any portion of the Treasury's operating cash for periods of up to ninety days in (1) obligations of depositories maintaining Treasury tax and loan accounts secured by a pledge of collateral acceptable to the Secretary of the Treasury as security for tax and loan accounts, and (2) obligations of the United States and of agencies of the United States: *Provided*, That the authority granted under this section shall not be construed as requiring the Secretary of the Treasury to invest any or all of the cash balance held in any particular account: *Provided further*, That the authority granted under this section shall not be construed as permitting the Secretary of the Treasury to require the sale of such obligations by any particular person, dealer, or financial institution. Investments in obligations of depositaries maintaining such accounts shall be made at rates of interest prescribed by the Secretary of the Treasury, after taking into consideration prevailing market rates of interest.

SEC. 2. (a) Section 5(k) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(k)) is amended by adding after "Bank" in the first sentence thereof the following: "shall be a depositary of public money and" and by striking the period at the end thereof and inserting the following: ", including services in connection with the collection of taxes and other obligations owed the United States, and the Secretary of the Treasury is hereby authorized to deposit public money in any such Federal savings and loan association or member of a Federal home loan bank, and shall prescribe such regulations as may be necessary to carry out the purposes of this subsection.".

(b) Section 402(d) of the National Housing Act (12 U.S.C. 1725(d)) is amended by adding the following at the end thereof: "Insured institutions shall be depositaries of public money and may be employed as fiscal agents of the United States. The Secretary of the Treasury is authorized to deposit public money in such insured institutions, and shall prescribe such regulations as may be necessary to enable such institutions to become depositaries of public money and fiscal agents of the United States. Each insured institution shall perform all such reasonable duties as depositary of public money and shall prescribe such regulations as may be required of its including services in connection with the collection of taxes and other obligations owed the United States.".

(c) The Federal Credit Union Act (12 U.S.C. 1751–1790) is amended—

(1) by inserting after section 209 the following new section:

"SEC. 210. Any credit union the accounts of which are insured under this title shall be a depositary of public money and may be employed as fiscal agent of the United States. The Secretary of the Treasury is authorized to deposit public money in any such insured credit union, and shall prescribe such regulations as may be necessary to enable such credit unions to become depositaries of public money and fiscal agents of the United States. Each credit union shall perform all such reasonable duties as depositaries of public money and fiscal agent of the United States as may be required of it including services in connection with the collection of taxes and other obligations owed the United States."; and

(2) by redesignating section 210 of the Federal Credit Union Act (12 U.S.C. 1790) as section 211. (d) Banks, savings banks, and savings and loan, building and loan, homestead associations (including cooperative banks), and credit unions created under the laws of any State and the deposits or accounts of which are insured by a State or agency thereof or corporation chartered pursuant to the laws of any State may be depositaries of public money and may be employed as fiscal agents of the United States. The Secretary of the Treasury is authorized to deposit public money in any such institution, and shall prescribe such regulations as may be necessary to enable such institutions to become depositaries of public money and fiscal agents of the United States. Each such institution shall perform all such reasonable duties as depositary of public money and fiscal agent of the United States as may be required of it including services in connection with the collection of taxes and other obligations owed the United States.

SEC. 3. (a) Subsection (c) of section 6302 of the Internal Revenue Code of 1954 (relating to use of Government depositaries) is amended—

(1) by striking out "or trust companies" and inserting in lieu thereof ", trust companies, domestic building and loan associations, or credit unions"; and

(2) by striking out "and trust companies" and inserting in lieu thereof ", trust companies, domestic building and loan associations, and credit unions".

(b) Subsection (e) of section 7502 of the Internal Revenue Code of 1954 (relating to mailing of deposits) is amended by striking out "or trust company" each time it appears and inserting in lieu thereof ", trust company, domestic building and loan association, or credit union".

(c) The amendments made by this section shall apply to amounts deposited after the date of the enactment of this Act.

SEC. 4. (a) The Bretton Woods Agreements Act (22 U.S.C. 286—286k–2) is amended—

(1) by striking out clause (g) of the first sentence of section 5, and by inserting immediately after clause (f) the following: "or (g) approve either the disposition of more than 25 million ounces of Fund gold for the benefit of the Trust Fund established by the Fund on May 6, 1976, or the establishment of any additional trust fund whereby resources of the International Monetary Fund would be used for the special benefit of a single member, or of a particular segment of the membership, of the fund.";

(2)(A) by inserting "(a)" immediately after "SEC. 14."; and

(B) by inserting at the end of section 14 the following new subsection:

"(b) The President shall, upon the request of any committee of the Congress with legislative or oversight jurisdiction over monetary policy or the International Monetary Fund, provide to such committee any appropriate information relevant to that committee's jurisdiction which is furnished to any department or agency of the United States by the International Monetary Fund. The President shall comply with this provision consistent with United States membership obligations in the International Monetary Fund and subject to such limitations as are appropriate to the sensitive nature of the information.".

(b)(1) Section 10(a) of the Gold Reserve Act of 1934 (31 U.S.C. 822a(a)) is amended—

(A) by striking out "to and" immediately following "necessary" and inserting in lieu thereof a comma; and

(B) by inserting immediately after "International Monetary Fund" the following: "regarding orderly exchange arrangements and a stable system of exchange rates: *Provided, however*, That no loan or credit to a foreign government or entity shall be extended by or through such Fund for more than six months in any twelve-month period unless the President provides a written determination to the Congress that unique or exigent circumstances make such loan or credit necessary for a term greater than six months".

(2) Section 10(b) of the Gold Reserve Act of 1934 (31 U.S.C. 822a(b)) is amended by striking out the phrase "stabilizing the exchange value of the dollar" in the fourth sentence thereof and inserting in lieu thereof the phrase "the purposes prescribed by this section":

(c) The joint resolution entitled "Joint resolution to assure uniform value to the coins and currencies of the United States", approved June 5, 1933 (31 U.S.C. 463), shall not apply to obligations issued on or after the date of enactment of this section.

Mr. MITCHELL of Maryland (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendment be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Maryland?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, I wonder if the gentleman could explain to us why a unanimous consent request is needed on this.

Mr. MITCHELL of Maryland. Mr. Speaker, if the gentleman will yield, this was requested merely to expedite the proceedings here. We know we are under a tight timetable today and that was the only justification for asking unanimous consent.

Mr. ROUSSELOT. Mr. Speaker, further reserving the right to object, could the gentleman explain to us what this is?

Mr. MITCHELL of Maryland. Mr. Speaker, will the gentleman yield so as to permit me to proceed?

Mr. ROUSSELOT. Mr. Speaker, I am glad to yield to the distinguished gentleman.

Mr. MITCHELL of Maryland. Mr. Speaker, I will briefly explain the bill.

Mr. Speaker, H.R. 5675 passed the House on April 25 by a vote of 384 to 0. An amended version passed the Senate on October 11. The amendments are either technical or relate to the IMF. They are completely acceptable. The basic purpose of the legislation is to permit the Treasury to invest its cash bal-

ances. The authority is long overdue. The General Accounting Office and many Members of the Congress including most notably the late dean of the House, Wright Patman, long contended that the Treasury annually foregoes substantial revenues because it obtains no interest on its cash balances.

The legislation involves three major issues. The first is the proposed investment authority; the second is the inclusion of savings and loan associations in the T.T. & L. system. The third concerns minority-owned banks.

The advantages of the investment authority granted in section 1 of H.R. 7675 are threefold:

First. It will promote efficient government cash management and at the same time enable Treasury to earn $50 to $100 million net revenues annually, as Treasury Assistant Secretary David Mosso testified before my Subcommittee on Domestic Monetary Policy.

Second. It permits equitable compensation to depository institutions for services they render to the Treasury. Under the new system, depositories will be compensated for services which they now render free of charge. Compensable services will include maintaining T.T. & L. accounts, processing Federal tax deposits, and issuing and redeeming U.S. savings bonds.

Third. Finally, by no means of little importance, by allowing Treasury to use accounts in commercial banks as their working balances rather than shifting cash in and out of Federal Reserve banks, as in recent years, this legislation will insulate bank reserves from volatile transfers of funds between the public and the Treasury, thereby facilitating the smooth conduct of monetary policy.

It is, thus, amply clear that the investment authority granted in H.R. 5675 is in the public interest—in the interest of equitable treatment of depository institutions, increased potential revenues to the Government, and smoother money management. Now let me turn to the second major issue which this legislation involves; that is, inclusion of S. & L.'s in the T. T. & L. system.

One of the greatest inequities of our current tax and loan collection system is the exclusion of savings and loan associations as depository institutions. H.R. 5675 would correct this situation. Section 2 of the bill authorizes federally insured S. & L.'s, as well as those insured by States, and corporations chartered by States, to act as public depositories and members of the T. T. & L. system.

The U.S. League of Savings Associations, in a statement submitted for the House record, has endorsed this legislation, and in regard to section 2, stated that—

Tax and loan accounts can potentially help moderate the economic swings which affect deposit flows to savings associations and consequently funds available for mortgage lending. Skillful management can no doubt utilize tax and loan deposits to keep funds flowing to home borrowers in times of slack savings performance.

Several other reasons mentioned in the Banking Committee's report on H.R. 5675 indicate further why S. & L.'s should be brought into the T.T. & L. system. Briefly, these reasons include:

First. Thrift institutions such as mutual savings banks are already in the system.

Second. Federally chartered credit unions were made eligible to act as depositories under 12 U.S.C. 1767.

Third. Those S. & L.'s that issue bonds are not currently compensated for their services because they are not members of the T.T. & L. system.

Fourth. Nearly all of the services performed for Treasury by commercial banks are also provided by S. & L.'s.

Fifth. S. & L.'s already have the authority to and do make short-term investments.

Sixth. Under the proposed new system, S. & L.'s would be treated equally with other depository institutions.

Seventh. In order to receive T.T. & L. deposits, eligible S. & L.'s would have to pledge collateral. If individual S. & L.'s cannot pledge collateral, they cannot receive these funds. This, therefore, covers the issue of assurances on the financial condition of eligible S. & L.'s.

Clearly, these interests are important to all of us; and in this regard, I strongly urge your support of section 2 of H.R. 5675.

Finally, let me turn to the question of the impact of the investment authority granted in H.R. 5675 on the Nation's 83 minority-owned banks. In testimony before the Domestic Monetary Policy Subcommittee on March 9, representatives of the National Bankers Association, while supporting this legislation, emphasized that without a program to soften the immediate impact of the proposed payment of interest on T.T. & L. deposits on minority-owned banks, recent efforts which they have made to strengthen their development by attracting hitherto interest-free T.T. & L. deposits would be undermined. Treasury's position on this potentially adverse impact buttresses the NBA's concerns. Treasury favors establishing "special demand deposit" balances in minority-owned banks which would be based on the average T.T. & L. balance in such banks during a selected base year. These special deposits would be available to the minority-owned banks on an interest-free basis. However, over a 5-year period, special deposits would be decreased by 20 percent annually and thereby phased out. Both Treasury and the NBA agree that this method will adequately cushion the immediate impact of the proposed T.T. & L. investment authority embodied in H.R. 5675.

Let me affirm that our legislative history is intended to prevent the viability of minority-owned banks from being undermined: implementation of the investment authority in H.R. 5675, which has been amply documented, will generate annual net revenues of $50 to $100 million to the Treasury; provide for more equitable compensation to institutions now providing services free to the Treasury; and finally facilitate the smooth conduct of monetary policy.

Mr. Speaker, the amendments which the Senate added to H.R. 5675 are all acceptable. Two are technical. One changes the IRS code to permit credit unions to serve as tax and loan account depositories, thereby allowing implementation of their eligibility under the Credit Union Act, 12 U.S.C. 1767. The second simply requires Treasury to use the new investment authority with due regard for market interest rates. The remaining amendments are, as I said earlier, unrelated to the basic substance of H.R. 5675. They amend the Bretton Woods Agreements Act and Gold Reserve Act in four minor ways as follows.

First, prior congressional approval will be required of any new agreement to use IMF resources through a trust fund for the benefit of a single IMF member or segment of the membership of the IMF. Second, the administration will be required to inform Congress about any information provided by the IMF to the U.S. Government. The third limits to 6 months—unless waived by the President—any loan or credit extended to a foreign government or entity for the Exchange Stabilization Fund. The fourth permits people to make contracts requiring payment in gold if any two people wish to do so.

The Treasury, the State Department and OMB have no problems with any of these amendments. Nor do I. This is a good bill, a constructive bill and in the public interest. I urge its adoption.

Mr. ROUSSELOT. Mr. Speaker, further reserving the right to object, while I have this opportunity, I would like to commend the distinguished chairman of the Committee on Banking, Finance and Urban Affairs (Mr. REUSS) and the distinguished subcommittee chairmen (Mr. MITCHELL and Mr. NEAL) for the efforts they have been making to convince the Federal Reserve that there is an urgent need to keep the growth of the monetary aggregates within a range which is consistent with the ability of the economy to increase the production of goods and services.

Today's Washington Post reports that—

The worst fears of the financial markets were confirmed (yesterday) as the Federal Reserve reported that the basic money supply spurted $4.9 billion in the week ended Oct. 5, one of the largest increases ever, and a jump portending still higher interest rates.

This continues a trend of excessive money growth which has extended over many months and about which all of the distinguished gentlemen have expressed concern. Since I believe that steady, moderate growth in the money supply is essential if we are to have stable prices, full employment, and reduced long-term interest rates, it is important that Congress recognize that this issue cuts across partisan and philosophical lines and that the Nation should have a sound, bipartisan monetary policy.

In this same spirit, I would ask my distinguished colleagues to refer to a letter dated October 13, 1977, from Senator JESSE HELMS to Chairman REUSS, a copy of which was delivered to my office yesterday.

I insert the full text of the letter in the RECORD at this point:

Although I know of no error in drafting the Rousselot amendment to Public Law 94–564, there might be some benefit in clarifying the intent of my amendment. That intent was to insure that congressional approval would be required before resources contributed by U.S. taxpayers would be used for the benefit of a single member or segment of the membership of the IMF. Therefore, if the IMF used existing funds or the proceeds of further gold sales to establish such a fund, congressional approval would be required. If, however, such a fund were established entirely by new contributions from member countries, then Congress would have the opportunity to express its will through the authorization process, and no separate approval would be required under the Rousselot amendment.

The Treasury knows full well that the purpose of my amendment was to avoid a repetition of the events of last year in which a trust fund to provide balance of payments assistance to the poorest members of the IMF was established with part of the IMF gold sale. Even though the establishment of the fund violated the IMF articles of agreement which were in force at the time and involved funds which otherwise might have been restituted to the United States, both the IMF and the Treasury took the position that the gold sale proceeds belonged to the IMF, that the IMF could do with them as it pleased, and that no congressional approval was required to establish the fund. There was bipartisan agreement at the time that such an incident should not be repeated, and the distinguished chairman (Mr. REUSS) was instrumental in achieving the passage of the Rousselot amendment to clarify the role of Congress in the establishment of future IMF trust funds.

Mr. MITCHELL of Maryland. Mr. Speaker, will the gentleman yield briefly to me for the purpose of yielding to two Members who have done magnificent yoeman work to move this legislation through the House.

Mr. ROUSSELOT. I yield to the gentleman from Maryland.

Mr. MITCHELL of Maryland. Mr. Speaker, I yield to the gentleman from Ohio (Mr. MOTTL).

Mr. MOTTL. Mr. Speaker, I thank the gentleman from Maryland (Mr. MITCHELL) for yielding.

Mr. Speaker, I would like to urge my colleagues in the House to join with me in agreeing, by unanimous consent, to Senate amendments to H.R. 5675 which was passed unanimously by the Senate 3 days ago.

This bill, which we have spent countless hours on for almost 3 years, would require banks to pay interest to our taxpayers on tax and loan accounts deposits. As recently as January 1974, the average daily balance in these accounts averaged about $5.7 billion. Even invested at the modest rate of 5 percent, this would have netted the taxpayers an additional $285 million a year.

Since then, the Treasury Department has been more practical and prudent in its investments after considerable prodding by several of us. Nonetheless, the average daily balance in 1977 still is about $1.5 billion. If these funds were in interest-bearing accounts, we would be netting about $75 million a year additional for the taxpayers.

Consequently, each day we delay final passage costs the taxpayers about $206,000.

So, I ask you to join with us and pass H.R. 5675 by unanimous consent. It is a measure which should have been passed 60 years ago.

Mr. STANTON. Mr. Speaker, will the gentleman yield?

Mr. MITCHELL of Maryland. I yield to the gentleman from Ohio.

Mr. STANTON. Mr. Speaker, I rise in support of this legislation. I appreciate the work the gentleman from Ohio, my colleague, has done on it.

For the last few years, the Treasury has been using stopgap measures to minimize losses involved in keeping large cash balances in tax and loan accounts at commercial banks. The result has been that the monetary policymaking of the Federal Reserve has been greatly complicated, as it tries to counteract the effects of large swings in Treasury holdings of reserves, and the money markets have been subject to uncertainty and unnecessary confusion. The present bill goes right to the root of the trouble and gives to the U.S. Treasury an option already exercised by State and local governments throughout this country. This is simply the option to invest excess operating balances in interest-bearing short-term securities, instead of holding these balances as idle, nonproductive bank balances.

The best estimates of the Treasury and of the Congressional Budget Office is that this legislation will save the Treasury, on balance, between $50 and $100 million annually. We passed this bill unanimously in this House on April 25 of this year. I am delighted that the other body has been able to act during this session in adopting this bill.

The Senate amendments are noncontroversial and have been accepted by the Treasury and the Department of State.

By passing the bill now, instead of holding it for the next session of this Congress, we will be saving the taxpayers a minimum of $25 million.

I urge acceptance of the bill.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield?

Mr. MITCHELL of Maryland. I yield very briefly.

Mr. ROUSSELOT. Mr. Speaker, I appreciate my colleague yielding to me.

In a letter addressed to the chairman of the committee (Mr. REUSS) from Senator HELMS and dated October 13, 1977, there is a discussion in regard to language added by Senator HELMS.

The letter reads:

DEAR MR. CHAIRMAN: As you know, the Senate adopted my amendment number 919 during consideration of H.R. 5675, the Treasury Tax and Loan Account Legislation.

Part of my amendment, paragraph (1), modifies the Rousselot amendment adopted by the House of Representatives last year to H.R. 13955, the Bretton Woods Agreement Act Amendments of 1976, which President Ford signed into law as P.L. 94–564.

The new language as proposed in my amendment reads as follows:

"(1) by striking out clause (g) of the first sentence of section 5, and by inserting immediately after clause (f) the following: "or (g) approve either the disposition of more than 25 million ounces of Fund gold for the benefit of the Trust Fund established by the Fund on May 6, 1976, or the establishment of any additional trust fund whereby resources of the International Monetary Fund would be used for the special benefit of a single member, or of a particular segment of the membership, of the fund.";

In a letter from the Department of the Treasury on S. 2003, a bill which I sponsored identical to amendment 919, the following two paragraphs appear:

"Section 5 of the Bretton Woods Agreements Act was amended by P.L. 94–564 as proposed by Congressman Rousselot. The amendment was intended to require prior Congressional approval of any new agreement to use the resources of the IMF through a trust fund for the special benefit of a single member or segment of the membership of the IMF. (Congressman Rousselot's amendment does not affect the decision by the IMF to sell 25 million ounces of gold for a trust fund to provide balance of payments financing to lesser-developed-countries.)

"However, due to an error in drafting, the Rousselot amendment as presently enacted could be interpreted more broadly than was intended. P.L. 94–564 presently can be construed to require prior Congressional approval for the U.S. to vote in favor of the establishment of any new trust fund in the IMF—including one funded entirely by contributions from individual countries, for which the IMF would have only management responsibilities and no financial participation. Section 2 of S. 2003 clarifies the Rousselot amendment to reflect the Congressional intent accurately. The Treasury Department fully supports that proposed statutory change."

In the Treasury statement, concern is expressed that Congressional approval might be required for "the U.S. to vote in favor of the establishment of any new trust fund in the IMF—including one funded entirely by contributions from individual countries, for which the IMF would have only management responsibilities and not financial participation." If circumstances arose that the IMF wanted to establish or administer a trust fund supported by assets from nations other than the United States, no Congressional approval would be required for the U.S. vote to be cast in favor of IMF establishment or administration of such a fund. However, if the U.S. chose to make a contribution, it would be my view that procedures would be followed similar to those now being undertaken in seeking approval of the U.S. contribution to the so-called Witteveen Facility, the new Supplementary Financing Facility.

There is no doubt in my minde that this amendment is meant simply to insure that Congress gives its specific approval before the IMF utilizes more of the gold reserves it holds, or any added funds from the United States for the Trust Fund or any new facility that would benefit a single member of a particular segment of the membership.

I believe Congress was concerned when the Trust Fund was established without its ap-

proval and I believe there is full agreement that Congress' approval should be sought in the future.

Thank you for your concern and assistance.

With best personal wishes, I am

Sincerely,

JESSE HELMS.

The subcommittee chairman agrees with Senators HELMS' statement:

I believe Congress was concerned when the Trust Fund was established without its approval and I believe there is full agreement that Congress approval should be sought in the future.

Mr. MITCHELL of Maryland. This is my understanding.

Mr. HANSEN. Mr. Speaker, will the gentleman yield?

Mr. ROUSSELOT. I yield to the gentleman from Idaho.

Mr. HANSEN. I am delighted to support the gentleman from Maryland's request for unanimous consent to concur in the Senate amendments to H.R. 5675. The bill gives authority to the Treasury to make short term investments of presently idle bank funds. This is a simple cash-management option now used by private business, and there is no reason why the Treasury should not be permitted, even encouraged, to use the same efficient financial techniques. This basic provision was unanimously approved by this House on April 25, and I am sure there will be no objection to it now.

The amendments added by the Senate are noncontroversial, and I am particularly glad that one provision has been added to effectively repeal the gold clause prohibition of 1935.

Mr. Speaker, in 1935 the U.S. Government acted to deprive its citizens entirely of the right to deal in gold in any way. The gold clause prohibition made unenforceable any contractual clause which required payment in gold or which was indexed in gold. A few years ago we ended the dark ages and again permitted our citizens to exercise their ordinary and natural right to buy and sell gold. You will remember, Mr. Speaker, the temerity of the Treasury in doing so. Our benevolent Government was afraid that the citizens would go overboard in hoarding gold. You will also remember, Mr. Speaker, that those speculators who believed that nonsense and drove the price up in anticipation of widespread gold hoarding lost their shirts. The citizens of this great land had demonstrated their level-headed approach to gold: There are legitimate uses for gold, and these were satisfied, and there was little in the way of speculative or other hoarding.

There was one anomaly left in the law, however—one way in which gold continues to be hedged with needless restriction. Today, it is still not possible for our citizens to write an enforceable contract in which payment is specified in gold, or in dollars equal to so much gold. Mr. Speaker, no other commodity is so restricted. Contracts can be made payable in silver, in wheat, in rubber, coffee, eggs, hog bellies, pianos, or any other commodity you care to think of, with the sole exception of gold.

There is, however, some judicial opinion which holds that this restriction is no longer valid, in view of the decision by the Government to permit citizens to buy and sell gold and generally do what they want with it.

Therefore, on May 2, 1977, I introduced legislation which would repeal this prohibition and thus clarify the status of gold in this country, as well as returning to our citizens a small but basic right denied to them for over 40 years. The provision in the amendment to the present bill is not worded the same as my bill, but reaches the same objective. It is a particular pleasure to me and a source of much gratification, that the Senate has adopted this measure without objection. Those who worry that our citizens will go overboard in putting gold payment in all their contracts are again wrong. I am confident the citizens of this great country will once again demonstrate that commonsense for which they are justly esteemed. Where there is a legitimate need for the exercise of this right we are returning to them, it will be responsibly filled. Where the purpose is speculation, there will be little activity.

Therefore, Mr. Speaker, I express again my appreciation at having the opportunity to support this legislation as amended. And I further express to our subcommittee and full committee chairman my appreciation for his efforts to expedite consideration of the measure.

Mr. ROUSSELOT. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Maryland that the Senate amendment be considered as read and printed in the RECORD?

There was no objection.

The SPEAKER. Is there objection to the first request of the gentleman from Maryland?

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MITCHELL of Maryland. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to include extraneous matter on the bill H.R. 5675 to authorize the Secretary of the Treasury to invest public moneys, and for other purposes.

The SPEAKER. Is there objection to the request of the gentleman from Maryland?

There was no objection.

CONFERENCE REPORT ON S. 1811, ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION AUTHORIZATION ACT OF 1978

Mr. TEAGUE. Mr. Speaker, I call up the conference report on the Senate bill (S. 1811) to authorize appropriations to the Energy Research and Development Administration in accordance with section 261 of the Atomic Energy Act of 1954, as amended, section 305 of the Energy Reorganization Act of 1974, and section 16 of the Federal Nonnuclear Energy Research and Development Act of 1974, as amended, and for other purposes, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

(For conference report and statement, see Proceedings of the House of October 7, 1977.)

PARLIAMENTARY INQUIRY

Mr. UDALL. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. UDALL. Mr. Speaker, I desire to make a point of order against the conference report. Is this the appropriate time?

The SPEAKER. It is.

POINT OF ORDER

Mr. UDALL. Mr. Speaker, I make a point of order against the conference report.

The SPEAKER. The Chair will hear the gentleman.

Mr. UDALL. Mr. Speaker, I make a point of order. Section 106(d)(3), adopted by the conference committee on the bill now before the House, exceeds the authority of the conference committee in that it inserts new substantive provisions in the legislation which were not included in the bill, either as passed by the House or passed by the Senate.

I would like to be heard briefly on the point of order.

The SPEAKER. The gentleman from Arizona is recognized.

Mr. UDALL. The point of order, Mr. Speaker, is based on the conference report violation of rule 28, which requires that the report shall not include matter not committed to the conference committee by either House. The offending provision of the conference report is section 106. It amends section 103 of Public Law 91–273 as amended, and impose new requirements on the Clinch River breeder project.

Specifically, section 106 would require that the project be located at the existing Clinch River site unless that site is determined to be unsuitable from the standpoint of radiological health and safety; that the "maximum extent possible" the project shall be designed, constructed and operated in accordance with existing arrangements, objectives and schedules; and the Secretary and "all other appropriate Federal agencies" (assumably the Nuclear Regulatory Commission) are directed "to undertake all such efforts as are necessary to assure the earliest possible decisions on a limit-

ed work authorization and a construction permit."

Neither the relevant sections of the House bill nor the Senate amendment contained any provisions relating to this substantial modification of the conditions and procedures by which the project would otherwise be licensed under the Atomic Energy Act as amended.

Mr. Speaker it cannot be argued that anything in the Senate bill or House amendment justifies this conference report's treatment of licensing issues. That both the House and the Senate conferees may have concluded that the project be built at Clinch River has nothing to do with the fact that under existing law the project must be licensed by the Commission at that site or another location. Under section 182(a) of the Atomic Energy Act "the place of the use" of the facility must "be in accord with the common defense and security" of the United States. By excluding the defense and security consideration, the conference report directly modifies licensing requirements and nothing in either the House or Senate version addresses this issue.

The other provisions I mentioned are also modifications of existing licensing law and like the siting provisions, these modifications have no relation to the authorizations of the House and Senate bills.

By requiring that the project be licensed to "the maximum extent possible" in accordance with existing plans the report seems to be limiting by law the statutory authority of the NRC to impose modifications of the project's design to assure safety.

Moreover, by requiring that the NRC expedite the licensing of the project, the conference report would create new licensing priorities for the NRC. This change will certainly modify the procedural rights of other participants in the licensing process that are guaranteed under existing law.

The point of order should be sustained.

Mr. TEAGUE. Mr. Speaker, I would like to be heard in opposition to the point of order.

The SPEAKER. The gentleman from Texas (Mr. TEAGUE) is recognized.

Mr. TEAGUE. Mr. Speaker, this report has been adopted by the other body. During the debate on the floor, Senator HART of Colorado asked Senator CHURCH, the chairman of the subcommittee in the other body, about the same point the gentleman from Arizona raises here. I would like to read Senator CHURCH's answer because I think it is the best way to be stated.

Senator HART said to Senator CHURCH:

* * * I am concerned with one provision of the conference report which deals with the Clinch River breeder reactor project, and that language is contained in section 106 (d)(3). * * * I want to make sure that the record is absolutely clear that this section does not modify in any way the licensing and regulatory authority of the discretion of the Nuclear Regulatory Commission under the Atomic Energy Act. * * * I would greatly appreciate it if the Senator from Idaho would give me his assurances to that effect.

Senator CHURCH. * * * The provision in the report to which he refers in no way limits the authority of the Nuclear Regulatory Commission to protect public health and safety or the common defense and security.

The Nuclear Regulatory Commission's authority to protect the environment of the Clinch River site is not limited. * * *

There are no alternative sites before the Commission. The language of the report in no way interferes with the discretionary authority or the power of the Commission to proceed as it normally would to a conclusion of this proceeding.

The SPEAKER. Do any other Members desire to speak on the point of order?

Mr. FLOWERS. Mr. Speaker, may I be heard further in opposition to the point of order?

The SPEAKER. The gentleman will be heard.

Mr. FLOWERS. Mr. Speaker, I think it would be in order very briefly to review the facts of the matter.

First of all, the House passed the 1978 authorization bill for the project in the amount of $150 million, which contemplated construction at the site. The project was first authorized in Public Law 91-273.

The Senate-passed bill contains language which incorporates a heading entitled "The Clinch River Breeder Reactor Project."

Furthermore, the Senate incorporates by reference a letter from Dr. Robert Fri, Acting Administrator of ERDA, and a letter from the Comptroller General, Mr. Elmer Staats, both of which talk about the Clinch River breeder reactor project at the site, Clinch River.

We have not in the conference report done anything except specify the site. What has not been done is anything that would affect the licensing for the facility.

I certainly agree with the chairman of the committee, the gentleman from Texas (Mr. TEAGUE) in what he has said, and I agree with the Senate conferees in their consideration of the conference report just this week. This matter was cleared up, and there is no attempt here to short circuit the NRC in connection with the duly authorized functions of the NRC.

The conference committee has tried to bring together a fair compromise of the House and Senate positions. Both contemplate construction at the Clinch River, Tenn., site. That is what we are talking about, the Clinch River site.

What we tried to do in the conference report is to clearly focus our attention on that point so the issue is drawn.

Mr. Speaker, that is all we are trying to do, and I do not think that the point of order should be sustained.

The SPEAKER. Do any other Members desire to be heard on the point of order?

Mr. CARR. Mr. Speaker, I desire to rise in support of the point of order.

The SPEAKER. The Chair will hear the gentleman.

Mr. CARR. Mr. Speaker, I ask unanimous consent that I may be permitted to revise and extend my remarks.

The SPEAKER. The Chair will inform the gentleman that his request to revise and extend his remarks is not in order on a point-of-order discussion.

The gentleman from Michigan (Mr. CARR) will be heard.

Mr. CARR. Mr. Speaker, it is hard to think of a more classic case in which the rules against exceeding the scope of the disagreement should be applied.

On two occasions this House has gone on record as saying it separates the promotion and development of nuclear power from its regulation. We did it when we separated the Atomic Energy Commission and ERDA and established the NRC. We did it the year when we stripped the committee which maintained jurisdiction of its jurisdicton and transferred promoton and development of nuclear power into the committee chaired by the gentleman from Texas (Mr. TEAGUE) and the regulation of nuclear power into the committee chaired by the gentleman from Arizona (Mr. UDALL).

Yet here we have a committee, the Committee on Science and Technology, whose job it is to develop and promote nuclear power, going to conference with Members of the Senate, the Senate counterparts of the House, and returning with new regulatory guidelines contemplated by neither the House nor the Senate in the original legislation.

I might point out, Mr. Speaker, in response to the point of order, that the gentlemen from the Committee on Science and Technology have failed to respond to the point made by the chairman of the Committee on Interior and Insular Affairs that the report—and I quote—"Provided, that site preparation and those construction activities for which a construction permit is required shall not commence during the fiscal year ending September 30, 1978: Provided, the Secretary and all other appropriate Federal agencies"—parenthetically, meaning the Nuclear Regulatory Commission—"are directed to undertake all such efforts as are necessary to assure that the earliest possible decisions on a limited work authorization and a construction permit are obtained."

Mr. Speaker, that applies to the Nuclear Regulatory Commission. It is an effort by the Committee on Science and Technology and the conferees from the Senate side to revise the priorities of the Nuclear Regulatory Commission. That is a jurisdiction which is properly before the Committee on Interior and Insular Affairs of the House, but in any event, it is a matter which was not considered on the floor of this House or in the Senate before it went to conference.

Mr. McCORMACK. Mr. Speaker, may I be heard on the point of order?

The SPEAKER. The Chair will hear the gentleman.

Mr. McCORMACK. Mr. Speaker, I rise in opposition to the point of order, and I recommend that it not be sustained.

Mr. Speaker, I think the point of order is splitting hairs in attempting to divert the attention of the Chair and the body from the fact that when this issue was drawn and debated and voted upon by this House, we overwhelmingly supported an authorization of $150 million to continue the construction of the Clinch River breeder project.

Mr. Speaker, part of that operation of continuing to build the Clinch River project is to finish up the licensing of it. There is no way it can be built without the licensing; and when this House was voting, we were saying to go ahead, and clearly implied in that vote was to go ahead with whatever is necessary to do the job. The licensing studies on a limited work authorization or construction permit are clearly implied.

This bill does not revise the activities or restrict the activities of the Nuclear Regulatory Commission or of any other agency in any way. The licensing is an ordinary part of the procedure of constructing, and what the bill simply emphasizes is what the House passed, that we should go ahead with the construction.

Mr. Speaker, I would like to point out that I have here on the table before the Members the environmental impact statements completed, the proposed environmental impact statement for the liquid metal fast breeder reactor, which is dated December 1974, and the final environmental impact statement, in three volumes, which is completed, Mr. Speaker, for the Clinch River site and that by the Energy Research and Development Administration, and the final environmental impact statement, which is completed, in draft form, with only the final approval being necessary; and written right across the front of the document is "The Clinch River Breeder Reactor Plant."

Mr. Speaker, the only thing that the conferees were saying was that this operation in no way would be interrupted by the appropriation of this money. The authorization of the appropriation implies the continuation of the construction of the project, and that involves all the agencies.

What we simply said is that we are not restricting them in any way from doing their job.

Mr. Speaker, we simply say, "Go ahead."

The SPEAKER. Do any other Members desire to be heard on the point of order?

Mr. JEFFORDS. I do, Mr. Speaker. I desire to be heard on the point of order.

The SPEAKER. The Chair recognizes the gentleman from Vermont (Mr. JEFFORDS) on the point of order.

Mr. JEFFORDS. Mr. Speaker, it seems to me that the critical question here is simply this: If neither the House nor the other body, in their provisions, amended a provision of the law, in this case section 106 of Public Law 91-273, can the mere fact that one of the bodies, in their action, references a document—in this case it is, I believe, the Comptroller General's report—which mentions the law, they broaden the scope as they then did in conference so as to amend the law?

Mr. Speaker, to me that would open up incredibly the ability of committees of conference to amend laws all over the place. In other words, if we referenced the Encyclopedia Britannica, we could then, in conference, do anything we wanted with any law.

It seems to me that that kind of broadening of the scope is so repulsive to the general theory of trying to contain conference committees within some bound of reason that this is clearly a gross violation of that concept.

The SPEAKER. Do any other Members desire to be heard on the point of order. If not, the Chair is ready to rule.

If not, the Chair is ready to rule on the point of order.

The gentleman from Arizona makes a point of order against the conference report on S. 1811 on the grounds that the conferees have included in their report new matter not committed to conference, in violation of clause 3 of rule XXVIII.

Section 106 of the conference report amends existing law to require that the Clinch River breeder reactor project be located at a certain site, unless determined unsuitable from the standpoint of radiological health and safety, to prohibit certain construction activities on such project in fiscal year 1978, and to assure expedited decisions on work authorizations and construction permits. Section 101 of the House amendment authorized a sum for the liquid metal fast breeder reactor project, and earmarked a certain portion of that sum for certain development and testing. Section 103 of the Senate bill S. 1811 amended existing law to require that funds appropriated for the Clinch River breeder reactor project, pursuant to the authorization in existing law, be applied towards the continuation of that project, and not towards its cancellation or termination.

Section 103 of the Senate bill S. 1811 amended existing law to state the intent of Congress and to require that funds appropriated for the Clinch River breeder reactor project, pursuant to the authorization in existing law, be applied towards that project, and not towards its cancellation or termination; the Senate bill also endorsed an opinion of the Comptroller General relating to the continuation of the project. Insofar as section 106 of the conference report requires that funds shall not be used to terminate the Clinch River project and requires that funds appropriated pursuant to an authorization for a specific project shall only be used to proceed with that project, the report constitutes a proper modification of the issues which were contained in section 103 of the Senate bill.

But the mandate of the new subsection 106(d)(3) added to Public Law 91-273 as amended, by section 106 of the conference report, which requires that the project be located at a certain physical location, was not included in the Senate bill. Although the Senate bill did endorse on behalf of Congress an opinion of the Comptroller General which discusses the necessity of constructing the project at a certain site, the Senate bill did not absolutely require that result as does the conference report. Moreover, the report would allow altering that designated site in the case of unsuitability from the radiological health and safety standpoint. While is may be desirable as a matter of policy to include that exception, neither the House amendment nor the Senate bill addresses that policy. The remainder of subsection (d)(3) added by the report specifies a certain construction schedule as a matter of law, which the gentlemen from Texas and Washington have characterized as a compromise between the full level of funding adopted by the House and the lesser authorization adopted by the Senate.

The Chair appreciates the difficulty of the conferees in fashioning a recommendation incorporating the concerns of the House and Senate in this complex area. It appears to the Chair, however, that the Senate bill and the House amendment, as well as the hearings, reports and debates in both Houses addressed a variety of conceptual issues but did not commit to conference language which allowed the conferees to enact those issues into affirmative and mandatory privisions of law.

The Chair feels that a precedent relevant to the present situation occurred on December 20, 1974, as cited in Deschler's Precedents, chapter 33, section 6.9. On that instance, Speaker Albert ruled that the inclusion of a new provision in a conference report, relating to the Alaska Native Claims Settlement Act, was in violation of clause 3 of rule XXVIII, since that specific topic had not been addressed in either the House bill or the Senate amendment thereto. The argument was made on that occasion that the Senate amendment if enacted would have required, under existing law, the result mandated by the new provision in the conference report. The Chair ruled as follows in response to that argument: "If what the gentleman says is true, the addition of this language in the conference report would have been redundant. To have put it in the conference report would have been unnecessary; the Chair must conclude that a new issue has been injected which was not contained in the Senate amendment."

For the reasons stated, the Chair sustains the point of order.

MOTION OFFERED BY MR. TEAGUE

Mr. TEAGUE. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. TEAGUE moves that the House insist on its amendment to the Senate bill S. 1811 and request a further conference with the Senate thereon.

The SPEAKER. The question is on the motion offered by the gentleman from Texas (Mr. TEAGUE).

The motion was agreed to.

APPOINTMENT OF CONFEREES ON S. 1811, ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION AUTHORIZATION ACT OF 1978

The SPEAKER. The Chair appoints the following conferees: Messrs. TEAGUE, FUQUA, FLOWERS, MCCORMACK, BROWN of California, THORNTON, OTTINGER, HARKIN, AMBRO, Mrs. LLOYD of Tennessee, Messrs. WATKINS, WYDLER, WINN, FREY, GOLDWATER, and GARY A. MYERS.

REORGANIZATION PLAN NO. 1 OF 1977

Mr. BROOKS. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration

of the resolution (H. Res. 688) to disapprove Reorganization Plan No. 1 of 1977; and pending that motion, Mr. Speaker, I ask unanimous consent that general debate continue not to exceed 2 hours, the time to be equally divided and controlled by the gentleman from New York (Mr. HORTON) and myself.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

The SPEAKER. The question is on the motion offered by the gentleman from Texas (Mr. BROOKS).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the resolution (H. Res. 688), with Mr. KILDEE in the chair.

The CHAIRMAN. The House is in the Committee of the Whole House on the State of the Union for the consideration of House Resolution 688, which the clerk will report by title.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to section 912 of Public Law 95–17, and the unanimous-consent request, the gentleman from Texas (Mr. BROOKS) will be recognized for 1 hour, and the gentleman from New York (Mr. HORTON) will be recognized for 1 hour.

The Chair recognizes the gentleman from Texas (Mr. BROOKS).

Mr. BROOKS. Mr. Chairman, I yield myself 5 minutes.

Mr. Chairman, one of the major commitments of the new President who took office in January of this year is the reorganization of the Federal Government. Earlier this year, the Congress enacted legislation giving him the authority to carry out appropriate reorganizations in an expeditious manner by submitting reorganization plans. Today we have before us the first such plan.

The President has chosen to begin his reorganization with his own office. Reorganization Plan No. 1 of 1977 substantially restructures and streamlines the Executive Office of the President. The purpose of the reorganization is to enable the President to receive the best possible input from his staff so that he can maximize his effectiveness in the decisionmaking process.

This reorganization plan eliminates the Domestic Council, the Office of Drug Abuse Policy, the Office of Telecommunications Policy, the Economic Opportunity Council, and certain advisory committees. It will transfer to the President or to departments or agencies outside of the Executive Office certain functions of the Council on Environmental Quality, the Office of Management and Budget, the Office of Science and Technology Policy, and the Office of Telecommunications Policy. It will create an Assistant Secretary of Commerce for Communications and Information in the Department of Commerce, who will carry out some of the OTP functons. It also creates an Office of Administration within the Executive Office of the President to centralize support activities now being carried out by various units.

Our committee studied this reorganization in considerable detail. Hearings were held at which the Director of the Office of Management and Budget and his associates presented the purposes of the plan and responded to questions from our Members. We also heard testimony from Members of Congress and the public. The principal objections which arose to the plan were focused primarily on the abolition of the Office of Drug Abuse Policy, recently established by legislation, and the transfer of functions of the Office of Telecommunications Policy to the Department of Commerce. The President was made aware of the objections raised by the witnesses and by the committee. He saw fit to make certain changes which were submitted to Congress on September 15 and have been incorporated into the plan. It was the opinion of the committee that the amendments met most of the objections.

The administration estimates that the reorganization plan and other steps being taken will reduce staff levels in the Executive Office of the President from 1,712 full-time permanent positions to 1,459 (a reduction of 15 percent), resulting in savings of at least $6 million.

The plan meets the requirements of the Reorganization Act; it will improve the administration of the Executive Office and result in better staff support for the President. For these reasons, along with the budgetary savings that will result, the plan has merit.

House Resolution 688 is the instrument by which we act upon the President's first reorganization plan. The resolution was reported by voice vote from the Committee on Government Operations. Our recommendation to the House is that House Resolution 688 be rejected. Since the resolution reads that the House does not favor Reorganization Plan No. 1 of 1977, a vote to support the plan will be a "no" vote on the resolution. Those who oppose the plan will vote "yes."

Inasmuch as we can only accept or reject the whole package, I believe it should go into effect, and I urge that the Members vote "no" on the disapproval resolution.

The CHAIRMAN. The gentleman from Illinois (Mr. CORCORAN) is recognized.

Mr. CORCORAN of Illinois. Mr. Chairman, the ranking minority member of our Subcommittee on Legislation and National Security, that considered this resolution, as our able chairman so aptly pointed out, is, like myself and everybody who serves on that subcommittee, in support of the President's attempt to reorganize the Executive Office of the White House.

I think in general we would ask the full membership of the House to support the President, because it is an attempt by the President to reorganize the Executive Office of the White House in order to give him more direct management control, more streamlined control over the various agencies of the Government. After all, it is through the exercise of control over the staff and the adjoining facilities within the White House that the President can make his influence felt.

There are some disagreements with parts of the resolution, particularly as I recall the action which would be taken pursuant to this reorganization plan regarding the Office of Drug Abuse, but I think in the main there is a recognition on the part of the membership of the subcommittee and I believe a majority of the full committee that this action on the part of the President is something which is necessary and something that we support.

I yield to the ranking minority member of our subcommittee such time as he may consume.

Mr. HORTON. Mr. Chairman, I yield myself 5 minutes.

Mr. Chairman, as one who has long been concerned about the enormous size of the Federal Government, I welcome this opportunity to take a critical look at the President's first plan to reorganize the executive branch. I give high marks to the President for tackling the problem right there in his own back yard—the White House, the Executive Office of the President, and related parts of OMB. The gentleman from Texas, (Mr. BROOKS) also gets high marks for his determined efforts to comply with the oversight provisions of the Reorganization Act of 1977.

I am pleased to report that the Committee on Government Operations did hold 2 days of hearings on this important Reorganization Plan. While there were some legitimate and troubling questions raised about some of its provisions, there was general agreement that we should give the President the opportunity to reorganize his own Executive Office as he seees fit. There was also general relief that the President submitted, at our request, an amendment to the plan which, in effect, gives the President considerable flexibility in delegating functions within his own office. At the same time, it preserves and maintains proper congressional oversight in the transfer of functions outside of his office.

Like each Member of this Congress, I reserve the right to object to future plans and even to some of the provisions of this one. But I think it is important that we encourage the President and cooperate with him at this early stage. Certainly, I hope his plan works.

While I basically support Reorganization Plan No. 1 and have no intention of objecting to it, I do have some misgivings about it. Accordingly before I urge my colleagues to support this plan, I will briefly tell you why I am troubled about some of its key provisions.

As Chairman of the Commission on Federal Paperwork, I have become increasingly aware of the alarming amount of unnecessary paperwork that is generated by poor and ineffective planning. Frankly, I cannot help but wonder if unnecessary paperwork and needless duplication will be the result of the President's decision to dismantle the Statistical Policy Division of the Office of Management and Budget. SPD, after all, was found by the Paperwork Commission to be one of the key elements in eliminating paperwork in the executive branch. Splitting the functions of that office hardly seems to be a move that will lead

to reduced paperwork. Even more obvious is the fact that, unless OMB or some other central unit is given all of the functions of SPD, there may be no single unit to review and reduce paperwork, and that worries me. I might add at this point that Comptroller General Elmer Staats, himself a firm advocate of reduced paperwork, shares my concern about this particular provision of the reorganization plan. I might also add that Jim McIntyre, Acting Director of OMB, has assured me in writing that there will be no adverse effects on either OMB or the Department of Commerce, which will inherit some of SPD's functions. He further assured me that a close working relationship on statistical policy matters will be maintained between his office and the Department of Commerce. I find that reassuring, but certainly the SPD transfer is a provision of the plan that bears watching in the months ahead.

Another provision of the plan that concerns me is the abolition of the Office of Drug Abuse Policy, an office that was authorized by Congress for a specific purpose. ODAP was created to be the principal unit within the Executive Office of the President responsible for coordinating the functions of more than 50 departments, bureaus, agencies, and administrations having jurisdiction over drug abuse prevention and control programs. There are many of us in this Congress who were and continue to be very much concerned about the drug abuse policy of this Nation. We took great heart and great pride in the fact that an office close to the President would be formulating and administering a national drug abuse program. Understandably, there was great concern in the committee that the abolition of this important office would mean that drug abuse prevention would no longer receive the high priority attention it deserves.

Mr. Chairman, I would like to point out that I have another letter from Mr. McIntyre, this one assuring me that the functions of ODAP will be continued and that the President will continue to be interested in the drug abuse prevention and control programs. That is reassuring in one sense, but I continue to be concerned that the abolition of ODAP will lead to a diminishing of the priority which has rightfully been given to this serious national problem.

In summary, as I understand it, there are three goals of reorganization. One is cutting paperwork; two is improving efficiency by centralizing units; and three is saving money. Dismantling the Statistical Policy Division clearly fails all three of these goals. Dismantling the Office of Drug Abuse Policy, if not failing these goals, certainly fails the test of fulfilling the mandate of the Congress.

As I indicated at the outset, I have some misgivings, some troubling questions about this Reorganization Plan. Still, they are changes favored by the President for his own office and I am willing to cooperate with him at this early stage. Accordingly Mr. Chairman, I recommend the approval of Reorganization Plan No. 1.

WASHINGTON, D.C.,
September 28, 1977.

Hon. FRANK HORTON,
House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN HORTON: This letter responds to your inquiry concerning the effect on our paperwork reduction efforts due to the transfer of statistical policy functions from the Office of Management and Budget (OMB) to the Department of Commerce. There will be no adverse affect on OMB's Federal Reports Act functions due to this transfer. After the transfer, a close working relationship on statistical policy matters will be retained between our office and the Department of Commerce. Moreover, the transfer will allow the personnel remaining in OMB to devote their full efforts toward implementation of the Federal Reports Act rather than the past division between these duties and statistical policy functions.

The personnel implementing the Act will be relocated within the Office in the new Regulatory Policy and Reports Management Division. This organizational placement will allow the coordination of efforts involving regulatory policy and those concerning the reporting burden. Since the greatest burden upon private citizens stems from rules and regulations imposed upon the public, this close working relationship should be more effective in carrying out those policies set forth in the Federal Reports Act.

I will be pleased to answer any further questions you may have.

Sincerely,

JAMES T. MCINTYRE, JR.,
Acting Director.

WASHINGTON, D.C.,
September 29, 1977.

Hon. FRANK HORTON,
House of Representatives,
Washington, D.C.

DEAR MR. HORTON: I understand that you are concerned about the disposition of the Office of Drug Abuse Policy (ODAP) in Reorganization Plan No. 1. This letter explains the arrangements we plan to make for handling ODAP functions and answers questions that have been raised about it.

In proposing the abolition of ODAP as a statutory unit, the EOP reorganization group recognized the value of its work and made provision for each of its functions to continue:

ODAP's policy development and coordination functions will be handled within the new policy management system which is to be used for most domestic issues. The basis of the system is the formation of interagency working groups, coordinated by the Domestic Policy Staff, to recommend policy and handle specific problems. The system will link the skills and experience in line agencies with the Presidential perspective in the Executive Office. In the drug abuse area, Domestic Policy Staff members will work with the revitalized Strategy Council on Drug Abuse to make the system a reality. Because of the President's personal commitment to more effective action in the drug abuse area, a White House adviser will continue to provide strong policy guidance.

We anticipate that ODAP's current reorganization work will be completed in January 1978. However, the Office could continue until April 1 if additional time is needed to complete its work. After the Office is terminated, its reorganization responsibilities will be assumed by the President's Reorganization Project, in cooperation with the President's drug and health adviser.

The President's decision on ODAP is, in no sense, an attempt to deemphasize drug abuse problems. He has asked Dr. Bourne to take the lead in formulating a comprehensive national drug abuse policy, including planning, enforcement and other critical issues. His August 2, 1977, message to the Congress on drug abuse stressed his continued deep personal concern about the effects of narcotics and the need to act. The President has also assured the Congress that Dr. Bourne will be available to testify as he has been.

In summary, we believe that the new arrangements for carrying out ODAP functions will improve the effectiveness of drug abuse policy development and coordination. The system will place the drug issue in the mainstream of Presidential decision making within the new policy management system and reorganization efforts, thus better integrating it with related concerns. By retaining a visible White House adviser, priority will be given to the issue and coordination will be assured. I hope that you and your colleagues will view the ODAP reorganization in the context of the new arrangements that the President proposes.

Enclosed are answers to commonly asked questions. If I can provide further information, I will be happy to do so.

Sincerely,

JAMES T. MCINTYRE, JR.,
Acting Director.

QUESTIONS AND ANSWERS ABOUT ODAP AND THE EOP REORGANIZATION STUDY

1. CONDUCT OF THE EXECUTIVE OFFICE REORGANIZATION STUDY

Question: How was the study conducted?

Answer: Soon after assuming office, the President requested OMB to perform a comprehensive management assessment of the White House and the Executive Office of the President (EOP). On March 7, 1977, the Director of OMB sent a memorandum to the President outlining such a management study with the following goals:

Improve advisory, decision-making, management, coordinating and follow-up capabilities.

Streamline the advisory, coordinating and administrative support functions.

Minimize duplication and overlap of mission by combining or eliminating functions and improving processes.

An advisory committee of senior Presidential advisers was established to provide overall guidance. A. D. Frazier, Jr., was named project leader with the ability to form study teams and use outside resource people. A work plan was prepared as a guide to managing a comprehensive study.

The President approved the plan and work began to recruit an interdisciplinary team of analysts. Each EOP office was asked to detail a professional staff member to work with the study analysts to assist in the fact-finding, to review work and to serve as a daily contact point to provide substantive input on policy matters handled by each office.

The work was divided into three major studies:

(a) A fact-finding and functional analysis of each EOP office.

(b) A study of the decision-making process in the EOP.

(c) A study of EOP administrative support services.

In addition, plans for discussions with Congress and for public awareness were developed and administered.

The study was conducted from March 22 through July 1, 1977, when a report was presented to the President. Background information relative to ODAP included: the legislative history and related congressional testimony; previous drug strategy reports; other agency reports; information on planned ODAP studies; program and budget information; information on the purpose and objectives of ODAP, its organization, functions and activities; and results of interviews with ODAP professional staff and other knowledgeable agency and congressional staff.

The study was conducted with the cooperation of Dr. Peter Bourne of ODAP and his staff. They provided useful comments to the team at regular intervals and on the results of the study.

2. PRESIDENTIAL DECISION-MAKING

Question: How did the President make his decision on ODAP?

Answer: On July 1, 1977, the President received the completed report on the EOP reorganization study. This report covered major structural options for reorganization of the EOP, options for each office, options for improving the decision process and channels by which the President receives advice and implements decisions, and options for integrating administrative support functions. All information developed on ODAP was provided to the President because of his special interest in the field.

The President reviewed the information over the July 4th holiday. He requested that the Vice President review the report and provide him with his assessment. He asked his staff and EOP office head to provide him with final comments. He received and reviewed communications from several members of Congress.

After meeting with the EOP Project staff and receiving all of the information, the President made decisions.

When the President decided to terminate ODAP as a statutory entity, he also made several other related decisions. These related issues assure that drug abuse functions will be properly handled and that the issue will receive the priority attention it deserves. The most significant follows:

To deliver a planned message to the Congress on drug abuse which would clearly affirm his commitment to act. This message was delivered on August 2.

To retain a highly visible adviser to the President on drug matters who would be available to testify before the Congress as the Administration's chief spokesperson on drug abuse issues. This individual would be responsible for overseeing the effort to develop a national drug abuse policy and for mobilizing and directing coordination efforts.

To revitalize the Strategy Council on Drug Abuse, an existing interagency group. This group and ad hoc task forces, working with the President's adviser and Domestic Policy Staff, would be responsible for policy development and interagency coordination problems. Thus, drug abuse issues would be handled as a part of the new policy management system, developed to handle such issues.

To ensure that ODAP had sufficient time to finish its important reorganization work. ODAP has scheduled completion of its projects by the end of the year.

To direct the President's Reorganization Project to handle other drug related reorganization efforts.

To structure a system that left operational functions in line agencies and made use of agency expertise in developing policy.

3. CHANGE OF PRIORITY ON DRUG ABUSE

Question: Does elimination of ODAP signal the Carter Administration's disinterest in the serious drug abuse problem?

Answer: No.

(a) The President's commitment to fighting drug abuse can hardly be doubted. His message to the Congress of August 2, 1977, and the establishment of an adviser to the President on drug matters signals the Administration's continued commitment to resolution of drug abuse problems. Replacing ODAP with an adviser to the President plus support from the President's Domestic Policy Staff, OMB's President's Reorganization Project and a revitalized Strategy Council on Drug Abuse reflects a different process approach rather than a change in objectives. We think this approach can be more effective.

(b) When the President activated ODAP, he did not have the benefit of a comprehensive study of his office with alternate ways to handle important issues like drug abuse. The adoption of the policy management system creates a better means for handling such issues than continuing a separate office.

(c) Significant work of ODAP will be completed by the end of the year and the President has indicated he will act quickly on its recommendations.

(d) The presence of an assistant and a revitalized Strategy Council on Drug Abuse provides a visible focus for the national drug abuse effort. It cannot be assumed that in order to focus attention on a problem and mobilize resources, an EOP office must be established. Alternative ways of solving problems can be found and we feel that enlisting the resources of the agencies and departments involved is the best way.

(e) The discontinuation of ODAP will not result in other resource reductions or program reallocations. The President's August 2 message provides additional priorities and direction.

4. FUNCTIONS OF ODAP

Question: What functions does ODAP currently perform and who will carry them out after reorganization?

Answer:

Current function	*After reorganization disposition*	*Comment*
(a) Recommend to the President, policies objectives, and priorities of Federal drug abuse functions.	Special Assistant to the President and Domestic Policy Staff.	The Special Assistant will also handle international health matters.
(b) Provide strategy in terms of policy direction and coordination of the law enforcement, international and treatment prevention programs (written strategy).	Special Assistant, Domestic Policy Staff and Strategy Council on Drug Abuse.	
(c) Coordinate the interagency/interdepartmental performance of drug abuse functions and the implementation of Presidentially approved drug abuse strategies.	Special Assistant working with the Domestic Policy Staff through the Strategy Council on Drug Abuse.	
(d) Recommend to the President changes in organization, management, and personnel of relevant Federal agencies.	OMB's President's Reorganization Project.	Part of normal reorganization responsibility of OMB. Several reorganization studies are underway in this area.
(e) Represent the United States, at the President's discretion in international discussions and negotiations related to drug abuse functions.	Department of State.	No formal transfer of functions nor positions to State required since this is its normal responsibility.
(f) Review regulations, guidelines, requirements, criteria and procedures regarding above functions within Federal agencies.	OMB President's Reorganization Project.	
(g) Evaluate performance and results of drug abuse programs in Federal agencies.	OMB President's Reorganization Project and NIDA.	This must be done as part of the reorganization but ongoing work should be done in an agency.

5. ESTABLISHING POLICY

Question: How will drug abuse policy be set without ODAP?

Answer: Drug abuse policy should be set in cooperation with the responsible agencies. The President has asked Dr. Bourne to begin formulating a comprehensive drug abuse policy working with the Domestic Policy Staff and with relevant agencies through the Strategy Council on Drug Abuse. The President will expect his Adviser on drug-related matters to advise him if the responsible agencies' policies are deficient in any way.

6. INTERAGENCY COORDINATION AND REORGANIZATION

(a) Question: How will the coordination function be handled? With so many Federal entities involved in drug abuse, how can they be effectively coordinated without ODAP in the Executive Office?

Answer: Even for serious and complicated national problems such as drug abuse, the Carter Administration expects appropriate Cabinet Secretaries or agency heads working with the Domestic Policy Staff to assume full responsibility. The Drug Adviser working with the Domestic Policy Staff through the Strategy Council will be the main mechanism for coordination. Since drug abuse programs are so fragmented as to preclude effective assignment of responsibility to Federal executives, the appropriate course of action is reorganization of the drug abuse programs rather than maintenance of ODAP. Several reorganization studies are underway that will deal with organization of the Federal effort to combat drug abuse. The OMB reorganization effort will continue thereafter as needed to examine the fragmentation of drug abuse programs. Indeed, the legislative history (Senate Report No. 94–218) shows that the Labor and Public Welfare Committee recognized that ODAP's functions might be effectively carried out in other parts of the executive branch. That Committee anticipated Reorganization Plan as the vehicle for any such changes. We agree with their general assessment.

(b) Question. How can the proper budgetary balance in the various Federal drug abuse programs be maintained without ODAP?

Answer: Examination of program budgets for similar functions across organizational lines for compliance with overall Administration priorities and policy is a normal Office of Management and Budget function. We have every reason to believe that OMB, using zero-based program information, will effectively carry out this responsibility.

7. STAFFING OF DRUG ISSUES IN THE EXECUTIVE OFFICE

(a) Question: What Executive Office staff will work specifically on drug abuse problems?

Answer: Two persons on Dr. Bourne's staff and at least four people on the Domestic Policy Staff will work on drug-related mat-

ters. Personnel from the Office of Management and Budget's President's Reorganization Project will be assigned to work on any unfinished reorganization efforts and any new drug agency projects. On the budget side, OMB examiners, using zero-base program information, will be able to provide better program data for decision-making. Experts from the agencies will be used in the policy management system and as representatives on ad hoc interagency working groups to solve specific problems as they arise. This is more effective and economical than maintaining a full-time office staff.

(b) Question: Why eliminate ODAP to achieve a mere $500,000 saving?

Answer: Cost savings were secondary to the goal of an improved capability to address drug problems.

8. CONTINUATION OF A SPECIALIZED OFFICE

Question: Only last March ODAP was established by the President in recognition of the seriousness of the drug problem. Now you are abolishing it. What has changed in such a short time to cause this reversal?

Answer: Three things have changed. First, we think that the Domestic Policy Staff and the new policy management system can better handle Presidential level policy development and interagency coordination than can separate organizational entities like ODAP. Second, an OMB reorganization staff now exists to address the excessive fragmentation of drug abuse programs that has led to a need for an ODAP-like approach. This OMB reorganization effort will pick up where ODAP leaves off using the results of ODAP's reorganization studies. Third, ODAP has already achieved momentum in studying drug abuse problems; Dr. Bourne as Presidential Adviser and the Domestic Policy Staff can sustain that momentum.

Mr. BROOKS. Mr. Chairman, I yield 2 minutes to the gentleman from Georgia (Mr. LEVITAS).

Mr. LEVITAS. Mr. Chairman, we should take note as we act on the first of the reorganization plans that President Carter will propose and as we are about to move forward in the process of Government reorganization, which was one of the basic commitments the President made to the American people in the recent campaign, that this is the beginning of a great undertaking. We should also recognize the work which the chairman of our committee, the gentleman from Texas (Mr. BROOKS), and the ranking minority member, the gentleman from New York (Mr. HORTON), have done in expediting and bringing this first plan to the attention of the House.

I think it is a good plan. I think the President started in the right place by setting his own house in order before he moves on to other areas of the Government. Indeed, if I have any criticism at all of the plan we have now before us, it is that it is not as bold as it might have been. It is not as dramatic or creative as it might have been. If we cannot make major, fearless changes in the Executive Office of the President, we will surely not be able to make bold changes when we begin to deal with agencies and programs that have their own vocal, parochial constituencies in Congress and in the public.

I think as we look ahead at some of the other plans which potentially may be coming to us for consideration, I would only hope the President would send us bold plans that will bring about major streamlining in the organization of Government, which I believe the American people want, which I believe they have demanded. I know our committee, under the leadership of our distinguished chairman, will be able to consider those plans, weed out the bad ones, and bring us the good ones, so we can take a major step forward in partnership with President Carter in the reorganization of the bloated, somewhat befuddled governmental structure of the present.

Mr. HORTON. Mr. Chairman, I yield 6 minutes to the gentleman from New York (Mr. GILMAN).

Mr. GILMAN. Mr. Chairman, I thank the gentleman for yielding, and rise in support of House Resolution 688, disapproving the President's Reorganization Plan No. 1 of 1977.

Mr. Chairman, I am opposed to this reorganization proposal primarily because it dismantles the Office of Drug Abuse Policy (ODAP) from the Executive Office of the President (EOP) without substituting a satisfactory unit within the Executive Office that would fulfill the functions that Congress sought in creating ODAP in 1976, namely; to provide "for effective, ongoing and highly visible Federal leadership in the formation and execution of a comprehensive, coordinated drug abuse policy" (Public Law 94–237).

Approximately 100 Members of Congress have expressed the view that this congressionally created unit should not be dismantled from the President's Executive Office.

Literally hours before the President submitted his reorganization proposal to the Congress, on July 12 and 13, 1977, and again on September 23, 1977, the select committee received testimony from the chief narcotics policymakers in the executive branch. The following themes emerged from that testimony, which I would like to bring to my colleagues attention:

First. The Office of Management and Budget (OMB) which drew up the reorganization proposal did not consult with the top narcotics administrators before arriving at its recommendation to abolish ODAP. It did not provide these narcotics policymakers with an opportunity to comment on OMB's termination proposal or for them to assess the impact that this recommendation would have in fulfilling the objective of Public Law 94–237.

Second. OMB did not consult with Members of Congress, particularly the Select Committee on Narcotics Abuse and Control, prior to proposing that ODAP be abolished. The failure of this administration to consult with Members of Congress on matters that directly involved the Congress—in this instance a congressionally created unit in the Executive Office that would provide a comprehensive coordinated national drug policy—is not unique to the drug issue. Last week, the Wall Street Journal reported that the distinguished Speaker of the House (Mr. O'NEILL) voiced a similar complaint that—

The Administration is not paying enough attention to Congress in making its major foreign policy and domestic decisions.

Third. OMB's reorganization project team did not have any narcotics experts on its staff. Since OMB did not consult with the narcotics administrators or with Congress, and since OMB did not have any narcotics experts on its staff, it did not arrive at an informed and objective decision regarding ODAP's effectiveness in formulating a comprehensive, coordinated national drug abuse policy and in fulfilling the congressional mandate in Public Law 94–237.

Fourth. OMB misinformed the President in its assertion that only four options were available to him with regard to ODAP. An OMB representative testified before the select committee that one option would be to "permit ODAP to continue until its statutory termination date which is this fall."

Mr. Chairman, that testimony is erroneous. Public Law 94–237 does not contain any termination date with regard to ODAP's life existence and the "expiration" of its appropriations was not properly explained to the President, if it was explained at all.

Fifth. The three other options that OMB presented to the President dealt with eliminating ODAP and transferring its functions to other Federal departments and drug abuse agencies. This is the antithesis of what Congress intended when it created ODAP. OMB's approach toward managing the drug problem perpetuates the fragmentation that currently exists in the Federal Government. Instead of centralizing a leadership role in the EOP as Congress intended, OMB's decentralized approach shatters the efforts of the Congress to develop a coordinated drug policy in the EOP.

Mr. Chairman, why did OMB not provide the President with the alternative option of retaining ODAP within the Executive Office, particularly when the President activated the Office only last March? Under Dr. Bourne's leadership, ODAP has just begun to fulfill its congressional mandate.

Sixth. OMB's contention that it is streamlining the Executive Office by dismantling Dr. Bourne's seven-member professional staff and by providing him with a four-person staff from the domestic policy staff, two individuals from his present staff, and support from OMB's reorganization project, thereby "saving" at best, one position, does not constitute any appreciable savings in reduced manpower. This reshuffling of units and staff can hardly be regarded as "streamlining." The asserted $300,000 saving by eliminating ODAP's unused budget is miniscule compared to the loss in momentum obtained by ODAP and the loss that would result in developing a comprehensive, coordinated national drug policy, which, under the reorganization proposal, would be scattered through the Federal bureaucracy.

Mr. Chairman, unless either the House or the Senate disapproves reorganization plan No. 1 by Saturday, October 15, this ill-conceived plan will become effective and the efforts by the Congress to develop a comprehensive, coordinated national drug policy will be shattered. Narcotics trafficking and drug abuse impact upon virtually every city and town in this

Nation. It has created an addiction population in this country estimated between 700,000 and 800,000 and supports the illicit business activities of organized crime estimated at over $20 billion annually.

Mr. Chairman, this is far too important an issue to be summarily dismantled from the President's Executive Office without properly considering its impact on our Nation.

Obviously, if the President does not want to utilize ODAP, then he will disregard it. But let us impress upon him the importance of this congressionally created office, the need for the administration to consult Congress, and the importance of providing a unit in his Executive Office to formulate a coordinated national drug policy.

I realize that we must vote on the reorganization plan in its entirety without singling out elements of the plan for disapproval. However, in view of the magnitude of this issue, I urge that my colleagues support House Resolution 688, and return OMB's ill-conceived proposal to the drawing boards.

Mr. BROOKS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, President Carter's reorganization proposal should certainly not be taken as any indication of a lack of commitment to seeking solutions to our drug problem. Earlier this year, the President sent a special message to Congress on the drug problem. This response on the part of the new administration certainly shows its concern for and interest in resolving this problem which is taking such a severe toll in human resources in our country.

President Carter has clearly stated many times his intention to methodically review the organization of the Government and to make recommendations for making it more efficient. That study with regard to the Executive Office of the President has been completed and he has concluded at this time that the drug abuse problem can be dealt with more effectively through the mechanism he has proposed in reorganization plan No. 1. The President has indicated that his drug advisor, Dr. Bourne, will remain in the Executive Office working closely with the agencies, such as HEW, the Department of Justice, the Customs Bureau, and others that deal with the drug problem. He has also indicated every intention of making Dr. Bourne available for congressional appearances.

The President's desire is to make the Executive Office of the President an efficient, streamlined, and responsive tool with which he can, hopefully, direct major Government policy, including that relating to drug abuse. Abolishment of the Office of Drug Abuse Policy certainly in no way directly or indirectly can be equated with a lack of concern on the part of the President or this administration.

Mr. Chairman, I yield 4 minutes to the gentlewoman from Colorado (Mrs. SCHROEDER).

Mrs. SCHROEDER. Mr. Chairman, I would like to support the resolution that is being considered, although I had wanted to make a point of order against the whole thing. I was told that they preferred to rule on the point of order, and nobody is really quite sure whether it would stand. I feel that under the terms of the Reorganization Act that we passed last year, the terms of it said that the President could not submit reorganization plans which would have the effect of creating authorizations for new entities that would replace old entities which are not authorized.

Mr. Chairman, I chair a subcommittee which has been attempting to try and do an authorization bill for the White House for a long time, and we have had no cooperation. Our fear is that Reorganization Plan No. 1 is the way to maybe skirt what we have been attempting to do. I want to get this authorization through at the White House, and I think a lot of us feel very strongly that the White House should be like any other executive agency and should not be given the keys to the Treasury. But we have not been able to proceed on this because we have not been able to get the administration's help.

Within Reorganization Plan No. 1, the White House Office, the Executive residence, the special assistance to the President, the Vice President's funds, and the domestic council are all being reorganized. But I do not see how they can possibly be reorganized when they do not have any current authorizations in the law.

Last year, when we were considering appropriations on all of these different aspects of the Executive Office, there were very many points of order that were upheld against the appropriations for these entities that I have just mentioned. So my question is: How can we possibly have a reorganization plan to reorganize entities which have not been authorized.

Then I also want to know how we can possibly proceed to get those authorizations moving from the White House. Our frustration has been that every week there is a new team dealing with it and that nobody wants to come over and testify. Because of a lot of things that happened during Watergate, as the Members are aware, and a lot of funds being misused, my subcommittee feels there should be an authorization for the Executive Office of the White House and there should be more control of these funds.

We did pass an authorization with the Ford White House going along with it. As I say, we have been unable to get any help on a White House authorization with this administration.

My real fear is that this reorganization plan is a way to make an end run around my subcommittee's authorization process so we cannot get our hands back on the authorization and appropriation process in order that we really do have an accounting and do know where those White House funds are going. We must have an authorization to have some way of making the executive branch accountable for what is going on over in the White House.

Mr. Chairman, I yield back the balance of my time.

Mr. BROOKS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, there is nothing in Reorganization Plan No. 1 that exceeds the scope of the Reorganization Act. The question is raised regarding four units in the Executive Office of the President: First, the White House Office; second, the Executive residence; third, the special assistance to the President—Vice President's funds; and fourth, the Domestic Council. The first three of these are not dealt with in the reorganization plan. While the reorganization may affect them, the plan itself contains no mention of any of those three units.

The fourth unit, the Domestic Council, was created by Reorganization Plan No. 2 of 1970. Reorganization plans have the full force and effect of law and, therefore, the Domestic Council is a proper entity to be treated in a subsequent reorganization plan.

The Government Operations Committee concluded in its report on this plan:

> After a careful analysis of Reorganization Plan No. 1 of 1977, the Committee concludes that it meets the requirements of the Reorganization Act (Public Law 75–17).

Mrs. SCHROEDER. Mr. Chairman, will the gentleman yield?

Mr. BROOKS. I yield to my distinguished colleague, the gentlewoman from Colorado.

Mrs. SCHROEDER. Mr. Chairman, as I understand the Reorganization Act, it provided that the President could not submit reorganization plans that would create authorizations for new entities that would replace old entities which were not authorized. That is essentially what we are doing here with this reorganization plan.

Mr. BROOKS. Mr. Chairman, I appreciate the gentlewoman's concern and her interest, and I hope that in the future she might have more interest in appropriations and authorizations at the executive level.

Mrs. SCHROEDER. Mr. Chairman, if the gentleman will yield further, I assure the gentleman from Texas (Mr. BROOKS) that I will have a standing interest in the appropriations and authorizations at the executive level.

Do I have the gentleman's assurance that this is not a secret way to make an end run around the authorization process?

Mr. BROOKS. Mr. Chairman, I do not believe that this action has any motivation along that line.

Mrs. SCHROEDER. So the gentleman would still feel that authorizations at the White House level would still be required and there would be no change in that procedure?

Mr. BROOKS. Mr. Chairman, I would have to look into that further before I make that commitment, I will say to my distinguished friend, the gentlewoman from Colorado.

Mrs. SCHROEDER. Mr. Chairman, I thank the gentleman.

Mr. HORTON. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, I have taken this time to ask the chairman of the committee the procedure with regard to a vote on this matter.

In the event that we have a recorded vote, I understand it is the recommendation of the committee that those who favor the plan should vote "no," because the disapproval resolution is just that, a resolution to disapprove, and, therefore, under the procedure that we have established for these authorization bills, this is the manner in which the matter is presented.

So in order that the Members will understand the procedure, if they wish to record their vote for the plan, they should vote "no" on the resolution; is that correct?

Mr. BROOKS. Mr. Chairman, will the gentleman yield?

Mr. HORTON. I yield to the gentleman from Texas.

Mr. BROOKS. Mr. Chairman, the gentleman from New York is absolutelv correct. If Members are for the President's Reorganization Plan No. 1, as the committee is and as I certainly am, they should vote "no" on this disapproval resolution.

Mr. HORTON. Mr. Chairman, I thank the gentleman.

Mr. WEISS. Mr. Chairman, although I am in general agreement with Reorganization Plan 1, I have grave reservations concerning that portion of the plan which eliminates the Office of Drug Abuse and Prevention—ODAP. That is why I voted "present" in committee and intend to do the same on the floor. A brief look at the reorganization's plan for ODAP will, I hope, make it clear why I am voting this way.

On March 14, President Carter stated that: "Drug abuse continues to drain human resources, especially from our youth, with no end in sight. I am determined that we make every effort to reverse this trend." However, only 4 months later, he announced, at the urging of the Office of Management and Budget, that he was terminating ODAP, the one agency in the executive that has begun to provide visible Federal action in developing and carrying out a comprehensive, coordinated national drug abuse policy.

ODAP is responsible for formulating a comprehensive national drug program and coordinating the functions of more than 50 departments, bureaus, agencies, and administrations having authority over drug abuse prevention and control programs.

Under this reorganization proposal, ODAP's director, Dr. Peter Bourne, his staff—reduced from 10 to 2—the revitalized Strategy Council and the OMB Reorganization project would be responsible for formulating and coordinating the Nation's drug program. All these organizations will have numerous additional responsibilities covering a wide range of issues. They will not have enough time to meet the problems of drug abuse. It is far too important a problem to be relegated to a part-time occupation fragmented among several Federal agencies. A decentralized approach will not effectively deal with our Nation's problem with drug abuse.

The redelegation of drug-related functions would give almost unrestrained authority to the executive without any oversight or approval by Congress. This is contrary to the Public Law 94-237 which, in creating ODAP, called for Presidential appointment, with the advice and consent of the Senate, and directed that ODAP be the executive agency for formulating and recommending polices, objectives, and priorities in the fight against drug abuse.

In this new proposal, various unrelated agencies will acquire functions previously the responsibility of ODAP. OMB, for example, will be acting as a policymaker in the drug abuse field, rather than as a consulting agency. Even the President's Reorganization project would have a hand in the decisionmaking.

I am fearful that this fragmentation of responsibilities will irrevocably erode Federal leadership in combating drug abuse. The reorganization plan relegates drug-related issues to a far lower priority than President Carter placed on them last March.

I urge my colleagues to give their attention to the testimony of the Honorable BENJAMIN GILMAN and of Hon. LESTER WOLFF, chairman of the Select Committee on Narcotics Abuse and Control, who urged disapproval of the President's reorganization plan.

The drug abuse problems in the United States must continued to be a high priority. We need viable answers, and for this we need strong leadership. We must restore ODAP to its original strength.

Mr. WOLFF. I thank the gentlemen for yielding.

Mr. Chairman, this portion of the reorganization proposal, which was prepared by the Office of Management and Budget (OMB) and which would terminate the Office of Drug Abuse Policy (ODAP) is an ill-conceived plan, and the President was poorly advised as to the ramifications that this proposal would have on this Nation's efforts to control narcotics trafficking and drug abuse.

The House Committee on Narcotics Abuse and Control, of which I am privileged to serve as its chairman, recently conducted oversight hearings on the Federal drug strategy. We heard from the administration's top narcotics policymakers—Dr. Peter Bourne, Director of the Office of Drug Abuse Policy (ODAP), Peter Bensinger, Administrator of the Drug Enforcement Administration, Mathea Falco, the Secretary of State's Senior Narcotics Adviser, and Dr. Robert DuPont, Director of the National Institute on Drug Abuse—and we learned that none of these narcotics experts were consulted regarding the dismantling of ODAP.

Mr. Chairman, the Congress created ODAP in 1976. It is a statutory unit within the President's Executive Office that derives its mandate from Public Law 94-237, which, among other things, requires this Office to provide "an effective, ongoing, and highly visible Federal leadership in the formation and execution of a comprehensive, coordinated drug abuse policy." Under the reorganization proposal, not only will ODAP be scrapped, but I am at a loss to locate its functions on the proposed reorganization chart. This is hardly the highly visible Federal leadership that Congress had in mind when it created ODAP.

Furthermore, Members of Congress—and especially the select committee—were not consulted regarding the proposal to abolish ODAP. In my view, this lack of consultation is an affront to the American people and to the Congress. Congress must be consulted in such vital matters of public policy, particularly when it involves a congressionally created plan.

Reorganization Plan No. 1 as it relates to formulating a comprehensive, coordinated national drug abuse policy is the very antithesis of what Congress intended when it created ODAP. The reorganization proposal perpetuates the fragmentation that currently exists in the Federal executive branch by scattering ODAP's functions to the very departments and agencies that would require coordination if this Nation is to develop a comprehensive national drug policy. The legislative efforts of the Congress, culminated in Public Law 94-237, has been shattered. If this part of the proposal is not rejected by either the House or the Senate by this Saturday, October 15, then this Nation will be required to start from scratch in its efforts to develop a comprehensive, coordinated national drug policy out of the fragmented cloth that currently exists in the Federal executive branch.

ODAP has just begun to fulfill its congressionally created mandate. Let us not scrap ODAP. Rather, let OMB redesign its proposal and resubmit it to the Congress and, hopefully, after it consults with the administration's narcotics experts, none of whom reside in OMB, and with the Congress, it will formulate a meaningful program to arrest this invidious cancer, drug abuse, which is attacking the very vitals of this Nation.

Mr. ROGERS. Mr. Chairman, while I support most of the reorganization proposals in the President's Reorganization Plan No. 1, I am opposed to the provision which would terminate the Office of Drug Abuse Policy in the Executive Office of the President.

The Office of Drug Abuse Policy, which I shall refer to as ODAP, was created by statute in 1976 to direct the establishment of a high-level drug abuse policy and coordinating entity in the Executive Office. ODAP replaced the Special Action Office on Drug Abuse Prevention, which was established in 1972. The congressional effort leading to the enactment of legislation which created ODAP encountered considerable opposition from the former administration, which also failed to implement that legislation, despite the clear statutory requirement that it do so. I was extremely pleased when in March of this year, the President announced that he was activating ODAP and had appointed Dr. Peter G. Bourne as its Director. During the months of April, May, and June, ODAP was staffed and it launched many important drug abuse initiatives which are currently being carried forward. I was therefore completely surprised and dismayed when

in July the President transmitted to the Congress Reorganization Plan No. 1 which provided for ODAP's termination.

Although I am sympathetic with the President's concerns about the proliferation of categorical, mission-oriented offices in the executive office, I do not believe that the termination of ODAP and its proposed replacement for drug abuse policy and coordination, will address these concerns. In fact, I believe that there is sound basis to conclude that the proposed policymaking and coordinating network to be substituted for ODAP will probably aggravate the proliferation of uncoordinated drug abuse entities in the executive office. It is my understanding that the proposed substitute for ODAP's drug abuse policy development, coordination, and reorganization study functions will be composed of three functional groups in the executive office. The first group is to be an office headed by Dr. Bourne which is to advise the President respecting drug abuse and other health matters. A second group is to be composed of domestic council staff members assigned to drug abuse policy. A third group is to be composed of staff members of the President's reorganization project assigned to drug abuse reorganization. Then, to complicate matters further, the OMB will no doubt also have some role in the process. It seems to me that the splintering of ODAP into these three functional groups, without a clear indication of lines of authority and responsibility respecting the assumption of ODAP's previous functions, is likely to be counterproductive to the development of a strong voice on drug abuse matters in the executive office as well as causing further proliferation of executive office drug abuse entities. Many additional questions seem to me to still be unanswered with respect to the accountability to Congress of the proposed drug abuse policy and coordination network.

I adhere to my previous view that an entity with a clear mandate based upon statutory authority, such as ODAP, is vital to our national efforts to develop and coordinate diverse and often conflicting drug abuse strategies and activities. Drug abuse policies and activities cut across numerous Federal, State, local, and proprietary entities. In fact, there are over 20 Federal agencies in several Cabinet-level departments with significant drug abuse responsibilities. Over the years, many intense conflicts have developed between the policies and activities of the various domestic law enforcement, health, and international agencies involved in drug abuse problems.

During its brief existence, ODAP has already demonstrated that it can be an effective drug abuse policy and coordinating entity. It has demonstrated that it can surmount interagency rivalry and integrate drug abuse law enforcement, regulatory, international, prevention education, treatment and rehabilitation functions. In my view, it is an indispensable as the units in the executive office, such as the Council on Environmental Quality and the Council on Wage and Price Stability, which are to be retained under the reorganization plan. I therefore strongly disagree with the decision to terminate it.

Despite my disagreement, I have not elected to oppose the entire reorganization plan as proposed by the President, as I believe there are broader considerations involved than ODAP—particularly the need for reorganization of other entities in the executive office. We are restrained by the reorganization law from disapproving one portion of this reorganization plan. We must either accept or reject the entire plan. However, I would like to point out that ODAP was a creation of the Congress. It would certainly be an appropriate exercise of the legislative powers of Congress to reestablish ODAP or a comparable entity in the executive office if it decided to do so. Therefore, I can assure my colleagues that as chairman of the subcommittee which has legislative jurisdiction over drug abuse policy development and coordination, my subcommittee colleagues and I will be closely monitoring future drug abuse policies and activities in the executive office to determine their viability and effectiveness. I am hopeful that the Subcommittee on Health and Environment will be able to schedule oversight hearings early next year for this purpose. If, as a result of the subcommittee's oversight activities, the need for reestablishment of ODAP or a comparable entity is demonstrated to be desirable, I will not hesitate to recommend that appropriate implementing legislation be acted upon by the House and Senate, and I am sure that many of my colleagues in both Houses would join me in that action.

The CHAIRMAN. The Clerk will report the resolution.

The Clerk read as follows:

H. RES. 688

Resolved, That the House of Representatives does not favor the Reorganization Plan Numbered 1 transmitted to the Congress by the President on July 15, 1977.

Mr. BROOKS. Mr. Chairman, I move that the Committee do now rise and report the resolution back to the House, with the recommendation that the resolution be not agreed to.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. KILDEE, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the resolution (H. Res. 688) to disapprove reorganization plan No. 1 of 1977, had directed him to report the resolution back to the House, with the recommendation that the resolution be not agreed to.

The Clerk reported the resolution.

The SPEAKER. Without objection, the previous question is ordered.

There was no objection.

The SPEAKER. The question is on the resolution.

Mr. HORTON. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 20, nays 350, answered "present" 1, not voting 63, as follows:

[Roll No. 655]

YEAS—20

Ashley	Hagedorn	Rosenthal
Bauman	Hawkins	Scheuer
Bennett	Holt	Schroeder
Burke, Fla.	McClory	Spence
Dornan	McDonald	Walsh
English	O'Brien	Wydler
Gilman	Rangel	

NAYS—350

Abdnor	Devine	Johnson, Colo.
Akaka	Dickinson	Jones, N.C.
Alexander	Dicks	Jones, Okla.
Allen	Dingell	Jones, Tenn.
Ambro	Dodd	Jordan
Ammerman	Downey	Kasten
Anderson, Calif.	Drinan	Kastenmeier
Andrews, N.C.	Duncan, Oreg.	Kazen
Andrews, N. Dak.	Duncan, Tenn.	Kelly
Annunzio	Early	Ketchum
Applegate	Eckhardt	Kildee
Archer	Edgar	Kindness
Armstrong	Edwards, Ala.	Kostmayer
Ashbrook	Edwards, Calif.	Krebs
Aspin	Edwards, Okla.	Krueger
Badham	Eilberg	LaFalce
Baldus	Emery	Lagomarsino
Barnard	Erlenborn	Latta
Baucus	Ertel	Le Fante
Beard, R.I.	Evans, Colo.	Leach
Bedell	Evans, Del.	Lederer
Beilenson	Evans, Ga.	Leggett
Benjamin	Evans, Ind.	Lehman
Bevill	Fary	Lent
Blanchard	Fascell	Levitas
Blouin	Fenwick	Lloyd, Calif.
Boggs	Findley	Lloyd, Tenn.
Boland	Fish	Long, La.
Bonior	Fisher	Long, Md.
Bonker	Fithian	Lott
Brademas	Flippo	Luken
Breaux	Flood	Lundine
Breckinridge	Florio	McCloskey
Brinkley	Flowers	McCormack
Brodhead	Flynt	McDade
Brooks	Foley	McEwen
Broomfield	Ford, Tenn.	McFall
Brown, Mich.	Forsythe	McHugh
Brown, Ohio	Fountain	McKay
Broyhill	Fraser	McKinney
Buchanan	Frenzel	Madigan
Burgener	Fuqua	Mahon
Burke, Mass.	Gammage	Markey
Burleson, Tex.	Gaydos	Marlenee
Burlison, Mo.	Gephardt	Marriott
Burton, Phillip	Gibbons	Martin
Butler	Ginn	Mathis
Byron	Glickman	Mattox
Caputo	Gonzalez	Mazzoli
Carney	Gore	Meeds
Carr	Gradison	Meyner
Carter	Grassley	Michel
Cavanaugh	Gudger	Mikulski
Cederberg	Hall	Mikva
Chappell	Hamilton	Milford
Chisholm	Hammer-schmidt	Miller, Ohio
Clawson, Del	Hanley	Mineta
Cleveland	Hannaford	Minish
Cochran	Hansen	Mitchell, Md.
Cohen	Harkin	Mitchell, N.Y.
Coleman	Harris	Moffett
Collins, Tex.	Harsha	Mollohan
Conable	Heckler	Montgomery
Conte	Hefner	Moore
Corcoran	Heftel	Moorhead, Calif.
Corman	Hightower	Moorhead, Pa.
Cornell	Hillis	Moss
Cornwell	Hollenbeck	Mottl
Cotter	Holtzman	Murphy, Ill.
Coughlin	Horton	Murphy, Pa.
Cunningham	Howard	Murtha
D'Amours	Hubbard	Myers, Gary
Daniel, Dan	Huckaby	Myers, John
Daniel, R. W.	Hughes	Myers, Michael
Danielson	Hyde	Natcher
Davis	Ichord	Neal
de la Garza	Ireland	Nedzi
Dellums	Jacobs	Nichols
Derrick	Jeffords	Nix
Derwinski	Jenkins	Nolan
	Jenrette	Nowak

Oakar	Ryan	Thornton
Oberstar	Santini	Traxler
Obey	Sarasin	Trible
Ottinger	Satterfield	Tsongas
Panetta	Sawyer	Tucker
Patten	Schulze	Udall
Patterson	Sebelius	Vander Jagt
Pattison	Seiberling	Vanik
Pease	Sharp	Vento
Perkins	Shipley	Volkmer
Pettis	Shuster	Waggonner
Pike	Simon	Walgren
Poage	Sisk	Walker
Pressler	Skelton	Wampler
Preyer	Skubitz	Watkins
Price	Smith, Iowa	Waxman
Pritchard	Smith, Nebr.	Weaver
Quayle	Snyder	White
Quie	Solarz	Whitehurst
Quillen	Spellman	Whitley
Railsback	St Germain	Whitten
Regula	Staggers	Wiggins
Rhodes	Stanceland	Wilson, Bob
Richmond	Stanton	Wilson, C. H.
Rinaldo	Stark	Winn
Risenhoover	Steers	Wirth
Roberts	Steiger	Wright
Robinson	Stockman	Wylie
Rodino	Stokes	Yates
Roe	Stratton	Yatron
Rogers	Studds	Young, Alaska
Roncalio	Stump	Young, Fla.
Rooney	Symms	Young, Mo.
Rousselot	Taylor	Young, Tex.
Rudd	Thompson	Zablocki
Ruppe	Thone	Zeferetti

ANSWERED "PRESENT"—1

Weiss

NOT VOTING—63

Addabbo	Ford, Mich.	Pepper
Anderson, Ill.	Fowler	Pickle
AuCoin	Frey	Pursell
Badillo	Giaimo	Rahall
Bafalis	Goldwater	Reuss
Beard, Tenn.	Goodling	Rose
Biaggi	Guyer	Rostenkowski
Bingham	Harrington	Roybal
Bolling	Holland	Runnels
Bowen	Johnson, Calif.	Russo
Brown, Calif.	Kemp	Sikes
Burke, Calif.	Keys	Slack
Burton, John	Koch	Steed
Clausen, Don H.	Livingston	Teague
	Lujan	Treen
Clay	Maguire	Ullman
Collins, Ill.	Mann	Van Deerlin
Conyers	Marks	Whalen
Crane	Metcalfe	Wilson, Tex.
Delaney	Miller, Calif.	Wolff
Dent	Moakley	
Diggs	Murphy, N.Y.	

The Clerk announced the following pairs:

Mr. Addabbo with Mr. Moakley.
Mr. Dent with Mr. Frey.
Mr. Bingham with Mr. Anderson of Illinois.
Mr. AuCoin with Mr. Bafalis.
Mrs. Burke of California with Mr. Goldwater.
Mr. Biaggi with Mr. Beard of Tennessee.
Mr. Miller of California with Mr. Whalen.
Mr. Pepper with Mr. Goodling.
Mr. Sikes with Mr. Crane.
Mr. Murphy of New York with Mr. Kemp.
Mr. Badillo with Mr. Livingston.
Mr. Fowler with Mr. Lujan.
Mr. Wolff with Mr. Guyer.
Mr. Harrington with Mr. Pursell.
Mr. Russo with Mr. Treen.
Mr. Reuss with Mr. Johnson of California.
Mr. Bowen with Mr. Holland.
Mr. Roybal with Mr. Marks.
Mr. Koch with Mr. Brown of California.
Mr. Diggs with Mr. Teague.
Mrs. Collins of Illinois with Mr. Clay.
Mr. Delaney with Mr. Don H. Clausen.
Mr. Conyers with Mr. Giaimo.
Mr. John L. Burton with Ms. Keys.
Mr. Ford of Michigan with Mr. Mann.
Mr. Maguire with Mr. Metcalfe.
Mr. Rose with Mr. Pickle.
Mr. Rostenkowski with Mr. Steed.
Mr. Slack with Mr. Runnels.
Mr. Van Deerlin with Mr. Ullman.
Mr. Charles Wilson of Texas with Mr. Rahall.

Mr. RONCALIO, Mrs. MEYNER, and Mr. BROWN of Ohio changed their vote from "yea" to "nay."

So the resolution was rejected.

The result of the vote was announced as above recorded.

GENERAL LEAVE

Mr. BROOKS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous matter on the resolution (H. Res. 688) just rejected.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

PERMISSION FOR COMMITTEE ON SCIENCE AND TECHNOLOGY TO FILE CONFERENCE REPORT ON H.R. 5101, ENVIRONMENTAL RESEARCH, DEVELOPMENT, AND DEMONSTRATION AUTHORIZATION ACT OF 1978

Mr. FUQUA. Mr. Speaker, I ask unanimous consent that the Committee on Science and Technology may have until midnight tonight to file a conference report on H.R. 5101, to authorize appropriations for activities of the Environmental Protection Agency, and for other purposes.

The SPEAKER. Is there objection to the request of the gentleman from Florida?

There was no objection.

FEDERAL BANKING AGENCY AUDIT ACT

Mr. ROSENTHAL. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 2176) to amend the Accounting and Auditing Act of 1950 to provide for the audit, by the Comptroller General, of the Federal Reserve Board, the Federal Reserve banks and their branches and check clearing, wire transfer, and security facilities, the Federal Deposit Insurance Corporation, and the Office of the Comptroller of the Currency.

The SPEAKER. The question is on the motion offered by the gentleman from New York (Mr. ROSENTHAL).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill H.R. 2176, with Mr. CORNWELL in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the committee rose on Wednesday, September 14, 1977, all time for general debate on the bill had expired.

Pursuant to the rule, the Clerk will now read the committee amendment in the nature of a substittue recommended by the Committee on Government Operations now printed in the reported bill as an original bill for the purpose of amendment.

The Clerk read as follows:

H.R. 2176

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act be cited as the "Federal Banking Agency Audit Act".

SEC. 2. Section 117 of the Accounting and Auditing Act of 1950 is amended by adding at the end thereof the following new subsection:

"(d)(1) The Comptroller General of the United States shall make, under such rules and regulations as he may prescribe, audits—

"(A) of the Federal Reserve Board, all Federal Reserve Banks, and their branches and facilities;

"(B) of the Federal Deposit Insurance Corporation; and

"(C) of the Office of the Comptroller of the Currency.

"(2) For purposes of this subsection, the term 'agency' means the agencies, banks, facilities, and corporation, listed in paragraph (1).

"(3) An audit made under paragraph (1)(A) shall not include transactions conducted on behalf of foreign central banks and foreign governments, transactions made under the direction of the Federal Open Market Committee including transactions of the Federal Reserve System Open Market Account, or monetary policy deliberations and decisions or the economic effects of such decisions.

"(4) The General Accounting Office (hereinafter in this subsection referred to as the Office) shall not conduct onsite examinations of open insured banks or bank holding companies without the written consent of the agency concerned.

"(5)(A) Except as otherwise provided in this paragraph, no officer or employee of the Office shall disclose to any person, nor shall the Office disclose in its report or otherwise outside of the Office, any information in a form which would (i) identify a specific customer of an open or closed bank or bank holding company, or (ii) identify a specific open bank or open bank holding company.

"(B) The Office may disclose information in a form which would identify a customer of a closed bank or closed bank holding company only if that customer, in the opinion of the Comptroller General, had a controlling influence in the management of such closed bank or closed bank holding company or was related to or affiliated with such a controlling person or group, and then only to the extent that such disclosures relate to the affairs of such closed bank or closed bank holding company.

"(C) Subparagraph (A) shall not be deemed to prohibit the Office or its employees from discussing specific customers, banks, or bank holding companies with officials of any of the agencies or from reporting apparent criminal law violations to appropriate State or Federal law enforcement agencies.

"(D) Nothing in this subsection shall authorize the withholding of information by any officer or employee of the Office from a duly authorized committee or subcommittee of the Congress. Any information requested by such committee or subcommittee which would not be authorized to be disclosed by the Office under subparagraph (A) shall be furnished to such committee or subcommittee or subcommittee only when sitting in executive session.

"(E) Nothing in this subsection shall authorize the withholding of information by any officer or employee of an agency from a duly authorized committee or subcommittee of the Congress.

"(6)(A) The Comptroller General shall, as

frequently as may be practicable, make reports to the Congress on the results of audit work performed under this subsection.

"(B) An advance draft of such Office audit report shall be made available to the agency concerned (other than banks, branches, and facilities) for thirty days for agency comment on the contents thereof. The final report shall include, as an addendum, any written comments submitted by the agency within such period.

"(7)(A) For the purposes of, and to the extent necessary in making audits required by paragraph (1), representatives of the Office shall have access to all books, accounts, records, reports, files, memorandums, papers, things, and property belonging to or in use by the entities being audited, including reports of examination of banks or bank holding companies, from whatever source, together with workpapers and correspondence relating to such reports whether or not a part of the reports; and all without deletions.

"(B) The Comptroller General shall have the authority to authorize Office personnel to coduct such audits and to have access to agency materials described in subparagraph (A) and shall provide the agencies with an up-to-date listing of such personnel, who upon proper identification shall be granted access to such agency materials and shall be permitted to make whatever notes or copies they deem necessary to proper conduct of the audit.

"(C) The agencies shall provide such Office personnel with suitable, lockable office space and furniture, telephone, and access to copying facilities.

"(D) All Office workpapers, and agency materials described in subparagraph (A) which come into possession of the Office during an audit, shall remain on the agency's premises, except for temporary removal of Office workpapers which do not identify a specific customer, bank, or bank holding company as provided in paragraph (5)(A). Such agency materials shall be strictly maintained in order to prevent any unauthorized access.".

SEC. 3. Section 1906 of title 18, United States Code, is amended by inserting immediately after "or either House duly authorized," the following: "or as authorized by section 117(d) of the Accounting and Auditing Act of 1950,".

Mr. ROSENTHAL (during the reading). Mr. Chairman, I ask unanimous consent that the bill be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

AMENDMENTS OFFERED BY MR. ASHLEY

Mr. ASHLEY. Mr. Chairman, I offer two amendments and I ask unanimous consent that they be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read as follows:

Amendments offered by Mr. ASHLEY: Strike the text of paragraph (3) and insert in lieu thereof:

An audit made under paragraph (1)(A) shall not include—

(A) transactions conducted on behalf of or with foreign central banks, foreign governments, and nonprivate international financing organizations;

(B) deliberations, decisions, and actions on monetary policy matters, including discount window operations, reserves of member banks, securities credit, interest on deposits, and open market operations;

(C) transactions made under the direction of the Federal Open Market Committee including transactions of the Federal Reserve System Open Market Account; and

(D) those portions of oral, written, telegraphic, or telephonic discussions and communications among or between Members of the Board of Governors, and officers and employees of the Federal Reserve System which deal with topics listed in subparagraphs (A), (B), and (C) of this paragraph.

On page six, line 14, of the Committee Print of H.R. 2176, insert after the word "include" the phrase "statistically meaningful samples, determined by the Office, of".

Mr. ASHLEY. Mr. Chairman, the first of my amendments would change the monetary policy exclusion to specifically exclude Federal Reserve discount window operations from GAO audits. As voted out by the Committee on Government Operations, H.R. 2176 excluded all Federal Reserve monetary policy activities. In the legislative report, however, an attempt was made to distinguish between "monetary policy" and "bank supervisory" discount window operations, with the understanding that the GAO would have authority to audit discount window transactions which relate to bank supervision, but not those which implement monetary policy. Though I understand and appreciate the distinction, I am convinced it has no practical applicability. Ample evidence of this is provided by the example given in the legislative report itself.

The report suggests the Federal Reserve loans to Franklin National Bank were supervisory in nature; that is, they were made because Franklin was a "problem bank." While it is true Franklin was a "problem bank," the loans were made mainly to keep Franklin's problems from upsetting international money markets, and not to save the bank.

It would be impossible for GAO to audit the Federal Reserve loans to Franklin without delving into the Federal Reserve's monetary policy responsibility to maintain the stability of domestic and international money markets. This is actually the case for all discount window loans, whether they are made to large international banks such as Franklin or to small country banks. All such loans in one way or another relate to local or regional credit needs and money market stability and, consequently, are inextricably bound up in monetary policy.

To assure this legislation will not become a device for putting political pressure on monetary policy formulation, we must amend the monetary policy exclusion to prohibit the GAO from auditing discount window loans.

The amendment I offer to accomplish this is the result of discussions among supporters of H.R. 2176 and represents, I believe, a constructive consensus of varying points of view.

My second amendment, Mr. Chairman, would alter the access provisions of H.R. 2176 to enable the GAO to have access to samples of bank examination reports which are representative and suitable for GAO's audit purposes.

This amendment will not reduce GAO's audit effectiveness in any way. The focus of the audits authorized by H.R. 2176 is on agency operations and not on banks or bank holding companies. Consequently, examination report samples should be acceptable in documenting agency practices and procedures. The samples GAO used in their recent audit of Federal bank regulation are good examples of this.

Nevertheless, no agency should interpret this amendment as a means of thwarting a GAO audit by not agreeing with the GAO on what is a suitable sample. Whether the audit is initiated by the GAO itself as provided for in this legislation or is the result of a request by a congressional committee or subcommittee, the GAO has full authority to determine which examination reports will be audited so long as the reports chosen are statistically relevant to the purpose of the audit.

Mr. Chairman, I support this legislation and strongly believe my two amendments will make H.R. 2176 an effective addition to Congress' ability to oversee the operations of the Federal bank regulatory agencies. I urge my colleagues to vote favorably on these amendments.

Mr. ROSENTHAL. Mr. Chairman, will the gentleman yield?

Mr. ASHLEY. I yield to the gentleman from New York, the distinguished chairman of the subcommittee.

Mr. ROSENTHAL. Mr. Chairman, when the Commerce, Consumer and Monetary Affairs Subcommittee marked up H.R. 2176, Congressman ST GERMAIN sought to distinguish between "monetary policy" and "bank supervisory" discount window loans to commercial banks. This distinction makes a great deal of sense to me, and I believe if the functions of the discount window were better understood, there would be little objection to authorizing GAO audits of nonmonetary policy loans.

The distinction, however, is difficult to express in legislation at this time, and will require oversight hearings into Federal Reserve use of the discount window to determine precisely what kinds of loans relate to monetary policy and which do not. With the help of my friend and colleague, Mr. ST GERMAIN, I intend to convene such hearings and if the distinction can be documented, we will seek to amend the Federal Banking Agency Audit Act to allow the GAO to audit nonmonetary policy discount window loans.

In the meantime I accept the monetary policy amendment offered by Mr. ASHLEY, and urge my colleagues to accept it also.

Mr. Chairman, I also accept Mr. ASHLEY's second amendment so long as it is understood that the GAO has the final say on whether any sample satisfies its audit objectives and that this authority exists whether an audit is initiated by the GAO, or by a congressional committee or subcommittee.

Because the legislative intent in this amendment may not be clear, Mr. Chairman, I insert at this point in the RECORD an example of how statistical samples are selected:

CONGRESSIONAL RESEARCH SERVICE,
Washington, D.C., March 19, 1976.

To: The Honorable Benjamin S. Rosenthal, Chairman, House Committee on Government Operations, Commerce, Consumer and Monetary Affairs Subcommittee.

From: Dr. Daniel Melnick, Analyst, Government Division (Frederick Pauls, Deputy Division Chief).

Subject: Sampling procedure for the Subcommittee's proposed study of the Comptroller of the Currency's examination and supervision of large national banks.

This memorandum responds to your request for an opinion on the appropriate sampling procedure for a contemplated study of the examination of large national banks. It transmits the report of Dr. Benjamin Tepping which was commissioned by CRS at your specific request.

Because the Subcommittee has decided to restrict its study to those banks with $1 billion or more in deposits as of December 31, 1975,[1] Dr. Tepping's recommendations are confined to the case in which this limitation applies.

Dr. Tepping's report concludes that:

1. The most valid and cost effective procedure would call for the inclusion of all 61 banks in the sample.

2. Several "feasible and mathematically valid" procedures are available for sampling the loans for study within each bank. However, the information currently available to the Subcommittee is not adequate to determine which of these plans would be most advisable and valid. Nevertheless, once the Subcommittee has access to the basic documents, it would be possible to recommend a valid sampling technique. Dr. Tepping presents an outline of the considerations which might enter into the design of the sampling plan.

Dr. Benjamin J. Tepping [401 Apple Grove Road, Silver Spring, Maryland] is an experienced statistical consultant. He holds the PhD in Mathematics from Ohio State University and served with the Bureau of the Census for 24 years before his retirement from Government service in 1973. For a period of 10 years he was the Chief, Research Center for Measurement Methods, U.S. Bureau of the Census.

I trust this memorandum and the accompanying report meet your needs. If there is any way in which I can be of further service to you, please do not hesitate to call me on 426–5824.

SAMPLING PLAN FOR A STUDY OF BANK EXAMINERS' EVALUATIONS

(By Benjamin J. Tepping, Ph.D.)

Recommendation: A proposed study of the supervision and examination of the 61 largest national banks would require an analysis of the accuracy of examination evaluation of bank assets.

After careful consideration of the statistical problems involved, I recommend that the sample include all 61 of the largest banks, and that a sample of loans be selected for observation in each bank. The precise size and design of the sample of loans should await the determination of the relevant parameters. Plans should be made to estimate the sampling errors of the important statistics that are to be based on the sample.

Statement of the problem. For the ten-year period 1965–1975, it is proposed to study the evaluations by bank examiners of loans in the 61 largest banks of the United States. More specifically, the problem may be described as follows. In each bank, bank examiners review the loans outstanding at a given time, and classify them into five classes of degree of risk:

1. Satisfactory.
2. Specially mentioned.
3. Substandard.
4. Doubtful.
5. Loss.

The examination in a given bank may take place at intervals of 6 months, 12 months or 18 months. Generally, only loans of $3,000 or more are subjected to examination. A loan once classified by the examiner as less than satisfactory (classes 2–5) is reviewed during subsequent examinations until the debt has either been satisfied or has been written off its books by the bank.

It is the object of the proposed study to estimate the proportion of the loan value that turns out to be "actual loss." The proportion would be estimated separately for each of the classes 2–5 listed above, in each of three phases of the economic cycle: rising, level and falling. (For the latter purpose, each examination period would be defined as belonging in one of the three phases of the economic cycle.) In this study, an "actual loss" would be defined as a loan which has been classified by the examiner as less than satisfactory for three years and which is in arrears at the end of three years.

The data-gathering process. The basic record consists of a record for each loan classified by the bank examiner as being in classes 2–5 at the given examination or at the preceding examination. The records are organized by bank and examination period, and alphabetically within these groups. For each bank and examination period, the loans of concern to the study are those that were in classes 2–5 for the first time in this examination period. Thus, the data-gathering process consists of determining whether a given loan listed for the examination period was also listed for the preceding examination period, and if not how it is classified in each examination period for the following three years, including the determination of whether the loan is in arrears.

Some alternative study designs. The first question that arises is whether it is necessary to observe every loan in every one of the 61 banks for the ten-year period, or whether satisfactory results can be obtained from a suitably selected sample of banks and/or of loans. This question should be considered in the light of (a) the degree to which examiners in different banks may differ among themselves in the way in which they classify loans, and (b) the relationship of the cost of including a bank in the study to the cost of including an individual loan in the study. With respect to (a), we anticipate that there may be variation examiners and among banks. This fact should lead to the inclusion of a larger number of banks in the study than would otherwise be the case. With respect to (b), we expect that the operational cost of including a bank in the study may be of the same order of magnitude as the cost of including a single loan in the study. This would indicate that increasing the sample by one bank would cost about the same as increasing the sample by one loan. Since the former course would decrease the average sampling error more than the latter course in view of the expected variation among banks, it is better to increase the number of banks in the study. The mathematical analysis sketched in the Appendix bears this out. We therefore recommend the inclusion of all 61 banks in the study.

We now consider the selection of a sample of loans for the study. There are several alternatives which are both feasible and mathematically valid. Without more information, not yet available, it is not possible to choose among these. However, some principles that should be applied may be noted.

The classes 2–5 may differ from one another considerably in the number of loans that they include. Nevertheless, if it is desired to make estimates for each of these classes, the number of loans selected for study should be about the same in each class since such a choice will make the sampling errors approximately equal for the various classes. Alternatively, further study of the problem may indicate that the estimates should be made for some combinations of classes, rather than for individual classes.

Having determined the number of loans to be selected from each class, maximum precision of the estimates will be attained by selecting the sample loans with probability proportionate to their values. In application this means including in the study every loan whose value exceeds a specified critical value, which can be determined when more information is available. Smaller loans should then be sampled by cumulating their values and selecting the loans that contain every n-th dollar of value (preferably with a random start). Such a plan can be implemented simply. An alternative is to group the loans of similar value, and to select a sample of loans in each group with the number of loans selected being approximately proportional to the total value of the loans in the group.

Estimation of sampling error. For any of the sampling plans noted above, it will be possible to make estimates of the sampling error based on the date contained in the sample itself. This is an important advantage of the use of probability sampling designs in such surveys. The appropriate form of the estimate of sampling error will depend upon the way in which the sample is drawn and upon the manner in which the estimates of the required proportions are construed.

APPENDIX.—OPTIMUM CHOICE OF A SAMPLE OF BANKS AND LOANS

For a given phase of the economic cycle, let us define

M=number of banks (=61)

m=number of banks selected at random for the sample

$\overline{N}_i$=average number of loans, per bank, assigned to class i by the bank examiner for the first time (i=2, 3, 4 or 5)

$\overline{n}_i$=average number of loans selected at random among the $\overline{N}_i$

Then the variance (square of the standard error) of the estimated proportion of "actual loss" for class i may be given approximately in the form

$$\frac{\sigma^2}{\bar{x}_i} = \frac{P_i(1-P_i)}{m\overline{n}_i}[1+(\overline{n}_i-1)\delta_i]$$

where δ_i is a certain measure of the homogeneity of the loans of class i within the same bank, with respect to whether the loan is an "actual loss" or not, and P_i is the proportion of "actual loss" among the dollars in the loans of class i.

We assume that the total cost of carrying out the study may be written in the form

$$C = C_0 + C_1 m + C_2 m \Sigma \overline{n}_i$$

To simplify, we suppose that the same number of loans is selected for study in each class i, and hence let $\overline{n}_i = \overline{\overline{n}}$. In this cost formula, C_0 denotes the total fixed cost which is independent of the number of banks or loans that are included in the sample, C_1 denotes the cost per bank selected (including such costs as those of obtaining the records for the bank, organizing them suitable and identifying the loans to be included in the sample), and C_2 denotes the cost per loan included in the sample. It can then be shown that the values of $\overline{\overline{n}}$ and m

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[1] There are 61 banks.

which minimize the sampling error for a given total cost C are, approximately,

$$\bar{n} = \frac{1}{k}\sqrt{\frac{C_1}{C_2}\,\frac{1-\delta}{\delta}}$$

where $k=4$ is the number of classes involved, so that kn is the average number of loans in the sample per bank. With the relationship between C_1 and C_2 that is expected, and with even unrealistically small values of δ, the indicated optimum value of m is large.

This is a study prepared by the Congressional Reserve Service presenting the proposed study of the Comptroller of the Currency's examination and supervision of large national banks. I am not suggesting the procedure in this report should be the model for GAO's selection process. This report is simply an example of what is intended in this amendment—that is, the GAO will only have access to examination report samples selected by the GAO which are statistically meaningful in light of the objectives of the audit.

Mr. Chairman, both the monetary policy and the sampling amendments have been worked out and agreed to. The amendments are noncontroversial, and I strongly urge my colleagues to join me in accepting them.

Mr. BROOKS. Mr. Chairman, will the gentleman yield?

Mr. ASHLEY. I yield to the distinguished chairman of the full committee.

Mr. BROOKS. Mr. Chairman, I rise in support of this legislation and of both of these amendments offered by my distinguished friend, the gentleman from Ohio (Mr. ASHLEY).

I have supported this legislation to authorize the General Accounting Office to audit the banking agencies. As I said in my remarks during general debate on this bill, these agencies spend over $800 million a year, and this legislation is necessary if Congress is to carry out its oversight responsibilities in an effective manner.

As reported from the Committee on Government Operations, the bill excluded certain areas from GAO review. These exclusions included monetary policy deliberations and decisions; transactions of the Open Market Account; and certain transactions of foreign governments. The amendments offered by the gentleman from Ohio do not conflict with the provision reported by the committee, but further clarifies those areas that are intended to be outside the purview of the GAO, particularly with regard to discount window operations in the Federal Reserve System.

The other amendment, which provides that the GAO shall have access to a statistically meaningful sample of examination reports will not restrict the GAO in its ability to carry out its responsibilities under this bill, and it is, in essence, a statement of what would undoubtedly be the practice in any event. I urge acceptance of the amendments.

PARLIAMENTARY INQUIRY

Mr. BROWN of Michigan. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. BROWN of Michigan. Were two amendments offered, or only one?

The CHAIRMAN. Two amendments were offered en bloc.

Mr. BROWN of Michigan. I thank the chairman.

Mr. ST GERMAIN. Mr. Chairman, will the gentleman yield?

Mr. ASHLEY. I am happy to yield to the gentleman from Rhode Island.

Mr. ST GERMAIN. Mr. Chairman, the need for greater oversight on the activities of the Federal bank supervisory agencies is painfully apparent and our colleague, the distinguished chairman of the Commerce, Consumer, and Monetary Affairs Subcommittee, is to be commended for bringing this audit bill to the floor.

And I know that BEN ROSENTHAL joins me in commending JACK BROOKS, chairman of the full Committee on Government Operations, who has so steadfastly supported the work of the subcommittee and who has worked diligently to clear the roadblocks from the path of this much-needed legislation. It has been an excellent display of teamwork within the committee and it is the kind of cooperation that makes legislation move.

Mr. Chairman, some have expressed great concern about the Federal Reserve and this audit—fear that the monetary policy of the Federal Reserve would be second-guessed by the accountants at the General Accounting Office. The Ashley amendment being offered today is designed to further build a wall between the GAO and certain functions of the Federal Reserve. In my opinion, this is not necessary, but in the interests of seeing this legislation move, I am willing to join Mr. ROSENTHAL in accepting the amendment.

While no one ever seriously expected the GAO to comment on monetary policy, I do find this almost emotional concern over the open market committee operations to be troublesome. I find it peculiar that anyone would suggest that anyone, anywhere in this United States of America, should be restrained from studying or commenting on any policy and the manner in which it is carried out by any agency of the Federal Government. Any citizen should have that right; and certainly the Congress should question why it would be limiting its access or that of its agents to any functons carried out in the executive branch or the regulatory agencies.

In addition to firmly shutting off the GAO from aspects of the Federal open market committee operations, the Ashley amendment would prevent the GAO from looking at the discount window operations—the mechanism by which the Federal Reserve extends those low-interest loans to commercial banks.

In my opinion, this little service which the Federal Government provides the banking industry should be audited from time to time. It is not a monetary policy function in any large sense; it is often used as a supervisory tool and it clearly has the potential for awarding or penalizing commercial banks. We ought to review its functions and its impact on the industry and on regulation.

We know that the discount window was used to prop up the now-defunct Franklin National Bank in New York, long after it was clear that the bank was going under. In fact, the Federal Reserve poured $1.9 billion into that failing bank and this action had a major impact on two other bank supervisory agencies—the Comptroller of the Currency and the Federal Deposit Insurance Corporation and the discount window advances undoubtedly had an impact on the rights of the shareholders and the creditors of that bank.

On September 28, I questioned Mr. George LeMaistre, Chairman of the FDIC, during hearings in the Financial Institutions Subcommittee and he agreed fully that the discount window had substantial impact on bank supervision including the insurance fund of FDIC. I want to place in the RECORD a copy of that exchange with Chairman LeMaistre:

Mr. ST GERMAIN. Mr. LeMaistre, if my information is correct, the FDIC is paying off the Federal Reserve for its advances through discount window to the failed Franklin National Bank. Is that correct?

Mr. LEMAISTRE. Yes, sir.

Mr. ST GERMAIN. That is still occurring?

Mr. LEMAISTRE. Yes, sir. I think that the balance due is somewhere around a half a billion dollars at the moment. It was originally a billion, seven hundred million dollars.

And at the present time, that note will come due in October, sometime within the next 60 days. I think that we will probably pay the balance and simply pay ourselves for the advance, rather than continue to carry it as an outstanding liability.

Mr. ST GERMAIN. Therefore, Chairman LeMaistre, is it not fair to state that the operations of the Fed's discount window does in fact have an impact on the insurance fund, and on bank supervision?

Mr. LEMAISTRE. Well, it is going to have an impact if we pay them out of the insurance fund. There's no doubt about it. Actually, we have enough assets to repay ourselves as we collect them. And I don't think there will be an adverse impact. But you are right, it does affect the insurance fund.

Again, I do not want to imperil this bill today by fighting the Ashley amendment. But, we are limiting the audit as it relates to the Federal Reserve and this is something we will have to return to in the near future if Congress is to properly carry out its constitutional duties in these areas.

This bill is an important step forward. While it comes out of the Government Operations Committee, it will provide important tools for the Banking Committee as well. It should be passed by an overwhelming vote.

Mr. BROWN of Michigan. Mr. Chairman, will the gentleman yield?

Mr. ASHLEY. I yield to my colleague from Michigan (Mr. BROWN).

Mr. BROWN of Michigan. I thank the gentleman for yielding to me.

The gentleman's amendment includes in the exclusion for monetary policy, margin requirements, operations of the discount window. The third area there was some concern about was the including in the audit of the payments mechanism of the Fed. There is a distinction between what may be determined from

the payments mechanism, that is, the purely operational aspects of this activity and that data which affects monetary policy,

Would not the gentleman agree that it is the intent of his amendment, plus what is already in the bill, to exclude from the audit all aspects of monetary policy and to extent that the payments mechanism involves or affects the determination of monetary policy, that it would not be subject to or commented upon by the GAO in its report?

Mr. ASHLEY. The gentleman has stated it precisely, as I see the situation. It reflects my motives for offering this particular amendment, that is to say, the one that the gentleman is addressing himself to.

The legislation reported by the Committee on Government Operations, the legislation itself, it seemed to me, was appropriate; but the report language raised some questions which I felt did need to be answered, specifically, in the legislation itself.

Mr. Chairman, I appreciate very much the contribution of my good friend, the gentleman from Michigan (Mr. BROWN). I think that he has spread on the record more precisely and with considerable perspective the exact reasons why he and I, and others, the chairman of the committee, the chairman of the subcommittee, the gentleman from Rhode Island, all of us, understand, I think, more fully now the reason for the importance of the amendment.

Mr. STANTON. Mr. Chairman, would the gentleman yield?

Mr. ASHLEY. I yield to the gentleman from Ohio.

Mr. STANTON. I thank the gentleman for yielding.

Mr. Chairman, I rise in support of these two amendments, and I would only say to my good friend in the well, the gentleman from Ohio (Mr. ASHLEY), of course, that not everybody is happy with this legislation. The Chairman of the Federal Reserve Board has some basic objections to the legislation as a whole. But I think that the Committee on Government Operations, combined with our committee, is to be congratulated in doing the job as we have seen fit to do here today, and I congratuate the gentleman in the well for all of this.

Mr. ASHLEY. Mr. Chairman, I appreciate very much the comment of the gentleman and the gentleman's help.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Ohio (Mr. ASHLEY).

The amendments were agreed to.

The CHAIRMAN. Are there further amendments?

AMENDMENT OFFERED BY MR. BROWN OF MICHIGAN

Mr. BROWN of Michigan. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BROWN of Michigan:

SEC. 3. Section 1906 of Title 18, United States Code, is amended to read as follows:

"§ 1906. Disclosure of Information from a Bank Examination Report

"Whoever, being an examiner, public or private, or a General Accounting Office employee with access to bank examination report information under Section 117(d) of the Accounting and Auditing Act of 1950, discloses the names of borrowers or the collateral for loans of any member bank of the Federal Reserve System, or bank insured by the Federal Insurance Corporation examined by him or subject to General Accounting Office audit under Section 117(d) of the Accounting and Auditing Act of 1950 to other than the proper officers of such bank, without first having obtained the express permission in writing from the Comptroller of the Currency as to a national bank, the Board of Governors of the Federal Reserve System as to a State member bank, or the Federal Deposit Insurance Corporation as to any other insured bank, or from the board of directors of such bank, except when ordered to do so by a court of competent jurisdiction, or by direction of the Congress of the United States, or either House thereof, or any committee of Congress or either House duly authorized or as authorized by section 117(d) of the Accounting and Auditing Act of 1950 shall be fined not more than $5,000 or imprisoned not more than one year or both.".

Mr. BROWN of Michigan (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. BROWN of Michigan. Mr. Chairman, I think there is general agreement upon this amendment. It merely extends the criminal sanctions to those additional persons who would have access because of this legislation to bank examination reports as are presently applicable to bank regulators and their employees.

I think that we want those who would have access to the reports subject to the same criminal sanctions as the personnel of the regulators are presently subject to.

Mr. ROSENTHAL. Mr. Chairman, will the gentleman yield?

Mr. BROWN of Michigan. I yield to the gentleman from New York.

Mr. ROSENTHAL. I thank the gentleman for yielding.

Mr. Chairman, the gentleman from Michigan (Mr. BROWN) proposes that we subject GAO auditors to the same penalties for unauthorized examination report disclosures as now apply to bank examiners.

GAO auditors are already prohibited from disclosing confidential materials and information in an unauthorized manner by title 18, United States Code, section 1905—the general Federal confidentiality statute. Though it might be somewhat redundant, subjecting GAO banking agency auditors to 18 U.S.C. 1906 would not be harmful.

Mr. Chairman, we have no objection to the amendment offered by the gentleman from Michigan (Mr. BROWN) and we urge its adoption.

Mr. BROOKS. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I rise in support of the amendment. The gentleman from Michigan, the ranking member of the subcommittee which handled this legislation, has worked very hard on it and is very knowledgeable in this area. His amendment would make certain that GAO auditors having access to bank examination reports are subject to the same sanctions as bank examiners having access to the same reports. The amendment is entirely consistent with the intent of the committee, and I would urge its adoption.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Michigan (Mr. BROWN).

The amendment was agreed to.

Mr. ROUSSELOT. Mr. Chairman, I rise in support of H.R. 2176, the Federal Banking Agency Audit Act, which will authorize the General Accounting Office to conduct audits of the Federal Reserve System, the Office of the Comptroller of the Currency, and the Federal Deposit Insurance Corporation. The issue of whether the GAO should audit the Federal Reserve System has been before this House for several Congresses, and it is gratifying to see that we are finally going to pass this legislation, which applies to all of the banking agencies.

Although there has been a great deal of discussion about the possible effects of an audit upon the Federal Reserve's monetary policy and supervisory functions of the Fed, it is not the purpose of this legislation to infringe upon either of these functions. Congress has sufficient tools to exercise direct oversight over these functions without interfering in day-to-day operations.

The reason why I believe it is important that this legislation be enacted and implemented is so that the GAO, as an arm of Congress, can audit those aspects of the Fed's operations which would be audited if they were performed by any other agency. Although the Federal Reserve is not subject to the appropriation process, it is a creature of Congress, and the excess of its income over expenses is returned to the Treasury, so that it does in fact operate with public funds.

There are several aspects of Federal Reserve operations for which a thorough audit is long overdue, the most significant of which is the automatic clearing house (ACH) facilities which the Fed has put in place over a period of years at an annual cost for capital investment and operations. Such an audit would assist Congress in determining, first, why the Federal Reserve System has moved to assume control of the check clearing functions of the American banking industry, and second, whether the continued provision by the Fed of "free" check clearing services to member banks is justified in view of the effects on competition of "tying" these services to membership in the Federal Reserve.

Nothing less than a thorough, independent assessment of the efficiency and economy with which check clearing and other operational services are performed

will suffice to enable Congress to fulfill its oversight responsibilities with respect to the Federal Reserve System.

I urge my colleagues to approve this legislation, so that these long-overdue audits will not be further delayed.

The CHAIRMAN. Are there additional amendments?

If not, the question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. CORNWELL, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2176) to amend the Accounting and Auditing Act of 1950 to provide for the audit, by the Comptroller General, of the Federal Reserve Board, the Federal Reserve banks and their branches and check clearing, wire transfer, and security facilities, the Federal Deposit Insurance Corporation, and the Office of the Comptroller of the Currency, pursuant to House Resolution 728, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER. The question is on the passage of the bill.

The question was taken and the Speaker announced that the ayes appeared to have it.

Mr. ROUSSELOT. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 336, nays 24, answered "present" 3, not voting 71, as follows:

[Roll No. 656]

YEAS—336

Akaka	Ashbrook	Blouin
Alexander	Ashley	Boggs
Allen	Aspin	Bonior
Ambro	Badham	Bonker
Ammerman	Baldus	Brademas
Anderson, Calif.	Barnard	Breaux
	Baucus	Breckinridge
Andrews, N.C.	Beard, R.I.	Brinkley
Andrews, N. Dak.	Bedell	Brodhead
	Beilenson	Brooks
Annunzio	Benjamin	Broomfield
Applegate	Bennett	Brown, Mich.
Archer	Bevill	Brown, Ohio
Armstrong	Blanchard	Buchanan
Burgener	Hillis	Perkins
Burke, Fla.	Hollenbeck	Pettis
Burke, Mass.	Holtzman	Pike
Burlison, Mo.	Horton	Pressler
Burton, Phillip	Howard	Preyer
Butler	Hubbard	Price
Byron	Huckaby	Pritchard
Caputo	Hughes	Quayle
Carney	Hyde	Quie
Carr	Ichord	Railsback
Carter	Ireland	Rangel
Cavanaugh	Jacobs	Regula
Cederberg	Jeffords	Rhodes
Chappell	Jenkins	Richmond
Chisholm	Jenrette	Rinaldo
Cleveland	Johnson, Colo.	Risenhoover
Cohen	Jones, N.C.	Robinson
Coleman	Jones, Okla.	Rodino
Conte	Jones, Tenn.	Roe
Corcoran	Jordan	Roncalio
Corman	Kasten	Rooney
Cornell	Kastenmeier	Rosenthal
Cornwell	Kazen	Rousselot
Coughlin	Ketchum	Rudd
Cunningham	Kildee	Ryan
D'Amours	Kindness	Santini
Daniel, Dan	Kostmayer	Sarasin
Daniel, R. W.	Krebs	Sawyer
Danielson	Krueger	Scheuer
Davis	LaFalce	Schroeder
de la Garza	Lagomarsino	Schulze
Delaney	Le Fante	Sebelius
Dellums	Leach	Seiberling
Derrick	Lederer	Sharp
Dickinson	Leggett	Shipley
Dicks	Lehman	Shuster
Dingell	Lent	Simon
Dodd	Levitas	Sisk
Dornan	Lloyd, Calif.	Skelton
Downey	Lloyd, Tenn.	Skubitz
Drinan	Long, La.	Smith, Iowa
Duncan, Oreg.	Long, Md.	Smith, Nebr.
Duncan, Tenn.	Luken	Snyder
Early	Lundine	Solarz
Eckhardt	McCloskey	Spellman
Edgar	McCormack	Spence
Edwards, Ala.	McDade	St Germain
Edwards, Calif.	McDonald	Staggers
Edwards, Okla.	McFall	Stangeland
Eilberg	McHugh	Stanton
Emery	McKay	Stark
English	McKinney	Steers
Erlenborn	Mahon	Steiger
Ertel	Markey	Stokes
Evans, Colo.	Marlenee	Stratton
Evans, Del.	Martin	Studds
Evans, Ind.	Mathis	Stump
Fary	Mattox	Symms
Fascell	Mazzoli	Thompson
Fenwick	Meeds	Thone
Findley	Meyner	Thornton
Fish	Michel	Traxler
Fisher	Mikulski	Trible
Fithian	Mikva	Tsongas
Flippo	Milford	Tucker
Flood	Miller, Ohio	Udall
Florio	Mineta	Ullman
Flowers	Minish	Vander Jagt
Flynt	Mitchell, Md.	Vanik
Foley	Mitchell, N.Y.	Vento
Ford, Tenn.	Moffett	Volkmer
Forsythe	Mollohan	Walgren
Fountain	Moore	Walker
Fraser	Moorhead, Calif.	Walsh
Fuqua		Wampler
Gammage	Moorhead, Pa.	Watkins
Gaydos	Moss	Waxman
Gephardt	Mottl	Weaver
Gibbons	Murphy, Ill.	Weiss
Gilman	Murphy, Pa.	White
Ginn	Murtha	Whitehurst
Glickman	Myers, Gary	Whitley
Gonzalez	Myers, John	Whitten
Gore	Myers, Michael	Wiggins
Gradison	Natcher	Wilson, Bob
Gudger	Neal	Wilson, C. H.
Hagedorn	Nedzi	Wilson, Tex.
Hall	Nichols	Wirth
Hamilton	Nix	Wright
Hanley	Nolan	Wydler
Hannaford	Nowak	Wylie
Harkin	Oakar	Yates
Harris	Oberstar	Yatron
Harsha	Obey	Young, Alaska
Hawkins	Ottinger	Young, Fla.
Heckler	Panetta	Young, Mo.
Hefner	Patten	Young, Tex.
Heftel	Patterson	Zablocki
Hightower	Pease	Zeferetti

NAYS—24

Bauman	Conable	Hammer-schmidt
Burleson, Tex.	Derwinski	
Clawson, Del	Devine	Hansen
Cochran	Frenzel	Holt
Collins, Tex.	Grassley	Kelly
Latta	Madigan	Taylor
Lott	Marriott	Waggonner
McClory	Montgomery	
McEwen	Satterfield	

ANSWERED "PRESENT"—3

O'Brien	Quillen	Winn

NOT VOTING—71

Abdnor	Diggs	Pattison
Addabbo	Evans, Ga.	Pepper
Anderson, Ill.	Ford, Mich.	Pickle
AuCoin	Fowler	Poage
Badillo	Frey	Pursell
Bafalis	Giaimo	Rahall
Beard, Tenn.	Goldwater	Reuss
Biaggi	Goodling	Roberts
Bingham	Guyer	Rogers
Boland	Harrington	Rose
Bolling	Holland	Rostenkowski
Bowen	Johnson, Calif.	Roybal
Brown, Calif.	Kemp	Runnels
Broyhill	Keys	Ruppe
Burke, Calif.	Koch	Russo
Burton, John	Livingston	Sikes
Clausen Don H.	Lujan	Slack
	Maguire	Steed
Clay	Mann	Stockman
Collins, Ill.	Marks	Teague
Conyers	Metcalfe	Treen
Cotter	Miller, Calif.	Van Deerlin
Crane	Moakley	Whalen
Dent	Murphy, N.Y.	Wolff

The Clerk announced the following pairs:

Mr. Addabbo with Mr. Frey.
Mr. Moakley with Mr. Anderson of Illinois.
Mr. Dent with Mr. Bafalis.
Mr. AuCoin with Mr. Goldwater.
Mrs. Burke of California with Mr. Beard of Tennessee.
Mr. Biaggi with Mr. Pattison of New York.
Mr. Koch with Mr. Goodling.
Mr. Miller of California with Mr. Crane.
Mr. Pepper with Mr. Kemp.
Mr. Murphy of New York with Mr. Livingston.
Mr. Badillo with Mr. Lujan.
Mr. Fowler with Mr. Treen.
Mr. Wolff with Mr. Johnson of California.
Mr. Harrington with Mr. Holland.
Mr. Russo with Mr. Marks.
Mr. Reuss with Mr. Teague.
Mr. Bowen with Mr. Clay.
Mr. Roybal with Mr. Don H. Clausen.
Mr. Diggs with Mr. Giaimo.
Mrs. Collins of Illinois with Ms. Keys.
Mr. Conyers with Mr. Metcalfe.
Mr. Ford of Michigan with Mr. Pickle.
Mr. Maguire with Mr. Runnels.
Mr. Rogers with Mr. Abdnor.
Mr. Rose with Mr. Rahall.
Mr. Rostenkowski with Mr. Brown of California.
Mr. Slack with Mr. Broyhill.
Mr. Van Deerlin with Mr. Guyer.
Mr. Bingham with Mr. Stockman.
Mr. Boland with Mr. Steed.
Mr. John L. Burton with Mr. Ruppe.
Mr. Sikes with Mr. Pursell.
Mr. Cotter with Mr. Mann.
Mr. Roberts with Mr. Evans of Georgia.

Messrs. SATTERFIELD, DEVINE, LATTA, LOTT, and HANSEN changed their vote from "yea" to "nay."

Mr. BEDELL changed his vote from "nay" to "yea."

So the bill was passed.

The result of the vote was announced as above recorded.

The title was amended to read: "A bill to amend the Accounting and Auditing Act of 1950 to provide for the audit, by the Comptroller General of the United States, of the Federal Reserve System, the Federal Deposit Insurance Corporation, and the Office of the Comptroller of the Currency, and for other purposes.".

A motion to reconsider was laid on the table.

LEGISLATIVE PROGRAM FOR TODAY AND WEEK OF OCTOBER 17

(Mr. RHODES asked and was given permission to address the House for 1 minute.)

Mr. RHODES. Mr. Speaker, I take this time to inquire of the distinguished majority leader as to the program for the balance of the day and next week.

Mr. WRIGHT. Mr. Speaker, will the distinguished minority leader yield?

Mr. RHODES. I yield to the gentleman from Texas.

Mr. WRIGHT. Mr. Speaker, there is only one more bill remaining on our calendar for this week. It will be taken up as soon as we have completed the announcement of the calendar for next week. That bill is H.R. 4297, the Marine Protection Authorization Act. All general debate has been finished, and when the votes are concluded on that bill, and any amendments that may be offered, the business of the House will have been concluded and it will be our purpose to adjourn until next Monday.

On Monday next the House will meet at noon and have the Consent Calendar, and there are seven bills scheduled for consideration under suspension of the rules. These are:

H.R. 8518, saccharin ban moratorium;

H.R. 9418, Health Professions Education Amendments of 1977;

H.R. 5643, Cultural Property Implementation Act;

H.R. 5858, Tariff Schedule Amendments for Canadian Petroleum;

H.R. 8149, Customs Procedural Reform Act of 1977;

H.R. 8422, rural health clinic services amendments to Social Security Act; and

H.R. 6715, Texas, Technical Corrections Act of 1977.

Votes on these suspensions will be postponed until the end of all debate on the suspensions.

Thereafter we will take up the bill H.R. 9090, exempt disaster payments on certain crops. That is under an open rule with 1 hour of general debate.

On Tuesday the House again will meet at noon. There will be the Private Calendar and six bills have been scheduled for consideration under suspension of the rules. Those are:

S. 393, Montana Wilderness Act;

H.R. 4140, extend Fishermen's Protective Act;

H.R. 6405, Endangered Species Act amendments;

H.R. 9512, Pacific Island Trust Territories;

S. 2089, establish position of Associate Attorney General; and

H.R. 7769, Indochinese refugees.

Again the votes on these suspensions will be postponed until all debate on the suspensions has been finished.

Thereafter, on Tuesday we hope to take up H.R. 1037, Energy Transportation Security Act of 1977. That is coming to us under an open rule with 2 hours of general debate recommended.

On Wednesday the House will meet at noon. We will have H.R. 9375, Supplemental Appropriations Act, and waivers have been granted by the rule recommended to the Rules Committee; and

H.R. 9346, Social Security Financing Amendments of 1977 will follow. We will take the rule and the general debate only, subject to a rule being granted.

Then on Thursday the House will meet at 10 o'clock in the morning. We will have:

H.R. 9346, Social Security Financing Amendments of 1977, voting on amendments and the bill;

H.R. 7073, Federal Insecticide, Fungicide, and Rodenticide Act, voting on amendments and the bill; and

H.R. 2329, Fish and Wildlife Improvement Act of 1977, which comes under a recommended open rule with 1 hour of general debate.

And having concluded all of those things, we would assume that the business of the week had been concluded. Of course, conference reports may be brought up at any time and any other program may be announced later.

It would be our hope that we could conclude all business for the week on Thursday. If we are able to do that we will have only a pro forma session on Friday next; and the Monday that follows Friday next will be October 24, which is a national holiday. The Nation will be observing Veterans Day, and it would be our plan not to schedule legislative business on that day.

The House will adjourn by 3 p.m. Friday and by 5:30 p.m. on all other days except Wednesday. Any further program may be announced later.

Mr. RHODES. Mr. Speaker, may I suggest to the distinguished majority leader that it is possible on Tuesday we may have a little problem finishing up by 5:30. Certainly as far as I am concerned, and I think I speak for most of the Members in the minority, we would have no objection to staying in on Tuesday until we finish the program for that date, knowing that Wednesday is a rather heavy day. The supplemental appropriations bill, as my good friend knows, will have some controversy over the B–1 and other aircraft. The social security financing amendments are certainly a major piece of legislation. We will want to give each of those pieces of legislation all the time necessary. I say this so that if the majority leader feels constrained to do away with the proviso that we quit at 5:30 on Tuesday, it might be a good idea to suggest it.

Mr. WRIGHT. Mr. Speaker, if the distinguished minority leader will yield further, the majority leader appreciates that suggestion very much. Let us see how rapidly the six suspensions go on Tuesday. It may be that they will not consume lengthy debate, in which event it might be possible for us to conclude our consideration of H.R. 1037; but if not, the leadership will certainly bear in mind the suggestion made by the distinguished minority leader.

Mr. MICHEL. Mr. Speaker, will the minority leader yield for a question?

Mr. RHODES. I yield to the gentleman from Illinois.

Mr. MICHEL. Mr. Speaker, does this suggest that with very little business, if anything, next Friday and a holiday on Monday that any kind of sine die adjournment is absolutely out of the question for the 29th of October? Assuming, that is, the majority leader is prepared to offer any kind of prospects for the following week?

Mr. WRIGHT. Mr. Speaker, if the distinguished minority leader will yield further, the majority leader is not clairvoyant and has little in common with Jimmy the Greek; but I did not mean to suggest that all hope for an October 29 adjournment is forlorn. I do not believe it is forlorn. It depends, as the gentleman well knows, on the dispatch that the conferees on the energy bill may make. We will come in full of steam and energy on the 25th of October, Tuesday, with high hopes of concluding the business of this session during that week.

Of course, we have additional appropriations bills that are in conference. We probably will have a conference committee report, for instance next week on the foreign assistance bill.

We will need to conclude the appropriations bills and any conference reports that are ready to be considered and adopt the conference report on the energy bill, assuming that is brought to us.

Once those things are done, the majority leader sees no reason why we could not adjourn.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. WRIGHT. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule on Wednesday of next week be dispensed with.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

ADJOURNMENT TO MONDAY, OCTOBER 17, 1977

Mr. WRIGHT. Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourn to meet at 12 o'clock noon on Monday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

MARINE PROTECTION, RESEARCH, AND SANCTUARIES ACT OF 1972 AUTHORIZATION

Mr. BREAUX. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 4297) to amend the Marine Protection, Research, and Sanctuaries Act of 1972 to authorize appropriations to carry out the provisions of such Act for fiscal year 1978.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Louisiana (Mr. BREAUX).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill H.R. 4297, with Mr. SHARP in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee rose on Tuesday, October 11, 1977, all time for general debate on the bill had expired.

The Clerk will read.

The Clerk read as follows:

H.R. 4297

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 111 of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1420) is amended—

(1) by striking out "and" immediately after "September 30, 1976),"; and

(2) by adding immediately after "fiscal year 1977" the following: ", and not to ceed $4,800,000 for fiscal year 1978,".

SEC. 2. Section 204 of such Act (33 U.S.C. 1444) is amended—

(1) by striking out "and" immediately after September 30, 1976),"; and

(2) by adding immediately after "fiscal year 1977" the following: ", and not to exceed $6,000,000 for fiscal year 1978".

COMMITTEE AMENDMENT

The CHAIRMAN. The Clerk will report the committee amendment.

The Clerk read as follows:

Committee amendment: Page 2, line 9, strike "$6 million" and insert "$6,500,000".

Mr. BREAUX. Mr. Chairman, the committee has no requests for time on this amendment. We agree with it and support it.

The CHAIRMAN. The question is on the committee amendment.

The committee amendment was agreed to.

The CHAIRMAN. Are there further amendments to section 2?

The Clerk will read.

The Clerk read as follows:

SEC. 3. Section 304 of such Act (16 U.S.C. 1434) is amended—

(1) by striking out "and" immediately after "September 30, 1976),"; and

(2) by adding immediately after "fiscal year 1977" the following: ", and not to exceed $500,000 for fiscal year 1978".

COMMITTEE AMENDMENT

The CHAIRMAN. If there are no amendments to section 3, the Clerk will report the committee amendment.

The Clerk read as follows:

Committee amendment: Page 2, after line 17, insert the following new section:

SEC. 4. (a) The Administrator of the Environmental Protection Agency (hereinafter referred to in this section as the Administrator) shall end the dumping of sewage sludge into ocean waters, or into waters described in section 101(b) of Public Law 92-532, as soon as possible after the date of enactment of this section, but in no case may the Administrator issue any permit, or any renewal thereof (under Title I of the Marine Protection, Research, and Sanctuaries Act of 1972) which authorizes any such dumping after December 31, 1981.

(b) For purposes of this section, the term "sewage sludge" means any solid, semisolid, or liquid waste generated by a municipal wastewater treatment plant the ocean dumping of which may unreasonably degrade or endanger human health, welfare, amenities, or the marine environment, ecological systems, or economic potentialities.

Mr. BREAUX (during the reading). Mr. Chairman, I ask unanimous consent that the committee amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

Mr. BREAUX. Mr. Chairman, I rise in support of the amendment. It is an amendment that puts an absolute termination date on all ocean dumping of sewage sludge by December 31, 1981. It is somewhat controversial. We debated it extensively in subcommittee and also in the full committee. It is an amendment that I personally disagreed with, both in the subcommittee and the full committee, but I do support it as the committee saw fit to adopt this language.

Mr. HUGHES. Mr. Chairman, will the gentleman yield?

Mr. BREAUX. I yield to the gentleman from New Jersey.

Mr. HUGHES. Mr. Chairman, I rise in strong support of H.R. 4297, authorizing appropriations for fiscal 1978 to carry out the Marine Protection Research, and Sanctuaries Act of 1972.

Also contained in this legislation is an amendment that was agreed to in committee by a vote of 22 to 12 to prohibit the dumping of harmful sewage sludge in the ocean after December 31, 1981.

The purpose of the 1972 act was to provide a means of regulating the disposal of various harmful and hazardous materials into the ocean. It was drafted in response to the growing tendency toward ocean disposal of all kinds of wastes that in sufficient quantities could seriously downgrade the quality of our ocean waters, and present a significant hazard to marine life, fishing, and human health.

Unfortunately, despite the act's clear direction to prohibit harmful ocean dumping, there has been and continues to be large amounts of sewage sludge being dumped into the ocean by a number of northeastern municipalities in the New York-New Jersey area.

These sludges contain high concentrations of a number of metals that are a serious risk to marine life, and also to humans if they should eat fish or shellfish that come from the dumping areas. EPA has reported that the sewage sludge dumped in 1974 in the Atlantic contained about 24 tons of cadmium and that sludge dumped in New York Bight alone contained about 2 tons of mercury.

In addition, there exists the possibility that sludge dumping may contribute to the problem of excess nutrients in the ocean waters, leading to algae blooms that deplete oxygen in the seawater, and result in fish kills.

In response to this problem, the EPA has adopted by administrative rulemaking a deadline of December 31, 1981 to bring an end to sludge dumping. However, that deadline is now bulging at the seams. It is clear that many of the municipalities who are doing the dumping have not taken the deadline seriously, and have made little or no progress toward finding alternative methods for disposing of sewage sludge.

The problem is made more serious because, in coming years, we will be producing more and more sludge, as more and more secondary sewage treatment plants come on line. But so long as ocean dumping remains the cheapest and most convenient means of disposing of sludge, there will remain a tremendous pressure to continue dumping. The uncertainties in existing law will continue to invite litigation, and EPA will be placed under increasing pressure to postpone its administrative deadline.

That is why it is so important for us to begin the process of phasing out harmful sludge dumping now, while we still have some time to develop alternatives. We can no longer afford the old "out of sight, out of mind" attitude about disposing of municipal wastes.

The language in H.R. 4297 would provide clear notice to the municipalities that are dumping sludge in the ocean that they must be out by a date certain, and to do that, they will have to begin now to develop alternatives.

Mr. BREAUX. Mr. Chairman, I yield to the chairman of the Subcommittee on Fish and Wildlife, the gentleman from California (Mr. LEGGETT).

Mr. LEGGETT. Mr. Chairman, I rise in support of section 4 of this bill which prohibits the dumping of sewage sludge into our ocean waters after 1981. This provision would legislatively implement the deadline on the dumping of sewage sludge which has already been adopted by Environmental Protection Agency regulations.

In enacting the Ocean Dumping Act of 1972, Congress stated very clearly that it wanted to end the treatment of our ocean as a garbage pit. The Ocean Dumping Act reflects the realization that we cannot continue to expect the oceans to act as a food resource, recreation center, and cesspool. The Ocean Dumping Act prohibited the dumping of wastes which unreasonably degraded the marine environment. The EPA has already determined that sewage sludge does degrade the environment.

Nevertheless, the EPA realized that an immediate ban on dumping would cause economic harm for those Atlantic coast communities still using the ocean as a sludge dump site. Thus, EPA developed a mechanism to end ocean dumping gradually. It granted these communities so-called interim permits, and placed them on notice that they are expected to develop land-based dumping alternatives no later than 1981. All we are attempting to do here today is make sure that this 1981 date remains very firm.

There are three urban areas dumping sewage sludge into the ocean—Camden, N.J.; Philadelphia; and the New York-New Jersey metropolitan area. The first two communities have assured the committee that they have found a solution to the sewage sludge predicament. Camden has developed an effective composting system which has already ended their need to use the ocean as a dump site. Philadelphia indicated to the committee

in June that they should be out of the ocean by 1980.

The New York situation is apparently somewhat more pessimistic. The problem there is insufficient surface area for composting and insufficient funds to develop land-based alternatives. Nevertheless, the Assistant Administrator for the Environmental Protection Agency testified in June that sufficient alternative did exist for New York, and that the deadline could be met. Further, the administrator of New York City's Environmental Protection Administration indicated that New York was determined to meet the 1981 date.

We have a situation, then, where all of the principals indicate the deadline can and should be met. It is perplexing, then, when these same principals oppose the legislative imposition of the deadline.

A large part of the opposition to the termination of ocean dumping stems from the fact that it remains the cheapest means of disposing of municipal waste. The ocean dumping of sewage sludge generally costs $1.80 per ton, while alternatives cost $5 per ton.

My concern is that while it may be cheaper for the particular communities involved, it is quite likely very expensive for the Nation as a whole. For example, the Department of Commerce has indicated that the shellfish industry has ceased harvesting in over 18.5 percent of the shellfish waters because of intolerable levels of pollution.

The ocean dumping of sewage sludge, of course, is a small part of this problem—but it is a part. The draft environmental impact statement on the New York Bight site indicated that the water quality of the area would not improve if sludge dumping was moved elsewhere for the simple reason that so many other pollutants are poured into that body of water. This includes street runoff, industrial pollutants and raw sewage.

I am not convinced that the fact that sewage sludge is a small part of the problem is a good reason for permitting the dumping of sludge to continue. Alternatives to the dumping of sludge are available. A firm deadline will insure that they are implemented.

Mr. EVANS of Delaware. Mr. Chairman, will the gentleman yield?

Mr. BREAUX. I yield to the gentleman from Delaware.

Mr. EVANS of Delaware. Mr. Chairman, I rise in strong support of H.R. 4297, and also the amendment offered by the gentleman from New Jersey (Mr. HUGHES) to ban all harmful ocean dumping as of a certain date, December 31, 1981. In 1972, the Congress, stated as a national policy goal that we would end harmful ocean dumping within 5 years.

I am delighted to see that finally we are going to begin implementing that noble objective. I think it is reasonable. It is needed. And I would like to also remind all of those who come to visit our Delaware beaches, Rehoboth, Fenwick Island, Bethany, et cetera, that we want you to get good clams, good oysters and to enjoy our beaches.

Mr. BREAUX. We will continue to send Louisiana crabs and oysters to your beach area.

Mr. Chairman, I yield such time as he may consume to the gentleman from Maryland (Mr. BAUMAN).

Mr. BAUMAN. Mr. Chairman, I rise in strong support of the pending committee amendment and this legislation. The pending amendment, which was sponsored in committee by the distinguished gentleman from New Jersey (Mr. HUGHES), will put a definite end to ocean dumping of sewage sludge no later than December 31, 1981. It is unfortunate that the Congress has to set a deadline to end a source of pollution most of us assumed was already outlawed by the original 1972 Marine Protection Act. This amendment was necessary, however, because of the Environmental Protection Agency's continued interpretation of the law so that it allows such pollution on what they call "an interim basis."

Whatever EPA may call it, the continued practice of dumping sewage sludge from Philadephia and other areas into the Atlantic Ocean off the coasts of New Jersey, Maryland, and Delaware has caused widespread marine damage and the closing of important shellfishing areas. It has presented a continuing health hazard to coastal resort cities such as Ocean City, Md., which I have the honor to represent. There is certainly no more beautiful and appealing ocean resort in America, in my opinion, especially for the thousands of families who enjoy its pleasures each summer, and now all year around. To have all this jeopardized by the unwillingness of the EPA to enforce the law and the refusal of Philadelphia officials to clean up their act is appalling. So Congress must and should act and this bill is a long step forward in my view.

I urge adoption of the committee amendment and the bill.

Mr. BREAUX. Mr. Chairman, I yield such time as he may consume to the gentleman from New Jersey (Mr. FORSYTHE).

Mr. FORSYTHE. Mr. Chairman, I too rise in strong support of this section of this bill. I think it is a very good amendment. It does assure that we are going to stop ocean dumping in 1981. It was the policy. Now it will be the law.

Mr. Chairman, I urge support of the amendment and the bill.

The CHAIRMAN. The question is on the committee amendment.

The committee amendment was agreed to.

Mr. ANDERSON of California. Mr. Chairman, I rise in support of H.R. 4297, a bill to authorize funds to extend the Marine Protection, Research and Sanctuaries Act for fiscal year 1978.

Better known as the Ocean Dumping Act, this law is very important in the protection of our oceans and shores.

The Environmental Protection Agency (EPA) is the lead agency in the administration of title 1, a title which provides for mandatory regulation of the dumping of harmful wastes into the ocean.

As reported by our Merchant Marine and Fisheries Committee, this bill requires the "dumpers" to end all dumping of municipal sewage sludge by December 31, 1981. This is feasible, given the support of the EPA, combined with research on and working alternatives to ocean dumping.

The pollution of our oceans, especially along many areas of the Alantic seaboard, is a problem that the Congress must address with strong statutes. I support this bill with the 1981 cutoff date for dumping into the ocean.

Mr. FREY. Mr. Chairman, almost 10 years ago, when I first came to Congress and was still assigned to the Merchant Marine and Fisheries Committee, the legislation now before us caught the attention of my district. The reason? The Army had dumped a large amount of toxic substances off the coast of Brevard County.

The resulting outcry caused me to work within my committee for some kind of safeguards against a future occurrence.

In 1971, 50 Members cosponsored my legislation prohibiting ocean dumping. The bill was authored in response to what I thought was a "softer" bill then being touted by the administration. In 1972 Congress accepted the Marine Protection, Research and Sanctuaries Act establishing regulatory control over the dumping of certain materials into U.S. waters.

The bill specifies how ocean dumping shall be regulated; sets out research activities to support limitation of ocean dumping; and provides for the designation and regulation of marine sanctuaries.

The intervening half decade has proved we cannot relax our efforts against ocean pollution. While the Environmental Protection Agency has made progress against industrial sewage dumping—phasing out 81 former or potential dumpers in the last 5 years—municipal sewage remains a problem. In the Mid-Atlantic region, where municipalities dump their sewage, over one-fifth of the Nation's shellfishing beds have been closed by the Food and Drug Administration because pollution has rendered these organisms unsafe for human consumption. As a scuba diver I have personally seen how reefs can be ruined by sewage.

There seems to be some confusion among the agencies involved as to whether Congress is serious about ocean dumping—specifically municipal sewage dumping. This amendment to the original legislation makes clear our intent to prohibit anyone—municipal or

industrial—to dump dangerous sewage into our oceans after the last day of 1981.

To this end today's legislation authorizes $11.8 million: $4.8 million toward the EPA's regulatory program; $6.5 million into the National Oceanic and Atmospheric Administration's research on ocean dumping; and $500,000 toward the marine sanctuaries program administrated by the Office of Coastal Zone Management.

I would urge Members to pay special attention to the provision appropriating a half million dollars toward the sanctuaries program. Already, the Department of Commerce has designated two area, one off the coast of North Carolina and the other off the coast of Key Largo, Fla. Four other areas have been nominated for designation, including a killer whale area in Puget Sound. It would seem a half million dollars for four new sanctuaries is a bargain—probably one of the best in the Federal Government.

There are few of us, I believe, who would quarrel with a designated area to be saved from the ravages of ocean dumping. Extending that protection to our entire coastline, to both oceans, is the purpose of this amendment.

In the name of our oceans, our environment, our sea life, the economic well-being of our fishing industry, and the health of coastal dwellers, the House must accept this amendment and authorization.

The CHAIRMAN. If there are no further amendments, under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. DAN DANIEL), having assumed the chair, Mr. SHARP, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 4297) to amend the Marine Protection, Research, and Sanctuaries Act of 1972 to authorize appropriations to carry out the provisions of such act for fiscal year 1978, pursuant to House Resolution 798, he reported the bill back to the House with sundry amendments adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. ROUSSELOT. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 359, nays 1, not voting 74, as follows:

[Roll No. 657]

YEAS—359

Akaka	Dornan	Kazen
Allen	Downey	Kelly
Ambro	Drinan	Ketchum
Ammerman	Duncan, Oreg.	Kildee
Anderson, Calif.	Duncan, Tenn.	Kindness
Andrews, N.C.	Early	Kostmayer
Andrews, N. Dak.	Eckhardt	Krebs
Annunzio	Edgar	Krueger
Applegate	Edwards, Ala.	LaFalce
Archer	Edwards, Calif.	Lagomarsino
Armstrong	Edwards, Okla.	Latta
Ashbrook	Eilberg	Le Fante
Ashley	Emery	Leach
Aspin	English	Lederer
Badham	Erlenborn	Leggett
Baldus	Ertel	Lehman
Baucus	Evans, Colo.	Lent
Bauman	Evans, Del.	Levitas
Beard, R.I.	Evans, Ga.	Lloyd, Calif.
Bedell	Evans, Ind.	Lloyd, Tenn.
Beilenson	Fary	Long, La.
Benjamin	Fascell	Long, Md.
Bennett	Fenwick	Lott
Bevill	Findley	Luken
Blanchard	Fish	Lundine
Blouin	Fisher	McClory
Boggs	Fithian	McCormack
Bonior	Flippo	McDade
Bonker	Flood	McEwen
Brademas	Florio	McFall
Breaux	Flowers	McHugh
Breckinridge	Flynt	McKay
Brinkley	Foley	McKinney
Brodhead	Ford, Tenn.	Madigan
Brooks	Forsythe	Mahon
Broomfield	Fountain	Markey
Brown, Mich.	Fraser	Marlenee
Brown, Ohio	Fuqua	Marriott
Buchanan	Gammage	Martin
Burgener	Gaydos	Mathis
Burke, Fla.	Gephardt	Mattox
Burke, Mass.	Gibbons	Mazzoli
Burleson, Tex.	Gilman	Meeds
Burlison, Mo.	Ginn	Meyner
Burton, Phillip	Glickman	Michel
Butler	Gonzalez	Mikulski
Byron	Gore	Mikva
Caputo	Gradison	Milford
Carney	Grassley	Miller, Ohio
Carr	Gudger	Mineta
Carter	Hagedorn	Minish
Cavanaugh	Hall	Mitchell, Md.
Cederberg	Hamilton	Mitchell, N.Y.
Chappell	Hammer-schmidt	Moffett
Chisholm	Hannaford	Mollohan
Clawson, Del	Hansen	Montgomery
Cleveland	Harkin	Moore
Cochran	Harris	Moorhead, Calif.
Cohen	Hawkins	Moorhead, Pa.
Coleman	Heckler	Moss
Collins, Tex.	Hefner	Mottl
Conable	Heftel	Murphy, Ill.
Conte	Hightower	Murphy, Pa.
Conyers	Hillis	Murtha
Corcoran	Hollenbeck	Myers, Gary
Corman	Holt	Myers, John
Cornell	Holtzman	Myers, Michael
Cornwell	Horton	Natcher
Coughlin	Howard	Neal
Cunningham	Hubbard	Nedzi
D'Amours	Huckaby	Nichols
Daniel, Dan	Hughes	Nix
Daniel, R. W.	Hyde	Nowak
Danielson	Ichord	O'Brien
Davis	Ireland	Oakar
de la Garza	Jacobs	Oberstar
Delaney	Jeffords	Obey
Dellums	Jenkins	Ottinger
Derrick	Jenrette	Panetta
Derwinski	Johnson, Colo.	Patten
Devine	Jones, N.C.	Patterson
Dickinson	Jones, Okla.	Pattison
Dicks	Jones, Tenn.	Pease
Dingell	Jordan	Perkins
Dodd	Kasten	Pettis
	Kastenmeier	Pike
Poage	Shipley	Vander Jagt
Pressler	Shuster	Vanik
Preyer	Sikes	Vento
Price	Simon	Volkmer
Pritchard	Sisk	Waggonner
Quayle	Skelton	Walgren
Quie	Skubitz	Walker
Quillen	Smith, Iowa	Walsh
Railsback	Smith, Nebr.	Wampler
Rangel	Snyder	Watkins
Regula	Solarz	Waxman
Rhodes	Spellman	Weaver
Richmond	Spence	Weiss
Rinaldo	Staggers	White
Risenhoover	Stangeland	Whitehurst
Robinson	Stanton	Whitley
Rodino	Stark	Whitten
Roe	Steers	Wiggins
Rooney	Steiger	Wilson, Bob
Rosenthal	Stokes	Wilson, C. H.
Rousselot	Stratton	Wilson, Tex.
Rudd	Studds	Winn
Ruppe	Stump	Wirth
Ryan	Symms	Wright
Santini	Taylor	Wydler
Sarasin	Thompson	Wylie
Satterfield	Thone	Yates
Sawyer	Thornton	Yatron
Scheuer	Traxler	Young, Alaska
Schroeder	Trible	Young, Fla.
Schulze	Tsongas	Young, Mo.
Sebelius	Tucker	Young, Tex.
Seiberling	Udall	Zablocki
Sharp	Ullman	Zeferetti

NAYS—1

McDonald

NOT VOTING—74

Abdnor	Diggs	Moakley
Addabbo	Ford, Mich.	Murphy, N.Y.
Alexander	Fowler	Nolan
Anderson, Ill.	Frenzel	Pepper
AuCoin	Frey	Pickle
Badillo	Giaimo	Pursell
Bafalis	Goldwater	Rahall
Barnard	Goodling	Reuss
Beard, Tenn.	Guyer	Roberts
Biaggi	Hanley	Rogers
Bingham	Harrington	Roncalio
Boland	Harsha	Rose
Bolling	Holland	Rostenkowski
Bowen	Johnson, Calif.	Roybal
Brown, Calif.	Kemp	Runnels
Broyhill	Keys	Russo
Burke, Calif.	Koch	Slack
Burton, John	Livingston	St Germain
Clausen, Don H.	Lujan	Steed
Clay	McCloskey	Stockman
Collins, Ill.	Maguire	Teague
Cotter	Mann	Treen
Crane	Marks	Van Deerlin
Dent	Metcalfe	Whalen
	Miller, Calif.	Wolff

The Clerk announced the following pairs:

Mr. Addabbo with Mr. Frey.
Mr. Moakley with Mr. Anderson of Illinois.
Mr. Dent with Mr. Bafalis.
Mr. AuCoin with Mr. Goldwater.
Mrs. Burke of California with Mr. Beard of Tennessee.
Mr. Biaggi with Mr. Abdnor.
Mr. Koch with Mr. Goodling.
Mr. Miller of California with Mr. Crane.
Mr. Pepper with Mr. Kemp.
Mr. Murphy of New York with Mr. Livingston.
Mr. Badillo with Mr. Lujan.
Mr. Fowler with Mr. Treen.
Mr. Wolff with Mr. Johnson of California.
Mr. Harrington with Mr. Holland.
Mr. Russo with Mr. Marks.
Mr. Reuss with Mr. Teague.
Mr. Bowen with Mr. Clay.
Mr. Roybal with Mr. Don H. Clausen.
Mr. Diggs with Mr. Giaimo.
Mrs. Collins of Illinois with Mrs. Keys.
Mr. Cotter with Mr. Metcalfe.
Mr. Ford of Michigan with Mr. Pickle.
Mr. Rose with Mr. Runnels.
Mr. Rostenkowski with Mr. Alexander.
Mr. Rahall with Mr. Mann.
Mr. Roberts with Mr. Barnard.
Mr. Bingham with Mr. Van Deerlin.

Mr. John Burton with Mr. Pursell.
Mr. Boland with Mr. Broyhill.
Mr. Brown of California with Mr. Frenzel.
Mr. Hanley with Mr. Harsha.
Mr. Maguire with Mr. McCloskey.
Mr. Nolan with Mr. Whalen.
Mr. Rogers with Mr. Steed.
Mr. St Germain with Mr. Slack.
Mr. Roncalio with Mr. Stockman.

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. BREAUX. Mr. Speaker, I ask unanimous consent that all Members desiring to do so may have 5 legislative days in which to revise and extend their remarks on the bill H.R. 4297 just passed by the House.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

PERSONAL EXPLANATION

Mr. RUDD. Mr. Speaker, I would like to have it made a matter of record that I was unavoidably detained at the White House this morning and missed the first vote on the conference report on the bill H.R. 6415. Had I been present I would have cast a "no" vote.

PERMISSION TO FILE CONFERENCE REPORT ON H.R. 1139, NATIONAL SCHOOL LUNCH ACT AND CHILD NUTRITION ACT AMENDMENTS OF 1977

Mr. WALGREN. Mr. Speaker, I ask unanimous consent that the managers may have until midnight tonight to file a conference report on H.R. 1139 to amend the National School Lunch Act and the Child Nutrition Act of 1966 to revise and extend the summer food service program for children, to revise the nonfood assistance program, and for other purposes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

NIAGARA COUNTY'S ABORTION RESOLUTION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. LAFALCE) is recognized for 5 minutes.

Mr. LAFALCE. Mr. Speaker, I know that the questions surrounding abortion, particularly the extent to which Government should be allowed to promote or restrict access to them is a matter of concern to many of my colleagues. I, therefore, would like to submit for their review a copy of a resolution recently passed by the Niagara County legislature which unambiguously defines the legislature's position:

RESOLUTION

Whereas, recent Supreme Court decisions seem to indicate that state and local governments cannot be forced by Federal government to pay for elective abortions, and

Whereas, Niagara County Welfare funds have been used for such purposes; and

Whereas, the Supreme Court has stated that such abortions need not be funded by the states social services department; and

Whereas, the Governor of the New York State has mandated that the social services departments in the counties of the State of New York pay for such abortions; and

Whereas, the Niagara County Legislature recognizes the authority of the Supreme Court and its own moral laws; now therefore, be it

Resolved, that the County Legislature does hereby direct the Social Services Department of the County of Niagara to review its procedures concerning the promotion and/or permission for abortions which cannot be medically demonstrated as necessary to preserve the life of the unborn child's mother, and be it further

Resolved, that the Social Services Department be directed to cease and desist support for such abortions not so medically related to the health of the mother, from this day forward; and be it further

Resolved, that copies of this resolution be forwarded to the State Social Services Department; Governor Carey; area State legislators; and all New York State Boards of Supervisors and County Legislatures.

COMMITTEE ACTION WOULD LIMIT PRESIDENT'S AUTHORITY TO LIMIT OIL IMPORTS

Mr. VANIK. Mr. Speaker, I want to place in the RECORD a statement by myself and my colleagues on the Committee on Ways and Means, Hon. BARBER B. CONABLE, JR., and Hon. WILLIAM A. STEIGER, concerning recent action in the Senate Finance Committee to limit the President's authority to act on oil imports when the national security is threatened.

The statement follows:

STATEMENT OF REPRESENTATIVES CHARLES A. VANIK, BARBER B. CONABLE, JR., AND WILLIAM A. STEIGER

We are shocked by the action of the Senate Finance Committee last week to terminate the President's authority to impose tariffs and quotas on imports of petroleum if such imports threaten the national security. The amendment adopted by the Senate Committee would repeal the President's authority to act under section 232 in limiting oil imports except for periods and circumstances relating to war or other hostilities.

At this time the President's energy legislation does not deal directly with the serious problem of limiting oil imports as one means of stemming our growing dependency on imported oil.

The Senate Finance Committee amendment appears to be an emotional reaction to statements that an import fee on oil might be necessary, if effective energy legislation is not adopted.

If the Senate Finance Committee's proposal is adopted, the President would be denied the only authority he would have to limit oil imports. It will signal the world of our inability and our unwillingness to deal at all with the energy crisis. It could threaten to condemn our troubled economy to a future of uncertainty, dependency and depression.

CHAIRMAN MELVIN PRICE WARNS OF THE DANGERS IN A COMPREHENSIVE TEST BAN TREATY—CTB

(Mr. STRATTON asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. STRATTON. Mr. Speaker, earlier this month several members of the Armed Services Committee, led by Chairman MELVIN PRICE, visited the Lawrence Livermore Laboratory in Livermore, Calif. The laboratory is operated for the ERDA by the University of California, and is one of our two major nuclear weapons development laboratories. The Lawrence Livermore Laboratory was responsible for developing the hydrogen bomb, under the leadership of Dr. Edward Teller.

The occasion of our visit also marked the 25th anniversary of the laboratory, and following our tour of the facilities, and receiving a briefing on the laboratory's current activities, a banquet was held to celebrate the anniversary. At that banquet, Chairman PRICE was the principal speaker.

Some weeks ago, Soviet Foreign Minister Gromyko proposed that the United States and the Soviets enter into a comprehensive test ban treaty CTB. This is an appealing-sounding proposal, to be sure, as was President Kennedy's original test ban treaty. But for the initiated—those who, like MEL PRICE, have been following nuclear matters closely for over 30 years—the CTB has some very real and special dangers. This is what Mr. PRICE discussed in his speech at Livermore. And his words deserve to be read and pondered by every Member.

The speech follows:

REMARKS BY THE HONORABLE MELVIN PRICE

I am most honored to have the opportunity of participating in this memorable observance of the 25th anniversary of the Lawrence Livermore Laboratory. This is an appropriate time to convey, on behalf of the Congress, our thanks to all of the members of this outstanding institution. The nation owes so much to you for its security and welfare. I want to especially thank those here this evening who were here at the beginning and are still contributing to the outstanding achievements of the Laboratory—to Roger Batzel, Mike May, Duane Sewell, Carl Haussmann, and the other "plank owners" of this great institution.

As we move into your second quarter century, something must be in the forefront of your minds, as it is in mine—the offer last Tuesday of Soviet Foreign Minister Gromyko to enter into a test moratorium. My long association with you and the whole nuclear weapons program provides me with special insight into the potential harm of a hiatus in our testing program.

History provides proof of this. I am sure you recall the moratorium which was also instigated by the Soviets in 1958. Then about three years later, they announced, unilaterally, that the moratorium was over. The Soviets then immediately proceeded with one of the most comprehensive and intensive weapons test programs ever conducted. Obviously, during the moratorium they worked every minute to be prepared to resume tests.

I think you will agree that, as a consequence, our relative position of technological proficiency was hurt by those developments.

We cannot let this history repeat itself.

We must carefully consider any new offer to assure that adequate safeguards are provided. Under no circumstances should we agree to anything that would erode our ability to maintain a position of technological leadership.

Frankly, I am concerned that we may not have taken as much of an advantage of the

research and development opportunities during the SALT I Treaty as we should have. My concern in this respect was expressed on the floor of the House yesterday.

I am sure you will indulge a bit of reminiscence on my part. As you know, I go back to the beginning in the consideration of the atom in the Congress. I recall back in 1945, as a member of the Committee on Military Affairs, which was the predecessor of the Armed Services Committee, we considered the first piece of atomic energy legislation. Thus, 32 years ago we legislated the development of nuclear energy for the national security of the nation. The legislation which was finally enacted created the Atomic Energy Commission and the Joint Committee on Atomic Energy. The history under this Act and the updating of the Act, covers the genesis of this great Laboratory and many of its accomplishments.

I recall the period of turmoil which preceded the establishment of the Livermore Laboratory. The Korean War was in progress. Great controversy and doubt surrounded the feasibility of a fusion weapon, then called The Super. We on the Joint Committee were continually trying to pull the nuclear weapons program ahead by increasing production of special nuclear materials, by getting the military to rethink its strategy in terms of the availability of completely new weapons concepts and also by increasing nuclear weapons research and development resources. Of course, that is where the Livermore Laboratory fitted in.

I particularly recall our February 21, 1952, Joint Committee meeting during which we developed a consensus on the need for Livermore.

I am sure there is no question concerning the fact that the late and great Ernest Lawrence and your co-worker Edward Teller provided the primary force for the establishment of the Livermore weapons effort. I understand Dr. Teller is in Europe at this time. I want to specially convey my thanks and appreciation to him for his accomplishments in creating this Laboratory and, of course, for his vital role in the development of the fusion weapon. Dr. Teller, in the establishment of this Laboratory, attained his objective; a laboratory without limited goals.

I would like to honor the other leaders of the Laboratory who also could not be with us tonight. I am referring to Herb York, the first Director; to Harold Brown; and to Johnny Foster. This Laboratory obviously has illustrious alumni.

Your scientific accomplishments are legion. Of course, the nuclear weapons program was the primary purpose for the creation of the Laboratory and continues to be your primary mission, in particular the Polaris and Poseidon systems. But from my direct association with the programs of the Laboratory, I would like to take note of other scientific and engineering efforts which also were very successful.

One of the programs carried out by the Laboratory which has always stood out in my mind as a model of success in an exceedingly complex and diversified technical field was the Pluto Nuclear Ramjet program. I cannot help but recall how many people advised the Joint Committee of the doubtful feasibility of attaining the unique performance characteristic of this weapon delivery system. But you did what many considered impossible. The proof of this nuclear engine was well demonstrated on the desert in Nevada. It was indeed unfortunate that our military, at the time, did not deem it advisable to carry the system to deployment Those of you familiar with the characteristics of Pluto can visualize the limitless performance available from such a delivery system, especially when it is compared to systems such as the present cruise missile.

Another completely different technical area in which the Laboratory has contributed so much is in the energy field. I especially remember those at the Laboratory who developed the energy flow charts that our Joint Committee used so much. I firmly believe that these charts which we commonly referred to as spaghetti charts, did more to educate members of Congress on energy than any other single communication effort.

Time does not permit me to cover all of the fine work you have performed here. But I also would like to take special note of the leadership you have provided and continue to provide to the development of the most promising types of magnetic and laser fusion systems.

I also want to mention that the efforts of this Laboratory have kept us at the forefront of computer technology. Special accolades are due the scientists and engineers who carry out the work.

My best wishes and hopes for the future are that you will continue to be as successful as you have been in the past.

As you will recall, legislation we of the Joint Committee sponsored in 1971 broadened the charter of the nuclear laboratories to perform research and development work in fields other than nuclear. This greatly broadened the programs at the Laboratory. In addition, earlier this year when the Congress set up the new Department of Energy, we were successful in maintaining Livermore and its associated laboratories as a separate entity in the new Department with organizational representation at an Assistant Secretary level. Obviously, you have good friends in Washington who look after your interests.

The Joint Committee's period has ended and the responsibilities for the nuclear weapons program in Congress has gone full circle and is back where it was over 32 years ago—under the Armed Services Committee. And I have gone full circle also. I still have the job of looking after this Laboratory.

We must continue to work together to assure that this fine institution can continue to contribute to our nation's future.

"CARTER SIGNS U.N. TREATIES WORSE THAN PANAMA"

(Mr. DEVINE asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. DEVINE. Mr. Speaker, the very talented Alice Widener wrote an article on October 6 revealing some startling information about two United Nations treaties signed by President Carter on October 5, which appear to be of considerably more consequence than the Panama Canal matter currently pending before the Senate.

All Members should read and digest the article which follows:

CARTER SIGNS U.N. TREATIES WORSE THAN PANAMA

(By Alice Widener, Publisher, U.S.A. Magazine)

NEW YORK CITY, October 6, 1977.—The two United Nations treaties that President Carter signed publicly at the U.N. on October 5, 1977, are worse, far worse than the two Panama Canal treaties he already signed. The Panama Canal treaties can gut us from without; the U.N. treaties can gut us from within.

Why?

The United Nations Covenant on Civil and Political Rights and the United Nations Covenant on Economic, Social and Cultural Rights—both signed by President Carter and subject now to ratification by the U.S. Senate—specifically exclude private property, as a human right. Both U.N. treaties exclude our right to own private property individually or in association with others. Both U.N. so-called 'human rights' treaties permit government seizure of property without any kind of compensation.

The U.N. so-called Human Rights Treaties are in violation of our Constitution. It specifically protects our property rights. The Fifth Amendment states: ". . . nor shall any person . . . be deprived of life, liberty, or property, without due process of law, nor shall private property be taken for public use without just compensation." The Fourteenth Amendment states: ". . . nor shall any State deprive any person of life, liberty, or property without due process of law."

As finally drafted in 1966, the United Nations Covenants signed by President Carter authorize the expropriation or nationalization of any private property considered as "necessary or desirable" by any Member State of the United Nations. This amounts to U.N. sanction of the right of theft of property, a fact that has repeatedly been pointed out by U.S. delegates to the U.N. by all administrations previous to the Carter Administration since 1948, when the U.N. Universal Declaration of Human Rights was adopted.

After that event in 1948, the United Nations continually tried to codify the Universal Declaration. From the very first discussions, the Soviet Union and its satellites strenuously objected to Article 17 of the U.N. Universal Declaration of Human Rights which stated: "Everyone has the right to own property alone as well as in association with others. No one shall be arbitrarily deprived of his property." That is the fundamental U.N. Human Right approved by President Harry Truman when he endorsed the U.N. Universal Declaration. That is the essential human right—the right to own private property—which has made our country great. That is the prime right all Americans enjoy. Without it, all our other rights would be without significance.

Repeatedly, some ultra-liberals in our State Department have tried to get away with the assertion that the two United Nations Covenants which President Carter signed are not "treaties." The reason they allege this is that they know full well that according to our Constitution, treaty law is the supreme law of our land and international treaties supersede all else. But the United Nations itself refers in all its historical documents to the Human Rights Covenants as "treaties." Furthermore, Kathleen Teltsch, New York Times correspondent at the U.N., says in her article of October 6 about the President's signing of the two U.N. covenants, "Previous American administrations declined to sign the pacts, which also require Senate ratification. They felt that Americans' rights were adequately protected, and United Nations treaties were regarded as interference . . ."

There is some talk on Capitol Hill that because the Senate is balking at quick ratification of the Panama Canal treaties, there might be an effort by some Senatorial supporters of the Carter Administration to win quick ratification of the United Nations Covenants in order to shore up Presidential prestige and pacify the Administration. Many Senators honestly believe that President Carter's big push for human rights is essentially anti-Soviet. The facts are, however, that nothing could be more pro-Soviet and socialist than the United Nations Covenant on Civil and Political Rights and the United Nations Covenant on Economic, Social and Cultural Rights.

They must not pass the Senate. They are much worse than the Panama Canal treaties. The U.N. Covenants—treaties—will commit our nation to giving up each American's constitutional right to own private property and the right to keep the government from confiscating our property without any compensation.

The time to let our Senators know we strenuously object to the two U.N. Human Rights Covenants signed by President Carter is now. Don't wait a moment, for there isn't one to lose. If the Senate were to ratify the

two U.N. treaties, each of us could lose everything we own down to our last nickel.

GI EDUCATIONAL BENEFITS AVAILABLE TO VIETNAM VETERANS

(Mr. HALL asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. HALL. Mr. Speaker, during the past few days several Members of the House have responded to an article that recently appeared in one of the city newspapers. As I recall, the remarks were somewhat critical as to the adequacy of the current GI education program administered by the Veterans' Administration.

In addition to that particular article, the Washington Post, on occasion, urged the Committee on Veterans' Affairs and the Congress to support a "direct tuition subsidy" or "supplemental tuition allowance" for certain veterans attending high cost schools.

Mr. Speaker, the Disabled American Veterans and the Veterans of Foreign Wars are very much opposed to this suggested policy change in the GI education program. The Disabled American Veterans view such proposed change as "a device to subsidize high cost schools or State educational systems."

In testifying before our Subcommittee on Education and Training on September 15, 1977, Mr. Oliver E. Meadows, DAV national commander, said:

> We are aware of the argument advanced that some states do not provide low cost education, therefore, the Federal Government should subsidize those veterans in states with higher tuition rates. Comparisons are made between California with its low tuition schools and certain eastern states where tuition is high. We see no reason why the taxpayers of California should pay twice, once to support their own system and then again by Federal taxes to support certain eastern states that have not placed as high a priority on low cost education for its citizens.

The Disabled American Veterans supports the principle of "equal benefits for equal service." So I recognize that some may disagree with the current payment system; however, the few critical articles I have noted never seem to let the reader know what is now available to the Vietnam veteran for education and training purposes.

Mr. Speaker, the distinguished chairman of our Education and Training Subcommittee, the Honorable OLIN E. TEAGUE, of Texas, recently responded to a Washington Post editorial in a letter to Mr. Philip L. Geyelin, editorial page editor. There follows a copy of the chairman's letter which I think will be of interest to my colleagues and the American people. I hope the letter will be printed in the Post as I think the chairman has clearly established that Congress and the executive branch over the years have provided adequate educational benefits for all veterans.

SEPTEMBER 14, 1977.

MR. PHILIP L. GEYELIN,
Editorial Page Editor,
The Washington Post,
Washington, D.C.

DEAR MR. GEYELIN: I have just returned from Texas, and received your letter of August 5th. Mr. Geyelin, in no way, form or fashion was I trying to be facetious or funny about your editorial. I certainly recognize your power as an editorial writer. I only wish I had as much power as a Member of Congress to influence the thinking of people in our country.

I assumed that to write an editorial such as you did that you would have studied all the history pertaining to the question, and there is plenty of history. You did attack me personally, but I would question whether any Member of Congress this year or any other year has given as much thought to trying to work out a GI Bill that is best for the GI, best for the country, and best for the colleges as I have.

When we rewrote the bill some twenty odd years ago, we made a very, very careful study, with a great deal of assistance from the U.S. Office of Education. Prior to enactment of the GI Bill, the proportion of students going to private colleges versus public colleges was approximately fifty-fifty. Under the World War II bill, that proportion became approximately sixty-forty. In our study, it was reported that the cost of going to a school was second or third down the list when the veteran was determining what school he wanted to attend. The bill was not written casually. It was written after very careful study and debate.

I again would like to renew my invitation to you to testify before our Committee. Obviously, from your editorial, you have given a lot of thought to this problem, and it is a problem.

Your editorial makes a blanket indictment of the leadership of the House Veterans' Affairs Committee and singles out by name the Chairman, Ray Roberts of Texas, and myself as the villains who have helped steer through the Committee a six percent cost-of-living increase while at the same time in effect working to block accelerated entitlement proposals, either in our Committee or in the future as provided in the Senate veterans' education bill, since ordered reported to the Senate.

As I am the author of the Korean GI Bill, the War Orphans Scholarship Program, a House sponsor of the Vietnam Veterans' Education Program, I have more than a passing interest in keeping these programs fair, equitable and functioning properly. I think most veterans and their families and the public believe that a scholarship of $13,950 for a single veteran based on 18 to 24 months of service is a fair and substantial contribution by the Federal government. Your editorial conjures up a bleak picture of those who cannot make it on the $13,950 proposed in the House reported bill, H.R. 8701. Accelerated entitlement is needed to pay for the schooling they can't get, your editorial alleges.

First, a provision in the Senate bill would permit accelerated entitlement only for veterans attending a high-cost school. A high-cost school is one whose tuition and fees exceed $1,000 for a school year. Such a provision would give additional money to the veteran who chooses a high-cost school, yet deny opportunity to the poorer veteran attending a low-cost community college who is faced with problems other than tuition costs. It escapes me how this Senate provision is going to remove any of the undefined "structural inequities found in many parts of the GI Bill" which, according to the Post, are serving to keep a million veterans from using their GI Bill assistance.

Although our Subcommittee on Education and Training has held a number of hearings this Congress over a period of months on the veterans' education program, as well as the previous Congress which focused on educational overpayments and abuses in the program, your editorial nevertheless leaves the impression that the Committee rushed through our cost-of-living increase without any attention to accelerated entitlement proposals such as Congressman Wolff's bill with a first-year cost of $2.5 billion and a five-year cost of $7.5 billion. The fact of the matter is Congressman Wolff offered an amendment to add $800 million to our Committee budget resolution last March to be earmarked for education. His amendment was defeated, which has precluded my Subcommittee from taking up Mr. Wolff's measure or any other proposal beyond the cost-of-living increase as approved by our Committee and the Congress.

In constant dollars, we are spending more money for each Vietnam veteran in training than we spent on veterans of the two previous wars. In addition, mindful of special problems of some Vietnam veterans, Congress has created a series of special benefits that were not available to veterans of Korea or World War II. For example, there is available to the Vietnam veteran a VA low-cost education loan for each year of $1,500 in addition to the veteran's basic monthly payment, a work-study program of up to $625 per year with $250 paid in advance, a tutorial assistance program of $65 a month up to $780 a year, free high-school education with no charge against the veteran's entitlement, a longer period of training with no requirement for prompt initiation of the training required of World War II veterans. Most important, a Vietnam veteran is entitled to a maximum of 45 months of entitlement to educational benefits if he served as little as 18 months.

The previous Congress authorized a new position in the Department of Labor, a Deputy Assistant Secretary for Veterans' Employment, to help veterans obtain job counseling and jobs under programs administered by the Department of Labor. One of the President's first announcements was a number of programs to assist unemployed and disabled Vietnam veterans. These programs, called HIRE, a Labor Department funded program to provide jobs and training for veterans in private employment, Disabled Veterans Outreach Program (DVOP) to help disabled veterans to find jobs and job assistance and earmarking up to 35 percent of CETA funds for veterans in public service employment jobs, are well underway. The position of Deputy Assistant Secretary for Veterans' Employment has been filled, and the Congress is hopeful that these Department of Labor programs will help to sharply reduce unemployment among Vietnam veterans.

These are some of the reasons I resent the contention of your editorial that some Vietnam veterans are not being treated fairly and that the GI Bill is not helping them. To imply that some veterans have not used the GI Bill because it is inadequate, is not only misleading to veterans and the public, but indicates a blind acceptance of the propaganda of self-serving groups who have been lobbying on this issue around Capitol Hill for a number of years.

Sincerely,

OLIN E. TEAGUE,
Chairman, Subcommittee on Education, and Training.

OPPOSITION TO TAX CUTS

(Mr. MAHON asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. MAHON. Mr. Speaker, in recent days much attention has been given to the idea of sweeping tax cuts.

I want to register strong opposition to such proposals. What this country needs is a commitment to financial and governmental stability—not constant tinkering with tax cuts which without doubt, if we can judge from past experience, will increase inflation and have only a

minimal effect on stimulating the economy.

Mr. Speaker, there is no great clamor from the people of the Nation for a tax cut—the unlamented death of the inglorious $50 rebate is evidence of that.

What the people do want is more efficient operation of the Government with less Federal interference in their lives.

The economic merits of a tax cut are quite uncertain. But what is not uncertain is that such a reduction in Federal revenues would drive us further away from our commonly shared goal of balancing the budget by 1981. And we must not be unaware that the budget deficit this year is estimated to be in the range of $61 billion.

Mr. Speaker, I am heartened by the stand taken by the distinguished chairman of the Ways and Means Committee, the gentleman from Oregon (Mr. ULLMAN) in opposing a tax cut at this time.

Mr. Speaker, we cannot afford to think in such terms until we have exercised the restraint and discipline to get the Federal budget in better balance.

CONFERENCE REPORT FILED ON H.R. 1139, NATIONAL SCHOOL LUNCH ACT AMENDMENTS

Mr. PERKINS submitted the following conference report and statement on the bill (H.R. 1139) to amend the National School Lunch Act and the Child Nutrition Act of 1966 to revise and extend the summer food service program for children, to revise the nonfood assistance program, and for other purposes:

CONFERENCE REPORT (H. REPT. No. 95–708)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 1139) to amend the National School Lunch Act and the Child Nutrition Act of 1966 to revise and extend the summer food service program for children, to revise the nonfood assistance program, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate to the text of the bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

That this Act may be cited as the "National School Lunch Act and Child Nutrition Amendments of 1977".

SUMMER FOOD SERVICE PROGRAM FOR CHILDREN

SEC. 2. Section 13 of the National School Lunch Act is amended to read as follows:

"SUMMER FOOD SERVICE PROGRAM FOR CHILDREN

"SEC. 13. (a)(1) The Secretary is authorized to carry out a program to assist States, through grants-in-aid and other means, to initiate, maintain, and expand nonprofit food service programs for children in service institutions. For purposes of this section, (A) 'program' means the summer food service program for children authorized by this section; (B) 'service institutions' means nonresidential public or private nonprofit institutions, and residential public or private nonprofit summer camps, that develop special summer or school vacation programs providing food service similar to that made available to children during the school year under the school lunch program under this Act or the school breakfast program under the Child Nutrition Act of 1966; (C) 'areas in which poor economic conditions exist' means areas in which at least 33⅓ percent of the children are eligible for free or reduced price school meals under this Act and the Child Nutrition Act of 1966, as determined by information provided from departments of welfare, zoning commissions, census tracts, by the number of free and reduced price lunches or breakfasts served to children attending public and nonprofit private schools located in the area of program food service sites, or from other appropriate sources, including statements of eligibility based upon income for children enrolled in the program; (D) 'children' means individuals who are eighteen years of age and under, and individuals who are older than eighteen who are (i) determined by a State educational agency or a local public educational agency of a State, in accordance with regulations prescribed by the Secretary, to be mentally or physically handicapped, and (ii) participating in a public school program established for the mentally or physically handicapped; and (E) 'State' means any of the fifty States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands of the United States, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Northern Mariana Islands.

"(2) To the maximum extent feasible, consistent with the purposes of this section, any food service under the program shall use meals prepared at the facilities of the service institution or at the food service facilities of public and nonprofit private schools. The Secretary shall assist States in the development of information and technical assistance to encourage increased service of meals prepared at the facilities of service institutions and at public and nonprofit private schools.

"(3) Eligible service institutions entitled to participate in the program shall be limited to those that—

"(A) demonstrate adequate administrative and financial responsibility to manage an effective food service;

"(B) have not been seriously deficient in operating under the program;

"(C) either conduct a regulatory scheduled food service for children from areas in which poor economic conditions exist or qualify as camps; and

"(D) provide an ongoing year-round service to the community to be served under the program (except that an otherwise eligible service institution shall not be disqualified for failure to meet this requirement for ongoing year-round service if the State determines that its disqualification would result in an area in which poor economic conditions exist not being served or in a significant number of needy children not having reasonable access to a summer food service program).

"(4) The following order of priority shall be used by the State in determining participation where more than one eligible service institution proposes to serve the same area:

"(A) local schools or service institutions that have demonstrated successful program performance in a prior year;

"(B) service institutions that prepare meals at their own facilities or operate only one site;

"(C) service institutions that use local school food facilities for the preparation of meals;

"(D) other service institutions that have demonstrated ability for successful program operation; and

"(E) service institutions that plan to integrate the program with Federal, State, or local employment programs.

The Secretary and the States, in carrying out their respective functions under this section, shall actively seek eligible service institutions located in rural areas, for the purpose of assisting such service institutions in applying to participate in the program.

"(5) Camps that satisfy all other eligibility requirements of this section shall receive reimbursement only for meals served to children who meet the eligibility requirements for free or reduced price meals, as determined under this Act and the Child Nutrition Act of 1966.

"(b)(1) Payments to service institutions shall equal the full cost of food service operations (which cost shall include the cost of obtaining, preparing, and serving food, but shall not include administrative costs), except that such payments to any institution shall not exceed (1) 85.75 cents for each lunch and supper served; (2) 47.75 cents for each breakfast served; or (3) 22.50 cents for each meal supplement served: *Provided*, That such amounts shall be adjusted each January 1 to the nearest one-fourth cent in accordance with the changes for the twelve-month period ending the preceding November 30 in the series for food away from home of the Consumer Price Index published by the Bureau of Labor Statistics of the Department of Labor: *Provided further*, That the Secretary may make such adjustments in the maximum reimbursement levels as the Secretary determines appropriate after making the study prescribed in paragraph (4) of this subsection.

"(2) Any service institution shall be permitted to serve up to three meals per day of operation if at least one of the three meals is a meal supplement, and any service institution that is a camp shall be permitted to serve up to four meals per day of operation, if the service institution has the administrative capability, and the food preparation and food holding capabilities (where applicable), to manage more than one meal service per day, and if the service period of different meals does not coincide or overlap. Such meals may include a breakfast, a lunch, a supper, and meal supplements.

"(3) Every service institution, when applying for participation in the program, shall submit a complete budget for administrative costs related to the program, which shall be subjejct to approval by the State. Payment to service institutions for administrative costs shall equal the full amount of State approved administrative costs incurred, except that such payment to service institutions may not exceed the maximum allowable levels determined by the Secretary pursuant to the study prescribed in paragraph (4) of this subsection.

"(4)(A) The Secretary shall conduct a study of the food service operations carried out under the program. Such study shall include, but shall not be limited to—

"(i) an evaluation of meal quality as related to costs; and

"(ii) a determination whether adjustments in the maximum reimbursement levels for food service operation costs prescribed in paragraph (1) of this subsection should be made, including whether different reimbursement levels should be established for self-prepared meals and vendored meals and which site-related costs, if any, should be considered as part of administrative costs.

"(B) The Secretary shall also study the administrative costs of service institutions participating in the program and shall thereafter prescrbe maximum allowable levels for administrative payments that reflect the costs of such service institutions, taking into account the number of sites and children served, and such other factors as the Secretary determines appropriate to further the goals of efficient and effective administration of the program.

"(C) The Secretary shall report the results of such studies to Congress not later than December 1, 1977.

"(c) Payments shall be made to service institutions only for meals served during the months of May through September, except in the case of service institutions that operate food service programs for children on school

vacation at any time under a continuous school calendar.

"(d) Not later than April 15, May 15, and July 1 of each year, the Secretary shall forward to each State a letter of credit (advance program payment) that shall be available to each State for the payment of meals to be served in the month for which the letter of credit is issued. The amount of the advance program payment shall be an amount which the State demonstrates, to the satisfaction of the Secretary, to be necessary for advance program payments to service institutions in accordance with subsection (e) of this section. The Secretary shall also forward such advance program payments, by the first day of the month prior to the month in which the program will be conducted, to States that operate the program in months other than May through September. The Secretary shall forward any remaining payments due pursuant to subsection (b) of this section not later than sixty days following receipt of valid claims therefor.

"(e) (1) Not later than June 1, July 15, and August 15 of each year, or, in the case of service institutions that operate under a continuous school calendar, the first day of each month of operation, the State shall forward advance program payments to each service institution: *Provided*, That (A) the State shall not release the second month's advance program payment to any service institution that has not certified that it has held training sessions for its own personnel and the site personnel with regard to program duties and responsibilities, and (B) no advance program payment may be made for any month in which the service institution will operate under the program for less than ten days.

"(2) The amount of the advance program payment for any month in the case of any service institution shall be an amount equal to (A) the total program payment for meals served by such service institution in the same calendar month of the preceding calendar year, (B) 50 percent of the amount established by the State to be needed by such service institution for meals if such service institution contracts with a food service management company, or (C) 65 percent of the amount established by the State to be needed by such service institution for meals if such service institution prepares its own meals, whichever amount is greatest: *Provided*, That the advance program payment may not exceed the total amount estimated by the State to be needed by such service institution for meals to be served in the month for which such advance program payment is made or $40,000, whichever is less, except that a State may make a larger advance program payment to such service institution where the State determines that such larger payment is necessary for the operation of the program by such service institution and sufficient administrative and management capability to justify a larger payment is demonstrated. The State shall forward any remaining payment due a service institution not later than seventy-five days following receipt of valid claims. If the State has reason to believe that a service institution will not be able to submit a valid claim for reinbursement covering the period for which an advance program payment has been made, the subsequent month's advance program payment shall be withheld until such time as the State has received a valid claim. Program payments advanced to service institutions that are not subsequently deducted from a valid claim for reimbursement shall be repaid upon demand by the State. Any prior payment that is under dispute may be subtracted from an advance program payment.

"(f) Service institutions receiving funds under this section shall serve meals consisting of a combination of foods and meeting minimum nutritional standards prescribed by the Secretary on the basis of tested nutritional research. Such meals shall be served without cost to children attending service institutions approved for operation under this section, except that, in the case of camps, charges may be made for meals served to children other than those who meet the eligibility requirements for free or reduced price meals in accordance with subsection (a) (5) of this section. To assure meal quality, States shall, with the assistance of the Secretary, prescribe model meal specifications and model food quality standards, and ensure that all service institutions contracting for the preparation of meals with food service management companies include in their contracts menu cycles, local food safety standards, and food quality standards approved by the State. Such contracts shall require (A) periodic inspections, by an independent agency or the local health department for the locality in which the meals are served, of meals prepared in accordance with the contract in order to determine bacteria levels present in such meals, and (B) that bacteria levels conform to the standards which are applied by the local health authority for that locality with respect to the levels of bacteria that may be present in meals served by other establishments in that locality. Such inspections and any testing resulting therefrom shall be in accordance with the practices employed by such local health authority.

"(g) The Secretary shall publish proposed regulations relating to the implementation of the program by November 1 of each fiscal year, final regulations by January 1 of each fiscal year, and guidelines, applications, and handbooks by February 1 of each fiscal year: *Provided*, That for fiscal year 1978, those portions of the regulations relating to payment rates for both food service operations and administrative costs need not be published until December 1 and February 1, respectively. In order to improve program planning, the Secretary may provide that service institutions be paid as startup costs not to exceed 20 percent of the administrative funds provided for in the administrative budget approved by the State under subsection (b) (3) of this section. Any payments made for startup costs shall be subtracted from amounts otherwise payable for administrative costs subsequently made to service institutions under subsection (b) (3) of this section.

"(h) Each service institution shall, insofar as practicable, use in its food service under the program foods designated from time to time by the Secretary as being in abundance. The Secretary is authorized to donate to States, for distribution to service institutions, food available under section 416 of the Agricultural Act of 1949 (7 U.S.C. 1431), or purchased under section 32 of the Act of August 24, 1935 (7 U.S.C. 612c) or section 709 of the Food and Agriculture Act of 1965 (7 U.S.C. 1446a–1). Donated foods may be distributed only to service institutions that can use commodities efficiently and effectively, as determined by the Secretary.

"(i) If any State (1) is unable for any reason to disburse the funds otherwise payable to it under this section, or (2) does not operate the program in accordance with the requirements of this section, the Secretary shall assume authority for administration of the program in such State, and shall disburse the funds directly to service institutions in the State for the same purposes and subject to the same conditions as are required of a State disbursing funds made available under this section. In cases described in clause (1) of the preceding sentence, the State shall notify the Secretary, not later than January 1 of each fiscal year in which the program is operated, of its intention not to administer the program.

"(j) Expenditures of funds from State and local sources for the maintenance of food programs for children shall not be diminished as a result of funds received under this section.

"(k) (1) The Secretary shall pay to each State for its administrative costs incurred under this section in any fiscal year an amount equal to (A) 20 percent of the first $50,000 in funds distributed to that State for the program in the preceding fiscal year; (B) 10 percent of the next $50,000 in funds distributed to that State for the program in the preceding fiscal year; (C) 5 percent of the next $100,000 in funds distributed to that State for the program in the preceding fiscal year; and (D) 2 percent of any remaining funds distributed to that State for the program in the preceding fiscal year: *Provided*, That such amounts may be adjusted by the Secretary to reflect changes in the size of that State's program since the preceding fiscal year.

"(2) The Secretary shall establish standards and effective dates for the proper, efficient, and effective administration of the program by the State. If the Secretary finds that the State has failed without good cause to meet any of the Secretary's standards or has failed without good cause to carry out the approved State management and administration plan under subsection (n) of this section, the Secretary may withhold from the State such funds authorized under this subsection as the Secretary determines to be appropriate.

"(3) To provide for adequate nutritional and food quality monitoring, and to further the implementation of the program, an additional amount, not to exceed the lesser of actual costs or 1 percent of program funds, shall be made available by the Secretary to States to pay for State or local health department inspections, and to reinspect facilities and deliveries to test meal quality.

"(l) (1) Service institutions may contract on a competitive basis only with food service management companies registered with the State in which they operate for the furnishing of meals or management of the entire food service under the program, except that a food service management company entering into a contract with a service institution under this section may not subcontract with a single company for the total meal, with or without milk, or for the assembly of the meal. The Secretary shall prescribe additional conditions and limitations governing assignment of all or any part of a contract entered into by a food service management company under this section. Any food service management company shall, in its bid, provide the service institution information as to its meal capacity. The State shall, upon award of any bid, review the company's registration to calculate how many remaining meals the food service management company is equipped to prepare.

"(2) Each State shall provide for the registration of food service management companies. For the purposes of this section, registration shall include, at a minimum—

"(A) certification that the company meets applicable State and local health, safety, and sanitation standards;

"(B) disclosure of past and present company owners, officers, and directors, and their relationship, if any, to any service institution or food service management company that received program funds in any prior fiscal year;

"(C) records of contract terminations or disallowances, and health, safety, and sanitary code violations, in regard to program operations in prior fiscal years; and

"(D) the addresses of the company's food preparation and distribution sites.

No food service management company may be registered if the State determines that such company (i) lacks the administrative and financial capability to perform under the program, or (ii) has been seriously deficient in its participation in the program in prior fiscal years.

"(3) In order to ensure that only qualified food service management companies contract for services in all States, the Secretary shall maintain a record of all registered food service management companies and their program record for the purpose of making such information available to the States.

"(4) In accordance with regulations issued by the Secretary, positive efforts shall be made by service institutions to use small businesses and minority-owned businesses as sources of supplies and services. Such efforts shall afford those sources the maximum feasible opportunity to compete for contracts using program funds.

"(5) Each State, with the assistance of the Secretary, shall establish a standard form of contract for use by service institutions and food service management companies. The Secretary shall prescribe requirements governing bid and contract procedures for acquisition of the services of food service management companies, including, but not limited to, bonding requirements (which may provide exemptions applicable to contracts of $100,000 or less), procedures for review of contracts by States, and safeguards to prevent collusive bidding activities between service institutions and food service management companies.

"(m) States and service institutions participating in programs under this section shall keep such accounts and records as may be necessary to enable the Secretary to determine whether there has been compliance with this section and the regulations issued hereunder. Such accounts and records shall at all times be available for inspection and audit by representatives of the Secretary and shall be preserved for such period of time, not in excess of five years, as the Secretary determines necessary.

"(n) Each State desiring to participate in the program shall notify the Secretary by January 1 of each year of its intent to administer the program and shall submit for approval by February 15 a management and administration plan for the program for the fiscal year, which shall include, but not be limited to, (1) the State's administrative budget for the fiscal year, and the State's plans to comply with any standards prescribed by the Secretary under subsection (k) of this section; (2) the State's plans for use of program funds and funds from within the State to the maximum extent practicable to reach needy children, including the State's methods for assessing need, and its plans and schedule for informing service institutions of the availability of the program; (3) the State's best estimate of the number and character of service institutions and sites to be approved, and of meals to be served and children to participate for the fiscal year, and a description of the estimating methods used; (4) the State's plans and schedule for providing technical assistance and training eligible service institutions; (5) the State's schedule for application by service institutions; (6) the actions to be taken to maximize the use of meals prepared by service institutions and the use of school food service facilities; (7) the State's plans for monitoring and inspecting service institutions, feeding sites, and food service management companies and for ensuring that such companies do not enter into contracts for more meals than they can provide effectively and efficiently; (8) the State's plan and schedule for registering food service management companies; (9) the State's plan for timely and effective action against program violators; (10) the State's plan for determining the amounts of program payments to service institutions and for disbursing such payments; (11) the State's plan for ensuring fiscal integrity by auditing service institutions not subject to auditing requirements prescribed by the Secretary; and (12) the State's procedure for granting a hearing and prompt determination to any service institution wishing to appeal a State ruling denying the service institution's application for program participation or for program reimbursement.

"(o)(1) Whoever, in connection with any application, procurement, recordkeeping entry, claim for reimbursement, or other document or statement made in connection with the program, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious, or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious, or fraudulent statement or entry, or whoever, in connection with the program, knowingly makes an opportunity for any person to defraud the United States, or does or omits to do any act with intent to enable any person to defraud the United States, shall be fined not more than $10,000 or imprisoned not more than five years, or both.

"(2) Whoever being a partner, officer, director, or managing agent connected in any capacity with any partnership, association, corporation, business, or organization, either public or private, that receives benefits under the program, knowingly or willfully embezzles, misapplies, steals, or obtains by fraud, false statement, or forgery, any benefits provided by this section or any money, funds, assets, or property derived from benefits provided by this section, shall be fined not more than $10,000 or imprisoned for not more than five years, or both (but, if the benefits, money, funds, assets, or property involved is not over $200, then the penalty shall be a fine of not more than $1,000 or imprisonment for not more than one year, or both).

"(3) If two or more persons conspire or collude to accomplish any act made unlawful under this subsection, and one or more of such persons do any act to effect the object of the conspiracy or collusion, each shall be fined not more than $10,000 or imprisoned for not more than five years, or both.

"(p) For the fiscal years beginning October 1, 1977, and ending September 30, 1980, there are hereby authorized to be appropriated such sums as are necessary to carry out the purposes of this section.".

CONFORMING AMENDMENT

SEC. 3. The National School Lunch Act and the Child Nutrition Act of 1966 are each amended by striking out "nonfood assistance" each time such phrase appears in such Acts and by inserting in lieu thereof "food service equipment". The heading of section 5 of the National School Lunch Act is amended to read "Food Service Equipment Assistance", and the heading of section 5 of the Child Nutrition Act of 1966 is amended to read "Food Service Equipment Assistance".

FOOD SERVICE EQUIPMENT ASSISTANCE

SEC. 4. Section 5 of the Child Nutrition Act of 1966 is amended by—

(1) striking out the last sentence of subsection (b) and inserting in lieu thereof the following: "Payments to any State of funds apportioned under the provisions of this subsection for any fiscal year shall be made upon condition that at least one-fourth of the cost of equipment financed under this subsection shall be borne by funds from sources within the State, except that such condition shall not apply with respect to funds used under this section to assist schools that are especially needy, as determined by criteria to be established by each State and approved by the Secretary. States shall apportion their share of funds under this subsection by giving priority to schools without a food service program and schools without the facilities to prepare and cook hot meals at the schools (including schools having equipment that is so antiquated or impaired as to endanger the continuation of an adequate food service program or the ability to prepare and cook hot meals) or at a kitchen that serves the schools and that is operated by the local school district or by a nonprofit private school or the authority that is responsible for the administration of one or more nonprofit private schools. After making funds available to such schools, the State shall make the remaining funds available to schools with a food service program and with the facilities to prepare and cook hot meals at the schools or at a kitchen that serves the schools and that is operated by the local school district or by a nonprofit private school or the authority that is responsible for the administration of one or more nonprofit private schools, for the purpose of purchasing needed replacement equipment.";

(2) amending subsection (e) to read as follows:

"(e) For the fiscal years ending September 30, 1978, September 30, 1979, and September 30, 1980, 33⅓ percent of the funds appropriated for the purposes of this section shall be reserved to the Secretary to assist schools without a food service program and schools without the facilities to prepare and cook hot meals or receive hot meals. The Secretary shall apportion the funds so reserved among the States on the basis of the ratio of the number of children in each State enrolled in schools without a food service program and in schools without the facilities to prepare and cook hot meals or receive hot meals to the number of children in all States enrolled in schools without a food service program and in schools without the facilities to prepare and cook hot meals or receive hot meals. In those States in which the Secretary administers the food service equipment assistance program in nonprofit private schools, the Secretary shall withhold from the funds apportioned to any such State under this subsection an amount which bears the same ratio to such funds as the number of children enrolled in nonprofit private schools without a food service program or without the facilities to prepare and cook hot meals or receive hot meals in such State bears to the total number of children enrolled in all schools without a food service program or without the facilities to prepare and cook hot meals or receive hot meals in such State. The funds so reserved, apportioned, and withheld shall be used by the State, or the Secretary in the case of nonprofit private schools, only to assist schools without a food service program and schools without the facilities to prepare and cook hot meals or receive hot meals. If any State cannot use all the funds apportioned to it under the provisions of this subsection, the Secretary shall make further apportionment to the remaining States for use only in assisting schools without a food service program and schools without the facilities to prepare and cook hot meals or receive hot meals. If after such further apportionment, any funds received under this subsection remain unused, the Secretary shall immediately apportion such funds among the States in accordance with the provisions of subsection (b) of this section. Payment to any State of funds under the provisions of this subsection shall be made upon the condition that at least one-fourth of the cost of the equipment financed shall be borne by funds from sources within the State, except that such condition shall not apply with respect to funds used under this subsection to assist schools that are especially needy, as determined by criteria established by each State and approved by the Secretary.";

(3) adding at the end thereof a new subsection (f) to read as follows:

"(f)(1) Funds authorized for the purposes of this section shall be used only for facilities that enable schools, or local public or private nonprofit institutions under the conditions prescribed in paragraph (2) of this subsection, to prepare and cook hot meals or receive hot meals at the school or institution unless the school can demonstrate to the

satisfaction of the State (or, in the case of nonprofit private schools in States where the Secretary administers the food service equipment program in such schools, to the satisfaction of the secretary) that an alternative method of meal preparation is necessary for the introduction or continued existence of the school lunch or breakfast program in such school or to improve the consumption of food or the participation of eligible children in the program.

"(2) If a school authorized to receive funds under this section cannot establish a food service program of hot meals prepared and cooked by the school, or received by the school, and the school enters into an agreement with a public or private nonprofit institution to provide the school lunch or breakfast program for children attending the school, the funds provided under this section may be used for food service facilities to be located at such institution, if (A) the school retains legal title to such facilities and, (B) in the case of funds made available under subsection (e) of this section, the institution would otherwise be without such facilities."; and

(4) striking out the comma after "as amended" in subsection (a), inserting a period in lieu thereof, and striking out the remainder of the sentence.

COMMODITY DISTRIBUTION PROGRAM

SEC. 5. Section 6(b) of the National School Lunch Act is amended to read as follows:

"(b) Not later than May 15 of each school year, the Secretary shall make an estimate of the value of agricultural commodities and other foods that will be delivered during that school year to States for the school lunch program. If such estimated value is less than the total level of assistance authorized under subsection (e) of this section, the Secretary shall pay to each State educational agency, not later than June 15 of that school year, an amount of funds that is equal to the difference between the value of such deliveries as then programed for such State and the total level of assistance authorized under subsection (e) of this section. In any State in which the Secretary directly administers the school lunch program in any of the schools of the State, the Secretary shall withhold from the funds to be paid to such State under the provisions of this subsection an amount that bears the same ratio to the total of such payment as the number of lunches served in schools in which the school lunch program is directly administered by the Secretary during that school year bears to the total of such lunches served under the school lunch program in all the schools in such State in such school year. Each State educational agency, and the Secretary in the case of private schools in which the Secretary directly administers the school lunch program, shall promptly and equitably disburse such funds to schools participating in the school lunch program, and such disbursements shall be used by such schools to purchase United States agricultural commodities and other foods for their food service program. Such foods shall be limited to the requirements for lunches and breakfasts for children as provided for in regulations issued by the Secretary.".

PURCHASE OF FOODS FOR THE COMMODITY DISTRIBUTION PROGRAM

SEC. 6. Section 14 of the National School Lunch Act is amended by—

(1) striking out "September 30, 1977" in subsection (a) and inserting in lieu thereof "September 30, 1982"; and

(2) adding at the end thereof new subsections (c), (d), and (e) as follows:

"(c) The Secretary may use funds appropriated from the general fund of the Treasury to purchase agricultural commodities and their products of the types customarily purchased for donation under section 707(a)(4) of the Older Americans Act of 1965 (42 U.S.C. 3045f(a)(4)) or for cash payments in lieu of such donations under section 707(d)(1) of such Act (42 U.S.C. 3045f(d)(1)). There are hereby authorized to be appropriated such sums as are necessary to carry out the purposes of this subsection.

"(d) In providing assistance under this Act and the Child Nutrition Act of 1966 for school lunch and breakfast programs, the Secretary shall establish procedures which will—

"(1) ensure that the views of local school districts and private nonprofit schools with respect to the type of commodity assistance needed in schools are fully and accurately reflected in reports to the Secretary by the State with respect to State commodity preferences and that such views are considered by the Secretary in the purchase and distribution of commodities and by the States in the allocation of such commodities among schools within the States;

"(2) solicit the views of States with respect to the acceptability of commodities;

"(3) ensure that the timing of commodity deliveries to States is consistent with State school year calendars and that such deliveries occur with sufficient advance notice;

"(4) provide for systematic review of the costs and benefits of providing commodities of the kind and quantity that are suitable to the needs of local school districts and private nonprofit schools; and

"(5) make available technical assistance on the use of commodities available under this Act and the Child Nutrition Act of 1966. Within eighteen months after the date of the enactment of this subsection, the Secretary shall report to Congress on the impact of procedures established under this subsection, including the nutritional, economic, and administrative benefits of such procedures. In purchasing commodities for programs carried out under this Act and the Child Nutrition Act of 1966, the Secretary shall establish procedures to ensure that contracts for the purchase of such commodities shall not be entered into unless the previous history and current patterns of the contracting party with respect to compliance with applicable meat inspection laws and with other appropriate standards relating to the wholesomeness of food for human consumption are taken into account.

"(e) Each State educational agency that receives food assistance payments under this section for any school year shall establish for such year an advisory council, which shall be composed of representatives of schools in the State that participate in the school lunch program. The council shall advise such State agency with respect to the needs of such schools relating to the manner of selection and distribution of commodity assistance for such program.".

REFUSAL OF COMMODITIES

SEC. 7. Section 6(a) of the National School Lunch Act is amended by inserting immediately after the first sentence the following: "Any school participating in food service programs under this Act may refuse to accept delivery of not more than 20 percent of the total value of agricultural commodities and other foods tendered to it in any school year; and if a school so refuses, that school may receive, in lieu of the refused commodities, other commodities to the extent that other commodities are available to the State during that year.".

ACCEPTANCE OF OFFERED FOODS

SEC. 8. The third sentence of section 9(a) of the National School Lunch Act is amended to read as follows: "Students in senior high schools that participate in the school lunch program under this Act (and, when approved by the local school district or nonprofit private schools, students in any other grade level in any junior high school or middle school) shall not be required to accept offered foods they do not intend to consume, and any such failure to accept offered foods shall not affect the full charge to the student for a lunch meeting the requirements of this subsection or the amount of payments made under this Act to any such school for such lunch.".

SPECIAL ASSISTANCE

SEC. 9. Section 11(a) of the National School Lunch Act is amended by inserting immediately after the first sentence the following new sentences: "In the case of any school which determines that at least 80 percent of the children in attendance during a school year (hereinafter in this sentence referred to as the 'first school year') are eligible for free lunches or reduced-price lunches, special-assistance payments shall be paid to the State educational agency with respect to that school, if that school so requests for the school year following the first school year, on the basis of the number of free lunches or reduced-price lunches, as the case may be, that are served by that school during the school year for which the request is made, to those children who were determined to be so eligible in the first school year and the number of free lunches and reduced-price lunches served during that year to other children determined for that year to be eligible for such lunches. In the case of any school that (1) elects to serve all children in that school free lunches under the school lunch program during any period of three successive school years and (2) pays, from sources other than Federal funds, for the costs of serving such lunches which are in excess of the value of assistance received under this Act with respect to the number of lunches served during that period, special-assistance payments shall be paid to the State educational agency with respect to that school during that period on the basis of the number of lunches determined under the succeeding sentence. For purposes of making special-assistance payments in accordance with the preceding sentence, the number of lunches served by a school to children eligible for free lunches and reduced-price lunches during each school year of the three-school-year period shall be deemed to be the number of lunches served by that school to children eligible for free lunches and reduced-price lunches during the first school year of such period, unless that school elects, for purposes of computing the amount of such payments, to determine on a more frequent basis the number of children eligible for free and reduced-price lunches who are served lunches during such period.".

PILOT PROJECTS

SEC. 10. The National School Lunch Act is amended by—

(1) inserting in section 6(a)(3) immediately after "participants in these programs" the following: ", for pilot projects and the cash-in-lieu of commodities study required to be carried out under section 20 of this Act,"; and

(2) adding at the end thereof a new section 20 as follows:

"PILOT PROJECTS

"SEC. 20. (a) The Secretary shall conduct pilot projects with respect to local school districts or other appropriate units, or groups of program participants, for the purpose of determining whether there may be more efficient, healthful, economical, and reliable methods of operating school lunch, school breakfast, and summer feeding programs under this Act and the Child Nutrition Act of 1966, and methods for operating such programs that will result in improved delivery of benefits thereunder in accordance with the purposes of such Acts. Such projects shall, notwithstanding any other provision of law, include (1) not more than ten projects providing participating schools or other institutions the option of receiving all or part

cash assistance in lieu of commodities under such Acts for such nutrition programs operated in such schools or institutions, (2) projects designed to streamline or reduce reporting requirements by local school districts, and (3) projects using the United States Department of Agriculture Extension Service to aid in nutrition training and education in schools and other institutions.

"(b) The Secretary shall conduct a study to analyze the impact and effect of cash payments in lieu of commodities. The study shall be limited to a comparison between a State that phased out its commodity distribution facilities prior to June 30, 1974, and elected to receive cash payments in lieu of donated foods, and a State not eligible for cash payments in lieu of donated foods. Such study shall include an assessment of the administrative feasibility and nutritional impact of cash payments in lieu of donated foods, the cost savings, if any, that may be effected thereby at the Federal, State, and local levels, any additional costs that may be placed on programs and participating students, the impact on Federal programs designed to provide adequate income to farmers, the impact on the quality of food served, and the impact on plate waste in school lunch and breakfast programs.

"(c) The Secretary shall report to Congress, not later than eighteen months after the date of the enactment of this section, on the results of the pilot projects and study conducted under this section. In connection with such pilot projects, such report shall include an assessment of the methods employed in such projects for operating school lunch, school breakfast, and summer feeding programs, in terms of the following factors—

"(1) the administrative feasibility and nutritional impact;

"(2) the cost savings that may be effected at Federal, State, and local levels;

"(3) the impact on Federal programs designed to provide adequate income to farmers;

"(4) the impact on the quality of food served; and

"(5) the impact on plate waste.".

SPECIAL MILK PROGRAM

SEC. 11. The fifth sentence of section 3 of the Child Nutrition Act of 1966 is amended to read as follows: "Children who qualify for free lunches under guidelines set forth by the Secretary shall also be eligible for free milk, when milk is made available at times other than the periods of meal service in outlets that operate a food service program under sections 4 and 17 of the National School Lunch Act and section 4 of this Act.".

SCHOOL BREAKFAST PROGRAM

SEC. 12. Section 4 of the Child Nutrition Act of 1966 is amended by—

(1) inserting "(1)" after the subsection designation for subsection (b);

(2) striking out the last sentence in subsection (b); and

(3) adding at the end of subsection (b) a new paragraph (2) as follows:

"(2)(A) The Secretary shall make additional payments for breakfasts served to children qualifying for a free or reduced-price meal at schools that are in severe need.

"(B) The maximum payment for each such free breakfast shall be the higher of—

"(i) the national average payment established by the Secretary for free breakfasts plus 10 cents, or

"(ii) 45 cents, which shall be adjusted on a semiannual basis each July 1 and January 1 to the nearest one-fourth cent in accordance with changes in the series for food away from home of the Consumer Price Index published by the Bureau of Labor Statistics of the Department of Labor for the most recent six-month period for which such data are available, except that the initial such adjustment shall be made on January 1, 1978, and shall reflect the change in the series of food away from home during the period November 1, 1976, to October 31, 1977.

"(C) The maximum payment for each such reduced-price breakfast shall be five cents less than the maximum payment for each free breakfast as determined under clause (B) of this paragraph."; and

(4) amending subsection (d) to read as follows:

"(d) Each State educational agency shall establish eligibility standards for providing additional assistance to schools in severe need where the rate per meal established by the Secretary is insufficient to carry out an effective breakfast program in such a school. Such eligibility standards shall be submitted to the Secretary for approval and included in the State plan of child nutrition operations required by section 11(e)(1) of the National School Lunch Act. Pursuant to those State eligibility standards, a school, upon the submission of appropriate documentation about the need circumstances in that school and the school's eligibility for additional assistance, shall be entitled to receive 100 percent of the operating costs of the breakfast program, including the costs of obtaining, preparing, and serving food, or the meal reimbursement rate specified in paragraph (2) of section 4(b) of this Act, whichever is less.".

REDUCTION OF PAPERWORK

SEC. 13. The National School Lunch Act is amended by adding at the end thereof a new section 21 as follows:

"REDUCTION OF PAPERWORK

"SEC. 21. In carrying out functions under this Act and the Child Nutrition Act of 1966, the Secretary shall reduce, to the maximum extent possible, the paperwork required of State and local educational agencies, schools, and other agencies participating in child nutrition programs under such Acts. The Secretary shall report to Congress not later than one year after the date of enactment of this section on the extent to which a reduction in such paperwork has occurred.".

STATE ADMINISTRATIVE EXPENSES

SEC. 14 Section 7 of the Child Nutrition Act of 1966 is amended to read as follows:

"SEC. 7. (a)(1) The Secretary shall pay to each State for its administrative costs incurred pursuant to the administration of this Act and the National School Lunch Act for the fiscal year ending September 30, 1978, an amount equal to 1 percent, and for each of the fiscal years ending September 30, 1979, and September 30, 1980, an amount not less than 1 percent and not greater than 1½ percent of the funds used by each State under section 4, 11, and 17 of the National School Lunch Act and under sections 3, 4, and 5 of this Act during the second fiscal year preceding the fiscal year for which the amounts are to be paid: *Provided*, That in no case shall the payment to any State under this section be less than $75,000 per year nor shall any State receive less than the amount allocated to it for fiscal year 1977. The percentages specified in the foregoing sentence shall apply only to the first $100,000,000 in funds used under the prescribed sections of law. For those funds used that exceed $100,000,000, the Secretary shall pay an amount equal to 1 percent of such funds.

"(2) The Secretary shall make available to States administering the child care food program, for the purpose of conducting audits of participating child care institutions, an amount up to 2 percent of the funds used by each State under section 17 of the National School Lunch Act during the second fiscal year preceding the fiscal year for which the amount is to be paid.

"(b) The Secretary, in cooperation with the several States, shall develop State staffing standards for the administration by each State of sections 4, 11, and 17 of the National School Lunch Act, and sections 3, 4, and 5 of this Act, that will ensure sufficient staff for the planning and administration of programs covered by State administrative expenses.

"(c) Funds paid to a State under subsection (a) of this section may be used to pay salaries, including employee benefits and travel expenses, for administrative and supervisory personnel; for support services; for office equipment; and for staff development.

"(d) If any State agency agrees to assume responsibility for the administration of food service programs in nonprofit private schools or child care institutions that were previously administered by the Secretary, an appropriate adjustment shall be made in the administrative funds paid under this section to the State not later than the succeeding fiscal year.

"(e) Notwithstanding any other provision of law, funds available to each State under this section for fiscal year 1978 that are not obligated or expended in that fiscal year shall remain available for obligation and expenditure by that State in fiscal year 1979. For fiscal year 1979, and the succeeding fiscal year, the Secretary shall establish a date by which each State shall submit to the Secretary a plan for the disbursement of funds provided under this section for each such year, and the Secretary shall reallocate any unused funds, as evidenced by such plans, to other States as the Secretary deems appropriate.

"(f) The State may use a portion of the funds available under this section to assist in the administration of the commodity distribution program.

"(g) Each State shall submit to the Secretary for approval by October 1 of each year an annual plan for the use of State administrative expense funds, including a staff formula for State personnel, system level supervisory and operating personnel, and school level personnel.

"(h) Payments of funds under this section shall be made only to States that agree to maintain a level of funding out of State revenues, for administrative costs in connection with programs under this Act (except section 17 of this Act) and the National School Lunch Act (except section 13 of that Act), not less than the amount expended or obligated in fiscal year 1977.

"(i) For the fiscal years beginning October 1, 1977, and ending September 30, 1980, there are hereby authorized to be appropriated such sums as may be necessary for the purposes of this section.".

NUTRITION EDUCATION AND TRAINING

SEC. 15. The Child Nutrition Act of 1966 is amended by adding at the end thereof a new section 19 as follows:

"NUTRITION EDUCATION AND TRAINING

"SEC. 19. (a) Congress finds that—

"(1) the proper nutrition of the Nation's children is a matter of highest priority;

"(2) the lack of understanding of the principles of good nutrition and their relationship to health can contribute to a child's rejection of highly nutritious foods and consequent plate waste in school food service operations;

"(3) many school food service personnel have not had adequate training in food service management skills and principles, and many teachers and school food service operators have not had adequate training in the fundamentals of nutrition or how to convey this information so as to motivate children to practice sound eating habits;

"(4) parents exert a significant influence on children in the development of nutritional habits and lack of nutritional knowledge on the part of parents can have detrimental effects on children's nutritional development; and

"(5) there is a need to create opportunities for children to learn about the importance

of the principles of good nutrition in their daily lives and how these principles are applied in the school cafeteria.

"PURPOSE

"(b) It is the purpose of this section to encourage effective dissemination of scientifically valid information to children participating or eligible to participate in the school lunch and related child nutrition programs by establishing a system of grants to State educational agencies for the development of comprehensive nutrition information and education programs. Such nutrition education programs shall fully use as a learning laboratory the school lunch and child nutrition programs.

"DEFINITIONS

"(e) For purposes of this section, the term 'nutrition information and education program' means a multidisciplinary program by which scientifically valid information about foods and nutrients is imparted in a manner that individuals receiving such information will understand the principles of nutrition and seek to maximize their well-being through food consumption practices. Nutrition education programs shall include, but not be limited to, (A) instructing students with regard to the nutritional value of foods and the relationship between food and human health; (B) training school food service personnel in the principles and practices of food service management; (C) instructing teachers in sound principles of nutrition education; and (D) developing and using classroom materials and curricula.

"NUTRITION INFORMATION AND TRAINING

"(d)(1) The Secretary is authorized to formulate and carry out a nutrition information and education program, through a system of grants to State educational agencies, to provide for (A) the nutritional training of educational and food service personnel, (B) the food service management training of school food service personnel, and (C) the conduct of nutrition education activities in schools and child care institutions.

"(2) The program is to be coordinated at the State level with other nutrition activities conducted by education, health, and State Cooperative Extension Service agencies. In formulating the program, the Secretary and the State may solicit the advice and recommendations of the National Advisory Council on Child Nutrition; State educational agencies; the Department of Health, Education, and Welfare; and other interested groups and individuals concerned with improvement of child nutrition.

"(3) If a State educational agency is conducting or applying to conduct a health education program which includes a school-related nutrition education component as defined by the Secretary, and that health education program is eligible for funds under programs administered by the Department of Health, Education, and Welfare, the Secretary may make funds authorized in this section available to the Department of Health, Education, and Welfare to fund the nutrition education component of the State program without requiring an additional grant application.

"(4) The Secretary, in carrying out the provisions of this subsection, shall make grants to State educational agencies who, in turn, may contract with land-grant colleges eligible to receive funds under the Act of July 2, 1862 (12 Stat. 503, as amended; 7 U.S.C. 301–305, 307, and 308), or the Act of August 30, 1890 (26 Stat. 417, as amended; 7 U.S.C. 321–326 and 328), including the Tuskegee Institute, other institutions of higher education, and nonprofit organizations and agencies, for the training of educational and school food service personnel with respect to providing nutrition education programs in schools and the training of school food service personnel in school food service management. Such grants may be used to develop and conduct training programs for early childhood, elementary, and secondary educational personnel and food service personnel with respect to the relationship between food, nutrition, and health; educational methods and techniques, and issues relating to nutrition education; and principles and skills of food service management for cafeteria personnel.

"(5) The State, in carrying out the provisions of this subsection, may contract with State and local educational agencies, land-grant colleges eligible to receive funds under the Act of July 2, 1862 (12 Stat. 503, as amended; 7 U.S.C. 301–305, 307, and 308), or the Act of August 30, 1890 (26 Stat. 417, as amended; 7 U.S.C. 321–326 and 328), including the Tuskegee Institute, other institutions of higher education, and other public or private nonprofit educational or research agencies, institutions, or organizations to pay the cost of pilot demonstration projects in elementary and secondary schools with respect to nutrition education. Such projects may include, but are not limited to, projects for the development, demonstration, testing, and evaluation of curricula for use in early childhood, elementary, and secondary education programs.

"(6) Notwithstanding any other provision of this section, if, in any State, the State educational agency is prohibited by law from administering the program authorized by this section in nonprofit private schools and institutions, the Secretary may administer the program with respect to such schools and institutions.

"AGREEMENTS WITH STATE AGENCIES

"(e) The Secretary is authorized to enter into agreements with State educational agencies incorporating the provisions of this section, and issue such regulations as are necessary to implement this section.

"USE OF FUNDS

"(f)(1) The funds made available under this section may, under guidelines established by the Secretary, be used by State educational agencies for (A) employing a nutrition education specialist to coordinate the program, including travel and related personnel costs; (B) undertaking an assessment of the nutrition education needs of the State; (C) developing a State plan of operation and management for nutrition education; (D) applying for and carrying out planning and assessment grants; (E) pilot projects and related purposes; (F) the planning, development, and conduct of nutrition education programs and workshops for food service and educational personnel; (G) coordinating and promoting nutrition information and education activities in local school districts (incorporating, to the maximum extent practicable, as a learning laboratory, the child nutrition programs); (H) contracting with public and private nonprofit educational institutions for the conduct of nutrition education instruction and programs relating to the purposes of this section; and (I) related nutrition education purposes, including the preparation, testing, distribution, and evaluation of visual aids and other informational and educational materials.

"(2) Any State desiring to receive grants authorized by this section may, from the funds appropriated to carry out this section, receive a planning and assessment grant for the purposes of carrying out the responsibilities described in clauses (A), (B), (C), and (D) of paragraph (1) of this subsection. Any State receiving a planning and assessment grant, may, during the first year of participation, be advanced a portion of the funds necessary to carry out such responsibilities: *Provided*, That in order to receive additional funding, the State must carry out such responsibilities.

"(3) An amount not to exceed 15 percent of each State's grant may be used for up to 50 percent of the expenditures for overall administrative and supervisory purposes in connection with the program authorized under this section.

"(4) Nothing in this section shall prohibit State or local educational agencies from making available or distributing to adults nutrition education materials, resources, activities, or programs authorized under this section.

"ACCOUNTS, RECORDS, AND REPORTS

"(g)(1) State educational agencies participating in programs under this section shall keep such accounts and records as may be necessary to enable the Secretary to determine whether there has been compliance with this section and the regulations issued hereunder. Such accounts and records shall at all times be available for inspection and audit by representatives of the Secretary and shall be preserved for such period of time, not in excess of five years, as the Secretary determines to be necessary.

"(2) State educational agencies shall provide reports on expenditures of Federal funds, program participation, program costs, and related matters, in such form and at such times as the Secretary may prescribe.

"STATE COORDINATORS FOR NUTRITION; STATE PLAN

"(h)(1) In order to be eligible for assistance under this section, a State shall appoint a nutrition education specialist to serve as a State coordinator for school nutrition education. It shall be the responsibility of the State coordinator to make an assessment of the nutrition education needs in the State as provided in paragraph (2) of his subsection, prepare a State plan as provided in paragraph (3) of this subsection, and coordinate programs under this Act with all other nutrition education programs provided by the State with Federal or State funds.

"(2) Upon receipt of funds authorized by this section, the State coordinator shall prepare an itemized budget and assess the nutrition education needs of the State. Such assessment shall include, but not be limited to, the identification and location of all students in need of nutrition education. The assessment shall also identify State and local individual, group and institutional resources within the State for materials, facilities, staffs, and methods related to nutrition education.

"(3) Within nine months after the award of the planning and assessment grant, the State coordinator shall develop, prepare, and furnish the Secretary, for approval, a comprehensive plan for nutrition education within such State. The Secretary shall act on such plan not later than sixty days after it is received. Each such plan shall describe (A) the findings of the nutrition education needs assessment within the State; (B) provisions for coordinating the nutrition education program carried out with funds made available under this section with any related publicly supported programs being carried out within the State; (C) plans for soliciting the advice and recommendations of the National Advisory Council on Child Nutrition, the State educational agency, interested teachers, food nutrition professionals and paraprofessionals, school food service personnel, administrators, representatives from consumer groups, parents, and other individuals concerned with the improvement of child nutrition; (D) plans for reaching all students in the State with instruction in the nutritional value of foods and the relationships among food, nutrition, and health, for training food service personnel in the principles and skills of food service management, and for instructing teachers in sound principles of nutrition education; and (E) plans for using, on a priority basis, the resources of the land-grant colleges eligible to receive funds under the Act of July 2, 1862 (12 Stat. 503; 7 U.S.C. 301–305, 307, and

308), or the Act of August 30, 1890 (26 Stat. 417, as amended; 7 U.S.C. 321–326 and 328), including the Tuskegee Institute. To the maximum extent practicable, the State's performance under such plan shall be reviewed and evaluated by the Secretary on a regular basis, including the use of public hearings.

"APPROPRIATIONS AUTHORIZED

"(j)(1) For the fiscal years beginning October 1, 1977, and October 1, 1978, grants to the States for the conduct of nutrition education and information programs shall be based on a rate of 50 cents for each child enrolled in schools or in institutions within the State, except that no State shall receive an amount less than $75,000 per year.

"(2) For the fiscal year beginning October 1, 1979, there is hereby authorized to be appropriated for grants to each State for the conduct of nutrition education and information programs, an amount equal to the higher of (A) 50 cents for each child enrolled in schools or in institutions within each State, or (B) $75,000 for each State. Grants to each State from such appropriations shall be based on a rate of 50 cents for each child enrolled in schools or in institutions within such State, except that no State shall receive an amount less than $75,000 for that year. If funds appropriated for such year are insufficient to pay the amount to which each State is entitled under the preceding sentence, the amount of such grant shall be ratably reduced to the extent necessary so that the total of such amounts paid does not exceed the amount of appropriated funds. If additional funds become available for making such payments, such amounts shall be increased on the same basis as they were reduced.

"(3) Enrollment data used for purposes of this subsection shall be the latest available as certified by the Office of Education of the Department of Health, Education, and Welfare.".

NATIONAL ADVISORY COUNCIL ON CHILD NUTRITION

SEC. 16. Section 15 of the National School Lunch Act is amended by—

(1) striking out in the first sentence "fifteen" and inserting in lieu thereof "nineteen";

(2) inserting immediately after "classroom teacher," in the second sentence the following: "two members shall be parents of children in schools that participate in the school lunch program under this Act, two members shall be senior high school students who participate in the school lunch program under this Act,";

(3) amending subsection (b) to read as follows:

"(b) The fifteen members of the Council appointed from outside the Department of Agriculture shall be appointed for terms of two years, except that the appointments for 1978 shall be made as follows: Two replacements, one parent, and one senior high school student shall be appointed for terms of two years; and two replacements, one parent, and one senior high school student shall be appointed for terms of one year. Thereafter, all appointments shall be for a term of two years, except that a person appointed to fill an unexpired term shall serve only for the remainder of such term. Parents and senior high school students appointed to the Council shall be members of State or school district child nutrition councils or committees actively engaged in providing program advice and guidance to school officials administering the school lunch program. Such appointments shall be made in a manner to balance rural and urban representation between parents and students. Members appointed from the Department of Agriculture shall serve at the pleasure of the Secretary."; and

(4) striking out the period at the end of subsection (h) and inserting in lieu thereof the following: ": Provided, That members serving as parents, in addition to reimbursement for necessary travel and subsistence, shall, at the discretion of the Secretary, be compensated for other personal expenses related to participation on the Council, such as child care expenses and lost wages during scheduled Council meetings.".

REGULATIONS ON SALE OF COMPETITIVE FOODS

SEC. 17. Section 10 of the Child Nutrition Act of 1966 is amended by inserting "approved by the Secretary" after "competitive foods" in the second sentence.

NATIONAL ADVISORY COUNCIL ON THE SPECIAL SUPPLEMENTAL FOOD PROGRAM FOR WOMEN, INFANTS, AND CHILDREN

SEC. 18. Section 17(h)(8) of the Child Nutrition Act of 1966 is amended by striking out the period at the end thereof and inserting in lieu thereof the following: "Provided, That parent recipient members of the Council, in addition to reimbursement for necessary travel and subsistence, shall, at the discretion of the Secretary, be compensated for other personal expenses related to participation on the Council, such as child care expenses and lost wages during scheduled Council meetings.".

TECHNICAL AMENDMENTS TO THE NATIONAL SCHOOL LUNCH ACT

SEC. 19. Effective July 1, 1977, the National School Lunch Act is amended by—

(a) striking out "fiscal" the second and third time that word appears in section 6(e) of the Act and inserting in lieu thereof "school";

(b) amending section 7 of the Act as follows:

(1) by amending the first sentence to read as follows: "Funds appropriated to carry out section 4 or 5 during any fiscal year shall be available for payment to the States for disbursement by State educational agencies, in accordance with such agreements, not inconsistent with the provisions of this Act, as may be entered into by the Secretary and such State educational agencies, for the purpose of assisting schools of the States in supplying (1) agricultural commodities and other foods for consumption by children and (2) food service equipment assistance in furtherance of the school lunch program authorized under this Act.";

(2) by striking out "fiscal" the second time that word appears in the third sentence and inserting in lieu thereof "fiscal or school";

(3) by striking out "fiscal" in the fourth sentence and inserting in lieu thereof "fiscal or school";

(4) by amending the sixth sentence to read as follows: "For the school year beginning in 1976, State revenue (other than revenues derived from the program) appropriated or used specifically for program purposes (other than salaries and administrative expenses at the State, as distinguished from local, level) shall constitute at least 8 percent of the matching requirement for the preceding school year, or, at the discretion of the Secretary, fiscal year, and for each school year thereafter, at least 10 percent of the matching requirement for the preceding school year.";

(c) inserting at the end of section 12(d) of the Act a new paragraph (7) as follows:

"(7) 'School year' means the annual period determined in accordance with regulations issued by the Secretary."; and

(d) striking out "fiscal year" each time that phrase appears in the last sentence of section 17(e) of the Act and inserting in lieu thereof "school year".

TECHNICAL AMENDMENTS TO THE CHILD NUTRITION ACT OF 1966

SEC. 20. Effective July 1, 1977, the Child Nutrition Act of 1966 is amended by—

(1) striking out "fiscal" the second and third time that word appears in the sixth sentence of section 3 of the Act and inserting in lieu thereof "school";

(2) striking out "thereafter, beginning with the fiscal year ending June 30, 1976," in the sixth sentence of section 3 of the Act;

(3) striking out "fiscal" the first and second time that word appears in section 5(b) of the Act and inserting in lieu thereof "school";

(4) striking out "fiscal" each place that word appears in section 5(d) of the Act and inserting in lieu thereof "school";

(5) inserting at the end of section 15 of the Act the following new paragraph (e):

"(e) 'School year' means the annual period determined in accordance with regulations issued by the Secretary."; and

(6) striking out "by January 1 of each year (by December 1 in the case of fiscal year 1976)" in the second sentence of section 17(d) of the Act and inserting in lieu thereof "each year by not later than a date specified by the Secretary".

And the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate to the title of the bill and agree to the same.

CARL D. PERKINS,
WILLIAM D. FORD,
IKE ANDREWS,
MIKE BLOUIN,
PAUL SIMON,
LEO C. ZEFERETTI,
RON MOTTL,
AUSTIN J. MURPHY,
JOSEPH A. LE FANTE,
TED WEISS,
CEC HEFTEL,
BALTASAR CORRADA,
DALE E. KILDEE,
GEO. MILLER,
ALBERT H. QUIE,
JOHN BUCHANAN,
LARRY PRESSLER,
BILL GOODLING,
SHIRLEY N. PETTIS,
CARL PURSELL,
Managers on the Part of the House.

HERMAN E. TALMADGE,
GEORGE MCGOVERN,
HUBERT HUMPHREY,
DICK CLARK,
PATRICK J. LEAHY,
ROBERT DOLE,
HENRY BELLMON,
JESSE HELMS,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 1139) to amend the National School Lunch Act and the Child Nutrition Act of 1966, to revise and extend the summer food service program for children, to revise the nonfood assistance program, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment to the text of the bill struck out all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment which is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by

the conferees, and minor drafting and clarifying changes.

SHORT TITLE

The *House* bill provides that the bill may be cited as the "National School Lunch Act and Child Nutrition Amendments of 1977".

The *Senate* amendment provides that the bill may be cited as the "Child Nutrition Act of 1977".

The *Conference* substitute adopts the *House* provision.

SUMMER FOOD SERVICE PROGRAM FOR CHILDREN (SEC. 2)

(1) Definition of agency

The *House* bill uses the term "service institution" to define the local agency responsible for administering the summer program.

The *Senate* amendment uses the word "sponsor" to define the local agency responsible for administering the summer program (and, at times, in the text of the bill uses the word "institution").

The *Conference* substitute adopts the *House* provision.

(2) Eligible participants in summer food program

The *House* bill defines eligible children as (a) individuals who are 18 years of age or under and (b) individuals over 18 years of age who are mentally and physically handicapped and participating in a public school program for the mentally or physically handicapped.

The *Senate* amendment defines eligible children as individuals who are 20 years of age or under.

The *Conference* substitute adopts the *House* provision.

(3) Definition of State

The *House* bill defines "State" to include the Northern Mariana Islands.

The *Senate* amendment contains no comparable provision.

The *Conference* substitue adopts the *House* provision.

(4) Onsite meal preparation

The *Senate* amendment provides that from the annual appropriations for the summer program, $1.5 million will be used to assist sponsors (which offer federally subsidized food service year-round) with equipment to establish, maintain, and expand onsite meal preparation.

The *House* bill contains no comparable provision.

The *Conference* substitute deletes the *Senate* provision.

(5) Application by more than one eligible sponsor

The *House* bill authorizes the Secretary of Agriculture to establish priorities for approval when more than one eligible institution applies to serve the same area or children and designates the criteria—among others—the Secretary is to use.

The enumerated criteria are:

(A) whether the service institutions use local school food facilities for the preparation of meals;

(B) whether the service institutions prepare meals at their own facilities or operate only one site;

(C) whether the service institutions have demonstrated successful program performance in a prior year;

(D) whether the service institutions are public or nonprofit private schools with food service facilities;

(E) whether the service institutions plan to integrate the program with other Federal, State, or local employment programs; and

(F) whether the service institutions have demonstrated successful program performance in a prior year.

The *Senate* amendment establishes an order priority when more than one eligible sponsor applies to serve the same area that must be used by the States. The order of priority is:

(A) sponsors that have demonstrated successful program performance in a prior year;

(B) sponsors that prepare meals at their own facilities or that operate only one site;

(C) sponsors that use local school food facilities for the preparation of meals;

(D) other sponsors that have demonstrated ability for successful program operation; and

(E) sponsors that plan to integrate the program with other Federal, State or local employment programs.

The *Conference* substitute adopts the *Senate* provision with an amendment to include schools among the institutions to be given first preference in the order of priority. Service institutions that have demonstrated successful program performance are the other category receiving first preference.

(6) Rural areas

The *House* bill requires the Secretary and the States to actively seek eligible institutions located in rural areas and assist them in applying for participation in the summer program.

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision.

(7) Reimbursement for meals served by camps

The *House* bill limits reimbursement to camps to meals served to children eligible for free or reduced price meals.

The *Senate* amendment is the same as the *House* bill but applies specifically to residential camps.

The *Conference* substitute adopts the *House* provision.

(8) Multiple meal service

The *House* bill provides that service institutions other than camps may serve up to three meals a day, *only* if (a) the institution has the administrative capability and the food preparation and holding facilities to manage more than one meal a day, and (b) the service of different meals does not coincide or overlap.

The *Senate* amendment provides that sponsors other than residential camps and day camps may serve up to three meals a day.

The *Conference* substitute adopts the *House* provision. "Camps" means both residential camps and those nonresidential service institutions serving four or more meals per day.

(9) Secretary's study

The *House* bill requires the Secretary to conduct a study of the cost of food service operations. The Secretary may make such adjustments in the maximum reimbursement levels as he determines appropriate. The findings of this study (and a study of administrative costs) are to be reported to the President and Congress by February 1, 1978.

The *Senate* amendment requires the Secretary to conduct a study of the costs of food service operations. Consideration is to be given to whether different levels of reimbursement for such costs should be established for meals prepared by the sponsor and those prepared by a vendor and which, if any, costs incurred at a site should be considered as administrative costs. The study shall include an evaluation of meal quality as related to costs and a determination whether adjustments in maximum reimbursement levels for food service operation costs should be made. The findings of the study (and a study of administrative costs) are to be reported to Congress by December 1, 1977.

The *Conference* substitute adopts the *Senate* provision.

(10) Advance payments to States

The *Senate* amendment requires the Secretary to forward a letter of credit to the States not later than April 15, May 15, and July 1 of each year in an amount that the State demonstrates is necessary for advance payments to sponsors. The Secretary shall forward such advance payments to States that operate the summer program in months other than May through September by the first day of the month prior to the month in which the program will be conducted. The Secretary is further required to complete the payment to States of any summer program funds due within sixty days following the receipt of valid claims.

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(11) Meal specification

The *House* bill requires the States, with the assistance of the Secretary, to prescribe model meal specifications *to the degree practicable.*

The *Senate* amendment is the same as the *House* bill does not include "to the degree practicable."

The *Conference* substitute adopts the *Senate* provision.

(12) Contract contents

The *House* bill requires that service institutions that contract with food service management companies for food preparation must include menu cycles and food quality standards approved by the States in the contracts.

The *Senate* amendment contains the same provision as the *House* bill but also requires inclusion of food safety standards.

The *Conference* substitute adopts the *Senate* provision with an amendment clarifying that it is the local food safety standards that must be met.

(13) Periodic inspection

The *House* bill requires that meals provided by food service management companies be periodically inspected by local health departments or independent agencies in accordance with local health standards to determine bacterial levels in the meals being served.

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision.

(14) Publication of fiscal year 1978 reimbursement rates

The *House* bill provides that all proposed program regulations be published by November 1 and final program regulations by January 1.

The *Senate* amendment contains the same provision as the *House* bill but provides that the regulations dealing with food service operation and administrative cost reimbursement rates for fiscal year 1978 need not be published until December 1 and February 1, respectively.

The *Conference* substitute adopts the *Senate* provision.

(15) Startup funds

The *House* bill limits startup funds to 20 percent of the administrative costs provided for in a service institution's approved administrative budget.

The *Senate* amendment authorizes the payment, as startup funds, of a percentage of the administrative costs provided for in a sponsor's approved administrative budget.

The *Conference* substitute adopts the *House* provision.

(16) USDA Administration

The *House* bill requires the Secretary to administer the program if the State is unable to administer it or if the State does not

operate the program in compliance with the Federal requirements.

The *Senate* amendment requires the Secretary to administer the program if the State is unable to administer it.

The *Conference* substitute adopts the *House* provision.

(17) State administrative expenses adjustment

The *House* bill provides that the basic State administrative expenses formula *may* be adjusted to reflect changes in the State's program since the preceding fiscal year.

The *Senate* amendment is the same as the *House* provision but substitutes "shall" for "may".

The *Conference* substitute adopts the *House* provision.

(18) Health facilities inspection and meal quality tests

The *House* bill provides an amount of funds, not to exceed actual costs or one percent of program funds, whichever is less, for State and local health departments to carry out inspections of health facilities and meal quality tests provided for in the bill.

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision.

(19) Vendors

The *House* bill allows sponsors to contract on a competitive bid basis with food service management companies registered with the State.

The *Senate* amendment allows sponsors to contract on a competitive bid basis *only* with food service management companies registered with the State.

The *Conference* substitute adopts the *Senate* provision.

(20) Food service management company's capacity

The *Senate* amendment requires the State, upon award of any bid for program participation, to review the company's registration to calculate how many remaining meals the company is equipped to prepare.

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(21) Vendor registration

The *House* bill requires the States to provide for the registration of all food service management companies that desire to participate in the summer program and specifies the information that must be included in the registration.

The *Senate* amendment contains the same provision as the *House* bill but (a) requires that the addresses of the venders food preparation and distribution sites be included in the registration and (b) does not require the disclosure of past company owners or sanitary code violations.

The *Conference* substitute adopts the *House* provision and the *Senate* provision requiring the disclosure of the addresses of the company's food preparation and distribution sites.

(22) Bid and contract procedures

The *House* bill requires the Secretary to prescribe requirements governing bid and contract procedures for acquisition of food service management companies' services, including, but not limited to, bonding requirements, procedures for review of contracts by States, and safeguards to prevent collusive bidding activities.

The *Senate* amendment contains the same provisions as the *House* bill but does not include bonding requirements.

The *Conference* substitute adopts the *House* provision with an amendment permitting the Secretary to exempt contracts of $100,000 or less from the bonding requirement.

(23) Use of small businesses and minority-owned businesses

The *Senate* amendment requires that positive efforts be made by sponsors to use small businesses and minority-owned businesses in the program.

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(24) Standard form of contract

The *Senate* amendment requires the States, with the assistance of the Secretary, to prescribe a standard form of contract for use by sponsors and food service management companies.

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(25) Submission of State plan for management and administration

The *House* bill requires all participating States to submit a State plan for management and administration to the Secretary for approval prior to a date established by the Secretary and states what the State plan must contain.

The *Senate* amendment requires States desiring to participate in the program to notify the Secretary by January 1 of each year of their intent to participate and to submit a State plan for approval by February 15. The *Senate* amendment contains all of the requirements for the State plan contained in the *House* bill, and in addition (a) requires inspection and monitoring of feeding sites, the State's schedule for sponsor application, and the State's plan and schedule for registering food service management companies, and (b) requires the State to include its plan for determining and disbursing "program payments" instead of "advance payments."

The *Conference* substitute adopts the *Senate* provision.

(26) Criminal penalties

The *House* bill provides criminal penalties for fraud or embezzlement by partners, officers, directors, or managing agents of an organization that receives benefits under the National School Lunch Act.

The *Senate* amendment contains the *House* provision but applies it specifically to entities receiving benefits under the summer food program.

The *Conference* substitute adopts the *Senate* provision.

(27) Authorization for appropriations

The *House* bill authorizes appropriations for fiscal years 1978 and 1979 of such sums as are necessary to carry out the program.

The *Senate* amendment authorizes appropriations for fiscal years 1978, 1979, and 1980 to carry out the summer food program.

The *Conference* substitute adopts the *Senate* provision.

FOOD SERVICE EQUIPMENT ASSISTANCE (SEC. 4)

(1) Priority for nonreserved funds

The *House* bill requires that States establish criteria approved by the Secretary of Agriculture for the determination of especially needy schools that are not required to fully match the cost of equipment financed under section 5(b) of the Child Nutrition Act.

The *Senate* amendment incorporates the provision in the *House* bill and further provides that States shall give priority in the apportionment of funds to schools without a food service and schools without the facilities to prepare and cook hot meals and allows unused funds to be used in assisting schools with a food service (and with the facilities to cook and prepare hot meals) to purchase needed replacement equipment.

The *Conference* substitute adopts the *Senate* provision with an amendment establishing that kitchens operated by private schools and schools having antiquated or impaired equipment are included in the priority provision. The determination whether equipment is antiquated or impaired would be made by the State educational agency (or by the Secretary in those cases where the Secretary directly administers the program).

(2) Reservation of funds

A. The *House* bill extends for three years the requirement that one-third of the funds appropriated for section 5 of the Child Nutrition Act of 1966 be reserved.

The *Senate* amendment extends this provision for five years.

The *Conference* substitute adopts the *House* provision.

B. The *House* bill expands the types of schools eligible to receive the reserved funds to include not only "no-program" and "cold meal" schools but also schools without the facilities to *prepare and cook hot meals or to receive hot meals.*

The *Senate* amendment expands the types of schools eligible to receive the reserved funds to include not only "no-program" and "cold meal" schools but also schools without the facilities to *prepare and cook hot meals.* "Schools without the facilities to prepare and cook hot meals" is defined as schools without the facilities both to prepare and cook hot meals at the school or at a kitchen operated by the local school district that serves the school.

The *Conference* substitute adopts the *House* provision.

C. The *House* bill provides that unused funds are first to be reapportioned among schools for use in assisting schools without a food service or the facilities to *prepare and cook hot meals or receive hot meals* and may then be used to assist schools with food service programs and the facilities to *prepare and cook hot meals or receive hot meals.*

The *Senate* amendment provides that unused funds are to be reapportioned among schools without a food service or the facilities to *prepare and cook hot meals.* Any further remaining unused funds are to be reapportioned to schools with a food service program and to schools with the facilities to *prepare and cook hot meals.*

The *Conference* substitute adopts the *House* provision.

(3) Use of funds

The *House* bill specifies that food service equipment assistance funds may be used only for facilities that enable schools to prepare and cook hot meals or receive hot meals or at public and private nonprofit institutions that, under an agreement, act in lieu of a school in cooking and preparing school meals for children from a participating school unless the school can demonstrate to the State's satisfaction that an alternative method of meal preparation is necessary for the introduction or continuation of the school lunch or breakfast program or to improve the consumption of food or the participation of eligible children in the program. In order to be able to use funds for equipment in public and private nonprofit institutions, the institutions must be under an agreement with that school and the school is required to retain the legal title to the equipment.

The *Senate* amendment specifies that food service equipment assistance funds may be used only for facilities to prepare and cook hot meals at the school or at a kitchen operated by the school district unless the school can demonstrate to the State's satisfaction that an alternative method of meal preparation is necessary for the introduc-

tion or continuation of the school lunch or breakfast programs.

The *Conference* substitute adopts the *House* provided with (1) an amendment clarifying that the provision applies only to funds authorized for this section, and (2) an amendment clarifying the situation in States in which the Secretary directly operates the program for the benefit of private school children. In adopting this language, it is the purpose of the *Conferees* to emphasize that it only creates a priority category for the use of these funds for onsite preparation of school lunch or breakfast programs or to enable schools to receive hot meals. Many schools, particularly in urban areas, have no practicable alternative to using other methods of food preparation. The Department, in allocating food service equipment funds, should not discriminate against those school lunch or breakfast programs that have demonstrated quality and use methods such as preplated frozen meals heated and served on the school site. In approving equipment funds for such alternative methods, the Department should ensure that only meals that are of necessary quality to be not only nutritious—but appetizing and attractive to students—would be acceptable.

(4) Transfer of equipment

The *House* bill deletes the provision in current law allowing nonprofit private schools to transfer no-longer-used equipment to another school participating in the school lunch or breakfast programs or to have the residual value of the equipment revert to the United States.

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision.

COMMODITY DISTRIBUTION PROGRAM (SEC. 5)

The *Senate* amendment requires the Secretary of Agriculture to make an estimate by May 15 of each school year of the value of agricultural commodities and other foods that that will be delivered during the school year to States for the school lunch program. If the value estimated by the Secretary is less than 100 percent of the value of the commodities programed for delivery in that school year, the Secretary is to pay educational agencies by June 15 an amount that is equal to the difference between the value of the deliveries programed and the total level of assistance authorized under section 6(e) of the National School Lunch Act.

The *House* bill contains no comparable provision and, therefore, continues existing law which requires the Secretary to make an estimate by February 15 of each fiscal year of the value of commodities that will be delivered during the fiscal year to the States for the school food service programs. If the value is less than 90 percent of the value of the commodities programed for delivery in that fiscal year, the Secretary must pay the educational agencies by March 15 the amount of funds that is equal to the difference between the value of deliveries programed and the total level of assistance authorized under section 6(e) of the National School Lunch Act. The *House* bill retains the requirement in current law that the share of such funds to be paid to each State educational agency must bear the same ratio to the total of such payments to all agencies as the number of meals served under the school lunch and school breakfast program during the preceding fiscal year bears to the total of all such meals in all the States during that fiscal year.

The *Conference* substitute adopts the *Senate* provision.

PURCHASE OF FOODS FOR THE COMMODITY DISTRIBUTION PROGRAM (SEC. 6)

(1) Commodity purchases for elderly feeding program

The *Senate* amendment authorizes the use of funds appropriated from the general fund of the Treasury to purchase foods of the types customarily purchased for donation to the elderly under the Older Americans Act of 1965.

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision with a conforming amendment made necessary by the recent amendments to the Older Americans Act offering the option of cash in lieu of commodities.

(2) Report of local agency views

The *House* bill requires the Secretary of Agriculture to establish procedures that will ensure that States fully and accurately report the views of schools within each State with respect to the type of food assistance needed and to consider such views in the purchase and distribution of commodities to the States for allocation to schools under the National School Lunch Act.

The *Senate* amendment contains the same provisions as the *House* bill but requires the views of local educational agencies rather than schools and extends these requirements to purchases and distributions under the National School Lunch Act and the Child Nutrition Act.

The *Conference* substitute adopts the *Senate* provision with an amendment ensuring that the views of nonprofit private schools would also be required.

(3) Technical assistance

The *House* bill requires the Secretary to make available technical assistance on the use of commodities distributed under section 4 of the National School Lunch Act.

The *Senate* amendment contains the same provisions as the *House* bill but includes commodities distributed under the commodity distribution programs.

The *Conference* substitute adopts the *House* provision making it specifically applicable to commodities distributed under the National School Lunch Act and the Child Nutrition Act of 1966.

(4) Advisory council

The *House* bill requires each State to establish an advisory council composed of local school representatives to advise the State as to the needs of the local school relating to the selection and distribution of federally donated commodities.

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision.

REFUSAL OF COMMODITIES (SEC. 7)

The *House* bill permits any school to refuse to accept up to 20 percent of the agricultural commodities and other foods offered to it in any year and to receive other commodities in their place to the extent that other commodities are available to the State.

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision.

ACCEPTANCE OF OFFERED FOODS (SEC. 8)

The *House* bill amends section 9(a) of the National School Lunch Act to authorize local school authorities upon their option to permit junior high and middle school students to refuse foods that are offered to them in federally supported school lunch programs.

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision. The *Conferees* encourage the Secretary of Agriculture to make use of funds available under existing authorities to produce informative and entertaining public service messages for television that will educate children in proper nutrition.

SPECIAL ASSISTANCE (SEC. 9)

The *House* bill amends the special assistance provisions of the National School Lunch Act (section 11) in the following two ways:

1. In any school in which at least 80 percent of the children are eligible for free or reduced price lunches, special assistance payments for these lunches can be made for either one or two fiscal years based on the number of children determined eligible for such lunches during the first year and the number of such lunches served during that year to other children determined for that year to be eligible for such lunches, if the school requests the payments; and

2. In any school that elects to serve children free lunches for three years and pays for the lunches for non-needy children from sources other than Federal funds, special assistance payments for free and reduced price meals are to be made to that school for a period of three years based upon its number of children determined eligible for free and reduced price meals during the first year.

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts part 2 of the *House* provision and part 1 of the *House* provision with an amendment limiting to one additional year the payments of schools with very high concentrations of children eligible for free or reduced price meals.

PILOT PROJECTS: STUDY OF CASH PAYMENTS IN LIEU OF COMMODITIES (SEC. 10)

A. The *House* bill requires the Secretary of Agriculture to conduct pilot projects with respect to local school districts, or other appropriate units, or groups of program participants to determine more efficient, healthful, economical, and reliable methods of operating the school lunch, school breakfast, and summer feeding programs. The pilot projects will include: providing all or part cash payments in lieu of commodities, streamlining or reducing local school district reporting requirements, and of use the Extension Service to aid in nutritional training and education in schools and other institutions. An assessment of these pilot projects will be reported to Congress within 18 months of the date of enactment. The Secretary is authorized to fund these projects from the maximum of one percent of school food service programs appropriations provided for under section 6(a)(3) of the National School Lunch Act.

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision but limits the number of cash in lieu of commodities pilot projects to no more than ten. The *Conferees* expect the Department to choose an appropriate mix of localities to participate in these pilot projects. This mix should include both urban and suburban and both large and small school districts.

B. The *Senate* amendment requires the Secretary to conduct a study of the effect of making cash payments in lieu of delivery of commodities. The study will be limited to a comparison of the situation in one of the States that receives donated foods with the State of Kansas that receives cash. The Secretary must report his findings to Congress within 18 months of the date of enactment of the bill.

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

SPECIAL MILK PROGRAM (SEC. 11)

The *Senate* amendment provides that children eligible for free lunches under the school lunch program, are also eligible for free milk, when milk is provided at times other than the period of meal service in outlets that operate a school lunch, breakfast or child care food program. If schools and institutions participating in these programs choose not to serve additional milk at times other than meal service, needy children will

receive no free milk other than as a component of USDA-subsidized meals.

The *House* bill contains no comparable provision and continues existing law under which children eligible for free lunches may receive free milk.

The *Conference* substitute adopts the *Senate* provision.

SCHOOL BREAKFAST PROGRAM MAXIMUM REIMBURSEMENT (SEC. 12)

The *House* bill increases the maximum reimbursement for free or reduced price breakfasts in especially needy schools to 10 cents above the national average payment for each free breakfast and to 5 cents less than the maximum payment for each free breakfast for each reduced price breakfast.

The *Senate* amendment indexes the maximum reimbursement for free breakfasts in specially needy schools (which is now 45 cents) for each free breakfast and provides that there be a 5-cent differential between the maximum reimbursement for reduced price breakfasts and free breakfasts in these schools. The maximum reimbursement rate for especially needy schools is to be adjusted semiannually according to changes in the series for food away from home of the Consumer Price Index published by the Department of Labor's Bureau of Labor Statistics.

The *Conference* substitute requires the Secretary of Agriculture to make calculations each year under both the formula contained in the *House* provision and the formula contained in the *Senate* provision, and to make payments on the basis of the resulting higher figure.

REDUCTION OF PAPERWORK (SEC. 13)

The *House* bill directs the Secretary of Agriculture to reduce, to the maximum extent possible, the paperwork required of State and local educational agencies, schools, and other agencies participating in child nutrition programs under the National School Lunch Act and the Child Nutrition Act of 1966. The Secretary is required to report to Congress within one year after the date of enactment of the bill, on the extent to which such reduction has occurred.

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision.

STATE ADMINISTRATIVE EXPENSES (SEC. 14)

(1) Apportionment of funds

The *House* bill provides that for fiscal year 1978, an amount not to exceed one percent of funds expended in fiscal year 1977 under sections 4, 11, and 17 of the National School Lunch Act and sections 3, 4, and 5 of the Child Nutrition Act of 1966 shall be allocated to States, in accordance with a formula determined by the Secretary of Agriculture, for State administrative expenses. The Secretary is required to conduct a study of administrative costs, and report the results of this study with recommendations for a formula to allocate administrative cost payments to Congress by March 1, 1978.

The *Senate* amendment provides a new apportionment formula for State administrative expense funds. For fiscal year 1978, an amount equal to one percent of the funds used in that State during the second preceding year under sections 4, 11, and 17 of the National School Lunch Act and sections 3, 4, and 5 of the Child Nutrition Act will be advanced. The same formula will be used in fiscal years 1979 and 1980, except that the percentage in those years is set at one and one-half percent. However, in States that used more than $100 million under sections 4, 11, and 17 of the National School Lunch Act and sections 3, 4, and 5 of the Child Nutrition Act, the percentage will be one and one-half percent of the first $100 million and one percent of the remaining program funds used. In addition, no State shall receive less than $75,000 nor less than the amount paid to it for administrative expenses for fiscal year 1977.

The *Conference* substitute adopts the *Senate* provision with an amendment setting the payments for fiscal years 1979 and 1980 to an amount not less than one percent and not more than one and one-half percent for each such year.

(2) Audits of child care institutions

The *House* bill provides for payments to States, from such amounts appropriated for fiscal year 1978, in a total amount not in excess of two percent of funds expended in fiscal year 1977 under section 17 of the National School Lunch Act, to be allocated and paid in accordance with a formula determined by the Secretary for purposes of conducting audits of participating child care institutions under that section.

The *Senate* amendment contains the same provision as the *House* bill but the two percent maximum would be based on the funds used by the State in the child care food program in the second preceding fiscal year.

The *Conference* substitute adopts the *Senate* provision.

(3) Nonprofit private schools or child care institutions

The *House* bill provides that when States administer food service programs in nonprofit private schools or child care institutions previously administered by the Secretary, an appropriate adjustment is to be made in the administrative expense funds paid to the State in the succeeding fiscal year.

The *Senate* amendment contains the same provision as the *House* bill but does not specify the year in which the adjustment is to be made.

The *Conference* substitute adopts the *House* provision with an amendment requiring the adjustment to be made not later than the succeeding fiscal year.

(4) Carryover funds

The *House* bill provides that unobligated or unexpended funds appropriated for State administrative expenses shall remain available to the State for obligation and expenditure in the succeeding fiscal year.

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision for fiscal year 1978. For fiscal years 1979 and 1980, the *Conference* substitute (1) requires the Secretary to establish a date for the submission of the State plans for the disbursement of administrative funds, and (2) authorizes the Secretary to reallocate any unused funds (as evidenced by the State plans) to such other States as the Secretary deems appropriate.

(5) Maintenance of effort

The *House* bill requires State educational agencies to contribute no less for running the child nutrition programs than they did in fiscal year 1977.

The *Senate* amendment requires State agencies to contribute no less for running the child nutrition programs (other than the WIC program and the summer feeding program) than they did in fiscal year 1977.

The *Conference* substitute adopts the *Senate* provision.

(6) State staffing standards

The *House* bill directs the Secretary to develop State staffing standards that will ensure sufficient staff for the planning and administration of the national school lunch program, school breakfast program, child care food program, special milk program, and the food service equipment assistance program.

The *Senate* amendment contains the same provision as the *House* bill but further requires that the staffing standards be developed in cooperation with the several States.

The *Conference* substitute adopts the *Senate* provision. However, the *Conferees* wish to emphasize that section 7(b) of the Child Nutrition Act of 1966, as amended by the bill, does not imply that the Secretary has the authority to require each State to hire a certain number of individuals, place them at specific levels within the State organization, nor mandate uniform national staffing standards that would be applied to each State. Unique administrative structures exist in each of the fifty States. The Secretary, recognizing these differences, should ensure that sufficient staff exists for the efficient and effective administration of the programs.

(7) Annual plan

The *Senate* amendment requires State agencies to submit to the Secretary, for approval by October 1 of each year, an annual plan for the use of State administrative expense funds. This plan must include a staff formula for State personnel, system level supervisory and operating personnel, and school level personnel.

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(8) Authorization for appropriations

The *House* bill authorizes the appropriation of necessary sums for State administrative expenses.

The *Senate* amendment authorizes the appropriation of necessary sums for State administrative expenses for fiscal years 1978 through 1980.

The *Conference* substitute adopts the *Senate* provision.

(9) Insufficient funding

The *House* bill provides that if insufficient funds are appropriated for State administrative expenses, the Secretary shall ratably reduce the amounts of administrative expense payments to the extent necessary so that the total amounts paid do not exceed the funds appropriated. If additional funds become available, these amounts will be increased on the same basis as they were reduced.

The *Senate* amendment contains no comparable provision.

The *Conference* substitute deletes the *House* provision.

NUTRITION EDUCATION AND TRAINING (SEC. 15)

The *Senate* amendment adds a new section 19 to the National School Lunch Act, entitled "Nutrition Education and Training".

The *House* bill contains no comparable provision.

Except as noted below, the *Conference* substitute adopts the *Senate* provision.

(1) Findings

New subsection (a) contains the finding of Congress respecting the importance of proper nutrition of the Nation's children and a proper understanding of the principles of good nutrition on the part of children, school food service personnel, and school teachers, and the recognition of the significant influence parents exert on their children's nutritional development habits.

(2) Purpose

New subsection (b) states that the purpose of section 19 is to encourage effective dissemination of scientifically valid information on nutrition through grants to State educational agencies for the development of nutrition information and education programs. School lunch and child nutrition programs are to be used as a learning laboratory.

(3) Definitions

New subsection (c) defines nutrition education as including instructing students with

regard to the nutritional value of foods and the relationship between food and human health, training school food service personnel in the principles and practices of food service management, instructing teachers in sound principles of nutrition education, and developing and using classroom materials and curricula.

(4) Nutrition information and training

A. New subsection (d)(1) authorizes the Secretary of Agriculture to formulate and carry out a nutrition information and education program through a system of grants to State educational agencies.

B. New subsection (d)(2) requires the coordination of the program at the State level with other nutrition activities conducted by education and health agencies. This subsection further instructs the Secretary and the States to solicit the advice and recommendations of the National Advisory Council on Child Nutrition; State educational agencies; the Department of Health, Education, and Welfare; representative members of the American School Food Service Association; the American Public Health Association; the American Home Economics Association; the Society for Nutrition Education; and other concerned groups and individuals.

The *Conference* substitute adopts the *Senate* provision but makes the requirement for solicitation of advice permissive rather than mandatory and deletes the references to the nongovernmental organizations.

C. New subsection (d)(3) permits the Secretary to make section 19 funds available to HEW nutrition education components of the State program without requiring an additional grant application.

D. New subsection (d)(4) directs the Secretary to make grants to State educational agencies. Such agencies may contract with land-grant colleges, other institutions of higher education, and nonprofit organizations for the training of teachers and school food service personnel with respect to the relationship between food, nutrition and health, education methods and techniques, current issues relating to nutrition education, and principles and skills of food service management.

E. New subsection (d)(5) allows the State to contract with State and local educational agencies, land-grant colleges, and other institutions for pilot demonstration projects in elementary and secondary schools with respect to nutritional education.

F. New subsection (d)(6) authorizes the Secretary to administer the provisions of this section in schools and institutions in States where the State educational agency is prohibited by law from doing so.

(5) Agreements with State agencies

New subsection (e) authorizes the Secretary to enter into agreements with State educational agencies for administration of the program and to issue necessary regulations.

(6) Use of funds

A. New subsection (f)(1) provides for the issuance of guidelines by the Secretary on the use of funds by the State for employing a nutrition education specialist to coordinate the program, including the use of funds, travel and related personnel costs; undertaking an assessment of the nutrition education needs of the State; developing a State plan of operation and management for nutrition education; applying for and carrying out planning and assessment grants; pilot projects; the planning, development, and conduct of nutrition education programs and workshops for food service and education personnel; coordinating and promoting nutrition information and educational activities in local school districts; contracting with public and private educational institutions for the conduct of nutrition education instruction and programs; and for related nutrition education purposes, including the preparation, testing, distribution, and evaluation of visual aids.

The *Conference* substitute adopts the *Senate* provision with an amendment making it clear that the private educational institutions with which State agencies may contract are to be nonprofit.

B. New subsection (f)(2) provides for the issuance of planning and assessment grants to any State for employing a coordinating specialist, assessing the nutrition education needs of the State, developing a State plan, and applying for and carrying out planning and assessment grants. This subsection also provides for advance payment of a portion of the grant with the remaining amount authorized on the basis of completion by the State of activities prescribed in subsection (f)(1).

C. New subsection (f)(3) authorizes the State to use up to 15 percent of its grant for administrative and supervisory purposes in connection with the program authorized by this section.

The *Conference* substitute adopts the *Senate* provision with an amendment providing that Federal funds for administration and supervisory expenditures shall be limited to no more than 50 percent of such expenditures.

D. New subsection (f)(4) states that nothing in section 19 will prohibit State or local agencies from making use of nutrition education materials, resources, and activities developed under this section for adult nutrition programs.

(7) Accounts, records, and reports

A. New subsection (g)(1) requires that States maintain accounts and records for not in excess of five years.

B. New subsection (g)(2) requires the States to submit reports on the operation of the program authorized by this section in such form and at such time as the Secretary prescribes.

(8) State coordinators for nutrition education; State plan

A. New subsection (h)(1) requires the States to appoint a nutrition education specialist to serve as State coordinator for State nutrition education as a precondition to receiving funds under this section.

B. New subsection (h)(2) requires the State coordinator, upon receipt of funds under this section, to prepare an itemized budget and assess the nutrition needs of the State. Such assessment shall identify State and local individual, group, and institutional resources within the State for materials, facilities, staffs, and methods related to nutrition education.

C. New subsection (h)(3) requires the State coordinators to develop, prepare and furnish to the Secretary, for approval, a comprehensive plan for nutrition education within nine months after the award of the planning assessment grant. The Secretary is required to act on the plan within 60 days after receipt of the plan. This subsection further requires that the plan include the findings of the nutrition education needs assessment within the State; provisions for coordinating the nutrition education program with other publicly supported programs within the State; plans for soliciting the advice and recommendations of various concerned organizations; plans for reaching all students in the State with instruction in nutrition and for training food service personnel in principles and skills of food service management and for instructing teachers in sound principles of nutrition education; and plans for using land-grant colleges (including the Tuskegee Institute) on a priority basis. To the maximum extent possible, the State's performance under such plan shall be reviewed and evaluated by the Secretary on a regular basis, including public hearings.

The *Conference* substitute adopts the *Senate* provision with an amendment deleting references to all nongovernmental organizations.

(9) Resources Center

A. New subsection (i)(1) provides for the establishment within the National Agricultural Library of the United States Department of Agriculture, of a Food and Nutrition Information and Education Resources Center to assemble and maintain food nutrition education materials and provide training for the State coordinators and other personnel needing special training relating to nutrition education.

The *Conference* substitute deletes the *Senate* provision.

B. New subsection (i)(2) provides that the Secretary may establish other resources centers, for the same purpose as the center established under subsection (i)(1), at land-grant colleges, institutions of higher education, and other public or private nonprofit educational or research institutions.

The *Conference* substitute deletes the *Senate* provision.

C. New subsection (i)(3) authorizes the use of $1,500,000 of the funds appropriated for this section for funding the food and nutrition information centers.

The *Conference* substitute deletes the *Senate* provision. The Conferees note that section 1411(b) of the Food and Agriculture Act of 1977 (Pub. Law 95–113) establishes a resources center substantially similar to that proposed in the *Senate* provision. The *Conferees* intend that the resources center established under Public Law 95–113 may provide training for the State coordinator and for interdisciplinary personnel designated by the State coordinator who may need special training in nutrition education.

The *Conferees* intend that the Secretary, under existing authorities, may establish other resources centers, for the same purposes as the resources center established under the Food and Agriculture Act of 1977, at land-grant colleges, institutions of higher learning, and other public and private nonprofit educational or research institutions.

(10) Appropriations authorized

New subsection (j) provides that grants to the States for fiscal years 1978 through 1982 shall be based on a rate of 50 cents for each child enrolled in schools or institutions in the State. Enrollment figures will be the latest available from the Department of Health, Education, and Welfare. No State shall receive less than $75,000 per year.

The *Conference* substitute adopts the *Senate* provision with an amendment limiting the grants to three fiscal years and making the grants for the third fiscal year (fiscal year 1980) subject to an authorization of appropriations. In adopting the new section 19, entitled "Nutrition Education and Training", the *Conferees* wish to emphasize that the program is to benefit the teachers, students, and school food service personnel of both the public and nonprofit private elementary and secondary schools.

Consequently, under section 19(h)(3)(D), it is required that the State plan for the program shall describe plans for reaching *"all students in the State"*, which would include children in both public and nonprofit private schools. Furthermore, if a State is prohibited by law from administering the program in nonprofit private schools, section 19(d)(6) authorizes the Secretary to administer the program directly for these schools.

NATIONAL ADVISORY COUNCIL ON CHILD NUTRITION (SEC. 16)

The *Senate* amendment amends section 15 of the National School Lunch Act to add four additional members to the National Advisory Council on Child Nutrition.

This amendment will broaden the representation on the Council by including two parents of children in schools participating in the National School Lunch Program and two senior high school students participating in the program.

This section also changes the term of appointment from three to two years to accelerate the rotation of members, requires that participation by parents and students be balanced between urban and rural representation, and allows for compensation of parents for personal expenses such as the loss of wages or child care expenses incurred during the performance of duties on the Council.

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

REGULATIONS ON SALE OF COMPETITIVE FOODS (SEC. 17)

The *Senate* amendment amends section 10 of the Child Nutrition Act of 1966 by deleting the sentence which restricts the authority of the Secretary to regulate foods served at the same time and place as the National School Lunch Program is operated. (As noted in the Senate report on the provision, the amendment ". . . would permit the sale of nutritious foods, such as fruits, vegetables, dairy products, pure fruit and vegetable juices, and other items determined to be nutritious." (S. Rept. No. 95–277, 95th Cong., 1st Sess. 17 (1977.))

The *House* bill contains no comparable provision.

The *Conference* substitute amends existing law by requiring the Secretary to approve competitive foods that may be offered.

The intent of the language in the *Conference* substitute is expressed in a letter to Congressman Carl D. Perkins, Chairman of the committee of conference, from Ms. Carol Tucker Foreman, Assistant Secretary of Agriculture for Food and Consumer Services, as follows:

"We are aware of the opposition to this provision but believe much of the opposition is based on ungrounded fears and misunderstanding of our intentions. It is decidedly not our intention to ban large numbers of competitive food items or to do anything aimed at giving the regular school lunch program a monopoly in the cafeterias. It is decidedly not our intention to prohibit the sale of all foods from vending machines. We are aware that many nutritious food items—such as fruits, soups, sandwiches, nuts, ice cream, and other items—are sold as competitive foods, and sometimes from vending machines. We have no intention in taking action to stop the sale of such items. We would consider regulating only those foods that do not make a positive nutritional contribution in terms of their overall impact on children's diets and dietary habits."

NATIONAL ADVISORY COUNCIL ON THE SPECIAL SUPPLEMENTAL FOOD PROGRAM FOR WOMEN, INFANTS, AND CHILDREN (SEC. 18)

The *Senate* amendment amends subsection 17(h)(8) of the Child Nutrition Act of 1966 to allow the Secretary of Agriculture to reimburse parent recipients appointed to the National Advisory Council on the Special Supplemental Food program for Women, Infants, and Children for personal expenses, including child care costs and lost wages, incurred during scheduled Council meetings.

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

TECHNICAL AMENDMENTS (SECS. 19 AND 20)

The *Senate* amendment contains a technical amendment reflecting the change from July 1 to October 1 in the beginning of the Federal fiscal year. The amendment also moves to a school year basis certain provisions regarding State matching requirements and food service equipment assistance. Finally, the amendment would authorize the Secretary of Agriculture to establish the date the State plan of operations for the Special Supplemental Food Program is required to be submitted.

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

INSTITUTE OF FOOD MANAGEMENT AND TECHNOLOGY

The *Senate* amendment authorizes the establishment of an Institute of Food Management and Technology to further the purposes of the National School Lunch Act and the Child Nutrition Act of 1966.

The *House* bill contains no comparable provision.

The *Conference* substitute deletes the *Senate* provision.

CARL D. PERKINS,
WILLIAM D. FORD,
IKE ANDREWS,
MIKE BLOUIN,
PAUL SIMON,
LEO C. ZEFERETTI,
RON MOTTL,
AUSTIN J. MURPHY,
JOSEPH A. LE FANTE,
TED WEISS,
CEC HEFTEL,
BALTASAR CORRADA,
DALE E. KILDEE,
GEO. MILLER,
ALBERT H. QUIE,
JOHN BUCHANAN,
LARRY PRESSLER,
BILL GOODLING,
SHIRLEY N. PETTIS,
CARL PURSELL,
Managers on the Part of the House.
HERMAN E. TALMADGE,
GEORGE MCGOVERN,
HUBERT HUMPHREY,
DICK CLARK,
PATRICK J. LEAHY,
ROBERT DOLE,
HENRY BELLMON,
JESSE HELMS,
Managers on the Part of the Senate.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows to:

Mr. PEPPER (at the request of Mr. WRIGHT), for today on account of illness in the family.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. GARY A. MYERS) to revise and extend their remarks, and to include extraneous matter to:)

Mr. RAILSBACK, for 5 minutes, today.

Mr. MILLER of Ohio, for 5 minutes, today.

(The following Members (at the request of Mr. WALGREN) to revise and extend their remarks and include extraneous material:)

Mr. ANNUNZIO, for 5 minutes, today.

Mr. GONZALEZ, for 5 minutes, today.

Mr. LAFALCE, for 5 minutes, today.

Mr. VANIK, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. ROUSSELOT, to revise and extend his remarks immediately prior to the last vote.

Mr. HORTON, to include during debate on House Resolution 688 two letters from Acting Director McIntyre, dated September 28, 1977.

Mr. DORNAN, to revise and extend his remarks and include extraneous matter in the front part of the RECORD for today.

Mr. ST GERMAIN, to revise and extend his remarks and include extraneous matter during debate on H.R. 2176, Federal Banking Agency Audit Act.

Mr. STRATTON, to revise and extend his remarks and include extraneous matter.

(The following Members (at the request of Mr. GARY A. MYERS) and to include extraneous matter:)

Mr. WHALEN.
Mr. MCCLOSKEY.
Mr. RINALDO.
Mr. STEERS.
Mr. SHUSTER.
Mr. RUDD.
Mr. KASTEN.
Mr. HORTON.
Mr. COLEMAN.
Mr. RUPPE.

(The following Members (at the request of Mr. WALGREN) and to include extraneous matter:)

Mr. ANDERSON of California in three instances.
Mr. GONZALEZ in three instances.
Mr. DODD in two instances.
Mr. MAZZOLI.
Mr. COTTER.
Ms. OAKAR in two instances.
Mr. MCDONALD in three instances.
Mr. EDGAR.
Miss JORDAN.
Mr. EDWARDS of California.
Mr. BONIOR.
Mrs. SCHROEDER.
Mr. HAMILTON.
Mr. THOMPSON.

SENATE ENROLLED JOINT RESOLUTION SIGNED

The SPEAKER announced his signature to an enrolled Joint Resolution of the Senate of the following title:

S.J. Res. 89. Joint resolution to amend the act entitled "To authorize certain appropriations for the territories of the United States, to amend certain Acts relating thereto, and for other purposes" (enrolled bill H.R. 6550, 95th Congress, 1st session).

ENROLLED BILL SIGNED

Mr. THOMPSON, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 6415. An act to extend and amend the Export-Import Bank Act of 1945.

BILLS AND JOINT RESOLUTION PRESENTED TO THE PRESIDENT

Mr. THOMPSON, from the Committee on House Administration, reported that that committee did on October 13, 1977 present to the President, for his approval,

bills and a joint resolution of the House of the following title:

H.R. 3. To strengthen the capability of the Government to detect, prosecute, and punish fraudulent activities under the medicare and medicaid programs, and for other purposes;

H.R. 1613. For the relief of certain postmasters charged with postal deficiencies; and

H.J. Res. 626. Making continuing appropriations for the fiscal year 1978, and for other purposes.

ADJOURNMENT

Mr. WALGREN. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 1 o'clock and 15 minutes p.m.), under its previous order, the House adjourned until Monday, October 17, 1977, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2552. A letter from the Assistant Secretary of State for Congressional Relations, transmitting a report on political contributions made by Ambassadors-designate Theodore M. Hesburgh and John E. Downs, and by members of their families, pursuant to section 6 of Public Law 93–126; to the Committee on International Relations.

2553. A letter from the Assistant Secretary of State for Congressional Relations, transmitting a report on political contributions made by Robert E. White, Ambassador-designate to Paraguay, and by members of his family, pursuant to section 6 of Public Law 93–126; to the Committee on International Relations.

2554. A letter from the Secretary of Transportation, transmitting a report on the effects of the regulatory reform provisions of the Railroad Revitalization and Regulatory Reform Act of 1976, pursuant to section 202(g) of the act (Public Law 94–210); to the Committee on Interstate and Foreign Commerce.

2555. A letter from the Administrator of General Services, transmitting a prospectus proposing alterations at the Arlington, Va., Federal Building 2, pursuant to section 7(a) of the Public Buildings Act of 1959, as amended; to the Committee on Public Works and Transportation.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. PERKINS: Committee of conference. Conference report on H.R. 1139 (Rept. No. 95–708). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. CORCORAN of Illinois:

H.R. 9570. A bill to amend the National Trails System Act to require the Secretary of the Interior to determine the feasibility and desirability of designating the Illinois Trail as a national scenic trail; to the Committee on Interior and Insular Affairs.

By Mr. FAUNTROY (for himself and Mr. DIGGS):

H.R. 9571. A bill to assist in reducing crime and the danger of recidivism in the District of Columbia by requiring speedy trials in criminal cases in the District of Columbia courts, and for other purposes; to the Committee on the District of Columbia.

By Mr. KASTEN (for himself, Mr. ABDNOR, Mr. COUGHLIN, Mr. EDWARDS of Oklahoma, Mr. FRENZEL, Mr. HARRINGTON, Mr. HORTON, Mr. HYDE, Mr. JEFFORDS, Mr. LAGOMARSINO, Mr. LIVINGSTON, Mr. MCCLORY, Mr. MCEWEN, Mr. NOLAN, Mr. RAHALL, Mr. ROE, Mr. ROYBAL, Mr. SANTINI, and Mr. YATRON):

H.R. 9572. A bill to amend the National Housing Act to provide for the insurance of graduated payment mortgages, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

By Mr. MCHUGH (for himself, Mr. BROWN of California, Mr. ADDABBO, Mr. JENRETTE, Mr. BRODHEAD, Mr. MITCHELL of Maryland, Mr. REUSS, Mr. LEHMAN, Mr. FRASER, Mr. BONIOR, Mr. HOLLENBECK, Mr. PURSELL, Mr. NEDZI, Mr. KASTENMEIER, Mr. PERKINS, Mr. NOWAK, Mr. EILBERG, Mr. STEERS, Mr. PEASE, Mr. HARRINGTON, Mr. GEPHARDT, Mr. PRITCHARD, Mr. TSONGAS, Mr. SEIBERLING, and Mr. COTTER):

H.R. 9573. A bill to provide for adequate supplies of food in cases of emergency, and to reaffirm commitments made by representatives of the United States of America at the 1974 World Food Conference to participate in a system of nationally held and internationally coordinated food reserves; jointly, to the Committees on Agriculture, and International Relations.

By Mr. MOTTL:

H.R. 9574. A bill to amend the Elementary and Secondary Education Act of 1965 to provide assistance for the establishment of basic standards of educational proficiency applicable to public school students; to the Committee on Education and Labor.

By Mr. MOTTL (for himself, Mr. WALSH, Mr. BEARD of Rhode Island, Mr. STANTON, Mr. WALGREN, Mr. EDGAR, and Mr. HARRINGTON):

H.R. 9575. A bill to grant priority in payment from the estate of a bankrupt railroad to tax claims of local school districts, other units of local government, and States; jointly, to the Committees on the Judiciary, and Interstate and Foreign Commerce.

By Mr. RICHMOND (for himself, Mr. BEDELL, Mr. BOWEN, Mr. CAPUTO, Mr. COTTER, Mr. DODD, Mr. FISH, Mr. FORD of Michigan, Mr. DE LA GARZA, Mr. HEFNER, Mr. JONES of Tennessee, Mr. JONES of North Carolina, Mr. LEDERER, Mr. LEHMAN, Mr. LONG of Louisiana, Mr. MATHIS, Mr. PREYER, Mr. QUIE, Mr. RAHALL, Mr. RINALDO, Mr. ROSE, Mr. SOLARZ, Mrs. SPELLMAN, Mr. YOUNG of Alaska, and Mr. WHITLEY):

H.R. 9576. A bill to provide an opportunity to individuals to make financial contributions, in connection with the payment of their Federal income tax, for the advancement of the arts and the humanities; to the Committee on Ways and Means.

By Mr. RINALDO:

H.R. 9577. A bill to amend sections 3303a and 1503 of title 44, United States Code, to require mandatory application of the General Records Schedules to all Federal agencies and to resolve conflicts between authorizations for disposal and to provide for the disposal of Federal Register documents; to the Committee on House Administration.

By Mr. RUPPE:

H.R. 9578. A bill to amend the Merchant Marine Act, 1936, to promote the series construction of U.S.-flag merchant vessels; to the Committee on Merchant Marine and Fisheries.

By Mr. WAGGONNER:

H.R. 9579. A bill to amend section 1021 of the Tax Reform Act of 1976; to the Committee on Ways and Means.

By Mrs. COLLINS of Illinois:

H. Con. Res. 379. Concurrent resolution urging the adoption by the United States and by the Organization of Economic Cooperation and Development of the standards of business conduct for companies operating in South Africa, adopted earlier this year by the European Economic Community, which include recognition of the right of black employees to form or to affiliate themselves with trade unions and to bargain collectively with their employers; to the Committee on International Relations.

By Mr. CORRADA (for himself, Mr. BADILLO, Mr. HANNAFORD, Mr. DAVIS, Mr. EMERY, Mr. BOB WILSON, Mr. EDWARDS of Oklahoma, and Mr. STEERS):

H. Con. Res. 380. Concurrent resolution expressing the sense of Congress that the value of military exchange and commissary privileges should not be considered by any Federal agency in determining the entitlement of any retired or former member of the Armed Forces to any other Federal benefit or in determining the amount of any other Federal benefit; to the Committee on Post Office and Civil Service.

By Mr. TEAGUE:

H. Res. 832. Resolution disapproving the deferral of certain budget authority (D78–30) relating to the Energy Research and Development Administration, gas cooled thermal reactor program, which is proposed by the President in his message of October 3, 1977, transmitted under section 1013 of the Impoundment Control Act of 1974; to the Committee on Appropriations.

H. Res. 833. Resolution disapproving the deferral of certain budget authority (D78–33) relating to the Energy Research and Development Administration, magnetic fusion energy program, Fusion Material Test Facility, which is proposed by the President in his message of October 3, 1977, transmitted under section 1013 of the Impoundment Control Act of 1974; to the Committee on Appropriations.

H. Res. 834. Resolution disapproving the deferral of certain budget authority (D78–34) relating to the Energy Research and Development Administration, magnetic fusion energy program, Intense Neutron Source Facility, which is proposed by the President in his message of October 3, 1977, transmitted under section 1013 of the Impoundment Control Act of 1974; to the Committee on Appropriations.

H. Res. 835. Resolution disapproving the deferral of certain budget authority (D78–35) relating to the Energy Research and Development Administration, high energy physics program, intersecting storage ring accelerator, which is proposed by the President in his message of October 3, 1977, transmitted under section 1013 of the Impoundment Control Act of 1974; to the Committee on Appropriations.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BALDUS:

H.R. 9580. A bill for the relief of Sudhir Birkner; to the Committee on the Judiciary.

By Mrs. HECKLER:

H.R. 9581. A bill for the relief of Melba Robateau; to the Committee on the Judiciary.

By Mr. PRICE:

H.R. 9582. A bill for the relief of Claudine E. Abbott; to the Committee on the Judiciary.

PETITIONS, ETC.

Under clause 1 of rule XXII,

293. The SPEAKER presented a petition of Assemblyman Alister McAlister, Sacramento, Calif., relative to designating the week of April 24, 1978, as National Forgotten Victims Week; to the Committee on Post Office and Civil Service.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 1614

By Mr. LAGOMARSINO:

Page 277, immediately after line 18, insert the following new section:

RECOMMENDATIONS FOR TRAINING PROGRAM

SEC. 508. Not later than 90 days after the date of enactment of this Act, the Secretary of the Interior, in consultation with the Secretary of the Department in which the Coast Guard is operating, shall prepare and submit to the Congress a report which sets forth the recommendations of the Secretary for a program to assure that any individual—

(1) who is employed on any artificial island, installation, or other device located on the Outer Continental Shelf; and

(2) who, as part of such employment, operates, or supervises the operation of pollution-prevention equipment,

is properly trained to operate, or supervise the operation of, such equipment, as the case may be.

Page 277, line 20, strike out "SEC. 508." and insert in lieu thereof "SEC. 509.".

Page 129, in the table of contents for title V, strike out "Sec. 508. Relationship to existing law." and insert in lieu thereof the following:

"Sec. 508. Recommendations for training program.".

"Sec. 509. Relationship to existing law.".

FACTUAL DESCRIPTIONS OF BILLS AND RESOLUTIONS INTRODUCED

Prepared by the Congressional Research Service pursuant to clause 5(d) of House Rule X. Previous listing appeared in the CONGRESSIONAL RECORD of October 4, 1977 (page H10591).

H.R. 5951. April 4, 1977. Banking, Finance and Urban Affairs. Authorizes the Secretary of Housing and Urban Development to make grants to local agencies for converting closed school buildings into community centers, senior citizen centers and specified educational, medical or social service centers.

Directs the Secretary to serve as a national clearinghouse to local agencies by providing information on possible alternative uses for closed school buildings.

H.R. 5952. April 4, 1977. Interstate and Foreign Commerce. Prohibits the shipment in interstate or foreign commerce of any fur or leather, raw or in finished form, from animals trapped in any State or foreign country which has not banned the manufacture, sale, or use of leg-hold or steel jaw traps.

Directs the Secretary of Commerce to publish a list of such States and foreign countries.

H.R. 5953. April 4, 1977. Ways and Means. Amends Title XX (Grants to States for Services) of the Social Security Act to eliminate the prohibitions against payments to States for expenditures which (1) are in the form of goods or services provided in kind by a private entity, or (2) are made from donated private funds and have restrictions imposed by a donor who is a sponsor or operator of a program to provide services with respect to which the funds are to be used.

H.R. 5954. April 4, 1977. Interstate and Foreign Commerce. Amends the Federal Food, Drug, and Cosmetic Act to deem a food additive safe if the Secretary of Health, Education, and Welfare (1) makes a finding that the public benefit from permitting the use of such additive would exceed the public risk resulting from such use; (2) gives notice in the Federal Register of such a finding and opportunity for public comment; and (3) issues a final order not earlier than 120 days from such publication.

Specifies factors that must be taken into consideration when evaluating a food additive.

Deems saccharin a safe food additive unless the Secretary declares it unsafe under the provisions of this Act.

H.R. 5955. April 4, 1977. Public Works and Transportation. Amends the Federal Water Pollution Control Act to revise the scope of Federal permit authority with respect to discharges of dredged or fill material in navigable waters. Requires permits for such discharges into wetlands adjacent to navigable waters.

Exempts farming, ranching, construction, and related activities from such permit requirements.

H.R. 5956. April 4, 1977. Ways and Means. Amends the Internal Revenue Code to exclude from gross income amounts received under tuition-remission programs at institutions of higher education.

H.R. 5957. April 4, 1977. Interstate and Foreign Commerce. Provides protection for certain sales representatives terminated from their accounts without justification by requiring the principals to indemnify the sales representatives.

H.R. 5958. April 4, 1977. Post Office and Civil Service; Judiciary. Requires Federal employees, grade GS–13 and above, who have been employed by the Government for less than three years to file an annual statement describing present and former positions and recent or pending agency actions over which such employee has any influence and in which such employee's former employer has an interest. Requires persons who have terminated their Federal employment at a grade of GS–13 or higher during the past three years to file a statement with regard to actions in which such person's present employer was interested.

H.R. 5959. April 4, 1977. Banking, Finance and Urban Affairs. Amends the Renegotiation Act of 1951 to limit the terms of members of the Renegotiation Board to five years, set rates of compensation for such members, and to declare the Chairman of the Board its chief executive officer and confer upon him the duty to direct the executive functions of the Board.

Increases the minimum money value of contracts and subcontracts to which the Act is applicable. Sets other requirements with respect to exemptions under the Act and audits of reports submitted pursuant to the Act.

H.R. 5960. April 4, 1977. Education and Labor. Prohibits the sexual exploitation of children by making it unlawful for any individual to (1) cause or permit a child to be photographed or filmed engaged in a sexual act prohibited under this Act: (2) photograph or film a prohibited sexual act; (3) knowingly transport a film or photograph depicting a prohibited sexual act; or (4) receive for sale or sell any such film or photograph, if such individual knows or should know such film or photograph has or may be transported in such a manner as to affect interstate or foreign commerce.

H.R. 5961. April 4, 1977. Ways and Means. Amends the Internal Revenue Code to allow an income tax deduction for the expenses paid for the higher education of the taxpayer, or a dependent, not exceeding $1,500 for each student.

H.R. 5962. April 4, 1977. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to increase to $7,500 the amount of outside earnings which is permitted an individual each year without any deduction from benefits under such Title.

H.R. 5963. April 4, 1977. Ways and Means. Amends the Internal Revenue Code with respect to the rate of tax imposed on tax preferences and the amount of tax preferences exempt from such tax.

H.R. 5964. April 4, 1977. Judiciary. Amends provisions of Federal law setting forth penalties for interstate or foreign commerce in stolen cattle to include stolen swine, sheep, fowl, insects, horses, mules, or carcasses thereof.

H.R. 5965. April 4, 1977. Education and Labor. Amends the Higher Education Act of 1965 to allow second, third, and fourth year undergraduate students to have certain loans insured in excess of 50 percent (up to $2,500) of their estimated cost of attendance.

H.R. 5966. April 4, 1977. Post Office and Civil Service. Amends the Legislative Reorganization Act of 1946 to prohibit cost-of-living pay adjustments for Members of Congress from taking effect unless specifically approved by resolution by both Houses of Congress.

Amends the Federal Salary Act of 1967 to make the recommendations of the President with respect to the rates of pay for Members of Congress effective only upon a resolution by Congress approving such recommendations.

H.R. 5967. April 4, 1977. Ways and Means. Amends Title II (Old Age, Survivors, and Disability Insurance) of the Social Security Act to provide for the continuation of benefit entitlement through the month of death (or through the month of the insured's death in the case of a dependent), unless the continuation of entitlement (and the consequent delay in survivor entitlement) would result in a reduction in the total benefits to which all persons are entitled for such month on the basis of the insured's wages and self-employment income.

H.R. 5968. April 4, 1977. Interior and Insular Affairs. Redesignates the Boundary Waters Canoe Area in Superior National Forest, Minnesota, as the Boundary Waters Wilderness Area. Establishes the Boundary Waters National Recreation Area, Minnesota.

H.R. 5969. April 4, 1977. Judiciary. Allows nationals of Chile who are being persecuted in Chile or are in danger of being persecuted if returned to Chile, and the spouses, children or parents of such nationals, to be granted admission into the United States and the status of permanent residents if specified requirements are met.

H.R. 5970. April 4, 1977. Armed Services. Authorizes appropriations for fiscal year 1978 for weapons procurement and research and development by the armed forces. Establishes the authorized strength levels for each of the military departments and the level for civilian personnel positions within the Department of Defense. Sets forth the authorized military training load for each of the armed forces. Establishes an education assistance program for members of the reserve forces and establishes reenlistment bonuses for such reserve service.

Authorizes appropriations for the programs of the Defense Civil Preparedness Agency. Sets forth limitations regarding Department of Defense human experimentation.

H.R. 5971. April 4, 1977. Public Works and

Transportation. Authorizes the Secretary of the Army, acting through the Chief of Engineers, to construct a replacement lock and dam on the Mississippi River. Withdraws all authority with respect to channel construction and modification on the Upper Mississippi River.

Directs the Upper Mississippi River Basin Commission to prepare a master plan for the management of the Upper Mississippi River.

H.R. 5972. April 4, 1977. Ways and Means. Amends the Internal Revenue Code to extend the time for a small business corporation to elect subchapter S status from the first month to the 15th day of the third month of the taxable year, and to any time during the preceding taxable year.

H.R. 5973. April 4, 1977. Judiciary. Amends the Immigration and Nationality Act to subject an alien who has become a public charge, within five years after entry, to deportation regardless of the legal liability of such alien to repay the public support received.

Requires that aliens who receive specified types of public assistance be investigated by the Attorney General to determine whether or not such aliens are deportable as public charges.

H.R. 5974. April 4, 1977. Ways and Means. Amends Title XVI (Supplemental Security Income for the Aged, Blind, and Disabled) of the Social Security Act to make benefits under such Title payable to a resident alien only if such alien has continuously resided in the United States for at least five years.

H.R. 5975. April 4, 1977. Interior and Insular Affairs. Authorizes the Secretary of the Interior to acquire lands and interests in lands in specified areas of Nebraska and to establish the Trails West National Historical Park in Nebraska and Wyoming once sufficient lands have been acquired.

H.R. 5976. April 4, 1977. Ways and Means. Amends title II (Old-Age, Survivors and Disability Insurance) of the Social Security Act by removing the limitation upon the amount of outside income which an individual may earn while receiving benefits.

H.R. 5977. April 4, 1977. Interstate and Foreign Commerce. Amends the Public Health Service Act to allow medical facilities to be reimbursed by the Federal Government for emergency medical treatment given aliens unlawfully in the United States if such aliens are unable to pay the cost of such treatment or can pay only a part of the cost and the aliens or medical facilities which provided such treatment are not eligible under any public assistance program for payment of or reimbursement of such cost.

H.R. 5978. April 4, 1977. Interstate and Foreign Commerce. Reaffirms the intent of Congress with respect to the structure of the common carrier telecommunications industry rendering services in interstate and foreign commerce. Reaffirms the authority of the States to regulate terminal and station equipment used for telephone exchange service. Requires the Federal Communications Commission to make specified findings in connection with Commission actions authorizing specialized carriers.

H.R. 5979. April 4, 1977. Post Office and Civil Service. Reinstates civil service retirement survivors annuities for surviving spouses of employees whose annuities were terminated due to remarriage before July 18, 1966, and surviving spouses of Members of Congress who died before January 8, 1971, whose annuities were terminated due to remarriage.

H.R. 5980. April 4, 1977. Public Works and Transportation. Authorize the Administrator of General Services to provide space in the Old Post Office Building in the District of Columbia to persons designated by the National Endowment for the Arts as being engaged in artistic or cultural enterprises at rentals approximating commercial charges for other Federal buildings space.

H.R. 5981. April 4, 1977. House Administration. Amends the American Folklife Preservation Act to authorize appropriations for fiscal years 1979, 1980, and 1981.

H.R. 5982. April 4, 1977. Post Office and Civil Service. Amends the Federal Salary Act of 1967 and the Legislative Reorganization Act of 1946 to specify when an adjustment in the rate of pay for Members of Congress proposed during any Congress shall take effect.

H.R. 5983. April 4, 1977. Banking, Finance and Urban Affairs; Judiciary. Prohibits any United States entity or representative from obtaining copies of, or access to, information contained in the financial records, toll records, or credit records of any customer of a financial institution, communication common carrier, credit card issuer, or consumer reporting agency. Lifts such prohibition if: (1) the records are described with sufficient particularity; and (2) the customer has authorized disclosure, the disclosure is obtained in response to an administrative subpoena, search warrant, or judicial subpoena, or disclosure is in compliance with specified provisions of the Fair Credit Reporting Act. Restricts the use of mail covers and the interception of wire and oral communications for purposes of supervisory observing by communication common carriers and others.

H.R. 5984. April 4, 1977. Rules. Amends the Legislative Reorganization Act of 1970 to require that each committee report accompanying a public bill or resolution contain a paperwork impact statement estimating the number of reports which would be required of private business enterprises, the complexity of the forms which would be required, and the cost and time which would be required in making and keeping such reports.

H.R. 5985. April 4, 1977. Judiciary. Entitles, absent certain findings persons to be investigated and indicted by a Federal grand jury to notice and a right to appear.

Grants certain rights, including the right to counsel, to Federal grand jury witnesses.

Revises procedures for, and sets forth defense relative to, finding recalcitrant grand jury witnesses in comtempt.

Entitles witnesses compelled to testify before a Federal Grand jury, Congress, or executive agency to transactional immunity.

Specifies guidelines regarding the rights and authority of a Federal grand jury, including the power to initiate independent inquiries.

H.R. 5986. April 4, 1977. Interstate and Foreign Commerce. Amends the Clean Air Act to revise carbon monoxide and nitrogen oxide emission standards for light-duty motor vehicles. Extends interim emission standards for hydrocarbons and carbon monoxide through model year 1979. Extends interim standards for nitrogen oxides through model year 1981. Authorizes revisions or waivers of nitrogen oxide standards in subsequent model years.

Authorizes non-disclosure of emission data to the public where deemed necessary to preserve trade secrets. Establishes procedures for public participation in hearings on proposed motor vehicle emission standards.

Authorizes appropriations to carry out the Act through fiscal year 1980.

H.R. 5987. April 4, 1977. International Relations. Grants the consent of Congress to retired members of the uniformed services, members of Reserve components of the armed forces, and members of the Public Health Service Reserve Corps to accept employment with foreign governments with the approval of the Secretary concerned and the Secretary of State.

H.R. 5988. April 4, 1977. Judiciary. Restricts the power of a State or political subdivision to tax the income of an individual residing or earning income in another State.

H.R. 5989. April 4, 1977. Post Office and Civil Service. Prohibits the Secretary of the Treasury from reporting to any city requiring the withholding of city taxes from the pay of employees the name, address, other identifying particular, or pay of any Federal employee unless release of such information is ordered by a United States district court as necessary to the conduct of a criminal investigation.

H.R. 5990. April 4, 1977. Post Office and Civil Service. Prohibits the taking of civil service disciplinary action against any civil service employee who refuses to comply with directives to report to any place for the service of State or local process in connection with a claim against such employee for taxes allegedly owed such State or unit of local government.

H.R. 5991. April 4, 1977. Education and Labor. Amends the provisions of the National School Lunch Act concerning the summer food service program for children to authorize appropriations for 1978. Specifies the level of disbursement for, and the meals that may be served by, participating service institutions. Specifies the time at which payments must be made to States and service institutions.

Directs the Secretary of Agriculture to study the costs of food service operations and administration of the program. Authorizes the Secretary to conduct demonstration projects to better assure that needy children receive balanced meals during the summer.

H.R. 5992. April 4, 1977. Judiciary. Amends the Immigration and Nationality Act to exclude from admission into, and provides for the deportation from, the United States of any alien who engaged or assisted in, or incited or directed others to engage in, the persecution of others on the basis of religion, race, or national origin under the direction of the Nazi government of Germany between March 23, 1933, and May 8, 1945.

H.R. 5993. April 4, 1977. Ways and Means; Small Business Amends the Internal Revenue Code to allow individuals limited income tax credits for residential insulation and solar energy expenditures. Amends the Small Business Act to provide low interest loans for commercial investment in energy conservation and renewable resource measures.

H.R. 5994. April 4, 1977. Agriculture. Extends the provisions of the Rice Production Act of 1975 through the 1981 crops year. Sets formulas for the established price and the loan for each such crop and requires cooperators to plant no less than 90 percent of their allotments. Directs that acreage not planted because of disaster or condition beyond the producer's control be considered acreage planted to rice.

H.R. 5995. April 4, 1977. Judiciary. Prohibits commerce in contraband cigarettes and defines "contraband cigarettes."

Subjects dealers in cigarettes to such reporting requirements as the Secretary of the Treasury may prescribe.

H.R. 5996. April 4, 1977. Education and Labor. Amends the Elementary and Secondary Education Act of 1965 to direct the Commissioner of Education to make grants to local educational agencies for energy conservation measures, technical assistance related to such measures, and energy demonstration projects showing unusual promise.

H.R. 5997. April 4, 1977. Interstate and Foreign Commerce. Amends the Communications Act of 1934 to authorize the Federal Communication Commission to grant broadcast licenses and license renewals for five-year terms.

Revises the Act to allow certain appeals from orders or decisions of the Commission to be brought in the United States court of appeals for the circuit in which the broadcast facility is, or is proposed to be located.

Requires the Commission to examine its broadcast license renewal procedure to determine how it can be simplified.

H.R. 5998. April 4, 1977. Education and Labor. Amends the Civil Rights Act of 1964 to define sex discrimination for employment purposes to include discrimination on the basis of pregnancy.

H.R. 5999. April 4, 1977. Public Works and Transportation. Amends the Interstate Commerce Act to increase the amount of capital stock or the principal value of other securities which may be issued by motor carriers without authorization by the Interstate Commerce Commission.

H.R. 6000. April 4, 1977. Education and Labor. Increases the dollar amount of contracts to which the Davis-Bacon Act applies and provides for future increases tied to cost-of-living increases. Makes such Act applicable only to unskilled laborers. Details the method for computing the "prevailing wage" under the Act. Establishes a Federal Construction Appeals Board to hear appeals regarding wage rate determinations under the Act.

H.R. 6001. April 4, 1977. Judiciary. Amends the Clayton Act to prohibit any corporation engaged in any activity affecting commerce from acquiring stock, other share capital, or assets of one or more corporations where the effect of such acquisition is the substantial lessening of competition or the tendency to create a monopoly.

H.R. 6002. April 4, 1977. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to provide that the automatic cost-of-living increases in benefits be made on a semiannual basis (rather than only on an annual basis as at present).

H.R. 6003. April 4, 1977. Agriculture. Amends the Agricultural Act of 1949 to base specified disaster payments for wheat and feed grains on the actual acreage planted, in lieu of the farm acreage allotment base.

H.R. 6004. April 4, 1977. Science and Technology. Directs the President to establish (1) a National Earthquake Hazard Reduction Program, (2) an Office of Earthquake Hazard Reduction, (3) a National Advisory Committee on Earthquake Hazard Reduction, and (4) an Earthquake Prediction Evaluation Board.

Specifies the duties of the Office of Earthquake Hazard Reduction, including the development of an Earthquake Hazard Reduction Program plan.

Enumerates the Federal agencies to be assigned responsibilities in, and details the elements of, the Earthquake Hazard Reduction Program.

Directs the Earthquake Prediction Evaluation Board to monitor prediction methods and issue earthquake predictions.

H.R. 6005. April 4, 1977. Judiciary. Directs the Secretary of the Treasury to pay a specified sum to a certain individual in full settlement of such individual's claims against the United States.

H.R. 6006. April 4, 1977. Judiciary. Directs the Secretary of the Treasury to pay a specified sum to a certain corporation in full settlement of such corporation's claims against the United States.

H.R. 6007. April 4, 1977. Judiciary. Declares a certain individual eligible for naturalization under the Immigration and Nationality Act.

H.R. 6008. April 5, 1977. Agriculture. Amends the Consolidated Farm and Rural Development Act to increase the percentage of the cost of a water or waste project which the Department of Agriculture may fund by grants to local associations. States general formula for the calculation of grant amounts according to prescribed maximum rates for the project facility use payment made by an average domestic user of an area to be served by a project. Revises the priorities for recipients of project grants.

H.R. 6009. April 5, 1977. Interstate and Foreign Commerce. Creates an Electric Energy Office in the Federal Power Commission to establish and enforce national minimum standards for electric utility rates to be binding upon all utilities and regulatory agencies. Requires that utility rate structures be designed so as to provide lower rates for residential and small business users and to penalize wasteful consumption of electric energy.

H.R. 6010. April 5, 1977. Public Works and Transportation. Amends the Federal Aviation Act of 1958 to authorize the Secretary of Transportation to insure domestic and foreign air carriers against loss or damage arising out of any risk (previously only war risks) from the operation of an aircraft under specified conditions.

H.R. 6011. April 5, 1977. Veterans' Affairs. Provides that recipients of veterans' pensions and compensation will not have the amount of such pension or compensation reduced because of increases in social security benefits.

H.R. 6012. April 5, 1977. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act by removing the limitation upon the amount of outside income which an individual may earn while receiving benefits.

H.R. 6013. April 5, 1977. Ways and Means. Amends the Internal Revenue Code to repeal the limitations made by the Tax Reform Act of 1976 on the exclusion for sick pay.

H.R. 6014. April 5, 1977. Agriculture; International Relations. Directs the Secretary of Agriculture to establish a food reserve to help meet emergency food conditions in any area of the United States or in any foreign country which suffers a severe loss of its food supply because of a natural disaster. Authorizes the Secretary to permit foreign countries to participate in the program by purchasing certain commodities and paying the required storage and handling costs.

H.R. 6015. April 5, 1977. Interstate and Foreign Commerce. Amends the Railroad Retirement Act of 1974 to revise the method of computation of annuities for certain retired employees and their suviving spouses.

H.R. 6016. April 5, 1977. Post Office and Civil Service. Amends the Federal Salary Act of 1967 and the Legislative Reorganization Act of 1946 to permit any increase in rates of pay for Members of Congress to take effect only if expenditures of the United States did not exceed receipts of the United States in the last completed fiscal year.

Subjects any increase in the rate of pay for the Vice President to the same condition.

H.R. 6017. April 5, 1977. Education and Labor. Amends the National Labor Relations Act and the Railway Labor Act to prohibit an employer from discriminating against an employee who is enrolled in a full-time program of secondary, vocational, or higher education for nonmembership in or failure to provide financial support to a labor organization.

H.R. 6018. April 5, 1977. Education and Labor. Amends the National Labor Relations Act and the Railway Labor Act to repeal provisions allowing an employer and a labor organization to enter into an agreement to require membership in such organization as a condition of employment.

H.R. 6019. April 5, 1977. Post Office and Civil Service. Declares that all Federal employees have the right to form, join, and assist a labor organization or to refrain from any such activty without fear of penalty or reprisal.

H.R. 6020. April 5, 1977. Ways and Means. Amends the Internal Revenue Code to exempt nonprofit volunteer firefighting or rescue organizations from the excise tax on sales of special fuels, automotive parts, petroleum products, and communication services.

H.R. 6021. April 5, 1977. International Relations. Grants the consent of Congress to retired members of the uniformed services, members of Reserve components of the armed forces, and members of the Public Health Service Reserve Corps to accept employment with foreign governments with the approval of the Secretary concerned and the Secretary of State.

H.R. 6022. April 5, 1977. Judiciary. Amends the Immigration and Nationality Act to exclude from the definition of the term "immigrant" those persons entering the United States for a period of not more than one year to perform temporary services or labor if the Secretary of Labor has determined and certified to the Attorney General that there are not sufficient workers available at the aliens destination who are willing and able to perform such services.

H.R. 6023. April 5, 1977. Post Office and Civil Service. Makes National Guard civilian technicians members of the competitive service. Gives such individuals certain rights relating to order of retention and procedures for removal or suspension from employment.

H.R. 6024. April 5, 1977. House Administration. Directs the Librarian of Congress to transfer one of the Gettysburg Address manuscripts to the Secretary of the Interior for the purpose of placing such manuscript on display in Gettysburg National Park, Pennsylvania.

H.R. 6025. April 5, 1977. Interstate and Foreign Commerce. Amends the Natural Gas Act to revise procedures governing regulation of prices of new natural gas by the Federal Power Commission. Directs the Commission to undertake mandatory conservation and allocation measures during natural gas shortages.

Amends the Energy Supply and Environmental Coordination Act of 1974 to authorize the Federal Energy Administrator to prohibit major facilities for burning natural gas.

H.R. 6026. April 5, 1977. Merchant Marine and Fisheries. Amends the Commercial Fisheries Research and Development Act of 1964 to authorize the appropriation of funds to the Secretary of Commerce for apportionment to the States for fiscal years 1978, 1979, and 1980 to carry out the purposes of the Act.

H.R. 6027. April 5, 1977. Merchant Marine and Fisheries. Amends the Atlantic Tunas Convention Act to: (1) authorize appropriations for fiscal years 1978, 1979, and 1980 to carry out the purposes of the Act; and (2) redefine "fisheries zone" to fix the outer boundary of such zone at a point which is 200 nautical miles from the baseline from which the territorial sea is measured.

H.R. 6028. April 5, 1977. Interstate and Foreign Commerce; Ways and Means; Government Operations; Science and Technology. Amends the Internal Revenue Code to 1954 to give preferential status to users of recycled oil in Federal procurement activities.

Authorizes the Administrator of the Environmental Protection Agency to make grants for implementation and operation of State waste oil management plans.

Directs the Administrator of Energy Research and Development to conduct a program to improve the performance and marketability of recycled oil.

H.R. 6029. April 5, 1977. Interstate and Foreign Commerce. Directs the Secretary of Health, Education, and Welfare to expand the programs for the treatment of burn injuries, research on burns, and the rehabilitation of burn victims by establishing additional burn centers and burn units and by supporting research and training programs in the treatment and rehabilitation of burn injury victims.

Authorizes funds for the continuation of present burn treatment programs and authorizes the appropriation of additional funds for such expanded programs.

H.R. 6030. April 5, 1977. Interior and Insular Affairs. Amends the Atomic Energy Community Act of 1955 to authorize the Administrator of the Energy Research and

Development Administration to continue assistance payments to specified local governmental units in Los Alamos, New Mexico, beyond the deadline dates specified in such Act.

H.R. 6031. April 5, 1977. Ways and Means. Amends the Internal Revenue Code to allow an income tax exclusion for the interest on governmental bonds the proceeds of which are used for facilities to furnish hydroelectric energy.

H.R. 6032. April 5, 1977. Judiciary. Prohibits disclosure of information identifying or tending to identify a person as a present or former participant in United States foreign intelligence operations if (1) the information has been designated by statute or Executive order as requiring some degree of protection of (2) the person disclosing the information knows or has reason to believe that such disclosure may prejudice the safety or well-being of the person identified.

H.R. 6033. April 5, 1977. House Administration. Provides for the designation of any nationally accredited law school as a depository library upon request of such law school.

H.R. 6034. April 5, 1977. Merchant Marine and Fisheries. Amends the Shipping Act, 1916, to include within the definition of "common carrier by water in foreign commerce" under such Act common carriers engaging in the ocean transportation of property of United States origin or destination via ports in nations contiguous to the United States who advertise or arrange the transportation of such property within the United States or who issue or deliver within the United States, ocean or through intermodal bills of lading or other contracts of freightment for such transportation.

Establishes minimum rates for such transportation.

H.R. 6035. April 5, 1977. Education and Labor. Prohibits the sexual exploitation of children by making it unlawful for any individual to (1) cause or permit a child to be photographed or filmed engaged in a sexual act prohibited under this Act; (2) photograph or film a prohibited sexual act; (3) knowingly transport a film or photograph depicting a prohibited sexual act; or (4) receive for sale or sell any such film or photograph, if such individual knows or should know such film or photograph has or may be transported in such a manner as to affect interstate or foreign commerce.

H.R. 6036. April 5, 1977. Agriculture. Amends the Agricultural Act of 1949, as amended, to set loan levels for the 1977 crops of wheat, corn, and upland cotton, and to set the 1977 price supports of milk and wool.

H.R. 6037. April 5, 1977. Ways and Means. Amends the Internal Revenue Code to increase the limitation on adjusted gross income for purposes of the credit for the elderly.

H.R. 6038. April 5, 1977. Armed Services. Establishes a Dental Corps within the Department of the Army to be headed by the Assistant Surgeon General. Establishes a Dental Service within the Air Force.

H.R. 6039. April 5, 1977. Interstate and Foreign Commerce. Amends the Federal Food, Drug, and Cosmetic Act to allow use of food additive for human health purposes, even though such additive induces cancer in animals, if the Secretary of Health, Education, and Welfare determines the benefits of such use outweigh the risks.

Directs the Secretary to consider in his evaluation (1) scientific data and information on the additive; (2) the scientific validity and other conditions concerning the additive's testing on animals; and (3) the reliability of predicting cancer in humans from use of an additive found to induce cancer in animals.

H.R. 6040. April 5, 1977. Ways and Means. Amends the Internal Revenue Code to exempt farming vehicles from the highway motor vehicle excise tax, excepting vehicles owned by corporations with gross annual receipts exceeding $950,000, or which derive more than 50 percent of their gross receipts from nonfarming activities.

H.R. 6041. April 5, 1977. Ways and Means. Amends the Internal Revenue Code to allow a State, a possession of the United States, any political subdivision of any of the foregoing, the District of Columbia, or an issuer of qualified scholarship funding bonds to elect to issue taxable obligations, the interest of which will be included in the gross income of the recipient.

Directs the Secretary of the Treasury to pay without condition or requirement a percentage of the interest yield on each obligation for which the election of taxability has been made.

H.R. 6042. April 5, 1977. Government Operations. Establishes a Department of Senior Citizens Affairs. States that the Department shall serve as a clearinghouse for information related to the problems of the elderly and shall assume specified responsibilities from other government agencies.

H.R. 6043. April 5, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Title XVIII (Medicare) of the Social Security Act to provide payment for rural health clinic services pursuant to the program of Supplementary Medical Insurance Benefits for the Aged and Disabled of such Title.

H.R. 6044. April 5, 1977. Education and Labor. Amends the Comprehensive Employment and Training Act of 1973 to direct the Secretary of Labor to provide financial assistance to prime sponsors submitting approved plans for school year youth incentive and summer youth incentive programs.

H.R. 6045. April 5, 1977. Veterans' Affairs. Denies veterans' benefits to an individual whose discharge from military service during the Vietnam era under less than honorable conditions is administratively upgraded, under temporarily revised standards, to discharge under honorable conditions; but only when such veterans' claim for benefits is based solely on such upgraded discharge. Requires the Secretary of the armed service concerned to provide the Administrator of Veterans' Affairs with appropriate records indicating the initial issuance of any discharge or release from active service which is upgraded.

H.R. 6046. April 5, 1977. Veterans' Affairs. Requires the Secretary of Defense to pay a lump-sum to each qualified Vietnam-era veteran, and an additional lump-sum to each qualified Vietnam-era combat veteran, or to such veteran's survivor if such veteran is deceased.

H.R. 6047. April 5, 1977. Small Business. Authorizes the Small Business Administration to provide emergency drought assistance loans to assist small business concerns to overcome the effects of actual or prospective substantial economic injury resulting from the 1976–1977 drought.

H.R. 6048. April 5, 1977. Agriculture. Increases from $250,000 to $500,000 the amount of any Resource Conservation and Development loan for which funds may be appropriated under the Bankhead-Jones Farm Tenant Act without prior approval of such loan by certain congressional committees.

Extends the loan-making power of the Secretary of Agriculture to include loans for the conservation, development and utilization of water for aquaculture purposes.

H.R. 6049. April 5, 1977. Agriculture. Amends the Watershed Protection and Flood Prevention Act to increase the maximum allowable amount for single loans or advancements for watershed improvement projects.

H.R. 6050. April 5, 1977. Public Works and Transportation. Directs the Secretary of Transportation to convey a reversion interest in specified patent lands to Redmond, Oregon.

H.R. 6051. April 5, 1977. Judiciary; Banking, Finance and Urban Affairs; Armed Services; Government Operations. Prohibits intelligence activities which interfere with first amendment rights. Limits the jurisdictions of such Bureau and the Central Intelligence Agency to criminal investigations and foreign intelligence gathering, respectively. Renames such agencies. Repeals specified statutes relating to the exercise of the first amendment rights of freedom of speech and association. Establishes procedures to investigate law violations committed by Federal officials involved in intelligence activities.

H.R. 6052. April 5, 1977. Agriculture. Amends the Food Stamp Act of 1964 by revising: (1) eligibility standards; (2) the method of determining the coupon allotment; and (3) administration of the program by State agencies.

H.R. 6053. April 5, 1977. Armed Services. Establishes within the Department of Defense a Weapons and Munitions Security Office which shall be responsible for formulating, coordinating, and supervising a continuing program of security and accountability for weapons and munitions of the Department of Defense.

H.R. 6054. April 5, 1977. Education and Labor. Amends the Occupational Safety and Health Act of 1970 to provide that any employer who successfully contests a citation or penalty under such Act shall be awarded a reasonable attorney's fee and other reasonable litigation costs.

H.R. 6055. April 5, 1977. Education and Labor. Amends the Occupational Safety and Health Act of 1970 to exclude certain employers from coverage.

Revises certain procedures dealing with (1) standards and their promulgation; (2) inspections, investigations, and recordkeeping; (3) citations and notices; and (4) enforcement.

Provides for (1) certain affirmative defenses by employers; (2) consultative visits by the Secretary upon employer request; and (2) voluntary compliance agreements between the Secretary and an employer.

H.R. 6056. April 5, 1977. Judiciary. Amends provisions of the Gun Control Act of 1968 imposing additional penalties for individuals who use or unlawfully carry a firearm during the commission of a Federal felony.

H.R. 6057. April 5, 1977. Judiciary. Imposes specified separate penalties for disclosure of classified information to unauthorized persons by an individual who had possession or obtained such information as a Federal public servant.

H.R. 6058. April 5, 1977. Requires any rule proposed by any Government agency to be submitted to Congress with a full explanation of such rule. States that such rule shall become effective no later than 60 days after submission to Congress unless either House adopts a resolution disapproving such rule.

H.R. 6059. April 5, 1977. Ways and Means. Amends the Internal Revenue Code to allow employers a tax credit for the sum of FICA (and in specified instances, FUCA) taxes withheld and paid for a limited number of new employees. Directs the Secretary of the Treasury, in consultation with other departments and agencies, to make annual reports to Congress on the impact of this credit as an employment incentive.

H.R. 6060. April 5, 1977. Ways and Means. Requires that expenditures by the Federal Government shall not exceed its revenues except in time of war or national emergency declared by Congress.

Establishes a schedule for systematic reduction of the public debt.

H.R. 6061. April 5, 1977. Interstate and Foreign Commerce. Amends the Federal

Trade Commission Act to authorize the appropriation of funds for the administration of such Act during fiscal years 1978, 1979, and 1980.

H.R. 6062. April 5, 1977. Rules. Requires specified congressional committees to conduct sunset reviews of programs relating to military personnel and education and training by the end of fiscal year 1979, to determine whether such programs should be expanded, restricted, continued or terminated. Prohibits, thereafter, the enactment of new budget authority for such programs unless a sunset review report has been submitted to the appropriate House.

Terminates all tax exclusions, exemptions, deductions, credits, preferential tax rates, and tax deferrals by 1983 or five years after their enactment, whichever is later. Forbids their re-enactment unless specified congressional committees have conducted sunset reviews of such provisions.

H.R. 6063. April 5, 1977. Judiciary. Amends the General Revision of Copyright Law to limit performance rights in sound recordings, to impose a compulsory licensing procedure on the public performance of sound recordings, to establish royalty rates for broadcast stations, and to outline the procedure for the distribution of royalties to claimants.

H.R. 6064. April 5, 1977. Ways and Means. Amends the Internal Revenue Code to define integrated auxiliaries of churches which are exempt from certain filing requirements for tax exempt organizations.

H.R. 6065. April 5, 1977. Ways and Means. Redefines "head of household" under the Internal Revenue Code to include otherwise qualified individuals who maintain households without dependents.

H.R. 6066. April 5, 1977. Ways and Means. Amends the Internal Revenue Code to repeal the withholding requirements for certain gambling winnings.

H.R. 6067. April 5, 1977. Public Works and Transportation. Directs the Administrator of the General Services Administration and the Secretary of Defense to develop energy conservation guidelines for Federal buildings, federally assisted buildings, and Federal procurement. Authorizes increased Federal assistance to buildings constructed or renovated with solar energy or other energy-conserving equipment.

H.R. 6068. April 5, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Title XVIII (Medicare) and Title XIX (Medicaid) of the Social Security Act to include in the coverage provided under such programs the services of licensed (Registered) nurses.

H.R. 6069. April 5, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Title XVIII (Medicare) of the Social Security Act to provide payment for nutritional counseling as part of the home health services provided under the supplementary medical insurance program.

H.R. 6070. April 5, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Title XVIII (Medicare) of the Social Security Act to provide payment for certain clinical psychologists' services under the supplemental medical insurance program.

H.R. 6071. April 5, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Title XVIII (Medicare) of the Social Security Act to provide payment for one physical checkup a year under the supplementary medical insurance program.

H.R. 6072. April 5, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Title XVIII (Medicare) and Title II (Old-age, survivors, and disability insurance) of the Social Security Act to extend Medicare hospital coverage to include drugs. Establishes a formulary committee within the Department of Health, Education, and Welfare to prepare and maintain a listing of qualified drugs.

H.R. 6073. April 4, 1977. Post Office and Civil Service. Specifies civil penalties for persons who continue to engage in conduct which the Postal Service determines constitutes either (1) a scheme or device for obtaining money or property through the mail by means of false pretenses or (2) a lottery, gift enterprise, or similar scheme for the distribution of money or property, and for persons who fail to comply with orders issued by the Postal Service as a result of such a determination.

H.R. 6074. April 5, 1977. Veterans' Affairs. Denies veterans' benefits to an individual whose discharge from military service during the Vietnam era under less than honorable conditions is administratively upgraded, under temporarily revised standards, to discharge under honorable conditions; but only when such veterans' claim for benefits is based solely on such upgraded discharge.

H.R. 6075. April 5, 1977. Education and Labor. Amends the Civil Rights Act of 1964 to define sex discrimination for employment purposes to include discrimination on the basis of pregnancy.

Prohibits an employer providing benefits under a fringe benefit program which is in violation of this act from reducing benefits or compensation in order to comply with this act.

H.R. 6076. April 5, 1977. Ways and Means. Amends the Internal Revenue Code to apply the same rate schedule presently applied to unmarried individuals who are not heads of households, all individuals, estate and trusts, and to require each employed individual earning more than $750 annually to file a separate income tax return regardless of marital status.

H.R. 6077. April 5, 1977. Ways and Means. Amends the Internal Revenue Code to allow individuals to treat amounts paid for permanent improvements to property for medical care purposes as deductible medical expenses without reducing the deductions for any increase in the value of the property.

H.R. 6078. April 5, 1977. Interstate and Foreign Commerce. Exempts sales of natural gas by small independent producers from regulation by the Federal Power Commission.

H.R. 6079. April 5, 1977. Banking, Finance and Urban Affairs; Judiciary. Prescribes standards and procedures for disclosure of financial records of any customer by a financial institution to any State or any political subdivision of any State. Sets conditions under which the interception of oral or wire communications in the course of doing business is lawful. Establishes criminal and civil penalties for violations of this Act.

H.R. 6080. April 5, 1977. Banking, Finance and Urban Affairs; Judiciary. Prescribes standards and procedures for disclosure of financial records of any customer by a financial institution to any State or any political subdivision of any State. Sets conditions under which the interception of oral or wire communications in the course of doing business is lawful. Establishes criminal and civil penalties for violations of this Act.

H.R. 6081. April 5, 1977. Ways and Means. Amends the Internal Revenue Code to allow as a credit against the income tax a limited amount of specified higher education expenses, including tuition, fees, books and supplies, incurred by the taxpayer for himself and any dependents.

H.R. 6082. April 5, 1977. Ways and Means. Amends the Internal Revenue Code to allow as a credit against the income tax a limited amount of specified higher education expenses, including tuition, fees, books and supplies, incurred by the taxpayer for himself and any dependents.

H.R. 6083. April 5, 1977. Rules; Interstate and Foreign Commerce. Establishes an Office of Consumer Protection within the legislative branch to represent the interests of consumers before Federal agencies and the courts, to encourage and support research on consumer products, to receive and act upon consumer complaints, and to gather and disseminate information on matters of consumer interest.

Requires Federal agencies considering actions which may substantially affect the interests of consumers to notify the Office, and to consider the interests of consumers.

Permits Congressional committees to order the Director of such office to intervene, representing consumer interests, in proceedings of Federal agencies which may substantially affect consumers.

H.R. 6084. April 5, 1977. Merchant Marine and Fisheries. Amends the Fish and Wildlife Coordination Act to establish a program of Federal assistance to the States for the preservation of natural game fish streams, administered by the Secretary of the Interior.

H.R. 6085. April 5, 1977. International Relations. Directs the Director of the United States Information Agency to make available to the National Archives of the United States a master copy of the film "Hirshhorn Museum and Sculpture Garden." Directs the Administrator of General Services to provide copies of the film for public viewing within the United States.

H.R. 6086. April 4, 1977. Public Works and Transportation. Authorizes the Regents of the Smithsonian Institution to construct museum support facilities.

H.R. 6087. April 5, 1977. Interstate and Foreign Commerce; Interior and Insular Affairs. Amends the Energy Supply and Environmental Coordination Act of 1974 to direct the Federal Energy Administrator to publish quarterly reports containing specified information on domestic energy resources.

H.R. 6088. April 5, 1977. Education and Labor. Amends the Elementary and Secondary Education Act of 1965 to require States applying for assistance under such Act to establish and implement basic standards of secondary students' educational proficiency, including the passing of reading, writing, and mathematics examinations.

Establishes the National Commission on Basic Education and directs it to (1) establish such standards; and (2) review and approve or disapprove State plans implementing such standards.

Requires the Commission to report to the President and to the Congress no later than three years after the effective date of this Act.

H.R. 6089. April 5, 1977. Interstate and Foreign Commerce; Merchant Marine and Fisheries; Public Works and Transportation. Amends the Shipping Act, 1916 to require the filing of specified intermodal transportation agreements with the Federal Maritime Commission. Requires the rates for such service over a through route to be set forth in a tariff filed with the Commission.

Directs the Federal Maritime Commission, the Interstate Commerce Commission, and the Civil Aeronautics Board to promulgate uniform rules and regulations governing the content, format, and filing of tariffs for intermodal services.

H.R. 6090. April 5, 1977. Ways and Means. Amends the Internal Revenue Code to provide a deduction for State and local taxes imposed on the furnishings or sale of electrical energy, steam, sewage disposal services, gas or telephone services.

H.R. 6091. April 5, 1977. Post Office and Civil Service. Sets the maximum average workweek for Federal firefighters at 54 hours. Entitles such firefighters to premium pay in lieu of overtime pay equal to up to 25 percent of their basic pay rate.

H.R. 6092. April 5, 1977. Education and Labor. Amends the Juvenile Justice and Delinquency Prevention Act of 1974 to designate the Assistant Administrator, Office of Juvenile Justice and Delinquency Prevention, of the Law Enforcement Assistance

Administration as such Office's Chief Executive Officer and set forth provisions relative to his authority.

Revises the composition and functions of the National Advisory Committee for Juvenile Justice and Delinquency Prevention and State Juvenile Justice Advisory bodies.

Revises guidelines for use of, and for matching shares with respect to, Juvenile Justice formula grants.

Amends the grant program under the Runaway Youth Act.

H.R. 6093. April 5, 1977. Judiciary. Amends the Immigration and Nationality Act to: (1) grant permanent resident status to certain aliens in this country on January 1, 1977; (2) increase the number of total lawful admissions of aliens; (3) remove the English language requirement for citizenship; (4) direct the Attorney General to collect and remit wages due deported aliens after paying the taxes thereon; and(5) remove the residency requirements for persons seeking citizenship after serving in the U.S. Armed Forces.

Directs the Secretary of Health, Education, and Welfare to establish and maintain an index of thumbprints of social security account applicants.

Establishes a Commission on United States-Mexico Immigration Policy.

H.R. 6094. April 5, 1977. Public Works and Transportation; Interior and Insular Affairs; Agriculture. Establishes in the Department of the Interior an Office of Dam Safety and Construction to plan, design, and construct certain dams. Directs the Secretary of the Interior to promulgate safety regulations for dam construction. Transfers to the Secretary all dam planning, design, and construction functions of United States departments and agencies.

Establishes a Dam Safety Review Panel to examine and assess dam safety. Directs the United States Geological Survey to examine proposed dam construction sites. Directs the Office of Management and Budget to carry out certain transfer functions.

H.R. 6095. April 5, 1977. Interstate and Foreign Commerce. Amends the Railroad Safety Act of 1970 to direct the Secretary of Transportation to issue regulations requiring that the locomotive and rear car of all passenger, freight, and commuter trains be equipped with bulletproof glass and equipment which is capable of providing controlled temperatures.

H.R. 6096. April 5, 1977. Agriculture; Education and Labor. Provides States with the option of consolidating and reorganizing the following food assistance programs (1) the food stamp program, (2) the child feeding programs under the National School Lunch Act and the Child and Nutrition Act of 1966, (3) the expanded food and nutrtion education program under the Smith-Lever Act, and (4) the commodity supplemental food program. Sets forth the procedures and requirements for participation by the States.

H.R. 6097. April 5, 1977. Post Office and Civil Service. Amends the Federal Salary Act of 1967 to require that the pay recommendations of the President with respect to salary increases for Members of Congress be approved by legislation by both Houses of Congress.

Amends the Legislative Reorganization Act of 1946 to abolish automatic cost-of-living adjustments for Members of Congress.

H.R. 6098. April 5, 1977. Judiciary. Establishes a Competition Review Commission to study the effect of certain laws, regulations, policies, governmental practices, and the competitive structure of major industries on employment, price levels, profit levels, efficiency, quality of goods and services, and the ability of domestic corporations to compete with foreign corporations. Directs the commission to recommend a program of legislative and executive action to the President and the Congress which is designed to ameliorate anticompetitive conditions found to be detrimental to the public interest.

H.R. 6099. April 5, 1977. Banking, Finance and Urban Affairs. Permits the provisions of the Renegotiation Act of 1951 to be effective only when the President determines, during a period of national emergency, that having such provisions in effect is in the best interest of the United States and neither House of Congress passes a resolution within 60 days thereafter disagreeing with such determination.

Establishes a Commission to Study the Renegotiation Act of 1951 to consider and recommend to Congress whether the act should be continued, amended, or repealed. Requires such recommendations to be made within 2 years from the date of enactment of this act.

H.R. 6100. April 5, 1977. Education and Labor. Increases the dollar amount of contracts to which the Davis-Bacon Act applies and provides for future increases tied to cost-of-living increases. Makes such Act applicable only to unskilled laborers. Details the method for computing the "prevailing wage" under the Act. Establishes a Federal Construction Appeals Board to hear appeals regarding wage rate determinations under the Act.

H.R. 6101. April 5, 1977. Veterans' Affairs. Permits acceleration of monthly educational assistance payments made by the Veterans' Administration to eligible veterans and dependents. Provides alternative financial and educational assistance to peacetime post-Korean veterans affected by the expiration of their delimiting period. Provides for a conditional extension of the delimiting period for certain Vietnam era veterans. Provides for the development of additional educational, employment, and readjustment assistance programs for veterans, and for protection against abuses and misuse of veterans benefits. Revises the criteria for nonaccredited courses.

H.R. 6102. April 5, 1977. Interior and Insular Affairs. Directs the Secretary of the Interior to convey specified lands in Lake County, Colorado, a named individual.

H.R. 6103. April 5, 1977. Judiciary. Declares a certain individual to have achieved the grade of major-general in the Air Force, for the purpose of computing his retired pay. Directs the Secretary of the Air Force to pay him the difference in salary and retired pay to which he would have been entitled if he had been so promoted.

H.R. 6104. April 5, 1977. Judiciary. Directs the Secretary of the Treasury to pay a specified sum to a certain individual in full settlement of such individual's claims against the United States.

H.R. 6105. April 5, 1977. Judiciary. Declares a certain individual lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 6106. April 5, 1977. Judiciary. Specifies that the presumptions relating to diseases and disabilities shall apply in determining whether a certain individual is entitled to veterans disability compensation.

H.R. 6107. April 5, 1977. Judiciary. Directs the Secretary of the Treasury to pay a specified sum to a certain individual in full settlement of such individual's claims against the United States.

H.R. 6108. April 5, 1977. Judiciary. Authorizes classification of a certain individual as a child for purposes of the Immigration and Nationality Act.

H.R. 6109. April 5, 1977. Judiciary. Declares a certain individual lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 6110. April 6, 1977. Interior and Insular Affairs. Amends certain provisions of law (1) to authorize appropriations for the benefit of (a) the Trust Territory of the Pacific Islands, (b) the Trust Territory Economic Development Loan Fund, and (c) Guam; (2) to abolish the offices of the comptroller of Guam and the Virgin Islands; and (3) to require that certain U.S. payments to the Virgin Islands be made in installments. Authorizes appropriations for the benefit of certain territories in the Pacific. Permits consolidation of government grants to insular areas. Compensates former holders of real estate on Guam whose land was taken without compensation.

H.R. 6111. April 6, 1977. Education and Labor. Amends the Juvenile Justice and Delinquency Prevention Act of 1974 with respect to: (1) duties and meetings of the Coordinating Council on Juvenile Justice and Delinquency Prevention; (2) power of the Administrator of the Law Enforcement Assistance Administration to delegate his authority under such Act; (3) formula grants for State and local delinquency programs and State plans and cash matching shares relative to such grants; and (4) disclosure of certain records gathered for the purposes of such Act.

Amends the Omnibus Crime Control and Safe Streets Act of 1968 to revise requirements for the composition of State law enforcement planning agencies.

H.R. 6112. April 6, 1977. Banking, Finance and Urban Affairs. Amends the Housing and Community Development Act to set forth a formula which the Secretary of Housing and Urban Development must follow in order to determine the amount to be allocated to each city and urban county under the supplemental block-grant program. Authorizes the Secretary to make urban development action grants to severely distressed cities.

Amends the Housing Act of 1937 to increase the limit on funds that are authorized to be appropriated for contracts for annual contributions to low-income housing projects in 1977.

Amends the National Housing Act to extend specified Federal Housing Administration insurance programs.

H.R. 6113. April 6, 1977. Government Operations. Amends the Intergovernmental Cooperation Act of 1968 to require the Federal Government to coordinate any sale, purchase, or change of use of Federal real estate with State and local authorities. Requires as a condition for Federal areawide development assistance that State and local governments and areawide agencies prepare coordinated areawide development plans.

H.R. 6114. April 6, 1977. Agriculture. Amends the Consolidated Farm and Rural Development Act to authorize the Secretary of Agriculture to make and insure loans under such Act for the solar heating or cooling of residential structures on family farms.

H.R. 6115. April 6, 1977. Banking, Finance and Urban Affairs. Authorizes the administrators of specified Federal housing programs to increase the amount of loans made on single- or multi-family dwelling units by up to 20 percent where such increases reflect the cost of solar energy equipment.

Amends the National Housing Act to authorize home improvement loans for the cost of acquisition and installation of solar energy systems.

Amends the Housing and Community Development Act of 1974 to authorize the use of community development block grants for payments to assist in the acquisition and installation of solar energy equipment.

H.R. 6116. April 6, 1977. Veterans' Affairs. Guarantees automatically any loan to a qualified veteran for the purchase and installation of solar heating and/or cooling in a dwelling which he owns and occupies.

H.R. 6117. April 6, 1977. Armed Services. Amends the National Security Act of 1947 to establish procedures and standards for the classification and declassification of sensitive official information and material. Es-

tablishes criminal penalties for unauthorized disclosure of such information or material.

H.R. 6118. April 6, 1977. Government Operations. Establishes a Consumer Protection Agency within the executive branch to represent the interests of consumers before Federal agencies, to receive and act upon consumer complaints, to perform research on consumer products, and to gather and disseminate information on consumer products and services.

Requires Federal agencies considering policies or regulations which may affect the interests of consumers to notify the Agency, and to consider the interests of consumers.

H.R. 6119. April 6, 1977. Science and Technology. Establishes a five-year program in the Energy Research and Development Administration designed to develop advanced automobile propulsion systems. Directs the Secretary of Transportation and the Administrator of the Environmental Protection Agency to evaluate test vehicles for compliance with applicable environmental, energy efficiency, and motor vehicle safety requirements.

H.R. 6120. April 6, 1977. House Administration. Directs the Attorney General in consultation with the Secretary for Health, Education, and Welfare to prescribe standards for polling and registration facilities which will assure ready access by the handicapped and the aged.

Permits designation of facilities for Federal elections which do not comply with such standards only where conforming facilities are unavailable.

Requires States to provide alternative registration and voting methods for aged and handicapped persons assigned to inaccessible registration facilities or polling places.

Requires that a paper ballot be made available to a person unable to operate a voting machine.

H.R. 6121. April 6, 1977. House Administration. Directs the Attorney General in consultation with the Secretary for Health, Education, and Welfare to prescribe standards for polling and registration facilities which will assure ready access by the handicapped and the aged.

Permits designation of facilities for Federal elections which do not comply with such standards only where conforming facilities are unavailable.

Requires States to provide alternative registration and voting methods for aged and handicapped persons assigned to inaccessible registration facilities or polling places.

Requires that a paper ballot be made available or a voting assistance be permitted to a person unable to operate a voting machine.

H.R. 6122. April 6, 1977. House Administration. Directs the Attorney General in consultation with the Secretary for Health, Education, and Welfare to prescribe standards for polling and registration facilities which will assure ready access by the handicapped and the aged.

Permits designation of facilities for Federal elections which do not comply with such standards only where conforming facilities are unavailable.

Requires States to provide alternative registration and voting methods for aged and handicapped persons assigned to inaccessible registration facilities or polling places.

Requires that a paper ballot be made available of a voting assistance be permitted to a person unable to operate a voting machine.

H.R. 6123. April 6, 1977. Ways and Means. Amends the Internal Revenue Code to repeal the carryover basis provisions enacted by the Tax Reform Act which provide that beneficiaries receiving property from a decedent's estate will retain the decedent's basis in the property. Restores prior law which "stepped up" or "stepped down" the property's basis to its market value at the time of death without imposing tax consequences on the appreciation or depreciation the property underwent while held by the decedent.

H.R. 6124. April 6, 1977. Ways and Means. Amends various provisions of Title XVI (Supplemental Security Income for the Aged, Blind, and Disabled) of the Social Security Act with respect to the determination of an individual's eligibility for benefits under such Title, the amount of such benefits, and the duration of a period of eligibility under such Title.

H.R 6125. April 6, 1977. Ways and Means. Revises the Internal Revenue Code by amending and repealing portions of the Code with respect to capital gains and losses, income derived from the extraction of minerals, individual and corporate income, the estate and gift tax and State and local obligations.

H.R. 6126. April 6, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Title XVIII (Medicare) of the Social Security Act to provide payment for clinical psychologists' services under the supplementary medical insurance program.

H.R. 6127. April 6, 1977. Education and Labor Amends the Elementary and Secondary Education Act to treat Puerto Rico on the same basis as a State for certain program allocations under such Act.

H.R 6128. April 6, 1977. Ways and Means. Amends the Internal Revenue Code to allow individuals alternative, limited income tax credits or deductions for the tuition paid for the primary, secondary or higher education of the taxpayer, his spouse and dependents.

H.R. 6129. April 6, 1977. Ways and Means. Amends Title II (Old-Age, Survivors', and Disability Insurance) of the Social Security Act: (1) to eliminate special dependency requirements for entitlement to husband's and widower's insurance benefits; (2) to reduce from 20 to 15 years the duration-of-marriage requirement for divorced wives; (3) to provide benefits for certain divorced husbands; (4) to provide benefits to husbands who have minor children in their care; and (5) to provide benefits for widowed fathers with minor children on the same basis as benefits for wives, couple on their combined earnings record.

H.R. 6130. April 6, 1977. Post Office and Civil Service. Prohibits charging against the allowance, appropriation, or other fund from which a congressional employee is paid the amount such employee's salary is decreased by reason of the fact that such employee is receiving a Federal pension.

H.R. 6131. April 6, 1977. House Administration. Repeals the Presidential Primary Matching Payment Account Act.

H.R. 6132. April 6, 1977. House Administration. Amends the Federal Election Campaign Act of 1971 to (1) prohibit all political committees other than National, State or local committees of national political parties from making contributions to candidates or their committees and (2) forbid all political committees from making contributions to other political committees, with the exception of transfer between and among National, State and local party committees.

H.R. 6133. April 6, 1977. International Relations. Deems void any suit or judicial or administrative process against a person or the property of a person entitled to immunity under the Vienna Convention on Diplomatic Relations. Makes Presidential determinations of entitlement to immunity binding upon governmental authorities. Requires the President to publish a list of missions and personnel entitled to such immunity.

Repeals the criminal penalties for wrongful suit against an immune person. Repeals exceptions to suits against servants in the service of personnel of a foreign mission. Repeals the present criteria for determining eligibility for immunity.

H.R. 6134. April 6, 1977. Education and Labor. Amends the Older Americans Act of 1965 to allow States to distribute Federal funds for the establishment of projects to provide home-delivered meals to qualified homebound elderly persons.

Directs the Commissioner of the Administration on Aging to conduct a demonstration project involving at least three States to determine the feasibility of using the meals system designed by the National Aeronautics and Space Administration for the elderly as a component of, or substitute for regular nutrition projects assisted under such Act.

H.R. 6135. April 6, 1977. Agriculture. Amends the United States Grain Standards Act of 1976 in order, among other things, to: (1) grant discretion to the Administrator of the Federal Grain Inspection Service to make recordkeeping requirements for transactions and processes not directly related to grain inspection and weighing; (2) reduce fees for activities of the Service in connection with such inspection or weighing; and (3) clarify the jurisdiction of official inspection and weighing agencies and clarify the authority of the Secretary of Agriculture to delegate specified functions to the Service.

H.R. 6136. April 6, 1977. Veterans' Affairs. Denies veterans' benefits to an individual whose discharge from military service during the Vietnam era under less than honorable conditions is administratively upgraded, under temporarily revised standards, to discharge under honorable conditions; but only when such veteran's claim for benefits is based solely on such upgraded discharge.

H.R. 6137. April 6, 1977. Ways and Means. Amends the Internal Revenue Code to provide honorably discharged veterans of the Vietnam War a refundable, $500 income tax credit for taxable years ending between 1976 and 1980.

H.R. 6138. April 6, 1977. Education and Labor. Amends the Comprehensive Employment and Training Act of 1973 to: (1) establish a National Young Adult Conservation Corps for youths and young adults, to be administered by the Secretary of Labor through agreements with the Secretaries of Agriculture and the Interior, to carry out projects on public lands and waters; (2) authorize the Secretary of Labor to enter into agreements to pay for youth and young adult community improvement projects; and (3) authorize the Secretary of Labor to financially assist programs for employment opportunities and training services for unemployment youths and young adults and to establish experimental programs relative to such pensions.

H.R. 6139. April 6, 1977. Judiciary. Makes it a Federal crime to fire a firearm or in any manner propel any object at or upon any railroad car engine used by any common carrier engaged in interstate or foreign commerce.

Expands the Federal prohibition against entering a train in any territory, District, or other place within exclusive Federal jurisdiction with an intent to commit robbery, murder, or other violent crime to encompass entry upon any railroad car used by any common carrier engaged in interstate or foreign commerce.

H.R. 6140. April 6, 1977. Ways and Means. Amends the Internal Revenue Code to allow taxpayers to elect accelerated amortization (twice the allowable depreciation deduction) for manufacturing property placed in service in States having an unemployment rate which is greater than 6 percent.

H.R. 6141. April 6, 1977. Judiciary; Education and Labor. Amends the Civil Rights Act of 1964 to prohibit discrimination on the basis of marital status in (1) public accommodations, (2) public facilities, (3) public

education, and (4) federally assisted opportunities. Prohibits such discrimination in housing. Amends the Education Amendments of 1972 to prohibit such discrimination in federally assisted education.

H.R. 6142. April 6, 1977. Judiciary. Requires candidates for Federal office, Members of the Congress, and certain officers and employees of the United States to file statements with the Comptroller General with respect to their income and financial transactions.

H.R. 6143. April 6, 1977. Interior and Insular Affairs. Enlarges the boundaries of Sequoia National Park, Calif., by including the Upper Kaweah River addition.

H.R. 6144. April 6, 1977. Judiciary. Establishes a system for settling disputes and appealing decisions settling disputes between executive agencies and private contractors. Permits the establishment within each agency of an agency Board of Contract Appeals. Requires the establishment of procedures for appeals involving claims of $25,000 or less.

H.R. 6145. April 4, 1977. Veterans' Affairs. Provides that recipients of veterans' pensions and compensation will not have the amount of such pension or compensation reduced because of increases in social security benefits.

H.R. 6146. April 6, 1977. Merchant Marine and Fisheries. Amends the Marine Mammal Protection Act of 1972 to require the establishment of progressively lower quotas for the taking of marine mammals incidental to commercial tuna fishing.

Requires the Secretary of the Treasury to ban the importation of fish and fish product from foreign nations causing the incidental killing of or serious injury to marine mammals in excess of standards set by this Act.

H.R. 6147. April 6, 1977. Ways and Means. Amends the Internal Revenue Code to allow as a deduction an amount equal to 25 percent of the gross income from geothermal resources property. Provides for the deduction of intangible drilling and development costs in the case of geothermal property.

H.R. 6148. April 6, 1977. Judiciary. Subjects, with certain exceptions, to the appropriate punishment for the commission of a criminal act within the special maritime and territorial jurisdiction of the United States persons committing a like act in Antarctica if (1) such person is a United States national or a member of a United States expedition, or (2) such act is committed against property of the United States or against the person or property of a United States national or a member of a United States expedition.

H.R. 6149. April 6, 1977. Judiciary. Directs the Secretary of the Treasury to pay to the Contra Costa County Water District, Concord, California $156,000 in settlement of any claim of the Water District against the United States due to Federal condemnation of land surrounding the Naval Weapons Station in Concord.

H.R. 6150. April 6, 1977. Agriculture. Amends the Commodity Exchange Act to authorize the President to remove for cause a Commissioner of the Commodity Futures Trading Commission.

EXTENSIONS OF REMARKS

MASON W. GROSS

HON. FRANK THOMPSON, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, October 14, 1977

Mr. THOMPSON. Mr. Speaker, those of us who have over the years legislated in the area of higher education were enormously saddened with the news of the death of Dr. Mason W. Gross, former president of Rutgers, the State University of New Jersey.

Dr. Gross assumed the presidency of Rutgers at a time when the university was rather uncertain as to its direction and role in higher education. With enormous skill and a good deal of courage, Dr. Gross put into effect policies which have brought the university into a position of esteem and prominence. Perhaps his finest moment came when he prevailed against those who challenged the principle of academic freedom at the university. Later, he insisted upon giving minority students an opportunity to enter the university under a special program. Time has vindicated his wisdom and judgment in that regard.

Mr. Speaker, I am pleased to share with you an editorial from the Home News of New Brunswick, which commented recently upon Dr. Gross and his contributions:

MASON W. GROSS, 1911–77

He was a civilizing influence—upon the state of New Jersey, the nation and upon higher education. He was a Renaissance Man who did several things well and was interested in everything from football and crew to the most abstruse problems of symbolic logic.

His name meant "Great Builder," an apt description of a man who lifted Rutgers, during his 11 years as president from a rather mediocre school to a first-rate American university. During his tenure the school spilled over the banks of the old Raritan throughout the state, the enrollment grew to 32,000 students and the physical plant quadrupled in size.

While presiding over such a massive undertaking he miraculously found time for active work in the community and the nation—as president of Middlesex General Hospital, founder of the Middlesex County Planning Board, chairman of the state Labor Mediation Board. He played a leading role in helping refugees after their flight from Soviet-occupied Hungary in 1956.

An outspoken man who refused to be politically neutral, he was state chairman for the election of LBJ in 1964, fought against the Vietnam war, protected the academic freedom of a controversial history professor who called for a Viet Cong victory.

One was likely to find him in sophisticated talk with publishers or on a late-night TV spot for clean air and water.

He called on those upset by student protests in the 1960s to look for the causes and not just the phenomena of American unrest, and he never feared a battle even with governors and state legislators to further his university.

The students called him a folk hero and he was probably the only university president in America whose face adorned an undergraduate sweatshirt. He always had time for individual problems and was an excellent listener. Once he found time to counsel for an hour every week, a student with emotional problems.

Naturally he made enemies. He was sometimes an impatient man with little tolerance for what he considered nonsense. His detractors were never able, however, to convince the public that this strong-minded man was weak and vacillating.

His favorite role was teacher. Even as a college President Mason Gross continued to teach philosophy courses, and one of the themes that he repeatedly struck was that education was more than a matter of expertise, but had to do with a sense of beauty and humane feeling.

"Knowledge is power," he said in a commencement address, "and power that thrives on being put to work. When we lose sight of this, we tend to trivialize our intellectual efforts."

To him knowledge was not an arcane matter for scholars to argue at conventions, but connected with the values by which he lived. It was quite a life, and we are all the richer for it.

COMPARES CHINESE AND UNITED STATES SCHOOLS

HON. PAUL SIMON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, October 14, 1977

Mr. SIMON. Mr. Speaker, the distinguished and respected columnist, Carl T. Rowan, had a column the other day about Chinese schools and U.S. schools that merits wide circulation and attention.

Precisely how we can effectively respond to the challenge which he presents, I am not sure, but I am certain that much of the determination of how and where we go in the future rests on how we respond to that challenge.

CHINA'S SCHOOLS BEAT OURS

(By Carl T. Rowan)

SHANGHAI.—I have just completed a visit to the Children's Palace, a sort of "community center" where 800 or so children go after school.

There I saw and heard violin recitals by 12- to 16-year-olds, puppet shows by 4-year-olds, dances by 8-year-olds, a band concert by children 10 to 14, accordion solos by junior high schoolers, artistic work with paint, clay, paper, by children of all ages.

I left the Children's Palace, as I have left other Chinese schools, certain of two things:

1. The Chinese are counting on education to launch them into economic, technological and military parity with the Soviet Union and the U.S.

2. The Chinese made me ashamed of the abominable excluse for education that is being given to millions of American youngsters.

I watched Chinese 15-year-olds studying advanced physics, building transformers and radios that worked, printing electronic circuitry. I watched children 5, 10, 12, demonstrate remarkable poise and articulation—children taught and coached painstakingly by teachers who obviously care—and I contrasted that with schools in my own land which push kids out of school who cannot read, cannot talk, cannot play any instrument and who have no respect either for themselves or the society in which they live.

Some readers will say angrily that "Rowan is glorifying them Commies," but "the truth is the light." The truth is that the Chinese are preparing some 400 million youngsters to rule the world while we are warping and abusing millions of our children, inviting them to destroy America.

China's schools are disciplined almost beyond a modern American's belief.

China's students have no problem with heroin, marijuana, LSD, whisky or any other drugs.

Mrs. Chu Ching-pai, deputy chairperson of the Women's Federation in a "new workers residential area" in Shanghai, looked at me as if I were insane when I asked if any girls had had to leave school because of pregnancy.

A senior government official told me proudly that his 14-year-old daughter wouldn't even speak to a boy at school.

The Communist party here seeks to take credit for better education, high morality and all else. In Canton they boast that enrollment in primary and night school is five times what it was at the time of "liberation"; Nanking claims "15 institutions of higher education, 163 factory run . . . colleges, 6 . . . agricultural colleges, more than 380 high schools, and over 1,900 primary schools as against 5 colleges, 70-odd middle schools, and 800-odd primary schools before liberation." Nanking also claims a 400 per cent increase in enrollment. Shanghai claims universal education with 2,190,000 pupils in 5,300 schools and 33,000 students in 16 institutions of higher learning.

The Chinese now have day-care centers, nurseries, primary and high schools, and sometimes colleges connected with every factory or commune.

From what I saw, China's system is changing the people and the country—even though China is beset by grinding debates over fundamental education vs. modern, exams or no exams, studying foreign languages and cultures or not.

The important reality is that China is preparing her children to cope. In a tragic number of cases, we are not.

Our distaste for Communism ought not prevent us from looking for what we might learn from China in this regard.

HARLEY WYATT, JR.

HON. E. THOMAS COLEMAN

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Friday, October 14, 1977

Mr. COLEMAN. Mr. Speaker, I wish to take this opportunity to recognize a constituent of my sixth congressional district who recently was honored by his peers in the field of college admissions counselors

On October 6, 1977, at the 34th annual conference of the National Association of College Admissions Counselors, Mr. Harley Wyatt, Jr., director of admissions at William Jewell College of Liberty, Mo., received the coveted Gayle C. Wilson Award.

Harley Wyatt, Jr., is a people-oriented man. He approaches life with a twinkle in his eye. He is the kind of person that is always there to lend a helping hand to a new student or a colleague in the field of admissions or high school counseling.

The number of people whose lives have been touched and helped by this unselfish individual are too numerous to mention, but suffice it to say, he is a man who puts himself last and truly cares about what happens to people.

In addition to his position as director of admissions at William Jewell College, Mr. Wyatt has also been past chairman of the NACAC convention, and credentials committee. Mr. Wyatt was past president of the Missouri ACAC and former president of the Association of Collegiate Registrars and Admissions Officers, among many other professional educational associations.

Mr. Wyatt is an outstanding leader in the field of college admissions. I consider it an honor to be counted among his friends and I congratulate him on this significant award.

CHOOSING VICTIMS FOR A HOLOCAUST

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 14, 1977

Mr. EDWARDS of California. Mr. Speaker, in the debate on the neutron bomb it was made clear that the U.S. military plans to equip the NATO forces in Europe with this new weapon.

Le Monde, the influential French newspaper, views this idea with dismay. The following is an editorial from the September 29, 1977 issue:

CHOOSING VICTIMS FOR A HOLOCAUST

The nuclear plans group which brings together in Brussels experts from the bigger NATO countries, except France, has not formally objected to the United States government's intention to mass-produce neutron bombs and deploy them eventually in Europe if President Carter decides to give the go-ahead for the project as is expected Hesitating, as one diplomat put it between "indecision tending to assent and assent tending to reservation," NATO's experts have agreed, without enthusiasm, to sacrifice Europe to the nuclear holocaust set off by what the Soviets describe as the "cruel and barbarous bomb."

Scientists call it an enhanced radiation weapon. The public has come to know it as the neutron bomb, ever since a very large part of the Western and Soviet press condemned this summer the existence of a thermonuclear fusion device favouring, of one may put it that way, the spread of neutron radiation at the expense of its blast, heat and shock effects, which have all been deliberately reduced.

These same scientists triumphantly point out, of course, that the neutron bomb is not new, for it was tried out as far back as in 1963 by the United States, and the Soviet Union—even France for that matter—probably have the wherewithal for manufacturing it. Nonetheless, world opinion discovered with horror and surprise that there could be weapons able to distinguish enemy equipment and buildings from enemy personnel, the better to destroy people and space the material for use in a military occupation of an adversary's territory.

Unmoved by world reaction, military men say the neutron bomb has a precise deterrent role. It is considered the most effective way of blunting a massive armoured attack on European soil, which is the assumption usually invoked by Western military high commands in their assessments of the present strategy of the Warsaw Pack power. At the same time these Western military men dream—technology permits them to dream—of having low-powered miniature tactical nuclear weapons with a selective field strike capability so as to counter-balance the increase in conventional forces of the Eastern countries.

Whatever the Americans say, the neutron bomb is destabilising. It opens the way to a gradual shift from conventional to nuclear war. It makes people used to the idea that the nuclear weapon has ceased to be an unusable deterrent and become a weapon to be actually employed on battlefields. What is more, its high degree of miniaturisation and the ease with which it can be handled reduce the effectiveness of keeping a political check on it from a distance, and increase the chances of its being used without warning as a tactical weapon.

Europe has everything to lose by becoming an operational theatre or testing ground for such weapons which make nuclear war possible and which mainly serve the strategic interests of an American anxious to limit its commitment in cenventional forces in Europe. At a time when Washington says it is optimistic, in the long run, about the talks on arms reduction and Moscow is proposing a suspension of underground testing, it is dismaying to note that NATO's European members have agreed henceforth to be the chosen and willing victims of the neutron bomb.

PEACE INITIATIVES IN MIDDLE EAST

HON. WILLIAM R. COTTER

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Friday, October 14, 1977

Mr. COTTER. Mr. Speaker, 2 weeks ago the United States and the Soviet Union issued a joint communique outlining a common policy for the Middle East Geneva Conference. This policy statement generated a great deal of alarm both within Israel and this country because of the major shift it indicated in the administration's attitude toward a Middle East peace settlement.

I was disturbed by this development and explained the reasons for my concern in a recent letter to President Carter, which I would like to share with my colleagues.

HOUSE OF REPRESENTATIVES,
Washington, D.C., October 11, 1977.

THE PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: I respect your foreign policy record, especially your defense of human rights, *but* I want to share with you my concern, and that of many of my constituents, over our government's recent peace initiative in the Middle East.

First, why did the joint U.S.-Soviet communique outlining a common policy for the Geneva conference fail to mention that United Nations resolutions 242 and 338 should be the basis of negotiations? Did the United States make any effort to press the Soviets on this point?

Second, the method by which the communique was released is also of concern. The communique signifies the specific inclusion of USSR in the Geneva negotiations. This, of course, was the cause for the outburst of concern. Perhaps much of this adverse reaction could have been alleviated if you had personally explained its significance in an address to the American people. The element of surprise in this most sensitive area of the world is counterproductive.

Third, what is the Administration's present attitude toward the role of the Palestine Liberation Organization in the Palestinian homeland you have advocated? Would the United States delegation at Geneva resist any attempt to impose a P.L.O. regime on the West Bank Palestinians?

It seems to me that, among the "legitimate rights" of the Palestinian people, would be the right for all political forces to participate in their community's political future. The official Arab posture that the P.L.O. is the exclusive representative of the Palestinian people seems to stand in the way of that goal.

Mr. President, I know you support Israel's right to exist and America's traditional friendship with Israel. But I think Israel's many friends in this country, including myself, would be grateful for more specific assurance that a peace settlement will not be imposed on the Israeli people.

I am looking forward to your response.
Sincerely,

WILLIAM R. COTTER,
Member of Congress.

THE LABOR LAW REFORM BILL

HON. NEWTON I. STEERS, JR.

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Friday, October 14, 1977

Mr. STEERS. Mr. Speaker, on Thursday, October 6, 1977, the House passed by a vote of 257 to 163, the bill H.R. 8410, Labor Law Reform Act. I voted for this bill, because after the House completed action on the bill, I felt that most of the legitimate concerns of the business community had been answered.

I would be less than frank if I told you that I supported this bill from the outset. I had several major concerns that had to be resolved before I would vote for H.R. 8410. The bill as reported by the House Education and Labor Committee had inserted the provision that no more than a simple majority of the board members may be a member of the same political party. I felt that it was possible that the administration in power, this one or one in the future, could stock the board and eliminate careful nonpartisan work that has marked the efforts of the National Labor Relations Board. The committee's action prevented any such occurrence.

There were also provisions in the bill to allow for three two-member panels to sit and decide on noncontroversial standard labor law decisions. I felt that the two-member panels were inadequate to protect the interests of both parties. I supported an amendment that would increase the panels to three members. This amendment was adopted.

The bill as approved by the committee called for elections to be held within 15 days if the labor organizers had obtained signatures on authorization cards of a majority of the workers. In my discussions with business leaders it was clear that they felt that the 15 days would not be sufficient time for them to present their case to the workers. This time limit was increased from 15 to 25 days, and longer for the more complicated cases. This amendment was approved, also.

Finally there were two other provisions that were amended by the House. The first extended the equal access provisions of the bill to allow employers to visit union halls and other prounion gatherings. The second provision eased the debarment remedy by giving the Secretary of Labor greater flexibility in applying that section of the bill against noncooperative employers.

Let me stress that I believe this bill strikes the proper balance between the rights of unions to organize and the rights of employers to operate their businesses. I do not believe that H.R. 8410 will lead to "rampant unionism" that could destroy our economy. I do believe the bill is fair and is aimed to deal effectively with employers who have flouted the law and have never paid the penalty. This is the sort of positive legislation that will, I hope, take much of the conflict and antagonism out of labor-management relations.

CANONIZATION OF FATHER CHARBEL MAKHLOUF

HON. MARY ROSE OAKAR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, October 14, 1977

Ms. OAKAR. Mr. Speaker, the recent canonization of Father Charbel Makhlouf, a Lebanese Marinite hermit monk is the cause for celebration. This holy man, who died in 1898 at the age of 70, is the first member of the Maronite Catholic rite to be canonized in the Roman Catholic Church.

At a time when Lebanon is attempting to recover from such devastating internal problems, Father Charbel's canonization bears a special significance for the people of that troubled land. This was evident in that some 6,000 Lebanese representing the entire spectrum of Lebanese political and religious life were present at the ceremony in St. Peter's Basilica, Rome. They participated with thousands of other Christians from all over the world in this joyful occasion.

It is also symbolic of the special link between the Roman Catholic Church and the Maronite Catholic Churches that Maronite Patriarch Antoine Pierre Khoraiche participated in the canonization ceremony, and joined with Pope Paul VI in celebrating the Mass.

Father Charbel is Lebanon's first saint, and although he has been canonized by the Roman Catholic Church, he truly belongs to all faiths. His shrine is a mecca for all Lebanese and Maronite and Catholics everywhere and hopefully with his intercession, peace will finally come to a such a beautiful country. May I submit for the RECORD the following article which appeared in the Washington Post.

LEBANESE CHRISTIANS SEE SPECIAL SYMBOL IN NAMING OF SAINT

(By Thomas W. Lippman)

BAABDA, LEBANON, Oct. 9.—For the Maronite Christians of Lebanon, this was a day of exaltation and of defiance.

Charbel Makhlouf, a 19th Century monk and hermit, became the first Maronite in history to be formally canonized as a saint of the Roman Catholic Church.

The Vatican ceremonies, conducted by Pope Paul VI, were carried live on television here and whole families gathered to see their political and spiritual leaders take part. Thousands more marched barefoot for hours to St. Charbel's hilltop monastery in a demonstration of their faith.

President Elias Sarkis, Christian like all his predecessors, joined them there in a solemn Mass of celebration.

For Lebanon's Maronites, the significance of the event was more than religious. The Maronites, Christian Arabs who broke with the Roman Catholic Church in the 7th Century and returned to it 500 years later, have proclaimed their own saints in the past, but Charbel was the first to be canonized by the Vatican.

Thus, the ceremony reaffirmed the Maronites' ties to the West that have sustained them through centuries of conflict with the Moslems who surround them. They took it as a sign of recognition by the outside world that Lebanon's Christians are something more than the trigger happy militiamen who fought the country's Moslems in the recent civil war.

The government has been criticized for its decision to televise the canonization proceedings, to encourage Lebanese to go to Rome to participate and to assist in organizing the trek to the monastery, which, critics say, has only contributed to the country's divisions. Others say that failure to acknowledge the event would have so antagonized the Christians that the results would have been worse.

In a message sent from Rome, where he assisted the Pope in the Mass of canonization, the Maronite Patriarch, Antonious Boutros Kuraish, said that Charbel's sainthood "means a great deal for the Maronite sect, for Lebanon and for the church as a whole."

He said it means "great spiritual rejoicing after the great crisis to which the church was subjected, after the loss of thousands of its children, the attacks on its churches and institutions and the smearing of its reputation."

He also said it was a source of hope that "God will not abandon the Maronite sect in the future," because of "the sacrifice of the many martyrs who preferred death to apostasy."

It appeared that a cynical Moslem observer was not far wrong when he said, "They think it shows that God is on their side."

That was certainly the atmosphere in which the ceremonies were watched here in the home of Joseph Nahme, an amateur historian who spent 40 years in Lebanon's Christian dominated army. Nahme and his wife and daughters were like American football fans cheering for their team as the Pope and their patriarch canonized Charbel while their Christian countrymen sang and prayed.

"Today, all the world can see that we are not savages," Nahme said. "We aren't fanatics. It's the Moslems who think that unbelievers are infidels and heathens. But we had the courage to fight for curselves."

In phrases that have been heard from countless Lebanese Christians during the years of religious strife here, Nahme blamed the country's majority Moslems for the trouble, saying they wanted to "massacre" the Christians. He complained that until today, the Maronites' fellow Christians in Europe and America had chosen to ignore this persecution because "Your God is Arab oil money.

This kind of thinking is not unusual in Lebanon, where the civil war ended only when the Syrian army imposed peace. No one imagines that the roots of the strife have been killed or that the bitterness of the war has faded.

Nahme's feelings are common among the Christians of Lebanon, who have continued to recruit for their militias and to solidify their control over the parts of the country they dominated during the war.

The sentiments are just as strong on the other side, among the Moslems who resent the domination of the country's economic and political life by a European-oriented minority and by their Palestinian allies who know that the Christian leadership wants to throw them out of Lebanon. The Christians' military alliance with Israel did nothing to improve relations with the Moslems.

Former President Charles Helou, Phalange Party Leader Pierre Gemayel and members of Sarkis' government were among the estimated 20,000 persons who attended the canonization ceremony at St. Peter's Basilica.

Charbel was born at Beqa Kafra in 1828, entered the Monastery of Our Lady of May-

foud 23 years later and was ordained a priest. He died at age 70 after spending his last years at Annaya as a hermit.

INFLATION TOP CONCERN IN WISCONSIN'S NINTH DISTRICT

HON. ROBERT W. KASTEN, JR.

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Friday, October 14, 1977

Mr. KASTEN. Mr. Speaker, nearly 25,000 residents of Wisconsin's Ninth Congressional District took the time this year to complete my annual legislative questionnaire.

Not surprising, inflation was considered by most people as one of the three most important issues facing the country.

As a reflection of this concern, an overwhelming 92 percent favored a reduction in Government spending even if it meant cutting back some programs they support.

As further evidence of their concern, "Government spending" ranked third among the most important issues facing the country.

Mr. Speaker, this is a clear signal to Congress to eradicate the chief cause of the continuing high rate of inflation—deficit spending. We must work to reduce spending and cut taxes.

I would like to share with my colleagues the complete results of our 1977 legislative questionnaire:

COMPLETE RESULTS OF 1977 LEGISLATIVE QUESTIONNAIRE

1. Do you support a permanent federal income tax cut, rather than a one-time $50 rebate proposed by President Carter?

	Percent
Yes	93
No	7

2. Should we reduce government spending even if it means cutting back some programs you support?

	Percent
Yes	92
No	8

3. Congressmen just received an automatic $13.000 pay raise without voting on it. Should they be required to vote on their pay raises?

	Percent
Yes	95
No	5

4. Should there be a limit on the number of years a congressman can serve?

	Percent
Yes	66
No	34

5. Do you support court-ordered busing to achieve racial balance in our schools?

	Percent
Yes	6
No	94

6. Would you favor removing government price controls on oil and natural gas produced in the U.S., if this would encourage development of more oil and gas production here at home?

	Percent
Yes	69
No	31

7. Do you support increased defense spending by the U.S.?

	Percent
Yes	45
No	55

8. Which three of the following do you consider most important issues facing the U.S. today?

(Listed in order of importance)

1. Inflation
2. Energy Crisis
3. Government Spending
4. Too Much Government
5. High Taxes
6. Welfare Abuses
7. Crime
8. Unemployment
9. Environment
10. Farm Income

CARTER ADMINISTRATION NAMES RADICAL TO $36,000 A YEAR POST

HON. ELDON RUDD

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 14, 1977

Mr. RUDD. Mr. Speaker, there are thousands of dedicated American citizens with spotless reputations and unswerving loyalty to our country's political and economic institutions who would qualify for an important $36,000-a-year position in the Federal Government.

However, it appears that such high qualifications and deep loyalty to American traditions and institutions are not always a key consideration for President Carter and his top advisers.

Sometimes it helps to get a job under this administration if a person has joined in burning American flags, participated in violent demonstrations, and battled against police at a Democratic National Convention, praised the Hanoi government at a time when North Vietnam was killing Americans and South Vietnamese, and espouses a radical leftist philosophy of world socialism.

This is the case in the Carter administration's recent appointment of John Froines, a member of the notorious "Chicago 7," as the first Director of the Occupational Safety and Health Administration's new Office of Toxic Substances.

Froines has a long history of radical leftist associations, which have included violent and nonviolent activities in behalf of asserted causes against American policies and institutions.

In addition to the violent assaults with the likes of Rennie Davis, Abbie Hoffman, Bobby Seale, and other leftists against delegates to the 1968 Democratic National Convention in Chicago, authoritative public sources such as the pink sheet on the left have documented that Froines has been:

A member of the "People's Coalition for Peace and Justice," an antiwar group heavily infiltrated by the Communist Party, U.S.A. He represented this group in France at the Kremlin-sponsored "World Assembly for Peace" in 1972.

A sponsor of the "National United Committee To Free Angela Davis and All Political Prisoners," a group that has been cited by the Federal Bureau of Investigation as a front of the Communist Party.

A delegate to the pro-Hanoi "National Anti-War Unity Conference" in 1973, organized by Tom Hayden and Jane Fonda following their strategy meetings with Hanoi officials in North Vietnam.

Mr. Speaker, is this the kind of person that the American people want to receive a $36,000 a year job running a key Federal Government office that affects American business and our economy? I think not.

Why has the Carter administration passed over the thousands of qualified candidates for this position, to appoint a man who according to news reports still ardently advocates a radical leftist philosophy, and most likely will use his new position to help impose unwanted and unnecessary Government regulation and interference on small businesses and employers throughout the country?

I do not believe that a man with Mr. Froines' background should have any job with the Federal Government—let alone a key policymaking position. It is my firm hope that public outrage at such an appointment will convince the administration to give this job to a suitable person.

It is also my hope that such questionable appointments will convince Congress of the need to reestablish some mechanism such as a Committee on Internal Security to maintain proper information about radical activists and groups.

Internal subversion must be closely monitored by our Government, including the Congress, and I believe it was a serious mistake when the House Internal Security Committee was abolished. As a cosponsor of House Resolution 48 to reestablish this committee, I hope that my colleagues will see the far-reaching need for our own mechanism in this area to assist us in the consideration of appropriate national security legislation, as well as of candidates for important high-paying Federal Government jobs.

CHAMBERSBURG, PA., FINALIST IN ALL-AMERICAN CITY CITIZEN ACTION AWARD PROGRAM

HON. BUD SHUSTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 14, 1977

Mr. SHUSTER. Mr. Speaker, I was recently very pleased to learn that one city in the Commonwealth of Pennsylvania had been chosen as one of 22 finalists in the All-American City Citizen Action Award program conducted by the National Municipal League. That city I am proud to say is Chambersburg which is located in my congressional district.

All of the people of Chambersburg should take pride in this achievement since the city was chosen from over 470 applicants. Another unique aspect of this program was stated very well by Borough Manager Julio Lecuona:

It should be stressed the award is really given to the citizens of the town who demonstrate they can organize or meet a challenge to improve the conditions for other citizens. The application was clear in that they (National Municipal League) didn't

want to see what government was doing for the citizens, but what citizen organizations were doing for each other.

The people of Chambersburg are involved and concerned in their community and use their own initiative to solve problems rather than waiting for some government entity to take control.

I wholeheartedly congratulate Chambersburg on reaching the finals and would consider their chances excellent to win it all when the announcement is made early next year.

BILL INTRODUCED TO AID SHIP CONSTRUCTION

HON. PHILIP E. RUPPE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, October 14, 1977

Mr. RUPPE. Mr. Speaker, today I am introducing legislation which is designed to create an incentive for series construction of vessels in U.S. shipyards. Specifically, this legislation would require the Secretary of Commerce to reduce the construction-differential subsidy rate payable under title V of the Merchant Marine Act, 1936, by 5 percentage points if the Secretary finds the type of vessel to be constructed is not a standard vessel and is not an innovative type likely to become a standard vessel; and a standard vessel could substantially serve the purpose for which the vessel is intended to be used.

The concept of series construction of merchant vessels has received the general support of the Shipbuilders' Council of America, the American Institute of Merchant Shipping, and the Maritime Administration during the marine policy oversight hearings conducted by the Merchant Marine and Fisheries Committee in the 94th Congress. The hearing record amply indicates that one of the key reasons why Swedish yards, and other Western European yards in countries having a standard of living comparable to the United States, are competitive on the world shipbuilding market is that they utilize series production.

The concept is, of course, not novel in the United States. Series construction was effectively used by our shipyards during World War II; for example, Liberty and Victory ships. Also, the Secretary of Commerce developed the C–1-, C–2-, C–3-, and C–4-type vessels, as well as the Mariner-class vessels. The Mariners are generally considered by knowledgeable experts as the finest break bulk cargo vessels ever developed in the United States and were by far the most productive and efficient dry cargo ships of their day.

I would like to point out that this legislation, unlike past efforts to promote series construction of merchant vessels, would not result in a reduction in the construction-differential subsidy rate where the vessel design is likely to become a standard design or where a standard vessel would be inappropriate for the trade route on which the vessel is intended to be utilized. Thus, the bill encourages innovation and takes into account the realities of the commercial marketplace.

PRESIDENT CARTER AND THE TRILATERAL COMMISSION: ARTICLE I

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 14, 1977

Mr. McDONALD. Mr. Speaker, until recently, the manipulations of David Rockefeller's Trilateral Commission were the subject of concern by a relatively small number of expert conservative political analysts. The pioneering exposé of the total political indebtedness of the former Governor of Georgia to David Rockefeller and his clique of elite international financiers and corporate executives was published in 1976 shortly after the national political conventions by Gary Allen.

Chapter 6 of Mr. Allen's hard-hitting political critique, Jimmy Carter, Jimmy Carter (76 Press, 1976) entitled "The Un-Free Candidate" provided the first account of how a man with virtually no base in any political party was catapulted to the apparent leadership of the free world. The chapter follows:

THE UN-FREE CANDIDATE

Nearly a month before the Democratic National Convention followed its predetermined course, Joseph C. Harsch, featured columnist for the Christian Science Monitor, laid down a line that would be dutifully echoed by other columnists and commentators in the national press:

"[Carter] has that nomination without benefit of any single kingmaker, or of any power group or power lobby, or of any single segment of the American people. He truly is indebted to no one man and no group interest."

Undoubtedly, most of Harsch's readers—in fact, most Americans—believe every word of it. One of the few persons who knew it was a clever fabrication was the author himself.

Harsch knew that Mr. Goober is owned, lock, stock and peanut barrel, by the most powerful lobby in the country—the one organization that could truly claim to be kingmakers (and unmakers). The group is the Council on Foreign Relations, and Harsch is one of its members.

In a moment, we will document our charge that the Council on Foreign Relations, or, as it is generally called, the CFR, will be the real power behind the throne of a Carter Administration. But first some background information is necessary on this secretive combine—which Harsch himself has described as "the true core of the so-called 'Eastern Establishment.'"

For more than fifty years, the CFR has operated like the Invisible Man in the novel by H. G. Wells. Its influence could be felt everywhere, but its actual existence was seldom seen.[1] The 1650 members of this elitist organization virtually dominate the fields of high finance, academics, politics, commerce, the foundations, and the communications media in this country. As John Franklin Campbell put it in New York magazine on September 20, 1971:

"Practically every lawyer, banker, professor, general, journalist and bureaucrat who has had any influence on the foreign policy of the last six Presidents—from Franklin Roosevelt to Richard Nixon—has spent some time in the Harold Pratt House, a four-story mansion on the corner of Park Avenue and 68th Street, donated 26 years ago by Mr. Pratt's widow (an heir to the Standard Oil fortune) to the Council on Foreign Relations, Inc. . . .

If you can walk—or be carried—into the Pratt House, it usually means that you are a partner in an investment bank or law firm—with occasional 'trouble-shooting' assignments in government. You believe in foreign aid, NATO, and a bipartisan foreign policy. You've been pretty much running things in this country for the last 25 years, and you know it."

Just how powerful is the Council on Foreign Relations? Its membership includes top executives from the New York Times, the Washington Post, the Los Angeles Times, the Knight newspaper chain, NBC, CBS, Time, Fortune, Business Week, U.S. News & World Report, and many others. If you have never heard of the CFR before, it is probably because the national media—which it controls—have planned it that way. (And if those same media decide to make a peanut farmer from Georgia an overnight political sensation, they can do that, too.)

CFR members control the big name foundations which expend more money and effort on politics than philanthropy; other members dominate the "best" colleges and universities; in the business community, there is scarcely a company in Fortune's Top 100 that is not directed by a CFR member.

But the major influence of the Council on Foreign Relations is exercised in the most important public power center in the United States—the federal government in Washington, D.C. As Anthony Lukas commented in the New York Times Magazine:

". . . Everyone knows how fraternity brothers can help other brothers climb the ladder of life. If you want to make foreign policy, there's no better fraternity to belong to than the Council. . . .

"When Henry Stimson—the group's quintessential member—went to Washington in 1940 as Secretary of War, he took with him John McCloy, who was to become Assistant Secretary in charge of personnel. McCloy has recalled: "Whenever we needed a man we thumbed through the roll of the Council members and put through a call to New York."

"And over the years, the men McCloy called in turn called other Council members. . . . Of the first 82 names on a list prepared to help President Kennedy staff his State Department, 63 were Council members. . . ."

The CFR provided the key men, particularly in the field of foreign policy, for the Roosevelt, Truman, Eisenhower, Kennedy, Johnson, Nixon, and now Ford Administrations. Indeed, the man who is probably the most powerful member of the Ford Administration (including the President) is Henry Kissinger, who has admitted that he was virtually "invented" by the CFR.[2] And Vice President Nelson Rockefeller is not only a long-time member of the CFR, his brother David is Chairman of the Board of the group. The CFR has rightly been called the "Shadow Government" or the "Invisible Government" of the United States.

What is the goal of the Rockefellers' CFR? The organization makes no bones about it. The CFR doesn't have to disguise its ambi-

[1] In 1972, my own book exposing the Council of Foreign Relations, *None Dare Call It Conspiracy*, sold over 3 million copies—although the national media never even acknowledged its existence.

[2] For the complete story of Kissinger's service to the CFR on behalf of "a new world order," see the author's previous book, *Kissinger: The Secret Side of the Secretary of State*. (1976: '76 Press, Seal Beach, Calif.)

tions because the media are not about to excite the public with exposes of it. The Rockefellers and the CFR call their "grand design" a "New World Order." This is a phrase you will hear used again and again by Rockefeller allies and hirelings.

"New World Order" is a CFR code phrase for a one-world government. As John D. Rockefeller, Sr. learned so well, when you control the government, you can control the economy. The Rockefellers have been working for five decades to control the American government so they can dominate the economy.

But, most of the Rockefellers' wealth is located outside the United States. The family has assets and does business in 125 separate countries. The Rockefeller game plan is to consolidate control over the world's economies by merging all the nations of the world under a single Rockefeller-controlled tent. Such a government would have to be a dictatorship, ruled by Rockefeller puppets or by the Communist-Third World bloc.

Since the Rockefellers' assets are spread across the globe, they long ago recognized the need to control U.S. foreign policy, regardless of whether the Republicans or the Democrats are in the White House. But to control policy, you must select the policy makers. This the Rockefeller-CFR combine has done for more than thirty years. Your only choice is between a Rockedem and a Rockepub foreign policy—whichever party is in power, the foreign policy decisions are always in the hands of dependable Rockefeller-CFR men.

What has all of this got to do with Jimmy Carter, that maverick politico from the deep South, who campaigned as a mortal enemy of the Eastern Establishment and the Washington bureaucracy?

It has everything to do with him—because the evidence is overwhelming that it was the CFR, operating as usual far behind the scenes, that "invented" Jimmy Carter for the 1976 election, as it "invented" Henry Kissinger to protect its interests under Richard Nixon.

Jimmy first came to the attention of the Shadow Government in 1970—not by winning the governorship of Georgia, but by demonstrating after the election that he could be as devious and dishonest as any New York banker. By the time his face appeared on the cover of CFR-controlled Time in 1971, some very important people were watching him with interest.

In late 1972, a Harvard professor named Milton Katz received a telephone call from "the grand old man of the Democrats," W. Averell Harriman. Harriman, whose service to internationalism dates back to 1922, when he helped arrange some crucial financing for the Bolshevik conquest of Russia, called Katz's attention to a rising young southerner, Jimmy Carter. CFR-member Harriman knew that fellow-CFR-member Katz had important connections: as a director of the Ford foundation, the World Affairs Council, the World Peace Foundation, and chairman of the Carnegie Endowment for International Peace (four of the most important groups in the country promoting one-world government), Katz could certainly help a deserving young man get ahead.

Katz delivered like a slot machine hitting the jackpot; he arranged to introduce Carter to David Rockefeller. The talented Rockefeller, who is chairman of both the CFR and the ultra-influential Chase Manhattan Bank, has been called the most powerful man in the world.[3] It was an auspicious moment for the Georgia crackerjack.

In the fall of 1973, David invited Jimmy to have dinner with him in London. Over the hors d'eouvres, David asked Jimmy to become a member of the Trilateral Commission—an important new group David was forming to promote world government. By the time dessert was served, Jimmy had agreed to come on board. The Trilateral Commission in another CFR front (over half of its 65 North American members also belong to the CFR); its purpose, according to Rockefeller, is "to bring the best brains in the world to bear on the problems of the future"—which is Rockespeak for the creation of a World Government.

The founding Director of David's Trilateral Commission was Dr. Zbigniew Brzezinski; he is, of course, a member of the CFR. If you find his name hard to pronounce, we suggest you practice it—for by 1976 Brzezinski had emerged as Carter's chief adviser on foreign affairs and the odds-on favorite to dictate U.S. foreign policy in a Carter Administration. Henry Kissinger has called Brzezinski my "distinguished presumptive successor," and admits that Carter's foreign policy pronouncements are almost carbon copies of his own. If you like Kissinger, you'll love Brzezinski!

Brzezinski, with Carter's blessing, assembled quite a team for the Boy Wonder from Plains. As reported in the June 24, 1976 issue of the Los Angeles Times, here are Carter's key task force members and foreign policy advisers: Zbigniew Brzezinski of Columbia University; the United Nations' major American propagandist, Richard N. Gardner; Richard Cooper of Yale University; Henry Owen of the Brookings Institution, an Establishment "think tank"; Edwin O. Reischauer, former U.S. Ambassador to Japan; retired diplomat W. Averell Harriman; Anthony Lake, a former aide to Henry Kissinger; Harvard professors Robert Bowie, Milton Katz, and Abram Chayes; former Undersecretary of State George Ball; and, former Secretary of the Army Cyrus R. Vance. It would be worth noting if Carter tapped even three or four CFR insiders to help him. But every person on the list is a member of the Council on Foreign Relations!

As Newsweek magazine reported on June 21 of this year, Jimmy Carter is far from being an opponent of the Liberal Establishment:

"Despite the anti-Washington tone of his campaign, a surprising number of Carter advisers are old Washington hands. Joseph Califano, a top LBJ aide, and Theodore Sorensen, JFK's close adviser, will recommend appointments to a Carter Administration. Johnson's former Secretary of Defense, Clark Clifford, will advise the reorganization task force. Other counselors come from Washington's Brookings Institution (frequently referred to as the Democratic government-in-waiting) and that epitome of Eastern establishmentarianism, New York's Council on Foreign Relations."

By this time, we hope you will not be surprised to learn that Califano and Sorensen are CFR members. And while Clifford is not, his Establishment credentials are otherwise impeccable.

But the above list is by no means complete. Added to it should be the names of such major Carter advisers and supporters as: Bayless Manning, president of the CFR; SALT negotiator Paul Nitze; LBJ adviser Paul Warnke; Richard Holbrooke, editor of Foreign Policy magazine; former Air Force Secretary Thomas K. Finletter; Michael Forrestal, a lawyer for big New York investment firms; Alexander C. Trowbridge, Jr., a former Esso (now Exxon) executive who, as Commerce Secretary, helped open the floodgates for shipping strategic goods to the Communist bloc on credits guaranteed by Washington; Gerard Smith, onetime chairman of the Arms Control and Disarmament Agency; and Yale law professor Eugene Rostow. Every single one is a member of the CFR.

Other CFR members who have helped make Jimmy what he is today include those early contributors to his campaign, Dean Rusk, C. Douglas Dillon, Henry Luce, and Cyrus Eaton, Hail, hail, the gang's all here!

Syndicated columnist Paul Scott, one of the few reporters with the courage to blow the whistle on the Rockefeller-CFR combine, confirmed Carter's close working relationship with the insiders' Godfather, David Rockefeller, in this July 7 report:

"Most intriguing political connection of former Georgia Governor Jimmy Carter is his relationship with international banker David Rockefeller, one of the most influential men in the world.

". . . Carter was picked several years ago to serve on the Trilateral Commission, which was organized by Rockefeller to study problems of common interest to the U.S., Western Europe, and Japan.

"The first director of the Commission was Zbigniew Brzezinski, a long-time associate of the Rockefeller family and now Carter's number one foreign policy adviser.

". . . Friends of Brzezinski describe him as close to David Rockefeller as is the present Secretary of State Henry Kissinger to David's brother, Vice President Nelson Rockefeller."

David Horowitz, author of *The Rockefeller Dynasty* and a reporter with a solid-brass Liberal credentials, has said that the interconnection of Rockefeller, Brzezinski, and Carter is "very close." Yes, the Carter bandwagon runs on Standard Oil, not peanut oil. He and Rockefeller are as close as two peanuts in a shell.

With friends like these, it is possible to arrange all sorts of amazing "coincidences." Does the CFR want their man to get more attention in the media than any other candidate? Simply turn on the spigot, and paens of praise to Smiling' Jim roll off the presses.

Want to show how it is possible to butter both sides of a peanut at the same time? Voila! You have Leonard Woodcock, dictatorial chief of the United Auto Workers, and Henry Ford II, the creme de la creme of big business, both endorse Carter on the very same day. (But please don't reveal that Woodcock and Ford are both members of the CFR, or that Woodcock also shares a seat with Carter on the Trilateral Commission. You don't want to give away the game, do you?)

Need a Vice President to go with him? How about a leftist Senator from Minnesota who is a member of both the CFR and the Trilateral Commission? When the envelope is opened, out pops Walter Mondale.

Jimmy Carter has been picked by the powers-that-be as their man to ride the wave of the future. To make sure he keeps his surfboard headed in the right direction, they have already surrounded him with veteran campaigners in their march to a New World Order. And Jimmy is proving he is a very willing recruit.

It is no coincidence, therefore, that Carter's two major foreign policy addresses during the primary campaign were both delivered to CFR front groups—the first, before the Chicago Council on Foreign Relations in March; the second before the Foreign Policy Association in New York in June. In both speeches, Carter repeatedly used such CFR code phrases as "a just and peaceful world order" and "a new international order." Those good ol' boys back in Georgia might not have known what was going on, but you can be certain that the makers and shakers in New York, Washington, and a dozen foreign capitals realized precisely what signals were being flashed to them.

James Reston of the New York Times, who is probably the top media insider, said it was "reassuring" to hear young Jimmy echoing "the basic theme of Woodrow Wilson

[3] For the complete story of the Rockefellers' incredible power, influence, and ambition, see *The Rockefeller File* by this author. (1976: '76 Press, Seal Beach, Calif.)

and the League of Nations, of Roosevelt and Truman at the founding of the United Nations in San Francisco. . . ." It was the same old shell game; only this time it was being played with peanuts, not walnuts.

Conservative columnist Jeffrey Hart saw the shells being switched, but even he didn't realize how thoroughly we marks are being suckered:

"In the primaries, (Carter) ran as a critic of the establishment and of the Washington bureaucracy. He was a totally unfamiliar figure, and he seemed to represent the South, including the Sun Belt. As he rolled on toward the nomination, he gave the inhabitants of the Cambridge-New York-Washington axis some sleepless nights. They know now that he is going to save their bacon."

Carter's speech at the United Nations on May 13, declaring that "Balance of power politics must be supplemented by world order politics;" his comments before the Chicago Council on Foreign Affairs condemning "the strident and bellicose voices of those who would have this country return to the day of the cold war with the Soviet Union;" his pledge to the Foreign Policy Association in New York to work for "a just and peaceful world order;" Dr. Brzezinski's declaration to Democratic Congressmen that "We have to establish some sort of global equity"—such messages were more welcome to the audiences they were addressing than an interest-free loan from Chase Manhattan Bank. Needless to say, this is hardly the rhetoric of a Georgia goober-grower who just happened to be visiting a big Yankee city.

The few foreign-policy specifics that Carter has expressed could have been written in the New York offices of the CFR. (In fact, they probably were!) He has said, for example, that he would remove our troops from Europe and Korea, strengthen the United Nations, promote international controls of all atomic power, yield "part" of our sovereignty over the Panama Canal, kill the B–1 bomber, slash $5 to $7 billion from our defense budget, and increase foreign aid.

The accent may come from Georgia, but the words are straight from the CFR.

Only a select handful of insiders are supposed to get the message, of course. The fodder that has been prepared to keep the rest of us sheep happily munching, while we're herded into a Rockefeller-CFR world government corral, comes cleverly disguised.

The following editorial from the Scripps-Howard newspaper, the Fullerton Daily Tribune, is typical:

"Rarely has a politician rocketed from obscurity to capture a presidential nomination as has Jimmy Carter, lately an out-of-office peanut farmer in Plains, Ga., and now the morning line favorite to win the White House.

"His feat is all the more remarkable in that he did it with only a small band of disciples in Atlanta and without early help from Democratic party power brokers—congressional leaders, governors, big city mayors, labor chiefs, and wealthy contributors.

"As a result Carter is unusually free of obligations, owing as he does his nomination mostly to himself. "Nobody has hooks in Carter," as the politicos put it elegantly and thus if elected, his policies would be set by his own desires and conscience."

Sure. There is about as much chance of James Earl Carter, Jr. double-crossing the Establishment that has made him, as there is of Richard Nixon winning a clean government award. And if, for some reason, the peanut politico does decide to switch sides once again, he will learn—as have other politicians before him—how quickly the Shadow Government can turn a proud peacock into a discarded feather duster.

WHAT IS HENRY REUSS UP TO?

HON. MARY ROSE OAKAR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, October 14, 1977

Ms. OAKAR. Mr. Speaker, yesterday I placed in the RECORD the first installment of an interview with HENRY REUSS that appeared in Nation's Cities. Today, I would like to place in the RECORD the second part of this interview.

The efforts of HENRY REUSS are an inspiration to all of us who are concerned with the resurgence of America's great cities.

Article from Nation's Cities (October 1977) follows:

WHAT IS HENRY REUSS UP TO?—PART II

Nation's Cities: At the Rebirth of the City hearings last fall before the full House Banking Committee, there was expressed the strong opinion that at the root of the urban problem, as it is generally described, were race and income. Was that your feeling from those hearings?

Reuss: I hesitate to come down on any one problem as the sole or even as the principal cause. Certainly, I don't think race is the problem. Poverty is a problem, and many blacks are poor. I wouldn't call that a race problem. Many whites are poor and live in cities, too.

And some of those most disadvantaged in cities aren't so poor at all; they're the lower middle class who suffer from the fact that they get none of the benefits but bear all of the burdens.

The reason why pockets of poverty and unemployment dog the cities is that the federal government has not lived up to, and is still not living up to its obligation to see that every man and woman willing and able to work has an opportunity to do a job.

In fact, since last November, while general unemployment has gone down, happily, by a full percentage point from 8 percent to 7 percent, unemployment among black women and unemployment among black teenagers has not only not gone down, it's actually gone up. We must do something.

FDR, it should be noted, two weeks after he was inaugurated in 1933 started a Civilian Conservation Corps, which became law 10 days after he introduced it. And two weeks after that, 500,000 young men were at work doing useful things. In that case, most of it was out in the countryside. Here the majority of useful things need to be done right at home in the cities making them livable once again.

And there is no reason under the sun why we shouldn't immediately embark upon such a program. No reason other than the torpidity and languor of some of the bureaucracy, particularly the Department of Labor; which, not having done anything for these many years, wants to continue not doing anything.

N.C.: On a different issue, we see the regional disputes growing and growing, and, of course, from the point of view of the cities, this is rather complex. The National League of Cities does not represent northern cities or southern cities. It represents all the cities of the nation.

Do you see beneath that regional fight a reality of problems that are in part attributable to Federal actions and can be remedied? Or do you see in that dispute a working out of what might be described as natural trends that should be allowed to work out? Or do you see it as a journalistic smoke screen of this year?

Reuss: Well, I see it in terms of everything that you've said and something else, too. Last summer I was one of those who founded the Northeast-Midwest Congressional Coalition, which is now in full cry trying to redress the imbalance seen in the older and colder sections of the country that is losing jobs, losing populations, losing income, growing obsolescent.

I in fact do not agree with those of my colleagues from the Northeast and Midwest who sometimes sound as if they wanted to start another war between the states. This should not be a war between the states.

I believe it's desirable to revisit all the formulas in our various aid programs. We have done so in the case of the community development block grant, and I think it has been useful.

And, incidentally, the Congressional Budget Office is going to make a report to us, which we will then issue as a committee print, analyzing all of the formulas and all of the federal grant programs and making observations as to whether they can be made fairer.

While I believe that formulas should be reexamined and programs fixed up where they tend to be unkind to the Northeast and Midwest, nevertheless, here again, I think, the main problem is undoing wrong-headed things that the federal government has been doing. For example, there's no reason whatsoever why the federal government should, as it now does, give a subsidy through tax-free industrial revenue bonds to a community, which, let us say, is in the sunbelt and has zero unemployment in order to pirate away from a New England or Midwest community or Middle Atlantic community an industry that is desperately needed to provide jobs for the people who live there.

Certainly our governmental intervention ought to be neutral. I'm not saying that we should have an expensive program for pirating them back from the South. I wouldn't suggest that. Equally our Economic Development Administration—I think it's in the process of change under Secretary Kreps—has to much too great an extent fostered new development in new areas at the expense of modernizing and rejuvenating the older and colder places.

So I think that what we need is not a dog-eat-dog war between the states, but an attempt to revise and revisit our existing programs so that people who need help wherever they are can get it, and jobs, wherever they are needed, can be fostered. We should not continue to run with programs that have long since outlived their rationale, if they ever had one.

N.C.: Do you think there will be a great deal of stress on this matter over the next couple of years?

Reuss: Yes. I think that the Northeast-Midwest coalition has a reason for being. And it needs to stick to its guns in this connection.

Another upcoming hearing in the next few months concerns the loss of population in our cities, and this mainly means Northeast-Midwest cities. The question we would want to ask in those hearings is, how does the city grow old gracefully?

It may well be that some of our big cities are too big. Very well, how do they adjust themselves to new circumstances of life in a way that prevents acres of wasteland, boarded-up buildings, arson, and a tax base that declines while service needs grow?

N.C.: Certainly in the '60s you would have gotten wide agreement that many cities should be smaller. Now we find reduced population seems to create worse problems.

Reuss: That's because the reduced population hasn't been accompanied by adequate attention to how you live with a reduced population and still produce a good civil life.

That would be the purpose of our hearing. Obviously a city like Detroit, which has concentrated on the auto industry, is going to have to do some deep thinking. A city like New York, which increasingly finds a polarization between it and the neighboring states of Connecticut and New Jersey, is going to have to do some rethinking.

But there is no reason why, for example, American cities can't do what Vienna did. Vienna was the capital of the Hungarian empire, which, with the fall of the Hapsburgs, ceased to exist.

But today, Vienna has adjusted to a smaller population in the most genial and jocund fashion and yields a very happy life to its people including visitors such as myself.

N.C.: Won't that be a tremendous adjustment for this country? I sense that many would view that to be defeat.

Reuss: It will be a tremendous adjustment, and, therefore, the sooner we start thinking about it, the better, and that is why we're scheduling hearings on it. I certainly have the view right now that a smaller population needn't be a defeat and that a New York City with a million less people than it had boasted of in its prime, but with more open space and with a more humane life style, would be a lot better than it was before. You don't, for instance, solve the problems of Detroit, with all due respect to the city fathers there, by building a Renaissance Center. If that's all they're going to do, it isn't going to work because beyond the Renaissance Center lie square miles of ghetto that are untouched. Beyond it lie office buildings whose economics have been knocked galley-west by the construction of the Renaissance Center so that while the Renaissance Center may well be a glorious component of an overall plan, here it's a component of nothing. It's a free-standing entity and does not really, in my judgment, make contact with the problems of Detroit.

Sure, it's very fine that Ford moves in white-collar employees from the suburbs to the Renaissance Center. But what happens to the suburb? What is Detroit doing about its future?

I don't mean to pick on Detroit, but here is an American Vienna that ought to be considering how it can grow old gracefully.

N.C.: On the issue of declining population, one of the problems seems to be that the decline is uneven. It is not simply reduced numbers, but it is a different mix, primarily of income. It is the standard story of the relatively well-to-do leaving, the relatively poor remaining, and the concentration then of the problems and the burden on services that is too great for the resources.

What can be done, or what ought to be done, to address that problem? One school of thought argues that there needs to be a balanced population and thus a return of the prosperous to the central city.

The other argues that there need to be policies that will make those people who are poor prosperous. The outcome for the territory would be the same, but for the people involved, quite different.

Reuss: Well, I think they are both right. I can think of about four things that need examination here. You're quite right, of course, that the population evolving out of the central cities, particularly in the Northeast and Midwest, has been uneven, and to a large extent it has been the affluent who have departed.

I think there are several things that ought to be looked at. Number one is something I've mentioned several times already. To what extent have existing laws and customs accelerated this instead of just remaining neutral?

Of course, this is a free country, and the affluent may move wherever they want, and I would not stand in their way. But it is also true that the highway system; the system of liberal FHA mortgages; the system of revenue sharing, which gives some money to fairly well-off suburbs; and the system of home-ownership tax deductions, which basically benefits just the top one-quarter of the population because other people take the standard deduction and don't get that benefit—all of those things ought to be looked at to endeavor to get to a position where public policy is at least neutral about whether they opt to leave the city or not.

Second, as you have suggested, we ought to move vigorously to bring jobs and economic activity, blue collar and white collar, back to the city. That means the revival of the neighborhoods; that means some sort of method of getting equity capital—some public, some private—into city neighborhoods so that blue-collar and white-collar jobs improve and increase.

Third, you can take some of the curse off the affluent leaving if you have decent arrangements for metropolitan fiscal burden sharing. For instance, in metropolitan Minneapolis-St. Paul, as we all know, there is an excellent law that says that 40 percent of the increase in revenues of the metropolitan area shall inure to the benefit of people throughout the region on a per capita basis. That means that Minneapolis and St. Paul get a little help when somebody puts new tax values on the books out in one of the suburbs.

So some solution to the metropolitan fiscal mismatch is needed. I'm not saying do in the suburbs, I'm saying just the opposite. Suburbs are neighborhoods, and I'm for neighborhoods and want them to continue. But there ought to be fiscal equalization to the maximum extent within our metropolitan areas. And it's the real sin of the states that though sovereignty is lodged in them, they—with a few honorable exceptions—have done nothing about it.

Fourth, I think that if it is done properly, the return of some of the affluent from the suburbs to the cities is a good thing. It saves energy if they're white-collar workers and can walk to work instead of drive 40 miles every day. And it will help on the tax base though I think there are better ways to handle the tax base problem, as I've just mentioned.

From the standpoint of energy saving alone, it's a good idea to have white-collar people who work in the city live in the city. But if you're going to do that, if you're going to encourage the building of luxury apartments and townhouses in the city, if you're going to encourage individual rehab-ers to upgrade Dupont Circle or Capitol Hill in Washington, or similar areas in a score of cities around the country, you're going to, in my judgment, have to accompany that movement by at least two things.

One, the city or the state—I really think it's the state that ought to assume responsibility for it—is going to have to see that every low-income person has a place to go when the house in which he is living is bought by some affluent person who comes in and wants to rehab it and make a $100,000 house out of a $10,000 house. You're going to have to see that a person's housing needs are very well taken care of at a rent or at a price he can afford. And that takes some doing. But there are the tools in Section 8 and other programs to do it.

Second, you're going to have to have some change in tax philosophy by the localities if a poor person who stays in his humble home, or humble small business, near where a big rehab movement by the affluent is taking place, finds that his tax valuation is raised by the local assessor on the grounds that he now lives in a classier neighborhood. That is not going to work.

Somehow or another you're going to have to see that that poor person gets tax treatment similar to what he had before the powers and principalities moved in on him.

N.C.: You mentioned equity capital. There are floating around a variety of proposals like the urban development bank that are calculated to attract investments into cities where investment has not occurred or where disinvestment has occurred. Is the simple creation of a financing mechanism like an urban development bank likely to meet the capital needs of older cities?

Reuss: Well, part of the trouble with the existing urban development bank proposals we hear about is that they are so loosely formulated that they conjure up huge bureaucracies, opportunities for political shenanigans such as clouded the last days of the Reconstruction Finance Corporation, and there is imprecision, to say the least, as to what they're supposed to do.

I think that I would like to see three things. First, I would like to see enacted the consumer cooperative bill, a very modest measure but useful and neighborhood-oriented, which has now been favorably reported out by our Banking Committee and just got a rule from the Rules Committee the other day.

Second, I think that the willingness of the banking industry—the financial industry generally—to contribute to the provision of longer-term capital to central-city economic effort ought to be much better tested than it has been. I think that it may be that wiser treatment of our financial institutions can get a lot of run for our money out of them.

Third, however, I think that some kind of a very carefully calibrated urban development bank, federally sponsored and rather lean in its administration, could do some good.

N.C.: A brief and final question. As I recall in the original enactment of revenue sharing, you advanced a variety of reform proposals to be attached to it. Are you still disposed that way?

Reuss: Yes, I think we would be well along the road toward viable cities if we had done what I had unsuccesfuly urged we do in 1970 when we passed the revenue sharing bill and what we tried to do again in 1976 and failed to do when we renewed it—namely, tell the states that they will get their revenue sharing widow's mite if, and only if, they make an effort to put forth a long-term plan for helping and saving their cities.

The states' record, it seems to me, is the shabbiest of all three of the levels of government. I haven't given up yet on seeing if we can do something about that.

SHIRLEY MULDOWNEY—FIRST WOMAN IN RACING

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, October 14, 1977

Mr. BONIOR. Mr. Speaker, I would like to bring to the attention of my colleagues the achievements of an outstanding female athlete. This woman, who I have the pleasure of calling my constituent, has made it to the top in a field of endeavor which has been dominated by men from the beginning. Her achievement is considerably greater because she competed, not in a special woman's division, but against the best men in the sport.

The woman is Shirley Muldowney and her achievement is the 1977 national title

in the National Hot Rod Association, NHRA, top fuel dragster class. Ms. Muldowney is the first woman to ever win that title.

But this title is not Ms. Muldowney's first first. Shirley was the first—and only—woman in the United States licensed to drive a top fuel dragster—the fastest of all dragsters, the first woman to reach the finals in a National Hot Rod Association professional category, the first woman to break the 5-second barrier, the first woman to win a NHRA national event in a professional category and the first woman to break the 250 mph barrier.

Beyond these firsts, Shirley has held the record for the fastest drag racing speed ever—252.10 mph—and has once broken her own speed record. Shirley's record itself has since been broken by Jerry Ruth but Shirley can still lay claim to the title of the "world's fastest woman in racing."

Shirley's title means a bit more than the glory of a championship; for her it means she will get a chance to spend more time with her family. In her own words,

It'll mean I'll take off at least one weekend a month without feeling guilty.

Ms. Muldowney should be a source of inspiration to both men and women for her ability, her courage and her simple determination have brought her to the top.

NEW CITIZENS AT HICKEY-FREEMAN COMPANY

HON. FRANK HORTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, October 14, 1977

Mr. HORTON. Mr. Speaker, with the complete cooperation of the District Director of Immigration and Naturalization in Buffalo, N.Y., Mr. Benedict Ferro, the citizenship training for Hickey-Freeman aliens was held for the fifth consecutive year. This citizenship training was operated under the auspices of New York State continuing education for adults program under the direction of Stephen D'Agostino. Classes were held on Mondays and Wednesdays from 4:30 to 6:30 p.m. in the Hickey-Freeman cafeteria. By holding the classes in the plant, candidates were able to complete their full day's work without the need for extra travel to an evening school. The teacher for this year's program at Hickey-Freeman was Mrs. Frances Fox.

The names of those persons who were sworn in at the ceremony are:

Francesco Mastroberardino, Concetta Carmela Mastroberardino, Leonardo Pagani, Maria L. Pagani, Maria P. Pagani, Raffaele Parisi, Carmela Callerame, Olexa Charczenko, Nadia Charczenko, Maria Fesik, Archip Fesik, Vincent Vella, Giuseppe Morici, Fina A. Russo, Filippo Sampognaro, Raffaele Telaro, Armando Meli, Concetta Cavallaro, Bartolo Alleto, Fernando A. Sanrocco, Rosa Terranova, Giovanna Ferrauto, Maddalena Dell'Olio, Gisela D'Agostino, Federico Formica, Rosa Visconti, and Dorotea Arbore.

These 27 future citizens took the oath of allegiance before Supreme Court Justice Wilmer Patlow. Speaking to the group of candidates was the Honorable Supreme Court Justice Robert Wagner.

Mr. Speaker, Americans must never forget that our land grew to greatness by being the land of hope and opportunity for peoples from around the globe. It is heartening to me that the melting pot process continues today in my home community of Rochester. I am certain that my colleagues will join me in congratulating these fine new citizens on their achievement, and in welcoming them to full participation in our American system of free and democratic government.

TRIBUTE PAID TO CHARLES MARSHALL

HON. PAUL SIMON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, October 14, 1977

Mr. SIMON. Mr. Speaker, Ed Darby, the financial editor of the Chicago Sun-Times, wrote his column recently about Charles Marshall, the president of the Illinois Bell Telephone Co., who grew up in Greenville, Ill., which is in my district.

We are proud of the new president of Illinois Bell Telephone, and I am inserting it into the RECORD, not only because of that but because the column touches upon some of the issues that we are discussing in Congress these days.

I hope my colleagues will read the column.

[From the Chicago Sun-Times, Sept. 30, 1977]

WHY PHONE BILL MAY GO HIGHER

(By Edwin Darby)

Like everyone else Charles Marshall knows he is in the hole when he looks at the statistics on the increase in the cost of living. Only the pain is double for him.

Marshall has been president and chief executive officer of Illinois Bell Telephone since April 1977. He arrived in Chicago from New York City where he had been treasurer of parent-company AT&T only a month before the Illinois Commerce Commission handed down a decision that was most painful—for Illinois Bell.

In July, 1976, the telephone company had asked the commission to approve a package of rate increases on a variety of telephone services that would have netted Bell additional revenues of $110 million a year. Eleven months later the commission told the company it was entitled to increases that would generate only $8.9 million a year.

Now, after six more months of inflation, Marshall has concluded that the only answer for Illinois Bell is a general increase in basic telephone rates.

"The only major problem our company has here in Illinois," says Marshall, "is inflation. We can live with an inflation rate of 2½ to 3 per cent a year. We can live with that kind of inflation because we expect to achieve an increase in productivity through technology, modernization, smarter management and greater contributions from our people that will keep us even. Our record on productivity increases is excellent. Our gains are often double the national average.

"Anytime you are in a monopoly position—and we are not nearly the monopoly we used to be—you ought to do everything you possibly can to hold down prices. But an inflation rate double that 2½ to 3 per cent is not tolerable for us without rate relief. Illinois Bell has not had an increase in basic telephone rates in 3½ years and in May the commission denied our request for such things as an increase in the rate for a home telephone extension. We had asked to increase the rate from 95 cents to $1.25 a month. More than a year ago Ohio Bell was given permission to go from 90 cents to $1.20."

Marshall is not at all abashed by last week's AT&T announcement that Bell System profits in the first nine months of this year totaled $4.3 billion. "We simply have to have earnings on that order and better when you consider our investment base and our needs for new investment," Marshall says.

These are home truths for Marshall. He was born in Vandalia, Ill., and grew up in Greenville, a town (then) of 3,000 in southwestern Illinois. His grandfather homesteaded in that country in the 1880s and when Marshall was a child the family farm was on a party line shared by 16 families. It pleases Marshall that nearly 97 per cent of Illinois Bell subscribers now have single party service.

Marshall is also directly familiar with what lack of capital can mean. What he wanted to be as a young man was a farmer like his grandfather and others in his family. His father, a part-time farmer, worked for the Federal Land Bank appraising farmlands for farmers who needed to borrow money. In 1952 Marshall was "farming some bottom land on shares," the "family had just graduated from mules to an inexpensive tractor," and "didn't have the capital to buy the machinery we really needed." In late summer, 1953, Marshall, who had a degree in agriculture from the University of Illinois, spent the early morning hours one day combining wheat and then took off for Chicago to apply for a job with Illinois Bell, having decided there must be a better way. In November that year, after the harvest was in, he went to work for Bell in Chicago as a service engineer. A more accurate title might have been salesman. Marshall spent his time trying to convince service station owners that there was profit for them in installing a coin box telephone.

In the next 23 years, Marshall and his family (a wife, two daughters and two sons) moved 14 times as Bell moved him up the executive ladder.

When Marshall says the Bell System was once more of a monopoly than it is now he is expressing more than a little regret. Bell's standard service and rates for residences and businesses have been threatened particularly, he says, by the entry of the microwave relay people into the business of providing private, leased wires between major cities for corporations. "We no longer have any of the private line business between Chicago and St. Louis," Marshall says, "These competitors move in, use our technology, cut prices below our regulated rates, skin off the cream and leave us with the problems."

PANAMA CANAL: GIVEAWAY OR MAIL FRAUD?

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Friday, October 14, 1977

Mr. MAZZOLI. Mr. Speaker, every office on Capitol Hill is deluged with preprepared telegrams, post cards, and mimeographed letters as each controversial issue comes before the 95th Congress.

Every Member encourages his or her constituents to write or send messages on matters of concern. We are all pleased to receive these comments. We learn much from them. They help us cast thoughtful and accurate votes.

However, a situation has come to my attention which causes me to wonder how many of our constituents actually sign, authorize, or even know anything about the communications arriving in our offices over their names.

I recently got a letter from two constituents who complained about having received a response from me on the Panama Canal treaties. My constituents stated they had not contacted me on the subject.

As it turned out, these folks had not written me. Yet I—and other members of the Kentucky delegation—received mimeographed letters with their names signed thereon. A check of my files reveals that other letters I have received on the canal treaties question appear to be signed in the same handwriting.

These deceptive and misleading communications undermine the credibility of all of the post cards, telegrams, and mimeographed letters which reach our offices. If such mailings are unreliable, how are we to gage accurately the public's position on the pressing issues of the day?

My purpose here is to alert my colleagues to the questionable tactics which are apparently used by some to generate mass mailings.

I would be interested in knowing whether any of my colleagues have encountered an experience similar to mine.

CIVIL RIGHTS ENFORCEMENT

HON. BARBARA JORDAN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, October 14, 1977

Miss JORDAN. Mr. Speaker, on September 27, 1977, Congressmen EDWARDS and DRINAN and I introduced H.R. 9329, the Federal Assistance Equality Act of 1977. At that time, I stated that the bill was introduced to focus debate on current enforcement of title VI of the Civil Rights Act of 1964 and the organizational structure used to coordinate enforcement.

During the same week that my bill was introduced, the Department of Justice's Civil Rights Division sponsored a comprehensive 3½-day Title VI Conference—September 26–29—here in Washington. Invitees included not only Federal agency personnel and U.S. attorneys but distinguished members of the public interest community as well. Some 300 people attended coming from as far as California. I was pleased to have been able to contribute to this effort by serving as a keynote speaker.

The conference was the first such meeting of the title VI community since 1966 and its success can be largely attributed to the vigorous leadership of the new Assistant Attorney General for the Civil Rights Division, Drew S. Days, III. Mr. Days' credentials are well known to the civil rights community. Before entering Federal service, he was first assistant counsel to the NAACP Legal Defense and Educational Fund, Inc. in New York City from 1969 until his nomination.

I want to share with those who will be considering my bill, H.R. 9329, Mr. Days' thoughtful and informative opening statement of September 26, 1977, to the conferees. It demonstrates his commitment to insure affirmative action in title VI enforcement.

His statement follows:

SPEECH BY DREW S. DAY III

I welcome you to this conference and ask that over the next several days we forge a partnership to ensure that federal dollars are no longer used to support programs that discriminate on the basis of race, color or national origin. In this regard, affirmative action requirements attach to each application for federal assistance that is placed upon the desk of a federal official responsible for passing upon it. We must start by assuring that each such person is trained to ask the right questions. Such questions should be extended beyond the pre-award stage to include post-award reviews as well.

In order to accomplish this, meaningful data and information must be collected so that disparities in the delivery of services on the basis of prohibited discrimination can be identified. For example, agency program guidelines should require information that serves to define the population eligible to be served, by race, color and national origin. On the subject of program guidelines, by now each agency should have guidelines that describe such things as the nature of Title VI coverage, methods of enforcement and examples of prohibited practices in the context of the particular type program. With regard to public dissemination of Title VI information, where a significant number or proportion of the population eligible to be served needs service or information in a language other than English, such service should be provided. As counsel for HEW, we litigated such a need for that type of service to be provided to Hispanics by the Connecticut Welfare Department, a case recently affirmed by the Second Circuit.

Turning back to our regulations, I want to remind you that every six months each federal agency is required to report to me, as Assistant Attorney General, the receipt, nature and disposition of all Title VI complaints filed with that agency. Additionally, federal agencies are required to notify me when after a finding of probable noncompliance, negotiations have continued for more than sixty days. In that instance, notice to me is to include the reasons for the length of the negotiations.

I realize that to some extent the change in Administration with its attendant delays caused by the natural process of selecting new people for sub-cabinet positions has slowed down agency efforts somewhat. However, by now we should be prepared to quicken our efforts in this area and if there is one thing that I have become increasingly aware of in my job it is the extent to which Title VI enforcement has been neglected over the years.

Perhaps the most basic requirement of our Title VI coordination regulations is that each federal agency subject to Title VI shall develop a written plan for enforcement which sets out its priorities and procedures. This plan is to be available to the public. It is my hope that this conference will serve to assist in expediting the development of such plans for each agency in attendance here.

On July 20, President Carter sent a directive to the heads of executive departments and agencies listing Title VI enforcement as a high priority in this Administration. His message is clear and I quote:

"This means first that each of you must exert firm leadership to ensure that your Department or Agency enforces this law."

As you know, the Attorney General is responsible for the coordination of the Title VI enforcement effort of the Executive Branch. Last July's Presidential directive reaffirmed the Attorney General's authority to provide central guidance in this area and this conference is designed to implement that responsibility. The workshops listed in your agenda are the result of numerous meetings with personnel from various agencies in an effort to cover a broad range of topics that commonly concern us. Those workshops will enable us to both put finishing touches on that portion of our Title VI draft Manual that you now have, and at the same time, obtain the additional information necessary to expand it into those areas listed in the outline that you have been provided. We have included experienced persons from the public interest bar on various of our workshops whose comments we know will be both useful and provocative.

When efforts to obtain voluntary compliance fail, we must stand ready to apply the sanctions provided by law. Such sanctions are either to proceed by administrative hearing or to refer the matter to the Department of Justice for possible suit. We stand ready to assist agencies in making such determinations.

Within the Civil Rights Division, the Federal Programs Section is assigned the responsibility for Title VI enforcement. Those agencies that have already been selected for reviews by personnel from that Section know that a concerted effort is being made to effect constructive changes. It is our intention to implement the recommendations contained in our interagency survey reports by continuing to effect Memoranda of Understanding with those agencies reviewed. Generally, I have been quite pleased with the cooperation that those agencies have afforded us in this regard during these first eight months since I have arrived. If, however, I am advised that in a particular instance, negotiations have broken down, then if appropriate, I shall recommend to the Attorney General that pursuant to his authority, he issue a directive to such agency. In other words, it is our intention effectively to police our own efforts in the area of Title VI enforcement rather than await federal officials being turned into would-be clients of the Justice Department by my former colleagues in the public interest bar. It is our intention to be much more than reactive, we intend to stimulate action.

It is important that through our efforts this week, we take steps to assure that federal assistance programs are administered in a consistent and fair way. We are working closely with the Office of Management and Budget to develop a joint plan of action in this regard. At the same time, it is necessary for us to examine the subject of interagency delegation agreements and I am particularly pleased that there will be a workshop on that subject.

Tomorrow morning, we have scheduled a workshop that will include a discussion of the kind of evidence necessary to justify a suit based either on services discrimination or covered employment. In this regard, I want to make it clear that as a matter of policy we will continue to require that goals and timetables be a necessary part of any court settlement in which the United States is a party. Without such benchmarks, it is impossible to monitor effectively the quality of a recipient's efforts to implement an agreement. With regard to services discrimination, we will continue to require that a plan to

equalize services be part and parcel of our settlements. For example, earlier this year a court approved equalization plan regarding the provisions of municipal water and sewerage to a City's black community was filed as a matter of record in Folkston, Georgia.

I have seen estimates that indicate somewhere between 65 to 70 billion dollars a year are disbursed to recipients covered by the provisions of Title VI. We will have a more definite view of the specifics as to the exact number of federal programs involved after agencies have all succeeded in supplementing their Title VI regulations with an appendix listing the types of federal financial assistance (including specific reference to statutes) to which those regulations apply. Such a current listing is basic to our efforts. I have seen some estimates that would indicate about 400 programs will be included as the final figure.

Additionally, we all recognize that within disbursing agencies there is a need for closer cooperation between the Office of General Counsel and Title VI personnel. I hope that the scheduled workshop on this topic will provide a discourse that will give these two resources a better awareness of what each has to offer the other. While on the subject of workshops, I might point out that the purpose of the one scheduled to be conducted jointly by Assistant Attorney General Babcock of the Civil Division and myself is to make it known that identical standards will be applied by our respective Divisions when evaluating the merits of an existing civil rights suit.

Also, I am most interested in the conclusions that you arrive at in terms of striking a balance between centralization and decentralization. Although active regional offices are desirable, it is similarly important for Central guidance to be provided by the national office. In other words, decentralization should not be an excuse for abdication of responsibility by the Washington office.

At this point, it is tempting to digress and provide you with anecdotal material that would illustrate why I have a sense of excitement over the tremendous task before us. Instead, I will close simply by saying, so much for the welcome, let's get started. We cannot require the recipients of federal funds to go out and make that extra effort at affirmative action unless we begin to set the example and show the way, here and now.

WE CAN DO ANYTHING TO YOU YOU CAN'T STOP US FROM DOING

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Friday, October 14, 1977

Mrs. SCHROEDER. Mr. President, the double standard is not new around these parts. Certainly if Congress did not invent the practice, it has adopted it as its modus operandi, and enthusiastically used it in all those situations where Joseph Heller's rule applies: We can do anything to you you can't stop us from doing.

Thus the miserable state of affairs described in the New Republic article below:

ABORTION DOUBLE STANDARD

If anyone in the family of Representative Henry J. Hyde should need an abortion, the federal government has arranged to have it taken care of without charge. Representative Hyde is covered by the federal employee Blue Cross-Blue Shield health insurance plan, which pays for 100 percent of the cost of any legal abortion performed for any reason. President Carter, Rosalynn Carter and Amy have the same benefit. So do HEW Secretary Joseph Califano and his family. Thanks to the government, none of these people needs to worry about suffering an unwanted pregnancy or back-alley butchery for lack of funds to pay for a competent doctor and decent hospital.

In fact, virtually every federal government employee is covered by a group insurance plan that pays for all or most of the cost of a legal abortion. The government pays for about 60 percent of the cost of this health protection, with the rest coming from the individual employee.

Some of these federal employees have been spending a lot of their working hours lately trying to deprive poor people, equally dependent on the government for their health care arrangements, of the abortion benefit they themselves enjoy. As of this writing, the Senate and the House have been unable to settle their differences over the extent of the abortion exclusion to be written into the 1978 HEW appropriation bill. The Senate wishes to permit abortions under Medicaid and other social service programs whenever the woman's life or health is threatened. The House feels this is too generous, and wants to restrict abortions to occasions when full-term pregnancy would threaten the woman's life. (It has agreed to permit "medical procedures" including dilation and curettage, as long as pregnancy has not been diagnosed.)

Last year's HEW bill actually contains this extreme restriction, known, after its most ardent congressional supporter, as the Hyde amendment. Until the Supreme Court indicated otherwise in June, most people assumed that the Hyde amendment was unconstitutional and therefore unenforceable. Now that it stands as a genuine threat, the Senate is making an admirable attempt to temper its harshness. Meanwhile President Carter and Secretary Califano both are on record in favor of restricting medicaid abortions. If they find the "life or death" language of the Hyde amendment a bit extreme, they are not going out of their way to say so.

Unfortunately, this nasty little measure and all the misery it will cause won't even begin to achieve its symbolic purpose of getting the government out of the abortion business. Not only do government employee health plans cover abortions, the military is a major provider of abortions as well. The regulations governing military hospitals permit abortions to be performed there on military personnel and their dependents, and on military retirees and their dependents (no joke, given the military's extravagant early retirement arrangements) "when medically indicated, or for reasons involving mental health"—the usual code words for "on demand." Furthermore, the military's own CHAMPUS insurance program for civilian medical care of dependents and retirees pays for about 75 percent of the cost of any legal abortion. The plan, as you might expect, is non-contributory, meaning that the government pays the whole premium.

If Carter, Califano and Hyde feel that the government has blood on its hands because of its payment for abortions, why don't they do something about these federal employee health plans and military arrangements? The answer is simple: they wouldn't dare. Federal employees and their families, military personnel and veterans are simply too politically powerful to be denied what most Americans now consider to be a basic health care requirement. Poor people, on the other hand, make the ideal sacrificial victims to pacify the rabid right-to-life campaign. Rarely has the class bias of government policy been more vividly on display.

THE ETHIOPIAN-ISRAELI CONNECTION AND THE HORN OF AFRICA

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 14, 1977

Mr. HAMILTON. Mr. Speaker, I would like to bring to the attention of my colleagues some correspondence I had recently with the Department of State regarding press reports of continued Israeli-Ethiopian military cooperation. Recent press stories have focussed on continuing Israeli support for the Ethiopian Flame Unit, a relatively new elite combat unit.

This Israeli-Ethiopian cooperation comes at a time when United States-Ethiopian relations are at a low ebb, United States military relations with Ethiopia have been terminated by Ethiopia and Ethiopia is engaged in two regional conflicts, an old one in its Eritrea Province and a new one in the Ogaden area with Somalian forces and Somalian supported forces.

We have both complementary and divergent interests with Israel in the Red Sea and Horn of Africa regions. We desire good relations with both Somalia and Ethiopia. In the present situation it may well be in our interest for states friendly to us to maintain working ties with Ethiopia, but under present conditions, we cannot support continued military supplies coming into the Horn of Africa.

Over the last few years, an important revolution has occurred in Ethiopia. That revolution has not run its course, but many aspects of it have frustrated sincere American efforts to come to grips with a new manifestation of African socialism.

In the coming weeks, it should be our goal to try to defuse tensions in the Horn of Africa. Continued hostilities in this region serve no useful purpose and threaten stability and peaceful development throughout the Red Sea region.

My correspondence with the State Department regarding Israeli-Ethiopian military ties follows:

SEPTEMBER 1, 1977.

HON. CYRUS R. VANCE,
Secretary of State, Department of State, Washington, D.C.

DEAR MR. SECRETARY: There have been reports recently that the Israeli Government has transferred or loaned a squadron of planes to Ethiopia.

I would like to know whether we have any evidence of Israeli transfers to Ethiopia, whether any U.S. equipment is involved, what the precise extent of Israeli assistance to Ethiopia is at this time, what Ethiopia activities include Israeli military personnel and whether there are still Israeli military advisors in Ethiopia.

I would appreciate an early reply to this matter.

With best regards.

Sincerely yours,

LEE H. HAMILTON,
Chairman, Subcommittee on Europe and Middle East.

DEPARTMENT OF STATE,
Washington, D.C., October 6, 1977.

Hon. LEE H. HAMILTON,
Chairman, Subcommittee on Europe and the Middle East, Committee on International Relations, House of Representatives.

DEAR MR. CHAIRMAN: This is in response to your letter to the Secretary of September 1, in which you ask about the military relationship between Israel and Ethiopia. I regret the delay in this reply.

It is our understanding that Israel may have transferred small amounts of military equipment to Ethiopia and may have provided some military personnel and training assistance. The extent of such transfers and their precise nature are not known, however, nor do we know whether Israeli advisors are still present in Ethiopia. We have no information to support reports that the Israeli Government has transferred or loaned a squadron of aircraft to Ethiopia.

We have been assured, however, that no equipment of U.S. origin has been involved in such transfers as may have taken place. As you are aware, our policy is not to approve third-country transfers of U.S.-origin equipment which the United States would not itself transfer. As long as our position remains against sales of U.S. equipment to Ethiopia, we would not approve sales by Israel of U.S.-origin equipment to that country.

Sincerely,

DOUGLAS J. BENNET, Jr.,
Assistant Secretary for Congressional Relations.

LABOR LAW REFORM LONG OVERDUE

HON. CHARLES W. WHALEN, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, October 14, 1977

Mr. WHALEN. Mr. Speaker, my duties as a member of the U.S. Delegation to the United Nations General Assembly precluded my participation in the debate on H.R. 8410, the Labor Reform Act of 1977. Nevertheless, I feel that it is important to outline my position regarding this important legislation.

When Congress passed the National Labor Relations Act in 1935, it declared it the "policy of the United States—to encourage—the practice and procedure of collective bargaining—by protecting the exercise by workers of full freedom of association, self-organization, and designation of representatives of their own choosing, for the purpose of negotiating the terms and conditions of their employment or other mutual aid or protection." Today, that basic principle has been undermined by the growing number of cases before the National Labor Relations Board and by ineffective remedies to thwart needless delay and willful violation of the act. The result: many workers who want a union to represent them at the bargaining table experience unreasonable delays and frustrations because of the sluggish and outmoded procedure involved in gaining recognition for their union. Of course management benefits from such delays since workers have no bargaining power during the interim period.

The NLRB currently takes an average of 2 months to hold an election after receiving a petition from workers seeking union recognition. But if the election is challenged by management, it often takes 2 years to settle the dispute. As the Chattanooga Times recently noted, "There is not much justice for the workers who decide in a secret election that they want to be represented by a union, only to find that the present NLRB procedures are in effect a mechanism for thwarting their right to organize, as they are allowed to do under the Wagner Act of 1935."

Furthermore, without congressional action, the delays will surely worsen. The total number of cases has increased 70 percent in 10 years. Even worse is the increasing backlog of cases. At the end of fiscal 1966, the NLRB had 9,317 cases still pending; by April 30 of this year, that figure had climbed to 20,897.

More ominous, Mr. Speaker, is the increasing number of charges of law violation by employers. While the total number of cases has climbed 70 percent over the last decade, cases involving employer violations has risen by 115 percent. Still more alarming is the growing evidence, so well documented by the hearings conducted by the Labor-Management Relations Subcommittee under the able direction of the gentleman from New Jersey (Mr. THOMPSON), that some employers find it more profitable to break the law than to observe it. The record of one company, J. P. Stevens & Co., is so bad that a three-judge panel of U.S. Court of Appeals recently found that the company's antiunion efforts "raises grave doubts about the ability of the courts to make the provisions of the Federal law work in the face of the persistent violations."

The growing delays and increasing abuse of the labor law clearly indicates that new legislation is necessary. Congress cannot allow the goal of the Wagner Act—to protect the right of workers to organize—to be negated by obsolete procedures and ineffectual penalties.

Many constituents have written me to express their preference for H.R. 8310, the "Employee Bill of Rights Act," over H.R. 8410. While I support at least one provision of H.R. 8310—the religious freedom clause that would protect any individual with religious scruples against belonging to a union from being forced to join one—I oppose the bill itself because it would seriously undermine the system of collective bargaining. Furthermore, the drastic changes it proposes have not been studied by a congressional committee—we have yet to hear a single employee's testimony on this legislation. Finally, I feel that H.R. 8310's provisions do not address the twin problems of increasing procedural delay and rising incidence of labor law violations by employers.

In my view, H.R. 8410 represents the superior approach in correcting the inadequacies of the present law. It is the product of years of study and oversight hearings by the Education and Labor Committee and its subcommittees. Rather than drastically reforming the Wagner Act, it provides the modern means for guaranteeing a workers right to full "freedom of association" by limiting opportunities for bureaucratic delay and by strengthening the penalties for violation of the law. As Labor Secretary Marshall noted, "law-abiding employers and unions have nothing to fear from this bill."

Mr. Speaker, workers attempting to organize a company or unions trying to negotiate a first contract should not be subjected to endless litigation. Had I been present I would have voted for H.R. 8410 because I believe it represents a reasonable method of expediting the labor-management process in a manner consistent with the Wagner Act.

Labor law reform, Mr. Speaker, is long overdue—the shortcomings of the present law were apparent years ago. One panel of labor law experts, chaired by Archibald Cox, had this to say about the need for changes:

> A major weakness in the labor management relations law is the long delay in contested NLRB proceedings. In labor-management relations, justice delayed is often justice denied.

That report was issued in February 1960. Last week, 17 years later, Congress finally acted on its findings.

ISSUANCE OF THE NATHAN HALE COMMEMORATIVE POSTAL CARD

HON. CHRISTOPHER J. DODD

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Friday, October 14, 1977

Mr. DODD. Mr. Speaker, today marks a special event for residents of the town of Coventry as well as for all Americans. The Nathan Hale Stamp Committee together with the U.S. Postal Service will be holding a ceremony for the First Day Issuance of a Nathan Hale Postal Card.

Nathan Hale, a native of Coventry, Conn., is noted for his dedicated contributions to education and to the cause of the American Revolution. Connecticut cherishes with special pride the patriotic spirit of Nathan Hale. He exemplified the ideals of patriotism and freedom for all Americans. It was revolutionary leaders like Nathan Hale who with a burning love for freedom helped to lay the foundations for our existing democratic political system. The importance of freedom was expressed in Nathan Hale's teachings as a school master in East Haddam and New London, and in every action of his life. The story of Nathan Hale is a continuing reminder of his service and sacrifice in the fulfillment of patriotic courage.

Gov. Ella Grasso has issued a proclamation declaring September 22, 1977, as "Nathan Hale Day" in order that the spirit of his sacrifices in the struggle to establish a free and independent United States might be recognized by all citizens of Connecticut.

It gives me great pleasure to bring to the attention of the Members of Congress the magnificent contributions that Nathan Hale made for our Nation as the

commemorative postal card is issued in his honor today.

I would at this point in the RECORD, like to submit a statement by the Antiquarian & Landmarks Society of Hartford, Conn. noting, on this historic occasion, the issuance of the postal card today in Coventry:

Over the years the name of Nathan Hale has become in everyone's mind the ultimate symbol of patriotism and self sacrifice. When volunteering for the dangerous spy mission in 1776, he said: "I am not influenced by the expectation of promotion or pecuniary reward; I wish to be useful, and every kind of service necessary to the public good, becomes honorable by being necessary."

While spoken over 200 years ago by a brave 21 year old youth, born and raised in Connecticut, these noble words may well serve today to inspire everyone concerned with loyalty to and the preservation of his country.

Today, the 1776 Nathan Hale Homestead, South Street, Coventry, Connecticut, birthplace of the patriot, stands as a fitting symbol and lasting memorial to the memory of Nathan Hale. The Nathan Hale Homestead is owned and maintained by the Antiquarian & Landmarks Society, Incorporated of Connecticut and is open daily to the public May 15 through October 15.

The Antiquarian & Landmarks Society is deeply appreciative of the issuance of the new nine-cent postal card bearing the likeness of Nathan Hale. In keeping with the highest ideals of patriotism for which Nathan Hale stood, the Society is proud to have a part, along with the United States Postal Service in perpetuating his last contribution.

SOCIAL SECURITY REFORM SHOULD NOT IMPAIR PUBLIC RETIREMENT PLANS

HON. ROBERT McCLORY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, October 14, 1977

Mr. McCLORY. Mr. Speaker, today about 9 out of every 10 American workers participate in the social security system. It is becoming increasingly difficult—especially in light of the current social security funding crisis—to justify to the "nine" why the "one" is not covered. Social security is a nationwide social insurance system, and therefore it is a natural and desirable goal to provide for universal coverage.

The Advisory Council on Social Security stated in its most recent report to the President that—

It is of great importance from the standpoint of assuring good protection for all workers on an equitable basis that all jobs be compulsorily covered under social security.

Heeding this advice, the Ways and Means Committee recently voted to require that all American workers participate in Social Security beginning in 1982.

I have received numerous letters and petitions from my constituents who are concerned about certain aspects of the universal coverage provision of H.R. 9346. Therefore, I feel that it is in order to provide an explanation of what the bill will do and what it will not do.

H.R. 9346 would provide universal social security coverage—that is, it would require all Federal employees, all State and local government employees, all the employees of nonprofit organizations—and all Congressmen—to participate in social security. Roughly 70 percent of State and local government employees and 90 percent of the employees of nonprofit organizations are today covered by social security on a voluntary basis. They would not be affected by this provision. However, the bill terminates their option to withdraw from the social security system.

The move to universal coverage is a step which the Congress must take. The social security system suffers a tremendous loss because of the large numbers of noncovered employees who eventually draw social security benefits due to jobs they have held in the past, postretirement jobs, and moonlighting. These workers get nearly the same benefits as others but pay in far less. Second, millions of people in State and local government service do not have insurance coverage as broad and basic as social security provides. These individuals will be provided with important new protection under this provision. Third, the contributions these workers make will provide important short-term benefits to the social security trust fund and will cause no long-term loss.

Funds from the civil service retirement fund will not be used to shore up social security. The bill cannot and does not authorize that one penny be transferred from any other retirement system to the social security fund. Moreover, it does not change any of the rights or benefits earned by employees under Federal, State, local, or private retirement plans.

Likewise, this bill will not require that the Federal civil service program be merged with social security. At some future time Congress may want to alter the Federal civil service retirement system to take account of the new social security coverage. Even if this should happen, we expect the Federal civil service program to remain a large, independent retirement program—similar to a private pension plan—which would be supplemented by social security benefits. There would not be a "merger."

The bill provides that universal coverage would not become effective until 1982. Prior to this date, in order to assure that no one is burdened with excessive taxes or suffers a loss in benefits, the Civil Service Commission and the Department of Health, Education, and Welfare, along with the appropriate committees of Congress, will conduct a study of the best method to phase in universal coverage. The basic plan is to make adjustments in the Federal civil service retirement program so that the total costs and total benefits to each Federal employee will remain the same when universal coverage begins.

No person should be allowed to suffer an economic loss as a result of universal coverage.

DRUG TRAFFIC LINKED TO TORRIJOS FAMILY

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 14, 1977

Mr. McDONALD. Mr. Speaker, on October 5 in testimony before the Senate Committee on Foreign Relations calling for the rejection of the Panama Canal Treaty, I called attention to the involvement of the Torrijos family in trafficking in narcotics in our own country.

Since my testimony I note from press accounts that the Attorney General has briefed President Carter in this matter, and that much speculation has been generated as to the extent of this problem. References have been made to sealed indictments and secret reports which can only serve to obscure the known facts.

I would remind my colleagues that our Committee on Merchant Marine and Fisheries in their report to the 92d Congress (January 2, 1973) revealed the narcotics problem that we were experiencing with Panama. A problem that has not been solved and can only be increased by the shameful treaty that seeks to abrogate our national responsibility.

In 1973, the Merchant Marine Committee reported that some 20,000 American drug addicts were getting their daily supply through Panama. The committee reported on a special report prepared by Mr. John Ingersoll, then the Director of the Bureau of Narcotics and Dangerous Drugs that—

Panama is one of the most significant countries for the transshipment of narcotic drugs to the United States. Its geographic location facilitates the illicit traffic because it is a terminus for air and sea transport. Additionally, domestic and international telecon facilities are well developed. The significance of Panama is evidenced by the fact that during the past twelve months, 641 pounds of heroin were seized in the United States which had transited through Panama. This 641 pounds consists of only four single seizures and does not include seizures of less than 100 pounds. . . .

It is clear that the Republic of Panama has not and is not paying sufficient attention to narcotic enforcement activities to achieve noticeable results. This may be due to high level apathy, ignorance and/or collusion.

The committee report continued:

This conclusion was given further support in a January 1972, briefing arranged by Myles Ambrose, former head of the Bureau of Customs. Special agents of the Customs Bureau briefed the Chairman of the Subcommittee on the "major" seizure cases during the pre-Republic of Panama, specifically the Rafael Richard, Nicholas Polanco, Guillermo Gonzalez case. (Information developed during investigation of the case indicates this was the fifth instance wherein similar quantities of heroin were smuggled into the U.S. in this manner.)

The briefing team concluded that based on the Customs investigation this case reached into the highest levels of Panamanian officialdom and included Moises Torrijos, the brother of General Omar Torrijos, and the Panamanian Foreign Minister, Juan Tack. This involvement was confirmed by BNDD

officers in the Republic of Panama on February 23 during a Subcommittee briefing in that country. In summary, the Customs files show the following:

Rafael Richard Jr., (23) was arrested in New York on July 8, 1971, with Nicholas Polanco who was chauffer for Guillermo Gonzalez. Gonzalez, a long-time friend and former bodyguard for Moises Torrijos, is Richard's uncle. After his arrest, Customs agents determined that Richard and Polanco were to call Gonzalez in Panama to inform him that the 70 kilos had been delivered to two consignees in New York. Customs instead had Richard call Gonzalez and convince him to come to New York to handle the delivery personally. Gonzalez—who had accompanied Richard on the alleged previous four smugglings of 70 kilos each—came to New York and was arrested by Customs agents. He was found guilty on a narcotics charge and was sentenced to seven years in prison. The Customs agents deduced that because Richard's father was in Taiwan at the time of these transactions that he got his diplomatic passport from Moises who had access to them as a Panamanian Ambassador. Customs confirmed the BNDD report that Juan Tack had personally signed the diplomatic passport despite the fact that Rafael Richard Jr., had absolutely no credentials warranting such a passport.

The 1973 report continued to provide further shocking details of the involvement of Panamanian officials in the drug traffic. It stated:

Another case which prompted the original BNDD assessment of Panamanian official involvement centered around Joaquin Him Gonzalez, a notorious smuggler who was arrested in the Canal Zone by U.S. authorities on February 6, 1971. Within two weeks he was brought to Dallas, Texas, for his active participation in the drug market and tried for conspiracy.

Him Gonzalez was international transit chief at Panama's Tocumen Airport and he used his high position to protect shipments of drugs to the United States. He was accused on this occasion of sending to Dallas somewhat over a million dollars worth of heroin. Gonzalez was allegedly a Torrijos protege and this relationship was made clear when the Panamanian Government mobilized all its resources, something it had not done until that point, for the offender to be returned to Panama. Reports in the press cited the "angry outburst" and "outraged" protest of the Panamanian Government—led by Juan Tack—over the arrest of Gonzalez.

An indication of the duplicity of certain Panamanian officials is found in a comparison of their public statements and their private or official actions in this regard. For example, in October 1972, Colonel Manuel Moriega, the Intelligence Chief of the National Guard, proclaimed a desire for Panama to become the enforcement center for fighting the drug traffic in Latin America. Yet that same month intelligence reports of the United States Government sustains the 1971 BNDD assessment and we still find that Panamanian officials and security agents are allegedly involved in narcotics trafficking. A similar "offer" was made on April 8, 1972, which received worldwide publicity. However, U.S. officials, when questioned by the Subcommittee, were unaware of any direct contact by the Panamanian Government which would have brought this about.

The arrest of Manuel Rojas Sucre, the nephew of Panama's Vice President Arturo Sucre at Kennedy International Airport on December 3, 1972, with cocaine, liquid hashhish, and a diplomatic passport (his mother is Panama's consul general in Montreal) is further indication of a need for continued efforts by the United States Government to impress upon the Panamanians the seriousness with which we view the drug problem.

Then as now, there was information of a coverup by our Department of State, House Report 92-1629 stating:

THE POSITION OF THE DEPARTMENT OF STATE

The State Department has had a history policy of ignoring or denying the involvement in the narcotics traffic into the United States of high-ranking officials of friendly foreign governments.

While the Department has taken a "soft" approach to the narcotics problem generally, in Panama it has reached an absurd extreme. For example, the Subcommittee was told by the director of the BNDD that as a result of the strong Panamanian objections to the arrest of Him Gonzalez, it is highly doubtful that the State Department would ever again allow the arrest of a Panamanian national in the Canal Zone; BNDD agents claimed the Panamanians were only paying lip service to narcotic drug enforcement and that the big trafficking was going on full tilt with the knowledge, sanction and even involvement of certain Panamanian officials and Guardia members.

The report continued by quoting a Government law enforcement intelligence report which in part read:

Generally speaking, the greatest detriment to effective enforcement in Latin America is corruption. The corruption goes all the way to the top of some Latin American governments. One of the more glaring examples of official corruption is the country of Panama, . . .

. . . Because of the known involvement of Panamanian government officials in the international narcotics traffic, the U.S. Government should take a firm stand in the current negotiation of a new treaty for the continued use of the Panama Canal Zone.

Mr. Speaker, we have no information that there has been any change in the Panamanian attitude toward flooding our country with narcotics. Just the reverse. Moises Torrijos, who has a currently pending indictment in the United States for trafficking in narcotics, has been appointed as the Panamanian Ambassador to Spain.

I am urging that the appropriate committee hold public hearings on the present state of the narcotics traffic in Panama and the involvement of the Torrijos family in these activities.

NATURAL GAS REGULATION: THE BIG RIPOFF

HON. ROBERT W. EDGAR

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 14, 1977

Mr. EDGAR. Mr. Speaker, I would like to congratulate the President for correctly pointing out the "war profiteering" which would result by allowing domestic energy producers to "ripoff" American consumers by becoming de facto members of the OPEC cartel. Yesterday, an excellent article by Hobart Rowen, which appeared on the op-ed page of the Washington Post pointed out the absurdity of a policy of natural gas deregulation. The article calls to mind the study released last month by the Subcommittee on Energy of the Joint Economic Committee which explodes the myths about the need for deregulation.

I would like to share with my colleagues the conclusions of this study and I urge my colleagues to obtain a copy of the full report from the committee. I would also like to share the article by Mr. Rowen, which I feel is right on target:

[A staff study from the Subcommittee on Energy of the Joint Economic Committee]

THE ECONOMICS OF THE NATURAL GAS CONTROVERSY

CONCLUSIONS

This paper has been prepared to provide information and discussion on the economics of the natural gas pricing issue. It describes the historical experience under Federal Power Commission price controls, potential future supplies of gas, and methods for curbing demand. The potential macroeconomic effects of natural gas price increases are dealt with along with measures by which the natural gas pricing dilemma can be resolved.

Some of the more important points made in the study are:

The early years of Federal Power Commission (FPC) regulation probably resulted in prices higher than would have been the case without regulation. However, the 1960s saw real prices decline as a result of controls.

Savings on the order of $6.7 to $12.0 billion annually accrued to both inter and intrastate gas users during the 1960s as a result of controls.

New reserve additions dropped sharply after 1967, and production declines followed in 1973. Drilling activity, especially for gas wells, has risen sharply since 1973.

The existing regulatory structure will result in substantial rises in gas prices in the foreseeable future. Under prevailing tariff rulings, consumers eventually will pay $10 billion per year more than they are paying now for today's supply of gas.

The lower 48 States and readily accessible offshore areas already have been extensively exploited. Recent estimates see much lower potential reserves discovered compared to just a few years ago. Estimates of possible production levels have been consistently reduced, even at high projected prices.

Production economics are such that higher prices beget higher costs. Potential excess profits in the producing sector are, to a significant extent, captured by the equipment and labor supply sectors and mineral rights owners.

Expectations of increasing gas prices create a situation in which gas left in the ground is perceived as a better investment than cash in the bank. An incentive to withhold production is thereby created. There is circumstantial evidence that producers recently have been responding to this incentive and withholding production.

At today's prices, only wells with very high costs and low potential production will not be produced. No substantial finds will be rendered uneconomic by maintaining price constraints within today's price range.

The profitability of new energy production in the United States remains higher and more secure than in virtually any other part of the world.

An unambiguous statement that gas price increases will be limited to moderate rates below the returns on other investments is essential to end the incentive to withhold production. Such a clarification of price policy must be a primary objective of Congress as it considers legislation reforming natural gas regulation.

The demand for gas is not very price sensitive, implying that price is a relatively poor conservation tool, especially in the short run.

In the face of rigid constraints on domestic supply and the very limited availability of natural gas imports, gas prices in the absence of controls could go to extremely high levels. High prices for domestic production can be

justified, however, only to the extent that they serve U.S. national purposes such as reduced import dependency.

After the 1973 oil embargo, energy prices rose by $58 billion over a two-year period, causing perhaps one-half of the inflation of 1974 and 1975.

The immediate deregulation of gas prices would cause similar, although smaller, inflationary effects. Under deregulation, the Nation's gas bill would be about $25 billion per year higher than under extension of the regulatory status quo.

Because clauses in many existing natural gas contracts for large volumes of gas stipulate price renegotiation in the event of deregulation, this action would increase prices on old as well as new gas, unless measures are specifically mandated to proscribe this. Old gas prices would then gravitate toward the upper price level.

There are numerous ways in which the potential inflationary impact can be both minimized and spread out over time. The most important options are:

(i) A ceiling price which would prevent scarcity pricing of gas;

(ii) A tight definition describing what gas is eligible for the higher price. This will place the incentive strictly on the discovery of truly new gas in locations other than in currently known producing fields;

(iii) Strong measures to ensure that producers continue to deliver old gas at old gas prices;

(iv) Measures to protect intrastate gas users from higher energy prices;

(v) Unification of the national gas market and abolition of the inter-intrastate dichotomy is desperately needed in order to achieve a semblance of proper allocation.

[From the Washington Post, Oct. 13, 1977]

GAS DEREGULATION: "THE PUBLIC IS BEING HAD"

(By Hobart Rowen)

The industry's effort to deregulate the price of newly discovered natural gas threatens to be one of the boldest and biggest steals of all time. "What is being done here is the greatest unarmed robbery in the history of the country," according to Sen. Don Riegle (D-Mich.).

It's important to get some impression of the monumental nature of the ripoff. Not content with a price increase for new gas of 445 per cent from 1972 through 1976, the industry in reality is seeking to get the equivalent of the monopoly price of oil, as set by OPEC: $2.50 to $2.75 per thousand cubic feet.

That would give the industry a price increase of 2,000 per cent—yes, 20 times the 13- to 14-cent price at which it was making a good profit in 1968.

The industry lament is that it needs ever higher prices to provide incentive for new explorations. But a hard-to-counter analysis by the Consumer Federation of America shows that while prices were increasing 445 per cent in 1972–76, gas production decreased 12 per cent, reserves declined 19 per cent, and profits boomed by 50 per cent.

Lee C. White, former chairman of the Federal Power Commission, now lobbying hard against deregulation, observes that before 1968, "we argued over pennies." And for good reason: Every added penny on the gas price per thousand cubic feet costs consumers $200 million. Every dime costs $2 billion.

Yet, in an effort to stave off the greedy drive for total deregulation, hard-pressed Democratic senators are giving away dimes and quarters like chicken feed.

Last year, two statistical agencies of the Federal Power Commission estimated that a fair price for "new" natural was between 60 cents and 67 cents—"fair price" meaning a return of 15 to 18 per cent.

But the commission itself figured the fair price at $1.42, allowing, in its computation, a federal tax burden calculated at the theoretical corporate-tax-table maximum of 48 per cent. Of course, no industry pays 48 per cent. "If they paid more than 7 per cent [as an effective tax rate], they need a new lawyer," says White.

Then the Carter administration came along, after the U.S. Court of Appeals sustained the FPC's $1.42 price, and proposed a formula that would sweeten the price for "new" natural gas to $1.75.

Even that didn't satisfy the industry, so Henry Jackson made an abortive attempt to avert a deregulation vote in the Senate with a proposal for $2.03 per thousand cubic feet, and a more generous interpretation of "new" gas. The price would rise to $3.36 in 1985, with full deregulation in 1987. How utterly ridiculous can this get? How long will it take before the public realizes that it is being had?

A high administration official dealing with energy matters, who saw the turn of the tide some weeks ago, put it this way:

"The moral imperative for American business is to maximize profits. Natural gas is no exception. You just go over the debates over the years. Give us 35 cents—that's all we want, they said. Give us 50 cents. Last year, they said a dollar will produce all the gas you want. Now, at a $1.75, for the shallow deposits, the incentives are just overwhelming. . . .

"The incentives are so damn great that the producers are bidding one against the other for drill rigs, for steel, for trained manpower, for leases."

There was a time when the administration thought the industry couldn't turn down a price between $1.75 and $2 because the profits would be so great. But the natural-gas industry isn't satisfied. It's had the deregulation bug ever since President Nixon planted the idea, and now sees no reason why it shouldn't get the OPEC equivalent, and with that a transfer of some $10 billion annually from consumers to the gas producers. Who knows? The OPEC oil price one day may be $25 a barrel.

The huge increase in the price of oil from around $2 to $3 a barrel in 1972 and 1973 to $13 or $14 a barrel today, as many officials have once again concluded, created unmanageable financial problems. It has led to enormous debt and, currently, a serious worldwide flirtation with protectionism.

The price of oil is today's key issue—and everyone talks about it merely in whispers, fretful of the effect on Mideast politics. The world today appears to be concerned more about the fear of an empty gas tank than about moral attitudes. But having let OPEC dictate this country's oil prices, it would be criminal if we let OPEC dictate natural-gas prices as well.

TREATIES WITH LIBERIA NOT AFFECTED BY CARGO EQUITY LEGISLATION

HON. JOHN M. MURPHY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, October 14, 1977

Mr. MURPHY of New York. Mr. Speaker, one of the arguments offered in opposition to cargo equity legislation is that the bill would create some conflict with existing treaties with other seagoing nations. In that vein, I recently received a communication from the Ambassador of Liberia—a nation which provides a very large percentage of the documentation for foreign-flag vessels which carry American-bound cargoes—the essence of which was the Ambassador's concern for the effect of the legislation on existing treaties.

I would therefore like to enter into the RECORD the copies of both his letter to me expressing his concern about the matter, and my reply to him which indicates that the findings of the Merchant Marine and Fisheries Committee do not support such an allegation. Indeed, the Department of State has not supplied us with any such information, which we had specifically requested during hearings on the bill.

It is such misinformation which has plagued the committee during the consideration of this vital legislation. I trust that the Members of Congress who are interested in fact rather than fiction will take note of this exchange.

EMBASSY OF THE
REPUBLIC OF LIBERIA,
Washington, September 30, 1977.

Hon. JOHN M. MURPHY,
Chairman of the Merchant Marine and Fishery Committee, U.S. House of Representatives, Capitol Hill, Washington, D.C.

MR. CHAIRMAN: An article in the September 30th, 1977 issue of the Journal of Commerce of New York, New York, reported that Honourable John M. Murphy, Chairman of the Merchant Marine and Fishery Committee, declared in a letter to each member of the House of Representatives that the United States does not have treaty obligations to the Republic of Liberia. I respectfully wish to advise that on August 8, 1938, the United States and Liberia entered into a Treaty of Friendship, Commerce, and Navigation which was subsequently ratified by each country and which has remained in effect since November 21, 1939 (54–Stat. 175) (TS No. 956).

The terms of the treaty would, in the opinion of the Republic of Liberia, clearly be violated by either nation's unilateral allocation of a percentage of its commercial cargoes in international shipping on the basis of national flag.

Very sincerely yours,

FRANCIS A. DENNIS,
Ambassador.

COMMITTEE ON
MERCHANT MARINE AND FISHERIES,
Washington, D.C., October 12, 1977.

His Excellency FRANCIS A. DENNIS,
Ambassador of the Republic of Liberia, Washington, D.C.

DEAR MR. AMBASSADOR: This will acknowledge receipt of your letter of September 30, 1977, in which you called my attention to the fact that the United States and Liberia entered into a Treaty of Friendship, Commerce, and Navigation which has remained in effect since November 21, 1939. You questioned an article in the Journal of Commerce, reporting an earlier statement attributed to me to the effect that the United Sates does not have treaty obligations with the Republic of Liberia. Although the language in question may be ambiguous to some, the intent was that there is no such treaty obligation which would guarantee equal access to cargo.

While I appreciate the fact that you wish the record to be absolutely correct, and are concerned on the subject of treaties between our respective nations, I question the propriety of my entering into a direct discussion with a foreign representative on differences of opinion in the interpretation of treaties existing between our two nations.

In connection with the Journal of Commerce report, I point out that in the wording

of my letter of September 22, 1977 to certain Members of the House of Representatives, in connection with legislation pending before the House, I stated that the United States does not have *such* (emphasis added) treaty obligations, referring to certain treaties with other nations.

I have carefully reviewed the Treaty of Friendship, Commerce, and Navigation between the United States and Liberia, signed at Monrovia on August 13, 1938 and ratifications exchanged at Monrovia, November 21, 1939. I can find nothing in the terms of that Treaty which would be violated by the enactment of H.R. 1037. In considering this same subject, the Committee on Merchant Marine and Fisheries has requested from the Department of State the citation of any treaty provisions involved not only in our treaty obligations with the Republic of Liberia but also with any other nation which would be violated by the passage of cargo equity legislation. Thus far, we have received no such information.

Since I note that in your letter you make reference to a clear violation of the terms of the Treaty, presumably by the passage of H.R. 1037, I respectfully suggest that it would be in the interest of both our governments if you would express your concern to the Secretary of State, with specific citations as to the articles of the treaty involved. The Secretary of State would then be in a position to furnish to the responsible Congressional officials the specific information which the Congress should take into account on the subject of our treaty obligations.

I sincerely appreciate your concerns, and I understand the reason for expressing those concerns directly to me. However, I believe that the discussion would be more fruitful and better handled if the detailed information which would be necessary were transmitted through regular diplomatic arrangements.

With assurances of my highest personal regard, I remain,

Very truly yours,

JOHN M. MURPHY,
Chairman.

SENATE—*Monday, October 17, 1977*

(Legislative day of Tuesday, October 11, 1977)

The Senate met at 12 noon, on the expiration of the recess, and was called to order by Hon. SPARK M. MATSUNAGA, a Senator from the State of Hawaii.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Let us pray:

God of grace and God of glory, we thank Thee for Founding Fathers who built an altar of faith at the heart of our national life and kindled a flame upon it in the morning hours in this Chamber. Thou knowest we need Thee every hour of every day. Grant us wisdom, grant us courage for the living of these days. When there is darkness give us the sight and insight of the pure in heart. When there is confusion and uncertainty keep our minds clear and clean that we may speak for justice and freedom and brotherhood. And when some grow mad and sad give us the grace and serenity, the peace and power of Thy spirit that we may be instruments of healing in our troubled world.

For thine is the kingdom and the power and the glory forever. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., October 17, 1977.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable SPARK M. MATSUNAGA, a Senator from the State of Hawaii, to perform the duties of the Chair.

JAMES O. EASTLAND,
President pro tempore.

Mr. MATSUNAGA thereupon assumed the chair as Acting President pro tempore.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings of Thursday, October 13, 1977, be approved.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

MESSAGES FROM THE HOUSE DURING THE RECESS

Under authority of the order of October 13, 1977, a message from the House of Representatives was received on October 14, 1977, stating:

The House further insists upon its amendment to the bill (S. 1811) to authorize appropriations to the Energy Research and Development Administration in accordance with section 261 of the Atomic Energy Act of 1954, as amended, section 305 of the Energy Reorganization Act of 1974, and section 16 of the Federal Nonnuclear Energy Research and Development Act of 1974, as amended, and for other purposes; requests a further conference with the Senate on the disagreeing votes of the two Houses thereon; and that Mr. TEAGUE, Mr. FUQUA, Mr. FLOWERS, Mr. MCCORMACK, Mr. BROWN of California, Mr. THORNTON, Mr. OTTINGER, Mr. HARKIN, Mr. AMBRO, Mrs. LLOYD of Tennessee, Mr. WATKINS, Mr. WYDLER, Mr. WINN, Mr. FREY, Mr. GOLDWATER, and Mr. GARY A. MYERS were appointed managers of the Conference on the part of the House.

The House agrees to the amendment of the Senate to the bill (H.R. 5675) to authorize the Secretary of the Treasury to invest public moneys, and for other purposes.

The House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 6415) to extend and amend the Export-Import Bank Act of 1945.

The House agrees without amendment to the concurrent resolution (S. Con. Res. 46) providing for certain corrections to be made in the enrollment of the bill (H.R. 6415) to extend and amend the Export-Import Bank Act of 1945.

The House has passed the following bills in which it requests the concurrence of the Senate:

H.R. 3816. An act to amend the Federal Trade Commission Act to expedite the enforcement of Federal Trade Commission cease-and-desist orders and compulsory process orders; to increase the independence of the Federal Trade Commission in legislative, budgetary, and personnel matters; and for other purposes;

H.R. 8309. An act authorizing certain public works on rivers for navigation, and for other purposes.

ENROLLED BILL AND JOINT RESOLUTION SIGNED

H.R. 6415. An act to extend and amend the Export-Import Bank Act of 1945.

S.J. Res. 89. Joint resolution to amend the act entitled "To authorize certain appropriations for the territories of the United States, to amend certain Acts relating thereto, and for other purposes" (enrolled bill H.R. 6550, Ninety-fifth Congress, first session).

The enrolled bill and joint resolution were signed on October 14, 1977, by the Acting President pro tempore (Mr. METCALF).

RECOGNITION OF THE LEADERSHIP

The ACTING PRESIDENT pro tempore. The Senator from West Virginia.

TIME-LIMITATION AGREEMENT—H.R. 5383, AGE DISCRIMINATION IN EMPLOYMENT AMENDMENTS OF 1977

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at such time as H.R. 5383, Calendar No. 451, is made the pending business before the Senate, there be a time limitation thereon of 1½ hours of debate on the bill, to be equally divided between Mr. WILLIAMS and Mr. JAVITS; that there be a time limitation on any amendment of 1 hour; that there be a time limitation on any debatable motion, appeal, or point of order of 20 minutes; and that the agreement be in the usual form.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The text of the agreement is as follows:

Ordered, That when the Senate proceeds to the consideration of H.R. 5383 (Order No. 451), an act to amend the Age Discrimination in Employment Act of 1967 to extend the age group of employees who are protected by the provisions of such act, and for other purposes, debate on any amendment shall be limited to 1 hour, to be equally divided and controlled by the mover of such and the manager of the bill, and debate on any debatable motion, appeal, or point of order which is submitted or on which the Chair entertains debate shall be limited to 20 minutes, to be equally divided and controlled by the mover of such and the manager of the bill: *Provided,* That in the event the manager of the bill is in favor of any such amendment or motion, the time in opposition thereto shall be controlled by the minority leader or his designee: *Provided further,* That no amendment that is not germane to the provisions of the said bill shall be received.

Ordered further, That on the question of final passage of the said bill, debate shall be limited to 1½ hours, to be equally divided and controlled, respectively, by the Senator from New Jersey (Mr. WILLIAMS) and the

Senator from New York (Mr. JAVITS): *Provided*, That the said Senators, or either of them, may, from the time under their control on the passage of the said bill, allot additional time to any Senator during the consideration of any amendment, debatable motion, appeal, or point of order.

Mr. ROBERT C. BYRD. Mr. President, at the moment, I have no indication of need for my time.

RECOGNITION OF THE LEADERSHIP

The ACTING PRESIDENT pro tempore. The Senator from Alaska is recognized.

THE CASE FOR THE ESKIMOS AND THE BOWHEAD WHALE

Mr. STEVENS. Mr. President, I call to the attention of the Senate the editorial in the Washington Post this morning by William Byler, the executive director of the American Association of Indian Affairs. Mr. Byler has stated categorically and concisely the case for the Alaska Eskimo and the bowhead whale. He has urged the administration once again to take a firm position with the International Whaling Commission to protect those who hunt whales for subsistence purposes while, at the same time, continuing very vigorously the long-standing U.S. policy against commercial hunting of whales. I ask unanimous consent that that article by Mr. Byler be printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE CASE FOR THE ESKIMOS * * * AND THE BOWHEAD WHALE

(By William Byler)

The whites told only one side.
Told it to please themselves.
Told much that is not true.
Only his own best deed, only the worst deeds of the Indians has the white man told.—Yellow Fork of the Nez Percé.

In June 1977, without prior notice to the Eskimo community, the International Whaling Commission imposed a moratorium on Eskimo hunting of the bowhead whale—hunting that has taken place for more than 7,000 years. By Oct. 24 the United States must decide whether to preserve the Eskimos' historic right to hunt the bowhead whale or whether to abide by the potentially genocidal actions of the IWC.

To date, The Post has told only one side of this issue. In its Oct. 1 editorial and in full-page advertisements on Sept. 28 and Oct. 12, The Post has presented the putative case for the magnificent bowhead whale. This is the case for the Eskimos . . . and the bowhead.

The death threat posed by the IWC action to the Eskimo culture is, of course, a proper question for public dialogue, editorial comment and advertisements for those who can afford to commercialize their point of view. However, the dialogue and debate (at least within the parameters of The Post) has ignored to date the fateful admonitions of history. We sentenced the American Indian culture to death by slaughtering the great herds of buffalo and forcing him at gunpoint to live like the white man. Regrettably, some extremists are so bent on allegedly preserving the bowhead whale species that they are prepared to sentence the Eskimo culture, and concomitantly, the Eskimo people as a distinct ethnic group, to death without trial or hearing. How can sensitive and concerned people care so much for whales and so little for their fellow man?

The Oct. 1 editorial states in part: "The issue with the Eskimos has more to do with human exploitation than with human rights."

Nothing could be further from the truth.

Do not take our word for it. Seek the opinion of Secretary of the Interior Cecil Andrus, who has determined that the United States must file an objection to the IWC's arbitrary action because the federal government has a special trust responsibility to the Eskimos.

The editorial and the advertisements make the claim that in the 1977 spring hunt, 79 whales were struck and lost. Again, nothing could be further from the truth. This phony census counted many struck whales twice or even more; was based on spotty interviews with a few observers of the 1977 spring hunt rather than the whalers themselves; and is founded on so little objective evidence that no one takes the figure seriously, except, perhaps, The Post.

There can be no serious question but that the editorial writer and those who paid for the full-page advertisements are genuinely concerned about the bowhead whale species.

Much is made of the United States as the world's conscience in whaling matters. The Eskimos support the United States in those international efforts. But commercial whaling is for profit; aboriginal whaling is for food and celebration of a culture thousands of years old.

Moreover, there is ample evidence to support the Eskimos' claim that the bowhead population has been increasing or is at least stabilized. In 1964, Rice estimated the population at 1,000; in 1973 Harry estimated the population to be between 1,000 and 3,000; in 1974, Durham estimated 2,500 whales; in the same year Mitchell estimated the population to be in the high hundreds or low thousands; in 1975, Fry estimated 1,000 whales; and in 1976, Sheffer estimated 2,000 whales.

These estimates would not seem to support the assertion that the bowhead species is losing population, let alone threatened with extinction by subsistence hunting.

The editorial and the advertisements make the unsupported allegation that the 7,000-year-old hunt is "wasteful" and that two-thirds of each bowhead carcass is discarded by the Eskimos.

And again, nothing could be further from the truth.

The Environmental Impact Hearings held by the Department of Commerce have fully documented our claim that every carcass is utilized to the maximum extent possible.

Why have you failed to report on the creation of the Alaskan Eskimo Whaling Commission? This entity will be supported by Eskimo funds and is focusing its initial effort on bowhead whale research far more sophisticated than any undertaken to date by the white man. It has also taken steps to minimize the striking of whales that then escape.

Far more than self-styled conservationists, the Eskimos realize the importance of preserving the bowhead whale. For the Eskimo to do otherwise would be self-destructive, given the integral importance of the hunt and the whale itself to the unique Eskimo culture.

Eskimo community restraints have worked effectively in the past to limit the number of whales killed, and the species have survived and may even be increasing. There is no reason to believe self-determination and self-restraint will not work in the future, particularly in light of the Alaskan Whaling Commission's intent to control Eskimo whaling activities.

As Motavato (Black Kettle) said to the Indians at Medicine Creek Lodge:

We were once friends with whites, but you nudged us out of the way by your intrigues, and now when we are in council you keep nudging each other. Why don't you talk, and go straight, and let all be well?

This is all that the Eskimos ask. Go straight with them, and all will be well for the Eskimos and for those sincerely interested in whale conservation . . . and culture preservation.

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that I may retrieve the time I yielded back so I may put in a quorum to charge against it.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

CONSIDERATION OF CERTAIN MEASURES ON THE CALENDAR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of the following three calendar orders, numbered 450, 452, and 453, all of which have been cleared for action by unanimous consent.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

GEN. THADDEUS KOSCIUSZKO MEMORIAL

The joint resolution (H.J. Res. 573) commemorating Gen. Thaddeus Kosciuszko by presenting a memorial plaque in his memory to the people of Poland on behalf of the American people, was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95-491), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE RESOLUTION

The purpose of this resolution is to provide congressional sanction to a ceremonial event already scheduled to occur. No cost to the American taxpayer is involved.

October 17, 1977, marks the 200th anniversary of the battle of Saratoga, during which, in the words of the resolution, General Thaddeus Kosciuszko "played a vital and significant role." The American Council of Polish Cultural Clubs has arranged for a memorial plaque to be erected near the Kosciuszko sarcophagus in Krakow on the anniversary date. The U.S. Ambassador to Poland will make the presentation.

The plaque will bear the words "On the Bicentennial Anniversary of the victory at Saratoga, October 17, 1977, grateful America remembers General T. Kosciuszko, fighter for your freedom and ours." Enactment of this resolution will provide for additional words to appear at the plaque's base: "A gift to the people of Poland by joint resolution of the Congress of the United States."

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

PRINTING OF HEARINGS ON PANAMA CANAL TREATY, PART 2

The resolution (S. Res. 289) authorizing the printing of additional copies of the Committee on the Judiciary hearing entitled "Panama Canal Treaty (Disposition of the United States Territory), Part 2," was considered and agreed to, as follows:

Resolved, That there be printed for the use of the Committee on the Judiciary three hundred and eighty additional copies of its hearing of the current Congress entitled "Panama Canal Treaty (Disposition of United States Territory), Part 2".

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95–494), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

Senate Resolution 289 would authorize the printing for the use of the Committee on the Judiciary of 380 additional copies of its hearing of the current Congress entitled "Panama Canal Treaty (Disposition of the United States Territory), Part 2".

The printing-cost estimate supplied by the Public Printer is as follows:

Printing-cost estimate

380 additional copies at $3,154 per 1,000 ---------- $1,197

A letter in support of Senate Resolution 289, addressed to Senator Howard W. Cannon, chairman of the Committee on Rules and Administration by Senator James B. Allen, chairman of the Subcommittee on Separation of Powers, Committee on the Judiciary, and also signed by Senator James O. Eastland and Senator Strom Thurmond, chairman and ranking minority members, respectively, of the Committee on the Judiciary, follows:

U.S. SENATE, COMMITTEE ON THE JUDICIARY, SUBCOMMITTEE ON SEPARATION OF POWERS,
Washington, D.C., October 12, 1977.

Senator HOWARD W. CANNON,
Chairman, Committee on Rules and Administration, Russell Senate Office Building, Washington, D.C.

DEAR CHAIRMAN CANNON: The Subcommittee on Separation of Powers has received countless requests for printed copies of hearings on the "Panama Canal Treay (Disposition of United States Territory), Parts 1 and 2", which requests have gone unfilled inasmuch as supplies of the hearings have been exhausted by prior public demand. The bulk of these requests have come from educational organizations and governmental agencies, and in my judgment the public would be served by the additional printing which would be authorized by Senate Resolution 289 and Senate Resolution 290.

Accordingly, I respectfully request the committee report favorably on the two resolutions.

Respectfully,

JAMES B. ALLEN,
JAMES O. EASTLAND,
Chairman, Judiciary Committee.
STROM THURMOND,
Ranking Minority Member, Judiciary Committee.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

PRINTING OF HEARINGS ON PANAMA CANAL TREATY, PART 1

The resolution (S. Res. 290) authorizing the printing of additional copies of the Committee on the Judiciary hearing entitled "Panama Canal Treaty (Disposition of United States Territory), Part 1," was considered and agreed to, as follows:

Resolved, That there be printed for the use of the Committee on the Judiciary three hundred and sixty additional copies of its hearing of the current Congress entitled "Panama Canal Treaty (Disposition of United States Territory), Part 1".

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95–495), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

Senate Resolution 290 would authorize the printing for the use of the Committee on the Judiciary of 360 additional copies of its hearing of the current Congress entitled "Panama Canal Treaty (Disposition of United States Territory), Part 1."

The printing-cost estimate supplied by the Public Printer is as follows:

Printing-cost estimate

360 additional copies at $3,333.02 per 1,000---------- $1,198.80

A letter in support of Senate Resolution 290, addressed to Senator Howard W. Cannon, chairman of the Committee on Rules and Administration, by Senator James B. Allen, chairman of the Subcommittee on Separation of Powers, Committee on the Judiciary, and also signed by Senator James O. Eastland and Senator Strom Thurmond, chairman and ranking minority member, respectively, of the Committee on the Judiciary, follows:

U.S. SENATE, COMMITTEE ON THE JUDICIARY, SUBCOMMITTEE ON THE SEPARATION OF POWERS,
Washington, D.C. October 12, 1977.

Senator HOWARD W. CANNON,
Chairman, Committee on Rules and Administration, Russell Senate Office Building, Washington, D.C.

DEAR CHAIRMAN CANNON: The Subcommittee on Separation of Powers has received countless requests for printed copies of hearings on the "Panama Canal Treaty (Disposition of United States Territory), Parts 1 and 2", which requests have gone unfilled inasmuch as supplies of the hearings have been exhausted by prior public demand. The bulk of these requests have come from educational organizations and governmental agencies, and, in my judgment, the public would be served by the additional printing which would be authorized by S. Res. 289 and S. Res. 290.

Accordingly, I respectfully request the committee report favorably on the two resolutions.

Respectfully,

JAMES B. ALLEN,
JAMES O. EASTLAND,
Chairman, Judiciary Committee.
STROM THURMOND,
Ranking Minority Member, Judiciary Committee.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. The Senator from Alaska is recognized.

Mr. STEVENS. Mr. President, I yield so much of the leadership time as the Senator from Kansas desires to use.

Mr. President, how much time is remaining?

The ACTING PRESIDENT pro tempore. Ten minutes.

Mr. STEVENS. There are 10 minutes remaining. The Senator may have all of it.

The ACTING PRESIDENT pro tempore. The Senator from Kansas is recognized for 10 minutes.

TREATY AMENDMENTS WOULD CONFIRM JOINT STATEMENT

Mr. DOLE. Mr. President, I am today submitting two amendments to the "treaty concerning the permanent neutrality and operation of the Panama Canal" which is now pending before the U.S. Senate. My amendments are based upon the joint statement issued by President Carter and Panamanian Gen. Omar Torrijos last Friday concerning American defense and passage rights to be guaranteed under this treaty. The Carter-Torrijos statement was intended to reconcile differing interpretations of our rights to defend the canal and to transit the canal quickly in time of crisis. My amendments are intended to clear up the ambiguities in the treaty itself which caused those differences in interpretation. In so doing, I am using virtually the same language contained in the joint statement of October 14.

A POSITIVE STEP

I think that the joint statement issued on Friday by President Carter and General Torrijos was a step in the right direction in clearing up confusion over our defense and passage rights under the Panama Canal Treaty. This had become a source of extreme concern to myself, and to many other Members of the Senate. The Carter-Torrijos statement indicates that there is, at least, some agreement between the two heads of state about U.S. rights under the treaty. But it does not end there. The solution is not that simple.

Since the leaders of both nations have agreed upon this more specific language, it should be incorporated into the treaty itself. There is no longer any justification for leaving the treaty language ambiguous. In fact, it is essential that the treaty itself be modified to reflect the agreement.

AGREEMENT MUST BE WRITTEN INTO LAW

It is important to remember that the joint statement, by itself, is not binding. It has no legal effect. In fact, General Torrijos announced on his return to Panama that he did not sign anything while he was in Washington. So I would

suggest that he may not think it is even binding at all. Neither Carter nor Torrijos will occupy positions of authority when the treaty provisions becomes significant in the year 2000, so there must be some basis in law to insure that their pledge will be honored.

It is for that reason, that I am introducing these two amendments to the treaty on permanent neutrality, containing language which is virtually identical to that in the Carter-Torrijos statement.

Because my amendments seek to incorporate the same language used in the statement, I trust that the administration will have no objections to their adoption by the Senate. For several weeks now, the administration has argued that any amendments or reservations to the Panama Canal treaties would be unacceptable because they would require renegotiation of certain portions of the treaties. But the Carter-Torrijos agreement disproves the notion that renegotiation of certain parts of these treaties is impossible. It disproves the notion that the present proposal is necessarily "the best treaty we can get."

In fact, improvements in both the basic treaty and the treaty on permanent neutrality are both possible and practical. I believe that Congress has a responsibility to continue to press for direct clrafiications and improvements in both treaties. Certainly, the joint statement issued last Friday would never have been made if congressional pressure for clarification had not been exerted during the past several days.

Previously, I introduced amendments and reservations bearing on other aspects of these treaties as well. Each of them is based upon genuine concern about significant portions of the treaties. I do not undertake these modification efforts lightly. But I do think that this recent instance has demonstrated just how important it is that all of us in the Senate continue to carefully analyze this treaty for possible defects or omissions. And if we find them, we must seek to correct them. This is our constitutional responsibility and our duty to the American people.

Mr. President, I ask unanimous consent that the text of the amendments be printed in the RECORD at this point.

There being no objection, the amendments were ordered to be printed in the RECORD, as follows:

AMDT. NO. 7 (EXEC. 95–1)

At the end of article IV, add the following: "Each of the Parties shall, in accordance with their respective constitutional processes, defend the Canal against any threat to such regime of neutrality, and shall have the right to act against any aggression or threat directed against the Canal or against the peaceful transit of vessels through the Canal. Any United States action shall be directed at insuring that the Canal shall remain open, secure, and accessible, and such action shall not be directed against the territorial integrity or political independence of the Republic of Panama.".

AMDT. NO. 8 (EXEC. 95–1)

At the end of the first paragraph of article VI, add the following: "The provisions of this paragraph are for the purpose of, and shall be construed as, assuring the transit of such vessels through the Canal as quickly as possible, without any impediment, with expedited treatment, and in case of need or emergency, assuring that such vessesl go to the head of the line of vessels awaiting transit of the Canal, in order to transit the Canal rapidly.".

PRIVILEGE OF THE FLOOR—H.R. 3387

Mr. DOLE. Mr. President, I ask unanimous consent that Sheila Burke of my staff be granted privilege of the floor during consideration and votes on H.R. 3387.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, I ask that the time that may be remaining be held available in the event the Senator from New Mexico wishes to use it now. I do not know what the plan might be.

Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

H.R. 8309—RIVERS AND HARBORS AUTHORIZATIONS

Mr. DOMENICI. Mr. President, have we received a message from the House on H.R. 8309?

The ACTING PRESIDENT pro tempore. It was received Friday last under the authority to receive messages.

Mr. DOMENICI. Mr. President, I ask unanimous consent that H.R. 8309 be considered as having been read twice.

Mr. LONG. I object.

The ACTING PRESIDENT pro tempore. Objection is heard.

The bill will be read for the first time by title.

The legislative clerk read as follows:

H.R. 8309, an act authorizing certain public works on rivers for navigation, and for other purposes.

Mr. DOMENICI. Mr. President, a parliamentary inquiry.

The ACTING PRESIDENT pro tempore. The Senate will state it.

Mr. DOMENICI. Mr. President, is it correct that based upon my request and the objection to it, and with the bill having been read, as it just was, for the first time, that the next event that will occur is that if the Senate adjourns it will then be read for the second time, unless there is objection?

The ACTING PRESIDENT pro tempore. Objection will not lie. After the adjournment of the Senate and the Senate reconvenes, it will be read the second time.

Mr. DOMENICI. I thank the Chair.

Mr. President, I have taken action that I hope will lead to the placing of H.R. 8309 on the Senate calendar. This is not an effort to circumvent the rights of any Member. But because the Senate has considered these issues at great length earlier this year, my action seeks to facilitate the most prompt action possible on this important legislation.

H.R. 8309 involves two interwoven issues: Proposals for establishment of a waterway users charge, and the reconstruction of locks and dam 26 on the Mississippi River at Alton, Ill. The Senate resolved our position on these issues 4 months ago, on June 22. I do not believe that these issues need be delayed further by a complicated referrel procedure that would probably involve three committees, with multiple reports back to the Senate.

These issues have been before the Senate for a year. Last autumn, the threat of a fillibuster forced the removal of two similar provisions from a then-pending water resources bill. At that time, the distinguished chairman of the Water Resources Subcommittee, Mr. GRAVEL, and I pledged to our Senate colleagues that we would work in committee to reach an early resolution on these issues.

We achieved that objective, I believe, by reporting S. 790 to the Senate earlier this year. S. 790 was then attached on the Senate floor to a new water resources bill, S. 1529. The Senate substituted the language of S. 1529 for the language of a water resources bill out of the House (H.R. 5885), asked for a conference, and appointed conferees. The House never responded to that request for a conference.

Instead, the House took a course designed to avoid consideration of the Senate-passed version of H.R. 5885. The House developed this new bill, H.R. 8309, in the apparent hope that the Senate's position on waterway user charges, embodied in H.R. 5885, would die or be forgotten without a fair hearing in conference.

By asking now that this new bill (H.R. 8309) be read and placed on the calendar, I in no way wish to bypass any Senator or any committee. But I believe that placing the bill on the calendar will encourage all of us to act with dispatch and to move ahead with consideration of waterway user charges, to get to conference during this session, and to resolve the issues finally before the adjournment.

While the differences between the Senate and House approaches is significant, they can and must be resolved quickly. The House calls for a recovery rate from the barge industry of less than 10 percent of what the taxpayers spend annually on inland waterway improvements benefiting the big barge companies. The approach already adopted by the Senate calls for a decade-long phase-in of a user charge related directly to the level of expenditure, retaining a 50-percent taxpayer subsidy on new construction. That subsidy, I might add, is a far more generous Federal handout than that which is given to communities for a water supply project, or to a farmer buying Federal hydropower, or to competing systems of transportation.

When H.R. 8309 is brought up on the floor, I shall propose to substitute the language already adopted by the Senate, language the House has sought to ignore. My amendment will not alter the fuel tax provision in the House bill; rather, the

fuel tax would be a credit against user charges due under the Senate-passed approach. Mr. President, I believe such an approach will result in a fair and reasonable solution.

And I believe that my approach is the only one that will assure passage into law of an authorization for the construction of locks and dam 26. We all know that the administration has opposed user charges as low as those contained in the House bill. To reach the goal of the waterway industry, and to assure a more balanced national transportation policy, I believe it is in the interest of all of us to act quickly on H.R. 8309, and to reiterate our Senate position by repassing the Senate's comprehensive waterway user charges amendment.

I can assure my colleagues that if my amendment is adopted, I will work day and night to obtain an early resolution with the representatives of the other body.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. ROBERT C. BYRD. Mr. President, has the bill been laid before the Senate? I am talking about the order of business for today.

SOCIAL SECURITY SERVICES

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now proceed to the consideration of H.R. 3387, which will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 3387) to continue until the close of June 30, 1979, the existing suspension of duty on synthetic rutile.

The Senate proceeded to consider the bill, which had been reported from the Committee on Finance with an amendment to strike all after the enacting clause and insert the following:

SECTION 1. (a) For purposes of title XX of the Social Security Act, section 3 of Public Law 94–401 shall be deemed to apply to the fiscal year ending September 30, 1978, in the same manner in which such section applies to the fiscal year ending September 30, 1977; except that the figure "108" in section 3(a)(1)(B) of such Public Law shall, with respect to the fiscal year ending September 30, 1978, be deemed to read "102.667".

(b) Section 5(b) of Public Law 94–401 is amended by striking out "September 30, 1977" and "October 1, 1977" and inserting in lieu thereof "January 31, 1978" and "February 1, 1978", respectively.

(c) Section 6 of Public Law 94–401 is amended by striking out "September 30, 1977" and "October 1, 1977" and inserting in lieu thereof "January 31, 1978" and "February 1, 1978", respectively.

(d) Section 7(a)(3) of Public Law 93–647 is amended by striking out "October 1, 1977" and inserting in lieu thereof "February 1, 1978".

(e) Section 50B(a)(2)(B) of the Internal Revenue Code of 1954 (definition of Federal welfare recipient employment incentive expenses) is amended by striking out "October 1, 1977" and inserting in lieu thereof "February 1, 1978".

(f) Section 6 of Public Law 95–59 is amended—

(1) by striking out "for calendar quarters during the period commencing April 1, 1977, and ending September 30, 1977" and inserting in lieu thereof "for the period commencing April 1, 1977, and ending January 31, 1978"; and

(2) by striking out "April 1, 1977" the second place it appears and inserting in lieu thereof "October 1, 1977".

(g) The amendments made by this section shall be effective on October 1, 1977.

SEC. 2. (a) Section 3304(a)(6)(A) of the Internal Revenue Code (relating to approval of State unemployment compensation laws) is amended by striking out "and" and the end of clause (ii) and by adding at the end thereof the following new clause:

"(iv) with respect to any services described in clause (i) or (ii), compensation payable on the basis of services in any such capacity may be denied as specified in clauses (i), (ii), and (iii) to any individual who performed such services in an educational institution while in the employ of an educational service agency, and for this purpose an 'educational service agency' means a governmental agency or governmental entity which is established and operated exclusively for the purpose of providing such services to one or more educational institutions, and".

(b) The amendment made by subsection (a) shall apply with respect to weeks of unemployment which begin after December 31, 1977.

SEC. 3. (a)(1) Section 403(a) of the Social Security Act is amended by striking out "10" in each of the last two sentences and inserting in lieu thereof "20".

(2) Section 406(b) of such Act is amended—

(A) by striking out the semicolon at the end of clause (2)(E) and inserting in lieu thereof a period; and

(B) by adding at the end thereof (after and below clause (2)(E)) the following new sentences:

"Payments with respect to a dependent child which are intended to enable the recipient to pay for specific goods, services, or items recognized by the State agency as a part of the child's need under the State plan may (in the discretion of the State or local agency administering the plan in the political subdivision) be made, pursuant to a determination referred to in clause (2)(A), in the form of checks drawn jointly to the order of the recipient and the person furnishing such goods, services, or items and negotiable only upon endorsement by both such recipient and such person; and payments so made shall be considered for all of the purposes of this part to be payments described in clause (2). Whenever payments with respect to a dependent child are made in the manner described in clause (2) (including payments described in the preceding sentence), a statement of the specific reasons for making such payments in that manner (on which the determination under clause (2)(A) was based) shall be placed in the file maintained with respect to such child by the State or local agency administering the State plan in the political subdivision.".

(3)(A) Section 406(b) of such Act is further amended by adding at the end thereof (after the new sentences added by paragraph (2)(B) of this subsection) the following new paragraph:

"In addition, payments with respect to a dependent child to cover the cost of utility services or living accommodations or any part thereof may be made (in the discretion of the State or local agency administering the plan in the political subdivision but without regard to any determination under clause (2)(A)) in the form of checks drawn jointly to the order of the recipient and the person furnishing such services or accommodations and negotiable only upon endorsement by both such recpient and such person, if such child or the relative with whom he is living specifically so requests in writing; but not more than 50 per centum of the amount of the aid which is payable with respect to such child for any month may be paid in that form, and any such request shall be effective until revoked by the child or relative.".

(B) The last sentence of section 403(a) of such Act is amended by inserting before the period at the end thereof the following: ", or any individual with respect to whom payments of the type involved are made (without regard to clause (2) of section 406(b) or the second sentence of such section) upon request as provided in the last paragraph of such section".

(4) The amendments made by this subsection shall apply with respect to payments of aid to families with dependent children made for months beginning on or after October 1, 1977; except that the amendments made by paragraph (3) shall be effective only with respect to payments of aid to families with dependent children made for months during the twenty-four-month period beginning October 1, 1977.

(b) Notwithstanding any other provision of law, Federal financial participation in aid to families with dependent children under a State plan approved under section 402 of the Social Security Act, for quarters (with respect to which expenditure reports were timely filed by the State) during the period beginning with the calendar quarter in which Public Law 90–248 was enacted and ending with the first calendar quarter of 1977, shall not be denied, on or after October 1, 1977, by reason of the provision of goods, services, or items in the form of a check which is drawn jointly to the order of such goods, services, or items and which shows the purpose for which the check is drawn, or by reason of the failure of the State to meet the requirement of the last two sentences of section 403(a) of such Act or the failure of the State (or any political subdivision thereof) to carry out the functions and duties prescribed in clauses (A), (B), (C), and (E) of section 406(b)(2) of such Act, regardless of the form in which the aid involved was paid, if (and to the extent that) the amount of such aid was correct and the payment of the aid in that form did not result in assistance in cases or in amounts not authorized by or under part A of title IV of such Act.

The ACTING PRESIDENT pro tempore. Time for debate on this bill is limited to 2 hours, to be equally divided between and controlled by the Senator from Louisiana (Mr. LONG) and the Senator from Nebraska (Mr. CURTIS), with 1 hour on any amendment, except one to be offered by the Senator from New York (Mr. JAVITS), on which there shall be 2 hours, and one to be offered by the Senator from New Mexico (Mr. DOMENICI), on which there shall be 1½ hours, with 20 minutes on any debatable motion, appeal, or point of order.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. STEVENS. Mr. President, is it necessary to yield back the remainder of our time?

The ACTING PRESIDENT pro tempore. The time has expired.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum, and I ask unanimous consent that the time not be charged against either side.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. LONG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. LONG. Mr. President, I ask unanimous consent that during Senate consideration of H.R. 3387, including votes, the following staff members of the Committee on Finance be accorded the privilege of the floor: Michael Stern, Joseph Humphreys, William Galvin, Jay Constantine, Robert Hoyer, John Kern, George Pritts, and Dave Swoap.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. LONG. Mr. President, at the end of last month, the Finance Committee reported out a bill with an amendment that involves a number of provisions which had October 1 deadlines. The committee added this amendment to H.R. 3387, a minor tariff bill. The committee amendment would extend for an additional 4 months, through the end of January 1978, expiring provisions relating to additional child care funding, the use of the added funding for employment of welfare recipients, a tax credit related to the hiring of welfare recipients for child care jobs, a suspension of certain Federal child care staffing standards, and certain provisions concerning social services for drug addicts and alcoholics.

The committee bill also contains a provision relating to protective and vendor payments under the aid to families with dependent children program which has already been approved by the House of Representatives, and a provision making a conforming change in the unemployment insurance program. Another part of the bill provides for the suspension of certain HEW reduction in medicaid funding. This provision is no longer necessary since a similar provision is included in another bill, H.R. 3, already passed by the Congress. An amendment will be offered to delete this section.

SUMMARY OF PROVISIONS OF H.R. 3387

The bill as passed by the House of Representatives provided for a suspension of tariff duties on synthetic rutile. A similar suspension has already been incorporated by the committee as an amendment to H.R. 2850. The Finance Committee amendment strikes the text of the House bill after the enacting clause and substitutes new language relating to certain extensions and waivers of Social Security Act provisions.

The Committee on Finance has approved legislation making several changes in the medicaid, social services, and aid to families with dependent children (AFDC) programs. The committee anticipates that this legislation will be considered by the Senate in the near future. There are, however, a few issues related to these programs which require particularly expeditious action in order to prevent program disruptions or the imposition of sanctions. The extension and waivers recommended in this bill are, in every instance, no more extensive than similar provisions which have already been approved by the House of Representatives in other legislation. In addition, the committee bill clarifies the unemployment compensation status of certain State employees who are employed to provide specialized services for schools.

Child care and social services.—The committee bill would extend to February 1, 1978, certain provisions relating to the title XX social services program which would otherwise expire September 30, 1977. The provisions are:

First. Additional child care funding.—A 4-month continuation of the increase in social services funding for child care (at a $200 million annual rate), at a 100-percent Federal matching rate.

Second. Use of added fundings for employment of welfare recipients.—States will continue to be authorized to use part of the added child care funding to directly subsidize the employment of welfare recipients in child care jobs.

Third. Welfare recipient tax credit.—The credit against income taxes of up to $1,000 (20 percent of wages paid) available under present law for employers who hire welfare recipients for child care jobs will be extended 4 months.

Fourth. Child care staffing standards.—Federal staffing standards for pre-school-age children are currently in suspense so long as States continue to meet September 1975 standards. In addition, present law allows waiver of Federal staffing standards for child care facilities which serve only a few children whose care is funded under the title XX program. Present law also allows family day care mothers to not count their own school-age children in determining whether they meet the Federal standards for such facilities. All these provisions will be extended until February 1, 1978.

Fifth. Addicts and alcoholics.—Provisions adopted in the 94th Congress permit certain aspects of treatment of addicts and alcoholics to be funded under the title XX social services program even though they do not fully meet restrictions in that program. The same legislation also requires the observance of certain special confidentiality provisions when addicts and alcoholics receive services under title XX. These provisions will also be extended until February 1, 1978.

Nursing home patient evaluation.—Present law requires that States conduct regular independent professional evaluation of medicaid patients in skilled nursing and intermediate care facilities and in mental hospitals. Under the 1972 social security amendments, Federal matching payments are to be automatically reduced by one-third for patients who are in skilled nursing homes or intermediate care facilities for more than 60 days. The reduced matching does not occur where a State demonstrates that it is satisfactorily undertaking the required regular independent review of all patients in all facilities.

The Department of Health, Education, and Welfare planned to reduce medicaid payments to 20 States by a total of $250 million in the October–December 1977 quarter because of noncompliance with statutory requirements for independent medical review of medicaid patients. The committee amendment would have prevented any reduction in Federal matching payments to States until February 1, 1978, because of any prior noncompliance. (This section of the committee bill is now unnecessary since a similar provision was included in H.R. 3, as finally approved by the Congress.)

Protective and vendor payments.—Under existing law States are allowed to make protective or vendor payments, instead of direct cash payments, for recipients of AFDC. The number of recipients for whom payments may be made in any State may not exceed 10 percent of the number of AFDC recipients, and the payments may be made only under specified conditions, including a determination by the agency that the child's relative is unable to manage funds in the child's interest.

H.R. 7200 as it passed the House contains several provisions relating to protective and vendor payments. First, in cases in which the State agency made a determination of inability to manage funds, payments could be made in the form of joint checks as a kind of vendor payment. Second, the limit on the number of recipients with respect to whom a State could make such protective or vendor payments would be increased to 20 percent. Third, in addition to the protective and vendor payments which the State or local agency could make subject to the new 20-percent limitation, States would be allowed at their option to make payments to cover the cost of utility services or living accommodations in the form of checks drawn jointly to the order of the recipient and the person furnishing the services or accommodations. Such joint checks would have to be requested by the recipient in writing, and the request would be effective until revoked by the recipient. The amount of the monthly payment which could be made in the form of joint checks would be limited to 50 percent. There would be no limit on the number of recipients with respect to whom joint checks to pay for housing or utilities could be written. This third provision for joint checks would be limited to 2 years, from October 1, 1977 to October 1, 1979.

In addition to authorizing increased numbers and forms of protective and vendor payments, H.R. 7200 would provide that Federal matching funds could not be denied to any State for the period between January 1, 1968, and April 1, 1977, first, because the State exceeded the 10-percent limitation on these payments; second, because it provided assistance in the form of joint checks; or third, because it did not comply with other specified conditions.

The committee amendment to H.R. 3387 incorporates the House vendor payment provisions in H.R. 7200.

Unemployment insurance benefits to professional and nonprofessional school personnel.—Last year, Congress enacted legislation—Public Law 94–566—to deny unemployment compensation to teachers and other professional school personnel between terms, and to make optional the denial of such benefits to elementary and secondary nonprofessionals, if there is a reasonable assurance that the employee will be reemployed the following term. This year, legislation was enacted—Public Law 95–19—to permit States to deny unemployment bene-

fits to these persons during an established vacation period if there is a reasonable assurance that they will be reemployed after that vacation. The committee agreed to an amendment to provide that these same provisions will apply in the case of professional and nonprofessional school employees who work in a school and whose employment contract is with a public educational service agency, rather than with a local school district.

Mr. CURTIS. Mr. President, I join my distinguished colleagues from the Committee on Finance in urging the speedy enactment of H.R. 3387. Formerly a tariff measure, this legislation extends certain deadlines, or makes other modifications, in a number of critical social programs.

First, the bill extends until February 1, 1978, certain provisions which relate to title XX and child care. These provisions, which govern the extent of additional Federal financing, support for the employment of welfare recipients in child care jobs, tax credits for similar activity, and staffing standards for child care facilities.

Second, the measure also extends until February 1, 1978, certain provisions which assist alcoholics and drug addicts to receive rehabilitative institutional care under title XX.

Third, this legislation incorporates House-passed language governing the use of vendor payments in the AFDC program, providing a measure of retroactive relief when current statutory ceilings have been exceeded and establishing a substantive policy for the future in this important area.

Fourth, H.R. 3387 also protects the States—until February 1, 1978—against further threatened medicaid claim cuts under the utilization control provisions of section 1903(g) of the Social Security Act. We believe we have reached a permanent solution on this in S. 143, which recently has emerged from conference, and I believe an amendment may be offered which will dovetail the dates we are establishing as a result of these two items of legislation.

Mr President, extending these dates and ceilings provides for the continuation of programs on which the States rely heavily I urge swift adoption of these extensions by the Senate.

Mr. LONG. Mr. President, we expect a number of amendments to be offered as set forth in the unanimous-consent request. In view of the fact that I do not see Senators present in the Chamber who wish to offer such amendments, I ask unanimous consent that I might suggest the absence of a quorum and that it not be charged to either side.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. LONG. I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President. I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr STEVENS. Mr. President, I ask unanimous consent that Angie Hoffman of Senator DANFORTH's staff be accorded the privilege of the floor during consideration of the bill.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, I ask unanimous consent that Eileen Winkelman of my staff be granted the privilege of the floor.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, I ask unanimous consent that the quorum call be reinstated under the same terms as previously stated.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. STEVENS. I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

UP AMENDMENT NO. 936

Mr. DOMENICI. Mr. President, I send an unprinted amendment to the desk and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. Is this the amendment on which the Senator desires 1½ hours of debate?

Mr. DOMENICI. This is the amendment that I have reserved 1½ hours on, Mr. President.

The ACTING PRESIDENT pro tempore. The Senator has sent a bill to the desk. Does he have the amendment at his desk or is the bill intended to be offered as an amendment?

Mr. DOMENICI. The bill is intended to be offered as an amendment.

The ACTING PRESIDENT pro tempore. Will the Senator then make his corrections of the document? Will the Senator indicate the page and line where the amendment is supposed to be offered?

Mr. DOMENICI. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, I ask unanimous consent that Lee Rawls of my staff be granted floor privileges.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. DOMENICI. I suggest the absence of a quorum, Mr. President.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

UP AMENDMENT NO. 936—AS MODIFIED

Mr. DOMENICI. Mr. President, I send to the desk an amendment properly modified as requested by the Chair, and further modified by the Senator from New Mexico.

The ACTING PRESIDENT pro tempore. The clerk will report the amendment.

The second assistant legislative clerk read as follows:

The Senator from New Mexico (Mr. DOMENICI) proposes an unprinted amendment numbered 936.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the clerk dispense with further reading of the amendment.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

On page 7, line 14, add the following new section:

SEC. 4. That (a) section 1903(a) of the Social Security Act is amended—

(1) by adding "plus" at the end of paragraph (5),

(2) by redesignating paragraph (6) as paragraph (7), and

(3) by adding after and below paragraph (5) the following new paragraph:

"(6) an amount equal to 90 per centum of the sums expended during such quarter, in no case to exceed $250,000 dollars, which are attributable to the proper and efficient administration of so much of the State plan as relates to the provision of medical assistance in Indian Health Service facilities which are eligible for reimbursement under the State plan pursuant to the provisions of section 1911; plus".

(b) The amendments made by subsection (a) shall be effective with respect to expenditures made, under State plans approved under Title XIX of the Social Security Act, beginning with Fiscal Year 1978.

Mr. DOMENICI. Mr. President, section 1911(e) of the Social Security Act, added by Public Law 94–437, the Indian Health Care Improvement Act, specifically states that—

. . . The Federal medical assistance percentage shall be 100 per centum with respect to amounts expended as medical assistance for services.

However, while the Federal Government pays for 100 percent of medical care given to Indians under the act, it only pays for 50 percent of the administrative costs which the States incur in implementing the act. The remaining 50 percent of administrative expenses is borne by the States.

My amendment would change the law to provide for 90 percent Federal financial participation for State administrative costs incurred as a result of the implementation of the Indian Health Care Improvement Act. The Federal Government has traditionally assumed the major responsibility in matters relating to Indians. It is my feeling that the Federal Government should, to the greatest extent possible, assume the financial burdens incurred by the States in implementing Indian-related programs. For this reason, I am proposing a 40-percent increase in the rate of reimbursement for State administrative costs.

This legislation will benefit all States with federally recognized tribes, State

recognized tribes, and tribes which have been terminated since 1940. The moneys would come from general revenues. HEW estimates the cost would be minimal and Senate Budget Committee has given its approval.

Mr. President, I say to the distinguished floor managers of the bill that the amendment in their possession has been changed by adding language indicating that in no event would this exceed $250,000 per quarter. That has been properly inserted in the amendment.

I would just briefly state that I have been asked by my State, and I am quite sure other Senators have been asked the same question, and that is that their particular State departments of health are administering a program that is called the Indian Health Care Improvement Act. It is peculiarly a Federal program. It is 100 percent Federal dollars, but in the scheme of things the State must pay 50 percent of the administrative costs of that program.

It seems to my State that is somewhat unfair in that it is asked to run a totally Federal Indian program and pay 50 percent of the administrative costs.

My amendment would change that 50–50 to 90–10. I have left in some State resources as an inhibitor against any practices which might be exorbitant on their part in terms of management expenditures.

Further, at the suggestion of the distinguished Senator from Louisiana (Mr. LONG) I have maximized the total expenditure nationally for this 90-to-10 ratio at $1 million, $250.000 per quarter. We have been told by HEW that that is what it would be, in that neighborhood, perhaps a little bit less.

I ask the floor managers, in fairness to the States, to accept this amendment and to minimize their resource expenditures. They are more than willing to administer these programs, but since they are peculiarly the Federal Government's role, we ought not to maximize their administrative costs but to rather minimize them.

Mr. LONG. Mr. President, if the Senator will yield, I would suggest that the amendment the Senator had offered be modified by a slight difference to say "but in any case not to exceed $250,000," rather than "in no case."

Mr. DOMENICI. I accept the modification, and since it is at the desk, I ask that it be so modified.

The ACTING PRESIDENT pro tempore. Is there objection? The Chair hears none. The amendment is so modified.

The modification is as follows:

On page 7, after line 14, insert:

SEC. 4. That (a) section 1903(a) of the Social Security Act is amended—

(1) by adding "plus" at the end of paragraph (5),

(2) by redesignating paragraph (6) as paragraph (7), and

(3) by adding after and below paragraph (5) the following new paragraph:

"(6) an amount equal to 90 per centum of the sums expended during such quarter, but in any case not to exceed $250,000, which are attributable to the proper and efficient administration of so much of the State plan as relates to the provision of medical assistance in Indian Health Service facilities which are eligible for reimbursement under the State plan pursuant to the provisions of section 1911; plus".

(b) The amendments made by subsection (a) shall be effective with respect to expenditures made, under State plans approved under Title XIX of the Social Security Act, beginning with Fiscal Year 1978.

The ACTING PRESIDENT pro tempore. Who seeks recognition?

Mr. LONG. Mr. President, as modified I would be willing to take the amendment to conference and to discuss it with the House.

We have, as the Senator suggested, previously agreed to assume the burden of 100 percent of the cost of benefits to Indians under this program.

I was somewhat concerned about the open-ended nature of the cost of this amendment as originally proposed. But as amended, I find no strong objection to it.

It occurs to me that, for the future, in view of the fact that only a very small State contribution would be required, perhaps this matter rather than being looked upon as a matching program ought to be handled as an annual appropriation. That way the Appropriations Committee could take a look at it and see what the estimated needs were and how much money should be made available for it.

As the amendment has been modified, I would have no objection to agreeing to it at this point and discussing it with the House of Representatives in conference.

Mr. DOMENICI. I thank the distinguished Senator from Louisiana. I wonder if the Republican manager of the bill is willing to accept the amendment as amended.

Mr. CURTIS. Mr. President, we will not oppose the amendment. In general, we believe the 50–50 arrangement has merit, but in this particular case it is minor, and there are circumstances a little different than in a good many of these programs.

We have no objection to the amendment.

The ACTING PRESIDENT pro tempore. Does the Senator from Louisiana yield back the remainder of his time?

Mr. LONG. I yield back the remainder of my time.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the amendment, as modified, of the Senator from New Mexico.

The amendment, as modified, was agreed to.

Mr. DOMENICI. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. JAVITS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 937

(Purpose: Simple extension of Section 167 (k) of Internal Revenue Code relating to depreciation of expenditures to rehabilitate low-income rental housing.)

Mr. JAVITS. Mr. President, I sent an amendment to the desk and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. Is this the amendment on which the Senator desires 2 hours of debate?

Mr. JAVITS. No, it is not.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The legislative clerk read as follows:

The Senator from New York (Mr. JAVITS) proposes an unprinted amendment numbered 937: At the end thereof add the following new section: Section 4. (a)—

Mr. JAVITS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

At the end thereof add the following new section:

Section 4. (a) Section 167(k) of the Internal Revenue Code of 1954 (relating to depreciation of expenditures to rehabilitate low-income rental housing) is amended by striking out "January 1, 1978," where the date appears in paragraph (1) and in paragraph (2)(d) and inserting in lieu thereof "January 1, 1979,".

(b) The amendment made by subsection (a) shall apply to expenditures paid or incurred after December 31, 1977, and before January 1, 1979, and expenditures made pursuant to a binding contract entered into before January 1, 1979.

The ACTING PRESIDENT pro tempore. Under a previous order of the Senate, debate on the amendment is limited to 1 hour.

Mr. JAVITS. Mr. President, I yield myself 2 minutes.

This amendment gives the taxpayer the opportunity to allow 5 years straight line depreciation for expenditures to rehabilitate low-income rental housing. There is a provision in the law to that effect now. That provision will expire while we will be in recess, and I am seeking an extension of 1 year.

Mr. President, HUD agrees with this proposal, and the Ways and Means Committee of the other body has reported out a bill containing a similar 1-year extension. The Treasury agrees to it.

Within the last few years, this provision has resulted in about 80,000 units of low- and moderate-income housing being rehabilitated that would not have been rehabilitated otherwise. Prior to that time, that is, prior to 1969, only 15,000 units were rehabilitated, and we believe that this provision in the law has had a very heavy influence upon rehabilitation of low-income housing.

The Joint Committee on Internal Revenue Taxation has recommended, of course, a 5-year extension. We are seeking only 1 year, with the cost to range from $1 million in 1977 to a high of $5 million in 1980, with the 1978 cost estimated to be $4 million.

We in the slum-ridden cities believe this to be very helpful, and since it is already in the law and this is strictly a matter of an extension, I would hope very much that the managers of the bill will see fit to accept it. We do not know how many bills will be in conference between now and the end of this session, but this is a bill which undoubtedly will be.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. LONG. I yield myself such time as I may require.

Mr. President, we have not had the opportunity to consider this amendment in the Committee on Finance. I would

rather hope that the Senator would let us consider it in connection with some other measure, so that we would at least have a chance to ask questions about it in the committee. We have agreed to two extensions in the past, but I would at least like to have the opportunity to offer the committee a chance to hear the Senator, and to seek some understanding of what is being accomplished by the provision, and whether it might be the best way to achieve the objective of rehabilitation of housing.

Would the Senator be willing to offer this proposal on some other legislation?

Mr. JAVITS. I will do anything the Senator wishes. My only problem is that we have such uncertainty for the end of the session, and in order to have maximum usefulness, it ought to be extended.

Would the Senator consider taking it to conference, and then, if he does not approve of it, he can work his will on it? I have no desire——

Mr. LONG. The only problem that gives me is that the Senator has stated in his presentation here that the House apparently has considered the matter and decided favorably.

Mr. JAVITS. Yes.

Mr. LONG. We on the Finance Committee have not had an opportunity to consider it, and if we take it to conference, I would assume the House conferees would certainly agree to accept their own recommendation when the bill goes to their side.

I would hope that we would have an opportunity to look at it in the committee, just because of the fact that the House, having committed itself to the amendment, would certainly take it if it went to conference.

The question is whether our committee would agree with it. I think maybe they would. The chances are very good, since they have agreed to extensions twice already. But I would like to have an opportunity for them to consider it.

Mr. JAVITS. My only question is as to time. The committee is not going to have any further hearings on new proposals, with the energy matter, and so on. May I make a suggestion?

Mr. LONG. Yes.

Mr. JAVITS. I will take it out now. Perhaps you could have your staff talk with the Department about it, and in the course of the day I will ask Senator CURTIS to do the same, and if we could agree on it sometime before the bill is locked up, it would be extremely helpful to New York.

Mr. LONG. Could I suggest to the Senator that we simply extend it for 6 months?

Mr. JAVITS. That is fine.

Mr. LONG. Mr. President, I ask that the amendment be amended to change the date from January 1, 1979 where it appears to July 1, 1978.

Mr. JAVITS. Mr. President, I ask that the amendment be modified accordingly.

The ACTING PRESIDENT pro tempore. The amendment is so modified.

The amendment, as modified, is as follows:

At the end thereof add the following new section:

Section 4. (a) Section 167(k) of the Internal Revenue Code of 1954 (relating to depreciation of expenditures to rehabilitate low-income rental housing) is amended by striking out "January 1, 1978," where the date appears in paragraph (1) and in paragraph (2)(d) and inserting in lieu thereof "July 1, 1978,".

(b) The amendment made by subsection (a) shall apply to expenditures paid or incurred after December 31, 1977, and before July 1, 1978, and expenditures made pursuant to a binding contract entered into before July 1, 1978.

Mr. JAVITS. I thank the Senator very much. I yield back the remainder of my time.

Mr. LONG. I yield back the remainder of my time also.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the amendment, as modified, of the Senator from New York.

The amendment, as modified, was agreed to.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. CURTIS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The ACTING PRESIDENT pro tempore. Who yields time?

UP AMENDMENT NO. 938

(Purpose: To extend for an additional period of time the exclusion from income of amounts received under the Armed Forces Health Professionals Scholarship Program (and similar programs).)

Mr. DOLE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Kansas (Mr. DOLE) proposes an unprinted amendment numbered 938:

At the end of the bill, add the following new section;

SEC. 4. Subsection (c) of Section 4—

Mr. DOLE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill, add the following new section:

SEC. 4. Subsection (c) of section 4 of the Act entitled an Act to suspend until the close of June 30, 1975, the duty on certain carboxymethyl cellulose salts, and for other purposes, approved October 26, 1974 (88 Stat. 1457; Public Law 93-483), is amended by striking out "and 1975," and all that follows and inserting in lieu thereof the following: "1975, 1976, 1977, and 1978.".

Mr. DOLE. Mr. President, as our distinguished colleague from Louisiana will recall, the amendment I propose has already been considered by the Finance Committee and approved. I understand that a similar measure has also been approved by the House Committee on Ways and Means, earlier.

The amendment would reinstate for 2 years the tax exempt status for moneys received by participants in the Armed Forces health professionals scholarships program (AFHPSP), the Public Health Service/National Health Service Corps scholarship program, and programs of similar intent. There are approximately 10,000 participants in the Armed Forces and National Health Service Corps programs alone.

This tax exemption was a part of the law until December 31, 1975. When the 1976 tax reform legislation was enacted, it contained a 1-year extension of the provision: The final expiration date was thus December 31, 1976.

Discussions about the merits of this exemption have taken place for a number of years. The IRS has in the past noted, and correctly so, that scholarships such as the Armed Forces health professions, and the National Health Service Corps include service quid pro quo arrangements. Normally, such amounts are not excludable from gross income as they represent compensation for services. But Mr. Chairman, these programs are not typical scholarship programs. Their purposes are not solely to finance a specific individual acquiring a specific type of education. Their goals are much more far reaching. The special exemption for these moneys was first written into the law in 1974 as an amendment to an act to suspend until June 30, 1975, "the duty on carboxymethyl salts."

On July 25 of this year, I introduced legislation that would have placed in the law a permanent exemption for these moneys. The amendment I now offer would exempt the moneys for only a 2-year period of time.

During the markup of the 1976 Tax Reform Act, it was suggested that what was needed was a thorough staff review of the appropriate tax treatment of the grants in view of the overall national policy toward the military health professions programs, and other similar programs. It has come to my attention that information pursuant to this suggestion is just beginning to be gathered. I am hopeful that the information will be compiled and available prior to our consideration of new major tax reform legislation. I indicated in a letter to the Joint Committee on Taxation my interest in this matter and my desire to have this type of information available as soon as possible.

The 2-year exemption that I suggest insures that students in these fine scholarship programs will be covered while a final decision on tax exemption, based on sufficient information, is made by the Congress.

Mr. President, I ask unanimous consent that a statement by the distinguished Senator from Kentucky (Mr. HUDDLESTON), who has been working closely with me on this amendment, be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY SENATOR HUDDLESTON

I am pleased to join with my colleague, Senator Dole, in offering this amendment to H.R. 3387. The amendment, extending for two years the tax exempt status for amounts received by individuals enrolled in the Public Health Service/National Health Service Corps and Armed Forces Health Profession Scholarship programs, is similar to a bill which I have introduced, S. 1698. Though my bill would offer a permanent tax exemption for those in the above programs, I believe that the two-year extension in this amend-

ment will provide us with the time necessary to justify the permanent exemption.

The need for the tax exemption called for in this amendment is readily apparent. For example, our nation's defense establishment is faced with ever-increasing difficulties in recruiting qualified medical personnel. Just this past summer, drastic cutbacks in medical services were announced affecting numerous institutions across the country, indeed around the world. The situation was most dramatically brought to my attention when it was announced that Ireland Army Hospital at Ft. Knox would reduce the number of services available to military retirees and their dependents. The understandable public outcry which has ensued has caused me to take a very close look at both the short-term solution to the particular problems at Ft. Knox and the long-range outlook for an adequate supply of military doctors.

The amendment before us today is an effort to speak to the long-range problem. Very simply, the amendment would remove for two years the requirement that amounts received by Health Profession Scholarship Program (HPSP) students be subject to income tax. HPSP was created on Sept. 21, 1972, under P.L. 92-426. Under this program the uniformed services pay tuition, educational expenses, and a $400 monthly stipend to health profession students in exchange for an agreement to serve not less than one year for each year of support. In early 1973, IRS ruled that amounts received by HPSP students were subject to income tax. The basis for this decision was section 117 of the Internal Revenue Code which states that amounts received as scholarships are taxable if they represent compensation for future employment services, in this case the obligated military service.

Income tax exemption for amounts received during calendar years 1973, 1974, and 1975 have already been granted by Congress. However, these relief measures all expired on Dec. 31, 1975, and the services began withholding in March of 1976. This morale problem, added to the already frustrating situations which face doctors in the military, has caused the Department of Defense even more difficulty in recruiting military doctors. Either we repair the damage which has been done to the HPSP program now or as I have been assured by the surgeons general of all the military forces, we will face very adverse conditions during future recruiting efforts.

It should be clear that HPSP is expected to supply over one half of defense health professionals in fiscal year 1978 and beyond. Thus, the relief offered in this amendment is needed now. Without enactment of this amendment, I believe that the shortage of military doctors and National Health Service Corps physicians will undoubtedly reach crisis proportions in a very short time.

The amendment is by no means an easy solution to the overall problem of maintaining adequate military personnel in these vital programs, nor will the amendment solve the immediate problems which exist at Ft. Knox Ireland Army Hospital or any particular military facility in the world. However, I do strongly believe that adoption of this amendment is part of the complex equation which must be developed if we are to find an answer to meeting future medical manpower needs for our active and retired military personnel as well as those citizens residing in certain medically-needy communities.

Mr. HATHAWAY. Mr. President, it is my great pleasure to join with Senator DOLE today, as a cosponsor of his amendment to reinstate the tax exempt status of scholarship funds for health care programs. This is extremely important in the case of the National Health Service Corps which trains doctors and nurses for Rural Health Care programs.

The July volume of Public Health Reports notes that "the Emergency Medical Services Systems Act is especially important to many rural communities," particularly crucial for the rural communities is the localized shortage of trained physicians and dentists. "The worsening geographic maldistribution is difficult to resolve in a rapid, yet effective, manner." The Emergency Systems Act created the National Health Service Corps scholarship program, designed to provide medical services to the medically underserved areas.

Many small communities have no physician. Often, the nurse practitioners and physician assistants who are the only available personnel cannot get reimbursed for their services, and third party coverage is inadequate. All of these factors are complicated by the fact that people who live in rural areas have a higher proportion of elderly, have more illness and are disabled more often than those who live in urban areas.

Among the differences between urban and rural areas that have become apparent recently both in the Nation in general and in northern New England, are that in rural areas physician and dentist shortages are far more critical, emergency medical services are less available and many indicators of health status indicate a serious and growing disparity in the health of rural Americans in contrast to the general population.

Health statistics paint a bleak picture. The unadjusted death rate for Maine is among the highest in the Nation. Infant mortality is high but improvements have been market in the last decade. Death rates for heart disease, cancer, stroke, lung diseases and cirrhosis are all higher than for the Nation as a whole as well as higher than for New England.

Maine has a shortage of primary care physicians and no operating school of medicine or osteopathy to bring physicians to our rural areas. Maine has 37 dentists per 1,000 population compared to 48 per 1,000 for the United States as a whole.

I have recently held hearings in Maine on the state of rural health care. The need for more physicians, nurses, and dentists cannot be overemphasized.

I believe that the reinstatement of the tax exempt status of the scholarship program for the National Health Service corps is imperative. This reinstatement is for a 2-year period. During that time, the tax exempt status of these scholarships will be reviewed by the staff of the Joint Committee on Taxation.

I am pleased to join with Senator DOLE and the other distinguished sponsors of this legislation. It is necessary and imperative for the elderly and the aged rural people of the State of Maine. I shall lend my full support to the rapid adoption of this important legislative program.

Mr. LONG. Mr. President, I have no objection to the amendment. As far as I am concerned, this is the appropriate measure to which this amendment should be attached.

Mr. CURTIS. If the Senator will yield, I will say that I also support the amendment.

Mr. DOLE. Mr. President, I thank my distinguished manager on the Republican side and the chairman of the committee. I yield back the remainder of my time.

Mr. LONG. Mr. President, I yield back the remainder of my time.

The ACTING PRESIDENT pro tempore. All time has been yielded back. The question is on agreeing to the amendment of the Senator from Kansas.

The amendment was agreed to.

UP AMENDMENT NO. 939

Mr. DOLE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Kansas (Mr. DOLE) proposes an unprinted amendment numbered 939.

On page 2, strike lines 23 through 25, and on page 3, strike lines 1 through 6.

Mr. DOLE. Mr. President, I rise to speak in favor of this legislation before us and request expeditious consideration by my colleagues.

There are a number of provisions in this bill that are merely extensions, designed to allow program continuation while discussions continue on a major piece of legislation, H.R. 7200, that encompasses these and many other items. The extension of the title XX child day care money authorization is of particular note. These moneys are utilized for such things as employment of recipients of AFDC moneys in child care jobs and to provide child care to children of working parents—many of whom are single parents who would be unable to work if child care were not available.

Also included in this bill is a delay in the imposition of any reductions in medicaid moneys to States due to prior noncompliance with certain utilization review requirements.

I offered this amendment in committee along with the other provisions extending authorizations for certain programs. As many of you may recall, I offered a similar provision last July that delayed the reduction scheduled to take place on July 1. At that time, it occurred to many of us that the law was unduly harsh and perhaps needed to be examined closely for possible improvements The Finance Committee and the Committee on Interstate and Foreign Commerce considered this issue in conjunction with H.R. 3, the medicare and medicaid antifraud and abuse amendments.

I am pleased to note that this legislation was sent to the President for signature last week. The provision contained in H.R. 3 that dealt with the problem of medicaid reductions deals with our concerns completely. The law will, in the future, take into consideration good faith attempts by States and the difficulties they may legitimately encounter in their review efforts. More importantly, our concern for the care of patients is still clearly noted.

Because of our action on H.R. 3, the provision contained in the legislation before us that would continue to delay any reduction from taking place until February 1, 1978, is no longer necessary.

Mr. CURTIS. Mr. President, I believe it is good legislative practice to do as the Senator proposes, to strike it from this bill inasmuch as it was covered in an action which has now been completed. We have reason to expect the President to be signing that legislation.

Mr. DOLE. That is my understanding.

Mr. CURTIS. Mr. President, I favor the amendment.

The ACTING PRESIDENT pro tempore. The Senator from Louisiana is recognized.

Mr. LONG. Mr. President, there might be some misunderstanding of a technical nature. Will the clerk inform me how many lines on page 3 this amendment would strike?

The assistant legislative clerk read as follows:

On page 3, strike lines 1 through 8.

Mr. LONG. Mr. President, the amendment should only strike lines 1 through 6.

Mr. DOLE. Mr. President, I ask unanimous consent to modify the amendment.

The ACTING PRESIDENT pro tempore. The amendment is so modified.

Mr. LONG. Mr. President, as modified, I support the amendment. I yield back the remainder of my time.

Mr. DOLE. Mr. President, I yield back the remainder of my time.

The ACTING PRESIDENT pro tempore. All time has been yielded back. The question is on agreeing to the amendment, as modified, offered by the Senator from Kansas.

The amendment, as modified, was agreed to.

UP AMENDMENT NO. 940

Mr. LONG. Mr. President, I send to the desk a purely technical amendment and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Louisiana (Mr. LONG) proposes an unprinted amendment numbered 940.

On page 6, strike out lines 4 and 5 and insert in lieu thereof the following: "amended by striking out 'or section 402 (a)(26)' and by inserting in lieu thereof the following: ', section 402(a)(26), or any individual with respect to whom pay' ".

Mr. LONG. Mr. President, I yield back the remainder of my time.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the technical amendment.

The amendment was agreed to.

The ACTING PRESIDENT pro tempore. Who yields time? Are there further amendments?

Mr. LONG. Mr. President, I yield myself 1 minute.

In view of the fact that certain Senators who desire to offer amendments are not present at this moment, I am going to ask unanimous consent that I might suggest the absence of a quorum and that the time not be charged against either side.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CHURCH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

UP AMENDMENT NO. 941

(Purpose: To protect disaster victims from having their Supplemental Security Income benefits either reduced or terminated.)

Mr. CHURCH. Mr. President, I send to the desk an amendment and ask that it be stated.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Idaho (Mr. CHURCH) proposes unprinted amendment numbered 941.

Mr. CHURCH. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with. I shall explain the purpose of the amendment.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

At the end of the Act add the following new sections:

SEC. . (a) Section 2(b) of Public Law 94-331 is amended by striking out "and before December 31, 1976".

(b) The effective date of this section shall be the first day of the calendar quarter following enactment of this Act.

SEC. . (a) Section 4(b) of Public Law 94-331 is amended by striking out "and before December 31, 1976".

(b) The effective date of this section shall be the first day of the calendar quarter following enactment of this Act.

SEC. . (a) Section 1612(b) of the Social Security Act is amended—

(1) by striking out "and" at the end of paragraph (10) thereof,

(2) by striking out the period at the end of paragraph (11) thereof and inserting in lieu of such period the following: "; and", and

(3) by adding after and below paragraph (11) thereof the following new paragraph:

"(12) interest income received on assistance funds referred to in paragraph (11) within the 9-month period beginning on the date such funds are received (or such longer periods as the Secretary shall by regulations prescribe in cases where good cause is shown by the individual concerned for extending such period)."

(b) The amendment made by this section shall be effective July 1, 1976 with respect to catastrophes which occurred on or after June 1, 1976 and before December 31, 1976. With respect to catastrophes which occurred on or after December 31, 1976, the amendment made by this section shall be effective the first day of the calendar quarter following enactment of this Act.

SEC. . (a) The first sentence of section 1613(a) of the Social Security Act is amended—

(1) by striking out "and" at the end of paragraph (4) thereof,

(2) by striking out the period at the end of paragraph (5) thereof and inserting in lieu of such period the following: "; and", and

(3) by adding after the below paragraph (5) thereof the following new paragraph: "(6) assistance referred to in section 1612(b)(11) for the 9-month period beginning on the date such funds are received (or for such longer period as the Secretary shall by regulations prescribe in cases where good cause is shown by the individual concerned for extending such period); and, for purposes of this paragraph, the term 'assistance' includes interest thereon which is excluded from income under section 1612(b)(12).".

(b) The amendment made by this section shall be effective July 1, 1976 with respect to catastrophes which occurred on or after June 1, 1976 and before December 31, 1976. With respect to catastrophes which occurred on or after December 31, 1976, the amendment made by this section shall be effective the first day of the calendar quarter following enactment of this Act.

Mr. CHURCH. First of all, Mr. President, this amendment, I understand, has the approval of the managers of the bill on both sides of the aisle. Its purpose is to protect Supplemental Security Income recipients from having their benefits reduced or terminated because they receive assistance to replace lost or damaged property. Actually, Mr. President, this is an amendment to take care of flood victims, victims of fire and hurricanes, and other such natural disasters.

This measure has already been adopted by the Senate Finance Committee as a part of H.R. 7200, the public assistance amendments.

However, I am offering this proposal now because it seems unlikely that H.R. 7200 can be enacted into law in 1977 since it includes numerous provisions—many of which are markedly different in the House and Senate bills.

In addition, a failure to enact my amendment into law this year could create hardship for many SSI disaster victims.

My amendment would make four major changes:

First, assistance received under the Disaster Relief Act or other Federal disaster statutes would be exempt from income for purposes of determining eligibility and benefit levels for SSI. My amendment would make this provision—enacted into law last year on a temporary basis—permanent.

Assistance received under the Disaster Relief Act is designed to replace damaged personal and real property. Therefore, this compensation is not actually income for disaster victims because they must, under the Disaster Relief Act, use the assistance to replace their lost or damaged property.

Second, it would exempt disaster assistance as a countable resource for purposes of determining SSI eligibility. This exemption, which would be effective for 9 months after receipt of the assistance, is necessary because of the time lag between the receipt of assistance and the actual restoration or reconstruction of damaged property.

For example, after the Teton Dam disaster devastated southeastern Idaho in June 1976, it took months for many residents to enter into contracts to repair or rebuild their homes. If their disaster compensation increased their savings above $1,500 for an individual and $2,250 for a couple—the maximum countable resource limitations under SSI—they would become ineligible for SSI.

Many of these recipients rely almost entirely on SSI for their support. They were simply using the disaster assistance to replace their damaged property. I

think it is unfair for these individuals to lose SSI benefits because they received compensation to reconstruct or replace their property. Under my amendment these victims would be given a 9-month grace period to rebuild or repair their damaged homes before their SSI benefits would be reduced or terminated.

Third, interest earned on the disaster assistance would also be exempted for 9 months as countable income. This exemption, which can be extended by the Secretary of Health, Education, and Welfare for good cause, is necessary because some disaster victims cannot use the disaster payments immediately for their intended purpose. My amendment would allow disaster victims 9 months to settle their financial matters without having the disaster assistance claimed as a resource or the interest from these funds included as income.

Finally, my proposal makes permanent a provision which I advanced last year to allow SSI recipients to live in the household of another and receive their full SSI benefit for 18 months while their damaged home is being restored or replaced. This period is necessary because existing law requires SSI benefits to be reduced by one-third if qualifying individuals live in the household of another.

These disaster victims do not live voluntarily in the homes of others, but are forced to reside outside their damaged or destroyed homes. My amendment would allow them an 18-month grace period to complete repairs or reconstruction and move back into their own homes.

Mr. President, each one of these provisions would help to alleviate the burdens suffered by SSI disaster victims. These persons live on low incomes and should not be forced to endure more economic hardship.

Latest figures from the Social Security Administration reveal that only 10 percent of all SSI recipients receive any unearned income other than social security benefits. Only 3 percent report any earned income.

My amendment permits these persons to be treated fairly when faced with catastrophes such as floods, hurricanes, and snowstorms. It also assures them of continuous SSI payments at a time of great need. For these reasons, I urge my colleagues to act favorably upon this amendment.

Mr. CURTIS. Mr. President, I believe that this amendment is a reasonable one. I think it should be adopted. I understand that the distinguished chairman of the committee holds likewise and has authorized me so to state. We have no objection to the amendment.

Mr. CHURCH. I thank the Senator very much.

The ACTING PRESIDENT pro tempore. Does the Senator yield back his time?

Mr. CHURCH. I yield back the remainder of my time.

Mr. CURTIS. I yield back my time.

The ACTING PRESIDENT pro tempore. All time having been yielded back, the question is on agreeing to the amendment of the Senator from Idaho.

The amendment was agreed to.

Mr. CHURCH. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. CURTIS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The ACTING PRESIDENT pro tempore. Are there further amendments to the bill?

Does the Senator from Nebraska suggest the absence of a quorum?

Mr. CURTIS. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. On whose time?

Mr. CURTIS. On my time.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BAYH. Mr. President, I ask for the yeas and nays on my unprinted amendment No. 942.

Mr. CURTIS. Mr. President, what was the request?

The ACTING PRESIDENT pro tempore. The request is to order the yeas and nays on the amendment offered by the Senator from Indiana.

Mr. CURTIS. Mr. President, a parliamentary inquiry.

The ACTING PRESIDENT pro tempore. The Senator will state it.

Mr. CURTIS. Mr. President, reserving the right to object, will that preclude a point of order being made against the amendment?

The ACTING PRESIDENT pro tempore. It will not.

Mr. CURTIS. No objection.

The ACTING PRESIDENT pro tempore. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. BELLMON. Mr. President, will the Senator yield so that I may get the yeas and nays on my amendment?

Mr. BAYH. I am glad to yield.

Mr. BELLMON. Mr. President, I ask unanimous consent that it be in order for me to request the yeas and nays on unprinted amendment No. 943.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BELLMON. Mr. President, I ask for the yeas and nays on unprinted amendment No. 943.

The ACTING PRESIDENT pro tempore. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. BELLMON. Mr. President, I ask unanimous consent that Mary Kinsey and Robert Fulton of the staff of the Committee on the Budget be accorded the privilege of the floor during consideration of this bill.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BAYH. Mr. President, I ask unanimous consent that Barbara Dixon, of my staff, be accorded the privilege of the floor.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BARTLETT. Mr. President, will the Senator yield?

Mr. BAYH. I yield to the other Senator from Oklahoma.

Mr. BARTLETT. Mr. President, I ask unanimous consent that Mr. Ed King, of my staff, be accorded the privilege of the floor during consideration of this bill.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

UP AMENDMENT NO. 942

(Purpose: An amendment to provide equitable standards for medicaid eligibility and benefits.)

Mr. BAYH. Mr. President, I send an amendment to the desk.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Indiana (Mr. BAYH) proposes an unprinted amendment numbered 942.

Mr. BAYH. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, insert the following new section:

SEC. 4. (a) Section 1902(f) of the Social Security Act is amended by adding at the end thereof the following new sentence: "Any State in determining whether an individual is or would be eligible for medical assistance for any month if its plan for medical assistance approved under this title and in effect on January 1, 1972, had been in effect in such month, shall not take into account any income or resources of such individual based on the income or resources of such individual's spouse which would not be taken into account under the Standards which are prescribed by the Secretary pursuant to section 1902(a)(17)(B) and which are applicable to applicants and recipients of medical assistance under State plans which furnish medical assistance to all individuals with respect to whom supplemental security income benefits are being paid under title XVI.".

(b) The amendment made by subsection (a) shall be effective on and after the first day of the first calendar month which commences more than thirty days after the date of enactment of this Act.

Mr. BAYH. Mr. President, for the advice of my colleagues, I shall take about 7 or 8 minutes to discuss this amendment.

The ACTING PRESIDENT pro tempore. Under the previous order of the Senate the Senator has 30 minutes, 1 hour divided equally.

Mr. BAYH. At that time, I might feel compelled to ask for the yeas and nays unless there is some success in presuading the distinguished chairman of the committee to accept the amendment. I just wanted to alert my colleagues that at some time between now and the expiration of this time we will have to get the yeas and nays.

Mr. President, the amendment that I bring to the Senate's attention today seems to me to be a very basic amendment from the standpoint of the standards and values that exist in society generally. We respect the relationship

of marriage; we respect the sanctity of the home, we try to provide assistance for citizens who are in trouble and need help, and yet because of the nuances of the way our medicaid and SSI laws work together we find that two individuals who happen to be living together as man and wife are treated much stricter under medicaid than two citizens living together not in matrimonial bliss.

The amendment I offer today seeks to correct what I feel is a basic inequity in the treatment of married couples under the medicaid program. At the present time there are two widely divergent standards being applied by State welfare departments to couples in need of financial assistance for medicaid. The amendment I am offering will establish a uniform standard in the financial evaluation by a State welfare department of a married couple where one spouse is an institutionalized medicaid recipient.

The problem confronting many married couples across the Nation concerns a practice known as "medicaid deeming." Under this practice several State welfare departments "deem available" certain amounts of income from a noninstitutionalized spouse to care for the institutionalized partner. Although the precise methodology varies by State, the common premise is that the spouse has an obligation to provide some portion of the cost of the care of the other partner, the remainder of which is to be paid for by the State and Federal Government as part of the medicaid program. The amount an individual could be required to provide is determined by the State's maintenance allocations for institutionalized care, and therefore, a noninstitutionalized spouse could be reduced to living substantially below the State's welfare level.

The logical inconsistencies with such an approach are several. The most glaring, of course, is that effective result is to force the noninstitutionalized spouse into a poverty-level lifestyle in order to insure that the institutionalized spouse remains eligible for medicaid. Second, deeming income in this context is an irrational application of the "economies of scale" theory, which presupposes that two can live more cheaply than one. That may well be the case when the two spouses are living together under the same roof, but when they are physically separated by the institutionalization of one, the analysis, it seems to me, is most inappropriate. The fixed costs of the noninstitutionalized spouse remain the same; there are still mortgage or rent payments, automobile costs and insurance, utility bills, water bills, and the other myriad living costs which a couple might have. Whereas a couple previously living in poverty would be less likely to have many fixed costs, a working class or retired couple, with a reasonable, if not substantial, income would suddenly find that the need for institutionalization of one spouse meant that the couple would lose everything.

The choices open to the noninstitutionalized spouse are not appealing. If the couple cannot afford to be assessed the "deemed" income, they take the serious risk that the spouse in need of institutionalized care will be evicted from the nursing home providing the necessary care. The other option is to keep the needy spouse in the nursing home, and have the income of the noninstitutionalized spouse reduced so drastically that the couple may be forced to sell their home. A third option, suggested by some well-meaning State welfare workers, is for the couple to get a divorce.

This is precisely what happened to a couple in my own State of Indiana. A gentleman by the name of Kurt Benninghoff and his wife of 16 years, Karen, were advised by the Indiana Welfare Department that the only way they would receive medical assistance to pay for Mrs. Benninghoff's nursing home care would be if she applied as a single woman. Karen Benninghoff, paralyzed from the waist down, suffers from multiple sclerosis. The Benninghoffs found that the group health insurance policy that Kurt received with his $13,000 a year job as a meterman would not cover nursing home care, and that the cost of this care was $500 a month more than his monthly paycheck.

The State welfare agency told him that the State would provide assistance only if the process of "deeming" were applied. This meant that the State would take over all of the paycheck for Kurt Benninghoff except for $400. This would leave Kurt with $4,800 a year with which to pay for rent, food, clothing, and school expenses for all of their children. The Benninghoffs took the State welfare department's advice and applied for a divorce.

It seems to me that is a tragic situation, to say that you are actually going to force a man and a woman, a husband and a wife, a mother and a father, to make one of three critical choices: One, take the spouse out of the institution and deny her the medicare she needs; two, force the remaining spouse and children to live beyond the poverty line; or three, force the mother and father, husband and wife, to get a divorce.

That is exactly the kind of thing that this amendment is designed to prevent.

What I am trying to do, Mr. President, at a time when I think this country is looking more to the morality of Government than it has before, is to say it is inconsistent to have a standard where if a man and woman are living in what our President would call sin, not legally married, deeming does not apply, but if they happened to be married as man and wife with a household full of children then you may deem income.

At the present time, deeming of income remains a problem in only 10 States, the rest of which for one reason or another do not practice this requirement. A 1973 amendment to the Social Security Act permitted the option of allowing all those persons eligible for SSI payments to be eligible for medicaid assistance as well. The Department of Health, Education, and Welfare has interpreted this amendment to allow States to use whatever medicaid eligibility standards were in effect as of January 1972 or to use the minimum criteria for SSI eligibility.

The Department of Health, Education, and Welfare issued regulations in January 1977 which attempted to clarify financial eligibility for medicaid for all those States choosing to use SSI standards. These regulations effectively ended the practice of deeming for 35 States. Five additional States have ended this practice voluntarily or by court order. For 10 States and the District of Columbia, however, the practice of deeming continues to provide an arbitrary portion of one spouse's income for the care of the other without any regard to the financial needs of the spouse living outside the nursing home. These States include Colorado, Illinois, Indiana, Missouri, New Hampshire, North Carolina, Ohio, Oklahoma, and Utah. Ohio has been attempting to change its status, but a court case brought by some Ohio legislators has kept the State in the minority fold.

My amendment will amend section 1902(f) of the Social Security Act so that even if a State has opted not to provide automatically for medicaid benefits to SSI recipients, that State will not be able to employ deeming as a method of requiring support from a noninstitutionalized spouse.

Mr. President, I think that pretty well says it. I have been advised that for those of us who are concerned about the impact this amendment will have on States, only 10 States now discriminate in this manner, and HEW tells us that only 7 percent of medicaid recipients who are institutionalized have living spouses. It is clear that the financial impact would be minimal.

What my amendment would require is fairly straightforward. It would require all States to apply the standards pursuant to the January 1977 HEW regulations, 45 CFR 248.3(b)(2). These regulations have been interpreted to require that the spouses be treated separately in the calendar month beginning after the month in which the institutionalization begins. Thus couples will be able to remain married, but will have their incomes evaluated on an individual basis, which should at least permit the noninstitutionalized spouse to retain a reasonable portion of the couple's total income.

This change will not deflect the intent of section 1902(f) of the medicaid statute. That section's purpose, as set out in its legislative history, was "not to impose a substantial fiscal burden on these States." The congressional fear at the time of enactment was that the requirement that States provide medicaid benefits to all SSI recipients would have had a devastating financial impact, as the SSI eligibility requirements were considerably more liberal. The numbers of eligible medicaid recipients would have increased dramatically. Our amendment does not make all SSI recipients eligible for medicaid. What it does do is require States who do not use SSI eligibility standards for their medicaid recipients to end the practice of deeming.

Mr. President, our responsibility in cases like this is very clear. Our intentions in writing the medicaid provisions to provide necessary health care in a fiscally responsible manner were entirely proper. Unfortunately, the complexity of the law has led to unforeseen inequities.

The deeming requirements are forcing many of our citizens to live in poverty. Some have even sought divorce, so their loved ones can receive proper care. This situation cannot be tolerated, and we must take action to set the law straight.

I hope the Senate will act favorably on this amendment to end the unnecessary emotional and financial problems created by the inequitable treatment of married couples under medicaid in States such as Indiana.

It seems to me from an equitable standpoint it makes no sense to put a man and woman, a husband and wife, in a situation where they have to choose the least evil of three very evil and undesirable alternatives.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. CURTIS. Mr. President, will the chairman yield me some time?

Mr. LONG. Yes, I yield the Senator 10 minutes.

The ACTING PRESIDENT pro tempore. The Senator from Nebraska is recognized.

Mr. CURTIS. The distinguished Senator from Indiana is making his plea in the wrong forum. There is no reason in the world why Indiana cannot act in this case. What has previously been done insofar as existing law is concerned is that the States have a right to follow their old standards or to come up to the new. So it is not necessary to change the law. Indiana can meet that case if it wants to.

This is a situation where the Federal Government is asked to mandate a list of States to do something because a complaint is made about one State not doing it. This would compel the States of Colorado, Illinois, Indiana, Minnesota, Missouri, Nebraska, New Hampshire, North Carolina, Ohio, Oklahoma, and Utah to liberalize their medicaid requirements at the very time that Congress made a commitment to them that they could make the decision.

Mr. BAYH. Mr. President, will the Senator yield?

Mr. CURTIS. Yes.

Mr. BAYH. I have been advised that Nebraska is no longer in that category, and Minnesota, which was on an earlier lists——

Mr. CURTIS. They just recently changed their rules. But that illustrates that Indiana can change its rules, and it also illustrates that Nebraska can change them back. It will take away from 50 States the right to make a determination as to who is eligible for medicaid.

Furthermore, this affects the rights of this long list of States and they have never had a hearing. Not one of these States has been notified of this proposal and had a chance to come before the Committee on Finance and state its position on it.

Congress made a commitment to them that they could follow their own rules and, because of that, Mr. President, when the time is all used or yielded back I shall make a point of order against the amendment because it is not germane. It is an offer of an amendment to a bill that deals with the extension of some dates only, and this deals with an entirely remote subject of the allocation of income.

I thank my distinguished chairman, and I yield back the remainder of the time to him that he yielded to me.

The ACTING PRESIDENT pro tempore. Does the Senator from Nebraska now make his point of order—he will not do so until the time has expired, yes.

Mr. CURTIS. Yes.

The ACTING PRESIDENT pro tempore. The Senator from Louisiana.

Mr. LONG. Mr. President, of course I sympathize with the argument the Senator from Indiana has just made, because he is speaking in favor of the kind of regulations that the State of Louisana has and the kind of regulations that the Federal Government approves for SSI eligibility.

But, as the Senator from Nebraska so well stated, when we agreed to the SSI program we left it to the States to decide whether or not they wanted to make all the people who would be eligible for the SSI eligible for medicaid.

The Senator's State, the State of Indiana, chose not to do so. I can understand his feeling respecting the plight of a constituent, or perhaps a number of constituents, who feel they were not treated as well as they should have been treated—or as well as they would have been treated in the majority of the States of the Union had Indiana taken the same attitude towards the same problem as most other States have taken.

But the fact, nevertheless, remains that implicit in what we did was to assure the States—Hawaii being one of them—that if they did not want to adopt the Federal standard, they could continue to abide by their own standard, and that is what is involved here.

Now, in a way it would cost all the States money to force these States to adopt the standard that most States have seen fit to adopt.

When the Federal Government makes a commitment it ought to be willing to keep it and, under those circumstances, Mr. President, I cannot favor the amendment because it amounts, at least to some extent to reneging on a commitment that was made by the Federal Government to the States. They involve the States of Colorado, Connecticut, Hawaii, Illinois, Indiana, Mississippi, Missouri, New Hampshire, North Carolina, Ohio, Oklahoma, Utah, and Virginia. It does not involve the State which I have the honor, in part, to represent. But a commitment in good faith is a commitment and, having made it, it seems to me the Federal Government ought to keep it.

Does the Senator desire that I yield to him for a question?

Mr. BAYH. I was just going to observe that the latest list shows Hawaii has also changed, and they are in the group that recognizes the wisdom of the position of the State of Louisiana and the position of the State of Nebraska. I also understand the State of Virginia does not deem income. Unfortunately, that is not the position of the State of Indiana.

Mr. LONG. Well now, you see, Hawaii did that strictly of its own volition. That was the legislature and the Governor of Hawaii who appreciated the merits of the Senator's argument and did what the other States have done.

Basically, those of us who do not favor the amendment feel that the States have a right to decide that issue for themselves. I should think that if the State of Indiana had seen fit to appreciate the wisdom that the Senator from Indiana is arguing, we would not be having the amendment here, because the Senator would not be confronted with something he thinks is an injustice done to a citizen of Indiana.

Therefore, Mr. President, I would feel that, once we start picking out first one point and next another where the State standard is not as generous or not as sympathetic, perhaps, as the Federal standard, and forcing States to go to it, I do not know where we would stop. That being the case, I think we would be wise just to leave it up to the States to do it as they have been doing, to study this problem, give it sympathetic consideration, and, if the Federal standard is better, to hope that the States will in due course adopt it.

Mr. BAYH. Mr. President, I understand the sensitivity of my good friend and colleague, the Senator from Louisiana. I am not reneging on a statement that was made to the States at the time the act was passed. I would be willing to at least suggest, that at the time this bill was passed there was not a single one of us—I know it did not enter the mind of the Senator from Indiana and I was here—who voted for that bill who ever thought it would result in the possibility of forcing a man and wife to make a choice of whether one of them was going to get hospital care, or whether they would be subjected to poverty, or, as the third choice, that they would have to be divorced. I do not suppose a one of us ever thought that two people who were married would be subjected to a higher standard than two people who were living together who were not married.

I am not going to stand on the floor of the Senate and render judgment on the moral character of other people, but it seems to me we ought to at least say to people who are living in wedlock, "We are not going to cause you to suffer being discriminated against in this manner."

I think the concern of the Senator from Louisiana could be met by suggesting that the passage of time has shown us problems that existed, or a problem that exists, that we did not anticipate at the time we made the commitment.

Both the Senator from Nebraska and the Senator from Louisiana are absolutely right, that if the State of Indiana had chosen what I feel is the equitable course, the Senator from Indiana would not be standing here. But unfortunately the welfare director of Indiana looks at the matter a little differently than I do. I have a responsibility, it seems to me, to represent my constituents, and if I cannot persuade the Governor and the State legislature—which is divided, one party one way and the other party the other—and if I cannot persuade the welfare director to be concerned about a man and

woman who are forced to get a divorce in my State, what other recourse do these constituents have? I have a right, certainly, to try to see that their problem is resolved, and that is why I am here.

The problem, as I see it, from a political standpoint, is that we are talking about a problem that really does not affect very many people. We are talking about much less than 7 percent of the people in 10 States. In fact, when my staff approached the Finance Committee staff and asked to have hearings on this legislation, we were told that this matter is not important enough, it is not consequential enough.

It seems to me we in Congress have traditionally been protectors of individual rights, and that it does not make any difference whether it is just a handful of individuals or whether it is a million individuals.

Right now what I am suggesting is not that we tell the States what standards they are going to apply, but that they are not going to be able to discriminate against the different classes of people.

I understand my friend and colleague from Nebraska feels that this is perhaps nongermane, and I certainly know he has the right to suggest that to the Chair. We have had a number of other amendments that have been proposed and accepted. I assume that he has been on the floor during that period of time, and I do not know whether he has been equally concerned about their germaneness or not.

I would just ask him, if he is concerned about the wisdom of this proposal, to at least let the Senate decide whether they think it is a good idea to apply one set of rules to a married couple and treat them more harshly than a couple who are not married.

Mr. CURTIS. Mr. President, will the Senator yield?

Mr. BAYH. I will be delighted.

Mr. CURTIS. First, let us set the record straight. There is nothing in the Federal law compelling any State to discriminate in situations where the individuals are married. That is entirely a State matter.

Mr. BAYH. The Senator from Indiana has not said there was, and the Senator from Nebraska is absolutely right; there is not.

Mr. CURTIS. So we do not want to argue that. Nor should legislation coming from the Finance Committee be so drafted that we would be guilty of such a practice.

However, this proposal does change an arrangement with a number of States. They have never had a hearing.

Mr. BAYH. Will the Senator yield?

Mr. CURTIS. It is with reluctance that I make a point of order, but I think it is not a good legislative procedure to mandate States to do certain things when they have been promised that we would not do it, and at least not to do it without a hearing.

Mr. BAYH. As the Senator from Indiana observed a while ago—I am not certain that the Senator from Nebraska heard me—of course, we all have a number of things to be concerned about, but my staff requested the possibility of hearings from the Finance Committee staff, and were told that this was not an important enough matter to be considered for hearings.

I can understand that, because the committee deals with a lot of very important and critical things that affect the whole country. We are talking about a mere handful here compared with 230 million Americans, but it seems to me that someone ought to look out for their interests and their rights; and although the social security law does not mandate this, it does indeed permit it.

What I am suggesting to my friend from Nebraska and the Senate is to let us not dictate to the States what standards shall be applied, but let us just say we are not going to permit those standards to be applied in such a way that one standard can be applied to two people living together in matrimony and another more lenient standard can be applied to two people living together not in matrimony. That is what the Senator from Indiana is saying.

Mr. CURTIS. I thank the Senator for yielding.

Mr. BAYH. I would just like to point out that I can see how the distinguished Senator from Nebraska, who has worked so hard in the Finance Committee, and our distinguished colleague from Louisiana, the chairman, have very difficult problems to consider, but usually when these amendments come along we at least get a vote on them.

I sat here and listened to an amendment discussed by the Senator from Idaho dealing with disaster victims, clearly not germane, yet that was not objected to.

Mr. CURTIS. Will the Senator yield a moment at that point?

Mr. BAYH. I am glad to.

Mr. CURTIS. That is alleged to have become germane by reason of a unanimous-consent request. In a few moments, I have a fear that the distinguished Senator from Oklahoma will offer a nongermane amendment. The Parliamentarian may rule that it is germane by reason of a unanimous-consent request.

I am opposed to the amendment. It jeopardizes the interests in my State. I knew nothing of the unanimous-consent request until I read it in the RECORD.

Mr. BAYH. There was also an amendment of the Senator from New York dealing with low-rent housing, which is clearly nongermane.

Mr. CURTIS. If the Senator will read Order No. 421 he will see how that happened.

Mr. BAYH. I am very well aware of how it happened. All I am suggesting is that it seems rather strange to me that nobody imposed an objection there. I would not have. In fact, I was glad to see the Senator present his amendment.

It seems rather strange to me that we will let other amendments go by unanimous consent and not impose an objection, and this amendment, which deals only with a handful of people, is something else. That is my problem. If I had a problem which dealt with millions of people, I could probably get support. But when I am dealing with a few people, who happen to be husbands and wives, who are discriminated against when one has to go to a hospital and they are faced with the possibility of having to get a divorce, this will be objected to.

I would hope the Senator from Nebraska would think differently because his own State has seen the wisdom of this. It is just that I cannot convince the welfare director of the State of Indiana to deal with it the same way 40 other States deal with it.

The PRESIDING OFFICER (Mr. SARBANES). Who yields time on the amendment?

Mr. LONG. Mr. President, it seems to me this amendment has been debated as much as it ought to be debated. I am prepared to yield back the remainder of my time.

Mr. BAYH. I am prepared to yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the amendment——

Mr. CURTIS. Mr. President, I make the point of order against the amendment that it is not germane.

The PRESIDING OFFICER. Under the unanimous-consent order, pursuant to which the bill is being considered, germaneness is required on amendments offered to the bill. The amendment does introduce a new subject matter which was not included in the bill. It is, therefore, not germane. The point of order is sustained.

UP AMENDMENT NO. 943

(To delay the effective date for implementing certain methods of determining reasonable costs for skilled nursing facility services and intermediate care facility services.)

Mr. BELLMON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated. The legislative clerk read as follows:

The Senator from Oklahoma (Mr. BELLMON) proposes an unprinted amendment numbered 943.

Mr. BELLMON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered. The amendment is as follows:

On page 7, after line 14, insert the following new section:

SEC. 4. (a) Section 1902(a)(13)(E) of the Social Security Act is amended by striking out "July 1, 1976" and inserting in lieu thereof "January 1, 1978".

(b) The Secretary may waive the requirements of section 1902(a)(13)(E) of the Social Security Act with respect to the period beginning January 1, 1978 and ending June 30, 1978, with respect to any State which has submitted to him, on or before December 31, 1977, a modification of the State plan for medical assistance which is designed to comply with he requirements of such section, if the Secretary determines that there is good cause why such requirements could not be met prior to January 1, 1978.

(c) Notwithstanding the provisions of section 1902(a)(13)(E) of the Social Security Act, a State plan for medical asssistance shall not be regarded as failing to comply

with requirements imposed with respect to approved State plans under title XIX of such Act, and the amount payable to any State under such title shall not be decreased, solely because of the failure of such State to meet the requirements of such section during any calendar quarter ending prior to January 1, 1978, or, in the case of a State with respect to which the Secretary has waived such requirements under the provisions of subsection (b) of this Act, during any calendar quarter ending prior to July 1, 1978.

Mr. CHURCH. Will the Senator yield so I may have Senate conferees appointed?

Mr. BELLMON. I will be happy to yield.

ERDA AUTHORIZATIONS

Mr. CHURCH. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 1811.

The PRESIDING OFFICER (Mr. SARBANES) laid before the Senate a message from the House of Representatives insisting upon its amendment to the bill (S. 1811) to authorize appropriations to the Energy Research and Development Administration in accordance with section 261 of the Atomic Energy Act of 1954, as amended, section 305 of the Energy Reorganization Act of 1974, and section 16 of the Federal Nonnuclear Energy Research and Development Act of 1974, as amended, and for other purposes and requesting a further conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. BELLMON. Mr. President, could I inquire, has this been cleared with the minority leader?

Mr. CHURCH. Yes. It is my understanding that this has been cleared on both sides of the aisle.

Mr. BELLMON. I have no objection.

Mr. CHURCH. Mr. President, on Wednesday, October 12, 1977, the Senate adopted the conference report to S. 1811, the ERDA authorizations bill for fiscal year 1978, civilian applications. Subsequent to that action, the House took up the conference report, but the Speaker sustained a point of order made against that report. The Speaker ruled that the conferees had exceeded their scope of authority with respect to provisions dealing with the Clinch River breeder reactor project. As a result of the action taken in the House, it is necessary to reappoint conferees to the bill and to file a new conference report.

Mr. President, I move that the Senate disagree to the amendment of the House of Representatives and agree to the request of the House for a further conference on the disagreeing votes of the two Houses thereon, and that the Chair be authorized to appoint the conferees on the part of the Senate.

Mr. BUMPERS. Mr. President, before the vote, I want to be sure I understand. The conferees we are about to appoint are those conferees who will go back to the House conference and absolve the Speaker's upholding the point of order; is that correct?

Mr. CHURCH. That is correct.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to; and the Presiding Officer appointed Mr. JACKSON, Mr. CHURCH, Mr. BUMPERS, Mr. ABOUREZK, Mr. FORD, Mr. DURKIN, Mr. MATSUNAGA, Mr. HANSEN, Mr. HATFIELD, Mr. DOMENICI, Mr. MCCLURE, and Mr. BARTLETT conferees on the part of the Senate.

SOCIAL SECURITY SERVICES

The Senate continued with the consideration of H.R. 3387.

The PRESIDING OFFICER. Is the amendment which the Senator from Oklahoma has offered, and which is now at the desk, the amendment on which 1½ hours was agreed to in the unanimous-consent order?

Mr. BELLMON. That is correct.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. BELLMON. Mr. President, I recently introduced an amendment to H.R. 3, the medicare and medicaid antifraud and abuse bill which would have delayed implementation of the section 249(a) requirement of the Social Security Act related to cost-related reimbursement for nursing homes. This amendment was passed by the Senate, but was deleted in conference with the House. The major argument against the amendment was that it was passed in a rush during debate on the national gas bill and had not received adequate debate on the floor of the Senate. I am offering a compromise version of this amendment, Mr. President, as an amendment to H.R. 3387.

As I have emphasized in my earlier statements, Mr. President, the purpose of my amendment is to provide greater flexibility in the implementation of the cost-related reimbursement requirement for nursing homes and to clarify the financial liability of States which implement plans after July 1, 1976. The issue of retroactive liability stems from the fact that the law mandated implementation of cost-related reimbursement on July 1, 1976. HEW regulations, however, while technically requiring implementation by July 1, 1976, stated that plans had to be in effect on January 1, 1978. It should be emphasized that implementing regulations were issued at about the same time as they were, by law, supposed to be implemented.

That is the point I want to make to our colleagues from Nebraska and Louisiana. These regulations were issued at the time they were supposed to go into effect immediately. There was no way for the States to get ready for these regulations because they were not even known until they were supposed to be put into effect.

As a result, States were given until January 1, 1978, to develop acceptable plans.

Unfortunately, Mr. President, the discrepancy between the law and implementing regulations has opened the door to possible extensive litigation between the States and the nursing home industry. This litigation could cost millions of dollars which could better be spent providing care to older citizens.

I make it clear now there is a chance for litigation whereby the nursing homes would go back and try to be paid extra money for services they have already delivered. It serves no good purpose to go back and make possible litigation to force States to pay money retroactively for services which have already been received.

Mr. President, it is almost certain that several States may not be able to meet the December 31, 1977, deadline for the development of approved plans. Currently, only 21 plans have been approved or are approvable by the central office, HEW. Any State, even one with an approved plan, is potentially liable for additional costs. Thus, State officials responsible for administering these programs are greatly concerned, both about the deadline for approval of plans and the issue of liability for retroactive charges. This concern was expressed by the National Council of State Welfare Directors which endorsed my original amendment on September 20, 1977.

Mr. President, I have before me a letter from the American Public Welfare Association, signed by the director, in which they say:

> We believe such legislation is necessary to allow States additional time to prepare for the implementation of section 249. In addition, the States welcome clarification of their fiscal positions relative to the HEW action taken last year to modify, through regulation, the original effective date as passed by Congress.

I ask unanimous consent that this letter be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. BELLMON. Mr. President, health care costs are increasing at an alarming rate. Currently, nursing home care accounts for approximately 40 percent of all medicaid expenditures. It is imperative that we spend money wisely and permit States as much flexibility as possible in the development of payment mechanisms. This amendment will provide time for careful, comprehensive review of State plans and avoid spending millions of dollars on unnecessary litigation, which serves no useful purpose for older citizens who need care. This amendment is consistent with a compromise developed by HEW and offered by Representative ROGERS during the conference on H.R. 3.

Thus, Mr. President, there is evidence that this amendment has support from the administration and from the House. It is strongly supported by State officials faced with the difficult task of administering the medicaid program. I urge adoption of the amendment.

EXHIBIT 1

AMERICAN PUBLIC WELFARE ASSOCIATION,
Washington, D.C., September 26, 1977.

Hon. HENRY L. BELLMON,
U.S. Senate, Russell Senate Office Building, Washington, D.C.

DEAR SENATOR BELLMON: The National Council of State Public Welfare Administrators of the American Public Welfare Association is composed of administrators of all state welfare agencies. These agencies have primary administrative responsibility for the Medicaid program. The Council wishes to extend its full support for S. 2005, the bill you authored and introduced which would extend the implementation date of Section

249 of P.L. 92-603 [Cost Related Reimbursement of Nursing Homes] from January 1, 1978 to January 1, 1979. We understand the bill would also absolve state Medicaid programs of possible fiscal liability from HEW's postponement of the original date of implementation of July 1, 1976 to January 1, 1978. We believe such legislation is necessary to allow states additional time to prepare for the implementation of Section 249. In addition the states welcome clarification of their fiscal positions relative to the HEW action taken last year to modify, through regulation, the original effective date as passed by Congress.

Thank you for your attention in this matter.

Sincerely,

JOHN J. AFFLECK,
Director, State Department of Social and Rehabilitative Services, Rhode Island and Chairman, National Council of State Public Welfare Administrators.

The PRESIDING OFFICER. Who yields time?

Mr. CURTIS. Mr. President, will the chairman yield to me?

Mr. LONG. How much time does the Senator want?

Mr. CURTIS. Ten minutes.

Mr. LONG. I yield 10 minutes to the Senator from Nebraska.

Mr. CURTIS. Mr. President, I find it not an easy or pleasant task to oppose this amendment which my distinguished friend from Oklahoma believes in so strongly, but I think there is a moral principle involved here. I have the paper which the distinguished Senator has placed on our desks today, wherein he cites as the main objective that it would absolve States of liability for retroactive payments.

Well, Mr. President, if a State owes a bill, or a bill is in litigation and the court says, "Yes, this is a just debt," what right does the Congress of the United States have to absolve them from liability? What right have we to exert the sovereign power of the Government and say to the States, "Even though a court may say you owe these obligations, you do not have to pay them?

Mr. President, that is not budget balancing. That is not even doing fair business. If we have too many expenditures and too many programs, the way to do it is to reduce them, not to come in afterwards and say we are going to deny payment for services that have been performed.

I do not think that this amendment should be enacted. I know it should not be enacted without any hearings by the committee. I hold in my hand a bulletin by the American Health Care Association on behalf of its 7,500 members. It says:

ACHA, on behalf of its 7500 member long-term health care facilities throughout the nation, wishes to convey its strong opposition to a further delay in the implementation of Sec. 1902(a)(13)(E) of the Social Security Act. The section requires States participating in the Medicaid program to reimburse long-term care providers on a reasonable cost-related rather than on an arbitrary basis.

It says further:

Subsection (b) of the amendment attempts to effect a retroactive repeal of this law in order to shield States from the potential consequences of their failures to carry it out.

Now, Mr. President, I have no desire that nursing homes or anybody else should get any money that they are not entitled to; but the question of whether or not they are entitled to certain funds in the State of Nebraska is now in court. If the court says they are entitled to it, it ought to be paid. But it will never be paid if the Bellmon amendment is passed.

The Bellmon amendment is this big Government idea to wipe out an obligation. Whom are we wiping it out for? There is a possibility that this would materially discriminate against the providers of care in Maine, South Carolina, Louisiana, Iowa, Missouri, Nebraska, Montana, California, Oregon, Florida, North Carolina, Arkansas, Colorado, Hawaii, maybe Nevada—it is quite close there—Guam, and the State of Washington, with a possibility that it would take rights and funds away from providers of health care that a court might hold they are entitled to in the States of Alabama, Georgia, Kentucky, Michigan, New Mexico, Oklahoma, Kansas, South Dakota, North Dakota, and Idaho.

That is what it does.

The distinguished Senator's own argument here says, "absolves States of liability for retroactive payments." If they are liable for them, should they not be paid? They cannot determine that liability until the litigation is ended.

Mr. President, this is a serious matter. I know it is popular to blame the hospitals, to blame the nursing homes, to blame everybody else for the expenditures of Government. Well, maybe some of them ought to be blamed. Maybe there are some of them that are doing things that are wrong. Let us deal with those. But certainly it is unethical for the Congress of the United States to come in here and pass a law that absolves States of liability for debts that a court may say they owe.

Mr. BELLMON. Mr. President, will the Senator yield?

Mr. CURTIS. Yes.

Mr. BELLMON. If the Senator will read the rest of the paragraph, he will understand the reason for this amendment. The reason is that the Department of Health, Education and Welfare gave the States an additional 18 months in the regulations. All we have done here is trigger extensive litigation that is going to be a windfall for lawyers. It is up to Congress, which let these people get into this shape, to straighten them out. All we are trying to do is straighten out a mess that the Government has created for itself.

Mr. CURTIS. Maybe there are some unethical lawyers.

Mr. BELLMON. I said nothing about unethical lawyers. There is nothing unethical about this amendment.

Mr. CURTIS. I think there is. I think if the Congress uses its sovereign power to say to States, "You don't have to pay bills that the courts have said are owed"——

Mr. BELLMON. No courts have said they are owed. All we are trying to do is stop litigation before it gets started.

Mr. CURTIS. These nursing homes have asserted claims. They have said to the courts, "You adjudicate them." Before the courts have a chance to answer, Congress comes in and removes the liability, retroactively.

I say that that is not the way to treat any of our citizens. I am not here to defend any particular business or profession or anybody else. I suppose they all have some whose ethics and performance and efficiency could be challenged. But there is a reason why these nursing homes are here, en masse, opposing this proposal. There is a reason why we are hearing from individual providers.

Mr. President, the cost of all these programs is tremendous. But the answer to that is not to take rights away from individuals, who believe they have a claim and have submitted it to court, and to say, retroactively, we are absolving the States of that liability. I do not think that is right. But even if my opinion is wrong on it, Congress should say that a committee should hear this first.

This is not a simple amendment involving policy, or something. This is an adjudication of claims, and it has never been heard by a committee.

Mr. President, I reserve the remainder of my time.

Mr. BELLMON. Mr. President, I yield myself 5 minutes.

Mr. President, on the point that this matter has not been heard by a committee, let me call to the attention of the Senator from Nebraska that S. 2005, a bill dealing with this question, was introduced on August 4.

The Finance Committee has had all that time to deal with the matter, and it comes to a head as of January 1, 1978, when every State is supposed to have all these regulations in place and be in a position to abide by the requirements of section 249.

So on the argument that there has been no time for hearings, there has been ample time.

Mr. CURTIS. I made no argument that there has been no time for hearings. I said that there have been no hearings held.

Mr. BELLMON. That is because the Senator has not wanted them. There was plenty of time and the Senator from Oklahoma——

Mr. CURTIS. I never heard of the Senator's bill until——

Mr. BELLMON. It has been before the Senator's committee since August 4.

Mr. CURTIS. Until it was passed here, during a lull in the filibuster on the natural gas matter.

Mr. BELLMON. The reason for trying to move this is that we are facing a deadline.

Mr. CURTIS. I understand that.

Mr. BELLMON. The law requires section 249(a) to be in effect as of January 1. If the Finance Committee will not move it, it is up to the Senate to take an interest in it.

Mr. CURTIS. The Finance Committee——

Mr. BELLMON. The Senator from Oklahoma has the floor and I refuse to yield until I finish my statement.

Mr. CURTIS. All right.

Mr. BELLMON. Mr. President, the other point is that nursing homes en-

tered into these contracts now in force totally voluntarily. They were not required to enter into them. They knew the States were making an effort to abide by section 249, but that section was not in force at the time.

So the question is whether or not the States want to be forced to rewrite old contracts, in effect in some cases almost 18 months, and base those contracts which the nursing homes entered voluntarily on the provisions required by 249(a).

We are not trying to do something the nursing homes did not do for themselves.

The provisions that are going to be settled if this amendment is approved are subject to widely divergent interpretations. It has touched off litigation, which I do not believe HEW or Congress intended when we passed section 249 originally or when the regulations were handed down.

Mr. President, I reserve the remainder of my time.

Mr. LONG. Mr. President, as far as this Senator is concerned, I would just as soon vote on the issue and decide it one way or the other.

I suggest we simply yield back the remaining time and suggest the absence of a quorum thereafter.

But first, I will yield for a unanimous-consent request.

Mr. NELSON. Mr. President, I ask unanimous consent that Judy Robinson of my staff be granted privilege of the floor during consideration of the pending legislation and the rollcall votes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LONG. Mr. President, I yield back the remainder of my time.

Mr. BELLMON. Mr. President, I yield back the remainder of my time.

Mr. CURTIS. I yield back the remainder of my time.

The PRESIDING OFFICER. The yeas and nays have been ordered on the amendment.

Mr. LONG. Then I suggest that we have a quorum call.

Mr. CURTIS. If the Senator will withhold that quorum call, Mr. President, I make the point of order against the amendment that it is not germane.

The PRESIDING OFFICER. The amendment offered by the Senator from Oklahoma has been accorded a specific time grant under the unanimous-consent request, specifically to this amendment.

Therefore, under the precedents, the point of order will not lie against the amendment and the Chair must reject the point of order.

Mr. CURTIS. May I inquire whether or not there is any rule of the Senate to that effect?

The PRESIDING OFFICER. The precedents of the Senate with respect to the effect of unanimous-consent agreements are well established.

Mr. CURTIS. The Senator from Nebraska is aware that there are such precedents. My understanding of the precedents is this, that a point of order can be waived and that it can be waived by unanimous consent, that means consent of the two contending parties.

I never consented to it and did not know anything about this consent arrangement.

I believe those precedents go to the point, where the contending parties over an amendment agree that it shall be disposed of in a certain length of time, that that is a waiving of the point of order.

I do not know how a point of order can be waived by someone who is not here and has no knowledge of it.

The PRESIDING OFFICER. The precedents are to the effect that where there is an agreement on a specific time block, or an amendment under the unanimous-consent order, the point of order of germaneness has been waived and does not lie against the amendment.

Mr. CURTIS. Very well.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the amendment of the Senator from Oklahoma. The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. BUMPERS (when his name was called). Present.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Minnesota (Mr. ANDERSON), the Senator from Texas (Mr. BENTSEN), the Senator from Delaware (Mr. BIDEN), the Senator from North Dakota (Mr. BURDICK), the Senator from Kentucky (Mr. FORD), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Montana (Mr. METCALF), the Senator from North Carolina (Mr. MORGAN), the Senator from New York (Mr. MOYNIHAN), the Senator from Michigan (Mr. RIEGLE), and the Senator from Mississippi (Mr. STENNIS) are necessarily absent.

On this vote, the Senator from North Carolina (Mr. MORGAN) is paired with the Senator from Minnesota (Mr. HUMPHREY). If present and voting, the Senator from North Carolina would vote "yea" and the Senator from Minnesota would vote "nay."

I further announce that, if present and voting, the Senator from North Dakota (Mr. BURDICK) would vote "nay."

I further announce that, if present and voting, the Senator from Michigan (Mr. RIEGLE) would vote "yea."

Mr. STEVENS. I announce that the Senator from Utah (Mr. HATCH), the Senator from Oregon (Mr. HATFIELD), the Senator from North Carolina (Mr. HELMS), the Senator from Maryland (Mr. MATHIAS), and the Senator from Texas (Mr. TOWER) are necessarily absent.

I further announce that the Senator from Kansas (Mr. PEARSON) is absent due to a death in the family.

I further announce that, if present and voting, the Senator from Oregon (Mr. HATFIELD) would vote "yea."

The result was announced—yeas 22, nays 57, as follows:

[Rollcall Vote No. 562 Leg.]

YEAS—22

Baker	Heinz	Sarbanes
Bartlett	Javits	Schweiker
Bellmon	Laxalt	Scott
Cannon	Lugar	Stevens
Chafee	McIntyre	Stevenson
Glenn	Metzenbaum	Young
Goldwater	Pell	
Griffin	Percy	

NAYS—57

Allen	Garn	Nelson
Bayh	Gravel	Nunn
Brooke	Hansen	Packwood
Byrd, Harry F., Jr.	Hart	Proxmire
	Haskell	Randolph
Byrd, Robert C.	Hathaway	Ribicoff
Case	Hayakawa	Roth
Chiles	Hollings	Sasser
Church	Inouye	Schmitt
Clark	Jackson	Sparkman
Cranston	Johnston	Stafford
Culver	Kennedy	Stone
Curtis	Leahy	Talmadge
Danforth	Long	Thurmond
DeConcini	Magnuson	Wallop
Dole	Matsunaga	Weicker
Domenici	McClure	Williams
Durkin	McGovern	Zorinsky
Eagleton	Melcher	
Eastland	Muskie	

ANSWERED "PRESENT"—1

Bumpers

NOT VOTING—20

Abourezk	Hatfield	Morgan
Anderson	Helms	Moynihan
Bentsen	Huddleston	Pearson
Biden	Humphrey	Riegle
Burdick	Mathias	Stennis
Ford	McClellan	Tower
Hatch	Metcalf	

So Mr. BELLMON's amendment (No. 943) was rejected.

Mr. CURTIS. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. LONG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. THURMOND. Mr. President, I ask unanimous consent that Hargrave McElroy, of my staff, be accorded the privilege of the floor during consideration and votes on the bill before the Senate and any amendments thereto.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRIFFIN. Mr. President, I make a similar request with respect to Jerry Rosen of my staff.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 944

Mr. ALLEN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Alabama (Mr. ALLEN) proposes an unprinted amendment numbered 944.

At the end of the bill add the following new section:

Mr. ALLEN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

SEC. . That (a) chapter 25 of the Internal Revenue Code of 1954 (relating to the general provisions for employment taxes) is

amended by adding at the end thereof the following new section:

"SEC. 3506. INDIVIDUALS PROVIDING COMPANION SITTING PLACEMENT SERVICES.

"(a) IN GENERAL.—A person engaged in trade or business of putting sitters in touch with individuals who wish to employ them shall not be treated, for purposes of this chapter, as the employer of such sitters (and such sitters shall not be treated as employees of such person) if such person does not pay or receive the salary or wages of the sitters and is compensated by the sitters or the persons who employ them on a fee basis.

"(b) DEFINITIONS.—For purposes of this section, the term 'sitters' means individuals who furnish personal attendance, companionship, or household care services to children or to individuals who are elderly or disabled.

"(c) REGULATIONS.—The Secretary or his delegate shall prescribe such regulations as may be necessary to carry out the purpose of this section.".

(b) The table of sections for such chapter is amended by adding at the end thereof the following new item:

"Sec. 3506. Individuals providing companion sitting placement services."

(c) This section shall be applicable as to tax years commencing after December 31, 1974.

The PRESIDING OFFICER. Will the Senator suspend for just a moment until we obtain order in the Chamber?

Will Members please take their seats and withdraw from the aisles?

The Senator from Alabama.

Mr. ALLEN. Mr. President, this amendment has been passed by the Senate before, but at the time that it was passed there was some objection raised by the joint committee. Since that time Dr. Woodworth, of the Treasury, has agreed to accept the amendment on behalf of the Treasury Department, and I have talked to the distinguished manager of the bill and the ranking minority member.

What it does is to provide that babysitter placement services shall not be treated as the employer of babysitters and other companion sitters who perform services for someone else and are paid by the parties for whom they work and the service does not receive the money in any way.

It just would hold that they are not employees of the placement service.

As I say, the amendment has passed the Senate before and, so far as I know, there is no objection to the amendment. I hope it might be approved.

Mr. LONG. Mr. President, I have no objection to the amendment. I have discussed it with Mr. CURTIS, the ranking member of the Finance Committee, and he has no objection to it. I know of no objection to the amendment, and I would be prepared to accept it.

COMPANION SITTER AMENDMENT

Mr. ALLEN. Mr. President, I am introducing today an amendment which is similar to an amendment adopted by the Senate last year during consideration of H.R. 10612, the Tax Reform Act of 1976. The amendment is designed to permit employment agencies placing campanion sitters to be exempt from the Internal Revenue Code requirements imposed on employers in regard to FICA—social security—and FUTA—unemployment—taxes. Also it would exempt such agencies from the requirement of withholding Federal income taxes on income earned by companion sitters inasmuch as the agencies involved are not the source of the wages paid and are not the taxpayer's employer.

This proposed legislation is made necessary by Revenue Ruling 74–414, which defines a companion sitter agency as an employer within the meaning of the employment tax regulations. In my judgment, the ruling was ill advised, because in practical effect it would drive out of business many agencies performing a valuable public service and because it fails to acknowledge the fact that sitter agencies are not employers, but are rather agents acting either for the sitter or the party employing the sitter. The effect of the ruling has been to drive companion sitter agencies out of business or to bring them to the brink of bankruptcy.

Typically, a companion sitter agency will work from a list of names and phone numbers of persons willing to act as sitters. When contacted by an individual desiring a sitter, the agency will check from its list and put a sitter in touch with the person needing those services. Obviously, if a sitter agency is required to act as an employer for tax purposes of some 50 to 100 employees, then the administrative and financial burden is overwhelming. Unless Congress acts, in effect, virtually all such owner-operated agencies will fail and only those with substantial financial resources will be able to remain in business—with corresponding costs to the public in increased sitter fees to cover administrative overhead.

Although the companion sitter amendment adopted last year was dropped in conference with the House of Representatives, the conference agreement noted the seriousness of the problem and urged the Internal Revenue Service to withdraw Revenue Ruling 74–414. Yet, Mr. President, the IRS has not withdrawn the revenue ruling involved and, in fact, is pursuing vigorously many of these small sitter placement services and is demanding from them payment of the various taxes associated with their alleged status as employers.

From time to time, I have been advised that the IRS is reconsidering its position with respect to Revenue Ruling 74–414, and on the basis of such advice, I did not call up the companion sitter amendment I introduced on April 26, 1977, when the Senate was considering the tax bill, H.R. 3477. Yet, in spite of these assurances, I have continued to receive reports of IRS harassment of small sitter agencies, and it should now be obvious, Mr. President, that we were mistaken in our belief that the IRS would react favorably to the guidance set forth in the conference report on the Tax Reform Act of 1976. Apparently, the guidance and the desire of Congress expressed formally in a conference report are not going to be sufficient to get appropriate action. The matter is going to have to be nailed down and made crystal clear before the agents of the Service will relent. The IRS has never been noted for its flexibility, and I reckon this is going to be one more example of Congress being required to resolve fully, by statute, a problem which should never have existed in the first instance.

My hope, Mr. President, is that the Senate will again see the wisdom of adopting the measure I have proposed and that our efforts in this case will not again go down the drain as a result of a desire to accommodate the sensibilities of the one agency of the Federal Government whose attention is difficult to get except with a club.

The PRESIDING OFFICER. Is all remaining time yielded back?

Mr. ALLEN. Mr. President, I ask unanimous consent that an excerpt from the conference report of last year be printed in the RECORD.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

EXCLUSION OF CERTAIN COMPANION SITTING PLACEMENT SERVICES FROM EMPLOYMENT TAX REQUIREMENTS

House bill.—No provision.

Senate amendment.—Under present law, certain tax payment and reporting requirements are placed upon employers in regard to F.I.C.A. (social security) and F.U.T.A. (unemployment) taxes and withholding at the source on wages. The Senate amendment excepts companion sitter placement services from the definition of "employer" for purposes of Federal employment taxes if the service does not pay or receive the salary or wages of the sitters and is compensated by the sitters or the persons who employ them on a fee basis. The provision applies to taxable years beginning after 1975.

Conference agreement.—The conference agreement omits this provision. The conferees note that the Joint Committee staff is studying for the Senate Finance Committee the overall definitions of "independent contractor" and "employee" for Federal tax purposes. This subject will be included in the study. The conferees urge that the Service withdraw its Revenue Ruling 74–414 on babysitting placement services.

Mr. ALLEN. I yield back the remainder of my time.

Mr. LONG. I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the amendment of the Senator from Alabama.

The amendment was agreed to.

Mr. ALLEN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. LONG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, it is my understanding that the only amendment that remains is the amendment by Mr. BROOKE. Mr. MOYNIHAN will not be back on the floor until 4 p.m. today, and I am told he has an interest in that amendment. I have discussed the amendment with the distinguished manager of the bill and the advisability of the Senate's recessing until 4 o'clock, and it seems agreeable.

Therefore, if no Senator wishes to secure the floor at this time, I ask unani-

mous consent that the Senate stand in recess——

Mr. MAGNUSON. Mr. President, if the Senator will yield for a unanimous-consent request——

Mr. ROBERT C. BYRD. I yield.

REAPPOINTMENT OF JACK VALENTI AS PRESIDENT AND CHIEF EXECUTIVE OFFICER OF THE MOTION PICTURE ASSOCIATION OF AMERICA

Mr. MAGNUSON. Mr. President, I was delighted to learn that Mr. Jack Valenti will continue for another 7 years in his position as president and chief executive officer of the Motion Picture Association of America. I know that many of my colleagues recall, as I do, the excellent job that Jack did during his years as Special Assistant to President Johnson. Likewise, I am sure that those who have followed Jack's career with the Motion Picture Association feel, as I do, that he has not only been an excellent representative of that organization but that he has also always borne in mind the special responsibility which the motion picture industry has to the public. I congratulate Jack on his reappointment and do so with every confidence that he will continue to forcefully remind the industry of that special responsibility.

ORDER THAT H.R. 9090 BE HELD AT THE DESK

Mr. TALMADGE. Mr. President, will the distinguished majority leader yield?

Mr. ROBERT C. BYRD. I yield.

Mr. TALMADGE. Mr. President, the House will send over an emergency bill, H.R. 9090. I have discussed it with the distinguished ranking minority member of the Committee on Agriculture and Forestry. It is emergency legislation of importance affecting disaster relief and drought in the agricultural area.

I ask unanimous consent that the bill be held at the desk when it comes over.

The PRESIDING OFFICER (Mr. DECONCINI). Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Will the Senator say when he expects it?

Mr. TALMADGE. I understand the House will act on the bill today, and rather than transmitting it to the Committee on Agriculture and Forestry, it is an emergency matter, and both the ranking minority member and I agree that we ought to send it to the floor of the Senate at the earliest possible moment.

Mr. ROBERT C. BYRD. Could that even be this afternoon following the disposition of the present matter?

Mr. TALMADGE. As soon as it comes it is agreeable so far as the Senator from Georgia is concerned.

The PRESIDING OFFICER. Without objection, H.R. 9090 will be held at the desk.

LABOR–HEW APPROPRIATIONS, 1978

Mr. MAGNUSON. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 7555.

The PRESIDING OFFICER (Mr. DECONCINI) laid before the Senate a message from the House of Representatives announcing its disagreement to the amendment of the Senate to the amendment of the House to the amendment of the Senate numbered 82 to the bill (H.R. 7555) making appropriations for the Departments of Labor, and Health, Education, and Welfare, and related agencies, for the fiscal year ending September 30, 1978, and for other purposes and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. MAGNUSON. I move that the Senate insist upon its amendment and agree to the request of the House for a conference on the disagreeing votes of the two Houses thereon, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the presiding officer appointed Mr. MAGNUSON, Mr. PROXMIRE, Mr. HOLLINGS, Mr. EAGLETON, Mr. BAYH, Mr. CHILES, Mr. BURDICK, Mr. INOUYE, Mr. MCCLELLAN, Mr. BROOKE, Mr. CASE, Mr. SCHWEIKER, Mr. MATHIAS, and Mr. YOUNG conferees on the part of the Senate.

Mr. MAGNUSON. I thank the Chair.

SOCIAL SECURITY SERVICES

The Senate continued with the consideration of H.R. 3387.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate resumes its consideration of the pending bill at 4 p.m. today Mr. BROOKE be recognized to call up his amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 4 P.M.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess until the hour of 4 p.m. today.

There being no objection, the Senate, at 3:04 p.m., recessed until 4 p.m.; whereupon the Senate reassembled when called to order by the Acting President pro tempore (Mr. MATSUNAGA).

Mr. LONG. Mr. President, I ask unanimous consent that I might suggest the absence of a quorum without the time being counted against either side.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. LONG. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATOR MOYNIHAN, SENATOR SCHWEIKER, SENATOR FORD, AND SENATOR GLENN ON WEDNESDAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on Wednesday, after the two leaders or their designees have been recognized under the standing order, the following Senators be recognized, each for not to exceed 15 minutes and in whatever order suits their convenience: Messrs. MOYNIHAN, SCHWEIKER, FORD, and GLENN.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

SOCIAL SECURITY SERVICES

The Senate continued with the consideration of H.R. 3387.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum. I ask unanimous consent that the time be charged equally against both sides on the bill.

Mr. CANNON. Will the Senator withhold that?

Mr. ROBERT C. BYRD. Mr. President, I withhold it.

Mr. CANNON. Mr. President, I ask unanimous consent that Messrs. John Kirtland, Doug Buttrey, and Bob Ginther be granted the privileges of the floor during the consideration of the pending bill.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that Mr. Chuck Finn and Mr. George Kuhn be granted the privileges of the floor during the debate on this bill and on the one to follow.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum with the time to be charged equally on both sides of the bill.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. JAVITS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. JAVITS. Mr. President, I ask unanimous consent that the unanimous-consent agreement which gives me 2 hours on an amendment may be transferred to Senator BROOKE. May I, before the question is put, explain the reason?

He is the principal sponsor. I am a cosponsor of the pending amendment. Somehow or other, it was in my name that this stipulation was made. I should like to correct that.

The ACTING PRESIDENT pro tempore. Is there objection? Without objection, it is so ordered.

Mr. JAVITS. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. On whose time?

Mr. JAVITS. I ask unanimous consent that it be not charged to either side.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. BROOKE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

UP AMENDMENT NO. 945

benefit checks for utility services or living

(Purpose: To delete provision allowing joint accommodations.)

Mr. BROOKE. Mr. President, I send an unprinted amendment to the desk and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Massachusetts (Mr. BROOKE), for himself and Messrs. BELLMON, HATHAWAY, HOLLINGS, JAVITS, METZENBAUM, SPARKMAN, RIBICOFF, PROXMIRE, RIEGLE, DOMENICI, HATFIELD, and HEINZ, proposes an unprinted amendment numbered 945.

Mr. BROOKE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

Strike out the matter beginning on page 5, line 9, through the end of line 9 on page 6.

On page 6, line 10, strike out "(4)" and insert in lieu thereof "(3)".

On page 6, strike out the matter beginning with "; except that" on line 13 through the end of line 16 and insert in lieu thereof a period.

Mr. BROOKE. Mr. President, I offer the amendment to H.R. 3387 on behalf of myself, Senators BELLMON, HATHAWAY, HOLLINGS, JAVITS, METZENBAUM, RIEGLE, PROXMIRE, DOMENICI, SPARKMAN, HATFIELD, HEINZ, and RIBICOFF.

Our amendment strikes the authorization for State welfare departments to make unlimited so-called "voluntary" two-party checks to AFDC recipients and landlords or utility companies for up to 50 percent of the recipient's total AFDC payment. We propose this amendment because we believe Congress should not address such an important issue in a bill such as H.R. 3387. For the primary purpose of H.R. 3387 is simply to extend for 4 months a number of Social Security Act provisions which expire September 30. But this sweeping provision would threaten the rights of AFDC recipients and create a type of housing policy of doubtful effectiveness and desirability.

In authorizing "voluntary" two-party checks by AFDC recipients, we would place them in a position where they can be coerced by the welfare officials who control their income, and by the landlords who control their housing. All landlords under the existing bill could simply demand that an AFDC recipient authorize such two-party payments before the landlord would agree to rent to such a tenant. And there would be no effective way of preventing such coercion.

For AFDC recipients may be the least likely in our society to understand their right that their consent be "voluntary." The so-called "voluntary" sterilization of teenage girls on welfare only a few years ago proves the dangerous potential of placing welfare recipients in a position where they can be coerced—however well meaning the intent.

Although a welfare recipient could cancel his or her "voluntary" authorization of two-party checks, it could take considerable time for the cancellation to wind its way through the well-known welfare bureaucracy and case backlog. And until the cancellation actually took effect the recipient's check would continue to be under the control of his existing landlord.

For although the two-party checks require the AFDC recipient's signature, it also requires that of the landlord or utility company. Thus a large portion of the AFDC recipient's income would not be at his or her disposal should it be necessary or desirable to move to better or less expensive housing.

In addition to the threat of coercion, the system of "voluntary" two-party checks lacks other effective safeguards for AFDC recipients. Although these checks in practice establish a type of housing subsidy, there are no tenant protections or safeguards in the bill which have been fundamental to our housing subsidy programs. These include requirements that landlords provide housing that meets health, safety, and housing code standards.

Under this bill as it now stands, tenants might even lose existing remedies allowing them to make necessary repairs and to deduct the cost of repair from their rent to insure compliance with the minimum code standards. And there is no reason to believe that such a program would provide an inducement to landlords to maintain or manage their buildings, or to improve the substandard housing in which many welfare recipients now live.

Thus, the so-called "voluntary" two-party checks could actually encourage or perpetuate overpriced, substandard housing for persons of low income. As the ranking minority member of the Senate Subcommittee on Housing, I can assure you that there are more effective ways of answering the needs for low-income housing which safeguard the rights of the low-income family and do not present the potential dangers of the existing bill.

The argument has been made that we should disregard all these strong objections to unlimited "voluntary" payments because their use might encourage landlords to rent to low-income recipients who are financial risks. But they ignore the fact that we are specifically leaving in the bill the provision that a State itself, not the recipient, could initiate two-party checks for approximately 20 percent of its AFDC recipients. This doubles the existing allowance of 10 percent and should be at least sufficient to assure prompt payment to landlords and utilities by those AFDC recipients who do mismanage their funds and are financial risks to their landlords and utilities.

Our amendment also leaves in the bill the "forgiveness" provision for States who have exceeded the 10-percent limitation in the past.

Another strong argument against the authorization of unlimited "voluntary" two-party checks is the adamant opposition to the institution of this practice by the National Council of State Public Welfare Administrators. Surely they better than anyone know whether this provision is really needed in the administration of our welfare programs. And surely they know better than anyone that this provision would cause more problems than it solves. Indeed, one need only realize the administrative chaos in welfare departments which could result from large numbers of recipients requesting State agencies to issue two-party checks in amounts which changed from month to month as they would in the case of utility payments. While an AFDC recipient could protect his or her rights by canceling the agreement for a two-party check, this too would create administrative chaos. For welfare departments would have to cope not only with the AFDC recipient's original authorization of two-party checks, but subsequent cancellations and reauthorizations. Do we really wish to further complicate the administration of our welfare programs when those programs already so clearly are in need of simplification and reform?

But above all, without our amendment, H.R. 3387 would violate a principle established at the time AFDC was enacted by the Congress. This principle explicitly rejected past practices under which welfare agencies paid many recipients' bills directly to vendors. Instead Congress stated that families dependent on society should not be penalized for their poverty by being deprived of the responsibility and dignity that comes from controlling how their resources, however meager, should be spent.

Our amendment would simply reaffirm this basic principle while, with due process, making provision for those AFDC recipients who actually are a financial risk to their landlords and utility companies.

I ask my colleagues to support our amendment and conclude by listing some of those groups which join us in opposing the unlimited so-called voluntary two-party checks by AFDC recipients. Included are:

American Friends Service Committee;

National Conference of Catholic Charities;

AFL–CIO;

National Urban League;

League of Women Voters;

American Public Welfare Association;

National Council of State Public Welfare Administrators;

Center on Social Welfare Policy and Law;

Consumer Federation of America;

Welfare rights organizations from Michigan, Wisconsin, Pennsylvania, California, New York, and Massachusetts.

And, up until a few moments ago, the Department of Health, Education, and Welfare, as well.

Mr. PROXMIRE. Mr. President, will the Senator yield.

Mr. BROOKE. I am happy to.

Mr. PROXMIRE. Mr. President, I warmly and strongly support the distinguished Senator from Massachusetts and I am delighted to rise as a cosponsor of the Brooke amendment.

I think it is shocking that the Congress might go ahead and authorize a program which would permit 100 percent of the AFDC recipient's total welfare payment to be paid in two-party checks. That section of H.R. 3387 would

authorize local welfare departments to draw, without limitation, two-party checks to the order of recipients of cash assistance under the aid to families with dependent children (AFDC) program and landlords and utility companies in an amount up to 50 percent of the AFDC recipient's total welfare payment.

It should first be noted that the AFDC program is the largest of the public cash assistance programs. In 1976, an average of 3.5 million families received monthly AFDC payments, involving a cost to the Federal Government of more than $5.2 billion. As a general rule, aid must be provided in the form of unrestricted money payments to the family. This means that the State welfare agency cannot tell the family how much it should spend on food, how much it should spend on shelter, and so forth. This also means that families retain the freedom, in the case of housing, to demand, in exchange for their rental payments, decent, safe, and sanitary housing.

It is the one area in housing where it is particularly important that the tenant, who is usually poor and at a disadvantage when dealing with a landlord in every way—psychologically, educationally, and financially—be given some opportunity to have some leverage.

Mr. President, as chairman of the Banking, Housing, and Urban Affairs Committee, I have felt very strongly that Federal housing programs should pursue a policy of insuring that there is an adequate supply of such housing at prices which are within the financial means of low-income families. This concern, moreover, is shared by Senator BROOKE, the distinguished ranking minority member of the committee. I really feel that the landlord/vendor payment provision in H.R. 3387 would undermine that objective.

It is significant that there are no legislative standards in H.R. 3387 to assure that landlords who benefit from the vendor payments would be required to certify that housing provided to tenants receiving AFDC payments be safe and sanitary. This defect in this legislation is fundamental and distinguishes it from the requirements insisted on by Congress for all Federal housing programs of the Department of Housing and Urban Development, the Veterans' Administration, and the Farmers Home Administration.

The families which receive AFDC payments are all poor. As I say, many, perhaps most, live in egregiously poor housing. Their only real leverage over landlords who refuse to make repairs or to provide safe and sound housing units is to withhold rent from such landlords or to use part of their payments to make the repairs themselves. The landlord/vendor payments authorized by section 3(a)(3)(A) would remove this leverage and could intensify the extent to which most of the more than 3.5 million AFDC families suffer from overpriced and substandard housing.

Mr. President, the landlord/vendor provision of this bill requires the most careful scrutiny. Such payments represent a kind of "housing voucher" program which threatens to compete with—and in some inner city areas of the country, replace—present HUD low-income housing programs. At a minimum, legislation with such potentially far-reaching consequences deserves full and open examination, especially by the relevant housing authorization committees of Congress.

So I strongly urge my colleagues to support the Brooke amendment, and I hope it will be adopted.

I thank the distinguished Senator from Massachusetts.

Mr. BROOKE. Mr. President, I thank my distinguished colleague.

I think it is very important and significant that the distinguished chairman of the Banking, Housing, and Urban Affairs Committee has spoken out for this amendment and against what is contained in this committee bill.

Actually, it is a matter which should be under the jurisdiction of the Housing Subcommittee anyway. It is a housing matter. It is purely and simply a housing matter and has no place on this bill; and I am very, very grateful to my distinguished chairman for making such a strong and forceful statement in support of this amendment.

Mr. President, I yield to the distinguished Senator from New York, a cosponsor of this amendment.

The ACTING PRESIDENT pro tempore. How much time?

Mr. JAVITS. Two minutes, or three minutes.

The ACTING PRESIDENT pro tempore. The Senator from New York is recognized for 2 minutes.

Mr. JAVITS. Mr. President, I support this amendment, and I must say that, as I have explained to my own colleague from New York, who takes the other point of view, I understand perfectly the closeness of the question, and he himself has put it very accurately. I do not know that he has yet debated it. But he has put it very accurately in saying there are two sets of values which are here involved. The one set of values is that on the whole the poor are honest, on the whole, and also that we are trying to give them a certain quotient of dignity in the control of their own resources. Especially is this true, as we learn, because people slip in and out of this poverty category, and that is not necessarily a life sentence. Of course, it is this very syndrome, which I myself have given so much to in my work on the Human Resources Committee as an example in the legal services program which has as its objective the very same point. So I am ambivalent about it myself, but I have come down on this side of the amendment which Senator BROOKE has given us and for this reason.

I shall take the worst case theory. I found it extremely interesting—I do not know whether this has been referred to, but it probably has—to read a piece about the South Bronx in which I have been very heavily involved since 1968 myself, because I thought to there duplicate the experience of Robert Kennedy's brilliant initiative in Bedford-Stuyvesant in Brooklyn—and this is in the Bronx—in which I joined when he first started it, because the Bronx was even further gone than Bedford-Stuyvesant. In the course of that work I found an enormous amount of resource in the development of cooperatives, et cetera. So I read with unique interest a story dated October 14 in the New York Times about a landlord's view of the deterioration of the South Bronx and the fact that he attributed it very importantly to the fact that a good many of these welfare tenants did not pay their rent, and this to me a critically important point.

Has this been printed in the RECORD yet?

Mr. MOYNIHAN. It will.

Mr. JAVITS. Mr. President, I ask unanimous consent that this article entitled "A South Bronx Landlord Says Poverty Is Not To Blame for Blight" be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times Oct. 14 1977]

A SOUTH BRONX LANDLORD SAYS POVERTY IS NOT TO BLAME FOR BLIGHT

(By Alan S. Oser)

Without the fanfare of a Presidential tour, a long-experienced owner and manager of Bronx apartment houses drove a visitor through the South Bronx this week and branded the task of resurrection in the most blighted neighborhoods all but hopeless.

The only hope he said, is to focus on occupied housing in still-functioning neighborhoods. The essential first step, he declared, is to reform the rent-payment system for welfare tenants.

Just yesterday, President Carter at his news conference reaffirmed the importance of his visit to the South Bronx on Oct. 5 as a way of demonstrating to the American people his concern with urban problems. He spoke of the need to concentrate more of the existing rehabilitation money in blighted areas, urban and rural.

But the Bronx apartment-house owner and manager, Eli Cooper, contended that no past government spending effort had succeeded in restraining the march of property abandonment, destruction, depopulation and ultimate demolition.

AN OWNER'S VIEW

"I no longer accept the idea that poverty is the cause," he said. "Declining population, yes. That started with Co-op City and the Mitchell-Lama program." Racial change and the rise of an unskilled lower-income population as job opportunities fall are fundamental contributors, he said.

The size of the buildings and the density of residential concentration makes the abandonment phenomenon more devastating in the Bronx than in other low-income urban communities, housing specialists believe.

Branching well beyond the President's route, Mr. Cooper sought to demonstrate that blight and the start of abandonment was spreading into the West Bronx to still heavily populated neighborhoods. Occasional examples of government-aided restoration looked pathetic in the total context.

Mr. Cooper is the 58-year-old head of Cooper Realty, and one of the few remaining on-the-scene owners and managers of South Bronx properties.

A tenacious man with an emotional stake as well as an economic interest in buildings he has nurtured for 20 years or more, Mr. Cooper insists he is still an optimist about the salvation of hundreds of buildings not yet abandoned.

Even granting the fundamental facts of economic decline and population loss, he said, the housing that remains can still attract sufficient occupancy at affordable rents to be habitably sustained.

Mr. Cooper owns and manages a stock of 700 apartments in 19 buildings, all but two of them south of Fordham Road in the Bronx. The two others are in Queens.

Only this year did he "abandon" a building for the first time, he said. It was on Fox Street, where fires in adjacent buildings frightened out his tenants. "The building abandoned me," he said.

To prove that the cycle of abandonment, destruction, depopulation and ultimate demolition is already in progress well beyond the devastated neighborhoods visited by President Carter, he drove a visitor through the West Bronx. The tour included such housing-packed streets as University Avenue, Nelson Avenue, Woodycrest Avenue and Macombs Road.

In Mr. Cooper's view, it is possible to own and manage this stock profitably even with a vacancy rate of 5 percent, provided rent collections are continuous and assured.

The heart of the rent-collection problem—with more serious impact in the Bronx than anywhere else in the city, past studies suggest—is the Department of Social Service's practice of lump-sum payments to welfare clients. They, in turn, are supposed to pay their rent and all other bills.

Enough of the rent money fails to find its way into the housing stock to precipitate housing abandonment on a serious scale, according to Mr. Cooper and many other housing managers.

In practice, according to Mr. Cooper and others, an institutionalized structure has been established that makes it easy for welfare tenants to avoid rent payments entirely, if they choose to. Supposedly, landlords can obtain two-party checks from the Department of Social Services for nonpaying tenants.

But under present law these checks cannot exceed 10 percent of the caseload. Even if these checks are obtained, many tenants cash them with countersignatures other than their landlord's.

There is no system to assure that rent money is used for rent.

Exacerbating the situation in the Bronx from the housing standpoint is the improved legal services for tenants available in housing court.

The hard-pressed or unscrupulous tenant, defended by federally financed legal services, can avoid adjudication for months as rent bills pile up, usually by claiming uncorrected housing violations or utilizing procedures of delay. Finally, he may move or be evicted, owing months of rent.

Mr. Cooper estimated that 7 percent of the welfare tenancy in the Bronx was not paying rent. "Two years ago it was 3 percent," he said. "Next year it will be 10 percent."

Even a small number of tenants not paying rent is enough to force the building into abandonment, housing experts say.

The typical 40-family walk-up building in the South Bronx requires an annual rent roll of about $80,000 to be sustained. Mr. Cooper calculated that even with 5 percent vacancy rate, such a building in still-sound neighborhoods can be operated profitably if there are full rent collections.

But even one tenant avoiding six months of rent payments in a $150-a-month apartment deprives the building of $900 in rent money.

The Department of Social Services has 101,000 welfare cases in the Bronx, most of them concentrated in the area South of Fordham Road. The average rent, citywide, of a welfare client is $142 a month. A spokesman for the department said there was no way to determine what portion of the money allowed for rent is actually paid as rent.

In the Bronx, the welfare departments payments to clients for rent amount to $14.4 million a month.

VIEWS ON POVERTY

On the broader issues, Mr. Cooper said he no longer accepted the notion that poverty itself is a significant contributor to housing losses. "This housing can be provided at a rent that even poverty people can pay," he said.

But if the bank has lost its mortgage, if the owner has lost his equity investment and there is no other stake in the building than that of the tenants themselves who are depending on it for shelter, "there is no way that this complicated multifamily building can be maintained," he said.

The housing stock in the Bronx consists of innumerable buildings that went up between 1920 and 1940. These buildings could provide housing for another hundred years, in Mr. Cooper's view, if they are properly maintained and not "cannibalized."

From a structural standpoint, they are superior to many buildings going up today, he said. "There are full plaster walls, complete ceramic-tile bathrooms, high ceilings." The workmanship cannot be duplicated.

"But we can't provide palaces. What the tenant will get is heat and hot water, repairs of the walls and ceilings and tiles. What we can't assure is clean halls and protection against burglaries.

In elevator buildings, we can't assure protection against breakdowns. I won't even own an elevator building. The maintenance problem is enormous—as soon as you fix it, it's broken."

Mr. JAVITS. Mr. Cooper, the landlord in question is quoted as follows. This is from the article.

Mr. Cooper estimated that 7 percent of the welfare tenancy in the Bronx was not paying rent.

The ACTING PRESIDENT pro tempore. The Senator's 2 minutes have expired.

Mr. JAVITS. I ask that I be yielded 2 additional minutes.

Mr. BROOKE. I yield the Senator 2 additional minutes.

The ACTING PRESIDENT pro tempore. The Senator is recognized for 2 additional minutes.

Mr. JAVITS. I thank my colleague.

Then the landlord is quoted by saying:

"Two years ago it was 3 percent," he said. "Next year it will be 10 percent."

We are very familiar with that kind of situation here where people will lay a whole policy on their fears for the future. When I saw that figure compared to the fundamental point made by this landlord that the whole problem was attributable to the fact that welfare tenants did not pay their rent, that was a very important point to me in favor of the Brooke amendment, because if the number is that small then we need to give the other aspects of this bill an opportunity to operate.

The fact is that if we are going to give the right to two-party checks to twice as many poor as had them before, we are going from 10 to 20 percent, and it seemed to me that, in view of the marginal number with which we are here concerned, we should give that improvement, upon which there is general agreement by Senator BROOKE and those who agree with him, by myself, et cetera, to operate before we took this further step which we are taking at one and the same time really on the supposition that the doubling of the number who may now be submitted to two-party checks would not do what needs to be done.

It is for those reasons and for that finite reason, notwithstanding my deep concern about these two sets of values, Mr. President, that I am for this amendment and that I hope the Senate will support it.

I thank my colleague for yielding.

Mr. BROOKE. I thank my distinguished colleague.

The ACTING PRESIDENT pro tempore. The Senator from Massachusetts.

Mr. BROOKE. Mr. President, I thank my distinguished colleague from New York, and I know it was a very difficult decision for him because New York has had some very serious housing problems.

The present law does allow a State to place 10 percent of its AFDC recipients who mismanage their funds on two-party checks, or one-party checks made out only to the landlord. New York City has chosen to use two-party checks, except when two-party checks fail, to offer some protection to AFDC tenants against unreliable landlords in low-income housing areas, although one-party checks would be more effective if one's sole interests were to assure that landlords be protected against financially irresponsible tenants. New York City did exceed the 10-percent limitation in 1975 when it had about 25 percent of its AFDC recipients on State-initiated two-party checks.

The reason for this figure in New York City is not clear. Financial mismanagement by recipients was determined by caseworkers working only on very general guidelines, and the records are insufficient to prove what percentage of the 25 percent should actually have been on a two-party check.

Many tenants withheld their checks or their rent for good and for legal cause, and all agree that the welfare department had grossly inadequate review of the cases put on two-party checks. Among other deficiencies of the review was the infrequency of examination to see what recipients should be taken off restricted payments.

When HEW invoked the 10-percent limitation, New York City reduced its restricted payments to that figure by restricting payments for only those tenant cases facing eviction.

A landlord can go into court for eviction immediately upon nonpayment of rent. The problem is that the courts in New York were clogged—still are clogged, I take it—and cases involving tenants were and are dragged out.

However, it does not seem wise to me—and I think the distinguished senior Senator from New York will agree—to enact sweeping national legislation of very dubious effectiveness to try to make up for some shortcomings of New York City's administration of its welfare program and its court system. I think that by doubling the figure from 10 to 20 percent the percentage of AFDC cases which a State can place on two-party or even one-party checks, we will adequately take care of all the cases about which the distinguished junior Senator from New York is concerned. I am as-

sured by the New York City welfare administration that 20 percent should adequately take care of the problems which it has with financially irresponsible AFDC tenants.

I know Senator MOYNIHAN has some very real concerns, as does the distinguished senior Senator from New York, about the problems of New York, and we all do. But we are here to make a national policy for the entire country, and nowhere in the country do we find a need for State-initialed two-party or one-party checks even approaching 20 percent except in New York City.

There was an agreement to increase from 10 to 20 percent, the allowance of State-initiated restricted payments in order to take care of the New York situation. But it would be unjustified and unconscionable to add to the 20 percent, the authorization of unlimited voluntary two-party check. And I put "voluntary" in quotation marks, because the tenant's agreement certainly would not be voluntary. If I were a landlord and someone came to me to rent my tenement and I wanted to let them have that tenement, I could very easily, and possibly would very easily, say to them, "All right, if you'll enter into a contract for a two-party check." That would assure me of the Federal Government and the State government stepping in to see that I was paid.

But the poor tenant is going to be at the landlord's mercy, because if he or she does not enter into this contract, they will not get the tenement at all. Therefore, we are creating a difficult situation for AFDC recipients.

I am pleased that the distinguished senior Senator from New York has seen fit, weighing this whole issue on balance, to cosponsor this amendment.

Mr. President, I reserve the remainder of my time.

Mr. MOYNIHAN. I yield myself such time as I may require.

Mr. President, I rise in pain and difficulty to join this debate, and I should like that to be made clear at the outset. But I also should like to make clear that I rise without hesitation to defend the decisions of the Secretary of Health, Education, and Welfare, of the House of Representatives, and of the Senate Committee on Finance in this matter.

I am particularly grateful to my cherished colleague, the senior Senator from New York, and to the distinguished Senator from Massachusetts. I recognize and thank them for acknowledging that there is a conflict of rights at issue here; and in no certain sense will we be able to make an unambiguous, explicit, clear finding as to which side should prevail. Yet, it seems to me that the arguments of reason and experience make so strong the case of the Secretary of Health, Education, and Welfare, of the House of Representatives, and of the Finance Committee, after the hearings held on this measure, as to command our assent.

Before I proceed to a formal statement, I wish to make clear to the Senate one detail which has not been referred to so far, with respect to the two-party checks and the unlimited ability of welfare recipients voluntarily to enter into such agreements.

This provision would be enacted for 2 years, during which time the Secretary of Health, Education, and Welfare would be asked to make a judgment as to whether or not this responds to one of the most extraordinary phenomena of this age in America, which is the wholesale destruction and abandonment of housing in our center cities—a degree of destruction and abandonment which no Congress that I can imagine, elected in this age, will ever agree to provide the funds to replace.

The distinguished chairman of the Committee on Banking, Housing, and Urban Affairs, just a moment ago, said that he found this measure shocking. I find the South Bronx even more shocking, and I do not anticipate that any legislation coming out of that committee will replace in any way the destruction and savaging of a whole urban community which has taken place before our eyes—and before the eyes of this Nation.

How many of us watched the televising this year of the first game of the world series? At a break between innings, the television cameras of the Nation turned from the Yankee Stadium ballpark, and a commentator said, "Would you like to see yet another spectacle—the burning of the South Bronx?" They turned their cameras to the conflagration which is steadily destroying what, on its own, would be the fifth largest city in the United States.

Mr. LONG. Mr. President, will the Senator yield?

Mr. MOYNIHAN. I yield.

Mr. LONG. I was just looking at an article which the Senator made available to us, entitled "South Bronx Can Be Saved," from the Daily News of October 16 of this year. It reads:

> An average of 10 fires a day, 7,000 in two years and in 1975, and more than $20 million in insurance losses were recorded.

If the Banking Committee is able to bring about the erection of 10 new buildings a day, 7,000 in 2 years, in the South Bronx, I would say they are doing a pretty good job. That is the kind of problem we have to contend with.

Mr. JAVITS. Mr. President, will the Senator yield

Mr. MOYNIHAN. I yield.

Mr. JAVITS. Mr. President, let us not get euphoric around here. This bill and this change for which Senator MOYNIHAN contends are not going to make it or break it, nor is Senator BROOKE's amendment whether it is adopted or not.

We are talking about the South Bronx, which is bankrupt of jobs. That is what is troubling the South Bronx. It is in a city that is broke.

For 10 years, we have been trying to buy, for $10 million, the railroad yards up there in order to establish an industrial complex, and for 10 years we have not been able to raise the money.

So, while I appreciate the lineaments of this argument—which is legitimate and proper—the world is not going to fall in, no matter which side wins. Neither is the South Bronx going to be redeemed or saved from fires or restructured. It is in very, very deep trouble, and it is going to take a massive infusion of capital and of opportunities for jobs in order to make it remotely viable.

Mr. MOYNIHAN. I could not agree more with my colleague from New York.

I point out that it was the chairman of the Committee on Banking, Housing, and Urban Affairs who introduced the thought that something of enormous import was taking place here, when what is happening, in fact, is a prudent, limited experiment to go forward under the direction of the Secretary of HEW, who asks that it be done.

Mr. President, the Committee on Finance intended H.R. 3387 to be a noncontroversial measure, temporarily extending certain expiring provisions of the Social Security Act pending the enactment of H.R. 7200.

At my insistence, the committee agreed to include in H.R. 3387 a set of provisions dealing with what are known as protective and vendor payments in the program of aid to families with dependent children. All of these had previously been adopted by the House and had earlier been agreed to by the committee as part of its consideration of H.R. 7200.

I wish to be clear about the content of these provisions. They have three parts, as carefully set down in the committee report on H.R. 3387.

First, in cases where a State determines that an AFDC recipient is unable to manage his or her funds, the State is empowered to make "protective payments" on behalf of the recipient directly to a landlord, utility company, or other provider of necessary goods and services. Whereas, previously, States could make such payments for no more than 10 percent of their AFDC caseloads, the bill before us would raise that limit to 20 percent.

Second, a number of States, notably including New York, have exceeded the 10-percent limit in recent years. H.R. 3387, in effect, spares those States from the financial penalties that they might otherwise have to pay to the Federal Government. In the case of New York, those penalties could total upward of two-thirds of a billion dollars, most of it accounted for by New York City. It goes without saying that New York could not afford this, and that to require it to pay such sums at this time would go far to bankrupt it.

Third—and here, of course, is the area of disagreement—in addition to "protective payments" based on a finding of inability to manage funds, the bill would allow welfare recipients to request that as much as half of their monthly benefits be paid in the form of "two-party checks," jointly drawn to themselves and their landlord or other vendor of needed services. This provision is voluntary, would only take effect upon the written request of the recipient, could be revoked by the recipient at any time, and would, in any case, last only for 2 years, during which time the Secretary of HEW is expected to monitor and evaluate it.

The Subcommittee on Public Assistance heard testimony on these provisions during its July hearings on H.R.

7200. In particular, we listened with care to the eloquent and foreful presentations of two New York Congressmen, the Honorable CHARLES RANGEL and the Honorable JONATHAN BINGHAM. I should like at this time to quote briefly from their testimony.

Congressman RANGEL explained the actions of the House of Representatives in these words:

The Ways and Means Committee wanted to address both the problem wherein many recipients find themselves unable to rent apartments because the landlord fears that recipients will not pay their rent and the problem of continued decline in housing stocks within urban centers. These have been recurrent problems. . . . It was made clear in the Committee report and on the floor of the House that neither the local welfare agency nor the vendor could use this provision to coerce the recipient into entering a voluntary two-party check agreement. In fact the recipient may at any time after the first thirty days terminate the arrangement at will. Because of the voluntary nature of the agreement the provider of the service would have no legal recourse for the recipient's action of revocation. . . . This provision should not be considered a windfall for landlords, but rather a method by which recipients can obtain services which have been denied them illegally.

Congressman BINGHAM testified that:

Many recipients lack both the necessary tools, checking accounts, payroll deductions, etc., and the budgeting skills most of us take for granted to make the monthly grant meet all the family obligations.

Increasingly, recipients are defaulting on obligations which involve large expenditures such as rent and utilities. As a result, states are forced to make duplicate payments to avoid eviction of the tenant or the closing off of utilities, at a substantial cost to the taxpayers. Frequently, the client moves, often not paying rent or utilities that are owed several months in arrears at a considerable cost to the landlord or utility. Landlords so treated become reluctant to rent to welfare tenants, or will rent to welfare tenants only at rentals much higher than the general market.

In some cases landlords, anxious to make a fast profit and then let the building go, will deliberately load up a building with high rented welfare tenancies, squeeze out as much as they can, reduce services and finally walk away.

These and other difficulties lead a whole neighborhood into ever faster decay. In the Bronx the collection problem has contributed to a sharp decline in property values. . . . I believe it is vitally important to insure that welfare rents are used as rent. . . . We must put an end to the condition which now exists in New York, where thousands of apartments are being abandoned by their owners because of an inability to collect rent and a consequent inability to maintain the buildings. The spectre of abandonment is destroying neighborhoods in all parts of New York and threatening the very viability of the Bronx.

The committee heard also from Carmen Shang, acting commissioner of the New York State Department of Social Services, representing Governor Carey. He forcefully stated the Governor's support for "the new provision which permits States, at the request of the AFDC recipient, to issue dual payee checks for up to 50 percent of the family's monthly grant." While acknowledging the possibility of abuse, he pledged New York State "to take all necessary steps to insure that recipients are not coerced into requesting voluntary vendor payments."

As may be expected, there is an opposing view, and the subcommittee heard it articulately presented by Henry A. Freedman, the director of the Center on Social Welfare Policy and Law, an organization largely funded by the Federal Government. Mr. Freedman offered the general proposition that welfare payments should be made entirely in cash to the welfare recipients, and indicated his concern with the possibility that voluntary "two-party checks" would lead to coercion of recipients by landlords, utility companies and other suppliers of goods and services.

The Committee on Finance carefully considered both points of view. It also paid close attention to the Administration's position, as summarized in Secretary Califano's testimony of July 12:

We support the provision to remove the limit on AFDC vendor payments to providers of utility and housing services voluntarily authorized by the AFDC recipient. While the current limitations on vendor payments were put into law to protect recipients from coercion and to allow the freedom to manage their own financial affairs, it is our belief the current system denies financial management options to welfare clients available to others in our society.

The amendment being offered today addresses only the last of the three provisions I mentioned above, that pertaining to voluntary "two-party checks." It would strike that authority from the bill. The proponents of the amendment assert that the provision they object to "could result both in coercion of recipients to agree to such payments, and in serious administrative problems for States and local governments which administer AFDC." Listed as agreeing with this amendment are nine named organizations, "welfare rights organizations" in six States, and the Department of Health, Education, and Welfare.

I would pause a moment on the last of these, for it does seem to me that if the administration's views are being accurately reflected, then one must ask why those views have changed since July. In truth, I do not know the answer, but would hypothesize that the permanent government's well-known capacity for undercutting administration policy is once again in evidence.

My own view in this matter has been shaped primarily by the persuasive arguments of Congressmen RANGEL and BINGHAM, by the cogent testimony of New York State officials, by the insights offered me by New York State Assemblyman Oliver Koppell, and by my own observation of the devastation that has befallen large sections of New York City as landlords, unable to collect rent from welfare recipients inhabiting their dwellings, have simply abandoned the buildings.

I have placed on every Senator's desk a copy of the front page photograph from the New York Times of October 6, showing President Carter standing amid the ruins of the south Bronx. No bomber could have wrought more complete destruction than that surrounding the President.

The experience of the south Bronx is something we have not previously had to reckon with, quite simply because it has never happened before. In the history of urban settlement, I do not suppose there has ever been a phenomenon such as the destruction of the south Bronx over the past decade. Never. Nowhere on earth. In history, places aplenty have been destroyed by conquerors, and more places abandoned than we tend to recall, but never has an urban settlement been so destroyed by people still living there.

The proposal to permit the issuance of "two-party checks" at the request of a welfare recipient may seem a limited remedy for so severe an urban malady. And so it is. I would not claim that a minor modification to the Social Security Act will restore the south Bronx or other areas like it. But it would help to halt the deterioration. In another of the articles I have circulated today, Alan S. Oser of the New York Times states that:

The heart of the rent-collection problem—with more serious impact in the Bronx than anywhere else in the city, past studies suggest—is the Department of Social Service's practice of lump-sum payments to welfare clients. . . . Enough of the money fails to find its way into the housing stock to precipitate housing abandonment on a serious scale. . . . In practice . . . an institutionalized structure has been established that makes it easy for welfare tenants to avoid rent payments entirely, if they choose to. . . . The hard-pressed or unscrupulous tenant, defended by federally financed legal services, can avoid adjudication for months as rent bills pile up. . . .

In view of this grave situation, and in view of the assurances from knowledgeable persons that H.R. 3387, as reported by the Committee on Finance, would alleviate it, it seems to me that those who oppose the measure have a responsibility to address themselves to more than the abstract issue of entitlement. I recognize that we face a conflict of rights in the present instance, and that those proposing the deletion of voluntary two-party checks base their views on principle. But what do they have to say about the reality of the south Bronx? How do they explain it? What do they propose we do about it?

I have the utmost respect for the welfare rights and antipoverty lawyers, many of them federally supported, who have been lobbying us in opposition to two-party checks. But I am reminded of an aphorism around the criminal courts of New York: The lawyer always goes home. And I would ask of the serious and well-spoken young attorneys who believe they represent the interests of welfare recipients in this matter: Do they go home at night to the south Bronx? Or to comfortable suburbs where they live nicely on professional salaries?

I would ask the lobbyists what it is they are protecting: their own self-esteem and image, or the interests of these poor people? And to those in the administration and elsewhere who are now listed in opposition to the measure as reported to the Senate, I ask what they propose to do? Have they really gone out since July and learned more about the relationship between this bill

and the needs of people living in the south Bronx and elsewhere? Have they examined the relationship between nonpayment of rent by welfare recipients and housing abandonment? Or did some lobbyist come along and whisper to them that something illiberal is being considered in the Senate?

I believe that public assistance payments should ordinarily take the form of cash paid directly to the recipient. But I also believe in the need to safeguard the future of our urban centers and to ensure that welfare recipients will be able to find housing when they need it. In voting for the Finance Committee bill, and against the amendment being offered to that bill, I am making a difficult choice. To those who will choose differently, I leave the serious query: What is it that you propose to do about the south Bronx?

I ask unanimous consent that the three newspaper articles attached hereto be printed in the RECORD at the conclusion of these remarks.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Daily News, Oct. 16, 1977]

SOUTH BRONX CAN BE SAVED!

(By Owen Moritz)

Chicago after the fire, Frisco after the earthquake—both pale beside the South Bronx.

More than 250,000 people in this section of New York have been dislocated, more than 2,000 square blocks devastated. And each week, another four blocks fall to physical decay.

President Carter toured the area with fanfare 10 days ago, pronounced the experience "sobering," and says:

"Give me a map of the whole area, and show me what should be done."

During the World Series, ABC Television cameras pan away from Yankee Stadium and zero in on a blazing South Bronx building. Howard Cosell, instant urbanologist, pronounces it a tragedy.

The South Bronx has become the great urban landmark of the 1970s. Jimmy Carter goes there as the Pope went to Harlem 13 years ago—because it's there, because it's the worst expression of us and if it can be saved, so can the rest of society.

Can the South Bronx be turned around? Can the Bronx be saved? Yes it can—but replacing the housing alone will cost $3 billion. Are we willing to pay the price?

"Frankly, I'm worried," says Bronx Borough President Robert Abrams, "not only for the Bronx, but for all of urban America.

How bad is the South Bronx? This bad:

An average of 10 fires a day, 7,000 in two years and in 1975, more than $20 million in insurance losses were recorded.

In 12 years, 80,000 apartments have been abandoned, punched out and remanded to the rubble pile.

One walkup apartment building in three and one elevator building in five have defaulted on taxes.

In a scant 15 years, half of the borough's white population has left, largely in the southern half, and incomes have fallen behind alarmingly. If the Bronx with its 1.5 million people, were detached (it is the only part of New York City on the American mainland) it would be the nation's fifth largest city, larger than Houston or St. Louis, and the largest with a nonwhite majority.

One doesn't have to be a member of the Chamber of Commerce to point out the Bronx has many noble and marvelous neighborhoods and sights—City Island, Riverdale, Parkchester, ethnic Belmont, Yankee Stadium, the Zoo and attractive parks. Indeed, 22 percent of the borough is parkland, a remarkable proportion.

But today, an area taking in 2,000 square blocks from the southern tip to the Cross Bronx Expressway, from the Harlem River to the Bruckner Expressway, is considered far enough gone—gone meaning abandoned buildings and fire-scarred streets, with crime and instability widespread—that the talk, the only talk, is of vast redevelopment.

"Morrisania is self-destructing," a planning official was warning a couple of years ago as the decay raced north. "It is bombed out Berlin all over again." The decay has left Morrisania behind.

Ride the MTA's Disaster Bus 3 and one can almost hear the conductor call out of the once-thriving communities that have fallen by the wayside: "To your left, folks, the ruins of Mott Haven. That was Morrisania, named for the 18th-century political leader, Gouverneur Morris, who wanted the town to be capital of the United States. Over there, well that was a neighborhood we used to call Melrose . . ."

Urban experts generally agree on why the South Bronx happened. Home to a series of generations escaping Manhattan ghettoes, the area never had a chance to stabilize. There was no neighborhood structure, no sense of neighborhood comparable to that of, say Brooklyn. And while Brooklyn's Brownsville has had its abandonment, too, it was in part prompted by city urban renewal policies designed to rebuild Brownsville.

But in the Bronx as the cost of running buildings soared and the faces of the occupants changed, landlords were unable or unwilling to maintain the buildings. Deterioration set in. Suddenly the building went, the landlord departing after falling behind in taxes, the tenants staying put perhaps until the first cold snap of winter and they, too, departed. Drug addicts, vandals and arsonists move in and in time one block, then another goes.

In 1969, the opening of huge Co-Op City attracted many of the remaining white families of the South Bronx, though the elderly have remained. In 1973, the Nixon Administration froze housing subsidies, effectively sidetracking new public construction. The city's fiscal problems in 1975 meant cutbacks in services and inspections.

In a position paper issued last May Borough President Abrams and Victor Marrero, the City Planning Commission chairman, argued that the South Bronx needed 10,000 new and rehabilitated units a year for 10 years.

One problem with that is the sheer cost of it—100,000 apartment units at an average price of $30,000 each works out to a price tag of $3 billion. And then there's the cost of support services and probably subsidies to keep them within range of its lower-income tenants.

Even assuming that money out of Washington is forthcoming, and that the bureaucracy is able to crank out 10,000 new units for the South Bronx each year, there may still be problems of execution and strategy.

As the Rev. Louis Gigante, a councilman from the South Bronx, points out, there is vitality in the area that can be tapped. But politics in the South Bronx is not easy, what with the internecine warfare among Hispanic groups, the omnipotence of gangs and the evergreen Herman Badillo-Ramon Velez conflict.

Model Cities, the across-the-board urban aid program of President Johnson's Great Society, got bogged down in the South Bronx precisely because of these political cross-currents.

And what strategy? Should the land be left to lie fallow until it becomes big enough for a vast industrial park?

There is in city government today a cell of officials who believe that nature should take its course and, when the land is all vacant, an industrial center be built. The thinking is that the South Bronx has enormous industrial attractions—water transportation, a highway network and subways to bring workers.

Can the Bronx be saved? It can, though even the area's stoutest supporters admit that the cost will be on the scale of the space program, or the Marshall Plan. It will take money of that magnitude to do it. Is the nation ready?

Or, as Borough President Abrams puts it: "We are capable of saving our cities. The question is, will we?"

[From the New York Times, Oct. 14, 1977]

A SOUTH BRONX LANDLORD SAYS POVERTY IS NOT TO BLAME FOR BLIGHT

(By Alan S. Oser)

Without the fanfare of a Presidential tour, a long-experienced owner and manager of Bronx apartment houses drove a visitor through the South Bronx this week and branded the task of resurrection in the most blighted neighborhoods all but hopeless.

The only hope, he said, is to focus on occupied housing in still-functioning neighborhoods. The essential first step, he declared, is to reform the rent-payment system for welfare tenants.

Just yesterday, President Carter at his news conference reaffirmed the importance of his visit to the South Bronx on Oct. 5 as a way of demonstrating to the American people his concern with urban problems. He spoke of the need to concentrate more of the existing rehabilitation money in blighted areas, urban and rural.

But the Bronx apartment-house owner and manager, Eli Cooper, contended that no past government spending effort had succeeded in restraining the march of property abandonment, destruction, depopulation and ultimate demolition.

AN OWNER'S VIEW

"I no longer accept the idea that poverty is the cause," he said. "Declining population, yes. That started with Co-op City and the Mitchell-Lama program." Racial change and the rise of an unskilled lower-income population as job opportunities fall are fundamental contributors, he said.

The size of the buildings and the density of residential concentration makes the abandonment phenomenon more devastating in the Bronx than in other low-income urban communities, housing specialists believe.

Branching well beyond the President's route, Mr. Cooper sought to demonstrate that blight and the start of abandonment was spreading into the West Bronx into still heavily populated neighborhoods. Occasional examples of government-aided restoration looked pathetic in the total context.

Mr. Cooper is the 58-year-old head of Cooper Realty, and one of the few remaining on-the-scene owners and managers of South Bronx properties.

A tenacious man with an emotional stake as well as an economic interest in buildings he has nurtured for 20 years or more, Mr. Cooper insists he is still an optimist about the salvation of hundreds of buildings not yet abandoned.

Even granting the fundamental facts of economic decline and population loss, he said, the housing that remains can still attract sufficient occupancy at affordable rents to be habitably sustained.

Mr. Cooper owns and manages a stock of 700 apartments in 19 buildings, all but two of them south of Fordham Road in the Bronx. The two others are in Queens.

Only this year did he "abandon" a building for the first time, he said. It was on Fox Street, where fires in adjacent buildings frightened out his tenants. "The building abandoned me," he said.

To prove that the cycle of abandonment, destruction, depopulation and ultimate demolition is already in progress well beyond the devastated neighborhoods visited by President Carter, he drove a visitor through the West Bronx. The tour included such housing-packed streets as University Avenue, Nelson Avenue, Woodycrest Avenue and Macombs Road.

In Mr. Cooper's view, it is possible to own and manage this stock profitably even with a vacancy rate of 5 percent, provided rent collections are continuous and assured.

The heart of the rent-collection problem—with more serious impact in the Bronx than anywhere else in the city, past studies suggest—is the Department of Social Service's practice of lump-sum payments to welfare clients. They, in turn, are supposed to pay their rent and all other bills.

Enough of the rent money fails to find its way into the housing stock to precipitate housing abandonment on a serious scale, according to Mr. Cooper and many other housing managers.

In practice, according to Mr. Cooper and others, an institutionalized structure has been established that makes it easy for welfare tenants to avoid rent payments entirely, if they choose to. Supposedly, landlords can obtain two-party checks from the Department of Social Services for nonpaying tenants.

But under present law these checks cannot exceed 10 percent of the caseload. Even if these checks are obtained, many tenants cash them with countersignatures other than their landlord's.

There is no system to assure that rent money is used for rent.

Exacerbating the situation in the Bronx from the housing standpoint is the improved legal services for tenants available in housing court.

The hard-pressed or unscrupulous tenant defended by federally financed legal services, can avoid adjudication for months as rent bills pile up, usually by claiming uncorrected housing violations or utilizing procedures of delay. Finally, he may move or be evicted, owing months of rent.

Mr. Cooper estimated that 7 percent of the welfare tenancy in the Bronx was not paying rent. "Two years ago it was 3 percent," he said. "Next year it will be 10 percent.

Even a small number of tenants not paying rent is enough to force the building into agmoonment, housing expert say.

The typical 40-family walk-up building in the South Bronx requires an annual rent roll of about $80,000 to be sustained. Mr. Cooper calculated that even with 5 percent vacancy rate, such a building in still-sound neighborhoods can be operated profitably if there are full rent collections.

But even one tenant avoiding six months of rent payments in a $150-a-month apartment deprives the building of $900 in rent money.

The Department of Social Services has 101,000 welfare cases in the Bronx, most of them concentrated in the area South of Fordham Road. The average rent, city-wide, of a welfare client is $142 a month. A spokesman for the department said there was no way to determine what portion of the money allowed for rent is actually paid as rent.

In the Bronx, the welfare departments payments to clients for rent amount to $14.4 million a month.

VIEWS ON POVERTY

On the broader issues, Mr. Cooper said he no longer accepted the notion that poverty itself is a significant contributor to housing losses. "This housing can be provided at a rent that even poverty people can pay," he said.

But if the bank has lost its mortgage, if the owner has lost his equity investment and there is no other stake in the building than that of the tenants themselves who are depending on it for shelter, "there is no way that this complicated multifamily building can be maintained," he said.

The housing stock in the Bronx consists of innumerable buildings that went up between 1920 and 1940. These buildings could provide housing for another hundred years, in Mr. Cooper's view, if they are properly maintained and not "cannibalized."

From a structural standpoint, they are superior to many buildings going up today, he said. "There are full plaster walls, complete ceramic-tile bathrooms, high ceilings." The workmanship cannot be duplicated.

"But we can't provide palaces. What the tenant will get is heat and hot water, repairs of the walls and ceilings and tiles. What we can't assure is clean halls and protection against burglaries.

"In elevator buildings, we can't assure protection against breakdowns. I won't even own an elevator building. The maintenance problem is enormous—as soon as you fix it, it's broken."

[From the New York Times, Oct. 15, 1977]

SPENDING RENT ON HOUSING

When society gives needy people welfare allowances big enough to cover their rent, it should be able to expect that rent is what the money will be used for. But experience has shown that many welfare families, in New York and elsewhere, fail to turn their rent allowances over to their landlords. Sometimes they are threatened with eviction, sometimes government pays their rent a second time, but most often the owner simply takes in less money. That means he can't afford to keep the building from dilapidation—and, often enough, simply abandons it. Diversion of welfare rent thus hurts everyone, notably welfare recipients.

To forestall rent diversion by chronic nonpaying welfare clients, the Federal Government has long permitted a locality to issue as much as 10 percent of its welfare payments in checks payable both to the tenant and the landlord. The checks are valueless until both endorse them. This offers a measure of protection against misspending or the denial of services. But in many cities, New York included, far more than 10 percent of welfare families spend their rent money on other things. The law limits the two-party checks to 10 percent of welfare spending because it does not wish to impinge unduly on the dignity of those whom government helps. The objective recalls the hope that giving the poor money will strengthen their ability to run their lives. But the massive diversion of rent funds threatens the destruction of large parts of the remaining housing stock.

To protect against further such devastation, two New York City Representatives noted for their service to the poor, Jonathan Bingham and Charles Rangel, have urged the Senate Finance Committee to report favorably on two major changes in welfare disbursement procedures. First, they suggest that the ceiling on two-party checks be raised from 10 to 20 percent of welfare spending. Second, they have urged that there be no limit at all on the number of two-party checks issued to welfare grantees who volunteer to be paid in that form.

After an initially favorable response, the committee is now deadlocked over the question of whether voluntary participation violates the dignity of welfare recipients. Opponents of a change contend such agreement can never be truly voluntary. But we find it difficult to see any issue of principle here—only one of degree; the two-party checks already are widely used. The Finance Committee should recognize that, realistically, the broader use of such checks involves dignity much less than it involves the safety and general welfare of those who increasingly are being forced to live in decaying buildings on the way to abandonment.

Mr. MOYNIHAN. Mr. President, I wish to read into the RECORD at this point a letter I have just received from Secretary Califano who writes, after stating his approval of this measure:

As you noted in your letter of October 17, there are legitimate reasons for concern about potential abuse of this device. I agree with your feelings on this point, and I intend to promulgate regulations to preserve the voluntary character of the recipient participation. It is important, whatever legislation ultimately passes the Congress, to give me enough flexibility to take care of your concern and mine.

Mr. JAVITS. Mr. President, will my colleague yield at that point?

Mr. MOYNIHAN. With great pleasure.

Mr. JAVITS. This is a very important point whether or not this amendment is agreed to. I think we ought to have very strong legislative history by the manager of the bill that we are charging the administering agency with an affirmative responsibility to satisfy itself that the individual welfare client is not being coerced, and that the landlord has reasonably complied with safety and other standards in his building.

Now, I am too sophisticated about New York City or any other city to assume they are going to monitor every case. But if we have strong legislative history—and I hope very much that you and Senator LONG would see that that was carried over into the report—then we have got something to holler about if we run into that kind of inadequacy or slackness.

I deeply feel, and I think my colleague should feel the same way as I do, that we ought to make very strong legislative history that we are charging the administrative agency with those two responsibilities.

Mr. MOYNIHAN. I could not more agree with my colleague from New York. I see the chairman of the Committee on Finance indicates his assent.

Mr. President, I ask unanimous consent to have printed in the RECORD Secretary Califano's letter in which he states that he wishes to do just that and to have it understood that it is the intent of the Senate that this be done.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE SECRETARY OF
HEALTH, EDUCATION, AND WELFARE,
Washington, D.C.

Hon. DANIEL MOYNIHAN,
U.S. Senate,
Washington, D.C.

DEAR PAT: As I indicated in our recent conversation, I have supported and continue to support the concept of two-party checks in the AFDC program. That concept appears in H.R. 3387, as reported by the Finance Committee, and H.R. 7200, as passed by the House of Representatives.

As you noted in your letter of October 17, there are legitimate reasons for concern about potential abuse of this device. I agree with your feelings on this point, and I intend to promulgate regulations to preserve

the voluntary character of the recipient participation. It is important, whatever legislation ultimately passes the Congress, to give me enough flexibility to take care of your concerns and mine.

Sincerely,

JOSEPH A. CALIFANO, Jr.

Mr. PROXMIRE. Mr. President, will the Senator from New York yield?

Mr. MOYNIHAN. With pleasure.

Mr. PROXMIRE. I dread disagreeing with my distinguished friend from New York. I have the greatest admiration for him. He is an excellent Senator, but I just cannot understand the reasoning behind this provision.

One of my problems is that we have not had a chance to study it. It does seem to be very largely a housing matter. It goes right to the heart of the housing program. Assisted housing is one of the principal responsibilities of our committee.

I cannot see any urgency in this matter. The Senator has made a very strong argument, but I cannot see that it matters whether we act on it now or give the Banking Committee an opportunity to hold hearings and to get into it.

It is my understanding the House Ways and Means Committee held no hearings on this at all. It is something that came up on the floor. It is my understanding that the Committee on Finance did have Congressman RANGEL and Congressman BINGHAM testify, but there was no opportunity really for the kind of mature, careful consideration of this and which the Senator from Massachusetts has brought out is opposed by a whole series of fine organizations, organizations that know a great deal about this field, and have every reason to be concerned.

It seems to me that we ought to have some record of the pros and cons on something as profound as this and as far-reaching as this, and which goes to our biggest welfare program in such a decisive way before we act on it.

It may well be we could support this provision. But I hope it would be withdrawn now to give us an opportunity in the Banking Committee, that has the basic jurisdiction over housing, to hold hearings, hold them promptly, and have action on this early next year.

Mr. MOYNIHAN. Mr. President, let me respond to the distinguished Senator.

Mr. LONG Mr. President, will the Senator yield?

Mr. MOYNIHAN. Yes.

Mr. LONG. This is a problem that is not limited entirely to housing. Basically, it is a problem in trying to provide for the needs of the people, and we can come a lot nearer providing for those needs if the money provided is spent for the purpose for which it was provided. Landlords can provide a lot better for the needs of tenants if the landlords are going to be paid.

Where you find a very severe problem about people not using the money to actually pay rent, and the buildings do not yield enough income to maintain the buildings, landlords abandon those buildings.

It is completely within the jurisdiction of the Committee on Finance to say with regard to a welfare program that if the tenant voluntarily agrees and the landlord agrees, and if we think it is a good idea that it would make possible better housing and more housing for people, then there can be a voluntary two-party check.

Basically, the whole purpose of it is to see that the money is spent for the purpose for which it is paid out to begin with; that is, in this case, shelter.

Now, insofar as jurisdiction is concerned, the Committee on Finance has complete jurisdiction over the welfare program. It initiated the aid to families with dependent children program as title IV of the Social Security Act, and while I totally respect the right of the Committee on Banking, Housing, and Urban Affairs to act within the area of its jurisdiction, in many cases it is a matter not of what you do, but the way you do it that determines jurisdiction.

In this area Banking does not have any jurisdiction at all. This is entirely a matter that has to do with the Social Security Act, title IV, which is a public welfare section of the act, and the Committee on Banking, Housing, and Urban Development does not have jurisdiction over that.

I say that as one who once served on that committee, and I applaud the committee for the fine work it is doing. I want to cooperate with that committee in every way I know. It can provide for the building of houses; it can provide for the financing of the mortgages, but I have yet to see it suggested that the Committee on Banking, Housing, and Urban Affairs had any jurisdiction over the welfare program under title IV of the Social Security Act.

Mr. MOYNIHAN. I would have to agree. I would point out that the same argument can be used to suggest that this is somehow the concern of the Energy Committee, because many of these checks would be made out to utilities. It has to do with the management of the resources of dependent families. That is the Social Security Act, and that is what this is addressed to. Of course, in this case, it will only proceed for 2 years.

Mr. PROXMIRE. Will the Senator yield?

Mr. MOYNIHAN. I yield.

Mr. PROXMIRE. I certainly understand the viewpoint of the distinguished chairman of the Finance Committee and the distinguished Senator from New York. I can see there is a strong argument that they have a jurisdictional right here. What I would like to ask the Senator to recognize that this goes right to the heart of a principal area of responsibility for our committee. That responsiblity is to provide safe and sanitary housing. We feel very strongly that if this provision of H.R. 3387 is enacted, the right of the tenant to demand and secure safe and sanitary housing is seriously injured, abridged, and damaged.

I realize the Senator can argue that this is a social security problem, a welfare problem, and so forth. But this two-party check is primarily for the purpose of paying landlords; is that correct, in other words, for housing? Is that right?

Mr. MOYNIHAN. It would be about equally used for landlords and utilities.

Mr. PROXMIRE. And utilities, yes. Of course, it has an energy component which I am sure is part of the social security situation. It also is the very heart of our housing program, too. Our committee has had a number of hearings on the utility area. We have a serious responsibility there, too. In both of the areas we have such a fundamental interest. What I am pleading for is an opportunity for our committee to promptly get into this and to help advise the Senate in an area, as I say, where there is no urgency which has been demonstrated, where we do not have a satisfactory record, and where the many fine organizations which strongly oppose this have had no chance to come in and indicate why, and to give their arguments.

It seems to me we could act with much greater and better deliberation if we had an opportunity to consider this. I promise the Senator from New York we will give it every consideration possible, and promptly.

Mr. MOYNIHAN. Mr. President, that could not be a more reasoned and reasonable position.

I respond to the chairman, however, that there has been developed a data base in respect to this question. Assemblyman Oliver Coppell, in New York State, an assemblyman from the Bronx has, for several years now, very elaborately inquired into this particular phenomenon. It was in large measure his research which persuaded Congressman BINGHAM and Congressman RANGEL. This, at the present time, is all we know about this issue. In 2 years' time, after the Secretary of HEW has seen the operation work, we will then know more. We may find this is only a marginal matter, and we may find it is a central matter.

Before the chairman asks me to yield again, and I will be happy to yield, let me say that when we speak to the provision of fairly priced housing we must remember that in a city such as mine more and more welfare families are forced into the most awful housing situations because of the simple fact that landlords with suitable premises available will not rent to them for fear of not being paid. It is a dilemma we all have. It is for this reason that the New York State Commission of Social Services asks for this measure. It is for this reason that the Governor of New York asks for this measure.

There is a crisis. There is a phenomenon before our eyes in central cities which we have never seen before. No one has an explanation.

Mr. PROXMIRE. If the Senator will yield, the Senator is absolutely right. He has made a very strong case. Of course, with all the information he has stated, and I took down his words, all he knows comes from the studies the Senator has referred to, all from New York. New York is a very important city, our biggest city, and we want to do all we can to assist New York. But it would seem we certainly need to have evidence on the other big cities in this country. New York is only 1 city of 15 or 20 very large cities which have similar problems.

What we are asking for is an opportunity to have nationwide input before we act. The Senator says in 2 years we

will know, and this provision will expire in 2 years. It seems to me it would be far better for us to have the information first and then to act, rather than to act and say, "Well, if it turns out to be bad or harmful, we can drop it."

Mr. BROOKE. Will the Senator yield?

Mr. MOYNIHAN. I will in a moment.

To the distinguished chairman of the Committee on Banking, Housing, and Urban Affairs, may I say that we will not know the use of this experiment until it has been run. I think we have in Secretary Califano a man we can depend upon to do it intelligently, and hopefully to bring us some information. In the meantime, and I can only speak in this respect for the people who have come before us, who persuaded the House, who persuaded the Department, there is a crisis. As I say, it was a crisis that anyone watching the first day of the World Series would be able to view from the top of the Yankee Stadium.

I yield to the Senator from Massachusetts.

Mr. BROOKE. I thank the Senator.

Let me say that the Senator is basing all of his statements upon the statements of a State assemblyman in New York who represents the south Bronx. I am not familiar with the south Bronx, but I would agree with the distinguished chairman of the Banking, Housing, and Urban Affairs Committee that the Senator has not made the case that we need this sweeping authorization of unlimited nationwide "voluntary" two-party checks even though they might, and I stress might, have a marginal effect in south Bronx. But the general counsel of the Department of Social Services in New York City has said 20 percent would be sufficient for New York, including the south Bronx. So we are not even assured that New York is in such a severe crisis situation to warrant a possible 100 percent of AFDC recipients on a two-party check.

In testimony before the junior Senator from New York's own Finance Committee on July 14, 1977, the Detroit Free Press reported that the local landlord association had dropped its demand for unlimited vendor payments as authorized in this bill. The demand was dropped because a well-publicized landlord survey conducted by the association received only 200 complaints about recipient nonpayment of rent at a time when Detroit has an AFDC caseload of more than 80,000 families—200 out of 80,000.

In addition, a New York Times story on Thursday, October 13, reported that a landlord spokesman estimated that only 7 percent of AFDC recipients even in the south Bronx failed to pay their rent when due.

What I am saying to the distinguished junior Senator from New York is that he now wants 100 percent coverage and that is not justified and not wise. He wants the 20 percent, which may be needed, but he also wants the other 80 percent under the voluntary payment plan, which means that 100 percent of AFDC recipients would have to have two-party checks.

The junior Senator from New York is going to say that is not true because the unlimited two-party checks would be voluntary. I am going to say to the Senator that it is not going to be voluntary when an AFDC recipient goes up against a landlord. AFDC recipients will be forced by not getting the rental unless they enter into a two-party-check contract. That is what we who cosponsor this amendment fear.

If we were addressing ourselves only to the limited problem of south Bronx, it would be one thing. But we are not. We are addressing the whole Nation, and we are not justified in authorizing 100 percent AFDC two-party checks. That is what we are trying to say.

The Senator has been citing the distinguished Secretary of HEW. He has objected to the shocking words used by Senator PROXMIRE. The shocking thing to me was when the HEW Secretary abruptly and at the last moment reversed his position.

I refer the Senator to a letter addressed to the Honorable WILLIAM D. HATHAWAY, who is in the Chamber and who will speak shortly on the administration's position. This is what HEW said:

> HEW does not object to the principle of two-party payments where appropriate, but does not support the unlimited use of this device.

Without our amendment, I say to my distinguished colleague from New York, the bill authorizes unlimited use of this device.

I have a letter from the Secretary of Housing and Urban Development.

Mr. MOYNIHAN. Will the distinguished Senator yield?

Mr. BROOKE. Yes. I yield.

Mr. MOYNIHAN. He is making an excellent speech. I wonder if he would not wish to have it charged to his own time?

Mr. BROOKE. Certainly, I should be delighted to have it charged to my time. I shall put in the RECORD a letter from the Secretary of Housing and Urban Development addressed to the Honorable DANIEL P. MOYNIHAN, today. But I want to read a section from it because I think it is important.

The Secretary says:

> I do, however, have two concerns with respect to these provisions as they pertain to protective payments for dwelling units. First, since these provisions do nothing to encourage compliance of the dwelling unit in question with applicable code or other housing requirements, I fear that they may result in a form of guaranteed income for the landlord, without a corresponding assurance that the dwelling unit is decent, safe and sanitary.
>
> Second, there is no assurance that the rent to be paid is reasonable. By permitting up to 50 percent of AFDC payments to be earmarked for housing costs, the measure would provide no disincentives to excessive rental charges and allocation of a higher percentage of income for housing than is consistent with Federal policy.
>
> Accordingly, I have reservations with respect to the desirability of these features of H.R. 3387.

So, at one time, up until today, the Secretary of HEW was opposed to the unlimited so-called voluntary use of two-party checks. The Secretary of HUD is opposed to it and many other knowledgeable and concerned organizations are opposed to it. And they, and we do not oppose it because we do not want landlords to get their rent. Of course we all want landlords to get their money. But why must we presume that an AFDC recipient will not pay the landlord that rent, when the data is to the contrary?

In Detroit, California, Wisconsin, Virginia, and New York, as well as in Massachusetts, AFDC recipients with rare exception are making those payments. Why should we put that stigma upon them and say, "We do not believe that you are responsible enough to pay your rent?"

Mr. MOYNIHAN. Mr. President, the Senator from Massachusetts has made points which would appeal to any of us. I hope that the Senator will remember—and I know he does—that this is not an initiative that began in the Senate. This is an initiative that began when two Members of the House, pressed by what seemed to them to be an overwhelmingly plausible case with respect to an unimaginably bad situation, came forward and did something which none of them, in other circumstances, could have imagined doing. We are here to witness—I stand in witness of—the courage of the two Congressmen who did this. I know how much easier it would be to make certain of one's liberal credentials by saying no.

I understand that the opposition which has come forth primarily to this measure is from the Center on Social Welfare Policy and Law. Mr. Henry A. Freedman, who is the very capable Director of that Center, testified before our committee and testified well. But he testified in the manner of a man arguing from principle. His was, in no sense, an empirical argument. He said that the maximum freedom ought to be accorded a person, howsoever dependent. This proposal would marginally diminish that freedom. Anything that diminishes that freedom is bad; this diminishes that freedom, therefore, it is bad—a syllogism which has all the clarity of logic but none of the fuzziness and grit and dirt and detail of reality.

Mr. President, I do not know that any great purpose is served by continuing this debate. But before ending, I have one further point which I should like to make to the Senator from Massachusetts and the Senator from Wisconsin and the Senator from Maine. I do not have to make it to the Senator from New York, because he knows it. There is a saying around the criminal courts in New York City which is that the lawyer always goes home. I know that the poverty lawyers who find this measure so offensive really do find it offensive. But I would like to ask, when they go home, where do they go home to? They do not go home to these slums. They do not go home to these burned out and devastated areas which are most conspicuously found in a critical condition in New York, but which are in fact to be found in every aging city in America. Those poverty lawyers do not go home to the places that the people we are concerned for have to live in.

One can maintain the purity of one's purpose, the unmistaken clarity of one's commitment to all that is gentle and good and progressive, but, in the end,

who is being served here? Are we serving the self-esteem of a professional social worker-social science group? Or are we serving these poor people and their terrified children, who do not just see the flames of the South Bronx on the evening that the World Series opens, but who see it every night and who live there every night? In the name of what seems to me a decent respect for the complexity of this problem, I hope the Senate will allow a reasonable and restrained experiment for 2 years to go forward.

Mr. BROOKE. Will the Senator yield?

Mr. MOYNIHAN. With great respect.

Mr. BROOKE. The Senator touches my heart when he says that the welfare recipients' lawyers do not go home to the slums. I have heard that statement. But let me add to that statement: The landlords do not go home in the slums either.

Mr. MOYNIHAN. No, the lawyers always go home.

Mr. BROOKE. Landlords do not go home to those tenements. They go to Park Avenue, to Fifth Avenue, to the suburbs. They do not go back to those tenements after collecting their rent.

We are not helping the tenants with unlimited "voluntary" two-party checks. We are helping the landlords. Maybe the Senator from New York does not understand the nature of this. We are not helping the tenants, we are hurting tenants. We are saying to those tenants: "We will rob you of your dignity, we will rob you of any self-respect you have from paying your rent, even though you have proven by the overwhelming evidence that you can and do pay your rent." As for those tenants who do not pay, we provide for them. But without our amendment, we would be penalizing those who do because of the few who do not.

What we are guaranteeing is that the landlord, who does not live in the slums where he rents to AFDC recipients any more than that recipient's lawyer get his rent, and the tenant is robbed of his self-respect and dignity.

That is what I am saying to the distinguished junior Senator from New York. Whether he recognizes it or not, that is a fact. Our amendment would say to those citizens who do pay their rent: "All right, you get your AFDC check, you pay your rent, pay for your food, pay for your clothing. We expect you to do so, as you have been doing. If you do not do so, then you fall in that 20-percent category." And if we later find that 20 percent needs to be raised to 25 percent, then we will seriously consider it.

But before we enact this bill as is, let us look at the rest of the country, not just at New York.

Mr. PROXMIRE. Will the Senator yield?

Mr. MOYNIHAN. The Senator from New York is happy to yield.

Mr. PROXMIRE. Will the Senator permit me to take this on Senator BROOKE's time?

Mr. BROOKE. How much time is remaining?

Mr. PROXMIRE. I think 30 minutes.

Mr. BROOKE. The Senator from New York has been most generous.

The ACTING PRESIDENT pro tempore. There is an hour remaining. The Senator from New York has 31 minutes, the Senator from Massachusetts has 30 minutes.

The Senator from Wisconsin is recognized for 4 minutes.

Mr. PROXMIRE. I want to respond to a very powerful point the Senator from Massachusetts has made.

It is my understanding that for almost 20 years now, 10 percent of the checks can be made out in this way—both to the vendor and to the tenant. That is used when the welfare recipient is a chronic nonrent payer. I should like to ask, in the first place, what has been the effect? Is there any study of what the effect of that has been on the housing of the welfare recipients? Has that been helpful. Do we know? Do we have any record?

Mr. MOYNIHAN. I think the answer is that there is no such data. To my knowledge, there is not.

Mr. PROXMIRE. Again, it seems to me that before we act and extend this so very broadly, make it comprehensive, we should know to what extent this has been true.

Also, I should like to ask, in this legislation, unobjected to by Senator BROOKE, Senator HATHAWAY, and myself, whether there is an increase, a doubling, from 10 to 20 percent? Is that correct?

Mr. MOYNIHAN. There is. That is correct.

Mr. PROXMIRE. What the Senator from New York is proposing we do is that we go to a complete 100-percent coverage. Instead of 10 percent, it goes not to 20 percent, but it will be possible to make this check made out to both the vendor and the tenant in all cases without having an opportunity to study what the effect of the 10 percent has been, to study what the effect of an experience under an increase to 20 percent is. We go automatically all the way without subtantial hearings, and without giving the opposition an opportunity to testify.

Mr. MOYNIHAN. The Senator would want to make the distinction that the first group of checks are those which may be made out directly to a vendor upon the judgment of the welfare agency.

Mr. PROXMIRE. The Senator is correct.

Mr. MOYNIHAN. The others are voluntary.

I really do wish we could be more clear that there were hearings in some detail on this. As chairman of the subcommittee, we sat and listened until all those who wished to present themselves had done so, and the overwhelming burden of testimony was that this is a desirable thing to try.

I would like to speak, if I may, to the chairman of the Committee on Banking, Housing, and Urban Affairs.

I would like to offer a personal judgment that more is required of liberalism in this time than an unexamined attachment to the social welfare doctrines of half a century ago. The men who came forward and asked that this initiative be taken have been distinguished for the consistency of their previous commitment, yet they came forward and said, "Circumstances have changed our mind."

They said, and this is the point which I asked the Senate to consider, that we are not talking about a situation that is moving incrementally in such way that the events of the past 5 years would allow a legitimate projection to the events of the next five. We are talking about the onset of a crisis, the onset of panic, in city after city.

To my understanding, and to my knowledge in my own city, the prospect of welfare families living in a house is seen as the prospect of ruin. I mean, we have a changed condition. Events are not what they were.

The South Bronx burns every night. The President of the United States went up there and stood as if in Berlin in 1945.

It is in the context of what I think has to be described as a crisis that this 2-year experiment is proposed.

Mr. PROXMIRE. If the Senator will yield, I have great respect for him, not only in his rhetoric, but in the substance of his position. He is always innovative. He is not one who is bound by 50-year-old social legislation or social principle. He is one who advances with time.

I think he is right. But I think he would agree that if we make a fundamental change as far-reaching as this, we ought to have a record that gives the committee that has very fundamental housing jurisdiction, has the basic housing jurisdiction, an opportunity to hold hearings.

We have not had it.

The Senator said those who wanted to testify could. May I ask the Senator if the various organizations that were enunciated by the Senator from Massachusetts had an opportunity to testify. Did they testify, and did the AFL–CIO testify?

Mr. MOYNIHAN. I do not want to speak to each organization appearing on that list, but I know that a number were called and they testified on other aspects. Not all of them testified on this, but all were invited to submit their views on all subjects for the committee's consideration.

I think the Center for Social Welfare Policy and Law has done its work.

It is not hard to invoke the doctrines of an increasingly doctrinaire and adversarial social welfare policy, to get such agencies to sign up on something like the present amendment.

Secretary Califano's own Department was half moved. I might make clear that when the Secretary first appeared before us—and let us understand how this came about—the Secretary of HEW came to us and asked for this legislation, and the hearings opened with the two Congressmen saying the House asked for it. Then the Secretary seemingly changed his mind in a letter to Senator HATHAWAY and now, of course, he has apparently changed his mind yet again.

All of which reflects the ambiguities and the difficulties of it. But it also reflects what I stand here and say, that

if those men had had enough courage to do this in the first place, we should have had enough endurance and stamina together.

Mr. PROXMIRE. I thank the Senator.

Mr. HATHAWAY. If the Senator will yield on that point, that is reason enough to hold hearings, to find out exactly how the Secretary stands.

Mr. MOYNIHAN. The Secretary's letter is explicit that he supports this measure.

Mr. HATHAWAY. He does not explain why he changed his mind from the letter he wrote me; what idea he has in respect to some kind of matter that will protect voluntariness. I have never seen any regulation promulgated in this field. I would be very much interested to hear what he will do along that line. I doubt it will protect adequately the voluntariness of the welfare recipient in a case such as this.

We all know the coercion which the landlord, or bureaucrat, or both, could have just on Members of this body, to say nothing of the welfare recipient who is probably happy to get the check and is willing to sign anything.

Mr. MOYNIHAN. I agree.

Mr. HATHAWAY. That is what disturbs me about it.

Mr. MOYNIHAN. I agree. Secretary Califano does not disagree.

CHARLES RANGEL does not disagree. But he asks the immediate question, what is the condition of the dependant welfare family looking for an apartment in a great city?

Are they seen by the landlord as the advent of the ruin of his property or as stable tenants?

In New York City, elevator apartments built in the 1930's are being abandoned. There is a panic going on. There is a crisis that has occurred.

We do not find the editorial writers of the New York Times idly or randomly writing an editorial, as they did on Saturday morning, asking for this legislation. Two years ago they would not have considered it, nor would I, nor would the persons who asked us on behalf of the House of Representatives.

I have already received unanimous consent to have printed in the RECORD an editorial that was in the New York Times and some related articles that have come out on this same matter. They appear at the end of my prepared remarks.

The point the Times makes, the point that the sponsors of the proposed legislation make, and the point I make, as the person responsible to defend the committee's action, is that this is a responsible effort to experiment with what can only be a limited measure but maybe a useful one in a situation of crisis which demands the courage to innovate, even at the cost of some disapproval from that formidable liberal audience which is ever there to censure heresy and to enshrine the authoritative and increasingly authoritarian view of a half century ago, but does not live in the South Bronx, where even tonight the fires will be burning.

Mr. BROOKE. Mr. President, will the Senator yield?

Mr. MOYNIHAN. I yield.

Mr. BROOKE. The Senator several times mentioned "this great liberalism," referring to this amendment. I hope the Senator realizes that this is not a liberal-conservative issue. If anything, it is more conservative than it is liberal. It is really a conservative concept which is embodied in this amendment, concern for individual rights and administrative orderliness.

As cosponsors of this amendment we have the distinguished Senator from Alabama (Mr. SPARKMAN) and the Senator from Oklahoma (Mr. BELLMON)— not considered a liberal, as such. We have Senator DOMENICI, who is not considered a liberal, as such. We have Senator HOLLINGS who is not considered a liberal. Senator PROXMIRE is not considered what is sometimes referred to as a "bleeding heart" liberal although I do not know how he wants to be classified.

Mr. PROXMIRE. Not a liberal.

Mr. BROOKE. Not as a liberal. If you watch his votes, you would call him an independent. In many matters he is conservative and austere.

The junior Senator from New York keeps referring to liberalism when speaking of this amendment. Even the conservatives are moving to cash payments for welfare recipients. The administration has been advocating cash in the hands of welfare recipients.

Mr. JAVITS. Food stamps.

Mr. BROOKE. Put the cash in their hands and let them do it. This is a giant step backward.

Mr. JAVITS. And the reverse income tax.

Mr. BROOKE. Right on down the line.

The junior Senator from New York, at a time like this, is taking a giant step backward.

Mr. MOYNIHAN. I say to that Senator that I am aware of the 19th century view of liberalism that was certainly one of its better periods. I point out to the Senator that in the original justification for this measure, the Department of Health, Education, and Welfare stated of the present situation that it denies to welfare recipients a financial management tool available to others. The Department took, in a sense, the classical position that what we now have is an unnatural restraint imposed by an insensitive and unthinking Government.

The Senator from Massachusetts knows the issues here—the necessarily indeterminate outcome of this debate.

Mr. President, I do not think that any large purpose of inquiry is much to be served by continuing the debate.

Mr. BROOKE. Mr. President, will the Senator yield?

Mr. MOYNIHAN. Senator CURTIS wishes to speak.

Mr. BROOKE. I point out that I thought the Secretary of HEW had done a flip-flop, but now the Senator from New York indicates that he has done a flip-flop-flip. [Laughter]. He went in three directions. But then I read his letter to the Senator from New York, and I am not quite convinced. It is a sort of meaningless letter. Perhaps this is in between the flip and the flop. He says:

DEAR PAT: As I indicated in our recent conversation, I have supported and continue to support the concept of two-party checks in the AFDC program. That concept appears in H.R. 3387, as reported by the Finance Committee, and H.R. 7200, as passed by the House of Representatives.

As you noted in your letter of October 17, there are legitimate reasons for concern about potential abuse of this device. I agree with your feelings on this point, and I intend to promulgate regulations to preserve the voluntary character of the recipient participation. It is important, whatever legislation ultimately passes the Congress, to give me enough flexibility to take care of your concerns and mine

Hardly is that a ringing endorsement of that part of this bill which the distinguished Senator from New York has mentioned, and it certainly does not seem to me to be strong opposition to the amendment.

Mr. President, I ask unanimous consent that the entire letter of the Secretary of HEW, addressed to the Honorable DANIEL P. MOYNIHAN be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE SECRETARY OF HEALTH,
EDUCATION, AND WELFARE,
Washington, D.C.

HON. DANIEL MOYNIHAN,
U.S. Senate,
Washington, D.C.

DEAR PAT: As I indicated in our recent conversation, I have supported and continue to support the concept of two-party checks in the AFDC program. That concept appears in H.R. 3387, as reported by the Finance Committee, and H.R. 7200, as passed by the House of Representatives.

As you noted in your letter of October 17, there are legitimate reasons for concern about potential abuse of this device. I agree with your feelings on this point, and I intend to promulgate regulations to preserve the voluntary character of the recipient participation. It is important, whatever legislation ultimately passes the Congress, to give me enough flexibility to take care of your concerns and mine.

Sincerely,

JOSEPH A. CALIFANO, Jr.

Mr. BROOKE. I do not wish to carry on the debate much longer. I believe the Senator from Maine wishes to speak. I know he is a distinguished cosponsor of this amendment and serves on the Finance Committee. If he would like to speak, I will yield the floor to him.

The ACTING PRESIDENT pro tempore. How much time does the Senator yield?

Mr. BROOKE. How much time does the Senator desire?

Mr. HATHAWAY. Three minutes.

Mr. BROOKE. I yield.

Mr. HATHAWAY. Mr. President, I am pleased to join my colleagues in opposing the unlimited "voluntary" two-party checks for AFDC recipients. This provision of H.R. 3387 is bad social policy. It is bad welfare policy. It is bad housing policy. It is bureaucratic nightmare.

As has been pointed out, our action does not affect the protected vendor payment provisions of existing law. Current law permits a State or local government to institute protective or vendor payments for AFDC recipients where there is a finding that the recipient is incapable of properly managing his funds. The State or local government agency has been permitted to use vendor payments for up to 100 percent of the welfare assistance. However, these actions could not exceed 10 percent of the AFDC caseload. This bill permits the caseload percentage to rise to 20 percent. I support this increase.

However, we do oppose the creation of a new category of vendor payment. The provision of H.R. 3387 which we oppose would permit the nearly unlimited use of so-called voluntary AFDC vendor payments for rent and utilities. An AFDC recipient may agree to authorize his check to be paid to his landlord or utility provider without any substantive protections being provided to the welfare recipient.

It is argued that the fact of voluntary compliance with the two-party check procedure is adequate protection. For some it may be. Many recipients, however, will not understand that their consent must be freely given.

Subtle coercion from the landlord, pressure on welfare case workers and demands on the local housing authority may be the legacy of this provision.

Furthermore, in 1972, the Commissioner of the Social Security System received an evaluation of a vendor payment program in Monroe County, N.Y. The report concluded:

> The device [vendor payment] is primarily for the protection of the landlords and utility companies; it leaves the recipient with almost no freedom in the use of his funds and denies him the safeguards included by Congress in the 1962 and 1965 Amendments to the Social Security Act.

I ask unanimous consent that the full text of this report be printed at the conclusion of my remarks.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. (See exhibit 1.)

Mr. HATHAWAY. Mr. President, I am also concerned that this tactic may promote bad housing policy. Where there is "guaranteed" payment of rent, there is little incentive to improve substandard housing. Where the rent is always paid by the State, there is little reason to be concerned about price.

Many inner city housing projects and rural housing units are substandard. There is no easy solution to our housing shortage, either in quantity or quality. To guarantee rents on the units occupied by AFDC recipients, however, seems a desperate leap into even worse housing conditions.

Finally, the use of the two-party check for rent and utility payments becomes an administrative burden of incredible magnitude.

Imagine an unlimited number of welfare recipients requesting that up to 50 percent of their monthly check be made to their landlord, the electric company, the gas company, and the telephone company. The checks may be written for different amounts each month. One company may be added or deleted. What happens when the 50-percent ceiling is violated? Who will make the appropriate allocations?

We hear complaints from State and local agencies about paperwork burdens, redtape, and endless forms. Adoption of an unlimited amount of "voluntary" payments subject to a 50-percent ceiling on the total amount of the payments will result in a cacophony of complaints.

Gentlemen, no matter how meritorious the goal of this legislation, the end does not and cannot justify the means. It is bad welfare policy. It is bad housing policy. It is bad administrative policy. I urge the deletion of the unrestricted vendor payment provisions of H.R. 3387.

I have not heard the distinguished Senator from New York—for whom, with others, I have the utmost respect—answer the argument that was made by the Senator from Massachusetts when he read the report of a survey published by the New York Times, that only 7 percent of vendor payments were actually needed in New York itself. I do not know whether that was based on an accurate survey, but it was published by the Times, the same Times that editorialized on Saturday contrary to that.

Mr. MOYNIHAN. That is the statement of an individual landlord. I do not believe that number exists at the level of reliable statistics.

Mr. HATHAWAY. Do they have statistics that show we need more than the 20 percent with which we are willing to go along? It seems the Senator wants an experimental time. If we are going from 10 to 20 percent, we should experiment and see if it is adequate before we should in effect get into 100 percent vendor payment.

Mr. MOYNIHAN. I should like to speak to that point, so that the Senator is clear about what he is choosing here. It is easy to be confused.

The 20-percent figure refers to checks that, upon the decision of the social welfare agency, are paid to one person only. What we introduced on a 2-year experimental basis here is the opportunity for the welfare recipient voluntarily to have a two-party check made out.

Mr. HATHAWAY. I understand that.

Mr. MOYNIHAN. That is new. This would be a new provision, and the proposition is that it might turn out to be an important one.

Mr. HATHAWAY. The benefit of both is that the landlord is going to get paid. It seems to me that we should try to see if the increase from 10 to 20 percent of the total amount caseload would be sufcient to cover what the landlords are complaining about.

Mr. MOYNIHAN. I have to correct what may be a misimpression of the Senator from Maine. The 20-percent provision refers to situations in which a social welfare agency judges a welfare recipient not competent, not to be trusted, not capable, and just does it.

There is the curious language of Edwardian liberalism that the Secretary invoked when he testified the first time. He said that this new provision would make available to the welfare recipient—I love the language—a financial management tool not now available to them—to wit, the option of saying to a landlord, "Not only do I like your apartment, and I will rent it, but I'll agree to see that a check comes every month, which I have to sign and you have to sign, so you're going to be sure you get the rent."

Mr. HATHAWAY. I recognize that a finding has to be made that a person has not paid his rent in the past.

Mr. MOYNIHAN. I could not speak with knowledge to that point. I could not speak to any data. I do not have it.

Mr. HATHAWAY. I should like to reiterate my deep concern about the voluntary nature of the sign-off procedure. It seems to me that there could be a definite coercive relationship between a landlord and a tenant, be it a bureaucrat or a welfare recipient; I have grave misgivings that most individual welfare recipients are going to sign off voluntarily. I should like to hear what the Secretary of HEW has in mind, in general, as to the regulations he is going to promulgate, before committing myself to support the proposal in the bill advocated by the Senator from New York.

I yield back the remainder of my time.

EXHIBIT 1

ASSISTANCE PAYMENTS ADMINISTRATION

August 2, 1972.

To: Mr. John L. Costa, Commissioner.

From: Director, Division of Program Payment Standards.

Subject: Monroe County, New York review of method of payment for federally aided assistance programs.

1. This report is prepared as the result of a review of federally aided assistance cases in Monroe County, New York.

2. There has been an outstanding question for some time as to the consistency in practice of the method of payment with Federal law and regulations.

3. The provisions of the Social Security Act which are applicable to the situation in Monroe County are:

a. With regard to money payments for all titles—Sections 6(a); 406(b); 1006; and 1405 and 1605;

b. With regard to protective payments for adult titles—Sections 6(a); 1006; 1405; and 1605;

c. With regard to protective and vendor payments for title IV–A—Section 406(b).

I. BACKGROUND

In July, 1970, the Monroe County (N.Y.) Department of Social Services began using a method of payment which they described as a voluntary limited power of attorney to permit the county public assistance agency to make vendor payments for rent and utilities for certain public assistance recipients. After specific instructions from the New York Department of Social Services to stop using this method of payment with regard to the federally aided assistance programs because it constituted a restricted payment, and as such violated the "money payment" provisions of the Social Security Act, county officials appealed to Congressman Barber B. Conable for his help in resolving the issue.

In August, 1971, the Regional Commissioner, (SRS) Region II, forwarded a letter from the Commissioner, New York State Department of Social Services, which expressed some support of the County's practice; Mr. Smith requested reconsideration of the Federal position in his covering memorandum. In October, 1971, Mr. Smith appealed to the

Administrator for further consideration of the issue; Mr. Conable also wrote to Mr. Veneman. The responses of APA, SRS and Mr. Veneman consistently held that the voluntary "power of attorney" method as used by Monroe County was a restricted payment for the federally aided assistance programs and was a violation of the Social Security Act. (Copies of pertinent correspondence are attached.)

On January 26, 1972, Mr. Costa met with representatives of the County, the New York State Department of Social Services, staff of APA from both the Region and Washington and representatives of the Office of General Counsel; the meeting was requested by the County and was for the purpose of presenting its position. The County feels strongly that vendor payments under the voluntary "power of attorney" arrangement are not restricted payments and should not be included under the statutory 10 percent limitation for protective and vendor payments in the AFDC program. APA agreed to make an on-site review of cases receiving assistance under the federally aided programs to determine whether such payments should be held to be unrestricted.

II. PROVISIONS OF THE SOCIAL SECURITY ACT

All public assistance titles of the Social Security Act define assistance as "money payments" to or in behalf of needy individuals. "Money payments" as defined in H.B. IV-5120-5132 means that payments must be made to the grantee or his legal guardian with no restriction on the use of the funds by the individual. The statutory provision that assistance be in the form of money payments preserves the right of the individual to manage his own affairs; to decide what use of his assistance check will best serve his interests; and to make his purchases and expenditures through the normal channels of exchange, enjoying the same rights and discharging the same responsibilities as do his neighbors and friends in the community.

In 1962 and 1965 the Congress amended the Social Security Act to provide that States may make other than money payments with Federal matching to recipients who have demonstrated inability to manage money The 1962 Amendments provide for both protective and vendor payments, with specific safeguards, in the AFDC program when the caretaker relative has demonstrated such inability to manage that the welfare of the child is endangered, if the State plan provides for: (Section 406(b)(2))

(1) determination that the relative has such inability to manage funds that making payments to him would be contrary to the welfare of the child;

(2) undertaking and continuing special efforts to develop greater ability on the part of the relative to manage funds in such manner as to protect the welfare of the family;

(3) periodic review to determine whether conditions justifying the determination still exist with provision for termination of such payments if they do not and for seeking judicial appointment of a guardian or other legal respresentative when it appears likely that the need for such payments is continuing or is likely to continue beyond a period specified by the Secretary

(4) aid in the form of foster home care in behalf of children; and

(5) opportunity for a fair hearing.

The number of such individuals for whom such payments may be made with Federal matching is limited by Section 403(a) of the Social Security Act to 10 percent of the number of AFDC recipients in the State in any month. The State may decide whether the same percentage limitation is applied in each administrative subdivision or it may use a method of assuring that the number of recipients for whom matchable payments are made does not exceed the limitation for the State as a whole. The 10 percent limitation is a statutory one and not subject to administrative decision. The provision permits the payment of rent on a vendor basis when all other conditions are met; it also permits the selection of agency staff as protective payees. (45 CFR 234.60 (a)(6)).

The Social Security Amendments of 1965 provide for Federal matching for protective payments in all the adult public assistance titles for individuals who have demonstrated such inability to manage money that making payments to them would be contrary to their welfare. (Sections 6(a), 1006, 1405 and 1605 (a) of the Social Security Act.) In addition to the above determination, State plans must include provisions for:

(1) making such payments only when all needs of the individual are met;

(2) undertaking and continuing special efforts to protect the welfare of the individual and to improve to the extent possible his capacity for self-care and to manage funds;

(3) periodic review of the determination to ascertain whether it should be terminated or whether the judicial appointment of a legal representative is indicated; and

(4) opportunity for a fair hearing.

There is no restriction on the number of aged, blind or disabled individuals who may be included and agency staff may be selected as payees under the conditions outlined in Federal regulations (45 CFR 234.70(a)(3)).

The law also provides for payments to suppliers of goods or services under the emergency assistance provisions of title IV-A of the Social Security Act (Section 406 (c)). Under emergency assistance the State may specify the emergency needs it will meet and the assistance and services it will provide; such assistance is limited by statute to one period of 30 days or less in any 12-month period.

Thus, the States have three provisions which enable them to make other than money payments to a recipient or his legal guardian with Federal matching:

(1) Protective and vendor payments in the AFDC program;

(2) Protective payments in the adult programs; and

(3) Emergency assistance in the AFDC program.

These provisions, although essential to deal with unusual situations are to be used only for such cases. Judging from the experience of States nationally, there is no reason to believe that they do not provide public assistance agencies sufficient flexibility to deal with problem of money management among recipients.

III. METHOD OF REVIEW

Assistance Payments Administration staff from the Region and Central Office reviewed a statistical sample of "Power of Attorney" cases in Monroe County in April, 1972. A systematic sample of every 15th case was drawn from a total caseload of 1526 AFDC and AD cases for whom POA payments were made in February, 1972; the sample totalled 107 cases.

A sample of 15 OAA cases was also drawn but since 7 were later found to be either Home Relief or belonged to another category, only 8 were included in the review. In addition a random sample of 15 Protective Payment cases was drawn for purposes of comparison. In all except one case in which the Social Service record was not available, both the income maintenance and social service records were reviewed.

Cases were reviewed to determine if the POA payments could be considered an unrestricted payment or if they could be considered to meet the conditions for protective and vendor payments (Section 406(b)(2)) or protective payments under the adult titles. No cases involving emergency assistance payments were included in the review.

Because of the difference in protective payment provisions in the AFDC program and the adult programs, the cases are discussed separately. A copy of the form used in the case review is attached.

IV. FINDINGS—AFDC

Of the 90 AFDC cases reviewed, 57 were Negro families, 18 were white, 2 were listed as Puerto Rican and in 13 cases, race was not identified. All but one family lived in rented quarters. In more than half the cases (52) the landlord (payee) was not identified, in 4 cases rent was paid to public housing; the remainder, by and large, had different landlords.

In 18 cases the Rochester Gas and Electric Company was a payee; in several of these cases there was a notation to the effect that clients could not manage the high utility bills as they were not covered in their budgets. Payments to Rochester Gas and Electric ranged from $15 to $167.

Although the records are not clear it appears that the agency pays the full amount when it pays the company directly; the amount allowed in the budget appears to be deducted from the future payments made to the client. Since the amount varies from month to month, clients must sign a new POA each month for utility bills. The New York State plan allows for additional amounts to be paid for fuel in severe weather, overly exposed locations or unusually poor construction, or for reasons of poor health. There was no indication that this provision was used. Although the focus of this review was not on assistance standards this practice could raise question as to whether the State is following its plan with respect to assistance standards statewide. The question will be referred to the Regional Office for further review.

Record had inadequate information as to who was responsible for the decision to make vendor payments by POA and the frequency of review. In general once such a payment was made to a landlord, it appears to continue. A copy of a lease agreement in one recipient's record contains the clause that the tenant agrees that the power of attorney signed at the welfare office will not be changed so long as they are tenants (copy attached).

Of the 90 AFDC cases, 52 had one or more out-of-wedlock children, 41 were Negro, 6 were white and 2 were identified as Puerto Rican.

Fifty-nine (59) were referred for social services, 14 for recertification only, 7 for recertification plus another service and 3 to sign power of attorney.

A tabulation of the problem precipitating a change in payment status (No. 8) showed no indication of a money management problem in 56 cases; in 18 cases the landlord required that rent be paid him directly; 11 had problems with utility bills and 14 had problems with previous landlords.

In 67 cases, there was no indication of how the problem of money management came to the attention of the agency. (No. 10) High Rochester Gas and Electric bills accounted for 9 and eviction or delinquency in paying rent accounted for 6. It is not known whether this was a money management problem of the family, or whether they did not have the resources.

In 21 cases, there was some recorded evidence of a problem with managing money, 8 of these were due to high utility bills not covered by the payment and 8 had problems with landlords or were delinquent in paying rent. It is not possible to evaluate the extent of the money management problem because the recorded information is limited and does not support a finding such as is required under Federal policy for protective or vendor payments.

In 13 cases, there was clear evidence of child neglect, in at least 7 of which the problem was serious. All but three of the

cases had been referred to Social Services for some service. In our opinion these are the only cases in the AFDC group for whom the agency has a basis for making restricted payments. The provisions of its own State plan for making protective or vendor payments were not followed, however.

In none of the 90 cases was the determination made that the relative of the AFDC child (or children) had such inability to manage funds that making payments to him was contrary to the welfare of the child. Vendor payments were generally initiated for reasons unrelated to problems in money management or to the welfare of the child.

ADULT POA AND PROTECTIVE PAYMENT CASES

Seventeen Aid to Disabled were reviewed; 14 of these rented; 3 had other living arrangements. Eleven (11) were Negro; 5 were white and one unknown. In 13 of these cases there was no indication of the reason for payments by POA; in 3 cases it was by request of the landlord and one appeared to be because of accumulated utility bills.

Three receipients could have been expected to have problems managing money; two were female diabetics with alcoholism and one had a diagnosis of psychosis with mental defiency recently discharged from the State Hospital and with a long history of difficulty managing in the community. A protective payee might have been a more appropriate arrangement than a vendor payment for rent and/or utilities for such recipients.

OLD AGE ASSISTANCE

All of the 8 OAA cases reviewed lived in rented apartments; 5 were white, 2 were Negro and one was of unknown race. In two cases there was indication of possible money management problems, but otherwise there was no indication in the records of the reason for the use of POA. Two cases clearly should have been referred for protective payment and services.

PROTECTIVE PAYMENT CASES

In addition to the POA cases, a random sample of cases receiving protective and vendor payments under the provisions of 45 CFR 234.60 and protective payments under the provisions of 45 CFR 234.70 were reviewed for purposes of comparison.

In only 2 of the 9 AFDC protective payment cases was there evidence of a need for protective payments. In none of the cases, however, was a protective payee identified. Four of the nine families owned their homes; some repair and fuel bills were paid by POA although there was no evidence of child neglect or money management. All of the families renting living quarters had their rents paid by POA; one family had additional living expenses paid by voucher. All but one case had been referred to social services and except for one case, services provided were limited or none found to be needed.

To summarize, only two cases in this group could be considered protective payment cases. In none of the cases were the conditions for making such payments met.

All the adult titles of the Social Security Act provide for protective payments when the recipient has such inability to manage money that making payments to him would be contrary to his welfare. The other provisions for making such payments are similar to those in title IV, except that in the adult titles, provision is made only for a protective payment to be made to a concerned individual and the agency must meet all needs of the recipient.

None of the 6 adult protective payment cases met Federal provisions. In no cases was there evidence that a protective payee was appointed; in all cases part of the payment was made by voucher or POA. In three cases voucher payment was made for meals-on-wheels, two were for rent by POA and payment in one case was for house repairs and a large oil bill. In one case (possible a second) there was an indication of a problem managing money.

The principle problem with the utility company appears to be the fact that the amount allowed for this in the payment ($16.60) does not begin to meet the bills cited of $100 or more a month. Although requests from the utility company came as the result of unpaid bills, the agency apparently does not necessarily check the validity of the bill with the recipient before it pays. In some cases the agency paid the bill and then notified the recipient that future deductions would be made in his payment to cover the arrears paid by the agency. This was confusing to some recipients, particularly to one woman who maintained she had paid her utility bills.

"Power of Attorney" payments for rent were clearly made at the insistence of the landlord or by agency decision. Agency staff see no impropriety in such a request and do not question the landlord's demand; the case focus at this point becomes one of trying to accommodate the landlord.

The County agency claims that the "voluntary power of attorney" method of payment is a voluntary one because it says it is voluntary. This is a specious argument and does not take into account the customary use of power of attorney or the nature of the relationship between the recipient and the agency. Power of attorney is ordinarily used when an individual expects to be away or incapacitated for a period. He authorizes a friend or relative (or an attorney) to act for him for a given period or purpose; the individual not only makes a free choice in the selection of the person he wishes to act for him, but he normally selects someone he is confident will act in his best interests. Such a relationship is certainly not the usual one between recipients and the public assistance agency.

The recipient of public assistance is dependent for his very livelihood on the agency and the public officials who have it in their power to give or deny him that very livelihood. There is still a great deal of discretion inherent in the public assistance system. Recipients have no assurance that they can refuse the suggestions or proposals of the agency that "power of attorney" be given for the payment of rent without this decision not affecting their eligibility or amount of payment. Assurances of this kind cannot be given for the people administering public assistance programs are human beings, subject to feelings of frustration and irritation. They are also under pressure from the landlords and the utility company; they may be sincerely trying to help the individual. If agency help is refused, however, there can be no assurance given that it will not affect the recipient's present or future claims against the agency. The relationship between a dependent person and his benefactor is such that free choices are not possible on the part of the recipient.

And for the record, entries in the case records reveal that the client is aware that the landlord and/or the agency are largely responsible for the decision to use the "power of attorney" method of payment and that refusal to agree carries risks as well as certain penalties. In several cases the Rochester Gas and Electric Company appears to have been paid directly by the agency for bills owed by clients with no notice to the client until the transaction was completed. In one case there was a note, "If unable to get woman to sign POA, stop check till she comes in". Usually, however, the landlord asked for the arrangement verbally or in writing and the agency sent the client a note asking him to come in and sign the POA. In some instances, the landlord accompanied the client to the County office to have the client sign the POA. The records generally did not support the claim that the recipient has a free choice. The fact that the agency claims to advise all clients that they have a choice as to whether to sign the POA form is not of itself proof of "free choice" if the alternatives are taken into account.

V. SUMMARY

A sample of cases in which the Monroe County public assistance agency was making payment in February, 1972, for rent and/or utilities by means of a voluntary "power of attorney" was reviewed to determine if such a method of payment could be considered unrestricted within the meaning of the Social Security Act; or if it were restricted could such payments be found to meet the conditions of Section 406(b)(2) or Section 1605(a) of the Social Security Act.

There was no evidence found in any of the cases reviewed to support the County's claim that "power of attorney" payments are unrestricted payments. This method of payment is usually initiated at the request (or demand) of the landlord or the utility company and occasionally by the agency.

The request from the landlord and/or utility company clearly is the major determinent as to whether this payment method is used. Although recipents are advised that they are free to refuse to sign the POA form, the agency as well as the landlord obviously prefer this way of doing business and in face of such pressure the recipient is not free to refuse.

There is, moreover, no provision in Federal law or regulations for the use of a "power of attorney" method of payment. The law is specific in defining the ways in which a State can deal with recipents' demonstrated inability to manage money and they do not include the use of "power of attorney". Failure to pay bills is, in itself, not a determinent as to poor ability to manage. This is evidenced by the fact that the recipent is given $16.60 per month for utilities in his assistance payment, although the agency may pay $100 directly to the vendor. If given a larger payment the recipient himself might manage better.

There is no substantive difference between a payment made by agency power of attorney and a voucher payment. The only difference is that the recipient is asked to sign a paper that he agrees to the agency paying his rent and fuel bills. The device is primarily for the protection of the landlords and utility companies; it leaves the recipient with almost no freedom in the use of his funds and denies him the safeguards included by Congress in the 1962 and 1965 Amendments to the Social Security Act. Penalties for nonpayment of rent and utility bills are imposed on all citizens and the agency has no more responsibility for protecting the client against due process of law than it has to protect landlords and utility companies against the possibility that recipients may not pay their bills.

VI. RECOMMENDATIONS

1. That the New York agency cease claiming Federal funds for any case in which payment is made by means of agency "power of attorney."

2. That the New York agency review Monroe County's program of protective and vendor payments under tile IV-A and protective payments under title XVI and take steps to bring the County into compliance with Federal and State plan requirements.

3. That the State agency advise the County to phase out its POA program and make fuller use of protective and vendor payment options with full supporting evidence in case records that all conditions specified in Federal regulations are met (45 CFR 234.60 and 45 CFR 234.70).

4. That in the absence of a commitment to the above items within a 30-day period, the Federal Government will no longer match any vendor or protective payments made by

the State. (45 CFR 234.60(b)(2)(iii) and 234.70(b)).

MILDRED K. HOADLEY.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. CURTIS. Mr. President, will the Senator yield me 5 minutes?

Mr. MOYNIHAN. I yield.

The ACTING PRESIDENT pro tempore. The Senator from Nebraska is recognized for 5 minutes.

Mr. CURTIS. Mr. President, I rise in support of the committee position and opposed to this amendment.

To my mind, it is to the advantage of every tenant, young or old, whether he has property, income, a job, or must be dependent upon other sources. If in attempting to secure living quarters he can assure the landlord that he will get his money, he will get a better deal, he will get better premises. and he will get a better price.

There is nothing coercive about this amendment. It is entirely voluntary. It is giving to the poor of the land a weapon whereby they can go out and get the very best deal possible in their living quarters.

I remind my colleagues that this is totally voluntary. A request for joint checks must be made by the recipient in writing and it would be effective until revoked by the recipient and would be limited to 50 percent of the check. We do not imply that it be 50 percent spent for rent, but for all purchases. He cannot enter into such an arrangement for more than 50 percent. It is very much of a compromise between those who want unlimited cash payments, on the one hand, and those who want unlimited vendor payments, on the other.

It is precisely what the House of Representatives passed and sent to the Senate as part of H.R. 7200.

Congressman RANGEL and Congressman BINGHAM, who have given great attention to this matter, both came and testified before the Committee on Finance, urging the adoption of this provision. They live where the problem exists, and they wondered. It may, as they pointed out, actually assist welfare recipients, in securing needed housing. I am convinced that it will. It is limited for a period of 2 years, and the committee report calls for careful monitoring by the Secretary of HEW.

The House report language makes it clear that the voluntary agreement does allow for the recipient to revoke the two-party check after 30 days without notice and thus prevents coercion by the landlord in specifically providing that he can revoke it.

This is a voluntary arrangement to protect those who need protection, to give them a hand in the transaction. Checks cannot be cashed without their signatures. Yet they can enter into an arrangement that creates confidence and assurances with those with whom they deal so that they can get the most for their money.

I believe the proponents of this amendment are vitally concerned about the interest of these people. I do think that some of the outside sources who have painted this amendment as harsh and coercive frankly do not understand the situation and have not gone into it in the depth that such individuals as the distinguished Senator from New York, in charge of this bill, and the distinguished Congressman, the Honorable Mr. RANGEL and the Honorable Mr. BINGHAM.

I think we should give great weight to their testimony and reject this amendment.

Mr. MOYNIHAN. Mr. President, I thank the distinguished and revered ranking minority member of our committee.

Mr. President, before yielding back my time, I shall make only two points which would emphasize what the Senator from Nebraska has said.

The first is, if there is a question of fact, before the Government limited this measure to 10 percent in my particular city the number of such unilateral payments was up to 25 percent.

But I have one other point and one last point. I ask the Senator from Maine to look here just a moment and if the Senator from Wisconsin would take just one look here at the front page of the New York Times. He will see the President of the United States walking amidst the ruins of a borough which on its own would be the fifth largest city in America. The rubble the President is walking over was once housing and it has been ruined, and the people who live there keep fleeing farther and farther from the perimeter of this place seeking housing. Where they go now, they are sometimes looked upon as carrying the virus of this very urban blight.

The one thing they may not now do is what Senator CURTIS pointed out. They may not say to a prospective landlord:

I am prepared to enter into an agreement with you in which there will be a monthly check made out jointly to us. I have the right to rescind that agreement on 30 days' notice and without any other agreement, but I am prepared to make that agreement. So I am a good tenant. You can take me. You can be confident of me.

That is a right they do not have and, Mr. President, I submit in the judgment of people who are close to this situation, that they now need. This is an experimental measure which in 2 years may turn out to be much more important than we think. If it is not it will quietly lapse.

With that, if there is no other Senator who wishes to speak, I am prepared to yield the remainder of my time and to thank my colleague from Nebraska for his thoughtful remarks.

Mr. BROOKE addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Massachusetts.

Mr. MOYNIHAN. Mr. President, if the Senator will yield, before I do conclude, I wish to say further that I thank all those who participated in this debate. We clearly are divided not by values but by judgments about necessarily obscure facts, and there is nothing, I think, but a high regard on this side of the aisle for those who have submitted the amendment.

Mr. BROOKE. Mr. President, I join with my distinguished colleague from New York in thanking all the participants in this debate. I think we have made good and sound legislative history.

Mr. President, I think my colleague, the junior Senator from New York, has failed to make the case that there is a crisis so great as to justify the sweeping provisions of the present Finance Committee bill.

I think that Assemblyman Coppell from the South Bronx, who I said I do not know, but I am sure is a very able, a very vigorous assemblyman from New York, has convinced my colleague and some in Congress that there is a necessity for this in the South Bronx. I do not know whether it is or is not except I have not seen any supporting data for it.

The data that I have seen would indicate the South Bronx does not have any more of a crisis than Roxbury, Mass., or Detroit, Mich., or California, or some other places as well.

Certainly no case has been made that there is need for such sweeping national legislation as presently embodied in the bill, that there is a crisis which would cause us to take a step backward and compel all AFDC recipients to enter into two-party contracts.

Mr. JAVITS. Mr. President, will the Senator yield at that point?

Mr. BROOKE. I yield.

Mr. JAVITS. It is awfully easy because the President took a walk in the South Bronx, and the South Bronx is bombed out and one of the worst areas in the country, to universalize. What the Senator last said is what is critical to this matter. We are dealing with a nation with millions, not thousands, and as to those in the South Bronx, as I said before, this is not going to make it or break it. It may help marginally; it may hurt marginally. The question is, What shall be the national policy?

For my thinking, what Senator PROXMIRE said, whether it is his committee or not, was a critical point, to wit, we really do not know enough about this thing to legislate it, and it is deep. In 2 years it is very likely to be perpetuated because in 2 years we will not know. It will not be determinative; it will not have been proven one way or the other.

That is my reason for feeling that I am with the Senator from Massachusetts, and I represent the South Bronx as much as my colleague from New York.

Mr. BROOKE. Mr. President, I do not want to be facetious, but when my distinguished colleague, the junior Senator from New York, was in Cambridge, I think the senior Senator from New York was walking around the South Bronx at that time, and I believe even then the South Bronx had serious problems as it always had.

Mr. MOYNIHAN. Mr. President, will the Senator yield for one point?

Mr. BROOKE. I yield.

Mr. MOYNIHAN. I went to high school in East Harlem directly across the river from the South Bronx. My revered and distinguished senior Senator comes from the Washington Heights area which if the Senator will look at the map is much closer to the North Bronx.

Mr. BROOKE. I do not want to get into identifying New York City geog-

raphy. I can tell you we are all concerned in the Senate about New York. As you will remember Senator PROXMIRE and I had the responsibility in the Banking, Housing, and Urban Affairs Committee for the Senate's response to the New York City financial crisis. We want to do everything we can for New York. But we cannot set national policy based solely on a portion of New York.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. BROOKE. Yes.

Mr. JAVITS. I was once asked on a television program about some very serious political decision, whether I would run for Governor, and I said, "If I am going to commit hara-kiri, it won't be on this program."

I think that applies here, Senator MOYNIHAN. I would never, whether I am right or wrong, challenge your credentials to speak for New York. All I meant to say—and you know I am much older than you and have been in our town a long time—was just that I, too, had heavy on my heart the same considerations which you have. I came to a different conclusion, but I have the same considerations.

Mr. BROOKE. I want to assure the Senator I have the needs of New York on my heart as well. We all do. We all love New York. I am not sure I am going to be with you tomorrow night at the World Series, but I love it anyway.

However, the point is that here we are making national policy, and very serious national policy, and I hope that our colleagues in the Senate will not take a backward step when we are moving forward and having faith and confidence in welfare recipients to pay their bills, and pay their bills on time. That to me is the real principle involved in this whole amendment. I have that faith and confidence, and I ask my colleagues in the Senate to have that faith and confidence as well.

I yield back the remainder of my time.

ADDITIONAL STATEMENT SUBMITTED

Mr. DOMENICI. Mr. President, I join today with Senators BELLMON, BROOKE, JAVITS, HATHAWAY, METZENBAUM, and HOLLINGS in cosponsoring an amendment to H.R. 3387 to strike that portion of the bill which authorizes State welfare departments to make unlimited "voluntary" two-party checks to AFDC recipients and landlords or utility companies for up to 50 percent of the recipient's total AFDC payment.

My reasons for opposing this portion of H.R. 3387 are threefold:

First, authorizing the nearly unlimited use of two-party checks for rent and utility payments could result in coercion of recipients to agree to such payments. Recipients might not be aware of the "voluntary" nature of these payments and they could be forced by landlords to agree to two-party checks before rent and utility services are provided.

Second, our public assistance programs already pose a multitude of administrative burdens for the States. If the two-party check provision is implemented, the program could become even more unwieldly to administer. The potential difficulties are especially apparent in the case of utility payments, since the amount of the AFDC payment used for such services would vary from month to month.

Third, in my opinion, H.R. 3387 is not the appropriate forum for enacting substantive changes in existing law. The legislation is intended primarily to extend for 4 months a number of Social Security Act provisions which would expire September 30, 1977. It would be better to attach this two-party check amendment to H.R. 7200, or similar legislation, which proposes substantive changes in law. In this manner, the two-party check provision can be more thoroughly considered and debated.

The ACTING PRESIDENT pro tempore. All time having been yielded back, the question now occurs on agreeing to the amendment proposed by the Senator from Massachusetts, amendment No. 945.

Mr. BROOKE. Mr. President, I ask for the yeas and nays.

The ACTING PRESIDENT pro tempore. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The ACTING PRESIDENT pro tempore. The Clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Minnesota (Mr. ANDERSON), the Senator from Indiana (Mr. BAYH), the Senator from Texas (Mr. BENTSEN), the Senator from Kentucky (Mr. FORD), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Louisiana (Mr. LONG), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Montana (Mr. METCALF), the Senator from Alabama (Mr. SPARKMAN), and the Senator from Mississippi (Mr. STENNIS) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) would vote "yea."

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER), the Senator from Oregon (Mr. HATFIELD), the Senator from Illinois (Mr. PERCY), the Senator from Vermont (Mr. STAFFORD), and the Senator from Texas (Mr. TOWER) are necessarily absent.

I further announce that the Senator from Kansas (Mr. PEARSON), is absent due to a death in the family.

I further announce that, if present and voting, the Senator from Oregon (Mr. HATFIELD) would vote "yea."

The result was announced—yeas 62, nays 20, as follows:

[Rollcall Vote No. 563 Leg.]

YEAS—62

Allen	Culver	Hayakawa
Baker	Danforth	Heinz
Bellmon	DeConcini	Helms
Biden	Dole	Hollings
Brooke	Domenici	Inouye
Bumpers	Durkin	Jackson
Burdick	Eagleton	Javits
Cannon	Eastland	Kennedy
Case	Glenn	Leahy
Chafee	Gravel	Lugar
Chiles	Hart	Magnuson
Church	Haskell	Mathias
Clark	Hatch	Matsunaga
Cranston	Hathaway	McGovern
McIntyre	Ribicoff	Stone
Melcher	Riegle	Thurmond
Metzenbaum	Sarbanes	Weicker
Muskie	Sasser	Williams
Nelson	Schmitt	Young
Pell	Stevens	Zorinsky
Proxmire	Stevenson	

NAYS—20

Bartlett	Hansen	Packwood
Byrd, Harry F., Jr.	Johnston	Randolph
	Laxalt	Roth
Byrd, Robert C.	McClure	Schweiker
Curtis	Morgan	Scott
Garn	Moynihan	Talmadge
Griffin	Nunn	Wallop

NOT VOTING—18

Abourezk	Hatfield	Pearson
Anderson	Huddleston	Percy
Bayh	Humphrey	Sparkman
Bentsen	Long	Stafford
Ford	McClellan	Stennis
Goldwater	Metcalf	Tower

So Mr. BROOKE's amendment was agreed to.

(Later the following occurred:)

Mr. HASKELL. Mr. President, I ask unanimous consent that my vote on the Brooke amendment, which was a "nay" vote be changed to "aye," I not having understood the nature of the motion that was being voted upon and the result of my change from "nay" to "aye" would not affect the outcome of the vote.

The ACTING PRESIDENT pro tempore. Is there objection? Without objection, it is so ordered.

(The foregoing rollcall vote reflects the above order.)

Mr. BROOKE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. JAVITS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The ACTING PRESIDENT pro tempore. Are there further amendments?

Mr. NUNN. Mr. President, I have an amendment which I believe will be agreed to without a rollcall vote. I do not know whether there will be a rollcall vote on final passage or not.

Mr. MOYNIHAN. Will the Senator yield?

Mr. NUNN. Yes.

Mr. MOYNIHAN. It is not now contemplated that there will be a rollcall vote on final passage, but I am advised that there might be.

UP AMENDMENT NO. 946

(Purpose: To add a provision dealing with the treatment of certain child support collections after termination of AFDC assistance)

Mr. NUNN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Georgia (Mr. NUNN) proposes an unprinted amendment numbered 946.

Mr. NUNN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

On page 7 after line 14 add the following new section:

TREATMENT OF CERTAIN CHILD SUPPORT COLLECTIONS AFTER TERMINATION OF AID TO FAMILIES WITH DEPENDENT CHILDREN ASSISTANCE

SEC. 4. Section 457(c) of the Social Security Act is amended—

(a) in paragraph (1)—

(1) by striking out "such support payments" and inserting in lieu thereof "amounts of child support payments which represent monthly support payments", and

(2) by inserting ", which represent monthly support payments," immediately after "amounts so collected", and

(b) in paragraph (2)—

(1) by striking out "such support payments" and inserting in lieu thereof "amounts of child support payments which represent monthly support payments", and

(2) by inserting ", which represents monthly support payments," immediately after "amounts so collected", and

(3) by striking out the period at the end thereof and inserting in lieu of such period a comma, and

(c) by adding at the end thereof the following new provision:

"and so much of any amounts of child support so collected as are in excess of the payments required to be made in paragraph (1) shall be distributed in the manner provided by subsection (b)(3) (A) and (B) with respect to excess amounts described in subsection (b).".

Mr. NUNN. Mr. President, today, I am offering an amendment that would clarify language in the child support provisions of Public Law 93-647. Under present law applicants and recipients of AFDC are required, as a condition of assistance, to assign the State any rights to support they may have, and which have accrued at the time the assignment is executed. Present law also requires State agencies to collect child support payments on behalf of the AFDC recipient. Amounts collected which represent the child support obligation for the current month are generally retained by the State to the extent necessary to reimburse it for the current AFDC payment. If the amount of the child support collection made by the State is in excess of the court-ordered monthly support payment for the family, the amount of the excess is retained by the State to reimburse it for assistance payments previously made to the family. Present law also allows States at their option to continue to collect support payments from an absent parent for up to 4 months after AFDC payments have been terminated and then at the option of former recipients, to continue to collect support payments for them and deduct the cost of collection from the amounts collected.

Mr. HART. Mr. President, may we have order in the Senate so the Senator can be heard?

The ACTING PRESIDENT pro tempore. The Senate will be in order. Senators will cease conversations. The Senate will please come to order.

The Senator from Georgia.

Mr. NUNN. If they do this, HEW regulations require them to continue to retain payments in excess of the required monthly support order as reimbursement for past assistance payments. The HEW regulations have been challenged as inconsistent with the statute. There is a court suit pending in Georgia against the HEW regulations which the director of the Georgia Child Support Recovery Unit, the Commissioner of Human Resources and the Secretary of HEW as defendants.

My amendment would add clarifying language to uphold the HEW interpretation that States are required to continue to retain support payments in excess of the regular monthly support order as reimbursement for past assistance payments. This is consistent with the intent of the Congress in establishing the child support program that legally responsible parents who owe child support to AFDC families accrue an obligation to the State for assistance paid to their families.

My amendment clarifies present law, section 457(c) of the Social Security Act. It is in accordance with HEW regulations. It has already been approved by the Finance Committee on another bill, which is not likely to come up this session.

In effect, it will really add money to the State governments and the Federal Government, assuming that the plaintiffs in the lawsuit might have some case.

This amendment does not cost money, but it saves money for the taxpayers at both the State and Federal levels. It is in accordance with HEW regulations, and in accordance with the intent of the Congress in the previous law which was passed. I hope the committee will consider the amendment.

Mr. MOYNIHAN. Mr. President, the Senator from Georgia is entirely correct in his statement. This measure complies with the intention of the Congress, complies with the regulations of the HEW, and it has been adopted by the Committee on Finance with respect to another measure, H.R. 7200, which we have recently been considering. The committee would move to accept the amendment.

The ACTING PRESIDENT pro tempore. Do Senators yield back their time?

Mr. NUNN. Mr. President, I yield back the remainder of my time.

The ACTING PRESIDENT pro tempore. All time having been yielded back, the question is on agreeing to the amendment of the Senator from Georgia.

The amendment was agreed to.

Mr. BARTLETT. Mr. President, the Senate is again considering the matter of Federal day care staffing standards. This is a subject which I have long opposed and feel should have been deleted during one of the several debates of the 94th Congress.

I opposed similar legislation to H.R. 3387 during the 94th Congress. This bill again attempts to gloss over the real problem by using taxpayers' dollars to hide the issue of Federal staffing standards.

The Congress has been waiting for HEW to produce its long-promised staffing study. Earlier in this session we provided HEW with additional time to prepare this study. Obviously, I think that all of us should be concerned about its content. It seems that we have commissioned a study by an organization with a vested interest.

I do not oppose the portion of this bill which postpones the Federal staffing standards until February 1, 1978. However, this exercise is totally unnecessary because the problem should have been settled during the 94th Congress.

I do still question the use of tax dollars purposed in this bill. If you will recall, when the standards were to go into effect last year, there was a proposal to use tax dollars to defray a part of the additional cost of the salaries for the added personnel in the day care centers. There is some logic to this, although a very limited amount. However, once we delayed the standards, what logic remained in continuing this expenditure? This bill continues the extenditure, and at the same time continues the delay of standards.

Actually, as of October 1, 1977, the standards went into effect, and a wave of concern swept across my State. This concern was expressed not only by operators of day care centers, but by parents. There are many parents, particularly single working mothers, who will find it difficult, if not impossible, to pay for day care if anything like the present standards are put into effect.

These are working women, who are not on welfare, and who will not have the cost of additional staffing deferred by a Federal supplement.

It should also be noted that the minimum wage is probably going to jump 13 percent during this next year, and 31 percent by 1981. All of this will have to made up by working parents.

I have grave concern over the effect of all this on the quality of care that children will receive. If working parents cannot pay for licensed day care, they will have to turn to other sources which may be of questionable quality.

There is a proposal before the Finance Committee which will actually delete the standards rather than merely postpone them, and it is my understanding that this bill will later be reported to the floor for action. However, the public and my distinguished colleagues should note that this deletion is done with the intent that there will be new standards adopted during the second session of the 95th Congress.

I would like to thank the Finance Committee for reporting this bill. It will at least temporarily allay the fears of parents in my own State. But the problem still exists, and there is only one solution—a complete deletion of these standards or any future standards.

The ACTING PRESIDENT pro tempore. Are there further amendments?

If not, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment, as amended, was agreed to.

The ACTING PRESIDENT pro tempport. The question is on the engrossment of the committee amendment, as amended, and third reading of the bill.

The amendment, as amended, was ordered to be engrossed, and the bill to be read a third time.

The bill was read a third time.

The ACTING PRESIDENT pro tempore. Do the Senators yield back their time?

All time having been yielded back, and the bill having been read the third time,

the question is, Shall the bill, as amended, pass?

Mr. MATHIAS. Mr. President, I ask for the yeas and nays.

The ACTING PRESIDENT pro tempore. The yeas and nays have been requested. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Minnesota (Mr. ANDERSON), the Senator from Indiana (Mr. BAYH), the Senator from Texas (Mr. BENTSEN), the Senator from Kentucky (Mr. FORD), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Louisiana (Mr. LONG), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Montana (Mr. METCALF), the Senator from Rhode Island (Mr. PELL), the Senator from Alabama (Mr. SPARKMAN), and the Senator from Mississippi (Mr. STENNIS) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. ANDERSON) and the Senator from Minnesota (Mr. HUMPHREY) would each vote "yea."

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER), the Senator from Michigan (Mr. GRIFFIN), the Senator from Oregon (Mr. HATFIELD), the Senator from Illinois (Mr. PERCY), the Senator from Vermont (Mr. STAFFORD), and the Senator from Texas (Mr. TOWER) are necessarily absent.

I further announce that the Senator from Kansas (Mr. PEARSON) is absent due to a death in the family.

I further announce that, if present and voting, the Senator from Oregon (Mr. HATFIELD) would vote "yea."

The result was announced—yeas 80, nays 0, as follows:

[Rollcall Vote No. 564 Leg.]

YEAS—80

Allen	Garn	Metzenbaum
Baker	Glenn	Morgan
Bartlett	Gravel	Moynihan
Bellmon	Hansen	Muskie
Biden	Hart	Nelson
Brooke	Haskell	Nunn
Bumpers	Hatch	Packwood
Burdick	Hathaway	Proxmire
Byrd, Harry F., Jr.	Hayakawa	Randolph
	Heinz	Ribicoff
Byrd, Robert C.	Helms	Riegle
Cannon	Hollings	Roth
Case	Inouye	Sarbanes
Chafee	Jackson	Sasser
Chiles	Javits	Schmitt
Church	Johnston	Schweiker
Clark	Kennedy	Scott
Cranston	Laxalt	Stevens
Culver	Leahy	Stevenson
Curtis	Lugar	Stone
Danforth	Magnuson	Talmadge
DeConcini	Mathias	Thurmond
Dole	Matsunaga	Wallop
Domenici	McClure	Weicker
Durkin	McGovern	Williams
Eagleton	McIntyre	Young
Eastland	Melcher	Zorinsky

NAYS—0

NOT VOTING—20

Abourezk	Hatfield	Pell
Anderson	Huddleston	Percy
Bayh	Humphrey	Sparkman
Bentsen	Long	Stafford
Ford	McClellan	Stennis
Goldwater	Metcalf	Tower
Griffin	Pearson	

So the bill (H.R. 3387), as amended, was passed.

The title was amended so as to read:

An act to extend certain Social Security Act provisions, and for other purposes.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make technical and clerical corrections in the engrossment of the Senate amendments to H.R. 3387.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. MOYNIHAN. I thank the Chair.

SENATE TO RECONVENE ON WEDNESDAY

Mr. ROBERT C. BYRD. Mr. President, as the Senate continues to mark time awaiting the clearance of conference reports and other measures considered necessary to be acted upon before the session adjourns for the year, the Senate will not be in session tomorrow but it will come in early on Wednesday, at 9 a.m., and Wednesday will be a busy day.

I thank the Chair.

RURAL CLINICS—H.R. 8422

Mr. TALMADGE. Mr. President, on behalf of the Committee on Finance, I ask unanimous consent that when H.R. 8422 is sent over to the Senate, the bill be held at the desk.

H.R. 8422 is the House-passed bill designed to provide coverage of certain services by rural clinics under the medicare and medicaid programs.

H.R. 422, a bill previously passed by the Senate, contains the committee and Senate counterpart provisions for coverage of rural clinics.

It is our intention to move to substitute the text of the Senate provisions in H.R. 422 as an amendment to H.R. 8422.

The purpose of this, of course, is to assure that both the complete house version and the complete Senate version of coverage of rural clinics' services will be in conference.

The ACTING PRESIDENT pro tempore. Is there objection? Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a brief period for the transaction of routine morning business with statements limited therein to 5 minutes each.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Marks, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

PRESIDENTIAL APPROVALS

A message from the President of the United States announced that he has approved and signed the following measures:

On October 12, 1977:

S. 1435. An act to amend the Federal Election Campaign Act of 1971 to extend the authorization of appropriations contained in such act.

On October 13, 1977:

S. 1331, An Act to provide for the establishment of a Center for the Book in the Library of Congress, and for other purposes.

On October 15, 1977:

S.J. Res. 89. Joint resolution to amend an act entitled "To authorize certain appropriations for the territories of the United States, to amend certain acts relating thereto, and for other purposes" (enrolled bill H.R. 6550, 95th Congress, 1st session).

S. 667. An act to declare certain federally owned land held in trust by the United States for the Te-Moak Bands of Western Shoshone Indians.

REPORT ON OLDER AMERICANS ACT—PM 124

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States which was referred to the Committee on Human Resources:

To the Congress of the United States:

Section 208 of the 1973 Amendments to the Older Americans Act (Public Law 89–73) provides that the Commissioner on Aging shall prepare and submit to the President for transmittal to the Congress a full and complete report on the activities carried out under this Act, not later than 120 days after the close of each Fiscal Year.

The Secretary of Health, Education, and Welfare has forwarded the Annual Report of the Administration on Aging for the Fiscal Year 1976 to me, and I am pleased to transmit this document to the Congress.

JIMMY CARTER.

THE WHITE HOUSE, *October 17, 1977.*

MESSAGES FROM THE HOUSE

At 12:04 p.m., a message from the House of Representatives delivered by Mr. Berry, one of its clerks, announced that the House has passed the following bills in which it requests the concurrence of the Senate:

H.R. 2176. An act to amend the Accounting and Auditing Act of 1950 to provide for the audit, by the Comptroller General of the United States, of the Federal Reserve System, the Federal Deposit Insurance Corporation, and the Office of the Comptroller of the Currency, and for other purposes;

H.R. 4297. An act to amend the Marine Protection, Research, and Sanctuaries Act of 1972 to authorize appropriations to carry out the provisions of such act for fiscal year 1978.

ENROLLED BILLS SIGNED

At 1:12 p.m., a message from the House of Representatives delivered by Mr. Hackney, one of its clerks, announced that the Speaker has signed the following enrolled bills:

H.R. 4836. An act to extend for 7 months the term of the National Commission on New Technological Uses of Copyrighted Works.

H.R. 5675. An act to authorize the Secretary of the Treasury to invest public moneys, and for other purposes.

The enrolled bills were subsequently signed by the Acting President pro tempore (Mr. MATSUNAGA).

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The PRESIDING OFFICER laid before the Senate the following communications which were referred as indicated.

EC–2168. A letter from the Acting Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, the cumulative report on rescissions and deferrals for October, 1977 (with an accompanying report); jointly, pursuant to the order of January 30, 1975, to the Committees on Appropriations, the Budget, Armed Services, and Judiciary, and Governmental Affairs.

EC–2169. A letter from the Deputy Secretary of Agriculture transmittting a draft of proposed legislation to authorize the Secretary of Agriculture to relinquish exclusive legislative jurisdiction over lands or interest under his control (with accompanying papers); to the Committee on Agriculture, Nutrition, and Forestry.

EC–2170. A letter from the Administrator of the Rural Electrification Administration transmitting, pursuant to law, notice of approval of an REA insured loan in the amount of $2,145,000 to Central Kansas Electric Cooperative, Inc., of Great Bend, Kansas (with accompanying papers); to the Committee on Appropriations.

EC–2171. A letter from the Assistant Secretary of Defense transmitting, pursuant to law, the second quarter fiscal year 1977 report of receipts and disbursements, pertaining to the disposal of surplus military supplies, equipment, material, and for expenses involving the production of lumber and timber products (with an accompanying report); to the Committee on Appropriations.

EC–2172. A letter from the Deputy Secretary of Defense transmitting, pursuant to law, a report on the initial allocation of the total civilian authorization among the Military Departments and the Defense Agencies and the rational for the allocation; to the Committee on Armed Services.

EC–2173. A letter from the Director, Defense Security Assistance Agency and Deputy Assistant Secretary (ISA), Security Assistant transmitting, pursuant to law, information concerning the Department of the Army's proposed Letter of Offer to Nigeria for Defense Articles (with an accompanying report); to the Committee on Armed Services.

EC–2174. A letter from the Secretary of Transportation transmitting, pursuant to law, a report on the effects of the regulatory reform provisions of the Railroad Revitalization and Regulatory Reform Act of 1976 (with accompanying reports); to the Committee on Commerce, Science, and Transportation.

EC–2175. A letter from the Acting Chairman of the Federal Energy Regulatory Commission transmitting, pursuant to law, the Commission's comments on the "Decision and Report to Congress on the Alaska Natural Gas Transmission System (with an accompanying report); to the Committee on Energy and Natural Resources.

EC–2176. A letter from the Comptroller General of the United States transmitting, for the information of the Senate, information supporting GAO's conclusion concerning crude oil production (with accompanying papers); to the Committee on Energy and Natural Resources.

EC–2177. A letter from the Secretary of Commerce transmitting, pursuant to law, a report of the Economic Development Administration's achievements and activities during the fiscal year 1976 and the transition quarter (with an accompanying report); to the Committee on Environment and Public Works.

EC–2178. A letter from the Administrator of the General Service Administration transmitting, pursuant to law, a prospectus for alterations at the Arlington, Virginia, Federal Building 2, in the amount of $7,942,000 (with accompanying papers); to the Committee on Environment and Public Works.

EC–2179. A letter from the Assistant Legal Adviser for Treaty Affairs and the Department of State transmitting, pursuant to law, international agreements other than treaties entered into by he United States within the past sixty days (with accompanying papers); to the Committee on Foreign Relations.

EC–2180. A letter from the Comptroller General of the United States transmitting, pursuant to law, a report entitled "The Tennessee Valley Authority's Tellico Dam Project—Costs, Alternatives, and Benefits" (EMD–77–58, October 14, 1977) (with an accompanying report); to the Committee on Governmental Affairs.

EC–2181. A letter from the Acting Comptroller General of the United States transmitting, pursuant to law, a report entitled "Alternatives Available for Reducing Requirements for Spare Aircraft Engines" (LCD–77–418, October 12, 1977) (with an accompanying report); to the Committee on Governmental Affairs.

EC–2182. A secret communication from the Acting Comptroller General of the United States transmitting, pursuant to law, a report identifying the military hardware, training, and construction services sold to Saudi Arabia and analyzing the U.S. rationale for doing so (with an accompanying report); to the Committee on Governmental Affairs.

EC–2183. A letter from the Attorney General of the United States transmitting, pursuant to law, the Department of Justice's intention to add a new subsystem to the system of records maintained by the Immigration and Naturalization Service, in accordance with the Privacy Act (with accompanying papers); to the Committee on Governmental Affairs.

EC–2184. A letter from the Director of ACTION transmitting, pursuant to law, a report on a new proposed system of records, in accordance with the Privacy Act (with accompanying papers); to the Committee on Governmental Affairs.

EC–2185. A letter from the Secretary of Health, Education, and Welfare transmitting, pursuant to law, the third annual report of the Emergency Medical Services Systems Act (with an accompanying report); to the Committee on Human Resources.

EC–2186. A letter from the Assistant Secretary for Congressional Relations of the Department of State transmitting a draft of proposed legislation to amend the Immigration and Nationality Act to provide for the classification of certain aliens as special immigrants (with accompanying papers); to the Committee on the Judiciary.

EC–2187. A letter from the Commissioner of the Immigration and Naturalization Service transmitting, pursuant to law, orders in the cases of aliens who have been found admissible to the United States (with accompanying papers); to the Committee on the Judiciary.

EC–2188. A letter from the Commissioner of the Immigration and Naturalization Service transmitting, pursuant to law, orders entered in 1,027 cases in which the authority contained in section 212(d)(3) of the Immigration and Nationality Act was exercised in behalf of such aliens (with accompanying papers); to the Committee on the Judiciary.

EC–2189. A letter from the Commissioner of the Immigration and Naturalization Service transmitting, pursuant to law, 567 reports covering the period September 16 through September 30, 1977, concerning visa petitions which the Service has approved according the beneficiaries of such petitions third- and sixth-preference classification (with accompanying papers); to the Committee on the Judiciary.

EC–2190. A letter from the Deputy Director of the Administrative Office of the United States Courts transmitting a draft of proposed legislation to amend chapter 315 of title 18, United States Code, to authorize payment of transportation expenses by United States Marshals for persons released pending appearance in another district (with accompanying papers); to the Committee on the Judiciary.

EC–2191. A confidential communication from the Director, Defense Security Assistance Agency and Deputy Assistant Secretary (ISA), Security Assistance transmitting, pursuant to law, information concerning the Department of the Army's proposed Letter of Offer to Israel for Defense Articles (with an accompanying report); to the Committee on Armed Services.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. HATHAWAY, from the Committee on Human Resources:

With an amendment:

S. 1328. A bill entitled the "Career Education Implementation Incentive Act of 1977" (Rept. No. 94–498).

By Mr. SPARKMAN, from the Committee on Foreign Relations:

S. Con. Res. 56. An original concurrent resolution expressing the concurrence of the Senate and the House of Representatives with respect to presidential action affecting the limitation of strategic armaments (together with supplemental views) (Rept. No. 95–499).

By Mr. CANNON, from the Committee on Rules and Administration:

Report entitled "Review of Laws Related to Contributions Made by or Solicited from Senate Officers and Employees and the Use of Official Staff by holders of Public Office in Federal Campaigns," pursuant to sections 307 and 308 of S. Res. 110, 95th Cong., 1st session (Rept. No. 95–500).

By Mr. MATSUNAGA, from the Committee on Energy and Natural Resources:

With an amendment:

S.J. Res. 4. A joint resolution establishing the Hawaiian Native Claims Settlement Study Commission, and for other purposes (title amendment) (Rept. No. 95–501).

By Mr. JACKSON, from the Committee on Energy and Natural Resources:

S. Res. 294. An original resolution authorizing additional expenditures by the Committee on Energy and Natural Resources for routine purposes. Referred to the Committee on Rules and Administration.

CONFERENCE REPORT SUBMITTED DURING RECESS

MINIMUM WAGE INCREASE—H.R. 3744—REPT. NO. 95–497

Under authority of the order of October 13, 1977, Mr. WILLIAMS submitted a report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate

to the bill (H.R. 3744) to amend the Fair Labor Standards Act of 1938 to increase the minimum wage rate under that act, and for other purposes, on October 14, 1977, during the recess of the Senate, which was ordered to be printed.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. ALLEN, from the Committee on the Judiciary:

Ralph C. Bishop, of Alabama, to be U.S. marshal for the northern district of Alabama.

(The above nomination was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. LONG, from the Committee on Finance:

Charles F. C. Ruff, of the District of Columbia, to be Deputy Inspector General, Department of Health, Education, and Welfare.

William R. Alberger, of Oregon, to be a member of the U.S. International Trade Commission.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

HOUSE BILLS REFERRED

The following bills were each read twice by title and referred as indicated:

H.R. 2176. An act to amend the Accounting and Auditing Act of 1950 to provide for the audit, by the Comptroller General of the United States, of the Federal Reserve System, the Federal Deposit Insurance Corporation, and the Office of the Comptroller of the Currency, and for other purposes; to the Committee on Governmental Affairs.

H.R. 3816. An act to amend the Federal Trade Commission Act to expedite the enforcement of Federal Trade Commission cease-and-desist orders and compulsory process orders; to increase the independence of the Federal Trade Commission in legislative, budgetary, and personnel matters; and for other purposes; placed on the calendar.

H.R. 4297. An act to amend the Marine Protection, Research, and Sanctuaries Act of 1972 to authorize appropriations to carry out the provisions of such act for fiscal year 1978; placed on the calendar.

JOINT RESOLUTION PRESENTED

The Secretary of the Senate reported that on October 14, 1977, he presented to the President of the United States the following enrolled joint resolution:

S.J. Res. 89. Joint resolution to amend an Act entitled "To authorize certain appropriations for the territories of the United States, to amend certain acts relating thereto, and for other purposes" (enrolled bill H.R. 6550, 95th Congress, 1st session).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. BAYH (for himself and Mr. GOLDWATER):

S. 2208. A bill to amend the Federal charter of the Big Brothers of America to include Big Sisters International, Incorporated, and for other purposes; to the Committee on the Judiciary.

By Mr. CULVER:

S. 2209. A bill for the relief of Munnie Surface; to the Committee on the Judiciary.

By Mr. McCLURE:

S. 2210. A bill to establish a system for the development of mineral resources on public lands of the United States; to the Committee on Energy and Natural Resources.

By Mr. HOLLINGS (for himself and Mr. STEVENS) (by request):

S. 2211. A bill entitled the International Maritime Mobile Satellite Telecommunications Act of 1977; to the Committee on Commerce, Science, and Transportation.

By Mr. THURMOND (for himself, Mr. STAFFORD, Mr. MELCHER, Mr. HOLLINGS, Mr. HART, Mr. MATSUNAGA, and Mr. STONE):

S. 2212. A bill to provide chiropractic treatment when requested for veterans eligible for outpatient medical care; to the Committee on Veterans' Affairs.

By Mr. WILLIAMS:

S. 2213. A bill to amend the Internal Revenue Code of 1954 to provide a credit against income tax for certain amounts paid for domestic assistance for disabled individuals; to the Committee on Finance.

S. 2214. A bill relating to certain lotteries authorized under foreign law; to the Committee on the Judiciary and the Committee on Governmental Affairs, jointly, by unanimous consent.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BAYH (for himself and Mr. GOLDWATER):

S. 2208. A bill to amend the Federal charter of the Big Brothers of America to include Big Sisters International, Inc., and for other purposes; to the Committee on the Judiciary.

BIG BROTHERS-BIG SISTERS OF AMERICA TO MERGE

Mr. BAYH. Mr. President, today I am introducing legislation along with my distinguished colleague from Arizona (Mr. GOLDWATER), to merge Big Brothers and Big Sisters of America. This bill would amend the original congressional charter (36 U.S.C. 36) of Big Brothers of America to recognize the merger with Big Sisters International, Inc. Similar legislation, H.R. 7249, has been introduced by Congressman CHRISTOPHER DODD and Congressman CARR in the House, and is presently pending before the House Committee on the Judiciary.

Senator GOLDWATER and I take great pride and pleasure in accepting positions on the honorary board of Big Brothers-Big Sisters of America, joining with other distinguished Americans in this category.

Passage in the Senate is vital so that the organizations may move from being Big Brothers-Big Sisters of America de facto to Big Brothers-Big Sisters of America de jure.

Amending the BB–BSA Federal charter will help solidify their organizational position, reduce unneeded costs and help them to provide better social service to American families.

Mr. President, BBA and BSI are companion programs with 332 and 126 respective local affiliated agencies throughout the Nation, which in turn seek to "match" carefully screened and professionally supported adult volunteers in a unique "one-to-one" relationship with a child of school age primarily from a single parent home. Since some local affiliates are already providing services to both boys and girls, the new organization—to be called Big Brothers-Big Sisters of America—will have 357 affiliates.

At the present time, affiliated member agencies have over 115,000 active "matches" between volunteer and child, and almost as many additional children on waiting lists as the organization seeks to develop recruitment programs to identify additional volunteers.

The Big Brothers movement began in Cincinnati, Ohio, on the Fourth of July, 1903, when a young businessman, Irvin F. Westheimer, found a young boy rummaging through a garbage pail outside the rear entrance of Mr. Westheimer's office. Discovering the boy had no father, Mr. Westheimer befriended the boy, became his "Big Brother" and began to urge his friends to do the same for other young boys from fatherless homes. Incidentally, Mr. Westheimer is still alive, maintains a keen interest in the development of the national movement, and plans to attend the 75th anniversary of the movement, scheduled to be held in Washington, D.C., in June 1978.

The very next year, Col. Ernest Coulter, clerk of the New York City Children Court, noting the overwhelming number of fatherless boys coming before the bench, began a formal program in New York City, which we believe is one of the earliest juvenile delinquency prevention programs in the Nation.

Four years later, in 1908, the first Big Sisters program for girls was begun in New York City.

In 1917, the first meeting of local Big Brothers and Big Sisters programs was held in Grand Rapids, Mich.

A large number of local programs in various communities came into being, each due to individual initiative, each using the name Big Brothers. The parallel development of local Big Sisters programs was at a much lesser rate. During the depression of the 1930's, many small agencies collapsed and a few larger agencies in metropolitan areas operated camps for the many homeless as well as fatherless boys and girls of the time.

In 1946, Charles Berwind of the Philadelphia Big Brothers Association chaired a meeting of 13 agencies from coast to coast and a national organization, Big Brothers of America, was formed. In 1958, a congressional charter was issued to BBA, a charter which 7429 seeks to alter to accommodate the national merger of BBA and Big Sisters International, Inc. BSI had become a national movement in 1970, when five local Big Sisters programs formed a parent organization.

In 1973, the two organizations began to discuss the possibilities of merging into a single, national youth serving or-

ganization concerned with all children of school age in single parent homes.

In June 1975, the membership of each respective organization authorized the establishment of a joint merger study committee. A year later, in June 1976, the merger study committee recommended to the two organizations that a merger in principle be approved, a recommendation endorsed by large majorities of the memberships of BBA and BSI, which then called for a complete detailed merger plan. In February 1977, the boards of directors of BBA and BSI independently and formally accepted the detailed merger plan and recommended to the memberships that BBA and BSI merge into Big Brothers-Big Sisters of America.

The joint merger committee was unanimous in recommending that the form of merger entail retention of the congressional charter of BBA, hence the legal work has taken the form of BSI merging into the BBA Corp. This was upon the legal advice of an outside, independent counsel and endorsed by the legal counsel of both organizations and by the boards of directors of each organization.

The new national organization has shared the same office suite for 3 years in Philadelphia, and a predominantly joint staff has reported independently to two different boards of directors during this period. Big Brothers-Big Sisters of America will continue to offer a wide range of professional and technical services to both existing and potentially new affiliated members throughout the country.

While affiliates within the federation do not have to offer joint services at the local community level, over 100 agencies are already merged at the local level and it is anticipated that the number of local joint Big Brothers-Big Sisters programs will continue to grow rapidly during the next 5 years.

Among the services offered local affiliates are standard operations and administrative advice, recruitment programs for volunteers, information services in both the print and visual media, local program evaluations, staff training, resource development assistance, legal services, and a range of other forms of assistance.

There are now over 7 million children of school age in single parent homes in the United States and a full 20 percent of all the children in the Nation live with only one parent, up from 15 percent of the Nation's children in the last 5 years.

Demographers predict the number of children in single parent homes will continue to grow until 1990.

Many children in single parent homes are assisted by either extended families; that is, an uncle or aunt, an older brother or sister, or by group oriented youth programs such as the Scouting movement, Boys' Clubs, Girls Clubs, and many other private and volunteer groups.

At the same time, we have come to realize that as many as a million children are not able to be assisted by their extended family or by group programs, and suffer from the disease of loneliness and without the helping hand of an adult replacing the absent parent. In many cases, the single parent is working hard to keep the family intact and lacks sufficient individual time for each child.

Big Brothers-Big Sisters of America can, through its affiliated agencies, assist a child for less than $350 a year, with all costs involved in recruiting and screening volunteers, in the costs of maintaining small staffs to provide ongoing consultation and supervision to "matches" already made. This is, in our minds, an emminently cost effective service when contrasted with the per child annual costs of most publicly supported alternatives. An increasing number of juvenile courts and other institutions are referring children to local Big Brothers-Big Sisters services.

Quite obviously, the merger will control costs by requiring only one national staff, one headquarters, and by the leveraged costs of single printings, accounting systems, just to mention a few areas of improvement.

Additionally, the merger will provide a major thrust in delivering more services to girls without any diminishment of services to boys, and as such is reflective of the heightened national awareness of the lack of adequate services for girls and young women.

Of course, the major reason for the merger was the belief that in merging, the new and larger organization would be in an improved position of meeting the needs of children in single parent homes, a number that has increased to epidemic proportions growing larger at a more rapid rate than either BBA and/or BSI.

A final rationale for the merger was increasing urging of local funding sources to affiliated agencies to expand services to include serving girls or deferring of consideration of new Big Sister funding requests until they merged with the local Big Brothers program. This has led to a mandate from affiliates that the national organization reflects this groundswell from grass roots sources.

Mr. President, the priorities of the national program, as determined by the board of directors, are as follows:

Direct services to members agencies.
Development of service delivery techniques.
Field consultation (on site).
Evaluation of Agency performance.
Training of Agency personnel (professionals and volunteer leadership).
Development of service standards.
Research on effectiveness.
Planning analysis to improve local organizational operations.
Regular conferences and workshops (Regional and National).
Resource development technical assistance.
Local advertising and promotional materials.
Career development.
Advocacy of the National Movement:
National public relations programs.
National/state/local government monitoring.
Interaction with other movements.
Fund raising technique development.
Volunteer recruitment programs.
Community relations campaign.
Growth of the National Movement:
Assistance in individual Agency growth.
Development of new Agencies.

Mr. President, immediate enactment of this legislation will be of significant importance to the Big Brothers-Big Sisters of America.

Big Brothers-Big Sisters is the fastest growing youth-serving organization in the country, with 17 agencies in my own State of Indiana, many of which cover multicounty areas. Indiana Big Brothers-Big Sisters agencies rank second in the Nation, in terms of strength of program and number of youth served in proportion to the population. I commend them for the inspirational work they have done to serve youth from single-parent homes, not only in my own State of Indiana, but throughout our country.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2208

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the first section of the Act entitled "An Act to incorporate the Big Brothers of America", approved September 2, 1958 (36 U.S.C. 881 et seq.) is amended—

(1) by inserting "(a)" before "the following";

(2) by striking out "Big Brothers of America" and inserting in lieu thereof "Big Brothers-Big Sisters of America"; and

(3) by adding at the end thereof the following new subsection:

"(b) This Act may be cited as the 'Big Brothers—Big Sisters of America'."

(b) Section 3 of such Act (36 U.S.C. 883) is amended—

(b) by striking out "boys" and inserting in lieu thereof "individuals"; and

(2) by striking out "and Canada".

(c) Section 5(a) of such Act (36 U.S.C. 885(a)) is amended by striking out "and in Canada to the extent permitted by Canadian laws".

(d) Section 7(a) of such Act (36 U.S.C. 887(a)) is amended by striking out "section 16" and inserting in lieu thereof "section 16(a)".

(e) Section 15 of such Act (36 U.S.C. 895) is amended—

(1) by striking out "the name, The Big Brothers of America" and inserting in lieu thereof the following: "any of the following names: The Big Brothers of America; Big Sisters International, Incorporated; Big Sisters of America; Big Brothers; Big Sisters; Big Brothers—Big Sisters of America; and Big Sisters—Big Brothers"; and

(2) by striking out "section 16 of this title" and inserting in lieu thereof the following: "section 16(a) of this Act, and by the District of Columbia corporation, Big Sisters International, Incorporated, described in section 16(b) of this Act,".

(f) Section 16 of such Act (36 U.S.C. 896) is amended—

(1) by inserting "(a)" before "The corporation"; and

(2) by adding at the end thereof the following new subsection:

"(b) The corporation may acquire the assets of Big Sisters International, Incorporated, a corporation organized under the laws of the District of Columbia, upon discharging or satisfactorily providing for the payment and discharge of all of the liability of such corporation and upon complying with all laws of the District of Columbia applicable thereto.".

SEC. 2. Paragraph (11) of the first section of the Act entitled "An Act to provide for audit of accounts of private corporations established under Federal law", approved August 30, 1964 (36 U.S.C. 1101(11)) is amended to read as follows:

"(11) Big Brothers—Big Sisters of America.".

By Mr. THURMOND (for himself, Mr. STAFFORD, Mr. MELCHER, Mr. HOLLINGS, Mr. HART, Mr. MATSUNAGA, and Mr. STONE):

S. 2212. A bill to provide chiropractic treatment when requested for veterans eligible for outpatient medical care; to the Committee on Veterans' Affairs.

Mr. THURMOND. Mr. President, I am introducing a bill which will amend title 38 of the United States Code to authorize eligible veterans, upon request, to receive chiropractic care on an outpatient basis under the VA medical care program.

The total current chiropractic patient population of the United States is estimated to be 21.5 million. It is not known how many of this number are among the Nation's 29 million veterans population. Nevertheless, the likelihood is overwhelming that a substantial number of veterans who receive medical care at VA facilities are either active or potential chiropractic patients. Under present VA policy, however, chiropractic services are provided to eligible veterans only in the event that such treatment is recommended, on a case-by-case basis, by a physician paid by the VA.

Chiropractic services have been recognized under a variety of State and Federal health care programs. In addition to the medicare program, reimbursement for chiropractic services is also currently provided for under the Federal Employees Compensation Act. Additionally, a number of States include chiropractic service under their medical assistance programs.

The lack of readily available chiropractic care within the VA health care system stands in sharp contrast to that under the medicare program, which is administered by HEW. Under the medicare program, it is typical for eligible persons in need of chiropractic care to seek and obtain the services of a doctor of chiropractic. That person is then reimbursed for the cost of such services.

At a time in the area of veterans affairs when the importance of freedom of choice is being emphasized more than ever before, particularly in the areas of representation before the VA and of review of administrative determinations by the Administrator of Veterans' Affairs, I think it is important for veterans to have a modicum of freedom of choice regarding selection of health care providers within the VA health care system. Clearly, the disparate treatment of citizens in need of chiropractic care before two Federal administrative agencies, both of which spend billions annually in the provision of health care to the American public, cannot be justified and should not be allowed to continue.

The bill which I am introducing would simply allow an eligible veteran to receive chiropractic care if he so desired. Accordingly under this proposal a person would be entitled to the same choice within the VA health care system as he or she would have under the medicare program.

Mr. President, I sent the bill to the desk and ask unanimous consent that it be referred to the appropriate committee for prompt consideration and that it be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2212

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (1) chapter 17 of title 38, United States Code, is amended by adding a new section 629 at the end of subchapter III as follows:

"§ 629. Chiropractic care

"Any veteran eligible for medical services under the provisions of this chapter and who requests chiropractic care shall be furnished chiropractic care provided the doctor of chiropractic holds a degree of doctor of chiropractic from a school or college approved by the Administrator and is licensed to practice chiropractic in any of the States or territories or in the District of Columbia and has practiced chiropractic for a period of a least two years."

(2) By adding after

"628. Reimbursement of certain medical expenses," in the table of sections at the head of the chapter the following:

"629. Chiropractic care."

By Mr. WILLIAMS:

S. 2213. A bill to amend the Internal Revenue Code of 1954 to provide a credit against income tax for certain amounts paid for domestic assistance for disabled individuals; to the Committee on Finance.

A TAX CREDIT FOR THE DISABLED

Mr. WILLIAMS. Mr. President, a sad problem came to my attention recently in a letter from Mr. Howard M. Comer, former machinist and a most articulate constituent from Plainfield, N.J.

As chairman of the Senate Committee on Human Resources which has initiated several important programs to improve the lives of older and disabled citizens, I was particularly touched by the problem he described.

Mr. Comer is 93 years of age and blind in one eye. Since his wife passed away in December 1969, he has been forced to rely on a housekeeper to keep his home. He pointed out that the tax law permitted people who could earn a living to receive a credit for similar costs, but he was denied tax relief on his other income because he was forced to pay for his housekeeper with his meager social security funds rather than income earned from outside employment.

In reviewing the Tax Code on this issue, it appears that if household and dependent care services are provided for one who is disabled and a dependent of someone who had a job, the credit would be allowed for the person who works. Since Mr. Comer struggles not to be dependent on others, and is disabled and too advanced in age to work, he is denied this tax relief.

Clearly, the applicable law in section 44A of the Tax Code promotes an important Federal policy of helping the disabled who otherwise might be denied home care. Therefore, I feel it would be appropriate to include the people facing the financial hardships that Mr. Comer does among those who qualify for a deduction under this section.

The distinguished chairman of the Senate Finance Committee, Mr. LONG, has previously noted the employment opportunities which might be gained by a tax incentive for this kind of work.

In this particular instance not only is there an incentive to provide employment for some unskilled workers, but there is an overriding moral issue which should compel us to relieve the financial hardship and even physical suffering which threatens in these cases. In considering the moral issue here, may I comment on the fact that I am somewhat awed to realize that Mr. Comer has been a witness to and participant in the events of nearly one-half of our great Nation's total history. Surely, his contributions deserve serious consideration in our decisions on this critical matter.

My proposal would enable a disabled taxpayer in Mr. Comer's situation to take a limited tax credit of 20 percent of the cost of household and dependent care services up to a limit of $2,000 for a single taxpayer and $4,000 for a couple filing a joint return.

Indeed, it would seem to be in everyone's interest to improve the living conditions of the elderly and disabled. Probably, more than any other factors, aging and the possibility of becoming disabled are the common denominators of mankind. Whatever our social or economic standing, ethnic background, sex, aptitudes, or beliefs, we share the fact that we all grow older and are all subject to debilitating illness or serious injury. What we do to aid today's order or disabled citizens, we potentially do for each of us no matter how remote retirement or ill health may seem.

Mr. President, I believe we should act immediately to provide badly needed relief in these cases, and I ask unanimous consent that the pertinent portions of Mr. Comer's letter and the text of the proposal be printed at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2213

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CREDIT FOR DOMESTIC ASSISTANCE COSTS INCURRED BY OR ON BEHALF OF DISABLED PERSONS.

(a) IN GENERAL.—Subsection (a) of section 44A (relating to expenses for household and dependent care services necessary for gainful employment) is amended to read as follows:

"(a) ALLOWANCE OF CREDIT.—

"(1) HOUSEHOLD AND DEPENDENT CARE SERVICE NECESSARY FOR GAINFUL EMPLOYMENT.—In the case of an individual who maintains a household which includes as a member one or more qualifying individuals (as defined in subsection (c)(1)), there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 20 percent of the employment-related expenses (as defined in subsection (c)(2)) paid by such individual during such taxable year.

"(2) DOMESTIC CARE SERVICES FOR DISABLED PERSONS.—In the case of—

"(A) an individual who is disabled (within the meaning of section 72(m)(7)), or

"(B) a taxpayer who maintains a household which includes as a member an individual who is disabled (within the meaning of section 72(m)(7)),

there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 20 percent of the amounts paid or incurred by such individual (in the case of an individual described in subparagraph (A)), or by the taxpayer (in the case of a taxpayer described in subparagraph (B)), for household services and for the care of such individual. No amount shall be taken into account for purposes of this paragraph which is taken into account for purposes of paragraph (1) and no amount shall be taken into account for purposes of this paragraph with respect to the same individual for whom any amount is taken into account for purposes of paragraph (1).".

(b) Refund of Excess Credit Relating to Care for Disabled Persons.—

(1) REFUND.—Section 6401(b) of such Code (relating to excessive credits) is amended—

(A) by striking out "and 43 (relating to earned income credit)," and inserting in lieu thereof "44A (relating to expenses for household and dependent care services) disregarding any portion of such amount attributable to the provisions of subsection (a)(1) of such section, and 43 (relating to earned income credit),", and

(B) by striking out "39 and 43" and inserting in lieu thereof "39, 44A, and 43".

(2) ASSESSMENT AUTHORITY.—Section 6201(a)(4) of such Code (relating to erroneous credit under section 39 or 43) is amended—

(A) by striking out "section 39 or 43" in the caption and inserting in lieu thereof "section 39, 44A, or 43", and

(B) by adding at the end thereof the following new sentence: "If on any return or claim for refund of income taxes under subtitle A there is an overstatement of the credit allowable by section 44A (relating to expenses for household and dependent care services) attributable to the amount determined under subsection (a)(2) of such section, the amount so overstated which is allowed as a refund may be assessed by the Secretary under the procedures applicable to overstatements of credit under section 39 or 43.".

(c) CONFORMING AMENDMENTS.—

(1) Subsection (d) of section 44A (relating to dollar limit on amount creditable) is amended to read as follows:

"(d) DOLLAR LIMIT ON AMOUNT CREDITABLE.—

"(1) GAINFUL EMPLOYMENT-RELATED EXPENSES.—The amount of the employment-related expenses incurred during any taxable year which may be taken into account under paragraph (1) of subsection (a) shall not exceed—

"(A) $2,000 if there is one qualifying individual with respect to the taxpayer for such taxable year, or

"(B) $4,000 if there are two or more qualifying individuals with respect to the taxpayer for such taxable year.

"(2) DISABLED PERSON EXPENSES.—The amount of expenses incurred during any taxable year which may be taken into account under paragraph (2) of subsection (a) shall not exceed—

"(A) $2,000 with respect to one individual, or

"(B) $4,000 with respect to two or more individuals.".

(2) The caption of section 44A is amended by striking out "NECESSARY FOR GAINFUL EMPLOYMENT.".

(3) The table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by striking out the item relating to section 44A and inserting in lieu thereof the following:

"Sec. 44A. Expenses for household and dependent care services.".

SEC. 2. EFFECTIVE DATE.

The amendments made by this Act apply with respect to taxable years beginning after December 31, 1976.

DEAR SENATOR WILLIAMS: I was about to write you a letter regarding my income tax. I was a machinist working for Walter Scott Co. when you first ran for the Senate. My tax problem is I am a widower, my wife having passed on December, 1969. I still live in the same house but I have to have a housekeeper. I pay her a salary and her one-half of the S.S. tax which means I pay 11.85 percent tax on her salary, none of which I can take off my income tax, while couples can both work and take off what they pay for a babysitter. My question is, why can't I take off what it costs me to keep a housekeeper? I am past 93 yrs., blind in one eye and the other operated on for cataracts. It takes all of my S.S. check to pay my housekeeper and that is reasonable. Still I get no reduction for that expense and working couples can deduct babysitting expenses.

HOWARD M. COMER.

By Mr. WILLIAMS:

S. 2214. A bill relating to certain lotteries authorized under foreign law; to the Committee on the Judiciary and the Committee on Governmental Affairs, jointly, by unanimous consent.

LOTTERY MATERIALS IN FOREIGN COMMERCE

Mr. WILLIAMS. Mr. President, I am today introducing legislation to remove an inconsistency in the present law governing the transportation of lottery tickets and related materials. Specifically, my legislation would permit American manufacturers of such items to sell their products for use in lotteries authorized by foreign countries.

Certain sections of title 18 of the United States Code regulate the transportation of lottery equipment and paraphernalia from State to State and from the United States to foreign countries. Prior to 1975, such interstate and foreign commerce in lottery materials was prohibited, although section 1172 of title 15 exempted from these prohibitions certain gambling devices that did not involve lottery activities and which were transported to States where the devices were legal. In 1975, Congress recognized that certain restrictions in title 18, including those prohibiting interstate transport of lottery materials and the advertisement of lotteries, were interfering with the successful operation of State lotteries which have aided States in raising revenues. The statutes were revised, and as a result, lottery tickets and materials manufactured in one State could be sold for use in another State having an authorized lottery. However, the sale of lottery materials overseas was not addressed, and these sales are still prohibited

This prohibition against foreign sales of lottery tickets and equipment is wholly inconsistent with provisions of law permitting interstate sales, and unnecessarily denies American businesses access to readily available markets for their products. Removal of the prohibition would lead to increased employment opportunities for our people and would pump additional dollars into local economies. One firm located in New Jersey, for example, estimates that it could hire as many as 80 new workers and could increase its present earnings by as much as $7.5 million if it were allowed to sell its products overseas.

Hundreds of legal lotteries operate around the world, and foreign companies now have this market virtually all to themselves. In light of the present restrictions against foreign sales of lottery materials, the only alternative for American lottery ticket manufacturers wishing to serve foreign markets is to build plants overseas. Considering that this country's unemployment rate still hovers around 7 percent, it makes no sense to retain these prohibitions and, thus, deprive American workers of badly needed jobs.

Mr. President, I believe that we should take speedy action to make our laws regulating lottery materials sales abroad more consistent and more responsive to our country's economic needs today. I ask unanimous consent that the text of my bill be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2214

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subsections (b) and (c) of section 1307 of title 18, United States Code, are amended to read as follows:

"(b) The provisions of sections 1301, 1302, and 1303 shall not apply to the transportation or mailing to addresses within a State or a foreign country of tickets and other material concerning a lottery which is (1) conducted by that State acting under authority of State law, or (2) authorized by the laws of that foreign country.

"(c) For the purposes of this section (1) 'State' means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States, and (2) 'foreign country' means any empire, country, dominion, colony or protectorate, or any subdivision thereof (other than the United States and its possessions).".

SEC. 2. Subsection (b) of section 1953 of title 18, United States Code, is amended to read as follows:

"(b) This section shall not apply to (1) parimutuel betting equipment, parimutuel tickets where legally acquired, or parimutuel materials used or designed for use at racetracks or other sporting events in connection with which betting is legal under applicable State law, or (2) the transportation of betting materials to be used in the placing of bets or wagers on a sporting event into a State in which such betting is legal under the statutes of that State, or (3) the carriage or transportation in interstate or foreign commerce of any newspaper or similar publication, or (4) equipment, tickets or materials used or designed for use (A) within a State in a lottery conducted by that State acting under authority of State law or (B) within a foreign country in a lottery which is authorized by the laws of that country. For purposes of this subsection, 'foreign country' means any empire, country, dominion, colony or protectorate, or any subdivision thereof (other than the United States and its possessions).".

SEC. 3. Subsection (d) of section 3005 of title 39, United States Code, is amended to read as follows:

"(d) Nothing in this section shall prohibit the mailing of (1) a newspaper of general

circulation containing advertisements, lists of prizes, or information concerning a lottery conducted by a State acting under authority of State law, published in that State, or in an adjacent State which conducts such a lottery, or (2) tickets or other materials concerning such a lottery within the State to addresses within that State, or (3) tickets or other materials concerning a lottery which is authorized by the laws of a foreign country to addresses within that country. For purposes of this subsection, 'State' means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States, and 'foreign country' means any empire, country, dominion, colony or protectorate, or any subdivision thereof (other than the United States and its possessions).".

Mr. ROBERT C. BYRD. Mr. President, I understand that the distinguished acting Republican leader has no objection to the following request.

I ask unanimous consent that the bill, S. 2214, introduced by Mr. WILLIAMS relating to certain lotteries authorized under foreign law be referred jointly to the Committee on the Judiciary and the Committee on Governmental Affairs.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ADDITIONAL COSPONSORS

S. 311

At the request of Mr. ROTH, the Senator from Connecticut (Mr. WEICKER) was added as a cosponsor of S. 311, the College Tuition Tax Relief Act of 1977.

S. 312

At the request of Mr. BELLMON, the Senator from Minnesota (Mr. HUMPHREY) was added as a cosponsor of S. 312, to amend the Consolidated Farm and Rural Development Act.

S. 457

At the request of Mr. DURKIN, the Senator from Colorada (Mr. HART) was added as a cosponsor of S. 457 to amend section 1662(a) of title 38, United States Code, to extend the delimiting period for completion for certain veterans and under certain conditions.

S. 1209

At the request of Mr. PROXMIRE, the Senator from Minnesota (Mr. ANDERSON) was added as a cosponsor of S. 1209, the Federal Emergency Assistance and Preparedness Administration Act.

S. 1328

At the request of the Senator from Maine (Mr. HATHAWAY), the Senator from New Jersey (Mr. WILLIAMS), the Senator from Rhode Island (Mr. PELL), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Wisconsin (Mr. NELSON), the Senator from Missouri (Mr. EAGLETON), the Senator from California (Mr. CRANSTON), the Senator from Michigan (Mr. RIEGLE) the Senator from New York (Mr. JAVITS), the Senator from Pennsylvania (Mr. SCHWEIKER), the Senator from Vermont (Mr. STAFFORD), the Senator from Utah (Mr. HATCH), the Senator from Rhode Island (Mr. CHAFEE), and the Senator from California (Mr. HAYAKAWA) were added as copsonsors to S. 1328, a bill entitled the "Career Education Implementation Incentive Act of 1977."

S. 1997

At the request of Mr. INOUYE, the Senator from South Carolina (Mr. THURMOND) was added as a cosponsor of S. 1997, to amend the Internal Revenue Code.

S. 2020

At the request of Mr. CRANSTON, the Senator from Montana (Mr. MELCHER) and the Senator from Texas (Mr. TOWER) were added as cosponsors of S. 2020, to amend the Longshoremens' and Harbor Workers' Compensation Act.

S. 2099

At the request of Mr. WEICKER, the Senator from Maryland (Mr. SARBANES) was added as a cosponsor of S. 2099, to amend the Regional Rail Reorganization Act.

S. 2128

At the request of Mr. INOUYE, the Senator from Florida (Mr. CHILES), the Senator from Kentucky (Mr. FORD), and the Senator from South Carolina (Mr. THURMOND) were added as cosponsors of S. 2128, to amend the Internal Revenue Code.

S. 2142

At the request of Mr. PACKWOOD, the Senator from Michigan (Mr. RIEGLE) was added as a cosponsor to S. 2142, the Tuition Tax Credit Act of 1977.

AMENDMENT NO. 1433

At the request of Mr. DURKIN, the Senator from Hawaii (Mr. INOUYE) and the Senator from Colorado (Mr. HART) were added as cosponsors of Amendment No. 1433 intended to be proposed to S. 457 to amend section 1662(a) of title 38, United States Code, to extend the delimiting period for completion for certain veterans and under certain conditions.

SENATE RESOLUTION 294—ORIGINAL RESOLUTION REPORTED AUTHORIZING ADDITIONAL EXPENDITURES

(Referred to the Committee on Rules and Administration.)

Mr. JACKSON, from the Committee on Rules and Administration, reported the following original resolution:

S. RES. 294

Resolved, That the Committee on Energy and Natural Resources is authorized to expend from the contingent fund of the Senate, during the Ninety-fifth Congress, $50,000 in addition to the amount, and for the same purposes, specified in section 134(a) of the Legislative Reorganization Act approved August 2, 1946.

SENATE RESOLUTION 295—SUBMISSION OF A RESOLUTION RELATING TO MOTOR VEHICLE OCCUPANT RESTRAINT SYSTEMS

(Referred to the Committee on Governmental Affairs.)

Mr. DOLE submitted the following resolution:

S. RES. 295

Resolved, That the Comptroller General of the United States shall conduct an independent investigation and study to determine the desirability of the Federal motor vehicle safety standard transmitted to Congress pursuant to the National Traffic and Motor Vehicle Safety Act of 1966 on June 30, 1977. Such investigation and study shall include an evaluation of presently used and proposed motor vehicle occupant restraint systems, including lap belts, shoulder belts, air bags and passive shoulder belts, and shall also include but not be limited to the following considerations:

(1) the safety benefits of alternative occupant restraint systems including the benefits of a passive system;

(2) the effectiveness of alternative occupant restraint systems in all types of crashes, such as frontal, rollover, side impact and rear-end collisions;

(3) the comparative costs of such systems;

(4) the potential impact of such systems on insurance costs;

(5) the reliability of such systems;

(6) the repairability of such systems; and

(7) any other occupant safety system which may achieve the same purpose as such restraint systems but in a preferable manner.

The Comptroller General shall report the results of such investigation and study, including his recommendations, to the Congress not later than December 31, 1978.

Mr. DOLE. Mr. President, last week the Senate failed to overturn Secretary of Transportation Brock Adams' decision to require the installation of airbags or other passive restraints in all new cars by the 1984 model year. At that time, I stated that my opposition to the new rule was based upon the inadequacy of available information on the safety of airbags. To correct that serious deficiency, I am submitting a resolution to mandate a GAO study of the effectiveness of alternative passenger restraint systems.

This resolution would help to resolve many of the concerns expressed during the debate on Senate Concurrent Resolution 31. This resolution requires that the General Accounting Office conduct an independent investigation into the costs, benefits, and drawbacks of alternative passenger restraint systems. This study will evaluate lap belts, shoulder harnesses, airbags, Volkwagen-type passive style seatbelts, and any other possible systems.

HIGHER COST MAY NOT MEAN GREATER SAFETY

Mr. President, the higher costs of airbags could be justified if a significant increase in the safety of automobile passengers would occur. Unfortunately, airbags have not been proven in actual real-world tests. A mere 150 collision deployments have occurred, excluding 12 inadvertent deployments. This is insufficient testing to base such a costly requirement on.

The small number of real-world crashes has, however, raised some disturbing questions. The effectiveness of airbags to operate in any situation but a headon collision is seriously in doubt. Airbags offer little or no protection in rollover accidents, rear-end collisions, and side impacts. Passengers in airbag-equipped cars would be left with only the protection of a lap belt and not a shoulder harness. With the sometimes extravagant claims of airbag proponents, many of the passengers could be lulled into the belief that the airbag would be the only protection needed. The fate of a passenger

in a rollover accident without any protection is clear.

PRESENT INFORMATION INADEQUATE

The debate on Senate Concurrent Resolution 31 focused on whether enough information is currently available to justify the mandatory installation of airbags. The Senator from Kansas feels that there is not.

The Commerce Committee has relied on evidence furnished by the Department of Transportation. The sincerity of DOT officials is not in question, however, they have undeniably taken an advocate position in favor of airbags. A bias towards airbags can easily be discerned from the testimony of Secretary Adams and others in DOT.

Automobile industry studies have arrived at findings in conflict with DOT's conclusion on the issue of safety. The committee report is rightfully skeptical of these studies saying there "was a large degree of judgmental decisions built into their comparisons which may have affected the outcome of the study." I not only share this healthy cynicism but would in fairness extend it to the DOT conclusions as well.

COMPREHENSIVE STUDY NEEDED

DOT has examined various aspects of the passenger safety problem, but they have not conducted a comprehensive study. Even with the evidence DOT submitted, the conclusions can certainly be questioned. Outside experts have evaluated the same raw data with different conclusions.

The only way to resolve this difference of opinion is to have a thorough, independent study made by an uninterested source. The General Accounting Office has no stake in whether airbags are placed in cars and could offer an unbiased, expert opinion.

Passage of this resolution will start the necessary process of gathering the information we need. When the GAO report is received not later than December 31, 1978, Congress can make a much more informed decision on the airbag issue. I urge the Commerce Committee to act expeditiously in consideration of this amendment.

SENATE CONCURRENT RESOLUTION 56—ORIGINAL CONCURRENT RESOLUTION REPORTED RELATING TO PRESIDENTIAL ACTION AFFECTING LIMITATION OF STRATEGIC ARMAMENTS

(Placed on the calendar.)

Mr. SPARKMAN, from the Committee on Foreign Relations, reported the following original concurrent resolution:

S. CON. RES. 56

Whereas the Interim Agreement Between the United States of America and the Union of Soviet Socialist Republics on Certain Measures with Respect to the Limitation of Strategic Offensive Arms expired on October 3, 1977;

Whereas a temporary further observance of the limitations of the interim agreement will provide time for further negotiations, consistent with Public Law 92-448, toward a treaty limiting strategic offensive arms;

Whereas the Congress desires that the United States negotiate a treaty supportive of United States nation security without the burden and pressure of imminent deadlines;

Whereas the Arms Control and Disarmament Act contemplates close cooperation and consultation between the executive and legislative branches on matters of important substance;

Whereas the interests of the United States are best served by a mutual recognition, in a spirit of comity, by the Congress and the Executive, of the importance of close consultation, cooperation, and adherence to the constitutional and statutory sharing of responsibility in the conduct of foreign affairs;

Whereas the administration has stated its unilateral intent that, while the strategic arms limitation negotiations are being completed, the United States intends not to take any action inconsistent with the interim agreement: Provided, That the Soviet Union exercises similar restraint; and

Whereas the administration has expressly represented to Congress that the aforesaid declaration of intent is nonbinding and nonobligatory upon the United States: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the President is authorized to proceed in accordance with the declaration of intent of the Secretary of State of September 23, 1977, and the Senate and the House of Representatives of the United States concur: *Provided, however,* That nothing herein shall or may be construed to prevent any action or prohibit any weapons' system development, procurement, or deployment heretofore or hereafter authorized or provided for by the Congress of the United States.

Be it further resolved, That the Secretary of State shall at least once every six months during negotiations for a SALT II Agreement report to the Congress on the exact status of negotiations for such SALT II Agreement.

AMENDMENTS SUBMITTED FOR PRINTING

TRANSFER OF PROPERTY IN HAWAII—S. 1661

AMENDMENT NO. 1458

(Ordered to be printed and referred to the Committeee on Governmental Affairs.)

Mr. MATSUNAGA. Mr. President, my colleague (Senator INOUYE) and I are submitting today an amendment to our bill, S. 1661, which would transfer to the State of Hawaii certain surplus railroad track belonging to the U.S. Government.

On the day that S. 1661 was introduced, the General Services Administration announced the sale of the 28 miles of track described in the bill to an out-of-State bidder who is planning to use the old tracks for scrap metal. Nothing could more dramatically illustrate the importance of early action on the amended measure which provides for the transfer of 15.5 miles of similar track located at the West Loch Branch of the Naval Magazine, Oahu, Hawaii. The track is being sought by the State of Hawaii for the Hawaiian Railway Society, a nonprofit historical organization which plans to restore it and use it in a railroad museum and public park. The Railway Society already owns several old railroad cars and locomotives which are being restored for use in the park and museum.

Members of the Hawaiian Railway Society sought information last year on plans to dispose of 28 miles of railroad track at Lualualei, in the Naval Magazine. Much to their distress, the General Services Administration announced plans to sell the track earlier this year without much advance warning.

It is essential that the Railway Society obtain the remaining 15.5 miles of track since it is about the only railroad track left in Hawaii. Unlike her sister States, Hawaii never had a "great age of railroads." The only railroads in the island State were those used by the Armed Forces and a few which were used by sugar companies to haul sugar cane. Since World War II, they have fallen into disuse.

S. 1661 provides that the proposed railroad museum and park will be constructed within 3 years after its enactment. The people of Hawaii want the museum and park to preserve for their children and grandchildren the experience of seeing and riding a real train. The State government has expressed strong support for the project. It only remains for Congress to act to make this dream a reality.

PANAMA CANAL TREATY

AMENDMENT NO. 9 (EX. N, 95TH CONG., 1ST SESS.)

(Ordered to be printed and referred to the Committee on Foreign Relations.)

Mr. HOLLINGS submitted an amendment intended to be proposed by him to Ex. N, 95th Congress, 1st session, concerning the Permanent Neutrality and Operation of the Panama Canal.

AGE DISCRIMINATION IN EMPLOYMENT AMENDMENTS—H.R. 5383

AMENDMENT NO. 1459

(Ordered to be printed and to lie on the table.)

ELIMINATION OF EXCLUSIONS

Mr. CRANSTON. Mr. President, I submit for printing an amendment I am submitting to H.R. 5383, an act to amend the Age Discrimination in Employment Act of 1967 to extend the age group of employees who are protected by the provisions of such act, and for other purposes. Joining with me as cosponsors of this amendment are the distinguished Chairman of the Special Committee on Aging, the Senator from Idaho (Mr. CHURCH), the Senator from Michigan (Mr. RIEGLE), and the Senator from Arizona (Mr. DECONCINI).

Mr. President, I ask unanimous consent that there be printed in the RECORD at this point the text of the amendment we are submitting along with the cosponsorship letter we have circulated to our colleagues.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

AMENDMENT NO. 1459

On pages 9, 10, and 11, strike out all of section 6.

On page 11, line 14, strike out "SEC. 7" and insert in lieu thereof "SEC. 6".

COMMITTEE ON HUMAN RESOURCES,
Washington, D.C.

DEAR COLLEAGUE: The Age Discrimination in Employment Act of 1967 (ADEA) was enacted to prohibit age discrimination in such employment matters as hiring, job retention, compensation, and other conditions of employment. The Act currently protects workers aged 40 through 64 from discrimination by most employers of 20 or more persons, including Federal, State, and local governments, employment agencies servicing covered employers, and labor organizations with 25 or more members. The Act contains exceptions for cases where age is an established occupational qualification reasonably necessary to the normal operation of a particular job.

On September 22 the House of Representatives approved legislation (H.R. 5383), by an overwhelming vote of 393–4, which includes provisions to raise from 65 to 70 the upper age limit of coverage under the ADEA. The House bill contains no exclusions. The Senate bill, S. 1784 as ordered reported from the Human Resources Committee on September 30, also raises the age of coverage to 70, but includes an amendment (section 6) adopted during full Committee consideration, to exclude from the extended coverage tenured teachers, college professors, and certain employees with substantial retirement benefits.

We strongly oppose these exclusions, which we believe undermine the purpose of the ADEA and are contrary to the principle of equal treatment and equal rights for all Americans.

An individual's competency, not age, should determine his or her job performance capability, and this is so regardless of the category of work involved. The blanket exclusion of these categories of workers bears no relationship to questions relating to competency and is contrary to the principles underlying the ADEA, which is a cornerstone in our national commitment to secure basic civil rights for all older Americans.

We will offer an amendment to the ADEA bill to delete these exemptions in section 6. We are seeking widespread, bipartisan support for this effort, which has the support of the American Association of Retired Persons, the American Retired Teachers Association, the American Association of University Professors, the National Education Association, the National Council on Aging, the National Center on Black Aged, the National Association for the Spanish-Speaking Elderly, the National Indian Council on Aging, the National Association of State Units on Aging and many other organizations. If you would like to cosponsor this amendment, please have your staff contact either Fran Butler at 48706 or Dave Affeldt at 45364 by October 18 at noon.

We look forward to your early expression of support.

Sincerely,

ALAN CRANSTON,
DONALD W. RIEGLE, JR.,
FRANK CHURCH,
DENNIS DECONCINI.

NOTICES OF HEARINGS

PROBLEMS OF SMALL BUSINESS IN THE UPPER MIDWEST

Mr. NELSON. Mr. President, I wish to announce that the Select Committee on Small Business has scheduled a hearing on the problems of small business in the upper Midwest on November 7, 1977. Some of the problems witnesses will discuss will be product liability insurance, Government regulation and paperwork, workmen's compensation, and urban renewal as well as those of small broadcasters.

The hearing will be held in St. Paul, Minn., beginning at 9 a.m. in the courtroom on the 7th floor of the Federal Building at 316 North Robert Street.

Further information can be obtained from the committee offices, room 424 Russell Senate Office Building, telephone 224–5175.

CHANGE IN HEARING DATE

Mr. CHURCH. Mr. President, the Senate Committee on Aging's hearing on "Senior Centers and the Older Americans Act" has been changed from October 18 to October 20 at 10:15 a.m. in room 6226 of the Dirksen Building. The hearing is one of several activities conducted in conjunction with forthcoming legislative hearings by the Subcommittee on Aging of the Committee on Human Resources on extension of the Older Americans Act.

THE ALCAN PIPELINE PROJECT

Mr. JACKSON. Mr. President, the Senate Committee on Energy and Natural Resources will hold another day of hearings on Tuesday, October 25 on the President's recommendation that the Alcan Pipeline project be approved pursuant to the provisions of the Alaska Natural Gas Transportation Act of 1977.

The hearing will convene at 9:00 a.m. in room 3110 of the Dirksen Senate Office Building. Witnesses will include representatives of the North Slope producers and the State of Alaska. Any questions concerning this hearing should be addressed to Elizabeth A. Moler on extension 4–0611.

COMMITTEE ON HUMAN RESOURCES

Mr. WILLIAMS. Mr. President, I wish to announce that the Committee on Human Resources has rescheduled the second day of our hearing on the cost, management and utilization of human Resources Program Evaluation to Wednesday, October 19, 1977, from 9 a.m. to 12 noon in room 4232 Dirksen Senate Office Building.

If there is no objection, I believe that the witness list will provide an overview of this oversight hearing.

In order of expected appearance, the witnesses will be: Dr. Henry Aaron, Assistant Secretary for Planning and Evaluation, Department of Health, Education and Welfare; Dr. Arnold Packer, Assistant Secretary for Planning, Evaluation and Research, Department of Labor; Mrs. Eleanor Chilemsky, director of planning and policy analysis, the Mitre Corp.; Dr. Bertram Brown, Director of the National Institute of Mental Health; Dr. John Evans, Assistant Director of the Office of Education; Dr. Robert Landman, Assistant Director of the Community Services Administration; Dr. Marcia Guttentag, professor at Harvard University and president of the Evaluation Research Society.

Persons wishing to submit statements or desiring information please contact: Franklin Zweig of the committee staff, (202) 224–9285.

CROP INSURANCE

Mr. HATHAWAY. Mr. President, the unusual weather conditions which we have experienced around the country this year persist, and nowhere is this more obvious than in northern Maine.

Our corn and oat crops have been devastated by adverse weather. But in particular, the weeks of heavy rains in Aroostook County have made it impossible to harvest about 30,000 acres of potatoes—about one-quarter of the crop.

The chances of getting these potatoes out of the ground diminish with every day that passes. Mid-October generally signals the onset of severe frosts and the first snow storms. Once the ground is frozen, the potatoes are lost.

I believe that it would be wise to provide a crop insurance plan for potatoes similar to those enjoyed by other commodities.

While Aroostook County has never had a total crop failure, we are facing a situation this fall which looks to be a disaster.

Some relief, such as low-interest loans, will be available if a disaster is declared.

Based on my Small Business bill which the President signed into law on August 4, the Farmers Home Administration has the authority to declare an economic or physical disaster subsequent to certification by a Governor of a State in which a disaster has occurred.

This includes production losses on account of the disaster, as well as actual losses.

In any case in which the Governor certifies that the economic or natural conditions are of sufficient magnitude that without the loan assistance a significant member number of businesses in the impacted area would either become insolvent or be unable to return quickly to their former level of operation, these loans, at lower-than-market rates, become available.

Before this change, either the President or the Secretary of Agriculture had to certify that a natural disaster had occurred. This usually meant something like a hurricane, a flood, or an earthquake.

By this change, the disaster can include the economic consequences of a crop failure. And such a disaster can now be certified by the Governor, who, as an on-the-scene official, has ready access to afflicted areas. In turn, this simplifies procedures by cutting out cumbersome bureaucratic steps not needed in reaching a disaster judgment.

But for real protection, crop insurance for potatoes and dairy corn ought to be made available. At the very least, farmers ought to be able to recover the production costs of their crops when that crop is lost by act of natural disasters. This may, like the Federal flood insurance program, require Federal participation.

But I believe we are better off with insurance designed to meet a disaster rather than after-the-fact loans which may be less efficient for the victims and more costly to the Government. I shall have such a bill prepared for introduction shortly.

ADDITIONAL STATEMENTS

SEVERE FOOD SHORTAGES IN VIETNAM

Mr. GARN. Mr. President, the New York Times has carried a revealing account on a serious food problem the Socialist Republic of Vietnam is now facing. Citing analysts, Times correspondent Fox Butterfield estimated that the shortage this year will run as high as 2 million tons of rice, approximately 20 percent of the country's normal rice crop.

The food crisis has been caused, according to Butterfield, by a combination of factors—a prolonged drought this year, government mismanagement, and resistance to collectivization.

I would like to focus attention on this fact: Drought has been a lingering calamity this year in all Southeast Asia, not only in Vietnam. But, as matters stand, there are only food shortages in the new Communist states in Indochina, especially Vietnam, which was before the war one of Asia's largest rice producers. Now, Vietnam lives in peace. It is not short of manpower. According to official figures, at least 70 percent of Vietnam's work force are now working on the fields. Why these food shortages?

An explanation is not hard to find: Forced collectivization with elimination of private ownership of land, coupled with political, cultural, and religious repression in what was the Republic of Vietnam, have paralyzed agricultural production.

However, the point I would like to make today is not to score Hanoi's failure to feed its own people. My aim is to stir up awareness of what really happened in Vietnam in anticipation of what is going to happen here, in the United States.

Vietnam's Communist authorities have just released what they called the initial results of an investigation into U.S. war crimes in the southern part of the country. These results held us responsible, among other things, for Vietnam's chaotic economy. A new stage was being set for Vietnamese propagandists and their American apologists to call for emergency U.S. aid to Hanoi.

The other day, former antiwar activists, including Sam Brown, a top ranking official of the Carter administration, attended a gathering in New York in honor of Hanoi's entry to the United Nations. Some participants have said that a nationwide campaign for U.S. aid to Vietnam will be launched. I am certain that these apologists will say that the current food shortages in Vietnam have been caused by the United States.

Mr. President, to help foster a clearer understanding of the issue, I commend the Times article to my colleagues and ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, Oct. 2, 1977]

SHORTAGE OF FOOD IS FORCING VIETNAM TO CUT RICE RATIONS

(By Fox Butterfield)

HONG KONG, October 1—Vietnam is facing a serious food problem, with a shortage this year estimated by analysts to run to as high as two million tons of rice, or almost 20 percent of the country's normal rice crop.

The shortage has led to sharp cuts in rice rations in many parts of Vietnam, the dismissal of Hanoi's minister of agriculture and appeals to some of Vietnam's friends in the West for urgent aid. According to diplomatic sources, the food problem has also set back Hanoi's ambitious plans to increase exports this year by more than 50 percent and reduce its large trade deficit.

One indication of the magnitude of Vietnam's food problems came this week with a report in Copenhagen that Hanoi had asked Denmark for emergency food aid. A Danish minister said in Parliament that Hanoi had estimated it had a million-ton shortfall in grain. Other specialists have estimated the shortage at closer to two million tons.

The food crisis appears to have been caused by a combination of factors—a prolonged drought this year, government mismanagement and resistance to collectivization.

In addition, with the end of the war in 1975, Vietnam lost large amounts of food aid to the south from the United States and to the north from China.

"FACING MANY DIFFICULTIES?"

In a somber speech marking Vietnam's national day last month, Prime Minister Pham Van Dong reported that "now we are facing many difficulties in feeding ourselves." He indicated that the area under cultivation for rice this year was actually somewhat smaller than in 1976, though the acreage for other, less popular food crops, including cassava and beans, had been expanded.

In August Vietnam's press agency belatedly disclosed that the Vietnamese Communist Party's Central Committee had adopted a special resolution in June admitting the party had made mistakes in agriculture. "We have made big mistakes in leadership, especially in guiding and organizing the implementation of the partys' line and policies on agriculture," it said.

The agency did not describe the errors in any further detail, nor did it explain why it had taken two months to disclose the resolution.

The food shortage is one of several major problems that appear to have plagued Hanoi in making the transition to peace after three decades of war. Because the Vietnamese Communists are often very candid in admitting their troubles, partly as a way to stimulate action by their people, it is sometimes difficult to gauge the seriousness of their problems. Recent official broadcasts and articles have referred to these other troubles.

The Prime Minister's office issued a directive last month requiring all government offices in the north to "streamline" their personnel so they could send more party workers to the south to reinforce the Communists' rule there. The Hanoi radio said that "tens of thousands" of party workers from the north had already been sent to the south, but that there was still a shortage of trained manpower in the southern half of the country. Part of the problem seems to be that perhaps 100,000 army officers and officials of the former Saigon government remain in so-called re-education camps, and the Communists have chosen not to employ many southern professionals such as doctors, businessmen and technicians.

The chairman of Hanoi's central nationalities commission. Vu Lap, indicated in an article this week that there was continuing resistance to Communist rule among the country's 5 million people who are members of non-Vietnamese ethnic minorities. Writing in the party theoretical journal, Tap Chi Cong San, he said, "Since liberation day the reactionaries have secretly incited disturbances in a number of ethnic minority regions and have taken advantage of our temporary difficulties and our cadres' weaknesses and shortcomings in implementing some policies to sow division among ethnic minorities." One of the sources of trouble seems to be that Hanoi has tried to resettle the semi-nomadic Montagnards in fixed areas.

The Communist authorities in Saigon, now referred to as Ho Chi Minh City, have been conducting a campaign against "manifestations of bureaucracy, red tape and authoritarianism," according to a dispatch by Vietnam's press agency. Party committees have been instructed to cut down on the number of meetings they hold, make more effort to meet the people and provide lists to the people of the addresses and telephone numbers of government offices to help them solve problems.

Recruits drafted for the army in the southern half of the country apparently are affected by some of the same problems that disrupted the now defunct army of former President Nguyen Van Thieu. A recent editorial in Hanoi's army paper, Quan Doi Nhan Dan, reported that draftees in the south had to be indoctrinated not to "unjustifiably leave their units for places of amusement or for home, change the pattern and color of their uniforms, let their hair grow and leave their nails uncut, roll up their shirt sleeves, use obscene languages and procrastinate in their duties."

GAS DEREGULATION—ARMED ROBBERY IN BROAD DAYLIGHT

Mr. PROXMIRE. Mr. President, Hobart Rowen, the economic writer for the Washington Post, has an article in today's edition entitled "Gas Deregulation: The Public Is Being Had."

It is a superior article in both analysis and clarity. As he points out the price of natural gas will go up from the 13- to 14-cents level in 1968 to the world price equivalent for oil, or to $2.50 to $2.75 under deregulation. That is a twentyfold increase.

The Federal Power Commission has already set the price for new interstate gas at $1.42. The Carter administration has proposed an excessive amount at $1.75, and the proferred compromise in the Senate was for a price in excess of $2. But what has happened? Prices have gone up but the supply has fallen. And there is not the slightest evidence that gouging the public again will bring forth needed gas. The reason: When prices go up at this rate—40 percent or more per year—gas in the ground is better than money in the bank. For the latter, pro-

ducers get interest at 7 percent instead of a gain of 40 percent or more.

Rowen's column says all this and more.

I commend it to both the Senate and the public and ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

GAS DEREGULATION: "THE PUBLIC IS BEING HAD"

(By Hobart Rowen)

The industry's effort to deregulate the price of newly discovered natural gas threatens to be one of the boldest and biggest steals of all time. "What is being done here is the greatest unarmed robbery in the history of the country," according to Sen. Don Riegle (D-Mich.)

It's important to get some impression of the monumental nature of the ripoff. Not content with a price increase for new gas of 445 per cent from 1972 through 1976, the industry in reality is seeking to get the equivalent of the monopoly price of oil, as set by OPEC: $2.50 to $2.75 per thousand cubic feet.

That would give the industry a price increase of 2,000 per cent—yes, 20 times the 13- to 14-cent price at which it was making a good profit in 1968.

The industry lament is that it needs ever higher prices to provide incentive for new explorations. But a hard-to-counter analysis by the Consumer Federation of America shows that while prices were increasing 445 per cent in 1972–76, gas production decreased 12 per cent, reserves declined 19 per cent, and profits boomed by 50 per cent.

Lee C. White, former chairman of the Federal Power Commission, now lobbying hard against deregulation, observes that before 1968, "we argued over pennies." And for good reason: Every added penny on the gas price per thousand cubic feet costs consumers $200 million. Every dime costs $2 billion.

Yet, in an effort to stave off the greedy drive for total deregulation, hard-pressed Democratic senators are giving away dimes and quarters like chicken feed.

Last year, two statistical agencies of the Federal Power Commission estimated that a fair price for "new" natural gas was between 60 cents and 67 cents—"fair price" meaning a return of 15 to 18 per cent.

But the commission itself figured the fair price at $1.42, allowing, in its computation, a federal tax burden calculated at the theoretical corporate-tax-table maximum of 48 per cent. Of course, no industry pays 48 per cent. "If they paid more than 7 per cent [as an effective tax rate], they need a new lawyer," says White.

Then the Carter administration came along, after the U.S. Court of Appeals sustained the FPC's $1.42 price, and proposed a formula that would sweeten the price for "new" natural gas to $1.75.

Even that didn't satisfy the industry, so Henry Jackson made an abortive attempt to avert a deregulation vote in the Senate with a proposal for $2.03 per thousand cubic feet, and a more generous interpretation of "new" gas. The price would rise to $3.36 in 1985, with full deregulation in 1987. How utterly ridiculous can this get? How long will it take before the public realizes that it is being had?

A high administration official dealing with energy matters, who saw the turn of the tide some weeks ago, put it this way:

"The moral imperative for American business is to maximize profits. Natural gas is no exception. You just go over the debates over the years. Give us 35 cents—that's all we want, they said. Give us 50 cents. Last year, they said a dollar will produce all the gas you want. Now, at a $1.75, for the shallow deposits, the incentives are just overwhelming. . . .

"The incentives are so damn great that the producers are bidding one against the other for drill rigs, for steel, for trained manpower, for leases."

There was a time when the administration thought the industry couldn't turn down a price between $1.75 and $2 because the profits would be so great. But the natural-gas industry isn't satisfied. It's had the deregulation bug ever since President Nixon planted the idea, and now sees no reason why it shouldn't get the OPEC equivalent, and with that a transfer of some $10 billion annually from consumers to the gas producers. Who knows? The OPEC oil price one day may be $25 a barrel.

The huge increase in the price of oil from around $2 to $3 a barrel in 1972 and 1973 to $13 or $14 a barrel today, as many officials have once again concluded, created unmanageable financial problems. It has led to enormous debt and, currently, a serious world-wide flirtation with protectionism.

The price of oil is today's key issue—and everyone talks about it merely in whispers, fretful of the effect on Mideast politics. The world today appears to be concerned more about the fear of an empty gas tank than about moral attitudes. But having let OPEC dictate this country's oil prices, it would be criminal if we let OPEC dictate natural-gas prices as well.

SUBVERTING THE LAW ON B–1

Mr. GARN. Mr. President, on October 12, the Comptroller General of the United States, responded to my telegram of October 6 requesting prompt monitoring of the executive branch's actions under the terms of the Impoundment Control Act of 1974. Under this act, the President is obligated to resume the expenditure of any funds withheld from obligation during such 45-day period, unless the Congress within such period, enacted legislation approving the rescission of the funds. Despite the Impoundment Control Act and that the House Appropriations Committee recommended that no congressional action be taken to rescind funds previously appropriated for the B–1 bomber, the Commander in Chief has not acted properly in authorizing the Air Force and Rockwell back into active production for this national defense program.

The Impoundment Control Act is specific in terms relating to President Carter's responsibility for upholding the law, and not subverting it—(excerpts from the Impoundment Control Act of 1974 section 1012 (a) and (b).):

RESCISSION OF BUDGET AUTHORITY

SEC. 1012. (a) TRANSMITTAL OF SPECIAL MESSAGE.—Whenever the President determines that all or part of any budget authority will not be required to carry out the full objectives or scope of programs for which it is provided or that such budget authority should be rescinded for fiscal policy or other reasons (including the termination of authorized projects or activities for which budget authority has been provided), or whenever all or part of budget authority provided for only one fiscal year is to be reserved from obligation for such fiscal year, the President shall transmit to both Houses of Congress a special message specifying—

(1) the amount of budget authority which he proposes to be rescinded or which is to be so reserved;

(2) any account, department, or establishment of the Government to which such budget authority is available for obligation, and the specific project or governmental functions involved;

(3) the reasons why the budget authority should be rescinded or is to be so reserved;

(4) to the maximum extent practicable, the estimated fiscal, economic, and budgetary effect of the proposed rescission or of the reservation; and

(5) all facts, circumstances, and considerations relating to or bearing upon the proposed rescission or the reservation and the decision to effect the proposed rescission or the reservation, and to the maximum extent practicable, the estimated effect of the proposed rescission or the reservation upon the objects, purposes, and programs for which the budget authority is provided.

(b) REQUIREMENT TO MAKE AVAILABLE FOR OBLIGATION.—Any amount of budget authority proposed to be rescinded or that is to be reserved as set forth in such special message shall be made available for obligation unless, within the prescribed 45-day period, the Congress has completed action on a rescission bill rescinding all or part of the amount proposed to be rescinded or that is to be reserved.

Mr. President, the Comptroller General's response to my telegram clearly states that—

At present, the Air Force estimates that it could, with proper authorization from higher headquarters, get Rockwell back into active program activities within 24 hours.

I feel that full attention to the actions of our Commander in Chief is worthy of each Senator's consideration and I ask unanimous consent that my telegram to the Comptroller General, the Secretary of Defense and the General Accounting Office's response to my inquiry be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

HON. ELMER STAATS,
Comptroller General of the United States, Government Accounting Office, Washington, D.C.

DEAR MR. STAATS: On July 19 the President submitted a special message to the Congress under the provisions of the Impoundment Control Act of 1974 requesting rescission of $463.4 million dollars for the B–1 bomber aircraft program and the Short Range Attack Missile (SRAMS). On Tuesday October 6 the forty-five day waiting period provided for in such Act expired.

As you know, under the terms of the Impoundment Control Act of 1974, the President is obligated by law to resume the expenditure of any funds withheld from obligation during such forty-five day period, unless the Congress, within such period, enacted legislation approving the rescission of the funds.

I request that you promptly monitor the Department of Defense to ensure that they are properly proceeding as required by the Impoundment Control Act. I further ask that you give me a full report on this matter by telephone on Tuesday, October 11, 1977.

Sincerely,

JAKE GARN, *U.S. Senator.*

OCTOBER 6, 1977.

Hon. HAROLD BROWN,
Secretary of Defense, The Pentagon, Washington, D.C.

DEAR SECRETARY BROWN: Please be advised that today I requested the Comptroller General of the United States to immediately monitor the obligation of funds for the B-1 bomber and Short Range Attack Missiles (SRAMS).

As you know, under the terms of the Impoundment Control Act of 1974 the forty-five day waiting period authorized by such Act expired on October 6, 1977. Consequently, the President is now obligated by law to resume the expenditure of funds for this vital defense program.

Sincerely,

JAKE GARN, *U.S. Senator.*

COMPTROLLER GENERAL
OF THE UNITED STATES,
Washington, D.C., October 12, 1977.

Hon. JAKE GARN,
U.S. Senate.

DEAR SENATOR GARN: This is in reply to your telegram to October 7, 1977, in which you asked that we monitor the executive branch's actions and inform you of major developments in the B-1 bomber program. We have been in contact with officials of the Department of Defense (DOD) and representatives of Rockwell International (Rockwell), one of the prime contractors for the B-1 program.

As you know, the Congress did not approve the President's proposal to rescind $462 million in budget authority that was determined to be excess to DOD's needs as a result of the decision to terminate the program. Consequently, this budget authority was required to be made available for obligation on October 5, 1977, by the Impoundment Control Act of 1974, title X of Public Law 93-344, July 12, 1974—the expiration of the 45-day period prescribed for the consideration of rescission proposals under the Act. We have confirmed that the $462 million rejected for rescission was made available by the Office of Management and Budget for obligation on October 5, 1977. We have also determined that the Secretary of Defense has taken steps to utilize this budget authority in the B-1 program. On October 4, 1977, the Secretary, DOD, requested the Department of the Air Force to submit a restructured B-1 program description that includes proceeding with the production of the fiscal year 1977 B-1 bombers. Pursuant to the Secretary's memorandum, the Department of the Air Force transmitted telegrams on October 4, 1977, to concerned departmental activities in order to obtain the material requested by the Secretary.

DISCUSSIONS WITH DOD

On October 6 and 11, 1977, members of this Office met with representatives of the U.S. Air Force in the Office of the Deputy Chief of Staff, Research and Development, Aircraft Division, who informed us that all of the budget authority that was appropriated for the B-1 program has been made available to the Air Force. This amount, approximately $1.16 billion, includes the $462 million that was proposed, but rejected, for rescission and approximately an additional $698 million that was to be used for both prior program expenditures and anticipated termination costs.

The DOD officials told us that, because of the earlier termination of the program, about $100 million would be lost as a result of terminating and then having to restart the B-1 program due to Congress' rejection of the rescission proposal. This sum is comprised of approximately $25 million in costs associated with personnel reductions and the later rehiring of such personnel and about $75 million for terminating future B-1 bomber production contracts.

We were told that the cost per aircraft will now probably increase due to having stopped the program. The exact amount of any increase, of course, will have to be the subject of negotiations between the Government and the prime contractors. In this regard, DOD told us that the Department cannot, at this time, afford to build the *seventh* B-1 aircraft and that termination costs for cancelling this aspect of the program will be roughly $25 million.

The departmental officials told us that if the decision was made to build all of the next three aircraft originally contracted for (numbers five, six, and seven) that the total cost for the program would increase from about $1.16 billion to approximately $1.4 billion—an increase of $240 million.

Insofar as restarting the program is concerned, we were told that a delay can be expected in the delivery of aircrafts five and six. Aircraft five was originally scheduled for delivery in August of 1979. Even assuming contract activities can resume promptly, DOD does not expect the fifth B-1 bomber can be delivered before February 1980. And, aircraft six, originally scheduled for delivery in November 1979, is not expected to be delivered before July or August 1980.

Rockwell sent an unsolicited proposal to the Department of Defense on October 6, 1977, for the construction of bombers five and six. While the specifics of any future contract with the prime contractor are a matter of negotiation, DOD representatives told us that it is possible that some work may have to be done elsewhere if DOD and the prime contractor cannot reassemble the same team that was gathered for work under the original contracts.

We were also told that the U.S. Air Force Aeronautical Systems Division was planning on submitting to its higher command at Andrews Air Force Base, the Air Force Systems Command, its tentative plan for the B-1 bomber program on October 7, 1977, and that the final plan was contemplated for submission on October 17, 1977. At present, the Air Force estimates that it could, with the proper authorizations from higher headquarters, get Rockwell back into active program activities within 24 hours. In turn, DOD estimates that it would take Rockwell approximately 60 days to begin actual production work. This delay is due to the fact that over 8,000 people were laid off as a result of the termination of the B-1 program, and numerous subcontracts terminated.

DISCUSSION WITH ROCKWELL

Representatives of Rockwell agreed with DOD that delivery on aircrafts five and six would be delayed and costs increased as a result of having terminated the original contracts. Rockwell told us on October 7 and 11, 1977, that aircraft five could be delivered in March 1980 and aircraft six in September of that year. If constructed, B-1 bomber seven could be delivered in March 1981.

In discussing contract costs, in what the company described as "comparable environments," Rockwell said aircrafts five, six, and seven were originally estimated at a cost of $650-700 million. In light of recent events, Rockwell says it could cost the Government up to $680 million to build *only* aircrafts five and six. If the Government chose to build aircraft seven additional costs would be about $150 million. In summary, Rockwell says the additional cost to the Government to build all three bombers, in light of having stopped and then restarting production, is expected to range between $130-180 million.

Rockwell said its unsolicited proposal of October 6, 1977, to build aircrafts five and six at a not-to-exceed cost of $680 million is good only until November 1, 1977. Company representatives estimate that costs are expected to increase between $5-10 million for every month of delay. Rockwell projects that it would take about 6 months to finalize any contract with DOD for B-1 bomber production and that it would take about 90 days to get the subcontractors back on the job. (There are said to be 53 major subcontractors involved.) During the 6-month period estimated for contract finalization, Rockwell said it would undertake its B-1 operations pursuant to the bilateral agreement proposed on October 6, 1977.

Finally, Rockwell told us that it believed it would cost the Government about $50 million in termination costs to discontinue production work on aircraft seven. When compared with a company-estimated cost of about $150 million to build the seventh B-1 bomber, this means that Rockwell projects an additional outlay of $100 million beyond already expected Rockwell costs would be needed for the Government to acquire the seventh aircraft.

We hope the foregoing will be of assistance to you. We will continue to monitor further actions by the executive branch and will notify you of further developments, as appropriate.

Sincerely yours,

ELMER B. STAATS,
Comptroller General of the United States.

AMENDMENT TO SELECT COMMITTEE PROCEDURAL RULES

Mr. STEVENSON. Mr. President, at its meeting of October 6, the Select Committee on Ethics amended its procedural rules to permit the chairman and the vice chairman, or their designees, acting jointly, to approve blind trusts and foreign travel requests during adjournment and recess periods. The Select Committee's procedural rules were agreed to April 5, 1977, and were published in the RECORD of May 9, 1977, at page 14011. I ask consent that the amendment to these procedural rules be printed in the RECORD.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

SENATE SELECT COMMITTEE ON ETHICS
COMMITTEE RESOLUTION

Agreed to, as amended, October 6, 1977.

Resolved, the Supplementary Procedural Rules of the Select Committee on Ethics, agreed to April 5, 1977, are amended by adding thereto the following paragraph:

"24. *Approval of Blind Trusts and Foreign Travel Requests Between Sessions and During Extended Recesses.* During any period in which the Senate stands in adjournment between sessions of the Congress or stands in a recess scheduled to extend beyond 14 days, the Chairman and Vice Chairman, or their designees, acting jointly, are authorized to

approve or disapprove blind trusts under the provisions of Rule 42, and to approve or disapprove foreign travel requests which require immediate resolution.

THE GENOCIDE CONVENTION: A PUZZLE TO OUR ALLIES

Mr. PROXMIRE. Mr. President, among the many responsiblities of a world power such as the United States are the duty to set a moral example for the emerging nations of the world and the duty to make consistent policy decisions in dealing with our allies. Our failure to ratify the Genocide Convention is a failure to fulfill these responsibilities. Not only is it a poor example for the emerging nations of the world, it is clearly inconsistent with the expressed policy, traditions, and precedents of our own country.

First, the legality of supporting a treaty which calls for the settlement of disputes by an International Court of Justice has been repeatedly upheld. Among the treaties which include this clause and which the United States has already ratified are the Antarctic Treaty, the Japanese Peace Treaty, the Statute of the International Atomic Energy Agency, the Convention on the Privileges and Immunities of the United Nations, and the Supplemental Convention on Slavery.

Second, the propriety of human rights as a subject for U.S. treaties has much support and many precedents. As a member of the President's Commission for the Observance of Human Rights Year, retired Supreme Court Justice Thomas C. Clark, stated:

> Treaties which deal with the rights of individuals within their own countries as a matter of international concern may be a proper exercise of the treaty-making power of the United States. . . . It may seem almost anachronistic that this question continues to be raised.

In addition, the United States has already ratified many international human rights conventions. Among these are the Convention on the Nationality of Women, the Protocol Relating to the Status of Refugees, the Convention to Suppress the Slave Trade and Slavery, and the Supplemental Convention on Slavery.

Mr. President, in light of our Nation's repeated support for international treaties upholding human rights and calling for an independent and objective settlement of disputes, our unwillingness to ratify the Genocide Convention is a complete puzzle to our allies. I remind my colleagues of our need to maintain consistent policies and fulfill our obligations to our allies by ratifying the Genocide Convention immediately.

THE PANAMA CANAL TREATIES

Mr. SPARKMAN. Mr. President, during the previous 3 weeks beginning September 26 and running through October 14, the Committee on Foreign Relations held a series of hearings on the proposed Panama Canal agreements. During that 15-day work period, the committee devoted 11 days to the consideration of these agreements, hearing a total of 68 witnesses, including 16 executive branch witnesses, 15 witnesses from Congress, and 37 outside experts and public witnesses. Regrettably, neither President Ford nor Governor Reagan was able to accept the committee's invitation to testify on this matter, despite our best efforts to accommodate them.

I believe, nevertheless, that the committee has compiled a full and complete hearing record, both pro and con. We will further endeavor to get these hearings printed just as quickly as we can for the information of the Senate, the Congress, and the public-at-large.

In view of the clarifying statement issued last Friday, the committee will meet Wednesday morning to go over this matter with the conegotiators, Ellsworth Bunker and Sol Linowitz. While nothing further is scheduled beyond this meeting, the committee in the days ahead, I am sure, will be discussing how it wishes to proceed. The necessity for further hearings, it seems to me, will depend in very large part on any gaps that may be uncovered in reviewing the hearing record established thus far.

I want to thank all the members of the committee for their diligence and cooperation throughout the committee's hearing process on the proposed treaties and I ask unanimous consent that a complete list of all the witnesses heard by the committee be printed in the RECORD.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

LIST OF WITNESSES TESTIFYING ON THE PROPOSED PANAMA CANAL AGREEMENTS WHO APPEARED BEFORE THE COMMITTEE ON FOREIGN RELATIONS, SEPTEMBER 26–OCTOBER 14

ADMINISTRATION WITNESSES

Monday, September 26:

The Honorable Cyrus Vance, Secretary of State.

The Honorable Ellsworth Bunker, Ambassador at Large and Co-Negotiator, Panama Canal Treaties.

The Honorable Sol Linowitz, Co-Negotiator, Panama Canal Treaties.

Tuesday, September 27:

The Honorable Harold Brown, Secretary of Defense.

General George S. Brown, Chairman, Joint Chiefs of Staff.

Adm. Robert L. J. Long, Vice Chief of Naval Operations.

Lt. Gen. D. P. McAuliffe, Commander-in-Chief, U.S. Southern Command.

Thursday, September 29:

The Honorable Griffin B. Bell, Attorney General.

The Honorable Herbert J. Hansell, Legal Adviser, Department of State.

The Honorable Clifford L. Alexander, Secretary of the Army.

Maj. Gen. H. R. Parfitt, U.S. Governor of the Canal Zone.

The Honorable William J. Jorden, U.S. Ambassador to Panama.

Friday, September 30:

The Honorable Brock Adams, Secretary of Transportation.

The Honorable Richard N. Cooper, Under Secretary for Economic Affairs, Department of State.

The Honorable Anthony Solomon, Under Secretary for Monetary Affairs, D partment of the Treasury.

Howard F. Casey, Deputy Assistant Secretary for Maritime Affairs, Maritime Administration.

CONGRESSIONAL WITNESSES

Tuesday, October 4:

Senators—The Honorable Strom Thurmond, The Honorable Ernest F. Hollings, The Honorable James B. Allen.

Congressmen—The Honorable Samuel S. Stratton, The Honorable Baltasar Corrada, The Honorable Daniel J. Flood.

Wednesday, October 5:

Senators—The Honorable Mike Gravel, The Honorable Paul Laxalt, The Honorable Robert Dole, The Honorable William L. Scott, The Honorable Jesse Helms.

Congressmen—The Honorable John M. Murphy, The Honorable Larry McDonald, The Honorable Donald M. Fraser, The Honorable Robert L. Leggett.

OUTSIDE EXPERTS AND PUBLIC WITNESSES

Admiral Thomas H. Moorer, USN-Ret.

Admiral Elmo R. Zumwalt, Jr., USN-Ret.

General Maxwell Taylor, USA-Ret.

Mrs. Patricia Fulton, President, Pacific Civic Council, Canal Zone.

Mrs. Charlotte Kennedy, President, Cristobal-Margarita-Brazos Heights Civic Council, Canal Zone.

Mr. Harold Green, President, Gamboa Civic Council, Canal Zone.

Mr. Louis Fattorosi, Vice President, Canal Zone Federation of Teachers.

Tuesday, October 11:

Professor Jorge Dominguez, Center for International Affairs, Harvard University.

Dr. Abraham F. Lowenthal, The Woodrow Wilson Center.

Professor Donald Dozer, University of California.

Professor Lewis Tambs, Arizona State University.

Robert M. Bartell, Liberty Lobby.

Franklin Delano Lopez, Chairman, Puerto Rico Democratic Party.

Phillip Harman, Canal Zone Non-Profit Public Information Corp.

Wednesday, October 12:

William P. Thompson, President, National Council of Churches.

John Cardinal Krol, Archbishop of Philadelphia on behalf of U.S. Catholic Conference.

Morris Levinson, Vice President, Synagogue Council of America.

Professor Donald E. Miller, Church of the Brethren.

Kenneth Boehm, Young Americans for Freedom.

Mrs. (Leopoldo) Rose Marie Aragon, Mr. Richard Eisenmann, Panamanian Committee for Human Rights.

Dennis Small, U.S. Labor Party.

Thursday, October 13:

Lane Kirkland, Secretary-Treasurer, AFL–CIO.

Martin Gerber, Vice President, United Auto Workers.

Alfred J. Graham, President, Canal Zone Central Labor Union and Metal Trades Council, AFL–CIO.

Capt. J. R. Williams, President, Panama Canal Pilots' Association, Canal Zone.

Rene C. Lioeanjie, Regional Director, Central & South America National Maritime Union, Canal Zone.

John Fred Schlafly, Chairman, Emergency Task Force on the Panama Canal, American Council for World Freedom.

Gary L. Jarmin, The American Conservative Union.

Dr. Herminio Portell-Vila, Editor, Radio Free Americas, American Security Council.

The Honorable Hamilton Fish, Former Congressman from New York.

Friday, October 14:

The Honorable Henry A. Kissinger, Former Secretary of State.

The Honorable Dean Rusk, Former Secretary of State.

Robert Charles Smith, National Commander, The American Legion.

Frank D. Ruggiero, National Commander, AMVETS.

Maj. Gen. J. Milnor Roberts, USAR, Executive Director, Reserve Officers Association.

Col. Phelps Jones, USA-Ret., Veterans of Foreign Wars.

ARMS RESTRAINT PLAN FALTERS

Mr. PROXMIRE. Mr. President, based on the evidence now available I must reluctantly conclude that President Carter's arms sales restraint plan appears to be a flop. It has so many technical loopholes that it actually could allow massive shipments of U.S. arms to continue instead of restricting them.

The President's six point arms restraint package is bordering on being useless. In some cases the administration simply is not adhering to its own principles. In other cases exceptions and loopholes have the effect of overturning the basic thrust of the proposals.

Here is how the President's own package is being circumvented:

Point one states that fiscal year 1978 foreign arms sales and assistance will be reduced from fiscal year 1977 totals. This sounds good, but two intervening factors must be considered. First, sales alone for fiscal year 1977 are so high—$9.9 billion—that any contemplated reduction—such as 10 percent—would be almost meaningless. Second, it may be impossible to attain any reduction if the President insists on the AWACS sale to Iran, F–15's to Saudi Arabia and more F–16's to Iran. Counting those three sales in fiscal year 1978 would push the totals over fiscal year 1977.

Point two states that the United States will not be the first to introduce weapons of increased sophistication into a region or sell weapons abroad before they are in use there at home. This policy already has been violated by the $1.2 billion sale of Airborne Warning and Control System aircraft to Iran. The AWACS is the most sophisticated weapon of its kind in the world.

Point three states that development or significant modification of weapons solely for export will not be permitted. This policy is being negated by the development of the land based version of the F–18, called the F–18L. Although the President denied sale of the F–18L to Iran, it is still being considered for sale to NATO countries—another exception in the guidelines.

Point four states that coproduction agreements will be limited or ruled out. The loophole here is that it does not apply to NATO countries, Japan, Australia and New Zealand and some other treaty nations. These exemptions exclude almost three-quarters of existing coproduction agreements.

Point five limits transfers of U.S. weapons to third parties. The weakness here is the lack of enforcement powers. During wartime, such paper agreements have little meaning. Furthermore, with the great changeover in governments worldwide, it is possible, even likely, that new governments might not find such agreements binding. Is there anyone who would deny that Saudi Arabia would send its U.S. aircraft to the aid of other Arab States if faced with a military emergency?

Point six states that U.S. corporations and military personnel abroad will not be permitted to promote arms sales without State Department approval. This is a sound provision in theory but weak in practice. Discussions to ascertain market potential and service contracts are still permitted. And the history of prior negotiations between U.S. contracts and foreign governments indicates such business is carried out in deep secrecy.

In addition to these exceptions and loopholes, the arms restraint plan also contains broad language to supply arms in violation of the guidelines if the President certifies it an extraordinary condition or where it applies to NATO countries, Israel, Korea, and other nations with major defense treaty obligations with the United States. This reduces the sales market falling under the restrictions by 45 percent.

The idea of an arms restraint plan is excellent. But the plan put forward has too many loopholes to be successful in drastically reducing U.S. arms sales abroad.

KOREA WEEK, 1978

Mr. INOUYE. Mr. President, it is estimated that there are about 250,000 Korean people in the United States, most of whom are American citizens. As a U.S. Senator from the State of Hawaii, I represent about 7,000 persons of Korean ancestry. I believe that Americans of Korean ancestry have become successful as an immigrant group far out of proportion to their numbers; they have taken tremendous strides in our society, perhaps more rapidly than our Nations Japanese- or Chinese-American population.

Therefore, I am saddened by reports I receive from my constituents and from concerned Asian-Americans elsewhere in the country that Korean Americans are becoming victims of unwarranted racial slurs and increasing distrust by fellow Americans.

News stories in the past 2 years about foreign lobbyists, influence peddlers, and unorthodox religious leaders have unfairly, and probably unintentionally, encouraged people to conjure up certain stereotypes of Korean people. Although I have no evidence showing that most Americans have negative stereotypes of Korean people, I am concerned that such stereotypes may become widespread and malicious.

I am proud to report that the Korean community in Hawaii is attempting to head off such a development by focusing local attention on the rich cultural heritage of its ancestors and on the impressive social and cultural contributions of the present generation.

The Korean Community Council in Hawaii has informed me of its plans to sponsor a "Korean Week" celebration this coming January to honor the 75th anniversary of Korean immigration to Hawaii. Korea Week will enable local Hawaii residents to learn more about the Korean culture and the people who brought it to the United States. Needless to say, this will be a most valuable public event.

Korea Week, scheduled for January 13–21, 1978, has been recognized in proclamations by the officers of the Governor of Hawaii and mayor of Honolulu as well as by the Hawaii State Senate.

Positive public exposure of the Korean American community can help the Korean people cope with the threat of racism stemming from the questionable activities of a handful of foreigners. That is why I wish to applaud and endorse the plans of the Korean Community Council in Hawaii to sponsor Korea Week.

REMARKS BY NASA ADMINISTRATOR ROBERT FROSCH

Mr. STEVENSON. Mr. President, in a major address at the recent EASCON '77 Conference in Washington, D.C., Dr. Robert Frosch, Administrator of the National Aeronautics and Space Administration, described the principles that should guide the Nation's future space program. Dr. Frosch emphasized the concept of "usefulness." More specifically, he pointed out how future development of our satellite projects, such as the communication and remote sensing satellites, will enable us to predict weather conditions with greater accuracy and increase the efficiency of food production, to manage ocean and air transportation more effectively, and to interconnect remote parts of the world with better transmission of health and educational information. He also described how the exploration of our planet and our solar system will expand our knowledge of climate variations and provide us greater insight into the preservation of our Earth environment.

After two decades of space exploration and the advent of the era of the Space Shuttle, we have a unique opportunity to build on this base of technology and knowledge for the benefit of this and future generations. I commend these thoughtful remarks on the future of the U.S. space program to my colleagues.

Mr. President, I ask unanimous consent that the remarks of Dr. Robert Frosch at the EASCON '77 Conference be printed in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

Dr. FROSCH. I have been asked to talk about the immediate future roles of NASA and where we are going in the space program. I shall break my own personal precedence by

talking about the subject which was announced, that seems reasonable in this museum which is a kind of exhibit and dedication of where we have been as a human race going into space, technologically.

I visited a lot of space museums in the past couple of months, and there is an awful lot of hardware around. I must say that I have the feeling that at least 500 to 1000 people must have been in space just counting the number of vehicles that could hold people. We know that isn't the case, but the course of the next 20 or 30 years, we think it will probably be the case.

I have been spending the past couple of months trying to define and redefine, in my terms, and in this administration's terms, what the role of NASA and the role of space in American life and in human life ought to be. I define a role of being a doing agency, and being an agency which is an advocate of space, a finder of things that can usefully be done from space for people. In fact, I think the the single goal over the next few years may be summed up in the word "usefulness". We have paid a very high price in money, talent, and manpower to learn how to go into space, how to do things there, and the time is now to continue and to reap benefits that will be useful for everyone.

Before launching into some discussions of what I mean by those comments on space, I would remind you that NASA also has an important goal and program in aeronautics. Indeed it was the first job of the space agency before it was a space agency, to be a technological and scientific developer of flight, of flight from the very beginning, of flight very close to the beginning, to provide the research base, the facilities for doing research, and the stimulus for American aviation and as it turned out, thus for world aviation.

The NACA was a developer of aircraft, a developer of technology and technique for aircraft, starting shortly after World War I, and one which cooperated with industry to develop an American aviation industry which became the dominator of the development of world aviation. This government stimulator and partner with industry provided really most of the technology between industry and NACA, out of which the current fleets and their predecessors or aircraft around the world were developed.

We expect, over the next few years, that we will continue this important role, and that we will be able to provide the technology out of which new generations of commercial and military aircraft will come.

A short range set of goals have to do with the improvement of fuel economy and general efficiency for aircraft. We expect to be able to produce, in cooperation with industry, engines with better fuel specifics, airframes that are lighter and have better drag and life coefficients, and control systems that can optimize both the engine characteristics and the airframe characteristics. So, we are working on the pieces of development that can produce new aircraft that we hope will continue to dominate the world markets.

We provide the facilities that aircraft and aircraft systems can be tested in most efficiently, not only for government programs, but for industry programs.

Let me comment on space applications, space science, and space technology. The revolution in global communications that was made by geostationary space satellites is now so conventional that when one asks people what it is that space has brought them, they seldom bother to mention the fact. Having lived two years in Africa, we know precisely how much of a connection the space satellites make for remote cities and remote places with the rest of the world. When the 36-foot dish is down for maintenance, one is cut off with all other cities. The whole bulk of global communications now gets from the surface to 22,000 miles and back down to the surface, routinely, in large numbers of channels, and continually, so routinely that we have forgotten that this is a space service.

The current experiments and development projects with Earth sensing will, in due time, also become forgotten pieces of space technology that are built into our ordinary and everyday operations. We are used to seeing the weather on television. We will become used to seeing the way in which our crops grow, perhaps not on television, but in our understanding of how to manage agriculture. We will become used to seeing the way in which we can find new mineral resources, the way in which we can understand the motions of the surface of the ocean and the properties of the near surface of the ocean, perhaps again, not on television, but built into the ways in which we manage fisheries, the ways in which we manage ocean transportation, and perhaps the ways in which we find people who are lost.

We have satellites that are experimentally doing all of these things, and we hope, in the next few years, to carry forward the next stages of technology that will make the details more real. We are working with the Department of Agriculture on the ability to predict the growth of wheat all over the world to a high degree of accuracy. It is clear that we can detect the basic characteristics of crops and understand their state of health. We believe that we can sense and predict the way in which moisture is in the soil and will characterize the future growth of these crops. We are looking at simple ways of using communciations transponders in search and rescue missions. We have a number of instruments which will be flown in the next several years that can sense the characteristics of the atmosphere, not only at the upper atmosphere, but down to the surface, by looking at the limb, at the edge of the Earth, and the edge of the atmosphere above the Earth, so that we can tell what the pollution properties of the atmosphere may be.

In communication, we now have a capability which I think we will not exploit in the terms I am about to describe for global CB. I find this a horrifying thought with everyone trying to talk to everyone else at the same time, but still, the capability to connect very small stations with other very small stations anywhere in the world can have an important value for emergencies, for the connection of remote places with not so remote places for the transmission of health information and education information, for connecting parts of the world that cannot be connected together in any other way. Some parts of the world do not really have telephone communications among them. This is true of most of Africa, where it has been impossible to provide enough copper spiderweb to connect the entire continent together, and it may never be economical to connect the islands of the Pacific together with copper wire, but the provision of a satellite can make it possible to go telephone to telephone with an intermediary in space, and so parts of the world are likely, in due time, to get their telephone and other communications via space.

In space science, we have just begun to look at the universe, and there is a long tradition of people trying to look at the universe. There is a very interesting book about the building of Stonehenge, the great granite and hard stone monument on Salisbury Plain in Britain. Horkin's book suggests that it must have taken a very large number of man hours to build that monument, and the analysis suggests that it is an astronomical observatory, built some three to five thousand years ago.

The curious thing is that his computation for the number of man hours necessary to build that observatory of the motion of the sun and the moon make it about equal in the number of man hours or in the price to what it takes us to send a probe to Jupiter, or to look, as we now look, at any major planetary body. If you compute his number of man hours in our current cost per man hour, you get about $200,000,000, and that is about what a planetary probe costs, so I conclude, in a vague and general sort of way, that we have been trying to look at the solar system and the universe at about the same scale for some thousands of years. We can do it a little better, a little more precisely, and get a lot better data out of what we do, and we do it as a continuation of a great human interest in understanding the solar system and the universe in which we live, but we also are beginning to understand that our interest in the solar system is not only an interest in where we are in an extended neighborhood, but it is an interest in what we are and what our planet may have been and what it may yet become. This is called "comparative planetology", which is a fancy name for the fact that the solar system is doing experiments that we could not do and would not dare to do with our own Earth.

We look at Mars and see a planet that may once have had water and an atmosphere but is now a desert with global sandstorms. We look at Venus whose history we do not know, but now a dense and very high carbon dioxide atmosphere, and we worry about our own atmosphere with an increase in carbon dioxide. Perhaps we can learn from the planetary environments elsewhere in the solar system, some things that would tell us what experiments we cannot do and would not dare do here on Earth would mean.

We also have an opportunity to look at planetary bodies with different crustal properties, with different ionospheric properties and different characteristics, so we are doing a kind of comparative geophysics with other kinds of experiments. We are also looking at the interaction between the sun and the Earth's atmosphere, and hence the Earth's climate. We are certain that the sun's radiation, and the way in which it interacts with the high atmosphere has something to do with the way the climate varies on the Earth, but we really do not understand the details. Somewhere in those characteristics of near space, the near part of the solar system, are major clues for understanding of weather, drought, and glaciation. They are clues that are not in the field of applications yet, they are in the field of understanding basic science, and we want to try to understand that science so that we can understand what may happen to us, and what ways we may effect our own future fate on this planet.

We look outward into the universe and we see strange objects, especially since we have put astronomical observatories of one sort or another in space, where we can look at how the universe looks in x-ray light, how the universe looks in gamma ray light, which we cannot see on the surface of the Earth. We see strange objects, new things that may be new physics that we do not understand from our old observations. We hope, in a few years, to put up a major telescope which will be above the variations of the atmosphere, above the Earth's shine, both by reflection and from the light we produce, and above the atmosphere which filters out some of the radiation so that we can see the universe as it cannot be seen from the surface of the Earth, through the atmosphere and in the light that we, ourselves, make that interferes with our own astronomy. We will be pursuing these objectives of applications and of science in the next few years.

In order to do some of these things, we need technology which we will build upon the technology that we built to go to the moon, and to do the things that we have already done in space. In the next few years, we will bring in the space shuttle and begin to fly routinely with reusable vehicles into space, which will give us an opportunity to do manned experiments with new instruments on a regular basis from low Earth orbit, will enable us to fly the instruments we already want to put into space more cheaply than we can now do so. So, we will be developing new kinds of technology and new kinds of ability to do things in space.

The whole point of the game, for the next few years, will be to bring in useful applications based on the technology that we already have to expand our base of science, looking outward into the universe, into the environment, between the sun and the Earth, and back down to Earth, and to build some of the technology that we will need in the future to go beyond these applications and this science. I think that we will have an exciting time with the new technology, and seeing what the new science and the new applications will bring us. I look forward to it and I hope you do too.

Thank you.

THE PANAMA CANAL TREATIES

Mr. SPARKMAN. Mr. President, the Committee on Foreign Relations continued hearings on the Panama Canal treaties on Friday, October 14, receiving testimony from the following witnesses:

(1) The Honorable Dean Rusk, Former Secretary of State.

(2) The Honorable Henry A. Kissinger, Former Secretary of State.

(3) Panelists:

Robert Charles Smith, National Commander, The American Legion.

Frank D. Ruggiero, National Commander, AMVETS.

Maj. Gen. J. Milnor Roberts, USAR, Executive Director, Reserve Officers Association.

Col. Phelps Jones (USA-Ret.), Director, National Security & Foreign Affairs, Veterans of Foreign Wars.

I ask unanimous consent that the prepared text of the statements of these witnesses be printed in the RECORD.

There being no objection, the statements were ordered to be printed in the RECORD, as follows:

REMARKS BY DEAN RUSK

Mr. Chairman and distinguished Senators.

I am very glad to be here this morning to express my views on the Panama Treaties now pending before you. I am especially glad to be here with my distinguished friend Mr. Henry Kissinger. The fact that we are here together is a reminder that four Presidents and four Secretaries of State, of both political parties, have been closely involved in the negotiations which have led to the documents now before you for your consideration under the Constitution. Other Presidents in this post-war period have also felt the pressures for a change in the status quo originated by the Treaty of 1903.

My remarks will be relatively brief and will consist of the two or three main considerations which led me to support the proposed Treaties with Panama. Since you are exercising a solemn constitutional responsibility, you will necessarily go into every aspect of these Treaties in great detail but as a private citizen, I propose simply to point to those aspects of the problem which seem to me to be decisive in forming my own opinion.

I begin with the conviction that the Treaty of 1903, as amended, offers a very fragile platform on which to try to stand in these closing decades of the 20th Century. In the mid-1960's, during and after the tragic riots in Panama, it became apparent to us that history had overtaken the status quo in Panama and that a new relationship would have to be found if our vital interests in the operation and safety of the Canal were to be assured. Here I do not rest upon the murky circumstances surrounding the secession of Panama from Colombia and the conclusion of the Treaty with Mr. Bunau-Varilla, a citizen of France with uncertain credentials as a representative of Panama. It is a fascinating story with a colorful cast of characters. But I see little point in our now wearing sack cloth and ashes over what our grandfathers did in another historial era, when what happened in most of the world was determined by decisions made or not made in a handful of western capitals. We should not, however, be under the illusion that those events could stand the test of modern standards of treaty making.

The 1903 Treaty seemed to me to take its place alongside the so-called "unequal" treaties which certain western powers imposed upon China in the Nineteenth Century and the Capitulations which gave certain powers extraterritorial rights in the Ottoman Empire. Even if we had acquired absolute title to the Canal Zone, which we did not, the general international policy and practice of decolonization would have rendered the status quo in Panama untenable.

The Vienna Convention on the Law of Treaties is now pending before your committee and your action upon it has been delayed for reasons well known to you. I would suppose, however, that the contents of that Convention already apply to the United States and to other nations since the Convention simply codifies established rules of customary international law.

It seems to me that the 1903 Treaty with Panama is vulnerable to the doctrine of "fundamental change of circumstances" (rebus sic stantibus) found in Article 62 of the Convention. In my view, the United Nations Charter contains the overriding statement of international law and policy—despite our occasional irritations over the conduct of Members in some organs of the UN organization itself and the many failures of Members of the world community in giving effect to Charter precepts. The Charter insists upon the "sovereign equality of all its Members" (Article 2, paragraph 1) and calls for respect for "the equal rights . . . of nations large and small" (Preamble). I have already mentioned decolonization, well established both in principle and practice by the Charter and by the history of this post-war era.

Treaties are the primary source of international law partly because they are drafted in relatively precise terms of legal obligation and, more importantly, because they represent the consent of the sovereign parties who agree to them. We can not seriously suggest that the 1903 Treaty represents the consent of Panama or of its people. It would be accurate to say that if the United States were a party to a treaty which became obnoxious to our public policy and repugnant to our people, we would move to denounce it and relieve ourselves of its burdens.

Article 64 of the Convention on the Law of Treaties states, "if a new preemptory norm of general international law emerges, any existing treaty which is in conflict with that norm becomes void and terminates." Lawyers have debated at considerable length this doctrine of "jus cogens" and the identity of the norms which can be said to be preemptory in character. They are probably few in number. I would suggest to you that, in the modern world, one nation can not maintain a presence within another nation without the consent of the second nation. If the situation in Eastern Europe is different, the contrast merely emphasizes the general rule and provides no precedent for the United States. We have withdrawn from valuable bases and installations in Libya, Eithiopia and Pakistan; we have seen the use of bases in Turkey sharply restricted by that Government; we withdrew our forces from France on the demand of President de Gaulle. I can imagine the astonishment on President de Gaulle's face had I been instructed to tell him that we could not withdraw our forces from France because their presence was covered by an agreement between our two countries. We know that such bases and personnel as we have in other countries require the consent of the governments concerned and that some of them have charged us very high prices for that consent. The 1903 Treaty with Panama is not an adequate substitute for such consent: it is not an arrangement which could be negotiated in this latter part of the 20th Century. I do not know whether President Theodore Roosevelt was accurately quoted in a remark about Panama: "We wanted it; we took it." But let us be under no illusion—an attempt to maintain our position in the Panama Canal Zone on the basis of the 1903 Treaty would be an act of force—as in Eastern Europe. We can choose that course if we are prepared to pay the heavy political, economic and military costs involved.

In concluding my comment on the status of the 1903 Treaty, let me add that I do not believe that we could afford to allow the validity of that Treaty to be tested in the International Court of Justice. I am glad that that Treaty has not been pursued in the General Assembly of the United Nations where I would suspect we would be almost alone in the voting. Some of our closest friends would leave us because of considerations of general policy. When the United Nations Security Council met in Panama in 1973 and had before it a resolution on Panama, hostile to United States interests, it was necessary for our representative to exercise a veto, with no Member of the Council voting with us. There were 13 "yes" votes, the U.K. abstained, and the United States cast the only negative vote. Close friends such as France, Australia, Austria and Kenya voted against us.

An alternative is to try to safeguard our interests in the Panama Canal by agreement between ourselves and Panama in a modern setting. There are very strong feelings among the peoples of our two countries, feelings which make it very difficult for governments to find agreement with which all can be satisfied. These feelings will be further acerbated during the present debate in both countries about the new treaties; already what is said in one country is being used to inflame feelings in the other country. Opponents of these treaties object to our making such agreements with a dictator. Having been involved with this problem before the present regime in Panama came to power, I would suggest that the more democratic the government in Panama, the more insistent they would be on a prompt and fundamental change in the arrangements regarding the Canal.

Our national interest lies in access to and the safety of the Panama Canal itself, not in a continuation of our special position in the Zone. I believe that our interest in the Canal includes a residual responsibility to the maritime nations of the world and to certain nations of our own hemisphere for whom the Canal is a life line. But surely we should attempt to satisfy these interests by agreement and should seek to engage the friendship and cooperation of the Panamanian government and people in the decades

ahead. We can give ourselves a chance to repair the injuries we have inflicted upon national pride and individual dignity and proceed in the future on the basis that we and the Panamanians need each other in these matters.

We must take into account, however, the possibility that events will not work out as we now hope. Under the new treaties, we shall have 23 years to test the ability of Panama and ourselves to proceed on the basis of agreement. The responsibilities which we would have until the year 2000 clearly make it possible for us to insure the operation and safety of the Canal. Beginning with the year 2000, questions regarding passage and safety of the Canal would be governed by the provisions of the Treaty Concerning the Permanent Neutrality and Operation of the Panama Canal. Under Article IV of this Treaty, "The United States of America and the Republic of Panama agree to maintain the regime of neutrality established in this Treaty." The joint responsibility of the United States and Panama for that "regime of neutrality" as spelled out in the Treaty gives us, in my judgment, all that we need to maintain our essential interests in the matter, namely, passage and the security of the Canal itself.

I am aware, Mr. Chairman, of the discussion which has occurred about whether Article IV of the Neutrality Treaty is understood in the same way by both ourselves and Panama and that discussions have been going on between Senators, the Executive Branch and Panama on that point. It would be inappropriate for me to inject myself into those discussions at this point. I might offer one observation, however, which may be relevant. I hope that we and Panama would not get tangled up with each other over the word "intervention". That is a word which has accumulated many barnacles over the years and carries with it memories which we ought to try to forget. What we are interested in is access to and the security of the Panama Canal. Measures to assure its passage and safety do not mean interference in the internal affairs of Panama.

In any event, I do not believe that we should approach such matters in terms of the worst case imaginable but rather through a genuine desire and expectation to work things out on an amicable basis. Providence has not given us the ability to pierce the fog of the future with accuracy and the year 2000 is a long way off. Perhaps we should not, today, try to answer every problem which might be posed to some future President and Congress. I must confess, however, that Article IV of the Neutrality Treaty played a major role in my own decision to support these two Treaties. If, God forbid, it should ever become necessary for a President and a Congress to take strong measures to keep the Canal functioning and safe, they would be in a far stronger position to do so under the Treaties of 1977 than under the anachronistic Treaty of 1903.

Thus, whether we are thinking of the principles upon which we hope to see a cooperative community of nations move into the future or are thinking about a hard headed approach to adverse contingencies which may lurk in the future, it seems to me to be to our advantage to give effect to these two new Treaties. The consequences of not doing so could be very severe. I see no point in inviting these consequences upon ourselves now when we have a good chance to avoid them altogether.

STATEMENT OF THE HONORABLE HENRY A. KISSINGER

Mr. Chairman, I am pleased to have the opportunity to express my views on the proposed treaties with Panama which are before you. Over a period of years I participated in the negotiations and have given much thought to the question of how we can best assure in the decades ahead our interest in the free, neutral, and efficient operation of the Panama Canal.

You have already heard from the Secretaries of State and Defense from Ambassadors Bunker and Linowitz, from the Joint Chiefs of Staff and other officials of the Administration. You have had an opportunity to assess the detailed provisions and background of the two new treaties and the Administration's reasons for urging that the Senate advise and consent to ratification. In supporting ratification I want to address not the detailed clauses of the agreement but some fundamental issues raised by the treaties.

Our nation's foreign policy must be based on a conception of enduring national goals and permanent responsibilities, not on the accidents of personality or change for the sake of novelty with the advent of each new Presidential Administration. The future well-being and security of this country can never be a partisan issue. They affect every American, and, given our central role, every human being concerned with the preservation and strengthening of the cause of freedom.

Our substantial stake in the Panama Canal is a case in point. The United States has a vital interest in the free, neutral, and efficient operation of the Canal. This interest cannot be compromised; we cannot foresee the day when it will be inconsequential.

Up to now this interest has been identified with the precise treaty relationship we established in 1903 under vastly different circumstances. But four successive Presidents and their Secretaries of State, representing both political parties, have been persuaded over a period of thirteen years that a new treaty relationship with Panama is more likely to serve the long-term security and foreign policy of the United States; above all that it would best assure what is the essence of our interest: the efficiency, neutrality, accessibility, and security of the Canal. All four Presidents come to the view that the Treaty of 1903 no longer adequately assures that interest. The present arrangements include provisions which are no longer essential and which could over time actually make protection of our vital interests more difficult by forcing us into actions increasingly in conflict with our traditional allies in the Western Hemisphere.

It is my conviction that the two treaties recently negotiated with Panama do indeed protect our long-term interest in the Canal more effectively and under conditions more in keeping with present-day realities than is possible under the 1903 Treaty

We must recognize that however we in the United States may view that Treaty, the rest of the world and especially the nations of the Western Hemisphere do not regard it as an equitable and freely negotiated agreement. It was reached in ambiguous circumstances and no Panamanian ever signed it. Some even question its legality. To insist on these arrangements would mean that over time we would be compelled to fall back on the use of force as the ultimate basis for our presence. This we should be prepared to do when our vital interests can be defended in no other way. But this is not the case here because the treaties give us a clear, and on balance a better, alternative.

Under the terms of the new Panama Canal Treaty, nothing of real significance to us in the existing arrangement for management and defense of the Canal will change during the remainder of this century. The United States will continue to control operation of the Canal; United States military forces will continue to provide for defense of the Canal from within Panamanian territory. At the same time, the new treaty arrangement establishes a cooperative working relationship with Panama which will enhance our ability to ensure the Canal's security and efficient operation, provide for an orderly transition, and increase Panama's stake in the long-term secure and neutral operation of the Canal.

After the year 2000, when management of the Canal passes to Panama, Article IV of the Treaty Concerning the Permanent Neutrality and Operation of the Panama Canal will become controlling. The Neutrality Treaty not only establishes the legal obligation of both Panama and the United States to maintain a permanently neutral Canal, it also defines neutrality clearly in terms of concrete standards for the operation of the Canal which both parties are pledged to maintain. Article IV makes the United States a guarantor of that permanent neutrality. It thus gives the United States the continuing right, unilaterally if necessary, to defend the Canal and its operation against threats to the neutrality of the Canal—and thus, the ability to defend the Canal for the indefinite future. And this same regime of neutrality, and our right and responsibility to underwrite it, will apply as well to any other international waterway that might be built in Panama in the future.

Furthermore, under Article V of the Neutrality Treaty, Panama would relinquish the right to invite or accept foreign military forces or foreign military installations anywhere in the Republic. This would bar Panama from engaging in an alliance with any other power in a way which involved the presence of military personnel on its soil. By the same token, Panama's breach of that commitment would entitle and oblige the United States to take appropriate action to ensure the Canal's neutrality.

We would not, in short, have a general right of "intervention" in Panama's internal and domestic affairs. Nor would we want such a right. But we have under the new treaties the right and obligation to take such action as is required to ensure that the Canal remain permanently neutral—free of the threat of foreign military presence and forever open to the ocean-borne commerce of the world on a non-discriminatory basis.

The new treaties will establish a far stronger legal underpinning and political environment for the protection of our interests in the Canal while retaining all the essentials of assuring the Canal's security. Their ratification is thus an opportunity to advance fundamental American foreign policy interests. Their rejection, on the other hand, would be read by the nations of the Hemisphere as a demonstration that this nation stands on force as the final arbiter even when a constructive alternative is available. Such a course would be unnecessarily costly to many other of our interests, particularly to the solidarity and alliance of the Western Hemisphere nations that has been central to our foreign policy for generations. And I am convinced that we shall not again be given the opportunity to safeguard and advance our interests on terms as favorable as those which have just been negotiated. The moment when we are clearly strong enough to defend our rights in the Canal and while the Canal is free of immediate threat and menace provides the best opportunity to preempt a potential crisis and to secure the future of the Canal on mutually beneficial terms.

Let me turn now to some of the concerns and questions that have been raised with respect to the new treaties.

First, some have asked what would happen if Panama were to abrogate the treaties. There is no question that this is a possibility. But it must be viewed against the near-certainty that the 1903 Treaty will not be accepted any longer either by Panama or by the other nations of the Hemisphere. The question therefore is which arrangement puts us in the best legal, political, and military position to protect our rights and interests if we are forced to do so by the unilateral action of Panama. I believe that the new

treaties will significantly *reduce* the risks of abrogation, and will also create far better conditions in which we could defend our rights if abrogation should occur.

By establishing a relationship of shared responsibility and benefit, the new treaties make Panama a partner in a successful Canal enterprise. They increase Panama's stake in safeguarding the vital interests we wish to assure—a free, open, safe, and well-run Canal. The new arrangement accords with the reality that consent and cooperative endeavor are the only bases for secure operation of a canal which is located within Panamanian territory and even now is run by a predominantly Panamanian labor force. But if, despite everything, we have to act to defend the Canal, we would be in a far stronger position to do so in the name of a 1977 treaty freely negotiated and signed in the presence of the heads of government of most of the Western Hemisphere nations than in the name of an agreement concluded seventy five years ago and which every Latin American nation in every recent meeting of the Organization of American States has repeatedly urged us to replace.

One of the strongest arguments in favor of ratification is in fact its impact on cooperative Western Hemisphere relationships. Our decisions on these treaties will testify to them whether or not we are willing to resolve disputes with them on the basis of negotiation. This does not mean that ratification of the treaties will resolve all differences between us and our neighbors to the south. Our capacity for cooperation, understanding, and imagination will be tested in this Hemisphere long after the Panama issue is resolved and for as far into the future as one can see. There will be many who do not wish us well in the area even if we ratify the treaties. But failure to ratify will provide hostile forces with a permanent issue of incalculable value around which to rally and encourage a vast new tide of anti-American sentiment and make it politically impossible for our friends to rally to our side.

I find it significant that no Hemisphere leader, regardless of what his private feelings on this issue might be, feels able publicly to take any position other than that of strongest support for the modernization of the 1903 Treaty. This reflects the depth of public sentiment on the issue. No government and no public opinion in any of the countries of this Hemisphere would be willing to support us if we now refuse to modernize the Canal relationship. We would witness a gradual deterioration of our relationships even when some leaders might prefer to retain constructive ties. If the treaties are accepted, on the other hand, our many friends in the Hemisphere will be enabled to cooperate in the development of a constructive Western Hemisphere policy.

Another question which has been raised is whether the neutral status of the Canal would mean that hostile warships could transit the Canal and, in effect, benefit from U.S. protection. I can only comment that the United States has and must continue to have at its disposal other means to defend its vital security interests in any such situation. The United States must have the capacity to control the sea lanes; hence we must be able to prevent hostile ships from reaching the Canal. If we do not maintain that capability, we are in a perilous condition indeed and the provisions of a legal document will be precious little help.

I recognize the deep feeling of many Americans who wish, after the Vietnam tragedy, to see an end to yielding and retreat by the United States. No one can appreciate such concerns better than one who strove for an honorable outcome during the Vietnam period. But the Canal is not the issue to select to demonstrate that we remain strong and resolute. Panama is the smallest and weakest of nations. We are not "giving" the Canal to Panama; we are, rather, ensuring our ability to protect it. By taking constructive action now to revise our relationship with Panama in an atmosphere free of physical pressure, while we are still able objectively to assess the long-term risks and benefits, we will be demonstrating fundamental strength, not weakness. It is just this ability to distinguish between symbol and reality, to plan for future needs and to take timely action to advance our basic interests that is the essence of a strong and effective world policy.

Firmness in the defense of essential national interests is vital. But a nation assures its international position by understanding and defining clearly what its interests are and taking the precise appropriate and necessary action to safeguard those interests. Unreasoning adherence to the status quo has never been the mark of an effective and vigorous foreign policy.

We have demonstrated ourselves capable of meeting the challenge of the unprecedented on many occasions in the past. At the end of World War II, we embarked on a number of new initiatives—the Marshall Plan, the North Atlantic Treaty, Point Four, to cite a few—that constituted a dramatic change from the course we had followed in the past. We did so because we realized that the new circumstances of the post-war era required new responses—that we could not assure the security and prosperity of our nation by adhering to the isolationist policies of the past. To cling to outmoded approaches was to allow ourselves to be overwhelmed by future events.

And there are many more recent examples of constructive response to changing world conditions. The efforts to control the arms race, the opening of relations with China, our efforts to modernize the institutions of international economic cooperation are cases in point. In each case, we did not hesitate to modify old policies and arrangements when we felt that our national interest would only be preserved by doing so.

The new Panama Canal treaties should be viewed in the same light. They mark a step forward, an improvement over the present situation. They present you and the people of this country with an opportunity to modernize an outdated arrangement that has itself come to threaten the very interests it was designed to protect.

Beyond the immediate issue with which they deal, these treaties represent the most important and serious international undertaking formally submitted to the Congress by the Administration of President Carter. Thus you have a doubly grave responsibility: a rejection of the treaties would not only cause a crisis in our relations with the nations of the Western Hemisphere; it would in addition weaken the President's national authority at the beginning of his term. It would thus be a demonstration of national weakness, which would be taken by friend and enemy alike as evidence that we are systemically incapable of recognizing and pursuing our international objectives because of domestic division, doubt and conflict. This would be all the more so because we have every reason to consider that the new treaties in fact advance our interests and are seen as such throughout the world.

In supporting both the concept of a new treaty arrangement and the essential structure of what has been negotiated I do not mean to imply that the Senate's role in the ratification process should be that of a mere rubber stamp. On the contrary I believe that the Senate can and should make a constructive contribution clearing up ambiguities in the current texts and assuring the American people that our vital interests are indeed being safeguarded.

My support of the treaties is based on my reading of two key provisions—a reading which coincides with the Administration's interpretation:

First is our right to "maintain the regime of neutrality" under Article IV of the Neutrality Treaty, and

Second is the meaning of our right to "expeditious transit" under Article VI of the Neutrality Treaty.

With respect to our right to defend the Canal, I concur in the Administration's interpretation that we have the right and obligation to act, if necessary unilaterally, to defend the Canal's neutrality. It is unfortunate that the word "intervention" has been injected into the debate to characterize that right; this word conveys implications with respect to interference in the domestic affairs of Panama that we neither need nor claim, and which are provocative throughout Latin America. With respect to expeditious passage, I consider that it must mean "priority passage" in wartime and speediest possible passage at all times.

The fact remains that these interpretations have been drawn into question—partly by ambiguous statements of Panamanian officials understandably concerned with their own ratification process and subject to attacks, which are the mirror image of the opposition in this country, that they have yielded too much to the US. Ambiguity is, of course, the essence of diplomacy; it often permits each side to maintain its domestic position while safeguarding essential international interests. I have resorted to it in negotiations on several occasions.

I have never considered ambiguity of language acceptable, however, if it masked a true difference of interpretation. Whatever the words of an international instrument may say, it is vital in my experience that both sides share the same understanding of the intent of that instrument. In this particular case, ambiguity or lack of public understanding could sow the seeds of future crisis if in fact the parties are not of a single view as to the central provisions of the treaties.

I believe, therefore, that the Senate can play its constructive role by explicitly and formally endorsing the interpretation of Article IV that has been put forward by the President and the Secretary of State: that the new treaty confers upon the United States the right and obligation unilaterally to defend neutrality of access to the Canal, and to defend the Canal itself should that ever become necessary. I see no need at this juncture to renegotiate the treaties. Nor do I favor a Senate reservation which implies a split between the Congress and the Excutive on a matter which calls for national unity.

The Senate interpretation should be reduced to formal and explicit language with the Senate's advice that it be submitted by the Administration as an integral part of the instrument of ratification either by protocol or some other method which would ensure that it becomes the authoritative and mutually acceptable explanation. Another way of dealing with the interpretation would be an agreed minute between Panama and the United States which would then be endorsed by the Senate as part of the ratification process. Either course would ensure that there could be no question or ambiguity in the future.

The same procedures could be followed with respect to the meaning of "expeditious transit." Either the Senate or an agreed minute with Panama should state that in time of war United States naval ships and auxiliaries should be given priority passage and at all times the speediest passage possible. In either case the full Senate should approve the interpretations by a two-thirds majority.

I wish to express my strong hope that these steps be taken in harmony and cooperation with and not in repudiation of the Adminis-

tration. They are fully consistent with the Administration's interpretation. They reflect our necessities; they take nothing away from Panama's dignity. The ability of the two branches of government to work out a constructive solution to this problem is a great service they could render to America's position of continued leadership in the world. I can think of no event more reassuring to our friends and allies around the world than the positive resolution of this difficult debate in cooperation between the Congress and the President after all the divisions of the last ten years.

This is now the real issue of the Panama Canal treaties and their ultimate significance. I am confident that statesmanship on the part of all concerned will bring this debate to its proper, positive conclusion. For thirty years this country has borne a vital responsibility for international security, for the health of the world economy, and for the cause of human freedom. To fulfill this historic role we must be a united people; Congress and the President, Republicans and Democrats, must all have the sense that we are engaged in a shared enterprise. It is in this spirit that the Panama Canal treaties must be considered, and it is in this spirit that I respectfully urge their ratification.

STATEMENT BY ROBERT CHARLES SMITH

Mr. Chairman and members of the committee: It is a distinct pleasure for me to appear before you today representing The American Legion. Needless to say, we are each aware of the thousands of inches of newsprint and the hours of television coverage which have been devoted to the proposed Panama Canal Treaty in the past month. My reason for appearing before you is two-fold: first, to represent the viewpoint and position of The American Legion as adopted by our recently concluded 59th National Convention, and to spell out—objectively and dispassionately—what our concerns are and why we object to this specific treaty.

With me this morning is our Chairman of The American Legion's Foreign Relations Commission, Dr. Robert P. Foster, who for the past 14 years has served as President of Northwest Missouri State University located in Maryville. Dr. Foster has visited Panama and, along with Commission members, has examined the Panama situation for quite some time. During this time, he has discussed the matter with treaty proponents and opponents, including both U.S. and Panamanian negotiators. He will be available for questions from the Committee following my statement.

Today, I have come to speak for our four million members of The American Legion and the American Legion Auxiliary. We represent miners in West Virginia; grain growers in Illinois and Iowa; energy producers of Texas; machinery manufacturers in New York; and shipping industry of all states where rivers and harbors open to the sea . . . altogether we represent a composite and microcosm of the United States. For most of us in The American Legion and all our citizens are either buyers or sellers of commodities passing through the Panama Canal.

Moreover, all of us are dependent on the protection of the U.S. Navy to control the seas surrounding our country in the center of the Western Hemisphere. Quite frankly, the main thrust from every Legion Post has been the same deep apprehension about the proposed Treaty with Panama. Not the least concerned were our Legion Posts in the U.S. Canal Zone. Did the United States really intend to abandon its citizens to a dictatorship? If so, what did the United States stand to gain from such a giveaway?

What our Legion people do not understand is why is it necessary to have a new treaty. Have we, the people of the United States, been unfair, unjust or dishonorable with the Panamanians? I think not. We have lived up to our agreements of 1903, and subsequent revisions of that Treaty. No one has accused the U.S. Government with inefficiency. In fact, the contrary is true.

There are suggestions that the discovery of Alaskan oil by our space satellites in the early '60's brought about sudden realization by the oil industry that the U.S. Canal Zone, a U.S. Government reservation, was not the ideal type of property for the shipment of large tonnage of crude oil. Perhaps some type of commercial arrangement, even with a foreign country, was preferable for a booming international business.

Witnesses before this Committee from the U.S. Canal Zone told our staff that one major oil company is already building a large oil pipeline across the Republic of Panama. The tree line is cut and the pipes are being unloaded. One of the Canal pilots told us he was on board the S.S. Pennsylvania Sun and S.S. Cove Trader when bargaining was going on inside the U.S. Canal Zone between Panamanian customs officials and the ships officers. The Canal pilot, Capt. Leonard E. Bell, heard the full story and it sounded like tales from the Barbary Pirates of another century.

There are suggestions that a few large international bankers saw the possibility for placing large loans with Torrijos, either because Torrijos offered high interest rates, improved Panamanian management with lower labor costs, or some of the profits from the crude oil flowing from the north slope. In any case, the bankers must have seen the possibility of profits. We know that numerous U.S. and international banks have loaned billions to the Torrijos government and to Panamanian addresses.

There have been suggestions that Communist subversion started in the mid-50s from Prague inciting people to oppose U.S. ownership in the Canal Zone. This may have had a profound effect. The Washington Evening Star ran a story from Bonn, Germany on September 13, 1956 that "international communism has opened an agitation campaign in Latin America against U.S. control of the Canal Zone." Of one thing we can be sure. It was not U.S. national security interests that abet these new treaties.

There are political considerations and military considerations to this treaty. There are economic and environmental problems of considerable magnitude for the United States, the Western Hemisphere and the entire world.

From a political standpoint, I think our firm consideration must be the beliefs and convictions of the people of the United States. Within the last two years, we have seen numerous polls to determine the attitude of U.S. citizens. Those polls have shown that from 50–90% Americans oppose the proposed Treaties which were signed on September 7, 1977 by President Carter and Gen. Omar Torrijos.

We in The American Legion believe under our system of government that the will of the people is very important. The knowledge, the will and the dedication of our people provide the amperage to our national life.

At the Legion National Convention in Denver, we heard the pros and cons of the proposed Treaty. We heard from Ambassador Sol Linowitz as pro-Treaty, and we heard anti-Treaty viewpoints from expert witnesses, including those of Senator Hatch. In our American Legion Magazine, we invited Panama's Foreign Minister Gonzalez Revilla's pro-Treaty and Congressman Daniel Flood's anti-Treaty to give their positions. When it came time to vote on our Foreign Policy resolution at the Convention, we deliberately set the Panama Resolution, No. 445, aside so we coud offer each Department from each State the opportunity to vote. The pressure to vote was so strong from the thousands of convention delegates that we could not take a roll call vote by state. Supprt of The American Legion's Resolution 445 which opposes the Treaty was unanimous. The silence of pro-treaty support seemed even more persuasive than did the unanimous. The silence of pro-treaty support even more persuasive than did the unanimous vote against the Treaty. (A copy of this resolution is attached for your perusal.) perusal.)

I will now discuss the reservations and objections which we have to this proposed Treaty. The first is the strategic and military importance of continued U.S. control of the Canal and the Canal Zone. At the onset, we realize that the United States has a one-ocean Navy with a global responsibility.

Today all but 13 of the ships in the U.S. Navy—the exception being the large aircraft carriers—can pass through the Canal. Moreover, we, along with the Congress, must be "forward looking" and long-range prognosticators regarding the true effects now and in the future of the proposed Treaty. As each of you are aware, we have made a national commitment to the "mini-carrier" concept. And, when they come on line in 3–5 years, I have been assured by the Navy that they can transverse the Canal, making the Canal even more important in a military sense in the years ahead.

Hanson Baldwin has recently written: "It is ironic, indeed, that in an era when the U.S. Navy needs the Canal to a greater degree than at any time since the end of World War II, Washington is considering its abandonment. The Navy today is in the same strategic bind it was in prior to World War II: It is a one-ocean Navy (in size and power) with two-ocean responsibilities. We are outnumbered in submarines and surface ships by the Soviet Union, and, more than at any period since 1945 the Navy must have a quick transfer capability between the Atlantic and Pacific in order to meet sudden crises.

"General V. H. Krulak, USMC (Ret.), writing in the summer 1975 issue of Strategic Review, summarized the Canal's naval importance: 'In truth the Panama Canal is an essential link between the naval forces of the United States deployed in the Atlantic and in the Pacific. It is only because of the waterway that we are able to risk having what amounts to a bare-bone, one-ocean Navy.'

"During the Vietnam War about 98 percent of all supplies for our forces were shipped by sea; of this total, approximately 33 percent were loaded in East and Gulf Coast ports and transited the Canal. The volume of military-sponsored cargo in the four years from 1964 to 1968 increased for dry cargo, by some 640 percent and for petroleum products by about 430 percent. And the number of U.S. Government vessels (chiefly naval) transiting the Canal increased from 284 in 1965 to more than 1,500 in 1968."

Within the military community, and among the retired and active military, there is great diversity of opinion. In addition to the letter of four distinguished Chiefs of Naval Operation, including the former Chairman of the Joint Chiefs, Admiral Thomas H. Moorer, saying that the proposed Treaty is contrary to the security interests of the United States, we are hearing from many military leaders and the majority of these opinions, like the majority of our citizens, are opposed to the give away of the Zone and the Canal.

As you are aware, Admiral Moorer forcefully reaffirmed his views to this Committee earlier this week and clearly stated the indispensable strategic importance of the Canal.

From a military viewpoint, a commander never gives away strategic territory which he may have to fight to regain. The U.S. Canal Zone is strategic territory. All the military, both active and retired agree on that point.

From an economic perspective, the Canal is vital to United States interests. In 1975, approximately 14,000 ships transited the Canal of which 45 percent originated in the United States and 23 percent were bound for the United States. No other nation even approaches the invaluable, economic stake which we have in the Canal. However, the Canal is important to all maritime commercial nations since 96 percent of the world's merchant fleet can transit it.

The Canal is just this year assuming an additional commercial importance to the United States as Alaskan oil begins to flow. When the Alaskan pipeline reaches its full capacity, it will yield 1.2 million barrels of oil a day. The west coast of the United States can accommodate only 700,000 barrels a day. This means that approximately 500,000 barrels a day cannot be used on the west coast, and must be transported to the east. No pineline has yet been constructed across the United States, and the trip around the Horn, as has been demonstrated, is not economically feasible. Unhindered use of the Panama Canal is critical until an adequate pipeline can be constructed.

From an over-all economic perspective, should the tolls go up another 25–30% as projected by Ambassador Sol Linowitz, and the tolls since 1973, have already gone up about 50%, many of our exports will be priced out of the world market. The grain producers and dealers, for example, frequently depend on a fraction of 1% as their profit margin.

You may have read in the Journal of Commerce, September 20, 1977, where the New Orleans Port Director, Mr. Edward S. Reed stated: "Since grain exports are the United States' best source of balance of payments loans, I think it is incumbent upon the Federal Government to closely scrutinize the possible effects of canal toll increases on the farm commodities exported from the United States." Mr. Reed's comments would pertain to all farmers, farm commodities, shippers and port facilities involved in our U.S. agricultural exports.

In the same Journal of Commerce article, the President of Lykes Brothers Steamship Company, Mr. W. J. Amoss, Jr., expressed his opposition to the Treaty because of its adverse impact on Canal users. Mr. Amoss, who had previously supported the Treaty, said the proposed Treaty spelled sheer disaster for operators east of the Canal and going westbound through the canal.

I stress the economic impact that United States commercial interests will suffer because this starts the day the Treaty is ratified, Ambassador Linowitz has stated the tolls will immediately go up 25 to 30 percent. And just what are the economic facts for such port and shipping centers as Boston, New York, Baltimore, Hampton Roads, Charleston, Mobile, Houston and New Orleans?

I mentioned New Orleans last because Louisiana is my home state. People living along the bayou are genuinely concerned about the ramifications of this proposed Treaty on our trade, jobs and general economic conditions.

I do not wish to overstate the dangers we foresee for Louisiana and the Gulf States but 38% of all water-borne commerce, over $30.0 billion in world trade, move from the Gulf ports. Over one-half of all the grain exported from the United States moves from the Gulf ports and about one-third of these grains pass through the Panama Canal. The Port of New Orleans is the nation's number one importer of iron and steel products. Eighty-seven percent of these products arrive via the Panama Canal.

We could spotlight other ports and jobs threatened by toll increases. Hampton Roads for example is the world's largest coal port. Over half of the 32 million tons of coal leaving Hampton Roads goes through the Panama Canal. It is my understanding that over 300,000 jobs in Virginia are either directly or indirectly affected by the Hampton Roads port complex.

I noticed in a letter to the Editor of the Washington Post on 7 October 1977 that the Port of Baltimore has a vital interest in the Panama Canal. Seventeen percent of all Baltimore's foreign commerce utilizes the Canal. The letter also stated that Maryland's State Senate and House of Delegates had by unanimous vote supported Resolution 34 calling for the United States to retain sovereignty over the U.S. Canal Zone and the Canal.

Moreover, at the present time, the United States has an over-all investment in Panama of $7 billion. By the year of our total evacuation under the terms of the Treaty, that interest will have grown to $9.3 billion. To add insult to injury, the Treaty proposes that we pay some $50.0 million per year, plus about $350.0 million in economic and military aid to have the Torrijos group take over the territory and property.

In short, all these elements of economic benefits which I have mentioned in structures, payments and loans for development will in 23 years amount to the sum of $2.262 billion. This is compared to what Panama would receive under the current Treaty during that same period, which would be the ridiculous amount of $52 million.

Contrary to popular argument, control of the Canal by the United States serves the best economic interests of the people of Panama. In 1976, U.S. agencies purchased over $29 million worth of goods in Panama, and we paid over $108 million in wages to non-U.S. citizens. United States private investments amount to 50% of the capital investment in Panama; and U.S. employees spent $39 million there.

In the Preamble to The American Legion Constitution, we pledge to "safeguard the principles of justice, freedom and democracy" in 1977 terms this translates into human rights. As this Committee is aware, Panama is a dictatorship, or in the words of Ambassador Bunker before Congressman Murphy's committee, an "authoritarian" government.

The aspect of the Torrijos government which is most significant, is that it is a repressive dictatorship. Freedom House, the respected organization which ranks countries on the basis of human rights, gives Panama the lowest rating in Latin America. Panama received the same 1977 rating on political and civil liberties as the Soviet Union and was rated even lower than Cuba.

Gen. Torrijos came to power in Panama by a coup and is governing without the consent of the people. The truth is that since Gen. Torrijos participated in the overthrow of Panama's constitutional government by gunpoint in 1968, 1.6 million people have lost their human rights. There is no recognized party except the Communist Party, called the People's Party, El Partito del Pueblo. Furthermore, the monies from Panama Canal annuities do not go directly to the people, the money goes to the Torrijos power group.

As we are all aware, the Panamanian constitution requires a plebscite vote of the people for ratification of any new Treaty, which will be held on October 23. The sad irony is that the controlled and censored Panama press—"guided" in the terms of our chief negotiator—will never give a full and objective account of the Treaty to the Panamanian people.

Another concern which we have is the political association and economic stability of the government in Panama. On the economic side; under Gen. Omar Torrijos, Panama's national debt has grown from $167 million to $1.5 billion. The debt service alone will consume 39% of that country's budget this year. Panama's Department of Planning indicates that to refinance loans coming due, together with the $139 million deficit, a total of $323.6 million will be required. Obviously, Panama cannot financially afford to have the Treaties rejected either.

Politically, Torrijos has also busied himself with making closer political and commercial ties with the Soviet Union. Again, according to the U.S. Information Agency, top officials from the Soviet Politburo and Central Committee of the Soviet Communist Party visited Panama last June. Almost immediately after the Soviet Politburo team left Panama, a Soviet commercial delegation headed by Nikolai Zinoviev arrived and concluded a major Soviet-Panama commercial agreement with the Torrijos regime. This agreement, according to news reports in the Torrijos-controlled newspaper Critica, could result in the opening of a Soviet bank to run Soviet commercial activities throughout Latin America as well as a series of other multi-million-dollar-trade and construction projects with Panama.

Whether it was a Treaty of intent or a pact of infinite promise, we don't know. The treaty was signed by Omar Torrijos' brother-in-law, Marcelino Jaen, and Soviet leader Nikolai Zinoviev who is also listed as a KGB agent. After the signing, Panama's Jaen declared the Soviet treaty ". . . is an event of deep historic signing, not only for our country, but for the American continent as well, who are always facing strong forces that represent a philosophy that is contrary to the destiny of Latin America."

Of deepest concern is Torrijos' close ties with Fidel Castro and Cuba. Cuba under Castro continues to aggressively export and pursue communist domination and control of other nations. Several weeks ago, the New York Times reported that 4000 more Cubans were sent to Angola recently to "stabilize the nation's most serious crisis since the 1976 civil war." The 4000 Cuban troops would increase Cuban troop strength in Angola to 19,000. This to me clearly indicates that Castro hasn't backed off one inch from his declared goal of communist domination of the Western Hemisphere and the world.

Also of concern is the reliability of the Panamanian dictator to live up to what he signs. Panama has violated the present Treaty at least 11 times during the past two years. These violations included such militant acts as the Panamanian National Guard taking up positions in December 1975 within the U.S. Zone; attempting to arrest and actually shooting a citizen in the U.S. Zone in January 1976; setting off bombs and explosions in the U.S. Zone in October 1976, and capturing a vessel, the Sea Wolf, which was operating inside Canal Zone waters and burning and desecrating the United States flag.

Our Ambassador, whose official car was shamelessly destroyed several days ago, has protested such lawless Treaty violations, but one must question the wisdom of appeasing and making further concessions to a government whose recent history is pockmarked with deliberate violations of the current Treaty. If our current Treaty with Panama is being violated on a routine basis, where is the logic that such attitudes and behavior will improve between 1977 and 1999, the magic year when Torrijos is supposed to get everything, lock, stock and barrel?

I would like to turn now to the question of United States sovereignty. Many of the arguments for the switch in sovereignty and much of the conscious or subconscious motivation for it stem, in part, from ignorance or distortion of the manner in which the Panama Canal territory was acquired by the

United States and of the wording of the original Treaty of 1903.

Contrary to these assertions from public officials who should know better, we did not steal the Canal, nor does Panama have residual, titular, or any other kind of sovereignty over it. The United States bought the Canal territory—a strip across the Isthmus of Panama some 50-miles long and 10-miles wide—at a cost to the American taxpayer that far exceeded the cost of the Louisiana Purchase, the Mexican cession, the Florida Purchase, the purchase of Alaska, or any other territorial acquisition.

Despite current contentions by the State Department that the 1936 Treaty revisions recognized Panama's sovereignty over the Canal Zone, it is clear that in both wording and intent the Treaty actually re-emphasized the sovereignty, in perpetuity, of the United States.

History and the law appear to indicate in no uncertain terms that there is no merit whatsoever to the concept that the Treaty of 1903 vested so-called titular sovereignty or residual sovereignty in Panama. The wording is clear and unequivocal: "The Republic of Panama grants to the United States in perpetuity the use, occupation and control" of the Canal Zone. "The Republic of Panama grants to the United States all the rights, power and authority within the zone mentioned . . . which the United States would possess and exercise if it were the sovereign . . . to the entire exclusion of the exercise by the Republic of Panama of any such sovereign rights, power or authority."

One cannot transfer sovereignty unless one has it. The United States has, and will retain until Congress decides otherwise, complete sovereignty and control over the Canal Zone in perpetuity.

Even Gen. Torrijos in his remarks following the formal signing acknowledged United States sovereignty and I quote: "What nourished the hopes of Panamanians for *the recapture of their sovereignty* was the feeling that the North American people fundamentally harbored no colonial aspirations," (emphasis added).

I will now turn to the Treaties and the accompanying Annex and Protocol. This analysis is based upon the limited time in which these Treaties have been available to the layman and I urge each member of this Committee to scrutinize these documents.

(1) Sovereignty is the crucial factor in the new Treaties. Both the Prologue to the Canal Treaty, and at least six other times in the document, Panamanian sovereignty over the U.S. Zone and the Canal is acknowledged. As I stated earlier, once Torrijos is granted sovereignty all other questions are irrelevant.

(2) According to our analysis of the Treaty, should Panama abrogate the Treaty, the United States would have no legal basis in international law to maintain its position in the former Canal Zone.

(3) Article II, Section 1, of the Canal Treaty specifies that it should "be subject to ratification in accordance with the constitutional procedures of the two parties." However, it would appear that the Executive Branch is seeking ratification of the treaties without seeking enabling legislation from the House of Representatives to transfer real properties, appropriation of funds and perhaps other legislation which is not spelled out, as required by the Constitution of the United States. This by-passing of the House of Representatives appears to be an usurpation of legal powers which is clearly conveyed to the House by the Constitution.

(4) Article XII, Section 2(b), states that "during the duration of this Treaty the United States of America shall not negotiate with third states for the right to construct an inter-oceanic canal on any other route in the Western Hemisphere, except as the two parties may otherwise agree." In plain terms, the United States has surrendered its rights to negotiate for a competing canal elsewhere in the Western Hemisphere unless it has Panama's consent.

(5) Article V of the Canala Treaty directs that employees of the Panama Canal Company, their dependents and other American nationals should "abide by the laws of the Republic of Panama and abstain from any activities in competition with the spirit of this Treaty." This Article also directs that they abstain from any political acts in the Republic of Panama. As I stated earlier, there are American Legion Posts in the Canal Zone and I am deeply concerned about forcing American citizens to submit to a dictatorship and their surrender of rights as Americans.

(6) Article XIII relates to payments to Panama for the right to operate the Canal. One such payment of $10 million per year from profits is cumulative which means there is a possibility that we could, over the 23 year period of the Treaty, end up owing the Panama government $230 million.

Additionally, I have strong reservation and objections to the Neutrality Treaty: (1) Only Article IV of this Treaty bears upon U.S. responsibility concerning the neutrality of the Canal and the entire document is so vague as to be virtually meaningless. In my lay reading of the entire Neutrality Treaty, I find no assurance that the United States can intervene to assure the neutrality of that vital area.

(2) Article III(e) states that "vessels of war and auxiliary vessels of all nations shall at all times be entitled to transit the canal." This statement assures the passage of warships through the canal of nations which may be at war with the United States.

(3) Article VI, Section 1, states that vessels of war and auxiliary vessels of the United States and the Republic of Panama "will be entitled to transit the canal expeditiously." The exact meaning of the word "expeditiously" is vague at best. Even more confusing is the interpretation placed on the word "expeditiously," by the Chief Panamanian negotiator, who said that the United States would not be given "preferential rights."

In Louisiana we regard a contract as no better or no worse than the intent and interpretation of the contracting parties. Treaties are actually a form of international contracts where nations agree to abide by the terms specified. As this Committee knows, we are getting a wide variety of interpretations on such matters as the right of intervention, the right of priority passage for U.S. warships. Escobar Betancourt has recently told Panamanian audiences that the United States wanted but did not get "priority or privileged passage." This information was later authenticated in a "confidential" cable released by Senator Dole which quotes Lopez Guevara that Article IV on neutrality urges U.S. officials to stop using the word intervention. Intervention is prohibited by international law.

It would be unwise at best to even further consider ratification of any treaties in any form until the serious differences in U.S. and Panamanian interpretations are closely and unquestionably resolved.

In brief summary, an evaluation of the facts about the Treaty have brought us to the day of the signing, September 7, 1977 . . . a bad day for the United States.

United States military and national security losses alone are sufficient to reject the treaty. We are giving up our naval fleet flexibility at a time when we have fewer than 400 ships in the entire United States Navy. Economic losses of the United States are difficult to calculate, but logic dictates that U.S. consumers and exporters are going to pay the toll increases. Additionally, the cost to the U.S. taxpayer is in the billions. The Torrijos government is living on borrowed money and borrowed time.

Politically, human rights under Torrijos are no better than they were under Hitler during the 1930s and yet by supporting this Treaty, our United States Government is propping up a dictatorship. Worse yet, our government is forcing Americans to live under totalitarian rule and abide by its laws and decrees. That's what World War II was all about.

The pressures the White House can bring are enormous as all of us know. The resources at the President's disposition almost defy our collective imagination. The Treaty signing festivities on September 7 were an example of Presidential style and substance. We in the Legion, while recognizing the awesome power of the Presidency and the Executive bureaucracy, also believe that the ultimate power in the United States resides with the people . . . with people like our members.

I will close with one qeustion: if this Treaty is basically good for the United States, why does the Administration have to make such an effort to prove to Americans that it is in our national interest? Those of you in the Senate must know what the people are thinking. You know the Legion Posts and grass roots opinion runs about 80% against the giveaway.

We believe this proposed Treaty will ultimately be decided by the people. We believe this is one defeat the United States can avoid. It is a loss we need not accept and you can count on The American Legion Posts to stand firm.

PANAMA CANAL

Whereas, the United States is the rightful and legal owner of the U.S. Canal Zone and the Panama Canal, having acquired this U.S. property through court tested treaties and agreements and mutually agreed upon payments to Colombia, Panama and the individual land and property owners; and

Whereas, the United States Supreme Court has ruled that the United States is legally entitled to sovereignty and ownership of the U.S. Canal Zone for the purpose of building, operating, protecting and maintaining a canal across the Isthmus; and

Whereas, the United States has lived up to its obligation under the Treaty to the letter of the law; and

Whereas, the political, economic and the military factors offer conclusive evidence that it is in the vital national interest of the United States to retain sovereignty and ownership of the U.S. Canal Zone and Canal; and

Whereas, over three-fourths of our American citizens consistently voice their opposition to any kind of "giveaway" or dilution of U.S. sovereignty over this territory; and

Whereas, the United States as leader of the free world has a moral obligation to remain fair, firm and strong when faced with political blackmail; and

Whereas, surrender of the U.S. Canal Zone would be tantamount to a major military defeat with enormous consequences for evil; now, therefore, be it

Resolved, by the American Legion in National Convention assembled in Denver, Colorado, August 23, 24, 25, 1977, that we reiterate and reaffirm our continuing and uncompromising policy in opposition to any new Treaties or Executive Agreements with Panama, relating to the U.S. owned Panama Canal and its protective frame of the U.S. Canal Zone as expressed and set out in separate resolutions adopted consecutively at each annual American Legion National Convention since the Miami Convention in 1960; and, be it further

Resolved, that we strongly urge all elected members in the U.S. Congress to oppose any new treaty with the government of Panama which: (a) in any way dilutes full U.S. sovereignty, ownership and control; (b)

cedes U.S. territory or property; (c) surrenders any jurisdiction and control which would threaten the economic and security interests of the United States; and, be it further

Resolved, that The American Legion rejects the actions of the Executive agencies of the federal government in attempting to bypass the Constitution of the United States, and we fully support Article IV, Section 3, Clause 2, of the Constitution which provides that only the Congress has the authority to dispose of U.S. Territory.

STATEMENT OF AMVETS NATIONAL COMMANDER FRANK D. RUGGIERO

Mr. Chairman and Honorable Members of the Committee:

AMVETS is grateful for this opportunity to present the views of our organization on such a vital issue as the much publicized and highly controversial Panama Canal Treaties. It is our opinion that few matters in recent history have held the importance or portentousness of this fateful issue.

In concert with our great brother organizations, AMVETS speaks to this matter in the sense that we, the veterans of our Nation's wars, are of a right and necessity deeply concerned with the future of the U.S. defense posture in general and in the Western Hemisphere specifically. As do other concerned Americans, we address ourselves also to those issues which affect international and hemispheric commerce and embrace our national economy. Therefore, the issues involved here are directly germane to our concerns and activities, for what segment of our society has more right to oppose that which we believe threatens the United States' defense and economic position on the "American land mass."

The Administration and some Members of Congress have challenged the term "sovereignty" as that term pertains to the Hay-Bunau Varilla Treaty of 1903. They claim that the United States was never granted sovereignty over the Canal Zone in the legal sense. We do not argue that point. The dictionary definition of the term "sovereignty" is of little importance in this issue as we see it. The fact remains that any reduction in American military forces on the Isthmus of Panama and the loss of United States control over the Canal Zone could be disastrous. The U.S. defense posture, south of the Rio Grande would be virtually non-existent. The Canal, regardless of its inability at present, to accommodate the super-carriers and super-cargo vessels remains as the single most important water-way on the western half of the globe. The Isthmus itself, the Canal notwithstanding, serves as the roadway between all of the Americas and is, in our opinion, the "crossroads" of the hemisphere. This demands American presence and control to ensure that Communistic or otherwise adverse influences will not "choke off" North America from South America. The President's concern over "human rights" can best be served by maintaining our strong position in Panama and preventing the influence of Castro Cuba and other elements from establishing a toe-hold.

Furthermore, we are not convinced that the people of Panama, and we refer to the common people, not the pseudo-intellectuals, are desirous of having the United States pull out of the Canal Zone. Indeed, we have reason to believe that is the last thing they want to see happen. In this regard, we quote from an article which appeared in the Chicago Tribune of March 25th by Mr. Ronald Yates:

"Incredibly, and in spite of an almost daily diet of government inspired anti-American rhetoric in the Panamanian press, the poor and the unemployed of this Nation of 1.7 million say they are not ready to run Americans out of Panama but rather are prepared to fight to keep the Canal in United States hands." And Mr. Yates found this to be a typical remark of a Panamanian-on-the-street: "'You see, the only people in Panama who have ever given the United States trouble are Communists, rich university students, and parasitic intellectuals who live off the blood and sweat of people like us,' he continued. 'We have nothing against America or the Canal Zone because we know as long as America has control of the Canal, there will be jobs for Panamanians. But as soon as you (America) give it back to Panama, it's going to go all to hell and nobody will have jobs.'"

We fully appreciate that the passage of seven decades would necessitate adjustments in monetary considerations commensurate with today's values. We do not oppose any reasonable arrangements in this connection. Our sole opposition is to any Treaty which would dilute or compromise U.S. control of the Canal Zone now, or in the future.

General Torrijos was reported to have said "in the event that peaceful negotiations for a phasing-out of United States control were closed, a campaign of violence against the 15,000 Americans in the Zone would be inevitable." "Two options would be open to me," he continued. "To smash it or to lead it—and I am not going to smash it." If we give in to this "threat," how could we guard against "sabotage" by subversive elements of Panamanian military forces? This prompts other questions:

1. If we (the United States) grant the desired concessions to Panama, what guarantee will we have that Panama will live up to its end of the bargain?

History should have taught us that treaties with dictator forms of government are not worth the paper they are written on. One has but to remember the "Munich Pact" between Nazi Germany and England, inter-alia to realize the value of such agreements. We are informed that, notwithstanding the Torrijos' Government, every Government of Panama since the creation of the Republic in 1903 has expressed the desire for a new treaty. It occurs to us that to turn over the control of a facility such as the Canal, which requires great financial sustenance and technological expertise, to a nation whose governmental foundations are so weak as to allow dictators to take over, would be a great disservice to all nations whose commerce rely to a large degree on the Panama Canal.

2. If Communistic influences prevail, such as those we suspect exist currently in the Caribbean area, how will we defend the Canal Zone should Panama succumb to these influences?

The interpretation by American proponents of the Treaties is that the United States will be entitled to intervene to protect the Canal and that United States warships will be entitled to expeditious or privileged passage through the Canal. This has been their strong argument in favor of the Treaties. Yet, on August 24th of this year, Panama's chief treaty negotiator, Dr. Bethancourt, stated at a press conference that "the pact does not establish that the United States has the right to intervene in Panama, nor does it provide the United States with the right to determine when (that) neutrality is violated."

The right to expeditious or preferential passage is also a matter of interpretation. According to Dr. Bethancourt, the Panamanian interpretation differs from the American dramatically when he said "if the gringos with their warships say 'I want to go first,' that is their problem. We cannot go that far." In view of these statements it would seem that closer examination is in order.

A strong stand must be made if we are ever to regain the "image" we once projected abroad. Some would say that by granting the Panamanian demands the United States would gain the respect of the "Third World nations." We think not. We believe that the opposite reaction would take place and that we would be looked upon as a "pushover." Respect is given to the strong, the assertive, the fair. Again, we do not oppose a fair financial arrangement, but not in the form of tribute.

We are asked if we were in the position to make the decision: "Would we be willing to go to war in order to retain United States control of the Canal Zone?" We ask, in turn: war with whom? Are we to believe that Panama by herself or all of the Latin American nations collectively would wage war against the United States over this or any other issue? Or, do we believe that the Third World and/or Communist nations, including Red China and the Soviet Union, would join forces in such an adventure? We believe the possibilities of such an occurrence are too remote to merit consideration.

It has been further suggested that should the Treaties not be ratified, the veterans' organizations and other anti-Treaty groups would share collectively the blame for whatever "reprisals" are taken against American personnel in the Canal Zone. That, in effect, "their blood would be on our hands."

It is, and would be, the responsibility and solemn obligation of the Commander-in-Chief of the U.S. Army, Navy and Air Force to take whatever measures necessary, including armed force, to ensure the defense of the Canal Zone and the safety of its inhabitants.

In conclusion, Mr. Chairman and Members of the Committee, we offer no alternatives to the current status of the United States on the Isthmus of Panama except in the area of more financial equity, and, indeed, recognize no need to enter into any further negotiations with the Republic of Panama which would attempt to eliminate or phase-out United States control of the Canal Zone.

Again, and finally, Mr. Chairman, we thank the Committee for this opportunity and will attempt to answer any questions the Members may wish to ask at this time or we will be happy to respond in writing, for the record.

STATEMENT OF MAJ. GEN. J. MILNOR ROBERTS

Mr. Chairman and Members of the Committee: I wish to thank you for the opportunity to testify before your committee and in such distinguished company. The Reserve Officers Association is a professional association of officers of all the armed services, regular and reserve, but primarily consisting of citizens who dedicate extra time and effort to the national defense over a full time civilian career in your local communities. Twice in the last four years, these reservists have expressed their opposition to any arrangement which would result in diluted control, operation, and defense of the Panama Canal and Canal Zone. We believe that this particular treaty that is before you today is appeasement in phases which can only whet the appetites of those who would disrupt the peace and freedom of the nations of the Caribbean and Central and South America, as well as disrupt the defense of the United States.

We recognize that the Panamanians are less than happy with the 1903 Treaty. It is not hard to see why. The Panama Canal cuts through their country like an interstate highway through your home town. It is a highly visible barrier and while it is a major source of the Panamanian national income it is not like Arabian oil or a Chinese port. We built it and we paid for it three times. We paid off the French Company, the Panamians and the Colombians. It is ours in any real sense of the word, and the Panamanians have profited greatly from our management of the Canal.

The question is therefore one of giving it up or sharing it. The proponents of the treaty ask, why keep the Canal? And say that

there is no good reason to keep it. We would rather ask, why should we give it up? And we say, there is no good reason to give it up.

We have been told, in essence, that the Canal is not vital to our economy or our national defense, and that we cannot defend the Canal against a presumed Panamanian Viet Cong. The evidence used to substantiate these allegations is presented in a manner which classically illustrates the old propaganda trick called "card stacking'. Much of the evidence is misleading, flimsy, even irrelevant. For example, for what earthly reason would a submarine officer desire to submerge his submarine while in the Canal? All warships are vulnerable while in the Canal and always have been.

In a more serious vein, it is alleged that we have a two ocean navy and therefore we do not need the Canal. It is also pointed out that very few naval ships have used the Canal in recent years and several ships such as the super carriers and super tankers are too large to use the Canal.

In response to this seductive but spurious argument, we point out that we have had a "two ocean Navy" since the Canal was built, a Navy which is dependent on the Canal for wartime logistical support. Heavy bulk cargoes such as ammunition, fuel, food, and vehicles are used in prodigious amounts in a combat zone. Ninety-six percent of the tonnage that went to Vietnam went by ship, over seventy percent of which went through the Panama Canal. A peacetime force uses less than one-tenth of the wartime tonnage requirements, much of which is procured locally, hence the smaller number of ships.

We also point out that there have been serious discussions of making the Navy a "one-ocean Navy" because of the high cost of ships which also would be of smaller size.

The risks and costs of a 6,000-mile detour around South America in the event of the denial of the Canal to U.S. shipping would be devastating to overseas military combat operations, particularly in the Pacific. First, the increase in mileage would cut the amount of tonnage received in a combat zone by half or require a doubling of the size of the cargo fleet. Secondly, the detour itself would increase the vulnerability of the shipping lanes to submarines, commerce raiders, land based aircraft, and missile armed fast patrol boats. This in turn would require more naval assets to be spent on sea control missions in lieu of missions related to the strategic projection of national power.

The fact that many of the super tankers and super carriers cannot use the Canal is more a liability of the ship than of the Canal. We would also point out that a super tanker of 100,000 tons is both a lucrative and vulnerable target for military action.

In addition to the naval and shipping aspects of the Panama Canal, the Canal Zone also features the only major U.S. airbases for ready access to Central and South America. These facilities are significant not only for the defense of the canal, but for the defense needs of the Southern Hemisphere. We may have need for the Panama Zone air facilities that are related to problems in areas outside Panama. At the same time, we may lose the fields themselves or have restrictions on their use resulting from renegotiations of our military presence in the former Zone such as has happened in Italy, Libya, and Spain.

On the economic side, we find it hard to believe that the Canal is not vital to the national economy at the very time that Alaskan oil is being shipped to a fuel hungry Northeast. We should also note that as much as three quarters of the shipping of some of the Central and South American nations goes through the Canal.

We believe that there can be no doubt that the Canal is vital to both our national economy and particularly our national defense. The administration has used the Joint Chiefs of Staff to present evidence of the Canal's non-essentiality and indefensibility. What you hear from the Joint Chiefs is what the administration wants you to hear and should be viewed as evidence of the discipline and obedience of the Joint Chiefs to their civilian bosses.

The Joint Chiefs tell us that it will take 100,000 U.S. troops, the equivalent of an Army Corps with supporting Naval and Air Forces, to defend the Canal against a determined guerrilla threat. The annual operating costs of an Army combat division in a Vietnam style war is approximately one billion dollars; therefore the costs of defending the Canal, according to the JCS estimate, is approximately two or three billion dollars a year.

We must also examine the nature of the internal threat to the Canal. By internal we mean, from Panama by largely Panamanian forces. It must be conceded that many of the key ingredients of another Vietnam are there. The high school students form a vocal, articulate, and influential nucleus with widespread popular support. There are outside groups who would be more than happy to fund, train, and equip Panamanian guerrilla forces. There is a visible symbol of what some consider "colonialism," the Canal itself.

One major ingredient is missing, however. It clearly is not in the Panamanian national interest to destroy the Canal. Forty percent of the national income comes from the Canal. Destruction of the Canal would be an unparalleled disaster to the Panamanian economy outrivaling crop failure, drought, or a drop in the price of bananas.

A more likely threat to the Canal by Panamanians is a threat of selective interdiction or blockade of American shipping by a threat to the ships in the Canal. This threat can be accomplished by relatively conventional landbased forces using short range combat weapons including tanks, anti-tank systems, light artillery, and small arms. The size and shape of the Zone as a buffer around the Canal prevents this type of action short of actual invasion of the Zone itself.

Selective interdiction may also be accomplished by guerrilla forces equipped with anti-tank weapons and special demolitions. This military capability will exist regardless of who runs the Canal and must be regarded as a constant threat to guard against. We must take into consideration the fact that as long as Old Glory flies over the Canal in any capaicty, there will be those in and out of Panama who will desire to use the threat of closing the Canal to achieve political leverage over the U.S.

It is against this latter threat that the friendliness of Panama is extremely important. On the other hand, placing Panamanian military forces in close proximity to the Canal interdiction by unfriendly Panamanian interest. World public opinion might cause us to hesitate to move against Panamanian troops blockading the Canal if those troops were there by treaty right.

The Canal Zone, as a military buffer area, is affected the most by the treaty. If the Zone is abolished, most of the military installations and Canal facilities under the control of the U.S. or the U.S. Canal Corporation until the year 2000 will be left in an exposed position. We note that the Canal Zone is unique in the sense that not only is it U.S. territory, an agency of the U.S. Government holds the title to the land. This is clearly illustrated by the fact that no one may own his own home in the Zone. All those who live in the Zone live in government owned housing and are either Panama Canal Company employees or U.S. military personnel and their dependents.

Much has been said about the Americans who live in the Zone. Proponents of the treaty say that these citizens have caused considerable unrest by their so-called colonial privileges of low cost stores, housing, etc. It is ironic to note that the status of those who live and work in the Zone will not change substantially in this regard as they will be covered in a Status of Forces Agreement (SOFA) like American military and civilian government employees are in places all over the world.

We are also concerned over the financial arrangements of the treaty. We note that some $50–70 million will be paid to Panama from the proceeds from the Canal. This increase is allegedly to come from an increase to tolls of thirty cents a ton. With ships weighing many thousands of Canal tons, the increase in tolls is expected to be substantial. An upper limit on Canal tolls is placed in the fact that the tolls must be less than the cost of a trip around the Horn. Since the Canal runs at a $7 million deficit, we ask whether the American taxpayer is going to pay directly into the coffers of the Panama Canal Commission that replaces the Panama Canal Company? If such is to be the case, we have a case of a direct payment to Panama using the treasury of the Panama Canal Commission as a laundry or conduit.

We should also examine the inflationary impact of increased Canal tolls on our own economy, which needs no inflationary pressures, and those of our neighbors to the South who need inflation even less.

Absolute neutrality of the Canal, as envisioned by the Treaties, is not in the best interests of the United States nor of the nations of the Western Hemisphere. Economically, the Panama Canal's customers are substantially different from those of the Suez Canal, being fewer and mostly American, North and South. Three quarters of the traffic in the Canal is related to U.S. trade, representing 16.8% of U.S. waterborne commerce. While the tonnage may be less for Latin American trade, the percentages are higher; Panama Canal traffic as a percentage of national waterborne commerce is 76.8% for Nicaragua, 41.3% for Peru, 34.3% for Chile, and 32.5% for Columbia. Clearly, Western Hemisphere interests should dominate control of the Canal.

Traditionally, the U.S., through the Monroe Doctine, has over-watched and protected the Western Hemisphere from outside influence; this treaty opens the door for substantial outside influence. In this light it should be remembered that the U.S. had the right to "restore order" to the Isthmus of Panama long before the Canal was a gleam in DeLessups eye.

The ambiguities of key concepts of this treaty, recently highlighted by Senator Dole, remind us of the old adage, "good fences make good neighbors." When territory is being divided between two nations for defense purposes, ownership of a few yards of ground may be of great significance and substantial argument, as was illustrated in the negotiations in the Korean War at Panmunjon and in Palestine in the late forties and early fifties. We may be creating a can of worms, not a concrete treaty of lasting value.

Given a real or implied Panamanian threat of violence to the present Canal, the question of a sea level canal or third lock in Panama is not relevant to argument favoring adoption of the treaty, as any new canal construction in Panama is subject to the same threat. On the other hand, a sea level canal on route 8 in Nicaragua and Costa Rica or on route 25 in Colombia might prove to be cheaper than defending the present canal or taking it back from unfriendly hands.

Finally, we recognize that the Panamanian people want a new arrangement. We can understand and sympathize with the desire of the Panamanian people to go from one part of their country to another without going through foreign customs or without harass-

ment from our police. Unfortunately, we have not heard enough from the Panamanian people as to what are their specific complaints against us so that the American people and this Senate can judge the merits of the treaty, or devise one more amenable to both peoples.

In summary, we find no good reason to give up the Canal and its Zone, and the protreaty arguments are unsound, fallacious or frivolous. Finally, we wish to point out that this treaty appears to be a form of appeasement in phases to a conjured threat of a Panamanian Viet Cong; a threat which is more spectre than substance. We know, and the world knows, that appeasement, even the appearance of appeasement is too tempting a morsel to the hungry hounds of war. It is also particularly humiliating to the American public to appease anyone so soon after our misfortunes in Vietnam and Angola.

We caution the Senate to examine carefully the exact wording of this treaty and all the multiple annexes and side agreements and the nuances of the words used therein that describe our rights to keep the Canal open, accessible, efficient, and under our control.

BIOGRAPHICAL SKETCH

Major General J. Milnor Roberts, USAR, became Executive Director of the Reserve Officers Association 1 October 1975. He had served as Chief U.S. Army Reserve from 1 June 1971 until 2 June 1975, after nomination by the President and confirmation, on 5 April 1971, by the United States Senate. Previously he was Deputy Chief Army Reserve and was the first general officer to hold that post.

General Roberts was commissioned a Second Lieutenant, Infantry, from ROTC at Lehigh University, Bethlehem, Pa., in May 1940. He entered on active duty in January 1942 and served as an instructor at the Ft. Benning Infantry School and at an Infantry Replacement Training Center. Following assignment as Commanding Officer, Company "E", 88th Glider Infantry, he participated in the landing at Omaha Beach 6 June 1944 as Aide-de-Camp to LTG Leonard T. Gerow, CG, V Corps. Subsequently, he was Assistant Military Government Officer; Executive Officer, Military Government Section; and Assistant Intelligent Officer for V Corps.

After his release from active duty in December 1945, he served with the US Army Reserve's 314th Infantry Regiment first as Intelligence Officer, then Operations Officer, Executive Officer, and Commanding Officer of the 1st Battle Group. He subsequently commanded the Combat Command Section, 79th Command Headquarters (Divisional) following which he was named Mobilization designee to the Office, Chief of Information, Department of the Army. In December 1967 he was appointed first commander of the 99th Army Reserve Command headquartered in Pittsburgh. He was promoted to Brigadier General in May 1968.

General Roberts has been awarded the Distinguished Service Medal; Legion of Merit; Bronze Star Medal; French Croix de Guerre with Silver Star; the Czechoslovakian Military Cross of 1939; the Bronze Arrowhead for participation in the "D Day" Normandy Invasion; and other U.S. and foreign awards.

A member of ROA since 1946, he has served as an officer of his local chapter and on several national committees. He is Past Commander, Pittsburgh Chapter, Military Order of the World Wars; Past President, Fort Pitt Chapter, Association of the US Army; Past President, Pittsburgh Sigma Chi Alumni Chapter; Past Director, National Advertising Agency Network, and is Vice-President-at-large, Society of American Military Engineers.

General Roberts is a member of the Sons of the American Revolution and a direct descendant of one of General George Washington's commanders at Valley Forge, Colonel George Gibson, who lost his life later during the campaign for the Northwest Territories in 1791.

STATEMENT OF COL. PHELPS JONES, U.S. ARMY, RETIRED

Mr. Chairman and Members of this Distinguished Committee: My name is Phelps Jones and I serve the more than 1.8 million members of the Veterans of Foreign Wars of the United States as their Director of National Security and Foreign Affairs.

I am pleased and honored to have been invited to appear before this distinguished body to share with you the position of the V.F.W. on the proposed treaties affecting the interoceanic canal and its framework, the U.S. Canal on the Isthmus of Panama. Our National Commander-in-Chief, Dr. John Wasylik, of Sandusky, Ohio, has asked me to convey to you his appreciation for this opportunity.

Last month, Dr. Wasylik presented the V.F.W. position to the Committee on International Relations of the U.S. House of Representatives. This September 16th statement covers, in detail, V.F.W. rationale for opposing both the assumptions undergirding the U.S. negotiating position and the treaties which emerged from the negotiations.

To avoid pointless repetition, I request that the Chairman include our National Commander's earlier statement as a part of the record of these proceedings.

This earlier statement includes the unanimously passed Resolution Number 402, the heart of which reads:

"Be It Resolved, by the 78th National Convention of the Veterans of Foreign Wars of the United States, that:

"(a) U.S. operation, control and defense of the Canal are non-negotiable;

"(b) tensions relating to the administration of the Canal Zone be resolved on the spot without disturbing present treaty arrangements;

"(c) U.S. citizens and employees in the Canal Zone continue to meet their responsibilities under U.S. sovereignty;

"(d) the foregoing position be again communicated to both the President (who in October, 1976 asserted that he would 'never give up complete or practical control' of the Canal) and the Congress;

"(e) the Panama Canal Zone send to the Congress of the United States a delegate such as is done in Puerto Rico, the District of Columbia, and the Virgin Islands; and

"(f) the proposed treaty being put forward by the Carter Administration be defeated in the 95th Congress."

If anything, since this resolution was passed on August 23rd, both additional reflection and events have fortified our resolve.

The September 7th White House signing extravaganza was unmistakably designed to be a "media event" which would overwhelm any serious consideration of the proposed treaties on their merits—or lack thereof. In candor, my organization was affronted by this stagey event and the inherent premise that U.S. national interest on this issue could best be discerned and advanced by polling foreign nations.

The trumpeted U.S. right to act militarily to preserve the Canal's neutrality, under Article IV of the Neutrality Treaty, has been directly disavowed by two Panamanians most directly involved: negotiators Carlos Lopez Guevara and Romulo Escobar Bethancourt. Mr. Bethancourt assured the rubber stamp Panamanian National Assembly on August 19th that, not only was U.S. military intervention not permitted under Article IV, but also the Canal could be closed by Panama if: (a) no profits accrued; (b) internal disorders erupted; or, (c) there was a landslide. A few days later, Mr. Bethancourt offered some observations on the "expeditious" passage reportedly assured U.S. warships:

"Expeditious passage does not mean privileged passage. As a matter of fact, the concept of privileged passage was rejected . . . if after examining the provision, the Gringos with their warships say, 'I want to go through first,' then that is their problem with the other ships waiting there. We cannot go that far."

Mr. Chairman, we have long heard that the proposed treaties are the product of thirteen years of painstaking negotiations fully supported by four Presidents. Yet today we witness American negotiators unable properly to explain with any conviction what it is that Panama agreed to in the very elastic language of Article IV of the Neutrality Treaty. As we well know, Panamanians, with alacrity and acerbity, repeatedly tell us what they did not agree to.

I find it impossible to believe that four Presidents, their Secretaries of State, and the current Joint Chiefs of Staff could now find solid reasons to support the tragic/comic opera bouffe being played out to ascertain what it is, in fact, that thirteen years of "painstaking" negotiations have really meant.

Certainly, Mr. Linowitz missed the mark badly when he informed this body on September 29th that "in no way does (the proposed treaty) limit our ability to act," and "U.S. warships can go to the head of the line even if other ships are waiting to get in." Mr. Linowitz convinced only Mr. Linowitz on these points. His Panamanian colleagues were clearly unmoved.

We have all noted that the Joint Chiefs of Staff have been assigned a key role in "educating" the presumably backward American public on the proposed treaties.

As a retired career soldier whose service included duty on the Joint Staff and in the office of the Chairman, JCS, I have an abiding appreciation of our senior military people as officers of honor and perception. They are among the most convinced Constitutionalists in our country. I do not, and will not, question their sincerity and conviction on this matter. I do, however, point out that the aggressive use of the service chiefs by the Administration makes shabby use of the JCS in what is obviously an intense domestic debate with important political overtones.

Over the 30 years since 1947, when the JCS System was formally set up, my research shows me only three occasions—one per decade—when the JCS was invoked by various Administrations in an effort to pre-empt prolonged political consideration of a national policy issue: (a) in 1951 when General Bradley supported President Truman's desire not to expand the Korean War as called for by General MacArthur; (b) the 1963 support of the JCS for the limited test ban Treaty; and, (c) the current use.

One final point on this matter of the Administration and the JCS. If the Administration truly believes the Chiefs collectively represent an unassailable source of policy wisdom on the matter of the proposed treaties the question can be fairly put: why limit the public role of the JCS to the matter of the Treaties only? The decision on the B–1 Bomber, the proposed withdrawal from Korea and a host of other defense issues could have the "wraps" removed and the JCS urged to come forward and tell-it-like-it-is. My concern is that such transparent use of the senior military will, rightly or not, decrease their credibility on some future occasion when the Chiefs, on their own, feel compelled to stand up and be counted on some issue central to our survival.

Mr. Chairman, some concluding thoughts.

As this Committee was supremely unimpressed by the argument that five American Presidents sought an outcome in Vietnam different from that which happened, I urge you to apply the same level of skepticism to

the current "four Presidents have favored" argument advanced by the Administration.

As to the possibility of violence absent treaty ratification, the recent burning of Ambassador Jordan's automobile in Panama suggests that some level of violence will arise from some quarter no matter what happens. The U.S.—most certainly to include the V.F.W.—is threatening no one. We are being threatened periodically by a Panamanian regime which alternately forecasts violence or states their abhorence of the violence they have earlier forecast. A nice trick.

I have attempted to think through formulae short of uninterrupted U.S. sovereignty which would assure the President the "practical control" he stated a year ago he never would cede. It doesn't work. So-called U.S. "Pre-eminence" or "practical control" short of uninterrupted U.S. sovereignty, equals being on the Isthmus on Panamanian sufference which could be withdrawn over night. When we cede sovereignty, as the proposed Treaties would have us do, we are placed on a slippery slope without a solid case under the law should Panama, for whatever reason, elect to nationalize the Canal operation. There is no way to get from the cession of "sovereignty" to "practical control." As Hanson Baldwin has pointed out, to talk as if we can is "double-talk."

One aspect of this issue has escaped notice to this point.

This body is deeply aware of the high, and increasing, level of inter-dependence between and among the nations of the world. Often this undeniable fact of growing interdependence is cited as a compelling reason for a muted American response to some event outside our borders. What has, I believe, never been emphasized is that the responsible professional 63-year American custodianship of the Canal, for the benefit of the entire world maritime community, is a practical example of the inter-dependence among nations being understood, accepted, and efficiently served.

Finally, after words and perceived symbols fade, geography endures. Along with Gibraltar (British since 1713, not just since 1903), Suez, and the Straits of Malacca, the U.S. Canal and its protective framework, the Zone on the Isthmus of Panama, will be important to the commerce of many nations and vital to hemispheric and Free World safety for as far ahead as any of us can see.

It is the considered judgment of the Veterans of Foreign Wars of the United States that uninterrupted U.S. sovereignty over the Canal and the Canal Zone is in the supreme national interest and we urge the United States Senate, as an act of enlightened and unapologetic statesmanship, to return the proposed Treaties to the President with your advice, but without your consent.

I will try to answer such questions as you choose to ask.

Thank you.

STATEMENT OF DOCTOR JOHN WASYLIK

Mr. Chairman and Members of this Distinguished Committee: My name is Doctor John Wasylik, and my home is in Sandusky, Ohio. As National Commander-in-Chief of the Veterans of Foreign Wars of the United States, I am pleased and honored to appear before this distinguished body to share with you our views on the proposed Treaties affecting the Inter-Oceanic Canal and its framework, the U.S. Canal Zone on the Isthmus of Panama.

I am accompanied here today by two of my V.F.W. colleagues, Mr. Cooper T. Holt, Executive Director of our Washington Office and Colonel Phelps Jones, USA (Ret.), my Director of National Security and Foreign Affairs.

As you may be aware, positions in the Veterans of Foreign Wars are arrived at democratically at our annual National Conventions.

Our 78th National Convention was held in Minneapolis, Minnesota during the period August 20–26, 1977. Fourteen thousand delegates, representing more than 10,000 V.F.W. Posts and 1.8 million members were joined by delegates representing more than 600,000 members of the V.F.W.'s Ladies Auxiliary.

Our delegates gave respectful attention to arguments supporting the proposed treaty advanced by the Chief of State, U.S. Army, General Bernard W. Rogers, USA, and arguments opposing the treaty as set forth by Senator Strom Thurmond (S.C.).

Following these two thoughtful presentations by two patriotic and dedicated Americans, on Tuesday, August 23d both the V.F.W. and the Ladies Auxiliary delegates were asked by the Chair for an expression of their views. Both groups of delegates voted unanimously to accept Resolution Number 402, 'U.S. Sovereignty Over the 'United States Canal' Located on the Isthmus of Panama."

Following this display of solidarity, the Chair gavelled the Convention into order and repeatedly asked if there was anyone there present who desired to speak in favor of the Treaty and assured the delegates that anyone who so desired would be given a courteous and respectful hearing.

No one rose to oppose the unanimous views of the delegates.

With the Chairman's permission, I would like to read the "Be It Resolved" portion of Resolution Number 402, with the request that the entire Resolution be included in the transcript of these hearings.

On the Canal Treaties issue, the heart of our mandate reads:

"Be It Resolved, by the 78th National Convention of the Veterans of Foreign Wars of the United States, that:

"(a) U.S. operation, control and defense of the Canal are non-negotiable;

"(b) tensions relating to the administration of the Canal Zone be resolved on the spot without disturbing present treaty arrangements;

"(c) U.S. citizens and employees in the Canal Zone continue to meet their responsibilities under U.S. sovereignty;

"(d) the foregoing position be again communicated to both the President (who in October, 1976 asserted that he would 'never give up complete or practical control' of the Canal) and the Congress;

"(e) the Panama Canal Zone send to the Congress of the United States a delegate such as is done in Puerto Rico, the District of Columbia, and the Virgin Islands; and

"(f) the proposed treaty being put forward by the Carter Administration be defeated in the 95th Congress."

This is where we stand. Now why do we hold so resolutely to this view?

In the first instance we are totally unpersuaded both by the assumptions which led to the treaty negotiations and by the proposed treaties which emerged from these negotiations.

Since August, 1914, the United States Canal on the Isthmus of Panama has been responsibly operated and defended to the benefit of the United States, the International shipping community, Panama, Central America, and Latin America.

The "payaway treaty" clique has fallen back on (1) implied blackmail ("unless we give it to the Panamanians, they may blow it up"), (2) self-fulfilling prophecy (forecasts of Vietnam-like guerrilla warfare), and, (3) self-inflicted descriptions of "colonialism."

The current ploy of much of the "prestige media" on the Canal question is, feigning more disdain than anger, to dismiss all who have stood in steadfast opposition to the proposed "payaway" (an accurate term, "sell-out" would imply the Panamanians are seeking to buy our $7 billion Canal; they are not) as jingoistic non-readers of history who are carelessly calling for war.

Nothing could be farther from the truth.

Long before the Canal and the Canal Zone turned into a political issue, the V.F.W. sought to inform the American public of the true nature of the issues involved.

There follows arguments advanced by the "payaway apologists" and the relevant V.F.W. response.

"Payaway" apologists: How can anyone in 1977 argue for a policy of "colonialism?"

V.F.W. Response: Colonialism is, definitively, an exploitative arrangement wherein a natural resource; i.e., cotton, rice, tin, etc., is farmed, harvested, or mined by an oppressed people for processing, manufacturing, packaging and sale of the finished product abroad.

Panama "oppressed?" Clearly not! Panama (a) has the highest per capita income of any of the seven countries of Central America and stands 4th (of 20 nations) in all of Latin America; (b) is dependent on the Canal and the Zone for 30% of her foreign currency earnings while 13% of her gross national product arises from the same source.

Panamanian per capita wealth is about twice that of Colombia who, until 1903, was the country of which pre-1903 Panama was a province.

Panama "oppressed?" Tell *that* to Cambodia!

"Payaway" Apologists: What is needed is a modern arrangement to replace a treaty (Hay-Bunau Varilla) now 74 years old.

V.F.W. Response: Modernity, like beauty, rests in the eye of the beholder. Britain has occupied the "Rock of Gibralter" since the 1713 Treaty of Utrecht which ended the War of the Spanish Succession. (Sensible people are thankful the British have been on the "Rock" for the past 264 years.) Unlike the Canal, Gibraltar has not played any significant role in Spanish economic growth. Like the Panamanians, the Spanish are unhappy about the status quo. Unlike our State Department, the British Foreign Office has kept a lid on the situation (to the benefit of us all) for 264 years, not 74.

Perhaps we should ask the British Foreign Office to conduct a "crash course" on how to protect vital national interests for our State Department.

'Payaway" Apologists: But the Hay-Bunau Varilla Treaty of 1903 gave the U.S. all rights, powers, and authority "as if it (the U.S.) were the sovereign of the territory." The words "as if" indicate that it is Panama, and not the United States, which holds either "titular" or "residual" sovereignty.

V.F.W. Response: Those who so happily produce the "as if" clause conveniently forget to add what follows in this "in perpetuity" treaty; ie, "to the entire exclusion of the exercise by the Republic of Panama of any such sovereign rights, power or authority."

The bulk of the scholarship on the sovereignty issue supports the V.F.W. view. A family of treaties (a) with "New Granada" in 1846; (b) with Britain in 1901; and, (c) with Colombia in 1922, all undergird and extend the sovereign pre-eminence of the U.S. as clearly recognized in the 1903 treaty with Panama; a treaty, incidentally, deliberately ratified after the signing by the Panamanian Senate.

"Payaway" Apologists: Secretary of State John Hay advised President Theodore Roosevelt that the 1903 Treaty was advantageous to the United States and disadvantageous to Panama.

V.F.W. Response: Is there some natural order that mandates that most or all of the treaties entered into by the U.S. must be disadvantageous to America; the Paris Accords of 1973 bringing "peace" to Southeast Asia comes readily to mind.

Hays view notwithstanding, as earlier indicated, the 1903 Treaty has been a success story for all concerned, most specifically including Panama.

"Payaway" Apologists: How would you like to see America divided in two by the Mississippi River as the Canal divides Panama?

V.F.W. Response: Unlike the example of the Mississippi, the construction of the Canal and the birth and continued existence of a Panama, independent from Colombia, are inextricably linked. So while the U.S. Canal and the U.S. Zone, given human nature, may never be objects of popular admiration in Panama, nonetheless, the clear linkage between the U.S. presence and their national existence is there and, we suspect, most Panamanians understand this unalterable fact of their nationhood.

"Payaway" Apologists: Who wants to fight another "Vietnam" over the Canal?

V.F.W. Response: No non-institutionalized person ever wants (a) any war, or, (b) most especially a Vietnamese-type encounter in which we will the battle, but not the victory.

The war-like language about the Canal and the Zone arises from occasional flights of oratory by General Torrijos ("We will walk the Ho Chi Minh Trail. It is long and exerts a heavy toll in blood."), from various Panamanian student groups, from supportive revolutionary rhetoric from Castro, and most disturbingly, by U.S. officials who, I would judge, believed that even an allusion to our defeat in Vietnam would suffice to unnerve the American people in their natural desire to retain our preeminence in the Canal. This latter tactics has backfired badly, and, if anything, has produced an opposite effect.

The real question is: apart from the 1964 student disorders, we've had 74 years of peace, stability and progress in the Canal. Can this record be sustained or improved upon by the transparent "partnership" with Panama being advocated by the State Department? Remember, once America is meeting her responsibility as a matter of Panamanian sufferage and not unequivocal U.S. rights, we can be asked to pull out overnight.

"Payaway" Apologists: But the Canal is especially vulnerable to sabotage.

V.F.W. Response: It always has been, but it has only been in the last three years that this long standing vulnerability has been pointed out to us, often by our own negotiators. Again, how would the pullout of the U.S. garrison enhance the security of the Canal from any group or faction seeking to make some irrational Third World "point" by blowing a lock or draining Gatun Lake?

If the Panamanian Government's reply is that they are unable to control their own citizens' actions in the face of a continued U.S. presence in the Canal, the question then looms: how reliable a "partner" would the Government of Panama be in any "partnership" with the United States in confronting any non-Panamanian; ie, Cuban pressure?

"Payaway Apologists: But the Canal and the Conal Zone are Panama's most important "natural resource."

V.F.W. Response: The Canal is not a "natural resource." It was built over a 10-year period by the Corps of Engineers. It is a quintessentially "artificial" or man-made enterprise. Secondly, the weight of history, law, and logic demonstrates that it is "ours" not "theirs."

"Payaway" Apologists: But whatever the merits of the cause might have been in the past, aren't we "painted into a corner" by the February, 1974 "Statement of Principles" agreed to by Secretary Kissinger and Foreign Minister Tack and the recent Treaty signing extravaganza?

V.F.W. Response: When you're "painted into a corner," you have two basic choices: (a) keep on painting; or, (b) use whatever turpentine is on hand to "unpaint" and get out.

In 1967, Panama rejected an initialed draft of a new treaty. Our State Department can well use this earlier Panamanian rebuff as a valid precedent for re-examining the validity of the 1974 "Statement of Principles" and the resultant proposed treaties.

"Payaway" Apologists: Have you ever seen the stark contrast between the "manicured" lawns of the U.S. Canal Zone and the poverty and squalor of Panama over the fence?

V.F.W. Response: Yes. A ridiculous bit of imagery insulting to both the Zonians and the Panamanians, who are placed in the nonsensical position of favoring litter and uncut grass.

The Canal Zone is not Grosse Pointe. Beverly Hills, Tuxedo Park or Chevy Chase. It is—and it should be—a typical American community adjusted for life in the tropics.

The best way to assure Americans in the Zone have a spokesman is to have the Canal Zone send a delegate to the U.S. Congress as does Guam, Puerto Rico, the Virgin Islands, and the District of Columbia.

"Payaway" Apologists: But the U.S. pays an annual "rent" to Panama. Doesn't this mean that Panama owns the Canal?

V.F.W. Response: It is not "rent" for land or the Canal (we bought the property four times; from Panama, from the individual land owners, from the failed French enterprise and from Colombia). It is an annuity paid to Panama (as it was earlier to Colombia) for displacing the old trans-Isthmus railroad. Not even the U.S. government is so soft in the head that it pays "rent" on land that it owns four times over.

"Payaway" Apologists: What is the matter with the proposed Treaties' goals on this issue; ie, "to assure that the Canal is operational, secure, efficient and open, on a nondiscriminatory basis to world shipping."

V.F.W. Response: The "goals" cited above are a precisely accurate description of the present arrangement. In short, why seek "goals" that have already been achieved?

"Payaway" Apologists: Do you mean break off negotiations and thereby incur the wrath of all of Latin America, bring an abuse of America in the UN, and incur, perhaps, the public opposition of even our NATO allies?

V.F.W. Response: If we retreat when we're clearly right, we will have surrendered, in advance, all our influence on other and more ambiguous international disagreements.

Three or four (of 20) Latin American countries, not, of course, including Panama, enjoy a significant degree of democratic freedoms. Democratic or authoritarian, many need the Canal operation even more than we do. I have neither seen nor heard of any hard intelligence that even suggests an international army drawn from Latin American states would either march on the Canal or seek to infiltrate the Zone in an international Vietnam-type operation. (Cuba, of course, having tasted a "revolutionary victory" in Angola is a separate matter.)

As for NATO, as the Arab-Israeli "Yom Kippur War of 1973" so clearly underscored, our allies do not have concerted policies apart from the defense of the NATO treaty area. I would expect a resolute U.S. stand on the Canal would gain the understanding and support of our major European friends.

As to the UN, we are in a classic "no win" posture with the General Assembly and its Third World plus communist majority. Former Ambassador "Pat" Moynihan's perception that many Third World countries in wanting to rip off the wealth of others are really calling for "duly sanctioned looting." His view has relevance here.

To sum up our total opposition to the proposed treaties:

If we wrongfully "cave in" on the sovereignty issue, we are on the Isthmus at the sufferance of the volatile dictatorship of Brigadier General Torrijos. We could be asked to leave overnight. Do we then skulk out or do we stand our ground?

The Canal is much closer to Cuba than is Angola. Soviet-inspired Cuban involvement on the Isthmus could well wear a "Panamanian Cloak." We would undoubtedly agonize, but we would probably acquiesce.

The proposed "Neutrality Treaty," which we are told, would permit U.S. military action to defend the Canal, is "waffling" brought to an art form. The Panamanians have agreed to no such thing in writing or in their rhetoric. The Administration may kid itself. It should not be allowed to kid the American people.

Panama's wretched record in "human rights," as attested to by the January 30, 1977 "Freedom House" study, needs no amplification here. The Administration seems unembarrassed by this manifest hypocrisy. Our President went so far as to embrace, literally, General Torrijos following the signing extravaganza.

I mean no disrespect to the Joint Chiefs of Staff, but until the late 1975 they were silent upon the Treaty negotiations. I will not comment upon their recent shift in view, but the unfettered military advice of former Chief of Naval Operations calling for continued U.S. pre-eminence makes the compelling military case.

In reviewing the Panamanian Student riots of 1964, I note the following prominent Americans were then quoted as follows:

Ambassador Ellsworth Bunker: the assault on the Canal Zone had been led by "persons trained in communist countries for political action of the kind that took place" and that "the Government of Panama instead of attempting to restore order, was, through a controlled press, television, and radio, inciting the people to attack and to violence."

Former President (then Minority Leader) Gerald R. Ford: "With Cuba under the control of the Soviets through its puppet, Castro, and with increased Communist Subversion in Latin America, a Communist threat to the Panama Canal is clearly a grave danger. The American people will be shocked by the terms of this (Johnson Administration) treaty."

Joseph A. Califano, Jr. (Currently Secretary of HEW, then an Assistant to the Secretary of Defense): "We know that some of the leaders were known and identifiable Communists, members of the Communist Party of Panama, and people who belonged to the Vanguard of 'National Action,' which is openly and proudly the Castro Communist Party in Panama."

Now, I realize that 13 years have passed and that people often change their minds over time.

My question is: what hard evidence, available to all of us in 1977, caused these three distinguished Americans to change their minds over recent years about the nature of the Communist threat in Panama? We would all profit if they would share this new information with us.

In conclusion:

What the proposed Treaties embody is a slow motion act of strategic self-mutilation.

Only 13 of our warships cannot transit the Canal today. As Navy ships get smaller, even this small number will decrease.

The Canal and the Zone (a) save 8,000 miles and 15–30 days; (b) have the only ship repair facilities within 1,600 miles on the Atlantic side and 2,500 miles on the Pacific side; (c) have, in Howard Air Force Base, the only high performance air base within 1,000 miles; and, (d) is the only U.S. logistical base south of the Rio Grande.

As to the possibility of violence should the Treaties not be ratified, no one in America, especially including the V.F.W., is threatening anybody. We are being threatened by a Panamanian strong man who, seemingly on alternate days, either threatens violence or abhors it. And this is the man with whom we seek a "partnership?"

What, then, does the V.F.W. propose?

(a) A revised U.S. position which would immediately disabuse Panama of any major

territorial, defense, control or operational aspirations; ie, America is not running the Canal on Panamanian sufferance.

(b) Generosity and imagination on real life human grievances (ranging from parking places to job opportunities) where a long term U.S. administration may have needlessly chafed Panamanian citizens; and

(c) A major modernization packet to ready the Canal for ships now too large for passage and other measures all of which would combine to give a major boost to Panama's diversifying, albeit debt-ridden, economy.

To conclude:

An opinion research poll indicated that Americans favor, by 76–16%, continued U.S. sovereignty over the Canal and the adjacent Zone.

Change is an imperative when a given status quo is unworkable.

Change does not equal progress when current arrangements not only do a job, but do it superbly.

The Panamanians want very badly to have their way and far too many in the State Department see it their way; ie, reciting "Panamanian Perceptions" ad nauseam.

Our people can, should and must be brought unapologetically to defend a 74-year record America and the world maritime community have unarguably benefitted from.

Thank you.

RESOLUTION No. 402: U.S. SOVEREIGNTY OVER THE "UNITED STATES CANAL" LOCATED ON THE ISTHMUS OF PANAMA

Whereas, Article II of the 1903 Convention between Panama and the United States, modified in part by the 1936 Treaty between the two Governments, states:

ARTICLE II

"The Republic of Panama grants to the United States in perpetuity the use, occupation and control of a zone of land under water for construction, maintenance, operation, sanitation, and protection of said canal of the width of ten miles extending to the distance of five miles on each side of center line of the route of the Canal to be constructed; the said zone beginning in the Caribbean Sea three miles from mean low water mark extending to and across the Isthmus of Panama into the Pacific Ocean to a distance of three marine miles from mean low water mark with the proviso that the cities of Panama and Colon and the harbors adjacent to said cities, which are included within the boundaries of the zone above described shall not be included in this grant . . .

"The Republic of Panama further grants in like manner to the United States in perpetuity all islands within the limits of the zone above described and in addition thereto the group of small islands in the Bay of Panama, named Perico, Naos, Culebra and Flamence; and"

Whereas, the United States has more than fully met its obligations to Panama under existing treaty arrangements and, moreover, has efficiently and responsibly accommodated a large number of transits and amount of tonnage through the canal; and

Whereas, the United States has paid for the Canal and the Canal Zone four times (1) to Panama, (2) to the failed French Consortium, (3) to private citizens of Panama, and, finally, (4) to Colombia; and

Whereas, the revolutionary government of Panama, a product of coup d' etat, has since June 1971, under the guise of seeking new canal treaty arrangements, undertaken a bitter and sustained campaign and anti-American propaganda fueled in large part by Cuban and Soviet communists; and

Whereas, given the emotionally irrational situation in Panama, a political/psychological "timebomb" is being consciously fabricated by the revolutionary government of Panama, set to explode to the detriment of the United States and the world shipping community; and

Whereas, due largely to our unswerving V.F.W. support, patriots in the United States Senate, led by Senators Thurmond (S.C.), Helms (N.C.), and McClellan (Ark.), have gone on record in opposition to the unprincipled "Statement of Principles" signed by former Secretary of State Kissinger and the Panamanians, and a parallel effort is being similarly supported in the House of Representatives, led by Congressman Dan Flood (Pa); now, therefore

Be it resolved, by the 78th National Convention of the Veterans of Foreign Wars of the United States, that:

(a) U.S. operation, control and defense of the Canal are non-negotiable;

(b) tensions relating to the administration of the Canal Zone be resolved on the spot without disturbing present treaty arrangements;

(c) U.S. citizens and employees in the Canal Zone continue to meet their responsibilities under U.S. sovereignty;

(d) the foregoing position be again communicated to both the President (who in October 1976 asserted that he would "never give up complete or practical control" of the Canal) and the Congress;

(e) the Panama Canal Zone send to the Congress of the United States a delegate such as is done in Puerto Rico, the District of Columbia, and the Virgin Islands; and

(f) the proposed treaty being put forward by the Carter Administration be defeated in the 95th Congress.

JUST COMPENSATION SOUGHT FOR U.S. INVESTOR IN AUSTRALIA

Mr. INOUYE. Mr. President, almost 5 months ago, on April 27, I expressed my concern to my colleagues over the taking, without compensation, of the property of a U.S. private investor, the Dillingham Corp., by the Government of Australia. On September 22, 1977, Australian Deputy Prime Minister Anthony announced that his Government was prepared to offer $4 million in full settlement of the claim. When I learned of this development, I was shocked and disappointed since the proposed figure does not even approach one-half of the book value of the investment.

As my colleagues may recall, Dillingham was engaged in a joint venture mining operation for which all the necessary governmental authorizations, both State and Federal, had been obtained. Then, in November 1976, the Australian Government revoked the company's export permits in order to convert the site of the mining operation, Fraser Island, into a national wilderness area.

When I first brought this problem to the attention of the Senate, I suggested that my concern lay not with the Australian Government's decision to create a national park, but rather with its failure to provide just compensation to the owners of property taken. I also expressed my hope that a prompt settlement of this problem would not only further the strong bonds that tie our two countries together, but would also remove the cloud over the security of all foreign investment in Australia which a precedent of this nature invariably creates. Today I must regretfully report that no progress has been made toward this objective.

In the past few months, I have carefully studied this problem and followed with great interest the reports on this case in both the Australian and international press. It is my view that there is no doubt that the Australian Government authorized this project with the understanding that environmental considerations had already been scrutinized and resolved by the State government. A significant investment was then made in reliance upon this clear grant of authority from the Government. Now that the Government has made this facility worthless by revoking export permits in order to create a wilderness area for the Australian people, simple justice suggest that just compensation be made. International law requires that just compensation be made.

Despite the obvious inadequacy of the proposed $4 million settlement, I think that some positive signs can be drawn from last Thursday's offer. In this regard, I believe that it is reasonable to view the Australian Government's proposal as the first step toward an eventual solution. In addition, the offer is a helpful sign since it indicates that the Australian Government believes that some compesation should be provided. Consequently, if the only unresolved issue is the amount of that compensation, it would clearly be in the best interests of Australia if this figure were arrived at objectively.

Experience has shown that one of the best ways to handle valuation problems is to turn the problems over to technical experts. This could easily be accomplished by the appointment of one or more independent appraisers. These specialists could examine all of the various components of the Fraser Island mining operation and ultimately determine the true value of the investment on various bases and assumptions. Their findings would then provide a viable framework for a prompt settlement.

I believe that a swift resolution of this problem is extremely important not only to those directly involved, but also to the international investment community. The future growth of the Australian economy will be dependent in large measure on continued access to foreign sources of investment. Australia is rich in mineral resources. The world needs them to prevent shortages and inflation. Australia needs to sell them for its own economic prosperity.

However, history has taught us that financing will not flow to countries where investors have been dealt with unfairly in the past. As a result, I am deeply concerned that failure to resolve promptly the Fraser Island situation will create further uncertainty over the security of foreign investment in Australia at a time when that investment is sorely needed and is being actively pursued.

I am confident that these problems can be avoided and that the Australian Government can take a positive step toward improving the investment climate in Australia by dealing with the Dillingham claim directly.

ALLOCATION OF PROGRAMS UNDER HOUSE CONCURRENT RESOLUTION

Mr. TALMADGE. Mr. President, in compliance with section 302(b) of the

Congressional Budget and Impoundment Control Act of 1974 the Senate Committee on Agriculture, Nutrition, and Forestry is herewith submitting to the Senate its allocation of programs under its jurisdiction as included in the Second Concurrent Resolution on the Budget for fiscal year 1978 (H. Con. Res. 341).

I ask unanimous consent that the material be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

TABLE I.—DIRECT SPENDING JURISDICTION

[Millions of dollars]

Function, program, and subcommittee	Amount	
	Budget authority	Outlays
300 Forest service and soil conservation: Environment, Soil Conservation, and Forestry	96	77
350 Commodity programs: Agricultural Production, Marketing, and Stabilization of Prices	55	4,811
Research and services: Agricultural Research and General Legislation	6	6
450 Farmers Home Administration rural development insurance fund: Rural Development	8	34
850 Forest Service permanent appropriations: Environment, Soil Conservation, and Forestry	191	191
Total	355	5,118

TABLE II.—ENTITLEMENTS REQUIRING APPROPRIATIONS ACTION

[Millions of dollars]

Function, program, and subcommittee	Amount	
	Budget authority	Outlays
350 Dairy and beekeeping indemnity: Agricultural production, marketing, and stabilization of prices	4	4
600 Food stamps: Nutrition	5,627	5,321
Women, infants and children (WIC): Nutrition	247	325
Child nutrition programs: Nutrition	2,517	2,644
Total	8,395	8,294

THE NOBEL PRIZE FOR MEDICINE

Mr. CRANSTON. Mr. President, it is a source of great pride to me and to this country that on Thursday, October 13, the 1977 Nobel Prize for Medicine was awarded to three Americans, Dr. Rosalyn Yalow, Dr. Andrew Schally, and Dr. Roger Guillemin. These three Nobel laureates are cited for their discoveries in the field of peptide hormones.

It is an additional source of pride to me that Drs. Yalow and Schally are both career employees of Veterans' Administration hospitals, and that Dr. Guillemin is from the great State of California. As chairman of the Committee on Veterans' Affairs and also chairman of the Subcommittee on Health and Readjustment, I have been vitally concerned with issues of health care for veterans. Dr. Yalow has been with the Bronx Veterans' Administration hospital continuously since 1950 and is now the chief of the nuclear medicine service. The Swedish Caroline Institute cited Dr. Yalow for starting "the birth of a new era in endocrinology." She and the late Dr. Solomon Berson, also of the Bronx Veterans' Administration hospital, have worked to pioneer new techniques for measuring the presence of hormones in the human body. Dr. Schally has been with the Veterans' Administration hospital in New Orleans since 1962. Dr. Guillemin has been with the Salk Institute near San Diego, Calif., since 1970. They were cited for parallel developments in showing the effect of the brain and central nervous system on the secretion of hormones and their work has been hailed as revolutionizing the understanding of brain function.

On July 22, 1977, the National Academy of Sciences issued a report entitled "Biomedical Research in the Veterans' Administration," which unanimously and enthusiastically supported the special funding of the VA research program. The report stated that the VA has made "important contributions to medical science." I know of no better way that the enthusiastic findings of this report could be borne out than by the exemplary research achievements of Veterans' Administration doctors. It is gratifying that the significance of these research achievements have now been recognized by the world.

The veterans of this country receive a direct benefit from these kinds of research efforts. The Academy report found that high-quality research improved the excellence of health care delivery, and the work of these two Nobel laureates and Dr. Berson has shown us that research at Veterans' Administration facilities is among the best in the world. At a time when the VA health care system is undergoing close scrutiny, these achievements demonstrate that although improvements can be made, the unique structure of the VA system offers unparalleled opportunities for it to be at the forefront in many areas of medical care.

Mr. President, I ask unanimous consent that various articles and features from the New York Times of October 14 on these Nobel Prize recipients be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the New York Times, Oct. 14, 1977]

HORMONE RESEARCHES OPENED UP NEW FIELDS

(By Harold M. Schmck, Jr.)

The research for which Dr. Roger C. L. Guillemin and Dr. Andrew V. Schally shared the Nobel Prize in Medicine yesterday is credited with opening up a whole new realm of knowledge of the brain's control over the chemistry of the body.

The work is pointing the way toward new types of contraception, new ideas for the control of diabetes and a wealth of knowledge of the ways in which the brain acts as the chemical master of the body.

Current research also seems likely to offer insights into the chemistry of human emotions and their derangements.

The scientists and their teams of coworkers have discovered and synthesized hormones produced by the hypothalamus, a part of the brain that plays important roles in regulating temperature, appetite, thirst, sleep and wakefulness, the level of sugar in the blood, salt and water in the body and even the emotions.

The hormones have proved to be relatively simple substances called peptides, which are short chains of amino acids, the building blocks of proteins.

THOUSANDS OF ANIMAL BRAINS

A whole family of these peptide hormones has been discovered since the late 1960's in painstaking research in which each team has had to glean small fractions of an ounce of pure material from literally hundreds of thousands of brains and pituitary glands of sheep and pigs.

The hormones produced by the hypothalamus act by governing the action of the pituitary, the small organ attached to the base of the brain that is the body's master gland.

The pituitary, in turn, sends out hormones that govern the activities of other glands, responsible for sexual behavior and reproductive functions; the thyroid gland, responsible for adaptation to cold, and the adrenal glands, which are crucial in the response to and adaptation to stress.

The question of how the pituitary gland is regulated in its production and dispersal of all the other important hormones has intrigued scientists for decades. It is this picture of the brain as master controller of the body's chemical life that has been coming into focus with the studies of the two teams of scientists.

CHEMICAL ORCHESTRATION

As a scientist of the National Institutes of Health put it yesterday, all complex multicellular organisms from mouse to man have been able to evolve and prosper because of exquisite chemical orchestration of all their myriad cells and cellular functions. It is this incredible orchestration that is becoming understood through the pioneering work of Dr. Schally's group at the Veterans Administration Hospital and Tulane University in New Orleans and by Dr. Guillemin's group at the Salk Institute near San Diego. The National Institutes of Health has for years contributed support to the work on the ground that it has great potential.

It is generally believed that the hypothalamus produces other hormones still undiscovered. The scientific teams of Dr. Guillemin and Dr. Schally are hard at work trying to find them.

Although the two Nobel Prize winners were once colleagues at Baylor University, they have since the 1960's worked independently of and in competition with each other in the research.

NECK AND NECK

The pace of the work has been so fast, and the advances so evenly matched between the two groups, that other scientists are often unsure which of the two teams was first to reach a specific goal.

The first of the hypothalmic hormones to be discovered is now called TRH, for thyrotropin releasing hormones. It was originally called TRF because each of the hormones was first called a "factor" before the status of hormone was agreed upon.

TRH was discovered in 1968 virtually simultaneously by each of the two groups, one senior scientist from another institution said yesterday. The work with tons of animal tissue cost an estimated $5 million, but now that the hormone has been isolated, characterized and made artificially, large amounts can be produced relatively cheaply—testimony, as one expert put it, to the dollar value of knowledge.

Minute amounts of TRM cause the pituitary gland to release the substance called thyrotropin, which in turn acts upon the thyroid gland, causing it to release thyroid hormone.

EFFECTS ON PREGNANCY

A highly important hypothalamic hormone found later is now called LM-RH (lutenizing

hormone releasing hormone), which has profound effects, through the pituitary, on pregnancy. This, according to an expert familiar with the field, was found first by Dr. Schally's group.

Still another product on the hypothalamus, called somatostatin discovered and synthesized still later, is widely credited first to Dr. Guillemin's group. This compound seems to have multiple functions, including effects on insulin production, a fact that has led to hopes that it may be useful in treating diabetes.

In its announcement yesterday, the Nobel Prize committee in Stockholm said the discoveries of the two groups had, between them, laid the foundations of modern hypothalamic research.

[From the New York Times, Oct. 14, 1977]

PROFILES OF TWO WHO WON NOBEL PRIZES FOR MEDICINE

ROGER C. L. GUILLEMIN

Roger Charles Louis Guillemin fought with the Resistance in France in World War II, discovered some notebooks of the French scientist Claude Bernard in a Paris attic in the 1960's. Yesterday he was awarded a Nobel Prize in Medicine for major contributions to knowledge of the brain's chemical control over the body.

Colleagues say he has been unusually generous in giving other laboratories samples of the chemicals synthesized by his own group.

Friends also describe him as a connoisseur of wines. He has been quoted as saying, possibly in jest, that his knowledge of French wines gives him proper appreciation of the wines of California, of which he is a resident. He became a Resident Fellow and Research Professor at the Salk Institute, near San Diego in 1970, and later a United States citizen.

Dr. Guillemin was born Jan. 11, 1924 in Dijon, earned a bachelor of arts and science degrees at the University of Dijon in the early 1940's. Then came World War II, and his service with the Resistance.

He received his medical degree at Lyons in 1949, and then moved to Canada, where he served as a research assistant at the University of Montreal under Dr. Hans Selye, prominent for his research on stress.

In 1953 Dr. Guillemin was appointed assistant professor of physiology at Baylor College of Medicine in Houston and while there became a colleague of Dr. Andrew V. Schally, with whom he shares the prize.

From 1960 to 1963 he held a joint appointment as associate director of the department of experimental endocrinology, College de France, and as a faculty member at Baylor.

Dr. Guillemin underwent an operation for cancer a few years ago, a colleague said today, but appears to be in excellent health today.

A 5 A.M. today Dr. Guillemin was awakened in California by a telephone call from Stockholm informed him of the award. It was a surprise, he said later, that was well "worth waking up for."

ANDREW VICTOR SCHALLY

Because the German army invaded Poland in 1939, Andrew Vincent Schally, then barely in his teens, left that war-torn country with his family. Later, he was trained by British scientists. His father, a major general, served with the Allies in World War II.

At the Allan Memorial Institute for Psychiatry at McGill University, Dr. Schally's work on endocrine factors in mental illness led to an absorbing interest in hormones.

After decades of intense work in the United States, all the events and efforts of his 51 years were crowned with the award of a Nobel Prize in medicine.

Dr. Schally, an intense and aggressive worker, has devoted most of his career to discovering hormones produced in the brain that act on the pituitary gland and thus give the brain ultimate control over body chemistry.

Characteristic Generosity

With characteristic generosity, Dr. Schally said yesterday in a telephone interview that he owed much to the inspiration of Dr. Geoffrey Harris, a pioneer hormone scientist of Oxford University, who died in 1972.

Dr. Harris's work had suggested hormone links between the pituitary and the brain, but there were only scattered pieces of evidence. Dr. Schally's work since the early 1950's has been of major importance in converting those pieces into an edifice of scientific understanding.

Dr. Schally was born on Nov. 30, 1926, in Wilno, Poland. He studied in Scotland, at the National Institute for Medical Research in London and at McGill University in Montreal, where he received a Ph.D. magna cum laude in biochemistry in 1955. He is married and has two children.

In the United States, he went first to Baylor University as a research associate in the department of physiology, and then to New Orleans in 1962 as a staff scientist at the Veterans Administration Hospital and a faculty member at Tulane University. He has been with both institutions ever since.

[From the New York Times, October 14, 1977]

NOBEL-WINNING TEST KEY AID IN RESEARCH

(By Lawrence K. Altman)

Twenty years ago, when Dr. Rosalyn S. Yalow and the late Dr. Solomon Berson applied to diabetes research a test they had developed, the paper describing the step was rejected by the editor of a leading medical research journal.

Yesterday, Dr. Yalow, a medical physicist, was awarded one-half of the share of the Nobel Prize for Medicine and Physiology for the revolutionary impact that the test has had on medical research and practice. Dr. Yalow became the sixth woman to win a Nobel Prize in science.

Another researcher hailed the work done at the Bronx Veterans Administration Hospital as the most important in this century.

While some researchers may debate that contention, few will dispute the significance of the use of the test. It has been applied in virtually every field of medicine, and even in crime.

The Nobel citation said that through this work biologists could measure in the laboratory many more substances than before, which represents "an enormous development in hitherto closed areas of research."

DIFFICULT DAYS RECALLED

Recalling in an interview the difficult days in the early stages of the research, Dr. Yalow said, "I have saved Stan Bradley's letter of rejection." Dr. Stanley E. Bradley, a medical professor at Columbia-Presbyterian Medical Center here, was editor of The Journal of Clinical Investigation when Dr. Yalow and Dr. Berson submitted their paper, which was eventually published.

The test that the Bronx researchers developed is called the RIA, for radioimmunoassay. It is so sensitive that it is capable of detecting a billionths of a gram. A Nobel committee member likened the test's sensitivity to the ability to detect the presence of half a lump of sugar in a lake 100 kilometers wide and long and 10 meters deep, or about 62 miles wide and long and 30 feet deep.

"It was accomplished by a spectacular combination of immunology, isotope research, mathematics and physics," the citation said.

The RIA test is used to measure the concentrations of hundreds of hormones, vitamins, viruses, enzymes, drugs and other substances to help determine changes between normalcy and diseased.

The test has helped doctors to diagnose in patients conditions that previously escaped detection because the established methods were too crude to measure the seemingly trivial changes in the amount of hormones that can so drastically affect an individual's health.

Use of the test is continuing to lead to new discoveries and understandings of the nature of man.

Dr. Yalow's researchers recently reported in the Proceedings of the National Academy of Sciences the discovery that a hormone called cholecystokinin that acts on the bowel exists in the brain in concentrations equal to that found in the intestines.

Dr. Yalow said her research group was about to report that another form of the test might prove useful in detecting tuberculosis bacteria in the blood, where they could not otherwise have been found.

The test is already used by thousands of blood banks to remove blood contaminated with a hepatitis virus from potential use in transfusions.

It is also being used in cancer research to track the life history in a mouse of a leukemia-causing virus long before a tumor becomes evident. Dr. Yalow predicted that this work would serve as a model for research into other types of viral diseases and that the test might have as important an impact on infectious disease work as it has in the understanding and treatment of hormonal disorders of the thyroid, adrenal and other glands.

[From the New York Times, October 14, 1977]

A BRONX PUBLIC SCHOOL PRODUCT—ROSALYN SUSSMAN YALOW

(By Laurie Johnston)

Dr. Rosalyn Sussman Yalow, winner of half of yesterday's Nobel Prize in Medicine, was born and grew up in the South Bronx, "the part that's now a disaster area," and is a product of that borough's public schools—P.S. 51, P.S. 10 and Walton High School. In 1941, Hunter College graduated her as its first physics major.

Dr. Yalow worked first as a secretary, she reca'led yesterday with a suggestion of bitterness despite the congratulations and the flowers that surrounded her in her office at the Veterans Administration Hospital in the Bronx.

"They told me that, as a woman, I'd never get into graduate school in physics, so they got me a job as a secretary at the College of Physicians and Surgeons and promised that, if I were a good girl, I could take courses there," she said.

With her generous smile returning, she added, "Then I got an assistantship in physics at the University of Illinois, and I tore up my steno books."

A NORMAL 70-HOUR WEEK

When the call informing her of her prize came from Stockholm at 7 A.M., Dr. Yalow was at her desk in the middle of one of her "normal 70-hour weeks" at the hospital, where she has worked since 1950 and been chief of nuclear medicine since 1970. She was working on a paper at that hour and, she said, would resume work on it at the same time this morning.

"This is great sport," she said in mid afternoon as colleagues and visitors swirled around her and champagne was poured. "But tomorrow, everything will be the same. I live by my work and my family."

On hand for the celebration were the 56-year-old laureate's husband, Dr. Aaron Yalow, a physics professor at Cooper Union, and their 25-year-old son, Ben, a computer systems analyst for the City University.

COOKS IN LABORATORY

Sharing the excitement, too, were what Dr. Yalow, who is also a professor at Mount Sinai Hospital's School of Medicine, calls "my professional children," young research scien-

tists who have served their postdoctoral training with her in the nuclear medicine unit. Others are scattered around the world.

Dr. Yalow has been known to cook in the laboratory. But for a hospital party for 100 persons last year, when she became the first woman to receive the Albert Lasker Basic Medical Research Award, she brought roast turkeys from home.

"But she was peeling potatoes and making potato salad in the middle of a research meeting, while we were reporting our data to her," said Dr. Roberta Moldow, one of the research fellows.

At home, Dr. Yalow keeps a kosher kitchen but has turned it into something of a laboratory.

"I have three things going for me there," she said. "I have a big freezer, a microwave oven and good organization."

Although she was "a victim of discrimination as a woman all these years," Dr. Yalow said that she did not believe in "reverse discrimination for women."

"Let them just give us equal opportunity," she said. But then she added:

"It's true that women are different from men. If you want to be a good wife, you have to work a little harder."

Born July 19, 1921, Dr. Yalow is the daughter of Clara Zipper Sussman, aged 92 and still a Bronx resident, and her late husband, Simon, who had a small paper-and-twine business in what is now SoHo. Both first-generation Americans, they did not go beyond grade school.

A BRONX ACCENT

At the University of Illinois, where she received her Ph. D. in 1945, Dr. Yalow was the only woman with the 400 men in the College of Engineering.

She and her husband met on their first day of graduate school. "I detected a Bronx accent," Mr. Yalow said, "so I made some snide remarks, as an upstate New Yorker."

Dr. Yalow said that she took "four days off from work" at the hospital for the birth of her son and again for the birth of her daughter, Elanna, who is now working for a doctorate in educational psychology at Stanford University. The daughter plans to be married Dec. 3 and hopes to spend her honeymoon in Stockholm when the Nobel prizes are awarded.

Both of the Yalow children attended Bronx public schools and the Bronx High School of Science.

"What you get out of the public school system depends on your commitment to learning," Dr. Yalow said. "I didn't come from educated parents, but the impetus, the atmosphere was there. A child must learn from the cradle that upward mobility depends on what people themselves do."

[From the New York Times, October 14, 1977]

BRONX WOMAN AND 2 U.S. MEN SHARE NOBEL PRIZE IN MEDICINE

STOCKHOLM, Oct. 13.—Three Americans, including a woman from the Bronx, were awarded the 1977 Nobel Prize in Physiology or Medicine today for their pioneering research in the role of hormones in the chemistry of the human body.

Dr. Rosalyn S. Yalow, who was born and raised in New York City, became the second woman ever to win a Nobel Prize in medicine, and only the sixth woman to win in any science category.

The 56-year-old Dr. Yalow, a scientist at the Veterans Administration Hospital in the Bronx, won for her development of the radioimmunoassay, which is the use of radioactive substances to find and measure minute substances, particularly hormones, in the blood and body tissues.

Dr. Roger C. L. Guillemin and Dr. Andrew V. Schally also shared the Nobel Prize for their research into the production of peptide hormones in the brain.

Dr. Guillemin, who is 53 years old and was born in France, is a reseacher at the Salk Institute at La Jolla, Calif. The 50-year-old, Polish-born Dr. Schally is affiliated with the Veterans Administration Hospital in New Orleans and Tulane University.

The Karolinska Institute here announced that Dr. Yalow would receive one-half of the 1977 prize, while Dr. Guillemin and Dr. Schally would share the other half. The prize is worth about $145,000.

In its citation, the institute said that the discoveries of the three recipients "have led to a formidable development of their own fields of research" and "have opened new vistas within biological and medical research far outside the border of their own spheres of interest.

Prof. Rolf Luft, chairman of the award committee, said the three scientists had laid the field of peptide hormone research "wide open."

Hormones are chemical substances produced in the body that have regulating effects on the activity of a specific organ or organs. Many of the body's hormones belong to the peptide category, including insulin, the adrenocorticotropic and growth hormones.

For more than 20 years Dr. Yalow worked with Dr. Solomon Berson to develop a new, more sensitive way of measuring how many of various hormones were present in the body. Dr. Berson died five and a half years ago, and Nobel Prizes are given only to living persons.

SETS UP COMPETITION

The measuring technique they came up with involves combining a natural hormone in the human body with its antibody, which results in a competition between the two substances. Then a small amount of radioactive form of the hormone is introduced. By measuring how much of the radioactive form survives in competition with the antibody, researchers can tell how much of the natural hormone was present in the body to begin with.

An early use of their technique showed that diabetics, who had been thought to lack insulin altogether, actually had some, but were unable to use it because their bodies resisted its action.

Scientists have hailed the work of Dr. Guillemin and Dr. Schally, conducted independently, for revolutionizing the understanding of the whole field of brain function.

By isolating and analyzing various substances from a specialized portion of the brain, the hypothalamus, they were able to demonstrate that hormones produced by the pituitary gland (those regulating body growth, development and metabolism) are actually inhibited by other hormones produced by the hypothalamus.

NEW PEPTIDES ISOLATED

According to the Karolinska Institute, in describing the work, "several new peptides were isolated from the hypothalamus, the foremost one probably being the first inhibitor of pituitary function, somatostatin, which decreases the production of pituitary

This was the third consecutive year that the medicine prize went to American scientists. Of the 121 laureates in this category over the last 77 years, the only other woman was Dr. Gerry Cort of Washington University in St. Louis, who shared the 1947 prize with her husband.

Earlier this week, two Americans and a Briton shared the Nobel Prize in Physics, and a Belgian scientist won the chemistry award. The physics winners were John H. Van Vleck of Harvard University, Philip W. Anderson of Bell Telephone Laboratories and Sir Nevill F. Mott of Cambridge University in England. The chemistry winner was Dr. Ilya Prigogine of the Free University of Brussels.

The 1977 prize for literature was won by a Spanish poet, Vicente Aleixandre. The award for economics will be announced tomorrow.

COSPONSORING BILL TO REDUCE TAX ON PRIVATE FOUNDATIONS TO 2 PERCENT

Mr. DOLE. Mr. President, private foundations perform a very useful social purpose by supporting a wide variety of charitable, education, and related projects. The foundation has the freedom of choosing the particular use for the funds within broad categories established by Congress. If the foundation maintains a minimum payout rate, they are rewarded for their efforts by being granted tax-exempt status.

TAX FOR ADMINISTRATIVE EXPENSES

Congress in the Tax Reform Act of 1969 imposed a tax on private foundations to cover the cost of the Internal Revenue Service's administration of the tax laws pertaining to exempt organizations. This private foundation excise tax was never intended to be a revenue generating provision. Yet, the current 4 percent excise tax on the net investment income of private foundations not not only compensated the IRS for expenses but has created a substantial surplus. Revenues exceeded the cost of supervision and audit by $32.5 million in 1974 and $32.1 million in 1975.

CONGRESSIONAL INTENT

To restore the original congressional intent, I am today adding my support and sponsorship to a bill which would reduce the foundation tax to 2 percent. The real effect of this change will be to increase the amount distributed each year by these foundations.

Under current law, a private foundation may reduce their annual required distribution amount dollar for dollar for any taxes paid. A 2-percent decrease in the tax rate will give these foundations that much additional money to be utilized for charitable purposes. Estimates are that $30 million would be channeled into these exempt purposes instead of into the Federal Treasury if this bill becomes law.

SENATE ACTION

The other point which should be emphasized is that a 2-percent tax rate will be sufficient to meet the related expenses of the Internal Revenue Service. The Senator from Kansas understands that the Treasury Department will not oppose the adoption of this bill.

The Finance Committee on which I serve recommended that the rate be reduced to 2 percent as part of the Tax Reform Act of 1976. Unfortunately, this recommendation was not accepted by the conference committee. This bill affords the Senate another opportunity to further two separate goals of the tax system. One is that private foundations should bear the costs for the administration of the tax-exemption provisions of the tax code. The other is the encouragement of charitable giving by private tax-exempt foundations. Adoption of this bill

will be a boost to both of these commendable purposes.

EPA POLICY ON LAND TREATMENT OF MUNICIPAL WASTEWATER

Mr. BELLMON. Mr. President, I have long been a strong supporter of section 201(A)(1) of Public Law 92–500, which calls for recycling potential sewage pollutants through agriculture, silviculture or aquaculture production; therefore, I would like to call to the attention of my colleagues recent Environment Protection Agency action which point to aggressive implementation of this section of the act.

EPA Administrator Douglas Costle announced October 3, that a new EPA policy will press vigorously for consideration of land treatment processes in reclamation and utilization of municipal wastewaters. In order to qualify for the Federal grants that pay 75 per cent of construction costs, communities will now have to prove they gave thorough consideration to land treatment as a method for disposal of municipal sewage. I commend Mr. Costle in this decision.

Land treatment systems have the potential to save billions of dollars and to provide an additional mechanism for the recovery and recycling of wastewater as a resource. The substances that are pollutants in municipal wastewater become nutrients when appropriately applied to the soil.

I am pleased to note that a cooperative effort among EPA, the Corps of Engineers and the Department of Agriculture has produced the "Process Design Manual for Land Treatment of Municipal Wastewater." This manual provides the technical knowledge necessary for both small and large communities to effectively implement land treatment processes.

The recycling of municipal wastewater through agriculture is clearly demonstrated at Muskegon, Mich., where the wastewater is used to irrigate 5,000 acres of land. In 1976, 400,000 bushels of corn were harvested with a market value of approximately $1 million. The cost for municipal wastewater management at Muskegon is about one-third the cost of providing the same level of treatment by conventional in-plant facilities. In addition, substantial energy savings were accomplished, including reduced requirements for electrical energy to treat the municipal wastewater and the saving of energy that otherwise would have been used to produce thousands of tons of fertilizer.

I am proud of the fact that my home State of Oklahoma is a leader in recognizing the value of land treatment of muncipal waste. More than 40 projects are in operation or are in the process of being planned or constructed. Among these plants is the facility for the city of El Reno which utilizes the latest technology and recycling practices, including irrigation of land which will remain in private ownership.

The Robert S. Kerr Environmental Research Laboratory, an EPA facility located in Ada, Okla., has conducted the principal research in land treatment. Overland flow treatment of municipal waste, pioneered at the Ada Lab, is being demonstrated through a project at Pauls Valley, Okla. This new approach looks especially promising for small, rural communities.

Mr. President, it is my understanding that of the $18 billion appropriated for construction of sewage waste treatment systems for the years 1973–75, 90 percent went for the conventional cement and mortar-in-plant facilities which are of the energy intensive and nonrecycling technology that led us into the water pollution problem in the first place. It is my belief that proper utilization of land treatment for municipal waste will have a large impact on this country. Land treatment systems could be used in approximately 50 percent of the communities needing improved sewage treatment. Assuming that one-half of the $24.5 billion proposed for constructing sewage treatment facilities for these communities is allocated for land treatment, it would represent a savings of approximately $3 billion plus the benefits of saving energy and recycling resources.

Mr. President, I cite this change of policy of the EPA as an example of success in the bureaucracy in recognizing the potential for tremendous savings of money and energy and in implementing the intent of Congress. I shall stay alert to see that this is accomplished.

I ask unanimous consent that Mr. Costle's memorandum on EPA policy on land treatment of municipal wastewater be printed in the RECORD.

There being no objection, the memorandum was ordered to be printed in the RECORD, as follows:

U.S. ENVIRONMENTAL PROTECTION AGENCY,
Washington, D.C., October 3, 1977.

Subject: EPA Policy on Land Treatment of Municipal Wastewater.

From: The Administrator.

To: Assistant Administrators and Regional Administrators (Regions I–X).

President Carter's recent Environmental Message to the Congress emphasized the design and construction of cost-effective publicly owned wastewater treatment facilities that encourage water conservation as well as adequately treat wastewater. This serves to strengthen the encouragement under the Federal Water Pollution Control Act Amendments of 1972 (P.L. 92–500) to consider wastewater reclamation and recycling by land treatment processes.

At the time P.L. 92–500 was enacted, it was the intent of Congress to encourage to the extent possible the development of wastewater management policies that are consistent with the fundamental ecological principle that all materials should be returned to the cycles from which they were generated. Particular attention should be given to wastewater treatment processes which renovate and reuse wastewater as well as recycle the organic matter and nutrients in a beneficial manner. Therefore, the Agency will press vigorously for publicly owned treatment works to utilize land treatment processes to reclaim and recycle municipal wastewater.

RATIONALE

Land treatment systems involve the use of plants and the soil to remove previously contaminants from wastewaters. Land treatment is capable of achieving removal levels comparable to the best available advanced wastewater treatment technologies while achieving additional benefits. The recovery and beneficial reuse of wastewater and its nutrient resources through crop production, as well as wastewater treatment and reclamation, allow land treatment systems to accomplish far more than most conventional treatment and discharge alternatives.

The application of wastewater on land is a practice that has been used for many decades; however, recycling and reclaiming wastewater that may involve the planned recovery of nutrient resources as part of a designed wastewater treatment facility is a relatively new technique. One of the first such projects was the large scale Muskegon, Michigan, land treatment demonstration project funded under the Federal Water Pollution Control Act Amendments of 1966 (P.L. 84–660), which began operations in May 1974.

Reliable wastewater treatment processes that utilize land treatment concepts to recycle resources through agriculture, silviculture and aquaculture practices are available. The technology for planning, designing, constructing and operating land treatment facilities is adequate to meet both 1983 and 1985 requirements and goals of P.L. 92–500.

Land treatment is also presently in extensive use for treatment of main industrial wastewaters, particularly those with easily degraded organics such as food processing. Adoption of suitable in-plant pretreatment for the removal of excessive metals and toxic substances would expand the potential for land treatment of industrial wastewater and further enhance the potential for utilization of municipal wastewater and sludges for agricultural purposes.

APPROACH

Because land treatment processes contribute to the reclamation and recycling requirements of P.L. 92–500, they should be preferentially considered as an alternative wastewater management technology. Such consideration is particularly critical for smaller communities. While it is recognized that acceptance is not universal, the utilization of land treatment systems has the potential for saving billions of dollars. This will benefit not only the nationwide water pollution control program, but will also provide an additional mechanism for the recovery and recycling of wastewater as a resource.

EPA currently requires each applicant for construction grant funds to make a conscientious analysis of wastewater management alternatives with the burden upon the applicant to examine all available alternative technologies. Therefore, if a method that encourages water conservation, wastewater reclamation and reuse is not recommended, the applicant should be required to provide complete justification for the rejection of land treatment.

Imposition of stringent wastewater treatment requirements prior to land application has quite often nullified the cost-effectiveness of land treatment processes in the past. We must ensure that appropriate Federal, State and local requirements and regulations are imposed at the proper point in the treatment system and are not used in a manner that may arbitrarily block land treatment projects. Whenever States insist upon placing unnecessarily stringent preapplication treatment requirements upon land treatment, such as requiring EPA secondary effluent quality in all cases prior to application on the land, the unnecessary wastewater treatment facilities will not be funded by EPA. This should encourage the States to re-examine and revise their criteria, and so reduce the cost burden, especially to small communities, for construction and operation of unnecessary or too costly facilities. The reduction of potentially toxic metals and organics in industrial discharges to municipal systems often is critical to the success of land

treatment. The development and enforcement at the local level of pretreatment standards that are consistent with national pretreatment standards should be required as an integral part of any consideration or final selection of land treatment alternatives. In addition, land treatment alternatives must be fully coordinated with on-going areawide planning under section 208 of the Act. Section 208 agencies should be involved in the review and development of land treatment options.

Research will be continued to further improve criteria for preapplication treatment and other aspects of land treatment processes. This will add to our knowledge and reduce uncertainties about health and environmental factors. I am confident, however, that land treatment of municipal wastewaters can be accomplished without adverse effects on human health if proper consideration is given to design and management of the system.

INTER-OFFICE COORDINATION

The implementation of more recent mandates from the Safe Drinking Water Act (P.L. 93-532), the Toxic Substances Control Act (P.L. 94-469), and the Resource Conservation and Recovery Act of 1976 (P.L. 94-580) must be closely coordinated with the earlier mandate to recycle wastes and fully evaluate land treatment in P.L. 92-500. Agencywide coordination is especially important to the proper management of section 201 of P.L. 92-500, because the construction and operation of thousands of POTW's involve such a broad spectrum of environmental issues. A concerted effort must be made to avoid unilateral actions, or even the appearance of unilateral actions, which satisfy a particular mandate of one Act while inadvertently conflicting with a major Agency policy based upon another Act. The intention of P.L. 92-500, as it concerns land treatment, is compatible with the pertinent aspects of more recent environmental legislation.

ACTION REQUIRED

Each of you must exert maximum effort to ensure that the actions of your staffs reflect clearly visible encouragement of wastewater reclamation and recycling of pollutants through land treatment processes in order to move toward the national goals of conserving water and eliminating the discharge of pollutants in navigable waters by 1985.

This policy will apply to all future municipal construction grant activities, as well as all current grant applications in the Step 1 category that have not been approved as of this date. Detailed information and guidance for implementation of this policy is under preparation and will be issued in the near future.

VA PHYSICIANS RECEIVING THE NOBEL PRIZE FOR MEDICINE

Mr. THURMOND. Mr. President, I wish to commend to my colleagues and to the Nation the recognition and honor that was bestowed last week upon three American physicians and medical researchers who were awarded the Nobel Prize in the field of medicine. In particular, I want to call to the attention of my colleagues that two of the recipients of the award are career physicians with the Veterans' Administration.

Receiving half the award was Dr. Rosalyn S. Yalow of the Bronx, N.Y. VA Hospital for her work in the development of radioimmunoassays of peptide hormones in the field of diabetes research. Sharing the other half of the award were Dr. Andrew V. Schally of the New Orleans VA Hospital and Dr. Roger Guillemin of the Salk Institute in San Diego for their work in the area of peptide hormone production of the brain.

Mr. President, this award is certainly a great event for the Veterans' Administration, particularly its Department of Medicine and Surgery headed by its able Director Dr. John Chase. This is the first occasion that the Nobel Prize has been conferred upon a medical researcher of the VA and is an event that reflects great credit upon the medical care program, particularly its research function.

Doctors Yalow, Schally, and Guillemin certainly deserve the commendation and esteem of all of the Members of the Senate and of our citizens throughout the Nation for the great honor that they have brought upon themselves and upon the quality of American medical research.

Mr. President, I ask unanimous consent that a news release from the Veterans' Administration announcing the Nobel Prize for these distinguished American physicians be printed in the RECORD.

There being no objection, the news release was ordered to be printed in the RECORD, as follows:

VETERANS ADMINISTRATION

Two Veterans Administration career physicians and senior medical investigators have been awarded the coveted 1977 Nobel Prize in the field of medicine, it was announced in Stockholm this morning.

The two VA awards represent one of the few times Nobel awards have ever gone to scientists employed by the U.S. Government, and are the first ever to go to VA medical researchers.

The VA winners are Dr. Rosalyn S. Yalow of the Bronx, N.Y., VA Hospital, and Dr. Andrew V. Schally of the New Orleans VA Hospital.

One half of the $145,000 Nobel Prize was awarded to Dr. Yalow for the development of radioimmunoassays of peptide hormones. In making the award, the Swedish Caroline Institute said Dr. Yalow and her co-workers "directed diabetes research into new tracks and gave it a new dimension. We were witnessing the birth of a new era in endocrinology, one that started with Dr. Yalow. This modern endocrinology continues to develop and gives us continuously new outlooks on the causes and nature of diseases within the whole spectrum of medicine."

The other half of the $145,000 award will be shared by Dr. Schally and Dr. Roger Guillemin of the Salk Institute in San Diego "for their discoveries concerning the peptide hormone production of the brain."

In telephone calls personally congratulating the two VA physicians, Max Cleland, Administrator of Veterans Affairs, said, "the honors you have won stamp you as true giants in the world of medicine. The Nobel award is a deserved and fitting climax capping all of the many other honors you and your co-workers have earned over many years through the brilliance of your research.

"All of us in VA are so very proud and grateful to be associated with such distinguished physicians."

Dr. John D. Chase, VA's Chief Medical Director, in eulogizing the work of the two doctors, said, "Dr. Yalow and Dr. Schally have added greatly to the stature of American medicine, and their Nobel award is the greatest recognition ever accorded the VA medical research program."

Dr. Yalow, who is also Distinguished Service Professor of Medicine in the Mt. Sinai School of Medicine at the City University of New York, is a native of New York. She is married and the mother of two children.

She received her AB Degree from Hunter College in 1941; her Master's Degree from the University of Illinois in 1942, and her Ph.D. Degree in physics from the University of Illinois in 1945.

She served as a lecturer in physics at Hunter College from 1946 to 1950, at which time she joined the staff of the Bronx VA Hospital.

Last November Dr. Yalow became the first woman to win the prestigious Albert Lasker Award for basic research. The award was in recognition of her discovery of the technique of radioimmunoassay, a discovery made in collaboration with the late Dr. Solomon A. Berson of the Bronx VA Hospital.

Radioimmunoassay combines aspects of nuclear medicine and immunology to measure minute quantities of biological substances in the blood.

Her previous awards also include VA's highest research honor—the William S. Middleton Award; the University of Pittsburgh's Dickson Award; the American College of Physicians Award for distinguished contribution in science related to medicine; the Scientific Achievement Award of the American Medical Association, and the Cressy Morrison Award of the New York Academy of Sciences.

Dr. Schally is a native of Poland and is a magnu cum laude graduate of McGill University of Montreal, where he received a Ph.D. in biochemistry in 1957.

Prior to becoming Chief of the Endocrine and Polypeptide Laboratories at the VA hospital in New Orleans in 1962, Dr. Schally both taught and conducted research at the National Institute of Medical Research in London; the Allan Memorial Institute for Psychiatry of McGill University; and at the Baylor University College of Medicine.

In addition to his duties at the VA hospital in New Orleans, Dr. Schally is a Professor of Medicine at the Tulane University School of Medicine in New Orleans.

Among the many honors he has received are the Albert Lasker Award, the William S. Middleton Award, the Van Meter prize of the American Thyroid Association; the Ayerst-Squibb Award of the U.S. Endocrine Society; the Charles Mickie Award of the University of Toronto, the Gairdner Foundation International Award, Toronto; the Edward T. Tyler Award; and the Borden Award of the Association of American Medical Colleges.

Dr. Schally has been honored for findings with diagnostic and therapeutic applications to fertility. His discovery of several brain hormones, including one that stimulates the pituitary gland to release substances that regulate male and female reproductive systems, is expected to lead to development of additional fertility and contraceptive compounds for human use.

The VA budget for the fiscal year started on October 1 provides obligations of $113,518,000 for medical and prosthetic research.

According to the latest fiscal year statistics available, research was conducted at 130 VA medical facilities with 3,652 principal investigators engaged in 5,952 studies. There were 6,087 reports of VA research published in the professional literature, and at least 6,000 research papers presented at medical meetings.

Each year a dozen or so VA investigators receive recognition on a national scale for their studies in medical research.

NO PALESTINIAN STATE

Mr. CRANSTON. Mr. President, yesterday I had the honor of speaking at the dedication of an outstandingly beautiful new campus of the University of Judaism in Los Angeles.

I took that occasion to express my views of the opportunity—and the

danger—that Israel now faces in the Middle East. I would like to share these views with my fellow Senators, and I ask unanimous consent that the text of my address be printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

ADDRESS BY SENATOR ALAN CRANSTON

As I've heard and read about this magnificent new campus I've been struck by the comments in the B'nai B'rith Messenger that the opening of the beautiful William and Fred Fingerhut Academic Building, and the dedication of the Isadore and Sunny Familian Campus, represent the beginning of the coming of age of Jewish education for much of the North American continent.

These events herald a renaissance in Jewish education—at a time when there is a general awakening of interest in ethnic studies sparked by a demand for knowledge about one's roots.

It is this increased involvement in our past, as well as a growing understanding that we must know more about our present—and about the possibilities that await us in the future—that have led the Jewish community to support the development of the University of Judaism until it is about to become the focal point for Jewish education throughout the west coast.

Indeed, it will form one of the major centers of advanced Jewish education anywhere in the world.

As a lover of learning and a respectful admirer of the rich ethnical, spiritual and historical heritage of American Jewry, I am proud—very proud—that all this is taking place here in California, and that I can share this great occasion with you.

Beginning just 30 years ago—in two borrowed rooms as the west coast branch of the Jewish Theological Seminary of America—the University of Judaism now consists of the University College of Jewish Studies, the Graduate School, the Graduate School of Judaica, and the Adult College—with accreditation by the Western Association of Schools and Colleges, and with academic ties to both UCLA and UC–Irvine.

And now this striking new campus!

At this moment of history, it is worthy of note that this beautiful campus might have been completed sooner, but that construction was delayed when all available funds went to support Israel in the Yom Kippur war in 1973.

Let us pray that war in the Middle East will never again rage. But let us face the fact that while Israel now has great opportunities, she at the same time faces great dangers.

Foreign Minister Moshe Dayan has enunciated 4 principles as the basis for Middle East peace:

The four principles are:

1. Israel's security must be ensured.

2. There must be freedom of navigation in all international waterways in the area.

3. The main water sources of Israel, such as the Jordan River sources in the north, should be secured.

4. Equal rights and full coexistence should be guaranteed between Israel and Palestinian Arabs in the Gaza Strip and on the West Bank. I support those 4 principles.

I also believe and I'm sure most Americans feel that there must also be:

1. A just settlement of the refugee problem that includes Jewish refugees from the Arab nations.

2. A withdrawal of Israeli armed forces from territories occupied in the six-day war in 1967.

You will note that I do not say all territories—just as the word "all" is not used in resolution 242, from which this wording is taken.

3. Acknowledgement by all parties of the sovereignty, territorial integrity and political independence of each existing state in the area, and its right to live in peace within secure and recognized boundaries.

But only Israel and the Arab nations—by sitting down together—can work out the details of how to bring all this about.

There must be no effort by outside powers—and that includes the U.S. as well as the Soviet Union—to impose a settlement.

An imposed peace implies that it is against the will of one or more of the parties concerned.

That kind of peace is not peace at all. It is merely an interlude before the next war.

That is why I believe that U.N. Resolution 242, and Resolution 338 which the Security Council passed after the 1973 Middle East War, should be the only basis for a reconvened Geneva Conference.

Moshe Dayan said that within the framework of those resolutions, Israel would enter the negotiations without any preconditions and would consider all issues as being subject to negotiation.

I hope the Arabs are also willing to talk business on that basis.

If they are not, then much as we all want to see a Geneva Conference, no Geneva Conference at all would be preferable at this time.

After decades of unrelieved enmity and three costly, bloody and—thank God, unsuccessful wars intended to "drive the Israelis into the sea", the rulers of Egypt and Jordan appear to be ready to talk seriously with Israel about peace.

Unfortunately Syria does not seem to be ready to join them, though I would hope that moderation on Israel's part will be met with moderation on the part of all the Arab nations.

I see absolutely no place in this peace formula, however, for the extremism and terrorism of the PLO.

For years everyone assumed that under UN Resolution 242, which the Security Council passed after the 1967 War, any conquered territory that Israel agreed to give up would be returned to Egypt, Syria or Jordan.

But a different and far more dangerous idea has been put forward by the Arab nations.

They now suggest that some of the land—specifically the West Bank and Gaza—be used instead to create a new, independent state under the PLO.

This is something they did not suggest when they occupied the West Bank and Gaza.

And to do so now would be unilaterally changing the rules in the middle of a life-or-death game.

At stake is the very existence of Israel.

Israel will not—and should not be expected to—surrender territory to create still another hostile neighbor—a neighbor which, under the convenant of the PLO, denies Israel's right to exist and is pledged to destroy her.

No such development should be expected from a reconvened Middle East peace conference in Geneva.

It would be totally unrealistic. And it would make no sense—no sense for Israel, and no sense for the cause of peace in the Middle East.

I find it very easy to understand why Israel—and friends of Israel—objected so strenuously to the unprecedented use of the phrase "legitimate rights of the Palestinian people" in the joint U.S.-Soviet statement on Oct. 1.

That was no mere semantic hangup.

As you know so well, the words "legitimate rights" rather than "legitimate interests" of the Palestinian people are code words of the PLO and Arabs that mean not just the creation of an independent, sovereign Palestinian state, but a Palestinian state that would wipe out Israel and take its place.

Similarly, I find it easy to understand why the Israelis refuse to deal with representatives of the PLO at Geneva.

Unfortunately for the prospects of peace, Arab extremists do not distinguish between Palestinians and the PLO.

Farouk Kaddoumi, the equivalent of the PLO's foreign minister, gave the following warning to the General Assembly in New York just last Tuesday: "Let it be crystal clear", he said. "No peace without the Palestinians and no Palestinians without the PLO".

That is not a formula for a lasting peace.

It is a formula for inevitable war.

A PLO-dominated Palestinian state on Israel's border would be a loaded gun aimed at Israel's head at point-blank range.

Such an idea cannot be tolerated.

Israel understands this.

You and I understand it.

We must see to it that the world understands it.

Thank you and Shalom.

A DIFFICULT VOTE TO CAST

Mr. ROTH. Mr. President, I voted against the Legal Services Amendments of 1977, S. 1303. This was an extremely difficult vote for me to cast. There is no question that the less fortunate citizens of our Nation deserve to receive legal representation of the highest quality whenever they need such services. Access to our judicial system is an essential right of every American and the legal services program was created in an effort to assure such legal assistance to those who could not afford the expense. Only the strongest considerations of policy could have led me to oppose the measure and I would like to take this opportunity to explain my reasons for doing so.

I supported the Legal Services Corporation Act in 1974 because the act contained important and necessary restrictions on the powers and activities delegated to the Corporation. These restrictions were carefully designed to prevent a recurrence of the controversial policies pursued under the legal services program as administered by the former Office of Economic Opportunity.

Several of these restrictions have been removed by the amendments contained in S. 1303. One important safeguard which has been eliminated is that which places strong restrictions on staff attorneys with respect to off-duty participation in partisan and nonpartisan political activities. These provisions in the original act have been replaced by the much less stringent requirements of the Hatch Act. The possibilities for conflicts of interest are greatly magnified by the dilution of these strong restrictions and the changes made by the amendments simply invite further controversy over the program. The need to keep the legal services program free from political influences was acknowledged during its passage. Much of the litigation initiated by legal services has placed it in direct conflict with State and local governments. The program is thus subject to extreme political pressures by its very nature. Softening the restrictions contained in the act on political activity by staff attorneys can only add to these pressures.

I am most disturbed by the removal of

the provision prohibiting representation by Corporation lawyers of poor clients in school desegregation cases essentially allowing attorneys to become involved in the busing issue. Under amendments passed to the Civil Rights Act, individuals can bring suit in desegregation cases and these suits can be supported by Federal funds. The Justice Department, and until recent amendments prohibited it, HEW has the power to intervene in such cases and has often exercised its prerogatives in this area. The busing of school children to achieve racial balance is an emotional and controversial subject. Years of court decisions and orders have not resolved the problems and the removal of the restrictions on the Legal Services Corporation with regard to desegregation cases can only further confuse the picture.

I understand that a compromise on the bill was made. Although some compromise may have been necessary, I cannot support any attempts to change the intent, language, or meaning of the Green amendment. Long hours of careful study and work went into the drafting of the Green amendment. Congresswoman Edith Green made a superb effort to insure that the legal services program remains a program to provide legal assistance to those who are indigent and not a means to alter our social policies. Basic legal research is a necessary part of this program and the Green amendment provides for such research. There has not been any evidence presented to me which indicates that any change in the amendment is necessary. There are some indications, although denied by the Corporation, that there have been attempts to circumvent the requirements in the Green amendment and involve the Corporation in research and litigation promoting changes in our national social policies. Social policy is most appropriately formulated in the national legislature, not in the courts. For this reason, I believe that we must seek to insure that the provisions of the Green amendment are faithfully followed or strengthened rather than weakening its substance.

The proposed amendments display little concern for middle-class Americans whose taxes support the program and who must pay for their right to seek judicial redress. Once the amendments in S. 1303 are signed into law, the taxes of the average American would be freed for use by activists, reform attorneys who would be able to file suits supposedly on behalf of poor clients that the taxpayer himself would have neither the time nor the money to conduct. Often his town or county would be forced to hire a lawyer—again using his taxes—to defend against the suit.

It should be noted too that the average middle-class citizen, in comparison with less fortunate Americans, has as much, if not more, difficulty in obtaining legal services. Hearings held by a Senate Judiciary subcommittee in 1973 highlighted the problems experienced by many middle-income Americans in obtaining legal representation. The subcommittee found that, in many cases, both the very rich and the very poor can secure legal aid more easily than the average citizen. In light of these facts, I could not, in good conscience, support the legislation.

The fundamental problems with the act can only be effectively addressed if the Congress takes a careful, intensive look at the program as it is now constituted. Reauthorizing the Legal Services Corporation and making any changes in its structure before the Congress has conducted a thorough investigation into its performance is an abdication of our responsibilities. Because the Corporation is not subject to executive control and review, the oversight responsibilities of the Congress are of added importance to the efficient, effective operation of the program. The report required to be submitted to the Congress by the Corporation in July of this year is not yet completed and may not be for some time. To enact amendments to the program without sufficient information is extremely premature and hasty.

It is possible to design an equitable and responsive program which will be acceptable to all Americans. In my opinion, the only way this goal may be reached is by objectively and critically evaluating the data becoming available from the Corporation and that which can be gained through committee hearings and reports.

PANAMA CANAL POLL

Mr. THURMOND. Mr. President, the overwhelming opposition of the American people to the giveaway of the Panama Canal was amply proven in a recent poll on that subject by the weekly National Enquirer newspaper which claims 15 million in circulation throughout the United States.

Ninety-seven percent of those responding said "no" to the question "Should the United States turn control of the Panama Canal over to Panama?"

The Enquirer took no position on the question, but offered to its readers arguments on both sides of the issue by two distinguished Members of this body.

The newspaper pointed out that over 4,500 replies had been received in the poll to date with 4,376 against giving up control and 140 in favor.

Mr. President, I ask unanimous consent that this article in the October 18, 1977 issue of the Enquirer, published in Lantana, Fla., be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

POLL: 97 PERCENT SAY DON'T GIVE CONTROL OF CANAL TO PANAMA

An overwhelming majority of readers responding to an Enquirer poll say the United States should not turn over control of the Panama Canal to Panama.

First results of our poll, announced in the September 27 issue, show that of 4,516 ballots cast, 4,376 or 97 percent voted "no" on the question: "Should the United States turn control of the Panama Canal over to Panama?" Casting "yes" votes were a total of only 140 readers, or 3 percent.

As usual in our polls, The Enquirer took no sides on the question, but presented the pro and con views of leading spokesmen. Arguing against the Panama Canal Treaty, which is backed by President Carter and awaiting Senate ratification, U.S. Sen. Orrin G. Hatch (R.-Utah), warned that giving up the Canal undermines U.S. security and well-being.

Opposing this view, U.S. Sen. Mike Gravel (D.-Alaska) said that the new treaty is not only fair, it also protects American interests.

Watch for further results of this poll in future issues.

LETTER TO ATTORNEY GENERAL BELL WITH REGARD TO DEA REPORT ON GEN. OMAR TORRIJOS

Mr. HELMS. Mr. President, last Friday, I sent a letter to Attorney General Griffin Bell urging him to report to the American people on what steps the Drug Enforcement Administration of the Department of Justice is taking with regard to the investigation of Gen. Omar Torrijos and his family. There have been numerous allegations that General Torrijos and/or his family have been involved in drug trafficking.

In particular, the House Panama Canal Subcommittee reported that in 1973 one-twelfth of all cocaine and heroin entering the United States came through the Panama route. There is a considerable body of evidence that the general himself is or was involved in the trade, or at least has condoned it when engaged in by his brothers.

It is now well known that the Drug Enforcement Administration has many files relating to these allegations. The distinguished Senator from Kansas (Mr. DOLE) reported lask week that numerous files were removed from the central office of DEA and transferred to another site, in an apparent effort to keep the public from knowing the extent of the Torrijos involvement.

On Friday, I wrote to the Attorney General, asking him to report to the American people, and enclosing a copy of a DEA investigative report which made serious allegations against General Torrijos. Of course, the allegations in one report do not constitute proof. But when the files are as extensive as they appear to be, the American people deserve an explanation in detail of how thorough DEA's investigation of these allegations was, particularly when we have signed a treaty with one of the principals involved.

Moreover, on Saturday, CBS Evening News carried a story alleging that the material in the files includes the following: Col. Manuel Noriega, the head of Panama's secret police, is described as the "bag man" for General Torrijos, and as the liaison between Torrijos and Castro. CBS also reported that the files contain allegations that General Torrijos and his associates planned to assassinate former Panama President Arnufo Arias, who was then in exile in Miami; and that as late as 1975, Hugo Torrijos, brother of the Chief of State, was using Panamanian Air Force planes to transport drugs.

These are charges that cannot be covered up. They must be answered, and answered directly. If these charges are groundless, then it will be a simple matter to bring out the facts and refute them. But if this administration is at-

tempting a grand coverup, then the consequences for this Nation, both at home and abroad, will be profound.

Mr. President, I ask unanimous consent that my letter to the Attorney General and its attachment be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, D.C., October 14, 1977.

Hon. GRIFFIN B. BELL,
Attorney General, Department of Justice, Constitution Avenue, Washington, D.C.

DEAR MR. ATTORNEY GENERAL: I am enclosing what purports to be a facsimile of a Drug Enforcement Administration investigative report which contains serious allegations against General Omar Torrijos. It appears to be the same report which was mentioned this morning on the CBS Morning News.

Inasmuch as the House Panama Canal Subcommittee reported in 1973 that as much as one-twelfth of all heroin and cocaine enters the United States through the Panamanian route—enough to destroy the lives of 20,000 addicts in the United States—the question of whether General Torrijos and his immediate family condone this trafficking or participate in it is of crucial importance to the American people.

I therefore urge you to report to the American people on what steps DEA and the Department of Justice have taken to investigate these allegations. Several close associates of the Torrijos family have been apprehended and convicted of drug trafficking by U.S. Courts; moreover, your own Department has confirmed, according to press accounts, that a sealed indictment exists against Moises Torrijos, the brother of the head of state of Panama.

Unless this matter is fully aired, the American people will never accept any agreement with the Republic of Panama which is tainted at the very source by such allegations. Once again, I urge you to explain this to the nation with full candor.

Sincerely,

JESSE HELMS.

INTELLIGENCE REPORT

This report is for the confidential and exclusive use of law enforcement agencies only. Information contained herein is not for evidential use as contents were collected by sensitive sources. The information is for the purpose of supplying investigative leads and contains neither recommendations nor conclusions.

DETAILS

1. In early February, 1975, a confidential source, in direct conversation with Ramiro Rivas, owner of a cement block company located in Pedregal, Panama, learned that Rivas maintains a $750,000 bank account at the International Bank of Miami located at 627 S.W. 27th Av., Miami. Rivas stated that he was in partnership with Omar Torrijos, a Panamanian General, in narcotics trafficking and was attempting to purchase a transportation company that would provide a greater capability in moving narcotics through Panama for Torrijos.

2. Rivas stated to the source that Panamanian aircraft are currently being used to transport narcotics from Cuba, Peru and Colombia to Panama. After the narcotics arrive in Panama, they are transported to the U.S. by aircraft, vessels, and in some cases, by vehicles overland to the Mexican border. Rivas did not specify the type of narcotics involved but implied that it was marijuana and cocaine.

3. Rivas further stated to the source that Hugo Torrijos, brother of Omar Torrijos, Genaro Barreras, Julio Arosemena, Samaniego, (FNU), (military intelligence stationed at Tocumen International Airport; "El Cholo" (NFI), (aid to Colonel Antonio Noriega); and Eduardo Guzman-Hiloa, an auditor of the Presidente Remon Racetrack in Juan Diaz (Panama), are all involved with him and Torrijos in narcotics trafficking.

4. A check of MRO records reveals that Omar Torrijos is mentioned in GF-Panama along with Hugo Torrijos. Rivas, Barreras, Samaniego, Arosemena, "El Cholo", Noriega and Guzman were negative.

CUBAN-AMERICANS EXPRESS CONCERN ABOUT ADMINISTRATION'S CUBAN POLICY

Mr. DOLE. Mr. President, I had the opportunity to meet this morning with a delegation of Cuban-American representatives of 10 Cuban organizations, who presented me with a petition opposing the Carter administration's policies toward Cuba. That petition carries the signatures of more than 11,300 persons. In particular, the petition points to noncompliance by the Carter administration with a 1962 Senate joint resolution which established sanctions against the Castro regime.

That measure, Senate Joint Resolution 230, was enacted as Public Law 97–733 on October 3, 1962, and has apparently never been officially revoked or repudiated by either Congress or any American President.

The resolution clearly stated that the United States would use "whatever means may be necessary" to prevent the Communist Cuban regime from extending its influence to other parts of the Western Hemisphere. It determined to prevent the presence of any external military power within Cuba. And it clearly supported "the aspirations of the Cuban people for self-determination."

Mr. President, there are thousands of Cuban exiles and Cuban-Americans in this country who feel that the Carter administration's moves toward "normalizing" relations with Cuba will work to the disadvantage of democracy and human rights observance within Cuba. It is their feeling that formal ties between our two governments can only strengthen the domestic power of Fidel Castro, encouraging his revolutionary activities abroad and his repressive intentions within Cuba. I was advised by the delegation I met with this morning—many of whom have relatives imprisoned in Cuba—that more than 20,000 Cuban political prisoners are presently incarcerated by Castro.

Earlier this year, I introduced Senate Resolution 182, to establish four preconditions to "normalization" of relations with Cuba. At that time, I asked the question: "Just what is the rush in restoring relations with the Communist government in Cuba?" Today, I ask the same question. More than 11,000 persons have signed this petition, within a short space of time, calling upon the Carter administration to observe and comply with the Senate resolution enacted into law in 1962 with the concurrence of President John F. Kennedy. I hope that this administration will heed the concerns of thousands of native and naturalized Americans who strongly object to a restoration of diplomatic ties with Cuba, at least until important concessions are made by the Castro regime.

Mr. President, I ask unanimous consent that the full text of the petition, presented to me this morning, be printed in the RECORD.

There being no objection, the petition was ordered to be printed in the RECORD, as follows:

NATIONAL ASSOCIATION
OF CUBAN LAWYERS, INC.,
Miami, Fla., October 17, 1977.

HONORABLE SENATORS: We hereby come representing the Cuban Exile due to the presence of a Communist Regime in Cuba. Here are Messrs. Fausto Lavilla, President of the National Association of Cuban Journalists in Exile; Roberto Carballo, President of the Association of Bay of Pigs Veterans (Brigade 2506); Mario Pestonit, Delegate of the Latin Chamber of Commerce (CAMACOL); Cristobal Gonzalez Mayo, President of the Confederation of Cuban University Professionals in Exile; Luis H. Vidaña, Delegate of the Confederation of Cuban Workers; Claudio Benedi, Delegate of the Cuban Lion Club in Exile; Ruben Gonzalez De La Heria, Delegate of the Municipalities of Las Villas in Exile; Gerardo Mora Adelit, Delegate of the Cuban Representation in Exile (RECE); and Humberto Quiñones Del Sol, President of the National Association of Cuban Lawyers, Inc.; which is the Institution that prepared the pamphlet regarding the non-compliance of the Congressional Joint Resolution of September 1962. Sanctioned then on October 3, of that same year, by President John F. Kennedy; and was published under the Public Law 87–733: 76 Stat. 697.

The purpose of our visit is to call the attention to the lack of compliance shown by the foreign policy of the present Administration with the above mentioned Resolution of the U.S. Congress. In the enclosed documents, you will find the reasoning that make us believe the Joint Resolution is mandatory, unless and until it be modified or derogated by the Congress and the President.

Our petition and exposition is being backed by thousands of signatures, as they appear on the attached documents. We expect that you will have this message reach the 95th Congress and the Hon. President of the United States of America.

PETITION

To the President of the United States of America, Hon.: James Carter, and the 95 Congress of The United States.

We the undersigned, Respectfully petition the enforcement of Public Law 87–733, 76 Stat. 697 (S.J. Res. 230) approved October 3, 1962; that reads as follows:

Joint Resolution expressing the determination of the United States with respect to the situation in Cuba.

Whereas President James Monroe, announcing the Monroe Doctrine in 1823, declared that the United States would consider any attempt on the part of European powers "to extend their system to any portion of this hemisphere as dangerous to our peace and safety"; and

Whereas in the Rio Treaty of 1947 the parties agreed that "an armed attack by any State against an American State shall be considered as an attack against all the American States, and, consequently, each one of the said contracting parties undertakes to assist in meeting the attack in the exercise of the inherent right of individual or collective self-defense recognized by article 51 of the Charter of the United Nations"; and

Whereas the Foreign Ministers of the Organization of American States at Punta del Este in January 1962 declared: "The present Government of Cuba has identified itself with the principles of Marxist-Leninist ideology, has established a political, economic, and social system based on that doctrine, and accepts military assistance from extracontinental Communist powers, including even the threat of military intervention in America on the part of the Soviet Union"; and

Whereas the international Communist movement has increasingly extended into Cuba its political, economic, and military sphere of influence; Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled. That:

The United States is determined—

(a) to prevent by whatever means may be necessary, including the use of arms, the Marxist-Leninist regime in Cuba from extending, by force or the threat of force, its aggressive or subversive activities to any part of this hemisphere;

(b) to prevent in Cuba the creation or use of an externally supported military capability endangering the security of the United States; and

(c) to work with the Organization of American States and with freedom-loving Cubans to support the aspirations of the Cuban people for self-determination. Approved October 3, 1962.

The following representatives presented to me the petition signed by over 11,000 individuals: Señor Humberto Quionnes del Sol, Señor Cristobal Gonzales Mayo, Señor Roberto Carballo, Señor Mario Pestonit, Señor Fausto La-Villa, Señor Ruben Gonzalez De la Heria, Señor Gerardo Mora Adelit, Señor Luis Vivana, Señor Claudio Benedi, Señor Tomas Regalado, Señor Humberto Quionnes, Jr., Señor Carlos Benitez.

TRIBUTE TO CHARLIE FERRIS

Mr. WILLIAMS. Mr. President, today Charles D. Ferris is being sworn in as the new Chairman of the Federal Communications Commission. I join many of my colleagues in congratulating Charlie and wishing him well in this important position.

Those of us who worked with Charlie Ferris during the 13 years he served the Senate know him to be both dedicated and resourceful. As Chief Counsel to the Senate majority, he participated in some of the most crucial decisions in our national life. The ability and experience that he brings to his new post will surely benefit the Commission and the American people.

Mr. President, I am confident that Charles Ferris will provide the leadership needed to apply our national communications policy in the public interest. I look forward to working with him toward this end.

ALASKAN DEVELOPMENT ISSUE

Mr. STEVENS. Mr. President, the Alaskan d–2 issue is coming more and more to the attention of American citizens. The American public is beginning to realize that this is an issue not only of Alaskan interest but of national interest as well, and the future of the Nation's lifestyle will be greatly affected by the congressional decision regarding Alaska's public lands. Alaska has 15 sedimentary basins, all of which could be potential producing oil and gas provinces. Sixteen of eighteen minerals listed by the Federal Government on the strategic commodities list are found in Alaska. If Congress makes a rash decision on the d–2 lands question, many of the potential uses of Alaska's public lands will be precluded.

The American public is rapidly realizing that there is a real need to insure that Alaska's public lands are placed in categories which will allow both environmental protection and appropriate and reasonable development. Indicative of this realization is an article recently printed in the Journal of Commerce which describes the importance of the d–2 lands issue to both Alaskans and the rest of the Nation. I commend this article to the other Members of the Senate for their attention and ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

ALASKANS FIGHT DEVELOPMENT BAN

(By Maureen Robb)

ANCHORAGE.—In what has been called Alaska's bitterest struggle since it achieved statehood, Alaskans are fighting a bill in Congress that would ban development on a quarter of the state's lands, and which could severely reduce the rich amount of energy and mineral resources available to the rest of the nation.

Congress must decide by December 1978 what part of the state's vast territory will be set aside as wilderness area, where no development, not even roads, would be allowed. The main bill now being considered by Congress, H.R. 39, would prohibit development on 146 million acres of federal land that the government retained when Alaska became a state.

OPPOSED BY ALASKANS

The bill is opposed by the majority of Alaskans, who say it would spell economic disaster, while it is supported by many Alaskan environmental groups who helped draft the bill, and by the majority of those persons testifying on it in government hearings across the country.

It is also quite popular with Washington legislators, who say they have a mandate to preserve the nation's last frontier. Spearheading the Alaskan effort to modify the bill are Sen. Ted Stevens, Rep. Don Young and Gov. Jay S. Hammond, while Teamsters in the state are also beginning to get support from organized labor throughout the country to amend Rep. Morris K. Udall's Alaska National Interest Lands Conservation Act, or H.R. 39

LOSS OF RESOURCES

A spokesman for Sen. Stevens says that the bill would set aside lands that are known to have significant energy or mineral reserves, such as the central Brooks Range and areas in the Wrangell Mountains which have commercially mineable copper deposits.

Other valuable properties that would be withdrawn from use, the senator's office reports, include what is believed to be one of the largest molybdenum deposits in the country (more than 100 million tons) that is being explored by United States Borax & Chemical corp.

The senator's aide says there are also deposits of 16 of the 188 minerals on the federal government's strategic commodities list which are needed for national defense and which are in deposits "great enough to justify commercial extraction right now." These include, he said, chromium, lead, molybdenum, platinum, tins, copper, iron, silver, and zinc.

Opponents of the bill say that in addition it would:

Prevent development of 70 million acres of sedimentary basins of potential oil and gas deposits.

Preclude development of 6.5 million acres of potential farmland.

Remove from the market about 14 million acres of commercial grade timber.

Another major complaint is that Alaska's energy and mineral resource potential remains largely unexplored, and the bill would lock up land which might have great development value.

Sen. Stevens, in a statement to President Carter, for instance, said that only half of the land which would be designated as wilderness has been adequately assayed at level 3. The United States Geological Survey, he said, conducts a four-level study to determine mineral deposits on federal land, and it is not until level 3 tests are made that scientists have good indications of mineral deposits.

In addition, Alaskans claim that the bill would reduce all types of development in the state because wilderness lands would lie in pockets throughout Alaska and cut off land access in towns on state and private owned acreage, thereby isolating these communities and making development impractical.

Alaskans protect too that relatively few Americans would be able to enjoy the wilderness areas, since they may not be entered by any motor vehicle, boat, or plane.

What most Alaskans would prefer to H.R. 39 is a bill granting multi-use of the land to temporarily set aside certain areas as national parks while leaving open the option for future development.

A bill by Sen. Stevens, for instance, which is supported by Rep. Young and Gov. Hammond, asks that 25 million acres be given over to national parks, wildlife refuges and the like, while 55 million acres be temporarily devoted for development later.

The majority of Alaskans, many of whom have moved to the state during the last ten years, say they want to both preserve its scenic beauty and abundant wildlife while developing its resources as well. Certain development is needed to provide a secure economic base, they say, after the state's history of boom and bust development in gold, fishing, and timber.

The unemployment rate, which usually runs at about 13 per cent, is also a spur to development. It has lately hit 17 per cent because a number of out-of-state residents who came to work on the recently finished oil pipeline have stayed on.

Another issue is that Alaskans see the proposed legislation as too great an interference with state's rights. Many residents say Alaska is being treated as a "fiefdom" of Washington, including persons who support the concept of H.R. 39 but who would prefer that the state itself had more control over the use of the lands. And, they add, Alaskans don't want to pay for environmental sins that were committed by over-zealous developers throughout the rest of the country.

The bill's supporters, on the other hand, would agree with this statement by the Alaska Coalition, a large environmental group: "If we must err because of lack of specific knowledge of all resources present in areas of high scenic or other natural values, let us err initially on the side of protection, for this judgment can be amended later." And, "Proportionately within the United States, wild lands are becoming the rarest of commodities."

Thus, as Congress prepares to evaluate H.R. 39 this year, it appears that there is only one major point of agreement among the bill's advocates and detractors—they except a long, hard fight.

DEADEND ROADS FOR OUR TAXPAYERS

Mr. HEINZ. Mr. President, an article in Friday's edition of the Pittsburgh Post-Gazette shows in clear and stark terms the price we pay for allowing our roads to fall into a state of disrepair. The statistics presented in this article, showing the extremely high number of accidents caused by poor road conditions, serve as a reminder of the need to increase our efforts at road rehabilitation across our Nation.

According to information supplied by the road information program, the Post-Gazette reported that hazardous roads accounted for 24 percent of the highway accidents which occurred in my State of Pennsylvania during 1976. After human failure, poor road conditions constituted the second most frequent cause of highway accidents. In a sense, hazardous roads are in themselves a result of human failure—because we have it in our power to prevent mayhem on the highways by investing greater knowledge and resources in road repair and rehabilitation. The cost of neglecting this need is high, in human as well as economic terms.

In Pennsylvania last year, the financial cost of the 71,690 accidents attributed to hazardous roads was estimated at $214.8 million, including hospital fees, property damage and payments to accident victims. Of course, it is impossible to quantify the cost in human suffering that is incurred by automobile accidents, but that cost too must be considered in calculating the benefits and savings of better road repair programs.

Mr. President, the Federal Government must work in cooperation with the States and localities to advance the cause of highway safety through effective rehabilitation programs. Highways remain an important social and economic resource that are central to the lives of communities and the welfare of individuals. To help my colleagues consider the situation we face and the job that needs to be done, I ask unanimous consent that the Pittsburgh Post-Gazette article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Pittsburgh Post-Gazette, Oct. 14, 1977]

72,000 ACCIDENTS EACH YEAR BLAMED ON STATE'S ROADS

(By Dave Leherr)

Bad roads cause nearly 72,000 accidents a year in Pennsylvania at a cost of $215 million annually, according to a study released yesterday.

Produced by the national nonprofit group, The Road Information Program (TRIP), the study listed these conclusions:

Hazardous roads ranked second only to human failing as the principal cause of accidents, accounting for 24 per cent or 71,690 of the state's 1976 highway accident total.

Those accidents occurred because road conditions allowed little or no margin for human error, TRIP said.

Human failing contributed to 44 per cent of 303,774 of the state's total highway accidents in 1976.

More than 17,000 miles of Pennsylvania road are contributing to the annual accident rate because they were designed and built 40 years ago for smaller vehicles, lighter traffic and slower speeds.

TRIP noted that the 303,774 accidents attributed to human error resulted in 2,025 fatalities and 135,308 injuries.

Total cost of those accidents to the state and its citizens was $910.1 million or an average of $2,996 an accident.

The 71,690 accidents attributed to hazardous roads cost an estimated $214.8 million in hospital fees, property damage and payments to accident victims.

"While the number of traffic deaths has been declining in Pennsylvania over the past four years, these accident rates are still too high a price—in money and in human suffering—to pay for obsolete roads," said Henry D. Harral, former state highways secretary who now serves as state chairman of TRIP.

"The first priority should be reducing hazards at the 6,000 highway locations throughout the state where the Pennsylvania Department of Transportation has recorded more than 20 accidents each per year."

According to TRIP, 14,801 miles of Pennsylvania's arterial and connecting roads are too narrow for safe passing by large vehicles such as school buses, farm equipment and bulky recreational vehicles.

Another 2,451 miles were listed as hazardous and unsafe because of sharp curves, soft shoulders, steep rises and dips, roadside obstructions and restricted sight distances.

Harral quickly acknowledged that part of the dilemma is the insufficient revenues available to the state, and its counties and cities.

The study cited a nationwide survey by the Federal Highway Administration showing that road design and engineering improvements reduce accidents.

One year after hazardous conditions at 634 high-accident prone locations were eliminated, the number of accidents declined by an average of 19 per cent, the government study showed.

Meanwhile weather and other envionmental factors represented the third leading cause of accidents, numbering 46,781, and mechanical failures were fourth.

NOTICE CONCERNING NOMINATIONS BEFORE THE COMMITTEE ON THE JUDICIARY

Mr. EASTLAND. Mr. President, the following nominations have been referred to and are now pending before the Committee on the Judiciary:

Douglas Coulter, of New Hampshire, to be a Commissioner of the Copyright Royalty Tribunal for a term of 7 years from September 27, 1977 (new position).

Rufus A. Lewis, of Alabama, to be U.S. marshal for the middle district of Alabama for the term of 4 years vice James T. Lunsford.

Cecil M. McCall, of Georgia, to be a Commissioner of the U.S. Parole Commission for the term of 6 years vice Maurice H. Sigler.

Benjamin J. Malcolm, of New York, to be a Commissioner of the U.S. Parole Commisison for the term of 6 years vice Curtis C. Crawford, term expired.

Robert D. Vincent, of Oklahoma, to be a Commissioner of the U.S. Parole Commission for the term of 6 years vice Lawrence A. Carpenter, resigned.

On behalf of the Committee on the Judiciary, notice is hereby given to all persons interested in these nominations to file with the committee, in writing, on or before Monday, October 24, 1977, any representations or objections they may wish to present concerning the above nominations with a further statement whether it is their intention to appear at any hearing which may be scheduled.

FALLON PAIUTE AND SHOSHONE LAND TRANSFER

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of Calendar Order No. 378, and I make this request on behalf of Mr. CANNON.

The ACTING PRESIDENT pro tempore. The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 785) to declare that all right, title, and interest of the United States in two thousand six hundred and forty acres, more or less, are hereby held by the United States in trust for the Paiute and Shoshone Tribes of the Fallon Indian Reservation, Nevada, to promote the economic self-sufficiency of the Paiute and Shoshone Tribes, and for other purposes.

The ACTING PRESIDENT pro tempore. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill which had been reported from the Select Committee on Indian Affairs with an amendment to strike out all after the enacting clause and insert the following:

That (a) subject to valid existing rights, all right, title, and interest of the United States in two thousand seven hundred acres, more or less, described below are hereby declared to be held in trust for the Paiute and Shoshone Tribes of the Fallon Indian Reservation and Colony, Nevada:

MOUNT DIABLO MERIDIAN

Township 19 north, range 29 east, section 29, south half northwest quarter northwest quarter and the southwest quarter northwest quarter;

Township 19 north, range 30 east, section 2, northwest quarter; section 3, north half and southwest quarter; section 4, all; section 8, north half and southwest quarter;

Township 20 north, range 30 east; section 33; south half; section 34, south half; section 35, west half southeast quarter and southwest quarter.

(b) Notwithstanding any other provision of this Act, the United States shall be entitled to use, without compensation, for so long as necessary, as determined by the Secretary of the Interior, four acres, more or less, of such lands referred to in subsection (a) for irrigation canal purposes.

SEC. 2. The lands held in trust pursuant to this Act shall be included in and deemed a part of the Fallon Indian Reservation and Colony, Nevada.

SEC. 3. The Paiute and Shoshone Tribes of the Fallon Indian Reservation and Colony shall hereafter be entitled, from the date of enactment of this Act, to the revenues to be received by the United States under any existing lease, contract, permit, right-of-way, or easement covering lands declared to be held in trust by this Act. In the event that such trust lands do not cover all of the land embraced within any such lease, contract, permit, right-of-way, or easement, said tribes shall hereafter be entitled, from the date of enactment of this Act, to the proportionate amount of the revenues to be received by the United States under any existing lease, contract, permit, right-of-way, or easement which results from multiplying the total of such revenues by a fraction in which the numerator is the acreage of such lease, con-

tract, permit, right-of-way, or easement which is included in the land declared to be held in trust pursuant to this Act and the denominator is the total acreage contained in such lease, contract, permit, right-of-way, or easement.

SEC. 4. (a) Upon the request of Indian allottees, their heirs, or successors, and with the consent of the Fallon Paiute and Shoshone Tribes Business Council, the Secretary of the Interior is hereby authorized and directed, under such rules and regulations as he may prescribe after consultation with the Paiute and Shoshone Tribes Business Council, to transfer the right, or any part thereof, to the use of water appurtenant to other lands within the Fallon Indian Reservation, to the lands, or any part thereof, declared to be held in trust by this Act: *Provided*, That the Secretary of the Interior may act for any minor without natural parent or guardian, adjudicated incompetent, or unknown heir in effecting any such transfer.

(b) The Fallon Paiute and Shoshone Tribes Business Council or the Secretary of the Interior, acting at the request of the tribes, is authorized to acquire, with funds provided by the Fallon Paiute and Shoshone Tribes, through purchase, gift, or exchange, the water rights appurtenant to any allotted lands within the boundaries of the Fallon Indian Reservation. The tribes are hereby authorized to transfer such acquired water right, or any part thereof, to the lands, or any part thereof, declared to be held in trust by this Act. The title to all water rights acquired, transferred, or developed under the authority of this Act shall be held in trust by the United States for the benefit of the Paiute and Shoshone Tribes of the Fallon Indian Reservation in Nevada.

SEC. 5. (a) The Fallon Paiute and Shoshone Tribes Business Council or the Secretary of the Interior, acting at the request of the tribes, is authorized to acquire, with funds provided by the Fallon Paiute and Shoshone Tribes, through purchase, gift, or exchange any lands or interest in lands within the boundaries of the Fallon Indian Reservation in Nevada for the purpose of consolidating landholdings, eliminating fractionated heirship interests in Indian trust lands, providing land for any tribal program for the improvement of the economy of the tribe and its members through the development of industry, recreational facilities, housing projects, and the general rehabilitation and enhancement of the total resource potential of the reservation. Title to any land acquired under the authority of this Act shall be taken in the name of the United States in trust for the Paiute and Shoshone Tribes of the Fallon Indian Reservation in Nevada.

(b) Nothing in this section or subsection 4(b) of this Act shall confer any authority or impose any requirement on the Secretary to exchange, dispose of, or otherwise utilize other lands or interests therein under his administration in connection with any exchange, disposal, or acquisition of Indian trust land or interests therein authorized by this section and subsection 4(b) of this Act. Nothing in this section or in subsection 4(b) of this Act shall supersede or repeal by implication the requirements of the Act of October 21, 1976 (90 Stat. 2743). Any acquisition of exchange pursuant to this section or subsection 4(b) of this Act which involves public lands or interests therein as defined in the Act of October 21, 1976, shall also meet the requirements of said 1976 Act.

SEC. 6. Nothing in this Act shall affect rights subject to adjudication in United States against Alpine Land and Reservoir Company, et al., Equity No. D–183, U.S. Dist. Ct., Nevada, and United States against Truckee-Carson Irrigation District, et al., Civ. No. R–2987, U.S. Dist. Ct., Nevada.

SEC. 7. The Secretary of the Interior is authorized and directed to make as his first priority: (a) the improvement and extension of the existing system for the delivery and distribution of irrigation water within the Fallon Indian Reservation; (b) the construction of such additional canals, laterals, and irrigation works as are necessary to deliver sufficient water to irrigate the practicably irrigable acres included in the Fallon Indian Reservation pursuant to this Act; and, (c) the subjugation of up to one thousand eight hundred acres for agricultural purposes

To implement this section, there are hereby authorized to be appropriated up to $5,400,000 for construction purposes under this act, such amount to remain available until expended

Mr. CANNON. Mr. President, the bill under consideration culminates almost 6 years of effort in behalf of the Fallon Paiute-Shoshone Tribes of Fallon, Nev. It is intended to correct a serious injustice inflicted on the tribes more than 70 years ago.

In 1906, tribal members held more than 31,000 acres in 160-acre allotments located in what today is the heart of the Carson division of the Newlands reclamation project. In order to guarantee the success of the Newlands project, the United States requested that the Indians relinquish their allotments and retain a smaller part of the original allotment area. The members of the Fallon Paiute and Shoshone Tribes agreed on condition that all of the smaller land base contain arable acres and that the United States guarantee a free water right for the lands. The United States accepted the conditions of the Indians. The tribes relinquished approximately 26,000 acres of land and retained a 4,640-acre area which was ultimately reallotted in 10-acre allotments. In 1917, an 840-acre parcel was added to the Fallon Indian Reservation. The United States has purchased water rights to cover 4,877.3 acres of the 5,480-acre reservation. The tribes, however, have never been able to farm substantial portions of their lands because of waterlogging and the alkalic condition of the soil.

Today, due to soil and topographical conditions, 1,597 acres of Indian land with paid-up water rights on the Fallon Indian Reservation cannot be farmed. The purpose of S. 785 is to provide the Fallon Paiute and Shoshone Tribes lands that can be farmed. The 2,640-acre tract included in this legislation contains approximately 1,600 arable acres.

Additionally, the bill authorizes $1.25 million to be appropriated for the construction of water resource project facilities and the improvement and extension of the existing reservation water delivery system. If we are, in fact, to correct the injustice done to the tribes, it is essential that the tribes have a delivery system in place so that they can actually put their water right to beneficial use.

It has become necessary, because of the development of a unique situation, to make one amendment in the bill.

I ask unanimous consent to have printed in the RECORD a letter to Senator ABOUREZK from Mr. Krulitz, Department of the Interior.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. DEPARTMENT OF THE INTERIOR,
Washington, D.C., October 14, 1977.

Hon. JAMES ABOUREZK,
Chairman, Select Committee on Indian Affairs, Washington, D.C.

DEAR CHAIRMAN ABOUREZK: You asked us to address the question of whether or not the Secretary of Interior has the authority to allow the Indian allottees on the Fallon Reservation in Nevada to transfer the right, or any part thereof, to the use of water, appurtenant to other lands within the Fallon Reservation to the lands, or any part thereof, transferred to the Fallon Indian Reservation under S. 785.

The Secretary's authority in this matter is dictated by the statutes relating to reclamation projects. Several general statutes are applicable. The Secretary has general authority to supervise both Indian affairs and reclamation. 43 U.S.C. § 1457. Pursuant to 43 U.S.C. § 373 the Secretary has authority to perform any and all acts and to make rules and regulations as may be necessary and proper for the purpose of carrying on reclamation. 43 U.S.C. § 373. He is also authorized to regulate the use of water for irrigation on Indian reservations. 25 U.S.C. § 381. More specifically, applicable to the issue at hand, pursuant to the second paragraph in 43 U.S.C. § 389 the Secretary is authorized:

For the purpose of orderly and economical construction or operation and maintenance of any project to enter into contracts for exchange or replacement of water, water rights, or electric energy or for the adjustment of water rights as in his judgment are necessary and in the interests of the United States and the project.

Nothing in the general grants of authority to the Secretary regarding either reclamation or Indians forecloses the transfer of water rights to and the use of water on lands other than those originally certificated. 42 U.S.C. § 389 anticipates and gives authority for such transfers.

The water certificates issued originally in the name of the Commissioner of Indian Affairs for Fallon Indian Reservation lands were issued pursuant to the Reclamation Act. 43 U.S.C. § 389 authorizing contracts for exchange or replacement of water, water rights or electric energy or for the adjustment of water rights is applicable to the Fallon water certificates. Should the situation arise in which the reclamation of irrigable lands cannot be accomplished without a transfer of water rights, the Secretary could, pursuant to 43 U.S.C. § 389, make the necessary water rights adjustments in the interests of the project or the United States. In fact, precedent for such actions is evidenced by the departmental transfer forms printed for the purpose of applications for transfers.

On March 2, 1973, operating criteria and procedures for coordinated operation and control of the Truckee and Carson Rivers for service to the Newlands Project (Nevada), from which the Fallon Reservation gets its waters, were published.

The language of the criteria recognizes the authority of the Secretary to approve such transfers. Though couched in the negative and though placing limitations upon the Secretary before approval can be granted, nevertheless, the language recognizes the Secretary's authority and plainly contemplates transfers:

The Secretary shall not approve applications for transfers of water rights within the Newlands Project pursuant to 43 U.S.C.

§ 389 unless he finds . . . Transfers of water rights shall be restricted to the extent that there shall be no enlarged consumptive use of water within the lands of the Newlands Project. 38 F.R. 6697.

The criteria as set forth are still in effect. 42 F.R. 39492. The provisos set forth the parameters of the authority, they do not address the question of whether or not the authority exists.

One final note, apparently because the Truckee-Carson Irrigation District has violated the Secretary's operating criteria, the Secretary has at his discretion determined not to approve any further transfers of water rights on the Newlands Project. However, that is not to say he is without authority under 43 U.S.C. § 389 to make a determination otherwise.

The Secretary of Interior does have the authority to approve the transfer of water rights on the Fallon Reservation from certificated lands to other lands to be acquired under S. 785. Whether or not such transfers as a practical matter can or will actually be approved at any particular point in time is another matter and is not addressed in this letter.

Sincerely,

LEO KRULITZ,
Solicitor.

UP AMENDMENT NO. 947

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. CANNON and Mr. LAXALT, I send an amendment to the desk and ask that it be stated.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The legislative clerk read as follows:

The Senator from West Virginia (Mr. ROBERT C. BYRD), on behalf of the Senators from Nevada (Mr. CANNON and Mr. LAXALT), proposes an unprinted amendment numbered 947.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

Beginning with page 8, line 11, strike out all through page 9, line 11, and insert in lieu thereof the following: "SEC. 4. The Fallon Paiute and Shoshone Tribes Business Council or the Secretary of the Interior, acting at the request of the tribes, is authorized to acquire, with funds provided by the Fallon Paiute and Shoshone Tribes, through purchase, gift, or exchange, the water rights appurtenant to any allotted lands within the boundaries of the Fallon Indian Reservation. The title to all water rights acquired, transferred, or developed under the authority of this Act shall be held in trust by the United States for the benefit of the Paiute and Shoshone Tribes of the Fallon Indian Reservation in Nevada.".

Mr. CANNON. Mr. President, this amendment deletes language in section 4 of the bill which authorizes the transfer of water rights held by the tribes to any lands conveyed by this bill.

Since May 1973, the Department of the Interior has not permitted the transfer of water rights from one parcel to another within the Truckee-Carson Irrigation District as a result of litigation involving the allocation of water from the Truckee River.

The Secretary is authorized by law to administer reclamation projects such as the Newlands project and also to carry out trust responsibilities for Indian tribes. The amendment will permit administrative consideration of these coordinate interests at the proper time. The effect of this amendment is to place the Paiute-Shoshone Tribes on the same footing with respect to the Department's water rights transfer policy as all other water users within the Newlands project. The amendment is not intended to prejudice any administrative action by the Department or to preclude the transfer of water rights held by the tribes or allottees to any lands conveyed by this bill at an appropriate time as determined by the Secretary.

This amendment has been accepted by the Fallon Paiute-Shoshone Tribes and has been cleared by the Select Committee on Indian Affairs and by the Department of the Interior.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the amendment of the Senators from Nevada.

The amendment was agreed to.

The ACTING PRESIDENT pro tempore. If there be no further amendments to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The ACTING PRESIDENT pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 785

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) subject to valid existing rights, all right, title, and interest of the United States in two thousand seven hundred acres, more or less, described below are hereby declared to be held in trust for the Paiute and Shoshone Tribes of the Fallon Indian Reservation and Colony, Nevada:

MOUNT DIABLO MERIDIAN

Township 19 north, range 29 east, section 29, south half northwest quarter northwest quarter and the southwest quarter northwest quarter;

Township 19 north, range 30 east, section 2, northwest quarter; section 3, north half and southwest quarter; section 4, all; section 8, north half and southwest quarter;

Township 20 north, range 30, east; section 33; south half; section 34, south half; section 35, half southeast quarter and southwest quarter.

(b) Notwithstanding any other provision of this Act, the United States shall be entitled to use, without compensation, for so long as necessary, as determined by the Secretary of the Interior, four acres, more or less, of such lands referred to in subsection (a) for irrigation canal purposes.

SEC. 2. The lands held in trust pursuant to this Act shall be included in and deemed a part of the Fallon Indian Reservation and Colony, Nevada.

SEC. 3. The Paiute and Shoshone Tribes of the Fallon Indian Reservation and Colony shall hereafter be entitled, from the date of enactment of this Act, to the revenues to be received by the United States under any existing lease, contract, permit, right-of-way, or easement covering lands declared to be held in trust by this Act. In the event that such trust lands do not cover all of the land embraced within any such lease, contract, permit, right-of-way, or easement, said tribes shall hereafter be entitled, from the date of enactment of this Act, to the proportionate amount of the revenues to be received by the United States under any existing lease, contract, permit, right-of-way, or easement which results from multiplying the total of such revenues by a fraction in which the numerator is the acreage of such lease, contract, permit, right-of-way, or easement which is included in the land declared to be held in trust pursuant to this Act and the denominator is the total acreage contained in such lease, contract, permit, right-of-way, or easement.

SEC. 4. The Fallon Paiute and Shoshone Tribes Business Council or the Secretary of the Interior acting at the request of the tribes, is authorized to acquire, with funds provided by the Fallon Paiute and Shoshone Tribes, through purchase, gift, or exchange the water rights appurtenant to any allotted lands within the boundaries of the Fallon Indian Reservation. The title to all water rights acquired, transferred, or developed under the authority of this Act shall be held in trust by the United States for the benefit of the Paiute and Shoshone Tribes of the Fallon Indian Reservation in Nevada.

SEC. 5. (a) The Fallon Paiute and Shoshone Tribes Business Council or the Secretary of the Interior, acting at the request of the tribes, is authorized to acquire, with funds provided by the Fallon Paiute and Shoshone Tribes, through purchase, gift, or exchange any lands or interest in lands within the boundaries of the Fallon Indian Reservation in Nevada for the purpose of consolidating landholdings, eliminating fractionated heirship interests in Indian trust lands, providing land for any tribal program for the improvement of the economy of the tribe and its members through the development of industry, recreational facilities, housing projects, and the general rehabilitation and enhancement of the total resource potential of the reservation. Title to any land acquired under the authority of this Act shall be taken in the name of the United States in trust for the Paiute and Shoshone Tribes of the Fallon Indian Reservation in Nevada.

(b) Nothing in this section or subsection 4(b) of this Act shall confer any authority or impose any requirement on the Secretary to exchange, dispose of, or otherwise utilize other lands or interests therein under his administration in connection with any exchange, disposal, or acquisition of Indian trust land or interests therein authorized by this section and subsection 4(b) of this Act. Nothing in this section or in subsection 4(b) of this Act shall supersede or repeal by implication the requirements of the Act of October 21, 1976 (90 Stat. 2743). Any acquisition of exchange pursuant to this section or subsection 4(b) of this Act which involves public lands or interests therein as defined in the Act of October 21, 1976, shall also meet the requirements of said 1976 Act.

SEC. 6. Nothing in this Act shall affect rights subject to adjudication in United States against Alpine Land and Reservoir Company, et al., Equity No. D-183, U.S. Dist. Ct., Nevada, and United States against Truckee-Carson Irrigation District, et al., Civ. No. R-2987, U.S. Dist. Ct., Nevada.

SEC. 7. The Secretary of the Interior is authorized and directed to make as his first priority: (a) the improvement and extension of the existing system for the delivery and distribution of irrigation water within the Fallon Indian Reservation; (b) the construction of such additional canals, laterals, and irrigation works as are necessary to deliver sufficient water to irrigate the practicably irrigable acres included in the Fallon Indian Reservation pursuant to this Act; and, (c) the subjugation of up to one thousand eight hundred acres for agricultural purposes.

To implement this section, there are hereby authorized to be appropriated up to $5,400,000 for construction purposes under this Act, such amount to remain available until expended.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The title was amended so as to read:

A bill to declare that all right, title, and interest of the United States in two thousand seven hundred acres, more or less, are hereby held in trust for the Paiute and Shoshone Tribes of the Fallon Indian Reservation and Colony, Fallon, Nevada, to promote the economic self-sufficiency of the Paiute and Shoshone Tribes, and for other purposes.

ORDER FOR RECOGNITION OF SENATOR ALLEN ON WEDNESDAY, THURSDAY, AND FRIDAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on Wednesday, Thursday, and Friday—October 19, 20, and 21—Mr. ALLEN be recognized for not to exceed 15 minutes at the beginning of each day, following the orders for the recognition of the two leaders or their designees.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on Wednesday of this week, immediately after the orders for the recognition of Senators, Mr. WILLIAMS be recognized to call up a minimum wage conference report; that upon the disposition of the conference report, the Senate proceed to the consideration of Calendar No. 451, the bill to amend the Age Discrimination in Employment Act; that upon the disposition of that measure, the Senate proceed to the consideration of Calendar No. 433, the veterans bill; that upon the disposition of that bill, the Senate proceed to the consideration of Calendar No. 449, the wilderness bill; that on that measure there be a time limitation of 4 hours on the bill, to be equally divided between Mr. CHURCH and Mr. HANSEN, with 1 hour on any amendment, 30 minutes on any amendment in the second degree, and 20 minutes on any debatable motion, appeal, or point of order; that there be a 2-hour limitation on an amendment by Mr. DOMENICI, and that the agreement be in the usual form.

Mr. BAKER. Mr. President, reserving the right to object—and I will not object—I wonder whether the majority leader would consider an amendment to that request, to provide that Calendar No. 449, the wilderness bill, in any event would not be made the pending business before Thursday. That was the agreement we had worked out with the distinguished Senator from California.

Mr. ROBERT C. BYRD. Yes, that is agreeable.

The ACTING PRESIDENT pro tempore. Is there objection? The Chair hears none, and it is so ordered.

The text of the unanimous-consent agreement is as follows:

Ordered, That when the Senate proceeds to the consideration of H.R. 3454 (Order No. 449), an act to designate certain endangered public lands for preservation as wilderness, to provide for the study of additional endangered public lands for such designation, to further the purposes of the Wilderness Act of 1964, and for other purposes, debate on any amendment in the first degree (except an amendment to be offered by the Senator from New Mexico (Mr. DOMENICI), on which there shall be 2 hours) shall be limited to 1 hour, to be equally divided and controlled by the mover of such and the manager of the bill, debate on any amendment in the second degree shall be limited to 30 minutes, to be equally divided and controlled by the mover of such and the manager of the bill, and debate on any debatable motion, appeal, or point of order which is submitted or on which the Chair entertains debate shall be limited to 20 minutes, to be equally divided and controlled by the mover of such and the manager of the bill: *Provided*, That in the event the manager of the bill is in favor of any such amendment or motion, the time in opposition thereto shall be controlled by the minority leader or his designee: *Provided further*, That no amendment that is not germane to the provisions of the said bill shall be received.

Ordered further, That on the question of final passage of the said bill, debate shall be limited to 4 hours, to be equally divided and controlled, respectively, by the Senator from Idaho (Mr. CHURCH) and the Senator from Wyoming (Mr. HANSEN): *Provided*, That the said Senators, or either of them, may, from the time under their control on the passage of the said bill, allot additional time to any Senator during the consideration of any amendment, debatable motion, appeal, or point of order.

ORDER FOR ADJOURNMENT UNTIL 9 A.M., WEDNESDAY, OCTOBER 19, 1977

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 8:30 a.m. on Wednesday.

Mr. ALLEN. Mr. President, will the Senator make that 9 o'clock, on account of the Senate prayer breakfast?

Mr. ROBERT C. BYRD. Yes. I will be glad to change my request.

I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9 a.m. Wednesday next.

The ACTING PRESIDENT pro tempore. Is there objection? The Chair hears none, and it is so ordered.

CORRECTION IN ENGROSSMENT OF SENATE AMENDMENTS TO H.R. 4018 (S. CON. RES. 58)

Mr. BAKER. Mr. President, I send to the desk a concurrent resolution and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The clerk will state the concurrent resolution.

The legislative clerk read as follows:

S. CON. RES. 58

Resolved by the Senate (the House of Representatives concurring), That the following language be inserted immediately after section 141 in the engrossment of the Senate amendments to H.R. 4018 and be considered as being in conference:

SEC. 141A. No action by the Federal Power Commission pursuant to this or any other Act shall, directly or indirectly, take from a natural gas distribution company any volumes of gas which such company demonstrates resulted from energy conservation measures: *Provided, however*, That such conserved volumes shall be applied first to existing residential customers, second to existing small commercial customers, third to existing industrial customers with nonsubstitutable natural gas requirements, and fourth to other customers.

For purposes of this section, the term "natural gas distribution company" means any utility which sells natural gas.

For purposes of this section, the term "energy conservation measures" includes but is not limited to measures taken pursuant to a residential energy conservation plan as defined in the National Energy Conservation Policy Act.

The ACTING PRESIDENT pro tempore. Is there objection to the present consideration of the concurrent resolution?

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. BAKER. Mr. President, I have sent this concurrent resolution to the desk on behalf of the distinguished Senator from Michigan (Mr. GRIFFIN). It relates to the supplying of an omission through a clerical error of the so-called savers-keepers amendment to the utility regulatory bill, S. 2114, to H.R. 4018, which is now in conference.

It is my understanding that the conferees will meet this week and that since this matter is now in conference, the error—that is, the omission of this amendment from the engrossed bill—can only be supplied by the adoption of this concurrent resolution. It is for that purpose that the concurrent resolution is offered at this time.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the concurrent resolution.

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object—and I will not object, of course—this resolution has been cleared on this side of the aisle, and it was for the purpose accurately stated by the minority leader that there was no objection to the consideration of the resolution on this side of the aisle.

The concurrent resolution was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the concurrent resolution was agreed to.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

THE PANAMA CANAL TREATIES

Mr. THURMOND. Mr. President, late Friday evening, President Carter and General Torrijos issued an unsigned joint statement of understanding on differing

United States and Panamanian interpretations of the treaties.

After reading press reports over the weekend, it appears the so-called understanding is a very informal diplomatic document. It is not even a signed agreement as General Torrijos pointedly said on his return to Panama when he declared in a cavalier manner, "I haven't even signed an autograph."

On the issue of intervention, the statement, in part, provides—

. . . each of the two countries shall in accordance with their respective constitutional processes, defend the Canal against any threat to the regime of neutrality, and consequently shall have the right to act against any aggression or threat directed against the Canal or against the peaceful transit of vessels through the Canal.

In addition to this language, however, the joint statement provides—

This does not mean, nor shall it be interpreted as a right of intervention of the United States in the internal affairs of Panama.

The point is that the canal becomes internal to the affairs of Panama 6 months after ratification of the treaties. Sovereignty and control pass to Panama, and any action taken by the United States will be subject to the above proscription. I am unable to determine who defines intervention or what the definition of intervention would be.

The issue of expeditious passage also remains unclear. I am unable to discern who determines priority passage and what conditions constitute emergencies sufficient to bring about expedited treatment.

This vague two-party statement has clarified nothing, and any further drafting should be approached as treaty amendments, not general statements subject to varying interpretations. The new "understanding" is merely an interpretation of the treaties by the current leaders of the two countries affected and the fact such an interpretation was needed testifies to the ambiguities in the treaty itself. Only the treaties are permanent and only the treaty documents will serve as a basis for future decisions.

Today the United States does not base its rights in Panama on what leaders of that period said it meant, but rather upon the bare words of the 1903 treaty itself. This same application will apply in future years to the Panama Canal treaties we are being asked to ratify today.

Even if the statements were clear, which they are not; even if they were signed, which they are not; even if they were in the form of amendments, which they are not; they still leave unsettled the central objection to the treaties—relinquishing ownership and control of a vital commercial and defense asset to the unstable, left-wing dictatorship of General Torrijos.

Again, the question comes to mind—Who can best operate, defend, and keep the canal open for the rest of the world—the United States or the Torrijos regime?

Mr. President, in order to share a number of news items on this matter with my colleagues, I ask unanimous consent that the statement of understanding as issued by the White House, the Foreign Information Service broadcast report, and an article carried by the Washington Post, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STATEMENT OF UNDERSTANDING

Under the Treaty Concerning the Permanent Neutrality and Operation of the Panama Canal (the Neutrality Treaty), Panama and the United States have the responsibility to assure that the Panama Canal will remain open and secure to ships of all nations. The correct interpretation of this principle is that each of the two countries shall, in accordance with their respective constitutional processes, defend the Canal against any threat to the regime of neutrality, and consequently shall have the right to act against any aggression or threat directed against the Canal or against the peaceful transit of vessels through the Canal.

This does not mean, nor shall it be interpreted as a right of intervention of the United States in the internal affairs of Panama. Any United States action will be directed at insuring that the Canal will remain open, secure and accessible, and it shall never be directed against the territorial integrity or political independence of Panama.

The Neutrality Treaty provides that vessels of war and auxiliary vessels of the United States and Panama will be entitled to transit the Canal expeditiously. This is intended, and it shall so be interpreted, to assure the transit of such vessels through the Canal as quickly as possible, without any impediment, with expedited treatment, and in case of need or emergency, to go to the head of the line of vessels in order to transit the Canal rapidly.

[From the Foreign Information Broadcast Service]

PANAMA: TORRIJOS RETURNS, SAYS NOTHING SIGNED IN WASHINGTON

Gen. Omar Torrijos Herrera arrived back home at 1700 today, when all the world's newspapers are reporting and commenting on his interview this morning with President Jimmy Carter. He returned in a special jet which landed at the Rio Hato Air Base. He was accompanied by Agricultural Development Minister Col. Ruben Dario Paredes, Presidency Minister Fernando Manfredo and Romulo Escobar Bethancourt, chief of the Panamanian negotiating team. He was also accompanied by special guard Sergent Jose de Jesus Martinez and his private secretary, Celia De Gaswell.

General Torrijos was received by the Rio Hato garrison chiefs and by the guards which are stationed at his farallon home. Our reporters filmed General Torrijos arrival and recorded his brief statements concerning his long and positive trip.

Torrijos said that he was tired from the trip and wanted to rest before making extensive statements. He said that he considered the tour very beneficial for Panama and that we could rest assured that everything negotiated and everything discussed was in his people's favor. He added that he understands that the people are very defensive concerning their sovereignty and that during his meeting with President Carter he had not signed even one autograph. Questioned about the comments which arose after his meeting with Carter, Torrijos repeated that he had signed nothing at all and had done nothing to change the new treaties signed on 7 September. He said that the small groups which are opposed to the treaties also have their rights, but that this is nothing to worry about, that on the contrary, this provides stimulation for positive accomplishments.

Torrijos' wife, children and other relatives arrived on a special flight in Rio Hato a few minutes after Torrijos arrived. Bidding farewell to our reporter Santa Maria Llamas, Torrijos said that he will soon hold a news conference.

[From the Washington Post, Oct. 16, 1977]

GEN. OMAR TORRIJOS DENIES SIGNING NEW CANAL PACT

PANAMA CITY, October 15.—Gen. Omar Torrijos, fresh from a meeting with President Carter on the Panama Canal treaties, has denied reports here that he signed a pact giving the United States the right to military intervention in the canal.

"I haven't even signed an autograph," Torrijos said yesterday when his flight from Washington landed at the Rio Hato air force base, near his beach house. He said he was too tired to make further comments.

Torrijos said Carter had been very affable and that they had talked about the process of ratifying Panama Canal treaties by the U.S. Senate and the people of Panama.

[After Torrijos and Carter met Friday, the United States and Panama issued a joint communique clarifying Washington's treaty right to intervene to maintain neutrality of the canal even after it reverts to Panamanian control in the year 2000. Neither leader signed the communique.]

CORRECTION OF ENROLLMENT OF S. 717

Mr. WILLIAMS. Mr. President, I send to the desk a concurrent resolution and ask unanimous consent for its immediate consideration.

The ACTING PRESIDENT pro tempore. The concurrent resolution will be stated.

The legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 57) to correct the enrollment of S. 717.

The ACTING PRESIDENT pro tempore. Without objection, the Senate will proceed to its consideration.

Mr. WILLIAMS. Mr. President, this is, as it is stated, necessary to correct some errors that appeared in the conference report on S. 717, and it is as simple as that. All have agreed this is necessary to correct those errors.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the concurrent resolution.

The concurrent resolution was agreed to, as follows:

Resolved by the Senate (the House of Representatives concurring), That the Secretary of the Senate is authorized and directed, in the enrollment of the bill (S. 717) to promote safety and health in the mining industry, to prevent recurring disasters in the mining industry, and for other purposes, to make the following corrections:

(1) In section 101(a) of the Federal Coal Mine Health and Safety Act of 1969, as amended by section 201 of the bill, insert "this section and in accordance with" after "in" the second time it appears.

(2) In section 101(c) of the Federal Coal Mine Health and Safety Act of 1969, as amended by section 201 of the bill, strike "health or".

(3) In section 104(h) of the Federal Coal Mine Health and Safety Act of 1969, as amended by section 201 of the bill, strike "subsections (b), (c), or (d)" and substitute "this section".

(4) In the fourth sentence of section 109 (d) of the Federal Coal Mine Health and Safety Act of 1969, as amended by section 201 of the bill, strike "case," and substitute "case".

(5) In section 110(d) of the Federal Coal Mine Health and Safety Act of 1969, as amended by section 201 of the bill, insert "and section 107" immediately after "section 104".

(6) In section 115(c) of the Federal Coal Mine Health and Safety Act of 1969, as amended by section 201 of the bill, strike "(g)" and substitute "(f)".

(7) In section 202(e) of the Federal Coal Mine Health and Safety Act of 1969, as amended by section 202(a) of the bill, strike "means" and substitute "mean".

(8) In section 301(b)(1) of the bill, strike "or other".

(9) In section 301(b)(2) of the bill, strike "under section 101 of the Federal Mine Safety and Health Act of 1977.".

(10) (A) In section 302(a) of the bill, strike "Amendments", and (B) strike "Mining Enforcement and Safety" and substitute "Mine Safety and Health".

(11) In section 303(a)(5) of the bill, strike "last" and substitute "first".

(12) In section 305 of the bill, strike "Health and Safety" and substitute "Safety and Health".

Mr. WILLIAMS. Mr. President, I move to reconsider the vote by which the concurrent resolution was agreed to.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will not be in session tomorrow, it being felt that by the Senate going over until Wednesday this will give the Senate conferees on various measures that are in conference an opportunity to work throughout the day without interruption by rollcalls and quorum calls in the Senate Chamber, and the Senate will also be awaiting the further processing of measures on which action will be necessary before the Senate adjourns for the year. It is hoped that conferees will be able to take advantage of this full day tomorrow.

On Wednesday, the Senate will convene at 9 a.m., and after the two leaders or their designees are recognized under the standing order, there will be five Senators for whom orders have already been entered beginning with Mr. ALLEN and proceeding with Mr. MOYNIHAN, Mr. SCHWEIKER, Mr. FORD, and Mr. GLENN, not necessarily in that order, but as they may for their own convenience arrange their appearance.

On the disposition of those orders, the Senate will take up the minimum wage conference report, H.R. 3744. Upon the disposition of that conference report, the Senate will take up Calendar Order No. 451, H.R. 5383, the Age Discrimination in Employment Act, and there is an agreement covering the debate on that bill and amendments thereto.

Upon the disposition of Calendar Order No. 451, the Senate will proceed to the consideration of Calendar Order No. 433, S. 457, a bill to extend the delimiting period for completion for certain veterans, and other certain conditions, and that bill is under a time limitation agreement. So there will be rollcall votes throughout the day on Wednesday. I anticipate that the Senate could be in late in order to complete action on both of those measures.

The wilderness bill, Calendar Order No. 449, H.R. 3454 is also under a time limitation agreement, but it will not be taken up on Wednesday. That would be a good candidate for Senate consideration on Thursday.

ADJOURNMENT UNTIL 9 A.M. WEDNESDAY, OCTOBER 19, 1977

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move in accordance with the previous order, that the Senate stand in adjournment until the hour of 9 a.m. on Wednesday.

The motion was agreed to; and at 7:04 p.m., the Senate adjourned until Wednesday, October 19, 1977, at 9 a.m.

NOMINATIONS

Executive nominations received by the Senate, October 17, 1977:

AMBASSADOR

George H. Aldrich, of Virginia, for the rank of Ambassador during the tenure of his service as Deputy Special Representative of the President of the United States for the Law of the Sea Conference, and Deputy Chief of Delegation.

FEDERAL COMMUNICATIONS COMMISSION

Tyrone Brown, of the District of Columbia, to be a member of the Federal Communications Commission for the unexpired term of 7 years from July 1, 1972, vice Benjamin L. Hooks, resigned.

THE JUDICIARY

Pierre N. Leval, of New York, to be U.S. district judge for the southern district of New York, vice Donald B. Bonsal, retired.

IN THE ARMY

The following-named officer under the provisions of title 10, United States Code, section 3066, to be assigned to a position of importance and responsibility designated by the President under subsection (a) of section 3066, in grade as follows:

To be lieutenant general

Maj. Gen. Richard Luther West, 384–12–6688, U.S. Army.

IN THE AIR FORCE

The following officers for appointment in the Regular Air Force, in the grade indicated, under the provisions of section 8284, title 10, United States Code, with date of rank to be determined by the Secretary of the Air Force:

To be first lieutenant

Adams, John W., xxx-xx-xxxx
Adams, William D., Jr., xxx-xx-xxxx
Aertker, Alan F., xxx-xx-xxxx
Agnew, Robert F., xxx-xx-xxxx
Albaugh, Gary L., xxx-xx-xxxx
Albergo, Epifanio J., xxx-xx-xxxx
Albright, Randolph A., xxx-xx-xxxx
Allenback, Albert A., Jr., xxx-xx-xxxx
Alston, Warner L., xxx-xx-xxxx
Altendorf, Dennis A., xxx-xx-xxxx
Alvstad, Martin C., xxx-xx-xxxx
Anders, Melvin D., xxx-xx-xxxx
Anderson, Carolyn N., xxx-xx-xxxx
Anderson, Darrell E., xxx-xx-xxxx
Anderson, Donald L., xxx-xx-xxxx
Anderson, Gerald, xxx-xx-xxxx
Anderson, Steven T., xxx-xx-xxxx
Andrews, Mark W., xxx-xx-xxxx
Ashley, Eugene D., xxx-xx-xxxx
Ashton, Mark S., xxx-xx-xxxx
Aultman, Ronnie W., xxx-xx-xxxx
Auschwitz, Freddie G., xxx-xx-xxxx
Ausenbaugh, James B., xxx-xx-xxxx
Austin, Terry W., xxx-xx-xxxx
Baker, Joel M., xxx-xx-xxxx
Bartlett, Michael W., xxx-xx-xxxx
Bartok, John N., xxx-xx-xxxx
Baryza, Francis X., xxx-xx-xxxx
Bateman, Charles S., xxx-xx-xxxx
Battagliola, John W., xxx-xx-xxxx
Batten, Reginald W., xxx-xx-xxxx
Bauer, Robert L., xxx-xx-xxxx
Baughman, Richard E., xxx-xx-xxxx
Bayles, George W., xxx-xx-xxxx
Beaver, John W., Jr., xxx-xx-xxxx
Beckham, Garry M., xxx-xx-xxxx
Beekman, Annabelle D., xxx-xx-xxxx
Beil, David L., xxx-xx-xxxx
Beisser, Frederick G., xxx-xx-xxxx
Beitel, Richard J., xxx-xx-xxxx
Bell, Larry L., xxx-xx-xxxx
Benda, Mark F., xxx-xx-xxxx
Berggren, Stephen R., xxx-xx-xxxx
Bergjans, Steven B., xxx-xx-xxxx
Betsher, Terry A., xxx-xx-xxxx
Beveridge, Daniel J., xxx-xx-xxxx
Beverley, Donald B., xxx-xx-xxxx
Bierig, Barry N., xxx-xx-xxxx
Birt, Harold E., Jr., xxx-xx-xxxx
Blair, George R., Jr., xxx-xx-xxxx
Bogert, Jean, xxx-xx-xxxx
Bondzeleske, Edward A., xxx-xx-xxxx
Bonillavaldez, Jesus M., xxx-xx-xxxx
Booker, Grover L., xxx-xx-xxxx
Borgersen, Karl N., xxx-xx-xxxx
Bottemiller, Kenneth W., xxx-xx-xxxx
Bourgeois, Chris M., xxx-xx-xxxx
Boyd, Donald E., xxx-xx-xxxx
Bradley, Charles T., xxx-xx-xxxx
Bradshaw, Richard C., xxx-xx-xxxx
Brashear, Michael D., xxx-xx-xxxx
Braswell, James C., Jr., xxx-xx-xxxx
Braun, Werner, W. F., xxx-xx-xxxx
Brendel, Lance C., xxx-xx-xxxx
Bringman, Marc A., xxx-xx-xxxx
Brooks, Charles P., Jr., xxx-xx-xxxx
Brotchie, Craig F., xxx-xx-xxxx
Bryant, Seth C., Jr., xxx-xx-xxxx
Buchenholz, Dennis M., xxx-xx-xxxx
Buck, Robert S., xxx-xx-xxxx
Buntyn, John R., Jr., xxx-xx-xxxx
Bures, Gary L., xxx-xx-xxxx
Burmeister, William H., xxx-xx-xxxx
Burnett, Louis R., xxx-xx-xxxx
Bush, Robert A., xxx-xx-xxxx
Bynum, David J., xxx-xx-xxxx
Byrd, Robert W., xxx-xx-xxxx
Byrne, Carolyn E., xxx-xx-xxxx
Byrne, John M., xxx-xx-xxxx
Byron, Michael W., xxx-xx-xxxx
Byzewski, Robert H., xxx-xx-xxxx
Caldwell, George A., xxx-xx-xxxx
Calkins, John W., xxx-xx-xxxx
Capell, Richard S., xxx-xx-xxxx
Carignan, Edouard A. J., xxx-xx-xxxx
Carpenter, Ronald L., xxx-xx-xxxx
Carroll, David D., xxx-xx-xxxx
Carter, Christopher W., xxx-xx-xxxx
Carter, Glen, xxx-xx-xxxx
Carter, Richard M., xxx-xx-xxxx
Cawl, George A., xxx-xx-xxxx
Chaney, James H., xxx-xx-xxxx
Chapman, Raymond C., Jr., xxx-xx-xxxx
Charles, James P., xxx-xx-xxxx
Chauret, Keith N., xxx-xx-xxxx
Chealander, Steven R., xxx-xx-xxxx
Cherry, Dennis L., xxx-xx-xxxx
Chestler, Harry C., xxx-xx-xxxx
Childs, Henry, xxx-xx-xxxx
Cisler, Douglas G., xxx-xx-xxxx
Clark, Jerry L., xxx-xx-xxxx
Clarke, Marvin C., xxx-xx-xxxx
Clayton, Patricia B., xxx-xx-xxxx
Clemons, Eugene, Jr., xxx-xx-xxxx
Clifford, James A., xxx-xx-xxxx
Coats, Robert L., xxx-xx-xxxx
Cohen, Anita Irene, xxx-xx-xxxx
Coker, Oliver D., III, xxx-xx-xxxx
Collins, David E., xxx-xx-xxxx
Columbo, Ronald, xxx-xx-xxxx
Comins, Donald J., xxx-xx-xxxx

Comley, Richard W., xxx-xx-xxxx.
Connell, Thomas M., II, xxx-xx-xxxx.
Connelly, Norris L., xxx-xx-xxxx.
Conrey, William M., Jr., xxx-xx-xxxx.
Cooksey, George D., xxx-xx-xxxx.
Cooper, Robert T., xxx-xx-xxxx.
Counts, Richard W., xxx-xx-xxxx.
Cravens, Michael A., xxx-xx-xxxx.
Crawford, Phillip J., xxx-xx-xxxx.
Crist, William H., xxx-xx-xxxx.
Crook, Jimmy C., xxx-xx-xxxx.
Crossey, Terrence G., xxx-xx-xxxx.
Cruea, Ernest D., xxx-xx-xxxx.
Cucinella, Gina C., xxx-xx-xxxx.
Curtis, Mary C., xxx-xx-xxxx.
Curtiss, Glenn D., xxx-xx-xxxx.
Cwiak, James J., xxx-xx-xxxx.
Daley, Michael P., xxx-xx-xxxx.
Dalrymple, Kimberly J., xxx-xx-xxxx.
Daniel, Jean C., xxx-xx-xxxx.
Daniels, Ronald H., xxx-xx-xxxx.
Dash, Michael G., xxx-xx-xxxx.
Day, Myles E., xxx-xx-xxxx.
Dayton, Thomas E., xxx-xx-xxxx.
Deangelo, James R., Jr., xxx-xx-xxxx.
Defronzo, Michael, xxx-xx-xxxx.
Delker, Warren B., xxx-xx-xxxx.
Dendy, Lewis H., Jr., xxx-xx-xxxx.
Denesia, Thomas E., xxx-xx-xxxx.
Derrell, John H., xxx-xx-xxxx.
Devereux, Desmond C., xxx-xx-xxxx.
Devore, Roger K., xxx-xx-xxxx.
Dewitt, Gary M., xxx-xx-xxxx.
Dickerson, Harry W., Jr., xxx-xx-xxxx.
Dittl, Michael L., xxx-xx-xxxx.
Dixon, Malcolm R., III, xxx-xx-xxxx.
Doan, Robert D., xxx-xx-xxxx.
Dodds, Dale I., Jr., xxx-xx-xxxx.
Dodge, Clark F., II, xxx-xx-xxxx.
Doherty, John R., xxx-xx-xxxx.
Doiron, Michael J., xxx-xx-xxxx.
Donnell, James H., xxx-xx-xxxx.
Donovan, Eddylou, xxx-xx-xxxx.
Duffy, Larry G., xxx-xx-xxxx.
Dugan, Thomas R., xxx-xx-xxxx.
Duggan, John J., xxx-xx-xxxx.
Dulaney, Bob D., xxx-xx-xxxx.
Duncan, Kathleen T., xxx-xx-xxxx.
Duran, Wesley E., xxx-xx-xxxx.
Dziuban, Richard V., xxx-xx-xxxx.
Ebert, George A., xxx-xx-xxxx.
Eberz, Robert, xxx-xx-xxxx.
Ebner, Douglas R., xxx-xx-xxxx.
Elder, James W., III, xxx-xx-xxxx.
Elliott, Barrett S., xxx-xx-xxxx.
Elliott, Dale A., xxx-xx-xxxx.
Emmons, Duane, xxx-xx-xxxx.
Essig, Tom A., xxx-xx-xxxx.
Estapa, Glenn A., xxx-xx-xxxx.
Estes, Ronald N., xxx-xx-xxxx.
Eversole, John F., III, xxx-xx-xxxx.
Ezzell, Richard A., xxx-xx-xxxx.
Faggart, James C., xxx-xx-xxxx.
Fass, Robert J., Jr., xxx-xx-xxxx.
Fedrizzi, Jefferson R., xxx-xx-xxxx.
Feeman, Robert J., xxx-xx-xxxx.
Felder, Larry L., xxx-xx-xxxx.
Fingerlin, Richard A., xxx-xx-xxxx.
Fish, John O., xxx-xx-xxxx.
Fisher, David M., xxx-xx-xxxx.
Fleishel, Victor S., xxx-xx-xxxx.
Flood, Charles J., xxx-xx-xxxx.
Flynn, Michael J., xxx-xx-xxxx.
Foote, Stephen D., xxx-xx-xxxx.
Foster, John O., xxx-xx-xxxx.
Foster, John W., Jr., xxx-xx-xxxx.
Fox, Jeffrey D., xxx-xx-xxxx.
Fox, Lowell E., xxx-xx-xxxx.
Foy, Leslie E., xxx-xx-xxxx.
Frederick, Robert A., xxx-xx-xxxx.
Frey, James L., xxx-xx-xxxx.
Friedly, Robert, xxx-xx-xxxx.
Fulbright, Barry D., xxx-xx-xxxx.
Furmanek, Frederick J., xxx-xx-xxxx.
Fussell, James C., xxx-xx-xxxx.
Gage, Wade M., xxx-xx-xxxx.
Garcia, Carlos R., xxx-xx-xxxx.
Gardner, J. C., Jr., xxx-xx-xxxx.
Garner, William B., xxx-xx-xxxx.
Garrison, Patrick M., xxx-xx-xxxx.
Gass, Gregory J., xxx-xx-xxxx.
Gatewood, James D., xxx-xx-xxxx.
Gavin, Dennis W., xxx-xx-xxxx.
Gee, David R., xxx-xx-xxxx.
Gemmill, Douglas D., xxx-xx-xxxx.
Giere, Martin D., xxx-xx-xxxx.
Gilchrist, Ronnie L., xxx-xx-xxxx.
Gillespie, Darrell D., xxx-xx-xxxx.
Gillis, John F., xxx-xx-xxxx.
Glass, Michael F., xxx-xx-xxxx.
Gmitter, Roy E., xxx-xx-xxxx.
Goebel, Lucky A., xxx-xx-xxxx.
Golley, Michele A., xxx-xx-xxxx.
Grainger, John C., xxx-xx-xxxx.
Grant, Graves J., Jr., xxx-xx-xxxx.
Green, James E., xxx-xx-xxxx.
Green, Thomas J., Jr., xxx-xx-xxxx.
Greenberg, Harvey R., xxx-xx-xxxx.
Grickis, Ronald G., xxx-xx-xxxx.
Griffin, Hal B., xxx-xx-xxxx.
Griffiths, Donald A., xxx-xx-xxxx.
Griffiths, David J., xxx-xx-xxxx.
Griggs, Roy A., xxx-xx-xxxx.
Gross, Wayne D., xxx-xx-xxxx.
Guerra, Robert R., xxx-xx-xxxx.
Gusmus, Louis M., xxx-xx-xxxx.
Hageney, Iris M., xxx-xx-xxxx.
Hall, Michael W., xxx-xx-xxxx.
Hall, David C., xxx-xx-xxxx.
Hall, June L., xxx-xx-xxxx.
Hall, Ronald D., xxx-xx-xxxx.
Hall, Ronald R., xxx-xx-xxxx.
Hallen, Andrew J., xxx-xx-xxxx.
Hallstrom, Robert N., xxx-xx-xxxx.
Hambrick, George M., xxx-xx-xxxx.
Hanson, Robert C., xxx-xx-xxxx.
Harding, Charles T., xxx-xx-xxxx.
Hare, Terry L., xxx-xx-xxxx.
Harrington, Steven M., xxx-xx-xxxx.
Harris, Donald, xxx-xx-xxxx.
Harris, Kenneth D., xxx-xx-xxxx.
Haszard, John R., xxx-xx-xxxx.
Hatfield, Terrell W., xxx-xx-xxxx.
Hawkins, Dennis L., xxx-xx-xxxx.
Hebert, Donald A., xxx-xx-xxxx.
Hebert, John S., xxx-xx-xxxx.
Hecke, Daniel L., xxx-xx-xxxx.
Henderson, Steven R., xxx-xx-xxxx.
Henley, Mark O., xxx-xx-xxxx.
Henry, William A., xxx-xx-xxxx.
Hickman, Paul S., xxx-xx-xxxx.
Hicks, David M., xxx-xx-xxxx.
Hicks, Donald L., xxx-xx-xxxx.
Higgs, Stephan D., xxx-xx-xxxx.
Hill, Wilson M., xxx-xx-xxxx.
Hillegass, Sallie H., xxx-xx-xxxx.
Hines, Bobbie J., xxx-xx-xxxx.
Hobbs, Craig L., xxx-xx-xxxx.
Hodgkins, Williams F., xxx-xx-xxxx.
Hoffsommer, Monty S., xxx-xx-xxxx.
Holland, Neil D., xxx-xx-xxxx.
Hollenberg, Joseph M., xxx-xx-xxxx.
Holshouser, Jeffrey, xxx-xx-xxxx.
Honeycutt, Earl D., Jr., xxx-xx-xxxx.
Honeycutt, Laura A., xxx-xx-xxxx.
Howell, John W., xxx-xx-xxxx.
Hrapla, Michael F., xxx-xx-xxxx.
Hresko, Michael J., xxx-xx-xxxx.
Hrynyk, Thomas P., xxx-xx-xxxx.
Huddleston, Richard A., Jr., xxx-xx-xxxx.
Hudspeth, Louis E., xxx-xx-xxxx.
Huff, Robbin G., xxx-xx-xxxx.
Hughes, Denis J., xxx-xx-xxxx.
Humphreys, William W., xxx-xx-xxxx.
Hunter, Kirk R., xxx-xx-xxxx.
Huntington, William B., xxx-xx-xxxx.
Husby, David J., xxx-xx-xxxx.
Hutchings, Robert K., xxx-xx-xxxx.
Hutchins, Robert V., xxx-xx-xxxx.
Ibero, Francisco J., xxx-xx-xxxx.
Ingalls, Michael L., xxx-xx-xxxx.
Jackson, Elmore, Jr., xxx-xx-xxxx.
Jackson, James J., Jr., xxx-xx-xxxx.
Jackson, Raymond M., xxx-xx-xxxx.
Jacobs, John A., xxx-xx-xxxx.
Jaggers, Jaureguy L., xxx-xx-xxxx.
Jagodnik, Warren L., xxx-xx-xxxx.
James, Larone L., xxx-xx-xxxx.
Jeanes, Gerald M., xxx-xx-xxxx.
Jenkins, Steven A., xxx-xx-xxxx.
Jimenez, Luis A., xxx-xx-xxxx.
Johansen, Pamela C., xxx-xx-xxxx.
Johnson, Clarence A., xxx-xx-xxxx.
Johnson, Donald I., xxx-xx-xxxx.
Johnson, James C., xxx-xx-xxxx.
Johnson, Jay G., xxx-xx-xxxx.
Johnson, Jessie L., xxx-xx-xxxx.
Johnson, Louis R., xxx-xx-xxxx.
Johnson, Ronald H., xxx-xx-xxxx.
Johnson, Ronald M., xxx-xx-xxxx.
Johnson, Sheila J., xxx-xx-xxxx.
Johnson, Thomas W., xxx-xx-xxxx.
Johnson, William W., xxx-xx-xxxx.
Johnston, Mickey L., xxx-xx-xxxx.
Jolly, Mark B., xxx-xx-xxxx.
Jones, Dennis A., xxx-xx-xxxx.
Jones, Douglas, Jr., xxx-xx-xxxx.
Jordan, Charles W., xxx-xx-xxxx.
Justet, Emil V., xxx-xx-xxxx.
Jydstrup, Jill B., xxx-xx-xxxx.
Kahle, Kenneth E., Jr., xxx-xx-xxxx.
Kaiser, Richard L., xxx-xx-xxxx.
Kallestad, Wayne H., xxx-xx-xxxx.
Karst, Joseph P., Jr., xxx-xx-xxxx.
Keeler, Terry W., xxx-xx-xxxx.
Keith, Charles D., xxx-xx-xxxx.
Kern, David W., xxx-xx-xxxx.
Khare, John F., xxx-xx-xxxx.
Kiessling, George C., Jr., xxx-xx-xxxx.
Kight, Mary J., xxx-xx-xxxx.
Kim, Jai K., xxx-xx-xxxx.
Kinzie, Daniel L., xxx-xx-xxxx.
Kirkpatrick, David L., xxx-xx-xxxx.
Kitchen, Donald R., xxx-xx-xxxx.
Kloeppel, James H., xxx-xx-xxxx.
Knall, William H., xxx-xx-xxxx.
Knoth, Robert L., xxx-xx-xxxx.
Knowles, Christopher G., xxx-xx-xxxx.
Knutson, Ella M., xxx-xx-xxxx.
Komar, David M., xxx-xx-xxxx.
Komisarz, Joseph J., xxx-xx-xxxx.
Korver, Gerald A., xxx-xx-xxxx.
Koslowski, Edward A., Jr., xxx-xx-xxxx.
Krenik, George T., xxx-xx-xxxx.
Krnavek, Ronald L., xxx-xx-xxxx.
Krohn, Daryl E., xxx-xx-xxxx.
Krussel, Larry J., xxx-xx-xxxx.
Kuerz, William F., II, xxx-xx-xxxx.
Kukier, Jesse V., xxx-xx-xxxx.
Kyles, Eddie E., xxx-xx-xxxx.
Lane, Nadine G., xxx-xx-xxxx.
Lane, Vernon K., xxx-xx-xxxx.
Langley, Richard L., xxx-xx-xxxx.
Latham, James M., xxx-xx-xxxx.
Laubhan, Roger S., xxx-xx-xxxx.
Lauro, Michael J., xxx-xx-xxxx.
Lavoie, Donald A., xxx-xx-xxxx.
Lawrence, Frank R., xxx-xx-xxxx.
Lawrence, William O., III, xxx-xx-xxxx.
Leeds, William R., xxx-xx-xxxx.
Lentz, Eva M., xxx-xx-xxxx.
Lesyea, Joseph R., xxx-xx-xxxx.
Lindeman, Scott T., xxx-xx-xxxx.
Locker, David S., xxx-xx-xxxx.
Lockyer, George F., xxx-xx-xxxx.
Logan, Samuel R. III, xxx-xx-xxxx.
Lonas, James H., xxx-xx-xxxx.
Lopez, Edwin C., xxx-xx-xxxx.
Lucas, Virgil H., Jr., xxx-xx-xxxx.
Lucas, Raoul O., xxx-xx-xxxx.
Luebbers, Gary M., xxx-xx-xxxx.
Lyons, Thomas G., xxx-xx-xxxx.
Lyter, Harvey W., III, xxx-xx-xxxx.
Maas, David R., xxx-xx-xxxx.
MacGregor, Hugh G., xxx-xx-xxxx.
Manchester, David F., xxx-xx-xxxx.
Manchester, David J., xxx-xx-xxxx.
Mangan, Edmund L., III, xxx-xx-xxxx.
Mann, Jimmy C., xxx-xx-xxxx.
Marino, Joseph A., xxx-xx-xxxx.
Martin, Charles W., xxx-xx-xxxx.
Martin, Michael D., xxx-xx-xxxx.
Mason, Michael C., xxx-xx-xxxx.
Matheny, James D., xxx-xx-xxxx.
Mathis, Frederick W., xxx-xx-xxxx.
Matthews, Cynthia A., xxx-xx-xxxx.
Mayer, Terry N., xxx-xx-xxxx.
Mayes, Gregory N., xxx-xx-xxxx.
Mayo, Gary L., xxx-xx-xxxx.
Mays, Augustus, Jr., xxx-xx-xxxx.

McCormick, Earle L., Jr., xxx-xx-xxxx
McDuffie, Dennis W., xxx-xx-xxxx
McGarry, David E., xxx-xx-xxxx
McGinty, Christian W., xxx-xx-xxxx
McGraw, William M., xxx-xx-xxxx
McKee, Guy S., xxx-xx-xxxx
McKee, John R., xxx-xx-xxxx
McKinney, Harold G., xxx-xx-xxxx
McKnight, Thomas N., Jr., xxx-xx-xxxx
McLendon, Larry E., xxx-xx-xxxx
McNulty, James P., xxx-xx-xxxx
McPhee, Albert D., Jr., xxx-xx-xxxx
McRee, Julius R., xxx-xx-xxxx
Merritt, Don W., xxx-xx-xxxx
Merritt, Michael L., xxx-xx-xxxx
Metcalf, Russell E., xxx-xx-xxxx
Metzinger, Marvin L., xxx-xx-xxxx
Michalec, William T., xxx-xx-xxxx
Middleton, Mark A., xxx-xx-xxxx
Miller, Jerome R., xxx-xx-xxxx
Miller, John H., xxx-xx-xxxx
Miller, Wayne K., II, xxx-xx-xxxx
Minnich, Gerald L., xxx-xx-xxxx
Mitchell, Richard L., xxx-xx-xxxx
Mitchell, Roy D., xxx-xx-xxxx
Mize, Perry J., xxx-xx-xxxx
Moore, Kindall W., xxx-xx-xxxx
Moore, Robert L., xxx-xx-xxxx
Moore Ronald G., xxx-xx-xxxx
Moore, Terrence L., xxx-xx-xxxx
Morris, Timothy J., xxx-xx-xxxx
Morris, William F., III, xxx-xx-xxxx
Morris, Wyatt A., xxx-xx-xxxx
Morrison, Roger G., xxx-xx-xxxx
Mouser, Lonnie R., xxx-xx-xxxx
Moxon, David A., xxx-xx-xxxx
Murphy, John P., xxx-xx-xxxx
Murphy, Thomas J., xxx-xx-xxxx
Murray, Kevin A., xxx-xx-xxxx
Myers, Curtis K., xxx-xx-xxxx
Myers, Steven D., xxx-xx-xxxx
Nall, Timothy F., xxx-xx-xxxx
Neacy, Anne M., xxx-xx-xxxx
Nemeyer, George I., Jr., xxx-xx-xxxx
Neu, Russell C., Jr., xxx-xx-xxxx
Newhard, Lewis J., xxx-xx-xxxx
Noll, Roger A., xxx-xx-xxxx
Nord, Wileyn F., xxx-xx-xxxx
Noyes, Carolyn J., xxx-xx-xxxx
Nunez, Ramon E., xxx-xx-xxxx
Nunley, Lewis W., xxx-xx-xxxx
O'Connor, Mark T., xxx-xx-xxxx
O'Grady, Lawrence P., xxx-xx-xxxx
Oliveira, Michael F., xxx-xx-xxxx
Oliver, Clarence M., xxx-xx-xxxx
Olson, Randall R., xxx-xx-xxxx
O'Neal, Marcia R., xxx-xx-xxxx
Ormsby, Lenard T., xxx-xx-xxxx
Owczarski, Gregory J., xxx-xx-xxxx
Page, Bobby V., xxx-xx-xxxx
Pantesco, William J., xxx-xx-xxxx
Parks, James G., xxx-xx-xxxx
Patmos, Richard A., xxx-xx-xxxx
Pawlishak, David J., xxx-xx-xxxx
Payne, William H., xxx-xx-xxxx
Pease, George W., xxx-xx-xxxx
Peters, Kenneth E., xxx-xx-xxxx
Petersen, John C., xxx-xx-xxxx
Peterson, Michael W., xxx-xx-xxxx
Petrucci, Ronald J., xxx-xx-xxxx
Phelps, James A., xxx-xx-xxxx
Pickerill, William B., xxx-xx-xxxx
Pickett, David A., xxx-xx-xxxx
Pippy, Dennis C., xxx-xx-xxxx
Pontiff, Glenn N., xxx-xx-xxxx
Popp, Stephen C., xxx-xx-xxxx
Potts, Richard S., xxx-xx-xxxx
Powell, James F., xxx-xx-xxxx
Powers, Michael B., xxx-xx-xxxx
Priest, Patricia L. C., xxx-xx-xxxx
Proske, Howard W., xxx-xx-xxxx
Prowse, Robert S., xxx-xx-xxxx
Prucka, Lawrence J., Jr., xxx-xx-xxxx
Psalmonds, Joseph B., xxx-xx-xxxx
Puckett, Kathleen M., xxx-xx-xxxx
Pugh, Edward N., xxx-xx-xxxx
Pulis, Richard J., xxx-xx-xxxx
Putnam, Michael D., xxx-xx-xxxx
Rambo, Carl P., xxx-xx-xxxx

Ramsay, Paul H., xxx-xx-xxxx
Ramsey, Tony B., xxx-xx-xxxx
Ratchford, Harry L. II, xxx-xx-xxxx
Ratcliffe, Richard W., xxx-xx-xxxx
Raubach, Gerald C., xxx-xx-xxxx
Rauch, Sidney M., xxx-xx-xxxx
Ray, Harlan W., xxx-xx-xxxx
Razer, Bruce A., xxx-xx-xxxx
Reed, Charles E., Jr., xxx-xx-xxxx
Reese. Lee R. E., xxx-xx-xxxx
Reeves, Donald A., Jr., xxx-xx-xxxx
Reno, Loren M., xxx-xx-xxxx
Rethke, John T., xxx-xx-xxxx
Reyes, Arnold D., xxx-xx-xxxx
Rice, Robert J. C., xxx-xx-xxxx
Rice, William L., xxx-xx-xxxx
Richards, James L., xxx-xx-xxxx
Richardson, William H., xxx-xx-xxxx
Riddle, Donald K., xxx-xx-xxxx
Robb, Patrick, xxx-xx-xxxx
Robert, David, xxx-xx-xxxx
Robichaux, Roger J., xxx-xx-xxxx
Robinson, Michael J., xxx-xx-xxxx
Rodriguez, Alfred, xxx-xx-xxxx
Roe, Malcolm W., xxx-xx-xxxx
Rogers, Coleman E., xxx-xx-xxxx
Rogers, Elizabeth H., xxx-xx-xxxx
Rohan, Neil A., xxx-xx-xxxx
Rolinger, Thomas L., Jr., xxx-xx-xxxx
Ronat, Ronald D., xxx-xx-xxxx
Ross, Douglas E., xxx-xx-xxxx
Ross, Herman D., xxx-xx-xxxx
Rouge, Joseph D., xxx-xx-xxxx
Rowe, Katherine, xxx-xx-xxxx
Rubottom, Ronald G., xxx-xx-xxxx
Rudowske, Kay L., xxx-xx-xxxx
Saltsman, Timothy V., xxx-xx-xxxx
Sanborn, Jarisse J., xxx-xx-xxxx
Savage, J. R., xxx-xx-xxxx
Sawdy, Jack O., xxx-xx-xxxx
Schaetzle, William G., xxx-xx-xxxx
Schantz, Edward T., xxx-xx-xxxx
Schantz, Jeffery A., xxx-xx-xxxx
Schilling, Mark L., xxx-xx-xxxx
Schloss, Robert W., xxx-xx-xxxx
Schutt, John E., xxx-xx-xxxx
Sckerl, Ronald W., xxx-xx-xxxx
Seebaldt, Curtis S., Jr., xxx-xx-xxxx
Selstrom, John P., Jr., xxx-xx-xxxx
Shaffer, William C., xxx-xx-xxxx
Shannon, Janice D., xxx-xx-xxxx
Shealy, Francis W., Jr., xxx-xx-xxxx
Shepherd, Ray B., xxx-xx-xxxx
Shinkle, Charles S., xxx-xx-xxxx
Shirley, Fred A., xxx-xx-xxxx
Short, George H., Jr., xxx-xx-xxxx
Short, William R., xxx-xx-xxxx
Shuck, Larry E., xxx-xx-xxxx
Simon, James C., III, xxx-xx-xxxx
Singleton, Ray J., Jr., xxx-xx-xxxx
Skoch, Bernard K., xxx-xx-xxxx
Sladek, Richard W., xxx-xx-xxxx
Slaydon, Stanley T., xxx-xx-xxxx
Slone, Gary B., xxx-xx-xxxx
Smith, Dennis B., xxx-xx-xxxx
Smith, Donald L., xxx-xx-xxxx
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Smith, Gregory D., xxx-xx-xxxx
Smith, Lionel G., xxx-xx-xxxx
Smith, William C., xxx-xx-xxxx
Smolen, Robert L., xxx-xx-xxxx
Sneegas, Stanley A., xxx-xx-xxxx
Snell, John R., xxx-xx-xxxx
Snyder, Terry G., xxx-xx-xxxx
Soriano, Ronald, xxx-xx-xxxx
South, Charles C., xxx-xx-xxxx
Stanford, William D., xxx-xx-xxxx
Staples, Gregory O., xxx-xx-xxxx
Steel, Mark A., xxx-xx-xxxx
Stemp, Donald L., xxx-xx-xxxx
Stephan, Ricrard G., xxx-xx-xxxx
Steudler, David A., xxx-xx-xxxx
Stevens, William J., II, xxx-xx-xxxx
Stong, Teresa A., xxx-xx-xxxx
Storck, Dennis D., xxx-xx-xxxx
Stoudenmire, Mark S., xxx-xx-xxxx
Stouffer, Joyce K., xxx-xx-xxxx
Strack, Edward R., xxx-xx-xxxx
Street, Bradley K., xxx-xx-xxxx
Strieter, Stephen L., xxx-xx-xxxx

Stuka, Joe B., xxx-xx-xxxx
Sullivan, Jill W., xxx-xx-xxxx
Sutley, Kurtis E., xxx-xx-xxxx
Sutton, Robert L., xxx-xx-xxxx
Swanson, David V., xxx-xx-xxxx
Swisher, Robert E., xxx-xx-xxxx
Sykes, Bernard L., Jr., xxx-xx-xxxx
Taylor, Donna M., xxx-xx-xxxx
Temples, Felix M., III, xxx-xx-xxxx
Terrell, Clifford M., xxx-xx-xxxx
Thibodeau, Karen A., xxx-xx-xxxx
Thomas, Edward J., Jr., xxx-xx-xxxx
Thomerson, Jimmie, xxx-xx-xxxx
Thun, Michael S., xxx-xx-xxxx
Tinius, Konrad S., xxx-xx-xxxx
Tirey, Robert W., xxx-xx-xxxx
Toft, Bobbie L., xxx-xx-xxxx
Tolentino, Geronimo E., xxx-xx-xxxx
Tompkins, Daniel T., xxx-xx-xxxx
Torma, Leo J., xxx-xx-xxxx
Towne, Oscar L., xxx-xx-xxxx
Truel, Barry R., xxx-xx-xxxx
Tumblin, Randall N., xxx-xx-xxxx
Tunstall, Francisco P., Jr., xxx-xx-xxxx
Turner, Randall L., xxx-xx-xxxx
Tuson, Andrew R., xxx-xx-xxxx
Tynes, Edward R., xxx-xx-xxxx
Ulm, William A., xxx-xx-xxxx
Upton, William J., xxx-xx-xxxx
Valenta, David L., xxx-xx-xxxx
Vankirk, Dale W., xxx-xx-xxxx
Varley, Ronald M., xxx-xx-xxxx
Vaughn, Roy C., Jr., xxx-xx-xxxx
Venable, Samuel A., xxx-xx-xxxx
Vento, Robert D., Jr., xxx-xx-xxxx
Vidas, Cathy K., xxx-xx-xxxx
Vidrine, George A., Jr., xxx-xx-xxxx
Visoskis, George E., Jr., xxx-xx-xxxx
Vivit, Murline A., xxx-xx-xxxx
Voelbel, Wesley C., Jr., xxx-xx-xxxx
Volk, Kenneth R., Jr., xxx-xx-xxxx
Vonloh, John F., xxx-xx-xxxx
Wallace, David J., xxx-xx-xxxx
Ware, Kenneth M., xxx-xx-xxxx
Wasson, Thomas G., xxx-xx-xxxx
Waters, Alvin L., xxx-xx-xxxx
Waters, Harry J., xxx-xx-xxxx
Watson, David E., xxx-xx-xxxx
Webster, Bruce L., xxx-xx-xxxx
Weisel, Brian M., xxx-xx-xxxx
Weismantel, Kenneth R., xxx-xx-xxxx
Wert, Wayne N., xxx-xx-xxxx
West, Johnny C., xxx-xx-xxxx
Weston, John M., xxx-xx-xxxx
Whitford, John L., xxx-xx-xxxx
Whitten, Kathy S., xxx-xx-xxxx
Whittle, Harold D., III, xxx-xx-xxxx
Wienke, Paul D., xxx-xx-xxxx
Willeford, Hugh B., xxx-xx-xxxx
Williams, John H., xxx-xx-xxxx
Williamson, Keith E., xxx-xx-xxxx
Wills, Augustus O., xxx-xx-xxxx
Winbauer, Carl J., xxx-xx-xxxx
Winget, Brent E., xxx-xx-xxxx
Wise, William M., xxx-xx-xxxx
Wodke, Kenneth E., xxx-xx-xxxx
Wolfe, Floyd J., xxx-xx-xxxx
Woodard, James E., Jr., xxx-xx-xxxx
Woodman, Russell T., xxx-xx-xxxx
Wright, Kerris L., xxx-xx-xxxx
Wright, Michael A., xxx-xx-xxxx
Yamasaki, Westley N., xxx-xx-xxxx
Young, Philip C., xxx-xx-xxxx
Zahorsky, Frank J., Jr., xxx-xx-xxxx
Zander, Joseph J., xxx-xx-xxxx
Zelasco, Jcseph J., Jr., xxx-xx-xxxx
Zemke, Linda H., xxx-xx-xxxx
Ziegler, Barbara A., xxx-xx-xxxx
Ziehm, Robert D., xxx-xx-xxxx
Zmora, Joseph P., xxx-xx-xxxx

To be second lieutenant

Abbott, Barton L., xxx-xx-xxxx
Abel, Michael D., xxx-xx-xxxx
Acree, Robert L., xxx-xx-xxxx
Baum, Michael E., xxx-xx-xxxx
Caputo, Edmond J., Jr., xxx-xx-xxxx
Chatham, Michael C., xxx-xx-xxxx
Chisholm, Dale T., xxx-xx-xxxx
Copp, Paul David, xxx-xx-xxxx
Davenport, Richard P., xxx-xx-xxxx

Dovey, Douglas A., xxx-xx-xxxx
Dunn, Stephen J., xxx-xx-xxxx
Gilbert, Arthur H., Jr., xxx-xx-xxxx
Hagman, Thomas V., xxx-xx-xxxx
Hayes, John R., Jr., xxx-xx-xxxx
Hicks, Alfred B., Jr., xxx-xx-xxxx
Keranen, Roger L., xxx-xx-xxxx
Leahey, John M., Jr., xxx-xx-xxxx
Marsh, Ralph E., Jr., xxx-xx-xxxx
McIntosh, Duncan B., xxx-xx-xxxx
Meade, Carl J., xxx-xx-xxxx
Neal, Parris C., xxx-xx-xxxx
Roberts, Terry J., xxx-xx-xxxx
Scholl, Dennis M., xxx-xx-xxxx
Shea, John R., III., xxx-xx-xxxx
Sherbo, Andrew J., xxx-xx-xxxx
Sheridan, John T., xxx-xx-xxxx
Sullivan, John B., xxx-xx-xxxx
Tollefson, Mark V., xxx-xx-xxxx
Uyehara, Nathan Y. K., xxx-xx-xxxx
Wright, Lawrence A., xxx-xx-xxxx

HOUSE OF REPRESENTATIVES—*Monday, October 17, 1977*

The House met at 12 o'clock noon.

The Chaplain, Rev. Edward G. Latch, D. D., offered the following prayer:

God has made of one blood all nations to dwell upon the face of the earth, that they should seek the Lord and find Him.—Acts 17: 26, 27.

Almighty and most merciful God we thank Thee for the rest of the night and for the opportunity to serve Thee and our Nation in this new day. Breathe Thy spirit of wisdom, truth, and love upon us that we may think the thoughts, possess the emotions, and do the deeds which make us good leaders of a good people in a good day.

By Thy grace may we keep our country true to the principles upon which she was founded, may we keep the glow and glory of freedom alive in our world, and may we keep awake our concern for the needy and poor in our land and in other lands.

We pray that bitterness and strife may cease in our world and that justice and liberty, good will, and peace may prevail: to the glory of Thy holy name. Amen.

CALL OF THE HOUSE

Mr. ROUSSELOT. Mr. Speaker, under rule I, clause 1, of the rules of the House, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Mr. ROSTENKOWSKI. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 658]

Addabbo	Drinan	McKinney
Alexander	Early	Meyner
Allen	Eckhardt	Mikva
Ambro	Edwards, Calif.	Milford
Andrews, N.C.	Evans, Ga.	Moffett
Applegate	Fish	Moss
Archer	Ford, Mich.	Murphy, Ill.
Ashley	Ford, Tenn.	Nichols
Badillo	Fowler	Nolan
Bolling	Fraser	Obey
Bonior	Gephardt	Patten
Bonker	Gibbons	Pepper
Burke, Calif.	Ginn	Quie
Burton, John	Gonzalez	Rangel
Carney	Hall	Rhodes
Chisholm	Harrington	Rodino
Collins, Ill.	Harsha	Ruppe
Conyers	Hillis	Santini
Cornell	Holland	Scheuer
Cotter	Holtzman	Shuster
Coughlin	Ichord	Sisk
Cunningham	Jordan	Smith, Iowa
Davis	Kemp	Spellman
de la Garza	Koch	Staggers
Dellums	Krueger	Steed
Dent	Lundine	Stokes
Derrick	McDade	Teague
Diggs	McDonald	Thompson
Dingell	McEwen	Udall
Dornan	McKay	Wampler
Waxman	Wolff	Young, Mo.
Whalen	Wright	Zeferetti
Wilson, C. H.	Wydler	
Wilson, Tex.	Young, Alaska	

The SPEAKER. On this rollcall 334 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Chirdon, one of his secretaries, who also informed the House that on the following dates the President approved and signed bills and a joint resolution of the House of the following titles:

On October 12, 1977:

H.R. 6655. An act to amend certain Federal laws pertaining to community development, housing, and related programs.

On October 13, 1977:

H.R. 5645. An act to raise the limitation on appropriations for the United States Commission on Civil Rights;

H.R. 6530. An act to amend the District of Columbia Self-Government and Governmental Reorganization Act with respect to the borrowing authority of the District of Columbia, and for other purposes; and

H.J. Res. 626. Joint resolution making continuing appropriations for the fiscal year 1978, and for other purposes.

On October 15, 1977:

H.R. 6550. An act to authorize certain appropriations for the territories of the United States, to amend certain acts relating thereto, and for other purposes.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed with an amendment in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 6666. An act to amend the Legal Services Corporation Act to provide authorization of appropriations for additional fiscal years, and for other purposes.

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 695. An act to amend the Defense Production Act of 1950, as amended; and

S. 2149. An act to create the District Court for the Northern Mariana Islands, implementing article IV of the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America.

The message also announced that the Senate insists upon its amendment to the bill (H.R. 6666) entitled "An act to amend the Legal Services Corporation Act to provide authorization of appropriations for additional fiscal years, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. NELSON, Mr. CRANSTON, Mr. HATHAWAY, Mr. RIEGLE, Mr. WILLIAMS, Mr. KENNEDY, Mr. JAVITS, Mr. HATCH, Mr. CHAFFEE, and Mr. STAFFORD to be the conferees on the part of the Senate.

CONSENT CALENDAR

The SPEAKER. This is Consent Calendar day. The Clerk will call the one bill on the Consent Calendar.

ESTABLISHING A UNIFORM STANDARD FOR AWARDING THE GOLD STAR LAPEL BUTTON

The Clerk called the bill (H.R. 6966) to amend title 10 of the United States Code to provide a more equitable standard for awarding the gold star lapel button.

There being no objection, the Clerk read the bill, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subsection (a) of section 1126 of title 10, United States Code, is amended to read as follows:

"(a) A lapel button, to be known as the gold star lapel button, shall be designed, as approved by the Secretary of Defense, to identify widows, parents, and next of kin of members of the armed forces of the United States—

"(1) who lost or lose their lives during World War I, World War II, or during any subsequent period of armed hostilities in which the United States has been, or may be, engaged; or

"(2) who lost or lose their lives after June 30, 1958, while serving with friendly foreign forces engaged in an armed conflict in which the United States is not a belligerent party against an opposing armed force."

Mr. WHITE. Mr. Speaker, the Committee on Armed Services has reported without objection H.R. 6966, a bill to amend title 10 of the United States Code to provide a more equitable standard for awarding the gold star lapel button.

The gold star lapel button is a device which is authorized to be worn by the

next of kin of certain members of our military forces who died while on active duty.

At present, the families of service men and women who died in the line of duty during World War I and II, as well as the Korean conflict, are entitled to wear the gold star lapel button. However, under the statute, since July 1, 1958, the honor has been restricted to the families of only those individuals who have died as the direct result of hostile action. As a result, the families of nearly 80,000 service men and women who have died during the periods of armed hostilities—but not as the direct result of hostile action—are denied the right to wear the gold star lapel button.

H.R. 6966 will, retroactively to July 1, 1958, and for the future, establish a uniform standard for awarding this button to the families of our military personnel who lose their lives during periods of armed hostilities.

H.R. 6966 is supported by the Department of Defense. The cost of this bill is anticipated to be $408,000 over the next several years and will not result in an increase in the budgetary requirement of the Department of Defense.

I urge passage of H.R. 6966.

Mrs. HOLT. Mr. Speaker, I rise in support of H.R. 6966.

As the gentleman from Texas, who is the chairman of the Military Personnel Subcommittee, stated, this bill will provide a fitting and proper honor for the next of kin of 80,000 American service men and women who have lost their lives in the defense of our country.

It is important that each of us understand the feeling of a mother who has lost her son in the line of duty during a military conflict. While that son may not have died as the result of hostile action, his military service during a period of armed hostilities is testimony of his dedication to those principles which we cherish. That mother's loss is no less than if he had died from an enemy bullet, and it is important to her that she should have the privilege of wearing that gold star—a symbol to others that her son was willing to make the greatest of all sacrifices. I do not believe we should be willing to deny that request.

Equally important is the fact that this bill will establish an appropriate standard to be carried into the future. This law should never again need to be altered. This bill will assure that the families of deceased American military personnel will be eligible for the award of the gold star lapel button, whether the death occurred as the result of hostile action or during a period of armed hostilities.

This legislation has been strongly supported by the Department of Defense since 1970, and I now urge its passage.

Mr. HANLEY. Mr. Speaker, prior to 1966, the Gold Star lapel button was awarded to the next-of-kin of any serviceman who died in the line of duty during a period of armed hostilities. However, unfortunately in 1966, the eligibility criteria were narrowed. Under the new formula the Gold Star is awarded only in cases where the serviceman's death occurred "in military operations involving conflict with an opposing force." It is my conviction and the feeling of the Armed Services Committee that the more recent standard is too narrow and ought to be replaced by the one which was established at the initial enactment of the program.

I believe that the family of any serviceman who loses his life in the service of his country is entitled to this small token of recognition. Under the proposed bill, the next-of-kin of a member of the armed services, who loses or has lost his life while the United States is engaged in armed hostilities, is eligible to receive this award. This criterion does not require the serviceman to be actually engaged in hostile activity, but only that his death be in the line of duty as a member of the Armed Forces of the United States.

My feelings and the findings of the committee are that the Gold Star lapel button should be a symbol of this Nation's remembrance to families of all servicemen who died in the line of duty while the United States was at war. This seemed to be the intent of the original law, and this is the intent of H.R. 6966.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. WHITE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill H.R. 6966, just passed.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

FRANK ALBERT STUBBLEFIELD

(Mr. HUBBARD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HUBBARD. Mr. Speaker, it is with sadness that I speak today in the House of Representatives regarding my distinguished predecessor, the Honorable Frank Albert Stubblefield.

Mr. Stubblefield, age 70, died last Friday night at Murray-Calloway County Hospital in his native hometown of Murray, Ky. He had been hospitalized extensively in Memphis, Tenn., for almost 2 years. He was a victim of emphysema and related complications.

The funeral for Mr. Stubblefield will be at 2 p.m. today at Murray's First United Methodist Church.

Stubblefield rose from first district railroad commissioner to Congress in 1958 by defeating former U.S. Representative Noble Gregory of Mayfield, who had held the office 22 years.

As a freshman Congressman, Mr. Stubblefield became a member of the House Agriculture Committee. During his 16 years as a Member of Congress he served as vice chairman of the Agriculture Committee, chairman of the Tobacco Subcommittee, and was a key supporter of developing the Tennessee Valley Authority's expansion to the advantage of Kentuckians who have enjoyed and now have TVA power. Much more could be said in complimenting this outstanding Kentuckian with whom many of you served.

Each of us can and do extend to his wife, Odessa, his three daughters, his father, his two brothers and five grandchildren our sympathy.

His family, fellow Kentuckians and former colleagues in the Congress can join today with me and say of Frank Albert Stubblefield, a truly great American, deserving words found in Matthew 25:21—"Well done, thou good and faithful servant."

Mr. PERKINS. Mr. Speaker, will the gentleman yield?

Mr. HUBBARD. I yield to the gentleman from Kentucky.

Mr. PERKINS. Mr. Speaker, I was shocked to learn about the death of our former colleague who was a great American and one of the outstanding Members of this House during his years of service here, the late Honorable Frank Albert Stubblefield from Murray, Ky.

Mr. Speaker, Frank Stubblefield was a man of principle and a man of integrity. He was very reserved and very quiet. He was very dependable. All of the Members in this Chamber who had the opportunity to serve with him and to mix and mingle with him, knew where Frank Stubblefield stood on every issue that was before this Congress.

One of the greatest attributes of Frank Stubblefield that stands out in my mind is that he was as truthful as any individual I ever met in my lifetime. He represented his people with the deepest dedication. He always thought about their welfare. Although he was from a more conservative district than I represent, I would say he represented his people to an extent unequalled by any other Member in this Chamber.

He was very considerate and recognized and respected the views of the other Members of this Chamber. During his tenure here I do not think Frank Stubblefield ever made an enemy. He was a friend of all of the Members. Although sometimes he disagreed with their views, he was never disagreeable because any Member disagreed with him.

Mr. Speaker, Frank was born on April 5, 1907 in Calloway County, where he always lived, and where Stubblefield is a famous name in public service. When he was 20 years old he went out to the University of Arizona for a year, but then he came home, graduated from the University of Kentucky, and went into the family business.

That was in 1933, and 6 years later, in 1939, he won election to the Murray City Council, where he served until 1942. He went into the Navy, and was discharged as a lieutenant, after being wounded in the North Atlantic.

He won several elections to the Kentucky Railroad Commission, resigning in 1958 to run for Congress, and he served from the 86th Congress through the 93d Congress.

Mr. Speaker, I was in my district last weekend, and the word of Frank Albert's death was in the news. It did not surprise me to learn that he had dozens of friends in the mountains of eastern Kentucky, a long way from the Purchase, as his home section was called.

That is fine farming country, and Frank Albert devoted his time here to agriculture, and to the kinds of issues that are important to the family farmer. Agriculture in the country, as well as agriculture in Kentucky are in his debt, and so are the millions and millions of people who are sustained every day by farm production.

Mr. Speaker, in closing I certainly want to extend my deepest sympathies to his family and say that the State of Kentucky, and especially the district he represented, has lost a great public servant.

I thank my colleague for yielding.

Mr. CARTER. Mr. Speaker, will the gentleman yield?

Mr. HUBBARD. I yield to the gentleman from Kentucky.

Mr. CARTER. Mr. Speaker, I thank my distinguished colleague, the gentleman from Kentucky (Mr. HUBBARD) for yielding to me. I wish to say that Frank Stubblefield was a congenial gentleman. It was my pleasure and privilege to serve with him for some 10 years. He was an able Member. He was extremely helpful to the State of Kentucky, not only to his own district, but to all of the others. Although we sat on different sides of the aisle we were close friends. This is true about the entire Kentucky delegation. There is a closeness between all of us. We stand together for the State of Kentucky and Frank Stubblefield was indeed such a man. Through his assistance it was possible for many of us to obtain agricultural benefits for the different districts in the State of Kentucky. Even as a member of the opposing party I received many benefits for my district through his leadership on the Committee on Agriculture.

Mr. Speaker, my heart goes out to his wife, Odessa, and to his children in their loss. May God be with them and sustain them.

Mr. SNYDER. Mr. Speaker, will the gentleman yield?

Mr. HUBBARD. I yield to the gentleman from Kentucky.

Mr. SNYDER. Mr. Speaker, I thank the gentleman for yielding to me.

Mr. Speaker, I too want to join with my colleagues in expressing our deep sympathy to Frank Albert Stubblefield's wife, Odessa, and to the other members of his family.

I knew Frank Albert Stubblefield, as did the rest of the Kentucky delegation. and we developed a closeness. We used to stand back of the rail here and talk. He was not a flamboyant Member who went around expressing his views on every matter that came up but he was an effective Member, as my colleague from the Fifth District just said, he was the kind of a man who would do you every favor he possibly could. I certainly appreciated him. I am indeed saddened by the loss of Frank Albert Stubblefield. I join with the gentleman from Kentucky (Mr. HUBBARD) and our other colleagues in expressing sympathy to his family.

He was my friend.

Mr. WHITTEN. Mr. Speaker, will the gentleman yield?

Mr. HUBBARD. I yield to the gentleman from Mississippi.

Mr. WHITTEN. I thank the gentleman for yielding.

I wish to join with my colleagues in expressing a great sense of sorrow and extend condolences to the family of Mr. Frank Albert Stubblefield.

It was my privilege to serve with Frank for many years here, and I have never known a more conscientious Member of Congress nor a district that was better represented.

Frank was quiet by nature but a person who knew not only the people of his district but his district's problems. Though his occupation was that of a druggist, his knowledge and background made him well qualified to represent the agricultural and business interests of his district. Beyond that, he was a splendid citizen and a fine man. His friends in the Congress were limited only by the number of its membership.

In our service together I have never heard the first word of criticism or the first indication that he would not be sound from his viewpoint on any issue which arose.

Frank had a fine family. It was our privilege to be closely associated with his wife, Odessa, who not only was a real asset to Frank in his political career but in his service to his people. To Odessa and his family, we extend our sincerest sympathy in the loss of a husband and father and an outstanding citizen of the Commonwealth of Kentucky.

Mr. BRECKINRIDGE. Mr. Speaker, will the gentleman yield?

Mr. HUBBARD. I yield to the gentleman from Kentucky.

Mr. BRECKINRIDGE. I thank the gentleman for yielding.

I wish to join with my colleagues in expressing my deep respect and sympathy to the family of the gentleman's friend and mine, Frank Albert Stubblefield, a man whom I knew for many, many years in Kentucky before coming to Washington to join this body. I knew him as one who was widely respected and fondly admired throughout not only the First Congressional District but throughout the State of Kentucky amongst those who knew him. I join with the gentleman in the well and with my colleagues in expressing my regrets and sympathy to the family.

Mr. BIAGGI. Mr. Speaker, will the gentleman yield?

Mr. HUBBARD. I yield to the gentleman from New York.

Mr. BIAGGI. Mr. Speaker, I had the privilege of working with Frank Stubblefield on the Merchant Marine and Fisheries Committee for four terms. When I came to the Congress, I was impressed by the fact that he was a gentle soul. He was a quiet person. He was a helpful person, a characteristic he displayed during all of those years. Many a colleague benefited because of his kindness and knowledge. His was a tranquil disposition that masked an energetic effectiveness in this Chamber that was without parallel. This Member's life is enriched because I was privileged to know him.

Mr. NATCHER. Mr. Speaker, it is difficult to reconcile ourselves to the fact that our beloved friend, Frank Albert Stubblefield, has passed away.

It was a distinct honor and a privilege for me to serve in the House of Representatives with Frank Albert Stubblefield and not only have I lost a true friend, but this country has lost a great statesman. His character, achievements, and faithful service will long be remembered and will be an inspiration to generations yet to come. He served his district well and established an outstanding record while serving in the Congress of the United States. He had those qualities that are essential for leadership, sound judgment, patience, and perseverance and an unyielding adherence to the principles and policies advocated by his party for the welfare of the country. He was an outstanding member of the Committee on Agriculture and the Committee on Merchant Marine and Fisheries. For a number of years, he served as chairman of the Tobacco Subcommittee and he served with dignity and fairness.

He was loved and respected by all of the Members of the House. He had a quick mind and served his district well. The status of our Nation is built on the careers of such men as Frank Albert Stubblefield. He had a charm and wit and he extended a warm courtesy and consideration toward others at all times. He loved his country, his State and the House of Representatives. Never was there anyone more dedicated to the services he performed or the people he served.

I will miss my friend, Frank Albert Stubblefield, and it is my fervent wish that this House may forever dedicate and decide the matters before it with the same fairness which was always the trademark of Frank Albert Stubblefield of Murray, Ky.

Mr. Speaker, I extend to Mrs. Stubblefield and to the members of his family my deepest sympathy in their loss and bereavement.

Mr. MAZZOLI. Mr. Speaker, we have lost a great and good man and a great and good Kentuckian.

I rise to join my colleagues from Kentucky in expressing our deep sense of loss over the death of the Honorable Frank Albert Stubblefield, a former Member of the House of Representatives from Kentucky's First Congressional District, who died October 14.

As Frank Albert's colleague in the House, I respected his devotion to duty and his keen sense of justice. As a fellow Kentuckian, I respected him for the good and true service he gave to his beloved Commonwealth and to his district.

During Frank Albert's 16 years in the House, he compiled an enviable legislative record. He served as vice chairman of the Agriculture Committee, and as chairman of its key Tobacco Subcommittee.

He was an early and strong supporter of the Tennessee Valley Authority, which has improved the economic, the family, and the recreational life of all who live in its service area.

My wife joins me in extending our deepest sympathies to his wife, Odessa, his three daughters, his father, and all his family.

The Commonwealth of Kentucky, the United States of America, and this Congress are poorer today because of Frank Albert's death. But the Commonwealth, the Nation, and this Congress are much the richer because of his devoted service during life.

Mr. MILLER of Ohio. Mr. Speaker, it was with deep regret I learned of the recent passing of our former colleague, Frank Stubblefield.

For 6 years I had the privilege of serving and working with Frank on the House Agriculture Committee. America's farmers had no finer friend in Congress and more consistent supporter than Frank Stubblefield. He was ever sensitive to the special needs of the agriculture community and quietly, yet effectively, represented its interests in the Committee and the Congress.

His 25 years as a businessman before coming here in 1958 also left him with a deep appreciation for the problems of small businessmen and a firm commitment to improve their lot and ability to survive.

Frank Stubblefield was a good, decent man who served the people of Kentucky's First District and the country with honor and distinction.

GENERAL LEAVE

Mr. HUBBARD. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the life, character, and public service of the late Hon. Frank A. Stubblefield.

The SPEAKER. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

PERMISSION FOR COMMITTEE ON POST OFFICE AND CIVIL SERVICE TO FILE A REPORT ON H.R. 9346, THE SOCIAL SECURITY FINANCING AMENDMENTS OF 1977

Mr. NIX. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service have until midnight to file its report on H.R. 9346, the Social Security Financing Amendments of 1977.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

Mr. ROUSSELOT. Reserving the right to object, Mr. Speaker, this is basically as a result of the unanimous vote by the full Post Office and Civil Service Committee meeting that we had last week on the issue relating to Federal employees being unduly forced into the Social Security System; is that correct? I yield to my chairman, Mr. NIX.

Mr. NIX. If the gentleman will yield, that is right. The gentleman is correct.

Mr. ROUSSELOT. I appreciate my colleague, the Chairman, for making sure that our committee report is printed and brought to the attention of the full House so quickly.

Mr. NIX. I thank the gentleman.

I urge my colleagues to read the Post Office and Civil Service Committee report on the subject of Federal, State, county, and local government employees pension and retirement plans vis-a-vis the social security retirement plan. It is important that my fellow House Members digest the material in this report before voting on H.R. 9346—the Social Security Financing Amendments of 1977.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

MR. MITCHELL OF MARYLAND DOES NOT SUPPORT ANY BUSINESS ENDEAVOR CONNECTED WITH THE UNION OF SOUTH AFRICA

(Mr. MITCHELL of Maryland asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MITCHELL of Maryland. Mr. Speaker, I am disturbed over a recent report which indicated that this Member of Congress is supporting a minority business effort which in some way is tied in with the Union of South Africa. I take to the well to categorically deny that I would support such an endeavor.

I believe the present Government of the Union of South Africa to be an illegitimate government. I believe the present Government of the Union of South Africa to be a racist government. I believe that the present Government of the Union of South Africa is capable of murdering black citizens as happened in the case of Steve Biko. In light of those strongly held beliefs, under no circumstances in the past, in the future, nor at the present would I support any minority business which dealt with the Union of South Africa directly or indirectly in any fashion. To do so it seems to me would facilitate the ongoing of that racist government.

I hope this will clear the record. I hope it will be abundantly clear to all those who hear me that my condemnation of the Union of South Africa is equally applied to any minority business which would seek to do business with that racist government.

TAX REFORM ACT OF 1976

(Mr. THORNTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. THORNTON. Mr. Speaker, in joining with the gentleman from Texas, Mr. BURLESON, in the introduction of his legislation to repeal the carryover basis provision of the Tax Reform Act of 1976, I am well aware that this provision was an attempt to regulate a significant problem under prior tax laws. However, I believe that the inclusion of the carryover basis provision has affected the relief provided by that act in such a serious and detrimental way, that it is necessary that we return to the prior law. Under prior law property transferred at death is valued at its fair market value on the date of death for both income and estate tax purposes. Thus, this temporary measure will simplify the administration of estates, while we seek more appropriate means to deal with this very serious problem.

Prior to passage of the Tax Reform Act of 1976, the basis of inherited property for income tax purposes was increased to its fair market value at the time of the decedent's death. When the individual heir sold that property he was taxed only on the appreciation which took place while he owned the property, and not on the appreciation that had occurred during the lifetime of the previous owner or owners. The 1976 Tax Reform Act substantially altered this treatment so that generally the basis for property transferred at death is its fair market value on December 31, 1976, or its basis to the decedent if acquired after that date. Thus, the heir of a decedent must pay capital gains tax on all appreciation in the value of property that occurs from the time of its purchase by the decedent until its subsequent sale or exchange by the heirs.

Moreover, as a practical matter, the carryover basis provision is so complicated and unwieldy that it creates an impossible burden for administrators and executors of estates who are attempting to comply with this new law. The carryover provision has forced lawyers, administrators and heirs to keep extensive and constantly changing records in order to meet stringent reporting requirements. Delays in the processing of estates have already been experienced and increases in litigation are expected. The accounting problems that are created by this provision are intensified in an estate which contains a collection of stamps, coins, art, antiques or other property the value of which often can only be determined after the negotiation of an actual sale between a willing buyer and a seller.

The enactment of the carryover basis provision created additional economic repercussions, as it tends to increase the "lock-in" effect in capital investments. Due to the higher capital gains tax liability, most heirs will now be forced to hold on to their inheritance to avoid this increased tax burden. This will have a very serious impact on capital formation in our economy. Most importantly, this provision will have greatest impact on those sectors of the economy that traditionally have restricted sources of new capital—farms and businesses. The increased tax burden that will necessarily result from the carryover basis provision will further deplete their scarce sources of capital and further aggravate this already critical problem in our economy.

The carryover basis provision will impose these conditions even upon the

average American family. Those families who own their own homes or any other real estate must comply with the same maze of recordkeeping requirements that now face businessmen and farmers. While the burden of those requirements may not appear to be large, at first, the consequences will increase as property is passed from generation to generation.

In my judgment these reasons are sufficient to call for repeal of this cumbersome provision in order to study carefully and meticulously the problems which this law was designed to cure.

THE LABOR REFORM ACT OF 1977

(Mr. HANLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. HANLEY. Mr. Speaker, given the wide differences of opinion in my district regarding passage of H.R. 8410, the Labor Reform Act of 1977, I would like to take a few minutes to explain my vote in support of this much needed legislation.

In my view there is nothing worse than a law that is not only difficult to enforce, but also contains few deterrents to intentional violation. Substantive reform of the National Labor Relations Act of 1935, has not taken place since 1959. Since 1959, there is evidence that the goals of the NLRA—the right of self-organization of employees in industry for the purpose of collective bargaining—have been willingly and purposefully ignored by employers who are opposed to unionization and collective-bargaining procedures. No law can function effectively without sufficient deterrents to violations and adequate compensation of the victims of those violations. The legislation we have passed fills these needs and does it without either changing the purposes of labor law, or the rights and duties of management and labor.

We have achieved this end first by increasing the size of the National Labor Relations Board from five to seven members. Despite charges of packing the Board with pro-labor members, the bill simply continues and codifies the tradition of a simple majority of the Presidential party. In addition, evidence of extreme views being represented on the Board is difficult if not impossible to find. Documented evidence of the tremendous increase in the workload of the Board makes its expansion a desirable and logical step.

The bill assures that both labor and management will have an equal opportunity to convince employees seeking collective-bargaining representation on their respective views on the need for such representation. Equal access to captive audience presentations on both sides of the issue are provided for.

The bill provides more effective penalties for practices that have been outlawed since 1935, but have continued to exist simply because existing remedies have proven to be ineffective. This is accomplished by two key provisions of the bill. First, the bill requires double back pay for employees illegally dismissed for trying to form a union and retroactive compensation for wage and benefit increases lost while an employer illegally delays negotiations for an initial contract with a union. Second, the Secretary of Labor is permitted to ban a company from receiving Federal contracts for up to 3 years for repeatedly refusing to deal with a union. In both instances, the terms willful and repeated must be emphasized.

Finally, the bill takes the necessary step of setting deadlines for the holding of union certification elections. While the average time for such elections is currently around 45 days, numerous instances were cited in which the period has dragged on for months.

In conclusion, I would like to stress two important points to consider on the passage of this legislation. First, only those who intend to violate the law need fear the changes we have made. The free exercise of the secret ballot election will continue to determine the outcome of any organizing effort. Second, as a Representative from the State of New York, I have become increasingly concerned over the exodus of jobs and industry from my State to States where it is easier to thwart the goals of collective bargaining. Under provisions of the bill we have passed, this exodus will become far more difficult, and less lucrative.

PERSONAL EXPLANATION

Mr. ALLEN. Mr. Speaker, I apologize for being late on the first quorum call. I came in early this morning so that I would not miss any quorum calls, but just as I was going down the hall I was called back for an important long-distance call from Nashville. As a result, I was a few seconds late to make the quorum call. But I do not want people to know by the RECORD that I am here, and will be here during the legislative proceedings today.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair desires to make an announcement.

Pursuant to the provisions of clause 3 (b) of rule XXVII, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

After all motions to suspend the rules have been entertained and debated, and after those motions to be determined by "nonrecord" votes have been disposed of, the Chair will then put the question of each motion on which the further proceedings were postponed.

HEALTH PROFESSIONS EDUCATION AMENDMENTS OF 1977

Mr. ROGERS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 9418) to amend the Public Health Service Act to require increases in the enrollment of third-year medical students as a condition to medical schools' receiving capitation grants under such act, and for other purposes, as amended.

The Clerk read as follows:

H.R. 9418

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 771(b)(3) of the Public Health Service Act is amended to read as follows:

"(3)(A) Except as provided under subparagraph (D), a school of medicine may not receive a grant under section 770 to be made in the fiscal year ending September 30, 1978, or in the next fiscal year unless its application for such grant contains or is supported by assurances satisfactory to the Secretary that such school will increase its enrollment of full-time, third-year students as prescribed by subparagraph (B).

"(B) The enrollment increase referred to in subparagraph (A) is an enrollment increase in a school of medicine—

"(i) which is to occur (I) in school year 1978–1979 in the case of an application of such school for a grant under section 770 to be made in the fiscal year ending September 30, 1978, and (II) in school year 1979–1980 in the case of an application of such school for a grant to be made under section 770 in the fiscal year ending September 30, 1979,

"(ii) in the number of full-time, third-year students over the number of full-time, second-year students who successfully completed the second-year program of such school in the preceding school year and enrolled in the third-year class of such school, and

"(iii) which is not less than 6 per centum of the number of—

"(I) fulltime, first-year students enrolled in such school in school year 1977–1978, or

"(II) full-time, third-year students enrolled in such school in school year 1977–1978, whichever is less.

"(C) In determining the number of full-time, third-year students enrolled in a school in a school year in which an increase is required by subparagraph (B)(1)—

"(i) full-time, third-year students of such school who were not second-year students in such school and—

"(I) who are not citizens of the United States,

"(II) who were previously enrolled in a school of medicine to which the requirement of subparagraph (A) applies,

"(III) who were previously enrolled in a school of medicine to which the requirement of subparagraph (A) does not apply because of the last sentence of subparagraph (D) and for whom a position in the third-year class of such school was available in such school year,

"(IV) who first enrolled after October 12, 1976, in a school of medicine not in a State,

"(V) who were previously enrolled in a school of dentistry or a school of osteopathy, or

"(VI) who were previously enrolled in a school of medicine which is in a State and which is not accredited by the body or bodies approved for such purpose by the Commissioner of Education, shall not be counted; and

"(ii) full-time, second year students enrolled in such year who are citizens of the United States and who were first enrolled before October 12, 1976, in a school of medicine not in a State shall be counted as third-year students.

"(D) The Secretary may waive (in whole or in part) the requirement of subparagraph (A) for a school of medicine—

"(i) if the Secretary determines, after receiving the written recommendation of the appropriate accreditation body or bodies (approved for such purpose by the Commissioner of Education) that compliance by such school with such requirement will prevent it from maintaining its accreditation; or

"(ii) upon a finding that, because of the inadequate size of the population served by

the hospital or clinical facility in which such school conducts its clinical training, an increase in its enrollment of third-year students to meet such requirement will prevent it from providing high quality clinical training for each of its third-year students.

The requirement of subparagraph (A) does not apply to the application of a school of medicine for a grant under section 770 if in school year 1977–1978 such school had an enrollment of full-time, first-year students which exceeded its enrollment in such school year of full-time, third-year students by at least 25 per centum.

"(E) A school of medicine which did not receive a grant under section 770 because it did not comply with the applicable requirements of this paragraph shall not be eligible to receive a grant under such section to be made in the fiscal year ending September 30, 1980.".

(b) Section 772 of the Public Health Service Act is amended by adding at the end thereof the following new subsection:

"(e) For purposes of administering the requirements of section 771, a reference to a year class of students is a reference to students enrolled in that class for the first time.".

SEC. 2. Section 771(d)(2) of the Public Health Service Act is amended (1) by striking out "In" and inserting in lieu thereof "In the case of a school of dentistry which in school year 1976–1977 had at least six filled, first-year positions in dental specialty programs, in", (2) by striking out "a school of dentistry's" and inserting in lieu thereof "such a school's", (3) by striking out "filled positions" each place it occurs and inserting in lieu thereof "filled first-year positions", and (4) by striking out "shall be positions" and inserting in lieu thereof "shall be first-year positions".

SEC. 3. (a) Subsection (a) of section 748 of the Public Health Service Act is amended to read as follows:

"(a) The Secretary may make grants to—

"(1) accredited schools of public health, and

"(2) other public or nonprofit institutions which provide graduate or specialized training in public health and which are not eligible to receive a grant under section 749, to provide traineeships".

(b) Section 748(b)(3)(B) of such Act is amended (1) by striking out "or" at the end of clause (iii), (2) by striking out the period at the end of clause (iv) and inserting in lieu thereof ", or" and (3) by adding after such clause the following:

"(v) preventive medicine or dentistry.".

(c) Section 748(c) of such Act is amended (1) by striking out "$8,000,000" and inserting in lieu thereof "$9,000,000", and (2) by striking out "$9,000,000" and inserting in lieu thereof "$10,000,000".

(d) The heading for section 748 of such Act is amended to read as follows:

"PUBLIC HEALTH TRAINEESHIPS".

SEC. 4. The Secretary of Health, Education, and Welfare shall conduct a study of—

(1) the type and quality of training provided by foreign medical schools,

(2) the need in the United States for the additional health professions personnel supplied by such schools.

(3) the conditions under which graduates of such schools are licensed to practice in the United States, and

(4) the adequacy of such conditions to assure that the health care provided by the graduates of such schools is of high quality.

Not later than December 1, 1979, the Secretary shall complete such study and report his findings and recommendations to the Committee on Interstate and Foreign Commerce of the House of Representatives and the Committee on Human Resources of the Senate.

SEC. 5. (a) Subsection (a)(1) of section 731 of the Public Health Service Act (relating to eligibility of student borrowers and terms of federally insured student loans) is amended to read as follows:

"(1) made to—

"(A) a student who—

"(i)(I) has been accepted for enrollment at an eligible institution, or (II) in the case of a student attending an eligible institution, is in good standing at that institution, as determined by the institution;

"(ii) is or will be a full-time student (as defined in section 770(c)(2)) at the eligible institution;

"(iii) in the case of a student in a school of medicine, osteopathy, or dentistry, has been authorized by the institution in accordance with section 739(b)(2) to receive a loan under this subpart;

"(iv) has agreed that all funds received under such loan shall be used solely for tuition and other reasonable educational expenses, including fees, books, and laboratory expenses, incurred by such student;

"(v) for the school year for which such loan is made, receives no funds from a loan insured under a Federal, State, or nonprofit program provided or assisted under part B of title IV of the Higher Education Act of 1965; and

"(vi) in the case of a pharmacy student, has satisfactorily completed three years of training; or

"(B) an individual who—

"(i) has previously had a loan insured under this subpart when the individual was a full-time student at an eligible institution;

"(ii) is in a period during which, pursuant to paragraph (2), the principal amount of such previous loan need not be paid; and

"(iii) has agreed that all funds received under the proposed loan shall be used solely for repayment of interest due on previous loans made under this subpart; and".

(b) Subsection (a)(2) of such section is amended—

(1) by inserting before the semicolon at the end of subparagraph (D) the following: ", except that the note or other written agreement may provide that payment of any interest otherwise payable (i) before the beginning of the repayment period, (ii) during any period described in subparagraph (C), or (iii) during any other period of forbearance of payment of principal, may be deferred until not later than the date upon which repayment of the first installment of principal falls due or the date repayment of principal is required to resume (whichever is applicable) and may further provide that, on such date, the amount of the interest which has so accrued may be added to the principal"; and

(2) by striking out "student" in subparagraph (E).

(c) Subsection (b) of such section (relating to maximum interest rates) is amended by striking out "10 percent per annum" and inserting in lieu thereof "12 percent per annum".

(d) Such section is further amended by adding after subsection (c) the following new subsection:

"(d) No provision of any law of the United States (other than subsections (a)(2)(D) and (d) of this section) or of any State that limits the rate or amount of interest payable on loans shall apply to a loan insured under this subpart.".

(e) Subpart I of part C of title VII of the Public Health Service Act is amended as follows:

(1) In section 727(a), insert "(and certain former students of)" after "students in".

(2) In the first sentence of section 728(a), strike out "students" and insert in lieu thereof "borrowers".

(3) In the second sentence of section 728(a), insert "or to obtain a loan under section 731(a)(1)(B) to pay interest on such prior loans" after "to continue or complete their educational program".

(4) In section 728(c), strike out "student".

(5) In the second sentence of section 729(a)—

(A) strike out "student" the first time it appears and insert in lieu thereof "borrower"; and

(B) insert "borrower who is or was a" before "student" the second and third time it appears.

(6) In section 731(a)(2)(B), strike out "student" and insert in lieu thereof "borrower".

(7) In the heading to section 731, strike out "STUDENT".

(8) In subsections (a) and (b)(2) of section 732, strike out "student" and insert in lieu thereof "borrower" each time it appears.

(9) In subsections (b)(1) and (e) of section 732, strike out "student".

(10) In section 733, strike out "student" each time it appears.

(11) In the heading to section 733, strike out "STUDENT" and insert in lieu thereof "BORROWER".

(12) In section 738, strike out "student".

(13) In section 739(a)(1), strike out "student" and insert in lieu thereof "borrower".

(f) The amendments made by this section shall take effect on October 1, 1977.

SEC. 6. (a) Section 1121(b)(5) of the Public Health Service Act is amended by inserting "fiscal year" before "ending September 30, 1977".

(b) Section 206(b)(6) of the Public Health Service Act is amended by striking out "senior" and inserting in lieu thereof "junior".

SEC. 7. Section 4839 of the Revised Statutes (24 U.S.C. 165) is amended by inserting after the fourth sentence the following new sentences: "Any funds in the account not currently needed may be invested by the said disbursing agent with the approval of the Secretary of the Treasury. Such investments shall be made only in public debt securities, with maturities suitable for the needs of the account. The interest on such investments shall be credited to and form a part of the account.".

SEC. 8. (a)(1) Section 1515(b)(2) of the Public Health Service Act is amended (1) by striking out "which may not" and inserting in lieu thereof "which, except as otherwise provided in this paragraph, may not", and (2) by adding after the first sentence the following: "The Secretary may, upon application of a conditionally designated entity, extend for a period not to exceed 12 months the period of such entity's conditional designation if the Secretary finds that such extension will enable such entity to qualify for designation under subsection (c) and that such extension is necessary to carry out the purposes of this title.".

(2) The second sentence of section 1516(a) of such Act is amended by inserting before the period at the end a comma and the following: "except that in the case of a grant made to a conditionally designated entity with which the Secretary will not enter into a designation agreement under subsection (c), such grant shall be available for obligation for such additional period as the Secretary determines such entity will require to satisfactorily terminate its activities under the agreement for its conditional designation".

(b) Section 1521(b)(2)(B) of the Public Health Service Act is amended by striking out "twenty-four months" and inserting in lieu thereof "thirty-six months".

The SPEAKER. Is a second demanded?

Mr. CARTER. Mr. Speaker, I demand a second.

The SPEAKER. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER. The gentleman from Florida (Mr. ROGERS) and the gentleman from Kentucky (Mr. CARTER) will be recognized for 20 minutes each.

The Chair recognizes the gentleman from Florida (Mr. ROGERS).

Mr. ROGERS. Mr. Speaker, a little more than a year ago, after the adjournment of the 94th Congress, President Ford signed into law the Health Professions Educational Assistance Act of 1976, a measure which was the product of nearly 3 years of often heated debate as to the proper direction of Federal health manpower policy. The legislative proposal before this body today, H.R. 9418, addresses several issues which are outgrowths of 1 year's experience in implementing the 1976 act.

Under existing law, in order to be eligible for capitation support—a statutory amount of money per student per year—schools of medicine must reserve positions in their 3-year classes in each of school years 1978–79, 1979–80, and 1980–81 for an identified pool of eligible transfer students. A number of positions equal to the number of U.S. citizens who have successfully completed a 2-year special educational program in the United States or who had enrolled in foreign medical schools prior to October 12, 1976, had completed 2 years of study in such schools, and had passed part I of the National Board of Medical Examiners' examination is to be equitably apportioned amongst schools of medicine receiving capitation. Schools of medicine are prohibited from applying any academic or place of residence criteria to prospective applicants from the pool.

H.R. 9418 would replace the requirement of existing law with a new requirement that schools of medicine, in order to be eligible for capitation support, increase their third year enrollment by 6 percent in each of school years 1978–79, and 1979–80. It would eliminate any overt reference to an identifiable pool of eligible students or to admission criteria, but would prohibit schools from counting non-U.S. citizens, transfer students from schools of osteopathy, and dentistry and from schools of medicine which have a place for such students in the third year, and U.S. citizens who enrolled in foreign medical schools after October 12, 1976, in order to meet the required increase. The proposed legislation is intended to meet the objections of many schools of medicine that existing law infringes on their academic freedom to apply their own admissions criteria in the selection of students. By requiring an enrollment increase in the third year, it also preserves a reasonable opportunity for those individuals to whom the Congress made a commitment under the 1976 act to complete their medical education in the United States.

H.R. 9418 contains three other amendments to provisions of the 1976 act.

First, it would exempt schools of dentistry which in school year 1977–78 had less than six filled first year positions in dental specialty programs from the requirement that schools of dentistry, in order to be eligible for capitation support provide assurances that 70 percent of all new dental specialty positions be in general dentistry or pedodontics. This revision is necessary if emerging schools of dentistry are to develop strong, well-rounded curriculums.

Second, it would restore the authority under the Public Health Service Act to award public health traineeships to individuals not enrolled in schools of public health. Prior to the enactment of the 1976 act, section 302 of the Public Health Service Act authorized the Secretary of Health, Education, and Welfare to make grants to schools of public health and to other public and nonprofit private institutions offering graduate or specialized training in public health for the purpose of providing traineeships to individuals receiving such training. Under the old authority, for example, preventive medicine and dentistry residency programs, nutrition and environmental health training programs, and graduate programs in health planning, hospital administration and health administration were eligible to receive such grants, whether or not they were located in schools of public health. The 1976 act provided separate authority for graduate programs in health planning, hospital administration and health administration and, inadvertently limited the authority for public health traineeships to schools of public health. The proposed legislation would simply restore the authority to award grants to programs not in schools of public health, specify that individuals being trained in preventive medicine and dentistry programs would be eligible for traineeships, and increase the authorization of appropriations for public health traineeships by $1 million in each of fiscal years 1979 and 1980.

Third, H.R. 9418 contains several minor and technical amendments to the health professions guaranteed student loan program established by the 1976 act. These amendments were requested by the Office of Education and, for the most part, are intended to conform the health professions loan program to the Higher Education Act's guaranteed student loan program. According to the Office of Education, these amendments are necessary if the authority is to be properly implemented.

The proposed legislation would also require the Secretary of Health, Education, and Welfare to undertake a study of the type of training received by and the need for the services, and the conditions for licensure of graduates of foreign medical schools; authorize the disbursing agent of Saint Elizabeths Hospital to invest funds deposited in the U.S. Treasury on behalf of patients; and extend the period within which health systems agencies and State health planning and development agencies must meet HEW standards for full designation for an additional year.

Mr. Speaker, H.R. 9418 is a noncontroversial proposal which deserves the support of every Member of this body. I urge its prompt passage.

Mr. CARTER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I support H.R. 9418 which amends the Public Health Service Act to require increases in the enrollment of third-year medical students as a condition of medical schools receiving capitation grants.

Specifically—this bill would require schools of medicine—in order to be eligible for capitation over the next 3 fiscal years—to increase their third-year enrollments by 6 percent over the lesser of first- or third-year enrollment in school year 1977–78.

In reaching this enrollment increase requirement—medical schools would not be able to count as third-year students the following:

Aliens;

Transfers from 4-year medical schools;

Students who enrolled in foreign schools after October 12, 1976;

Students from schools of dentistry or osteopathy; or

Students from unaccredited U.S. schools of medicine.

However, medical schools could count—as third-year students—for the purposes of the enrollment increase—those transfer students enrolled in the second year—who were first enrolled in foreign medical schools prior to October 12, 1976. Moreover—schools would not be penalized for normal attrition of their class size.

Mr. Speaker, there has been a great deal of controversy surrounding the related provision in current law—but I believe that this bill represents a reasonable resolution of the issue.

This amendment is intended to respond to the objections of many medical schools that the current law interferes with their academic freedom to select their own students—and yet still provide a reasonable opportunity for U.S. citizens studying abroad to complete their medical education in the United States.

Since the proposed amendment does include authority for the Secretary of Health, Education, and Welfare to grant a waiver—in whole or in part—to schools for whom compliance would threaten their accreditation—or jeopardize clinical training—I would hope that no school will be forced to comply if it could not handle the increase.

In particular—I hope the Secretary will give careful consideration to the impact of this enrollment increase on our medical schools' clinical training—when he reviews the applications for waivers. We would be doing the people of this country a disservice if we require schools to over-crowd their clinical training programs. In the end—not only the students—but their future patients will bear the burden of inadequate clinical training.

Mr. Speaker, in addition to the enrollment increase provision—this bill also contains other revisions to the health manpower legislation—which I believe will improve those programs—and an amendment to the health planning law—to give the health systems agencies more time—if needed—to meet the requirements for qualification.

I was particularly glad that the subcommittee amended the traineeship authority for preventive medicine residency programs—which was inadvertently excluded from the legislation last year. We

need more emphasis on the field of preventive medicine in general—and I expect this provision to be helpful.

The only concern I had with the other revisions included in this legislation—was the section which increased the maximum interest rate—under the guaranteed student loan program—from 10 to 12 percent. This is certainly a high interest rate—but apparently the increase is needed to encourage participation of lending institutions.

Mr. Speaker, I urge favorable consideration of this legislation.

Mr. MINISH. Mr. Speaker, I would like to rise at this time in support of H.R. 9418, the amendments to the Health Professions Education Act, which is before us today under suspension of the rules.

The intent of this legislation is very simple: to require medical schools to increase their third-year enrollments in order to remain eligible for Federal capitation grants.

Simply stated, this bill will help an increased number of qualified American medical students who are now studying in foreign schools to obtain positions in American medical schools.

I feel that this legislation is important to the continued assurance that adequate health care will be available to every American. Because of the limited number of of places available in American medical schools, many qualified students are forced to pursue on foreign shores their lifelong ambitions to become doctors and dentists.

H.R. 9418 requires that American institutions of medical learning increase their third-year enrollments by 6 percent. While an even higher figure would have been preferable, the Committee on Interstate and Foreign Commerce has arrived at a reasonable percentage of increases with this number.

Mr. Speaker, as we consider the merits of this proposal, I feel it is also important that we remember the tremendous expense inherent in obtaining a medical degree. By making space for a greater number of qualified American students here, at home, we will reduce for some parents and students, the additional expense of traveling to a foreign country.

In addition, passage of this legislation will allow more students to receive their training in the finest schools and clinical facilities in the world: those right here in the United States.

Mr. Speaker, for these reasons, I urge my colleagues to support H.R. 9418, the Health Professions Education Act amendments.

Mr. STAGGERS. Mr. Speaker, we have here today a bill which this Congress should pass in its present form in order to be consistent with legislation already passed by this Congress nearly 1 year ago. We have committed ourselves to require that there be additional positions in the third-year classes of medical schools throughout the United States for bona fide U.S. citizens who are enrolled in medical schools abroad and were enrolled in such medical schools before October 12, 1976. We need not go back into the rationalization for this original legislation. What we are here to decide on today are the parameters which we as responsible legislators must decide that such medical students must meet.

The scope of this law before you today is supported by the American Association of Medical Colleges, also by the individual interest groups supporting students, and U.S. citizens studying abroad.

Each third class in the U.S. medical school must increase by 6 percent. To fill these positions the medical schools can draw on U.S. citizens studying abroad and additionally, students studying in the United States already who go to schools which only offer the first 2 years of medical school. The academic qualifications of students are solely at the discretion of the schools involved. But the schools are not free in a real sense of admitting no one. Any school which does not increase its third-year enrollment by 6 percent from this pool of students must and will lose Federal capitation grants.

We have not totally locked in the medical schools of this country or the health of this Nation has not been put in peril by the possibility of having inadequate students become ultimately inadequate physicians. This program will only run 2 years and the results of the program will be studied. In addition, this program only authorizes the admission of these students to the medical schools; they still must perform adequately within the medical school themselves. They are subject to the same academic requirements within a medical school that the other medical students must meet. There is no penalty for the medical schools should they feel that academically within the schools these students are not up to their standards. They, therefore, may be disciplined academically just as any other student would be.

Because of this broad base of support which we have from all groups concerned, we feel that this legislation will be of benefit to the American public as a whole.

Mr. CARTER. Mr. Speaker, I have no further requests for time.

Mr. ROGERS. Mr. Speaker, I have no further requests for time.

The SPEAKER pro tempore (Mr. KAZEN). The question is on the motion offered by the gentleman from Florida (Mr. ROGERS) that the House suspend the rules and pass the bill H.R. 9418, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

SACCHARIN BAN MORATORIUM

Mr. ROGERS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 8518) to direct an 18-month review and evaluation of all available information respecting the toxicity and carcinogenicity of food additives, including information respecting the ability to predict the effect on humans of food additives found to cause cancer in animals and whether there should be a weighing of risks and benefits in making regulatory decisions respecting such additives; to prohibit the Secretary of Health, Education, and Welfare from taking certain action restricting the continued use of saccharin as a food, drug, and cosmetic for 18 months; and to authorize the Secretary during those 18 months to require, in retail stores and in advertising, warning notices respecting the potential health risks presented by the use of saccharin, as amended.

The Clerk read as follows:

H.R. 8518

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the Secretary of Health, Education, and Welfare (hereinafter in this Act referred to as the "Secretary") shall arrange, in accordance with subsection (c), for the conduct of an assessment, based on available information, of—

(1) current technical capabilities to predict the direct or secondary carcinogenicity or other toxicity in humans of substances which are added to, become a part of, or naturally occur in food, and which have been found to cause cancer in animals;

(2) the direct and indirect health benefits and risks to individuals from foods which contain carcinogenic or other toxic substances;

(3) the existing means of evaluating the risks to health from the carcinogenicity or other toxicity of such substances, the existing means of evaluating the health benefits of foods containing such substances, and the existing authority and need for weighing such risks against such benefits;

(4) instances in which requirements to restrict or prohibit the use of such substances do not accord with the relationship between such risks and benefits; and

(5) the relationship between existing Federal food regulatory policy and existing Federal regulatory policy applicable to carcinogenic and other toxic substances used as other than foods.

Information respecting the chemical identity of any impurities contained in saccharin, the toxicity of any such impurities and their carcinogenicity in humans, and the health benefits, if any, to humans resulting from the use of nonnutritive sweeteners in general and saccharin in particular shall be reviewed in making the assessment prescribed by this subsection.

(b)(1) Within one year of the date of the enactment of this Act the Secretary shall, on the basis of information assessed under the last sentence of subsection (a), report, to the extent known, to the Committee on Interstate and Foreign Commerce of the House of Representatives and to the Committee on Human Resources of the Senate—

(A) the chemical identity of any impurities contained in saccharin,

(B) the toxicity of any such impurities and their carcinogenicity in humans, and

(C) the health benefits, if any, to humans resulting from the use of nonnutritive sweeteners in general and saccharin in particular.

(2) Within eighteen months of the date of the enactment of this Act the Secretary shall report to the committees referred to in paragraph (1) the results of the assessment conducted under subsection (a) together with such recommendations for legislation as the Secretary considers necessary.

(c)(1) The Secretary shall first request the Institute of Medicine of the National Academy of Sciences (hereinafter in this subsection referred to as "Institute") to conduct the assessment, required by subsection (a), under an arrangement whereby the actual expenses incurred by the Institute directly related to the conduct of such assessment will be paid by the Secretary. If the Institute is willing to do so, the Secretary shall enter into such an arrangement with the Institute.

(2) If the Institute declines the Secretary's request to conduct such assessment under

such an arrangement, then the Secretary shall enter into a similar arrangement with another appropriate public or nonprofit private group or association to conduct such assessment.

SEC. 2. (a) During the eighteen-month period beginning on the date of the enactment of this Act, the Secretary—

(1) may not amend or revoke the interim food additive regulation of the Food and Drug Administration of the Department of Health, Education, and Welfare applicable to saccharin on April 15, 1977 (section 180.37 of part 180, subchapter B, chapter 1, title 21, Code of Federal Regulations (42 Fed. Reg. 14638)), or

(2) may not take any other action under the Federal Food, Drug, and Cosmetic Act to prohibit or restrict the sale or distribution of saccharin, any food permitted by such interim food additive regulation to contain saccharin, or any drug or cosmetic containing saccharin,

solely on the basis of the carcinogenic or other toxic effect of saccharin as determined by any study made available to the Secretary before the date of the enactment of this Act which involved human studies or animal testing, or both.

(b) Subsection (a) does not limit the authority of the Secretary under the Federal Food, Drug, and Cosmetic Act to prescribe labeling for saccharin or any food, drug, or cosmetic containing saccharin.

SEC. 3. (a) The Secretary may by regulation require retail establishments to display prominently, during the eighteen-month period beginning on the date of enactment of this Act, where saccharin, or any food containing saccharin, is held for sale, a notice (in such form as shall be prescribed in such regulation) of the risks to health which may be presented by the use of saccharin.

(b) The Secretary may promulgate any regulation under subsection (a) without regard to subsections (c) and (d) of section 553 of title 5, United States Code, but the Secretary shall provide a reasonable opportunity for an informal hearing (as defined in section 201(y) of the Federal Food, Drug, and Cosmetic Act) respecting the promulgation of such regulation. Such regulation may be promulgated without regard to section 102(2)(C) of the National Environmental Policy Act of 1969.

(c) Any saccharin or any food containing saccharin which is sold in a retail establishment which did not, in accordance with subsection (a), display the notice required by that subsection shall, for purposes of the Federal Food, Drug, and Cosmetic Act, be considered a misbranded food.

The SPEAKER pro tempore. Is a second demanded?

Mr. CARTER. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Florida (Mr. ROGERS) and the gentleman from Kentucky (Mr. CARTER) will be recognized for 20 minutes each.

The Chair recognizes the gentleman from Florida (Mr. ROGERS).

Mr. ROGERS. Mr. Speaker, on March 9 of this year, the Food and Drug Administration announced its intention to ban the use of saccharin, the only nonnutritive sweetener now on the market, for use in food, drugs, and cosmetics. One of the principal bases for this action was a study conducted in Canada which demonstrated a positive association between bladder cancer and saccharin when the artificial sweetener was administered to rats in doses equalling 5 percent of their diets.

Following hearings by the Subcommittee on Health and the Environment in March and in June, the subcommittee ordered reported legislation, H.R. 8513, which has been reported by the Committee on Interstate and Foreign Commerce, which would direct the Institute of Medicine of the National Academy of Sciences to conduct an 18-month review and evaluation of all available information respecting the carcinogenicity and other toxicity of food additives—including saccharin—including information respecting the ability to predict the effect on humans of food additives found to cause cancer in animals and whether there should be a weighing of risks and benefits in making regulatory decisions respecting such additives. Two reports are to be submitted to Congress: An overall report of the results of the general study, to be submitted within 18 months of the date of enactment, and a report on saccharin itself—including a report on any impurities in saccharin, the toxicity of any such impurities, and the health benefits, if any, to humans from the use of nonnutritive sweeteners in general and saccharin in particular. This latter report is due 1 year from the date of enactment.

The legislation would also direct the Secretary of Health, Education, and Welfare—and thus the FDA—to permit the continued use of saccharin as a food additive, drug, or cosmetic for 18 months. It would continue the authority of the FDA to prescribe cautionary labeling on products containing saccharin and would authorize, but not require, the FDA to require the posting in retail establishments where saccharin or saccharin-containing food products are held for sale of notices setting forth the risks to health which may be presented by the use of saccharin. Saccharin, or any food containing saccharin, sold in a retail establishment which does not display a notice required by the new authority is deemed to be a misbranded food for purposes of the Food and Drug Act.

A great deal of concern has been engendered by the inclusion of the authority for the Secretary to require warning notices in retail establishments. In recognition of that concern, the committee report provides the following direction to the Secretary if he decides to implement the authority:

The Committee recognizes that it may be difficult for owners of retail establishments to know precisely, and on a daily basis, the existence in their establishments of each product offered for sale which contains saccharin. Further, the Committee would expect that if a store displayed one, two or three easily readable signs, depending upon the size of the establishment and volume of sales, listing the products or types of products which contain saccharin as well as any warning required by the regulations, the retailer should be deemed to have satisfied the requirements of the law. The Committee does not expect that the requirement extend to more than three separate notices per establishment. The Committee believes that it would be appropriate to require that, if more than one notice were required to be posted in a retail establishment because of its size of volume of sales, notice be posted proximate to high concentrations of saccharin-containing products such as diet sodas or dietetic foods. The Committee anticipates that if the Secretary decides to implement his authority with respect to notices in retail establishments, implementation will be consistent with this intent.

As I stated when I introduced the legislation proposing the 18-month delay, since the FDA's initial announcement of its proposed intent, a series of highly emotional arguments has all but made impossible a balanced judgment on the issue. I am sure that most Members of this body have received thousands of letters protesting the proposed ban. While I recognize that the majority of these letters result from a carefully orchestrated and heavily financed industry effort, there is no question that a substantial portion of the American public is outraged by this decision.

The singular purpose of this legislation is this: To allow consideration of all scientific evidence on saccharin, as well as the public policy issues surrounding the banning of carcinogenic substances, such as issues involving weighing of benefits and risks, in the proper manner and atmosphere. In my judgment this can be done only through enacting a moratorium on the proposed ban and requiring a valid, broad based scientific study.

Mr. Speaker. I urge the prompt passage of this important legislation.

Mr. QUILLEN. Mr. Speaker, will the gentleman yield?

Mr. ROGERS. I yield to my distinguished colleague, the gentleman from Tennessee.

Mr. QUILLEN. Mr. Speaker, the distinguished chairman has made it crystal clear that if HEW does require signs to be posted in retail establishments, the number should not exceed three.

Mr. ROGERS. The gentleman is correct.

Mr. QUILLEN. Mr. Speaker, I thank the gentleman for making this statement, because it is so important that a retail establishment not be cluttered with unnecessary signs.

I would like to see only one sign required, and if HEW does implement such regulations, would the chairman agree that one, in some cases, would be sufficient?

Mr. ROGERS. Mr. Speaker, I am sure that in many stores, where there are not many saccharin containing products held for sale, I think the stores would be in compliance with the law with one sign, but I think in large stores we may want as many as three. For example, in stores where diet sodas are displayed in one area, you might want to put a sign there; you might have dietetic products in another area, and you might want to put a sign there.

Mr. QUILLEN. I understand that the Senate version requires a warning label will be affixed to all products containing saccharin; is that correct?

Mr. ROGERS. That is correct.

Mr. QUILLEN. I would hope that such a provision does not survive in conference and that the position of the House prevails, because I think under the chairman's leadership the committee has

drafted a good bill that deserves the strong support of the House. I want to congratulate the chairman and the ranking minority member on this committee for reporting this very fine legislation.

Mr. ROGERS. Mr. Speaker, I thank the gentleman for his remarks and I appreciate his support.

Mr. KAZEN. Mr. Speaker, will the gentleman yield?

Mr. ROGERS. I yield to the gentleman from Texas.

Mr. KAZEN. I thank the gentleman for yielding.

Mr. Speaker, did I understand the gentleman to say that the store owner has to put up a sign enumerating the products that he is selling which contain saccharin?

Mr. ROGERS. That is correct.

Mr. KAZEN. The gentleman is putting a tremendous burden on the store owner. How is he to know what items he has on the shelf that contain saccharin?

Mr. ROGERS. The Secretary of HEW, if he decided to implement this authority could require the manufacturer of the product to advise the retailer that the product contains saccharin.

Mr. KAZEN. Would it not suffice just as well to say "products made from saccharin are sold here," instead of requiring the tremendous burden of bookkeeping, paperwork, and everything else, by enumerating every single article which contains saccharin?

Mr. CARTER. Mr. Speaker, will the distinguished gentleman yield on that point?

Mr. ROGERS. I yield to the gentleman from Kentucky.

Mr. CARTER. Mr. Speaker, this is the discretionary authority granted to HEW.

Mr. ROGERS. To the Secretary. Ultimately to the FDA.

Mr. CARTER. And it is not mandatory, I will say to my friend, the gentleman from Texas.

Mr. KAZEN. Mr. Speaker, if the gentleman will yield further, suppose the Secretary says, "This I will require." Then one can imagine the possible burden, with the size of the supermarkets that we have today and the number of edible articles that contain saccharin. I believe that we have a pitfall here that we should avoid, and we should avoid it now before we pass this legislation.

Mr. ROGERS. I refer the gentleman to the committee report. In the report, it is made clear that the committee recognizes that to require that each item be accompanied by a separate notice would probably be unworkable and expects the Secretary, if he decides to exercise his authority, to implement the requirement as outlined by the committee.

So we would expect, at the most, three signs to be posted in a single retail establishment. If the Secretary so required, the retailer could satisfy the notice requirement by making a list of the specific products or class of saccharin containing food products available to the consumer at the desk or counter.

Mr. KAZEN. If the gentleman will yield further, why would it not suffice to have on these three notices say that "products sold in this store may contain saccharin"? What is wrong with that?

Mr. ROGERS. The regulations could so require. In my view, a list of the actual products should be available to inform those consumers who wished to know which products contained saccharin. There is no reason why the warning notice authority could not be implemented in this fashion.

Mr. SISK. Mr. Speaker, will the gentleman yield?

Mr. ROGERS. I yield to the gentleman from California.

Mr. SISK. I thank the gentleman for yielding.

Mr. Speaker, I want to say at this time that I want to commend the gentleman from Florida (Mr. ROGERS) and the gentleman from Kentucky Mr. CARTER) for the great job they have done. I support this legislation and I express my deep appreciation for the work that has been done.

Mr. ROGERS. Mr. Speaker, I thank the gentleman.

Mr. Speaker, I yield 5 minutes to the gentleman from New York (Mr. OTTINGER).

Mr. OTTINGER. Mr. Speaker, I thank the chairman of my subcommittee for yielding me this time.

I do hope that the House will not pass this bill on suspension. This is a bill of considerable controversy. An amendment I offered to prescribe labeling lost by just 1 vote in committee and five members of the committee joined in the signing separate views in the committee report on various grounds.

There were members of the committee who felt very strongly, as I do, that even though we ought to grant the manufacturers time to develop a safe substitute since there is presently no safe substitute for saccharin, during the interim, inasmuch as there is very strong evidence of carcinogenicity in the ingestion of saccharin, there ought to be a clear labeling required. The FDA requested that we prescribe the terms of any warning label, as I will shortly outline in greater detail.

We cannot offer an amendment under this procedure. I offered another amendment in committee requiring lifting of the moratorium if a safe substitute that is certified—and there are a number of substitutes that are being tested at the present time, with a safe substitute, there would be no reason to continue this moratorium. We cannot consider that amendment now. There were a number of other amendments that were considered in committee.

I believe we have too often abused the suspension procedure. This is a controversial piece of legislation. The labeling amendment lost by only 1 vote in the committee. Therefore, I believe we ought to have an opportunity for an orderly consideration of this legislation under a rule.

There is no question about the carcinogenicity of saccharin. Tests in both the United States and in Canada, over a period of more than 20 years—in fact, starting in 1948—have demonstrated the carcinogenicity of saccharin in laboratory animals, sometimes in very small amounts, amounts comparable to those which an ordinary person would ingest in the course of drinking 1½ bottles of diet soda a day.

These tests started in 1948. The first evidence of carcinogenicity was demonstrated then, and it has been demonstrated consistently since. I will put the results of the specific tests in the RECORD.

This is not just a question of cancer of the bladder. The 1948 tests showed cancer of the lymph glands. Again, in 1950 cancer of the lymph glands was noted. In 1973 there was evidence of tumors of the uterus and the ovary; in 1975 the tests showed tumors of the breast. Another test in Tokyo, Japan, showed cancer of the ovary. There were tests which demonstrated lung cancer in 1973, and there have been a half a dozen tests which have showed cancer of the bladder in laboratory animals.

I sat through all the hearings on this matter. Scientist after scientist came to us, and the vast majority of them said that the testing procedures on laboratory animals are valid and are very important to us as the best means available to detect carcinogenicity.

And it was shown that there is no thereshold for carcinogenicity. Once we have shown carcinogenicity, there is no small amount one can take that would be safe. Any amount ingested over a period of 30 to 40 years will cause a certain number of cancers in human beings.

We have seen the results of a test in Canada, an epidemiological test showing cancer in human males. Epidemiological tests are very hard to conduct because it is hard to isolate the substance that causes cancer over a period of 30 to 40 years.

One of the most disturbing effects of the saccharin controversy is the deliberate attempts to undermine public confidence in the FDA, in animal tests for carcinogens and in the Delaney amendment. I believe there is ample evidence in the record that saccharin presents a risk to human health. Only the degree of the risk and possible benefits are in dispute.

In a statement presented to the Subcommittee on Health and the Environment of the House Commerce Committee on March 21, 1977, Dr. Sidney Wolfe of the Public Citizen's Health Research Group presented evidence that—

First. Saccharin has caused an increased amount of bladder tumors in at least six studies in rats, with cancer occurring in an animal fed as little as 0.05 percent saccharin in the diet—equivalent of just eight cans of soda per day.

Second. Saccharin has caused increases in other kinds of cancer, such as leukemia, lymphomas and lymphosarcomas—cancer of lymph tissues—female reproductive cancers—ovary, uterus, breast—with significant effect seen at doses as low as 0.01 percent saccharin—equivalent to 1.6 cans of soda per day.

Third. Since the excess cancer risk from saccharin is likely less than 30 percent, no human epidemiological study would be able to detect this. Thousands of excess saccharin-caused cancers

could exist in the United States and we would not be able to prove—or disprove—a cause-effect relationship. Studies purporting to show that saccharin does not cause cancer in humans are thereby misleading.

Table 1 below—from Dr. Wolfe's testimony—reviews six rat feeding studies in which animals fed saccharin got bladder tumors. The first of these was done in 1959 and all but the current Canadian study were completed 4 or more years ago. Table 2 reviews studies in which saccharin caused an increase in other types of tumors. These findings, some of which are almost 30 years old, should have given even further impetus for FDA to ban saccharin several years ago.

TABLE 1.—TUMORS OF THE URINARY BLADDER IN RATS INGESTING SACCHARIN

Study	Year	Dose (percent)	Animal	Number (percent) with tumors: Control Number	Control Percent	Treated Number	Treated Percent
Lessel [1]	1959	5	Rat (female)	0/20		2/20	10.0
Litton [2]	1972	5	do	0/20		1/26	3.8
FDA [3]	1973	7.5	do	0/24		4/31	12.9
			Rat (male)	1/25	4.0	7/23	30.4
Warf [4]	1973	.05	Rat (female)	0/17		1/17	5.9
		5	Rat (male)	0/16		7/16	44.0
Munroe (Canada) [5]	1973	.2	Rat (female)	0/56		1/56	1.8
		.2	Rat (male)	0/57		1/51	2.0
		2	do	0/57		2/52	3.8
Canada [6]	1977	5	do	1/78	1.3	19/83	22.9
			Rat (female)	0/85		2/89	2.2

TABLE 2.—OTHER THAN URINARY BLADDER TUMORS IN RATS AND MICE INGESTING SACCHARIN

Study	Year	Dose (percent)	Type of tumor	Animal	Number (percent) with tumors: Controls Number	Controls Percent	Treated Number	Treated Percent	Equivalent "bottles/day"
DA [7]	1948	0.01	Lymphosarcoma	Rat (male and female)	0/20		8/14	57.0	1.6
		5	do	do	0/20		9/17	53.0	800
Schmähl [8]	?	.2	Lymphoma, leukemia	do	4/104	3.8	6/104	5.8	32
		.5	do	do	4/104	3.8	8/104	7.7	80
Warf [4]	1973	.05	Malignant tumors of the uterus and ovary	Rat (female)	0/17		1/17	6.0	8
		.5	do	do	0/17		2/15	13.0	80
		5	do	do	0/17		4/20	20.0	800
FDA [3]	1973	.01	Breast	do	6/20	23.0	14/30	47.0	1.6
		.01	do	Rat (male)	6/29	21.0	14/25	56.0	1.6
NIHS, Tokyo [9]	?	.2	Ovary	Mice (female)	0/14		3/18	17.0	32
		1	do	do	0/14		7/11	64.0	160
Bio-Research [10]	1973	1	Lung	Mice (male)	9/19	11.0	14/29	48.0	160

[1] Lessel B., 1959, 1969. A 2-yr trial on saccharin for carcinogenic activity. Unpublished report No. 1014, Biol. Div., Boots Pure Drug Co., Ltd. (1959). Unpublished report No. P69455, an addendum to report No. 1014 (1969).

[2] Unpublished study, Litton Bionetics, 1972.

[3] Sodium saccharin: "Combined Chronic Feeding and Three-Generation Reproduction Study in Rats," FDA, May 15, 1973.

[4] Warf Institute, Madison, Wis., "Long-Term Saccharin Feeding in Rats, Mar. 26, 1973.

[5] Munroe, I. D., C. A. Moddie, D. Krewski, and H. C. Grice. A carcinogenicity study of commercial saccharin in the rat. Toxicol. Appl. Pharm. 32: 513–526, 1975, (study available in 1973.)

[6] "Chronic Feeding Study on Saccharin", Health Protection Branch, Canadian Government, March 1977.

[7] Fitzhugh, O. G., A. A. Nelson, and J. P. Frawley. A comparison of the chronic toxicities of synthetic sweetening agents. J. Am. Pharmacol. Assoc. 40: 583–586, 1951. Also, Long, E. L. and R. T. Haberman. Review of tumors in rats treated with saccharin and control rats used in studies of artificial sweeteners, 1948–49, October 1969.

[8] Schmahl, D. Lack of chronic toxic and carcinogenic effects of sweeteners (cyclamate and saccharin) in Sprague-Dawley rats. Unpublished data from the Institute of Toxicology snd Chemotherapy, German Cancer Research Center, Heidelberg.

[9] National Institute of Hygienic Science, Tokyo.

[10] Final report, "Studies in saccharin and cyclamate", Bio-Research Consultants, Inc., Cambridge, Mass., May 31, 1973.

After the March subcommittee hearings, two new epidemiological studies on saccharin were released in draft form. One of these, a Canadian study, coordinated by the epidemiological unit of the National Cancer Institute of Canada, shows a significant correlation between the use of saccharin and the occurrence of bladder cancer in human males. The resulting data from the 480 matched pairs of male individuals showed a bladder cancer risk ratio of 1.6 for users of artificial sweeteners—principally saccharin—versus nonusers. This means that there is an estimated 60-percent increase in the risk of bladder cancer associated with the use of artificial sweeteners in males. The other study, an American study employing a much smaller sample, does not show such an association.

I think the epidemiological tests on human populations, regardless of their results, are inconclusive because: First, the samples are inadequate; second, the period of time is inadequate; and third, the inability to isolate saccharin as the cause of cancer in the test population. At any rate, Congress should not undermine the FDA and substitute our judgment for that of the experts we assigned to make these determinations on subjects as technical as the health risks of a carcinogen.

If a moratorium is adopted, we must provide safeguards to protect the health of the public during this period. The bill reported by the Commerce Committee fails to provide these safeguards. Under suspension amendments to correct the situation are precluded:

One such safeguard that should at least be considered by the House is the requirement of a label on saccharin products warning the public of the risks of consumption.

In a recent joint statement, the Director of the National Institutes of Health, Dr. Donald Fredrickson, and the Chairman of the Federal Trade Commission, Mr. Michael Pertschuck, joined the FDA Commissioner, Dr. Donald Kennedy, and urged:

> . . . any legislation interposed by Congress that stays regulatory action against saccharin should, we believe, at least contain provisions designed to provide fair warning of the potential hazard of continued consumption of this compound.

Second, there would be no reason to require FDA to allow continued use of saccharin, which unquestionably presents some health risk to the public, if a safe substitute were available. An amendment should be considered which would end the moratorium if a substitute for saccharin were certified as safe and satisfactory in any product, group of products or all products. Such an amendment is supported by the Public Citizen Health Research Group.

These and all other amendments are precluded from consideration by the House by the suspension procedures.

H.R. 8518 in its present form does not adequately protect the health of the American public or give the industry an incentive to develop and market a safe substitute. I urge my colleagues to oppose this legislation under the suspension procedure.

Mr. ROGERS. Mr. Speaker, I yield such time as he may consume to the gentleman from New Jersey (Mr. MAGUIRE).

Mr. MAGUIRE. Mr. Speaker, I thank the chairman for yielding.

Mr. Speaker, I regret to say, but I believe it is to be true, that with this piece

of legislation Congress is sticking its collective head in the sand.

With this bill, we are saying to the American people that we will allow them to continue to consume what has been shown to be cancer-causing in rigorous testing procedures of the sort which have been scientifically accepted for decades.

Mr. Speaker, some questions had been raised in past years about some of the earlier tests. Therefore, the Canadian tests were designed to be definitive tests. But when they came in positive, people said, "Yes but we do not have tests with respect to human beings."

Then the Canadians came in with tests with respect to human beings, which were also positive. At that point people said, "They were Canadians; they were not Americans," or some such unscientific nonsense.

Mr. Speaker, this has gotten ridiculous to the point that now in this bill we are saying that we are not going to accept scientific information furnished as a result of tests conducted prior to a certain date, but we will accept scientific evidence that is furnished as a result of tests conducted after a certain date.

I cannot think of anything more unscientific.

In sum, what those who support this bill ought to be saying here is that, instead of a warning label on saccharin, what this Congress would like is to have an assurance label reading something like this: "Assurance: Saccharin does not cause cancer, in the opinion of your Congressman, despite all the scientific evidence that it does."

Mr. Speaker, I think we are going to look back on this day and recognize that we have regressed on the commitment of this body to protect the American people from cancer.

I deeply regret that. The fact is that no safe thresholds have been identified for carcinogens. The fact is that scientifically there are no or few practical alternatives to animal tests with limited numbers of animals at high dosages. The fact is that cancer causation by a chemical at any dosage in laboratory animals is a warning of hazard to man, specifically a hazard of carcinogenicity. The fact is that very few substances are carcinogenic and that when we find those that are we ignore that fact only at the peril of many lives.

Mr. CARTER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I support this legislation, H.R. 8518, which provides an 18-month moratorium on the Food and Drug Administration's proposed ban on saccharin and calls for further scientific assessment of the possible toxic and carcinogenic effects of saccharin and other food additives.

Mr. Speaker, as you well know, the so-called saccharin controversy has received more public attention than virtually any other health issue in recent years. Thousands and thousands of letters protesting the proposed ban have been delivered to Members' offices as well as to the Food and Drug Administration.

Our Health Subcommittee conducted extensive hearings on the proposed ban, and possible legislative alternatives, in March and June of this year.

We heard testimony from a wide range of experts, including scientists, epidemiologists, the National Cancer Institute, the Food and Drug Administration, and various interest groups.

What we found, Mr. Speaker, was a valid difference of opinion among eminent scientists and epidemiologists as to whether or not saccharin was carcinogenic in humans—and whether or not FDA had acted wisely.

In other words—the consensus was that there was no conclusive evidence indicting saccharin as a carcinogen for humans at this time.

The committee report echoes this point on page 8—stating:

It also became clear during the hearing that there is a paucity of direct evidence linking bladder cancer in humans to the use of saccharin.

Since release of the original Canadian rat study—which prompted FDA's action—several recent human studies have raised further questions about the effect of saccharin in humans.

For example—in a study of 519 bladder cancer patients and an equal number of controls—Dr. Irving Kessler of Johns Hopkins University found no correlation between use of artificial sweeteners and bladder cancer.

In another study by Ernst Wynder of the American Health Foundation—no significant relationship between bladder cancer and saccharin consumption was found.

Moreover—examination of mortality rates from bladder cancer in Britain—by Professors Armstrong and Doll—have revealed no increase that might be attributed to saccharin consumption. Diabetics in Britain showed no excess mortality from bladder cancer though they used saccharin much more than the average person.

In contrast to these negative findings, there has been a recent Canadian study on humans which found a positive relationship between artificial sweetener use, and risk of bladder cancer for men. However, this study has received criticism from a number of experts, thus raising further questions about the relationship between saccharin and cancer in humans.

I would like to include for the RECORD a copy of an editorial published by the editors of the Lancet, a highly respected British medical journal, which criticizes the Canadian human study in the same edition which prints the study. The editorial concludes:

We judge that most readers will find the case against saccharin unimpressive.

Mr. Speaker, in addition to the inconclusive evidence against saccharin, we heard testimony from a number of groups regarding saccharin's benefits.

Millions of Americans, including diabetics and the obese who must restrict their intake of sugar, depend on continued availability of saccharin.

Even if saccharin were proven to be a mild carcinogen, an argument can be made that the benefits of saccharin to persons who need it for health reasons would outweigh the risks.

However the present law does not permit such a benefit-risk assessment for food additives, and that is one of the reasons the bill calls for further study on this question.

Therefore, Mr. Speaker, since the evidence on saccharin's carcinogenicity in humans is not conclusive at this time, and because of saccharin's beneficial use to millions of Americans, I believe the 18-month moratorium proposed by this legislation, with the requirement for further study, is warranted.

I urge favorable consideration of this bill.

In addition, Mr. Speaker, I include a copy of an editorial to the New England Journal of Medicine, June 9, 1977, by Dr. Kurt Isselbacher, a distinguished member of the Harvard University faculty:

[From the Lancet, Sept. 17, 1977]

BLADDER CANCER AND SACCHARIN

Interest in saccharin in relation to bladder cancer in man has arisen out of experiments in which bladder cancers developed in rats receiving large quantities of saccharin. The meaning of these findings and their relevance to man are unclear, and several groups of workers have looked for evidence of an increase in bladder cancer in man that might be related to saccharin use. Examination of mortality-rates from bladder cancer in Britain and the U.S.A. have revealed no increase that might be attributed to saccharin consumption. Diabetics in both these countries showed no excess mortality from bladder cancer though they use saccharin much more than the average. Morgan and Jain investigated the question more directly by a postal questionnaire sent to 364 patients (240 male with bladder cancer and 470 control patients with benign prostatic hypertrophy (310) or stress incontinence (female). No positive relationship was found though interpretation of their findings is complicated by a low response-rate (69% in the cancer cases and 57% in the controls). Last year Kessler reported the latest results of a continuing study in Baltimore in which 209 patients (157 male) with recently diagnosed bladder cancer were interviewed together with a similar number of matched controls, no differences being found between these groups in their previous intake of artificial sweetners (mainly saccharin).

A study by Dr. Howe and his colleagues, reported on p. 578, suggests that a positive relationship exists between artificial-sweetener use and the risk of bladder cancer. This has already been publicised in the national Press, largely because recent U.S. legislation requires that documents submitted to federal departments and agencies must be made available to the public. Adequate appraisal is obviously not possible from summary Press reports, and The Lancet is publishing the work so that the data on which the claimed association is based are available for independent assessment by a wider audience. Under such scrutiny certain weaknesses in the study can hardly be overlooked.

632 patients (480 male) in three Canadian provinces with recently diagnosed bladder cancer were questioned about a number of variables including their use of artificial sweetners (mainly saccharin). Their answers were composed with those of local residents (matched for age and sex) who were willing to cooperate when the interviewers called. Significantly more males with bladder cancer reported having used artificial sweetners (A.S.) than did controls, and this Howe and his colleagues regard as suggesting that A.S.

use in males can cause bladder cancer—in keeping with animal experimental work in which an effect was found only in male rats. What is not stressed, however, is that women with bladder cancer used A.S. somewhat less than their controls such that overall (i.e., when both sexes are combined) no significant relationship is found. In general epidemiologists are familiar with the dangers (and the temptations) of drawing conclusions from findings in subgroups when the total results are not significantly different from expected. No non hormonal carcinogen in man is known to affect only one sex, and the case made by the Canadian workers that saccharin is the first such example is less than convincing.

But there are other reasons for questioning the conclusions drawn by Howe and his colleagues from the association between bladder cancer and A.S. use. If we accept that the findings are not entirely due to chance, we must consider the possibility that the association might be indirect. The most important established cause of bladder cancer is cigarette smoking, which in most studies is associated with a greater risk of the disease than the Canadian workers claim for A.S. use in males. There is also evidence from the U.S. that coffee consumption is associated with bladder cancer. It follows therefore that these factors must be carefully taken into account in any analysis. This is particularly so since smokers have been shown in several investigations—including the Canadian one—to drink more coffee than non-smokers and also because coffee is often artificially sweetened. It is therefore important to show that the association of bladder cancer with A.S. use is not merely due to an association of A.S. with smoking and/or coffee consumption. But the analyses reported by HOWE and his colleagues are superficial. Moreover insufficient data are presented on these potentially important confounding factors to allow adequate analysis. Cigarette smoking was examined simply by dividing the males into those with a lifetime consumption equal to or less than 10,000 packs (200,000 cigarettes) and those who had smoked in excess of 10,000 packs.

Thus lifelong non-smokers (who would be of special interest) were merged in the first category with smokers of, say, 14 cigarettes per day for 40 years. Ex-smokers would go into either category though they might deserve separate attention since often they have more need of A.S. than most people because of associated weight gain. Equally surprisingly, coffee consumption was studied only in relation to whether instant coffee was "ever consumed" or "never consumed" and other types of coffee were not considered. It would be difficult to propose cruder divisions for either tobacco or coffee and the methods of analysis do little to clarify whether the apparent effect of A.S. is real or whether it is merely due to cigarette smoking and/or coffee consumption. It is possible that the data are insufficient to allow adequately for the confounding effects of tobacco and coffee but this is no argument for not making available the data on these crucial points.

There may be other biases in the Canadian study. The method of selecting controls is clearly of the greatest importance; "neighbourhood" controls interviewed at home as in the present study may not have as much time or interest as the cancer patients, so that differences in recall may influence the results. Similarly there is no means of knowing if those potentially suitable controls who were not at home when the interviewer called (an unknown number) or who refused (17% potentially eligible controls at home) had a different pattern of A.S. use from those who were interviewed. In this connection it is not reassuring that the investigators failed to report any respect in which the cases and controls were similar (except those specifically matched for) and substantial differences were detected in education, occupation, history of urinary infections, and source of water supply, besides tobacco and coffee consumption.

There is need for further work on saccharin and bladder cancer in man. One such study has already come to our notice through the U.S. public information rules previously mentioned. This is a careful study by WYDER and GOLDSMITH of A.S. use in 146 cases and in 132 matched hospital controls they report that the risk of bladder cancer in A.S. users of either sex was, if anything, somewhat lower than in non-users. We judge that most readers will find the case against saccharin unimpressive.

SACCHARIN—THE BITTER SWEET

(By Dr. Kurt J. Isselbacher)

A recently completed Canadian study shows that saccharin can act as a bladder carcinogen in rats.[1] As a result, the United States Food and Drug Administration proposes to prohibit the use of saccharin as a food additve. This action is required by a 1958 law, which includes the "Delaney clause" stating that ". . . no additive shall be deemed to be safe if it is found to induce cancer when ingested by man or animal . . ." It has been claimed that the value of the Delaney clause lies in the maximum degree of protection that its unqualified language provides. However, as phrased, the clause precludes the use of judgment in drafting regulations for specific substances. Yet judgment is needed to guard against inappropriate generalization to man from other species and to permit a balancing of the benefits of a food additive against its dangers. The case of saccharin well illustrates these two needs. There is good reason to be skeptical about the relevance to man of the existing data on rats, and the medical, social and economic values of saccharin may be considerable. The opposition to the saccharin regulation is based on these considerations and is thus, more fundamentally, a challenge to the Delaney clause itself.

No study, including the Canadian one, has shown convincingly that there is an excess of bladder cancer in rats exposed to saccharin only after birth, the "F_0" generation. The Canadian study is persuasive only for male rats born of mothers fed a diet containing 5 per cent saccharin and weaned to the same diet, the "F_1" generation. The study is only weakly positive for F_1 females.

Unfortunately, the study evaluated saccharin only at the one dosage level since its major objective was to assess the carcinogenic activity of orthotoluenesulfonamide (OTS), a manufacturing contaminant in commercial saccharin. OTS was evaluated at several dosage levels and exonerated. Thus, the earlier positive studies of saccharin by the FDA [2] and by Tisdel at al.[3] can no longer be dismissed with the suggestion that OTS was the carcinogenic agent. These two studies are similar to the Canadian study in being clearly positive only among F_1 male rats (the F_0 animals were not examined). In fact, in the FDA study, F_1 males given a 5 per cent saccharin diet were similar to controls; only animals given a 7.5 per cent saccharin diet had an excess of bladder cancer.

It is not known why all three studies are essentially negative among female rats. Nor is it clear why only in utero exposure produced an excess of bladder cancer. Saccharin is concentrated in fetal tissues,[4] and, if this is the reason for the in utero requirement, the results of the animal studies pertain primarily, perhaps exclusively, to saccharin use by pregnant women. Finally, since positive results were restricted to rats receiving massive doses of saccharin, it is difficult to make inferences about low-dose effects either in rats or in human beings.

The issue of dose response is crucial. A diet containing 5 per cent saccharin has 500 to 2000 times more saccharin than is consumed by an adult human being. What would be the bladder-cancer risk of rats fed a diet containing, say, 0.1 per cent saccharin? The necessary extrapolation can be made only if we invoke a hypothetical model of a dose-response relation. Three models seem reasonable. The simplest is a linear relation. If a 5 per cent saccharin diet causes bladder cancer to develop in 18 per cent of F_1 male rats (the Canadian result), a 0.1 per cent diet would cause about 0.4 per cent of animals to be affected. Another model might incorporate a threshold value. If the threshold is above 0.1 per cent, rats fed such a diet would show no excess of bladder cancer. A third model is that the risk of bladder cancer is a more complex function of the saccharin dose—for example, risk may be proportional to the square of the dose. If this were the case, the 0.1 per cent saccharin diet would cause bladder cancer in only 0.007 per cent of rats, or about one in 14,000. Existing data do not permit us to choose from among these models, although they least favor the simple linear relation. However, even if we could extrapolate along the dosage scale to predict low-dose effects among rats, we could not confidently generalize over the species barrier to human beings. Such generalization requires knowledge of the relative sensitivity of the two species to saccharin-induced bladder cancer. We have no such knowledge, but it seems unlikely that adult human beings would be more sensitive than fetal rats. On the other hand, the long life of human beings suggests that saccharin-induced bladder cancer could develop in them. During a normal life-span a person could ingest a moderately high dose of saccharin and survive a latent period of several decades.

In view of these uncertainties, the information on man should be examined closely. Saccharin came into use in the United States about 1900, and per capita consumption has increased more or less steadily since then. Yet, during this century, bladder-cancer mortality rates have declined, especially for women. Incidence rates have been stable for women but have risen for men.[5] However, the rising incidence for men can be explained by their cigarette-smoking habits.[6]

At least seven pertinent epidemiologic studies show that bladder-cancer mortality patterns in England and Wales are not correlated with saccharin consumption [7] and that diabetic patients have no excess mortality from bladder cancer despite their relatively high consumption of saccharin.[8-10] The studies also show that patients with bladder cancer and controls do not differ in their use of saccharin.[11-13] All these studies may be criticized on several counts, the most serious being that they were too small. That is, each study might readily have failed to detect a small increased risk of bladder cancer—say, 30 per cent—among saccharin users. However, neither this nor other criticisms explain why all the studies are negative. A credible explanation of the negative findings is that, as used by human beings, saccharin does not cause bladder cancer or causes so few cases that its effect could be detected only by an enormous study. A small study is likely to be useful only if it focuses on a group of special interest, such as persons occupationally exposed to saccharin. Studies might also focus on women, who have low bladder-cancer incidence rates because they are less exposed than men to industrial and other causes of the disease.[14] Thus, any effect of saccharin may be more apparent among them.

Regarding possible benefits, it is widely acknowledged that saccharin is not a critical substance, and its benefits are difficult to quantify. Saccharin has economic value as a sugar substitute in some foods, and many physicians believe that it has a place in the

[1] Footnotes at end of article.

management of diabetes and obesity. Moreover, many healthy persons must value saccharin, for they elect to use it as an aid to weight control.

Despite the apparent benefits of saccharin, the difficulties of generalizing to man from the existing information on rats and the negative epidemiologic studies, it is likely that the FDA will restrict the sale, and use of saccharin. Nearly everyone will agree that pregnant women and children should not be exposed knowingly. There also seems little reason for a normal, healthy person to use saccharin, and many choose not to. These goals of avoiding unintended saccharin ingestion can be attained by the requirement that all saccharin-containing products be so labeled. This requirement is already the law for foods and cosmetics. It seems unwise to change this law to one that would limit the availability or increase the costs of saccharin-containing products used for medical indications. Yet these would be the effects of a general ban on the use of saccharin as a food additive. The ban would have the further disadvantage of being difficult to enforce, especially if saccharin remains available as a nonprescription "drug." For example, how would the law treat a person who added saccharin to his can of unsweetened soda?

Whatever regulatory action is taken by the FDA on saccharin, attention should be paid to changing the Delaney clause. In addition to excluding judgment, the clause is deficient in its restriction to "man or animal." In vitro tests will probably become a valuable part of the process by which the carcinogenic potential of a drug or chemical is evaluated. The revised or new law should take into account the difficulties of generalizing to human beings from animal and other kinds of studies. It should also permit the benefits of a food additive to influence decisions regarding its use.

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Mr. ASHBROOK. Mr. Speaker, I rise in strong support of H.R. 8518, the saccharin ban moratorium. This bill would prohibit the Federal Government from restricting the use of saccharin as a food additive for the next 18 months. During that time the Secretary of Health, Education, and Welfare would be required to conduct a study of the health benefits and health hazards resulting from saccharin.

As my colleagues will recall, about 6 months ago the Food and Drug Administration announced its intention to ban the use of saccharin. This action was not based on its own or any separate American investigation. Instead, the decision was based upon a Canadian study of rats.

These tests, moreover, had little bearing on actual usage. The Canadian rats were given the equivalent amount of saccharin that would be found in 800 bottles of diet drink. Who in the world does or even could consume such an incredible amount of liquid?

Obviously more tests should be conducted. Too little information is available to even consider taking such a drastic step as a saccharin ban. The 18-month moratorium proposed in H.R. 8518 would provide the time needed to conduct these tests.

I am also concerned about the proposed ban on saccharin from another standpoint, that of personal freedom. Increasingly the Federal Government is intruding into the private lives of its citizens. A ban on saccharin would be one more case of unnecessary governmental interference.

Americans should have free choice in this matter. The government should mind its own business and allow the individual citizen to make his or her own choice regarding saccharin.

Saccharin is an important sugar substitute. It is especially important to diabetics and overweight persons. To prohibit the use of this ingredient would impose a major hardship on those who depend on saccharin.

I urge the adoption of the saccharin ban moratorium although I am concerned that language in the bill may require a burden on store owners to display notices or lists on products with saccharin. This legislation is the best we can give in a liberal Congress which readily gives too much discretions to bureaucrats, and I might add, trusts bureaucrats to write regulations which will be fair. I have absolutely no trust of bureaucrats and will be surprised if the intent we express today will be carried out.

Mr. MOORHEAD of California. Mr. Speaker, will the gentleman yield?

Mr. CARTER. I yield to the gentleman from California.

Mr. MOORHEAD of California. Mr. Speaker, I certainly wish to join with the ranking minority Member, the gentleman from Kentucky (Mr. CARTER). I believe the evidence that has come before us recently is negligible that the American people have been put on notice that there is a possible danger from saccharin. At the same time, those people who are dependent upon an artificial sweetener for the maintenance of their health, such people as have diabetes, heart condition, obesity and other diseases may continue to use them until there is an adequate substitute for a place where they can go without getting a doctor's prescription, which I feel is highly necessary.

Mr. McCLORY. Mr. Speaker, will the gentleman yield?

Mr. CARTER. I yield to the gentleman from Illinois.

Mr. McCLORY. Mr. Speaker, I rise in support of this legislation (H.R. 8518) which would prohibit the Secretary of Health, Education, and Welfare from taking any action with respect to saccharin for a period of 18 months. During this period the National Academy of Science is authorized to undertake research and studies to ascertain the danger to human health—if any—which use of saccharin involves. In my opinion, there is no reliable evidence indicating that any human beings have had their health impaired by the use of saccharin.

Mr. Speaker, several years ago a ban on cyclamates resulted in millions of dollars of damage and the elimination of cyclamates from distribution and sale. Later studies indicate—to my satisfaction—that cyclamates have not endangered the lives of any human beings because of cancer—or other ailment.

Mr. Speaker, a small amount of saccharin is used in the manufacture of cyclamate sweeteners. Accordingly, it is my expectation that cyclamates will be proved to be without danger to human health. The resumption of the manufacture and marketing of cyclamates may be dependent upon clearing the good name—and reputation of saccharin. For this added reason, I am hoping that the House will pass this bill (H.R. 8515) overwhelmingly.

Mr. CARTER. Mr. Speaker, I yield such time as he may consume to the gentleman from North Carolina (Mr. MARTIN).

Mr. LAGOMARSINO. Mr. Speaker, will the gentleman yield?

Mr. MARTIN. I yield to the gentleman from California.

Mr. LAGOMARSINO. Mr. Speaker, I rise in strong support of H.R. 8518, Saccharin Ban Moratorium. I wish to associate myself with the remarks made by the gentleman from Kentucky (Mr. CARTER) and those made by the gentleman from North Carolina (Mr. MARTIN). This is badly needed legislation. I know of no issue that has so upset vast numbers of Americans. They—and I—simply cannot understand how and why HEW has taken action to ban saccharin on the basis of such flimsy evidence.

Mr. MARTIN. Mr. Speaker, I am here in support of H.R. 8518, which is an 18-month moratorium on the saccharin ban.

I want to commend the gentleman from Florida (Mr. ROGERS), the distinguished chairman of the subcommittee, and the distinguished gentleman from Kentucky (Mr. CARTER), who is the rank-

ing Republican member on the subcommittee, and the other members of the subcommittee for drafting what I regard as a very appropriate and very well crafted piece of legislation.

Mr. ROGERS. Mr. Speaker, will the gentleman yield?

Mr. MARTIN. I yield to the gentleman from Florida.

Mr. ROGERS. Mr. Speaker, I want to say that the ranking minority member on the committee, the gentleman from Kentucky (Mr. CARTER) has done an outstanding job, and to express my appreciation to the gentleman now in the well from North Carolina (Mr. MARTIN) who has been most helpful in lending his expertise to the committee in the development of this legislation. The gentleman has been most active and most helpful to the committee. His leadership is well recognized.

Mr. MARTIN. Mr. Speaker, I thank the chairman for his kind words.

Mr. Speaker, what we are here doing today is not just to "bomb the ban" but to allow an 18-month study by the National Academy of Sciences with regard to the possible benefits of various food additives, and the ways in which we translate animal studies to human risks. This will give us an opportunity to develop a cautious modernization of the Delaney proviso in the food and drug law. In my view that proviso may have been adequate in 1958 when it was drafted, but it has now become a scientific anachronism. Consider the fact that analytical chemistry has reduced the level of trace detection from the order of parts per million, where it was in 1958 when I was a graduate student in chemistry. Ten years later that was down to the level of mere parts per billion. Now we are on the level of parts per trillion today.

Second, it must be pointed out that if the provisions and principle in the Delaney clause, which would ban any detectable trace of a food additive that is found in massive overdoses to be carcinogenic, would, if they were consistently applied, end up banning half of the food supply.

There are two concepts for solving this, which I would regard as cautious modernizations of the Delaney clause. One would be to provide for the assessment of benefits and risks, as a bill which I have drafted, H.R. 5166, and which has been introduced with 201 cosponsors, would seek to do.

A second way would be to establish an acceptable risk level, something on the order of perhaps 1 cancer in 1 million, or 1 in 10 million. Or it could be done in a different way, in terms of one one-hundredth or one-fiftieth of that level which is found in animal tests to have no effect whatsoever. At least six carcinogens have now been shown to show a "no effect" level.

The main thing we must do is to protect the public interest. Otherwise, unless we enact this bill, the ban will do more harm than good for that one-third of the public who use saccharin as an important part of their diet. It helps tens of millions of them to maintain their dietary control. I am speaking about the 10 million people who have diabetes, about the 4 million people who are heart patients, about the 10 million who have hypertension, and about the 40 million obese. It has been said they can do without saccharin. Perhaps that is true for thousands, but millions will find that they lack that rigid self-discipline, that they lack that iron will that would be required of them. They would find that they would simply return to sugar-sweetened beverages and desserts if saccharin were not available, just as they did in 1969 and 1970 when cyclamates were banned.

Let me say a word about the scientific evidence, if I may. I must maintain that if you are going to evaluate the scientific evidence, you must first look at the most valid scientific evidence. Certainly that would be the epidemiological evidence that is derived from human health statistics. There have been a dozen studies which show that there is absolutely no correlation between the normal human use of saccharin and any incidence of cancer. The only exception to that was one Canadian study based on a very limited number of people, which has now been discredited in the very journal that published it, as one of the preceding speakers has pointed out.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. CARTER. Mr. Speaker, I yield 2 additional minutes to the gentleman from North Carolina.

Mr. MARTIN. I thank the gentleman for yielding.

This study has been discredited on the one hand because of the incorrect handling of the control group statistics and second, because it makes a rather curious finding of a 60 percent greater risk of cancer for women who do not use saccharin than for women who do.

Mr. MAGUIRE. Mr. Speaker, will the gentleman yield?

Mr. MARTIN. I yield to the gentleman from New Jersey.

Mr. MAGUIRE. I thank the gentleman for yielding.

I wonder if the gentleman is confident in making his statement about the epidemiological studies that he could in fact unscramble the possible causes of cancer one from the other over a 20- or 50-year period, so that saccharin could be sufficiently isolated to develop any meaningful scientific results from epidemiological techniques.

Mr. MARTIN. I will propose to the gentleman that epidemiological evidence would be used only where it is available. In the case of saccharin it is available in no less than 1 dozen thoroughly valid studies, and they all conclude that there is no correlation between the normal human use of saccharin and the incidence of cancer.

Mr. MAGUIRE. If the gentleman will yield further, the gentleman is fully aware that there have been some major criticisms made of those studies?

Mr. MARTIN. No scientific research is free of criticism. I maintain and point out that there have been some major criticisms of the Canadian evidence based on rate studies, and that is what I intend to deal with next.

In the first place, the only evidence that has shown any connection between saccharin and the incidence of cancer was the Canadian rat study, which was based on a 2½ grams-per-kilogram exposure, that is, 2½ grams per kilogram of body weight, for a two-generation sequence of rats, mother and child. Only in that case was there a significant incidence of cancer. On the other hand, if the rats were exposed only from birth at that dose level of 2½ grams per kilogram of body weight, there was no significant effect. Furthermore, if from the moment of conception while the fetus was in utero, they were exposed at roughly one-half that massive overdose, namely, one kilogram per gram of body weight, there was no statistically significant effect.

Therefore I think one must conclude from the scientific evidence that saccharin is not a direct carcinogen and furthermore observe it is not an alkylating agent, which is a characteristic of carcinogens in general. From this I think it could be observed that it is only in the extreme overdose that the effect is noted and therefore perhaps due to the action of that overdose of saccharin as being a physical irritant, one which would increase the raw sensitivity of the rat's bladder tissue. The mechanism may be a secondary effect in which this massive, extreme overdose would affect the rat's detoxification mechanism. Either way it occurs only at a near lethal overdose.

Now let me say a word about the concept of a safe dose. Since the rats had no statistically significant increase in bladder cancer when two consecutive generations were fed a dose of one gram per kilogram of body weight, that may be taken as an approximation of the threshold, or "no effect," level. That is still an enormous overdose. Applying a safety factor of one-hundredth of that dose translates to the human consumption for a 125-pound woman of four large cans of diet soda daily.

If all the available data is plotted on a log: log graph of dose versus response, it is possible to estimate a dose that would risk at most 1 case of bladder cancer per million—or 3 cancer deaths per 10 million, which is equivalent to the risk of a 10-mile car ride—and that translates to 12 large cans of diet drink every day for a 170-pound man.

It would be difficult to specify a fair warning to the consuming public, but based on this evidence the most one can require would be as follows:

It is recommended that you should not exceed a daily average of one 12-ounce can of diet drink for each 20 pounds of your body weight. Half that exposure level should be your limit if pregnant.

Nothing more restrictive than that is scientifically justified.

Mr. DICKINSON. Mr. Speaker, will the gentleman yield?

Mr. CARTER. I yield to the gentleman from Alabama.

Mr. DICKINSON. Mr. Speaker, I rise in support of this legislation. I believe it is very needed. I want to commend the gentleman from Kentucky (Mr. CARTER) on the remarks he has just made, and those of the gentleman who was just in

the well, the gentleman from North Carolina (Mr. MARTIN).

Mr. Speaker, I rise in support of H.R. 8518 which prohibits any ban or restriction on the sale of saccharin products for 18 month.

There has been a great deal of controversy over the proposed ban on saccharin products, and although it is certainly commendable to remove lethal products from the market, the evidence in this case is at best confusing. After all, saccharin has been used safely by hundreds of millions of people worldwide for 80 years, and numerous scientific studies conducted since 1912 have determined that saccharin in normal amounts is not harmful to humans.

The Canadian study of rats, which were fed abnormally high quantities of saccharin, indicated that the sweetener may have caused bladder cancer, but leading scientists and doctors are questioning the scientific validity of the tests. Certainly, when millions of Americans depend on saccharin for weight control and some 10 million diabetics need it to fill their need for sweets, we can take a more balanced look at saccharin to determine if it really needs to be restricted. The 18-month moratorium should afford ample time to make a valid determination, and I believe it would be an injustice to the American people not to pass this bill.

Mr. CARTER. Mr. Speaker, I yield all but 1 minute, which I reserve, to the gentleman from Ohio (Mr. DEVINE), a ranking minority member of the subcommittee.

The CHAIRMAN. The gentleman from Ohio is recognized for 6 minutes.

Mr. DEVINE. Mr. Speaker, I will try not to use the entire time. I hope to yield some back to my ranking minority member on the subcommittee.

Mr. Speaker, I must compliment the ranking minority member as well as the chairman of the subcommittee and the gentleman from North Carolina (Mr. MARTIN) for their great study and devotion to coming up with a solution to a problem that has disturbed the American people. I do not think that on other than some of the labor organization we have had more of an influx of mail on a subject than we have had on the proposed ban on the use of saccharin. I did not realize I had so many diabetics in my district or that there were so many across the country, but they certainly responded in the mail. That has caused us to look at the proposed ban by the Food and Drug Administration, which has caused the chairman to introduce this bill. I am in accord with this legislation in most respects, though I have reservations about the discretionary authority respecting the display of notices in retail establishments.

Our bill gives 18 months to take a look and see if the so-called Canadian study is soundly based. If it is not, we will take other steps. In the meantime we will prohibit the Food and Drug Administration from restricting the sale of saccharin during this 18-month period unless new evidence is produced.

I have been around here long enough to know we had a scare about cranberries and we took all the cranberries off the shelves right before Thanksgiving because somebody came up with a study that said maybe they would cause something terrible.

We had on September 15 four eminent scientists come and sit down for a congressional briefing. They included Dr. Irving Kessler, an epidemiologist from Johns Hopkins. We had Dr. Ernst Wynder, from the American Health Foundation of New York City. We had Dr. Philip Cole, associate professor of epidemiology at the Harvard School of Public Health.

We had as well Dr. Neal Brickner, director of the Institute of Kidney Disease, professor and vice chairman of the Department of Internal Medicine, at the University of Miami, School of Medicine.

All four of these men sat as a panel and discussed the findings of the Canadian study and all of them went over it in detail, and they too are generally in accord with us.

So I say, let us not allow FDA to act precipitously, let us require them to study this. Let us not just run helter-skelter to ban the use of the product when there has been no adequate proof. Let us pass this legislation.

This bill in my opinion is much more reasonable than the legislation passed by the Senate. I think we should have a strong vote in favor of the House position so that the conferees may be in a position to come up with a reasonable bill. The period in the Senate bill for study and assessment is only 1 year. They also require specific labeling. We continue the current labeling authority of the Food and Drug Administration rather than prejudice the issue by requiring specific language.

We should support the House position, have an 18-month study, and then see what happens.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield?

Mr. DEVINE. I yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Speaker, I appreciate my colleague yielding. I appreciate the gentleman bringing out the point that this panel of four able and competent people have made a judgment on the Canadian study and that the gentleman can assure us that they have decided in their panel study that the Canadian so-called study was, in fact, not as disastrous to the American public or consuming public as originally indicated in some of the media; is that correct?

Mr. DEVINE. That is correct. They felt that there were numerous questions concerning the validity of the Canadian study.

Mr. ROUSSELOT. Mr. Speaker, if the gentleman will yield further, did this panel bring out the difference between the effects on rats and people?

Mr. DEVINE. Yes, they did. Each scientist had a different perspective, but they came to the same conclusion. They thought the Canadian study was flawed.

Mr. ROUSSELOT. Mr. Speaker, if the gentleman will yield further, I appreciate my colleague's comments.

I also was interested in the gentlemen's notation of the fact that there was quite a difference between the House bill and the Senate bill especially as it relates to the labeling provisions. My understanding is that in the House bill before us today the manufacturers and others are not required to label a saccharin package in a detailed way. They are required to post the retail premises in an appropriate way so that there is clear notification to the consumer.

Let me review what our House committee stated on the subject of proper notice to consumers:

NOTICE TO CONSUMERS

The Committee feels strongly that during the proposed 18-month moratorium consumers should be afforded a reasonable opportunity to know what products contain saccharin so that they may make personal judgments concerning its use. Thus, the proposed legislation include new authority for the Secretary to require, during the 18-month moratorium, that retail establishments where saccharin or any food containing saccharin is held for sale prominently display a notice of the risks to health which may be presented by the use of saccharin. Because of the limited time period during which the Secretary is authorized to prescribe and enforce this new authority, the provisions of section 553 (c) and (d) of title 5, United States Code (relevant provisions of the Administrative Procedure Act relating to submission of data, views, or arguments and requiring that a substantial rule may not be made effective less than 30 days after its publication) are waived, although the proposed legislation requires that the Secretary shall afford reasonable opportunity for an informal hearing (as defined in section 201(y) of the Food and Drug Act) respecting the promulgation of the regulation. In addition, section 102(2)(C) of the National Environmental Policy Act of 1969 (relating to the requirement to prepare an environmental impact statement) is waived with respect to the promulgation of regulations under the time-limited authority.

Under the provisions of the Committee proposal, saccharin, or any food containing saccharin, sold in a retail establishment which does not display a notice required by the new authority is deemed to be a misbranded food for purposes of the Food and Drug Act.

The Committee recognizes that it may be difficult for owners of retail establishments to know precisely, and on a daily basis, the existence in their establishments of each product offered for sale which contains saccharin. Further, the Committee recognizes that to require that each type of product be accompanied by a separate notice would probably be unworkable. Thus, the Committee would expect that if a store displayed one, two or three easily readable signs, depending upon the size of the establishment and volume of sales, listing the products or types of products which contain saccharin as well as any warning required by the regulations, the retailer should be deemed to have satisfied the requirements of the law. The Committee does not expect that the requirement extend to more than three separate notices per establishment. The Committee believes that it would be appropriate to require that, if more than one notice were required to be posted in a retail establishment because of its size of volume of sales, notice be posted proximate to high concentrations of saccharin-containing products such as diet sodas or dietic foods. The Committe anticipates that if the Secretary decides to implement his authority

with respect to notices in retail establishments, implementation will be consistent with this intent.

I do believe I understand the reason why there is a difference from the Senate; that that is, that it would be very difficult to describe in adequate detail all the information needed on a small package of the saccharin.

Mr. ROGERS. Mr. Speaker, I yield 1 minute to the gentleman from Missouri (Mr. VOLKMER).

Mr. CARTER. Mr. Speaker, I yield an additional half-minute to the gentleman from Missouri.

Mr. VOLKMER. Mr. Speaker, I yield to the gentleman from Ohio (Mr. LUKEN).

Mr. LUKEN. Mr. Speaker, I rise in support of the gentleman from Florida and the gentleman from Ohio and the gentleman from Kentucky. I do not think we have sufficient data to legislate a ban on sacccharin. I think we have to have this moratorium to examine the Delaney amendment. I think the bill has been reasonable in every case. I support it.

Mr. Speaker, I rise in support of H.R. 8518, which would direct the Secretary of Health, Education, and Welfare to permit the continued use of saccharin as a food additive, drug, or cosmetic for 18 months. The Federal Drug Administration's intended ban on saccharin would not, under this bill, be allowed to go into effect at this time.

The Subcommittee on Health and the Environment held hearings on this legislation in March and in June. The bill as reported from the Interstate and Foreign Commerce Committee represents a carefully thought out approach to dealing with the subject of possible dangers to human health presented by food additives in general as well as saccharin.

The bill would, in addition to preventing a ban on saccharin, direct the Institute of Medicine of the National Academy of Sciences to conduct an 18-month review and evaluation of all available information respecting the carcinogenicity and other toxicity of food additives—including saccharin—including information respecting the ability to predict the effect on humans of food additives found to cause cancer in animals and whether there should be a weighing of risks and benefits in making regulatory decisions respecting such additives. Two reports are to be submitted to Congress: an overall report of the results of the general study, to be submitted within 18 months of the date of enactment, and a report on saccharin itself—including a report on any impurities in saccharin, the toxicity of any such impurities, and the health benefits, if any, to humans from the use of nonnutritive sweeteners in general and saccharin in particular. This latter report is due 1 year from the date of enactment.

Saccharin has been in use for 80 years and I quote the Acting Administrator of the FDA when stating that the substance poses "no immediate hazard to public health."

The FDA attempted to ban this product under the Delaney clause of the Food, Drug, and Cosmetic Act. This part of the law as it now stands is unwieldy and overbroad. It should probably be changed.

If it is going to be changed, let us change it so that people will no longer be harassed by inane dictates by the Federal Government designed to protect them from levels of saccharin that they will never consume. It is my opinion that the Federal Government should use its resources to protect people from known carcinogens that they involuntarily ingest daily—such as carbon tetrachloride in Cincinnati's drinking water. I cannot work up a lot of sympathy for a bunch of laboratory rats, but I am vitally concerned with exposure to industry-discharged toxic substances which do endanger the health of my constituents. I urge the Federal Government to get its priorities straight.

Mr. VOLKMER. Mr. Speaker, I, too, commend the gentleman from Florida and the gentleman from Kentucky for the work they have done on this. I wish to join in the remarks of the previous gentleman from Ohio, the Columbus district, in regard to the Senate bill, that I agree the House bill is a lot better than the Senate bill.

I wish also to commend the gentleman from North Carolina for the amount of work the gentleman has done, not only for this legislation, but for the whole problem.

I look forward to the next 18 months, because I am sure we are going to have this legislation finally passed where the subcommittee and the rest of Congress can look at the testing procedures used, can look at the Delaney amendment, to see if it needs any statutory change and look at the risk-benefit question to determine if it should relate to food additives as it does to drugs and whether or not these things need to be changed. I look forward to working with them in the coming months.

Mr. OTTINGER. Mr. Speaker, will the gentleman yield?

Mr. VOLKMER. I yield what little time I have.

Mr. OTTINGER. Mr. Speaker, I believe, if I can get the attention of the gentleman from North Carolina, the gentleman made a misstatement. The gentleman said there was just one animal test, the Canadian test, that showed carcinogenicity. In fact, I believe there were three tests by the FDA itself.

Mr. CARTER. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from North Carolina (Mr. MARTIN).

Mr. MARTIN. Mr. Speaker, I thank the gentleman for allowing me to clarify that statement. I would say there was only one definitive test with regard to the Canadian studies were based on several previous efforts, and was done to overcome flaws in the design of the earlier studies. In fact, the experimental basis for the "no effect" threshold level, that I have cited, came from the earlier studies, because the Canadian study used only one exposure level. Taken together, these studies demonstrate conclusively the point that I was making; namely, that saccharin causes no significant increase in cancer of the test rats if they were fed massive overdoses every day from the moment of birth, and that no significant increase in bladder cancer resulted from exposure where the rat and its pregnant mother were fed 2 percent of their diet, that is 1 gram of saccharin per kilogram of body weight, daily. Thus, only with the "double whammy," of 2.5 grams per kilogram daily for two generations, was there a significant effect.

That does not translate into much of a risk to humans.

Mr. OTTINGER. Mr. Speaker, if the gentleman will yield further, how does the gentleman define "definitive"?

Mr. MARTIN. Some of the evidence is that some of them got ridiculously massive overdoses for a two-generation exposure. That has a carcinogenic effect. Anything less does not.

Mr. CARTER. Mr. Speaker, I would say that these rats were fed, as a usual thing, 5 percent of their diet in saccharin.

Mr. BAUMAN. Mr. Speaker, as one of 100 bipartisan sponsors of a bill to allow for the free sale of saccharin while a comprehensive study is conducted to better determine its effects, I am glad to see this bill, H.R. 8518, brought to the House floor for a vote. I certainly support it.

I say now as I have said before, that I believe that the FDA ban on saccharin as originally proposed by them is irresponsible and unfair. It is irresponsible in denying the use of saccharin to diabetics and the many other citizens for whom a marketable substitute for sugar has not yet been made available. It is unfair to the many other citizens who despite the questionable findings by some FDA rat-testers, want to use saccharin anyway but are prevented from doing so by the self-appointed censors at FDA.

The bill we are here to consider provides for a broadly based scientific study of saccharin by the National Academy of Sciences and other responsible agencies not representing the vested interests of the Federal Government or FDA. It prohibits for 18 months any ban or restriction on the sale of saccharin products, therefore, letting the people decide whether or not they wish to use this sugar substitute.

People ought to decide this, and they should be given the freedom to do so. Let us not lose our sense of proportion, after all. We are not dealing here with heroin or any other type of dangerous drug, the use of which might endanger other citizens by its unpredictable effects. We are dealing here with an American citizen's right to choose.

Moreover, the bill allows the HEW to erect billboards or implant any other kind of sign into the counters of drugstores and supermarkets warning all comers as to the possible effects of saccharin. Of course, it is interesting to note that aside from all of the attention and the bad press saccharin has been getting since last year, sales for saccharin have gone up to nearly 6 million pounds. By these findings, it might serve the Nation's health if we asked the FDA to ban spinach and jogging, after which we would have a healthier Nation by this time next year.

I think this is a good bill, and I know that many of my colleagues agree with me. We should pass it, letting people once again have the right to decide their own fate.

Mr. KETCHUM. Mr. Speaker, I rise in support of H.R. 8518 which is currently before us.

My reasons for seeking to place a moratorium on the Food and Drug Administration's ruling has been due to the sound rationalization that the available scientific information before the FDA has not been properly reexamined and evaluated. By plunging ahead without establishing all the facts at hand, the administration has once again proven that it can arbitrarily impose undue hardships at will on the American consumer.

Thanks to these very American consumers who have been hard hit, however, letters have poured into Members' offices outspokenly against the ban. In response, the Congress is asserting its constitutional mandate of checks and balances and is finally drawing the line on behalf of those they represent.

Mr. Speaker, the issue of saccharin is not a new one. It was discovered in a Johns Hopkins laboratory in 1879, almost 100 years ago. Since that time literally millions of people have been exposed to the artificial sweetener, having consumed it as a federally proclaimed safe substitute for sugar. Despite the latest Canadian findings and primitive scientific studies which were conducted during the early part of the century, no convincing analysis on the dangers of saccharin have been brought to the public's attention. By the very fact that saccharin causes cancer to laboratory animals does not automatically dictate the FDA to ban the sweetener under the guise that all saccharin consumers will contract cancer.

Furthermore, Mr. Speaker, I reject the notion that the FDA necessarily knows best for the country. Let it prepare its case against the artificial sweetener and present its findings to the American consumer. The ball is then in the court of the consumer who should be entitled to freely choose whether he or she will buy the product on the basis of the evidence.

Mr. Speaker, I have examined this matter thoroughly. It is not my intent to take issue with my distinguished colleagues on minor points. Rather, it is my hope to draw your attention to the larger issues of regulatory excesses and the basic American freedoms which are being denied under the ban.

In many ways we are fortunate that saccharin has hit home to millions of people across the country. At the very least it has expanded our perceptions of how these basic American freedoms are being denied our people by the ongoing expansion of unnecessary regulatory intrusion. By the positive vote of this Chamber today we rightfully will have asserted our role in protecting the American interest of freedom of choice and governmental restraint.

Mr. STAGGERS. Mr. Speaker, I urge passage of H.R. 8518 in its present form. As you know, the rhetoric and polemics surrounding the saccharin question has been most intense. The total spectrum of thought on this subject from a complete ban of saccharin to an unlimited use of the chemical has been presented before our committee. We believe we understand the positions of private industry, of public interest groups, and of the Government and FDA. This bill represents a compromise on those positions, but is not a compromise on the health and safety of the American public.

As you know, according to current legislation and the so-called Delaney amendment, the FDA as they interpret that legislation has no discretion on whether or not to band a drug or in this case a food additive when any study shows that such food additive may be carcinogenic, and I emphasize may, in studies done on animals. The FDA only has discretion in deciding whether the studies were appropriate and were done by competent scientists using accepted scientific testing methods. We do not intend to do away with this Delaney amendment. What we plan to do in this legislation is for the specific use of saccharin to delay any outright ban on this chemical until further studies are completed. We do not propose, however, to place the American public's health in jeopardy. The Secretary has a right under this legislation to band saccharin should any studies within the stipulated 18-month moratorium period show that saccharin is indeed carcinogenic. In addition, this legislation requires that saccharin sold in products or separately must have at the place of sale a notice of the risks to health which may be presented by the use of saccharin and to declare misbranded saccharin and food containing saccharin which is held for sale not displaying any such notice.

Because the chemical saccharin is so important to the quality of life of so many Americans and because there have not been adequate studies and adequate studies are not required by current legislation, we urge that H.R. 8518 be adopted as a compromise to allow adequate studies to be performed and also to allow the Secretary at any time within this 18-month period when studies are to be performed to totally ban this chemical should any evidence be presented in acceptable form which clearly delineates the carcinogenicity of this chemical.

Mr. DON H. CLAUSEN. Mr. Speaker, we have before us today a bill to impose an 18-month moratorium on any action the Food and Drug Administration may take which will affect the sale and distribution of saccharin. I would like to take this opportunity to urge my colleagues to support this measure.

At the time of the FDA's announcement of the proposed ban on saccharin, my good friend, JIM MARTIN and I introduced legislation to amend the Federal Food, Drug and Cosmetic Act. While differing somewhat from the legislation before us, our legislation authorized an evaluation of the risk and benefits of certain food additives and would permit the marketing of saccharin until completion of the evaluation.

In calling for this moratorium, we are recognizing the importance of saccharin in the lives of the many diabetics and persons who are controlling their weight to avoid obesity. These persons will attest to the daily health benefits they derive from the use of saccharin.

In addition to the moratorium, the legislation we are considering calls for an evaluation of saccharin and the health benefits and risks which may be derived from its use, as well as an evaluation of the current scientific capabilities to correlate the effect of substances found harmful to animals with the affect these substances have on humans.

Therefore, I give my full support to this measure, as it assures an equitable judgment on this issue by providing for a careful and concise evaluation of all the factors involved.

Mr. HILLIS. Mr. Speaker, I wish to express my strong support of the bill, H.R. 8518. I do this on behalf of the numerous individuals who have contacted my office to inform me of the hardship the Food and Drug Administration's proposed ban on saccharin will impose. Like these individuals, there are millions of others who are afflicted with diabetes, heart conditions, weight problems, and other ailments who are dependent on saccharin as an artificial sweetener.

Obviously, no one wants the public exposed knowingly to a substantial risk of cancer. However, it makes no sense to allow the sale of cigarettes which extensive tests have linked to cancer, but ban the sale of saccharin which has been used safely for nearly a century. It would seem that if there were a link between usage of saccharin and cancer of the bladder in humans, this would surely have appeared in diabetics who have used saccharin for numerous years under close medical supervision. Yet, to my knowledge, the physicians who treat these individuals have discovered no evidence which would support the FDA's ban.

The bill, H.R. 8518, provides a rational approach to this issue by directing the Institute of Medicine to carefully review and evaluate all available information on the degree of risk in saccharin. The Institute is to report its findings in 1 year. In the meanwhile, for 18 months the FDA would be prohibited from taking action to implement the proposed ban. I see no logical reason why individuals should be denied the use of saccharin until enough scientific evidence has been obtained to make a reasoned decision.

This whole issue goes beyond the question of saccharin alone. In order for the public to maintain its confidence in the credibility of the Congress, we can do no less than to pass this measure.

Mr. MINISH. Mr. Speaker, it is widely held to be true that the Food and Drug Administration's proposed ban on the use of saccharin has been based on studies which are not conclusive. Bill H.R. 8518, which is similar in intent to a bill I have sponsored, will prohibit the Department of Health, Education, and Wel-

fare from putting the proposed ban into effect.

The bill will impose a moratorium of 18 months on the restriction of saccharin sales and use. This period of time will allow further and more conclusive study of this important issue.

Saccharin is important in an economic sense, but more importantly, it is the sole sweetener available to millions of Americans who for health reasons cannot use sugar. For this reason in particular, it is important that all the evidence be thoroughly appraised.

In addition, Mr. Speaker, the bill before us today will not prohibit the Department of Health, Education, and Welfare from labeling saccharin products with warning notices of the possible health risks.

Also of merit is the legislation's provision directing the Institute of Medicine to review and evaluate our ability to predict the carcinogenity in humans of food additives found to cause cancer in animals.

The existing means of weighing the risks of carcinogenity of food additives against their health benefits must also be scrutinized.

In conclusion, Mr. Speaker, there are many scientists who are of the opinion that the risks of saccharin use are outweighed by the beneficial qualities of that sweetener. This legislation will allow us to temper the strict letter of the Delaney clause with a needed regard for the general public good. I urge the bill's passage.

Mr. BINGHAM. Mr. Speaker, I support the 18 month delay in the imposition of the ban on saccharin. It seems prudent to delay until we know the extent of the danger posed by the continued use of saccharin and saccharin products. This bill directs the Institute of Medicine of the National Academy of Sciences to review and evaluate both the benefits and risks of continued use of foods like saccharin which are suspected of being cancer causing. The study will also examine the validity of the various laboratory tests now used to determine whether a substance is carcinogenic in humans. The delay, coupled with the study, will enable us to act with greater confidence in reducing exposure to dangerous substances and will make less likely the elimination of useful products which pose little or no danger.

Nevertheless I must vote against the motion to suspend the rules and pass H.R. 8518 without amendment. At least two amendments have been circulated which deserve consideration by the House. One would require a label on saccharin products which would warn consumers of the possible risks in consumption. The other would reimpose the saccharin ban if a substitute becomes available. I believe that the full House should have the opportunity to consider these amendments and others offering greater protection of the public health and hence shall vote "no" to allow that opportunity.

Mr. BIAGGI. Mr. Speaker, I rise in full support of H.R. 8518, a bill to postpone for 18 months the proposed FDA ban on saccharin. This legislation represents the best possible course of action Congress can take at this time with regard to this thorny problem.

Since early March, when the FDA first proposed the ban, this Nation has been embroiled in a controversy on the hazards of the use of saccharin. The catalyst for this debate was the nature of the experiments leading to the FDA proposal.

These tests were performed on Canadian rats. The findings showed saccharin to be a potentially cancerous additive. The FDA, invoking the Delaney amendment, ordered saccharin to be pulled from the market because of its "clearly unsafe nature."

It is my contention that a basis, which is more conclusive and scientifically valid, should be used as the determining factor in a decision to ban a product so widely and popularly used.

There are definite grounds upon which to challenge the Canadian tests. Firstly, and significantly, the rats were injected with amounts of saccharin far above normal human consumption levels. In addition, we must consider the old argument that animal and human reactions vary widely with respect to food additives.

Another related issue is the procedure by which the FDA can ban a product such as saccharin. Under the Delaney amendment, the FDA is required to ban any food product deemed unsafe where shown to be potentially cancerous when ingested by man or animal.

There is no question that measures, such as the Delaney amendment, to safeguard Americans from exposure to possible cancer-causing agents, are vital to the welfare of our country. The high incidence of cancer is a horrifying reality for all. But this FDA ban decision, and its method of application, need reforming. I have sponsored legislation, H.R. 6524, to modify present law by allowing the Secretary of Health, Education, and Welfare to prescribe regulations for additives found to induce cancer in animals when and if he determines that such additives present a significant risk to human health. Under this plan, the totality of all scientific data and the experience and needs of the public to be affected, would be evaluated before imposing a ban.

The press of time will prevent final action on the wider legislative solution. I view the legislation before us as a reasonable compromise. It will permit us some 18 months to develop a more deductive and unimpeachable basis for evaluating the future for saccharin. A decision of this magnitude, bearing indirectly on the well-being of so many people, cannot be the product of haste and hysteria.

I repeat that H.R. 8518 is a reasonable solution to the problem at this time. It should be noted that it includes a provision permitting HEW to prescribe labeling for saccharin or any product containing it. I now commend the distinguished chairman, Mr. ROGERS, for his leadership throughout this ban controversy, and urge the immediate passage of H.R. 8518.

Ms. HOLTZMAN. Mr. Speaker, I am compelled to oppose H.R. 8518, the saccharin ban moratorium bill both because of the manner in which this legislation has been brought to the floor for a vote and because of serious reservations about the substance of the bill.

I do not believe H.R. 8518 should be considered under a parliamentary technique that bars all amendments to improve the bill and protest by the public.

For example, an amendment is needed to require clear warning labels on all products containing saccharin to advise the public of the potential health hazards. Warning labels are not required by H.R. 8518; indeed, section 3(a) of the bill authorizes only that warnings be posted generally in retail stores. In effect, this represents no warning at all. Given the ample scientific evidence already on the record about the dangers of saccharin, I believe the Congress has an affirmative obligation at a minimum to require clear warnings on individual items to enable consumers to make an informed decision on whether to buy products containing saccharin.

An amendment is also necessary to allow a ban on the use of saccharin in animal feed and animal drugs. How can consumers wishing to protect themselves or their families by not using saccharin do so when the additive may be present in meat or other products they purchase? An amendment is similarly required to allow a ban on the use of saccharin in baby foods or other products where informed consent is impossible and consumption of saccharin involuntary.

Finally, I am concerned that no attempt is made by this legislation to regulate the advertising of saccharin products. Diet soft drink manufacturers, whose products contain three-fourth of the saccharin consumed by Americans, and other producers will continue their media blitz appeal to our country's sweet tooth without any responsibility to inform the public of the risks involved in consumption.

Mr. Speaker, to approve this bill without amendment is to ignore the weight of scientific evidence and to abdicate our responsibility and long-term commitment to protect the public health.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida (Mr. ROGERS) that the House suspend the rules and pass the bill H.R. 8518, as amended.

The question was taken.

Mr. OTTINGER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 3, rule XXVII, and the Chair's prior announcement, further proceedings on this vote will be postponed.

GENERAL LEAVE

Mr. ROGERS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 8518 and H.R. 9418.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

IMPLEMENTATION OF CONVENTION ON CULTURAL PROPERTY

Mr. VANIK. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5643) to implement the United Nations Convention on the Means of Prohibiting and Preventing the Illicit Import, Export, and Transfer of Ownership of Cultural Property, as amended.

The Clerk read as follows:

H.R. 5643

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Convention on Cultural Property Implementation Act".

SEC. 2. AGREEMENTS TO IMPLEMENT ARTICLE 9 OF THE CONVENTION.

(a) AGREEMENT AUTHORITY.—If the President determines, after request is made to the United States under article 9 of the Convention by any State Party, that—

(1) the cultural patrimony of the State Party is in jeopardy from the pillage of archeological or ethnological materials of the State Party;

(2) the State Party has taken measures consistent with the Convention to protect its cultural patrimony;

(3) the application of the import restrictions set forth in section 6 with respect to archeological or ethnological material of the State Party would be of substantial benefit in deterring a serious situation of pillage, and remedies less drastic than the application of such restrictions are not available; and

(4) the application of such import restrictions in the particular circumstances is consistent with the general interest of the international community in the interchange of cultural property among nations for scientific, cultural, and educational purposes;

the President may enter into—

(A) a bilateral agreement with the State Party to apply the import restrictions set forth in section 6 to that archaeological or ethnological material of the State Party the pillage of which is creating the jeopardy to the cultural patrimony of the State Party found to exist under paragraph (1); or

(B) a multilateral agreement with the State Party and with one or more other nations (whether or not a State Party) under which the United States will apply such restrictions, and the other nations will apply comparable restrictions, with respect to such material.

In implementing this subsection, the President should endeavor to obtain the commitment of the State Party concerned to permit the exchange of its archaeological and ethnological materials under circumstances in which such exchange does not jeopardize its cultural patrimony.

(b) EFFECTIVE PERIOD AND EXTENSION OF AGREEMENTS.—The President may not enter into any agreement under subsection (a) which has an effective period beyond the close of the 5-year period beginning on the date on which such agreement enters into force with respect to the United States. Any such agreement may be extended by the President for such additional periods of time as the President deems reasonable.

(c) PROCEDURES.—If any request described in subsection (a) is made by a State Party, or if the President proposes to extend any agreement entered into under such subsection, the President shall—

(1) publish notification of the request or proposal in the Federal Register;

(2) submit to the Committee such information, regarding the request (including, if applicable, information from the State Party with respect to the implementation of emergency action under section 3) or proposal, that is appropriate to enable the Committee to carry out section 5(f); and

(3) consider, in taking action on the request or proposal, the views and recommendations contained in the Committee report required under section 5(f)(1) or (2), if the report is submitted to the President before the close of the 120-day period beginning on the day on which the President submitted information on the request or proposal to the Committee under paragraph (2).

(d) INFORMATION ON PRESIDENTIAL ACTION.—In any case in which the President enters into or extends an agreement pursuant to subsection (a) or (b), or applies import restrictions under section 3, the President shall, promptly after taking such action, submit to the Congress a document containing a description of such action (including the text of any agreement entered into), the differences (if any) between such action and the views and recommendations contained in any Committee report which the President was required to consider, and the reasons for any such difference. If any Committee report required to be considered by the President recommends that an agreement be entered into, but no such agreement is entered into, the President shall submit to the Congress a document which contains the reasons why such agreement was not entered into.

SEC. 3. EMERGENCY IMPLEMENTATION OF IMPORT RESTRICTIONS.

(a) DEFINITION.—For purposes of this section, the term "emergency condition" means, with respect to any archaeological or ethnological material of any State Party that such material is—

(1) a newly discovered type of material which is of importance for the understanding of the history of mankind and is in jeopardy from pillage, dismantling, or fragmentation;

(2) identifiable as coming from any site recognized to be of high cultural significance if such site is in jeopardy from pillage, dismantling, or fragmentation which is, or threatens to be, of crisis proportions; or

(3) a part of the remains of a particular civilization the record of which is in jeopardy from pillage, dismantling, or fragmentation which is, or threatens to be, of crisis proportions;

and application of the import restrictions set forth in section 6 on a temporary basis would, in whole or in part, reduce the incentive for such pillage, dismantling, or fragmentation.

(b) PRESIDENTIAL ACTION.—Subject to subsection (c), if the President determines that an emergency condition applies with respect to any archaeological or ethnological material of any State Party, the President may apply the import restrictions set forth in section 6 with respect to such material.

(c) LIMITATIONS.—(1) The President may not implement this section with respect to the archaeological or ethnological materials of any State Party unless the State Party has made a request described in section 2(a) to the United States; but this section may be so implemented whether or not the State Party indicated, in such request, that an emergency condition exists.

(2) In taking action under subsection (b) with respect to any State Party, the President shall consider the views and recommendations contained in the Committee report required under section 5(f)(3) if the report is submitted to the President before the close of the 60-day period beginning on the day on which the President submitted information to the Committee under section 2(c)(2) on the request of the State Party under section 2(a).

(3) No import restriction set forth in section 6 may be applied under this section to the archaeological or ethnological materials of any State Party after whichever of the following days first occurs:

(A) The last day of the 2-year period beginning on the date on which the request of the State Party under section 2(a) is made to the United States.

(B) The day on which an agreement is entered into under section 2(a) with such State Party pursuant to such request.

SEC. 4. DESIGNATION OF MATERIALS COVERED BY AGREEMENTS OR EMERGENCY ACTIONS.

After any agreement is entered into under section 2, or emergency action is taken under section 3, the Secretary, after consultation with the Secretary of State, by regulation shall promulgate, and when appropriate shall revise, a list of the archaeological or ethnological material of the State Party covered by the agreement or by such action. The Secretary may list such material by type or other appropriate classification, but each listing made under this section shall be sufficiently specific and precise to insure that (1) the import restrictions under section 6 are applied only to the archaeological and ethnological material covered by the agreement or emergency action; and (2) fair notice is given to importers and other persons as to what material is subject to such restrictions.

SEC. 5. CULTURAL PROPERTY ADVISORY COMMITTEE.

(a) ESTABLISHMENT.—There is established the Cultural Property Advisory Committee.

(b) MEMBERSHIP.—(1) The Committee shall be composed of 9 members appointed by the President as follows:

(A) One member from among two nominees selected by the College Art Association.

(B) Two members from among four nominees, two of which shall be selected by the American Association of Museums and two of which shall be selected by the Association of Art Museum Directors.

(C) Two members from among four nominees, two of which shall be selected by the Archaeological Institute of America and two of which shall be selected by the Association for Field Archaeology.

(D) Two members from among four nominees, two of which shall be selected by the American Association of Dealers in Ancient, Oriental, and Primitive Art and two of which shall be selected by the Art Dealers Association of America.

(E) Two members who shall represent the interests of the public.

(2)(A) No individual is eligible for nomination or appointment under paragraph (1)(E) if the individual is an officer or employee of, or is otherwise related in an official capacity to, any organization listed in paragraph (1)(A) through (D).

(B) No individual is eligible for nomination or appointment under paragraph (1) unless the individual is specially qualified to serve on the Committee by virtue of the individual's education, training, or experience.

(C) Appointments and nominations made under paragraph (1) shall be made in such a manner so as to insure fair representation of the various interests of the public sectors and the private sectors in the international exchange of archaeological and ethnological materials, and that within such sectors, fair representation is accorded to the interests of regional and local institutions and museums.

(3)(A) Except as provided in subparagraph (B), members of the Committee shall be appointed for terms of 3 years.

(B) Of the members first appointed—

(i) three shall be appointed for terms of 1 year,

(ii) three shall be appointed for terms of 2 years, and

(iii) three shall be appointed for terms of 3 years, as designated by the President at the time of appointment.

(C) Any individual appointed as a member of the Committee is eligible for reappointment for one additional term (whether or not consecutive); except that any member initially appointed to the Committee for less than a full term is eligible for reappointment for two additional terms.

(D) A vacancy in the Commission shall be filled in the same manner in which the original appointment was made.

(c) EXPENSES.—The members of the Committee shall be reimbursed for actual expenses incurred in the performance of duties for the Committee.

(d) TRANSACTION OF BUSINESS.—(1) Seven of the members of the Committee shall constitute a quorum. All decisions of the Committee shall be by majority vote of the members present and voting.

(2) A Chairman and Vice Chairman of the Committee shall be elected by the members.

(e) STAFF AND ADMINISTRATION.—(1) The Secretary of State shall provide the Committee with such administrative and technical support services as are necessary for the effective functioning of the Committee.

(2) The Administrator of General Services shall furnish the Committee with such offices, equipment, supplies, and maintenance services as are necessary.

(3) Upon the request of the Committee, the head of any Federal agency may detail to the Committee, on a reimbursable basis, any of the personnel of such agency to assist the Committee in carrying out its functions.

(f) REPORTS BY COMMITTEE.—(1) The Committee shall, with respect to each request of a State Party referred to in section 2(a), prepare a report setting forth—

(A) the results of its investigation and review with respect to any matter referred to in section 2(a) (1) through (4) as it relates to the State Party or the request; and

(B) its recommendation, together with the reasons therefor, as to whether or not an agreement should be entered into under section 2(a) with respect to the State Party.

(2) The Committee shall, with respect to each agreement proposed to be extended by the President under section 2(b), prepare a report setting forth its recommendations, together with the reasons therefor, as to whether or not such agreement should be extended.

(3) The Committee shall, in each case in which the Committee finds that an emergency condition under section 3 exists (whether or not the State Party indicated in its request under section 2(a) that an emergency condition exists), prepare a report setting forth its recommendations, together with the reasons therefor, as to whether or not emergency action under section 3 should be implemented. If any State Party indicates in its request under section 2(a) that an emergency condition exists and the Committee finds that such a condition does not exist, the Committee shall prepare a report setting forth the reasons for such finding.

(4) Any report prepared by the Committee which recommends the entering into or the extension of any agreement under section 2 or the implementation of emergency action under section 3 shall set forth—

(A) such terms and conditions which it considers necessary and appropriate to include within such agreement, or apply with respect to such implementation, for purposes of carrying out the intent of the Convention; and

(B) such archaeological or ethnological material of the State Party, specified by type or such other classification as the Committee deems appropriate, which should be covered by such agreement or action.

(5) If any member of the Committee disagrees with respect to any matter in any report prepared under this subsection, such member may prepare a statement setting forth the reasons for such disagreement and such statement shall be appended to, and considered a part of, the report.

(6) The Committee shall submit to the Congress and the President a copy of each report prepared by it under this subsection.

(g) COMMITTEE REVIEW.—The Committee shall undertake a continuing review of the effectiveness of agreements entered into under section 2, and of emergency action implemented under section 3, and if the Committee finds, as a result of such review, that—

(1) any agreement or emergency action is not achieving the purposes for which entered into or implemented; or

(2) changes are required to this Act in order to implement fully the obligations of the United States under the Convention;

the Committee may submit a report to the Congress and the President setting forth its recommendations for improving the effectiveness of any such agreement, action, or this Act.

SEC. 6. IMPORT RESTRICTIONS.

(a) DOCUMENTATION OF LAWFUL EXPORTATION.—No designated archaeological or ethnological material that is exported (whether or not such exportation is to the United States) from the State Party after the effective date of the regulation listing such material under section 4 may be imported into the United States unless the State Party issues a certification or other documentation which certifies that such exportation was not in violation of the laws of the State Party.

(b) CUSTOMS ACTION IN ABSENCE OF DOCUMENTATION.—If the consignee of any designated archaeological or ethnological material is unable to present to the customs officer concerned at the time of making entry of such material—

(1) the certificate or other documentation of the State Party required under subsection (a); or

(2) satisfactory evidence that such material was exported from the State Party—

(A) not less than 10 years before the date of such entry and—

(i) no United States citizen or permanent resident of the United States contracted for or acquired an interest, directly or indirectly, in such material during the 10-year period preceding such date of entry, and

(ii) the State Party received, or should have received, fair notice of the location of the material by means of exhibition, publication, or other circumstances occurring after its exportation from the State Party; or

(B) on or before the effective date of the regulation prescribed under section 4 which lists such material,

the customs officer concerned shall refuse to release the material from customs custody and send it to a bonded warehouse or store to be held at the risk and expense of the consignee, notwithstanding any other provision of law, until such documentation or evidence is filed with such officer. If such documentation or evidence is not presented within 90 days after the date on which such material is refused release from customs custody, or such longer period as may be allowed by the Secretary for good cause shown, the material shall be subject to seizure and judicial forfeiture.

(c) The term "satisfactory evidence" means—

(1) for purposes of subsection (b)(2)(A), one or more declarations under oath by the consignor or shipper and the importer or consignee which state that the material was exported from the State Party not less than 10 years before the date of entry into the United States, which names those persons having an interest in the material during the 10-year period preceding such date of entry and declares that they are not United States citizens or permanent residents thereof, and which shows compliance with regulations issued by the Secretary with respect to exhibition, publication, or other circumstances relating to fair notice of the location of the material after exportation from the State Party, together with certified copies of exporting documentation (including but not limited to bills of sale after exportation, catalogs of dates of exhibition, copies of publication, and export or import documents); and

(2) for purposes of subsection (b)(2)(B), one or more declarations under oath by the consignor or shipper and the importer or consignee which state that the material was exported from the State Party on or before the effective date of the regulation prescribed under section 4 which lists such material, together with certified copies of exporting documentation (including, but not limited to, the kind described in paragraph (1)).

SEC. 7. STOLEN CULTURAL PROPERTY.

No article of cultural property appertaining to the inventory of a museum or religious or secular public monument or similar institution in any State Party which is stolen from such institution after the effective date of this Act, or after the date of entry into force of the Convention for the State Party, whichever date is later, may be imported into the United States.

SEC. 8. TEMPORARY DISPOSITION OF MATERIALS AND ARTICLES SUBJECT TO ACT.

Pending a final determination as to whether any archaeological or ethnological material, or any article of cultural property, has been imported into the United States in violation of section 6 or section 7, the Secretary shall, upon application by any museum or other cultural or scientific institution in the United States which is open to the public, permit such material or article to be retained at such institution if he finds that—

(1) sufficient safeguards will be taken by the institution for the protection of such material or article, and

(2) sufficient bond is posted by the institution to ensure its return to the Secretary.

SEC. 9. SEIZURE AND FORFEITURE.

(a) IN GENERAL.—Any designated archaeological or ethnological material or article of cultural property, as the case may be, which is imported into the United States in violation of section 6 or section 7 shall be subject to seizure and judicial forfeiture. All provisions of law relating to seizure, judicial forfeiture and condemnation for violation of the customs laws shall apply to seizures and forfeitures incurred, or alleged to have been incurred, under this Act, insofar as such provisions of law are applicable to, and not inconsistent with, the provisions of this Act.

(b) ARCHAELOGICAL AND ETHNOLOGICAL MATERIAL.—Any designated archaeological or ethnological material which is imported into the United States in violation of section 6 and which is forfeited to the United States under this Act shall—

(1) first be offered for return to the State Party and shall be returned if the State Party bears the expenses incurred incident to such return and delivery and complies with such other requirements relating to the return as the Secretary shall prescribe; or

(2) if not returned to the State Party, be disposed of in the manner prescribed by law for articles forfeited for violation of the customs laws.

(c) ARTICLES OF CULTURAL PROPERTY.—(1) In any action for forfeiture under this section regarding an article of cultural property imported into the United States in violation of section 7, if the claimant establishes valid title to the article, under applicable law, as against the institution from which the article was stolen, forfeiture shall not be decreed

unless the State Party to which the article is to be returned pays the claimant just compensation for the article. In any action for forfeiture under this section where the claimant does not establish such title but establishes that it purchased the article for value without knowledge or reason to believe it was stolen, forfeiture shall not be decreed unless—

(A) the State Party to which the article is to be returned pays the claimant an amount equal to the amount which the claimant paid for the article, or

(B) the United States establishes that such State Party, as a matter of law or reciprocity, would in similar circumstances recover and return an article stolen from an institution in the United States without requiring the payment of compensation.

(2) Any article or cultural property which is imported into the United States in violation of section 7 and which is forfeited to the United States under this Act shall—

(A) first be offered for return to the State Party in whose territory is situated the institution referred to in section 7 and shall be returned if that State Party bears the expenses incident to such return and delivery and complies with such other requirements relating to the return as the Secretary prescribes; or

(B) if not returned to such State Party, be disposed of in the manner prescribed by law for articles forfeited for violation of the customs laws.

SEC. 10. EVIDENTIARY REQUIREMENTS.

Notwithstanding the provisions of section 615 of the Tariff Act of 1930 (19 U.S.C. 1615), in any forfeiture proceeding brought under this Act in which the material or article, as the case may be, is claimed by any person, the United States shall establish—

(1) in the case of any material subject to the provisions of section 6, that the material has been listed by the Secretary in accordance with section 4; and

(2) in the case of any article subject to section 7, that the article—

(A) appertains to the inventory of a museum or religious or secular public monument or similar institution in a State Party, and

(B) was stolen from such institution after the effective date of this Act, or after the date of entry into force of the Convention for the State Party concerned, whichever date is later.

SEC. 11. CERTAIN MATERIAL AND ARTICLES EXEMPT FROM ACT.

The provisions of this Act shall not apply to—

(1) any archaeological or ethnological material or any article of cultural property which is imported into the United States for temporary exhibition or display if such material or article is immune from seizure under judicial process pursuant to the Act entitled "An Act to render immune from seizure under judicial process certain objects of cultural significance imported into the United States for temporary display or exhibition, and for other purposes", approved October 19, 1965 (22 U.S.C. 2459); or

(2) any designated archaeological or ethnological material or any article of cultural property imported into the United States if such material or article—

(A) has been within the United States for a period of not less than 10 consecutive years and has been exhibited for not less than 5 years during such period in a recognized museum or religious or secular monument or similar institution in the United States open to the public; or

(B) if paragraph (A) does not apply, has been within the United States for a period of not less than 10 consecutive years and the State Party concerned has received or should have received during such period fair notice (through such adequate and accessible publication, or other means, as the Secretary shall by regulation prescribe) of its location within the United States.

SEC. 12. REGULATIONS.

The Secretary shall prescribe such rules and regulations as are necessary and appropriate to carry out the provisions of this Act.

SEC. 13. ENFORCEMENT.

In the customs territory of the United States, and in the Virgin Islands, the provisions of this Act shall be enforced by appropriate customs officers. In any other territory or area within the United States, but not within such customs territory or the Virgin Islands, such provisions shall be enforced by such persons as may be designated by the President.

SEC. 14. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated after September 30, 1978, such sums as may be necessary to carry out this Act.

SEC. 15. DEFINITIONS.

For purposes of this Act—

(1) The term "agreement" includes any amendment to, or extension of, any agreement entered into under section 2.

(2) The term "archaeological or ethnological material of the State Party" means—

(A) any object of archaeological interest;

(B) any object of ethnological interest; or

(C) any fragment or part of any object referred to in subparagraph (A) or (B);

which was first discovered within, and is subject to export control by, the State Party. For purposes of this paragraph—

(i) no object may be considered to be an object of archaeological interest unless such object—

(I) is of cultural significance,

(II) is at least 500 years old, and

(III) was normally discovered as a result of scientific excavation, clandestine or accidental digging, or exploration on land or under water; and

(ii) no object may be considered to be an object of ethnological interest unless such object is—

(I) the product of a tribal or similar society,

(II) at least 50 years old, and

(III) important to the cultural heritage of a people because of its distinctive characteristics, comparative rarity, or its contribution to the knowledge of the origins, development, or history of the people.

(3) The term "Committee" means the Cultural Property Advisory Committee established under section 5.

(4) The term "consignee" means a consignee as defined in section 483 of the Tariff Act of 1930 (19 U.S.C. 1483).

(5) The term "Convention" means the Convention on the means of prohibiting and preventing the illicit import, export, and transfer of ownership of cultural property adopted by the General Conference of the United Nations Educational Scientific and Cultural Organization at its sixteenth session.

(6) The term "cultural property" includes articles described in Article 1 (a) through (k) of the Convention whether or not any such article is specifically designated as such by any State Party for the purposes of such Article.

(7) The term "designated archaeological or ethnological material" means any archaeological or ethnological material of the State Party which is covered by an agreement entered into under section 2(a), or subject to emergency action under section 3, and listed by regulation under section 4.

(8) The term "Secretary" means the Secretary of the Treasury.

(9) The term "State Party" means any nation which has ratified, accepted, or acceded to the Convention.

(10) The term "United States" includes the several States, the District of Columbia, and any territory or area the foreign relations for which the United States is responsible.

(11) The term "United States citizen" means—

(A) any individual who is a citizen or national of the United States;

(B) any corporation, partnership, association, or other legal entity organized or existing under the laws of any of the United States; or

(C) any department, agency, or entity of the Federal Government or of any government of any of the United States.

SEC. 16. EFFECTIVE DATE.

(a) IN GENERAL.—This Act shall take effect on the 90th day after the date of the enactment of this Act or on any date which the President shall prescribe and publish in the Federal Register, if such date is—

(1) before such 90th day and after such date of enactment; and

(2) after the initial membership of the Committee is appointed.

(b) EXCEPTION.—Notwithstanding subsection (a), the members of the Committee may be appointed in the manner provided for in section 5 at any time after the date of the enactment of this Act.

The SPEAKER pro tempore. Is a second demanded?

Mr. STEIGER. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Ohio (Mr. VANIK) and the gentleman from Wisconsin (Mr. STEIGER) will be recognized for 20 minutes each.

The Chair recognizes the gentleman from Ohio (Mr. VANIK).

Mr. VANIK. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the purpose of H.R. 5643, introduced by Mr. MIKVA on March 28, is to provide the legislation necessary for U.S. implementation of articles 7(b) and 9 of the UNESCO Convention of the Means of Prohibiting and Preventing the Illicit Import, Export, and Transfer of Ownership of Cultural Property, to which the Senate gave its advice and consent to ratification on August 11, 1977. The basic purpose of the convention is to combat the increasing illegal trade in national art treasures.

H.R. 5643 as amended grants the President authority, subject to certain conditions and limitations, to enter into bilateral or multilateral agreements or to take emergency actions to restrict the importation of certain archeological or ethnological materials at the request of any state party to the convention whose cultural patrimony is in jeopardy from pillage. The bill establishes a Cultural Property Advisory Committee representing the interested segments of the art community to advise the President on the need for and elements of agreements and emergency actions. H.R. 5643 also prohibits importation of any article or cultural property stolen from the inventory of a museum or similar institution in any state party. There are provisions for recovery and return of material or articles

to the state party, including seizure and judicial forfeiture provisions.

The executive branch has sought legislation to implement the UNESCO Convention since 1972. The proposal received thorough consideration by the Subcommittee on Trade of the Committee on Ways and Means. The subcommittee held public hearings on H.R. 5643 on April 26, 1977, receiving extensive testimony and written correspondence from the administration and representatives of art museums, archeologists, antiquities dealers, private collectors, and the academic community. The trade staff held lengthy meetings with administration and art community representatives to seek reconciliation of differences in view and consensus on amendments to the bill. These interest groups also actively participated in the first subcommittee markup of the bill on May 12.

The subcommittee favorably reported the bill with amendments by a rollcall vote of 12 to 0 to the full committee on July 29. On September 15 the Committee on Ways and Means unanimously ordered the bill favorably reported by voice vote with further amendments.

The bill reported carefully balances the need to assist mostly underdeveloped countries, to protect their archeological and ethnological patrimony from pillage, with the legitimate interests of art dealers and other parties involved with cultural property. I urge its approval by the House.

Mr. Speaker, I yield 5 minutes to my distinguished colleague, the gentleman from Illinois (Mr. MIKVA).

Mr. MIKVA. Mr. Speaker, this bill that we are considering today, as the distinguished chairman, the gentleman from Ohio (Mr. VANIK), has indicated, provides the legislation necessary for the United States to move ahead on a treaty which we have already ratified, which allows foreign countries to enter into agreements with the President to protect their heritage.

Mr. Speaker, we sometimes tend to look at art, art objects, and archeological objects, only in their esthetic sense; we forget that there is also a historical dimension to those heritages, that frequently a country cannot maintain an identification of its own history without being able to protect its cultural heritage. An identity crisis can develop.

This bill for which we are asking support today will allow the President to enter into multilateral and bilateral agreements with those countries seeking to protect their heritage, with various protections to be given to archeological and ethnological items.

It is carefully drawn to make sure it does not go beyond those reasonable protections that those countries may seek to exercise over their archeological or ethnological items and to protect their cultural heritage.

Mr. Speaker, I might point out that almost all of the art museums and museum places in this country are in support of this bill. We have tried to recognize the legitimate concerns of American collectors and museums and at the same time put America on the side of allowing other countries to protect their cultural heritage.

Mr. Speaker, I urge the full support of the House for this bill.

Mrs. FENWICK. Mr. Speaker, will the gentleman yield?

Mr. MIKVA. I yield to the gentlewoman from New Jersey.

Mrs. FENWICK. I thank the gentleman for yielding.

Mr. Speaker, I rise in support of this legislation, which I think is greatly needed. In fact, I would like to see it extended so that there would be some notice before treasures leave this country, quite legally not stolen, for example, the bust of Benjamin Franklin which left our shores last year. I think we should begin to consider our own important treasures.

This is good legislation, as far as it goes. I am a trustee of the Newark Museum, and voted with the others to return a mosaic that we bought, when we found it to have been stolen. It has gone back to Syria where it belongs.

I am heartily in favor of this approach, and I think there should be more borrowing and lending of objects, rather than buying.

However, I am concerned about the approach to the funding. We have provided $50,000, which seems reasonable, for 1978, but then we jump sixfold to $300,000 a year for the years to follow that. Why is that amount necessary?

Mr. MIKVA. Mr. Speaker, let me say to the gentlewoman from New Jersey (Mrs. FENWICK) that this is the estimate of the State Department as to the amounts that would be necessary to fund and staff the advisory committee that was sought by the museums and art collectors as a protection against the agreements going too far in protecting foreign countries and not taking enough account of the needs of museums and art collectors in this country.

Mrs. FENWICK. Mr. Speaker, it is absolutely without substance, in my opinion. If something is declared stolen—and if it is, according to the bill, the product of a tribal society or if it is less than 50 years old—that is a claim of the Government which is making the claim, and there is no need for maintaining an enormous staff over here.

Mr. MIKVA. Mr. Speaker, let me say to the gentlewoman that this goes beyond stolen property. This also seeks to protect other cultural heritages beyond those items which are stolen—archeological objects, for example.

In this respect, there are some delicately balanced questions that the advisory committee will, hopefully, enter into.

I can only say to the gentlewoman that the amount was not pulled out of a hat. It continues to be, I think, a reasonable amount to conduct rather extensive reviewing and oversight activities that the advisory committee will carry out relative to the manner in which these agreements are implemented and effected.

Mrs. FENWICK. But is it necessary to jump sixfold in the funding?

Mr. MIKVA. Mr. Speaker, let me say that the $50,000 for the first year is to be used while the committee is getting started. The $300,000 for subsequent years is necessary, because these are the costs related to the committee. The $50,000 amount is not a reasonable level for subsequent years.

Mr. STEIGER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I support the bill.

This has been an exceedingly complex subject. Rarely can I remember a time when the Committee on Ways and Means was more at sea than we were at times as we dealt with the mark-up of this bill.

H.R. 5643 provides a mechanism for the United States to implement the articles of the UNESCO Convention of the Means of Prohibiting and Preventing the Illicit Import, Export, and Transfer of Ownership of Cultural Property. The U.S. Senate ratified this treaty on August 11, 1972, but the Congress has yet to pass the necessary legislation in support of our obligations under the convention.

Many archeological and ethnological objects, representing the history and national heritage of various developing nations, are being seriously pillaged or are under threat of being so. As a result of similar pillage of pre-Columbian artifacts, the Congress in 1972 passed legislation designed to discourage such activity by closing our borders to illicit traffic in these objects, H.R. 5643 follows the pattern of the Pre-Columbian Art Act, but on a broader scale.

The bill gives the President authority to enter into bilateral or multilateral agreements with any State party to the convention, or to take emergency action, to restrict the importation of particular endangered archeological or ethnological objects. However, the State party must have taken internal measures consistent with the convention to protect its cultural patrimony, and any import restrictions imposed by the United States must be of substantial benefit in alleviating a serious situation of pillage. These requirements should prevent carte blanche coverage of numerous artifacts and other material that could be said to have a relation to a country's national heritage but which are not under threat. Further, these limitations should discourage some countries from trying to get the United States indirectly to enforce vague or nonexistent internal laws.

Once an agreement is reached, the bill provides for documentation of articles to be imported into this country. Restricted articles could not be imported, and in fact would be impounded, if they were not accompanied by documents which establish that the article left the country of origin either before an agreement on its restriction was reached, or 10 years preceding the date of entry. During this 10-year period, the object must have received sufficient public display or exposure to give fair notice to any country that may have grounds to claim patrimony. Thus, a State party could not claim patrimony indefinitely, nor could it develop an undue interest in an article after many previous years of neglect.

Finally, the bill prohibits importation into the United States of any article of cultural property stolen from the inventory of a museum or similar institution in any State party. This prohibition requires no previous agreement and does not preclude any existing local, State, or Federal law from being invoked to prosecute theft or to recover stolen property.

I think the gentleman from Illinois (Mr. MIKVA) and the staff of the Subcommittee on Trade, as well as all the members of the subcommittee who worked out what I think can be an effective mechanism to implement the UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export, and Transfer of Ownership of Cultural Property.

The bill is not an easy one. The bill does attempt to meet most of the most serious objections that have been raised. I think it is a relatively balanced bill.

I will, if I may, Mr. Speaker, make one further comment about the question raised by the gentlewoman from New Jersey (Mrs. FENWICK). The role of the advisory committee, which is the Cultural Property Advisory Committee, is established under the bill to guide the President of the United States in his decisions on agreements, renewals of agreements, or emergency actions. It is a 9-member committee, to be composed of members of the general public and of those with special interests in the art community, including art associations, museums, academicians, and dealers.

The committee is charged under the legislation with advising the President on each State party request, and in the case of emergency actions the President is required to take the views and recommendations of the advisory committee. Thus that advisory committee plays an important role, and I think the estimated budget is appropriate, given the responsibilities.

Mr. SPEAKER, I urge the adoption of the bill.

Mr. McCLORY. Mr. Speaker, will the gentleman yield?

Mr. STEIGER. Yes, I yield to the gentleman from Illinois.

Mr. McCLORY. Mr. Speaker, I thank the gentleman for yielding.

I wanted to pose a question to the gentleman from Wisconsin (Mr. STEIGER). Perhaps, however, the gentleman from Illinois (Mr. MIKVA) will be better able to respond to it.

My experience has been that in most countries which have rich archeological and cultural objects and works of art, there is a board or commission which must be consulted. In order to take any such work of art or any cultural object or any archeological objects or material out of the country, one has to get a permit from the Board of Art and Culture or Board of Archeology, or whatever it is called.

What I want to know is this: If a person purchases an item in such a country and gets a license or gets a permit, is the person nevertheless subject to have such an article seized in this country because it might be determined that it has some archeological or historical or ethnic significance in this country so as to make it violative of this bill?

Mr. STEIGER. Mr. Speaker, may I say to my colleague that the answer is no, that would not be the case. However, I will be delighted to yield to the author of the bill for further explanation and clarification.

Mr. MIKVA. Mr. Speaker, if the gentleman will yield, the answer is clearly no.

Under the act, first of all, the agreements are entered into with the President only at the request of the exporting country; and it is pursuant to their law, so that if they have established a procedure for the export of those articles pursuant to the permit which the gentleman from Illinois suggests, it is totally permissible under this act, and no further steps need to be taken.

Indeed, if anything, it is an additional protection for the purchaser because it is pursuant to the agreement rather than outside of it.

Mr. McCLORY. Mr. Speaker, if the gentleman will yield further, in case the foreign official or functionary acts erroneously, it still will not subject the American citizen or importer to any liability under this legislation; is that correct?

Mr. MIKVA. That is correct. As long as he has purchased it under color of law, it is protected.

Mr. McCLORY. I thank the gentleman.

Mr. VANIK. Mr. Speaker, I yield myself such time as I may consume.

I just want to say, in further response to the issue raised by the gentlewoman from New Jersey (Mrs. FENWICK), that a good part of the cost of this proposal is an allocation of estimated costs for services provided by Customs officers who are directly involved in this work.

Mrs. BOGGS. Mr. Speaker, will the gentleman yield?

Mr. VANIK. I am happy to yield to my distinguished colleague, the gentlewoman from Louisiana.

Mrs. BOGGS. Mr. Speaker, I thank the gentleman for yielding.

I would like to thank the gentleman for bringing this bill to the floor and to compliment the author and the committee on the bill's being brought to the floor in such excellent form.

Mr. Speaker, as a member of the Board of Regents from this House of the Smithsonian Institution, I would especially like to thank all involved for making certain that the import restrictions are consistent with the international community's overall interest in encouraging the interchange of cultural property for scientific, cultural, and educational purposes.

Mr. VANIK. Mr. Speaker, I want to thank the gentlewoman from Louisiana (Mrs. BOGGS).

I also want to express my personal gratitude to the author of this legislation for his very diligent work in carrying this legislation through committee and for so reconciling the many differences and problems that were involved in this legislation.

Mr. STEIGER. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. LAGOMARSINO).

Mr. LAGOMARSINO. Mr. Speaker, I rise in support of H.R. 5643, Cultural Property Implementation Act.

I am a member of the United States-Mexican Interparliamentary Union. During our last meeting in Hermosillo, Mexico, this spring one of the most important topics of discussion was the very subject covered by this legislation.

The Mexican delegation felt very strongly that the United States should be taking even stronger action than we have in the past to protect the art and cultural treasures of the hemisphere, particularly pre-Columbian artifacts.

Mr. Speaker, I strongly agree with them, and I am very pleased to lend my strong support to this legislation.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Ohio (Mr. VANIK) that the House suspend the rules and pass the bill (H.R. 5643) as amended.

The question was taken; and—two-thirds having voted in favor thereof—the rules were suspended and the bill, as amended, was passed.

The title was amended so as to read; "A bill to implement the Convention on the Means of Prohibiting and Preventing the Illicit Import, Export, and Transfer of Ownership of Cultural Property.".

A motion to reconsider was laid on the table.

CONFERENCE REPORT ON H.R. 3744, FAIR LABOR STANDARDS AMENDMENTS OF 1977

Mr. PERKINS submitted the following conference report and statement on the bill (H.R. 3744) to amend the Fair Labor Standards Act of 1938 to increase the minimum wage rate under that act, and for other purposes.

CONFERENCE REPORT (H. REPT. No. 95–711)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3744) to amend the Fair Labor Standards Act of 1938 to increase the minimum wage rate under that Act, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

SHORT TITLE; REFERENCE TO ACT

SECTION 1. (a) This Act may be cited as the "Fair Labor Standards Amendments of 1977".

(b) Whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Fair Labor Standards Act of 1938 (29 U.S.C. 201–219).

INCREASE IN MINIMUM WAGE

SEC. 2 (a) Section 6(a)(1) (29 U.S.C. 206 (a)(1)) is amended to read as follows:

"(1) not less than $2.65 an hour during the year beginning January 1, 1978, not less than $2.90 an hour during the year beginning January 1, 1979, not less than $3.10 an hour during the year beginning January 1, 1980, and not less than $3.35 an hour after December 31, 1980, except as otherwise provided in this section;".

(b) Section 6(a)(5) (29 U.S.C. 206(a)(5)) is amended to read as follows:

"(5) if such employee is employed in agriculture, not less than the minimum wage rate in effect under paragraph (1) after December 31, 1977.".

(c) Section 6(b) (29 U.S.C. 206(b)) is amended by striking out "wages at the following rates:" and paragraphs (1) through (4) and inserting in lieu thereof the following: "wages at the following rate: Effective after December 31, 1977, not less than the minimum wage rate in effect under subsection (a)(1).".

(d)(1) Section 6(c) (29 U.S.C. 206(c)) is amended by striking out paragraphs (2) through (4) and inserting in lieu thereof the following:

"(2)(A) Each wage order rate under a wage order described in paragraph (1) which on December 31, 1977, is at least $2 an hour shall, except as provided in paragraph (3), be increased—

"(i) effective January 1, 1978, by $0.25 an hour or by such greater amount as may be recommended by a special industry committee under section 8, and

"(ii) effective January 1, 1979, and January 1 of each succeeding year, by $0.30 an hour or by such greater amount as may be so recommended by such a special industry committee.

"(B) Each wage order rate under a wage order described in paragraph (1) which on December 31, 1977, is less than $2 an hour shall, except as provided in paragraph (3) be increased—

"(i) effective January 1, 1978, by $0.20 an hour or by such greater amount as may be recommended by a special industry committee under section 8, and

"(ii) effective January 1, 1979, and January 1 of each succeeding year—

"(I) until such wage order rate is not less than $2.30 an hour, by $0.25 an hour or by such greater amount as may be so recommended by a special industry committee, and

"(II) if such wage order rate is not less than $2.30 an hour, by $0.30 an hour or by such greater amount as may be so recommended by a special industry committee.

"(C) In the case of any employee in agriculture who is covered by a wage order issued by the Secretary pursuant to the recommendations of a special industry committee appointed pursuant to section 5, to whom the rate or rates prescribed by subsection (a)(5) of this section would otherwise apply, and whose hourly wage is increased above the wage rate prescribed by such wage order by a subsidy (or income supplement) paid, in whole or in part, by the government of Puerto Rico, the applicable increases prescribed by subparagraph (A) or (B) shall be applied to the sum of the wage rate in effect under such wage order and the amount by which the employee's hourly wage is increased by the subsidy (or income supplement) above the wage rate in effect under such wage order.".

(2)(A) Section 6(c)(1) is amended (i) by striking out "subsections (a) and (b" and inserting in lieu thereof "subsection (a)(1)", (ii) by inserting "(A)" before "heretofore", and (iii) by inserting before the period the following: ", and (B) which prescribes a wage order rate which is less than the wage rate in effect under subsection (a)(1)".

(B) Paragraphs (5) and (6) of section 6(c) are redesignated as paragraphs (3) and (4), respectively.

(C) Paragraph (3) of such section (as so redesignated) is amended (i) by striking out "subsection (a) or (b)" and inserting in lieu thereof "subsection (a)(1)", and (ii) by striking out "such subsection" and inserting in lieu thereof "subsection (a)(1)".

(D) Paragraph (4) of such section (as so redesignated) is amended by striking out "or (3)".

(3) Section 8(a) is amended by inserting after the first sentence the following new sentence: "The Secretary shall, from time to time, convene an industry committee or committees appointed pursuant to section 5, and any such industry committee—

"(1) shall, from time to time, recommend the minimum wage rates to be paid by employers who are in Puerto Rico, in the Virgin Islands, or in both places and who but for section 6(c) would be subject to the minimum wage requirements of section 6(a)(1), and

"(2) may, from time to time, recommend increases in the incremental increases authorized by section 6(c)(2).".

(e)(1) There is established the Minimum Wage Study Commission (hereinafter in this subsection referred to as the "Commission") which shall conduct a study of the Fair Labor Standards Act of 1938 and the social, political, and economic ramifications of the minimum wage, overtime, and other requirements of that Act. Such study shall include but not be limited to—

(A) the beneficial effects of the minimum wage, including its effect in ameliorating poverty among working citizens;

(B) the inflationary impact (if any) of increases in the minimum wage prescribed by that Act;

(C) the effect (if any) such increases have on wages paid employees at a rate in excess of the rate prescribed by that Act;

(D) the economic consequence (if any) of authorizing an automatic increase in the rate prescribed in that Act on the basis of an increase in a wage, price, or other index;

(E) the employment and unemployment effects (if any) of providing a different minimum wage rate for youth, and the employment and unemployment effects (if any) on handicapped and aged individuals of an increase in such rate and of providing a different minimum wage rate for such individuals;

(F) the effect (if any) of the full-time student certification program on employment and unemployment;

(G) the employment and unemployment effects (if any) of the minimum wage;

(H) the exemptions from the minimum wage and overtime requirements of that Act;

(I) the relationship (if any) between the Federal minimum wage rates and public assistance programs, including the extent to which employees at such rates are also eligible to receive food stamps and other public assistance—

(J) the overall level of noncompliance with that Act; and

(K) the demographic profile of minimum wage workers.

(2) The Commission shall conduct a study concerning the extent to which the exemptions from the minimum wage and overtime requirements of the Fair Labor Standards Act of 1938 may apply to employees of conglomerates, and shall make a report, within one year after the date of the appointment of the members of the Commission, of the results of such study. For the purposes of this paragraph a "conglomerate" means an establishment (A) which controls, is controlled by, or is under common control with, another establishment the activities of which are not related for a common business purpose to the activities of the establishment employing such employees and (B) whose annual gross volume of sales made or business done, when combined with the annual gross volume of sales made or business done by each establishment which controls, is controlled by, or is under common control with, the establishment employing such employee, exceeds $100,000,000 (exclusive of excise taxes at the retail level which are separately stated). The report shall include an analysis of the effects of eliminating the exemptions from the minimum wage and overtime requirements of such Act that may currently apply to the employees of such conglomerates.

(3) The Commission shall make a report of the results of the study conducted pursuant to paragraph (1) thirty-six months after the date of the appointment of the members of the Commission. The report shall include such recommendations for legislation as the Commission determines are appropriate. The Commission may make interim or additional reports which it determines are appropriate. Each report shall be made to the President and to the Congress. The Commission shall cease to exist thirty days after the submission of the report required by this paragraph.

(4)(A) The Commission shall consist of eight members as follows:

(i) Two members appointed by the Secretary of Labor.

(ii) Two members appointed by the Secretary of Commerce.

(iii) Two members appointed by the Secretary of Agriculture.

(iv) Two members appointed by the Secretary of Health, Education, and Welfare.

The appointments authorized under this paragraph shall be made within 180 days after the date of enactment of this subsection.

(B) The Chairperson shall be selected by the members of the Commission. Any vacancy in the Commission shall not affect its powers and shall be filled in the same manner in which the original appointment was made.

(C)(i) Except as provided in clause (ii), members of the Commission who are officers or employees of the Federal Government shall serve without compensation. Other members, while engaged in the activities of the Commission, shall be paid at a rate equal to the per diem equivalent of the annual rate payable for grade GS–18 of the General Schedule under section 5332 of title 5, United States Code.

(ii) While away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5 of the United States Code.

(5)(A) The Commission may prescribe such rules as may be necessary to carry out its duties under this subsection.

(B) The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as it deems advisable.

(C) Upon request of the Commission, the head of any Federal department or agency is authorized to detail, on a reimbursable basis, any of the personnel of such department or agency to the Commission to assist it in carrying out its duties under this subsection.

(D) The Department of Labor shall furnish such professional, technical, and research assistance as required by the Commission.

(E) The Administrator of General Services shall provide to the Commission on a reimbursable basis such administrative support services as the Commission may request to carry out its duties under this subsection.

(F) The Commission may secure directly from any department or agency of the United States such information as the Commission may require to carry out its duties under this subsection. Upon request of the Commission, the head of any such department or agency shall furnish such information to the Commission.

(G) The Commission may use the United States mails in the same manner and upon the same conditions as other departments and agencies of the United States.

(6) (A) The Chairperson may appoint an executive director of the Commission who

shall perform such duties as the Chairperson may prescribe.

(B) With approval of the Chairperson, the executive director may appoint and fix the pay of such clerical personnel as are necessary for the Commission to carry out its duties.

(C) The executive director and staff shall be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and shall be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates but at rates not in excess of the annual rate payable for grade GS–18 of the General Schedule under section 5332 of such title.

(D) The executive director, with the concurrence of the Chairperson, may obtain temporary and intermittent services of experts and consultants in accordance with the provisons of section 3109 of title 5, United States Code.

TIP CREDIT

SEC. 3. (a) Effective January 1, 1978, section 3(t) (29 U.S.C. 203(t)) is amended by striking out "$20" and inserting in lieu thereof "$30".

(b)(1) Effective January 1, 1979, section 3(m) (29 U.S.C. 203(m)) is amended by striking out "50 per centum" and inserting in lieu thereof "45 per centum".

(2) Effective January 1, 1980, such section is amended by striking out "45 per centum" and inserting in lieu thereof "40 per centum".

EMPLOYEES OF CONCESSIONERS IN NATIONAL PARKS AND FORESTS AND IN THE NATIONAL WILDLIFE REFUGE SYSTEM

SEC. 4. (a) Section 13(a)(3) (29 U.S.C. 213(a)(3)) is amended by inserting before the semicolon the following: ", except that the exemption from sections 6 and 7 provided by this paragraph does not apply with respect to any employee of a private entity engaged in providing services or facilities (other than, in the case of the exemption from section 6, a private entity engaged in providing services and facilities directly related to skiing) in a national park or a national forest, or on land in the National Wildlife Refuge System, under a contract with the Secretary of the Interior or the Secretary of Agriculture".

(b) Section 13(b) (29 U.S.C. 213(b)) is amended (A) by striking out the period at the end of paragraph (28) and inserting in lieu thereof "; or", and (B) by adding after such paragraph the following new paragraph:

"(29) any employee of an amusement or recreational establishment located in a national park or national forest or on land in the National Wildlife Refuge System if such employee (A) is an employee of a private entity engaged in providing services or facilities in a national park or national forest, or on land in the National Wildlife Refuge System, under a contract with the Secretary of the Interior or the Secretary of Agriculture, and (B) receives compensation for employment in excess of fifty-six hours in any workweek at a rate not less than one and one-half times the regular rate at which he is employed.".

SHADE-GROWN TOBACCO EMPLOYEES

SEC. 5. Section 13(b)(22) (29 U.S.C. 213(b)(22)) is repealed.

COTTON GINNING EMPLOYEES

SEC. 6. (a) Section 13(b)(25) (29 U.S.C. 213(b)(25)) is repealed.

(b) Section 13 is amended by adding after subsection (h) the following new subsection:

"(i) The provisions of section 7 shall not apply for a period or periods of not more than fourteen workweeks in the aggregate in any period of fifty-two consecutive weeks to any employee who—

"(1) is engaged in the ginning of cotton for market in any place of employment located in a county where cotton is grown in commercial quantities; and

"(2) receives for any such employment during such workweeks—

"(A) in excess of ten hours in any workday, and

"(B) in excess of forty-eight hours in any workweek,

compensation at a rate not less than one and one-half times the regular rate at which he is employed. No week included in any fifty-two week period for purposes of the preceding sentence may be included for such purposes in any other fifty-two week period.".

SUGAR EMPLOYEES

SEC. 7. (a) Section 13(b)(26) (29 U.S.C. 213(b)(26)) is repealed.

(b) Section 13 is amended by inserting after the subsection added by section 6 the following new subsection:

"(j) The provisions of section 7 shall not apply for a period or periods of not more than fourteen workweeks in the aggregate in any period of fifty-two consecutive weeks to any employee who—

"(1) is engaged in the processing of sugar beets, sugar beet molasses, or sugar cane into sugar (other than refined sugar) or syrup; and

"(2) receives for any such employment during such workweeks—

"(A) in excess of ten hours in any workday, and

"(B) in excess of forty-eight hours in any workweek,

compensation at a rate not less than one and one-half times the regular rate at which he is employed. No week included in any fifty-two week period for purposes of the preceding sentence may be included for such purposes in any other fifty-two week period.".

AGRICULTURAL HAND HARVEST LABORERS

SEC. 8. Section 13(c) (29 U.S.C. 213(c)) is amended—

(1) in paragraph (1) by inserting after "paragraph (2)" the following: "or (4)", and

(2) by adding after paragraph (3) the following new paragraph:

"(4)(A) An employer or group of employers may apply to the Secretary for a waiver of the application of section 12 to the employment for not more than eight weeks in any calendar year of individuals who are less than twelve years of age, but not less than ten years of age, as hand harvest laborers in an agricultural operation which has been, and is customarily and generally recognized as being, paid on a piece rate basis in the region in which such individuals would be employed. The Secretary may not grant such a waiver unless he finds, based on objective data submitted by the applicant, that—

"(i) the crop to be harvested is one with a particularly short harvesting season and the application of section 12 would cause severe economic disruption in the industry of the employer or group of employers applying for the waiver;

"(ii) the employment of the individuals to whom the waiver would apply would not be deleterious to their health or well-being;

"(iii) the level and type of pesticides and other chemicals used would not have an adverse effect on the health or well-being of the individuals to whom the waiver would apply;

"(iv) individuals aged twelve and above are not available for such employment; and

"(v) the industry of such employer or group of employers has traditionally and substantially employed individuals under twelve years of age without displacing substantial job opportunities for individuals over sixteen years of age.

"(B) Any waiver granted by the Secretary under subparagraph (A) shall require that—

"(i) the individuals employed under such waiver be employed outside of school hours for the school district where they are living while so employed;

"(ii) such individuals while so employed commute daily from their permanent residence to the farm on which they are so employed; and

"(iii) such individuals be employed under such waiver (I) for not more than eight weeks between June 1 and October 15 of any calendar year, and (II) in accordance with such other terms and conditions as the Secretary shall prescribe for such individuals' protection.".

RETAIL AND SERVICE ESTABLISHMENT COVERAGE

SEC. 9. (a) Section 3(s) (29 U.S.C. 203(s)) is amended by renumbering paragraphs (2), (3), (4), and (5) as paragraphs (3), (4), (5), and (6), respectively, and inserting after paragraph (1) the following:

"(2) is an enterprise which is comprised exclusively of one or more retail or service establishments, as defined in section 13(a)(2), and whose annual gross volume of sales made or business done is not less than $250,000 (exclusive of excise taxes at the retail level which are separately stated), beginning July 1, 1978, whose annual gross volume of sales made or business done is not less than $275,000 (exclusive of excise taxes at the retail level which are separately stated), beginning July 1, 1980, whose annual gross volume of sales made or business done is not less than $325,000 (exclusive of excise taxes at the retail level which are separately stated), and after December 31, 1981, whose annual gross volume of sales made or business done is not less than $362,500 (exclusive of excise taxes at the retail level which are separately stated);".

(b) Paragraph (1) of section 3(s) is amended by adding after "and beginning February 1, 1969, is an enterprise" the following: ", other than an enterprise which is comprised exclusively of retail or service establishments and which is described in paragraph (2),".

(c) Section 3(s) is amended by adding at the end the following: "Notwithstanding paragraph (2), an enterprise which is comprised of one or more retail or service establishments, which on June 30, 1978, was subject to section 6(a)(1), and which because of a change in the dollar volume standard in such paragraph prescribed by the Fair Labor Standards Amendments of 1977 is not subject to such section, shall, if its annual gross volume of sales made or business done is not less than $250,000 (exclusive of excise taxes at the retail level which are separately stated), pay its employees not less than the minimum wage in effect under such section on the day before such change takes effect and shall pay its employees in accordance with section 7. A violation of the preceding sentence shall be considered a violation of section 6 or 7, as the case may be.".

(d) Section 13(a)(2) is amended by striking out "section 3(s)(4)" and inserting in lieu thereof "section 3(s)(5)".

REMEDIES

SEC. 10. (a) Section 16(b) (29 U.S.C. 216(b)) is amended by adding immediately after the first sentence the following new sentence: "Any employer who violates the provisions of section 15(a)(3) of this Act shall be liable for such legal or equitable relief as may be appropriate to effectuate the purposes of section 15(a)(3), including without limitation employment, reinstatement, promotion, and the payment of wages lost and an additional equal amount as liquidated damages.".

(b) Section 16(b) is further amended by—

(1) by striking out "Action to recover such liability" and inserting in lieu thereof "An

action to recover the liability prescribed in either of the preceding sentences",

(2) inserting "(1)" after "section 17 in which", and

(3) striking the period at the end of the last sentence and substituting the following: "or (2) legal or equitable relief is sought as a result of alleged violations of section 15(a)(3).".

(c) The third sentence of section 16(c) is amended by inserting after "an action by or on behalf of any employee" the following: "to recover the liability specified in the first sentence of such subsection".

RELIGIOUS OR NON-PROFIT EDUCATIONAL CONFERENCE CENTERS

SEC. 11. Section 13(a)(3) (29 U.S.C. 213(a)(3)) is amended by inserting after "recreational establishment," the following: "organized camp, or religious or non-profit educational conference center,".

STUDENTS

SEC. 12. (a) Section 14(b)(4)(B) (29 U.S.C. 214(b)(4)(B)) is amended by striking "four" each time it appears and substituting "six".

REDUCTION OF PAPERWORK FOR EMPLOYMENT OF STUDENTS BY SMALL BUSINESSES

SEC. 13. Section 14(b)(4) (29 U.S.C. 214(b)(4)) is amended by adding at the end the following new subparagraph:

"(D) To minimize paperwork for, and to encourage, small businesses to employ students under special certificates issued under paragraphs (1) and (2), the Secretary shall, by regulation or order, prescribe a simplified application form to be used by employers in applying for such a certificate for the employment of not more than six full-time students. Such an application shall require only—

"(i) a listing of the name, address, and business of the applicant employer,

"(ii) a listing of the date the applicant began business, and

"(iii) the certification that the employment of such full-time students will not reduce the full-time employment opportunities of persons other than persons employed under special certificates.".

HOTEL, MOTEL, AND RESTAURANT EMPLOYEES

SEC. 14. (a) Effective January 1, 1978, section 13(b)(8) (29 U.S.C. 213(b)(8)) is amended by striking out "forty-six hours" and inserting in lieu thereof "forty-four hours".

(b) Effective January 1, 1979, such section is repealed.

EFFECTIVE DATE

SEC. 15. (a) Except as provided in section 3, 14, and subsection (b) of this section, the amendments made by this Act shall take effect January 1, 1978.

(b) The amendments made by sections 8, 9, 11, 12, and 13 shall take effect on the date of the enactment of this Act.

(c) On and after the date of the enactment of this Act, the Secretary of Labor shall take such administrative action as may be necessary for the implementation of the amendments made by this Act.

And the Senate agree to the same.

CARL D. PERKINS,
JOHN H. DENT,
PHILLIP BURTON,
JOSEPH M. GAYDOS,
WILLIAM L. CLAY,
MARIO BIAGGI,
LEO C. ZEFERETTI,
AL QUIE,
Managers on the Part of the House.

HARRISON A. WILLIAMS, Jr.,
JENNINGS RANDOLPH,
CLAIBORNE PELL,
GAYLORD NELSON,
WILLIAM D. HATHAWAY,
DONALD W. RIEGLE, Jr.,
JACOB K. JAVITS,
RICHARD S. SCHWEIKER,
ROBERT T. STAFFORD,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3744) to amend the Fair Labor Standards Act of 1938 to increase the minimum wage rate under that Act, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck out all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment which is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

INCREASE IN MINIMUM WAGE: MAINLAND

House Bill

Section 2(a) of the House bill increases the minimum wage rate as follows:

Jan. 1, 1978	$2.65/hour
Jan. 1, 1979	2.85/hour
Jan. 1, 1980	3.05/hour

Senate Amendment

Section 2(a) of the Senate amendment increases the minimum wage rate as follows:

Jan. 1, 1978	$2.65/hour
Jan. 1, 1979	2.90/hour
Jan. 1, 1980	3.15/hour
Jan. 1, 1981	3.40/hour

Conference Agreement

Section 2(a) of the Conference agreement increases the minimum wage rate as follows:

Jan. 1, 1978	$2.65/hour
Jan. 1, 1979	2.90/hour
Jan. 1, 1980	3.10/hour
Jan. 1, 1981	3.35/hour

INCREASE IN MINIMUM WAGE: PUERTO RICO

A. Employees at wages between $2/hour and $2.29/hour

House Bill

Section 2(d) of the House bill increases the minimum wage rate as follows:

Jan. 1, 1978	$0.25/hour
Jan. 1, 1979, and Jan. 1 of each succeeding year until parity is reached	.30/hour

Senate Amendment

Section 2(d) of the Senate amendment increases the minimum wage rate as follows:

Jan. 1, 1978	$0.25/hour
Jan. 1, 1979	.25/hour
Jan. 1, 1980, and Jan. 1 of each succeeding year until parity is reached	.30/hour

B. Employees at wages less than $2/hour

House Bill

The House bill increases the minimum wage rate as follows:

Jan. 1, 1978	$0.20/hour
Jan. 1, 1979, and Jan. 1 of each suceeding year until $2.30/hour	.25/hour
After $2.30/hour, until parity is reached, Jan. 1 of each succeeding year	.30/hour

Senate Amendment

The Senate amendment increases the minimum wage rate as follows:

Jan. 1, 1978	$0.20/hour
Jan. 1, 1979	.20/hour
Jan. 1, 1980, and Jan. 1 of each succeding year until $2.30/hour	.25/hour
After $2.30/hour, until parity is reached, Jan. 1 of each succeeding year	.30/hour

Conference Agreement

The Senate receded.

STUDY

House Bill

Section 2(e)(1) of the House bill establishes a Minimum Wage Study Commission which would conduct a study of specific economic and employment effects of changes in minimum wage and overtime provisions. Under the House bill, the Commission would be appointed by the President and would make two reports to the Congress, one at 18 months after its establishment and one 36 months after its establishment.

Senate Amendment

The Senate amendment contains no comparable study commission, but Secretary directed to make a study (1) of nature and extent of noncompliance with the Act, and (2) to determine the social and economic characteristics of workers affected by the minimum wage and changes in such wage.

Conference Agreement

The Senate receded with an amendment that provides:

(1) that the Secretaries of the Departments of Labor; Health, Education, and Welfare; Commerce; and Agriculture shall each appoint two persons to serve on the Commission;

(2) that the Chair shall be selected by the appointees to the Commission;

(3) that the Commission shall make one comprehensive report within 36 months after its appointment;

(4) that the Commission shall also report within one year after the date of its appointment, on the effects of eliminating the minimum wage and overtime exemptions with regard to employees of conglomerates as defined in the House bill.

TIP CREDIT

House Bill

Existing law defines a tipped employee to mean any employee who is engaged in an occupation in which he customarily and regularly receives more than $20 a month in tips. Section 3 of the House bill raises that figure to $30 a month. The Senate amendment does not contain a comparable provision.

Senate Amendment

The Senate amendment does not change the definition of tipped employee, but section 3 of the Senate amendment contains a provision not in the House bill which reduces the existing tip credit of 50 percent of the applicable minimum wage as follows:

Jan. 1, 1978	From 50% to 45%
Jan. 1, 1979	From 45% to 40%
Jan. 1, 1980	From 40% to 35%
Jan. 1, 1981	From 35% to 30%

Conference Amendment

The Senate receded with regard to the definition of a tipped employee.

The House receded with regard to reduction of the existing tip credit with an amendment which provides:

Jan. 1, 1978	50%
Jan. 1, 1979	50% to 45%
Jan. 1, 1980	45% to 40%
Jan. 1, 1981	40%

EMPLOYEES OF CONCESSIONERS IN NATIONAL PARKS, REFUGES, AND FORESTS

House Bill

Section 4 of the House bill provides that entities under contract with either the Secretary of the Interior (in the case of national parks and the National Wildlife Refuge System) and the Secretary of Agriculture (in the case of national forests) are excluded from the minimum wage and overtime exemption presently provided for amusement and recreational establishments under section 13(a)(3). The overtime exemption, however, is limited in that overtime compensation would be required for employment in excess of 56 hours in any workweek.

Senate Amendment

The Senate amendment contains no comparable provision.

Conference Agreement

The Senate receded with an amendment which preserves the existing exemption from section 6 as it applies to private entities engaged in providing services and facilities directly related to skiing.

SHADE-GROWN TOBACCO EMPLOYEES

House Bill

Section 6 of the House bill repeals the overtime exemption in the case of shade-grown tobacco employees.

Senate Amendment

The Senate amendment contains no comparable provision.

Conference Agreement

The Senate receded.

EMPLOYEES OF CONGLOMERATES

House Bill

The minimum wage and overtime provisions of section 13(a) and 13(b) of the Fair Labor Standards Act of 1938 would not apply to employees of certain conglomerates, except exemptions for executive, administrative, and professional employees and outside sales persons (sec. 13(a)(1)), employees of seasonal amusement or recreational establishments (sec. 13(a)(3)), persons employed under section 14 (sec. 13(a)(7)), and certain transportation employees (sec. 13 (b)(1), (b)(2), and (b)(3), and, until January 1, 1979, exemptions for restaurant employees. A conglomerate must have $100,000,000 annual gross volume sales made or business done.

Senate Amendment

No comparable provision.

Conference Agreement

The House receded with an amendment that requires the Minimum Wage Study Commission to report, within 1 year after the date of its appointment, on the effects of eliminating all minimum wage and overtime exemptions with regard to employees of conglomerates as defined in the House bill.

COTTON GINNING EMPLOYEES

House Bill

Section 8 of the House bill revises the overtime exemption for cotton ginning employees, and requires overtime pay for employment in excess of 10 hours in a day and 48 hours in a workweek for the entire 14 workweek period.

Senate Amendment

The Senate amendment contains no comparable provision.

Conference Agreement

The Senate receded.

SUGAR EMPLOYEES

House Bill

Section 9 of the House bill revises the overtime exemption for sugar employees and requires overtime pay for employment in excess of 10 hours in a day and 48 hours in a workweek, for the entire 14 workweek period.

Senate Amendment

The Senate amendment contains no comparable provision.

Conference Agreement

The Senate receded.

BABYSITTERS

House Bill

Section 10 of the House bill exempts babysitters from the minimum wage and overtime requirements of the Fair Labor Standards Act of 1938.

Senate Amendment

The Senate amendment retains the existing exemption for babysitters who are employed on a casual basis.

Conference Amendment

The House receded.

AGRICULTURAL HAND HARVEST LABORERS

Under both the House bill and the Senate amendment, the Secretary of Labor, may, within certain guidelines, waive child labor restrictions for employment of children as hand harvest agricultural laborers paid on a piece rate basis. Application may only be approved if the Secretary finds that there would otherwise be severe economic disruption of applicant's industry and that employment would not be deleterious to health and well being of employees. Children employed under waiver are to be employed outside of school hours, are to commute daily to their place of employment, and are to be employed between June 1 and October 15. The differences are as follows:

House Bill

(1) Secretary may grant waiver, on the basis of the application.
(2) Waiver can apply to anyone under 12.
(3) Child may be employed for 13 weeks a year.

Senate Amendment

(1) Secretary may not grant waiver unless it is based on objective data submitted by the applicant.
(2) Waiver cannot apply to anyone under 10.
(3) Child may not be employed for more than 8 weeks a year.
(4) Secretary must find that the crop to be harvested is one with a particularly short growing season.
(5) Secretary must find that exposure to pesticides or other chemicals will not have adverse affect on health or well being of employees under waiver.
(6) Individuals 12 and over are not available for employment.

Conference Agreement

The House receded.

ENTERPRISE COVERAGE

House Bill

Under section 12 of the House bill, the test for coverage of employees set forth in section 3(s) of the Fair Labor Standards Act is raised from its current $250,000 per year to $500,000 per year.

Senate Amendment

Section 11 of the Senate amendment changes the test for coverage of employees only for enterprises comprised of retail or service establishments. Under the Senate amendment, effective July 1, 1978, the required dollar volume is raised from $250,000 to $275,000 and, effective July 1, 1980, the required dollar volume is set at $325,000. The Senate amendment provides that the change in the test for coverage of such employees is not to result in a reduction in wages or loss of overtime compensation.

Conference Agreement

The Conference agreement increases the dollar volume test for enterprises comprised of one or more retail or service establishments to $362,500 in three steps, as follows:

July 1, 1978	$275,000
July 1, 1980	325,000
Dec. 31, 1981	362,500

Those uncovered by the change in the level stay at the minimum wage in effect when the change takes effect; the change in the test for coverage of such employees is not to result in a reduction in wages or loss of overtime compensation.

REMEDIES

House Bill

No comparable provision.

Senate Amendment

Section 4 authorizes employee suits for appropriate legal or equitable relief against any employer who discharges or otherwise discriminates against an employee who seeks to enforce the Act or cooperates with the Secretary in enforcing the Act.

Conference Agreement

The House receded.

RELIGIOUS OR NONPROFIT EDUCATIONAL CONFERENCE CENTERS

House Bill

No comparable provision.

Senate Amendment

Section 5 provides that employees of organized camps and religious or nonprofit educational conference centers operated on a seasonal basis receive a section 13(a) exemption from the minimum wage and overtime compensation requirements of the Act.

Conference Agreement

The House receded.

ISSUANCE OF CERTIFICATES FOR EMPLOYMENT OF STUDENTS AT SPECIAL MINIMUM WAGE

House Bill

No comparable provision.

Senate Amendment

Section 8(a) increases the number of students for whom certificates may be issued under section 14(b) upon employer certification from 4 to 6.

Section 8(b) permits a waiver of student hours of employment limitation upon a showing by employer that it would not have an adverse effect upon full-time employment.

Conference Agreement

The House receded to the Senate provision which increases the number of students for whom section 14(b) certificates can be issued upon employer certification from 4 to 6.

The Senate receded with regard to the waiver of limitation on student hours of employment.

REDUCTION OF PAPERWORK FOR EMPLOYMENT OF STUDENTS BY SMALL BUSINESS

House Bill

No comparable provision.

Senate Amendment

The Senate amendment contains an amendment to section 14 of the Act to require the Secretary of Labor to prepare and use simplified application forms for the issuance of special certificates for the employment of students. The purpose of the form is to reduce paperwork for small businesses and to encourage them to apply for such certificates.

Conference Agreement

The House receded.

CARL D. PERKINS,
JOHN H. DENT,
PHILLIP BURTON,
JOSEPH M. GAYDOS,
WILLIAM L. CLAY,
MARIO BIAGGI,
LEO C. ZEFERETTI,
AL QUIE,
Managers on the Part of the House.

HARRISON A. WILLIAMS, JR.,
JENNINGS RANDOLPH,
CLAIBORNE PELL,
GAYLORD NELSON,
WILLIAM D. HATHAWAY,
DONALD W. RIEGLE, JR.,
JACOB K. JAVITS,
RICHARD S. SCHWEIKER,
ROBERT T. STAFFORD,
Managers on the Part of the Senate.

TARIFF SCHEDULE AMENDMENTS FOR CANADIAN PETROLEUM

Mr. VANIK. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5858) to amend the Tariff Schedules of the United States to permit the free entry of Canadian petroleum—including reconstituted crude petroleum—and crude shale oil, provided that an equivalent amount of the same kind and quality of domestic or duty-paid foreign crude petroleum—including reconstituted crude petroleum—and crude shale oil has been exported to Canada, as amended.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the headnotes to part 10 of schedule 4 of the Tariff Schedules of the United States (19 U.S.C. 1202) are amended by adding at the end thereof the following new headnote:

"4. (a) For purposes of this headnote, the term 'petroleum' means crude petroleum (including reconstituted crude petroleum) or crude shale oil provided for in item 475.05 or 475.10.

"(b) Petroleum shall, if a product of Canada, be admitted free of duty and any entry therefor shall be liquidated or reliquidated accordingly if, on or before the 180th day after the date of entry, documentation is filed with the customs officer concerned establishing that, pursuant to a commercial exchange agreement between United States and Canadian refiners which has been approved by the Administrator of the Federal Energy Administration—

"(i) an import license for the petroleum covered by such entry has been issued by such Administrator; and

"(ii) an equivalent amount of domestic petroleum or duty-paid foreign petroleum has, pursuant to such commercial exchange agreement and to an export license issued by the Secretary of Commerce, been exported from the United States to Canada and has not previously been used to effect the duty-free entry of like Canadian products under this headnote.

"(c) The Secretary of the Treasury, after consulting with the Secretary of Commerce and the Administrator of the Federal Energy Administration, shall issue such rules or regulations as may be necessary governing the admission of Canadian products pursuant to the provisions of this headnote.".

SEC. 2. The amendment made by the first section of this Act shall apply with respect to articles entered, or withdrawn from warehouse, for consumption on or after the date of enactment of this Act pursuant to commercial exchange agreements referred to in headnote 4 of part 10 of schedule 4 of the Tariff Schedules of the United States (as added by such first section) which are effective for periods beginning on or after such date of enactment.

The SPEAKER pro tempore. Is a second demanded?

Mr. STEIGER. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Ohio (Mr. VANIK) and the gentleman from Wisconsin (Mr. STEIGER) will be recognized for 20 minutes each.

The Chair recognizes the gentleman from Ohio (Mr. VANIK).

Mr. VANIK. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the purpose of H.R. 5858 is to amend the Tariff Schedules of the United States to provide duty-free treatment for Canadian crude petroleum if an equivalent amount of domestic or duty-paid foreign crude petroleum is exported to Canada pursuant to a crude petroleum exchange agreement between domestic and Canadian refiners.

In 1974, Canada announced its intention to phase out exports of crude oil to the United States over the next few years. Several domestic refiners located on the border, not near pipelines from alternative sources, may be forced to shut down unless a continued supply of Canadian crude can be obtained.

In June 1975, after discussions between the United States and Canada, an informal agreement was reached which permitted commercial exchanges between United States and Canadian refiners. As presently implemented, Canadian crude oil can be exported to the United States in excess of amounts otherwise exportable under the phaseout schedule provided an equivalent amount of domestic crude oil is exported to Canada.

To alleviate this problem the administration is encouraging crude oil exchanges. Such exchanges would provide the necessary oil to our northern tiers oil refiners and would be exempt from Canada's export laws. To encourage these exchanges, the President removed the license fees on Canadian imports, The removal of the duty on these imports would also encourage these exchanges.

Public hearings were held by the Subcommittee on Trade of the Committee on Ways and Means on April 26, 27, and 28, 1977 on duty-free entry and temporary duty suspension bills. During these hearings, favorable testimony was received on H.R. 5858. Favorable reports were also received from interested executive branch agencies. No objections to the legislation have been received by the committee from any other source.

The committee was unanimous in reporting H.R. 5858, as amended, and I urge its passage.

Mr. QUIE. Mr. Speaker, as many of my colleagues are aware, certain crude oil refineries in the upper midwest have been dependent on Canadian crude oil since they were built. Canada's policy of reducing crude oil exports, with probable complete cutoff by the end of 1980, forces the employment of alternatives to Canadian crude.

In my State of Minnesota, and I believe in other Northern Tier States, the local refineries provide a sizeable amount of the petroleum product used in these areas, particularly fuel oil. In Minnesota, hospitals, schools and other users of heavy-grade fuel oil depend on them. I don't have to tell you what that meant during the past winter.

The Federal Energy Administration early in 1976 inaugurated an allocation program to supply refiners whose access to crude oil was limited almost totally to pipelines coming from Canada, which FEA designated as "first priority" users, and to other refiners in a second priority category, who were historic purchasers of Canadian crude. By this past summer, Canadian exports had dropped to the extent that allocation of light crude to second priority refiners was eliminated, with only a very small amount of heavy crude still going to them.

Meanwhile, though some progress has been made, the transportation systems necessary to provide first priority refiners with crude from other sources are still many months away. One of the short-term alternatives to help keep these refineries operating is a barrel-for-barrel exchange of oil with Canada, completely separate from the allocation program. The mechanics for delivery of the oil to Canada are being worked out. One system would utilize pipelines from the south which connect with the Lakehead pipeline into Canada, but there will be further discussions with Canada to best accommodate Canadian refineries as well.

An inhibiting factor in the exchange arrangement is the present duty on imports at the rate of 5¼ cents or 10½ cents per barrel, depending on whether the crude is heavy or light. When the same type of oil in the same quantity is going over the border the other way, this should not be treated as imported oil adding to U.S. supply. The bill H.R. 5858 would eliminate the duty, and I would clarify that it applies only to crude oil which is exchanged for the same type of domestic oil, on which, of course, no duty is due, or foreign oil on which the duty has already been paid. In view of this, the Treasury Department states that passage of this bill will not result in any revenue loss. The Department of Commerce, the Federal Energy Administration (Department of Energy) and International Trade Commission voice no objections to enactment. The Senate passed the measure on September 15 as an amendment to H.R. 3259. I hope the House will approve it.

Mr. STEIGER. Mr. Speaker, I rise to speak in support of H.R. 5858 which was unanimously reported out of the Committee on Ways and Means.

H.R. 5858, introduced by our distinguished colleague AL QUIE, provides for the duty-free entery of Canadian petroleum so long as an equivalent amount of domestic or duty-paid foreign crude oil has been exported from the United States to Canada. Further, it provides for consultation by the Secretary of the Treasury with the Secretary of Commerce and the Administrator of the Federal Energy Administration before the issuance of rules or regulations implementing this measure.

In 1974 the Canadian Government announced its plan to gradually phaseout exports of Canadian crude oil to the United States over succeeding years. There are several U.S. refiners located near the Canadian border but inaccessi-

ble to pipelines from U.S. oil fields. These refiners which have become dependent upon Canadian crude oil might be forced to shut down unless they can continue to receive Canadian oil. To aid these refiners and their customers the Federal Energy Administration has encouraged crude oil exchanges between the United States and Canadian firms in which the necessary oil would be provided to northern refiners. In such exchanges Canadian oil exports would be exempt from Canadian export laws and under this bill Canadian oil would be given duty-free treatment upon entry into the United States.

H.R. 5858 was without opposition before the committee and has the full support of the administration. I would urge my colleagues to give it their support.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Ohio (Mr. VANIK) that the House suspend the rules and pass the bill H.R. 5858, as amended.

The question was taken; and (two-thirds having voted in favor thereof), the rules were suspended and the bill, as amended, was passed.

The title was amended so as to read: "A bill to amend the Tariff Schedules of the United States to provide for duty-free treatment with respect to certain petroleum imported from Canada if equivalent amounts of domestic or duty-paid foreign petroleum of the same type is exported to Canada."

A motion to reconsider was laid on the table.

CUSTOMS PROCEDURAL REFORM ACT OF 1977

Mr. VANIK. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 8149) to provide customs procedural reform, and for other purposes, as amended.

The Clerk read as follows:

H.R. 8149

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled.

TITLE I—CUSTOMS PROCEDURAL REFORM

SEC. 101. This title may be cited as the "Customs Procedural Reform Act of 1977".

SEC. 102. Section 315(a) of the Tariff Act of 1930 (19 U.S.C. 1315(a)) is amended—

(1) by striking out "and" at the end of paragraph (1);

(2) by striking out the period at the end of paragraph (2) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new paragraph:

"(3) any article for which duties may, under section 505 of this Act, be paid at a time later than the time of making entry shall be subject to the rate or rates in effect at the time of entry.".

SEC. 103. Section 484(a) of the Tariff Act of 1930 (19 U.S.C. 1484(a)) is amended—

(1) by amending subsection (a) to read as follows:

"(a) REQUIREMENT AND TIME.—(1) Except as provided in sections 490, 498, 552, 553, and 336(j) of this Act and in subsections (h) and (i) of this section, each consignee of imported merchandise, either in person or by an agent authorized by the consignee in writing—

"(A) shall make entry therefor by filing with the appropriate customs officer such documentation as is necessary to enable such officer to determine whether the merchandise may be released from customs custody; and

"(B) shall file (either at the time of entry or within such time thereafter as the Secretary may prescribe under paragraph (2)(B) of this subsection) with the appropriate customs officer such other documentation as is necessary to enable such officer to assess properly the duties on the merchandise, collect accurate statistics with respect to the merchandise, and determine whether any other applicable requirement of law (other than a requirement relating to release from customs custody) is met.

"(2)(A) The documentation required under paragraph (1) of this subsection with respect to any imported merchandise shall be filed at such place within the customs-collection district where the merchandise will be released from customs custody as the Secretary shall by regulation prescribe.

"(B) If the documentation required under paragraph (1)(B) of this subsection with respect to any imported merchandise is not filed with the appropriate customs officer when entry of the merchandise is made, such documentation shall be filed at such time within the ten-day period (exclusive of Sundays and holidays) immediately following the date of entry as the Secretary shall by regulation prescribe.

"(C) The Secretary, in prescribing regulations to carry out this paragraph, shall provide, to the maximum extent practicable, for the protection of the revenue, the timely collection of import statistics, the facilitation of the commerce of the United States, and the equal treatment of all consignees of imported merchandise.";

(2) by striking out "subdivision" in subsection (c)(3) and inserting in lieu thereof "subsection"; and

(3) by striking out the second sentence in subsection (j).

SEC. 104. Section 505(a) of the Tariff Act of 1930 (19 U.S.C. 1505) is amended to read as follows:

"(a) DEPOSIT OF ESTIMATED DUTIES.—Unless merchandise is entered for warehouse or transportation, or under bond, the consignee shall deposit with the appropriate customs officer at the time of making entry, or at such later time as the Secretary may prescribe by regulation (but not to exceed thirty days after the date of entry), the amount of duties estimated by such customs officer to be payable thereon.".

SEC. 105. The Tariff Act of 1930 is amended by inserting after section 507 the following new section:

"SEC. 508 RECORDKEEPING.

"(a) REQUIREMENTS.—Any owner, importer, consignee, or agent thereof who imports, or who knowingly causes to be imported, any merchandise into the customs territory of the United States shall make, keep, and render for examination and inspection such records, statements, declarations, and other documents which—

"(1) pertain to any such importation, or to the information contained in the documents required by this Act in connection with the entry of merchandise; and

"(2) are normally kept in the ordinary course of business.

"(b) PERIOD OF TIME.—The records required by subsection (a) of this section shall be kept for such periods of time, not to exceed 5 years from the date of entry, as the Secretary shall prescribe.

"(c) LIMITATION.—For the purpose of this section and section 509 of this Act, the phrase 'knowingly causes to be imported' does not include a domestic transaction between an importer and a person ordering merchandise from him, unless—

"(1) the terms and conditions of the importation are controlled by the person placing the order; or

"(2) technical data, molds, equipment, or other production assistance, or material, components or parts are furnished by the person placing the order with knowledge that they will be used in the manufacture or production of the imported merchandise."

SEC. 106. Section 509 of the Tariff Act of 1930 (19 U.S.C. 1509) is amended to read as follows:

"SEC. 509. EXAMINATION OF BOOKS AND WITNESSES.

"(a) AUTHORITY.—In any investigation or inquiry conducted for the purpose of ascertaining the correctness of any entry, for determining the liability of any person for duty and taxes due or duties and taxes which may be due the United States, for determining liability for fines and penalties, or for insuring compliance wtih the laws of the United States administered by the United States Customs Service, the Secretary (but no delegate of the Secretary below the rank of district director or special agent in charge) may—

"(1) examine, or cause to be examined, upon reasonable notice of reasonable specificity, any record, statement, declaration or other document which may be relevant or material to such investigation or inquiry;

"(2) summon, upon reasonable notice—

"(A) the person who imported, or knowingly caused to be imported, merchandise into the customs terrritory of the United States,

"(B) any officer, employee, or agent of such person,

"(C) any person having possession, custody, or care of records relating to such importation, or

"(D) any other person he may deem proper, to appear before the appropriate customs officer at the time and place within the customs territory of the United States specified in the summons (except that no witness may be required to appear at any place more than one hundred miles distant from the place where he was served with the summons), to produce such records, statements, declarations and other documents required to be kept under section 508 of this Act, and to give such testimony, under oath, as may be relevant or material to such investigation or inquiry; and

"(3) take, or cause to be taken, such testimony of the person concerned, under oath, as may be relevant or material to such investigation or inquiry.

"(b) SERVICE OF SUMMONS.—A summons issued pursuant to this section may be served by any person designated in the summons to serve it. Service upon a natural person may be made by personal delivery of the summons to him. Service may be made upon a domestic or foreign corporation or upon a partnership or other unincorporated association which is subject to suit under a common name, by delivering the summons to an officer, or managing or general agent, or to any other agent authorized by appointment or by law to receive service of process. The certificate of service signed by the person serving the summons is prima facie evidence of the facts it states on the hearing of an application for the enforcement of the summons. When the summons requires the production of records, such records shall be described in the summons with reasonable certainty.

"(c) SPECIAL PROCEDURES FOR THIRD-PARTY SUMMONSES.—(1) For purposes of this subsection—

"(A) The term 'records' includes statements, declarations, or documents required to be kept under section 508 of this Act.

"(B) The term 'summons' means any summons issued under subsection (a) of this

section which requires the production of records or the giving of testimony relating to records. Such term does not mean any summons issued to aid in the collection of the liability of any person against whom an assessment has been made or judgment rendered.

"(C) The term 'third-party recordkeeper' means—

"(i) any customhouse broker;

"(ii) any attorney; and

"(iii) any accountant.

"(2) If—

"(A) any summons is served on any person who is a third-party recordkeeper; and

"(B) the summons requires the production of, or the giving of testimony relating to, any portion of records made or kept of the import transactions of any person (other than the person summoned) who is identified in the description of the records contained in such summons;

then notice of such summons shall be given to any persons so identified within a reasonable time before the day fixed in the summons as the day upon which such records are to be examined or testimony given. Such notice shall be accompanied by a copy of the summons which has been served and shall contain directions for staying compliance with the summons under paragraph (5)(B) of this subsection.

"(3) Any notice required under paragraph (2) of this subsection shall be sufficient if such notice is served in the manner provided in subsection (b) of this section upon the person entitled to notice, or is mailed by certified or registered mail to the last known address of such person, or, in the absence of a last known address, is left with the person summoned. If such notice is mailed, it shall be sufficient if mailed to the last known address of the person entitled to notice.

"(4) Paragraph (2) of this subsection shall not apply to any summons—

"(A) served on the person with respect to whose liability for duties or taxes the summons is issued, or any officer or employee of such person; or

"(B) to determine whether or not records of the important transactions of an identified person have been made or kept.

"(5) Notwithstanding any other law or rule of law, any person who is entitled to notice of a summons under paragraph (2) of this subsection shall have the right—

"(A) to intervene in any proceeding with respect to the enforcement of such summons under section 510 of this Act; and

"(B) to stay compliance with the summons if, not later than the day before the day fixed in the summons as the day upon which the records are to be examined or testimony given—

"(i) notice in writing is given to the person summoned not to comply with the summons; and

"(ii) a copy of such notice not to comply with the summons is mailed by registered or certified mail to such person and to such office as the Secretary may direct in the notice referred to in paragraph (2) of this subsection.

"(6) No examination of any records required to be produced under a summons as to which notice is required under paragraph (1) of this subsection may be made—

"(A) before the expiration of the period allowed for the notice not to comply under paragraph (5)(B) of this subsection, or

"(B) if the requirements of such paragraph (5)(B) have been met, except in accordance with an order issued by a court of competent jurisdiction authorizing examination of such records or with the consent of the person staying compliance.

"(7) The provisions of paragraphs (2) and (5) of this subsection shall not apply with respect to any summons if, upon petition by the Secretary, the court determines, on the basis of the facts and circumstances alleged, that there is reasonable cause to believe the giving of notice may lead to attempts to conceal, destroy, or alter records relevant to the examination, to prevent the communication of information from other persons through intimidation, bribery, or collusion, or to flee to avoid prosecution, testifying, or production of records.".

SEC. 107. Section 510 of the Tariff Act of 1930 (19 U.S.C. 1510) is amended to read as follows:

"SEC. 510. JUDICIAL ENFORCEMENT.

"(a) ORDER OF COURT.—If any person summoned under section 509 of this Act neglects or refuses to appear, to testify, or to produce records, the district court of the United States for any district in which such person is found or resides or is doing business, upon application and after notice to any such person and hearing, shall have jurisdiction to issue an order requiring such person to appear and give testimony or appear and produce records, or both, and any failure to obey such order of the court may be punished by such court as a contempt thereof.

"(b) CONTEMPT. Any person adjudged guilty of contempt for neglecting or refusing to obey a lawful summons issued under section 509 of this Act and for refusing to obey the order of the court may, for so long as the failure continues and in addition to the punishment imposed by the court, be prohibited from importing merchandise into the customs territory of the United States directly or indirectly or for his account, and the Secretary may instruct the appropriate customs officers to withhold delivery of merchandise imported directly or indirectly by him or for his account. If such failure continues for a period of one year from the date of such instruction such officer shall cause all merchandise held in customs custody pursuant to this provision to be sold at public auction or otherwise disposed of under the customs laws.".

SEC. 108. Section 511 of the Tariff Act of 1930 (19 U.S.C. 1511) is repealed.

SEC. 109. Section 557 of the Tariff Act of 1930 (19 U.S.C. 1557) is amended by adding at the end thereof the following new subsection:

"(d) WITHDRAWAL BEFORE PAYMENT.—Merchandise may be withdrawn for consumption without the payment of the duty thereon if the consignee or transferee is permitted to pay duty at a later time pursuant to regulations prescribed by the Secretary under section 505 of this Act.".

SEC. 110. Section 584 of the Tariff Act of 1930 (19 U.S.C. 1584) is amended—

(1) by inserting "or any person directly or indirectly responsible for any discrepancy between the merchandise and said manifest" immediately after "or the owner of such vessel or vehicle" each place it appears in the first sentence of the first undesignated paragraph of such section;

(2) by inserting "or any person directly or indirectly responsible for heroin, morphine, cocaine, isonipecaine, or opiate being in such merchandise" immediately after "or the owner of such vessel or vehicle" in the first sentence of the second undesignated paragraph of such section; and

(3) by inserting "or any person directly or indirectly responsible for smoking opium, opium prepared for smoking, or marihuana being in such merchandise" immediately after "or the owner of such vessel or vehicle" in the second sentence of the second undesignated paragraph of such section.

SEC. 111. (a) Section 592 of the Tariff Act of 1930 (19 U.S.C. 1592 is amended to read as follows:

"SEC. 592. PENALTIES FOR FRAUD, GROSS NEGLIGENCE, AND NEGLIGENCE.

"(a) IN GENERAL.—Any consignor, seller, owner, importer, consignee, agent, or other person (hereinafter in this section referred to as a 'person') who by fraud, gross negligence, or negligence enters or introduces or attempts to enter or introduce any merchandise into the commerce of the United States by means of—

"(1) any invoice, declaration, affidavit, letter, paper, written or oral statement, or act which is material and false, or

"(2) any omission which is material,

whether or not the United States is or may be deprived by the lawful duties, or any portion thereof, shall be subject to a monetary penalty as provided for in subsection (d). If the Secretary has reasonable cause to believe that such person is insolvent or beyond the jurisdiction of the United States or that seizure is otherwise essential to protect the revenue of the United States or to prevent the introduction of prohibited or restricted merchandise into the customs territory of the United States, such merchandise may be seized and, upon assessment of a monetary penalty, forfeited unless the monetary penalty is paid within the time specified by law. Within a reasonable time after any such seizure is made, the Secretary shall issue to the person concerned a written statement containing the reasons for the seizure. After seizure of merchandise under this subsection, the Secretary may, in the case of prohibited or restricted merchandise, and shall, in the case of any other merchandise, return such merchandise upon the deposit of security not to exceed the maximum monetary penalty which may be assessed under subsection (d).

"(b) NOTICE.—If the appropriate customs officer has reasonable cause to believe that there has been a violation of subsection (a) and determines that further proceedings are warranted, he shall issue to the person concerned a written notice of his intention to issue a claim for a monetary penalty. Such notice shall—

"(1) describe the merchandise;

"(2) set forth the details of the entry or introduction or the attempted entry or introduction;

"(3) specify all laws and regulations allegedly violated;

"(4) disclose all the material facts which establish the alleged violation;

"(5) state whether the alleged violation occurred as a result of fraud, gross negligence, or negligence;

"(6) state the estimated loss of lawful duties, if any, and, taking into account all circumstances, the amount of the proposed monetary penalty; and

"(7) inform such person that he shall have a reasonable opportunity to make representations, both oral and written, as to why a claim for a monetary penalty should not be issued in the amount stated.

No notice is required under this subsection for any violation of subsection (a) which is noncommercial in nature or for which the proposed penalty is $1,000 or less.

"(c) VIOLATION.—After considering representations, if any, made by the person concerned pursuant to the notice issued under subsection (b), the appropriate customs officer shall determine whether any violation of subsection (a), as alleged in the notice, has occurred. If such officer determines that there was no violation, he shall promptly notify, in writing, the person to whom the notice was sent. If such officer determines that there was a violation, he shall issue a written claim to such person. The written claim shall specify all changes in the information provided under paragraphs (1) through (6) of subsection (b). Such person shall have a reasonable opportunity under section 618 of this Act to make representations, both oral and written, seeking remission or mitigation of the monetary penalty. At the conclusion of any proceeding under such section 618, the appropriate customs officer shall provide to the person

concerned a written statement which sets forth the final determination and the findings of fact and conclusions of law on which such determination is based.

"(d) PENALTIES.—(1) The monetary penalty for a violation resulting from fraud shall not exceed the domestic value of the merchandise.

"(2) The monetary penalty for a violation resulting from gross negligence shall not exceed the lesser of the domestic value of the merchandise which is the subject of the claim for such monetary penalty or four times the lawful duties of which the United States is or may be deprived. If such violation did not affect the assessment of duties, the monetary penalty shall not exceed 40 percent of the dutiable value.

"(3) The monetary penalty for a violation resulting from negligence shall not exceed the lesser of the domestic value of the merchandise which is the subject of the claim for such monetary penalty or two times the lawful duties of which the United States is or may be deprived. If such violation did not affect the assessment of duties, the monetary penalty shall not exceed 20 percent of the dutiable value.

"(4) Notwithstanding section 514 of this Act, if the United States has been deprived of lawful duties as a result of a violation of subsection (a), the appropriate customs officer shall require that such lawful duties be restored, whether or not a monetary penalty is assessed.

"(e) CLERICAL ERRORS.—Notwithstanding subsection (a), merchandise shall not be seized nor shall a monetary penalty be assessed for a violation resulting from clerical errors, or mistakes of fact, unless such errors or mistakes establish a pattern of negligent conduct.

"(f) PRIOR DISCLOSURE.—If the person concerned discloses the circumstances of a violation of subsection (a) before, or without knowledge of, the commencement of a formal investigation of such violation, with respect to such violation, merchandise shall not be seized and any monetary penalty to be assessed under subsection (d) shall not exceed—

"(1) if the violation resulted from fraud—

"(A) the amount of the lawful duties of which the United States is or may be deprived so long as such person tenders the unpaid amount of the lawful duties at the time of disclosure or within thirty days, or such longer period as the appropriate customs officer may provide, after notice by the appropriate customs officer of this calculation of such unpaid amount, or

"(B) if such violation did not affect the assessment of duties, 10 percent of the dutiable value; or

"(2) if the violation resulted from negligence or gross negligence, the interest (computed from the date of liquidation at the prevailing rate of interest applied under section 6621 of the Internal Revenue Code of 1954) on the amount of lawful duties of which the United States is or may be deprived so long as such person tenders the unpaid amount of the lawful duties at the time of disclosure or within thirty days, or such longer period as the appropriate customs officer may provide, after notice by the appropriate customs officer of this calculation of such unpaid amount.

The person asserting lack of knowledge of the commencement of a formal investigation has the burden of proof in establishing such lack of knowledge.

"(g) DISTRICT COURT.—Notwithstanding any other provision of law, in any proceeding in a United States district court commenced by the United States pursuant to section 604 of this Act for the recovery of any monetary penalty claimed under this section—

"(1) all issues, including the amount of the penalty, shall be tried de novo;

"(2) if the monetary penalty is based on fraud, the United States shall have the burden of proof to establish the alleged violation by clear and convincing evidence;

"(3) if the monetary penalty is based on gross negligence, the United States shall have the burden of proof to establish all the elements of the alleged violation; and

"(4) if the monetary penalty is based on negligence, the United States shall have the burden of proof to establish the act or omission constituting the violation, and the alleged violator shall have the burden of proof that the act or omission did not occur as a result of negligence."

(b) Section 603 of the Tariff Act of 1930 (19 U.S.C. 1603) is amended by inserting "promptly" immediately after "to report".

(c) Section 613 of the Tariff Act of 1930 (19 U.S.C. 1613) is amended—

(1) by striking out "any" in the first sentence and inserting in lieu thereof "(a) Except as provided in subsection (b) of this section, any"; and

(2) by adding at the end thereof the following new subsection:

"(b) If merchandise is forfeited under section 592 of this Act, any proceeds from the sale thereof in excess of the monetary penalty finally assessed thereunder and the expenses and costs described in subsection (a) (1) and (2) of this subsection incurred in such sale shall be returned to the person against the penalty was assessed."

(d) Section 615 of the Tariff Act of 1930 (19 U.S.C. 1615) is amended by inserting "(other than those arising under section 592 of this Act)" immediately after "In all suits or actions".

(e) Section 621 of the Tariff Act of 1930 (19 U.S.C. 1621) is amended by inserting the following after "Provided, That": "in the case of an alleged violation of section 592 of this Act arising out of gross negligence or negligence, such suit or action shall not be instituted more than five years after the date the alleged violation was committed: *Provided further*, That".

(f) (1) The amendments made by subsections (a) through (d) of this section shall take effect with respect to proceedings commenced on or after the 90th day after the date of the enactment of this Act; except that section 592(g) of this Act (as added by subsection (a) of this section) shall take effect on such date of enactment.

(2) (A) The amendment made by subsection (c) shall apply with respect to alleged violations of section 592 of the Tariff Act of 1930 resulting from gross negligence or negligence which are committed on or after the date of the enactment of this Act.

(B) In the case of any alleged violation of such section 592 resulting from gross negligence or negligence which was committed before the date of the enactment of this Act and for which no suit or action for recovery was commenced before such date of enactment, no suit or action for recovery with respect to such alleged violation shall be instituted after—

(i) the closing date of the 5-year period beginning on the date on which the alleged violation was committed, or

(ii) the closing date of the 2-year period beginning on such date of enactment,

whichever date later occurs, except that no such suit or action may be instituted after the date on which such suit or action would have been barred under section 621 of the Tariff Act of 1930 (as in effect on the day before such date of enactment).

SEC. 112. (a) Section 607 of the Tariff Act of 1930 (19 U.S.C. 1607) is amended by striking out "$2,500" in the heading of such section and inserting in lieu thereof "$10,000", and by striking out "$2,500 each place that it appears therein and inserting in lieu thereof "$10,000".

(b) Section 610 of the Tariff Act of 1930 (19 U.S.C. 1610 (is amended by striking out "$2,500" in the heading of such section and inserting in lieu thereof "$10,000", and by striking out "$2,500" in such section and inserting in lieu thereof "$10,000".

(c) Section 612 of the Tariff Act of 1930 (19 U.S.C. 1612) is amended by striking out "$2,500" each place it appears therein and inserting in lieu thereof "$10,000".

SEC. 113. The Tariff Act of 1930 is amended by inserting immediately after section 624 the following new section:

"SEC. 625. PUBLICATION OF RULINGS.

"Within 120 days after issuing any ruling under this Act with respect to any prospective customs transaction, the Secretary shall have such ruling published in the Customs Bulletin or shall otherwise make such ruling available for public inspection.".

SEC. 114. Section 641 of the Tariff Act of 1930 (19 U.S.C. 1641) is amended—

(1) by inserting after "governing the licensing" in the first sentence of subsection (a) the following: "; and renewal of licensing."; and

(2) by inserting after the third sentence in subsection (a) the following new sentences: "Three years after the date of the enactment of the Customs Procedural Reform Act of 1977, all licenses issued under this subsection before such date of enactment shall be subject to renewal. After such date of enactment, the Secretary of the Treasury shall only issue or renew licenses under this subsection which are valid for a period of three years after the date of their issuance or renewal. No license may be renewed unless the licensee make application therefor to the Secretary within the 90-day period occurring before the expiration date of the license.".

TITLE II—CUSTOMS SIMPLIFICATION

SEC. 201. This title may be cited as the "Customs Simplification Act of 1977".

SEC. 202. (a) Section 11 of the Act of March 1, 1879 (19 U.S.C. 467) is amended to read as follows:

"SEC. 11. The Secretary of the Treasury may by regulation require such marks, brands and stamps or devices to be placed on any container including any receptacle, vessel, or form of package, bottle, tank, or pipeline used for holding, storing, transferring or conveying imported distilled spirits, wines and malt liquors as he deems necessary and proper in the administration of the Federal laws applicable to such imported distilled spirits, wines and malt liquors and may specify those marks, brands, and stamps or devices which the importer or owner shall place or have placed on containers. Any container of imported distilled spirits, wines, or malt liquors withdrawn from customs custody purporting to contain imported distilled spirits, wines, or malt liquors found without having thereon any mark, brand or stamp or device the Secretary of the Treasury may require, shall be with its contents, forfeited to the United States of America."

(b) Section 5205(a)(2)(C) of the Internal Revenue Code of 1954 is amended to read as follows:

"(C) distilled spirits, lawfully withdrawn from bond, in immediate containers the sampling of which may be required (whether or not it is, in fact, required) under other provisions of internal revenue or customs law and regulations issued pursuant thereof;".

(c) The Secretary may issue regulations authorized under the amendment made by subsection (a) at any time after the date of the enactment of this Act, but the amendment made by such subsection shall not take effect until the 60th day after the date on

which such regulations are issued and shall not apply to other than merchandise which is entered, or withdrawn from warehouse, for consumption on or after such 60th day.

SEC. 203. (a) Schedule 8 of the Tariff Schedules of the United States (19 U.S.C. 1202) is amended as follows:

(1) Item 812.20 is amended by striking out "3 pounds" and inserting in lieu thereof "2 kilograms", by striking out "1 quart" and inserting in lieu thereof "1 liter", and by striking out "300 cigarettes" and inserting in lieu thereof "200 cigarettes".

(2) Item 812.25 is amended by striking out "(including not more than 1 wine gallon of alcoholic beverages and not more than 100 cigars)" and inserting in lieu thereof "(not including alcoholic beverages and cigarettes but including not more than 100 cigars)".

(3) Item 812.40 is amended by inserting "(including not more than 4 liters of alcoholic beverages)" after "Not exceeding $200 in value of articles".

(4) The prefatory note to item 813.10 is amended by inserting the following before the colon at the end of such note: "(including American citizens who are residents of American Samoa, Guam, or the Virgin Islands of the United States)".

(5) Item 813.30 is amended by striking out "1 quart" each place it appears and inserting in lieu thereof "1 liter", by striking out "1 wine gallon" and inserting in lieu thereof "4 liters", and by inserting "200 cigarettes and" before "100 cigars".

(6) Item 813.31 is amended by striking out "$100" wherever it appears, and inserting in lieu thereof "$250", and by striking out "$200" and inserting in lieu thereof "$500".

(7) Item 814.00 is amended by striking out "3 pounds" and inserting in lieu thereof "2 kilograms" and by striking out "1 quart" and inserting in lieu thereof "1 liter".

(8) Item 860.10 is amended by striking out "8 ounces" and inserting in lieu thereof "300 milliliters", by striking out "4 ounces" and inserting in lieu thereof "150 milliliters", and by striking out "2 ounces" and inserting in lieu thereof "100 milliliters".

(9) Item 860.20 is amended by striking out "⅛ ounce" each place that it appears and inserting in lieu thereof "3.5 grams".

(b)(1) The amendments made by this section with respect to metric conversion apply to merchandise entered on or after January 1, 1980.

(2) The amendments made by this section (other than those referred to in paragraph (1)) shall apply with respect to persons arriving in the United States on or after the 30th day after the date of the enactment of this Act.

SEC. 204. (a) Schedule 8 of the Tariff Schedules of the United States (19 U.S.C. 1202) is further amended by redesignating part 6 as part 7, by striking out "Part 6 headnote:" in part 7 (as so redesignated) and inserting in lieu thereof "Part 7 headnote:"; and by inserting after part 5 the following new part:

"

	PART 6.—NONCOMMERCIAL IMPORTATIONS OF LIMITED VALUE		
	Part 6 headnote: 1. For the purposes of this part the rates of duty for articles provided for in this part shall be assessed in lieu of any other rates of duty except free rates of duty on such articles, unless the Secretary of the Treasury or his delegate determines, in accordance with regulations, that the application of the rate of duty provided in this part to any article in lieu of the rate of duty otherwise applicable thereto adversely affects the economic interest of the United States. Articles for personal or household use, or as bona fide gifts, not imported for the account of another person:		
	PAR.—6 TNONCOMMERCIAL IMPORTATIONS OF LIMITED VALUE—Continued		
869.00	Accompanying a person, arriving in the United States and valued in the aggregate (exclusive of duty-free articles) not over $600 fair retail value in the country of acquisition, if such person has not received the benefits of this item (869.00) within the 30 days immediately preceding his arrival	10% of the fair retail value or 5% of the fair retail value of such articles as have been acquired in American Samoa, Guam, or the Virgin Islands of the United States	10% of the fair retail value or 5% of the fair retail value of such articles as have been acquired in American Samoa, Guam, or the Virgin Islands of the United States

"

(b) The amendment made by this section shall apply to persons and articles arriving in the United States on or after the 30th day after the date of the enactment of this Act.

SEC. 205. Section 315(d) of the Tariff Act of 1930 (19 U.S.C. 1315(d)) is amended by striking out "weekly Treasury Decisions" and inserting in lieu thereof "Federal Register".

SEC. 206. (a) Section 321(a)(1) of the Tariff Act of 1930 (19 U.S.C. 1321(a)(1)) is amended by striking out "$3" and inserting in lieu thereof "$10", and by striking out "or" after "duties" wherever it appears and inserting in lieu thereof "and".

(b)(1) Subparagraph (A) of section 321(a)(2) of the Tariff Act of 1930 (19 U.S.C. 1321(a)(2)) is amended by striking "$10" and inserting in lieu thereof "$25", and by striking out "$20" and inserting in lieu thereof "$40".

(2) Subparagraph (B) of such section 321(a)(2) is amended by striking "$1" and inserting in lieu thereof "$5".

(3) Subparagraph (C) of such section 321(a)(2) is amended by striking "$1" and inserting in lieu therof "$5".

SEC. 207. Section 466(a) of the Tariff Act of 1930 (19 U.S.C. 1466(a)) is amended by striking out "; and if the owner or master" and all that follows thereafter down through the period at the end of the first sentence and inserting in lieu thereof the following: ". If the owner or master willfully or knowingly neglects or fails to report, make entry, and pay duties as herein required, or if he makes any false statement in respect of such purchases or repairs without reasonable cause to believe the truth of such statements, or aids or procures the making of any false statement as to any matter material thereto without reasonable cause to believe the truth of such statement, such vessel, or a monetary amount up to the value thereof as determined by the Secretary, to be recovered from the owner, shall be subject to seizure and forfeiture."

SEC. 208. Section 483(1) of the Tariff Act of 1930 (19 U.S.C. 1483(1)) is amended—

(1) by inserting "or the holder of an air waybill" immediately after "bill of lading";

(2) by adding "in the case of a bill of lading" immediately before "if consigned to order, by the consignor"; and

(3) by striking out the period at the end of the first sentence and inserting in lieu thereof the following: "; except that this section shall not limit in any way the rights of the consignor, as prescribed by article 12 of the Warsaw Convention (49 Stat. 3017)."

SEC. 209. Section 491 of the Tariff Act of 1930 (19 U.S.C. 1491) is amended—

(1) by amending the section heading to read as follows:

"SEC. 491. UNCLAIMED MERCHANDISE; DISPOSITION OF FORFEITED DISTILLED SPIRITS, WINES AND BEER";

(2) by inserting "(a)" at the beginning of such section;

(3) by striking out "one year" wherever it appears there'n and inserting in lieu thereof "six months"; and

(4) by adding at the end thereof the following new subsection:

"(b) All distilled spirits, wines, and beer forfeited to the Government summarily or by order of court, under any provision of law administered by the United States Customs Service, shall be appraised and disposed of by—

"(1) delivery to such Government agencies, as in the opinion of the Secretary have a need for such distilled spirits, wines, and beer for medical, scientific, or mechanical purposes, or for any other official purpose for which appropriated funds may be expended by a Government agency;

"(2) gifts to such eleemosynary institutions as, in the opinion of the Secretary, have a need for such distilled spirits, wines, and beer for medical purposes;

"(3) sale by appropriate customs officer at public auction under such regulations as the Secretary shall prescribe, except that before making any such sale the Secretary shall determine that no Government agency or eleemosynary institution has established a need for such spirits, wines, and beer under paragraph (1) or (2); or

"(4) destruction."

SEC. 210. (a) The Tariff Act of 1930 is amended by adding immediately after section 503 the following new section:

"SEC. 504. LIMITATION ON LIQUIDATION.

"(a) LIQUIDATION.—Except as provided in subsection (b), an entry of merchandise not liquidated within one year from:

"(1) the date of entry of such merchandise;

"(2) the date of the final withdrawal of all such merchandise covered by a warehouse entry; or

"(3) the date of withdrawal from warehouse of such merchandise for consumption where, pursuant to regulations issued under section 104 of this Act, duties may be deposited after the filing of an entry or withdrawal from warehouse;

shall be deemed liquidated at the rate of duty, value, quantity, and amount of duties asserted at the time of entry by the importer, his consignee, or agent. Notwithstanding section 500(e) of this Act, notice of liquidation need not be given of an entry deemed liquidated.

"(b) EXTENSION.—The Secretary may extend the period in which to liquidate an entry by giving notice of such extension to

the importer, his consignee, or agent in such form and manner as the Secretary shall prescribe in regulations, if—

"(1) information needed for the proper appraisement or classification of the merchandise is not available to the appropriate customs officer;

"(2) liquidation is suspended or such extension is required by statute;

"(3) liquidation is suspended pursuant to court order; or

"(4) the importer, consignee, or his agent requests such extension and shows good cause therefor.

"(c) NOTICE OF SUSPENSION.—If the liquidation of any entry is suspended, the Secretary shall, by regulation, require that notice of such suspension be provided to the importer or consignee concerned and to any authorized agent and surety of such importer or consignee.

"(d) LIMITATION.—Any entry of merchandise not liquidated at the expiration of four years from the applicable date specified in subsection (a) of this section, shall be deemed liquidated at the date of duty, value, quantity, and amount of duty asserted at the time of entry by the importer, his consignee, or agent, unless liquidation continues to be suspended pursuant to statute or court order. When such a suspension of liquidation is removed, the entry shall be liquidated within 90 days therefrom."

(b) The amendment made by this section applies to the entry or withdrawal of merchandise for consumption on or after 180 days after the enactment of this Act.

SEC. 211. Section 520(c)(1) of the Tariff Act of 1930 (19 U.S.C. 1520(c)(1)) is amended to read as follows:

"(1) a clerical error, mistake of fact, or other inadvertence not amounting to an error in the construction of a law, adverse to the importer and manifest from the record or established by documentary evidence, in any entry, liquidation, or other customs transaction, when the error, mistake, or inadvertence is brought to the attention of the appropriate customs officer within one year after the date of liquidation or exaction; or".

SEC. 212. (a) Section 526 of the Tariff Act of 1930 (19 U.S.C. 1526) is amended—

(1) by striking out "It" in subsection (a) and inserting in lieu thereof "Except as provided in subsection (d) of this section, it"; and

(2) by adding at the end thereof the following new subsection:

"(d) EXEMPTIONS.—(1) The trademark provisions of this section and section 42 of the Act of July 5, 1946 (60 Stat. 440; 15 U.S.C. 1124), do not apply to the importation of articles accompanying any person arriving in the United States when such articles are for his personal use and not for sale if (A) such articles are within the limits of types and quantities determined by the Secretary pursuant to paragraph (2) of this subsection, and (B) such person has not been granted an exemption under this subsection within thirty days immediately preceding his arrival.

"(2) The Secretary shall determine and publish in the Federal Register lists of the types of articles and the quantities of each which shall be entitled to the exemption provided by the subsection. In the determining such quantities of particular types of trademarked articles, the Secretary shall give such consideration as he deems necessary to the numbers of such articles usually purchased at retail for personal use.

"(3) If any article which has been exempted from the restrictions on importation of the trade-mark laws under this subsection is sold within one year after the date of importation, such article, or its value (to be recovered from the importer), is subject to forfeiture. A sale pursuant to a judicial order or in liquidation of the estate of a decedent is not subject to the provisions of this paragraph.

"(4) The Secretary may prescribe such rules and regulations as may be necessary to carry out the provisions of this subsection.".

(b) Section 42 of the Act of July 5, 1946 (15 U.S.C. 1124), is amended by striking out "That" and inserting in lieu thereof "Except as provided in subsection (d) of section 526 of the Tariff Act of 1930,".

SEC. 213. Section 599 of the Tariff Act of 1930 (19 U.S.C. 1599) is amended by inserting "(other than a yacht or other pleasure boat)" after "part, any vessel".

SEC. 214. The first sentence of section 27, Merchant Marine Act of 1920, as amended (46 U.S.C. 883), is further amended by deleting the word "thereof" where it first appears and by inserting in lieu thereof "of the merchandise (or a monetary amount up to the value thereof as determined by the Secretary of the Treasury to be recovered from any consignor, seller, owner, importer, consignee, agent, or other person or persons so transporting or causing said merchandise to be transported)".

SEC. 215. (a) Sections 2654, 4381, and 4383 of the Revised Statutes of the United States (19 U.S.C. 58 and 46 U.S.C. 329, 330, and 333) are each repealed.

(b) The amendments made by subsection (a) shall not be deemed to prohibit the Secretary of the Treasury from the fixing of fees, charges, or prices under the authority of section 501 of the Act of August 31, 1951 (65 Stat. 290; 31 U.S.C. 483a).

SEC. 216. Except as may be provided in the Tariff Schedules of the United States, no officer or employee of the United States (including any member of the uniformed services) is entitled, when returning to the United States from abroad—

(1) to admission free of duty without entry of his or her baggage and effects; or

(2) to expedited customs examination and clearance of his or her baggage and effects;

unless such officer or employee—

(A) is seriously ill or infirm,

(B) has been summoned home by news of affliction or disaster, or

(C) is accompanying the body of a deceased relative.

For purposes of this section, the term "baggage and effects" means any article which was in the possession of the officer or employee while abroad and is being imported in connection with his or her arrival and is intended for his or her bona fide personal or household use. Such term does not include any article imported as an accommodation to others or for sale or other commercial use.

TITLE III—CUSTOMS SERVICE APPROPRIATIONS AUTHORIZATION

SEC. 301. (a) For the fiscal year beginning October 1, 1979, and each fiscal year thereafter, there are authorized to be appropriated to the Department of the Treasury for the United States Customs Service only such sums as are authorized by subsection (b) or as may hereafter be authorized by law.

(b) There are authorized to be appropriated to the Department of the Treasury for the fiscal years beginning on October 1, 1979, and October 1, 1980, such sums as may be necessary for the United States Customs Service to carry out its functions.

TITLE IV—SEPARABILITY OF PROVISIONS

SEC. 401. If any provision of this Act, or the application thereof to any person or circumstances, is held invalid, the remainder of the provisions of this Act and the application of such provisions to other persons or circumstances, shall not be affected thereby.

The SPEAKER pro tempore. Is a second demanded?

Mr. FRENZEL. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Ohio (Mr. VANIK) will be recognized for 20 minutes, and the gentleman from Minnesota (Mr. FRENZEL) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Ohio (Mr. VANIK).

Mr. VANIK. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 8149, the Customs Procedural Reform Act of 1977, is the first major piece of legislation designed to facilitate the customs clearance of merchandise and passengers since the 1950's.

The bill is the result of efforts of the U.S. Customs Service over a number of year to develop modernized customs clearance procedures. It has been considered at length by the Subcommittee on Trade of the Committee on Ways and Means both in the 94th Congress and this year. I would like to commend highly the author of the bill, Mr. JONES of Oklahoma, for his leadership as chairman of the Subcommittee Task Force on Customs Administration, and also our colleague Mr. FRENZEL of Minnesota, who served with Mr. JONES on the task force. Through the task force the subcommittee was able to conduct field visits, consult with importers and other business interests and work closely with the U.S. Customs Service in developing a well-balanced and greatly needed bill in a relatively brief period of time. Through the work of the task force and public hearings we have perfected a bill that reflects the legitimate interests of the private sector and will permit the U.S. Customs Service to modernize and simplify its procedures. The bill enjoys widespread support in the import community and among business interests in general.

Title I of the bill would allow Customs to institute up-to-date business methods and adopt accepted financial practices in conjunction with computerized techniques to the processing of importations.

The effect of the relevant title I provisions would be to permit the Secretary of the Treasury to alter the customs practices and procedures with respect to the entry, clearance, and verification processes applicable to commercial imports. Title I also establishes importer record-keeping requirements and strengthens the authority of customs officers to inspect importers and others with respect to customs-related books and records. Further, title I amends section 592 of the Tariff Act of 1930, the penalty and fraud provision with respect to penalty levels and judicial review.

Title II, entitled the "Customs Simplification Act of 1977" amends various provisions of the customs laws in an effort to avoid undue administrative expense or simplify the entry procedures for certain noncommercial importations. Most of the these provisions adjust

monetary levels for administrative purposes, or make compensation for inflationary factors.

Title III of the bill provides for congressional authorization for appropriations, thus bringing a new element of review and oversight over the customs service.

The bill was unanimously reported out by the full Committee on Ways and Means on September 15, 1977, and I urge its passage.

Mr. Speaker, I would like to yield 5 minutes to the distinguished gentleman from Oklahoma (Mr. JONES).

Mr. JONES of Oklahoma. Mr. Speaker, as the chairman has said, this bill will create the first substantial reforms in the Nation's Customs Service since the early 1950's. Since that time the value of U.S. imports, amounts of duties collected, and the number of passengers passing through customs have increased over 500 percent; yet customary procedures for handling this workload have remain unchanged. The need for long-overdue reform is recognized by the Treasury Department, the importing community, and anyone who has waited in long lines at airports as customs officials slowly apply antiquated rules and requirements.

Our vote today should culminate a legislative process which began over 1 year ago. Last August hearings were held on the Ford administration's Customs Modernization Act of 1976. Though no doubt on an exceedingly dry subject for most Americans, those hearings demonstrated there were considerable and often conflicting interests in customs reform from a wide variety of concerned parties. Thus in January Chairman VANIK appointed the Customs Task Force to investigate existing problems and potential solutions.

For the past 6 months the task force has held informal meetings with customs officials and members of the importing community in New York, Philadelphia, Baltimore, Houston, Los Angeles, San Francisco, Chicago, Savannah, Boston, and Laredo. H.R. 8149 includes many of the ideas and suggestions we obtained in these meetings. The bill also includes a proposal suggested by Congressmen STEED and HORTON and the Commission on Federal Paperwork which is expected to save over 3 million man-hours of work—worth over $25 million—each year.

H.R. 8149 will help modernize and simplify many outdated customs procedures. For example, it will enable customs to further computerize its merchandise processing, use more effective audit techniques of corporate records, and in general increase the efficiency and productivity of customs personnel. Let me touch on three particularly important provisions of the bill.

First, we have removed the basic inequities in section 592, the penalty and fraud provision of the customs laws. In the past importers have been subject to fines which in no way correspond to the nature of their violation. Existing laws also preclude effective judicial review of customs service decisions. H.R. 8149 sets up maximum penalty levels and burden of proof requirements for three levels of culpability and provides for de novo review of alleged violations in the Federal district courts.

Second, the bill increases the duty-free exemption for returning U.S. residents from $100 to $250 and from $250 to $500 for residents returning from U.S. insular possessions. These increases reflect the effect of inflation on the purchasing power of the dollar since the exemption was last changed over 25 years ago. This and other changes are expected to significantly speed the customs clearance of international passengers.

Finally, H.R. 8149 provides for congressional authorization of customs service appropriations. By doing so we can better perform our oversight function over an agency whose rules and regulations have often escaped congressional review.

Mr. Speaker, at the time of committee consideration of H.R. 8149 we received no objections from the private sector about the bill in the form that it was reported from the committee to the full House. Subsequently we have learned that individual Members have been urged by an affiliate organization of the National Customs Brokers and Forwarders Association of America that the bill be defeated. Consequently we have checked with officers of the National Association and have received in writing from its president a reiteration of that organization's support for the bill, strongly urging its passage.

The letter is as follows:

NATIONAL CUSTOMS
BROKERS & FORWARDERS
ASSOCIATION OF AMERICA, INC.,
New York, N.Y., October 12, 1977.

Hon. CHARLES A. VANIK,
Rayburn House Office Building,
Washington, D.C.

DEAR CONGRESSMAN VANIK: The National Customs Brokers & Forwarders Association of America, Inc., is the only nationwide association of Treasury-licensed customs brokers and Federal Maritime Commission-licensed foreign freight forwarders, and our membership includes several hundred firms throughout the United States with which we maintain close liaison by means of twenty-one local affiliated associations of brokers and forwarders.

Our National Association has gone on record in support of H.R. 8149, the Customs Procedural Reform Act of 1977, because we feel that the measure incorporates many beneficial changes in the statute to the mutual advantage of both government and industry.

We were recently informed that one of our affiliates, the JFK Airport Customs Brokers Association, has written to you, and has urged the members of that Association also to write to you, soliciting your aid in defeating H.R. 8149.

As the national organization for this industry, we reiterate our support for this bill and strongly endorse its passage.

With many thanks for your consideration, we are.

Sincerely,

R. R. HUMMEL, Jr.,
President.

Under present law, customs brokers are licensed for life. During the course of onsite inspections of customs facilities around the country, the Customs task force learned that the Customs Service has little knowledge of the more than 3,000 brokers licensed in the country today. The amendment, therefore, is intended to provide a means for at least keeping current with the identity and number of brokers still practicing.

It was the intention of the Committee on Ways and Means that this relicensing provision would not involve any requalification, reexamination, or reinvestigation, but would serve only as a "re-registration," or pro forma filing for a renewed license.

As I noted earlier, the national association representing customs brokers nationwide supports H.R. 8149, including the license renewal provision, without qualification.

At the recent Ways and Means Committee markup of H.R. 8149 my colleague OTIS PIKE noted that the specifics in this bill are amongst the most boring he has ever chanced to come across. If I were not so involved with the bill, I would undoubtedly agree wholeheartedly. But given the aptness of his comment and the fact that the bill has been so thoroughly hammered out on the dull anvil of public field hearings and testimony, I would propose that I spare this House any further section-by-section review of its provisions.

Of course, I would be happy to respond to any questions or comments. Let me close by saying that in a very real sense this bill is the result of a very close effort between the executive and legislative branches and the public we represent. It has been a pleasure to take part in that effort and to know that everyone involved believes we have come up with a good product. I thank the chairman for his kind remarks and along with him urge the speedy passage of this bill.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Minnesota (Mr. FRENZEL).

Mr. FRENZEL. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Wisconsin (Mr. STEIGER).

Mr. STEIGER. Mr. Speaker, I rise to speak in support of H.R. 8149 which was unanimously reported out of the Committee on Ways and Means.

H.R. 8149, the Customs Procedural Reform Act of 1977, is the product of 2 long years of hard work by the Trade Subcommittee. Over these 2 years the Trade Subcommittee has organized a special Customs Task Force, headed by JIM JONES and BILL FRENZEL, which has admirably tackled the many difficult problems in this area. It has held two extensive sets of hearings, taken several inspection trips to customs facilities, and on many occasions met with customs brokers, importers, and shippers. As well, it has worked very closely with the Treasury Department.

The net result of these long hours of work and deliberation is a complex but sound piece of legislation. This bill deals well with many of the problems caused by a lethargic and dated Customs operation. There are, however, some lingering problems in this area with which the subcommittee intends to deal in the future. But, for now, this legislation will give the Customs Service the ability to deal in a modern way with the modern problems facing it.

In particular, H.R. 8149, in title I, allows Customs to institute contemporary business practices and adopted accepted financial practices in conjunction with computerized techniques in processing imports. In addition, it establishes an importer recordkeeping requirement and strengthens the authority of Customs officers to inspect Customs related books and records of importers and others involved in importing. Moreover, this title makes major changes in the penalty provision, section 592 of the Tariff Act of 1930, to which importers are subject. This bill takes away what can only be described as the draconian character of the present penalty provisions as well as affording more effective judicial review of penalty assessments. Finally, this provision requires that licenses for customshouse brokers be issued for three years at a time.

Title II of this bill simplifies and updates laws dealing with the processing of international travelers and certain noncommercial importations. It introduces greater flexibility into the law and, thus, generates cost savings. In this connection, this title increases from $100 to $250 the value in duty-free items a returning resident may bring back into the country. It raises from $200 to $500 the duty-free amount available to a resident returning from U.S. insular possessions. These changes reflect the effect of inflation in the past 16 years the present rates have been in effect.

In addition, the duty rate assessed on items exceeding by $600 these duty-free amounts have been made a flat rate of 10 percent and 5 percent respectively. The application of the ordinary tariff classification procedures to merchandise brought back from abroad by returning residents for personal use requires an inordinate amount of time, creating bottlenecks and delays. This provision for a flat rate on values up to $600 over the duty-free amount would contribute to the elimination of such delays.

Two further innovations in this title include a 1-year limit on the time in which Customs has to process an entry and a reduction from 1 year to 6 months the time in which merchandise must be retained before it can be sold by Customs.

Title III would require annual authorization for appropriations to the U.S. Custom Service beginning fiscal year 1980.

As I have said, this bill attempts a major overhaul of our customs procedures. It is, therefore, complex and has not been without its controversy. However, H.R. 8149 is not now opposed by any of the groups it involves. I would strongly urge its passage and take this opportunity to thank JIM JONES and BILL FRENZEL for their dedicated and meticulous work in bringing this bill before us.

Mr. VANIK. Mr. Speaker, I yield 2 minutes to the gentleman from Iowa (Mr. BEDELL).

Mr. BEDELL. Mr. Speaker, first of all, I certainly agree that this is something that needed to be corrected. I commend the committee for what they have done.

The previous speaker indicated it has been a boring job for some. I think we should realize that if we do these things, we do not do everything exactly right, but we try to correct them.

Mr. Speaker, I have terrible difficulty with title II of the act. I would like to explain what we are doing in title II. We are increasing the duty exemption for anybody that travels abroad from $100 to $250.

For island possessions, we are increasing it from $200 to $500 and we are setting an additional $600 that will only be subject to 10 percent duty. If my wife and I were to go to the Virgin Islands and she were to buy a $2,200 coat at this time, it would then be that we would be entitled to $1,000 for all exemptions, would pay an extra 10 percent, or $1,200. In other words, we pay $120 of duty.

Under present law we would be entitled to $200 exemption, pay 18½ percent on the other $2,000, or $370 of duty.

What we have done in this for wealthy people who travel is to give them additional duty benefits which do not accrue to the people who cannot travel abroad.

I would have particular concern at this time, because I have just had in my district some 800 people laid off, because of television imports from Japan. We should not be lowering the duty for people traveling from Japan.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield?

Mr. BEDELL. I yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Speaker, how many television sets can you bring back from Japan at $250?

Mr. BEDELL. That is not the point. Whenever we buy foreign goods, there are that many less jobs available for our own people.

The SPEAKER. The time of the gentleman from Iowa has expired.

Mr. VANIK. Mr. Speaker, I yield 2 additional minutes to the gentleman from Iowa.

Mr. BEDELL. Mr. Speaker, when we bring back a fur coat or when you bring back a suit, whatever it may be, if you are able to do that without duty, you then have an advantage which does not exist at this time for goods on which duties are assessed for good reason.

Mr. ROUSSELOT. Mr. Speaker, if the gentleman will yield further, does not the gentleman have clothing stores and other discount outlets in the gentleman's district?

Mr. BEDELL. I certainly do.

Mr. ROUSSELOT. So the gentleman does have such places in which you get really good discounts for suits, or television sets. I do not really see how $250 to the "wealthy" applies. They are not the only ones that travel. Congressman travel, too. How many suits or how many television sets or fur coats can you bring back for a $250 exclusion?

Mr. BEDELL. You only have to bring back one fur coat in order to save yourself in this case $250.

Mr. ROUSSELOT. Mr. Speaker, if the gentleman will yield further, let us take $250 for a coat, from whatever foreign country you are going to bring it; how much does the gentleman think a wealthy person is going to save and what kind of fur coat is it, compared to what they can buy in this country?

Mr. BEDELL. Obviously, they are going to save $250 or more of duty that would apply if it came through regular channels, which would have been money to the Treasury of the United States. At least, I believe if we are going to create loopholes, we should not create them for the wealthy in New York City.

Mr. VANIK. Mr. Speaker, will the gentleman yield?

Mr. BEDELL. I yield to the gentleman from Ohio.

Mr. VANIK. Mr. Speaker, let me say in response, the committee took into consideration the inflation factor. This law, the $100 allowance, had not been changd since 1960. If a person goes to several countries, that does not buy much more than a postcard or some tribute.

It has been the practice of the Customs Service to treat the wholesale price as governing. This will increase the allowance, but it is based on the selling price, so it is not that difficult.

The SPEAKER pro tempore. The time of the gentleman from Iowa has expired.

Mr. VANIK. Mr. Speaker, I yield 2 additional minutes to the gentleman from Iowa.

Mr. Speaker, I just want to say that I do not think it is a matter of use. The Treasury has gone all through this. I think it is just recognizing the inflationary change.

Mr. Speaker, I would like to yield further to my colleague, the gentleman from Oklahoma.

Mr. BEDELL. Mr. Speaker, if the gentleman will yield further, would the gentleman tell us why it is they put in a $500 exemption for U.S. territorial islands?

Mr. JONES of Oklahoma. Mr. Speaker, if the gentleman will yield, I appreciate the interest of the gentleman in the well in the poor being discriminated against.

The fact of the matter is that for most foreign travel the poor are discriminated against anyway. What we tried to do in this legislation was to streamline and expedite the processing of goods and passengers who are in international trade.

What we find there is that we will actually save money for the Government, to the taxpayers, because of expediting this process and increasing this ceiling. That money could be used for other purposes of the Government. So, we are not going to lose money; we are going to save money, and we are going to allow our customs officials to get to the more important activities of really finding out the kind of trade coming in, the goods coming in, and keep accurate statistics.

Mr. BEDELL. Why is the $500 applicable to U.S. territorial possessions?

Mr. JONES of Oklahoma. That historic discrimination was established several years ago, where the country's territories were given double the amount.

Mr. BEDELL. Does the gentleman think that should be?

Mr. JONES of Oklahoma. They have made a good case for that.

Mr. VANIK. We have always had differential with respect to the island pos-

sessions. This really carries the same proposal.

Mr. BEDELL. I understand. It seems to me that we are here to correct things that may be wrong.

Mr. FRENZEL. Mr. Speaker, I yield myself 3 minutes.

Mr. Speaker, I rise to speak in support of H.R. 8149, the Customs Procedural Reform Act of 1977. H.R. 8149 attempts to bring the administration of U.S. customs laws into the 20th century. But, it should be considered only as a first phase in the enormous task of customs reform.

Anyone who has done even a minor amount of international travel is well aware of the great potential for U.S. Customs to be a tiresome and inefficient process. But the delays and frustrations sometimes experienced by international travelers does not match the problems encountered by importers and brokers in their efforts to weave their way through the morass of the U.S. customs law.

For over 2 years the Trade Subcommittee has held hearings, made field trips, and had discussions with the Treasury Department and the Customs Service all with a view to finding some way to amend the customs law so that import transactions and foreign travelers can be processed smoothly and efficiently without compromising the important revenue and enforcement aspects of the customs law.

A particular concern of the subcommittee in this effort was to alleviate the onerous penalty provision under section 592 of the Tariff Act of 1930. Under section 592 importers could be liable to the extent of the full value of the shipment for so much as a clerical error in their import documentation. Through customs regulations, however, some of the more harsh provisions of this penalty section are ameliorated. Nevertheless, there still remains in the law and in customs regulations fundamental unfairness and extreme hardshness in dealing with violations of certain customs laws.

The bill we have before us today goes a very long way in achieving what this subcommittee has been working for 2 years to achieve. This bill allows the Customs Service to institute up-to-date business practices and to adopt widely used financial practices together with computerized and automated data processing techniques in handling imports. In granting the Service this authority the bill does establish an importer recordkeeping requirement, but this requirement is easily satisfied by anyone employing ordinary sound business practices with respect to recordkeeping. Moreover, the bill makes major changes in section 592 of the Tariff Act of 1930. It not only establishes reasonable penalty levels but affords parties a more effective judicial review of penalty assessments.

Furthermore, the bill brings efficiency to the processing of international travelers and certain noncommercial importations. By introducing greater flexibility into the relevant law, this bill will result in cost savings to the service and the Treasury. In the regard, this bill would increase from $100 to $250 the value in duty free items a returning resident may bring back to this country. It raises from $200 to $500 the duty-free amount available to a resident returning from U.S. insular possessions. As well, the duty rate assessed on items exceeding by $600 these duty free amounts will be dutiable at a rate of 10 percent with respect to residents returning from non-U.S. insular possessions and 5 percent with respect to residents returning from U.S. insular possessions. The net savings gained, result from the considerable reduction in processing time and administrative costs achieved by these changes.

The subcommittee is well aware of a few customs problems that remain untreated by this legislation and plan in the future to deal with them. All in all, however, H.R. 8149 is a good though complex piece of legislation. It was unanimously reported by the subcommittee and unanimously reported by the Ways and Means Committee. It is without opposition from any of the national interests which have been involved in the legislative effort from the very beginning. I strongly recommend its adoption and take this opportunity to thank JIM JONES for his strong leadership and very hard work in putting together H.R. 8149.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield?

Mr. FRENZEL. I yield to the gentleman from California.

Mr. ROUSSELOT. I appreciate my colleague's mention of why it is necessary—in recognition of the inflation which has occured and not to provide additional benefits to the wealthy who travel—to raise this level from $100 to $250. I too attended the Mexican-American Interparliamentary Conference with our colleagues in Mexico this year. This provision was one of the suggestions that our colleagues in the Parliament of Mexico suggested as a simple item of fairness relating to inflation.

I compliment the committee in its understanding that inflation has occurred in this area as well as other areas, and I appreciate its efforts.

Mr. FRENZEL. Mr. Speaker, I think what is not commonly understood when we differentiate between rich and poor is the fact that many Americans return to the country of their birth or their ancestry once or twice in their lifetimes. They are often not rich. When they are in the foreign country, they are frequently given gifts by friends and relatives.

People from my area return to Sweden, and they be given a blanket or a sweater or a coat; or all three. They come back to the United States and find that their gifts are worth over a $100. They are then obligated to pay duty on their gifts, and to go through the administrative inconvenience of paying duty. When they have not paid a dime for the merchandise. We are also trying to keep those people from having to undergo an additional cost. They should not have to pay duty simply because they happen to receive a gift.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Ohio (Mr. VANIK) that the House suspend the rules and pass the bill H.R. 8149, as amended.

The question was taken.

Mr. STEIGER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 3, rule XXVII, and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. VANIK. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 8149, H.R. 5858, and H.R. 5643.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

RURAL HEALTH CLINIC SERVICES AMENDMENTS TO SOCIAL SECURITY ACT

Mr. ROSTENKOWSKI. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 8422), to amend title XVIII of the Social Security Act to provide payment for rural health clinic services, as amended.

The Clerk read as follows:

H.R. 8422

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 1832(a) of the Social Security Act is amended—

(1) by striking out "paragraph (2)(B)" in paragraph (1) and inserting in lieu thereof "subparagraphs (B) and (D) of paragraph (2)"; and

(2) by striking out the period at the end of paragraph (2)(C) and insert in lieu thereof "; and" and by adding the following new subparagraph at the end of paragraph (2):

"(D) rural health clinic services."

(b) Section 1833(a) of such Act is amended—

(1) by striking out "and" at the end of paragraph (1);

(2) by inserting "(except those services described in subparagraph (D) of section 1832(a)(2))" in paragraph (2) after "1832(a)(2)";

(3) by striking out the period at the end of paragraph (2) and inserting in lieu thereof ", and"; and

(4) by inserting the following new paragraph after paragraph (2):

"(3) in the case of services described in section 1832(a)(2)(D), 80 percent of costs which are reasonable and related to the cost of furnishing such services or on such other tests of reasonableness as the Secretary may prescribe in regulations, including those authorized under section 1861(v)(1)(A)."

(c) Section 1861 of such Act is amended by adding at the end thereof the following new subsection:

"Rural Health Clinic services

"(aa)(1) The term 'rural health clinic services' means—

"(A) physicians' services and such services and supplies as are covered under section 1861(s)(2)(A) if furnished as an incident to a physician's professional service, and

"(B) such services furnished by a primary care practitioner and such services and supplies furnished as an incident to his service as would otherwise be covered if furnished by a physician or as an incident to a physician's service,

when furnished to an individual as an outpatient of a rural health clinic.

"(2) The term 'rural health clinic' means a facility which—

"(A) is primarily engaged in providing rural health clinic services;

"(B) in the case of a facility which is not a physician-directed clinic, has an arrangement (consistent with the provisions of State and local law relative to the practice, performance, and delivery of health services) with one or more physicians (as defined in subsection (r)(1)) under which provision is made for the periodic review by such physicians of covered services furnished by primary care practitioners, the supervision and guidance by such physicians of primary care practitioners, the preparation by such physicians of such medical orders for care and treatment of clinic patients as may be necessary, and the availability of such physicians for such referral of patients as is necessary and for advice and assistance in the management of medical emergencies; and in the case of a physician-directed clinic, such clinic has one or more of its staff physicians perform the activities accomplished through such an arrangement;

"(C) maintains clinical records on all patients;

"(D) has arrangements with one or more hospitals meeting the requirements under this title for the referral and admission of patients requiring inpatient services or such diagnostic or other specialized services as are not available at the clinic;

"(E) has policies, which are developed with the advice of (and with provision for review of such policies from time to time) a group of professional personnel, including one or more physicians and one or more primary care practitioners, to govern the services referred to in subparagraph (A) which it provides;

"(F) has a physician or primary care practitioner responsible for the execution of such policies relating to the provision of the clinic's services;

"(G) directly provides routine diagnostic services, including clinical laboratory services as prescribed in regulations by the Secretary and has prompt access to additional diagnostic services from facilities meeting requirements under this title;

"(H) has available for administering to patients of the rural health clinic at least such drugs and biologicals as are determined by the Secretary to be necessary for the treatment of emergency cases (as defined in regulations) and has appropriate procedures or arrangements in compliance with State and Federal law for storing, administering, and dispensing any drugs and biologicals; and

"(I) meets such other requirements as the Secretary may find necessary in the interest of the health and safety of the individuals who are furnished services by the clinic.

For the purposes of this title, such term includes only a facility which (i) is located in a rural area designated by the Secretary as having medically underserved populations under section 1302(7) of the Public Health Service Act, (ii) has filed an agreement with the Secretary by which it agrees not to charge any individual or other person for items or services for which such individual is entitled to have payment made under this title, except for the amount of any deductible or coinsurance amount imposed with respect to such items or services (not in excess of the amount customarily charged for such items and services by such clinic), pursuant to subsections (a) and (b) of section 1833, (iii) employs a primary care practitioner, and (iv) is not a rehabilitation agency or a facility which is primarily for the care and treatment of mental diseases. A facility that is in operation and qualifies as a rural health clinic under this title or title XIX and that subsequently fails to satisfy the requirement of clause (i) shall be considered, for purposes of this title and title XIX, as still satisfying the requirement of such clause.

"(3) The term 'primary care practitioner' means, for the purposes of this subsection, a nurse practitioner or physician assistant who performs such services as such individual is legally authorized to perform (in the State in which he performs such services) in accordance with State law (or the State regulatory mechanism provided by State law) and who meets such training, education, and experience requirements (or any combination thereof) as the Secretary may prescribe in regulations.".

(d) Section 1862(a)(3) of such Act is amended by striking out "in such cases" and inserting in lieu thereof "in the case of rural health clinic services, as defined in section 1861(aa)(1), and in other cases".

(e) Section 1861(s)(2) of such Act is amended—

(1) by striking out "and" at the end of subparagraph (C)(ii);

(2) by inserting "and" at the end of subparagraph (D); and

(3) by adding the following new subparagraph at the end thereof:

"(E) rural health clinic services;".

(f) The second sentence of section 1861(s) of such Act is amended by inserting ", rural health clinic," after "physician's office".

(g) Section 1864(a) of such Act is amended—

(1) by inserting "or whether a facility therein is a rural health clinic as defined in section 1861(aa)(2)," in the first sentence after "home health agency,";

(2) by inserting "rural health clinic," in the second sentence after "nursing facility,"; and

(3) by inserting "rural health clinic," in the last sentence after "facility," each time it appears therein.

(h) The amendments made by this section shall apply to services rendered on or after the first day of the third calendar month which begins after the date of enactment of this Act.

SEC. 2. (a) Paragraph (2) of section 1905(a) of the Social Security Act is amended to read as follows:

"(2)(A) outpatient hospital services and (B) consistent with State law permitting such services, rural health clinic services (as defined in subsection (1)) and any other ambulatory services which are offered by a rural health clinic (as defined in subsection (1)) and which are otherwise included in the plan;".

(b) Section 1905 of such Act is amended by adding after subsection (k) the following new subsection:

"(1) The terms 'rural health clinic services' and 'rural health clinic' have the meanings given such terms in section 1861(aa), except that (A) clause (ii) of section 1861(aa)(2) shall not apply to such terms, and (B) the physician arrangement required under subparagraph (B) of such section shall only apply with respect to rural health clinic services and, with respect to other ambulatory care services, the physician arrangement required shall be only such as may be required under the State plan for those services."

(c) Section 1902(a) of such act is amended—

(1) by striking out the semicolon at the end of paragraph (13) and inserting in lieu thereof "; and", and by adding at the end of such paragraph the following new subparagraph:

"(F) for payment for services described in section 1905(a)(2)(B) provided by a rural health clinic under the plan of 100 percent of costs which are reasonable and related to the cost of furnishing such services or based on such other tests of reasonableness, as the Secretary may prescribe in regulations under section 1833(a)(3) or, in the case of services to which those regulations do not apply, on such tests of reasonableness as the Secretary may prescribe in regulations under this subparagraph,"; and

(2) by inserting ", or by reason of the fact that the plan provides for payment for rural health clinic services only if those services are provided by a rural health clinic" before the semicolon at the end of paragraph (23).

(d) Section 1910 of such Act is amended—

(1) by amending the heading to read as follows: "CERTIFICATION AND APPROVAL OF SKILLED NURSING FACILITIES AND OF RURAL HEALTH CLINICS";

(2) by striking out "(a)" and inserting in lieu thereof "(a)(1)";

(3) by striking out "(b)" and inserting in lieu thereof "(2)"; and

(4) by adding at the end thereof the following new subsection:

"(b)(1) Whenever the Secretary certifies a facility in a State to be qualified as a rural health clinic under title XVIII, such facility shall be deemed to meet the standards for certification as a rural health clinic for purposes of providing rural health clinic services under this title.

"(2) The Secretary shall notify the State agency administering the medical assistance plan of his approval or disapproval of any facility in that State which has applied for certification by him as a qualified rural health clinic.".

(e) Section 1866(c)(2) of such Act is amended by striking out "section 1910" and inserting in lieu thereof "section 1910(a)".

(f) The amendments made by this section shall apply to medical assistance provided, under a State plan approved under title XIX of the Social Security Act, on and after the first day of the first calendar quarter that begins more than six months after the date of enactment of his Act.

SEC. 3. (a) The Secretary of Health, Education, and Welfare (hereinafter in this Act referred to as the "Secretary") shall provide, through demonstration projects, reimbursement on a cost basis for services provided by physician-directed clinics in urban medically underserved areas for which payment may be made under title XVIII of the Social Security Act and, notwithstanding any other provision of title XVIII, for services provided by primary care practitioners employed by such clinics which would otherwise be covered under such title if provided by a physician.

(b) The demonstration projects developed under subsection (a) shall be of sufficient scope and carried out on a broad enough scale to allow the Secretary to evaluate fully—

(1) the relative advantages and disadvantages of reimbursement on the basis of costs and fee-for-service for physician-directed clinics employing a primary care practitioner;

(2) the appropriate method of determining the compensation for physician services on a cost basis for the purposes of reimbursement of services provided in such clinics;

(3) the appropriate definition for such clinics;

(4) the appropriate criteria to use for the purposes of designating urban medically underserved areas; and

(5) such other possible changes in the present provisions of title XVIII of the Social Security Act as might be appropriate for the efficient and cost-effective reimbursement of services provided in such clinics.

(c) Grants, payments under contracts, and other expenditures made for demonstration projects under this section shall be made in appropriate part from the Federal Hospital Insurance Trust Fund (established by section 1817 of the Social Security Act) and the Federal Supplementary Medical Insurance Trust Fund (established by section 1841 of the Social Security Act). Grants and payments under contracts may be made either in advance or by way of reimbursement, as

may be determined by the Secretary, and shall be made in such installments and on such conditions as the Secretary finds necessary to carry out the purpose of this section. With respect to any such grant, payment, or other expenditure, the amount to be paid from each trust fund shall be determined by the Secretary, giving due regard to the purposes of the demonstration projects.

(d) The Secretary shall submit to the Congress, no later than January 1, 1981, a complete, detailed report on the demonstration projects conducted under subsection (b). Such report shall include any recommendations for legislative changes which the Secretary finds necessary or desirable as a result of carrying out such demonstration projects.

(e) As used in this section, the term "primary care practitioner" has the meaning given such term in section 1861(aa)(3) of the Social Security Act.

SEC. 4. (a) The Secretary, directly or through contracts with or grants to public or private agencies or organizations, shall develop and carry out demonstration projects to provide reimbursement under title XVIII for services provided in organized centers offering comprehensive outpatient mental health services.

(b) The demonstration projects developed under subsection (a) shall be of sufficient scope and carried out on a broad enough scale to allow the Secretary to evaluate fully—

(1) the relative advantages of various types of reimbursement, including reimbursement on a cost basis for outpatient mental health services;

(2) the relative effects on utilization and cost of services resulting from (A) various definitions for outpatient mental health services covered under title XVIII of the Social Security Act (when provided by a center described in subsection (a)) and (B) various limitations on such services;

(3) the appropriate definition for such a center;

(4) the appropriate definition of and qualification for individuals who provide services in such centers for which reimbursement is made under title XVIII or this section, including their appropriate professional relationships; and

(5) such other changes as might be appropriate for the more efficient and cost-effective reimbursement of outpatient mental health services provided under title XVIII of the Social Security Act.

(c) Grants, payments under contracts, and other expenditures made for demonstration projects under this section shall be made in appropriate part from the Federal Hospital Insurance Trust Fund (established by section 1817 of the Social Security Act) and the Federal Supplementary Medical Insurance Trust Fund (established by section 1841 of the Social Security Act). Grants and payments under contracts may be made either in advance or by way of reimbursement, as may be determined by the Secretary, and shall be made in such installments and on such conditions as the Secretary finds necessary to carry out the purpose of this section. With respect to any such grant payment, or other expenditure, the amount to be paid from each trust fund shall be determined by the Secretary, giving due regard to the purposes of the demonstration projects.

(d) The Secretary shall submit to the Congress, no later than January 1, 1981, a complete, detailed report on the demonstration projects conducted under subsection (b). Such report shall include any recommendations for legislative changes in title XVIII of the Social Security Act which the Secretary finds necessary or desirable as a result of carrying out such demonstration projects.

(e) In the case of any demonstration project under subsection (a), the Secretary may waive compliance with the requirements of title XVIII of the Social Security Act insofar as such requirements relate to methods of payment for services provided; and costs incurred in such project in excess of those which would otherwise be reimbursed or paid under such title may be reimbursed or paid to the extent that such waiver applies to it (with such excess being borne by the Secretary).

SEC. 5. If the Secretary acquires the Space Center Memorial Hospital in Nassau Bay, Texas, for the purpose of transfering to it the activities and functions of the Public Health Service hospital in Galveston, Texas, the Secretary may close the Public Health Service hospital in Galveston, Texas.

The SPEAKER pro tempore. Is a second demanded?

Mr. DUNCAN of Tennessee. Mr. Speaker, I do not oppose the bill, but I demand a second in order that we may have colloquy on the bill.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Illinois (Mr. ROSTENKOWSKI) will be recognized for 20 minutes, and the gentleman from Tennessee (Mr. DUNCAN) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Illinois (Mr. ROSTENKOWSKI).

Mr. ROSTENKOWSKI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 8422 is designed to make the medicare and medicaid programs more responsive to the severe problems created by the lack of primary health care services in rural areas.

Mr. Speaker, it is generally recognized that rural areas have had great difficulty and, in many cases, have been completely unsuccessful, in recruiting physicians. For a number of reasons—economic, personal, and professional—physicians generally have found it preferable to practice in more populous areas. Even if physicians were inclined to settle in rural areas, many communities are so sparsely populated as to make it inefficient to support a full time physician practice. Yet, the isolation of these areas makes it essential that they have some type of emergency and primary care services available full time.

Many of the same communities that once despaired of ever attracting a physician are now happy to rely on clinics which do not follow the traditional model of physician delivery of medical services. These clinics are staffed, not by physicians, but by specially trained nurse practitioners and physician asistants—personnel often referred to as primary care practitioners—who are trained to provide primary medical care services traditionally performed only by physicians. Although there is physician supervision of the services performed by the primary care practitioner, the supervision is indirect rather than "over the shoulder."

Other more populated, yet still rural communities that could financially support the practice of a physician, have had difficulty in retaining physicians. Physicians often leave these communities because of heavy patient loads with no relief available for time off. The development of clinics which have a full-time physician but use a primary care practitioner to take responsibility for a large part of the physician's patient load, has meant that many of these communities are now able to retain a physician.

Mr. Speaker, the members of the Subcommittee on Health of the Committee on Ways and Means were fortunate to have had the opportunity to visit several of these types of clinics. During hearings on national health insurance last summer in Tennessee, my colleague, Mr. DUNCAN, and I flew by helicopter to several clinics located in isolated areas of the Appalachian Mountains. I was most impressed by what I found—clinics that had been developed through efforts of these small communities. With money earned from bake sales, bingos, and donations, the communities were able to equip an office, which was often no more than a trailer, and recruit a nurse practitioner or physician assistant. With the assistance of a backup physician in a nearby town, the nurse practitioner or physician assistant was able to assure the community continuous availability of primary care services for the first time.

Not surprisingly, however, these and most clinics that have developed in a similar fashion are threatened by unstable sources of funding. Most private insurance will not provide reimbursement for the services provided by nurse practitioners or physician assistants practicing in these clinics. Medicaid pays for these services only in a handful of States. Many private paying patients are not able to pay the full cost of the services they receive. And, the present provisions of the medicare program allow payment for medical care services only when they are provided by physicians.

Fortunately, many of these clinics have been able to keep their doors open by securing Federal grants to cover their operating costs. Perhaps the most well-known and largest supporter of rural clinics has been the Appalachian Regional Commission. One of the factors spurring my committee to complete action this year is the scheduled expiration of clinic funding through the Appalachian Regional Commission over the next few months.

Mr. Speaker, the medicare provisions of the bill now before you have undergone careful examination and study by a great many individuals and groups involved in the delivery of rural health clinic services. Shortly after visiting a number of these clinics, I began to develop a bill to cover their services under medicare. In the process, I sent drafts to clinics, State programs,consumer groups, professional associations, and others interested in commenting on the proposal. With the assistance of all these groups and individuals, I was able to develop and introduce a bill last fall which is quite similar to the bill that is before you today.

Reaffirming my commitment to this legislation, I reintroduced the rural clinic bill early in this Congress. I was pleased that an almost identical bill

was introduced shortly thereafter in the Senate.

The Subcommittee on Health considered the legislation early in the year and, by July, a clean bill, incorporating several significant improvements made by the subcommittee, had been reported by the full Committee on Ways and Means. The bill, H.R. 8422, amended the medicare program so as to provide coverage for services furnished to beneficiaries in clinics located in these rural, medically underserved areas. Payment for covered services, including physicians' services provided in the clinic, would be made directly to the clinic and would be based on the costs incurred in furnishing these services to medicare beneficiaries. Services furnished by nurse practitioners and physician assistants would be covered if such services are otherwise covered under the medicare program when furnished by a physician and if they are rendered under the general supervision of a physician.

The bill also directs the Secretary to develop and carry out demonstration projects to evaluate reimbursement on a cost basis for services provided in clinics in urban areas, including services furnished by nurse practitioners and physician assistants. The Secretary would also be directed to conduct a demonstration project to evaluate the effects and implications of medicare reimbursement for services furnished in organized centers offering comprehensive outpatient mental health services.

The bill, H.R. 8422, after being reported by the Committee on Ways and Means was sequentially referred to the Interstate and Foreign Commerce Committee where payment for rural health clinic services was mandated for the State medicaid plans of all States where the practice of a nurse practitioner or a physician assistant is authorized. I am sure that my good friend and colleague, Chairman ROGERS, will comment more on the medicaid provisions of the bill.

The bill, as reported from the Committee on Interstate and Foreign Commerce, did at first embody some minor changes in the Ways and Meanss medicare provisions of the bill. I am pleased that, in our usual spirit of cooperation, these differences were resolved so that immediate action could be taken on this legislation.

Mr. Speaker, there is little that means more to those living in isolated rural areas than access to adequate medical care in their own community. This bill will do much to assure that access by providing a stable source of income for those delivery systems that are uniquely suited and have proven themselves successful in these areas.

Mr. ULLMAN. Mr. Speaker, will the gentleman yield?

Mr. ROSTENKOWSKI. I yield to the chairman of the Committee on Ways and Means.

Mr. ULLMAN. Mr. Speaker, I am most pleased that the Committee on Ways and Means and the Committee on Interstate and Foreign Commerce are bringing before the House today H.R. 8422, the rural health clinic bill.

Any of my colleagues who have constituents living in rural areas know that lack of health care services is one of the most severe problems in these communities and one of the most difficult to remedy. One promising solution to the problems created by the reluctance of physicians to locate in rural areas has been the development of clinics which use nurse practitioners or physician assistants. These practitioners are capable of furnishing a broad range of primary and emergency care services with only the backup services of a physician.

A major stumbling block to the further development of these clinics has been the uncertainty of reimbursement for the services they provide. Up to now, clinics have depended largely on support from State or Federal grants; no medicare coverage and, in many States, no medicaid coverage is provided for services furnished by nurse practitioners or physician assistants. This bill, H.R. 8422, would assure medicare and medicaid reimbursement for services of physician assistants and nurse practitioners in those states that authorize these practitioners to furnish the types of services covered under the program.

Mr. Speaker, even though the amounts of money involved in this bill are not great, I believe the bill is a giant step toward "targeting" medicare and medicaid funds to address serious problems of access to health care services. We have seen in the last 2 years that funds under both these programs are limited; we cannot afford to enact measures which significantly increase the cost of either program. This bill represents a successful marriage of the objectives that the programs be both cost effective and responsive to the needs of beneficiaries and recipients.

Mr. STAGGERS. Mr. Speaker, will the gentleman yield?

Mr. ROSTENKOWSKI. I yield to the chairman of the Committee on Interstate and Foreign Commerce.

Mr. STAGGERS. Mr. Speaker, I endorse the legislation before the House today.

Rural health clinics are an important source of delivery of health care services to persons living in sparsely populated areas; in many cases, they are the only source of health care available. However, their economic viability has been precarious, often because they were unable to secure medicaid funding, and because no medicare funds were available unless a physician was present on site. Yet it was the absence of an available physician on a full-time basis which caused the need for these facilities.

This legislation will provide the necessary ongoing financial support for rural health care facilities staffed by physician assistants and nurse practitioners. It will help to assure to residents of rural areas that adequate, humane, accessible medical care services are available to them. I am particularly pleased with the provision in the agreed-upon amendment to provide continued eligibility for medicare and medicaid payments once a facility has qualified as a rural health clinic. This is absolutely required if the clinics are to be assured of a stable economic future.

I commend the effort by my colleagues, the chairmen of the Health Subcommittees of the Commerce Committee and the Ways and Means Committee, PAUL ROGERS and DAN ROSTENKOWSKI, to reach agreement on a joint amendment which maintains the features of the legislation reported by both committees. This action was necessary to assure timely House consideration and action on the bill. Many of these clinics are on the brink of losing their grant funding, and provision for medicare and medicaid payments by the end of this calendar year is absolutely vital if they are to continue. Discussions are already underway with the Senate to assure rapid conference action on the legislation.

Mr. Speaker, I urge the Members' support.

Mr. BLOUIN. Mr. Speaker, will the gentleman yield?

Mr. ROSTENKOWSKI. I yield to the gentleman from Iowa.

Mr. BLOUIN. Mr. Speaker, I rise in support of this legislation and commend those who were involved in drafting it and in moving it along.

Mr. Speaker, the ready availability of health care services is something that many people in this country tend to take for granted.

However, for the more than 31 million rural Americans such is not the case.

Doctor and dentist shortages in rural America are the norm rather than the exception.

Since more elderly people, with their corresponding higher need for health care, live in rural areas this shortage puts a greater burden on existing health care facilities.

Many isolated rural communities have been unable to either to attract or retain physicians.

To combat these probems these communities have come to rely on clinics which do not follow the traditional model of physicians delivery to supply medical services.

These clinics, and we are not talking about multimillion-dollar facilities, rely on physician extenders such as nurse practitioners and physicians assistants to provide basic health care.

These people operate under the supervision of a physician, but that supervision is indirect rather than the over-the-shoulder variety.

Unfortunately, current medicare policy presents serious obstacles for the reimbursement of primary care extenders such as physician's assistants and nurse practitioners—in these clinics—since only phyician services and certain services provided under the direct supervision of a physician are covered by medicare.

This bill would remedy that situation.

It allowed medicare funds to pay for rural health clinics services provided by physician extenders, if those extenders

are authorized by State law to perform such services.

But this bill, for which I must credit my Iowa colleague Senator DICK CLARK, America, it also authorizes the Federal Government to conduct a large scale demonstration project in a medically underserved urban area. This would help determine if programs such as physician extenders would offer viable alternatives to the lack of medical care in some urban areas.

Medicare and medicaid would cover the following costs delivered by the physician extenders: Reasonable compensation for the services of the physician's assistant, nurse practitioners, and any full-time physicians; the cost of services or supplies provided as an incident to the services of the physician, nurse practitioner, or physician's assistant; overhead costs related to the provision of the covered services; the costs of required supervisory services of a physician; and the patient care services provided by part-time physicians at the clinic.

Covered services would include those services provided within the clinic and those provided outside the clinic walls such as in-home services and nursing home services.

I think this bill will go a long way toward alleviating some of the health care delivery problems in this Nation and I strongly urge my colleagues to join me in supporting it.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield such time as he may consume to the gentleman from Florida (Mr. ROGERS), the chairman of the Subcommittee on Health and Environment.

Mr. ROGERS. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, it is a pleasure to be working jointly again with the distinguished chairman of the Ways and Means Health Subcommittee. I wish to compliment him for his work on this timely legislation which will help insure that many rural citizens have financial access to quality health care services.

I also want to compliment Dr. CARTER, the ranking minority member on the Subcommittee of Health and Environment, for his usual splendid cooperation in bringing this important piece of legislation to the floor. He has been a strong and consistent supporter of improved health services for rural areas; this bill is the latest of a number of pieces of legislation he has supported to accomplish this goal. Without his assistance, and that of Mr. DUNCAN, the ranking minority members of the Ways and Means Health Subcommittee, we could not have moved this legislation so rapidly. Acknowledgment is also due to the chairman of the Interstate and Foreign Commerce Committee, Mr. STAGGERS, who has been most supportive in our efforts to have this bill enacted. He also has established a distinguished record of support for better health care in the rural and medically underserved areas of this country. I commend him for his record and thank him for his assistance and support.

The members of the Subcommittee on Health and the Environment and I wholeheartedly endorse the bill before you although it is slightly different from the bill as reported by the subcommittee and the Committee on Interstate and Foreign Commerce. These changes have been made in order to expedite passage of this important legislation.

As the distinguished gentleman from Illinois noted, the problem addressed by this legislation is a pressing one. Approximately 1 of every 2 rural residents live in a medically underserved area and 84 percent of the areas with a shortage of health personnel are rural. The citizens of these rural areas have not been passive, however. Of the 1,600 rural medically underserved areas, over 500 are now served by health clinics, most of which are staffed by specially trained nurse practitioners and physician assistants who work with physicians either directly or by consultation and written medical protocol. But medicare and, in most States, medicaid, do not reimburse for services rendered by these nurse practitioners and physician assistants.

H.R. 8422 will give rural medicare and medicaid beneficiaries financial access to the health care services which are available to them.

MEDICAID PROVISIONS OF H.R. 8422

It is the unanimous position of the Subcommittee on Health and the Environment that medicaid, as well as medicare, should cover services provided by rural health clinics. These clinics employ nurses practitioners and physician assistants who are licensed to practice by State law, so this expansion of medicaid coverage will be required only in those States which authorize the practice of nurse practitioners and physician assistants. If a State does not authorize such practice now but changes its law in the future, it would be required to expand its medicaid plan at that time to cover the services of a rural health clinic. Such coverage is not new to many States, however. There are 27 States which reimburse nurse practitioners and physician assistants in some way and there are 21 States which reimburse the services of a clinic.

The approach of the medicaid section of H.R. 8422 is to make medicare and medicaid reimbursement policy consistent wherever possible. Both will be reimbursing nurse practitioners and physician assistants when they render services—in accordance with State law—which would be covered if rendered by a physician; and certification for medicare will serve as certification for medicaid. Medicaid reimbursement will be on the same cost-related basis as medicare, but because medicare has a coinsurance it will pay at 80 percent while medicaid will pay at 100 percent.

The bill also authorizes rural health clinics to provide all other ambulatory services covered by the State's medicaid plan, but the clinic will be required to meet the same State certification standards for these other ambulatory services as other providers of those services. This provision will enable a medicaid patient who is ambulatory to receive all needed services at the same location. These other ambulatory services will be reimbursed on a cost-related basis.

Mr. DUNCAN of Tennessee. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 8422, a bill that I have worked particularly long and hard to see enacted. In my opinion, this bill may be the impetus to a much-needed breakthrough in the delivery of health care services to people in our rural areas.

Although my remarks today will relate to the medicare aspects of H.R. 8422, I would like to express by belief that our medicaid recipients who will be served by these clinics undoubtedly will benefit greatly from this far-reaching legislation, and I am delighted that the Ways and Means Committee and our colleagues on the Interstate and Foreign Commerce Committee once again have demonstrated a high degree of cooperation in enabling this bill to reach the floor today.

Last year, the chairman of our Health Subcommittee, DAN ROSTENKOWSKI, went with me to visit rural health clinics in my own State of Tennessee. We observed, firsthand, how physician assistants and nurse practitioners could provide primary and emergency care of extremely high quality to many citizens—young and old—who otherwise would not have access to such treatment. Community support and acceptance of these clinics was indicated by virtually all the people we spoke with—the people who use these clinics and depend on them to provide medical care to their families.

Unfortunately, many of these clinics are not eligible for medicare reimbursement because medicare presently does not pay for medical services provided by the trained physician assistants and nurse practitioners who staff these clinics. The services provided to medicare beneficiaries in such cases often are paid for out-of-pocket by the elderly beneficiaries. Although most of them are financially "strapped," they pay their monthly part B premiums like all other program beneficiaries. But, since these people are unfortunate enough to be living in areas where reimbursable services are not available, the term "beneficiary" takes on a very hollow meaning. The services provided by these clinics for those who are unable to pay must now be paid for by grants and still others simply are written off as bad debts.

Unfortunately, some of these clinics may be forced to close within the next few months. In part this is because their grants, particularly those from the Appalachian Regional Commission, are due to expire. It became clear to our Health Subcommittee that most of those clinics, and other State and locally funded clinics, can only continue to operate if medicare reimbursement is made available for the services of these physician assistants and nurse practitioners, and for the supplies provided by clinics.

The bill, H.R. 8422, would make payment to clinics on the basis of costs incurred only for services already covered under medicare, when these services are provided to beneficiaries. The clinics would have to meet standards set forth in the bill. Reimbursement would be made for any service which would other-

wise be covered under the medicare program if provided directly by a physician.

The bill will allow medicare to pay for services provided by primary care practitioners in rural clinics when there is a physician available on a full-time basis and in clinics where only physician backup services are available. Physician supervision and guidance would be required, but only for services covered under the medicare program, rather than all services provided in the clinics.

Our committee also recognized that there may be a need for similar coverage in certain urban medically-underserved areas. We therefore adopted an amendment that would direct the Secretary to conduct a broad-scale demonstration project that will help us find answers to questions concerning appropriate staffing of such clinics, the best methods of reimbursement, compensating physicians who provide services, and similar important but thorny questions. I believe that such a demonstration project is a wise and potentially valuable way to proceed at this time.

Our committee agreed, in addition, to adopt an amendment that would direct the Secretary to develop and carry out demonstration projects to provide reimbursement for services provided in organized centers offering comprehensive out-patient mental health services.

In conclusion, Mr. Speaker, I would strongly recommend that my colleagues enact this legislation, that will enable our elderly in rural medically-underserved areas to receive the kind of care they already are entitled to, and which they desperately need.

Mr. QUILLEN. Mr. Speaker, will the gentleman yield?

Mr. DUNCAN of Tennessee. I yield to my colleague, the gentleman from Tennessee (Mr. QUILLEN).

Mr. QUILLEN. Mr. Speaker, I rise in support of the legislation and would like to associate myself with the remarks of the gentleman from Tennessee (Mr. DUNCAN). I wholeheartedly agree with this statement.

Mr. DUNCAN of Tennessee. Mr. Speaker, I yield such time as he may consume to the gentleman from North Carolina (Mr. MARTIN).

Mr. MARTIN. Mr. Speaker, I thank the gentleman for yielding.

I support this legislation.

In addition to others to whom credit is due, I would also like to acknowledge the great debt of the committee and this legislation to the late Dr. Edgar Beddingfield of Wilson, N.C.

Prior to his untimely death earlier this year, Dr. Beddingfield had testified very helpfully on this improvement in health services to the rural communities. He spoke from his professional experience in serving his patients in eastern North Carolina as well as from his background in working with North Carolina Gov. James B. Hunt and former Gov. James E. Holshouser. He testified to the viability of using health care extenders who worked in the absence of, but under the professional guidance and supervision of a licensed physician.

That standard is an important improvement, crucial to the quality and access of health care in rural areas. This bill is a tribute to his testimony.

Mr. DUNCAN of Tennessee. Mr. Speaker, I yield such time as he may consume to the gentleman from Kentucky (Mr. CARTER).

Mr. CARTER. Mr. Speaker, I thank the distinguished gentleman from Tennessee (Mr. DUNCAN) for yielding me this time. Again I want to thank the chairman of our subcommittee, the gentleman from Florida (Mr. ROGERS), as well as the chairman of the full committee, the gentleman from West Virginia (Mr. STAGGERS), the gentleman from Illinois (Mr. ROSTENKOWSKI), chairman of the Subcommittee on Health of the Committee on Ways and Means, and the gentleman from Tennessee (Mr. DUNCAN), ranking member of the Ways and Means Health Subcommittee for the excellent work they have done in connection with this legislation.

Mr. Speaker, in my district we have many of these clinics. I have been at the dedication of some of them. They render excellent care to people in isolated areas. I have been in mountainous areas and valleys where actually the surrounding mountains were as steep as a cat's face, and very difficult to get in or out of, and nurses and physicians' assistants go into these areas, and they give wonderful care.

In one section of my district, the Frontier Nursing Service has a hospital at Wendover, Ky., in Leslie County. As it happens, one of the Members of the Congress, Hon. JOHN BRECKINRIDGE, had a relative who established this wonderful service that is known throughout the Nation. Nurses are trained in midwifery in this area, and they go out through eastern Kentucky, often delivering youngsters in the home. They have rendered great service.

By this legislation 100 percent of the care of the very poor patients will be paid for by medicaid. Of course, medicare pays 80 percent. But it will be of great assistance.

Mr. Speaker, I support the joint committee amendment to H.R. 8422—which provides for reimbursement of rural health clinic services under the medicare and medicaid programs.

This bill has the potential of increasing access to health care for more than 30 million Americans who live in small towns and rural areas which are medically underserved and which have clinics—or develop clinics—that can be reimbursed under this legislation.

Moreover—this bill also provides demonstration authority to pay for comparable services in medically underserved urban areas, thus reaching several million more Americans in urban areas.

Mr. Speaker, I take particular interest in this bill because I am well aware of the lack of health services in many rural areas. As a representative of a rural district—and having practiced medicine for many years in southeastern Kentucky before coming to Congress—I can assure my colleagues that this legislation is needed.

In fact—I introduced my own proposal in April of this year which is very smiliar to the legislation we are considering today. I would like to mention the four main features of my bill—H.R. 6259 which are embodied in H.R. 8422.

First. H.R. 8422 and my legislation both provide for reimbursement to rural health clinics for the services provided by nurse practitioners and physician assistants—as long as those services are provided under the general supervision of a physician—and as long as such practice is consistent with State law. The reimbursement procedure in my bill was somewhat different than H.R. 8422—but the general approach of paying for costs incurred while providing services—is the same.

However, H.R. 8422 uses the term "primary care practitioner" to refer to physician assistants and nurse practitioners—and I do not think this is the best choice of terminology. It is too easy to confuse that term and to construe it to include physicians. Therefore I hope to adopt the dual terms in conference.

A second feature of my bill which is embodied in H.R. 8422 is the inclusion of physician-directed clinics. Earlier versions of this proposal applied only to clinics staffed by nurse-practitioners and physician assistants—and part-time physicans. I believe it is essential to allow an opportunity for physician-directed clinic to be eligible for this type of reimbursement if they choose to meet the conditions of the bill.

A third provision of my bill which is included in H.R. 8422 is the urban demonstration authority. I believe it is only fair to permit the secretary to test this reimbursement approach in urban areas—where there are medically underserved areas as much in need as some rural areas.

Mr. Speaker, the final distinguishing feature of my bill was the expansion of covered services to include preventive health services. I have long advocated the importance of incorporating the preventive approach in our health care delivery system—and I believe such an emphasis could well prove cost-effective in the long run.

I am pleased that the committee saw fit to include in the committee report language directing HEW to undertake a demonstration project to reimburse clinics for preventive services. The committee expects that the Secretary will conduct this demonstration in both rural and the urban demonstration clinics—and that a broad range of services should be included.

The information gained from this preventive services demonstration will be of great assistance to our committee and the Congress in evaluating the appropriateness of including coverage for these services under Federal health programs.

At another point in the debate—I expect to reaffirm the committee's intent with regard to this demonstration authority.

In addition to these four provisions, Mr. Speaker, the committee bill also in-

cludes a demonstration authority for comprehensive outpatient mental health center services. I support the intent of this provision as long as we can be assured that the Secretary will select the clinics carefully—to insure that the staff is appropriately qualified to deliver high quality care.

Finally, Mr. Speaker, I would like to emphasize my support for expanding this legislation to include payment under both the medicare and medicaid programs. The poor and elderly who are beneficiaries of these health programs in rural areas deserve the same opportunity to receive needed health care as those who are in less remote communities. I urge favorable consideration of this legislation which will go a long way toward improving access to health care for millions of Americans.

I would like to direct a question to my distinguished friend, the gentleman from Florida (Mr. ROGERS) at this time, Mr. Speaker, if I may have his attention.

Mr. Speaker, I note that the bill before us today is slightly different than the version reported by the Commerce Committee—which included the Commerce Committee report.

I am particularly interested in assuring that the language of our committee report which directed HEW to undertake demonstration projects to reimburse clinics for provision of preventive health services be considered part of the legislative history of this bill. As you remember—there was a good deal of support for such a preventive services demonstration.

Can my good friend the chairman, Mr. ROGERS, assure me that we still intend for HEW to go ahead with this demonstration as outlined in our committee report?

Mr. ROGERS. Mr. Speaker, will the gentleman yield?

Mr. CARTER. I am happy to yield to the gentleman from Florida.

Mr. ROGERS. I thank the gentleman for yielding.

I would say the answer to that is absolutely, yes. We do expect them to go ahead. They did make a positive commitment. The committee felt strongly that this should be done, and I would expect them to honor the commitment that they have made to us that they would proceed.

Mr. CARTER. I thank the distinguished gentleman very much for his assurances.

Mr. DUNCAN of Tennessee. Mr. Speaker, I yield such time as he may consume to the gentleman from Pennsylvania (Mr. GARY A. MYERS).

Mr. GARY A. MYERS. If I could also direct a question to the gentleman from Florida (Mr. ROGERS), I notice that in the bill it provides that HEW will require that the clinics have specialized services provided by hospitals available. Is that to be interpreted as that the services will need to be supplied at the location of the clinic, or is it by some sort of cooperative agreement where some services could be provided at that location or could be provided at the hospital itself?

Mr. ROGERS. If the gentleman will yield, I think what the gentleman is interested in is there would be referral arrangements.

Mr. GARY A. MYERS. Further on that question, I am aware of some problems that have occurred with the community mental health programs in which some of these programs have run into trouble keeping the Federal money because local hospitals have been unwilling to comply with the Federal requirements of reviewing their accounting, and setting aside certain facilities. Is there any way in which a clinic, if they do not get cooperation from local hospitals, could continue to function, or are they at the blessing of the local hospital for accepting these conditions?

Mr. ROGERS. Medicare is an entitlement program, not a grant but a program. Under medicaid the State gets a certain amount, but the State matches that.

Mr. GARY A. MYERS. The gentleman sees no problem in a clinic which wished to perform these functions running up against a local hospital which was not cooperative in providing specialized services or the information required by Federal regulations, blocking them from adequate service?

Mr. CARTER. Mr. Speaker, if the distinguished gentleman will yield, I will say that since there is a physician on call either at all times or part time, there would be no difficulty whatever in a clinic's being recognized by a hospital. Certainly I feel that their patients would be accepted by the hospital.

Mr. ROGERS. Mr. Speaker, will the gentleman yield?

Mr. GARY A. MYERS. I yield to the gentleman from Florida.

Mr. ROGERS. Mr. Speaker, further I think we simply want some pattern of referral established. It does not mean that the hospital has to accept every patient, but there would be services provided.

Mr. GARY A. MYERS. The hospital is not going to be required to have a certain number of beds set aside for the clinics or other requirements such as we find under present HEW regulations?

Mr. ROGERS. No.

Mr. CARTER. Mr. Speaker, if the gentleman will yield further, I believe he might have this a little bit confused with our comprehensive mental health program by which some hospitals have allocated a certain number of beds for mental patients. Actually in most areas I know of this has been done by local hospitals but not necessarily with a local health clinic, but I feel sure that there would be no problem in referring such a mental case or a person with a psychological problem to a hospital.

Furthermore, this provides for demonstration mental health clinics in addition.

Mr. GARY A. MYERS. I would say to the gentleman it is not a matter of confusion on my part but of concern over some confusion that has existed over the relationship of the mental health organizations and assuredness of care in a local hospital. I was just raising the question whether that was a possible problem at this point, and if the committee is satisfied that HEW will not have any such roadblocks I would appreciate knowing it.

Mr. CARTER. As a physician associated with some of these clinics I see no problem in that area.

Mr. DUNCAN of Tennessee. Mr. Speaker, I yield such time as he may consume to the gentleman from Minnesota (Mr. HAGEDORN).

Mr. HAGEDORN. Mr. Speaker, on September 23, the Department of Health, Education, and Welfare proposed rules to implement sections of the National Health Services Development Act of 1974, which required them to establish national guidelines for health planning Among the proposed regulations are those which establish minimum bed occupancy requirements, and maximum "beds to population" ratios. As a result, it appears that southern Minnesota, which is almost entirely rural, will have at least 30 percent of its hospital facilities closed down.

I am confused when I note then that the primary objective of the immediate bill before us, H.R. 8422, is to encourage medical care to underserved areas. Would the gentleman from Florida be able to tell me whether or not he is familiar with HEW's proposed new regulations, and whether or not they will not simply neutralize the accomplishments of this bill? Would the gentleman from Florida respond to this?

Mr. ROGERS. Mr. Speaker, if the gentleman will yield, the guidelines that have been established will not directly close any hospital. They will simply help the health planning agencies identify excess hospital capacity and prevent hospitals from making unnecessary capital investments. The guidelines do not close the hospital. It simply will not permit new capital investment.

Mr. HAGEDORN. So we are going to starve them out of existence.

Mr. ROGERS. No. It just says they will not build more beds if they do not have a fair occupancy rate in the hospital. As the gentleman may know, we have 100,000 too many hospital beds in the Nation. The guidelines just say that where we have beds in excess, let us not build more. That is basically what the guidelines are trying to get at.

I understand the gentleman's concern. The health planning agencies are not geared to the closing of hospitals, as the gentleman implied, but are in a position to say let us not build beds if they are not occupying the ones they already have.

We will have oversight hearings on the guidelines that have been issued and I would be glad to be in touch with the gentleman concerning his interest in the matter.

Mr. HAGEDORN. I would hope the chairman would because that is not the way the newspapers have reported it.

Mr. ROGERS. I am sure the gentleman knows we cannot always tell everything from the newspapers.

Mr. HAGEDORN. Mr. Speaker, I would simply like to state, for the record, that I am very concerned about the impact of the new HEW regulations upon rural communities, especially upon those which have exerted an effort in the past

to provide for themselves adequate health care facilities. I believe that the savings that HEW hopes to effect are illusory and certain to be consumed by legislation such as H.R. 8422 and by increased emergency medical services funds.

I am also concerned about the overriding objective of "equalized access" that HEW seems to be pursuing regardless of how that goal is to be achieved, and regardless of the level at which it is to be achieved. Finally, I am concerned about the impact upon the nature of family practice in this country if large numbers of rural hospitals are closed down. Rather than encouraging an environment in which the family practice is centered around the local hospital, it seems as if HEW would prefer that we go the way of the British Health Service in which the general practitioner cannot work in hospitals and must, rather, make references only to big-city specialists.

With all due respect to the gentleman from Florida (Mr. ROGERS), who is acknowledged by all to be one of the true experts in the field of health care in this body, I do not believe that the regulations are addressed only toward new capital construction. Neither the regulations, nor the discussion accompanying them, refer to capital construction. They state:

. . . It is clear that conversion of excess acute care hospital beds to more appropriate uses, or the closure of excess capacity, can conserve resources. . . . All plans established by HSA's thereafter will be required to be consistent with the National Guidelines and will be reviewed by the Secretary on that basis. It is intended that Health Systems Plans establish goals and set forth plans designed to achieve the quantitative levels specified within five years.

The guidelines state:

There should be less than four non-Federal, short-term hospital beds for 1,000 persons in a health service area; except under extraordinary circumstances.

I reiterate my concern about the impact of these regulations upon the delivery of health care in rural America.

Mr. ROGERS. Mr. Speaker, we will certainly look into that and will be going into that this Wednesday as we do some oversighting on those proposed guidelines.

Mr. HAGEDORN. I thank the gentleman from Florida.

Mr. DUNCAN of Tennessee. Mr. Speaker, I have no further requests for time.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. PHILIP BURTON).

Mr. PHILLIP BURTON. Mr. Speaker, I do not oppose any definitive action, given the rules today; but I would urge the House conferees to examine the various titles of the Social Security Act, titles that include one or another, but not all the various offshore areas. In some instances it would not be appropriate and in some instances these areas should be treated alike.

Most importantly, I would urge the conferees to examine the various titles to insure that the Northern Mariana Islands, currently a part of the Pacific Trust Territories, but within the next 30 days or so will begin the establishment of their own administrative mechanisms, I would hope when this item gets to conference that particular emphasis will be given to make a judgment, first, as to whether or not there is unintended discrimination between one or another of the offshore areas.

Secondly, and perhaps most fundamentally, to see that the specific interests of the Northern Mariana Islands is given the most sensitive treatment; that because of the Northern Mariana covenant there is language that indicates that if they are not specifically mentioned, perhaps then they would not be included in the legislation.

This was intended to protect them on certain major policies, like cock fighting and the like, but it was not intended to preclude them from programs that are available to our fellow Americans generally.

Mr. Speaker, I would urge the conferees to give their best attention to that particular problem.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 1 minute to the gentleman from Kansas (Mr. GLICKMAN).

Mr. GLICKMAN. Mr. Speaker, this bill has some very positive implications for the health care of people in rural areas. I want to ask the gentleman about the definition of rural health clinics. In my area of Kansas and other rural areas, we have the position where physician extenders may be sent out to the hinterlands by other physicians. Do they have to operate out of a "rural health clinic"? Can they operate out of a hospital or a facility not a medical facility and still be eligible for medicare or medicaid funds?

Mr. ROSTENKOWSKI. Mr. Speaker, if these practitioners are providing services in a hospital, they are already covered.

In order for the services of the nurse practitioner or physician assistant to be reimbursed, that nurse practitioner or physician assistant must be practicing in a clinic, that is, a facility which meets certain standards, including certain health and safety standards.

The SPEAKER pro tempore. The time of the gentleman from Kansas has expired.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 1 additional minute to the gentleman from Kansas.

Mr. GLICKMAN. Mr. Speaker, if the gentleman will yield further, that particular facility, the rural health clinic, must meet the other criteria contained in the act?

Mr. ROSTENKOWSKI. That is exactly right.

Mr. GLICKMAN. Mr. Speaker, if the gentleman will yield further, I would hope in reading this bill and trying to determine the concept of supervision that a physician must keep over his physician extenders, or what they call primary health care people, that the HEW and other people administering this bill do not get so bogged down in confusing regulatory positions that we will not, in fact, have the type of medical care equal to that in this bill. I fear that past experience with the HEW bureaucracy, if repeated here, could actually discourage the utilization of physician extenders and assistants. I hope I am wrong, because this program as enunciated under this bill, if implemented properly, could work wonders in improving rural health care.

Mr. Speaker, I commend the gentleman. It is a beautiful concept in rural areas, but perhaps we can maintain it as cleanly from over-regulation as possible. I hope the people in these departments are listening.

Mr. FORD of Tennessee. Mr. Speaker, those of us who come from States where many people depend on rural clinics for health care services are especially pleased by the expeditious way in which this legislation has been handled.

It will help greatly to assure availability of care to many in our rural areas by providing for medicare and medicaid payments to rural clinics for services of nurse practitioners and physicians' assistants without the need for direct supervision by a physician. Many of these rural clinics were established in response to a lack of physicians' services.

Without action on this bill, the continued existence of many of our rural clinics is threatened, so it has been essential that we work as quickly as possible. Though there might be some things that some of us would like to see worded differently, we hope for speedy passage of this bill because of the urgent need for it.

I would like to comment on one section, which has caused some concern. The American Nurses' Association has given its support to the bill but has seriously questioned the requirement for physician supervision as it applies to nurses. I would like to stress that this supervisory provision applies to "covered services" which means those services otherwise covered under medicare and medicaid when furnished by a physician or as an incident to a physician's services.

Of course, many services provided by nurses are not classifiable as medical. They often involve, for example, health education, preventive care, and counseling. I want to stress that it is not the intent of this bill to bring such services which are nonmedical within its purview.

Mr. BAUCUS. Mr. Speaker, like other rural States, Montana has many isolated rural communities which are unable to attract or keep physicians. Most of the health services needed in these small communities could be properly administered by specially trained nonphysician personnel under the direction of a physician. However, because medicare coverage presently does not include reimbursement for nonphysician services, clinics in some rural areas cannot survive and rural residents are denied health care they desperately need.

H.R. 8422 would amend title XVIII of the Social Security Act to include medicare reimbursement to rural health clinics for services provided by nurse practitioners and physicians' assistants who work under the general supervision of a physician. For States like Montana it would mean that for the first time elderly rural residents would have access to medicare benefits which, because of

their lack of mobility, they are effectively denied.

I think it is important to point out that this amendment which incidentally I cosponsored, does not expand reimbursable services, rather, the same services just become more available to the people who need them.

H.R. 8422 also addresses the similar and equally critical problem faced by citizens who live in urban medically underserved areas. It also provides for a workable project to evaluate the implications of providing reimbursements for outpatient mental health care.

We have moved too slowly in improving health care in this country. Passage of this amendment will mean that millions of older Americans who qualify for medicare will receive the health care they need and deserve.

Mr. SIMON. Mr. Speaker, I rise in support of H.R. 8422. This legislation, which is similar to proposals I have cosponsored, would provide medicare and medicaid reimbursement for rural health clinic services.

Many rural areas have no physicians. In these communities, many of the primary health care services traditionally performed by doctors are furnished by nurse practitioners and physician assistants. The Federal Government does not provide reimbursement for these services under medicare, and does not require State reimbursement under medicaid.

This lack of medicare and medicaid coverage discourages many people living in rural areas from getting proper care. They just cannot afford it on their own. I know personally that this situation applies to many of my constituents in southern Illinois and it inflicts unneeded hardship on them.

Passage of H.R. 8422 will help remedy this situation. The bill will extend medicare and medicaid reimbursement to cover primary care and diagnostic service provided by physician assistants and nurse practitioners in rural health clinics. In order to qualify for this special reimbursement, a rural health clinic must be located in an area designated by the Secretary of Health, Education, and Welfare as either "medically underserved" or as a "health manpower shortage area."

This expansion of medicare and medicaid to reimburse physician assistants and nurses will only apply in States where they are already allowed to perform some primary care and diagnostic services. Some changes in State laws may be needed to fulfill the purposes of this bill. Hopefully, its passage will provide the incentive for such changes.

Mr. Speaker, the health needs of our rural areas are extensive and critical. Some simple statistics show the wide gap in the availability of health care between rural and urban areas.

Only 7.3 percent of this Nation's physicians are located in nonmetropolitan areas. Yet they are expected to serve the health needs of the 17 percent of our population that lives in these areas. In the country as a whole, there is an average of 142.1 private doctors for every 100,000 people. In nonmetropolitan counties with less than 10,000 inhabitants, the average drops to 48.0. The figures are not much better for counties with populations of 10,000 to 24,999 and 25,000 to 49,999. In these areas, the average number of doctors per 100,000 people is 57.6 and 82.7, respectively.

Because of this doctor shortage, rural counties such as those in southern Illinois are—as I mentioned earlier—often served by nurses instead of physicians. H.R. 8422 recognizes this situation and attempts to deal with it.

Reimbursement of rural health clinic services will be especially helpful in the rural areas of my State of Illinois. Between 1960 and 1972, the rural counties in 28 States suffered a decline in the number of physicians. The greatest decline was in Illinois. In this period, the number of physicians in rural Illinois dropped from 160 to 106—a startling 33.8 percent decline.

According to a variety of studies, older people and poorer people tend to be sicker than other segments of the population. These people reside disproportionately in rural areas, which increases the need for affordable health care in these areas. This need just is not being met. Furthermore, people living in rural areas tend to have less health insurance coverage than urban residents, and when they are covered, they tend to get less for their money.

H.R. 8422 is not going to turn around the health situation in rural areas in a single stroke. In the long run, the biggest health improvements will be achieved by raising the standard of living in rural areas through progress in such areas as education, employment, housing, and sanitation.

The passage of H.R. 8422 will, however, recognize the realities of health care needs in rural areas, and deal with some of them in a forthright and constructive manner.

Mr. Speaker, I urge my colleagues to support this important legislation.

Ms. MIKULSKI. Mr. Speaker, H.R. 8422 is, in a sense, landmark legislation. It would for the first time make possible medicare-medicaid reimbursement to rural clinics for health services without a requirement for direct supervision by a physician.

This means that the services provided by nurse practitioners and physicians' assistants can be reimbursed whether or not there is an onsite physician. It should help greatly to insure the availability of care for segments of our population that too often lack adequate health services.

However, I would like to comment on one aspect of this bill that I think requires clarification. This relates to the matter of registered nurse supervision by a physician. While the bill does not require onsite M.D. supervision, it provides for general supervision by an M.D. This should not be construed to imply that such supervision extends to ordinary nursing services, but only to the medically oriented services covered by this bill.

The services referred to in this legislation are medical services as covered under medicare and medicaid and services "furnished as incident to a physician's professional service."

The registered nurse is licensed under State law as an independent health professional. It is not clear to me that the term "supervisory physician" as it applies to the services of nurses needs to be used as it is in this legislation.

The American Nurses' Association has serious concerns about this, but is supporting this bill because of its importance to the continuation of rural clinics. I would note that the provision for M.D. supervision of certain services rendered by nurses, as provided for in this bill, should not be construed as setting a precedent for future legislation.

Mr. SANTINI. Mr. Speaker, I rise in support of the bill now before us, which would allow medicare to reimburse physician assistants and nurse practitioners for care administered when a bona fide physician cannot be present.

In Nevada, towns are often hundreds of miles apart, and doctors are not always readily available. Moreover, we have many elderly people who have no means of traveling such great distances just to visit a physician.

Thus, the physician assistant, with proper reimbursements from medicare, can play a useful role in supplying day-to-day medical services to our rural areas.

The present law, however, prohibits medicare reimbursements for physician assistants unless a licensed physician is present when the care is administered.

This runs entirely contrary to the "physician extender" concept which our isolated, less-populated areas so desperately need, and which our House Commerce Committee was so quick to approve last month.

Not only would the bill provide for broader physician assistant services, but it would also insure that many rural and inner city clinics will have the necessary funds to remain open during the coming year.

Traditionally, these clinics have been funded through various agencies at all levels of government and through the communities in which the clinics are located. But, funds are rapidly running out, and when they do many clinics will be forced to close their doors.

Mr. Speaker, my dear colleagues, I ask you to give this bill your support so thousands of people in cities big and small can have easy access to qualified medical care.

Thank you.

Mr. ROSTENKOWSKI. Mr. Speaker, I have no further requests for time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois (Mr. ROSTENKOWSKI) that the House suspend the rules and pass the bill, H.R. 8422, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title was amended so as to read: "A bill to amend titles XVIII and XIX of the Social Security Act to provide payment for rural health clinic services, and for other purposes.".

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ROSTENKOWSKI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 8422, just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

TECHNICAL CORRECTIONS ACT OF 1977

Mr. ULLMAN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 6715) to correct technical and clerical mistakes in the tax laws, as amended.

The Clerk read as follows:

H.R. 6715

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; ETC.

(a) SHORT TITLE.—This Act may be cited as the "Technical Corrections Act of 1977".

(b) AMENDMENT OF 1954 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1954.

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SEC. 2. TECHNICAL AMENDMENTS TO INCOME TAX PROVISIONS AND ADMINISTRATIVE PROVISIONS.

(a) AMENDMENTS RELATING TO RETENTION OF PRIOR LAW FOR RETIREMENT INCOME CREDIT UNDER SECTION 37(e).—

(1) CLARIFICATION THAT SPOUSE UNDER AGE 65 MUST HAVE PUBLIC RETIREMENT SYSTEM INCOME.—Paragraph (2) of section 37(e) (relating to election of prior law with respect to public retirement system income) is amended by striking out "who has not attained age 65 before the close of the taxable year" and inserting in lieu thereof "who has not attained age 65 before the close of the taxable year (and whose gross income includes income described in paragraph (4)(B))".

(2) CLARIFICATION THAT QUALIFYING SERVICES MUST HAVE BEEN PERFORMED BY TAXPAYER OR SPOUSE.—Subparagraph (B) of section 37(e)(4) (defining retirement income) is amended by inserting "and who performed the services giving rise to the pension or annuity (or is the spouse of the individual who performed the services)" after "before the close of the taxable year".

(3) DISREGARD OF COMMUNITY PROPERTY LAWS.—Subsection (e) of section 37 (relating to election of prior law with respect to public retirement system income) is amended by redesignating paragraph (8) as paragraph (9) and by inserting after paragraph (7) the following new paragraph:

"(8) COMMUNITY PROPERTY LAWS NOT APPLICABLE.—In the case of a joint return, this subsection shall be applied without regard to community property laws."

(4) EFFECTIVE DATES.—

(A) The amendments made by paragraphs (1) and (2) shall apply to taxable years beginning after December 31, 1975.

(B) The amendments made by paragraph (3) shall apply to taxable years beginning after December 31, 1976.

(b) AMENDMENTS RELATING TO THE MINIMUM TAX.—

(1) SPECIAL RULES FOR MINIMUM TAX OF SUBCHAPTER S CORPORATIONS AND PERSONAL HOLDING COMPANIES.—

(A) Paragraph (1) of section 57(a) (relating to adjusted itemized deductions) is amended by striking out "An amount" and inserting in lieu thereof "In the case of an individual, an amount".

(B) The last sentence of section 57(a) (relating to items of tax preference) is amended by striking out "Paragraphs (1), (3), and" and inserting in lieu thereof "Paragraphs (3) and".

(C) Subsection (i) of section 58 (defining corporations) is amended by striking out "Except as provided in subsection (d)(2), for purposes of this part" and inserting in lieu thereof "For purposes of this part (other than section 57(a)(9))".

(2) DIVISION OF $10,000 AMOUNT AMONG MEMBERS OF CONTROLLED GROUPS.—Subsection (b) of section 58 (relating to members of controlled groups) is amended to read as follows:

"(b) MEMBERS OF CONTROLLED GROUPS.—In the case of a controlled group of corporations (as defined in section 1563(a)), the $10,000 amount specified in section 56 shall be divided among the component members of such group in proportion to their respective regular tax deductions (within the meaning of section 56(c)) for the taxable year."

(3) COMPUTATION OF ADJUSTED ITEMIZED DEDUCTIONS IN THE CASE OF ESTATES AND TRUSTS.—Paragraph (2) of section 57(b) (relating to computation of adjusted itemized deductions in the case of estates and trusts) is amended to read as follows:

"(2) SPECIAL RULES FOR ESTATES AND TRUSTS.—

"(A) IN GENERAL.—In the case of an estate or trust, for purposes of paragraph (1) of subsection (a), the amount of the adjusted

itemized deductions for any taxable year is the amount by which the sum of the deductions for the taxable year other than—

"(i) the deductions allowable in arriving at adjusted gross income,

"(ii) the deduction for personal exemption provided by section 642(b),

"(iii) the deduction for casualty losses described in section 165(c)(3).

"(iv) the deductions allowable under section 651(a), 661(a), or 691(c), and

"(v) the deductions allowable to a trust under section 642(c) to the extent that a corresponding amount is included in the gross income of the beneficiary under section 662(a)(1) for the taxable year of the beneficiary with which or within which the taxable year of the trust ends,

exceeds 60 percent (but does not exceed 100 percent) of the adjusted gross income of the estate or trust for the taxable year.

"(B) DETERMINATION OF ADJUSTED GROSS INCOME.—For purposes of this paragraph, the adjusted gross income of an estate or trust shall be computed in the same manner as in the case of an individual, except that—

"(i) the deductions for costs paid or incurred in connection with the administration of the estate or trust, and

"(ii) to the extent provided in subparagraph (C), the deductions under section 642(c),

shall be treated as allowable in arriving at adjusted gross income.

"(C) TREATMENT OF CERTAIN CHARITABLE CONTRIBUTIONS.—For purposes for this paragraph, the following deductions under section 642(c) (relating to deductions for amounts paid or permanently set aside for charitable purposes) shall be treated as deductions allowable in arriving at adjusted gross income;

"(i) deductions allowable to an estate,

"(ii) deductions allowable to a trust all of the unexpired interests in which are devoted to one or more of the purposes described in section 170(c)(2)(B),

"(iii) deductions allowable to a trust which is a pooled income fund within the meaning of section 642(c)(5), and

"(iv) deductions allowable to a trust which are attributable to transfers to the trust before January 1, 1976."

(4) SECTION 691(C) DEDUCTION NOT TAKEN INTO ACCOUNT FOR DETERMINING ADJUSTED ITEMIZED DEDUCTIONS.—Paragraph (1) of section 57(b) is amended by striking out "and" at the end of subparagraph (C), by inserting "and" at the end of subparagraph (D), and by inserting after subparagraph (D) the following new subparagraph:

"(E) the deduction allowable under section 691(c),".

(5) ALLOCATION OF ITEMS OF TAX PREFERENCE IN THE CASE OF ESTATES AND TRUSTS.—Paragraph (1) of section 58(c) (relating to estates and trusts) is amended by striking out "on the basis of the income of the estate or trust allocable to each" and inserting in lieu thereof "in accordance with regulations prescribed by the Secretary".

(6) EFFECTIVE DATE.—The amendments made by this subsection shall take effect as if included in the amendments made by section 301 of the Tax Reform Act of 1976.

(c) SICK PAY.—

(1) IN GENERAL.—Section 105(d) is amended by striking out paragraphs (4) and (6), by redesignating paragraph (5) as paragraph (4) and paragraph (7) as parargaph (6), and by inserting after paragraph (4) the following new paragraph:

"(5) SPECIAL RULES FOR MARRIED COUPLES.—

"(A) MARRIED COUPLE MUST FILE JOINT RETURN.—Except in the case of a husband and wife who live apart at all times during the taxable year, if the taxpayer is married at the close of the taxable year, the exclusion provided by this subsection shall be allowed only if the taxpayer and his spouse file a joint return for the taxable year.

"(B) APPLICATION OF PARAGRAPHS (2) AND (3).—In the case of a joint return—

"(i) paragraph (2) shall be applied separately with respect to each spouse, but

"(ii) paragraph (3) shall be applied with respect to their combined adjusted gross income.

"(C) DETERMINATION OF MARITAL STATUS.—For purposes of this subsection, marital status shall be determined under section 143(a).

"(D) JOINT RETURN DEFINED.—For purposes of this subsection, the term 'joint return' means the joint return of a husband and wife made under section 6013."

(2) CONFORMING AMENDMENT.—Subsection (c)(3) of section 505 of the Tax Reform Act of 1976 (relating to disability retirement) is amended by striking out "section 105(d)(5)" and inserting in lieu thereof "section 105(d)(4)".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect as if included in section 105(d) of the Internal Revenue Code of 1954 as such section was amended by section 505(a) of the Tax Reform Act of 1976.

(d) NET OPERATING LOSSES.—

(1) AMENDMENT OF SECTION 172(2)(1)(B).—The second sentence of subparagraph (B) of section 172(b)(1) (relating to years to which net operating losses may be carried) is amended by striking out "and (F)" and inserting in lieu thereof "(F), and (G)".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to losses incurred in taxable years ending after December 31, 1975.

(e) EFFECTIVE DATE FOR FISCAL YEAR TAXPAYERS FOR CONSTRUCTION PERIOD INTEREST AND TAXES.—Paragraph (1) of section 201(c) of the Tax Reform Act of 1976 is amended to read as follows:

"(1) in the case of nonresidential real property, if the construction period begins on or after the first day of the first taxable year beginning after December 31, 1975,".

(f) CLARIFICATION OF PROVISIONS PROVIDING TAX INCENTIVES TO ENCOURAGE THE PRESERVATION OF HISTORIC STRUCTURES.—

(1) DEFINITION OF CERTIFIED HISTORIC STRUCTURES.—Subsection (d) of section 191 (relating to amortization of certain rehabilitation expenditures for certified historic structures) is amended by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively, and by striking out paragraph (1) and inserting in lieu thereof the following new paragraphs:

"(1) CERTIFIED HISTORIC STRUCTURE.—The term 'certified historic structure' means a building or structure which is of a character subject to the allowance for depreciation provided in section 167 and which—

"(A) is listed in the National Register, or

"(B) is located in a registered historic district and is certified by the Secretary of the Interior to the Secretary as being of historic significance to the district.

"(2) REGISTERED HISTORIC DISTRICT.—The term 'registered historic district' means—

"(A) any district listed in the National Register, and

"(B) any district—

"(i) which is designated under a statute of the appropriate State or local government, if such statute is certified by the Secretary of the Interior to the Secretary as containing criteria which will substantially achieve the purpose of preserving and rehabilitating buildings of historic significance to the district, and

"(ii) which is certified by the Secretary of the Interior to the Secretary as meeting substantially all of the requirements for the listing of districts in the National Register."

(2) AMENDMENT OF CROSS REFERENCES.—Subsection (g) of section 191 (relating to cross references) is amended to read as follows:

"(g) CROSS REFERENCES.—

"(1) For rules relating to the listing of buildings, structures, and historic districts in the National Register, see the Act entitled 'An Act to establish a program for the preservation of additional historic properties throughout the Nation, and for other purposes', approved October 15, 1966 (16 U.S.C. 470 et seq.).

"(2) For special rules with respect to certain gain derived from the disposition of property the adjusted basis of which is determined with regard to this section, see sections 1245 and 1250."

(3) SPECIAL RULES FOR RECAPTURE OF AMORTIZATION DEDUCTION.—

(A) Paragraph (2) of section 1245(a) (relating to gain from dispositions of certain depreciable property) is amended—

(i) by striking out "190, or 191" the first place it appears and inserting in lieu thereof "or 190" and

(ii) by striking out "190, or 191" the second and third place it appears and inserting in lieu thereof "190, or (in the case of property described in paragraph (3)(C)) 191".

(B) Subparagraph (D) of section 1245(a)(3) (relating to gain from dispositions of certain depreciable property) is amended by striking out "190, or 191" and inserting in lieu thereof "or 190".

(C) Paragraph (3) of section 1250(b) (relating to depreciation adjustments) is amended by striking out "190 or 191" and inserting in lieu thereof "or 190".

(4) STRAIGHT LINE METHOD IN CERTAIN CASES.—

Subsection (n) of section 167 is amended to read as follows:

"(n) STRAIGHT LINE METHOD IN CERTAIN CASES.—

"(1) IN GENERAL.—In the case of any property in whole or in part constructed, reconstructed, erected, or used on a site which was, on or after June 30, 1976, occupied by a certified historic structure (or by any structure in a registered historic district) which is demolished or substantially altered after such date—

"(A) subsections (b), (j), (k), and (l) shall not apply, and

"(B) the term 'reasonable allowance' as used in subsection (a) means only an allowance computed under the straight line method.

The preceding sentence shall not apply if the last substantial alteration of the structure is a certified rehabilitation.

"(2) EXCEPTIONS.—The limitations imposed by this subsection shall not apply—

"(A) to personal property, and

"(B) in the case of demolition or substantial alteration of a structure located in a registered historic district, if—

"(i) such structure was not a certified historic structure, and

"(ii) before the beginning of the demolition or substantial alteration of such structure, the Secretary of the Interior certified to the Secretary that such structure is not of historic significance to the district.

"(3) DEFINITION.—For purposes of this subsection, the terms 'certified historic structure', 'registered historic district', and 'certified rehabilitation' have the respective meanings given such terms by section 191(d)."

(5) DEMOLITION OF CERTAIN HISTORIC STRUCTURES.—Subsection (b) of section 280B (relating to special rule for registered historic districts) is amended to read as follows:

"(b) SPECIAL RULE FOR REGISTERED HISTORIC DISTRICTS.—For purposes of this section, any building or other structure located in a registered historic district (as defined in section 191(d)(2)) shall be treated as a certified historic structure unless the Secretary of the Interior has certified, before the beginning of the demolition of such struc-

ture, that such structure is not of historic significance to the district."

(6) SUBSTANTIALLY REHABILITATED HISTORIC PROPERTY.—

(A) Paragraph (1) of section 167(o) (relating to substantially rehabilitated historic property) is amended by inserting "(other than property with respect to which an amortization deduction has been allowed to the taxpayer under section 191)" after "substantially rehabilitated historic property".

(B) Paragraph (2) of section 167(o) is amended by striking out "section 191(d)(3)" and inserting in lieu thereof "section 191(d)(4)".

(7) EFFECTIVE DATE.—The amendments made by this subsection shall take effect as if included in the respective provisions of the Internal Revenue Code of 1954 to which such amendments relate, as such provision were added to such Code, or amended, by section 2124 of the Tax Reform Act of 1976.

(g) FOREIGN CONVENTIONS.—

(1) DEDUCTIONS NOT DISALLOWED TO EMPLOYER WHERE EMPLOYEE INCLUDES AMOUNTS IN GROSS INCOME.—Subparagraph (D) of section 274(h)(6) (relating to application of subsection to employer as well as to traveler) is amended by adding at the end thereof the following new sentence: "The preceding sentence shall not deny a deduction to any person other than the individual attending the foreign convention with respect to any amount includible in the gross income of such individual if such person treats such amount as so includible for purposes of part III of suchapter A of chapter 61 (relating to information returns)."

(2) TECHNICAL AMENDMENT.—The first sentence of section 274(h)(3) is amended by striking out "more than one-half" and ininserting in lieu thereof "at least one-half".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to conventions beginning after December 31, 1976.

(h) CLARIFICATION OF LAST SENTENCE OF SECTION 337(c)(2).—

(1) IN GENERAL.—Subsection (c) of section 337 (relating to limitations on application of section 337) is amended by striking out the last sentence of paragraph (2) and by adding at the end of such subsection the following new paragraph:

"(3) SPECIAL RULE FOR AFFILIATED GROUP.—

"(A) IN GENERAL.—Paragraph (2) shall not apply to a sale or exchange by a corporation (hereinafter in this paragraph referred to as the "selling corporation") if—

"(i) within the 12-month period beginning on the date of the adoption of a plan of complete liquidation by the selling corporation, the selling corporation and each distributee corporation is completely liquidated, and

"(ii) none of the complete liquidations referred to in clause (i) is a liquidation with respect to which section 333 applies.

"(B) DEFINITIONS.—For purposes of subparagraph (A)—

"(i) The term 'distributee corporation' means a corporation in the chain of includible corporations to which the selling corporation or a corporation above the selling corporation in such chain makes a distribution in complete liquidation within the 12-month period referred to in subparagraph (A)(i).

"(ii) The term 'chain of includible corporations' includes, in the case of any distribution, any corporation which (at the time of such distribution) is in a chain of includible corporations for purposes of section 1504(a) (determined without regard to the exceptions contained in section 1504(b)). Such term includes, where appropriate, the common parent corporation."

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to sales or exchanges made pursuant to a plan of complete liquidation adopted after December 31, 1975.

(i) CERTAIN TRANSACTIONS INVOLVING 2 OR MORE INVESTMENT COMPANIES.—

(1) AMENDMENTS OF SECTION 368(a)(2)(F).—

(A) The first sentence of clause (iii) of section 368(a)(2)(F) is amended—

(i) by striking out "more than 50 percent" and inserting in lieu thereof "50 percent or more"; and

(ii) by striking out "more than 80 percent" and inserting in lieu thereof "80 percent or more."

(B) The first sentence of clause (vi) of section 368(a)(2)(F) is amended by striking out "is not diversified within the meaning" and inserting in lieu thereof "does not meet the requirements".

(C) The second sentence of such clause (vi) is amended to read as follows: "If such investment company acquires stock of another corporation in a reorganization described in section 368(a)(1)(B), clause (i) shall be applied to the shareholders of such investment company as though they had exchanged with such other corporation all of their stock in such company for stock having a fair market value equal to the fair market value of their stock of such investment company immediately after the exchange."

(D) Subparagraph (F) of section 368(a)(2) is amended by adding at the end thereof the following new clauses:

"(vii) For purposes of clauses (ii) and (iii), the term 'securities' includes obligations of State and local governments, commodity futures contracts, shares of regulated investment companies and real estate investment trusts, and other investments constituting a security within the meaning of the Investment Company Act of 1940 (15 U.S.C. 80a-2(36)).

"(viii) In applying paragraph (3) of section 267(b) in respect of any transaction to which this subparagraph applies, the reference to a personal holding company in such paragraph (3) shall be treated as including a reference to an investment company and the determination of whether a corporation is an investment company shall be made as of the time immediately before the transaction instead of with respect to the taxable year referred to in such paragraph (3)."

(2) EFFECTIVE DATES.—

(A) Except as provided in subparagraph (B), the amendments made by paragraph (1) shall apply as if included in section 368(a)(2)(F) of the Internal Revenue Code of 1954 as added by section 2131(a) of the Tax Reform Act of 1976.

(B) Clause (viii) of section 368(a)(2)(F) of the Internal Revenue Code of 1954 (as added by paragraph (1)) shall apply only with respect to losses sustained after September 26, 1977.

(j) AT RISK PROVISIONS.—

(1) CLERICAL AMENDMENT TO EFFECTIVE DATE.—Subparagraph (A) of section 204(c)(3) of the Tax Reform Act of 1976 is amended by striking out "section 465(c)(1)(B)" and inserting in lieu thereof "section 465(c)(1)(C)".

(2) CLARIFICATION OF SECTION 465(d).—Subsection (d) of section 465 (defining loss for purposes of the at risk provisions) is amended by striking out "(determined without regard to this section)" and inserting in lieu thereof "(determined without regard to the first sentence of subsection (a))".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on October 4, 1976.

(k) AMENDMENTS RELATING TO USE OF ACCRUAL ACCOUNTING FOR FARMING.—

(1) AUTOMATIC 10-YEAR ADJUSTMENT PERIOD FOR FARMING CORPORATIONS REQUIRED TO USE ACCRUAL ACCOUNTING.—Paragraph (3) of section 447(f) (relating to coordination with section 481) is amended—

(A) by striking out "(except as otherwise provided in such regulations)", and

(B) by inserting "(or the remaining taxable years where there is a stated future life of less than 10 taxable years)" after "10 taxable years".

(2) AUTOMATIC 10-YEAR ADJUSTMENT FOR FARMING SYNDICATES CHANGING TO ACCRUAL ACCOUNTING.—If—

(A) a farming syndicate (within the meaning of section 464(c) of the Internal Revenue Code of 1954) was in existence on December 31, 1975, and

(B) such syndicate elects an accrual method of accounting (including the capitalization of preproductive period expenses described in section 447(b) of such Code) for a taxable year beginning before January 1, 1979.

then such election shall be treated as having been made with the consent of the Secretary of the Treasury or his delegate and, under regulations prescribed by the Secretary of the Treasury or his delegate, the net amount of the adjustments required by section 481(a) of such Code to be taken into account by the taxpayer in computing taxable income shall be taken into account in each of the 10 taxable years (or the remaining taxable years where there is a stated future life of less than 10 taxable years) beginning with the year of change.

(3) EXTENDING FAMILY ATTRIBUTION TO SPOUSE IN THE FARMING SYNDICATE RULES.—

(A) Subparagraph (E) of section 464(c)(2) (defining farming syndicate) is amended by striking out "(within the meaning of section 267(c)(4))" and inserting in lieu thereof "(or a spouse of any such member)".

(B) Paragraph (2) of section 464(c) is amended by adding at the end thereof the following new sentence: "For purposes of subparagraph (E), the term 'family' has the meaning given to such term by section 267(c)(4)."

(4) EFFECTIVE DATE.—The amendments made by paragraphs (1) and (3) shall take effect as if included in section 447 or 464 (as the case may be) of the Internal Revenue Code of 1954 at the time of the enactment of such sections.

(l) EXTENSION OF CERTAIN PROVISIONS TO FOREIGN PERSONAL HOLDING COMPANIES.—

(1) SECTION 465.—Subsection (a) of section 465 (relating to deductions limited to amount at risk in case of certain activities) is amended—

(A) by striking out "In the case of a taxpayer (other than a corporation which is neither an electing small business corporation (as defined in section 1371(b)) nor a personal holding company (as defined section 542)) engaged" and inserting in lieu thereof "In the case of an individual engaged"; and

(B) by adding at the end thereof the following new sentence: "For purposes of this section, an electing small business corporation (as defined in section 1371(b)), a personal holding company (as defined in section 542), and a foreign personal holding company (as defined in section 552) shall be treated as an individual."

(2) SECTION 189.—Subsection (a) of section 189 (relating to amortization of real property construction period interest and taxes) is amended—

(A) by striking out "an electing small business corporation (within the meaning of section 1371(b)), or personal holding company (within the meaning of section 542),"; and

(B) by adding at the end thereof the following new sentence: "For purposes of this section, an electing small business corporation (as defined in section 1371(b)), a personal holding company (as defined in section 542), and a foreign personal holding company (as defined in section 552) shall be treated as an individual."

(3) SECTION 280.—Subsection (a) of section 280 (relating to certain expenditures incurred in production of films, books, records, or similar property) is amended—

(A) by striking out "Except in the case of a corporation (other than an electing small business corporation (as defined in section 1371(b)) or a personal holding company (as defined in section 542)) and except" and inserting in lieu thereof "In the case of an individual, except"; and

(B) by adding at the end thereof the following new sentence: "For purposes of this section, an electing small business corporation (as defined in section 1371(b)), a personal holding company (as defined in section 542), and a foreign personal holding company (as defined in section 552) shall be treated as an individual."

(4) EFFECTIVE DATES.—

(A) The amendments made by paragraph (1) shall take effect as if included in the amendment made by section 204(a) of the Tax Reform Act of 1976.

(B) The amendments made by paragraph (2) shall take effect as if included in the amendment made by section 201(a) of the Tax Reform Act of 1976.

(C) The amendments made by paragraph (3) shall take effect as if included in the amendment made by section 210(a) of the Tax Reform Act of 1976.

(m) DEFINITION OF CONDOMINIUM MANAGEMENT ASSOCIATION.—

(1) IN GENERAL.—Paragraph (2) of section 528(c) (defining condominum management association) is amended by striking out "as residences" and inserting in lieu thereof "by individuals for residences".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to taxable years beginning after December 31, 1973.

(n) SPECIAL RULE FOR GAIN ON PROPERTY TRANSFERRED TO TRUST AT LESS THAN FAIR MARKET VALUE.—

(1) ADDITIONAL TAX TO APPLY ONLY TO RECOGNIZED GAINS.—

(A) IN GENERAL.—Subsections (a)(1), (a)(2), and (b)(1) of section 644 (relating to special rule for gain on property transferred to trust at less than fair market value) are each amended by striking out "gain realized" each place it appears and inserting in lieu thereof "gain recognized".

(B) SPECIAL RULE FOR SUBSTITUTED BASIS PROPERTY.—Subsection (d) of section 644 (relating to special rule for short sales) is amended to read as follows:

"(d) SPECIAL RULES.—

"(1) SHORT SALES.—If the trust sells the property referred to in subsection (a) in a short sale within the 2-year period referred to in such subsection, such 2-year period shall be extended to the date of the closing of such short sale.

"(2) SUBSTITUTED BASIS PROPERTY.—For purposes of this section, in the case of any property held by the trust which has a basis determined in whole or in part by reference to the basis of any other property which was transferred to the trust—

"(A) the initial transfer of such property in trust by the transferor shall be treated as having occurred on the date of the initial transfer in trust of such other property,

"(B) subsections (a)(1)(B) and (b)(2) shall be applied by taking into account the fair market value and the adjusted basis of such other property, and

"(C) the amount determined under subsection (b)(2) with respect to such other property shall be allocated (under regulations prescribed by the Secretary) among such other property and all properties held by the trust which have a basis determined in whole or in part by reference to the basis of such other property."

(2) TREATMENT OF NET OPERATING LOSSES, CAPITAL LOSSES, ETC., WHICH MAY AFFECT TRANSFEROR'S TAX IN OTHER YEARS.—Section 644(a)(2) (relating to additional tax on gain on property transferred to trust at less than fair market value) is amended by adding at the end thereof the following new sentence: "The determination of tax under clause (i) of subparagraph (A) shall be made by not taking into account any carryback, and by not taking into account any loss or deduction to the extent that such loss or deduction may be carried by the transferor to any other taxable year."

(3) TECHNICAL AMENDMENT.—Paragraph (1) of section 644(f) is amended by striking out "subsection (a)" and inserting in lieu thereof "subsection (a) (other than the 2-year requirement of paragraph (1)(A) thereof)".

(4) CONFORMING AMENDMENT TO REVISION OF SECTION 644.—Section 1402(b)(1) of the Tax Reform Act of 1976 (relating to holding period for long-term capital gains treatment) is amended by striking out subparagraph (K) thereof.

(5) EFFECTIVE DATES.—

(A) Except at provided in subparagraph (B), the amendment made by this subsection shall apply to transfers in trust made after May 21, 1976.

(B) The amendment made by paragraph (4) shall take effect on October 4, 1976.

(o) ALLOWANCE OF FOREIGN TAX CREDIT FOR ACCUMULATION DISTRIBUTIONS.—

(1) IN GENERAL.—Subsection (d) of section 665 is amended to read as follows:

"(d) TAXES IMPOSED ON THE TRUST.—

"(1) IN GENERAL.—For purposes of this subpart, the term 'taxes imposed on the trust' means—

"(A) the amount of the taxes which are imposed for any taxable year of the trust under this chapter (without regard to this subpart) or

"(B) subject to paragraph (2), the amount of any income, war profits, or excess profits taxes which are imposed by any foreign country or possession of the United States for any taxable year of the trust,

and which, under regulations prescribed by the Secretary, are properly allocable to the undistributed portions of distributable net income and gains in excess of losses from sales or exchanges of capital assets. The amount determined in the preceding sentence shall be reduced by any amount of such taxes deemed distributed under section 666 (b) or (c) to any beneficiary.

"(2) SPECIAL RULES FOR FOREIGN TAXES.—

"(A) ELECTIONS TO TAKE FOREIGN TAX CREDIT.—Paragraph (1)(B) shall apply with respect to any taxes only if the trust is not a foreign trust and only if—

"(i) the trust chose the benefits of subpart A of part III of subchapter N for the taxable year of the trust for which the taxes imposed, and

"(ii) the beneficiary chooses the benefits of such subpart A for the beneficiary's taxable year in which the distribution to which such taxes were allocable includible in gross income.

"(B) SEPARATE COMPUTATIONS OF FOREIGN TAX CREDIT LIMITATIONS.—For purposes of applying paragraph (1)(B), the amount described therein shall be the amount determined after the separate application, with respect to the trust, of the limitations of sections 904 and 907 with respect to such taxes."

(2) SPECIAL RULE FOR FOREIGN TRUSTS.—Section 667 is amended by adding at the end thereof the following new subsection:

"(d) SPECIAL RULES FOR FOREIGN TRUSTS.—In the case of amounts which are treated under section 666 as having been distributed by a foreign trust in a preceding taxable year, if the beneficiary chooses to have the benefits of subpart A of part III of subchapter N for the taxable year for which the distribution is includible in the beneficiary's income—

"(1) the income, war profits, and excess profits taxes imposed by any foreign country or possession of the United States paid or accrued by such trust which are allocable to such amounts shall be treated as paid or accrued by the beneficiary in such taxable year,

"(2) an amount equal to the amount of the taxes treated as paid or accrued by the beneficiary by reason of paragraph (1) shall be included in the amount treated as having been distributed under subsection (b) or (c) of section 666 in a preceding taxable year,

"(3) for purposes of determining under paragraph (1) the amount treated as paid or accrued by the beneficiary, the beneficiary shall compute the limitations under sections 904 and 907 separately with respect to the beneficiary's distributions from such trust for such year, and

"(4) the items of income, deduction, and credit of the trust shall retain their charter to the extent necessary to apply paragraph (3)."

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to distributions made in taxable years beginning after December 31, 1975.

(p) RETENTION OF CHARACTER OF AMOUNTS DISTRIBUTED FROM ACCUMULATION TRUST TO NONRESIDENT ALIENS AND FOREIGN CORPORATIONS.—

(1) IN GENERAL.— Section 667 (relating to treatment of amounts deemed distributed by trust in preceding years) is amended by adding at the end thereof the following new subsection:

"(e) RETENTION OF CHARACTER OF AMOUNTS DISTRIBUTED FROM ACCUMULATION TRUST TO NONRESIDENT ALIENS AND FOREIGN CORPORATIONS.—In the case of a distribution from a trust to a nonresident alien individual or to a foreign corporation, the first sentence of subsection (a) shall be applied as if the reference to the determination of character under section 662(b) applied to all amounts instead of just to tax-exempt interest."

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply to distributions made in taxable years beginning after December 31, 1975.

(q) LIMITATION ON ALLOWANCE OF PARTNERSHIP LOSSES IN THE CASE OF NONRECOURSE LOANS.—

(1) IN GENERAL.—The last sentence of section 704(d) (relating to limitation on allowance of partnership losses) is amended by striking out "the principal activity" and all that follows and inserting in lieu thereof "substantially all of the activities of which relate to the holding of real property (other than mineral property) for sale or rental."

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to liabilities incurred after December 31, 1976.

(r) EXEMPT INTEREST DIVIDENDS OF REGULATED INVESTMENT COMPANIES.—

(1) TREATMENT OF TAX-EXEMPT INTEREST FOR PURPOSES OF THE 90-PERCENT AND 30-PERCENT TESTS.—Subsection (b) of section 851 (relating to limitations on the definition of regulated investment company) is amended by adding at the end thereof the following new sentence: "For purposes of paragraphs (2) and (3), amounts excludable from gross income under section 103(a)(1) shall be treated as included in gross income."

(2) LOSSES ATTRIBUTABLE TO TAX-EXEMPT INTEREST WHERE STOCK IS HELD LESS THAN 31 DAYS.—Paragraph (4) of section 852(b) (relating to loss on sale or exchange of stock held less than 31 days) is amended to read as follows:

"(4) LOSS ON SALE OR EXCHANGE OF STOCK HELD LESS THAN 31 DAYS.—

"(A) LOSS ATTRIBUTABLE TO CAPITAL GAIN DIVIDEND.—If—

"(i) under subparagraph (B) or (D) of paragraph (3) a shareholder of a regulated investment company is required, with respect to any share, to treat any amount as a long-term capital gain, and

"(ii) such share is held by the taxpayer for less than 31 days,

then any loss (to the extent not disallowed under subparagraph (B)) on the sale or exchange of such share shall, to the extent of the amount described in clause (i), be treated as a long-term capital loss.

"(B) LOSS ATTRIBUTABLE TO EXEMPT-INTEREST DIVIDEND.—If—

"(i) a shareholder of a regulated investment company receives an exempt-interest dividend with respect to any share, and

"(ii) such share is held by the taxpayer for less than 31 days,

then any loss on the sale or exchange of such share shall, to the extent of the amount of such exempt-interest dividend, be disallowed.

"(C) DETERMINATION OF HOLDING PERIODS.—For purposes of this paragraph, the rules of section 246(c)(3) shall apply in determining whether any share of stock has been held for less than 31 days; except that '30 days' shall be substituted for the number of days specified in subparagraph (B) of section 246(c)(3)."

(3) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1975.

(s) AMENDMENTS RELATING TO REAL ESTATE INVESTMENT TRUSTS.—

(1) ANNUAL ACCOUNTING PERIOD.—Section 860 (relating to adoption of annual accounting period) is amended to read as follows:

"SEC. 860. ADOPTION OF ANNUAL ACCOUNTING PERIOD.

"For purposes of this subtitle—

"(1) a real estate investment trust shall not change to any accounting period other than the calendar year, and

"(2) a corporation, trust, or association may not elect to be a real estate investment trust for any taxable year beginning after October 4, 1976, unless its accounting period is the calendar year.

Paragraph (2) shall not apply to a corporation, trust, or association which was considered to be a real estate investment trust for any taxable year beginning on or before October 4, 1976."

(2) AMENDMENT OF SECTION 856(C)(3)(D).—Subparagraph (D) of section 856(c)(3) is amended by inserting "(other than gain from prohibited transactions)" after "and gain".

(3) EXCISE TAX ON REIT UNDISTRIBUTED INCOME.—

(A) Paragraph (3) of section 6501(e) (relating to limitations on assessment and collection) is amended by striking out "or 43" and inserting in lieu thereof "43, or 44".

(B) Subsection (b) of section 1605 of the Tax Reform Act of 1976 (relating to technical amendments) is amended by striking out paragraph (1) thereof.

(C) Subparagraph (D) of section 1605(b)(5) of the Tax Reform Act of 1976 is amended to read as follows:

"(D) by striking out 'of chapter 43 tax for the same taxable years,' in subsection (c)(1) and inserting in lieu thereof 'of chapter 43 tax for the same taxable year, of chapter 44 tax for the same taxable year,'."

(4) CORRECTION OF CROSS REFERENCE.—Subparagraph (B) of section 859(b)(2) is amended by striking out "section 6601(c)" and inserting in lieu thereof "section 6601(b)".

(5) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on October 4, 1976.

(t) AMENDMENTS RELATING TO TREATMENT OF FOREIGN INCOME.—

(1) FOREIGN TAX CREDITS NOT DISALLOWED ON CERTAIN DISTRIBUTIONS MADE BY POSSESSIONS CORPORATIONS.—

(A) IN GENERAL.—Paragraph (1) of section 901(g) (relating to certain taxes paid with respect to distributions from possessions corporations) is amended to read as follows:

"(1) IN GENERAL.—For purposes of this chapter, any tax of a foreign country or possession of the United States which is paid or accrued with respect to any distribution from a corporation—

"(A) to the extent that such distribution is attributable to periods during which such corporation is a possessions corporation, and

"(B)(i) if a dividends received deduction is allowable with respect to such distribution under part VIII of subchapter B, or

"(ii) to the extent that such distribution is received in connection with a liquidation or other transaction with respect to which gain or loss is not recognized,

shall not be treated as income, war profits, or excess profits taxes paid or accrued to a foreign country or possession of the United States, and no deduction shall be allowed under this title with respect to any amount so paid or accrued."

(B) DEFINITION OF POSSESSIONS CORPORATION.—Paragraph (2) of section 901(g) (defining possessions corporation) is amended—

(i) by striking out "or during which section 931" and inserting in lieu thereof ", during which section 931", and

(ii) by inserting before the period at the end thereof the following: ", or during which section 957(c) applied to such corporation".

(C) EFFECTIVE DATES.—The amendment made by subparagraph (A) shall apply as if included in section 901(g) of the Internal Revenue Code of 1954 as added by section 1051(d)(2) of the Tax Reform Act of 1976. The amendments made by subparagraph (B) shall apply to distributions made after the date of the enactment of this Act in taxable years ending after such date.

(2) FOREIGN TAX CREDIT ADJUSTMENTS FOR CAPITAL GAINS.—

(A) IN GENERAL.—Paragraph (2) of section 904(b) (relating to treatment of capital gains for purposes of the foreign tax credit limitation) is amended by striking out "For purposes of subsection (a)—" and inserting in lieu thereof "For purposes of this section—".

(B) SOURCE RULE.—Subparagraph (C) of section 904(b)(3) is amended by striking out "For purposes of this paragraph, there" and inserting in lieu thereof "There".

(C) SOURCE RULE FOR LIQUIDATIONS OF CERTAIN FOREIGN CORPORATIONS.—Paragraph (3) of section 904(b) (relating to source rules for gain from the sale of certain personal property) is amended by redesignating subparagraph (D) as subparagraph (E) and by inserting after subparagraph (C) the following new subparagraph:

"(D) GAIN FROM LIQUIDATION OF CERTAIN FOREIGN CORPORATIONS.—Subparagraph (C) shall not apply with respect to a distribution in liquidation of a foreign corporation to which part II of subchapter C applies if such corporation derived less than 50 percent of its gross income from sources within the United States for the 3-year period ending with the close of such corporation's taxable year immediately preceding the year during which the distribution occurred."

(D) EFFECTIVE DATE.—The amendments made by this paragraph shall apply to taxable years beginning after December 31, 1975.

(3) TREATMENT OF CERTAIN CAPITAL LOSS CARRYOVERS AND CARRYBACKS FOR PURPOSES OF THE LIMITATION FOR FOREIGN TAXES.—

(A) IN GENERAL.—Clause (iii) of section 904(b)(2)(A) (relating to treatment of capital gains of corporations for purposes of the foreign tax credit limitation) is amended by striking out "any net capital loss" and inserting in lieu thereof "for purposes of determining taxable income from sources without the United States, any net capital loss (and any amount which is a short-term capital loss under section 1212(a))".

(B) EFFECTIVE DATE.—The amendment made by subparagraph (A) shall apply to taxable years beginning after December 31, 1975.

(4) TREATMENT OF CAPITAL LOSS CARRYOVERS FOR PURPOSES OF FOREIGN LOSS RECAPTURE.—

(A) IN GENERAL.—Subparagraph (A) of section 904(f)(2) (defining overall foreign loss) is amended by striking out "or any capital loss carrybacks and carryovers to such year under section 1212".

(B) FOREIGN OIL RELATED LOSSES.—Subparagraph (A) of section 904(f)(4) (relating to determination of foreign oil related loss where section 907 applies) is amended by striking out "or any capital loss carrybacks and carryovers to such year under section 1212".

(C) EFFECTIVE DATE.—The amendments made by this paragraph shall apply—

(i) to overall foreign losses sustained in taxable years beginning after December 31, 1975, and

(ii) to foreign oil related losses sustained in taxable years ending after December 31, 1975.

(5) EFFECTIVE DATE FOR RECAPTURE OF FOREIGN OIL RELATED LOSSES.—

(A) IN GENERAL.—Paragraph (1) of section 1032(c) of the Tax Reform Act of 1976 is amended to read as follows:

"(1) IN GENERAL.— Except as provided in paragraphs (2), (3), and (5), the amendment made by subsection (a) shall apply to losses sustained in taxable years beginning after December 31, 1975. The amendement made by subsection (b)(1) shall apply to taxable years beginning after December 31, 1975. The amendment made by subsection (b)(2) shall apply to losses sustained in taxable years ending after December 31, 1975."

(B) FOREIGN OIL RELATED LOSSES.—Subsection (c) of section 1032 of the Tax Reform Act of 1976 is amended by adding at the end thereof the following new paragraph:

"(5) FOREIGN OIL RELATED LOSSES.—The amendment made by subsection (a) shall apply to foreign oil related losses sustained in taxable years ending after December 31, 1975."

(6) TRANSITIONAL RULES FOR CERTAIN MINING OPERATIONS.—The second sentence of paragraph (2) of section 1031(c) of the Tax Reform Act of 1976 is amended to read as follows: "In the case of a loss sustained in a taxable year beginning before January 1, 1979, by any corporation to which this paragraph applies, if section 904(a)(1) of such Code (as in effect before the enactment of this Act) applies with respect to such taxable year, the provisions of section 904(f) of such Code shall be applied with respect to such loss under the principles of such section 904(a)(1)."

(7) TRANSITIONAL RULES FOR RECAPTURE OF CERTAIN FOREIGN LOSSES.—

(A) COMPUTATION OF DEFICIT IN EARNINGS AND PROFITS FOR PURPOSES OF THE RECAPTURE OF CERTAIN FOREIGN LOSSES.—Paragraph (4) of section 1032(c) of the Tax Reform Act of 1976 (relating to limitation based on deficit in earnings and profits for purposes of the recapture of foreign losses) is amended by adding at the end thereof the following new sentence: "For purposes of the preceding sentence, there shall be taken into account only earnings and profits of the corporation which (A) were accumulated in taxable years of the corporation beginning after December 31, 1962, and during the period in which the stock of such corporation from which the loss arose was held by the taxpayer and (B) are attributable to such stock."

(B) RECAPTURE OF POSSESSION LOSSES DURING TRANSITIONAL PERIOD WHERE TAXPAYER IS ON A PER-COUNTRY BASIS.—

(i) Subsection (c) of section 1032 of the Tax Reform Act of 1976 (relating to effective dates for recapture of foreign losses) is amended by adding at the end thereof the following new paragraph:

"(6) RECAPTURE OF POSSSESSION LOSSES DURING TRANSITIONAL PERIOD WHERE TAXPAYER IS ON A PER-COUNTRY BASIS.—

"(A) APPLICATION OF PARAGRAPH.—This paragraph shall apply if—

"(i) the taxpayer sustained a loss in a possession of the United States in a taxable year beginning after December 31, 1975, and before January 1, 1979,

"(ii) such loss is attributable to a trade or business engaged in by the taxpayer in such possession on January 1, 1976, and

"(iii) section 904(a)(1) of the Internal Revenue Code of 1954 (as in effect before the enactment of this Act) applies with respect to such taxable year.

"(B) NO RECAPTURE DURING TRANSITION PERIOD.— In any case to which this paragraph applies, for purposes of determining the liability for tax of the taxpayer for taxable years beginning before January 1, 1979, section 904(f) of the Internal Revenue Code of 1954 shall not apply with respect to the loss described in subparagraph (A)(i).

"(C) RECAPTURE OF LOSS AFTER THE TRANSITION PERIOD.—In any case to which this paragraph applies—

"(i) for purposes of determining the liability for tax of the taxpayer for taxable years beginning after December 31, 1978, section 904(f) of the Internal Revenue Code of 1954 shall be applied with respect to the loss described in subparagraph (A)(i) under the principles of section 904(a)(1) of such Code (as in effect before the enactment of this Act); but

"(ii) in the case of any taxpayer and any possession, the aggregate amount to which such section 904(f) applies by reason of clause (i) shall not exceed the sum of the net incomes of all affiliated corporations from such possession for taxable years of such affiliated corporations beginning after December 31, 1975, and before January 1, 1979.

"(D) AFFILIATED CORPORATION DEFINED.—For purposes of subparagraph (C)(ii), the term 'affiliated corporation' means a corporation which, for the taxable year for which the net income is being determined, was not a member of the same affiliated group (within the meaning of section 1504 of the Internal Revenue Code of 1954) as the taxpayer but would have been a member of such group but for the application of subsection (b) of such section 1504."

(ii) Paragraph (3) of section 1031(c) of the Tax Reform Act of 1976 is amended by striking out the last sentence.

(8) LIMITATIONS ON FOREIGN TAX CREDIT WHERE INDIVIDUAL HAS FOREIGN OIL AND GAS EXTRACTION INCOME.—

(A) REDUCTION IN FOREIGN TAX CREDIT FOR CERTAIN INDIVIDUALS HAVING FOREIGN OIL AND GAS EXTRACTION INCOME.—Subsection (a) of section 907 (relating to special rules in case of foreign oil and gas income) is amended to read as follows:

"(a) REDUCTION IN AMOUNT ALLOWED AS FOREIGN TAX UNDER SECTION 901.—In applying section 901, the amount of any oil and gas extraction taxes paid or accrued (or deemed to have been paid) during the taxable year which would (but for this subsection) be taken into account for purposes of section 901 shall be reduced by the amount (if any) by which the amount of such taxes exceeds the product of—

"(1) the amount of the foreign oil and gas extraction income for the taxable year,

"(2) multiplied by—

"(A) in the case of a corporation, the percentage which is the sum of the normal tax rate and the surtax rate for the taxable year specified in section 11, or

"(B) in the case of an individual, a fraction the numerator of which is the tax against which the credit under section 901(a) is taken and the denominator of which is the taxpayer's entire taxable income."

(B) APPLICATION OF SECTION 904 SEPARATELY TO FOREIGN OIL RELATED INCOME OF INDIVIDUALS.—Subsection (b) of section 907 (relating to applications of section 904 limitation) is amended to read as follows:

"(b) APPLICATION OF SECTION 904 LIMITATION.—The provisions of section 904 shall be applied separately with respect to—

"(1) foreign oil related income, and

"(2) other taxable income."

(C) TECHNICAL AMENDMENT.—Paragraph (4) of section 904(f) (relating to recapture of overall foreign loss) is amended by striking out "In the case of a corporation to which section 907(b)(1) applies" and inserting in lieu thereof "In making the separate computation under this subsection with respect to foreign oil related income which is required by section 907(b)".

(D) EFFECTIVE DATES.—

(i) The amendments made by this paragraph shall apply, in the case of individuals, to taxable years ending after December 31, 1974, and, in the case of corporations, to taxable years ending after December 31, 1976.

(ii) In the case of any taxable year ending after December 31, 1975, with respect to foreign oil related income (within the meaning of section 907(c) of the Internal Revenue Code of 1954), the overall limitation provided by section 904(a)(2) of such Code shall apply and the per-country limitation provided by section 904(a)(1) of such Code shall not apply.

(9) EFFECTIVE DATE FOR DISALLOWANCE OF FOREIGN TAX CREDIT FOR CERTAIN PRODUCTION-SHARING CONTRACTS.—The second sentence of paragraph (3) of section 1035(c) of the Tax Reform Act of 1976 (relating to tax credit for production-sharing contracts) is amended to read as follows: "A contract described in the preceding sentence shall be taken into account under paragraph (1) only with respect to amounts (A) paid or accrued to the foreign government before January 1, 1978, and (B) attributable to income earned before such date."

(10) FOREIGN TAXES ATTRIBUTABLE TO SECTION 911 EXCLUSION.—

(A) IN GENERAL.—The last sentence of section 911(a) (relating to earned income from sources without the United States) is amended to read as follows:

"An individual shall not be allowed as a deduction from his gross income any deductions (other than those allowed by section 151, relating to personal exemptions), to the extent that such deductions are properly allocable to or chargeable against amounts excluded from gross income under this subsection. For purposes of this title, the amount of the income, war profits, and excess profits taxes paid or accured by any individual to a foreign country or possession of the United States for any taxable year shall be reduced by an amount determined by multiplying the amount of such taxes by a fraction—

"(A) the numerator of which is the tax determined under subsection (d)(1)(B), and

"(B) the denominator of which is the sum of the amount referred to in subparagraph (A), plus the limitation imposed for the taxable year by section 904(a).".

(B) EFFECTIVE DATE.—The amendment made by subparagraph (A) shall apply to taxable years beginning after December 31, 1976.

(11) SALE OF ASSETS BY A POSSESSIONS CORPORATION.—

(A) IN GENERAL.—Subsection (a) of section 936 (relating to Puerto Rico and possession tax credit) is amended by redesignating paragraph (2) as paragraph (3) and by amending so much of paragraph (1) as precedes subparagraph (A) thereof to read as follows:

"(1) IN GENERAL.—Except as provided in paragraph (3), if a domestic corporation elects the application of this section and if the conditions of both subparagraph (A) and subparagraph (B) of paragraph (2) are satisfied, there shall be allowed as a credit against the tax imposed by this chapter an amount equal to the portion of the tax which is attributable to the sum of—

"(A) the taxable income, from sources without the United States, from—

"(i) the active conduct of a trade or business within a possession of the United States, or

"(ii) the sale or exchange of substantially all of the assets used by the taxpayer in the active conduct of such trade or business, and

"(B) the qualified possession source investment income.

"(2) CONDITIONS WHICH MUST BE SATISFIED.—The conditions referred to in paragraph (1) are:".

(B) INCOME FROM SALE OF CARRYOVER BASIS PROPERTY NOT TAKEN INTO ACCOUNT.—

(i) Subsection (d) of section 936 (relating to definitions) is amended by adding at the end thereof the following new paragraph:

"(3) CARRYOVER BASIS PROPERTY.—

"(A) IN GENERAL.—Income from the sale or exchange of any assets the basis of which is determined in whole or in part by reference to its basis in the hands of another person shall not be treated as income described in subparagraph (A) or (B) of subsection (a)(1).

"(B) EXCEPTION FOR POSSESSIONS CORPORATIONS, ETC.—For purposes of subparagraph (A), the holding of any asset by another person shall not be taken into account if throughout the period for which such asset was held by such person section 931, this section, or section 957(c) applied to such person.".

(ii) The heading of such subsection (d) is amended to read as follows:

"(d) DEFINITIONS AND SPECIAL RULES.—".

(C) EFFECTIVE DATE.—The amendments made by this paragraph shall apply as if included in section 936 of the Internal Revenue Code of 1954 at the time of its addition by section 1051(b) of the Tax Reform Act of 1976.

(12) GAIN ON DISPOSITION OF STOCK IN A DISC.—

(A) DELAY IN EFFECTIVE DATE.—Paragraph (4) of section 1101(g) of the Tax Reform Act of 1976 (relating to effective date for amendment relating to gain or disposition of DISC stock) is amended by striking out "December 31, 1975" and inserting in lieu thereof "December 31, 1976".

(B) TECHNICAL AMENDMENT.—Paragraph (1) of section 995(c) (relating to gain on disposition of stock in a DISC) is amended by adding at the end thereof the following new sentence:

"Subparagraph (C) shall not apply if the person receiving the stock in the disposition has a holding period for the stock which includes the period for which the stock was held by the shareholder disposing of such stock."

(C) EFFECTIVE DATE.—The amendment made by subparagraph (B) shall apply to dispositions made after December 31, 1976, in taxable years ending after such date.

(13) LIMITATION ON PARTNER'S TAX WHERE PARTNER RECEIVES AMOUNT TREATED AS SALE OF SECTION 1248 STOCK.—

(A) IN GENERAL.—Section 751 (relating to unrealized receivables and inventory items) is amended by adding at the end thereof the following new subsection:

"(e) LIMITATION ON TAX ATTRIBUTABLE TO DEEMED SALES OF SECTION 1248 STOCK.—For purposes of applying this section and sections 731, 736, and 741 to any amount resulting from the reference to section 1248(a) in the second sentence of subsection (c), in the case of an individual, the tax attributable to such amount shall be limited in the manner provided by subsection (b) of section 1248 (relating to gain from certain sales or exchanges of stock in certain foreign corporations)."

(B) CROSS REFERENCE.—Section 736 (relating to payments to a retiring partner or a deceased partner's successor in interest) is amended by adding at the end thereof the following new subsection:

"(c) CROSS REFERENCE.—

"For limitation on the tax attributable to certain gain connected with section 1248 stock, see section 751(e)."

(C) EFFECTIVE DATE.—The amendments made by this paragraph shall apply to transfers beginning after October 9, 1975, and to sales, exchanges, and distributions taking place after such date.

(14) EXCISE TAX ON TRANSFERS OF PROPERTY TO FOREIGN PERSONS TO AVOID FEDERAL INCOME TAX.—

(A) TRANSFERS INVOLVING ESTATES.—Section 1491 (relating to tax on transfers to avoid income tax) is amended by striking out "trust" each place it appears therein and inserting in lieu thereof "estate or trust".

(B) CLARIFICATION OF PARAGRAPH (3) OF SECTION 1492.—Paragraph (3) of section 1492 (relating to nontaxable transfers) is amended to read as follows:

"(3) To a transfer described in section 367; or".

(C) EFFECTIVE DATE.—The amendments made by this paragraph shall apply to transfers after October 2, 1975.

(15) ELECTION TO TREAT NONRESIDENT ALIEN INDIVIDUAL AS RESIDENT OF THE UNITED STATES.—

(A) PROVISIONS AFFECTED BY ELECTION.—Paragraph (1) of section 6013(g) (relating to election to treat nonresident alien individual as resident of the United States) is amended to read as follows:

"(1) IN GENERAL.—A nonresident alien individual with respect to whom this subsection is in effect for the taxable year shall be treated as a resident of the United States—

"(A) for purposes of chapters 1 and 5 for all of such taxable year, and

"(B) for purposes of chapter 24 (relating to wage withholding) for payments of wages made during such taxable year."

(B) CONFORMING AMENDMENT.—Paragraph (5) of section 6013(g) (relating to termination of election by Secretary is amended by striking out "chapter 1" and inserting in lieu thereof "chapters 1 and 5".

(C) CERTAIN AMOUNTS WITHHELD UNDER CHAPTER 3 TREATED AS OVERPAYMENTS OF TAX.—Subsection (b) of section 6401 (relating to excessive credits) is amended by adding at the end thereof the following new sentence: "For purposes of the preceding sentence, any credit allowed under paragraph (1) of section 32 (relating to withholding of tax on nonresident aliens and on foreign corporations) to a nonresident alien individual for a taxable year with respect to which an election under section 6013(g) is in effect shall be treated as an amount allowable as a credit under section 31."

(D) EFFECTIVE DATES.—The amendments made by this paragraph—

(i) to the extent that they relate to chapter 1 or 5 of the Internal Revenue Code of 1954, shall apply to taxable years ending on or after December 31, 1975, and

(ii) to the extent that they relate to wage withholding under chapter 24 of such Code, shall apply to remuneration paid on or after the first day of the first month which begins more than 90 days after the date of the enactment of this Act.

(16) ELECTION TO TREAT NONRESIDENT ALIEN INDIVIDUAL AS RESIDENT OF THE UNITED STATES.—

(A) IN GENERAL.—Paragraph (2) of section 6013(g) (relating to election to treat nonresident alien individual as resident of the United States) is amended by striking out "who, at the time an election was made under this subsection," and inserting in lieu thereof "who, at the close of the taxable year for which an election under this subsection was made,".

(B) EFFECTIVE DATE.—The amendment made by subparagraph (A) shall apply to taxable years beginning after December 31, 1976.

(u) HOLDING PERIOD OF COMMODITY FUTURES CONTRACTS.—

(1) IN GENERAL.—The last sentence of section 1222 (relating to other terms relating to capital gains and losses) is amended by inserting "agricultural" before "commodity" the first place it appears therein.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to sales or exchanges after December 31, 1977.

(v) AMENDMENT OF SECTION 1239(a).—

(1) IN GENERAL.—Subsection (a) of section 1239 (relating to gain from sale of depreciable property between certain related taxpayers) is amended by striking out "subject to the allowance for depreciation provided in section 167" and inserting in lieu thereof "of a character which is subject to the allowance for depreciation provided in section 167".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply as if included in the amendment made to section 1239 of the Internal Revenue Code of 1954 by section 2129(a) of the Tax Reform Act of 1976.

(w) RECAPTURE OF DEPRECIATION ON PLAYER CONTRACTS.—

(1) IN GENERAL.—Subparagraph (C) of section 1245(a)(4) (defining previously unrecaptured depreciation with respect to contracts transferred) is amended to read as follows:

"(C) PREVIOUSLY UNRECAPTURED DEPRECIATION WITH RESPECT TO CONTRACTS TRANSFERRED.—For purposes of subparagraph (A)(ii), the term 'previously unrecaptured depreciation' means the amount of any deduction allowed or allowable to the taxpayer for the depreciation of any contracts involved in such transfer."

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to transfers of player contracts in connection with any sale or exchange of a franchise after December 31, 1975.

(x) TREATMENT OF PENSIONS AND ANNUITIES FOR 50-PERCENT MAXIMUM RATE ON PERSONAL SERVICE INCOME.—

(1) IN GENERAL.—Subparagraph (A) of section 1348(b)(1) (defining personal service income) is amended by striking out "pension or annuity" and inserting in lieu thereof "pension or annuity which arises from an employer-employee relationship or from tax deductible contributions to a retirement plan".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to taxable years beginning after December 31, 1976.

(y) CHANGES IN THE SUBCHAPTER S PROVISIONS.—

(1) GRANTOR TRUST MAY BE TREATED AS PERMITTED SHAREHOLDER AFTER DECEDENT'S DEATH; GRANTOR OR GRANTOR TRUST MUST BE INDIVIDUAL.—Paragraph (1) of subsection (f) of section 1371 is amended to read as follows:

"(1)(A) A trust all of which is treated as owned by the grantor (who is an individual who is a citizen or resident of the United States) under subpart E of part I of subchapter J of this chapter.

"(B) A trust which was described in subparagraph (A) immediately before the death of the grantor and which continues in existence after such death, but only for the 60-day period beginning on the day of the grantor's death. If a trust is described in the preceding sentence and if the entire corpus of the trust is includible in the gross estate of the grantor, the preceding sentence shall be applied by substituting '2-year period' for '60-day period'."

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to taxable years beginning after December 31, 1976.

(z) WITHDRAWALS FROM INDIVIDUAL RETIREMENT ACCOUNTS, ETC.—

(1) IN GENERAL.—The last sentence of section 4973(b) (relating to excess contributions to individual retirement accounts, etc.) is amended by striking out "solely because of employer contributions to a plan or contract described in section 219(b)(2)" and inserting in lieu thereof "solely because of ineligibility under section 219(b)(2) or section 220(b)(3)".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply as if included in section 1501 of the Tax Reform Act of 1976 at the time of the enactment of such Act.

(aa) AMENDMENTS RELATING TO DISCLOSURE OF TAX RETURNS.—

(1) DISCLOSURE OF MAILING ADDRESS TO NATIONAL INSTITUTE FOR OCCUPATONAL SAFETY AND HEALTH AND FOR PURPOSES OF COLLECTING CERTAIN STUDENT LOANS.—

(A) Subsection (m) of section 6103 (relating to disclosure of taxpayer identity information) is amended to read as follows:

"(m) DISCLOSURE OF TAXPAYER IDENTITY INFORMATION.—

"(1) TAX REFUNDS.—The Secretary may disclose taxpayer identity information to the press and other media for purposes of notifying persons entitled to tax refunds when the Secretary, after reasonable effort and lapse of time, has been unable to locate such persons.

"(2) FEDERAL CLAIMS.—Upon written request, the Secretary may disclose the mailing address of a taxpayer to officers and employees of an agency personally and directly engaged in, and solely for their use in, preparation for any administrative or judicial proceeding (or investigation which may result in such a proceeding) pertaining to the collection or compromise of a Federal claim against such taxpayer in accordance with the provisions of section 3 of the Federal Claims Collection Act of 1966.

"(3) NATIONAL INSTITUTE FOR OCCUPATIONAL SAFETY AND HEALTH.—Upon written request, the Secretary may disclose the mailing address of taxpayers to officers and employees of the National Institute for Occupational Safety and Health solely for the purpose of locating individuals who are, or may have been, exposed to occupational hazards in order to determine the status of their health or to inform them of the possible need for medical care and treatment.

"(4) INDIVIDUALS WHO HAVE DEFAULTED ON STUDENT LOANS.—

"(A) IN GENERAL.—Upon written request by the Commissioner of Education, the Secretary may disclose the mailing address of any taxpayer who has defaulted on a loan made from a student loan fund established under part E of title IV of the Higher Education Act of 1965 for use only for purposes of locating such taxpayer for purposes of collecting such loan.

"(B) DISCLOSURE TO INSTITUTIONS.—Any mailing address disclosed under subparagraph (A) may be disclosed by the Commissioner of Education to any educational institution with which he has an agreement under part E of title IV of the Higher Education Act of 1965 only for use by officers, employees, or agents of such institution whose duties relate to the collection of student loans for purposes of locating individuals who have defaulted on student loans made by such institution pursuant to such agreement for purposes of collecting such loans."

(B) Paragraph (3) of section 6103(a) is amended by inserting ", subsection (m)(4)(B)," after "subsection (e)(1)(D)(iii)".

(C) Paragraph (2) of section 7213(a) (relating to penalities for unauthorized disclosure of information is amended—

(i) by striking out "or any local" and inserting in lieu thereof ", any local";

(ii) by inserting ", or any educational institution" after "enforcement agency"; and

(iii) by striking out "section 6103(d) or (l)(6)" and inserting in lieu thereof "subsection (d), (l)(6), or (m)(4)(B) of section 6103".

(2) DISCLOSURE OF TAX RETURN INFORMATION REGARDING SPECIAL FUEL EXCISE TAXES.—Subsection (d) of section 6103 (relating to disclosure to State tax officials) is amended by inserting "31," after "24,".

(3) RETURN INFORMATION OTHER THAN TAXPAYER RETURN INFORMATION.—Paragraph (2) of section 6103(i) (relating to return information other than taxpayer return information) is amended by adding at the end thereof the following new sentence: "For purposes of this paragraph, the name and address of the taxpayer shall not be treated as taxpayer return information."

(4) DISCLOSURE OF RETURN INFORMATION CONCERNING POSSIBLE CRIMINAL ACTIVITIES.—Paragraph (3) of section 6103(i) (relating to disclosure of return information concerning possible criminal activities) is amended by adding at the end thereof the following new sentence: "For purposes of the preceding sentence, the name and address of the taxpayer shall not be treated as taxpayer return information if there is return information (other than taxpayer return information) which may constitute evidence of a violation of Federal criminal laws."

(5) CRIMINAL PENALTY FOR UNAUTHORIZED DISCLOSURE OF INFORMATION.—Section 7213(a) (relating to unauthorized disclosure of information) is amended—

(A) by striking out "to disclose" in paragraphs (1), (2), and (5) and inserting in lieu thereof "willfully to disclose",

(B) by striking out "to thereafter print or publish" in paragraph (3) and inserting in lieu thereof "thereafter willfully to print or publish", and

(C) by striking out "to offer" in paragraph (4) and inserting in lieu thereof "willfully to offer".

(6) NO CIVIL LIABILITY FOR GOOD FAITH BUT ERRONEOUS INTERPRETATION OF DISCLOSURE REQUIREMENTS.—Section 7217 (relating to civil damages for unauthorized disclosure of return and return information) is amended—

(A) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively;

(B) by inserting after subsection (a) the following new subsection:

"(b) NO LIABILITY FOR GOOD FAITH BUT ERRONEOUS INTERPRETATION.—No liability shall arise under this section with respect to any disclosure which results from a good faith, but erroneous, interpretation of section 6103."; and

(C) by striking out "An action" in subsection (d) (as so redesignated) and inserting in lieu thereof "PERIOD FOR BRINGING ACTION.—An action".

(7) EFFECTIVE DATES.—

(A) Except as provided in subparagraph (B), the amendments made by this subsection shall take effect January 1, 1977.

(B) The amendments made by paragraph (6) shall apply with respect to disclosures made after the date of the enactment of this Act.

(bb) AMENDMENTS RELATING TO INCOME TAX RETURN PREPARERS.—

(1) NEGOTIATION OF CHECKS BY BANK.—Subsection (f) of section 6695 (relating to negotiation of check) is amended by adding at the end thereof the following new sentence: "The preceding sentence shall not apply with respect to the deposit by a bank (within the meaning of section 581) of the full amount of the check in the taxpayer's account in such bank for the benefit of the taxpayer."

(2) DEFINITION.—Clause (iii) of section 7701(a)(36)(B) (relating to exceptions from the definition of income tax return preparer) is amended to read as follows:

"(iii) prepares as a fiduciary a return or claim for refund for any person, or".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to documents prepared after December 31, 1976.

(cc) CLARIFICATION OF DECLARATORY JUDGMENT PROVISIONS WITH RESPECT TO REVOCATIONS OF OR OTHER CHANGES IN THE QUALIFICATIONS OF CERTAIN ORGANIZATIONS.—

(1) QUALIFICATION OF CERTAIN RETIREMENT PLANS.—Subsection (a) of section 7476 (relating to declaratory judgments relating to qualification of certain retirement plans) is amended by adding at the end thereof the following new sentence: "For purposes of this section, a determination with respect to a continuing qualification includes any revocation of or other change in a qualification."

(2) CLASSIFICATION OF ORGANIZATIONS UNDER SECTION 501(c)(3), ETC.—Subsection (a) of section 7428 (relating to declaratory judgments relating to status and classification of organizations under section 501(c)(3), etc.) is amended by adding at the end thereof the following new sentence: "For purposes of this section, a determination with respect to a continuing qualification or continuing classification includes any revocation of or other change in a qualification or classification."

(3) EFFECTIVE DATE.—The amendments made by paragraphs (1) and (2) shall take effect as if included in section 7476 or 7428 of the Internal Revenue Code of 1954 (as the case may be) at the respective times such sections were added to such Code.

SEC. 3. TECHNICAL, CLERICAL, AND CONFORMING AMENDMENTS TO ESTATE AND TAX PROVISIONS.

(a) AMENDMENTS RELATING TO TREATMENT OF SECTION 306 STOCK.—

(1) APPLICATION OF "FRESH START" TO SECTION 306 STOCK.—Subsection (a) of section 306 (relating to dispositions of certain stock) is amended by adding at the end thereof the following new paragraph:

"(3) ORDINARY INCOME FROM SALE OR REDEMPTION OF SECTION 306 STOCK WHICH IS CARRYOVER BASIS PROPERTY ADJUSTED FOR 1976 VALUE.—

"(A) IN GENERAL.—If any section 306 stock was distributed before January 1, 1977, and if the adjusted basis of such stock in the hands of the person disposing of it is determined under section 1023 (relating to carryover basis), then the amount treated as ordinary income under paragraph (1)(A) of this subsection (or the amount treated as a dividend under section 301(c)(1)) shall not exceed the excess of the amount realized over the sum of—

"(i) the adjusted basis of such stock on December 31, 1976, and

"(ii) any increase in basis under section 1023(h).

"(B) REDEMPTION MUST BE DESCRIBED IN SECTION 302(b).—Subparagraph (A) shall apply to a redemption only if such redemption is described in paragraph (1), (2), or (4) of section 302(b)."

(2) CLARIFICATION THAT SECTION 303 OVERRIDES SECTION 306.—Subsection (b) of section 306 (relating to exceptions) is amended by adding at the end thereof the following new paragraph:

"(5) SECTION 303 REDEMPTIONS.—To the extent that section 303 applies to a distribution in redemption of section 306 stock.".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to the estates of decedents dying after December 31, 1976.

(b) COORDINATION OF DEDUCTION FOR ESTATE TAXES ATTRIBUTABLE TO INCOME IN RESPECT OF A DECEDENT WITH THE CAPITAL GAIN DEDUCTION, ETC.—

(1) IN GENERAL.—Subsection (c) of section 691 (relating to deduction for estate taxes in the case of income in respect of decedents) is amended by adding at the end thereof the following new paragraph:

"(4) COORDINATION WITH CAPITAL GAIN DEDUCTION, ETC.—For purposes of sections 1201, 1202, and 1211, and for purposes of section 57(a)(9), the amount of any gain taken into account with respect to any item described in subsection (a)(1) shall be reduced (but not below zero) by the amount of the deduction allowable under paragraph (1) of this subsection with respect to such item."

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply with respect to decedents dying after the date of the enactment of this Act.

(c) AMENDMENTS RELATING TO CARRYOVER BASIS.—

(1) MINIMUM CARRYOVER BASIS FOR TANGIBLE PERSONAL PROPERTY.—

(A) IN GENERAL.—Subsection (h) of section 1023 (relating to adjustment to basis for December 31, 1976, fair market value) is amended by adding at the end thereof the following new paragraph:

"(3) MINIMUM BASIS FOR TANGIBLE PERSONAL PROPERTY.—

"(A) IN GENERAL.—If the holding period for any carryover basis property which is tangible personal property includes December 31, 1976, then, for purposes of determining gain and applying this section, the adjusted basis of such property immediately before the death of the decedent shall be treated as being not less than the amount determined under subparagraph (B).

"(B) AMOUNT.—The amount determined under this subparagraph for and property is—

"(i) the value of such property (as determined with respect to the estate of the decedent without regard to section 2032), divided by

"(ii) 1.0066 to the nth power where n equals the number of full calendar months which have elapsed between December 31, 1976, and the date of the decedent's death."

(B) CONFORMING AMENDMENT.—Paragraph (3) of section 1023(g) (relating to decedent's basis unknown) is amended by striking out "to the person acquiring such property from the decedent" and inserting in lieu thereof "and cannot be reasonably ascertained".

(2) TREATMENT OF INDEBTEDNESS.—

(A) IN GENERAL.—Paragraph (1) of section 1023(g) (defining fair market value) is amended by inserting "(without regard to whether there is a mortgage on, or indebtedness in respect of, the property)" after "chapter 11".

(B) TECHNICAL AMENDMENT.—Subsection (g) of section 1023 (relating to other special rules and definitions) is amended by striking out paragraph (4).

(3) ONLY ONE FRESH START WITH RESPECT TO CARRYOVER BASIS PROPERTY HELD ON DECEMBER 31, 1976.—Subsection (h) of section 1023 (relating to adjustment to basis for December 31, 1976, fair market value) is amended by adding at the end thereof the following new paragraph:

"(4) ONLY ONE FRESH START.—There shall be no increase in basis under this subsection by reason of the death of any decedent if the adjusted basis of the property in the hands of such decedent reflects the adjusted basis of property which was carryover basis property with respect to a prior decedent."

(4) AUTOMATIC LONG-TERM STATUS FOR GAINS AND LOSSES ON CARRYOVER BASIS PROPERTY.—Subparagraph (A) of section 1223(11) is amended by inserting "or 1023" after "section 1014".

(5) CLARIFICATION THAT ADJUSTED BASIS IS INCREASED FOR STATE ESTATE TAXES.—

(A) Subsection (c) of section 1023 (relating to increase in basis for Federal and State estate taxes attributable to appreciation) is amended to read as follows:

"(c) INCREASE IN BASIS FOR FEDERAL AND STATE ESTATE TAXES ATTRIBUTABLE TO APPRECIATION.—

"(1) FEDERAL ESTATE TAXES.—The basis of appreciated carryover basis property (determined after any adjustment under subsection(h)) which is subject to the tax imposed by section 2001 or 2101 in the hands

of the person acquiring it from the decedent shall be increased by an amount which bears the same ratio to the Federal estate taxes as—

"(A) the net appreciation in value of such property, bears to

"(B) the fair market value of all property which is subject to the tax imposed by section 2001 or 2101.

"(2) STATE ESTATE TAXES.—The basis of appreciated carryover basis property (determined after any adjustment under subsection (h)) which is subject to State estate taxes in the hands of the person acquiring it from the decedent shall be increased by an amount which bears the same ratio to the State estate taxes as—

"(A) the net appreciation in value of such property, bears to

"(B) the fair market value of all property which is subject to the State estate taxes."

(B) The second sentence of paragraph (2) of section 1023(f) (defining net appreciation) is amended by striking out "For purposes of subsection (d)," and inserting in lieu thereof "For purposes of paragraph (2) of subsection (c), such adjusted basis shall be increased by the amount of any adjustment under paragraph (1) of subsection (c), for purposes of subsection (d),".

(C) Paragraph (3) of section 1023(f) (defining Federal and State estate taxes) is amended to read as follows:

"(3) FEDERAL AND STATE ESTATE TAXES.—For purposes of subsection (c)—

"(A) FEDERAL ESTATE TAXES.—The term 'Federal estate taxes' means the tax imposed by section 2001 or 2101, reduced by the credits against such tax.

"(B) STATE ESTATE TAXES.—The term 'State estate taxes' means any estate, inheritance, legacy, or succession taxes, for which the estate is liable, actually paid by the estate to any State or the District of Columbia."

(6) CLARIFICATION OF INCREASE IN BASIS FOR CERTAIN STATE SUCCESSION TAXES.—Paragraph (2) of section 1023(e) (relating to further increase in basis for certain State succession tax paid by transferee of property) is amended by striking out "for which the estate is not liable".

(7) CLARIFICATION OF APPLICATION OF FRESH START.—Paragraphs (1) and (2)(A) of section 1023(h) (relating to adjustment to basis for December 31, 1976, fair market value) are each amended by striking out "for purposes of determining gain" and inserting in lieu thereof "for purposes of determining gain and applying this section".

(8) TECHNICAL AMENDMENT WITH RESPECT TO CERTAIN TERM INTERESTS.—Paragraph (1) of section 1001(e) (relating to certain term interests) is amended by striking out "section 1014 or 1015" and inserting in lieu thereof "section 1014, 1015, or 1023".

(9) EFFECTIVE DATE.—The amendments made by this subsection shall apply in respect of decedents dying after December 31, 1976.

(d) AMENDMENTS RELATING TO VALUATION OF CERTAIN FARM, ETC., REAL PROPERTY.—

(1) CLARIFICATION THAT SPECIAL VALUATION APPLIES ONLY TO INTERESTS PASSING TO QUALIFIED HEIRS.—Paragraph (1) of section 2032A (b) (defining qualified real property) is amended by striking out "real property located in the United States" and inserting in lieu thereof "real property located in the United States which was acquired from or passed from the decedent to a qualified heir of the decedent and".

(2) PROPERTY RECEIVED IN SATISFACTION OF PECUNIARY BEQUEST.—Subsection (e) of section 2032A (relating to definitions and special rules for farm valuation property) is amended by adding at the end thereof the following new paragraph:

"(9) PROPERTY ACQUIRED FROM DECEDENT.—Property shall be considered to have been acquired from or to have passed from the decedent if—

"(A) such property is so considered under section 1014(b) (relating to basis of property acquired from a decedent),

"(B) such property is acquired by any person from the estate in satisfaction of the right of such person to a pecuniary bequest, or

"(C) such property is acquired by any person from a trust in satisfaction of a right (which such person has by reason of the death of the decedent) to receive from the trust a specific dollar amount which is the equivalent of a pecuniary bequest."

(3) USE OF FARM EVALUATION PROPERTY TO SATISFY PECUNIARY BEQUEST.—Subsection (a) of section 1040 (relating to use of certain appreciated carryover basis property to satisfy pecuniary bequest) is amended by inserting "(determined without regard to section 2032A)" after "chapter 11".

(4) TTRATMENT OF CERTAIN COMMUNITY PROPERTY.—Subsection (e) of section 2032A is amended by adding at the end thereof the following new paragraph:

"(10) COMMUNITY PROPERTY.—If the decedent and his surviving spouse at any time held qualified real property as community property, the interest of the surviving spouse in such property shall be taken into account under this section to the extent necessary to provide a result under this section with respect to such property which is consistent with the result which would have obtained under this section if such property had not been community property."

(5) SUBSTITUTION OF BOND FOR PERSONAL LIABILITY OF QUALIFIED HEIR FOR THE RECAPTURE TAX WITH RESPECT TO FARM VALUATION PROPERTY.—

(A) IN GENERAL.—Paragraph (6) of section 2032A(c) is amended to read as follows:

"(6) LIABILITY FOR TAX; FURNISHING OF BOND.—The qualified heir shall be personally liable for the additional tax imposed by this subsection with respect to his interest unless the heir has furnished bond which meets the requirements of subsection (e) (11)."

(B) BOND REQUIREMENTS.—Subsection (e) of section 2032A is amended by adding at the end thereof the following new paragraph:

"(11) BOND IN LIEU OF PERSONAL LIABILITY.—If the qualified heir makes written application to the Secretary for determination of the maximum amount of the additional tax which may be imposed by subsection (c) with respect to the qualified heir's interest, the Secretary (as soon as possible, and in any event within 1 year after the making of such application) shall notify the heir of such maximum amount. The qualified heir, on furnishing a bond in such amount and for such period as may be required, shall be discharged from personal liability for any additional tax imposed by subsection (c) and shall be entitled to a receipt or writing showing such discharge."

(6) EFFECTIVE DATE.—The amendments made by this subsection shall apply to the estates of decedents dying after December 31, 1970.

(e) AMOUNT OF SECURITY REQUIRED FOR EXTENDED PAYMENT PROVISIONS FOR CLOSELY HELD BUSINESSES—

(1) IN GENERAL.—

(A) Paragraph (2) of section 6324A(e) (defining aggregate interest amount) is amended to read as follows:

"(2) REQUIRED INTEREST AMOUNT.—The term 'required interest amount' means the aggregate amount of interest which will be payable over the first 4 years of the deferral period with respect to the deferred amount (determined as of the date prescribed by section 6151(a) for the payment of the tax imposed by chapter 11)."

(B) Subparagraph (B) of section 6324A(b)(2) (relating to maximum value of required property) is amended by striking out "aggrate interest amount" and inserting in lieu thereof "required interest amount."

(C) Paragraph (5) of section 6324A(d) (relating to special rules) is amended by striking out "aggregate interest amount" and inserting in lieu thereof "required interest amount".

(D) Paragraph (4) of section 6234A(e) (relating to application of definitions in case of deficiencies) is amended by striking out "aggregate interest amount" and inserting in lieu thereof "required interest amount".

(2) EFFECTIVE DATE.—The amendments made by this section shall apply to the estates of decedents dying after December 31, 1976.

(f) CLARIFICATION OF THE $3,000 ANNUAL EXCLUSION FROM THE RULE INCLUDING IN GROSS ESTATE TRANSFERS WITHIN 3 YEARS OF DEATH.—

(1) AMENDMENT OF SECTION 2035(b).—Subsection (b) of section 2035 (relating to adjustments for gifts made within 3 years of decedent's death) is amended to read as follows:

"(b) EXEMPTIONS—Subsection (a) shall not apply—

"(1) to any bona fide sale for an adequate and full consideration in money or money's worth, and

"(2) to any gift to a donee made during a calendar year if the decedent was not required by section 6019 to file any gift tax return for such year with respect to gifts to such donee.

Paragraph (2) shall not apply to any transfer with respect to a life insurance policy."

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to the estates of decedents dying after December 31, 1976, except that it shall not apply to transfers made before January 1, 1977.

(g) AMENDMENTS RELATING TO ESTATE TAX MARITAL DEDUCTION.—

(1) DEDUCTION NOT REDUCED FOR GIFT TO SPOUSE WHICH IS INCLUDED IN DONOR'S ESTATE BY REASON OF SECTION 2035.—Subparagraph (B) of section 2056(c)(1) (relating to adjustment to estate tax marital deduction for certain gifts to spouse) is amended by adding at the end thereof the following new sentence:

"For purposes of this subparagraph, a gift which is includible in the gross estate of the donor by reason of section 2035 shall not be taken into account."

(2) REDUCTION FOR GIFT TAX MARITAL DEDUCTION IN EXCESS OF 50 PERCENT OF THE VALUE OF GIFTS TO A SPOUSE.—Clause (ii) of section 2056(c)(1)(B) (relating to adjustment to estate tax marital deduction for certain gifts to spouse) is amended by inserting "required to be included in a gift tax return" after "with respect to any gift".

(3) EFFECTIVE DATE.—The amendment made by this subsection shall apply to the estate of decedents dying after December 31, 1976.

(h) COORDINATION OF SECTIONS 2513 AND 2035.—

(1) IN GENERAL.—Section 2001 (relating to imposition and rate of estate tax) is amended by adding at the end thereof the following new subsection:

"(e) COORDINATION OF SECTIONS 2513 AND 2035.—If—

"(1) the decedent's spouse was the donor of any gift one-half of which was considered under section 2513 as made by the decedent, and

"(2) the amount of such gift is includible in the gross estate of the decedent's spouse by reason of section 2035,

such gift shall not be included in the adjusted taxable gifts of the decedent for purposes of subsection (b)(1)(B), and the aggregate amount determined under subsection (b)(2) shall be reduced by the amount (if any) determined under subsection (d) which was treated as a tax payable by the decedent's spouse with respect to such gift."

(2) CONFORMING AMENDMENT.—Subparagraph (C) of section 2602(a)(1) (relating to amount of tax on generation-skipping transfers) is amended by striking out "section 2001(b))" and inserting in lieu thereof "section 2001(b), as modified by section 2001(e))".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply with respect to the estates of decedents dying after December 31, 1976, except that such amendments shall not apply to transfers made before January 1, 1977.

(i) INCLUSION IN GROSS ESTATE OF STOCK TRANSFERRED BY THE DECEDENT WHERE THE DECEDENT RETAINS OR ACQUIRES VOTING RIGHTS.—

(1) IN GENERAL.—Section 2036 (relating to transfers with retained life estate) is amended by redesignating subsection (b) as subsection (c) and by inserting after subsection (a) the following new subsection:

"(b) VOTING RIGHTS.—

"(1) IN GENERAL.—For purposes of subsection (a)(1), the retention of the right to vote (directly or indirectly) shares of stock of a controlled corporation shall be considered to be a retention of the enjoyment of transferred property.

"(2) CONTROLLED CORPORATION.—For purposes of paragraph (1), a corporation shall be treated as a controlled corporation if, at any time after the transfer of the property and during the 3-year period ending on the date of the decedent's death, the decedent owned (with the application of section 318), or had the right (either alone or in conjunction with any person) to vote, stock possessing at least 20 percent of the total combined voting power of all classes of stock.

"(3) COORDINATION WITH SECTION 2035.—For purposes of applying section 2035 with respect to paragraph (1), the relinquishment or cessation of voting rights shall be treated as a transfer of property made by the decedent."

(2) CONFORMING AMENDMENT.—Subsection (a) of section 2036 is amended by striking out the last sentence thereof.

(3) EFFECTIVE DATE.—The amendment made by this subsection shall apply to transfer made after June 22, 1976.

(j) AMENDMENTS RELATING TO INDIVIDUAL RETIREMENT ACCOUNTS, ETC., FOR SPOUSE.—

(1) APPLICATION OF ESTATE TAX EXCLUSION TO INDIVIDUAL RETIREMENT ACCOUNTS, ETC., FOR SPOUSE.—Subsection (e) of section 2039 (relating to exclusion of individual retirement accounts, etc.) is amended by striking out "section 219" each place it appears and inserting in lieu thereof "section 219 or 220".

(2) TRANSFERS TO INDIVIDUAL RETIREMENT ACCOUNTS, ETC., FOR SPOUSE TREATED AS TRANSFERS OF PRESENT INTERESTS.—Section 2503 (relating to taxable gifts) is amended by adding at the end thereof the following new subsection:

"(d) INDIVIDUAL RETIREMENT ACCOUNTS, ETC., FOR SPOUSE.—For purposes of subsection (b), any payment made by an individual for the benefit of his spouse—

"(1) to an individual retirement account described in section 408(a),

"(2) to an individual retirement annuity described in section 408(b), or

"(3) for a retirement bond described in section 409,

shall not be considered a gift of a future interest in property to the extent that such payment is allowable as a deduction under section 220."

(3) EFFECTIVE DATES.—

(A) The amendment made by paragraph (1) shall apply to the estates of decedents dying after December 31, 1976.

(B) The amendment made by paragraph (2) shall apply to transfers made after December 31, 1976.

(k) PROVISIONS RELATING TO TREATMENT OF JOINT INTERESTS.—

(1) REMOVAL OF REQUIREMENT OF ACTUARIAL COMPUTATIONS FOR JOINT INTERESTS IN PERSONAL PROPERTY.—

(A) IN GENERAL.—Subchapter (B) of chapter 12 (relating to transfers for purposes of the gift tax) is amended by inserting after section 2515 the following new section:

"Sec. 2515A. TENANCIES BY THE ENTIRETY IN PERSONAL PROPERTY.

"(a) CERTAIN ACTUARIAL COMPUTATIONS NOT REQUIRED.—In the case of—

"(1) the creation (either by one spouse alone or by both spouses) of a joint interest of a husband and wife in personal property with right of survivorship, or

"(2) additions to the value thereof in the form of improvements, reductions in the indebtedness thereof, or otherwise,

the retained interest of each spouse shall be treated as one-half of the value of their joint interest.

"(b) EXCEPTION.—Subsection (a) shall not apply with respect to any joint interest in property if the fair market value of the interest or of the property (determined as if each spouse had a right to sever) cannot reasonably be ascertained except by reference to the life expectancy of one or both spouses."

(B) CHANGE IN SECTION 2515 HEADING.—The heading for section 2515 is amended to read as follows:

"Sec. 2515. TENANCIES BY THE ENTIRETY IN REAL PROPERTY."

(C) CLERICAL AMENDMENTS.—The table of sections for subchapter B of chapter 12 is amended by striking out the item relating to section 2515 and inserting in lieu thereof the following:

"Sec. 2515. Tenancies by the entirety in real property.
"Sec. 2515A. Tenancies by the entirety in personal property."

(D) EFFECTIVE DATE.—The amendments made by this paragraph shall apply to joint interests created after December 31, 1976.

(2) EXTENSION OF FRACTIONAL INTEREST RULE TO CERTAIN JOINT INTERESTS IN REAL OR PERSONAL PROPERTY CREATED BEFORE 1977.—Section 2040 (relating to joint interests) is amended by adding at the end thereof the following new subsections:

"(c) JOINT INTERESTS OF HUSBAND AND WIFE CREATED BEFORE 1977.—Under regulations prescribed by the Secretary—

"(1) IN GENERAL.—In the case of any joint interest created before January 1, 1977, which (if created after December 31, 1976) would have constituted a qualified joint interest under subsection (b)(2) (determined without regard to clause (ii) of subsection (b)(2)(B)), the donor may make an election under this subsection to have paragraph (1) of subsection (b) apply with respect to such joint interest.

"(2) TIME FOR MAKING ELECTION.—An election under this subsection with respect to any property shall be made for the calendar quarter in 1977, 1978, or 1979 selected by the donor in a gift tax return filed within the time prescribed by law for filing a gift tax return for such quarter. Such an election may be made irrespective of whether or not the amount involved exceeds the exclusion provided by section 2503(b); but no election may be made under this subsection after the death of the donor.

"(3) TAX EFFECTS OF ELECTION.—In the case of any property with respect to which an election has been made under this subsection, for purposes of this title—

"(A) the donor shall be treated as having made a gift at the close of the calendar quarter selected under paragraph (2), and

"(B) the amount of the gift shall be determined under paragraph (4).

"(4) AMOUNT OF GIFT.—For purposes of paragraph (3)(B), the amount of any gift is one-half of the amount—

"(A) which bears the same ratio to the excess of (i) the fair market value of the property on the date of the deemed making of the gift under paragraph (3)(A), over (ii) the fair market value of such property on the date of the creation of the joint interest, as

"(B) the excess of (i) the consideration furnished by the donor at the time of the creation of the joint interest, over (ii) the consideration furnished at such time by the donor's spouse, bears to the total consideration furnished by both spouses at such time.

"(5) SPECIAL RULE FOR PARAGRAPH (4)(A).—For purposes of paragraph (4)(A)—

"(A) in the case of real property, if the creation was not treated as a gift at the time of the creation, or

"(B) in the case of personal property, if the gift was required to be included on a gift tax return but was not so included, and the period of limitations on assessment under tax (if any) on such gift,

then the fair market value of the property on the date of the creation of the joint interest shall be treated as zero.

"(6) SUBSTANTIAL IMPROVEMENTS.—For purposes of this subsection, a substantial improvement of any property shall be treated as the creation of a separate joint interest.

"(d) TREATMENT OF CERTAIN POST-1967 TERMINATIONS.—

"(1) IN GENERAL.—If—

"(A) before January 1, 1977, a husband and wife had a joint interest in property with right of survivorship,

"(B) after December 31, 1976, such joint interest was terminated, and

"(C) after December 31, 1976, a joint interest of such husband and wife in such property (or in property the basis of which in whole or in part reflects the basis of such property) was created,

then paragraph (1) of subsection (b) shall apply to the joint interest described in subparagraph (C) only if an election is made under subsection (c).

"(2) SPECIAL RULES.—For purposes of applying subsection (c) to property described in paragraph (1) of this subsection—

"(A) if the creation described in paragraph (1)(C) occurs after December 31, 1979, the election may be made only with respect to the calendar quarter in which such creation occurs, and

"(B) the creation of the joint interest described in paragraphs (4) and (5) of subsection (c) is the creation of the joint interest described in paragraph (1)(A) of this subsection."

(l) AMENDMENTS RELATING TO ORPHANS' EXCLUSION.—

(1) ORPHANS' EXCLUSION WHERE THERE IS A TRUST FOR MINOR CHILDREN.—Section 2057 (relating to bequests, etc., to certain minor children) is amended by redesignating subsection (d) as subsection (e) and by inserting after subsection (c) the following new subsection:

"(d) QUALIFIED MINORS' TRUST.—

"(1) IN GENERAL.—For purposes of subsection (a), the interest of a minor child in a qualified minors' trust shall be treated as an interest in property which passes or has passed from the decedent to such child.

"(2) QUALIFIED MINORS' TRUST.—For purposes of paragraph (1), the term 'qualified minors' trust' means a trust—

"(A) except as provided in subparagraph (D), all of the beneficiaries of which are minor children of the decedent,

"(B) the corpus of which is property which passes or has passed from the decedent to such trust,

"(C) except as provided in paragraph (3), all distributions from which to the bene-

ficiaries of the trust before the termination of their interests will be pro rata,

"(D) on the death of any beneficiary of which before the termination of the trust, the beneficiary's pro rata share of the corpus and accumulated income remains in the trust for the benefit of the minor children of the decedent who survive the beneficiary or vests in any person, and

"(E) on the termination of which, each beneficiary will receive a pro rata share of the corpus and accumulated income.

"(3) CERTAIN DISPROPORTIONATE DISTRIBUTIONS PERMITTED.—A trust shall not be treated as failing to meet the requirements of paragraph (2)(C) solely by reason of the fact that the governing instrument of the trust permits the making of disproportionate distributions which are limited by an ascertainable standard relating to the health, education, support, or maintenance of the beneficiaries.

"(4) TRUSTEE MAY ACCUMULATE INCOME.—A trust which otherwise qualifies as a qualified minors' trust shall not be disqualified solely by reason of the fact that the trustee has power to accumulate income.

"(5) COORDINATION WITH SUBSECTION (c).—In applying subsection (c) to a qualified minors' trust, those provisions of section 2056(b) which are inconsistent with paragraph (3) or (4) of this subsection shall not apply.

"(6) DEATH OF BENEFICIARY BEFORE YOUNGEST CHILD REACHES AGE 23.—Nothing in this subsection shall be treated as disqualifying an interest of a minor child in a trust solely because such interest will pass to another person if the child dies before the youngest child of the decedent attains age 23."

(2) AGE 23 FOR TERMINABLE INTEREST RULE IN THE CASE OF ORPHANS' EXCLUSION.—The second sentence of subsection (c) of section 2057 (relating to limitation in the case of life estate or other terminable interest) is amended by striking out "21" and inserting in lieu thereof "23".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to the estates of decedents dying after December 31, 1976.

(m) DISCLAIMER BY SURVIVING SPOUSE WHERE INTEREST PASSES TO SUCH SPOUSE.—

(1) IN GENERAL.—Paragraph (4) of section 2518(b) (defining qualified disclaimer) is amended to read as follows:

"(4) as a result of such refusal, the interest passes without any direction on the part of the person making the disclaimer and passes either—

"(A) to the spouse of the decedent, or

"(B) to a person other than the person making the disclaimer."

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to transfers creating an interest in the person disclaiming made after December 31, 1976.

(n) AMENDMENTS RELATING TO TAX ON GENERATION-SKIPPING TRANSFERS.—

(1) CERTAIN POWERS OF INDEPENDENT TRUSTEES NOT TREATED AS POWERS.—Subsection (e) of section 2613 (relating to definitions for purposes of the tax on generation-skipping transfers) is amended to read as follows:

"(e) CERTAIN POWERS NOT TAKEN INTO ACCOUNT.—

"(1) LIMITED POWER TO APPOINT AMONG LINEAL DESCENDENTS OF THE GRANTOR.—For purposes of this chapter, an individual shall be treated as not having any power in a trust if such individual does not have any present or future power in the trust other than a power to dispose of the corpus of the trust or the income therefrom to a beneficiary or a class of beneficiaries who are lineal descendants of the grantor assigned to a generation younger than the generation assignment of such individual.

"(2) POWERS OF INDEPENDENT TRUSTEES.—

"(A) IN GENERAL.—For purposes of this chapter, an individual shall be treated as not having any power in a trust if such individual—

"(i) is a trustee who has no interest in the trust,

"(ii) is not a related or subordinate trustee, and

"(iii) does not have any present or future power in the trust other than a power to dispose of the corpus of the trust or the income therefrom to a beneficiary or a class of beneficiaries designated in the trust instrument.

"(B) RELATED OR SUBORDINATE TRUSTEE DEFINED.—For purposes of subparagraph (A), the term 'related or subordinate trustee' means any trustee who is—

"(i) the spouse of the grantor or of any beneficiary,

"(ii) the father, mother, lineal descendant, brother, or sister of the grantor or of any beneficiary,

"(iii) an employee of a corporation in which the stockholdings of the grantor, the trust, and the beneficiaries of the trust are significant from the viewpoint of voting control, or

"(iv) an employee of a corporation in which the grantor or any beneficiary of the trust is an executive."

(2) CLARIFICATION OF SECTION 2613(b)(2)(B).—Subparagraph (B) of section 2613(b)(2) defining taxable termination for purposes of the tax an generation skipping transfers) is amended—

(A) by striking out "an interest and a power" and inserting in lieu thereof "a present interest and a present power", and

(B) by striking out "interest or power" and inserting in lieu thereof "present interest or present power".

(3) ALTERNATES VALUATION IN CERTAIN CASES WHERE THERE IS A TAXABLE TERMINATION AT DEATH OF OLDER GENERATION BENEFICIARY.—

(A) IN GENERAL.—Subparagraph (A) of section 2602(d)(1) (relating to alternate valuation) is amended by inserting "(or at the same time as the death of a beneficiary of the trust assigned to a higher generation than such deemed transferor)" after "such deemed transferor".

(B) SPECIAL RULES.—Subparagraph (A) of section 2602(d)(2) (relating to special rules for alternate valuation) is amended by inserting "(for beneficiary)" after "the deemed transferor".

(4) EFFECTIVE DATE.—The amendments made by this subsection shall take effect as if included in chapter 13 of the Internal Revenue Code of 1954 as added by section 2006 of the Tax Reform Act of 1976.

(o) ADJUSTMENT IN INCOME TAX ON ACCUMULATION DISTRIBUTIONS FOR PORTION OF ESTATE AND GENERATION-SKIPPING TRANSFER TAXES.—

(1) IN GENERAL.—Subsection (b) of section 667 (relating to tax on accumulation distribution) is amended by adding at the end thereof the following new paragraph:

"(6) ADJUSTMENT IN PARTIAL TAX FOR ESTATE AND GENERATION-SKIPPING TRANSFER TAXES ATTRIBUTABLE TO PARTIAL TAX.—

"(A) IN GENERAL.—The partial tax shall be reduced by an amount which is equal to the pre-death portion of the partial tax multiplied by a fraction—

"(i) the numerator of which is that portion of the tax imposed by chapter 11 or 13, as the case may be, which is attributable (on a proportinate basis) to amounts included in the accumulation distribution, and

"(ii) the denominator of which is the amount of the accumulation distribution which is subject to the tax imposed by chapter 11 or 13, as the case may be.

"(B) PARTIAL TAX DETERMINED WITHOUT REGARD TO THIS PARAGRAPH.—For purposes of this paragraph, the term 'partial tax' means the partial tax imposed by subsection (a)(2) determined under this subsection without regard to this paragraph.

"(C) PRE-DEATH PORTION.—For purposes of this paragraph, the pre-death portion of the partial tax shall be an amount which bears the same ratio to the partial tax as the portion of the accumulation distribution which is attributable to the period before the date of the death of the decedent or the date of the generation-skipping transfer bears to the total accumulation distribution."

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply—

(A) in the case of the tax imposed by chapter 11 of the Internal Revenue Code of 1954, to the estates of decedents dying after December 31, 1976, and

(B) in the case of the tax imposed by chapter 13, to any generation-skipping transfer (within the meaning of section 2611(a) of such Code) made after April 30, 1976.

(p) RELIEF OF EXECUTOR FROM PERSONAL LIABILITIY IN THE CASE OF RELIANCE ON GIFT TAX RETURNS.—

(1) IN GENERAL.—Section 2204 (relating to discharge of fiduciary from personal liability) is amended by adding at the end thereof the following new subsection:

"(d) GOOD FAITH RELIANCE ON GIFT TAX RETURNS.—If the executor in good faith relies on gift tax returns furnished under section 6103(e)(3) for determining the decedent's adjusted taxable gifts, the executor shall be discharged from personal liability with respect to any deficiency of the tax imposed by this chapter which is attributable to adjusted taxable gifts which—

"(1) are made more than 3 years before the date of the decedent's death, and

"(2) are not shown on such returns.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply with respect to the estates of decedents dying after December 31, 1976.

(q) AMENDMENT OF GOVERNING INSTRUMENTS TO MEET REQUIREMENTS FOR GIFTS OF SPLIT INTEREST TO CHARITY.

(1) CHARITABLE LEAD TRUSTS IN THE CASE OF ESTATE TAX.—The first sentence of paragraph (3) of section 2055(e) is amended to read as follows: "In the case of a will executed before December 31, 1977, or a trust created before such date, if a deduction is not allowable at the time of the decedent's death because of the failure of an interest in property which passes from the decedent to a person, or for a use, described in subsection (a) to meet the requirements of subparagraph (A) or (B) of paragraph (2) of this subsection, and if the governing instrument is amended or conformed on or before December 31, 1977, or, if later, on or before the 30th day after the date on which judicial proceedings begun on or before December 31, 1977 (which are required to amend or conform the governing instrument), become final, so that interest is in a trust which meets the requirements of such subparagraph (A) or (B) (as the case may be), a deduction shall nevertheless be allowed."

(2) CHARITABLE LEAD TRUSTS AND CHARITABLE REMAINDER TRUSTS IN THE CASE OF INCOME AND GIFT TAXES.—Under regulations prescribed by the Secretary of the Treasury or his delegate, in the case of trusts created before December 31, 1977, provisions comparable to section 2055(e)(3) of the Internal Revenue Code of 1954 (as amended by paragraph (1)) shall be deemed to be included in sections 170 and 2522 of the Internal Revenue Code of 1954.

(r) INDEXING OF FEDERAL TAX LIENS.—

(1) IN GENERAL.—Paragraph (4) of section 6323(f) (relating to indexing of tax liens) is amended to read as follows:

"(4) INDEXING REQUIRED WITH RESPECT TO CERTAIN REAL PROPERTY.—In the case of real property, if—

"(A) under the laws of the State in which the real property is located, a deed is not valid as against a purchaser of the property

who (at the time of purchase) does not have actual notice or knowledge of the existence of such deed unless the fact of filing of such deed has been entered and recorded in a public index at the place of filing in such a manner that a reasonable inspection of the index will reveal the existence of the deed, and

"(B) there is maintained (at the applicable office under paragraph (1)) an adequate system for the public indexing of Federal tax liens.

then the notice of lien referred to in subsection (a) shall not be treated as meeting the filing requirements under paragraph (1) unless the fact of filing is entered and recorded in the index referred to in subparagraph (B) in such manner that a reasonable inspection of the index will reveal the existence of the lien.".

(2) REFILING OF NOTICE OF LIEN.—Section 6323(q)(2)(A) (relating to refiling of notice of lien) is amended to read as follows:

"(A) if—

"(i) such notice of lien is refiled in the office in which the prior notice of lien was filed, and

"(ii) in the case of real property, the fact of refiling is entered and recorded in an index to the extent required by subsection (f)(4); and".

(3) EFFECTIVE DATE.—

(A) The amendments made by this subsection shall apply with respect to liens, other security interests, and other interests in real property acquired after the date of the enactment of this Act.

(B) If, after the date of the enactment of this Act, there is a change in the application (or nonapplication) of section 6323(f)(4) of the Internal Revenue Code of 1954 (as amended by paragraph (1)) with respect to any filing jurisdiction, such change shall apply only with respect to liens, other security interests, and other interests in real property acquired after the date of such change.

(s) CLERICAL AMENDMENTS.—

(1) CLERICAL AMENDMENTS WITH RESPECT TO SECTION 6694.—

(A) IN GENERAL.—Section 6694 (relating to failure to file information with respect to carryover basis property) which was added by section 2005(d)(2) of the Tax Reform Act of 1976 is redesignated as section 6698.

(B) DEFICIENCY PROCEDURES NOT TO APPLY.—Section 6698 (as redesignated by subparagraph (A)) is amended by adding at the end of thereof the following new subsection:

"(c) DEFICIENCY PROCEDURES NOT TO APPLY.—Subchapter B of chapter 63 (relating to deficiency procedure for income, estate, gift, and certain excise taxes) shall not apply in respect of the assessment or collection of any penalty imposed by subsection (a)."

(C) TABLE OF SECTIONS.—The table of sections for subchapter B of chapter 68 is amended by striking out

"Sec. 6694. Failure to file information with respect to carryover basic property."

and inserting in lieu thereof the following:

"Sec. 6698. Failure to file information with respect to carryover basis property."

(2) CLERICAL AMENDMENT TO SECTION 2051.—Section 2051 (defining taxable estate) is amended by striking out "exemption and".

(3) CLERICAL AMENDMENT TO SECTION 1016(a).—Subsection (a) of section 1016 (relating to adjustments to basis) is amended by redesignating paragraph (23) as paragraph (21).

(4) CLERICAL AMENDMENT TO SECTION 6324B(b).—Subsection (b) of section 6324B (relating to adjustments to basis) is amended by tax attributable to farm, etc., valuation) is amended by striking out "qualified farm real property" and inserting in lieu thereof "qualified real property".

(5) EFFECTIVE DATE.—The amendments made by this subsection shall apply to estates of decedents dying after December 31, 1976.

SEC. 4. CORRECTIONS OF PUNCTUATION, SPELLING, INCORRECT CROSS REFERENCES, ETC.

(a) ERRONEOUS CROSS REFERENCE IN INVESTMENT CREDIT.—

(1) AMENDMENT OF SECTION 46(f)(8).—The first sentence of paragraph (8) of section 46(f) is amended by striking out "subsection (a)(6)(D)" and inserting in lieu thereof "subsection (a)(7)(D)".

(2) AMENDMENT OF SECTION 46(g)(5).—Paragraph (5) of section 46(g) (relating to definitions) is amended by striking out "Merchant Marine Act, 1970" and inserting in lieu thereof "Merchant Marine Act, 1936".

(3) AMENDMENT OF SECTION 48(d)(1)(B).—Subparagraph (B) of section 48(d)(1) is amended by striking out "section 46(a)(5)" and inserting in lieu thereof "section 46(a)(6)".

(4) AMENDMENT OF SECTION 48(d)(4)(D).—Subparagraph (D) of section 48(d)(4) is amended by striking out "section 57(c)(2)" and inserting in lieu thereof "section 57(c)(1)(B)".

(b) PREPAID LEGAL SERVICES.—

(1) Paragraph (2) of section 2134(e) of the Tax Reform Act of 1976 is amended by striking out "section 120(d)(6)" and inserting in lieu thereof "section 120(d)(7)".

(2) Paragraph (20) of section 501(c) is amended by striking out "section 501(c)(20)" and inserting in lieu thereof "this paragraph".

(c) AMENDMENTS RELATING TO SECTIONS 219 AND 220.—

(1) AMENDMENT OF SECTION 219(c)(4).—Paragraph (4) of section 219(c) (relating to participation in governmental plans by certain individuals) is amended by striking out "subsection (b)(3)(A)(iv)" each place it appears and inserting in lieu thereof "subsection (b)(2)(A)(iv)".

(2) AMENDMENT OF SECTION 220(b)(1)(A).—Subparagraph (A) of section 220(b)(1) (relating to retirement savings for certain married individuals) is amended by striking out "amount paid to the account or annuity, or for the bond" and inserting in lieu thereof "amount paid to the account, for the annuity, or for the bond".

(3) AMENDMENT OF SECTION 220(b)(4).—Paragraph (4) of section 220(b) is amended by inserting "described in subsection (a)" after "any payment".

(4) AMENDMENT OF SECTION 408(d)(4).—Subparagraph (A) of section 1501(b)(5) of the Tax Reform Act of 1976 is amended to read as follows:

"(A) by inserting 'or 220' after '219' each place it appears, and".

(5) EFFECTIVE DATE.—The amendments made by this subsection shall aply to taxable years beginning after December 31, 1976.

(d) ACCRUAL ACCOUNTING FOR FARM CORPORATIONS.—Subsections (a) and (g)(2) of section 447 are each amended by striking out "preproductive expenses" and inserting in lieu thereof "preproductive period expenses".

(e) AMENDMENT OF SECTION 911.—Subsection (c) of section 911 is amended by redesignating paragraph (8) as paragraph (7).

(f) TRANSITION RULE FOR PRIVATE FOUNDATIONS.—Subparagraph (F) of section 101(l)(2) of the Tax Reform Act of 1969 (relating to private foundations savings provisions) is amended by striking out the period at the end of clause (i) and inserting in lieu thereof a comma.

(g) LOBBYING BY PUBLIC CHARITIES.—

(1) LOBBYING NONTAXABLE AMOUNT.—Paragraph (2) of section 4911(c) (defining lobbying nontaxable amount) is amended by striking out "proposed expenditures" in the heading of the table contained in such paragraph and inserting in lieu thereof "exempt purpose expenditures".

(2) TECHNICAL AMENDMENTS RELATING TO SECTION 501.—

(A) Section 2(a) of Public Law 94-568 is amended by striking out "subsection (h) as subsection (i) and by inserting after subsection (g)" and inserting in lieu thereof "subsection (i) as subsection (j) and by inserting after subsection (h)".

(B) Subsection (g) of section 501 of the Internal Revenue Code of 1954 (as inserted by section 2(a) of Public Law 94-568) is redesignated as subsection (i).

(C) The amendments made by this paragraph shall take effect on October 20, 1976, as if included in Public Law 94-568.

(3) MATH ERRORS RELATING TO EXCESS LOBBYING TAX OR UNDISTRIBUTED REIT INCOME TAX.—Paragraphs (1) and (2)(E) of section 6213(f) (relating to definitions relating to math errors) are each amended by striking out "chapter 42 or 43" and inserting in lieu there of "chapter 41, 42, 43, or 44".

(4) REFUNDS OR CREDITS OF EXCESS LOBBYING TAX OR UNDISTRIBUTED REIT INCOME TAX.—Subsection (a) of section 6405 (relating to Joint Committee review of large refunds and credits) is amended by striking out "or any tax imposed with respect to private foundations and pension plans under chapters 42 and 43," and inserting in lieu thereof "or any tax imposed with respect to public charities, private foundations, pension plans, or real estate investment trusts under chapter 41, 42, 43, or 44,".

(h) AMENDMENTS TO FOREIGN TAX PROVISIONS.—

(1) Paragraph (2) of section 1035(c) of the Tax Reform Act of 1976 (relating to tax credit for production-sharing contracts) is amended—

(A) by inserting "(as defined in section 907(c) of such Code)" after "gas extraction income" in subparagraph (A), and

(B) by striking out "(as defined in section 907(c)(1) of such Code)" in subparagraph (B) and inserting in lieu thereof "(as so defined)".

(2) Paragraph (1) of section 999(c) (relating to international boycott factor) is amended by striking out "995(b)(3)" and inserting in lieu thereof "995(b)(1)(F)(ii)".

(3) Paragraph (2) of section 999(c) is amended by striking out "995(b)(1)(D)(ii)" and inserting in lieu thereof "995(b)(1)(F)(ii)".

(i) AMENDMENTS TO DISC PROVISIONS.—

(1) The last two sentences of section 995(b)(1) (relating to deemed distributions to shareholders of a DISC) are amended—

(A) by striking out "gross income (taxable income in the case of subparagraph (D))" and inserting in lieu thereof "income"; and

(B) by striking out "subparagraph (E)" and inserting in lieu thereof "subparagraph (G)".

(2) Paragraph (2) of section 996(a) (relating to qualifying distributions) is amended by striking out "section 995(b)(1)(E)" and inserting in lieu thereof "section 995(b)(1)(G)".

(3) Paragraph (5) of section 1101(g) of the Tax Reform Act of 1976 is amended by striking out "section 993(e)(3)" and inserting in lieu thereof "section 995(e)(3)".

(j) AMENDMENTS RELATING TO DEADWOOD PROVISIONS.—

(1) TAX EXEMPT GOVERNMENTAL OBLIGATIONS.—

(A) The heading of paragraph (1) of section 103(b) is amended to read as follows:

"(1) SUBSECTION (a)(1) OR (2) NOT TO APPLY.—".

(B) Paragraph (1) of section 103(c) is amended by striking out "(a)(1) or (4)" each place it appears (including in the paragraph heading) and inserting in lieu thereof "(a)(1) or (2)".

(C) Subparagraph (A) of section 103(c)(2) is amended by striking out "subsection (a)(1) or (2) or (4)" and inserting in lieu thereof "subsection (a)(1) or (2)".

(D) Paragraph (5) of section 103(c) is amended by striking out "subsection (d)(2)

(A)" and inserting in lieu thereof "paragraph (2)(A)".

(E) Subsection (d) of section 103 is amended by striking out "subsection (c)(4)(G)" and inserting in lieu thereof "subsection (b)(4)(G)".

(2) AMENDMENTS RELATING TO SECTION 311(d)(2).—

(A) Subsection (b) of section 2 of the Bank Holding Company Tax Act of 1976 is amended—

(i) by striking out "subparagraph (F)" and inserting in lieu thereof "subparagraph (E)", and

(ii) by striking out "subparagraph (G)" and inserting in lieu thereof "subparagraph (F)".

(B) Subparagraph (H) of section 311(d)(2) is redesignated as subparagraph (G).

(C) The amendments made by this paragraph shall take effect as if included in section 2(b) of the Bank Holding Company Tax Act of 1976.

(3) AMENDMENT TO SECTION 453(c).—Paragraph (3) of section 453(c) is amended—

(A) by striking out "(or by the corresponding provisions of prior revenue laws)" in the first sentence, and

(B) by striking out the last sentence.

(4) AMENDMENT OF SECTION 801(g).—Paragraphs (1)(B)(ii) and (7) of section 801(g) are each amended by striking out "subparagraph (A), (B), (C), (D), or (E) of section 805(d)(1)" and inserting in lieu thereof "section 805(d)".

(5) AMENDMENT OF SECTION 1003(a)(2).—Clause (ii) of section 1033(a)(2)(A) is amended by striking out "subsection (c)" and inserting in lieu thereof "subsection (b)".

(6) AMENDMENT OF SECTION 1375(a).—Paragraph (2) of section 1375(a) is amended by striking out "such excess" each place it appears and inserting in lieu thereof "such grain".

(7) AMENDMENT OF SECTION 1561(b)(3).—Paragraph (3) of section 1561(b) is amended by striking out "804(a)(4)" and inserting in lieu thereof "804(a)(3)".

(8) AMENDMENTS OF SECTION 1402.—

(A) The last paragraph of section 1402(a) of the Internal Revenue Code of 1954 (definition of net earnings from self-employment) is amended by striking out "subsection (i)" each place it appears and inserting in lieu thereof "subsection (h)".

(B) Section 1402(c)(6) of such Code (definition of trade or business) is amended by striking out "subsection (h)" and inserting in lieu thereof "subsection (g)".

(9) AMENDMENT TO SECTION 46(a).—Subparagraph (C) of section 1901(b)(1) of the Tax Reform Act of 1976 is amended by striking out "Section 46(a)(3)" and inserting in lieu thereof "Section 46(a)(4)".

(10) AMENDMENT RELATING TO SECTION 6504.—Subparagraph (D) of section 1901(b)(37) of the Tax Reform Act of 1976 is amended by striking out "6515" and inserting in lieu thereof "6504".

(11) TERRITORIES.—Subsection (c) of section 1901 of the Tax Reform Act of 1976 (relating to Territories) is amended by striking out paragraph (1) thereof.

(12) ESTATE AND GIFT TAXES EFFECTIVE DATE.—Subsection (c) of section 1902 of the Tax Reform Act of 1976 is amended to read as follows:

"(c) EFFECTIVE DATES.—

"(1) ESTATE TAX AMENDMENTS.—The amendments made by paragraphs (1) through (8), and paragraphs (12) (A), (B), and (C), of subsection (a) and by subsection (b) shall apply in the case of estates of decedents dying after the date of the enactment of this Act, and the amendment made by paragraph (9) of subsection (a) shall apply in the case of estates of decedents after December 31, 1970.

"(2) GIFT TAX AMENDMENTS.—The amendments made by paragraphs (10), (11), and (12) (D) and (E) of subsection (a) shall apply with respect to gifts made after December 31, 1976."

(13) EFFECTIVE DATE FOR AMENDMENT MADE BY SECTION 1904(d)(22)(A).—Notwithstanding section 1904 (d) of the Tax Reform Act of 1976, the amendment made by section 1904 (a)(22)(A) of such Act shall take effect on the date of the enactment of such Act.

(14) AMENDMENTS TO SOCIAL SECURITY ACT.—

(A) Section 202(v) of the Social Security Act is made by striking out "section 1402(h)" each place it appears and inserting in lieu thereof "section 1402(g)".

(B) Section 205(p)(3) of such Act is amended by striking out "Secretary of the Treasury" and inserting in lieu thereof "Secretary of Transportation".

(C) Section 210(a)(6)(B)(v) of such Act is amended by striking out "Secretary of the Treasury and inserting in lieu thereof "Secretary of Transportation".

(D) Section 211(a)(2) of such Act is amended by striking out "(other than interest described in section 35 of the Internal Revenue Code of 1954)".

(E) Section 211(c)(6) of such Act is amended by striking out "section 1402(h)" and inserting in lieu thereof "section 1402(g)".

(k) CAPITAL LOSS CARRYOVERS.—Clause (ii) of section 1212(a)(1)(C) (relating to capital loss carryovers for foreign expropriation losses) is amended by striking out "exceeding the loss year" and inserting in lieu thereof "succeeding the loss year".

(l) AMENDMENTS RELATING TO CERTAIN AIRCRAFT MUSEUMS.—

(1) Paragraph (2) of section 4041(h) (defining aircraft museum) is amended by striking out "term 'aircraft' means" and inserting in lieu thereof "term 'aircraft museum' means".

(2) Subsection (i) of section 4041 (as added by section 1904(a)(1)(C) of the Tax Reform Act of 1976) is redesignated as subsection (j).

(3) Subsection (d) of section 6427 (relating repayment of tax on fuels used by certain aircraft museums) is amended by striking out "Secretary or his delegate" and inserting in lieu thereof "Secretary".

(4) Paragraph (1) of section 7609(c) (defining summons to which section applies) is amended by striking out "6427(e)(2)" and inserting in lieu thereof "6427(f)(2)".

(m) INSPECTION BY COMMITTEE OF CONGRESS.—Paragraph (2) of section 6104(a) (relating to inspection by committee of Congress) is amended by striking out "Section 6103(d)" and inserting in lieu thereof "Section 6103(f)".

(n) AMENDMENT OF SECTION 6501.—Subsections (h), (i), and (o) of section 6501 are each amended by striking out "section 6213(b)(2)" and inserting in lieu thereof "section 6213(b)(3)"

(o) CONFORMING AMENDMENTS TO NEW DEFINITION OF TAXABLE INCOME.—

(1) Subparagraph (A) of section 443(b)(2) (relating to computation based on 12-month period) is amended—

(A) by striking out "taxable income" the second and third places it appears in clause (i) and inserting in lieu thereof "modified taxable income", and

(B) by amending clause (ii) to read as follows:

"(ii) the tax computed on the sum of the modified taxable income for the short period plus the zero bracket amounts."

(2) Paragraph (1) of section 443(b) is amended by striking out "gross income for such short period (minus the deductions allowed by this chapter for the short period, but only the adjusted amount of the deductions for personal exemptions)" and inserting in lieu thereof "modified taxable income for such short period".

(3) Subsection (b) of section 443 is amended by adding at the end thereof the following new paragraph:

"(3) MODIFIED TAXABLE INCOME DEFINED.—For purposes of this subsection the term 'modified taxable income' means, with respect to any period, the gross income for such period minus the deductions allowed by this chapter for such period (but, in the case of a short period, only the adjusted amount of the deductions for personal exemptions)."

(4) The amendments made by this subsection shall apply to taxable years beginning after December 31, 1976.

(p) CONFORMING AMENDMENTS TO REPEAL OF SECTION 317 OF TRADE EXPANSION ACT OF 1962.—

(1) AMENDMENTS OF SECTION 172.—

(A) Subparagraph (A) of section 172(b)(1) (relating to years to which loss may be carried) is amended to read as follows:

"(A) Except as provided in subparagraphs (D), (E), (F), and (G), a net operating loss for any taxable year shall be a net operating loss carryback to each of the 3 taxable years preceding the taxable year of such loss."

(B) Paragraph (3) of section 172(b) (relating to special rules) is amended by striking out subparagraphs (A) and (B) and by redesignating subparagraphs (C), (D), and (E) as subparagraphs (A), (B), and (C), respectively.

(C) Subparagraph (B) of section 172(b)(3) (as redesignated by subparagraph (B)) is amended by striking out "subparagraph (C)(iii)" each place it appears and inserting in lieu thereof "subparagraph (A)(iii)".

(2) AMENDMENT OF SECTION 6501(h).—Subsection (h) of section 6501 (relating to net operating loss or capital loss carryback) is amended by striking out the last sentence.

(3) AMENDMENT OF SECTION 6511(d)(2).—The first sentence of section 6511(d)(2)(A) (relating to special period of limitation for net operating loss or capital loss carrybacks) is amended by striking out "(except that—" and all that follows down through the period at the end of such sentence and inserting in lieu thereof the following: "except that with respect to an overpayment attributable to the creation of, or an increase in, a net operating loss carryback as a result of the elimination of excessive profits by a renegotiation (as defined in section 1481(a)(1)(A)), the period shall not expire before the expiration of the 12th month following the month in which the agreement or order for the elimination of such excessive profits becomes final."

(4) EFFECTIVE DATE.—The amendments made by this subsection shall apply with respect to losses sustained in taxable years ending after the date of the enactment of this Act.

(q) EFFECTIVE DATE.—Except as otherwise provided, the amendments made by this section shall take effect on October 4, 1976.

The SPEAKER pro tempore. Is a second demanded?

Mr. CONABLE. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Oregon (Mr. ULLMAN) and the gentleman from New York (Mr. CONABLE) will be recognized for 20 minutes each.

The Chair recognizes the gentleman from Oregon (Mr. ULLMAN).

Mr. ULLMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 6715 deals with technical amendments to the Tax Re-

form Act of 1976. The Tax Reform Act of 1976 was one of the most extensive revisions to our present tax system, containing approximately 200 separate provisions. In the process of drafting a tax bill as extensive as the 1976 act, it is inevitable that technical errors will occur.

As a result, in the early part of this year I directed the staff to begin working on a bill that would make technical changes necessary to implement the basic congressional policy embodied in the 1976 act. The amendments contained in this bill were developed after reviewing comments submitted to the committee from the Treasury Department, the Internal Revenue Service, various bar and accounting groups and others from the general public.

In addition to written statements submitted to the committee, the committee received public testimony on September 8, 1977. The committee subsequently made further amendments to the bill as a result of the testimony and comments received.

The bill is not intended to change the basic policies enacted by Congress in the 1976 act. The technical amendments are intended to clarify and correct provisions adopted by that act. For example, certain ambiguities arose as a result of the substantial revisions made in the area of estate and gift taxes. A number of changes contained in H.R. 6715 eliminate these ambiguities.

Included in these changes is a provision making it clear that certain preferred stock redemptions will be eligible for capital gains treatment. This change will facilitate the payment of death taxes and alleviate liquidity problems where a large portion of the estate consists of closely held stock.

In the area of income taxes, one of the changes conforms the retirement income credit rules so there will be no difference in the tax treatment of public retirees in community property and common law states where a married couple makes it clear that in the case of estates and certain charitable trusts, deductions for charitable contributions will not be treated as itemized deductions and therefore are not subject to the minimum tax.

The provisions of this bill are estimated to result in an aggregate revenue loss of $17 million for fiscal 1978, and losses of $7 to $8 million a year thereafter. Thus, although there is a small revenue loss, the significant impact of this legislation is to make the tax law clear and more workable for both taxpayers and the treasury department.

Mr. Speaker, it is important to taxpayers across the country that these technical amendments be enacted. I urge that H.R. 6715 be adopted.

Mr. CONABLE. Mr. Speaker, I rise in support of H.R. 6715, which makes technical, clarifying or clerical amendments to the Internal Revenue Code of 1954.

The bill amends various income, estate, and gift tax provisions of the Code, that were enacted as part of the Tax Reform Act of 1976, more clearly to reflect congressional intent or correct technical errors. Members will recall that particular bill was a voluminous one, and as is usually the case, some ambiguities, some technical errors, some failures to carry out the intent of the conferees, were apparent as we reviewed the legislation in the cold, gray light of dawn.

To limit H.R. 6715 to technical, clarifying, or clerical amendments, it was necessary for the Committee on Ways and Means to establish certain internal procedures, for which our chairman, the gentleman from Oregon (Mr. ULLMAN) is to be commended. Under these procedures, a screening committee was established to consider additional amendments to the bill and separate consideration was given to the extension of the effective date of several provisions of the 1976 Reform Act. In addition, the provisions of the 1976 act concerning carryover basis, the effective date of the generation-skipping trust rules and the deductibility of expenses for attending foreign conventions were the subject of special hearings.

Mr. Speaker, I would be the first to acknowledge that there are some substantive changes in this bill. We made every attempt, though, in the screening committee and in the Committee of the Whole to limit such substantive changes to very modest ones, such as were intended by the conferees and were the clear intent of the act before the errors of omission were discovered.

The hearings on the effective-date provisions resulted in these provisions and related amendments being incorporated into a separate bill—H.R. 9251—which the Committee on Ways and Means has approved.

I will not go into great detail with regard to the content of H.R. 6715. I would simply like to highlight two estate- and gift-tax provisions which I regard as particularly important.

The bill makes several modifications in the application of the so-called fresh start provisions under the carryover-basis concept. For example, the bill limits the amount of gain resulting from the sale or redemption of certain "section 306" preferred stock, that will be treated as ordinary income and not capital gain, to amounts in excess of the stock's adjusted basis, determined after the "fresh start" adjustments are made.

I continue to support and work for the repeal or a delay in the effective date of the carryover-basis provisions, but the modifications made to these provisions of this bill do make them operate somewhat more equitably, and I believe there should be no objection to the changes included in the Technical Corrections Act.

Finally, the bill clarifies current law and provides that capital gains treatment under section 303 is available to "section 306" preferred stock. This amendment removes the uncertainty that currently exists regarding the interrelationship of sections 303 and 306.

Numerous other technical amendments have been made by this act. I have counted them—some of them are only clerical in nature—and they are 80 in number. For this reason, it is impossible to go into the substance of the measure to any great extent, but I am sure we can answer any questions the Members may have concerning items of concern to them.

Mr. Speaker, I strongly urge the support of the enactment of this measure.

Mr. ULLMAN. Mr. Speaker, I yield 6 minutes to the gentleman from Illinois (Mr. MIKVA).

Mr. MIKVA. Mr. Speaker, I, too, want to pay my compliments to the chairman of our committee for having vastly improved the procedure over what it was before.

Having said that, though, I still continue to be uncomfortable with this kind of a procedure for bringing about changes in the tax laws before the House of Representatives. The bill that is before us today contains 130 pages of changes. Ninety-five percent of them are in fact technical, are in fact noncontroversial, are in fact clarifying, and are in fact exactly the kind of things we ought to do when we pass as big a bill as the one we passed last year as the Tax Reform Act.

However, there are two or three items in here that I do not think ought to be in here. If it develops they should be in here, they certainly ought to be the subject of substantial question, disagreement, and debate, because they deal with private tax relief for individual taxpayers.

One of the amendments, for instance, provides a $500,000 bail-out for one company which made a speculative guess on what the law was going to be as far as DISCs are concerned. There is another amendment in the bill which provides a substantial amount, perhaps as much as $11 million, of tax relief to another company. Even though the committee cut back the amount of relief we provided that company after the facts were reviewed, still this represents private relief for one taxpayer, which simply ought not be done in the way it is being done.

I am uncomfortable with the notion that an individual taxpayer can think that it has access to individual members of the Committee on Ways and Means and receive some private tax relief for one company. I am uncomfortable with the idea of holding out that possibility, however much we might reject that notion.

I would much prefer to see a procedure under which, if we are going to make these technical changes, the matter would go through the Treasury first, and let the Treasury present the changes to the committee on one package. That should be the technical reform package for that 1 year, rather than hold out this notion that somehow we are available for relief to individual taxpayers if somebody just has access to the Committee on Ways and Means.

For those reasons, Mr. Speaker, several of us wrote dissenting views on this bill, and we are going to reluctantly oppose the bill; not because everything in it is bad but because a couple of things

are bad—and because the process by which we get to the consideration of this kind of a bill is one that holds out some grave misconceptions in the way the tax process ought to work.

Mr. ULLMAN. Mr. Speaker, will the gentleman yield?

Mr. MIKVA. I would be glad to yield to the distinguished chairman of the committee.

Mr. ULLMAN. Mr. Speaker, I am sorry that the gentleman opposes the bill, knowing that the bill is absolutely essential in order to facilitate the operation of provisions of the 1976 act, and that many thousands of people are left high and dry, not knowing what the law is because of these technical difficulties.

There are certain companies that were caught with changes in the law in the middle of their operations, and we have tried to give them equity. We have tried to make an interpretation of the law that we think is equitable as applied to that type of situation. Because of that, the gentleman opposes the bill.

The gentleman would, I am sure, agree that we held public hearings and we had extensive discussions in the consideration of these matters. In the one instance dealing with losses from Puerto Rico, the Treasury Department recommended an amendment that was in effect a tightening amendment over what we agreed to in the conference last year. The committee adopted that tightening amendment.

We are dealing with a case in which the law, as it was, gave them certain privileges and afforded certain treatment. We changed that privileged treatment through loss recapture, and this company, having based its operation on existing tax law, was caught in a situation that was totally beyond its control.

The conferees last year agreed to delay the impact of these changes in this case, but the language was not included in the bill as enacted. All we are talking about is how we apply the law for a transitional period, and in this bill we have included the agreement of the conferees—as modified by Treasury—that would, we think, allow the company to survive; yet, over a period of a few years, under this bill, we believe we would get the company exactly where we want it to be under the new rules.

Mr. Speaker, would the gentleman agree with that?

Mr. MIKVA. Mr. Speaker, I would agree, and I would say further to the distinguished chairman of my committee that he has in fact confirmed my statement that we do have these problems.

For example, the gentleman insisted that the staff inform the committee members as to when a particular provision applied to only a single company so that we could take that into account.

I do not want to suggest that the committee chairman or the staff are insensitive to this problem. But just as we got away from the members' bill process, even though at that time it was thought to be absolutely essential for the working of the Committee on Ways and Means process—so I think we can improve further on this process.

Again, let me state that I am concerned about the very problems about which the chairman of the committee is concerned.

I think that there is still time for us to weed out those private relief provisions here and bring back those parts that are, in fact, technical corrections and tell every other single taxpayer, from here on out, that when they have some equitable tax relief problem, they ought to go to the Treasury first. If they persuade Treasury, Treasury can come in with some omnibus bill to provide that relief.

However, I do not like our being individual courts of appeal, which, in fact, is what we are doing when we sit here as in a screening process deciding which taxpayer gets some relief and which taxpayer does not.

Mr. CONABLE. Mr. Speaker, I yield myself such time as I may consume.

I would like to support strongly what the distinguished chairman of the Committee on Ways and Means has said and confirm to the Members that a great effort has been made to be fair and to provide adequate safeguards.

The substantive objections that could be adduced relative to the matters stated by the gentleman from Illinois (Mr. MIKVA) are complaints that he would have had about the Tax Reform Act of 1976.

In fact, with respect to the Puerto Rican situation, we did compromise the position actually taken by the conference, which Treasury wished us to do, thus reducing the relief the taxpayer would have if the conference report accurately reflected the decision of the conferees.

Mr. Speaker, I do not think that we can avoid the obligation of dealing with the problems of individual taxpayers here if it was the intent of Congress to deal with those problems in the earlier provision.

Mr. MIKVA. Mr. Speaker, will the gentleman yield?

Mr. CONABLE. I yield to the gentleman from Illinois.

Mr. MIKVA. Mr. Speaker, I would remind the gentleman of the one which has the biggest price tag on this, which is the so-called Pittsburgh Plate Glass amendment, which has $11 million revenue impact. That was brought before the House last year and rejected by the House. Here it is again, wrapped up in a large package, which sounds like it has the imprimatur of only technical corrections. I do not view it as a technical correction.

Mr. CONABLE. Mr. Speaker, I think the gentleman will acknowledge that it was in the Tax Reform Act of 1976 as passed by the House and was dealt with by the conferees at that time and that the agreement that was struck at that time was not adequately reflected in the wording of the measure.

Mr. STEIGER. Mr. Speaker, will the gentleman yield?

Mr. CONABLE. I yield to the gentleman from Wisconsin.

Mr. STEIGER. Mr. Speaker, apparently this narrows down to Pittsburgh Plate Glass and the gentleman from New York (Mr. CONABLE) was at the conference, and the gentleman from Oregon (Mr. ULLMAN) was at the conference.

This provision clearly is consistent with what the conferees intended and, for reasons as yet unclear, did not get reflected in the conference report.

In any case, lots of people might have problems with the Pittsburgh Plate Glass situation; but this bill is absolutely essential because it involves so many corrections of a technical nature that have to be passed in 1977. If we delay today and we vote down the bill on suspension, we will have to go to the Committee on Rules and will end up having to come back to the floor, thereby running the risk of having a whole calendar year will go by, by which time millions and millions of American taxpayers who are relying upon the Committee on Ways and Means in the House to do their work, will then be found in a position that we have failed to do the job that we are supposed to do.

Therefore, Mr. Speaker, I hope the bill is passed.

I totally disagree with my colleague, the gentleman from Illinois (Mr. MIKVA), because while he may dislike the Pittsburgh Plate Glass provision, it clearly is consistent with what the conference in 1976 intended. To say it is anything else is very wrong, and I think it ought not to be the basis for Members to vote "No."

Mr. CONABLE. Mr. Speaker, I thank my friend, the gentleman from Wisconsin (Mr. STEIGER), for his further explanation.

Mr. ULLMAN. Mr. Speaker, will the gentleman yield?

Mr. CONABLE. I yield to the gentleman from Oregon.

Mr. ULLMAN. Mr. Speaker, the gentleman stated that we have rejected this in the House. I think the record ought to be corrected. The House originally passed a more generous provision than this in the Tax Reform Act and sent it to conference. The conferees agreed to a somewhat tighter provision. But the provision now before you includes a Treasury modification tightening it further and was never rejected by the House. The House in fact passed a much more generous provision than this one, dealing with this specific matter.

Mr. MIKVA. Mr. Speaker, will the gentleman yield?

Mr. CONABLE. I yield to the gentleman from Illinois.

Mr. MIKVA. Mr. Speaker, I still say—and I will have to check my records—that if it was not the House which rejected it, it was the other body which rejected it. Otherwise we would not be here today on this provision.

Is that not correct, Mr. Chairman? Somebody rejected it or we would not have to be correcting it further.

Mr. ULLMAN. Mr. Speaker, if the gentleman will yield, the version that came back from the other body did not include a provision but it was agreed to in conference.

Mr. CONABLE. Mr. Speaker, I yield myself such time as I may consume.

I would like to call the attention of my colleagues to the fact that, despite

the fact there were some 80 changes involved, the net impact is somewhere around $17 million for the first year and about $10 million less than that for successive years.

I yield 2 minutes to the gentleman from Minnesota (Mr. FRENZEL).

Mr. FRENZEL. Mr. Speaker, I rise in support of this bill. I believe that the chairman of the committee has been extremely careful to restrict the features of this bill to that which is technical or clerical. I believe that the particular example raised by the gentleman from Illinois (Mr. MIKVA) was a matter which was in last year's bill, was agreed to in conference, and was inadvertently left out of the conference report. It is properly a technical correction in this bill.

I hope that this bill will be passed promptly.

I thank the gentleman for yielding.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Oregon (Mr. ULLMAN) that the House suspend the rules and pass the bill (H.R. 6715) as amended.

Mr. MIKVA. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 3 of rule XXVII, and the Chair's prior announcement, further proceedings on this motion will be postponed.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Debate has been concluded on all motions to suspend the rules.

Pursuant to clause 3, rule XXVII, the Chair will now put the question on each motion on which further proceedings were postponed in the order in which that motion was entertained.

Votes will be taken in the following order:

H.R. 8518, by the yeas and nays; H.R. 8149, by the yeas and nays; and H.R. 6715, by the yeas and nays.

The Chair will reduce to 5 minutes the time for any electronic votes after the first such vote in this series.

SACCHARIN BAN MORATORIUM

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill H.R. 8518, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida (Mr. ROGERS) that the House suspend the rules and pass the bill H.R. 8518, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 375, nays 23, not voting 36, as follows:

[Roll No. 659]

YEAS—375

Abdnor	Ammerman	Andrews, N. Dak.
Addabbo	Anderson, Calif.	Annunzio
Akaka	Anderson, Ill.	Applegate
Allen	Andrews, N.C.	Archer
Ambro	Armstrong	Ashbrook
Ashley	Aspin	AuCoin
Badham	Bafalis	Baldus
Barnard	Baucus	Bauman
Beard, R.I.	Beard, Tenn.	Bedell
Benjamin	Bennett	Bevill
Biaggi	Blanchard	Blouin
Boggs	Boland	Bonior
Bowen	Brademas	Breaux
Breckinridge	Brinkley	Brodhead
Brooks	Broomfield	Brown, Calif.
Brown, Mich.	Brown, Ohio	Broyhill
Buchanan	Burgener	Burke, Fla.
Burke, Mass.	Burleson, Tex.	Burlison, Mo.
Burton, John	Butler	Byron
Caputo	Carney	Carr
Carter	Cavanaugh	Cederberg
Chappell	Chisholm	Clausen, Don H.
Clawson, Del	Clay	Cleveland
Cochran	Cohen	Coleman
Collins, Tex.	Conable	Conte
Corcoran	Corman	Cornell
Cotter	Coughlin	Crane
Cunningham	D'Amours	Daniel, Dan
Daniel, R. W.	Danielson	Davis
Derrick	Derwinski	Devine
Dicks	Diggs	Downey
Duncan, Oreg.	Duncan, Tenn.	Early
Edgar	Edwards, Ala.	Edwards, Okla.
Eilberg	Emery	English
Erlenborn	Ertel	Evans, Colo.
Evans, Del.	Evans, Ga.	Evans, Ind.
Fary	Fascell	Fenwick
Findley	Fish	Fisher
Fithian	Flippo	Flood
Florio	Flowers	Flynt
Foley	Ford, Tenn.	Forsythe
Fountain	Fowler	Frenzel
Frey	Fuqua	Gammage
Gaydos	Gephardt	Giaimo
Gilman	Glickman	Goldwater
Gonzalez	Goodling	Gore
Gradison	Grassley	Gudger
Guyer	Hagedorn	Hall
Hamilton	Hammer-schmidt	Hanley
Hannaford	Hansen	Harkin
Harrington	Harris	Harsha
Hawkins	Heckler	Hefner
Heftel	Hightower	Hillis
Hollenbeck	Holt	Horton
Howard	Hubbard	Huckaby
Hughes	Hyde	Ichord
Ireland	Jacobs	Jeffords
Jenkins	Jenrette	Johnson, Calif.
Johnson, Colo.	Jones, N.C.	Jones, Okla.
Jones, Tenn.	Jordan	Kasten
Kazen	Kelly	Ketchum
Keys	Kildee	Kindness
Kostmayer	Krebs	LaFalce
Lagomarsino	Latta	Le Fante
Leach	Lederer	Leggett
Lehman	Lent	Levitas
Livingston	Lloyd, Calif.	Lloyd, Tenn.
Long, La.	Long, Md.	Lott
Lujan	Luken	Lundine
McClory	McCloskey	McCormack
McDade	McDonald	McEwen
McFall	McKay	McKinney
Madigan	Mahon	Mann
Marks	Marlenee	Marriott
Martin	Mathis	Mattox
Mazzoli	Meeds	Metcalfe
Michel	Mikulski	Mikva
Milford	Miller, Calif.	Miller, Ohio
Mineta	Minish	Mitchell, Md.
Mitchell, N.Y.	Moakley	Moffett
Mollohan	Montgomery	Moore
Moorhead, Calif.	Moorhead, Pa.	Mottl
Murphy, N.Y.	Murphy, Pa.	Murtha
Myers, John	Myers, Michael	Natcher
Neal	Nedzi	Nichols
Nix	Nowak	O'Brien
Oakar	Oberstar	Panetta
Patten	Patterson	Pattison
Pease	Perkins	Pettis
Pickle	Pike	Poage
Pressler	Preyer	Price
Pritchard	Pursell	Quayle
Quillen	Rahall	Railsback
Rangel	Regula	Reuss
Richmond	Rinaldo	Risenhoover
Roberts	Robinson	Rodino
Roe	Rogers	Roncallo
Rooney	Rose	Rostenkowski
Rousselot	Rudd	Runnels
Russo	Ryan	Sarasin
Satterfield	Sawyer	Scheuer
Schroeder	Schulze	Sebelius
Sharp	Shipley	Shuster
Sikes	Simon	Sisk
Skelton	Skubitz	Slack
Smith, Iowa	Smith, Nebr.	Snyder
Solarz	Spellman	Spence
St Germain	Staggers	Stangeland
Stanton	Steers	Steiger
Stockman	Stokes	Studds
Stump	Symms	Taylor
Teague	Thompson	Thone
Thornton	Traxler	Treen
Trible	Tsongas	Tucker
Udall	Uliman	Van Deerlin
Vander Jagt	Vanik	Vento
Volkmer	Waggonner	Walgren
Walker	Walsh	Wampler
Watkins	Waxman	Weaver
Weiss	White	Whitehurst
Whitley	Whitten	Wiggins
Wilson, Bob	Wilson, Tex.	Winn
Wirth	Wydler	Wylie
Yatron	Young, Alaska	Young, Fla.
Young, Mo.	Young, Tex.	Zablocki

NAYS—23

Badillo	Holtzman	Ottinger
Bellenson	Kastenmeier	Rosenthal
Bingham	McHugh	Roybal
Burton, Phillip	Maguire	Seiberling
Delaney	Markey	Stark
Dellums	Myers, Gary	Stratton
Drinan	Nolan	Yates
Edwards, Calif.	Obey	

NOT VOTING—36

Alexander	Dornan	Murphy, Ill.
Bolling	Eckhardt	Pepper
Bonker	Ford, Mich.	Quie
Burke, Calif.	Fraser	Rhodes
Collins, Ill.	Gibbons	Ruppe
Conyers	Ginn	Santini
Cornwell	Holland	Steed
de la Garza	Kemp	Whalen
Dent	Koch	Wilson, C. H.
Dickinson	Krueger	Wolff
Dingell	Meyner	Wright
Dodd	Moss	Zeferetti

The Clerk announced the following pairs:

Mr. Alexander with Mr. Moss.
Mr. Zeferetti with Mr. Bonker.
Mr. Wolff with Mr. de la Garza.
Mr. Koch with Mr. Dickinson.
Mr. Dent with Mr. Kemp.
Mr. Cornwell with Mr. Dornan.
Mr. Ginn with Mr. Whalen.
Mr. Santini with Mr. Ruppe.
Mr. Murphy of Illinois with Mr. Quie.
Mr. Pepper with Mr. Krueger.
Mr. Steed with Mrs. Burke of California.
Mr. Charles H. Wilson of California with Mrs. Collins of Illinois.
Mr. Ford of Michigan with Mr. Eckhardt.
Mr. Dodd with Mr. Fraser.
Mr. Dingell with Mr. Gibbons.
Mr. Conyers with Mr. Holland.
Mrs. Meyner with Mr. Wright.

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

The title was amended so as to read: "A bill to direct an eighteen-month review and evaluation of all available information respecting the carcinogenicity and other toxicity of food additives, including information respecting the ability to predict the effect on humans of food additives found to cause cancer in animals and whether there should be a weighing of risks and benefits in making regulatory decisions respecting such additives; to prohibit for eighteen months the Secretary of Health, Education, and Welfare from taking certain action restricting the continued use of saccharin as a food, drug, and cosmetic; and to authorize the Secretary during those eighteen months to require, in retail stores, warning notices respecting the potential health risks presented by the use of saccharin.".

A motion to reconsider was laid on the table.

Mr. ROGERS. Mr. Speaker, I ask unanimous consent that the Committee on Interstate and Foreign Commerce be discharged from further consideration of the Senate bill (S. 1750) to amend the Public Health Service Act and the Federal Food, Drug, and Cosmetic Act, as amended, to conduct studies concerning toxic and carcinogenic substances in foods, to conduct studies concerning saccharin, its impurities and toxicity and the health benefits, if any, resulting from the use of nonnutritive sweeteners including saccharin; to ban the Secretary of Health, Education, and Welfare from taking action with regard to saccharin for eighteen months, and to add additional provisions to section 403 of the Federal Food, Drug, and Cosmetic Act, as amended, concerning misbranded foods, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1750

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. This Act may be cited as the "Saccharin Study, Labeling, and Advertising Act".

SEC. 2. For the purposes of this Act, the term "saccharin" includes saccharin, calcium saccharin, sodium saccharin, and ammonium saccharin.

SEC. 3. Unless otherwise indicated, the effective date of the provisions of this Act shall be the date of enactment.

SEC. 4. Title V of the Public Health Service Act is amended by adding at the end thereof the following new subsections:

"SEC. 514. (a) The Secretary shall arrange for the conduct of a study or studies to assess and evaluate—

"(1) current technical capabilities to predict the direct or secondary carcinogenicity or other toxicity in humans of substances which are added to, become a part of, or naturally occur in food, and which have been found to cause cancer in animals;

"(2) the direct and indirect health benefits and risks to individuals from foods which contain carcinogenic or other toxic substances;

"(3) the existing means of evaluating the risks to health from the carcinogenicity or other toxicity of such substances, the existing means of evaluating the health benefits of foods containing such substances, and the existing statutory authority for, and appropriateness of, weighing such risks against such benefits;

"(4) instances in which current legal requirements to restrict or prohibit the use or occurrence of such substances do not accord with the relationship between such risks and benefits; and

"(5) the relationship between existing Federal food regulatory policy and existing Federal regulatory policy applicable to toxic and carcinogenic substances used as other than foods.

"(b) The study or studies, required under subsection (a), shall be completed within one year of the date of the enactment of this section. Within thirty days from the date of completion of such study or studies, such study or studies and the report or reports on such study or studies shall be submitted by the Secretary to the Committee on Human Resources of the Senate and the Committee on Interstate and Foreign Commerce of the House of Representatives. Such report or reports shall include recommendations if any for legislative and administrative action.

"(c)(1) The Secretary shall first request the National Academy of Sciences acting through the Institute of Medicine or other appropriate units (hereinafter in this section referred to as 'Academy') to conduct the study of studies, required under subsection (a), under an arrangement whereby the actual expenses incurred by the Academy directly related to the conduct of such study or studies will be paid by the Secretary. If the Academy is willing to do so, the Secretary shall enter into such an arrangement with the Academy.

"(2) If the Academy declines the Secretary's request to conduct one or more of such studies under such an arrangement, then the Secretary shall enter into a similar arrangement with other appropriate public or nonprofit private groups or associations to conduct such study or studies and prepare and submit such study or studies and the report or reports thereon as provided in subsection (b).

"SEC. 515. (a) The Secretary shall conduct or arrange for the conduct of a study or studies to determine to the extent feasible—

"(1) the chemical identity of any impurities contained in commercially used saccharin,

"(2) the toxicity or potential toxicity of any such impurities including their carcinogenicity or potential carcinogenicity in humans, and

"(3) the health benefits, if any, to humans resulting from the use of nonnutritive sweeteners in general and saccharin in particular.

"(b) The study or studies, required under subsection (a), shall be completed within one year of the date of enactment of this Act. Within thirty days from the date of completion of study or studies, such study or studies and the report or reports on such study or studies shall be submitted by the Secretary to the Committee on Human Resources of the Senate and the Committee on Interstate and Foreign Commerce of the House of Representatives. Such report or reports shall include any recommendations for legislative and administrative action the Secretary deems appropriate.".

SEC. 5. During the eighteen-month peiod beginning on the date of enactment of this Act—

(1) the interim food additive regulation of the Food and Drug Administration of the Department of Health, Education, and Welfare applicable to saccharin published on March 15, 1977 (sec. 180.37 of part 180, subchapter B, chapter 1, title 21, Code of Federal Regulations (42 Fed. Reg. 14638)), shall, notwithstanding paragraph (c) of such regulation, remain in effect; and

(2) the Secretary may not take action under the Federal Food, Drug, and Cosmetic Act, as amended, or any other authority to prohibit or restrict the sale or distribution of saccharin or any food, food additive, drug, or cosmetic containing saccharin on the basis of the carcinogenic effect of saccharin, unless the Secretary determines, on the basis of data reported to the Secretary after the date of enactment of this Act, that saccharin presents an unreasonable and substantial risk to the public health and safety. In making such determination, the Secretary may take into account the cumulative significance of all existing data including data reported to the Secretary prior to the date of enactment of this Act.

SEC. 6. (a) Section 403 of the Federal Food Drug, and Cosmetic Act, as amended, is amended by adding at the end thereof the following new subsections:

"(o)(1) If it contains saccharin, unless its label and labeling bear the following statement: 'WARNING: THIS PRODUCT CONTAINS SACCHARIN, WHICH CAUSES CANCER IN ANIMALS. USE OF THIS PRODUCT MAY INCREASE YOUR RISK OF DEVELOPING CANCER'. Such statement shall be located in a conspicuous place on such label and labeling as proximate as possible to the name of such food and shall appear in conspicuous and legible type in contrast by typography, layout, and color with other printed matter on such label and labeling. The Secretary shall periodically review and revise, if necessary, such statement to make sure that it accurately conveys the current state of knowledge concerning saccharin.

"(2) The Secretary shall prescribe the methods by which the statement required by paragraph (1) is to be affixed to such label and labeling. In prescribing such methods, the Secretary shall take into consideration whether or not the manufacturing process has been completed by the effective date of this subsection. The requirements of this subsection hall not preclude the Secretary from prescribing appropriate alternative methods for communicating such statement to consumers for food products for which manufacturing is completed on the effective date of this subsection, including sticker labeling or conspicuous notices accompanying the sale of such products at retail.

"(p) If it contains saccharin and is sold through a vending machine, unless the vending machine bears the statement as set forth in subsection (o). Such statement shall be located in a conspicuous place or conspicuous places on such vending machine as proximate as possible to the name of each food containing saccharin that is sold through such vending machine and shall appear in conspicuous and legible type in contrast by typography, layout, and color with the name of each such food.

"(q) If it contains saccharin and is offered for sale not for immediate consumption at a retail establishment unless it is offered for sale at such retail establishment accompanied by a prominently diplayed notice of conspicuous and legible type and at a place of reasonably proximity to such food. Such notice shall be in such form and manner as required by the Secretary. The Secretary shall prepare the text of such notice and shall include information on the nature of the controversy surrounding saccharin including evidence of its carcinogenicity. The Secretary shall periodically review and revise, if necessary, the text of such notice to make sure that it accurately conveys the current state of knowledge concerning saccharin. In prescribing the form, text, and manner of display of such notice, the Secretary should afford an opportunity for the submission of views from all segments of the public but shall not be obligated to comply with the requirements of the Administrative Procedure Act, chapter 5 of title 5, United States Code, or with any provision of the National Environmental Policy Act or with regulations implementing either statute. In any suit for judicial review, the decisions of the Secretary respecting the form, text, and manner of display of such notice shall be sustained unless found to be clearly unreasonable or in excess of statutory authority.

(b) The effective date of this section shall be ninety days after the date of enactment of this Act.

SEC. 7. It is not the intention of Congress that enactment of the Saccharin Study, Labeling, and Advertising Act, promulgation of regulations thereunder, or compliance therewith should be considered to in any way reduce or affect the common law or statutory rights or remedies of any person affected by the usage of saccharin.

SEC. 8. (a) Section 204(d) of Public Law 93-348, as amended by section 18(a) of Public Law 94-573, is further amended by striking out "36-month period" each place it appears and inserting in lieu thereof "42-month period".

(b) Section 211(b) of Public Law 93-348, as amended by section 18(b) of Public Law 94-573, is further amended by striking out "January 1, 1978" each place it appears and inserting in lieu thereof "November 1, 1978".

MOTION OFFERED BY MR. ROGERS

Mr. ROGERS. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. ROGERS moves to strike out all after the enacting clause of the Senate bill S. 1750, and to insert in lieu thereof the text of H.R. 8518, as passed by the House.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title of the Senate bill was amended so as to read: "A bill to direct an eighteen-month review and evaluation of all available information respecting the carcinogenicity and other toxicity of food additives, including information respecting the ability to predict the effect on humans of food additives found to cause cancer in animals and whether there should be a weighing of risks and benefits in making regulatory decisions respecting such additives; to prohibit for eighteen months the Secretary of Health, Education, and Welfare from taking certain action restricting the continued use of saccharin as a food, drug, and cosmetic; and to authorize the Secretary during those eighteen months to require, in retail stores, warning notices respecting the potential health risks presented by the use of saccharin.".

A motion to reconsider was laid on the table.

A similar House bill (H.R. 8518) was laid on the table.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER pro tempore. Pursuant to the provisions of clause 3(b)(3) of rule XXVII, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device may be taken on all of the additional motions to suspend the rules on which the Chair has postponed further proceedings.

CUSTOMS PROCEDURAL REFORM ACT OF 1977

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill H.R. 8149, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Ohio (Mr. VANIK) that the House suspend the rules and pass the bill (H.R. 8149), as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 386, nays 11, answered "present" 1, not voting 36, as follows:

[Roll No. 660]

YEAS—386

Abdnor	Duncan, Tenn.	Leggett
Akaka	Early	Lehman
Allen	Edwards, Ala.	Levitas
Ammerman	Edwards, Calif.	Livingston
Anderson, Calif.	Edwards, Okla.	Lloyd, Calif.
Anderson, Ill.	Eilberg	Lloyd, Tenn.
Andrews, N.C.	Emery	Long, La.
Andrews, N. Dak.	English	Long, Md.
Annunzio	Erlenborn	Lott
Applegate	Ertel	Lujan
Archer	Evans, Colo.	Luken
Armstrong	Evans, Del.	Lundine
Ashbrook	Evans, Ga.	McClory
Ashley	Evans, Ind.	McCloskey
Aspin	Fary	McCormack
AuCoin	Fascell	McDade
Badham	Fenwick	McDonald
Badillo	Findley	McEwen
Bafalis	Fish	McFall
Baldus	Fisher	McHugh
Barnard	Flippo	McKay
Baucus	Flood	McKinney
Bauman	Florio	Madigan
Beard, R.I.	Flowers	Mahon
Beard, Tenn.	Flynt	Mann
Bellenson	Foley	Markey
Benjamin	Ford, Tenn.	Marks
Bennett	Forsythe	Marlenee
Bevill	Fountain	Marriott
Biaggi	Fowler	Martin
Bingham	Frenzel	Mathis
Blanchard	Frey	Mattox
Blouin	Fuqua	Mazzoli
Boggs	Gammage	Meeds
Boland	Gaydos	Metcalfe
Bonior	Gephardt	Michel
Bowen	Giaimo	Mikulski
Brademas	Gilman	Mikva
Breaux	Glickman	Milford
Breckinridge	Goldwater	Miller, Calif.
Brinkley	Goodling	Miller, Ohio
Brodhead	Gore	Mineta
Brooks	Gradison	Minish
Broomfield	Grassley	Mitchell, Md.
Brown, Calif.	Gudger	Mitchell, N.Y.
Brown, Mich.	Guyer	Moakley
Brown, Ohio	Hagedorn	Moffett
Broyhill	Hall	Mollohan
Buchanan	Hamilton	Montgomery
Burgener	Hammer-schmidt	Moore
Burke, Fla.	Hanley	Moorhead, Calif.
Burke, Mass.	Hannaford	Moorhead, Pa.
Burleson, Tex.	Hansen	Mottl
Burlison, Mo.	Harkin	Murphy, N.Y.
Burton, John	Harrington	Murphy, Pa.
Burton, Phillip	Harris	Murtha
Butler	Harsha	Myers, Gary
Byron	Hawkins	Myers, John
Caputo	Heckler	Myers, Michael
Carney	Hefner	Natcher
Carr	Heftel	Neal
Carter	Hightower	Nedzi
Cavanaugh	Hillis	Nichols
Cederberg	Hollenbeck	Nix
Chappell	Holt	Nolan
Chisholm	Holtzman	Nowak
Clausen, Don H.	Horton	O'Brien
Clawson, Del	Howard	Oakar
Clay	Hubbard	Oberstar
Cleveland	Huckaby	Obey
Cochran	Hughes	Ottinger
Cohen	Hyde	Panetta
Coleman	Ichord	Patten
Collins, Tex.	Ireland	Patterson
Conable	Jacobs	Pease
Conte	Jeffords	Perkins
Corcoran	Jenkins	Pettis
Corman	Jenrette	Pickle
Cornell	Johnson, Calif.	Pike
Cotter	Johnson, Colo.	Poage
Coughlin	Jones, N.C.	Pressler
Crane	Jones, Okla.	Preyer
Cunningham	Jones, Tenn.	Price
D'Amours	Jordan	Pritchard
Daniel, Dan	Kastenmeier	Pursell
Daniel, R. W.	Kazen	Quayle
Danielson	Kelly	Quillen
Davis	Ketchum	Rahall
Delaney	Keys	Railsback
Dellums	Kildee	Rangel
Derrick	Kindness	Regula
Derwinski	Kostmayer	Rinaldo
Devine	Krebs	Risenhoover
Dicks	LaFalce	Roberts
Diggs	Lagomarsino	Robinson
Downey	Latta	Rodino
Drinan	Le Fante	Roe
Duncan, Oreg.	Leach	Rogers
	Lederer	Roncalio
		Rooney
		Rose
		Rosenthal
		Rostenkowski
		Rousselot
		Roybal
		Rudd
		Runnels
		Russo
		Ryan
		Sarasin
		Satterfield
		Sawyer
		Scheuer
		Schroeder
		Schulze
		Sebelius
		Seiberling
		Sharp
		Shipley
		Shuster
		Sikes
		Simon
		Sisk
		Skubitz
		Slack
		Smith, Iowa
		Smith, Nebr.
		Snyder
		Solarz
		Spellman
		Spence
		St Germain
		Staggers
		Stangeland
		Stanton
		Stark
		Steers
		Steiger
		Stockman
		Stokes
		Stratton
		Studds
		Stump
		Symms
		Taylor
		Teague
		Thompson
		Thone
		Thornton
		Traxler
		Treen
		Trible
		Tsongas
		Tucker
		Udall
		Ullman
		Van Deerlin
		Vander Jagt
		Vanik
		Vento
		Volkmer
		Waggonner
		Walgren
		Walker
		Walsh
		Wampler
		Watkins
		Waxman
		Weaver
		Weiss
		White
		Whitehurst
		Whitley
		Whitten
		Wiggins
		Wilson, Bob
		Wilson, Tex.
		Winn
		Wirth
		Wydler
		Wylie
		Yates
		Yatron
		Young, Alaska
		Young, Fla.
		Young, Mo.
		Young, Tex.
		Zablocki

NAYS—11

Addabbo	Kasten	Reuss
Ambro	Lent	Richmond
Bedell	Maguire	Skelton
Edgar	Pattison	

ANSWERED "PRESENT"—1

Gonzalez

NOT VOTING—36

Alexander	Dornan	Murphy, Ill.
Bolling	Eckhardt	Pepper
Bonker	Ford, Mich.	Quie
Burke, Calif.	Fraser	Rhodes
Collins, Ill.	Gibbons	Ruppe
Conyers	Ginn	Santini
Cornwell	Holland	Steed
de la Garza	Kemp	Whalen
Dent	Koch	Wilson, C. H.
Dickinson	Krueger	Wolff
Dingell	Meyner	Wright
Dodd	Moss	Zeferetti

The Clerk announced the following pairs:

Mr. Zeferetti with Mr. Alexander.
Mr. Wolff with Mr. Bonker.
Mrs. Burke of California with Mr. Gibbons.
Mr. Koch with Mr. Fraser.
Mr. Dent with Mr. Eckhardt.
Mr. Dingell with Mr. Dornan.
Mrs. Meyner with Mr. Kemp.
Mr. Santini with Mr. Krueger.
Mr. Murphy of Illinois with Mr. Rhodes.
Mr. Pepper with Mr. Charles H. Wilson of California.
Mr. Ford of Michigan with Mr. Ruppe.
Mr. de la Garza with Mr. Whalen.
Mr. Cornwell with Mr. Quie.
Mr. Ginn with Mr. Holland.
Mr. Steed with Mr. Dickinson.
Mr. Moss with Mr. Conyers.
Mr. Dodd with Mrs. Collins of Illinois.

Mr. KASTEN changed his vote from "yea" to "nay."

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

TECHNICAL CORRECTIONS ACT OF 1977

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill H.R. 6715, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gen-

tleman from Oregon (Mr. ULLMAN) that the House suspend the rules and pass the bill H.R. 6715, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 268, nays 128, answered "present" 2, not voting 36, as follows:

[Roll No. 661]

YEAS—268

Abdnor	Flynt	Michel
Akaka	Foley	Milford
Anderson, Ill.	Ford, Tenn.	Miller, Ohio
Andrews, N.C.	Forsythe	Mitchell, N.Y.
Andrews, N. Dak.	Fountain	Mollohan
Annunzio	Fowler	Montgomery
Applegate	Frenzel	Moore
Archer	Frey	Moorhead, Calif.
Ashbrook	Fuqua	Moorhead, Pa.
Ashley	Gammage	Murphy, N.Y.
AuCoin	Gaydos	Murphy, Pa.
Badham	Gephardt	Murtha
Bafalis	Giaimo	Myers, Gary
Baldus	Gilman	Myers, John
Barnard	Goldwater	Myers, Michael
Baucus	Goodling	Neal
Bauman	Gradison	Nichols
Beard, Tenn.	Grassley	Nix
Bedell	Gudger	Nowak
Bevill	Guyer	O'Brien
Biaggi	Hagedorn	Oberstar
Blouin	Hall	Patten
Boggs	Hammer-schmidt	Pettis
Boland	Hanley	Pickle
Bowen	Hannaford	Pike
Breaux	Hansen	Poage
Breckinridge	Harkin	Preyer
Brinkley	Harsha	Price
Brooks	Heckler	Pritchard
Broomfield	Hefner	Pursell
Brown, Calif.	Heftel	Quayle
Brown, Mich.	Hightower	Quillen
Brown, Ohio	Hillis	Railsback
Broyhill	Hollenbeck	Regula
Burgener	Holt	Risenhoover
Burke, Fla.	Horton	Roberts
Burke, Mass.	Howard	Robinson
Burleson, Tex.	Hubbard	Rodino
Burlison, Mo.	Huckaby	Rooney
Butler	Hyde	Rose
Byron	Ireland	Rostenkowski
Carter	Jenkins	Rousselot
Cederberg	Jenrette	Rudd
Chappell	Johnson, Calif.	Russo
Chisholm	Johnson, Colo.	Satterfield
Clausen, Don H.	Jones, Okla.	Sawyer
Clawson, Del	Jones, Tenn.	Schulze
Cleveland	Jordan	Sebelius
Cochran	Kasten	Shipley
Cohen	Kazen	Shuster
Collins, Tex.	Kelly	Sikes
Conable	Ketchum	Sisk
Corcoran	Kindness	Skubitz
Corman	Kostmayer	Slack
Cotter	Krebs	Smith, Iowa
Coughlin	LaFalce	Smith, Nebr.
Crane	Lagomarsino	Snyder
Cunningham	Le Fante	Spence
D'Amours	Leach	Staggers
Daniel, Dan	Lederer	Stangeland
Daniel, R. W.	Leggett	Stanton
Danielson	Lent	Steers
Davis	Levitas	Steiger
Delaney	Livingston	Stockman
Derrick	Lloyd, Tenn.	Stratton
Devine	Long, La.	Stump
Diggs	Lott	Symms
Duncan, Oreg.	Lujan	Taylor
Duncan, Tenn.	McClory	Teague
Early	McCloskey	Thone
Edwards, Ala.	McCormack	Treen
Edwards, Okla.	McDade	Trible
Emery	McDonald	Tucker
English	McEwen	Udall
Erlenborn	McFall	Ullman
Evans, Colo.	McKay	Van Deerlin
Evans, Del.	McKinney	Vander Jagt
Evans, Ga.	Madigan	Waggonner
Fary	Mahon	Walgren
Fenwick	Mann	Walker
Findley	Marks	Walsh
Fish	Marlenee	Wampler
Fithian	Marriott	Watkins
Flippo	Martin	White
Flood	Mathis	Whitehurst
Flowers	Meeds	Whitten
	Metcalfe	Wiggins
Wilson, Bob	Young, Alaska	Young, Tex.
Wilson, Tex.	Young, Fla.	Zablocki
Winn	Young, Mo.	

NAYS—128

Addabbo	Gore	Pease
Allen	Hamilton	Perkins
Ambro	Harrington	Pressler
Ammerman	Harris	Rahall
Anderson, Calif.	Hawkins	Rangel
Armstrong	Holtzman	Reuss
Aspin	Hughes	Richmond
Badillo	Ichord	Rinaldo
Beard, R.I.	Jacobs	Roe
Beilenson	Jeffords	Rogers
Benjamin	Jones, N.C.	Roncalio
Bennett	Kastenmeier	Rosenthal
Bingham	Keys	Roybal
Blanchard	Kildee	Ryan
Bonior	Latta	Sarasin
Brademas	Lehman	Scheuer
Brodhead	Lloyd, Calif.	Schroeder
Buchanan	Long, Md.	Seiberling
Burton, John	Luken	Sharp
Burton, Phillip	Lundine	Simon
Caputo	McHugh	Skelton
Carney	Maguire	Solarz
Carr	Markey	Spellman
Cavanaugh	Mattox	St Germain
Clay	Mazzoli	Stark
Coleman	Mikulski	Stokes
Conte	Mikva	Studds
Cornell	Miller, Calif.	Thompson
Dellums	Mineta	Thornton
Derwinski	Minish	Traxler
Dicks	Mitchell, Md.	Tsongas
Downey	Moakley	Vanik
Drinan	Moffett	Vento
Edgar	Mottl	Volkmer
Edwards, Calif.	Natcher	Waxman
Eilberg	Nedzi	Weaver
Ertel	Nolan	Weiss
Evans, Ind.	Oakar	Whitley
Fascell	Obey	Wirth
Fisher	Ottinger	Wydler
Florio	Panetta	Wylie
Glickman	Patterson	Yates
	Pattison	Yatron

ANSWERED "PRESENT"—2

Gonzalez	Runnels

NOT VOTING—36

Alexander	Dornan	Murphy, Ill.
Bolling	Eckhardt	Pepper
Bonker	Ford, Mich.	Quie
Burke, Calif.	Fraser	Rhodes
Collins, Ill.	Gibbons	Ruppe
Conyers	Ginn	Santini
Cornwell	Holland	Steed
de la Garza	Kemp	Whalen
Dent	Koch	Wilson, C. H.
Dickinson	Krueger	Wolff
Dingell	Meyner	Wright
Dodd	Moss	Zeferetti

The Clerk announced the following pairs:

Mr. Koch with Mr. Quie.
Mr. Dingell with Mr. Whalen.
Mrs. Meyner with Mr. Steed.
Mr. Moss with Mr. Ruppe.
Mr. Zeferetti with Mrs. Burke of California.
Mr. Ford of Michigan with Mrs. Collins of Illinois.
Mr. Eckhardt with Mr. Dickinson.
Mr. Bonker with Mr. Krueger.
Mr. Alexander with Mr. Pepper.
Mr. Conyers with Mr. Charles H. Wilson of California.
Mr. Cornwell with Mr. Holland.
Mr. de la Garza with Mr. Ginn.
Mr. Dent with Mr. Gibbons.
Mr. Dodd with Mr. Fraser.
Mr. Santini with Mr. Dornan.
Mr. Murphy of Illinois with Mr. Rhodes.

Messrs. BLOUIN, BEDELL, and AKAKA changed their vote from "nay" to "yea."

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERMISSION FOR COMMITTEE ON SCIENCE AND TECHNOLOGY TO FILE CONFERENCE REPORT ON S. 1811, ERDA AUTHORIZATION ACT OF 1978—CIVILIAN APPLICATIONS

Mr. FUQUA. Mr. Speaker, I ask unanimous consent that the Committee on Science and Technology may have until midnight tonight to file a conference report on the Senate bill (S. 1811) to authorize appropriations to the Energy Research and Development Administration in accordance with section 261 of the Atomic Energy Act of 1954, as amended, section 305 of the Energy Reorganization Act of 1974, and section 16 of the Federal Nonnuclear Energy Research and Development Act of 1974, as amended, and for other purposes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

PERMISSION FOR COMMITTEE ON MERCHANT MARINE AND FISHERIES TO HAVE UNTIL MIDNIGHT, MONDAY, OCTOBER 17, 1977, TO FILE REPORT ON S. 1617, OCEAN POLLUTION RESEARCH AND MONITORING PROGRAM ACT OF 1977

Mr. BREAUX. Mr. Speaker, I ask unanimous consent that the Committee on Merchant Marine and Fisheries may have until midnight, Monday, October 17, 1977, to file a report on the Senate bill (S. 1617) to establish a program of ocean pollution research and monitoring, and for other purposes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

DISASTER PAYMENTS EXEMPTION

Mr. SISK. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 820 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 820

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 9090) to exempt disaster payments made in connection with the 1977 crops of wheat, feed grains, upland cotton, and rice from the payment limitations contained in the Agricultural Act of 1970 and the Agricultural Act of 1949. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Agriculture, the bill shall be read for amendment under the five-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto

to final passage without intervening motion except one motion to recommit.

The SPEAKER pro tempore. The gentleman from California (Mr. SISK) is recognized for 1 hour.

Mr. SISK. Mr. Speaker, I yield 30 minutes to the gentleman from Illinois (Mr. ANDERSON), pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 820 provides for the consideration of H.R. 9090, a bill to provide an exemption for crop disaster payments from the overall payment limitations imposed for the 1977 crop year.

This is a simple, open rule providing for one hour of general debate on the bill. The time is to be equally divided and controlled by the chairman and ranking minority member of the Committee on Agriculture.

The purpose of H.R. 9090 is to exempt disaster payments made for the 1977 crops of wheat, feed grains, upland cotton, and rice from the payment limitations imposed by the Agricultural Acts of 1949 and 1970, as amended. Under these statutes, no person may receive more than $20,000 in payments from programs relating to wheat, feed grains, and upland cotton or $55,000 from rice programs. This limitation includes both disaster and deficiency payments. Consequently, payments made to farmers stricken by drought, floods, and other disasters would be included in the total limitation.

In an earlier action this year, Congress recognized the hardship imposed by the limitation. The farm bill, S. 275, which was signed into law on September 29, 1977, provided for the exemption of disaster payments from the overall crop payment limit starting with the 1978 crop year. H.R. 9090 simply extends this exemption for the 1977 crop in order to address the severely depressed economic situation of our agricultural community.

The bill was reported from the Committee on Agriculture on September 27, 1977, and sequentially referred to the Committee on Appropriations pursuant to the provisions of the Budget Act. Section 401(b) of the Budget Act requires that any bill reported from an authorizing committee which contains an entitlement in excess of the budget resolution allocation must be referred to the Committee on Appropriations for review. H.R. 9090 provides an entitlement of $25 to $30 million for fiscal year 1978 which was not included in the final budget resolution for this fiscal year. The Committee on Appropriations reported H.R. 9090 favorably on October 5, 1977.

Mr. Speaker, H.R. 9090 will help to address the serious financial problems facing American farmers so that they may stay in business to feed the citizens of our country as well as to assist the overall economic well-being of this Nation by exporting food to millions overseas. I urge my colleagues to adopt House Resolution 820 so that we may proceed to the consideration of H.R. 9090.

Mr. ANDERSON of Illinois. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am delighted to inform this body that we have before us a straight, 1-hour open rule, providing for the consideration of the bill H.R. 9090, the disaster payments exemption bill. This legislation would exempt disaster payments made in connection with the 1977 crops of wheat, feed grains, upland cotton, and rice from the payment limitations contained in the Agricultural Act of 1949. The reason given for this proposed exemption from the payment limitation is the fact that, largely through inadvertence, disaster payments were not excluded from the payment limitation as was done in the new act for the 1978 and later crops. Moreover, the committee report on this bill states that exempting disaster payments from the payment limitation will improve the economic situation for thousands of farmers across the United States in this year of severely depressed farm income.

According to a letter in the committee report from Secretary of Agriculture Bob Bergland, the Department supports this legislation. It was reported from the House Agriculture Committee by a vote of 36 to 8. The report does contain the opposing views of Representatives HARKIN, FINDLEY, and MADIGAN who term the bill the "Fatcat Farmer Relief Act of 1977." However, I know of no opposition to this rule, and therefore urge its adoption.

I am pleased to yield to my colleague the gentleman from Illinois (Mr. FINDLEY).

Mr. FINDLEY. I thank the gentleman for yielding. The attendance in the Chamber is unusually good at this point, undoubtedly much better than will be the case during consideration of the bill itself in the Committee of the Whole.

I would urge every Members to think very carefully as he votes on this bill. If there ever was a bill on agriculture totally reprehensible, this is the one. This can properly be described as the Fat Cat Farmer Relief Act of 1977, because every penny of the benefits under this bill will go to the large corporation-type farmers; not 1 cent will go to the small family-size farmer. I urge my colleagues to vote no when the time comes.

Mr. ANDERSON of Illinois. Mr. Speaker, I have no further requests for time, and I yield back the remainder of my time.

Mr. SISK. Mr. Speaker, I yield 2 minutes to the gentleman from Iowa (Mr. SMITH).

Mr. SMITH of Iowa. Mr. Speaker, in view of the last remark, I just want to mention that there is a major disaster in central Iowa, and I was just recently in a meeting in Polk County, Iowa, where the Extension Director told me that 30 percent of the corn land which is leased in that county is now leased on a cash basis. The cash tenant farmer with only 250 acres of corn—and that is not enough to make a living off of—exceeds the disaster payment when there is a total failure. So it just does not follow when one says that this applies to only corporate farmers. Although a few large farmers may be affected, over 90 percent of those affected will be family farmers.

Mr. SISK. Mr. Speaker, I yield 2 minutes to the gentleman from Iowa (Mr. HARKIN).

Mr. HARKIN. Mr. Speaker, I take this time to say that I, too, along with the gentleman from Illinois (Mr. FINDLEY) oppose this bill. I believe he is right when he said it is the fat cat farmer ripoff of the year. I am sorry that I have to oppose my distinguished dean from the State of Iowa on this matter. I, too, represent a large part of central Iowa, and I meet continually with farmers in that area. In fact, the district I represent was probably the hardest hit by the drought of anyplace in the State of Iowa and any part of the United States this year. I will partake in the debate, and I will point out just which farmers will be getting this relief.

As far as I am concerned, agriculture has gotten enough black eyes in the past by handing out large sums of money to those large farmers who do not really need it. This is just another example of that. I think the lid ought to be kept on. I hope Members here will listen to the debate as it unfolds.

Mr. SISK. Mr. Speaker, I yield 5 minutes to the gentleman from Washington (Mr. FOLEY).

Mr. FOLEY. Mr. Speaker, I am not going to take the 5 minutes. I am concerned when gentlemen whom I respect—and I respect the gentleman from Iowa (Mr. HARKIN) and the gentleman from Illinois (Mr. FINDLEY) very much; they are distinguished members of the committee—use language as exaggerated and inflammatory as the language that has just been spoken on this floor. To call this bill a ripoff or a fat cat farmer relief act is simply false.

I want to remind the Members that all of you who voted for the conference report on the farm bill—and most Members did—voted for a provision which exempts disaster payments from payment limitations for the crop year 1978 and 1979 as part of the new farm program, and in addition to that, substantially raised the payment limitation to $40,000 next year and $45,000 in 1979. All this bill does, while keeping the $20,000 payment limitation, is exempt the disaster payments for this year, making it perfectly consistent with what we are going to do for the next 2 years and putting farmers under the tighter restraints of the $20,000 payment limitation which exists under present law.

The problem we have is that there have been major agricultural disasters in the United States and farmers who have suffered that kind of disaster have to get their disaster relief out of the same $20,000 payment limitation which was designed to provide the income support of deficiency payments. So what happens is that the farmer who has a disaster may have all that $20,000 taken up in disaster payments and will not be treated equally with a farmer on the

other side of the country who does not have the disaster and can benefit from the program supports the Congress has given him.

The gentleman from Iowa (Mr. SMITH), who has served here with distinction a long time. As a Member of the House has said it does not take a large scale farmer to go beyond the amount of the $20,000 payment limitation. This is a notably equitable bill to bring this year into some partial balance with what we are going to do in the new farm act for the next 2 years.

I urge support for the bill.

Mr. ULLMAN. Mr. Speaker, will the gentleman yield?

Mr. FOLEY. I yield to the gentleman from Oregon.

Mr. ULLMAN. Mr. Speaker, the gentleman is absolutely correct. The farmers have had two disasters. They have had a price disaster out my way and therefore they are up to the limit on deficiency payments. On top of that they have had a disaster because of the drought. All we are saying here is that we apply the same rules in 1977 that we have already passed in this Congress for 1978 and 1979, which makes eminent sense.

I congratulate the gentleman.

Mr. FOLEY. I thank the gentleman from Oregon.

Mr. SISK. Mr. Speaker, I yield 2 minutes to the gentleman from Connecticut (Mr. GIAIMO).

Mr. GIAIMO. Mr. Speaker, whether we vote for this bill or not we should know better what we are doing here and in other legislative actions dealing with agriculture, because in the next few days we are going to be presented with a bill for the Small Business Administration disaster loans to farmers. This legislation started out as a small program, and although it is not tied into this $20,000 limitation it does raise questions as to where we are going in agricultural legislation. We have a disaster loan program under the SBA which has been funded in the past at a level of a couple hundred million dollars until recently, when it was extended to provide for farmers' disaster relief. At that point it became a totally new ballgame. The administration is presently asking in the House supplemental appropriation bill for $750 million in this budget year, and it is being increased in the other body to $1.4 billion to carry us only to January. Thereafter, they will need more money for the remainder of the fiscal year.

What I am saying is that we could have an exposure in this year of about $3 billion for fiscal year 1978. This would be in disaster assistance to farmers without a means test, for loans at 3 percent and in the cases of $10,000 or less for loans at 1 percent. All I am saying is we had better realize what we are doing. It may well be we have to have a disaster loan for farmers, and this type of legislation which provides for grants should be considered along with our total effort in agriculture. In this program together with the SBA and FMHA programs we are talking about billions of dollars for farmers and we had better be sure we know what we are doing.

Quite frankly, I think we had better look at the whole disaster program, restudy it and decide if we want to go down that road, because if we do we are talking about billions of dollars. I am afraid that we are rushing into this legislation and other farm legislation such as SBA disaster loan programs too quickly and recklessly.

Mr. FOLEY. Mr. Speaker, if the gentleman will yield at this point, I want the Members of the House to understand, and I am sure the gentleman would like it to be clear, the large amounts of money the gentleman is talking about are funds that result from loans, disaster loans, and have nothing to do with the bill that is on the floor this afternoon.

Mr. GIAIMO. That is right.

Mr. FOLEY. The estimated cost of the bill this afternoon is $25 million or $30 million and has nothing to do with the SBA and other loan programs the gentleman referred to.

Mr. GIAIMO. That is correct. What I am saying is we will have a great deal of items of farm legislation which are coming before us, all of which together have price tags in the billions of dollars. We had better be sure we know what we are doing, because quite frankly unless there is a need, an economic need, I do not think we should be giving sub-market interest rate loans—for example, to wealthy farmers—and this is part of that whole picture.

Mr. FOLEY. Mr. Speaker, if the gentleman will yield further, I just wanted to make clear, to avoid repetition, that this legislation does not involve any loan activity of any kind to the FBA or Farmers Home or any credit problems elsewhere or a means test. What the gentleman is referring to is a separate and different problem.

Mr. GIAIMO. Mr. Speaker, the gentleman is correct. The problem to which I am referring will be before the House later this week in the supplemental appropriations.

Mr. ANDERSON of Illinois. Mr. Speaker. I yield 1 minute to the gentleman from Illinois (Mr. FINDLEY).

Mr. FINDLEY. Mr. Speaker, my good friend and esteemed colleague, the gentleman from Washington (Mr. FOLEY), tried to draw a distinction between income support payments and disaster payments being the subject of this bill.

I think any rational person would recognize that money out of the U.S. Treasury to a farmer is income support, whether we label it a disaster payment or target payment or whatever.

The legislation now on the books puts a cap of $20,000 on the gross payments that can be made to any single farmer in various farm programs. The question arises how deep should one farmer be able to reach into the U.S. Treasury in 1 year? I think $20,000 is deep enough. If you think he should go deeper, then vote for this bill.

Mr. SISK. Mr. Speaker, I yield myself 30 seconds.

Mr. Speaker, I urge adoption of this rule. It is merely a rule that permits the Committee on Agriculture to debate the subject.

Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. FOLEY. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 9090) to exempt disaster payments made in connection with the 1977 crops of wheat, feed grains, upland cotton, and rice from the payment limitations contained is the Agricultural Act of 1970 and the Agricultural Act of 1949.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Washington (Mr. FOLEY).

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. RUSSO. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were refused.

Mr. RUSSO. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. The Chair will count.

Two hundred twenty Members are present, a quorum.

So the motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingy the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 9090, with Mr. BAUCUS in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from Washington (Mr. FOLEY) will be recognized for 30 minutes, and the gentleman from Kansas (Mr. SEBELIUS) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Washington (Mr. FOLEY).

Mr. FOLEY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of the bill (H.R. 9090). The bill is designed to exempt disaster payments received by farmers stricken by drought, floods, and other disasters, from the payment limitation applicable to the 1977 crop of wheat, feed grains, upland cotton, and rice.

H.R. 9090 is consistent with action already taken by the 95th Congress in approving S. 275, the Food and Agriculture Act of 1977. Section 101, clause (2) of the new act provides that starting with the 1978 crop year any payment which is determined by the Secretary of Agriculture to represent compensation received for disaster loss shall not be included in the payment limitation applying to wheat, feed grains, upland cotton, and rice. In taking this action, the 95th Congress recognized that disaster loss

was no respecter of the size of farms and that its was unfair to limit the amount of disaster payments that a particular producer could receive as opposed to another producer where the first producer had experienced a greater financial loss than the other producer.

For the 1977 crop, the limitation which applies to the total payments which any person can receive under one or more of the programs for wheat, feed grains, and upland cotton is $20,000 and the total payments which any person can receive under the rice program is $55,000. At the present time the limitation includes both disaster payments and deficiency payments (other than compensation for resource adjustment). These limitations have been in effect since enactment of the Agriculture and Consumer Protection Act of 1973, except in the case of rice for which the payment limitation became effective with the target price program for the 1976 crop.

Because of escalating production costs, the level of the payment limitation was raised by the Food and Agriculture Act of 1977 for the 1978 crop to $40,000 for wheat, feed grains, and upland cotton payments and to higher amounts for subsequent years. The payment limitation for the 1977 crop was left unchanged from that in effect since 1974 despite the increased costs that have occurred since its enactment in 1973. Largely through inadvertence, disaster payments were not excluded from the payment limitation as was done in the new act for the 1978 and later crops.

To illustrate the impact of the present payment limitation law as it now applies to the 1977 crops, a wheat or cotton producer (and to a large extent a corn producer as well) on an average size family farm would not be completely protected from disaster, or in the case of wheat or cotton if protected might not then be eligible for any target price deficiency payments on the balance of his production. A similar situation exists in the case of barley and grain sorghum. Since the payment limitation for rice is $55,000, few and possibly no rice producing farms are expected to be affected by enactment of this legislation.

In this year of severely depressed farm income, exempting disaster payments from the payment limitation will improve the economic situation of thousands of farmers across the United States and the economic situation of the rural communities centered in the various disaster areas.

Currently, farm prices and farm income are at a very low level. For example, grain producers are receiving market prices equal to only about two-thirds of their cost of production. Because of low farm prices, net farm income, even including Government payments, is projected by USDA to be less than $20 billion in 1977—compared with $33 billion in 1973. During that same period, production costs have increased by more than 30 percent. In those regions where the disaster problems have been severe, a major source of farm income will be derived from the disaster payments. To apply the payment limitation to these disaster payments for the 1977 crop year would result in economic hardship to many farmers. As a matter of equity and fairness, the committee believes that all producers should receive full protection from disaster losses for the 1977 crop.

Mr. Chairman, the following general farm and commodity organizations have announced their support of H.R. 9090: The National Corn Growers Association; the National Cotton Council; the National Association of Wheat Growers; the Grain Sorghum Producers Association; the National Farmers Organization; the Washington Association of Women Involved in Farm Economics (WIFE); the National Farm Coalition; the National Grange; the Midcontinent Farmer Association; and the National Farmers Union.

Mr. Chairman, I urge the Members to join me in voting in support of H.R. 9090.

Mr. SEBELIUS. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, I rise in strong support of H.R. 9090, of which I am a cosponsor along with 15 other Members of the Agriculture Committee—excluding Chairman FOLEY—and four other Members of Congress not on the Agriculture Committee.

Chairman FOLEY has explained the need for this bill quite eloquently. I would like to underscore the fact that Public Law 95-113, the 1977 Food and Agriculture Act, has a provision similar to that which exempts disaster payments from the payment limitations. The recent survey by the Kansas Bankers Association revealed that about 10 percent of my State's farmers are unable to repay their debts, 35 percent have had to go through major refinancing within the past year and 86 percent of the wheat farmers will lose money this year. Low yield disasters from heavy rainfall during harvest and wind erosion during the past winter have been significant in Kansas. The passage of H.R. 9090 will be of significant importance to those farmers experiencing these disasters this year. My farmer constituents need help now!

I would also like to point out that the Secretary of Agriculture and Administration support this bill. The Office of Management and Budget supports the bill. Sure, it is going to add some to outlays in this fiscal year. But it is going to help prevent a lot of farmers from going bankrupt, and that will be a big plus to our nation's agriculture and our economy, now and in the future.

I urge my distinguished colleagues to support this bill.

Mr. FOLEY. Mr. Chairman, I yield 3 minutes to the gentleman from Missouri (Mr. SKELTON).

Mr. SKELTON. Mr. Chairman, I rise to speak in favor of this legislation. A few weeks ago, all of us had the opportunity to see on television the results of a flood in the Kansas City area. What the Members did not see is what I saw when I flew home and then in a light airplane I flew over Lafayette County. The 16 inches of rain that fell within 24 hours inundated some 30,000 acres of my home county of Lafayette County, Mo. If this disaster—and it is truly a disaster—occurred next year, there would be no question but that payments would be forthcoming. But it occurred this year. There is a $20,000 limitation. And we already know what the corn and wheat prices are. That, of course, in itself is a side disaster. Should we penalize those people in Lafayette County and counties such as that, who have been the object of this severe flooding this year, so that those others who have not could reap the benefits in competition with them?

Mr. Chairman, I wholeheartedly endorse this bill. I hope this bill will carry. I think it will be good legislation for this year, 1977. That is what it is designed to do.

Mr. JONES of Tennessee. Mr. Chairman, I yield 1 minute to the gentleman from Kansas (Mr. GLICKMAN).

Mr. GLICKMAN. Mr. Chairman, I strongly endorse the provisions of this bill, which will compensate farmers for their losses from natural disasters in the same manner which they will be entitled to under the 1978 farm bill. The bill is fair and equitable and needs to be made applicable to the 1977 crop year. Our wheat and feed grain farmers need this help desperately. I urge quick adoption of this bill.

Mr. JONES of Tennessee. Mr. Chairman, I yield such time as he may consume to the gentleman from Louisiana (Mr. WAGGONNER).

Mr. WAGGONNER. Mr. Chairman, there is no reason under God's blue canopy of heaven that this proposal should not be accepted today.

There is not a Member of this House of Representatives who participated in or listened to the debate having to do with the limitation of payments who can take the position that anything was ever intended except that support payments be limited. This is not a support payment. To say that disaster relief money should not be exempted is very much the same as saying that if one collects on his crop insurance policy because his land has not produced, that money should not in turn be exempted as well.

This bill, Mr. Chairman, should be passed today. It makes sense, it is fair, it is equitable.

Mr. JOHN T. MYERS. Mr. Chairman, will the gentleman yield?

Mr. WAGGONNER. I will be happy to yield to the gentleman from Indiana.

Mr. JOHN T. MYERS. Mr. Chairman, allegations have been made by at least two Members here that the only farmers who might benefit from the disaster payments are the so-called fat cats. I hope some Member is going to make an explanation here as to just who does benefit. What type of farmers will receive benefits from these disaster funds?

If the Members could have that information, I think they could make a better judgment as to how they want to vote.

Mr. WAGGONNER. Mr. Chairman, any farmer who suffers a disaster is going to benefit, just as is the case with somebody who has a casualty loss.

I hope the gentleman is not suggesting that we are going to say that because one man needs assistance more than another, we are going to give it to him and deny the man who has a lesser need the right to receive any disaster benefits. That is about as discolored as any view can be, and I hope the Members do not adopt that attitude.

We have to be objective. The people who take the position of denying benefits to certain farmers are the people who are saying it is wrong to make money out of farming.

Mr. JOHN T. MYERS. Mr. Chairman, will the gentleman yield further?

Mr. WAGGONNER. I am happy to yield to the gentleman from Indiana.

Mr. JOHN T. MYERS. Mr. Chairman, let me ask this question:

Are there any limitations, such as the size of farms that might be eligible? How about the tenant-landlord relationship? Do both qualify for disaster payments?

Mr. WAGGONNER. Disaster relief programs always have limitations, and they vary from program to program. There is always a limitation on a disaster relief program, and whenever one comes along, those limitations will have application to whomever is involved.

The gentleman knows as well as I do that whatever relief is provided will be on some pro rata basis.

Mr. JOHN T. MYERS. Mr. Chairman, will the gentleman yield for one further question?

Mr. WAGGONNER. I will be happy to yield to the gentleman from Indiana.

Mr. JOHN T. MYERS. Are there any crops that do not qualify, as far as eligibility for disaster payments is concerned?

Mr. WAGGONNER. As I understand it, this is intended to apply to those commodities for which limitations on support payments are in effect.

Mr. JOHN T. MYERS. Mr. Chairman, I thank the gentleman.

Mr. SEBELIUS. Mr. Chairman, I yield 3 minutes to the gentleman from Illinois (Mr. FINDLEY).

Mr. FINDLEY. Mr. Chairman, during our consideration of the rule I described this bill as the "Fat Cat Farmer Relief Act of 1977." I stand by that assessment.

The only farmers who would be affected in any way by this bill are those whose operations are of considerable size. The estimate is that it would affect the farmers who have about 800 acres of wheat or more, or about 650 acres of corn or more, or 200 acres or more of cotton. Anyone who would have production less than those amounts would not be affected at all by this bill.

Farmers in the larger categories are, of course, farmers with immense capital resources. I do not doubt but what many of them have suffered disasters this year. I am not opposed to disaster relief for farmers, up to a limit, but this bill is actually one that changes the rules of the game at the very end of the game.

Every farmer knew, at the beginning of this year for the 1977 crop year, exactly what his opportunities were under the farm program for target price payments, for the loan aspect of the bill, and for disaster relief. They went into the planting season, knowing full well that there would be a $20,000 limitation on aggregate payments, not just on the target price payments but on disaster payments if disaster befell them.

So here we have a bill brought up in the middle of October after the crop year is all over. In other words, at the end of the game we are changing the rules for the benefit of what has to be described as the large-scale or the "fat-cat" farmers.

There are so many demands upon the public purse for assistance to people of very low income, of very low capital resources, that it seems to me entirely prudent for us to keep the cap at $20,000 for the total amount of U.S. dollars that any single farmer can get in grant assistance from the U.S. Treasury.

Mr. WAGGONNER. Mr. Chairman, will the gentleman yield?

Mr. FINDLEY. I yield to the gentleman from Louisiana.

Mr. WAGGONNER. Mr. Chairman, will the gentleman tell me what the basis is for his having said that the law says that a farmer will not receive payments in the aggregate of more than $20,000 and why he includes disaster payments in that figure.

Mr. FINDLEY. I said that because that is the way the law now reads. I do not know whether the gentleman voted for the bill which established that law.

Mr. WAGGONNER. I did.

Mr. FINDLEY. It was clearly understood by farmers in the beginning of the crop year that any benefits, any payment support that they would get from the farm programs would have a limitation of $20,000.

Personally, I think that limitation is too high.

Mr. WAGGONNER. That is a support payment; is it not?

Mr. FINDLEY. It does change the rules at the end of the game.

Mr. JONES of Tennessee. Mr. Chairman, I yield 3 minutes to the gentleman from Iowa (Mr. HARKIN).

Mr. HARKIN. Mr. Chairman, I think a record has to be made about some of the figures being bandied about here, as I said earlier.

Mr. Chairman, the area that I represent has been hard hit by the drought also, but I have some very serious concern about this bill.

For example, I figured that in wheat, if one had, let us say, an average of 30 bushels per acre and if he were totally wiped out, he would have to have at least 766 acres before he would bump up against that $20,000 payment limit. If he had at least a third of the crop, he would to have over 1,500 acres of wheat before he would bump up against that $20,000 limit.

In corn, in my area, if one had 100 bushels of established yield and he were totally wiped out, he would have to have 333 acres before he would bump up against that $20,000 limit.

I do not know of too many farmers, but there are a few in the area I represent, and the area I represent was hardest hit of all of the areas of Iowa. However, again, I do not know very many farmers that had a total wipeout. Most of them had a wipeout of half a crop or a third of a crop. If one had two-thirds of a crop wiped out, he would have to have 666 acres of corn before he would bump up against that $20,000 limitation.

Mr. FINDLEY. Mr. Chairman, will the gentleman yield?

Mr. HARKIN. I yield to the gentleman from Illinois.

Mr. FINDLEY. Mr. Chairman, I ask the gentleman this question: If there was a farmer with 1,000 acres and he had a total wipeout, he would still get $20,000, would he not? He would not be left out in the cold exactly, would he?

Mr. HARKIN. Yes, he would still get the $20,000. I might also point out that the Department of Agriculture is coming up with a new program to do away with the disaster payment program. It will be a new program to provide crop insurance for all crops for all areas of the United States.

Mr. Chairman, what we are looking at is this year and next year in terms of disaster payments.

It seems to me that limiting the disaster payments with respect to next year was done in order to get large farmers to comply with the set-aside provisions. We do not have that problem this year. We do next year, and that was the reason that the other body came up with that provision. The House did not lift the lid on disaster payments. The Senate did. That was to help get the large farmers to comply with the set-aside provisions.

Third, large farmers who, I believe, will be affected by this have ample credit to meet their emergency needs. Right now the SBA is providing these types of loans in my area. They are 3-percent interest loans up to $250,000; and 6⅝ percent on the balance, up to $5,000, and they have up to 30 years to repay. There is no "credit-elsewhere" test.

Mr. Chairman, later on this week we wil be voting for $725 million additional for this emergency loan program through SBA. I support this additional funding.

I know that this is a loan program, as the chairman of the committee said; but it is at 3 percent. It is a 3-percent subsidized loan, and these large farmers can get this type of loan to meet their emergency needs.

I might also point out there are other problems with respect to this, SBA in many areas is already providing these loans and will be providing more in the next few days.

The CHAIRMAN. The time of the gentleman has expired.

Mr. FOLEY. I yield 1 additional minute to the gentleman from Iowa.

Mr. HARKIN. Right now loan eligibility under SBA is based on the farmer's actual loss less ASC disaster payment received. If this bill is enacted and those farmers have already gotten their disaster payments, they will be affected by what we do here. We could be in a position where the loans will have to be recalculated. The farmers would have to come back in and pay some of the money back.

I think this is courting disaster with the SBA program that we have had enough problems with getting it set up, as it is. If we pass this bill it will affect the SBA program.

Mr. HAGEDORN. Mr. Chairman, will the gentleman yield?

Mr. HARKIN. I yield to the gentleman from Minnesota.

Mr. HAGEDORN. Mr. Chairman, I would like to thank the gentleman for yielding. This past weekend a number of us on the House Committee on Agriculture went out to western Minnesota and down into northern Iowa and held some hearings on the problems of the small family farmers. In other words, concerning how young people are having difficulty getting established. I think what we are doing is exacerbating the problem for these potential young farm families when the U.S. Government comes along with unlimited payments.

The CHAIRMAN. The time of the gentleman has again expired.

Mr. FOLEY. I yield one additional minute to the gentleman from Iowa.

Mr. HAGEDORN. As long as the U.S. Government continues to give carte blanche loan authority and assurances that farmers will have a substantial amount of the risk they take picked up, then all we are doing is encouraging them to become bigger and bigger farmers, and causing them to pay more farm rent, or high purchase prices for farm land.

I think $20,000 is too low, but, to give unlimited assurances from the Government it seems to me goes far too far. My recommendation would be between $50,000 and $75,000 per farm operator. More importantly, we should be looking and encouraging a level which would encourage decent sized operations survive, but, at the same time, not to guarantee the big farm operations unlimited financial support by the U.S. taxpayers.

Mr. BEDELL. Mr. Chairman, if the gentleman will yield, it should be pointed out in the small business law the 3-per cent loans, that there is no credit lessor provision there, it does not mean whether or not you can borrow money at other places, as is true for some small loans, you are eligible for 3-percent rates on the loans up to $250,000.

Mr. FOLEY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, just for the purpose of the record, I again point out that this debate is centering on the SBA and the FHA loan program. They have nothing to do with the bill that is on the floor today. The question of whether Members are in favor of 3 percent SBA loans and FHA loans, and so forth, has to do with other legislation before the House, namely, the supplemental appropriations bill. H.R. 9090 would merely make possible for 1977 the provision we have already adopted with respect to 1978 and 1979 crop years. The gentleman from Iowa is incorrect if he believes that the present law does not extend to both 1978 and 1979 crop years. I am sure that he knows that it does. He is talking about a crop insurance bill that has not even been considered by the Committee on Agriculture yet and whose form is totally unknown at this time.

So, for the next 2 crop years we will have the $40,000 to $45,000 limitation instead of the $20,000 limitation, and for those 2 years the payment limitation will be totally inapplicable to disaster payments. All we do in this bill is to retain the $20,000 limitation in current law but separate the disaster payments from this limitation. It just goes half way, if that, as to what we do next year and less than that as to what we do in the crop year 1979.

I am a bit confused by the vehemence that has been expressed by individual Members who oppose this bill, who apparently had no great difficulty voting for the conference report on the farm bill that went much further than this bill does for the ensuing 2 years.

Mr. HARKIN. Mr. Chairman, will the gentleman yield?

Mr. FOLEY. I yield to the gentleman from Iowa.

Mr. HARKIN. I thank the gentleman for yielding.

I voted for that because, as I pointed out in the well, the limitation was lifted for the next 2 years because of the problem of getting large farmers to comply with the set-aside. We do not have that problem this year.

Mr. FOLEY. That may have been the gentleman's reason, but that was not the only reason advanced for separating these payments. Many Members agreed that deficiency payment should be controlled by the payment limitation, but they took the view that disaster payments were a matter that should be treated separately.

Mr. Chairman, I yield 3 minutes to the gentleman from Iowa (Mr. SMITH).

Mr. SMITH of Iowa. Mr. Chairman, I think it ought also to be pointed out here, because it has not been previously, that there is another limitation which applies. Under the formula the producer is limited to about 30 percent of the cost of inputs. That is what it amounts to. Many farmers do have total disasters. It is not so that most of them only have a one-third or two-thirds loss. Many of them have total disasters and have plowed up or destroyed the entire crop residue. They are limited to about 30 percent of the cost of the inputs. The way it figures out, if they pay cash rent and they farm about 250 or 260 acres, they are bumping the $20,000 limit just on corn, and that is if they did not receive any other kind of payment. So we are talking about people who are not necessarily big farmers; we are talking about the farmer who starts out and has to rent all his land, who does not own any land and in every sense of the word a family farmer. He must farm more than 260 acres in corn to make a living. He finds out at the end of the year he has a once-in-a-lifetime disaster and he can only recover 30 percent of his cost of inputs, and then only on a portion of the crop. It will help a few large farmers but for each well financed farmer, it affects 20 times as many family farmers in severe drought areas.

I say while we are trying to work out a disaster and crop insurance program to replace the present programs which Secretary Bergland describes as a disaster, we ought to take this limitation off.

Mr. BAUCUS. Mr. Chairman, I support House Resolution 9090 to exempt disaster payments made in connection with the 1977 crops of wheat, feed grains, upland cotton, and rice from the payment limitations contained in the Agricultural Act of 1970 and the Agricultural Act of 1949. This bill is an important measure that will help farmers whose 1977 crops were affected by drought, floods, or other disasters.

These producers—many of whom are in Montana—are facing financial problems. Disaster can strike any farmer and for many family operations, $20,000 cannot cover losses. H.R. 9090 will change present law to be consistent with the Food and Agriculture Act of 1977, which provides that in 1978 and future years, disaster relief will be exempt from payment limitations.

While we are on the subject of agricultural programs, I would like to make some additional comments about the recently enacted Food and Agriculture Act of 1977 and its application to Montana farmers during the coming crop year.

The USDA has announced intentions for administering the 1978 wheat and feed grains programs. These will apply to wheat planted this fall and to spring crops planted next year.

Under the new farm bill, historical acreage allotments will no longer be used for determining program payments and set-aside. Instead, the program will be based on "normal crop acreage." Normal crop acreage for a specific farm will be the total number of acres of the following crops planted for harvest in 1977: Wheat, barley, oats, corn, dry edible beans, flax, oats, rice, rye, sorghum, soybeans, sugarbeets, sugarcane, sunflowers, and upland cotton. Other crops recommended by State ASC committees and approved by the USDA may be added later. Local ASC committees will be authorized to adjust normal crop acreage if 1977 acreages on a farm were abnormal.

In the 1978 set-aside program, a farmer's planted acreage of the above crops plus the acreage set aside cannot exceed the normal crop acreage.

There will be a set-aside of 20 percent on the 1978 wheat crop. Thus, producers must set aside at least 2 acres for each 10 they plant.

If a producer voluntarily reduces his 1978 wheat acreage planted for harvest as grain from that planted in 1977 by at least 20 percent, he will be guaranteed target price protection on the normal production from the entire acreage and will qualify for the loan program on all he produces. Those who participate in the set-aside program but do not reduce plantings by at least 20 percent will be

assured target price protection on not less than 80 percent of the acreage they plant for harvest as grain and will qualify for the loan program. Those who decide not to participate in the set-aside program will not be eligible for target price payments or loans.

The target price will be $3 per bushel if 1978 production is above 1.8 billion bushels or $3.05 if production is below 1.8 billion bushels. The 1978 loan rate will probably remain at $2.25 per bushel.

Due to this year's good corn harvests, a set-aside program for feed grains will probably be announced, with a set-aside of about 10 percent expected. In order to qualify for payments, a producer who raises both wheat and feed grains must comply with both the wheat and feed grain set-asides.

The following rules have been proposed for set-aside:

Land set aside must normally have been tilled in one of the last 3 years;

Excluded is land in orchards and vineyards, strips in skiprow planting patterns and other areas of small size or abnormal shape;

Vegetative cover must be established on the set-aside acreage. The cover shall consist of small grains (not allowed to mature), or annual, bienniel or perennial grasses or legumes;

No harvesting or grazing will be permitted on the set-aside acreage (except in emergency situations).

Land which is summer fallowed or clean tilled may not be designated as set-aside.

Total deficiency payments for wheat, feed grain, and upland cotton producers will be limited to $40,000 in 1978. However, there will be no limitation on disaster payments, because of the action of the House today, provided the measure before my colleagues now meets their approval. I trust it will.

The CHAIRMAN. Are there any other requests for time?

Mr. FOLEY. Mr. Chairman, I have no further requests for time.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

H.R. 9090

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding any other provision of law, the term "payments" as used in section 101 of the Agricultural Act of 1970, as amended, and section 101(g)(13) of the Agricultural Act of 1949, as amended, shall not include any part of any payment which is determined by the Secretary of Agriculture to represent compensation for disaster loss with respect to the 1977 crops of wheat, feed grains, upland cotton, and rice.

The CHAIRMAN. Are there any amendments?

Mr. HARKIN. Mr. Chairman, I move to strike the requisite number of words.

Again I take this time to get 5 additional minutes to point out that in terms of the people who are cash-renting, to be affected by this $20,000 payment limitation, if you had a total wipe-out and your established yield was at least 100 bushels an acre of corn, you would have to have at least 333 acres rented. That might not be unusual. I am certain there are farmers who have that much rented. I doubt that they are new farmers just coming into the business. They are probably farmers more than likely who have a few hundred acres that they already own and are renting some more.

Mr. SMITH of Iowa. Mr. Chairman, will the gentleman yield?

Mr. HARKIN. I yield to the gentleman from Iowa.

Mr. SMITH of Iowa. I thank the gentleman for yielding.

To start out, many of them have a 220-bushel yield. That makes the gentleman's figures 16 percent off right there. So now we have 230 acres.

Mr. HARKIN. I have some farmers in my district that have around 120 bushels an acre yield established, and I will say again that my area was the hardest hit by the drought. I know very few farmers who were wiped out totally. Some were. Some of them have had maybe a third, a fourth, maybe a half of a crop of corn. In that case, if they had a one-third crop, even if they were renting, they would still have to have 666 acres rented before they would be affected by the $20,000 limitation.

I was on a farm about 2 weeks ago in my area where a farmer had about a third of a corn crop. At the same time he was harvesting 35 bushels of beans per acre, and he had a forward contract at $6 or $7 a bushel. So I think we have to keep in mind just who is going to get this money in this bill. I think only those farmers who are very large will. I have had some come to me and complain that they are going to be hurt by the $20,000 limitation. I had one just a few days ago, and I happen to know that that individual owns over 1,500 acres of prime land in Iowa.

He has a net worth of probably $4 or $5 million. He is also going down and getting SBA loans at 3 percent. I have no quarrel with that, I am supporting that, but again I do not think we ought to give him deficiency payments as much as that farmer would be eligible for if we take the lid off in this bill.

One last point I tried to make in the well has to do with the SBA program. We had a difficult time getting this started in Iowa and getting the forms to the farmers and getting the forms filled out. We made good progress. We have a good person in charge of it in Iowa. The amount of the loan is calculated on actual loss minus any disaster payments received. If they figure in their disaster payments right now, then we raise this lid and give them more disaster payments, that whole loan is going to have to be recalculated. We had to hire some 20 additional people to figure this out in Des Moines and we have right now 20,000 farmers who have signed up for this program. If this bill is passed we are going to have to go back and recalculate thousands and thousands of loans. It will just be a disaster for the SBA program.

Mr. SMITH of Iowa. Mr. Chairman, if the gentleman will yield, start with this, that they have only 54 papers returned as of Friday night and none of those are to do with the disaster payments. It will be several weeks or longer before they are in, before any loans are put out. So we are not talking about any great amount of paperwork.

Mr. HARKIN. I did not know only 54 had been turned in by last Friday, but I do know there are thousands in process and the farmers need that money right now. If this bill passes and has to go to the Senate and then to the President, people are going to wonder just what they should do. Should they wait until this bill is passed?

The SBA is moving rapidly ahead to fill those loan requests. A loan at 3 percent up to $250,000 and 6⅝ in the $500,000 with up to 30 years repayment I think is a good enough subsidy for those large farmers that are going to be affected by this bill. I think we ought to take this $30 million estimated cost and put it where it really belongs, into soil and water conservation and rural development. Let us give more benefits to the young farmer just starting out. That is where our emphasis should be placed.

Mr. Chairman, I urge the defeat of this bill.

Mr. MILLER of Ohio. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I see from the report on the disaster payments exemption bill that it says farmers would receive payment for disasters "by drought, floods, and other disasters." Can the chairman of the committee explain to me what is meant by "other disasters"?

Mr. FOLEY. Mr. Chairman, if the gentleman will yield, a disaster could include a flood, windstorm, freeze, hailstorm and other conditions beyond the producers control that would destroy a crop.

Mr. MILLER of Ohio. You are saying any disaster that would destroy a crop; is that correct?

Mr. FOLEY. Any disaster, yes, that would destroy a crop.

Mr. MILLER of Ohio. I noticed on page 2 of the report that it says, for the 1977 crop, the limitation which applies to the total payments which any person can receive under one or more of the programs for wheat, feed grains, and upland cotton is $20,000, and a total payment which any person can receive under the rice program, is $55,000.

Now on the front of the report—and I bring this up because there certainly has been contradictory conversation, and I have heard it on two differing points of view, but on the front of the page the language says:

The purpose of H.R. 9090 is to exempt disaster payments received by farmers stricken by drought, floods and other disasters, from the payment limitation applicable to the 1977 crop of wheat, feed grains, upland cotton, and rice.

Now, what that says to me is that H.R. 9090 is to exempt disaster payments from the payment limitation. Am I correct in that?

Mr. FOLEY. Mr. Chairman, if the gentleman will yield further, yes, I think

the gentleman would be correct in that statement.

Mr. MILLER of Ohio. Then what the gentleman from Illinois (Mr. FINDLEY) says would be correct, if it is exempting the disaster payments from the payment limitation.

Mr. FOLEY. I do not know that I want to agree with the gentleman, because the gentleman from Illinois (Mr. FINDLEY) said a great many things as to what this bill does and whom it benefits most of which I totally disagree with, but I would say to the gentleman that the purpose has always been very clear. The purpose has been to apply the $20,000-payment limitation to those income supports or target-price payments which are considered deficiency payments and not to apply the $20,000 to disaster payments: that is right. That is exactly what we have agreed to do, as the gentleman knows, next year and the year after, on all these crops. In addition we have increased the limitation for deficiency payments by 100 percent for next year and more than that for 1979.

Mr MILLER of Ohio. Mr. Chairman, could I ask this question of the chairman? Could those people that are raising the wheat and feed grains and upland cotton still receive $20,000 without the bill?

Mr. FOLEY. They can receive a maximum of $20,000 from a combination of disaster and deficiency payments. But let us take two farms, each farm is normally going to be paid $3,000 or $4,000 in deficiency payments. Farm A has a disaster which uses up that $20,000 on other parts of the crop. Because of the disaster, he does not get any of the deficiency payment that his neighbor receives because he has reached the ceiling. If we eliminate the limitation that this bill is designed to do, he would be paid for his disaster. He could not receive both a disaster and efficiency payment on the same bushels, but he would get equal payment for the deficiency payment, as his neighbor does.

Mr. MILLER of Ohio. Is is correct that those same people could have $20,000 damage to their crops, could receive that $20,000 payment, and those people that had a rice crop damage could still receive $55,000?

The CHAIRMAN. The time of the gentleman from Ohio has expired.

Mr. CARTER. Mr. Chairman, I move to strike the requisite number of words.

I yield to the distinguished gentleman from Ohio.

Mr. MILLER of Ohio. Mr. Chairman, I thank the gentleman from Kentucky for yielding.

The people who have crop damage to rice could still receive $55,000 without passing H.R. 9090; is that correct?

Mr. FOLEY. That is correct. One of the problems we have corrected in the language of the new farm bill is to bring over a period of 4 years the payment limitation on rice to the same level that applies to feed grains, wheat and upland cotton, whereas before this time rice had twice the payment limitation applicable to the other crops.

If the gentleman will permit, when we say that a wheat farmer or corn farmer can receive $20,000, that is true; but if he does so in the form of disaster payments, he cannot get the same target price payment that the law entitles him to get. He may have the same kind of income support due him as does his neighbor, but he is completely eliminated from receiving a cent of that deficiency payment.

Mr. MILLER of Ohio. Mr. Chairman, would the gentleman say if he received the $20,000 disaster payment that it paid for the crop once?

Mr. FOLEY. No, sir; he did not receive it. The gentleman is incorrect. You cannot receive a disaster payment and a deficiency payment on the same quantity. You would have to have, in this case, a disaster payment on a part of the crop and income support on the other part.

Mr. MILLER of Ohio. But the gentleman would have to have a large farm in order to receive the $20,000 in disaster payments.

Mr. FOLEY. The same bushels.

Mr. MILLER of Ohio. So apparently we are saying it would require a large farm in order to receive a payment.

Mr. FOLEY. Mr. Chairman, if the gentleman will yield further, it depends on what the gentleman regards as a large farm. Some Members have spoken about big corporate farms.

There are farmers who do not own very much land, who are leasing land, who are affected by this disaster payment limitation. They have undertaken much effort and incurred great debt in order to produce. They are not all rich farmers. They are not owners of land with great amounts of money, and I think to imply that they are, is not correct.

Mr. MILLER of Ohio. I thank the gentleman.

The CHAIRMAN. Are there any amendments?

If not, under the rule, the committee rises.

Accordingly the committee rose; and the Speaker pro tempore (Mr. ROSTENKOWSKI) having assumed the chair, Mr. BAUCUS, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 9090) to exempt disaster payments made in connection with the 1977 crops of wheat, feed grains, upland cotton, and rice from the payment limitations contained in the Agricultural Act of 1970 and the Agricultural Act of 1949, pursuant to House Resolution 820, he reported the bill back to the House.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. FINDLEY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 265, nays 127, not voting 42, as follows:

[Roll No. 662]

YEAS—265

Abdnor	Frenzel	Neal
Akaka	Frey	Nichols
Allen	Fuqua	Nix
Ambro	Gammage	Nowak
Anderson, Ill.	Gaydos	Oakar
Andrews, N.C.	Gephardt	Oberstar
Andrews, N. Dak.	Gilman	Obey
	Glickman	Patten
Applegate	Gonzalez	Patterson
Armstrong	Goodling	Perkins
Ashley	Gore	Pettis
Aspin	Grassley	Pickle
AuCoin	Gudger	Poage
Badham	Guyer	Pressler
Baldus	Hagedorn	Preyer
Barnard	Hall	Price
Baucus	Hamilton	Pritchard
Bauman	Hammer-schmidt	Pursell
Beard, R.I.		Quillen
Beard, Tenn.	Hannaford	Rahall
Bevill	Hansen	Rangel
Blouin	Harsha	Regula
Boggs	Hawkins	Richmond
Boland	Hefner	Risenhoover
Bowen	Heftel	Roberts
Brademas	Hightower	Robinson
Breaux	Hillis	Roe
Brinkley	Horton	Roncalio
Brooks	Howard	Rooney
Brown, Calif.	Hubbard	Rose
Brown, Ohio	Huckaby	Rostenkowski
Broyhill	Ireland	Rousselot
Buchanan	Jacobs	Roybal
Burgener	Jeffords	Rudd
Burke, Fla.	Jenkins	Runnels
Burke, Mass.	Jenrette	Ryan
Burleson, Tex.	Johnson, Calif.	Satterfield
Burlison, Mo.	Johnson, Colo.	Sawyer
Burton, John	Jones, N.C.	Sebelius
Burton, Phillip	Jones, Okla.	Sharp
Butler	Jones, Tenn.	Shipley
Byron	Jordan	Shuster
Carney	Kasten	Sikes
Carr	Kastenmeier	Sisk
Carter	Kazen	Skelton
Cavanaugh	Kelly	Skubitz
Cederberg	Keys	Slack
Chappell	Kildee	Smith, Iowa
Chisholm	Kindness	Smith, Nebr.
Clausen, Don H.	Krebs	Snyder
	LaFalce	Spence
Cochran	Latta	St Germain
Coleman	Le Fante	Staggers
Collins, Tex.	Leach	Stangeland
Corman	Lederer	Stanton
Cornell	Leggett	Steiger
Cornwell	Livingston	Stokes
Cotter	Lloyd, Calif.	Stump
Cunningham	Lloyd, Tenn.	Symms
Daniel, Dan	Long, La.	Taylor
Daniel, R. W.	Lott	Thompson
Davis	McCloskey	Thone
Derrick	McCormack	Thornton
Devine	McEwen	Traxler
Dornan	McFall	Treen
Downey	McKay	Trible
Duncan, Oreg.	Madigan	Tsongas
Duncan, Tenn.	Mahon	Tucker
Edwards, Ala.	Mann	Udall
Edwards, Calif.	Marks	Ullman
Edwards, Okla.	Marlenee	Waggonner
Eilberg	Marriott	Walsh
English	Martin	Wampler
Ertel	Mathis	Watkins
Evans, Colo	Mattox	Waxman
Evans, Del.	Mazzoli	Weaver
Evans, Ga.	Meeds	White
Evans, Ind.	Milford	Whitehurst
Fary	Mitchell, N.Y.	Whitley
Fish	Mollohan	Whitten
Flippo	Montgomery	Winn
Flood	Moore	Wirth
Flori	Moorhead, Pa.	Wylie
Flowers	Murphy, N.Y.	Yatron
Flynt	Murphy, Pa.	Young, Alaska
Foley	Murtha	Young, Mo.
Ford, Tenn.	Myers, Gary	Young, Tex.
Forsythe	Myers, John	Zablocki
Fountain	Myers, Michael	
Fowler	Natcher	

NAYS—127

Addabbo	Fisher	Mottl
Ammerman	Glaimo	Nedzi
Anderson, Calif.	Goldwater	Nolan
Annunzio	Gradison	O'Brien
Archer	Hanley	Ottinger
Badillo	Harkin	Panetta
Bafalis	Harrington	Pattison
Bedell	Harris	Pease
Beilenson	Heckler	Pike
Benjamin	Hollenbeck	Quayle
Bennett	Holt	Railsback
Biaggi	Holtzman	Reuss
Bingham	Hughes	Rinaldo
Blanchard	Hyde	Rodino
Bonior	Ichord	Rogers
Brodhead	Ketchum	Rosenthal
Brown, Mich.	Kostmayer	Russo
Caputo	Lagomarsino	Sarasin
Clawson, Del	Lehman	Scheuer
Clay	Lent	Schroeder
Cleveland	Levitas	Schulze
Cohen	Long, Md.	Seiberling
Conable	Lujan	Simon
Conte	Luken	Solarz
Corcoran	McClory	Spellman
Coughlin	McDade	Stark
Crane	McDonald	Steers
D'Amours	McHugh	Stockman
Daniel.son	McKinney	Stratton
Delaney	Maguire	Studds
Dellums	Markey	Van Deerlin
Derwinski	Metcalfe	Vander Jagt
Diggs	Michel	Vanik
Drinan	Mikulski	Vento
Early	Mikva	Volkmer
Eckhardt	Miller, Calif.	Walgren
Edgar	Miller, Ohio	Walker
Emery	Minish	Weiss
Erlenborn	Mitchell, Md.	Wiggins
Fascell	Moakley	Wilson, Bob
Fenwick	Moffett	Wydler
Findley	Moorhead, Calif.	Yates
		Young, Fla.

NOT VOTING—42

Alexander	Dodd	Murphy, Ill.
Ashbrook	Fithian	Pepper
Bolling	Ford, Mich.	Quie
Bonker	Fraser	Rhodes
Breckinridge	Gibbons	Ruppe
Broomfield	Ginn	Santini
Burke, Calif.	Holland	Steed
Collins, Ill.	Kemp	Teague
Conyers	Koch	Whalen
de la Garza	Krueger	Wilson, C. H.
Dent	Lundine	Wilson, Tex.
Dickinson	Meyner	Wolff
Dicks	Mineta	Wright
Dingell	Moss	Zeferetti

The Clerk announced the following pairs:

On this vote:

Mr. Wright for, with Mr. Wolff against.

Until further notice:

Mr. Zeferetti with Mr. Whalen.
Mr. Dent with Mr. Quie.
Mr. Santini with Mr. Ruppe.
Mrs. Burke of California with Mr. Dickinson.
Mr. Ginn with Mr. Dornan.
Mr. Murphy of Illinois with Mr. Ashbrook.
Mr. Charles H. Wilson of California with Mr. Fraser.
Mr. Dodd with Mr. Gibbons.
Mr. Ford of Michigan with Mr. Krueger.
Mr. Alexander with Mrs. Collins of Illinois.
Mr. Pepper with Mr. Kemp.
Mr. Moss with Mr. Broomfield.
Mr. Koch with Mr. Bonker.
Mr. Dingell with Mr. Conyers.
Mr. Breckinridge with Mr. Dicks.
Mr. de la Garza with Mr. Lundine.
Mr. Fithian with Mrs. Meyner.
Mr. Mineta with Mr. Steed.
Mr. Teague with Mr. Charles Wilson of Texas.

Messrs. LEHMAN, RINALDO, GOLDWATER, MOORHEAD of California, HANLEY, VAN DEERLIN, and BADILLO changed their vote from "yea" to "nay."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore (Mr. PRICE). Is there objection to the request of the gentleman from Washington?

There was no objection.

PROPOSAL FOR FINANCIAL RESTORATION AND EQUITY STRENGTHENING OF THE SOCIAL SECURITY SYSTEM

(Mr. CONABLE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CONABLE. Mr. Speaker, today I have introduced in bill form an amendment in the nature of a substitute for H.R. 9346, the Social Security Financing Amendments of 1977.

I plan to offer this bill (H.R. 9595) as a substitute for H.R. 9346 when that measure is debated later this week. I have not asked that this amendment be published in legislative language in the CONGRESSIONAL RECORD because of the excessive cost involved. It is a comprehensive piece of legislation and the cost of publishing it would have been extremely high.

H.R. 9595, which is the substitute I will offer, will be available from the bill clerk for the information of the Members.

PERMISSION FOR COMMITTEE ON ARMED SERVICES TO FILE A REPORT ON H.R. 6954, ETHICS IN GOVERNMENT ACT OF 1977

Mr. STRATTON. Mr. Speaker, I ask unanimous consent that the Committee on Armed Services may have until midnight tonight to file a report on the bill H.R. 6954, Ethics in Government Act of 1977.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

REPORT FROM COMMISSIONER ON AGING—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Education and Labor:

To the Congress of the United States:

Section 208 of the 1973 Amendments to the Older Americans Act (Public Law 89–73) provides that the Commissioner on Aging shall prepare and submit to the President for transmittal to the Congress a full and complete report on the activities carried out under this Act, not later than 120 days after the close of each Fiscal Year.

The Secretary of Health, Education, and Welfare has forwarded the Annual Report of the Administration on Aging for the Fiscal Year 1976 to me, and I am pleased to transmit this document to the Congress.

JIMMY CARTER.

THE WHITE HOUSE, *October 17, 1977.*

JOINT RESOLUTION HONORING GRANDPARENTS

(Mr. DICKS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DICKS. Mr. Speaker, I would like to share with you and my colleagues, assembled here today, the following letter from one of my younger constituents and other correspondence about "Grandparents Day":

1545 N. CALLOW,
Bremerton, Wash., August 30, 1977.

DEAR MR. DICKS: I wrote to the President as I am trying to start a "Grandpa's Day." Please read my letter which is enclosed.

I received a reply from the President's office suggesting that I contact our Congressmen. So I am writing to you and am also enclosing a copy of the letter from the President's office.

My Grandpa's name is Mr. Barney Tillery and he is a very special man. He tries to help everybody, and that is why I would like to have a Grandpa's Day every year for him and all the other Grandpas. I think the last Sunday in April would be a good day but if you think another day would be better, that will be fine with me.

I hope you will help me with this matter. My Grandpa will really be surprised. Please let me know soon as it is very important.

Sincerely,

ANNE TILLERY.

P.S.—I am going to attend Star of the Sea School and I will be in the 6th grade. Please write soon. My phone number is: 377–0496.

Attached to Anne's letter, were the following:

ANNE TILLERY,
1545 N. CALLOW,
Bremerton, Wash., February 27, 1977.

DEAR PRESIDENT CARTER: I heard you just got to be a Grandpa the other day. I bet you are very happy. I suppose Mrs. Carter is busy knitting all kinds of little sweaters and stuff. My Grandma is always knitting my brother and my cousin and I stuff. Maybe Mrs. Carter would like some patterns from my Grandma. My Grandma is right from Ireland, and her day is March 17th.

What I am really writing about is: I would like to have a Grandpa's Day. I would like to have it the last Sunday in April every year. Don't you think that would be a good date? I have a very nice Grandpa, and he is always asking me, 'Annie, when is Grandpa's Day?' So, I wonder if you could make a special day for Grandpas. Do you think the last Sunday in April is a good day? I hope you would let me know.

. . . . My Grandpa, will be very happy about Grandpa's Day. I hope you will be able to make it the last Sunday in April. Maybe we should start thinking about a special Grandma's Day too. But we work on that later. But this is all for now. I hope you will write to me soon. I don't think I can put this Grandpa's Day off any longer. . . .

Love,

ANNE TILLERY.

P.S.—Hello, Amy.

THE WHITE HOUSE,
Washington, April 28, 1977.

MISS ANNE TILLERY,
Bremerton, Wash.

DEAR ANNE: President Carter has received your letter and has asked me to thank you for your suggestion. I am sorry indeed that the great volume of mail has caused such a delay.

The President ordinarily issues proclamations designating periods for special observance only when a Congressional resolution authorizes him to do so. May I suggest that your next step in pursuing the cause of a "Grandpa's Day" would be to contact those who represent you in the Congress.

With the President's best wishes,
Sincerely,

VALERIO L. GIANNINI,
Staff Assistant.

Well, Mr. Speaker, after reviewing this correspondence, I thought to myself: "Why not?" But instead of just a Grandpa's Day, "why not including grandmas, too. Thus, why not a Grandparents Day?"

After all, we have a day honoring mothers, fathers, why not grandparents? Anne's idea had merit. So I had my staff research the possibilities.

Much to my surprise, I was advised that there had been just such legislation introduced in the past and that currently there are five resolutions in the House Committee on Post Office and Civil Service Committee. None of the House resolutions have accumulated the 218 Members' signatures necessary for the resolution to be seriously considered. Of note, however, is Senate Joint Resolution 24, introduced by Senator JENNINGS RANDOLPH of West Virginia. It has passed the Senate, but lays dormant in the House committee.

Incidentally, it is my understanding that your State of Massachusetts observes the first Sunday in October as "Grandparents' and Senior Citizens' Day."

Mr. Speaker, keeping in mind that "the heritage of the past is the seed that brings forth the harvest of the future," I am introducing a joint resolution on behalf of grandparents, and especially Anne Tillery. I would ask my distinguished colleagues to join in support.

THE LINE BETWEEN FACT AND FICTION IN THE CASE OF NUCLEAR ENERGY

(Mr. PRICE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PRICE. Mr. Speaker, there have been a number of books published recently which are emotionally critical of nuclear energy. I might add that similar statements were made last week by an executive of the administration relative to both of the only two practical solutions to our growing energy dilemma—coal and nuclear. But now it appears we have a book written by a famous scientist, who is also truly gifted in a literary sense, which separates fact from fiction in the consideration of the choices we have in energy sources. This has been done in lay terms by the famous British astronomer, Sir Fred Hoyle, in a book entitled "Energy or Extinction?" As a result of his analysis, this famous scientist comes out in favor of nuclear power.

The October 4, 1977 issue of Energy Daily contains a review by David Fishlock of Sir Fred Hoyle's book. Since very significant points concerning this first basic new source of energy are covered, I would like to bring to the attention of my colleagues some excerpts from the review.

Hoyle's conclusions concerning the consequence of not planning and providing adequate supplies of energy for the future, command our attention. The consequence is contained in the title of the book. As the reviewer put it:

In Energy or Extinction? Hoyle employs his considerable literary skill to parody the tactics of antinuclear campaigners. "There can be no disagreement with the statement that world reserves of coal, oil and gas can provide an adequate energy source for only a limited future . . . Nor can it be contested that most of the world's population, presently four billion, will die in a disastrous catastrophe should an adequate energy source not have been developed by the time that reserves of coal, oil and gas become exhausted . . . Nor can there be any serious debate over the statement that the only energy source presently known to be technically viable is energy from the nuclear fission of uranium or thorium."

The most emotional statements by the antinuclear groups are usually made about safety. The reviewer summarizes Hoyle's coverage of the nuclear safety issue thusly:

But his longest chapter is reserved for the question of nuclear safety. The close association in many minds between nuclear energy and atomic bombs is no more logical, he says, than associating a piece of chocolate with a hand grenade just because the main ingredient of each is made up of atoms of hydrogen, carbon, nitrogen and oxygen.

As for the safety of nuclear plants, he points out that statistically it is safer to live next door to such a plant than to move away and increase one's commuting distance by more than half a block. Even on the worst estimates of the nuclear opponents, living close to a nuclear plant is still 150 times safer than living in a city, he says.

Hoyle also addresses the other issues which have been raised in the popular arena of energy polemics. Included are the "renewable" energy sources, the breeder reactor and alternative fission reactor systems. He also covers the basis of the antagonism toward nuclear energy by antinuclear groups.

It is my intention to review the entire book. It is my hope that a number of us who are concerned about the need to do the right thing in the energy field will have the opportunity to read this analysis by such a noted scientist and gifted writer.

RESOLUTION TO REAFFIRM SUPPORT OF HOUSE FOR EXISTING LAWS RESTRICTING UNFAIR COMPETITION FROM IMPORTS

(Mr. BEDELL asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. BEDELL. Mr. Speaker, I am today introducing a resolution which reaffirms the support of the House of Representatives for existing laws restricting unfair or subsidized competition from imports and which urges President Carter to direct the Department of the Treasury and the Office of Special Trade Representative to vigorously and aggressively enforce existing statutes to prevent cases of dumping, trade discrimination, and other forms of unfair competition that have an adverse impact on American industry.

I regret that this legislation is necessary. However, recent developments in the private sector of our economy have convinced me that this statement of congressional policy is needed to focus greater attention on a situation which poses a real threat to American jobs.

The steel and television and electronics industries are encountering serious problems as a result of unfair trade competition by foreign industries. Just recently, the Department of the Treasury announced that five Japanese steel companies were engaged in "dumping" carbon steel plates on the U.S. market. And in late September, the Zenith Corp. announced a nationwide production cutback which was precipitated by the importation of electronic products from Japan at less than fair market value.

Mr. Speaker, the human and economic consequences of these developments are overwhelming. For example, 5,600 employees across the country will be laid off within the next year as a result of the Zenith decision. In Sioux City, Iowa, 800 jobs will be eliminated, 500 of which are held by individuals who are the sole supporters of their families, with no immediate alternative for employment for most. These layoffs will also have a significant adverse impact on the local economy.

I believe that the Federal Government should not sit passively by and allow this type of situation to continue. It should address the problem head-on, and attempt to treat its causes as well as its symptoms. Administration officials repeatedly tell me that existing law is sufficient to deal with the dumping problem. It seems to me that if this is, in fact, the case, then we must not be enforcing the law effectively.

It is the responsibility of the executive branch to impress upon our trading partners that we insist upon a fair international trading system. I believe that this can be done more forcefully than is currently the case.

Mr. Speaker, it is time for the House of Representatives to serve notice to the administration that it is concerned about the dumping problem, and that it wants existing law enforced. My resolution would serve this purpose and it would hopefully stimulate greater attention—in the Department of the Treasury, in the Office of the Special Trade Representative, and, most importantly, in the White House—to this critical issue.

The text of the resolution follows:

H. RES. —

Reaffirming support for the vigorous enforcement of laws designed to protect Ameri-

can industries from unfair competition by foreign industries.

Whereas the American steel, television, and electronics industries are facing an unprecedented crisis, having suffered layoffs of more than seventeen thousand workers;

Whereas a contributing factor to the problems facing these American industries is the dumping of imports subsidized by foreign governments into this country;

Whereas such imports have adversely affected the United States balance of payments and have been a factor in reduced unemployment opportunities in the American steel, television, and electronic industries.

Whereas the Department of the Treasury has failed to be sufficiently aggressive in pursuing dumping complaints filed by American industry to their conclusion and enforcement of existing dumping decisions, thus permitting the continued sale of imported products below cost.

Resolved, That the House of Representatives reaffirms its support for existing laws restricting unfair or subsidized competition from imports, particularly the Antidumping Act of 1921 and the Trade Act of 1974, and urges the President to direct Federal agencies, particularly the Department of the Treasury and the Office of the Special Trade Representative to enforce vigorously and, aggressively existing laws to prevent cases of dumping, trade discrimination, and other forms of unfair competition that have an adverse impact on the American steel, television, and electronics industries.

FARMERS NEED RELIEF FROM FINANCIAL DIFFICULTIES

(Mr. CARTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. CARTER. Mr. Speaker, many of the farmers in our country are in financial difficulty. The prices of corn, wheat, and soybeans have gone down tremendously. The price of corn is the lowest I have known it to be for many years. I submit that if something is not done immediately for the relief of our farmers, many farmers both large and small will go under.

To assist these people who provide us food and fiber, I am preparing legislation for 5 percent loans to farmers who are having serious difficulties in meeting their payments. Mr. Speaker, our great frontier where farmers at one time could take up land at nominal prices is gone. We must provide low interest loans for those of our young people who wish to buy farms. The legislation I propose, again, will lower the interest rate to 5 percent.

There are cooperatives throughout our country which charge as much as 11 or 12 percent. It is a known fact the average farmers simply cannot pay this high interest rate and survive. The farming population constitutes some of the finest citizens in our country. They need help and they must have it. I trust that the legislation which I introduce will have strong support.

Furthermore, Mr. Speaker, the steel industry is in difficulty, many steel mills are releasing employees. And, Mr. Speaker, this is a direct result of importation of subsidized foreign steel. Our industry and our workers must receive fair treatment, whether it be by trade agreements or by tariffs.

Again, the electronic industry in the United States is undergoing the same difficulty as the farming and steel industries are. One of our largest electronic manufacturing companies is moving 25 percent of its production abroad. Again, such legislation as is necessary to retain the jobs which are being shipped abroad must be enacted into law. It is time for us to realize now that we are faced with the possibility of a recession of serious proportions. One possibility is to give tax breaks or other incentives, for it costs far less to provide jobs through assistance to industry than for the Federal Government to attempt to form them by governmental actions.

FLOOR AMENDMENT PROPOSED BY CONGRESSMAN STEIGER FOR H.R. 9346

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin (Mr. STEIGER) is recognized for 10 minutes.

Mr. STEIGER. Mr. Speaker, the committee bill provides that the annual exempt amount under the retirement test will be increased to $4,000 in 1978, $4,500 in 1979, with automatic increases thereafter. The increased exempt amounts would apply only to beneficiaries aged 65 and over. Under my amendment, the exempt amount would not be increased above the amounts provided under the automatic increase provisions in present law until 1979, when it would be increased to $4,000. The exempt amount would be further increased, under this proposal, to $4,500 in 1980, $5,000 in 1981, $5,500 in 1982, and $6,000 in 1983, with automatic increases thereafter. As under the committee bill, the increased exempt amounts proposed would apply only to beneficiaries aged 65 and over.

The total of the ad hoc increases in the contribution and benefit base during the period 1978–81 would be smaller under my proposal than under the committee bill. Ad hoc increases in the base would continue to be made through 1985, when the base would reach $31,800—$3,600 less than under the committee bill. Automatic increases would be made after 1985. Beginning in 1981, OASDI contribution rates would be increased by 0.10 percent for employees and employers, each, above the rates provided in the committee bill.

The financing schedules under the committee bill and under this amendment are shown in table 1, attached. Table 2, attached, contains short-range estimates of the effects of the amendment on the combined OASI and DI trust funds.

TABLE 1.—FINANCING SCHEDULE UNDER H.R. 9346 AS REPORTED BY THE WAYS AND MEANS COMMITTEE AND UNDER THE BILL AS MODIFIED BY THE STEIGER AMENDMENT

Calendar year	Committee bill			Steiger amendment		
	OASDI	HI	Total	OASDI	HI	Total
	Contribution rates for employees and employers, each (percent)					
1977	4.95	0.90	5.85	4.95	0.90	5.85
1978–80	5.05	1.00	6.05	5.15	.90	6.05
1981–84	5.15	1.30	6.45	5.25	1.30	6.55
1985	5.45	1.30	6.75	5.55	1.30	6.85
1986–89	5.45	1.45	6.90	5.55	1.45	7.00
1990 and later	6.00	1.45	7.45	6.10	1.45	7.55
	Contribution and benefit base [1]					
1977	$16,500			$16,500		
1978	19,900			19,500		
1979	22,900			22,600		
1980	25,900			25,600		
1981	27,900			26,300		
1982	30,000			27,000		
1983	31,800			28,500		
1984	33,600			30,300		
1985	35,400			31,800		
1986	37,500			33,600		
1987	39,600			35,400		

[1] Under the committee bill, the increases in 1978–81 are ad hoc increases; after 1981 the base increases under the automatic increase provisions. Under the Steiger amendment, the increases in 1978–85 are ad hoc increases; after 1985 the base increases under the automatic increase provisions.

TABLE 2.—SHORT-RANGE ESTIMATES RELATING TO THE STEIGER AMENDMENT

[Amounts in billions]

Calendar year	Reduction in OASDI benefit payments resulting from retirement test changes [1]	Net effect of financing changes [1]	Total net effect [1]
1978	$0.3	[2]	$0.3
1979	.3	−$0.2	.1
1980	.2	−.8	−.6
1981	.1	−.3	−.2
1982	.1	[2]	.1
1983	[3]	.2	.2
1984	[3]	.2	.2
1985	[3]	[2]	[2]
1986	[3]	−.2	−.2
1987	[3]	−.2	−.2

ASSETS OF THE OASI AND DI TRUST FUNDS, COMBINED, AS A PERCENTAGE OF OUTGO

	Assets at beginning of year as a percentage of outgo during year		Assets at end of year as a percentage of outgo during year	
	Committee bill	Steiger amendment	Committee bill	Steiger amendment
1977	47	47	41	41
1978	37	37	34	34
1979	31	31	29	30
1980	27	27	27	27
1981	25	25	26	26
1982	24	24	34	34
1983	32	32	42	42
1984	39	39	49	49
1985	45	45	60	60
1986	55	55	69	69
1987	64	64	78	78

[1] Represents changes from benefit payments, or contribution income, under the program as modified by the committee bill.

[2] Less than $50,000,000.

[3] Under the automatic increase provisions in the law, the retirement test exempt amount under the committee bill for beneficiaries aged 65 and over is assumed to be $6,000 in 1983—the same amount as specified in the Steiger amendment. Therefore, there is no effect on benefit payments after 1983.

Note: The above estimates are based on the intermediate set of assumptions shown in the 1977 Trustees Report.

PRESIDENT CARTER'S REMARKS CASTIGATING OIL INDUSTRY ARE NOT DESERVED

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Kansas (Mr. GLICKMAN) is recognized for 5 minutes.

Mr. GLICKMAN. Mr. Speaker, while I supported the administration energy bill which passed the House in early August, I wanted to take this opportunity to express serious concern about President Carter's remarks castigating the entire oil and gas industry for its opposition to his plan and blaming that industry for all of the energy problems facing this country. I am particularly disturbed that Mr. Carter has seemed to lump all opposition to his energy policy into one category and, in one fell swoop, to scapegoat an industry in a manner than is not completely deserved.

In my district, for example, there are a large number of independent oil and gas producers who cannot be blamed for our energy problems, and who, in fact, are discovering most of the new domestic reserves of oil and gas, and who are not engaging in anything like "war profiteering." While these independent producers and I do not see eye to eye on every substantive issue, I would hate to see them lumped into the scapegoated group about whom the President was talking.

Of course, the oil and gas industry—like every other group in this country—bears some responsibility for solving our energy problems. We all do. But it is patently unfair to blame the lack of success of President Carter's energy package on this one sector of industry. It seems more proper to acknowledge the fact that there are serious differences of opinion in this country on the President's energy package and that only the democratic process working its will, not a fixation for looking to someone to blame, is going to move us toward energy independence.

HEARING BEFORE THE SUBCOMMITTEE ON CRIME OF THE HOUSE COMMITTEE ON THE JUDICIARY ON THE TASK FORCE REPORT TO RESTRUCTURE THE LAW ENFORCEMENT ASSISTANCE ADMINISTRATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. CONYERS) is recognized for 5 minutes.

Mr. CONYERS. Mr. Speaker, the Subcommittee on Crime, which I chair, will hold its final hearing on the Justice Department's task force report on reorganizing the Law Enforcement Assistance Administration. This hearing will be held on Thursday, October 20, at 10:30 a.m. in room 2237 of the Rayburn House Office Building.

The Subcommittee has already held 3 days of hearings on this subject and testimony received contributed to the subcommittee's evaluation of the task force report.

Those wishing to testify or submit a statement for the record should address their requests to the Committee on the Judiciary, 2137 Rayburn House Office Building, Washington, D.C. 20515.

VETERANS' ADMINISTRATION TOO SLOW IN RESPONDING TO COMMITTEE'S REQUESTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Mississippi (Mr. MONTGOMERY) is recognized for 5 minutes.

Mr. MONTGOMERY. Mr. Speaker, over the years the Committee on Veterans' Affairs has experienced difficulty in obtaining information and data from the Veterans' Administration necessary for the committee to carry out its oversight and legislative responsibilities. Every effort has been made to get the agency to place a higher priority on various studies and surveys directed by the Congress and designed to give us data so essential for the conduct of our affairs. For unknown reasons, response by the VA has not been good; and it would appear things may be getting worse.

My colleagues will recall that for the past 2 years there has been much discussion in reference to the veterans' pension program, and the view held by some Members on the need to review the adequacy of the program.

In order to have the basic data and information necessary to determine what needs to be done in this area, last year the Congress directed the Administrator to conduct a study and to submit to the Congress no later than October 1, 1977, the results of the study that would include, among other things, the income characteristics of veterans and survivors currently in receipt of non-service-connected pension; actual and anticipated long-term financial characteristics of pensioners including those veterans and survivors—and their families—who may be potentially eligible for benefits under the non-service-connected pension program during the next 25 years, and other vital information.

The committee received assurance from the Administrator that the report would be received on schedule. Nonetheless, we are now told that it will be at least November before any information is received and that it could be as late as January before receiving the major results of the study.

Unfortunately this is not an isolated case. Many of you may be aware that the National Academy of Science report directed to be conducted by law was only received by June 3, 1977, more than 8 months late. The VA was supposed to have responded no later than 90 days after that date. The agency's response was late.

Public Law 94–433 required the Administrator to conduct a scientific study to determine if there is a causal relationship between the amputation of an extremity and the subsequent development of cardiovascular disorders. That study was due on June 30, 1977. Results of the study have not yet been received.

Public Law 94–433 also required the Administrator to complete and forward to Congress a thorough and detailed study of the dependency and indemnity compensation program by October 1, 1977. Results of the study have not been received.

Mr. Speaker, the committee continues to encounter problems in getting copies of the agency's testimony at least 24 hours prior to our hearings; we have problems in getting agency comments and reports on legislative initiatives subject to hearings, and numerous other delays.

The problem may be with the Office of Management and Budget, although I am not certain of that. I am rapidly coming to the conclusion that our only recourse will be to conduct open hearings in order to determine where the problem lies. I hope the Administrator will give his attention to this matter, and I urge the Office of Management and Budget to be a little more responsive.

CONGRESSMAN BRADEMAS ADDRESSES THE BUSINESS COUNCIL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ROSTENKOWSKI) is recognized for 5 minutes.

Mr. ROSTENKOWSKI. Mr. Speaker, on October 15, 1977, our colleague from Indiana, the Honorable John Brademas, the distinguished majority whip of the House of Representatives, delivered an address to members of the Business Council in Hot Springs, Va.

The Business Council is composed of some of the Nation's most distinguished business and industrial leaders.

I insert at this point in the RECORD Congressman BRADEMAS' thoughtful address:

REMARKS OF CONGRESSMAN JOHN BRADEMAS

October 15, 1977

Before beginning, I want to answer that unspoken question that, if not already in your minds, is sure to be there before I finish.

No, I have never met a payroll.

I am politician, not a businessman. But just as I have never had to meet a payroll so I doubt whether many of you have ever had to convince a few hundred thousand people every two years to vote for you and not some other guy.

Although I am a politician, I used to be a professor of political science. So I hope you will forgive the recividism if I start these remarks with what sounds like a civics lesson.

In order to understand what happens in Washington, it is essential to recognize what our separation of powers system means and how it affects the actual functioning of our government.

I find that newcomers to Washington do not really understand our system, and I include visitors from our own country as well as those from other nations. I also include some Presidents.

People know the phrase, "separation of powers," but for some reason the words often lack meaning for them. The idea is somehow prevalent that Congress exists to do whatever a President wants it to do. According to this view, Presidents ask and Congress gives. This attitude is based loosely on the idea of what the structure of a corporation is thought to be. The President is perceived as the corporation's chief executive officer and Congress as a complaint board of directors.

Although some corporations may work that way, the government of the United States does not—nor was it ever intended to.

The President and Congress are elected separately. Each President, each Senator and each Member of the House of Representatives has his own mandate and his own responsibility to the people. This curious system of shared power has no real parallel in the world today, a fact that sometimes I think is recognized only by politicians and political scientists—and not all of them.

In order to get anything of consequence accomplished under this system of what Richard Neustadt called "separated institutions sharing powers," the President and Congress must work together. Although it is a system that no engineer or management expert ever would recommend, it also is a system that, by and large, works.

In the American government, when the executive and legislative branches are controlled by members of the same political party, the two branches are likely to have common goals—although rarely do they agree on just how those goals are to be reached.

There is a famous story about Speaker Sam Rayburn. Once asked how many Presidents he had served under, he responded: "None. But I have had the privilege of serving with eight Presidents."

That kind of attitude is more pronounced today in Washington than at any time since President Roosevelt took office in 1933.

In the 1970s, Congress has taken a series of initiatives that have buttressed its role. By these actions, Congress has not diminished the Presidency but has simply insisted on its own place in the sun of our constitutional constellation.

Congress, increasingly, thinks for itself. It does not tolerate the idea that all wisdom originates at the other end of Pennsylvania Avenue. It seeks to make its constitutional share of the national policy making function an affirmative—even an assertive—one. We in Congress work in harness with the President, but we do not work in tandem. The Founding Fathers did not intend that we should.

It has been said that the Constitution assures that the Congress and the President will fight fiercely, fight fairly and fight forever. To a certain extent that is true—and it is an important safeguard of the freedom that has distinguished our nation. It is also true, however—contrary to many news reports—that Congress and President Carter share a common commitment and, with all the fits and starts that are built into the process, have developed a fine working relationship that already has produced many solid accomplishments and will produce many more.

NEW LEADERS IN CONGRESS

This is an unusual year, for not only do we have strong new leadership in the White House, but there are strong, new leaders in Congress as well. The record of this year will show that Speaker Tip O'Neill in the House and Majority Leader Robert Byrd in the Senate are as strong, effective and outstanding as is President Carter in the White House. I am privileged to serve with Speaker O'Neill and our new Majority Leader, Jim Wright of Texas, on the House Leadership team. Way back last December, before either the new Congress or the new President had taken office, we of the congressional leadership already were meeting with President-elect Carter and his new counselors in Plains and laying out priorities for this year.

Since then, the congressional leadership, and particularly Speaker O'Neill, have made it plain that Congress wants coordination and cooperation with the White House—not conflict and confrontation.

President-elect Carter agreed that Pennsylvania Avenue, which joins the Capitol and the White House, is a two-way street. The President showed then, and he shows now, that he is a President who is willing to work with Congress and he is a man who does not fear sharing responsibility—and the credit and blame. He is a good listener, a quality that is not all that common in Presidents—whether of a nation or of a corporation.

President Carter, for example, went to the unusual length of holding a round table last January with 45 Members of Congress, including myself, on international affairs. This is an area where Presidents usually tolerate little advice from Congress. But for seven hours President Carter sat and listened while we of Congress told him what we felt about various foreign policy issues.

In the domestic area, our early priorities dealt overwhelmingly with economic and energy matters. Much of that priority program already is enacted, including a tax cut designed to encourage business expansion.

Energy is a new, urgent and immensely difficult issue. Congress, as you are seeing, is thoroughly exercising its prerogative of reviewing the President's proposals. In that regard, I want to say I do not think things are as irreconcilable as they appear to be right now. I think that all of us, in fact, will be better off for the independent and tough scrutiny by Congress of a major national issue.

The world we live in today, with its domestic and international tensions, its technological explosion and its dizzying change, has presented us with increasingly complex questions of national policy. Our well-being—in many cases, our ultimate survival—depends on our finding answers to questions that either were ignored or did not exist a short time ago. It is essential that we in Congress examine carefully every new proposal, test every thesis, question every premise, debate every solution before we help launch the nation on some new course of action.

The country needs the benefit of all the ideas and debate it can muster on such complex and controversial matters as energy policy, the neutron bomb, genetic research and international arms control. It also needs ideas and dialogue to help solve such less cosmic but equally difficult problems as health, schools, transportation, housing and jobs.

Seeking solutions—or even palliatives—to these problems is not always a neat process, as anyone who has followed the fortunes of the President's energy package in the Senate knows. But fashioning an effective and acceptable energy program is an unusually difficult problem, and I hope that our troubles with energy will not blind you to the real record of achievement that the new President and new Congress have put together.

INTERNATIONAL POLICY

On the international scene, the revitalization of Congressional authority has given the House as well as the Senate an increasingly important role in foreign policy. In fact, Kenneth Bradshaw, the Clerk of the House of Commons in Great Britain, wrote in his book, *Parliament and Congress:* "It can be said of Congress, to an extent that it could never be said of Parliament, that there are times when it initiates foreign policy."

Mr. Bradshaw cited as examples the Senate Foreign Relations Committee hearings on Vietnam in 1967 that gave voice to the misgivings about the war within the United States, the post World War II proposals that paved the way to the North Atlantic Treaty, and the insistence that controls be placed on the use of the atomic bomb. That last effort continues today; the House recently passed a Nuclear Non-Proliferation Act that provides guidelines to the executive in its dealings with other nations.

The Senate's role in foreign policy, including the constitutional power to ratify treaties and to advise and consent to the appointment of the Secretary of State and U.S. ambassadors, is well known. What may not be so well realized are the ways that the House of Representatives increasingly is making itself felt in the international arena.

First, through the legislative process, we authorize the President to make "executive agreements" with certain countries concerning specific matters; these agreements do not require Senate ratification, and, as Mr. Bradshaw pointed out, one of them was important enough to set up American bases in Spain and to commit the United States to keep troops there.

Second, the House plays a foreign policy role through laws authorizing American participation in international organizations. For example, we recently sent to the President a bill providing for U.S. contributions to international lending institutions, such as the World Bank, the Asian Development Bank and the African Development Fund.

Third, the House acts on much legislation needed to implement foreign policy. For example, the proposed Panama Canal Treaties, after Senate ratification, will require new laws passed by both House and Senate en abling the United States to meet the terms of agreement.

I do not say that congressional contributions to foreign policy always represent improvements. For example, like President Carter, I had severe reservations about the restrictions the House attached to the Foreign Assistance Appropriations bill. Many of them would have prohibited assistance to countries that did not measure up to our standards on human rights. Laudable as these objectives were, the restrictions would have hampered the President unduly in the difficult task of helping other nations and furthering American interests abroad. House leaders worked with the White House on this matter to arrive at a compromise that gives the President more flexibility in this vital area. We shall vote on this legislation next week.

CONGRESSIONAL BUDGET ACT

One of the major and little understood reasons for the resurgence of Capitol Hill in recent years is that Congress has moved to re-establish control of its most important constitutional function—the power of the purse—through the fiscal framework provided by the Congressional Budget Act of 1974. As you know, the Budget Act mandates that Congress approve a pair of budget resolutions—spring and fall—not subject to presidential review. These two resolutions set target levels for spending and taxes and then—after we have passed the actual tax and spending legislation in the summer—fix binding totals.

In this way, we know what we are shooting for when we start out the yearly cycle of budget-making and, if economic or other conditions necessitate adjustments along the way, we can make them.

Still more to the point, however, the Congressional Budget process provides us a mechanism through which we can impose fiscal discipline on ourselves. We now can make broad policy decisions about how much shall be spent for various purposes—national defense, commerce, transportation, health, education and welfare and other areas. And we are now able to view the budget—projected expenditures and projected revenues—as a whole. At the same time we can see the budget within the context of the economy at large.

The Congressional Budget Act, in effect, has retooled the mechanisms for making fiscal decisions in the United States government. The Act created the Congressional Budget Office, which gave Congress a professional staff, including its own economists, and

computer capability for the performance of in-depth budget analyses and projections.

THE NEW HOUSE

Congress, itself, meanwhile, has been undergoing a substantial and significant change of personnel. In the House of Representatives, in particular, we have a young, active, increasingly well educated group of new Members. Some 156 Members—more than one-third of the House—have served one term or less. And 242 Members—well over a majority—have been elected since 1970.

These newer, younger Members joined a cadre of seasoned, longer-term Members who are both knowledgeable on national issues and schooled in legislative skills. So what we have in the 95th Congress is a fortuitious balance of new blood and experience.

It is a combination that, in my view, is well serving the best interests of the American people.

With this House, in this post-Vietnam, post-Watergate world, it is difficult for either Presidents or Speakers easily to have their way. Neither a President nor a Speaker can fire, demote or transfer Members of Congress. To convince Members today, it is necessary to rely on reason and persuasion rather than mandate and command.

As its membership has changed, so has the House as an institution. It has become more open and more democratic—both small "d" and large "D."

I shall not here take time to recite the litany of reforms that have made the House of Representatives a more responsive and accountable body, but they are many.

I note, only by way of example, that some 30 to 40 subcommittees—where the bulk of the legislative work is done—have been opened to junior Members. Committee chairmen, once all powerful, now must pay heed both to the members of their committees and to their colleagues in the House for their ascension to committee leadership no longer is assured by seniority.

To be effective today, a full committee chairman must operate like a politician, not an autocrat.

The cumulative effect of all these institutional changes has made the House much more effective in dealing with the needs of the nation.

STEERING AND POLICY COMMITTEE

Among the barely noted changes in the House has been the emergence of the Democratic Steering and Policy Committee as a major policy making instrument.

The Committee, chaired by Speaker O'Neill, is composed of the Democratic Leadership, including myself, and elected Members reflecting the different shades of political philosophy within the Democratic Party, from conservative to liberal; a representative sampling of all geographical areas of the country: and a range of service from first-termer to senior House Members.

The Steering and Policy Committee is a true sounding board of the Democratic constituency of the House. The Speaker convenes it regularly; it serves as a means of planning strategy, testing legislative proposals and rallying support for party policy. Although its decisions are not binding, it is fair to say that the Steering Committee is the closest thing we have to a board of directors in the House of Representatives.

The Speaker also invites outsides groups to meet with the Steering and Policy Committee to give their views to House Democrats. On consecutive weeks, for instance, the Speaker asked George Meany and his colleagues in the AFL–CIO to discuss labor's goals and Irving Shapiro and his colleagues in the Business Roundtable to outline theirs.

SPEAKER O'NEILL

Although the Steering and Policy Committee helps to coordinate the majority party's policy in the House, the Speaker remains the chief custodian of leadership. I cannot praise too highly the effective leadership of Tip O'Neill. He understands the House and its Members deeply and thoroughly. His instincts and acumen are legendary. It is my job as Majority Whip to count votes for him on major legislation. But often he will know, even before he looks at the count, how much chance a given bill has in the House. And he'll tell you. You always know where you stand on an issue with Tip O'Neill.

Beyond that, Tip O'Neill is as sensitive and compassionate as he is strong. He believes deeply that our nation's strength and prosperity depend on the extent each of us has to participate politically, socially and economically in the growth of our country.

He deservedly is receiving major credit for the accomplishments of the new Congress and the new Administartion. President Carter has been very much a beneficiary of the Speaker's frank advice. I can bear personal witness to this since I participate in the meetings between President Carter and the House and Senate Leaders.

Every other week the Democratic leaders of the House and Senate have breakfast with the President at the White House. The President tell us what's on his mind and the Speaker and Senator Byrd then tell him what's on ours, with others chiming in whenever they wish.

The conversation is candid and pointed, but warm and friendly. We all want the President to succeed, not just because we are of the same party but because he is the President of our country.

LEGISLATIVE ACHIEVEMENTS IN 1977

This continuing communication and shared responsibility between the two branches of government has helped establish the best legislative record since Franklin Roosevelt's first term. Not since then has any new President seen so many major new laws enacted so soon after he took office.

Let me run over them briefly.

We made a strong start toward economic recovery with a major $34 billion, three-year tax cut, including a new jobs tax credit for employers and a $2.3 billion corporate tax saving in 1978. We have enacted public works, public service and youth jobs laws that are creating more than a million jobs and expanding your consumer markets.

We have established a Cabinet-level Department of Energy, and, as everyone in this room knows, we are in the throes of writing what we hope will be a bill creating a comprehensive energy policy.

Although the Senate is having its problems with energy, this most complex piece of legislation went through the House precisely on the timetable set by Speaker O'Neill early this year. The Senate is completing its deliberations and House and Senate conferees are going to work to develop a final bill that, hopefully, will give the nation a sound, farsighted policy on a matter vital to the lives of every American, to the strength of our economy and to the security of our country.

Among other accomplishments this year, many of which would stand on their own in any other year, are a $13.7 billion, three-year housing and community development act; a $12 billion, three-year food, agriculture and food stamp reform act; a striping mining control and reclamation act; clean air act amendments that prevented a possible shutdown in the auto industry; and a $3-billion, two-year small business act. Next week we expect to pass amendments to the Social Security Act to assure its solvency.

Beyond these substantive accomplishments—and perhaps even more important—we have shown the people of this nation that Congress and the President can work together in their behalf.

As contention is replaced by cooperation, so will there be a return of consumer confidence, a corresponding increase in business activity and an upturn in the economy.

STILL MUCH TO DO

I do not wish to leave the impression that all is done and utopia is near. The stock market is just as disappointing to me as it is to investors and to those of you who seek to raise capital in it.

Inflation and unemployment rates remain too high. Unemployment among teenagers and minorities is particularly troublesome—and dangerous—although it is heartening to note that unemployment again dropped last month and is more than a full point below the 1976 high of 8 percent.

Without question, we will continue to be preoccupied by the energy issue.

We must have tax reform that is fair to the taxpayers while providing incentives to economic growth.

We cannot ignore the problems that continue to afflict our great cities.

Nor can urban America turn its back on the fact that falling farm prices threaten the strength of rural America.

High on the agenda of President Carter and Congress in the year upcoming must be welfare reform and an overhaul of the Social Security system.

Poll after poll shows that Americans are deeply worried about the skyrocketing cost of health care.

And even as our citizens want decent jobs and decent wages, they are insisting that the environment in which they live and work be safe and healthy.

In the international arena, our relationship with the Soviet Union continue to be of central concern and involve such questions as nuclear proliferation and arms control as well as trade.

Even now President Carter is seeking some viable basis for moving toward a stable peace in the Middle East.

We must look anew at our policy toward the increasingly vocal nations of the developing world, and we must attempt to fashion a policy toward the People's Republic of China that is at once realistic and responsible.

And, of course, we must maintain and strengthen our links both political and economic, with our most valued allies, the countries of Western Europe and Japan.

In all these areas, our government must act in the best interests of the citizens of the United States including your own interests as businessmen.

BUSINESS AND CONGRESS

In conclusion, let me turn to the relationship between business and Congress. Rest assured that Congress is no more anti-business than business is anti-Congress. As Americans, we are all in the same boat, a boat whose passengers include working men and women, farmers and consumers as well.

We will strive to see that business—big and small—can be conducted in the kind of an atmosphere that is conducive to its health.

There is not one Member of Congress who does not want business to prosper. We know, just as you do, that only a prosperous, thriving private economy can provide the jobs our nation needs, not to speak of the revenues required to operate the public sector. If any of you thinks that we enjoy voting money for welfare or for unemployment compensation or for public service jobs, he is wrong.

You and I know that programs like these are necessary evils that would not exist if your own businesses were expanding and were more profitable.

But just as you want us to foser an economic climate for your success, so we want you to understand and support programs and policies that will enable the less fortunate members of our society to sustain themselves. Just as you seek opportunity for yourselves, so must you recognize that others who may

not be as smart as you, as hard-working as you or as lucky as you need your help.

Like President Carter, we want a balanced budget, too. The continued high deficits in the Federal budget are as obnoxious to us as they are to you. But we also know—as, indeed, I'm sure you know—that a balanced budget can only be the product of a balanced economy.

You in business may be able to balance your budget by reducing your work force, by cutting your expenses. But we cannot balance the Federal budget by throwing people out of work, by reducing the assistance given to people who either cannot work or who want to work but cannot find work. The budget cannot be balanced by a recession. As we have learned to our sorrow, we all now know that a recession does not even reduce inflation

So we need to continue policies that help our economy grow, help to create jobs and help to expand business.

Such policies are the best kind of welfare reform because they get able-bodied men and women off public assistance and make them both consumers and taxpayers. It is a simple fact that every increase of one percent in the rate of national unemployment above four percent costs the Federal Treasury $16 billion in lost tax revenues and additional unemployment compensation and other recession-related payments.

I suggest that those of you who object to aid for welfare families and to other forms of public assistance do some quick calculating to determine the annual subsidy you get from the Federal government from deductions for interest and taxes and business expenses as well as from other tax advantages, and then compare that figure with what a family on welfare may receive each year.

In saying this, I don't want you to think for a moment that we do not recognize your problems or that we do not sympathize with your needs. We know, for instance, that capital formation is becoming increasingly difficult. We know that without action to stimulate new investment there cannot be the kind of economic expansion that will be lasting. We know that you need new plants and new equipment. We know that many of our laws designed to protect your employees from job safety hazards and to protect you and your families and your employees from environmental hazards are costly. We know that you need help.

But you must recognize that others also need help and that the kind of blind opposition that often comes from businessmen less enlightened than the membership of the Business Council brings on confrontation and ill-will rather than the kind of joint effort needed to solve problems that affect us all.

Just as we now have political leadership that is taking a new look at old problems and seeking solutions that will benefit all of us, so we need business leadership that looks beyond short-term problems and quick profits to the needs of our entire nation.

We need leadership from you as individuals and from the Business Council as an organization that recognizes that private enterprise cannot be successful unless the other parts of our society are successful, that the basis of stable, sustainable growth cannot come at the expense of one group over another.

The Business Council historically has been a major voice of business leadership in our country. I for one hope that you will continue in that role, not solely as champions of the interests of business, but as citizens of the greatest free nation in history.

For, as the great philosopher, Alfred North Whitehead, once said, ". . . a great society is a society in which its men of business think greatly of their functions."

May you think greatly of yours.

COAL CONVERSION NEED NOT BE INFLATIONARY

(Mr. MOORHEAD of Pennsylvania asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, one of the special interests we all have today regarding the national energy plan are those prospective new costs which may be connected with any changes in public policy. As part of its role of monitoring inflationary pressures, when and where they may surface, the Subcommittee on Economic Stabilization, of which I am chairman, has been examining the potential results of recent Senate actions endorsing extension of the loan guarantee feature to provide for all costs of converting utilities to coal from petroleum or natural gas.

These actions raise a crucial question of whether the process equipment industry might ultimately experience another period of hyperinflation similar to that experienced from mid-1973 to early 1975. Key equipment items, such as heat exchangers, compressors, special valves, boilers, turbines, and so forth, would appear to be needed as such conversion to coal takes place. There would seem to be some evidence that the United States will first have to build up its process equipment manufacturing base; that is, small machine shops, foundries, and so forth, before advantage of such incentives can be taken by the users of such equipment for conversion.

In light of these conditions, the Subcommittee on Economic Stabilization asked the Congressional Research Service, the Congressional Budget Office, and the Office of Technology Assessment for their best judgments of the potential inflationary effects which might stem from this shift in public policy, if adopted by the Congress. So that my fellow colleagues may have the benefit of their comments and evaluations, I ask that their replies be inserted in the RECORD at this point. In each instance, it seems possible that some inflationary pressure could follow adoption of a policy favoring total conversion of industry as well as utility users if implementation of this aspect of the national energy plan were undertaken on a crash basis and thus strain industrial capacity. This possibility can be avoided, however, if the conversion effort is spread out over the next several years.

The replies follow:

CONGRESSIONAL RESEARCH SERVICE,
Washington, D.C., September 27, 1977.

To: House Banking Committee, Subcommittee on Economic Stabilization, Attn: E. W. Webber.

From: David E. Gushee, Specialist, Environment and Natural Resources Policy Division.

Subject: Inflationary Impact of Coal Conversion Loans and Loan Guarantees in S. 977.

As requested in your letter of September 16, we have examined the potential inflationary impact of the coal conversion loan and loan guarantees in S. 977 as passed by the Senate. We conclude that there will be minimal inflationary impact in the capital markets and probably minimal inflation in the costs of coal-fired equipment, although one can envision circumstances which would lead to rapid cost increases in coal-using equipment.

On the capital side, the $10 billion authorization for loan guarantees represents some $15 billion in total investment. Assuming that all such investment would be incremental—that is, in the absence of the loan guarantee provision none of it would occur—it is still only a very small percentage of utility and industry capital spending plans, which together will probably exceed $500 billion for the period. The increment from the loan and loan guarantee provisions is thus only 3% or so, and is smaller than variations in spending level from a number of other variables.

On the coal-using equipment side, the $15 billion would buy about 90,000 thermal megawatts of boiler capacity from an industry whose productive capacity is about 100,000 thermal megawatts per year. (Both capacity of the industry and capacity buyable for $15 billion depend strongly on the mix between coal and noncoal boilers produced; we assume about three fourths coal or other fuels for this exercise.)

On this basis, the loan and loan guarantee provisions would add a demand for about one full year's boiler production over the eight year period 1978–85. Currently the boiler manufacturing industry is operating well below capacity and is forecasting a healthy demand for boilers over the period but a demand well within current ability to produce. Thus, the additional demand for boilers provided by S. 977 would not stress production capacity and would not contribute to inflation. Should the added demand come rapidly, the boiler industry response would be to stretch out delivery times rather than to expand capacity, at least for several years, or until convinced that the high demand would continue long enough to warrant expansion.

Similar reasoning applies to auxiliary equipment such as heat exchangers, valves, fans, etc. None of these producers are currently overextended or foresee an expansion boom that would overextend them.

However, it is possible to visualize circumstances which would lead to rapid cost increases in coal-using equipment. The most probable circumstance would be a growing threat to the continued availability of oil imports or a growing probability of rapid increases in world oil prices. Currently, both public and private planners explicitly assume continued availability and either gradual or no increases in oil prices (in constant dollars).

Should there be a clear signal that the oil supply or price situation will worsen on a determinable schedule, demand for coal-fired equipment would leap upward (it is already rising for new boilers needed to meet expansion requirements).

With the loan and loan guarantee provisions in place, any such increase in demand for new coal-fired equipment to replace existing oil and gas fired equipment would be received by an industry (boiler manufacture) that much closer to its capacity to produce.

OFFICE OF TECHNOLOGY ASSESSMENT,
Washington, D.C., September 27, 1977.

Hon. WILLIAM MOORHEAD,
Chairman, Subcommittee on Economic Stabilization, Committee on Banking, Finance and Urban Affairs, Washington, D.C.

DEAR MR. CHAIRMAN: Thank you for your letter of September 16 concerning the potential inflationary effects of conversion to coal. Our recently completed *Analysis of the Proposed National Energy Plan* qualitatively addressed some of the points you raised. I am enclosing a copy of this report, of which pages 113–114, 131–134 and 136–140 are especially pertinent to your concerns.

The findings in this report are based on extensive meetings of tasks groups which in-

cluded individuals from companies affected by the Plan's coal conversion proposals. Our analysis indicated that, in general, shortages of equipment needed for burning coal in electric utilities should not occur, with the possible exception of pollution control equipment. Therefore, it was not anticipated that significant inflationary pressures would occur in the equipment manufacturing industry, at least as far as electric utility needs were concerned.

A problem could develop, however, if the demand for coal burning equipment by industry were to reach a point that caused substantial diversion of the resources of boiler and associated equipment manufacturers to industrial needs. When coupled with utility requirements, there may be insufficient boiler and equipment manufacturer capacity to meet total demand, with a resultant inflationary push in that sector. This all depends on the rate and degree to which industry switches to direct use of coal.

If, as our analysis points out, a large fraction of the conversion from oil and natural gas by industry is to electricity (indirect use of coal), then industrial boiler demand for conversion to coal will be considerably dampened. Of course, electric utility requirements would grow correspondingly, but there appears to be sufficient new electric generating capacity under construction or scheduled to take care of this. The fact that a large portion of this anticipated generating capacity will be coal fired was considered in our analysis.

I hope this information will be helpful to your Subcommittee. Our Energy Program Staff is continuing to monitor the situation, and if we can be of any further assistance, please let us know.

Sincerely,

DANIEL DE SIMONE,
Acting Director.

CONGRESSIONAL BUDGET OFFICE,
Washington, D.C., October 11, 1977.

Hon. WILLIAM S. MOORHEAD,
Chairman, Subcommittee on Economic Stabilization, Committee on Banking, Finance and Urban Affairs, Washington, D.C.

DEAR BILL: Thank you for your letter of September 16, 1977, requesting information on the potential inflationary effects of the proposed programs for encouraging utilities to convert to coal from oil and gas. We have discussed this matter with Department of Commerce personnel and representatives of industry. On the basis of these discussions, we do not expect demand for turbines and boilers, the two largest components of a utility plant, to exceed the production capacity of the relevant manufacturers in the next several years.

According to Commerce personnel, since equipment of this sort generally must be ordered now if it is to be shipped in the next one to three years, order backlogs are a good basis for estimating future workload; the Edison Electric Institute reports backlogs or unfilled orders that are well below recent shipment levels. In 1972, for example, turbine capacity of 51,872 megawatts was shipped; the unfilled orders due in each of the next four years do not exceed 40,000 megawatts in any year.

A similar pattern exists for boilers. In recent years the annual boiler capacity shipped has exceeded 200 million pounds of steam per hour; unfilled orders due in each of the next few years do not exceed 140 million pounds of steam per hour in any year.

Thus, there appears to be room for expanded output in both industries. Of course, "crash" conversion programs could test capacity limits, especially for boiler manufacturers. Representatives of the boiler industry state that they do not foresee any problem in meeting new demand caused by federal energy programs as long as conversions of existing units are spread out over the next several years. For this reason, one cannot really know what will happen until a final version of the NEP is passed; although conversion should be gradual under currently considered plans.

It should be noted, however, that a lack of capacity constraints does not preclude cost-push inflation. Indeed, at least some of this equipment is sold under long term contracts with cost-escalation clauses. Commerce personnel suggest that the significant price increase in 1975 was the result, in part, of such escalation provisions.

If, as you suggest in your letter, you have evidence that capacity constraints will be encountered we would be happy to pursue the matter further with our industry contacts. Please let me know if you have any further questions.

Sincerely yours,

ALICE M. RIVLIN,
Director.

THE 30TH ANNIVERSARY OF 174TH TACTICAL FIGHTER GROUP OF NEW YORK NATIONAL GUARD

(Mr. HANLEY asked and was given permission to extend his remarks at this point in the RECORD.)

Mr. HALEY. Mr. Speaker, I rise today with a very special sense of pride as a very special organization reaches a milestone. The 174th Tactical Fighter Group of the New York National Guard, well-known throughout the central New York areas as the "Boys from Syracuse," this month celebrates its 30th anniversary.

Assigned to this unit is a full strength of 700 officers and airmen who leave their civilian endeavors one weekend each month, in addition to 15 days of annual field training, to maintain proficiency to perform their M-Day assignment under the Tactical Air Command of the U.S. Air Force.

Although the 174th has undergone many changes in aircraft, organization and mission during its 30-year existence, the Hancock Field-based jet fighter group has continually been acclaimed as one of the top Air Guard flying units in the Nation.

Originally assigned the P–47 Thunderbolt, the 174th was the first Air Guard squadron to operate jet aircraft in New York State with the assignment of F–84's in 1950. In 1951, it was selected as one of two units in the country to test a secret program of Air National Guard runway alert to augment the regular Air Force. The results were so successful that this program is, to this day, a vital part of the Air Defense Command.

In 1960, the 174th was recognized by the National Guard Bureau as the best combat ready F–86 flying unit in the country. That same year, the group also was awarded the Governor's Trophy, symbolic of having been designated as the outstanding flying organization in the New York Air National Guard. The unit, subsequently, has been awarded this trophy on numerous occasions.

During the Berlin crisis of 1961, the 174th was activated, and all men, planes, and equipment were deployed to Phalsbourg Air Base, France within 30 days. On October 30, 1961, the largest movement of fighter aircraft to Europe since World War II began. It was the largest movement of jet fighters ever attempted. The aircrews island-hopped across the northern Atlantic route via Labrador, Greenland, Iceland, Scotland, and on to the mainland of Europe. Despite many dramatic moments—some pilots taking off from their station in raging blizzards—all aircraft arrived safely on the Continent. Operation "Stair Step," as it was tabbed, was a complete success for the Air National Guard.

Flying ground support missions for units of the Seventh Army in Europe, the 174th remained at Phalsbourg for approximately 10 months. With pilots and fighters returning by the same island-hopping route they used to take them to France, they arrived at Hancock Field, and were released from active duty in August 1962.

The 174th was again called up during the *Pueblo* crisis, and the unit was deployed to Cannon Air Force Base, Clovis, N. Mex. Its mission was to train forward air controllers to serve in Southeast Asia, assisting the Air Force in this ultimate task.

Transition to the newer A–37B was accomplished following the *Pueblo* crisis. Once again, the 174th set a record by transitioning to a new aircraft and attaining combat ready status in a remarkable 97 days—during the winter months.

During its 30-year history, the 174th also has compiled an enviable record of public service to the community. Accenting the blood donation drives and the Old Newsboys Campaign was a massive letter-writing campaign on behalf of American Prisoners of War/Missing in Action. The unit was responsible for the planting of the first "Freedom Tree" in the country in honor of the POW's, at the State fair grounds in Syracuse, N.Y., in September 1972. Members of the unit sold thousands of POW/MIA bracelets to both unit members and the public to obtain funds to support efforts to get the POW's returned.

In 1975, the unit undertook a project to resettle Vietnamese brothers in Syracuse. Numerous other activities, such as providing flyovers at patriotic events, rebuilding Little League ballfields and assisting the community in various goodwill programs have given the taxpayer a double return for his defense dollar.

From this brief history of the "Boys from Syracuse," I am certain that my colleagues can well understand my sense of pride in this very special unit. I am sure that they join with me in extending our appreciation to the men and women of the 174th Tactical Fighter Group, and offer our sincerest congratulations on the occasion of their 30th anniversary of outstanding service to the Air National Guard, the Air Force and the community of greater Syracuse, N.Y.

STATEMENT OF POLICY AND THREE SUPPORTING POLICY PAPERS FROM AIR FORCE ASSOCIATION

(Mr. MILFORD asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. MILFORD. Mr. Speaker, for 31 years, the Air Force Association has been keeping a close eye on our national defense and alerting its members and the

public about the threat it sees and what it feels must be done to meet that threat.

Meeting in convention here in Washington just a few weeks ago, delegates representing the association's 155,000 members around the Nation adopted the association's annual statement of policy and three supporting policy papers dealing with defense manpower issues, force modernization and readiness, and research and development. These well-reasoned statements continue in the tradition of the Air Force Association which has consistently examined the broad issue of national defense and placed in proper perspective the many elements that influence defense policy.

AFA's statement of policy and three policy papers each stand by themselves. But when taken together, they form an unusually comprehensive look at the total picture that I think is worthy of the attention of every Member of Congress. For these reasons, Mr. Speaker, I respectfully request that the texts of the Air Force Association's 1977–78 Statement of Policy and supporting policy papers be printed in the RECORD, and I commend them to my colleagues.

AIR FORCE ASSOCIATION STATEMENT OF POLICY FOR 1977–78 (ADOPTED SEPTEMBER 19, 1977 BY DELEGATES TO AFA'S 31ST NATIONAL CONVENTION)

The Soviet Union continues the cold war behind the smoke screen of detente. The Kremlin increases Soviet military power at a high rate, unswayed by U.S. and NATO restraints. The USSR's military programs and force levels exceed reasonable deterrence requirements. The Soviets outnumber us in every major weapon category except heavy bombers and aircraft carriers, and they outproduce us across the board. Our qualitative leads—in people and technology—no longer offset fully the widening numbers gap. With an economy half the size of ours, they invest half again as much as we do in both conventional and nuclear weaponry. Why?

Soviet capabilities span the spectrum from modern sea, air, and ground forces that have global reach, to offensive military space weapons. Soviet ideology is intrinsically antagonistic toward our own. As Soviet President Leonid Brezhnev has stated, the inevitability of communism's victory over capitalism remains Moscow's first commandment. The bulk of all Soviet defense spending goes toward the maintenance and enhancement of forces that constitute a direct threat to the United States and our European allies.

The military balance between the United States and the Soviet Union today stands in danger of reversal: from U.S. superiority fifteen years ago to rough equivalence now, and, unless we take resolute, timely action, to U.S. inferiority in the 1980s. The continuing Soviet commitment to military superiority is a matter of totalitarian decree; our national will to retain essential equivalence is being diluted by apathy, neo-isolationist tendencies, and the inclination to ascribe to the Soviet leaders the same goals and aspirations that motivate us. In this first year of our nation's third century of independence, this Association believes we must take a long, hard look at ourselves, where we stand in the world, and what it will take to remain a free and viable nation.

THE NATIONAL WILL

We remain convinced that the people of this country are willing to pay the price of second-to-none, stalwart defenses for ourselves and our allies, and are unwilling to settle for second-best. To believe otherwise is to sell America short. Yet, we find evidence of support for policy options that could reduce U.S. defense capabilities to second-best, premised on gloomy and unsubstantiated assumptions about the American people's lack of support for essential defense expenditures. We find no reason to doubt this nation's ability to choose boldly if it understands the facts about its alternatives. Recent public opinion polls substantiate this belief. But an electorate kept in the dark cannot be expected to make enlightened choices. A nation that isn't asked compellingly to rally its strength probably won't.

The principle of partnership between the people and their leaders must include the setting of national security goals and the formulation of fundamental strategies for reaching these goals. The first step is to fulfill the people's right to know, unfiltered and unalloyed, the fundamental facts and professional opinion concerning decisions on issues that bear on the survivability of our way of life. This must include frank assessment of the nature and extent of the politico-military challenges that confront us.

THE FALLACY OF MINIMUM DETERRENCE

The job of the U.S. armed forces is to deter conflict or, failing that, to bring conflict rapidly to a successful conclusion. Ideally, military power exists to preclude the need for its use. But our reliance on deterrence must not blot out the military fact of life that forces unable to inflict unacceptable punishment on an aggressor do not deter and may even invite attack.

Strategic deterrent forces are fundamental to preventing war. Their credibility affects decisively the credibility of all other military forces and of our foreign policy. An otherwise credible U.S. conventional warfare deterrent is weakened if the potential adversary has the edge in strategic capability, because it can checkmate all U.S. responsiveness to provocation and aggression. We are concerned, therefore, about proposals to retreat to a strategic philosophy of minimum deterrence limited to the ability to destroy only a certain percentage of Soviet industry and cities and devoid of nuclear war-fighting capability. Such a posture is strategic inferiority by another name, both in fact and in international perception. It would generate the same false sense of security the Maginot Line provided France in World War II.

We see these cardinal fallacies: The adversary to be deterred has to share this defense philosophy to the extent of permitting us to hold his own population hostage and of restraining his own force structure accordingly. The Soviet Union clearly is unwilling to do either. It has explicitly and consistently rejected the concept of nuclear sufficiency and mutually assured destruction. The Kremlin's strategic war dogma is unambiguous and a matter of record. The Soviets believe that nuclear war, in a case of last resort, is both thinkable and winnable. An impressive arsenal of new intercontinental ballistic missiles, tailored for attack on U.S. strategic forces, plus MIRVed, long range, submarine-launched ballistic missiles, is now entering the Soviet inventory or under flight test to translate dogma into hardware reality.

Cutting back our strategic force structure to fit the concept of minimum deterrence, according to the proponents of this concept, will lower the defense budget. But in the process, the nation would be shortchanged. Budget savings would be minor; our deterrent posture impotent and hence not credible. Lastly, we would be abandoning the hope of confining nuclear war to counterforce (strategic war-fighting) targets. The difference could be ninety million American lives. In our view, deterrence that fails to dissuade Soviet attacks on U.S. cities is morally unacceptable as national policy.

KEEPING DETERRENCE CREDIBLE

To assure credible deterrence we see, as the first priority, retaining and modernizing the strategic triad that has proved itself as a global peacekeeper so well for so long. We acknowledge the unique and crucially important contributions to deterrence of our fleet ballistic missile (FBM) submarines and fully support their upgrading through the Trident program. But those proponents of minimum deterrence who want to assign the FBM force most of the deterrence function are ill-advised. Sea-based deterrence, without synergistic reinforcement from ICBMs and strategic bombers, could fall prey eventually to advances in Soviet ballistic missile defense and antisubmarine warfare technologies.

The ICBM force, on the other hand, presents uniquely different problems to a potential attacker. Attacking USAF's ICBMs would force an aggressor into the open, without the cloak of slow attrition or stealth, since he would have to stage massive and rapidly detectable raids against targets deep inside sovereign U.S. territory. Consequently, the attacker must allow for the distinct possibility that his action will cause the U.S. to launch its ICBMs before his missiles can reach their targets.

Further, the ICBM force remains the component of the triad with the highest state of readiness and this nation's principal counterforce weapon. Neutralizing this force is clearly a high-priority goal of Soviet strategists, who spare neither effort nor resources in their long-term drive toward placing the U.S. ICBMs at risk through a first-strike capability. While realization of this objective—if feasible at all—is many years away, we see an urgent need to fortify the long-term survivability of our ICBM forces and, at the same time, to demonstrate U.S. determination to block the Soviet quest for a first-strike posture. Such U.S. action would go a long way toward making nuclear war unthinkable for the Soviets. The Air Force's proposed medium-throw-weight MX ICBM system would guarantee the Soviets a net loss in surviving forces relative to the U.S. regardless of how they might stage a massive strategic attack. We know of no more persuasive deterrent than the demonstrable ability to inflict unacceptable disadvantages on the attacker.

STRATEGIC SYSTEMS

We reaffirm our belief in the need for a manned strategic penetrating system that can operate in conjunction with air-breathing standoff cruise missiles. Contrary to popular belief, some technologies essential to the highly promising air-launched cruise missile concept are as yet in a formative stage. These weapons are years away from operational deployment. Even after the first generation of ALCMs reaches operational status, it will require still more years of maturing and refinement before they can attain the wide range of demanding capabilities that already are being attributed to them.

The need, therefore, for a mix of manned penetrators and standoff systems remains fundamental. We are encouraged by the Administration's plans to explore follow-on systems to the B–52 with an eye on their eventual deployment. To attain ALCM's full potential as expeditiously as possible requires that the entire cruise missile program be placed under Air Force management and that at least two aerospace industry teams be involved in their development and production.

Soviet space activities invalidate the view of those who hold that space can be maintained as a sanctuary from warfare if this country would only forego all forms of active and passive space defense. We, therefore, urge the unstinting application of advanced technologies that increase the survivability of US military space systems and their ability to function without interruption throughout the trans-attack and post-attack phases of nuclear war. We are con-

fident that the Space Shuttle will contribute significantly to military space capabilities, but believe that all broad national portions of this program should be funded in their own right and outside of the Air Force and Defense Department budgets.

SALT POSITIONS

The men and women of this Association welcome President Carter's statement that the United States position at SALT must be one of "elightened self-interest" and that, if no accord is forthcoming, the US "can and will do what it must to protect its security and to ensure the adequacy of its strategic posture." However, we continue to view as nonnegotiable preconditions for any SALT accord the provisions of equivalent capabilities and full verification; we continue to support all legitimate efforts to bring about equitable and balanced limitations of weapons of mass destruction and to strengthen strategic stability. We applaud the administration's steadfast refusal to rush toward a SALT II agreement by acceding to less than equitable terms.

We believe, on the other hand, that a Comprehensive Test Ban Treaty, prohibiting the testing of all nuclear explosive devices, entails major risks to national security. Low-yield tests are beyond our ability to detect, yet would provide important information about both nuclear hardening and nuclear weapons design for a power not party to the accord, or for a signatory willing to circumvent the terms of such an agreement.

Lowering, over time, the nuclear weapons expertise of this country and the Soviet Union to the point where other technologically advanced nations could in fact surpass us invites instability and increases the risk of nuclear war. In addition, foregoing all nuclear testing incurs risks brought on by the aging of our nuclear stockpile, handicaps future US nuclear weapons designs (as long as the Soviet lead in throw-weight continues), limits capabilities of our weapons, and leads to the disbanding of our nuclear weapons laboratories, a vital national resource.

NEW TACTICAL WEAPONS

In this context, the Association salutes the Administration's determination to remain unswayed by widespread misrepresentation of the purpose and nature of enhanced radiation weapons—the misnamed "neutron bomb." These proposed nuclear theater weapons, whose release is controlled by the US President, can reduce sharply casualties among civilians and friendly troops. These weapons are essential for the modernization of our forces in Europe and would increase the credibility of our NATO deterrent.

We are encouraged by indications of plans to increase the budget of our general-purpose forces by three percent per year in real terms during the next five years, and we urge support of this critically important force modernization. With tactical and strategic capabilities together forming cohesive and mutually supporting military deterrence, we believe that the funding of the former must not come at the expense of the latter.

Thirty years after becoming a separate military service, the United States Air Force is small when measured in terms of numbers of aircraft and manning. But the superb quality of USAF's people, along with their ingenuity and that of American industry, has provided a harvest of advances in force effectiveness and weapons that more than compensates for these numerical factors.

A decade and a half ago, President Kennedy told us that the nuclear age forces us to choose between being a great generation of Americans or being the last. We believe that, given the facts, the present generation of Americans will choose greatness.

AIR FORCE ASSOCIATION POLICY PAPER ON DEFENSE MANPOWER ISSUES (ADOPTED SEPTEMBER 19, 1977 BY DELEGATES TO AFA'S THIRTY-FIRST NATIONAL CONVENTION)

A calling—not an occupation.

There is no question that this traditional concept of military service has been eroded over the past few years. The causes of the erosion, and there are many, are not at issue here.

What is pertinent is that strong efforts are under way within the military to reverse the trend. We applaud and, with all our resources, support these efforts. The shift in emphasis of Air Force recruiting literature toward the concept of service rather than job training is a step in the right direction. We believe that the Air Force's "Impact 77," a study examining what the Air Force can do on its own to accelerate this trend, is encouraging. The all-volunteer force is no substitute for the obligation of all citizens to expend some of their time and talent in military service to our country. We refuse to believe that patriotism is an anachronism.

However, if we are to expect our nation's youth to accept military services as a calling, and not just as a job, then we must stand behind them once they put on the uniform. The sacrifices involved—deferring civilian career plans, serving "at the convenience of the government," and facing the ever-present possibility that they can be called upon to risk their lives for their country—demand the full understanding of our nation. This extends to support of the benefits designed to compensate for the many disadvantages of military life. Piecemeal hacking at compensation and benefits can only cause our men and women in uniform to question whether their service and sacrifice are truly valued by the nation they have sworn to protect. If we expect our military people to look upon their service as a calling, then we must protect them from heedless and random attacks by misguided and irresponsible critics. Military people do not expect applause. Neither do they deserve abuse. The coin of commitment has two sides.

The President's Blue Ribbon Commission on military compensation must view its task in this light. We urge the Commission to get on with its work. Further delay is intolerable.

If the concept of a calling is essential to our active military forces—and it is—then it applies with equal validity to the National Guard and Reserve. Our nation's citizen-soldiers serve in a civilian environment that often lacks understanding, and, at times, is hostile. The recruiting and retention problems facing our Reserve Forces clearly reflect this point.

The plight of the Vietnam-era veteran is distressing. A large proportion of those who served honorably in the Southeast Asia conflict—many despite personal reservations and per pressure—are still paying a high price for their sacrifice. The unemployment rate among Vietnam veterans is a blight on our national conscience. The nation owes all Vietnam veterans a great debt. Yet their problems are forgotten, their very existence too often ignored. A national commitment to properly recognize, train, and employ the Vietnam veterans, many of whom came from underprivileged backgrounds, is shockingly overdue.

The same factors that make military service as different as it is difficult make it incompatible with unionization. There is no place in the military system for a second chain of command that competes for the loyalties of its members. We commend the members of the American Federation of Government Employees (AFGE) for their overwhelming rejection of military unionization.

The duty of military and civilian leaders to speak up for the needs of those they lead is clear. We commend the few who have.

Only then will the American people understand the need for a full national commitment to the men and women who serve in their defense.

In turn, we urge American service people to continue to demonstrate the same dedication to cause, country, and excellence that illuminates their history.

To these ends, the Air Force Association hereby pledges its support of the following positions:

PERSONNEL POLICIES

We commend the Air Force for its efforts to involve all members of the Air Force family in recruiting activity through the Air Force Recruiter Assistance Program, and we pledge the Association's active participation in and support of this program.

We support:

Enactment of the Defense Officer Personnel Management Act (DOPMA).

Continuation of current military leave policies for federal employees who are members of the Reserve components.

Equitable military leave policies that do not interfere with normal vacations of all members of the Reserve components.

Current drill pay structure for the Air National Guard and Air Force Reserve.

The Air National Guard and Air Force Reserve civilian technician concept and current proposals to improve management procedures of the Air Force Reserve Technician Program.

A fully government-funded Airmen Education and Commissioning Program.

Direct commissioning of qualified enlisted people.

Continued graduate education for officers, and more efficient use of these graduates.

Award of E–3 rank to Junior ROTC graduates entering the active Air Force, Air Force Reserve, or Air National Guard.

The same tax advantage for federal employees who sell their homes when assigned to overseas duty as that provided military personnel.

Adequate housing for all ranks or suitable reimbursement for the lack thereof.

We oppose all inequities, current or contemplated, in United States agreements with foreign governments that would adversely affect the status of military personnel, civilian employees of the Department of Defense, or their dependents who are stationed abroad.

COMPENSATION

Pending results of the Blue Ribbon Commission on Military Compensation and other current studies on this subject, we support the present system of military and federal employee compensation, and we oppose interim piecemeal changes.

We oppose a military and federal employee "pay cap" in the belief that such action again will put military and other government people behind the cost-of-living curve.

We support:

Travel reimbursement for dependents of junior enlisted people.

Per diem allowances for enlisted people comparable to that for officers.

Equalized hazardous-duty pay for all military ranks.

Equalized environmental differential pay for all federal civilian employees.

Repeal of the restriction that prohibits enlisted band members from the same off-duty employment opportunities available to all other members of the armed forces.

Cost-of-living supplement for military and civilian people assigned to areas with higher than average cost of living.

Enlistment and reenlistment bonuses for members of the active force, Air Force Reserve, and Air National Guard.

Educational assistance for members of the Air Force Reserve and Air National Guard.

Amendment of the DOD Joint Travel Regulation (JTR) to eliminate discrimination against mobile home owners.

Federal employee reimbursement of moving/travel expenses, upon retirement or death, to home-of-record (or equal distance) if the move was for the convenience of the government.

SPECIFIC BENEFITS

Commissaries

We continue to urge improved management to reduce military base commissary stores subsidies, but we oppose any action that would reduce the benefits of this service to active military people and their dependents, retirees, eligible widows, and disabled veterans.

Military health care

Military people, active and retired, deserve a health care system that will fully serve their needs and the needs of their dependents. Therefore, we support:

Current and improved incentives to attract and retain military physicians and dentists.

Upgrading Air Force physician assistants to at least equal status with their counterparts in the other military services.

Dental care for dependents of active and retired personnel.

A change in the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) which would provide lifetime coverage under CHAMPUS for the military retiree, without regard to Social Security, Medicare, or service-connected disability treatment by the Veterans Administration; remove current nonavailability certificate requirements; and restore original procedures of determining allowable reimbursements.

Survivors' benefits and insurance

We support amendments to the current Survivors' Benefit Plan (SBP), which would:

Remove the provision whereby survivors eligible for Social Security benefits must have their SBP benefits offset by proportionate amounts of their deceased spouse's Social Security benefits.

Establish a provision that would permit survivors of Reservists and Guardsmen who die before reaching the established retirement age to receive a proportionate amount of the retirement annuity the Reservist or Guardsman would have received at retirement.

We support:

An amendment to the Veterans' Special Life Insurance program that would permit Reservists who are in a nonpay but active status to participate fully in the program.

An amendment to the Federal Employee Group Life Insurance program that would permit federal employees to contribute after retirement, with continued coverage.

The goals of the Air Force Enlisted Men's Widows' and Dependents' Home Foundation.

Retirement

We believe that any new nondisability retirement plan must guarantee no reduction in benefits for military and federal employees serving at the time of enactment, and such a plan should not be incorporated with any Social Security retirement program.

We oppose any proposal that would limit employment opportunities for retired military people, the great majority of whom are enlisted, or that would force them to forfeit any portion of their earned retirement income.

We favor removal of current dual-compensation limitations for retired regular military officers.

We support:

A new nondisability retirement plan on a reduced annuity basis for Reservists and Guardsmen who elect to retire before age sixty.

Lump-sum payments immediately upon retirement for those federal employees retiring for disability.

A lifting of the sixty creditable training point ceiling for retirement purposes for Reservists and Guardsmen.

Recomputation of military retired pay to reflect the changing military pay structure.

Proposals to authorize a three-year grace period for government-paid moves to home of choice upon retirement of military people.

RESERVE OFFICER TRAINING CORPS (ROTC)

In our support of vigorous and stable Air Force ROTC programs (Junior and Senior), we urge an increase in the number of USAF Junior ROTC units and the funding of AFROTC scholarships, equitable with that of other services. At the same time, we urge the Department of Defense to give serious consideration to changing the title "Junior Reserve Officer Training Corps (JROTC)" to a title that would more accurately reflect the level, nature, and purpose of the program.

COMMUNITY COLLEGE OF THE AIR FORCE

We continue to support the mission of the Community College of the Air Force (CCAF) and are proud of the fact that it can now grant Associate Degrees to qualified Air Force enlisted people.

CIVIL AIR PATROL

We support continued federal funding of the Civil Air Patrol and we favor increasing CAP's capability to perform its search-and-rescue mission.

SELECTIVE SERVICE

We are gravely concerned over the current and potential shortfalls in military recruiting, both for the active force and the Reserve components. Because national policy currently dictates that military manpower be maintained at an austere level, and because the Selective Service System has been virtually dismantled, thereby making it apparent that force expansion for military contingencies cannot be expeditiously accomplished, we urge the establishment of a fair and effective National Selective Service System.

MIA'S/POW'S

(*Southeast Asia*)

We urge the government to continue to pursue its attempt to resolve, as quickly as possible and to the maximum attainable degree, the status of all Americans identified as Missing in Action or Prisoners of War in Southeast Asia.

VETERANS

We support:

An expanded, more effective government program to encourage training and employment of Vietnam-era veterans.

A continuing network of Veterans Administration Hospitals, fully funded and adequately staffed.

An expanded system of National Cemeteries responsive to the need of the veteran population.

Passage of legislation allowing those disabled veterans who are retired from the service on a longevity basis to receive full military retired pay, in addition to VA disability compensation.

Proposals to eliminate time restrictions on eligibility for earned veteran's educational benefits.

The current system of Veterans' Preference for veterans employed in—or seeking employment with—the Federal Civil Service.

AIR FORCE ASSOCIATION POLICY PAPER ON FORCE MODERNIZATION AND READINESS

(Adopted September 19, 1977 by delegates to AFA's Thirty-first National Convention)

As the Soviet Union pursues with unrelenting determination its quest for military preeminence, our misgivings parallel those of the Chairman of the House Armed Services Committee, Congressman Melvin Price. He categorized termination of production of the B-1 strategic bomber, of the Minuteman III ICBM, and of the short-range attack missile (SRAM), combined with stretch-out of the MX program and a cut in nuclear naval carrier strength, as "unilateral arms restraint" on the part of this country. Along with Chairman Price, we search in vain for signs of commensurate Soviet restraint. Instead we note the Defense Department's recent report that "the Soviets continue to modernize their strategic posture at a steady pace" by deploying new SS-17, SS-18, and SS-19 ICBMs, new Delta Class strategic submarines, and Backfire bombers.

The decision to terminate production of the B-1 and Minuteman III will have a major effect on the strategic posture of the United States. It calls for a comprehensive, careful reappraisal and restructuring of these forces. While requisite analyses and economic tradeoff studies are not yet complete, several fundamental requirements are evident already.

MX MISSILE FULL-SCALE DEVELOPMENT

The MX advanced ICBM program must be entered into full-scale engineering development in FY '79 to prevent deficiencies in US strategic capabilities in the 1980s. The intercontinental ballistic missile—with its speed, accuracy, low operational cost, constant high readiness, and short flight time to target—remains the principal means for coping with time-urgent, hardened targets and thus for terminating nuclear conflict below the level of assured destruction. But this option remains open only as long as these weapons can cope credibly with the advancing technology and expanding capability of the Soviet strategic forces. By the time the first MX could become operational—assuming its expeditious development and deployment—conversion of the Soviet ICBMs to the new generation of high-payload, improved-accuracy weapons is likely to be completed. The bulk of that Soviet force then will be comprised of SS-19s, a weapon system almost identical to MX in size and throw-weight; the numerical size of the Soviet ICBM force will continue to be half again as large as the US small throw-weight Minuteman force; and the Soviet arsenal also will include some 300 SS-18s, the largest ICBM in the world, with twice the throw-weight of MX. Total throw-weight—and thus the potential number of individual warheads—of the Soviet force then would be at least five times that of the US ICBM force. Such a pronounced imbalance would be highly destabilizing and an open invitation to Soviet adventurism or worse. Timely entry into the inventory of the highly survivable MX missile will avert such a dangerous asymmetry.

MINUTEMAN UPGRADING

Programs to improve Minuteman, now in progress, as well as research and development to provide the option for a comprehensive upgrading, especially of the Minuteman II component, must be continued, including vigorous exploration of new reentry vehicle technologies under the Advanced Ballistic Reentry System (ABRES) program.

CRUISE MISSILES

The Administration's choice of air-launched cruise missiles over the B-1 as the principal air-breathing element of the strategic triad vastly increases the importance and scope of these new weapons. Development of cruise missiles—as yet in an early stage—and their mating to B-52 or other launching aircraft must be carried out expeditiously and with maximal efficiency. This goal, we believe, can be attained best by placing the joint cruise missile system program office under Air Force management. The Air Force clearly is to be the principal user of these weapons—both in the air-launched

strategic and the ground-launched intra-theater role—and, therefore, should be responsible for their design, development, and acquisition. Such an arrangement appears essentially also to carry out evolutionary improvements of these weapons in response to feedback from the using command and to assure rapid adjustments to changes in Soviet air defenses. Logistically, that organization also should serve as the manager of follow-up weapons, such as the highly promising Advanced Strategic Air-Launched Missile (ASALM). We believe that thus far austere funding and overly conservative approaches have held back development of ASALM. Termination of the B–1 production program makes mandatory acceleration of the ASALM effort in order to permit full flight testing and production at the earliest possible time.

The broader, more critical role that is being assigned air-launched cruise missiles make it mandatory that their performance capabilities and development mode not be restricted to the disadvantage of the United States by future SALT accords.

MANNED STRATEGIC AIRCRAFT

We see a continuing need for a manned strategic penetrator because the range of air-launched cruise missiles, measured against the Soviet target system from stand-off launch points, is marginal, and because the range of Soviet air defenses is being extended out from the Soviet perimeter through the use of airborne radar, advanced SAMs, and modern interceptors. The first requirement for the US is to upgrade the avionics and electronic countermeasure capabilities of the B–52 fleet to prolong its ability to operate both in offshore hostile airspace and to perform deep penetration missions.

We believe further that design options for a follow-on manned strategic aircraft—be that FB–111 derivatives or other concepts—must include some capability for deep penetration. Penetration by a manned strategic system, capable of making on-the-spot decisions about how and where to attack targets of opportunity, remains an essential element of effective strategic deterrence. The ability to penetrate steadily improving Soviet air defenses must not be abandoned in favor of possibly less costly but certainly less effective forms of deterrence.

WARNING AND ATTACK ASSESSMENT

While the strategic forces represent the core factor of our national defense capabilities, the ability to control these forces in real time and in step with changes in the battle situation also is of pervasive importance. Essential here are programs to improve that part of the national Early Warning System known as attack assessment, encompassing rapid detection and transmission of information about impending attacks by Soviet ICBMs, SLBMs, and bombers, and involving sufficient precision and detail to permit immediate formulation of counteraction by the National Command Authorities. The Defense Support Satellite Network; Pace Paws warning radar; Over-the-Horizon Backscatter System (OTH–B), essential for the detection of sea-launched cruise missiles; and the Joint Surveillance System rank high on this list of program priorities.

We see an urgent need to improve all strategic warning systems and their associated command control and communications systems to obtain comprehensive raid characterization information leading to appropriate and controlled responses. Near real time strike assessment is essential for retargeting and the ability to selectively execute or withhold strikes to control escalation.

Reliable warning and attack assessment constitute persuasive deterrence by quashing a potential aggressor's hopes of staging a successful first strike against USAF's ICBMs; no matter how great the attacker's warhead accuracy or their number, he must reckon with the high probability that his weapons will be attacking empty silos. Equally vital are command control and communications systems that permit rapid and reliable execution of responses to enemy attack, even when exposed to the effects of nuclear weapons countermeasures and jamming.

COMMAND CONTROL AND COMMUNICATIONS

Primary requirements here are the E–4 Advanced Airborne Command Post; the theater CINC Airborne Command Post; the World Wide Military Command and Control System and its subnets; the Air Force Satellite Communications System (AFSATCOM); its highly survivable follow-on, the Strategic Satellite System (SSS); and the General Purpose Satellite System (GPSS). Together, improved eorly warning, attack assessment, and survivable command control and communications capabilities multiply the effectiveness of all defense forces to a degree not attainable by other means. We see a pressing need to maintain a strong R&D program within DoD to preclude technological surprise in ABM defenses.

AIR DEFENSE

The Soviet Union's moderization of its strategic bomber force through the introduction of Backfire warrants reassessment of this country's extremely limited air defense capabilities. More than seventy Backfire supersonic intercontinental bombers, the most modern operational bombers in the world, are now in the inventory of Soviet Long Range and Naval Aviation. We see a clear need to modernize and improve US air defenses, primarily the assignment of E–3A Airborne Warning and Control System (AWACS) to that mission and development and acquisition of a dedicated follow-on interceptor for the Aerospace Defense Command.

USAF'S COLLATERAL MISSION

Other crucial elements of US deterrence, and probably the most likely to be tested in the future conflicts, are forward-based nuclear and conventional theater forces. The effectiveness of both, in case of sustained engagements, is impaired by limitations in available airlift and jeopardized by increasing Soviet threats to the US Navy's ability to keep the sealanes open. The Air Force's collateral mission of supporting the Navy in the sea-control mission thus takes on added urgency. There must be full and rapid development of USAF's intrinsic ability to assist in maritime search and identification, electronic warfare, attack against hostile naval surface and air units, and aerial minelaying.

AIRLIFT ENHANCEMENT

Full implementation of the Air Force's multifaceted Airlift Enhancement Program, including improvements of the C–141 and C–5 aircraft, and modification of the aircraft of the Civil Reserve Air Fleet (CRAF), must not be delayed further. We also endorse acquisition of the Advanced Tanker/Cargo Aircraft (ATCA) as well as development and eventual acquisition of the Advanced Medium Short Takeoff and Landing Aircraft (AMST) to modernize tactical airlift in the 1980s.

NEW TACTICAL AIRCRAFT

Nowhere are the erosive effects of declining USAF purchasing power more evident than in procurement of Air Force aircraft, which plummeted from a Korean War high of more than 8,000 aircraft per year, and an annual rate of more than 1,000 at the peak of the Southeast Asian War, to fewer than 220 for each of the past five years. The FY '78 buy sought by the Air Force is for 330 aircraft, reflecting a long overdue recouping of lost ground.

The Soviet tactical aircraft fleet now exceeds the equivalent US force by more than thirty percent. This condition is exacerbated by the increasing offensive capabilities and higher quality of Soviet late-model aircraft, able to perform deep strikes against NATO targets without prior forward deployment. Since 1968 the tactical aircraft of the Warsaw Pact forces (mainly Soviet) available for deployment against NATO have increased by 1,300, to an overall total of more than 5,000. The danger, then, is that we soon may lose our qualitative lead while at the same time suffering the consequences of aircraft age creep, obsolescence, and an ever-shrinking force structure.

Coming into the Air Force inventory now are aircraft and capabilities of unparalleled scope and versatility: i.e., the F–15, F–16, A–10, EF–111, F–4G Wild Weasel, AWACS, GBU–15, etc. The need is to acquire these weapons in the necessary quantities and on schedule to assure maximum return on these investments. As these aircraft enter the Air Force's active inventory, other, still-capable aircraft, such as the F–4 and the A–7 as well as some production A–10s, must replace obsolescent combat planes of the Air National Guard and Air Force Reserve to improve the combat capability of the Total Force. Fleshing out the operational aircraft inventory of USAF's twenty-six active-duty and ten Reserve Forces fighter wings to the authorized level must be completed on schedule.

Tactical combat forces must be trained and exercised under realistic, warlike conditions. Improvement and development of tactical training ranges, in accord with relevant Air Force programs, are of vital importance to the combat readiness of this nation's tactical airpower.

FOREIGN MILITARY SALES

In this context, the Air Force Association notes with concern the deleterious impact of blind opposition to foreign military sales on US defense capabilities. Judicious export of US weapon systems to allies under the direct control of the appropriate US government agencies is beneficial to the nation in a number of ways. Foreign sales on USAF weapon systems reduce unit costs to the Air Force and sustain the vital defense industry at a time when the profitability of defense business is marginal. Equally important, every efficient weapon system in the arsenal of our allies contributes directly to the Free World's total force strength, fosters equipment standardization, broadens USAF's logistics support base, and thus adds to force readiness.

FUTURE READINESS REQUIREMENTS

This Association recognizes the impracticality of matching the Soviet Union aircraft for aircraft and missile for missile. But as the Soviets get bigger and bigger, we must be smarter. US exploitation of defense technology must concentrate on high payoff areas, exemplified by systems that multiply the effectiveness of the existing force. Most important, we must be ready with concepts and technologies that can neutralize the massive Soviet investments.

AIR FORCE ASSOCIATION POLICY PAPER ON RESEARCH AND DEVELOPMENT (ADOPTED SEPTEMBER 19, 1977 BY DELEGATES TO AFA'S THIRTY-FIRST NATIONAL CONVENTION)

The growing and determined Soviet challenge to our technological superiority demands sustained real annual growth in military research and the active involvement of the nation's creative talent in government, industries, and the universities to maintain an adequate technology base for the long

haul. Real growth of about four percent was achieved in FY '77. But one year's growth clearly can't make up for ground that was lost during the preceding decade. Our current technological lead is the product of past investments, past energy, and past innovation. Sustaining this lead in the future will require new investments, new energy, and yet more innovation.

The Soviets fully realize this; their long-term challenge has not abated. The Kremlin's quest for ultimate technological superiority is supported by the world's largest effort in basic and applied science; the world's largest military research and development work force; and a massive, long-term investment in all aspects of science and technology. We note, for example, that the Soviet level of military RDT&E investment, regardless of how it is measured, has exceeded that of the United States by more than 125 percent since 1970 and continues to grow consistently by a real three to five percent per year. Unless we can sustain a four percent minimum growth rate, the gap will widen further in favor of the USSR.

Similarly, the Soviet military R&D base continues to expand quantitatively and to improve qualitatively in terms of manpower, facilities, and output. In most of these indicators of program dynamism, the USSR leads the US in level of effort and in growth rates.

The long-range implications of this massive Soviet scientific and technological effort are clear. Unless we respond appropriately, our technological lead, already in jeopardy, will steadily dwindle until we can no longer maintain key military balances primarily by offsetting Soviet quantitative advantages with weapon systems of superior quality. The risk of technological surprise, already real, will further increase, and our ability to detect and respond rapidly and effectively to unforeseen developments will decline precipitously. In addition, the political, economic, and psychological costs of losing our technological superiority to the Soviet Union would be incalculable. Not only would the equilibrium of relative national power shift to the detriment of our interests and of peace and global stability, but we might be unable to pay the enormous price in time, effort, and treasure of attempting to regain our lead.

This Association is firmly convinced that the Soviet technological challenge is the most ominous long-term threat facing our nation and that we must meet it successfully with a commitment to maintain growth of a strong research and development program, including a superior technological base. Several steps must be taken now to ensure that this commitment is translated into real capabilities for the future.

First, we must increase the investment in the technology base—those basic research and exploratory development activities which generate innovative concepts and demonstrate their theoretical soundness and technical promise. The technology base lays the foundation for advances that will be incorporated into the next generation of military equipments or that may be retained as options to be developed as new military requirements are identified. Failure to push forward the frontiers of science and technology energetically and with the combined dynamics of government, industry, and academia is tantamount to mortgaging the nation's future in a national security as well as economic context. Science and technology are political neutrals that willingly serve any nation or ideology that can pay the price for exploring and exploiting them.

This Association supports, therefore, the DoD's goal of real annual growth of ten percent in research through FY '80 and five percent in exploratory development through FY '78. Once achieved, these investment levels in the technology base must then be maintained over the long term. We strongly urge congressional support for this investment strategy, and we urge USAF to adhere to it in future budget allocations. However, we would vigorously oppose any reductions below the minimum level.

Second, we must exploit our lead in high-payoff technologies if Soviet quantitative superiority is to be offset at affordable cost. Examples include aeronautical vehicle technology, such as the Advanced Fighter Technology Integration Program; propulsion technology, such as variable cycle and integral rocket ramjet propulsion systems; structures and materials technology, particularly composite materials; alvanced high-energy physics; and electronics developments covering a wide range of activities, including automation, avionics, and flight support systems. Previous advances in these technologies have been crucial to the maintenance of our current superiority in military and commercial aircraft and to the development of such key systems as AWACS, NAVSTAR Global Positional System, cruise missiles, and the Space Shuttle. We must continue to nurture them with adequate investment and strong management attention to ensure that similar payoffs are achieved in the future. In this regard, the Association commends the progress USAF has made in incorporating its investment strategy review into the formal R&D management process.

Third, defense research and development cannot alone assure the future superiority of our national technological base. The contributions of industrial and academic research and technology must be intensified and integrated more effectively into the defense effort to facilitate the expansion of knowledge and innovation upon which our future security depends. In this regard, the Association supports DoD's efforts to increase the level of technology base effort being performed by industry and the universities and to expand the innovative contributions of the Industrial Independent Research and Development program. In addition, we believe that the concept of closer defense-university ties is crucially important, and that a program to increase both DoD support for university research and participation by young university faculty in DoD laboratory activities must be instituted without further delay. Finally, we applaud the close cooperation that continues among DoD and other federal agencies, particularly NASA and ERDA, in appropriate technology base efforts. This cooperation in planning, funding, and facilities development and use has been instrumental in creating a number of innovative concepts and systems, particularly in the field of aeronautics.

Fourth, we again urge strongly that more effective controls be placed promptly on the transfer of strategic technologies to potential adversaries. There is simply no national interest served by transfusing critical Soviet deficiencies in microelectronics, materials, advanced aircraft engines, computers, and certain production technologies, to name a few, with the advanced design and manufacturing technology of the US or its allies. This Association firmly opposes any transfers that may assist the Soviets in strengthening their technology base.

In summary, the Air Force Association remains convinced that this nation's technological superiority is its most important advantage in the long-term political, economic, and military competition with the USSR. We can and must retain that lead. But the scope, magnitude, and determination of the Soviet technological effort represent a significant challenge that cannot be underestimated; it has already produced adverse trends in the military technology balance which we must reverse promptly. Sustained investment growth and cost-effective management are the most immediate requirements facing us. We urge that priority attention be given to meeting this central need in the next Five-Year Defense Plan. Neither time nor momentum is on our side.

CONFERENCE REPORT AND STATEMENT

Mr. TEAGUE submitted the following conference report and statement on the bill (S. 1811) to authorize appropriations to the Energy Research and Development Administration, in accordance with section 261 of the Atomic Energy Act of 1954, as amended, section 305 of the Energy Reorganization Act of 1974, and section 16 of the Federal Nonnuclear Energy Research and Development Act of 1974, as amended, and for other purposes:

CONFERENCE REPORT (H. REPT. No. 95-714)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 1811) to authorize appropriations to the Energy Research and Development Administration in accordance with section 261 of the Atomic Energy Act of 1954, as amended, section 305 of the Energy Reorganization Act of 1974, and section 16 of the Federal Nonnuclear Energy Research and Development Act of 1974, as amended, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the House amendment insert the following:

That this Act may be cited as the "ERDA Authorization Act of 1978—Civilian Applications". In accordance with section 261 of the Atomic Energy Act of 1954 (42 U.S.C. 207), section 305 of the Energy Reorganization Act of 1974 (42 U.S.C. 5875), and section 16 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5915), there is hereby authorized to be appropriated to the Energy Research and Development Administration, for energy research, development, and demonstration, and related activities, the sum of $6,161,445,000.

TITLE I—ENERGY RESEARCH, DEVELOPMENT, AND DEMONSTRATION, AND RELATED ACTIVITIES

OPERATING EXPENSES

SEC. 101. For "Operating expenses", for the following programs, a sum of dollars equal to the total of the following amounts:

Fossil Energy Development

(1) Coal:

(A) Coal liquefaction, $107,000,000.

(B) High Btu gasification (coal), $51,200,000.

(C) Low Btu gasification (coal), $73,900,000.

(D) Advanced power systems, $25,000,000.

(E) Direct combustion (coal), $65,200,000.

(F) Advanced research and supporting technology, $50,000,000: *Provided*, That of those funds authorized, funds as may be necessary are hereby authorized for the following purpose: The Administrator shall conduct a feasibility study of the technology and the commercial applications of the process of the fine grinding of coal and dry vegetable residues for the purpose of preparing these substances as clean burning fuels.

(G) Demonstration plants and major test facilities (coal), $60,900,000.

(H) Magnetohydrodynamics, $70,800,000: *Provided*, That at least 5 percent of the amount appropriated for magnetohydrodynamics shall be expended for closed cycle technology.

(2) Petroleum and natural gas:

(A) Enhanced oil recovery, $46,100,000.

(B) Enhanced gas recovery, $30,000,000.

(C) Drilling, exploration and offshore technology, $7,600,000.

(D) Processing and utilization, $1,400,000.
(3) Oil shale and in situ technology:
(A) Oil shale, $28,000,000.
(B) In situ coal gasification, $19,000,000.

Solar Energy Development

(4) Thermal applications, $104,700,000, including $94,400,000 for heating and cooling of buildings.

(5) Fuels from biomass, $20,500,000; and under such rules and regulations as he may establish, the Administrator is authorized to guarantee a loan or loans for the demonstration of a 50 MW wood-fueled power generating facility.

(6) Other Solar Energy Programs, $219,700,000, including $7,000,000 for a parallel design of a 1500 kilowatt wind energy conversion system and the production of two test units, and $203,700,000 for other solar electric applications: *Provided*, That $7,500,000 of such sum is hereby authorized for design work for small community applications.

Geothermal Energy Development

(7) Engineering research and development, $15,500,000.

(8) Resource exploration and assessment, $17,600,000.

(9) Hydrothermal technology applications, $28,000,000.

(10) Advanced technology applications, $24,300,000.

(11) Utilization experiments, $16,000,000.

(12) Environmental control and institutional studies, $8,100,000.

(13) Low head hydroelectric program, $15,000,000.

Conservation Research and Development

(14) Electric energy systems and energy storage:

(A) Electric energy systems, $36,800,000.

(B) Energy storage systems, $48,500,000.

(15) End use conservation and technologies to improve efficiency:

(A) Industrial energy conservation, $38,000,000.

(B) Buildings and community systems, $59,500,000: *Provided*, That $2,000,000 of such sum are hereby authorized for a research and development program in residential gas and oil furnaces.

(C) Transportation energy conservation, $87,000,000, of which $1,000,000 shall be available to the Alternative Fuels Utilization Program for study of automotive utilization of alcohol fuels and blends: *Provided*, That, of those funds authorized for the Alternative Fuels Utilization Program, funds as may be necessary are hereby authorized for the Energy Research and Development Administration to conduct studies to determine the feasibility of utilizing existing distillery facilities or other types of refineries including but not limited to sugar refineries, in the implementation of programs to extend the supply of gasoline by means of a mixture of gasoline and alcohol.

(D) Improved conversion efficiency, $69,700,000.

(16) Energy extension service, $8,000,000.

(17) Small grants for appropriate technology, $8,000,000.

Environmental and Safety Research and Development

(18) Environment and Safety Research and Development.

(A) Overview and Assessment, $50,010,000.

(B) Environmental Research, $143,970,000.

(C) Life Sciences Research, $38,113,000.

(D) Decontamination and Decommissioning, $19,000,000.

Nuclear Research and Development

(19) Magnetic fusion, $201,900,000.

(20) Fuel cycle research and development $363,885,000, including $20,000,000 for international spent fuel disposition, pursuant to section 108 and including $13,000,000 for research, development, assessment, evaluation, and other activities at the Barnwell Nuclear Fuels Plant related to alternative fuel cycle technologies, safeguard systems, spent fuel storage and waste management, except that none of the authorized funds may be used for operations of the plant to process spent fuel from reactors.

(21) Liquid metal fast breeder reactor, $413,300,000: *Provided*, That $5,000,000 of such sums are hereby authorized for research and development on means to reduce the ability to divert plutonium from its intended purposes and to increase the detectability of plutonium if it should be so diverted.

(22) Nuclear research and applications, $228,829,000.

(23) Light water reactor safety facilities, $24,000,000.

(24) High energy physics, nuclear physics, and basic energy sciences, $413,394,000.

(25) Nuclear materials security and safeguards, $40,106,000.

(26) Uranium enrichment, $989,185,000.

All Other Programs, $444,604,000, including—

(i) Not more than $1,000,000 for the Water Resources Council to carry out the provisions of section 13 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5912);

(ii) Funds to carry out the provisions of section 11 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5910), in the amount of $500,000 for the Council on Environmental Quality; and

(iii) Program management and support:

(a) Program direction $222,900,000.

(b) Institutional relations, $34,179,000, including funds to reimburse the National Bureau of Standards for costs incurred in carrying out the provisions of section 14 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5913), as amended, and including $1,800,000, is authorized to be appropriated pursuant to this paragraph (iii) for financial awards by ERDA to independent inventors for the purpose of carrying out section 14 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5913), as amended.

(c) Supporting activities, $37,460,000.

(d) International cooperation, $5,000,000.

Prior Year Authorizations

(27) The sum of $40,000,000 which represents the portion of the appropriations heretofore made in the total amount of $56,000,000 for project 76–1—a (clean boiler fuel demonstration plant (A–E) and long-lead procurement) which remains unobligated and is no longer needed is hereby authorized to be made available instead, in addition to any amounts appropriated for the purposes involved pursuant to this Act for the low Btu gasification program.

PLANT AND CAPITAL EQUIPMENT

SEC. 102. (a) For "Plant and capital equipment", including construction, acquisition, or modification of facilities, including land acquisition; and acquisition and fabrication of capital equipment not related to construction, a sum of dollars equal to the total of the following amounts:

(1) Conservation Research and Development:

(A) Project 78–1–a, high bay addition, Los Alamos Scientific Laboratory, New Mexico, $800,000.

(2) Fossil Energy Development:

(A) Project 78–2–a, analytical research, chemistry and coal carbonization laboratory, Pittsburgh Energy Research Center, Pennsylvania, $6,600,000.

(B) Project 78–2–b, modifications and additions to Energy Research Centers, various locations, $3,000,000.

(C) Project 78–2–c, low Btu fuel gas small industrial demonstration plants, sites, undetermined (A–E and long-lead procurement only), $6,000,000.

(D) Project 78–2–d, solvent refined coal demonstration plant, site undetermined (total estimated cost is $300,000,000, including the Federal share thereof), $30,000,000.

(3) Magnetic Fusion:

(A) Project 78–3–a, mirror fusion test facility, Lawrence Livermore Laboratory, California, $94,200,000.

(B) Project 78–3–b, fusion materials irradiation test facility, Hanford Engineering Development Laboratory, Washington (A–E and long-lead procurement), $14,400,000.

(4) Fuel Cycle Research and Development:

(A) Project 78–5–a, facilities for the national waste terminal storage program, site undetermined (land acquisition, A–E and long-lead procurement), $10,000,000.

(B) Project 78–5–b, liquid metal fast breeder reactor integrated prototype equipment test facility, Oak Ridge National Laboratory, Oak Ridge, Tennessee (A–E and long-lead procurement only), $3,000,000.

(C) Project 78–5–c, advanced isotope separation facility, site undetermined (A–E only), $3,500,000.

(5) Liquid Metal Fast Breeder Reactor:

(A) Project 78–6–a, modifications to reactors, $8,700,000.

(B) Project 78–6–b, safeguards and security upgrading, Idaho Falls, Idaho, and Chicago, Illinois, $4,935,000.

(C) Project 78–6–c, safety research experimental facility, Idaho National Engineering Laboratory, Idaho (A–E, long-lead procurement and limited construction only), $20,100,000.

(D) Project 78–6–d, experimental breeder reactor II modification, Idaho Falls, Idaho (A–E and selected long-lead procurement only), $3,100,000.

(E) Project 78–6–e, modifications to facilities, Liquid Metal Engineering Center, Santa Susanna, California (A–E only), $4,000,000.

(F) Project 78–6–f, fuels and materials examination facility, Hanford Engineering Development Laboratory, Washington, $134,800,000.

(G) Project 78–7–a, modifications to utility system 300 area, Hanford Engineering Development Laboratory, Washington, $3,600,000.

(H) Projection 78–7–b, test reactor area steam distribution system upgrade, Idaho National Engineering Laboratory, Idaho, at $1,100,000.

(6) Light Water Reactor Safety Facilities:

(A) Project 78–8–a upgrade Test Area North hot shop facility, Idaho National Ensearch facilities, various locations, $6,000,000.

(7) Environmental Research and Development:

(A) Project 78–9–a, modifications and additions to biomedical and environmental research for facilities, various locations, $6,000,000.

(8) High Energy Physics:

(A) Project 78–10–a, accelerator improvements and modifications, various locations, $4,500,000.

(B) 78–10–b, proton-proton intersecting storage accelerator facility. Brookhaven National Laboratory, $10,500,000.

(C) Project 78–11–a, master substation reliability and capacity improvement, Stanford Linear Accelerator Center, California, $1,700,000.

(9) Nuclear Physics:

(A) Project 78–12–a, accelerator and reactor improvements and modifications, various locations, $1,900,000.

(B) Project 78–12–b, high intensity uranium beams, Lawrence Berkeley Laboratory, California, $6 000,000.

(10) Basic Energy Sciences:

(A) Project 78–13–a, national synchrotron light sources, Brookhaven National Laboratory, New York, $24,000,000.

(B) Project 78–13–b, combustion research facility, Sandia Laboratories, Livermore, California, $9,400,000.

(11) Uranium Enrichment:

(A) Project 78–14–a, centrifuge facilities modifications, various locations, $30,000,000.

(B) Project 78-14-b, process control modifications, plants, various locations, $17,400,000.

(C) Project 78-15-a, water system improvements, gaseous diffusion plant, Paducah, Kentucky, $4,500.000.

(12) Program Management and Support:

(A) Project 78-1-b, chiller modifications for energy conservation, Bendix Plant, Kansas City, Missouri, $830,000.

(B) Project 78-1-c, process waste heat utilization, gaseous diffusion plant, Paducah, Kentucky, $5,700,000.

(C) Project 78-19-a, program support facility, Argonne National Laboratory, Illinois (A-E and longlead procurement only), $5,000,000.

(13) Project 78-21, General Plant Projects, $44,265,000.

(14) Project 78-22. Construction Planning and Design, $10,000,000.

(15) Capital Equipment Not Related to Construction:

(A) Conservation research and development, $8,670,000.

(B) Fossil energy development, $5,500,000.

(C) Solar-energy development, $7,900,000.

(D) Geothermal energy development, $2,500,000.

(E) Magnetic fusion, $27,600,000.

(F) Fund cycle research and development, $25,300,000.

(G) Liquid metal fast breeder reactor, $35,650,000.

(H) Nuclear research and application, $18,595,000.

(I) Light water reactor safety facilities, $800,000.

(J) High energy physics, nuclear physics, and basic energy sciences, $61,300,000.

(K) Nuclear materials, security and safeguards, $2,794,000.

(L) Uranium enrichment, $19,000,000.

(M) Environmental research and development, $19,025,000.

(N) Program management and support, $4,955,000.

Changes to Prior Year Authorizations

(b)(1) There is authorized an additional sum of $100,000,000 for the process equipment modifications, gaseous diffusion plants (project 71-1-f), authorized by section 101(b)(1) of Public Law 91-273 (for a total project authorization of $920,000,000).

(2) There is authorized an additional sum of $42,700,000 for the cascade uprating program, gaseous diffusion plants (project 74-1-g), authorized by section 101(b)(1) of Public Law 93-60 (for a total project authorization of $460,000,000).

(3) There is authorized an additional sum of $30,000,000 for the high Btu synthetic pipeline gas demonstration plant (project 76-1-b) authorized by section 101(b)(1) of Public Law 94-187 (for a total project authorization of $55,000,000).

(4) There is authorized an additional sum of $131,250,000 for the low Btu fuel gas demonstration plant (project 70-1-c) authorized by section 101(b)(1) of Public Law 94-187 (for a total project authorization of $150,000,000).

(5) There is authorized an additional sum of $41,000,000 for the ten megawatt central receiver solar thermal powerplant, Barstow, California (project 76-2-b), authorized by section 101(b)(2) of Public Law 94-187 (for a total project authorization of $47,250,000): *Provided*, That if the solar electrical generating facility hereby supported contributes electricity to a distribution network serving the public on a commercial basis and if any Federal monetary contribution is included in the rate base for the purpose of computing return on capital investment to such utilities, that portion of the capital costs derived from Federal funds and included in the rate base shall be recovered with interest from the revenues of the solar facility.

(6) There is authorized an additional sum of $24,000,000 for the Tokamak fusion test reactor. Princeton Plasma Physics Laboratory, Plainsboro, New Jersey (projects 76-5-a), authorized by section 101(b)(5) of Public Law 94-187 (for a total project authorization of $238,600,000).

(7) There is authorized an additional sum of $1,750,000 for the conversion of existing steamplants to coal capability, gaseous diffusion plants and Feed Materials Production Center Fernald, Ohio (project 76-8-e), authorized by section 101(b)(8) of Public Law 94-187 (for a total project authorization of $15,250,000).

(8) There is authorized an additional sum of $107,630,000 for the enriched uranium production facilities, gas centrifuge (project 76-8-g), authorized by section 101(b)(8) of Public Law 94-187 (for a total project authorization of $362,630,000).

(9) There is authorized an additional sum of $5,500,000 for the MHD component development and integration facility (project 77-1-d) authorized by Public Law 94-313 (for a total project authorization of $13,200,000).

(10) There is authorized an additional sum of $5,000,000 for the high performance fuel laboratory, Richland, Washington (A-E only) (project 77-4-c) (for a total project authorization of $6,500,000).

(11) There is authorized an additional sum of $23,000,000 for the fuel storage facility, Richland, Washington (project 77-4-d) (for a total project authorization of $30,000,000).

(12) There is authorized an additional $3,200,000 for the 14 Mev intense neutron source facility, Los Alamos Scientific Laboratory, New Mexico (project 76-5-b) authorized by Public Law 94-187 (for a total project authorization of $25,300,000).

Sec. 103. Public Law 93-276, as amended, is further amended by rescinding therefrom authorization for project 75-5-g, molten salt breeder reactor (preliminary planning preparatory to possible future demonstration project), $1,500,000, except for any funds heretofore obligated.

SEC. 104. (a) Notwithstanding any other provision of law, jurisdiction over matters transferred to the Department of Energy from the Energy Research and Development Administration which on the effective date of such transfer were required by law, regulation, or administrative order to be made on the record after an opportunity for an agency hearing may be assigned to the Federal Energy Regulatory Commission or retained by the Secretary at his discretion.

(b) Notwithstanding any other provision of law, the Secretary of Energy shall not be required to delegate to the Administrator of the Energy Information Administration any energy research, development, and demonstration function vested in the Secretary, pursuant to the Atomic Energy Act, the Federal Nonnuclear Energy Research and Development Act, the Geothermal Research, Development and Demonstration Act, the Electric and Hybrid Vehicle Research, Development and Demonstration Act, the Solar Heating and Cooling Demonstration Act, the Solar Energy Research, Development and Demonstration Act, and the Energy Reorganization Act. Additionally, the Secretary may utilize the capabilities of the Energy Information Administration as he deems appropriate for the conduct of such programs.

(c) As part of the Department of Energy's responsibility to keep the Congress fully and currently informed, the Secretary shall make the following reports:

(i) any proposal by the Secretary of the Department of Energy to terminate or make major changes in activities of the Government-owned and contractor-operated facilities, the national laboratories, energy research centers and the operations offices managing such laboratories, shall not be implemented until the Secretary transmits the proposal, together with all pertinent data, to the Committee on Science and Technology of the House of Representatives and the Committee on Energy and Natural Resources of the Senate, and waits a period of thirty calendar days (not including any day on which either House of Congress is not in session because of an adjournment of more than three calendar days to a day certain) from the date on which such report is received by such committees; and

(ii) by November 30, 1977, the Secretary shall file a full and complete report on each such proposal which he has implemented, as described in the preceding paragraph, and any major program structure change with the Committee on Science and Technology of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.

SEC. 105. (a) The Administrator of the Energy Research and Development Administration shall prepare and submit to the Congress within one year after the date of the enactment of this Act a study which considers the available options, including, but not limited to—

(1) Federal technical and financial aid in support of decommissioning high level waste disposal operations at the Western New York Nuclear Service Center;

(2) Federal operation of the Western New York Nuclear Service Center for the purposes of decommissioning existing facilities and disposing of existing high level wastes, including a demonstration program for the solidification of high level wastes for permanent burial;

(3) permanent Federal ownership of and responsibility for all or part of the Western New York Nuclear Service Center, and Federal receipt of the license from the present co-licensees; and

(4) use of the Western New York Nuclear Service Center for other purposes.

(b) Preparation of such study shall be in cooperation with the Nuclear Regulatory Commission and other Federal agencies, the State of New York, the industrial participants, and the public, and the Administrator shall conduct informational public hearings (in lieu of any formal administrative hearings) prior to completion of the study. The study shall recommend allocation of existing and future responsibilities among the Federal Government, the State of New York, and present industrial participants in the Western New York Nuclear Service Center.

(c) Ninety days prior to submission of the study to the Congress the Administrator shall release the proposed study for comment by interested parties, and such comments as are received shall be submitted as attachments to the final study submitted to the Congress.

(d) Nothing in this section shall be construed as intending to commit the Federal Government to any new assistance or participation in the Western New York Nuclear Service Center, nor as relieving any party of any duties or responsibilities under any law, regulation, or contract to provide for the safe storage of nuclear waste.

(e) For the purpose of carrying out the provisions of this section, there is included in subsection 101(20) of this Act authorization of appropriations in the amount of $1,000,000.

SEC. 106 Section 106 of Public Law 91-273, as amended by section 103(d) of Public Law 94-187, is amended—

(1) by striking out "and the interim period" in the second sentence of subsection (a);

(2) by inserting "the transition quarter ending September 30, 1976, the Fiscal Year ending September 30, 1977, and the Fiscal Year ending September 30, 1978," after "September 30, 1976," in the second sentence of subsection (a); and

(3) by adding at the end thereof the following new subsection:

"(d) The Congress declares that any funds appropriated pursuant to an authorization to design, construct, and operate this project or conduct the program under which this project is to be operated are intended to be used only for the design, construction, and operation of this project or the conduct of that program, in accordance with such authorization. Accordingly—

"(1) nothing contained in this section shall be construed as authorizing the Administrator to use the procedures of this section to propose or proceed with a cancellation or termination of the Clinch River Breeder Reactor Project and the cooperative arrangements associated therewith;

"(2) no funds appropriated pursuant to the authorization contained in this section shall be used in any way (directly or indirectly) to cancel or terminate the Clinch River Breeder Reactor Project or to plan its cancellation or termination; and

"(3) the Clinch River Breeder Reactor Project shall be located as provided under existing law, and to the maximum extent possible shall be designed, constructed, and operated in accordance with the existing project arrangements, objectives, and schedules.".

SEC. 107. (a) The Department of Energy shall conduct a study of the Barnwell Nuclear Fuel Plant located in South Carolina to determine if that facility may be utilized in support of the nonproliferation objectives of the United States.

(b) The study required under subsection (a) shall—

(1) include an evaluation of the multinational and international management options available for utilizing the Barnwell facility;

(2) include an evaluation of how Barnwell facility might be used to contribute to the INFCE, including preliminary studies on siting and design for adjacent facilities to the Barnwell Separations Plant to solidify liquid waste and mixed oxide evolving from the chemical separations process (these preliminary efforts being consistent with similar efforts undertaken as part of the INFCE);

(3) include an evaluation of a possible role for the IAEA in utilization of Barnwell facility for international nonproliferation programs;

(4) include an evaluation of the means by which the Barnwell facility could be used in demonstration of improved safeguards equipment and proceedings;

(5) include an evaluation of how the Barnwell facility can be used to complement the U.S.-approved research and development program at the Japanese Tokai Mura Reprocessing Plant, and nonproliferation research activities to be undertaken at the British Windscale Reprocessing Plant; and

(6) include an evaluation of whether and how the Barnwell facility might be transferred to the Federal Government.

(c) In carrying out the study required under subsection (a) due consideration shall be given to the impact which the effective and efficient use of resources and the independence of resource supply can have in assuring our national security objectives.

(d) The study shall be completed and a report submitted to the Congress not later than six months after the date that funds are appropriated for carrying out the purposes of this section. In addition, the report shall include recommendations and funding requirements to implement recommended programs resulting from such study.

(e) For the purpose of carrying out the provisions of this section, there is included in subsection 101(20) of this Act an authorization of appropriations in the amount of $1,000,000.

SEC. 108. The Energy Research and Development Administration is hereby authorized to undertake studies, in cooperation with other nations, on a multinational or international basis designed to determine the general feasibility of expanding capacity of existing spent fuel storage facilities; to enter into agreements, subject to the consent of the Congress (by joint or concurrent resolution or legislation hereafter enacted), with other nations or groups of nations, for providing appropriate support to increase international or multinational spent fuel storage capacity; to conduct studies on the feasibility of establishing regional storage sites; and to conduct studies on international transportation and storage systems. For the purpose of carrying out the provisions of this section, there is included in subsection 101(20) of this Act authorization of appropriations in the amount of $20,000,000: *Provided,* notwithstanding any other provision of law, that none of the funds made available to the Secretary of Energy under any other authorization or appropriation Act shall be used, directly or indirectly, for the repurchase, transportation or storage of any foreign spent nuclear fuel (including any nuclear fuel irradiated in any nuclear power reactor located outside of the United States and operated by any foreign legal entity, government or nongovernment, regardless of the legal ownership or control of the fuel or the reactor, and regardless of the origin or licensing of the fuel or the reactor, but not including fuel irradiated in a research reactor, and not including fuel irradiated in a power reactor if the President determines that (1) use of funds for repurchase, transportation or storage of such fuel is required by an emergency situation, (2) it is in the interest of the common defense and security of the United States to take such action, and (3) he notifies the Congress of the determination and action, with a detailed explanation and justification thereof, as soon as possible) unless the President formally notifies, with the report information specified herein, the Committee on Energy and Natural Resources of the Senate and the Committee on Science and Technology of the House of Representatives of such use of funds thirty calendar days, during such time as either House of Congress is in session, before the commitment, expenditure, or obligation of such funds; *and provided further,* notwithstanding any other provision of law, that none of the funds appropriated pursuant to this Act or any other funds made available to the Secretary of Energy under any other authorization or appropriation Act shall be used, directly or indirectly, for the repurchase, transportation, or storage of any such foreign spent nuclear fuel for storage or other disposition, interim or permanent, in the United States, unless the use of the funds for that specific purpose has been (1) previously and expressly authorized by Congress in legislation hereafter enacted, (2) previously and expressly authorized by a concurrent resolution, or (3) the President submits a plan for such use, with the report information specified herein, 30 days during which the Congress is in continuous session, as defined in the Impoundment Control Act of 1974, prior to such use and neither House of Congress approves a resolution of disapproval of the plan prior to the expiration of the aforementioned thirty day period. If such a resolution of disapproval has been introduced, but has not been reported by the Committee on or before the twentieth day after transmission of the Presidential message, a privileged motion shall be in order in the respective body to discharge the Committee from further consideration of the resolution and to provide for its immediate consideration, using the procedures specified for consideration of an impoundment resolution in section 1017 of the Impoundment Control Act of 1974 (31 U.S.C. 1407). Any report or plan proposed under this proviso shall include information and any supporting documentation thereof relating to policy objectives, technical description and discussion, geographic information, cost data, justification and projections, legal and regulatory considerations, environmental impact information and any related bilateral or international agreements, arrangements or understandings: *And provided further,* That nothing contained in this Section shall be construed in any Executive Branch action, administrative proceeding, regulatory proceeding, or legal proceeding as being intended to delay, modify, or reverse the Memorandum and Order of the Nuclear Regulatory Commission of June 28, 1977 for the issuance of License No. XSNM-845 to the agent-applicant for the Government of India and the subsequent export thereby licensed of the special nuclear material to be used as fuel for the Tarapur Atomic Power Station or any other Order of the Nuclear Regulatory Commission to issue a license for the export of special nuclear material and subsequent exports thereby licensed, or any consideration by the Nuclear Regulatory Commission of a license application for the export of special nuclear material.

TITLE II—GENERAL PROVISIONS

SEC. 201. Title I of the Energy Reorganization Act of 1974 is amended by adding at the end thereof the following new section:

"PROVISIONS APPLICABLE TO ANNUAL AUTHORIZATION ACTS

"SEC. 111. (a) All appropriations made to the Energy Research and Development Administration or the Administrator shall, except as otherwise provided by law, be subject to annual authorization in accordance with section 261 of the Atomic Energy Act of 1954, section 16 of the Federal Nonnuclear Energy Research and Development Act of 1974, and section 305 of this Act. The provisions of this section shall apply with respect to appropriations made pursuant to the Act providing such authorization (hereinafter in this section referred to as 'annual authorization Acts').

"(b)(1) Funds appropriated pursuant to an annual authorization Act for 'Operating expenses' may be used for—

"(A) the construction or acquisition of any facilities, or major items of equipment, which may be required at locations other than installations of the Administration, for the performance of research, development, and demonstration activities, and

"(B) grants to any organization for purchase or construction of research facilities.

No such funds shall be used under this subsection for the acquisition of land. Fee title to all such facilities and items of equipment shall be vested in the United States, unless the Administrator or his designee determines in writing that the research, development, and demonstration authorized by such Act would best be implemented by permitting fee title or any other property interest to be vested in an entity other than the United States; but before approving the vesting of such title or interest in such entity, the Administrator shall (i) transmit such determination, together with all pertinent data, to the Committee on Science and Technology of the House of Representatives and the Committee on Energy and Natural Resources of the Senate and (ii) wait a period of thirty calendar days (not including any day in which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain), unless prior to the expiration of such period each such committee has transmitted to the Administrator written notice to the effect that such committee has no objection to the proposed action.

"(2) No funds shall be used under paragraph (1) for any facility or major item of equipment, including collateral equipment, if the estimated cost to the Federal Government exceeds $5,000,000 in the case of such a facility or $2,000,000 in the case of such an item of equipment, unless such facility or item has been previously authorized by the appropriate committees of the House of Representatives and the Senate, or the Administrator—

"(A) transmit to the appropriate committees of the House of Representatives and the Senate a report on such facility or item showing its nature, purpose, and estimated cost, and

"(B) waits a period of thirty calendar days (not including any day in which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain), unless prior to the expiration of such period each such committee has transmitted to the Administrator written notice to the effect that such committee has no objection to the proposed action.

"(c)(1) Not to exceed 1 per centum of all funds appropriated pursuant to any annual authorization Act for 'Operating expenses' may be used by the Administrator to construct, expand, or modify laboratories and other facilities, including the acquisition of land, at any location under the control of the Administrator, if the Administrator determines that (A) such action would be necessary because of changes in the national programs authorized to be funded by such Act or because of new scientific or engineering developments, and (B) deferral of such action until the enactment of the next authorization Act would be inconsistent with the policies established by Congress for the Administration.

"(2) No funds may be obligated for expenditure or expended under paragraph (1) for activities described in such paragraph unless—

"(A) a period of thirty calendar days (not including any day in which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain) has passed after the Administrator has transmitted to the appropriate committees of the House of Representatives and the Senate a written report containing a full and complete statement concerning (i) the nature of the construction, expansion, or modification involved, (ii) the cost thereof, including the cost of any real estate action pertaining thereto, and (iii) the reason why such construction, expansion, or modification is necessary and in the national interest, or

"(B) each such committee before the expiration of such period has transmitted to the Administrator a written notice to the effect that such committee has no objection to the proposed action;

except that this paragraph shall not apply to any project the estimated total cost of which does not exceed $50,000.

"(d)(1) Except as otherwise provided in the authorization Act involved—

"(A) no amount appropriated pursuant to any annual authorization Act may be used for any program in excess of the amount actually authorized for that particular program by such Act, and

"(B) no amount appropriated pursuant to any annual authorization Act may be used for any program which has not been presented to, or requested of the Congress,

unless (i) a period of thirty calendar days (not including any day in which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain) has passed after the receipt by the appropriate committees of the House of Representatives and the Senate of notice given by the Administrator containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of such proposed action, or (ii) each such committee before the expiration of such period has transmitted to the Administrator written notice to the effect that such committee has no objection to the proposed action.

"(2) Notwithstanding any other provision of this section or the authorization Act involved, the aggregate amount available for use within the categories of coal, petroleum and natural gas, oil shale, solar, geothermal, nuclear energy (non-weapons), environment and safety, and conservation from sums appropriated pursuant to an annual authorization Act may not, as a result of reprograming, be decreased by more than 10 per centum of the total of the sums appropriated pursuant to such Act for those categories.

"(e) Subject to the applicable requirements and limitations of this section and the authorization Act involved, when so specified in an appropriation Act, amounts appropriated pursuant to any annual authorization Act for 'Operating expenses' or for 'Plant and capital equipment' may be merged with any other amounts appropriated for like purposes pursuant to any other Act authorizing appropriations for the Administration: *Provided*, That no such amounts appropriated for 'plant and capital equipment' may be merged with amounts appropriated for 'operating expenses.'

"(f) When so specified in an appropriation Act, amounts appropriated pursuant to any annual authorization Act for 'Operating expenses' or for 'Plant and capital equipment' may remain available until expended.

"(g) The Administrator is authorized to perform construction design services for any administration construction project whenever (1) such construction project has been included in a proposed authorization bill transmitted to the Congress by the Administration, and (2) the Administration determines that the project is of such urgency in order to meet the needs of national defense or protection of life and property or health and safety that construction of the project should be initiated promptly upon enactment of legislation appropriating funds for its construction.

"(h) When so specified in appropriations Acts, any moneys received by the Administration may be retained and used for operating expenses, and may remain available until expended, notwithstanding the provisions of section 3617 of the Revised Statutes (31 U.S.C. 484); except that—

"(1) this subsection shall not apply with respect to sums received from disposal of property under the Atomic Energy Community Act of 1955 or the Strategic Critical Materials Stockpiling Act, as amended, or with respect to fees received for tests or investigations under the Act of May 16, 1910, as amended (42 U.S.C. 2301; 50 U.S.C. 98h; 30 U.S.C. 7); and

"(2) revenues received by the Administration from the enrichment of uranium shall (when so specified) be retained and used for the specific purpose of offsetting costs incurred by the Administration in providing uranium enrichment service activities.

"(i) When so specified in an appropriation Act, transfers of sums from the 'Operating expenses' appropriation made pursuant to an annual authorization Act may be made to other agencies of the Government for the performance of the work for which the appropriation is made, and in such cases the sums so transferred may be merged with the appropriations to which they are transferred.".

SEC. 202. (a) The Administration is authorized to start any project set forth in section 102(a) (1) through (12) only if at the time the project is started the then currently estimated cost does not exceed by more than 25 per centum the estimated cost set forth for that project; and the total cost of any such project shall not exceed the estimated cost set forth for that project by more than 25 per centum (if such estimated cost was $5,000,000 or more) unless and until appropriations covering such excess are authorized.

(b) The Administration is authorized to start any project under section 102(a)(13) only if the maximum currently estimated cost of such project does not exceed $750,000 and the then maximum currently estimated cost of any building included in the project does not exceed $300,000 and the total cost of all projects undertaken under such section shall not exceed the estimated cost set forth in such section by more than 10 per centum.

SEC. 203. The Administrator, in cooperation with the Secretary of State, shall report to the Committees on Science and Technology and International Relations of the House of Representatives and the Committees on Energy and Natural Resources and Foreign Relations of the Senate, within six months after the date of the enactment of this Act, on the effects of the April 20, 1977, message from the President of the United States, "Establishing for the United States a Strong and Effective Nuclear Non-Proliferation Policy", on nuclear research and development cooperative agreements. This report shall include impacts of the message and related initiatives through the promulgation, repeal, or modification of Executive orders, Presidential proclamations, treaties, other international agreements, and other pertinent documents of the President, the Executive Office of the President, the administrative agencies, and the departments, on cooperation between the United States and any other nation in the research, development, demonstration, and commercialization of all nuclear fission and nuclear fusion technologies. After the initial report, the Administrator shall report to such Committees on each subsequent major related initiative.

SEC. 204. (a) In carrying out the programs for which funds are authorized by this Act, the Administrator shall provide a realistic and adequate opportunity for small business concerns to participate in such programs to the optimum extent feasible consistent with the size and nature of the projects and activities involved.

(b) At least once every six months, or upon request, the Administrator shall submit to the appropriate committees of the House of Representatives and the Senate a full report on the actions taken in carrying out subsection (a) during the preceding six months, including the extent to which small business concerns are participating in the programs involved and in projects and activities of various types and sizes within each such program, and indicating the steps currently being taken to assure such participation in the future.

SEC. 205. (a) Section 91 of chapter 9 of the Atomic Energy Community Act of 1955 is amended—

(1) by striking out subsection a. and inserting in lieu thereof the following:

"a. From the date of transfer of any municipal installations to a governmental or other entity at or for the community, the Administrator is authorized, for a period of ten years, to make annual assistance payments of just and reasonable sums to the State, county, or local entity having jurisdiction to collect property taxes or to the entity receiving the installation transferred hereunder: *Provided, however*, That with respect to the cities of Oak Ridge, Tennessee, and Richland, Washington, the Richland School District, the Los Alamos School Board, and the county of Los Alamos, New Mexico, the Administrator is authorized to continue to make assistance payments of just and reasonable sums after expiration of such ten-year period: *Provided further*, That the Administrator is also authorized to make payments of just and reasonable sums to Anderson County and Roane County, Tennessee. In determining the amount and recipient of such payments the Administrator shall consider—

"(1) the approximate real property taxes and assessments for local improvements which would be paid to the governmental entity upon property within the community if such property were not exempt from taxation by reason of Federal ownership;

"(2) the maintaining of municipal services at a level which will not impede the recruitment or retention of personnel essen-

tial to the Energy Research and Development Administration programs;

"(3) the fiscal problems peculiar to the governmental entity by reason of the construction at the community as a single-purpose national defense installation under emergency conditions;

"(4) the municipal services and other burdens imposed on the governmental or other entities at the community by the United States in its operations in the project area; and

"(5) the tax revenues and sources available to the governmental entity, its efforts and diligence in collection of taxes, assessment of property, and the efficiency of its operations,"; and

(2) by striking out subsection d. and inserting in lieu thereof the following:

"d. With respect to any entity not less than six months prior to the expiration of the ten-year period referred to in subsection a. (or not less than six months prior to June 30, 1979, in the case of the cities of Oak Ridge, Tennessee, and Richland, Washington, and the Richland School District: or not less than six months prior to June 30, 1986, in the case of Anderson County and Roane County, Tennessee, and the Los Alamos School Board; and not less than six months prior to June 30, 1987, in the case of the county of Los Alamos, New Mexico), the Administrator shall present to the appropriate committees of the House of Representatives and the Senate recommendations as to the need for any further assistance payments to such entity.".

(b) Chapter 9 of such Act is further amended by striking out section 94 and inserting in lieu thereof the following:

"SEC. 94. CONTRACTS.—The Administrator is authorized, without regard to section 3679 of the Revised Statutes, to enter into a contract with any governmental or other entity to which payments are authorized to be made pursuant to section 91, obligating the Administrator to make to such entity the payments directed or authorized to be made by section 91: *Provided, however,* That the term of such contracts in the case of the cities of Oak Ridge, Tennessee, and Richland, Washington, and the Richland School District, shall not extend beyond June 30, 1979; and in the case of the Los Alamos School Board shall not extend beyond June 30, 1986; and in the case of the county of Los Alamos, New Mexico, shall not extend beyond June 30, 1987.".

SEC. 206. (a) Section 6 of the Federal Nonnuclear Energy Research and Development Act of 1974 is amended by adding at the end thereof the following new subsection:

"(c) Based upon the comprehensive plan developed under subsection (a), the Administrator shall develop and transmit to the Congress, on or before September 1, 1978, a comprehensive environment and safety program to insure the full consideration and evaluation of all environmental, health, and safety impacts of each element, program, or initiative contained in the nuclear and nonnuclear energy research, development, and demonstration plans.".

(b) Section 15(a) of such Act is amended—

(1) by striking out "and" at the end of paragraph (2),

(2) by striking out the comma at the end of paragraph (3) and inserting in lieu thereof "; and", and

(3) by inserting after paragraph (3) the following new paragraph:

"(4) a detailed description of the environmental and safety research, development, and demonstration activities carried out and in progress including the procedures adopted to mitigate undesirable environmental and safety impacts.".

SEC. 207. (a) Section 7(a) of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5906) is amended—

(1) by striking out "and" after the semicolon at the end of paragraph (5),

(2) by striking out the period at the end of paragraph (6) and inserting in lieu thereof "; and", and

(3) by adding at the end thereof the following new paragraph:

"(7) Federal loan guarantees and commitments thereof as provided in section 19.".

(b) The Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5901, et seq.) is further amended by adding at the end thereof the following new section:

"LOAN GUARANTEES FOR ALTERNATIVE FUEL DEMONSTRATION FACILITIES

"SEC. 19. (a) It is the purpose of this section—

"(1) to assure adequate Federal support to foster a demonstration program to produce alternative fuels from coal, oil shale, biomass, and other domestic resources;

"(2) to authorize assistance, through loan guarantees under subsection (b) and (y) for construction and startup and related costs, to demonstration facilities for the conversion of domestic coal, oil shale, biomass, and other domestic resources into alternative fuels; and

"(3) to gather information about the technological, economic, environmental, and social costs, benefits, and impacts of such demonstration facilities.

"(b)(1) Except as provided in paragraph (5) of this subsection and subsection (y) of this section the Administrator is authorized, in accordance with such rules and regulations as he shall prescribe after consultation with the Secretary of the Treasury, to guarantee and to make commitments to guarantee, in such manner and subject to such conditions (not inconsistent with the provisions of this Act) as he deems appropriate, the payment of interest on, and the principal balance of, bonds, debentures, notes, and other obligations issued by, or on behalf of, any borrower for the purpose of financing the construction and startup costs of demonstration facilities for the conversion of domestic coal, oil shale, biomass, and other domestic resources into alternative fuels: *Provided,* That no loan guarantee for a full sized oil shale facility shall be provided under this section until after successful demonstration of a modular facility producing between six and ten thousand barrels per day, taking into account such considerations as water usage, environmental effects, waste disposal, labor conditions, health and safety, and the socio-economic impacts on local communities· *Provided further,* That no loan guarantee shall be available under this subsection for the manufacture of component parts for demonstration facilities eligible for assistance under this subsection.

"(2) An applicant for any financial assistance under this section shall provide information to the Administrator in such form and with such content as the Administrator deems necessary.

"(3) Prior to issuing any guarantee under this section the Administrator shall obtain the concurrence of the Secretary of the Treasury with respect to the timing, interest rate, and substantial terms and conditions of such guarantee. The Secretary of the Treasury shall insure to the maximum extent feasible that the timing, interest rate, and substantial terms and conditions of such guarantee will have the minimum possible impact on the capital markets of the United States, taking into account other Federal direct and indirect securities activities.

"(4) The full faith and credit of the United States is pledged to the payment of all guarantees issued under this section with respect to principal and interest.

"(5)(A) The Administrator is authorized, in the case of a facility for the conversion of oil shale to alternative fuels which is determined by the Administrator pursuant to the proviso in paragraph (1)(A) of this subsection, to be constructed at a modular site, to enter into a cooperative agreement with the applicant in accordance with section S of this Act and the other provisions of this Act to share the estimated total design and construction costs, plus operation and maintenance costs, of such modular facility. The Federal share shall not exceed 75 per centum of such costs. All receipts for the sale of any products produced during the operation of the facility shall be used to offset the costs incurred in the operation and maintenance of the facility. The provisions of subsections (d), (e), (k), (m), (p), (s), (t), (u), (v), (w), and (x) shall apply to any such modular facility. The provisions of this section shall apply to any loan guarantee for such modular facility.

"(B) After successful demonstration of the modular facility, as determined by the Administrator, the facility is eligible for financial assistance under this section for purposes of expansion to a full sized facility and the applicant may purchase the Federal interest in the modular facility as represented by the Federal share thereof by means of (i) a cash payment to the United States, or (ii) a share of the product or sales resulting from such expanded operation, as determined by the Administrator. If expansion of such facility is determined not to be warranted by the Administrator, he may, at the option of the applicant, dispose of the modular facility to the applicant at not less than fair market value, as determined by the Administrator as of the date of the disposal, or otherwise dispose of it, in accordance with applicable provisions of law, and distribute the net proceeds thereof after expenses of such disposal to the applicant in proportion to the applicant's share of the costs of such facility.

"(6) To the extent possible, loan guarantees shall be issued on the basis of competitive bidding among guarantee applicants in a particular technology area.

"(c) The Administrator, with due regard for the need for competition, shall guarantee or make a commitment to guarantee any obligation under subsection (b) or (y) only if—

"(1) the Administrator is satisfied that the financial assistance applied for is necessary to encourage financial participation;

"(2) the amount guaranteed to any borrower at any time does not exceed—

"(A) an amount equal to 75 per centum of the project cost of the demonstration facility as estimated at the time the guarantee is issued, which cost shall not include amounts expended for facilities and equipment used in the extraction of a mineral other than coal or shale, and in the case of coal only to the extent that the Administrator determines that the coal is to be converted to alternative fuel; and

"(B) an amount equal to 60 per centum of that portion of the actual total project cost of any demonstration facility which exceeds the project cost of such facility as estimated at the time the loan guarantee is issued:

"(3) the Administrator has determined that there will be a continued reasonable assurance of full repayment;

"(4) the obligation is subject to the condition that it not be subordinated to any other financing;

"(5) the Administrator has determined, taking into consideration all reasonably available forms of assistance under this section and other Federal and State statutes, that the impacts resulting from the proposed demonstration facility have been fully evaluated by the borrower, the Administrator, and the Governor of the affected State, and that effective steps have been taken or will be taken in a timely manner to finance community planning and development costs resulting from such facility under this section, under other provisions of law, or by other means;

"(6) the maximum maturity of the obligation does not exceed twenty years, or 90 per centum of the projected useful economic life of the physical assets of the demonstration facility covered by the guarantee, whichever is less, as determined by the Administrator;

"(7) the Administrator has determined that, in the case of any demonstration or modular facility planned to be located on Indian lands, the appropriate Indian tribe, with the approval of the Secretary of the Interior, has given written consent to such location;

"(8) the obligation provides for the orderly and ratable retirement of the obligation and includes sinking fund provisions, installment payment provisions or other methods of payments and reserves as may be reasonably required by the Administrator. Prior to approving any repayment schedule the Administrator may consider the date on which operating revenues are anticipated to be generated by the project. To the maximum extent possible repayment or provision therefor shall be required to be made in equal payments payable at equal intervals; and

"(9) the obligation provides that the Administrator shall, after a period of not less than ten years from issuance of the obligation, taking into consideration whether the Government's needs for information to be derived from the project have been substantially met and whether the project is capable of commercial operation, determine the feasibility and advisability of terminating the Federal participation in the project. In the event that such determination is positive, the Administrator shall notify the borrower and provide the borrower with not less than two nor more than three years in which to find alternative financing. At the expiration of the designated period of time, if the borrower has been unable to secure alternative financing, the Administrator is authorized to collect from the borrower an additional fee of 1 per centum per annum on the remaining obligation to which the Federal guarantee applies.

"(d) Prior to submitting a report to Congress pursuant to subsection (m) of this section on each guarantee and cooperative agreement, the Administrator shall request from the Attorney General and the Chairman of the Federal Trade Commission written views, comments, and recommendations concerning the impact of such guarantee or commitment or agreement on competition and concentration in the production of energy and give due consideration to views, comments, and recommendations received: Provided, That if either official, within sixty days after receipt of such request or at any time prior to the Administrator submitting such report to Congress, recommends against making such guarantee or commitment or agreement, the proposed guarantee or commitment or agreement shall be referred to the President, and the Administrator shall not do so unless the President determines in writing that such guarantee or commitment or agreement is in the national interest.

"(e)(1) As soon as the Administrator knows the geographic location of a proposed facility for which a guarantee or a commitment to guarantee or cooperative agreement is sought under this section, he shall inform the Governor of the State, and officials of each political subdivision and Indian tribe, as appropriate, in which the facility would be located or which would be impacted by such facility. The Administrator shall not guarantee or make a commitment to guarantee or enter into a cooperative agreement under subsection (b) or subsection (y) of this section, if the Governor of the State in which the proposed facility would be located recommends that such action not be taken, unless the Administrator finds that there is an overriding national interest in taking such action in order to achieve the purpose of this section. If the Administrator decides to guarantee or make a commitment to guarantee or enter into a cooperative agreement despite a Governor's recommendation not to take such action, the Administrator shall communicate, in writing, to the Governor reasons for not concurring with such recommendation. This Administrator's decision, pursuant to this subsection, shall be final unless determined upon judicial review initiated by the Governor to be unlawful by the reviewing court pursuant to 5 U.S.C. 706(2) (A) through (D). Such review shall take place in the United States court of appeals for the circuit in which the State involved is located, upon application made within ninety days from the date of such decision. The Administrator shall, by regulation, establish procedures for review of, and comment on, the proposed facility by States, local political subdivisions, and Indian tribes which may be impacted by such facility, and the general public.

"(2) The Administrator shall review and approve the plans of the applicant for the construction and operation of any demonstration and related facilities constructed or to be constructed with assistance under this section. Such plans and the actual construction shall include such monitoring and other data-gathering costs associated with such facility as are required by the comprehensive plan and program under this section. The Administrator shall determine the estimated total cost of such demonstration facility, including, but not limited to, construction costs, startup costs, costs to political subdivisions and Indian tribe by such facility, and cost of any water storage facilities needed in connection with such demonstration facility, and determine who shall pay such costs. Such determination shall not be binding upon the States, political subdivisions, or Indian tribes.

"(3) There is hereby established a parcel to advise the Administrator on matters relating to the program authorized by this section, including, but not limited to, the impact of the demonstration facilities on communities and States and Indian tribes, the environmental and health and safety effects of such facilities, and the means, measures, and planning for preventing or mitigating such impacts, and other matters relating to the development of alternative fuels and other energy sources under this section. The panel shall include such Governors or their designees as shall be designated by the Chairman of the National Governors Conference, Representatives of Indian tribes, industry, environmental organizations, and the general public shall be appointed by the Administrator. The Chairman of the panel shall be selected by the Administrator. No person shall be appointed to the panel who has a financial interest in any applicant applying for assistance under this section. Members of the panel shall serve without compensation. The provisions of section 106(c) of the Energy Reorganization Act of 1974 (42 U.S.C. 5816(e)) shall apply to the panel.

"(f) Except in accordance with reasonable terms and conditions contained in the written contract of guarantee, no guarantee issued or commitment to guarantee made under this section shall be terminated, canceled, or otherwise revoked. Such a guarantee or commitment shall be conclusive evidence that the underlying obligation is in compliance with the provisions of this section and that such obligation has been approved and is legal as to principal, interest, and other terms. Subject to the conditions of the guarantee or commitment to guarantee, such a guarantee shall be incontestable in the hands of the holder of the guaranteed obligation, except as to fraud or material misrepresentation on the part of the holder.

"(g)(1) If there is a default by the borrower, as defined in regulations promulgated by the Administrator and in the guarantee contract, the holder of the obligation shall have the right to demand payment of the unpaid amount from the Administrator. Within such period as may be specified in the guarantee or related agreements, the Administrator shall pay to the holder of the obligation the unpaid interest on, and unpaid principal of, the guaranteed obligation as to which the borrower has defaulted, unless the Administrator finds that there was no default by the borrower in the payment of interest or principal or that such default has been remedied. Nothing in this section shall be construed to preclude any forebearance by the holder of the obligation for the benefit of the borrower which may be agreed upon by the parties to the guaranteed obligation and approved by the Administrator.

"(2) If the Administrator makes a payment under paragraph (1) of this subsection, the Administrator shall be subrogated to the rights of the recipient of such payment (and such subrogation shall be expressly set forth in the guarantee or related agreements), including the authority to complete, maintain, operate, lease, or otherwise dispose of any property acquired pursuant to such guarantee or related agreements, or any other property of the borrower (of a value equal to the amount of such payment) to the extent that the guarantee applies to amounts in excess of the estimated project cost under subsection (c)(2)(B), without regard to the provisions of the Federal Property and Administrative Services Act of 1949, as amended, except section 207 of that Act (40 U.S.C. 488), or any other law, or to permit the borrower, pursuant to an agreement with the Administrator, to continue to pursue the purposes of the demonstration facility if the Administrator determines that this is in the public interest. The rights of the Administrator with respect to any property acquired pursuant to such guarantee or related agreements, shall be superior to the rights of any other person with respect to such property.

"(3) In the event of a default on any guarantee under this section, the Administrator shall notify the Attorney General, who shall take such action as may be appropriate to recover the amounts of any payments made under paragraph (1) including any payment of principal and interest under subsection (h) from such assets of the defaulting borrower as are associated with the demonstration facility, or from any other security included in the terms of the guarantee.

"(4) For purposes of this section, patents, including any inventions for which a waiver was made by the Administrator under Section 9 of this Act, and technology resulting from the demonstration facility, shall be treated as project assets of such facility. The guarantee agreement shall include such detailed terms and conditions as the Administrator deems appropriate to protect the interests of the United States in the case of default and to have available all the patents and technology necessary for any person selected, including, but not limited to the Administrator, to complete and operate the defaulting project. Furthermore, the guarantee agreement shall contain a provision specifying that patents, technology, and other proprietary rights which are necessary for the completion or operation of the demonstration facility shall be available to the United States and its designees on equitable terms, including due consideration to the amount of the United States default payments. Inventions made or conceived in the course of or under such guarantee, title to which is vested in the United States under this Act, shall not be treated as project assets of such facility for disposal purposes under this subsection, unless the Administrator determines in writing that it is in the best interests of the United States to do so.

"(h) With respect to any obligation guaranteed under this section, the Administra-

tor is authorized to enter into a contract to pay, and to pay, holders of the obligations, for and on behalf of the borrowers, from the fund established by this section, the principal and interest payments which become due and payable on the unpaid balance of such obligation if the Administrator finds that—

"(1) the borrower is unable to meet such payment and is not in default; it is in the public interest to permit the borrower to continue to pursue the purposes of such demonstration facility; and the probable net benefit to the Federal Government in paying such principal and interest will be greater than that which would result in the event of a default;

"(2) the amount of such payment which the Administrator is authorized to pay shall be no greater than the amount of principal and interest which the borrower is obligated to pay under the loan agreement; and

"(3) the borrower agrees to reimburse the Administrator for such payment on terms and conditions, including interest, which are satisfactory to the Administrator.

"(i) Regulations required by this section shall be issued within one hundred and eighty days after enactment of this section, except as provided in subsection (1) of this section. All regulations under this section and any amendments thereto shall be issued in accordance with section 553 of title 5, of the United States Code.

"(j) The Administrator shall charge and collect fees for guarantees of obligations authorized by subsection (b)(1), in amounts which (1) are sufficient in the judgment of the Administrator to cover the applicable administrative costs, and (2) reflect the percentage of projects costs guaranteed. In no event shall the fee be less than 1 per centum per annum of the outstanding indebtedness covered by the guarantee. Nothing in this subsection shall be construed to apply to community planning and development assistance pursuant to subsection (k) of this section.

"(k)(1) In accordance with such rules and regulations as the Administrator in consultation with the Secretary of the Treasury shall prescribe, and subject to such terms and conditions as he deems appropriate, the Administrator is authorized, for the purpose of financing essential community development and planning which directly result from, or are necessitated by, one or more demonstration facilities assisted under this section to—

"(A) guarantee and make commitments to guarantee the payment of interest on, and the principal balance of obligations for such financing issued by eligible States, political subdivisions, or Indian tribes.

"(B) guarantee and make commitments to guarantee the payment of taxes imposed on such demonstration facilities by eligible non-Federal taxing authorities which taxes are earmarked by such authorities to support the payment of interest and principal on obligations for such financing, and

"(C) require that the applicant for assistance for a demonstration facility under this section advance sums to eligible States, political subdivisions, and Indian tribes to pay for the financing of such development and planning: *Provided*, That the State, political subdivision, or Indian tribe agrees to provide tax abatement credits over the life of the facilities for such payments by such applicant.

"(2) Prior to issuing any guarantee under this subsection, the Administrator shall obtain the concurrence of the Secretary of the Treasury with respect to the timing, interest rate, and substantial terms and conditions of such guarantee. The Secretary of the Treasury shall insure to the maximum extent feasible that the timing, interest rate, and substantial terms and conditions of such guarantee will have the minimum possible impact on the capital markets of the United States, taking into account other Federal direct and indirect securities activities.

"(3) In the event of any default by the borrower in the payment of taxes guaranteed by the Administrator under this subsection, the Administrator shall pay out of the fund established by this section such taxes at the time or times they may fall due, and shall have by reason of such payment a claim against the borrower for all sums paid plus interest.

"(4) If after consultation with the State, political subdivision, or Indian tribe, the Administrator finds that the financial assistance programs of paragraph (1) of this subsection will not result in sufficient funds to carry out the purposes of this subsection, then the Administrator may—

"(A) make direct loans to the eligible States, political subdivisions, or Indian tribes for such purposes: *Provided*, That such loans shall be made on such reasonable terms and conditions as the Administrator shall prescribe: *Provided further*, That the Administrator may waive repayment of all or part of a loan made under this paragraph, including interest, if the State or political subdivision or Indian tribe involved demonstrates to the satisfaction of the Administrator that due to a change in circumstances there will be net adverse impacts resulting from such demonstration facility that would probably cause such State, subdivision, or tribe to default on the loan; or

"(B) require that any community development and planning costs which are associated with, or result from, such demonstration facility and which are determined by the Administrator to be appropriate for such inclusion shall be included in the total costs of the demonstration facility.

"(5) The Administrator is further authorized to make grants to States, political subdivisions, or Indian tribes for studying and planning for the potential economic, environmental, and social consequences of demonstration facilities, and for establishing related management expertise.

"(6) At any time the Administrator may, with the concurrence of the Secretary of the Treasury, redeem, in whole or in part, out of the fund established by this section, the debt obligations guaranteed or the debt obligations for which tax payments are guaranteed under this subsection.

"(7) When one or more States, political subdivisions, or Indian tribes would be eligible for assistance under this subsection, but for the fact that construction and operation of the demonstration facilities occurs outside its jurisdiction, the Administrator is authorized to provide, to the greatest extent possible, arrangements for equitable sharing of such assistance.

"(8) Such amounts as may be necessary for direct loans and grants pursuant to this subsection shall be available as provided in annual authorization Acts.

"(9) The Administrator, if appropriate, shall provide assistance in the financing of up to 100 per centum of the costs of the required community development and planning pursuant to this subsection.

"(10) In carrying out the provisions of this subsection, the Administrator shall provide that title to any facility receiving financial assistance under this subsection shall vest in the applicable State, political subdivision, or Indian tribe, as appropriate, and in the case of default by the borrower on a loan guarantee such facility shall not be considered a project asset for the purposes of subsection (g) of this section.

"(l)(1) The Administrator is directed to submit a report to the Congress within one hundred and eighty days after the enactment of this section setting forth his recommendations on the best opportunities to implement a program of Federal financial assistance with the objective of demonstrating production and conservation of energy. Such report shall be updated and submitted to Congress at least annually and shall include specific comments and recommendations by the Secretary of the Treasury on the methods and procedures set forth in subparagraph (B)(viii) of this subsection, including their adequacy, and changes necessary to satisfy the objectives stated in this subsection. This report shall include—

"(A) a study of the purchase or commitment to purchase by the Federal Government, for the use by the United States, of all or a portion of the products of any alternative fuel facilities constructed pursuant to this program as a direct or an alternate form of Federal assistance, which assistance, if recommended, shall be carried out pursuant to section 7(a)(4) of this Act; and

"(B) a comprehensive plan and program to acquire information and evaluate the environmental, economic, social, and technological impacts of the demonstration program under this section. In preparing such a comprehensive plan and program, the Administrator shall consult with the Environmental Protection Agency, the Federal Energy Administration, the Department of Housing and Urban Development, the Department of the Interior, the Department of Agriculture, and the Department of the Treasury, and shall include therein, but not be limited to, the following:

"(i) information about potential demonstration facilities proposed in the program under this section;

"(ii) any significant adverse impacts which may result from any activity included in the program;

"(iii) the extent to which it is feasible to commercialize the technologies as they affect different regions of the Nation;

"(iv) proposed regulations required to carry out the purposes of this section;

"(v) a list of Federal agencies, governmental entities, and other persons that will be consulted or utilized to implement the program;

"(vi) the methods and procedures by which the information gathered under the program will be analyzed and disseminated;

"(vii) a plan for the study and monitoring of the health effects of such facilities on workers and other persons, including, but not limited to, any carcinogenic effect of alternative fuels; and

"(viii) the methods and procedures to insure that (I) the use of the Federal assistance for demonstration facilities is kept to the minimum level necessary for the information objectives of this section, (II) the impact of loan guarantees on the capital markets of the United States is minimized, taking into account other Federal direct and indirect securities activities, and any economic sectors which may be negatively impacted as a result of the reduction of capital by the placement of guaranteed loans, and (III) the granting of Federal loan guarantees under this Act does not impede loan guarantees under this Act does not impede movement toward improvement in the climate for attracting private capital to develop alternative fuels without continued direct Federal incentives.

"(2) The Administrator shall annually submit a detailed report to the Congress concerning—

"(A) the actions taken or not taken by the Administrator under this section during the preceding fiscal year, and including, but not be limited to (i) a discussion of the status of each demonstration facility and related facilities financed under this section, including progress made in the development of such facilities, and the expected or actual production from each such facility, including byproduct production therefrom, and the

distribution of such products and byproducts, (ii) a detailed statement of the financial conditions of each such demonstration facility, (iii) data concerning the environmental, community, and health and safety impacts of each such facility and the actions taken or planned to prevent or mitigate such imports, (iv) the administrative and other costs incurred by the Administrator and other Federal agencies in carrying out this program, and (v) such other data as may be helpful in keeping Congress and the public fully and currently informed about the program authorized by this section; and

"(B) the activities of the funds referred to in subsection (n) of this section during the presiding fiscal year, including a statement of the amount and source of fees or other moneys, property, or assets deposited into the funds, all payments made, the notes or other obligations issued by the Administrator, and such other data as may be appropriate.

"(3) The annual reports required by this subsection shall be a part of the annual report required by section 15 of this Act, except that the matters required to be reported by this subsection shall be clearly set out and identified in such annual reports. Such reports and the one-hundred-and-eighty-day report required in paragraph (1) of this subsection shall be transmitted to the Speaker of the House of Representatives and the House Committee on Science and Technology and to the President of the Senate and the Committee on Energy and Natural Resources of the Senate.

"(m) Prior to issuing any guarantee or commitment to guarantee or cooperative agreement pursuant to subsection (b) or subsection (y) of this section, the Administrator shall submit to the Committee on Science and Technology of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a full and complete report on the proposed demonstration facility and such guarantee, agreement, or contract. Such guarantee, commitment to guarantee, cooperative agreement, or contract shall not be finalized under the authority granted by this section prior to the expiration of ninety calendar days (not including any day on which either House of Congress is not in session because of an adjournment of more than three calendar days to a day certain) from the date on which such report is received by such committees; *Provided*, That, where the cost of a demonstration facility to be assisted with a guarantee or cooperative agreement pursuant to subsection (b) or subsection (y) of this section exceeds $50,000,000 such guarantee or commitment to guarantee or cooperative agreement shall not be finalized unless (1) the making of such guarantee or commitment or agreement is specifically authorized by legislation hereafter enacted by the Congress or (2) both Houses pass a resolution stating in substance that the Congress favors the making of such guarantee or commitment or agreement.

"(n)(1) There is hereby created within the Treasury a separate fund (hereafter in this section called the 'fund') which shall be available to the Administrator without fiscal year limitation as a revolving fund for the purpose of carrying out the program authorized by subsection (b)(1) and subsections (g), (h), (k), and (y) of this section.

"(2) There are hereby authorized to be appropriated to the fund for administrative expenses from time to time such amounts as may be necessary to carry out the purposes of the applicable provisions of this section, including, but not limited to, the payments of interest and principal and the payment of interest differentials and redemption of debt. All amounts received by the Administrator as interest payments or repayments of principal on loans which are guaranteed under this section, fees, and any other moneys, property, or assets derived by him from operations under this section shall be deposited in the fund.

"(3) All payments on obligations, appropriate expenses (including reimbursements to other Government accounts), and repayments pursuant to operations of the Administrator under this section shall be paid from the fund subject to appropriations. If at any time the Administrator determines that moneys in the fund exceed the present and reasonably foreseeable future requirements of the fund, such excess shall be transferred to the general fund of the Treasury.

"(4) If at any time the moneys available in the fund are insufficient to enable the Administrator to discharge his responsibilities as authorized by subsections (b)(1), (g), (h), and (y) of this section, the Administrator shall issue to the Secretary of the Treasury notes or other obligations in such forms and denominations, bearing such maturities, and subject to such terms and conditions as may be prescribed by the Secretary of the Treasury. Redemption of such notes or obligations shall be made by the Administrator from appropriations or other moneys available under paragraph (2) of this subsection for loan guarantees authorized by subsection (b)(1) and subsections (g), (h), (k), and (y) of this section. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, which shall be not less than a rate determined by taking into consideration the average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuances of the notes or other obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this subsection.

"(5) The provisions of this subsection do not apply to direct loans or planning grants made under subsection (k) of this section.

"(6) For the purposes of this section, the term—

"(1) 'State' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, American Samoa, any territory or possession of the United States.

"(2) 'United States' means the several States, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and American Samoa,

"(3) 'borrower' or 'applicant' shall include any individual, firm, corporation, company, partnership, association, society, trust, joint venture, joint stock company, or other non-Federal entity, and

"(4) 'biomass' shall include, but is not limited to, animal and timber waste, municipal and industrial waste, sewage sludge, and oceanic and terrestrial crops.

"(p)(1) An applicant seeking a guarantee or cooperative agreement under subsection (b) or subsection (y) of this section must be a citizen or national of the United States. A corporation, partnership, firm or association shall not be deemed to be a citizen or national of the United States unless the Administrator determines that it satisfactorily meets all the requirements of section 802 of title 46, United States Code, for determining such citizenship, except that the provisions in subsection (a) of such section 802 concerning (A) the citizenship of officers or directors of a corporation, and (B) the interest required to be owned in the case of a corporation, association, or partnership operating a vessel in the coastwise trade, shall not be applicable.

"(2) The Administrator, in consultation with the Secretary of State, may waive such requirements in the case of a corporation, partnership, firm, or association, controlling interest in which is owned by citizens of countries which are participants in the International Energy Agreement.

"(q) No part of the program authorized by this section shall be transferred to any other agency or authority, except pursuant to Act of Congress enacted after the date of enactment of this section.

"(r) Inventions made or conceived in the course of or under a guarantee authorized by this section shall be subject to the title and waiver requirements and conditions of section 9 of this Act.

"(s) Nothing in this section shall be construed as affecting the obligations of any person receiving financial assistance pursuant to this section to comply with Federal and State environmental, land use, water, and health and safety laws and regulations or to obtain applicable Federal and State permits, licenses, and certificates.

"(t) The information maintained by the Administrator under this section shall be made available to the public subject to the provision of section 552 of title 5, United States Code, and section 1905 of title 18, United States Code, and to other Government agencies in a manner that will facilitate its dissemination: *Provided*, That upon a showing satisfactory to the Administrator by any person that any information, or portion thereof obtained under this section by the Administrator directly or indirectly from such person would, if made public, divulge (1) trade secrets or (2) other proprietary information of such person, the Administrator shall not disclose such information and disclosure thereof shall be punishable under section 1905 of title 18, United States Code: *Provided further*, That the Administrator shall, upon request, provide such information to (A) any delegate of the Administrator for the purpose of carrying out this Act, and (B) the Attorney General, the Secretary of Agriculture, the Secretary of the Interior, the Federal Trade Commission, the Federal Energy Administration, the Environmental Protection Agency, the Federal Power Commission, the General Accounting Office, other Federal agencies, or heads of other Federal agencies, when necessary to carry out their duties and responsibilities under this and other statutes, but such agencies and agency heads shall not release such information to the public. This section is not authority to withhold information from Congress, or from any committee of Congress upon request of the Chairman. For the purposes of this subsection, the term 'person' shall include the borrower.

"(u) Notwithstanding any other provision of this section, the authority provided in this section to make guarantees or commitments to guarantee or enter into cooperative agreements under subsection (b)(1) or subsection (y), to make guarantees or commitments to guarantees, or make loans or grants, under subsection (k), to make contracts under subsection (h), and to use fees and receipts collected under subsections (b), (j), and (y) of this section, and the authorities provided under subsection (n) of this section shall be effective only to the extent provided, without fiscal year limitation, in appropriation Acts enacted after the date of enactment of this section.

"(v) No person in the United States shall on the grounds of race, color, religion, national origin, or sex, be excluded from participation in, be denied benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with assistance made available under this

section: *Provided*, That Indian tribes are exempt from the operation of this subsection: *Provided further*, That such exemption shall be limited to the planning and provision of public facilities which are located on reservations and which are provided for members of the affected Indian tribes as the primary beneficiaries.

"(w) In carrying out his functions under this section, the Administrator shall provide a realistic and adequate opportunity for small business concerns to participate in the program to the optimum extent feasible consistent with the size and nature of each project.

"(x) (1) (A) Recipients of financial assistance under this section shall keep such records and other pertinent documents, as the Administrator shall prescribe by regulation, including, but not limited to, records which fully disclose the disposition of the proceeds of such assistance, the cost of any facility, the total cost of the provision of public facilities for which assistance was used and such other records as the Administrator may require to facilitate an effective audit. The Administrator and the Comptroller General of the United States, or their duly authorized representatives shall have access, for the purpose of audit, to such records and other pertinent documents.

"(B) Within 6 months after the date of enactment of this section and at 6-month intervals thereafter, the Comptroller General of the United States shall make an audit of recipients of financial assistance under this section. The Comptroller General may prescribe such regulations as he deems necessary to carry out this subparagraph.

"(2) All laborers and mechanics employed by contractors or subcontractors in the performance of construction work financed in whole or in part with assistance under this section shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a—276a–5). The Secretary of Labor shall have, with respect to such labor standards, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 64 Stat. 1267) and section 2 of the Act of June 13, 1934, as amended (48 Stat. 948; 40 U.S.C. 276(c)).

"(y) (1) The Administrator is authorized in accordance with such rules and regulation as he shall prescribe after consultation with the Secretary of the Treasury, to guarantee and to make commitments to guarantee the payment of interest on, and the principal balance of, bonds, debentures, notes, and other obligations issued by or on behalf of any borrower for the purpose of (A) financing the construction and startup costs of demonstration facilities for the conversion of municipal or industrial waste, sewage sludge, or other municipal organic wastes into synthetic fuels, and (B) financing the construction and startup costs of demonstration facilities to generate desirable forms of energy (including synthetic fuels) from municipal or industrial waste, sewage sludge, or other municipal organic waste. With respect to a guarantee or a commitment to guarantee authorized by this subsection; the following subsections of this section shall not apply: (b) (1), (b) (5), (c) (2), (c) (5), (c) (6), (c) 7), (c) (8), (c) (9), (e) (3), (j), (k), and (q).

"(2) In the case where the Administrator seeks to guarantee or to make commitments to guarantee as provided by this subsection he is authorized to incur an outstanding indebtedness which at no time shall exceed $300,000,000.

"(3) The Administrator shall apply the following provisions thereto:

"(A) With respect to any demonstration facility for the conversion of solid waste (as the term is defined in the Resources Conservation and Recovery Act (42 U.S.C. 6903), the Administrator, prior to issuing any guarantee under this section, must be in receipt of a certification from the Administrator of the Environmental Protection Agency and any appropriate State or areawide solid waste management planning agency that the proposed application for a guarantee is consistent with any applicable suggested guidelines published pursuant to section 1008(a) of the Resources Conservation and Recovery Act; and any applicable State or regional solid waste management plan.

"(B) The amount guaranteed shall not exceed 75 per centum of the total cost of the commercial demonstration facility, as determined by the Administrator: *Provided*, That the amount guaranteed may not exceed 90 per centum of the total cost of the commercial demonstration facility during the period of construction and startup.

"(C) The maximum maturity of the obligation shall not exceed thirty years, or 90 per centum of the projected useful economic life of the physical assets of the commercial demonstration facility covered by the guarantee, whichever is less, as determined by the Administrator.

"(D) The Administrator shall charge and collect fees for guarantees of obligations in amounts sufficient in the judgment of the Administrator to cover the applicable administrative costs and probable losses on guaranteed obligations, but in any event not to exceed 1 per centum per annum of the outstanding indebtedness covered by the guarantee.

"(E) No part of the program authorized by this section shall be transferred to any other agency or authority, except pursuant to Act of Congress enacted after the date of enactment of this section: *Provided*, That project agreements entered into pursuant to this section for any commercial demonstration facility for the conversion or bioconversion of solid waste (as that term is defined in the Resources Conservation and Recovery Act) shall be administered in accordance with the May 7, 1976, Interagency Agreement between the Environmental Protection Agency and the Energy Research and Development Administration on the Development of Energy From Solid Wastes, and provided specifically that in accordance with this agreement (i) for those energy-related projects of mutual interest, planning will be conducted jointly by the Environmental Protection Agency and the Energy Research and Development Administration, following which project responsibility will be assigned to one agency; (ii) energy-related projects for recovery of synthetic fuels or other forms of energy from solid waste shall be the responsibility of the Energy Research and Development Administration; and (iii) the Environmental Protection Agency shall retain responsibility for the environmental, economic, and institutional aspects of solid waste projects and for assurance that such projects are consistent with any applicable suggested guidelines pursuant to section 1008 of the Resource Conservation and Recovery Act of 1976 (42 U.S.C. 6901 et seq.), as amended, and any applicable State or regional solid waste-management plan.

"(F) With respect to any obligation which is issued after the enactment of this section by, or in behalf of, any State, political subdivision, or Indian tribe and which is either guaranteed under, or supported by taxes levied by said issuer which are guaranteed under, this section, the interest paid on such obligation and received by the purchaser thereof (or the purchaser's successor in interest) shall be included in gross income for the purpose of chapter 1 of the Internal Revenue Code of 1954, as amended: *Provided*, That the Administrator shall pay to such issuer out of the fund established by this section such portion of the interest on such obligations, as determined by the Secretary of the Treasury to be appropriate after taking into account current market yields (i) on obligations of said issuer, if any, and (ii) on other obligations with simlar terms and condtions the interest on which is not so included in gross income for purposes of chapter 1 of such Code, and in accordance with, such terms and conditions as the Secretary of the Treasury shall require.".

SEC. 208. (*a*) The Administrator of the Energy Research and Development Administration shall—

(1) initiate and conduct an "application and system design study", cooperatively with the Federal Energy Administration and other appropriate Federal agencies, to determine the potential for the use of solar photovoltaic systems at specific Federal installations; and this study shall—

(A) include an analysis of those sites that are currently cost-effective for solar photovoltaic energy systems, using life-cycle costing techniques, as well as those which would be cost-effective at expected future market prices;

(B) identify potential sites and uses of solar photovoltaic energy systems at the following agencies as well as any others which the Administrator deems necessary:

(i) the Department of Defense;

(ii) the Department of Transportation (including the United States Coast Guard, the Federal Aviation Administration, and the Federal Highway Administration);

(iii) the Department of Commerce;

(iv) the Department of Agriculture; and

(v) the Department of the Interior;

(C) provide a preliminary report to Congress within nine months following the enactment of this Act;

(D) include the presentation of a detailed plan for the implementation of solar photovoltaic energy systems for power generation at specific sites in Federal government agencies to Congress within twelve months following the enactment of this Act;

(2) initiate and conduct a study of the options available to the Federal government to provide for the adequate growth of the solar photovoltaic industry and to include such possible incentives as government funding, loan guarantees, tax incentives, the operation of pilot plants or production lines and other incentives deemed worthy of consideration by the Administrator. A preliminary report shall be submitted to Congress within six months following the enactment of this Act;

(3) initiate and conduct a study involving the propects for applications of solar photovoltaic energy systems for power generation in foreign countries, particularly lesser developed countries, and the potential for the exploration of these energy systems. This study shall involve the cooperation of the Department of State and the Department of Commerce, as well as other Federal agencies which the Administrator deems appropriate. A final report shall be submitted to the Congress, as well as a preliminary report within twelve months of the enactment of this Act; and

(4) be authorized to acquire up to an additional 4.0 megawatts (peak) of solar photovoltaic energy systems. The sum of $13,000,000 is hereby authorized to be appropriated (in addition to any other amounts authorized by this Act to be appropriated) for the fiscal year ending September 30, 1978, and for delivery in the following twelve months. Such sums shall remain available until expended. The solar photovoltaic energy systems acquired shall be available for use for power generation by Federal agencies, pro-

vided that no procurement takes place until their application on Federal sites is determined to be life cycle cost effective.

(b) For technology development, particularly for engineering design and development of the manufacturing process of solar photovoltaic energy systems (primarily for the implementation of automated processes and other cost reducing production technologies), the sum of $6,000,000 is hereby authorized by this Act to be appropriated for the fiscal year ending September 30, 1978.

SEC. 209. (a) Nothing in this title shall apply with respect to any authorization or appropriation for any military application of nuclear energy, for research and development in support of the Armed Forces, or for the common defense and security of the United States.

(b)(1) The term "military application" means any activity authorized or permitted by chapter 9 of the Atomic Energy Act of 1954, as amended (Public Law 83-703 as amended; 42 U.S.C. 2121, 2122).

(2) The term "research and development," as used in this section, is defined by section 11 x. of the Atomic Energy Act of 1954, as amended (Public Law 83-703, as amended; 42 U.S.C. 2014).

(3) The term "common defense and security" means the common defense and security of the United States as used in the Atomic Energy Act of 1954, as amended (Public Law 83-703, as amended).

SEC. 210. (a) In order to provide economic farm units to qualifying farmers whose land is economically infeasible to reclaim from damages resulting from the Teton flood of June 5, 1976, and who are unable to find suitable replacement land for their flood damage farm, and in order to restore the economic and agricultural base of the flood damaged region, there is hereby transferred 5,955 acres of land, hereinafter described, in the State of Idaho presently under the jurisdiction of the Energy Research and Development Administration, to the Secretary of the Interior who, acting through the Bureau of Reclamation, shall make such lands available for sale to qualifying farmers according to the terms hereafter provided.

(b) As used in this section, the term:

(1) "Teton flood" means the flood resulting from the collapse of Teton Dam of the Lower Teton Division of the Teton Basin Federal Reclamation Project on June 5, 1976.

(2) "Energy Research and Development Administration land" means those public and acquired lands in the State of Idaho identified as sections numbered fourteen (14), twenty-three (23), twenty-four (24), twenty-five (25), and thirty-six (36), in township six (6) north, or range thirty-three (33) east of the Boise meridian; sections numbered nineteen (19), thirty (30), and thirty-one (31) in township six (6) north, of range thirty-four (34) east of the Boise meridian; and the southeast quarter, the south half of the northeast quarter, the east half of the southwest quarter and the southeast quarter of the northwest quarter, of section numbered eight (8) and the south half and the south half of the north half of section numbered nine (9) in township five (5) north, of range thirty-four (34) east of the Boise meridian, all situated in the county of Jefferson and State of Idaho, and containing 5,955 acres, more or less, which would be transferred for the purposes of this Act.

(3) "Qualifying farmer" means the resident, owner-operator of a farm who resides in the immediate locality, whose livelihood is derived from his farming operation and whose land was damaged due to the collapse of the Teton Dam on June 5, 1976, to the extent that in the opinion of the Secretary of the Interior, it is not economically feasible to reclaim such land so that it produces an income commensurate with that earned prior to the Teton flood.

(4) "Irrigable land" means farm land that is suitable for irrigated agriculture and has been certified as irrigable by the Secretary of the Interior.

(c) For a period of not more than five years after transfer to the Bureau of Reclamation, the land heretofore described shall be available for purchase by those who, on or before October 1, 1978, are determined to be qualifying farmers pursuant to regulations issued in accordance with subsection (f) of this section by the Secretary of the Interior.

(d) Energy Research and Development Administration land as described in subsection (b)(2) of this section shall be certified as irrigable by the Secretary of the Interior, and lands so certified shall be made available in a manner to be prescribed by the Secretary for purchase by qualifying farmers at its current fair market value as determined by a board of appraisers composed of a Federal appraiser, a State appraiser, and one appraiser from the disaster region: *Provided*, That irrigable land transferred to a single ownership shall not exceed 160 acres of class I land as defined by the Secretary or the equivalent thereof in other land classes as determined by the Secretary. The United States, through the Secretary, shall convey fee simple title of the Energy Research and Development Administration land to the qualifying farmer. The cost of developing the replacement land for farming shall be borne by the qualifying farmer who purchases the land.

(e) Any part of the Energy Research and Development Administration land remaining in the possession of the Bureau of Reclamation at the end of the five year period, except land needed for public rights-of-way, as determined by the Secretary, shall be returned to the Energy Research and Development Administration.

(f) Within ninety days after the enactment of this Act the Secretary shall prescribe and publish in the Federal Register such rules and regulations as may be necessary and proper to carry out the provisions of this section.

(g) Full recovery for the loss of all or part of flood-damaged farms shall be obtained by owners pursuant to the Teton Dam Disaster Assistance Act of 1976. Public Law 94-400, 94 Stat. 1211, and the Supplemental Appropriation Act of 1976, Public Law 94-438, 90 Stat. 1415.

(h) There is hereby authorized to be appropriated such sums as may be necessary for the purposes of administration of this section.

TITLE III—AUTOMOTIVE PROPULSION RESEARCH AND DEVELOPMENT

SHORT TITLE

SEC. 301. This title may be cited as the "Automotive Propulsion Research and Development Act of 1977".

FINDINGS AND PURPOSES

SEC. 302. (a) The Congress finds that—

(1) existing automobile propulsion systems, on the average, fall short of meeting the long-term goals of the Nation with respect to environmental protection, and energy conservation;

(2) advanced alternatives to existing automobile propulsion systems could, with sufficient research and development effort, meet these long-term goals, and have the potential to be mass produced at reasonable cost; and advanced automobile propulsion systems could operate with significantly less adverse environmental impact and fuel consumption than existing automobiles, while meeting all of the other requirements of Federal law;

(3) insufficient resources are being devoted to both research on and development of advanced automobile propulsion system technology;

(4) an expanded research and development effort with respect to advance automobile propulsion system technology would complement and stimulate corresponding efforts by the private sector and would encourage automobile manufacturers to consider seriously the incorporation of such advanced technology into automobiles and automobile components; and

(5) the Nation's energy and environmental problems are urgent, and therefore advanced automobile propulsion system technology should be developed, tested, demonstrated, and prepared for manufacture within the shortest practicable time.

(b) It is therefore the purpose of the Congress, in this title to—

(1)(A) direct the Energy Research and Development Administration to make contracts and grants for research and development leading to the development of advanced automobile propulsion systems within 5 years of the date of enactment of this Act, or within the shortest practicable time consistent with appropriate research and development techniques, and (B) evaluate and disseminate information with respect to advanced automobile propulsion system technology;

(2) preserve, enhance, and facilitate competition in research, development, and production with respect to existing and alternative automobile propulsion systems; and

(3) supplement, but neither supplant nor duplicate, the automotive propulsion system research and development efforts of private industry.

DEFINITIONS

SEC. 303. As used in this title, the term—

(1) "Administrator" means the Administrator of the Energy Research and Development Administration;

(2) "advanced automobile propulsion system" means an energy conversion system, including engine and drive train, which utilizes advanced technology and is suitable for use in an advanced automobile;

(3) "developer" means any person engaged in whole or in part in research or other efforts directed toward the development of advanced automobile technology;

(4) "fuel" means any energy source capable of propelling an automobile;

(5) "fuel economy" refers to the average distance traveled in representative driving conditions by an automobile per unit of fuel consumed, as determined by the Administrator of the Environmental Protection Agency in accordance with test procedures which shall be established by rule and shall require that fuel economy tests be conducted in conjunction with the exhaust emissions tests mandated by section 206 of the Clean Air Act (42 U.S.C. 1857f-5);

(6) "intermodal adaptability" refers to any characteristics of an automobile which enable it to be operated or carried, or which facilitate its operation or carriage, by or on an alternative mode or other system of transportation;

(7) "reliability" refers to (A) the average time and distance over which normal automobile operation can be expected without significant repair or replacement of parts, and (B) the ease of diagnosis and repair of an automobile, its systems, and parts in the

event of failure during use or damage from an accident;

(8) "safety" refers to the performance of an automobile propulsion system or equipment in such a manner that the public is protected against unreasonable risk of accident and against unreasonable risk of death or bodily injury in case of accident;

(9) "Secretary" means the Secretary of Transportation; and

(10) "State" means any State, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, or any other territory or possession of the United States.

DUTIES OF THE ADMINISTRATOR

SEC. 304. (a) The Administrator shall establish, within the Energy Research and Development Administration, a program to insure the development of advanced automobile propulsion systems within 5 years after the date of enactment of this Act, or within the shortest practicable time, consistent with appropriate research and development technique. In conducting such programs, the Administrator shall—

(1) establish and conduct new projects and accelerate existing projects which may contribute to the development of advanced automobile propulsion systems;

(2) give priority attention to the development of advanced propulsion systems with appropriate attention to those advanced propulsion systems which are flexible in the type of fuel used; and

(3) insure that research and development under this title supplements, but neither supplants nor duplicates, the automotive research and development efforts of private industry.

(b) The Administrator shall, in fulfilling his responsibilities under this title, make contracts and grants with any Federal agency, laboratory, university, nonprofit organization, industrial organization, public or private agency, institution, organization, corporation, partnership, or individual for research and development leading to advanced automobile propulsion systems which are likely to help meet the Nation's long-term goals with respect to fuel economy, environmental protection, and other objectives.

(c) In providing financial assistance under this title, the Administrator shall give full consideration to the capabilities of Federal laboratories, except that not more than 60 per centum of the funds appropriated pursuant to the authorization under section 312 shall be directly expended in Federal laboratories. In accordance with section 307, such laboratories shall be available for testing components and subsystems which, in the Administrator's judgment, is likely to contribute to the development of advanced automobile propulsion systems.

(d) The Administrator shall conduct evaluations, arrange for tests, and disseminate information pursuant to section 307 and submit reports required under section 310.

(e) The Administration shall intensify research in key basic science areas in which the lack of knowledge limits development of advanced automobile propulsion systems.

(f) (1) The Administrator shall insure that the conduct of the program as defined in subsection (a) of this section—

(A) supplements the automotive propulsion system research and development efforts of industry;

(B) is not formulated in a manner that will supplant private industry research and development or displace or lessen industry's research and development; and

(C) avoids duplication of private research and development.

(2) To that end, the Administrator shall issue administrative regulations, within 60 days after the date of the enactment of this Act, which shall specify procedures, standards, and criteria for the timely review for compliance of each new contract, grant, Administration project, or other agency project funded or to be funded under the authority of this Act. Such regulations shall require that the Administrator or his designee shall certify that each such contract, grant, or project satisfies the requirement of this subsection, and shall include in such certification a discussion of the relationship of any related or comparable industry research and development, in terms of this subsection, to the proposed research and development under the authority of this Act. The discussion shall also address related issues, such as cost sharing and patent rights.

(3) Such certifications shall be available to the Committee on Science and Technology of the House of Representatives and the Committee on Energy and Natural Resources of the Senate. The provisions of chapter 5 of title 5, United States Code, shall not apply to such certifications and no court shall have any jurisdiction to review the preparation or adequacy of such certifications; but section 553 of title 5, United States Code, and section 17 of the Federal Nonnuclear Energy Research and Development Act of 1974, as amended, shall apply to public disclosure of such certifications.

(4) The Administrator also shall include in the report required by section 310(a) of this Act a detailed discussion of how each research and development contract, grant, or project funded under the authority of this Act satisfies the requirement of this subsection.

(5) Further, the Administrator in each annual budget submission to the Congress, or amendment thereto, for the programs authorized by this Act shall describe how each identified research and development effort in such submission satisfies the requirements of this subsection.

(6) The provisions and requirements of this subsection shall not apply with respect to any contract, grant, or project which was entered into, made, or formally approved and initiated prior to the enactment of this Act, or with respect to any renewal or extension thereof.

DUTIES OF THE SECRETARY

SEC. 305. The Secretary, in furtherance of the purposes of this title, shall evaluate the extent to which the automobile industry utilizes advanced automotive technology which is or could be made available to it. The Secretary shall submit a report to the Congress each year on the results of such evaluation including any appropriate recommendations which may encourage the utilization of advanced automobile technology by the automobile industry.

COORDINATION AND CONSULTATION

SEC. 306. (a) The Administrator shall have overall management responsibility for carrying out the program under section 304. In carrying out such program, the Administrator, consistent with such overall management responsibility—

(1) shall utilize the expertise of the Department of Transportation to the extent deemed appropriate by the Administrator; and

(2) may utilize any other Federal agency (except as provided in paragraph (1)) in accordance with subsection (c) in carrying out any activities under this title, to the extent that the Administrator determines that any such agency has capabilities which would allow such agency to contribute to the purposes of this title.

(b) The Secretary, whenever the expertise of the Department of Transportation is utilized in accordance with subsection (a), may exercise the powers granted to the Administrator under subsection (c) and shall enter into contracts and make grants for such purpose, subject to the overall management responsibility of the Administrator.

(c) The Administrator may, in accordance with subsection (a), obtain the assistance of any department, agency, or instrumentality of the executive branch of the Federal Government upon written request, on a reimbursable basis or otherwise and with the consent of such department, agency, or instrumentality. Each such request shall identify the assistance the Administrator deems necessary to carry out any duty under this title.

(d) The Administrator shall consult with the Administrator of the Environmental Protection Agency and the Secretary, and shall establish procedures for periodic consultation with representatives of science, industry, and such other groups as may have special expertise in the area of automobile propulsion system research, development, and technology. The Administrator may establish such advisory panels as he deems appropriate to review and make recommendations with respect to applications for funding under this title.

(e) Nothing contained in this title shall be construed to reduce in any way the responsibilities of the Administrator for automotive research, development, and demonstration under the Energy Reorganization Act of 1974 (42 U.S.C. 5801 et seq.) and the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5901 et seq.).

EVALUATION, TESTING, AND INFORMATION DISSEMINATION

SEC. 307. (a) The Administrator shall, for the purposes of performing his responsibilities under this title, consider any reasonable new or improved technology, a description of which is submitted to the Administrator in writing, which could lead or contribute to the development of advanced automobile propulsion system technology.

(b) The Administrator of the Environmental Protection Agency shall test, or cause to be tested, in a facility subject to Environmental Protection Agency supervision, each advanced automobile propulsion system in an appropriately modified production vehicle equipped with such a system developed in whole or in part with Federal financial assistance under this title, or referred to the Administrator of the Environmental Protection Agency for such purpose by the Administrator, to determine whether such vehicle complies with any exhaust emission standards or any other requirements promulgated or reasonably expected to be promulgated under any provision of the Clean Air Act (42 U.S.C. 1857 et seq.), the Noise Control Act of 1972 (42 U.S.C. 4901 et seq.), or any other provision of Federal law administered by the Administrator of the Environmental Protection Agency. In conjunction with any test for compliance with exhaust emission standards under this section, the Administrator of the Environmental Protection Agency shall also conduct tests to determine the fuel economy of such vehicle. The Administrator of the Environmental Protection Agency shall submit all test data and the results of such tests to the Administrator.

(c) The Administrator shall collect, analyze, and disseminate to developers information, data, and materials that may be relevant to the development of advanced automobile propulsion system technology.

PATENTS

SEC. 308. Section 9 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5908) shall apply to any contract (including any assignment, substitution of parties, or subcontract there-

under) or grant, entered into, made, or issued by the Administrator under this title.

COMPTROLLER GENERAL AUDIT AND EXAMINATION

SEC. 309. Section 306 of the Energy Reorganization Act of 1974 (42 U.S.C. 5876) shall apply with respect to the authority of the Comptroller General to have access to and rights of examination of books, documents, papers, and records of recipients of financial assistance under this title; except that for the purposes of this title, the term "contract" (as used in section 166 of the Atomic Energy Act (42 U.S.C. 2206), insofar as it relates to such section 306) means "contract or grant."

REPORTS

SEC. 310. (a) As a separate part of the annual report submitted under section 15 (a) of the Federal Nonnuclear Energy Research and Development Act of 1974 with respect to the comprehensive plan and program then in effect under section 6 (a) and (b) of such Act, the Administrator shall submit to Congress an annual report of activities under this title. Such report shall include—

(1) a current comprehensive program definition for implementing this title;

(2) an evaluation of the state of automobile propulsion system research and development in the United States;

(3) the number and amount of contracts and grants made under this title;

(4) an analysis of the progress made in developing advanced automobile propulsion system technology; and

(5) suggestions for improvements in advanced automobile propulsion system research and development, including recommendations for legislation.

(b) The Administrator shall conduct a survey of developers, lending institutions, and other appropriate persons or institutions and shall otherwise make a study for the purpose of determining whether, and under what conditions, research, development, demonstration, and commercial availability of advanced automobile propulsion system technology may be aided by the guarantee of financial obligations by the Federal Government. The Administrator shall report the results of such survey and study to the Congress within 1 year after the date of enactment of this Act. Such report shall include an examination of those stages of advanced automobile propulsion system technology research, development, demonstration, and commercialization for which financial obligation guarantees may be useful or appropriate and shall contain such legislative recommendations as may be necessary.

AMENDMENT OF THE NATIONAL AERONAUTICS AND SPACE ACT

SEC. 311. (a) Section 102 of the National Aeronautics and Space Act of 1958 (42 U.S.C. 2451) is amended by redesignating subsection (e) as subsection (f), and by inserting immediately after subsection (d) the following new subsection:

"(d) The Congress declares that the general welfare of the United States requires that the unique competence in scientific and engineering systems of the National Aeronautics and Space Administration also be directed toward the development of advanced automobile propulsion systems. Such development shall be conducted so as to contribute to the development shall be conducted so as to contribute to the achievement of the purposes set forth in section 302(b) of the Automotive Propulsion Research and Development Act of 1977.".

(b) The subsection of section 102 of such Act redesignated as subsection (f) by subsection (a) of this section is amended by striking out "and (d)" and inserting in lieu thereof "(d), and (e)".

AUTHORIZATION FOR APPROPRIATION

SEC. 312. There is authorized to be appropriated to carry out the purposes of this title, in addition to any amounts made available for such purposes pursuant to title I of this Act, the sum of $12,500,000 for the fiscal year ending September 30, 1978.

TITLE IV—ESTABLISHMENT OF FINANCIAL SUPPORT PROGRAM FOR MUNICIPAL WASTE REPROCESSING DEMONSTRATION FACILITIES

SEC. 401. The Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5901 et seq.), as amended by section 207 of this Act, is further amended by adding at the end thereof the following new section:

"FINANCIAL SUPPORT PROGRAM FOR MUNICIPAL WASTE REPROCESSING DEMONSTRATION FACILITIES

"SEC. 20. (a) It is the purpose of this section—

"(1) to assure adequate Federal support to foster a program to demonstrate municipal waste reprocessing for the production of fuel and energy intensive products; and

"(2) to gather information about the technological, economic, environmental, and social costs, benefits, and impacts of such demonstration facilities.

"(b)(1) The Administrator is authorized and directed, to the extent provided in appropriation Acts, to establish such a demonstration program by making grants, contracts, price supports, and cooperative agreements pursuant to this Act or any combination thereof for the establishment of municipal waste reprocessing demonstration facilities. For the purpose of this section municipal waste shall include but not be limited to municipal solid waste, sewage sludge, and other municipal organic wastes.

"(2) The aggregate amount of funds available for grants, contracts, price supports, and cooperative agreements for municipal waste reprocessing demonstration facilities shall not exceed $20,000,000 in the fiscal year ending September 30, 1978.

"(3) For purposes of this section the term 'municipal' shall include any city, town, borough, county, parish, district, or other public body created by or pursuant to State law.

"(4) Municipal waste reprocessing demonstration facilities established under this section shall be owned or operated (or both owned and operated) by the municipality and shall involve the recovery of energy or energy intensive products. Such facilities may be established by any public or private entity, by contract or otherwise, as may be determined by the local government which will own or operate (or both own and operate) such facilities and to which financial support is provided. The Federal share for any such facility to which this section applies shall not exceed 75 per centum of the cost of such facility, and not more than $40,000,000 in Federal funds under this section may be used for the construction of any one facility.

"(5) The Administrator shall promulgate such regulations as he deems necessary pursuant to section 7(a)(4) and section 7(c)(1) and (6) of this Act, for purposes of establishing a price support program for revenue producing products of municipal waste reprocessing demonstration facilities.

"(c)(1) The Administrator shall consult with the Environmental Protection Agency to assure that the provisions of section 8004 of the Resource Conservation and Recovery Act of 1976 (Public Law 94-580) are applied in carrying out this section.

"(2) Any energy-related research, development, or demonstration project for the conversion (including bioconversion) of municipal waste carried out by the Energy Research and Development Administration pursuant to this or any other Act shall be administered in accordance with the May 7, 1976, Interagency Agreement between the Environmental Protection Agency and the Energy Research and Development Administration on the development of energy from solid wastes; and specifically, in accordance with such Agreement (A) for those energy-related projects of mutual interest, planning will be conducted jointly by the Environmental Protection Agency and the Energy Research and Development Administration, following which project responsibility will be assigned to one agency; (B) energy-related aspects of projects for recovery of fuels or energy intensive products from municipal waste as defined in this section shall be the responsibility of the Energy Research and Development Administration including energy-related economic and institutional aspects; and (C) the Environmental Protection Agency shall retain responsibility for the environmental and other economic and institutional aspects of solid waste projects and for assurance that such projects are consistent with any applicable suggested guidelines published pursuant to section 1008 of the Resource Conservation Recovery Act of 1976 (Public Law 94-580), and any applicable State or regional waste management plan.

"(d)(1) The Administrator shall establish such guidelines as he deems necessary for purposes of obtaining pertinent information from municipalities receiving funding under this section. These guidelines shall include but not be limited to methods of assessment and evaluation of projects authorized under this section. Such assessments and evaluations shall be presented by the Administrator to the House Committee on Science and Technology and the Senate Committee on Energy and Natural Resources upon the request of either such committee.

"(2) The Administrator shall annually submit a report to the Congress concerning the actions taken or not taken by the Administrator under this section during the preceding fiscal year, and including but not limited to (A) a discussion of the status of each demonstration facility and related facilities financed under this section, including progress made in the development of such facilities, and the expected or actual production from each such facility including byproduct production therefrom, and the distribution of such products and byproducts, (B) a statement of the financial condition of each such demonstration facility, (C) data concerning the environmental, community, and health and safety impacts of each such facility and the actions taken or planned to prevent or mitigate such impacts, (D) the administrative and other costs incurred by the Administrator and other Federal agencies in carrying out this program, and (E) such other data as may be helpful in keeping Congress and the public fully and currently informed about the program authorized by this section.

"(3) The annual reports required by this subsection shall be a part of the annual report required by section 15 of this Act, except that the matters required to be reported by this subsection shall be clearly set out and identified in such annual reports. Such reports shall be transmitted to the Speaker of the House of Representatives and the House Committee on Science and Technology and to the President of the Senate and the Senate Committee on Energy and Natural Resources.

"(e) No part of the program authorized by this section shall be transferred to any other agency or authority, except pursuant to Act of Congress enacted after the date of the enactment of this section.

"(f) Nothing in this section shall be construed as abrogating any obligations of any municipality receiving financial assistance pursuant to this section to comply with Federal and State environmental, land use, water, and health and safety laws and regulations or to obtain applicable Federal and State permits, licenses, and certificates.".

TITLE V—BASIS FOR GOVERNMENT CHARGE FOR URANIUM ENRICHMENT SERVICES

SEC. 501. Subsection 161 v. of the Atomic Energy Act of 1954, as amended, is amended to read as follows:

"v. (A) enter into contracts with persons licensed under section 53, 63, 103, or 104 for such periods of time as the Administrator of the Energy Research and Development Administration may deem necessary or desirable to provide, after December 31, 1968, for the producing or enriching of special nuclear material in facilities owned by the Energy Research and Development Administration; and

"(B) enter into contracts to provide, after December 31, 1968, for the producing or enriching of special nuclear material in facilities owned by the Energy Research and Development Administration in accordance with and within the period of an agreement for cooperation arranged pursuant to section 123 while comparable services are made available pursuant to paragraph (A) of this subsection:

Provided, That (i) prices for services under paragraph (A) of this subsection shall be established on a nondiscriminatory basis; (ii) prices for services under paragraph (B) of this subsection shall be no less than prices under paragraph (A) of this subsection; (iii) any price established under this subsection shall be on such a basis as will recover not less than the Government's costs over a reasonable period of time; and (iv) no change in price for uranium enrichment services shall permit the recovery of revenues greater than the sum of all Government costs and normal and ordinary business expenses (such as taxes and return on equity which would otherwise be incurred by a private operator providing similar services): *And provided further*, That the Administrator of the Energy Research and Development Administration, to the extent necessary to assure the maintenance of a viable domestic uranium industry, shall not offer such services for source or special nuclear materials of foreign origin intended for use in a utilization facility within or under the jurisdiction of the United States. The Administrator shall establish criteria in writing setting forth the terms and conditions under which services provided under this subsection shall be made available including the extent to which such services will be made available for source or special nuclear material of foreign origin intended for use in a utilization facility within or under the jurisdiction of the United States: *Provided*, That any change in criteria or enrichment services prices in the first proviso above shall not be implemented for a period of sixty days, during which the Congress is in continuous session, after the transmission of the proposed criteria or price to the President of the Senate, the Speaker of the House of Representatives, the Senate Committee on Energy and Natural Resources and the House Committee on Science and Technology. Such criteria or prices shall be considered authorized by the Congress unless either House of Congress approves a resolution of disapproval of such prices prior to the expiration of the aforementioned sixty-day period. The Senate Committee on Energy and Natural Resources and the House Committee on Science and Technology shall have single jurisdiction over any such resolution of disapproval introduced pursuant to this section. If such a resolution of disapproval has been introduced, but has not been reported by the committee on or before the fortieth day after transmission of the message, a privileged motion shall be in order in the respective body to discharge the committee from further consideration of the resolution and to provide for its immediate consideration, using the procedures specified for consideration of an impoundment resolution in section 1017 of the Impoundment Control Act of 1974 (31 U.S.C. 1407).".

TITLE VI—AMENDMENTS TO THE GEOTHERMAL ENERGY RESEARCH, DEVELOPMENT, AND DEMONSTRATION ACT

SEC. 601. As used in this title—

(1) the term "Act" means the Geothermal Energy Research, Development, and Demonstration Act of 1974 (88 Stat. 1079); and

(2) the term "Administrator" means the Administrator of the Energy Research and Development Administration.

SEC. 602. Section 101(b) of the Act is amended—

(1) by striking out subparagraph (E) of paragraph (1) and inserting in lieu thereof the following:

"(E) the Assistant Administrator of the Energy Research and Development Administration for Solar, Geothermal, and Advanced Energy Systems;";

(2) by striking out the period at the end of paragraph (1) and inserting in lieu thereof a semicolon;

(3) by adding at the end of paragraph (1) the following new subparagraphs;

"(G) an Assistant Administrator of the Environmental Protection Agency:

"(H) an Assistant Secretary of Treasury; and

"(I) an Assistant Secretary of Agriculture."; and

(4) by striking out "one member of the Project" in paragraph (2) and inserting in lieu thereof "the Assistant Administrator of the Energy Research and Development Administration for Solar, Geothermal, and Advanced Energy Systems".

SEC. 603. Section 103(b)(4) of the Act is amended by inserting the phrase "or administrative regulations" after "legislation", and by inserting ", environmental and taxing" after "leasing".

SEC. 604. Section 105(e)(3) of the Act is amended by striking out the period and inserting in lieu thereof "or such assistance would not be adequate to satisfy the goals and requirements of the demonstration program under this section.".

SEC. 605. Section 201(b) of the Act is amended by striking out "or" at the end of paragraph (3), by striking out the period at the end of paragraph (4) and inserting in lieu thereof "; or", and by adding at the end thereof the following new paragraph:

"(5) construction and operation of a new commercial, agricultural, or industrial structure or facility or modification and operation of an existing commercial, agricultural, or industrial structure or facility, when geothermal hot water or steam is to be used within or by such structure or facility, or modification thereto, for the purposes of space heating or cooling, industrial or agricultural processes, onsite generation of electricity for use other than for sale or resale in commerce, other commercial applications, or combinations of applications separately eligible under this title for loan guarantee assistance.".

SEC. 606. Section 201(b)(4) of the Act is amended by striking out "from" and inserting in lieu thereof "using".

SEC. 607. Section 201(c) of the Act is amended by adding at the end thereof the following new sentence: "In the case of a guaranty for the purposes specified in subsection (b)(5), the aggregate cost of the project shall be deemed to be that portion of the total cost of construction and operation which is directly related to the utilization of geothermal energy within the structure or facility in question, except that the aggregate cost of the project with respect to which the loan is made may be the total cost including construction and operation in cases where the facility or structure has been located near a geothermal energy resource predominantly for the purpose of utilizing geothermal energy, or as determined by the Administrator the economic viability of the project is substantially dependent upon the performance of the geothermal reservoir.".

SEC. 608. Section 201(e) of the Act is amended—

(1) by striking out "$25,000,000" and inserting in lieu thereof $100,000,000: *Provided*, That in the case of a guaranty under subsection (b)(5), the amount of the guaranty for any loan for a project shall not exceed $50,000,000";

(2) by striking out "$50,000,000" and inserting in lieu thereof "$200,000,000"; and

(3) by inserting before the period at the end thereof the following: ", unless the Administrator determines in writing that a guaranty in excess of these amounts is in the national interest. Any such determination shall be submitted to the Speaker of the House and the Committee on Science and Technology of the House of Representatives, and to the President of the Senate and the Committee on Energy and Natural Resources of the Senate, accompanied by a full and complete report on the proposed project and guaranty. The proposed guaranty or commitment to guarantee shall not be finalized under authority granted by this Act prior to the expiration of thirty calendar days (not including any date on which either House of Congress is not in session) from the date on which such report is received by the Speaker of the House and the President of the Senate: *Provided*, That such guaranty or commitment to guarantee shall not be finalized if prior to the close of such thirty-day period either House passes a resolution stating in substance that such House does not favor the making of such guaranty or commitment to guarantee".

SEC. 609. Section 201 of the Act is further amended by adding at the end thereof the following new subsections:

"(g) With respect to any guaranty which is issued after the enactment of this subsection by, or in behalf of, any State, political subdivision, or Indian tribe and which is either guaranteed under, or supported by taxes levied by said issuer which are guaranteed under this title, and for which the interest paid on such obligation and received by the purchaser thereof is included in gross income for the purposes of chapter 1 of the Internal Revenue Code of 1954, as amended, the Administrator shall pay to such issuer out of the fund established by this title such portion of the interest on such obligations, as determined by the Administrator, in consultation with the Secretary of the Treasury, to be appropriated after taking into account current market yields (1) on obligations of such issuer, if any, or (2) on other obligations with similar terms and conditions, the interest on which is not so included in gross income for purposes of chapter I of said Code, and in accordance with such terms and conditions as the Administrator shall require in consultation with the Secretary of the Treasury.

"(h) The full faith and credit of the United States is pledged to the payment of all guaranties issued and under this title with respect to principal and interest.

"(i) The Administrator shall charge and collect fees for guaranties in amounts sufficient in his judgment to cover applicable administrative costs and probable losses on guaranteed obligations, but in any event not

to exceed 1 per centum per annum in the outstanding indebtedness covered by each guaranty. Fees collected under this subsection shall be deposited in the fund established by this title.

"(j) The Secretary of the Treasury shall insure to the maximum extent feasible that the timing, interest rate, and substantial terms and conditions of any guaranty exceeding $25,000,000 will have the minimum possible impact on the capital markets of the United States, taking into account other Federal direct and indirect commercial securities activities.".

SEC. 610. Section 202 of the Act is amended to read as follows:

"DEFAULT; PAYMENT OF INTEREST

"SEC. 202. (a) If there is a default by the borrower, as defined in regulations promulgated by the Administrator and set forth in the guarantee contract, the holder of the obligation shall have the right to demand payment of the unpaid amount from the Administrator. Within such period as may be specified in the guarantee or related agreements, the Administrator shall pay to the holder of the obligation the unpaid interest on, and unpaid principal of the guaranteed obligation as to which the borrower has defaulted, unless the Administrator finds that there was no default by the borrower in the payment of interest or principal or that such default has been remedied. Nothing in this section shall be construed to preclude any forebearance by the holder of the obligation for the benefit of the borrower which may be agreed upon by the parties to the guaranteed obligation and approved by the Administrator.

"(b) If the Administrator makes a payment under subsection (a) of this subsection, the Administrator shall be subrogated to the rights of the recipient of such payment as specified in the guarantee or related agreements including, where appropriate, the authority (notwithstanding any other provision of law) to complete, maintain, operate, lease, or otherwise dispose of any property acquired pursuant to such guarantee or related agreements, or to permit the borrower, pursuant to an agreement with the Administrator, to continue to pursue the purposes of the project if the Administrator determines this to be in the public interest. The rights of the Administrator with respect to any property acquired pursuant to such guarantee or related agreements, shall be superior to the rights of any other person with respect to such property.

"(c) In the event of a default on any guarantee under this title, the Administrator shall notify the Attorney General, who shall take such action as may be appropriate to recover the amounts of any payments made under subsection (a), including any payment of principal and interest under subsection (d), from such assets of the defaulting borrower as are associated with the project, or from any other security included in the terms of the guarantee.

"(d) With respect to any obligation guaranteed under this title, the Administrator is authorized to enter into a contract to pay, and to pay, holders of the obligation, for and on behalf of the borrower, from the Geothermal Resources Development Fund, the principal and interest payments which become due and payable on the unpaid balance of such obligation if the Administrator finds that—

"(1) the borrower is unable to meet such payments and is not in default; it is in the public interest to permit the borrower to continue to pursue the purposes of such project; and the probable net benefit to the Federal Government in paying such principal and interest will be greater than that which would result in the event of a default;

"(2) the amount of such payment which the Administrator is authorized to pay shall be no greater than the amount of principal and interest which the borrower is obligated to pay under the loan agreement; and

"(3) the borrower agrees to reimburse the Administrator for such payment on terms and conditions, including interest, which are satisfactory to the Administrator.".

SEC. 611. Section 204 of the Act is amended by redesignating subsection (c) as subsection (d) and inserting after subsection (b) the following new subsection (c):

"(c) If at any time the moneys available in the fund are insufficient to enable the Administrator to discharge his responsibilities under this title, he shall issue to the Secretary of the Treasury notes or other obligations in such forms and denominations bearing such maturities, and subject to such terms and conditions, as may be prescribed by the Secretary of the Treasury. This borrowing authority shall be effective only to such extent or in such amounts as are specified in appropriation Acts. Such authorizations may be without fiscal year limitations. Redemption of such notes or obligations shall be made by the Administrator from appropriations or other moneys available under this section. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, which shall not be less than a rate determined by taking into consideration the average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of the notes or other obligations. The Secretary of the Treasury shall purchase any notes or other obligations issued hereunder and for that purpose he is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as amended, and the purposes for which securities may be issued under that Act are extended to include any purchase of such notes or obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this subsection. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States.".

SEC. 612. Title II of the Act is further amended by adding at the end thereof the following new section:

"COMMUNITY IMPACT ASSISTANCE

"SEC. 205. (a) The Administrator, for any project which has a guarantee under this title of not less than $50,000,000 and which will have an intended operating life of not less than five years to satisfy the purposes under this title for which the guarantee has been made, shall endeavor to insure that, taking into consideration appropriate local community action and all reasonably available forms of assistance under this section and other Federal and State statutes, that the impacts resulting from the proposed project have been fully evaluated by the borrower, the Administrator, and the Governor of the affected State, and that effective steps have been taken or will be taken in a timely manner to finance community planning and development costs resulting from such project under this section, if applicable under other provisions of law, or by other means. When the project will be located on leased Federal lands, the Administrator shall specifically review State and local actions under section 9(a) of the Mineral Leasing Act Amendments of 1976 (Public Law 94-377) and insure that any funds made available to the State pursuant to such section 9(a) are used to finance such planning and development costs before any Federal assistance under subsection (c) of this section is considered or authorized.

"(b) The Administrator, for projects not included under subsection (a), may in his discretion consider the community impacts which may result from such projects, and may take such actions, under authority directly available to him under other statutes or in coordination with other Federal agencies or the State, as he considers necessary and appropriate to insure timely and effective planning and financing for such community impacts.

"(c)(1) In order to discharge his responsibilities under subsection (a), and in accordance with such rules and regulations as the Administrator in consultation with the Secretary of the Treasury shall prescribe, and subject to such terms and conditions as he deems appropriate, the Administrator is authorized, for the purposes of financing essential community development and planning which directly result from, or are necessitated by, a project under subsection (a), to—

"(A) guarantee and make commitments to guarantee the payment of interest on, and the principal balance of, obligations for such financing issued by eligible States, political subdivisions, or Indian tribes,

"(B) guarantee and make commitments to guarantee the payment of taxes imposed on such project by eligible non-Federal taxing authorities which taxes are earmarked by such authorities to support the payment of interest and principal on obligations for such financing, and

"(C) require that the qualified borrower receiving assistance for a project under this section advance sums to eligible States, political subdivisions, and Indian tribes to pay for the financing of such development and planning: *Provided*, That the State, political subdivision, or Indian tribe agrees to provide tax abatement credits over the life of the project for such payments by such applicant.

"(2) No guarantee or commitment to guarantee under paragraph (1) of this subsection shall exceed $1,000,000.

"(3) In the event of any default by the borrower in the payment of taxes guaranteed by the Administrator under this section, the Administrator shall pay out of the fund established by this title such taxes at the time or times they may fall due, and shall have by reason of such payment a claim against the borrower for all sums paid plus interest.

"(4) If after consultation with State, political subdivision, or Indian tribe, the Administrator finds that the financial assistance programs of paragraph (1) of this section will not result in sufficient funds to carry out the purposes of this subsection, then the Administrator may —

"(A) make direct loans to the eligible States, political subdivisions, or Indian tribes for such purposes: *Provided*, That such loans shall be made on such reasonable terms and conditions as the Administrator shall prescribe: *Provided further*, That the Administrator may waive repayment of all or part of a loan made under this paragraph, including interest, if the State or political subdivision or Indian tribe involved demonstrates to the satisfaction of the Administrator that due to a change in circumstances there will be net adverse impacts resulting from such project that would probably cause such State, subdivision, or tribe to default on the loan; or

"(B) require that any community development and planning costs which are associated with, or result from, such project, and which are determined by the Administrator to be appropriate for such inclusion, shall be included in the aggregate costs of the project.

"(5) The Administrator is further authorized to make grants to States, political subdivisions, or Indian tribes for studying and planning for the potential economic, environmental, and social consequences of projects and for establishing related management expertise.

"(6) At any time the Administrator may, in consultation with the Secretary of the Treasury, redeem, in whole or in part, out of the fund established by this section, the debt obligations guaranteed or the debt obligations for which tax payments are guaranteed under this subsection.

"(7) When one or more States, political subdivisions, or Indian tribes would be eligible for assistance under this subsection, but for the fact that construction and operation of the project, occurs outside its jurisdiction, the Administrator is authorized to provide, to the greatest extent possible, arrangements for equitable sharing of such assistance.

"(8) Such amounts as may be necessary for direct loans and grants pursuant to this subsection shall be available as provided in annual authorization Acts.

"(9) The Administrator, if appropriate, shall provide assistance in the financing of up to 100 per centum of the costs of the required community development and planning pursuant to this section.

"(10) In carrying out the provisions of this section, the Administrator shall provide that title to any facility receiving financial assistance under this section shall rest in the applicable State, political subdivision, or Indian tribe, as appropriate, and in the case of default by the borrower on a loan guarantee made or committed under subsection (b) of this section, such facility shall not be considered a project asset for the purposes of section 202 of this Act.

"(11) The Administrator shall not use his authority under this subsection to provide Federal assistance unless any Federal funds transferred pursuant to section 9(a) of the Mineral Leasing Act Amendments of 1976 (Public Law 94-377) to the State from the lease of Federal land for or associated with the project have been or, with assurance, will be committed, to the maximum extent allowable under Federal statutes, to financing such essential community development or planning directly resulting from, or necessitated by, a project on leased Federal lands.".

TITLE VII—ELECTRIC AND HYBRID VEHICLE RESEARCH, DEVELOPMENT, AND DEMONSTRATION PROGRAM

SEC. 701. (a) Section 7(b)(3) of the Electric and Hybrid Vehicle Research, Development, and Demonstration Act of 1976 (15 U.S.C. 2506(b)(3)) is amended by striking out ", except that rules promulgated under paragraph (1) shall be amended not later than 6 months prior to the date for contracts specified in subsection (c)(2)".

(b) Section 7(b)(4) of such Act (15 U.S.C. 2506(b)(4)) is amended to read as follows:

"(4) The Administrator shall transmit to the Speaker of the House of Representatives and the President of the Senate, and to the Committee on Science and Technology of the House of Representatives and the Committee on Energy and Natural Resources of the Senate, the performance standards developed under paragraph (1) and all revised performance standards established in connection with the demonstrations specified in subsection (c)(2).".

(c) Section 7(c) of such Act (15 U.S.C. 2506(c)) is amended to read as follows:

"(c)(1) The Administrator shall, within 6 months after the date of promulgation of performance standards pursuant to subsection (b)(1), institute the first contracts for the purchase or lease of electric or hybrid vehicles which satisfy the performance standards set forth under (b)(1). The delivery of such vehicles shall be completed according to the expedited best effort of the administering agency and the selected manufacturer. To the extent practicable, vehicles purchased or leased under such contracts shall represent a cross section of the available technologies and of actual or potential vehicle use.

"(2) Thereafter, according to a planned schedule, the Administrator shall contract for the purchase or lease of additional electric or hybrid vehicles which satisfy amended performance standards and represent continuing improvements in state-of-the-art. In conducting demonstrations, the Administrator shall consider—

"(A) the need and intent of the Congress to stimulate and encourage private sector production as well as public knowledge, acceptance, and use of electric and hybrid vehicles; and

"(B) demonstration of varying degrees of which operations, management, and control for maximum wide-spread effectiveness and exposure to public use.

"(3) The demonstration period shall extend through the fiscal year 1986, with purchase or leasing continuing through the fiscal year 1984. During the demonstration period the Administrator shall demonstrate 7,500 to 10,000 electric and hybrid vehicles. No more than 400 vehicles may be procured for this purpose during fiscal year 1978. In order to allow industry time for advanced planning, the size and nature of projected electric and hybrid vehicle leasing and procurement will be made public by the administering agency. Publications under the preceding sentence (each covering a period of two years) shall be released annually starting at an appropriate time in the fiscal year 1978.

"(4) If the Administrator determines on the basis of his annual review of the program under this Act that—

"(A) at least 200 vehicles cannot be added to the project during the fiscal year 1978, or

"(B) at least 600 vehicles cannot be added to the project during the fiscal year 1979, or

"(C) at least 1,700 vehicles cannot be added to the project during the fiscal year 1980, or

"(D) at least 7,500 vehicles in the aggregate cannot be added to the project during the fiscal years 1981 through 1984.

he shall immediately forward a detailed explanation thereof to the Speaker of the House of Representatives, the President of the Senate, the Committee on Science and Technology of the House of Representatives, and the Committee on Energy and Natural Resources of the Senate.".

SEC. 702. Section 8 of the Electric and Hybrid Vehicle Research, Development, and Demonstration Act of 1976 (15 U.S.C. 2507) is amended by adding at the end thereof the following new subsections:

"(d) In addition to contracting for the purchase or lease of vehicles when conducting the demonstrations established under section 7, the Administrator may acquire or secure use of such vehicles, or have such vehicles acquired or used by others, by making agreements and utilizing various forms of Federal assistance and participation which is authorized under the Energy Reorganization Act of 1974 (Public Law 93-438) and the Federal Nonnuclear Energy Research and Development Act of 1974 (Public Law 93-577).

"(e) When contracting and otherwise using Federal funds to conduct demonstrations under this Act, the Administrator shall seek cost-sharing with others to the maximum extent practical. During the first 2 years of demonstration activities the Administrator may enter into procurement or lease contracts for purposes of carrying out demonstrations under this Act without regard to the provisions of title III of the Act of March 3, 1933 (47 Stat. 1520: 41 U.S.C. 10a-10c).".

SEC. 703. (a)(1) Section 10(e) of the Electric and Hybrid Vehicle Research, Development, and Demonstration Act of 1976 (15 U.S.C. 2509(e)) is amended by adding at the end of the following new paragraph:

"(3)(A) There is established in the Treasury of the United States an Electric and Hybrid Vehicle Development Fund (hereinafter in this paragraph referred to as the 'fund'), which shall be available to the Administrator for carrying out the loan guarantee and principal and interest assistance program authorized by this Act, including the payment of administrative expenses incurred in connection therewith. Moneys in the fund not needed for current operations may, with the approval of the Secretary of the Treasury, be invested in bonds or other obligations of, or guaranteed by, the United States.

"(B) There shall be paid into the fund such part of the amounts appropriated pursuant to section 16 as the Administrator deems necessary to carry out the purposes of this Act and such amounts as may be returned to the United States pursuant to subsection (g) of this section, and the amounts in the fund shall remain available until expended, except that after the expiration of the 7-year period established by subsection (h) of this section such amounts in the fund as are not required to secure outstanding guarantee obligations shall be paid into the general fund of the Treasury.

"(C) If at any time the moneys available in the fund are insufficient to enable the Administrator to discharge his responsibilities under this section, he shall issue to the Secretary of the Treasury notes or other obligations in such forms and denominations, bearing such maturities, and subject to such terms and conditions as may be prescribed by the Secretary of the Treasury. This borrowing authority shall be effective only to such extent or in such amounts as are specified in appropriation acts. Such authority shall be without fiscal year limitation. Redemption of such notes or obligations shall be made by the Administrator from appropriations or other moneys available under this Act. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, which shall not be less than rate determined by taking into consideration the average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of the notes or other obligations. The Secretary of the Treasury shall purchase any notes or other obligations issued hereunder and for that purpose he is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as amended, and the purposes for which securities may be issued under that Act are extended to include any purchase of such notes or obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this subsection. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States.

"(D) Business-type financial reports covering the operations of the fund shall be submitted to the Congress by the Administrator annually upon the completion of the appropriate accounting period.".

(2) Section 10 of such Act is further amended by adding at the end thereof the following new subsection:

"(j) The full faith and credit of the United States is pledged to the payment of all obligations incurred under this section.".

(b) Section 10(g) of such Act (15 U.S.C. 2509(g)) is amended to read as follows:

"(g)(1) With respect to any loan guaranteed pursuant to this section, the Administrator is authorized to enter into a contract to pay, and to pay, the lender for and on behalf of the borrower the principal and in-

terest charges which become due and payable on the unpaid balance of such loan if the Administrator finds—

"(A) that the borrower is unable to meet principal and interest charges, that it is in the public interest to permit the borrower to continue to pursue the purposes of the project, and that the probable net cost to the Federal Government in paying such principal will be less than that which would result in the event of a default; and

"(B) that the amount of such principal and interest charges which the Administrator is authorized to pay shall be no greater than the amount of principal and interest which the borrower is obligated to pay under the loan agreement.

"(2) In the event of any default by a qualified borrower on a guaranteed loan, the Administrator is authorized to make payment in accordance with the guarantee, and the Attorney General shall take such action as may be appropriate to recover the amounts of such payments (including any payment of principal and interest under paragraph (1)) from such assets of the defaulting borrower as are associated with the activity with respect to which the loan was made or from any other surety included in the terms of the guarantee.".

(c) Section 10(h) of such Act (15 U.S.C. 2509(h)) is amended by striking out "the 5-year period" and inserting in lieu thereof "the 7-year period".

And the House agreed to the same.

OLIN E. TEAGUE,
DON FUQUA,
WALTER FLOWERS,
MIKE MCCORMACK,
GEORGE E. BROWN, JR.,
RAY THORNTON,
RICHARD OTTINGER,
TOM HARKIN,
JEROME A. AMBRO,
MARILYN LLOYD,
WES WATKINS,
JOHN W. WYDLER,
LARRY WINN, JR.,
LOUIS FREY, JR.,
BARRY M. GOLDWATER, JR.,
GARY A. MYERS,
Managers on the Part of the House.

HENRY M. JACKSON,
FRANK CHURCH,
WENDELL H. FORD,
JOHN A. DURKIN,
SPARK M. MATSUNAGA,
CLIFFORD P. HANSEN,
MARK O. HATFIELD,
JAMES A. MCCLURE,
DEWEY F. BARTLETT,
PETE V. DOMENICI,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 1811), Energy Research and Development Administration Authorization Act, 1978—Civilian Application, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

EXPLANATION OF FUNDING PROVISIONS

The compromise funding provisions adopted by the conference committee regarding the civilian research and development programs is reflected in the language of the Conference report.

This statement includes the table which reflects the level of program activities contained in the bill with authorization amounts and budget outlays. The Conferees expect that the Senate Committee on Energy and Natural Resources and the House Committee on Science and Technology be kept fully and currently informed of any proposed increase in the level of funding above the amount which has been appropriated for the activities contained in the table.

U.S. ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION FISCAL YEAR 1978 CONGRESSIONAL ACTION TABLE

[In thousands]

	Fiscal year 1977 appropriation	Fiscal year 1978 House authorization	Fiscal year 1978 Senate authorization	Conference authorization	Related budget outlays	Fiscal year 1978 appropriations	
						Budget authority	Budget outlay
FOSSIL ENERGY DEVELOPMENT							
Operating Expenses							
Coal:							
Liquefaction	$72,957	$109,000	$$107,000	$107,000	$109,800	$107,000	$109,800
High-Btu gasification	44,054	51,200	51,200	51,200	42,800	51,200	42,800
Low-Btu gasification	33,052	73,900	73,900	73,900	47,200	73,900	47,200
Advanced power systems	22,500	25,500	25,500	25,500	23,800	25,500	23.800
Direct combustion (coal)	51,901	59,200	65,200	65,200	64,900	58,200	60,700
Advanced research and supporting technology	37,070	59,000	45,000	50,000	49,500	40,000	42,000
Demonstration plants	53,000	70,900	50,900	60,900	43,900	44,900	31,900
Magnetohydrodynamics	34,990	63,400	80,000	70,800	51,150	65,800	47,400
Total, coal	349,524	512,100	498,700	504,500	433,050	466,500	405,600
Petroleum and natural gas:							
Enhanced oil recovery	23,782	46,100	46,100	46,100	40,100	46,100	40,100
Enhanced gas recovery	14,874	30,000	30,000	30,000	25,500	26,900	23,400
Drilling, exploration, and offshore technology	2,400	10,600	1,600	7,600	6,500	1,600	2,000
Processing utilization	1,831	1,400	1,400	1,400	1,400	1,400	1,400
Total, petroleum and natural gas	42,887	88,100	79,100	85,100	73,500	76,000	66,900
In-situ technology:							
Oil shale	22,278	28,000	28,000	28,000	21,500	28,000	21,500
Coal gasification	8,236	27,600	11,000	19,000	18,000	11,000	12,000
Total, in-situ technology	30,514	55,600	39,000	47,000	39,500	39,500	33,500
General fossil energy reduction						−50,000	0
Energy Research Center, personnel and travel costs						−393	−0393
Total, operating expenses	422,925	655,800	616,800	636,600	546,050	531,107	505,607
Total, capital equipment	1,020	5,500	5,500	5,500	3,500	5,500	3,500
Total, plant	59,200	242,350	350,350	[1] 212,350	37,400	83,800	34,300
Total, fossil energy development	483,145	903,650	972,650	854,450	586,950	620,407	543,407
Capital Equipment							
Coal:							
Liquefaction	0	400	400	400	200	400	200
High-Btu gasification	100	300	300	300	200	300	200
Low-Btu gasification	0	500	500	500	300	500	300
Advanced power systems	0	200	200	200	200	200	200
Direct combustion (coal)	0	200	200	200	100	200	100
Advanced research and supporting technology	0	300	300	300	200	300	200
Demonstration plants	0	0	0	0	0	0	0
Magnetohydrodynamics	0	500	500	500	300	500	300
Other capital equipment	150	0	0	0	0	0	0
Total, coal	250	2,400	2,400	2,400	1,500	2,400	1,500
Petroleum and natural gas:							
Enhanced oil recovery	100	300	300	300	200	300	200
Enhanced gas recovery	0	300	300	300	200	300	200
Drilling, exploration, and offshore technology	0	0	0	0	0	0	0
Processing utilization	0	0	0	0	0	0	0
Other capital equipment	170	0	0	0	0	0	0
Total, petroleum and natural gas	270	600	600	600	400	600	400

Footnotes at end of table.

U.S. ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION FISCAL YEAR 1978 CONGRESSIONAL ACTION TABLE—Continued

[In thousands]

	Fiscal year 1977 appropriation	Fiscal year 1978 House authorization	Fiscal year 1978 Senate authorization	Conference authorization	Related budget outlays	Fiscal year 1978 appropriations: Budget authority	Fiscal year 1978 appropriations: Budget outlay
FOSSIL ENERGY DEVELOPMENT—Continued							
Capital Equipment—continued							
In-situ technology:							
Oil shale	$459	$900	$900	$900	$600	$900	$600
Coal gasification	0	1,600	1,600	1,600	1,000	1,600	1,000
Other capital equipment	50	0	0	0	0	0	0
Total, in-situ technology	500	2,500	2,500	3,500	1,600	2,500	1,600
Total, capital equipment	1,020	5,500	5,500	5,500	3,500	5,500	3,500
Plant							
Coal:							
Demo plants:							
78-2-c—Low Btu fuel gas small industrial demonstration plants, sites undetermined (A-E and long-lead procurement only)	0	6,000	6,000	6,000	1,000	3,000	500
78-2-d—Solvent refined coal demonstration plant, site undetermined (A-E and long-lead procurement only) [2]	0	30,000	2,000	30,000	6,100	0	0
78-2-e—High Btu coal gasification test facility, site undetermined	0	30,000	0	0	0	0	0
76-1-b—High Btu synthetic pipeline gas demonstration plant	10,000	30,000	195,000	30,000	10,000	29,000	10,000
76-1-c—Low Btu fuel gas demonstration plant	7,300	131,250	131,250	131,250	14,000	36,000	14,000
76-1-d—Fluidized bed direct combustion demonstration plant						2,000	
Prior-year projects	30,000	0	0	0	0	0	0
Total, demo plants	47,300	227,250	334,250	197,250	31,100	70,000	25,000
Magnetohydrodynamics:							
77-1-d—MHD component development and integration facility, total	5,000	5,500	6,500	5,500	4,000	4,200	4,000
Other coal related plants:							
78-2-1—Analytical research, chemistry and coal carbonization laboratory, Pittsburgh Energy Research Center, Pa	0	6,600	6,600	6,600	1,300	6,600	1,300
78-2-b—Modifications and additions to energy research centers, various locations	0	3,000	3,000	3,000	1,000	3,000	1,000
Prior-year projects	6,900	0	0	0	0	0	3,000
Total, other coal related plants	6,900	9,600	9,600	9,600	2,300	9,600	5,300
Total, coal	59,200	242,350	350,350	212,350	37,400	83,800	34,300
Total, plant	59,200	242,350	350,350	212,350	37,400	83,800	34,300
SOLAR ENERGY DEVELOPMENT							
Operating Expenses							
Direct thermal application:							
Heating and cooling of buildings	84,800	91,900	97,400	94,400	88,375	93,900	88,000
Agricultural and process heat	7,800	10,300	10,300	10,300	7,600	10,300	7,600
Total, direct thermal application	92,600	102,200	107,700	104,700	95,975	104,200	95,600
Technology support and utilization	11,500	9,000	[3] 9,000	9,000	6,000	9,000	6,000
Solar electric applications:							
Solar thermal	51,300	55,600	61,100	61,100	49,850	60,100	49,100
Photovoltaics	59,400	95,200	57,200	76,200	59,250	57,200	45,000
Wind	20,500	35,300	35,300	35,300	26,000	33,300	24,500
Ocean thermal	13,500	45,100	25,300	55,300	24,500	35,300	24,500
Satellite solar power systems	0	5,000	0	2,800	2,100	0	0
Total, solar electric applications	144,700	236,200	178,900	210,700	161,700	185,900	143,100
Fuels from biomass	9,700	21,000	19,500	20,500	12,088	20,250	11,900
Total, operating expenses	258,500	368,400	315,100	344,900	275,763	319,350	256,600
Total, capital equipment	7,400	7,900	7,900	7,900	5,200	7,900	5,200
Total plant	24,500	41,000	55,000	[4] 41,000	17,000	41,000	24,000
Total, solar energy development	290,400	417,300	378,000	393,800	297,963	368,250	285,800
Capital Equipment							
Direct thermal application:							
Heating and cooling of buildings	1,700	2,000	2,000	2,000	2,200	2,000	2,200
Agricultural and process heat	0	0	0	0	0	0	0
Total, direct thermal application	1,700	2,000	2,000	2,000	2,200	2,000	2,200
Technology support and utilization	0	0	0	0	0	0	0
Solar electric applications:							
Solar thermal	0	3,000	3,000	3,000	1,500	3,000	1,500
Photovoltaics	4,600	300	300	300	150	300	150
Wind	1,100	1,400	1,400	1,400	700	1,400	700
Ocean thermal	0	700	700	700	350	700	350
Satellite solar power systems	0	0	0	0	0	0	0
Total, solar electric applications	5,700	5,400	5,400	5,400	2,700	5,400	2,700
Fuels from biomass	0	500	500	500	300	500	300
Total, capital equipment	7,400	7,900	7,900	7,900	5,200	7,900	5,200
Plant							
Solar electric applications:							
Solar thermal:							
76-2-b-10-megawatt central receiver solar thermal powerplant, Barstow, Calif. (A-E and long-lead procurement)	2,500	41,000	55,000	41,000	17,000	41,000	17,000
Prior-year projects	22,000	0	0	0	0	0	7,000
Total, plant	24,500	41,000	55,000	41,000	17,000	41,000	24,000

Footnotes at end of table.

U.S. ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION FISCAL YEAR 1978 CONGRESSIONAL ACTION TABLE—Continued

[In thousands]

	Fiscal year 1977 appropriation	Fiscal year 1978 House authorization	Fiscal year 1978 Senate authorization	Conference authorization	Related budget outlays	Fiscal year 1978 appropriation	
						Budget authority	Budget outlay
GEOTHERMAL ENERGY DEVELOPMENT							
Operating Expenses							
Engineering research and development	$13,500	$15,500	$17,100	$15,500	$13,600	$15,500	$13,600
Resource exploration and assessment	9,000	17,600	17,600	17,600	15,800	17,600	15,805
Hydrothermal technology applications	14,000	24,900	32,000	28,000	22,025	28,000	22,020
Advanced technology applications	11,900	24,800	23,500	24,300	19,050	22,500	17,700
Utilization experiments	0	8,100	8,100	8,100	7,100	8,100	3,500
Evironmental control and institutional studies	4,800	15,000	15,000	15,000	12,000	10,000	7,100
Low-head hydroelectric program	0	18,000	16,000	16,000	4,300	12,000	7,500
Total, operating expenses	53,200	123,900	129,300	124,500	93,875	113,700	87,225
Total, capital equipment	1,500	2,500	2,500	2,500	2,200	2,500	2,200
Total geothermal energy development	54,700	126,400	131,800	127,000	96,075	116,200	89,425
Capital Equipment							
Engineering research and development	400	700	700	700	700	700	700
Resource exploration and assessment	300	500	500	500	400	500	400
Hydrothermal technology applications	400	700	700	700	600	700	600
Advanced technology applications	300	500	500	500	400	500	400
Utilization experiments	0	0	0	0	0	0	0
Environmental control and institutional studies	100	100	100	100	100	100	100
Low-head hydroelectric program	0	0	0	0	0	0	
Total, capital equipment	1,500	2,500	2,500	2,500	2,200	2,500	2,200
CONSERVATION RESEARCH AND DEVELOPMENT							
Operating Expenses							
Electric energy systems and energy storage:							
Electric energy system	23,000	36,800	36,700	36,800	32,200	36,700	32,100
Energy storage	31,000	48,500	49,900	48,500	39,975	48,500	39,975
Total, electric energy systems and energy storage	54,000	85,300	86,600	85,300	72,175	85,200	72,075
End-use conservation and technologies to improve efficiency:							
Buildings	26,600	68,000	56,000	59,500	47,908	51,090	40,600
Industry	14,430	38,000	40,000	38,000	27,800	28,750	20,900
Transportation	27,170	111,000	88,000	99,500	77,225	64,400	50,900
Improved conversion efficiency	23,150	62,000	78,200	69,700	56,565	58,280	48,000
Total, end-use conservation and technologies to improve efficiency	91,350	279,000	262,200	266,700	209,498	206,250	164,400
Energy Extension Service	7,500	8,000	8,000	8,000	6,000	7,500	6,000
Small grants program	0	10,000	6,000	8,000	6,750	3,000	3,000
Municipal solid waste	0	200,000	0	20,000	15,000	4,000	4,000
Total, operating expenses	152,850	582,300	362,800	388,000	309,423	302,220	245,475
Total, capital equipment	8,000	9,170	6,170	8,670	5,218	6,170	3,970
Total, plant	0	800	800	[3] 800	200	800	200
Total, conservation research and development	160,850	592,270	369,770	397,470	314,841	309,190	249,645
Capital Equipment							
Electric energy systems and energy storage:							
Electric energy system	3,500	2,800	2,800	2,800	1,700	2,800	1,700
Energy storage	2,500	1,700	1,700	1,700	1,100	1,700	1,100
Total, electric energy systems and energy storage	6,000	4,500	4,500	4,500	2,800	4,500	2,800
End-use conservation and technologies to improve efficiency:							
Buildings	0	1,170	170	670	418	170	170
Industry	1,000	2,500	500	2,500	1,500	500	500
Transportation	500	500	500	500	100	500	100
Improved conversion efficiency	500	500	500	500	400	500	400
Total, end-use conservation and technologies to improve efficiency	2,000	4,670	1,670	4,170	2,418	1,670	1,170
Energy Extension Service	0	0	0	0	0	0	0
Small grants program	0	0	0	0	0	0	0
Municipal solid waste	0	0	0	0	0	0	0
Total, capital equipment	8,000	9,170	6,170	8,670	5,218	6,170	3,970
Plant							
Electric systems and energy storage:							
Electric energy systems:							
78-1-a—High-bay addition, Los Alamos, N. Mex	0	800	800	800	200	800	200
Total, plant	0	800	800	800	200	800	200
ENVIRONMENT AND SAFETY RESEARCH AND DEVELOPMENT							
Operating Expenses							
Overview and assessment	37,148	51,910	43,010	50,010	43,881	48,010	43,381
Environmental research	131,606	143,970	[4] 143,970	143,970	137,819	143,970	137,069
Life sciences research	43,484	38,113	38,113	38,113	36,854	38,113	36,854
Decontamination and decommissioning	9,516	19,000	17,000	19,000	17,000	18,000	16,000
Total, operating expenses	221,754	252,993	242,093	251,093	235,554	248,093	232,304
Total capital equipment	13,753	19,025	19,025	19,025	15,870	19,025	15,870
Total plant	3,200	6,000	6,000	[7] 6,000	1,200	5,000	9,148
Total, Environment and Safety Research and Development	238,707	278,018	267,118	276,118	252,624	272,118	257,322
Capital Equipment							
Overview and assessment	1,782	3,400	3,400	3,400	2,445	3,400	2,445
Environmental research	10,931	14,425	14,425	14,425	12,341	14,425	12,341
Life sciences research	900	1,000	1,000	1,000	884	1,000	884
Decontamination and decommissioning	140	200	200	200	200	200	200
Total, capital equipment	13,753	19,025	19,025	19,025	15,870	19,025	15,870

Footnotes at end of table.

U.S. ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION FISCAL YEAR 1978 CONGRESSIONAL ACTION TABLE—Continued

[In thousands]

	Fiscal year 1977 appropriation	Fiscal year 1978 House authorization	Fiscal year 1978 Senate authorization	Conference authorization	Related budget outlays	Fiscal year 1978 appropriations: Budget authority	Fiscal year 1978 appropriations: Budget outlay
ENVIRONMENT AND SAFETY RESEARCH AND DEVELOPMENT—Continued							
Plant							
Environmental research:							
78-9-a—Modifications and additions to biomedical and environmental research facilities, various locations	$0	$6,000	$6,000	$6,000	$1,200	$5,000	$1,000
Prior-year projects	3,200	0	0	0	0	0	8,148
Total, environmental research	3,200	6,000	6,000	6,000	1,200	5,000	9,148
Total, plant	3,200	6,000	6,000	6,000	1,200	5,000	9,148
MAGNETIC FUSION							
Total operating expenses	195,000	207,900	199,900	207,900	196,200	203,900	193,200
Total capital equipment	23,000	27,600	27,600	27,600	17,165	27,600	17,165
Total plant	96,900	132,600	121,400	135,800	73,480	92,500	68,435
Total, magnetic fusion	314,900	368,100	348,900	371,300	286,845	324,000	27,800
Capital Equipment							
Magnetic fusion	23,200	27,600	27,600	27,600	17,165	27,600	17,165
Plant							
Magnetic fusion:							
78-3-a—Mirror fusion test facility, Lawrence Livermore Laboratory, Calif	0	94,200	94,200	94,200	3,000	14,000	3,000
78-3-b—Fusion materials irradiation test facility, Hanford Engineering Development Laboratory, Wash	0	14,400	0	14,400	2,880	7,500	1,500
76-5-a—Tokamak fusion test reactor, Princeton Plasma Pyhsics Laboratory, Plainsboro, N.J	75,400	24,000	24,000	24,000	59,000	71,000	59,000
76-5-b—14 Mev intense neutron source facility, Los Alamos Scientific Laboratory, Los Alamos, N. Mex	14,000	0	3,200	3,200	8,600	0	0
Prior-Year Projects	7,500	0	0	0	0	0	4,935
Total, plant	96,900	132,600	121,400	135,800	73,480	92,500	68,435
FUEL CYCLE RESEARCH AND DEVELOPMENT							
Operating Expenses							
Uranium resource assessment	31.335	59,485	67,485	67,485	57,330	59,495	51,300
Support of nuclear fuel cycle:							
LWR fuel reprocessing	33.900	35,100	34,000	24,000	18,000	0	0
HTGR fuel cycle R. & D	10,600	12,100	12,100	12,100	12,000	12,100	12,000
Breeder reactor fuel cycle R. & D	10,200	30,300	30,300	30,300	27,700	30,300	37,700
Alternate concepts	0	32,000	32,000	32,000	27,000	32,000	27,000
Thorium fuel recycle	0	18,000	8,000	18,000	13,500	18,000	13,500
Total, support of nuclear fuel cycle	54,700	127,500	116,400	115,400	98,200	92,400	80,200
Waste management (commercial)	82,500	165,000	154,000	160,000	118,300	158,500	117,175
Total, operating expenses	168,535	351,985	337,885	343,885	273,800	310,395	248,675
Total capital equipment	14,000	23,300	25,300	25,300	15,650	25,300	15,650
Total plant	0	16,500	13,000	[9] 16,500	3,300	13,000	2,978
Total, fuel cycle research and development	182,535	391,785	376,185	385,685	292,750	348,685	267,303
Capital Equipment							
Uranium resource assessment	4,500	4,800	4,800	4,800	2,900	4,800	2,900
Support of nuclear fuel cycle:							
LWR fuel reprocessing	0	0	0	0	0	0	0
HTGR fuel cycle R. & D	1,450	990	1,000	1,000	995	1,000	995
Breeder reactor fuel cycle R. & D	900	3,000	3,000	3,000	1,900	3,000	1,900
Alternate concepts	1,950	3,000	3,000	3,000	2,000	3,000	2,000
Thorium fuel recycle	0	10	2,000	2,000	1,005	2,000	1,005
Total, support of nuclear fuel cycle	4,300	7,000	9,000	9,000	5,900	9,000	5,900
Waste management (commercial)	5,200	11,500	11,500	11,500	6,850	11,500	6,850
Total, fuel cycle research and development	14,000	23,300	25,300	25,300	15,650	25,300	15,650
Plant							
Fuel cycle R. & D.:							
Support of nuclear fuel cycle (LMFBR fuel reprocessing R. & D.):							
78-5-b—Advanced fuel recycle integrated equipment test facility, Oak Ridge National Laboratory, Oak Ridge, Tenn. (A-E and longlead procurement only)	0	3,000	3,000	3,000	600	3,000	600
Prior-year projects							378
78-5-c—Laser isotope facility, site undesignated (A-E only)	0	6,500	3,000	6,500	1,300	3,000	978
Total, LMFBR fuel reprocessing R. & D	0	3,500	0	3,500	700	0	0
Total, support of nuclear fuel cycle	0	6,500	3,000	6,500	1,300	3,000	978
Waste Management (Commercial): 78-5-a—Facilities for the national waste terminal storage program, site undetermined (land acquisition, A-E and long-lead procurement) total	0	10,000	10,000	10,000	2,000	10,000	2,000
Total, plant	0	16,500	13,000	16,500	3,300	13,000	2,978
LIQUID METAL FAST BREEDER REACTOR							
Operating Expenses							
Clinch River breeder reactor	237,600	150,000	75,000	80,000	205,000	0	145,000
LMFBR base program	304,283	333,300	333,300	333,300	304,400	304,200	300,100
Total, operating expenses	541,883	483,300	408,300	413,300	509,400	304,200	445,100
Total capital equipment	44,938	35,650	35,650	35,650	48,460	29,950	43,160
Total plant	783,950	213,335	208,335	[10] 208,335	20,450	105,385	80,440
Total, liquid metal fast breeder reactor	670,771	732,285	652,285	657,285	578,310	439,535	568,700
Capital Equipment							
Clinch River breeder reactor	0	0	0	0	0	0	0
LMFBR base program	44,938	35,650	35,650	35,650	48,460	29,950	43,160
Total, capital equipment	44,938	35,650	35,650	35,650	48,460	29,950	43,160

Footnotes at end of table.

U.S. ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION FISCAL YEAR 1978 CONGRESSIONAL ACTION TABLE—Continued

[In thousands]

	Fiscal year 1977 appropriation	Fiscal year 1978 House authorization	Fiscal year 1978 Senate authorization	Conference authorization	Related budget outlays	Fiscal year 1978 appropriations	
						Budget authority	Budget outlay
LIQUID METAL FAST BREEDER REACTOR—Continued							
Plant							
Breeder reactor:							
LMFBR base program:							
78-6-a—Modifications to reactors	$0	$8,700	$8,700	$8,700	$1,700	$8,700	$1,700
78-6-b—Safeguards and security upgrading, Idaho Falls, Idaho and Chicago, Ill.	0	4,935	4,935	4,935	1,000	4,935	1,000
78-6-c—Safety research experimental facility, Idaho National Engineering Laboratory, Idaho (A-E only)	0	20,100	20,100	20,100	3,800	14,050	1,300
78-6-d—Experimental breeder reactor II modification Idaho National Engineering Laboratory, Idaho (E-A only)	0	3,010	3,100	3,100	750	1,500	550
78-6-e—Modifications to facilities, Liquid Metal Engineering Center, Santa Susanna, Calif. (A-E only)	0	9,000	4,000	4,000	1,000	1,600	500
78-6-f—Fuels and materials examination facility, Hanford Engineering Development Laboratory, Washington	0	134,800	134,800	134,800	3,500	5,200	1,000
78-7-a—Modifications to utility system 300 area, Hanford Engineering Development Laboratory, Washington	0	3,600	3,600	3,600	500	2,700	500
78-7-b—Test reactor area steam distribution system upgrade, Idaho National Engineering Laboratory, Idaho		1,100	1,100	1,100	100	500	100
77-4-c—High-performance fuel laboratory, Richland, Wash. (A-E only	1,500	5,000	5,000	5,000	3,700	5,000	3,700
77-4-d—Fuel storage facility, Richland, Wash	1,500	23,000	23,000	23,000	4,400	16,200	4,400
67-3-a—Fast flux test facility						45,000	47,421
Prior-year projects	80,950	0	0	0	0	0	18,269
Total, Breeder reactor base program	83,950	213,335	208,335	208,335	20,450	105,385	80,440
Total, plant	83,950	213,335	208,335	208,335	20,450	105,385	80,440
NUCLEAR RESEARCH AND APPLICATIONS							
Operating Expenses							
Water cooled breeder reactor	37,000	38,500	38,500	38,600	37,500	37,600	37,600
Gas cooled thermal reactor	15,900	31,000	16,000	31,000	26,500	31,000	26,500
Gas cooled fast breeder reactor	12,800	14,670	14,670	14,670	12,800	14,670	12,800
Light water reactor technology	12,500	13,000	31,200	31,200	26,100	18,800	16,800
Technology development and special projects	11,322	14,842	14,842	14,452	13,478	14,842	13,478
Space applications	20,555	31,700	0	31,700	26,500	31,000	25,975
Advanced isotope separation technology	40,230	43,617	43,617	43,617	40,000	43,617	40,000
Nuclear energy assessments	7,687	23,300	23,100	23,300	18,750	23,100	18,600
Total operating expenses	157,994	210,629	181,929	228,829	201,728	215,529	191,753
Total capital equipment	14,264	18,595	15,195	18,595	17,180	18,595	17,180
Total plant	9,500	0	0	0	0	0	3,400
Total, nuclear research and applications	181,758	229,224	197,124	247,424	218,908	234,124	212,333
Capital Equipment							
Water cooled breeder reactor	2,350	3,100	3,100	3,100	2,600	3,100	2,600
Gas cooled thermal reactor	549	1,000	1,000	1,000	800	1,000	00
Gas cooled fast breeder reactor	800	1,330	1,330	1,330	1,200	1,330	1,200
Light water reactor technology	0	0	0	0	0	0	0
Technology development and special projects	1,545	1,280	1,280	1,280	1,180	1,280	1,180
Space applications	2,020	3,400	0	3,400	2,400	3,400	2,400
Advanced isotope separation technology	7,000	8,485	8,485	8,485	9,000	8,485	9,000
Nuclear energy assessments	0	0	0	0	0	0	0
Total, capital equipment	14,264	18,595	15,195	18,595	17,180	18,595	17,180
Plant							
Water cooled breeder reactor: Prior-year projects, total	9,500	0	0	0	0	0	3,400
Total, plant	9,500	0	0	0	0	0	3,400
LIGHT WATER REACTOR FACILITIES AND FUEL STORAGE							
Operating Expenses							
Light water reactor safety facilities	28,300	24,000	24,000	24,000	21,600	24,000	21,600
International spent fuel disposition	0	20,000	20,000	20,000	10,000	5,000	5,000
Total, operating expenses	28,300	44,000	44,000	44,000	31,600	29,000	6,600
Total, capital equipment	0	800	800	800	300	800	300
Total plant	0	3,000	3,000	[11] 3,000	700	3,000	700
Total, light water reactor facilities and fuel storage	28,300	47,800	47,800	47,800	32,600	32,800	27,600
Capital Equipment							
Light water reactor safety facilities	0	800	800	800	800	800	300
International spent fuel disposition	0	0	0	0	0	0	0
Total capital equipment	0	800	800	800	300	800	300
Light water reactor safety facilities:							
78-8-a—Upgrade test area north hot shop facility, Idaho National Engineering Laboratory, Idaho	0	3,000	3,000	3,000	700	3,000	700
Total light water reactor safety facilities	0	3,000	3,000	3,000	700	3,000	700
Total, plant	0	3,000	3,000	3,000	700	3,000	700
HIGH ENERGY PHYSICS							
Total operating expenses	170,000	189,450	187,950	188,950	186,300	187,950	185,550
Total capital equipment	21,800	43,500	42,000	42,500	25,475	42,000	25,100
Total plant	28,600	16,700	6,200	[12] 16,700	3,400	40,600	26,987
Total, high energy physics	220,700	249,650	236,150	248,150	215,175	270,550	237,637
Capital Equipment							
High-energy physics	20,400	41,000	39,500	40,000	32,854	39,500	23,479
Other capital equipment	1,400	2,500	2,500	2,500	1,621	2,500	1,621
Total, capital equipment	21,800	43,500	42,000	42,500	25,475	42,000	25,100

Footnotes at end of table.

U.S. ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION FISCAL YEAR 1978 CONGRESSIONAL ACTION TABLE—Continued

[In thousands]

	Fiscal year 1977 appropriation	Fiscal year 1978 House authorization	Fiscal year 1978 Senate authorization	Conference authorization	Related budget outlays	Fiscal year 1978 appropriations: Budget authority	Fiscal year 1978 appropriations: Budget outlay
HIGH ENERGY PHYSICS—Continued							
Plant							
78-10-1—Accelerator improvements and modifications, various locations	$0	$4,500	$4,500	$4,500	$1,000	$4,500	$1,000
78-10-b—Intersecting storage accelerator, Brookhaven National Laboratory, New York	0	10,500	0	10,500	2,000	5,000	1,000
78-11-a—Master substation reliability and capacity improvements, Stanford Linear Accelerator Center, California	0	1,700	1,700	1,700	400	1,700	400
Positron-electron: Joint project, Lawrence Berkeley Laboratory and Stanford Linear Accelerator Center						29,400	20,000
Prior-year projects	28,600	0	0	0	0	0	4,587
Total, plant	28,600	16,700	6,200	16,700	3,400	40,600	26,987
NUCLEAR PHYSICS							
Total operating expenses	64,918	68,444	74,444	74,444	70,340	68,444	65,840
Total operating equipment	5,334	6,725	6,725	6,725	6,133	6,725	6,133
Total plant	6,200	7,900	7,900	[13] 7,900	1,600	1,900	10,387
Total, nuclear physics	76,452	83,069	89,069	89,069	78,073	77,069	82,360
Capital Equipment							
Nuclear physics	4,834	5,525	5,525	5,525	5,100	5,525	5,100
Other capital equipment	500	1,200	1,200	1,200	1,033	1,200	1,033
Total, capital equipment	5,334	6,725	6,725	6,725	6,133	6,725	6,133
Plant							
78-12-1—Accelerator and reactor improvements and modifications, various locations	0	1,900	1,900	1,900	400	1,900	400
78-12-b—High-intensity uranium beams, Lawrence Berkeley Laboratory, California	0	6,000	6,000	6,000	1,200	0	0
Prior-year projects	6,200	0	0	0	0	0	9,98
Total, plant	6,200	7,900	7,900	7,900	1,600	1,900	10,387
BASIC ENERGY SCIENCES							
Operating Expenses							
Nuclear Sciences	25,022	26,467	25,667	25,787	24,753	26,063	24,960
Material Sciences	56,516	66,006	62,406	64,026	59,662	64,010	49,650
Molecular Mathematical and Geosciences	47,396	57,700	55,800	57,000	53,182	56,740	52,987
Advanced Energy Programs	0	3,187	3,187	3,187	3,000	3,187	3,000
Total, operating expenses	128,934	153,360	147,060	150,000	140,597	150,000	140,597
Total capital equipment	11,066	12,075	12,075	12,075	11,167	12,075	11,167
Total plant	12,800	33,400	33,400	[14] 33,400	2,000	13,000	11,967
Total, basic energy sciences	152,800	198,835	192,535	195,475	153,764	175,075	163,731
Capital Equipment							
Nuclear science	866	1,075	1,075	1,075	1,150	1,075	1,150
Material sciences	5,100	5,400	5,400	5,400	5,050	5,400	5,050
Molecular mathematical and geosciences	3,300	3,600	3,600	3,600	2,800	3,600	2,800
Advanced energy programs	0	0	0	0	0	0	0
Other capital equipment	1,800	2,000	2,000	2,000	2,167	2,000	2,167
Total, capital equipment	11,066	12,075	12,075	12,075	11,167	12,075	11,167
Plant							
Nuclear science:							
Prior-year projects	2,500	0	0	0	0	0	3,500
Total, nuclear science	2,500	0	0	0	0	0	3,500
Materials science:							
78-13-a—National synchrotron light source, Brookhaven National Laboratory, New York	0	14,000	24,000	24,000	1,000	5,000	1,000
77-8-d Conventional steam plant facilities ORNL, Tennessee						2,000	4,300
Prior-year projects	10,300	0	0	0	0	0	2,167
Total, materials sciences	10,300	24,000	24,000	24,000	1,000	7,000	7,467
Molecular mathematical and geosciences:							
78-13-b—Combustion research facility, Sandia Laboratories, Livermore, Calif	0	9,400	9,400	9,400	1,000	6,000	1,000
Total molecular mathematical and geosciences	0	9,400	9,400	9,400	1,000	6,000	1,000
Total, plant	12,800	33,400	33,400	33,400	2,000	13,000	11,967
NUCLEAR MATERIALS SECURITY AND SAFEGUARDS							
Total operating expenses	27,420	37,906	40,106	40,106	35,150	37,906	33,500
Total capital equipment	3,932	2,794	2,794	2,794	3,000	2,794	3,000
Total plant	0	0	0	0	0	0	195
Total, nuclear materials security and safeguards	31,352	40,700	42,900	42,900	38,150	40,700	36,695
Capital equipment	3,932	2,794	2,794	2,794	3,000	2,794	3,000
Plant: Prior-year projects	0	0	0	0	0	0	195
Total, plant	0	0	0	0	0	0	195
URANIUM ENRICHMENT ACTIVITIES							
Operating Expenses							
U^{238} production	799,566	899,145	895,445	895,445	888,050	859,245	860,900
Process development	68,150	85,650	77,400	77,400	68,300	77,400	68,300
All other U^{235}	20,629	14,840	17,740	16,340	17,300	23,940	23,000
Total operating expenses	888,345	999,635	990,585	989,185	973,650	960,585	952,200
Total capital equipment	17,000	19,000	19,000	19,000	16,000	19,000	16,000
Total plant	664,475	376,350	303,980	[15] 303,980	361,750	443,050	401,052
Total, uranium enrichment activities	1,569,820	1,394,985	1,313,565	1,312,165	1,351,400	1,422,635	1,359,252

Footnotes at end of table.

U.S. ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION FISCAL YEAR 1978 CONGRESSIONAL ACTION TABLE—Continued

[In thousands]

	Fiscal year 1977 appropriation	Fiscal year 1978 House authorization	Fiscal year 1978 Senate authorization	Conference authorization	Related budget outlays	Fiscal year 1978 appropriations: Budget authority	Fiscal year 1978 appropriations: Budget outlay
URANIUM ENRICHMENT ACTIVITIES							
Capital Equipment							
U^{235} production	$13,778	$15,000	$15,000	$15,000	$13,000	$15,000	$13,000
Process development	3,222	4,000	4,000	4,000	3,000	4,000	3,000
All other U^{235}	0	0	0	0	0	0	0
Total, capital equipment	71,000	19,000	19,000	19,000	16,000	19,000	16,000
Plant							
Uranium enrichment—U^{235} production:							
78-15-a—Water system improvements, gaseous diffusion plant, Kentucky	0	4,500	4,500	4,500	650	2,500	650
78-8-e—Conversion of existing steam plants to coal capability, gaseous diffusion plants and Feed Materials Production Center, Fernald, Ohio	5,300	1,750	1,750	1,750	6,000	2,950	6,000
76-8-g—Enriched uranium production facility, Portsmouth, Ohio	167,235	180,000	107,630	107,630	82,000	15,000	67,000
74-1-g—Cascade uprating program, gaseous diffusion plants	161,000	42,700	42,700	42,700	108,000	63,900	108,000
74-1-f—Process equipment modifications, gaseous diffusion plants	267,800	100,000	100,000	100,000	160,000	143,800	16,000
77-9-a—Expansion of feed vaporizing sampling facility, gaseous diffusion plants, multiple sites						18,000	8,700
Prior-year projects	38,050	0	0	0	0	0	56
Total, U^{235} production	639,475	346,350	273,980	273,980	358,950	394,050	372,906
Uranium enrichment—Process development:							
78-14-a—Centrifuge facilities modifications, various locations	0	30,000	30,000	30,000	2,800	14,000	2,800
77-9-d—Centrifuge plant demo, facility Oak Ridge, Tenn						35,000	20,000
Prior-year projects	25,000	0	0	0	0	0	5,346
Total, process development	25,000	30,000	30,000	30,000	2,800	49,000	28,146
Total, plant	664,475	376,350	308,980	303,980	361,750	443,050	401,052
PROGRAM MANAGEMENT AND SUPPORT							
Operating Expenses							
Program direction	218,760	220,535	263,700	282,900	222,900	254,100	254,100
Institutional relations	26,451	33,368	[17] 34,179	34,179	34,100	28,379	28,779
Supporting activities	35,469	37,460	37,460	37,460	36,494	33,360	33,044
International cooperation	0	0	5,000	5,000	4,000	3,500	2,600
Cost of work for others	20,100	18,265	18,265	18,265	18,255	18,265	18,255
Total, operating expenses	300,780	[16] 309,628	358,604	[16] 317,804	315,749	337,604	336,778
Total capital equipment	5,440	4,955	4,955	4,955	4,955	4,105	4,105
Total plant	0	11,530	11,530	[18] 11,530	1,780	6,730	6,936
Total, program management and support	306,220	326,113	375,089	334,289	322,484	348,439	347,819
Operating Expenses							
Changes in inventories, working capital and other adjustments	81,885	126,300	126,300	126,300	92,082	111,300	77,082
Transfer to Council on Environmental Quality	500	500	500	500	0	500	0
General reduction in operating expenses	−89,578	0	0	0	0	0	0
Capital Equipment							
Program direction	4,325	4,000	4,000	4,000	4,000	3,150	3,150
Institutional relations	790	755	755	755	755	755	755
Supporting activities	325	200	200	200	200	200	200
International cooperation	0	0	0	0	0	0	0
Total, capital equipment	5,440	4,955	4,955	4,955	4,955	4,105	4,105
Total	192,307	239,089	233,189	239,589	197,473	220,039	189,700
Plant							
Supporting activities:							
78-1-b—Chiller modifications for energy conservation, Bendix Plant, Kansas City, Mo	0	830	830	830	80	830	80
78-1-c—Process waste heat utilization, gaseous diffusion plant, Paducah, Ky	0	5,700	5,700	5,700	700	900	700
Prior-year projects	0	0	0	0	0	0	5,156
78-19-a—Program support facility, Argonne National Laboratory, Illinois (A-E and long-lead procurement only)	0	5,000	5,000	5,000	1,000	5,000	1,000
Total, supporting activities	0	11,530	11,530	11,530	1,780	6,730	6,936
Total, plant	0	11,530	11,530	11,530	1,780	6,730	6,936
PLANT—OTHER							
General plant projects	40,800	44,265	44,265	44,265	9,338	42,665	8,995
Construction planning and design	7,200	10,000	10,000	10,000	2,000	9,000	1,800
Total plant	1,037,325	1,150,730	1,175,160	1,051,560	535,598	901,430	691,920
Summary totals							
Operating expenses	3,774,145	5,166,430	4,759,656	4,870,296	4,487,261	4,431,773	4,224,086
Capital equipment	192,307	239,089	233,189	239,589	197,473	230,039	189,700
Plant	1,037,325	1,155,730	1,175,160	1,051,560	535,598	901,430	691,920
Working capital adjustment						0	−52,016
Unobligated balance brought forward						−64,300	0
Unobligated balance carried forward						−65,500	0
Total, ERDA authorization	5,003,917	6,561,249	6,172,005	6,161,445	5,220,332	5,433,442	5,053,690
Less:							
Anticipated enrichment revenues	−660,000	−845,820	−845,820	−845,820	−845,820	−965,820	−965,820
Anticipated miscellaneous revenues	−77,900	−100,720	−100,720	−100,720	−100,720	−100,720	−100,720
Total	4,266,017	5,614,709	5,225,465	5,214,905	4,273,792	4,366,902	3,987,150

[1] This authorization for plant represents $114,800,000 in related budget authority. The authorized amounts for operating expenses and capital equipment also represent related budget authority.

[2] In H.R. 6796 project title does not include "A-E long-lead procurement only."

[3] S-1811 shows $12,000,000 for technology support and utilization. $3,000,000 of this has been incorporated in institutional relations—University programs.

[4] This authorization for plant represents $41,000,000 in related budget authority. The authorized amounts for operating expenses and capital equipment also represent related budget authority.

[5] This authorization for plant represents $800,000 in related budget authority. The authorized amounts for operating expenses and capital equipment also represent related budget authority.

[6] Included in this amount is $1,000,000 for the Water Resources Council.

[7] This authorization for plant represents $6,000,000 in related budget authority. The authorized amounts for operating expenses and capital equipment also represent related budget authority.

[8] This authorization for plant represents $110,300,000 in related budget authority. The authorized amounts for operating expenses and capital equipment also represent related budget authority.

[9] This authorization for plant represents $16,500,000 in related budget authority. The authorized amounts for operating expenses and capital equipment also represent related budget authority.

[10] This authorization for plant represents $75,535,000 in related budget authority. The authorized amounts for operating expenses and capital equipment also represent related budget authority.

[11] This authorization for plant represents $3,000,000 in related budget authority. The authorized amounts for operating expenses and capital equipment also represent related budget authority.
[12] This authorization for plant represents $16,700,000 in related budget authority. The authorized amounts for operating expenses and capital equipment also represent related budget authority.
[13] This authorization for plant represents $7,900,000 in related budget authority. The authorized amounts for operating expenses and capital equipment also represent related budget authority.
[14] This authorization for plant represents $11,000,000 in related budget authority. The authorized amounts for operating expenses and capital equipment also represent related budget authority.
[15] This authorization for plant represents $420,050,000 in related budget authority. The authorized amounts for operating expenses and capital equipment also represent related budget authority.
[16] Included in this amount is $1,000,000 for the Water Resources Council.
[17] Includes $3,000,000 that is part of the S–1811 amount of $12,000,000 for technology support and utilization under solar energy development. It was agreed that this $3,000,000 should be incorporated in institutional relations—University programs.
[18] This authorization for plant represents $6,730,000 in related budget authority. The authorized amounts for operating expenses and capital equipment also represents related budget authority.

COMPARISON BETWEEN HOUSE AND SENATE AUTHORIZATION PROGRAM STRUCTURE FOR NUCLEAR PROGRAMS

[In thousands of dollars]

House structure	Fiscal year 1978 House authorization	Related Senate structure	Fiscal year 1978 Senate authorization	Conference authorization
NUCLEAR PROGRAMS		NUCLEAR PROGRAMS		
Light water reactors:		Nuclear research and applications:		
1. Advanced isotope separation technology	$43, 617	1. Advanced isotope separation technology	$43, 617	$43, 617
2. Light water reactor technology	13, 000	2. Light water reactor technology	31, 200	31, 200
3. Technology development and special projects	14, 842	3. Technology development and special projects	14, 842	14, 842
		Light water reactor safety facilities and fuel storage:		
4. Light water reactor safety facilities	24v000	4. Light water reactor safety facilities	24, 000	24, 000
		Uranium enrichment activities:		
5. Process development (U^{235})	85, 650	5. Process development	77, 400	77, 400
		Fuel cycle research and development:		
6. Uranium resource assessment	59, 485	6. Uranium resource assessment	67, 485	67, 485
7. LWR fuel reprocessing	35, 100	7. LWR fuel reprocessing	34, 000	24, 000
		Nuclear materials security and safeguards:		
8. Nuclear materials security and safeguards	37, 906	8. Nuclear materials security and safeguards	40, 106	40, 106
Total, light water reactors	313, 600	Total	332, 650	322, 650
Waste management:		Fuel cycle research and development:		
9. Waste management (commerciaj)	165, 000	9. Waste management (commercial)	154, 000	160, 000
		Light water reactor facilities and fuel storage:		
10. International spent fuel disposition	20, 000	10. International spent fuel disposition	20, 000	20, 000
Total, waste management	185, 000	Total	174, 000	180, 000
Liquid metal fast breeder reactor:		Liquid metal fast breeder reactor:		
11. LMFBR base program	333, 300	11. LMFBR base program	333, 300	333, 300
12. Clinch River breeder reactor	150, 000	12. Clinch River breeder reactor	75, 000	80, 000
Total, breeder reactor	483, 300	Total	408, 300	413, 300
Other advanced reactor concepts:		Nuclear research and applications:		
13. Water cooled breeder reactor	38, 500	13. Water cooled breeder reactor	38, 500	38, 500
14. Gas cooled thermal reactor	31, 000	14. Gas cooled thermal reactor	16, 000	31, 000
15. Gas cooled fast breeder reactor	14, 670	15. Gas cooled fast breeder reactor	14, 670	14, 670
Total, other advanced reactor concepts	84, 170	Total	69, 170	84, 170
Advanced fuel cycle concepts:		Fuel cycle R. & D.:		
16. HTGR fuel cycle R. & D	12, 100	16. HTGR fuel cycle R. & D	12, 100	12, 100
17. Breeder reactor fuel reprocessing R. & D	30, 300	17. Breeder reactor fuel reprocessing R. & D	30, 300	30, 300
18. Thorium fuel	18, 000	18. Thorium fuel	8, 000	18, 000
19. Alternate fuel cycle	32, 000	19. Alternate concepts	32, 000	32, 000
Total, advanced fuel cycle concepts	92, 400	Total	82, 400	92, 400
		Nuclear research and applications:		
20. Nuclear energy assessments	23, 300	20. Nuclear energy assessments	23, 100	23, 300
Uranium enrichment:		Uranium enrichment activities:		
21. U^{235} production	989, 145	21. U^{235} production	895, 455	895, 445
22. All other U^{235}	14, 840	22. All other U^{235}	17, 740	16, 340
Total, uranium enrichment	913, 985	Total	913, 185	911, 785
		Magnetic fusion:		
23. Magnetic fusion	207, 900	23. Magnetic fusion	199, 900	207, 900
Total, operating expenses	2, 303, 655	Total, operating expenses	2, 202, 705	2, 235, 505
Total, capital equipment	124, 339	Total, capital equipment	126, 339	126, 339
Total, plant	741, 785	Total, plant	649, 715	667, 615
Total, nuclear programs	3, 169, 779	Total,	2, 978, 759	3, 029, 459
Capital Equipment		Capital Equipment		
Light water reactors:		Nuclear research and applications:		
1. Advanced isotope separation techonlogy	8, 485	1. Advanced isotope separation technology	8, 485	8, 485
2. Light water reactor technology	0	2. Light water reactor technology	0	0
3. Technology development and special projects	1, 280	3. Technology development and special projects	1, 280	1, 280
		Light water reactor safety facilities and fuel storage:		
4. Light water reactor safety facilities	800	4. Light water reactor safety facilities	800	800
		Uranium enrichment activities:		
5. Process development (U^{235})	4, 000	5. Process development	4, 000	4, 000
		Fuel cycle research and development:		
6. Uranium resource assessment	4, 800	6. Uranium resource assessment	4, 800	4, 800
7. LWR fuel reprocessing	0	7. LWR fuel reprocessing	0	0
		Nuclear materials security and safeguards:		
8. Nuclear materials security and safeguards	2, 794	8. Nuclear materials security and safeguards	2, 794	2, 794
Total, light water reactors	22, 159	Total	22, 159	22, 159
Waste management:		Fule cycle research and development:		
9. Waste management (commercial)	11, 500	9. Waste management (commercial)	11, 500	11, 500
		Light water reactor facilities and fuel storage:		
10. International spent fuel disposition	0	10. International spent fuel disposition	0	0
Total, waste management	11, 500	Total	11, 500	11, 500

House structure	Fiscal year 1978 House authorization	Related Senate structure	Fiscal year 1978 Senate authorization	Conference authorization
NUCLEAR PROGRAMS—Continued		NUCLEAR PROGRAMS—Continued		
Capital Equipment—Continued		Capital Equipment—Continued		
Other advanced reactor concepts:		Nuclear research and applications:		
13. Water cooled breeder reactor	$3,100	13. Water cooled breeder reactor	$3,100	$3,100
14. Gas cooled thermal reactor	1,000	14. Gas cooled thermal reactor	1,000	1,000
15. Gas cooled fast breeder reactor	1,330	15. Gas cooled fast breeder reactor	1,330	1,330
Total, other advanced reactor concepts	5,430	Total	5,430	5,430
Advanced fuel cycle concepts:		Fuel cycle R. & D.:		
16. HTGR fuel cycle R. & D	990	16. HTGR fuel cycle R. & D	1,000	1,000
17. Breeder reactor fuel cycle R. & D	3,000	17. Breeder reactor fuel cycle R. & D	3,000	3,000
18. Thorium fuel	10	18. Thorium fuel	2,000	2,000
19. Alternate fuel cycle	3,000	19. Alternative concepts	3,000	3,000
Total, advanced fuel cycle concepts	7,000	Total	9,000	9,000
20. Nuclear energy assessments	0	Nuclear Research and Applications: Nuclear energy assessments	0	0
Uranium enrichment:		Uranium enrichment activities:		
21. U^{235} production	15,000	21. U^{235} production	15,000	15,000
22. A other U^{235}	0	22. All other U^{235}	0	0
Total, uranium enrichment	15,000	Total	15,000	15,000
23. Magnetic fusion	27,600	Magnetic fusion: 23. Magnetic fusion	27,600	27,600
Total, capital equipment	124,339	Total, capital equipment	126,339	126,339
Plant		Plant		
Light water reactors:		Light water reactor facilities and fuel storage:		
1. Light water reactor safety facilities:		1. Light water reactor safety facilities:		
78-8-a—Upgrade test area north hot shop facility, Idaho National Engineering Laboratory, Idaho (total)	3,000	78-8-a—Upgrade test area north hot shop facility, Idaho National Engineering Laboratory, Idaho (total)	3,000	3,000
2. Process development:		Uranium enrichment:		
78-14-a—Centrifuge facilities modifications various locations (total)	30,000	2. Process development: 78-24-a—Centrifuge facilities modifications various locations	30,000	30,000
Total, light water reactors	33,000	Total, light water reactor facilities and fuel storage	33,000	33,000
Waste management:		Fuel cycle R. & D.:		
3. Waste management (commercial):		3. Waste management (commercial):		
78-5-a—Facilities for the national waste terminal storage program, site undetermined (land acquisition, A-E and long-lead procurement) (total)	10,000	78-5-a—Facilities for the national waste terminal storage program, site undetermined (land acquisition, A-E and long-lead procurement) (total)	10,000	33,000
Liquid metal fast breeder reactor:		Liquid metal fast breeder reactor:		
4. LMFBR base program:		4. LMFBR base program:		
78-6-a—Modifications to reactors	8,700	78-6-a—Modifications to reactors	8,700	8,700
78-6-b—Safeguards and security upgrading, Idaho Falls, Idaho and Chicago, Ill.	4,935	78-6-b—Safeguards and security upgrading, Idaho Falls, Idaho and Chicago, Ill	4,935	4,935
78-6-c—Safety research experimental facility, Idaho National Engineering Laboratoy, Idaho (A-E only)	20,100	78-6-c—Safety research experimental facility, Idaho National Engineering Laboratory, Idaho (A-E only)	20,100	20,100
78-6-d—Experimental breeder reactor II modification, Idaho National Engineering Laboratory, Idaho (A-E only)	3,100	78-6-d—Experimental breeder reactor II modification, Idaho National Engineering Laboratory, Idaho (A-E only)	3,100	3,100
78-6-e—Modifications to facilities Liquid Metal Engineering Center, Santa Susanna, Calif. (A-E only)	9,000	78-6-e—Modifications to facilities, Liquid Metal Engineering Center, Santa Susanna, Calif. (A-E only)	4,000	4,000
78-6-f—Fuels and materials examination facility, Hanford Engineering Development Laboratory, Washington	134,800	78-6-f—Fuels and materials examination facility, Hanford Engineering Development Laboratory, Washington	134,800	134,800
78-7-a—Modifications to utility system 300 area, Hanford Engineering Development Laboratory, Washington	3,600	78-7-a—Modifications to utility system 300 area, Hanford Engineering Development Laboratory, Washington	3,600	
78-7-b—Test reactor area steam distribution system upgrade, Idaho National Engineering Laboratory, Idaho	1,100	78-7-b—Test reactor area steam distribution system upgrade, Idaho National Engineering Laboratory, Idaho	1,100	1,100
77-4-c—High performance fuel laboratory, Richland, Wash. (A-E only)	5,000	77-4-c—High performance fuel laboratory, Richland, Wash. (A-E only)	5,000	5,000
77-4-d—Fuel storage facility, Richland, Wash	23,000	77-4-d—Fuel storage facility, Richland, Wash	23,000	23,000
Total, LMFBR base program	213,335	Total, LMFBR base program	208,335	208,335
Total, liquid metal fast breeder reactor	213,335	Total, liquid metal fast breeder reactor	208,335	208,335
Advanced fuel cycle concepts:		Fuel cycle R. & D.—Support of nuclear fuel cycle:		
5. Breeder reactor fuel reprocessing R. & D.:		5. Breeder reactor fuel reprocessing R. & D.:		
78-5-b—Advanced fuel recycle integrated equipment test facility, Oak Ridge National Laboratory, Oak Ridge, Tenn. (A-E and long-lead procurement only).	3,000	78-5-b—Advanced fuel recycle integrated equipment test facility, Oak Ridge National Laboratory, Oak Ridge, Tenn. (A-E and long-lead procurement only).	3,000	3,000
78-5-c—Laser isotope facility, site undesignated (A-E only)	3,500	78-5-c—Laser isotope facility, site undesignated (A-E only)	0	3,500
Total, breeder reactor fuel reprocessing R. & D	6,500	Total, breeder reactor fuel reprocessing R. & D	3,000	6,500
Total, advanced fuel cycle concepts	6,500	Total, support of nuclear fuel cycle	3,000	6,500
Uranium enrichment:		Uranium enrichment:		
6. U^{235} production:		6. U^{235} production:		
78-14-b—Process control modifications, gaseous diffusion plants, various locations.	17,400	78-14-b—Process control modifications, gaseous diffusion plants, various locations.	17,400	17,400
78-15-a—Water system improvements, gaseous diffusion plant, Kentucky.	4,500	78-15-a—Water system improvements, gaseous diffusion plant, Kentucky.	4,500	4,500
76-8-e—Conversion of existing steam plants to coal capability, gaseous diffusion plants and Feed Materials Production Center, Fernald, Ohio.	1,750	76-8-e—Conversion of existing steam plants to coal capability, gaseous diffusioh plants and Feed Materials Production Center, Fernald, Ohio.	1,750	1,750
76-8-g—Enriched uranium production facility, Portsmouth, Ohio.	180,000	76-8-g—Enriched uranium production facility, Portsmouth, Ohio.	107,630	107,630
74-1-g—Cascade uprating program, gaseous diffusion plants	42,700	74-1-g—Cascade uprating program, gaseous diffusion plants	42,700	42,700
71-1-f—Process equipment modification, gaseous diffusion plants	100,000	71-1-f—Process equipment modification, gaseous diffusion plants	100,000	100,000
Total, U^{235} production	346,350	Total, U^{235} production	273,980	273,980
Total, uranium enrichment	346,350	Total, uranium enrichment	273,980	273,980
7. Magnetic fusion:		7. Magnetic fusion:		
78-3-a—Mirror fusion test facility, Lawrence Livermore Laboratory, California.	94,200	78-3-a—Mirror fusion test facility, Lawrence Livermore Laboratory, California.	94,200	94,200
78-3-b—Fusion materials irradiated test facility, Hanford Engineering Development Laboratory, Washington.	14,400	78-3-b—Fusion materials irradiation test facility, Hanford Engineering Development Laboratory ,Washington.	0	14,400
76-5-a—Tokamak fusion test reactor, Princeton Plasma Physics Laboratory, Plainsboro, N.J.	24,000	76-5-a—Tokamak fusion test reactor, Princeton Plasma Physics Laboratory, Plainsboro, N.J.	24,000	24,000
76-5-b—14 Mev intense neutron source facility, Los Alamos Scientific Laboratory, Los Alamos, N. Mex.	0	76-5-b—14 Mev intense neutron source facility, Los Alamos Scientific Laboratory, Los Alamos, N. Mex.	3,200	3,200
Total, magnetic fusion	132,600	Total, magnetic fusion	121,400	135,800
Total, nuclear programs	741,785	Total, nuclear programs	649,715	667,615

EXPLANATION OF SIGNIFICANT NUMBER CHANGES

Nonnuclear energy

High Btu Coal Gasification Test Facility

The conferees agreed to add $10 million in operating funds for a feasibility study for a high Btu coal gasification test facility. The House receded to the Senate and no construction funds are authorized for the facility in fiscal year 1978. The high Btu coal gasification test facility would demonstrate and evaluate several second and third generation gasification technologies in a single installation.

A GOCO (Government owned, contractor operated) arrangement is proposed as a financing mechanism that will avoid the complications and time delays of the present cost sharing arrangement in the demonstration program. The test facility program is not intended to replace the present demonstration program. It does provide an option that ERDA has agreed is attractive. Dr. White has sent a letter to the House committee which affirms the value of such a facility and supports beginning design work.

The conferees view the test facility as expanding the options for demonstrating new gasification technologies at commercial size. The inclusion of this facility into the current fossil demonstration program indicates a dissatisfaction with the Administrator's execution of section 8 of the Federal Nonnuclear Energy Research and Development Act of 1974. This section authorizes the Administrator to "identify opportunities to accelerate the commercial applications of new energy technologies and provide assistance for participation in demonstration projects." Great latitude is allowed in this section as to the kind and degree of cooperative agreements with non-Federal entities which may be entered into. The rigid fifty-fifty cost-sharing arrangement of the fossil energy demonstration program limits the flexibility granted under section 8. The introduction of the high Btu test facility and the feasibility study is intended to open up possibilities whch are precluded by the present financial arrangements.

The conferees wish to emphasize, by this action, that this authorization is not intended, in any way, to stop, delay or inhibit the presently constituted demonstration program. The actual purpose of the demonstration program has always been clear and that is to insure that second generation technologies are demonstrated at selected sites to provide that information necessary to make decisions about the commercial viability of such technologies. Therefore, the feasibility study for the test facility should include a discussion about the relative merits of pursuing the construction of the test facility and its impact, if any, on the present demonstration program.

Gasifiers in Industry

Forty million dollars was reauthorized from the Clean Boiler Fuel from coal demonstration plant for the "gasifiers in industry" program. These funds were placed in operating expenses for the low Btu gasification program. This permits greater flexibility and quicker action in execution of this near-term program. The program objective is to get gasifiers operating and producing gas during the next 3 years. This will demonstrate the economic viability of low and medium Btu gas as a substitute for natural gas and also prove its environmental acceptability. State of the art gasification technologies would be used. However, modern environmental control equipment must be added to the gasifiers and the use of caking coals needs to be demonstrated.

Direct Combustion

A total of $12 million was added to the direct combustion program to further emphasize the conferees strong commitment to this program which has potential near-term impact. Two million dollars will be used for the utilization of anthracite waste in fluidized bed combusters and $6 million will be used for the component testing and integration facility for atmospheric fluidized bed combustion at Morgantown, W. Va. Four million dollars was not in dispute among the conferees and will support coal-oil slurries which are critical for the conservation of oil, the usage of coal and reduction of the retrofit problems of current oil burners. The conferees felt that this program should be enhanced by allowing larger scale tests and the initiation of commercial application.

Oil Shale and In-Situ Coal Gasification Program

The in-situ coal gasification program has made significant progress within the last fiscal year. The conference addition of $8.0 million for this work is meant to advance the Linked Vertical Well method as well as the Packed Bed method.

The conferees also direct the ERDA to prepare a management plan for oil shale R&D to include possible or likely efforts for process development units and pilot plants utilizing above-ground and in-situ processes. The above-ground efforts have not been carefully devised and there does not appear to be logical steps of mining, retorting, hydrotreating and refining. The funds for this plan are included in the conference amount.

Advanced Research and Supporting Technology

The conferees agreed to add $10 million to the advanced research and supporting technology program. This increase is intended to augment the materials and exploratory research program carried out within this program.

The long term increase in coal and oil shale used to meet the energy needs of the country will require new and environmentally sound technologies be developed. This means that fundamental knowledge of coal, coal chemistry, geology, rock mechanics and materials must be increased. According to the scientific and engineering communities ERDA's fossil energy program has not stressed this work sufficiently in the past. The increase is intended to enable them to expand these efforts.

Flash Liquefaction

The House receded from its addition for the flash liquefaction process. The conferees wish to emphasize their interest in support for the flash liquefaction but understand that there are carryover funds in the liquefaction program that can be used in support of the construction of a process development unit.

Drilling, Exploration, and Offshore Technology

With respect to increased funding for drilling technology development, the conference committee deleted $1.6 million under geothermal resource development added by the Senate, while selecting a compromise figure of $7.6 million in the fossil energy area. This latter figure is $6 million above the Senate authorization, and $3 million below the House.

The committee wishes to make clear that this action is in no way intended to indicate Congressional direction that fossil drilling technology be emphasized at the expense of its geothermal counterpart. The Committee recognizes that great similarities exist between the developmental needs in these two areas. Common problems such as coping with high temperature and corrosive environments, and common needs for improvements in directional drilling techniques, down-hole motor capability, and drill bit design and fabrication, insure that progress in one area will be of substantial benefit to the other.

Five million dollars will be used for the development of down hole electronics, severe service elastomers and steels and improved bit designs. In addition, testing and evaluation instrumentation is to be supported by the development of telemetry systems and better down hole motors. This new technology will have near term application and is not presently under development, because the drilling industry is small and does not have the capital resources to support sophisticated R&D programs. It is clear that in the past ERDA has made a considerable effort to insure that work in these two drilling technologies has been well-coordinated in order to minimize needless duplication and overlap. The Committee directs that of the additional funds authorized in this legislation at least $1.6 million should be used to emphasize problem areas common to both fossil energy and geothermal resource development, including subterranean melting research.

The addition also includes $1 million for an evaluation of the possible applications of zirconium hydride reactors as self-contained power systems for subsea oil recovery efforts.

Solvent Refined Coal (SRC) Demonstration Plant

The conferees action for this promising technology emphasizes both the SRC solids process, which has been the subject of extensive testing, and the SRC liquids process, which produces a desirable and versatile liquid product with some solids output, but is now in the early stages of large scale testing.

In May of 1977, the SRC pilot plant in Fort Lewis, Washington was adapted to operate in the SRC II mode. The conferees feel this test can provide the data needed for a realistic assessment and design of an SRC II plant. To take advantage of this information and to do the design work the conferees have provided $10 million in operating funds for fiscal year 1978.

In the case of the solid fuel SRC process, successful work has been concluded in several important areas including pilot scale process studies on seven different coals including high sulfur coals, a successful 3000 tons combustion test, and conceptual commercial designs sponsored both by EPRI and the Southern Company.

As a consequence, the conferees have agreed that $30 million be authorized for construction of an SRC solids demonstration plant to produce solid fuels. The conferees agree that this demonstration plant be constructed at the smallest commercial size module which can efficiently demonstrate the technology. Although commercialization is the ultimate goal, government involvement and expense are to be minimized. However, once the Secretary has selected a plant size, the conferees direct that the Department report to the appropriate committees in Congress on the cost considerations involved in the decision.

Geothermal Energy

The Conference Committee recommendation to the authorization for hydrothermal technology applications is $3.1 million above the House Bill. This increase is to be used to accelerate the pace of the Raft River Thermal Loop Experiment in Idaho. The Conferees feel that this experiment should be rapidly pursued because it utilizes moderate-temperature resources, which are more abundant than the high temperature hydrothermal resources.

The Conference recommends an increase of $11.9 million over the Administration request for Advanced Technology Applications. Of this figure, $2.1 million will go for hot dry rock resources, and $9.8 million for geopressured resources. The conferees encourage the ERDA to continue subterranean melting research. The House amendment to the Senate Bill includes an authori-

zation of $6 million for Architect/Engineering design and long-lead procurement for construction of a second 50 MWe geothermal demonstration plant; the Senate bill includes $4 million. The Conferees understand that necessary project activities can be successfully initiated within the $4 million level and they have agreed to accept this figure as provided in the Senate bill. ERDA is hereby authorized to enter into a cost-share arrangement for the design, construction and operation of the 50 MWe geothermal energy demonstration plant.

Solar Energy

The Conferees feel that the Federal Government should take a stronger role in reducing the cost of solar photovoltaic cells. To do this the authorization for the photovoltaic program is increased by $19 million above the level provided in the Senate bill. Of this, $12.2 million will be used for the purchase of photovoltaic cells to be utilized on Federal sites where their applications are shown to be life cycle cost effective; $800,000 is earmarked for market studies; the remaining funds will be utilized for technology development, particularly related to cost reducing production technologies.

The Conference recommendation for Ocean Thermal Energy Conversion is to increase funding by $10 million over the Administration request. This is a $9.8 million reduction from the House amendment of $19.8 million to the Senate Bill. The Conferees feel that the potential of Ocean Thermal Energy Conversion is substantial for the production of energy intensive products and wish to insure that ERDA begins work on a 5 MW OTEC Tropic Ocean Grazing Pilot plant. At the same time, the Conferees wish to emphasize the importance of the ongoing base-line program by providing additional funds for this as well.

The Conferees accepted the House amendment funding level of $41 million for the construction of a 10 MWe Central Receiver Solar Thermal Pilot Plant in Barstow, California, and recommend that ERDA put this project back on schedule with no restriction as to the procurement of heliostats.

The Conference recommendation for solar heating and cooling of buildings is $2.5 million above the House Amendment to the Senate Bill. Of this, $2 million will go for research in retrofitting existing structures to utilize solar heating and cooling systems, and the remaining $500,000 is for support of the Solar Data Centers.

Nuclear Energy

NUCLEAR RESEARCH AND APPLICATIONS

Light water reactor technology

The conferees adopted the Senate authorization figure for the LWR technology program which included $12.4 million for standardization of designs for light water reactors which is part of the President's draft proposal to streamline the LWR licensing process, but was not included in the budget amendment.

It is the opinion of the Conferees that ERDA should seek as much private cost-sharing as possible for this program, hopefully over time as high as 40%.

Gas-cooled thermal reactors

The Conferees adopted the House figure of $31 million, which is $15 million above the Senate figure and the Administration request, for a program to develop a more proliferation-proof fuel for the gas-cooled reactor in both the High Temperature Gas Reactor (HTGR) Steam Cycle and the Advanced HTR direct cycle concepts. The HTGR can use either a low-enriched uranium (LEU) fuel cycle, or a LEU-thorium fuel cycle in which the bred U-233 is denatured with a U-238. Both of these cycles are attractive from the safeguards viewpoint because of the low enrichment of the Uranium at all points in the fuel cycle, and because the small amounts of plutonium produced (less than ⅓ as much as found in LWR spent fuel) can be discarded as waste. The Advanced HTR Program on directly gas-cooled reactors is a cooperative one with the West Germans.

Laser isotope facility

The Conferees adopted the House inclusion of $3.5 million in funding for A-E work only on a laser isotope pilot facility project 78-5-c with the site undetermined. This rapidly advancing technology promises great reduction in operating expenses and capital plant costs for uranium enrichment facilities.

SUPPORT OF NUCLEAR FUEL CYCLE

Light water reactor fuel reprocessing

The Conferees agreed on $10 million authorization to fund design work on a full-scale nuclear waste solidification facility, a waste storage facility and to conduct systems integration activity. The Senate had authorized $20 million for this work; the item did not appear in the House bill. The Conferees also adopted the Senate funding of $13 million and provisions pertaining to activities to be performed at the Barnwell Nuclear Fuels Plant and funding of $1 million and provisions with an amendment pertaining to a study on future utilization of the Barnwell Nuclear Fuels Plant. The amendment further refined the objectives of the study.

The House amendment to the Senate bill contained a proviso requiring submission to the Congress of a plan of the specific activities to be funded at the Barnwell Plant. The House receded to the Senate position. However, the Conferees indicated that they expected the Committee on Science and Technology and the Committee on Energy and Natural Resources to be informed of the nature of the activities to be undertaken at the Barnwell Nuclear Fuels Plant in conformity with the requirements of the Department of Energy Act that the Congress be kept "fully and currently informed." It was also the opinion of the Conferees that the Barnwell facility should be used in such a way so as not to limit the potential for eventual use as a reprocessing plant.

MAGNETIC FUSION

The Conferees adopted the House authorization level which was $8 million above the Senate Figure, to fund the following activities:

(1) Tokamak Confinement Systems work in neutral beam heating and impurity effects on the Oak Ridge ORMAK facility;

(2) Development and technology efforts on critical superconducting magnets and prototype development of neutral beam injectors to support the Tokamak Fusion Test Reactor (TFTR) at Princeton Plasma Physics Laboratory;

(3) Applied Plasma Physics theoretical support of Tokamak and Mirror Programs;

(4) Reactor Projects in diagnostics and test components for TFTR of at least $1 million.

The Conferees adopted the House position to include $14.4 million for project 78-3-b which is of highest priority in the Magnetic Fusion program and is a key support facility for fusion pilot plant materials selection.

The Conferees adopted the Senate position to increase the authorization for Project 46-5-b by $3.2 million for which would provide thorough materials understanding and provide tritium handling experience for scale-up to pilot-plant operation.

HIGH ENERGY PHYSICS

The House amendment includes an authorization of $10,500,000 in plant funds for the Proton-Proton Intersecting Storage accelerator facility (ISABELLE) to be located at the Brookhaven National Laboratory. This authorization provides for engineering design and preliminary construction activities. The conferees feel that ISABELLE should proceed and have agreed to accept the House authorization in full.

NUCLEAR PHYSICS

The Conferees adopted the Senate increase of $6 million to generally enhance the effectiveness of major facilities which have been underutilized chiefly because of inflation, particularly in power costs.

Conservation

The House and the Senate both increased the Administration budget request for the superconducting magnetic energy storage facility. The Conferees accepted $0.1 million addition to the budget request.

The Senate and House both increased the Administration budget request for Industrial Energy Conservation by $15.0 million to accelerate cogeneration in industry, but allocated this increase differently between operating expenses and capital equipment. The Conferees agreed to accept the Administration's division of operating and capital equipment expenses.

The Conferees resolved independent increases to the Administration budget request for Buildings and Community Conservation as follows: a $2.0 million increase for research and demonstration of improved gas and oil furnace efficiency; $2.0 million to develop a program plan covering financing, development and demonstration of urban area designs based upon integrated energy use; and $2.0 million for community energy management planning demonstration. The Conferees also agreed to emphasize the importance of finding uses for hot water effluents from power plants as an extension of cogeneration project planning.

The House bill contained authorizations for Transportation Conservation in both Title I and Title III. Under Title I, the Conferees agreed to $1.0 million for the Alternative Fuels Utilization Program and, under Title III, $12.5 million for Automotive Propulsion Research and Development.

The Conferees increased the authorization above the Administration's request for Improved Conversion Efficiency by $12.5 million as follows: Thermionics, $0.2 million; Fuel Cells, $10.3 million; Methane Recovery, $2.0 million.

Environment and Safety

Members of the conference committee agreed to accept an increase in the authorization level for Environment and Safety research and development activities of $9 million over the President's request of $252,093,000. Of this increase, $7 million is provided for overview and assessment activites for the purposes of reviewing the current status of ERDA's Environment and Safety Review Program, refining and enlarging the environmental-energy data and information effort, expanding the liquefied natural gas program, and continuing with the regional environmental energy assessments. The remaining $2 million increase is for the decommissioning and decontamination activities of which $1 million is to be used in conjunction with the study of the West Valley Nuclear Fuel Services facility and $1 million is to be used for the general environmental study of decommissioning and decontamination activities.

Since a $1 million authorization was provided in both the Waste Management Program and in the Environment and Safety Program for purposes of carrying out the West Valley study, the conference committee directs the Administrator to undertake this study with the joint cooperation and assistance of both Assistant Administrators.

The general study should consider a series of alternative institutional approaches for Federal Government and private sector management of a national decommissioning

strategy and program including but not limited to: 1) investigate the feasibility of having a lead federal agency approve and monitor an overall decommissioning strategy and whether ERDA should accelerate its decommissioning programs; 2) consider the needs of the nuclear industry, which will rely in large part on the research, demonstration and experience from ERDA decommissioning efforts; 3) examine the technical alternatives for decommissioning, decontamination and disposal as well as the costs for all recommended steps and alternatives for each type of facility and waste; 4) investigate alternative methods for financing the operation, including escrow and bonding procedures, and the cost estimates should be sufficiently detailed to assist in allocating the proper amounts to be set aside in such procedures; 5) investigate the possibility of an independent waste handling corporation, financed by current fees or preposted bonding; 6) examine and make recommendations for reasonable tax accounting methods for handling decommissioning costs, such as the possibility of including "negative salvage value" in the depreciation allowance; 7) review the extent to which ERDA is meeting State mandated requirements and recommend generic criteria for environmental impact statements; and 8) make recommendations for the coordination of ERDA, NRC, and EPA in the setting and implementation of decommissioning, disposal, and decontamination standards and criteria.

PROGRAM MANAGEMENT AND SUPPORT

The funding level of $317,804,000 for operating expenses for Program Management and Support agreed to by the conferees is $16.438 million above the Administration request. (This does not include any program management and support funding for military or joint civilian-military programs which are included in other legislation.) This additional funding is for staff support ($6.6 million), governmental relations ($4.038 million), university programs ($1.0 million for university reactor fuel, $1.65 million for occupational and vocational training and curriculum development, $1.35 million for traineeships), and small grants to inventors ($1.8 million).

Explanation of selected provisions

The Conference accepted an amendment to incorporate into the bill a program of loan guarantees for financing the construction and startup costs of demonstration facilities for the conversion of municipal and industrial wastes into synthetic fuels and other desirable forms of energy. Originally, the House bill contained a section 214 which authorized a $300 million loan guarantee program for the construction and start-up of demonstration facilities to convert various forms of biomass to desirable forms of energy (including synthetic fuels).

Section 214 contained provisions which were identical or similar to provisions contained in section 210 of H.R. 6796 and section 312 of S. 1811. Sections 210 and 312 of the respective bills, which authorized a loan guarantee program for the demonstration of technologies to produce alternative fuels from coal, oil shale and other domestic resources, were identical for a provision relating to patent rights. Section 214 was deleted from the agreed upon bill and the amendment offered, and accepted, incorporated into the program authorized by section 210, the major provisions of the biomass loan guarantee bill. By this action, the Conference avoided enacting into law unnecessary and duplicative provisions which would have established two entirely separate and distinct loan guarantee programs. Also, however, those provisions of the biomass loan guarantee section which were different from section 210 and which were specifically designed to attract participation by municipalities and other public and private entities, were retained in the compromise amendment offered in Conference.

The major provisions of the amended section 214 as incorporated into section 210 are as follows:

(1) A new subsection (4) is added to section 19 of the Federal Nonnuclear Research and Development Act, as amended. The program authorized by this subsection is confined to loan guarantees for municipal and industrial waste, sewerage sludge and other municipal organic wastes.

(2) The Administrator is authorized to guarantee and to make commitments to guarantee loans, the outstanding indebtedness not to exceed $300 million at any one time.

(3) With regard to the program for municipal or industrial waste the following subsections of the loan guarantee program authorized in section 19 shall not apply (b)(1), (b)(5), (c)(2), (c)(5), (c)(6), (c)(7), (c)(8), (c)(9), (e)(3), (j), (k) and (q).

(4) Any demonstration facility for the conversion of solid waste shall, prior to issuance of such guarantee, receive a certification from the Environmental Protection Agency and any appropriate State or areawide solid waste management planning agency that such guarantee agreement is consistent with applicable solid waste management plans and guidelines.

(5) in the case of such demonstration facilities the amount guaranteed shall not exceed 75 per centum of the total cost of the facility provided that 90 per centum of the total cost of the facility shall not be guaranteed during the period of construction and start-up.

(6) The maximum maturity on any obligation is not to exceed 30 years or 90 per centum of the projected useful life of the facilities physical assets.

(7) To cover administrative costs and probable losses or guaranteed obligations, the Secretary is to collect fees for guarantees of obligations not to exceed 1 per centum per annum of the outstanding indebtedness covered by the guarantee.

(8) No project is to be transferred to any other agency except pursuant to Act of Congress and the projects are to be administered in accordance with an interagency agreement between the Environmental Protection Agency and the Energy Research and Development Administration.

(9) With respect to any guaranteed obligation issued by a tax-exempt authority the interest which would otherwise be tax-free is made taxable provided that the Secretary shall repay to such issuer a portion of the interest on such obligations as determined by the Secretary of the Treasury.

The Senate bill contained a title on changing the basis for government charge for uranium enrichment services. The language of the title conformed to that submitted by the Administration except for an amendment. The amendment changed the procedure for the Congressional review of uranium pricing policy from a layover period of 45 days before the appropriate committees to a layover period of 60 days with a one-house disapproval resolution procedure for changes in the price charged for enrichment services. The House amendment also contained the title submitted by the Administration with amendments including a provision that the enrichment services pricing was limited to recovery of Government costs and normal and ordinary business expenses which would otherwise be incurred by a private operator. The conferees adopted the language in the Senate bill with an amendment. The amendment was to add the statement "(and (iv) no change in price for uranium enrichment services shall permit the recovery of revenues greater than the sum of all Government costs and the normal and ordinary business expenses, such as taxes and return on equity, which would otherwise be incurred by a private operator providing similar services)" to explain the general basis for determining government costs.

The identical language included in section 210 of the House bill and section 312 of the Senate bill to provide authorization for the establishment of a loan guarantee programs for the construction and operation of facilities to produce synthetic fuels from coal, oil shale and other domestic resources does not specifically define the word "demonstration". To insure that the intent of the Conference is clearly stated, the managers of the Conference include the explanation of this term given by Congressman Teague during floor consideration of H.R. 6796, the Fiscal Year 1978 ERDA Authorization bill.

The ERDA Authorization bill for fiscal year 1978, H.R. 6796, contains an amendment to the Non-Nuclear Energy Research and Development Act of 1974 which would provide authority to ERDA or its successor agency in the Department of Energy to use loan guarantees in the development of alternative forms of energy.

The purpose of this amendment is to give the agency new authority to set up a loan guarantee program as part of the Non-Nuclear Act.

The Congress has indicated in Section 8 of the Act the applicability and intent of the Act regarding demonstrations of full-size facilities. This section authorizes the Administrator to "enter into cooperative agreements with non-Federal entities to demonstrate the technical feasibility and economic potential of energy technologies on a prototype or full-scale basis." The Act is clear in that the intent of Congress is that commercial scale facilities qualify for assistance.

If the development of coal gasification is to proceed through the assistance of loan guarantees it is important that the agency be able to look at different demonstration projects under this legislation with respect to coal, environmental and socioeconomic impact and other geographical limiting parameters. The agency must be free to consider all of the coal gasification projects so far announced based on their contribution to the energy technology and energy inventories of this country.

This Section 210 contains no explicit language which limits the size of the facility to be demonstrated. The optimal size of a demonstration plant would vary with the technology and with the particular situation. For example, if the Administration was considering proposing a high Btu coal gasification plant demonstration, it might choose to guarantee construction of a commerical size plant, or one that is smaller than commercial size. However, if by choosing the smaller size it thereby limits the number of potential projects that could bid on the project to only one, then the success of the project would be seriously jeopardized. A better public policy and a sound energy RD&D policy would be to build a plant which would permit sufficient participants to bid for the award. The language of Section 210 does not prohibit the Administrator of ERDA from making his choice. It gives him the flexibility he needs.

The language of the bill provides that all projects which exceed $50 million will require individual review and specific approval by both Houses of Congress through separate legislation. Congress will have ample opportunity to closely review the choice of the Agency before approving or disapproving authorizing legislation. With this authorization safeguard in place, it is important now that the Agency get on with the task before it and not be restricted in the review of the type and number of projects which can help to mitigate the energy shortfall in this country.

The Conference Committee agreed to delete Section 601(3)(d) in the Senate bill which woud have specifically called for the ERDA to spend, during fiscal year 1978, at least $10 million of the solar program funding for the operation of the Solar Energy Research Institute (SERI). The deletion of

this language in no way reflects any prejudice to the SERI. The conferees confirm their full support for the ERDA and urge the ERDA to move as rapidly as possible to develop the SERI consistent with a wise expenditure of the Institute's funding.

The Senate bill contained a section which required a study of the options for decommissioning or other disposition of the Western New York Nuclear Service Center, but contained a provision that the section was not to be construed to commit the Federal Government to any new assistance or participation in the Center and that nothing in the section should be construed to relieve any party of its responsibilities for the safe storage of nuclear waste. The House amendment contained a similar section which required a plan rather than a study, and the provision stating that nothing in the section should be construed to relieve any party of its responsibilities for the safe storage of nuclear waste. That Conferees adopted the Senate language. However, it is the view of the Conferees that the section does not preclude future Federal participation.

The Conferees accepted House language which requires that the revenues received by the Administration from the enrichment of uranium be used to offset the costs which are incurred in providing existing and future uranium enrichment service activities, both for operating and plant and capital expenditures.

The Senate agreed to recede to the House to delete language contained in the Senate bill to establish an employee grievance procedure for the Lawrence Livermore Laboratory. The Conferees note that recently, the University of California has agreed to a new set of guidelines for relations with employee organizations. This agreement is an important step in establishing an improved labor management policy. For this reason it was felt that the amendment was not required.

The House bill had a separate Title III relating to automotive propulsion research and development. Title III of the House bill was amended on the House floor on September 21. The amendment changed the title from the "Automotive Transport Research and Development Act" to the "Automotive Propulsion Research and Development Act", and deleted the concept of "integrated test vehicles" from the bill. The Senate bill had no comparable title.

The conferees agreed to accept Title III of the House bill with an amendment to Sec. 304(f) which requires special reports on grants and contracts entered into under the "Automotive Propulsion Research and Development Act of 1977".

The Conferees adopted the House provision which required a report focused on the impact of the President's non-proliferation policy on cooperative agreements in research and development with an amendment. The Conferees amended the provision so that the report is to be transmitted to the House International Relations and Science and Technology Committees and the Senate Foreign Relations and Energy and Natural Resources Committees.

The Conferees directed that the report should be made as consistent as possible with other required reports to the Congress on nonproliferation policy and initiatives.

The Conference passed Sec. 313 with the clear understanding that the action taken under this section is in response to emergency conditions resulting from the Teton Dam disaster and that it is not a major federal action. They further agreed that the effectiveness of the section depends on its prompt implementation and encourage the Secretary of Interior to request the Council on Environmental Quality to exempt this action from the environmental impact statement requirements of the National Environmental Policy Act of 1969.

In both the House and Senate-passed authorization bills, $15 million was provided to develop a program whereby the United States would embark upon the research, development and demonstration of low-head hydroelectric technology. A good deal of foreign technology utilizing turbines that can generate electricity under low-head, run-of-the-river conditions already exists, but further refinement of this technology is called for in order to reduce cost. Based upon these complementary rationales, the conferees have agreed to retain the $15 million authorization and to further characterize purposes for which this authorization is made.

The House, in its report on H.R. 6796, indicated that the authorization would be used to develop a research and development program. This entails research work, systems evaluation, site analysis and selection, and other economic, environmental and technical activities. The Senate bill and accompanying report contemplated a demonstration type program whereby a majority of funds would be utilized for demonstrating the feasibility of installing small scale hydroelectric generators in existing dams. It is the judgment of the conferees that the programs contemplated by both houses should be initiated in fiscal year 1978. Specifically, the conferees believe that ERDA should embark upon demonstration programs with full consideration to existing but unused facilities and to refine existing technology to help meet short-term goals for producing energy from low-head hydroelectric technology. At the same time, ERDA should initiate a research and development program and perform studies which will define the locations and resource potential of the sites where this technology might be used. It should be emphasized that there is no intention upon the part of the conferees to establish at this time a large research and development activity at the expense of an aggressive demonstration program. Instead, ERDA should establish an appropriately balanced-program for accelerated introduction of low-head hydroelectric power generation.

The Senate bill contained a funding level of $75 million for the continuation of the Clinch River Breeder Reactor (CRBR) Project. This funding level was sufficient to retain the technical staffs of the principal contractors and to continue procurement of key components and hardware for which the contracts already exist. The Senate bill also contained provisions which prohibited the use of the funds for the CRBR Project for termination of the Project and cited an opinion from the Comptroller General that the Project cannot be terminated without Congressional authorization. The intent of these provisions was (1) to maintain the project schedule and to minimize additional unrecoverable delays so as to limit the escalation in total cost and (2) to preserve the Clinch River site for the Project.

The House amendment contained $150 million for the CRBR Project to proceed on the existing schedule (prior to April, 1977) which would preserve the project arrangements and objectives. The House funding figure contemplated aggressive procurement, commencement of site preparation and construction in fiscal year 1978, and continuation of all licensing activities.

The Conferees adopted an $80 million authorization level for the CRBR Project for Fiscal Year 1978. The Conference Committee also included Sec. 106, which amends P.L. 91-273, as amended. By this compromise funding level and the statutory provisions, it is the intention of the Conferees that the CRBR Project shall be pursued in a vigorous manner to maintain the viability of all project arrangements, objectives, and schedules (prior to April, 1977) and of the LMFBR program. To achieve this end, the Conferees intend that the Administration and all other relevant Federal agencies take all necessary actions with regard to the licensing process for the CRBR Project to assure the earliest possible decisions on a Limited Work Authorization and Construction Permit. Furthermore, the Conferees intend that the Clinch River site should be preserved as established by all past and present Congressional Authorization Acts and by the ERDA and the NRC Final Environment Statements unless the site is found to be unsuitable for reasons of affecting the public health and safety or the common defense and security. The intent of section 106(d)(3) is not to affect the authority of the NRC in any respect, but also not to affect previous law and intent with respect to location of the Project.

The Conferees realize that site preparation activities cannot commence during fiscal year 1978 with only $80 million of new authorization. However, this funding level shall not in any way limit or prohibit the grant of a Limited Work Authorization and Construction Permit during this or any other fiscal year.

The Conferees recognize the Administration's desire to defer the date when liquid metal fast breeder reactors would be put into commercial use. In this regard, it must be emphasized that the CRBR Project is and always has been a demonstration facility, and the Conferees reject any contention that continuation of the CRBR Project will necessarily lead to the commercialization of LMFBR technology.

With regard to the Comptroller General's opinion contained in the June 23, 1977 letter, the Conferees believe that it is the intent of Congress that funds appropriated for the CRBR Project shall be deemed to be deferred or rescinded (as appropriate) for purposes of the Impoundment Control Act of 1974 if such funds are withheld from use, or used to cancel or terminate such Project (or plan its cancellation or termination), rather than for the design, construction, and operation of such Project in accordance with the authorization.

The House bill included a proviso requiring that of the funds authorized for the Liquid Metal Fast Breeder Reactor (LMFBR) program, at least $10,400,000 shall be expended for the development and testing of steam generators and liquid metal pumps, and for advanced fuel development. The House bill also included an additional $5,000,000 in construction funds to build facilities for the testing of these steam generators.

These provisions were predicated on the availability of sufficient funds within the LMFBR program, as contained in the House bill, to assure that high priority component development and testing activities would be accomplished. Unfortunately, at the $80,000,000 level agreed upon for the CRBR by the conferees the impetus to component and advanced fuel development that would have been obtained by the provisions is no longer achievable, and the House proviso and capital funding addition are therefore withdrawn.

At the same time, the conferees believe that the LMFBR program should not lose sight of the need to maintain some focus on the development and testing of components of the type and size appropriate for an intermediate sized LMFBR plant, in the event that construction of such a plant may be warranted in the future.

The conferees recognize the possibility that the U.S. may need to rely on LMFBR technology at an earlier date than that currently projected, and that a strong technological base both in research areas, and in component development and testing is needed so that the U.S. will be in a position to utilize its LMFBR capabilities expeditiously should the need arise.

The Senate bill provided that all inventions made or conceived in the course of or under a guarantee authorized by this Act must be subject to the title and waiver requirements and conditions of section 9 of Public Law 93–577. The House amendment required the application of section 9 of Public Law 93–577 to a loan guarantee only in the case of default. The House receded to the Senate position.

The conferees reconfirm the fact that the Secretary has the full authority to grant apriori waivers of the United States' right to inventions made under a loan guarantee and to include provisions pertaining to terms and conditions under which the Federal government would recapture the rights to such inventions in case of default. The conferees expressed a strong consensus view that the Secretary should liberally use his authority to grant apriori waiver of Federal government rights to inventions made under a loan guarantee and in anticipation of a default the Secretary, in his discretion, has the authority to include provisions in the loan guarantee contract to insure that patents developed under the loan guarantee became part of the project assets and available to the United States.

It is noted that conceptual design of a demonstration plant for the HYGAS process is already underway within the demonstration plant program at ERDA. Seven and one-half million dollars is to be spent on this 20 month project through fiscal year 1978.

Demonstration plants for high Btu coal gasification processes have already been authorized, one in 1976 (Project 76–1–b), one in 1977 (Project 77–1–b). Two processes were chosen to begin conceptual design under the authorization for the first pipeline demonstration project. At the time that the second demonstration plant was authorized in fiscal year 1977, the conferees noted in their report (S. 94–1327, H.R. 94–1718): "HYGAS technology, which has been developed in an ERDA pilot plant, offers the potential for economic success as revealed in a recent independent study made for ERDA. The conferees urge ERDA to consider the selection of a process for the demonstration plant, which has both economic promise and process reliability. The conferees recognize the importance of cost-sharing aspects in any joint program but are concerned if the best technology for demonstration is not developed properly." With these objectives in mind, the conferees wish to emphasize their concern that the best technology for demonstration be developed properly.

While the cost sharing arrangements are important aspects of the demonstration programs, any rigid application of financial formulas is unadvisable, since the purpose of the program is to demonstrate second generation technology and thereby increase its chances for success in the market place.

The current contract for conceptual design of a HYGAS demonstration plant will result in three conceptual designs in competition for two demonstration projects. The fiscal year 1977 Authorization bill provided $10 million for the second demonstration plant but no appropriations were made for that plant in fiscal year 1977. Further authorization of this plant depends upon a competition where technological criteria are given equal weight with economic criteria.

The conferees are also concerned that previous proposals which developed the HYGAS process for a demonstration plant not be dismissed as a result of the ERDA-sponsored conceptual design contract. Any such previous proposals for a HYGAS demonstration should also be eligible for the competition for the second High Btu Demonstration Plant.

The Department of Energy has assured the conferees that the HYGAS process will be a candidate for the second demonstration plant in a letter from Dr. Philip White, Acting Program Administrator for Fossil Energy:

DEPARTMENT OF ENERGY,
Washington, D.C., Oct. 3, 1977.

Hon. WALTER FLOWERS,
Chairman, Subcommittee on Fossil and Nuclear Energy Research, Development and Demonstration Committee on Science and Technology, House of Representatives.

DEAR MR. CHAIRMAN: The following is provided for your information regarding the recommendation being made by Senator Ford to seek authorization and appropriation for a third High BTU Pipeline Gas Demonstration Plant dedicated to the HYGAS Process.

Fiscal Year 1977 ERDA authorization provided for a second High BTU Pipeline Gas Demonstration Plant (Project 77-1-b). The authorization did not specify the process and no funds were subsequently appropriated for this project. This authorization could eventually be utilized for the HYGAS Demonstration Plant if funds are to be appropriated.

On July 29, 1977, ERDA using available funds from its operating budget awarded a twenty (20) month contract with PROCON, Inc. The objectives of the contract are to (1) prepare a conceptual design of a commercial size plant employing the institute or Gas Technology HYGAS Process, and (2) select a demonstration plant side and prepare detailed process design and conceptual designs with economic evaluations. Funds in the amount of $3.6 million were obligated in Fiscal Year 1977. The balance of funds ($3.9 million) are programmed for Fiscal Year 1978 and 1979. Concurrent with this contract, the HYGAS Pilot is being operated to generate the firm data base required for optimization of a demonstration plant design for the production of pipeline gas from bituminous coal. Approximately 15 months of pilot plant R&D efforts will be required to obtain the information needed to complete the process design and economic evaluations. This step must be carried out to assure that the project can be carried forward with an acceptable technical and financial risk. The study contract will culminate in Fiscal Year 1979 with the delivery of documentation in sufficient detail to proceed directly with detailed design procurement and construction of the HYGAS Demonstration Plant, if warranted.

The rationale for the "if warranted" position is that a go-no-go detailed economic assessment will be made on the commercial plant design in mid-Fiscal Year 1978. If at that point a decision is made to proceed with the study, the earliest that this agency could use appropriated funds is Fiscal Year 1979. In anticipation of this decision, funds are being requested in the Fiscal Year 1979 budget for initiation of the HYGAS Demonstration Plant. A copy of the HYGAS Demonstration Plant Timetable is enclosed.

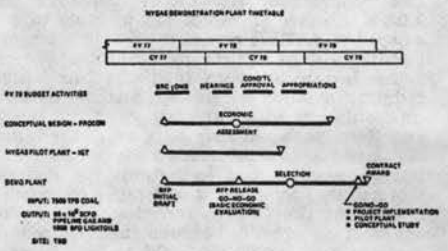
Based upon the above information, it has been concluded that authorization and appropriation for a third High BTU Pipeline Gas Demonstration Plant is not recommended at this time. Please also note that the overall agency High BTU Pipeline Gas Program consists of three (3) different processes competing for two plants to move forward to construction and operation.

Please advise if you need any additional information.

Sincerely,

PHILIP C. WHITE,
Acting Program Administrator for Fossil Energy.

Enclosure: HYGAS Demonstration Plant Timetable.



The House receded to the Senate and excluded language which required the Secretary of the Department of Energy to personally approve of each shipment of plutonium for national security purposes if the plutonium is not carried in an approved "safe container". The Conferees understand that such a safe container is currently under development by the Department of Energy and that it will be subject to certification shortly. The Conferees direct the Department to proceed promptly. After certification, such containers shall be used for all air transportation of plutonium as quickly as possible. Further, these casks should be able to accommodate all configurations of plutonium that might be shipped.

RESERVATION ON SELECTED ITEMS IN REPORT

Senator Durkin signed the Conference Report but has reservations with respect to the Clinch River Breeder Reactor Project.

Senator Hatfield signed the Conference Report with reservations as to the decision of the Conferees to recede from the Senate provisions concerning the Clinch River Breeder Reactor.

Representative George E. Brown Jr., although he signed the Conference Report on the part of the House, emphasized that he is strongly opposed to two items of the Conference Report authorizing funds for the continuation of the Clinch River Breeder Reactor Project and language which he believes unreasonably restricts the use of those funds.

Representative Richard Ottinger, although he signed the Conference Report on the part of the House, did so with reservations to the funding for the Clinch River Breeder Reactor, the language concerning the Clinch River Breeder Reactor, the generic loan guarantee provisions, and the nuclear energy research funding provisions.

OLIN E. TEAGUE,
DON FUQUA,
WALTER FLOWERS,
MIKE MCCORMACK,
GEORGE E. BROWN, JR.,
RAY THORNTON,
RICHARD OTTINGER,
TOM HARKIN,
JEROME A. AMBRO,
MARILYN LLOYD,
WES WATKINS,
JOHN W. WYDLER,
LARRY WINN, JR.,
LOUIS FREY, JR.,
BARRY M. GOLDWATER, JR.,
GARY A. MYERS,
Managers on the Part of the House.

HENRY M. JACKSON,
FRANK CHURCH,
WENDELL H. FORD,
JOHN A. DURKIN,
SPARK M. MATSUNAGA,
CLIFFORD P. HANSEN,
MARK O. HATFIELD,
JAMES A. MCCLURE,
DEWEY F. BARTLETT,
PETE V. DOMENICI,
Managers on the Part of the Senate.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. WOLFF (at the request of Mr. WRIGHT), for an indefinite period, on account of serving as U.S. Representative at the U.N. General Assembly.

Mr. PEPPER (at the request of Mr. WRIGHT), for today, on account of illness in the family.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. LIVINGSTON) to revise and extend their remarks and include extraneous matter:)

Mr. RAILSBACK, for 5 minutes, today.

Mr. STEIGER, for 10 minutes, today.

(The following Members (at the request of Mr. PANETTA) to revise and extend their remarks and include extraneous material:)

Mr. ANNUNZIO, for 5 minutes, today.

Mr. GONZALEZ, for 5 minutes, today.

Mr. BAUCUS, for 10 minutes, today.

Mr. GLICKMAN, for 5 minutes, today.

Mr. CONYERS, for 5 minutes, today.

Mr. MONTGOMERY, for 5 minutes, today.

Mr. ROSTENKOWSKI, for 5 minutes, today.

Mr. CORNWELL, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. MILFORD, and to include extraneous matter notwithstanding the fact that it exceeds two pages of the RECORD and is estimated by the Public Printer to cost $1,851.50.

Mr. ASHBROOK, to extend his remarks immediately following those of Mr. CARTER on H.R. 8518 today.

Mr. STEIGER, and to include certain tables and charts during his special order today.

Mr. DICKINSON, to revise and extend his remarks immediately following the remarks of Mr. MARTIN on H.R. 8518 today.

(The following Members (at the request of Mr. LIVINGSTON) and to include extraneous matter:)

Mr. WHALEN.

Mr. RINALDO.

Mr. STEERS in two instances.

Mr. LEACH in two instances.

Mr. ERLENBORN.

Mr. COLLINS of Texas in two instances.

Mr. MCCLORY.

Mr. ASHBROOK in three instances.

Mr. MICHEL.

Mr. DUNCAN of Tennessee.

Mr. CRANE.

Mr. WHITEHURST.

Mr. LAGOMARSINO.

Mr. BROWN of Michigan.

Mr. LOTT.

Mr. MCCLOSKEY.

Mr. TAYLOR.

Mr. WALKER.

Mr. DERWINSKI in two instances.

Mr. RAILSBACK.

(The following Members (at the request of Mr. PANETTA) and to include extraneous matter:)

Mr. ANNUNZIO in six instances.

Mr. ANDERSON of California in three instances.

Mr. GONZALEZ in three instances.

Mr. BROWN of California in 10 instances.

Mr. HARRIS.

Mr. BEARD of Rhode Island.

Mr. ROSTENKOWSKI.

Mr. MILLER of California.

Mr. NATCHER.

Mr. MCDONALD.

Mr. SANTINI.

Mr. SIMON.

Mr. ZABLOCKI in two instances.

Mr. EDWARDS of California.

Mr. EDGAR.

Mr. BLANCHARD.

Mr. MINETA.

Mr. MILFORD in three instances.

Mr. VENTO.

Ms. MIKULSKI.

Mr. RODINO.

Mr. LUNDINE in two instances.

Mr. DANIELSON.

Mr. MOAKLEY.

Mr. CORNWELL.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 2149. An act to create the District Court for the Northern Mariana Islands, implementing article IV of the Covenant To Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America; to the Committee on the Judiciary.

ENROLLED BILLS SIGNED

Mr. THOMPSON, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 4836. An act to extent for 7 months the term of the National Commission on New Technological Uses of Copyrighted Works; and

H.R. 5675. An act to authorize the Secretary of the Treasury to invest public moneys, and for other purposes.

ADJOURNMENT

Mr. PANETTA. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 14 minutes p.m.), the House adjourned until tomorrow, Tuesday, October 18. 1977, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2556. A letter from the Deputy Secretary of Agriculture, transmitting a draft of proposed legislation to authorize the Secretary of Agriculture to relinquish exclusive legislative jurisdiction over lands or interest under his control; to the Committee on Agriculture.

2557. A letter from the Director, Defense Security Assistance Agency, transmitting a report on the impact on U.S. readiness of the Army's proposed sale of certain defense equipment to Nigeria (transmittal No. 78–2), pursuant to section 813 of Public Law 94–106; to the Committee on Armed Services.

2558. A letter from the Secretary of Agriculture, transmitting notice of a proposed change in a records system, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

2559. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the Army's intention to offer to sell certain defense equipment to Nigeria (transmittal No. 78–2), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on International Relations.

2560. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b; to the Committee on International Relations.

2561. A letter from the Secretary of Health, Education, and Welfare, transmitting the third annual report on the emergency medical services program, pursuant to section 1210 of the Public Health Service Act, as amended (87 Stat. 603, 90 Stat. 2717); to the Committee on Interstate and Foreign Commerce.

2562. A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting copies of orders entered in the cases of certain aliens found admissible to the United States, pursuant to section 212(a)(28)(I)(ii) of the Immigration and Nationality Act (66 Stat. 182); to the Committee on the Judiciary.

2563. A letter from the Deputy Director, Administrative Office of the U.S. Courts, transmitting a draft of proposed legislation to amend chapter 315 of title 18, United States Code, to authorize payment of transportation expenses by U.S. marshals for persons released pending appearance in another district; to the Committee on the Judiciary.

2564. A letter from the Comptroller General of the United States, transmitting a report on TVA's Tellico Dam project (EMD–77–58, October 14, 1977); jointly, to the Committees on Government Operations and Public Works and Transportation.

2565. A letter from the Comptroller General of the United States, transmitting supplementary information to accompany the previously submitted evaluation of the President's National Energy Plan (EMD–78–5, October 14, 1977); jointly, to the Committees on Government Operations, Interstate and Foreign Commerce, and Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. MURPHY of New York: Committee on Merchant Marine and Fisheries. S. 1617. An act to establish a program of ocean pollution research and monitoring, and for other purposes; with amendment (Rept. No. 95–626, Pt. II). Referred to the Committee of the Whole House on the State of the Union.

Mr. STRATTON: Committee on Armed Services. H.R. 6954. A bill to preserve and promote ethical standards throughout the executive branch, and for other purposes; with amendment (Rept. No. 95–642, Pt. II). Ordered to be printed.

Mr. UDALL: Committee on Interior and Insular Affairs. S. 266. An act to amend Public Law 92–314 to authorize appropriations to the Energy Research and Development Administration for financial assistance to limit radiation exposure from uranium mill tailings used for construction, and for other purposes; with amendment (Rept. No. 95–649, Pt. II). Referred to the Committee of the Whole House on the State of the Union.

Mr. NIX: Committee on Post Office and Civil Service. H.R. 9346. A bill to amend the Social Security Act and the Internal Revenue Code of 1954 to strengthen the financing of the social security system, to reduce the effect of wage and price fluctuation on the system's benefit structure, to provide coverage under the system for officers and employees of the United States, of the State and local governments, and of non-profit organizations, to increase the earnings limitation, to eliminate certain gender-based distinctions and provide for a study of proposals to eliminate dependency and sex discrimination from the social security program, and for other purposes; with amendment (Rept. No. 95–702, Pt. II). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on Government Operations. Report on operation of CSA-supported antipoverty associations (Rept. No. 95–709). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on Government Operations. Report on failure to meet commitments made in the Occupational Safety and Health Act (Rept. No. 95–710). Referred to the Committee of the Whole House on the State of the Union.

Mr. PERKINS: Committee of Conference. Conference report on H.R. 3744 (Rept. No. 95–711). Ordered to be printed.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 8499. A bill to amend section 16(b) of the Alaska Native Claims Settlement Act; with amendment (Rept. No. 95–712). Referred to the Committee of the Whole House on the State of the Union.

Mrs. SPELLMAN: Committee on Post Office and Civil Service. H.R. 8771. A bill to amend title 5, United States Code, to authorize the Civil Service Commission to comply with the terms of a court decree, order, or property settlement in connection with the divorce, annulment, or legal separation of a Federal employee who is under the civil service retirement system, and for other purposes (Rept. No. 95–713). Referred to the Committee of the Whole House on the State of the Union.

Mr. TEAGUE: Committee of Conference. Conference report on S. 1811 (Rept. No. 95–714). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. APPLEGATE (for himself, Mr. MURPHY of Pennsylvania, Mr. THORNTON, Mr. JENRETTE, and Mr. EDWARDS of Oklahoma):

H.R. 9583. A bill to amend the Internal Revenue Code of 1954 to allow individuals a credit against income tax for expenses paid by a taxpayer in connection with his education or the education of his spouse or any of his dependents at certain educational institutions; to the Committee on Ways and Means.

By Mr. BRODHEAD (for himself and Ms. SPELLMAN):

H.R. 9584. A bill to provide for reimbursement to States experiencing high rates of insured unemployment; to the Committee on Ways and Means.

By Mr. BROWN of Michigan:

H.R. 9585. A bill to amend section 1340 of the National Flood Insurance Act of 1968 for the purposes of requiring congressional approval of any determination by the Secretary of Housing and Urban Development to operate the flood insurance program under part B of chapter II of such act; to the Committee on Banking, Finance and Urban Affairs.

By Mr. BROWN of Ohio (for himself, Mr. KETCHUM, Mr. DEL CLAWSON, Mr. BADHAM, Mr. KINDNESS, Mr. LAGOMARSINO, Mr. STANTON, Mr. WINN, Mr. DUNCAN of Tennessee, Mr. STOCKMAN, Mrs. LLOYD of Tennessee, Mr. DERWINSKI, Mr. YOUNG of Alaska, Mr. FOUNTAIN, Mr. COCHRAN of Mississippi, Mr. CLEVELAND, Mr. BADILLO, Mr. CONABLE, and Mr. ERTEL):

H.R. 9586. A bill to amend the Federal charter of the Boy Scouts of America; to the Committee on House Administration.

By Mr. BURLESON of Texas (for himself, Mr. THORNTON, and Mr. HALL):

H.R. 9587. A bill to repeal the carryover basis provisions added by the Tax Reform Act of 1976; to the Committee on Ways and Means.

By Mr. CRANE:

H.R. 9588. A bill to amend the Federal Aviation Act of 1958, as amended, to permit the public greater opportunity to choose among competing airlines in the selection of air transportation prices and services, to lessen Federal restrictions on airline management decisions to encourage new companies to enter the airline industry, to provide compensation for essential services to small and isolated communities, and for other purposes; to the Committee on Public Works and Transportation.

By Mr. CAVANAUGH (for himself, Mr. MITCHELL of Maryland, Mr. VENTO, and Ms. OAKAR).

H.R. 9589. A bill to require that the Federal reserve banks shall keep verbatim transcripts of all meetings of their boards of directors and make them public under certain limitations; to the Committee on Banking, Finance and Urban Affairs.

By Mr. HARRIS:

H.R. 9590. A bill to amend title 5, United States Code, to increase the contribution by the Federal Government to the costs of employees' health benefits insurance; to the Committee on Post Office and Civil Service.

By Mr. LATTA (for himself, Mr. ASHLEY, Mr. GUYER, Mr. STANTON, Mr. MOTTL, Mr. DEVINE, Mr. MILLER of Ohio, Mr. BROWN of Ohio, Mr. SEIBERLING, Mr. ASHBROOK, Mr. KINDNESS, Mr. CARNEY, Mr. REGULA, and Mr. APPLEGATE):

H.R. 9591. A bill to amend section 111 of title 23, United States Code, relating to agreements for the use of and access to the rights-of-way of the Interstate System; to the Committee on Public Works and Transportation.

By Mr. MILLER of California (for himself, Mr. BEDELL, Mr. DOWNEY, Mr. MCCLOSKEY, Mr. VENTO, and Mr. WEAVER):

H.R. 9592. A bill to require the Secretary of the Interior to establish a table of water rates to be charged irrigators who contract for water resources for agricultural purposes from the United States through the U.S. Bureau of Reclamation, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. MURPHY of New York (for himself, Mr. LAFALCE, Mr. PRITCHARD, Mr. MOAKLEY, Mr. CHARLES WILSON of Texas, Mr. DE LUGO, Mr. EILBERG, Mr. AKAKA, Mrs. SPELLMAN, Mr. SEIBERLING, Mr. HUGHES, Ms. MIKULSKI, Mr. HARRINGTON, and Mr. OBERSTAR):

H.R. 9593. A bill to establish a national policy for the preservation of historic architectural, archeological, and cultural resources, to establish a coordinated national historic preservation program, to establish a maritime heritage preservation program, and for other purposes; jointly, to the Committees on Interior and Insular Affairs, and Merchant Marine and Fisheries.

By Mr. PERKINS:

H.R. 9594. A bill to amend section 201 of the Appalachian Regional Development Act of 1965; to the Committee on Public Works and Transportation.

By Mr. CONABLE:

H.R. 9595. A bill to amend the Social Security Act and the Internal Revenue Code of 1954 to strengthen the financing of the social security system, to reduce the effect of wage and price fluctuation on the system's benefit structure, to provide for a gradual increase in retirement age from 65 to 68, to improve the treatment of women (through the establishment of a working spouse's benefit and otherwise) and to eliminate gender-based discrimination, to provide coverage under the system for officers and employees of the United States, of State and local governments, and of nonprofit organizations, to increase and ultimately repeal the earnings limitation, and for other purposes; to the Committee on Ways and Means.

By Mr. QUILLEN:

H.R. 9596. A bill to amend the National Labor Relations Act to provide that any employee who is a member of a religion or sect historically holding conscientious objection to joining or financially supporting a labor organization shall not be required to do so; to the Committee on Education and Labor.

H.R. 9597. A bill to amend the tax laws of the United States to encourage the preservation of independent local newspapers; to the Committee on Ways and Means.

By Mr. RAILSBACK:

H.R. 9598. A bill to amend title 28, United States Code, to authorize the Attorney General of the United States to acquire and exchange information to assist Federal, State, and local officials in the identification of certain deceased individuals; to the Committee on the Judiciary.

By Mr. ROBERTS (by request):

H.R. 9599. A bill to amend title 38, United States Code, to establish a Court of Veterans' Appeals and to prescribe its jurisdiction and functions; to the Committee on Veterans' Affairs.

By Mr. ST GERMAIN (for himself, Mr. ANNUNZIO, Mr. CAVANAUGH, Mr. PATTERSON of California, Mr. MINISH, Mr. MITCHELL of Maryland, Ms. OAKAR, and Mr. BLANCHARD):

H.R. 9600. A bill to strengthen the supervisory authority of Federal agencies which regulate depository institutions, to prohibit interlocking management and director relationships between financial institutions, to amend the Federal Deposit Insurance Act, to restrict conflicts of interest involving officials of financial supervisory agencies, to control the sale of insured financial institutions, to regulate the use of correspondent accounts, to establish a Financial Institutions Examination Council, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

By Mr. SKUBITZ (for himself, Mr. UDALL, and Mr. SEBELIUS):

H.R. 9601. A bill to provide for increases in development ceilings in certain units of the national park system, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. SISK:

H.R. 9602. A bill to amend the Federal Food, Drug, and Cosmetic Act to modify the definition of "food additive"; to the Committee on Interstate and Foreign Commerce.

By Mr. STEED (for himself, Mrs. SPELLMAN, Mr. HEFTEL, Mr. HARRIS, and Mr. LEACH):

H.R. 9603. A bill to provide additional retirement benefits for certain employees of the Bureau of Indian Affairs, and the Indian Health Service who are not entitled to Indian preference, to provide greater opportunity for advancement and employment of Indians, and for other purposes; jointly, to the Committees on Interior and Insular Affairs, and Post Office and Civil Service.

By Mr. STEERS:

H.R. 9604. A bill to amend the Railroad Retirement Act of 1974 to provide that a current connection with the railroad industry is not lost by reason of certain employment with the Department of Energy; to the Committee on Interstate and Foreign Commerce.

By Mr. SYMMS:

H.R. 9605. A bill to allow greater participation by the State governments in the classification of public land within the boundarys of the affected State; to the Committee on Interior and Insular Affairs.

By Mr. TEAGUE:

H.R. 9606. A bill to amend title 38, United States Code, to modify the delimiting period under limited circumstances; to revise the so-called 50-percent employment requirement for vocational courses; require State approving agencies to notify the Administrator of educational institutions cited for deceptive and illegal practices; imposes certain restrictions on correspondence-residence courses; and for other purposes; to the Committee on Veterans' Affairs.

By Mr. TRIBLE:

H.R. 9607. A bill to amend the Internal Revenue Code of 1954 to further restrict the allowance as a deduction of entertainment, amusement, and recreation expenses; to the Committee on Ways and Means.

By Mr. WHITTEN:

H.R. 9608. A bill to protect the economy of the United States; domestic agriculture, labor, and industry, by the maintenance of farm income and purchasing power; to the Committee on Agriculture.

H.R. 9609. A bill to amend title 39, United States Code, to provide that controlled circulation publications relating to agriculture shall be eligible for reduced rates of postage on the same basis as science of agricultural publications, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. DICKS:

H.J. Res. 629. Joint resolution authorizing the President to proclaim the last Sunday in April of 1978 as National Grandparent's Day; to the Committee on Post Office and Civil Service.

By Mr. STEERS:

H.J. Res. 630. Joint resolution proposing an amendment to the Constitution of the United States providing that the terms of office of Members of the House of Representatives shall be 4 years, and for other purposes; to the Committee on the Judiciary.

By Mr. MOTTL (for himself, Mr. KINDNESS, Mr. DEVINE, Mr. KILDEE, Mr. LAFALCE, and Mr. WALGREN):

H. Con. Res. 381. Concurrence resolution expressing the sense of the Congress that the proposed toll increases on the Saint Lawrence Seaway are excessive and should not be adopted; to the Committee on Public Works and Transportation.

By Mr. APPLEGATE (for himself and Mr. LUKEN):

H. Res. 836. Resolution urging the International Trade Commission to recommend to the President the continuation of the existing import restraints on specialty steel; to the Committee on Ways and Means.

By Mr. BINGHAM:

H. Res. 837. Resolution authorizing the printing of the committee print entitled "The Coordination of United States International Economic Policy"; to the Committee on House Administration.

Mr. FOLEY:

H. Res. 838. Resolution relative to the national telecommunications system; to the Committee on Interstate and Foreign Commerce.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

280. By the SPEAKER. Memorial of the Legislature of the State of California, relative to Japanese-American assembly centers; to the Committee on Interior and Insular Affairs.

281. Also, memorial of the Legislature of the State of California, relative to the entertainment industry; to the Committee on the Judiciary.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BAUMAN:

H.R. 9610. A bill for the relief of Raymond Vishnu Clemons; to the Committee on the Judiciary.

By Mrs. HOLT:

H.R. 9611. A bill for the relief of Craig Day; to the Committee on the Judiciary.

By Mr. PURSELL:

H.R. 9612. A bill for the relief of Raji (c/o Mrs. J. R. Subedar); to the Committee on the Judiciary.

By Mr. STANGELAND:

H.R. 9613. A bill for the relief of Eustace John D'Souza; to the Committee on the Judiciary.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 1037

By Mr. EMERY:

On page 11, after line 7, insert the following:

"(7)" In accordance with regulations prescribed by the Secretary, the Secretary:

(A) may, with respect to no more than 25 per centum of the vessels needed to meet the requirements of this Act, waive the requirement of paragraph (4)(B) of this subsection that such vessels be built in the United States: *Provided*, That such waiver shall be applied to vessels requiring reconstruction to meet United States safety and anti-pollution standards only if such reconstruction is carried out in the United States, and

(B) may, in order to satisfy only the transportation requirements of the Energy Transportation Security Act of 1977, waive the requirement of paragraph (4)(B) of this subsection that such vessels, if at any time documented under the laws of any foreign nation, be documented under the laws of the United States for no less than three previous years."

By Mr. FITHIAN:

That H.R. 1037 be amended by inserting on page 10, line 2, after the word "subsidy.", the following: "In all such construction the shipbuilder, subcontractors, materialmen, or suppliers shall use, so far as practicable, only articles, materials, and supplies of the growth, production, or manufacture of the United States as defined in paragraph K of section 401 of the Tariff Act of 1930; *Provided, however*, That with respect to other than major components of the hull, superstructure, and any material used in the construction thereof, (1) if the Secretary of Commerce determines that the requirements of this sentence will unreasonably delay completion of any vessel beyond its contract delivery date, and (2) if such determination includes or is accompanied by a concise explanation of the basis therefor, then the Secretary of Commerce may waive such requirements to the extent necessary."

H.R. 9346

By Mr. FISHER:

Strike out sections 301 through 304 (beginning on page 164, line 20, and ending on page 176, line 25), and insert in lieu thereof the following:

Study Concerning Mandatory Coverage of Federal Employees

SEC. 301. (a) As soon as possible after the date of the enactment of this Act, the Chairman of the Civil Service Commission, the Secretaries of the Treasury and Health, Education, and Welfare, and the Director of the Office of Management and Budget shall jointly undertake and carry out a detailed study with respect to coverage of Federal employees within the old-age, survivors, and disability insurance system.

(b) The study to be undertaken under subsection (a) shall include—

(1) a review of the methods by which full coverage of Federal employees within the old-age, survivors, and disability insurance system could be attained;

(2) an analysis of the adjustments to such system (as well as to the civil service retirement and disability system and other Federal employee retirement systems involved, including the foreign service, judiciary, Central Intelligence Agency, and District of Columbia retirement systems) which are necessary under each such method to provide such coverage, particularly—

(A) adjustments in age, service, and other eligibility requirements; and

(B) adjustments in the nature and level of disability, death, and survivor benefits (taking into account any related factors such as the taxability of such benefits);

(3) a comparison of the financial aspects of each such method, particularly—

(A) the adjustments required by each such method in the contributions by Federal employees, the Government (whether by specific contribution or by appropriation), and others involved;

(B) the adjustments required by each such method in the manner in which benefits are financed under the retirement systems involved; and

(C) the effects of each such method on the solvency of the retirement systems involved;

(4) the effects of each such method of coverage on—

(A) recruitment and retention of Federal employees;

(B) other employee benefits (such as health benefits coverage provided for civil service annuitants); and

(C) Federal, State, and local income tax systems;

(5) a review of the methods by which partial coverage of Federal employees within the old-age, survivors, and disability insurance system could be attained, together with consideration of the factors described in paragraphs (2), (3), and (4) as they would relate to such partial coverage; and

(6) alternatives to providing coverage of Federal employees within the old-age, survivors, and disability insurance system which would improve the solvency of the old-age, survivors, and disability insurance system.

In connection with such study, interested parties, including Federal employee organizations, associations of retired Federal employees, and heads of agencies administering

Federal employee retirement systems, shall be allowed to submit views, arguments, and data.

(c) Upon the completion of the study under subsection (a) and in any event no later than 2 years after the date of the enactment of this Act, the Chairman of the Civil Service Commission, the Secretaries of the Treasury and Health, Education, and Welfare, and the Director of the Office of Management and Budget shall submit to the President and to the appropriate committees of each House of the Congress a joint report on the results of such study together with their recommendations. Any such recommendation which includes adjustments of existing statutes shall be accompanied with draft legislation accomplishing such adjustments.

(d) With respect to Federal employees under the Federal employee retirement systems, the study and the report under this section shall include at least one method of coverage of such employees within the old-age, survivors, and disability insurance system which provides—

(1) that the benefits available to such Federal employees would not be less favorable than the benefits which are then currently available to such employees under the Federal employee retirement systems; and

(2) that the contributions required of such Federal employees would not be greater than the contributions which are then currently required of such employees under the Federal employee retirement systems.

(c) For purposes of this section, the term "Federal employee" means—

(1) an employee, as defined in section 2105 of title 5, United States Code;

(2) an officer or employee of the United States Postal Service or of the Postal Rate Commission; and

(3) any other individual in the employ of the United States or any instrumentality of the United States.

STUDY CONCERNING MANDATORY COVERAGE OF STATE AND LOCAL EMPLOYEES

SEC. 302. (a) As soon as possible after the date of the enactment of this Act, the Chairman of the Civil Service Commission, the Secretaries of the Treasury and Health, Education, and Welfare, and the Director of the Office of Management and Budget shall jointly undertake and carry out a detailed study with respect to coverage of all State and local government employees within the old-age, survivors, and disability insurance system.

(b) The study to be undertaken under subsection (a) shall include—

(1) a survey of the several States and their political subdivisions with the objective of determining—

(A) the types and coverage patterns of the various State and local retirement and disability systems now in existence,

(B) the categories of employees within each such State and locality not now covered under the old-age, survivors, and disability insurance system,

(C) the methods available in each such State and locality for financing full participation in the old-age, survivors, and disability insurance system,

(D) the financial ability of the various States and localities to participate in such system, and the ability of the Federal Government to require and administer such participation, and

(E) any special conditions or situations existing in particular States and localities which might cause problems in connection with the mandatory coverage of all their employees under the old-age, survivors, and disability insurance system;

(2) a review of the methods by which full coverage of all State and local employees within the old-age, survivors, and disability insurance system might be attained;

(3) an analysis of the kinds of adjustments to existing State and local retirement and disability systems which would be necessary under each such method to make effective provision for such coverage;

(4) a comparison of the financial aspects of each such method, particularly with reference to the ability of the various States and localities to bear the costs of participation in the Federal system on a mandatory full-coverage basis;

(5) the effects of each such method of coverage on existing coverage of State and local employees under their own retirement and disability systems;

(6) a survey of the legal and constitutional barriers to full participation in the Federal system, or to making the necessary adjustments to their own retirement and disability systems, which may exist in the various States and localities; and

(7) an analysis of the identifiable problems which may exist in particular States and localities in connection with the mandatory coverage of their employees under the old-age, survivors, and disability insurance system, with emphasis upon the special problems involved in returning employees to coverage under such system in States and localities whose employees were formerly covered pursuant to State agreement but which have heretofore elected to terminate such coverage.

In connection with such study, interested parties, including State and local employee organizations, associations of retired State and local employees, and heads of agencies administering State and local employee retirement systems, shall be allowed to submit views, arguments, and data.

(c) Upon the completion of the study under subsection (a) and in any event no later than 2 years after the date of the enactment of this Act, the Chairman of the Civil Service Commission, the Secretaries of the Treasury and Health, Education, and Welfare, and the Director of the Office of Management and Budget shall submit to the President and to the appropriate committees of each House of the Congress a joint report on the results of such study together with their recommendations. Any such recommendation which includes adjustments of existing Federal statutes shall be accompanied with draft legislation accomplishing such adjustments.

Strike out section 313 (beginning on page 188, line 18, and ending on page 191, line 9).

Redesignate sections 305 through 312 as sections 301 through 308, respectively.

Conform the table of contents (on page 117).

Page 225, lines 12 and 13, strike out "(as amended by section 302(d)(3) of this Act)".

Page 232, line 9, strike out "(e)" and insert in lieu thereof "(d)".

Page 232, lines 11 and 12, strike out "(after the new subsection added by section 304 of this Act)".

Page 232, line 14, strike out "(e)" and insert in lieu thereof "(d)".

Page 242, lines 1 and 2, strike out "(as amended by section 302(e)(4) of this Act)".

Page 119, line 18, strike out "5.15 percent" and insert in lieu thereof "5.25 percent".

Page 120, line 2, strike out "5.45 percent" and insert in lieu thereof "5.55 percent".

Page 120, line 4, strike out "6.00 percent" and insert in lieu thereof "6.10 percent".

Page 120, lines 16 and 17, strike out "5.15 percent" and insert in lieu thereof "5.25 percent".

Page 120, line 20, strike out "5.45 percent" and insert in lieu thereof "5.55 percent".

Page 120, line 22, strike out "6.00 percent" and insert in lieu thereof "6.10 percent".

Page 121, line 14, strike out "7.70 percent" and insert in lieu thereof "7.90 percent".

Page 121, line 18, strike out "8.20 percent" and insert in lieu thereof "8.30 percent".

Page 121, line 21, strike out "9.00 percent" and insert in lieu thereof "9.15 percent".

Page 125, line 25, strike out "$27,900" and insert in lieu thereof "$29,700".

By Mr. JENKINS:

Page 125, strike out lines 22 through 25 and insert in lieu thereof the following:

"(A) in 1978 shall be $18,000,

"(B) in 1979 shall be $20,500,

"(C) in 1980 shall be $23,000,

"(D) in 1981 shall be $25,500,

"(E) in 1982 shall be $28,000,

"(F) in 1983 shall be $30,500, and

"(G) in 1984 shall be $33,000."

Page 126, line 3, strike out "1982" and insert in lieu thereof "1985".

Page 119, strike out lines 13 through 18 and insert in lieu thereof the following:

"(2) with respect to wages received during the calendar year 1978, the rate shall be 5.15 percent;

"(3) with respect to wages received during the calendar years 1979 through 1984, the rate shall be 5.20 percent;".

Page 120, strike out lines 12 through 17 and insert in lieu thereof the following:

"(2) with respect to wages paid during the calendar year 1978, the rate shall be 5.15 percent;

"(3) with respect to wages paid during the calendar years 1979 through 1984, the rate shall be 5.20 percent;".

Page 121, strike out lines 12 through 15 and insert in lieu thereof the following:

"(3) in the case of any taxable year beginning after December 31, 1980, and before January 1, 1985, the tax shall be equal to 7.80 percent of the amount of the self-employment income for such taxable year;".

I. Add to the table of contents the following new title:

Title VIII—NATIONAL COMMISSION ON SOCIAL SECURITY

SEC. 801. Establish a National Commission on Social Security;

II. Add the following new title and section after Title VII:

Title VIII—NATIONAL COMMISSION ON SOCIAL SECURITY

SEC. 801. (a)(1) There is hereby established a commission to be known as the National Commission on Social Security (hereinafter referred to as the "Commission").

(2)(A) The Commission shall consist of—

(i) five members to be appointed by the President, by and with the advice and consent of the Senate, one of whom shall, at the time of appointment, be designated as Chairman of the Commission;

(ii) two members to be appointed by the Speaker of the House of Representatives; and

(iii) two members to be appointed by the President pro tempore of the Senate.

(B) At no time shall more than three of the members appointed by the President, one of the members appointed by the Speaker of the House of Representatives, or one of the members appointed by the President pro tempore of the Senate be members of the same political party.

(C) The membership of the Commission shall consist of individuals who are of recognized standing and distinction and who possess the demonstrated capacity to discharge the duties imposed on the Commission, and shall include representatives of the private insurance industry and of recipients and potential recipients of benefits under the programs involved as well as individuals whose capacity is based on a special knowledge or expertise in those programs. No individual who is otherwise an officer or full-time employee of the United States shall serve as a member of the Commission.

(D) The Chairman of the Commission shall designate a member of the Commission to act as Vice Chairman of the Commission.

(E) A majority of the members of the Commission shall constitute a quorum, but a lesser number may conduct hearings.

(F) Members of the Commission shall be appointed for a term of two years.

(G) A vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as that herein provided for the appointment of the member first appointed to the vacant position.

(3) Members of the Commission shall receive $138 per diem while engaged in the actual performance of the duties vested in the Commission, plus reimbursement for travel, subsistence, and other necessary expenses incurred in the performance of such duties.

(4) The Commission shall meet at the call of the Chairman, or at the call of a majority of the members of the Commission; but meetings of the Commission shall be held not less frequently than once in each calendar month which begins after a majority of the authorized membership of the Commission has first been appointed.

(b)(1) It shall be the duty and function of the Commission to conduct a continuing study, investigation, and review of—

(A) the Federal old-age, survivors, and disability insurance program established by title II of the Social Security Act; and

(B) the health insurance programs established by title XVIII of such Act.

(2) Such study, investigation, and review of such programs shall include (but not be limited to)—

(A) the fiscal status of the trust funds established for the financing of such programs and the adequacy of such trust funds to meet the immediate and long-range financing needs of such programs;

(B) the scope of coverage, the adequacy of benefits including the measurement of an adequate retirement income, and the conditions of qualification for benefits provided by such programs including the application of the retirement income test to unearned as well as earned income;

(C) the impact of such programs on, and their relation to, public assistance programs, nongovernmental retirement and annuity programs, medical service delivery systems, and national employment practices;

(D) any inequities (whether attributable to provisions of law relating to the establishment and operation of such programs, to rules and regulations promulgated in connection with the administration of such programs, or to administrative practices and procedures employed in the carrying out of such programs) which affect substantial numbers of individuals who are insured or otherwise eligible for benefits under such programs, including inequities and inequalities arising out of marital status, sex, or similar classifications or categories;

(E) possible alternatives to the current Federal programs or particular aspects thereof, including but not limited to (i) a phasing out of the payroll tax with the financing of such programs being accomplished in some other manner (including general revenue funding and the retirement bond), (ii) the establishment of a system providing for mandatory participation in any or all of the Federal programs, (iii) the integration of such current Federal programs with private retirement programs, and (iv) the establishment of a system permitting covered individuals a choice of public or private programs or both; and

(F) methods for effectively implementing the recommendations of the Commission.

(3) In order to provide an effective opportunity for the general public to participate fully in the study, investigation, and review under this section, the Commission, in conducting such study, investigation, and review, shall hold public hearings in as many different geographical areas of the country as possible. The residents of each area where such a hearing is to be held shall be given reasonable advance notice of the hearing and an adequate opportunity to appear and express their views on the matters under consideration.

(c)(1) No later than four months after the date on which a majority of the authorized membership of the Commission is initially appointed, the Commission shall submit to the President and the Congress a special report describing the Commission's plans for conducting the study, investigation, and review under subsection (b), with particular reference to the scope of such study, investigation, and review and the methods proposed to be used in conducting it.

(2) At or before the close of each of the first two years after the date on which a majority of the authorized membership of the Commission is initially appointed, the Commission shall submit to the President and the Congress an annual report on the study, investigation, and review under subsection (b), together with its recommendations with respect to the programs involved. The second such report shall constitute the final report of the Commission on such study, investigation, and review, and shall include its final recommendations; and upon the submission of such final report the Commission shall cease to exist.

(d)(1) The Commission shall appoint an Executive Director of the Commission who shall be compensated at a rate fixed by the Commission, but which shall not exceed the rate established for level V of the Executive Schedule by title 5, United States Code.

(2) In addition to the Executive Director, the Commission shall have the power to appoint and fix the compensation of such personnel as it deems advisable, in accordance with the provisions of title 5, United States Code, governing appointments to the competitive service, and the provisions of chapter 51 and subchapter III of chapter 53 of such title, relating to classification and General Schedule pay rates.

(e) In carrying out its duties under this section, the Commission, or any duly authorized committee thereof, is authorized to hold such hearings, sit and act at such times and places, and take such testimony, with respect to matters with respect to which it has a responsibility under this section, as the Commission or such committee may deem advisable. The Chairman of the Commission or any member authorized by him may administer oaths or affirmations to witnesses appearing before the Commission or before any committee thereof.

(f) The Commission may secure directly from any department or agency of the United States such data and information as may be necessary to enable it to carry out its duties under this section. Upon request of the Chairman of the Commission, any such department or agency shall furnish any such data or information to the Commission.

(g) The General Services Administration shall provide to the Commission, on a reimbursable basis, such administrative support services as the Commission may request.

(h) There are hereby authorized to be appropriated such sums as may be necessary to carry out this section.

(i) It shall be the duty of the Health Insurance Benefits Advisory Council (established by section 1867 of the Social Security Act) to provide timely notice to the Commission of any meeting thereof, and the Chairman of the Commission (or is delegate) shall be entitled to attend any such meeting.

By Mr. KETCHUM:

Page 220, line 17, insert "And Eventual Repeal" after "Liberalization" (and conform the table of contents on page 118).

Page 222, strike out lines 7 through 13 and insert in lieu thereof the following:

"(iii) shall be $416.66⅔ for each month of any taxable year ending after 1979 and before 1981, and

"(iv) shall be $458.33⅓ for each month of any taxable year ending after 1980 and before 1982.".

Page 222, line 18, strike out "1977 or 1978" and insert in lieu thereof "1977, 1978, 1979, or 1980".

Page 223 strike out lines 5 and 6 and insert in lieu thereof the following:

(e) Subject to subsection (f) the amendments made by the preceding provisions of this section shall apply with respect to taxable years ending after December 1977.

(f) Effective with respect to taxable years ending after December 31, 1981—

(1) subsections (d)(1), (f)(1)(B), and (j) of section 203 of the Social Security Act, and subsection (c)(1) of such section 203 (as amended by section 411(i) of this Act), are each amended by striking out "seventy-two" and inserting in lieu thereof "sixty-five";

(2) the last sentence of section 203(c) of such Act (as so amended) is amended by striking out "nor shall any deduction" and all that follows and inserting in lieu thereof "nor shall any deduction be made under this subsection from any widow's or widower's insurance benefit if the widow, surviving divorced wife, widower, or surviving divorced husband involved became entitled to such benefit prior to attaining age 60.";

(3) clause (D) of section 203(f)(1) of such Act is amended to read as follows: "(D) for which such individual is entitled to widow's or widower's insurance benefits if she or he became so entitled prior to attaining age 60, or";

(4) section 203(f)(3) of such Act is amended by striking out "age 72" and inserting in lieu thereof "age 65";

(5) section 203(f)(5)(D) of such Act is repealed;

(6) section 203(h)(1)(A) of such Act is amended by striking out "the age of 72" and "age 72" and inserting in lieu thereof in each instance "age 65";

(7) the heading of section 203(j) of such Act is amended by striking out "Seventy-two" and inserting in lieu thereof "Sixty-five";

(8) subsections (f)(1), (f)(3), (f)(4)(B), and (h)(1)(A) of section 203 of such Act (as amended by section 501(d) of this Act) are each further amended by striking out "the applicable exempt amount" and inserting in lieu thereof "the exempt amount"; and

(9) the amendments made by subsections (a), (b), and (c)(1) of this section shall cease to be effective; and the provisions of section 203 of such Act (as otherwise amended by the provisions of this Act) shall read as they would if such subsections (a), (b), and (c)(1) had not been enacted.

Page 119, line 17, strike out "calendar years 1981 through 1984" and insert in lieu thereof "calendar year 1981".

Page 119, after line 18, insert the following new paragraph:

"(4) with respect to wages received during the calendar years 1982 through 1984, the rate shall be 5.25 percent;".

Page 119, line 19, strike out "(4)" and insert in lieu thereof "(5)".

Page 120, line 2, strike out "5.45 percent" and insert in lieu thereof "5.55 percent".

Page 120, line 3, strike out "(5)" and insert in lieu thereof "(6)".

Page 120, line 4, strike out "6.00 percent" and insert in lieu thereof "6.10 percent".

Page 120, lines 15 and 16, strike out "calendar years 1981 through 1984" and insert in lieu thereof "calendar year 1981".

Page 120, after line 17, insert the following new paragraph:

"(4) with respect to wages paid during the calendar years 1982 through 1984, the rate shall be 5.25 percent; and".

Page 120, line 18, strike out "(4)" and insert in lieu thereof "(5)".

Page 120, line 20, strike out "5.45 percent" and insert in lieu thereof "5.55 percent".

Page 120, line 21, strike out "(5)" and insert in lieu thereof "(6)".

Page 120, line 22, strike out "6.00 percent" and insert in lieu thereof "6.10 percent".

Page 121, line 13, strike out "1985" and insert in lieu thereof "1982".

Page 121, after line 15, insert the following new paragraph:

"(4) in the case of any taxable year beginning after December 31, 1981, and before January 1, 1985, the tax shall be equal to 7.85 percent of the amount of the self-employment income for such taxable year;".

Page 121, line 16, strike out "(4)" and insert in lieu thereof "(5)".

Page 121, line 18, strike out "8.20 percent" and insert in lieu thereof "8.35 percent".

Page 121, line 20, strike out "(5)" and insert in lieu thereof "(6)".

Page 121, line 21, strike out "9.00 percent" and insert in lieu thereof "9.15 percent".

By Mr. STEIGER:

Page 222, strike out lines 3 through 7 and insert in lieu thereof the following:

"(i) shall be $333.33⅓ for each month of any taxable year ending after 1978 and before 1980,

"(ii) shall be $375 for each month of any taxable year ending after 1979 and before 1981,

"(iii) shall be $416.66⅔ for each month of any taxable year ending after 1980 and before 1982,

"(iv) shall be $458.33⅓ for each month of any taxable year ending after 1981 and before 1983,

"(v) shall be $500 for each month of any taxable year ending after 1982 and before 1984, and".

Page 222, line 8, strike out "(iii)" and insert in lieu thereof "(vi)".

Page 222, line 10, strike out "1979" and insert in lieu thereof "1983".

Page 222, strike out "in 1977 or 1978" in line 18 and all that follows down through the end of line 24 and insert in lieu thereof "in 1978, 1979, 1980, 1981, or 1982.".

Page 223, line 6, strike out "1977" and insert in lieu thereof "1978".

Page 125, strike out lines 22 through 25 and insert in lieu thereof the following:

"(A) in 1978 shall be $19,200,

"(B) in 1979 shall be $22,200,

"(C) in 1980 shall be $25,000,

"(D) in 1981 shall be $26,000,

"(E) in 1982 shall be $27,000,

"(F) in 1983 shall be $28,700,

"(G) in 1934 shall be $30,300, and

"(H) in 1985 shall be $31,800."

Page 126, line 3, strike out "1982" and insert in lieu thereof "1986".

Page 119, line 15, strike out "5.05" and insert in lieu thereof "5.15".

Page 119, line 18, strike out "5.15" and insert in lieu thereof "5.25".

Page 120, line 2, strike out "5.45" and insert in lieu thereof "5.55".

Page 120, line 4, strike out "6.00" and insert in lieu thereof "6.10".

Page 120, line 13, strike out "5.05" and insert in lieu thereof "5.15".

Page 120, line 16, strike out "5.15" and insert in lieu thereof "5.25".

Page 120, line 20, strike out "5.45" and insert in lieu thereof "5.55".

Page 120, line 22, strike out "6.00" and insert in lieu thereof "6.10".

Page 121, line 10, strike out "7.10" and insert in lieu thereof "7.25".

Page 121, line 14, strike out "7.70" and insert in lieu thereof "7.85".

Page 121, line 18, strike out "8.20" and insert in lieu thereof "8.35".

Page 121, line 21, strike out "9.00" and insert in lieu thereof "9.15".

Page 122, line 9, strike out "1.00" and insert in lieu thereof "0.90".

Page 122, line 23, strike out "1.00" and insert in lieu thereof "0.90".

Page 123, line 15, strike out "1.00" and insert in lieu thereof "0.90".

EXTENSIONS OF REMARKS

A RESOLUTION FROM THE VIRGINIA PORT AUTHORITY

HON. HARRY F. BYRD, JR.

OF VIRGINIA

IN THE SENATE OF THE UNITED STATES

Monday, October 17, 1977

Mr. HARRY F. BYRD, JR. Mr. President, one aspect of the proposed Panama Canal Treaties which has not yet been adequately explored is the likely economic impact should those treaties be ratified.

Carter administration officials have already conceded that there will probably be an immediate 25- to 30-percent increase in tolls to help meet the costs of the treaties and this will surely have an effect on the amount and types of goods sent through the canal.

Such an increase would also have an adverse effect on cargo tonnage handled by Atlantic and gulf coast ports and on longshore employment in those ports.

I have today received a resolution from the board of commissioners of the Virginia Port Authority concerning the possible effects of the canal treaties on Virginia ports and employment.

The port authority estimates that over 22,000 jobs in the Commonwealth of Virginia are generated by Virginia ports and their related business activity and that those jobs could be put in jeopardy by nonavailability of the Panama Canal or a substantial increase in canal tolls.

Mr. President, I am sure that other ports on the eastern seaboard and the gulf coast would be similarly affected and therefore I believe that this matter should be fully explored by the Congress during the course of consideration of the proposed treaties.

I ask unanimous consent that the text of the Virginia Port Authority resolution be printed in the RECORD.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

A RESOLUTION EXPRESSING CONCERN OVER THE FUTURE OF THE PANAMA CANAL AND THE POTENTIAL EFFECT ON THE PORTS OF VIRGINIA SHOULD THE CANAL BE CLOSED OR TOLLS DRAMATICALLY INCREASED

Whereas, much attention has been given to the new treaties dealing with the position of the United States with respect to the Panama Canal; and

Whereas, the Panama Canal is one of the major maritime gateways of the world providing Virginia ports and Virginia businesses with considerable economic benefits evidenced by the fact that ships carried 10,700,000 tons of cargo, valued at $1.6 billion from and to Virginia's ports via the Panama Canal in 1976; and

Whereas, Virginia industries, agricultural products and coal mines contributed some 2,100,000 tons of cargo valued at $320 million to this total; and

Whereas, this port and business activity provided some 22,500 jobs to Virginians; and

Whereas, the continued avilability of the Canal at tolls competitive with alternate methods of cargo movement is essential to economic health in the Commonwealth as loss of the use of the Canal or prohibitive toll increases have the potential to divert cargo from Virginia ports and to dislocate 22,500 Virginia jobs; and

Whereas, such loss in jobs and maritime commerce would also lose to the Commonwealth $100 million spent to handle cargo and $6 million generated in direct taxes to Virginia.

Now therefore be it resolved, by the Board authority in regular meeting assembly at Richmond, Virginia, this 12th day of October, 1977, that the Virginia Delegation to the Congress of the United States is respectfully urged to protect the uninterrupted and efficient use of the Panama Canal at tolls competitive with alternate methods of cargo movement to the ports of Virginia.

SUNSET HEARINGS

HON. JAMES J. BLANCHARD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, October 17, 1977

Mr. BLANCHARD. Mr. Speaker, the Subcommittee on Legislation and National Security of the Committee on Government Operations held hearings this morning on the concept of "sunset" legislation.

I would like to take this opportunity to thank the committee chairman, Congressman JACK BROOKS, on behalf of the 140 Members of the House who have sponsored the various sunset bills which Congressman MINETA and I have introduced this year. The Goverment Operations Committee's schedule has been extremely crowded, and we appreciate the chairman's courtesy in setting time aside for us.

For the benefit of those members who are interested in the sunset concept, I would like to insert my testimony before the subcommittee in the RECORD. The testimony follows:

Mr. Chairman and members of the subcommittee, I am grateful for the opportunity to appear before you today to testify on the concept of "sunset" review of federal spending programs. I know that the schedule of your committee has been extremely crowded this year, and I appreciate your willingness to make time available for us on this issue.

The idea of sunset has come a long way since Congressman Mineta and I introduced our "Truth in Budgeting bill in 1975.

I believe that is because there is a genuine need for legislation of this type—an overwhelming need.

The size and complexity of the federal government are such that if we are to try to exercise oversight in a reasonably effective way, Congress must have a structure

which lends itself to efficient and regular program review.

As all of you know, the variety and number of federal spending programs which are going on today are little short of bewildering not only to the novice, but to the seasoned veteran.

Examples of the apparent waste and duplication which can result are not hard to find:

A 1971 General Accounting Office (GAO) study found 11 different child care service programs operating in the District of Columbia alone, administered by the Department of Health, Education and Welfare (HEW), the Department of Housing and Urban Development, and the Department of Labor.

A 1973 HEW study found 50 federal programs providing help to handicapped youth. Fourteen separate units within HEW administered the programs, and the GAO, which examined the HEW report, found that there was no central coordinating point.

There are over 1,000 federal programs adminstered by 52 agencies; they include 302 health programs and 259 community development programs. Even using a more specific heading does not help—there are 27 different vocational education programs.

Not long ago, the Senate Subcommittee on Intergovernmental Relations, which was then considering Senator Muskie's S. 2, asked the GAO for a list of federal programs, along with their committees of jurisdiction.

The "Table of Federal Programs" which resulted listed 160 programs under the jurisdiction of the Human Resources Committee. Asked to comment on this listing, the Committee replied that it exercised jurisdiction over 682 programs.

The "Table" lists a total of 1,250 programs. The federal catalog of domestic assistance for the same year listed 1,030. And so forth. Clearly, when there is still so much question as to the actual number of federal programs, we can conclude that overall evaluation of federal spending is still in a rather early stage of its development.

Add to that uncertainty the fact that the House of Representatives has 29 committees with 15 subcommittees, and that budget authority for some programs expires each year, for others every two years, for still others not at all, and the need for a simpler structure for dealing with federal spending becomes plain.

Mr. Chairman, despite the beginning we have made with the Budget and Impoundment Control Act, the federal budget today remains basically out of control. So much is going on at once in so many different areas that even with all due diligence, effective oversight is extremely difficult.

There are three major aspects to sunset, as represented by the latest version of our bill. (I should mention at this point, by the way, that we are here in support of a concept, rather than rigidly adhering to a specific bill—we have introduced several bills embodying various related and similar provisions during the last year.)

The first is a regular review of all federal spending programs on a three-Congress, six-year cycle.

The second, a concept that to my mind is even more important, is consideration of programs in the same functional categories at the same time and in relation to one another.

That is a concept which Congressman Mineta will be discussing in greater detail, and so I will leave it for him.

The third is the idea of a fixed termination date, basically as an action-forcing mechanism, to make sure that both Congress and the executive branch take the sunset process seriously, and to make sure that each and every program receives some form of review.

It is unfortunate that some have seized on the termination date as the embodiment of sunset. As we view the entire sunset concept, the termination date is intended as a triggering device to *ensure* program review—to ensure a conscious decision on programs.

For this reason, our legislation is geared around the specific program reauthorization. If a program is "terminated" for any reason, only the funding is knocked out. The substantive law remains on the books.

The basic structure of our legislation, and that now pending in the Senate, is as follows:

First, it sets out a schedule for review at fixed intervals of all programs, by budget subfunction;

Second, it requires that a program be considered according to that schedule in order to receive new budget authority;

Third, it requires that the authorizing committee's report on the reauthorization answer certain basic questions about the program;

Fourth, it establishes a procedure by which the House and Senate can select specific program areas, from among those scheduled for termination during a particular Congress, for intensive evaluation, and sets out guidelines for such an in-depth evaluation.

Fifth, it provides for a means of extending a program's life in the event that it becomes subjected to a filibuster or some other delaying tactic (without, however, any increase in funding).

These are the main features of the sunset structure. I am certain that your subcommittee has the needed expertise to form them into the shape which will be best suited for the needs of the Congress.

In the House, we now have 140 cosponsors. In the Senate, there are over 50.

I have been seeking the opportunity to testify before you because I believe it is important to begin moving toward a sunset law in the near future.

The obvious political benefits of the sunset idea have not been lost on many in the House, and I foresee a stream of amendments and proposals going at the concept piecemeal unless some form of comprehensive approach is undertaken.

Most recently, as I am sure you are aware, sunset was proposed as an amendment to the Department of Energy bill.

Subsequently, I should note, the conference committee, which included, I believe, some members of this committee, agreed to detailed sunset provisions which are similar, if not identical, in their intent to what we are proposing here today.

The DOE bill requires a comprehensive review by the executive branch of each program carried on by the department, and sets forth review guidelines which are *identical* to the in-depth sunset guidelines which I referred to earlier.

I mention this because I want you to understand that the legislative idea we are offering today is something which is already beginning to be written into law. The problem, as I see it, is that if it is written into law in variable, piecemeal fashion—with one provision finding its way into one bill and others into others—it will only add to the confusion, rather than decreasing it. It will add to our workload without a rational system. I want very much to avoid that prospect. We have seen it happen to good ideas in the past, and sometimes they never do get completely straightened out.

Sunset has a lot of appeal because it makes good sense. At a time when it is becoming clear that some programs in which we have invested a lot of money are yielding less return than we had hoped, sunset seeks to have programs examined and questions asked about what they are accomplishing. At a time when public confidence in government institutions is low, it seeks to simplify and streamline the organization of what is now an extremely complicated process, and to deliver a message that Congress is really interested in bringing better management into its work. And at a time when the number of new projects we can undertake is severely limited by budgetary constraints, it seeks to turn the focus of Congress toward improving what is already in place.

I do not endorse sunset as a panacea; we have seen far too many programs labeled as such in the past, and I hope we have outgrown the practice. I do believe this concept will allow us to get more of our dollar's worth out of government spending. I also believe that without this concept we in Congress will not be intelligent partners with the executive branch when important decisions about spending priorities are made. Sunset is a logical and needed means of allowing us to strengthen our oversight and budgeting capabilities, and to continue the effort we are all engaged in, of making our government better in the future than it is today.

COSPONSORS OF BLANCHARD-MINETA SUNSET LEGISLATION

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JOHN AND MARY ANDIKIAN—50TH WEDDING ANNIVERSARY

HON. GEORGE E. DANIELSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 17, 1977

Mr. DANIELSON. Mr. Speaker, on Sunday, November 6, 1977, two of my constituents and good friends, John and Mary Andikian of Monterey Park, Calif., will be celebrating their 50th wedding anniversary. I would like to share with my colleagues some of the background of this remarkable couple who were married on November 12, 1927, in Los Angeles.

Mary—nee Kachadorian—Andikian arrived in the U.S.A. in 1917, having emigrated from Armenia with her parents, Mr. and Mrs. Louis Kachadorian and family. They settled in Providence, R.I., then later moved to Los Angeles, Calif.

John Andikian emigrated to the U.S.A. from Alexandropol, Armenia, with his mother, Mrs. Elizabeth Andikian in 1921. He settled in Los Angeles, where he has since been living.

Mary and John were married in the Holy Cross Armenian Apostolic Church of Los Angeles on November 12, 1927. In 1928, they had a daughter, Helen, now Mrs. Robert M. Shamlian. In 1939, their son, John Jr., was born. The Andikians saw to it that both children had college degrees. Helen is a graduate of UCLA and John, Jr., is a graduate of Whittier College. Helen was a schoolteacher for 21 years and John, Jr. is vice president in charge of the Dairy and Bakery Division of Certified Grocers.

John and Mary are proud of their five grandchildren, Helen and Robert Shamlian have one son, Greg. John, Jr. and Theresa Andikian have four children, John Alexandar, III; Jennifer; Beth and Michael.

Ever since their arrival in Los Angeles, John and Mary have been staunch supporters of philanthropic causes for the Armenian and American communities. John was one of the founders of the State Rubbish Collectors' Association; an inspector for the Teamsters' Union, as well as the owner-operator of a thriving business, the Eagle Rubbish Co.

Mr. and Mrs. John Andikian were instrumental in founding and working tirelessly for the Armenian Educational Home in East Los Angeles. They have been active in politics, giving freely of their time, energy and money to democratic causes.

John Andikian has served on the board of trustees at Saint Sarkis Armenian Apostolic Church, The Ararat Home for the Aged, and the Armenian Educational Home. He has thrilled audiences with his acting ability in many artistic productions for the Armenian community.

John and Mary retired from their business activities in 1976, but they did not, by any means, retire from life. Mr. Speaker, I know that you and my colleagues join me in wishing the Andikians a glorious celebration of their 50th wedding anniversary, and many more years of health and happiness.

THE CONCORDE AT O'HARE AIRPORT

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, October 17, 1977

Mr. DERWINSKI. Mr. Speaker, the possibility of the Concorde landing at other cities outside of New York and Washington, D.C., has developed as a result of President Carter's recent decision.

One of the possible cities that would provide the Concorde service is Chicago's O'Hare Airport. In an editorial of September 26, Chicago—TV Station WLS very objectively discusses this subject:

THE CONCORDE AT O'HARE AIRPORT

If President Carter has his way, the Concorde supersonic jet will soon make regularly scheduled flights to O'Hare Airport. Of course, federal authorities admit the Concorde is noisier than other planes. And for that reason, some Chicagoans want to ban the Concorde from our city.

We think their protests are premature—and here's why. First, the Concorde has flown in and out of Dulles Airport, near Washington, D.C., for a year and a half, with few complaints. The decibel count is higher, but many residents say the extra noise really isn't detectable. Another point—as one of the 12 cities proposed for Concorde landings, Chicago could benefit from the extra flights. They could be both a convenience, and an economic plus for our city.

If city officials agree, British Airlines and Air France could bring the Concorde to Chicago for a few trial flights. The anti-noise protesters should welcome this opportunity, not stand in its way. O'Hare became the busiest airport in the world by taking advantage of its midwest location, using every opportunity to provide easy access to all the business hubs of this continent. Are we willing to sacrifice this reputation by turning down a plane none of us, protesters or admirers, has ever heard?

SUNSET REVIEW CONCEPT

HON. NORMAN Y. MINETA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 17, 1977

Mr. MINETA. Mr. Speaker, the Subcommittee on Legislation and National Security of the Committee on Government Operations, chaired by Congressman JACK BROOKS, today held hearings on the various legislative proposals before the House which embody the sunset review concept. I am particularly grateful to Mr. BROOKS for taking time from his hectic legislative schedule to conduct this inquiry into sunset.

The Task Force on Budget Processes of the Budget Committee, of which I am a member, has been studying various budget reform proposals and have found sunset to be especially intriguing. Particularly given the extraordinary growth of uncontrollable spending in the Federal budget, we are convinced that some kind of Federal spending oversight reform would be especially timely.

For the benefit of the many Members of Congress that share my concern about the confusion that is pervasive in our budget I insert the complete text of the testimony I gave at Mr. BROOK's hearings:

TESTIMONY OF CONGRESSMAN NORMAN Y. MINETA

Mr. Chairman and Members of the Committee, I want to commend you for holding these hearings on the sunset review concept. Sunset is an idea which has been talked about a great deal over the past two or three years. I think it is important for the Committee on Government Operations to sift through all of this talk and see if there is really something there. My colleague, Jim Blanchard and I think there is.

Our bill—the Sunset Program Evaluation Act is not perfect, but the concept is sound. I urge you and your committee to give this bill and the others before you a thorough review, evaluate them and tell us what you think. If Sunset is going to make a contribution to our legislative process there is a great deal of hard work ahead of us. I believe that the Committee on Government Operations is best equipped to undertake the comprehensive evaluation necessary to fashion and implement a bill that will be compatible with current Congressional procedures.

As Mr. Blanchard indicated, the objective of Sunset is straightforward: It seeks to compel the periodic review of federal spending programs in order to determine whether or not they should be continued. Most Sunset legislation contains two basic components:

1. An "Action-forcing" mechanism which carries the threat of automatic termination; and

2. A framework for the systematic review and evaluation of past program commitments.

In other words, sunset would make mandatory what is now voluntary: the legislative oversight of on-going Government activities. Further, it would encourage Congress to pursue its oversight responsibilities in a systematic, logical fashion.

As envisioned in this bill Congress would establish a review cycle that would force Congress to reconsider all Federal spending programs at least once every six years. The review cycle is arranged by broad program areas—subfunctions of the budget—so that all program within a given area will be examined together. This sunset is a process that tries to better enable us to determine which programs do not effectively fulfill the purposes for which they were created, which ones duplicate other programs, or simply no longer reflect the priorities of the American people.

The arguments for sunset are compelling. To make them I would like to draw from my experience as a Member of the Budget Committee and as former Mayor of San Jose, California.

Being on the Budget Committee has given me better appreciation of two aspects of recent budget growth: first, the growth of uncontrollable spending—and what the implication of that uncontrollability is for our future budget decisions; and second, many of the individual programs which make up recent budget growth, the programs that are the basic tools of Federal fiscal policy do not work.

To begin let's consider uncontrollable spending: despite the fact that the Constitution firmly and explicitly vests Congress with National power over the raising and expenditure of Government funds there is an obvious discrepancy between that Constitutional authority and the actual ability of Congress to control spending. A single statistic sums up this discrepancy: for fiscal 1978, more than $330 billion Federal expenditures—about 75 percent of total budget outlays—is recorded by the Office of Management and Budget as "relatively uncontrollable under existing law." If Congress had taken no action with respect to fiscal 1978—if we had adopted no budget resolutions, if we had written no new legislation, if we had made no additional appropriations—virtually all of the $330 billion would be spent anyway. Unless we begin to take steps to confront this problem of uncontrolled spending we will be overwhelmed by our budget.

During the decade that OMB has collected data on budget controllability, uncontrollable expenditures have soared from $90 billion to an estimated $330 billion. Uncontrollables accounted for 59 percent of total expenditures in 1967, but as I noted earlier, they are projected to be 75 percent of expenditures in 1987. It is important to realize that approximately ¾ of the total increase in budget outlays during the past decade has been in uncontrollable spending. From fiscal 1967 through fiscal 1976, Federal outlays rose by about $210 billion, more than $170 billion of that was in uncontrollable spending.

The growth of uncontrollable spending wreaks havoc on our budget process and is forcing us to change the way we think about the future. Until recently we could anticipate that economic growth would deliver an ample fiscal dividend which would be available for future programs. Multiyear budget projects commonly show a surplus in the future which we can use for new program starts. Unfortunately, given the growth of uncontrollable spending—with even the year-to-year increment in the budget becoming more uncontrollable (a fact due to the many entitlement programs which are indexed so their payments automatically adjust to the cost-of-living index) when the future arrives we are already encumbered by past decisions and our budget surplus is gone.

If we don't begin to fashion tools to manage this uncontrollable spending we will be overwhelmed. Sunset is one of those tools. It will help enable us to manage our budget to fulfill some of our campaign promises about making government more efficient, eliminating bureaucratic waste and reducing spending. Sunset is a necessary adjustment to the modern recognition that Federal resources are scarce. New programs and initiatives can no longer simply be thrown on top of a Federal heap.

If we are ever to begin to examine the totality of our $500 billion budget we will need something like sunset—a procedure that forces us to review programs in a systematic fashion. Our studies at the Budget Committee make it clear that money will not become available for substantial new federal initiatives in the future unless programs that no longer have high priority can be identified and eliminated, and the resources they currently consume made available for emerging needs.

As I mentioned at the beginning of my statement, being on the Budget Committee has convinced me that many of the programs which are the basic tools of fiscal policy simply do not work. Let me elaborate:

The Budget Committee has the principal responsibility for assisting in the setting of total fiscal policy. Yet we are forced to fashion fiscal policy without knowing how individual programs work—aggressive, systematic program evaluation is a crucial piece missing in our budget process. While we have successfully given ourselves a tool to set Macro economic budget policy, we do not yet have a systematic mechanism to assess the Micro economic effects of individual programs.

Mr. Brooks, before the Task Force on Budget Process of the Budget Committee on October 5, you said ". . . the Budget Committee can provide real insight and leadership in solving two major economic problems confronting this Nation: widespread unemployment and inflation." I hope you are right but, unless the Congress as a whole can begin to provide information on the effectiveness of on-going programs, I am afraid we will all be disappointed.

The failure of current fiscal policy is obvious. After several years of continued deficit spending, we are still saddled with relatively poor economic growth, high rates of inflation, and persistently high levels of unemployment. One is forced to conclude that our present programs are not working—it is time to start a wholesale, critical reexamination of all of our past programs and initiatives. If we are to make room in the budget for programs that can counteract recession, that can provide jobs and training, and that can assist the needy, we must scrutinize existing programs and eliminate those which are not working.

While the Budget Committee does recommend overall spending and revenue figures, it cannot undertake the critical scrutiny of government programs which is essential. That is the prerogative and responsibility of the various authorization and appropriation committees. If we are to meet the twin goals of a balanced budget and a full-employment economy, the Committees of the House must accept their oversight responsibilities and devote their resources and energies to weeding out bad programs.

I believe sunset will help Congress perform its oversight responsibilities effectively. The Task Force on Budget Processes is currently studying mechanims which will improve Congress' ability to review commitments more effectively. Sunset is one of the mechanisms we have found to be promising. However, it is important to point out that sunset itself is not a device that will automatically make Congress go beyond the kind of review that it can now do in the course of normal oversight activities. However, introduction of deadlines through sunset provisions would encourage program review by budget subfunction on a regular basis, and guidelines for an efficient detailed review procedure such as that suggested in Title III of the Sunset Program Evaluation Act would undoubtedly enhance the effectiveness of the oversight process.

To highlight the importance of a review procedure that would proceed along categorical budget subfunctions let me speak to you from the perspective of my former job as Mayor of San Jose. As mayor, I was the recipient of some of the billions of dollars of Federal grant programs directed at state and local governments. Seen from the local level these grant-in-aid programs are the epitome of confusion and inefficiency. The confusion makes it nearly impossible for the individual programs to achieve their objectives.

The funds—almost $80 billion in fiscal year 1978—are disbursed under a variety of programs and for a variety of purposes. One major objective is to provide income security and basic services to individuals—yet despite almost $25 billion of programs I doubt if we will provide security to those who need it. Other grant programs support on-going public services, demonstration projects, the construction of public facilities, the acquisition of land and the purchase of durable equipment yet local governments are still starved for funds.

State and local governments also have the ultimate responsibility for many programs enacted to counter recession. Countercyclical programs, such as public service employment, antirecession aid and local public works amounts to almost 13 percent of the Federal budget for fiscal 1978—but still the economy seems to be in need of more stimulus.

Rather than concentrating solely on finding more stimulus programs we ought to find out exactly why our existing programs do not work. One of the explanations for the failure of many of our grant-in-aid and stimulus programs is no doubt the competing, often contradictory objectives of individual programs. I feel that much of this could be eliminated by focusing Congressional scrutiny on entire sub-functional areas on a regular basis, rather than just programmatic parts in the piecemeal way we do now.

Such a systematic review process should also serve to eliminate some of the "red tape" associated with assistance programs which show up locally as added costs to overburdened taxpayers, and which is not directly related to the attainment of any program objectives.

Mr. Chairman, as I have tried to indicate, we must begin to limit budget growth and improve the cost-effectiveness of on-going programs. This is essential to our Congressional budget process and it is essential to improved Federal-local relations. Because there are severe needs which are not being addressed and national problems that must be attended to, we cannot allow present program deficiencies to continue uncorrected. For example, we have spent billions of dollars on health care and have enacted hundreds of health-oriented programs, yet the fundamental problem of providing quality health care at a price people can afford is not solved. We spend billions of dollars each year on education, yet every year students graduate from high school without basic reading and writing skills. We spend billions of dollars on transportation, yet in many respects transportation is a less vital sector of our economy than ever before and major questions of intermodal imbalance remain unaddressed by Congress' piecemeal, program-by-program deliberations. These are the kinds of questions that Congress might better answer if it assessed all programs within a given fundamental category at the same time.

Chairman Brooks, in my opinion the most pressing task before Congress must be to strengthen its control over the way we spend money. If our efforts at budget reform are to be successful Congress must be more than a

rubber-stamp accounting procedure that sums up expenses incurred as a consequence of past actions with little regard for what these actions accomplish. A budget process must provide genuine opportunities for making spending decisions. Decisions that while not completely free of past emcumbrances are not so predetermined by the past as to prevent meaningful and effective choice.

Naturally any legislation that seeks to change the way the Congress conducts its business must be enacted only after long and detailed study. The procedure in the Sunset Program Evaluation Act and the changes it has gone through in the past year are a good example of how a sunset trigger mechanism can be integrated into the Congress. For example earlier versions of the bill were unrealistic in the timeframe and review procedure which they called for. Critics justifiably claimed that the additional Committee workload would be enormous that reauthorization bills would be passed with no additional oversight and that automatic termination could wipe out ongoing programs accidentally.

The Sunset Program Evaluation Act addresses these criticisms. In place of the earlier more rigid provisions it establishes a longer 6 year review cycle that take a two-track approach giving the Committees of Congress flexibility—guaranteeing that they will set their own priorities.

As Mr. Blanchard pointed out Title I of the bill establishes a schedule for automatic termination and reconsideration of all but a few Federal programs. Title III provides a method for Congress to select a number of programs for intensive evaluation. Nothing in the sunset concept would require Congress to embark on a wholesale evaluation of all programs scheduled for termination. When a given program is scheduled for termination under the provisions of Title I the authorizing Committee will decide whether to re-authorize the program in such scope and detail as it deems appropriate.

Title III however establishes a procedure for the selection of certain programs to be subjected to in-depth evaluation. Under these procedures it is the authorizing committees which are the principal determinants of the selection process.

This approach recognizes important characteristics of Congressional committee activity—that some programs require more in-depth evaluation than other programs and that the authorizing committees must ultimately decide what those programs are.

The Sunset concept in this bill also employs a safeguard against automatic termination. Title V sets out provisions for the privileged consideration of a "sunset reauthorization bill." These provisions would ensure that no program would be terminated because of procedural delays and that the Congress will be given an opportunity to vote for a continuation of the program. A "sunset reauthorization bill" would extend funding for a program at no more than current appropriation level for anywhere from one year to the full length of the review cycle.

It is important to realize that it is not the intent of sunset to terminate programs. Termination of budget authority is merely a mechanism to force Congress to make a decision regarding the future of individual programs.

Of special concern to this subcommittee is Title II of the bill which provides guidelines for the development of a program inventory of all Federal programs by budget function and subfunction. Under this title the Congressional Budget Office, working with the authorizing committees would compile and continually update such a list. Obviously, if one is to review all Federal programs within a given budget subfunction one should know what programs are included in this subfunction. The fact that such an inventory is not currently available is ample testimony to the confused state of affairs in the Federal budget. The development of a program inventory is essential to the successful implementation of any procedures which try to improve oversight—I would think that the Committee on Government Operations would be especially well qualified to aid in the development of such a list.

Before I conclude my statement, I would like to point out the advantages of an oversight system that proceeds along budget subfunctional categories. By bringing up all programs within a given area at the same time we could more readily determine which programs duplicate or overlap others, and which programs operate at cross-purposes. We could be better equipped to alter, consolidate, reduce, or eliminate on-going programs, ultimately improving and co-ordinating Congressional management of federal agencies and programs.

Mr. Chairman, the bill which my colleague Jim Blanchard and I bring before you is certainly not perfect—but it shows what can be done if one takes the sunset concept seriously. This bill goes a long way towards the successful integration of sunset into the existing authorization and appropriation system. I am not asking you to pass this bill—I think a good deal of work remains to be done. But I am asking you to make it one of your major legislative concerns over the next year to foster a bill whose procedures will be effective in achieving sunset and program review goals.

HUMAN RIGHTS IN PANAMA

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 17, 1977

Mr. LAGOMARSINO. Mr. Speaker, I would like to bring to the attention of my colleagues the following statement by Rose Marie Aragon before the House Committee on International Relations on the issue of human rights violations in Panama. I believe that this statement is extremely significant in light of the fact that the Carter administration and the State Department claim that the human rights violations in Panama have not reached intolerable levels:

TESTIMONY OF ROSE MARIE ARAGON

Mr. Chairman: I deeply appreciate the opportunity of appearing before this Committee. I am Rose Marie Aragon, born in Argentina, a naturalized U.S. citizen and the widow of Leopoldo Aragon who immolated himself last month before the American Embassy in Stockholm protesting the violations of human rights in Panama and the signing of a treaty with the Torrijos dictatorship.

Gentlemen, I sometimes think that the blessings of freedom and democracy are more appropriated and more precious to a naturalized citizen. Some of you in this prestigious chamber may well remember those feelings expressed by your own parents.

With deep personal pain, I will describe the jailing without trial, the torture and imprisonment of my late husband, Leopoldo Aragon, in the infamous penal colony of Coiba, the Devils Island of Panama.

I will tell of, and offer documentation of the systematic and continuing pattern of gross violations of internationally recognized human rights by Panama's dictator, Omar Torrijos.

Until now, Panama's flagrant violations of human rights has been one of Washington's best kept secrets. This September 9, the Washington Post Editorial page article[1] raised questions: first, the reasons for State Department's cover-up of the true nature of the Torrijos regime; second, the reasons the State Department devised elaborate falsehoods to deny my husband a vistor's visa to accompany his American wife and American daughters to the U.S. this past August. I look to the Members of Congress to explore these implications.

THE WASHINGTON YEARS

I met and married Leopoldo Aragon, a Panamanian international journalist when he was assigned to Washington. He had received his law degree in the United States and completed graduate studies in International Law and Journalism in Spain and France.[2] Our twin daughters, now attending college in the United States were also born here. Leopoldo covered the White House, State Department and the Organization of American States for several Latin American and European newspapers. His first book, in Spanish, "The Kennedy Era—Inside Washington" was published then. At that time I worked for State Department with a top secret clearance. Later I worked with the Organization of American States. I have long been deeply involved with civil liberties and civil rights as my husband was devoted to the cause of human rights.

In 1967 my husband was assigned to Czechoslovakia by Interpress Service. We went with him. After nine months he was summarily given 48 hours to leave the country. He had written too many truths about communism.

THE PANAMA EXPERIENCE

In 1971 Leopoldo was assigned to Panama. For the first time since our marriage we went to make our home in his native land.

He was to set up Interpress Service. He also wrote articles for the local press and later developed a daily news analysis program on Radio Impacto. At first he viewed the political scene with a hopeful and open mind. As his views developed he began to express them privately and then publicly.

As a working journalist, he was shown a Corps of Engineers Draft Position Paper dated February 16, 1968. That paper, according to notes my husband gave me to carry to the United States, noted that popular opposition had rejected the 1967 proposed canal treaties that the Panamanian democratic government had negotiated with the United States. The paper concluded that a new treaty could not be passed in Panama except under a strong military dictatorship. This U.S. paper recommended Torrijos as the likliest man to do the job. At that time, my husband told me about this in Panama, but suggested it was better that I not know further details.

At the end of July 1972 Leopoldo, on his return trip from a short assignment in Mexico, stopped in Costa Rica at the invitation of Gonzalo Faszio, Minister of Foreign Affairs. At the dinner that evening there was also President Figueres. They held a frank conversation about the situation in Panama. These were the subjects on which Leopoldo was later interrogated.

The next day, on his arrival at the Panama International airport, Leopoldo was arrested by the G–2, the Security Arm of the National Guard.

His arrest was witnessed by a friend who informed the family. But the Guard Headquarters told me they knew nothing about my husband. After 4 days G–2 admitted to a lawyer friend that they were holding Leopoldo, but warned him not to take the case. That lawyer suggested another who had worked for other political prisoners. This Mr. Faundes agreed to present a Writ of Habeas Corpus though he accurately predicted no result. Through his contacts he learned that

my husband was charged with possession of marijuana.

He advised me to see the Attorney General. After many long days of waiting, I was told they were questioning my husband on drug charges.

I protested it was absurd and that no civilized country held a person on vague charges, denied counsel and ignored a Writ of Habeas Corpus. He replied, "In other countries, not in Panama."

I began to contact journalists throughout the world and Amnesty International, the International Committee on Human Rights and International Organizations.

My lawyer advised me to see the Minister of Justice, Materno Vasquez. For 10 days, day after day, from morning till night, I sat and I waited. When finally the Minister admitted me, it was only to say that Leopoldo was held for Subversion of Public Order.

Repeatedly I begged to see my husband. The Minister relented. I went to the jail only to be told they had received no orders. This continued for days. At last the doors of the prison opened for me and I talked with my husband after more than four weeks. He had been kept incommunicado for four weeks while tortures were inflicted on him. Which as he later told us were:

"Blows with a rubber hose; first blows to stomach and chest,

"Long questioning under strong lights without sleep."

"Electric shocks to the vital parts of the body, the ears, genital organs and the anus" that made him feel his insides were bursting.

"Hanging by the wrists and acted out executions with blank cartridges" so that each time he did not know whether he was alive or dead.

My daughters and I, having had the mental torture of not knowing whether he was dead or alive and imagining what they might be doing to him, were to start on a new stage in our anguish. I extract from the journal of my daughter, Yarmila; which she writes now for one of her classes:

"Reading other people's journals of high school romances, marijuana smoking, spaced out, partying. . . . I feel rather young and inexperienced. Though other experiences, I suppose will make up for the lack of those. Like waiting in line in the torrential tropical rains or scorching sun for an hour or more outside the "Model Prison" . . . most infamous place . . . where men whose ideas are too liberal and criticism too outspoken are thrown in among common criminals and tortured, most often to death . . . only waiting to catch a fleeting glimpse of a father's ravaged but beloved face."

My lawyer and I kept demanding that my husband be brought to trial. Instead, in December 1972 he was condemned, by simple writ, to five years in prison, and one day while standing in line to bring food and bedding to him we were told he was no longer there.

He had been sent to the Penal Colony on the Island of Coiba. The following are excerpts of Leopoldo's document:

"The prisoners are driven to Pier 18 in the Canal Zone port of Balboa under American jurisdiction, because Panama has no deep water port, and are loaded into the boat. If the trip to Coiba is hellish, it is worse if one tries to escape as I did at Pier 18 by jumping into water. It had been my hope that by doing so, I would be taken by American police who might be persuaded to take me to the hospital for injuries resulting from my torture. The shooting at me by the guards attracted a large number of American police. The shooting stopped and I shouted of my condition. The Americans agreed to take me to the hospital and so I surrendered. Then there, in front of the passive Americans I was given a severe beating with clubs, fists, rifle butts and kicks by the Panamanian guards. They handcuffed my hands behind my back. They heaved me toward the boat, but they missed. I fell into the water. I dove under the ship and made it to the underside of another pier. But I was spotted there by an American policeman. Recaptured I was turned over to the Panamanian guards who again beat me.

Half drowned, I was hanged from the handcuffs to a mast for several hours. When darkness came I was chained to a ring on the deck . . . Luckily the crammed conditions prevented the guards from kicking me as hard as they might have wished.

It was dusk of the next afternoon when the boat tied up to the jetty at the southern tip of Coiba. There were some 20 guards waiting with clubs and whips. . . . someone gave me a kick that sent me reeling over the jetty into the water . . . my delay in reaching the beach saved me from one of the most bestial practices on Coiba: the running of the gauntlet of the prisoners from the jetty to the central yard. The other prisoners were running like cattle under the whips and savage cries of the guards. These were swinging their clubs, rushing the prisoners to gallop, prodding them to run faster. The guards would run ahead of them, among them, and from behind, hitting and whipping in a happy demonical frenzy. If someone fell, several guards would converge on him, kick him, whip him, beat him and screaming louder, drag him to his feet, forcing him to sprint like crazy, the remainder of the 300 yard distance. . . .

Slumped on the ground, I watched from a distance. At first, the whole spectacle was incomprehensible because I did not grasp what was going on. It was a strange state of mind. . . . The black night in the background and the lights illuminating the goings on, sort of transported me to the environment of a theater. The play would soon be over and one would walk out with friends, have dinner or a drink and discuss the play. I felt no part of it. . . .

Then suddenly I realized with terror that the thing was real. I was in it, at the receiving end like the others. The Captain's welcoming speech was short and to the point: "You just got the Coiba shock treatment. You'll get it any time you're lazy or don't figure out what we want. In Coiba there's no God, no law, no nothing, only what is for our pleasure."

The horrors continue. At Coiba Leopoldo was told how Floyd Britton another of the political prisoners had died there. The government had announced he suffered a heart attack. The truth as Leopoldo recounted it was: "With his hands handcuffed behind his back, he was placed on a stool. Guards surrounded him and clubbed him until his brains flew out."

My husband stayed in Coiba for six months. Our appeals to the international human rights organizations and to important friends of Leopoldo in other countries bore fruit. Leopoldo was brought back to the city prison hospital. Although there are about 1,500 prisoners in Coiba, there is no medical facility. He was urinating blood and had Meniere's disease from beatings. His physical condition was terrible. Though I was told Leopoldo would be exiled, he was sent back to Coiba. Again we almost went mad. Finally in December 1973 I was ordered to buy him a one way ticket to Sweden and he was placed on a plane to Stockholm . . . where he spent two months in Karolinski hospital, recuperating from the physicial and psychological tortures.

He gave several press interviews until G–2 gave me a message: "Tell Leopoldo to keep quiet. While you are still in Panama there are ways of making him come back." I had to stay to complete the teaching jobs I had taken to support us. I, too, had a severe weight loss and was emotionally drained. When we finally left Panama they made trouble at the airport, even delaying the plane, but we had many witnesses with us.

While my husband was in prison he asked me to notify the American Consul of at least two Americans detained for no apparent reason. One was a graduate student, writing his thesis on Panama, who had come to watch the so-called election of "Corregidores" (Justice of the Peace). He was picked up and denied access to the Consul. Another American almost died of a beating in the cellars of the jail. U.S. Consul, Dodson's letter of resignation substantiates the U.S. passivity (3) (4) and the 1977 case of American citizen David Mendelson (with no political involvement) beaten and exiled, brings these cases into the present (State Department and Senator Sparkman have documentation.)

LEOPOLDO ARAGON

"Let my people decide freely" was Leopoldo Aragon's dying plea. His act of sacrifice, he said, was to "call attention to the enormity of the deprivation of human rights and political freedoms under the Torrijos dictatorship."

The exile or release of those who have been cruelly imprisoned and tortured is not the end of the story. The person changes. Psychological changes have now been recognized and a commission has been formed in Norway to study the effects of imprisonment and torture. I saw change take place in my husband. He immersed himself completely in the movement to restore human rights and democracy in Panama. Despite his dedication he did not isolate himself and had a multitude of friends. He corresponded with his colleagues who speak and write of his warm human qualities. One, at the N.Y. Times in a personal note to me, spoke of him as "a man of great character passionately devoted to a cause of extreme importance". He was a loving husband and a devoted companion to his daughters. Others remark that he was a consistent and rational man. This consistency and rationality was demonstrated in his methodical planning for his final sacrifice for his high ideals.

Twelve years ago he wrote of another "To immolate himself is to sacrifice onself for others—for an ideal—for a conviction. It is an individual decision which doesn't involve nor harm another." In an letter I received on September 2nd he had sent from Stockholm. "I know what I have to do to be faithful to my destiny. I feel it with all the depth of conviction that a man can have . . . And I am going to do something that can be instinctively understood and appreciated." On September 1st, in front of the American Embassy in Stockholm he immolated himself In his last personal message he asked me to continue the struggle, "your battle post is there."

I am here to carry on. I am here as one who has also suffered the tortures of Torrijos, tortures that continue. But mine is only one story, the only one you will hear in detail today. It started in 1972 . . . The many cases of others each year since then are documented in the volumes of The Panamanian Committee for Human Rights.

Yet Ambassador Bunker has repeated in the Congress and elsewhere what I quote from his national television interview on "Meet the Press" of August 14th. The transcript reads: "What is your impression of the record of the Torrijos Government in the area of human rights?" Ambassador Bunker answered, "Well, there have been some violations of human rights by the Torrijos Government. Most of those occurred prior to 1970 when he was consolidating his position. Amnesty International in 1973, I think, did report that most of those violations had

occurred in the early years of the regime. A year ago, they did exile some thirteen people of the right and the left who had been accused of subversion. Those, I think, have all since returned to Panama. Recently has received back nearly 100 exiles. In our report which the Administration made this Spring to the Congress, as required by law, the report stated that there was no evidence of any systematic abuse of human rights. Whenever there have been, we have called it to the attention of the Panamanian Government and have expressed our views about it."

The President of the International League for Human Rights, Attorney Jerome J. Shesteck gave the Panama Human Rights Report as an example of State Department's inaccuracies and lack of candor.(5) (6)

What actually happened in 1976 or that which is known—

January 20: Thirteen professionals, businessmen and farmers, at least in the United States does not place them either on the right or the left. In addition an Argentinian born British subject, who had served the U.S. as a parachutist medic in Vietnam, was arrested, held incommunicado, tortured and then deported.

February: A Panamanian professor, a self-described Trotskyite was picked up at the airport on his return to Panama and planed to Ecuador to join the 13 exiles.

May: Marlene Mendizabal, a high school student of humble country family, and her finance, Jorge E. Falconet, an engineering student disappeared. Her body was found and autopsy prevented by the National Guard. Falconet was never found.

September: Attorney Eusebio Marchosky was arrested, tortured and exiled to Miami. Blanca de Marchosky, Alma Robles de Samos, Fulvia Morales are imprisoned and maltreated, but later released. Querube de Carles was exiled. Three men, one an American, employed in the Canal Zone were arbitrarily arrested on trumped up charges of fomenting riots for the C.I.A. A formal protest was lodged with the U.S. Embassy, but later withdrawn. . . . Carlos Gonzalez de la Lastra, an executive, and Humberto Lopez, a student, escape arrest and are exiled to Venezuela. . . . More than 150 students are arrested and tortured, according to a letter written by Reverend Fernando Guardia Jaen, S. J. in the Panama Archdiocese monthly publication.

BOMBINGS AND TERRORISM

Following the January exiles there were a series of five mysterious bombings at the places of business or homes of the exiles or their associates. The bombs were all of the same type. At the end of October and on November 1st a series of similar bombs exploded in the Canal Zone, damaging government property and automobiles owned by American critics of the dictatorship and treaty negotiations.[7] On November 29th a similar bomb was exploded in the Volkswagon of Jorge Rodriquez, seriously wounding his wife Gilma, but leaving untouched in the rear seat Dolores Montoto. On December 23rd, 1976, an official press release of the Panama Embassy in Washington makes public a letter from Torrijos protesting that the U.S. Ambassador in Panama had told Torrijos that "Certain members of the National Guard are involved in terrorist activities which have taken place in the Panama Canal Zone in connection with explosions which last October destroyed six automobiles and damaged certain buildings . . . that the United States authorities had proof of their assertions."

Let us sum up the 1976 human rights violations listed here, which are only a small part of the known violations by Torrijos in 1976:

Exiled	18
Arbitrarily arrested	3
Arbitrarily arrested and maltreated	3
Arrested and tortured	151
Bombings (1 person seriously injured)	12
Imprisoned without trial	3
Murdered	1
Disappeared	2

Returning to Mr. Bunker's assertions. Of the 13 January exiles 4 only have returned. Ambassador Bunker says also that Torrijos has recently received back nearly 100 exiles. This is simply untrue.

Let us look at the numbers. In 1 year 181 persons are known to have had their human rights violated in Panama's tiny population of 1.7 million (as opposed to heavily populated Chile, Brazil, or Argentina). Translating that number of the U.S. population is the equivalent of human rights violations of more than 21,000 citizens.

Gentlemen: I think it is abundantly clear that Panama shows a consistent pattern of gross violations of internationally recognized human rights.

PRESIDENT CARTER AND THE TRILATERAL COMMISSION: ARTICLE II

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 17, 1977

Mr. McDONALD. Mr. Speaker, until recently the policies, plans, and operations of the Trilateral Commission established by Chase Manhatten Bank head David Rockefeller were the concern of a relatively small number of expert political analysts. Now thanks to the pioneering examinations by conservative political analysts of this powerful special interest group working to influence our Government's policies, the activities of the Trilateral Commission are beginning to receive a public airing.

In recent weeks several of my constituents have submitted extensive magazine articles and newspaper stories on the Trilateral Commission. Several of these are of particular interest and I intend to submit them for the attention of my colleagues:

THE TRILATERAL CONNECTION

(By Jeremiah Novak)

For the third time in this century a group of American scholars, businessmen, and government officials is planning to fashion a new world order. Discouraged by UN inadequacies, disheartened by chaos in the Bretton Woods institutions (IMF and the World Bank), and worried about the United States waning strength, these men are looking to a "community of developed nations" to coordinate international political and economic affairs.

"After every major war in this century Americans sought a new world order. Wilson pushed the League of Nations; Roosevelt and Truman constructed the UN-Bretton Woods system; and now, after Vietnam, Jimmy Carter gives us the Trilateral plan." So said C. Fred Bergsten, assistant secretary of the treasury and one of sixteen top Carter appointees who belong to the Trilateral Commission. All sixteen represent a deeply internationalist tradition that is part of the eastern American establishment. "Liberal internationalism is our creed," said Bergsten.

And Jimmy Carter is its prophet. Carter is a charter member of the Trilateral Commission and an advocate of its basic internationalist viewpoint. According to one Carter campaign aide, "Carter reeks of Protestant America's manifest destiny, and embodies the frontier tradition, the open door, and Cordell Hull's free trade internationalism, all wrapped up in one."

If there is one book in Carter's gospel, it is Zbigniew Brzezinski's *Between Two Ages*, published in 1970, in which Brzezinski, now national security adviser, formed the concept of "a community of developed nations" that would direct the world to new levels of freedom, human rights, and economic progress. He rejected both Kennedy's inaugural globalism and the establishment prejudice toward Atlanticism that dominated the Eisenhower, Kennedy, and Johnson years. Insisting that the community of developed nations should include Japan, he called his plan "more ambitious than the concept of an Atlantic Community, but historically more relevant."

Brzezinski's community would include not only the United States, Western Europe, and Japan, but eventually all other "advanced nations," even communist ones. The emphasis is on "developed" and "advanced." As Richard Cooper, who along with Brzezinski is a key architect of Trilateralism, wrote in a recent Trilateral paper, "Only those nations whose decisions can affect the whole group should be admitted."

Brzezinski's message did not find immediate acceptance. However, in December 1971, after the United States unilaterally went off the gold standard, causing the U.S.-Western Europe-Japan alliance to totter, Brzezinski convinced Huntington Harris, a Brookings Institution trustee, to fund a series of Tripartite Studies. Joining Brookings scholars were thinkers from the Japanese Economic Research Center and the European Community Institute of University Studies. The results of these studies influenced David Rockefeller to found the Trilateral Commision. According to his own testimony Rockefeller had begun calling in 1972 for the establishment of a Trilateral Community. He broached the subject at the Bilderberg Conference of corporate leaders, where it found immediate acceptance. Among those in attendance was Michael Blumenthal, now secretary of the treasury.

As chairman of the Trilateral Commission's executive committee, Rockefeller was able to attract members who include the chief executive officers of the Bank of America, First National City Bank, Exxon, Caterpillar, and CBS, as well as such labor leaders as I. W. Abel and Leonard Woodstock, and such scholars as Richard Cooper, provost of Yale, and Harold Brown, president of the California Institute of Technology.

From Europe came, among others, the heads of Thyssen, Royal Dutch Petroleum, and Unilever. From Japan, the chairman of the Bank of Tokyo and Fuji Bank. This high-powered group appointed Brzezinski full-time director of the Trilateral Commission, and he recruited a group of scholars who wrote a series of fourteen monographs dealing with political and economic problems facing Trilateral nations.

Although the commission's primary concern is economic—principally the same issues that concerned Cordell Hull, Henry Morgenthau, Harry Dexter White, and John Maynard Keynes at Bretton Woods—the Trilateralists pinpointed a vital political objective: to gain control of the American presidency. For, as Samuel Huntington, a Harvard government professor and a Trilateral scholar, has written: "To the extent that the U.S. was governed by anyone in the decades

after World War II, it was governed by the President, acting with the support and cooperation of key individuals and groups in the executive office, the federal bureaucracy, Congress, and the more important businesses, banks, law firms, foundations and media, which constitute the private establishment."

In 1973, with Richard Nixon in deep trouble because he did not have this support, the Trilateralists found it essential to play a role in determining the direction of the American presidency. As early as May 1975, Brzezinski, at a Trilateral Commission meeting in Kyoto, hailed Carter as "one political leader with the courage to speak forthrightly on difficult political issues." And Peter Bourne, Carter's former deputy campaign chief, has been quoted as saying, "David Rockefeller and Zbig have both agreed that Carter is the ideal politician to build on."

Carter reciprocated by reiterating during his campaign that "we must replace balance-of-power politics with world order politics"—the Trilateralists' basic theme. Of late this theme has been echoing through the halls of Congress, as some of the Administration's Trilateral appointees, such as Cooper, Bergsten, and Cyrus Vance, have testified. "The basic philosophy of the Administration," Bergstein told Congress, "is that domestic and international issues are inextricably linked."

Such concepts are being well received by many in Congress. For instance, as Representative Henry Gonzalez of Texas said after attending the International Development Association (IDA) replenishment conference in Geneva in March, "The arrival of Bergsten and Cooper was like a breath of fresh air. There's a new sense of flexibility and understanding that has gained new respect for the U.S. among our allies. They know that the people in this Administration care."

The Administration's internationalist views have also received a big boost from Federal Reserve Chairman Arthur Burns, a Nixon appointee. Speaking at the Columbia University School of Business on April 12, he made an impassioned plea for a greatly strengthened IMF. His call echoed that of a 1973 Trilateral pamphlet written by Richard Cooper, now assistant secretary of state for international economic affairs.

The Trilateralists' emphasis on international economics is not entirely disinterested, for the oil crisis forced many developing nations, with doubtful repayment abilities, to borrow excessively. All told, private multinational banks, particularly Rockefeller's Chase Manhattan, have loaned nearly $52 billion to developing countries. An overhauled IMF would provide another source of credit for these nations, and would take the big private banks off the hook. This proposal is a cornerstone of the Trilateral plan, because it makes possible the continuation of free trade internationalism.

Perhaps the best example of Trilateralism was the post-Inaugural trip to Europe and Japan of Vice President Walter Mondale (also a Trilateralist). He assured leaders of Carter's determination to work in deep consultation with them. Institutionally, the Rambouillet, Puerto Rico, and London conferences, where Trilateral leaders have met to discuss economic issues, symbolize this new community of developed nations. To implement its aims, the Trilateral Commission has called for the formation of commissions to coordinate the political and economic power of the Trilateral area. These commissions will subordinate national economic policy to international needs. As Bergsten said in a speech on April 22 to the Chicago Council on Foreign Relations, "The world's major economic powers must, in a positive sense, exercise collective responsibility for the stability and progress of the world economy."

Many Americans, in government and without, view this new emphasis on collective responsibility as a threat to traditional national sovereignty. Others worry about the basic political philosophy that motivates the Trilateralists. In particular, many people are concerned about the views of Samuel Huntington, who is an editor of *Foreign Policy* magazine—often a showcase for Trilateral thinking. (Trilateralist Richard Holbrooke, the former managing editor, is now assistant secretary of state for East Asia and Pacific affairs.) Among other worrisome statements, Huntington wrote in *The Crisis of Democracy.*" "In some measure the advanced industrial societies have spawned a stratum of value-oriented intellectuals who often devote themselves to the derogation of leadership . . . and their behavior contrasts with that of the also increasing numbers of technocratic and policy-oriented intellectuals."

Huntington also made the following statement in his essay: "Al Smith once remarked 'the only cure for the evils of democracy is more democracy.' Our analysis suggests that applying that cure at present could well be adding fuel to the flames. Needed instead is a greater degree of moderation in democracy."

Penn State political scientist Larry Spence criticizes Huntington's condemnation of value-oriented philosophers as "a direct attempt to raise the status of the technocratic elite, who curry to the needs of the wealthy corporations. If he gets his way," Spence declared, "we will have a new supernational community dominated by the multinational corporations."

Another critic is Walter Dean Burnham, professor of political science at the Massachusetts Institute of Technology. Writing in "Trialogue," the Trilateral Commission's newsletter, Burnham stated: "Firstly, Professor Huntington systematically inflates the claim of authority against the claim of liberty in any situation. . . . There is, I think it is fair to say, a visible pro-authority bias to his work. . . ."

Huntington's authoritarian views were widely debated by the Trilateralists themselves, many of whom demanded that Huntington's book not be published under Trilateral auspices. Yet, as Dr. Spence put it, "The book still stands as the official position of the Trilateral Commission."

Despite the debate over *The Crisis of Democracy,* the Trilateralists' internationalist stance is being lobbied for in Congress by a new organization called New Directions. The group was founded at the instance of Theodore Hesburgh, president of Notre Dame University and chairman of the Rockefeller Foundation. Hesburgh, with the support of Vance and Paul Warnke (a Trilateralist and Carter's chief arms limitation negotiator), was able to recruit John Gardner, chairman of Common Cause, and others to form the new lobby group. Essentially, the group's "Approved Action Program" reinforces Trilateral positions on expansion of international financial institutions, increased development assistance for poor nations, a strong plank for conservation of energy, and reduction of arms sales.

The alliance of Common Cause and New Directions with Trilateral thinking gives the Trilateralists two formidable companion organizations. It was Harlan Cleveland, a member of the board of governors of New Directions, who, on July 4, 1976, wrote a "Declaration of Interdependence" for the Bicentennial program in Philadelphia. He also published a paperback called *The Third Try at World Order.*

Jimmy Carter, as President, presides over this new internationalism. Indeed, it is said that when he faces Congress he goes as an internationalist; and when he travels to Western Europe and Japan he is welcomed as a brother Trilateralist. In the last analysis, it is Carter who directs the third try for a new world order.

PERSONAL EXPLANATION

HON. DAVID L. CORNWELL

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 17, 1977

Mr. CORNWELL. Mr. Speaker, I was absent from voting on today's suspensions due to an urgent meeting at the Environmental Protection Agency this afternoon. The meeting concerned whether to construct or not to construct a sorely needed coal-fired energy plant in my district. Attending this meeting were a number of my constituents representing labor and local government, as well as representatives from EPA, the American Electrical Power, staff representatives from the offices of Senators BAYH, FORD, and LUGAR and the National Rural Electric Co-ops. I therefore, apologize to you, my colleagues, and to my constituency for being absent. Had I been present, however, I would have voted as follows:

H.R. 8518, aye; H.R. 9418, aye; H.R. 5643, aye; H.R. 5858, aye; H.R. 8149, aye; H.R. 8422, aye; H.R. 6715, aye.

B–1: AN EXPERT'S OPINION

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 17, 1977

Mr. DORNAN. Mr. Speaker, on Wednesday of this week, we are scheduled to vote on the supplemental appropriations for 1978. At that time we will be given the opportunity of responding to the administration's decision to cancel production of the B–1 aircraft.

Before any of us cast our votes on this crucial issue, we should weigh carefully all of the information and evaluate the opinions of the experts in the field of strategic aircraft. Of these opinions, none has greater claim to being called expert than that of Gen. Russell E. Dougherty, recently retired commander in chief of the Strategic Air Command.

On September 21, I wrote to General Dougherty requesting his opinion of the President's decision to cancel the B–1 aircraft. I would like to share his answer to my request with my colleagues and I print his opinion in the CONGRESSIONAL RECORD at this point:

ARLINGTON, VA., *October 14, 1977.*

Hon. ROBERT K. DORNAN,
House of Representatives,
Washington, D.C.

DEAR MR. DORNAN: I appreciate your letter of 21 September 1977 and the confidence you expressed in me and my background in seeking answers to some of the very difficult questions before you and your colleagues in the House of Representatives. Also, I well recall our day together at SAC Headquarters earlier this year and am grateful that you would remember favorably SAC's people and its continuing contribution to our nation's strategic TRIAD of deterrent forces.

I will do my best to address your questions on some aspects of the important strategic issues facing you—and hope that my opinions and analyses may be useful to you and

your colleagues. Certainly they will be "candid" and "unfettered," in accordance with your request. I must add, however, that I have never really chaffed under the constraints and fetters of my official assignments. As CINCSAC, I did not feel any disabling constraint in expressing my opinions on fundamental matters affecting the continued effectiveness of our strategic forces; though, of course, I recognized I couldn't be repeatedly strident and critical as a serving commander.

You have asked for my opinions concerning the President's recent decision not to seek production funding for the B–1; and, additionally, you asked for my analyses of some of the pros and cons of the situation caused by the decision to cancel B–1 production.

First, to address myself to your questions concerning the President's decision to cancel the production of the B–1:

I was disappointed, of course. I thought we had developed a fine, capable aircraft to do a sorely needed job in the future . . . and to fill a potentially serious gap in our strategic capabilities in the mid 1980's, and beyond. Other related actions affecting our strategic futures are made more critical and dangerous as a result of the loss of time and capability associated with the cancellation of timely production of the B–1. We have lost a very valuable margin of future strength. I thought it error not to go into needed production with this modern well-designed and capable strategic bomber development. We may not have the time (nor the political consensus) to produce and make operational adequate numbers of any subsequent development.

On the other hand, I cannot complain that this momentous decision was made abstractly, by some third persons unknown in the bureaucracy of the Administration . . . this clearly was a Presidential decision, publicly made. While I think it was a wrong decision, it was not made obscurely or by default. The President had available all the arguments and rationale advanced by us in the Strategic Air Command, the Air Force, the JCS and other senior officials in DOD whose view of the future strategic requirements caused them to support a B–1 production program. I do not know to what extent all these views were considered, but the public rationale accompanying the decision leads me to believe that it was narrowly based. The public rationale indicates the decision turned on analytical studies and study factors of cost effectiveness and penetrativity assumed in the alternative examinations by the Administration staff—a very narrow and delicate basis for such an important decision. Also, I think the vast capability of a strategic penetrator throughout the full spectrum of deterrence and conflict was subsumed in a narrow analysis of the assumptions used in measuring the application of various weapons to a total strategic attack and counterattack. While such an analysis is extremely important, it is far from the only measure of merit of a flexible strategic system.

In the context of B–1 cancellation actions and other uncertainties within the Administration affecting SALT and our strategic weapons systems (MX, Minuteman II and III, MK–12A, aerial tanker futures, SRAM, ALCM, etc.), the decision not to produce the B–1 came at a particularly critical time. Lack of a modern, manned, penetrating delivery system is going to make every other aspect of our strategic decisions more difficult for we will not have the assured flexibility that comes with a penetrating bomber.

The time lost in providing an adequate operational inventory of modern long-range penetrating aircraft delivery systems could prove to be critical. Also, the superior U.S. technological iniatives and achievement represented by the B–1 may be lost. And, importantly, the confluence of disparate views of anti-B–1 zealots may be solidified and strengthened to the point that needed modernization in a manned penetrating delivery system (and not just the B–1) may, in fact, be lost to us in whatever form a modern penetrating bomber is subsequently posed.

On this latter point, it was extremely interesting (but not surprising!) to find in the minority report submitted with the recent House Armed Services Committee's action on the President's latest Supplemental the suggestion by Representatives Carr, Schroeder and Downey that the President's decision was designed to terminate forever any initiative leading toward a modern, long-range, manned, penetrating delivery system. George Wilson's article on page A–2, The Washington Post, Friday, October 7, 1977, cites Representative Carr as saying that President Carter's decision "didn't just get rid of an airplane, he got rid of a concept; low-level, strategic manned penetration." In my view, this is a very key issue for decision by Congress and by the people of the United States. Are we going to have a manned strategic penetrating delivery system beyond the B–52—or has that weapon concept been rejected for the future? If the penetrator concept has been rejected, those of us in the Air Force and elsewhere who have proposed a serious and thorough look at an alternative penetrator to the B–1—such as the FB–111H—are foreclosed, as is the B–1.

If it should turn out that Representative Carr and others who share his view that the real effect of the President's decision was to cancel forever a modernized strategic manned penetrating delivery system, then the effect of the President's B–1 decision will be far more adverse and far-reaching than if it were limited solely to the rejection of production of the B–1 and the acceleration of the cruise missile programs.

Now, to your broader questions concerning the effects of the decision to cancel B–1 production:

The ability and willingness of our Nation to respond resolutely to clear-cut national emergencies are great strengths of the United States. Our adversaries—current and potential—recognize these resolute propensities of Americans. This, as much as anything else, explains why the threats they choose to pose to our national security tend to be indirect and ambiguous. Direct, clear-cut threats are sure to produce a vigorous response by our government and our people in providing all required tools of defense and war.

Fortunately, we are not in a situation of extremes— we are not facing an immediate, clear-cut threat to our survival. The B–1 decision was made in an atmosphere characterized by an absence of war or conflict and with no clear-cut national emergency. The full military effect of the decision was futuristic by as much as a decade or so . . . maybe even longer. The ambiguity of active threats; the absence of pressing need and of extreme circumstances are far different from the traditional "clear and present danger" that spurs immediate decisions on needed systems. The B–1 requirement was a futuristic one of judgment and vision; without precise metes and bounds, without absolutes and without a clear-cut, present danger.

To the extent that it was possible to do so, my colleagues and I had considered all aspects of our present and future situation and the potential military threat situation facing our nation over the long haul, from the early 1980s and beyond. We assessed what would be needed unequivocally to preserve, as a minimum, an effective strategic equality with the Soviet Union, and any other potential aggressor, no matter what they did. In every basic measure of that future situation, we found it essential for the United States to preserve a modern, capable, strategic, manned penetrating delivery system—everything we might need to do was made more effective and assured with such a delivery system; everything was more difficult and less assured without it. The B–1 promised to provide us such a system; nothing else satisfied the requirements that we could determine to the same extent as did the B–1. It was apparent, of couse, that much of the technology of today's F/FB–111 could be incorporated into a stretched and enlarged version of that aircraft (since identified as the FB–111H); however, this did not offer all of the efficiencies and all of the desired characteristics that had been incorporated into the B–1 developmental design. Thus, the FB–111H concept was well known to us, but lacked some of the advantages and the timing of the more capable and developed B–1 as the major strategic penetrator for future decades.

To me—and I think to most of my colleagues—the real effect of the President's decision on the B–1 was to make a production program for that aircraft unacceptable to the current Commander in Chief and his administration. I chose not to belabor that decision for, at the risk of stating the obvious, it was my duty as the Commander of our Air Force's largest command and one of the nation's major combatant commands to make the best use of the force provided to them by the responsible elected officials, to accept the clear-cut decisions of constituted political authorities . . . and to go on from there as quickly as possible That the men and women of the Air Force, who had been among the staunchest advocates of the B–1 could swallow their disappointment on the B–1 cancellation was a source of deep pride for me as their Commander in Chief. It represented military professionalism in the best American tradition; it did not represent any abdication of our judgment or our views of the efficacy of a modern, manned penetrating bomber. Our reaction to the President's B–1 decision also represented to us the illogic of continuing to pursue the desire to be equipped with a primary weapon system that had been so studied by our Commander in Chief and so unequivocally rejected for production by our constituted authorities.

I thought at the time (and still do) that the most proper and effective course of professional behavior for me was immediately to advocate the next most effective and efficient alternative course of action to provide a modern, long-range penetrator. To me, that was the FB–111H concept, incorporating the exceptionally well-developed and capable engine for the B–1; the advanced avionics (both offensive and defensive) of the F/FB–111, and a larger and more flexible internal and external weapons-carrying arrangement.

If I look to the next decade, I find little to suggest that the vigor of the Soviet investment in strong total forces will diminish—particularly, their investments in strong strategic nuclear forces. I think it's a pointless argument as to whether the Soviets are involved in an all-out drive to be "number one", but I think it's sufficiently clear as to be noncontroversial that the Soviets are not willing to settle for being "number two."

This brings me to the crux of my thinking on these matters; e.g. If on-going Soviet programs are not matched and offset by firm, continuing U.S. actions, a serious imbalance could (and probably will) result by the mid-1980s or so. I told the Senate Armed Services Committee in early 1976 (and intervening events have only strengthened my conviction) that, if we are denied timely production and rapid introduction of a modern, manned strategic penetrating delivery system into our operational inventory, our nation's deterrent force mix soon will be seriously deficient in its ability to maintain an essential balance—real or perceived—with the strategic forces of the Soviet Union.

At the time I made that statement to the Senate Committee, the modern cruise missile development program was, to a considerable extent, still unproved. It still is. For instance, the first powered flight of the air-launched cruise missile had not yet taken place. The modern cruise missile is much further along than it was in early 1976—but, it is still many years away from becoming operational.

And, in any event, the cruise missile will be a far more capable weapon system development in conjunction with a modern penetrator than it would be without such a penetrator. On this point, it was my understanding that the President's B–1 decision was premised on the rapid development of air-launched cruise missiles and the retention of an effective penetrating bomber force with an opportunity to swiftly upgrade the penetrating force with new systems if cruise missile deployment ran into any unexpected difficulty or delay. If we are not to have the B–1, the stretched and improved version of the FB–111, incorporating the extraordinarily well-developed B–1 engine, is completely logical and needed alternative: less capable and less modern—but less expensive, available rapidly and not publicly rejected by the Commander in Chief.

It is my judgment that we must (and can) make prudent modifications to our B–52s and our few FB–111s to keep them capable and safe until we can get, into the operational inventory (I keep underlining operational inventory, Mr. Dornan, because it is very important that everyone understand the vast difference between concepts, ideas, development programs and operational hardware in the hands of trained operational military forces), a new and capable penetrating delivery system that will serve us well beyond the late 1980s or early 1990s when the air worthiness of a portion of our B–52 fleet is doubtful and when the operational effectiveness is probably reduced below an efficient system for retention in the active inventory.

It is easy for any experienced military planner to appreciate the full potential and flexibility of the cruise missile technology and TERCOM guidance accuracy. Not for a minute would I advocate anything less than full exploitation of this promising aspect of modern military technology; however, I see no reason and no logic that demands that this technology can be adapted to the uncertain requirements of the future only at the expense of abandoning the concept of strategic manned penetration as a future part of our strategic TRIAD.

I considered the B–1 production decision the single most important weapon system decision in front of our Administration and our Congress last year. The Commander in Chief elected not to accept the recommendations that I and others had made concerning B–1 production. Following his rejection of the B–1, and while I was serving as CINCSAC, I found it completely consistent, professionally and intellectually, for me to support and to advocate what I considered the next best alternative for keeping the U.S. equipped with a modern and flexible strategic penetrating delivery system in the future. I recommended we immediately initiate a program to look into the stretched FB–111H, with B–1 engines.

If Representative Carr is right, and if the President really intended to terminate the concept of including a modern strategic penetrating system in our strategic arsenal, then that is the real issue in front of the Congress and the people of the United States. If so, that possibility poses fundamental issues that are not merely important but could well be vital to our future ability to remain second to no other nation or group of nations in a future world. And this issue, I would observe, is too important to be left fallow in the recent minority report of the House Armed Services Committee or in exchanges of correspondence. It should be run out on center stage for all to see, to examine and to debate. In my view, there shouldn't be any ambiguity on the issue of the future of a long-range manned penetrating delivery system; this issue is too important for us to allow it to remain cloudy and ambiguous.

As to the Soviet strategy for U.S. strategic forces without the B–1, I don't pretend to know the full ramifications, of course—but I would think one thing will be certain: they will do everything in their power to keep us from having a capable and competent substitute for the B–1. I would hope that, through other strategic diversity and the multiple capabilities and characteristics of our weapon systems, we could reduce to near zero their calculations (or temptations) of achieving a disabling first strike. I would hope that this is so and that we can and will do these things. It certainly would have been easier and more effective for us in the strategic commands to give these assurances with the B–1 in our operational inventory. Every strategic task we undertake will be more difficult without the B–1—and some important tasks may not be achievable without a capable alternative to the B–1 beyond the mid-1980s or early 1990s.

Granted, Mr. Dornan, all of these things are matters of judgment. These judgments can be validated only through hindsights. What I have offered in response to your letter are solely my opinions and my views; they are, however, unfettered and, hopefully, unbiased judgments as to our Nation's needs. It took the tragedy of World War II to prove General Mitchell right in his judgments. Martyrdom in the nuclear age is too great a price for any of us, or our Nation, to pay for fatal errors in judgment concerning the diversity and strength of our central strategic systems in the future.

I hope that my views will be useful to you and your colleagues in your important considerations on the current Supplemental Bill, and others affecting our Nation's future.

Respectfully,

RUSSELL E. DOUGHERTY,
General, USAF (Retired).

NEWARK MINISTER STARS AT WHITE HOUSE PARTY

HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, October 17, 1977

Mr. RODINO. Mr. Speaker, I am very pleased to have the opportunity to share with my colleagues an article which appeared in today's Newark Star-Ledger, concerning Dr. Alex Bradford, one of my constituents. Dr. Bradford, a minister and musical director of the Greater Abyssinian Baptist Church in Newark, has served our community very well by encouraging civic involvement through music and church activities. He is truly a community leader who has willingly shared his great professional skills with others, and I am pleased to insert the following article into the CONGRESSIONAL RECORD in recognition of Dr. Bradford.

[From the Newark Star-Ledger, Oct. 17, 1977]

NEWARK MINISTER STARS AT WHITE HOUSE PARTY

WASHINGTON.—Dr. Alex Bradford of Newark was a special "guest of honor" at a White House party last week at which President Carter, his family and some 500 guests were enthralled by the music he composed for the hit broadway musical "Your Arms Too Short to Box With God."

Bradford, minister of the Greater Abyssinian Baptist Church in Newark, aso wrote several of the gospel numbers that the original cast of his famous Broadway show performed for the President and his friends.

Another special guest at the party was Bert Lance, former director of the Office of Management and Budget.

The Southern-style barbecue party was held on the White House's south lawn for some 500 members of the Georgia "Peanut Brigade."

The brigade is composed of the young men and women who rang doorbells around the nation in a two-year successful effort to get Carter elected President.

A native of Alabama, Bradford is music director of Newark's Greater Abyssinian Baptist Church and founder of the city's Creative Movement Repertory Theatre, a civic company.

Hailed by Newsweek Magazine as "the super gospel composer of the 70s," Bradford received on Obie for his role in Vinnette Carroll's "Don't Bother Me, I Can't Cope," and was nominated for a Tony. He also was featured in the film, "Save the Children:"

Bradford's gospel recording, "Too Close to Heaven," sold more than a million copies nationwide; his educational show, "The Black Seeds of Music," was seen throughout New Jersey's public schools.

In 1961, Bradford was chosen by the late poet Langston Hughes to be one of the original stars of "Black Nativity," the first genuine black musical on Broadway. He later made a tour of 29 countries with the production.

Accompanist and composer for such gospel greats as Mahalia Jackson and Sallie Martin, Bradford has been acknowledged by Ray Charles and Little Richard as a major influence.

He has been called one of the progenitors of the "soul music" movement.

Bradford presented his latest gospel musical—"Don't Cry, Mary"—in Newark last month at the Cathedral of the Sacred Heart. He is working on his first comedy, "From One Good White Person to Another."

FOREIGN ASSISTANCE APPROPRIATIONS

HON. LESTER L. WOLFF

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, October 17, 1977

Mr. WOLFF. Mr. Speaker, the House of Representatives will tomorrow vote on whether or not to accept the conference report to H.R. 7797, foreign assistance appropriations. I urge my colleagues to support the conference report language to section 107 of this legislation.

When this section of H.R. 7797 was originally considered by the House, two amendments were agreed upon. The first, which I offered, prohibited any of these appropriations from being used to finance reparations to the Socialist Republic of Vietnam. At that time I stated to my colleagues that the word "reparations" implies a debt due and therefore must be distinguished from the word "assistance" which implies voluntary action. While I have no doubt that the United States is under no obligation, legal or moral, to provide such reparations, the purpose of this amendment was to put to rest the question that was raised by the letter which President Nixon sent to the Viet-

namese in early 1973. In part, that letter stated that the United States "will contribute to postwar reconstruction in North Vietnam without any political conditions." This letter is, of course, moot today.

The U.S. Congress, however, has yet to take a position on its contents. It is time that we did. The question of reparations is moot because the Paris peace accords were violated by both sides. Furthermore, we must separate, and very clearly separate, the question of reparations from the humanitarian issue of MIA's. And it is without hesitation that I again state that compassion dictates that regardless of reparations or not, it is imperative that information on MIA's be forthcoming from the Vietnamese.

The second amendment, offered by the gentleman from Florida (Mr. YOUNG), added the prohibition against "indirect" aid to certain specified countries. I voted for this amendment and I still support its intent that U.S. taxpayers' dollars not be used to finance assistance or reparations to these countries through the various international lending institutions of which the United States is a member. However, since this prohibition on the indirect use of funds could, in many instances, preclude the international institution from accepting U.S. contributions, I believe that its inclusion in the statutory law would be detrimental to our interests. In view of the assurances given by President Carter that he will instruct U.S. representatives to the international financial institutions to oppose and vote against loans to Vietnam, Laos, Cambodia, Uganda, Mozambique, Angola, and Cuba, I believe that the intent of the House will be carried out and that the President's conduct of foreign policy will not be jeopardized.

Mr. Speaker, I again urge my colleagues to support the conference report on section 107.

TRIBUTE TO ATTORNEY STANLEY J. CYBULSKI

HON. CLEMENT J. ZABLOCKI

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Monday, October 17, 1977

Mr. ZABLOCKI. Mr. Speaker, I recently attended the funeral of a close friend, adviser, former employee, and longtime civic leader, Attorney Stanley J. Cybulski. For many years he served with distinction in a variety of posts, both public and private, leaving behind him an enviable record of accomplishments.

Attorney Cybulski was my home secretary for more than 16 years until his appointment as Milwaukee postmaster in 1965. To that position, as to every other, be brought high competence, dedication, integrity, and loyalty. His service as alderman in the city of Milwaukee Common Council, on the Governor's Commission on Human Rights, the Milwaukee Library Board, Milwaukee Art Commission, and countless other civic endeavors, created a legacy which will long be remembered by the community.

His affiliations, offices, and other contributions are summarized in the following article, printed in the Milwaukee Journal on October 5, 1977, which I would like to share with my colleagues:

[From the Milwaukee Journal, Oct. 5, 1977]

LONGTIME LEADER CYBULSKI DIES

Funeral services for Stanley J. Cybulski, former Milwaukee postmaster, alderman and civic leader, will be held here Saturday morning. He died of cancer in Florida Tuesday at age 71.

Cybulski was a longtime member of the Democratic Party and was active in Milwaukee politics for more than 30 years.

He was born in Milwaukee Nov. 1 1905. A graduate of Marquette University Law School, he was a practicing attorney from 1931 to 1965. Cybulski served as alderman for the old 24th Ward from 1936 to 1948.

Cybulski was a past president of the Milwaukee Society of the Polish National Alliance and the Polish Association of America and a former vice president and director of the St. Joseph's Home for Children Athletic Association.

He was treasurer of St. Adalbert's Catholic Church from 1930 to 1948 and a past president and director of the Layton Park Lions Club. He was a former vice president and financial secretary of the Pulaski Council of Milwaukee, past president and treasurer of the Joseph Conrad Club at Marquette University, former vice chancellor of the Sigma Nu Phi national legal fraterity at the university and a lifetime member of George Washington Post No. 2 of the American Legion.

He retired as postmaster in 1970 and lived in Largo, Fla., since 1972.

Survivors include his wife, Harriet; a son, James, of Springfield, Mo.; two daughters, Mrs. Robert (Francine) Kay, Seminole, Fla., and Mrs. Robert (Janice) Artis, Cadillac, Mich.

KIWANIS INTERNATIONAL HAD A GREAT YEAR UNDER PRESIDENT STAN SCHNEIDER

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, October 17, 1977

Mr. ASHBROOK. Mr. Speaker, I want to share with you the pride I have for a good friend, constituent, and fellow Kiwanian, Stanley E. Schneider of Crestline, Ohio, a man who, on September 30, finished a 1-year term as president of Kiwanis International. In that capacity, Schneider was official spokesman for nearly 290,000 Kiwanis members in 7,000 clubs located in 61 nations around the world. Kiwanis International, one of the largest service organizations in the world, is now in its 62d year.

Like Stan Schneider, I take pride in my own Kiwanis membership, and am proud to share it with some 105 other members of the 95th Congress.

Schneider's term of office was marked with outstanding success both in the field of growth and in the field of service rendered. It is the primary purpose of Kiwanis clubs to render volunteer service to their communities. As Kiwanis grows, so does its capacity for service grow.

In the field of growth, Kiwanis added more new clubs and more new members under Schneider's leadership than in any other year in its 62-year history. At the end of his term of office the membership stood at an alltime high, while the average age of the individual members stood at an alltime low; a clear indication of the fact that Kiwanis attracts young people today just as it did in its formative years in the early twentieth century.

In the field of service, Schneider successfully led Kiwanis in a new and exciting program called Safeguard Against Crime. The majority of Kiwanis clubs both in the United States and abroad participated in the program which was aimed at informing all segments of society on the incidence of crime, the kinds of crime usually perpetrated against persons and property, and the steps that individuals can take to resist such crime.

The original concept of the program was developed by Schneider, himself, with technical assistance from the Federal Bureau of Investigation, the Royal Canadian Mounted Police, and law enforcement organizations of both the United States and Canada. The program has been hailed as outstanding both in format and results achieved.

Other established Kiwanis programs went on apace, especially in the field of work with youth. Kiwanis achieved extensive growth under Schneider in a new service club movement for junior high school students called Builders Clubs which was initiated just before Schneider took office. It saw growth in a locally sponsored program for girls, too, called Keywanettes.

In the area of international extension, Schneider's year of leadership saw the organization build its first clubs on the African Continent, and in the Middle East, the last steps in its effort to bring Kiwanis-type community service to every part of the globe.

Schneider, himself, traveled to most of the "Kiwanis countries" with his wife, Millie, to provide the inspiration and insight needed for sound development of clubs in areas new to Kiwanis.

Schneider returns to a private life which, like his Kiwanis career, has been and continues to be crowded with action. He is prominent in civic and service affairs in his town and his State. He is currently serving as a member of Ohio's advisory committee for Operation Crime Alert; and he holds memberships in professional associations related to his automotive occupation, plus the VFW, Marine Corps League, and Association of the United States Army.

I take pride in the contribution of a constituent and fellow Ohioan to the welfare of a great institution—Kiwanis—and the hundreds of thousands of people throughout the world whom it is Kiwanis' privilege to serve.

SHIPBUILDING PROGRESS AT INGALLS

HON. TRENT LOTT

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Monday, October 17, 1977

Mr. LOTT. Mr. Speaker, at Pascagoula, Miss., the 25,000 employees of the Ingalls Shipbuilding Division of Litton

Industries are hard at work producing two new fleets of ships for the U.S. Navy. In production are DD–963 Class destroyers and LHA general purpose amphibious assault ships. Eight ships in the 30-ship destroyer program are already in operation with the fleet. Eleven others are launched and are proceeding toward sea trials. All others are in some phase of production. Two of the LHA's are delivered, and the others, I am pleased to say, are progressing well.

With the destroyers and LHA's in full production, the rate of progress at Ingalls is increasing rapidly. The tempo of activity was dramatically demonstrated over a 7-day period beginning September 25, and I wanted to call to your and my other colleagues' attention the events of this busy week.

Two destroyers, manned by separate Ingalls' crews, simultaneously underwent sea trials for ship operations and testing—the DD–975 successfully conducted builder's trials, and the DD–971 successfully conducted Navy acceptance trials. The eighth destroyer in the program—the DD–970—was commissioned into service by the Navy. The DD–968, having returned to Ingalls after initial operation with the fleet, completed final stages of post-shakedown availability work, and the DD–981, the 19th destroyer in the 30-ship DD–963 program, was launched.

This pace of shipbuilding activity may very well be unequaled in peace-time maritime annals. Furthermore, I take pride in noting that the pace is continuing to increase.

THE A–7 AIRCRAFT WINS IN SCOTLAND

HON. DALE MILFORD

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, October 17, 1977

Mr. MILFORD. Mr. Speaker, the "obsolescent" aircraft has done it again. The USAF 23d Tactical Fighter Wing, flying the A–7D Corsair II fighter/bomber aircraft, has won the 1977 Royal Air Force Tactical Bombing Competition held in Lossiemouth, Scotland, October 5 to 8. Competing against four teams flying the Anglo-French Jaguar, two teams from the Royal Air Force flying Buccaneer's, and the USAF 20th Tactical Fighter Wing flying the swing-wing F–111, the pilots of the 23d, flying the A–7D, walked away with both individual and team honors. Out of a possible 976 points, the 23d "Flying Tiger" pilots received 886 points, compared to the second place finishers, the 41st Squadron flying Jaguars, with 794. In individual honors, the 23d took the first four places as well as sixth in bombing and the first three places in strafing.

Mr. Speaker, we can be proud of the 23d Tactical Fighter Wing who represented the Tactical Air Command located at England AFB, La.; their skill and dedication is apparent. What concerns me, however, is that the best light attack fighter/bomber aircraft in the world today, the A–7D Corsair as flown by these pilots, is to go out of production. President Carter said recently that the A–7 aircraft is obsolescent. I strongly refuted that statement then and I refute it now. The United States can ill afford to stop production of the A–7 aircraft, especially since there is no replacement aircraft on the drawing boards or in the Air Force inventory to take its place.

Mr. Speaker, you will note that the A–10 aircraft, the aircraft the Air Force claims is going to replace the A–7D, was not competing because it was designed for one mission and one mission only—to provide support in a close-in combat environment.

I have no argument over buying a specialized aircraft such as the A–10 for close air support. I do, however, have to ask some questions. Have the modes of war changed since the advent of the A–10? Is there no longer a requirement for an aircraft flexible enough to perform close air support missions and be equally as effective in the interdiction role? Is the Air Force going to rely on the F–16, mainly a fighter aircraft designed to repel other aircraft in air-to-air combat, to perform the interdiction mission? Or will they rely on the costly F–15, again designed for air-to-air interdiction of aircraft, to bomb enemy targets?

Mr. Speaker, the U.S. News & World Report issue of October 10, 1977, in a special report entitled "Our Arms Forces, Ready or Not," pointed out that the "Air Force is in the midst of a difficult transition as it absorbs an assortment of new fighter aircraft." There are still too few planes, and many are experiencing serious trouble, the article went on to say. In the same article, the Air Force Chief of Staff, Gen. David C. Jones, stated his concern about the smallness of the U.S. Air Force. He also said "that you can only go so far in quality in a trade-off for quantity."

The 26 wing Air Force of today has enough aircraft to fully equip only 23 wings. Yet we will stop production on a proven aircraft that is not only needed in the active inventory, but also needed to continue modernization of the U.S. National Guard, which is forced to fly 25 year-old F–100 aircraft with little, if any, combat capability.

There are serious questions that should be answered before the United States stops production of the least costly, yet most capable weapons system in the U.S. arsenal of aircraft, the A–7D Corsair.

Gentlemen, I think we should take another look.

Mr. Speaker, I have a news account giving full details of the competition in Scotland, and the names of the flyers on our winning A7–D team, which I would like included in the RECORD:

LOSSIEMOUTH, SCOTLAND, October 10.—The 23rd Tactical Fighter Wing, flying Vought A–7D Corsair II's, has won the 1977 Royal Air Force Tactical Bombing Competition and taken all of the awards available to it.

In ceremonies today, the 23rd TFW "Flying Tigers" team was awarded the Sir John Mogg team trophy, Top Gun Award, weapons trophy for best individual bombing and the leadership in bombing and navigation trophy. Two other awards went to the RAF 41st Squadron, Coltishall RAF Station in England, for the best RAF unit and best Jaguar unit.

Capt. John Miller of Marianna, Ark., won the bombing and leadership trophies for the Tactical Air Command unit and was followed by his teammate, Capt. Robert Gatliff of Jacksonville, Fla. Out of 48 pilots competing in the bombing, the 23rd took the first four places. Gatliff was second to Miller, Lt. Col. Hugh D. (Dave) Ebert of Lynchburg, Va., was third, and Capt. W. W. Turner, Winston-Salem, N.C., was fourth.

The strafing Top Gun award was another sweep for the Vought A–7 and the Flying Tigers. Maj. Ron Brekke of Reserve, Mont. was first, followed by Gatliff, Miller, and U.S. Navy exchange officer Lt. Cmdr. Mike Sullivan of San Luis Obispo, Calif. Thirty-six pilots were in the competition for that award, as the RAF Hawker-Siddeley Buccaneers did not compete.

Eight teams of six aircraft were in the competition, six from the Royal Air Force and two from the United States. Joining the 23rd and its A–7Ds was the 20th Tactical Fighter Wing, RAF Upper Heyford of the United Kingdom, flying swing-wing F–111s and representing the United States Air Forces, Europe. There were four Anglo-French Jaguar and two Buccaneer teams from the RAF. The 23rd, representing the Tactical Air Command, is located at England AFB, La. The 97-member team deployed to Scotland three weeks prior to the meet.

Originally the competition was to be held Oct. 5 and 6, but weather forced cancellation of the second day's events until Oct. 8, and even then all of the competing pilots had not completed their events. Today, those who had not finished took to the skies, including two of the Flying Tigers. Only eight points were needed by the 23rd to win and Gatliff and Sullivan scored 99.

There were two phases in the competition leading to the awards. On Oct. 5, the teams strafed a land-based target and bombed a target towed by a launch on the North Sea. From the strafing came the Top Gun award and the bombing scores counted toward the weapons trophy. In the second phase, teams were judged on timing and navigation, evasion of enemy aircraft, and bombing accuracy, as well as maintenance performance during weapons reloading and quick turnaround. This phase led to the team and leadership trophies and the two bombs dropped determined individual weapons winners.

During the quick turnaround, which took only 15 minutes, the weapons and maintenance people of the Flying Tigers and the 20th TFW teams recorded the only perfect score, which accounted for 100 of the team's points.

Out of a possible 976 points, the Flying Tigers received 886 points, compared to the second place finisher, the 41st Squadron, with 794.

FLOOD INSURANCE—CONGRESSIONAL APPROVAL

HON. GARRY BROWN

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, October 17, 1977

Mr. BROWN of Michigan. Mr. Speaker, Today I have introduced legislation which would require the Department of Housing and Urban Development to get congressional approval before it could scrap the current or any future Government-industry partnership in the flood insurance program, and convert to a to-

tally Federal program. Under normal circumstances, the present statutory language which includes a report and justification to Congress prior to a HUD takeover of the program would provide enough protection against inappropriate administrative action. But, it is clear, on the evidence of the past 2 months, that HUD is determined to ignore expressions of congressional intent as well as the clear language of the statute.

The problem between the Federal Insurance Administration at HUD and the National Flood Insurers Association (FNIA) stems from the Department's attempt to exercise ever-increasing control over a relationship that Congress intended as a partnership. One of the most recent controversies has been over the asserted right of the Secretary to issue regulations which would unilaterally and automatically alter the contract between the parties which serves to govern their relationship.

Congress specifically provided in 1968, when the program was established, that:

> The Secretary will enter into an agreement with any such pool and the agreement will form the basis of the relationship between the Government and industry.

It is this basic relationship that HUD now wishes to change. Clearly, in light of increased program activity and the resulting complications, a new contract is needed. However, no case has been made that a change in the Government-industry relationship is either needed or desirable, as far as program operations are concerned.

Under current law, before HUD can convert from a Government-industry partnership (Part A) to Federal operation of the program (Part B), the Secretary is required to make a determination that the flood insurance program "cannot be carried out" as a partnership, or would be "assisted materially" by the Federal takeover. Upon making a determination, the Secretary is required to report to Congress and state the reasons for the determination, supported by pertinent findings. To date, this has not been done. Interestingly enough, a HUD progress chart of September 13, classified "Administratively Confidential," lists the formal report to Congress to be "ready for Secretarial review" on September 15 and shows the report to be presented to Congress on October 5. Obviously, they have fallen behind that schedule.

Upon request of the chairman of the Subcommittee on Housing and Community Development, THOMAS L. ASHLEY, HUD testified on September 8 concerning this issue. At that time, the Department's witness was asked by the chairman, "You want to stay under part A if possible?" The response was "Yes, sir." (Part A is the Government-industry partnership.)

Unfortunately, the committee did not have a copy, at that time, of the HUD Inspector General's "Review of the Administration of the Flood Insurance Program—Summary," dated September 7, 1977, which the Department's witness referred to under questioning.

In that report the Inspector General stated:

> With the recent decision by the Department to implement Part B of the Flood Insurance Act, the bearing these areas have on the administration of the Flood Insurance Program has changed substantially.

(Part B is the Federal operation of the program.) Also, reports from the bidders conference, held on September 7 by HUD on the Request for Proposals to replace the NFIA, indicated that HUD would not give preference to a part A proposal vis-a-vis a part B proposal, all things being equal. This report is disturbing in light of HUD's response to the chairman.

With this sort of historical background, I feel it is necessary that there be congressional approval before a part B program can be implemented. From inception, through to this very day, Congress envisioned a risk-sharing, profit sharing arrangement between Government and the insurance industry, with the ultimate goal of having the private sector assume full responsibility for the program, with only a residual Federal involvement such as through reinsurance. This program design may well be destroyed if Congress does not act, or HUD does not alter its plans.

In this regard, I wish to thank Chairman ASHLEY for sending a strongly worded letter to HUD, advising the Department of the subcommittee's feelings on this matter. I cosigned that letter, and ask unanimous consent that it appear in the RECORD immediately following these remarks.

While I am pleased that HUD has reopened negotiations with NFIA, I am quite concerned by the fact that HUD, on October 5, entered into a $623,000 contract to provide for the transition from NFIA to a fiscal agent yet to be selected by HUD. In any case, I believe Congress should act on my bill as a safeguard against precipitous action by the executive branch, which is contrary to the clear intent of Congress.

SUBCOMMITTEE ON HOUSING AND COMMUNITY DEVELOPMENT OF THE COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS,
Washington, D.C., September 20, 1977.

Hon. PATRICIA ROBERTS HARRIS,
Secretary, Department of Housing and Urban Development, Washington, D.C.

DEAR MADAM SECRETARY: As you know, the Subcommittee on Housing and Community Development recently completed two days of hearings on the impasse that exists between the Department and the National Flood Insurers Association with regard to the renewal of the flood insurance program contract. We regret the fact that this dispute has reached the point that no further negotiations are ongoing. It seems clear to us that the legislative intent expressed in the National Flood Insurance Act is that a Part A relationship between the Department and a pool of private insurance companies is the preferred arrangement, with a government-operated Part B program available only if a working relationship with the private sector should prove impossible. This was recognized in the statements of HUD General Counsel Ruth Prokop and of the National Flood Insurers Association, as well as the numerous other witnesses that testified before the Subcommittee.

This dispute has been ongoing for almost 17 months and after these long negotiations the issues still have not been resolved. If, as Mrs. Prokop testified, the basic disagreements existed during the whole course of these negotiations, we are concerned that we were not advised earlier and on a regular basis as to the magnitude of these disagreements, particularly since the Department is now seriously considering going to a Part B program. If we had been so advised, perhaps we could have assisted in clarification of the issues involved.

We are extremely concerned with the Department's threat of going to a Part B program in which the Department would be administering directly the contracts of some 1.2 million insurance policies. The flood insurance program is burdensome enough without the Department running the day-to-day operations. Clearly a Part B program was intended only as a last resort and from the information available to us during the course of our hearings, we are not of the view that a case for abandoning a Part A program has been established. Furthermore, time will not permit the effective implementation of a Part B program before expiration of the NFIA contract this December. Therefore, unless we can be assured that the Department can put together an effective Part A program beginning on January 1, 1978, we would urge the Department to extend the contract for an additional 90–120 days to permit you to either resolve your differences with the National Flood Insurers Association or to come up with another workable Part A industry partnership arrangement.

Sincerely yours,

THOMAS LUDLOW ASHLEY,
Chairman.

GARRY BROWN,
Ranking Minority Member.

TWO TEXANS FIND SUCCESS

HON. DALE MILFORD

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, October 17, 1977

Mr. MILFORD. Mr. Speaker, too often in this Nation we tend to think of the "Great" American as being someone who heads a big corporation, someone frequently seen in starring roles, or someone from our national or State capital. Yet, the really great people are those leaders found in each community—the people that make things happen.

Community leaders may emerge in many forms. Some inherit wealth and keep family businesses going. Others follow the blueprint of the American Dream and work their way to the top.

Jim and Larry Coker are living examples to show that the American Dream can come true. As the article below will reveal, Jim and Larry started out in life as hourly workers in an assembly line plant.

I have been able to witness, first hand, the growth of Coker Aviation. Grand Prairie, Tex., is my home, Grand Prairie Airport is home base for my personal airplane, and Coker Aviation is the provider of hangarage and maintenance to support my flying habit. I have watched the two brothers as they struggled to progress from their two-man operation—out of the rear end of a pick-up truck—to the modest hangar and office facilities that house them today. The real secret of their success stems from the fact that, in the early days, they worked out of their pickup trucks. In their present times, they are continuing to work.

The Coker brothers—at least one of them—can be seen almost any hour of any working day at the Grand Prairie Airport. And every day is a working day on that airfield. Unlike most airports, which have the appearance of a combination junk yard and landing field, their operation has a clean-cut look that encourages good business and good flying. While either can handle any phase of their operation, Jim usually works in the office and gives flight instruction, while Larry runs the shop.

The Coker brothers leadership in Grand Prairie has turned a "loser" airport into a leadership enterprise. Whereas the city of Grand Prairie—owner of the airport—once had a red ink monster on their hands, the Coker brothers have turned things around and now employ 33 people as part-time or full-time workers.

More information about Jim and Larry Coker was publishe·' in the October 11, 1977, issue of Flight Line Times in an article that was written by Joseph Weisberg.

Mr. Speaker, I would like to include Mr. Weisberg's article in the RECORD:

TWO TEXANS FIND SUCCESS IN SMALL TOWN FBO

By Joseph Weisberg

They were at the right place (Grand Prairie, Tex.) at the right time (1968).

That's part of the success story for brothers Jim and Larry Coker. They backed into the fixed base operator business when very few airports had planes for rent or flight instruction available. Now they run an entire airport.

Back in 1968, the brothers were working as tool and die makers for Ling Temco Vought, west of Dallas. After work, they enjoyed flying their 1960 Tripacer based at Grand Prairie Airport.

When they were not flying the plane, friends borrowed it and paid for the flight time. Within months, the Cokers had an ever-increasing waiting list and had accumulated considerable rental fees. So they traded for a Cherokee 140. Soon, even more people wanted flight time, so they also bought a Cessna 150.

But the airport was suffering from a lack of finances and qualified personnel, and was in an administrative nose-dive. The Cokers first negotiated a lease and became part-time FBO's. Within a short time, they had five customers housing planes in their T-hangers, and had their own aircraft heavily booked for rental and instruction.

By 1972, the Cokers had accumulated sufficient cash and established a credit rating so that they could buy the entire airport operation. Since then, the brothers have been full-time FBO's and have established a record of accomplishments that is the goal (and envy) of many other firms in the business.

At present all their 40 T-hangars are rented out, and there are also 84 tie-downs outside. A large hangar houses twin-engine planes. Every conceivable service in maintenance, repair, engine overhaul and avionics is provided daily from 7 a.m. until 11 p.m. Jim Coker prefers to call it "dawn to dark aircraft servicing."

The 3,400 runway is sturdy enough for commercial aircraft to land. Unicom operates from dawn to dark and gasoline in grades 80 and 100 is available.

In recent years, the Cokers have been granted a Part 135 certificate for air freight runs, and they now use Cessna 402's on daily flights to Tulsa, Houston, San Antonio and Amarillo. There's also a banner-towing operation on the field.

They now have 15 aircraft in their fleet to handle any kind of instruction, rentals or charters. Their combined ground and flight school boasts nearly 40 students and four instructors.

In addition, Coker Aviation is a certified Cessna dealer and franchised ground school, and a dealer for Bellanca Citabrias and Scout agplanes.

The airport cafe, situated in the main office building, features truly delicious home-cooked platters. The dining area is large enough so that one can read, study or socialize without interfering with other diners. Leon Wood is the genial chef-owner. He opened the cafe in 1970.

The Experimental Aircraft Association is now building a hangar on the field, and the Cokers are active in the 120-member Dalworth Chapter of EAA. Their homebuilt plane project is a Starduster, now more than 50 per cent complete and scheduled for a maiden flight next spring.

The Cokers had previously worked and reared their families in Illinois and Missouri. As tool and die makers, they were employed by McDonnell Aircraft in St. Louis. The job opportunities at LTV, coupled with the warmer Texas climate that made for more good flying weather, provided the reasons for the move to Grand Prairie.

Larry, 36 years of age, and his wife Sandra have three daughters, Becky, Jamie and Lisa. Jim, 43 years young, and his wife Barbara nave two girls, Debby and Cathy, and a son, Kelly.

Future plans of Coker Aviation include lengthenin, the runway to 4,000 feet and providing 30 more tie-downs and 14 more T-hangars.

At the rate they are going, the Cokers will soon be among the largest "small town" FBO's in Texas!

EXCLUSIONARY RULE

HON. JAMES M. COLLINS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, October 17, 1977

Mr. COLLINS of Texas. Mr. Speaker, a challenging article was written by U.S. Circuit Judge Malcolm R. Wilkey of the U.S. Court of Appeals. In the Wall Street Journal of October 7, he wrote a full statement on the "Exclusionary Rule" on evidence. Today our country is working diligently to reduce our crime pattern. Judge Wilkey's conclusion is that either the Supreme Court or Congress should abolish this Exclusionary Rule. I agree and believe we should take this progressive action right here in this session of Congress.

Judge Wilkey gave excellent examples and support for this need. For brevity, I am quoting only a few summary paragraphs from the Wall Street Journal. I believe this logic is sound:

WHY SUPPRESS VALID EVIDENCE

(By Malcolm Richard Wilkey)

Among nations of the civilized world we are unique in two respects: 1) We suffer the most extraordinary crime rate with firearms, 2) In criminal prosecutions, by a rule of evidence which exists in no other country, we exclude the most trustworthy and convincing evidence.

These two aberrations are not unconnected. In fact, the "exclusionary rule" has made unenforceable the gun control laws we have and will make ineffective any stricter controls which may be devised. Its fetters particularly paralyze police efforts to prevent, detect and punish street crimes involving not only weapons but narcotics.

What is this "exclusionary rule" that permits a professional criminal to swagger down the street with a handgun bulging in his hip pocket, immune to police search and seizure? It is not required by the Constitution. The Fourth Amendment only forbids "unreasonable searches and seizures." The exclusionary rule is a judge-made rule of evidence which bars "the use of evidence secured through an illegal search and seizure."

When it was adopted in 1941 it was applied only to evidence seized by federal agents and offered in federal courts. In 1960 it was broadened to bar in federal courts evidence originally seized by state police; over which the federal government had no control. Finally, the ban was extended in 1961 to evidence seized by state officials and offered in state courts.

The impact of the exclusionary rule is that the most valid, conclusive and factual evidence is excluded from the jury. This rule produces a distortion of the truth. Irrefutable facts of decisive importance are forever barred.

In exclusionary rules cases involving material evidence there is never any question of reliability. Reliability is in question, for example, with a coerced confession or a faulty lineup for identification. Exclusion of evidence is then proper because the evidence is inherently unreliable. But when a pistol or narcotics is found on a person the legality of the search cannot impair the truth of the physical evidence.

If the exclusionary rule had merit, surely at least one other country since 1914 would have followed our example. All have shunned it. The rule in all other countries—in England, Canada, Germany, Israel, for example—is that relevant evidence is admitted, whether obtained legally or illegally.

The exclusionary rule has been devastating to gun control laws. Unless a police officer has "probable cause" to make a reasonable search, nothing found during a search—no sawed-off shotgun, automatic pistol or submachine gun—can be introduced as evidence. Therefore, since it is virtually impossible to be convicted in the U.S. of carrying a weapon illegally, American criminals do carry guns and use them. Since police know they carry and use them, they engage in far more searches and seizures than in the countries mentioned above, and some of those searches and seizures are blatantly illegal.

There are proven workable alternatives to the exclusionary rule. Either the Supreme Court (which created it) or Congress can abolish it, and surely one or the other will do so.

MEDIA ADVERTISING EXPENDITURES OF FIVE MAJOR OIL COMPANIES: AN EXPENSIVE LOBBYING CAMPAIGN AGAINST CARGO EQUITY LEGISLATION—H.R. 1037

HON. JOHN M. MURPHY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, October 17, 1977

Mr. MURPHY of New York. Mr. Speaker, there has been an incredible campaign of opposition to the cargo equity legislation—legislation which is clearly necessary and clearly in the public interest. It is good legislation, well

drawn and designed to maintain an effective American merchant marine.

Opposition to the bill comes from two major areas: The big oil companies and the foreign-flag fleet lobbyists, both of whom would be directly affected in that their enormous profits and tax advantages would be slightly lessened. Since these opponents were unable to defeat the bill on its obvious merits, they have taken their high-powered, highly financed attack to the media to surround the legislation with misinformation, suspicion and controversy.

I want to show just how wrong they are.

I previously circulated to each Member of the House, and to all the media, a 26-page "dear colleague" letter which outlined most of the charges and the responses dealing with each. But the Congress does not have the advertising budget enjoyed by the oil companies and other lobbyists, which sometimes makes it difficult to be heard above the din of the massive propaganda campaign to misinform the public and the Congress.

Multinational oil companies oppose the legislation because without it, they can rely on cheap, unsafe tankers with equally cheap, poorly trained foreign crews, and avoid the payment of up to $140 million in U.S. taxes every year.

The cold truth of the matter is that we cannot afford to entrust the transportation of virtually all of our oil imports to foreign ships and foreign crews who could not care less about the national security or economic welfare of the United States.

We presently import over 50 percent of our oil needs, and 97 percent of that arrives in foreign-flag vessels over which we have no control. We cannot rely on those vessels in times of national emergency or, for that matter, at any time, a fact displayed by the 120-mile oil slick deposited when the *Argo Merchant* ran aground. May I also point out that Liberian President Tolbert, in disagreeing with our objectives during the Middle East war, simply ordered U.S. tankers flying the Liberian flag not to go to the Middle East.

Cargo equity legislation is supported by everyone from the President of the United States, the House Merchant Marine and Fisheries Committee, the Secretary of the Navy and the Maritime Administration, to the Veterans of Foreign Wars, the U.S. conference of mayors, the Navy League, the American Legion, and the NAACP. Such a broad base of support does not come to bad legislation.

I have attached a copy of the documentation of the multitude of dollars spent by the big oil lobbyists who have actively opposed the legislation. I recommend that each Member who wishes to know just where the newspapers—the molders of public opinion—derive their income from, study this carefully. We should be aware of the source of opposition to legislation:

STATEMENT OF MEDIA ADVERTISING EXPENDITURES OF THE FIVE MAJOR OIL COMPANIES WHO OWN 80 PERCENT OF THE FOREIGN-FLAG FLEET

For several years, the major oil companies have been spending great amounts on media advertising. Mobil, Exxon, and Shell have been among the Nation's top 100 advertisers, and Gulf and Texaco have also had large advertising budgets.

Advertising age, a national journal serving the advertising industry, publishes annually the advertising expenditures of the top 100, and these figures are very revealing. Over the past few years, Mobil has traditionally been the advertising leader among the oil companies. In 1975, it spent $35.9 million on advertising in all media; and in 1976, it maintained the pace, spending some $36.5 million. If its overall pace remained the same, Mobil's pace in newspaper advertising did not. In 1975, it spent $3.7 million on newspaper advertisements; in 1976, this figure dramatically jumped to $5.7 million.*

Exxon has been in second place and has been moving up fast. In 1974, it spent some $23.9 million on advertising in all media. In 1975, it increased its advertising expenditures substantially—to $30.2 million. This was an increase of approximately 20 percent. In 1976, it closed further on Mobil's lead—increasing its advertising expenditures by 6 percent to $32 million.

Shell has been third. In 1974, it spent approximately $18 million; and in 1975, almost the same—$18.5 million. But last year there was a significant increase—by 13 percent, to $21 million.

All this way seem normal if we think that the major oil companies are competing amongst themselves for a larger share of the domestic market for petroleum products. But the fact is that the major portion of these expenditures has not been for product advertising.

It has not been designed to sell gasoline or engine oil. The major portion has been spent for corporate advertising—advertising designed to improve the particular company's image, on environmentalism, and on economic and legislative issues of concern to the company.

In 1976, for example, Exxon devoted almost $21 million to corporate advertising. In that same year, it spent only about $800,000 on the advertising of gasoline products. Mobil, on its part, has devoted a very large share of its advertising budget to "idea" or "op-ed"-type advertisements.

One of the targets of oil company advertisements has been a bill that will soon be on the House floor—the bill to modernize the Outer Continental Shelf Lands Act of 1953 in order to promote the rapid, efficient, and environmentally safe development of offshore oil and natural gas. These major oil companies, including Gulf and Texaco, are also bitterly opposed to the Cargo Equity bill. Why? Because they themselves own large foreign-flag tanker fleets. In all, they have foreign-flag fleets totaling 416 (80 percent of the total) vessels with a deadweight tonnage of 44.9 million.

The advertising expenditures I have mentioned represent all media, and I have cited them to give an overall impression of the large amounts spent on corporate advertising by the major oil companies to achieve their ends. It is even more instructive to take a somewhat microscopic look. The Committee on Merchant Marine and Fisheries has obtained from a national organization that specializes in compiling statistical information on newspaper advertising expenditures, estimates of the amounts spent by all oil companies on advertising in two newspapers—the New York Times and the Washington Post. The period covered is the years 1974–1976 and the first eight months of 1977. Over this period, Mobil, Exxon, Gulf, Shell, and Texaco spent almost $6,000,000.00 in these two leading newspapers alone[1] and all this money was spent on corporate advertising—to sell the companies' point of view on environmental, economic, and legislative issues. Much of it was designed to influence the course of legislative events in Congress.

In all, the five major oil companies I have been talking about spent almost $4,000,000.00 on corporate advertising in the New York Times and $1,000,000 on corporate advertising in the Washington Post during this period. These are large revenues, and the newspapers are fully aware of this fact. Has it influenced their position in their editorials and in the way they write about legislation like the Cargo Equity bill? This is a large and serious question, and no one can answer it categorically.

There has been much criticism by the New York Times of the fact that members of the Committee on Merchant Marine and Fisheries, myself included, have received political contributions from persons identified with the maritime unions and shipping companies. The Times makes a simple mechanical connection—that the contributions have dictated our favorable position on the Cargo Equity bill. It disregards the fact that we have received contributions from others, such as representatives of the oil industry, who are opposed to the bill. If a contribution means a favorable vote, why have we not voted the position of these other contributors? And the Times refuses to recognize that these are some very strong arguments—economic arguments and arguments of national defense—in support of the bill.

In a matter like the Cargo Equity bill, where the issues are so complex, I think it is simplistic to make the kind of mechanical connection that the Times makes. But if it is logical for the Times to do so, as it claims, the logic works both ways. It suggests that the New York Times may also act out of its own economic interest—that the Times may be heavily influenced in its coverage of the Cargo Equity bill by the millions of dollars it received in advertising payments from the five major oil companies with large investment in foreign-flag tankers. If true, this is a very serious charge. It is a charge, of course, that no one can prove or disprove. But I think we are entitled to weigh what the Times, and the Washington Post say about the Cargo Equity bill in the light of their known economic interests—preserving the flow of advertising dollars from Mobil, Exxon, Gulf, Texaco, and Shell.

*Of this amount $925,373 or 16 percent of the total was spent in just two newspapers, the *New York Times* and the *Washington Post*.

[1] *Media Records* of New York.

LABOR-MANAGEMENT COOPERATION: A DEMONSTRATION

HON. STANLEY LUNDINE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, October 17, 1977

Mr. LUNDINE. Mr. Speaker, on Tuesday, October 18, 1977, at 4 p.m. there will be a videotape showing in room 2222 of the Rayburn House Office Building featuring participants in labor-management cooperation and quality of working life projects across the Nation.

Labor management cooperation which focuses on improving the quality of working life and increasing the participation of workers in the decisionmaking process represents an exciting approach to economic development. This presenta-

tion offers an excellent opportunity for interested persons to learn by hearing directly from labor and management representatives.

As an example of the diversity and potential of such programs, I have attached a list of the participants in the 1977 Conference of the American Quality of Work Center which produced this videotape demonstration. Representatives of these industries and unions will be featured in the presentation:

MAY 1977 CONFERENCE PARTICIPANTS

1. American Store Equipment Company, United Brotherhood of Carpenters and Joiners of America, Muskegon, Michigan.
2. AMSCO, International Association of Machinists and Aerospace Workers, Jamestown, New York.
3. Dahlstrom Manufacturing Company, Inc., International Association of Machinists and Aerospace Workers, Jamestown, New York.
4. Eaton Corporation, United Auto Workers, Cleveland, Ohio.
5. Falconer Plate Glass Company, Ceramic Workers of America, Jamestown, New York.
6. Fisher-Body Division, General Motors Corp., United Auto Workers, Grand Rapids, Michigan.
7. Harman International, United Auto Workers, Bolivar, Tennessee.
8. H. J. Heinz, Amalgamated Meatcutters and Butcher Workers of America, Pittsburgh, Pennsylvania.
9. Minneapolis Star Tribune, Newspaper Guild of the Twin Cities, Minneapolis, Minnesota.
10. Mount Sinai Hospital, New York State Nurses Association, National Union of Hospital and Health Care Workers, Committee of Interns and Residents, New York, New York.
11. Nabisco, Inc., Bakery and Confectionary Workers International Union, International Brotherhood of Electrical Workers, Houston, Texas.
12. School District 281, Robbinsdale Area Schools, Robbinsdale Federation of Teachers, Minneapolis, Minnesota.
13. Rushton Mining Company, United Mine Workers, Philipsburg, Pennsylvania.
14. City of San Diego, American Federation of State, County, and Municipal Employees, San Diego, California.
15. City of Springfield, American Federation of State, County, and Municipal Employees, Springfield, Ohio.
16. Tennessee Valley Authority, TVA Engineers Association, Office of Professional Employees International Union, Chattanooga, Tennessee.
17. Weyerhaeuser Company, International Woodworkers of America, Springfield, Oregon.

IMPROVING HEALTH INSURANCE FOR THE FEDERAL EMPLOYEE AND RETIREE

HON. HERBERT E. HARRIS II

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 17, 1977

Mr. HARRIS. Mr. Speaker, today I am introducing a bill to make health care more accessible to Federal employees and retirees. My bill would increase the Federal Government's contribution to the employee's and retiree's monthly insurance premium from the current 60 percent to 75 percent. This 25 percent increase, I believe, will make the cost of health care easier to bear for the Nation's 2.8 million Federal employees and 1 million retirees and will help make the U.S. Government, as employer, more competitive with private industry.

OVERHAUL OF PROGRAM NEEDED

The Federal health insurance program needs an overhaul. Health insurance is an important employment benefit attracting a job-seeker to a job. The Government's current 60 percent contribution to monthly health insurance costs, I believe, is sadly lagging behind the trend in private industry.

INDUSTRY WAY AHEAD IN PAYING FOR HEALTH CARE

In the United States, 68 percent of the insurance programs offered by private industry are fully financed by the employer. For example, IBM, American Airlines, and General Electric pay the total cost of health insurance for both employees and retirees. United Airlines pays the full cost for the employee, and under United's plan, the retiree over 65 pays only $3 a month. Similarly, at Time, Inc., the retiree pays only $1.25 per month. At Safeway Stores, Inc., a major grocery chain in the Washington, D.C. area, the worker contribution averages $10 a month.

EMPLOYEE, RETIREE PAY MORE THAN HALF

The Federal employee and retiree frequently pay more than half the monthly premium for their health insurance, even though "on paper" the Federal contribution is 60 percent. The way the program works, the Federal Government, as employer, contributes 60 percent of the average of the top six health insurance plans with the most participants. Thus, the Government's share of the cost is not a straight 60 percent of the cost of each plan, as most participants believe. Hopefully, by raising the employer's contribution to 75 percent the employee's contribution will be more equitable to that of his counterpart in private industry.

HEALTH CARE COST INCREASES MUST STOP

The cost of health care and health insurance has seen unprecedented jumps in recent years. Nationally, the medical care price index has almost doubled. In the Washington area, it has been going up 10 percent a year, since 1974.

The cost of health care in the Washington, D.C. area is particularly acute. In 1974 the medical care price index was 150.5 for the country, but 161.1 for the Washington area. In 1976, the same trend existed: 184.7 nationwide, 197.6 in Washington.

Since 1950, the cost of a day in the hospital has escalated astronomically—more than 1,000 percent, over eight times the rise in the consumer price index. Twelve years ago, the average hospital stay cost less than $300; today that figure is a whopping $1,300. This year, health care will cost an average of $700 for every man, woman and child in the country. Private health insurance premiums rose 15 to 20 percent last year. According to HEW, the average American must work more than 1 full month to pay for a year's health care. It takes 2 weeks' wages to cover average annual hospital costs along. For the retired person, living on a fixed income, health care costs are a big slice of the budget.

FEDERAL PROGRAM, COSTS UP TOO

The total health insurance premiums in the Federal health insurance program have skyrocketed in recent years. In 1970, the total monthly premium for the Blue Cross-Blue Shield high-option family plan was $38.33. In 1976, that figure was $93.45, a 144 percent jump. The employee who in 1974 paid $15.30 a month for Blue Cross health insurance is paying $21.52 in 1977, a 41 percent rise. Similiarly, under the Aetna high-option family plan, the monthly premium in 1970 was $44.94; in 1976 it was $83.33, a 34 percent increase.

THE NATION'S HEALTH: A NO. 1 PRIORITY

Rising health care costs—a doubling every 5 years—is a devastating trend that we must stop. Initiatives like President Carter's Hospital Cost Containment Act and national health insurance must be explored. Sooner or later we have to stop this "hidden tax" on health care. Adequate health care should not be a luxury in one of the most progressive nations of the world. It is a disgrace that 38 million have no surgical insurance. We cannot let the Nation's health take a back seat. I will work to see that the 95th Congress acts affirmatively and promptly to alleviate this very critical problem, a sore in the Nation's economy and cancer in the family budget.

SWISS CIVIL DEFENSE

HON. G. WILLIAM WHITEHURST

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 17, 1977

Mr. WHITEHURST. Mr. Speaker, I am pleased to bring to the attention of my colleagues an article by Richard F. Janssen which appeared in the Wall Street Journal today. It provides a remarkable insight into the civil defense program of the Swiss Government.

A handful of us in the House have tried to sound the alarm and make clear the need to make preparations in the event of a nuclear holocaust here in America. I am not suggesting that the United States adopt in toto the Swiss plan. What I do think is significant is the fact that one of the smallest nations in the world should devote such a large portion of its resources to counter a threat that it regards as very real. The Swiss obviously intend to survive a nuclear exchange, and they are clearly serious about the business of protecting themselves.

On the other hand, this year, the Congress appropriated approximately $90 million for our civil defense program, a sum so relatively insignificant that it is equally clear that we are not serious. The contrast between the Swiss effort and our own is truly striking, and I would urge my colleagues to pay it careful heed.

[From the Wall Street Journal, Oct. 17, 1977]

AN ALTERNATE WORLD, UNDERGROUND: SWISS CIVIL DEFENSE SETUP; PROTECTION FOR ALL MANDATED IN A $3 BILLION PROGRAM KEYED TO "A MODERN WAR"

(By Richard F. Janssen)

OSTERMUNDIGEN, Switzerland.—Outside this Bern suburb's newest public school, a mysterious ramp leads down to a pair of huge red doors, which open into a vast underground fortification—the headquarters for 130 rescue workers and their full equipment, ranging from uniforms and shovels to trailer-mounted fire engines.

Beyond is another set of red doors, opening into a shelter that can accommodate 150 persons. Adjacent, also underground, is a 276-bed hospital, complete from forceps to a nurses' quarters.

Switzerland, the most pacific of nations, is energetically digging in for the nuclear holocaust or lesser conflagration that might be triggered by more bellicose countries. This nation of 6.4 million persons is in the midst of a civil defense effort ranked as by far the most ambitious in the Western world.

If nuclear war broke out today, some 50 percent of the population would have places in "really modern, well-equipped shelters," and older shelters would accommodate another 25 percent, says Hans Mumenthaler, the crew cut, 49-year-old national director of civil defense.

SAFETY BY 2000

If the holocaust can be postponed until the year 2000, so much the better. The government is obliged by law to have facilities by that time to protect the entire population "against the effects of a modern war," Mr. Mumenthaler asserts. By that time, he says, the current shelter program, launched just after the 1962 Cuban missile crisis, will have been completed at a cost to the taxpayers of about $3 billion.

The drain on the individual goes beyond his tax bills. Generally, any time a home or apartment house is built or even remodeled, the owner must provide shelters up to exacting federal standards and pay half the cost himself (with various government bodies picking up the rest). The extra construction typically costs almost $3,000 for a family of four. Similar rules apply to such public buildings as factories, offices and hotels.

Nor is money the only burden on the public. Civil defense training is mandatory for some 420,000 Swiss men. This includes those aged 20 to 50 who are unfit for the universal military training done by other males. These civil defense aides do five days of training in their first year and two days each year thereafter at a network of 55 camps and nearly 1,900 local centers. The program also includes men who have done their military training and who then must do 10 years in civil defense.

DISSUADING OUTSIDERS

Is all of this undue alarmism? The Swiss don't think so. Partly, it is neutral Switzerland's way of offsetting its lack of defense alliances and nuclear deterrents. By showing potential enemies that the Swiss are deadly serious about defending their little country, the program should have "a dissuasive effect" on any aggressor, Mr. Mumenthaler explains.

The fighting in any conventional war would be "inside our own borders," he reasons, so the shelters also would reassure Swiss troops about the safety of their families. And even if Switzerland wasn't attacked, he says, "A cloud of fallout will not consider whether we are neutral." Officials point out that in World War II neutrality didn't spare Swiss from being slain on their own soil in apparently accidental air raids, warplane crashes and ground skirmishes.

The massive shelter-building programs reported to be underway in both the Soviet Union and China give the Swiss additional impetus for thinking their own program makes sense.

Not all are persuaded that it is necessary. There are critics and scoffers. "This country prepares for everything, including an attack from the man on the moon," says a banker laughingly. And a journalist, noting that this country is a favorite repository for foreign lands, jibes, "Who would bomb his own money?"

To protect the program from anti-military sentiment and budget cuts, it has been made part of the department of justice and police. Also, officials have convinced the parliament that having hospitals and other facilities underground could be helpful in natural disasters such as earthquakes and industrial catastrophes, too, such as any future accident at a nuclear power station or the factory exposion that spread poisonous chemicals last year in nearby Seveso, Italy.

Several Scandinavina countries also have ambitious civil defense programs, but the proportionate outlays are much greater here, notes Milan M. Bodi, secretary general of the Geneva-based International Civil Defense Organization.

The Swiss have ruled out the relatively cheap approach of mass evacuation, he explains, figuring they lack the space and might well lack the time, too. Moreover, the Swiss do make active use of their civil defense forces in peacetime, as in avalanches and doing auxiliary work at major fires.

The underground facilities at the heart of the Swiss program naturally are kept inconspicuous. Here in Ostermundigen, a passerby wouldn't suspect anything out of the ordinary about the wide green playing field adjoining the school. But the gray cement ramp at one edge leads to another world beneath: clean, quiet and snug, but strangedly chilling.

"We could stay for two weeks without any help from the outside," proudly says Arnold Haehlen, the suburb's gray-smocked chief civil defense engineer. Exemplifying the priorities, he is one of three full-time CD people on the town hall staff of only 20.

If outside power supplies failed, a generator would switch on, tapping 2,200 gallons of fuel oil. If radiation or poison gas clouds spread across the outside world, double airlock doors and an elaborately filtered ventilation system would keep the air pure below. Some 55,000 gallons of water would allow for such frills as dishwashing and showers. If the internal generator failed, pumps for toilet waste would be worked manually.

The hospital is the most elaborate feature, and perhaps the eeriest; in a labyrinth of wards, there are seemingly endless rows of double-decker beds, each with a thin olive drab mattress, neatly folded brown blanket with a red stripe, shiny aluminum chart holder and zipper bag for personal toilet articles—all empty, and waiting—reminiscent, somehow, of a well-kept military cemetery.

Each bunk is set in a cream-colored tubular metal frame, bolted down so that shock waves from, say, a second nuclear blast, wouldn't topple victims of a first one to the thick concrete floor. A special handcranked forklift truck can ease each mattress out of the frame, for moving a patient to the intensive-care unit or the operating room.

It, too, is ready for anything, with surgical masks and instruments at hand, and a third electrical system to keep the powerful light over the operating table going if both outside and central shelter power fails. Nearby are offices for two doctors, nurses' quarters (with distinctive plaid pillows), sterilizing equipment, stockpiles of bandages, medicines, oxygen and anesthetic gas cylinders, a pharmacy, kitchen, laundry, and a morgue.

The hospital, built along with the school two years ago, isn't a rarity. Many regular hospitals have been ordered to duplicate themselves below ground, and, to provide practical experience, some willing patients already have undergone operations underground. By the time the program is complete, the authorities intend to have 150,000 subterranean hospital beds—a staggering total nearly four times the 40,000 beds in conventional Swiss hospitals now.

Officials admit that that may sound like overkill, conceding also that the program helps the construction business and supports a mini-industry in specialized shelter accessories (in scattered stockpiles, there already is a gas mask for every man, woman and child). But they counter that modern wars are getting harder on civilians; while there was only one civilian death for each 20 soldiers killed in World War I, the ratio swung to 13 civilians for each soldier dead in Vietnam, they say, estimating a 100 to one ratio in a nuclear war.

For Swiss families living in newer (post-1962) homes, reminders of what could happen are no farther away than the basement. At number 7 Unterdorfstrasse (by coincidence, that translates into Under Village Street) here, the door to the storage area of the three-story garden apartment house resembles that to a Bank vault—it is gray iron filled with reinforced cement, a standard eight inches thick.

Behind the door, storage lockers for each of six families take up most of the space. They are made of standardized wood slats that could be fashioned into crude beds "within 24 hours," explains Gottfried Peter, a federal CD official. Typically, the shelter is equipped with three regular and three chemical toilets, two decontamination showers, double air-lock chambers, a valve to release blast pressure, a small emergency light, and chemical warfare electric air purifiers, which can be hand-cranked if necessary.

The ceiling is 14 inches thick, or twice normal basement standards. But in case a direct hit crumbles the building anyway, there is a cylindrical tunnel leading to an escape hatch in the lawn, just beyond the likely area of rubble. Officials don't insist that home shelters be stocked with food, although they recommend it, and local building inspectors assure that there is no skimping on the construction.

Despite this country's penchant for lean government, the program still is growing. full-time CD staff has more than doubled in the past five years to over 1,600, and plans are afoot for a corps of follow-up shelter inspectors, as well as for ending the shelter exemption for new houses in towns of under 1,000 people. When enough command posts and the like are built, officials would like to boost the ranks of volunteer women CD workers to 80,000 from the present 25,000, Mr. Mumenthaler adds.

Even so, authorities don't assume that people would simply be able to emerge into the same snug world they enjoy now. As part of their down-to-the-last-detail planning, they have provided each household with a hefty red handbook covering all eventualities, including how to get along with an occupying army while discreetly preparing for a guerrilla war against it. "We are a peaceful country, but we nevertheless have to realize we are not alone," says Mr. Mumenthaler.

EXTENDNG TERM OF U.S. REPRESENTATIVES

HON. NEWTON I. STEERS, JR.

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, October 17, 1977

Mr. STEERS. Mr. Speaker, I have introduced today a joint resolution to

amend the Constitution of the United States to lengthen the term of Members of Congress to 4 years. I do this to counter the current tendency of members of this venerable body to spend too much time politicking when we should be legislating.

At present, a representative in Congress scarcely takes his seat in the House before he must once more take his case to his constituency.

Yet, our paramount purpose should be to work for our constituents, not merely to win votes from them.

The Founding Fathers who created the 2-year term believed that this would force Representatives to be fully accountable to their constituents. No doubt Members of the House are forced to be responsive, but can they also be effective?

Could those who devised the 2-year term ever have imagined legislation as complex as the energy bill this House recently considered? How often does important legislation die in one Congress because there was insufficient time to make a wise evaluation of the issues raised?

In the Federalist Papers, Madison contends that frequent elections are unquestionably the only means by which "dependence and sympathy" with constituents can be effectively secured. But his was an age prior to 20th century achievements in transportation and communications. At that time, the most remote districts in the farthest States of the Nation were days away—not hours, as is the case today; it was not a time when Congressmen could remain in constant communication with staffed field offices. Many of my constituents have voiced their belief that the 2-year interval between elections that Madison found proper in 1787 is just too short.

Madison himself described the sources of knowledge prerequisite to making wise decisions. "Some portion of knowledge may, no doubt, be acquired in a man's closet; but some of it can only be derived from the public sources of information; and all of it will be acquired to the best effect by practical attention to the subject during the period of actual service in the legislature." It is true that we cannot remain isolated from those whom we represent, and the proposed 4-year term will not isolate us from these people. We need only to isolate ourselves from unproductive activity; from empty promises, vague assurances, responding to constituents' criticisms with: "I was unable to accomplish this for you this term, but if you put me back for another one, I will do it then." Four-year terms would bring us closer to our electorate, not—as some would believe—farther from them. In 4 years they will be able to better judge their representatives and make a wiser selection at the polls. Madison said:

> Representatives need habitual recollection of their dependence on the people . . . (so that) they will be compelled to anticipate the moment when their power is to cease, when their exercise of it is to be reviewed, and when they must descend to the level from which they were raised; there forever to remain unless a faithful discharge of their trust shall have established their title to a renewal of it.

These are wise words, especially in light of the 4-year term proposal. Representatives would become more responsive to their constituents needs, rather than their passing moods.

Thus, I have joined several of my distinguished colleagues in attempting to extend Representatives terms to 4 years. Altogether there have been six resolutions introduced this Congress to lengthen the term and five in the 94th. Indeed, we have been debating this issue from the first Constitutional Convention.

For such a bill to pass, it must have the consent of the Senate. Obviously the Senate would oppose such legislation if they feared that it would allow Representatives to run for Senate seats in a year in which the Representative is not required to run for election. My bill takes this into account, and it provides that any Representative seeking election to the Senate must forfeit his seat in the House of Representatives (his term would expire on January 3 of the year following the Senate election).

My legislation also has a unique provision in the congressional elections would not coincide with Presidential elections. I think that this provision is important since it will insure that congressional candidates campaign on their own merits rather than their association with a Presidential candidate.

Mr. Jennifer argued at that first Convention that too-frequent elections rendered the people indifferent to them, and made the best men unwilling to serve in Congress for so short a period. Madison spoke to the same effect and argued that 3 years would be necessary in a government as extensive as ours (and this in 1787), for the members to acquire any knowledge of the various interests of the States. These words could not ring truer today, when we must deal with voter apathy, ineffectual leadership and government, a complicated governmental structure, and issues with so many ramifications.

In 1966, when President Johnson proposed reform similar to what I have introduced today, Gallup found that 61 percent of the American people were in favor of extending Representatives terms to 4 years. Since there has been support in this Congress and among the American people for such a proposal for some time, it warrants serious consideration and investigation.

COAL GASIFICATION

HON. TIM LEE CARTER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Monday, October 17, 1977

Mr. CARTER. Mr. Speaker, two gentleman visited me in my office this morning to discuss the development of their coal gasification system in South Africa.

Mr. Carl Noffke and Mr. Piet Gerber from the South African Embassy had the greatest enthusiasm about coal gasification which is being used in their country with great success. Actually, 8 percent of that country's oil needs are currently met by gasification of coal with predictions that by 1980 South Africa will make 40 percent of its motor fuel from its own coal at competitive prices.

In the past, South Africa's reliance on foreign sources of energy has spurred them to welcome the "second renaissance of coal."

As you know, for many years I in this great body have tried to get my colleagues to make haste on increasing the use of our abundant coal to meet our energy needs. In a time when we find that our oil and gas supplies are decreasing at a rapid pace and we have become so dependent on unstable foreign energy supplies it is imperative that we use more coal.

President Ford urged the American people to become energy independent and now, in the Carter administration, the call has again gone out to the people that we must take heed of the present situation and find alternative energy sources. The consequences of not doing so have been all too often enumerated but with too little results.

Coal, Mr. Speaker, is the greatest known energy resource that the United States possesses yet much of its sits idle in the Earth's depths. It is time to begin to consider a second renaissance of coal here in the United States. We must pay attention to more efficient and economical ways of processing and burning coal and coal gasification and liquefaction are just such processes.

Mr. Noffke and Mr. Gerber left with me a report on the state of their country's experience with coal gasification. It is a very fine report and I wish to insert it into the RECORD. The report will be in two parts. Part one follows.

OIL FROM COAL—AN ENERGY ALTERNATIVE

INTRODUCTION

The population of the Republic of South Africa constitutes only 6 percent of the total population of Africa. Its area constitutes only 4 percent of the total area of Africa.

Yet South Africa is the undisputed industrial giant on the continent of Africa. It accounts for 42 percent of Africa's industrial output, 25 percent of the total gross national product of Africa, 90 percent of total steel production, and 50 percent of all electricity generated. South Africa also consumes 68 percent of Africa's energy requirements.

With 80 percent of Africa's total known coal reserves, it should come as no surprise that South Africa is also a pioneer in the field of coal gasification.

As an alternative energy source, together with nuclear energy, coal gasification merits careful consideration. The U.S., largest energy user in the world, dependent upon outside sources for nearly 30 percent of total local energy consumption, cannot afford to neglect any alternative energy source. Imported oil costs the country about $3 billion monthly, while vast coal reserves lie nearly untapped within American soil.

Since 1955 South Africa has been producing gasoline and other oil products profitably from low grade coal. By 1980 the country will make 40 percent of its motor fuel from its own coal at competitive prices.

The United States of America is not only the world's largest energy user, but also the world's largest energy importer. America's monthly oil import bill is well in excess of $3 billion and foreign oil constitutes nearly 50 percent of total local consumption. It is clear that alternative energy sources will have to be considered as part of any energy program the U.S. adopts.

A plausible alternative is coal gasification. America possesses vast, relatively untapped coal reserves which could, together with nuclear energy, meet the ever increasing demand for energy.

The U.S. pays billions of dollars monthly for foreign oil and can only benefit by considering the coal gasification process as a source for future energy needs.

South Africa has been producing gasoline and other oil products profitably from low grade coal since 1955. By 1980 the country will make 40 percent of its motor fuel from its own coal at competitive prices.

SASOL—PART I

What is Sasol?

The popular answer to this question is that it is South Africa's oil-from-coal project. But Sasol is many other things as well. It is the main supplier of feedstocks to the nation's chemical industry. It also supplies pipeline gas to the densely populated and industrialized region of the southern Transvaal, whose most important resources are the water of the Vaal River and the coal along its banks. Sasol plays a major part in the country's hunt for oil and natural gas, and in stockpiling imported crude oil. It is also one of the most outstanding technical achievements in the world.

With no known oil reserves of her own, South Africa had always been interested in the possibility of producing oil from her relatively large deposits of coal. So when, in 1925, the research work of the German scientists, Frans Fischer and Heinz Tropsch, had shown conclusively that liquid fuels and chemicals could be produced when gas derived from coal was passed over a suitable catalyst, the economics of potential oil-from-coal processes began to receive dedicated attention in South Africa.

A White Paper on the subject was published in 1927, and when the Germans started to apply the Fischer-Tropsch process industrially in the early thirties, South Africa established a plant for the manufacture of motor spirit from an indigenous raw material, oil-shale. The oil-from-shale project was launched by the Anglo-Transvaal Consolidated Investment Company, called Anglovaal for short, which is a South African mining house. The plant produced small quantities of petrol until 1959, when the shale ran out.

But Anglovaal had also acquired the South African rights to the Fischer-Tropsch process with a view to applying it to the coal which occurred in association with the shale deposits. Progress on this project was interrupted by the outbreak of the second world war, however. In the meantime, and during the war, the Americans were developing an alternative application of the Fischer-Tropsch principles, and at the end of the war Anglovaal also came into the possession of the rights to this American recipe.

The company then officially expressed its desire to proceed with an oil-from-coal plant and applied to the Government for the necessary transport and fiscal structure which would make such an industry possible. This resulted in a license being issued to Anglovaal for the production of oil from coal, in terms of the Liquid Fuel and Oil Act of 1947.

But as a result of devaluation and the demands upon capital resources by the developing Free State gold fields, Anglovaal was forced to solicit financial assistance from the Government. After thorough investigation of the commercial viability of the proposed project, it was agreed that the rights to the coal deposits, land and processes should be taken over from Anglovaal and that a company, financed by the Government, should proceed with the plan.

Consequently, the South African Coal, Oil and Gas Corporation Ltd., better known as Sasol, was incorporated in 1950. It was decided that this company should be run as an ordinary commercial company and be subject to the same tax laws and the Companies Act, rather than be incorporated by an Act of Parliament.

With the erection in 1952 of the oil-from-coal plant at Sasolburg, just south of the Vaal River in the province of the Orange Free State, something new was added to the South African industrial scene. In size and complexity, and also in cost, it set fresh standards for a single project built from grass roots. The plant complex included several entirely new process units, such as the biggest oxygen plant and the largest coal gasification system the world had seen until then. The coal production of a complete new mine was required to feed this factory.

Sasol chose the Lurgi pressure gasification system instead of the old water gas generators used in the Fischer-Tropsch plants in Germany during the war. This unit, consisting of 13 huge steel vessels, or gasifiers, produces the gas from which hydrocarbons, such as petrol, are recovered. The gasification is achieved by burning the coal under pressure and in the presence of steam and oxygen. Apart from the synthesis gas, which is a mixture of hydrogen and carbon monoxide in specific proportions, various other products emerge from the gasifiers, such as ammonia and creosote.

The crude synthesis gas is then fed to a gas purification plant where unwanted components are removed. This unit is the prototype of a very successful gas purification system which has by now found application all over the world.

Sasol operates two different Fischer-Tropsch synthesis systems in parallel. Both were adopted from the pilot plant stage.

In one of them, the so-called Synthol process and of original American design, a powdered catalyst is swept along by the gas stream. Initially this unit refused to work as it should, but after a new catalyst had been developed, better operational procedures introduced and plant modifications effected, it proved to be the most effective process known for the production from coal of the lighter petroleum products such as liquefied petroleum gas, motor fuels, and chemicals like alcohol and acetone.

The other synthesis process is of German design and called the Arge process, from the word "Arbeitsgemeinschaft", meaning the consortium from which the design was bought. The two to three tubes per reactor of the pilot plant were multiplied to 2,000 at Sasol. In this process catalyst granules are packed into a fixed bed in the reactors, which produce mainly high boiling point materials, consisting of waxes, diesel oil and smaller amounts of petrol and chemicals.

The unique combination of the two processes yields virtually the full range of products normally derived from crude oil, in addition to a number of others usually manufactured in petrochemical plants. Furthermore, these processes provide the raw materials for the manufacture of nitrogenous fertilisers, synthetic rubber and plastic materials.

But, perhaps the most important Sasol product is the town it has spawned. Called Sasolburg, it has a population of 35,000. It is situated 80 kilometres south of Johannesburg and enjoys the healthy climate for which the country's highveld is renowned.

The most modern planning methods were employed in the development of the town. One of its finest features is its "green zones" in the residential areas, which serve as parks and playgrounds and are so laid out that children can walk along them to their schools.

In addition to the well appointed Sasol recreation club, with its associated sporting and cultural societies, the town's recreational amenities include a modern athletic stadium with a Tartan track, a heated Olympic standard swimming pool, cinemas, and a civic theatre. The nearby Vaal River is a fishing and an aquatic sports paradise.

The Sasol enterprise, which has acquired nicknames such as "the industrial whizz kid of South Africa" and "the queen of South African industries", was awarded the coveted business achievement award for 1975 by the Johannesburg paper, the Rand Daily Mail. Sasal also commemorated its 25th anniversary last year. Until then it had won no fewer than 48 national safety awards.

SECRETARY OF NAVY CONCEDES IGNORANCE ON CARGO PREFERENCE DECISION

HON. PAUL N. McCLOSKEY, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 17, 1977

Mr. McCLOSKEY. Mr. Speaker, the recently published print of the hearings before the Subcommittee on Merchant Marine of the Merchant Marine and Fisheries Committee on H.R. 1037, the Cargo Preference bill (serial No. 95–11), contains an omission and distortion, which appears both deliberate and misleading.

H.R. 1037 was the subject of 8 days of hearings before the Merchant Marine Subcommittee during the months of March through August 1977.

It was not the subject of a hearing before the full committee on July 13, 1977, which was called to consider the impact of tanker construction on Navy shipbuilding needs.

The notice of the hearing, dated July 7, 1977, stated that the hearing was before the full committee and the subject of the hearing would be, "open oversight hearings on Navy shipbuilding needs." Committee Chairman MURPHY emphasized the subject matter of the hearings when he stated in his opening remarks:

The Committee would like to know the precise impact additional tanker construction will have on Navy shipbuilding requirements, and whether the shipbuilding industry is adequate as a mobilization base.

I have asked for this hearing in recognition of the importance of Naval construction to the shipbuilding and repair industry, and because national defense requirements must have top priority.

During this hearing, however, Secretary of the Navy W. Graham Claytor included in his prepared statement some comments on cargo preference, and answered a number of questions relating to cargo preference for which President Carter had announced his support 6 days earlier.

In Secretary Claytor's prepared statement he said several things which purported to attribute national security benefits to the bill. In his later answers on cross-examination, however, he conceded that he had played no part in the President's decision and that he knew nothing of any Defense Department consultation with the President. In the memorandum to the President from Secretary of the Treasury Blumenthal, the Secretary stated: "Defense—does not support H.R. 1037 on national security grounds." When the record of hearings

on H.R. 1037 was printed, Chairman MURPHY caused a copy of the Secretary's prepared remarks on H.R. 1037 at the shipbuilding oversight hearing to be included, but omitted the questions and answers by Secretary Claytor.

This seems both deliberate and misleading, since the answers by Secretary Claytor do a great deal to cast doubt on the validity of the facts and conclusions he offered to support H.R. 1037 in his prepared statement.

It likewise seems a violation of House custom and ethics to place testimony received in a hearing called for one purpose in the record of hearings on another bill, at least without a vote of the committee or upon a unanimous-consent request.

For the record, I attach hereto the text of Secretary Claytor's July 13 comments favoring H.R. 1037, and the questions asked by Mr. RUPPE, with the Secretary's answers, related to H.R. 1037, which Chairman MURPHY chose to omit from the hearing record on the bill.

Included in hearing record on H.R. 1037:

Clearly, an efficient, productive shipbuilding and repair industry in the United States is essential to our Navy and to the Nation's Defense. It follows, therefore, since all of the Navy's new construction and some 30 percent of our ship repair is being accomplished in private yards, that the health of commercial shipbuilding in this country is most important to us. Beside that, the requirement to maintain an adequate mobilization base both for ship construction and repair is a defense requirement mandated by the Merchant Marine Act of 1970. While the Commerce Department is charged in that act with overall responsibility for the adequacy, Navy work has been—and will continue to be—a major factor in maintaining that base.

A second area I would like to address concerns the value to our National Defense of having U.S. Flag ships transport American cargoes in preference to foreign vessels. Certainly, U.S. Flag ships, when owned and operated by U.S. citizens, are likely to be more responsive to national emergencies. However, current U.S. Flag tonnage, by itself, is inadequate to satisfy both defense and commercial needs in event of war or national emergency; any increase in U.S. Flag ships will obviously improve this situation. Even with increased U.S. Flag tonnage of tankers, we would have to continue to rely on our NATO allies and others to provide the reliable backup in merchant shipping on which we have depended during emergencies in the past. "In summary, the Administration plan to increase the percentage of petroleum imports carried by U.S. Flag tankers to 9½ percent over the next five years plainly would not overtax the U.S. shipbuilding industry; it would strengthen the nation's mobilization base; it is compatible with the Navy's own shipbuilding needs; and it contributes to our national defense needs.

Questions and answers excluded from hearing record:

Mr. RUPPE. Mr. Secretary, the Carter administration has called for an oil cargo preference program that would raise the percentage of oil imports brought into the United States in American bottoms to 9½ percent over 5 years. I am very curious how we really got to 9½ percent instead of 9 or 10.

Could you tell me how that number was derived, if you know it, and did the Navy have any part in developing that figure?

Secretary CLAYTOR. No. I assume that it is a judgment figure which was reached by the President, but I was not in on that and I cannot give you any information on that.

Mr. RUPPE. So it had nothing to do with national security?

Secretary CLAYTOR. I do not want to speculate on what it had to do with.

Mr. RUPPE. If it had national security implications or reasons behind it, I presume you would have—

Secretary CLAYTOR. Not necessarily. There may have been some national defense consultation with the Defense Department. I was personally not involved, and I do not feel I am in a position to provide any information on that.

If it was proper to include Secretary Clayton's statement in the RECORD on H.R. 1037 and use it to support cargo preference—and I submit it was not—then his responses should have been included as well. I believe that the inclusion of his statement and the use of it to support cargo preference on national security grounds without making it clear that the Secretary stated that "I was personally not involved, and I do not feel I am in a position to provide any information on that"—the national security implications—was misleading and a disservice to the members of the committee and the Members of the House of Representatives.

In conclusion, I believe the inclusion of Secretary Claytor's testimony in the RECORD on H.R. 1037 was wrong and the suppression of his answers to questions put to him by members of the committee was a violation of normal committee procedure.

LOCK AND DAM 26 VITAL TO ILLINOIS AGRICULTURE AND INDUSTRY

HON. ROBERT McCLORY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, October 17, 1977

Mr. McCLORY. Mr. Speaker, as a cosponsor of legislation authorizing the much needed construction of a new lock and dam 26 at Alton, Ill., I was more than pleased to join the majority of my colleagues in passing H.R. 8309, the Navigation Development Act on October 13, 1977.

The State of Illinois leads all States in our Union in the quantity of agricultural products sold in the export market. To maintain and expand these markets, the farmers in my district—and throughout the State of Illinois and the Midwest must have available efficient transportation by all modes. I believe H.R. 8309 will help meet those needs and, in the long run, contribute to our Nation's economic health.

Mr. Speaker, I was, however, disappointed in the 6 cents per gallon fuel tax imposed on the diesel fuel that drives the barges using the waterways. As I stated when I appeared before the Water Resources Subcommittee in favor of construction of a new facility at Alton, I preferred the imposition of a user's fee. Under such a provision, a larger part of the improvements would be paid by those using our navigable waterways—thus easing the burden on the taxpayer.

I remain hopeful that a more appropriate charge will be included in the final measure approved by the House and Senate.

WILMINGTON 10

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 17, 1977

Mr. EDWARDS of California. Mr. Speaker, from time to time I have brought to the attention of my colleagues articles in the press which deal with the fate of the Wilmington 10. These young people were arrested in connection with racial unrest in Wilmington, N.C., and accused of burning a white-owned grocery store. Convicted on a conspiracy charge, nine of the defendants—a black minister and eight black teenagers—were sentenced to a total of 282 years in prison. The current issue of Barrister, the publication of the Young Lawyers Division of the American Bar Association carriers a fine article which reviews the case of the Wilmington 10. I ask that my colleagues take a moment to read it:

HOW DUE PROCESS DIED IN WILMINGTON, N.C.

(By Stan Swofford)

(NOTE.—"I think the human rights policy of the United States is based on the fact that we are not ourselves perfect. Unlike many of the countries that we deal with, we do have due process, and, while in most instances that works toward the fulfillment of justice, in some instances the very due process of our system makes it difficult for us to get justice. For instance, the Wilmington 10, I think, are very innocent. And yet, they were tried and convicted." U.N. Ambassador Andrew Young, Caracas, Venezuela, August 13, 1977.)

Due process of law for the Wilmington 10 began in March of 1972 when the nine young black men, led by the Rev. Benjamin Chavis, Jr., and one white woman, an anti-poverty worker, were arrested by Wilmington, North Carolina, police on charges of unlawfully burning a grocery store and conspiring to shoot police and firemen. The processes leading to their arrests, convictions and lengthy prison terms, however, began a long time before.

Wilmington, a city of about 40,000 on the extreme southeastern North Carolina coast, was once a major port of entry for the slave trade. Consequently, during the Reconstruction years a rather solid black middle class emerged and became quite active commercially, intellectually and politically.

But in 1898, with the return of so-called "home rule" and whites-only politics in North Carolina, that sort of participation by blacks in the everyday affairs of society ended—and in Wilmington the end was particularly harsh and abrupt. Bands of white vigilantes set out to eradicate once and for all any semblance of black leadership. Black members of the board of aldermen were forced to resign at gunpoint. The offices of two black newspapers were wrecked and burned, and their owners and editors were ordered never to publish again. Black business and civic leaders were escorted out of town. Many of them never made it out of town. They were shot and dumped into the Cape Fear River. The black leadership of Wilmington was wiped out al-

most overnight. It was to remain nonexistent, or cowed to such a degree that it was almost totally ineffective, for the next 70 years.

By 1970, however, Wilmington was about to have a confrontation with the times, and the effects brought on by court-ordered change. There was still little or no leadership among the city's 10,000 or so blacks, but there was a great deal of rumbling and discontent among young black high school students.

The city's all-black high school had been closed as part of an attempt to comply with court desegregation rulings. Black students were transferred to the previously all-white high school and had become incensed over what they considered to be inequitable representation in the school administration and faculty; unfair representation in the student governmental organizations, clubs and athletic teams; and the school's failure to establish black history and cultural studies. Fights and scuffles between white and black students became frequent. Finally, in January of 1971, after school authorities refused a request to hold a memorial service to the late Rev. Martin Luther King Jr., blacks began a boycott of the school.

WHITES REACT WITH ANGER, FEAR, DISTRUST

At that time Gregory Congregational Church, a part of the United Church of Christ, was an all-black church except for its young white minister, the Rev. Eugene Templeton. The boycotting black students asked Templeton if they could use Gregory Congregational Church as their meeting place and as a place of an "alternative school." Templeton, after consulting with the church trustees, gave his permission. But he also went further.

Sensing the students' need for leadership, he requested the United Church of Christ to send someone trained in the methods of organization, someone the students would respect and follow. The church responded by sending Ben Chavis, a young fieldworker and troubleshooter for the Commission for Racial Justice, an arm of the United Church of Christ.

Although Chavis was only 24, he already was a veteran at organizing, participating in, leading and/or mediating black civil rights protest movements throughout North Carolina and Virginia. He was well known to both whites and blacks in North Carolina.

When Chavis arrived in Wilmington in January, 1971, tensions in the town were running high. Nevertheless, he began to organize the students, and he also began to organize and gain the trust of their parents.

Nevertheless, that statement and others, plus the marches and demonstrations, angered many people and inflamed some—including the Ku Klux Klan and a similar organization named Rights of White People.

By Thursday, February 4, the tension in Wilmington was at a breaking point. Shooting broke out that afternoon. Templeton, his wife Donna and others who were at or in the vicinity of Gregory Congregational Church during that first week of February have described the shooting publicly and under oath in court proceedings. "There seemed to be an unending convoy of white men in pickup trucks driving slowly by the church," Templeton said. "At first they only stared. Then they began shooting at the church and parsonage."

Some of the blacks in and around the church parsonage began to arm themselves. Chavis, himself, was armed with a handgun at one time. "We felt that we had to stay and protect the church," Templeton said. "Everyone was very much aware of what happened in 1898. We were literally under siege, getting shot at. We were on the phone constantly begging for police protection and a curfew. We got neither."

Present and former state officials have confirmed that Chavis was indeed pleading for police protection and a curfew. The Rev. Aaron Johnson, who was at that time a member of the North Carolina Good Neighbor Council, the agency charged with finding ways to end racial strife, was in Wilmington that week trying to halt the violence. "I never heard Chavis or any other member of the so-called Wilmington 10 plan to shoot anybody or burn down anything," Johnson declared recently. "All I know is that he was asking for a curfew and for the police to come into the area of the church. I relayed this message back to the mayor and the police chief. Why a curfew was not ordered until after a white man was killed, I'll never know."

A WEEKEND OF TERROR AND KILLING

On February 6, a Saturday, Mike's Grocery, which stood a few hundred feet from the church, was destroyed by a fire which began shortly after 9 p.m. During the height of the blaze Steve Mitchell, a black youth, was shot to death by a policeman. The officer was not charged in the slaying. He said Mitchell aimed a gun at him.

Early Sunday morning a white man, Harvey Cumber, was shot to death about a block from the church. He allegedly had driven his pickup around a barricade that had been erected to keep whites out of the area. Witnesses said he stopped, got out of his truck and then pointed a gun toward the church. A loaded revolver was found beside his body.

Within hours of the death of Cumber, martial law and a curfew were declared in the city of Wilmington. The violence ended immediately. The Templetons left Wilmington very soon after the end of the hostilities. "We continued to receive threats, and the police said they could do nothing for us," Mr. Templeton said. Chavis stayed on in Wilmington for several months.

In March of 1972, more than a year after the violence, Chavis and eight young blacks—Marvin Patrick, Connie Tindall, Jerry Jacobs, Willie Earl Vereen, James McKoy, Reginald Epps, Wayne Moore and Joe Wright—were arrested by Wilmington police and charged with the unlawful burning of Mike's Grocery and conspiracy to assault emergency personnel. The white woman, Ann Shephard, was charged with being an accessory before the fact of those crimes. Except for minor traffic offenses, not one of the group had a prior criminal record.

James (Jay) Stroud was the assistant New Hanover County District Attorney in 1972 and the man who prosecuted the Wilmington 10. James Ferguson of the respected civil rights law firm Chambers, Stein, Ferguson and Becton, was the chief defense attorney. He has remained so throughout the long appeals process.

Because of the extensive publicity the case had received, neighboring Pender County was selected as the trial site. The trial ended abruptly, however, in June, before the jury selection process had been completed. Ten blacks had been selected to hear the case when Stroud, complaining of stomach problems, sought and was granted a continuance.

PROBLEMS WITH WITNESSES HIGHLIGHT THE TRIAL

The Wilmington 10 trial began anew in September, 1972. The jury seated this time was composed of 10 whites and two blacks, a domestic servant and a janitor.

Stroud's key witness at the trial was 18-year-old Allen Hall, a huge young man who had a tested IQ of 78, a history of mental disorders, and a lengthy police record.

Hall had been picked up by Wilmington police more than a year earlier on an unrelated assault case. While undergoing questioning by the police, he confessed to burning Mike's Grocery. He also said Chavis and the other Wilmington 10 defendants assisted in the burning. He was Stroud's only alleged eyewitness. Hall had just been sentenced to 12 years in prison for his confessed participation in the store burning. About a month after the trial, Hall's sentence was changed to youthful offender status at Stroud's request.

Stroud had two witnesses at the 1972 trial who, to some degree, corroborated Hall's testimony. The first was Jerome Mitchell, a young black man who several months before the Wilmington 10 trial had been declared an outlaw by the state of North Carolina. Under North Carolina law at that time, an outlaw could be shot on sight by any citizen of the state. A few weeks before Mitchell finally agreed to testify for the state, Superior Court Judge Winifred T. Wells handed Mitchell a youthful offender sentence of one day to 30 years. He had been charged with a brutal murder and armed robbery, charges unrelated to the 1971 racial upheaval in Wilmington. Stroud told the jury that Mitchell had nothing to gain; he already had been sentenced to 30 years.

Stroud's third major witness was 13-year-old Eric Junious, a child who could have passed for eight years old, and who testified that he saw Chavis and the others leaving the church to firebomb Mike's Grocery.

Ferguson vigorously attacked the testimony of Hall, Mitchell and Junious. (At one point Hall lunged for Ferguson and had to be restrained by bailiffs.) Ferguson was particularly interested in whether Hall had been the recipient of any special favors from the state or had been promised anything. Hall testified that he had received no promises or favors. Ferguson also fought vigorously, but unsuccessfully, for the inclusion into evidence of a statement Hall had signed for an agent of the federal Bureau of Alcohol, Tobacco and Firearms. That statement differed in detail from the statement Hall had later given Stroud and which was accepted by the court. Ferguson also argued that photographs of the 10 defendants had been marked by the prosecution to enable the state's star witnesses to readily identify them.

Ferguson had no witnesses to offer at the trial. Up until almost the last moment he had been counting on the testimony of the Templetons and of Aaron Johnson, the state Good Neighbor Council trouble-shooter.

The Templetons were prepared to testify that Chavis was at their home when Mike's Grocery was burned and that they had never heard Chavis exhort others to commit violence. The Templetons, however, never made it to the trial. When they arrived in North Carolina from their new home in New Jersey they heard a rumor to the effect that they would be arrested if they showed up at the trial. "We are not proud of that," Templeton was to say five years later. "But we were terrified. We were told that police would be waiting for us at the airport and that it would be the Wilmington 12 instead of the Wilmington 10." The Templetons went back to New Jersey.

Johnson and another state Good Neighbor Council worker, Preston Hill, were subpoenaed by Ferguson to appear and testify at the trial. The subpoena called also for any records the council might have relating to the violent days in Wilmington. Neither Johnson nor Hill made it to the trial.

Five years later Johnson was to explain publicly for the first time that his superiors on the Good Neighbor Council had strong misgivings at the prospect of any council worker testifying at the trial, particularly on behalf of Ben Chavis. "We were very much aware that our funding came from the legislature," Johnson said. He added that he and Hill were on their way to the trial, prepared to testify that Chavis had tried to end the violence, not evacerbate it, when they heard over their car radio that the defense had

rested. Johnson said he turned the car around and headed back to Raleigh. Ferguson was unaware that his subpoena had finally caught up with Johnson and Hill.

Judge Martin sentenced the defendants to terms averaging more than 28 years. Chavis drew the stiffest sentence, a maximum of 34 years. Sheppard received the lightest sentence, 10 years. The combined sentences totaled 282 years. Total appeal bond was set at $400,000, an amount the United Church of Christ Commission for Racial Justice, which financed, and continues to finance, the defense of the Wilmington 10, quickly met.

Two years ago, after the U.S. Supreme Court refused, without comment, to review the convictions, the Wilmington 10 surrendered to authorities and went to prison.

About the time the Wilmington 10 defendants were preparing themselves for prison, the star witness against them, Allen Hall, was getting out. He was released in June of 1975. A year and a half later, Hall was back in prison, his parole revoked. Hall's activities and statements preceding that parole revocation were of tremendous importance to the Wilmington 10.

PROSECUTION'S WITNESSES RECANT, CONFESS TO PERJURY

On September 24, 1976 Hall stated publicly that he lied under oath during the trial of the Wilmington 10, and that he was coached and coerced into lying by Stroud and the Wilmington police. Hall also said publicly, and in sworn affidavits, that his testimony against Chavis concerning explosives and "Molotov cocktails" was coached by ATF agent Bill Walden. He said his entire testimony was a lie. Hall said his conscience had bothered him so much since the trial that he had been "unable to live with myself as a black man."

Ferguson immediately sought to include Hall's recantation and admission of perjury in his petition for a writ of habeas corpus, which had been pending, and is still pending, in U.S. District Court in Raleigh. The motion to amend the petition was denied by U.S. Magistrate Logan Howell. Howell ruled that the state should have the opportunity to hear the matter first.

Four months after Hall's public recantation another major witness against the 10 defendants, young Eric Junious, signed a statement declaring that he lied at the trial. Junious said he lied because Stroud promised him a minibike and a job.

These statements by Hall and Junious prompted U.S. Attorney General Griffin Bell to order a Justice Department investigation to determine whether the civil rights of the Wilmington 10 had been violated. A federal grand jury convened in Raleigh in March to hear testimony from Hall, Junious, Mitchell and Stroud. Mitchell at that time became the third and final major witness against the 10 to recant his trial testimony. He told the jurors that Stroud had promised him he would be released from prison within a few months if he testified for the state. Mitchell also testified that he was not in the vicinity of Gregory Congregational Church or Mike's Grocery the night of the fire. Both Mitchell and Hall testified that Stroud coached them extensively in exactly what and what not to say on the stand.

Stroud denied emphatically that he arranged any deal with Hall and Mitchell in exchange for their testimony. He admitted, however, that he and a Wilmington detective bought Junious a minibike. He said he did this because he liked Junious and felt sorry for him The grand jury, which was essentially investigative in nature according to a Justice Department attorney, returned no indictments.

When Hall, Mitchell and Junious testified before the grand jury, they did so as prisoners of the state. Hall's parole had been revoked upon his conviction in February of breaking into an unoccupied residence. Hall told police that he broke into the house because members of the Klan were chasing him.

Mitchell's parole was revoked only a few weeks after his release in late 1976. He was convicted of attempting to pass a counterfeit bill. Junious was serving a sentence for larceny.

DESPITE RECANTATIONS RETRIAL PETITION DENIED

Two months after their federal grand jury testimony, Hall, Mitchell and Junious testified before a post-conviction hearing for the Wilmington 10 at the same courthouse in Pender County that the 10 were convicted in five years before. The hearing, before Supreme Court Judge George Fountain, took almost two weeks to complete. Representatives of the North Carolina attorney general's office vigorously opposed the new trial request. Assistant State Attorney General Richard League had previously acknowledged that the state would not prosecute the 10 again if Judge Fountain granted a new trial. The state would have no case, he said. All of the important prosecution witnesses had recanted their testimonies.

At the hearing, Hall, Mitchell and Junious again testified that they lied for the state during the 1972 trial. Both the Templetons, their fear of arrest diminished after five years, testified that Chavis was at their home when Mike's Grocery burned. They recreated for Judge Fountain the three nights of siege under fire at the parsonage.

It was established at the hearing that the leader of a faction of the Klan in North Carolina visited the beach cottage in which deputies were keeping Mitchell and Hall during the 1972 trial. It also was established that in June of 1972, just before Stroud was granted a continuance until September, Hall was becoming very upset and unpredictable because of his worrying about a girlfriend 300 miles away. Hall was Stroud's only major witness at that time. Mitchell had not yet agreed to testify. Stroud admitted at the hearing that to ease his star witness' mind, he sent two detectives on a 600-mile round trip after the young woman. The officers returned with her the day after Stroud requested a continuance because of illness.

It was also established that long after the convictions of the Wilmington 10, Stroud continued to visit with Hall and Mitchell in prison, and to give them small amounts of money. Stroud testified he did this because as a prosecuting attorney, he always takes an interest in his major witnesses for the state. He said he considered Hall "a friend."

At the end of the long hearing, Judge Fountain ruled immediately from the bench that the constitutional rights of the Wilmington 10 had not been violated and that no new "credible" evidence had been presented in their favor. In his written order filed weeks later, he rejected completely every issue raised by the Wilmington 10 defense. Ferguson immediately gave notice of appeal.

A few weeks after Judge Fountain's adverse decision, Ferguson formally petitioned North Carolina Governor James Hunt for pardons of innocence for the Wilmington 10. Attorney General Griffin Bell, at the request of 60 members of Congress, has urged Hunt to seriously consider the pardon request.

Hunt has made no formal decision on the pardon petition and probably will not until after November 8, the date of a statewide referendum to determine whether the Governor can succeed himself in office. Hunt has stated publicly, however, that he is instinctively opposed to intervening in any case until all avenues of appeal, all routes of "due process," have been exhausted.

AIRBAGS

HON. MATTHEW J. RINALDO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, October 17, 1977

Mr. RINALDO. Mr. Speaker, last week, we witnessed the last in a series of stalling tactics and parliamentary maneuvers aimed at forcing all Americans to buy passive restraints—better known as airbags—in their cars by 1982.

Under House rules, any legislation reported out of committee can be held up for 3 days by any Member wishing to file views on the proposal. So last Wednesday, when the Interstate and Foreign Commerce Committee had scheduled debate on a resolution to disapprove the mandatory airbag ruling, proponents said flatly that, if the resolution got out of committee, they would take up the full 3 days, making it impossible for the House to vote before the October 14 deadline. This tactic made committee consideration meaningless and effectively killed the resolution.

In my judgment, this is not the way to handle such an important issue. The serious questions raised about airbags necessitated a vote by the full House. Supporters of the DOT decision, however, used every trick in the book to keep this issued bottled up in committee. Unfortunately, they were successful.

As a member of the Consumer Protection Subcommittee which initially considered this question, I participated in hearings which clearly demonstrated that the hard facts are not there on which to base mandatory installation of air bags. I coauthored minority views which outline in detail my reasons for objecting to the Adams' ruling.

I would like to insert these remarks in the RECORD for the benefit of my colleagues and with the hope that, through concerted congressional action, we can eventually overrule this hasty decision.

These views follow:

MINORITY VIEWS ON AIR BAGS

On September 21, 1977, the Subcommittee on Consumer Protection and Finance reported to the full Committee on Interstate and Foreign Commerce H. Con. Res. 273 with a recommendation that it not be approved. This concurrent resolution provides that the passive restraint standard (commonly referred to as the air bag standard) transmitted to Congress on June 30, 1977, be disapproved. We disagree with the recommendation of the Subcommittee that the Resolution not be approved.

On December 6, 1976, Secretary of Transportation, William T. Coleman, issued a decision concerning motor vehicle occupant crash protection. In that decision, the Secretary called for a nationwide demonstration program to obtain more experience with air cushion restraint systems, to familiarize the American people with the benefits of air cushions, and to foster the continued development of passive restraint technology. The Secretary proposed to carry out this demonstration program by entering into agreements with automobile manufacturers to produce and sell, over a two-year period, 500,000 passenger cars equipped with an air cushion restraint system on a nationwide basis. The Department of Transportation later entered into agreements with Ford, General Motors,

Mercedes-Benz, and Volkswagen of America to carry out the objectives of this demonstration program.

However, on June 30, 1977, Secretary of Transportation, Brock Adams, rejected the Coleman approach and mandated a new occupant restraint standard which requires that front seat passive restraints be phased in all new cars between the 1982 and 1984 model years. We feel constrained to oppose that decision and to assist in such efforts as are necessary to assure that the standard is disapproved by the full House. We will here attempt to detail various factors and considerations which we believe clearly indicate that the decision of Secretary Adams is both premature and unwise as a national policy decision.

DATA SUFFICIENCY

The National Highway Traffic Safety Administration began gathering data on air bag experiences in the real world traffic environment in early 1973 with 831, 1972 Mercurys, and 1,000, 1973 Chevrolets. These air bag equipped vehicles were used in the manufacturers' test fleets. To these were added 75, 1975 Volvos, and 10,000 Buicks, Cadillacs, and Oldsmobiles between model years 1974 and 1976. The General Motors fleet of 10,000 vehicles is unique in that it is the only group of air bag-equipped cars which were sold to the public. Together, these vehicles make up the total of 12,000 vehicles from which NHTSA has derived its assessment of air bag performance in the field. As of September 1, 1977, these vehicles had travelled in excess of 480 million miles, 390 of which are attributable to the GM fleet. It is generally agreed that real world data is the soundest indicator of a safety device's performance. As Dr. Lawrence Goldmuntz testified before the Subcommittee, "we have come to the conclusion that there is a variety of data sources and that most reliable by far is real world data." However, out of 12,000 vehicles which have travelled over 480 million miles there have been only 165 air bag crash deployments.

In her letter dated July 21, 1977, responding to a request for comments from Honorable John E. Moss, Ms. Joan Claybrook, NHTSA Administrator, stated that "[a]lthough this field experience provides valuable information as to the practicability and reliability of air bags, all knowledgeable parties agree the fatality data are insufficient to permit drawing statistically supportable conclusions." In its "Summary of Air Bag Experience 1973–1977", dated May 31, 1977, NHTSA admitted it was true that "there are simply not enough cars in the field to permit statistically significant estimates of their effectiveness." The need for more data is obvious. This need is reinforced by the fact that there have been 15 non-crash deployments as of September 1, three of which occurred on the road. As noted by DOT in its discussion of considerations underlying the standard which accompanied the proposed FMVSS 208, "[t]he frequency of inadvertent deployment is . . . of special concern." They state that "[t]here is little question, however, that inadvertent actuation could cause loss of control by some segments (aged, inexperienced, distracted) of the driving population, and it must be viewed as a small but real cost of air bag protection." While DOT argues that the causes of the inadvertent deployments are known and can be eliminated, they continue to occur. The need for further design improvements to eliminate this occurrence is obvious, particularly since DOT estimates 7,000 on-the-road inadvertent actuations annually, or one for every 15,000 vehicles.

EFFECTIVENESS

The DOT has estimated that approximately 9,000 lives could be saved each year if all cars are equipped with air bags. This estimate is based on the use of assumptions, adjustments, and effectiveness factors, all of which have become critical in light of the very limited real world data. Other groups, such as GM, Economics and Science Planning, Inc., and the Cornell Aeronautical Laboratory have reached differing conclusions on the air bag's effectiveness. Even the DOT reached the paradoxical conclusion (Docket 74–12, Notice 10) that the air bag is more effectiveness in all modes of impact (front, side, rollover, rear) than it is in frontal impacts, the crash mode for which the air bag system was designed.

GM took issue with the DOT effectiveness estimates, because they are based on not only data from laboratory tests but also the subjective judgment of evaluators who have direct knowledge of how the value of their estimates will affect the overall outcome. The potential for bias is great. GM used a "matching case" technique with a case selection procedure which substantially reduced the chance for bias and found that the DOT estimates for air bag effectiveness appear to be significantly overstated. GM asked DOT to commission an independent group to review the basic data and analyses of both the DOT and GM in order to determine the validity of each.

In an independent study conducted by the Cornell Aeronautical Laboratory, a non-profit research organization, automobiles were crashed in offset front end collisions in a manner that simulated real world auto accidents. These tests, which used dummies and cadavers in the driver and passenger seat positions, were designed to determine the effectiveness of air bags as compared to seatbelts for drivers and right front seat passengers.

In all of the tests, with both dummies and cadavers seated as drivers and passengers, the seatbelt restraint systems did a better job in protecting the test subjects than did the air bag. None of the four occupants wearing seatbelts sustained gravitational forces above the standard for fatality. But three of the four air bag cases showed fatal forces. To our knowledge, DOT has never issued a substantive comment or analysis regarding these tests.

A discussion of air bag effectiveness should include some discussion of seatbelts and their relative merits in light of the availability and economy. Seat belts are present in over 90% of the cars on our highways today. A set of 5 seatbelts (2 lap/shoulder harnesses in the front seat and 3 lap belts in the back seat) costs $85 on the average in a new car today. In the testimony before the Subcommittee, all parties, including the DOT, agreed that a seatbelt usage rate of between 50% to 65% (usage percentage vary somewhat) would result in comparable, if not greater, protection for auto occupants. While air bags only provide protection in frontal and angular frontal collisions, seatbelts provide protection in these collisions as well as in rollovers and side and rear collisions. All of these factors constitute a solid argument for the seatbelt which, if combined with substantial effort to promote greater usage, could save more lives than the air bag.

SODIUM AZIDE

Sodium azide is currently being used by all of the major air bag suppliers as the solid propellant for inflation of the air bag. Each air bag is equipped with a canister containing approximately 1¼ pounds of sodium azide. This compound has been found to be a potent mutagen in a wide variety of organisms by two Washington State University geneticists, Professors Nilan and Kleinhofs. This finding has been confirmed by Dr. Bruce Ames, Chairman of the Genetics Department at the University of California a Berkeley. No genetic tests have been made on humans or human cell cultures but the likelihood of its being mutagenic in humans is high in view of the compound's mutagenicity in a relatively wide variety of organisms. The possibility also exists that sodium azide is a carcinogen since most mutagens are carcinogens. The carcinogenicity tests have not been extensive, however; and this aspect requires additional testing.

The Toxic Substances Control Act, which was approved by this Committee and by the Congress in 1976, not only granted authority to EPA to restrict or prohibit the production and sale of chemical substances for which there were insufficient data regarding their toxicity, but also encouraged the Administrator take actions promptly to keep such substances out of commerce. Now, another government agency, the Department of Transportation, has mandated an automobile safety standard which it knows will result in widespread use of a known mutagen and possible carcinogen, sodium azide. The agency has not mandated the use of this substance, but it is fully aware that the substance will be used extensively as a propellant for the air bag and has taken no action to restrict its use. This substance may well be banned by EPA at a later time for this particular use on the ground that it presents an unreasonable risk to our environment and to the health of our citizens.

Before the Federal Government mandates an action which it knows will result in an increased use of a known mutagen, it should engage in an extensive effort to clarify the risk and the long-term effects of this substance, determine if adequate and effective alternatives are available, and obtain proper assurances that alternative substances will be available in amount necessary to meet the large demand of the automobile manufacturers. We have seen no evidence that the agency undertook such an analysis prior to its issuance of the regulation, nor have we seen such an effort since the regulation has been issued, even though strong and numerous concerns have been expressed regarding the use of sodium azide.

This is one more area in which we firmly believe more data and information is needed before we reach a final decision concerning air bags.

COST TO CONSUMERS

While we are concerned about the effectiveness of air bags as projected from the limited data presently available, we are also concerned about unnecessary costs to consumers for a device which may prove to be a disappointment from a safety standpoint. Cost estimates for the air bag system vary substantially. Although NHTSA estimates the installation cost at $112 and the replacement cost at 325, their estimates are the lowest. (Ford Motor Company in its petition dated August 4, 1977, to DOT for reconsideration of the air bag standard indicated that DOT has in its possession supplier data which shows that the cost of air bag components alone exceeds the $112 DOT estimate.) Estimates from the auto manufacturers range from $193 to $250 for installation and from $300 to $600 for replacement. These estimates should be viewed as additional costs to consumers who have been paying for lap and shoulder belts in all cars manufactured since 1968 and who will continue to pay for 5 lap belts on the average (2 in the front seat and 3 in the back seat) under the mandate.

NHTSA's argument that air bag costs will be offset by savings which will be realized by car owners of the 1980's from the fuel economy standards announced by Secretary Adams in June, 1977, must be countered with the fact that the air bag system will add a minimum of 38 pounds to the car which will increase, by DOT's calculation, the annual consumption of fuel by automobiles by 0.71 percent (about 521 million gallons annually).

CONCLUSIONS

There is little question that the data and experience regarding air bags are totally in-

sufficient to make a meaningful evaluation of their effectiveness. As we mentiond earlier, the data base used by DOT is so sparce that its conclusions from the data indicate that air bags offered a greater degree of protection in those types of crashes in which the air bag was not designed to deploy (non-frontal crashes) than it did in those types of crashes in which the air bag was designed to offer protection to automobile occupants (frontal crashes). These conclusions alone should indicate that the data used by DOT to evaluate the effectiveness of the air bag is totally incomplete and inadequate.

However, despite the fact that its conclusions are completely inconsistent, DOT chose to ignore General Motors' extensive evaluation of basically the same data using different methodologies in which serious questions were raised as to the air bag's effectiveness. Not only did DOT take the incredible action of dismissing the GM study, without substantive comment, on the grounds that "General Motors is a vastly interested party in these proceedings", but it also rejected GM's request to have independent and disinterested experts review the basic data and analyses of both DOT and GM in order to determine the validity of both. In addition, the potentially serious questions raised by the Corell Aeronuatical Laboratory regarding the safety and effectiveness of air bags have not been addressed by DOT in any substantive manner.

While we do not take the position that the studies conducted by General Motors and Cornell provide the correct analysis regarding the effectiveness of air bags, we do firmly believe that these studies taken in conjunction with the abvious inconsistencies in the DOT study make it abundantly clear that much more data and experience are needed before the Federal Government mandates the use of air bags.

The testimony before the Consumer Protection and Finance Subcommittee from both proponents and opponents of the passive restraint standard makes it clear that if seatbelts were used more extensively by the public they would provide comparable, if not greater, protection than air bags. Also, the very critical fact that air bags would not be available in our overall automobile population for at least 14 years, while seatbelts are now contined in over 90% of the care now on the road should not be overlooked.

We should certainly not, as a matter of national policy, mandate the substitution of a proven restraint system for one that may well prove to be less effective once sufficient data and experience is available. The lack of wisdom of the DOT decision becomes even more apparent when taking into account the fact that the implementation of this standard will cost the American public in excess of $2 billion a year and place into our environment large quantities of a known mutagen which will be distributed geographically throughout all regions of our country. In addition, such an action may well have the adverse effect of casting public suspicion on the effective belt system and thereby discourage its use.

If the air bag proves to be ineffective or if the toxic chemical sodium axide proves to present a substantial risk to our citizens, it will be years before we can fully correct the situation.

We sincerey believe that the wiser and more sensible approach would be to expeditiously reinstate the Coleman decision and enact such legislation with such funding as may be necessary to carry out extensive, intense, and comprehensive programs to educate the American public as to the value of seatbelts and strongly encourage their use. Unfortunately, a program of the magniture necessary to accomplish this objective has never been undertaken by the Federal Government and is well overdue.

The decision of DOT to mandate the use of air bags in our automobiles is clearly premature, and we ask the support of our colleagues in our efforts to disapprove this action.

BING CROSBY

HON. EDWARD P. BEARD

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, October 17, 1977

Mr. BEARD of Rhode Island. Mr. Speaker, millions of words have been written all over the world in tribute to Bing Crosby who died last week. I think it is natural to remember Bing as the singer, the Academy Award winner, as an actor, and as a powerful force in the world of both amateur and professional sports. However, I do not think enough has been said of Bing Crosby as a devoted family man, a devoted member of his church, and a quiet benefactor for an unknown number of deserving charities. That was Bing Crosby's style—unassuming, shunning the glare of show business publicity, sharing his good fortune without bugles or banners.

Although he was a national figure for 40 years, Bing Crosby was a bit special to Rhode Island. We well remember his relaxed style of life and his warm friendship during the months he spent in Newport making a film and his many visits in later years when his sons were attending one of Rhode Island's finest schools, the Portsmouth Priory.

The voice of Bing is not stilled—his records will live on forever. I commend to my colleagues the personality and the spirit of Bing Crosby of whom Frank Sinatra said:

Bing leaves a gaping hole in our music and in the lives of everybody who loved him. And that's just about everybody.

RAPID TRANSIT—IT CAN BE ECONOMICALLY SOUND—PATCO GENERAL MANAGER ROBERT B. JOHNSON ADDRESSES THE ISSUES

HON. ROBERT W. EDGAR

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 17, 1977

Mr. EDGAR. Mr. Speaker, rapid rail transit has been under attack in recent months by a variety of Government officials and transportation experts. I would like to bring to the attention of my colleagues a success story in this area which points out that good planning and good management can avoid some of the horror stories which have made rapid rail transit less attractive than alternative commuter modes. The following speech by PATCO Manager Robert B. Johnson was delivered 2 years ago in Detroit. In detailing the experience he has had with the very successful Lindenwold line, Mr. Johnson points out that rapid transit can work:

RAPID TRANSIT—IT CAN BE ECONOMICALLY SOUND

When the Delaware River Port Authority began operation of its Lindenwold-Philadelphia Rapid Transit Line in January 1969, there were dire predictions of trouble ahead. Within three years after operations began, Port Authority Transit Corporation was in trouble and those troubles have continued to grow ever since. We don't have enough cars to carry all the people who want to use our service. We don't have enough fare collection equipment to adequately and efficiently process the crowds of riders who surge upon us every workday morning and evening. We don't have enough parking capacity to receive and store the cars of those commuters who drive to our train stations, then voluntarily get out of their private automobiles and continue their ride on public mass transportation.

In an age when all other public mass transit agencies were piling up huge operating losses annually, where services were being abandoned or drastically curtailed, in a business which for the past two decades had each year been able to serve only a diminishing portion of an expanding potential market demand, how could this apparent paradox happen? The answer is, because we planned, built and operate it to be successful—it is economically sound.

Unfortunately, the successful achievements of the Lindenwold-Philadelphia Rapid Transit Line have been the exception rather than the rule for a major portion of public works projects today, and particularly so in respect to new rail rapid transit projects recently completed or under construction in major American cities. The enormous capital costs of the BART facilities on the west coast have, so far, not produced a system which is reliable for its users and economic in its operation. The WMATA system in Washington, D.C., was originally expected to require $2.5 billion to construct and now is estimated to require $4.5 billion. The MARTA system in Atlanta was expected to require a capital investment of $1.3 billion when the electorate gave its endorsement to the project and is now estimated to cost $2.1 billion and construction isn't really underway yet.

These seemingly uncontrollable capital costs, coupled with the growing demand for direct operating subsidies of virtually all forms of public mass transit, have led The Secretary of the U.S. Department of Transportation to issue a policy statement declaring that fixed guideway transit systems can be regarded as appropriate only in high-density metropolitan areas of approximately two million persons or more. If the Secretary's expressed policy is adhered to, then millions of our citizens throughout the nation will be sentenced to forever endure the choking congestion that is strangling the vitality and life from our cities.

I do not fault the Secretary's conclusion if based upon the evidence accumulated from these other areas. I do fault the managers of the planning, design and construction, and the operations of systems which have virtually preordained the extravagant waste of our precious public resources on unworkable schemes and unmanageable systems. This existent situation need not be. The Lindenwold Line is existing proof that modern rail rapid transit can be constructed and operated economically.

The Lindenwold Line is the first, and to this date only, rapid transit project to be conceived, designed, and constructed from the ground up with one foremost objective in mind—to win the patronage of the potential passenger and to accomplish it within the economic resources of its Authority. To achieve this objective, the designers adopted the best of known technology within the urban transportation field. Of course, new concepts and ideas were examined—but they were adopted only when examination proved they would actually improve reliability and efficiency for both passengers and operator. Concepts were not adopted just for the sake of being new (I happen to subscribe to the philosophy that a good design is modern

even if old in years if it is the most efficient way to perform the desired function: Wheels have been made round for hundreds of years—why change them?) Automation technologies were adopted only after careful examination proved they would enhance reliability and efficiency.

Our trains are operated by a one-man crew, regardless of the length of train. We recognized from the beginning that it would always be necessary for a train operator to be aboard every train. In the event of the unusual, or if a train becomes disabled for anyone of a dozen or more causes, someone must be present and in charge. You cannot leave a group of 800 or more persons entrapped in a stalled train listening to a recording saying "don't worry, don't worry, don't worry—". And so the designers were told there will be a train operator on every train, the train operator must be capable of operating the train in a manual mode without degradation of train performance, and the train operator must be an integral part of the Automation process. On PATCO, the train operator sets up the control console to notify the ATO system that the train consist is 1-car, or 6-cars, or any length in between; the operator opens and closes the doors; the operator determines how long a train should remain in a station; the operator initiates train acceleration; the operator, by depressing a station by-pass button, can cause the train to pass through a station without stopping. And just to be sure the PATCO train operators remain in a high state of readiness to perform their functions, each operator is required to make one of his off-peak round-trip runs each day in a fully manual control mode.

By assigning these functions to the train operator the capital cost of automation is reduced to but a fraction of the cost of master centralized computer automation systems. And by reducing the complexity of its systems, PATCO's automation systems have proven to be highly reliable, and are capable of being maintained at reasonable costs.

PATCO trains are designed to facilitate rapid changes in train-consist without any intervening moves to a marshalling or storage yard. There is an operating cab in each car and some cars (single units) have a cab at each end. Fully automatic couplers, controlled from the adjacent operating cab, make up the mechanical, electrical and air connections between cars. When a 6-car train on the PATCO system completes its morning rush-hour runs, it may be separated into three 2-car trains and each dispatched successively without any movements into or out of the yard and without any assistance from anyone other than the train operator. Frequently, within two minutes after a 6-car train arrives at Lindenwold at the end of the morning rush-hour, two cars from that train will be enroute back to Philadelphia.

PATCO operates the most successful automated rapid transit service in North America. I firmly believe in automation whenever the automation will result in a safe, more reliable and more economical operation than can be achieved by manual operation. But, I do not subscribe to the idea of automation just for the sake of automation. For example: PATCO trains normally operate under Automatic Train Operation (we call it ATO). The starting signal for a train departing a terminal point is automatically given by means of a punched-tape dispatching machine at the terminal point. The train operator presses a button to close the doors, then presses a second button to initiate acceleration of the train. The on-board ATO system automatically accelerates the train at the maximum programmed rate until it reaches the allowable speed in that particular track section. The ATO system regulates the train speed to within 2 miles per hour of the authorized speed, and causes the train to accelerate or decelerate whenever the corresponding change in speed is dictated by right-of-way conditions. As the front of the train passes over a point 1900 feet before the center of the next station platform, the train receives a station stop command. The ATO speed-distance regulator causes the train to decelerate at the optimum rate and to stop at the station with the center of the train at the center of the station platform. Then, the operator presses a button to open the doors. After the passengers have disembarked and/or boarded the train, the operator presses the button to close the doors and the process is repeated. PATCO relies upon the on-site, personal observation of the train operator to determine the appropriate dwell time at each station.

Not to be overlooked as a significant factor in achieving economy of operation is PATCO's novel fare collection system. The function of any fare collection system is to collect money from the users pocket and to deposit it in the bank for use in paying for the service. PATCO uses a self-service, automatic fare collection system, utilizing magnetically encoded tickets. Passenger stations are normally un-attended but are under closed circuit TV surveillance to protect against fare evasion and assure passenger security. Passengers buy a single or two-ride ticket from automatic vending machines or 10-ride tickets by mail or from the newsstands located in each station. The ticket is inserted into the Automatic turnstile upon entry, where it is electronically read, one ride is subtracted from its value, the ticket is re-encoded so that it must next be used for "exit", and the turnstile is unlocked to allow the passenger to enter into the "paid" area; this process requires approximately 0.6 of a second. Upon reaching the destination station the passenger inserts the ticket into the turnstile in the exit direction where it is electronically read to verify that the ticket was valid for the trip just completed. If the ticket is valid the turnstile is unlocked for exit and the ticket captured if zero rides remain, or returned to the passenger if valid rides yet remain on the ticket. Tickets are always captured in the exit turnstile upon completion of the last ride.

Automatic Fare Collection is a sound and valid concept. For one thing, it reduces the potential of fare evasion since the automatic electronic equipment doesn't have any friends; for example, it was reported by the Illinois Central Gulf Railroad that when it installed automatic fare collection on its commuter service that its revenues increased substantially without any apparent change in the number of passengers. However, the most significant benefit is the potential reduction in operating cost available to the operator. PATCO's fare collection costs are the lowest in the industry. In 1974 PATCO's cost of collecting money from its passengers' pockets and depositing the money in the bank, including all servicing, maintenance, processing material and administrative costs, and all closed circuit TV operation and maintenance cost, totalled 8.6% of revenue. This is to be compared with an industry average of roughly 25% and in some cases as much as 50% of revenue. By taking advantage of the full potential of automatic fare collection in utilizing unattended stations, PATCO saves approximately $1 million annually in direct labor cost.

In my opinion the planners, designers, and engineers of most of the other new rapid transit systems have lost sight of the real objective of the passenger. People use a mass transit system to get from a point of origin to a point of destination, and they want to do it quickly, reliably, comfortably and economically. The vehicle is nothing more than a people-box. The designers' job is to create a system which will enable that people-box to traverse the transit corridor rapidly and reliably, day after day after day. The passenger doesn't care—has no interest in knowing—whether the train is controlled by a master centralized computer, or localized control—whether it is powered by AC or DC motors or by little squirrels running around cages—whether it operates on standard gauge rails or extra wide rails—whether those rails are supported on timber cross ties or concrete cross ties. The passenger does care about being able to board his people-box every day at a pre-established time, riding in a clean and comfortable environment, arriving at his destination without being ruffled either physically or emotionally, completing the trip as quickly as possible, and accomplishing it all at a fare which he considers to be reasonable.

It is absolutely essential in urban mass transit systems that the facilities be designed to create within them an attractive and pleasant social environment, and that it will be economically possible to maintain that environment. The importance of cleanliness cannot be over-emphasized. The designers of some new systems have created marvelously beautiful stations. Yet, their stations are monsters to keep clean, lighted and maintained. It is little credit to the designer if what he creates cannot be economically maintained. Stations need not be palatial museums, but they must be attractive, functional, well illuminated, easily cleaned and economical to operate. This objective can be achieved without extravagant expenditure; the average cost of each of the six new stations on the PATCO system when built in 1968 was $600,000.

DESIGN CONCEPTS

Let's turn our attention more specifically to the planning, design, construction and operation of the Lindenwold Line. The basic starting point was recognition that the facility to be built would have to offer a level and quality of service so attractive to the potential user that he would voluntarily choose to use mass transit in his daily travel. The factors which influence choice of travel mode are (in their descending order of importance) speed, convenience, comfort, cost.

Speed is the most important factor of all. PATCO facilities were designed to reduce the overall travel time from the suburbs to downtown by 50%. This required that the transit line yield an overall average speed, including station stop times, of 40 miles per hour and maximum operating speed between stations of 75 miles per hour. The portions of route utilizing subway in Philadelphia and Camden, as well as the approaches to the Benjamin Franklin Bridge over the Delaware River have short radius curves where speed must be limited to 15 mph. All of the new portions of route where the line emerges from the Camden subway is designed with a maximum safe operating speed in excess of 100 mph.

Convenience is the next most important factor. Convenience means easy access to the transit facilities. It means availability of service when you want to travel. It means never having to wait long intervals for the next train if you just missed one. It means being able to count on service any time of day or night, 365 days a year. It means being able to depend on getting to your destination on time.

For the convenience of its passengers, PATCO provides nearly 10,000 automobile parking spaces distributed amongst its six suburban stations. There are kiss-n-ride facilities for those who are driven to the stations by their wives or sweethearts. There are feeder-bus docks for those utilizing buses of the local transit system, and of apartment, business and commercial developers. There is a platform at Lindenwold where passengers disembark from railroad trains arriving from Atlantic City, Ocean

City and Cape May. There are bicycle racks at each suburban station for those choosing this mode of getting to and from the stations.

For the convenience of its users, PATCO operates 24 hours a day, 7 days a week and 365 days a year. On a normal weekday we operate 331 one-way revenue train trips per day. From 5:45 a.m. until 12:00 midnight, the longest interval between successive trains is 10 minutes, in fact from 6:45 a.m. until 11:00 p.m., it's 7½ minutes. During the morning rush-hour this headway is closer to 3 minutes, and during the evening rush-hour to 2 minutes. From 12:00 midnight until 1:30 a.m., there's a train every 30 minutes, then once an hour until 5:00 a.m. This is dependable service: in 1974 we again operated better than 98.16% of our trips "on time".

An example of the special convenience which PATCO provides for its passengers is the transportation to and from the Academy of Music, home of the famous Philadelphia Orchestra. The music hall is located at Broad and Locust Street, just one short block from our 15th and Locust Station. We have an arrangement with the management of the music hall to alert PATCO fifteen minutes before the final curtain. Five minutes after the final curtain falls we have a 2 or 4-car train ready to go at the 15th & Locust Station. And within 15–20 minutes after the final curtain, our riders are climbing into their automobiles at our suburban parking lots in their hometowns, while people who drove to the Academy are still waiting for their cars to be extracted from downtown parking garages.

Obviously for PATCO to be able to provide such a high level of service and convenience it was necessary to incorporate automation and its efficiencies into the overall design. Trains are automatically dispatched at the terminals at the beginning of each run. Each train is operated by a single crewman, regardless of the length of train. The trains are capable of being operated at full performance levels in both manual and automatic modes, assuring dependable service to the user. Automatic Train Control always assures safe maximum train speed and safe train separation between successive trains. The automatic signal system sets up routes and signals in advance of each train. Automatic change-making machines and ticket vendors supply passengers with magnetically encoded tickets in unattended passenger stations. Automatic Fare Control gates control passenger entry and exit to and from stations, subtracting one ride from each ticket in the process, and swallowing the ticket upon exit when the last ride has been consumed. Automatic equipment sorts the previously used tickets into ticket types and zones, and re-encodes the tickets for subsequent re-stocking in the automatic ticket vendors. Cars are automatically washed as they pass thru the car washer twice a week. Automatic supervisory-control systems monitor and control electric power and signal protective systems.

For the comfort of its users and neighbors the trains are designed to be quiet in operation, well illuminated inside and fully air conditioned with automatic temperature and humidity control. Car seats are well padded and upholstered and contoured to fit the human body rather than the car body. Seats are provided for 80 passengers per car. Two 50-inch wide bi-parting doors on each side of the cars permit quick loading and unloading of passengers and enable PATCO to maintain an average station dwell time of only 12 seconds per stop.

Cost of the PATCO service was priced to be competitive with or lower than the apparent out-of-pocket cost of driving, when considering fuel, parking and tolls, and with competing modes of mass transit. A 5-zone fare structure, ranging from a minimum of 35 cents to a maximum of 75 cents, results in a cost to the rider which is somewhat proportional to the length of ride. A significant percentage of the parking spaces in PATCO stations are free; a charge of 25 to 50 cents is made for the remaining spaces.

OPERATING ORGANIZATION

Our Board of Commissioners recognized that a properly motivated operating organization is just as important to the success of the transit venture as is the design of the facilities themselves. To achieve this objective, the Authority established its wholly owned subsidiary, the Port Authority Transit Corporation. Key personnel were selected to head up the various departments and other supporting functions. Detailed procedures were established prescribing how train service was to be operated and how the equipment and facilities were to be maintained. Special care was taken in developing these procedures to make full use of the advanced technical capabilities of the equipment and facilities being provided, and not to be encumbered with traditional but grossly inefficient practices, policies and work rules of the past. I believe the fact that there are no restrictive jobs descriptions existent in the whole PATCO organization has contributed significantly to making the individual PATCO employee one of the most (if not the most) productive workers in the mass transit industry. PATCO operates, today, with a small highly motivated work force of only 272 employees, which includes everyone from the janitor to the general manager. These employees are exceptionally capable and imaginative people who have learned to think and to anticipate where and when problems may develop and to take appropriate action.

OPERATING RESULTS

PATCO opened its doors to service on the New Jersey portion of the Line on January 4, 1969, and on into Philadelphia on February 15, 1969, almost 3 years to the day after the first shovel of dirt had signaled the start of construction. Prior to the start of construction, the number of riders using the railroad commuter service which had formerly utilized the new PATCO right-of-way had dwindled to approximately 1200 riders a day from a former high of about 3,000. And now the moment of truth had arrived—"The Delaware River Port Authority had gambled $94 million to build the Line; would the commuting public buy the service?"

The answer wasn't long in coming. On Monday, February 17, 1969, 14,850 riders paid their fares to ride on PATCO—and the ridership has continued to grow ever since. PATCO is now carrying approximately 42,000 fare paying riders per average workday.

Examination of the record of 6½ years of operation dramatically demonstrates the validity of the concepts under which the Lindenwold Line was conceived, planned, constructed and operated. At the end of 3 years we had reached the break-even point in paying our operating and maintenance costs from the fare box. In 1972, 1973 and 1974 we paid all direct operating and maintenance costs from revenue fares and had a small net earning which we paid over to our corporate parent, the Delaware River Port Authority, to aid in debt service. In all candor, I must acknowledge that we expect to accumulate a direct operating deficit in 1975 of approximately $600,000. The reasons for this deficit are that ridership growth is being stunted by the over-crowding of trains and saturated parking lots, and that we are still operating on schedules of fares established in April 1972 even though subsequent to the establishment of these fares our labor costs have risen by 46 percent, cost of consumable materials other than energy have risen 51 percent and the cost of electrical energy to propel the trains has risen 90 percent. If fares were permitted to rise in parallel with general inflation, PATCO would still be covering all operating and maintenance costs from the fare box. Interestingly, when PATCO raised its fares in 1972, and when it increased its parking rate in 1975, there was no drop in patronage.

Today, on one route, PATCO is carrying approximately 30% of all daily commuter work trips from South Jersey into center-city Philadelphia. And, even though PATCO has spurred a major boom in residential and commercial real estate development throughout the corridor it serves, it has also served to materially reduce traffic congestion on parallel major arterial highways. For instance, the average rush-hour speed of automobile traffic on White Horse Pike (parallels PATCO Line) increased by 30% between 1960 and 1970, primarily as a result of the startup of PATCO service.

An analysis of a survey of PATCO riders reveals that approximately 90% use the automobile to travel to and from the PATCO stations, 50% of these are kiss-n-ride passengers, and 40% are park-n-ride passengers. The same survey revealed that before PATCO 40% of our riders made their full trip by auto and 13% didn't make the trip at all. Thus 53% of PATCO patrons were brand new users of public transportation. Mass transit ridership in the corridor served by PATCO has more than doubled in the six years of PATCO operations, as compared with riders carried in buses before the start of PATCO service.

WHAT HAS BEEN LEARNED?

There are five major conclusions or lessons to be drawn from the PATCO experience.

First, and most importantly, it has been proven that attractive, modern, demand-responsive rail rapid transit trains working in coordination with the existing, highly developed, demand-responsive "Personal Rapid Transit", namely the private automobile, form a natural marriage to produce the best possible transportation system. The motoring public will voluntarily choose to transfer to a public transport mode, if the combined service provided is superior. For the specific purpose of commuting, or going downtown for other purposes, the PATCO service in coordination with the automobile is superior to driving for many people. 42,000 daily riders on PATCO trains and more than 9000 automobiles which daily crowd into the PATCO parking lots all serve to testify that PATCO has provided the proverbial "better mousetrap" and people are beating a path to our stations.

Second, good quality transit service can reduce air and noise pollution, and conserve energy. Electric trains draw power from electric utility stations where primary energy is converted to electrical energy under conditions which can be controlled to emit little or no air pollution. And with proper planning, design and maintenance, a high speed train traveling at 75 miles per hour and carrying from 600 to 800 persons emits less noise than does one diesel bus or truck traveling at 40 miles per hour, and consumes far less energy than alternative highway-oriented modes.

Third, high quality mass transit service can materially reduce traffic congestion. Even though there has been no new highway construction in the corridor, and despite major residential and commercial development throughout the area, there has been a 30% increase in the rush-hour travel speed by automobiles along the major highways paralleling the Lindenwold Line. This is a very significant benefit to those persons whose particular circumstances do not lend themselves to using public mass transit.

Fourth, existing and proven technology is fully capable of providing the kind of re-

liable, safe and socially desirable rapid transit service which will induce automobile drivers to become transit riders. There is little to be gained and much to be lost in delaying the implementation of meaningful rapid transit projects in our urban and metropolitan centers, on the vague hope that some mystical exotic new technology will evolve by some undetermined future date, and magically solve our problems. The technology is available, off-the-shelf, here and now, ready and able to do the job. To await "costly perfection is pointless if it means that reasonable transport can only be achieved in time for the next generation."

Fifth, rail rapid transit, when properly conceived, planned, constructed and efficiently managed, need not incur the huge and horrendous deficits which are common today. In planning and designing new transit systems, or in improving existing systems, we must utilize automation techniques wisely and skillfully, and resist the temptation to automate just for the sake of automation. It makes no sense to automate a process unless it can be proven that the automation will result in a safe, more reliable and more economical operation than can be achieved by manual operation. And for every automated process you must provide full capability of manual operation in order to be able to cope with all unusual and emergency situations which will come up. Operating organizations must be freed of the fetters of obsolete rules and labor practices, and of unnecessary regulations by various governmental agencies. The fact that PATCO is self-regulating in matters of safety and service standards thrusts an additional and welcomed burden of responsibility upon the PATCO management.

The principles which I have outlined have enabled PATCO to achieve the highest level of productivity of any mass transit agency in America.

On the Lindenwold Line, that is the way we conceived it, the way we planned and designed it, the way we built and operate it. And it works!

PRIEST WITH PANAMA BACKGROUND SPEAKS OUT

HON. PAUL SIMON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, October 17, 1977

Mr. SIMON. Mr. Speaker, the Chicago Daily News, the other day, carried an article by Ray DeLong about a sermon preached by Father John P. Enright, who spent 13 years as a parish priest in Panama.

Father Enright is correct in his assertions that the principle issue here is colonialism.

I am inserting the article into the RECORD at this point, and I hope my colleagues in the House and Senate will read this brief article:

CANAL PACT CAN RIGHT A WRONG

(By Ray DeLong)

"I preached Sunday on the gospel of Lazarus, the poor man who sat at the rich man's door, begging crumbs," said the Rev. John P. Enright. "It was a natural."

It was about the Panama Canal treaty.

To Father Enright, 50, the analogy and the subject came easily. He spent 13 years as a mission parish priest nine miles from the Panama Canal Zone before coming to Epiphany Roman Catholic Church, 2524 S. Keeler.

From 1964 to 1976, Father Enright served a working-class community of Panamanians in San Miguelito, a suburb of Panama City. From his unique position as an American viewing the American presence from Panamanian turf, he describes the U.S. role there as "radically colonial."

Colonialism has strong racist overtones, and the priest emphasized that "color still comes to bear in the Zone. The image that is cultivated in the United States and what we would hope to be presenting abroad is shockingly absent in the colonial mentality in the Zone."

Most of the Panamanians who work in the Zone live in Panama. But those living in the Zone are strictly segregated in their own living areas.

The second-class status produces a conflict for the ordinary worker, said Father Enright. While the Panamanians don't like that kind of treatment, they like the money. Workers in the Zone receive the American minimum wage of $2.30. If the same person worked in Panama, he would get about 60 cents an hour.

The existence of the Zone is the dominant force in the small Latin American nation. "There is an overwhelming presence of might and strength," the priest said. He makes fun of those who say that in approving the treaty the United States would be turning over the canal to a military dictatorship.

Even now, "the governor of the Zone is an American Army general," Father Enright said. The 14 American military bases dotted up and down the canal are "the thing that's really in the craw of the Panamanian university students" who are protesting the Panamanian government's signature on the treaty. The new treaty lets the United States keep the bases until 1999.

And that's not the only way the Americans embellish their supremacy with brass. There's also the School of the Americas.

This innocuous-sounding institution in the Zone is run by the American military as a teaching center—not to raise the education level of poverty-stricken Panamanians, but to pass on techniques of political and military science to the military elite throughout Latin America, he said.

One of the products of the school is Omar Torrijos, the general who took over in Panama in a 1968 coup.

The Chicago priest said that when he went to Panama in 1964, the Guardia Nacional, which has been roundly criticized in the United States for trampling on Panamanians' rights, was able to keep order simply with nightsticks. But from the time Torrijos came in, their sticks have become machineguns and the "national guard" is now also an air force and a navy. "The United States has gone into the arms sales business there." Father Enright said.

According to the priest, it's another kind of commerce—a missing kind—that rankles many Panamanians: the commerce that goes through the big ditch itself and has always accrued to United States' interests.

"The canal is their one national resource," Father Enright said. Panama should be a commercial center, he believes, because of the canal.

Now that he's back in Chicago, Father Enright's parish is another Spanish-speaking one, but this time his parishioners are from Mexico, not Panama. And when he delivered the homily on the treaty last Sunday, he spoke in Spanish to a sympathetic audience.

His summarized his thoughts on the treaty ratification fight now under way: "We seem to find it very hard to do justice to our friends. This treaty gives us an opportunity to right a wrong."

CIVIL AVIATION REGULATORY REFORM ACT

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, October 17, 1977

Mr. CRANE. Mr. Speaker, on April 29, 1976, I was pleased to introduce the Ford administration's proposal to reform the regulatory structure of the domestic airline system. Today, I have introduced a new bill which selectively borrows from various recent legislative proposals of 1977 while stressing the concept of increased competition in the airline industry. In offering the Civil Aviation Regulatory Reform Act, I wish to stress four major concepts at which the bill is aimed.

First, regulatory reform of the Civil Aeronautics Board will improve and stimulate the airline industry. There should be no mystery to the fact that industry does a better job when it competes for the public's business than when government shields it from competition. Exhaustive studies are available from both Houses of Congress, the Department of Transportation, the General Accounting Office, the Council of Economic Advisors, not to mention the private sector which prove this point.

Of the top 30 industries in the United States, the regulated airlines have the lowest return on investment, behind even the railroads. Yet, overwhelming evidence suggests that if air fares were allowed to drop below the Government mandated level, the average number of passengers per aircraft would increase and due to efficiencies of scale airlines would earn higher profits. If this were to happen, consumers would greatly benefit from regulatory reform.

Air fares would not necessarily go down on all flights; this being something the free market would have to determine. But as in the intrastate market where pricing decisions are largely left up to the airlines, the fares would probably be reduced. Amazingly, the intrastate airlines have successfully offered fares which are lower than the bus fare between cities. I offer as evidence the following chart which compares the fares of the unregulated intrastate carriers in Texas and California to the CAB regulated fares on the very same routes. The fares tabulated as of April 1, 1977:

Market [2]	*Pacific Southwest Airlines* [1]	*CAB Formula Fare* [3]
Burbank-San Jose	$25.50	$48
Fresno-Los Angeles	20.00	37
Fresno-San Francisco	16.01	32
Los Angeles-Sacramento	26.50	43
Los Angeles-San Diego	12.25	28
Los Angeles-San Francisco	25.50	49
Los Angeles-San Jose	25.50	49
Ontario-San Francisco	26.50	42
Ontario-Sacramento	26.50	54
Sacramento-San Francisco	12.25	25
San Diego-San Francisco	31.75	60
San Francisco-Stockton	12.25	23

[1] Footnotes on next page.

Market [2]	Southwest Airlines [4]	Certificated Carriers
Dallas-Houston	$15/25	39
Dallas-San Antonio	15/25	41
Harlingen-Houston	15/25	45

[1] Official Airline Guide, April 1, 1977

[2] Only Non-stop markets served by both certificated carriers and intrastate carriers have been listed since only these have been assigned official CAB mileages for "the purposes of calculating the appropriate CAB formula fare.

[3] Standard coach fare as prescribed by the CAB fare formula determined in the Domestic Passenger Fare Investigation and amended by subsequent orders to April 1, 1977. These fares would apply to any interstate air route in the continental U.S. of equal length to the corresponding PSA route.

Since these routes are not the main elements in the systems of these carriers, the evidence that fares will decline in these markets is somewhat less conclusive than for the short haul, high or medium density markets.

[4] Off-peak fare/peak fare.

Mr. Speaker, it is important to note that the possibility of lower fares offered by this bill will open air travel to middle and lower income travelers who presently cannot afford to fly. A study released by the General Accounting Office a few months ago shows that fares would have dropped 22 to 52 percent and that passengers would have saved $1.4 to $1.8 billion annually with reduced regulation. Although these savings would probably require passengers to give up certain conveniences, like exotic meals and award-winning movies, it is likely that the reduced rates would increase ridership.

The third concept that I wish to stress is that regulatory reform will reintroduce economic opportunities to those wishing to enter the airline industry but are excluded by law. Since 1950, the CAB has received 79 applications by new companies that wanted to enter the market. Not one was granted. The added competition would force airline management into more cost-efficient resource allocations than are presently practiced under Government protection. The Board has long recognized the inefficiencies that exist in domestic trunk airline operations but have attempted to reduce it by applying more regulations and we all know what the finished product looks like.

The last concept is that Federal interference in the market decisions of a competitive industry is inherently untenable. President Carter has stressed that the airline issue represents the test case for the goal of reducing Government regulations as an overall concept. I applaud the administration for these efforts as I have long been a proponent of alleviating the private sector of the burdens of excessive Government regulation. I hope that those opposing enactment of legislation of this nature realize that they should be competing for the consumers dollar just as other industries are.

I would also like to point out that in favor of regulatory reform there has been formed one of the most extraordinary, broad-based coalitions in lobbying history. This coalition, the Ad Hoc Committee for Airline Regulatory Reform, consists of the following members:

American Association of Retired Persons.
American Conservative Union.
Americans for Democratic Action.
Arkansas Consumer Research.
Association of Massachusetts Consumers.
Aviation Consumer Action Project.
California Consumer Action Group.
Common Cause.
Consumer Alert.
Consumer Education and Protective Association, International.
Congress Watch.
Cooperative League of the USA.
DHL Corporation.
Empire State Consumers Association.
Food Marketing Institute.
Iowa Consumers League.
Libertarian Advocate.
National Association of Counties.
National Association of State Aviation Officials.
National Retail Merchants Association.
National Retired Teachers Association.
National Student Lobby.
National Taxpayers Union.
New York Consumer Assembly.
Northeast Arkansas Citizens Committee.
Public Interest Economics Center.
Sears Roebuck and Co.
Washington Committee on Consumer Interest.
Western Traffic Conference.

Also, actively supporting the concept of airline regulatory reform are: United Airlines, Pan American Airlines, Hughes Airwest, Frontier Airlines, and Southwest Airlines. Also included are: the Republican National Committee, National Governors Conference, Airport Operations Council International, American Farm Bureau, National Industrial Traffic League, and the National Association of Manufacturers.

The tremendous diversity of the preceding groups combined with strong bipartisan support from both Houses of Congress leaves no doubt in my mind that airline regulatory reform will soon become a reality. I wish to commend Representative GLENN ANDERSON and several other of my colleagues for their efforts in this area and hope to work closely with them in the future.

PULASKI DAY BANQUET

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, October 17, 1977

Mr. DERWINSKI. Mr. Speaker, a former Member of the House, and now the greatly respected Senator from Delaware, Hon. WILLIAM ROTH, JR., addressed the Pulaski Day Banquet given by the Council of Polish Societies and Clubs in the State of Delaware on October 7.

In his remarks, he honors the great Polish freedom fighter, Gen. Thaddeus Kosciuszko, whose military genius played a decisive role in the winning of our independence from Britain, and gained him an honored place in American history.

It is a special pleasure for me to insert Senator ROTH's remarks for the attention of the Members:

REMARKS OF U.S. SENATOR WILLIAM V. ROTH, JR., PULASKI DAY BANQUET, COUNCIL OF POLISH SOCIETIES AND CLUBS

Mr. Chairman, officers of the council, distinguished guests, ladies and gentlemen.

I am especially pleased and moved to be here this evening, because, marking as it does the 200th Anniversary of the Battle of Saratoga, it has special meaning for me. It brings to mind one of the greatest Poles of all times, and it makes me personally aware of just how much we Americans owe that great land of Poland.

Fate plays strange little tricks on us especially when it comes to recognition of effort and achievement.

I dare say there isn't anyone in this room tonight who hasn't noticed, somewhere along the road of life, how some people just naturally get all the glory while others—often much more skillful and earnest—seem destined to labor forever in anonymous obscurity.

For instance, a rock singer who can barely carry a tune might be the plutocratic idol of millions, while a gifted baritone, who has studied voice for years, must eke out an uncelebrated living by humming jingles for radio commercials;

Or an actress, whose artistry ranges from Shakespearean tragedy to drawing room comedy, might barely get her name in the cast credits of a movie that gives star billing to a vacuous bathing beauty.

Or—Well, the list, from astronauts to zither players, is virtually endless. Wherever humans gather to do work, be it in entertainment or science or industry or politics, it seems the greatest achievers are often the least recognized.

Perhaps the most extraordinary personification of this irony is General Thaddeus Kosciuszko, whose military genius played a role—decisive, but today largely unacclaimed—in winning America its independence from the British Crown.

200 years ago this month, at Saratoga, New York, the Americans won a battle that historians judge to be among the 10 most important of all time. The Battle persuaded France and Spain that the Continental Army could fight and win against England's finest troops, and this stunning demonstration of American grit and capability brought these two powerful nations into the war as allies of the colonies.

And this, in turn, determined the ultimate political character of the entire North American wilderness.

Sure, the victory was the result of the tenacity and plain oldfashioned guts shown by the American soldier. Of course, there were quick and wise decisions by General Gates, the American commander, and certainly there were good breaks for the Americans and bad breaks for the Americans and bad breaks for the tough and courageous Englishmen. But the outcome of the battle still could have been disastrously reversed if it hadn't been for the brilliant tactical deployment of the colonial and the selection of a site on which they made their stand.

The deployment and site selection were no mere coincidences or last minute improvision on the part of Yankee platoon leaders caught between the proverbial "rock and hard place." As directed by Kosciuszko they represented a masterpiece of inspired military strategy brought coolly and surgically to bear on British forces, which—for all their superior strength and combat savvy—had lost the battle before it began.

Throughout the Revolutionary War Kosciuszko helped the Americans outsmart the Crown's forces at seemingly every critical turn. The British Navy attempt to cut off all of New England by sailing up and seizing control of the Hudson Valley was stopped in its tracks by Kosciuszko's shrewd fortifica-

tion of West Point; the British fleet's attempt to sail up the Delaware and trap Washington north of Philadelphia was nailed to a halt by Kosciuszko's twin forts that corked the River just south of what is now the Philadelphia Navy Yards; British operations in the south were split and confused and ultimately defeated at Yorktown, thanks to the wily tactics and fortifications engineered by Kosciuszko at key points in the long and arduous campaign.

Who was this Polish officer who did so much for us?

How incredible it is, actually, that Americans today must even ask the question.

Thaddeus Kosciuszko, descended from a famous line of Polish military heroes, was later to become Poland's combined equivalent of George Washington and Abraham Lincoln. He fought beside the American colonists because he thought that people come first—not governments—and that human rights should be universally enjoyed by all mankind, not just a few.

For the record, he was born of Polish landed gentry, but he was not of the nobility like Count Casimir Pulaski. He grow up in a rural area, learned to love the peasants—Poland's common people—and, because he understood both the aristocracy and the peasantry, he eventually was able to unite them in Poland's struggle to become free of Russian and German domination.

Unlike his triumphs in behalf of the Americans, his Polish efforts ended in calamity and defeat.

Kosciuszko nearly died of saber and lance wounds received while leading the peasants last desperate charge. But he survived, and, more concerned about his fellow prisoners of war than he was for himself, he agreed to exile if they could be allowed to return to their homes.

Kosciuszko, virtually paralyzed by his wounds, managed to return to the United States where he was given a tumultuous hero's welcome and grateful adultation from every quarter—from President Adams and Vice-President Thomas Jefferson, to the most obscure Philadelphia householder.

Nobody admired the valiant Pole more than George Washington, who, during his historic farewell to his officers, presented Kosciuszko with his personal pistols and sword, and, later, his own cherished cameo ring symbolizing the Order of the Cincinnati. When the crippled Kosciuszko was receiving America's acclaim, Washington sent a note from Mt. Vernon. It read:

"I beg you to be assured that no one has a higher respect and veneration for your character than I have; and no one more seriously wished during your arduous struggle in the cause of liberty and your country, that it might be crowned with success. But the ways of Providence are inscrutable, and mortals must submit . . ."

Thomas Jefferson wrote of Kosciuszko:

"He is as pure a son of liberty as I have ever known, and of that liberty which is to go to all, and not to the few and rich alone."

These were no mere, hollow words—no platitudes. Kosciuszko was a giant of intellectual prowess, technical skills, artistic talents, and spirituality. He was in fact a soldier, a painter, an architect, a composer, a scholar, and a philosopher. But above all he was a warm and kindly human being, who built a little rock garden and fountain beside which he could meditate during lulls in the Hudson Valley battle. Who nearly starved at West Point when, as his fellow officers finally discovered, he gave his own rations to sick British prisoners. Who accepted no pay from the hard-pressed American treasury. Who, after his final return to Europe lay nearly destitute and dying in Switzerland, not only shared his meager food with the poorest in the village but also directed in his will that his American assets—never claimed by him—be used to purchase the freedom and education of slaves.

It's no wonder that when they learned of his death, thousands of peasants from all over Poland—with no means for a monument—carried handfuls of soil from their villages to the battlefield outside Krakow. The tens of thousands of handfuls, piled where Kosciuszko had nearly died in the cause of his homeland, eventually made a monumental pile more than 200 feet high.

So, while we might shake our heads over the irony of such a great and noble man going so generally unacclaimed here today, Kosciuszko himself would no doubt have smiled and dismissed the matter out-of-hand.

Because it's evident that he knew, and lived by, a fundamental truth we so called "moderns" tend frequently to forget; fame, riches, notoriety, acclaim—these are ephemeral, transient, will-o-the-wisp. What counts is what a person is, what he does. What a man truly is, what he truly does, are the things that gives the fact of his life eternal, immutable meaning.

Thaddeus Kosciuszko would be unlikely to gain any attention under the standards of today's headline writers. In fact, it would be difficult to find a monument erected in his honor in more than a few places between Cape Cod and Big Sur.

But Kosciuszko would probably be the last to care. He knew that he left his own monument on these shores—a personal bequest that will stand for all time in all history books, wherever men recall the past. His monument is the United States of America, the Nation itself.

How proud I am to have shared the evening with all of you, who stem from the same heritage—who are moved by the same love of liberty—as that splendid man, Thaddeus Kosciuszko.

Thank you again, and good evening.

TRIBUTE TO JIMMY CROMWELL, JR.

HON. JOHN J. DUNCAN

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Monday, October 17, 1977

Mr. DUNCAN of Tennessee. Mr. Speaker, I would like to take this opportunity to ask my colleagues to join with me in honoring Jimmy Cromwell, Jr., of Townsend, Tenn., in winning two gold medals and a bronze medal in record-breaking performances in the World Deaf Olympics which were held in Rumania.

Jimmy, who is an 18-year-old senior at the Tennessee School for the Deaf in Knoxville, Tenn., has been deaf since childhood. Nonetheless, he has not allowed his handicap to stand in the way of living life to the fullest.

While he has been a student at the Tennessee School for the Deaf, Jimmy has been captain of the swimming team for the past 4 years, quarterback of the school's football team for 2 years, and a member of the track team.

Jimmy broke a world's record for the Deaf Olympics in winning a gold medal in the 100-meter breaststroke. He also set a new world's record and won a gold medal in the 100-meter medley relay. He captured a bronze medal in the 200-meter breaststroke.

His spirit and determination in overcoming his handicap should be an inspiration to all of us. Jimmy has represented himself, his family, and his country honorably and we wish him well.

WHAT HAS HAPPENED TO NIJOLE SADUNAITE?

HON. NEWTON I. STEERS, JR.

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, October 17, 1977

Mr. STEERS. Mr. Speaker, many months ago, several of my constituents came to me about the violations of the human rights of a Lithuanian Catholic who is suffering great physical hardship in prison as a result of her religious beliefs. I have become active in trying to bring justice and humanity to the treatment of this courageous individual, but I am afraid her plight has not improved. I urge my colleagues to read an article that recently appeared in the Lithuanian daily Draugas, published in Chicago which states some alarming new developments in Nijole's case. I am also including a copy of a letter I sent to Ms. Patricia Derian, coordinator of Human Rights and Humanitarian Affairs for the Department of State asking for her assistance in this matter:

[Translated from the Lithuania daily Draugas published in Chicago, Ill., Aug. 30, 1977]

WHAT HAS HAPPENED TO NIJOLE SADUNAITE?—MYSTERIOUS SILENCE DOES NOT BODE WELL

What has happened to Nijole Sadunaite? ask those who recently visited Lithuania and report that all contact with Nijole ceased after July 1, 1977. In the city of Vilnius it apparently is well known that many influential world figures and organizations are working on behalf of Nijole's release. That her speech delivered during her trial has been translated into many languages, that her name is being mentioned in the United States Congress, that some congressmen, who initially had reservations concerning this case, now fear the revival of the Stalin, Beria era in the Soviet Union.

Numerous visitors returning from Lithuania report essentially the same story. Nijole is being tortured in the Mordavian prison. Her weight is down to one half the normal weight; although it is not known whether this is due to a hunger strike on her part or due to withheld food rations. According to the last received information, several months ago, Nijole received an unidentified visitor who inquired whether she would like to emigrate to the West. The reply was yes. Soon after that, her treatment took a turn for the worse. Some time later, the same person appeared again with the same question, the same reply and the same consequences. When he returned for the third visit, Nijoles answer was no. Since that time no one has been able to reach her, including relatives and friends (in prison).

Her friends say that this silence does not bode well. She is either in such poor condition, that no one is allowed to visit her, or no longer alive. It is known from past experience that in the case of death in the prison camps the relatives are notified after a long lapse in time. The information concerning the mysterious visitor and the start of her torture was told by Nijole to her friends (in prison) before all contact was lost with her.

U.S. HOUSE OF REPRESENTATIVES,
Washington, D.C., September 23, 1977.

PATRICIA DERIAN,
Coordinator, Human Rights and Humanitarian Affairs, Department of State, Washington, D.C.

DEAR MS. DERIAN: I am writing this letter to bring to your attention a very grave concern of mine with the hope of securing valuable assistance and information from your office.

On August 27, 1974, Nijole Sadunaite, a Lithuanian Catholic, was tried and convicted for the possession and distribution of *The Chronicle of the Luthuanian Catholic Church*. A partially typed copy of the document was found during a police search of her house. She was sentenced to three years hard labor to be followed by three years of internal exile.

The *Chronicle* is a type of "samizdat", or unofficial literature. Samizdat itself is not illegal, but if the Soviet authorities determine its contents to be defamatory, then the preparation, possession, and distribution of such documents becomes illegal. Quite often, the Soviets determine that religious literature is defamatory, thus ensuring that those who participate in religion unacceptable to the state are kept to a minimum.

I feel that the arrest and sentencing of Ms. Sadunaite violates several human rights guaranteed Soviet citizens by their government. Her arrest violates her freedom of expression as guaranteed in Article 19 of the Universal Declaration of Human Rights, Article 125 of the 1936 Constitution of the USSR, and the International Covenant on Civil and Political Rights of 1973 which was signed by many nations including the USSR.

I would like to point out that the Russians lobbied for many years to get nations to meet at Helsinki, and they were very pleased with themselves after the signing of the document that was the product of that meeting, the Helsinki Declaration. I feel that the United States has every right to attempt to secure Soviet compliance with this document. Ms. Sadunaite's arrest surely violates her religious freedom as stated in Article 7 of Basket Three of the Helsinki Declaration.

Furtheremore, Ms. Sadunaite's sentence, harsh labor and a harsh regime diet, violates Article 5 of the Universal Declaration of human rights which protects individuals from cruel or inhumane treatment. It also violates the Code of Corrective Labor Legislation of the USSR which states that the execution of a sentence shall not aim at inflicting physical suffering or degrading human dignity.

My primary objections to Ms. Sadunaite's treatment several months ago were based on the neglect of the Soviet Union of the documents and treaties mentioned above. In February of this year, I circulated among my colleagues a letter to General Secretary Brezhnev protesting the arrest and subsequent treatment of this Lithuanian Catholic. I was joined by forty Members of Congress in signing this letter.

I have recently received information that leads me to believe Ms. Sadunaite's health has become even worse, and I am enclosing a copy of an article that recently appeared in the Lithuanian daily newspaper published in Chicago, Draugas. I am also enclosing a copy of letter that I sent to Ambassador Anatoly Dobrinin in August, expressing my concern over the treatment that she is receiving. I have received no response or acknowledgement from the Soviet Embassy.

I would appreciate it if your office would gather information regarding the treatment and imprisonment of Ms. Sadunaite. Please transmit whatever material you are able to gather.

Should you feel, as I do, that Ms. Sadunaite's treatment does violate the aforementioned treaties and documents, I urge you to use your position as Coordinator for Human Rights and Humanitarian Affairs of the Department of State; to become actively involved in this matter.

Thank you for your time and effort in consideration of this most important matter.

Yours sincerely,

NEWTON I. STEERS, Jr.

LOST BUT NOT FORGOTTEN—LOCATING THE UNIDENTIFIED DEAD

HON. TOM RAILSBACK

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, October 17, 1977

Mr. RAILSBACK. Mr. Speaker, I would like to bring to your attention an issue of significant concern to many Americans and especially those who work in our law enforcement agencies.

Currently, the United States has developed the technology to systematically search out and identify missing persons. But, to date, we have not used this same type of technology to search out and identify the unidentified dead persons in our country.

As it now stands, the police department in Chicago may have an unidentified body, and authorities in Buffalo may be seeking a missing person who matches the description. Through today's modern law enforcement procedures there is little likelihood of the two parties ever being able to come together to solve either case.

This would have been the fate of a teenage girl whose body was found in a Chicago River, had it not been for the tenacity of Detective Sheldon Cissna of the Missing Persons Breau.

Cissna exhausted all of the current law enforcement procedures in an attempt to identify the drowning victim. After all of the conventional city, county and State reports proved fruitless, Cissna broadened his scope of the investigation by using his personal funds to look further.

After searching through volumes of nationwide police reports, Cissna learned of an Iowa family who submitted a local police report that fit the description of the unidentified body. As it turned out, the family had even had a hood that buttoned onto the victim's coat.

Thanks to Cissna's dedication this unidentified body was claimed, and two cases were sorrowfully completed. But, it is rare that any police department in our country has the manpower or manhours to take on an indefinite hit-or-miss proposition like this.

Ms. Patricia Leeds, a Chicago Tribune reporter, has been covering police stories for a number of years and, to her credit, has not only brought this matter to my attention but has suggested a very reasonable solution. I commend her. Ms. Leeds proposed that a central location be created that would maintain information on all unidentified dead persons. This would be of great assistance to the law enforcement agencies of America and to those people directly affected by such unfortunate tragedies.

This idea has been presented to Chief Howard Shook, of the Middletown Township Police, Pa., who is currently president of the International Association of Chiefs of Police. Shook expressed that this idea has "great possibilities" and he has presented it to the IACP. In addition, many of the law enforcement officers in and around the Chicago area have enthusiastically agreed that it is a very good idea. Further and of great significance was the response to my inquiry to FBI Director Clarence Kelly. He said:

The issue of unidentified dead persons has been an area of some concern to the FBI, and if it appears that the FBI is a suitable repository for the unidentified dead person data, we will favorably consider the proposal.

Police officials estimate that approximately 500 unidentified dead persons are discovered each year. Thus, it is clear that the cost of maintaining data on these individuals will be minimal. It is feasible that one office with a small staff could be sufficient to handle the volume of victims. I would like to emphasize that this would be an information center for the unidentified dead only. To make this an extension of the missing persons bureau would be a self defeating and a duplication of services.

Because our society is becoming more mobile, the likelihood of discovering unidentified bodies increases year after year. Many times families spend thousands of their own dollars for private investigations which they cannot afford.

In response to those person's problems and in an effort to assist our law enforcement agencies which can surely use this valuable information, I am today introducing a bill to authorize the Attorney General to acquire and exchange information to assist Federal, State, and local officials in the identification of certain deceased individuals.

I would hope this bill receives early and favorable consideration. Thank you.

POLISH STORY

HON. CLEMENT J. ZABLOCKI

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Monday, October 17, 1977

Mr. ZABLOCKI. Mr. Speaker, thoughtful Americans agree that ethnic humor is demeaning and in poor taste.

In the past, broadcast media have been frequent offenders, prompting repeated complaints to the Federal Communications Commission.

For that reason, I would like to share with my colleagues an editorial entitled "Polish Story" aired by Mr. John E. Hinkle, Jr., of radio 11 WISN, Milwaukee, on September 30, 1977.

POLISH STORY

We heard a "Polish story" the other day, and although it was exaggerated and cruel, we chuckled. Just about everyone chuckles at Polish stories—including a lot of Polish people.

But wait a minute! As a group, Polish people are among the proudest, hardest-working, self-sufficient citizens on this planet! They take fierce pride in their her-

itage, their homes, their jobs and their kids—and demand law and order in their communities. They have deep moral and religious convictions, pay their bills, mind their own business. Polish officers and men helped this country gain its independence.

They're the kind of people we'd choose as citizens and neighbors.

So here's another Polish story: It's a fact that a Polish name rarely turns up on the welfare rolls!

Although the ability to laugh at ourselves is a priceless American resource, all of us should attempt to keep our humor in perspective.

ELECTRONIC MAIL: GODZILLA MEETS KING KONG

HON. CHARLES W. WHALEN, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, October 17, 1977

Mr. WHALEN. Mr. Speaker, in the remaining days of this session, the House may have before it major legislation that seeks to reform and reorganize the U.S. Postal Service. But the debate most likely will focus on various short-term tinkerings with the existing system.

While we will be debating whether letter carriers should be walking their routes on Saturdays and how much of a discount should be given to persons mailing books and newspapers, the rest of the country will be moving along toward the era of electronic mail.

Already a great deal of commercial business that used to be conducted through the mails is being handlel electronically, outside the postal system. For instance, right here in most congressional offices we now send printed messages around the country via telecopier and many of us get print-outs of all manner of information from computer terminals; some offices even use communicating typewriters.

This country is in the midst of a new wave in the communications revolution. Technological advances in the past two decades have made it possible for us to move on to whole new generations of communications technology.

On a number of occasions, I have spoken in the RECORD about the growing competition betweent he telephone companies and their new competitors in the telecommunications equipment and service markets. Nonetheless, the debate over competition in telecommunications is going to pale beside the likely clash between the U.S. Postal Service and the private sector when we finally get around to deciding who will control the electronic mail marketplace.

A seasoned observer of our national telecommunications policies, Quincy Rodgers, recently wrote:

> The mere prospect of AT&T and the Postal Service doing battle is reminiscent of Godzilla meets King Kong.

This rather colorful remark takes on added significance when we recall the Asian proverb that when elephants do battle, the ants get trampled. In other words, those of us whose responsibility it is to safeguard the interests of the public had better start thinking now about the need to assure an orderly transition to the next generation of telecommunications technology, including electronic mail.

One of my personal interests is the general issue of citizens' rights to privacy. Several times this year, I have expressed my concern that neither the U.S. Postal Service nor the relevant oversight bodies have yet devoted significant thought to the problem of insuring the privacy rights of users of electronic mail systems, either now or in the future. Mr. Rodgers aptly points out that even the massive report of the Privacy Protection Study Commission is silent on this issue.

At this point in the RECORD, Mr. Speaker, I wish to insert the full text of a guest editorial that appeared in the Christian Science Monitor on August 12. It is written by Quincy Rodgers, who currently works as an attorney at the Washington law firm of Leighton and Conklin. Previously, he served as the executive director of the White House Domestic Council's Privacy Committee, and before that he was a legislative aide to Senator MATHIAS. I commend this article to my colleagues' attention:

THE GREAT ELECTRONIC MAIL RACE

(By Quincy Rodgers)

Privacy protection is back in the news. This time it is the report of the Privacy Protection Study Commission, which focuses on the effect of government and private sector information practices on the relationship between individuals and the institutions which shape their lives.

In the hardheaded and easily distracted Washington community, the report has been largely greeted with indifference. Congressional staffers and most pundits are taking a "ho-hum" attitude. Even the news that the Russians are intercepting microwave telephone transmissions is creating few ripples—for some it is an old tale, others do not understand its commercial significance.

Yet privacy as a public issue has repeatedly shown remarkable staying power. It has been a component of every major information and communications controversy of recent years. Still, when the final decisions on these issues are made, somehow other considerations—law enforcement, preventing welfare fraud, etc.—seem to take precedence. The result is a gradual erosion of privacy protection.

Among the many proposals advanced by the privacy commission, one in particular demonstrates how privacy concerns get overtaken by other factors. The commission recommends that "no governmental entity be allowed to own, operate, or otherwise manage any part of an electronic payments mechanism that involves transactions among private parties." The reference is to Electronic Funds Transfer Systems (EFTS), the anticipated electronic banking which will bring about the checkless/cashless society. The commission singles out the Federal Reserve Board as a particularly inappropriate authority for EFTS.

Regrettably, the commission fails to indicate whether this recommendation is also intended to cover the United States Postal Service. This may be the result of political prudence and not oversight because, as everyone knows, the Postal Service is in deep trouble. While there is considerable argument over who is to blame as the source for this trouble (bad management, greedy unions, etc.), the big postal problem has yet to arrive—the anticipated diversion of from 40 percent to 70 percent of first-class mail to EFTS, facsimile systems, and alternative methods of business communications. As the Commission on Postal Service has warned, the potential revenue loss to the Postal Service will be crippling.

Consequently, people are concluding that the Postal Service must compete for the developing electronics communications market if it is to survive. Unquestionably, a Postal Service "race for the wire" will set off shock waves in political, legal and regulatory Washington. And, as with all information and communications controversies, it will have its privacy component. Each contending institution's ability to provide security and confidentiality is sure to be evaluated. But few see this as the major element of the controversy.

In fact, a "race for the wire" is already under way. It began with the Bell Telephone Company's maneuvers to retain its preeminent position in the next generation of communications and information transfer. Ma Bell's opening gambit, implausibly named the Consumer Communications Reform Act, would insulate her from growing competition from microwave and satellite systems, as well as from terminal equipment manufacturers. This gambit prompted the communications subcommittees of Congress to begin revising the communications laws to create a regulatory scheme for the coming decades. The result has been open warfare among the special interests—telephone companies, specialized common carriers, cable television, computer manufacturers—each attempting to position itself to maximize its future market share.

This struggle in the communications subcommittees, which has preoccupied the participants, will seem like a minor skirmish if the Postal Service enters the race. The mere prospect of AT&T and the Postal Service doing battle is reminiscent of Godzilla meets King Kong. It seems likely that a lot of smaller players could get trampled in the struggle.

But the Postal Service brings powerful muscle to the contest. Its congressional committees do not want to be shut out of the action. The postal unions are notoriously aggressive and fearful about lost jobs. Postal users are more well-organized than other communications users (a matter of historical necessity) and include the politically powerful publishers, direct mailers, and rural interests. As long as these groups have no alternative to the Postal Service, they will need to keep it afloat. Expanding its revenue base through electronic mail seems a more plausible alternative than taxpayer subsidy. Thus, the service is not to be counted out, particularly since those who require reform of the basic Communications Act of 1934 to plan their future development strategies may have deadlocked that reform effort in the Congress.

The interests (and there are many more than those named here) are surveying the terrain, drawing up battle plans, marshalling resources, and selecting their generals from among the Washington legal and political establishment. The struggle should be a classic for students of government and politics. It will demonstrate how broad is the view through the relatively narrow window of privacy protection.

QUOTAS AND SOCIAL PROGRAMS

HON. ROBERT S. WALKER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 17, 1977

Mr. WALKER. Mr. Speaker, as you know, I have been a very vocal opponent of the Federal Government's use of quotas as a tool to enforce social pro-

grams. Our Government must not be in a position of using a discriminatory tool like quotas for the purpose of ending discrimination.

I have spoken out on this topic on a number of occasions in the past. I am doing so once again, and will speak out in the future, because this issue is vitally important.

To end discrimination and to provide equal opportunity for everyone is a noble goal deserving of total support, however, the means to achieve this goal must be as worthy as the desired result. When the Federal Government forces the implementation of quotas in its programs, we witness the denial of equal opportunity for some individuals in the name of advancing the cause of others. This is morally and legally wrong.

The Supreme Court will soon address the quotas issue in the well-known Bakke case. Much has been said and written regarding the merits of Allan Bakke's arguments against the University of California's quota system and I am sure debate on the issue will continue.

Today, I want to commend to my colleagues' attention a most intelligent treatment of the issues involved in the Bakke case. Meg Greenfield's column in the October 24, 1977, edition of Newsweek is absolutely accurate in assessing the anti-Bakke arguments and their implications for minorities:

HOW TO RESOLVE THE BAKKE CASE

(By Meg Greenfield)

There are, I suppose, no truly interesting and important political arguments that reduce very well to placard-size, to the sort of thing you can chant in front of a public building or carry around on the end of a stick. But I'm hard-pressed to think of a collection of issues less well-suited to this treatment than those raised by the case of Allan Bakke—the white would-be medical student who has claimed that the University of California denied him a chance to compete for a place in one of its medical schools strictly because of his race. My own hope (and expectation) is that the Supreme Court, which heard the case last week, will find a way to blur the edges of the controversy and reaffirm the important values raised by both sides. You say that is fudging the issue? Fine. It ought to be fudged.

One of the important values I have in mind is Bakke's insistence that government-supported institutions not be permitted to treat some individuals better and others worse *solely on account of their race,* no matter how "benign" the purpose. The other is the university's insistence that certain compensatory programs are justified to help people who have been demonstrably hurt by past acts of official racial discrimination.

NEEDLESS CONFLICT

Never mind that the university, in this case, seems to have engaged in an especially heavy-handed and constitutionally questionable racial program, one that evidently strained the bounds of acceptable practice. The point is that these values do not have to be in conflict, for there are ways of organizing compensatory programs so they won't dance so close to the edge of out-and-out racial-preference schemes. To support one of these values, in other words, does not require you to reject the other. Yet, many people insist on viewing the matter otherwise, forcing it into the mold of an us-against-them political or racial issue.

Anti-Bakke demonstrators were on the street in Washington last week. According to an AP report, 1,000 students at Berkeley protested a student-newspaper editorial supporting him. And civil-rights leaders along with assorted liberal spokesmen have come down hard against Bakke, just as various Jewish and ethnic groups have mounted the barricades in his behalf. None of this can occur except at a certain cost to the complexity and honesty and fairness with which the subject is discussed. Politics does that to issues. It foreshortens and distorts and sacrifices cumbersome reality at the altar of public "impact." It also generates intense emotions. Surely the issues raised in the Bakke case can only become socially murderous given this treatment: racial preferences, racial characteristics, racial entitlements, racial qualifications (or lack of them) for certain jobs and certain rewards.

But my objections to the sloganeering approach go beyond its potential for setting off an ugly and destructive conflict. It also corrupts our understanding. The pro-Bakke view, for instance, is all too often transformed into a simple, false assertion that all these so-called "affirmative action" programs are little more than a cover for putting unqualified and incompetent minorities, mainly blacks, into plummy positions they couldn't otherwise achieve or handle—and at the expense of people who, by rights, should have the job or place in the school or whatever it is.

DEMEANING VIEWPOINT

That is a relatively obvious and predictable distortion, however. Far subtler are the condescending implications of much that is being argued on the other side by people who regard themselves as political and social liberals. Blacks and other racial minorities are demeaned by a view which holds that, intellectually speaking, until proved otherwise, they are all "disadvantaged" and in need of special help to compete. Yet, this is a view I have often heard expressed by people who consider themselves on the do-good, racially progressive side of the issue.

One hardly knows where to begin counting its pernicious effects. It is dehumanizing in that it refuses to see the individual, submerging him instead in the racial group which becomes the only reality. It is also insulting. One of the most mindless and damaging arguments that has been put about by so-called friends of minorities in this fracas is that a ruling for Bakke would undo all the gains made since enactment of the great civil-rights statutes of the '60s. The implication is that those gains were strictly the product of special help and various props which, if removed, would spell the end of black achievement.

I think those laws, removing as they did constraints on everything from politicial participation to freedom to have a sandwich in a public place, made it possible for black people to organize their energy and enterprise in ways available to the rest of us all along. And I think it is patronizing and wrong-headed to attribute the big changes that occurred after the enactment of those laws to something other than the talent and will of a people only lately liberated. To hear some of the alleged friends of minorities tell it, however, all rank and position and power and progress has had to be . . . well, you know what I mean . . . *given* to them.

HANDOUT "REWARDS"

All that is a matter of attitude, of course. There is, in addition, the practical matter of the kinds of laws and rules we want established. As reduced to its political short form, the anti-Bakke argument often seems to contemplate foisting a new kind of dependency on blacks, an elitist Lady Bountiful handing out of "rewards" in measured portions: here . . . take fifteen out of 100 openings . . . stay special and slightly stigmatized and dependent on our favor . . . do you mind terribly if we write it into law that we must do this because you are black and, well, "disadvantaged"?

I think it is—inadvertently—anti-black in impact and patronizing as hell. And to those who tell me they are only arguing for a short catch-up period in which government and other institutions will be invited to make these racial distinctions in a stark, flat-out way, I reply that they have more faith in bureaucratic sensibility than I do. When did the managers of our government and large institutions ever handle this kind of grant of authority in any but a clumsy and dangerous manner? My generation of liberals is currently hot and bothered by the excesses of our intelligence agencies. They forget that the writ to tap wires and break in was given in a "benign" anti-Nazi cause a generation earlier. And they are naive in thinking that current "benign" purposes are any guarantee that a bureaucracy will be using its power to deal with citizens on a racial basis "benignly" a generation hence.

But as they say in the Supreme Court, we don't really have to *reach* those issues, at least not if we insist on viewing the Bakke case in all its precious complexity. There are times when politics can only make things worse and this is one of them.

WATER RESOURCES MANAGEMENT AND PRICING REFORM ACT OF 1977

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 17, 1977

Mr. MILLER of California. Mr. Speaker I am introducing today the third piece of legislation I have sponsored this year to effect major reforms in the development and management of our national water resources. The first of these, H.R. 6335, would require public notice of, and the opportunity for public comment on, Federal water service contracts prior to their finalization in order to review the impacts of such contracts on other contractors and interested parties. This bill would end the abuse of secretive negotiations under which many millions of gallons of public water is sold, often at heavily subsidized rates.

The second major reform bill which I introduced earlier this year, H.R. 8468, would establish conservation as a fundamental and mandatory feature of Federal water programs. During this year of drought, we have become aware that there are finite limits to our ability to produce water reserves, and we have learned that our current planning and management of those resources is seriously lacking. H.R. 8468 would require recipients of Federal water to enter into conservation programs, and would provide long-term, low-interest loans to these customers, and to other eligible water users, in order to retrofit residential buildings or install agricultural service areas with appropriate irrigation equipment.

Several recent studies have revealed the widespread waste of valuable water, and the GAO went so far as to estimate

that only about one-half of the agricultural water supplied by the Federal Government is productively used for irrigation. The continuing drought of 1976–1977 surely must have taught us that, like energy, our water resources are expensive to develop, finite in their amounts, and therefore far too valuable to squander in this manner.

The bill which I am introducing today goes to the heart of much of what is wrong with the Federal water program. Numerous studies have documented the enormous subsidies to water users which are written into long-term contracts with the Bureau of Reclamation, amounting to billions of dollars over the lives of the contracts. These subsidies pass along the cost of this water to the taxpayers, who must ultimately pay for the bulk of the cost which is not paid by the irrigators.

Some Federal water contractors are currently provided with Federal water under 40-year contracts which contain no inflation escalator clause and which require no periodic reevaluation of the water rate during the life of the contract. A contractor who agreed to pay $7.50 per acre foot for irrigation water in 1965 will still be reeciving that water for $7.50 at the end of the contract, in 2005! Even today, the $7.50 may be only one-third of the true cost of delivering that water.

These artificially low prices serve to continue the notion, which most have come to dismiss in the past few years, that water is a boundless resource. This is not so. Heavily subsidized pricing encourages wasteful uses of water. Indeed, in my own State of California, we have seen Federal contractors grabbing whatever water they can find for the cheap rate, and we have seen the Bureau of Reclamation do nothing, even when able through annual supplementary contracts, to assure that Federal taxpayers receive a fair price for their water.

Unrealistically low prices additionally encourage growers to plant crops without regard to their suitability to the region. As a result, we find water intensive crops being planted in naturally arid regions, and irrigated with heavily subsidized Federal water. I am incapable of understanding why the Federal Government should provide large amounts of subsidized water to a farmer in an arid region to grow a water intensive crop like rice or cotton, when we at the very same time pay farmers, in other areas of the country where these crops would grow easily, not to grow them. Bizarre as that may be, that is the Federal policy today.

The legislation which I am introducing today, the "Water Resources Management and Pricing Reform Act," would bring our water policies into line with reality, improve our planning and management techniques, encourage conservation, and assure a better return to the Federal Treasury from the sale of our publicly owned natural resources. This bill would establish a graduated pricing scale for water, with the base being the amount determined necessary to grow crops indigenous to the area being served. It would also establish as that base price the actual cost of delivering water to the contractor, including the energy costs, which can be considerable.

My bill would also require, in all new contracts entered into by the Bureau of Reclamation, that there be a provision mandating the recalculation of the costs of delivering water no less frequently than every 2 years, and the modification of the pricing in the contract on the basis of this reevaluation.

The need for this type of legislation is proven by the emerging reports of millions of dollars in subsidies going to agribusiness and other irrigators, subsidies which come right out of the pockets of every American taxpayer. The management and pricing policies established in this bill are exactly those which any of us, were we to be running a business which was engaged in the sale of irrigation water, would certainly use. If we ran a water business like the Bureau has run our Federal business for us, we would have been broke a long time ago, and the only reason we are not is because the burden of underwriting this program has fallen to others.

Some might say that this legislation would exact a grave burden on irrigators. I think the facts challenge that argument. In California, irrigators who receive water from the State water project pay about three times as much as their Federal neighbors across the street, even though they use water which frequently comes from the exact same sources and conveyance facilities. Fair pricing and sound management are not going to damage agriculture, but will have the effect of requiring those who greatly benefit from federally supplied water to pay their fair share.

A copy of the bill follows:

H.R. —

A bill to require the Secretary of the Interior to establish a table of water rates to be charged irrigators who contract for water resources for agricultural purposes from the United States through the U.S. Bureau of Reclamation, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Water Resources Management and Pricing Reform Act of 1977".

AGRICULTURAL WATER PRICES AND CONDITIONS

SEC. 2. All water provided by the Secretary of the Interior to any person for agricultural purposes shall be provided at the rates and subject to the conditions specified in this Act.

AGRICULTURAL WATER ANALYSIS

SEC. 3. In each region in which water is provided by the United States for agricultural purposes, the Secretary shall establish in acre-feet a "base volume" of water required to grow agricultural crops suited to that region. In establishing each "base volume," the Secretary shall consider such factors as average annual rainfall, climatic conditions and other pertinent conditions relating to the amount of water needed to grow crops indigenous to each region.

BASE RATES

SEC. 4. The Secretary of the Interior shall establish a "base rate" per acre-foot for water delivered for agricultural purposes in any region, which shall apply to the "base volume" of water for the region. The base price shall reflect, at a minimum, the cost of delivering such water to each contractor (not including any repayment for drainage and distribution or main project features) including the energy costs involved in the delivery of such water.

SUPPLEMENTAL WATER RATES

SEC. 5. Any volume of water sold to an agricultural user in excess of the "base volume" shall be treated as supplemental water for purposes of this Act and shall be sold at or above the following rates:

Volume of supplemental water sold and minimum price of excess volume

So much as exceeds base volume but does not exceed 150 percent thereof—base rate plus 75 percent.

So much as exceeds 150 percent of base volume but does not exceed 250 percent thereof—base rate plus 150 percent.

So much as exceeds 250 percent of base rate—base rate plus 200 percent.

COST RE-EVALUATION

SEC. 6. All water service contracts entered into, modified or amended, by the Secretary after the date of enactment of this Act shall provide that the Secretary shall re-calculate the actual cost of delivering water to each customer not less than once every two years and modify the price of such water pursuant to such re-evaluation.

PROHIBITION ON CERTAIN CONTRACTS

SEC. 7. No water service contract, or modification of a water service contract, or any other arrangement whereby water in excess of 250 percent of the "base volume" is provided by the United States for agricultural purposes may be entered into by the Secretary of the Interior after the date of enactment of this Act unless such contract, modification, or other arrangement is approved by the Congress by concurrent resolution.

STOPPING THE B–1 BOMBER

HON. JONATHAN B. BINGHAM

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, October 17, 1977

Mr. BINGHAM. Mr. Speaker, the House is apparently going to have to vote on whether or not to appropriate funds for the B–1 bomber once again, even though just last month we adopted the Addabbo amendment to delete all production funds for the B–1 from the fiscal year 1978 budget. B–1 supporters in the House are said to be planning to offer an amendment to the fiscal year 1978 supplemental appropriations bill which would appropriate $1.4 billion to build five production models of the B–1. They are trying to take advantage of the confusion generated by the Carter administration's willingness to accept a proposal by the Air Force that $20 million be authorized to explore the possibility of converting the FB–111 into a long range penetrating strategic bomber. If the Carter administration is willing to accept such a study, these B–1 supporters have argued, then there is reason to doubt the sincerity of the administration's opposition to production of any penetrating bomber. As President Carter has made clear in a letter to

the gentleman from Michigan (Mr. CARR), however, continuing studies of various penetrating bomber alternatives in no way affect his decision not to proceed with development of such an airplane at this time.

Even though I believe any attempt to revive the B–1 at this point is an exercise in futility, it has to be taken seriously, Twenty-seven national churches, unions, environmental groups, peace and professional organizations today wrote to President Carter and asked him to step up his efforts to protect his decision to stop the B–1. I think my colleagues would be interested in seeing their letter and the names of the groups signing it, and I include it at this point in my remarks.

WASHINGTON, D.C.,
Monday, October 17, 1977.

DEAR PRESIDENT CARTER: We considered cancellation of the B–1 bomber program one of your finest and most courageous decisions, and we promised to continue our work against the bomber until your judgment was sustained by the entire Congress. We are still engaged in that controversy.

In our estimation, your decision to cancel the B–1 is now in serious danger of being reversed in the House of Representatives. Intense lobbying by contractors who would build the B–1 and clever parliamentary maneuvers by Congressional B–1 proponents have imperiled the three-vote margin by which the House endorsed the cancellation on September 8th. The Pentagon's confusing signals on its future bomber plans complicated the situation. But for many who oppose you, this is clearly a partisan attack on your defense program and SALT negotiating posture.

It is gratifying that your opposition to the B–1 has not wavered since last June, and your letter to Rep. Carr on the FB–111 was very helpful. We hope even more can be done.

We fully understand that you are already engaged on many fronts in behalf of your programs in the Congress, but we urge you to devote personal attention to protecting your B–1 decision. Your judgment was supported by the American public. We encourage you to take your case against the B–1 to the people and the Congress one more time.

We fear that, without your public leadership, the outcome of the debate may be determined on narrow and partisan grounds.

With best regards,

(The letter was signed by the following representatives of national groups:)

Leon Shull, Executive Director, Americans for Democratic Action; S. Loren Bowman, General Secretary, Church of the Brethren; Mike Cole, Leg. Dir., Common Cause; Jeff Knight, Leg. Dir., Friends of the Earth; Marjorie Boehm, President, U.S. Section, Women's International League for Peace and Freedom; Edward F. Snyder, Exec. Dir., Friends Committee on National Legislation; Peter Harnik, Coordinator, Environmental Action; Carol Coston, Exec. Dir., Network; Dr. Jeremy J. Stone, Exec. Dir., Federation of American Scientists; Henry Niles, Chmn., Business Executives Move for New National Priorities; Jane Leiper, National Council of Churches; Steve Chapman, National Taxpayers' Union; Terry Provance, American Friends Service Committee, and Rick Boardman, Clergy and Laity Concerned.

Ray Nathan, Director, Washington Ethical Action Office, American Ethical Union; Mary Jane Patterson, Director, Washington Office, United Presbyterian Church—U.S.A.; Pat Tobin, International Longshoremen's and Warehousemen's Union; Edith Villastrigo, Women Strike for Peace; Andre Burnett, National Student Association; Victor Lloyd, Director, Sane; Molly Freeman, National Association of Social Workers; Jim Stormes, S.J., Dir., Jesuit Social Ministries Office; Robert Alpern, Dir., Washington Office, Unitarian Universalist Association; Dana Grubb, Episcopal Peace Fellowship; Paul Kittlaus, Office for Church in Society, United Church of Christ, Sarah Nelson Labor Caucus, NOW—National Organization for Women; Herbert Scoville, Chairman, Task Force on Reducing the Risk of War and Violence, New Directions; and Edith Giese, National Coordinator, Grey Panthers.

UNIVERSAL COVERAGE UNDER SOCIAL SECURITY

HON. NEWTON I. STEERS, JR.

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, October 17, 1977

Mr. STEERS. Mr. Speaker, later this week we will be debating the Social Security Financing Amendments of 1977. One part of this measure will be universal coverage to place all Federal, State, municipal, and nonprofit organization employees under the provisions of social security. Last week, I submitted my thoughts on this matter into the RECORD, indicating that my constituents were concerned about this matter because of the fact that none of the details of the universal coverage concept had been worked out.

Today, I would like to share with the Members of the House the thoughts of my neighbor to the south, JOSEPH FISHER who, as a member of the Ways and Means Committee, is intimately familiar with the provisions of this legislation—as well as with the social security system as a whole. JOE FISHER wrote a guest editorial for the Washington Post today concerning the concept of universal coverage which I think should be read by all Members of this body before we take any votes on this complex, crucial matter.

The editorial follows:

SOCIAL SECURITY: CAN—AND SHOULD—IT COVER ALL?

(By JOSEPH L. FISHER)

This week the House of Representatives is expected to debate a bill containing proposed changes in the way the Social Security system is financed.

The bill, as approved by the House Ways and Means Committee, is intended to restore to the system short-term and long-term financial soundness. One of the bill's provisions would require that all workers be covered by Social Security beginning Jan. 1 1982. This provision, commonly referred to as "universal coverage," is the most controversial of all the proposed changes and would have the greatest impact on some 6 to 7 million government workers not presently covered.

Town meetings I held recently in my congressional district demonstrated that many persons are not only concerned but confused about the implications of universal coverage. Government employees now paying into their long-established retirement systems feel threatened that the benefits they have worked for may not materialize or may cost more. People already retired fear that some of the retirement benefits they now enjoy may be taken away.

What would universal coverage entail? The effect of this proposal would be to bring all federal, state and local government employees and employees of non-profit organizations under the Social Security system. Some newspapers have reported this as an impending "merger" of the Social Security and the Civil Service retirement systems. It is not. By itself it simply would require everyone to pay into Social Security as well as into their regular retirement plan, and receive benefits from each plan under the rules of those plans. If the bill were law now, this would mean federal government employees would have to pay 5.85 per cent of the first $16,500 of their salaries in addition to about 7 per cent for their existing Civil Service retirement system.

Most observers expect that before the plan would go into effect the federal and other retirement systems would be adjusted to coordinate with Social Security in order to eliminate double costs. But nothing in the proposed legislation requires this. In fact, the only requirement is that universal coverage be instituted. The proposal has raised hundreds of questions about the effect of universal coverage but has supplied no answers. As one example, how would years of federal service be credited to the Social Security system and which trust fund would pay the accrued benefits? This is a critical question in determining the success of this proposal as a partial solution for restoring financial soundness to the Social Security system, but it is not addressed in the bill.

One thing is certain. Universal coverage will not be retroactive, so it will not affect current retirees or those retiring prior to Jan. 1, 1982.

Congress in its present mood seems definitely to favor eventual universal coverage under Social Security, largely reflecting the opinions of those already covered who have long felt that fairness dictates that everyone should pay into the account.

If universal coverage is to be the law, there is one principle that must be followed: Employees should be entitled to receive the benefits they were promised at the time they were hired as well as any improvements made in benefits during their working careers, and to be able to make plans for their future on that basis. Any downgrading of such benefits would be a serious breach of faith. During the debate in the Ways and Means Committee, I succeeded in adding a provision to the bill in line with this principle. This provision requires HEW, in consultation with the Civil Service Commission, to develop a plan for presentation to Congress by Jan. 1, 1980 that would assure that federal employees will not be made worse off by the coordination of the Social Security and Civil Service retirement system in terms of benefit and contribution levels.

The two systems, federal retirement and Social Security, were established to fill different objectives, one a retirement income or pension for government staff, the other a minimum protection for elderly persons. Coordinating these systems requires thoughtful, sensitive, careful examination.

The approach I would have preferred, and the one preferred by the Civil Service Commission, HEW Secretary Joseph Califano and the House Civil Service Committee is to hold off any mandate for universal coverage, and instead enact legislation requiring a study of the issue. An amendment to this effect

failed in committee, but I intend to put forward this approach during the debate in the House.

There is no question that the financing of the Social Security system needs to be overhauled. For several years the financial reserves of the system have been diminishing. More has been paid out in benefits than has been taken in in contributions. The unemployment rate has been high, thus there have been fewer persons in the work force to pay into the system. There is also a trend toward earlier retirement and an increase in average life expectancy. The result is a growing percentage of older persons in our society and more retired people entitled to draw Social Security benefits. Furthermore, benefit payments go up automatically with the cost of living and have outstripped increases in contributions.

The Ways and Means bill offers many improvements: It accelerates the increase in the wage base subject to the employment tax; it corrects the overindexing of future benefits; it removes inequities in the treatment of widows, widowers and divorced persons; it increases the amount of wages that retirees can earn before their Social Security benefits are reduced; and it provides standby loan authority to bolster the trust funds if they fall below a certain level. The net increase in the cost of these and other changes would continue to be shared equally by individuals and employers. Meeting the higher cost would not be pleasant, but it would be necessary to put Social Security on a sound, long-term basis. This must be done.

But the extension of Social Security coverage to government employees, even if set for 1982, is unwise at least until a plan can be worked out and enacted to integrate Social Security with the existing Civil Service retirement. There is simply not enough information from which to conclude that universal coverage is prudent and fair at this time—from the point of view of costs and consequences to the employer in terms of new tax obligations, and to the employee in terms of changed or possibly diminished benefits. Many persons stand to lose in the wake of hasty, ill-considered action.

NEW ECONOMIC THINKING

HON. STANLEY LUNDINE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, October 17, 1977

Mr. LUNDINE. Mr. Speaker, the American economy is today confronted by a new and significantly different set of challenges. We can no longer rely upon the twin assumptions of infinite resources and technological superiority. The energy crisis has demonstrated dramatically that our natural resources are finite; and increasing demands for trade restrictions bear witness that other nations have also mastered the technological revolution. The old-fashioned trade-off between inflation and unemployment no longer prevails; this Nation has been suffering from high levels of inflation and unemployment for the past several years.

At such a time, it is essential that we reexamine the traditional definitions which have guided our economic thinking. We must insist upon new approaches to economic development and productivity growth which will strengthen our national economy and expand employment opportunities. In hearings before the Senate Human Resources Committee on S. 533, the Human Resources Development Act, Associate Professor James O'Toole of the University of Southern California presented testimony on behalf of the bill which is an eloquent example of new economic thinking. I am pleased to present it here for the benefit of my colleagues, many of whom have joined me in cosponsoring the Human Resources Development Act in the House, H.R. 8065:

TESTIMONY OF JAMES O'TOOLE

The Human Resources Development Act comes before the Congress at a unique juncture in the history of the American economy. It is my observation that our incredibly successful economy is now undergoing a process of fundamental transformation. The components of this change can be readily agreed upon: the introduction of new and powerful technologies, radical shifts in resource availability, departures from longstanding social and demographic trends, and alterations in the international political order. What is significant and controversial about these changes is that they may be conspiring to produce a discontinuity with past economic history. If this is the case, then the traditional assumptions that have guided our thinking about national economic policies and private industrial practices are now obsolete and invalid. In short, I shall argue that to think appropriately about the future development of human resources will require an updated, revised and more appropriate model of how our economy works.

When considering a bill such as the one before this subcommittee, it is important to keep in mind that the "laws" of economics have been "empirically derived." That is, economists have observed past behavior, codified it, and predicted that the same behavior will also prevail in the future. Significantly, the current ideas of economists are based on the era of industrialization in Europe and America, modified significantly as the result of the experience of the Depression.

But America's economic future is likely to be significantly different from this past, a past that unfortunately constitutes the data base for all our economic assumptions and human resource policies. Let me offer a few examples to support my assertion:

1. The United States was once one of the world's chief producers of cheap, manufactured goods. Today, our comparative industrial competitive advantage is in sophisticated high technology.

2. The United States was once a land of laboring immigrants, grateful for any job at any wage, to whom the most rudimentary benefit from society was considered a privilege. Today, ours is a generally-affluent population with increasingly egalitarian expectations, to whom the most advanced of society's benefits—free education and health care, lifelong economic security, interesting jobs—are seen not as privileges but as entitlements.

3. The United States was once a vigorously independent frontier economy, with limitless opportunities for financial and physical growth. Today, we find ourselves dependent on foreign sources for such vital and diminishing resources as chrome and petroleum, and our domestic stocks of uranium, natural gas and other energy sources are being quickly depleted. Related, growth is being slowed by the damaging environmental effects of the increased use of many of these scarce resources.

In such a world, traditional economic ideas about humans resources are obsolete. And, because these ideas are based on anachronistic data, the policies and programs generated by traditional economic analyses of the industrial era are often inappropriate. Nowhere is the obsolete nature of economic thinking more evident than in the traditional treatment of human resources. For example, to the economist, progress results from replacing workers with machines. The human is the factor of production that needs to be traded-off in order to increase productivity.

Let us examine this assumption, one that underlies most industrial practices in America today. Clearly, there are only three categories of resources from which people may draw in order to produce what they need to sustain life. These resources are land (including energy and all other natural resources), capital (including machines and all other man-made sources of wealth), and labor (including all aspects of human skill, intelligence, ingenuity, and other abilities). Significantly, the first two of these "factors of production" may be reaching the point of maximum exploitation. By the end of the current millennium, it is unlikely that great increases in productivity will still be wrung out of natural resources (unless power from the sun—or sunlike fusion power—can be effectively harnessed). But even if we make the risky assumption that there are no immediate limits to natural resources, it is not clear that humankind will continue to benefit from greater use of capital-intensive machines. The kinds of machines that industrial societies seem bent on producing often bring pollution, waste, inefficiency, cheap and shoddy goods, unemployment, and a general diminution of the quality of life. But economic growth, per se, is not at fault. Rather, growth pursued in the traditional mode of the industrial revolution seems inappropriate for tomorrow's constrained environment.

It would seem, then, that improvement in the quality of life will occur mainly through making better use of the third factor of production—human resources. And by "better use" I mean not harder work but smarter work. Humankind's puny muscle power is not a potential source of greater progress; rather, it is the intellectual powers of the race that constitutes an immense reservoir of productivity and advancement.

But here my notions of productivity and advancement differ from those of the economist. When the economist thinks about increasing productivity, he has in mind an assembly-line worker whom an industrial engineer should try to make work faster or, failing that, should replace with a machine. This model of economic development was quite appropriate for an era of cheap energy, surplus capital, high consumer demand for low-quality, mass-produced goods, little environmental concern, and a poorly-educated workforce. The model I have in mind is of an engineer trying to develop new uses for micro-processors—those tiny computers contained on a chip of silicon. This is a major area of growth in the world economy, and one in which the United States is the dominant force. In many cases, the United States does not even produce the goods that utilize micro-processors.

Nevertheless, American companies invent, design, finance and market these little miracles for the world. Our future standard of living depends not on our ability to produce shoes, shirts or shinola, but on our ability to remain competitive in high technologies—that is, all the knowledge industries including computers, scientific instruments, rockets, engineering services and management consulting. Important, high productivity in knowledge industries permits us to expand the services sector of the economy—where already over half of our workforce is employed and where most jobs for the disadvantaged can be created. Significantly, the key to productivity in both high technologies and services—which together probably constitute over three fourths of our private economy—is the development of the human resource. Even in the relatively shrinking heavy industries—steel, autos, etc.—the key

to productivity is not in workers' laboring harder, but in their working more cooperatively, intelligently and committedly. Consequently, the development of untapped human resources is likely to be the "technological" challenge of the postindustrial era, as the development of better tools and machines was the ultimates source of productivity in industrial society.

What kind of a system could best tap and develop these resources? Clearly, not our present system. Today, the vast majority of our workforce is underemployed, by which I mean that their skills, training, education, talent and other human resources are grossly underutilized on their jobs. Something like 80% of our workforce, by this definition, may be underemployed. The reasons for this waste are many—habit, lack of knowledge how to tap these energies, some union practices, etc. But the primary reason why we don't more fully develop human resources, I believe, is the attitude of most American managers that blue-collar and most lower- and middle-level white-collar workers are incapable of accomplishing tasks that require much intelligence. Therefore, managers design jobs to be repetitive, simple, and unchallenging. But facts about the labor force belie these employers' stereotypes. The IQ range of workers, for instance, challenges the wisdom of giving simplified tasks to many blue-collar employees. As the figures below show, there are few dull Ph.D.s, but there are many bright laborers. (In fact, because there are many more laborers than Ph.D.s, three times more laborers than doctorate holders have IQs over 130).

Occupation	IQ range	Mean IQ
Ph. D. (professor)	100–169	130
Engineer	100–151	127
Clerk	68–155	118
Laborer	26–145	96

Unfortunately, we design most laborers' jobs for the mean IQ of 96 (or lower), an action that leaves many exceptionally bright laborers in jobs that are unchallenging and, for them, demeaning. It is clearly a waste of human resources to place bright people in bad jobs because we fail to recognize their potential.

It is also a waste of human resources not to involve these workers in finding better ways to do their jobs—more productive ways and less demeaning ways. In interviews conducted for the Work in America study, the most frequent complaint of workers was that when they tried to suggest better methods for organizing their tasks, their employers invariably responded with indifference, disdain, or contempt. Finally, these workers gave up trying. They began to make the minimum possible commitment to their jobs that would still ensure a paycheck at the end of the week. Thus, a kind of self-fulfilling prophecy is at work: Managers, who feel workers are lazy, dumb and untrustworthy will treat workers accordingly; then, the workers respond by engaging in work restriction.

I think it is not inaccurate to describe much of labor/management relations in the United States as a system of mutual mistrust. To put this admittedly bald statement into some perspective, it is useful to compare the American system with two quite divergent European models. The first European system of industrial relations is based on class conflict. In Britain, especially, managers have viewed workers as the enemy whose back must be broken in battle. It is beneath the dignity of the managerial class to attempt to communicate with the working class. The attitude of the workers (and particularly of their union leadership) is that they would rather sink the ship—with themselves in it—than cooperate with the "exploiting" class. The other European model is based on cooperation. In Scandinavia and Germany, in particular, workers and managers see themselves as being afloat together in a single boat. While there is no illusion that the interests of labor and management will always coincide, there is, nevertheless, a working agreement that it is in the self-interest of both parties to keep productivity and employment high, and inflation low.

While the parties fight like cats and dogs in the national political arena, neither is so self-destructive as to allow these democratic struggles to capsize the boat of prosperity. While these characterizations of the two systems are necessarily oversimplified and overdrawn, I do not think it is a misstatement to claim that the class conflict of Britain and Italy, on the one hand, and the union/management cooperation of Northern Europe, on the other, are reflected in the relative prosperity and productivity of the two opposing systems. But my main purpose in undertaking this international comparison is to argue that American industrial relations are not nearly as bad as those in Britain and not nearly as good those in Germany.

We must admit, regretfully, that class differences continue to exist in this country, and that with these conflicts come a host of social and economic problems. Confining my remarks only to workplace problems, these class divisions prevent the society from more fully realizing the potential of its human resources. Indeed, I should argue that unless we move away from conflict and towards cooperation between management and labor, the nation will be unable to successfully negotiate the seas of the emerging post-industrial economy. Cooperation is simply the only appropriate mode for labor relations in a services and knowledge economy.

We must, then, find models of cooperation. Most emphatically, I feel that the monolithic industrial democracy legislation of Northern Europe is totally inappropriate for the needs of our pluralistic nation. All that is probably required on the part of government in this country is to provide some incentives and assistance to employers, workers and unions to find many and varied American responses to the complex issues of human resources development, productivity and class conflict in the workplace.

In this regard, the bill before you is particularly attractive because it recognizes that there is no simple and uniform response that is appropriate for the wide variety of industries, working settings, union agreements and other local conditions found across the nation. For example, there is no single job design capable of providing satisfaction to all workers. In the past decade, many employers tried and failed to enrich jobs using one or more of the many set formulas promulgated by management experts. Frustrated in these efforts, some of the most sophisticated employers are now discovering that they can't dictate happiness for their workers.

It is now being discovered that efforts to improve the quality of working life should be intended to make work organizations places where individuals have opportunities to grow, create, and exert some mastery over their environment. These actions may also increase productivity in the bargain, but that cannot be their prime purpose. The willingness to undertake these tasks will require a sense of social responsibility on the part of unions as well as employers. Although such a change in attitude is a great deal to expect, a small number of companies and unions have begun to work seriously on improving working life, continuing their efforts even when the recession offered them an easy way out of their commitment.

Important workplace experiments are under way in both Europe and America. These range from simple flextime (workers choose their own working hours) to the revolutionary notion of full equity sharing (the stock of an enterprise is cooperatively owned by the workers). Although each on-the-job experiment from the simple to the radical has been shown to have its unique limitations, almost all of these workplace changes directly or indirectly ameliorate some problems of underemployment. There is now ample evidence that jobs can be altered to engage the "unemployed self" of many workers. In particular, routine assembly-line and continuous-process tasks have been redesigned to give workers more autonomy, challenge, and participation in decision making.

The most successful of these programs have involved a total reconception of work systems. Here, not only are jobs more interesting, but responsibility and authority over their own tasks are delegated to workers. Characteristically, workers in such programs are divided into self-managing teams that decide how to divide their own labor, when they will work, what methods they will use, who will work with them, and how they will undertake quality control. The nature of supervision is also changed, as is the form of compensation (hourly wages usually give way to salaries, profit sharing, or some other equitable system compatible with the new work environment). General Foods, Procter and Gamble, Volvo, and Saab have pioneered in such total redesign efforts, and a mine in Rushton, Pennsylvania, and the entire community of Jamestown, New York, have successfully experimented with Labor-Management Councils like those advocated in the bill before the subcommittee.

At the Harman International Plant in Bolivar, Tennessee, the company and the union are working to find ways to improve working condition for workers who make mirrors and other auto accessories. Representatives of all the parties involved, including the workers, traveled to Sweden to see what they might bring back to their plant from the pacesetters in industrial democracy. After they returned to Tennessee, about sixty jobs at Bolivar were altered and rotated—in ways suggested by the workers—and the increased productivity that resulted was shared with the workers by giving them more time away from work. As workers have gained more experience and confidence they have begun to suggest ways to redesign other jobs in the plant and invented imaginative new ways to share in cost savings that have resulted from the changes they have either initiated or supported. Although still in its infancy, the experiment at Bolivar is significant because it is the first attempt to totally redesign the work environment in a unionized and existing facility.

Significantly, after two hundred years of political democracy, it now appears that the future of work will also be determined democratically. American workers are just now beginning to participate in the decisions that most directly influence their day-to-day existence. Although they spend more of their waking hours at work than at any other activity, only a few Americans have participated in such decisions as when they will work, with whom they will work, with what technological tools they will work, and how they will divide the tasks that need to be done. However, some managers are beginning to discover that workers are most satisfied and productive when they are given the rights, resources, and responsibilities of self-management. It is a lesson that was learned long ago in political affairs. Indeed, it permeated the thinking of the Enlightenment that influenced Jefferson and his contemporaries to advocate democracy not only as the most just system of goverance, but also as the most practical and efficient (for example "overhead" costs in a democracy are low because there is no need for secret police to be engaged in the impossible task of trying to keep

the populace "loyal" and "committed" to the goals of the nation).

I believe that the chance is great that employers, unions, workers and scholars will find better ways to develop human resources. But this will only be done through experiment and negotiation among the parties directly involved. For this reason, I urge the subcommittee to resist the temptation to tighten up the specific aspects of this bill. Union leaders and corporate executives will no doubt come before you with perfectly reasonable demands for specificity that will destroy the flexibility of the bill. Without flexibility, there will be a reduced likelihood of the kind of innovation that is needed to respond to the new order of social and economic challenges the nation will face in the future.

CORN SWEETENER SUIT

HON. JIM LEACH

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 17, 1977

Mr. LEACH. Mr. Speaker, in an attempt to bring equity between corn producers and sugar growers, the Corn Refiners Association, Inc., and the National Corn Growers Association last week jointly filed suit in U.S. District Court in Des Moines, Iowa, seeking immediate implementation of sugar price support provisions of the Food and Agricultural Act of 1977.

In filing the suit it was pointed out by the plaintiff that failure by the administration to implement the sugar provision of the new farm bill results in sugar continuing to hold a competitive advantage over producers of corn-derived sweeteners.

Named as defendants in the suit were the Secretary of Agriculture, the U.S. Department of Agriculture, and the Commodity Credit Corporation and the Executive Vice President of CCC.

At a time when corn prices are in a seriously depressed condition and facing even lower levels as the Atlantic and gulf coast dock strike continues to bring the marketing process to a halt, this is no time to delay implementation of a provision of the new farm law which was approved to provide equity between producers of corn and sugar. The corn growers of Iowa are anxious to compete fair and square for the sweetener market with sugar but cannot do so without implementation of the law as approved by Congress. The goal of that legislation was equity for the former producers of corn as well as sugar. Unfortunately after administrative approaches are prone to benefit the large sugar producers and sugar refineries rather than the small family producers of sugar and corn.

I am attaching to these remarks a copy of a statement by the president of the Corn Refiners Association regarding the suit:

STATEMENT OF ROBERT C. LIEBENOW, PRESIDENT, CORN REFINERS ASSOCIATION, INC., OCTOBER 13, 1977

This afternoon the Corn Refiners Association, Inc., and the National Corn Growers Association have jointly filed suit seeking immediate implementation of the sugar price support provisions of the Food and Agriculture Act of 1977. The suit, which names as defendants Secretary of Agriculture Robert S. Bergland, the U.S. Department of Agriculture (USDA), the Commodity Credit Corporation (CCC), and Mr. Ray Fitzgerald, Executive Vice President of CCC, was filed in United States District Court for the Southern District of Iowa in Des Moines.

We have requested the Court to: permanently enjoin the defendants from refusing to comply with the loan and purchase sugar price support system mandated by Section 902 of the 1977 Farm Bill; permanently enjoin the defendants from making payments to sugar processors under the program announced in the October 7, 1977, *Federal Register;* and to declare the processor payment program unlawful.

We have not taken this step lightly. However, in light of repeated statements and actions by Administration officials, we feel compelled to seek relief from the courts. Administrative actions and appeals have been exhausted. The insistence of Congress on enforcement of the sugar price support has not brought about compliance by the Administration.

Two issues are at stake here: the continuing refusal of USDA to enforce a law passed by Congress; and their repeated attempts to use a sham payment to give producers of sugar a competitive advantage over producers of corn-derived sweeteners.

In July and August, the question of U.S. sugar policy was thoroughly debated by the Congress. The result of these debates was the "de la Garza amendment," mandating a sugar price support through loans or purchases of processed sugar products. At the time of the conference on the Farm Bill, the Secretary and his representatives assured the conferees of their intention to immediately begin work to implement this support program, through a program of increased tariffs on imported sugar. This was 70 days ago. At that time, the conferees were told that the amendment would be in effect around October 1.

On September 7, a wire service story reported that USDA "has decided the sugar support program in the 1977 Farm Bill should not be implemented with tariffs or quotas," according to a staff aide.

On September 9, twenty-nine Senators wrote the President insisting the price support program be instituted "without further delay."

On September 15, USDA announced a "revised" direct payment plan for 1977-crop sugar—a plan which in practical effect is identical to a program ruled illegal by the Justice Department and the General Accounting Office.

On September 20, Secretary Bergland told reporters that the government would try and avoid implementing the Farm Bill program, and would seek "clearance" from Congressional committees to run a subsidy payment program. He noted that USDA wouldn't implement the price support program until around January 1.

On September 28, thirteen members of the House Conference Committee on the Farm Bill wrote the President, requesting immediate implementation of the Farm Bill.

On September 30, seven members of the Senate Conference Committee wrote the President, requesting immediate implementation of the Farm Bill.

On September 29, the President signed the Farm Bill into law. On October 1, all provisions of the bill not otherwise excepted became effective, including the sugar price support program.

On October 5, the USDA issued, without a public comment period, final rules instituting a subsidy payments program for 1977-crop sugar.

These dates are merely representative examples of the Department's continuing refusal to carry out the will of the Congress. Members have written the Secretary. Members have written the President. They have made themselves perfectly clear—the intent of Congress was that the Administration implement this price support without delay.

Today, imported sugar continues to flow into the country at the direct expense of domestic sugar producers and corn sweetener producers. In direct conflict with law, the Administration continues to pursue a course which would result in subsidy relief to some sugar producers at the direct expense of corn sweetener producers and the corn farmers who provide them one million bushels of corn a day. Having exhausted all administrative channels, we ask that the Court enforce the law.

THE DELANEY CLAUSE MUST BE AMENDED AND MODERNIZED

HON. GENE TAYLOR

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Monday, October 17, 1977

Mr. TAYLOR. Mr. Speaker, as we consider the need to place a moratorium on the decision of the Food and Drug Administration to ban the use of the artificial sweetener, saccharin, a decision that has dismayed millions of diabetics and individuals who must use the product for dieting purposes, I would like to call to the attention of my fellow Representatives a learned article on the Delaney clause published in the Chemical and Engineering News on June 6, 1977, written by our colleague JAMES G. MARTIN of North Carolina.

I would like to point out that JIM has outstanding credentials in the field of chemistry, having earned a B.S. in chemistry from Davidson College and a Ph. D. in the field from Princeton.

JIM also served as a member of the chemistry faculty at Davidson, specializing in organic chemistry. He has been a member of the American Chemical Society since 1959 and also chairs the Republican Task Force on Health.

It is obvious that JAMES MARTIN knows what he is talking about as the author of legislation to modify the Delaney clause.

We were indeed fortunate that the House of Representatives, at this point in time, had the benefit of JIM MARTIN'S expertise and input in this matter. He is due a great credit by all Members of this body and millions of Americans for his role of leadership in obtaining the 18-month moratorium on the ban of saccharin while a more realistic study on the effects of saccharin can be conducted.

I would hope that my colleagues would read the following article so that they may be fully informed on the subject of saccharin and the need to modernize the Delaney clause:

THE DELANEY CLAUSE MUST BE AMENDED AND MODERNIZED

(By Representative JAMES G. MARTIN)

Saccharin, the last of the approved artificial sweeteners, is about to be banned.

That will do more harm than good. That will not serve the public health interest, but will aggravate it. There's little anyone can do about it, however, until Congress amends the law governing food additives or specifically exempts saccharin.

The Food & Drug Administration is required by law to ban saccharin or any other food additive if massive daily overdoses of it cause cancer in test animals. That is a single, absolute test with zero tolerance. FDA must disregard the substantial benefits that 50 million consumers will lose when saccharin is banned. FDA must disregard the fact that for all the studies on saccharin, there is no evidence that anyone has ever gotten one tumor from normal use of saccharin. Regardless of such factors, saccharin must be banned "at the drop of a rat."

The Delaney clause provides that "no additive shall be deemed to be safe if it is found to induce cancer when ingested by man or animal." This requires saccharin to be banned solely on the indisputable evidence that a significant increase in bladder cancer results from drastic overexposure of test rats to ridiculously extreme concentrations of saccharin prior to birth (in utero), followed by daily massive overdoses thereafter. How absurd! How absolute!

It is true, of course, that thousands can do without any sweetener in their food. On the other hand, there are tens of millions who lack that elite, ascetic self-discipline; they cannot marshal the iron will that will be required of them. They will resent those who take away another of the free choices they are still allowed to exercise in a world swarming with risks.

There is clear evidence that in the absence of diet drinks, those who have become accustomed to them will just shift to sugar-sweetened colas. When cyclamate was banned in 1969, the annual consumption of diet colas decreased 71 million cases (from 235 million to 164 million). This was accompanied by an increase in sugar-sweetened drinks of 159 million cases (from 1445 million to 1604 million). The trend of increasing consumption of all soft drinks hardly showed a dent when diet drinks were in short supply.

Furthermore, on the basis of 16,000 interviews each year, the number of Americans drinking a low-calorie diet drink on an "average day" dropped from 21 million in 1968 to 11 million in 1970. The number taking a sugar-sweetened (only) soft drink increased from 82 million in 1968 to 96 million in 1970. It is obvious that most of the decline in diet cola consumers simply shifted over to sugar-sweetened cola. The risk of this occurring again if saccharin is banned is extremely high, and the consequences are frightening.

RISK OF BLADDER CANCER

What is the risk of bladder cancer if saccharin is permitted to continue as a food additive? It is remote at worst, as can be seen from the following calculation. Let us assume that:

There is a rectilinear (proportional) dose-response relationship.

Humans are as sensitive at normal use as the test rats in the Canadian studies were at very high overdoses.

The sensitivity of human females (there being no significant incidence of bladder cancer in second-generation rat females) is one third that of human males (one third being the existing statistical ratio of current incidence).

The amount of saccharin actually consumed by humans in the U.S. annually is 6.0 million lb.

The proportion of pregnant women using saccharin is approximately the same as for nonpregnant women.

The percentage of second-generation male test rats developing cancer is the percentage actually observed (that is, 24%, not the figure of 40 used by FDA in its risk calculations, based on its use of the maximum experimental margin of error plus rounding off of the numbers). Then the only valid conclusion is that no more than 26 additional bladder tumors might be expected annually, resulting in no more than eight deaths.

Although those numbers are regrettably large, they are nowhere near the inflated calculation of 1200 tumors fobbed off on us by FDA. Furthermore, there is no evidence and little probability that anyone has ever gotten one tumor from normal use of saccharin. So the rational risk is somewhere in the range of zero to 26.

There is, moreover, no evidence that test rats get cancer from any conditions less severe than the dual protocol of high concentration prenatally plus near pathological overdosage every day thereafter. Testimony by the Health Research Group has claimed that a 1973 Canadian study showed cancers in test animals fed 0.2% and 1.6% levels of saccharin in their diet. That misuse of data conveniently overlooks the reported fact that animals at intermediate and even higher doses had no tumors, and test animals at all exposure levels and control animals at zero exposure had precisely the same percentage of cancer—0.9%.

It is customary and accepted practice to overdose test animals because of the small number used and the short life span. To be sure, a hypothetically weak carcinogen could not be detected in a hundred animals without resorting to a massive overdose.

Clearly, but cautiously, the Delaney clause must be amended and modernized.

The Delaney clause already had fallen into scientific disrepute, as analytical chemistry steadily lowered the threshold of trace detection to a few parts per billion. The clause is an inconsistent anachronism, because it will ban a food additive with only a very remote risk of carcinogenicity, while permitting the consumption of a host of "natural" foods containing traces of far more potent "natural" carcinogens. It is about to become a bizarre "hazard to your health," because without a noncaloric noncarbohydrate sweetener, millions of Americans will cheat on their otherwise bland diet, gain weight, and increase their risk of cancer (colon and breast), cardiovascular disease, diabetes, and hypertension.

These preventive medicine benefits of saccharin in diet control are enormous.

Therefore, I have introduced with 201 cosponsors (list available on request) a bill, H.R. 5166, to allow an exception to the Delaney Absolute if saccharin or any other suspected food additive is found to have public benefits outweighing the risk attributed to it. Priority would be given to health and nutritional benefits to the general public. Benefits to producers and investors would not be counted. This measure is a cautious exbalancing of consumers' interests. It is widely supported by consumer groups—representing real consumers who actually use the stuff, their parents, their children, and their doctors.

Ironically, the principal advocate of the saccharin ban is the Ralph Nader-connected Public Citizen's Health Research Group. Their "consumer" position is that the Delaney clause needs to be extended to cover all exposure to carcinogens (in which case we would starve).

Their view is that saccharin has no benefits, but is merely a nonessential convenience. Some convenience!

One irony of this is that some toxic substances—such as hydrogen cyanide, formic acid, and trichloroethylene—can be approved as food additives at lower than lethal concentrations without any way of knowing whether they are carcinogenic. Test animals would not survive even a modest overdose, let alone a massive one. Consequently, a poisonous substance that may be moderately carcinogenic has a better chance of being approved than saccharin does, under the existing law.

What is the probable mechanism of bladder tumor formation in second-generation rats? In all probability, the observed effect of saccharin was that of a mechanical irritant or abrasive, occurring only under the most extreme conditions. Through unrelenting abuse of bladder tissues, it produced higher sensitivity (or lower resistance) to a carcinogenic effect of some other chemical present. The general presence of microcrystals in the rats' urinary tracts cannot be ignored.

Consider the fact that first-generation rats show no incidence of saccharin-induced cancer, and second-generation rats show significantly higher incidence of bladder cancer only at the highest doses employed. There is thus no evidence of a proportional, linear relationship between dose and response—suggesting that there is a noneffect threshold in these experiments and that it is just a little bit lower han the massive exposure of the fetal rats in utero.

Consider also the reported fact that the 1977 Canadian study found the crucial second-generation test animals to be 20% underweight at birth! Clearly, they had survived, but on the verge of a pathological overdose.

TABLE TOP COMPROMISE

What about the "table top compromise," announced by FDA on April 14? I commend the agency and wish it well on that. It may be the most that it can do legally to ease the public hazard of its ban, until Congress changes the absolute law.

If FDA succeeds in approving saccharin for over-the-counter sale as a single-ingredient sweetener (under the drug section of the law), it will be a clear demonstration that the benefits are held to outweigh the risks. FDA is authorized to consider that balance in the law on drugs, but not on food additives. If it succeeds, it will reaffirm my belief that the same balance of public interests ought to be weighed in the food additives section of the law, as well—thus adding impetus to my bill.

Unfortunately, there are two major problems with this "compromise." First, there is great doubt that saccharin can be reclassified as an efficacious drug. In the Food, Drug & Cosmetics Act there is too sharp a statutory demarcation. Thus, there won't be a chance to weigh benefits against risks unless a way can first be found to include "this last of the approved noncarbohydrate, noncaloric, artificial sweeteners" within the statutory definition of a drug, according to a law proposed by Sen. Estes Kefauver in 1962.

In the second place, even if saccharin is continued as a "table top" sweetener (sold over the counter as tablets, powder, and liquid concentrate)—for which several million adults diabetics who use it only in their coffee and tea will be grateful—what about several million others who are accustomed to diet drinks? What about 2 million juvenile diabetics, facing enormous peer-group pressures at school and social events?

Then what about many obese millions who will lose control of their low-calorie diets, shifting irresistibly to sugar-sweetened desserts and beverages? Won't they be left with nothing but the old, proverbial" fat chance" of dietary management?

No, the "compromise" is inadequate. The law must be changed to allow all the evidence to be weighed, including the epidemiological evidence of public health statistics. A growing series of such statistical studies fails to detect any causal association of normal use of saccharin with cancer.

For example, Dr. Bruce Armstrong of Oxford University in the U.K. and coworkers found in 1976 that 5971 diabetics had a lower than expected incidence of bladder tumors. Omitting all kinds of cancers suspected of being due to smoking, they found that instead of the predicted occurrence of 213 other cancers, only 189 were found. That is not an

increase, but a 12% decrease overall [Armstrong, B., et al., *Brit. J. Prev. Soc. Med.*, 30, 151 (1976)].

LET THE PUBLIC DECIDE

The time has come to amend the Delaney clause and any other part of the food additives law (such as the general safety provision) that would ban saccharin on such flimsy grounds. If the benefits to the public are substantial and the risks remote, then put a warning label on it, but don't ban it. Let the people make their own choice, just as they do with alcohol, cigarettes, riding in automobiles and airplanes, swimming, hiking, and eating grilled steaks and various other wholesome but suspect foods.

According to a recent poll, the public opposes any saccharin ban by a margin of 5 to 1. An estimated million Americans have written to their government or their representatives to oppose the ban. The American Diabetes Association, the American Cancer Society, the present and past director of the National Cancer Institute, four consecutive former FDA commissioners, and thousands of private physicians have argued for a cautious modernization of the Delaney clause.

What can you do?

You can add your voice to that of others, expressing your own judgment on the merits of this issue. From thoughtful consideration of the points of view presented from all sides in this News Forum, you can reach your own conclusion as to the scientific validity of the evidence and arguments.

Then, as citizens, you can sort out the priorities of public policy like anybody else. Having done so, I suggest that you carry out your obligation to speak out on this subject—to your Congressman, your Senator, your local paper—and ask your neighbors to do the same. I think I know what the majority of you will conclude. But either way, you need to speak up for yourself, before it's too late.

RURAL HEALTH CARE IS WORKING AT LAFAYETTE COUNTY CLINIC

HON. DON FUQUA

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 17, 1977

Mr. FUQUA. Mr. Speaker, in the October 9 issue of Florida Accent, a magazine published by the Tampa Tribune and Tampa Times newspapers, there appeared an excellent article detailing the importance of rural health.

The author used the Health Center in Lafayette County, which is in the Second Congressional District of Florida, as an example of how such health services should and can be provided to rural counties.

Through the help of the University of Florida Medical School and the hard work and cooperative spirit of the people of Mayo and Lafayette County, this rural health program is a tremendous success as is pointed out in the article.

I am very proud of this outstanding facility and of the people who made it work. Today I am inserting the article in the RECORD to share its success with my colleagues and the Nation.

The story follows:

THE RURAL MEDICS

(By Sharon Cohen-Hagar)

The large, rotary fan was used to cool the poultry house. Hundreds of caged hens, squeezed together in the confines of the tin and wire enclosure made the chicken house unbearably hot and rancid—for fowl and human alike. But one day, the behemoth fan, forgetting its function as an air circulator, became an instrument of destruction. And in doing so became the starting point for this story.

A young visitor to the farm wandered too close to the revolving fan, tripped and fell into the whirring blades, and lacerated his face and head. Bleeding profusely, he went into shock. He needed prompt, skilled medical attention to survive.

The accident had occurred in Mayo, a small, farming community in Lafayette County (pronounced La-FAYette) about 50 miles northwest of Gainesville. If the accident had occurred 10 years ago, the boy's parents would have had several options, none of them satisfactory in an emergency. Ten years ago, Lafayette County's 2,892 residents had no physician to call their own. People either ignored their medical problems, treated them with home remedies or drove to the nearest town with doctors: Gainesville; Live Oak; Perry; or even to Valdosta, Ga., 65 miles to the north.

When the boy tangled with the fan recently, Lafayette County still didn't have its own physician. But it did have a medical clinic at Mayo, a project of the University of Florida's College of Medicine. The boy was taken to the clinic, where he was given first aid and then driven to the Shands Teaching Hospital in Gainesville. He spent months in the hospital, undergoing plastic surgery for repair of his face. He has recovered now. And the emergency treatment he received at the clinic is credited with saving his life.

The Lafayette County Health Center is one of four rural health clinics operated by the University of Florida Medical School in cooperation with the communities served by the facilities. The clinic at Mayo opened in 1969. Three years later, a clinic was opened in Dowling Park, 15 miles north of Mayo, in a retirement community and nursing home operated by the Advent Christian Church. A third site was developed the same year in Trenton, the seat of Gilchrist County, which borders Lafayette County on the southeast. And a fourth clinic opened in 1975 in Cross City, the seat of Dixie County, south of Lafayette County.

The four locations share common problems: They are rural; their per capita income is low; and, prior to the opening of their clinics, they didn't have a permanent physician. Nor was their lack of medical services unique in Florida. Today, according to guidelines established by the United States Department of Health and Rehabilitative Services, 22 Florida counties have critical medical manpower shortages. Another 21 counties have critical dental manpower shortages, and 11 counties, many in the Panhandle and north Florida, have shortages in both.

"When we first took a look at Lafayette County in 1968, it had not had a permanent doctor for 10 years," said Dr. Richard Reynolds, chairman of the Department of Community Health and Family Medicine, University of Florida College of Medicine." The old doctor who had lived there for years had died. And they never could replace him. An anthropologist from the university had done a study there and was on good terms with many of the people. The county had built a building which served as the health department but it had no staff, only an itinerant doctor. For all these reasons, Lafayette County seemed a good place for us to start."

Under Reynolds' guidance, the medical school was embarking on a program designed to introduce its students to a wider range of medical problems than they had been encountering. At the university's Shands Teaching Hospital, medical students studied techniques in specialty areas but didn't have much real-life exposure to what he calls "ordinary things": the child with mumps, or the farmer with a broken arm. Through the new program, medical students would be trained in rural medicine, with its wide range of problems, and the rural communities would have on-site services of medical personnel.

The clinic opened in January, 1969, with a free fish fry provided by the local Rotary Club, the community's only service club. The fish fry, recalls W. G. Croft, Jr., the easygoing owner of the Thriftway grocery store in Mayo, drew 1,500 to 2,000 people anxious to eat fish and inspect the new facility. Seventeen persons actually sought medical attention.

Croft, chairman of the Lafayette County Health Trust, the clinic's governing body, said the citizens of Lafayette County were only too happy to cooperate with the university to bring health care to the community. They had been working toward the same goal since 1962, when Croft's late brother, Harold Croft, then mayor of Mayo, had appointed a committee to build a clinic. The clinic opened in 1967, but until the beginning of its association with the University of Florida, its only trained staff had been a public health nurse and an itinerant doctor.

But the county had to provide more than its cooperation to insure the clinic's success. Housing had to be found for the medical students and nurses who would work at the clinic, and the clinic had to be managed locally so that salaries could be paid for permanent clinic personnel. Today, the Mayo clinic is self-supporting, said Dr. Wilmer Coggins, chief of the medical schools Division of Rural Health. Fees paid for medical services ($8 to $10 for a typical clinic visit) are less than those paid to a private physician but are sufficient to keep the clinic going.

Mayo, like many other rural communities, had not been able to attract a young physician anxious to begin practice. The southern part of Lafayette County is swampy. Much of the usable land is given over to 16 dairy farms, to poultry houses and to tobacco and watermelon crops. Mayo has no real industry, but many of the residents travel the 28 miles to Perry to work in the cellulose plant there. The 1970 census listed the total population of Lafayette County at 2,892. Today, by some local estimates, it has increased to 3,300.

The Lafayette County Health Center sits on the north end of Mayo's winding Main Street, State Road 27. To reach it from the south, you pass West Pharmacy downtown, the magnificent Greek porticoed county courthouse, W. G. Crofts Thriftway and Folson's restaurant, but a step away from Cindy's Motel.

The health center is a squat concrete building with an institutional exterior that makes it easy to spot among the architectural styles of its folksy neighbors. Next door, is the modernistic, wood frame dental clinic, opened since January, an adjunct to the university's rural medicine program.

A row of mobile homes next door houses the four medical students and the four student nurses who serve a two-week rotation at the medical clinic. A resident physician spends one month in the community, and a permanent physician's assistant has been a recent welcome addition to the staff.

A resident pediatrician pays a weekly visit to the clinic, as does a physical therapist. Medical school teaching staff, including Reynolds and Coggins, also see Mayo patients weekly.

The waiting room is crowded, but people wait patiently to be called into one of the simple-appointed examination rooms. Although many will pay the basic clinic fee, other patients' fees will be scaled according

to their ability to pay. Blacks and whites sit side by side on plastic chairs here, but the blacks still live in their own section of town called "The Quarters." Children, some obviously ill, sit quietly on their mothers' laps. Others play quietly on the floor.

Robert Snipes, a Mayo farmer, is being treated for a broken bone in his foot. The foot is in a cast, and he props himself up on his cane as he talks. Snipes said he would have to drive to Perry for treatment if the clinic didn't exist. He's thankful it does.

Lilly Mae Miller remembers the difficulty of getting medical care before the clinic opened. "If you didn't have a car," she said, "you had to hire a car to drive you to Perry. Sometimes it was hard finding someone to drive you. Now, I go to the clinic a lot. They treat me just fine."

Phyllis Land, project administrator for the health and dental centers, said during its busy season, just prior to the opening of Mayo's one comprehensive school, the clinic treated as many as 40 patients per day. The average number of patient visits per year is about 7,000. The number has steadily increased each year.

The clinic is open Monday-Saturday, but medical personnel are on call 24 hours a day. Because it is the only medical facility in town, the clinic treats a large percentage of trauma cases often found in city hospital emergency rooms: broken bones; lacerations; burns.

But the medical students and resident see their share of children with head lice and scabies; pregnant teenagers; and diseases resulting from poor nutrition.

"Diabetes and hypertension are particular problems here," Land said, "because they are diseases related to the nutrition of the area. The people have starchy diets and use a great deal of pork as seasoning in their food. Obesity is a problem."

Some of these chronic patients are now in the care of the clinic's physician's assistant, John Willis, 30, who spent six weeks at the clinic during his training and decided to stay on permanently.

With a bachelor's degree in zoology and two years spent in a physician's assistant program, Willis said he will handle trauma and emergency cases and see the regular patients with chronic problems. "They need to establish a rapport with one person here," he said. "I can be that person."

Willis, who is single, said he has no qualms about living in a small town and working in a rural medical clinic. "I like to hunt and fish, and there's plenty of that around here" he said." If I want to raise hell, I can go to Gainesville."

And clinic regulators consider Willis a welcome addition to the medical facility they now proudly call their own.

THE QUOTA SYSTEM: CHINESE STYLE

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, October 17, 1977

Mr. MICHEL. Mr. Speaker, news about the Supreme Court's hearing of the Bakke "reverse discrimination" case has appeared on every front page in the country. The case concerns a number of issues. Should the United States, even for the best of reasons, treat individual citizens as members of certain "classes" from which there is no way to remove oneself? Should the U.S. Government ask young men and women to pay the price for the discriminatory practices of others a generation ago? Should certain kinds of Americans be looked upon as not worthy of Government attention because of an accident of birth?

These questions have already been asked and answered in Communist China. In a chilling and horrifying story in the New York Times, October 13, 1977, Ross H. Munro tells of members of China's "sub-class." Members of this class can never get out of it. They are denied advancement and a chance to improve themselves. They are treated as outcasts by the government. What is their crime? They happen to have owned land when the Chinese Communists conquered China in 1949. Not only these people but their children as well are considered members of the "sub-class."

Mr. Speaker, what is the moral difference between denying an American of, say Polish ancestory, a place in school because he is not a member of an officially recognized minority group and the Chinese Communist practice of denying advancement to children of those who once owned land? I can see no moral difference between the two practices. In each case freedom is denied. In each case individuals are treated as members of a class. In each case those who call for such treatment do so in the name of some alleged high good. In China it is the "revolution." In this Nation it is "equality."

Equality, what crimes are committed in thy name.

Mr. Speaker, I place in the RECORD, "China Is Still Stigmatizing 'Rich Peasants' of the 1940's," New York Times, Thursday, October 13, 1977:

CHINA IS STILL STIGMATIZING "RICH PEASANTS" OF THE 1940'S

(By Ross H. Munro)

PEKING.—Fu Nung-ren has been a member of China's sub-class ever since the Red Army arrived in his village in —— when he was 26 years old.

Chen Fu Nung-ren's misfortune to have been born into a family categorized by the Communists as "rich peasants," a label he wears to this day. He is only one of at least 30 million Chinese who are openly and systematically discriminated against because of their "bad class background."

Like other members of the sub-class in the Chinese countryside, he gets lower wages, he is barred from his commune's free medical service, he cannot participate in any political activities, he is target for verbal abuse and he has hardly any hope of improving his lot in life.

Families like Fu Nung-ren's were "rich" only in comparison with the masses of poor and landless peasants in the war-torn China of the 1930's and 1940's. The average rich peasant in the 1940's owned two to three acres of land, but as long as he rented some of it out, or hired even part-time labor to work on it, then he was "rich."

Chen Fu-ching, the leader of the Tung Ku Cheng production brigade where the former rich peasant works as a field laborer, described what happened to families like his when the Communists took over an area near the city of Shinkichwang, 160 miles southwest of Peking.

PUNISHMENT FOR PAST "CRIMES"

"The poor and lower-middle peasants organized the Poor and Lower-Middle Peasants Association and brought the landlords and rich peasants together and settled accounts with their crimes in the past," he said.

As was not the case in many, and perhaps most, villages in China, no one there was executed or beaten to death, according to Mr. Chen. But "settling accounts" in Chinese Communist parlance suggests that some severe beating took place.

Then, Mr. Chen said, the Communists confiscated the lands of the landlords and rich peasants as well as those possessions that were deemed "surplus to their personal use." The land and belongings were distributed to everyone in the village. From then on, Mr. Chen said, the landlords and rich peasants "were not permitted to do or speak evil things, and they were deprived of their political rights."

Although Mr. Chen did not reveal the man's real name—Fu Nung-ren is a pseudonym meaning rich peasant—he is quite frank in discussing his case. Fu Nung-ren is after all, just one of 11 members of the subclass in the Tun Ku Cheng production brigade who 30 years ago lost their property but kept their class enemy status.

Some members of China's sub-class have succeeded over many years in convincing Communist Party officials that the "caps" should be removed from their heads. To "put a cap on" a person in China means to attach a negative political label to him. When Mr. Chen is asked why Fu Nung-ren has not succeeded in shedding his sub-class status, the response is vague.

BEHAVIOR IS "NOT SO GOOD"

"His behavior and manner are not good so he still has the cap on. The production team ask him to work honestly in the fields but he just doesn't work and he sometimes says nasty things and some nonsense."

Well, he was asked, how much work does this shirker actually do?"

"He works more than 300 days a year." He may find it necessary to. Like almost all members of the sub-class in rural China, Fu Nung-ren receives 10 to 20 percent less in wages than others alongside him doing the same work.

Rural wages are based on the type of job and the skill involved, the effort that the worker is judged to be making and, finally, his political attitudes toward his work and the Communist system in general. These last two, rather subjective, factors each count for about 10 percent of a peasant's wages under this work-point system. And, as Mr. Chen pointed out, "these two things are linked together."

"If he doesn't like to work, then of course he can't work hard," the brigade leader said.

The former rich peasant pays another economic penalty besides having had his wealth confiscated and his income cut 20 percent below those of the average field worker. Mr. Chen said that Fu Nung-ren could not get free medical care from the local clinic as do other members of the brigade. How common this particular form of discrimination is remains uncertain; many brigades still charge all their members for medical care.

NO CHANCE FOR ADVANCEMENT

As long as he remains a member of the sub-class, Fu Nung-ren is barred from political meetings and from what Mr. Chen calls "selecting and being selected," that is, from having any voice in choosing the brigade's officers. In fact, Mr. Chen suggested at one point that Fu Nung-ren really was not considered a member of the brigade at all. Fu Nung-ren's chances of getting any job except the lowliest are, of course, nil.

Mr. Chen insisted that the children of former landlords and rich peasants "get the same treatment as others" in this particular production brigade. But this is not the general rule in China today. In many communes, children and even grandchildren of rich peasants and landlords automatically inherit their fathers class standing and must

work hard to have their "cap" removed. And anyone with a "bad class background" anywhere in China falls under a political cloud.

"If they are of landlord family origin," said a brigade leader in Shansi Province, "then they may be influenced by that. So they need more tempering and transformation." The brigade leader indicated that this meant they must prove their worth by doing more ordinary labor than others.

EDUCATIONAL OPPORTUNITY LIMITED

Children with the wrong class background have only a very slim chance of being selected to attend a school of higher learning even if they have proven their ability. Visits by this correspondent to Chinese colleges and universities during the last two years provided evidence that there was some sort of regulation that restricted the number of students with a "bad class background" to a maximum of 5 percent of the enrollment. It is also evident that the actual proportion is well below 5 percent.

The records revealing class background follow Chinese citizens everywhere. Sometimes the class background of someone who has moved away from a rural area is ignored for years and then suddenly becomes relevant again and the person in question suffers.

There was the case of two Chinese citizens, for instance, who were idealistic and patriotic teen-agers when they joined the Red Army before the Communist victory in 1949. Over the years both established excellent records in the army and were advancing at a good pace.

Then along came one of these periodic campaigns during which officials were urged to pay more attention to the class background of those serving under them. The two men suddenly found that roads to further advancement were blocked and they were being systematically discriminated against because their grandfather was a small-scale landlord.

In addition, they became objects of suspicion because some of their relatives had left China soon after 1949. Today they hold factory jobs that are quite satisfactory by Chinese standards, but they know they have no hope of promotion and they worry that their children will have little chance of getting any advanced education because of the few acres of land their great-grandfathers once owned.

MANY SLAIN IN CULTURAL REVOLUTION

One of the most unpleasant aspects of being a member of China's sub-class is the social isolation that goes with it. Chinese children are taught from an early age that landlords and rich peasants are bad people. They are also told the identity of their village's former landlords and rich peasants and their children.

It seems that every political convulsion in Communist China has been accompanied by attacks on members of the subclass, who provide the easiest if not the most appropriate targets.

Sometimes the attacks are more than verbal. Ten years ago, during the Cultural Revolution, peasants in one area in northern China killed all the former landlords and rich peasants, as well as their wives and children, in one day. According to the official Chinese source of this story, the incident involved 10 production brigades, suggesting that hundreds may have been killed.

Many outsiders initially find it strange that Chinese officials are still regularly denouncing landlords, rich peasants and "bourgeois elements" nearly three decades after the wealth and property of these groups was confiscated. A partial explanation for the denunciations is that there is a lingering fear among some Communists that these elements would somehow regain their elite status if the Communists lowered their vigilance.

But Richard Curt Kraus, a United States sociologist and expert on China, has offered a second explanation that seems to gain greater validity each year. He argues that members of China's "new class" of officials have discovered that it is very much in their interest to keep the pressure on for landlords, rich peasants and old bourgeois elements.

By focusing attention on these groups, Professor Kraus reasons, Chinese officials divert attention from themselves, the new bourgeois, which Chairman Mao Tse-tung himself identified as posing new and more dangerous class problem that China faces.

DALLAS-FORT WORTH REACTION TO THE PRESIDENT'S OUTBURST

HON. DALE MILFORD

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, October 17, 1977

Mr. MILFORD. Mr. Speaker, Members of the House and Senate may be interested to know of the reaction brought about by President Carter's press conference this past week.

I would like to enclose for the RECORD three different articles: First, the lead editorial from the Fort Worth Star Telegram, Sunday issue, October 17, 1977; second, the lead editorial from the Dallas Times Herald, October 16, 1977; and third, an editorial by Bert Holmes, Dallas Times Herald, October 16, 1977:

[From the Fort Worth Star-Telegram, Oct. 17, 1977]

PRESIDENT'S OUTBURST DISAPPOINTING

We're disappointed.

Although we didn't endorse Jimmy Carter in the 1976 presidential election, we held great hope that a person of his integrity and poise would restore public confidence in the office of the presidency, which had been so shattered by Watergate.

We still nourish the hope, but it has been grievously diminished by the President's vicious attack on the U.S. oil industry.

Obviously fretting over the disaster suffered by his energy proposals at the hands of Congress, President Carter left his usual decorum and used a nationally televised news conference to unleash a rhetorical assault against the industry.

He employed inflammatory language such as "war profiteering" and the "greatest ripoff" in history to warn the public against what he envisions as the possible results of Congress' refusal to go along with his proposals for continued and expanded government control of the oil and gas producers.

". . . The oil companies apparently want it all," he said, in charging that the oil and gas industry operate outside the free enterprise system, a charge such as no other President to our knowledge has ever made.

The President's outburst appears to have been aimed at trying to pursuade the American people to chasten Congress for not approving his energy plan intact.

That seems particularly ironic in view of the fact that, in balking at the bulk of the Carter energy package, Congress has merely reflected the leanings of public sentiment on the issue.

The fault has not been with Congress—or more specifically the Senate, which has done most of the damage to the energy package. The fault has been with the package itself.

In emphasizing a penalty-oriented conservation approach to the energy crisis, the President's plan flew in the face of both human nature and American tradition.

What the President's plan said, in effect, was that it's time for the U.S. economy to grind to a halt.

That may be so, but the American people are not sold on the idea. They would like to give the fabled American technology and initiative just one more go at a solution that would not mean the abandonment of the high material standard of living we have achieved with such great effort and have become so deeply accustomed to.

The American people think in terms of the Panama Canal, the Manhattan Project and the man-on-the-moon when their country faces a problem.

The President offered them the prospect of ever higher fuel costs (through federal taxation), more government controls and very little hope that all the proposed hardship would get the job done.

His plan provided few positive incentives to inspire anyone to make an effort to do something about the energy crisis. It provided practically no such incentives for the one best situated to do the most in the short and intermediate term—the oil and gas industry.

The President's attempt now to blame others for the apparent failure of his ill-conceived program can only be counterproductive to his effort to get it approved.

His impugning of the character and motivation of those who constitute one of the country's largest private industries can only cost the presidency in terms of dignity and respect.

That's most disappointing.

[From the Dallas Times Herald Oct. 16, 1977]

FUEL "WAR" NOT ANSWER

If President Carter has any hope of achieving a sound energy program, he is going to have to work with and not against the Senate, the oil and gas industry and the American consumer.

In lashing out last week at the oil and gas producers, whom he compared with war profiteers, the President promised to follow the maxim of Gen. Ulysses S. Grant during the Civil War: "I propose to fight it out along this line if it takes all summer."

Grant eventually led his Union troops to victory over the starving Confederate armies, but he knew more about fighting a war than does the former Georgia governor now in the White House.

President Carter's self-assigned task of imposing his own energy program on a reluctant Senate is weakened by his apparent addiction to another, less famous quotation: "My mind is made up; don't confuse me with facts."

In attempting to document his charge that the oil and gas industry is seeking to profit from the biggest ripoff in history, President Carter said that if Congress rejects his program to continue regulation of oil and natural gas prices, $50 billion would "go into the pockets of oil companies themselves."

The man who calculated that figure for the White House, consultant Steve Muzzo, later pointed out that the President's interpretation was not quite right. The $50 billion represents gross revenues, before taxes and business expenses are subtracted, not profits into the "pockets" of the companies.

Stubbornness in defending his own energy plan will not help the President win over the senators who are working on a more sensible incentive program. Nor will the President be able to enrage consumers and thus get them to exert pressure on the Senate by using "ripoff" estimates which his own consultant admits are erroneous.

Threats of rationing and stiff tariffs on im-

ported oil will not frighten any consumer who realizes that the senators are not about to approve these ideas either.

Oil spokesmen were generally restrained in replying to the President's charges. While they criticized the statements as untrue and unfair, they used the incident to point out again that incentives are needed to encourage maximum development of domestic energy resources.

The Senate Finance Committee, the real source of the President's frustration, has discarded all of the Carter energy tax program. It is developing a package of tax credits and incentives which could be financed with part of the energy taxes approved by the House.

The committee favors the creation of a new energy development corporation to offer loans to developers of new energy sources, energy research and energy efficient transportation.

If President Carter will back off his Gen. Grant position and look at the facts, he might be able to work with the House-Senate conference committee in the design of a sound energy policy. We do not need a civil war on energy; we need a leader who can follow President Johnson's advice: "Come, let us reason together."

[From the Dallas Times Herald, Oct. 16, 1977]

ENERGY AND THE AVERAGE CITIZEN

(By Bert Holmes)

President Carter may have stirred up additional resentment against the oil and natural gas industries in his "ripoff" charges last week, but he may be underestimating the common sense of the average American in his attempts to generate public pressure on the Senate.

The President said that we will have "acceptable energy legislation" this year "if the American people recognize the importance of this issue." The issue he was talking about was the continuation of controls on new natural gas prices and the increase in crude oil prices through taxes.

The Senate has rejected the oil equalization taxes, which would triple the price of domestic oil during the next three years. The taxes would increase the price of gasoline some 7 cents a gallon, which the President thinks would help force conservation.

The Senate has also voted for the deregulation of new natural gas prices contrary to the wishes of President Carter.

The average American may indeed buy the President's thesis that the oil and gas companies are greedy. But for that matter, he probably thinks that nearly every company is out to make as much money as possible. (Indeed, polls have shown that the majority of people think the profit margins of corporations generally are far higher than they are in fact.)

Our average American knows, however, that the oil exporting nations are greedier than any domestic company would dare to be. The quadrupling of the price of imported oil in the last four years is no secret, nor is the fact that gasoline pump prices have more than doubled.

One reporter at the presidential press conference raised an important point. How, he asked, does the President square his warnings about the energy crisis with the public perception that things are not too critical? It's a tough job, President Carter noted, and he hopes that it will not take another oil embargo and long lines at the gasoline stations to confirm the fact that there is an impending energy problem.

The average American knows that he can buy all the gasoline he wants to at the moment. He has likely read that there is an actual glut of oil and that Alaskan oil has hardly begun to reach the market. He perhaps has also heard that Mexico has an ocean of oil and natural gas awaiting development.

If given the choice of paying more to American companies or paying more to the Arabs, one would hope that our average citizen would opt for keeping as many of our dollars as possible at home. Huge deficits in our balance of payments may not be understood by too many of us, but the resulting inflation and the fears of recession are troubling to the most uninformed.

Before the average American gives up his auto commuting habits or reduces his consumption of gasoline, he is going to have to be convinced that there are no alternatives. If there is oil and gas awaiting discovery, why not find it? If the cost is higher than "old oil" but less than imported oil, why force us to depend further on foreign producers?

Even if Americans are convinced that we must conserve our dwindling reserves, they might join the Senate Finance Committee in asking whether it is not wise to encourage the development of alternate fuels, such as gasified coal, oil shale, alcohol or electricity generated in nuclear plants.

There is an innate faith among the ordinary citizens that American ingenuity can solve complex problems. After all, we went to the moon, didn't we? Our scientists invented the atomic bomb in time to help win World War II. They also developed synthetic rubber when that war cut off imported supplies.

The high cost of natural gas and electricity are getting the attention of homeowners, and tax incentives will speed the weatherization of homes. More fuel-efficient automobiles are being accepted in the market place.

Sacrifices will be made if enough people believe they are necessary, but there are few masochists. If there is a way to match supply and demand, through free enterprise or government incentives, why impose suffering?

President Carter is reaching for support of his energy plan from the ordinary American. He might have better luck in his educational campaign if he changed his textbook.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee of the time, place, and purpose of all meetings when scheduled, and any cancellations or changes in meetings as they occur.

As an interim procedure until the computerization of this information becomes operational, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Tuesday, October 18, 1977, may be found in Daily Digest of today's RECORD.

MEETINGS SCHEDULED

OCTOBER 19

9:00 a.m.
Commerce, Science, and Transportation
To continue hearings on S. 2036, the Amateur Sports Act of 1977.
5110 Dirksen Building

9:30 a.m.
Foreign Relations
To resume hearings to receive testimony from Ambassador Ellsworth Bunker and Sol Linowitz, Co-Negotiators, on the Panama Canal Treaties (Exec. N., 95th Cong., 1st sess.).
4221 Dirksen Building

Governmental Affairs
Permanent Investigations Subcommittee
To continue hearings to receive testimony concerning labor union insurance programs.
Dirksen Building

Judiciary
Administrative Practices and Procedures Subcommittee
To hold hearings on proposed legislation dealing with the Department of Agriculture's policies, practices, and procedures regarding family farmers.
2228 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue markup of legislation proposing simplification in the truth in lending laws (S. 1312, 1501, 1653, and 1846).
5302 Dirksen Building

Rules and Administration
To hold hearings on the nomination of John J. Boyle, of Maryland, to be Public Printer, followed by a business meeting on pending calendar business.
301 Russell Building

10:30 a.m.
Judiciary
Business meeting on pending calendar business.
2300 Dirksen Building

OCTOBER 20

8:30 a.m.
Energy and Natural Resources
To hold a business meeting on pending calendar business.
3110 Dirksen Building

9:00 a.m.
Human Resources
To hold a business meeting on pending calendar business.
4232 Dirksen Building

9:30 a.m.
Judiciary
Administrative Practice and Procedure Subcommittee
To continue hearings on proposed legislation dealing with the Department of Agriculture's policies, practices, and procedures regarding family farmers.
2228 Dirksen Building

Judiciary
Criminal Laws and Procedures Subcommittee
To resume hearings to examine the erosion of law enforcement intelligence gathering capabilities.
1114 Dirksen Building

10:30 a.m.
Commerce, Science, and Transportation
To hold hearings on the nomination of Thomas F. Moakley, of Massachusetts, to be a Federal Maritime Commissioner.
5110 Dirksen Building

Commerce, Science, and Transportation
To hold a business meeting on pending calendar business.
235 Russell Building

2:30 p.m.
Human Resources
Education, Arts and the Humanities Subcommittee
To continue hearings on S. 1753, to extend the Elementary and Secondary Education Act of 1965.
4232 Dirksen Building

OCTOBER 21

8:00 a.m.
Finance
Health Subcommittee
To resume hearings on S. 1391 and 1470, hospital cost containment bills, and H.R. 8423, to improve Medicare administration and operation of coverage for patients suffering from kidney failure.
2221 Dirksen Building

9:00 a.m.
Armed Services
Arms Control Subcommittee
To resume closed hearings to receive testimony from Secretary of State Vance on the current status of the SALT II negotiations.
S-407, Capitol

9:30 a.m.
Select Indian Affairs
To hold hearings on S.J. Res. 86, to extinguish title, if any, claimed by the Mashpee Tribe to property presently occupied by homeowners in Mashpee, Massachusetts.
6202 Dirksen Building

Judiciary
Criminal Laws and Procedures
To hold hearings on S. 1487, to eliminate racketeering in the sale and distribution of cigarettes.
2228 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue hearings in connection with recent increases in lumber prices and their effects on the Nation's housing industry.
5302 Dirksen Building

*Human Resources
Education, Arts, and the Humanities Subcommittee
To resume hearings on S. 1753, to extend the Elementary and Secondary Education Act of 1965.
Until noon 6226 Dirksen Building

OCTOBER 25

10:00 a.m.
Energy and Natural Resources
Energy Production and Supply Subcommittee
To hold oversight hearings on the coal leasing program and its general impact on coal development in the West.
3110 Dirksen Building

Judiciary
To mark up S. 1437, to codify, revise, and reform the Federal criminal laws.
S-126, Capitol

OCTOBER 26

10:00 a.m.
Banking, Housing, and Urban Affairs
To hold oversight hearings on the role of the FHA in home financing.
5302 Dirksen Building

Energy and Natural Resources
Energy Production and Supply Subcommittee
To continue oversight hearings on the coal leasing program and its general impact on coal development in the West.
3110 Dirksen Building

Judiciary
To continue markup of S. 1437, to codify, revise, and reform the Federal criminal laws.
S-126, Capitol

OCTOBER 27

9:30 a.m.
Judiciary
Constitution Subcommittee
To hold hearings on S. 35, proposed Civil Rights Improvements Act of 1977.
2228 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue oversight hearings on the role of the FHA in home financing.
5302 Dirksen Building

Energy and Natural Resources
Energy Production and Supply Subcommittee
To continue oversight hearings on the coal leasing program and its general impact on coal development in the West.
3110 Dirksen Building

OCTOBER 28

9:30 a.m.
Judiciary
Constitution Subcommittee
To continue hearings on S. 35, proposed Civil Rights Improvements Act of 1977.
2228 Dirksen Building

Judiciary
Criminal Laws and Procedures
To resume hearings on S. 2013, to require the additional labeling of explosive materials for the purpose of identification and detection.
6202 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue oversight hearings on the role of the FHA in home financing.
5302 Dirksen Building

10:30 a.m.
Commerce, Science, and Transportation
To resume hearings on S. 61, requiring that a certain percentage of U.S. oil imports be carried on U.S.-flag vessels.
5110 Dirksen Building

OCTOBER 31

9:30 a.m.
Human Resources
Labor Subcommittee
To resume hearings on S. 1883 and 1855, to strengthen the remedies and expedite the procedures under the National Labor Relations Act.
Until 5:00 p.m. 4232 Dirksen Building

10:00 a.m.
Energy and Natural Resources
Energy Production and Supply Subcommittee
To hold hearings on S. 1879, to bar the granting of pipeline rights-of-way to applicants who produce oil products.
3110 Dirksen Building

NOVEMBER 1

9:00 a.m.
Judiciary
Constitution Subcommittee
To hold oversight hearings on activities of the Civil Rights Commission.
2228 Dirksen Building

10:00 a.m.
Energy and Natural Resources
Energy Production and Supply Subcommittee
To continue hearings on S. 1879, to bar the granting of pipeline rights-of-way to applicants who produce oil products.
3110 Dirksen Building

NOVEMBER 2

9:00 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To hold hearings to receive testimony on the possible effect of recombinant DNA research on the field of scientific inquiries.
5110 Dirksen Building

Judiciary
Constitution Subcommittee
To continue oversight hearings on activities of the Civil Rights Commission.
2228 Dirksen Building

NOVEMBER 3

9:30 a.m.
Human Resources
Labor Subcommittee
To resume hearings on S. 1883 and 1855, to strengthen the remedies and expedite the procedures under the National Labor Relations Act.
Until 5:00 p.m. 4232 Dirksen Building

NOVEMBER 4

9:30 a.m.
Human Resources
Labor Subcommittee
To continue hearings on S. 1883 and 1855, to strengthen the remedies and expedite the procedures under the National Labor Relations Act.
Until 5:00 p.m. 4232 Dirksen Building

NOVEMBER 8

*9:00 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To resume hearings to receive testimony on the possible effect of recombinant DNA research on the field of scientific inquiries.
5110 Dirksen Building

NOVEMBER 9

10:00 a.m.
Banking, Housing, and Urban Affairs
To resume oversight hearings on U.S. monetary policy.
5302 Dirksen Building

Judiciary
Constitution Subcommittee
To hold hearings on S. 1845, the Polygraph Control and Civil Liberties Protection Act of 1977.
2226 Dirksen Building

NOVEMBER 10

9:00 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To resume hearings to receive testimony on the possible effect of recombinant DNA research on the field of scientific inquiries.
5110 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue oversight hearings on U.S. monetary policy.
5302 Dirksen Building

Judiciary
Constitution Subcommittee
To continue hearings on S. 1845, the Polygraph Control and Civil Liberties Protection Act of 1977.
2228 Dirksen Building

NOVEMBER 11

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue oversight hearings on U.S. monetary policy.
5302 Dirksen Building

NOVEMBER 14

10:00 a.m.
Judiciary
Improvements in Judicial Machinery Subcommittee
To hold hearings on S. 2014, to provide greater protection to consumers in bankruptcy proceedings.
2228 Dirksen Building

NOVEMBER 15

10:00 a.m.
Judiciary
Improvements in Judicial Machinery Subcommittee
To continue hearings on S. 2014, to provide greater protection to consumers in bankruptcy proceedings.
2228 Dirksen Building

NOVEMBER 16

10:00 a.m.
Judiciary
Improvements in Judicial Machinery Subcommittee
To continue hearings on S. 2014, to provide greater protection to consumers in bankruptcy proceedings.
2228 Dirksen Building

NOVEMBER 17

10:00 a.m.
Judiciary
Improvements in Judicial Machinery Subcommittee
To continue hearings on S. 2014, to provide greater protection to consumers in bankruptcy proceedings.
2228 Dirksen Building

NOVEMBER 18

10:00 a.m.
Judiciary
Improvements in Judicial Machinery Subcommittee
To continue hearings on S. 2014, to provide greater protection to consumers in bankruptcy proceedings.
2228 Dirksen Building

DECEMBER 13

10:00 a.m.
Judiciary
Constitution Subcommittee
To hold hearings on S.J. Res. 67, proposing an amendment to the Constitution with respect to the proposal and the enactment of laws by popular vote of the people of the United States.
2228 Dirksen Building

DECEMBER 14

10:00 a.m.
Judiciary
Constitution Subcommittee
To continue hearings on S.J. Res. 67, proposing an amendment to the Constitution with respect to the proposal and the enactment of laws by popular vote of the people of the United States.
2228 Dirksen Building

DECEMBER 15

*9:00 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To hold hearings on the United Nations conference on science and technology for development in 1979.
Until 5:00 p.m. 5110 Dirksen Building

CANCELLATIONS

OCTOBER 19

9:00 a.m.
Human Resources
To resume hearings to receive testimony from Executive branch officials in connection with recent studies on human resource programs.
Until noon 4232 Dirksen Building

HOUSE OF REPRESENTATIVES—*Tuesday, October 18, 1977*

The House met at 12 o'clock noon.

Rabbi Simcha Freedman, Temple Adath Yeshurun, North Miami Beach, Fla., offered the following prayer:

לחיים to Life

Dear G-d, Scripture enjoins us "choose life."

This shall be a life of Independence, not an existence subject to isolation and coercion;
A life of Security, not an existence in fear of terrorism;
A life of Righteousness, not an existence at the mercy of international injustice;
A life of Amity, not an existence menaced by war;
A life of Earnestness, not an existence dependent upon questionable safeguards and promises;
A life of Love, not an existence threatened by plots of extinction.

Dear G-d, we pray You vouchsafe Your blessings upon the Members of this great House. May their continued support be granted the State of Israel and all democracies which cling to those selfsame ideals upon which this Nation was founded and lives.

לחיים to Life!

Amen.

CALL OF THE HOUSE

Mr. MARTIN. Mr. Speaker, under rule I, clause 1, of the rules of the House, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Mr. BOLAND. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 663]

Ambro	Chisholm	Drinan
Archer	Conyers	Ford, Mich.
Armstrong	Coughlin	Goldwater
Ashley	Davis	Harrington
Badham	de la Garza	Harsha
Badillo	Dent	Hollenbeck
Burton, John	Derrick	Koch
Cederberg	Diggs	Krueger
Meeds	Ruppe	Vanik
Metcalfe	Sarasin	Waxman
Mikva	Scheuer	Whalen
Miller, Calif.	Seiberling	Wolff
Nolan	Shuster	Young, Alaska
Pepper	Solarz	
Rangel	Teague	

The SPEAKER. On this rollcall 391 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

RABBI SIMCHA FREEDMAN

(Mr. LEHMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEHMAN. Mr. Speaker, Rabbi Simcha Freedman was born in Philadelphia, Pa. He graduated Yeshiva University. He was ordained by the Rabbi Isaac Hanen Theological Seminary in 1962 and received a master's degree in Hebrew literature from the Bernard Revel graduate school that same year.

Rabbi Simcha Freedman has served congregations in Shenandoah, Pa., and Philadelphia. He is currently spiritual leader of Temple Adath Yeshurun in North Miami Beach, Fla. Rabbi Freedman is a past president of the Philadelphia branch of the Rabbinical Council of America, and is a past secretary of the board of rabbis of Greater Philadelphia.

He now serves as secretary of the Rabbinical Association of Greater Miami and serves on the City Advisory Council of the Planning Commission of North Miami Beach. He has contributed articles to various local and national publications.

Rabbi Freedman is married to the former Anna Becher Wasser and they have two children, Sammy and Benjy.

During the years that I have known Rabbi Freedman personally and been acquainted with the extent of his community involvement, I have been impressed by not only his active commitments to Jewish causes but also his concern for the well-being of our entire religious and secular community. Rabbi Freedman is a great humanitarian as well as a true spiritual leader.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment a joint resolution of the House of the following title:

H.J. Res. 573. Joint resolution commemorating General Thaddeus Kosciusko by presenting a memorial plaque in his memory to the people of Poland on behalf of the American people.

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 3387. An act to continue until the close of June 30, 1979, the existing suspension of duty on synthetic rutile.

The message also announced that the Senate disagrees to the amendment of the House to the bill (S. 1811) entitled "An act to authorize appropriations to the Energy Research and Development Administration in accordance with section 261 of the Atomic Energy Act of 1954, as amended, section 305 of the Energy Reorganization Act of 1974, and section 16 of the Federal Nonnuclear Energy Research and Development Act of 1974, as amended, and for other purposes," agreed to a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. JACKSON, Mr. CHURCH, Mr. BUMPERS, Mr. ABOUREZK, Mr. FORD, Mr. DURKIN, Mr. MATSUNAGA, Mr. HANSEN, Mr. HATFIELD, Mr. DOMENICI, Mr. MCCLURE, and Mr. BARTLETT to be the conferees on the part of the Senate.

The message also announced that the Senate insists upon its amendment to the House amendment to Senate amend-

ment numbered 82 to the bill (H.R. 7555) entitled "An act making appropriations for the Departments of Labor, and Health, Education, and Welfare, and related agencies, for the fiscal year ending September 30, 1978, and for other purposes," disagreed to by the House; agrees to a further conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. MAGNUSON, Mr. PROXMIRE, Mr. HOLLINGS, Mr. EAGLETON, Mr. BAYH, Mr. CHILES, Mr. BURDICK, Mr. INOUYE, Mr. MCCLELLAN, Mr. BROOKE, Mr. CASE, Mr. SCHWEIKER, Mr. MATHIAS, and Mr. YOUNG to be the conferees on the part of the Senate.

The message also announced that the Senate had passed concurrent resolutions of the following titles, in which the concurrence of the House is requested:

S. Con. Res. 57. Concurrent resolution to correct the enrollment of S. 717; and

S. Con. Res. 58. Concurrent resolution to correct the engrossment of Senate amendments to H.R. 4018.

PRIVATE CALENDAR

The SPEAKER. This is Private Calendar day. The Clerk will call the first individual bill on the Private Calendar.

JENNET JUANITA MILLER

The Clerk called the bill (H.R. 1405) for the relief of Jennet Juanita Miller.

Mr. WYLIE. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

There was no objection.

MILOS FORMAN

The Clerk called the bill (H.R. 3085) for the relief of Milos Forman.

Mr. BAUMAN. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Maryland?

There was no objection.

FIDEL GROSS-PADILLA

The Clerk called the bill (H.R. 3090) for the relief of Fidel Gross-Padilla.

There being no objection, the Clerk read the bill, as follows:

H.R. 3090

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding the provisions of section 212 (a) (23) of the Immigration and Nationality Act, Fidel Grosso-Padilla may be issued a visa and admitted to the United States for permanent residence if he is found to be otherwise admissible under the provisions of that Act: *Provided,* That this exemption shall apply only to a ground for exclusion of which the Department of State or the Department of Justice had knowledge prior to the enactment of this Act.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

CATHY GEE YUEN

The Clerk called the bill (H.R. 1777) for the relief of Cathy Gee Yuen.

Mr. ROUSSELOT. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

PAZ A. NORONA

The Clerk called the bill (H.R. 1787) for the relief of Paz A. Norona.

Mr. WYLIE. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

There was no objection.

KWI SOK BUCKINGHAM (NEE KIM)

The Clerk called the bill (H.R. 4401) for the relief of Kwi Sok Buckingham (nee Kim).

There being no objection, the Clerk read the bill, as follows:

H.R. 4401

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding the provision of section 212 (a) (23) of the Immigration and Nationality Act, Kwi Sok Buckingham (nee Kim) may be issued a visa and admitted to the United States for permanent residence if she is found to be otherwise admissible under the provisions of that Act: *Provided,* That this exemption shall apply only to a ground for exclusion of which the Department of State or the Department of Justice had knowledge prior to the enactment of this Act.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

KWONG LAM YUEN

The Clerk called the bill (H.R. 1798) for the relief of Kwong Lam Yuen.

Mr. ROUSSELOT. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. BOLAND. Mr. Speaker, I ask unanimous consent that the further call of the Private Calendar be dispensed with at this point, and I further ask unanimous consent that the remaining bills and resolutions on the Private Calendar be called up on next Tuesday, October 25, 1977.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

REQUEST FOR RECOMMITTAL OF H.R. 3085 TO COMMITTEE ON THE JUDICIARY

Mr. EILBERG. Mr. Speaker, I ask unanimous consent to revert to Calendar No. 16 for the purpose of reconsidering the bill (H.R. 3085) for the relief of Milos Forman and having the bill recommitted.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The Clerk called the bill (H.R. 3085) for the relief of Milos Forman.

Mr. EILBERG. Mr. Speaker, I ask unanimous consent that the bill (H.R. 3085) for the relief of Milos Forman be recommitted to the Committee on the Judiciary.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

Mr. BAUMAN. Mr. Speaker, I object.

The SPEAKER. Objection is heard.

CORRECTING ENGROSSMENT OF SENATE AMENDMENTS TO H.R. 4018, SUSPENDING DUTY ON CERTAIN DOXORUBICIN HYDROCHLORIDE ANTIBIOTICS

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate concurrent resolution (S. Con. Res. 58) to correct the engrossment of Senate amendments to H.R. 4018, and ask for its immediate consideration.

The Clerk read the title of the Senate concurrent resolution.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia?

Mr. ROUSSELOT. Reserving the right to object, Mr. Speaker, could the gentleman explain to us what this language is all about?

Mr. STAGGERS. If the gentleman will yield, Mr. Speaker, I would like to explain to the gentleman that an amendment was passed in the other body and somehow did not get into the bill. It was actually passed, but the other body made a mistake and did not get the amendment into the bill.

All we are asking is that it be put into the bill as it was passed by the Senate.

Mr. ROUSSELOT. Further reserving the right to object, Mr. Speaker, the gentleman says that something did not get into this critical energy bill through a mistake in the Senate, is that correct?

Mr. STAGGERS. That is right. It did not get into the bill.

Mr. ROUSSELOT. You mean in preparing the material to be included in the House-Senate conference, the Griffith amendment was omitted? How could that possibly happen?

Mr. STAGGERS. I do not know, but it did happen. Since we are all human, we make mistakes, and this is one of them.

Mr. ROUSSELOT. Mr. Speaker, I thank the gentleman, and I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

The Clerk read the Senate concurrent resolution, as follows:

S. CON. RES. 58

Resolved by the Senate (the House of Representatives concurring), That the following language be inserted immediately after section 141 in the engrossment of the Senate amendments to H.R. 4018 and be considered as being in conference:

SEC. 141A. No action by the Federal Power Commission pursuant to this or any other Act shall, directly or indirectly, take from a natural gas distribution company any volumes of gas which such company demonstrates resulted from energy conservation measures: *Provided, however,* That such conserved volumes shall be applied first to existing residential customers, second to existing small commercial customers, third to existing industrial customers with nonsubstitutable natural gas requirements, and fourth to other customers.

For purposes of this section, the term "natural gas distribution company" means any utility which sells natural gas.

For purposes of this section, the term "energy conservation measures" includes but is not limited to measures taken pursuant to a residential energy conservation plan as defined in the National Energy Conservation Policy Act.

The Senate concurrent resolution was concurred in.

A motion to reconsider was laid on the table.

A SIGNIFICANT VICTORY AGAINST THE TERRORISTS

(Mr. McDONALD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McDONALD. Mr. Speaker, last night West German commandos scored a major victory against the international terrorist apparatus. The victory of the German GSG-9 unit not only freed the 86 hostages held on a Lufthansa plane by 4 terrorists, but dealt a major blow to the terrorist movement. This morning three terrorists held in West German jails, whose freedom had been demanded by those holding the hostages, committed suicide. These included the important terrorist leaders Andreas Baader and Gudrun Ensslin. A fourth terrorist was unsuccessful in her suicide attempt. It is clear that the severe defeat of the terrorists caused the frustration that resulted in these suicides.

The dramatic rescue in Somalia has been referred to as "Entebbe Two." While it is true that the Israelis were the innovators of this successful antiterrorist tactic, other governments have also learned from them. Egyptian and Syrian commandos have won victories in airline multiple hostage situations. Dutch Marines stormed a hijacked train last May rescuing the hostages. More recently Japanese police using the same tactic freed hostages on a hijacked bus.

Experience shows that yielding to the blackmail demands of terrorists results in escalating the terrorist threat. Dramatic and forceful action that defeats the terrorists reduces the threat. When we make the price of terrorism too costly for the terrorists to pay, we will have eliminated the problem.

We mourn the loss of Jurgen Schumann, the courageous Lufthansa captain, who was murdered by the terrorists. We fear for the life of the German businessman, Hanns-Martin Schleyer, who remains in the hands of the terrorists, who kidnaped him. But, our warmest congratulations are extended to the courageous young German men who risked their lives to free the hostages.

WEST GERMANY STRIKES AGAINST TERRORISTS

(Mr. BIAGGI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BIAGGI. Mr. Speaker, an international sigh of relief was heard last night following the news that West German commandos had rescued 86 hostages from a Lufthansa airplane hijacked and diverted to Somalia.

The daring rescue by a squad of highly trained West German soldiers ended one of the most harrowing of all hijackings. All told, the hijacking lasted 5 days and involved six different nations. At its conclusion there were five deaths—the four air pirates and the pilot of the plane who was gruesomely executed in front of the hostages. Miraculously, none of the hostages were seriously injured.

As President Carter observed, the Government of West Germany must be commended for its courage and resistance to the forces of terrorism. The world community is growing more apprehensive about the threat of terrorism. Yet the actions of West Germany in Somalia, much like those of Israel in Entebbe, may work to reduce the threat. Terrorism cannot be condoned. Those nations which harbor terrorists must be ostracized by the world community. Terrorism is a menace to the health and safety of the world. Its eradication must be considered a priority by all concerned nations.

KUDOS TO WEST GERMANY IN PUTTING DOWN THE LATEST ACT OF TERRORISM

(Mr. KREBS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KREBS. Mr. Speaker, I believe I am expressing the sentiment of the rest of the civilized world in saying that I am overjoyed at the success of the operation yesterday in Somalia and the release of the 86 innocent victims of the latest act of terrorism.

I think it represents a lesson well learned from the operation at Entebbe conducted last year by the forces of the State of Israel.

Mr. Speaker, I hope that West Germany's action will make it abundantly clear to those who are willing to knuckle under to terrorists' blackmail that this type of conduct is not going to be tolerated by the rest of the world.

A TRIBUTE TO A GREAT AMERICAN

(Mr. DORNAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DORNAN. Mr. Speaker, at this very moment on the other side of our country, in my former parish, a Requiem Mass is being said for my friend Bing Crosby. The unique thing about this gifted entertainer is that everyone thought of him as their special friend. My lifelong pal, his eldest son Gary, proudly observed that his dad's large and beloved family literally had to share him with the world.

His career spanned an incredible half century. Whether you reach into the thirties or the seventies, or some fondly remembered moment between, a Bing Crosby ballad lifted from its recording year will bring back loving memories to people of every age. His dream of a white Christmas will touch our hearts for as long as America remembers the birthday of the Prince of Peace.

I know it is for all the Members of this Congress when I speak of a Nation's love for this fine man. From his special shows for wounded GI's at battlefield hospitals to his poignant goodbye in last week's performance for the poor at the London Palladium, Bing always made his country proud of him.

The church where Bing's Mass of the Resurrection is being celebrated is named after the great Apostle St. Paul, who ended his courageous life with the resounding words:

I have run the course, I have fought the good fight, I have kept the faith.

So did Harry Lillis Crosby, Jr.

It would embarrass Bing to have himself described as a man of loyal faith, but he was. When God said to this humble man, "Are you going my way?" Bing's answer was, "Yes."

THE LATE HONORABLE J. FLOYD BREEDING OF KANSAS

(Mr. SEBELIUS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SEBELIUS. Mr. Speaker, I would like to take this time to inform this body of the untimely death yesterday of a former colleague, the Honorable J. Floyd Breeding of Kansas.

Congressman Breeding was elected to the House in 1956 and held the seat until 1963. A farmer, he was appointed to the Agriculture Committee in 1959.

After he left Congress and because of his fine work in agriculture, both Presidents Kennedy and Johnson appointed him to tour 68 countries in the interests of U.S. agriculture.

Mr. Breeding was born in 1901 and attended college at Kansas State University. After his marriage to Mary Tavis in 1921, he and his bride moved to a farm in western Kansas. Like many farm families in the 1920's, they were "wiped out" by a succession of bad crops.

Not a man to be defeated, Breeding and his wife started over. He took on extra jobs and Mrs. Breeding raised turkeys to supplement their income. Always an activist, he helped organize the Kansas Association of Wheat Growers

and the Southwest Royalty Association, a group of gas property owners. He also served in the Kansas House of Representatives in 1947 where he was named minority leader in 1949.

Using his agricultural expertise, after his retirement his also served as economic consultant for 4 years to the U.S. Department of Agriculture.

J. Floyd Breeding will be remember by his many friends as a gentleman and a tribute to the political profession. Both Kansas and agriculture have lost an irreplaceable friend.

Funeral services for Mr. Breeding will be held Wednesday morning, October 19, in Dodge City, Kans.

BING CROSBY—THE TOTAL ENTERTAINER

(Mr. DEL CLAWSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. DEL CLAWSON. Mr. Speaker, services in California today held by the family of Bing Crosby—if the experience of our own family is any criterion—hold shared meaning for countless others throughout the Nation. For those of us who recall the early career of Bing Crosby, then his later development into an international figure, his songs, his lopsided grin, his style, combining personal charisma with the art of understatement, paralleled our own growth. The resonant voice, words, and music, "The blue of the night and the gold of the day," "I'm dreaming of a White Christmas," "Would you like to swing on a star, carry moonbeams home in a jar," were background for courtship, for family holidays, and transcending the generation gap, the universal language of music captured the imagination of our children. His generous gift of talent and time will also be remembered by millions of men and women either now serving in our military forces, or U.S. Army, Navy, Marine, and Coast Guard veterans.

A gentle style of communication was characteristic of Bing Crosby. It is significant that it was so successful in reaching the hearts of so many of his countrymen and women. Our prayers and our sympathy are with his family. Their loss is shared worldwide. Bing Crosby's singing is so nostalgically entwined with the events of our personal lives that the sadness is almost overwhelming when we realize that this unique career has come to an end. But the memories endure and are the deeper for the gifts of this extraordinary American who found a warm welcome as he entertained us in the movies, as he entered our homes over the airwaves and later on the television screen during the course of his lifetime.

Bing Crosby, the total entertainer, will be missed.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair desires to make an announcement.

Pursuant to the provisions of clause 3(b) of rule XXVII, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

After all motions to suspend the rules have been entertained and debated, and after those motions to be determined by "nonrecord" votes have been disposed of, the Chair will then put the question on each motion on which the further proceedings were postponed.

STUDY OF CERTAIN LANDS TO DETERMINE SUITABILITY FOR DESIGNATION AS WILDERNESS

Mr. RONCALIO. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 393) to provide for the study of certain lands to determine their suitability for designation as wilderness in accordance with the Wilderness Act of 1964, and for other purposes.

The Clerk read as follows:

S. 393

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Montana Wilderness Study Act of 1977".

SEC. 2 (a) In furtherance of the purposes of the Wilderness Act (78 Stat. 890; 16 U.S.C. 1132), the Secretary of Agriculture (hereinafter known as the "Secretary") shall, within five years after the date of enactment of this Act, review certain lands designated by this section, as to their suitability for preservation as wilderness, and report his findings to the President, as follows:

(1) certain lands in the Beaverhead National Forest, Montana, which are generally depicted on a map entitled "West Pioneer Wilderness Study Area" and dated April 1976, comprising approximately one hundred and fifty-one thousand acres, which shall be known as the West Pioneer Wilderness Study Area;

(2) certain lands in the Beaverhead and Gallatin National Forests, Montana, which are generally depicted on a map entitled "Taylor-Hilgard Wilderness Study Area" dated April 1976, comprising approximately two hundred and eighty-nine thousand acres, which shall be known as the Taylor-Hilgard Wilderness Study Area;

(3) certain lands in the Bitterroot National Forest, Montana, which are generally depicted on a map entitled "Bluejoint Wilderness Study Area" and dated April 1976 comprising approximately sixty-one thousand acres, which shall be known as the Bluejoint Wilderness Study Area;

(4) certain lands in the Bitterroot and Deerlodge National Forests, Montana, which are generally depicted on a map entitled "Sapphire Wilderness Study Area" and dated April 1976, comprising approximately ninety-four thousand acres, which shall be known as the Sapphire Wilderness Study Area;

(5) certain lands in the Kootenai National Forest, Montana, which are generally depicted on a map entitled "Mount Henry Wilderness Study Area" and dated January 1974, comprising approximately twenty-one thousand acres which shall be known as the Mount Henry Wilde ness Study Area;

(6) certain lands in the Kootenai National Forest, Montana, which are generally depicted on a map entitled "Ten Lakes Wilderness Study Area" and dated April 1976, comprising approximately thirty-four thousand acres, which shall be known as the Ten Lakes Wilderness Study Area;

(7) certain lands in the Lewis and Clark National Forest, Montana, which are generally depicted on a map entitled "Middle Fork Judith Wilderness Study Area" dated April 1976, comprising approximately eighty-one thousand acres, which shall be known as the Middle Fork Judith Wilderness Study Area;

(8) certain lands in the Lewis and Clark National Forest, Montana, which are generally depicted on a map entitled "Big Snowies Wilderness Study Area" and dated April 1976, comprising approximately ninety-one thousand acres, which shall be known as the Big Snowies Wilderness Study Area;

(9) certain lands in the Gallatin National Forest, Montana, which are generally depicted on a map entitled "Hyalite-Porcupine-Buffalo Horn Wilderness Study Area" and dated April 1976, comprising approximately one hundred and fifty-one thousand acres, which shall be known as the Hyalite-Porcupine-Buffalo Horn Wilderness Study Area; and

(10) certain lands in the Kootenai National Forest, Montana, which are generally depicted on a map entitled "Mount Henry Wilderness Study Area" and dated April 1976, comprising approximately twenty-one thousand acres, which shall be known as the Mount Henry Wilderness Study Area.

(b) The Secretary shall conduct his review, and the President shall advise the United States Senate and House of Representatives of his recommendations, in accordance with the provisions of subsections 3(b) and 3(d) of the Wilderness Act, except that any reference in such subsections to areas in the national forests classified as "primitive" shall be deemed to be a reference to the wilderness study areas designated by this Act and except that the President shall advise the Congress of his recommendations with respect to such areas within seven years after the date of enactment of this Act: *Provided, however,* That the Secretary shall give at least sixty days' advance public notice of any hearing or other public meeting concerning such areas.

(c) The maps referred to in this section shall be on file and available for public inspection in the office of the Chief of the Forest Service, Department of Agriculture.

SEC. 3. (a) Except as otherwise provided by this section, and subject to existing private rights, the wilderness study areas designated by this Act shall, until Congress determines otherwise, be administered by the Secretary of Agriculture so as to maintain their presently existing wilderness character and potential for inclusion in the National Wilderness Preservation System.

(b) Nothing in this Act shall be construed as affecting the jurisdiction or responsibilities of the several States with respect to wildlife and fish in the national forests.

(c) Nothing herein contained shall (1) limit the President in proposing, as part of his recommendation to Congress, the alteration of existing boundaries of any wilderness study area or recommending the addition to any such area of any contiguous area predominantly of wilderness value, or (2) limit the authority of the Secretary of Agriculture to establish, protect, study, or make recommendations to the President and Congress with respect to additional wilderness study areas within national forests in the State of Montana.

SEC. 4. There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

The SPEAKER. Is a second demanded?

Mr. JOHNSON of Colorado. Mr. Speaker, I demand a second.

The SPEAKER. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER. The gentleman from Wyoming (Mr. RONCALIO) will be recognized for 20 minutes, and the gentleman from Colorado (Mr. JOHNSON) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Wyoming (Mr. RONCALIO).

Mr. RONCALIO. Mr. Speaker, I yield myself such time as I may use.

Mr. Speaker, there is a point of historic merit and personal honor in my function today to ask this wonderful body of lawmakers to support S. 393. I say honor because this Montana wilderness study proposal really represents a culmination of about 25 years of work and service on the part of two of our most distinguished lawmakers, Senator LEE METCALF, who will not be running again for his office in the other body, and Senator Mike Mansfield, whose great third of a century of service to us was just concluded last year and who is now our Ambassador to Japan and serving us there.

We, because of the lack of time, were unable to pass this legislation in the last Congress. However, Senator METCALF reintroduced the bill this year, and it passed the Senate unanimously in May. It comes up here now, on its second attempt under suspension of the rules. We have passed it by a majority of 101 votes just a few weeks ago.

It is a complex piece of legislation in that it does represent one State that has two Congressmen, unlike the State of Wyoming which has only one Congressman. However, it is an impossibility to pass legislation that is always and in every detail exactly what the Congressmen of that particular area or State would like.

No one in Wyoming wanted the Grand Teton National Park enlarged 35 years ago. If either of the Senators or the Congressman from my State 25 years ago would have introduced a bill to enlarge the Grand Teton National Park, they probably would have been impeached or recalled from office; that is how much hatred there was in Wyoming 40 or 50 years ago of national parks. Today there is not a citizen of the State who does not live in everlasting gratitude for the vision, foresight, and guts of President Franklin Roosevelt for enlarging that park by Executive order, when nobody else in the country had the guts to do it. This is not unlike a parallel that is occurring today.

Montana has nine areas that ought to be studied for our wilderness system. Seven of them are in the area represented by the gentleman from Montana (Mr. BAUCUS). Two of them are in the area represented by my good friend, the gentleman from Montana (Mr. MARLENEE). Some would like to have some changes made.

I submit to the Members that it is not in the public interest to delay this bill in order that those changes be made because the time needed to make those changes next year will be time wasted, in the sense that we can get the wilderness studies started now, if we pass the bill today.

I would like to engage my colleague, the gentleman from Montana (Mr. MARLENEE) on these points. One, if we are going to try to bring the bill back next year under the rule with amendments and take half of next year to pass it—when it will again pass by 101 votes—what good will there be to do that, or what gain, when it costs 6 months to 9 months of a study period on a study that could very well be completed in 2 to 3 years? The Forest Service in compliance with our request has indicated that the nine studies can be completed within 2 to 3 years, and has assured us that these areas will receive the priority attention requested in our committee report on S. 393. In the two areas in Mr. MARLENEE's congressional district, timber harvesting cannot begin anyway until land management plans have been completed in early 1982. So I submit that his objection to this is invalid as relates to the impact of S. 393 on timber harvesting in his district.

Mr. SYMMS. Mr. Speaker, will the gentleman yield?

Mr. RONCALIO. I would rather yield to the gentleman from Montana, if anybody. I would rather do that because I feel an affinity with him. I represent an area with a lot of similar problems, and I believe this is legislation we have a duty to go on with. If there are at times big, vigorous, hot, vehement objections by some, in 10 years they will thank us for passing this bill.

Mr. MARLENEE. Mr. Speaker, will the gentleman yield?

Mr. RONCALIO. I will be happy to yield to the gentleman from Montana.

Mr. MARLENEE. I thank the gentleman for yielding.

The gentleman spoke of the direction of the Forest Service to limit the time or to expedite the time the bill would be studied, but that does not address the problem of Congress taking its sweet time to act on this bill. Once the recommendation has been made by the President and until Congress acts, these areas are treated as wilderness and could be treated so in perpetuity.

Mr. RONCALIO. May I respond to that observation. Under the law, wilderness study areas are to be managed so as to preserve their wilderness characteristics. However, this does not mean they are to be managed as if they had already been designated as wilderness. For example, in wilderness study areas the use of off road vehicles is permitted. In designated areas it is not.

Further, I am sure the gentleman is aware that Congress is very quick to act when controversy arises in wilderness caliber areas, and I cannot agree that Congress would sit on these areas if important resource conflicts were in need of resolution. Thus, I do not share his fears that these areas economies could be adversely affected because Congress would somehow fail to act expeditiously on problems that may arise.

I will not be here the year after next. The gentleman from Montana may very well be here for a great many years and I wish him well in that regard. He will have years ahead in which to change nuances or make adjustments where we wish in this legislation, but now the package asks his support on the basis of two of the finest men who have ever come out of Montana. There is a great tradition in the Senate of the gentleman from Montana and his name begins with an "M", so I commend the gentleman in this regard but the Mansfields and the Metcalfs are not asking that this become law. Their reputations ask it. The goodness of the thousands of those the gentleman represents ask it on his part.

I plead with the gentleman from Montana in public and before our Creator and everyone else to please give this some thought and to give some consideration to the arguments for it. It means a great deal to me and to our committee and to the gentleman's constituents.

Mr. JOHNSON of Colorado. Mr. Speaker, I yield 5 minutes to the gentleman from Montana (Mr. MARLENEE).

Mr. MARLENEE. Mr. Speaker, I rise in opposition to consideration of this bill under suspension of the rules and in opposition to this bill as it is now written.

First, let me point out that I do not object to the study of most of the areas within S. 393. As a matter of fact, I wholeheratedly support the study of six of the nine areas. However, neither the bill as it is now written nor the procedure we are following in consideration of this bill today, is responsive to the needs of the people who have to live with these studies once this bill is passed.

My concern is that under suspension of the rules I am not even able to offer and debate amendments to this legislation that directly affects my district. I believe that any Member should be given the opportunity to offer amendments on any piece of legislation that directly affects his district and would move to allow any Member such consideration.

My primary objection to the bill as written is with the indefinite time given for action to be taken on these nine Montana areas. The bill provides for 5 years for the Forest Service to study the areas, an additional 2 years for the President to make his recommendations to Congress and an indefinite amount of time for a final decision by Congress on whether or not these areas should be wilderness.

In the meantime, we have State and local governments, local industries, workers, and citizens who must live with the uncertainty of potential economic disruptions for an indefinite period of time.

For several of the areas, removing the timber from production during the wilderness study, even for a limited amount of time, will cause hardships on local industries and communities. With the extended time for study and with an unlimited period given for congressional action, as proposed with the present language in S. 393, timber mill closures are a very real possibility. And in communities in Montana that are totally dependent upon timber and its availability,

mill closures spell economic disaster for everyone.

I am convinced that the Federal Government can complete the necessary studies within 3 years and that Congress can make a decision within two terms of Congress.

In fact, the Indian Affairs and Public Lands Subcommittee accepted my amendments to shorten the study period, but the full Interior Committee deleted this provision.

I am also opposed to the inclusion of two areas in my district—the Big Snowy Mountains and the Middle Fork of the Judith River. Both areas are included in the Forest Service's new roadless area review evaluation where the wilderness characteristics of both areas will be compared with those of all other roadless areas and if the characteristics are of comparable quality, wilderness or additional wilderness study will be recommended at less cost to the taxpayer and less public resentment and controversy than with a congressionally mandated wilderness study that S. 393 mandates.

In addition, it appears that the cost of the studies mandated by S. 393 may be over 200 percent above the Congressional Budget Office's estimates submitted to the Congress May 6, 1977. The Congressional Budget Office may have failed to take into consideration the cost of studies that will be required of the U.S. Geological Survey and the Bureau of Mines to determine the mineral, oil and gas resources. In any event, if this bill fails to receive the necessary two-thirds vote today, we will have accurate and reliable cost figures during future consideration under an open rule.

I ask my colleagues to defeat S. 393 under the suspension of the rules so the bill can be amended to shorten the study period and to force a more timely decision.

If you share the growing frustration of many people over the lack of timeliness of the Federal Government in making decisions that affect local economies and jobs, then I urge you to join with me in voting "nay" on S. 393 under suspension of the rules.

Mr. RONCALIO. Mr. Speaker, I yield 2 minutes to the gentleman from Louisiana (Mr. LONG).

Mr. LONG of Louisiana. Mr. Speaker, I rise in support of S. 393, the Montana wilderness study bill. I was present on the floor at the time we debated it the prior time. and was convinced at that time that since it had been under consideration by the Senate and this body for as many years, that it ought to fit under a suspension of the rules and we ought to proceed with it. Consequently, I think that having to go back to the Committee on Rules, having to go back through all the other processes, is an unnecessary procedure.

The study is ultimately going to be made. I think that the right thing to do is to go ahead and consider it now rather than to delay it for another year.

Mr. Speaker, S. 393, the Montana Wilderness Study Act would require the Forest Service to study nine roadless areas in Montana for their possible inclusion into the national wilderness system.

This bill was first introduced in 1974. Since that time it has been amended dramatically to avoid boundary conflicts. Additionally, the bill contains a provision which allows existing uses such as snowmobiling and off-road vehicle use to continue virtually unaffected during the course of the study.

The time for passage of S. 393 is today. The delays and stalling must end. Let us get on with the study of all nine areas so that Congress can make wise and equitable decisions regarding these lands.

I urge the passage of S. 393.

Mr. JOHNSON of Colorado. Mr. Speaker, I yield 2 minutes to the gentleman from Kansas (Mr. SKUBITZ).

Mr. SKUBITZ. Mr. Speaker, I rise in opposition to S. 393. This is exactly the same bill which failed to muster a two-thirds vote under suspension of the rules on September 27. Because it is again being brought up under suspension of the rules, the reasons for opposing it remain unchanged.

As written, S. 393 provides a 7-year period for studies and Presidential recommendations to Congress regarding wilderness classification of nine national forest areas in Montana totaling 973,000 acres. The bill further provides that these study areas shall be managed as wilderness until Congress determines otherwise.

The bill sets no limit on the amount of time Congress has to act on the recommendations, which means that the study areas could remain in de facto wilderness status indefinitely. Consequently, the future of whole economies of adjacent communities which depend on multiple use of the timber and other resources in the national forests would be uncertain for years until Congress got around to acting on whatever recommendations would be submitted by the President.

In Montana this legislation is not without controversy, which is one reason why it should not be considered without possible amendments.

As I understand it, the Montana congressional delegation is evenly divided over this bill with Senator METCALF and Congressman BAUCUS favoring it in its present form and Senator MELCHER and Congressman MARLENEE favoring an amended bill. Their differences are not merely partisan in nature. Rather, they concern whether some areas should be included in wilderness study at all, whether certain boundary changes should be made, and whether the study period should be shortened and Congress required to take action on the wilderness recommendations by a date certain. These questions arise out of valid differences of opinion and reflect what we have been told is considerable local opposition as well as support for the proposed study areas. For this reason, I think the House has an obligation to consider S. 393 with amendments.

During subcommittee and full committee consideration of S. 393, the gentleman from Montana (Mr. MARLENEE) whose district includes two of the nine proposed study areas, offered several amendments which were narrowly defeated. The committee rejected all attempts to amend the bill, including boundary adjustments suggested by the Forest Service to reduce resource use conflicts in several of the study areas. When you consider that 9 of the 14 votes recorded in subcommittee were cast by proxy and that at full committee markup no more than 16 members of the 43-member committee were present at any one time, perhaps you will agree that the gentleman from Montana is entitled to further consideration from the full House.

To bring this bill up under suspension a second time and thus continue to deny him the right to appeal to the collective judgment of the House the committee's close decisions on matters of great significance to his district is simply unfair and an abrogation of our responsibilities as legislators. I would point out that in Mr. MARLENEE's case, we are talking of his interest in two areas totaling 172,000 acres, or 269 square miles.

My understanding of the legislative process is that it is supposed to encourage full airing of issues to allow competing interests to be heard and to facilitate compromise. Given the sharp differences of opinion over the implications of the proposed wilderness study area in S. 393, it clearly merits further consideration by this House.

I see no reason to rush this bill through this session. Certainly, Montana is in no danger without it for the time being. Congress already has designated some 1,796,000 acres of wilderness in that State. Proposed wilderness areas cover some 605,000 acres, and an additional 1,738,475 acres is currently under study for wilderness. The combined areas comprise almost 25 percent of the national forest system lands in the State of Montana.

Mr. Speaker, I believe it is imperative that this bill be voted down so it can be reconsidered at a later date under a rule permitting amendments. This is only appropriate for such a controversial piece of legislation. I therefore strongly urge that the Members join today in voting down S. 393.

Mr. RONCALIO. Mr. Speaker, I yield 2 additional minutes to the gentleman from Kansas (Mr. SKUBITZ).

Will the gentleman yield?

Mr. SKUBITZ. I yield to the gentleman from Wyoming.

Mr. RONCALIO. In the matter of Congress creating wilderness, of assuring there will be satisfactory yield and annual renewable cuts in the timber industry, in the continuation of oil and gas exploration, is it not necessary that we look at each area and each particular development and take the facts as they are in each area? In Montana, facts indicate no need to wait for 7 long years. It will set back oil and gas exploration, which this bill does not do. It does not create a delay where a man is in lawful pursuit of a bona fide BLM oil and gas claims.

We met recently with John Maguire of the Forest Service, to proceed with a systematic approach to the drilling requirements and provisions, and for puting in the pipe for removing hydrocarbons where found. I do not mind the objection my good friend raises for those who are categorically opposed to it now, but why say the time lag is too long and then add on to the time lag by insisting on a rule?

Mr. SKUBITZ. May I say to my colleague that the factions in Montana have been coming closer and closer together on this legislation, trying to correct their differences. It seems to me that inasmuch as it is in the State of Montana, they should try to correct their own problems, without the Congress interfering.

Mr. RONCALIO. If we had waited for the lawmakers of Wyoming to have preserved Grand Teton National Park, we would still be waiting.

Mr. SKUBITZ. The people of Montana are far more farsighted than that.

Mr. JOHNSON of Colorado. Mr. Speaker, I yield 3 minutes to the gentleman from Idaho (Mr. SYMMS).

Mr. SYMMS. Mr. Speaker, I just say to my friend from Wyoming that although I have personally enjoyed the pleasure of visiting the Grand Teton National Park and it is wonderful, it might not have been so bad if the Government had not made it a national park and Walt Disney would have gotten control of it. It might have been easier to get around in the park than it is now. Maybe people would be going around in a cable car or something of that sort. It is only what we see that concerns us, and what we do not see is more difficult to understand.

I would say to my good friend from Wyoming that we had this bill in the Committee on Interior and Insular Affairs, of which he is such a valued and hardworking member, but our good colleague who is now in the other body, Senator MELCHER, sat on this bill all the time he was in the House. It barely passed the House, with controversy, and he asked the question, Why should we oppose this bill under suspension?

One reason is that many Members disagree with the budget projection. Does not the gentleman from Wyoming approve of the House adopting the budget process? This bill is in clear violation of the House budget process. If this bill were in here under an open rule a point of order would stand against this bill because there has been no allocation in the budget. It calls for $3 million and is going to cost $6 million because they have not gotten the minerals study embodied in it.

Mr. RONCALIO. Mr. Speaker, will the gentleman yield?

Mr. SYMMS. I yield.

Mr. RONCALIO. The gentleman is correct if we were to bring this bill back under a rule, but it is not quite applicable here, under suspension.

Mr. SYMMS. If this came up under an open rule with the points of order being raised, a point of order would stand against this bill today because it is in direct violation of the House budget process.

Mr. RONCALIO. Correct, but that point of order does not stand against this legislation under suspension of the rules today.

Mr. SYMMS. That is right. That is one of the reasons I am going to vote against the bill.

Mr. RONCALIO. I thought perhaps the gentleman would give consideration to voting for the bill because of new materials that have been presented today, and the strong appeal to reason they contain.

Mr. SYMMS. I have not yet been able to get that reason from my former distinguished colleague in this body, now in the U.S. Senate on the other side of the Hill, to be in favor of this piece of legislation, whom we worked so closely with in the the passage of the National Forest Management Act. In fact, I doubt if that act would have been passed in Congress if it had not been for Senator MELCHER.

Mr. RONCALIO. It is my feeling that the gentleman opposed that bill and voted against it.

Mr. SYMMS. No. I voted for and was the Republican floor manager for the national forest management bill of 1976. And I helped work very closely with Mr. MELCHER at that time to help pass it. I think we would not have needed this then. But now here we are, putting the cart ahead of the horse. This is, in fact, putting 993,000 acres in Montana into a wilderness system now by de facto, instead of letting the Forest Service complete the resource planning studies and the RARE I and RARE II studies.

Mr. Speaker, I ask for a "no" vote.

Mr. RONCALIO. Mr. Speaker, I yield 2 minutes to the gentleman from Washington (Mr. MEEDS).

Mr. MEEDS. Mr. Speaker, I rise in strong support of S. 393. I think if I were involved in the forest products industry I would like this bill. Despite the protestations of the length of time that is going to be taken to study this issue and to bring it before the House, I submit to this body that it is a lot shorter time frame than we generally get. In fact, I wish we had in my State 5 years ago legislatively designated what areas we wanted to be put in wilderness, rather than leaving it to the administrative process of roadless area review, process No. 1, process No. 2. We have been dragging on out there now for 6 or 7 years, and we still do not have answers about areas which should be in wilderness.

Here is a bill that straightforwardly places in a wilderness study area nine areas, seven of which could not be otherwise designated, and says to the Secretary, "You come forward with a plan for putting these in wilderness in 30 months, not 5 years or 10 years, like we have been going through, but 30 months, and we will have an answer."

It is stated by the gentleman from Montana (Mr. MARLENEE) that that does not require the Congress to act with alacrity. Nothing requires the Congress to act with alacrity. The wilderness area review never required it, nor does any other process. We will work in due fashion here. I suggest we are working very rapidly to create these nine areas for a wilderness area, for a wilderness s'udy area, and that this is the fastest way for the people of Montana to resolve this issue and get it behind them.

Mr. JOHNSON of Colorado. Mr. Speaker, I yield 1 minute to the gentleman from Idaho (Mr. SYMMS).

Mr. SYMMS. I thank the gentleman for yielding.

Mr. Speaker, I know the gentleman from Washington is very sincere when he comes here and says that if he were in the forest products industry he would favor the bill. I would like to read to the Members what the Inland Resource Council and the Montana Wood Products Association say. These are people who make their living in the forest products industry in Montana and they say:

> The forest products industry opposes S. 393. It feels the bill circumvents a process that Congress charged the Forest Service with fulfilling. The bill causes unnecessary delays in implementation of multiple use management. It will continue to do so in the future unless killed by Congress. Delays disrupt timber sale plans of the Forest Service and companies with lands inside the proposed areas. Timber supplies to the mills are delayed and may not be available from these areas in the future.

That is what the people who are in the forest products industry in Montana are saying, that we are circumventing the process.

Mr. RONCALIO. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, the forest products industry, like the character in Shakespeare whose name escapes me, "protests too much." The forest products industry has taken a firm stand against the USDA set-asides and is now lobbying us from one end of this Hill to the other because they do not care to have a small area set aside for small mills and small plants. Another example involves the Medicine Bow National Forest in Wyoming. It is without one single solitary acre of wilderness.

The Endangered American Wilderness Act, which we just passed recently, put only 14,960 acres of the Medicine Bow into wilderness, but they protested vehemently about that. And now industry is before us again and is protesting on land which they know good and well ought to be studied for wilderness, because it has unique and undisputable value as a wilderness region in Montana. It seems to me that we must not yield too much on this issue.

Mr. DON H. CLAUSEN. Mr. Speaker, will the gentleman yield?

Mr. RONCALIO. I yield to the gentleman from California.

Mr. DON H. CLAUSEN. Mr. Speaker, I would just like to ask the gentleman a question:

Why is this legislation being considered under suspension, as opposed to going before the Committee on Rules and getting a rule?

Mr. RONCALIO. Mr. Speaker, let me answer the gentleman in this way: In order to save Montana 9 months of time.

Mr. Speaker, I yield such time as he may consume to the gentleman from Montana (Mr. BAUCUS), who has seven of the nine areas involved in his district. I yield this time because he has a right to be heard, and he deserves the consideration of the minority members.

Mr. BAUCUS. Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. Speaker, I would like to begin with the point made by the gentleman from Kansas (Mr. SKUBITZ), who said that the main point of our issue today should be to bring people together. Let me say to the Members of the House that is precisely why we are here supporting this bill—to bring people together.

The problem in Montana, as in every other State, particularly the Western States, is that people are competing with one another and making more demands for natural resources. We all know of the demands for hunting and fishing. We know of the demands of snowmobilers and campers. And we all know of the increased demands for recreation. There are many demands on our Nation's unsettled areas, and these demands are getting more and more intense in the West.

We in Montana feel that the best way to resolve conflicting and competing demands is to deal with them quickly but thoughtfully. That, Mr. Speaker, is the whole purpose of this bill.

The problem is that if this bill does not pass now, the question of a wilderness study will be prolonged. Debate will become more acrimonious and more intense. And factions in Montana will become more and more divisive.

If we begin the study now and shorten the term of the study period, which indeed I favor, then I think all of us in Montana will be in a much better position to resolve these demands. At this time I would like to point out that although the bill calls for a 5-year study, the committee report asks the Forest Service to complete the study within 3 years. I am happy to report that the Forest Service is willing to comply with this request as my colleagues can see from this reply from U.S.D.A. Assistant Secretary, Rupert Cutler:

WASHINGTON, D.C., *October 12, 1977.*

Hon. MORRIS K. UDALL,
Chairman, Committee on Interior and Insular Affairs, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: We have already provided the Committee with the Department's report on S. 393, "the Montana Wilderness Study Act of 1977," and on September 13, 1977, we commented on the length of the study period provided by the bill. We stated that we would try to conduct the wilderness studies in as short a time as possible, not taking the entire 5-year period for all areas.

Because of continuing concern over the study period and other matters, I wish to offer the following clarification for your consideration. The Committee Report for S. 393 recommends that the study and recommendation period for all nine studies be limited to three years. Since land management planning has been largely completed on portions of the involved areas, *we believe that this Department can adhere to a 3-year deadline for all or most of the areas.** We can certainly give priority to the West Pioneers, Mount Henry and Taylor-Hilgard areas as requested by the Committee.

The average estimated cost to this Department for the wilderness studies is approximately $3 per acre. We will seek to hold the study costs to the minimum amount necessary to complete appropriate studies, and we will utilize the information available from land management plans to expedite the studies.

We appreciate this opportunity to clarify questions that have been brought to our attention.

Sincerely,

M. RUPERT CUTLER,
Assistant Secretary for Conservation, Research, and Education.

If we do not go ahead now, various groups are going to protest timber sales and land use plans, and, consequently, the resolution of these issues will be dragged out further and further and longer and longer.

PERMISSIBLE USES

During the study period, as the Members of the House know, grazing can be continued as before. There is no diminution required in those uses. Similarly, vehicular use can be continued; there is no change there. In fact, the only change is that there can be no cutting of timber during the study period.

To insure that my colleagues understand the intent of the drafters of the bill with respect to permissible uses, I would like to quote from the committee report:

USE OF AREAS

During hearings on S. 393 the committee encountered many doubts by witnesses as to what uses and activities are and are not permissible in wilderness and wilderness study areas. While many of these issues are discussed in House Report 95-540, the committee would like to elaborate further on two points which were most commonly mentioned during the S. 393 hearings:

OFF ROAD VEHICLE USE

The use of off-road vehicles, while generally prohibited in designated wilderness areas, is entirely appropriate in wilderness study areas, including the nine areas contained in S. 393. Nothing in S. 393 will prohibit the use of off-road vehicles, unless the normal Forest Service planning process and travel planning process, which applies to all national forest lands, determines off-road vehicle use to be inappropriate in a given area. Of course, commonsense dictates that certain areas may be temporarily closed to off-road vehicle use where fire danger or physical damage to terrain indicate a closure is warranted. However, absent such circumstances or Forest Service planning decisions, it is the intention of the committee that the areas in S. 393 (and other wilderness study areas) remain open to off-road vehicle use unless and until they are formally designated as wilderness.

GRAZING

Section 4(d)(4) of the Wilderness Act states that grazing in wilderness areas, if established prior to designation of the area as wilderness, "shall be permitted to continue subject to such reasonable regulations as are deemed necessary by the Secretary of Agriculture". To clarify any lingering doubts, the committee wishes to stress that this language means that there shall be no curtailment of grazing permits or privileges in an area simply because it is designated as wilderness. As stated in the Forest Service regulations (36 CFR 293.7), grazing in wilderness areas ordinarily will be controlled "under the general regulations covering grazing of livestock on National Forests . . .". This includes the establishment of normal range allotments and allotment management plans. Furthermore, wilderness designation should not prevent the maintenance of existing fences or other livestock management improvements which are consistent with allotment management plans and/or which are necessary for the protection of the range.

While on the subject of permissible interim uses, I would like to include for the RECORD a letter I received this morning from the International Snowmobile Industry Association. I think this letter, especially the second paragraph, reflects an understanding that snowmobiling will be permitted during the study period:

OCTOBER 18, 1977.

Hon. MAX BAUCUS,
U.S. House of Representatives, Washington, D.C.

DEAR MR. BAUCUS: The Montana Snowmobile Bill, S. 393, slated for action on the floor of the U.S. House of Representatives today, is a matter of concern to the snowmobilers in Montana and throughout the United States. As you know, both the Montana Snowmobile Association and our organization originally were actively opposed to the legislation during the 94th Congress because of the immediate closure of areas now open to snowmobiling which would have resulted.

Subsequently, and in part through your efforts, clarifying statements by the Senate author of the legislation have asserted that current snowmobiling usage shall be authorized until and unless Congress acts to designate these areas as Wilderness because snowmobiling results in no permanent, adverse effects. This interpretation would allow continued use of the Big Sky Trail and other important snowmobiling areas in Montana. However, there is disagreement within the Montana Congressional delegation about the adequacy of this legislative history. We rely upon your judgment to protect the legitimate interests of snowmobilers in Montana.

Although this action has led the snowmobile community to abandon vigorous opposition to the measure, we are unable to support the legislation for reasons with which you are very familiar and with which you, too, have indicated serious concern.

First, the studies would duplicate previous and ongoing U.S. Forest Service planning efforts, such as the so-called RARE-II undertaking.

Second, the sense of the Montana snowmobile community is that alternatives to wilderness designation could better serve both to protect the areas and to allow access by those utilizing snowmobiles without incursions on the natural grandeur of the areas. As you know, many of these areas are essentially impossible to see in winter without the snowmobile.

Third, the areas will be in a "limbo" situation for an extended period of time: five years of Forest Service study and an unknown time period while Forest Service recommendations are before the Congress. We know you share our concern in this area. You offered an amendment to the bill in subcommittee to reduce this period of limbo, but were unable to achieve its acceptance by the full committee.

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* Emphasis supplied.

Finally, we are concerned about the impact this legislation will have on Forest Service efforts to control and eradicate disease which has become rampant throughout large portions of U.S. Forest Service lands in Montana. We hope that any action taken by the U.S. Congress will support, not hinder, Forest Service actions to exercise all available management expertise to control a condition which threatens Montana's aesthetic and economic environment. Vast areas of forest are dead and dying, and present acute fire hazards.

We are hopeful that this provides insight into the position of the snowmobile community on this important issue.

Sincerely,

DERRICK A. CRANDALL,
Director of Government Affairs.

TIMBER SALES

Mr. Speaker, there are no planned sales during the study period in any of the areas mentioned, save one, and that is down the road. In that particular area we are taking the necessary steps to insure that adequate timber will be available so as to prevent mill closings.

I can tell the Members, as one Member from Montana, that I will not stand for the loss of one job due to the wilderness study. I do not intend to let that happen, and I know the rest of the Members do not want to see this result.

My good friend the gentleman from Montana (Mr. MARLENEE), alluded to the point that a Member's own wishes should be respected whenever legislation affects his district. That is an excellent point. I do not want to get involved in tit for tat and in a discussion of small points, but I would like to remind the gentleman, as he knows, that we had a similar discussion last month when the endangered American wilderness bill came before the House. The full committee included in that bill, despite my objections, an area called Welcome Creek.

I did not make a fuss about that because I thought the merits of the entire bill overrode my objections to the particular area.

In that light, I would ask the gentleman from Montana (Mr. MARLENEE) to defer to the larger interests in Montana in this case, because seven of the nine total areas are in this Member's district, whereas only two are in his district. I remind the gentleman that although as a general rule it is wise to defer to a Member's wishes relating to his particular district, sometimes life is not black and white and all general rules have some exceptions.

Mr. RONCALIO. Mr. Speaker, I thank the gentleman for a great presentation.

Mr. BAUCUS. Mr. Speaker, I thank the Members of the House. I strongly urge them to help us resolve our interests in Montana. This is the way to go, and I urge an affirmative vote on this bill.

Mr. RONCALIO. Mr. Speaker, I yield the balance of the time to the gentleman from Arizona (Mr. UDALL), the chairman of the committee.

The SPEAKER pro tempore (Mr. YATES). The gentleman from Arizona (Mr. UDALL) is recognized for 2 minutes.

Mr. UDALL. Mr. Speaker, this is a modest, little bill involving a study. It does not put one acre of land in the wilderness. It involves only a study.

Mr. Speaker, this bill passed the other body unanimously. It came out of our committee without a great deal of support. Last month, this House, by a margin of 100 votes, said that we wanted to pass the bill.

Mr. Speaker, this is getting in the road of major wilderness legislation, as are other bills. It is important that we dispose of it today, and I would like to see a resounding vote in favor of this bill.

There is a political power play from Montana politics which is involved. I have said to the opponents of the bill that I am prepared to go into the problems they have, but we have to get this bill on track now.

As my friend, the gentleman from Kansas, mentioned, we need to get people together. This bill is designed to get people together. It sets up a study and this matter will not be resolved until the study is completed and recommendation get back to Congress. The Montana delegation and the people of that State will be consulted, and then we will decide what goes into wilderness.

Again, Mr. Speaker, I think it would be a mistake not to pass this bill.

Mr. Speaker, I would like to read what the Great Falls Tribune, a Montana newspaper, one of the most respected in the State, says about this bill.

After saying that it was disappointed that the House did not pass the bill previously, it said the following:

The failure only means more delay in passage of a bill that has widespread congressional and public support. It only stirs up bill opponents and proponents with one more bit of misleading information.

The newspaper goes on to say:

What truly is needed is an end to scare stories about wilderness lock-up and some intelligent discussion of the need for wilderness and whether any of the nine areas should indeed be wilderness. That's what comes after the bill is passed.

Mr. Speaker, I urge my colleagues to support the gentleman from Montana (Mr. BAUCUS), the gentleman from Wyoming (Mr. RONCALIO), and those of us on the committee and to pass this bill by a two-thirds vote.

Mr. JOHNSON of Colorado. Mr. Speaker, I yield myself 5 minutes.

Mr. DON H. CLAUSEN. Mr. Speaker, will the gentleman yield?

Mr. JOHNSON of Colorado. I yield to the gentleman from California.

Mr. DON H. CLAUSEN. Mr. Speaker, I would like to say to the gentleman from Arizona (Mr. UDALL) that I was not trying to be facetious a moment ago when I directed a question to the gentleman from Wyoming (Mr. RONCALIO). I was seeking information as to why this legislation was scheduled on the Suspension Calendar when there was this controversy.

Why did we not go to the Committee on Rules, I ask the gentleman?

Mr. UDALL. Mr. Speaker, if the gentleman will yield, may I say that I do not like to legislate in this way, other things being equal. There are some amendments I could go along with. I told the gentleman from Montana (Mr. MARLENEE) that if we went ahead and passed the bill, the amendments could be incorporated in other legislation.

The fact is, Mr. Speaker, that we are going to lose the bill this year unless we pass it today, and everybody knows it.

Again, I do not like to legislate in this way, but we are dealing with practical facts.

Mr. DON H. CLAUSEN. Mr. Speaker, was there some reason for not going to the Committee on Rules because of the time set by the Speaker and the Committee on Rules?

Mr. UDALL. Yes. That was one of the problems. There is another problem that relates to disputes and personalities in the Montana delegation which I do not want to get into.

However, I think we can get what everybody wants if we pass the bill on suspension today.

Mr. DON H. CLAUSEN. Mr. Speaker, if the gentleman will again yield, may I say further that the Suspension Calendar has traditionally offered a means to expedite passage of bills known to be noncontroversial. Clearly, the Montana Wilderness Act is controversial. It is a matter of record that Montana's Senators and Congressmen are evenly divided on the wisdom of designating all of the areas in S. 393 for wilderness study under the terms of the bill. The appropriate course of action is to go to the Rules Committee to get an open rule that will allow amendments on the floor. To do otherwise is contrary to the purpose of the Suspension Calendar. It is a situation that would seem to call for compromise or accommodation on at least some of the issues in disagreement. However, under suspension of the rules, no such accommodations are possible.

I would also point out that the Suspension Calendar is being used for this bill because if it were to come to the floor under a rule, it would in all probability be subject to a valid point of order, since it authorizes funds for the coming fiscal year in violation of the Budget Act. The Budget Committee has indicated that it would not grant a waiver of the Budget Act provisions for S. 393, so we find the bill coming to the floor under suspension of the rules and not subject to a point of order. We find ourselves facing a choice that appears to be: "better a bad bill than no bill at all."

I strongly believe that in considering legislation which may be of intense controversy within a single State or congressional district, the Members of the House should give great weight to the views of the local representatives who must live with the issue on a daily basis. We are here to represent the wishes and express the concerns of our constituents. Generally, the House defers to the judgment of an individual Member on legislation affecting mattters solely within his district. While this custom does not extend to provide the individual Member with a veto over such matters, neverthe-

less, it represents a sound principle of representative democracy.

It certainly appears that this principle has been given short shrift in the consideration of S. 393.

The chairman of the full Interior Committee has stated that there are some amendments he could go along with. If that is the case, why did he not agree to any amendments in committee and why then is this bill on the floor under suspension, where it cannot be amended?

I urge the House to reject S. 393. If we must have a Montana wilderness study bill, let us at least consider it fairly and under appropriate procedures.

Mr. JOHNSON of Colorado. Mr. Speaker, I hate to disagree with the chairman of the full committee and the chairman of the subcommittee, with whom I have worked closely on other legislation. They have been most thoughtful and most considerate when it comes to wilderness areas in my own district, but I am constrained to disagree, and I hope our relationship is such that they will not take offense.

However, Mr. Speaker, this is not a "modest, little bill." This is not even a study bill, Mr. Speaker, as it has been characterized. They call it a "study bill" on the first page; but, Mr. Speaker, this is a bill that will designate 973,000 acres in varying blocks in Montana for wilderness study, and it will be treated as wilderness until Congress says otherwise.

Mr. Speaker. I suggest the Members read section 3(a), on page 5, if they have any question about it. It reads as follows:

SEC. 3. (a) Except as otherwise provided by this section, and subject to existing private rights, the wilderness study area designated by this Act shall, until Congress determines otherwise, be administered by the Secretary of Agriculture sc as to maintain their presently existing wilderness character and potential for inclusion in the National Wilderness Preservation System.

Mr. Speaker, what should, of course, happen is that the wilderness designation should require affirmative action on the part of the Congress. It is not happening here.

Mr. ICHORD. Mr. Speaker, will the gentleman yield?

Mr. JOHNSON of Colorado. I yield to the gentleman from Missouri.

Mr. ICHORD. The gentleman said it will be treated as wilderness area under section 3(a).

I thought under a "wilderness" designation that you could not graze.

Mr. JOHNSON of Colorado. The gentleman is incorrect, you can graze.

Mr. ICHORD. You can?

Mr. JOHNSON of Colorado. Yes.

Mr. ICHORD. I thank the gentleman.

Mr. RONCALIO. Mr. Speaker, will the gentleman yield?

Mr. JOHNSON of Colorado. I yield to the gentleman from Wyoming.

Mr. RONCALIO. Mr. Speaker, first let me assure my colleague from Colorado that our relationship is much too solid to be hurt. I may carry a hurt feeling but not for very long, maybe for only 24 hours.

Second, let me say that we took some 5 years to get the 650 acres to set up the Shoshonee area and that was a modest amount. The gentleman should remember that all things in this world are relative. Nine hundred thousand acres in Montana are a relative number of acres to the total number of square miles in that State and the number of magnificent mountains that God put there. So the numerical figure itself does not mean too much. But this is very similar to the formula we have used before such as in the Sawtooth Peaks area. That is all we are doing. We will save 6 months' time if we pass this bill. You cannot saw timber until 1982 in the light of all the litigation because of Sierra versus Butz.

Mr. JOHNSON of Colorado. Mr. Speaker, what the gentleman from Wyoming (Mr. RONCALIO) has said is true, but it is not the whole story. The studies involved here are 5 year studies. They are under consideration in five out of the seven areas. The two areas not studied are in the district of the gentleman from Montana (Mr. MARLENEE). So we are talking in terms of 973,000 acres, and 172,000 acres are in the district of the gentleman from Montana (Mr. MARLENEE).

All we have to do is to bring this bill to the floor under an open rule and amend it so that the wishes of the gentleman from Montana (Mr. MARLENEE) can be met that the study be conducted but no affirmative action be required after the study is made, unless we want it to be a wilderness area. It seems to me that is a perfectly proper procedure. If you want it to be a wilderness area, then you can subsequently take affirmative action. We did not take action in other instances until there were wilderness studies and then they were designated after that. You know how difficult it is to redesignate something once it has been designated a wilderness area.

All we are asking for is simple justice for the gentleman from Montana (Mr. MARLENEE). We are not telling the gentleman from Montana (Mr. BAUCUS) what he should do in his district, what he has to have. And we are not saying that Mr. MARLENEE should have carte blanche. We are simply saying that we do not, by this process, by this study process, slip it into a wilderness designation where it will perhaps be impossible to remove it at a later time.

Remember that the two representatives from Montana are split and the two Senators from Montana are split.

I appreciate the gentleman from Wyoming (Mr. RONCALIO) giving us this impressions on behalf of Senator METCALF and Mr. Mansfield, both of whom were very fine Senators, but that really does not make a whole lot of sense to me because both of those gentlemen were here for over 30 years either in the House or in the Senate, and they were not in any rush to pass this legislation in that period of time.

So, Mr. Speaker, I do not see why we cannot bring this legislation to the floor of the House under an open rule so that it can meet the objections of the gentleman from Montana (Mr. MARLENEE) and so that it will subsequently come back to the floor and let the House designate by affirmative action whether it should be a wilderness or not. That is the proper method in which to do it.

You know, I doubt if there is a person in this Chamber who would be willing in his own area—and I repeat—in his own area, to do what you are asking the gentleman from Montana (Mr. MARLENEE) to do.

Mr. RONCALIO. Mr. Speaker, will the gentleman yield?

Mr. JOHNSON of Colorado. I yield to the gentleman from Wyoming.

Mr. RONCALIO. Mr. Speaker, the gentleman from Colorado knows that in the other instance the gentleman from California (Mr. KETCHUM) was happy with what we did.

Mr. JOHNSON of Colorado. Mr. Speaker, that is not an entirely correct statement because in that act, the endangered American Wilderness Act, those boundaries were approved by Mr. KETCHUM and we did not impose anything on Mr. KETCHUM, because the ultimate solution was one that was acceptable to him. In this case, we are indicating it to be a study, but it actually becomes a designation and you know how hard it is to remove something from an area that is being treated as a wilderness. So it is a totally unfair proposition, and to have this as an environmental vote, this cheap environmental vote imposing a burden on somebody else, is unfair.

When we went through the subcommittee, 9 out of 14 votes were cast by proxy. When we went through the full committee, 16 out of 43 people were there. That is not the way to legislate. It is not fair to the gentleman from Montana. It is not fair to the people of Montana for us to behave this way. If we want to impose something on them, we ought to do it through an open rule and at least have an opportunity for amendment.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Wyoming (Mr. RONCALIO) that the House suspend the rules and pass the Senate bill S. 393.

The question was taken.

Mr. SYMMS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 3, rule XXVII, the Chair's prior announcement, further proceedings on this motion will be postponed.

FISHERMEN'S PROTECTIVE ACT OF 1967, EXTENSION

Mr. MURPHY of New York. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4140) to extend the provisions of the Fishermen's Protective Act of 1967, relating to the reimbursement of seized commercial fishermen, until October 1, 1978.

The Clerk read as follows:

H.R. 4140

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 7(e) of the Fishermen's Protective Act of 1967 (22 U.S.C. 1977(e)) is amended by striking out "October 1, 1977" and inserting in lieu thereof "October 1, 1978".

The SPEAKER pro tempore. Is a second demanded?

Mr. FORSYTHE. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from New York (Mr. MURPHY) will be recognized for 20 minutes, and the gentleman from New Jersey (Mr. FORSYTHE) will be recognized for 20 minutes.

The Chair recognizes the gentleman from New York (Mr. MURPHY).

Mr. MURPHY of New York. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the purpose of H.R. 4140 is to extend the cooperative insurance program carried out under section 7 of the Fishermen's Protective Act for an additional year, until October 1, 1978. This bill has the strong support of the administration. In fact, it was introduced as a result of an Executive communication from the Department of Commerce.

The need for the legislation—other than the fact that the appropriation-authorization under section 7 expires at the end of this fiscal year—arises from the fact that the United States does not recognize the right of any nation to regulate tuna. Tuna is a highly migratory species which spawns and migrates over vast distances in the Pacific, Atlantic, and Indian Oceans and, therefore, necessitates international regulation. Consequently, whenever a tuna vessel of the United States is illegally seized by a foreign nation in contradiction of this policy, it is incumbent of the United States to indemnify the owners of such seized vessels for their losses when such vessel owners are following a policy clearly established by the U.S. Government.

This policy on the part of the United States which, incidentally, is shared by many other nations, dates back to 1954 when the Fishermen's Protective Act first came into being. Under that act, the U.S. Government agreed that when American fishing vessels were fishing in conformity with that policy and their vessels were seized and fines, fees and other direct charges were required to be paid to obtain release of their vessels and crews resulting from such seizure beyond 3 miles from the shores of any nation, then the U.S. Government would reimburse the vessel owners and crews for those charges.

In 1967, the act was broadened to add a new section 7 to the act which would allow any vessel owner—whether fishing for tuna, shrimp, or any other species of fish—to voluntarily enter into an agreement with the Secretary of Commerce for the purpose of providing reimbursement for certain losses incurred other than those for fines, fees, and other direct charges which are fully reimbursable under section 3 of the act. The losses to be covered by section 7 of the act would include such things as damage, destruction, loss or confiscation of the vessel, fishing gear or other equipment, dockage and utility fees, confiscated or spoiled fish, and 50 percent of the loss of fishing time during the detention period.

Mr. Speaker, this is the program under the act that would be extended by this legislation. Under this program, the participating vessel owners have been paying about 40 percent of the cost and the U.S. Government the remaining 60 percent.

It is estimated that the extension of this program for an additional year would cost the taxpayers of this country only $60,000.

Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. LEGGETT), a very distinguished member of the subcommittee.

Mr. LEGGETT. Mr. Speaker, as just explained by Chairman MURPHY, H.R. 4140 would extend the voluntary insurance program authorized by section 7 of the Fishermen's Protective Act for an additional year, until October 1, 1978.

Mr. Speaker, I would like to bring to the attention of the Members one additional feature of the program that should be highlighted.

Section 403 of the 200-Mile Fishery Zone Act amended section 2 of the Fishermen's Protective Act, which bears on the insurance program carried out under section 7 of that act.

Section 2 of the Fishermen's Protective Act, as rewritten, makes it clear that the United States does not recognize the claim of any foreign nation to a fishery conservation zone beyond such nation's territorial sea—recognized by the United States as of this date to be only 3 miles—if such nation fails to take into account traditional fishing practices of U.S. vessels; or fails to recognize that all species of tuna are to be managed by international agreements, whether or not such nation is a signatory to any agreement; or imposes conditions or restrictions on U.S. fishing vessels which are unrelated to fishery conservation and management, or which are greater or more onerous than the conditions and restrictions which the United States applies to foreign fishing vessels subject to the fishery management authority of the United States.

Mr. Speaker, the net effect of these provisions is to allow seizure insurance protection under certain conditions for vessels other than tuna, such as shrimp, snapper, and grouper vessels, when such vessels are operating in the 200-mile fishery zones of other nations.

Mr. Speaker, if for no other reason, the insurance program provided by section 7 of the act should be continued so that our vessel owners can take advantage of this extended coverage which was just added to the act last year.

There were 166 vessels voluntarily participating under this program from July 1, 1976 to July 1, 1977. Of this 157 were tuna vessels and 9 were shrimp vessels. During the transition quarter, from July 1, 1977 to October 1, 1977, there are 126 vessels participating in the program, of which 119 are tuna, 4 are shrimp, and 3 are grouper and snapper vessels.

Mr. Speaker, I am pleased to report that there have been no seizures of any vessels since 1975. Naturally, no one knows what the attitude of the nations will be off whose shores our vessels might fish. Therefore, in the case of any seizures of such vessels when fishing off any nation's shores, this insurance program should be available to them so that any losses incurred by our fishermen while abiding by the policy of our country, as it was just recently expressed in the passage of our 200-Mile Fishery Zone Act, should be reimbursed as provided by section 7 of the Fishermen's Protective Act. The cost for administering this program for the past year has amounted to only about $20,000.

Mr. Speaker, earlier this year, H.R. 4140 was considered on the Suspension Calendar, but it failed to receive the necessary two-thirds majority. The Members expressed reservations about the extension of this act for an additional 3 years, however, I believe that these reservations have been somewhat dissipated since the bill, as amended, would extend this program for 1 year only.

Mr. Speaker, H.R. 4140 has the strong bipartisan support of the Members of our full Committee on Merchant Marine and Fisheries, and it has the strong support of the administration and our tuna and shrimp industry.

In fact, the administration forwarded to our full committee an executive communication calling for an extension of this act for an additional 2 years, instead of 1 year, as called for by H.R. 4140, as amended.

Mr. Speaker, I think this is a good piece of legislation, and I urge my colleagues to support its passage.

Mr. FORSYTHE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 4140 which extends section 7 of the Fishermen's Protective Act for 1 year.

A review of the historical origins of the Fishermen's Protective Act reveals why there is a continuing need for section 7. In 1967, when section 7 was added to the act, the United States did not recognize the jurisdictional claims of nations asserting control over waters beyond 12 miles of their coast. Section 7, which established a cooperative insurance program to assist U.S. fishermen whose vessels were seized by nations claiming oceans jurisdiction not recognized by the United States, became an extension of our foreign policy.

Today section 7 of the Fishermen's Protective Act continues to represent the fisheries policy of the United States. The Fishery Conservation and Management

Act, which extended our fisheries jurisdiction to 200 miles, specifically excluded tuna from its jurisdictional reach. Tuna, which is found off the coast of several nations, including the United States, was excluded because the Congress recognized that the effective conservation and management of highly migratory species demanded a coordinated international program.

Section 7 of the Fishermen's Protective Act, therefore, continues to be a reflection of the U.S. fisheries policy. To defeat this legislation would be to signal a dramatic change in that policy. A negative vote by the House would telegraph to the world that the United States no longer recognizes the need to establish a coordinated international management program for highly migratory species. Such a change in U.S. fisheries policy will seriously undermine current efforts to negotiate a comprehensive international conservation program for tuna.

In view of these facts, it is important that section 7 of the Fishermen's Protective Act be extended for 1 additional year while U.S. fisheries negotiators are attempting to establish an international management regime for the conservation and protection of tuna.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. MURPHY) that the House suspend the rules and pass the bill H.R. 4140.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

Mr. MURPHY of New York. Mr. Speaker, I ask unanimous consent for the immediate consideration of Senate bill S. 1184, to amend section 7(e) of the Fishermen's Protective Act of 1967, and for other purposes.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1184

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subsection (e) of section 7 of the Fishermen's Protective Act of 1967, as amended (82 Stat. 729, as amended; 22 U.S.C. 1977), is further amended by deleting the date "October 1, 1977" and inserting in lieu therefor "October 1, 1979".

SEC. 2. The Fishermen's Protective Act of 1967, as amended, is further amended by adding at the end thereof the following new section:

"SEC. 10. (a) After October 1, 1977, the Secretary may make a loan to the owner or operator of any vessel of the United States which is documented or certified as a commercial fishing vessel if—

"(1) he receives an application for a loan under this section after such date; and

"(2) he determines that such vessel, or its fishing gear, was lost, damaged, or destroyed by any vessel (or its crew or fishing gear) of a foreign nation.

Any such loan—

"(A) may be for an amount not exceeding the value of such loss, damage, or destruction;

"(B) shall be conditional upon assignment to the Secretary of any right to recover for such loss, damage, or destruction;

"(C) shall bear interest at the rate of 2 per centum per annum; and

"(D) shall be subject to such terms and conditions as the Secretary deems necessary or appropriate for the purposes of this section.

The Secretary shall use the Fishermen's Protective Fund created under section 9 for the amounts of any loan made under this section. Loans may be made for any loss, damage, or destruction occurring within one year prior to, and anytime after, October 1, 1977.

"(b) The Secretary, in conjunction with other agencies or departments, shall investigate each incident of loss, damage, or destruction for which a loan was made under this section. If he determines that the owner or operator who received the loan was not at fault, the Secretary shall cancel repayment of such loan and refund to such owner or operator any principal and interest payments thereon made prior to the date of such cancellation.

"(c) The Secretary, with the assistance of the Attorney General and the Secretary of State, shall take appropriate action, pursuant to the provisions of title 28, United States Code, to collect on any right assigned to him under subsection (a). Amounts collected under this subsection shall—

"(1) if such loan was canceled pursuant to subsection (b), be paid into the Fishermen's Protective Fund created under section 9, to the extent of the amount so canceled;

"(2) if not so canceled, be applied to the repayment of such loan; or

"(3) to the extent not used pursuant to paragraph (1) or (2), paid to the owner or operator who assigned such claim.

"(d) For the purposes of this section, the term 'Secretary' means the Secretary of Commerce.".

MOTION OFFERED BY MR. MURPHY OF NEW YORK

Mr. MURPHY of New York. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MURPHY of New York moves to strike out all after the enacting clause of the Senate bill, S. 1184, and to insert in lieu thereof the provisions of H.R. 4140, as passed by the House.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title was amended so as to read: "To extend the provisions of the Fishermen's Protective Act of 1967, relating to the reimbursement of seized commercial fishermen, until October 1, 1978."

A motion to reconsider was laid on the table.

A similar House bill (H.R. 4140) was laid on the table.

GENERAL LEAVE

Mr. MURPHY of New York. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

ENDANGERED SPECIES ACT AMENDMENTS

Mr. MURPHY of New York. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 6405) to amend the Endangered Species Act of 1973 regarding the requirements for State cooperative programs thereunder and to authorize appropriations through fiscal year 1981 to carry out such programs.

The Clerk read as follows:

H.R. 6405

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 6 of the Endangered Species Act of 1973 (16 U.S.C. 1535) is amended—

(1) by striking out the period at the end of subsection (c) and inserting in lieu thereof "; or", and by adding at the end of such subsection the following: "that under the State program—

"(A) the requirements set forth in paragraphs (3), (4), and (5) of this subsection are complied with, and

"(B) plans are included under which immediate attention will be given to those resident species of fish and wildlife which are determined by the Secretary or the State agency to be endangered or threatened and which the Secretary and the State agency agree are most urgently in need of conservation programs."; and

(2) by amending subsection (i) to read as follows:

"(i) APPROPRIATIONS.—For the purposes of this section, there are authorized to be appropriated not to exceed the following sums:

"(1) $10,000,000 through the period ending September 30, 1977.

"(2) $16,000,000 for the period beginning October 1, 1977, and ending September 30, 1981.".

The SPEAKER pro tempore (Mr. YATES). Is a second demanded?

Mr. FORSYTHE. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from New York (Mr. MURPHY) and the gentleman from New Jersey (Mr. FORSYTHE) are recognized for 20 minutes each.

The Chair recognizes the gentleman from New York (Mr. MURPHY).

Mr. MURPHY of New York. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, in 1973, Congress passed the Endangered Species Act in an attempt to slow the alarming rate at which wildlife species were becoming extinct in the United States and around the world. The Endangered Species Act provided for the development of a program for the protection of endangered and threatened species, and the conservation of the ecosystems on which endangered and threatened species depend. H.R. 6405 reauthorizes one small, but nevertheless vital, element of this historic act.

This legislation would authorize appropriations of $16 million under section 6 of the Endangered Species Act. In addition, the bill would amend section 6(c) of the act to facilitate the development

of cooperative agreement programs with the States.

Section 6 of the Endangered Species Act is a little known, but highly important part of the act. It established a mechanism for the development of cooperative endangered species programs with the individual States. The cooperation envisioned by section 6 includes consultation with the States concerned before acquiring any land or water under the Endangered Species Act, and the development of cooperative management agreements with States that establish a program for the conservation of endangered species. Those States that qualify under the act are eligible to receive section 6 matching grants on a 2-to-1 basis.

Section 6 of the Endangered Species Act expresses the congressional realization that a successful endangered species program depends upon a good working relationship with the States. Although the Federal agencies have the broad policy perspective and authority to carry out the Endangered Species Act, the States have the physical facilities and the personnel to see that State and Federal endangered species policies are properly executed.

Traditionally, State fish and game departments have had the primary responsibility for managing resident species of fish and wildlife. Section 6 of the Endangered Species Act insured that the States would continue to play an important role in the management of resident endangered and threatened species despite the Federal Government's assertion of general authority in the endangered species area. We recognized in 1973, as we do now, that if we want an endangered species program that works in fact, as well as on paper, it is imperative that the States be given authority to manage their resident species which are classified as endangered or threatened.

Unfortunately, the cooperative agreement program of the Endangered Species Act has not developed as rapidly as we had originally hoped. To date, only 17 States have signed cooperative agreements with the Federal Government and have qualified for Federal matching funds under the act. It is hoped that the changes proposed in this legislation, along with an increase in funding for State endangered species programs, will bring around the 33 States not now participating in the endangered species program.

Mr. Speaker, I would like to emphasize the noncontroversial nature of this legislation. It was reported out of the Committee on Merchant Marine and Fisheries without a single dissenting voice. This bill has nothing whatsoever to do with some of the more controversial aspects of the Endangered Species Act which have received press attention in recent months. Specifically, this bill has nothing to do with the conflict between some water development projects and the designation of critical habitat for a variety of endangered species.

Mr. Speaker, I yield such time as he may consume to the chairman of the subcommittee, the gentleman from California (Mr. LEGGETT).

Mr. LEGGETT. Mr. Speaker, I rise in support of H.R. 6405. This legislation authorizes appropriations of $16 million through fiscal year 1981 to carry out a small but important part of the Endangered Species Act of 1973. That act stands as the most far-reaching Federal effort to slow and prevent the destruction of hundreds of fish and wildlife species that are facing extinction as a result of man's activities. The important goal of the Endangered Species Act is the maintenance of a healthy diversity of wildlife species, and to conserve the all important ecosystems on which the wildlife species of the world depend for survival.

Although the Endangered Species Act expressed the preeminent authority of the Federal Government in the management of endangered species, it recognized that any effective conservation program demands active State involvement. Thus, section 6 of the Endangered Species Act established a mechanism for continuing State involvement in the management of resident threatened and endangered species.

Under the act, the Federal Government is authorized to enter into cooperative agreements with individual States that develop a qualifying endangered species program. Once a State has developed an acceptable endangered species program, it is eligible to receive Federal matching funds to carry out its program. In the past, these matching funds have been used for such activities as conducting peregrine falcon and bald eagle surveys, developing special gates to protect Indiana bats and propagating falcons for release into the wild.

The goal of this section is clear—the management of resident endangered species at the State level by those wildlife biologists best equipped to insure continued protection of the most beleagured members of the animal kingdom. Unfortunately, we are not close to achieving this goal.

Only 17 States have signed cooperative agreements with the Federal Government under section 6. What is worse, some of the States with the greatest number of species under their jurisdiction have not yet joined the program. Many States have not qualified for Federal financial assistance because they are frankly unwilling to provide blanket protection for any species which may be listed as endangered or threatened. The existing law requires the States to authorize such blanket protection before they can qualify for any Federal assistance.

H.R. 6405 would ease the requirements of existing law and encourage the remaining 33 States to join this all important program. I want to emphasize that this bill in no way diminishes the force or effect of the Endangered Species Act. In fact, if anything, the proposed amendment of section 6 should help to insure the full implementation of the act by encouraging the full participation of State agencies.

Authorizations and appropriations of section 6, Endangered Species Act

[In millions]

Authorization:	
1974	2.5
1975	2.5
1976	2.5
1977	2.5
1978	*4
1979	*4
1980	*4
1981	*4
Appropriation:	
1974	0
1975	0
1976	2
1977	4
1978	4
1979	---
1980	---
1981	---

*Proposed in H.R. 6405.

STATES SIGNING COOPERATIVE ENDANGERED SPECIES AGREEMENTS

Arkansas, California, Colorado, Delaware, Florida, Maine, Maryland, Michigan, Missouri, New Jersey, New Mexico, New York, South Carolina, South Dakota, Virginia, Washington, and Wisconsin.

Mr. FORSYTHE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in support of the legislation, H.R. 6405, which would authorize section 6 of the Endangered Species Act of 1973. This bill has three purposes. First, it would extend the authorization section for section 6 of the act from October 1, 1977, through September 30, 1981. Second, the bill would establish a funding level of $16 million which would be authorized to be appropriated during the 4-year period October 1, 1977, through September 30, 1981. Third, it would amend section 6 of the act to facilitate development of cooperative and endangered species programs with the individual States.

H.R. 6405 has the broadest bipartisan support. Since 1973 we have made a great deal of progress as a nation under the Endangered Species Act in our efforts to provide a program for the protection of endangered and threatened species and the conservation of ecosystems on which endangered and threatened species depend. Much work remains to be done. In addition to extending the authorization period of the act, this bill concentrates its attention in an area which is very important to me.

The successful development of an endangered species program depends on a good working arrangement between Federal and State agencies. Federal agencies have broad powers and perspective to carry out their authority under the act. State agencies, however, must have the physical facilities and personnel to see that the policies which are set by State and Federal interaction are properly executed. Without this strong State role, no endangered species program will be fully effective.

However, one of the greatest impediments to the development of cooperative agreements between the States and Fed-

eral Governments has been the five requirements found in section 6(c) of the act. These requirements must be met before a State can qualify for a grant in aid funds. In essence these paragraphs require States to provide blanket protection for any species listed as endangered or threatened by the Secretary.

A number of States have failed to qualify for funds under section 6 because for internal policy reasons they have been unwilling to grant their State agency the broad authority required under the present wording of the act. Under H.R. 6405, States would be able to qualify for cooperative agreement funds if they met the requirement of present paragraphs 3, 4, and 5 under section 6(c) and if the State has a plan which would result in immediate attention being given to those species most urgently in need of conservation programs.

Mr. Speaker, I urge my colleagues to join with me in approving the authorization of these much-needed funds.

Mr. MURPHY of New York. Mr. Speaker, I have no further requests for time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. MURPHY) that the House suspend the rules and pass the bill H.R. 6405.

The question was taken; and (two thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

Mr. MURPHY of New York. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 1316) to authorize appropriations for fiscal years 1978, 1979, and 1980 to carry out State cooperative programs under the Endangered Species Act of 1973, a similar bill to H.R. 6405, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1316

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 6(i) of the Endangered Species Act of 1973 (16 U.S.C. 1535(i)) is amended to read as follows:

"(i) APPROPRIATION.—For the purposes of this section, there are authorized to be appropriated not to exceed the following sums:

"(1) $10,000,000 through the period ending September 30, 1977.

"(2) $9,000,000 to the Secretary of the Interior through the period ending September 30, 1980; and

"(3) $3,000,000 to the Secretary of Commerce through the period ending September 30, 1980.".

MOTION OFFERED BY MR. MURPHY OF NEW YORK

Mr. MURPHY of New York. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MURPHY of New York moves to strike out all after the enacting clause of the Senate bill (S. 1316) and to insert in lieu thereof the provisions of H.R. 6405, as passed by the House.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title was amended so as to read: "To amend the Endangered Species Act of 1973 regard the requirements for State cooperative programs thereunder and to authorize appropriations through fiscal year 1981 to carry out such programs."

A motion to reconsider was laid on the table.

A similar House bill, H.R. 6405, was laid on the table.

GENERAL LEAVE

Mr. MURPHY of New York. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

PACIFIC ISLANDS TECHNICAL AMENDMENT TO HIGHER EDUCATION ACT

Mr. FORD of Michigan. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 9512) to amend the Higher Education Act of 1965 to include the Trust Territory of the Pacific Islands in the definition of the term "State" for the purpose of participation in programs authorized by that act.

The Clerk read as follows:

H.R. 9512

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) subsection (b) of section 1201 of the Higher Education Act of 1965 is amended to read as follows:

"(b) The term 'State' includes, in addition to the several States of the Union, the Commonwealth of Puerto Rico, the District of Columbia, Guam, American Samoa, the Virgin Islands, the government of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.".

(b) Subsection (a) of section 491 of the Higher Education Act of 1965 is amended by striking out "includes the Trust Territory of the Pacific Islands" and inserting in lieu thereof "has the meaning set forth in section 1201(b)".

(e) Sections 602(a)(2), 1001(b)(2), and 1012(a) of the Higher Education Act of 1965 are each amended by inserting ", the government of the Northern Mariana Islands, the Trust Territory of the Pacific Islands" after "American Samoa".

(d) Nothing in this Act, the Higher Education Act of 1965, or any other provision of law shall invalidate any payments or other benefits provided under the Higher Education Act of 1965 to an agency or institution in the Trust Territory of the Pacific Islands or to the government of the Northern Mariana Islands prior to the enactment of this Act.

The SPEAKER pro tempore. Is a second demanded?

Mr. BUCHANAN. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Michigan (Mr. FORD) and the gentleman from Alabama (Mr. BUCHANAN) will be recognized for 20 minutes each.

The Chair recognizes the gentleman from Michigan (Mr. FORD).

Mr. FORD of Michigan. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the legislation before us, H.R. 9512, seeks to correct a recent determination by the Office of Education that institutions of postsecondary education in the Trust Territory of the Pacific Islands are not eligible to participate in several programs authorized by the Higher Education Act. While statutory authority exists to allow these institutions to receive funds under title IV (student assistance) and title VII (academic facilities), no such authority exists for the remaining titles.

This determination is contrary to the widely held belief in both the executive branch and Congress that these institutions were included in the Higher Education Act for all purposes in the same manner as institutions in other dependent jurisdictions such as Guam, American Samoa, and the Virgin Islands.

This determination was made by the Office of Education after several years of providing funds to two institutions under title II (college library programs) and of considering them eligible for all Higher Education Act-authorized programs. This ruling denies these schools eligibility in programs authorized by the following titles: title I, community services and continuing education; title II, college library programs; title III, strengthening developing institutions; title V, teacher training and teacher corps programs, title VI, financial assistance for the improvement of undergraduate instruction; title VIII, cooperative education; and title X, establishment and expansion of community colleges.

On Wednesday, October 12, my distinguished colleague (Mr. PHILLIP BURTON) and I brought this situation to the attention of the members of the Committee on Education and Labor. There was unanimous agreement at that meeting that this omission was not intended and this legislative effort to correct it was endorsed. With the cosponsorship of Mr. BURTON, I introduced H.R. 9512 and have received letters supporting this effort from the Department of the Interior and the Department of Health, Education, and Welfare. Additionally, I have received a letter from the Congressional Budget Office which states: "it appears that no additional cost to the government would be incurred as a direct result of enactment of this bill." These three documents were printed in the CONGRES-

SIONAL RECORD on Thursday, October 13, at my request so that my colleagues could be aware of this legislation before it reached the floor.

It is my hope that my colleagues will join me today in voting for this bill so that the Trust Territory can regain its intended eligibility for these important programs.

Mr. PHILLIP BURTON. Mr. Speaker, will the gentleman yield?

Mr. FORD of Michigan. I yield to the gentleman from California.

Mr. PHILLIP BURTON. Mr. Speaker, I commend the gentleman from Michigan for permitting a clarification of the situation and, more importantly, for the next month or so, as we have learned over the past 4 or 5 months, the Northern Mariana Islands is moving into its own governmental system. It is important that they be specifically enumerated or there would be a risk—although I think it would be an improper interpretation of the law—that they may not qualify for the very limited amounts that they otherwise would be getting under the Higher Education Act.

So, I commend the gentleman from Michigan and urge the adoption of the proposal.

Mr. ASHBROOK. Mr. Speaker, will the gentleman yield?

Mr. FORD of Michigan. I will be happy to yield to my colleague from Ohio.

Mr. ASHBROOK. I think I heard the gentleman right when he said that this came out of the committee unanimously.

Mr. FORD of Michigan. Yes, I did say that.

Mr. ASHBROOK. I think that is a rare occasion when any bill can come out of our committee unanimously. My only regret, when I see Governor Burton of the Territories—my only regret is that there are about 24 Members, 6 House personnel and 1 staff member on the floor. Really, I wish there were more to see that something comes from the Committee on Education and Labor.

Mr. PHILLIP BURTON. We almost pulled off a similar miracle last Friday. We missed——

Mr. ASHBROOK. By $30,000.

Mr. PHILLIP BURTON. We missed by $12,500, which I think is more than we have in this proposal, in annual terms.

Mr. BUCHANAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, for me to speak would be redundant. As the gentleman from Ohio has underlined and as the distinguished chairman of the subcommittee has made plain, this does fulfill the intent of the committee and the Congress, in the first place. It is needed action. I can see no reason for any objection to the passage of this measure, and I urge its passage.

Mr. PERKINS. Mr. Speaker, the U.S. Office of Education has only recently concluded that postsecondary educational institutions in the Trust Territory of the Pacific Islands are not eligible to participate in institutional assistance programs authorized under five specific titles of the Higher Education Act, as amended.

While these institutions have traditionally been certified as eligible for all titles of the Higher Education Act, they were advised earlier this year that eligibility certification was being terminated for title I, community services and continuing education; title II, college library programs; title III, strengthening developing institutions; title VI–A, undergraduate instructional equipment, and title VIII, cooperative education programs.

I hasten to add, Mr. Speaker, that eligibility for title IV, student assistance programs and for grants and loans under the academic grant facilities program is not in question. Statutory authority exists in both titles providing eligibilty for these institutions.

Members of the Committee on Education and Labor have unanimously agreed that this technical oversight in the Higher Education Act should be corrected. Last week in committee there was agreement that we should seek a satisfactory resolution of this matter at the earliest possible date.

Pursuant to that agreement, the distinguished chairman of our Subcommittee on Postsecondary Education—BILL FORD—and the distinguished chairman of the Interior and Insular Affairs Subcommittee on National Parks and Insular Affairs—PHIL BURTON—cosponsored H.R. 9512, the bill before us.

This legislation proposes a technical amendment to provide eligibility for the two institutions of postsecondary education in the Trust Territory.

The legislation will provide eligibility for all titles and programs in the Higher Education Act. The practical result of this will be to make institutions in the Trust Territories eligible participants in the title I program of community services; the title II program of library assistance; the title III program of aid to developing institutions; the title VI program of grants for equipment assistance; the title X program of grants for community colleges; and the title XII program of grants for postsecondary education planning.

The Congressional Budget Office has advised that there are no additional costs to the Government which would be incurred as a direct result of an enactment of this kind. It is purely a technical matter which will provide statutory basis for what the Congress intended.

Mr. Speaker, before closing, I want to compliment Chairman FORD and Chairman BURTON for their prompt attention to this matter and for the very expeditious and fine way in which they have handled it.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan (Mr. FORD) that the House suspend the rules and pass the bill H.R. 9512.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. FORD of Michigan. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 9512, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

ESTABLISHING POSITION OF ASSOCIATE ATTORNEY GENERAL

Mr. KASTENMEIER. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 2089) to establish within the Department of Justice the position of Associate Attorney General.

The Clerk read the Senate bill as follows:

S. 2089

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) chapter 31 of title 28, United States Code, is amended by adding immediately after section 504 the following new section:

"§ 504a. Associate Attorney General

"The President may appoint, by and with the advice and consent of the Senate, an Associate Attorney General.".

(b) The section analysis at the beginning of chapter 31 of title 28, United States Code, is amended by adding immediately after

"504. Deputy Attorney General."

the following new item:

"504a. Associate Attorney General.".

SEC. 2. Section 508(b) of chapter 31 of title 28, United States Code, is revised to read:

"(b) When by reason of absence, disability, or vacancy in office, neither the Attorney General nor the Deputy Attorney General is available to exercise the duties of the office of Attorney General, the Associate Attorney General shall act as Attorney General. The Attorney General may designate the Solicitor General and the Assistant Attorneys General, in further order of succession, to act as Attorney General.".

SEC. 3. Section 5314 of chapter 53 of title 5, United States Code, is amended by adding the following item at the end thereof.":

"(66) Associate Attorney General.".

The SPEAKER pro tempore. Is a second demanded?

Mr. ASHBROOK. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Wisconsin (Mr. KASTENMEIER) and the gentleman from Ohio (Mr. ASHBROOK) will be recognized for 20 minutes each.

The Chair recognizes the gentleman from Wisconsin (Mr. KASTENMEIER).

Mr. KASTENMEIER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as the chaption of the Senate bill suggests, this is merely a

proposal to establish within the Department of the Justice the position of Associate Attorney General. This has been under consideration for some time. My recollection is that it passed the subcommittee and it passed the full committee without objection or opposition.

As the bill states, chapter 31 of title 28, United States Code, is revised to read:

"(b) When by reason of absence, disability, or vacancy in office, neither the Attorney General nor the Deputy Attorney General is available to exercise the duties of the Office of Attorney General, the Associate Attorney General shall act as Attorney General. The Attorney General may designate the Solicitor General and the Assistant Attorneys General, in further order of succession, to act as Attorney General.".

Mr. Speaker, the bill would also provide that this Associate Attorney General will receive a salary at level III of the executive schedule.

Mr. Speaker, before reserving the balance of my time, I would state that the bill would result in an additional cost of $2,500. That comes about from the raising of the salary level from level IV to level III of the executive schedule.

Mr. Speaker, I reserve the balance of my time.

Mr. ASHBROOK. Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois (Mr. RAILSBACK).

Mr. RAILSBACK. Mr. Speaker, the administration has requested this legislation with the laudable objective of improving the administration of the Department of Justice. The Associate Attorney General, who would be made a Presidential appointee by this bill, has been given supervisory responsibility for the civil activities of the Department under a recently adopted reorganization plan, while the Deputy Attorney General has been assigned similar authority over the criminal justice programs.

It should not go unnoticed, however, that the substantially equal authority of the Associate Attorney General and the Deputy Attorney General has not been recognized in equality of pay; the Deputy is compensated at level II of the executive schedule, $57,500, while this bill provides that the Associate shall be paid at level III, $52,500. The Deputy has precedence over the Associate in order of succession to the Attorney General. Perhaps this justifies the $5,000 difference in pay. However, I feel that careful consideration should be given to legislation placing the position of Associate Attorney General, and perhaps the Solicitor General as well, at level II.

We should also be alert, in my opinion, to any difficulties which this departmental reorganization may impose upon the supervision of the 94 U.S. attorneys, who handle both civil and criminal matters and will be receiving policy guidance through the Executive Office for U.S. Attorneys from two different people. I understand that Attorney General Bell is sensitive to this problem, and it is certainly my hope that he will be successful in minimizing tension and conflicts in this area.

Mr. Speaker, I know of no reason not to support this measure (S. 2089) and I urge an aye vote.

Mr. RODINO. Mr. Speaker, S. 2089 is a simple bill, and it is a bill this House can pass comfortably without a great deal of discussion.

But it is nonetheless important legislation about which the Attorney General feels very strongly, and it is legislation the administration believes is essential to an improved operation of the Justice Department.

The bill establishes officially, by statute, the Office of Associate Attorney General, a position first created administratively 4 years ago. Though the nature and function of the Office has varied over the course of the position's off again, on again history since 1973, in recent months the Office has evolved into that of a major policy official within the Department, and has become one upon which the incumbent Attorney General, Judge Bell, has relied very heavily.

Initially, the Office was envisioned as that of basically a senior staff adviser. Given the limited nature of the duties assigned to the Associate Attorney General, level IV of the executive schedule was considered to be the appropriate management level for the Office, and authority for the position was assigned from the President's pool.

Judge Bell, however, upon assuming office last January, evaluated the needs of the Department and concluded that proper policy level supervision was not being given to the Department's activities and that the complexity and scope of demands on the time of the Attorney General and the Deputy Attorney General actually precluded the proper policy level supervision required. Consequently, in March, Judge Bell reactivated the then dormant position of the Associate and reorganized the Department's central management activities, placing responsibility for coordinating programs in the criminal justice area with the Deputy Attorney General, and assigning to the Associate Attorney General responsibility for coordinating the Department's civil activities. In addition, the Associate was given the task of coordinating the Department's reorganization activities and overseeing the Department's executive selection process.

The incumbent Associate Attorney General, Mr. Egan, has become, in effect, the No. 3 man at the Department and is presently supervising individuals who have been appointed by the President and confirmed by the Senate. Mr. Egan, however, has not himself been confirmed and can not be until this legislation is passed and the Office becomes official by statute.

The Senate, as you may know, acted expeditiously in passing this bill last month after the Senate Judiciary Committee had assured the Attorney General it could confirm Mr. Egan this session if the authorizing legislation were enacted promptly. The Judiciary Committee in the House heard Judge Bell's testimony on September 27 and the full committee ordered the bill reported the following week. I am hopeful the full House will now bring this legislation to the President's desk by its action today.

Mr. ASHBROOK. Mr. Speaker I have no further requests for time, and I reserve the balance of my time.

Mr. KASTENMEIER. Mr. Speaker, I have no further requests for time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Wisconsin (Mr. KASTENMEIER) that the House suspend the rules and pass the Senate bill S. 2089.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. KASTENMEIER. Mr. Speaker, I ask unanimous consent that all Members may be permitted to revise and extend their remarks on the bill just passed.

The SPEAKER. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

IMMIGRATION STATUS OF INDOCHINESE REFUGEES

Mr. EILBERG. Mr. Speaker, I move to suspend the rules and concur in the Senate amendments to the bill (H.R. 7769) to authorize the creation of a record of admission for permanent residence in the cases of certain refugees from Vietnam, Laos, or Cambodia.

The Clerk read as follows:

Strike out all after the enacting clause and insert:

TITLE I—ADJUSTMENT OF STATUS OF INDOCHINA REFUGEES

SEC. 101. That (a) the status of any alien described in subsection (b) of this section may be adjusted by the Attorney General, in his discretion and under such regulations as he may prescribe, to that of an alien lawfully admitted for permanent residence if—

(1) the alien makes an application for such adjustment within six years after the date of enactment of this title;

(2) the alien is otherwise eligible to receive an immigrant visa and is otherwise admissible to the United States for permanent residence, except for the grounds for exclusion specified in paragraph (14), (15), (20), (21), (25), and (32) of section 212 (a) of the Immigration and Nationality Act; and

(3) the alien has been physically present in the United States for at least two years.

(b) The benefits provided by subsection (a) shall apply to any alien who is a native or citizen of Vietnam, Laos, or Cambodia and who—

(1) was paroled into the United States as a refugee from those countries under section 212(d)(5) of the Immigration and Nationality Act subsequent to March 31, 1975, but prior to January 1, 1979; or

(2) was inspected and admitted or paroled into the United States on or before March 31, 1975, and was physically present in the United States on March 31, 1975.

SEC. 102. Upon approval of an application for adjustment of status under section 1 of this title, the Attorney General shall estab-

lish a record, of the alien's admission for permanent residence as of March 31, 1975, or the date of the alien's arrival in the United States, whichever date is later.

SEC. 103. Any alien determined to be eligible for lawful admission for permanent residence under this title who acquired that status under the provisions of the Immigration and Nationality Act prior to the date of enactment of this title may, upon application, have his admission for permanent residence recorded as of March 31, 1975, or the date of his arrival in the United States, whichever date is later.

SEC. 104. When an alien has been granted the status of having been lawfully admitted to the United States for permanent residence pursuant to this title, his spouse and children, regardless of nationality, may also be granted such status by the Attorney General, in his discretion and under such regulations as he may prescribe, if they meet the requirements specified in section 1(a) of this title. Upon approval of the application, the Attorney General shall create a record of the alien's admission for permanent residence as of the date of the record of admission of the alien through whom such spouse and children derive benefits under this section.

SEC. 105. Any alien who ordered, assisted, or otherwise participated in the persecution of any person because of race, religion, or political opinion shall be ineligible for permanent residence under any provision of this title.

SEC. 106. When an alien is granted the status of having been lawfully admitted for permanent residence pursuant to the provisions of this title the Secretary of State shall not be required to reduce the number of visas authorized to be issued under the Immigration and Nationality Act, and the Attorney General shall not be required to charge the alien any fee.

SEC. 107. Except as otherwise specifically provided in this title, the definitions contained in the Immigration and Nationality Act shall apply in the administration of this title. Nothing contained in this title shall be held to repeal, amend, alter, modify, effect, or restrict the powers, duties, functions, or authority of the Attorney General in the administration and enforcement of the Immigration and Nationality Act or any other law relating to immigration, nationality, and naturalization. The fact that an alien may be eligible to be granted the status of having been lawfully admitted for permanent residence under this title shall not preclude him from seeking such status under any other provision of law for which he may be eligible.

TITLE II—EXTENSION OF THE INDOCHINA MIGRATION AND REFUGEE ASSISTANCE ACT OF 1975

SEC. 201. Section 2 of the Indochina Migration and Refugee Assistance Act of 1975 is amended to read as follows:

"SEC. 2 (a)(1) Subject to the provisions of subsection (b), there are authorized to be appropriated, in addition to amounts otherwise available for such purposes, such sums as may be necessary for carrying out the provisions of paragraphs (3), (4), (5), and (6) of section 2(b) of the Migration and Refugee Assistance Act of 1962 with respect to aliens who have fled from Cambodia, Vietnam, or Laos.

"(2) Funds appropriated under this Act shall be made available to State or local public agencies to reimburse them for the non-Federal share of costs under titles IV and XIX of the Social Security Act for the provision of cash or medical assistance to aliens who have fled from Cambodia, Vietnam, or Laos.

"(b)(1) None of the funds authorized to be appropriated by subsection (a) may be available for obligation after September 30, 1981.

"(2) The amount of assistance (including the amount of reimbursement as described in subsection (a)(2) provided to a State or local public agency under section 2(b) of the Migration and Refugee Assistance Act of 1962 for the purpose of providing cash or medical assistance to aliens who have fled from Cambodia, Vietnam, or Laos may not exceed—

"(A) for the fiscal year ending September 30, 1979, 75 per centum, and

"(B) for the fiscal year ending September 30, 1980, 50 per centum, and

"(C) for the fiscal year ending September 30, 1981, 25 per centum,

of the cost (including the non-Federal share of costs as described in subsection (a)(2)) of the State or local public agency in providing such assistance for such purpose for the fiscal year ending September 30, 1978.

"(c) In addition to amounts otherwise available for the purposes of this Act, there are authorized to be appropriated $25,000,000, to remain available until expended, for special projects and programs, administered in whole or in part by State or local public agencies or by private voluntary agencies participating in the Indochina refugee assistance program, to assist minor and adult refugees in resettling and in gaining skills and education necessary to become self-reliant.".

SEC. 202. (a) Section 4(b) of the Indochina Migration and Refugee Assistance Act of 1975 is amended to read as follows:

"(b) Not later than December 31 of each year ending prior to January 1, 1982, the Secretary of Health, Education, and Welfare shall transmit to such committees a report describing fully and completely the status of refugees from Cambodia, Vietnam, and Laos."

(b) Section 4(c) of such Act is repealed.

Amend the title so as to read: "An Act to authorize the creation of a record of admission for permanent residence in the cases of certain refugees from Vietnam, Laos, or Cambodia, and to amend the Indochina Migration and Refugee Assistance Act of 1975 to extend the period during which refugee assistance may be provided, and for other purposes.".

The SPEAKER pro tempore. Is a second demanded?

Mr. FISH. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Pennsylvania (Mr. EILBERG) will be recognized for 20 minutes, and the gentleman from New York (Mr. FISH) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Pennsylvania (Mr. EILBERG).

Mr. EILBERG. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, before I discuss the Senate amendment, I want to explain to my colleagues "why" we are bringing this matter up under suspension of the rules.

The reason is very simple. The program for providing assistance to Indochina refugees expired at the end of last month. Therefore, unless we approve the Senate amendment which extends that program, the various forms of Federal assistance designed to help these refugees become self-sufficient will be abruptly terminated.

The arbitrary termination of the program at this time will have the effect of placing undue burdens on those States where large numbers of refugees have resettled and this may result in unfair tax increases to residents in those States.

In my judgment it is illogical and unreasonable for the Federal Government to terminate its responsibilities, for this group of refugees, just 2 short years after authorizing their admission and resettlement.

I should advise my colleagues that my Subcommittee on Immigration, Citizenship, and International Law was very aware of the expiration date for the program. Unfortunately, our consideration of this matter was delayed by the failure of the administration to submit its extension legislation to the Congress in a timely fashion.

In fact, the administration's legislative proposal was submitted just 3 weeks before the program actually expired. At that time, my subcommittee held emergency hearings to consider the administration's bill and related proposals introduced by the distinguished gentleman from California (Mr. STARK).

During the course of these comprehensive hearings, it became evident that the administration's bill was deficient in several respects. For example, it would have immediately reduced Federal reimbursement to State and local governments from 100 to 75 percent for the current fiscal year and discontinued special projects and social services which are urgently needed by the refugees.

The Senate amendment, on the other hand, provides a rational and orderly phase-down of the Federal program—and the Federal responsibility—over a 4-year period. Specifically, it continues 100 percent reimbursement for the first year. In each of the 3 succeeding years the reimbursement formula is scaled down by 25 percent—in other words 75, 50, and 25 percent—with the program terminating in fiscal year 1981. In addition, the Senate amendment authorizes a total of $25 million for special projects over the 4-year period. These funds will be used to assist the refugees in obtaining the skills and training which they need in order to become productive members of their respective communities.

I might add that my subcommittee met last week to consider the approach embodied in the Senate amendment to H.R. 7769. We were unanimous in our support of the Senate amendment. It was our belief that it adequately reflects the continuing Federal responsibility for this particular group of refugees, and at the same time, it assures us that the program will be terminated.

Mr. Speaker, the Senate amendment is strongly supported by the State governments, the private voluntary agencies responsible for resettling the refugees, and by all of the members of my subcommittee. I might add that the administration also strongly supports the enactment of legislation extending the Indochina refugee assistance program, despite the fact that they may have

some reservations about the formula we are today considering.

In view of the fact that the Senate amendment has been extensively considered by my subcommittee and because it will not be processed through normal legislative channels I believe it is important to create a legislative history on several issues addressed by that amendment. First of all it is not the intent of the House bill nor the Senate amendment to authorize funds for the movement of any additional Indochina refugees to the United States.

In addition, this legislation is not intended to provide Federal assistance—in the form of reimbursement to State and local governments or direct assistance through special contract or services—to any Indochina refugees other than those already here on the day of enactment, the 15,000 additional refugees whose admission has already been authorized under the new parole program, or to those coming under the normal immigration law.

Likewise, the Senate amendment to the adjustment of status provision in H.R. 7769 is not intended to include within the scope of eligibility any additional refugees coming to the United States under any other new parole program other than the previously mentioned 15,000 refugees. Finally the House bill and the Senate amendment have no relation whatsoever to the issue of reimbursing school districts for assistance provided to Indochina refugee children.

The Senate amendment is carefully structured to carry out in a reasonable and cost effective manner those objectives which the Congress established when it enacted the Indochina Migration and Refugee Assistance Act of 1975. The abrupt—and in my opinion premature—termination of the programs and services authorized by the 1975 act could well be disastrous. In order to avoid such a situation. I urge my colleagues to support my motion to concur with the Senate amendments.

Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. PHILLIP BURTON).

Mr. PHILLIP BURTON. Mr. Speaker, I thank the gentleman for yielding.

I would like to commend our most distinguished and able colleague, the gentleman from Pennsylvania (Mr. EILBERG).

Once again, Mr. Speaker, he has moved with great sensitivity and dispatch in this very important problem. The end of our involvement in Indochina carried with it the very difficult situation confronting the individual refugees involved, as well as the problem confronting a number of our local communities, in assisting the refugees playing a more meaningful role in life here in the United States.

Again, Mr. Speaker, I thoroughly applaud the Congressman EILBERG's action and leadership in this respect.

Mr. EILBERG. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. MCFALL).

Mr. MCFALL. Mr. Speaker, I wish to commend the chairman and the members of the committee for their prompt yet thorough action on this bill.

Without passage of this bill, which provides for extension of the Indochina Migration and Refugee Act of 1975, State and local government treasuries will suffer a shocking blow.

This is an especially serious problem in California where 1 in 3 of the 150,000 Indochinese refugees have settled. The State Department estimate of an additional 15,000 refugees entering the country each year for the next 3 years demonstrates that the problem will not improve.

Continuing assistance to these refugees without Federal funding could cost the State of California $35 million this next fiscal year alone.

Extension of the Refugee Act of 1975 is the only reasonable means of relief for the State and local governments with far more than their equal share of these refugees.

Since 1975, this act has provided the most important help for these families as they adjust to their own personal losses and the shock of a new culture.

I urge your support of this measure.

Mr. FISH. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, I rise in support of the motion to suspend the rules and pass H.R. 7769 with the Senate amendment. As you know, on September 27 of this year, the House passed my bill, H.R. 7769, to permit the refugees from Indochina to adjust their immigration status to that of permanent resident alien after they had been in the United States for 2 years. At that time, our Subcommittee on Immigration had held 2 days of hearings on legislation to extend the Indochina Migration and Refugee Assistance Act of 1975. Those hearings indicated the need for a short extension of the Federal assistance program for these refugees. The most recent report of the HEW refugee task force dated September 21, 1977, indicated that 85 percent of all refugee households receive income from employment. However, over one-third of these households must also resort to supplemental cash assistance. This is due to the fact that these refugees, while obviously willing to work, are experiencing difficulty in obtaining jobs adequate to support themselves. This is the result of the obvious difficulty they experience in making the cultural and economic adjustment to our society.

The original administration proposal to extend the existing Federal program failed to include any funding authority for social services and special projects. These include language and employment training, and I am pleased to note that the Senate has seen fit to authorize $25 million for just such projects. It is only through programs such as the 62 English and vocational programs now being funded under the original refugee assistance program that these refugees will be able to become self-sufficient.

The Senate has provided for a 4-year phase-out of this assistance program, with 100 percent Federal reimbursement during the present fiscal year of 1978, and a 25 percent reduction during each of the 3 succeeding fiscal years. This formula for Federal reimbursement would apply to social services programs such as day care and aid to the elderly. The non-Federal share of medicaid and aid for dependent children (AFDC) and similar State-funded programs, and the administrative costs connected with such a program.

Mr. Speaker, I want to emphasize that this extension in no way enlarges the assistance programs authorized by our 1975 legislation. However, failure to enact an extension of this program would shift the entire burden of welfare and public assistance for refugees to the various States. At this time only 17 States have general welfare assistance programs. This would leave refugees in the other 33 States without access to supplemental cash assistance, the very type of assistance that those working, but underemployed refugees need to supplement their present low incomes.

The Senate also made two minor amendments in what is now title I of H.R. 7769 which is the bill that passed the House on September 27, 1977. As passed by the Senate, refugees who are paroled into the United States before January 1, 1979, would be eligible to adjust their status, as contrasted with our bill which would have applied only to those refugees paroled as of the date of enactment. This will make coverage extend to the recent group of 15,000 refugees who have begun to arrive under the August action of the Attorney General authorizing their admission. The Senate version also provides 6 years rather than 3 as in the House version, for eligible refugees to seek adjustment of status.

With this new group of refugees not yet all here, it seems appropriate that this bill be drafted to cover them as well. Of course, they would not be eligible to adjust their status until they meet the requirement of 2 years physical presence in the United States.

The passage of title I of this bill to allow refugees to become permanent residents will open many more job opportunities for these refugees, and thereby decrease their need to rely on any cash assistance.

I am happy to join Subcommittee Chairman EILBERG in supporting the motion to suspend the rules and agree to the Senate amendment to my bill, H.R. 7769, and urge my colleagues to do likewise.

Mr. SAWYER. Mr. Speaker, will the gentleman yield?

Mr. FISH. Mr. Speaker, I yield such time as he may consume to my colleague, the gentleman from Michigan (Mr. SAWYER).

Mr. SAWYER. Mr. Speaker, I thank the gentleman from New York for yielding me this time.

Mr. Speaker, I rise in support of this legislation. The Senate version in my opinion—and I have spent time looking at it, being on the subcommittee—is a distinct improvement over the bill that was proposed by the administration. In particular, because it contains provisions

for social services which include training in jobs and in language. These people are a very industrious and work oriented people. We have 700 of them in Grand Rapids, Mich. Out of those that are on the labor market only one is unemployed. Out of 150 families some 19 require some form of public assistance. This is not because they are not working but because they are under-employed and have not yet been able to measure up to their skills because of the language problem and customs problems. That is what the $25 million social service program is designed to cure. It strikes me that this represents, as opposed to an expense, a very worthwhile investment in these new people in our community.

I want to congratulate again the subcommittee chairman, the gentleman from Pennsylvania (Mr. EILBERG) for expeditiously handling this matter. Hopefully, it will go through before the funds that are left on hand from the already expired program are exhausted.

Mr. EILBERG. Mr. Speaker, I yield 5 minutes to the gentleman from California (Mr. STARK).

Mr. STARK. Mr. Speaker, I am rising in strong support of H.R. 7769. Of special interest to me is the Senate's amendment to this bill extending the Indochinese refugee assistance program, known as IRAP. I have introduced several pieces of legislation over the past 6 months to extend IRAP. These gained over 50 cosponsors in the House. I was gratified that many of my provisions were included in the Senate's bill.

This extension is absolutely necessary. Although over 86 percent of the nearly 150,000 refugees in the United States employed last year, nearly 35 percent were receiving some sort of cash assistance under the program to supplement their very low wages. Without the continuation of Federal assistance, State and local taxpayers in many communities across the Nation will be faced with increased local taxes to meet the cost of assisting these refugees.

In California, where approximately 46 percent of Indochinese refugees were receiving cash assistance, these extra costs will amount to more than $34 million. Unless this bill is passed, about $12 million of this amount would have to be raised by increasing local property taxes.

Action is especially urgent since the program expired on September 30. HEW is currently continuing the program on a limited basis with unspent funds. These funds, however, will be completely exhausted by the end of the month. Not only would termination of IRAP at this time work undue hardship on more than 30 States and the refugees living therein, but it would also effectively deny assistance to the 15,000 additional refugees whose admission the Attorney General authorized on August 11. The Federal Government cannot deny assistance to these refugees who will be arriving over the coming year.

The Senate amendment to H.R. 7769 satisfies the need for a continuing Federal program refugee assistance, while avoiding the danger of institutionalizing dependency among the refugees. It provides for an orderly phase-down of IRAP and the transfer of the refugees into ongoing Federal and/or State programs over a 4-year period. Reimbursement to State and local governments would continue at 100 percent for the first year and then successively drop 25 percent over the next 3 years. The program would end in fiscal year 1981.

In addition, the amendment authorizes $25 million for special projects. These projects, run largely by voluntary agencies, have transmitted the skills and training necessary for the refugees to become self-sufficient. They have proven very effective in helping to take refugees off of cash assistance and are responsible for the remarkably high employment rate among the refugees.

This legislation is strongly supported by the administration. It also has the full support of the voluntary agencies and local communities involved in the resettlement effort. Of special importance in this regard, is the support of an ad hoc coalition of State governments and voluntary agencies called the Coalition for the Effective Resettlement of the Indo-Chinese Refugees. I have been working with Mr. Stan Breen, Special Assistant to the Governor of Minnesota, who has ably led this group, for over 6 months.

I would also like to thank the chairman of Judiciary's Subcommittee on Immigration, Citizenship, and International Law, Mr. EILBERG, and the ranking minority member, Mr. FISH, for their recognition of the need for this legislation and their support. It has been essential.

An extension of the Indochinese refugee assistance program will allow us to complete the process of resettlement we began in the spring of 1975. It is responsible, cost-effective, and humane. I urge you to join me and vote "yes" on H.R. 7769.

Mr. FISH. Mr. Speaker, I yield such time as he may consume to the gentleman from Washington (Mr. PRITCHARD), one of the original cosponsors of this legislation.

Mr. PRITCHARD. Mr. Speaker, today we consider Senate amendments to H.R. 7769, a bill calling for the adjustment of status of Indochinese refugees and, as amended by Senator KENNEDY, providing for a 4-year extension of Federal funding of a refugee assistance program. This bill is of crucial importance to 150,000 refugees and of special significance to all Americans.

September 30, 1977 marked the termination of the Indochinese resettlement program. That program represented an essential and successful first step in our efforts to help resettle the largest influx of refugees at any time in this Nation's history. While that program extended our country as a haven from persecution, this bill extends our country as a permanent home for the refugees. This bill represents both the next logical step and the final step we must take in assimilating our newest refugee group.

If I may comment briefly on the refugees response to the resettlement program to date, it is especially noteworthy. During the first 2 years of resettlement, these people quickly displayed their willingness to become productive members of our society. Of those possessing an understanding of English and a competence in such professions as journalism, teaching, and business, many have accepted employment in such unrelated jobs as painters, carpenters, and security guards. Their efforts over this short period indicates a desire not to burden our society, but to contribute to it. But their quest for a productive self sufficiency depends on our actions today, as many of the paths to their goal are closed to them because of their status.

For example, most States limit employment in certain professions to U.S. citizens or permanent resident aliens who have declared their intention to become U.S. citizens. Enactment of this bill would authorize these refugees to adjust their status from parolees to permanent resident aliens and thus open a wide range of employment opportunities. Also, their present parole status effectively closes the door to higher education as most States require refugees with such an uncertain status to pay substantially higher out of State tuition to attend their community colleges and universities. These are but two of the many important consequences of passage of this bill.

Enactment of this bill as amended will also provide $25 million for special projects. These special projects to assist refugees in gaining skills and education necessary to become self-reliant have proven effective in removing refugees from the welfare rolls and thus warrant our continued support.

A 4-year phaseout of the program built into this bill clearly indicates that this is the final step toward completion of our refugee resettlement efforts.

For these reasons, I urge my colleagues to join me in support of this bill. With your support, we may today write an epilog of hope to a long and despairing chapter in our Nation's history.

Mr. FISH. I thank the gentleman from Washington very much for his statement.

Mr. Speaker, I know of no opposition to this legislation.

I have no further requests for time and reserve the balance of my time.

Mr. EILBERG. Mr. Speaker, I yield 2 minutes to the gentleman from Virginia (Mr. HARRIS).

Mr. HARRIS. Mr. Speaker, I am pleased to support today the Senate's amendment to H.R. 7769, a bill to grant permanent residence to Indochinese refugees. The Senate amendment will extend the Indochinese Migration and Assistance Act of 1975 for 4 years and provide funds for special language and vocational training.

It is my feeling—and the feeling of the other members of the Subcommittee on Immigration, Citizenship, and International Law—that providing such special services as language and vocational

training to meet the unique needs of Indochinese refugees will greatly reduce the possibility of these refugees becoming dependent on welfare and cash assistance and expedite their adjustment to American society. This bill would terminate Federal funding of social services and special programs after 4 years, at which time the refugees would be better prepared to market their skills in the economy.

As you may know, the Indochinese refugee assistance program expired on September 30, 1977. In my home State of Virginia alone, which has the fourth highest population of Indochinese refugees in the Nation, some two-thirds of the 541 refugees currently receiving cash assistance will not get their monthly checks unless the program is extended. Moreover, those refugees who are currently benefiting from social services and special programs may not be able to receive these benefits at all if Federal funding is cut back this year.

The record indicates that 85 percent of the Indochinese refugees in Virginia are employed. But since they are often only able to find low-paying jobs, some refugees require supplemental cash and medical assistance to make ends meet. I believe that continuation of social services and special programs for language and vocational training is a vital part of any program to help the Indochinese refugees make a smooth transition into the mainstream of American society.

Again, I urge my colleagues to join in support of the amendment to extend the Indochinese refugee and assistance program for 4 years.

Mr. EILBERG. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. EDWARDS).

Mr. EDWARDS of California. Mr. Speaker, I rise in support of the Senate amendment to H.R. 7769, which provides for adjusting the immigration status of the Indochina refugees and for extending the Indochina refugee assistance program.

I would like to commend my good colleagues JOSHUA EILBERG and HAMILTON FISH for the fine work they have done in developing the legislation we are considering today. I would also like to compliment my colleague and friend from California, PETE STARK, for his role in the effort to extend the refugee assistance program. The gentleman from California was one of the first Members of Congress to recognize the urgent need for an extension of the resettlement program and to introduce legislation to provide for further Federal reimbursement to the States for services to Indochina refugees.

The House last month passed H.R. 7769 by a vote of 390 to 22. The bill as approved by the House at that time provided for the adjustment of status of the Indochina refugees from that of parolees to permanent residents. I shared the feeling of the great majority of my colleagues that this action was necessary to provide for a successful settlement of the refugee population in the United States.

By allowing the refugees the opportunity to become permanent residents, the uncertainty of their immigration status is removed, and the way is cleared for the refugees to move into the mainstream of society as legal permanent residents, and eventually as U.S. citizens. It will make the refugees feel they have been accepted into our society, and will further encourage them to become active participants in our communities.

The Senate amendment to H.R. 7769 modifies only slightly the provisions for adjustment of status which the House approved. It extends the time period within which the refugees may apply for adjustment and extends the eligibility date to cover refugees admitted prior to January 1, 1979. This will enable the latest group of refugees paroled into the country to take advantage of this legislation. I am sure my colleagues would agree with me that these two small changes in the adjustment provision will make the bill even more effective.

The Senate language adds to the House bill provisions to extend the Indochina migration and refugee assistance program for 4 years. It provides for continued Federal reimbursement to States for the costs involving in providing assistance to the refugees. The Federal role will be reduced each year, to enable the States to gradually assume responsibility for public assistance costs. For fiscal year 1978, there will be 100 percent reimbursement, with 75 percent reimbursement in fiscal year 1979, 50 percent in fiscal year 1980 and 25 percent in fiscal year 1981.

The need for continued reimbursement to the States is clear. While some 34 of our 50 States have substantial refugee populations, the situation is particularly acute in my own State of California. It is estimated that over 50,000 or about one-third of the total Indochina refugee population has already settled in California, with this number continually increasing as secondary migration from other States continues and as more refugees are paroled into the country. In the San Francisco bay area, which includes my own congressional district, there are estimated to be some 18,000 Indochina refugees. The estimated public assistance costs for the refugees in California is $39 million for fiscal year 1978. Without the 100 percent Federal reimbursement, California will have to shoulder $27 million of this cost. The cost would have to be met by increasing local taxes or cutting back on services in other areas.

We are making good progress in the resettlement effort. The programs and services we are providing for refugees in California, and throughout the country, are paying off and the refugees are gradually becoming self-sufficient. It would be disastrous, in my opinion, to abruptly halt Federal reimbursement to the States. To do so would totally disrupt the resettlement process.

I strongly feel that the 4-year extension, as provided by the Senate amendment to H.R. 7769, is essential if the Federal Government is to meet its responsibility to assist in the resettlement of the refugees which it paroled into the United States. The gradual reduction in the rate of Federal reimbursement will insure that this assistance program will not go on indefinitely. We can expect that by the end of the 4-year extension this bill provides, the great majority of the Indochina refugees will have been successfully integrated into society and will no longer be reliant on public assistance programs.

I urge my colleagues to vote in favor of the Senate amendment to H.R. 7769.

Mr. VAN DEERLIN. Mr. Speaker, I am pleased to rise in support of H.R. 7769 which, as amended by the Senate, would continue the Indochinese refugee assistance program for another 4 years.

Enactment of this legislation will come as welcome news to my home county of San Diego, which otherwise would have to assume more than $2 million in welfare and related costs for these refugees.

When the arrangements were made to allow Vietnamese, Laotian, and Cambodian nationals to seek sanctuary in our country, it seemed only fitting that the Federal Government would assume the primary financial burden.

To precipitously end this commitment is to renege on a promise. Our county governments were not responsible for the unfolding of the tragic events which forced these people, some 150,000 of them, to seek refuge in our country.

Without the relief provided by this legislation, the taxpayers of San Diego would face a 3.3-cent increase in the property tax rate—which comes to about $5.25 for the typical household in the county. I urge swift approval.

Mr. OBERSTAR. Mr. Speaker, I rise in support of the Indochina Migration and Refugee Act amendments as approved by the House Judiciary Committee and modified by the amendments of the other body. We have the opportunity to fulfill our obligation to the States and people we represent and to the Indochinese refugees here in this country as the result of action taken by Congress following the fall of South Vietnam.

The readjustment for these refugees is an enormous challenge. The nature of their emigration from their homelands and the significant language and cultural differences are so great that they have required the assistance of both the private and public sectors in making that adjustment.

The response of the American people and the performance of the refugees have been excellent.

The States and local governments have provided cash, medical and social service assistance to the refugees under the Indochina Migration and Refugee Assistance Act.

The special projects to train and educate refugees and to place them in jobs have yielded encouraging results. The jobs programs has made 5,000 placements at an average cost of $700 per applicant. To help understand what an exceptional record that is, compare those figures to CETA, whose placement figures indicate an average cost per job

placement under CETA programs to be approximately $6,000 per job.

These programs have both humanitarian and practical aspects. Successful readjustment by the refugees will reduce their dependence on governmental assistance and will enable them to contribute to the American economy.

The employment rate of the refugees is already higher than that of the nation. Only 14 percent of the refugees receive no wage or salary income. While 34 percent receive cash assistance, only 17 percent are totally dependent on welfare. Thus for half of the recipients of cash assistance, that assistance represents only a supplement to earned income—income gained at low-paying jobs. While these jobs show the willingness of the refugees to work, they do not always provide them with a living wage to support themselves and their families.

The legislation we are considering today recognizes that the adjustment is progressing so well that in 4 years the States will be left with a vastly diminished assistance program.

The bill gives communities the time they need to adjust to gradually decreased support through the reimbursement program. During each successive year Federal reimbursement will drop 25 percent from the level of 1978 funding.

Furthermore, the amendment provides a one-time authorization of $25 million for special job training and placement programs.

At the same time as the States are assuming a larger burden of the costs, the refugees are becoming increasingly self-supporting. In this regard, the experience in my State of Minnesota has been exemplary. Under the leadership of Gov. Rudy Perpich, former Gov. Wendell Anderson and program director Stan Breen.

These programs will be necessary for the next 4 years whether or not we support them. Without our support, they will, of course, be diminished. The States and local communities will be forced to seek additional revenue to support the remaining programs; that simply would be neither fair nor reasonable. The Federal Government has an obligation here, one that cannot be abandoned to State or local governments. The legislation before us today will meet that obligation by providing the funds necessary to complete this highly successful and humanitarian program.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Pennsylvania (Mr. EILBERG) to suspend the rules and concur in the Senate amendments to the bill H.R. 7769.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate amendments were concurred in.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. EILBERG. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate amendments to the bill (H.R. 7769), just concurred in.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Debate has been concluded on all motions to suspend the rules.

Pursuant to clause 3, rule XXVII, the Chair will now put the question on the motion on which further proceedings were postponed on S. 393, on which the yeas and nays were ordered.

STUDY OF CERTAIN LAND TO DETERMINE SUITABILITY FOR DESIGNATION AS WILDERNESS

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the Senate bill (S. 393).

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Wyoming (Mr. RONCALIO) that the House suspend the rules and pass the Senate bill S. 393, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 315, nays 103, not voting 16, as follows:

[Roll No. 664]

YEAS—315

Addabbo	Carney	Flippo
Akaka	Carr	Flood
Alexander	Carter	Flowers
Allen	Cavanaugh	Flynt
Ambro	Chappell	Foley
Ammerman	Chisholm	Ford, Mich.
Anderson, Calif.	Clay	Ford, Tenn.
	Collins, Ill.	Fountain
Andrews, N.C.	Conable	Fowler
Annunzio	Conte	Fraser
Applegate	Corman	Fuqua
Ashley	Cornell	Gammage
Aspin	Cornwell	Gaydos
Badillo	Cotter	Gephardt
Bafalis	Cunningham	Gibbons
Baldus	D'Amours	Gilman
Barnard	Daniel, Dan	Ginn
Baucus	Daniel'son	Glickman
Beard, R.I.	Davis	Gonzalez
Bedell	de la Garza	Gore
Beilenson	Delaney	Grassley
Benjamin	Dellums	Gudger
Bennett	Dent	Hall
Bevill	Dicks	Hamilton
Biaggi	Dingell	Hanley
Bingham	Dodd	Hannaford
Blanchard	Downey	Harkin
Blouin	Drinan	Harrington
Boggs	Duncan, Oreg.	Harris
Boland	Duncan, Tenn.	Hawkins
Bolling	Early	Heckler
Bonior	Eckhardt	Hefner
Bonker	Edgar	Heftel
Brademas	Edwards, Ala.	Hightower
Breaux	Edwards, Calif.	Holland
Breckinridge	Eilberg	Hollenbeck
Brinkley	English	Holtzman
Brodhead	Erlenborn	Howard
Broomfie'd	Ertel	Hubbard
Brown, Calif.	Evans, Colo.	Huckaby
Buchanan	Evans, Del.	Hughes
Burke, Calif.	Evans, Ga.	Ichord
Burke, Mass.	Evans, Ind.	Ireland
Burleson, Tex.	Fary	Jacobs
Burlison, Mo.	Fascell	Jeffords
Burton, John	Fenwick	Jenkins
Burton, Phillip	Fish	Jenrette
Byron	Fisher	Johnson, Calif.
Caputo	Fithian	Jones, N.C.
Jones, Okla.	Moorhead, Calif.	Scheuer
Jones, Tenn.	Moorhead, Pa.	Schroeder
Jordan	Moss	Seiberling
Kasten	Murphy, N.Y.	Sharp
Kastenmeier	Murphy, Pa.	Shipley
Kazen	Murtha	Simon
Keys	Myers, Gary	Sisk
Kildee	Myers, Michael	Skelton
Koch	Natcher	Slack
Kostmayer	Neal	Smith, Iowa
Krebs	Nedzi	Solarz
Krueger	Nichols	Spellman
LaFalce	Nix	Spence
Lagomarsino	Nolan	St Germain
Le Fante	Nowak	Stanton
Leach	O'Brien	Stark
Lederer	Oakar	Steed
Leggett	Oberstar	Steers
Lehman	Obey	Stokes
Levitas	Ottinger	Stratton
Lloyd, Calif.	Panetta	Studds
Lloyd, Tenn.	Patten	Thompson
Long, La.	Patterson	Thone
Long, Md.	Pattison	Thornton
Lujan	Pease	Traxler
Luken	Perkins	Tsongas
Lundine	Pettis	Tucker
McCloskey	Pickle	Udall
McCormack	Pike	Ullman
McDade	Preyer	Van Deerlin
McEwen	Price	Vanik
McFall	Pursell	Vento
McHugh	Quie	Volkmer
McKay	Quillen	Waggonner
McKinney	Rahall	Walgren
Maguire	Railsback	Walsh
Mahon	Rangel	Watkins
Mann	Reuss	Weaver
Markey	Richmond	Weiss
Martin	Rinaldo	White
Mathis	Risenhoover	Whitley
Mattox	Roberts	Whitten
Mazzoli	Rodino	Wiggins
Meeds	Roe	Wilson, C. H.
Meyner	Rogers	Wilson, Tex.
Mikulski	Roncalio	Winn
Mikva	Rooney	Wirth
Milford	Rose	Wright
Miller, Calif.	Rosenthal	Wydler
Mineta	Rostenkowski	Wylie
Minish	Roybal	Yates
Mitchell, Md.	Runnels	Yatron
Mitchell, N.Y.	Russo	Young, Mo.
Moakley	Ryan	Young, Tex.
Moffett	Santini	Zablocki
Mollohan	Sawyer	Zeferetti
Montgomery		

NAYS—103

Abdnor	Florio	Myers, John
Anderson, Ill.	Forsythe	Poage
Andrews, N. Dak.	Frenzel	Pressler
	Frey	Pritchard
Archer	Giaimo	Quayle
Armstrong	Goodling	Regula
Ashbrook	Gradison	Rhodes
AuCoin	Guyer	Robinson
Bauman	Hagedorn	Rousselot
Beard, Tenn.	Hammer-schmidt	Rudd
Bowen		Ruppe
Brown, Mich.	Hansen	Satterfield
Brown, Ohio	Harsha	Schulze
Broyhill	Hillis	Sebelius
Burgener	Holt	Shuster
Burke, Fla.	Horton	Sikes
Butler	Hyde	Skubitz
Cederberg	Johnson, Colo.	Smith, Nebr.
Clausen, Don H.	Kelly	Snyder
	Kemp	Staggers
Clawson, Del	Ketchum	Stangeland
Cleveland	Kindness	Steiger
Cochran	Latta	Stockman
Cohen	Lent	Stump
Coleman	Livingston	Symms
Collins, Tex.	Lott	Taylor
Corcoran	McClory	Trible
Crane	McDonald	Vander Jagt
Daniel, R. W.	Madigan	Walker
Derwinski	Marks	Wampler
Devine	Marlenee	Whitehurst
Dickinson	Marriott	Wilson, Bob
Dornan	Michel	Young, Alaska
Edwards, Okla.	Miller, Ohio	Young, Fla.
Emery	Moore	
Findley	Motti	

NOT VOTING—16

Badham	Goldwater	Treen
Brooks	Metcalfe	Waxman
Conyers	Murphy, Ill.	Whalen
Coughlin	Pepper	Wolff
Derrick	Sarasin	
Diggs	Teague	

The Clerk announced the following pairs:

Mr. Wolff with Mr. Badham.
Mr. Pepper with Mr. Coughlin.
Mr. Derrick with Mr. Goldwater.
Mr. Conyers with Mr. Sarasin.
Mr. Brooks with Mr. Treen.
Mr. Waxman with Mr. Whalen.
Mr. Murphy of Illinois with Mr. Teague.
Mr. Diggs with Mr. Metcalfe.

So (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

CONFERENCE REPORT ON H.R. 7797, FOREIGN ASSISTANCE AND RELATED PROGRAMS APPROPRIATIONS ACT, 1978

Mr. LONG of Maryland. Mr. Speaker, I call up the conference report on the bill (H.R. 7797) making appropriations for Foreign Assistance and related programs for the fiscal year ending September 30, 1978, and for other purposes, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mr. ROSTENKOWSKI). Is there objection to the request of the gentleman from Maryland?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of October 12, 1977.)

Mr. LONG of Maryland (during the reading). Mr. Speaker, I ask unanimous consent that the statement be considered as read.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Maryland?

There was no objection.

The SPEAKER pro tempore. The gentleman from Maryland (Mr. LONG) will be recognized for 30 minutes, and the gentleman from Florida (Mr. YOUNG) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Maryland (Mr. LONG).

Mr. LONG of Maryland. Mr Speaker, I yield myself such time as I may consume.

Mr. Speaker, I make only a brief introduction of the fiscal year 1978 foreign assistance and related programs appropriation conference agreement.

First, as a result of the overwhelming acceptance by the House of the Miller amendment, the conferees felt compelled to bring back a bill providing total new budget authority as close as possible to $6.7 billion. I am pleased to report that the conferees have been able to do this.

No meat-ax cut was made, but the House managers considered this provision in dealing with each of the specific appropriation accounts. This is reflected by the fact that the final conference amount totals $6,772,654,000, which is a level lying halfway between the $6,851,854,000 as recommended by the Senate and the $6,694,131,300 as recommended by the House, including the provision requiring a general 5-percent reduction. This final figure was arrived at after much deliberation over individual items.

Second, I call to your attention several of the programs which shall be funded if this conference agreement is accepted: $931 million for development assistance; $23 million for the American schools and hospitals abroad program; $25 million for Italian disaster relief; $50 million for the Sahel development program; over $1.8 billion for Israel;

Over $100 million to help bring stability to Southern Africa; $63 million to help refugees all over the world; $231 million for various U.N. and OAS programs; $37 million for International Narcotics Control; $300 million for a balance of payments loan to Portugal; $15 million for Cyprus; $82 million for the Peace Corps; and $1.9 billion for six international financial institutions. This final figure for the international banks cuts the administration request by 26 percent.

As you well know, the original conference agreement was filed on September 26, 1977, and the House conferees brought back 10 amendments in disagreement. Since that time, the President made significant assurances regarding the House position on these issues and the Senate indicated a willingness to reach an agreement on the 10 items in disagreement. Because of these changes in position after the original conference agreement was filed, the Foreign Assistance Appropriation bill was sent back to the committee of conference and acceptable solutions were worked out on October 12, 1977.

As I said earlier, the administration has made unprecedented commitments regarding the U.S. position on loans or financial assistance by the international institutions to specific countries—commitments which would not have been forthcoming had it not been for the efforts of the gentleman from Florida (Mr. YOUNG). To quote from a letter which I received the week before last from the President:

> Additionally, as we discussed earlier, I shall instruct the U.S. Executive Directors in the banks to oppose and vote against, throughout fiscal year 1978, any loans to the seven countries mentioned in the House amendments. Our representatives will also oppose and vote against loans for the production of the three commodities where such production is for export and could injure producers in the United States. You may be certain that I shall closely watch and review the lending practices of the banks during this fiscal year.
>
> For the longer run, I have directed the Secretary of the Treasury, in consultation with the leadership and appropriate committee of the Congress, to undertake a thorough study of how the whole range of U.S. objectives, including the type envisaged in these amendments, can best be pursued in the banks. I would expect that the results of this appraisal could help guide our efforts for fiscal year 1979 and beyond, in partnership between the Administration and the Congress.

Not only will the President direct the U.S. representatives to the international financial institutions to vote against and oppose loans to Vietnam, Laos, Cambodia, Uganda, Mozambique, Angola, Cuba and for the production of sugar, palm oil, and citrus crops for export if it could injure U.S. producers, but he has also directed the Secretary of the Treasury to undertake a thorough study of the international banks. I thank the gentleman from Florida (Mr. YOUNG) for his help in getting these commitments from the administration.

In this endeavor, the Congress will take leadership. The chairman of the House Appropriations Committee, Mr. MAHON, has, at my suggestion, directed that the Foreign Operations Subcommittee, which I chair and of which Mr. YOUNG of Florida is the ranking minority member, conduct oversight hearings on these multilateral institutions with the following objectives in mind:

First. Is the multilateral assistance reaching the very poor—not only the poor countries but the poor people within those poor countries?

Second. Are the institutions' operations publicly accountable in the same way that the operations of U.S. Government agencies are accountable—through audits, openness, and disclosures?

Third. What amounts of multilateral assistance are channeled to countries, both Communist and right wind dictatorships, that are gross violators of human rights, and what measures are being used to stop these flows?

Fourth. What loan subsidies have been going to establish or expand production for export of commodities that could injure U.S. producers?

Fifth. How effectively and how economically are these international financial institutions being administered, with attention to the large salaries paid to management and staff, the benefits received by the institutions' staffs, the effectiveness of the administrators in directing assistance to the problem areas and to the poor people in poor countries.

Thus, as the year progresses, the multilater institutions will be subjected to oversight by our committee, by other House Committees and by Congress in general. If the institutions are not performing in the manner Congress feels they should, it will have the opportunity in fiscal year 1979 to take additional corrective steps. I can assure you that I have no intention of allowing these institutions to receive large U.S. contributions without the proper oversight to insure that these contributions are properly obligated.

In view of the willingness of the Presiden to take these very stringent steps and with the cooperation of the Senate, we have been able to work out the following compromise on issues originally reported in true disagreement:

First. On the amendments dealing with the prohibition of indirect assistance to Vietnam, Laos, Cambodia, Uganda, Angola, Mozambique, and Cuba (amendments Nos. 42, 45, and 79), the "indirect" language has been eliminated. This can now be done because the President, in his

letter to me, said in no uncertain terms that he will instruct the U.S. representatives to the international institutions to vote against and oppose loans or other financial assistance to these countries. Language is included in the conference report which states that extensions of assistance to any country by multilateral institutions during fiscal year 1978, contrary to the opposition of the U.S. representatives as directed by the President, will be the subject of intensive committee oversight.

Second. On the provision prohibiting funds to the international financial institutions from being used for the purpose of establishing or expanding production of sugar, palm oil or citrus crops, (amendment No. 77) this language has also been deleted. Again, this deletion has been recommended based on the assurances of the President that he will direct the U.S. representatives to oppose and vote against loans for establishing or expanding production for export of palm oil, sugar, or citrus crops if such assistance will cause injury to U.S. producers of the same, similar or competing agricultural commodity. In addition, the authorization bill (Public Law 95–118) also addresses this subject.

Third. The House retained its provisions dealing with human rights (no military training to Argentina, amendment No. 37, no military aid, military training or military credit sales to Ethiopia and Uruguay, amendment No. 72, and no military credit sales to Argentina, Brazil, El Salvador, and Guatemala, amendment No. 73). One modification was made with regard to the limitations of military assistance, training and credit sales to the Philippines, amendment No. 74. We split the money amounts with the Senate but retained the provision setting these limits for the Philippines.

Mr. Speaker, the conference agreement is a compromise. I hope the House adopts it.

Mr. Speaker, I insert the letter I received from the President concerning the international financial institutions and a table which lists the amounts contained in the conference agreement:

THE WHITE HOUSE,
Washington, October 6, 1977.

Hon. CLARENCE D. LONG,
Chairman, Subcommittee on Foreign Operations, Committee on Appropriations, U.S. House of Representatives, Washington, D.C.

TO CHAIRMAN CLARENCE LONG: Secretary Blumenthal has informed me of your constructive efforts to achieve a successful resolution of the problems posed by the amendments to the foreign aid appropriations bill restricting the use of U.S. contributions to the international development banks.

I deeply appreciate your helpful suggestions and the role you have played thus far in steering this vitally important legislation through the House.

As I stated in our meeting last Friday, I fully agree with you and your colleagues in the House that U.S. assistance through the banks must take full account of the human rights policies of recipient countries. Accordingly, I will shortly sign into law the recently passed authorizing legislation for U.S. participation in the international development banks which require that the U.S. representatives to the banks oppose loans to gross violators (except where those loans are directed specifically to programs which serve the basic human needs of citizens of such countries).

Additionally, as we discussed earlier, I shall instruct the U.S. Executive Directors in the banks to oppose and vote against, throughout FY 1978, any loans to the seven countries mentioned in the House amendments. Our representatives will also oppose and vote against loans for the production of the three commodities where such production is for export and could injure producers in the United States. You may be certain that I shall closely watch and review the lending practices of the banks during this fiscal year.

For the longer run, I have directed the Secretary of the Treasury, in consultation with the leadership and appropriate committee of the Congress, to undertake a thorough study of how the whole range of U.S. objectives, including the type envisaged in these amendments, can best be pursued in the banks. I would expect that the results of this appraisal could help guide our efforts for FY 1979 and beyond, in partnership between the Administration and the Congress.

I would hope that these steps would enable the House to avoid adopting any of the restrictive amendments, previously passed, in the final foreign assistance appropriations bill for FY 1978.

I appreciate your support and counsel on these critically important issues confronting our foreign policy.

Sincerely,

JIMMY CARTER.

COMPARATIVE STATEMENT OF NEW BUDGET AUTHORITY

	New budget authority					Conference compared with—			
	Enacted fiscal year 1977	Estimates fiscal year 1978	House fiscal year 1978	Senate fiscal year 1978	Conference fiscal year 1978	Fiscal year 1977 enacted	Fiscal year 1978 estimate	House bill	Senate bil
TITLE I									
FOREIGN ASSISTANCE ACT ACTIVITIES									
Funds Appropriated to the President									
Economic Assistance									
Food and nutrition, development assistance	505,000,000	550,000,000	535,000,000	515,000,000	515,000,000	+10,000,000	−35,000,000	−20,000,000	
Population planning, development assistance	143,600,000	167,000,000	160,600,000	155,000,000	155,000,000	+11,400,000	−12,000,000	−5,600,000	
Health, development assistance	70,400,000	104,903,000	100,000,000	95,000,000	95,000,000	+24,600,000	−9,903,000	−5,000,000	
Education and human resources development, development assistance	70,000,000	84,430,000	80,000,000	75,000,000	76,000,000	+6,000,000	−8,430,000	−4,000,000	+1,000,000
Technical assistance, energy, research, reconstruction and selected development, problems, development assistance	67,000,000	99,950,000	95,000,000	90,000,000	90,000,000	+23,000,000	−9,950,000	−5,000,000	
Subtotal	856,000,000	1,006,283,000	970,600,000	930,000,000	931,000,000	+75,000,000	−75,283,000	−39,600,000	+1,000,000
Loans	(300,000,000)	(325,000,000)	(310,500,000)	(310,500,000)	(310,500,000)	(+10,500,000)	(−14,500,000)		
Grants	(556,000,000)	(681,283,000)	(660,100,000)	(619,500,000)	(620,500,000)	(+64,500,000)	(−60,783,000)	(−39,600,000)	(+1,000,000)
International organizations and programs	228,000,000	266,500,000	257,000,000	224,750,000	231,250,000	+3,250,000	−35,250,000	−25,750,000	+6,500,000
United Nations Environment Fund	(10,000,000)					(−10,000,000)			
American schools and hospitals abroad	19,800,000	7,500,000	25,000,000	19,800,000	23,750,000	+3,950,000	+16,250,000	−1,250,000	+3,950,000
American schools and hospitals abroad (foreign currency program)	(7,000,000)	(7,000,000)	(7,000,000)			(−7,000,000)	(−7,000,000)	(−7,000,000)	
Indus Basin Development Fund, grants	15,750,000					−15,750,000			
Contingency fund	5,000,000	5,000,000	5,000,000	5,000,000	5,000,000				
International disaster assistance	25,000,000	45,000,000	18,500,000	18,500,000	18,500,000	−6,500,000	−26,500,000		
Italy relief and rehabilitation			20,000,000	30,000,000	25,000,000	+25,000,000	+25,000,000	+5,000,000	−5,000,000
Lebanon relief and rehabilitation assistance	20,000,000					−20,000,000			
Sahel development program		50,000,000	50,000,000	50,000,000	50,000,000	+50,000,000			
International narcotics control	34,000,000	39,000,000	39,000,000	38,000,000	37,100,000	+3,100,000	−1,900,000	−1,900,000	−900,000
Payment to the Foreign Service Retirement and Disability Fund	21,250,000	21,450,000	21,450,000	21,450,000	21,450,000	200,000			
Overseas training (foreign currency program)	(400,000)	(400,000)	(400,000)	(400,000)	(400,000)				
Middle East Special Requirements Fund									
Middle East special requirements fund	23,000,000	25,000,000	8,000,000	8,000,000	8,000,000	−15,000,000	−17,000,000		
Security Supporting Assistance									
Security supporting assistance	1,734,700,000	1,887,200,000	2,214,700,000	2,202,200,000	2,202,200,000	+467,500,000	+315,000,000	−12,500,000	
Assistance to Portugal									
Assistance to Portugal (Balance of Payments Loan)		300,000,000					−300,000,000		

COMPARATIVE STATEMENT OF NEW BUDGET AUTHORITY—Continued

	New budget authority					Conference compared with—			
	Enacted fiscal year 1977	Estimates fiscal year 1978	House fiscal year 1978	Senate fiscal year 1978	Conference fiscal year 1978	Fiscal year 1977 enacted	Fiscal year 1978 estimate	House bill	Senate bill
TITLE I—Continued									
FOREIGN ASSISTANCE ACT									
ACTIVITIES—Continued									
Funds Appropriated to the President—Con.									
United Nations Forces in Cyprus									
United Nations Forces in Cyprus		9,600,000	9,100,000	9,100,000	9,100,000	+9,100,000	−500,000		
Operating Expenses of the Agency for International Development									
AID operating expenses	195,055,000	220,200,000	215,200,000	210,200,000	213,000,000	+17,945,000	−7,200,000	−2,200,000	+2,800,000
Inter-American Foundation									
Inter-American Foundation (limitation on obligations)	(7,000,000)	(7,062,000)	(7,062,000)	(7,062,000)	(7,062,000)	(+62,000)			
Israel-United States Binational Industrial Research and Development Foundation									
Israel-United States Binational Industrial Research and Development Foundation	30,000,000					−30,000,000			
Total, economic assistance, title I	3,207,555,000	3,882,733,000	3,853,550,000	3,767,000,000	3,775,350,000	+567,795,000	−107,383,000	−78,200,000	+8,350,000
Military Assistance									
Military Assistance Program									
Military assistance	264,550,000	230,000,000	220,000,000	220,000,000	220,000,000	−44,550,000	−10,000,000		
Drawdown authority		(67,500,000)					(−67,500,000)		
International Military Education and Training									
International military education and training	25,000,000	35,000,000	30,000,000	30,000,000	30,000,000	+5,000,000	−5,000,000		
Total, military assistance, title I	289,550,000	265,000,000	250,000,000	250,000,000	250,000,000	−39,550,000	−15,000,000		
Total, title I, new budget (obligational) authority, Foreign Assistance Act activities	3,497,105,000	4,147,733,000	4,103,550,000	4,017,000,000	4,025,350,000	+528,245,000	−122,383,000	−78,200,000	+8,350,000
TITLE II									
FOREIGN MILITARY CREDIT SALES									
Foreign military credit sales	740,000,000	707,750,000	675,850,000	677,000,000	675,850,000	−64,150,000	−31,900,000		−1,150,000
Rescissions approved	−41,500,000					+41,500,000			
Total, titles I and II, new budget (obligational) authority	4,195,605,000	4,855,483,000	4,779,400,000	4,694,000,000	4,701,200,000	+505,595,000	−154,283,000	−78,200,000	+7,200,000
TITLE III									
FOREIGN ASSISTANCE (OTHER)									
Independent Agency									
ACTION—International Programs									
Peace Corps	80,000,000	84,800,000	81,000,000	84,800,000	82,900,000	+2,900,000	−1,900,000	+1,900,000	−1,900,000
Department of Health, Education, and Welfare									
Cuban refugee assistance	82,000,000					−82,000,000			
Special assistance to refugees from Cambodia, Vietnam, and Laos in the United States	50,000,000					−50,000,000			
Total, Department of Health, Education, and Welfare	132,000,000					−132,000,000			
Department of State									
Migration and refugee assistance	28,755,000	30,054,000	53,054,000	53,054,000	53,054,000	+24,299,000	+23,000,000		
Assistance to refugees from the Soviet Union and other Communist countries in Eastern Europe	15,000,000					−15,000,000			
United States Emergency Refugee and Migration Assistance Fund	3,660,000	15,000,000	10,000,000	10,000,000	10,000,000	+6,340,000	−5,000,000		
Total, Department of State	47,415,000	45,054,000	63,054,000	63,054,000	63,054,000	+15,639,000	+18,000,000		
Funds Appropriated to the President									
International Financial Institutions									
Asian Development Bank:									
Paid-in capital	24,127,000	20,357,156	16,000,000	17,939,178	16,799,000	−7,328,000	−3,558,156	+799,000	−1,140,178
Callable capital	66,350,000	183,214,407	124,000,000	163,060,822	151,189,000	+84,839,000	−32,025,407	+27,189,000	−11,871,822
Development fund	25,000,000	60,000,000	60,000,000	54,000,000	49,512,000	+24,512,000	−10,488,000	−10,488,000	−4,488,000
Total, Asian Development Bank	115,477,000	263,571,563	200,000,000	235,000,000	217,500,000	+102,023,000	−46,071,563	+17,500,000	−17,500,000

	New budget authority					Conference compared with—			
	Enacted fiscal year 1977	Estimates fiscal year 1978	House fiscal year 1978	Senate fiscal year 1978	Conference fiscal year 1978	Fiscal year 1977 enacted	Fiscal year 1978 estimate	House bill	Senate bill
Inter-American Development Bank:									
Inter-regional paid-in capital	56,000,000	40,007,026	40,000,000	40,000,000	36,711,000	−19,289,000	−3,296,026	−3,289,000	−3,289,000
Callable capital	320,000,000	199,998,937	199,000,000	199,000,000	182,639,000	−137,361,000	−17,359,937	−16,361,000	−16,361,000
Inter-regional callable capital		159,997,304	159,000,000	159,000,000	145,927,000	+145,927,000	−14,070,304	−13,073,000	−13,073,000
Fund for special operations	210,000,000	200,000,000	125,000,000	125,000,000	114,723,000	−95,277,000	−85,277,000	−10,277,000	−10,277,000
Total, Inter-American Development Bank	586,000,000	600,003,267	523,000,000	523,000,000	480,000,000	−106,000,000	−120,003,267	−43,000,000	−43,000,000
International Bank for Reconstruction and Development:									
Paid-in capital		52,295,211	40,000,000	40,000,000	38,000,000	+38,000,000	−14,295,211	−2,000,000	−2,000,000
Callable capital		470,656,895	360,000,000	360,000,000	342,000,000	+342,000,000	−128,656,895	−18,000,000	−18,000,000
Total, International Bank for Reconstruction and Development		522,952,106	400,000,000	400,000,000	380,000,000	+380,000,000	−142,952,106	−20,000,000	−20,000,000
International Finance Corporation		44,597,200	40,000,000	42,000,000	38,000,000	+38,000,000	−6,597,200	−2,000,000	−4,000,000
International Development Association	430,000,000	1,175,000,000	950,000,000	800,000,000	800,000,000	+370,000,000	−375,000,000	−150,000,000	
African Development Fund	10,000,000	10,000,000	10,000,000	10,000,000	10,000,000				
Subtotal, International Financial Institutions	1,141,477,000	2,616,124,136	2,123,000,000	2,010,000,000	1,925,500,000	+784,023,000	−690,624,136	−197,500,000	−84,500,000
Total, title III, new budget (obligational) authority, Foreign Assistance (other)	1,400,892,000	2,745,978,136	2,267,054,000	2,157,854,000	2,071,454,000	+670,562,000	−674,524,136	−195,600,000	−86,400,000
TITLE IV									
EXPORT-IMPORT BANK OF THE UNITED STATES									
Limitation on program activity	(6,334,443,000)	(5,458,207,000)	(5,458,207,000)	(5,458,207,000)	(5,458,207,000)	(−876,236,000)			
Limitation on administrative expenses	(12,306,000)	(12,695,000)	(12,695,000)	(12,695,000)	(12,695,000)	(+389,000)			
Total, title IV, Export-Import Bank of the United States, limitations on use of corporate funds	(6,346,749,000)	(5,470,902,000)	(5,470,902,000)	(5,470,902,000)	(5,470,902,000)	(−875,847,000)			
Subtotal, new budget (obligational) authority, titles I, II and III	5,596,497,000	7,601,461,136	7,046,454,000	6,851,854,000	6,772,654,000	+1,176,157,000	−828,807,136	−273,800,000	−79,200,000
5-percent adjustment			−352,322,700					+352,322,700	
Grand total, new budget (obligational) authority, titles I, II and III	5,596,497,000	7,601,461,136	6,694,131,300	6,851,854,000	6,772,654,000	+1,176,157,000	−828,807,136	+78,522,700	−79,200,000
Romanian relief and rehabilitation fiscal year 1977 supplemental		13,000,000		13,000,000	13,000,000	+13,000,000		+13,000,000	

Mr. MAHON. Mr. Speaker, will the gentleman yield?

Mr. LONG of Maryland. I am delighted to yield to the distinguished chairman of the Committee on Appropriations, the gentleman from Texas (Mr. MAHON).

Mr. MAHON. Mr. Speaker, I want to say to the distinguished chairman of the subcommittee, the gentleman from Maryland (Mr. LONG) that, in my judgment, the gentleman has done the best job that could be done with this legislation under the circumstances.

We all know that the foreign aid bill is a difficult bill for most of us and not all of us can support it. There are a number of reasons that this is so. However, let me say this, the subcommittee, through long and diligent effort on both sides of the aisle, have sought to come forward with a conference report that could be accepted by most Members.

Under the circumstances I hope the plea of the gentleman from Maryland (Mr. LONG) will be heeded and the conference report adopted.

Mr. WRIGHT. Mr. Speaker, will the gentleman yield?

Mr. LONG of Maryland. I will be glad to yield to the gentleman from Texas (Mr. WRIGHT).

Mr. WRIGHT. I thank the gentleman for yielding. I want to join with the distinguished chairman of the committee, the gentleman from Texas (Mr. MAHON) in commending the gentleman from Maryland (Mr. LONG) and the ranking minority member, the gentleman from Florida (Mr. YOUNG) for the diligent and effective manner in which they have attempted to carry out the express wishes of the House. I think they have done a good job. They have gained from the President of the United States some significant recognition of the views of this body. They have driven as hard a bargain as could be driven. I think they have gotten as good a bill as could be written. I believe this conference report is a good balance between the wishes of the House and the responsibilities of the House. I think it ought to be passed, and I want to commend the gentlemen for their efforts in that regard.

Mr. LONG of Maryland. I thank the distinguished majority leader for his very kind comments.

Mr. SKELTON. Mr. Speaker, will the gentleman yield?

Mr. LONG of Maryland. I yield to the gentleman from Missouri.

Mr. SKELTON. Mr. Speaker, is the language regarding direct aid to those named countries included in this conference report?

Mr. LONG of Maryland. Yes.

Mr. SKELTON. So there can be no direct aid to Cuba, Vietnam, et cetera?

Mr. LONG of Maryland. That is correct.

Mr. SKELTON. Now regarding the so-called indirect aid which I suppose would go to the various world banking-type institutions, it is my understanding that the President is directing our representative to vote against such aid from those banks to those places.

Mr. LONG of Maryland. That is correct.

Mr. SKELTON. Let me ask the gentleman this. What type of oversight does his committee plan? Does it plan periodic oversight, an oversight of every vote, or just what does his committee plan?

Mr. LONG of Maryland. If I may respond to the gentleman, the committee intends to conduct oversight hearings into the banks on a broad range of issues. In addition to the issues of salaries paid to the bank personnel and public accountability, we shall look closely at specific loans to the countries where the U.S. representatives have been instructed to vote against such loans.

I will be writing a letter to the various banks, particularly to the World Bank and the International Development Association, warning them that if any money is provided to these countries or if any aid is given notwithstanding the direction of the President to vote against such assistance, that the Congress will take a very serious view of this conduct. I am asking them to regard this as a warning not to give the loans to these countries. If they do, it will be at their own risk, and then it will be up to the Congress in the next session to judge the actions they have taken in light of this criticism.

Mr. SKELTON. The gentleman has answered my question. I believe they have carefully thought this out and it is

the intent that this be a continuing serious oversight from this point on out.

Mr. LONG of Maryland. I can assure the gentleman it will be a serious oversight. We will conduct careful oversight hearings and I shall make recommendations according to our findings.

Mr. YOUNG of Florida. Mr. Speaker, I yield such time as he may consume to the gentleman from Michigan (Mr. CEDERBERG).

Mr. CEDERBERG. Mr. Speaker, it is with some reluctance that I rise in opposition to this conference report. It is not because I am generally opposed to so-called foreign aid. I think that there are international responsibilities that we have as a nation that should be properly handled in this legislation. The chairman of the subcommittee has adequately told the House just what happened. If Members will recall, when this bill went through the House we got into the country-naming business.

We named the countries all over the world as to those that were better than others in the area of human rights and we put on limitations and so forth. This has seriously disturbed the administration. As a matter of fact, my position is exactly the same as that of the administration.

We ought not name any countries in this bill. We should let the President of the United States, the Secretary of the Treasury, the Secretary of State, do what they think is in the best interests of the United States in this area.

Some of us have gone down to the White House several times and the President said very clearly that he did not want us to restrict him in dealing with these other countries.

When the conference report came back, we had all these amendments in disagreement, mainly in the area of human rights; so we recommitted the matter back to the conference.

When the minority went back to the conference, we did not know that a deal had already been made, that the House conferees knew, except the minority, just exactly what was going to happen. The House conferees receded from the so-called Young amendment, which applies to the international banks and other multilateral organizations. It provides that none of the banks' funds could be used for the countries that were named: Uganda, Laos, and Cambodia. The Senate receded on all of the amendments having to do with our friends in Latin America: Argentina, Brazil, Guatemala, and El Salvador.

So we find ourselves in the position of naming only countries in Latin America, where we have been trying to make friends.

My position has been exactly the same as the Senate position. We should name no countries. As a matter of fact, when the conferees met, we had a vote. A motion was made that we would name no countries. All the conferees on our side of the aisle supported that motion, even though some had reservations about it. But the majority defeated the motion.

Now I find myself in an untenable position. I voted against the bill when it passed the House, for the simple reason that I did not like naming countries. Now I am asked to vote for the conference report by administration officials. I understand their problem, but I want them to understand mine. I cannot vote for the conference report when we name in one part of the bill the countries in Latin America, and in the other part of the bill we recede from naming other countries that are in the Young amendment.

If we name countries, we lose the opportunity that I believe the President needs to try to make some progress in the area of human rights. The amendments in this report which single out for discrimination such friendly countries as the Philippines, Argentina, Brazil, El Salvador, and Guatemala, if adopted, will be in effect at least until October 1, 1978. There is no discretion left to the President in case one of these countries changes its internal policies which supposedly led to their being singled out. That is not wise policy if our intent is to improve the human rights of the citizens of these neighboring countries. What incentive is there for improvements in human rights policies? Our aid will be cut off no matter what they do in the next year.

I know there is concern here this afternoon in regard to what effect the defeat of this conference report would have on our aid programs elsewhere, particularly for Israel. I share that concern, but there is no doubt in my mind that if this report is indeed rejected, the committee will quickly bring out another conference report which will take care of Israel and our other friends around the world.

Frankly, I cannot understand how the majority leadership can support the adoption of this conference report, and, at the same time, say they are supporting the President. If the report is adopted, it will be the Congress, not the President, who will be directing the day-to-day operation of our foreign policy. How can the President's leadership in the House support that?

It would be my hope that any new bill would not include any provisions identifying individual countries for discriminatory or arbitrary treatment without some presidential discretion. The President needs and deserves a degree of flexibility in the exercise of his constitutional responsibilities, and we should not tie his hands in an appropriations bill.

Mr. YOUNG of Florida. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. KETCHUM).

Mr. KETCHUM. Mr. Speaker, I rise in opposition to the Foreign Aid Appropriations Conference Report now before this body.

My reasons for doing so center around the very persuasive and incisive remarks made by my distinguished colleague from the State of Florida. How is it that this Congress is applying double standards in allocating direct and indirect aid to certain countries and not to others? Whereas Vietnam, Uganda, Laos, and Cambodia stand to receive our aid through such channels as the United Nations Development Program and the International Development Association, the U.S. allies of Argentina, Brazil, Guatemala, and the Philippines do not.

Somehow the United States appears to be extending the Monroe Doctrine into Big Brother persuasion within the Western Hemisphere; that is where Argentina, Brazil, and Guatemala come into the picture. As for the Philippines the United States is still pulling the strings with its former colonial territory. It gave it its independence after World War II, but it continues to tell the Philippine Government how to run its own business under the nebulous banner of human rights.

On the other side of the coin U.S. aid is being furnished to the closed societies of Vietnam, Cambodia, Laos, and Uganda and I need not remind my colleagues what atrocities continue to be committed daily in each of these countries. Foreign journalists and expatriates who are able to provide bits and pieces of information on the internal strifes in these nations report mass murders and other bizarre atrocities. Such infamy far surpasses any so-called "human rights" violations among those countries in the conference report's "hit list."

What is the explanation? Are we witnessing a backdoor attempt by the authors of this bill to supply post-war reparations to our former adversaries on the battlefield? Are we handling Idi Amin's Uganda with kid gloves in light of some ambiguous Carter policy in the handling of our country's affairs with the continent of Africa?

Mr. Speaker, if the Members of this House choose to accept the Foreign Aid Appropriations Conference Report without attaching the crucial Young amendment, we will have cowered to a shallowness which borders on hypocrisy. Our allies will have lost while our adversaries will have handsomely gained. I therefore call upon the House to assert its constitutionally mandated initiative and soundly defeat the conference report as it currently stands.

Mr. YOUNG of Florida. Mr. Speaker, I yield 5 minutes to the gentleman from Massachusetts (Mr. CONTE).

Mr. CONTE. Mr. Speaker, Members of the House, I rise very reluctantly to support this conference report. First of all, let me say that this bill, as I have said on the floor for the last 2 years and as long as I have been on this committee, has really no constituency whatsoever. It is not like the public works bill where Members are bringing home dams, irrigation projects, and so forth to their districts. Here, they are bringing back nothing to their districts. They are giving something away to the more underdeveloped and poor countries of this world.

And believe me, when they argue about the shortcomings of this bill, it is true that this bill really is a kettle of worms. It is very, very difficult for me to stand in the well of this House and try to justify this bill. But I support the bill. Government is the art of compromise, and I think that we have reached a compromise here. We need a foreign aid bill, and we should get it to the President as soon as possible.

Why am I upset? First of all, I think

that the President—and I told him so when we met at the White House with 100 or so Congressmen—that he should not have written a letter to the chairman of the committee as he did. He capitulated to the chairman of the committee and to Mr. Young, stating that he is going to instruct his representatives to international financial institutions not to vote any loans to those specific countries Mr. Young has delineated in his amendment, and for the commodities of palm oil, sugar, and citrus Mr. MOORE included in the bill.

Well, the Members know the reason why these Banks were started in the first place. It was to provide some flexibility to deal with the underdeveloped countries of the world. By capitulating, as the President has, I hate to say it, but next year everyone—and everyone rightfully so—who has a commodity in his district which has a problem will and should tack on an amendment. We will see amendments on steel, on footwear, on textiles, on dingleberries—you name it, everyone will have an amendment limiting loans for commodity production.

The only thing this will accomplish is to cripple the entire international banking program to which we contribute.

In addition some liberals will tack on further amendments restricting funds to conservative regimes and dictatorships.

Likewise some conservatives will include restrictive amendments for countries that, they feel, are not run by individuals who adhere to their particular political philosophy. And, as a result, they are going to cripple international financial institutions.

Let me tell the Members a little something about this bill and why we should vote for this compromise and for the entire bill.

There is $1,805 million in this bill for Israel; $1 billion in foreign military credit sales; $785 million in security supporting assistance; $20 million for refugees from the Soviet Union and Eastern Europe.

Of that $1 billion in foreign military credit sales, $500 million is to be forgiven.

There is $515 million for food and nutrition; there is $155 million for population planning; there is $95 million for our health program around the world; there is $75 million for education; there is $90 million for technical assistance; there is $231.25 million for the international organizations.

And besides Israel, in the Middle East we have $750 million for Egypt; $93 million for Jordan; $90 million for Syria; $20 million for Lebanon; $15 million for Cyprus.

And I will say to those Members, who, like myself, are interested in the problems of Africa, we have $80 million for South Africa for the special request fund; $3 million for Botswana; $5 million for Lesotho; $10½ million for Swaziland; $10 million for Zaire; $6½ million for regional Africa.

Mr. Speaker, this is a very important bill. This is a very important bill in regard to our foreign policy. As I mentioned earlier, there are a lot of sections of this bill that I do not like, but I think overall it is a good compromise and it should be approved.

Mr. LONG of Maryland. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio (Mr. PEASE).

Mr. PEASE. I thank the gentleman for yielding.

Mr. Speaker, I commend the conference committee for arriving at a reasonable compromise, one which not many of us will be entirely happy with. Some of us would like to have no restrictions at all by specified nations. Others in the House want the particular nations named. I think the compromise is a reasonable one, as I say. I am particularly happy to have removed from the bill the language referring specifically to indirect aid as it would affect international financial institutions. I say that as a sponsor of bills which would impose a trade ban on Uganda, one of the seven nations mentioned. But I make a distinction between a trade ban, which is a direct obligation and responsibility and authority of the Congress, and a ban on U.S. aid by international financial institutions, which is quite different and, I think, beyond the proper role, by specific language, of the House.

As I say, I am happy that that language has been worked out of the bill. I think the assurances of President Carter will help in that respect.

Mr. Speaker, again, I commend the conference committee for its good work.

Mr. YOUNG of Florida. Mr. Speaker, I yield 3 minutes to the gentlewoman from Nebraska (Mrs. SMITH).

Mrs. SMITH of Nebraska, Mr. Speaker, I urge my colleagues to reject this second conference report on the fiscal year 1978 Foreign Assistance Appropriations bill.

This is the only course remaining if the House wishes to stand fast in opposition to U.S. funds financing indirect or direct assistance or reparations to Vietnam, Uganda, Laos, or Cambodia.

The key word has always been "indirectly." Without it section 107 of the bill is meaningless. No direct U.S. aid was ever proposed for these countries.

Two proposals since the September 26 first conference report should actually reinforce our opposition to the indirect aid through the World Bank, IDA and the UNDP, now permitted in the second conference report.

The first is the so-called compromise by President Carter, whereunder he will instruct our Bank and IDA representatives to vote against loans to the four countries named in the Young amendment, and the other three in the Crane and Ashbrook amendments.

The second is the recommendation by the Development Coordination Committee, chaired by AID Director John Gilligan, that U.S. development assistance alone be increased to $14.5 billion by 1982. This is more than three times what is proposed in the fiscal year 1978 bill, and does not include the billions we spend on security supporting assistance.

Taken together, these proposals mean an enormous increase in foreign aid spending, and an enormous decrease in congressional control over that spending.

With all due respect to President Carter, his "compromise" fails on two counts.

First, quite simply accedes to World Bank President Robert McNamara's imperious assertion that the Charter forbids acceptance of funds to which the donor country attaches restrictions. Second, it proposes a remedy already tried by Congress with no success: Last year, for example, our IDA representative voted seven times against loans to India as required under the Long amendment, and seven times the loans were approved.

Now, Mr. Speaker, let us set forth five facts in this dispute the facts are clear.

First, the World Bank, IDA, and the UNDP have already given and are going to continue to give millions of dollars to Uganda. They are also preparing to give millions of dollars or soft loans—to Vietnam and Laos.

There is no doubt, there can be no argument on this. Mr. BILL YOUNG—to his great credit—has laid it all out for us.

Nor has there been any denial, or attempt to rebut by the administration, the Banks, or the UNDP.

It is, therefore settled policy. This is fact No. 1.

On the other hand, the House on June 23, 1977, voted against direct or indirect assistance to these countries. Two hundred and ninety-five Democrats and Republicans so voting makes for an emphatic statement. This was not a party-line or liberal versus conservative vote.

This is fact No. 2.

On the same date, the House made the point even more strongly with respect to Vietnam. Immediately after voting for the Young amendment, 339 Democrats and Republicans approved the Wolff amendment that there shall be no direct or indirect use of U.S. funds as reparations to Vietnam.

This is fact No. 3.

This month, in New York, the U.N. and the UNDP are planning to provide a large new assistance program for Vietnam or Laos.

This is fact No. 4.

To repeat, the World Bank, IDA and the UNDP wish to provide such aid. It is already their policy to do so. Thus a share of the unspent millions we already have given to these institutions will be used to assist Uganda, Vietnam, and Laos.

Now, we are being pressured to agree that fiscal year 1978 and future U.S. funds be given to these institutions with no restrictions attached, which means the money can continue to go to these countries.

In other words, the Banks and the UNDP are making no compromises or modifications in their policy. Why, then should a Presidential directive at this late date have any effect on such policy?

What then is the role of the House insofar as appropriating funds for the Bank and the U.N.?

Remember, we are speaking of one of the basic constitutional powers of the House. Remember, the administration

has before it a Cabinet-level proposal to spend $14.5 billion by 1982 on development assistance alone. Remember, the Banks and UNDP reject with scorn our claim to have any oversight power over them.

Well, we can shout and clamor, and do rain dances in our own little arena against U.S. taxpayers money going to such governments as Uganda, Vietnam, Laos, and Cambodia.

But nothing more than that.

After we have had our annual exercise, we are expected to give Mr. McNamara and his associates, and the UNDP, the money in fee simple.

The unrestricted $2 billion—which may balloon to $10 billion or more by 1982—is all that really matters and all they are interested in. And this is a fact.

Finally, next January, even as winter predictably is followed by spring, we will have a big, fat supplemental appropriations request to restore the funds we cut from the Banks and the UNDP in this bill.

So much for compromise and modifications.

It is indeed interesting that those hard-nosed Communists in Hanoi see so clearly the passive role Congress is supposed to play in funding the World Bank, IDA, and the UNDP.

Mr. Tran Duong, director of Vietnam's Central Bank says the U.S. will pay the "promised reparations to Vietnam." He explains it very simply:

In the process the United States will put money into IDA—and these commitments would be fulfilled to Vietnam.

Would that others in our Government, the Banks, and the U.N. were so brutally candid.

It has been charged that the House, through the Young and Wolff amendments, is attempting to dictate policy to the Banks and the U.N.

No, Mr. Speaker, it is just the reverse. The Banks and the U.N. are, in fact, determining an important and costly segment of our foreign policy.

There will no longer be any doubt on this, if the House reverses itself and accepts this conference report.

Mr. LONG of Maryland. Mr. Speaker, I yield 3 minutes to the gentleman from Illinois (Mr. SIMON).

Mr. SIMON. Mr. Speaker, this is a compromise, and, as a compromise, I support it. But the gentleman from Michigan (Mr. CEDERBERG) was absolutely correct in what he had to say. We are excessively tying the hands of the Executive, and we simply do not have the flexibility to deal with foreign affairs that the Executive has. The time will come when we will regret doing this.

I recall about a year ago when my colleague, the gentleman from Illinois, JOHN ANDERSON, standing right over at the microphone, where the gentleman from California and the gentlewoman from Nebraska are now sitting, stood up and pointed to those of us on the Democratic side of the aisle and said,

The trouble with you Democrats is that you think Richard Nixon is still President of the United States.

There was and there is some validity to what he had to say. We went through the era of Watergate and Vietnam when Congress abdicated a good portion of its responsibilities, and now we have gone to another extreme and we are getting involved excessively in things that the Executive can handle much more effectively. We ought to handle broad policy considerations, not details of administration.

But this is a compromise. I recognize this is the best we can get right now. The responsible vote is a vote in support of the conference committee.

Mr. YOUNG of Florida. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I think one of the greatest sighs of relief that the Members will heave today will be because of the fact that they are probably not going to get any more "Dear Colleague" letters from me on the subject of foreign aid for the next couple of weeks, anyway.

Mr. Speaker, I want to pay a compliment to the chairman of the subcommittee and to all the members of the subcommittee, including those on the minority side, and especially to the gentleman from Massachusetts (Mr. CONTE), who has spent more time as a member of his subcommittee than any of the rest of us. Although we have had strong disagreement on occasion, he has been very, very helpful in the conduct of the committee's affairs, and he certainly helped to give me an education on the subject of foreign aid.

Mr. CONTE. Mr. Speaker, will the gentleman yield?

Mr. YOUNG of Florida. I yield to the gentleman from Massachusetts.

Mr. CONTE. Mr. Speaker, let me say this to the gentleman in the well: He is absolutely right. I have been on the committee for almost 20 years. I have seen a lot of men come and go on that committee; and although the gentleman in the well and I have disagreed on this issue and perhaps several others in this foreign aid bill, I have yet to see anyone on that committee who has done his homework better and has prepared himself better than has the gentleman in the well.

Mr. Speaker, whether it was here on the floor of the House or in the committee or down at the White House when we spoke to President Carter, the gentleman from Florida (Mr. YOUNG) was well prepared, he did his homework well, and we are proud of him.

Mr. YOUNG of Florida. Mr. Speaker, I thank the gentleman for his comments.

I want to further compliment our colleague, the gentlewoman from Nebraska (Mrs. SMITH). She and I served for the first time in our careers on this subcommittee this year. I want to say that she has been just a tremendous strength in trying to do what is right and in developing a bill that is going to be good for this country.

All of the members of the subcommittee worked hard together, and the chairman deserves a special compliment for being able to bring those divergent factors together.

With the nice words behind us, Mr. Speaker, I want to talk about the compromise. I will tell the Members that this compromise which they are hearing about is the compromise that allows U.S. dollars to go indirectly in aid to Vietnam, Laos, Uganda, Cuba, Mozambique, and a number of others, while placing restrictions on the direct aid to our old friends like Argentina, Brazil, and the Philippines.

That is the compromise, Mr. Speaker. Those were the only controversial issues that went back to the second conference committee to be compromised out.

I do not think it was a compromise, and I am not going to vote for it.

After having said that, I have to be honest with the Members and say that there is no doubt that we have made some strides toward an eventual goal.

Mr. Speaker, when we started this argument earlier this year, I said I was not going to try to kill the foreign aid program, but that I was going to try to make it a responsible program, one in which the aid and assistance got to the people whom we intended it to help, and one under which we would have some accountability for the dollars and some control over how our dollars were used, even through the international banks.

That is what we are working toward, Mr. Speaker. We have not reached that goal yet. This compromise does not reach that point, but we are on the way to it.

Mr. LONG of Maryland. Mr. Speaker, will the gentleman yield?

Mr. YOUNG of Florida. I yield to the gentleman from Maryland.

Mr. LONG of Maryland. Mr. Speaker, I am sure the gentleman in the well will recognize that there is no language, direct or indirect, which could affect the money going from the banks to these countries because of the fungibility of money. There is not a Treasury stain on each dollar to make sure that it does not go to the wrong place even if they put it in a separate account.

Mr. Speaker, let me point this out: In view of the President's letter to the committee stating that he shall direct the U.S. Representatives to vote against and oppose any loans to these seven countries—and that means not just U.S. money, but any money—and in view of the fact that this committee, with the gentleman's help, is going to conduct stringent oversight investigations into that question, they are now on warning that they had better not give any money, ours or anybody else's, to these countries or they are traveling at their own risk.

In some respects an informal Young amendment is stronger than the formal Young amendment.

Mr. YOUNG of Florida. Mr. Speaker, I understand what the gentleman is saying, but the gentleman, of course, realizes that our representatives to all of these organizations, with one minor exception, can vote "no" all day long and the loan is still going to go through to countries like Vietnam and Uganda.

Mr. Speaker, I have conceded that the President's commitment certainly is a

step toward our eventual goal but we have not arrived at that goal yet.

Mr. Speaker, the members of our committee, I hope, will help us reach that goal one day. Maybe one day we will get some accountability for U.S. funds spent by the multinational financial institutions.

Not only accountability, but a consistent concern for human rights through out the world. Not only a concern for human rights, but a concern about how much of our dollars are being loaned or given to countries that are often openly hostile to the United States.

I am concerned about what is to be the future of the foreign aid program. Maybe what we do today will help us find some answers.

I want to be able to find out, for example, what does the administration mean when they say they want to create a new international economic system? I want to know how that ties in with the words of Under Secretary of State Cooper, who said that the international banks should become the umbrella—the catalyst for all international finance.

I could not find answers to these questions in our hearings, hopefully through the oversight hearings that we will hold we will get the answers.

There are some good programs in this bill. I do not want anybody to get the idea that I am totally opposed to the bill. There are good things in the bill such as the gentleman from Massachusetts (Mr. CONTE) has mentioned and also the gentleman from Maryland (Mr. LONG) has mentioned, things that I can enthusiastically support. But the bill weighs still heavily in favor of a negative vote, so I will vote no.

I am sorry that the limitation of time will not allow us to go into new material that was developed since this proposal was on the floor the last time.

This so-called compromise bill calls for more dollars than the House bill contained when it left the House. However, this compromise bill has done something worthwhile and that is that the other body decided to cut IDA by $150 million.

IDA, as I am sure the Members know, is one of my favorite targets. I am happy to see that $150 million was cut from IDA.

But what does this mean? It means that we will have a supplemental appropriation for IDA before too many more months have gone by because the compromise not only does not provide the $375 million for the IDA 4 replenishment, it only provides the first installment of IDA's fifth replenishment.

Am I getting you confused? IDA 4 and IDA 5, the first replenishment and the last replenishment? I think the program is intended to confuse you. We are working on IDA 4 and IDA 5, the third installment and the first installment. There is going to have to be another supplemental because there is not enough money in this for IDA 4, especially since we are cutting IDA by $150 million.

Mr. CONTE. Mr. Speaker, will the gentleman yield?

Mr. YOUNG of Florida. I yield to the gentleman from Massachusetts.

Mr. CONTE. Mr. Speaker, I believe that we should make it perfectly clear in the record, though, that the bill that we are voting on today is $828,807,000 below the request of the President.

Mr. YOUNG of Florida. That is correct, but the bill is some $76 million over the figure originally passed by this House.

Mr. CONTE. I thank the gentleman for yielding.

Mr. YOUNG of Florida. Mr. Speaker, in closing, there are just so many things that I could not cover—because of the short time that I have remaining—that I may have to send a new "Dear Colleague" letter to the Members.

But, Mr. Speaker, if we have done nothing else, we have gotten a commitment from the committee to hold oversight hearings. These oversight hearings hopefully will permit us to get some accountability for some of our dollars going through the international banks. But, more than that, one of the things that I have been talking about for nearly a year, and that is the fact that those who set our foreign policy, those who spend our tax dollars, have too often ignored the constitutional role of the Congress to be the appropriating body to spend the tax dollars, and at least we have now gotten their attention. We now have the attention of the State Department. The Treasury Department, the White House, the World Bank and many national organizations headquartered here in Washington, have written to you or called you on the phone. The representatives from the U.N. have called you, you have gotten all kinds of attention, and if we have done nothing else for the Members of this House, we have let the other people who have been making foreign aid commitments in advance know that the Congress has a constitutional role to play, and, whether you vote yes or no, they at least know who you are today.

Mr. LONG of Maryland. Mr. Speaker, I yield 2 minutes to the gentleman from Iowa (Mr. HARKIN).

Mr. WEISS. Mr. Speaker, will the gentleman yield?

Mr. HARKIN. I will be glad to yield to the gentleman from New York.

Mr. WEISS. I thank the gentleman for yielding.

Mr. Speaker, on September 29, the United Nation's Economic and Social Council issued a resolution entitled "Assistance for reconstruction of Vietnam." Offered as a complement to the resolution granting Vietnam admission to the U.N., the new resolution expressed deep concern "over the grave economic and social consequences of the long years of war further aggravated by recent severe natural calamities," and urged "the Secretary-General to continue to encourage further mobilization of resources and efforts from the international community with a view to achieving the social and economic rehabilitation of Vietnam."

Regrettably, the United States did not support this resolution. Such action only adds to the painful memories of the Vietnam war. It also contradicts a written promise made by then President Richard Nixon in a 1973 message to Pham Van Dong, Prime Minister of the former Democratic Republic of Vietnam, stating that:

> The Government of the United States of America will contribute to postwar reconstruction in North Vietnam without any political conditions.

That there is a great need for rebuilding that war torn country is self-evident. Thirty years of fighting have devastated its land. To restore just its agricultural economy, which last year had a shortfall of 1 million tons of rice, would alone require $142 million. Restoring the transportation system would require another $290 million.

As the representative from Sri Lanka said in introducing the resolution, what is needed is a spirit of reconciliation rather than confrontation. I further believe that withholding our support for the reconstruction of Vietnam is as shortsighted and tragic a decision as our entry into the Vietnam war itself. We must correct rather than add to the mistakes of the past. Supporting reconstruction provides us with an excellent opportunity for doing so. For the sake of our national conscience and our national honor I urge the President to provide leadership to our people in accord with the United Nations resolution.

A copy of the entire resolution follows:

[United Nations General Assembly, 32d session, Second Committee, Agenda item 12]

REPORT OF THE ECONOMIC AND SOCIAL COUNCIL

Algeria, Angola, Austria, Bangladesh, Belgium, Benin, Bulgaria, Byelorussian Soviet Socialist Republic, Cuba, Czechoslovakia, Denmark, Finland, France, German Democratic Republic, Guinea, Guyana, Hungary, India, Lao People's Democratic Republic, Mongolia, Mozambique, Netherlands, Norway, Pakistan, Poland, Portugal, Romania, Sri Lanka, Sweden, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics and Yugoslavia: revised draft resolution

ASSISTANCE FOR RECONSTRUCTION OF VIET NAM

The General Assembly,

Having warmly welcomed the admission of the Socialist Republic of Viet Nam to the United Nations,

Expressing profound admiration to the courageous Vietnamese people in their struggle for independence and national reunification and their constant efforts devoted to national reconstruction,

Deeply concerned over the grave economic and social consequences of the long years of war further aggravated by recent severe natural calamities,

Recalling the Secretary-General's statement in his annual report for 1974/75 expressing the hope that the United Nations system would be able to assist countries in the Indo-China Peninsula in their efforts for national rehabilitation after the war,[1]

Recalling Economic and Social Council resolution 1944 (LVIII) of 7 May 1975 ap-

[1] *Official Records of the General Assembly, Thirtieth Session, Supplement No. 1A* (A/10001/Add.1), sect. XVII.

pealing to all States to come to the assistance of the peoples of Indo-China in their efforts to bring about the reconstruction of their countries, in accordance with the needs and requests of those countries, in the manner in which the latter deem most appropriate and consonant with full respect for their national sovereignty,

Recalling further resolution 33 adopted by the World Conference of the International Women's Year held at Mexico City from 19 June to 2 July 1975 on assistance to the Vietnamese people,

Noting with appreciation the prompt and pertinent efforts made by the Secretary-General and by the organs, agencies and programmes of the United Nations to mobilize assistance to meet the most pressing humanitarian needs in Viet Nam and to help organize relief, rehabilitation and reconstruction assistance to the Vietnamese people,

Further concerned that massive international assistance, notably in respect of food, equipment and project aid, remains urgently needed to speed up the rehabilitation and reconstruction of the social and economic infrastructure of the country,

Noting with satisfaction that the non-aligned group of countries has established, by resolution 28 adopted by the Fifth Conference of Heads of State or Government of Non-Aligned Countries, a Solidarity Fund for the Reconstruction of Laos and Viet Nam, to help in the reconstruction effort,

1. Recommends that the Socialist Republic of Viet Nam be included in the list of most seriously affected countries;

2. Appeals to the peoples and Governments of all Member States and all international economic, financial and social institutions to increase and intensify their efforts and contributions on a bilateral and/or multilateral basis to help the Vietnamese people in the reconstruction of their country;

3. Urges the Secretary-General to continue to encourage further mobilization of resources and efforts from the international community with a view to achieving the social and economic rehabilitation of Viet Nam;

4. Authorizes the Secretary-General to utilize the necessary resources for implementing the present resolution.

Mr. HARKIN. Mr. Speaker, I, too, am now supporting this compromise. I had not before. In fact, I had voted against it on previous occasions and voted to recommit the conference report before.

Let me just say in my brief 2 minutes that the concept of a World Bank or of pooling the rich nations' resources in an independent lending institution to help the less-developed countries is, I believe, an honorable concept and one that we ought to pursue. But I believe in recent years the direction that the World Bank and the international lending institutions have been taking is wrong. They have been lending more and more money to the more and more repressive governments throughout the world, but they have not been lending the money to the poor in the poor countries. I think there is a distinction there that must be redressed.

I have had a personal talk with President Carter, and he has assured me that he is going to take every step necessary to try to redirect these banks within the limits of the power that we have on those banks to redirect the money to the poor in the poor countries.

We have an authorization bill that spells out what we can do within our power in these international lending institutions. I would tell the Members that we have a strong human rights amendment in that authorization bill that provides for an even-handed approach, a comprehensive, consistent approach to every nation without singling out nations. But there is one thing in the authorization bill that I think is necessary, and that is to allow these banks and these institutions to meet the basic human needs of the poor people in the poor countries.

The gentleman who preceded me spoke about Argentina and Cambodia in the same breath, and I will, too. I do not feel that we ought to give direct aid or indirect aid either to the Governments of Cambodia or Argentina. But I do not want to unjustly punish the poor in these countries for the actions of their Governments. Therefore, the authorization bill allows our representative on the multilateral institution to vote "aye" and support loans to meet basic human needs of the people in countries with repressive governments. This is the decent and humane approach and is consistent with our Nation's ideals. So I support this appropriations bill, and urge my colleagues to support it also, because of the human rights language that controls our bilateral and multilateral aid.

Mr. YOUNG of Florida. Mr. Speaker, I yield 2 minutes to the gentleman from Iowa (Mr. GRASSLEY).

Mr. GRASSLEY. Mr. Speaker, we are being told by supporters of the conference report on both sides that, "You have come a long way, Baby." I do not see it that way. I rise in opposition to this conference report.

I was a conferee on a similar subject on the Banking Committee's authorization bill on international financial institutions last summer when the House's position was totally rejected, and I say, "Here we are again." The House is being asked to totally retreat from amendments adopted by wide margins by this House.

Compromise? Yes. And that is a legitimate position to take. It is part of the parliamentary process. Retreat? No. Especially when asked to retreat from such an overwhelming position of strength as this House has shown on these issues before. Retreat once, maybe, as in the case of the IFI authorization bills, but retreat twice—twice in a row—no. A retreat from a strong position twice is not an admirable trait of any respected legislative body, and it leads to weakness and disrespect.

I ask just when will our conferees on foreign aid stand behind the strong House majority? We have a right to expect a negotiated compromise from our colleagues and not a wholesale cave-in.

The American people are asking us not to retreat. The American people do not want to pay reparations directly or indirectly to Vietnam. This Congress would never vote reparations directly to Vietnam. How can we do it, then, indirectly through the World Bank?—Only because we think that the American people are too dumb to figure it out. We should not try to deceive the American people by doing through the back door what we cannot do through the front door.

Then we ought to ask ourselves as Members of this body: Why retreat? Congressmen for the last 10 years have been trying to make Congress a copartnership in the establishment and formulation of foreign policy with the Executive. The adoption of these strong amendments previously by this House, now rejected by our conferees, is an extension of the principle of copartnership. Let us not now throw in the sponge and lose all that has been accomplished in the way of giving the American people a voice in foreign policy. If we reject a strong role now, the next time Congress wants to stop an unpopular "Vietnam war"—we may not have the muscle to do it.

Mr. LONG of Maryland. Mr. Speaker, I yield 1 minute to the gentleman from Massachusetts (Mr. TSONGAS).

Mr. TSONGAS. Mr. Speaker, the criteria by which many of us judge individuals and by which we often judge nations is by the compassion they show for those less well off. We are voting today on a foreign aid conference report which shows U.S. compassion for the less-developed nations of the world through the assistance we offer them for food and nutrition, health and education, human resource development, and emergency relief for the devastation caused by drought, floods, and earthquakes. The appropriation measure includes both bilateral and multilateral aid, and it is through these programs that the United States can exercise its leadership among the Third World nations.

I strongly support this conference report because I believe that foreign aid is a critically important program. I am in basic agreement with the provisions of the bill which come to us today. I am not happy, however, with the process through which this comes to the floor and the fact that promises were made outside the legislative language. I hope this will not happen again.

There are parts of this bill which I do not like.

I opposed amendments which were added by the House to place sanctions on aid to specific countries. I believe the language of the authorizing legislation which places sanctions based on adherence to basic human rights and which waives the sanctions when the programs meet basic human needs, is a much more satisfactory and evenhanded approach. Nevertheless, my strong belief in U.S. assistance for the LDC's overrides this reservation and I am working hard for passage of the legislation.

On another point, I think some legitimate questions are being raised about multilateral lending institutions that need to be answered.

Chaff is the debate over Vietnam, Argentina, and palm oil and other commodities.

These issues have consumed the committee, the House, and the conference.

It has dominated the discussion today.

I strenuously oppose the dominance of these issues.

I, for one, reject the President's letter.

I deeply regret it. I regret the role of the committee to bring that letter into reality.

I do, however, feel that the bill is worth it.

This bill is meant to help people—poor people.

There are those who want to end foreign aid—the same ones who voted $150 billion in military aid to decimate Southeast Asia.

It's an attitude that baffles me, saddens me, and does injustice to what this country stands for. And it will come back to haunt us.

I cannot participate in this attempt.

This aid is needed.

The multilateral development banks are needed.

That is the bottom line.

I do not like the conference report, but I can live with it.

And I ask your support of the conference report.

In the authorizing legislation for the World Bank, we adopted an amendment to review the salary structure of the employees of this institution and to pay the executive director according to Level IV of the executive schedule. Recently, in the International Trade Subcommittee we adopted an amendment to cut the salary of the U.S. Director to the International Monetary Fund and to review the salaries of that agency.

We have also been struggling in Congress and with the administration regarding the best way to achieve our human rights objectives through multilateral lending agencies where strings cannot be attached to our contributions and where our vote cannot veto a proposed loan. President Carter, in his letter which accompanies this bill (legislative history of a sort) has asked for a review of how U.S. objectives can best be pursued in the Banks. I hope that Congress will take the leadership role in calling for oversight hearings along these lines, so that our future contributions to the banks will not become bogged down over the rhetoric of whether indirect aid should go to right- or left-wing governments. Instead, we should be involved in trying to assess if the programs of these institutions are meeting the basic needs to which they are directed and achieving the development from which all nations will benefit.

Mr. YOUNG of Florida. Mr. Speaker, I yield 2 minutes to the gentleman from Louisiana (Mr. MOORE).

Mr. MOORE. Mr. Speaker, I think basically we are concerned with two points. The first point is whether or not we as Members of the Congress have a right to condition funds of the American taxpayers to these international lending institutions. I would say we do. These funds belong to the taxpayers and not to the international institutions.

The question is if we would not give money directly to these countries, how then can we do it indirectly through these international banks? We should not and should leave our peoples' money so conditioned. The international institutions are not prevented from accepting such conditioned money. The Library of Congress in a letter to me dated October 3, 1977, has said there is nothing in their charters to prevent it.

The second point is the economic future of this country. How can we lend our money to these foreign countries at rates far better than we can do for our own producers in this country to finance unfair competition? The President of the United States has verified that this is a serious problem by agreeing to instruct our representatives to vote against such loans. The Treasury Department has agreed that it will do what it can as well since we have a $30 billion trade deficit. The Department of Agriculture agrees and by its most recent report on foreign agriculture trade states in headlines, "Exports of U.S. Oilseeds and Products Decline, Palm and Cocoanut Oil Imports Climb."

So all agree we have a significant economic problem. But we have studied the matter to death. Two subcommittees of this House have already found this to be a problem, but the loans continue. Our representatives to these institutions have only one vote. Studies and voting instructions are not enough. The fact remains that $20 million in loans for palm oil were made earlier this year in direct contravention of previous similar promises and $200 million more are to be considered.

The only way we have to prevent these loans was adopt my amendment. Since the amendment has been deleted, all we can now do is vote against this conference report, to establish the conditions the people of the United States want and to give us the economic future this country deserves.

Mr. LONG of Maryland. Mr. Chairman, I yield such time as she may consume to the gentlewoman from California (Mrs. BURKE).

Mrs. BURKE of California. Mr. Speaker, I rise in support of the conference report.

Mr. LONG of Maryland. Mr. Speaker, I yield 1 minute to the gentleman from New York (Mr. SOLARZ).

Mr. SOLARZ. Mr. Speaker, I thank the gentleman.

I realize, as Emerson once said, that:

A foolish consistency is the hobgoblin of little minds, . . .

But I am nonetheless always amazed when we find people outraged at the suppression of civil liberties in rightwing regimes but who totally ignore the suppression of civil liberties in leftwing dictatorships, just as I am equally amazed by those who thunder against suppression of civil liberties in leftwing dictatorships but ignore the suppression of those rights in rightwing regimes. It seems to me we ought to be against all forms of repression whether it is repression of the right or repression of the left.

In those terms, while I think we have every right and, indeed, a responsibility to terminate our bilateral economic assistance to repressive regimes, I think it is utterly inappropriate to condition our contributions to multilateral international financial institutions on such a basis. After all, Congress can add provisos to the U.S. direct-aid programs in any manner we so choose; to add political conditions to our assistance to multilateral lending institutions, however, violates the very purposes for which those institutions were created—that is, aid to needy people no matter what the regime.

Mr. YOUNG of Florida. Mr. Speaker, I yield such time as he may consume to the gentleman from New York (Mr. GILMAN).

Mr. GILMAN. Mr. Speaker, I intend to vote for the passage of the conference report on H.R. 7797, the foreign operations appropriations bill, because I am convinced that on the whole it contains many needed provisions that warrant my support. I do, however, want to note my displeasure with several aspects of the bill and conference report and the manner in which that report was developed.

As a result of an apparent compromise with the White House, the conference committee acted to remove the possibility of the full House analyzing the amendments in disagreement with the Senate and debating them on an individual basis. Several of these provisions call for singling out specific countries for legislative reprimand based on human rights reports on those countries. Unfortunately, these well intentioned provisions may prove to be more counterproductive than helpful.

A case in point is Argentina. I opposed restrictive provisions against that nation during the initial passage of H.R. 7797, not because I differ with its proponents in their concern for the human rights situation in Argentina, but because of the personal concerns I have that the real effect of such an amendment will be to intensify the crisis that is taking place. Without taking into consideration the complex internal political struggles of Argentinian politics, these well intended efforts may in fact hinder rather than improve the human rights situation in Argentina.

Because of my belief that such an amendment would have little or no practical effect and my past efforts to oppose it, I welcomed the opportunity along with other members of the Subcommittee on Inter-American Affairs to visit Argentina during the recent August recess. One of the major objectives of that trip was to provide each member of the delegation with a personal assessment of the internal crisis that exists in Argentina and the human rights situation that it has caused.

Our scheduled activities during this fact-finding mission included private meetings with President Videla, the Foreign Minister, the Defense Minister, and the Minister of Finance. We were also briefed by the head of our mission and the full country team. In addition, we met with opposition party leaders and labor leaders. Finally we sought out the leaders of the religious community and representatives of several human rights organizations.

As a result of this visit, I am more convinced than ever that the complex nature of the problems in Argentina are not fully understood by this Congress. The present government, which is trying to bring some order to that nation after the political and economic chaos of the Isabel Peron government, remains critically fractionalized. President Videla has

emerged as a moderating force in the military government that includes clicks of radicals and hardline right wingers.

As pointed out in a New York Times editorial on May 25, 1977;

If these hard-line generals seize power, they will surely further disrupt Argentina's economy, deal an even more disastrous blow to the cause of human rights and raise the chances of full-scale civil war. Only if they are headed off can President Videla regain his moderate bearings and be persuaded to move toward long-overdue national political reform and reconstruction.

However, there are encouraging signs that President Videla slowly is stablizing his position, thereby increasing his efforts to bring both extremes under control. Recently, the New York Times, in an article by Juan de Onis on October 2, 1977, revealed that the Argentine Government has made substantial gains against leftist extremists. Since the armed forces took power 18 months ago, they have eliminated over 80 percent of the left-wing guerrillas engaged in subversive activities.

The success they have had is not seen as a total victory, and in fact has revealed the complex terrorist problem in that country. As the Times article points out:

With the decline in activity of the left-wing extremists, another form of terrorism from right-wing extremists is challenging the authority of President Jorge Rafael Videla. It has become a threat to his program for achieving political unity and eventually restoring democratic government, with free unions and independent universities.

Now is not the time to let our good intentions backfire and risk destablizing the efforts of a man who is seeking a return to democracy and an improved human rights situation. As part of the first step toward this goal, President Videla spoke to President Carter last month here in Washington about the goal of "peace by Christmas." This phrase is known to mean bring the right-wing groups and the security forces under control, as well as dismantling the remaining left-wing guerrilla pockets.

Continuing our interest in the political and human rights crisis that exists in Argentina after returning to Washington, Congressman ROBERT LAGOMARSINO—who also visited Argentina—and I recently met with Ambassador Jorge A. Aja Espil of Argentina. We expressed the need for his country to respond to the calls for a return to a democratic state and to protect the human rights of all their citizens. I am pleased to announce that last week I received a letter from the Ambassador, noting recent actions by his government to help ease the present situation. On September 27, 1977, the Government of Argentina restored the constitutional option to leave the country for those individuals who were being held without charges under the state of siege that began under the Peron government. Also, on the same date, a commission was established to study, on an individual basis the corresponding cases. Finally, he informed me that—

In the continuous process that is taking place and according to information received yesterday, October eleventh, 132 persons were freed.

The inclusion of an assistance program for Argentina in this legislation would not by itself expend one dollar for that nation. Such action would however, provide the administration with the flexibility needed to implement its human rights program. If the situation in Argentina should continue to improve, the administration would then have the ability to implement the programs as a form of encouragement. As H.R. 7797 now stands, that flexibility is lost.

Mr. Chairman, my other displeasure about the conference report focuses on this Nation's contribution to international narcotics control programs.

The President, through his chief narcotics administrators, has assured the Select Committee on Narcotics Abuse and Control, of which I am a member, of his deep commitment toward waging "war" on drug abuse. Under H.R. 7797, the President requested an appropriation of $39 million for fiscal year 1978, an amount that was approved and adopted by the House last June; the Senate version proposed a $38 million appropriation. Unfortunately, the conference report accompanying this measure proposes to further reduce this Nation's efforts to control international narcotics trafficking to $37.1 million and to slash by 50 percent the administration's requested contribution to the United Nations Fund for Drug Abuse Control (UNFDAC) from $6 million to $3 million.

The administration has regarded these funds to be "the cutting edge of our efforts to develop more effective international control programs in order to curtail the flow of illicit drugs, particularly heroin, coming into this country."

The $39 million requested by the administration and adopted by the House for international narcotics control represents less than 5 percent of the total Federal Government's $805 million expenditure that is budgeted for fiscal year 1978 for narcotics abuse and control, and the requested $6 million contribution to UNFDAC represents three-quarters of 1 percent of the budgeted Federal drug effort.

Mr. Speaker, last February, along with the distinguished gentleman from New York (Mr. SCHEUER), I attended the 27th United Nations Commission on Narcotics and urged the nations of the international community to contribute to UNFDAC and to those nations that have already contributed, we urged them to increase their contributions to the Fund. We are now beginning to see some results in that direction. Only last summer, Norway and Sweden substantially increased their contributions to UNFDAC by providing needed funds for UNFDAC crop substitution programs that would replace the cultivation of poppies by opium producing nations. And other nations have joined with our law enforcement agencies in assisting in a concerted international effort to interdict narcotics trafficking and to eradicate opium production at its source.

Mr. Speaker, at a time when other nations are increasing their support in interdicting narcotics trafficking and eradicating opium production, it is a grievous error for this Congress to cut back support of the very programs that are beginning to accomplish these tasks—tasks that this Nation has so tireously sought to accomplish.

If we truly mean what we say concerning the global fight against narcotics trafficking and our commitment toward that effort, then we must back up that commitment with dollars, not words.

Mr. YOUNG of Florida. Mr. Speaker, I yield the balance of my time to the gentleman from Florida (Mr. LAGOMARSINO).

Mr. LAGOMARSINO. Mr. Speaker, I yield to the gentleman from Ohio (Mr. MILLER).

Mr. MILLER of Ohio. Mr. Speaker, since the start of U.S. foreign aid programs in 1946, U.S. taxpayers have provided nearly $300 billion. The fiscal year 1978 appropriation probably will be close to $6.77 billion.

The President requested a $7.6 billion foreign aid appropriation, over $2 billion higher than in fiscal year 1977, despite promises to curtail Government spending. The Appropriations Committee pared this down and then the House approved our 5-percent reduction amendment.

This foreign aid bill, H.R. 7797, has come back from the conference at a figure $78.5 million over the House version. We are sorry to see this increase, but we are gratified that the conferees were able to hold it down as well as they did.

Our 5-percent reduction amendment the House attached to the bill has been reduced to approximately 4 percent, but I suppose we should be thankful that we were able to retain that much of what was a $352 million reduction. If we approve the measure at the $6.7 million agreed to by the conferees, it is still over a billion dollars higher than last year's appropriation.

Many of us are concerned with the size of this appropriation, particularly at a time of mounting inflation, high energy costs, and economic problems here at home. We want to insure that the money that is spent will be for productive and efficient programs, and for plans that benefit the needy of developing nations.

A major factor cited by opponents of high foreign aid appropriations is that we must borrow the money before we can give it away. Deficit spending has created a national debt of almost $800 billion on which the interest alone adds up to about $120 million a day.

Several nations which once received U.S. aid are now providing aid to other nations. But, not only that, we helped some so well that they have loaned us money for our national debt and we pay them interest.

For example, to West Germany and Berlin between 1946 and 1963, we provided aid to the tune of nearly $4 billion while they have loaned us over $22 billion on our national debt. Our interest payment to Germany in 1976 was $1.3 billion. To Japan, between 1946 and 1965, we provided $3.5 billion in aid. Today they have loaned us $12 billion and collected $800 million from us in interest in 1976.

By the late 1960's, nations giving foreign aid included earlier recipients: Ger-

many and Japan (which now loan us money), France, the United Kingdom and Italy. The emphasis has changed from European aid to aid to the developing nations of Africa, Asia, and Latin America. But few observers expect the success of Europe to be repeated in the Third World.

I want to urge my colleagues here today to hold the line on these foreign aid expenditures and resist attempts to increase appropriations levels. We must be alert, also, that the administration might request supplemental appropriations to bring the expenditure level nearer to what they want.

Mr. LAGOMARSINO. Mr. Speaker, I rise in opposition to the conference report on H.R. 7797, appropriations for foreign assistance and related programs for fiscal year 1978.

I do, as I have in the past, support the bill's funds for Israel.

Among my many problems with the legislation are the amendments prohibiting funds for military training assistance and credit sales to Argentina.

The issue of human rights is the focal point of debate on the question of providing assistance to Argentina. I believe, as does the Carter administration, that it can best implement its human rights objectives by retaining the option to make funds for training programs available. I must repeat what Assistant Secretary of State for Latin American Affairs Terence Todman has said about security assistance. He says that it is "a political tool that provides us an opportunity to exert some influence on (governments') attitudes and actions." The administration should be allowed to retain these funds for Argentina so that it may have flexibility in pursuing its goals in human rights and in promoting hemispheric security. If we cannot maintain a dialog with Argentina on the question of human rights, we will restrict the possibility of exercising any significant influence on them.

Already, we see that the conditions in Argentina are improving. Late this summer I, along with several of my colleagues on the Inter-American Affairs Subcommittee, had the opportunity to visit Argentina. Our discussions with government officials there left me with the clear understanding that American ties with Argentina serve as a positive influence in that country. I strongly believe, and my personal visit reconfirms this, that an elimination of assistance to Argentina would be counterproductive. By singling out Argentina, we offend their national pride and enhance the prospects of a new military regime—a regime which would be more repressive and less willing to accept American representations for improved respect of human rights.

Just recently, the Argentine Government has taken significant steps to improve its internal conditions. On October 12, I received a letter from the Argentinian Embassy stating that 132 prisoners had been released from jail, as well as the release of 3 members of the Deutch family. Also, President Videla has given certain prisoners detained in prison under the state of seige the option of exile over a term in prison. These positive actions in the area of human and political rights illustrate that, given the right combination of pressure and persuasion, the situation in Argentina can be improved.

Some of my colleagues have argued that U.S. assistance helps to glorify the military in Argentina and ties our country to the repressive policies of the Argentine Government in the eyes of its people.

The repressive policies of that Government, as unacceptable as they are, do not occur in a vacuum, but are prompted by serious terrorist activities. Threats to American diplomats and business executives, kidnapings of businessmen and even an American child, and destruction of American property are all facts which we should equally deplore. In fact this last Friday, after the release of the 132 prisoners and the relaxation of controls, the Montonero guerrillas killed 2 people while blowing up the car of an official of Chrysler Corp. Therefore, one can easily see the problem that President Videla faces. We certainly will not protect American interests by passing legislation in this body which only serves to reduce the administration's leverage and credibility with the Government of Argentina.

During our visit to Argentina I met with many individuals and groups concerned with human rights. While none of them could be said to be satisfied with the situation in Argentina, almost all of them did say that they felt that President Videla was an honest man trying to do his best. They did say that things could and probably would be worse should Videla be replaced by others in the military.

Finally, I find it difficult to understand why, in particular, the training programs for Argentina should be so controversial. The courses included are: Aircraft rotor-propeller repair, aircraft electrician, aircraft instrument repair, maintenance management, quartermaster officer advanced, academic instructor school, English language, and personnel management officer. These courses are clearly not designed for police training or civilian police action.

I also oppose the manner in which the report deals with Brazil. In the past, Brazil has shown extreme sensitivity to our criticism of its human rights situation. The result of U.S. criticism has been the rejection of U.S. sales credits. Why must we further reprimand and single out Brazil and greatly increase tensions between our countries over foreign aid which the Brazilian Government has already rejected? Further, I find it ironic that Congress is openly and vehemently criticizing Brazil at the same time as President Carter is planning a visit to that country in order to improve our relationship.

I cannot accept a bill with such provisions. I strongly urge my colleagues to reject this conference report.

EMBAJADOR DE LA REPUBLICA ARGENTINA,
Washington, D.C., October 12, 1977.

HON. ROBERT LAGOMARSINO,
U.S. Congress,
Washington, D.C.

DEAR MR. LAGOMARSINO: For your information I am enclosing the text of Law No. 21.650, as it was published in the Argentine morning daily "La Opinión". By this law, put into effect on September 27, 1977, the Government has restored the constitutional option to leave the country, granted to people held without charge under the state of siege.

I would also like to point out that on the same date a commission was established to study, on an individual basis, the corresponding cases.

Finally, I want to tell you that in the continuous process that is taking place and according to an information received yesterday, October eleventh, 132 persons were freed.

Sincerely,

JORGE A. AJA ESPIL,
Ambassador.

Mr. LONG of Maryland. Mr. Speaker, I yield 4 minutes to the distinguished majority leader, the gentleman from Texas (Mr. WRIGHT).

Mr. WRIGHT. Mr. Speaker, what is involved here today is not how we feel about a handful of unpopular countries. We have expressed ourselves on that. The President of the United States has taken official judicial notice and is going the second mile in a good faith effort to comply with our express wishes.

Moreover, this conference committee report contains every prohibition voted by the Members of this House against bilateral aid from this country to other countries of the world.

What is involved is whether we, the richest and most blessed of the nations, will continue to participate in the international development and lending institutions. Those institutions by their charters cannot receive contributions with legal limitations attached. If we were to insist upon those legal limitations, quite manifestly we would be rendering our participation inoperable.

Do we want to continue as participating members of the international lending institutions? I think we do. It is not a question of whether we can unilaterally direct every decision of the banks. Of course we cannot. The question is whether we want to be a part of an ongoing international effort to try to assist the developing world—good friends of the United States, countries like Mexico, Costa Rica, Colombia, Kenya, and Malaysia, countries which have established an excellent record of repaying these loans. The history of these banks and the loans they have extended is a history of success. In all these years there has not been a default on these loans and the banks have not lost any money.

During this period of time other successful nations have joined us and are bearing their share of the burden to an ever-increasing extent. In the beginning we financed 41 percent of the World Bank loans. Now we finance only 19 percent of the loans. Our portion of the burden for the Asian Development Bank is only 16 percent.

Our portion of the World Bank's burden began at 41 percent. Today we shoulder only 19 percent of the load. We provide only 16 percent of the funds for the Asian Development Bank.

The other question which we must answer today is whether we will uphold the President of the United States who, like his predecessor, President Ford, has

openly encouraged other nations—including Middle Eastern nations—to increase their share.

Shall we repudiate that position? Shall we turn our backs upon the President? Shall we pull the rug from under him in his effort to provide a constructive example and a sense of moral leadership to the world?

And if we do, when again would the voice of an American President be credible in the council of nations? Someone must speak for America.

Today we have a choice. We can stamp our feet in childish anger and forfeit any claim to world leadership. Or we can demonstrate the reason and maturity which must be the hallmarks of any nation which aspires to set an example for the world.

The conference committee report strikes a good balance between our wishes and our responsibilities. It deserves our support. I am confident that in this crucial test the House of Representatives will not be found wanting.

Mr. MONTGOMERY. Mr. Speaker, I would like to take this opportunity to point out that there is some confusion, because of restrictive language in our foreign aid laws, as to whether the President can send humanitarian aid to countries such as Vietnam, Laos, and Cambodia.

There seems to be a serious shortage of food and medicines in Vietnam and Laos; we have no information on Cambodia. Sources for this information are not only the Vietnamese but also the International Red Cross and the United Nations High Commissioner for Refugees.

I do not think there is any question that we are all in agreement this country is not going to give foreign or reconstruction aid to Vietnam. But, if humanitarian aid is needed and this country has a surplus in food, I have no problem with supplying medicines and food. In fact, the House Select Committee on Missing Persons in Southeast Asia in its final report to the House stated that if humanitarian aid was needed in Southeast Asia, the administration should consider this need.

In my opinion, Vietnam has not bowed to the wishes of Russia and China and is trying to survive some kind of independence. The Vietnamese have not let the Russians have a seaport at Cam Ranh Bay nor have they sold to our potential enemies great quantities of the American military equipment captured after the fall of Saigon. And in the last 6 months the Vietnamese have cooperated with the United States in the return of American remains.

I feel that if there is hunger in these countries, we should consider their needs. I do not believe that humanitarian aid would offend Americans or would be in conflict with our stated strong opposition to economic or reconstruction aid. The question of whether our previously approved foreign aid language and its barriers apply to humanitarian aid must be resolved.

Mr. McCLORY. Mr. Speaker, I will vote against this conference report on the bill (H.R. 7797) because I do not believe we can legislate on the basis of what is included in a letter from President Jimmy Carter.

Mr. Speaker, we should embody our legislative intent in the legislation which we develop—and vote upon. To compromise our prerogatives by an exchange of correspondence is both novel—and inconsistent with our governmental system.

Mr. Speaker, I do not favor loans to nations where basic civil rights are violated. Nor do I favor loans to nations which enable them to compete unfairly with our Nation in commodities which our citizens produce.

But, Mr. Speaker. I expect our President and his representatives to respect these principles of human rights and economic justice. If they fail, we must hold them accountable. However, I do not want us to act on the basis of letters, oral statements, or any informal arrangements which are at variance with the legislative process—or which confuse our existing tripartite system.

Mr. Speaker, the new President has brought new ideas and new personalities to the White House. But he seems also to have brought a lack of understanding of the legislative process. I would support this conference report without the President's letter to our colleague from Maryland (Mr. LONG). Also if the amendment proposed by our colleague from Florida (Mr. YOUNG) were in the bill, I could support that. But, Mr. Speaker, this way of legislating, and so forth, modifying the law by a letter should be rejected. I will vote against the conference committee report.

Mr. BONKER. Mr. Speaker, I would like to urge my colleagues to support the conference report accompanying foreign aid appropriations bill H.R. 7797. This bill provides essential funding for both bilateral and multilateral assistance efforts vital to U.S. foreign policy.

At the same time, I would like to express my deep concern regarding the "compromise" which has been reached on the question of providing direct or indirect assistance to various countries. President Carter's letter to Chairman LONG promises that U.S. delegates to international financial institutions will vote against all loans to seven countries. What is most disturbing is that the United States will have to cast its vote against assistance even if it would benefit those needing assistance most in these countries. Is Congress now prepared to say that assistance should be barred to countries even when such assistance will benefit needy people? Have we become so preoccupied with identifying countries for our human rights "hit list" that we have lost all sense of proportion as to what our foreign development assistance is supposed to accomplish in the first place?

Each year, as additional countries are added to the list we are establishing today, I believe we will be moving further away from the very purposes and objectives that we as a Nation have established in providing humanitarian assistance.

Mr. Speaker, I strongly oppose any further politicization of our development assistance through multilateral organizations, and efforts to dictate to international bodies which countries should be automatically prohibited from receiving development aid. If this process is allowed to continue, instead of promoting better international understanding through assisting those in the world who need this assistance most, we will be setting the stage for a vindictive, isolationist policy which will be totally counterproductive in achieving any significant progress in the human rights field.

The President's letter to Chairman LONG follows:

THE WHITE HOUSE,
Washington.

Hon. CLARENCE D. LONG,
Chairman, Subcommittee on Foreign Operations, Committee on Appropriations, U.S. House of Representatives, Washington, D.C.

To Chairman Clarence Long:

Secretary Blumenthal has informed me of your constructive efforts to achieve a successful resolution of the problems posed by the amendments to the foreign aid appropriations bill restricting the use of U.S. contributions to the international development banks.

I deeply appreciate your helpful suggestions and the role you have played thus far in steering this vitally important legislation through the House.

As I stated in our meeting last Friday, I fully agree with you and your colleagues in the House that U.S. assistance through the banks must take full account of the human rights policies of recipient countries. Accordingly, I will shortly sign into law the recently passed authorizing legislation for U.S. participation in the international development banks which require that the U.S. representatives to the banks oppose loans to gross violators (except where those loans are directed specifically to programs which serve the basic human needs of citizens of such countries).

Additionally, as we discussed earlier, I shall instruct the U.S. Executive Directors in the banks to oppose and vote against, throughout FY 1978, any loans to the seven countries mentioned in the House amendments. Our representatives will also oppose and vote against loans for the production of the three commodities where such production is for export and could injure producers in the United States. You may be certain that I shall closely watch and review the lending practices of the banks during this fiscal year.

For the longer run, I have directed the Secretary of the Treasury, in consultation with the leadership and appropriate committee(s) of the Congress, to undertake a thorough study of how the whole range of U.S. objectives, including the type envisaged in these amendments, can best be pursued in the banks. I would expect that the results of this appraisal could help guide our efforts for FY 1979 and beyond, in partnership between the Administration and the Congress.

I would hope that these steps would enable the House to avoid adopting any of the restrictive amendments, previously passed, in the final foreign assistance appropriations bill for FY 1978.

I appreciate your support and counsel on these critically important issues confronting our foreign policy.

Sincerely,

JIMMY CARTER.

Mr. BURKE of Florida. Mr. Speaker, it is with a great deal of concern that I will vote in favor of the conference report to H.R. 7797, the foreign assistance appropriations. When H.R. 7797 came before the House I strongly supported

both the Young amendment and the Wolff amendments, which would have prohibited any appropriations from being used to finance reparations to the Socialistic Republic of Vietnam. In addition, the Young amendment would have precluded the International Development and Lending Institutions from authorizing loans to Vietnam, Laos, Cambodia, Uganda, Mozambique, Angola, and Cuba.

Mr. Speaker, I still strongly support the prohibitions of loans and funds to these countries at the expense of the American taxpayer. But, Mr. Speaker, my opposition has been solved to some extent by the assurances of President Carter that he will instruct the U.S. representative to the international financial institutions to oppose and vote against loans to Vietnam, Laos, Cambodia, Uganda, Mozambique, Angola, and Cuba. I feel that the President who, after all, has the responsibility will do what he has assured the Members of the House he will. True, I have some concern because no such statements appear in the conference report, but I feel that the message has been clear by the previous House action on both the Wolff and Young amendments of the congressional intent.

Mr. Speaker, I have never been a strong supporter of our foreign aid programs since I have been in the Congress. However, I have not carried blinders or refused to recognize the need for a sensible program, the prime purpose of which would be to strengthen our economic and security position in the world. I, like many, am concerned with the problems existing in the Middle East today. I believe that the threat of Soviet intervention in that area could well upset the present world balance of power not only in that area but in the world. I believe the appropriations for that area and other areas involving our friends are vital to our future security and far outweigh my other objections to the conference report.

Mr. Speaker, I hope the future oversight hearing by the Congress of the loans by the various international organizations to which the United States contributes, or more accurately, overcontributes, will put a damper on loans to our enemies. Such loans are, in my opinion, detrimental to our own interests and to the security of our friends.

Mr. Speaker, I have never approved the package-type of foreign aid legislation which is practiced by the State Department. I am hopeful that it can and will be changed by the Congress. To me the present practice is deceptive and certainly difficult for the public to understand. To me it is wrong.

In any event, Mr. Speaker, there are some questions and suspicions which I have concerning the ability of the President to halt the international institutions from lending money to nations whose interests are incompatible with our own. In fact, I wish we could withdraw from many of our international commitments, but this wish does not carry with a cyanide bill for the suicide of our friends.

For the reasons stated I will, as I said earlier, vote no matter how reluctantly, for the conference report.

Mr. FRENZEL. Mr. Speaker, this conference report on foreign aid is too expensive. It is also flawed in that it sets a multiple standard for human rights for various recipient countries.

Had this not been a new President's first foreign aid bill, I would have voted against it. But, despite my dislike for the spending levels and inconsistencies, I believe assistance programs are a necessary tool for the President in the conduct of foreign policy. A new President especially needs those tools.

I also like the multinational development banks. They have made unwise loans, but, in general, they are the best form of foreign aid we indulge in. I think it is important that we continue to participate in these banks, even though I agree that U.S. directors must be instructed to vote such projects as palm oil development, or aid to Vietnam.

If the foreign aid appropriation next year is in the same shape as H.R. 7797, I shall not support it. We need an affordable, uniform, aid policy with an accent on multinational assistance. I hope the Congress comes closer to these goals next year.

Mr. STOKES. Mr. Speaker, I rise in support of the foreign assistance appropriation conference report for H.R. 7797. On October 12, 1977, the House recommitted the bill to conference to afford the House the opportunity to present a new compromise package regarding amendments in disagreement to the Senate. The compromise called for the House to delete the onerous Young amendment which barred indirect aid to Vietnam, Cambodia, Laos, Cuba, Uganda, Mozambique, and Angola. The compromise also deleted the Mathis/Moore provisions which barred U.S. funding of international financial institution loans for palm oil, sugar, and citrus. All of these restrictions were removed because President Carter has indicated that he will instruct the U.S. executive directors and representatives within the international organizations "to oppose and vote against" aid to the aforementioned countries and "to oppose and vote against" loans for the production of the three commodities.

Mr. Speaker, I voted for this compromise because the practical result will be to remove the restrictions on the U.S. contributions to the international financial institutions which would have made it impossible for them to accept U.S. funds. Moreover, I did not feel that we should remove the President's flexibility to correct global human rights violations by needlessly tieing his hands.

Mr. Speaker, as a result of the House's willingness to compromise—I believe that we have a bill which is deserving of passage. It is not all that it could be, but it does represent the annual renewal of our concern for the world's poor. In demonstrating our commitment to assist those least able to help themselves, we keep faith with a long tradition of humanitarianism which this country has exhibited time and time again.

Mr. Speaker, in supporting this bill I feel that I am giving some support to those who are not really represented anywhere. I am talking about the 15 million people annually who starve to death, or die of diseases related to malnutrition. Just think about that, yearly 15 million people or 41,000 people each day, starve to death in a world where there is enough food for all. This is a world where we have the know-how and the technical skills to end hunger.

Mr. Speaker, hunger is not the only enemy we face, we must realize that the maladies afflicting the human race are interrelated. For instance, it has been estimated that up to 20 percent of the food that actually does get to the hungry is wasted because when eaten it does not nourish bodies but is consumed by the parasites living in those bodies. A successful program to reduce the incidence of bodily parasites would have the effect of increasing the food supply by up to 20 percent.

Mr. Speaker, we must also attack the diseases that seem to be a constant fact of life in the developing world, river blindness that can displace entire villages, malaria, that the modern world has long since conquered, and cholera, the scourge of the young and the weak. But we know that miracles can occur if we work hard enough. Just a generation ago smallpox was considered to be a fact of life, and now, through the efforts of such organizations as the world health organization and the United Nations development program it has almost been wiped out. Through our bilateral and multilateral programs of development assistance we can continue to wage war on these blights.

Mr. Speaker, I am aware that the costs are not small. However, when we realize that by 1980 that the number of illiterate adults in the developing world will total 865 million and that there are Sahelian countries, like Upper Volta, with a per capita gross national product (GNP) of under $90 and an infant mortality of 182 per 1,000 live births, I do not believe that the one-quarter of 1 percent of our GNP which we spend to save a starving world is too much.

Mr. Speaker, I urge you to avoid the demagoguery of those who would restrict the power of the President to remedy human rights violations and deny assistance to the poor because they have political differences with the leaders of individual countries. Mr. Speaker and my distinguished colleagues, I urge you to support the foreign assistance appropriation conference report in an effort to help the poorest of the poor.

Mr. BADILLO. Mr. Speaker, I rise hesitantly and reluctantly to support this bill. As my colleagues well know, that reluctance is certainly not based on any lessening of my firm commitment to our continuing foreign aid throughout the world. My problem lies with certain assumptions underlying the acceptance of this report by the House.

There has been a great deal of discussion during this debate about the President's letter. This is a letter sent by President Carter to the esteemed chairman of the Appropriations Subcommit-

tee, Representative CLARENCE LONG. The text of that letter reads:

THE WHITE HOUSE,
Washington.

TO CHAIRMAN CLARENCE LONG: Secretary Blumenthal has informed me of your constructive efforts to achieve a successful resolution of the problems posed by the amendments to the foreign aid appropriations bill restricting the use of U.S. contributions to the international development banks.

I deeply appreciate your helpful suggestions and the role you have played thus far in steering this vitally important legislation through the House.

As I stated in our meeting last Friday, I fully agree with you and your colleagues in the House that U.S. assistance through the banks must take full account of the human rights policies of recipient countries. Accordingly, I will shortly sign into law the recently passed authorizing legislation for U.S. participation in the international development banks which require that the U.S. representatives to the banks oppose loans to gross violators (except where these loans are directed specifically to programs which serve the basic human needs of citizens of such countries).

Additionally, as we discussed earlier, I shall instruct the U.S. Executive Directors in the banks to oppose and vote against, throughout FY 1978, any loans to the seven countries mentioned in the House amendments. Our representatives will also oppose and vote against loans for the production of the three commodities where such production is for export and could injure producers in the United States. You may be certain that I shall closely watch and review the lending practices of the banks during this fiscal year.

For the longer run, I have directed the Secretary of the Treasury, in consultation with the leadership and appropriate committees of the Congress, to undertake a thorough study of how the whole range of U.S. objectives, including the type envisaged in these amendments, can best be pursued in the banks. I would expect that the results of this appraisal could help guide our efforts for FY 1979 and beyond, in partnership between the Administration and the Congress.

I would hope that these steps would enable the House to avoid adopting any of the restrictive amendments, previously passed, in the final foreign assistance appropriations bill for FY 1978.

I appreciate your support and counsel on these critically important issues confronting our foreign policy.

Sincerely,

JIMMY CARTER.

The commitments that the President has made in exchange for our continued and necessary participation in the international lending institutions are very troubling to me.

TOM HARKIN and I, and many of our caring colleagues, successfully waged and won a most difficult battle to assure a broad, strong, and forthright human rights policy in our relations with the banks. I am concerned that the President's letter undermine the intent of the Badillo-Harkin amendment by providing exceptions to the uniform, single standard which we developed for that provision. By singling out specific countries, he is providing a dangerous precedent that could threaten the very existence of the multilateral institutions by setting a dangerous precedent that other countries could follow by voting on narrow national political grounds.

More important, however, is the fact that the President has chosen to ignore the very foundation of the Badillo-Harkin amendment, that part of the amendment that permits a "yes" vote on loans that will serve the basic human needs of a country's citizens. In his letter, the President takes note of that in discussing the authorization for the multilateral institutions, but fails to make that exception in the case of the seven countries under question now.

I am hopeful that this was only an oversight on the part of the administration, and that I can receive some clarification that our uniform standard will prevail. The very root of the "basic human needs" language is to encourage the kinds of programs in all developing countries—free or not—that will provide for increased literacy, better nutrition, more jobs; in short the tools of freedom.

I am aware that the President's language only applies through fiscal year 1978, but its implications could prove unfortunate for any supplemental appropriations bills that come before us. The policy of placing specific restrictions on multilateral funds is dangerous. And that danger is only compounded by immediately establishing a double standard in our newly developed human rights policy toward those institutions.

Mrs. LLOYD of Tennessee. Mr. Speaker, we have today been called upon to make a most difficult decision regarding this Nation's ability to continue to provide massive financial assistance to foreign nations. I oppose the continuation of the foreign assistance program, because I cannot support the giveaway of $6.8 billion to other countries while we face severe economic problems at home. We no longer have the capability to meet both domestic and international needs solely from our limited national resources.

Since the end of World War II, we have poured $172 billion into foreign aid. The results of some of these programs are little short of miraculous. The Marshall plan rebuilt a destroyed Europe and stabilized the Governments of U.S. allies in the Mediterranean.

However, in recent years, our aid has too often been readily accepted by nations who have consistently opposed U.S. interests. Foreign aid has been the basis for drawing this Nation into long and bloody conflicts under the guise of protecting "our investments." Many nations in receipt of foreign assistance have lined the pockets of corrupt leaders with U.S. taxpayers' dollars while doing nothing to meet their internal needs. U.S. assistance has come to be regarded as the norm by some nations who refuse to tax themselves so that they might stand on their own.

So long as there is desperate need in this Nation—elderly citizens who must choose between food and shelter, workers unable to support their families, sickness and illiteracy—I will not support the expenditure of our tax dollars on foreign needs.

I deeply regret that by voting against this bill I am in the position of voting against assistance to Israel, a nation which has borne the brunt of its own defense. Israel is a nation determined to fight for its existence, a fight which, without the outside interference of the Soviet Union, it would easily win. In light of these circumstances, I feel that continued U.S. assistance to Israel is fully justified and deserved. I would support such a proposal if offered independent of this bill. Since this is not the case, I must reluctantly vote against the Foreign Assistance Appropriations Act for fiscal year 1978.

The SPEAKER pro tempore (Mr. NATCHER). All time has expired. Without objection, the previous question is ordered on the conference report.

There was no objection.

The SPEAKER pro tempore. The question is on the conference report.

The question was taken.

Mr. YOUNG of Florida. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 229, nays 195, answered "present" 1, not voting 9, as follows:

[Roll No. 665]

YEAS—229

Addabbo	Conable	Hannaford
Akaka	Conte	Harkin
Alexander	Corman	Harrington
Ambro	Cornell	Harris
Ammerman	Cornwell	Hawkins
Anderson, Ill.	Cotter	Heckler
Annunzio	D'Amours	Heftel
Ashley	Danielson	Hightower
Aspin	Delaney	Hollenbeck
AuCoin	Dicks	Holtzman
Badillo	Diggs	Horton
Baldus	Dingell	Howard
Baucus	Downey	Ireland
Beard, R.I.	Drinan	Jenrette
Bedell	Duncan, Oreg.	Johnson, Calif.
Bellenson	Eckhardt	Jordan
Benjamin	Edgar	Kemp
Biaggi	Edwards, Calif.	Keys
Bingham	Eilberg	Kildee
Blanchard	Erlenborn	Koch
Blouin	Ertel	Kostmayer
Boggs	Evans, Colo.	Krebs
Boland	Fary	Krueger
Bolling	Fascell	LaFalce
Bonior	Fenwick	Le Fante
Bonker	Findley	Leach
Brademas	Fisher	Lederer
Breckinridge	Fithian	Leggett
Brodhead	Flood	Lehman
Brooks	Foley	Lent
Broomfield	Ford, Mich.	Levitas
Brown, Calif.	Ford, Tenn.	Lloyd, Calif.
Brown, Mich.	Forsythe	Long, La.
Buchanan	Fowler	Long, Md.
Burke, Calif.	Fraser	Luken
Burke, Fla.	Frenzel	Lundine
Burke, Mass.	Fuqua	McCloskey
Burlison, Mo.	Gammage	McFall
Burton, Phillip	Gephardt	McHugh
Caputo	Giaimo	McKay
Carney	Gilman	McKinney
Carr	Glickman	Maguire
Cavanaugh	Gore	Markey
Chisholm	Gradison	Marks
Clay	Guyer	Mattox
Cohen	Hamilton	Mazzoli
Collins, Ill.	Hanley	Meeds

Meyner	Quie	Steiger
Mikulski	Railsback	Stockman
Mikva	Rangel	Stokes
Mineta	Reuss	Studds
Minish	Richmond	Thompson
Mitchell, Md.	Rodino	Thornton
Moakley	Roe	Traxler
Moffett	Roncalio	Tsongas
Mollohan	Rooney	Tucker
Moorhead, Pa.	Rosenthal	Udall
Murphy, Ill.	Rostenkowski	Ullman
Murphy, N.Y.	Roybal	Van Deerlin
Myers, Michael	Ruppe	Vanik
Nedzi	Ryan	Vento
Nix	Sarasin	Walgren
Nolan	Scheuer	Waxman
Nowak	Schroeder	Weaver
O'Brien	Seiberling	Weiss
Oberstar	Sharp	Wilson, Bob
Obey	Shipley	Wilson, Tex.
Ottinger	Simon	Wirth
Patten	Skelton	Wright
Patterson	Smith, Iowa	Yates
Pattison	Solarz	Yatron
Pease	Spellman	Young, Mo.
Pettis	St Germain	Young, Tex.
Preyer	Stanton	Zablocki
Price	Stark	Zeferetti
Pritchard	Steed	
Pursell	Steers	

NAYS—195

Abdnor	Fountain	Myers, John
Allen	Frey	Natcher
Anderson, Calif.	Gaydos	Neal
	Gibbons	Nichols
Andrews, N.C.	Ginn	Oakar
Andrews, N. Dak.	Goldwater	Panetta
	Goodling	Perkins
Applegate	Grassley	Pickle
Archer	Gudger	Pike
Armstrong	Hagedorn	Poage
Ashbrook	Hall	Pressler
Badham	Hammer-schmidt	Quayle
Bafalis		Quillen
Barnard	Hansen	Rahall
Bauman	Harsha	Regula
Beard, Tenn.	Hefner	Rhodes
Bennett	Hillis	Rinaldo
Bevill	Holland	Risenhoover
Bowen	Holt	Roberts
Breaux	Hubbard	Robinson
Brinkley	Hughes	Rogers
Brown, Ohio	Hyde	Rose
Broyhill	Ichord	Rousselot
Burgener	Jacobs	Rudd
Burleson, Tex.	Jeffords	Runnels
Burton, John	Jenkins	Russo
Butler	Johnson, Colo.	Santini
Byron	Jones, N.C.	Satterfield
Carter	Jones, Okla.	Sawyer
Cederberg	Jones, Tenn.	Schulze
Chappell	Kasten	Sebelius
Clausen, Don H.	Kastenmeier	Shuster
	Kazen	Sikes
Clawson, Del	Kelly	Sisk
Cleveland	Ketchum	Skubitz
Cochran	Kindness	Slack
Coleman	Lagomarsino	Smith, Nebr.
Collins, Tex.	Latta	Snyder
Conyers	Livingston	Spence
Corcoran	Lloyd, Tenn.	Staggers
Coughlin	Lott	Stangeland
Crane	Lujan	Stratton
Cunningham	McClory	Stump
Daniel, Dan	McCormack	Symms
Daniel, R. W.	McDade	Taylor
Davis	McDonald	Thone
de la Garza	McEwen	Treen
Dellums	Madigan	Trible
Dent	Mahon	Vander Jagt
Derwinski	Mann	Volkmer
Devine	Marlenee	Waggonner
Dickinson	Marriott	Walker
Dornan	Martin	Walsh
Duncan, Tenn.	Mathis	Wampler
Early	Michel	Watkins
Edwards, Ala.	Milford	White
Edwards, Okla.	Miller, Ohio	Whitehurst
Emery	Mitchell, N.Y.	Whitley
English	Montgomery	Whitten
Evans, Del.	Moore	Wiggins
Evans, Ga.	Moorhead, Calif.	Wilson, C. H.
Evans, Ind.		Winn
Fish	Moss	Wydler
Flippo	Mottl	Wylie
Florio	Murphy, Pa.	Young, Alaska
Flowers	Murtha	Young, Fla.
Flynt	Myers, Gary	

ANSWERED "PRESENT"—1

Gonzalez

NOT VOTING—9

Derrick	Metcalfe	Teague
Dodd	Miller, Calif.	Whalen
Huckaby	Pepper	Wolff

The Clerk announced the following pairs:

On this vote:

Mr. Wolff for, with Mr. Teague against.
Mr. Pepper for, with Mr. Derrick against.
Mr. Metcalfe for, with Mr. Huckaby against.

Until further notice:

Mr. Dodd with Mr. Miller of California.

Messrs. LUKEN, ZEFERETTI, and PURSELL changed their vote from "nay" to "yea."

Messrs. COUGHLIN, HUGHES, and MAHON changed their vote from "yea" to "nay."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

AMENDMENTS IN DISAGREEMENT

The SPEAKER pro tempore. The Clerk will report the first amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 6: On page 2, line 21, strike out *"Provided,"* down through and including "Program." on page 3, line 2.

MOTION OFFERED BY MR. LONG OF MARYLAND

Mr. LONG of Maryland. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. LONG of Maryland moves that the House recede from its disagreement to the amendment of the Senate numbered 6 and concur therein with an amendment, as follows: Restore the matter stricken by said amendment, amended to read as follows: ": *Provided,* That $2,000,000 shall be available for the World Health Organization Onchocerciasis Control Program".

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 11: Page 3, line 19, *"Provided,* That of this amount $75,000,000 shall be available for loans repayable within forty years following the date on which the funds were initially made available under such loans; $87,000,000 shall be available for loans repayable within thirty years following such date; and $148,500,000 of such amount shall be available for loans repayable within twenty years following such date.".

MOTION OFFERED BY MR. LONG OF MARYLAND

Mr. LONG of Maryland. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. LONG of Maryland moves that the House recede from its disagreement to the amendment of the Senate numbered 11 and concur therein.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 13: Page 4, line 7, insert ", of which amount $500,000 shall be for the Organization of American States Special Cultural Account, $500,000 shall be for the Organization of American States Special Development Assistance Fund, and $1,500,000 shall be for the Organization of American States Special Multilateral Fund: *Provided,*".

MOTION OFFERED BY MR. LONG OF MARYLAND

Mr. LONG of Maryland. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. LONG of Maryland moves that the House recede from its disagreement to the amendment of the Senate numbered 13 and concur therein.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 15: Page 4, line 15, insert: *"Provided further,* That no part of any such appropriation for "International organizations and programs" may be available to make any contribution of the United States to the United Nations University,".

MOTION OFFERED BY MR. LONG OF MARYLAND

Mr. LONG of Maryland. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. LONG of Maryland moves that the House recede from its disagreement to the amendment of the Senate numbered 15 and concur therein.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 20: Page 6, line 1, insert: *"Provided,* That no part of such appropriation may be available to make any contribution of the United States to the Sahel development program in excess of 10 per centum of the total cash contributions to such program.".

MOTION OFFERED BY MR. LONG OF MARYLAND

Mr. LONG of Maryland. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. LONG of Maryland moves that the House recede from its disagreement to the amendment of the Senate numbered 20 and concur therein with an amendment, as follows:

In lieu of the matter inserted by said amendment, insert the following: ": *Provided,* That no part of such appropriation may be available to make any contribution of the United States to the Sahel development program in excess of 10 per centum of the total contributions to such program".

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 21: Page 6, line 7, strike "$39,000,000" and insert "$38,000,000".

MOTION OFFERED BY MR. LONG OF MARYLAND

Mr. LONG of Maryland. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. LONG of Maryland moves that the House recede from its disagreement to the amendment of the Senate numbered 21 and concur therein with an amendment, as follows: In lieu of the sum proposed by said amendment, insert the following: "$37,100,000".

The motion was agreed to.

The SPEAKER pro tempore. The

Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 22: Page 6, line 8, insert: ": *Provided*, That not to exceed $3,000,000 shall be for the United Nations Fund for Drug Abuse Control: *Provided further*, That $12,475,000 shall be available only for programs in Mexico."

MOTION OFFERED BY MR. LONG OF MARYLAND

Mr. LONG of Maryland. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. LONG of Maryland moves that the House recede from its disagreement to the amendment of the Senate numbered 22 and concur therein.

The motion was agreed to.

The SPEAKER pro tempore. The Clark will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 24: Page 7, line 1, strike "purposes for which appropriated" and insert: "appropriation account and under the same terms, conditions, and limitations as originally provided in appropriations Acts".

MOTION OFFERED BY MR. LONG OF MARYLAND

Mr. LONG of Maryland. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. LONG of Maryland moves that the House recede from its disagreement to the amendment of the Senate numbered 24 and concur therein.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 26: Page 7, line 8, strike out: "purpose as any of the subparagraphs under 'Economic Assistance,' 'Middle East Special Requirements Fund,' 'Security Supporting Assistance,' 'Operating Expenses of the Agency for International Development,' 'International Military Education and training,' and 'Indochina Postwar Reconstruction Assistance,' are hereby continued available for the same period as the respective appropriations in such subparagraphs for the same purpose: *Provided*, That such purpose relates to a project or program previously justified to Congress, and the Committees on Appropriations of the House of Representatives and the Senate are notified prior to the reobligation of funds for such projects or programs", and insert: "appropriation account and under the same terms, conditions, and limitations as originally provided in appropriations Acts: *Provided*, That the Appropriations Committees of both Houses of the Congress are notified fifteen days in advance of the obligations of such funds for activities, programs, projects, type of materiel assistance, countries or other operations not justified or in excess of the amount justified for fiscal year 1978.".

MOTION OFFERED BY MR. LONG OF MARYLAND

Mr. LONG of Maryland. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. LONG of Maryland moves that the House recede from its disagreement to the amendment of the Senate numbered 26 and concur therein.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 27: Page 8, line 3, insert:

The Mutual Security Appropriation Act, 1956, is amended by striking out section 108 thereof.

MOTION OFFERED BY MR. LONG OF MARYLAND

Mr. LONG of Maryland. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. LONG of Maryland moves that the House recede from its disagreement to the amendment of the Senate numbered 27 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert the following:

"The Mutual Security Appropriation Act, 1956, is amended by striking out section 108 thereof, effective as of October 1, 1977."

The motion was agreed to.

The SPEAKER pro tempore. The clerk will report the next amendment in disagreement.

The clerk read as follows:

Senate amendment No. 29: Page 9, line 9, insert: "*Provided further*, That none of the funds appropriated under this heading may be used to carry out those provisions of section 903 of the Foreign Assistance Act of 1961 which pertain to the Sinai support mission.".

MOTION OFFERED BY MR. LONG OF MARYLAND

Mr. LONG of Maryland. Mr. Speaker, I offer a motion.

The clerk read as follows:

Mr. LONG of Maryland moves that the House recede from its disagreement to the amendment of the Senate numbered 29 and concur therein.

The SPEAKER pro tempore. The clerk will report the next amendment in disagreement.

The clerk read as follows:

Senate amendment No. 31: Page 9, line 18, insert: "and those provisions of section 903 of the Foreign Assistance Act of 1961 which pertain to the Sinai support mission,".

MOTION OFFERED BY MR. LONG OF MARYLAND

Mr. LONG of Maryland. Mr. Speaker, I offer a motion.

The clerk read as follows:

Mr. LONG of Maryland moves that the House recede from its disagreement to the amendment of the Senate numbered 31 and concur therein.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 33: page 10, line 1, insert:

Loan Allocation, Security Supporting Assistance: Of the new obligational authority appropriated under this Act for Security Supporting Assistance, not to exceed $856,800,000 shall be available for grants: *Provided*, That of the amounts available for loans, not to exceed $865,400,000 shall be available for loans with maturities in excess of thirty years, but not to exceed 40 years, following the date on which funds were originally made available under such loans.

MOTION OFFERED BY MR. LONG OF MARYLAND

Mr. LONG of Maryland. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. LONG of Maryland moves that the House recede from its disagreement to the amendment of the Senate numbered 33 and concur therein.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 36: Page 10, line 22, insert:

"*Provided further*, That not to exceed $700,000 of funds provided to the Agency for International Development by this Act shall be available for hiring experts and consultants pursuant to 5 U.S.C. 3109 and of this amount not to exceed $100,000 shall be available for hiring experts and consultants who are retired employees of the Agency for International Development: *Provided further*, That none of the funds made available by this Act shall be available for leasing, purchasing, renovating, or furnishing of housing or office space in Cairo, Egypt, except through the Foreign Building Operations of the Department of State: *Provided further*, That none of the funds made available by this Act shall be available for the Administrator's Development Seminar of the Agency for International Development.".

MOTION OFFERED BY MR. LONG OF MARYLAND

Mr. LONG of Maryland. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. LONG of Maryland moves that the House recede from its disagreement to the amendment of the Senate numbered 36 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert the following: ": *Provided further*, That not to exceed $700,000 of funds provided to the Agency for International Development by this Act shall be available for hiring experts and consultants pursuant to 5 U.S.C. 3109 and of this amount not to exceed $100,000 shall be available for hiring experts and consultants who are retired employees of the Agency for International Development: *Provided further*, That none of the funds made available by this Act shall be available for leasing, purchasing, renovating, or furnishing of housing or office space in Cairo, Egypt, except through the Foreign Building Operations of the Department of State: *Provided further*, That not to exceed $125,000 for the funds made available by this Act shall be available for the Administrator's Development Seminar of the Agency for International Development.".

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 47: Page 16, line 22, insert: ", except that the President with the concurrence of both Houses of Congress may waive his prohibition with respect to any such country if he determines (and so reports to Congress) that furnishing such assistance to that country would further the foreign policy interests of the United States.".

MOTION OFFERED BY MR. LONG OF MARYLAND

Mr. LONG of Maryland. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. LONG of Maryland moves that the House recede from its disagreement to the amendment of the Senate numbered 47 and concur therein.

The SPEAKER pro tempore. Without objection, the motion offered by the gentleman from Maryland (Mr. LONG) will be agreed to.

Mr. BAUMAN. Mr. Speaker, reserving the right to object, if objection is heard to agreeing to the Senate amendment,

then 1 hour would be allotted to the manager of the bill (Mr. LONG of Maryland), half of which time would be yielded to the gentleman from Florida (Mr. YOUNG). Is that correct?

The SPEAKER pro tempore (Mr. NATCHER). There would be 30 minutes allotted to each party, the Chair would advise the gentleman.

Mr. BAUMAN. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

The gentleman from Maryland (Mr. LONG) is recognized for 30 minutes.

Mr. LONG of Maryland. Mr Speaker, this amendment allows the President with the concurrence of both Houses of the Congress to waive the direct aid prohibition to Mozambique and Angola. Therefore, Congress will keep control over the direct U.S. assistance to these two countries.

I yield back the balance of my time.

Mr. YOUNG of Florida. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would point out that this gives the President with the concurrence of both Houses of Congress the right to waive the restrictions on aid with regard to Mozambique and Angola. I would take just a moment to point out that this is one of those inconsistencies we talked about before. The President was not given any right to waive the language as it related to the Philippines or to waive the language as it related to Brazil or Argentina or El Salvador or Guatemala or some of the others.

But he was given the right by this conference report with the concurrence of both Houses to waive aid restrictions in the case of Mozambique and Angola. I just point out again, Mr. Speaker, that is one of the glaring inconsistencies of this whole program.

Mr. Speaker, I yield such time as he may consume to the gentleman from Maryland (Mr. BAUMAN).

Mr. BAUMAN. Mr. Speaker, I wonder if the gentleman from Florida could tell me exactly what this phrase means, "with the concurrence of both Houses of Congress."?

I notice that the language requires that the President will have to make a determination that the aid to either Angola or Mozambique is in the interest of the U.S. foreign policy. Exactly what would be the role of the House and of the Senate?

Mr. YOUNG of Florida. Mr. Speaker, will the gentleman yield?

Mr. BAUMAN. I yield.

Mr. YOUNG of Florida. Mr. Speaker, it seems to me it would require some form of resolution, probably a concurrent resolution, to obtain the consent of Congress in this regard.

The gentleman is aware that we have used this type of language before. In effect, what it does is pretty much give to the White House the latitude to do whatever it pleases with respect to the handing out of foreign aid.

We have had this requirement in some cases on the military sales programs. I think the gentleman understands it gives the White House much more freedom, but this time only in the case of Mozambique and Angola. That is what I find hard to understand. Why in the world we are going to give him this latitude in the case of Mozambique, ruled by a Marxist dictator; Angola, who is controlled by the Russians through their clients the Cubans?

It is said that Cuba has stabilized the situation in Angola. There is no doubt they have stabilized it, much as the Communists stabilized Poland, as they stabilized Czechoslovakia and in many other places.

Yes, Ambassador Young is right. The Communists did stabilize certain parts of the world, but not in a manner acceptable to me or my country. That is not even part of the conversation the gentleman from Maryland and I are having; but it does give us the opportunity to talk about the problem of Mozambique.

Mr. BAUMAN. When a provision like this is inserted in a foreign aid bill, usually there is some method provided in the bill for concurrence or disapproval; is the gentleman saying that lack of action on the part of either House would amount to approval and this section would not require affirmative action from either body?

Mr. YOUNG of Florida. I would not understand it that way. The language is simply this, except that the President with the concurrence of both Houses of Congress may waive this prohibition. My understanding is that he can only do it with the concurrence of both Houses, so that one House by lack of action could prevent the President from waiving this prohibition.

Mr. BAUMAN. Mr. Speaker, I would say that this amendment points up the basic fallacy of this legislation and the pitfalls it contains. The administration has already made it plain in its original determination creating a Southern African fund, which this bill finances, to give aid to both these Communist-dominated African countries. Both of these countries currently are engaged in violence, one against its own citizens, as in the case of Angola, where the Communist dictator Neto is trying to put down a revolution. Revolutionary soldiers control perhaps one-third of the country fighting against Neto and Cuban mercenaries.

In the case of Mozambique, we have a Communist dictator, Samora Machel, who also is engaged in training terrorists to attack the government and people of Rhodesia. This American aid to finance Communist warfare underscores the folly of the total foreign policy contained in this legislation.

It is highly unfortunate that in the recent vote on the conference report itself that the House would have backed down on numerous prohibitions against direct or indirect aid to Communist nations. This bill offers a blank check for the President, although he may go through the charade of coming to the House with a message that giving aid to Communist countries is in the best interests of America.

Mr. Speaker, this bill points up the dubious future of the foreign aid program. The conferees have stricken out the word "indirectly" governing aid to these two Communist countries. This will allow aid indirectly through the multilateral institutions to both Angola and Mozambique, as the gentleman from Florida (Mr. YOUNG) and others have pointed out.

I would call attention of the House to a statement from John Gilligan, the Director of the Agency for International Development, in which Mr. Gilligan told the world what the foreign giveaway intentions of this administration are. He said by 1982 the Carter administration should recommend an annual level of foreign aid of $14.5 billion, and apparently most of this is going to be taken out of the hands of Congress and, instead, run through the hands of these international lending agencies over which we have no control.

I honestly think in this amendment and in similar amendments and in the conference report as a whole, we have no compromise. We have a complete sellout. We have a case of these multilateral lending institutions digging our graves with our own money and we are paying the gravediggers.

After 30 years and $200 billion, starting with the Marshall plan, this is what foreign aid has come to. It was supposed to be a program to protect the best foreign policy interests of the American people and instead it is being used to finance the destruction of the American people and this Nation.

I, for one, do not approve of this particular amendment. There should be an absolute prohibition of aid to these two Communist countries and to any other countries that are controlled by communism.

Mr. YATES. Mr. Speaker, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from Illinois.

Mr. YATES. May I say to the gentleman that he made a very detailed statement, but is it appropriate in this instance inasmuch as whatever action the President takes in this case must be approved by both Houses of Congress? The President cannot act on his own in this case. Before he can provide any assistance to either Mozambique or Angola, he has to get the approval of both Houses of the Congress. Now, what greater protection or control do we have in this kind of bill?

Mr. BAUMAN. I would point to page 16, line 21. This particular aid prohibition requiring the concurrence of Congress only deals with direct bilateral aid. That would include the Southern African fund, but "indirectly" has been omitted and aid may be given through international banks, undoubtedly. That is what I particularly object. This will be the reckless road the administration chooses, wasting the taxpayers' money financing Communist revolutions and even indeed aligning themselves with the Cubans who are, at least in the case of Angola, infesting that country and holding it in bondage.

Mr. LONG of Maryland. Mr. Speaker, will the gentleman yield?

Mr. BAUMAN. I yield.

Mr. LONG of Maryland. The gentleman knows that the legislative process is the most inconsistent business in the world. When we are in there with a Senate committee trying to hammer out

a bill, everything that comes out is not apt to be totally consistent. In this case, what we did was insist on concurrence. Actually, that was the Senate language, which seemed to me to be good language.

I think we ought to make legislative history here by saying that what we mean by concurrence of Congress is a concurrent resolution and not something that the chairmen of committees can simply give assent to. That does seem to me to give us considerable protection here against an arbitrary waiver by the President.

Mr. BAUMAN. I thank the gentleman for lending me some small comfort.

Mr. ASHBROOK. Mr. Speaker, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from Ohio.

Mr. ASHBROOK. I was interested in my colleague from Maryland, the manager of the bill, indicating the give-and-take. I am wondering what we took. It sounds to me as though we gave most. As far as the so-called restrictive amendments are concerned, it would be a fair generalization to say that any restrictive amendments relating to Communist countries we lost on, and any related to countries that might be called friendly, such as Argentina and others, we won on the House position. Would that be a fair generalization?

Mr. BAUMAN. I think the gentleman put his finger on what the net balance is in this foreign aid bill. The American people lost, and lost badly. The Communist countries have gained considerably because under this bill they will be getting aid out of the American taxpayers' pockets.

But the gentleman understands that we have a letter, a famous letter signed by Jimmy Carter—and you can believe that—and the letter contains full assurances that the President will direct all the directors of these multilateral lending institutions not to vote for the loans to the named countries. Of course, the President does not point out that we do not control by a majority vote any of these institutions.

All the delegates to these international banks say, "Well, the President had to say that to get it through Congress, and we all understand that. We will vote the way we want and laugh in their faces."

Mr. ASHBROOK. That letter will increase foreign aid $14.5 billion.

Mr. BAUMAN. The gentleman can depend on that just as he can depend on the President's announced plan to balance the budget by 1981. Perhaps this now famous letter should be called "the crimson letter."

Mr. YOUNG of Florida. Mr. Speaker, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from Florida.

Mr. YOUNG of Florida. As the gentleman knows, Members of the House have been subjected to one of the strongest lobbying efforts ever put on by the administration, and with the help of national and international organizations. One of these lobbying efforts includes a letter that said how our involvement in these international institutions was encouraging other countries to make larger contributions. I am sure the gentleman did not see that letter.

But I saw a copy of that letter. It was not addressed to me, by the way. In talking about this business of how much others are contributing, I want to tell the gentleman about a resolution that is pending at the United Nations right now, introduced by the Russians and some of the Soviet bloc countries, that calls on the United Nations through the UNDP, and all of the members of the U.N., to rebuild Vietnam. Now, talk about how much these other countries are contributing, Russia is the prime sponsor of that resolution that is pending. Last year, Russia contributel $4.2 million to the UNDP and the United States contributed $100 million to UNDP. So in effect what they are saying is, "Go ahead and rebuild Vietnam, but with U.S. money."

If we analyze this particular situation with regard to Vietnam—and there are those who say we ought to rebuild Vietnam—we had an amendment to prohibit reparations to Vietnam, and 33 Members even voted against that amendment.

Mr. McCLORY. Mr. Speaker, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from Illinois.

Mr. McCLORY. Mr. Speaker, it seems to me that we certainly do not want to provide foreign aid to countries that oppress their citizens by denying their civil rights and human rights, and if we feel that way and we mean it, we should put it in this legislation—or some other appropriate legislative measure.

On the other hand, if we are going to repose this kind of responsibility in the executive to carry out a national policy in that respect, then the responsibility should be reposed there and the President and his administration should be held accountable.

But it seems to me to be a distortion of our legislative process to omit language from a piece of legislation and then try to remedy it through a letter or some other type of informal arrangement. We either ought to preserve the legislative process in the way it has been traditionally practiced and consistent with our tripartite system of government, or we should acknowledge that we are abandoning it, but not pretend that we are legislating and then adopt this kind of hybrid system in which we set forth our intent through legislation and then purport to modify it through a letter to a Member of the House of Representatives.

Mr. BAUMAN. Mr. Speaker, I would say to the gentleman from Illinois that I concur with his concern about the lack of adherence to traditional parliamentary procedure that is inherent when attempts are made to raise a Presidential letter to the level of statutory law. Perhaps there are those who consider the Congress of the United States to be no better than the Georgia Legislature, and letters were enough to carry the day there. I do not think it is quite the same in the Congress of the United States.

Mr. LONG of Maryland. Mr. Speaker, I move the previous question on the motion.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Maryland (Mr. LONG).

The question was taken; and the Speaker pro tempore being in doubt, the House divided, and there were ayes 35, noes 45.

Mr. LONG of Maryland. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device; and there were—yeas 188, nays 219, answered "present" 1, not voting 26, as follows:

[Roll No. 666]

YEAS—188

Addabbo	Flood	Nix
Akaka	Florio	Nolan
Alexander	Ford, Mich.	Nowak
Ammerman	Ford, Tenn.	Oberstar
Annunzio	Fraser	Obey
Ashley	Gaydos	Ottinger
Aspin	Gephardt	Panetta
AuCoin	Giaimo	Patten
Badillo	Gore	Patterson
Baldus	Hamilton	Pattison
Baucus	Hanley	Pease
Beard, R.I.	Hannaford	Perkins
Bedell	Harkin	Pickle
Beilenson	Harrington	Preyer
Benjamin	Harris	Price
Bingham	Hawkins	Rahall
Blanchard	Heftel	Rangel
Blouin	Hightower	Reuss
Boggs	Holtzman	Richmond
Boland	Howard	Rodino
Bolling	Hughes	Roe
Bonior	Johnson, Calif.	Roncalio
Bonker	Jordan	Rooney
Brademas	Kastenmeier	Rosenthal
Breckinridge	Keys	Rostenkowski
Brodhead	Kildee	Roybal
Brooks	Kostmayer	Ryan
Brown, Calif.	Krebs	Santini
Buchanan	Krueger	Scheuer
Burke, Calif.	LaFalce	Schroeder
Burke, Mass.	Lederer	Seiberling
Burlison, Mo.	Leggett	Sharp
Burton, John	Lloyd, Calif.	Simon
Burton, Phillip	Long, La.	Slack
Carney	Long, Md.	Smith, Iowa
Carr	Lundine	Solarz
Cavanaugh	McCloskey	Spellman
Chisholm	McCormack	St Germain
Clay	McFall	Stark
Collins, Ill.	McHugh	Steed
Conte	McKay	Steers
Corman	Maguire	Stokes
Cornell	Mahon	Studds
Cornwell	Markey	Thompson
Cotter	Marks	Thornton
Danielson	Mattox	Tsongas
Delaney	Mazzoli	Tucker
Dellums	Meeds	Udall
Dicks	Meyner	Ullman
Diggs	Mikva	Van Deerlin
Downey	Milford	Vanik
Drinan	Miller, Calif.	Vento
Duncan, Oreg.	Mineta	Walgren
Eckhardt	Mitchell, Md.	Waxman
Edgar	Moakley	Weaver
Edwards, Calif.	Moffett	Weiss
Eilberg	Mollohan	Wilson, Tex.
Evans, Colo.	Moorhead, Pa.	Wirth
Fary	Murphy, Ill.	Wright
Fascell	Murtha	Yates
Fenwick	Myers, Michael	Young, Tex.
Findley	Natcher	Zablocki
Fisher	Nedzi	

NAYS—219

Abdnor	Frey	Murphy, Pa.
Allen	Fuqua	Myers, Gary
Ambro	Gammage	Myers, John
Anderson, Calif.	Gibbons	Neal
Anderson, Ill.	Gilman	Nichols
Andrews, N. Dak.	Ginn	O'Brien
Applegate	Glickman	Pettis
Archer	Goldwater	Pike
Armstrong	Goodling	Poage
Ashbrook	Gradison	Pressler
Badham	Grassley	Pritchard
Bafalis	Gudger	Pursell
Barnard	Guyer	Quayle
Bauman	Hall	Quie
Bennett	Hammer-schmidt	Quillen
Bevill	Hansen	Railsback
Bowen	Harsha	Regula
Breaux	Heckler	Rinaldo
Brinkley	Hefner	Risenhoover
Broomfield	Hillis	Roberts
Brown, Mich.	Holland	Robinson
Brown, Ohio	Hollenbeck	Rogers
Broyhill	Holt	Rose
Burgener	Hubbard	Rousselot
Burke, Fla.	Hyde	Rudd
Burleson, Tex.	Ichord	Runnels
Butler	Ireland	Ruppe
Byron	Jacobs	Russo
Caputo	Jeffords	Sarasin
Carter	Jenkins	Satterfield
Cederberg	Jenrette	Sawyer
Clausen, Don H.	Johnson, Colo.	Schulze
Clawson, Del	Jones, N.C.	Shipley
Cleveland	Jones, Okla.	Shuster
Cochran	Jones, Tenn.	Sikes
Cohen	Kasten	Sisk
Coleman	Kazen	Skelton
Collins, Tex.	Kelly	Skubitz
Conable	Kemp	Smith, Nebr.
Corcoran	Ketchum	Snyder
Coughlin	Kindness	Spence
Crane	Lagomarsino	Staggers
Cunningham	Latta	Stangeland
D'Amours	Leach	Stanton
Daniel, Dan	Lent	Steiger
Daniel, R. W.	Levitas	Stockman
Davis	Livingston	Stratton
de la Garza	Lloyd, Tenn.	Stump
Derwinski	Lott	Symms
Devine	Lujan	Taylor
Dickinson	Luken	Thone
Dingell	McClory	Traxler
Dornan	McDade	Treen
Duncan, Tenn.	McDonald	Trible
Early	McEwen	Volkmer
Edwards, Ala.	McKinney	Waggonner
Edwards, Okla.	Madigan	Walker
Emery	Mann	Walsh
English	Marlenee	Wampler
Erlenborn	Marriott	Watkins
Ertel	Martin	White
Evans, Del.	Mathis	Whitehurst
Evans, Ga.	Michel	Whitley
Evans, Ind.	Mikulski	Whitten
Fish	Miller, Ohio	Wiggins
Fithian	Minish	Wilson, C. H.
Flippo	Mitchell, N.Y.	Winn
Flowers	Montgomery	Wydler
Flynt	Moore	Wylie
Forsythe	Moorhead, Calif.	Yatron
Fowler	Moss	Young, Alaska
Frenzel	Mottl	Young, Fla.
	Murphy, N.Y.	Young, Mo.
		Zeferetti

ANSWERED "PRESENT"—1

Gonzalez

NOT VOTING—26

Andrews, N.C.	Fountain	Pepper
Beard, Tenn.	Hagedorn	Rhodes
Biaggi	Horton	Sebelius
Chappell	Huckaby	Teague
Conyers	Koch	Vander Jagt
Dent	Le Fante	Whalen
Derrick	Lehman	Wilson, Bob
Dodd	Metcalfe	Wolff
Foley	Oakar	

The Clerk announced the following pairs:

On this vote:

Mr. Biaggi for, with Mr. Derrick against.

Mr. LeFante for, with Mr. Huckaby against.

Ms. Oakar for, with Mr. Teague against.

Mr. Pepper for, with Mr. Fountain against.

Mr. Wolff for, with Mr. Sebelius against.

Mr. Lehman for, with Mr. Bob Wilson against.

Mr. Whalen for, with Mr. Hagedorn against.

Mr. Metcalfe for, with Mr. Beard of Tennessee against.

Until further notice:

Mr. Dent with Mr. Conyers.

Mr. Dodd with Mr. Vander Jagt.

Mr. Foley with Mr. Andrews of North Carolina.

Mr. SISK changed his vote from "yea" to "nay."

So the motion was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. HAGEDORN. Mr. Speaker, on rollcall No. 666 I was unavoidably detained in my office. Had I been present, I would have voted "no."

MOTION OFFERED BY MR. YOUNG OF FLORIDA

Mr. YOUNG of Florida. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. YOUNG of Florida moves that the House insist on its disagreement to the amendment of the Senate No. 47.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Florida (Mr. YOUNG) for 1 hour.

Mr. YOUNG of Florida. Mr. Speaker, the House has just voted against receding, so obviously the House wants to insist. Therefore, I offer a motion that we insist, which is exactly what the House has just voted on.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida (Mr. YOUNG).

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 49: Page 17, line 8, insert:

SEC. 116. None of the funds made available by this Act may be obligated under an appropriation account to which they were not appropriated.

MOTION OFFERED BY MR. LONG OF MARYLAND

Mr. LONG of Maryland. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. LONG of Maryland moves that the House recede from its disagreement to the amendment of the Senate numbered 49 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert the following:

"SEC. 115. None of the funds made available by this Act may be obligated under an appropriation account to which they were not appropriated without the written prior approval of the Appropriations Committees of both Houses of the Congress."

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 54: Page 19, line 11, strike "expended," and insert: "expended: *Provided*, That no such payment may be made while the United States Director to the Bank is compensated by the Bank at a rate which, together with whatever compensation such Director receives from the United States, is in excess of the rate provided for an individual occupying a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, or while any alternate United States Director to the Bank is compensated by the Bank in excess of the rate provided for an individual occupying a position at level V of the Executive Schedule under section 5316 of title 5, United States Code.".

MOTION OFFERED BY MR. LONG OF MARYLAND

Mr. LONG of Maryland. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. LONG of Maryland moves that the House recede from its disagreement to the amendment of the Senate numbered 54 and concur therein.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 57: Page 20, line 10, strike out: "expended" and insert: "expended: *Provided*, That no such payment may be made while the United States Executive Director to the Bank is compensated by the Bank at a rate in excess of the rate provided for an individual occupying a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, or while the alternate United States Executive Director to the Bank is compensated by the Bank at a rate in excess of the rate provided for an individual occupying a position of level V of the Executive Schedule under section 5316 of title 5, United States Code.".

MOTION OFFERED BY MR. LONG OF MARYLAND

Mr. LONG of Maryland. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. LONG of Maryland moves that the House recede from its disagreement to the amendment of the Senate numbered 57 and concur therein.

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 59: Page 21, line 3, strike out: "expended." and insert: "expended: *Provided*, That no such payment may be made while the United States Executive Director to the Bank is compensated by the Bank in a rate in excess of the rate provided for an individual occupying a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, or while the alternate United States Executive Director to the Bank is compensated by the Bank at a rate in excess of the rate provided for an individual occupying a position at level V of the Executive Schedule under section 5316 of title 5, United States Code.".

MOTION OFFERED BY MR. LONG OF MARYLAND

Mr. LONG of Maryland. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. LONG of Maryland moves that the House recede from its disagreement to the amendment of the Senate numbered 59 and concur therein.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 61: Page 21, line 18, strike out: "$40,000,000" and insert: "$42,000,000,".

MOTION OFFERED BY MR. LONG OF MARYLAND

Mr. LONG of Maryland. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. LONG of Maryland moves that the House recede from its disagreement to the amendment of the Senate numbered 61 and concur therein with an amendment as follows: In lieu of the sum proposed by said amendment, insert the following: "$38,000,000".

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate Amendment No. 64: Page 22, line 7, strike out: "expended" and insert: "expended: *Provided*, That no such payment may be made while the United States Executive Director to the International Bank for Reconstruction and Development is compensated by the Bank at a rate in excess of the rate provided for an individual occupying a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, or while the alternate United States Executive Director to the Bank is compensated by the Bank at a rate in excess of the rate provided for an individual occupying a position at level V of the Executive Schedule under section 5316 of title 5, United States Code.".

MOTION OFFERED BY MR. LONG OF MARYLAND

Mr. LONG of Maryland. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. LONG of Maryland moves that the House recede from its disagreement to the amendment of the Senate numbered 64 and concur therein.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment numbered 66: Page 23, line 1 insert:

FUTURE UNITED STATES CONTRIBUTIONS TO THE INTERNATIONAL FINANCIAL INSTITUTIONS

It is the sense of the Senate that the United States' share of contributions to future replenishments of the International Financial Institutions should not exceed the percentages enumerated below for each of the respective accounts within these institutions:

Asian Development Bank:
Paid-in capital, 16.3 percent;
Callable capital, 16.3 percent;
Asian Development Fund, 22.2 percent;
African Development Bank:
Special Fund, 10.6 percent;
Inter-American Development Bank:
Paid-in ordinary capital, 34.5 percent;
Callable ordinary capital, 34.5 percent;
Paid-in interregional capital, 34.5 percent;
Callable interregional capital, 34.5 percent;
Fund for Special Operations, 40 percent;
International Bank for Reconstruction and Development:
Paid-in capital, 18.7 percent;
Callable capital, 18.7 percent;
International Development Association, 25 percent;
International Finance Corporation, 23 percent.

MOTION OFFERED BY MR. LONG OF MARYLAND

Mr. LONG of Maryland. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. LONG of Maryland moves that the House recede from its disagreement to the amendment of the Senate numbered 66 and concur therein.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 74: Page 27, line 24, strike out:

SEC. 507. Of the funds appropriated or made available pursuant to this Act, not more than $16,600,000 shall be used for military assistance, not more than $1,700,000 shall be used for foreign military credit sales, and not more than $600,000 shall be used for international military education and training to the Government of the Philippines.

MOTION OFFERED BY MR. LONG OF MARYLAND

Mr. LONG of Maryland. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. LONG of Maryland moves that the House recede from its disagreement to the amendment of the Senate numbered 74 and concur therein with an amendment, as follows: Restore the matter stricken by said amendment, amended to read as follows:

"SEC. 503C. Of the funds appropriated or made available pursuant to this Act, not more than $18,100,000 shall be used for military assistance, not more than $1,850,000 shall be used for foreign military credit sales, and not more than $700,000 shall be used for international military education and training to the Government of the Philippines."

The SPEAKER pro tempore. Without objection, the motion offered by the gentleman from Maryland (Mr. LONG) will be agreed to.

Mr. ROUSSELOT. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

Does the gentleman from Maryland (Mr. LONG) seek recognition?

Mr. LONG of Maryland. Mr. Speaker, I do not, at this time.

The SPEAKER pro tempore. Does the gentleman from Florida (Mr. YOUNG) desire to be recognized

Mr. YOUNG of Florida. Mr. Speaker, I do.

The SPEAKER pro tempore. The gentleman from Maryland (Mr. LONG) and the gentleman from Florida (Mr. YOUNG) will be recognized for 30 minutes each.

The Chair recognizes the gentleman from Florida (Mr. YOUNG).

Mr. YOUNG of Florida. Mr. Speaker, during the second conference committee meeting, in an attempt to resolve the differences that we found ourselves faced with, I offered a solution to the conference committee. That solution was that I would be willing to withdraw from my position on the restrictive language relative to aid to Vietnam, Cambodia and Laos, and to the language including Mozambique and Cuba and a number of other countries, if the conference committee would also be willing to withdraw from the restrictions on Argentina, the Philippines, Brazil, Guatemala, El Salvador and a few other countries.

I thought if the arguments that the President's hands should not be tied, if those arguments were valid, then we should remove all the restrictions and have no restrictions mentioned in the bill whatsoever; but if we were going to have restrictions, we certainly ought to include them against the countries of Vietnam, Cambodia, Laos, and Uganda.

The case we are talking about at the moment is the Philippines. Does anybody question our friendship with the Philippines? Does anybody question the strength of the Philippines as an ally of the United States? Does anybody question the need to the security of this Nation to have the bases we have in the Philippines now? I do not think very many would question that. I do not think the American people do.

What we did in the conference and what we included in the House bill does not amount to a lot of money, but it is a symbolic slap in the face at an old friend, the Philippines. Now, their historic and unique ties with the United States, as well as their important military and strategic location, is well known. Any potential enemy we might have in that part of the world would love for us to give up our relationship with the Philippines.

Mr. Speaker, I will conclude my argument on this issue. I have made the argument so many times in the subcommittee and in the full committee and on the floor that I feel I am repeating myself, and I know I am; but this is a message that bears repeating. How in the world are we going to be able to keep what few friends we have left in the world if every one of them wonders, "When am I next? When does the U.S. Congress or the U.S. Government take me on next? When do they cut my assistance?"

I say that we are traveling dangerous waters. We ought to be realistically looking at the world. We ought to be improving present relationships and creating new relationships. We certainly should not be taking a symbolic slap at the face of our friends.

Mr. Speaker, I reserve the balance of my time.

Mr. LONG of Maryland. Mr. Speaker, I yield 7 minutes to the gentlewoman from California (Mrs. BURKE).

Mrs. BURKE of California. Mr. Speaker, if we review this conference report, it is an increase of $1.5 million over what we voted in this House for military assistance to the Philippines. If we look at page 27 of the bill, when we voted on this bill we voted $16,600,000 for military assistance. This is an increase in the conference report to $18,100,000. So, what this conference report represents is a compromise between the position of this House and the position of the Senate.

Let me give the Members another clarification of where we are on this particular appropriation. This is more than the appropriation last year for the Philippines. The question becomes, How much of an increase should we give in military aid to the Philippines? The request by the administration was originally for an increase of some $2.6 million. However, the committee held exten-

sive hearings and listened to many charges by people who were being detained in the Philippines.

The Philippines has been a recipient of our military aid since 1947. Since the imposition of martial law by President Ferdinand Marcos, however, U.S. military aid has escalated from $80.8 million in the 4-year period preceding martial law—fiscal years 1969–72—to $166.4 million in the 4-year period following its declaration—fiscal years 1973–76. This represents a 106-percent increase.

The Carter administration, although supporting the policy of phaseout in regards to the military assistance program, has requested that the Philippines receive a $2.6 million increase for fiscal year 1978. This is the only country in the world where military assistance program requests have increased.

The justification for this increased aid is, supposedly, demonstration of continued U.S. support in the defense of the Philippines. But even the Pentagon admits that the Philippines is not subject to any viable external threat. It seems that the defense envisioned is, rather, defense of the Marcos regime.

Military assistance program funds given to the Philippines have been questioned by the Government Accounting Office in regards to support for police-related units which may be in violation of legislation prohibiting U.S. assistance to foreign police forces and prisons.

The questionable practices of police support included support through common-use facilities, rotation of MAP-trained personnel, lack of clear identification of units which have dual military-police functions, and support to law enforcement units while under martial law. MAP-trained units, in effect, have often become law enforcement agencies as the delineation between the two faded. It is noteworthy that out of 85 alleged torturers identified by Amnesty International 42 were officers ranking from lieutenant to brigadier general.

The GAO study found military forces in the Philippines were given responsibility for maintaining internal security against "subversives." The training for these forces was often received through the international military education and training program. Between 1970 and 1975, 34 Filipino officers were trained in such courses as intelligence, criminal investigating, and military police functions at the U.S. Military Police School.

The continued training of armed forces personnel operating under conditions of martial law is disconcerting to the Filipino people, who are increasingly becoming the objects of the torture by these officers.

The instances of torture have increased so rapidly that even the World Bank threatened postponement of a $15 million resettlement loan to the Philippines at the suggestion of Canadian Director Earl Drake. Drake was concerned with the arrest on April 25 of Trinidad Herrera, a Manila slum leader. Ms. Herrera had been detained by authorities after having expressed some concern about aspects of the World Bank project in Manila's Tondo slum district. She was ordered freed only after reports of U.S. interest in her arrest and possible torture became apparent.

The State Department estimates that political prisoners in the Philippines range in number from 500 to 6,000. Amnesty International investigated the Philippines in late 1975 and "found unavoidable the conclusion that torture was used frequently and with extreme cruelty often over long periods."

Ms. Herrera, the 35-year-old spokesman for an estimated million persons living in Manila's slums does not, therefore, represent a rare case. The State Department, Amnesty International, and Friends of the Filipino People have found that torture of political prisoners is common.

The most distressing aspect of this practice is our support of it through the military assistance program and the international military and education training program. Among the several high-ranking officials who have been involved in the torture of political prisoners is Col. Greg R. Perez, a director of the National Intelligence and Security Authority—NISA. Colonel Perez has undergone training in the Johns Hopkins School for Strategic Studies which is known for its having produced CIA agents. In addition, Colonel Perez frequents military and civilian intelligence units such as those supervised by the 5th Military Intelligence Group, 5th Constabulary Security Unit, and the NISA/Civil Intelligence and Security Agency—CISA. He conducts interrogations and dictates the type and duration of torture.

The cuts in military aid to the Philippines are small when compared to the $36.9 million left. But they are, I believe, a sign to the Filipino people—a signal of disapproval by this country of the martial law tactics of Ferdinand Marcos. They in no way impair our alliance with the nation he leads.

There is just one additional thing that I think must be clarified. I think all of us know that when the State Department is concerned with the level of aid, we hear from them. When they are concerned about whether or not negotiations on military bases are in jeopardy, we hear from them. I know that Members have not heard from them because they have said that the military bases allocations will be voted on totally separately; that there is nothing that is involved in this allocation that will affect the negotiations. The State Department has said that they are perfectly willing to live with this. It is reasonable; it sends out the word, but at the same time penalizes no one. I ask the Members to sustain the conference committee report, which is a compromise between what this House voted and what the Senate voted in terms of military assistance and military training for the Philippines.

Mr. LONG of Maryland. Mr. Speaker, I yield 3 minutes to the gentleman from Wisconsin (Mr. OBEY).

Mr. OBEY. Mr Speaker, I do not want to get into the issue of whether or not the Philippines are a good friend or not, or whether we approve of their human rights position or not. I simply want to make sure that the House understands exactly what is in this bill right now. I simply want to read the six figures when this bill passed, and which have already been mentioned by the gentlewoman from California, but which bear repeating.

When this bill passed the House, we had for military assistance $17.6 million for the Philippines. In this bill now, it is $18.1 million. We are up from the amount originally approved by the House.

In credit sales, the House had $1,700,000. In this bill, we are now at $1,850,000. For training we were, when the bill left the House originally, at $600,000. We are now at $700,000. In other words, we are above the level which the House approved originally. So, anyone who feels that we are treating the Philippines unfairly ought to understand that we are giving them a better deal now than we gave them in the original bill which left the House.

In addition to that, the administration indicated they could live with the figures which the House provided in the bill when it passed the bill originally. And we are substantially above the amount which the administration said they could live with. I do not think the House ought to give in to a case of special pleading here. I think what we ought to do is to accept the judgment of the committee, which accepted the judgment of the administration and then added a little bit more as a safety factor.

The Philippines have been dealt with very well in this amendment. And again I repeat that it is the only real consideration at this time. We are above the amount that the House originally provided for the Philippines. And if the Members think we ought to be providing aid to the Philippines, what is wrong with that?

Mr. LONG of Maryland. Mr. Speaker, I certainly want to support the statements of the gentlewoman from California and the gentleman from Wisconsin. In no way is this a cave-in by the House, except to give more money to the Philippines than we originally did. I think the whole position here has been misconstrued as though somehow we came out of that conference hurting the Philippines. We came out of the conference giving the Philippines more money than the House originally voted a couple of months ago.

Mr. MAHON. Mr. Speaker, will the gentleman yield?

Mr. LONG of Maryland. I yield to the gentleman from Texas.

Mr. MAHON. I thank the gentleman for yielding.

Mr. Speaker, the gentleman from Maryland (Mr. LONG), the chairman of the subcommittee, is eminently correct. By all means, the House position ought to be sustained.

Mr. YOUNG of Florida. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I agree with the statement of the gentleman from Maryland that this is more money than the House passed, but the House reduces the administration's request for aid to the Philippines. Everybody paid close attention today to the position of the President and

the White House on the overall foreign aid and the conference report, so the Members might want to know what the administration position is on this amendment No. 74. The executive branch favors the Senate amendment. The Senate amendment is not a symbolic slap at the Philippines. I conceded and acknowledged in my opening remarks that it is not a lot of money. I agree with that. It is not a lot of money, but it is symbolic. It is a slap at an old friend.

Mrs. BURKE of California. Mr. Speaker, will the gentleman yield?

Mr. YOUNG of Florida. I yield to the gentlewoman from California.

Mrs. BURKE of California. I thank the gentleman for yielding.

Mr. Speaker, will the gentleman concede that this is more than the House passed when it voted on the bill?

Mr. YOUNG of Florida. I just said that. But I also said it is less than the Senate. And the Senate did not make a symbolic slap at the Philippines. Again I concede it is not a lot of money. We are not talking about a lot of money. But it is symbolic. The gentlewoman from California urged us to send out a message. In her words, I think she said we should send out the word. I agree that we ought to send out the word all over the world that we are not going to be financing anybody who flagrantly violates human rights anywhere in the world. But why start with a friend? Why do we not send out the word to Uganda, where the leader of Uganda admits that he eats his opponents? Why not send out the word that we will start with Uganda?

PREFERENTIAL MOTION OFFERED BY MR. YOUNG OF FLORIDA

Mr. YOUNG of Florida. Mr. Speaker, I offer a preferential motion.

The Clerk read as follows:

Mr. YOUNG of Florida moves that the House recede from its disagreement to the amendment of the Senate numbered 74 and concur therein.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Maryland (Mr. LONG).

Mr. LONG of Maryland. Mr. Speaker, I object to the motion.

Mr. BAUMAN. Regular order, Mr. Speaker.

Mr. YOUNG of Florida. Mr. Speaker, I move the previous question on the preferential motion.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the preferential motion offered by the gentleman from Florida (Mr. YOUNG).

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. YOUNG of Florida. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 160, nays 254, not voting 20, as follows:

[Roll No. 667]

YEAS—160

Abdnor	Forsythe	Myers, Gary
Anderson, Ill.	Fountain	Myers, John
Andrews, N. Dak.	Frey	Myers, Michael
Archer	Fuqua	Nichols
Armstrong	Giaimo	O'Brien
Ashley	Gibbons	Pettis
Badham	Gilman	Pritchard
Bafalis	Ginn	Pursell
Barnard	Goodling	Quayle
Bauman	Guyer	Quillen
Beard, Tenn.	Hagedorn	Regula
Bennett	Hall	Robinson
Bevill	Hammer-schmidt	Rogers
Blanchard	Hansen	Rousselot
Bowen	Harsha	Rudd
Breckinridge	Hillis	Ruppe
Brinkley	Holland	Sarasin
Broomfield	Holt	Satterfield
Brown, Mich.	Hubbard	Sawyer
Brown, Ohio	Hyde	Schulze
Buchanan	Ireland	Sebelius
Burgener	Jeffords	Shuster
Burke, Fla.	Kasten	Sikes
Butler	Kelly	Skubitz
Byron	Kemp	Smith, Nebr.
Carter	Ketchum	Spence
Cederberg	Kindness	Staggers
Clausen, Don H.	Lagomarsino	Stangeland
Clawson, Del	Latta	Stanton
Cleveland	Leach	Steiger
Cochran	Leggett	Stockman
Cohen	Lent	Stratton
Coleman	Levitas	Stump
Collins, Tex.	Livingston	Symms
Conable	Lloyd, Tenn.	Taylor
Conte	Lott	Thone
Corcoran	Lujan	Treen
Coughlin	McCloskey	Trible
Crane	McDade	Waggonner
Cunningham	McDonald	Walsh
Daniel, R. W.	McEwen	Wampler
Davis	McKinney	White
Derwinski	Madigan	Whitehurst
Devine	Mann	Wiggins
Dickinson	Marks	Winn
Dingell	Marriott	Wydler
Dornan	Martin	Wylie
Duncan, Tenn.	Michel	Young, Alaska
Edwards, Ala.	Miller, Ohio	Young, Fla.
Erlenborn	Mitchell, N.Y.	Young, Tex.
Evans, Del.	Montgomery	Zablocki
Findley	Moore	Zeferetti
Fish	Moorhead, Calif.	
Flynt	Murphy, N.Y.	

NAYS—254

Addabbo	Chisholm	Fowler
Akaka	Clay	Fraser
Alexander	Collins, Ill.	Frenzel
Allen	Conyers	Gammage
Ambro	Corman	Gaydos
Ammerman	Cornell	Gephardt
Anderson, Calif.	Cornwell	Glickman
Andrews, N.C.	Cotter	Gonzalez
Annunzio	D'Amours	Gore
Applegate	Daniel, Dan	Gradison
Aspin	Danielson	Grassley
AuCoin	de la Garza	Gudger
Badillo	Delaney	Hamilton
Baldus	Dellums	Hanley
Baucus	Dent	Hannaford
Beard, R.I.	Dicks	Harkin
Bedell	Diggs	Harrington
Bellenson	Downey	Harris
Benjamin	Drinan	Hawkins
Bingham	Duncan, Oreg.	Heckler
Blouin	Early	Hefner
Boggs	Eckhardt	Heftel
Boland	Edgar	Hightower
Bonior	Edwards, Calif.	Holtzman
Bonker	Edwards, Okla.	Horton
Brademas	Eilberg	Howard
Breaux	Emery	Hughes
Brodhead	English	Ichord
Brooks	Ertel	Jacobs
Brown, Calif.	Evans, Colo.	Jenkins
Broyhill	Evans, Ind.	Jenrette
Burke, Calif.	Fary	Johnson, Calif.
Burke, Mass.	Fascell	Johnson, Colo.
Burleson, Tex.	Fenwick	Jones, N.C.
Burlison, Mo.	Fisher	Jones, Okla.
Burton, John	Fithian	Jones, Tenn.
Burton, Phillip	Flippo	Jordan
Caputo	Flood	Kastenmeier
Carney	Florio	Kazen
Carr	Flowers	Keys
Cavanaugh	Foley	Kildee
Chappell	Ford, Mich.	Kostmayer
	Ford, Tenn.	Krebs
	Krueger	Nix
	LaFalce	Nolan
	Lederer	Nowak
	Lehman	Oberstar
	Lloyd, Calif.	Obey
	Long, La.	Ottinger
	Long, Md.	Panetta
	Luken	Patten
	Lundine	Patterson
	McClory	Pattison
	McCormack	Pease
	McFall	Perkins
	McHugh	Pickle
	McKay	Pike
	Maguire	Poage
	Mahon	Pressler
	Markey	Preyer
	Marlenee	Price
	Mathis	Quie
	Mattox	Rahall
	Mazzoli	Railsback
	Meeds	Rangel
	Meyner	Reuss
	Mikulski	Richmond
	Mikva	Rinaldo
	Milford	Risenhoover
	Miller, Calif.	Roberts
	Mineta	Rodino
	Minish	Roe
	Mitchell, Md.	Roncalio
	Moakley	Rooney
	Moffett	Rose
	Mollohan	Rosenthal
	Moorhead, Pa.	Rostenkowski
	Moss	Roybal
	Mottl	Runnels
	Murphy, Ill.	Russo
	Murphy, Pa.	Ryan
	Murtha	Santini
	Natcher	Scheuer
	Neal	Schroeder
	Nedzi	Seiberling
		Sharp
		Shipley
		Simon
		Sisk
		Skelton
		Slack
		Smith, Iowa
		Snyder
		Solarz
		Spellman
		St Germain
		Stark
		Steed
		Steers
		Stokes
		Studds
		Thompson
		Thornton
		Traxler
		Tsongas
		Tucker
		Udall
		Ullman
		Van Deerlin
		Vanik
		Vento
		Volkmer
		Walgren
		Walker
		Watkins
		Waxman
		Weaver
		Weiss
		Whitley
		Whitten
		Wilson, C. H.
		Wilson, Tex.
		Wirth
		Wright
		Yates
		Yatron
		Young, Mo.

NOT VOTING—20

Ashbrook	Hollenbeck	Rhodes
Biaggi	Huckaby	Teague
Bolling	Koch	Vander Jagt
Derrick	Le Fante	Whalen
Dodd	Metcalfe	Wilson, Bob
Evans, Ga.	Oakar	Wolff
Goldwater	Pepper	

Mr. SCHEUER changed his vote from "yea" to "nay."

So the preferential motion was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. Without objection the previous question is ordered on the motion offered by the gentleman from Maryland (Mr. LONG).

There was no objection.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 80: Page 29, line 2, insert:

"SEC. 507. It is the sense of the Congress that, where other means have proven ineffective in promoting international human rights, and except where the President determines that the cause of international human rights is served more effectively by actions other than voting against such assistance or where the assistance is directed to programs that serve the basic needs of the impoverished majority of the country in question, United States representatives to the International Bank for Reconstruction and Development, the International Development Association, the African Development Fund, the Asian Development Bank, and the Inter-American Development Bank should oppose loans and other financial or technical assistance to any country that persists in a systematic pattern of gross violations of fundamental Human Rights."

MOTION OFFERED BY MR. LONG OF MARYLAND

Mr. LONG of Maryland. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. LONG of Maryland moves that the House recede from its disagreement to the amendment of the Senate numbered 80 and concur therein.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Maryland (Mr. LONG).

Mr. LONG of Maryland. Mr. Speaker, I yield to the gentleman from Iowa (Mr. HARKIN).

Mr. HARKIN. Mr. Speaker, I would just like to have this amendment to section 507 clarified. This is the language that originally had surfaced on the authorization bill from the Senate. That was defeated here in the House by a substantial vote. It went back to conference. That language was removed, and that language does not now appear in the authorization bill. What I would just like to have clarified is, is my opinion correct that the authorization language is really the controlling language in the appropriations bill and not this technical language here? Is that the judgment of the chairman of the committee?

Mr. LONG of Maryland. Mr. Speaker, in response to the gentleman's statement, I would like to assure him the provision contained in this amendment is simply a sense of the Congress provision on human rights and in no way is it intended to overturn or preclude the provision contained in the International Financial Institutions Authorization Act, Public Law 95–118, dealing with the same subject. As I indicated previously, this is a sense of the Congress provision and could not overrule the provision contained in the authorization bill because it does not have the force of law. Also, it was not the intention of the House conferees in any way whatsoever to circumvent the effect of the gentleman's authorization provision.

Mr. HARKIN. I thank the Chairman.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Maryland (Mr. LONG).

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 81: Page 29, line 17 strike lines 17 through 22.

MOTION OFFERED BY MR. LONG OF MARYLAND

Mr. LONG of Maryland. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. LONG of Maryland moves that the House recede from its disagreement to the amendment of the Senate numbered 81 and concur therein with an amendment, as follows: Restore the matter stricken by said amendment, amended to read as follows:

"SEC. 508. Notwithstanding the budget authority levels of $523,000,000 for the Inter-American Development Bank and $400,000,000 for the International Bank for Reconstruction and Development provided elsewhere in this Act, not more than $480,000,000 shall be made available by this Act for obligation or expenditure for a United States contribution to the Inter-American Development Bank and not more than $380,000,000 shall be made available by this Act for obligation or expenditure for a United States contribution to the International Bank for Reconstruction and Development: *Provided*, That this section shall apply only to the establishment of budget authority levels for the aforementioned Banks and shall not alter limitations, restrictions or other language provisions elsewhere in this Act."

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 82: Page 29, line 23, insert:

"SEC. 508. None of the funds appropriated or otherwise made available by this Act to the Export-Import Bank and funds appropriated by this Act for direct foreign assistance may be obligated for any government which aids or abets, by granting sanctuary from prosecution to, any individual or group which has committed an act of international terrorism, unless the President of the United States finds that the national security requires otherwise.".

MOTION OFFERED BY MR. LONG OF MARYLAND

Mr. LONG of Maryland. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. LONG of Maryland moves that the House recede from its disagreement to the amendment of the Senate numbered 82 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert the following:

"SEC. 509. None of the funds appropriated or otherwise made available by this Act to the Export-Import Bank and funds appropriated by this Act for direct foreign assistance may be obligated for any government which aids or abets, by granting sanctuary from prosecution to, any individual or group which has committed an act of international terrorism, unless the President of the United States finds that the national security requires otherwise."

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 83; Page 30, line 6 insert:

SEC. 509. It is the sense of the Senate that the Secretary of State should prepare and submit to the Speaker of the House of Representatives and to the President of the Senate—

(1) not later than six months after the date of enactment of this section, a report on the adequacy of insurance provided by the accredited diplomatic missions to the United States to cover loss or injury arising from the wrongful acts or omissions of the employees of such missions in the United States;

(2) not later than one year after the date of enactment of this section, a report on what efforts the President and the Secretary of State have made to encourage the provision of such coverage; and

(3) not later than six months after the date of enactment of this section, a report on what the Secretary of State has done to encourage the Government of Panama to make satisfactory compensation to Dr. Halla Brown for loss or injury arising out of the accident of April 20, 1974.

MOTION OFFERED BY MR. LONG OF MARYLAND

Mr. LONG of Maryland. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. LONG of Maryland moves that the House recede from its disagreement to the amendment of the Senate numbered 83 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert the following:

"SEC. 510. It is the sense of the Congress that the Secretary of State should prepare and submit to the Speaker of the House of Representatives and to the President of the Senate—

(1) not later than six months after the date of enactment of this section, a report on the adequacy of insurance provided by the accredited diplomatic missions to the United States to cover loss or injury arising from the wrongful acts or omissions of the employees of such missions in the United States;

(2) not later than one year after the date of enactment of this section, a report on what efforts the President and the Secretary of State have made to encourage the provision of such coverage; and

(3) not later than six months after the date of enactment of this section, a report on what the Secretary of State has done to encourage, the Government of Panama to make satisfactory compensation to Dr. Halla Brown for loss or injury arising out of the accident of April 20, 1974."

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the last amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 84: Page 31, line 1, insert:

TITLE VI—ROMANIAN RELIEF AND REHABILITATION

SEC. 601. For expenses necessary to carry out the provisions of section 495D of the Foreign Assistance Act of 1961, as amended, $13,000,000 for the fiscal year 1977 for Romanian relief and rehabilitation assistance, to remain available until expended.

MOTION OFFERED BY MR. LONG OF MARYLAND

Mr. LONG of Maryland. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. LONG of Maryland moves that the House recede from its disagreement to the amendment of the Senate numbered 84 and concur therein.

The motion was agreed to.

A motion to reconsider the votes by which action was taken on the conference report and the several motions was laid on the table.

GENERAL LEAVE

Mr. LONG of Maryland. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report just agreed to and also on the amendments in disagreement.

Mr. Speaker, I also ask unanimous consent that I may include certain extraneous matter and tables.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Maryland?

There was no objection.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 9346, SOCIAL SECURITY FINANCING AMENDMENTS OF 1977

Mr. SISK, from the Committee on Rules, submitted a privileged report (Rept. No. 95–714), on the resolution (H. Res. 839) providing for the consideration of H.R. 9346, to amend the Social Security Act and the Internal Revenue

Code of 1954 to strengthen the financing of the social security system, to reduce the effect of wage and price fluctuation on the system's benefit structure, to provide coverage under the system for officers and employees of the United States, of the State and local governments, and of nonprofit organizations, to increase the earnings limitation, to eliminate certain gender-based distinctions and provide for a study of proposals to eliminate dependency and sex discrimination from the social security program, and for other purposes, which was referred to the House Calendar and ordered to be printed.

LEGISLATIVE PROGRAM

(Mr. MICHEL asked and was given permission to address the House for 1 minute.)

Mr. MICHEL. Mr. Speaker, I have asked for this time for the purpose of inquiring of the distinguished majority leader if this concludes the business for the day and, if so, what the adjustment in the program will be for tomorrow.

Mr. WRIGHT. Mr. Speaker, will the distinguished gentleman from Illinois yield?

Mr. MICHEL. Mr. Speaker, I am happy to yield.

Mr. WRIGHT. Mr. Speaker, the hour of 5:30 having arrived, it will be the purpose of the leadership to schedule no further legislative business for today.

It will be our intent to ask unanimous consent, immediately following this colloquy, that when we adjourn today, we adjourn until 10 o'clock tomorrow morning. The plan is to come in at 10 o'clock tomorrow morning, take up the cargo preference bill. Following that, we will go to the supplemental appropriations bill.

Thereafter, we will try to do as much as we can on the social security adjustment bill.

Mr. MICHEL. Mr. Speaker, the distinguished majority leader made mention that after the rule on cargo preference, we would go to the supplemental appropriations bill. Do I assume that the majority leader is indicating there is a chance of defeating that rule and, therefore, to put that matter to rest?

Mr. WRIGHT. Mr. Speaker, if the gentleman will yield further, the majority leader had no such thought in mind in speculating over a rule. I would assume the rule would be adopted.

Mr. MICHEL. Mr. Speaker, if it is, we would go to the remainder of the legislation?

Mr. WRIGHT. Mr. Speaker, if the gentleman will yield further, we would debate the remainder of the legislation. It is a 2-hour rule.

Mr. MICHEL. Mr. Speaker, is it my understanding we would be prepared to go to about 8 o'clock tomorrow evening?

Mr. WRIGHT. Mr. Speaker, the gentleman is correct. The plan of the leadership would be to continue through Wednesday until approximately 8 o'clock. This would facilitate the week's business. Depending on how far we go tomorrow by 8 o'clock on the social security adjustment bill, we would have relatively less to complete on Thursday. We should be able to complete the social security bill on Thursday and whatever else is on the schedule, so we can conclude the week's work.

Mr. MICHEL. Mr. Speaker, if the Dodgers win tonight, would that make any difference?

Mr. PICKLE. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I am happy to yield to the gentleman from Texas.

Mr. PICKLE. Mr. Speaker, I would like to inquire of the leadership if they can give the House any possibility of a vote on any conference bill, particularly the one with respect to the minimum wage. Can the gentleman tell us when that matter might be ready for action by the House?

Mr. WRIGHT. Mr. Speaker, if the gentleman will yield further, I do not have any information with respect to the bill and the intention to bring up the conference report.

Mr. PICKLE. Mr. Speaker, if the gentleman will yield further, I assume it will not be tomorrow.

Mr. WRIGHT. Mr. Speaker, if the gentleman will yield further, the gentleman is probably correct. I know of no plan to bring that conference report to the House tomorrow; but as has already been said when the program is announced, conference reports may be brought up at any time.

Mr. PICKLE. So far as the gentleman knows, it is not?

Mr. WRIGHT. I know of no plan to bring it up tomorrow. There has been, so far as I know, no requests to schedule it.

Mr. JOHN T. MYERS. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from Indiana.

Mr. JOHN T. MYERS. Along this same line, as I understand it, tomorrow evening, regardless of the hour and so far as it is reasonable, supposing that at 6 o'clock we complete the supplemental appropriation bill, would we nevertheless go to the social security bill at that time? Is it the intention of the leadership to give that flexibility?

Mr. WRIGHT. If the gentleman will yield, let us leave the flexibility to fit the circumstances. It is the present plan to go to social security tomorrow evening. It is conceivable that we might be late concluding the supplemental appropriation bill and we will not be able to reach that other matter. But, I hope we will be able to reach it.

Mr. JOHN T. MYERS. I thank the gentleman.

HOUR OF MEETING TOMORROW

Mr. WRIGHT. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at 10 a.m. tomorrow, Wednesday, October 19, 1977.

The SPEAKER pro tempore (Mr. NATCHER). Is there objection to the request of the gentleman from Texas?

There was no objection.

DANVILLE, VA., REGISTER GOES "OFFSET" WITH NEW PRESS

(Mr. DAN DANIEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. DAN DANIEL. Mr. Speaker, in 1848 gold was discovered at Sutter's Mill; chewing gum was first sold commercially; a primitive form of "air-conditioning" was installed in a New York theater; three colleges and universities presently in existence were founded; as was the American Association for the Advancement of Science; and the Associated Press was established.

All in all, while it is not a year recognized immediately, it was not without its accomplishments.

And in my hometown, Danville, Va., it was notable for another reason. For in that year, the Danville Register was established to provide, as its masthead states, a public service to the people of the area. This it did and has done, for these past 129 years.

Earlier this month, the Register Publishing Co., parent company of the Danville Register and the Bee, an evening paper, installed one of the most modern offset presses in the State of Virginia. This was reported with justifiable pride by Nelson Benyunes, editor of the Bee.

I respectfully request, that Mr. Benyunes' article, which reports this milestone in better style than I might do, be reprinted in the RECORD at this point. The article follows:

REGISTER GOES "OFFSET" WITH NEW PRESS

(By Nelson Benyunes)

The Register Publishing Co. today begins publication of The Danville Register and The Bee and allied publications on a new Goss Urbanite offset press.

The nine-unit press, one of the most modern and the largest of its kind in Virginia, is capable of producing a 72-page newspaper or a 144-page tabloid.

In addition, the press, housed at new facilities on Monument Street, has full-color publishing capabilities.

"We're extremely proud of this new press which will provide our readers with a superior newspaper product," said E. Stuart James Grant, president of The Register Publishing Co. "This investment is consistent with our policy of keeping our publications abreast of the latest in newspaper technology."

Even now, Mr. Grant continued, innovations are being considered to make the new press more flexible and to enhance further the quality of the newspapers.

"This press will greatly improve the production and delivery of The Danville Register and The Bee," said R. James Grant, executive vice president and general manager of The Register Publishing Co.

Grant said the offset press is capable of printing full-size papers at a rate of up to 45,000 per hour, including full color editions.

"It's a 30-year dream come true," said C. Leon Townsend, superintendent of printing and platemaking at the new plant on Monument Street. "The quality of reproduction is far superior to our old letterpress unit, especially in the areas of photographic reproduction."

The new press, purchased earlier this year from the MGD Graphics Division of Rockwell International and installed under the supervision of Tony Stoffel, is located in a

new 8,400 square-foot building constructed by P. L. Anderson and Son, said Mr. Grant.

The new plant is adjacent to The Register Publishing Co.'s existing newsprint storage facilities, he added, and has sufficient parking facilities for the circulation department's delivery fleet and press employes.

Mr. Grant said that circulation and distribution of the daily newspapers from the new plant will alleviate traffic problems heretofore encountered at the Rorer A. James Building at the corner of S. Union and Patton Streets.

The business offices of the Register Publishing Co. as well as the news, advertising and composition departments will continue to operate from the James Building.

A TRIBUTE TO EARLE C. CLEMENTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. THOMPSON) is recognized for 5 minutes.

Mr. THOMPSON. Mr. Speaker, former Congressman, Governor, and Senator Earle C. Clements will be celebrating his 81st birthday tomorrow, and I want to take this opportunity to say a few words about this remarkable man.

He has served with distinction in more public offices than any man I know of. He began his career as the sheriff of Union County, Ky., and then was elected county clerk and county judge. He became a State senator, State senate majority leader, a member of our own body, Governor of the State of Kentucky, and then a U.S. Senator from Kentucky.

He was a close friend and adviser to Presidents Harry S. Truman and Lyndon B. Johnson. Several Members of this body, and I am proud to be among their number, call upon him often for his counsel. His keen mind is finely tempered by decades of weighty decisions in some of the highest offices in our land.

He is a lover of horses and is considered an expert on horses.

He loves young people, and thousands of Job Corps graduates around the country can be grateful to him for his unremitting fight to preserve and protect the Job Corps program.

His own very beautiful daughter, Mrs. Bess Abel, is continuing his tradition of public service by occupying an important post in Vice President MONDALE'S office.

I know my colleagues will join me in saying happy birthday to Earle Clements. You have our lasting affection, respect, and friendship.

NO CARGO PREFERENCE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. KOCH) is recognized for 10 minutes.

Mr. KOCH. Mr. Speaker, the fundamental issue is whether or not this country should adopt a policy of cargo preference as a means of strengthening our maritime industry. I believe this issue needs further study because, as the President's economic policy group memorandum states, cargo preference will not solve the longrun problems of the industry. Even with cargo preference the industry will soon be back seeking additional Federal assistance. For this reason I support the EPG suggestion of an indepth study of the maritime industry.

A reading of the various administration memorandums makes clear that the essential issue to the industry is whether or not we now set the precedent for cargo preference, no matter how limited by amount or commodity. I do not believe we should take this important step in the face of the general objection that this step will not solve the longrun problems of the industry and in the face of the many specific objections that have been raised.

The national security arguments in favor of cargo preference are false. The EPG memorandum states that—

> Defense believes that the essential national security problem is access to, not carriage of, oil, and does not support H.R. 1037 on national security grounds.

With respect to the adequacy of the U.S. merchant fleet for national security purposes, the Department of Defense has repeatedly indicated that we need not tankers, but break bulk ships, roll-on roll-off ships, LASH ships, and self-sustaining container ships.

In addition the EPG memorandum states:

> State believes that, on balance, oil cargo preference would not be beneficial to national security. U.S. cargo preference, if emulated by others, would reduce U.S. flexibility in future supply disruptions should U.S.-flag tankers be banned from suppliers' ports.

The net impact on the economy as a whole would be a decrease in total employment and GNP. This was the finding of both the President's Council of Economic Advisers and the General Accounting Office. The GAO reported specifically that—

> Purchasing power, which previously was spent on a range of goods and services, would under cargo preference be spent on the transport differential. Thus, the gross national product and the employment engaged in the production of these other goods and services would both decline. . . . Cargo preference will cause a net loss in employment.

If the President's energy program takes hold and we are importing 6 million barrels a day in 1985, by then only 2,100 seagoing jobs will have been created and no shipyard jobs, at a cost per seagoing job of $110,000, excluding the price increase of domestic oil. The GAO report predicts that, following the price increase of imported oil due to cargo preference costs, the price of domestic oil will be allowed to rise as well or a wellhead tax will be imposed to equalize prices. In either case Americans will be paying more. As the American Farm Bureau Federation points out, this includes the the farmer, who will have to pass the additional cost on to the consumer.

Including the expected price increase of domestic oil, the cost to the consumer has been estimated by the GAO to be $610 million a year by 1985. Furthermore New England consumers will bear the brunt of this cost increase, as New England uses much of the imported oil. As Deputy Assistant Secretary of the Treasury Gary Hufbauer wrote in a March 8, 1977 memorandum:

> The cost of building the tankers and paying the crew will fall on U.S. consumers and will mean a sharp increase for oil, particularly in the New England states, which are the big importers.

If the aim is to subsidize seagoing jobs, it would certainly be cheaper to do so by expanding the current operating subsidy program. If the aim is to expand our merchant marine fleet, it would certainly be cheaper to purchase foreign-flag ships, which are currently glutting the market, at a fraction of their value, transfer them to U.S. registry, and reconstruct them here to meet U.S. safety and antipollution standards. Reconstruction will provide jobs. An increased operating subsidy program that extends to U.S. reconstructed, foreign-flag ships, as outlined in option 2 of the EPG memorandum, would generate 5,000 additional seagoing jobs as well as the reconstruction jobs at a total annual cost of $100 million, or $20,000 per seagoing job.

On a related matter I would like to point out that improved environmental protection will not be achieved through this bill, under which no new tankers will be built until 1985. Rather the best way is through enforcement of the current U.S. Coast Guard regulations concerning new construction, safety, and equipment standards for all oil tankers entering U.S. waters.

In summary, Mr. Speaker, I oppose cargo preference and urge further study of other means better able to strengthen our marine industry.

CONGRESSMAN ENGLISH INTRODUCES LEGISLATION TO CREATE A CABINET-LEVEL DEPARTMENT OF EDUCATION

The SPEAKER per tempore. Under a previous order of the House, the gentleman from Oklahoma (Mr. ENGLISH) is recognized for 5 minutes.

Mr. ENGLISH. Mr. Speaker, I am today introducing H.R. 9618, to create a separate Cabinet-level Department of Education. This measure continues the legislative effort I began in the 94th Congress to provide a central authority to supervise our Nation's commitment to educational excellence.

Today, Mr. Speaker, there are 40 different agencies in Washington which are involved in education in one way or another—yet we do not have any central agency with the primary responsibility of overseeing the effectiveness of these many programs.

In fact, the U.S. Office of Education has too often been buried beneath the redtape at its overgrown parent agency, the Department of Health, Education, and Welfare. As other social programs have expanded, the importance of HEW's

Office of Education has been diminished, and our schools have often paid the price for this neglect.

As a member of the Government Operations Committee, I have been disturbed by the continuing revelations of fraud and abuse within HEW—abuses which have rarely taken place in educational programs. These difficulties emphasize the need to make this huge agency more manageable, and to end the burden which waste in other areas is placing on legitimate educational programs.

The bill I am introducing today would reaffirm the commitment which the founding fathers made to providing this Nation's children with the best possible preparation for life in our free society. I do not believe that we can afford to settle for less than the best, and I urge my colleagues to join me in working for the swiftest possible passage of legislation to set up an independent, Cabinet-level Department of Education.

LEGISLATION TO SUSPEND DUTY ON IMPORTED NITROCELLULOSE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. PREYER) is recognized for 5 minutes.

Mr. PREYER. Mr. Speaker, I am today introducing legislation on behalf of myself, Mr. BROYHILL, and Mr. VANDER JAGT, to suspend until June 30, 1980, the duty imposed on nitrocellulose imported into the United States.

Nitrocellulose is the basis for a large number of fast drying, durable laquer coatings and is used for automotive refinishing, for primers, and other fast drying coatings for metal and plastics. It is also used for nonfurniture wood finishes, paper coatings, and many novelty coatings. However, one of the principal uses for nitrocellulose and one for which there is no substitute is in the manufacture of finishes for wood furniture. This is vital to the furniture manufacturers in the State of North Carolina and in the Nation.

The need to suspend the import tariff on this item has resulted from the termination of manufacture by the E. I. du Pont de Nemours & Co., Inc., one of only two domestic suppliers of nitrocellulose. Du Pont's supply will be exhausted by the end of 1977, leaving the remaining domestic manufacturer, Hercules, Inc., to make up the expected shortfall which will be at least 20 percent.

Hercules, Inc., has indicated that it is going to do everything possible to help meet the demand but acknowledges that it will take some time to expand their production. Therefore, Hercules supports the suspension of duty so that there will be as few disruptions in the marketplace as possible. There will simply not be enough nitrocellulose to meet the demand. If the shortfall has to be made up significantly through imports, the price increase caused by a 9.7-cents-per-pound duty will alter substantially the competitive stance in the marketplace for paint and coatings manufacturers. A suspension of the tariff would provide the necessary time to allow Hercules to make decisions on expanding production and permit time for other domestic manufacturers to enter the market.

I urge the Trade Subcommittee and the full House Ways and Means Committee to give this matter early consideration.

FINANCING SOCIAL SECURITY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts (Mr. BURKE) is recognized for 30 minutes.

Mr. BURKE of Massachusetts. Mr. Speaker, I am here to address my distinguished colleagues in regard to a subject which is of great interest to virtually every American—social security.

It is true that in recent years the social security system has been paying out more in benefits than has been deposited in the funds as contributions. I am proud to say today that the Congress is about to act on legislation to reverse this deficit and to insure the financial stability of the social security trust funds.

The Committee on Ways and Means has adopted a rather traditional method of financing the social security system by increasing the tax rate and the taxable wage base. While the committee bill, H.R. 9346, assures the financial integrity of the system, I believe that it is placing too great a burden on the low- and middle-income worker. It is imperative that we put a stop to the regressivity of the social security tax, and provide tax relief at the employment level.

A proposal which I have supported for many years and was first introduced by Senator Robert F. Kennedy, is the one-third, one-third, one-third tax method—one-third from the employer, the employee, and general revenues. Such a proposal would reduce the OASDHI tax rate from 6.05 to 3.09 percent in 1979, eliminate the taxable wage base, and provide for a one-third contribution from general revenues to the trust funds.

Estimates which have been provided by the Social Security Administration show that my proposal would result in a surplus of $180 billion in the OASI, DI, and HI trust funds in 1987—which would earn close to $14 billion a year in interest—compared to a deficit of $121 billion under present law. The interest earned under my proposal would amount to close to $140 billion over a 10-year period. The universal coverage provision which was adopted by the House Committee on Ways and Means would further increase the revenues of my proposal.

The key to this proposal is the reduced tax rate. This reduction would introduce a great incentive to create jobs in this country. Under the present system an employer who wishes to expand output will find it in his interest to do this by utilizing his existing work force more intensively rather than by hiring new workers if his existing workers receive wages in excess of the payroll tax base. An increase in wage payments above the existing base entails no additional payroll tax, whereas the hiring of a new worker will force the employer to pay additional social security taxes which already are too high under present law. The reduced tax rate under my proposal would eliminate this disincentive and would actually result in the creation of about 2 million new jobs.

A reduced social security tax would mean more take-home pay for workers and would certainly make employment more attractive than welfare and food stamps. We must provide the incentive to get more people back to work—off the welfare rolls, off public service jobs, off unemployment compensation, off food stamps, and back to jobs where they are earning a living and contributing to the social security system.

The one-third, one-third, one-third proposal has been supported by leading economists in this country who have had the perception to understand the entire proposal. They realize that for every million jobs created by my proposal, the general treasury would receive $16 billion in revenues—a combination of added tax revenues and reduced welfare payments. Therefore the 2 million jobs to be created by the one-third approach would yield approximately $32 billion to the Federal Treasury.

Developed countries throughout the world have used general revenues for a portion of their social insurance programs for many years—Austria, Belgium, Canada, Finland, Great Britain, Ireland, Italy, Japan, the Netherlands, Norway, Sweden, Switzerland, West Germany, and others.

In fact, Canada has a social security tax rate of 1.8 percent on the employer and employee, each. You will note that the unemployment rate in the Canadian automobile industry was 5 percent. Compare this to the 17 percent unemployment rate out in Detroit, Mich. It is evident what the regressivity of the social security tax is doing to our economy.

It is important to note that the idea of general revenues is not a new concept to social security in the United States. The Advisory Council of 1939 recommended a tripartite approach by equal contributions by employers, employees, and the Government. There is nothing sacrosanct about the social security trust funds which prohibits the use of general revenues for social security.

I understand that President Carter's tax reform message will be sent to Congress in the very near future. Sources have indicated that the Carter plan will include approximately $22 billion in income tax relief. At this time I think it is extremely important for the Congress to provide tax relief for employers and

employees in the form of reduced social security taxes, rather than further reductions in income and corporate taxes.

Tax relief at the employment level would provide tremendous assistance to businesses in the country. It would have a domino effect on the economy creating more jobs, reviving manufacturing plants for textiles, shoes, steel, and all manufactured products increasing profits, providing more funds for capital formation, holding down utility rates, and so forth.

I realize that I am 5 years ahead of my time in supporting the general revenue approach for social security financing. However, I am confident that the time will come when Members of this House will recognize the need to reduce the tax burden on low- and middle-income workers. In the past I have had over 150 cosponsors for the one-third, one-third, one-third proposal. In the future, I know that more of my distinguished colleagues will come to recognize the far-reaching benefits of my proposal—benefits to employers and employees in all sectors of our economy.

Attached is a list of responsible Members of the House and the Senate who had the wisdom to cosponsor my one-third, one-third, one-third social security tax proposal in 1976:

LIST OF COSPONSORS

1. Congresswoman Bella S. Abzug.
2. Senator James Abourezk.
3. Congressman Glenn M. Anderson.
4. Congressman Joseph P. Addabbo.
5. Congressman Frank Annunzio.
6. Congressman Thomas L. Ashley.
7. Congressman William Barrett.
8. Congressman Herman Badillo.
9. Congressman Max Baucus.
10. Congressman David R. Bowen.
11. Congressman John Brademas.
* Congressman George E. Brown, Jr.
12. Congressman Edward P. Beard.
13. Congressman Mario Biaggi.
14. Congressman Edward G. Biester, Jr.
15. Congressman Jonathan B. Bingham.
16. Congressman James J. Blanchard.
17. Congressman Edward P. Boland.
18. Congresswoman Yvonne B. Burke.
19. Congressman John L. Burton.
20. Congressman Charles J. Carney.
21. Congresswoman Shirley Chisholm.
22. Congressman Bob Carr.
23. Congressman William Clay.
24. Congresswoman Cardiss Collins.
25. Congressman John Conyers, Jr.
26. Congressman James C. Corman.
27. Congressman Robert J. Cornell.
28. Congressman Norman E. D'Amours.
29. Congressman Dominick V. Daniels.
30. Congressman Mendel J. Davis.
31. Congressman Ronald V. Dellums.
32. Congressman Ron de Lugo.
33. Congressman John H. Dent.
34. Congressman Charles C. Diggs, Jr.
35. Congressman Thomas J. Downey.
36. Congressman Robert F. Drinan.
37. Congressman Robert Duncan.
38. Congressman Joseph D. Early.
39. Congressman Robert W. Edgar.
40. Congressman Don Edwards.
41. Congressman Jack Edwards.
42. Congressman Joshua Eilberg.
43. Congressman David W. Evans.
44. Congressman Frank E. Evans.
45. Congressman Walter E. Fauntroy.
46. Congressman Daniel J. Flood.
47. Congressman William D. Ford.
48. Congressman Donald M. Fraser.
49. Congressman Louis Frey, Jr.
50. Congressman Benjamin A. Gilman.
51. Congressman William J. Green.
52. Congressman Mark W. Hannaford.
53. Congressman Tom Harkin.
54. Congressman Michael Harrington.
55. Congressman Augustus F. Hawkins.
56. Senator Mark Hatfield.
57. Congressman Ken Hechler.
58. Senator William Hathaway.
59. Senator Vance Hartke.
60. Congressman Henry Helstoski.
61. Congressman Floyd V. Hicks.
62. Congresswoman Elizabeth Holtzman.
63. Congressman James J. Howard.
64. Congressman William L. Hungate.
65 Congressman Andrew Jacobs, Jr.
66. Congressman John W. Jenrette, Jr.
67. Congresswoman Barbara Jordan.
68. Congressman Joseph E. Karth.
69. Congresswoman Martha Keys.
70. Congressman Edward Koch.
71. Congressman John Krebs.
72. Congressman John J. LaFalce.
73. Congressman Robert L. Leggett.
74. Congressman William Lehman.
75. Congressman Norman Lent.
76. Congressman Jim Lloyd.
77. Congressman Mike McCormack.
78. Congressman Stewart B. McKinney.
79. Senator George McGovern.
80. Congressman Matthew F. McHugh.
81. Congressman Spark Matsunaga.
82. Congressman Ray J. Madden.
83. Congressman Andrew Maguire.
84. Congressman Ralph H. Metcalfe.
85. Congressman George Miller.
86. Congressman Norman Y. Mineta.
87. Congressman Parren J. Mitchell.
88. Congressman Joe Moakley.
89. Congressman Morgan F. Murphy.
90. Congressman Robert N. C. Nix.
91. Congressman Richard Nolan.
92. Congressman James G. O'Hara.
93. Congressman James Oberstar.
94. Congressman Richard L. Ottinger.
96. Congressman Edward J. Patten.
97. Congressman Claude Pepper.
98. Congressman Jerry Patterson.
99. Congressman Edward W. Pattison.
100. Congressman Joel Pritchard.
101. Congressman Carl Perkins.
102. Congressman Charles B. Rangel.
103. Congressman Frederick W. Richmond.
104. Congressman Robert A. Roe.
105. Congressman Peter W. Rodino, Jr.
106. Congressman Benjamin S. Rosenthal.
107. Congressman Don Riegle.
108. Congressman Charles Rose.
109. Congressman Ferdnand J. St Germain.
110. Congressman Ronald A. Sarasin.
111. Congressman Paul S. Sarbanes.
112. Congressman James H. Scheuer.
113. Congresswoman Patricia Schroeder.
114. Congressman John F. Seiberling.
115. Congressman Paul Simon.
116. Senator Hugh Scott.
117. Congressman Stephen J. Solarz.
118. Congresswoman Gladys N. Spellman.
119. Congressman James V. Stanton.
120. Congressman Pete Stark.
121. Congressman Louis Stokes.
122. Congressman Louis Stokes.
123. Congressman Gerry E. Studds.
124. Congressman Frank Thompson.
125. Congressman Bob Traxler.
126. Congressman Paul E. Tsongas.
127. Congressman Morris K. Udall.
128. Congressman Charles A. Vanik.
129. Congressman Joseph P. Vigorito.
130. Congressman Henry A. Waxman.
131. Congressman Timothy E. Wirth.
132. Congressman Lester L. Wolff.
133. Congressman Antonio B. Won Pat.
134. Congressman Jim Wright.
135. Congressman Gus Yatron.
136. Congressman Andrew Young.
137. Congressman Clement J. Zablocki.
138. Congressman Leo C. Zeferetti.
139. Congressman James A. Burke.
140. Congressman George E. Brown, Jr.

SENATORS

141. Senator Hathaway, S. 546.
142. Senator Hatfield, S. 546.
143. Senator McGovern, S. 546.
144. Senator Hartke, S. 2055.
145. Senator Abourezk, S. 2055.
146. Senator Scott (Pa.), S. 2055.

The attached table is submitted for the RECORD to show the savings which my proposal would yield for businesses—employers and employees—particularly in the low- and middle-income brackets:

SOCIAL SECURITY (OASDHI) CONTRIBUTIONS—1979

Earnings	Employer/employee, each		Savings to employee under Burke proposal	Savings to employer under Burke proposal	Total savings under Burke proposal
	Burke proposal	H.R. 9346			
$1,000	$39	$60.50	$21.50	$21.50	$43.00
$2,000	78	121.00	43.00	43.00	86.00
$3,000	117	181.50	65.50	64.50	129.00
$4,000	156	242.00	86.00	86.00	172.00
$5,000	195	302.50	107.50	107.50	215.00
$6,000	234	363.00	129.00	129.00	258.00
$7,000	273	423.50	150.50	150.50	301.00
$8,000	312	484.00	172.00	172.00	344.00
$9,000	351	544.50	193.50	193.50	387.00
$10,000	390	605.00	215.00	215.00	430.00
$11,000	429	665.50	236.50	236.50	473.00
$12,000	468	726.00	258.00	258.00	516.00
$13,000	507	786.50	279.50	279.50	559.00
$14,000	546	847.00	301.00	301.00	602.00
$15,000	585	907.50	322.50	322.50	645.00
$16,000	624	969.00	344.00	344.00	688.00
$17,000	663	1,028.50	365.50	365.50	731.00
$18,000	702	1,089.00	387.00	387.00	774.00
$19,000	741	1,149.50	408.50	408.50	817.00
$20,000	780	1,210.00	430.00	430.00	860.00
$21,000	819	1,270.50	451.50	451.50	903.00
$22,000	858	1,331.00	473.00	473.00	946.00
$23,000	897	1,385.45	488.45	488.45	976.90
$24,000	936	1,385.45	449.45	449.45	898.90
$25,000	975	1,385.45	410.45	410.45	820.90
$26,000	1,014	1,385.45	371.45	371.45	742.90
$27,000	1,053	1,385.45	332.45	332.45	664.90
$28,000	1,092	1,385.45	293.45	293.45	586.90
$29,000	1,131	1,385.45	254.45	254.45	508.90
$30,000	1,170	1,385.45	215.45	215.45	430.90
$35,000	1,365	1,385.45	20.45	20.45	40.90
$50,000	1,950	1,385.45	−564.55	−564.55	−1,129.10
$100,000	3,900	1,385.45	−2,514.55	−2,514.55	−5,029.10

Note: The 1/3, 1/3, 1/3, social security tax proposal will build up the trust funds to over $180 billion in approximately 10 yr. At the going rate of interest the trust funds would earn close to $140 billion in the 10-yr period, thereby eliminating any need for future increases in taxes. Such a proposal would stabilize the social security trust funds for hundreds of years into the future.

GENERAL LEAVE

Mr. BURKE of Massachusetts. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of my special order today.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

RUSSIA WANTS THE CAPE

(Mr. SIKES asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. SIKES. Mr. Speaker, Russia, which is constantly seeking control of new lands and more people, looks enviously at the harbor facilities at the Cape of Good Hope at the southern tip of the African Continent. The reason is clear. The cape route, now followed by the supertankers, is considered to be the most crowded sea lane in the world. Twenty-four thousand ocean-going ships make the long trip around the tip of Africa each year. The major oil imports which travel this route are vital to all members of the Western Alliance and to the West's Asian ally, Japan.

Almost all of these imports come from the Persian Gulf. The United States Strategic Institute has estimated that by the 1980's 60 percent of American oil imports, equalling at least 40 percent of national consumption, will reach this country via the cape. Already more than 60 percent of French industry's energy demands are made by imported oil. For West Germany, the figure is over 50 percent.

Obviously, Russian control of the South African ports would place them in a position to dominate the lifeline of the west. With the conceivable exception of Mombassa in Kenya, no ports on the East African coast between the formerly French base at Djibouti and the South African harbor of Durban at present seem likely to be open to Western warships in an emergency situation. The West has imposed a political ban on the use of the harbor at the cape because of the apartheid policies of the South African Government. Apart from Diego Garcia there are no permanent naval shore facilities available to our naval vessels nearer than Australia or the Philippines. This shows how little control the Western powers can exercise over the shipping lanes of the area.

On the contrary, the Russians have a military presence in one African nation after another and the use of many important ports. We have none of consequence anywhere on the African continent. The Russians are in Iraq at the head of the Persian Gulf and Berbera in Somali and in Aden in South Yemen. This gives them a substantial hold on the northern extreme of the continent in the area known as the Horn of Africa. They are in Conakry in Guinea. There are Soviet interests in Mali, Nigeria, and Guinea-Bissau. They have important links with Tanzania and Mauritius. Angola is a classic example of Communist conquest and the use of a nation's port cities for Russia's gain. Their naval units make regular use of the anchorages near Seychelles. There are others.

It would seem that this threat of the stranglehold on an area through which the oil of the West must pass would have generated more concern by the United States and the Western World.

The cape is vulnerable because of the constant growth of the Soviet Navy and the constant increase of the number of ports in Africa which are available to Russian ships. This presents a real threat to the peace and prosperity of the world. Unfortunately, there has been no sign of realistic and coordinated Western policies designed to deter, or if need be, to overcome, this Soviet challenge to the future of the Western World.

The future could be ominous indeed. In this huge continent, the Cape of Good Hope may be the last important key to untroubled water traffic which can be kept in Western hands.

COMMITTEE RULES OF SELECT COMMITTEE ON ASSASSINATIONS

(Mr. STOKES asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. STOKES. Mr. Speaker, I insert into the RECORD a copy of the committee rules of the Select Committee on Assassinations as adopted by the committee on March 7 and amended on September 9. As I have previously stated, I hope these rules can serve as a model for future investigative committees of the Congress.

The rules follow:

RULES OF THE SELECT COMMITTEE ON ASSASSINATIONS

(As Adopted March 7, 1977 and Amended September 9, 1977)

RULE 1. GENERAL PROVISIONS

1. The Rules of the House, and in particular the committee rules enumerated in Clause 2 of Rule XI, are the rules of the Select Committee on Assassinations, to the extent applicable, and by this reference are incorporated. Any subcommittee shall be part of the committee, and subject to the authority and direction of the committee and to its rules so far as applicable.

RULE 2. MEETINGS

2.1 The regular meeting time of the committee is 10 A.M. on the first Tuesday of each month when the House is in session. Additional meetings may be called by the Chairman as he may deem necesary or at the request of a majority of the committee in accordance with Clause 2(c) of Rule XI of the House of Representatives.

2.2 The committee and any subcommittee thereof may not sit, without special leave, while the House is reading a measure for amendment under the 5-minute rule.

2.3 In accordance with Clause 2(g) of Rule XI, each meeting of the committee or any subcommittee thereof shall be open to the public except when the committee or subcommittee, in open session and with a majority present, determines by roll call vote that all or part of the remainder of the meeting shall be closed to the public: *Provided however*, that no persons other than Members of the committee, and such congressional staff as they may authorize, shall be present at any meeting which has been closed to the public.

2.4 *Record votes.* A roll call vote of the committee may be had on the request of one Member. The result of each roll call vote shall be recorded and the record shall be made available for inspection by the public at reasonable times at the committee office. Such record shall include a description of the amendment, motion, order or other proposition; the name of each Member voting for or against, and whether by proxy or in person; and the Members present but not voting.

2.5 *Quorum.* One-third of the committee or subcommittee shall constitute a quorum for the purpose of transacting business other than reporting. However, a quorum for the purpose of taking testimony and receiving evidence by the committee or a subcommittee shall consist of two Members. *Ex officio* members of each subcommittee shall not be considered a member of the subcommittee for the purpose of determining whether a quorum is present.

2.6 *Records.* It shall be the duty of the clerk and staff director to keep or cause to be kept a verbatim transcript of all committee or subcommittee hearings; and where practicable, committee or subcommittee meetings, the practicability of which is to be decided by a roll call vote of the committee or subcommittee on the request of one Member. Whether a verbatim transcript of meetings is made or not, the clerk and staff director shall keep or cause to be kept the record of votes on any matter on which a record vote is taken and of all quorum calls together with all motions, points of order, parliamentary inquiries, rulings of the Chair and appeals therefrom. The record shall show those Members present at each meeting.

2.7 *Proxies.* A vote by any Member in the committee or in any subcommittee may be cast by proxy, but such proxy must be in writing for use during each roll call in which such Member's proxy is to be voted. Each proxy shall designate the Member who is to execute the proxy authorization and shall be limited to a specific measure or matter and any amendments or motions pertaining thereto; except that a Member may authorize a general proxy only for motions to recess, adjourn or other procedural matters. Each proxy to be effective shall be signed by the Member assigning his vote and shall contain the date and time of day that the proxy is signed. Proxies may not be counted for a quorum. The Member does not have to appear in person to present the proxy.

RULE 3. HEARING PROCEDURES

3.1 *Participation of Members.* All other Members of the committee may have a privilege of sitting with any subcommittee during its hearing or deliberations and may participate in such hearings or deliberations, but no such Member who is not a Member of the subcommittee shall vote on any matter before such subcommittee. *Ex officio* members of each subcommittee may vote on any matter before such subcommittee.

3.2 *Interrogation of Witnesses.* Committee Members may question witnesses only when they have been recognized by the Chair for that purpose, and only for a 5-minute period until all Members present have had an opportunity to question a witness. The 5-minute period for questioning a witness by any one Member can be extended only with the unanimous consent of all Members present. The questioning of a witness in both full and

subcommittee hearings shall be initiated by the Chairman, followed by the ranking minority party Member and all other Members alternating between the majority and minority. In recognizing Members to question witnesses in this fashion, the Chairman shall take into consideration the ratio of the majority to minority Members present and shall establish the order of recognition for questioning in such a manner as not to disadvantage the Members of the majority. The Chairman may accomplish this by recognizing two majority Members for each minority Member recognized. The Chairman or any Member may recognize staff counsel for the purpose of questioning a witness for a period to be determined by the Chairman.

3.3. *Additional Rules.* The following additional rules shall apply to all investigative hearing procedures:

(1) The Chairman at an investigative hearing shall announce in the opening statement the subject of the investigation.

(2) A copy of the committee rules and this clause shall be made available to each witness.

(3) Witnesses at investigative hearings may be accompanied by their own counsel for the purpose of advising them concerning their constitutional rights.

(4) The Chairman may punish breaches of order and decorum, and of professional ethics on the part of counsel, by censure and exclusion from the hearings, and the committee may cite the offender to the House for contempt.

(5) If the committee determines that evidence or testimony at an investigative hearing may tend to defame, degrade, or incriminate any persons, it shall—

(*a*) Receive such evidence or testimony in executive session;

(*b*) Afford such person an opportunity voluntarily to appear as a witness; and

(*c*) Receive and dispose of requests from such person to subpena additional witnesses.

(6) Except as provided in subparagraph (5), the Chairman shall receive and the committee shall dispose of requests to subpena additional witnesses.

(7) No evidence or testimony taken in executive session may be released or used in public sessions without the consent of the committee.

(8) In the discretion of the committee, witnesses may submit brief and pertinent sworn statements in writing for inclusion in the record. The committee is the sole judge of the pertinency of testimony and evidence adduced at its hearing.

(9) A witness may obtain a transcript copy of his testimony given at a public session or, if given at an executive session, when authorized by the committee.

3.4 Witness' counsel may submit written questions to be propounded to his or her client. Such questions will be asked by the committee if a majority of the members consent.

3.5 Any objection by witness' counsel must be specifically ruled upon by the Chairman or presiding Member and such rulings shall be the ruling of the committee, unless a disagreement thereon is expressed by a majority of the committee present. In the case of a tie, the rule of the Chair will prevail.

3.6. The Chairman of the committee or subcommittee shall offer each witness and/or counsel, at the conclusion of his or her testimony, the opportunity to explain or amplify that testimony. The time afforded each witness or counsel shall not exceed 5 minutes, unless extended for good cause by the Chairman. The committee or subcommittee may ask additional questions to the witness at the conclusion of any such explanation or amplification.

3.7 If a witness who desires counsel, but is financially or otherwise unable to secure counsel, informs the committee in writing at least 48 hours in advance of his or her inability to retain counsel, the committee will secure voluntary independent counsel for the witness. Such attempts by the committee to secure counsel will not include the payment of fees to an attorney representing a witness at a committee hearing. Failure of a witness to agree to the counsel provided will not excuse the witness from appearing and testifying.

3.8 A witness shall, upon request, be given an opportunity to inspect the preliminary transcript of his or her testimony to determine whether it was correctly transcribed and may be accompanied by his or her counsel during such inspection. A witness shall, upon request, be notified by the clerk when the transcription of his or her testimony is complete. If the testimony was given in executive session, the witness may only inspect the preliminary transcript at a location to be determined by the committee. Any corrections in the transcription of the testimony of the witness which the witness desires to make shall be submitted in writing to the committee within 5 days after the transcription of his or her testimony. However, changes shall only be made for the purpose of making minor grammatical corrections and editing, and not for the purpose of changing the substance of the testimony. Any questions arising with respect to such editing shall be decided by the Chairman.

The committee will furnish the witness a copy of the transcript of his or her testimony when it is made public, at no expense.

3.9 *Notice of Hearings.* The Chairman, in the case of hearings to be conducted by the committee, and the appropriate subcommittee Chairman, in the case of hearings to be conducted by a subcommittee, shall make public announcement of the date, place, and subject matter of any hearing to be conducted on any measure or matter at least one week before the commencement of that hearing unless the committee determines that there is good cause to begin such hearing at an earlier date. In the latter event the Chairman or the subcommittee Chairman, whichever the case may be, shall make such public announcement at the earliest possible date. The Clerk of the Committee shall promptly notify the Daily Digest Clerk of the Congressional Record as soon as possible after such public announcement is made.

RULE 4. STATEMENTS UNDER OATH BY DESIGNATED COUNSEL

4.1 Pursuant to House Resolution 222, counsel on the committee staff may be designated to obtain statements from a witness who is placed under oath by an authority who is authorized to administer oaths in accordance with the applicable laws of the United States or of any State.

4.2 Subpenas may not be utilized to obtain such statements. Counsel must advise the person that such statements are voluntary. The person giving a statement shall be provided a copy of that statement by designated counsel. Such statements are not to be considered testimony before the committee, but may be used by the committee or its staff in pursuing investigative leads and as a basis for questioning witnesses before the committee; and may be incorporated as part of the record only when (*a*) the person is dead or (*b*) the committee determines that in the interest of justice and economy, with due regard to the importance of presenting oral testimony, the statement should be so used.

4.3 Witnesses giving statements under oath to designated counsel must be advised by counsel that they have the right to have their own counsel while giving such statements.

RULE 5. SUBPENAS

5.1 *Procedure.* Subpenas shall be issued only in accordance with the procedure specified in Clause 2(m)(2)(A) of Rule XI of the Rules of the House of Representatives. Each subpena shall be served with a copy of House Resolutions 222 and 433, 95th Congress, First Session, and all other substantive resolutions of the House concerning the power and authority of the committee, and a copy of the Rules of this Committee which are in effect at the time of issuance of the subpena.

5.2 *Power to Sit and Act; Subpena Power.*

(*a*) For the purpose of carrying out any of its functions and duties under House Resolutions 222 and 433, and all other substantive resolutions of the House concerning the power and authority of the committee, the committee or subcommittee is authorized (subject to subparagraph (b) of this paragraph)—

(1) To sit and act at such times and places within the United States, including any Commonwealth or possession thereof, or in any other country, whether the House is in session, has recessed, or has adjourned, and to hold such hearings, and

(2) To require, by subpena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memoranda, papers, documents, tangible objects, and other things of any kind, as it deems necessary. The Chairman of the committee or subcommittee, or any Member designated by the Chairman, may administer oaths to any witness.

(*b*) A subpena may be authorized and issued by the committee or subcommittee under subparagraph (*a*)(2) in the conduct of any investigation or series of investigations when

(1) Authorized by a majority of the Members voting, a majority being present or

(2) Authorized and issued by the Chairman of the committee, provided that prior to its authorization and issuance, the Chairman have the clerk send a notice to the office of each member of the committee or subcommittee before which the subpena is returnable of the intent of the Chairman to authorize and issue a subpena. If two or more members of the committee or subcommittee before which the subpena is returnable object to the issuance of the subpena, and so notify the clerk prior to the Chairman's authorization and issuance of the subpena, the Chairman may not authorize and issue a subpena pursuant to this subsection.

Authorized subpenas shall be signed by the Chairman of the committee or by any Chairman of the committee or by any Member designated by the committee.

(*c*) Compliance with any subpena issued by the committee under subparagraph (*a*)(2) may be enforced only as authorized or directed by the House.

5.3 Except as otherwise specifically authorized by the committee, no Member of the committee, designated personal staff member of each committee member, or staff shall make public the name of any witness subpenaed by the committee.

5.4 Witnesses shall be subpenaed at a reasonably sufficient time in advance of any hearing in order to give the witness an opportunity to prepare for the hearing, employ counsel should he or she so desire, and/or produce the materials called for by a subpena *duces tecum*. The committee shall determine in each particular instance what period of time constitutes reasonable notice; however, in no case shall it be less than 48 hours, unless the witness waives such notice.

RULE 6. BROADCASTING OF COMMITTEE HEARINGS AND MEETINGS AND GENERAL PRESS POLICY OF THE COMMITTEE

6.1 Upon approval by the committee, all committee and subcommittee hearings which are open to the public may be covered, in whole or in part, by television broadcast, radio broadcast, and still photography, or by any such methods of coverage.

6.2 The Chairman of the full committee or the Chairmen of the subcommittees are authorized to determine on behalf of the full committee or its subcommittees, respectively, whether hearings which are open may be broadcast, unless the committee or its subcommittes respectively by majority vote determine otherwise.

6.3 Permission for such coverage shall be granted only under the following conditions:

(1) Live coverage by radio or television shall be without commercial sponsorship.

(2) No witness served with a subpena by the committee shall be required against his or her will to be photographed at any hearing or to give evidence or testimony while the broadcasting of that hearing, by radio or television, is being conducted. At the request of any witness who does not wish to be subjected to radio, television, or still photography coverage, all lenses shall be covered and all microphones used for coverage turned off.

(3) Not more than four television cameras, operating from fixed positions, shall be permitted in the room. The allocation among the television media of the positions of television cameras in the room shall be in accordance with fair and equitable procedures as devised by the Executive Committee of the Radio and Television Correspondents' Galleries.

(4) Television cameras shall be placed so as not to obstruct in any way the space between any witness giving evidence or testimony and any Member of the committee or the visibility of that witness and that Member to each other.

(5) Television cameras shall not be placed in positions which obstruct unnecessarily the coverage of the hearing or meeting by the other media.

(6) Television and radio media equipment shall not be installed in, or removed from, the room while the committee is in session.

(7) Floodlights, spotlights, strobelights, and flashguns shall not be used, except that the television media may install additional lighting in the room, without cost to the Government, in order to raise the ambient lighting level to the lowest level necessary to provide adequate television coverage at the then current state-of-the-art.

(8) Not more than five press photographers shall be permitted to cover a hearing or meeting by still photography. In the section of those photographers, preference shall be given to photographers from Associated Press Photos and United Press International Newspictures. If requests is made by more than five of the media for coverage, that coverage shall be made on the basis of a fair and equitable pool arrangement devised by the Standing Committee of Press Photographers.

(9) Photograpers shall not position themselves, at any time during the course of the hearing or meeting, between the witness table and the Members of the committee.

(10) Photographers shall not place themselves in positions which obstruct unnecessarily the coverage by the other media.

(11) Television and radio media personnel shall be then currently accredited to the Radio and Television Correspondents' Galleries.

(12) Still photography personnel shall be then currently accredited to the Press Photographers' Gallery.

(13) Personnel providing coverage by the television and radio media and by still photography shall conduct themselves and their coverage activities in an orderly and unobtrusive manner.

6.4 The staff of the committee, and designated personal staff member of each committee member, shall not discuss with anyone outside the staff either the substance or procedure of their work or that of the committee unless specifically authorized by the Chairman or the subcommittee Chairman.

RULE 7. INVESTIGATIVE GUIDELINES

7.1 *Tape Recordings.* No conversation of committee members or staff with any person shall be recorded without the prior knowledge and/or written consent of the person whose conversation is to be recorded. A transcribed copy of any recording so made will be furnished to the recorded party upon his or her request, at no expense to the recorded party.

7.2 (*a*) *Polygraphs.* No person will be required to take a polygraph test, nor shall any such tests be made or given without the specific, written authorization of the person concerned. No such tests may be made or given without the specific, prior and written authorization of a majority of the committee or subcommittee, a majority being present. No such test may be used as a basis for a finding of fact, or be referred to in any public report or public hearing. Results of any such test shall not be disclosed to any person, other than the person tested, who is not a member of the committee or staff employee authorized by the Chairman. Nor shall the failure or agreement to take a polygraph test form the basis of any finding of fact, or be referred to in any public report or public hearings, or be otherwise publicly disclosed.

(*b*) *Voice Analysis.* No recording made with the permission of the recorded party pursuant to Rule 7.1 shall be subject to mechanical voice analysis without a written consent from the recorded party specifically authorizing such analysis. No such tests may be made or given without the specific, prior and written authorization of the committee or subcommittee, a majority being present. Results of any such test shall not be disclosed to any person, other than the person tested, who is not a member of the committee or staff employee authorized by the Chairman. Neither the results of any such test nor the failure or agreement to take such test shall form the basis of any finding of fact, or be referred to in any public report or public hearing, or be otherwise publicly disclosed.

7.3 *Electronic Surveillance; Wiretapping.* There shall be no electronic surveillance or wiretapping of any person.

7.4 *Interrogations.* In all interrogations of prospective witnesses, committee investigators and counsel shall first identify themselves as representatives of the Select Committee on Assassinations of the United States House of Representatives and shall present official credentials issued by the Clerk of the House. The investigator or counsel shall advise each such person of the nature of the investigation being conducted.

7.5 Prior to the utilization of any investigative techniques not otherwise covered by these Rules, such techniques will be discussed and voiced upon by the full committee.

RULE 8. TRAVEL

8.1 *Travel of Member and Staff.*

(*a*) Consistent with the primary expense resolution and such additional expense resolutions as may have been approved, the provisions of this rule shall govern travel of committee members and staff. Travel to be reimbursed for any Member or any staff member shall be paid only upon the prior authorization of the Chairman. Travel may be authorized by the Chairman for any Member and any staff member in connection with the attendance of hearings conducted by the committee or of any subcommittee thereof and meetings, conferences, and investigations which involve activities or subject matter under the general jurisdiction of the committee. Before such authorization is given there shall be submitted to the Chairman in writing the following:

(1) The purpose of the travel;

(2) The dates during which the travel is to be made and the date or dates of the event for which the travel is being made;

(3) The location of the event for which the travel is to be made; and

(4) The names of Members and staff seeking authorization.

(*b*)(1) In the case of travel outside the United States of Members and staff of the committee or of a subcommittee for the purpose of conducting hearings, investigations, studies, or attending meetings and conferences involving activities or subject matter under the legislative assignment of the committee or pertinent subcommittee, prior authorization must be obtained from the Chairman. Before such authorization is given, there shall be submitted to the Chairman, in writing, a request for such authorization. Each request, which shall be filed in a manner that allows for a reasonable period of time for review before such travel is scheduled to begin, shall include the following:

(A) The purpose of the travel;

(B) The dates during which the travel will occur;

(C) The names of the countries to be visited and the length of time to be spent in each;

(D) An agenda of anticipated activities for each country for which travel is authorized together with a description of the purpose to be served and the areas of committee jurisdiction involved; and

(E) The names of Members and staff for whom authorization is sought.

(2) Requests for travel outside the United States shall be initiated by the Chairman and shall be limited to members and permanent employees of the committee.

(3) At the conclusion of any hearing, investigation, study, meeting or conference for which travel outside the United States has been authorized pursuant to this rule, each subcommittee (or Members and staff attending meetings or conferences) shall submit a written report to the Chairman covering the activities and other pertinent observations or information gained as a result of such travel.

(*c*) Members and staff of the Committee performing authorized travel on official business shall be governed by applicable laws, resolutions, or regulations of the House and of the Select Committee on Assassinations pertaining to such travel.

RULE 9. PROCEDURES, REGULATIONS, AND RULES

9. The Procedures, Regulations, and Rules of the Select Committee on Assassinations shall be established, modified, amended or repealed only by a majority vote of the committee, a majority of the committee being present, provided that prior written notice of the proposed change has been provided each member of the committee not less than 48 hours before those changes are to be discussed by the committee.

RULE 10. PROCEDURES FOR HANDLING ASSASSINATIONS INQUIRY MATERIAL

10.1 Before the commencement of any presentation at which testimony will be heard or papers and things considered, each committee member will be furnished with a list of all papers and things that have been obtained by the committee by subpena or otherwise. No Member shall make the list or any part thereof public unless authorized by a majority vote of the committee, a quorum being present.

10.2 The chief counsel, after discussion with the Chairman and the ranking minority Member, shall initially recommend to the committee the testimony, papers, and things to be presented to the committee. The determination as to whether such testimony, papers, and things shall be presented in open or executive session shall be made pursuant to the rules of the House and of this committee.

10.3 Before the committee is called upon to make any disposition with respect to the testimony or papers and things presented to it, the committee members shall have a reasonable opportunity to examine all testi-

mony, papers, and things that have been obtained by the inquiry staff. No Member shall make any of that testimony or those papers or things public unless authorized by a majority vote of the committee, a quorum being present.

10.4 All examination of papers and things other than in a presentation shall be made in a secure area designated for the purpose. Restricted (including classified and confidential) information may not be reproduced without the written authorization of the Chairman and chief counsel to the security director.

10.5 Any committee member may bring additional testimony, papers, or things to the committee's attention.

10.6 Only testimony, papers, or things that are included in the record will be reported to the House; all other testimony, papers, or things will be considered as executive session material.

10.7 The committee or its subcommittees will at all times endeavor to obtain access to full, complete and unedited material considered relevant for its investigations and now held by any local, State or Federal criminal justice or intelligence agency.

Any agreements regarding committee or subcommittee access to agency files made between the committee and the appropriate local, State, or Federal agency will be made by majority vote of the full committee.

10.8 The chief counsel and deputy chief counsels shall have authority to designate materials and documents as sensitive. The contents of all such materials and documents, in addition to any materials or documents already classified or marked confidential by any agency or department of the United States Government, shall not be released or divulged in any way, form, shape or manner without the approval of the select committee or one of its subcommittees.

RULE 11. RULES FOR THE ASSASSINATIONS INQUIRY STAFF

In addition to rules of conduct for staff contained in other rules of this committee and the House, the following rules shall apply:

11.1 Staff offices of the committee shall operate under strict security precautions. One guard shall be on duty at all times to control entry. All persons entering the committee area shall identify themselves.

11.2 Restricted (including classified and confidential) and other material the committee deems sensitive shall be segregated in a secure storage area. Restricted (including classified and confidential) material may only be examined in the committee's security office or a secure reading room designated for such purpose. Sensitive material may be examined anywhere within the committee's offices. Copying or duplicating of restricted (including classified and confidential) documents is prohibited except upon authorization of the Chairman and chief counsel. Copying and duplicating of sensitive documents is prohibited except upon authorization of the chief counsel or a deputy chief counsel authorized to grant access to such materials.

11.3 Access to restricted (including classified and confidential) information supplied to the committee shall be limited by the committee and chief counsel to those committee staff members with appropriate security clearances and a need to know.

11.4 Testimony taken or papers and things received by the staff shall not be disclosed or made public by the staff or designated personal staff member of each committee member unless authorized by a majority of the committee.

11.5 Executive session transcripts and records shall be available to designated staff for inspection in person but may not be released or disclosed to any other person without the consent of a majority of the committee.

11.6 The professional and clerical staff of the committee shall be appointed and their remuneration determined in such manner as the committee shall determine by a majority vote, a majority of the committee being present, within the budget approved for such purposes by the committee.

The professional and clerical staff of the committee:

(a) Shall be appointed without regard to race, creed, sex, or age, and solely on the basis of fitness to perform the duties of their respective positions; and

(b) Shall not be assigned any duties other than those pertaining to committee business.

The committee may terminate the services of any professional or clerical staff member by a majority vote, a majority of the committee being present.

RULE 12. SUBCOMMITTEE

12.1 Each subcommittee is authorized to exercise all powers conferred on subcommittees by the resolution establishing the Select Committee on Assassinations, including but not limited to the authority to meet, hold hearings, authorize subpenas, receive evidence, and report to the full committee on all matters referred to it or under its jurisdiction. Subcommittee Chairmen shall set dates for hearings and meetings of their respective subcommittees after consultation with the Chairman and other subcommittee Chairmen with a view toward avoiding simultaneous scheduling of full committee and subcommittee meetings or hearings whenever possible.

12.2 There shall be the following standing subcommittees of the Select Committee on Assassinations:

(a) Subcommittee on the Assassination of John F. Kennedy; and

(b) Subcommittee on the Assassination of Martin Luther King, Jr.

RULE 13. ACCESS BY MEMBERS OF THE HOUSE OF REPRESENTATIVES TO RESTRICTED (INCLUDING CLASSIFIED AND CONFIDENTIAL) OR SENSITIVE INFORMATION

13.1 Members of the House of Representatives who desire access to restricted (including classified and confidential) or sensitive information will be escorted to a reading room within the committee's offices after requesting access to such information from the chief counsel and director.

13.2 Before receiving access to such information, Members will be required to identify the material, document or information they desire to read, identify themselves to the staff member assigned, and sign the Access Information sheet.

13.3 The Access Information sheet to be signed by Members will state the Member has read all the committee's rules and in particular rule 13, and agrees to honor them.

13.4 Restricted (including classified and confidential) or sensitive information shall be treated as such by all Members who receive access.

13.5 Restricted (including classified and confidential) or sensitive information will be available only during regular committee hours. Only Members of the House of Representatives may have access to such information.

13.6 Information to which the Member receives access may not be removed from the reading room, and a staff member will be present at all times.

13.7 An access log will be kept identifying the material, staff member assigned, and the time of arrival and departure of all Members having access.

13.8 The staff member assigned will insure that the material examined by the Member is returned to the proper custodian for safekeeping.

13.9 No notes, reproductions or recordings may be made of any restricted (including classified and confidential) or sensitive information.

13.10 Restricted (including classified and confidential) or sensitive information will not be divulged by Members who receive access in any way, form, shape or manner.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows:

Mr. PEPPER (at the request of Mr. WRIGHT), for today, on account of illness in the family.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. LIVINGSTON) to revise and extend their remarks and include extraneous material:)

Mr. MILLER of Ohio, for 10 minutes, today.

(The following Members (at the request of Mr. IRELAND) to revise and extend their remarks and include extraneous material:)

Mr. THOMPSON, for 5 minutes, today.
Mr. KOCH, for 10 minutes, today.
Mr. ANNUNZIO, for 5 minutes, today.
Mr. GONZALEZ, for 5 minutes, today.
Mr. ENGLISH, for 5 minutes, today.
Mr. PREYER, for 5 minutes, today.
Mr. BURKE of Massachusetts, for 30 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. LIVINGSTON) and to include extraneous matter:)

Mr. YOUNG of Alaska.
Mr. RHODES.
Mr. HANSEN in five instances.
Mr. HAGEDORN.
Mr. ANDERSON of Illinois.
Mr. CUNNINGHAM.
Mr. CARTER in two instances.
Mr. MARKS.
Mr. SHUSTER.
Mr. HAMMERSCHMIDT.
Mr. MCCLOSKEY.
Mr. HARSHA.
Mr. DERWINSKI in two instances.
Mr. COHEN.
Mr. STOCKMAN.
Mr. FINDLEY.
Mr. ARCHER.
Mr. GILMAN in two instances.
Mr. RUDD.
Mr. SKUBITZ.

(The following Members (at the request of Mr. IRELAND) and to include extraneous matter:)

Mr. HARRIS in two instances.
Mr. TEAGUE.
Ms. KEYS.
Mr. ANDERSON of California in three instances.
Mr. GONZALEZ in three instances.
Mr. LUKEN.
Mr. MCDONALD in five instances.

Ms. OAKAR.
Mr. EILBERG in two instances.
Mr. BRECKINRIDGE.
Mr. MAZZOLI.
Mr. CORRADA.
Mr. DODD.
Mr. STAGGERS.
Mr. HAMILTON in two instances.
Mr. BRODHEAD.
Mr. RANGEL.
Mrs. MEYNER.
Mr. ROBERTS in two instances.
Mr. BAUCUS in two instances.
Mr. PATTEN.
Mr. MOAKLEY.
Mr. KOSTMAYER.
Mr. VENTO in two instances.
Mrs. LLOYD of Tennessee.
Mr. ROE.
Mr. CHARLES H. WILSON of California.
Mr. HARKIN.
Mr. ST GERMAIN.
Mr. PICKLE in five instances.
Mr. RICHMOND.

BILLS PRESENTED TO THE PRESIDENT

Mr. THOMPSON, from the Committee on House Administration, reported that that committee did on the following dates present to the President, for his approval, bills of the House of the following title:

On October 14, 1977:

H.R. 6415. To extend and amend the Export-Import Bank Act of 1945.

On October 17, 1977:

H.R. 4836. To extend by seven months the term of the National Commission on New Technological Uses of Copyrighted Works; and

H.R. 5675. To authorize the Secretary of the Treasury to invest public moneys, and for other purposes.

ADJOURNMENT

Mr. IRELAND. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 49 minutes p.m.), under its previous order, the House adjourned until tomorrow, Wednesday, October 19, 1977, at 10 o'clock a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2566. A letter from the Assistant Secretary of Defense (Comptroller), transmitting reports of transfers of various amounts appropriated to the Department of Defense, pursuant to section 733 of Public Law 94–419; to the Committee on Appropriations.

2567. A letter from the Secretary of the Treasury, transmitting the sixth quarterly report on antirecession fiscal assistance to State and local governments, pursuant to section 213 of the Public Works Employment Act of 1976, as amended; to the Committee on Government Operations.

2568. A letter from the Deputy Assistant Secretary of Defense (Administration), transmitting notice of a proposed new records system, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

2569. A letter from the Associate Administrator for Administration, National Highway Traffic Safety Administration, Department of Transportation, transmitting notice of a proposed new records system, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

2570. A letter from the Assistant Secretary of the Interior for Land and Water Resources, transmitting supporting information to accompany the authorization request of the Bureau of Land Management for fiscal years 1979 through 1982; to the Committee on Interior and Insular Affairs.

2571. A letter from the Assistant Secretary of State for Congressional Relations, transmitting notice of a proposed license for the export of certain defense articles sold commercially to the United Kingdom (MC–61–77), pursuant to section 36(c) of the Arms Export Control Act; to the Committee on International Relations.

2572. A letter from the Assistant Secretary of State for Congressional Relations, transmitting notice of a proposed license for the export of certain defense articles sold commercially to Israel (MC–1–78), pursuant to section 36(c) of the Arms Export Control Act; to the Committee on International Relations.

2573. A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting copies of orders entered in cases in which the authority contained in section 212(d)(3) of the Immigration and Nationality Act was exercised in behalf of certain aliens, pursuant to section 213(d)(6) of the act (66 Stat. 182); to the Committee on the Judiciary.

2574. A letter from the Administrator, U.S. Environmental Protection Agency, transmitting a draft of proposed legislation to establish the position of General Counsel in the Environmental Protection Agency; to the Committee on Post Office and Civil Service.

2575. A letter from the National Adjutant, Disabled American Veterans, transmitting the report of the proceedings of the organization's 57th national convention, including a report of receipts and expenditures as of December 31, 1976, pursuant to 44 U.S.C. 1332 and section 3 of Public Law 88–504 (H. Doc. No. 95–244); to the Committee on Veterans' Affairs and ordered to be printed.

2576. A letter from the Adjutant General, United Spanish War Veterans, transmitting the proceedings of the stated convention of the 78th national encampment of the United Spanish War Veterans (H. Doc. No. 95–245); to the Committee on Veterans' Affairs and ordered to be printed.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. DIGGS: Committee on the District of Columbia. Report on allocation of budget authority and outlays by major programs (Rept. No. 95–715). Referred to the Committee of the Whole House on the State of the Union.

Mr. REUSS: Committee on Banking, Finance and Urban Affairs. Report on allocation of budget authority and outlays for fiscal year 1978 (Rept. No. 95–716). Referred to the Committee of the Whole House on the State of the Union.

Mr. SOLARZ: Committee on Post Office and Civil Service. H.R. 9282. A bill to provide that adjustments in the rates of pay for Members of Congress shall take effect at the beginning of the Congress following the Congress in which they are approved, and for other purposes (Rept. No. 95–717, Pt. I). Ordered to be printed.

Mr. BOLLING: H.R. 9346. Committee on Rules. House Resolution 839. Resolution providing for the consideration of H.R. 9346. A bill to amend the Social Security Act and the Internal Revenue Code of 1954 to strengthen the financing of the social security system, to reduce the effect of wage and price fluctuation on the system's benefit structure, to provide coverage under the system for officers and employees of the United States, of the State and local governments, and of nonprofit organizations, to increase the earnings limitation, to eliminate certain gender-based distinctions and provide for a study of proposals to eliminate dependency and sex discrimination from the social security program, and for other purposes (Rept. No. 95–718). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ANNUNZIO:

H.R. 9614. A bill to extend Regulation Q; to the Committee on Banking, Finance and Urban Affairs.

By Mr. BRODHEAD:

H.R. 9615. A bill to encourage and assist the States in the conservation of whole ecosystems including all species of native fish, wildlife, and plants, and for other purposes; to the Committee on Merchant Marine and Fisheries.

H.R. 9616. A bill to establish a compensation system for victims of toxic substance pollution; jointly, to the Committees on Interstate and Foreign Commerce, and Ways and Means.

By Mr. BYRON (for himself, Mr. PANETTA, Mr. MANN, Mr. MCCLOSKEY, Mr. CARR, Mr. FISHER, Mr. COUGHLIN, Mr. WYLIE, Mr. BLANCHARD, Mr. ALEXANDER, Mr. HUGHES, Mr. STEERS, and Mr. EDWARDS of California):

H.R. 9617. A bill to amend the National Trails System Act, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. ENGLISH:

H.R. 9618. A bill to establish a Department of Education, and for other purposes; to the Committee on Government Operations.

H.R. 9619. A bill to amend the River and Harbor Act of 1960 relating to the conveyance of land by the Secretary of the Army for development of public port or industrial facilities; to the Committee on Public Works and Transportation.

By Mr. STAGGERS:

H.R. 9620. A bill to amend the Communications Act of 1934 to extend and improve the provisions of such act relating to long-term financing for the Corporation for Public Broadcasting and relating to certain grant programs for public telecommunications, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. GLICKMAN (for himself and Mr. NOLAN):

H.R. 9621. A bill to encourage the use of alcohol in motor vehicle fuels by requiring certain retailers to make alcohol-blended fuels available for sale, by allowing the rapid amortization of facilities producing alcohol for use in motor vehicle fuels, and by exempting alcohol-blended fuels from certain requirements of the Clean Air Act; jointly, to the Committees on Interstate and Foreign Commerce, and Ways and Means.

By Mr. KASTENMEIER (for himself, Mr. EDWARDS of California, Mr. DANIELSON, Mr. DRINAN, Mr. BENNETT, Mr. RAILSBACK, Mr. WIGGINS, and Mr. BUTLER):

H.R. 9622. A bill to abolish diversity of citizenship as a basis of jurisdiction of Federal district courts, to abolish the amount in controversy requirement in Federal question cases, and for other purposes; to the Committee on the Judiciary.

By Mr. LEHMAN:

H.R. 9623. A bill to amend title 13 of the United States Code to establish a decennial census procedure, and for other purposes; to the Committee on Post Office and Civil Service.

H.R. 9624. A bill to incorporate the American Ex-Prisoners of War, Incorporated; to the Committee on the Judiciary.

By Mr. GARY A. MYERS:

H.R. 9625. A bill to amend the National Labor Relations Act to provide that the duty to bargain collectively includes bargaining with respect to retirement benefits for retired employees; to the Committee on Education and Labor.

By Mr. GARY A. MYERS (for himself, Mr. LUKEN, and Mr. MANN):

H.R. 9626. A bill to amend the Trade Act of 1974 to provide that the President may not reduce or terminate import relief if the Congress disapproves such action; to the Committee on Ways and Means.

By Mr. NEAL (for himself, Mr. MOFFETT, Mr. NOLAN, Mr. CARTER, Mr. LEDERER, Mr. BONIOR, Mr. WALGREN, Mr. MICHAEL O. MYERS, Mr. HARKIN, and Mr. PREYER):

H.R. 9627. A bill to establish a Solar Energy Development Bank to provide long-term low-interest loans for the purchase and installation of solar energy equipment in commercial and residential buildings in the United States; to the Committee on Banking, Finance and Urban Affairs.

By Mr. PREYER (for himself, Mr. BROYHILL, and Mr. VANDER JAGT):

H.R. 9628. A bill to suspend until the close of June 30, 1980, the duty on certain nitrocellulose; to the Committee on Ways and Means.

By Mr. QUILLEN:

H.R. 9629. A bill to delay for 6 months the effective date of the increase in the hospital deductible for 1978 under part A of the medicare program; to the Committee on Ways and Means.

By Mr. SKUBITZ (for himself, Mrs. SMITH of Nebraska, Mr. BRINKLEY, Mr. FASCELL, Mr. MCKAY, Mr. BAUCUS, Mr. SIKES, Mr. STAGGERS, Mr. FITHIAN, Mr. BRADEMAS, Mr. MURPHY of New York, Mr. STEERS, Mr. BYRON, Mr. MARRIOTT, Mr. GUDGER, Mr. LAGOMARSINO, Mr. LUJAN, Mr. QUILLEN, Mr. JONES of North Carolina, Mr. ANDREWS of North Dakota, Mr. MARLENEE, Mr. RONCALIO, Mr. YOUNG of Alaska, Mr. TAYLOR, and Mr. BAUMAN):

H.R. 9630. A bill to provide for increases in development ceilings in certain units of the national park system, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. SKUBITZ (for himself, Mr. DON H. CLAUSEN, Mrs. HOLT, Mr. JOHNSON of California, Mr. MEEDS, Mr. CHAPPELL, Mr. FREY, Mr. WHITE, Mr. LOTT, Mr. LATTA, Mr. HIGHTOWER, Mr. HOLLAND, Mr. NICHOLS, Mr. GRADISON, Mr. FAUNTROY, and Mr. LEDERER):

H.R. 9631. A bill to provide for increases in development ceilings in certain units of the national park system, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. GOODLING (for himself, Mr. MCHUGH, Mr. DERWINSKI, Mr. BALDUS, Mr. DUNCAN of Tennessee, Mr. PEPPER, Mr. JONES of North Carolina, Mr. YOUNG of Florida, Mr. RODINO, Mr. DANIELSON, Mr. MCCLORY, Mr. KETCHUM, Mrs. LLOYD of Tennessee, Mr. WINN, Mr. WHITEHURST, Mr. CARTER, Mr. WALSH, Mr. WALGREN, Mr. DORNAN, Mr. BEVILL, Mr. BENNETT, Mr. MOLLOHAN, Mr. SPENCE, Mr. STEIGER, and Mr. RAHALL):

H.J. Res. 631. Joint resolution designating November 15, 1977, as a Day of National Observance of the Two Hundredth Anniversary of the Adoption of the Articles of Confederation; to the Committee on Post Office and Civil Service.

By Mr. GOODLING (for himself, Mr. FLOOD, Mr. MCDADE, Mr. NIX, Mr. COUGHLIN, Mr. MOORHEAD of Pennsylvania, Mr. SHUSTER, Mr. EILBERG, Mr. SCHULZE, Mr. ROONEY, Mr. GAYDOS, Mr. YATRON, Mr. MURTHA, Mr. EDGAR, Mr. MICHAEL O. MYERS, Mr. MARKS, Mr. ERTEL, Mr. WALKER, Mr. KOSTMAYER, Mr. LEDERER, Mr. MURPHY of Pennsylvania, Mr. COLLINS of Texas, Mr. LAGOMARSINO, and Mr. MICHEL):

H.J. Res. 632. Joint resolution designating November 15, 1977, as a Day of National Observance of the Two Hundredth Anniversary of the Adoption of the Articles of Confederation; to the Committee on Post Office and Civil Service.

By Mr. DODD:

H. Con. Res. 382. Concurrent resolution expressing the sense of Congress that the United States should establish direct diplomatic relations with the Governments of the Ukrainian Soviet Socialist Republic and the Byelorussian Soviet Socialist Republic; to the Committee on International Relations.

By Mr. ABDNOR (for himself, Mr. RONCALIO, Mr. PATTISON of New York, Mr. WINN, and Mr. SEBELIUS):

H. Res. 840. Resolution expressing the sense of the House with respect to a reorganization of the Department of Housing and Urban Development; to the Committee on Banking, Finance and Urban Affairs.

By Mr. ANDERSON of Illinois (for himself, Mr. RHODES, Mr. MICHEL, Mr. DEL CLAWSON, Mr. FRENZEL, Mr. LOTT, and Mr. COUGHLIN):

H. Res. 841. Resolution to establish a select committee to be known as the Select Committee on the Committee System; to the Committee on Rules.

By Mr. BEDELL:

H. Res. 842. Resolution reaffirming support for the vigorous enforcement of laws designed to protect American industries from unfair competition by foreign industries; to the Committee on Ways and Means.

By Mr. SCHEUER (for himself and Mr. ERLENBORN):

H. Res. 843. Resolution to provide for the expenses of investigations, and studies to be conducted by the Select Committee on Population; to the Committee on House Administration.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mrs. BOGGS:

H.R. 9632. A bill for the relief of Mrs. Elizabeth Dennis; to the Committee on the Judiciary.

By Mr. CEDERBERG:

H.R. 9633. A bill for the relief of Rohini; to the Committee on the Judiciary.

H.R. 9634. A bill for the relief of Sohini and Sheela; to the Committee on the Judiciary

By Mr. FUQUA:

H.R. 9635. A bill for the relief of Marija Artis; to the Committee on the Judiciary.

PETITIONS, ETC.

Under clause 1 of rule XXII,

294. The SPEAKER presented a petition of the Denver Democratic Executive Committee, Denver, Colo., relative to public confidence in Government; which was referred jointly, to the Committees on the Judiciary, and Standards of Officials Conduct.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 8681

By Mr. MATHIS:

Add the following new section at the appropriate place:

SEC. . Section 25(a) of the Federal Insecticide, Fungicide, and Rodenticide Act is amended by adding the following new paragraph at the end thereof:

"(4) RULE AND REGULATION REVIEW.—

"(A) CONGRESSIONAL REVIEW.—Notwithstanding any other provision of this Act, simultaneously with promulgation or repromulgation of any rule or regulation under this Act, the Administrator shall transmit a copy thereof to the Secretary of the Senate and the Clerk of the House of Representatives. Except as provided in subparagraph (B), the rule or regulation shall not become effective, if—

"(i) within 90 calendar days of continuous session of Congress after the date of promulgation, both Houses of Congress adopt a concurrent resolution, the matter after the resolving clause of which is as follows: 'That Congress disapproves the rule or regulation promulgated by the Administrator of the Environmental Protection Agency dealing with the matter of
which rule or regulation was transmitted to Congress on .', the blank spaces therein being appropriately filled; or

"(ii) within 60 calendar days of continuous session of Congress after the date of promulgation, one House of Congress adopts such a concurrent resolution and transmits such resolution to the other House, and such resolution is not disapproved by such other House within 30 calendar days of continuous session of Congress after such transmittal.

"(B) EFFECTIVE DATE.—If at the end of 60 calendar days of continuous session of Congress after the date of promulgation of a rule or regulation, no committee of either House of Congress has reported or been discharged from further consideration of a concurrent resolution disapproving the rule or regulation, and neither House has adopted such a resolution, the rule or regulation may go into effect immediately. If, within such 60 calendar days, such a committee has reported or been discharged from further consideration of such a resolution, or either House has adopted such a resolution, the rule or regulation may go into effect not sooner than 90 calendar days of continuous session of Congress after its promulgation unless disapproved as provided in subparagraph (A).

"(C) For the purposes of subparagraphs (A) and (B) of this paragraph—

"(i) continuity of session is broken only by an adjournment of Congress sine die; and

"(ii) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of 30, 60, and 90 calendar days of continuous session of Congress.

"(D) IDENTICAL NEW RULE.—The Administrator may not promulgate a new rule or regulation identical to one disapproved pursuant to this paragraph unless a statute is adopted affecting the agency's powers with respect to the subject matter of the rule or regulation.

"(E) New rule on same subject matter.—If the Administrator proposes a new rule or regulation dealing with the same subject matter as a rule or regulation disapproved pursuant to the paragraph, the Administrator shall comply with the procedures required for the issuance of a new rule or regulation.

"(F) Effect of congressional inaction.—Congressional inaction on or rejection of a resolution of disapproval shall not be deemed an expression of approval of such rule."

H.R. 9346

By Mr. BLOUIN:

Page , after line , insert the following new section:

TAX CREDIT FOR EMPLOYEE SOCIAL SECURITY TAXES

SEC. 704. (a) Section 31 of the Internal Revenue Code of 1954 (relating to tax withheld on wages) is amended by adding at the end thereof the following new subsection:

"(c) CREDIT FOR SOCIAL SECURITY TAX.—

"(1) IN GENERAL.—Under regulations prescribed by the Secretary, there shall be allowed as a credit against the tax imposed by this subtitle an amount equal to 10 percent of the aggregate amount of tax imposed by sections 3101 and 1401 and paid by the taxpayer.

"(2) MAXIMUM AMOUNT OF CREDIT.—The amount of credit allowed by paragraph (1) to an individual for a taxable year shall not exceed—

"(A) $100 in the case of a single individual, a joint return where only one spouse is eligible for the credit under paragraph (1) for such year, or a married individual filing a separate return, or

"(B) $200 in the case of a joint return where both spouses are eligible for the credit under paragraph (1) for such year.

"(3) YEAR OF CREDIT.—Any amount to which paragraph (1) applies shall be allowed as a credit—

"(A) in the case of tax imposed by section 1401, for the taxable year for which such amount is paid, and

"(B) in the case of tax imposed by section 3101, for the taxable year beginning in the calendar year during which the wages were received on which such amount is paid.

For purposes of subparagraph (B), if more than one taxable year begins in the calendar year, any amount to which paragraph (1) applies shall be allowed as a credit for the last taxable year so beginning.

"(4) AMOUNT OF CREDIT TREATED AS TAX WITHHELD AT SOURCE.—For purposes of this subtitle, any amount allowed as a credit under this subsection shall be considered an amount withheld at source as tax under section 3402."

(b) The amendments made by this section shall apply to taxes (imposed by sections 3101 and 1401 of the Internal Revenue Code of 1954) paid with respect to renumeration received after December 31, 1977, in taxable years ending after December 31, 1977.

Page , line , strike out "704" and insert in lieu thereof "705".

Offered by Mr. CORMAN:

Page 133, strike out "may be less" in line 13 and all that follows down through page 134, line 2, and insert in lieu thereof the following:

may be less than an amount equal to $11.50 multiplied by the individual's years of coverage in excess of 10, or the increased amount determined for purposes of this clause under subsection (i).

Page 134, line 3, strike out "clause (i) (II)" and insert in lieu thereof "clause (i)".

Page 137, line 13, strike out "subparagraph (C) (i) (II)" and insert in lieu thereof "subparagraph (C) (i)".

Page 138, lines 1 and 2, strike out "subparagraph (C) (i) (II)" and insert in lieu thereof "subparagraph (C) (i)".

Page 139, line 6, strike out "and (II)" and insert in lieu thereof the following: ", (II) there shall be no statutory minimum primary insurance amount as otherwise set forth on the first line of column IV of that table, and for purposes of determining primary insurance amounts below the amount so set forth the Secretary shall extend columns II, III, IV, and V of the table backwards to zero by the insertion of additional figures on lines ahead of the first line therein, and (III)".

Page 149, lines 14 and 15, strike out "section 215(a) (1) (C) (i) (II)" and insert in lieu thereof "subsection (a) (1) (C) (i)".

Page 151, line 5, strike out "subparagraph (C) (i) (II)" and insert in lieu thereof "subparagraph (C) (i)".

Page 152, line 6, strike out "subparagraph (C) (i) (II)" and insert in lieu thereof "subparagraph (C) (i)".

Page 152, lines 8 and 9, strike out "such subparagraph (C) (i) (II)" and insert in lieu thereof "such subparagraph (C) (i)".

Page 162, strike out lines 5 through 21 and insert in lieu thereof the following:

SEC. 204. (a) (1) Section 202(m) of the Social Security Act is repealed.

(2) Section 202(k) (2) (A) of such Act is amended by striking out "or subsection (m)".

(3) Section 227(b) of such Act is amended by striking out "(and section 202(m))".

Page 163, line 2, strike out "section 215(a) (1) (C) (i) (II)" and insert in lieu thereof "section 215(a) (1) (C) (i)".

Page 163, line 4, strike out "section 215(a) (1) (C) (i) (II)" and insert in lieu thereof "section 215(a) (1) (C) (i)".

Page 184, strike out lines 1 through 17 and insert in lieu thereof the following:

"(2) Any such agreement may provide that an individual who is entitled to cash benefits under this title shall, notwithstanding the provisions of section 202(t), receive such benefits while he resides in a foreign country which is a party to such agreement.

Page 120, strike out lines 2 through 4 (as previously amended), and insert in lieu thereof the following: "5.50 percent;

"(5) with respect to wages received during the calendar years 1990 through 1999, the rate shall be 6.05 percent; and

"(6) with respect to wages received after December 31, 1999, the rate shall be 6.10 percent.".

Page 120, strike out lines 20 through 22 (as previously amended) and insert in lieu thereof the following: "5.50 percent;

"(5) with respect to wages paid during the calendar years 1990 through 1999, the rate shall be 6.05 percent; and

"(6) with respect to wages paid after December 31, 1999, the rate shall be 6.10 percent.".

Page 121, line 18, strike out the figure immediately preceding "percent" (as previously amended) and insert in lieu thereof "8.25".

Page 121, line 19, strike out "and".

Page 121, strike out lines 20 through 23 (as previously amended) and insert in lieu thereof the following:

"(5) in the case of any taxable year beginning after December 31, 1989, and before January 1, 2000, the tax shall be equal to 9.05 percent of the amount of the self-employment income for such taxable year; and

"(6) in the case of any taxable year beginning after December 31, 1999, the tax shall be equal to 9.15 percent of the amount of the self-employment income for such taxable year.".

By Mr. PICKLE:

Strike out section 104 (beginning on page 127, line 16, and ending on page 131, immediately before line 4).

Page 131, line 5, strike out "105" and insert in lieu thereof "104".

Page 131, strike out the sentence beginning in line 7.

Conform the table of contents on page 117.

Page 169, strike out lines 1 through 5 and insert in lieu thereof the following: "of 1954 (the Federal Insurance Contributions Act) is amended by redesignating sections 3125 and 3126 as sections 3126 and 3127, respectively, and by inserting after section 3124 the following new section:".

Page 169, line 6, strike out "1326" and insert in lieu thereof "3125".

Page 169, in the matter following line 22, strike out "3126", "3127", and "3128" and insert in lieu thereof "3125", "3126", and "3127", respectively.

Page 170, line 4, strike out "3127" and insert in lieu thereof "3126".

Page 170, line 15, strike out "3126" and insert in lieu thereof "3125".

Page 170, line 19, strike out "3127" and insert in lieu thereof "3126".

Page 171, line 5, strike out "3126" and insert in lieu thereof "3125".

Page 171, line 17, strike out "3126" and insert in lieu thereof "3125".

Page 171, lines 21 and 22, strike out "3127 (a)", "3127(b)", and "3127(c)" and insert in lieu thereof "3126(a)", "3126(b)", and "3126(c)", respectively.

Page 171, line 25, strike out "3127".

H.R. 9375

By Mr. DINGELL:

Page 8, strike out line 2 and all that follows down through line 2 on page 9 and insert:

FEDERAL ENERGY ADMINISTRATION

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $31,338,000: *Provided*, That $3,872,000 of such amount shall not be available except for compliance activities, in addition to the sums available herein for compliance contract activities, in connection with regulatory programs administered by the Federal Energy Administration: *Provided, further*, That of the total amount of this appropriation, not to exceed $6,000,000, shall remain available until expended for a reserve to cover any defaults from loan guarantees issued to develop underground coal mines as authorized by Public Law 94–163: *Provided further*, That the indebtedness guaranteed or committed to be guaranteed under such law shall not exceed the aggregate of $62,000,000.

By Mr. DUNCAN of Oregon:

On Page 11, strike line 5 through and including line 11, and insert in lieu thereof the following: "No money provided in this or any other appropriations Act shall be used by any officer, employee, or other official of the Federal Government to issue, renew, grant, or otherwise approve any permit, license, or other authority for constructing, renovating, modifying or otherwise altering a terminal, dock, or other facility in, on, or immediately adjacent to, or affecting the navigable waters of Puget Sound, or any other navigable waters in the State of Washington east of Port Angeles, which will or may result in any increase in the volume of crude oil capable of being handled at any such facility (measured as of the date of enactment of this section), other than oil to be refined for consumption in the States of Washington and Oregon."

EXTENSIONS OF REMARKS

RELAXATION OF TENSIONS IN KOREA

HON. HELEN S. MEYNER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 18, 1977

Mrs. MEYNER. Mr. Speaker, I was pleased to participate in a conference of Japanese and U.S. Parliamentarians on Korean problems, which was held in the Cannon Caucus Room on September 19 and 20. Various aspects of the current situation in Korea were discussed in four working sessions.

I took a particular interest in the third working session on "Prospects for Tension Reduction and Political Accommodation in Korea." I have been impressed by the vicious circles that seem to entrap us when we consider what policies to adopt on Korean problems.

Many interesting observations were made by the participants on the issue of tension reduction. Some of the most thoughtful views were expressed by Mr. Tokuma Utsunomiya, a member of the House of Representatives of the Japanese Diet, in his paper on "Relaxation of Tensions and Korean Reunification."

Although space limitations preclude the insertion of his complete paper, I would like to offer his opening section on "Causes of Tension in the Korean Peninsula" for the attention of my colleagues:

CAUSES OF TENSION IN THE KOREAN PENINSULA

Military and political tensions, said to stem from differences in the political systems of the two Koreas, continue to exist in the Korean Peninsula. The South Korean Government, for instance, constantly refers to the dangers of direct and indirect Communist aggression from the North and this fear of the "threat from the North" forms the cornerstone of its domestic and foreign policies.

However, in addition to the simple reason of two states with differing systems existing in what was once a single nation, there are a number of other factors contributing to the present tension in the Korean Peninsula and I believe that we need to clarify these different factors in finding ways of lessening this tension.

I would first like to list these causes of tension and, later; add explanations.

(1) North and South Korea are more identical in their language, their alphabet and their culture than East and West Germany. Whereas a unified Germany emerged only a little over 100 years ago, Korea has been one nation and substantively maintained its independence from the year 938, when Wang Kon established the Kingdom of Koryo, until 1910 when it was annexed by Japan. Thus, there is today among the peoples of both North and South Korea a keen realization of the irrationalities inherent in the division of their country into two separate entities and a deep desire for unification of the entire Korean race. The governments of both North and South Korea interpret these identical sentiments on the opposite side of their border as threats and indications of aggressive intent against themselves.

(2) The Korean Peninsula is the only region in the world where the East-West Cold War of the post-World War II era erupted into a large-scale hot war. Regardless of what may have sparked the Korean War, the fact remains the 38th Parallel has been for many years the most tense of all frontlines in the East-West Cold War.

Because of this, the Korean Peninsula is where a situation and a consciousness of tension still remains the strongest. This is particularly so in South Korea, while it was North Korea, which was able to observe at first-hand confrontation developing between the Soviet Union and China, that early realized the East-West Cold War had lost its original significance and had substantially become a facade. However, in South Korea, the reapproachment between Japan and China and between the United States and China and the sudden change in Vietnam, served only to arouse a sense of heightened danger and to lead to a further strengthening of South Korea's Cold War setup. This sense of danger is evident in the covert activities of such organs as the Korean CIA aimed at expanding the influence of those circles in Japan, the United States and elsewhere still interested in perpetuating and escalating the Cold War.

(3) Economically, South Korea has always been a country centered on small-scale rice farming and small-scale fisheries along its complex seacoast. It has not been blessed, as in the case of North Korea, with underground mineral wealth, hydro-electro power and forestry resources. However, in such an economy as that of South Korea, the farming and fishing villages provide a constant source of surplus labor. The situation is the opposite to that in North Korea, which constantly complains about its labor shortage. The North-South division of Korea has made it impossible for both parts of the country to mutually complement each other and has made the economic independence of the Korean peoples extremely difficult.

In order to continue its economic growth, South Korea has no alternative but to push its industrialization by relying on foreign aid and foreign capital. To cover the deficits in its balance of payment arising from the induction of foreign capital, South Korea has had to rely on foreign trade earnings and cumulative foreign loans, aside from U.S. military procurements and tourist revenue, some of it earned in a questionable manner. The need to earn through foreign trade has resulted in brutal labor conditions in South Korea, including low wages and long hours of work. In order to suppress the dissatisfaction of the general populace at these conditions, the South Korean Government has found it necessary to resort to repressive measures and spying on its own people by the KCIA. To justify this repression, the South Korean Government has had to place undue emphasis on "the threat from the North." These policies have not only made natural economic exchange with North Korea impossible, but has resulted in an expansion of military expenditures. This, in turn, has forced the South Korean Government into the vicious cycle of having to further emphasize "the threat from the North," in order to gain greater military and economic assistance from abroad.

As one means of improving its balance of payments position and earning foreign exchange, South Korea has been exporting to Japan, at prices based on low wages raising suspicions of dumping, light industrial products and imitations of Japanese quality goods, such as Japan's famous hand-woven Oshima "kasuri" kimono material. This practice has come as a heavy blow to Japan's small and medium enterprises. In addition, South Korea has succeeded in winning bids on construction and public works projects in the oil-producing countries of the Near and Middle East by undercutting all other bidders and has dispatched Korean workers to work on these projects under poor working and living conditions. All this is being done in order to earn foreign exchange. As a result, some 2,000 South Korean workers rioted in protest in Saudi Arabia on March 13 of this year. Further, the common practice of providing Korean prostitutes to foreign tourists, including Japanese, is regarded in Japan as a deliberate policy on the part of the South Korean Government to earn foreign exchange.

Practices unthinkable in a country that respects freedom of the press and human rights are rife in South Korea. All these practices may be regarded as arising out of the requirements of South Korea's economic expansion program. Whatever the case, these practices have aroused popular dissatisfaction and are one of the major causes of continued tension in the Korean Peninsula.

(4) Political freedoms, in the sense we know them, do not exist in North Korea and it is not difficult to imagine that repression of human rights, such as that described by Aleksandr Solzhenitsyn, is common in North Korea. However, repression is common in all Communist countries, in varying degree, and does not necessarily make North Korea a particularly dangerous country. When we examine North Korea's policies in the field of light industries, farming and housing, it is apparent North Korea needs peace to carry out its economic program.

However, North Korea fears war, for reasons which are apparent, and has built most of its war industries underground. There is no doubt the North Koreans are making preparations to maintain their war potential against sustained bombing over a long period of time.

At the same time, North Korea's execessive military expenditures and war preparations are obstructing its economic development and, it is apparent that the popular livelihood of the North Korean peoples is being subjected to heavy pressures. In addition, when North Korea has to purchase new and advanced arms from the Soviet Union, the conditions imposed by the Soviet Union both as to price and method of payment are most severe. There is no doubt these conditions have had a grave and adverse effect on North Korea's balance of payments position.

Further, the fact that North Korea has close to 600,000 men under arms or assigned to military tasks has deprived the country of its most productive and youthful industrial and farm workers. Judging from North Korea's population, announced as being 15,950,000 in 1975, the maintenance of this large military force has placed a great strain on North Korea's economy. South Korea's rapid economic growth, sustained by foreign capital, has made the leaders of North Korea worried and fretful and has prompted them to import industrial plants on a vast scale from West Germany, Japan and other countries on a commercial deferred-payment basis. However, the unexpected drop in the world prices of mining products, which are North Korea's prime export items, has made it extremely difficult for North Korea to keep up its payments for these imports of industrial plants. It appears North Korea must become more versed in international trading practices and, at the same time, must overcome its bureaucratic rigidity.

When we examine in detail North Korea's management of its present economy, it is difficult to imagine that North Korea has intentions of advancing south by force just for the sake of exporting its socialism to

South Korea. Further, it is impossible for North Korea to wage a long-range war without the participation or without the assistance of the Soviet Union and China. The possibilities of such participation or assistance are far less today than in the 1950s. Further, it is much more apparent today than in the 1950s that the North Korean Government authorities do not want to have their country become a military appendage to either the Soviet Union or China.

However, there is one problem that could arise. If the withdrawal of U.S. forces from South Korea is carried out without any approach or any understanding being reached with North Korea and if vast military and economic aid is given to South Korea in compensation for the withdrawal and, furthermore, if the Park Chung-hee Government continues to maintain its deep hostility toward the North, there is no guarantee North Korea's leaders might not succumb to the temptation of getting rid of the Park Chung-hee regime should they find themselves at a military advantage over the South. This same thing may be said of the South.

TOXIC SUBSTANCE POLLUTION VICTIM COMPENSATION ACT

HON. WILLIAM M. BRODHEAD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 18, 1977

Mr. BRODHEAD. Mr. Speaker, today I am introducing the Toxic Substance Pollution Victim Compensation Act. The bill is designed to accomplish three purposes: First, to increase our knowledge about the dangers and risks associated with toxic substances; second, to encourage the safe manufacture and use of these substances; and third, to provide compensation to the victims of toxic substance pollution. I believe this legislation will greatly increase public safety without the imposition of unfair costs on either manufacturers or victims.

Each year an estimated 500 to 700 new chemical substances enter the marketplace, in addition to the hundreds of thousands of chemicals already in use. Increasingly, American industry is making use of heavy metals, minerals, fibers, petrochemicals, and synthetics that have proven useful for a number of purposes. Increasingly, however, Americans are exposed to substances that are toxic or potentially toxic, often with devastating results.

The PBB disaster in my home State of Michigan, the kepone poisoning in Virginia, and the leptophos contamination in Texas are well known. In recent years, numerous toxic substance pollution mishaps across the country have injured hundreds of people. Perhaps thousands more are undiagnosed or cannot be identified because of the limits of medical knowledge.

Diagnosis of toxic poisonings is often difficult or impossible. Seemingly safe, low-level discharges of toxicants may accumulate in the body undetected for years until a threshold level is passed and human injury results; some toxicants do not even have readily discernible "safe" threshold levels. Toxicants may also commingle or combine with water, the air or other substances to form new poisons of greater toxicity than any one of the original discharges. Toxic substances may also be transferred to future generations in the form of gene mutations or birth defects.

Too often victims of toxic substance poisoning are also the victims of our inadequate remedies and programs to assist them. Victims seeking compensation through tort law, social security, or workmen's compensation are frequently frustrated and face long and costly delays, primarily because these means of assistance are not equipped to deal with the special problems posed by toxic substance contamination. In effect, then, the victims are forced to pay the costs of toxic contaminations. This problem will not simply go away and shows every indication of getting worse.

Although the Toxic Substances Control Act (TSCA) which Congress passed last year, represents a legislative milestone in environmental protection, it has serious limitations. While the TSCA can rely on regulatory techniques ranging from premarket testing to the seizure of dangerous substances, they can only be invoked when an "unreasonable risk" or an "imminent hazard" becomes known to the EPA. Effectively, the TSCA is limited to regulating the most toxic of substances. A substance of low toxicity, however, although it may not pose an imminent hazard to health at the present time, may wreak more human devastation at some later date than one that is highly toxic. While the TSCA requires manufacturers to supply information about their new products, it does not encourage manufacturers, on their own, to conduct research into the presently unknown but scientifically ascertainable effects of toxic substances.

The Toxic Substances Pollution Victim Compensation Act would expand on the TSCA. It would encourage all manufacturers of toxic substances to strengthen safety procedures and conduct research into the effects of their products by levying a "pollution charge" based on the level of risk that the substance poses for human health. The Administrative Board for Compensation (ABC) established under the bill will set the highest pollution charge on substances which pose the highest risks.

Lower rates will be set for other substances of lesser risk. As a manufacturer implements safer ways of handling a toxic substance, the pollution charge is reduced to reflect the lesser risk.

Even more important from the standpoint of optimizing public safety, in the case of actual harm to people, the polluter would be required to pay the amount of the compensation award determined by the ABC. The bill will thus encourage manufacturers to develop innovative safety techniques to protect human health and, at the same time, provide victims of toxic substances poisoning with adequate compensation, expenses which properly should be borne by those who create the risks rather than by victims or society in general.

Mr. Stephen M. Soble, statute editor of the Harvard Journal on Legislation and author of this bill, further explains its operation in his article, "A Proposal for the Administrative Compensation of Victims of Toxic Substance Pollution: A Model Act," which appears in volume 14, page 683 of the Journal. I commend this article to the attention of my colleagues.

I believe the time has come for Congress to seriously consider this legislation. Toxic substances are one of our most pervasive and potentially most harmful health problems today. It is time we start looking for solutions.

UNIVERSAL SOCIAL SECURITY

HON. WILLIAM H. HARSHA

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 18, 1977

Mr. HARSHA. Mr. Speaker, I wish to express my deep distress over the precipitate action of the House Ways and Means Committee in reporting a measure which is designed to rescue the social security system at the expense of our teachers and other Federal, State, and local government employees.

I have long been concerned over the fiscal soundness of the social security system and strongly support appropriate action to place it on a financially sound and viable basis. However, to sacrifice our Federal, State, municipal, and teachers retirement programs toward this goal does not make sense and represents a betrayal of government employees at all levels.

As reported, H.R. 9346, the Social Security Financing Amendments of 1977, provides for mandatory coverage of Federal, State, and local government employees, effective in 1982. This action would bring about 2.6 million Federal and approximately 4 million State and local government employees and teachers under mandatory social security coverage. While this expanded coverage would bring about a massive influx in social security taxes, the end result might well be the end of government retirement systems as they now exist.

To integrate such different retirement programs would, at best, pose a most difficult problem. This is evidenced by the fact that H.R. 9346 also provides for a study to be undertaken by the Department of Health, Education, and Welfare and the Civil Service Commission of methods of integrating the social security and civil service retirement programs and other Government retirement programs and requires the Secretary to present to the Congress a specific and detailed plan for the integration of these systems by January 1, 1980.

It may well be that this study will prove that these systems cannot be equitably and effectively merged. In my judgment, it would be foolhardy to mandate that these systems are to be integrated before the study is undertaken. If the supporters of H.R. 9346 feel this proposal merits such a study, then by all means let us wait until the results are available for evaluation before determining whether or not the integration of these systems is feasible. But let us not commit ourselves blindly to a course of action before the details are resolved.

I am adamantly opposed to H.R. 9346 in its present form. It would be extremely shortsighted of the Congress to attempt to solve the fiscal problems of the social security system at the expense of millions of teachers and Government workers who have set aside money in good faith to assure themselves of adequate retirement income under their existing retirement programs. They have paid into their own retirement programs, and they are entitled to count on the benefits they have been promised. It would be extremely unfair to them to change the rules without giving them an opportunity to study the detailed proposal and make their views known.

I strongly urge my colleagues to join with me in defeating this proposal.

TRIBUTE TO LOUIS PUSKAR

HON. MARC L. MARKS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 18, 1977

Mr. MARKS. Mr. Speaker, this coming weekend, Saturday, October 22, several hundred persons will gather to pay tribute to Louis Puskar on his retirement as subdistrict director, United Steelworkers of America District 20, AFL–CIO. He is a resident of Mercer County, Pa.

Because Lou is a personal friend and because he has distinguished himself over the years as a faithful union and community leader and as a man with true devotion to his family and his church, I should like to make note of the occasion of his retirement banquet with a brief sketch of his background.

Lou was a furnace operator at Sharon Steel from 1933 to 1956 when he became a staff representative for the Steelworkers. He served in that capacity until 1972, when he was appointed subdistrict director of district 20, which covers a large portion of western Pennsylvania. There has not been an area of unionism in which he has not been involved.

Perhaps his involvement in community activities would provide a good insight into this man's enthusiasm and zeal. He helped guide the Shenango Valley Community Fund and United Way to one successful campaign after another as well as other charitable fund drives. Also, he has been a member of the following boards of directors:

Citizens Advisory Council of the Sharon Community Service Center,

Mercer County Crippled Children's Society,

Multi-County Human Resources Corp.,

Sharon General Hospital,

Shenango Valley Charitable Capital Improvements Association,

Shenango Valley Industrial Development Corp.,

United Way of Mercer County.

Noteworthy also are the distinguished service and community service awards over the years:

USWA Local 1174 AFL–CIO "Testimonial of Deep Appreciation," 1956,

Mercer County Crippled Children's Society, "A Brace for an Ace," 1961,

Shenango Valley Junior Chamber of Commerce, Distinguished Service Award, 1962,

Mercer County Central Labor Council, Community Service Award, 1962,

State of Israel Bond Organization, Humanitarian Award, 1969

United Way of Shenango Valley Area, Distinguished Service Award, 1975,

United Way of Mercer County, George S. Warren, Jr. Community Service Award, 1976.

Perhaps the greatest award will be the Saturday night testimonial when hundreds of Lou's friends will rise to their feet and pay a very deserving living tribute to a very deserving man. I wish the best to Lou and his family.

COAL GASIFICATION—PART II

HON. TIM LEE CARTER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 18, 1977

Mr. CARTER. Mr. Speaker, two gentlemen visited me in my office last week to discuss the development of their coal gasification system in South Africa.

Mr. Carl Noffke and Mr. Piet Gerber from the South African Embassy had the greatest enthusiasm about coal gasification which is being used in their country with great success. Actually, 8 percent of that country's oil needs are currently met by gasification of coal with predictions that by 1980 South Africa will make 40 percent of its motor fuel from its own coal at competitive prices.

In the past, South Africa's reliance on foreign sources of energy spurred them to welcome the "Second Renaissance of Coal." Coal, Mr. Speaker, is the greatest known energy resource that the United States possesses yet much of it sits idle in the Earth's depths. It is time to begin to consider a second renaissance of coal here in the United States.

Mr. Noffke and Mr. Gerber left with me a report on the state of their country's experience with coal gasification. Yesterday I inserted into the RECORD part I of that report. Part II follows:

SASOL—PART 2

In its 25-year existence, the Sasol enterprise has grown into a group of companies and has spawned a number of others.

But everything was not plain sailing. In the first place, the erection of a plant of such size in the interior was a formidable task. The complex consisted of a synthetic oil plant, comprising some twenty interlinked production units, and a colliery, water works, steam and power stations, sewage and waste disposal plant, a railway siding, roads, administrative buildings and workshops, and a village.

When one looked at the tons of equipment turning up at the site, the huge towers and vessels being put into position, one could only marvel at how they had all got there, for the plant was, after all, hundreds of kilometres away from the harbours and many thousands from overseas factories. But ton upon ton of plant parts arrived, some items so large that they had to be dismantled for loading and unloading in special trucks.

Construction started in May 1952, and 15 million man-hours later, after 10,426 railway trucks had been off-loaded and 24,448 hacksaw blades sawed blunt, the plant was completed in basic design in August 1955, right on schedule.

Wild excitement prevailed as the first of the co-products were recovered and despatched—ammonium sulphate, phenol, a drum of creosote. But the main product, motor fuel, obstinately refused to put in an appearance. For seventeen days the men in the plant battled round the clock to put the Synthol reactors into operation. And only after many adjustments and modifications to the equipment, much stress, many a silent prayer and some honest swearing, did the plant begin to hum in a deep bass in the early hours of 23 August 1955, indicating that it was producing petrol.

Sasol's managing director at the time, who was to become chairman in later years, Dr. P. E. Rousseau, had warned about the plant: "This giant", he said, "has to be domesticated into a purring animal. To courage and perseverance have to be added deliberation and meticulous care and thoroughness if we are not to have a wild beast on our hands . . ."

In spite of the size and complexity of the Sasol plant, which represents an investment of about $300 million, a profit was shown after only five years of operation, in 1960. During the early sixties the animal was indeed purring gently while the world looked on with some amusement, for oil had become plentiful and was cheap. Old man coal was no match for strong man oil. The world lessened its dependence on coal as a major source of energy from seventy per cent in 1937 to thirty per cent three and a half decades later, and increased its dependence on oil from eighteen to forty-eight per cent during that time.

So what was Sasol, a very small producer of oil by world standards, to do? Expansion was necessary if the economics of large-scale operations were to be enjoyed. The major decision then to be taken was whether to increase the capacity of producing liquid fuels from coal, or whether to pursue further development of chemicals production. As the availability of crude oil was no problem, the growing demand for feedstocks for South Africa's secondary chemical industry influenced the decision to extend the production of chemicals. Furthermore, Sasol had developed know-how and had steadily increased its profitability, and was accordingly in a position to grasp many opportunities to diversify.

An important step in the expansion program was the erection of a synthetic ammonia plant in 1963. The sources of raw material for production already existed. Hundreds of tons of nitrogen were vented to the atmosphere by Sasol's huge air separation, or oxygen, plant, and the hydrogen produced in the coal gasification plant could be economically extracted. These two gases could be combined to form ammonia for the production of nitrogenous fertilizers. As a result, there are today three independent fertilizer factories operating at Sasolburg which draw their feedstocks from Sasol.

In the mid-sixties Sasol started producing butadiene and styrene for the synthetic rubber industry in South Africa. This enabled a synthetic rubber company to establish its factory at Sasolburg and have these feedstocks piped from the Sasol plant.

The needs of the plastics industry for raw materials, such as ethylene and styrene, led to naphtha cracking at Sasol through the use of petroleum naphtha available at South African refineries and imported from abroad. As a result, Sasolburg has become the nucleus of the country's chemical industry.

A development in the history of Sasol that must be highlighted is the formation of the South African Gas Distribution Corporation, called Gascor for short, in 1964 to dis-

tribute fuel gas produced by Sasol. Because South Africa has no natural gas, and cheap fuel oil was not readily available far inland in the country's most densely developed industrial area of the Witwatersrand and the southern Transvaal, a need had always existed for a refined gas for specialized purposes. The approximately 350 industrial customers linked to Gascor's distribution network use the gas mainly for metal processing and in glass and ceramic works. Of all fuels in South Africa, the growth of the Gascor market has been the fastest. This growth in demand of more than 20 per cent per annum has necessitated the erection by Sasol of additional gas-making facilities which will, when completed at the end of this year, be able to supply 150,000 normal cubic metres of pipeline gas per hour.

Being a producer of liquid fuels, it was only natural that Sasol became aware of the Iranian desire to move downstream in the oil business. And in 1966 Sasol and the National Iranian Oil Company, with the French CFP (Compagnie Francaise des Pétroles) as a third partner, agreed to erect a crude oil refinery at Sasolburg by making use mainly of Iranian feedstock. This led to a complex which, during the financial year 1975, had a sales turnover of R389 million. Of this amount, R223 million could be described as added value achieved because R166 million represented purchases of feedstock in the form of crude oil and naphtha.

In common with industry in general, Sasol's oil-from-coal operation had been faced with increasing costs over the years, while the price of oil had remained near-static. The price Sasol could ask for a gallon of petrol at its factory gate in 1970 was about the same as in 1955. Clearly, there was only one way of staying in competition with natural oil, and that was to improve operating efficiency continuously.

For example, in 1971 a R1 million per annum financial gain was reflected as a result of shortening the scheduled factory shutdown from a previous 28-day period to 11½ days by means of critical path planning. During the past eight years, through the use of the same mining methods, coal production was increased by 38 per cent while the number of mine workers decreased by 20½ per cent. During the period 1968 to 1975 final products produced and sold from the oil-from-coal and petrochemical units more than doubled while the number of Sasol employees decreased from 7,685 to 7,122.

So when, from 1970, a series of events on the international oil front showed signs of an impending energy crisis, which was precipitated by the outbreak of the Yom Kippur War in October 1973, the Sasol enterprise came into clear-cut focus. Prospective producers of gas and liquid fuels from coal were beginning to beat a path to Sasol's door in the quest for know-how.

In 1971 the Sasol entrepreneurs reported that oil-from-coal had benefited by the world-wide increases in the prices of petroleum products, but warned against undue optimism about its economic future. In 1972 they sounded more hopeful, but maintained that normal escalation of capital costs might well keep pace with the increases in the price of crude oil. In 1973 they reported that in spite of a material change for the better in the oil-from-coal situation, it would be unwise to erect new plants with undue haste. And in 1974 they disclosed that at the Government's request they had made a detailed study of the technical and financial implications of the establishment of a second oil-from-coal plant.

On 5 December 1974 the SABC's News at Nine featured Senator O. P. F. Horwood, then Minister of Economic Affairs, announcing: "The Cabinet has decided that a second Sasol must be built with least possible delay . . . The new plant, Sasol 2, will produce more than ten times the amount of petrol and petroleum products than the existing oil-from-coal plant, and will be one of the largest industrial undertakings yet embarked upon in South Africa . . . At present cost levels, its fixed capital requirements, township development excluded, will exceed R1 000 million . . ."

FIRE CHIEF ROBERT WEITZEL AND THE MACK VOLUNTEER FIRE DEPARTMENT

HON. THOMAS A. LUKEN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 18, 1977

Mr. LUKEN. Mr. Speaker, I would like to bring to the attention of the House the testimony given by Fire Chief Robert Weitzel of the Mack Volunteer Fire Department in Green Township, Ohio, during the Military Installations and Facilities Subcommittee's hearings on civil defense preparedness.

Chief Weitzel has been a member of the Mack VFD for 20 years, an officer for the last 15. He has been chief for 5 years. He is a member of the Western Hamilton County Fire Association and the Hamilton County Fire Chiefs Association as well as the Ohio State Fire Chiefs and the International Fire Chiefs.

Mack is one of the largest fire departments in the State of Ohio with over 120 members as listed at the end of these remarks. They provide fire and paramedical service while receiving no pay—not even gas money—to all of Green Township which covers 30 square miles and has a population of over 63,000. The Mack VFD operates out of three stations, and has assisted in rescue and paramedical operations following three tornadoes in 1974, 1976, and again in 1977. As the fire chief for Green Township, an area hard hit by tornados in 1974, 1976, and again this year on October 1, Chief Weitzel had much to contribute to the subcommittee's understanding of civil defense preparedness problems.

The Hamilton County civil defense siren system failed to warn residents of the approaching tornado on October 1. The tornado struck at 7:10 a.m., yet the warning system was not activated until 7:50 a.m.

We in Hamilton County have learned the hard way that we do not have an effective warning system either for tornados or enemy attack. A system that warns us only after we have been struck is unacceptable. I am thankful to the trustees of Green Township for making Chief Weitzel available to us. With the help of experts like the chief, I truly hope that the Armed Services Committee can begin to resolve this serious problem.

The list of volunteers at three stations follows:

STATION NO. 1

Ray Adams, Don Aisenbrey, Jim Belschel, Terry Brockhoff, Dale Brockhoff, Robert Brown, Ken Case, Steve Claytor, Joe Day, Mike Diehl, Mike Donohue, Dan Dreier, Dave Driskell, Bob Eisenecher, Charles Evans, Daniel A. Fluegeman, Rick Fox, Tom Fox, Bert Frondorf, Paul Garbon, Dave Gemmell, Ray Gemmell, George Gibeau, Ray Hollmeyer, Jim Huber, Brian Hummeldorf, Bob Kallendorf, and Richard Kist.

Tom Kotte, Dale Knapp, Shelby Louden, Dale Matthey, Bob Miles, Stan Mueller, Bill Neu, Harvey Pfaff, Jim Rack, Dick Rhoades, Roger Ruberg, Russ Ruberg, Butch Ruehlman, Marty Schloss, Bob Sweeney, Tom Sweeney, Tim Tate, Gary Theurer, Mike Thorp, Timothy Trame, Bob Viox, Dwight Waldorf, Stan Wasserman, Dough Weberding, Carl Weghorst, Ron Weidner, Bob Weitzel, Hal Welge, Mike Wernke, George Willenbrink, and Ed Wortman.

STATION NO. 2

Tom Arend, Jack Bohning, Dave Chastang, Tom Dietz, Dominic Donisi, Tom Eisbernd, Dave Filbert, Ed Fischer, Lou Geiger, Glenn Hanekamp, Carl Hoog, Tom Huth, Ken Inderhees, Tom Lecture, Mark Leytze, Larry Ludwig, Charles Mader, Dean Marshall, Wayne Misch, Cliff Pickens, Stanley Rauh, Jim Rutenschroer, Jeff Seller, Steve Senft, Carl Seng, Roger Seng, Jim Sunderhaus, Frank Sutton, John Troescher, Mike Williamson, Marty Wilz, Mike Wilz, and Duane Yeazel.

STATION NO. 3

Tom Carmack, Dennis Chastang, Tim Chastang, Bill Fulton, Steve Greek, Dan Hildebrand, Mark Hildebrand, Bud Hustedt, Rick Kreft, Gary Louderback, Jack Pflanzer, Steve Pflanzer, Mike Pursifull, Frank Rottmueller, Ed Thomas, Clarence Triplett, and Bud Westlund.

TRIBUTE TO POLICE SUPERINTENDENT JAMES M. ROCHFORD

HON. MARTY RUSSO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 18, 1977

Mr. RUSSO. Mr. Speaker, recently James M. Rochford, the superintendent of the Chicago Police Department, retired after 30 years with the police force.

In his 45 months as superintendent he distinguished himself, as he had throughout his career, as a man of character, courage, and wisdom, and I agree enthusiastically with a comment by Columnist Bob Wiedrich of the Chicago Tribune that Mr. Rochford "has been the best police superintendent the city ever has known."

The people who elect to spend their lives in the service of protecting others often stand quietly in the background while praise is heaped on more obvious "heroes." I think men like Jim Rochford are far better heroes than any television drama could possibly depict.

I wish him the best in the future and I would like to share with my colleagues some of the facts about this extraordinary administrator by inserting Mr. Wiedrich's column of October 13:

A MAN WHO MADE POLICE PROUD AGAIN

(By Bob Weidrich)

James M. Rochford took a wild bull by the horns and did a top job of taming it.

He took command of the 13,000-member Chicago Police Department when it was at its lowest ebb.

He rebuilt its self-confidence and morale and, by skillful leadership, restored to the citizens of Chicago the quality of police service they deserved.

For our money, Rochford has been the best police superintendent the city has ever known.

From the first day Rochford became acting chief in 1973, he set sparks flying in an emotionally charged atmosphere that best could be described as a hand grenade factory.

In theory, he had everything going against him.

Honest police officers were dismayed and disgruntled by the shame of widespread corruption.

And those few remaining officers who viewed their badges as a license to steal were merely waiting for the heat of federal grand jury inquiries to abate before resuming their crooked lifestyles.

Rochford recognized that. So he immediately made it clear who was the boss.

He carefully selected a command and management team on which he knew his personal reputation and that of the department woud rise and fall.

He demanded of them no less than he demanded of himself or any patrolman on the street—selfless dedication to duty and a high degree of professionalism.

And he set forth to refashion the image and operations of a police department whose pride and motivation had been sorely tried by public humilitation and the tragic sight of more than 50 members of its ranks being dispatched to federal prisons for corruption.

Rochford knew that what was needed was a highly visible superintendent—a man who would be accessible to the community and the department and who would not play favorites or curry support by condoning incompetence.

Above all, the police needed a leader who would not resort to dilatory or protective tactics when things went wrong but would instead face up to the issues and speak out, even when what he believed might be unpopular.

Rochford filled that bill. He adhered to its requirements throughout much of his tenure.

Very often, he became the target of public and media ire. At other times, his own men rattled the cages with indignation.

However, he never deviated from his conviction that the citizens of Chicago deserved to know where he stood and that hiding behind a cloak of silence served no one.

And that while a leader should inspire his men, he never should do so at the expense of the public trust.

To start with, Rochford was a streetwise cop, having come up through the ranks from a fledgling patrolman who had joined the force in 1947. He knew cops and their joys and their failings.

He could spot the deviousness of the con men. And he recognized the abilities of honest men.

He also knew, however, that a police department is not a municipal island.

And that a police force cannot perform its mission effectively without the support of the public it serves.

So Rochford went out and actively solicited the views of taxpayers. He fended off attempts by outsiders to impose what he viewed as unreasonable restraints on the department's operations, but he listened to complaints from within and without.

He used those complaints he deemed legitimate to refine the quality of police service where it most counts—in the streets and the neighborhoods where the people of Chicago live.

In doing so, Rochford proved conclusively that an effective police commander needs a personal knowledge of his city and its people born of experience, and that the respect of the community is not automatically granted, but must be earned.

To that end, Rochford personally rode subway trains to check on the safety of passengers. He visited police district stations to let police officers see him. He appeared on the front lines of civil disturbances.

He demonstrated his personal leadership in a manner never before seen in this city.

Rochford's firm stand against hiring and promotional quotas for minorities brought him enemies. It also won him the admiration of those who believe advance should be based on competence and merit, rather than sex or race.

The 13,000 men and women of the Chicago police department should thank Rochford for restoring their self-respect.

And the people of Chicago owe him a debt of gratitude for thirty years of distinguished police service.

PERSONAL EXPLANATION

HON. HELEN S. MEYNER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 18, 1977

Mrs. MEYNER. Mr. Speaker, I was unavoidably absent from the session on Monday, October 17, 1977, because of illness. Had I been present, I would have voted:

Roll No. 659, saccharin ban moratorium, "yea."

Roll No. 660, Customs Procedural Reform Act, "yea."

Roll No. 661, Technical Corrections Act of 1977, "nay."

Roll No. 662, disaster payments exemption, "nay."

YOUTH AND JOBS

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 18, 1977

Mr. RANGEL. Mr. Speaker, every 4 years the usual campaign rhetoric and promises are made by men who seek high offices. Invariably, these promises always include words to soothe the unemployed. Especially the young black unemployed. Well, its been another 4 years and the job picture in our urban centers is not better. It is worse.

The temptations for an idle mind in an urban center are great. Reducing unemployment among youths will help to reduce our crime rates. Drug addiction and alcoholism will also be reduced as a result.

If the tremendous amount of efforts and money our country spends on defense were instead spent on employment programs, we would see a marked difference in the face and morale of our urban communities.

Before the minority youth revolts, let us lick this problem once and for all.

Jerome Cahill from the New York Daily News has written some further comments with respect to this matter. I would urge my colleagues to carefully consider his views on this most timely subject. His comments follow:

[From the New York Daily News, Oct. 6, 1977]

THE URBAN TIMEBOMB: YOUTHS WITHOUT JOBS

(By Jerome Cahill)

Trapped in the blighted neighborhoods of older cities and rural slums, victims of the profound economic and social changes of the post-World War II period, thousands upon thousands of young blacks have been passed over in the nation's slow but steady recovery from the 1975 recession.

In numbers that have surprised some government officials and alarmed others, they have flocked to the labor market in search of work, enticed by signs of a generally improving economy and perhaps the siren song of Jimmy Carter's election-year campaign promises.

But for many, the signs and promises have proved to be bitterly illusory. Since the *low* point of the recession two years ago, unemployment among black youths in the 16 to 21 age bracket has *increased* by 100,000 to a staggering 34.7 percent rate nationally. And it is even worse rates in some localities.

The experience of young blacks is a magnified picture of the black unemployment picture generally—an unemployment rate that in August equaled the postwar record of 14.5 percent, more than double the white rate of 6.1 percent. One out of four of the nation's 7 million unemployed was black. The 1.7 million officially listed on the government's jobless rolls represented a 300,000 increase from the April total. And most of these people are concentrated in the nation's central cities.

Rep. Parren Mitchell (D-Md.), chairman of the Congressional Black Caucus, calls the concentration of black joblessness in the cities social dynamite. "It's reached the crisis state," he says. "I don't think we've experienced anything like this even during the depression."

For Rep. Charles B. Rangel (D-Harlem) the jobs crisis in the cities is so grave he believes it constitutes a threat to America's security. At a recent meeting at the White House, Rangel warned President Carter that the lives of local officials may be in jeopardy because of hopes generated by the new administration, which are as yet unfulfilled.

President Carter himself appears to be deeply concerned with the problem. When Mitchell and Rangel led a delegation of Black Caucus members to the White House in the wake of the gloomy August employment report, they found him stunned by the figures. "He was jolted by those statistics," Mitchell recalls. "It was clear that they hit him and hit him hard."

Carter gave voice to that concern when he signed into law the Youth Employment and Demonstration Projects Act of 1977, a $1.5 billion measure that will provide job and training opportunities for unemployed young people over the next 12 months to three years.

Over the next 12 months, the Labor Department estimates, $1 billion dispensed under the new law will provide training or employment for 443,000 young people, or about one out of four on the current unemployment rolls. Young blacks and other minorities, whose job prospects are the most bleak, will account for about 60% of the total.

A myriad of job projects, some as old as the New Deal, some borrowed from the Great Society, and some involving schemes never before tested, will receive funds under the new law.

One of the most visible of the new projects is the Young Adult Conservation Corps, which will provide up to 12 months of work at the minimum wage in national, state and local parks for as many as 46,000 unemployed young people between the ages of 16 and 23.

Perhaps the most novel of the projects is an attempt to use the concept of "entitlements" that worked in the GI Bill of Rights for veterans as a way to keep disadvantaged young people, who now drop out of school at a rate of 700,000 a year, in the classroom. Called the Youth Incentive Entitlement Pilot projects, the $115 million program will provide about 20,000 in-school young people and dropouts guaranteed jobs under the government's Public Service Employment programs if they will earn their high school diplomas. The concept will be tested on a large scale in a half dozen cities.

And the new law also will finance 22,600 community improvement jobs that will be assigned mainly to out-of-school young people, and a big expansion of youth employment training programs, which will receive $537 million, or more than half of the $1 billion available under the law.

Although the unemployment rate has dropped in our country more than one percent already since last December, we still have enormous unemployment among young people," Carter told dignitaries who gathered in the Rose Garden for the signing ceremony. "More than half the total number of unemployed in our country are under 24 years of age. And, of course, this falls much more heavily on minority young people than it does on those of us who are male and white.

"This bill will take a great stride forward in trying to correct this serious affliction on our nation's economy which is mirrored within the nations of all the western democracies," the President declared. "I think all of us realize that if a young person reaches the age of 16, 17, 18—all the way up to 24 years of age—and can't get a job in the formative years of a life, there is a feeling of despair, discouragement, a loss of self-esteem, an alienation from the structure of society, a lashing out against the authorities who are responsible, which can shape that life for years to come."

As the President noted, high unemployment among young people has been a feature of the postwar American economy, and more recently in other industrial democracies. To some extent, it has been an inevitable reflection of work force, and from job to job, in an increasingly complex and demanding labor market. At least, that has been generally the case with white youth.

But for young blacks locked in the ghettoes of the nation's declining cities, the situation is far different. By the thousands, they are leaving school for the most part ill-prepared for any but the most menial jobs. And they are entering a job market in which the demand for unskilled labor is at a minimum.

New York is a prime example. Between 1969 and 1976, the city lost 542,000 manufacturing jobs to the suburbans or to other parts of the country. Those were the jobs that Herbert Bienstock, regional commissioner of the Bureau of Labor Statistics, describes as the traditional "port of entry" to the world of work for young Americans.

Pointing to that massive erosion of the city's economic base, Bienstock says flatly, "Employment as a fact of life no longer exists for most New York City youth." He estimates that of the 515,000 young people between the ages of 16 and 19 in New York City, only one in five has a job. Among young blacks, the picture is twice as bad. Only one in 10 can be found on an employer's rolls.

For Rangel, who grew up in Harlem, the loss of employment opportunities is a personally wrenching thing. "When I was a kid, I worked in a shoe store, a hardware store, a drug store, a hotel, a flower shop. Today those jobs are gone because the shops are gone," he says.

"I don't have the hotel I worked in, the Hotel Theresa. I don't have the hardware store, Lincoln Hardware on Lenox Ave. I don't have the drugstore, Bergman's Pharmacy. I don't have the ice cream parlor that I worked in. I don't have Adler's shoe store.

"All these things I did after school as a teen-ager, so no matter how bad things were nationally, these were jobs that were community jobs. They were available."

Today, unless a young person can enroll in a government training program or get back into school, his or her alternative is the street where, Rangel says, only the strong can survive the temptations of drugs, alcohol and crime.

James Norris, a 19-year-old high school dropout from Brooklyn, described the street life of the jobless teen-ager: "You hustle. Like if you ain't working or anything, you try to scrape out. You gamble, you play cards ... you find yourself swooping, that's like dipping in cash registers.

"There is always a con going on to get some more money ... you got to con and con and con, you know, in order to survive."

Norris is trying to make it, to achieve somehow his ambition to be a disc jockey in a disco-club. He was interviewed at the message center at City Hall where he is employed by Wildcat, Inc., a nonprofit private corporation that hires hardcore jobless, and helps them build work records and eventually move on to permanent jobs in the private sector.

Indeed, Labor Secretary Ray Marshall believes jobs program like Wildcat may be the answer to the urban crime problem. "If you are unable to find a job, then you make a living by hustling, or in illicit activity," Marshall says. "I don't know what the exact correlation is, but I would bet that if we could provide meaningful job opportunities for people, we could greatly reduce crime rates in many of these places."

Former New York Police Commissioner Patrick V. Murphy, now president of the Police Foundation, agrees. "When I was police commissioner in New York I had available census tract data that noted the areas of high unemployment," Murphy has said. "I also had the figures available on levels of crime in New York City. Invariably, where there was high unemployment and the degradation that accompanies unemployment, there were high crime rates . . . 50 to 100 times as high as those in other parts of the city."

Murphy's conclusion was straightforward: "There can be no significant long-lasting effort to reduce crime permanently without a major reduction in rates of unemployment, especially among the high crime age group that includes males under 25."

FEDERAL FLOOD INSURANCE

HON. RAY ROBERTS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 18, 1977

Mr. ROBERTS. Mr. Speaker, I rise to congratulate the distinguished gentleman from Missouri, the honorable GENE TAYLOR, on the signing into law last week of his amendment to the Federal flood insurance program.

The final approval of the Taylor amendment is an important victory for residents of small communities across the country. Federal officials will no longer be able to use economic coercion to force communities into the Federal flood insurance program.

Those of us who have experienced the operation of the flood insurance program within our congressional districts have witnessed the manner in which the power to sanction a community by cutting off Federal aid and also private bank lending has corrupted the administration of the program.

Insensitive Federal bureaucrats have fallen down on their obligation to consult with local communities. Without a full or fair opportunity to provide input, communities have been forced to accept what is in effect a Federal land use control program, designed and carried out by Federal bureaucrats.

We are indebted to Congressman TAYLOR for seizing the initiative to author legislation to solve the problems that arose in the administration of the program. Complaints and criticisms of the program had been mounting for some time, yet there was a feeling that a legislative solution was not within reach.

Representative TAYLOR decided to let the Members of the House of Representatives exercise their own judgment on this issue. He carefully drafted an amendment to restore balance to the Federal flood insurance program, without at the same time harming its essential features.

The Taylor amendment was brought up for a vote on the floor of the House of Representatives on May 11, 1977 where it was approved by a strong majority of 220 to 169.

A few weeks later, Senator EAGLETON of Missouri adopted the language of the Taylor amendment and offered it for consideration on the floor of the Senate where it passed by a vote of 49 to 36.

Mr. Speaker, I believe the Members of this body acted wisely and responsibly in passing the Taylor amendment. Under the terms of the amendment, there is no way for the Federal Government to suffer losses on property located in flood hazard areas. Federal disaster bailouts are prohibited for such property.

All that the sponsors and a good majority of the House of Representatives have sought and achieved is the elimination of some overreaching by the Federal Government by repealing the sanction on private lending to property located within a designated flood area. We do not feel that it is any of the Federal Government's business if a prudent lender wishes to make a loan on such property, providing the borrower is given notice that the property is not eligible for flood-related disaster assistance, leaving him to accept the risk of loss.

We are fortunate that Congress is unwilling to place the interests of the program administrators over that of the people.

Mr. Speaker, I was glad to have the opportunity to support the Taylor amendment, which reaffirms the principle that the Federal Government is the servant and not the master of the people.

ABE AND GITA STOLYAR

HON. BRUCE F. VENTO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 18, 1977

Mr. VENTO. Mr. Speaker, recent events in United States-Soviet relations seems to indicate a renewed spirit of cooperation in seeking and maintaining peace by seeking a reduction in the nuclear arms race. This is a highly laudable goal and I applaud the efforts of both President Carter and President Brezhnev.

It is in this new atmosphere of cooperation that the 35-Nation Conference on European Security and Cooperation opened in Belgrade on October 4. It is my hope that in our quest for progress in the arms limitation talks with the U.S.S.R., the goal of human rights for all people will not be forgotten. Our

President has frequently and most eloquently declared that our concern for human rights should be a cornerstone of American foreign policy. The failure to speak out at Belgrade would seem to indicate that our dedication to human rights is fleeting at best and, at worst, our statements of concern could be called mere propaganda. The failure to speak out against the infringement of the rights of any individual in any and all countries will dash the hopes of the world's oppressed.

Thus as we sit across from the Soviet delegation in Belgrade, we must closely question them about their observance of the Helsinki Agreement, especially on their observance of the provision dealing with human rights, provision three. We must review the Soviet Union's treatment of all minorities and nationalities: Baptist, Lutheran, Catholic, Jew, German, Ukrainian, Tartar, Mongol, and Pole. The provisions of the Helsinki Agreement apply to all people regardless of race, color, or creed.

Mr. Speaker, I believe that the U.S.S.R. cannot stand up to any serious questioning on their observance of the Helsinki Agreement. Many of my colleagues have already presented documented cases of Soviet infringement of basic human rights. Each of these situations has been tragic and has cried out for justice. I have another example of Soviet abuse that I would like to present to my colleagues: The case of Abe and Gita Stolyar. Abe Stolyar is an American citizen and until his parents emigrated to the Soviet Union, Abe lived in the United States. Abe and his wife, Gita, applied to emigrate to Israel and in June 1975, they received exit permits. The joys and dreams of starting life anew were soon destroyed for the Stolyar family. On June 19, after they had already taken their seats on the plane for Vienna, the Stolyars were abruptly removed from the airplane by the KGB. Their visas were then nullified and they were prohibited from leaving the country. This act left them completely destitute since they had given up their apartment and had already shipped their possessions to Israel.

The KGB claimed that Gita had once worked in a plant where she was exposed to state secrets and because of this she is unable to emigrate. In August of this year the Stolyars once again requested permission to emigrate and once again permission was denied.

Mr. Speaker, the case of the Stolyar family and the other examples brought to our attention provide overwhelming proof of the Soviet disregard for its citizens' human rights. While the suffering and abuse that these people endure is tragic, they do have the comfort in knowing that someone is concerned about their plight and is trying to help them. How many more people in the U.S.S.R. and other nations are suffering and have no champion or defender? The cause of human rights does not end when an individual or nation are freed. It is a never ending struggle that demands constant vigilance and complete dedication. It is my hope that we will be able to meet this challenge.

COMMENDATION OF BLUE CROSS-BLUE SHIELD OF VIRGINIA

HON. HERBERT E. HARRIS II

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 18, 1977

Mr. HARRIS. Mr. Speaker, I would like to take this opportunity to share with my colleagues some good news about the cost of health care. Blue Cross-Blue Shield of Virginia, under the dynamic leadership of its president Alden E. Flory, is taking an increasingly active role in the health planning process to hold down health care costs. Below are a few highlights of their current operations:

Since 1969, joint Blue Cross and Blue Shield of Virginia operating expense ratios have been reduced from 11.2 percent of the subscriber dollar to about 5 percent. These ratios are now among the lowest in the entire health care system.

Administrative costs per claim were reduced from $13.40 to $4.87 during this period.

Employee productivity in processing claims has increased more than 400 percent during this time. (Meanwhile, the actual number of employees is less now than it was in 1969.)

For the past five years, the Richmond-based plans have led all others of similar size in enrollment growth.

Our organizations were among the first in the country to develop a "plain-language" contract for nongroup consumers.

A recent review of their operations by the national Blue Cross and Blue Shield associations showed the plans to be among the most efficient and economically-run organizations in the Blue Cross and Blue Shield system.

They are taking an aggressive role in cost containment and regional health care planning. Currently they are opposing several major hospital construction projects in areas where there is a serious surplus hospital bed problem because they feel the projects are unnecessary and duplicative. They also have an active educational program on cost containment for area health care providers and consumers.

ON THE ANNIVERSARY OF WOMEN GAINING ADMISSION TO THE COAST GUARD

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 18, 1977

Mr. BIAGGI. Mr. Speaker, as chairman of the Coast Guard and Navigation Subcommittee of the House Merchant Marine and Fisheries Committee, it gives me great pleasure to observe the 53rd anniversary of the signing of Public Law 77–73 which established the Women's Reserve of the U.S. Coast Guard.

The association of women in the Coast Guard has been a beneficial one. The Women's Reserve which at its peak reached 10,000 enlistees, proved invaluable to our World War II effort. The reserve was terminated in the mid-1940's but was reestablished in 1949. Under the terms of Public Law 93–174, the Women's Reserve was again abolished. This time it was replaced with the transfer of women into the Coast Guard Reserve, permitting them to be commissioned and enlisted in the regular Coast Guard.

I was proud to have been the sponsor of legislation last year, permitting women to enter the Coast Guard Academy. The most recent development regarding women in the Coast Guard was the decision in May by Transportation Secretary Brock Adams, that women would be assigned to duty afloat in October, 1977.

The contributions of women in the Coast Guard have been varied and significant. At one time, the military was the primary bastion of discrimination against women. Its abandonment of this policy has worked to our Nation's benefit. The Coast Guard has always been a leader in providing opportunities for women. I therefore salute the thousands of dedicated women, past and present, who have added to the success of the Coast Guard.

At this point in the RECORD, I wish to insert an excellent article entitled, "Women in the Coast Guard and the Coast Guard Reserve." The article was written by Captain Mary E. Bachand of the Coast Guard Reserve and it provides an excellent historical examination of the role of women in Coast Guard service:

WOMEN IN THE COAST GUARD AND THE COAST GUARD RESERVE

(By Capt. M. E. Bachand, USCGR)

Women first entered full military duty in the Coast Guard Reserve during World War II, but during the First World War there had been a small number of women serving with the Coast Guard—their status and duties as yeomen closely paralleling those of the women who served with the Navy and Marine Corps.

During the bleak months of the summer and fall of 1942, when the nation's resources were being strained in two hemispheres, the Congress recognized not only the pressing need for women in all the military services, but also the right of women in a democracy to participate in the total war effort. In that atmosphere of dedication and commitment the Women's Reserve of the Coast Guard was born.

On November 23, 1942, Public Law 773 of the 77th Congress, was signed by the President, establishing the Women's Reserve of the Coast Guard, so as "to expedite the war effort by providing for releasing officers and men for duty at sea and their replacement by women in the shore establishment of the Coast Guard, and for other purposes." Appointed as Director of the Women's Reserve was Dorothy C. Stratton, then serving as Lieutenant in the Women's Naval Reserve, on leave from Purdue University where she was Dean of Women. Captain Stratton is credited with having coined the name "SPAR" from the first letters of the Coast Guard's motto and its English translation—*Semper Paratus*—*Always Ready*.

Under terms of an agreement between the Coast Guard and the Navy the first personnel of the Women's Reserve were to come from the Navy. Fifteen officers and one hundred fifty-three enlisted women requested discharge from the Navy and formed the nucleus of the CGWR. During the 25-month period following, that number had grown to approximately 10,000 enlisted and 1,000 officers by December, 1944.

Early training for enlisted women was conducted at Naval Training Schools in Bronx (Hunter), New York, Madison, Wisconsin, Cedar Falls, Iowa, Stillwater, Oklahoma, and

Bloomington, Indiana, while officer candidates were trained at Northampton with the Waves, followed by a period at the Coast Guard Academy in New London.

By March of 1943, it became evident to the Coast Guard that there was a need for separate training facilities—the training requirements for the Navy and Coast Guard differed substantially despite the fact that the Coast Guard was operating under the Secretary of the Navy. Adopting much from the Wave Training Program, the newly commissioned Coast Guard Training Station, Palm Beach, Florida (Palm Beach Biltmore), began indoctrination of Spars in late June 1943. In addition to "boot" training, there were four specialist schools located there—yeoman, storekeeper, cooks and bakers, and pharmacist mate striker.

Rate training expanded and diversified to the point where, by the end of the war, women were serving in a great variety of jobs in the Coast Guard. A partial listing of these ratings would include:

Yeoman, storekeeper, parachute rigger, radioman, link trainer, radarman.

Radio technician, air control tower operator, motion picture technician, chaplain's assistant, coxswain.

Gunner's mate, musician, cook, radarman, quartermaster.

In January 1945, the Palm Beach TRASTA closed and training was transferred to Manhattan Beach, New York.

Women officers of the Coast Guard had the distinction of being the only ones to be trained on the grounds of a regular service Academy. Enlisted women were encouraged to apply for OCS, and by the end of officer training, 21% of total number of general duty Spar officers had come from enlisted ranks. Adding the Spar Pay and Supply Officers, all of whom had been previously enlisted, the number increased to 31% overall. Approximately one-third of the women commissioned received additional specialized training in Pay and Supply or Communications, while the general duty officers served in a variety of billets—personnel, legal, intelligence, training, barracks management, recruiting, and morale and recreation. Late in December, 1943, Congress removed some of the limitations for women and provided for the highest rank in Women's Reserve to be Captain, but there was not to be more than one. About one year later the limitation of assigning women only to shore stations in CONUS was also removed and Spars were assigned "overseas" to Hawaii and Alaska. The limitation of military authority, however ("to be exercised over *women* of the Reserve *only* and limited to administration of the Women's Reserve"), remained on the books for a long while!

By June 30, 1946, most of the women in the Coast Guard had been released.

In July 1947, Congress terminated emergency Coast Guard legislation, including authority for Women Reservists. All women officers and enlisted personnel were discharged.

Legislation was enacted in July 1949 to re-establish Women's Reserve of the Coast Guard Reserve. Former members were invited to re-enlist or re-affiliate with prior date of rank for inactive duty only. Volunteer Training units and correspondence courses were the only training opportunities available for ALL Coast Guard Reservists.

In the early 50's, as the Coast Guard Reserve Program was developing, women could be enlisted for inactive duty assignment to Reserve Units. A few former enlisted women who had attained degrees were given inactive duty direct commissions. During the Korean conflict some 35–40 women Reservists—officer and enlisted returned to active duty and of those, eight remained to complete 20 years of active duty and retire. The enactment of Public Law 87–482 on June 12, 1962 granted constructive service credit for women who had served prior to July 1947. In the mid-60's, after a long period of practically no recruiting of women, a program was developed to bring some women on active duty to fill medical and administrative positions—HM's were trained by the Navy at Great Lakes, and two groups of YN's and SK's received a combination of Navy "boot" training at Bainbridge and Coast Guard rate training at Groton. Meanwhile, attrition continued to thin the ranks—by the end of Fiscal Year 1971 there were only 2 officers and 25 enlisted women on extended active duty and they were all Reservists. In all other Reserve categories—Selected, Ready and Standby—there were 96 officers and 43 enlisted women.

In 1972, a board was convened by the Coast Guard to study the utilization of women in the Coast Guard. That board recommended expansion of the Reserve program with a view toward opening the way for women to enter the regular Coast Guard.

A Reserve Inactive Duty Petty Officer program was initiated in 1973 and the number of enlisted women reached 414 by end of the year. In January 1973, women were assigned to OCS classes. This was the first time that women were totally integrated into an officer candidate program—selection had been made based upon the same criteria as males, housing in same barracks, curriculum identical except for minor modifications in physical education. In each of the classes since that time two or three women have consistently qualified for honor platoon, and many qualify as small arms experts and marksmen.

Enlistment of women for four year tours of active duty was authorized later in 1973. The ratings to be held by these women were limited to yeoman, storekeeper, hospital corpsman, photo-journalist, dental technician and musician.

On December 4, 1973, enactment of Public Law 93–174, amended chapters 3 and 21 of Title 14, USC. The most significant provisions of this landmark piece of legislation were the abolishment of the Women's Reserve and the transfer of women into the Coast Guard Reserve thus enabling them to be commissioned and enlisted into the regular Coast Guard.

The opening to women of the ratings of radioman, fire control technician, telephone technician, and boatswains mate, and enlistment of non-rated women in February 1974, was another step forward.

All aviation ratings were opened to women and the first female ensign reported for pilot training at Pensacola in January 1976.

Women officers presently on active duty perform a wide variety of duties and are eligible for assignment to all Coast Guard units except floating units and isolated duty stations. The women who are assigned to flight training will undergo that training in an unrestricted status—fixed wing and/or rotary—and upon completion will be assigned to any operational aviation command in an unrestricted flying status.

At this time women officers on active duty include 2 regulars and 50 Reservists, four of whom are direct commission lawyers in the grade of Lieutenant, and the others are Lieutenants Junior Grade and Ensigns—Four hundred enlisted women are serving on active duty. Inactive Duty Reservists include 26 officers and 948 enlisted as of December 1975. Women are assigned to practically every Reserve unit in the country and are performing duties commensurate with their rank or rating. In addition to the more traditional ratings for women—yeoman, storekeeper, photo-journalist, hospital corpsman—enlisted women have been rated as port security specialist, and telephone lineman. The basic training for enlisted and the indoctrination classes for officers are given in co-ed companies.

In November 1975, the Commandant approved a new uniform for women in the Coast Guard, designed by Edith Head, Hollywood fashion expert, and it is hoped that it will be available for all women by October 1977.

The Coast Guard is proud of the fact that it was the first of the Armed Services to open its Academy doors to women. Except for minor modifications in the physical aptitude tests, the program will be identical with that for the male cadets. Female cadets will make the summer practice cruises on the sailing barque EAGLE and on the high endurance cutters where facilities are available. At this time it is anticipated that of the 325 member class of 1980, 20–25 will be females.

Some recent policy changes have certainly improved the quality of life for women in the Coast Guard—the assigning of married couples to the same station or area wherever possible, and the permission for pregnant women to remain on active duty providing there is certification that future child care will not interfere with job performance. Prenatal and post-natal sick leave, as medically indicated, are now routine entitlements as opposed to requiring use of annual leave for part of an absence.

The future of women in the Coast Guard looks bright. Admiral Owen W. Siler, Commandant of the Coast Guard, stated recently: "Women in the Coast Guard have a long and proud record of service that dates back to lighthouse keeper days. Today, the opportunities for women are greater than ever . . . We have fully integrated women into the regular service . . . Old barriers to women serving in certain rating specialities have all but disappeared. Only those ratings with very poor sea/shore duty rotations are closed to women since our present policy restricts women from serving afloat or at isolated stations."

FEDERAL PAPERWORK COMMISSION REPORT

HON. PETER H. KOSTMAYER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 18, 1977

Mr. KOSTMAYER. Mr. Speaker, yesterday the Federal Paperwork Commission presented its final report to the Government Operations Committee's Subcommittee on Government Information and Individual Rights. As a member of that subcommittee I am particularly interested in fighting excess paperwork in our Government. I thank the Federal Paperwork Commission and especially my colleague Congressman HORTON for his efforts in this regard.

Since coming to Washington a little over 10 months ago I have often been shocked at the appalling waste created by the overabundance of paper in our Government. Congress contributes liberally to this glut by exhibiting a blind disregard for the consequences of many of its actions. Millions of dollars every year go to send various forms of paper to our constituents. Much of its is repetitive, self-serving, and limited in

value. However, it serves an allegedly important purpose for Members of Congress; it gets our name before the public. Last June I made an effort on the floor of the House to cut funding for the so-called "free" calendars Members of Congress send to their constituents each year. My proposal to cut what amounted to $1 million in printing and mailing costs met with stiff opposition. Its resounding defeat proved that many of us who speak out against excess paper are not willing to put our money where our mouths are. Instead 1 million more American homes will receive calendars from their Congressman this year.

I note the Federal Paperwork Commission makes no mention of the waste which spews forth from the Congress due to our exorbitant franking privileges. These privileges give Congressmen carte blanche to contribute to the flood of unnecessary paper in our Government. I would hope that although franking privileges are not part of the oversight responsibilities of the Subcommittee on Government Information that the subcommittee will recommend they be examined with an eye toward reduction.

The Commission makes many valuable suggestions on how to cut paperwork. I hope the Congress and the President move quickly to enact the recommendations calling for greater coordination of information, gathering, simplified language in rules and regulations, and consideration of the paperwork impact of legislation before it is passed by the Congress. While I applaud these admirable goals I must point to some problems I have with other aspects of the Commission's recommendations.

In calling for a Cabinet-level Department of Administration the Commission has fallen into its own trap. Such a department would create more paperwork instead of less. The desire to cut back on paperwork stems from the philosophy that "small is beautiful." Indeed, the less Government involves itself in our day-to-day lives the better. We can encourage each department to tighten up its operation without hiring thousands of more bureaucrats who, as we know, have an unsurpassed ability to produce paperwork. The proposed Department of Administration is a bureaucrat's bureaucracy, Mr. Speaker, and I feel it is ill-conceived. I urge my colleagues to oppose the creation of a new Cabinet-level agency.

Mr. Speaker, asking the Government to reform itself invites many problems. The Federal Paperwork Commission has done admirably well in defining the causes of excess paperwork and setting targets for action. It is my hope we will be able to cut back on wasteful and confusing paperwork for both the Government and the public without creating more offices and agencies to produce more paperwork and Government waste.

Additional rules and regulations requiring more paperwork strike at the heart of our free enterprise system and I believe inevitably at our most basic freedoms as well.

COMMANDOES TO BE PRAISED IN SOMALIA RAID

Hon. John E. "Jack" Cunningham

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 18, 1977

Mr. CUNNINGHAM. Mr. Speaker, last evening like other Americans, I was relieved and pleased to hear that specially trained commando units from the Federal Republic of Germany successfully rescued the passengers of a hijacked Lufthansa plane while it was on the ground at Mogadishu, Somalia. I commend the incisive and direct action of the German Government, the cooperative attitude of the Somali Government, and the individuals involved in carrying out this daring rescue.

Mr. Speaker, since the ghastly raid on Israeli athletes at the Munich Olympics, the world has watched with horror as leftist terrorism has increased around the globe. I believe that its increase is tied to the number of times that governments have been unwilling to act to prevent the terrorists from gaining their objectives: flight to a country friendly to terrorists, cash, or the release of fellow terrorists from jails around the world.

Like other Americans, I rejoiced at the successful Israeli raid on the Entebbe airport in that "State of Blood" Uganda. The German raid on Mogadishu is in the same heroic mold.

The comparison with the extreme weakness of the Japanese Government when a JAL flight was recently highjacked has not escaped the attention of Americans and of the world. Japan, whose economy flourishes at the expense of that in other lands, chose to act in fear of the terrorists. Mr. Speaker, terrorists have no human rights, whether attacking Israeli athletes, capturing planes or trains, or striking nameless fear into the hearts of our citizens in urban streets. For any government to behave as if they have an argument worth hearing at the point of a gun is an act of supreme foolishness.

I commend the German commandoes, the cooperative Government of Somalia, and others concerned with protecting the lives of innocents. And I hope that if, God forbid, the United States ever is faced with such a situation, we choose the course of honor taken by the Israelis and Germans as opposed to the course of shame.

FOOD PROBLEMS IN NORTHERN GHANA

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 18, 1977

Mr. HAMILTON. Mr. Speaker, I would like to bring to the attention of my colleagues some correspondence I had recently with John J. Gilligan, Administrator for the Agency for International Development, regarding press reports of starvation, food shortages, and food distribution problems in northern Ghana. A Manchester Guardian article of August 28, 1977, cited an Oxfam report which indicated that cases of starvation in northern Ghana were increasing and that large quantities of U.S.-supplied food were being diverted from those in need and stolen for personal use.

I was concerned with these reports and I wrote Gov. John J. Gilligan, Administrator for AID, requesting a verification of the accuracy of the press reports and his most recent information about the situation. I am pleased to say that Governor Gilligan's response was both forthright and informative.

Mismanagement and misuse of food aid was verified by an AID mission visit in late August and corrective measures were recommended to the Government of Ghana. Thousands of people still desperately need food assistance in northern Ghana although the extent of starvation there is difficult to judge accurately. AID has made an effort to monitor the situation and to urge the Government of Ghana to tighten its supervision and control of the food distribution program. AID is also conducting a month-long audit of the Public Law 480 program in Ghana. AID has obviously confronted a difficult situation and I trust the situation will be monitored closely. I do hope that the problems will be resolved so that the food assistance will reach those people in northern Ghana who need it.

My correspondence with Governor Gilligan and the Manchester Guardian article follow:

AUGUST 29, 1977.

Hon. JOHN J. GILLIGAN,
Administrator, Agency for International Development, Washington, D.C.

DEAR GOVERNOR GILLIGAN: I noted from a recent article in the Manchester Guardian that a confidential Oxfam report which was released indicates that cases of starvation in northern Ghana are increasing and the large quantities of U.S. supplied food is being diverted from intended recipients and stolen for personal use. One estimate suggest that up to fifty percent of internationally supplied food is being stolen.

I would like to know the following: Has the Agency seen the Oxfam report? Is it fairly accurate? Why is the food being stolen, by whom and for what apparent purposes? What is AID doing about it? Who are the groups responsible for distributing U.S. food supplies? And what is your assessment of the situation in this region and of the performance of international organizations and groups in reporting and dealing with the problems existing there?

I would appreciate the attention of your staff to this matter.

With best regards.

Sincerely yours,

LEE H. HAMILTON,
Chairman, Subcommittee on Europe and the Middle East.

OXFAM FINDS AID GRAFT IN GHANA

(By Harold Jackson)

Because of growing concern about the food situation in Northern Ghana, Oxfam has taken the unprecedented step of releasing for publication the confidential reports of its field staff in the region.

The reports tell of increasing numbers of deaths from nutritional deficiency, food prices rocketing to five or six times the normal level, "gross irregularities" among officials responsible for distributing supplies, and a refusal by foreign governmental agencies to acknowledge the situation for fear of offending the Government in Accra.

The report gives a grim picture of life in the area of Bolgatanga, a town near the northern border with Upper Volta.

"Food is not reaching those who need it because those who don't need it are taking supplies for their own ends. This is not directly the fault of the national government, who are successfully getting food to the north, but reflects the gross irregularities among regional officials in the north, especially local district chief executives and regional commissioners, but pervading throughout the local structure," the report says.

The problems are not acute in the towns but appear to be reaching crisis proportions in the outlaying villages. "Deaths relating to starvation," the report says, "are only taking place in village pockets where the poorest, such as lepers, the blind, the elderly and the mad are not able to travel to the source of food in the towns.

"A few cases have been reported of suicide by parents with no food for their children. One local church leader showed a pile of perhaps a hundred letters from village heads pleading for food for their poorest people."

The report emphasizes that the problem is not so much the supply of food—supplies have arrived from the US Aid Agency and the Common Market, and more has been promised. The transport of food from the south to the north is also going well under the supervision of the Government.

But the losses once the supplies reach the north are causing widespread difficulties. One foreigner working in the region has estimated that 50 per cent is lost to "friends, workers, bank managers, etc." "The present situation in the north reflects a bad situation which has got worse," the Oxfam field worker cabled last week "and there is every likelihood that the situation will get worse day by day."

One of the worst hit areas appears to be south of Bolgatanga, around the area of Wale Wale. There has been no rain there for six weeks, though nearby areas have had enough. "Some women have walked 10 miles from Wale Wale to the north to collect grain left by the combine harvesters (i.e. the overspill as the machines worked) to carry back home to feed their families.

"Rainfall has varied from village to village and even from field to field. Early millet should be harvested by the end of August but the crop has been severely destroyed in some areas through lack of rain.

"Rice warehouses are empty because of the heavy rain at harvest time causing the grain to rot in the fields. Also grain has been exported from Ghana to the Ivory Coast for much-needed cash, although reliable statistics are not available. Some reports say the government will stop food distribution at the time of the harvest for early millet, which would greatly set back hopes of relieving the food shortages."

The report says that in many cases the local churches are best equipped to distribute food because they have the vehicles and more reliable distribution networks in the villages. "But they have been receiving only scant quantities of food at erratic intervals. Local church authorities are now showing signs of strain at having to say no to requests for food, knowing that most of the relief food is going to the wrong people.

The Oxfam official criticises the international organizations working in Ghana for their failure to draw attention to the starvation in the north.

"When one sees American grain sent supposedly for relief purposes being carried off from a distribution centre in the boot of an expensive German car, one wonders to what extent the West is really interested."

WASHINGTON, D.C.,
September 29, 1977.

Hon. LEE H. HAMILTON,
Chairman, Subcommittee on Europe and the Middle East, Committee on International Relations, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: Thank you for your letter of August 29, 1977 concerning an article in the Manchester Guardian with reference to an Oxfam report of increasing starvation in Northern Ghana and misuse of food donated for disaster relief.

Ghana is receiving food donations from several donors, including Canada, Netherlands and the EEC. Under Title II of Public Law 480, the U.S. has donated about 6,000 tons of grain sorghum and soy-fortified processed food to the Catholic Relief Services for free distribution to drought victims in Northern Ghana. In addition, we entered into an agreement with the Government of Ghana to provide up to 10,000 tons of grain sorghum for the same purpose. Before authorizing the program, the Government of Ghana was required to establish a formal organization to plan and manage the food distribution and to assure that port and storage facilities were adequate.

Our A.I.D. Mission assigned a food aid monitor to make end-use checks in Northern Ghana. When controls in the Takoradi port proved inadequate and some small diversions were reported, the Mission contracted for another end-use checker to work in the port. Our A.I.D. Mission has continuously urged the Ghanian Government, which is largely responsible for distributing the relief food, to augment its supervision and control of the program.

Our A.I.D. Mission in Ghana had commented upon the article in the Guardian before we had received the Oxfam report which has just become available to us. The article contains some statements—such as increasing deaths from starvation and suicides—which cannot be verified without more specific information. There is no doubt, however, that pilfering and distribution irregularities have occurred.

On a trip to Northern Ghana late in August, representatives of our A.I.D. Mission, the EEC delegation, UNICEF and the Government of Ghana found that program management had deteriorated markedly. The A.I.D. Mission immediately reported these findings to the Government of Ghana and asked for assurances that a proposed course of corrective actions would be undertaken at once. These actions include periodic inspections of each district, accurate and timely reporting and auditing; discontinuation of distribution of Title II food to government employees and other paid workers and the use of food to pay for contract services. In addition, it was strongly urged that greater use should be made of distribution networks established by the missionary organizations.

The A.I.D. Mission and Embassy in Ghana seriously considered asking whether the last two shiploads of grain sorghum which were about to be delivered could be rerouted for use elsewhere. But it was obvious there were still thousands of people in desperate need of food assistance. In view of the strong representations made to the Government about improving program management and the past record of its general responsiveness to such suggestions, they concluded that at least a substantial portion of the sorghum would be distributed to the needy. The program is not administratively perfect but for humanitarian reasons, it was decided that the U.S. should continue to participate in the relief effort.

The main reasons that emergency food supplies are subject to pilferage, distribution irregularities, and unauthorized use are that food is generally in short supply and prices are extremely high. Wages are low and workers do not earn enough to feed their families. There have been no reports of Title II food appearing in the black market—in other words, the food is consumed, not sold.

The Agency Auditor General began an audit of the P.L. 480 Title II program in Ghana on September 7, 1977 and anticipates completion of the audit by October 7, 1977. Meanwhile, our A.I.D. Mission continues to work with the Government of Ghana on problems associated with distribution of our Title II food assistance. Recently, in the second personnel move believed directly related to pressure brought by our Mission, the Government of Ghana relieved the current Regional Commissioner for the Upper Region and assigned a new officer.

If I can be of further assistance, please let me know.

Sincerely,

JOHN J. GILLIGAN.

PERSONAL EXPLANATION

HON. CHRISTOPHER J. DODD

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 18, 1977

Mr. DODD. Mr. Speaker, on yesterday, Monday, October 17, I missed three recorded votes as a result of my attendance at several meetings at the White House.

Had I been here to cast my vote, I would have done so in the following way: H.R. 8518, Saccharin Ban Moratorium, yes; H.R. 8149, Customs Procedural Reform Act, yes; and H.R. 6715, Taxes, Technical Corrections Act of 1977, yes.

Thank you.

WILFRED BURCHETT, KGB SPY, TO TOUR UNITED STATES

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 18, 1977

Mr. McDONALD. Mr. Speaker, a notorious agent of the Soviet KGB, the Australian writer Wilfred Burchett, is scheduled to enter the United States tomorrow to start a lecture tour of American cities and campuses.

Starting in the 1930's, Burchett has often been assigned to countries in which Soviet-sponsored Communist forces have been actively conducting campaigns of terrorism and subversion. In those areas Burchett has served the Communists as a propagandist and adviser to aspects of their operations. Although previously granted highly restricted visas so that he could cover the United Nations in New York City, Burchett has for many years been denied a visa for free access to this country. Now Burchett is able to take advantage of the recently passed "McGovern waiver" which he received, according to the U.S. Marxist-Leninists organizing

his tour, with the assistance of the White House.

The public evidence of Burchett's vicious activities on behalf of the Communists includes proposing to the KGB that he blackmail his former mistress who had later married a U.S. Air Force general; identifying Western newsmen to the KGB as possible targets for subversion; identifying to the KGB possible anti-Communist intelligence agents among Western correspondents to Soviet controlled territory; participating as a member of Communist Chinese and North Korean interrogation teams who were brutally extracting false germ warfare confessions from captured U.S. airmen in Korea; performing similar services as an interrogator and coordinator of interrogations for the Vietnamese Communists; and serving as a propagandist and covert political agent for Ho Chi Minh and Chou En Lai.

In 1971, while in the United States on a restricted visa allegedly so that he could act as a United Nations correspondent, Burchett illegally visited Washington, D.C., at the instigation of then Secretary of State Henry Kissinger to discuss the withdrawal of U.S. troops from Vietnam. According to Burchett, he had been in contact with Kissinger also in 1967, when Kissinger was a private citizen employed by the Rockefeller Foundation, in an abortive attempt to arrange America's abandonment of the South Vietnamese. This contact was made 4 years after Burchett had been identified to Western intelligence services as a KGB agent by a defecting KGB officer.

Peter Wilfred Burchett, also known as Wilfred G. Burchett, was named in sworn testimony as an agent of the KGB by Yuri Visilevich Krotkov (George Karlin), who from 1946 until his defection in 1963 was a KGB officer assigned to subverting Western journalists and later to entrapping Western diplomats in Moscow.

Karlin described in his testimony before the Senate Internal Security Subcommittee in November 1969, how shortly after his "cooptation" into the KGB he was assigned to Berlin under the very thin cover of being a writer for the Soviet Informational Bureau (now renamed Novesty). He told how he was assigned to act as a "coat-trailer" hoping to be recruited by the British intelligence service, clearly designed to be the start of a KGB double agent career.

Burchett, whom Karlin described as a highly intelligent man, clearly surmised Karlin's role as an espionage agent of the Soviet secret police. For as Karlin testified, after a visit to the German rocket center at Peenemunde on a tour for Western journalists Karlin conducted, Burchett went out of his way to tell Karlin that a British Government official had asked him what he had seen at Peenemunde. Said Karlin:

> That's a man who wants to sell himself. He was looking for a buyer too.

Karlin then reported Burchett's overtures to his superiors in the KGB: Overtures that included Burchett's father, then visiting Berlin from Australia, proclaiming his own Communist views to Karlin so that "it would be easier for Peter." Karlin was then assigned elsewhere.

Following these 1947 overtures to the Soviet KGB secret police, Burchett covered the trial of Cardinal Mindszenty in Hungary. Looking back on his "free lance" work there, Burchett boasted:

> It completely knocked out the rubbish about tortures, drugs and extracted confessions and showed the Cardinal for the miserable, intriguing, ambitious little man he was.

Following his service in Budapest, Burchett moved on by way of Australia, where he did a little disarmament propaganda for the Soviet Union's international psychological warfare apparatus, the World Peace Council, to Peking and thence to North Korea where in 1952 he was a member of a joint Chinese-Korean Communist interrogation team which extracted phoney germ warfare confessions from U.S. POW's.

In 1956, Burchett again met with Karlin, this time in Moscow. Burchett, whose Australian passport had been denied after his activities in North Korea, was traveling on documents provided by the North Vietnamese Communists.

As set forth in Karlin's testimony, Burchett informed Karlin that he was a member of the secret Australian Communist Party underground. Burchett further informed him that when he had been in the People's Republic of China and North Korea as a "free lance" writer:

> He was supplied, he was paid by the Chinese Communist Party all that period. Then when he came to Vietnam * * * all his expenses were paid by the Vietnamese Communist Party, by Ho Chi Minh.

Burchett boasted of his close personal relationships with Chinese Premier Chou En-lai and with Vietnamese Communist boss Ho Chi Minh and said:

> That Ho gave him a house in Hanoi, and a car, a secretary, that he was "equipped" very beautifully by the Vietnamese Communist Party.

Burchett then proposed that he move to Moscow and act "in the same position as he was in China and in Vietnam. In other words, to be a free lance correspondent, representing the American newspaper 'National Guardian.'" The House Committee on Un-American Activities characterized the National Guardian in 1956 as having "manifested itself from the beginning as a virtual official propaganda arm of Soviet Russia." Now renamed the Guardian, the newspaper states its purpose is "to assist in bringing to birth a new revolutionary political party, based on the working class, armed with the science of Marxism-Leninism, committed to Socialist revolution." A national political organization in addition to a publication, the Guardian specializes in promoting Marxist-Leninist terrorist movements in the Third World and in publicizing the new Communist regimes in Angola, Mozambique, Vietnam, Laos, and Cambodia, as well as North Korea. Despite its alinement with the Soviet-sponsored Third World Communist forces, the Guardian attempts to keep open channels of communication with the People's Republic of China.

Burchett told Karlin that even with "accreditation" from the U.S. Communist newspaper, money would still be a problem, and asked to be paid by the Soviet Communist Party. Representatives of the Australian Communist Party then in Moscow for the Soviet Communist Party Congress were asked by Burchett to intervene on his behalf with Soviet officials. The KGB then supplied Burchett with a large luxury apartment during his Moscow residency.

Karlin further testified that in Moscow, Wilfred Burchett has a close relationship with Col. Borodin Barsegov, then head of the special KGB department responsible for subversion of foreign correspondents in Moscow.

Burchett's Moscow "case officer" was identified by Karlin as a "top rank KGB man" named Victor Alexandrevich Kartzev who was using the alias Victor Karev.

In November 1974, Wilfred Burchett lost a libel suit he had brought in Australia's supreme court in which he challenged the charges that he had been a Soviet KGB agent made by Karlin in sworn testimony which had been brought to the attention of the Australian Senate and then republished in a magazine. The trial lasted 10 days.

During the trial the defense brought out dramatic proof from former Korean war POW's that Burchett was a Communist agent who had participated in extorting germ warfare confessions. Karlin restated his charges in an affidavit; and a former North Vietnamese officer and a South Vietnamese former Vietcong officer both gave testimony as to their personal knowledge of Burchett's activities as an adviser to the Communists' propaganda and psychological warfare efforts.

Although Burchett denied that he had participated in brainwashing, torture of interrogations of allied prisoners, his evidence was contradictory and in several instances obviously false. He repeatedly denied that he had ever been paid by the Soviet, Red Chinese or North Vietnamese governments or that he had acted as an espionage agent. But there is no indication that Burchett was asked whether he was paid by the Communist parties of the U.S.S.R., Peoples' Republic of China, North Vietnam, Cuba or Iron Curtain countries acting as surrogate paymasters for their official governmental spy apparatus. Nor was he asked about his acting as a propaganda agent or "agent of influence."

The jury took less than 4 hours to find against Wilfred Burchett and to order him to pay the $100.000 cost of the trial.

At the time of the libel trial, when Australia's Government was controlled by an anti-U.S. Marxist social democratic party, Australia returned his passport to Burchett. It was suggested that if he won his libel action, Burchett could become the Australian Government's "roving ambassador in the Communist world" with the goal of healing the split between Moscow and Peking—one of Burchett's ambitions.

Burchett did not clear his name; the radical leftist government in Australia

was defeated in subsequent elections; and such an ambassadorship for Burchett is now out of the question. However, his ambition to reconcile Moscow and Peking remains and is reflected in the composition of the "Support Committee" formed to sponsor his American tour which reflects all points of the leftist ideological spectrum from the "willing dupes" through Maoists and Castroites to Moscow's détente-conscious camp followers.

Cosponsors of the Wilfred Burchett Support Committee, 33 West 17th Street, New York, N.Y. 10011 (212/691-0404) include Mia Adjali, Frances Beal, Norma Becker, Noam Chomsky, Ossie Davis, Ruby Dee, Dave Dellinger, Dick Gregory, William Kunstler, Corliss Lamont, Erwin Salk, Sidney Lens, Ruth Meyers, Beatrice Milwe, Sidney Milwe, Sidney Peck, Irwin Silber, Jack D. Spiegel, Amy Swerdlow, Cora Weiss, and Howard Zinn. Coordinators of the group are Guardian staffers Naseem Jamali and Abe Weisburd.

In 1969 and 1971 when Burchett was in the United States, he was issued with a restricted visa to cover the United Nations which limited his lawful travel to a 25-mile radius of New York City. This year, Burchett will be free to travel at will. His itinerary will take him to New York City, October 21; Buffalo, October 23; Chicago, October 28; Seattle, November 3; San Francisco, November 4; Los Angeles, November 11; and Boston, November 18. He will also lecture at Columbia University, Weselyan University, the University of Michigan, Harvard, Yale, and other colleges.

For his triumphal venture onto the U.S. leftist and collegiate lecture circuit, his visit to be made on an Australian passport reissued this summer in Paris, Burchett is being hailed by his Support Committee promoters as "one of the world's most respected and most knowledgeable journalists."

Apparently this version of Burchett's career is behind the White House's intervention to make his tour possible. According to Support Committee coordinator Naseem Jamli, there were initial delays in obtaining a visa for Burchett. But then "we went to the White House and when they heard of the roadblocks they went out of their way to help." Jamali would not say who went to the White House or who in the White House went out of their way to aid identified KGB agent Burchett. The State Department denied any official White House involvement.

In his most recent book, "Grasshoppers and Elephants," Burchett has written with great satisfaction of "the total defeat—by superior intelligence and morale—of the United States in every field: military, political, diplomatic, and psychological" in Vietnam. He can now claim yet another victory.

This paid agent of the Communists and propagandist for their terrorist forces in the Third World could have been excluded from this country had Congressman JOHN ASHBROOK's antiterrorism bill been reported out by the Judiciary Committee. Yet the Judiciary Committee has taken no action on this vitally needed legislation. Wilfred Burchett's entry is yet another glaring example of why the House needs a full Internal Security Committee which would develop necessary legislation to cope with terrorist and subversive threats.

A TRIBUTE TO MR. THOMAS C. LAWLER

HON. HERBERT E. HARRIS II

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 18, 1977

Mr. HARRIS. Mr. Speaker, I would like to take this opportunity to share with my colleagues the outstanding tribute that was given to one of my constituents, Mr. Thomas C. Lawler, in a recent issue of Our Sunday Visitor. Mr. Lawler is a member of St. Rita's Catholic Church in Alexandria, Va. The text of the article follows:

THE MAN WHO DID SOMETHING

Tom Lawler was like a lot of other people these days. He didn't like the way religion was being taught. He talked about it with friends, said someone should get out a good, solid Catholic catechism for adults. His friends said it was true, someone ought to do something about it, and they suggested maybe he ought to do something about it himself.

So Tom, who had been talking about it with his brother, Capuchin Fr. Ronald Lawler, and Fr. Donald Wuerl, did something. Not by himself but with Father Wuerl and Father Lawler.

They got together in late August, 1973, and the three of them spent a couple of days, outlining what needed to be done, deciding on the general approach that should be taken, deciding who they would call on to carry out the work with them. By the first day of January, 1974, they were ready to begin.

From this start came "The Teaching of Christ: A Catholic Catechism for Adults." The editors brought to the task some of the top people in the Church and the work has been praised by a cross section of the Church from Archbishop Joseph L. Bernardin, president of the National Conference of Catholic Bishops, to Fr. Andrew Greeley, the Chicago priest-sociologist who doesn't offer praise easily.

For Tom Lawler it was a high point in a dedication to Catholic learning he's carried on for a quarter of a century. It led to his decision to give his full time to Catholic religious education, and last month he became director of the Department of Religious Education in the Diocese of Arlington, working with his old friend, Bishop Thomas Welch, and under the direction of Msgr. Richard J. Burke, chancellor and director of Catholic education for the Diocese of Arlington.

Thomas Comerford Lawler was born Dec. 19, 1920, in Cumberland, Md., the first son and the third of the six children of Leo Thomas and Lillian Laing Lawler. The father of the family was an electrical engineer.

The six children were Mrs. Mary Busch, who lives in Bethesda, Md.; Lillian-Marie Lawler, no longer living; Thomas Comerford Lawler, whose middle name was the maiden name of his father's mother; Mrs. Frances Laing Baker, Cumberland; Fr. Ronald Lawler, a Capuchin priest who teaches philosophy at Catholic University, and the youngest, Albert J. Lawler, who lives in Cumberland.

Tom Lawler began his elementary school work at SS. Peter and Paul school in Cumberland, and went to LaSalle Institute in Cumberland for the seventh and eighth grades.

When he was ready for high school he decided to go to the minor seminary and enrolled at the Cauchin's St. Fidelis school at Herman, Pa. There he wrote for the school paper, worked on the school annual and played the trumpet in the school band. He graduated summa cum laude and gave the valedictory address in Latin. Although Tom has become a recognized scholar, written books that would qualify as doctoral dissertations, his formal education ended in 1940 with his graduation from St. Fidelis.

He realized then he did not have a vocation to the priesthood and he returned to his hometown, took a job with Celanese there. That was a brief period, for the United States entered World War II the next year and a few months later Tom was in the Army.

He graduated from Officer Candidate School, was commissioned an officer in the Corps of Engineers, served the next four years both in the European Theater of Operations and the Pacific, his last assignment being in Okinawa. He ended his service years as a captain in 1946.

He returned to Cumberland and Celanese, but in 1949 he became a civilian instructor for the Army Engineers at Fort Belvoir, Va. In Cumberland he had met Patricia Fullerton, a newspaperwoman with the Cumberland Daily News and the daughter of Max Fullerton, the Associated Press bureau chief in Baltimore.

They were married Sept. 16, 1950, with Fr. Austin Murphy, now auxiliary bishop of Baltimore, as the priest who witnessed their marriage.

The next year Tom entered the Central Intelligence Agency where he remained until a few months ago. Those years are, by the nature of intelligence service, confidential and Tom, as all involved in intelligence work, is pledged not to speak of them publicly.

But those were years in which he delved deeply into theology. In 1952 he completed a work: "St. Augustine: Sermon and Letters," which became a volume in the series, Ancient Christian Writers. He also contributed another in this series, "The Letters of St. Jerome." He is today with the famed Msgr. Johannes Quasten of Catholic University, the co-editor of Ancient Christian Writers.

He wrote frequently for Homiletic and Pastoral Review, the Catholic Educational Review, the Josephinum Review, and was a contributor to the New Catholic Encyclopedia. Through his scholarly contributions he received the only degree he holds—an honorary doctorate of Humane Letters from St. Joseph's College.

He and his wife, Patricia, have three children: Peter Augustine, who is completing his doctoral dissertation in political theory at the University of Virginia. Thomas Aquin, who works with the federal reserve bank in Richmond and is completing graduate studies in economics, and Gregory Francis, a graduate student in mathematics at Princeton.

His only hobbies are reading and studying. Ruddy-complexioned, he is 5-10, weighs 170 pounds, has green eyes and brown hair showing some gray.

THE OPTICAL DELUSION—PARTS IV AND V

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 18, 1977

Mr. BIAGGI. Mr. Speaker, I am pleased to insert the final two articles in the major investigative series in the New York Daily News dealing with the retail eyeglass industry.

Part IV is a discussion of various State laws regulating the eyeglass industry. The article discusses the ineffectiveness of these laws especially those in New York State. The Federal Trade Commission in the near future is expected to hand down new rules relative to the eyeglass industry. State and Federal agencies have a responsibility to the consumer to enforce laws which are for their protection. The extent to which Americans have been exploited by the eyeglass industry certainly merits a concerned response by State and Federal lawmakers and agencies.

Part V is donated to giving consumers practical tips with respect to obtaining eye examinations and purchasing eyeglasses.

I commend the Daily News and especially the main author of these series, William Sherman for an outstanding eye examinations and the purchase of eyeglass equipment. Consumers should be grateful for these important guides.

I commend the Daily News and especially the main author of the series, William Sherman. They have performed an exemplary public service in the completion of this outstanding and informative series. The quality of a newspaper is measured by the degree to which it serves its readers. The Daily News series will result in many thousands of American consumers being less vulnerable to the ripoffs which pervade the retail eyeglass industry.

Parts IV and V of the optical delusion follow:

How To Buy Glasses With Your Eyes Open

(By William Sherman)

You can buy a $15,000 pair of glasses with diamond and ruby studded frames and cool blue-tinted lenses on Fifth Ave., or you can take the IND subway down to Delancey St. on the lower East Side and pick up a plain pair for $15.

It's possible you will see better with the $15 pair, for it all depends on the examination and the workmanship in filling the prescription.

But it also depends on you—how you choose the frame and the lenses, whether you make sure the examination is thorough and whether you insist that the glasses you get meet the proper specifications at the right price.

In effect, your eyes are in your hands.

According to Jan Dorman, executive director of the New York State Optometric Association, "the ophthalmic industry is almost totally unregulated and without standards."

And today, much of the retailer's emphasis in this $4.2 billion-a-year industry is on selling what they call high-fashion frames and lenses. There are sexy salesgirls to wait on you in boutiques filled with stereo sounds. And there is same-day service.

There are glasses to keep the sun out, match your hair, change the color of your eyes, and the ads promise you transformation into a range of personalities from a whacked-out rock-and-roll star to a menacing Mafia hit-man.

You will drip sophistication, the ads implicitly promise women. Men, the ads subtly trumpet, you will seem more masculine, jazzier. And for both sexes, there are contact lenses which eliminate the "four-eyes" look altogether.

The transformation of the industry into its present go-go state has its roots in the common belief that people don't look as good with frames and glass on their faces.

"Men seldom make passes at girls who wear glasses," humorist Dorothy Parker wrote.

And the industry changed.

But with all of today's powerful hype, one element has been forgotten, a News investigation disclosed. That is: medically proper glasses, glasses that fit and help you see correctly.

Most people don't know what that means and the business of buying glasses is an impenetrable mystery. It can, however, be cleared up.

First, there is the aspect of price. Most lenses are plastic and most are "stock," prefabricated to a whole range of prescriptions and ready to be edged and slipped into frames with no special grinding.

About 80% of the lenses sold in America are manufactured by two companies, Bausch and Lomb and the American Optical Co. They compete with each other to get retailers' business. The quality of production from both houses is excellent and the process of making lenses is automated.

Most lenses a retailer buys for sale to the public are single-vision lenses. Most cost under $7 wholesale. Bifocal and trifocal lenses need special grinding at laboratories and usually have a wholesale price tag of about $18.

Before the lenses are sold to you, they are marked up in price by retailers, but there is no reason why you shouldn't be able to get a perfectly good pair of single-vision lenses for under $25, even with the markup. But you have to shop around and compare prices. You won't find them in the newspaper because of statutory prohibitions against optometric price advertising.

Contact lenses are another story. Fitting and prescribing these lenses is a complicated business, so most of what you're paying for is the retailer's dispensing fee.

Surveys by the Federal Trade Commission disclose that most contact lenses wholesale for under $50, but the average price paid by customers is over $200 and goes as high as $300.

Here again, shop around for prices, but beware of several things; nobody has yet perfected soft contact lenses that accurately correct for astigmatism and are comfortable.

Also, the fitting is very crucial and takes a lot of time. That fit should be checked several times by an optometrist or ophthalmologist.

If you're smart, say optometrists at the State University of New York's Optometric Center, you'll make sure the contacts come with a guarantee and can be returned at no cost to correct imperfections. It costs more, but it's worth it in the long run.

The next item is pricing frames and here there is great variation, both in the price at different stores for the same frame and the prices for different frames.

However, optometrists at the university center say you can buy a good serviceable frame for under $22. There will be a markup from the wholesale cost.

In New York City it's especially important to comparison-shop. One News reporter visited 20 retail stores in Manhattan and got 18 different prices for a frame that wholesaled for $11.60. The prices she was quoted ranged from $22 to $48.50.

Obviously, you will buy the frames and lenses at the same store, but it's a good idea to know the price of both. Don't be embarrassed to ask the retailer what he paid for them. Check his catalogues for a selection. If he doesn't have the frame you want in his store, he can always order it. There are 45 major frame manufacturers in the United States all anxious to sell their wares.

So unless you're going in for something fancy, you should be able to buy an excellent pair of glasses for under $40. Tinting lenses is extra, but again, if you shop around that shouldn't cost you more than another $10.

However, that pair of glasses won't do you a bit of good unless it accurately corrects your vision problem and fits properly. If it doesn't, you're throwing your money away.

There are several steps to insure that you get the right pair of glasses. All involve a certain amount of trust in the retailer, but if you know the right steps, you can ask the right questions which gives you some insurance.

First is the examination. There are choices here. You can go to an ophthalmologist, a medical doctor with advanced training in the care and treatment of the eye, or an optometrist, who cannot treat disease, but has four years special training in optometry in addition to a college degree. An ophthalmologist will be more expensive, but it's up to you.

When the tests are over, you have another choice: where to get your prescription filled. Most opthalmologists don't sell glasses, they only prescribe; most optometrists do sell glasses. But you can also buy your glasses from an optician, a man licensed only to fill prescriptions and check the fit of resulting glasses. Again, it's up to you, although some optometrists will charge you extra for an examination if you don't buy your glasses from them.

At this point, you select the frames and lenses. If your optometrist or optician tells you a particular frame or size lens is no good for your prescription or the size of your head, listen to him.

In choosing lenses, say optometrists at the university center, you should avoid orange, blue and red tints. They only tend to distort colors and have nothing but a cosmetic effect. They cannot be used as sunglasses. Neither can gray-tinted lenses.

If you buy your glasses from the same person who prescribed them, ask for an itemized bill. You ought to know what you're paying for and shouldn't settle for a line like, "It's all included in the total package".

Always ask for a copy of your prescription. It must be provided under state law and it's your only way of knowing whether the resulting glasses meet the specifications written down.

Some optometrists may be reluctant to give you this copy. For whatever reasons they cite, their basic thrust is they don't want anybody else to make money on filling the prescription.

When the prescription is filled and you've got the glasses in hand, you're at another critical juncture. The glasses must be checked against the prescription that was written to make sure they match. If the glasses don't, they're incorrect.

Ask to have the glasses checked for the following:

To see if the prescription of the lenses matches the prescription written. This is a simple procedure that shouldn't take more than five minutes. It involves placing the glasses under a lensometer, a calibrated device that looks like a long microscope. It provides a readout of the prescription.

The distance between the otpical centers of the lenses should match the distance between the pupils, or centers of your eyes. This takes less than a minute and involves only placing a ruler to your eyes and a ruler to the glasses.

In bifocals, the segment heights should be measured.

The length of the temple pieces and the front should also be measured.

You should look at the glasses to make sure there are no pocks or dents in the frame resulting from overheating the frame while slipping the lenses in.

You should look for any imperfections in the lenses including any flecks, bubbles, scratches or pits.

When you put the glasses on, make sure they don't slip down your nose, not even with a little bit of a tug. The frame shouldn't fit too tightly against the side of your head and you shouldn't feel any squeeze against your nose.

If it all checks out correctly, you've got a good pair of glasses. If there's a problem, ask to have it fixed.

EXAMINING YOUR EYE EXAM

Every expert in the ophthalmic field says that a thorough eye examination is a crucial component for prescribing accurate glasses or contact lenses that will correct your vision problem.

And it should take no less than 30 minutes, especially if it's your first visit to a particular practitioner, according to optometrists at the State University of New York's Optometric Center.

"It is impossible to do a decent examination in less time," says Alden Haffner, president of the center, "and if it's a good examination on the first visit it should take 45 minutes."

Haffner and other optometrists at the center believe that every person with vision problems should know what makes up a proper examination.

Here are the basic steps:

A case history or account of your vision problems. This should take about five minutes.

A test for glaucoma. It takes two minutes at the most with proper equipment and it is done by measuring the pressure of the fluid in your eye. High pressure is an indication of glaucoma.

Binocularity tests: This is a 10-minute battery of tests to see how well your eyes work as a team, whether they "see" on the same planes.

Visual acuity exam: A familiar test usually done by asking you to read a series of letters at a particular angle at a particular distance. It helps determine whether you are nearsighted or farsighted. Usually this takes about three minutes.

Examination for internal or external defects: A detailed look at the visible structures of your eyes including the retina, cornea and eyelids. This should take from five to eight minutes.

The subjective examination: A series of tests where the practitioner slips trial lenses into a device, asks you to look through the lenses at a chart and determines, through trial, what type of corrective lenses will help you most. It also helps determine whether you're nearsighted or farsighted. This should take from seven to 10 minutes.

A retinoscope test: This is an objective verification of your own choice of the best lenses. It is done by an examination of how light is received by your eye. This should take about two minutes.

Optical centers: The distance between the centers of your eyes should be measured so that the resulting lenses in glasses will match that distance. Should not take more than 30 seconds and is done with a ruler.

A look at your old glasses: This should be done only after all the other tests are completed and it is only a check to see if your prescription has changed.

NEED HELP?

If you're having problems with your glasses; if they don't fit correctly, or you're getting headaches, or you're not seeing well, the first thing to do is bring them back to the place you bought them and have them checked.

If you don't get satisfaction there, or you believe you were cheated on the price or other services, there are several agencies that will hear your problem and possibly solve it.

Optometrists and opticians are licensed by the State Education Department. Complaints against those professionals should be taken to the Division of Professional Conduct, State Department of Education, 261 Madison Ave., New York City. Their telephone number: 687-3513.

The New York State Optometric Association is a professional fraternal organization of optometrists that also hears complaints:

Bureau of Optometric Consumer Affairs, 90 Swan St., Albany, N.Y. 12210.

And they've set up a consumer "hot line" with a toll-free number: 800-342-9836.

HOW EYEGLASS LAWS KEEP YOU IN THE DARK

(By William Sherman)

With an eye on self-protection, the eyeglass industry has seen to it that the regulation of the business is by the retailer and for the retailer. The person who wears glasses is usually the last factor considered.

In nearly every state, including New York, the practice of optometry is regulated by appointed boards totally dominated by professionals from the business. The net effect is that eyeglass prices are kept high and consumer control and education is kept at a minimum.

In much the same way as doctors, lawyers, certified public accountants and pharmacists run their professions, so do optometrists and opticians regulate the merchandising and practice of eye care, from setting standards to penalizing those who break the rules.

These rules, established over the years by industry professionals and enacted into the state education laws by legislatures, are generally full of loopholes.

For example, in states such as Oklahoma, a person doesn't have the right to a copy of his eyeglass prescription. As a result, in those states you cannot buy your glasses from anyone except the person who examined your eyes.

In some states like Michigan, a customer must be given his prescription upon request, but local optometric associations advise members to resist such demands.

Federal Trade Commission surveys show that in areas of Kansas and Mississippi, optometrists reluctantly give out copies of prescriptions, but charge $5 to $12.50 extra for writing them up on a blank, a process that takes 30 seconds at most. In addition, some state retailer assoications urge their members to ask patients to sign waivers of liability on their prescriptions. If the prescription is improperly filled, the retailer can't be sued.

In New York, where a prescription must be handed over on request, a News reporter had to insist on his copy at nearly every store visited. Most retailers agreed reluctantly. One store manager refused the reporter saying, "The guy who examined you is a bum. He got fired. We don't have it."

The reporter had the advantage of knowing the rules, but most people don't Federal questionnaires disclosed that most eyeglass buyers don't know the first thing about the business. For example, the majority of people in the FTC surveys believed that most lenses are made of glass, while more than 90% are made of plastic, and hardly anyone was able to explain their prescription.

Meanwhile, practitioners who break state laws, cheat customers on price, or provide sloppy service or unfit glasses usually get nothing more than a slap on the wrist. That is, if a consumer's complaint is heard at all, for the redress mechanism is slow and cumbersome.

Despite 450 complaints last year, for example, the New York State Board of Examiners in Optometry heard only four cases.

So the person buying glasses is left out of the picture. Boards of optometry in 37 states, including New York, are composed entirely of optometrists; eight states require one lay member on the board, four state boards have two consumer members and California recently passed a law requiring that three of nine members be nonprofessionals. In 46 states, there is a political connection; board members are appointed by governors.

To further confuse the situation, there are no national standards for eyeglass merchandising and optometry. This results in as many sets of rules as there are states despite the FTC's repeated pleas for uniformity.

Often, there are no laws at all. For example, there is no law requiring that a manufacturer's name be stamped on a frame. Almost every other item of commerce must be stamped or tagged—milk, television sets, clothing, automobiles, appliances and on and on, ad infinitum. But not glasses.

Empowered by the state to recommend changes in the law, hear customer complaints and recommend license revocation or other penalties for opticians and optometrists they find guilty of malpractice, these boards seem unusually timid about coming down hard on their colleagues.

In New York State, processing complaints is a complicated business. A complaint first goes to the State Board of Education, then to that board's Division of Professional Conduct and, if the case has merit, to the seven members of the Board of Examiners in Optometry. If this board finds the practitioner guilty, they can make a recommendation to the State Board of Regents, which can revoke a license or impose other penalties.

Of course, the practitioner can appeal the decision in the courts and many cases drag on for years.

"By the time a case comes up, witnesses have vanished and the case quietly dies,' said optometrist Edwin Simmons, chairman of the New York board of examiners.

In the last nine years, out of about 4,500 consumer complaints about eyeglasses, the Board of Regents took action against five optometrists. No licenses were revoked.

Four of the five optometrists were practitioners who were found guilty of violations of advertising laws or violations of criminal law in the courts such as ordering merchandise and not paying for it. The fifth, a referral from California, was a man who prescribed glasses that were unnecessary and charged for other services not rendered. His licenses in both New York and California were suspended for two years. He is appealing that decision.

New York State is not alone in the way it handles complaints against optometrists. For example, a Federal Trade Commission study of actions taken by the California Board of Optometry shows that between 1972 and 1975, 72 of the 86 disciplinary actions taken by the board concerned improper Yellow-Page advertisements by licensees.

Optometrist Edwin Simmons, chairman of the New York Board of Examiners in Optometry, said that regulating practioners is difficult because there are too few investigators to look into complaints. "The number is

scandalous," he said, "and there can't be proper and rapid investigations."

Oscar London, in charge of the investigators at the Department of Education's Division of Professional Conduct agreed. "There are only six to eight investigators to watchdog nine state-licensed professions including optometry and opthalmic dispensing." The others include speech pathology, landscape architecture, public accounting, and land surveying. "Nine hundred to a thousand cases are handled each year; about half have tc do with optometry and opthalmic dispensing. The problem is both manpower and expertise," he said.

London's unit initiates no investigations of its own, does no spot checking, and many of the cases eventually heard by the board of examiners are referrals from the courts or from other states.

"Another big problem we have," London added, "is that most of the mistakes in making glasses are errors by lab men who fill prescriptions. They're not licensed and we have no jurisdiction over them."

Jan Dorman, executive director of the State Optometric Association, a group separate from the state board, said, "There is no question New York is too lax on people who break the rules."

He added that his own association of 1,000 members expels sloppy practitioners, has peer-review procedures and recommends disciplinary action to the state board. "But what we do is just an administrative sanction," he said. "Meanwhile, there are 500 optometrists in the state who aren't members of our group and there's nothing we can do with them."

Many of those 500 belong to a rival group, the Optical Retailers' Association made up of optometrists who work in large incorporated stores. Dorman's group represents individual practitioners.

Said Dorman, "If you go to a large commercial house, who do you sue?" An optometrist works for the company. All he does is examine your eyes. If the prescription is filled wrong, you can't sue him, you've got to sue the corporation and that's more difficult."

Spokesmen for several of the large chain stores disagreed, saying that anybody with a complaint about glasses can have them looked at and fixed at no charge. They added that a corporation can be sued just as quickly as an individual.

Dorman insisted that the State Optometric Association acts to protect the consumer. "We want lay people on the state board. We have lay people on our own association board and we'd like to see people learn more about glasses. We'd like to see manufacturers' names on frames, we'd like to see commercial houses registered with the states."

Despite the statements, the loopholes are still there. And Nobel Prize-winning economist Milton Friedman has this to say about situations where the state assigns self-regulatory powers to the professions: "It almost inevitably becomes a tool in the hands of a special producer group to obtain a monopoly position at the expense of the public."

THE FRAME GAME

When somebody buys a pair of glasses, how do they know what they're buying, if they are getting their money's worth? "They don't," says Jan Dorman, executive director of the New York State Optometric Association.

Many frames have no name at all; some have "Frame/Italy" or "Frame/USA stamped on the side; some have a model name like "Captain."

But even when there is a name embossed on the frame it can be deceiving. One optometrist who testified before the FTC found the following in a frame catalogue;

Eleven frames made by 11 different companies with 11 different prices all designated on with the name "Aida" stamped on the side.

Nine "Alpha" frames made by domestic manufacturers in either metal or plastic.

Twenty-four frames named "Astro" made by 15 foreign and domestic companies.

Seventeen foreign and domestic companies that manufacture a frame called the "Apollo."

Then, there are the imitations. For example, there is a Christian Dior frame, which costs $48 wholesale, that is impossible to distinguish from copies, or "knockoffs" as they are known in the trade, that are made in Hong Kong. These Christian Dior "knockoffs" wholesale for $17.50 and retail for $50.

News reporter Kiki Levathes, who compared prices at Manhattan stores for duplicates of her Bausch and Lomb Ray Ban "Aviator" glasses, ran into several sales people who insisted that she was wearing something else.

At Sterling Optical, 795 Lexington Ave., a sales woman told her, "You're not wearing a Ray Ban frame. Listen, what you really want is a Maverick frame, or maybe a Horse frame."

Levathes had the advantage of knowing who made her frame even though it is not so marked.

Most people questioned by The News, however, didn't care who made their glasses, or never thought about it in the first place. Thirty poeple questioned said they didn't know who made their glasses, although they were able to quickly recite the manufacturer of their clothes, or car.

Many think there's no difference in frames. But a poorly made frame will not hold the lens properly for very long. The setting of the lens in relation to the eye is crucial for good vision, when it comes loose, you're not seeing properly.

Lenses are another item free of regulation, although there are two distinct grades produced, first and second quality.

A first quality lens contains no physical defects. Second quality lenses are marred either with clips, bubbles, flakes, or heat marks that are often invisible to the naked eye but can affect the prescription.

How does a customer know if he's getting a first or second quality lens in his glasses or contacts? "He doesn't," says Dorman, the executive director of the State Optometric Association. And Louis Feldman, owner of North Star Optical Co., an optical lab at 157 Chambers St., said, "Most chain stores won't throw a lens away just because there's a flake in it."

However, Alan Cohen, vice president of Cohen's Optical Co., one of the nation's largest eyeglass retailers, said, "We have to return about 10% of our frames and 20% of our lenses to the manufacturer because of minor imperfections. They replace them at no extra cost."

The president of Cohen's biggest rival, Sterling Optical Co., said something quite different. "We have returned stock—either frames or lenses—very infrequently. The last time we had a bad shipment of lenses was a couple of years ago," said Gerard J. Cevaseo.

Ironically, both Sterling and Cohen's buy their lenses and frames from the same manufacturing companies.

DEE MAGNANI: ABLE AND COMPASSIONATE LEADER OF THE ELDERLY

HON. EDWARD J. PATTEN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 18, 1977

Mr. PATTEN. Mr. Speaker, the Neighborhood Care Team Project of New Brunswick, N.J., is doing fine work for the elderly of the city, which number 6,000 persons.

Financed by a $240,000 Federal grant by CETA, this active group is providing the elderly with real help—from their legal and human rights, to a project for the winter months to be known as "Project Identification."

I know that many others are making valuable contributions to the Neighborhood Care Team, but the outstanding leader of this program is Dee Magnani, of New Brunswick, its coordinator and supervisor. Dee is remarkable in so many ways, for she is not only very able, but very compassionate. Her interest in the problems and hopes of the elderly is deep and strong and rare. She is one of my most talented and versatile constituents. I am exetrmely proud of Dee Magnani.

Recently, the Home News, of New Brunswick, N.J., published an article on the achievements of the Neighborhood Care Team, and it is hereby inserted in the CONGRESSIONAL RECORD:

[From the Home News, Oct. 3, 1977]

NEIGHBORHOOD CARE TEAM IS THERE TO SERVE ELDERLY

(By Valerie Hendy)

NEW BRUNSWICK.—Her apartment has been robbed once and she has been mugged twice on the streets of the city. She suffered minor injuries as a result of those muggings within the last three years, but Mrs. Genevieve Garcia, 71, is not bitter.

"I just want my legal rights," said Mrs. Garcia quietly at a staff meeting of the Neighborhood Care Team Project at the Joyce Kilmer House recently.

It is the legal and human rights of New Brunswick's 6,000 elderly citizens which concern the newly formed Neighborhood Care Team, according to Miss Dee Magnani, the project's coordinator and supervisor.

With a $240,000 grant from CETA, sponsored by the Community Development Agency of New Brunswick under Special Projects Title VI, Miss Magnani and her staff of 23 neighborhood workers, seek to identify and assist those senior citizens who are experiencing difficulty with public or private service agencies.

English and Spanish speaking team workers are available to help eligible elderly citizens with needs varying from disputes with unions over pensions to locating low-cost housing.

But Mis Magnani's team of young workers do not devote themselves exclusively to extricating the elderly from the crush and confusion of social service bureaucracy.

"This is an action group," Miss Magnani said, "they're out on the streets."

The project's enthusiastic team of workers, all referred to the project by Manpower, have created several news services for the aged which encompass members of the New community at large.

Joy McCracken, one of the team's block leaders, has established an escort service for the elderly.

Many of New Brunswick's senior citizens have suffered muggings similar to Mrs. Garcia's while shopping downtown.

McCracken thought that if youths who might be inclined to rob elderly people worked instead to know them and aid them, future robberies might be avoided.

Working with volunteers from the Community Youth Service Center, she said, "It might be good reinforcement for the kids." It is harder to rob someone whom you have known as a friend.

Ted Gorka and Will Bailey, both assistant block leaders, have found 25 rooms for uni-

versity students in the homes of 17 of New Brunswick's elderly citizens.

The room location program not only provides a source of revenue for persons on a fixed, low-budget income, but enables students to experience a bit of home life.

A unique dimension of the Neighborhood Care Team Project is the home maintenance program. Miss Magnani, who has worked with and for the elderly in New Jersey for the last 5 years, said she discovered many old people are unable to finance minor home repairs and care for shrubbery and lawns.

Team workers, skilled in landscaping, carpentry, plumbing, masonry and other skills, are available to make home repairs if the client supplies work materials.

Although the project workers often serve as arbiters for New Brunswick's elderly, they also assume the intensely personal role of just listening to their clients.

Mary Alexander, an assistant block leader, reported that a woman whom she'd visited recently was greatly depressed by the death of her sister.

"She's very afraid, very lonesome," said Miss Alexander.

"Can you interest her in the Senior Resource Center," asked Miss Magnani, thumbing through a book of contact people for various social agencies. "Visit her once a week. Make friends with her," Miss Magnani advised.

A project planned for the winter months will be known as "Project Identification." With the collaboration of the New Brunswick Police Department, the elderly will be able to have their Social Security numbers engraved on valuable household appliances as a deterrent to thieves. If items are stolen, the police will better be able to identify and return stolen property.

In several weeks, the Neighborhood Care Team will move into newly constructed offices on the second floor of the City Hall Annex at 155 Memorial Parkway.

Although the project has been funded for one year only, Miss Magnani and her staff are optimistic that they will be able to find sufficient funding to continue their work beyond that time. "We have found only half of New Brunswick's elderly," Miss Magnani said.

If the project's funding is not renewed, Bailey, the project's photographer said, "We've created a mechanism that can be continuous."

The project is in need of office equipment of all types and would welcome donations. If anyone you know might be in need of assistance, call the Neighborhood Care Team Project at 745-5090.

TWO VETERANS' ADMINISTRATION PHYSICIANS RECEIVE NOBEL PRIZE

HON. RAY ROBERTS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 18, 1977

Mr. ROBERTS. Mr. Speaker, as most of my colleagues know, two full-time career Veterans' Administration physicians have been awarded the 1977 Nobel Prize in medicine.

The winners are Dr. Rosalyn S. Yalow of the Bronx, N.Y. VA Hospital, and Dr. Andrew V. Schally of the New Orleans VA Hospital. The awards represent one of the few times Nobel awards have ever gone to scientists employed by the U.S. Government, and are the first ever to go to VA medical researchers.

Dr. Yalow is a senior VA medical investigator. She was awarded half the prize for her pioneering work in endocrinology, the study of glandular secretions, using the technique of radioimmunoassay which she and the late Dr. Solomon A. Berson, also of the Bronx VA Hospital, devised and introduced. She has spent her entire professional career in the Bronx VA Hospital, and has won numerous other high honors for her scientific contributions.

Dr. Yalow was the first woman to be appointed a VA senior medical investigator. She holds the rank of distinguished service professor at the Mt. Sinai School of Medicine, in addition to serving as chief of the nuclear medicine service and director of the Solomon Berson Research Laboratory at the Bronx VA Hospital.

Dr. Andrew V. Schally is the senior medical investigator at the New Orleans, La. VA Hospital. He shares the other half of the prize with Dr. Roger Guillemin of the Salk Institute. Dr. Schally and Dr. Guillemin have made many pioneering discoveries in peptide hormone chemistry. Dr. Schally has been chief of the endocrinology and polypeptide laboratory of the New Orleans VA Hospital since 1962. He holds the academic rank of professor of medicine at Tulane University School of Medicine.

Mr. Speaker, the Nobel Prize awarded for the brilliant accomplishments of Dr. Yalow and Dr. Schally is not only a tribute to two outstanding physicians, but is a great tribute as well to the Veterans' Administration and its research program. Many of us have long known that some of the best research in medicine is being conducted by physicians in VA hospitals. The $100 million annual VA research effort is, and will continue to be, a major part of the VA's total health care program. The results of the work being done by these two individuals, and all others involved in research projects within the VA are helping all mankind.

I am proud of Dr. Yalow, Dr. Schally, and all VA employees who are equally dedicated to our on-going research program within the Veterans' Administration.

THE PRESIDENT PLAYS THE POLITICS OF ENERGY

HON. OLIN E. TEAGUE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 18, 1977

Mr. TEAGUE. Mr. Speaker, today, I must address this body with a heavy heart. Without eloquence—of which I have little—or emotionalism—which I seek always to conceal—I feel that I must make known to you, my congressional colleagues, the deep sense of personal sorrow and abiding regret which I feel at this time.

Mr. President, whose office I admire above all others, has sought to achieve commendable, if ill-advised, energy goals by characterizing one of this Nation's leading economic benefactors as potential "war profiteers," and their belief in the free enterprise system as "the biggest rip-off in history."

These are not thoughtful words. Indeed, some might see them as inflammatory words. Nor do I find it possible to view them as words which properly symbolize the stature of what I and most other citizens rightfully regard as the most powerful office in the world.

It is not my purpose—nor does the need exist—to defend the record of the United States petroleum industry, even though as a Representative of the State of Texas I do profess more than a nodding acquaintance with the contributions which this industry has made to the military power and the economic might of our Nation. Nor do I desire at this time to offer specific remedies which I believe necessary to redirect and make whole the national energy program which our President has unwisely proposed and intemperately defended.

Rather, I seek today to smooth troubled waters. I should like, if it be my role, to apply a healing balm to wounds unnecessarily opened. I would, if I am able, serve as the catalyst to clarify in the minds of a confused and frustrated American people the basic issues that are at stake.

Certainly, there was much in the President's message that is good. I would be the first to agree with him that the acuteness of the Nation's energy crisis grows with each passing month. I would agree, also, with his assessment of the international implications of the United States' growing dependence on foreign oil. I would further commend his stern warnings and stalwart efforts to conserve every precious drop of petroleum that remains under the lands and waters of this Nation.

But I cannot, in good conscience, blind myself to the inadequacies of an energy program which taxes but does not serve, which costs but does not benefit, which takes and does not give. The ruggedly individualistic oilmen of this country have perceived the same woeful inadequacies in the program which the President's advisers have devised. As economic pragmatists, oilmen realize that we cannot—as a Nation—meet our growing energy demands unless capital is available for reinvestment. As technical realists, oilmen know that the President's energy program does not adequately address the important question of providing a transitional petroleum energy base until alternative sources can be realized at some point in the future.

I find that I must reject the President's spoken conclusion that pragmatism and realism equate to unconscionable profiteering. Indeed, the fiscal and economic facts and forecasts with which I am familiar lead me to a very different conclusion. I would direct your attention, first, to the behavior of oil-company stocks. If the stock market saw, as the President says he does, the potential for enormous oil-company profiteering, I believe that petroleum industry equities—as a group and as individual stocks—would be soaring despite the market's current deflated condition. Such, as you

know, is not the case. Oil stocks are down an average of 10 points or more below their levels at the beginning of this year.

I would point, second, to oil company earnings as measured by rates of return. COMPUSAT, the independent statistical service which compiles data on 900 companies whose stocks are used in the Standard & Poor's indices, shows that oil industry returns are lower than those for all manufacturing. Based on shareholder equity, COMPUSAT's group of 41 oil companies earned a rate of return last year of 13.9 percent. Based on total borrowed and invested capital, these same companies earned a rate of return of 11.2 percent last year.

I would invite your comparison of these rates of return with those for all U.S. manufacturing. Here, the rate of return on shareholder equity was 15 percent—1.1 percent higher than oil's—and the rate of return on borrowed and invested capital was 11.7 percent—or 0.5 percent higher than oil's. The earnings of the oil industry do not, to me, appear to warrant the terms the President has chosen to apply to them.

More to the point, perhaps, are forecasts by the Nation's financial and business community of what American oil companies must spend between now and 1985—the time period covered by the President's energy proposals. The facts are that, between now and 1985, the industry will need upwards of $900 billion to finance its exploration and capital expenditures programs. For these purposes, the U.S. petroleum industry is each year spending more than twice—may I repeat that, twice—its annual net profit. It is obvious to me, as I am sure it is to the Nation's oilmen, that they cannot go on indefinitely spending more than they earn. Only the Federal Government can long endure deficit spending.

The President has stated that under his proposal the oil companies of this Nation will, by 1985, have a total annual income of $100 billion. He has said, further, that the oil companies are seeking an annual income of $150 billion by 1985. Others have questioned the President's numbers, and I believe they have done so with justification. Yet today, I will not quarrel with the numbers he has used. Rather, I will suggest only that even the larger number—regardless of its reality—will be none too large if oil companies are to provide the petroleum necessary to this country's continued economic growth.

These are large numbers. They are, in fact, enormous numbers. But I would say to you that the job before us is enormous. It is not enough that we merely conserve our petroleum resources, as the President's plan has emphasized. We also must find and develop new petroleum supplies that are dependable. There is no alternative to oil supplies controlled by Americans, save that of continued and increased imports. As the President has correctly noted, our foreign oil imports will cost U.S. consumers approximately $45 billion this year. Besides the disquieting effect of this drain on our balance of payments and on the international financial situation, these are dollars that create no American jobs.

I am concerned, as I am sure the President is, that we do everything in our power to provide more jobs for more Americans. Importing additional quantities of foreign oil will not help with our achievement of this objective. Expanded exploration and production here at home will.

The President has said that additional funds will not encourage increased production of oil, but will go instead into the pockets of the oil companies. This is a particularly difficult concept for me to comprehend. As we have already seen, the money going to American oil companies today is flowing out a lot faster than it is coming in. I am at a loss to understand where the President and his advisers think this money will go if the Congress does not approve his national energy plan as submitted. I have a great many oilmen among my constituents, and I do not find them wallowing in unthinkable luxuries. Those whom I know, in fact, lead rather ordinary lives. They owe their bankers, treasure their families, and love their country.

I do not believe that the oilmen I know are "war profiteers." I do not believe that they seek to rip off the American public of which they are, in fact, an integral part. Nor, in fact, do I believe that any fact or any figure with which I am familiar can conceivably support the President's accusations. Our Nation—God bless it—has its problems, its differences of opinions, and its differing lifestyles. I, for example, do not see much in the President's energy program except one of the most massive tax measures upon which I have ever been called to vote. I do not believe that the President's energy program will do what he believes it will do.

My President and I have an honest disagreement, in principle if not in purpose. Yet both of us, I am certain, fervently wish only that which we—in our hearts—believe best for the land we both love. This is how I would prefer to characterize the dispute between the President and this Nation's petroleum industry: An honest disagreement. I do not believe that all people who disagree with the President of the United States are profiteers, or rip-off artists, or anything even remotely approaching these unfortunate and ill-chosen terms.

If the time is at hand—and I for one do not believe that it is—when we, as a people, cannot honestly and forthrightly disagree on the solutions to our problems, then I would say to you that this in itself is the gravest problem we have.

I believe that we, as a Congress and as a nation, can solve our energy problems. I believe that we have an abundance of natural resources, and the ingenuity to discover and extract them. I would urge you, my colleagues of the House, and I would urge my President: Let us put recrimination behind us. Let us disagree if we must, but let us do so as gentlemen and patriots. And above all else, let us get on with the job of building a better America.

ONE WIFE'S REVENGE

HON. GEORGE HANSEN

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 18, 1977

Mr. HANSEN. Mr. Speaker, I recently came across a rather amusing story expressing well the frustrations of American citizens toward overregulation by the Federal Government. The story is fictional and meant partly for amusement but the points intended come through loud and clear and should be useful reading to those making laws.

Therefore, I include for the RECORD the article "One Wife's Revenge," by John Brennan, which appeared in the Review of the News on September 14, 1977. The article follows:

ONE WIFE'S REVENGE

It was a lazy late summer afternoon and I was watching a rerun of Dracula on television. I calculated it was about the 276th time I had seen it. I sat there mumbling each line from the script a half second before the actors and actresses, and from time to time I ventured a sound effect. I sometimes do the same thing during Jimmy Carter press conferences.

"Isn't that the 276th time you've watched that movie?" asked my wife as she paused in her vacuuming. "Lift your feet!" She began vacuuming under them. "Look at you. You are going to be mistaken for Bert Lance if you don't get some exercise. I should think you could find something useful to do about the house."

"I'm watching this movie." I explained, "because to me Dracula represents all the government agencies who are draining us dry. Too bad there aren't more people in Congress willing to start hammering stakes."

She snorted in derision. "Always so melodramatic." The dear thing gestured toward the TV screen upon which Dracula was descending into a dark and gloomy cellar. "Look at your pal. He's going down the cellar and you can bet he's not going to get his feet wet. We've had water knee deep on the floor of our cellar since the last rainstorm and I am getting sick and tired of wearing fisherman's waders to do the laundry."

"Exactly what I was talking about," I explained as Dracula climbed into his coffin. "There is nothing we can do about water in the cellar." I went over to my desk and rifled through a stack of unpaid bills and threatening letters. "Ah, yes. Here it is."

"Here's what?"

"The letter from the Environmental Protection Agency. It seems a man went into our cellar a week ago to read the meter and it turned out he was an ardent environmentalist. He sent samples of the cellar water to E.P.A. headquarters in Washington. Now the E.P.A. has absolutely forbidden us to do anything about draining the cellar"

"And why not, pray tell?"

"There are Snail Darters in it, that's why! The very same endangered species that held up construction of that Tennessee dam for so long."

My wife is nothing if not persistent. "Then how about getting up on the roof and patching that leak by the chimney?" she said. "And don't give me the old story about not having to patch it when it's not raining, because when it is not raining it's not leaking and when it is raining, and is leaking, it's too wet to go up there."

I held my palms out in deprecation. "That's not the reason at all. If it were just up to me, I would be out on that roof with

hammer, nails, and shingles in a flash," I shrugged. "But I think of you here home alone while I am languishing in jail, and for your sake I don't go up there."

"Jail?" She stared up at the ceiling as though she could see through to the roof. "How can you get sent to jail for patching your own roof?"

"You can if a Whooping Crane has built a nest atop your chimney and is trying to hatch an egg," I explained. "Government people were here this morning while you were down cellar with the Snail Darters doing the wash. We can't even turn on the furnace until that egg hatches."

I am married to a woman ill-equipped to appreciate my need for occasional leisure, and she stood over me more determined than ever. "Then why don't you go out in the yard and do some weeding?" she demanded, pointing toward the rear of the house. "Our yard looks like a film set from The African Queen, and I think I saw the Reverend Clennon Ryan prowling through the brush before dawn yesterday morning looking for benighted savages."

"That was probably the man from the National Park Service," I answered. "He says the Service has been checking land titles here and our back yard has been designated as conservation land. He handed me this." I extracted a paper from my wallet; a court order. "From now on our back yard is going to be forever wild."

"Forever wild?"

"That's right. I signed a paper agreeing never to cut the grass, plant flowers or vegetables, slap mosquitoes, or do anything that will change our back yard from its original primitive state."

"You never did anyway," snorted my wife, "except to plant that Kudzu vine." She rolled her beautiful hazel eyes. "What an idea that was. Somewhere out in that jungle you call a yard is a 1949 Edsel station wagon which may be worth a lot of money and we can't even find it!"

"Probably wouldn't meet the Clean Air standards anyway," I muttered.

"Well, if you can't drain the cellar, shingle the roof, or clean the yard, you can at least start painting the house. The old paint is so cracked and blistered an alligator came up out of the swamp in the side yard yesterday thinking it had found its mother."

"Paint the house for the Indians? I really don't want to spend money and effort painting a house we are going to have to hand over to those red devils."

"What are you talking about?"

"The Welfarin tribe has a suit in Federal Court claiming the land this house is built on was taken from them illegally in 1810 by an ancestor of mine. There's a good chance we will be tossed out of here on our ears."

The dear thing was on the ropes.

"You men are just hopeless," she exclaimed. "I know you get worn out fighting foolish government regulations down at the factory, but you should have some energy left to fight them here on the home front." She struck a Shakespearean pose. "I'm sure I could handle these situations," she said, "if only I were a modern, liberated woman."

"You may get your chance!" I warned. "That car in front of the house, the one with the air bags bulging out the windows. See what it says on the side: "O.S.H.A. U.S. Government!' "

"The Occupational Safety and Health Administration!" exclaimed my wife. "Something must be wrong at the factory. Don't let anyone in until I get rid of you-know-what in the kitchen."

The doorbell jangled. "O.S.H.A.! It's O.S.H.A. Open up!'

"You can't come in!" I bellowed, bracing my shoulder against the door. I pressed against it until I heard the garbage disposer begin to grind. Mother was dumping the last of our supply of apricot pits down the drain. When I heard the disposer stop grinding I gave the door a final shove and landed on the front lawn. I had forgotten it opened outward.

"Better get that door fixed," sneered the Oshacrat, making a notation in his notebook with a stubby pencil.

"How'd you like to get your nose fixed?" I growled, getting to my feet and brushing various biodegradable substances from my shirt and trousers. "A man's home is his castle. You can plague me down at the factory, but you can't come into my home without a warrant from the court."

"Then read this," crowed the Oshacrat. "We have evidence that on the Fourth of July you held a company picnic for your employees and that your wife made the potato salad right here in this house. According to law, that makes this house part of the factory and I can come in here and inspect. I'm referring to Section 8(a) of Public Law 91-596, which has already been upheld by the 10th Circuit Court of Appeals."

"Section Eight? Who mentioned Section Eight?" My wife appeared in the kitchen doorway. "Does this mean the Navy wants Uncle Jimmy back?"

"No," I explained. "It's not the old Section Eight by which the Army, Navy, and Marines discharged their kooks. This is Section Eight of the O.S.H.A. Act, and I'm afraid you'll have to let him see your kitchen."

My wife was simmering like soup on the stove as the agent brushed by her.

"Quick," I hissed. "Now is your chance. Deal with this fellow with your wiles, your intuition, your intellect. Be Portia. Be a second Eleanor Roosevelt if you have to."

The Oshacrat spun around the kitchen leaving tiny heel marks on the floor.

"Quick," I continued. "Do what you are going to do before it is too late." But my wife just stood and watched and listened like a bird before a snake.

"Is this really the kitchen?" sneered the Oshacrat. "I think I may have arrived too late." He whipped out his notebook. "I see waxy yellow build-up on the floor!" He picked up a plate. "And I can't see myself in the china." He took a glass from the dishwasher. "And *this* is all filmy and spotted."

My wife was making small burbling noises not unlike those heard on the slopes of Vesuvius prior to an eruption. But the agent danced over to us, reached out, and grabbed my shirt. "And you, sir, having ring around the collar!"

My bride's punch caught the Oshacrat on the side of the ear and sent him spinning down the front hall and out the door onto the front walk. He lay their motionless for a moment until the family aardvark came up and nuzzled him. Awakening at last, he took one last look at my wife standing in the open doorway and fled.

"So that's how you'd deal with them," I said in amazement. "That wasn't the way I would have handled it at all."

"You do it your way; I'll do it my way," replied my newly liberated woman. She dusted her knuckles on the sleeve of her dress, smiled sweetly, and headed for the cellar in her fisherman's waders.

SELECT COMMITTEE ON THE COMMITTEE SYSTEM

HON. JOHN B. ANDERSON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 18, 1977

Mr. ANDERSON of Illinois. Mr. Speaker, today I am joining with six of my colleagues from the Republican leadership in introducing a resolution to create a Select Committee on the Committee System. It is our strong feeling that this recommendation of the Obey Commission should be passed by the House in this session so that the select committee can report back its recommendations for House consideration and action next session.

At this point in the RECORD, Mr. Speaker, I insert the joint release issued by the cosponsors of the resolution along with the text of the resolution. We will be circulating a "Dear Colleague" letter to all House Members tomorrow inviting their cosponsorship of this resolution:

HOUSE GOP LEADERS URGE COMMITTEE OVERHAUL

WASHINGTON, D.C.—A group of House Republican leaders today introduced a resolution to create a Select Committee on the Committee System to make recommendations for overhauling the outdated and overlapping committee structure of the House.

The resolution is nearly identical to a provision contained in a resolution proposed by the House Commission on Administrative Review chaired by Rep. David Obey (D-Wis.). The Obey Commission's resolution was shelved by the House on October 12, 1977, on a procedural vote. In introducing today's resolution to revive the select committee proposal, the House Republican leaders issued the following joint statement:

"While we support many of the provisions of the Obey Commission resolution, we think the House must take priority action on the proposal to create a select committee to study and make recommendations on our tangled committee jurisdictions and the proliferation of subcommittees and committee staff. We are appalled, for instance, that over the last decade the number of subcommittees has increased from 106 to 144 and committee staff has increased from 182 to 1,674, and yet in the process there has been no comprehensive attempt to rationalize committee jurisdictions. All this has produced an overload on the sytem and Members' time and has greatly exacerbated conflicts between committees.

"While a Select Committee on Committee Reform in the 94th Congress made a noble and constructive attempt to reverse this trend, its efforts were unfortunately undermined by a Democratic Caucus substitute that left present jurisdictions virtually intact. We think a renewed effort to overhaul the committee structure can succeed in this Congress due to the infusion of New Members and the growing frustration over jurisdictional disputes.

Under the GOP proposal, the select committee would be comprised of seven Democrats and six Republicans and would report back to the House by July 1, 1978. Cosponsoring the resolution are: Rep. John J. Rhodes, Minority Leader; Rep. Robert H. Michel, Minority Whip; Rep. John B. Anderson, Republican Conference Chairman; Rep. Del Clawson, Republican Policy Committee Chairman; Rep. Bill Frenzel, Republican Research Committee Chairman; Rep. Larry Coughlin, Republican Reform Task Force Chairman; and Rep. Trent Lott, ranking Republican on the Rules Committee's Subcommittee on the Rules and Organization of the House.

H. Res. —

Resolved, That there is hereby established in the House of Representatives a select committee to be known as the Select Committee on the Committee System (hereinafter referred to as the "select committee").

FUNCTIONS

SEC. 102. The select committee is authorized and directed to conduct a thorough and complete study with respect to the operation and implementation of Rules X and XI of the Rules of the House of Representatives including committee structure of the House, the number and optimum size of committees, the appropriate committee and subcommittee assignments per Member, their jurisdiction, the number of subcommittees, committee rules and procedures, media coverage of meetings, staffing, space, equipment, and other committee facilities.

APPOINTMENT AND MEMBERSHIP

SEC. 103. (a) The select committee shall be composed of thirteen Members, not more than seven of whom shall be of the same political party, who shall be appointed by the Speaker, one of whom he shall designate as chairman.

(b) Any vacancy occurring in the membership of the select committee shall be filled in the same manner in which the original appointment was made.

(c) For purposes of this section, the term "Members" shall mean any Representative in, or Delegate or Resident Commissioner to, the House of Representatives.

AUTHORITY AND PROCEDURES

SEC. 104. (a) For the purposes of this resolution, the select committee or any subcommittee thereof is authorized to sit and act during sessions of the House and during the present Congress at such times and places whether or not the House has recessed or adjourned.

(b) The provisions of clauses 1, 2, and 3 of Rule XI of the Rules of the House of Representatives, except the provisions of clause 2(m) relating to subpena power and clause 2(i), shall apply to the select committee.

(c) The majority of the Members of the select committee shall constitute a quorum for the transaction of business, except that two or more shall constitute a quorum for the purposes of taking testimony.

ADMINISTRATIVE PROVISIONS

SEC. 105. (a) Subject to the adoption of expense resolutions required by clause 5 of Rule XI of the Rules of the House of Representatives, the select committee may incur expenses in connection with its duties under this resolution.

(b) In carrying out its functions under this resolution, the select committee is authorized—

(1) to appoint, either on a permanent basis or as experts or consultants, such staff as the select committee considers necessary;

(2) to prescribe the duties and responsibilities of such staff;

(3) to fix the compensation of such staff at a single per annum gross rate which does not exceed the highest rate of basic pay, as in effect from time to time, of level V of the Executive Schedule in section 5316 of title 5, United States Code; and

(4) to terminate the employment of any such staff as the select committee considers appropriate.

(c) The select committee and all authority granted in this title shall expire sixty days after the filing of the report of the select committee with the House.

REPORT AND RECORDS

SEC. 106. (a) The select committee shall report to the House as soon as practicable during the present Congress, but not later than July 1, 1978, the results of its study, together with such recommendations as it deems advisable.

(b) Any such report which is made when the House is not in session shall be filed with the Clerk of the House.

(c) The records, files, and materials of the select committee shall be transferred to the Committee on Rules.

THINK "POSITIVE"?

HON. JOHN J. RHODES

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 18, 1977

Mr. RHODES. Mr. Speaker, for years those of us in the Congress who have expressed concern over the continuing growth of the Federal Government often have been characterized in the news media as being "negative" while those who support the expansion of Government are pictured as being "positive" and "for the people."

The editor's page of the October 17, 1977, issue of U.S. News & World Report carries an essay by Warren T. Brookes, which eloquently and cogently describes the true impact on the American people of the continuing expansion of central government, and ask who really is "positive" and "for the people."

I commend this essay to my colleagues and ask that it be placed in the RECORD:

THINK "POSITIVE"?

(The following is an eloquent commentary on big government written recently by Warren T. Brookes in the Boston Herald American. With their permission, excerpts are reprinted here.—Marvin Stone, Editor)

During the past few years, it has become fashionable in the media, generally, to refer to any politician who votes against major spending programs as "negative," or "lacking in compassion."

Similarly, politicians who regularly vote for vast government social enterprises are regarded as "positive" or "compassionate" or "liberal" (i.e. "for the people").

What is "positive" about a government that runs annual deficits of over 60 billion dollars—and prints money to finance them?

What is "positive" or "compassionate" about a constant inflation rate of nearly 7 per cent—a rate at which half of your life savings are destroyed every 10 to 12 years?

What is "positive" about a government whose regulations now cost consumers more than 100 billion dollars a year?

What is "positive" about government health programs that have singlehandedly driven the nation's spending on health care from 5 per cent of the GNP to nearly 9 per cent, in just 10 years?

What is "positive" or "liberal" about a Social Security System that is now taking more from the taxpayers than they can ever get back—and is still going bankrupt?

What is "positive" about a public education system that now spends over $1,500 a year per student—and doesn't teach them how to read, write, or do arithmetic?

What is "positive" or "compassionate" about a welfare system that is turning millions of Americans into helpless wards of the state, and encouraging millions of others to choose dependency instead of work?

What is "positive" about a government whose total accumulated long-term debt and obligations are over 5 trillion dollars—more than the total worth of the economy?

What is "positive" about a government energy policy that succeeds only in putting millions of people out of heat and work in the middle of a severe winter?

What is "positive" about more than 4 billion dollars in known welfare abuse, error and fraud?

What is "positive" about a nation where there are nearly 85 full-time dependents or employes of government for every 100 productive private taxpayers?

What is "positive" or "compassionate" about government housing and urban-development programs that have only accelerated urban decay, and isolated the poor in bleak warehouses?

What is "positive" about a government which is printing money at a rate more than twice as fast as the nation's economy is growing?

What is "positive" or "liberal" about asking government bureaucrats to make decisions for you, which you are better able to make for yourself—and at much lower cost?

What is "positive" about government policies that first create energy shortages, and then demand billions in new taxes to "solve" them, that create a crisis, and demand even more power and control to "alleviate" it?

In short, what is "positive" or "compassionate" or "liberal" about big government, with all its trappings of bureaucratic power, waste and arrogance, with all its constant threats to individual freedom, privacy and expression?

We think we know what Thomas Jefferson would have said to these rhetorical questions. In 1801 he wrote:

"Every man wishes to pursue his occupation and to enjoy the fruits of his labors and the produce of his property in peace and safety, and with the least possible expense. When these things are accomplished, all the objects for which government ought to be established are answered."

PERSONAL EXPLANATION

HON. MARTHA KEYS

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 18, 1977

Mrs. KEYS. Mr. Speaker, on Friday, October 14, 1977, I was unavoidably absent from the House. Had I been present, I would have voted on matters coming before the House as follows:

"Yea" on roll No. 654, on agreeing to the conference report on H.R. 6415, to extend and amend the Export-Import Bank Act of 1945;

"Nay" on roll No. 655, on House Resolution 688, to disapprove reorganization plan numbered 1 of 1977;

"Yea" on roll No. 656, on H.R. 2176, passage of the Federal Banking Agency Audit Act; and

"Yea" on roll No. 657, on H.R. 4297, to amend the Marine Protection, Research, and Sanctuaries Act of 1972 to authorize appropriations to carry out the provisions of such act for fiscal year 1978.

AGRICULTURAL EXPORT POLICY

HON. WILLIAM C. WAMPLER

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 18, 1977

Mr. WAMPLER. Mr. Speaker, American farmers are vitally concerned about the adoption and pursuit of U.S. trade and farm policies that have the greatest potential for improving the export of American agricultural products to foreign markets.

In recent months we have seen a serious decline in farm prices, a growth in farm surpluses, and a strong indication that the Federal Government will soon ask the American farmer to take expensive farmland out of production. Simultaneously, we as a people are importing increasingly more oil to run our factories and to power our automobiles, trains, and buses to get back and forth to work. Unfortunately, farm exports which play such a vital role in this equation—since they are used to pay for much of these foreign oil imports—have been in serious decline.

We can and should take action to reduce our dependence on foreign oil imports by adopting practices that conserve energy, by increasing our own oil-producing capacity and by utilizing other energy resources, such as coal and solar. However, there will still remain a great need for foreign oil imports to help drive this Nation's huge industrial machine that provides the life's blood—jobs—for our economy.

The question is, Mr. Speaker, are we now practicing adequate U.S. trade and farm policies that will successfully meet our Nation's requirements to provide sufficient exports to pay for necessary oil imports; to provide for quality and economical farm products for our own consumer needs; and to provide for adequate income to allow the American farmers to stay in business?

I think not.

The other day former Assistant Secretary of Agriculture Richard E. Bell, an expert on farm export policies, while appearing before the House Agricultural Subcommittees on Oilseeds and Rice and Livestock and Grains, set forth some interesting views that bear on this subject.

Mr. Speaker, I insert his testimony in the RECORD:

STATEMENT OF RICHARD E. BELL

I appreciate this opportunity to be here today, Mr. Chairman, and present my views regarding the prospects and opportunities for exports of U.S. agricultural products.

Mr. Chairman, the views which I express here today are my own and not necessarily those of Riceland Foods or its Board of Directors. Riceland Foods is a farmer-owned marketing cooperative headquartered in Stuttgart, Arkansas. It receives, processes and markets rice, soybeans and feed grains grown by its 25,000 farmer-members in Arkansas, southeastern Missouri, northwestern Mississippi, northeastern Louisiana and western Tennessee. Riceland Foods' sales are around $500 million yearly, split about evenly between rice and soybean products. About half of the sales are exported.

Exports of agricultural products continue to be of paramount importance to the economic well-being of American farmers, American agribusiness and American consumers.

This hearing is particularly timely, Mr. Chairman, since it appears likely that the value of U.S. agricultural exports in fiscal 1978 will decline 5 to 10 percent from last year. If this occurs, it will be the first decline in nine years.

Such a decline would occur at a particularly unfortunate time. It would occur when the United States is experiencing its largest trade deficit in history. Secretary of the Treasury Blumenthal has said that the overall U.S. trade deficit may run as much as $30 billion this year.

It is impossible, Mr. Chairman, to overstate the contribution that our agricultural exports has made to U.S. international economic relations during the past five years. Since the summer of 1972, U.S. agricultural exports have doubled in volume and tripled in value.

The dramatic increase in U.S. agricultural exports during the past five years has been the result of a combination of factors. Weather was undoubtedly a factor. Adverse weather in the USSR and China in 1972 sharply increased our exports of farm products in 1972/73 and 1973/74. Bad weather in the Asian rice bowl in early 1973 resulted in a sharp increase in the export demand for both U.S. rice and wheat in 1973/74 and 1974/75. Adverse weather in the U.S. in 1974 kept export prices high for U.S. farm commodities and more than offset a decline in export volume in 1974/75. The Soviets had another poor crop in 1975, and drought took its toll in Western Europe in 1976. In 1977, adverse growing weather has been present in China, North Africa and parts of West Asia.

Weather has not been the sole contributor, however, to the steady increase in U.S. agricultural exports during the past five years. Policies of the U.S. Government have been of tremendous importance. Devaluation of the U.S. dollar in 1971 was an important stimulant to U.S. agricultural exports in subsequent years. The opening in 1971 of the USSR and other Communist countries in Eastern Europe to American farm products was also an extremely important factor. These new markets not only expanded the volume of U.S. agricultural exports, but perhaps more importantly, their extra dimension of demand boosted the unit values of U.S. agricultural exports to all destinations.

Domestic agricultural policy has also played a vital part in the expansion of U.S. agricultural exports during the past five years. The annual farm programs stemming from the Agricultural Act of 1970, the Agriculture and Consumer Protection Act of 1973 and the Rice Production Act of 1975 have kept U.S. farm products competitive in world markets.

This past fiscal year, U.S. agricultural exports made a positive contribution of $10 billion to the overall U.S. trade balance. This was more than any other individual sector. The contribution of U.S. agricultural exports to the overall trade balance was about $2 billion in fiscal 1972. It is easy to see that without the dramatic increase in U.S. agricultural exports during the past five years that the U.S. international economic situation would indeed be grim. The United States cannot afford to go backwards in its drive to expand export markets for U.S. farm products.

A successful export policy for U.S. farm products first of all depends on our having the right kind of domestic farm policies. We cannot sell if we are not competitive in world markets.

A successful agricultural export policy also requires strong leadership from the Executive Branch of the U.S. Government, particularly from the U.S. Department of Agriculture. It is important that the Department set a positive tone and environment for U.S. agricultural exports.

In my view, Mr. Chairman, there recently has been too much emphasis on negative aspects of U.S. agricultural exports. For example, there has been repeated references to the quality of U.S. grain in export markets, with emphasis on a few unfortunate incidents of a few years ago.

I am confident, Mr. Chairman, that overseas customers are generally well satisfied with the quality of U.S. grain, as they have been in the past. I am also confident that the work now being done by the new Federal Grain Inspection Service will ensure that this will continue to be the case.

It is important to remember that no other country in the world can match the U.S. in overall capacity to deliver a wide range of high quality grains in a quick, reliable manner at all seasons of the year and at generally competitive prices. These are the aspects we need to emphasize when discussing U.S. grain exports.

Likewise, Mr. Chairman, there has been too much talk during the past several months about the so-called export embargoes of several years ago. I agree that they were unfortunate and damaged our reputation at the time. But in recent months, their impact has been blown out of proportion to their real significance.

First of all, in each of the years they occurred, the U.S. set new records in the export value of farm products. Secondly, despite all the talk of their impact on wheat prices, there was not one case where export of U.S. wheat were interfered with.

A prolonged dock strike at the East and Gulf ports this fall and winter will do much more damage to our reputation as a reliable supplier than have the so-called export embargoes of the past several years.

The United States has been the most reliable supplier of farm products to the world since the end of World War II. It remains so today. This is well recognized and understood abroad. We should emphasize it in our efforts to sell more abroad.

If we are going to continue the momentum of U.S. agricultural exports of the past five years, there are several actions that need to be taken:

First of all, we should emphasize our advantages as a supplier to the world market,

We should complete the policy framework we began several years ago regarding sales of U.S. farm products to Communist countries,

We should provide most-favored-nation tariff treatment on industrial products from the USSR since no country can continue to buy if it cannot sell,

We need to provide short-term government credit to the Peoples' Republic of China for the purchases of U.S. farm products,

We need to emerge from the multilateral trade negotiations with improved access to the markets in Western Europe and Japan,

We need to develop a policy framework for the development of export markets in the developing world.

Perhaps this last point is the most important of all. It means the development of a realistic alternative to the UNCTAD program which in reality is a non-starter as far as trade expansion is concerned. It is a political policy, not an economic policy.

In fiscal 1977 we exported about $7.6 billion worth of U.S. farm products to developing countries. This is a substantial amount. In fact, it accounts for nearly one-third of our total exports of agricultural products.

Our greatest potential for increasing U.S. agricultural exports lies in the developing countries. The 1950's and 1960's were periods when we opened and developed markets for U.S. farm products in Western Europe and Japan. In the 1970's we opened and developed markets for U.S. agricultural products in the Communist countries. The 1980's will

need to be a period when we concentrate our efforts in the developing countries. We need to begin now, which means developing a policy framework by which the trade can be developed.

About two-thirds of our present U.S. agricultural exports are accounted for by grains, oilseeds and oilseed products. These have been the commodities of most dramatic export growth during the past five years. If the export values of livestock products are added to the list, about 80 percent of our annual agricultural exports are accounted for by grains, oilseeds and grain-related products.

One of our most successful export efforts in recent years has been in rice. Although the U.S. accounts for only about 1½ percent of the world's rice production, we are the dominant supplier of rice to the world market and usually supply between one-fourth and one-third of the world's export of rice. About 60 percent of our yearly rice production is exported.

U.S. exports of rice on a milled basis were about 2.1 million metric tons in the 1976/77 marketing year ended last July 21. Exports should remain at about the same level in 1977/78.

The amazing story about rice exports, however, is that they have fully recovered to the level of several years ago when we were supplying huge quantities of rice to Southeast Asia as part of our defense effort there.

When the U.S. withdrew from Viet Nam and the Khmer Republic in the spring of 1975, American rice growers lost a large part of their export market for U.S. rice. Exports plummeted from a record of 2.2 million tons in 1974/75 to only 1.7 million tons in 1975/76.

During the past two years, however, the American rice industry has found new markets for U.S. rice in Iran, Syria and Nigeria; and Indonesia has reemerged as a major market for U.S. rice under the Food for Peace Program.

The U.S. rice industry was able to develop new markets for U.S. rice during the past two years because domestic farm programs for rice have been developed and administered in a manner which has kept U.S. rice competitive in world markets while at the same time providing a degree of income protection to American rice growers.

The sudden loss of export markets in Southeast Asia in the spring of 1975 caused a tremendous buildup in U.S. rice stocks during the 1975/76 marketing year. In the summer of 1976, carryover stocks of U.S. rice were equal to one-third of our utilization of U.S. rice in 1976/77. Roughly half of these stocks were in the hands of the Commodity Credit Corporation (CCC) as a result of loan defaults under the federal price support program.

U.S. rice stocks at the end of the 1977/78 marketing year next summer may well be down again to pipeline levels. This supply adjustment will take place without any government program directed at cutting U.S. rice acreage. American rice growers made the supply adjustments themselves by responding to signals in the market, and the American rice milling and export industries have opened and developed new markets for U.S. rice, particularly in export markets. Admittedly, weather this year has also been a factor in the supply-adjustment process. This year's U.S. rice crop may be down 20 to 25 percent from last year, and probably will be the smallest crop since 1972.

With this year's smaller rice crop, it is important that the rice industry get access to the stocks now held by the Commodity Credit Corporation. Access to these stocks will be necessary if the U.S. rice industry is to hold the new markets built during the past two years.

The Administration let the earlier sales policy for CCC-held rice to lapse in July. A new one has not yet been announced, despite our being in the third month of the 1977/78 marketing year. The lack of an announced sales policy for CCC-held rice stocks is badly hampering efforts to hold the newly-developed rice markets overseas.

A new record was set again this past marketing year in the export of U.S. soybeans and soybean products. New records should be set again in 1977/78. The larger supply and lower prices for U.S. soybeans in 1977/78 should stimulate demand for U.S. soybeans and meal abroad, particularly in the countries of the European Community where grain prices are kept artificially high by the price-support structure. The level of U.S. exports of soybeans and soybean products in 1977/78, however, ultimately will probably depend on the size of purchases of soybeans and soybean products from the world market by the USSR and the People's Republic of China.

Soybeans and their products have been one of the fastest growing sectors in U.S. agricultural exports in recent years. The value of U.S. exports of soybeans and soybean products has more than doubled since the summer of 1972. This has occurred despite a fourfold increase in soybean production in Brazil, with most of the increase in Brazilian production going into export.

The U.S. has expanded its export markets for U.S. soybeans and soybean products during the past five years because U.S. soybeans have remained competitive in world export markets. We have been fortunate that we have not had a price support structure that has caused us to be periodically uncompetitive in soybeans and soybean products.

Unfortunately, the U.S. Department of Agriculture has been talking of raising the CCC loan rate for soybeans. This could ultimately lead to our being uncompetitive in world markets. American soybean growers, processors and exporters are right in their unanimous opposition to raising the loan rate.

The major U.S. agricultural commodity with the most disappointing export performance during this past year was wheat and flour. Exports were down nearly 20 percent from the previous year, and for the first time in four years our exports of wheat and flour fell below a billion bushels.

Part of the decline in U.S. wheat and flour exports during 1976/77 was due to a general decline in world trade in wheat and flour as a result of record world wheat production. Unfortunately, however, the U.S. absorbed two-thirds percent of the world decline in trade. Canada, Australia and Argentina actually increased their exports of wheat and flour. The U.S. share of world exports, which had been averaging about half, fell to 42 percent. It may fall even lower in 1977/78.

The decline in the U.S. share of world trade in wheat and flour is basically the result of Canada, Australia, Argentina and several other countries pursuing much more aggressive export policies than in earlier years. Contrary to earlier beliefs, the higher government loan rate announced for wheat was not a factor in the decline in U.S. wheat and flour exports this past year. Early in the year, large quantities of wheat were readily available at discounts of up to 25 cents a bushel below the loan rate. The monopoly marketing boards in other exporting countries used other techniques such as special pricing to increase their market shares.

The U.S. is being handicapped again this year by not having the same access as other exporting countries to the large Chinese market. China's greater imports in 1977/78 will account for much of the growth in world trade in wheat and flour this year.

The U.S. Government needs to be firmer in questioning of sales practices by the monopoly export boards of other countries, and if necessary, introduce measures designed to offset those practices.

Perhaps the most phenomenal success story in U.S. agricultural exports, however, has been in feed grains. The U.S. exported 50 million metric tons of feed grains in each of the last two marketing years. This is more than double annual exports prior to the summer of 1972.

U.S. feed grain exports are concentrated in a few key markets: Western Europe, Japan, the USSR, Eastern Europe, the Republic of China (Taiwan), Korea and Israel.

U.S. feed grain exports in 1977/78 may not be down as much as the U.S. Department of Agriculture is estimating. The Soviet Union is likely to be a much larger buyer of corn than the Department is now estimating.

Future work for U.S. feed grain should be primarily aimed at doing something about the European Common Market's import levy on corn. The levy is now $2.70 a bushel. This is equivalent to 120 percent of the import value of U.S. corn being imported into the European Common Market and compares with prices of $1.60 to $1.70 a bushel that American corn growers are now receiving for their 1977 crop.

The European Common Market import levies are also exceedingly high for wheat and rice. At present, they are $3.30 a bushel on wheat and $4.45 a cwt. on long grain rice.

The U.S. will need to be exporting 100 million metric tons of grain—rice, wheat and flour and feed grains—on a sustained basis by the early 1980's if the U.S. grain/oilseed economy is to run at full capacity. An annual export rate of this level is clearly within our production capability, and with the right kinds of domestic farm policies and international trade policies it is makeable from a market standpoint.

Thank you, Mr. Chairman. I will be pleased to answer any questions.

PUBLIC BROADCASTING ACT

HON. HARLEY O. STAGGERS

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 18, 1977

Mr. STAGGERS. Mr. Speaker, today I introduced President Jimmy's Carter's legislative proposal (H.R. 9620) to strengthen our public broadcasting system and to insulate it from political manipulation. I welcome the President's interest in public broadcasting. At the request of the President's staff, we have had legislative counsel prepare the bill for introduction.

I have been deeply interested in broadcasting during my years in Congress. In presenting the first public broadcasting bill on the floor of the House in 1967, I commented that—

When all the factors that have made the 20th century such a great century have been considered and entered on the ledger books of history and a balance struck, I believe that the peculiar mark of this century will be that of wireless broadcasting. Without it, I believe we would be living in an entirely different world today, without a great many of the advances that we have made.

I still believe that today, 10 years later.

I urge my colleagues to give the President's message full consideration:

To the Congress of the United States:

I am transmitting to the Congress today proposals to strengthen our public broadcasting system and to insulate it from political manipulation.

The impact of television and radio on our lives can scarcely be overestimated. Television now bulks larger than all its rivals for our leisure time. In the daily routine of many individuals, it consumes more hours than family, school, church, or job. Radio is just as important; with some 400 million receivers in American homes, cars, and workplaces, radio listening is nearly as pervasive as the air that carries it.

In these circumstances, a strong and varied public broadcast system has a crucial role to play. Because it is free of the scramble for ratings, public broadcasting has room for experimentation and risk-taking. Public broadcasting is for all Americans. It can meet the needs of audiences that number in the millions but are seldom served anywhere else. That is why, during my campaign for the Presidency, I pledged my best efforts to strengthen it.

The bill I am submitting with this message continues and increases long-term Federal funding for public television and radio. Financial stability is needed if public broadcasting is to provide better programs for more citizens and protect those programs from political pressures.

The bill also makes statutory changes to increase cooperation, reduce overlap, and clarify the missions of the three primary national organizations in the field—the Corporation for Public Broadcasting (CPB), the Public Broadcasting Service (PBS), and National Public Radio (NPR).

These changes will also increase public broadcasting's insulation from inappropriate political influence. Other amendments will give it greater journalistic independence. I want to encourage public broadcasters at all levels to engage in active news reporting and public affairs programming. This Administration will not try to strifle controversy on public television and radio. No President should try to dictate what issues public broadcasting should cover or how it should cover them. And this legislation will make such an attempt more unlikely.

This bill also proposes amendments that require public broadcasting to:

Devote more resources to high-quality national programming.

Set long-range goals by which its progress can be judged.

Plan how public television and radio signals can be brought within reach of all citizens.

Provide greater accountability to the public.

Stimulate greater participation by minorities and women.

Without these statutory changes, not even a long-term authorization bill would insure diverse and high-quality programming.

Public broadcasting's organizational problems and its need for better planning and greater diversity should not blind us to its accomplishments. In the ten years since the Public Broadcasting Act first provided Federal funds for programming, public broadcasting has set new standards in children's programs, drama, music, science, history, and educational services. Its coverage of local, state, and national hearings, its documentaries, and its in-depth news analyses have helped make government more understandable.

Public broadcasting has done more than simply entertain us. It has encouraged us and our children to think and to act. It has also pioneered in such technical innovations as captioning for the deaf, and satellite broadcasting.

This bill will renew Federal funding while improving the ways the money is spent. The money will be used, among other purposes, to:

Strengthen the PBS national television service to provide a first-rate schedule of cultural and public affairs programs.

Support and expand National Public Radio, which provides a lively alternative schedule that includes music, public hearings and events, news analysis, and original radio drama.

Plan the best use of the public broadcasting satellite system and other new communications technologies. These advances make possible new television and radio networks devoted entirely to adult instruction, children's programming, or the special needs of Hispanics, Blacks, women, the elderly, or other distinct audiences.

Extend the reach of public television and radio signals. All taxpayers contribute to public broadcasting, but only about half receive a good public television signal, and fewer than two-thirds can receive public radio.

Increase public broadcasting's contribution to in-school and adult instruction. Public television's most popular prime-time series have been widely used for college extension courses. Lifelong learning should remain one of its principal goals.

Increase employment, training, and ownership opportunities for minorities and women.

Support local, state, and regional programming. Programming of local interest is an important resource.

Except for the key area of national programming, this legislation does not mandate specific allocations of Federal funds for each of these purposes. It is desirable to allow CPB the flexibility to choose among competing priorities. But the bill does set a direction that allows all these efforts to be pursued.

My specific proposals are as follows:

ASSURE LONG-RANGE FUNDING

Enactment of this legislation will allow continuation of the present system of five-year authorization and two-year advance appropriations, which was designed to assist planning and enhance insulation. Congress is currently considering an appropriation of $152 million for fiscal 1980, the last year of the current authorization. New legislation is needed early next year for public broadcasting to be included in next year's appropriations process.

The funds authorized in the enclosed bill total $1.041 billion. This includes a five-year authorization for CPB at $180 million for fiscal year 1981 and $200 million in each of the four succeeding years. It also includes a separate grant program of $30 million annually for technical facilities in fiscal 1979 and 1980, and $1 million for telecommunications demonstrations by HEW in fiscal 1979. These figures represent recommended authorization levels. Appropriations requests must come from the annual budget review process.

This bill maintains an authorized level of Federal funding at $200 million after the second year. Such leveled funding will ensure that both we and the public broadcasting system will reexamine appropriate funding levels based on its needs and potential in 1979, after the new Carnegie Commission on the Future of Public Broadcasting delivers its report. This Commission has taken on the difficult job of looking at the public system's creative process in light of new technology. It is also examining both the existing sources of Federal and non-Federal funding and potential new ones. The Task Force that established the Commission has urged us and Congress to move forward with a long-term authorization and related structural issues so that it can concentrate on funding methods, technology, and programming.

Leveling the authorization also insures that in two years we and Congress will evaluate the success of the organizational and other changes proposed in this bill.

CLARIFY FUNCTIONS OF NATIONAL ENTITIES

Since 1967, most Federal funds for public broadcasting have gone to the Corporation for Public Broadcasting (CPB), CPB is an independent unit run by a 15-member Board appointed by the President and confirmed by the Senate. One of CPB's key missions is to distribute Federal funds for programming in ways that shield program content from political pressure. Another is to provide system-wide leadership in planning, budgeting, resource allocation, research, evaluation, fund-raising from private sources and government agencies, and development of new communications services.

The public radio and television networks are run by two other units that represent the local stations: National Public Radio (NPR) and the Public Broadcasting Service (PBS). The stations decide what programs get on the air. There are also five regional television networks and several special program exchanges like the Latino Consortium. National production centers exist at larger stations and at independent entities like Children's Television Workshop. All these units have their own programming staffs.

At present, CPB itself often chooses which individual programs or series to fund. This:

Reduces CPB's effectiveness as a political insulator.

Reduces its ability to focus on long-range planning and new educational services.

Duplicates staff, wastes money, and causes unproductive feuds between CPB and PBS, NPR, and other public broadcasting organizations.

The public cannot afford to pay duplicate organizations to do the same job. The greater the bureaucratic overhead, the smaller the sums that can be used for programming. It is time to define organizational roles clearly so that the public and program producers can understand how the system operates and there can be a rational, efficient basis for future planning.

I propose three steps to resolve this issue:

CPB's role would be clarified to be that of a system overseer operating much like an endowment or foundation. Based on its planning process, it would make broad allocations among radio, TV, and other distribution systems and among children's, public affairs, minority, and other program types. It would implement these decisions by giving annual or multi-year bloc grants to PBS, NPR, regional and other specialized networks, and production centers. The grantees would select the specific programs to be produced.

Two members chosen by PBS and two by NPR would be added to the CPB Board to increase both cooperation and insulation. (Four Presidentially appointed slots would be phased out to keep the total at 15.)

CPB would be required to prepare a five-year development plan for public broadcasting in concert with PBS and NPR to guide the allocation of Federal resources and update it annually in its report to Congress.

This will decentralize creative decisions, place them further from any potential political control, and refocus CPB on the important job of overall system development. But, under this mode of operation, CPB should require only a limited full-time staff to assist its Board in its priority setting and oversight tasks. It can draw upon distinguished experts in the arts, science, journalism, and education to help it evaluate current and future needs. This does not eliminate, but makes more appropriate, CPB's critical role in programming.

CPB would not need a substantial staff for program decision-making and program-related legal, public information, audience research, and similar functions. These operational tasks can be done by PBS, NPR, and other grantees without adding persons to their staffs.

CPB would need substantially fewer than its current staff of 130 to carry out its missions. The savings from these cuts and greater efficiency in CPB's retained functions should go into programming.

INCREASE FUNDS ALLOCATED FOR ADDITIONAL PROGRAMMING

There are now 271 public television stations and 203 public radio stations. They provide a vital service to their states and communities. But each of these stations cannot separately produce the high quality cultural, public affairs, and instructional programming their communities need.

Federal support for strong national program services was a principal recommendation of the first Carnegie Commission. It was a primary aim of the 1967 Act that created CPB. But CPB now devotes only $17 million of its current $103 million appropriation directly to national programming. In addition, about $19 million of the $58 million CPB gives to local stations is pooled for that purpose.

More Federal funds should be concentrated on national programming. By devoting more funds to national needs, public broadcasting can give producers adequate lead time and budget to create high quality domestic productions. It can and should support more first-rate production centers, like Children's Television Workshop and similar centers for independent producers, minorities, educators, and women. It can provide the complete coverage of news events, such as important Congressional hearings, that commercial broadcasting rarely offers.

This bill provides that at least 25% of funds appropriated to CPB in future years shall be used for a National Programming Fund for bloc grants for such productions. This will insure that by FY 1982 up to $50 million, depending on the appropriation level, would be earmarked for national programming. These programs will continue to be produced on a decentralized basis by producers throughout the country, but intended for national distribution.

In addition, I call on the public broadcasting system to devote another 25% of the Federal money to national programming. The stations can do this by pooling money, as the TV stations do now through the Station Program Cooperative, or it can be done by other mechanism. This would provide a total of up to $100 million for national programming in FY 1982. Minorities, women, and independent as well as station producers should have access to these funds as well as those in CPB's National Programming Fund.

Local, state, and regional services also need substantial support. A significant aspect of that support has been the funds CPB passes through to local stations for their discretionary use for local or national purposes. Unlike the current law, my bill does not place either a ceiling or floor on those funds. Allocations for this purpose should be made from year to year, as determined through CPB's cooperative planning process with PBS, NPR, and the licensees.

I also call on the other funding sources—particularly the states—to hold up their end of this funding partnership. Currently, non-Federal sources such as state and local governments, individuals, foundations, and corporations still supply the vast bulk of funds for local public stations. But, while Federal funds and individual contributions have increased during the past few years, state funds have levelled off.

As a former governor, I know the pressures on state budgets. But state support of public broadcasting, which brings state legislative proceedings and other vital services to citizens, should be maintained. I urge states that have contributed to do more, and those that have not, to begin.

REDUCE THE PERCENTAGE PUBLIC BROADCASTING MUST RAISE TO MATCH CPB FUNDS

The current law requires the system to raise $2.50 for every $1.00 the Federal Government gives CPB. CPB has indicated that such levels of non-Federal support cannot be achieved to match the proposed increased authorizations.

Even if states increase their share, there are realistic limits to the amounts that public broadcasting can hope to raise by on-air appeals to its audience and by corporate and foundation support. I am therefore proposing a reduction in the match to $2.25-to-$1.00. This figure assures a continued incentive for fund-raising without asking the system to achieve the impossible. The minimum dollar amount of matching funds that could be required to meet the upper limit of appropriations under this bill would rise gradually until the authorization is levelled off.

CPB itself can also increase incentives for non-Federal funds. It might revise its formula for allocation of local community service grants to encourage such support. Individual citizens should recognize that their funds help maintain the diversity and independence of their local stations.

I intend to review the matching concept and formula in 1979 after assessing its impact on fund raising and the Carnegie Commission's report as to future funding sources and needs.

TRANSFER PUBLIC COMMUNICATIONS FACILITIES PROGRAM FROM HEW TO CPB

A key part of my plan is the effort to bring public broadcasting to as many people as possible. Much of the Federal funding for station facilities comes from the Educational Broadcast Facilities Program now run by HEW. That effort should be fully coordinated with the system's own long-range planning. I am therefore recommending that this program be transferred to CPB.

As part of the planning required by this bill, CPB will estimate the cost of reaching as close to the total American population as would be feasible using the most efficient technologies. For the next two years, pending submission of such a plan, I propose to continue the Facilities Program's present $30 million annual authorization.

I also propose changes in the Facilities Program to:

Make assistance to minority public television and radio stations a funding priority. No public television station in the continental United States is operated by a minority-controlled institution, although Howard University and others have applied for licenses. There are only a handful of minority-controlled public radio stations.

Allow planning grants to be made to groups wishing to start stations. These grants would enable them to do the legal, engineering, and other studies needed to apply for actual communications facilities.

Make regional networks and other groups of stations eligible for facilities funds.

Make facilities grants open to any broadcast or nonbroadcast communications technology chosen by an eligible applicant. Federal funds should support the most efficient technical means to make publicly funded programming available to the widest audiences.

CPB will be able to use a portion of the facilities funds being transferred for demonstrations of new public service delivery systems, such as two-way communication via satellite.

ENCOURAGE JOURNALISTIC INDEPENDENCE

Unlike commercial broadcasters, public broadcasters are forbidden by current law to editorialize on issues of public importance. This ban makes sense for stations licensed to a state or local government instrumentality. But Congress has recently amended the tax code to allow private non-profit organizations to advocate positions on public issues. The Public Broadcasting Act should be similarly amended to allow non-governmental licensees to exercise their First Amendment rights.

This change would not require editorials, but it would permit them. Public broadcasters should have an equal opportunity with commercial broadcasters to participate in the free marketplace of ideas.

States hold about half of the U.S. public television station licenses. Another step toward journalistic independence would be for state and local governments to better insulate these stations. The danger of undue political control is as real here as at the Federal level. This bill does not compel any particular form, but I want to encourage states to establish independent boards to assure insulation.

REQUIRE PUBLIC ACCOUNTABILITY

Independence from government control does not mean a public station has no obligation to account for its stewardship. But such accountability is best exercised directly to the local citizens who contribute to the station's support. I therefore propose sunshine for public stations that receive Federal funds; they should be required to open their board meetings and financial records to the public.

This legislation is not intended to restrict a public station board's privacy on personnel matters, or otherwise sanction unwarranted invasions of personal privacy. But local citizens should have access to the basic decisions public stations make in allocating tax funds and private donations. This is already standard practice at CPB, PBS, NPR, and many public stations.

INCREASE PARTICIPATION OF MINORITIES AND WOMEN

This bill makes it clear that the employment discrimination laws apply to stations and other producers that receive CPB funds. It conditions such grants on nondiscrimination, just like receipt of a grant from a Federal agency. Since CPB is not a Federal agency, enforcement of this requirement will be delegated to a Federal agency with expertise in this field.

This change, combined with making minority ownership a goal of the facilities program, will help bring greater diversity to the decision-making levels of public broadcasting. But statutory amendments alone are not enough. Public broadcasting should

make its own effort to become an entry-level training ground and model for the other media in meeting the needs of women, Blacks, Hispanics, and other minorities.

STUDY OF FEDERAL AGENCY PROGRAM FUNDING

Last year approximately $25 million was contributed to public broadcasting directly by four agencies—HEW, the National Endowment for the Arts, the National Endowment for the Humanities, and the National Science Foundation.

This is an important source of Federal funds that is outside of the CPB appropriation. It accounts for one-fourth of the national public TV schedules, as well as many local and state productions. And it is not covered by CPB's insulation from political pressure.

This funding should be coordinated with the work of CPB, PBS, and NPR to assure that it is used efficiently for programs that get on the air. I propose that CPB inventory all such grants in its annual report to Congress and that it act as a consultant to the agencies and a clearinghouse for grant information. In addition, we are drafting administrative rules for the agencies to assure there is no improper manipulation of program content.

PUBLIC STATION FREQUENCY ALLOCATIONS AND RECEPTION

Most public television stations are on UHF channels, and most public radio stations are on the FM band. I urge the Federal Communications Commission to seriously consider pending proposals that would bring public television and radio closer to party with commercial stations. These include proposals for better standards for TV set reception of UHF channels and better allocation of FM channels for public radio. I am hopeful that the new leadership at the FCC will give UHF and FM improvments priority attention.

Better spectrum management and reception standards may do more to make public broadcasting more widely available than substantial Federal grants for transmitters and increased power. The costs and benefits of each approach should be carefully weighted.

* * * * *

I urge Congress to consider promptly, and to pass the legislation I am submitting containing the proposals described in this message. This will provide a firm foundation for planning the next decade of public communications in this country.

JIMMY CARTER.

THE WHITE HOUSE, *October 6, 1977.*

AID LEVELS AND EXPENDITURES TO THE MIDDLE EAST

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 18, 1977

Mr. HAMILTON. Mr. Speaker, I would like to bring to the attention of my colleagues correspondence I have had with the Office of Management and Budget (OMB) on the aid expenditures to states in the Middle East over the last 5 fiscal years. OMB has provided me with a series of useful charts on our program levels and budgetary expenditures for Israel, Egypt, Jordan, and Syria. Each category of assistance is detailed.

These statistics indicate that from fiscal year 1974 through fiscal year 1978, nearly $15 billion in assistance has been provided to this one region. Israel will receive over $10 billion in assistance from the United States. Egypt will have received $3.2 billion, Jordan $1.1 billion, and Syria $425 million. Over these same 5 years, Israel will receive 35.7 percent of total worldwide security supporting assistance funds (SSA), and 51.3 percent of total FMS financing, while Egypt will receive 33.5 percent of SSA funds. The Middle East accounts for over 78.6 percent of all SSA funds for this period.

This information provides a useful indicator of our deep involvement and high stakes in the Middle East and in the process of peace. Without some progress toward peace, it may be difficult to justify to the American people such large outlays indefinitely.

The material provided by OMB, which has been supplemented by my staff to include totals and percentages, follows:

COMMITTEE ON INTERNATIONAL RELATIONS,
August 19, 1977.

Mr. BERT LANCE,
Director, Office of Management and Budget, Washington, D.C.

DEAR MR. LANCE: I would like your office to prepare a list of all expenditures from the Budget from Fiscal Year 1974 to 1977 for Israel, Egypt, Syria and Jordan.

These figures should be broken down into major categories of expenditures so as to give a fair picture of the nature of assistance.

In addition, I would like to have your estimates for these expenditures in Fiscal Year 1978.

I thank you for considering this request and hope you will be able to provide an early reply. If you need further information, Mike Van Dusen, Staff Director of my subcommittee, can be reached at 225–3345.

With best regards.

Sincerely yours,

LEE H. HAMILTON,
Chairman Subcommittee on Europe and the Middle East.

OFFICE OF MANAGEMENT AND BUDGET,
Washington, D.C., October 4, 1977.

Hon. LEE H. HAMILTON,
Chairman, Subcommittee on Europe and the Middle East Committee on International Relations, Washington, D.C.

DEAR MR. HAMILTON: The enclosed tables are forwarded in response to your August 19, 1977 query. The data presented in them were cross-checked with the appropriate agencies to insure that they were accurate and up to date. In some instances they may vary from statistics found in other publications, but this would be the result of their reflecting more recent information or their being rounded for brevity of presentation.

In your letter, you requested budgetary expenditures to Egypt, Israel, Jordan, and Syria. Since we believe that this statistic alone would not be a useful frame of reference for a comparison of U.S. programs to these countries, we have provided you with program level (obligations), budget authority, and outlays (expenditures).

U.S. funds provided to international organizations such as the United Nations or international financial institutions were not included in the enclosed tables. It would be extremely difficult to trace U.S. dollars through the budgets of these organizations to determine the specific U.S. portion of any country's program.

I hope that you find the enclosed material useful.

Sincerely,

HUBERT L. HARRIS, Jr.,
Assistant to the Director.

Enclosures.

TOTAL AID PROGRAM LEVELS BY CATEGORY OF ASSISTANCE FOR PERIOD FISCAL YEARS 1974–78

[In millions of dollars]

	Egypt	Israel	Jordan	Syria
Foreign military sales credit		4,300.0	265.5	
Emergency security assistance		2,182.7		
Military assistance program			273.9	
International military education and training	0.2		4.9	
Middle East special requirements fund			10.0	83.0
Security supporting assistance	2,503.3	2,669.5	426.3	265.0
Desalination		20.0		
Public Law 480 food	538.4	40.9	52.1	68.5
Housing guarantees		125.0		
Export-Import Bank:				
Direct loans	75.5	168.8	3.8	
Guarantees	50.2	412.4	40.0	1.0
Refugee assistance		108.3		
Israel-United States Binational Industrial Research and Development Foundation		30.0		
American schools and hospitals abroad	1.4	15.3		
USIA	3.4	4.4	2.4	1.5
State Department	48.2	15.3	6.7	6.0
Total	3,220.6	10,087.6	1,082.6	425.0

TOTAL AID PROGRAM LEVELS BY FISCAL YEAR

[In millions of dollars]

	1974	1975	1976	19TQ	1977 (estimate)	1978 (estimate)	Total (1974–78)
Egypt	119.7	271.1	459.1	538.8	924.4	907.5	3,220.6
Israel	2,726.8	797.9	2,476.8	307.7	1,937.8	1,840.6	10,087.6
Jordan	116.3	202.9	201.1	88.8	238.9	234.6	1,082.6
Syria	.4	91.1	42.0	78.9	100.9	111.7	425.0
Total	2,963.2	1,363.0	3,179.0	1,014.2	3,202.0	3,094.4	14,815.8

WORLDWIDE TOTALS FOR SECURITY SUPPORTING ASSISTANCE (SSA) AND FOREIGN MILITARY SALES (FMS) FINANCING (CREDIT) AND PERCENTAGES OF SUCH FUNDS GOING TO THE MIDDLE EAST

[Dollar amounts in millions]

	1974	1975	1976	19TQ	1977 (estimate)	1978 (estimate)	Total
FMS financing:							
World totals	$713.3	$750.0	$2,192.4	$593.7	$2,022.1	$2,102.3	$8,373.8
Middle East total	$300.0	$330.0	$1,582.5	$200.0	$1,075.0	$1,075.0	$4,562.5
Middle East percentage	42.1	44.0	72.2	33.7	53.2	51.1	54.5
Security supporting assistance:							
World total	$640.0	$1,226.0	$1,087.1	$871.0	$1,751.0	$1,890.0	$7,465.1
Middle East total	$111.7	$651.8	$1,021.1	$776.5	$1,585.0	$1,718.0	$5,864.1
Middle East percentage	17.4	53.2	93.9	89.1	90.5	90.9	78.5

[In millions of dollars]

	1974 actual			1975 actual			1976 actual			19TQ actual			1977 estimate			1978 estimate		
	Program	BA	Outlay	Program	BA	Outlay	Program	BA	Outlay	Program	BA	Outlay	Program	BA	Outlay	Program	BA	Outlay
EGYPT																		
Foreign military sales credit (FMS)																		
Emergency security assistance																		
Military assistance (Grant MAP)																		
International military education and training (IMET)																0.2	0.2	0.2
Middle East special requirement fund																		
Supporting assistance (total)	8.5	8.5	8.5	249.8	249.8		258.2	258.2	61.1	536.8	536.8	32.6	700.0	700.0	359.3	750.0	750.0	629.6
Suez area reconstruction	8.5	8.5	8.5	53.5	53.5		101.7	101.7	6.8	94.0	94.0	13.5	55.0	55.0	19.8	190.0	190.0	69.0
Development				44.3	44.3					264.0	261.0		160.0	160.0	17.3	271.5	271.5	134.1
Commodity import				150.0	150.0		150.0	150.0	53.3	165.0	165.0	18.8	440.0	440.0	300.0	250.0	250.0	400.0
Cash grant																		
Budget support																		
Technical assistance				2.0	2.0		6.5	6.5	1.0	13.8	13.8	0.3	45.0	45.0	22.2	38.5	38.5	26.5
Desalination																		
Public Law 480 Food							[1] 196.4	[1] 196.4	[1] 196.4				212.0	212.0	212.0	130.0	130.0	130.0
Housing guarantees																		
Export-Import Bank:																		
Direct loans	59.0	59.0		16.5	16.5				2.7			2.3			10.6	NA	NA	NA
Guarantees	50.0	12.5					.1	[2]		.1	[2]					NA	NA	NA
Refugee assistance																		
Israel-United States Binational Industrial Research and Development Foundation																		
American schools and hospitals abroad	.6	.6	.6	.4	.4	.4	.4	.4	.4	NA	NA	NA	NA	NA	NA	NA	NA	NA
U.S.I.A.	.2	.2	.2	.4	.4	.4	.6	.6	.6	.3	.3	.2	.9	.9	.9	1.0	1.0	0.9
State Department	1.4	1.0	.8	4.0	8.4	1.9	3.4	2.3	2.2	1.6	.7	.8	11.5	29.6	7.5	26.3	4.4	12.8
ISRAEL																		
Foreign military sales credit (FMS)	300.0	30.0	116.0	300.0	120.0		1,500.0	[3] 825.0	200.1	[4] 200.0	110.0	745.4	[4] 1,000.0	550.0	504.7	[4] 1,000.0	550.0	500.0
Emergency security assistance	[3] 2,182.7	[3] 2,182.7	622.9			930.2			591.0			27.8			10.5			
Military assistance (Grant MAP)																		
International military education and training (IMET)																		
Middle East special requirements fund																		
Supporting assistance (total)	50.0	50.0	49.7	324.5	324.5	173.2	700.0	700.0	[1] 641.5	75.0	75.0	NA	735.0	735.0	693.0	785.0	785.0	917.0
Suez area reconstruction																		
Development																		
Commodity import	50.0	50.0	49.7	324.5	324.5	173.2	550.0	550.0	[1] 476.5	60.0	60.0	NA	435.0	435.0	493.0	485.0	485.0	517.0
Cash grant							150.0	150.0	[1] 165.0	15.0	15.0	NA	300.0	300.0	200.0	300.0	300.0	400.0
Budget support																		
Technical assistance																		
Desalination				20.0	20.0	1.0			1.0			1.0			1.0			1.0
Public Law 480 Food	1.5	1.5	1.5	8.6	8.6	8.6	[1] 15.5	[1] 15.5	[1] 15.5	NA	NA	NA	8.3	8.3	8.3	[5] 7.0	[5] 7.0	[5] 7.0
Housing guarantees	.0						25.0						25.0			25.0		
Export-Import Bank:																		
Direct loans	35.1	35.1	4.7	35.7	35.7	20.8	81.1	81.1	47.0	9.5	9.5	10.8	2.4	2.4	32.2	NA	NA	NA
Guarantees	71.0	17.8		69.6	17.4		136.0	34.0		20.8	5.2		115.0	28.7		NA	NA	NA
Refugee assistance	30.5	30.5	23.0	34.1	34.1	42.2	[1] 12.0	[1] 12.0	[1] 24.4	NA	NA	NA	13.2	13.2	13.2	18.5	18.5	18.5
Israel-United States Binational Industrial Research and Development Foundation													30.0	30.0	30.0			
American schools and hospitals abroad	3.3	3.3	3.3	2.5	2.5	2.5	3.6	3.6	3.6	1.3	1.3	1.3	4.6	4.6	4.6	NA	NA	NA
U.S.I.A.	.6	.6	.6	.7	.7	.7	.8	.8	.8	.3	.3	.2	.9	.9	.9	1.1	1.1	1.1
State Department	2.1	2.0	1.7	2.2	2.1	2.1	2.8	2.7	2.3	.8	.8	.7	3.4	3.3	3.1	4.0	4.0	3.5
JORDAN																		
Foreign military sales credit (FMS)			4.9	30.0	3.0	6.3	82.5	8.2	3.8				75.0	7.5	8.6	75.0	7.5	NA
Emergency security assistance																		
Military assistance (Grant MAP)	40.1	40.1	40.1	68.8	68.8	68.8	55.0	55.0	55.0				55.0	55.0	55.0	55.0	55.0	5.0
International military education and training (IMET)	.6	.6	.6	1.0	1.0	1.0	.8	.8	.8				1.0	1.0	1.0	1.5	1.5	1.5
Middle East special requirement fund				10.0	10.0	10.0												
Supporting assistance (total)	53.2	53.2	47.5	77.5	77.5	69.3	46.4	46.4	[1] 111.7	86.2	86.2	NA	70.0	70.0	82.1	93.0	93.0	108.2
Suez area reconstruction																		
Development	[6] 7.4	[6] 7.4	2.0	8.6	8.6		7.0	7.0	[1] 7.3	19.0	19.0	NA	20.5	20.5	27.0	46.0	46.0	52.8
Commodity import																		
Cash grant																		
Budget support	45.0	45.0	45.0	67.5	67.5	67.5	37.0	37.0	37.0	66.0	66.0	66.0	45.0	45.0	45.0	42.0	46.0	42.0
Technical assistance	[6] .8	[6] .8	.7	1.3	1.3	1.8	2.4	2.4	1.9	1.2	1.2	.8	4.5	4.5	2.3	5.0	5.0	5.7
Desalination																		
Public Law 480 Food	11.3	11.3	11.3	11.6	11.6	11.6	[1] 13.7	[1] 13.7	[1] 13.7	NA	NA	NA	7.8	7.8	7.8	7.7	7.7	7.7
Housing guarantees																		

	1974 actual			1975 actual			1976 actual			19TQ actual			1977 estimate			1978 estimate		
	Program	BA	Outlay	Program	BA	Outlay	Program	BA	Outlay	Program	BA	Outlay	Program	BA	Outlay	Program	BA	Outlay
Export-Import Bank:																		
Direct loans	3.8	3.8	2.1			7.5										NA	NA	NA
Guarantees	6.2	1.6		2.9	.7		1.4	.3		1.4	.4		28.1	7.0		NA	NA	NA
Refugee assistance																		
Israel-United States Binational Industrial Research and Development Foundation																		
American schools and hospitals abroad																		
U.S.I.A.	.3	.3	.3	.3	.3	.3	.3	.3	.3	.8	.8	.1	.3	.3	.3	.4	.4	.4
State Department	.8	.8	.8	.8	.8	.8	1.0	1.0	.9	.4	.4	.3	1.7	1.7	1.3	2.0	2.0	1.6
SYRIA																		
Foreign military sales credit (FMS)																		
Emergency security assistance																		
Military assistance (Grant MAP)																		
International military education and training (IMET)																		
Middle East special requirement fund				83.0	83.0	(2)			[1] .7			NA			20.5			NA
Supporting assistance (total)							16.5	16.5	.7	78.5	78.5		80.0	80.0	47.8	90.0	90.0	63.0
Suez area reconstruction																		
Development							14.5	14.5	NA	78.5	78.5	NA	74.7	74.7	NA	88.0	88.0	NA
Commodity import																		
Cash grant																		
Budget support																		
Technical assistance							2.0	2.0	NA				5.3	5.3	NA	2.0	2.0	NA
Desalination																		
Public Law 480 food				7.1	7.1	7.1	[1] 24.3	[1] 24.3	[1] 24.3				17.9	17.9	17.9	19.2	19.2	19.2
Housing guarantees																		
Export-Import Bank:																		
Direct loans																NA	NA	NA
Guarantees										(2)	(2)		1.0	.2		NA	NA	NA
Refugee assistance																		
Israel-United States Binational Industrial Research and Development Foundation																		
American schools and hospitals abroad																		
USIA	.2	.2	.2	.3	.3	.3	.2	.2	.2	.1	.1	.1	.3	.3	.3	.4	.4	.4
State Department	.2	.2	.1	.7	.7	.6	1.0	1.0	1.0	.3	.3	.3	1.7	1.7	1.2	2.1	2.1	1.7

[1] Includes transition quarter.
[2] Less than $50,000.
[3] $1.5 billion forgiven.
[4] 50 percent forgiven.
[5] Export market value.
[6] Funded under the development loan fund or development assistance but included in supporting assistance for brevity of presentation.

PRESIDENT CARTER AND THE TRILATERAL COMMISSION: ARTICLE III

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 18, 1977

Mr. McDONALD. Mr. Speaker, until recently the policies, plans and operations of the Trilateral Commission established by Chase Manhattan Bank head David Rockefeller were the concern of a relatively small number of expert political analysts. Now thanks to the pioneering examinations by conservative political analysts of this powerful special interest group working to influence our Government's policies, the activities of the Trilateral Commission are beginning to receive a public airing.

In recent weeks several of my constituents have submitted extensive magazine articles and newspaper stories on the Trilateral Commission. Several of these are of particular interest and I intend to submit them for the attention of my colleagues.

Attached is the second article in the series by Craig Karpel which appeared in September 1977:

WHO RUNS JIMMY CARTER?

(By Craig S. Karpel)

The President and Vice-President of the United States and the Secretaries of State, Defense and the Treasury are Commissioners of an elite international organization that is on record as being opposed to democracy.

The key strategy of this organization has been to install one of its 67 United States Commissioners in the nation's highest elective office, thus enabling him to choose a Vice-President and Cabinet from its ranks. This strategy has been stunningly successful.

Jimmy Carter was selected more than four years ago to be this organization's candidate for the Presidency. At that time, Carter was governor of Georgia and a political unknown.

This organization has issued a report advocating the limitation of democracy by such means as Governmental secrecy, laws allowing public officials to sue reporters for libel, regulation of the press and reduced higher education.

In his speech accepting the Democratic Presidential nomination, Carter denounced "unholy, self-perpetuating alliances [that] have been formed between money and politics." Carter and Mondale are the only major U. S. political figures who are Commissioners of this organization, most of whose members are the world's most influential and powerful bankers and businessmen.

This remarkable organization is called the Trilateral Commission. It was founded and funded in 1973 by David Rockefeller. Rockefeller is a prominent Republican, youngest brother of Nelson Rockefeller and chairman of New York's giant Chase Manhattan Bank. He is widely considered to be the preeminent leader and spokesman of the international banking community. The purpose of the Trilateral Commission is to weld the corporate and financial sectors of the United States, Western Europe and Japan into a united front to cope with the escalating demands of disadvantaged groups at home and underdeveloped countries abroad.

Until two weeks before Carter's nomination, the Trilateral Commission was headed by Zbigniew Brzezinski, now the National Security Advisor to the President (the post to which Henry Kissinger was originally appointed). Brzezinski contrasts himself with Kissinger by noting that Kissinger was formerly an employee of Nelson Rockefeller, while he is an "associate" of David Rockefeller. In contrast to Carter's human-rights campaign, a recent article by Brzezinski in *Foreign Policy*, "America in a Hostile World," proposes that the U.S. stop championing democracy in the world arena.

A delegate to the Democratic National Convention attempted to deliver a speech revealing Carter's relationship to David Rockefeller, Zbigniew Brzezinski and the Trilateral Commission, but was cut off as he spoke.

Before the election, Carter's then-campaign manager and current staff chief Hamilton Jordan said in Playboy that he would quit if Carter were to appoint Trilateral Commissioners Brzezinski and Cyrus Vance to his Administration. In addition to Brzezinski and Vance, Carter's appointments of Trilateral Commissioners include Harold Brown as Secretary of Defense, W. Michael Blumenthal as Secretary of the Treasury, Warren Christopher as Deputy Secretary of State, Richard Cooper as Undersecretary of State for Economic Affairs, Richard Holbrooke as Assistant Secretary for East Africa and Pacific Affairs, Richard Gardner as ambassador to Italy and Paul Warnke as director of the Arms Control and Disarmament Agency and chief negotiator at the abortive Strategic Arms Limitation talks with the

Soviet Union. Most recently, Carter appointed Gerard C. Smith, North American chairman of the Commission, as ambassador at large for international nuclear-power negotiations. Jordan has not yet submitted his resignation.

Jimmy Carter has presented himself to the American people as, variously, a populist, a conservative, a liberal, a born-again Christian and an aficionado of Bob Dylan. In reality, he was chosen to be President by the quasi secret coordinating council of the financial and corporate elite of the United States, Western Europe and Japan. Contrary to his public positions, Carter is expected by this council to preside over the implementation of its basic program: the reduction and limitation of democracy at home and accommodation with undemocratic regimes abroad.

The time has come for the President of the United States to explain his continued association with the Trilateral Commission to the American people. Does Carter subscribe to the Commission's proposals for limiting democracy? If not, he must explain why he did not resign from the Commission long ago. He must publicly repudiate Brzezinski and dismiss other Trilateral Commissioners from his Administration.

If Jimmy Carter does subscribe to the Commission's proposals, the American public has a right to know how he justifies his participation in a plan to use the Presidency as a vehicle for limiting the democratic process.

THE TRILATERAL WORLD

The Trilateral Commission calls its headquarters on Manhattan's East 46th Street its Secretariat—a nomenclature designed to parallel that of the United Nations building down the block, and to subtly implant the notion in the minds of those who receive correspondence on its ostentatiously plain letterhead that it has proto-governmental powers.

According to Richard J. Barnet and Ronald E. Müller in Global Reach: The Power of the Multinational Corporations, the Trilateral Commission is an "attempt by David Rockefeller to organize 'leading citizens' of the United States, Japan and Western Europe . . . designed to minimize the friction and competition that divide the giants and make them more vulnerable to the organizing efforts of the poor."

The Trilateral Commission was founded in July 1973 by David Rockefeller and Zbigniew Brzezinski. Initial funding came directly from Rockefeller. Approximately 200 Commissioners were chosen by Rockefeller and Brzezinski from among the world's most influential industrialists and financiers. The inclusion of a few academics, labor leaders and politicians has not kept the Commission from being called "a rich man's club" in the pages of Foreign Affairs, published by the Council on Foreign Relations, itself often called a rich man's club.

Jimmy Carter has given an eloquent description of his fellow Trilateral Commissioners. It came during the speech by which he accepted the Democratic nomination, in which he described:

. . . a political and economic elite who have shaped decisions and never had to account for mistakes nor to suffer from injustices. When unemployment prevails, they never stand in line looking for a job. When deprivation results from a confused welfare system, they never do without food, or clothing, or a place to sleep. When the public schools are inferior or torn by strife their children go to exclusive private schools. And when the bureaucracy is bloated and confused, the powerful always manage to discover and occupy niches of special influence and privilege.

In the 1973 Prospectus of the Trilateral Commission, David Rockefeller said that he intended "to bring the best brains in the world together to bear on the problems of the future." Professor Richard Falk holds the Albert G. Milbank chair of International Law and Practice at Princeton University. He is a colleague of Brzezinski's on the editorial board of Foreign Policy but doesn't think much of Brzezinski's pet project.

"Unless 'the best brains' are defined as those inhabiting the most affluent bodies," says Professor Falk, "it has many intelligent individuals, but virtually none of the best brains among its membership. It does bring together a very impressive array of influentials, almost all of whom possess easy and effective access to the topmost levels of power, wealth and prestige.

"In Trialogue, the newsletter of the Commission, Rockefeller is reported as believing that 'private citizens are often able to act with greater flexibility than governments in the search for new and better forms of international cooperation.' What is not explicit . . . is a fear about the consequence of uncooperative governments that become beholden to domestic constituencies whose interests are at variance with those of the multinational corporation, because such constituencies become either nationalistic, or ideological, or humanistic. . . .

"First of all, its formation expresses a general recognition by the elites in the most powerful states that there is an emergent global crisis of unprecedented proportions that involves, in particular, the capacity of capitalism to adapt to the future . . . Second, the Commission's formation reflects the view that national governments are not necessarily capable on their own of working out the adaptations that are necessary to sustain the existing elites in power. . . . Such a nongovernmental initiative can be currently understood as a complement to the managerial geopolitics of Henry Kissinger, which, by its stress on a so-called 'structure of peace,' conceivably imperils the structure of wealth constituted by the capitalist sector of the highly industrialized portion of the world. The Trilateral Commission can be conceived, I think, as a geoeconomic search for a managerial formula that will keep this concentration of wealth intact, given its nonterritorial character and in light of the multiple challenges to it from Arab oil interests, the Communist bloc and various expressions of statism. In a sense, the vistas of the Trilateral Commission can be understood as . . . representing the transnational outlook of the multinational corporation.

"The Trilateral Commission embodies a strategy of transition that does not emphasize empathy and equity, much less equality, and hence has to rely upon patterns of dominance, repression and violence, administered if possible by territorial governments that provide local police protection."

JIMMY CARTER AND THE CRISIS OF DEMOCRACY

The most noteworthy project of the Trilateral Commission has been the report of its Task Force on the Governability of Democracies, which was set up in the spring of 1974. The task force included Zbigniew Brzezinski in its meetings and submitted its report, titled *The Crisis of Democracy*, in 1975. The report's section on the United States was written by Professor Samuel P. Huntington. Huntington holds the Frank G. Thomson chair of Government at Harvard University and its associate director of Harvard's Center for International Affairs. He is a founder and editor of *Foreign Policy*. He has been a consultant to the policy-planning council of the Department of State, the Agency for International Development and the office of the Secretary of Defense. It was Huntington who lent intellectual validity to the carpet-bombing of South Vietnam—to "dry up" the base of the Viet Cong in the countryside by driving the rural population into refugee camps and cities, where they would be under the control of the South Vietnamese military government. His books include *The Common Defense: Strategic Programs in National Politics* (1961) and *Political Power: USA/USSR* (1964), co-authored with Zbigniew Brzezinski.

The Trilateral report begins by describing the "democratic surge of the Sixties."

The predominant trends of that decade involved the challenging of the authority of established political, social and economic institutions, increased popular participation in and control over those institutions, a reaction against the concentration of power in the Executive Branch of the Federal Government and in favor of the reassertion of the power of Congress and of state and local government, renewed commitment to the idea of equality on the part of intellectuals and other elites, the emergence of "public interest" lobbying groups, increased concern for the rights of and provision of opportunities for minorities and women to participate in the polity and economy, and a pervasive criticism of those who possessed or were even thought to possess excessive power or wealth. The spirit of protest, the spirit of equality, the impulse to expose and correct inequities were abroad in the land.

"Views as to what constitutes the precise desirable balance between power and liberty, authority and democracy," the report continues, ". . . obviously differ. . . . Some fluctuation in the balance is not only acceptable but may be essential to the effective functioning of constitutional democracy. At the same time, excessive swings may produce either too much government or too little authority. The democratic surge of the Sixties raised once again in dramatic fashion the issue of whether the pendulum had swung too far in one direction"—i.e., in the direction of liberty and democracy.

The report of the Trilateral Commission concludes that the pendulum has indeed swung too far. "The vigor of democracy in the United States in the Sixties thus contributed to a democratic distemper, involving the expansion of Governmental activity on the one hand and the reduction of Governmental authority on the other." ["Distemper. 1. (a) . . . a specific infectious disease of young dogs . . . 2. a deranged condition of mind or body; a disorder or disease 3. disorder or disturbance, esp. of a political nature," *The Random House Dictionary of the English Language*, 1967 edition—C.S.K.]

"Finally, a government which lacks authority and which is committed to substantial domestic programs will have little ability, short of a cataclysmic crisis, to impose on its people the sacrifices which may be necessary to deal with foreign-policy problems and defense. . . . The U.S. Government has

given up the authority to draft its citizens into the Armed Forces and is now committed to providing the monetary incentives to attract volunteers with a stationary or declining percentage of the Gross National Product. . . . The question necessarily arises, however, of whether in the future, if a new threat to security should materialize, as it inevitably will at some point, the Government will possess the authority to command the resources and the sacrifices necessary to meet that threat.

"The implications of these potential consequences of the democratic distemper extend far beyond the United States. For a quarter century, the United States was the hegemonic power in a system of world order. The manifestations of the democratic distemper, however, have already stimulated uncertainty among allies and could well stimulate adventurism among enemies. If American citizens don't trust their Government, why should friendly foreigners? If American citizens challenge the authority of American Government, why shouldn't unfriendly governments? . . . A decline in the governability of democracy at home means a decline in the influence of democracy abroad."

Translated from the tortured Trilateralese of the report, what the Commission is saying is that the Untied States was forced out of Vietnam by too much democracy at home, thereby losing its credibility as a world military power—and that this trend must be stopped. Then comes the most ominous paragraph of all:

"Al Smith once remarked" the report continues in sober Roman type, which is italicized here, "that 'the only cure for the evils of democracy is more democracy.' Our analysis suggests that applying that cure at the present time could well be adding fuel to the flames. Instead some of the problems of goverance in the United States today stem from an 'excess of democracy.' . . . Needed instead, is a greater degree of moderation in democracy.

"In practice, this moderation has two major areas of application. First, democracy is only one way of constituting authority, and it is not necessarily a universally applicable one. In many situations, the claims of expertise, seniority, experience and special talents may override the claims of democracy as a way of constituting authority. . . . The arenas where democratic procedures are appropriate are, in short, limited.

"Second, the effective operation of a democratic political system usually requires some measure of apathy and noninvolvement on the part of some individuals and groups. In the past, every democratic society has had a marginal population, of greater or lesser size, which has not actively participated in politics. In itself, this marginality on the part of some groups is inherently undemocratic, but it has also been one of the factors which has enabled democracy to function effectively."

Astonishingly, the Commission insists that it is inherently undemocratic factors that enable democracy to function. "Marginal social groups, as in the case of the blacks, are now becoming full participants in the political system. Yet the danger of overloading the political system with demands which extend its functions and undermine its authority still remains. Less marginally on the part of some groups thus needs to be replaced by more self-restraint on the part of all groups. . . .

"Democracy is more of a threat to itself in the United States than it is in either Europe or Japan, where there still exist residual inheritances of traditional and aristocratic values. . . . In the United States, the strength of democracy poses a problem for the governability of democracy in a way which is not the case elsewhere.

"The vulnerability of democratic government in the United States thus comes not primarily from external threats, though such threats are real, nor from internal subversion from the left or the right, although both possibilities could exist, but rather from the internal dynamics of democracy itself in a highly educated, mobilized and participant society. . . . A value which is normally good in itself is not necessarily optimized when it is maximized. We have come to recognize that there are potentially desirable limits to economic growth. There are also potentially desirable limits to the indefinite extension of political democracy."

The Commission ends with several recommendations of ways "to restore a more equitable relationship between governmental authority and popular control," including:

Centralized economic and social planning.

"Centralization of power within Congress."

Repeal of laws prohibiting political contributions by corporations, which "serve little useful purpose."

Improved working conditions to reduce pressure for "industrial democracy modeled on patterns of political democracy."

"A program . . . to lower the job expectations of those who receive a college education."

Such limitations on freedom of the press as "prior restraint" of what newspapers may publish in unspecified "unusual circumstances," the assurance "to the government [of] the right and the ability to withhold information at the source," "moving promptly to reinstate the law of libel as a necessary and appropriate check upon the abuses of power by the press," and press councils enforcing "standards of professionalism," the "alternative [to which] could well be regulation by the government."

The Crisis of Democracy was presented to the full membership of the Trilateral Commission on May 30–31, 1975, at a plenary meeting at the ultramodern convention complex outside Kyoto, Japan. "It looked like one of those meetings of S.M.E.R.S.H. they always have in Ian Fleming movies," says one observer. "You know—the ones where they carve up the world and say 'James Bond must die!'" Jimmy Carter and Walter Mondale were in attendance, Carter's presence was the most flamboyant of all. Newsweek was sufficiently impressed to begin its story of the Kyoto meeting with a reference to Carter's campaign activities at the meeting—almost a year before his primary pluralities brought him to national prominence. Carter spent much of his time huddled with Zbigniew Brzezinski, who, speaking from the dais, praised Carter's candidacy in front of the Commissioners.

When *The Crisis of Democracy* was presented, a lively discussion ensued. One Commissioner said that the report would do well to balance its focus on governability with an equal concern for protection of the rights of citizens. Another Commissioner agreed, suggesting that it might be more appropriate to examine the excesses of the governors than those of the governed. Another insisted that the need was not for "less democracy," that, contrary to the pessimism of the report, recent developments indicate "triumph" and a "finest hour" for American democracy.

Throughout the debate on the report, Jimmy Carter remained conspicuously silent. "He just sat there trying to look statesmanlike," says one observer. He did not have to be concerned that he would read about his abstention in the next day's New York Times, because the ground rules under which reporters were admitted to the meeting forbade them—as if in accordance with the report's advocacy of prior restraint and secrecy—from attributing statements to Commissioners by name.

THE MAKING OF JIMMY CARTER 1973

Jimmy Carter was appointed to the Trilateral Commission by David Rockefeller in the fall of 1973. It is surprising to find Carter, who did not become known nationally until the spring of 1976, sitting as an equal with global luminaries of the statute of Giovanni Agnelli, usually considered the most powerful man in Italy, the chief executive officers of two out of three of the world's largest banks, the former foreign minister of West Germany, the current foreign minister of Japan, the head of the world's largest oil company, the head of the United States' largest oil company, partners of several of the most powerful investment-banking houses on earth and the cream of Japanese industry and finance, including the heads of the Bank of Tokyo, Sony, Hitachi, Seiko, Datsun and Toyota. What was an obscure Southern peanut warehouseman and local politician with no national—let international—reputation doing in such company?

Carter's membership on the Trilateral Commission had its origin in David Rockefeller's desire to install Zbigniew Brzezinski in a high State Department or White House foreign-policy-making role in the Administration taking office in January 1977. It was Rockefeller's feeling that his efforts to construct a post-Vietnam world order were being hampered by Henry Kissinger's neo-Metternichian balance-of-powers approach. Kissinger and Nixon wanted to broker a triangular alliance between the United States, China and Russia that would give those three national governments the strength to negotiate with their emerging common adversaries: the developing world—most immediately, the Arab and Iranian oil producers. Rockefeller believed that the international banking community, of which he is the most influential member, and the multinational corporations that form its clientele would pay the price for such a deal. The national interest of the U.S. as a sovereign state would be put before the profits of the multinationals that are headquartered in the U.S. but, because of their global operations, have been rapidly sloughing off their national allegiance.

David Rockefeller envisioned the formation of a smaller, tighter, less grandiose and more manageable triangle than the one his brother, Nixon and Kissinger were trying to pull together: a gentlemen's agreement among the United States, Japan and Western Europe that would be able to resist, and ultimately profit from, the economic demands of the rest of the world. The Trilateral world would be the new model of yesterday's Free World—with the anti-communism dropped and the under-developed countries added to the enemies list. Brzezinski has called his ultimate goal "a community of the developed nations." The ideological baggage of the post-World War Two era would be jettisoned and replaced with a naked economic self-justification that could have been lifted from the late Lyndon B. Johnson's characterization of the Communist bloc while addressing troops in Korea: "They want what we got, but we ain't gonna give it to 'em."

This Trilateral entente was not, however, to be brokered by the national governments of the three regions. It was to be directly negotiated by representatives of the indus-

trial and financial communities involved. Rockefeller subscribed to the view expressed by U.S. industrialist John Diebold in the fall 1973 issue of *Foreign Policy* in an article titled "Multinational Corporations: Why Be Scared of Them?" in which Diebold maintained that "the logical and eventual development [of the increased role of multinational corporations] . . . would be the end of nationality and national governments as we know them." Which was all right by David Rockefeller, who was worried by the prospect of increased regulation and taxation of the multinationals by national governments. Rockefeller did not want to stick any feathers in the caps of the national governments that Diebold saw withering away—much to the convenience of the multinationals—by allowing them to broker the Trilateral entente. Multinational corporations don't want nations—they want multinations.

David Rockefeller considers himself to be a citizen of the world. His bank's and his family's business interests are worldwide. He is as comfortable conversing in French as in English. He spends as much of his time as possible on the tiny Caribbean island of St. Barthelemy, a French possession, where his tightly guarded compound is approachable only by sea. He does not spend any time *futzing* around in Albany or Washington like Nelson. To David Rockefeller, the national interests of the United States are parochial and particularistic, the sentimental preoccupations of smaller minds than his—such as that of his older brother, patron of that largest of small minds, Henry Kissinger—not to mention the vast majority of the American people.

David Rockfeller thus set about to replace Kissinger with the ambitious Zbigniew Brzezinski, a streamlined practitioner of *Realpolitik* who harbors no anachronistic attachment to those values tradtionally expressed through America's national Government which might get in the way of world trade.

It is, however, considered gauche to campaign publicly for the job of National Security Advisor to the President. One of the main reasons for setting up the Trilateral Commission, therefore, was to supply Brzezinski with a forum in which to campaign privately. There was, moreover, a technicality: Brzezinski would have to be appointed to one or both of these posts by a President. Therefore, no sooner had Rockfeller and Brzezinski set up the Trilateral Commission in the summer of 1973 than they began casting about for a politician whom they could project into the Presidency in 1976.

Carter came to Rockefeller and Brzezinski's attention via several paths. Carter met with Rockefeller at least once in 1971, as indicated in his appointments book, now in the Georgia state archives. The page for November 23, 1971, reads as follows:

7:45 a.m. Arrive Dobbins AFB ¼ Dobbins Gate.

8:00 a.m. Depart Lockheed Jet Star.

10:00 a.m. Teterboro Airport, N.Y.

12:30 p.m. Lunch; Board of Directors, Dining Room, The Chase Manhattan Bank, David Rockefeller.

3:00 p.m. Depart Teterboro.

5:00 p.m. Arrive Atlanta.

Carter was subsequently noticed by W. Averell Harriman, former governor of New York, former ambassador to the United Nations, a senior investment banker and certifiable grand old man of the Democratic Party, who touted Carter to Milton Katz, director of international-law studies at Harvard and chairman of the Carnegie Endownment for International Peace, publisher of the ubiquitous *Foreign Policy*. Katz, in turn, touted Carter to David Rockefeller.

Simultaneously Carter was organizing a series of unusual overseas-trade missions for which he traveled to Europe and Japan to promote the sale of Georgia products abroad. Foremost among Georgia products is, of course, Coca-Cola. In the course of developing his trade missions, Carter caught the eye of Coca-Cola chairman J. Paul Austin, a Trilateral Commissioner who was a sizable contributor to Carter's gubernatorial campaign. Austin commended the Georgia governor to David Rockefeller's attention. It might, in fact, be argued that Carter's personally conducted trade junkets were organized more for the purpose of commending himself to Austin and Rockefeller's attention than for flogging his state's products—i.e., that the main Georgia product he was promoting abroad was himself.

Sometime in 1973, Carter, while on one of his trade visits to Europe, accepted an invitation to dine with David Rockefeller at Rockefeller's palatial home in London. At this dinner, Rockefeller asked Carter to join his Commission, intimating that if he did so, Rockefeller would line up the entire global foreign-policy establishment behind Carter's Presidential candidacy.

Brzezinski was extremely impressed with Carter's political finesse. "He was discussing his Presidential candidacy with a group of American newsmen" during a Trilateral meeting, Brzezinski recalls. "There were hostile and sardonic questions. It struck me that here was an intelligent and cool guy who could not be provoked. He also had a clear scheme for how he would proceed to the nomination."

Rockefeller and Brzezinski's most important consideration was the need to induct a Presidential candidate into the foreign-policy establishment who, if elected, would be beholden to no other constituency. This ruled out such men who were considered Presidential contenders in 1973 as:

Senator Edward Kennedy, who was seen as having too large a personal following based on the Kennedy name and his effective liberal work in the Senate and as carrying with him the liability of Chappaquiddick;

Senator Hubert H. Humphrey, whose personal popularity was enormous and whose ties to the major unions were so strong that he would not fall in line with the Trilateral Commission's subordination of the interests of labor and those of management;

Senator Henry Jackson, whose relationship with huge West Coast defense contractors such as Boeing would make him relatively independent of the Trilateral Commission's support and allow him to mount a strong defense of Israel, which would conflict with the policies of David Rockefeller's Chase Manhattan Bank, which is financial advisor to Egypt and has extensive dealings with other Arab countriees.

Carter, by contrast, had no such powerful constituency to satisfy—or to rely on. He had no backlog of political debts to pay or to collect should he be elected President. The deal was simple: All Carter had to do was promise to appoint Brzezinski to high office and give him the sort of free rein that Nixon had given Kissinger, and the entire resources of David Rockefeller's pyramid of influence would be at his disposal both in the following three years—during which it would do all in its power to get him nominated and elected—and in the ensuing eight years, during which it would help him govern. Harvard professor Samuel P. Huntington, the Trilateral Commission's chief expert on domestic political operations, has written that Harry Truman "made a point of bringing a substantial number of . . . Republican bankers and Wall Street lawyers into his Administration. He went to the existing sources of power in the country to get the help he needed in ruling the country. . . . Truman had been able to govern the country with the cooperation of a relatively small number of Wall Street lawyers and bankers." This dynamic was driven home to Carter: If he wanted to be another Truman, he should play ball with the Trilateral Commission, under the cover of which today's Wall Street lawyers and Republican bankers had opened an uptown office.

Carter realized that he was being offered a unique opportunity to short-cut the tedious process of deal-making with backslapping local pols, which was the conventional way of securing a Presidential nomination. This way he could bypass the smoke-filled rooms of the past and proceed directly to a seat in the nonsmoking section. There would be, of course, a crucial difference between Truman's relationship with the Wall Street establishment and Carter's. When Truman made his arrangement with Wall Street, he was already President of the United States. He thus dealt from a position of formidable administrative and legal power. Wall Street helped Harry Truman, but it didn't invent him. Carter, by contrast, made his pact with the Trilateral Commission when he was a nobody. His listing on the roster of the Commission was the first time anyone outside of Georgia had thought enough of his name to put it on anything—and they could have as easily substituted the name of Reuben Askew, in which case Jimmy Carter would have been back in Plains shelling peanuts on January 20, 1977. Gerold Rafshoon, Carter's media specialist, told Playboy reporter Robert Scheer that Carter's selection to the Trilateral Commission was "one of the most fortunate accidents of the early campaign and critical to his building support where it counted." The business about "fortunate accidents" is nonsense. David Rockefeller does not appoint people to commissions by accident. The purpose of making an ambitious political unknown a member of the most powerful private association in the world was to indebt him deeply to it.

CENSORSHIP AT THE DEMOCRATIC CONVENTION

Jimmy Carter's Rockefeller connection would be common knowledge today if Alex Garnish had had his way. Garnish, a refrigeration engineer by trade, was a Massachusetts delegate to the Democratic National Convention. On the night that Trilateral Commissioner Walter F. Mondale was nominated to the Vice-Presidency, Garnish was recognized by chairwoman Lindy Boggs to nominate one Gary Benoit, a fellow Massachusetts delegate, for the Vice-Presidential spot. Under the rules of the convention, this gave Garnish the right to speak before the cameras for ten minutes. He made his way to the podium and began as follows:

"It is an old cliché in politics that a good ticket is a balanced ticket. We need to balance our ticket. Now, what I am going to tell you is not going to be very popular. I hate to be the bearer of bad tidings on this joyous occasion. But I plead with you to judge what I am going to say on whether it is true, not on the fact it makes you very uncomfortable.

"A powerful, big-money group wants to take over the Democratic Party. Behind the scenes, the fat cats and limousine liberals of the Eastern establishment have moved in to manipulate our party. The grim truth is that the Carter bankwagon runs on Standard Oil, not peanut oil."

No sooner did this bon mot pass Garnish's lips than he was ruled out of order and

escorted hurriedly from the rostrum. Boggs acted on a rule to the effect that no speaker was permitted to say anything derogatory about anyone whose name has been placed in nomination.

But, though Garnish's words may have been out of order at the Carter-dominated Democratic Convention, they are very much in order now. Here is how the refrigeration engineer would have continued if he had not been frozen out:

While the people mistakenly believe the grass roots have spoken, it is a small cabal of men closely tied to the Rockefeller empire who engineered the nomination of Jimmy Carter. The Rockefellers want the American people to have the choice between the Rockedems and the Rockepubs.

The Rockefeller establishment is not content just to own the G.O.P. Because the Rockefellers own assets in 125 nations, they need to control American foreign policy whether the Republicans or the Democrats are in the White House.

After going into Carter's relationship with David Rockefeller, Zbigniew Brzezinski and the Trilateral Commission, Garnish would have continued:

The party of Jefferson and Jackson has been grabbed by monopolists. . . . The Carter clan does not want you to know that they sold out to the establishment in order to get the nomination. A Jimmy Carter Administration will be controlled by the big-money boys, not grassroots Americans. There will be no real tax reform and our foreign policy will be tailor-made to suit the Rockefeller empire, just as Henry Kissinger has done under Nixon and Ford.

We can balance our ticket by having one candidate who belongs to the Rockefellers and one who belongs to the people. Therefore, I place in nomination for the office of Vice-President Gary Benoit of Massachusetts.

If this speech had been delivered, it would have electrified the convention. It would have explained the Carter "phenomenon" to millions of voters and changed the course of a close election. For all the televised yawning about how totally orchestrated, how thoroughly predictable the Democratic Convention was, nobody could have anticipated Garnish's outpouring of disconcerting truth. But when the unexpected finally happened, when somebody actually started speaking lines that weren't in the script, the media assumed that Garnish must be a kook and a crank; they never bothered to find out what he had planned to tell his fellow delegates—let alone to determine whether his charges were true.

WHY NOT THE BEST?

The law firms, the investment banks, the corporations and the men who represent them on the Trilateral Commission are, with the exception of Jimmy Carter, not new to American Government. Far from it: For years, sophisticated analysts have observed that high officials of the State Department, the Defense Department and the Central Intelligence Agency have been drawn from their ranks and have conducted a so-called "bipartisan foreign policy" on their behalf. But never before has this foreign-policy elite tried to gain direct control of the Presidency.

There are several reasons why the foreign-policy establishment has seized the reins of domestic Government.

First, its efforts to conserve and extend its power overseas have been frustrated everywhere, from Indochina to Greece to Italy to Angola. So the foreign-policy elite took its experience at installing "cooperative" national leaders abroad and turned its sights inward on the biggest prize of all: the United States Presidency.

Zbigniew Brzezinski has expressed the underlying reason why it has become necessary for the foreign-policy establishment to have one of its own members in the White House. "Resist as it might," he write recently, "the American system is compelled gradually to accommodate itself to this emerging international context, with the U.S. Government called upon to negotiate, to guarantee and, to some extent, to protect the various arrangements that have been contrived even by private business." The multinational corporations now require a President who can be counted on as negotiator, guarantor and protector of their private arrangements. They can no longer leave the selection of the President up to chance—that is, up to the democratic process.

The multinationals' problem was compounded by the new campaign-financing law, which limits individual contributions to $1000. In the past, bankers, lawyers and executives of the multinationals could give as much as they wanted to a Presidential contender. This power of the purse over Presidential campaigns was an effective form of positive control over the selection process. But the new law made it necessary for the multinationals to find a way of supporting a candidate that didn't involve a direct cash contribution. The Trilateral Commission was set up, in large part, to enable the multinationals to make their contribution to the next President's campaign not in the form of dollars with which to build a prestigious image but in the form of prestige itself. What Carter's listing as a Trilateral Commissioner said to status-conscious editors of television networks, newsmagazines and newspapers was that it was not Udall, not Church, not Fred Harris, not Milton Shapp but this Carter guy who was to be taken seriously.

Lastly, Professor Alan Wolfe, of Berkeley, whose book "The Limits of Legitimacy" will be published by The Free Press, has argued that there is no longer any room for the foreign-policy elite in the Republican Party. "Excluded by the zealous ideologs of the Republican right from playing a major role in that party," Wolfe says, "Wall Street investment bankers, who traditionally had cast their lot with both parties, are leaning more toward open identification with the Democrats.

"One important sign of this shift is the role of David Rockefeller in organizing the Trilateral Commission, which now sees itself as the primary supplier of both people and ideas to the Carter Administration."

The Republican right has for years harbored a devil theory by which the Wall Street investment community is trying to create a socialist world government. Its chief culprits are not the Communists, as most people suppose, but the Rockefeller family. One of the right's basic tracts is, in fact, called "The Capitalist Conspiracy." In reality, the right's analysis is overblown. The foreign-policy establishment does not want an overtly socialist world government—merely a private alliance of the elites of the United States, Western Europe and Japan that will be able to get national governments to enforce their policies, which include socialist-style central economic planning. And the Rockefellers are not mustache-twirling comic-book villains plotting a sinister capitalist conspiracy; they are simply the most influential, ambitious and cunning capitalists. Nevertheless, the fears of the right have forced Wall Street out of the Republican Party, out of domestic bipartisanism and into Democratic national politics, where it has successfully—and, by and large, secretly—fielded its first President.

We need not ask Carter whether he approves of the Trilateral Commission's recommendations on limiting democracy. Carter's candidacy is itself an exercise in the limitation of democracy. An obscure politician comes out of nowhere to grab the nomination from men whose careers, if nothing to write home about, are at least known to the public. He utters populist mouthings while his true base of support is not among the electorate but among international bankers and officers of multinational corporations. The fact is that the United States today is starved for democracy. For two and a half years, it had an appointed President who vetoed 58 acts of an elected Congress. The government of New York City is in the hands of an appointed Emergency Financial Control Board composed of businessmen and bankers who hold no public office. (This board is, coincidentally enough, also intimately connected with David Rockefeller and the Trilateral Commission, as explained in this writer's article "There Are 8,000,000 Stories in the Naked City and This Is the Last One" in the November 1976 *Playboy*.) The public-school system of Boston is being run by a single Federal judge. Jimmy Carter recognized the desire of the public for democratic control of Government—the so-called "anti-Washington" sentiment the media say Carter plays to—and pandered to it with demagogic cynicism.

The first President in America's history to promise not to lie has told a whopper. Speaking on all three television networks at once, he vilified a nameless political and economic elite and catigated unholy, self-perpetuating alliances between money and politics. One is, presumably, permitted to infer that the speaker had not himself been recruited into such an elite and was not himself a member of such an alliance. Jimmy Carter's service on and sponsorship by the Trilateral Commission means that these statements are lies so bald, so shameless, so outrageous, that they shame the Presidency.

There is only one defense against Jimmy Carter's big lie, and America is entitled to it at once: the whole truth.

SAFEGUARD RELIGIOUS FREEDOM: SUPPORT H.R. 3384

HON. DAVE STOCKMAN

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 18, 1977

Mr. STOCKMAN. Mr. Speaker, the House will soon consider H.R. 3384, a bill to provide that no employee shall be required to join or financially support a labor organization if he or she is a member of a religion or sect which conscientiously objects to doing so. I strongly urge my colleagues to support this bill when it comes before us.

This amendment to the National Labor Relations Act will extend legislative relief to the many sincere, reliable workers who are forced to choose between their jobs and adherence to their religious beliefs. Union security agreements frequently make it necessary for people with deep convictions to compromise their religious principles in order to remain employed. To keep a clear conscience, or simply to avoid having to fight the system, many other people have had to seek other kinds of work.

As the influence of organized labor has spread through our economy, it has become increasingly difficult for persons imbued with such convictions to remain employed in their fields of choice and expertise. Although the number of citizens affected is small in comparison to the total work force of the Nation, the problem becomes in personal terms, one of the utmost severity. Particularly to the half-million Seventh-day Adventists who, among others, suffer this injustice,

America cannot truly be said to afford religious freedom.

Congressional redress of this legitimate grievance is long overdue. Twelve years ago the Executive Council of the AFL–CIO declared a policy of encouraging member unions to accommodate themselves to individual religious scruples. Moreover, the council expressly sanctioned the principle, provided in H.R. 3384, of giving to religious objectors the option of contributing to a nonreligious charity sums equal to union dues and initiation fees.

The significance of the proposed legislation for all who cherish the right to live their religious belief is reflected in its widespread support. Religious organizations representing faiths which have no prohibition on union membership have spoken out on behalf of those which make it doctrine. The National Council of Churches, the National Catholic Welfare Conference, and the Central Conference of American Rabbis are among the many who recognize the fundamental nature and unassailable virtue of the freedom involved. We are charged with nothing less than the duty of safeguarding a most basic and most treasured heritage.

For these reasons, Mr. Speaker, I urge support of H.R. 3384.

PHILADELPHIA TO DEDICATE PLAYGROUND IN MEMORY OF ELIZABETH PICARIELLO

HON. JOSHUA EILBERG

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 18, 1977

Mr. EILBERG. Mr. Speaker, I am pleased to be able to inform my colleagues that this Thursday, the city of Philadelphia will officially open the Elizabeth M. Picariello Playground, dedicating it to the memory of a lady who contributed much to the youth of our city.

It was my privilege, Mr. Speaker, to have known Mrs. Picariello and to have observed the work which she did on behalf of young people. Mrs. Picariello, who died in 1973, had been active with youngsters of the Liberty Bell Youth Organization, of which she was a founder, and she coached girls' softball and girls' baseball teams until she became ill and was unable to continue.

During her lifetime, she served as president of the Liberty Bell Youth Organization Ladies Auxiliary and, at one time, also was the organization's vice president. She also had been active with the Morrell Park Civic Association and with other community groups.

Her husband, Samuel, who is one of my close friends, will be present on the platform to receive a copy of the ordinance naming the facility for his late wife. Also present will be her five children, Samuel, Jr., Rosina, Stephen, Patricia, and Elizabeth.

Recreation Commissioner Robert W. Crawford will be chairman of the program and Councilman Melvin J. Greenberg will be the speaker. Local guests will include Rev. Gerald Scherf, pastor of St. Martha's Roman Catholic Church; Rev. Robert J. McGee, pastor, Christ the King Roman Catholic Church; Raymond Scheetz, president and John Newns, vice president of the Morrell Park Civic Association; Eugene Falcone, secretary, Steven Super, treasurer, and Salvator Ferrante, athletic director of the Liberty Bell Youth Organization; Capt. Weldon Jones of the Seventh Police District; Capt. Michael Steinberg of the Fire Department; Robert J. Brockway, director of the Northeast YMCA and Marion Mostovoy, principal of J. Harry LeBrum School.

Rev. Harold Burkett, pastor of United Methodist Church of the Good Shepherd will offer the invocation prayer. Music will be provided by the Police and Firemen's Band.

PENN CENTRAL TAX NOTES

HON. MARY ROSE OAKAR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 18, 1977

Ms. OAKAR. Mr. Speaker, this Thursday the Subcommittee on Transportation is scheduled to mark up H.R. 8882. I introduced this legislation on August 5, and in the intervening 10 weeks I have been joined by 64 of my colleagues in sponsoring this important measure. As my colleagues on this subcommittee begin consideration of this bill, I believe it will be useful to recount certain aspects of this issue and broach some new questions.

The bankruptcy of the Penn Central Transportation Co. has produced a number of unfortunate and complex problems. Of these difficulties, the plight of the State and local taxing authorities is the most compelling. There are approximately 2,500 taxing authorities to which the Penn Central has a tax delinquency of nearly $500 million. Yet, these taxing authorities have been prevented from pursuing the normal process of tax collection. An amalgam of public laws and court orders have changed the ground rules with regard to the tax collection and bankruptcy procedures. One of the consequences of these legislative and judicial initiatives has been the inability of cities and towns in the depressed Northeast and Midwest from collecting taxes that are due and owing to them.

H.R. 8882 is intended to bring some equity to this situation. The bill would authorize the Secretary of Transportation to guarantee long-term notes that the Penn Central trustees will offer in lieu of their tax delinquency. The guarantee will be of little or no risk to the Federal Treasury. This contention has been supported by those most familiar with this monumental and historic bankruptcy. The guarantee is not the bailout of a private corporation or a handout to the State and local taxing authorities. The purpose of the bill is not to put the Federal Government in the position of paying notes issued by private concerns. The likelihood of this is quite small. The bill will, however, give these notes immediate marketability. This would give the taxing authority the opportunity to sell these notes in private markets when they receive them. The need for this marketability cannot be overstated. Approximately 70 percent of the taxes owed by Penn Central are targeted for the operation of schools. We all know the financing difficulties that our schools face. I know of no better argument for this legislation than to demonstrate the financial needs of these school systems.

During the hearing on H.R. 8882, there were some questions raised with regard to the precedent that this legislation might set. In order to accommodate those members who are concerned about such precedents, I have drawn up amendments that would limit this bill in three ways: First, limit the guarantee to Penn Central; second, limit the applicability of the guarantee to postbankruptcy taxes; and third, limit the existence of this program to December 1992 (that is, 5 years from the maturity date of the 10-year notes). I believe that these amendments will make this bill acceptable to those concerned with precedent.

In sum, I would only say that this bill addresses a problem that is urgently in need of remedy. The inability of the Congress to act will be most acutely felt by schoolchildren. This is a modest effort to make on their behalf.

Mr. Speaker, I urge my colleagues on the Subcommittee on Transportation and Commerce to favorably report H.R. 8882. Moreover, I appeal to the members of the Committee on Interstate and Foreign Commerce to act quickly and favorably on this vital piece of legislation.

DEATH OF J. FLOYD BREEDING

HON. JOE SKUBITZ

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 18, 1977

Mr. SKUBITZ. Mr. Speaker, it is with great sorrow that I report the death of J. Floyd Breeding, our former colleague and a Kansan who served his State and his Nation with great distinction. We counted Floyd as one of our own from 1957 to 1962 when he represented the old Fifth Congressional District of Kansas in this House.

J. Floyd Breeding began his long career of service to the people of his beloved Kansas long before he became a Member of Congress. As a farmer-stockman from Rolla, Kans., Floyd was first elected by his friends and neighbors to represent them in the Kansas Legislature in 1947. He became the minority leader of that body in 1949 and was the Democratic nominee for lieutenant governor of Kansas in 1950.

Before coming to Congress, Floyd served as president of the Western Kansas Development Association and a strong spokesman for the National Association of Wheat Growers. He was also active in the Kansas Farm Bureau,

Farmers Union, and Kansas Livestock Association.

When J. Floyd Breeding first came to Congress in 1957, he quickly became known as a knowledgeable, vocal foe of the administration's farm policy. Congressman Breeding's agricultural expertise was widely recognized.

When he retired from Congress in 1963, he was appointed by President Kennedy to serve as an assistance to the Secretary of Agriculture, a position he held until he retired from public service in 1966.

Few Kansans have been more dedicated to representing the interests of the farmer and the rancher in Washington. J. Floyd Breeding had those rare qualities of leadership and agricultural expertise that enabled him to serve as an outstanding representative of the people.

All Kansans have lost a true friend and the presence of J. Floyd Breeding will be sorely missed.

REMOVING THE AIR FORCE GAG ON THE PANAMA CANAL TREATIES

HON. GEORGE HANSEN

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 18, 1977

Mr. HANSEN. Mr. Speaker, I call your attention to the contents of a priority message dated August 20 from Air Force Chief of Staff, Gen. David C. Jones, addressed to all major Air Force commands concerning the Panama Canal which in paragraph 5 is suggestive of Singlaub style squelching.

I am absolutely shocked and appalled by the contents of General Jones' message. It seems to me that free speech and honest opinions would be in the "best interest" of this Nation during the consideration of the highly controversial proposed Panama Canal treaties.

General Jones' statements are highly indicative of wide scale "Singlaubistic" thinking in the military and in addition they provide speculation of White House terror tactics and bullying.

Also included in paragraph 3 is a Carter statement obviously designed to gain military support giving unilateral assurance that the United States "will have the right to assure the maintenance of the permanent neutrality of the canal as we may deem necessary" which should be interesting in light of Panamanian thinking as shown in the Dole interception.

You might note in paragraph 2 the strongest possible statement of need for the canal which stands quite in contrast with the watered-down statements being fed to the civilian sector suggesting another dicotomy of sales pitch.

I suggest this message may warrant renewed questioning of the military to clarify General Brown's statement as to just how much pressure is being applied from the White House on down to prevent independent judgment and gain military support by coercion for these questionable and controversial treaties.

Mr. Speaker, it is indeed evident that President Carter's plans for the Panama Canal are in serious jeopardy, a fact to which even the President and many close aides have admitted. It is obvious that the administration is becoming desperate in its attempts to sell the proposed treaties. Even President Carter's recent effort to clarify the treaty language with Panamanian dictator Gen. Omar Torrijos failed when neither party signed the joint agreement. The killing blow came, however, when Torrijos stated publicly upon his return to Panama that he had agreed to nothing in his meeting with President Carter and the communications gap continues to widen.

Mr. Speaker, I include for the RECORD a copy of General Jones' message to all major Air Force commands. Additionally, I include a copy of my protest letter to General Jones and a news release given to members of the press on Monday, October 17.

The articles follow:

FOR COMMANDERS FROM GENERAL JONES ON PANAMA CANAL TREATIES

1. On 10 Aug. 1977 Panamanian and U.S. negotiators announced agreement in principle on a conceptual framework for two new treaties. One, the Neutrality Treaty, provides for the permanent neutrality of the canal; the second, the Panama Canal Treaty, deals with the operation and defense of the canal. Both treaties would enter into effect after ratification and document exchange processes are complete. The Neutrality Treaty will be of indefinite duration, whereas the Panama Canal Treaty will terminate in all aspects on 31 Dec. 1999.

2. The Panama Canal is a major defense asset, the use of which enhances United States capability for timely reinforcement of United States Forces. Its strategic military advantage lies in the economy and flexibility it provides to accelerate the shift of military forces and logistic support by sea between the Atlantic and Pacific Oceans and to overseas areas. United States military interests in the Panama Canal are in its use, not its ownership. The proposed treaties would assure that access to and security of the Panama Canal are protected in time of war and peace.

3. As President Carter has stated, "We will have operating control and the right to protect and defend the Panama Canal with our own military forces until the end of this century. Under a separate neutrality treaty we will have the right to assure the maintenance of the permanent neutrality of the canal as we may deem necessary.

4. The Air Force actively participated in the development of all defense related aspects of the proposed treaties, and fully supports them. They would provide a basis for development of a continuing friendly relationship between the United States and Panama which would be of significant importance in insuring that the Panama Canal would be available to the United States when needed. Once the U.S. no longer operates the canal, the proopsed neutrality treaty would provide an adequate basis for safeguarding our interests in the canal.

5. It is important that our personnel, particularly our senior people, understand our support for the proposed treaties.

DEAR GENERAL JONES: I am deeply appreciative of your integrity and many years of service to our country. I regret that it is necessary to confront you with a matter of serious concern.

However, I am in possession of an August 20 message which you sent to all major Air Force commands regarding the Panama Canal, the contents of which I have this day released to the Press.

It is appalling that you have apparently "caged" all Air Force personnel, especially those senior officers whoses true opinion would be of great use to the public and the security of this nation.

The information I received along with your message indicates that, "Paragraph 5 of this message makes it quite clear that we, as military personnel, are expected to support these treaties," and that any action otherwise would be highly detrimental to a military career. It is quite apparent to me that this is a clever but still blatant attempt to deprive the American people of the full information to which they are entitled on a matter so serious.

In light of the controversy over the Dole interception, are the assurances contained in your message still valid? The question is particularly pertinent in light of the recent so-called agreement between Carter and Torrijos which was not signed by either person and which was gutted by statements of Torrijos on his return to Panama. If a Senior Officer did express a contrary opinion could he expect the same treatment as General Singlaub?

In light of your contention in paragraph 2 does this mean that the United States with no control over the Canal would have to make good any operational deficits of the Canal's operation or pay for any needed maintenance?

Did you receive any pressure from the White House for your own support or to send such a message to the members of your command?

Your comments in paragraph 2 show significant contradiction between what the military is telling itself about the military value of the Panama Canal and what they were telling the public in past Senate hearings. I would like to know just exactly what the official military position really is.

Furthermore, I have serious doubts that in light of recent controversies over treaty interpretation that the Panamanians would accept the unilateral authority of President Carter's statement in paragraph 3 which says that the United States ". . . will have the right to assure the maintenance of the permanent neutrality of the Canal *as we may deem necessary.*" (Emphasis added.)

As I already have strong indications of numerous complaints of senior military personnel who are being "squelched," I must demand an immediate retraction of this "muzzling" order along with proper apologies from you and any higher authority responsible.

Finally, in your further statements to the Congress, the public, or your command, I would strongly suggest that you arrive at a consistency that is compatible with national security and with the basic rights of individuals in a free nation. I assure you that my colleagues will be most interested in observing the action of the high command of the nation's armed forces during deliberations over the proposed Panama Treaties in the days ahead.

Your expeditious reply to my questions will be greatly appreciated.

Sincerely,

GEORGE HANSEN,
Member of Congress.

HAS THE MILITARY BEEN MUZZLED ON PANAMA?

WASHINGTON, D.C.—U.S. Rep. George Hansen today released the contents of a priority message from Air Force Chief of Staff, General David C. Jones to all major Air Force commands concerning the Panama Canal.

Hansen quoted General Jones as saying, *"The Panama Canal is a major defense asset,* the use of which enhances United States capability for timely Reinforcement of United States forces. Its strategic military

advantage lies in the economy and flexibility it provides to accelerate the shift of military forces and logistic support by sea between the Atlantic and Pacific oceans and to overseas areas."

The Idaho Congressman noted with interest General Jones' statement in light of numerous recent statements by the Joint Chiefs of Staff downplaying the military importance of the Panama Canal.

"The highly controversial circumstances surrounding the proposed treaties added to General Jones' statement continue to prove beyond a shadow of a doubt that the proposed treaties are a fraud," Hansen stated.

"The American people have a right to know that the White House is attempting to subvert the truth, even to the point of gagging Senior military personnel and demanding their support of the Administration's misconceived foreign policy," Hansen said.

The following comments of a member of the Air Force from whom I received General Jones' message are very revealing as to the message's intent: "Although I agree with your position against ratification of the Panama Canal Treaties, I am unable by virtue of my position as a member of the United States Air Force to get involved publicly ... Paragraph 5 of this message makes it quite clear that we, as military personnel, are expected to support these treaties." Paragraph 5 states, "It is important that our personnel, particularly our Senior people, understand our support for the proposed treaties."

"Does the threat of coercion exist in the military? The General's message suggests that support is mandatory and individual military members, especially senior military personnel are not allowed to express their own opinions," Hansen charged.

"It is quite evident that any Senior officer who dares to express his own feelings will suffer the same fate as General Singlaub. I wonder if the Joint Chiefs received a similar message from the White House demanding their allegiance?" queried Hansen.

And do the Joint Chiefs even know exactly what they are supporting? "President Carter's recent attempt to rectify the different U.S. and Panamanian interpretations of the proposed treaties have not eased the suspicion created by a recent shocking message interception of Senator Dole. General Torrijos and President Carter hurriedly met in Washington to issue a statement of agreement which neither signed and which was gutted by Torrijos' own comments upon returning to Panama," Hansen stated.

Finally, can the Panamanians accept the unilateral authority of the Carter statement in paragraph 3 of the Jones message that the U.S. "will have the right to assure the maintenance of the permanent neutrality of the Canal as we may deem necessary?" Hansen concluded.

EXPLANATION OF MISSED VOTE

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 18, 1977

Mr. CONYERS. Mr. Speaker, unfortunately, I was not present to cast my vote on the foreign assistance and related programs, H.R. 7797. If I were present I would have voted "aye" on this measure. In my judgment it is unfair to single out these two nations for punitive treatment, and this amendment would have provided the President a minimal amount of flexibility in shaping our relations with these two nations.

1977 LEGISLATIVE QUESTIONNAIRE RESULTS

HON. ELDON RUDD

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 18, 1977

Mr. RUDD. Mr. Speaker, earlier this year I asked all residents of Arizona's Fourth Congressional District to give me their views on pressing State and national issues before the Congress.

I received responses from more than 21,000 people, representing a good cross-section of my 36,500 square mile district. I would like to share the results of my 1977 legislative questionnaire with all my colleagues in the Congress, so that they might also benefit from this input from so many concerned citizens:

RESULTS OF CONGRESSMAN ELDON RUDD'S 1977 LEGISLATIVE QUESTIONNAIRE

[In percent]

1. Do you favor continued Federal funding and completion of the Central Arizona Project?

Yes	89
No	8
No Opinion	3

2. Do you favor increasing the Federal minimum wage from $2.30 to $2.50 per hour?

Yes	44
No	54
No Opinion	2

3. Last year the Federal government had a $76 billion budget deficit. For FY 1977 and FY 1978, the projected Federal budget deficit is $124 billion. Do you favor reducing government spending, even if it means cutting some programs that you support?

Yes	89
No	6
No Opinion	5

4. Do you believe that the following Federal agencies have too much authority and power, which should be reduced?

a. Environmental Protection Agency (EPA):

Yes	81
No	16
No Opinion	3

b. Occupational Safety and Health Administration (OSHA):

Yes	76
No	16
No Opinion	8

5. Do you favor increased Federal support for energy research and development, to move the nation promptly towards greater use of:

a. Nuclear Energy:

Yes	61
No	26
No Opinion	13

b. Solar Energy:

Yes	86
No	8
No Opinion	6

c. Geothermal Energy:

Yes	75
No	11
No Opinion	14

6. In order to help redirect the economy to more productivity, do you favor a permanent tax reduction for citizens as an alternative to the $50 tax rebate scheme proposed and later withdrawn by the President?

Yes	86
No	8
No Opinion	6

7. Do you favor either of the following changes in the election laws which have been proposed by the administration?

a. Federal financing of Congressional elections:

Yes	11
No	78
No Opinion	11

b. National universal postcard voter registration:

Yes	15
No	79
No Opinion	6

8. Do you favor re-evaluating the U.S. policy of detente with the Soviet Union and other nations, in light of charges that it is not a "two-way street"?

Yes	79
No	13
No Opinion	8

9. Please indicate whether you favor or oppose the legislation I have sponsored, which is summarized on Page 2 of this Report to the People:

a. Jobs Creation Act (H.R. 2598):

Favor	94
Oppose	4
No Opinion	2

b. End Federal Deficits (H.J. Res. 188):

Favor	95
Oppose	4
No Opinion	1

c. Repay National Debt (H.R. 3254):

Favor	84
Oppose	12
No Opinion	4

d. Repeal Automatic Pay Raises (H.R. 2430):

Favor	84
Oppose	12
No Opinion	4

e. Inflation-Proofing Pay Raises (H.R. 2407):

Favor	88
Oppose	8
No Opinion	4

f. Repeal Social Security Earnings Limitation (H.R. 2080):

Favor	96
Oppose	2
No Opinion	2

g. Retain U.S. Ownership of Panama Canal (H. Res. 185):

Favor	95
Oppose	2
No Opinion	3

h. Repeal Bilingual Ballot Requirements (H.R. 2007):

Favor	80
Oppose	12
No Opinion	8

i. Limit Food Stamps (H.R. 1347):

Favor	88
Oppose	8
No Opinion	4

j. Prohibit Military Unions (H.R. 3262):

Favor	98
Oppose	1
No Opinion	1

k. Stop Saccharin Ban (H.R. 5508):

Favor	80
Oppose	8
No Opinion	12

1. Limit Foreign Aid (H.R. 5337):

Favor	97
Oppose	2
No Opinion	1

m. National Patriotism Week (H.J. Res. 135):

Favor	72
Oppose	20
No Opinion	8

n. Additional Federal Judges (H.R. 4482):

Favor	88
Oppose	8
No Opinion	4

o. Navajo Community College (H.R. 3827):

Favor	72
Oppose	16
No Opinion	12

10. Priorities: Please rank, in order, the following issues as to the urgency of their consideration by Congress:

1. Curb Inflation.
2. Cut Government Wastes.
3. Adequate National Defense.
4. Increase U.S. Energy Supply.
5. Stronger Penalties Against Criminals, Especially Those Who Use Guns to Commit Crimes.
6. Welfare Reform.
7. Return Power to Local Government.
8. Tax Cut Linked to Spending Cut.
9. Income Tax Simplification.
10. Stronger Environmental Laws.

CAPITOL PAGES PROVE IT'S ACADEMIC

HON. JOE MOAKLEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 18, 1977

Mr. MOAKLEY. Mr. Speaker, on last Saturday, October 15, the Capitol Page School became only the second school in 5 years to win in its initial appearance on the NBC–TV high school competition, "It's Academic." In three lightning rounds the Page School team vanquished the opposing teams from St. Anselms and Churchill High Schools.

Page School, the smallest school ever to compete on "It's Academic," was capably represented by team captain Tom Daniels, Peter Neil, and Jennifer Gay. Tom and Peter are both House pages while Jennifer serves in the Senate. They were backed up by alternates Holly Glenn, Chris Clark, and Noreen Beatley, who are all House pages.

Out of 81 schools in the first competition, Page School has won the right to compete in the quarter finals. We all share the hope that the pages will be able to continue to the semifinals and ultimately the finals.

I think it is important to say that our Page School participants on "It's Academic" are representative of the fine young men and women who serve us so well and faithfully in the Congress. In spite of their long and demanding hours of work in the House and Senate, they still find time to distinguish themselves in worthy activities such as this. A word of commendation is well-deserved by Mr. Leo Balducci, of the Page School faculty who was the team coach.

I hope that many of my colleagues will be able to view the airing of "It's Academic" at 11 a.m. on Sunday, November 20 on NBC–TV Channel 4 in Washington. Those who do will certainly share my pride in our congressional pages.

CATHOLIC CHURCH IN NORTHEAST PHILADELPHIA MARKS 50TH ANNIVERSARY

HON. JOSHUA EILBERG

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 18, 1977

Mr. EILBERG. Mr. Speaker, the Roman Catholic parish of St. Agatha's, which lies in the Fourth Congressional District of Pennsylvania, has just observed its 50th anniversary.

In this connection, the Catholic Standard and Times, the weekly publication of the archdiocese of Philadelphia, carried an excellent article in its October 13, 1977, issue about the growth and development of this church in northeast Philadelphia.

It is with pride and pleasure that I place the full text of this article in the RECORD:

FIFTY YEARS NOTED BY GREATER NORTHEAST CHURCH

During the second week of October, 1927, Father John Mc Menamin, erstwhile assistant pastor at St. Agatha's Church, alighted from a rt. 66 trolley at the corner of Frankford and Cottman aves, and looked over the empty fields of his new parish, St. Matthew.

In the 50 years that have passed since that day, the empty fields of the Greater Northeast have blossomed into one of the largest parishes in the Archdiocese.

The first parish church was a rowhouse on Cottman ave. which doubled as a rectory and in which Masses were offered for over a year.

The first church (chapel) was placed on the site of the present convent. It was a wooden building used as a barracks at Hog Island during World War I, and had served as the original church building for a budding St. Ambrose parish after the war. The first Mass was offered in the chapel on Oct. 14, 1928.

After the new church was constructed, the old chapel building was used as a school annex and finally was dismantled for the construction of the convent.

Father Mc Menamin remained as pastor of St. Matthew's until 1934 when he was transferred as pastor to St. Francis Xavier Church and Father James J. Rice was named pastor to replace him.

Father Rice continued the labors that the founding pastor had laid out. He constructed the school and a new permanent church. The school building was completed by the beginning of the school year, 1937, and was staffed by Sisters, Servants of the Immaculate Heart of Mary.

Ground was broken for the church in June, 1941, and the building was completed in nine months.

Father Rice died on April 30, 1946, and was succeeded by Father Laurence A. Maher. In a moving speech to his new congregation, Father Maher said: "I come amongst you, today, as your new pastor, and with the help of God, to carry on the work so well begun by Fathers McMenamin and Rice . . . I am no stranger . . . I grew up in St. Leo's."

Under Father Maher the parish came to its fullness. Buildings were completed and added to, new projects undertaken and Catholic life flourished at all levels.

However, there was little cloud in the sky. Where would Father Maher put the terrific overload of students now coming to school. Enrollment had increased from 320 in 1937 to 750 in 1946. A school building fund was started and by October, 1948, enough money had been raised to start a new school which was completed and opened for the 1949 school year.

As the year of 1962 drew to a close—The 35th anniversary of the parish—all parish buildings were opened and in use and paid for. The work was over. Within a few months, on Feb. 15, 1963, Father Maher died.

Father John O'Melia, pastor of St. Malachy's Church in the inner-city was transferred to St. Matthew's as pastor to succeed Father Maher in 1963 and remained until his death in 1968.

Msgr. Francis Gaughan, who had been founding pastor of St. Paul in East Noriton, was appointed fifth pastor of St. Matthews in October, 1968.

Father Gaughan presided over all the changes made in the church buildings dictated by Second Vatican Council.

On March 22, 1976, recognition came to Father Gaughan. He was called to the chancery to meet Cardinal Krol and to be informed by him that Pope Paul had named him a domestic prelate with the title of Monsignor. The honor was a personal one, granted to a priest who had labored long and had produced excellent results.

With 50 years of activity in the Northeast passed, the parishioners of St. Matthew's look forward to many more years of expansion.

GOODLING ON THE CANAL—A PROFILE IN COURAGE

HON. BUD SHUSTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 18, 1977

Mr. SHUSTER. Mr. Speaker, as we all know there has been a great debate going on over the Panama Canal treaties for quite some time now. I have very serious reservations about not only the intent of both parties to these treaties, but also the constitutional justification given for the mechanism of approving a treaty that dispenses with U.S. territory.

In reference to this issue, I wanted to bring to the attention of my colleagues an article which appeared in the Hanover Evening Sun entitled, "Goodling Writes Chapter in Political Courage." Although Congressman GOODLING and I do not agree on this issue, I certainly admire his courage and respect his convictions in this area. I also know that the distinguished gentleman from the 19th District of the Commonwealth is highly respected by his colleagues on whatever issue he speaks on and will be listened to seriously on this matter as the crucial decision draws near.

The article follows:

GOODLING WRITES CHAPTER IN POLITICAL COURAGE

(By Kenneth B. Dalecki)

WASHINGTON.—If someone writes a sequel to John F. Kennedy's "Profiles in Courage," they might consider devoting a chapter to Rep. William F. Goodling of Pennsylvania.

Kennedy's book recounted rare incidents of political courage in American history.

Goodling may be risking his young political career by taking a highly unpopular stand

on perhaps the most emotional issue before the electorate: the Panama Canal treaties.

Goodling has strongly endorsed the treaties which would relinquish U.S. control over the canal by the year 2000 while permitting U.S. military intervention to insure its neutrality.

His position conflicts with his conservative position on most other issues and, judging from his mail count, is contrary to what the vast majority of his constituents want.

The canal issue is a sensitive one House members can easily sidestep since only the Senate votes on treaty ratification.

"I feel strongly that we're wrong when we bury our heads in the sand," Goodling said in an interview. "The issue (of Panamanian demands) is not going to go away because we don't want to talk about it."

"We should be working for the cultivation of friendship and ties with Latin America," said Goodling. While some opponents of the canal treaties argue their approval would be a sign of American weakness, Goodling said he feels "just the opposite." He feels it would weaken anti-American elements in Central and South America.

The Pennsylvania Republican has not always favored relinquishing U.S. control of the canal. His initial feeling was to oppose the negotiations.

But earlier this year he began to study the issue after being selected to serve on the House International Relations Committee. He said his own research made him "a little reluctant to say boldly: 'It's ours, we paid for it and we're not going to talk about it."

In March, Goodling traveled to the Canal Zone and came back convinced that the Panamanians have "real legitimate gripes." Briefings by U.S. military officials convinced him that "a couple of sticks of dynamite" detonated in the right place could close the canal for years."

Goodling made no secret of his about-face on the treaties issue. He has devoted several weekly newsletters to the topic and has arranged for Ambassador Ellsworth Bunker, a negotiator of the treaties, to speak in his 19th Congressional District.

Bunker will speak Tuesday at 8 a.m. at The Yorktowne Hotel.

As a result of his outspoken position, Goodling has been dogged by what appear to be organized anti-treaty questioners during a series of "town meetings" he has held this summer in his district.

He said Rep. Steven D. Symns (R-Idaho), a leading opponent of the treaties, "has warned me that 'the canal issue will beat you' " when he seeks re-election next year.

But Goodling, in his second term, said he would rather go back to being a school superintendent than compromise his convictions concerning the need for a new agreement with Panama.

His mail has been four-to-one against the treaties but the flow of letters has diminished from some 200 a week earlier this year to about 35 a week now. A recent poll commissioned by the Associated Press showed 50 percent of voter-age Americans against the treaties, 29 percent in favor and 21 percent undecided.

Goodling said he detects a gradual change in public mood on the treaties in his south-central Pennsylvania district. "There are many more people now who use two sides of the issue," he said. "Many have been misled with a lot of publicity that has come out."

He is critical of the role former California Gov. Ronald Reagan has played in the canal issue. In 1976, Reagan found his anti-treaty stance to be one of his strongest GOP primary campaign issues against President Ford.

But Goodling thinks it is time for Reagan to step out of the foray—a prescription he also makes for Ford, who supports the treaties, and ex-Treasury Secretary John Connally of Texas. "I feel their time has come and gone," Goodling said. "I don't think they should be in the forefront of the Republican Party. We've got to come up with new leadership and they stand in the way."

Goodling's position on the treaties has won him supporters in and out of his district. "I admire him even though I've never met him," said a top aide to a southern senator who would like to support the treaties but is fearful of constituent reaction.

"I was really impressed with his courage," said the Rev. Charles Bieber, a pastor of the Black Rock Church of the Brethren, Brodbecks, in Goodling's district. Bieber went to Panama in April, 1976, as part of a National Council of Churches fact-finding mission.

"I had no strong opinion one way or the other when I went," Rev. Bieber said. But he came away convinced that the new treaties are necessary to improve U.S. relations in Latin America and to do what is just for Panamanians.

Bieber attributes the furor over the canal to "nostalgia for the heyday of American power. Many people fear that maybe America isn't as great as it once was. I believe giving something up like this is a mark of greatness."

IT IS NOW THE B–1, THE B–52, OR NOTHING

HON. ROBERT L. F. SIKES

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 18, 1977

Mr. SIKES. Mr. Speaker, the House is scheduled to vote Wednesday on the procurement of five B–1 combat bombers. When the House voted 202 to 199 against funding for the B–1 in the fiscal year 1978 military budget conference report, it was assumed the B–1 was dead and buried. The Speaker's influence had changed enough votes to defeat the appropriation. However, subsequent events have brought about an entirely different ball game. The B–1 has obstinately refused to stay dead and it may be in process of resurrection. Supporters propose to add $1.4 billion for the B–1 to the pending supplemental appropriations bill.

President Carter's decision to kill the B–1 procurement program was made despite the recommendation of military experts that the program be continued. New life was breathed into the B–1 when the Secretary of Defense stated it would be "a prudent step" to appropriate $20 million for initial work on a stretch version of the existing FB–111 to be known as the FB–111H. It is now clear that DOD feels there is a requirement for a penetrating bomber for the security of America and the free world. It has to be assumed this disclosure did not come to Congress without the knowledge of the White House. This caused eyebrows to be raised.

Why, it is asked, do we not have the best if a penetrating bomber is required? The B–1—an entirely new aircraft—is clearly superior to the FB–111H, even though the FB–111H would use engines and other parts from the B–1. Actually, two FB–111H aircraft and additional tanker support would be required to match the performance of one B–1. And the total costs could be higher for the FB–111H. Both are multi-billion-dollar programs. Modern weaponry is not found in bargain basement.

House opponents of both bombers have sought to obtain assurances from the White House and from DOD that a penetrating bomber is not warranted. However, the responses leave room for doubt on their position. Both appear to hedge on a straightforward answer. Future courses are left in doubt.

The recent House defeat of the FB–111H narrows the field at this stage to the B–1 or the B–52.

In the bomber fleet, the United States now depends principally upon the aging B–52—a great airplane, but one which cannot penetrate the sophisticated, modern air defenses of Europe. The B–52 would use the new Cruise missile and stand off the coast of Europe during an attack. There are weaknesses here. The long-range Cruise missile is several years from procurement. It is still being tested. More importantly, it reputedly has been offered as a bargaining chip in the coming SALT talks. This may result in serious impairment of its value. The Russians know how to drive hard bargains.

In the meantime, according to reports, the Russians are building five Backfire bombers a month. The Backfire is inferior to the B–1, but it is a very advanced bomber capable of inflicting heavy damage on U.S. targets from bases behind the Iron Curtain.

Prior to the House action in defeating authorization of $20 million for the FB–111H, the House Appropriations Committee, by a vote of 34 to 21, rejected President Carter's request for rescission of the fiscal year 1977 B–1 funds. No further action on the rescission is required. The funds involved would provide principally for two advanced R. & D. models of the B–1, which would be capable of quick modification to combat models. Already in being are three R. & D. models of an earlier type and a fourth is under construction. It is the fiscal year 1978 procurement funds for five B–1 combat aircraft which we now seek.

There are many supporters of a stronger defense program who feel that America has been practicing unilateral disarmament in both conventional and strategic weapons. United States forces are at their lowest figure since the Korean war in manpower, in naval ships, in combat aircraft; this despite a very rapid increase in numbers in each category in the Russian forces.

The strategic force picture is only a little less gloomy. In the aftermath of SALT I the term "parity" was replaced by "essential equivalence" which symbolized acceptance by the United States of Soviet numerical superiority. Moreover, in the last 5 years, the Soviets have added to their numerical advantage, and have made important strides in overtaking our former qualitative advantage. At present, the term "essential equivalence" is at best a euphemism for marginal U.S. inferiority; at worst, it reflects U.S. acquiescence to Soviet strategic superiority.

The President has said time and again that he wants to strengthen the security of the Western world. Many military experts agree that failure to procure the

B–1 combat aircraft, originally scheduled for fiscal year 1978, can be exceedingly dangerous to our defense posture. Acquiring this aircraft will be a signal to Russia and our allies that we are not sleeping while Russia arms; that we will not be content to play out the second-best poker hand to its inevitable conclusion.

INDIAN LAND CLAIMS

HON. WILLIAM S. COHEN

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 18, 1977

Mr. COHEN. Mr. Speaker, few issues confronting Congress and the Nation today have greater implication and are less understood than the proliferation of Indian land claims cases based on the Indian Non-Intercourse Act of 1790.

We in Maine are experiencing the difficulties brought on by one of the largest of these claims, but dozens of other States have encountered similar problems in suits of their own. There are few documents which provide a clear, concise overview of this complicated situation. The latest issue of Title News, a publication of the American Land Title Association, however, contains a very good summary of Indian claims.

Of course, this article reflects the viewpoint of those concerned with the validity of land titles, but it provides interesting reading for all those concerned about Indian land claims. The article concludes that some kind of legislative solution will be needed to clear up the current legal difficulties—a conclusion to which I certainly subscribe.

I urge my colleagues to read closely the Title News article:

INDIANS LAND CLAIMS: A PERSPECTIVE

Whatever one's view on the merits of the issues involved in the present Indian claims or how they ought to be resolved, the claims are of great significance politically, historically and in terms of their potential impact on the lives and economies of the land claim areas concerned.

Original news of this Indian litigation often prompted joking responses and substantial disbelief. However, following some preliminary success in court and an intensive review of history and precedent, a more sober and concerned reaction has surfaced.

In order to comprehend this concern and before summarizing the present status of the dispute, a brief review of the nature of the claims and the litigation history is appropriate.

One of the first orders of business of the first Congress after the Revolutionary War and the formation of the federal government was the passage of an act with the somewhat exotic title, "The Indian Non-Intercourse Act of 1790." This Act, with certain amendments over the years, remains as a part of the federal code today. It provided in relevant part (Act of July 22, 1790, Ch. 33, Section 4, 1 Stat. 138):

"No sale of lands made by any Indians, or any nation or tribe of Indians within the United States, shall be valid to any person or persons, or to any state . . . unless the same shall be made and duly executed at some public treaty, held under the authority of the United States."

In other words, the language of the Act on its face appears to comprehend the approval of the federal government of any land transfers from an Indian tribe as a prerequisite to the validity of the transaction.

The Non-Intercourse Act was essentially drafted by the first Secretary of War, General Henry Knox. In writings to General Washington, Knox had expressed appreciation for Indian battle efforts on behalf of the colonies during the Revolutionary War and was concerned for their well-being following the war.

The intent of Congress in creating the Act—as subsequently interpreted by the Supreme Court—was to obligate the federal government to protect a "simple, uninformed people, ill-prepared to cope with the intelligence and greed of other races" and to act "to forestall fraud," to "prevent the unfair, improvident or improper disposition by Indians of their lands."

The obligation to provide this sort of Indian protection was seen to arise from the Constitution which vests in the federal government—as opposed to the states—exclusive power and responsibility over Indian affairs.

As subsequently discussed by Chief Justice Marshall, the Indian tribes occupied a unique position which he denominated as "domestic dependent nations." As such, he suggested that their "relation to the United States resembles that of a ward to his guardian." In the time since Justice Marshall's opinion, numerous federal court opinions have referred to the federal government's guardian-like role vis-a-vis the Indians with the implication that it had a fiduciary's obligation to speak and act on behalf of the Indians' best interests.

The United States has performed this fiduciary's role with varying degrees of care and attention. In the years after the passage of the Non-Intercourse Act of 1790, this was particularly so with respect to Indian tribes remaining in the lands which had belonged to the 13 original colonies.

Those Eastern tribes—in land essentially east of the Mississippi—were largely ignored by the federal government and whatever was done for them or to them was done by the states concerned. On the other hand, the so-called Western Indians—generally west of the Mississippi—were traditionally conceived of as "federal Indians" and dealt with more or less exclusively by the federal government.

Against this historical background, we arrive quickly in the present. The title of this article could easily be, "The Opening of Louise Sockabasin's Trunk and What Happened Thereafter." For, as rumor has it, it was in the trunk of an old Indian woman by the name of Louise Sockabasin, residing in a remote part of eastern Maine, that a second key part of the legal underpinning of today's claims was discovered in 1957 by the present-day chief of the Passamaquoddy tribe of Maine.

In the trunk under her bed, reportedly wrapped in straw, was a copy of a long ago forgotten treaty between that tribe and the Commonwealth of Massachusetts on Sept. 29, 1794—some four years following the passage of the Non-Intercourse Act.

At different times and degrees prior to that date, the Passamaquoddies had roamed over various portions of what is now the state of Maine. As the Indians would describe it in litigation, "since time immemorial," they had engaged in hunting, trapping, fishing and, to a more limited extent, growing crops on this land.

During the Revolutionary War, the Passamaquoddies had joined the colonists in the fight against the Crown in exchange for promises by John Allen, an agent of the Continental Congress, that the tribe would be given ammunition and protection. After the war and the formation of the federal government, Allen urged Congress to fulfill the promises. Congress responded by firing him.

In 1792, the Passamaquoddy tribe petitioned Massachusetts for land upon which to settle. In a response not unusual in modern times, the Commonwealth appointed a committee to study the problem—a committee which, incidentally, included John Allen, the former agent of Congress.

Then, in 1794, Massachusetts entered into an agreement with the tribe whereby the Indians relinquished whatever interest they might have, if any, in lands in Massachusetts in exchange for approximately 23,000 acres of land specifically reserved to them with the proviso that all pine trees fit for masts were reserved to the state for a reasonable compensation.

Pursuant to the 1820 Act of Separation, Maine became a state and thereby assumed all the pre-existing obligations Massachusetts owed to Indians within its boundaries.

Since the 1794 Treaty, Maine has enacted numerous laws which relate specfically to the tribe, including laws which provide for appropriation of necessities such as housing, health care, indigent relief, roads and water. In contrast, the United States has virtually ignored the tribe. Much of the land concerned has, over the years, by various grants and acquisitions largely found its way into private ownership, passing from owner to owner.

The significance of the 1794 Treaty belatedly rediscovered under Louise Sockabasin's bed can be seen in the context of the language of the Non-Intercourse Act. The Indians would argue in court that *if* that Act were applicable to the Passamaquoddies, and *if* they constituted a tribe within the meaning of the Act, the Act renders void the original relinquishment of land to the state and all subsequent reconveyances of that land down to the present—*unless* the requisite approval or acquiescence of the federal government were established.

The Indian chief who came upon Mrs. Sockabasin's treaty considered it important because he believed that the State of Maine had unjustly taken from the Indians some 6,000 of the 23,000 acres of land promised them by the state.

The treaty ultimately found its way to an attorney for the tribe who comprehended its larger significance in the context of the Non-Intercourse Act. With considerable research behind him, supported in large part by the Ford Foundation and the federal government's legal aid program, the attorney, on behalf of the Indians, filed a lawsuit in the United States District Court for the District of Maine on June 22, 1972 against the Secretary of Interior and the Attorney General of the United States seeking a judgment that the tribe was entitled to federal help on its behalf to prosecute a Non-Intercourse Act claim for the ultimate return of all of its original tribal or aboriginal land.

The land claim area involved represented 12.5 million acres of land and $25 billion in alleged back rents and damages for improper use of the land since 1794. This constituted approximately 58 per cent of the land area of Maine, one-third of its population and over 100 of its cities and towns.

Defended quietly by the Justice Department and the attorney general of Maine, the case proceeded for several years through briefs and argument with little or no publicity or outside interest. Then on Jan. 20, 1975, the District Court held that the Non-Intercourse Act itself established a trust relationship between the United States and the Passamaquoddy tribe and that the United States acted improperly in refusing to prosecute the action against the state and private landowners solely on the grounds that such a relationship did not exist.

Almost exactly a year later, on Dec. 28, 1975, the Court of Appeals affirmed and no subsequent appeal was taken. In the wake of that decision the United States, through the Departments of Interior and Justice, re-

considered its decision and announced its intention to participate in the litigation—this time on the side of the Indians—and rather enthusiastically indicated its considerable confidence in the merits of the Indian claims.

It was at this point that the potential repercussions of the Indian claims began to become recognized beyond merely those persons directly involved in the litigation. The issuance of a $1 million bond issue to finance work on a waste treatment plant in Millinocket, Maine was suddenly suspended when legal counsel could not render an unqualified opinion because of the pending claim.

The same fate occurred with respect to the issuance of $27 million in bonds by the Maine Municipal Bond Bank on behalf of Maine towns and schools.

The inability to be assured that the tax base upon which repayment of the bonds would be secured accounted for these problems inasmuch as potential Indian ownership of the land might well render the land ultimately tax exempt.

Land transactions came to a standstill unless buyers and lenders were willing to accept the risk since sellers could not provide evidence of good title free and clear of adverse Indian claims.

All this led Rep. William S. Cohen (R-Maine) to state to his House colleagues, ". . . the very pendency of the suit threatens to bring the State of Maine to its knees. . . . Local municipalities in the disputed land areas will have difficulty issuing bonds to finance capital construction programs; banks will no longer finance home loans and mortgages; investment and commercial development will be terminated, and the flow of federal dollars into various government programs may be restricted."

In the meantime, claims involving different tribes and different claim areas began to spring up elsewhere. The Wampanoags claimed 13,000 acres in the Cape Code area of Mashpee and a smaller amount on the island of Martha's Vineyard; the Narragansetts of Rhode Island, 3,200 acres of Charlestown; two different Connecticut tribes, 1,200 acres of Kent and 800 acres of Ledyard, and the Oneidas in upper New York State, 300,000 acres of Oneida County land.

In early July this year, the solicitor of the Department of Interior asked the Department of Justice to bring actions on behalf of other Indian tribes to recover land in New York State. The department agreed. The tribes and land areas are St. Regis Mohawk, 10,500 acres; the Cayugas, 62,000 acres, and the Oneidas, 200,000 acres.

The suits will seek ejectment and damages against all persons claiming an interest in these lands. Rumors and talks involving Indian claims have also been circulated in South Carolina and other parts of Connecticut and New York.

All of these claims in effect allege that at some time after passage of the Non-Intercourse Act in 1790, lands in which the Indians previously had an interest were transferred in some fashion from them without approval of the federal government—a transfer that is therefore void.

In an escalating war of counterclaims and counters to the counterclaims, the defendant landowners have asked for damages representing all of the improvements to the lands over the years if they should belong to the Indians and the Indians have responded with damage claims for trespass, use and occupancy as well as injury to the land.

The actual dimensions of potential claims are as yet unknown and difficult to predict because of the extensive historical work which must be accomplished before an educated judgment can be reached.

The natural reaction from lawyers as well as laymen to discussion of this Indian litigation consistently is, "Well, how about the statute of limitations? Reliance on the soundness of real estate transactions for 200 years through thousands of conveyances without any questions being raised by the Indians, the United States or anyone else should count for something. And why can the Indians re-open this issue at this point in time?"

The Indian lawyers won an early and certainly psychologically important victory in this particular area. In Federal District Courts in Rhode Island and Connecticut, the defendant landowners responded to the Indian claims with defenses based upon state statutes of limitation and adverse possession.

The plaintiff Indians quickly moved to strike those defenses. In litigation terms that is to say, "Even if the defendants could prove they had such a defense, it would be legally insufficient."

Both federal courts granted the motion made by the Indians and the defenses were thrown out. The basis for these decisions was that the real party in interest in the litigation—whether actually a party to the case or not—was the United States, again due to its peculiar trust relationship with the Indians, and that such state-created defenses do not lie as against the United States because it, as the sovereign power, is immune.

As of this date, the pending litigation moves forward. Generally, both sides are engaged in conducting extensive historical research on the Non-Intercourse Act and the history of the tribes involved. Numerous critical issues remain to be litigated. Examples of such issues include:

Does the Act apply to Eastern tribes?

Did the United States in one form or another approve or acquiesce in the transfers?

Was the tribe a tribe at the time of the original transfer?

Is the tribe presently constituted so as to properly claim?

Did the tribe actually have an interest in the land at the time of the transfer or had it in fact been previously lost or abandoned?

It is not my purpose to suggest how these issues will or should be resolved if the litigation proceeds its course. However, I would suggest that litigation does not appear to be a fair process for a resolution of these claims and that legislative settlement would be far preferable. It should be one that provides for an equitable resolution by the federal government of legitimate claims and which removes present day landowners and their land from the case.

I say this first, because it is apparent to all who have been involved that continued litigation will be very expensive and very protracted. According to the Justice Department, this is "potentially the most complex litigation ever brought in the federal courts with social and economic impact without precedent and incredible litigation costs."

The judge in the Massachusetts case, Judge Skinner of Boston, recently indicated a belief that the trial itself of the Massachusetts case alone may last several years with appeals to both the Court of Appeals and the Supreme Court a foregone conclusion.

Very considerable amounts of time and effort remain in each of the cases presently filed before a trial commences. Apart from attorneys' fees and other costs usually related to complex litigation, enormous costs are required in the historical research required. As these costs escalate, the individual defendant landowners and state and local governments upon whom this burden falls will be increasingly hard pressed to defend.

I also would suggest litigation against private landowners is a poor vehicle with which to fairly resolve issues which are in many respects essentially political. In addition to the time and expenses to which I referred, the ancient nature of the facts and documents inherently a part of most of the essential issues to be tried makes it less than certain that one could ever establish in a court of law precisely what did or did not occur. Moreover, there appears to be a basic injustice in forcing current landowners to defend themselves against ancient claims that are in no sense based upon any wrongdoing on their part. To the extent that there may be any legal or moral basis to the Indian claims, they deserve to be addressed or remedied by the federal government which ought to bear the burden of having failed to act over the years.

Finally, merely the pendency or even hint of litigation—however it might ultimately be resolved—causes substantial uncertainty with respect to the marketability and taxability of affected land.

In fact, merely the presence of a lawyer and several Indians reviewing ancient documents at the county courthouse has caused adverse economic circumstances in some communities.

The public and private economic and emotional concerns which this has already created in Maine and elsewhere will only increase as the claims and the litigation continue. These concerns will have an increasingly damaging effect on the individuals and companies whose property is threatened or who might be liable for damages even if the ultimate result in litigation is favorable. All of this works a heavy social cost as well because of the strain placed in the interim on relations with Indians who live in the affected areas.

For these reasons, attention has increasingly centered on Washington and the possibility of a legislative settlement of the claims upon a broad basis. Earlier this year, President Carter appointed Justice William Gunter, recently retired from the Georgia Supreme Court, as his special representative to study the Maine and Massachusetts cases and to make recommendations as to a potential solution.

Since that time, Judge Gunter has been engaged in substantial discussions with various of the interested parties and has very recently delivered a recommendation for a legislative settlement of the Maine litigation to the President.

Judge Gunter has an unenviable task. All sides in the litigation exude confidence that they will prevail. The involvement of different tribes, public officials and landowners on each side from case to case increases the number of parties who have to be dealt with and whose positions have to be considered. Moreover, there appears to be practical political considerations which place limitations upon what the Carter Administration and Congress would be willing to commit to a legislative solution to the problem.

Nonetheless, I am hopeful that Judge Gunter's recommendations will contribute to an equitable legislative resolution of the claims and in this fashion spare the nation the need to wage Indian wars once more—even if this time the battle grounds would be the quiet halls of the federal courts.

BALANCE(S) OP POWER: PART VI (VIII)(a) THE NAVAL BALANCE: MOTIVES BEHIND GROWING SOVIET NAVY

HON. JOHN BRECKINRIDGE

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 18, 1977

Mr. BRECKINRIDGE. Mr. Speaker, in the preceding installment to the naval

balance series, selected writings of Soviet Fleet Admiral Gorshkov were cited to present a doctrinal picture of continuity and strategic purpose in the Soviet naval growth. In today's selection, "Maritime Strategy and the Super-Powers," from Adelphi Papers No. 123 (1975), Michael McGwire offers some caveats in reading Gorshkov and suggests that the Soviet shift to a naval position of forward deployment was adopted primarily in response to U.S. emphasis on strategic missile submarine systems.

McGwire's interpretation of Soviet naval deployments is not shared by many; however, by challenging several superficial views of Soviet naval expansion, he forces us to come to grips with the fundamental possibility that "Soviet military doctrine does not separate 'nuclear deterrence' from the general concept of defense," and that "victory is synonymous with survival." Mr. McGwire's article follows:

SUPER-POWER MOTIVES

This section concerns the motives which underlie the naval policies of the super-powers. I concentrate mainly on the Soviet Navy and start by dispelling three popular fallacies. The first is exemplified by the suggestion that because the Soviet Union is engaged in establishing her role as a global power, "the ability to project naval power in support of that role becomes an important requirement". The second is contained in the analogy drawn between the Soviet Navy and the Imperial German Fleet. And the third is the tendency to liken Gorshkov to Tirpitz. All three have the same roots and, taken together, give the misleading impression of a deterministic drive for Soviet naval supremacy, master-minded by a great naval leader. This in turn leads to false conclusions about the type of political commitment and economic investment underlying Soviet naval policy.

The first fallacy derives from what I call "the puberty theory of seapower". It is preeminently Western and argues that because the Soviet Union is a super-power, therefore she needs a world-wide naval capability. Although Admirals Mahan and Gorshkov might support this proposition, it no longer holds today, nor does the shipbuilding evidence suggest that the Soviet leadership believes in it. The theory assumes that all nations have the same interest in the use of force at sea and ignores the impact of geopolitical circumstances. The latter are particularly strong in the Russian case and account for the consistency of her naval objectives over the last two hundred years. Her naval policy has been largely dictated by her extended coastline and the fact that four quite separate seas wash her shores, requiring four self-sufficient fleets to defend them. This has meant that although Russia was (and is) predominantly a land power, her combined fleets have generally been the third or fourth largest in the world, and at times second only to Great Britain. Despite this, her navy has traditionally been seen as an expensive necessity, rather than as a symbol of great-power virility.

The analogy drawn between the build-up of the German and Soviet Navies depends heavily on the puberty theory, along with several other assumptions about great-power behaviour. Although it is prudent to bear the German case in mind, disparities between the geopolitical and economic circumstances of the two countries and the international circumstances of the two periods are too great for the analogy to be anything but misleading. It does, however, help to underline the difference between traditional Western perceptions of the utility of naval force and the way the Soviet Union perceives her requirements. On the one hand she believes that the struggle for world influence is primarily "economic, political and ideological"; and on the other, she is opposed by "the traditional maritime power", who clearly place a high value on naval forces and continue to possess overall naval predominance. Within the present correlation of forces, it is obviously in the Soviet Union's best interests to by-pass direct competition in this area.

This does not mean that she neglects her naval strength. The naval building programme initiated in 1945 was the fourth attempt in 65 years to rebuild the Russian fleet, and this programme picked up from where the previous programme (started in 1928) was interrupted by war. It is therefore all the more significant that in 1955 the Soviet leadership, having downgraded the threat of maritime invasion, proceeded to cut back the annual tonnage of new naval construction by over two-thirds, and reassigned over half the cruiser building ways to the merchant and fishing fleets. The Soviet Union thus gave priority to using the sea as a resource and for the conveyance of trade and aid, both as a means of gaining world influence and for internal economic reasons. This use relied wholly on the freedom of the seas, while the naval mission concentrated on the defence of the home fleet areas. The reformulation of this mission in 1961, and the decision that the Soviet Navy must shift to forward deployment, was not prompted by some newly acquired super-power status. It was a response to the American decision to invest half the nuclear delivery capability of the United States in seaborne systems.

Which brings us to Admiral Gorshkov. His reputation in the West derives entirely from his position as C-in-C during a period in which the Soviet Navy has achieved high visibility as the result of the decision to shift to forward deployment. But to give Gorshkov credit for the present size, shape and deployment of the Soviet Navy is to ignore the fact that, throughout his incumbency, the Soviet Union has been faced with a growing and substantial potential for nuclear attack from distant sea areas—a threat which has been of direct concern to the political leadership. One could as well suggest that it is the man with the paddle who provides the motive power to a canoe being borne along by a fast-flowing stream. In fact, it is uncertain that Gorshkov has been very successful in using his paddle to steer with. Let us review some of the evidence.

Until his recent series of articles, there were no indications that Gorshkov was a long-standing advocate of far-flung fleets; one could argue the reverse. Twenty years ago, he was brought to Moscow by Khrushchev to implement decisions which were primarily designed to release resources to the civilian economy, and would have resulted in a task-specific, defensively oriented navy, more firmly tied to home waters than at any time in its history. The concept of operations relied on long-range surface-to-surface missiles (SSM), which had yet to be developed, and assumed that the encounter zone would lie within range of shore-based air cover. By 1958 this assumption had already been falsified by advances in American naval capability. The result was a further set of new decisions, this time relying entirely on submarines and aircraft for distant operations. This new policy required that the nuclear submarine-building capacity be doubled.

While it can be argued that these particular procurement decisions derived directly from the political leadership, no such defense can be offered where combat capabilities and operational readiness were concerned. Yet the shift to forward deployment seems to have come as an unwelcome surprise to the Soviet Navy, which was operationally ill-prepared for the move. As late as 1963, seven years after he had taken over as C-in-C, Gorshkov had to lecture the fleet on the need to get to sea and stay there, so as to develop an ocean-going all-weather capability.[7] Gorshkov has subsequently referred to the need to 'meet the qualitatively new requirements', which involved the 'organic restructuring of the navy and the reorientation of traditional naval policy.'[8] This is hardly the picture of a navy straining at the political leash.

We may overlook Gorshkov's involvement with the decision to gamble on long-range SSM as the primary armament of the fleet, a mistake which the Soviet Navy is only now working out of its system. But it does remind us that his predecessor, Kuznetsov, was retired because of his resolute opposition to this narrow concept. By contrast, Gorshkov has remained C-in-C through a series of radical shifts in naval policy determined by the political leadership, and despite a continual under-allocation of resources to surface-warship construction in relation to the requirements being demanded of the fleet. One of the strongest criticisms of Gorshkov within the Soviet Navy could be that in his professional capacity he has been unwilling to stand up to the political leadership, whether it was a question of operational concepts or, more recently, of trying to do too much with too few ships. He is certainly no Jackie Fisher.

Turning finally from fallacies to motives, we must begin by trying to unravel the wartime strategies from the peacetime employment of naval force. For both the United States and the Soviet Union wartime strategy is a determinant of peacetime naval policies, but in different degrees. For the Western naval powers, the peacetime employment of naval forces has been a dominant consideration during the last thirty years and has generated in its own substantial force requirements. This continues to be the case with the U.S. Navy, and a large proportion of its fleet can only be explained in terms of the peacetime projection of traditional force.

In the Soviet case, by contrast, the general war requirements continue to dominate the structure of the fleet and the characteristics of its ships. In terms of deployment patterns and ships in service, contemporary Soviet naval policy stems from 1961 and President Kennedy's abrupt acceleration of U.S. procurement of strategic weapons. Soviet leaders remained unpersuaded that this U.S. build-up of land-based and submarine-launched strategic missiles was a purely "defensive" move, and were seriously concerned that the United States was seeking to develop the capability for a disarming strike. The shift in Soviet strategic-weapons policy can also be dated from that period.[9] In considering the navy's response to this new situation, it is useful to distinguish between the tasks of (a) striking at enemy territory, and (b) countering the enemy's sea-based strategic systems.

Starting with the latter, we note that Soviet military doctrine does not separate 'nuclear deterrence' from the general concept of defence. Defence of the Soviet Union relies on the capability to throw back any attack by the West, and then go on to win what will inevitably be a world nuclear war between two antagonistic social systems. Since 'world war' is seen as a fight to the finish, victory is synonymous with survival. In such circumstances Europe assumes a very special place in Soviet military strategy.

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[7] *Krasnaya zvezda*, 5 February 1963.

[8] *Ibid.*, 11 February 1968.

[9] See my article, "Soviet Strategic Weapons Policy 1955–70" in M. McGwire, K. Booth and J McDonnell (eds.), *Soviet Naval Policy: Objectives and Constraints* (New York: Praeger, 1975), p.486.

In the initial stages of such a war, the extent to which Western Europe is devastated will largely depend upon the Soviet choice of weapons. It was the potential availability of this adjacent and partly undamaged area on which to rebuild the Socialist system that allowed the Soviet Union to plan on the assumption that, if 'world war' were forced on her, it need not imply mutual suicide. And it was in this context that the major American shift of emphasis towards seaborne strategic nuclear weapons was so disturbing. These weapons were the only ones which, if withheld, would have some certainty of surviving the initial nuclear exchange and remaining available to deny the Soviet Union the use of Europe. The simplest way of countering this threat to the ultimate survival of the Soviet system would be to remove the American option of withholding these weapons by making it unlikely that they would in fact survive. This would require that they be attacked at the outbreak of war, and would mean that Soviet forces would have to be within weapon-range contact at the vital moment.

The shift to forward deployment was decided in principle by the end of 1961, but the debate about means continued until 1963–4.[10] The operational concept which finally emerged was to extend the Soviet Union's defence perimeter to cover the sea area whence nuclear strikes could be launched and, by establishing an increasingly active presence in these areas, first to contest, and perhaps ultimately to deny, their use by the West for the deployment of strategic weapons. Meanwhile the capability would be developed to follow the movement of all strategic delivery units when they sailed from their bases.

These measures would have to be introduced progressively over the following fifteen years or so, as the necessary weapons systems and forces became available through a process of major conversion, modified new construction and finally, new design and development. To achieve economy in numbers, the policy was predicated on naval shore facilities being available in the forward operating areas. Moreover, counterforces were not limited to the navy, and it seems likely that shore-based systems, including ballistic missiles and satellites, were taken into account from the start.

In terms of operational deployment, the ordering of priorities was fairly clear. Set at 1,500 nm (the range of the *Polaris* A2) and centered on Moscow, the dividers took in the Norwegian Sea and Eastern Mediterranean—areas where Western strike forces were already operating. Extended to 2,500 nm (the A3 range), the dividers reached beyond the tip of Greenland, described an arc which passed through the Eastern Atlantic, cut the African coast about the Canary Islands and crossed the Arabian Sea between the Horn of Africa and Bombay. That was the extent of the area-defence problem. There was also the need to cover the fleet bases on the coasts of North America, and the transit routes to the operating areas. The initial phase lasted through 1967, access to Egyption ports being a vital bench mark. The second phase began in 1968 and the pattern was complete by 1972, although the full structure was still not in place.

Although this explanation of the initial shift to forward deployment is now widely accepted, many are reluctant to concede that the second phase followed the same strategic plan. But, unless we allow pure coincidence, there are too many diverse facts to be accommodated by any other explanation. For example: the clear-cut geographic pattern; the political (but not strategic) insignificance of the small states being courted in West Africa; the heavy political cost of insisting on naval support facilities in Egypt; the absence of a Soviet naval presence in the South China Sea. These and other more ambiguous bits of evidence all fit snugly into the strategic hypothesis, but will not support an influence-building one. One of the most frequent objections to this hypothesis is that *Polaris* cannot be countered. Perhaps so; but this objection ignores the many examples of Soviet willingness, where the defence of the country is concerned, to expend substantial resources on projects where the chances of success are small and the return on success low. It also ignores the Soviet Union's own unhappy experience with American anti-submarine measures, which would have given her a different understanding of the odds.

This brings us to the role of Soviet strategic delivery submarines. Their role stems from three sources: (1) the Russian Navy had a long and successful tradition of attacking warships in port, and this was incorporated in Soviet naval doctrine; (2) at the end of World War II the diesel submarine was the only delivery vehicle with the range and payload to bring weapons to bear on the North American continent; (3) Soviet military doctrine sees strategic nuclear weapons as the main force within a general war-fighting capability, on which the defence of Russia depends. Taken together, this means that, although the Soviet Union was the first systematically to exploit the submarine's potential for strategic delivery, the operational requirements were very different to those underlying the *Polaris* concept, which derived from a mixture of "nuclear deterrence theory" and "bureaucratic politics".

In the post-war period, Soviet strategic delivery submarines were given top priority in nuclear propulsion, warheads and ballistic missiles. Despite this, advances in American anti-submarine capabilities, coupled with Soviet technological inadequacies, meant that the first two generations could not meet the intended operational requirements. In 1958, therefore, priority was shifted away from strategic delivery, and it seems likely that it was originally planned to build only two Y-class SSBN a year, with delivery from 1968.[11]

However, the new threat of a disarming strike which emerged in 1961 gave renewed priority to seaborne systems; as a result, the SSBN production rate was raised to about six per annum, at the expense of other types of submarine construction. These submarine developments were paralleled by advances in missile systems and a steady increase in range: 1957–350 nm; 1962—650 nm; 1967—1,300 nm; and 1972—4,200 nm. While the first increase can be seen as normal design improvement, the second and third steps were almost certainly influenced by the American anti-submarine capability. The third step (which stems from the 1961 period) is particularly significant: this threefold increase allowed ballistic-missile submarines to strike at North America from the comparative safety of home-fleet anti-submarine defence zones.

Developments in missile capability were meanwhile reflected in the nature of the submarine's task. Units armed with the 350 nm and 650 nm systems were limited to contributing to the naval task of attacking maritime communications by striking at naval bases and port complexes.[12] The 1,300 nm system caused the missile submarine to be linked with the Strategic Rocket Forces as comprising the "main force for deterring the aggressor and decisively defeating him in war".[13] And with the advent of the 4,200 nm system, Gorshkov was able to claim that, because of their greater survivability, missile submarines were a more effective deterrent than inter-continental ballistic missiles (ICBM).[14]

The requirement for submarines to patrol within missile range of their targets is not the same for the Soviet Union as it is for the United States. The latter's calculations are dominated by the land battle in Europe and by concern over a *fait accompli*, and presumably it is this which requires such a high proportion of units on station. Soviet requirements are more simple. The deterrent mission relies on the certainty of retribution, not its speed; it is therefore only necessary to ensure that the missile submarines escape the initial exchange and are able to deliver their missiles in due course. Similarly with the war-fighting mission; there are relatively few time-urgent targets which require submarines to be within missile range at the outbreak of war, and only a few units need to be on station to meet these requirements.[15]

Furthermore, there are major advantages to keeping only a small proportion of the force deployed. For example: it allows a larger number of units to be at sea in times of tension; it requires only one crew per boat (a costly item); it reduces the maintenance load and increases operational availability; and it denies the enemy a full measure of his problem. But from the Soviet Union's point of view, probably the most important factor is the anti-submarine defences which face her. Past experience can give her no confidence that the United States, if she wanted to, could not take out all the Soviet patrolling submarines at one go; and, of course, this is the capability the Soviet Union has been seeking for herself. On the other hand, the chances of Soviet submarines reaching their firing positions will be greatly improved once war has begun and ASW forces and sensor systems have been put out of action, particularly if the submarines swamp the defences by deploying en masse.

This disposes of the two war-related tasks, which the Soviet Navy has to carry out continuously in peacetime. We must now glance at the other ways in which these naval forces are used while on forward deployment, and, from the evidence of 11 years' activity, we can distinguish three types of 'peacetime' task. The most important is inferred; the other two are referred to in the open press.

The most important peacetime task is 'to establish a strategic infrastructure overseas': i.e., to build up, consolidate and preserve the physical, political and operational infrastructure required to support the Soviet Navy's war-related task of countering Western seaborne strategic delivery systems. This task (which comes under the general rubric of 'protecting state interests', but otherwise

[10] See The Evolution of Soviet Naval Policy, 1960–74 in McGwire, Booth and McDonnell (eds.), *op. cit.*, p. 507.

[11] See my article, "Current Soviet Warship Construction" in McGwire, Booth and McDonnell (eds.), *op. cit.*, p. 425.

[12] V. D. Sokolovsky, *Voennaya Strategiya* (Moscow: Voenizdat, 1963), p. 400.

[13] *Ibid.*, 1968 edition, p. 235.

[14] *Morskoi sbornik*, February 1973, p. 21.

[15] For example, assume 62 Y- and D-class, 42 in the Northern and 20 in the Pacific Fleet. Of the 42 in North allow 6 on periodic refit/recore. Divide the remaining 36 into three groups: Ready, Standby and Maintain. In times of *low* tension 4 boats would be on patrol, the remainder in harbour at various degrees of readiness or day running.

Ready:
4 On patrol.
4 Immediate notice.
4 4 hrs. notice.
Standby:
6 8 hrs. notice.
6 24 hrs. notice.
Maintain:
6 up to 7 days.
6 up to 28 days.

is not referred to openly) would seem to provide the primary motive for a wide span of operational decisions, ranging from preventing the overthrow of a client regime, to acquiring base rights by barely concealed coercion. Since this task concerns the security of the homeland, it is backed by a high level of political commitment, and the evidence shows a willingness to accept political costs so long as the strategic objective is furthered thereby.

A second task, 'countering imperialist aggression', has been clearly articulated for eight years or more. It involves challenging the employment of Western naval forces to thwart the interests of 'the world liberation movement'. The political commitment seems fairly low, although on a limited number of occasions, forces have been specifically deployed for this task. In areas like the Eastern Mediterranean, which are within strategic strike range of the Soviet Union, it is sometimes hard to distinguish this task from the war-related one of posing a counter to the Sixth Fleet's nuclear strike potential. However, in times of tension the latter task takes precedence, since the need to avoid any confrontation which might escalate to general war, is overriding.

A third task of 'increasing prestige and influence' (also clearly articulated) uses naval forces to promote general foreign-policy objectives in a manner familiar to Western navies. This task appears to be almost entirely supportive and, with the exception of mine-clearing operations, exploits the presence of ships already on forward deployment.

During 1971–72, the build-up of these ships levelled off,[16] and, dating from the same period, there has been a marked increase in the use of naval forces on the last two peacetime tasks. This period also covers the 24th Party Congress, SALT I and the unprecedented series of articles by Admiral Gorshkov, and the coincidence invites questions as to whether there has been some major adjustment of policy. The evidence of long-term decisions has not yet had time to show up. But in the shorter term it is possible that the negotiating process at SALT persuaded the Soviet Union that the dangers of escalation were substantially less than she had feared, thus emboldening her to use her naval forces more assertively.

In this context I cannot agree with Johan Holst that there are inherent pre-emptive pressures in the design and operational characteristics of Soviet surface ships. As Gorshkov says, "the battle for the first salvo" is hardly a new dictum. I would argue that the weapon configuration of the newer surface ships (and the retrofitting of older classes) is designed to provide maximum protection against a sudden surprise attack, particularly by aircraft. This would seem to reduce, rather than increase, pre-emptive pressures.

Meanwhile, despite the greater use of surface ships in forward areas, there are as yet no indications that this arm of the navy is receiving increased priority. Surface-ship construction has had to make do with existing resource allocations and naval yard capacity, and this has entiled dropping the escort ship from the type inventory. The annual delivery rate of slightly more than one cruiser- and two destroyer-size ships (plus the occasional helicopter cruiser) is low, both in terms of past practice and present requirements.

My own impression is one of marking time and of expectancy, particularly in the submarine and aerospace fields. By 1978 some 60 Y- and D-class SSBN will have been built. This is the year when we would expect a new family of nuclear submarines to begin delivery, and, except that they are unlikely to be SSBN, we can only speculate as to their role (though at least two prototypes have now been around for several years). Meanwhile, there are doubts about the function of the main missile systems aboard the major surface units, and an increasing suspicion that the Soviet designation of these ships as anti-submarine vessels is accurate. This reinforces the general impression that countering the ballistic-missile submarine remains the number one priority. It does not, however, explain how the Soviet Union hopes to handle *Trident*, nor whether the evidence we now see reflects future intentions, or the inertia of discarded policies.

Assuming that there *are* new developments around the corner, the relatively low building rates for surface ships, coupled with the reluctance to provide substantial afloat support, suggest that they will center largely on the nuclear submarine and various types of aerospace support.

[16] See R. G. Weinland, "Soviet Naval Operations: Ten Years of Change," in McGwire, Booth and McDonnell (eds.), *op. cit.*, p. 375.

NEW YORK TIMES EDITORIAL ON OSHA

HON. GEORGE HANSEN

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 18, 1977

Mr. HANSEN. Mr. Speaker, OSHA's moment of reckoning is drawing closer. In October the fall term of the U.S. Supreme Court starts and one of the major issues to be discussed is the Barlow case. Marshall against Barlow's, Inc. involves a challenge to OSHA's unconstitutional use of warrantless inspections in their enforcement of the 1970 job safety law. The question at stake is whether or not section 8(a) of the OSHA law is unconstitutional as declared by a unanimous lower court decision.

An editorial by the New York Times on August 8, 1977, expresses the growing sentiment of the majority of the American people toward the weaknesses of OSHA and a very workable approach to assure better job safety and health. It is a very thought-provoking article which I highly commend to my colleagues. The article follows:

BELABORING WORKER SAFETY

The Occupational Safety and Health Administration is in trouble. Business doesn't like the way it has played big brother, promulgating petty regulations. Labor isn't very happy with the agency's performance, either; it has done little to reduce job-related injury and illness.

The agency's new boss, Assistant Secretary of Labor Eula Bingham, promises to do better. She plans to concentrate on serious hazards in major industries, rather than nitpicking about the distance between rungs on shoe-store ladders. Organized labor, correctly sensing the depth of public hostility to the agency has reluctantly chosen to support the new strategy. Far better to close ranks now, labor reckons, than lose the agency altogether.

The change of emphasis makes some sense. But a more "cost-effective" enforcement strategy, designed to offend the fewest possible members of Congress, will not allow her agency to do the job it was set up to do. At best, it will be able to cut accidents and illnesses in a few high-risk industries. Many workers will continue to be exposed, on occasion, to unreasonable dangers. And those who end up as victims, particularly of job-related diseases, will continue to bear most of the burden.

Is there no better solution? White House economists believe that effective safety regulation requires a fundamental change in approach. The debate so far has focused on how to balance the rights of workers to protection against the rights of employers to run their own businesses—as if more safety necessarily requires more Federal control. In fact, much of the work the agency does so poorly today could be done better without direct government participation, and the rest of its job could be restructured to minimize bureaucratic interference.

Where hazards can be easily diagnosed by employers, financial incentives to improve safety conditions would be far more effective than Federal regulation and inspection. Regulations can't be tailored to meet the needs of individual worksites; nor can a few thousand inspectors inspire much change in a vast, decentralized economy. But if businesses were required to compensate the injured for the *full* cost of accidents, regardless of fault, they would have good reason to invest in safe equipment and adequate training. Indeed, private insurance companies that sell workers' compensation policies would probably police job safety in much the same way they now monitor standards for fire and liability insurance coverage.

Financial incentives alone cannot in all cases change business behavior. The long term effects of exposure to chemicals or dust, for example, are hard to document, making it extremely difficult to pin the responsibility on the place of work. Here, the Federal safety agency should take the lead, identifying hazards and setting standards. There is no reason even in these cases, however, for government to specify how the standards should be met. By trying to be too specific, Washington has in the past forced companies to waste millions of dollars and has stimulated opposition to the most benevolent Federal intervention in worker safety.

If this combination of financial incentives and Federal rules can raise safety standards without increased government control, why has Assistant Secretary Bingham chosen more conventional reforms? Because organized labor, her agency's chief patron, bitterly opposes any move to an incentive system. It is wedded to New Deal-style regulation, the comforting image of an inspector in every plant to prevent abuse of the workers. That kind of regulation probably wouldn't work very well. But in any case, there is no way to persuade Congress to pay for the required army of inspectors. As a result, rigid labor opposition to the measured use of financial incentives perpetuates an inadequate status quo. American workers deserve better.

OIL COMPANIES SPEND $130 MILLION ON TELEVISION ADVERTISING

HON. JOHN M. MURPHY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 18, 1977

Mr. MURPHY of New York. Mr. Speaker, yesterday I placed in the RECORD a survey of newspaper advertising expenditures of the five major companies. Those massive expenditures were not for product advertising—that is, ads which try to sell more gasoline to the public. They were ads designed very carefully to create an image for the company, to promote their interests with the public, and to pressure the Congress as to the legislative interests of big oil. The point made in that study was that the five major

oil companies . . . Exxon, Mobil, Gulf, Shell, and Texaco . . . spent an enormous amount of money to influence the public and the Congress into believing that what is good for the oil companies is good for the Nation.

Unfortunately, I find that my distress with their newspaper advertising was somewhat misplaced. Compared to their expenses on national television, the oil companies expenses for newspaper advertising are peanuts.

Just three of the top oil giants—Exxon, Shell, and Mobil—spent $130,496,000 over the past 3 years of 1974, 1975, and 1976, on network and spot television advertising. Let me repeat that figure: one hundred thirty million, four hundred ninety-six thousand dollars and change.

I submit the breakdown for the benefit of the Members of Congress who wish to see how much of the enormous profits of the oil companies are spent on advertising designed to influence legislation to further enhance their profit picture, at the expense of the consuming public:

TV ADVERTISING REVENUES—EXXON-SHELL-MOBIL

For the years 1974–75–76

Year	Network TV	Spot TV
Exxon:		
1974	$10,369,000	$218,000
1975	12,308,000	1,879,000
1976	13,402,000	4,209,000
Total	36,079,000	6,306,000
Shell:		
1974	8,809,000	1,197,000
1975	6,519,000	2,219,000
1976	8,440,000	2,628,000
Total	23,768,000	6,044,000
Mobil:		
1974	Not available	
1975	4,800,000	19,739,000
1976	7,543,000	26,217,000
Total	12,343,000	45,956,000
Total	*72,190,000	*58,306,000
Grand total		$130,496,000

* Totals do not include expenditures for Mobil for 1974.

THE SOCIAL SECURITY FINANCING ACT OF 1977

HON. BILL ARCHER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 18, 1977

Mr. ARCHER. Mr. Speaker, today I plan to go before the Rules Committee to ask that the rule on H.R. 9346 make in order an amendment from the floor to strike provisions of the bill relating to social security coverage of employees of nonprofit organizations, States, and their political subdivisions.

Although I favor universal coverage for our national social insurance system, I do feel that there are rather serious administrative and legal problems associated with the coverage of employees in the groups mentioned above. Therefore, I hope that my amendment to strike this coverage will be made in order, and I have inserted in the RECORD the following amendment to accomplish that purpose:

AMENDMENTS TO THE COMMITTEE AMENDMENT TO H.R. 9346, OFFERED BY MR. ARCHER

Strike out sections 302 and 303 (beginning on page 168, line 4, and ending on page 175, line 3).

Redesignate the succeeding sections accordingly.

Conform the table of contents (on page 117).

Strike out line 4 on page 175 and all that follows down through line 25 on page 176 and insert in lieu thereof the following:

CREDITING OF CERTAIN FEDERAL SERVICE PERFORMED PRIOR TO EFFECTIVE DATE OF COVERAGE

SEC. 302. Section 213 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"CREDITING OF CERTAIN FEDERAL SERVICE PERFORMED PRIOR TO EFFECTIVE DATE OF COVERAGE

"(d) In the case of any individual who—

"(1) performs service in the employ of the United States or any instrumentality thereof (and derives at least six quarters of coverage therefrom) on or after the effective date of the repeal of section 210(a) (5) and (6) by the Social Security Financing Amendments of 1977, and

"(2) also performed service in the employ of the United States or any instrumentality thereof prior to such date,

each calendar quarter in which such individual performed service described in subparagraph (B) shall, if it is not otherwise a quarter of coverage, be treated (under regulations prescribed by the Secretary) as a quarter of coverage for all the purposes of this title.

Page 188, line 22, strike out "(8)" and insert in lieu thereof "(7)".

Page 188, line 23, strike out "(17)" and insert in lieu thereof "(18)".

Page 189, line 2, strike out "210(a)(6)" and insert in lieu thereof "210(a)(7)".

Page 189, line 5, strike out "(6)" and insert in lieu thereof "(7)".

Page 189, line 9, strike out "210(a)(11)(B)" and insert in lieu thereof "210(a)(12)(B)".

Page 189, line 12, strike out "210(a)(13)" and insert in lieu thereof "210(a)(14)".

Page 189, line 15, strike out "210(a)(8), (9), or (12)" and insert in lieu thereof "210(a)(9), (10), or (13)".

Page 189, line 18, strike out "210(a)(17)" and insert in lieu thereof "210(a)(18)".

Page 189, line 23, strike out "(8)" and "(17)" and insert in lieu thereof "(7)" and "(18)", respectively.

Page 190, line 5, strike out "3121(b)(11)(B)" and insert in lieu thereof "3121(b)(12)(B)".

Page 190, line 8, strike out "3121(b)(13)" and insert in lieu thereof "3121(b)(14)".

Page 190, line 11, strike out "3121(b)(8), (9), or (12)" and insert in lieu thereof "3121(b)(9), (10), or (13)".

Page 190, line 14, strike out "3121(b)(17)" and insert in lieu thereof "3121(b)(18)".

Page 190, line 18, strike out "(b)(6)" and insert in lieu thereof "(b)(7)".

Page 190, lines 22 and 23, strike out "subsection (b)(5)" and insert in lieu thereof "subsection (b)(6)(A)".

Page 190, line 23, strike out "210(a)(5)" and insert in lieu thereof "210(a)(6)(A)".

Page 191, lines 2 and 3, strike out "3121(b)(6)" and insert in lieu thereof "3121(b)(7)".

Page 191, line 7, strike out "210(a)(6)" and insert in lieu thereof "210(a)(7)".

Page 225, lines 12 and 13, srtike out "(as amended by section 302(d)(3) of this Act)".

Page 232, line 12, strike out "304" and insert in lieu thereof "302".

Page 242, lines 1 and 2, strike out "(as amended by section 302(e)(4) of this Act)".

Page 119, strike out lines 16 through 18 and insert in lieu thereof the following:

"(3) with respect to wages received during the calendar year 1981, the rate shall be 5.15 percent;

"(4) with respect to wages received during the calendar years 1982 through 1984, the rate shall be 5.23 percent;

Page 119, line 19, strike out "(4)" and insert in lieu thereof "(5)".

Page 120, line 2, strike out "5.45" and insert in lieu thereof "5.53".

Page 120, line 3, strike out "(5)" and insert in lieu thereof "(6)".

Page 120, line 4, strike out "6.00" and insert in lieu thereof "6.08".

Page 120, strike out lines 15 through 17 and insert in lieu thereof the following:

"(3) with respect to wages paid during the calendar year 1981, the rate shall be 5.15 percent;

"(4) with respect to wages paid during the calendar years 1982 through 1984, the rates shall be 5.23 percent;

Page 120, line 18, strike out "(4)" and insert in lieu thereof "(5)".

Page 120, line 20, strike out "5.45" and insert in lieu thereof "5.53".

Page 120, line 21, strike out "(5)" and insert in lieu thereof "(6)".

Page 120, line 22, strike out "6.00" and insert in lieu thereof "6.08".

Page 121, strike out lines 12 through 15 and insert in lieu thereof the following:

"(3) in the case of any taxable year beginning after December 31, 1980, and before January 1, 1982, the tax shall be equal to 7.70 percent of the amount of the self-employment income for such taxable year;

"(4) in the case of any taxable year beginning after December 31, 1981, and before January 1, 1985, the tax shall be equal to 7.82 percent of the amount of the self-employment income for such taxable year;

Page 121, line 16, strike out "(4)" and insert in lieu thereof "(5)".

Page 121, line 18, strike out "8.20" and insert in lieu thereof "8.32".

Page 121, line 20, strike out "(5)" and insert in lieu thereof "(6)".

Page 121, line 21, strike out "9.00" and insert in lieu thereof "9.12".

THE ALLAN BAKKE CASE

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 18, 1977

Mr. DERWINSKI. Mr. Speaker, the Allan Bakke case has had a great deal of attention as a result of the recent Supreme Court hearings of that issue, and I am sure that it will continue to receive much press speculation until a decision has been rendered.

The distinguished columnist, James J. Kilpatrick, in his column carried by the Chicago Daily News of October 11, delves into the intricacies of the Bakke case, and the effects that will result from the final outcome of the case. The article follows:

BAKKE SHOULD WIN, THEN WE CAN START ALL OVER

(By James J. Kilpatrick)

WASHINGTON.—When the U.S. Supreme Court hears arguments Wednesday in the

celebrated case of Allan Bakke, we will have come full circle from the landmark 1954 high court ruling that outlawed school desegregation.

Bakke, of course, is the 37-year-old Californian who five years ago applied for admission to the University of California's medical school at Davis. He was rejected for one reason only; the color of his skin. If it is denied at all, it is only feebly denied that Bakke would have been admitted if he had been born black. Unfortunately, so to speak, he was born white.

The Southerner who follows the Bakke case is struck by ironies at every hand. I am a Southerner, born, bred and brought up in a segregated society. Forgive me a backward glance.

In December, 1938, I was a sophomore at the University of Missouri in Columbia. I had just turned 18, and I was bursting with the accumulated prejudices of a Southern boy's upbringing. On Dec. 12, Chief Justice Hughes handed down a 7-2 opinion for the court in the case of Gaines V. Canada. The university that night was in shock.

It is hard to convey the sensation. Lloyd Gaines, you see, was a Negro. He had been graduated three years earlier from Lincoln University with a bachelor of arts degree. Now he had the temerity—the audacity, the cheek, the sheer gall—he had actually applied, this black man, for admission to the law school of the University of Missouri at Columbia. And the Supreme Court had ruled that he was entitled to be admitted.

It is worth taking a moment to recall a couple of things that Hughes said in the Gaines case. The University of Missouri had advanced all sorts of splendid reasons for keeping Gaines out: Not many Negroes really wanted to be lawyers; in any event, a separate but equal facility was being planned; meanwhile, Gaines could get a perfectly adequate law school education somewhere else.

Hughes dismissed these defensive arguments out of hand. "The essence of this constitutional right," he said, "is that it is a personal one." It is the individual, he said, who is entitled to equal protection of the laws.

Now the Bakke case is being heard, and the echoes come roaring in with the crash of heavy surf. The California regents who rejected Bakke also had the very best of reasons. They were engaged in "affirmative action." Their purpose was "benign." They meant nothing personal in discriminating against a white applicant because he was white. They simply felt it wise to be race-conscious.

Ah, my brothers, lawyers and educators have come a long way along a rough and wretched road, only to find themselves at the point of beginning. The Southern States used to bus children past their nearest neighborhood schools because the children were black, or because they were white, and the Supreme Court condemned the practice absolutely. Now the court approves the identical practice absolutely. Our institutions are as racist as they were before. We witness what is called "racism in reverse," and the phrase does nicely: We go backward, not forward.

Well, I, too, have come a long way from a boarding house in Missouri, and a long way from the Brown case in 1954. I long ago came to understand that for the states to discriminate by reason of race is wrong, dead wrong. I am sorry I ever defended the abominable practice. For a state to deny its facilities to a human being because of the color of his skin is barbarian. And that is exactly what the State of California did to Allan Bakke.

If the court meets this issue squarely, and does not duck or flinch, Bakke will win in 1978 as Gaines won in 1938. And then we will start again, perhaps, on the tortuous road we have traveled before—the road to a color-blind Constitution.

CONGRESSIONAL SALUTE TO THE GOLDEN AGE CIRCLE OF WAYNE, NEW JERSEY, INC., UPON THE CELEBRATION OF THE 20TH ANNIVERSARY OF THE FOUNDING OF THIS MOST ESTEEMED SENIOR CITIZENS ORGANIZATION

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 18, 1977

Mr. ROE. Mr. Speaker, on Thursday, October 20 one of our Nation's most active, enthusiastic group of senior citizens will be celebrating the 20th anniversary of their founding as the Wayne Golden Age Circle and it is indeed my privilege and honor to call to the attention of you and our colleagues here in the Congress the outstanding public service that this most distinguished organization has provided for the seniors of our community throughout these many, many years.

At the outset, I know you will want to join with me in warmest greetings and felicitations to the membership and extend our heartiest congratulations to the outgoing officers and incoming officers to be installed at this 20th anniversary celebration, as follows:

Officers of the Golden Age Circle of Wayne, N.J.

1977

The Honorable: Marie Peters, President; Mrs. James McGuinn, 1st. Vice President; John Nickoviz, 2nd. Vice President; Anton Hosousek, Treasurer; Robert Conklin, Recording Secretary; Evelyn De Walsche, Corresponding Secretary; Ann Tracey, 3 year Trustee.

1978

The Honorable: Marie Peters, President; Mrs. James McGuinn, 1st. Vice President; Ed Moore, 2nd. Vice President; Anton Hosousek, Treasurer; Robert Conklin, Recording Secretary; James Ferrara, Asst. Recording Secretary; Evelyn De Walsche, Corresponding Secretary; Mrs. Paul Kuehm, 3 year Trustee.

Mr. Speaker, with your permission, I would like to insert at this point in our historic journal of Congress the following program, appropriately entitled, "This Is the Life of the Golden Age Circle of Wayne," which most eloquently portrays the history of this most esteemed organization:

GOLDEN AGE CIRCLE OF WAYNE, INC., PROGRAM FOR TWENTIETH ANNIVERSARY (OCTOBER 20, 1977)

Once upon a time there was a "fad" known as This Is Your Life. It was part of TV programs and was used at testimonial dinners, etc., for prominent people.

In contemplating a program for the celebration of the Twentieth Anniversary of the Golden Age Circle of Wayne, it was thought fitting to use the theme "This Is Your Life." While the organization is not a Human Being, nevertheless there is a great deal of humanity in the club and through the past twenty years it can be said to have been nurtured by the Milk of Human Kindness.

In 1957, it all began as the "brainchild" of Emily Grossi, fondly known as Our Godmother.

The club was brought into being by a letter addressed to the Town Forum in the Paterson Evening News on August 22 by Louis B. Bettberg (now deceased), excerpts of which are:

"Several interested persons in Wayne Township are attempting to form a Golden Age Circle for the benefit of any respectable person or persons who are looking for social companionship.

This society will be non-sectarian, non-political and will have no stated dues. Social get-togethers will be held weekly. As it progresses, other activities can be incorporated such as hobby and craft work, painting, sewing, card playing, chess, checkers, wood carving and any other projects of interest to members."

In the beginning the Reverend Robert A. Fisher of the Preakness Baptist Church on the Hamburg Turnpike permitted the group to hold their meetings, rent free, in the largest Sunday School Room. The membership soon outgrew the capacity of the room, it was then that Robert A. Roe, who was Mayor of Wayne at the time, arranged for the use of the Meeting Hall of the Preakness No. 4 Firehouse. Since that time the organization has been sponsored by the Department of Parks and Recreation of the Township. For many years past through the kindness of Mayor Newton E. Miller and the cooperation of Charles W. Kelly and his staff, all the needs of the Golden Age Circle have been attended to. Also we have them to thank for the privilege of holding our meetings at the beautiful PAL building where we are ably cared for by Jerry Lawrence and his staff.

On September 19 Louis Rettberg was installed as the first president. He held the office for two years.

Seated at a special table are the Charter members who, thank the Lord, are still among us and in this area: Jean Shaw, Mabel Smallwood, Christine Anderson, Anna Christen, Violetta Hill, Sue Flad, Deborah Cialone, Hilda Wagner, Wilma Burger, and Ann Walder. Deceased are Bertha Morp, chaplain, and Ida Seidel, hospitality worker. For them and Louis Rettberg and all departed past members, as well as those who are ailing, it would be fitting if we bowed our heads for a moment of silent prayer. Mary Mosig is ill and Lena Egg, who was an artist and circus performer, is now living in California.

Jean Shaw was the first in charge of publicity. Harold MacCullough, a Paterson Evening News reporter now deceased, became an honorary member. He took the Golden Age Circle under his wing and gave it every possible space in the News. Others in charge of publicity were Anna Christen and Erastus Dilworth who kept an excellent record of the club's events making This Is Your Life a possibility.

On January 9, 1958, the second installation of officers occurred. The enrollment at that time was 56. Emily Grossi was highly praised by Rettberg, stating that without her efforts the organization would have failed. She was given a rising vote of thanks then. Let us repeat it now. It was Louis Rettberg who started the quarterly News Letters. Following his death, the work was taken up by Theresa and Frank Bohus. Currently the News Letter is carried on by Clara Barbato, Carolyn Fischer, and Gertrude Mulhall.

From 1959 to 1961 Helen Campbell (now deceased) was president. During her term the Circle was incorporated as the Golden Age Circle of Wayne, N.J. on May 1, 1961 and she was the Registered Agent. Membership had risen to 160. Madge Schaack (now deceased) was Secretary and Charles J. Schroeder was Treasurer. They continued to hold these offices for more than 15 years.

Along about this time Mayor Robert A. Roe, chose Louis Rettberg to represent the Township at Governor Meyner's Conference on "The Senior Citizen's Place in the Community." Of Rettberg, then 80 years old, Roe said "the octogenarian's keen interest in Community Affairs was an inspiration to him" and that his activities and those of his colleagues in the Golden Age Circle spotlights a lamentable situation prevailing in this country where a wealth of experience, ability and particularly wisdom is often left untapped. Discussed at the conference were

benefits affecting the elderly citizen and avenues for their talents and ability."

From 1961 to 1963, our beloved Christine Anderson was president. Shall we ever forget the way she was dressed at our Bi-Centennial celebration, her narration and antics? She was the Life of That Party, we are thankful she is here with us.

From 1963 to 1963 Violetta Hill was president. She has a meek and mild personality, but a strong interest in the Circle. It was she who instituted the Civic Workship activiities for "shut-ins."

In 1965 to 1967, and again from 1968 to 1969 cheery voiced Florence McGuinn was given the reins of the Circle. In a newspaper article entitled "It's a Woman's World" she was quoted as saying "Anyone who says that when you reach 50, it's over the hill for you, is wrong, life begins at 50," for more than 191 Seniors who belong to the Golden Age Circle, busy, busy, busy, is her keyword. Before, during the interim and after her terms in office she was in and still has been in charge of Social Activities.

Other program chairmen were Martha Heille (now deceased), David and Vera Joachim, Anton and Tina Hodousek, Clara Barbato, Theresa and Frank Bohus.

In 1967–1968 Deborah Cialone, known to everyone as "Daisy" was president. Being a "Farmer's Wife" there were times during the harvesting season when the vice-president took over. You may recall that "Daisy" very appropriately represented the Garden State at the Bi-Centennial celebration.

In 1969 to 1971 and again from 1973 to 1974 Charlotte Lammers familiarly known as "Lotty" was president. She was not quite the required age when she expressed the desire to become a member. She was placed in the "Cradle" and given special permission to join. She was well-versed in Parliamentary Law and respects the by-laws at all times.

In 1971 to 1973 and again from 1974 to 1976, David Joachim served as president for four terms, with a rest of a year between two. Besides being most capable in his office "Dave" can be said to have been "naughty" at times, but the members loved his subtle jokes and sly remarks.

Now 1976–1977 and continuing into 1978 we have Marie Peters. In by-gone days it was said the "way to a man's heart is through his stomach," this might be said of Marie's ascendancy to the presidency after being in charge of Hospitality. She has handled her office with integrity. There were several weddings between Golden Agers—Henry and Katie Wynalda; Albert and Ida Siedle; Angelo and Virginia Traina.

In conclusion it might be said the Golden Age Circle has been good for Senior Citizens. Likewise the Senior Citizens have been good for the economy. It shows from "tip to toe" barbers and beauticians benefited. We have no long-haired bearded ones among us. The hairdos of the women are always in the height of fashion. All of which frame happy, smiling faces. The leisure suits of the men and the gowns of the women, be they long or short, are indicative of recent shopping. The shoes, while they might pinch a little, are nevertheless fashionable and beautiful. Restaurants and bus companies welcome our patronage. So when it comes to counting blessings, we can truthfully say God Bless America and God Bless the Golden Agers. Amen.

Mr. Speaker, I appreciate the opportunity of presenting these highlights of two decades in the history of the Golden Age Circle of Wayne which has captured the warmth of friendship, camaraderie, goodwill, and fellowship that can be achieved in the golden years of a lifetime by people with purpose and fulfillment in companionship with, and respect for each other—all so important to the quality of life and way of life for all of us. We do indeed salute the Golden Age Circle of Wayne, N.J., for their contribution to the educational, recreational, and cultural enrichment of our community, State, and Nation.

IOWA'S FIFTH DISTRICT POLL

HON. TOM HARKIN

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 18, 1977

Mr. HARKIN. Mr. Speaker, some of the best advice I get, as a Member of Congress, comes from the people I represent who take the time to write or call me, or to visit my mobile congressional office.

In an effort to get more of that advice, I recently distributed questionnaires to residents of Iowa's Fifth Congressional District. I now have the results of that poll, based on a scientific sampling of the over 12,000 responses I received.

The questionnaire asked 12 questions and polled Fifth District Iowans on a number of issues. Energy, agriculture, foreign affairs, and other issues were covered.

I might just add, at this point, that the results indicate Fifth District Iowans overwhelmingly believe the energy crisis is real, and want the Federal Government to work harder to encourage development of alternatives to oil, such as wind and solar energy, and coal, to help solve it. They also strongly oppose deregulation of natural gas prices.

I believe the results of this poll will be helpful to our colleagues as they assess the mood of this Nation. Accordingly, I ask that the results of this questionnaire be printed at this point in the CONGRESSIONAL RECORD, so they might share in that good advice Fifth District Iowans have to offer:

QUESTIONNAIRE

[In percent]

1. Do you feel that President Carter is correct when he says there is a national energy crisis and that it demands legislation?

Yes	74
No	22
No opinion	4

2. Do you believe the Postal Service should cut back mail delivery to five days each week in order to save tax dollars?

Yes	35
No	61
No opinion	4

3. In your opinion, should the federal government provide more cost-sharing money for soil conservation rather than simply relying on independent farmers to finance their own conservation programs?

Yes	63
No	32
No opinion	5

4. Legislation has been introduced into Congress which affects our tax laws. Do you favor elimination of all or most tax deductions and credits in favor of a greatly simplified income tax form?

Yes	52
No	39
No opinion	9

5. Some people say by decontrolling natural gas prices, oil companies will have more money to increase production and because of higher prices, consumption will be reduced. Others say decontrol will only give companies more profits, will not significantly increase production and will be too inflationary. From what you know, do you believe we should decontrol oil and natural gas prices?

Yes	23
No	69
No opinion	8

6. Do you think U.S. economic and military aid to foreign governments should depend on their record of human rights?

Yes	69
No	25
No opinion	6

7. Do you favor "sunset laws" which eliminate the life government agencies, unless they can periodically justify their existence?

Yes	92
No	4
No opinion	4

8. Do you think we ought to withdraw our troops from South Korea over a five year period?

Yes	58
No	31
No opinion	11

9. Do you feel the $3,000 earnings limitation for Social Security recipients should be eliminated or at least raised?

Yes	80
No	15
No opinion	5

10. Out of the federal money that is spent on energy research and development, substantially more is spent on nuclear research than other forms of energy such as coal, solar, geothermal and wind. Do you think this is correct?

Yes	24
No	71
No opinion	5

11. Continental Illinois Bank and Trust Company recently attempted to invest tax exempt pension funds in farmland. Do you feel Congress should allow non-farm corporations like Continental Illinois unrestricted access to purchase farmland?

Yes	8
No	88
No opinion	4

12. In your opinion, are questionnaires like this one a good means for finding out what people are thinking?

Yes	92
No	4
No opinion	4

PURPOSE OF NEUTRON BOMB

HON. CHARLES H. WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 18, 1977

Mr. CHARLES H. WILSON of California. Mr. Speaker, on September 28 and

29, the House engaged in a 5-hour debate on the subject of enhanced radiation weapons, which some refer to as the "neutron bomb." In the heat of the debate many emotional statements were made and it was evident there is great misunderstanding of the purpose and potential use of this weapon system.

I have noted an editorial in the Los Angeles Times of October 13, 1977, which very precisely spells out the purpose of so-called neutron weapons in the NATO environment. I want to commend the Los Angeles Times for its responsible position and insert the editorial in the RECORD at this point:

SITTING ON THE BOMB

Government leaders in West Germany and other key NATO countries are widely reported to favor the deployment in Europe of the neutron bomb—more accurately called a reduced-blast, enhanced radiation weapon.

Yet, as demonstrated by this week's meeting of NATO's Nuclear Planning Group in Bari, Italy, they aren't anxious to come right out and say so as President Carter requested.

Defense Secretary Harold Brown told the Bari meeting that the neutron warhead was specifically designed for use against a potential Soviet attack in Europe—and that it won't be deployed unless there is a "substantial consensus" among European members of NATO in its favor.

In effect, Carter was putting European leaders on notice that they must be prepared to share the political heat for the deployment of a very controversial weapon. Their reaction was to postpone a decision for at least a few months.

Sooner or later, the Administration is likely to get the consensus it wants. The case for the deployment of the neutron bomb is too strong for responsible leaders of the Western alliance to ignore. However, the timidity that is so evident in Washington and allied capitals is a monument to the triumph, at least temporarily, of emotion over common sense in recent public discussion of the issue.

Both here and in Europe, crusading critics of the weapon have charged that it is designed to kill people while leaving buildings and other real estate unharmed, that it represents an inhumane placing of property values above human values. This is a flagrant distortion of the truth.

Neutron warheads produce twice the deadly radiation of the conventional nuclear bombs that they would replace—but less than a tenth as much blast power, heat and fallout. The deadly radiation would be confined to a relatively small area, and would last no more than a few hours, compared with weeks or months in the case of radiation from the tactical nuclear weapons that are currently deployed in Europe.

The neutron warhead was designed to kill invading Soviet tank crews without devastating nearby populated areas. As Brown told fellow defense ministers at Bari, the proposed weapon actually would "kill fewer people to accomplish the same military effect."

The argument that it is somehow more moral to kill innocent civilians of a country under attack along with the attacking enemy—and to render the countryside uninhabitable for weeks or months in the process—is ludicrous.

A more rational objection is that, precisely because the neutron bomb is a cleaner and more precise weapon, there would be a greater temptation to use it in order to stop a massive onslaught by Soviet conventional forces.

There may be some truth to this thesis. But it is outweighed by the fact that the neutron bomb would make the outbreak of war less likely in the first place—a fact of considerable moral and practical consequence.

Allied strategy holds out the hope that a nonnuclear Soviet thrust through West Germany could be halted without the use of nuclear weapons. Realistically, however, a large chunk of allied territory would have to be surrendered first. Thus, the Soviet Union has been on notice for years that an attack would be met, if necessary, with nuclear weapons.

As the Russians know perfectly well, however, the nuclear weapons currently deployed in Western Europe could not be used to kill invading Soviet soldiers without also killing allied civilians, probably millions, in the process. On a much larger scale, it would be like destroying a Vietnamese village in order to save it.

The worry is that, at some point, the Kremlin might reasonably decide that such an exercise in mass suicide was so unlikely that it could risk aggressive action. More likely, it might be emboldened to use the threat of military force to back up political or territorial demands in reasonable confidence that the West would give way rather than risk war.

The temptation to find out would not be nearly so great if NATO had a credible means of stopping an invasion in its early stages without destroying the very people and the territory that it was trying to save.

The neutron bomb has been under discussion within NATO for at least five years. Until the recent public controversy created political problems—especially for Carter and West German Chancellor Helmut Schmidt—it was taken for granted within the alliance that it would be deployed.

The European leaders will probably overcome their timidity within a few months, their decision to delay a decision in the hope that the political furore will die down is understandable. At some point, however, they must be willing to go public with their support. After all, the United States cannot be seen as deploying a new weapon on European soil against the will of the Europeans.

SAFE BANKING ACT OF 1977

HON. FERNAND J. ST GERMAIN

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 18, 1977

Mr. ST GERMAIN. Mr. Speaker, yesterday I introduced H.R. 9600, the Safe Banking Act of 1977 along with seven other Members. That bill is currently the subject of action by the Subcommittee on Financial Institutions and to assist the Members of the Subcommittee the following title-by-title summary was prepared:

H.R. 9600 retains the basic thrust of the original bill (H.R. 9086) but it does incorporate a number of changes, modifications, and clarifications. The redrafting is based on testimony from a variety of witnesses before the subcommittee—from bank trade associations to consumer organizations—and is an attempt to broaden the consensus among the Members. We have tried very hard to meet the problems identified by individual members of this subcommittee and I think it is a bill behind which serious proponents of reform can rally.

The bill is cosponsored by Mr. ANNUNZIO, Mr. PATTERSON, Mr. CAVANAUGH, Ms. OAKAR, Mr. MITCHELL of Maryland, Mr. MINISH, and Mr. BLANCHARD:

SAFE BANKING ACT OF 1977—H.R. 9600

TITLE I: SUPERVISORY AUTHORITY OVER DEPOSITORY INSTITUTIONS

Sec. 101. Provides civil money penalties for violations of insider loan and loans to affiliate sections of the Federal Reserve Act.

Sec. 102. Provides civil money penalties for violations of reserve requirement provisions of the Federal Reserve Act.

Sec. 103. Provides civil money penalties for violations of National Bank Act (loan to one borrower limit and indebtedness of national bank).

Sec. 104. Insider Loan Limits—banks with assets of less than $50 million will be prohibited from extending credit, in any form, to an officer, director, employee or major stockholder in excess of 10 per cent of the bank's capital accounts. All insiders, their affiliated companies, political or campaign committees, and family members could borrow no more than 50% of capital accounts. Each of the supervisory agencies shall have the power to issue written waivers of these limits in the event of specific hardship.

Borrowing limits imposed on executive officers of National Banks and Federal Reserve Member Banks shall be raised to $60,000 for mortgages, $20,000 for education loans, and $10,000 for personal loans. Such amounts shall be counted against the loan limits imposed on insiders.

Banks shall be prohibited from honoring overdrafts by officers, directors, employees. (Insufficient fund items would be returned unpaid in the same manner as NSF checks of other non-insider customers).

Sec. 105. Gives the Federal Savings and Loan Insurance Corporation authority to make loans to a savings and loan buying the assets of a failing savings and loan.

Sec. 106. Provides authority for cease and desist actions against officers, directors, stockholders, or any person participating in the affairs of a financial institution (under current law such actions must be taken against the institution); all financial regulatory agencies would have this authority; the actions could be taken against violations of law and regulation, unsafe and unsound practices, or if the criticized acts would weaken an institution.

Provides for removal of officers and directors for breach of fiduciary duty (defined as personal dishonesty, or willful or continuing disregard for the safety of an institution).

Sec. 107. Applies the insider loan limit discussed in Sec. 104 to State non-member banks.

Sec. 108. Provides that the penalties authorized by this title shall affect only those violations occurring after enactment of the bill.

Sec. 109. Provides a hearing process for removal of an officer or director based on an indictment or conviction for a felony.

TITLE II: INTERLOCKING DIRECTORS

Prohibits interlocking directorates between banks, savings and loans, mutual savings banks, and credit unions. Interlocks between financial institutions and non-depository institutions such as insurance companies, title companies, companies which appraise real property, companies which close real estate transactions and legal firms would be judged against anti-competitive standards administered by appropriate supervisory agency and Justice Department. However, interlocks could remain if convenience and needs of the community outweigh anti-competitive effects.

Authorizes a five year period for correction of prohibited interlocks between depository institutions.

TITLE III: FOREIGN BRANCHING

Federal Deposit Insurance Corporation "Housekeeping" provisions (authority to approve foreign branches for State nonmember banks, authorizes subpoena power for investigations, authority to write regulations for laws they enforce).

TITLE IV: CONFLICTS OF INTEREST

Members of the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Comptroller of the Currency, and the Federal Home Loan Bank Board could not for two years after leaving their position serve as an officer, director, employee, attorney, consultant or agent of a financial institution or financial institution holding company or own stock of a financial institution or financial institution holding company.

TITLE V: CREDIT UNION RESTRUCTURING

Creates a three-member National Credit Union Administration Board and subjects its members to the same provisions mentioned in Title IV and makes NCUA subject to GAO audit.

TITLE VI: CHANGE IN BANK CONTROL ACT

The Federal Deposit Insurance Corporation, the Board of Governors, and the Comptroller of the Currency would have authority to approve or deny in advance any change in control of banks under their jurisdiction.

Application is approved if agencies take no action in 90 days.

Applications may not be approved if the change would create a monopoly, lessen competition, if the financial condition of the applicant would threaten the safeness of the institution, or if the management capability of the applicant is not sound.

Provides that no more than 75 per cent of purchase price of financial stock may be borrowed, but would not affect application of full margin requirements that presently apply to banks and other financial institutions which meet the standards under Section 7 of the Securities and Exchange Act. Agencies, however, could grant waivers on the down-payment requirements in hardship cases.

Requires full disclosure to the appropriate bank regulatory agencies on bank stock loans.

TITLE VII: CHANGE IN SAVINGS AND LOAN CONTROL ACT

Provides authority like that in Title VI for the Federal Home Loan Bank Board with respect to savings and loans.

TITLE VIII: CORRESPONDENT ACCOUNTS

Requires examination process to include specific investigation of all aspects of existing inter-bank relationships including correspondent accounts to determine whether proper and full benefits are derived by the bank.

TITLE IX: DISCLOSURE OF MATERIAL FACTS

Require that insider loans, including those obtained by insiders from correspondent banks, and aggregate of each category of classified loans, and list of shareholders, be included in annual report filed for the public record with the appropriate Federal supervisory agency and be available on request from the bank.

TITLE X: FINANCIAL INSTITUTIONS EXAMINATION COUNCIL

Established a Council composed of the three banking agencies to establish uniform examining procedures for the agencies and to recommend uniform treatment of supervisory problems, country risk loans, loan participations, and questionable and illegal payments and practices.

TITLE XI: RIGHT TO FINANCIAL PRIVACY

No government official may have access to an individual's financial records maintained at a financial institution unless the individual consents in writing or a subpoena is granted.

Would apply the provisions of this act to the establishment of electronic funds transfer systems.

Exempts the Currency and Foreign Transactions Act, the U.S. securities laws, and national banking laws from the provisions of the title.

Would require that government officials obtaining information with a subpoena must pay a reasonable cost for copying and locating the information sought.

TITLE XII: CHARTERS FOR THRIFT INSTITUTIONS

Provides authority for Federal charters of mutual savings banks.

Subjects converting mutual savings banks to State redlining requirements if the State requirement is more stringent than the Federal requirement.

Gives Federal Home Loan Bank Board authority to require at least 60 per cent of assets to be invested in housing (primarily residential) by an institution converting to Federal charter.

Provides a five year shared risk program in the event a converting institution fails. The Federal Deposit Insurance Corporation and the Federal Home Loan Bank Board would develop procedures to work out this provision.

TITLE XIII: HOLDING COMPANIES

Provides cease and desist and removal authority for the Board of Governors of the Federal Reserve System and the Federal Home Loan Bank Board regarding holding companies.

Provides civil money penalties for violations of the Bank Holding Company Act.

Eliminates the exemption for agricultural, labor, and horticultural organizations under the Bank Holding Company Act, except grandfathers those financial institutions existing as of January 4, 1977.

Provides for waiver of the 30-day notice requirement for acquisitions of banks by bank holding companies when the action would facilitate the acquisition of a failing bank.

Provides new standards for acquisitions of banks, nonbanking subsidiaries, and new nonbanking activities (no approval if the acquisition gives the holding company 20% or more of the banking assets in a State; no approval if the financial impact of the acquisition would be detrimental to the subsidiary banks of the holding company).

Provides due process procedures for cease and desist, removal, and civil money penalty actions.

Provides for improved public involvement in holding company decisions.

THE GREAT TOMATO WAR

HON. FREDERICK W. RICHMOND

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 18, 1977

Mr. RICHMOND. Mr. Speaker, on October 4, 1977, the House Agriculture Domestic Marketing, Consumer Relations, and Nutrition Subcommittee, which I chair, held hearings on H.R. 744, a bill to require imported tomatoes to be packaged in conformity with domestic standards. The debate between the interested parties on both sides of the question was so high spirited and vociferous that I feel justified in characterizing the issue as the great tomato war.

While our subcommittee members are carefully reviewing the record, I thought it would be useful to share with my colleagues a clear, thoughtful, and balanced overview of the arguments which was ably presented in a lead story in Saturday's issue of the Washington Star. Goody L. Solomon, the author of this article, is to be commended for her excellent analysis of this complex issue:

GREAT FORCES GATHERING TO FIGHT OVER THE TOMATO

(By Goody L. Solomon)

A seemingly simple item, a packing carton, has stirred up what Rep. Fred Richmond, D-N.Y., has called "the great tomato war." That simple item has embroiled the antagonists in questions regarding the nutritional value of tomatoes picked when vine ripe compared with those harvested green and then ripened with the aid of ethylene gas; free trade vs. protectionism; inter-American relations and even the control of illegal aliens from Mexico.

Tossed into the fray are consumer groups, the State Department, the U.S. Department of Agriculture and business interests in southern Arizona, along with the two principal contenders, Mexican and Floridian tomato growers.

Together Mexico and Florida provide all of this country's supply of fresh tomatoes during the winter season (October to June), with the imports ranging between 30 percent and 40 percent of the total.

California, the other major producer in the United States, plants and harvests during the summer months, when Mexican and Floridian fields are dormant. Washington's summer supplies also come from Virginia and other nearby states.

In Mexico, tomatoes are harvested when the blossom ends are tinged with yellow or pink. Called vine ripe (the trade calls them "breakers"), they have begun to produce their own ethylene gas, a compound that matures all fruits (pears and bananas, for example, as well as tomatoes). The bulk of this supply goes to Western states.

Other regions, including the Washington area, get as much as 83 percent of their winter tomatoes from Florida, where harvesting is done at the stage called "mature green." At that point, the tomatoes have not yet produced their own ethylene; therefore they are exposed to the gas in special rooms or trucks. According to some experts, gassed tomatoes may get red on the outside but not ripe on the inside.

Consumers, moreover, have complained about mealiness and poor flavor. And several researchers have shown that the longer the tomato stays on the vine, getting nourishment from the soil, the fuller its store of vitamins C and A as well as sugar, making the vine ripes more nutritious

If the Florida producers have their way, however, the whole country will get fewer vine ripes in future winters. Although the Floridians, of course, dispute the claims of extra nutrition and flavor in vine ripes, that's not their main point of attack. Fearful of import competition, they are asking that the rules governing growers in their state—grading and sizing regulations voluntarily set down by the growers in a so-called market order and based, in part, on the profitability of machine-packing green tomatoes—also apply to Mexico.

One specific rule lies at the core of the current donneybrook. It requires that Florid-

ian growers pack tomatoes in 30-pound cartons, each holding the same size fruit. A bill in Congress would require the same packing for imports (99 percent of which come from Mexico).

To understand how it would favor Florida, one must start south of the border, where tomatoes are picked vine ripe and have begun to soften. They need tight packing in order to prevent damage from jostling during shipping. To insure such a tight fit, sizes are sometimes mixed—small with medium, large with extra large and so on. Packing is done by hand.

Furthermore; harvesting of the vine ripes is done daily or every second day so as to select the fruits that are ready—another labor cost that Mexicans can afford because wages are low.

Now go to Florida. By harvesting green tomatoes, field hands can be sent out at 10-day intervals. That takes less labor. Often, incidentally, the workers cannot differentiate mature from immature green tomatoes, which are even less nutritious. As much as 78 percent can be picked immature, according to a survey by two university of Florida professors.

The most important reason for harvesting green tomatoes is that they are firm enough to be machine packed and loosely filled into the required shipping containers—another major labor saver.

Florida is the only tomato-producing state that has a market order. It was put into effect by request of the industry as a means of keeping what it considered to be inferior qualities off the market. The order established minimum sizes and quality requirement for tomatoes going to commercial channels.

Those which fail are usually left to rot on the ground. Those which pass the minimum test are further separated by sizes and qualities, the differences forming the basis of wholesale pricing.

Once the industry voted for the market order, it became mandatory for all growers in the state, with policing and inspection done by the U.S. Department of Agriculture.

Arguing for its passage, Florida growers contend that the Mexicans have a competitive edge not only because of low wages but also because of their ability to use pesticides that are forbidden in the United States—therefore the ability to cut losses from disease—and, above all because of the comingling of sizes for wholesale marketing.

Since size is the major criteria for wholesale pricing, say the Floridians, Mexicans can get the same price for larger and small fruits. In short, the argument goes, our neighbors south of the border use deceptive packaging.

Wayne Hawkins, executive vice president of the Florida Tomato Exchange, told the House Agriculture Committee early this month:

"Mexican imports usually sell for less money per package than comparable packages from Florida. Mexican producers can flood the United States market with tomatoes at prices that won't even return the cost of production in Florida. During periods of heavy supply, Mexican imports are frequently consigned to handlers throughout the United States. . . . It is not uncommon to have Mexican tomatoes offered for sale in Florida during our peak season at prices cheaper than Florida tomatoes."

* * * * *

In the House, the Mexicans have been more convincing so far. Their arguments go like this:

It is untrue that Mexican packaging leads to deceptive pricing. Their boxes make it easy to discern the different sizes and pricing is based on those differences.

The law would place a special burden on the Mexicans since U.S. tomato producers outside the state of Florida are not subject to any of the requirements of that state's market order.

Because vine ripes cannot be packed in the loosely fitted cartons used in Florida, the law would force Mexican growers to convert to harvesting green tomatoes and gassing them. Heavy expenditures would be incurred for gas chambers and other equipment.

This change would also cause severe unemployment, which, in turn, might encourage more illegal aliens to enter the United States. Mexicans would also lose purchasing power for many U.S. exports.

As an alternative, Mexicans might shift from tomatoes to another vegetable and thereby sharply curtail tomato exports to the U.S. Consumers here would be deprived of a complementary source of tomatoes. For example, during last year's severe frost in Florida, Mexican supplies came to the rescue.

Either way, American consumers would pay higher prices for less nutritious produce.

In essence, the bill would impose a nontariff trade barrier.

The administration agrees. Speaking in support of a free-trade policy, a State Department official said: "Passage of the bill would impair our efforts to secure the elimination of unnecessary standards, including packaging requirements, currently in effect in other countries. These measures hamper the growth of the American export trade. . . . As the world's largest exporter of agricultural goods, the United States has a vital take in the freer international movement of farm products."

Sharon Ahmad, director of the Office of International Trade, also stressed that "these packaging standards have nothing to do with the quality of tomatoes sold to the American consumer. We support the concept of uniform treatment of domestic and imported commodities with respect to quality requirements. Tomatoes imported from Mexico already meet those quality standards."

She further expressed fear of upsetting good relations with Mexico.

Siding with the Mexicans as well are such groups as Consumers Union and the Consumer Federation of America. Also Arizonans, especially folks in the border city of Nogales, which is the main distribution point for vegetables from western Mexico. A decline in tomato shipments would cut into the incomes of brokers and distributors, among others.

Testifying on behalf of his constituents, Rep. Morris K. Udall, D-Ariz., told the House Agricultural Committee:

"Decreased business means that workers will be laid off, hours will be cut, taxes from payrolls will decrease and the multiplier effect will spread repercussions of these serious and harmful actions throughout the state and the region. Arizona is currently in the midst of a recession caused by low prices for copper, and we already have over 8,000 copper workers unemployed. Mexico has just gone through a drastic peso-devaluation. This bill would be another blow to the already shaky economic health of southern Arizona and Sonora."

PANAMA CANAL TREATIES—A STUDY OF CONFLICTS

HON. GEORGE HANSEN

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 18, 1977

Mr. HANSEN. Mr. Speaker, fellow colleagues, my remarks today concern the proposed Panama Canal Treaties. Article IV, section 3, clause 2 of the U.S. Constitution states that only the Congress of the United States has the authority to dispose of American property. There are numerous reasons why we should assert ourselves and not let the President make an "end run" around the Constitution.

One of the most questionable circumstances surrounding the proposed treaties is the 6-month appointment of Sol Linowitz as Ambassador and cochairman of the U.S. negotiating team in the Panama Canal talks.

The conflicts of interest which infect the representation of the United States in negotiating a treaty over the Panama Canal fall into three separate classes, any one of which would and should have made Linowitz inappropriate to be a negotiator for the United States.

When this issue was first raised, it arose in the context of Linowitz' appointment with the personal rank of Ambassador. The Law, 22 United States Code 901a, clearly requires an appointed Ambassador to reveal his campaign contributions. Linowitz' to this day has refused to do so. The intent and purpose of the law was to preclude purchase of a position of eminence and power.

The devise of personal appointment served to prevent exposure of the matters which the law required revealed in 901a. It also prevented a confirmation hearing before the U.S. Senate in which any real and potential conflicts of interest would be revealed. That is, a confirmation hearing would have revealed those interests of the nominee which would have made the post worth purchasing in the first place. Instead, a State Department formality was substituted for a confirmation hearing.

At first, the State Department declared that there was nothing in Mr. Linowitz' interests which would conflict with his negotiating away U.S. interests in the Panama Canal. Within a week of my filing a suit contesting the legality of Linowitz' appointment, he resigned his seat on the Board of Directors of the Marine Midland Bank of New York. Marine Midland as part of a consortium of banks was a creditor of Panama for $8 million. Marine Midland is near the top of the Federal Reserve trouble list as overextended in soft loans to Third World countries, of which Panama is one. Until the suit, neither the State Department nor Linowitz thought that such a situation could be construed as a conflict. It is also difficult to see how his subsequent resignation could have cured the conflict-of-interest. Will any of the side-money benefits inure to the benefit of Marine Midland or the other banks overextended in Panama? Is it to their interest to prop up Torrijos as dictator of Panama lest a successor repudiate the loans?

To this day no one has seen the alleged State Department clearance on Linowitz. No one outside the administration knows how many "Marine Midlands" it contains. But the public record tells us a few more conflict-of-interest connections which do not lend confidence in the Treaty negotiated under the aegis of Mr. Linowitz.

First, Mr. Linowitz represented the Republic of Panama over the Panama Canal issue to President-elect Carter in late 1976. Mr. Boyd of Panama boasted of the fact. Two months later, Mr. Linowitz began representing the United States on the same issue between the same parties. By its terms such a situation is a conflict-of-interest. Added to the Marine Midland connection, Mr. Linowitz had to be influenced to see that Panama got enough money from the United States for taking back the Panama Canal. Among the terms of the proposed treaty is the fact that Panama will receive at least $2 billion in addition to the canal itself.

Second, Linowitz was negotiating the treaty while Linowitz' law firm, from which he has not resigned, remained a registered agent for South American governmental interests. Perhaps an oversight. Certainly the fact that Linowitz himself and his law firm have represented South and Central American interests for at least two decades in more than a half dozen cases is not an oversight. Panama, Chile, sugar interests all have been represented by Linowitz and his firm and all are interested in one way or another in a resolution of the canal issue favorable in their light to Panama. Linowitz could not be so insensitive to the realities of international interests to be ignorant of the obvious interconnection of all these issues.

The ultimate issue remains that Linowitz was a foreign agent for the very countries pressuring for U.S. divestiture of the canal. He is on boards which have vested interest in retaining favorable connections and even money recovery from Panama, a country with a deficit worse than the United States on a per capita basis. Finally, he represented Panama in these very negotiations. Both the reality and the appearance makes the treaty produced with his connivance more than suspect.

Much more suspect is a State Department which gave him a clean bill of health until the pressure was on. Then came the stuttering explanations that if matters touching Linowitz's business interests should arise, State was sure he would excuse himself from those parts of the treaty negotiations touching those interests. Did Linowitz withdraw from the Money negotiations? We have not heard of it.

What is to be said of an administration which trades on morality as its daily staple? Was it unaware of Linowitz' interests and the conflicts? Did not Vance tell the White House? Or did not it matter? Will the Senate now be asked to save the face of the President at the expense of the Nation? When should have they known the facts? Will the House be asked to pass enabling legislation and appropriations on a treaty with such suspect antecedents? When will we be forced to start digging a new canal for a new set of Linowitz' to profiteer at the expense of the citizens?

It is important that the Congress reflect the will of the American people in opposition of this treaty, and I have, therefore, organized an effort called Citizens Opposing Panama Canal Sellout (COPS).

The purpose of COPS will be to stop the robbers, those who would rob the United States of its national security and those who would rob American citizens as taxpayers and consumers.

I feel the cops and robbers analogy is realistic for the proposed treaty situation where increased tolls will raise the price of consumer goods and increased foreign aid programs will raise taxes in addition to reducing the Nation's control over the waterway for national security purposes.

I have also introduced a bill, H.R. 8958, which calls for a national referendum as part of the 1978 general election. The question on the ballot would read, "Shall the United States divest itself of the Panama Canal? Yes or No." Furthermore the bill calls for Congress to be guided by the results of the said advisory referendum in making their decision on the treaty.

My mail has been running overwhelmingly against the treaty and this holds true in every office of which I have any knowledge and also by public admission at the White House.

President Ford delayed the treaty negotiations last year precisely because of the effect such a proposal would have had on the 1976 election. President Carter has indicated his concern for the timing of Senate ratification, because of electoral implications. Both of these leaders seem to be aware of the popular resistance to their direction on this question.

I believe that a referendum such as I have proposed should be taken in the "public interest" so that Congress can better understand the voice of the people.

I am convinced that the Panama Canal Treaty is a fraud.

Webster defines fraud as "deceit, trickery, intentional perversion of truth in order to induce another to part with something of value or to surrender a legal right by deceiving or misrepresenting: Trick."

Fraud is evident in many ways—in the deliberations themselves, in the financial aspects involving big money interests and in the fact that Sol Linowitz, a representative of some of those big money interests, was under pressure to get a treaty before the expiration of his appointment as a negotiator on the day the treaty was agreed to.

In addition, any talk of a new canal by the President is a fraud, because total control of new canal possibilities by the United States was given over to Panama. The payment provisions to Panama are a fraud, because the toll structure will not support the treaty and the American taxpayer will surely have to make up the difference in subsidies.

The treaty is also a national defense fraud. It is supposed to insure American security, but what it really guarantees is that enemies can use the canal against us.

Because the treaty is so obviously tainted and so highly opposed by the American people 160 of my colleagues representing 43 States are strongly supporting my resolution to bring the question of the disposal of American property to the House as well as the Senate for a vote and the list is continuing to grow each day.

The historic resolution which I have proposed will for the first time involve the House of Representatives in the treaty approval process under authority of article 4 of the U.S. Constitution.

The Panama Canal is so unique in itself and there are so many questions of possible fraud that this treaty cannot be allowed the routine consideration usually used. We must know if President Carter knew of any bugging. What concessions were made? What about the financial interests involved and the Linowitz timetable that resulted in a hastily contrived document?

Already the treaty has become a joke because of overlooked provisions such as one exempting all Americans there from paying taxes.

Because of the circumstances leading up to the agreements reached in the proposed treaty and because of the complex nature of economic aid payments to Panama which seems especially designed to circumvent the constitutional prerogatives of the Congress and confuse the American people, I have requested that the GAO launch an immediate investigation into the circumstances surrounding the proposed Panama Canal Treaties. They have informed me that they are proceeding with this investigation now.

Not only are we not selling our multibillion dollar interests in Panama, but we are, in fact, giving them away, even paying heavily to do so—all this without prior appropriation authorization from the Congress—and with possibilities of large windfall benefits to certain special interest groups.

If constitutional processes are being violated and if the security and financial well-being of American citizens are being jeopardized, then such circumstances should be made known.

A LONG HAUL—A WRONG APPROACH

HON. GEORGE HANSEN

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 18, 1977

● Mr. HANSEN. Mr. Speaker, the strains of "Panama Fever" definitely seem to be sweeping Washington. President Carter has succeeded in generating a frenzied give-away atmosphere among administration officials. The majority of the public, however, remains steadfastly opposed to any give-away of American rights and property.

Recently, in an editorial for the Washington Star, John P. Roche talked about the proposed Panama treaties. Mr. Roche identified himself as a supporter of the treaties. However, in contrast to the Carter administration's side-show and frantic efforts to secure unanimous representation by OAS heads of State, Roche states that "support of the Organization of American States isn't worth a nickel."

Although he favors the proposed treaties Roche declared that the President's unwarranted haste—

. . . has already generated a major strategic blunder. Despite the fact that the Constitution provides that Congress has the right to dispose of U.S. property, the President has decided to blind-side the House of Representatives. There are, as usual, some precedents for such evasive action, but in my judgment they are weak and *it is both unconstitutional and stupid.*" (emphasis added)

Mr. Speaker, the President must not be allowed to keep the House from playing its proper role in the ascertainment of whether or not to give the Panama Canal to the Marxist government of Gen. Omar Torrijos.

At this point Mr. Speaker, it would be useful to bring to my colleagues' attention an article by Mr. Vincent T. Hirsch, president of the U.S. Navy League which appeared in the September issue of Seapower. I believe that Mr. Hirsch's comments are extremely pertinent and represent the sentiments of the majority of Americans, as well as those of the naval profession. I commend this material highly to my colleagues and especially to President Carter. The article follows:

THE CANAL TREATY: TOO FAR, AND TOO FAST

By the time this issue of SEA POWER reaches its readers, President Carter will have signed, amidst much fanfare, the recently negotiated treaty which would in time cause the Panama Canal to be transferred to the Republic of Panama. In due course, but hopefully not during this present session of Congress, the treaty will come before the Senate for consideration; it must be ratified by that body before becoming effective. Meanwhile, as late as 10 days before the signing was to take place, the *precise* final terms of the treaty had not yet been made public.

The President has mounted an unusually intensive campaign to generate support for the treaty. The two diplomats who negotiated it, Ellsworth Bunker and Sol Linowitz, have been singled out for the highest praise for their accomplishments in finally bringing about an agreement with the Panamanians. They in turn, from their vantage point in the public spotlight, have been making dire predictions as to what will likely transpire along the Canal site and elsewhere if the treaty is not ratified. It has been suggested that the future of our relations with all of Latin America may well depend upon approval of the treaty. It is being alleged that the Canal's importance to the United States is declining regularly, and that in time our need for it would be minimal. It has been pointed out, rightly, that our largest aircraft carriers cannot traverse it because they are too large for the Canal's locks, the implication being that it no longer would be heavily used by naval vessels in time of emergency. It has been claimed that a force of 100,000 men could not defend it against sabotage, and suggested that sabotage is certain to result if the treaty does not become a reality. And, all the while, the administration appears genuinely puzzled over the reluctance of a high percentage of Americans to want to give to *any* nation, much less one not noted for either its political stability or its conservative leanings, something that represents a uniquely American accomplishment whose presence has played in the past and may well play in the future a major role in the maintaining of our national security.

In our view the President is seeking to go too far too fast. And we are disturbed over the tactics being used in seeking to bring about public acceptance of the treaty.

It seems to us that certain facts pertaining to the Canal, the Canal Zone, and the country in which it is located should be reviewed, in order to remove some of the emotional trappings this issue has been given:

The United States was predominantly instrumental in bringing about the creation of the Panamanian republic at the expense of Colombia, of which the land which is now Panama was a province. Its principal act in support of the fledgling government was a show of naval force which prevented Colombian armed forces from a military take-over after the Panamanians had declared themselves independent. Later, the United States did obtain, with apparently reluctant approval of the Panamanian government, the treaty which ceded the Panama Canal Zone to it in perpetuity. Despite the big-power politics, however, the fact remains that Panama did gain her independence because of direct action by the United States and in time also acquired a major economic asset in the form of the Canal.

Once the political maneuverings had become history, the construction of the Canal was completely a U.S. effort. Spurred into being by a far-sighted President and supported wholeheartedly by his two successors, the project became one of gigantic proportions. Furthermore, had not the United States elected to embark upon it, it is doubtful the Canal would have been built for many years to come. Earlier French efforts had ended in dismal and tragic failure, with perhaps 20,000 lives lost, principally to yellow fever and malaria. The British had bowed out of a treaty calling for joint development with the United States of such a canal. And no other nation had the will, the desire, or the wherewithal to undertake its construction. In the 11-year period required to complete it, the Canal became an object of intense national pride, and well it should have.

Not only did the United States pour millions of dollars into the creation of a means of transport that would prove a boon to the entire world, but it also eradicated yellow fever from the area and provided the rest of the globe a means for control of that disease. Had not that medical breakthrough been achieved, it is problematical that canal construction would have proceeded successfully.

It is true that our reliance on the Canal for the transport of goods has declined markedly, and that our largest carriers cannot transit it. But the figures depicting the steady fall-off in utilization are based on peacetime usage. Four former Chiefs of Naval Operations recently observed in a joint letter to President Carter: ". . . as each crisis developed during our active service—World War II, Korean, Vietnam, and the Cuban missile crisis—the value of the Canal was forcefully emphasized by emergency transit of our naval units and massive logistic support for the armed forces." They also observed: "From a strategic viewpoint, the . . . carriers can be wisely positioned as pressures and tensions built in any kind of short-range situation. Meanwhile, hundreds of combatants . . . can be funneled through the transit, as can the vital fleet train needed to sustain the combatants."

If the sabotage so crudely implied were to occur and the Canal closed because of it, the nation which would suffer the most from this action, aside from the United States in time of war, would be Panama. Next in line would be the countries of Central and South America, many of which rely heavily upon the Canal for shipment of a large percentage of their marketable goods from ocean to ocean.

In its relationships with Panamanian governments and people, the United States certainly can't look back with complete and utter pride. Obviously much more could have been done to contribute to an improvement in the standard of living of Panamanians, to make possible greater participation in the operation of the Canal, to cause more funds to be paid into the Panamanian treasury from Canal tolls. Those and other measures would have contributed markedly to an improved U.S. image in the Isthmus, and the Canal Zone and its occupants could have been made to appear less an example of Yankee wealth and arrogance. And it certainly isn't too late for positive steps to be taken in this direction.

However, we question whether the compensation with what appears to us to be an exorbitant sum of money to a government which has given no indication whatsoever that it would use it wisely and well is going to bring about a permanent amelioration of any hard feelings that ostensibly exist between the two governments and their people. And we also find it hard to accept that we who created such an unusual asset to world trade should be paying someone to take it off our hands, especially when we have no idea whether the political entity which now will be responsible for its operation will be able to sustain that operation successfully.

For the United States to be magnanimous with its assets is nothing new. Europe today is an astounding testimonial to the Marshall Plan. The vitality of Japan is a direct result of our willingness to rebuild the shattered country of a beaten enemy. There are countless other examples. But in no other circumstance has there been involved the transfer of an asset which was created from a harsh and forbidding environment and made into a dramatically visible means of transportation and communication from which almost all mankind has profited. Accordingly, giving up such a unique asset under any circumstances comes hard to Americans. Giving it up under conditions that have more than a vague resemblance to ransom and under pressures that appear to some degree to be artificially generated obviously is not acceptable to what appears to be a majority of our countrymen.

It is not our view that the philosophy of a treaty which ultimately would transfer control of the Canal to the Panamanian government be completely scuttled. After all, four Presidents generally have concurred in this philosophy. And there's no doubt at all that this would be a good will gesture of unusual magnitude which could well have highly beneficial results over the long haul. But we also believe the best interests of the United States should be looked after as well, and we don't believe this particular treaty accomplishes that goal. We believe firm guarantees of our right to protect our security by insuring that the Canal remains available to all under any circumstances and is efficiently operated must be spelled out, and we do not believe they are. In our view that must be the foremost consideration of any treaty, and not the feelings of the Panamanian people.

We also believe this issue should be exhaustively debated in the Senate without the steamroller tactics being used by the administration to bring about Senate ratification. And should it be defeated in the Senate, we devoutly hope President Carter will not view that vote as a diplomatic catastrophe, but rather as a reflection of the will of the people he leads, and then will set forth to negotiate a treaty that will be much more palatable than this one is.